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THE CONGRESSIONAL GLOBE:

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NEW SERIES:

CONTAINING

SKETCHES OF THE DEBATES AND PROCEEDINGS

OF

THE SECOND SESSION

OF

THE THIRTIETH CONGRESS.

BY BLAIR AND RIVES.

CITY OF WASHINGTON:
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1849.

STATEMENTS

SHOWING

First. Appropriations made during the second session of the Thirtieth Congress.

Second. Offices created, and the salaries thereof.

Third. The offices the salaries of which have been increased, with the amount of such increase, during the same period.

APRIL 16, 1849.—*Prepared by the Secretary of the Senate and Clerk of the House of Representatives, in pursuance of the 6th section of the act of July 4, 1836, "to authorize the appointment of additional paymasters, and for other purposes."*

I. APPROPRIATIONS MADE DURING THE SECOND SESSION OF THE THIRTIETH CONGRESS.

By the act making appropriations for the civil and diplomatic expenses of Government for the year ending the thirtieth of June, eighteen hundred and fifty, and for other purposes.

For compensation and mileage of Senators, members of the House of Representatives, and Delegates, - - - - - - - - $768,200 00
For compensation and mileage of Senators and members of the House of Representatives and Delegates, for the current fiscal year, - 100,000 00
For compensation of the officers and clerks of both Houses of Congress, - - - - - - 39,557 50
For stationary, fuel, printing, and all other contingent expenses of the Senate, - - - 75,000 00
For stationery, fuel, printing, and all other contingent expenses of the House of Representatives, - - - - - - - - 182,749 00

Library of Congress.

For compensation of librarian, two assistant librarians, and messenger, - - - - - 4,500 00
For contingent expenses of said library, - - 800 00
For purchase of books for said library, - - 5,000 00
For purchase of law books for said library, - - 1,000 00
For printing and binding a complete catalogue of the library of Congress, - - - - - 2,000 00

Executive.

For compensation of the President of the United States, - - - - - - - - 25,000 00
For compensation of the Vice President of the United States, - - - - - - - 5,000 00

Department of State.

For compensation of the Secretary of State, and the clerks, messenger, and assistant messenger in his office, - - - - - - - - 28,300 00
For the incidental and contingent expenses of said Department, namely:
For publishing the laws in pamphlet form, and in the newspapers of the States and Territories, and of the city of Washington, - - - 10,880 00
For proof-reading, packing, and distributing laws and documents, including boxes, labor, and transportation, - - - - - - - - 9,000 00
For stationery, blank books, binding, labor, and attendance, furniture, repairs, painting, and glazing, - - - - - - - - - 4,400 00
For printing (letter-press and copperplate) books and maps, - - - - - - - - 2,000 00
For newspapers, - - - - - - - - 200 00
For extra clerk hire, - - - - - - - 2,000 00
For miscellaneous items, - - - - - - 1,000 00
For compiling, printing, and binding the Biennial Register, - - - - - - - - 1,800 00
For compensation of superintendent and four watchmen of the northeast executive building, 1,710 00
For contingent expenses of said building, viz:
For labor, fuel, and light, - - - - - - 2,200 00
For miscellaneous items, - - - - - - 1,100 00

Treasury Department.

For compensation of the Secretary of the Treasury, and the clerks, messenger, and assistant messenger in his office, - - - - - - 27,850 00
For compensation of the First Comptroller, and the clerks, messenger, and assistant messengers in his office, - - - - - - - 28,550 00
For compensation of the Second Comptroller, and the clerks and messenger in his office, - - 23,650 00
For compensation of the First Auditor, and the clerks, messenger, and assistant messenger in his office, - - - - - - - - - 22,800 00
For compensation of the Second Auditor, and the clerks, messenger, and assistant messenger in his office, - - - - - - - - - 51,057 00
For compensation of the Third Auditor, and the clerks, messenger, and assistant messenger in his office, - - - - - - - - - 38,350 00
For compensation of the six additional clerks in said office, authorized by the act of the twelfth of August, eighteen hundred and forty-eight, - 6,400 00
For compensation of six additional clerks in the Third Auditor's office, for services during the current fiscal year, - - - - - - - 1,100 00
For compensation of the Fourth Auditor, and the clerks, messenger, and assistant messenger in his office, - - - - - - - - - 20,400 00
For compensation of the Fifth Auditor, and the clerks and messenger in his office, - - - 15,600 00
For compensation of the Treasurer of the United States, and the clerks and messenger in his office, - - - - - - - - - 13,750 00
For compensation of the Register of the Treasury, and the clerks, messenger, and assistant messengers in his office, - - - - - - 30,500 00
For compensation of the Commissioner of the General Land Office, and the recorder, draughtsman, assistant draughtsman, clerks, messengers, asssistant messengers, and packers in his office, - - - - - - - - - 92,788 75
For compensation of the Solicitor of the Treasury, and the clerks and messenger in his office, 13,650 00

Contingent expenses of the Treasury Department.

In the office of the Secretary of the Treasury:
For blank books, binding, stationery, labor, sealing ships' registers, carrying the department mails, translations, printing, including the public accounts, and for collecting and preparing information to be laid before Congress, - - 15,200 00
For miscellaneous expenses, - - - - 2,800 00
In the office of the First Comptroller:
For blank books, binding, stationery, printing, and labor, - - - - - - - - 1,700 00
For cases to preserve books and papers; also for desks and writing tables, - - - - - 1,500 00
For carpets, oilcloths, and chairs, in eight rooms, 1,000 00
For miscellaneous items, - - - - - 300 00
In the office of the Second Comptroller:
For blank books, binding, stationery, and printing blanks, including pay for the National Intelligencer and Union, to be filed, bound, and preserved for the use of the office, - - - 700 00
For labor, office furniture, and miscellaneous items, - - - - - - - - 800 00
In the office of the First Auditor:
For blank books, binding, stationery, printing, books, and labor, - - - - - - 1,200 00
For miscellaneous items, - - - - - 300 00
In the office of the Second Auditor:
For blank books, binding, stationery, labor, and printing blanks, - - - - - - 1,500 00
In the office of the Third Auditor:
For blank books, binding, printing, stationery, and labor, - - - - - - - - 1,000 00
For miscellaneous items, - - - - - 200 00
In the office of the Fourth Auditor:
For blank books, binding, stationery, printing, and labor, - - - - - - - - 750 00
For miscellaneous items, - - - - - 200 00
In the office of the Fifth Auditor:
For blank books, binding, stationery, and labor, - 425 00
For miscellaneous items, - - - - - 350 00
In the office of the Treasurer:
For blank books, binding, stationery, labor, and printing, - - - - - - - - 1,000 00
For miscellaneous items, - - - - - 500 00
In the office of the Register:
For blank books, binding, stationery, and labor, including the printing of blank certificates of registers, enrollments, and licenses of vessels, and other blanks for the use of the collectors of the customs, - - - - - - - - 3,000 00
For miscellaneous items, - - - - - 1,000 00
In the office of the Solicitor:
For blank books, binding, stationery, printing circulars and blank forms for reports of district attorneys, marshals, clerks of courts, and labor, 1,050 00
For miscellaneous items, - - - - - 200 00
For statutes and reports, including those of the several States, - - - - - - - 1,000 00
In the office of the Commissioner of the General Land Office:
For tract books, - - - - - - - - 3,327 00
For stationery, including blank books and blank forms for the district land offices, pieces of parchment, and printing patents, advertising land sales in newspapers and handbill form, public notices, printing circulars, office furniture, and repairs of the same, and pay of laborers employed in office, - - - - - 26,990 50
For miscellaneous items, - - - - - 700 00
For compensation of the superintendent and eight watchmen of the southeast executive building, 3,420 00
For contingent expenses of said building, viz:
For labor, fuel, and light, - - - - - 8,000 00
For rent, fuel, watching, and miscellaneous expenses of additional buildings for accommodation of officers of the Treasury Department, - 10,000 00

War Department.

For compensation of the Secretary of War, and the clerks, messenger, and assistant messenger in his office, - - - - - - - - 17,850 00
For arrearage for clerks and messengers in said office, - - - - - - - - - 1,259 56
For compensation of the Commissioner of Indian Affairs, and the clerks, messenger, and assistant messenger in his office, - - - - 18,700 00
For compensation of the Commissioner of Pensions, and the clerks and messengers in his office, - - - - - - - - - 45,741 83
For compensation of the clerk and messenger in the office of the Commanding General, - - 1,500 00
For compensation of the clerks and messenger in the office of the Adjutant General, - - - 10,450 00
For compensation of clerks, and messenger in the office of the Quartermaster General, - 7,300 00
For compensation of clerks and messenger in the office of clothing and equipage, at Philadelphia, 4,200 00
For compensation of clerks and messenger in the office of the Paymaster General, - - - 9,900 00
For compensation of clerks and messenger in the office of the Commissary General of Subsistence, - - - - - - - - 6,800 00
For compensation of clerks and messenger in the office of the Chief Engineer, - - - - 5,650 00
For compensation of clerks and messenger in the office of the Surgeon General, including the sum of one thousand dollars for additional clerk hire, - - - - - - - - 3,650 00
For compensation of clerks and messenger in the office of the Colonel of Ordnance, - - - 9,589 00
For compensation of clerks and messenger in the Bureau of Topographical Engineers, - - 4,990 00

Contingencies of the War Department.

For the incidental and contingent expenses of said department, and the various offices and bureaus connected therewith, viz:
In the office of the Secretary of War:
For blank books, binding, stationery, labor, and printing, and newspapers and periodicals, - 1,450 00
For books, maps, and plans, - - - - - 1,000 00
For extra clerks in the War Department, - - 1,500 00
For miscellaneous items, - - - - - - 550 00
In the office of the Commissioner of Indian Affairs:
For blank books, binding, and stationery, - - 500 00
For labor, - - - - - - - - - 100 00
For miscellaneous items, - - - - - - 400 00
In the office of the Commissioner of Pensions:
For stationery, blank books, binding, printing blank forms and regulations, advertising, fuel, and furniture, - - - - - - - - 7,050 00
For miscellaneous items, - - - - - - 500 00
For the purpose of printing, under the direction of the Commissioner of Pensions, an additional number of House document number ninety-five, of the first session of the twenty-ninth Congress, and all laws relating to pensions which have been passed since the twenty-seventh day of January, eighteen hundred and forty-six, and are still in force, together with the constructions placed upon such laws by the War Department or Attorney General, and the forms necessary to be followed by applicants for pensions under the several laws, and the bounty land laws, together with the necessary forms for application therefor, for the use of the Pension Office, 800 00
In the office of the Commanding General:
For miscellaneous items, - - - - - - 300 00
In the office of the Adjutant General:
For printing army register and orders, blank books, binding, and stationery, - - - - 1,200 00
For miscellaneous items, - - - - - - 300 00
In the office of the Quartermaster General, including the office at Philadelphia:
For blank books, binding, stationery, printing, advertising, labor, and fuel, - - - - 1,800 00
For extra clerk hire, - - - - - - 5,000 00
For miscellaneous items, - - - - - - 150 00
In the office of the Paymaster General:
For blank books, binding, stationery, and fuel, - 1,000 00
For miscellaneous, - - - - - - - 400 00
In the office of the Commissary General of Subsistence:
For blank books, binding, stationery, printing, advertising, labor, and fuel, - - - - - 1,800 00
For miscellaneous items, - - - - - 150 00
In the office of the Chief Engineer:
For blank books, binding, stationery, fuel, and printing, - - - - - - - - - 700 00
For miscellaneous items, - - - - - - 300 00
In the office of the Surgeon General:
For blank books, binding, stationery, printing, and fuel, - - - - - - - - - 110 00
For miscellaneous items, - - - - - - 65 00
In the office of the Colonel of Ordnance:
For blank books, binding, stationery, and printing, 500 00
For miscellaneous items, - - - - - - 561 00
In the Bureau of Topographical Engineers:
For blank books, binding, stationery, labor, and fuel, - - - - - - - - - - 750 00
For miscellaneous items, - - - - - - 500 00
For compensation of superintendent and four watchmen of the northwest executive building, 1,710 00
For contingent expenses of said building, viz:
For labor, fuel, and light, - - - - - - 2,400 00
For miscellaneous items, - - - - - - 1,600 00
For rent of sixty additional rooms for offices, (properly warmed,) - - - - - - - 8,500 00
To enable the Secretary of War to pay the balance of the estimated cost of the buildings of the Choctaw Academy to Colonel Richard M. Johnson, of Kentucky, - - - - - - - 6,000 00

Navy Department.

For compensation of the Secretary of the Navy, and the clerks, messenger, and assistant messenger in his office, - - - - - - - - 21,950 00
For compensation of the Chief of the Bureau of Navy Yards and Docks, and of the civil engineer, draughtsman, clerks, and messenger in his office, - - - - - - - - - - 11,400 00
For compensation of the Chief of the Bureau of Ordnance and Hydrography, and of the draughtsman, clerks, and messenger in his office, - - - - - - - - - - 9,400 00
For compensation of the Chief of the Bureau of Construction, Equipment, and Repairs, and of the assistant constructor, draughtsman, clerks, and messenger in his office, - - - - - 13,690 00
For compensation of the Chief of the Bureau of Construction, Equipment, and Repairs, for current fiscal year, to supply a deficiency of the appropriation of the last session, - - - 500 00
For compensation of the Chief Naval Constructor and the Engineer in Chief, - - - - - 6,000 00
For compensation of the Chief of the Bureau of Provisions and Clothing, and of the clerks and messenger in his office, - - - - - - 9,300 00
For compensation of the Chief of the Bureau of Medicine and Surgery, and of the assistant surgeon, clerks, and messenger in his office, - 7,300 00

Contingencies of the Navy Department.

For contingent expenses of said department, and all the bureaus connected therewith, namely:
For blank books, binding, stationery, printing, and labor, - - - - - - - - 6,150 00
For newspapers and periodicals, - - - 200 00
For miscellaneous items, - - - - - 2,000 00
For compensation of superintendent and three watchmen of the southwest executive building, 1,345 00

For contingent expenses of said building, viz:
For labor, fuel, and light, - - - - - 1,675 00
For miscellaneous items, - - - - - 1,150 00

Post Office Department.

For compensation of the Postmaster General, three Assistant Postmasters General, clerks, messengers, assistant messengers, and watchmen of said department, - - - - - 76,600 00
For compensation of the superintendent of the Post Office building, - - - - - 250 00

For contingent expenses of said department, viz:
For blank books, binding, stationery, fuel, oil, printing, labor, and day watching, - - - 6,280 00
For miscellaneous items, - - - - - 800 00
For repairs of the Post Office building, repairs of furnaces and fire-places, office furniture, glazing, and whitewashing, - - - - - 500 00
For compensation of the Auditor of the Post Office Department, and the clerks, messenger, and assistant messenger in his office, - - - 85,800 00

For contingent expenses of said office, viz:
For labor, blank books, binding, stationery, printing blanks and circulars, - - - - - 5,790 00
For miscellaneous items, - - - - - 1,000 00

Surveyors General and their clerks.

For compensation of the surveyor general northwest of the Ohio, and the clerks in his office - 8,300 00
For compensation of the surveyor general of Illinois and Missouri, and the clerks in his office, 5,820 00
For compensation of the surveyor general of Louisiana, and the clerks in his office, - - 4,500 00
For compensation of the surveyor general of Florida, and the clerks in his office, - - 5,500 00
For compensation of the surveyor general of Wisconsin and Iowa, and the clerks in his office, 8,300 00
For clerks in the office of the surveyor general, to be apportioned to them according to the exigencies of the public service, and, if necessary, to be employed in transcribing field notes of surveys for the purpose of preserving them at the seat of government, and for correcting, restoring, and retracing of surveys in the State of Arkansas, and for other purposes, - - - 22,500 00
For compensation of secretary to sign patents for public lands, - - - - - - - 1,500 00
For compensation of the Commissioner of Public Buildings in Washington, - - - - 2,000 00
For compensation of four assistants, drawkeepers, at the Potomac bridge, including oil for lamps and machinery, fire-wood, and repairs, - - 4,290 00

Mint of the United States.

At Philadelphia, viz:
For salaries of the director, treasurer, chief coiner, assayer, melter and refiner, engraver, assistant assayer, and three clerks, - - - - - 18,400 00
For wages of workmen, - - - - - 24,000 00
For incidental and contingent expenses, including materials, stationery, water rent, repairs, and wastage, in addition to available funds on hand, - - - - - - - - 3,846 00
For specimens of ores and coins to be reserved at the mint, - - - - - - - - 300 00

At Charlotte, North Carolina, viz:
For salaries of superintendent, coiner, assayer, and clerk, - - - - - - - - 6,000 00
For wages of workmen, - - - - - - 3,500 00
For incidental and contingent expenses, including fuel, materials, stationery, repairs, and wastage, - - - - - - - - 2,100 00

At Dahlonega, Georgia, viz:
For salaries of superintendent, coiner, assayer, and clerk, - - - - - - - - 6,000 00
For wages of workmen, - - - - - - 3,600 00
For incidental and contingent expenses, including fuel, materials, stationery, repairs, and wastage, - - - - - - - - 2,500 00

At New Orleans:
For salaries of superintendent, treasurer, coiner, assayer, melter and refiner, and two clerks, - 12,900 00
For wages of workmen, - - - - - 15,500 00
For machinery and machinist, - - - - 1,500 00
For incidental and contingent expenses, including fuel, materials, stationery, water rent, repairs, and wastage, in addition to available funds on hand, - - - - - - - 24,600 00

Government in the Territory of Oregon.

For salaries of governor and superintendent of Indian affairs, three judges, and secretary, - 10,500 00
For contingent expenses of said Territory, - - 1,500 00
For compensation and mileage of members of the legislative assembly, officers, clerks, and contingent expenses of the assembly, - - - 20,600 00

Judiciary.

For salaries of the Chief Justice of the Supreme Court and the eight associate judges, - - 41,000 00
For salaries of the district judges, - - - 63,700 00
For salaries of the chief justice of the district of Columbia, the associate judges, the judges of the criminal and orphans' courts, - - - 10,700 00
For salaries of the Attorney General, and the clerk and messenger in his office, - - - 6,100 00
For contingent expenses of the office of the Attorney General, - - - - - - 500 00
For the purchase of law books, and the necessary bookcases for said office, - - - - - 2,000 00
For salary of the reporter of the decisions of the Supreme Court, - - - - - - 1,300 00
For additional compensation to the district judge of Louisiana, for the year ending the thirtieth of June, eighteen hundred and forty-eight, being the deficiency of the appropriation for that year, - - - - - - - - 600 00
And for the year ending the thirtieth of June, eighteen hundred and forty-nine, under the provisions of the first section of the act of seventeenth of June, eighteen hundred and forty-four, - - - - - - - - 800 00
For compensation of the district attorneys—being two hundred dollars each, as prescribed by law, 7,400 00
For compensation of the marshals, - - - 6,800 00
For defraying the expenses of the supreme, circuit, and district courts of the United States, including the District of Columbia; also, for jurors and witnesses, in aid of the funds arising from fines, penalties and forfeitures incurred in the fiscal year ending June thirtieth, eighteen hundred and fifty, and previous years; and, likewise, for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offences committed against the United States, and for safekeeping of prisoners, 443,000 00
For additional compensation for the district judge of Louisiana, for the year ending the thirtieth of June, eighteen hundred and forty-eight, - 600 00

Miscellaneous.

For furnishing the President's House, after the third day of March, eighteen hundred and forty-nine, in addition to such sum as may be realized from the sale of such articles furnished for the same by the United States as may be decayed or out of repair, or unfit for use, and the President may direct to be sold, a sum (to be expended under the direction of the President of the United States) not exceeding - - 14,000 00
For annual repairs of the Capitol, and attendance on furnaces in the crypt, attendance of water closets, for public gardener and laborers, and cartage on the Capitol grounds; tools, wire, leather, nails, stakes, boxes, straw for grounds, and whitewashing, graveling the walks in the Capitol grounds, manure and trees for ground; repairs of public stables, flagging, enclosures, &c.; keeping in order the iron pipes that convey water to the Capitol and public offices, and repairing the damage by freshets; brooms, brushes, wooden spades, shoveling snow; repairing abutments at Tiber creek, and building protecting walls; enclosing and improving the public grounds at the north, south, and west of the Capitol, and the open triangular spaces on Pennsylvania avenue, - - - - 17,000 00
For annual repairs of President's House, gardener, and laborers, graveling the walks in President's square, manure, leather, nails, tools, &c.; and repairs of fence at Lafayette square, Fountain square, President's square, and President's garden, cartage, &c., - - 3,500 00
For lighting Pennsylvania avenue from Capitol square to the Treasury Department, and compensation for one lamp-lighter for the same, and for lighting Capitol and Capitol grounds, and President's House, - - - - - - 6,000 00
To reimburse the Corporation of Washington the cost of erecting the half of the City Hall building, granted to, and occupied by, the Government for the circuit, district, and criminal courts of the United States, - - - - 30,000 00
For compensation and contingent expenses of the auxiliary guard, - - - - - - 6,775 00
For survey of the coast of the United States, including compensation to superintendent and assistants, - - - - - - - 186,000 00
For printing two thousand charts of the bay of San Francisco and river Sacramento, under resolution of the House of Representatives of the fifteenth of January, eighteen hundred and forty-nine, - - - - - - - 260 00
For completing the centre strip of Pennsylvania avenue to Fifteenth street west, - - - 1,200 00
For publishing an atlas of charts, of the surveys of the northern and northwestern lakes, made under various appropriations, under the direction of the Secretary of War, - - - - 5,000 00
For continuing the survey of the northern and northwestern lakes, - - - - - - 10,000 00
For the discharge of such miscellaneous claims, not otherwise provided for, as shall be admitted in due course of settlement at the treasury, - 5,000 00
For salaries of special examiners of drugs, medicines, and chemicals, - - - - - 8,000 00
For salary of the recorder of land titles in Missouri, heretofore paid out of survey of public lands, - - - - - - - - 500 00
For the expenses that may be incurred in the further execution of the act of 1st July, eighteen hundred and forty-eight, for the relief of the bona fide settlers under the acts for the armed occupation of Florida, the provisions of said act being continued and extended till the first day of October, eighteen hundred and forty-nine, - 1,500 00
For salaries of assistant treasurers of the United States at New York, Boston, Charleston, and St. Louis, - - - - - - - - 11,500 00
For additional salaries of treasurers of the mint at Philadelphia and branch mint at New Orleans, 1,000 00
For salaries of ten clerks, authorized by the act of the sixth of August, eighteen hundred and forty-six, and of the twelfth of August, eighteen hundred and forty-eight, - - - - - 9,000 00
For salary of the chief clerk to assistant treasurer, New York, - - - - - - - 1,500 00
For contingent expenses under the act for the safekeeping, collection, transfer, and disbursement of the public revenue, of sixth August, eighteen hundred and forty-six, - - - - - 15,000 00
For compensation to special agents to examine books, accounts, and money on hand in the depositories, under the act of the sixth August, eighteen hundred and forty-six, - - - 5,000 00
For support, clothing, and medical treatment of insane paupers of the District of Columbia, - 6,400 00
For the support, care, and medical treatment of twelve transient pauper medical or surgical patients in the Washington Infirmary, to be expended under the direction of the Commissioner of Public Buildings, - - - - - - 2,000 00
For the warden, clerk, physician, chaplain, three assistant keepers, five guards, and messenger of the Penitentiary of the District of Columbia, - - - - - - - - 8,550 09
For three inspectors of said Penitentiary, - - 300 00
For expenses of loans and treasury notes, - - 20,000 00
And for the same during the remainder of the current fiscal year, - - - - - - 6,000 00
To make good a deficiency in the fund for the relief of sick seamen, - - - - - - 15,000 00
For repairs of the custom-house and wharf at Plymouth, North Carolina, - - - - - - 100 00
For the purchase of such scientific works as are necessary for the use of the Patent Office, - 1,500 00
For compensation of librarian, - - - - - 500 00
For the collection of agricultural statistics and other purposes, - - - - - - - 3,500 00
For defraying the expenses of the chemical analysis of vegetable substances produced and used for the food of man and animals in the United States, to be expended under the direction of the Commissioner of Patents, - - - - - 1,000 00
Towards the erection of the wings of the Patent Office building, according to the original plan, under the direction of the Secretary of State, - 50,000 00
For the purchase of a building for a custom-house at Portland, in the State of Maine, a sum not exceeding - - - - - - - - 149,000 00
For the purchase of a building erected by the president and directors of the Bank of the United States for a banking house in the town of Erie, Pennsylvania, to be used as a custom-house, - - - - - - - - 29,000 00
For continuing the construction of the custom-house at Savannah, in Georgia, - - - 35,000 00
For the construction of a custom-house at Charleston, South Carolina, - - - - - 50,000 00
To enable the Clerk of the House of Representatives to pay for twelve copies of the Congressional Globe, and twelve copies of the Appendix, for each member of the House of Representatives, under the resolution of the first of March, eighteen hundred and forty-seven, - 8,280 00
To enable the Clerk of the House of Representatives to pay for five hundred and thirty-six copies of the seventh volume of the Documentary History of the American Revolution, being the first volume of the fifth series of that work, - - - - - - - - 8,747 52
For the reappropriation of this sum, (carried to the surplus fund,) for payment to the widow of James McDonald, deceased, said McDonald's share of the sum granted by Congress for distribution as prize money among the captors of the British brig Detroit, during the last war with Great Britain, - - - - - - 37 50
For the purchase of a site for a new custom-house at Norfolk, Virginia, - - - - - 12,000 00
For the erection of a custom-house at Eastport, in the State of Maine, in addition to the amount heretofore appropriated for that object, - - 13,000 00
For continuing the construction of the custom-house in the city of New Orleans, - - - 150,000 00
For continuing the publication of the works of the Exploring Expedition, including the salary of the horticulturist and addition to the greenhouse, - - - - - - - - 15,000 00
For completing the geological survey and exploration of the mineral lands in Michigan, Wisconsin, and Iowa, in addition to the amount heretofore appropriated for that service, - - - 16,000 00
To pay A. J. Glossbrenner for work done in rearranging and classifying the volumes in the copyright room in the Department of State, in eighteen hundred and forty-eight, - - - 250 00
To enable the Secretary of War to execute the survey and examination of the Potomac river, ordered by a resolution of the House of Representatives of the eighth August, eighteen hundred and forty-eight, - - - - - 1,500 00
For additional compensation to the messenger of the Post Office Department, so as to place *them* on the same footing as the messenger of the other departments, - - - - - - 130 00
For the expenses incurred under the joint resolution of August eleventh, eighteen hundred and forty-eight—"A resolution authorizing the submission of certain claims to arbitration," - 2,500 00
For the expenses that may be incurred in the further execution of the act of first of July, eighteen hundred and forty-eight, for the relief of the bona fide settlers under the acts for the armed occupation of Florida, the provisions of said act being continued and extended till the first day of October, eighteen hundred and forty-nine, - - - - - - - - - 1,500 00
To Robert Beale, for his services and expenses incurred in a journey to Virginia to notify President Tyler of his accession to the Presidency, 300 00
For the correction of erroneous and defective surveys in southern Michigan, at a rate not exceeding six dollars per mile, - - - - 10,000 00

To supply a deficiency in the appropriation in the act entitled "An act to supply deficiencies in the appropriations for the fiscal year ending the thirtieth of June, eighteen hundred and forty-nine, approved the twenty-sixth of January, eighteen hundred and forty-nine," under a resolution of the House of the seventh of August, eighteen hundred and forty-eight, directing the Clerk to furnish the members of the House the books therein authorized, - - 3,893 50

For the redemption of the treasury scrip heretofore issued for the satisfaction of the bounties promised to the non-commissioned officers, musicians, and privates, by the ninth section of the act of the eleventh of February, eighteen hundred and forty-seven, to raise for a limited time an additional military force, and for other purposes, and for the satisfaction in money of such bounties due under said section of said act as those to whom they are due may elect to receive in money instead of land, - - - - 300,000 00

For completing the room under the post-office of the Senate, and the staircases and passages communicating therewith, and the circular room on the upper floor of the Capitol, - - 4,000 00

For cleaning out and deepening that portion of the Washington city canal which passes through and along the public grounds, to be expended under the direction of the Secretary of the Treasury, - - - - - - - - - 20,000 00

For sewer under Fifteenth street, to be expended under the direction of the Topographical Bureau, - - - - - - - - - 2,160 00

For payment of annuities and grants by special acts of Congress, - - - - - - - 750 00

For payment, by the Secretary of State, to William C. Reddall and William C. Zantzinger, equally to be divided between them, the sum of seven hundred and seventy-one dollars and forty-three cents, which has been already appropriated for clerk hire in the State Department, but not drawn from the treasury, - - 771 43

For the expenses incurred under the joint resolution of August eleventh, eighteen hundred and forty-eight, entitled "A resolution authorizing the submission of certain claims to arbitration," - - - - - - - - - 2,500 00

Light-house Establishment.

For supplying light-houses, containing two thousand eight hundred and forty-three lamps, with oil, tube glasses, wicks, buff skins, whiting, and cotton cloth, transportation, and other expenses thereon, and for repairing and keeping in repair the lighting apparatus, - - - - - 135,103 60

For repairs and incidental expenses, refitting and improvement of light-houses and buildings connected therewith, - - - - - - 81,714 04

For salaries of two hundred and seventy-four keepers of light-houses, and fifteen assistants, (twenty of them charged with double and two with triple lights,) including one thousand two hundred dollars for that of an inspector of lights on the upper lakes, - - - - - - 116,198 33

For salaries of thirty-three keepers of floating lights, - - - - - - - - 17,850 00

For seamen's wages, repairs, and supplies for thirty-three floating lights, - - - - - 84,386 65

For expenses of weighing, mooring, cleansing, and supplying losses of beacons, buoys, chains, and sinkers, - - - - - - - - 29,677 46

For expenses incurred by superintendents in visiting light-houses annually, and examining and reporting their condition, - - - - - 2,000 00

For superintendents' commissions, at two-and-a-half per cent. on the four hundred and sixty-six thousand nine hundred and thirty dollars and eight cents, appropriated above for light-house purposes, - - - - - - - - 11,673 25

For completing the light-house on Brandywine Shoal, Delaware Bay, - - - - - - 29,802 61

For completing the light-house on Carysfort reef, coast of Florida. - - - - - - - 31,590 76

To pay the balance due to Ebenezer Warner, for constructing the light-house at White Fish point, on Lake Superior; - - - - - - - 3,298 00

For illuminating apparatus for the light-house at Minot's rock, Boston harbor, Massachusetts, - 4,500 00

For the reimbursement of the New York, Providence, and Boston Railroad Company, and the New Jersey Steam Navigation Company, for their expenses in maintaining a light-boat on Eel Grass Shoals, in Fisher's Island Sound, from the month of November, in the year eighteen hundred and thirty-seven, to the present time, - - - - - - - - - 10,407 00

Hospitals.

For completion of marine hospital at Pittsburg, - 11,667 00

For completion of marine hospital at Louisville, - 11,667 00

For completion of the marine hospital at Cleveland, - - - - - - - - - 6,667 00

For completion of marine hospital at Chicago, - 20,000 00

For completion of marine hospital at Paducah, - 20,000 00

For completion of marine hospital at Natchez, - 20,000 00

For completion of marine hospital at Napoleon, Arkansas, - - - - - - - - 20,000 00

For the purpose of erecting a marine hospital at or near St. Louis, Missouri, in addition to the ten thousand dollars heretofore appropriated by the act approved August third, eighteen hundred and forty-eight, for the same object, - - - 20,000 00

To enable the Secretary of the Treasury to collect facts and information in relation to marine hospitals and the marine hospital fund, and to report to Congress what alterations are necessary and practicable in the administration of the same, - - - - - - - - 1,000 00

Surveys of Public Lands.

For surveying the public lands, in addition to the unexpended balance of former appropriations, viz:

For surveying the public lands, including incidental expenses, to be apportioned to the several districts, according to the exigencies of the public service, the part to be applied to the surveys of the mineral regions of Michigan, Wisconsin, and Iowa, in the location of private claims in Florida, to be disbursed at augmented rates, - 115,000 00

For surveys in the southern part of Missouri, east of the meridian, at five dollars per mile, on account of the difficulties in executing surveys in that section of the State, owing to lakes, swamps, and marshes, - - - - - - - - 4,000 00

For the correction of erroneous and defective surveys, in small and detached portions, in Illinois and Missouri, at a rate not exceeding six dollars per mile, - - - - - - - 1,200 00

For completing surveys of the towns and villages in Missouri, named in the acts of eighteen hundred and twelve and eighteen hundred and twenty-four, including office work, - - - 2,000 00

For completing certain surveys in Arkansas, at the increased rates, in consequence of the peculiar difficulties attending the execution of them, 850 00

Intercourse with Foreign Nations.

For salaries of the Ministers of the United States to Great Britain, France, Russia, Prussia, Spain, Brazil, and Mexico, - - - - - - 63,000 00

For outfits of said ministers, - - - - - 63,000 00

For salaries of the secretaries of legation to the same places, - - - - - - - - 14,000 00

For salary of minister resident to Turkey, - - 6,000 00

For salary of the dragoman to the legation to Turkey, - - - - - - - - 2,500 00

For the outfit of a minister to the Germanic Confederation, - - - - - - - - 9,000 00

For one year's salary for the said minister, - - 9,000 00

For one year's salary for a secretary of legation to the said mission, - - - - - - - 2,000 00

For outfit of a minister to the Government of Chili, - - - - - - - - - 9,000 00

For salary of said minister, - - - - - - 9,000 00

For Abraham Rencher, late chargé d'affaires to Portugal, such sum as the Secretary of State, upon adjusting his claim, shall allow for his unavoidable detention abroad from second January, eighteen hundred and forty-eight, to the sixteenth September following: *Provided*, such sum shall not exceed the rate of his official salary. [Indefinite.]

For salaries of chargés d'affaires to Portugal, Austria, Denmark, Sweden, Holland, Belgium, Naples, Sardinia, the Papal States, Chili, Peru, New Granada, Venezuela, Buenos Ayres, Bolivia, Gautemala, and Ecuador, - - - 76,500 00

For outfits for said chargés d'affaires, - - - 76,500 00

For contingent expenses of foreign intercourse, - 30,000 00

For expenses of intercourse with the Barbary Powers, - - - - - - - - 9,000 00

For salary of the consul at London, - - - 2,000 00

For salary of the commissioner to the Sandwich Islands, - - - - - - - - 3,000 00

For payment of the salary of the commissioner to the Sandwich Islands, from the commencement of the salary of Mr. Eames to the termination of that of Mr. Ten Eyck, so much as is necessary of the sum of fifteen hundred dollars, - - - - - - - - - 1,500 00

For interpreters, guards, and other expenses, of the consulates at Constantinople, Smyrna, and Alexandria, - - - - - - - - 1,500 00

For salary of the commissioner to reside in China, including additional compensation, under the act of eleventh August, eighteen hundred and forty-eight, - - - - - - - - 6,000 00

For compensation to Peter Parker, secretary of legation and Chinese interpreter at Canton, for his services as chargé d'affaires of the United States at said place, from the twenty-eighth day of June, eighteen hundred and forty-seven, to the twenty-first day of August, eighteen hundred and forty-eight, being the interval between the death of Alexander Everett, late commissioner at Canton, and the actual arrival of John W. Davis, the present commissioner, after the rate of four thousand five hundred dollars per annum, (deducting his salary as such secretary, and two thousand dollars already paid him towards said service,) the sum of, - - - 295 92

For salary of the interpreter and secretary to said mission, - - - - - - - - 2,500 00

For buoys on and near the bar of Nassau river, and on the coasts of Georgia and Florida, in the neighborhood thereof, - - - - - 1,000 00

For compensation to the consuls at the five Chinese ports, viz: Kwangchow, Amoy, Fuchow, Ningpo, and Shanghae, - - - - - 5,000 00

For salary of consul general at Alexandria, - 3,000 00

For salary of consul at Beirout, - - - - 500 00

For the relief and protection of American seamen in foreign countries, - - - - - - 100,000 00

For clerk hire, office rent, and other expenses of the office of the consul of the United States at London, - - - - - - - - 2,800 00

For office rent of the consul at Basle, in Switzerland, - - - - - - - - 100 00

And for office rent from June thirtieth, eighteen hundred and forty-five, to the close of the current fiscal year, - - - - - - 400 00

For procuring medals for Indians, - - - - 2,500 00

For the payment of a compensation of one-half per centum to each designated depository provided to be appointed under act of August sixth, eighteen hundred and forty-six, - - 20,000 00

For the purchase of the remaining manuscript books and papers of George Washington, - 20,000 00

For the purchase of the remaining manuscript books and papers of James Monroe, - - 20,000 00

$5,692,110 71

By the act to supply deficiencies in the appropriations for the service of the fiscal year ending the thirtieth of June, eighteen hundred and forty-nine.

For contingent expenses of the General Land Office, to cover a deficiency in appropriation for parchment, the increase required to satisfy military locations being much greater than was estimated, - - - - - - - - - $4,000 00

For contingent expenses of the office of the Register of the Treasury, for amount due on an account for printing and binding blank books for the entry of the collectors' quarterly returns of the commerce and navigation of their several districts, - - - - - - - - - 975 00

For salary of the Governor and Superintendent of Indian Affairs of Oregon Territory, from eighteenth August, eighteen hundred and forty-eight, to thirtieth of June, eighteen hundred and forty-nine, at three thousand dollars per annum, per act fourteenth August, eighteen hundred and forty-eight, - - - - - - - - 2,608 74

For salaries of the chief justice and two associate judges of Oregon Territory, at two thousand dollars each per annum, from fourteenth August, eighteen hundred and forty-eight, to thirtieth June, eighteen hundred and forty-nine, per same act, - - - - - - - - 5,266 29

For salary of the secretary of Oregon Territory, from fourteenth August, eighteen hundred and forty-eight, to thirtieth June, eighteen hundred and forty-nine, at fifteen hundred dollars per annum, per same act, - - - - - - 1,316 58

For salaries of district attorney and marshal of Oregon Territory, from fourteenth August, eighteen hundred and forty-eight, to thirtieth June, eighteen hundred and forty-nine, at two hundred dollars each per annum, per same act, - 351 08

For the reappropriation of this sum, (carried to the surplus fund,) being for the purchase of agricultural implements, cattle, and mechanics' tools for the Ottawas and Chippewas, stipulated in the fourth clause of the fourth article of the treaty of twenty-eighth March, eighteen hundred and thirty-six, - - - - - - - 5,406 47

For payment of services of blacksmith and striker of the Choctaws, rendered after the treaty provision had expired by limitation, and before he was notified thereof, and for coal furnished the shop during the same time, - - - - - 156 98

For expenses of an agent in taking the census of the North Carolina Cherokees, under the fourth section of the act of twenty-ninth July, eighteen hundred and forty-eight, - - - - - 400 00

For continuing the collecting and digesting of such statistics and materials as may illustrate the history, the present condition, and future prospects of the Indian tribes of the United States, - - 5,000 00

For reappropriation of this sum, (carried to the surplus fund,) for pay, subsistence, and clothing of the company of sappers, miners, and pontoniers, and for carrying out the other purposes of the act of May fifteenth, eighteen hundred and forty-six, - - - - - - - 23,259 40

To enable the Clerk of the House to furnish to members of the House the books authorized by the resolution of the seventh of August, eighteen hundred and forty-eight, - - - - - 76,000 00

For copying abstracts from old sea journals, for the "wind and current charts," and for payment of duties on books, maps, charts, and instruments imported for the use of the navy, - 4,000 00

For salary of the secretary to sign patents for public lands, - - - - - - - - 1,500 00

To pay two messengers in the Pension Office, in addition to those now employed, at the rate of four hundred dollars each per annum, for the last two quarters of the current fiscal year, - 400 00

For furnishing sixteen rooms in the new building occupied by the Pension Office, at an average of one hundred dollars per room, for carpets, matting, desks, tables, shelves, book-cases, chairs, and other necessary articles, - - 1,600 00

For compensation to the Commissioner in China, under the act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, of eleventh August, eighteen hundred and forty-eight, - 583 33

For compensation to the consuls of the United States at the five ports in China, viz: Kwangchow, Amoy, Fuchow, Ningpo, and Shanghae, under the same act, - - - - - - 2,916 67

For outfit of a chargé d'affaires to the Papal States, per act first of May, eighteen hundred and ten, 4,500 00

For contingent expenses of the Senate, - - 123,000 00

For contingent expenses of the House of Representatives, including the compensation of a clerk to the Sergeant-at-arms, at the rate of four dollars per day, during the present session, - 50,000 00

For completing the three rooms in the Capitol of Iowa, set apart for the use of the United States courts, under a resolution of the General Assembly of Iowa, approved January twenty-two, eighteen hundred and forty-eight, - - - 1,186 72

For bringing to the seat of government the votes for President and Vice President of the United States, - - - - - - - - 9,000 00

For the employment in the Adjutant General's office of two temporary clerks for the last half of the current fiscal year, - - - - - 1,000 00

For the contingent expenses of the Pension Office for the last and the current fiscal years, - - 5,566 45

For the six swords ordered to be presented by the joint resolution approved March second, eighteen hundred and forty-seven, - - - - 9,000 00
For instruments necessary for the astronomical observations directed to be made in the southern hemisphere by the act of August third, eighteen hundred and forty-eight, and for freight and expenses on the same, - - - - 6,400 00

$345,393 71

By the act making appropriations for certain fortifications of the United States for the year ending the thirtieth of June, one thousand eight hundred and fifty.

For defensive works and barracks near Detroit, $20,000 00
For fortifications at outlet of Lake Champlain, - 20,000 00
For defensive works and barracks at narrows of Penobscot river, Maine, - - - - - 20,000 00
For repairs of Fort Scammel, Portland harbor, Maine, - - - - - - - - - 5,000 00
For repairs of fortifications on Governor's Island, Boston harbor, - - - - - - 10,000 00
For Fort Warren, Boston harbor, - - - 30,000 00
For repairs of Fort Independence, Boston harbor, 10,000 00
For Fort Adams, Newport harbor, Rhode Island, and permanent quarters and barracks thereat, - 40,000 00
For building Fort Trumbull, New London, Connecticut, - - - - - - - - 10,000 00
For Fort Schuyler, Long Island Sound, - - 10,000 00
For repairs of Fort Wood, and sea-wall of Bedlow's Island, - - - - - - - 15,000 00
For repairs of Fort Hamilton, New York, - - 10,000 00
For Fort Richmond, on Staten Island, - - 30,000 00
For repairs of Fort Lafayette, - - - - 5,000 00
For Fort Delaware, on Pea Patch Island, - - 50,000 00
For repairs of Fort Madison, - - - - - 5,000 00
For fort on Soller's Point flats, Baltimore harbor, 40,000 00
For Fort Monroe, Hampton Roads, Virginia, - 20,000 00
For preservation of site of Fort Caswell, North Carolina, - - - - - - - - 15,000 00
For preservation of site at Fort Macon, North Carolina, - - - - - - - - 5,000 00
For dike to Drunken Dick shoal, Charleston harbor, South Carolina, - - - - - - - 10,000 00
For Fort Sumter, Charleston harbor, South Carolina, - - - - - - - - - 25,000 00
For repairs of Fort Jackson, Savannah river, - 15,000 00
For Fort Barrancas, Pensacola harbor, Florida, and barracks thereat, - - - - - - 35,000 00
For repairs of Fort Morgan, Mobile point, Alabama, - - - - - - - - - 15,000 00
For repairs of Fort Jackson, Mississippi river, - 15,000 00
For repairs of Fort St. Philip, Mississippi river, - 30,000 00
For repairs of Fort Pike, Louisiana, - - - 10,000 00
For repairs of Fort Wood, Louisiana, - - - 10,000 00
For fortifications on Florida reef, Key West, - 75,000 00
For fortifications on Florida reef, Garden Key, - 50,000 00
For repairs of sea wall, St. Augustine, - - 5,000 00
For contingent expenses of engineer officers engaged in an examination of the coast of the United States on the Pacific ocean, in reference to the defence of the same, - - - - - 6,000 00

$671,000 00

By the act making appropriations for the naval service for the year ending the thirtieth of June, one thousand eight hundred and fifty.

For pay of commission, warrant, and petty officers and seamen, including the engineer corps of the navy, - - - - - - - $2,462,500 00
For pay of superintendents, naval constructors, and all the civil establishments at the several yards and stations, - - - - - - 73,960 00
For provisions for commission, warrant, and petty officers and seamen, including engineers and marines, attached to vessels for sea-service, - 686,200 00
For surgeons' necessaries and appliances for the sick and hurt of the navy, including marine corps, - - - - - - - - - - 38,500 00
For repair of vessels in ordinary, and for wear and tear of vessels in commission, including fuel for steamers, and the purchase of hemp, - 1,436,000 00
For the construction at the National Observatory of a magnetic clock, under the superintendence of Dr. Lock, and to pay him for the free use by the United States of his invention of said clock, and of all improvements that he may make thereto, - - - - - - - - 10,000 00
For paying the unsatisfied demands upon the fund for continuing the survey of the coast on the Gulf of Mexico, from Apalachicola bay to the Mississippi, - - - - - - - - 4,070 00
For the survey of the reefs, shoals, keys, and coasts of South Florida by the superintendent of the "coast survey," and for which the Secretary of the Navy is hereby authorized to provide the requisite officers, vessels, and crews to said "coast survey," the sum of, - - - 30,000 00
For ordnance and ordnance stores, and small arms, including incidental expenses, - - 257,000 00
For nautical books, maps, charts, instruments, and all other expenses of the hydrographical office, - - - - - - - - - 58,260 00
For contingent expenses that may accrue for the following purpose, viz: freight and transportation; printing and stationery; advertising in newspapers; books, maps, models, and drawings; purchase and repair of fire engines and machinery; repair of and attending on steam-engines in yards; purchase and maintenance of horses and oxen, and driving teams; carts, timber-wheels, and the purchase and repair of workmen's tools; postage of public letters; furniture for Government houses; fuel, oil, and candles for the navy-yards and shore stations; cleaning and clearing up yards; watchmen and incidental labor, not chargeable to any other appropriation; labor attending the delivery of stores and supplies on foreign stations; wharfage, dockage, and rent; traveling expenses of officers; funeral expenses; store and office rent; stationery and fuel to navy agents and storekeepers; flags, awnings, and packing-boxes; premiums and other expenses of recruiting; apprehending deserters; per diem pay to persons attending courts martial and courts of inquiry, or other service authorized by law; pay to judge advocates; pilotage and towage of vessels, and assistance rendered to vessels in distress, - - - - - - - - - 508,000 00
For support of the naval school at Annapolis, Maryland, - - - - - - - - - 28,200 00
For transportation of the United States mail between New York and Liverpool; between New York and New Orleans, Havana and Chagres; and between Panama and some point in the Territory of Oregon, - - - - - - - 874,600 00
For the purchase of the right to use A. D. Bishop's patent portable boom-derrick for all Government purposes, - - - - - - - - 10,000 00
For testing the capacity and usefulness of the electro-magnectic power, as a mechanical agent for the purposes of navigation and locomotion, and the probable cost of using the same, according to the invention of Professor Page, - - 20,000 00
For the construction, extension, and completion of the following objects, and for the current repairs, at the several navy yards, viz:

At Portsmouth.

For completing powder magazine and smithery I; for constructing commander's quarters, timber-shed number twenty-eight, storehouse number thirty, dock-wall west of timber sheds; for paving timber-shed number twenty-seven, wharf and filling in rear of number four; for pitch-house, engine-house, and filling in low grounds; and for repairs of all kinds, - - - - 54,620 53

At Boston.

Towards construction of sail-loft and cordage store; for stone wall and filling in southwest of ship-house H; for coal-house near blacksmith-shop, grading and paving avenue sixty-three; for anchor buoys and water tank, and for repairs of all kinds, - - - - - - 132,221 50

At New York.

For two officers' houses, cob-dock, dredging channels, filling in land purchased between navy-yard and hospital, fence on Flushing avenue, filling in timber pond, paving and gutters to avenue, and for repairs of all kinds, - - - 95,000 00

At Philadelphia.

For two houses for officers; for foundation and slip of ship-house G; extension of wharves number one, two, and three, to port warden's line; for timber shed D; for raising smiths' shop, and for repairs of all kinds, - - - 76,027 00

At Washington.

For boiler and furnace for small steam-hammer, and boilers for steam engines numbers one and three; for building stone wharf; for large slide lathes, planing machines, shafting, drums, boring, slotting, and drilling machines, and small lathes, and repairs of all kinds, - - - - 44,530 00

At Norfolk.

For slip number forty-eight; continuation of quay walls, digging out timber dock, grading, paving, gutters, filling low grounds, brick stables, water cisterns, engine house to smithery, coal house, and repairs of all kinds, - - - - - - 105,844 00

At Pensacola.

For completing permanent wharf, smith and machine shop, timber shed and mould loft, water-tank, lime-house, paint-shop, dredging machine, and lighters, and yard boats; for brick kitchen to officers' houses, (eleven,) six first class and six second class houses, and repairs of all kinds, - - - - - - - - 200,013 55

At Memphis.

For saw-mill, one-wing of storehouse; to complete building for officers, blacksmithshop, and joiner's shop; for fire engine, excavation and embankment, piling on river bank, wall to enclose yard, guard-house, and enclosure to commandant's house, pavements, drains, and gutters, and repairs of all kinds, - - - - 136,554 00

At Sackett's Harbor.

For stables and fencing and repairs of all kinds, - 1,500 00

For hospitals, viz:
At Boston—For repairs to road, fences, wall, whitewashing, and general repairs, - - - 1,500 00
At New York—For completing small-pox building, finishing sewer, dead-house, grading, brick barn, and stable, and general repairs, - - 11,300 00
At Washington—For general repairs, - - - 150 00
At Norfolk—For general repairs, - - - 1,000 00

At Pensacola.

For repairs of hospital buildings, medical officers' quarters, out buildings, fences, and general repairs, - - - - - - - - - 1,750 00

For magazines, viz:
At Boston, - - - - - - - - - 150 00
At New York, - - - - - - - - 200 00
At Washington, - - - - - - - - 150 00
At Norfolk, - - - - - - - - - 150 00

For stone and floating dry-docks, viz:
For completing the stone dry-dock building at New York, - - - - - - - - 490,000 00
For the construction of the floating dry-dock to be built at Kittery, - - - - - - 200,000 00
For the construction of the floating dry-dock to be built at Philadelphia, - - - - - 200,000 00
For the construction of the floating dry-dock to be built at Pensacola, - - - - - 250,000 00
For improvements and superintendence at naval depôt near New Orleans, - - - - 1,750 00

Marine Corps.

For pay of officers, non-commissioned officers, musicians, privates, and servants, serving on shore, subsistence of officers, and pay for undrawn clothing, - - - - - - - 209,012 00
For provisions for marines, serving on shore, - 30,674 80
For clothing, - - - - - - - - 42,948 00
For fuel, - - - - - - - - - 13,158 00
For military stores, repair of arms, pay of armorers, accoutrements, ordnance stores, flags, drums, fifes, and musical instruments, - - 6,000 00
For transportation of officers and troops, and expenses of recruiting, - - - - - - 8,000 00
For repairs of barracks, and rent of temporary barracks and offices for commanding officers, - 6,000 00
For contingencies, namely: freight, ferriage, cartage, wharfage, compensation to judges advocate per diem, for attending courts martial, courts of inquiry, and for constant labor, house rent in lieu of quarters, burial of deceased marines, printing, stationery, forage, postage, pursuit of deserters, candles, oil, straw, furniture, bed sacks, spades, axes, shovels, picks, carpenter's tools, keep of a horse for the messenger, pay of matron, washerwoman, and porter at the hospital headquarters, - - - - - - - 18,184 00
To supply a deficiency in the appropriation of the third of March, eighteen hundred and forty-seven, for two buoy boats, one on the eastern end of Tuckernuck shoal, and the other on the end of Great or Sandy Rip shoal, - - - 205 53
For metrological observations, to be conducted under the direction of the Secretary of the Navy, - - - - - - - - - 2,000 00

$9,508,882 91

By the act making appropriations for the support of the army for the year ending the thirtieth of June, one thousand eight hundred and fifty.

For pay of the army, - - - - - - $1,635,582 00
For commutation of officers' subsistence, including the additional rations for commissioned officers commanding "arsenals" or "armories," being separate and fixed or "permanent posts" of the army of the United States, - - - 561,800 00
For commutation of forage for officers' horses, - 104,736 00
For payments in lieu of clothing for officers' servants, - - - - - - - - - 36,200 00
For expenses of recruiting, - - - - - - 38,052 00
For three months' extra pay to non-commissioned officers, musicians, and privates, on reënlistment, - - - - - - - - - 10,000 00
For the regular supplies of the quartermaster's department, consisting of fuel, forage in kind for the authorized number of officers' horses, and for the horses, mules, and oxen of the quartermaster's department, at the several military posts and stations, and with the armies in the field, and for the horses of the first and second regiments of dragoons, the four companies of light artillery, and the regiment of mounted riflemen; of straw for soldiers' bedding, and of stationery, including company and other blank books for the army, certificates for discharged soldiers, blank forms for the pay and quartermaster's department, and for the printing of division and department orders and army regulations, - - - - - - - 500,000 00
For the incidental expenses of the quartermaster's department, consisting of postage on letters and packets received and sent by officers on public service; expenses of courts martial and courts of inquiry, including the additional compensation to judge advocates, recorders, members, and witnesses, while on that service, under the act of March sixteenth, eighteen hundred and two; extra pay to soldiers employed in the erection of barracks, quarters, storehouses, and hospitals, the construction of roads, and other constant labor, under the direction of the quartermaster's department, for periods of not less than ten days, under the act of second March, eighteen hundred and nineteen; expenses of expresses to and from the frontier posts and armies in the field, of escorts to paymasters, other disbursing officers, and trains, where military escorts cannot be furnished; expense of the interment of non-commissioned officers and soldiers; hire of laborers in the quartermaster's department; compensation of clerks to the officers of the quartermaster's department; compensation to wagon and forage masters, authorized by the act of the fifth of July, eighteen hundred and thirty-eight; for the apprehension of deserters, and the expenses incident to their pursuit; the various expenditures necessary to keep the first and second regiment of dragoons, the four companies of light artillery, and the regiment of mounted riflemen complete, including the purchase of traveling forges, blacksmiths' and shoeing tools, horse and mule shoes, iron, hire of veterinary surgeons, medicines for horses and mules, - - - - - - - 275,000 00

For the purchase of horses required for the first and second regiments of dragoons, the four companies of light artillery, and the regiment of mounted riflemen, - - - - - - 100,000 00

For constructing, repairing, and enlarging barracks, quarters, hospitals, storehouses, stables, wharves, and ways, at the several posts and army depôts; for temporary cantonments, gunhouses for the protection of cannon, including the necessary tools and materials for the objects enumerated, and for the authorized furniture for barrack rooms of non-commissioned officers and soldiers; rent of quarters for officers, barracks and hospitals for troops, where there are no public buildings for their accommodation; for storehouses for the safe-keeping of military stores, and of grounds for summer cantonments and encampments, - - - - - - 300,000 00

For mileage, or the allowance made to officers for the transportation of themselves and baggage, when traveling on duty without troops, - 75,000 00

For the transportation of the army, including the baggage of the troops when moving either by land or water; of clothing, camp and garrison equipage, and horse equipments, from the depôts at Philadelphia and New York to the several posts and army depôts; of subsistence, from the places of purchase and from the places of delivery, under contract, to such places as the circumstances of the service may require it to be sent; of ordnance, ordnance stores, and small arms, from the foundries and armories to the arsenals, fortifications, frontier posts, and army depôts; freights, tolls, and ferriages; the purchase and hire of horses, wagons, mules, oxen, carts, drays, ships, and other sea-going vessels and boats, for the transportation of supplies and for garrison purposes; drayage and cartage at the several posts, hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and in the Atlantic and Pacific; and of procuring water at such posts as, from their situation, require it, - - - - - - 750,000 00

For medical and hospital departments, - - 52,000 00

For armament of fortifications, - - - - 100,000 00

For purchase of ordnance, ordnance stores, and supplies, - - - - - - - - 100,000 00

For current expenses of the ordnance service, - 100,000 00

For manufacture of arms at the national armories, - - - - - - - - - 360,000 00

For the purchase of Colt's revolving pistols, if the Secretary of War should deem it advisable and proper, - - - - - - - - - 50,000 00

For repairs and improvements, and new machinery at the Harper's Ferry armory, - - - 62,620 00

For repairs and improvements, and new machinery at the Springfield armory, - - - - 82,500 00

For arsenals, - - - - - - - - 74,261 00

For purchase of a lot of ground at Harper's Ferry, Virginia, contiguous to the public buildings, - 200 00

For purchase of land at Springfield armory, to be flowed by raising the dam at the upper shop, and of a lot on the northwest corner of the armory grounds, - - - - - - - - 9,000 00

For purchase of a site for magazine at St. Louis arsenal, at a suitable point without the city, - 5,000 00

For surveys in reference to the military defences of the frontier, inland and Atlantic, - - - 10,000 00

For the purchase of land adjoining the Frankford arsenal, Pennsylvania, - - - - - - 20,000 00

For erecting suitable buildings and machinery for the manufacture of percussion caps at the same place, - - - - - - - - - 15,000 00

To defray the expense of compiling, arranging, publishing, and supervising the publication of a new edition of the Ordnance Manual, of fifteen hundred copies, - - - - - - - - 6,000 00

To defray the expenses of topographical surveys of routes from the valley of the Mississippi to the Pacific ocean, - - - - - - - - 50,000 00

To provide for the payment for secret services rendered to the United States in the war with Mexico, and to be expended under the direction of the President of the United States, - - 50,000 00

For carrying into effect the treaty of the United States with the Stockbridge tribe of Indians of the twenty-fourth November, eighteen hundred and forty-eight, - - - - - - - 52,804 85

$5,585,755 85

By the act making appropriations for the support of the Military Academy for the year ending the thirtieth of June, one thousand eight hundred and fifty.

For pay of officers, instructors, cadets, and musicians, - - - - - - - - - $79,764 00

For commutation of subsistence, - - - - 5,621 00

For forage for officers' horses, - - - - 2,496 00

For clothing for officers' servants, - - - 420 00

For repairs, fuel, apparatus, forage for public horses and oxen, stationery, printing, and other incidental and contingent expenses, - - 23,460 00

For the increase and expenses of the library, - 1,000 00

For expenses of the Board of Visitors, - - 1,033 61

For barracks for cadets, - - - - - 40,000 00

For new mess hall, - - - - - - - 5,000 00

For riding hall, - - - - - - - - 2,000 00

For hospital for enlisted men, - - - - 2,500 00

For permanent quarters and barracks for engineer troops, (sappers, miners, and pontoniers,) - 5,000 00

$171,294 61

By the act making appropriations for the payment of revolutionary and other pensions of the United States for the year ending the thirtieth of June, one thousand eight hundred and fifty.

For revolutionary pensions, under the act of the eighteenth of March, one thousand eight hundred and eighteen, - - - - - - $28,400 00

For invalid pensions, under various acts, - - 272,000 00

For pensions to widows, under the act of the second of February, one thousand eight hundred and forty-eight, - - - - - - 132,000 00

For pensions to widows and orphans, under the act of the twenty-first of July, one thousand eight hundred and forty-eight, - - - - 24,000 00

For half pay pensions to widows and orphans, under the act of the sixteenth of March, one thousand eight hundred and twelve, and the act of the sixteenth of April, one thousand eight hundred and sixteen, in addition to an unexpended balance remaining in the treasury of eleven thousand seven hundred and sixty-four dollars and fifty-seven cents, payable through the Third Auditor's office, - - - - - 10,000 00

For arrearages prior to the first of July, one thousand eight hundred and fifteen, under the act of the first of May, one thousand eight hundred and twenty, in addition to an unexpended balance remaining in the treasury of two thousand nine hundred and fourteen dollars and eighty-nine cents, payable through the Third Auditor's office, - - - - - - - - 1,000 00

$467,400 00

By the act making appropriations for the service of the Post Office Department for the year ending the thirtieth of June, one thousand eight hundred and fifty.

For transportation of the mails within the United States, - - - - - - - - $2,540,000 00

For transportation of the mails in four steamships, at one hundred thousand dollars each per year, from New York to Bremen, by way of Southampton, under the contract made with the Ocean Steam Navigation Company of New York, in addition to the sum of three hundred and eighty-three thousand six hundred and nine dollars of former appropriations for the same object, which it is estimated will remain unexpended on the thirtieth of June, eighteen hundred and forty-nine, - - - - - - 16,391 00

For transportation of the mails between Charleston, South Carolina, and Havana, by way of Key West, calling at Savannah, under the contract made with M. C. Mordecai, - - - 50,000 00

And for transportation of the mail by said line or by other steamers to such other places on the coast of Florida as the Postmaster General may deem practicable and expedient, - - - 5,000 00

For compensation of postmasters, - - 1,220,000 00

For ship, steamboat, and way letters, - - 30,000 00

For wrapping paper, - - - - - - 22,000 00

For office furniture, (in the offices of postmasters,) - - - - - - - - 3,000 00

For advertising, - - - - - - - - 50,000 00

For mail-bags, - - - - - - - - 25,000 00

For blanks, - - - - - - - - - 21,000 00

For mail-locks, keys, and stamps, - - - 6,000 00

For the detection and prevention of mail depredations, and for special agents, including the two agents for Oregon and California, - - 20,000 00

For clerks for offices, (the offices of postmasters,) - - - - - - - - 260,000 00

For miscellaneous, - - - - - - 60,000 00

$4,328,391 00

By the act making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes.

In Maine.

For thirteen spar-buoys and three beacons in Casco bay, - - - - - - - - $3,000 00

For a light-house at Gilkey's harbor, - - - 3,500 00

For a light-house at Beauchamp point, on the opposite side of the harbor, in the town of Camden, - - - - - - - - - 3,500 00

For a fog-bell at the light-house on Libby's island, 750 00

In Massachusetts.

For a screw-pile beacon, or other practicable structure, on the south shoal off Nantucket, lately discovered by the survey of the coast, to be expended under the direction of the Bureau of Topographical Engineers, - - - - 25,000 00

For six large buoys on the shoals off Nantucket, 1,000 00

For a light-boat on Pollock Rip, off Chatham, - 12,500 00

In New York.

For a light-boat on Horse-Shoe reef, Niagara river, ten thousand dollars, or for the erection of a lighthouse instead thereof, if after the survey herein provided for it shall be deemed more advisable, - - - - - - - - - 20,000 00

For four spar-buoys, to mark the channel from the aforesaid shoal to Bird island, - - - 300 00

For a beacon on the southeast part of Romer shoal, in the lower bay of New York, - - 10,000 00

For three spar-buoys in Buttermilk channel, - 200 00

For four additional spar-buoys in the lower bay of New York, at such points as may be designated by the Secretary of the Treasury, - - 400 00

In New Jersey.

For a light-house on the rocks at Bergen Point, - 5,000 00

For five spar-buoys at Thom's river, - - - 300 00

For five spar-buoys at Barnegat inlet, - - - 300 00

For a light-house at the mouth of Passaic river, - 5,000 00

For two buoys on the east and west oyster beds in Newark bay, - - - - - - - 100 00

For a light-house on the east point of Maurice river, Cumberland county, - - - - - 5,000 00

To provide surf-boats, life-cars, rockets, carronades, lines, and other necessary apparatus for the better preservation of life and property from shipwreck along the coast of New Jersey, between Little Egg Harbor and Cape May, to be expended under the direction of such officer of the revenue marine service as may be designated for that purpose by the Secretary of the Treasury, - - - - - - - - 10,000 00

In Delaware.

For the foundation and construction of a light-house at the Delaware breakwater, - - - 10,000 00

In Maryland.

For two spar-buoys at the mouth of Chester river, 120 00

In Texas.

For a light-boat on Galveston bar, - - - 12,500 00

For a light-house at Sabine Pass, - - - 7,500 00

In Illinois.

For the foundation and construction of a light-house at or near the end of the north pier at Chicago, to be expended under the direction of the Bureau of Topographical Engineers, and the present light-house within the city, and the beacon-light on the pier, shall be discontinued from and after the completion of the aforesaid light-house, - - - - - - - - 15,000 00

For a light-house at the mouth of Calumet river, to be expended under the direction of the Bureau of Topographical Engineers, - - - 4,000 00

In Florida.

For buoys on and near the bar of Nassau river, on the coasts of Georgia and Florida, in the neighborhood thereof, - - - - - 1,000 00

In Michigan.

For a light-house at the mouth of Muskegon river, 3,500 00

For a light-house on Manitou island, Lake Superior, - - - - - - - - - 7,500 00

For a light-house at Eagle harbor, Lake Superior, 4,000 00

For a floating bell at Stanard rock, Lake Superior, 1,000 00

For a light-house on Skilagalee rock, Lake Michigan, - - - - - - - - - 4,000 00

For a beacon light on the pier at New Buffalo, - 750 00

For a light-house at North Black river, Lake Michigan, - - - - - - - - - 3,500 00

For providing surf-boats, life-boats, and other means for the preservation of life and property shipwrecked on the coast of the United States, to be expended under the control and direction of the Secretary of the Treasury, - - - 10,000 00

$190,220 00

By the act making appropriations for current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June thirtieth, one thousand eight hundred and fifty.

For the current and contingent expenses of the Indian department, viz:

For the pay of superintendent of Indian affairs at St. Louis, and the several Indian agents, as provided by the acts of June thirtieth, eighteen hundred and thirty-four, and of March third, eighteen hundred and thirty-seven, and of June twenty-seventh, eighteen hundred and forty-six, $14,000 00

For the pay of sub-agents, authorized by the act of June thirtieth, eighteen hundred and thirty-four, - - - - - - - - - - 6,700 00

For the pay of interpreters, authorized by the same act, - - - - - - - - - 10,000 00

For the pay of clerk to superintendent at St. Louis, authorized by the act of June twenty-seven, eighteen hundred and forty-six, - - - - 1,200 00

For the pay of clerk to superintendent of the Western Territory, by the same act, - - 1,000 00

For buildings at agencies and repairs, - - - 2,000 00

For fulfilling treaty stipulations with various Indian tribes, viz:

To the Christian Indians.

For permanent annuity, stipulated in the acts of May twenty-sixth, eighteen hundred and twenty-four, and May twentieth, eighteen hundred and twenty-six, - - - - - - - 400 00

To the Chippewas of Saginaw.

For permanent annuity, stipulated in the fourth article of the treaty of third August, seventeen hundred and ninety-five, - - - - - 1,000 00

For permanent annuity, stipulated in the second article of the treaty of seventeenth November, eighteen hundred and seven, - - - - 800 00

For permanent annuity, stipulated in the fourth article of the treaty of twenty-fourth September, eighteen hundred and nineteen, - - 1,000 00

For support of blacksmiths, and for farming utensils and cattle, and the employment of persons to aid them in agriculture, stipulated in the seventh article of the treaty of fourteenth January, eighteen hundred and thirty-seven, - 2,000 00

For education, during the pleasure of Congress, stipulated in the sixth article of the treaty of fifth August, eighteen hundred and twenty-six, 1,000 00

To the Chippewas, Menomonies, Winnebagoes, and New York Indians.

For education, during the pleasure of Congress, stipulated in the fifth article of the treay of eleventh August, eighteen hundred and twenty-seven, - - - - - - - - - 1,500 00

To the Chippewas of Lake Superior and Mississippi.

For the payment in money, stipulated in the second article of the treaty of twenty-ninth July, eighteen hundred and thirty-seven, - - - 9,500 00

For payment in goods, stipulated in the second article of the treaty of twenty-ninth July, eighteen hundred and thirty-seven, - - - 19,000 00

For establishing three smiths' shops, supporting three smiths, and furnishing iron and steel, stipulated in the second article of the treaty of twenty-ninth July, eighteen hundred and thirty-seven, - - - - - - - - - 3,000 00

For support of farmers, purchase of implements, grain or seed, and to carry on their agricultural pursuits, stipulated in the second article of the treaty of twenty-ninth of July, eighteen hundred and thirty-seven, - - - - - - - 1,000 00

For purchase of provisions, stipulated in the second article of the treaty of twenty-ninth July, eighteen hundred and thirty-seven, - - - 2,000 00

For purchase of tobacco, stipulated in the second article of the treaty of twenty-ninth July, eighteen hundred and thirty-seven, - - - 500 00

For limited annuity, in money, for twenty-five years, stipulated in the fourth article of the treaty of fourth October, eighteen hundred and forty-two, - - - - - - - - 12,500 00

For limited annuity, in goods, for twenty-five years, stipulated in the fourth article of the treaty of fourth October, eighteen hundred and forty-two, - - - - - - - - 10,500 00

For support of two smiths' shops, including pay of smiths and assistants, and furnishing iron and steel, stipulated in the fourth article of the treaty of fourth October, eighteen hundred and forty-two, - - - - - - - - 2,000 00

For support of two farmers, stipulated in the fourth article of the treaty of fourth October, eighteen hundred and forty-two, - - - - - - 1,000 00

For pay of two carpenters, stipulated in the fourth article of the treaty of fourth October, eighteen hundred and forty-two, - - - - - 1,200 00

For support of schools, stipulated in the fourth article of the treaty of fourth October, eighteen hundred and forty-two, - - - - - 2,000 00

For purchase of provisions and tobacco, stipulated in the fourth article of the treaty of fourth October, eighteen hundred and forty-two, - - 2,000 00

For limited annuity, in goods, for five years, stipulated in the fourth article of the treaty of first August, eighteen hundred and forty-seven, - 3,600 00

For payment, in specie, to the Chippewas of Lake Superior, stipulated in the third article of the treaty of second August, eighteen hundred and forty-seven, - - - - - - - - 17,000 00

For payment, in specie, to the Chippewas of Mississippi, stipulated in the third article of the treaty of second August, eighteen hundred and forty-seven, - - - - - - - - 17,000 00

For limited annuity, for forty-six years, to be paid to the Chippewas of Mississippi, stipulated in the third article of the treaty of second August, eighteen hundred and forty-seven, - - - 1,000 00

To the Chickasaws.

For permanent annuity, stipulated in the act of twenty-fifth February, seventeen hundred and ninety-nine, - - - - - - - - 3,000 00

To the Choctaws.

For permanent annuity, stipulated in the second article of the treaty of sixteenth November, eighteen hundred and five, - - - - - 3,000 00

For permanent annuity, stipulated in the thirteenth article of the treaty of eighteenth October, eighteen hundred and twenty, - - - - - 600 00

For life annuity to chief, (Bob Cole,) stipulated in the tenth article of the treaty of twentieth January, eighteen hundred and twenty-five, - - 150 00

For permanent annuity for education, stipulated in the second article of the treaty of twentieth January, eighteen hundred and twenty-five, - 6,000 00

For life annuity to three district chiefs, stipulated in the fifteenth article of the treaty of twenty-seventh September, eighteen hundred and thirty, 750 00

For life annuity of one Wayne warrior, stipulated in the twenty-first article of the treaty of twenty-seventh September, eighteen hundred and thirty, - - - - - - - - 25 00

For limited annuity for twenty years, stipulated in the seventeenth article of the treaty of twenty-seventh September, eighteen hundred and thirty, - - - - - - - - 20,000 00

For education of forty youths for twenty years, (including support of teachers in the nation, two thousand five hundred dollars,) stipulated in the twentieth article of the treaty of twenty-seventh of September, eighteen hundred and thirty, - - - - - - - - 12,500 00

For blacksmith, stipulated in the sixth article of the treaty of eighteenth of October, eighteen hundred and twenty, - - - - - 600 00

For iron and steel for shop, stipulated in the ninth article of the treaty of twentieth January, eighteen hundred and twenty-five, - - - - 320 00

To the Creeks.

For permanent annuity, stipulated in the fourth article of treaty of seventh August, seventeen hundred and ninety, - - - - - - - 1,500 00

For permanent annuity, stipulated in the second article of the treaty of sixteenth June, eighteen hundred and two, - - - - - - 3,000 00

For permanent annuity, stipulated in the fourth article of the treaty of twenty-fourth January, eighteen hundred and twenty-six, - - - - 20,000 00

For limited annuity, for twenty years, stipulated in the eighth article of the treaty of twenty-fourth March, eighteen hundred and thirty-two, 10,000 00

For blacksmith and assistant, stipulated in the eighth article of the treaty of twenty-fourth January, eighteen hundred and twenty-six, - - 840 00

For iron and steel for shop, - - - - - 270 00

For two blacksmiths and assistants, stipulated in the thirteenth article of the treaty of twenty-fourth March, eighteen hundred and thirty-two, 1,680 00

For iron and steel for shops, - - - - - 540 00

For wheelright, stipulated in the eighth article of the treaty of twenty-fourth January, eighteen hundred and twenty-six, - - - - - 600 00

For education, stipulated in the thirteenth article of the treaty of twenty-fourth March, eighteen hundred and thirty-two, - - - - - 3,000 00

For interest on three hundred and fifty thousand dollars, at five per centum, stipulated in the third article of the treaty of twenty-third November, eighteen hundred and thirty-eight, - 17,500 00

For education, stipulated in the fourth article of the treaty of the fourth January, eighteen hundred and forty five, - - - - - - 3,000 00

To the Delawares.

For permanent annuity, stipulated in the fourth article of the treaty of third August, seventeen hundred and ninety-five, - - - - - 1,000 00

For permanent annuity, stipulated in the third article of the treaty of thirtieth September, eighteen hundred and nine, - - - - - 500 00

For permanent annuity, stipulated in the fifth article of the treaty of third October, eighteen hundred and eighteen, - - - - - 4,000 00

For permanent annuity, stipulated in the supplemental treaty of twenty-fourth September, eighteen hundred and twenty-nine, - - - 1,000 00

For life annuity to chief, stipulated in the private article of supplemental treaty of twenty-fourth September, eighteen hundred and twenty-nine, to treaty of third October, eighteen hundred and eighteen, - - - - - - - 200 00

For life annuity to chiefs, stipulated in supplemental article to treaty of twenty-sixth October, eighteen hundred and thirty-two, - - - 200 00

For purchase of salt, stipulated in the third article of the treaty of seventh June, eighteen hundred and three, - - - - - - - 100 00

For blacksmith and assistant, stipulated in the sixth article of the treaty of third October, eighteen hundred and eighteen, - - - 720 00

For iron and steel for shop, - - - - - 220 00

For interest on forty-six thousand and eighty dollars, at five per centum, being the value of thirty-six sections of land, set apart by treaty of eighteen hundred and twenty-nine, for education, stipulated in the resolution of the Senate of nineteenth January, eighteen hundred and thirty-eight, - - - - - - - 2,304 00

To the Florida Indians or Seminoles.

For blacksmith establishment, stipulated in the sixth article of the treaty of eighteenth September, eighteen hundred and twenty-three, and fourth article of the treaty of ninth May, eighteen hundred and thirty-two, - - - - 1,000 00

For annuity in goods, stipulated in the sixth article of the treaty of fourth January, eighteen hundred and forty-five, - - - - - 2,000 00

For annuity in money, stipulated in the fourth article of the treaty of fourth January, eighteen hundred and forty-five, - - - - - 3,000 00

For agricultural implements, stipulated in the seventh article of the treaty of fourth January, eighteen hundred and forty-five, - - - - 1,000 00

To the Iowas.

For interest on one hundred and fifty-seven thousand five hundred dollars, at five per centum, stipulated in the second article of the treaty of nineteenth October, eighteen hundred and thirty-eight, - - - - - - - - - 7,875 00

To the Kickapoos.

For limited annuity, stipulated in the fourth article of the treaty of twenty-fourth October, eighteen hundred and thirty-two, - - - - 5,000 00

To the Kansas.

For interest on two hundred thousand dollars, at five per centum, stipulated in the second article of the treaty of fourteenth January, eighteen hundred and forty-six, - - - - - - 10,000 00

To the Miamies.

For permanent annuity, stipulated in the fourth article of the treaty of twenty-third October, eighteen hundred and twenty-six, - - - 25,000 00

For blacksmith and assistant, stipulated in the fifth article of the treaty of sixth October, eighteen hundred and eighteen, - - - - - 720 00

For iron and steel for shop, - - - - - 220 00

For one thousand pounds of tobacco, two thousand pounds of iron, and one thousand pounds of steel, stipulated in the fourth article of the treaty of twenty-third October, eighteen hundred and twenty-six, - - - - - 770 00

For pay of miller, in lieu of gunsmith, stipulated in the fifth article of the treaty of sixth October, eighteen hundred and eighteen, - - 600 00

For one hundred and sixty bushels of salt, stipulated in the fifth article of the treaty of sixth October, eighteen hundred and eighteen, - 320 00

For education and support of poor, stipulated in the sixth article of the treaty of twenty third October, eighteen hundred and twenty-six, - 2,000 00

For the ninth of twenty instalments in money, stipulated in the second article of the treaty of twenty-eighth November, eighteen hundred and forty, - - - - - - - - 12,500 00

For payment in lieu of laborers, stipulated in the sixth article of the treaty of the twenty-eighth November, eighteen hundred and forty, - - 250 00

For agricultural assistance, stipulated in the fifth article of the treaty of sixth October, eighteen hundred and eighteen, - - - - - 200 00

To the Eel Rivers, (Miamies.)

For permanent annuity, stipulated in the fourth article of the treaty of third August, seventeen hundred and ninety-five, - - - - - 500 00

For permanent annuity, stipulated in the third article of the treaty of twenty-first August, eighteen hundred and five, - - - - - 250 00

For permanent annuity, stipulated in the third article, and separate article, of the treaty of the thirtieth September, eighteen hundred and nine, 350 00

To the Menomonies.

For limited annuity for twenty years, stipulated in the second article of the treaty of third September, eighteen hundred and thirty-six, - - 20,000 00

For two blacksmiths and assistants for twenty years, stipulated in the second article of the treaty of third September, eighteen hundred and thirty-six, - - - - - - - - 1,440 00

For iron and steel for shops for twenty years, - 440 00

For purchase of provisions for twenty years, stipulated in the second article of the treaty of third September, eighteen hundred and thirty-six, - 3,000 00

For two thousand pounds of tobacco for twenty years, stipulated in the second article of the treaty of third September, eighteen hundred and thirty-six, - - - - - - - - 300 00

For farming utensils and cattle for twenty years, stipulated in the second article of the treaty of third September, eighteen hundred and thirty-six, - - - - - - - - 500 00

For thirty barrels of salt for twenty years stipulated in the second article of the treaty of third September, eighteen hundred and thirty-six, - 150 00

To the Omahas.

For blacksmith and assistant, stipulated in the fourth article of the treaty of fifteenth of July, eighteen hundred and thirty, - - - - 720 00

For iron and steel for shop, - - - - - 220 00

For agricultural implements, stipulated in the fourth article of the treaty of fifteenth July, eighteen hundred and thirty, - - - - 500 00

To the Ottoes and Missourias.

For limited annuity, stipulated in the second article of the treaty of twenty-first September, eighteen hundred and thirty-three, - - - 2,500 00

For agricultural implements, stipulated in the third article of the treaty of twenty-first September, eighteen hundred and thirty-three, - - 500 00

For education, stipulated in the fourth article of the treaty of twenty-first September, eighteen hundred and thirty-three, - - - - 500 00

For payment of farmer, stipulated in the fifth article of the treaty of twenty-first September, eighteen hundred and thirty-three, - - - 600 00

For blacksmith and assistant, stipulated in the fourth article of the treaty of fifteenth of July, eighteen hundred and thirty, - - - - 720 00

For iron and steel for shop, - - - - - 220 00

To the Ottawas.

For permanent annuity, stipulated in the fourth article of the treaty of third August, seventeen hundred and ninety-five, - - - - - 1,000 00

For permanent annuity, stipulated in the second article of the treaty of the seventeenth November, eighteen hundred and seven, - - - 800 00

For permanent annuity, stipulated in the fourth article of the treaty of the seventeenth September, eighteen hundred and eighteen, - - 1,500 00

For permanent annuity, stipulated in the fourth article of the treaty of the twenty-ninth August, eighteen hundred and twenty-one, - - - 1,000 00

To the Ottawas and Chippewas.

For limited annuity, stipulated in the fourth article of the treaty of the twenty-eighth March, eighteen hundred and thirty-six, - - - 30,000 00

For interest, to be paid as annuity, on two hundred thousand dollars, per resolution of the Senate of twenty-seventh May, eighteen hundred and thirty-six, - - - - - - 12,000 00

For education, stipulated in the fourth article of the treaty of the twenty-eighth March, eighteen hundred and thirty-six, - - - - - 5,000 00

For missions, stipulated in the fourth article of the treaty of the twenty-eighth March, eighteen hundred and thirty-six, - - - - - 3,000 00

For vaccine matter, medicines, and pay of physicians, stipulated in the fourth article of the treaty of twenty-eighth March, eighteen hundred and thirty-six, - - - - - - 300 00

For purchase of provisions, stipulated in the fourth article of the treaty of the twenty-eighth March, eighteen hundred and thirty-six, - - 2,000 00

For six thousand five hundred pounds of tobacco, one hundred barrels of salt, and five hundred fish barrels, stipulated in the fourth article of the treaty of the twenty-eighth March, eighteen hundred and thirty-six, - - - - 1,100 00

For three blacksmiths and assistants, stipulated in the seventh article of the treaty of the twenty-eighth March, eighteen hundred and thirty-six, 2,160 00

For iron and steel for shops, - - - - 660 00

For gunsmith at Mackinac, stipulated in the seventh article of the treaty of the twenty-eighth March, eighteen hundred and thirty-six, - - 600 00
For iron and steel for shop, - - - - - 220 00
For two farmers and assistants, stipulated in the seventh article of the treaty of the twenty-eighth March, eighteen hundred and thirty-six, 1,600 00
For two mechanics, stipulated in the seventh article of the treaty of the twenty-eighth March, eighteen hundred and thirty-six, - - - 1,200 00

To the Osages.

For interest on sixty-nine thousand one hundred and twenty dollars, at five per centum, being the valuation of fifty-four sections of land set apart by treaty of the second June, eighteen hundred and twenty-five, for educational purposes, per resolution of the Senate of the nineteenth January, eighteen hundred and thirty-six, - - - - - - - - - - 3,456 00
For limited annuity, stipulated in the second article of the treaty of the eleventh January, eighteen hundred and thirty-nine, - - - - 20,000 00
For two smiths' establishments, stipulated in the second article of the treaty of the eleventh of January, eighteen hundred and thirty-nine, - 2,000 00
For pay of two millers, stipulated in the second article of the treaty of the eleventh January, eighteen hundred and thirty-nine, - - - 1,200 00

To the Piankeshaws.

For permanent annuity, stipulated in the fourth article of the treaty of the third August, seventeen hundred and ninety-five, - - - - 500 00
For permanent annuity, stipulated in the third article of the treaty of the thirtieth December, eighteen hundred and five, - - - - 300 00

To the Pawnees.

For agricultural implements, stipulated in the fourth article of the treaty of the ninth of October, eighteen hundred and thirty-three, - - 1,000 00

To the Pottawatomies of Huron.

For permanent annuity, stipulated in the second article of the treaty of the seventeenth November, eighteen hundred and seven, - - - 400 00

To the Pottawatomies.

For permanent annuity, stipulated in the fourth article of the treaty of the third August, seventeen hundred and ninety-five, - - - - 1,000 00
For permanent annuity, stipulated in the third article of the treaty of the thirtieth September, eighteen hundred and nine, - - - - 500 00
For permanent annuity, stipulated in the third article of the treaty of the second October, eighteen hundred and eighteen, - - - 2,500 00
For permanent annuity, stipulated in the second article of the treaty of the twentieth September, eighteen hundred and twenty-eight, - - - 2,000 00
For life annuity to chief, stipulated in the second article of the treaty of the twentieth September, eighteen hundred and twenty-eight, - - 100 00
For permanent annuity, stipulated in the second article of the treaty of the twenty-ninth July, eighteen hundred and twenty-nine, - - 16,000 00
For limited annuity, stipulated in the third article of the treaty of the twentieth October, eighteen hundred and thirty-two, - - - 15,000 00
For life annuity to chiefs, stipulated in the third article of the treaty of the twentieth October, eighteen hundred and thirty-two, - - - 400 00
For limited annuity, stipulated in the third article of the treaty of the twenty-sixth October, eighteen hundred and thirty-two, - - - - 20,000 00
For limited annuity, stipulated in the third article of the treaty of the twenty-sixth September, eighteen hundred and thirty-three, - - - 14,000 00
For life annuities to chiefs, stipulated in the third article of the treaty of the twenty-sixth September, eighteen hundred and thirty-three, - 700 00
For limited annuity, stipulated in the second supplemental article of the treaty of the twenty-sixth September, eighteen hundred and thirty-three, - - - - - - - - - 2,000 00
For purchase of salt, stipulated in the third article of the treaty of the seventh June, eighteen hundred and three, - - - - - - - 140 00
For purchase of one hundred and sixty bushels of salt, stipulated in the third article of the treaty of the sixteenth October, eighteen hundred and twenty-six, - - - - - - 320 00
For education, stipulated in the third article of the treaty of the sixteenth October, eighteen hundred and twenty-six, - - - - - 2,000 00
For blacksmith and assistant, stipulated in the third article of the treaty of the sixteenth October, eighteen hundred and twenty-six, - - 720 00
For iron and steel for shop, - - - - - 220 00
For education, stipulated in the second article of the treaty of the twentieth September, eighteen hundred and twenty-eight, - - - - 1,000 00
For payment in money, in lieu of two thousand pounds of tobacco, fifteen hundred pounds of iron, and three hundred and fifty pounds of steel, stipulated in the second article of the treaty of the twentieth September, eighteen hundred and twenty-eight, and the tenth article of the treaty of fifth June, eighteen hundred and forty-six, - - - - - - - - 300 00
For blacksmith and assistant, stipulated in the second article of the treaty of twentieth September, eighteen hundred and twenty-eight, - 720 00
For iron and steel for shop, - - - - - 220 00
For blacksmith and assistant, stipulated in the second article of the treaty of the twenty-ninth July, eighteen hundred and twenty-nine, - - 720 00
For iron and steel for shop, - - - - - 220 00
For purchase of fifty barrels of salt, stipulated in the second article of the treaty of the twenty-ninth July, eighteen hundred and twenty-nine, 250 00
For education, stipulated in the fourth article of the treaty of the twenty-seventh October, eighteen hundred and thirty-two, - - - - 2,000 00
For interest on six hundred and forty-three thousand dollars, at five per centum, stipulated in the seventh article of the treaty of fifth June, eighteen hundred and forty-six, - - - 32,150 00

To the Quapaws.

For limited annuity, stipulated in the fourth article of the treaty of the eighteenth of May, eighteen hundred and thirty-three, - - - - 2,000 00
For education, stipulated in the third article of the treaty of the eighteenth of May, eighteen hundred aad thirty-three, - - - - - 1,000 00
For blacksmith, stipulated in the third article of the treaty of the eighteenth of May, eighteen hundred and thirty-three, - - - - - 600 00
For iron and steel for shop, - - - - - 220 00
For pay of farmer, stipulated in the third article of the treaty of the eighteenth of May, eighteen hundred and thirty-three, - - - - 600 00

To the Six Nations of New York.

For permanent annuity, stipulated in the sixth article of the treaty of the eleventh of November, seventeen hundred and ninety-four, - - 4,500 00

To the Senecas of New York.

For permanent annuity, in lieu of interest on stock, per act of the nineteenth of February, eighteen hundred and thirty-one, - - - 6,000 00
For interest, in lieu of investment, on seventy-five thousand dollars, at five per centum, per act of the twenty-seventh of June, eighteen hundred and forty-six, - - - - - 3,750 00

To the Sioux of Mississippi.

For interest on three hundred thousand dollars, at five per centum, stipulated in the second article of the treaty of twenty-ninth September, eighteen hundred and thirty-seven, - - 15,000 00
For limited annuity, stipulated in the second article of the treaty of the twenty-ninth of September, eighteen hundred and thirty-seven, - - 10,000 00
For purchase of medicines, agricultural implements, and stock, and for support of farmers, physician, and blacksmith, stipulated in the second article of the treaty of the twenty-ninth of September, eighteen hundred and thirty-seven, - - - - - - - - - 8,250 00
For purchase of provisions, stipulated in the second article of the treaty of the twenty-ninth of September, eighteen hundred and thirty-seven, 5,500 00

To the Sacs and Foxes of Missouri.

For interest on one hundred and fifty-seven thousand four hundred dollars, at five per centum, stipulated in the second article of the treaty of twenty-first October, eighteen hundred and thirty-seven, - - - - - - - 7,870 00

To the Sacs and Foxes of Mississippi.

For permanent annuity, stipulated in the third article of the treaty of the third November, eighteen hundred and four, - - - - - - 1,000 00
For limited annuity, stipulated in the third article of the treaty of the twenty-first September, eighteen hundred and thirty-two, - - - 20,000 00
For gunsmith, stipulated in the fourth article of the treaty of twenty-first September, eighteen hundred and thirty-two, - - - - - - 600 00
For iron and steel for shop, - - - - - 220 00
For blacksmith and assistant, stipulated in the fourth article of the treaty of the twenty-first September, eighteen hundred and thirty-two, - 840 00
For iron and steel for shop, - - - - - 220 00
For forty barrels of salt, and forty kegs of tobacco, stipulated in the fourth article of the treaty of the twenty-first September, eighteen hundred and thirty-two, - - - - - - 800 00
For interest on two hundred thousand dollars, at five per centum, stipulated in the second article of the treaty of the twenty-first October, eighteen hundred and thirty-seven, - - - 10,000 00
For interest on eight hundred thousand dollars, at five per centum, stipulated in the second article of the treaty of the eleventh October, eighteen hundred and forty-two, - - - 40,000 00

To the Shawnees.

For permanent annuity, stipulated in the fourth article of the treaty of the third August, seventeen hundred and ninety-five, - - - - 1,000 00
For permanent annuity, stipulated in the fourth article of the treaty of the twenty-ninth September, eighteen hundred and seventeen, - 2,000 00
For purchase of salt, stipulated in the third article of the treaty of the seventh June, eighteen hundred and three, - - - - - - 60 00
For blacksmith and assistant, stipulated in the fourth article of the treaty of the eighth August, eighteen hundred and thirty-one, - - - 840 00
For iron and steel for shop, - - - - 220 00

To the Senecas and Shawnees.

For permanent annuity, stipulated in the fourth article of the treaty of the seventeenth September, eighteen hundred and eighteen, - - 1,000 00

To the Senecas.

For permanent annuity, stipulated in the fourth article of the treaty of the twenty-ninth September, eighteen hundred and seventeen, - 500 00
For permanent annuity, stipulated in the fourth article of the treaty of the seventeenth September, eighteen hundred and eighteen, - - 500 00
For blacksmith and assistant, stipulated in the fourth article of the treaty of the twenty-eighth February, eighteen hundred and thirty-one, - 840 00
For iron and steel for shop, - - - - - 320 00
For pay of miller, stipulated in the fourth article of the treaty of the twenty-eighth February, eighteen hundred and thirty-one, - - - 600 00

To the Wyandots.

For permanent annuity, stipulated in the third article of the treaty of the seventeenth March, eighteen hundred and forty-two, - - - - 17,500 00
For blacksmith and assistant, stipulated in the eighth article of the treaty of the seventeenth March, eighteen hundred and forty-two, - - 720 00
For iron and steel for shop, - - - - - 270 00
For education, stipulated in the eighth article of the treaty of the seventeenth March, eighteen hundred and forty-two, - - - - - 500 00

To the Winnebagoes.

For limited annuity, stipulated in the second article of the treaty of the first August, eighteen hundred and twenty-nine, - - - - - 18,000 00
For limited annuity, stipulated in the third article of the treaty of the fifteenth September, eighteen hundred and thirty-two, - - - - 10,000 00
For fifty barrels of salt and three thousand pounds of tobacco, stipulated in the second article of the treaty of the first August, eighteen hundred and twenty-nine, - - - - - - 600 00
For one thousand five hundred pounds of tobacco, stipulated in the fifth article of the treaty of the fifteenth September, eighteen hundred and thirty-two, - - - - - - - 175 00
For three blacksmiths and assistants, stipulated in the third article of the treaty of the first August, eighteen hundred and twenty-nine, - 2,160 00
For iron and steel for shops, - - - - - 660 00
For laborers and oxen, stipulated in the third article of the treaty of the first August, eighteen hundred and twenty-nine, - - - - - 365 00
For education, stipulated in the fourth article of the treaty of the fifteenth September, eighteen hundred and thirty-two, - - - - - 3,000 00
For six agriculturists, purchase of oxen, ploughs, and other implements, stipulated in the fifth article of the treaty of the fifteenth September, eighteen hundred and thirty-two, - - - 2,500 00
For pay of two physicians, stipulated in the fifth article of the treaty of the fifteenth September, eighteen hundred and thirty-two, - - - 400 00
For interest on one million one hundred thousand dollars, at five per centum, stipulated in the fourth article of the treaty of the first November, eighteen hundred and thirty-seven, - - 55,000 00
For interest on eighty-five thousand dollars, at five per centum, stipulated in the fourth article of the treaty of the thirteenth October, eighteen hundred and forty-six, - - - - - 4,250 00

To the Weas.

For permanent annuity, stipulated in the fifth article of the treaty of the second October, eighteen hundred and eighteen, - - - 3,000 00

To the Menomonies.

For fulfilling treaty with the Menomonies, ratified at the present session of Congress, viz:
For payment to the chiefs to enable them to arrange and settle the affairs of their tribe, preparatory to their removal to their new country, per first clause of fourth article of treaty of eighteenth October, eighteen hundred and forty-eight, - - - - - - - - 30,000 00
For payment to the mixed blood, and in such proportions to each as the chiefs in council and a commissioner to be appointed by the President shall designate, per second clause of the same article and treaty, - - - - - 40,000 00
For payment for expenses of removal, per third clause of the same article and treaty, - - 20,000 00
For payment for subsistence for one year after removal, per fourth clause same article and treaty, - - - - - - - - 20,000 00
For the establishment of a manual labor school, the erection of a grist and saw-mill, and other necessary improvements, per fifth clause of the same article and treaty, - - - - - 15,000 00
For the payment of improvements on the lands ceded, per eighth clause of the same article and treaty, - - - - - - - - 5,000 00
For the services and expenses of a commissioner to distribute the half-breed fund, per second clause of same article and treaty, - - - 2,000 00
For expenses of a delegation of Indians to explore their new country, per sixth article same treaty, - - - - - - - - 4,000 00

To the New York Indians.

For payment to the emigrant New York Indians who went west in the year eighteen hundred and forty-six of their proportion of their annuities due the Senecas and the Six Nations of New York for that year, to be reimbursed to the United States when recovered from Samuel H. Bunch, late Sub-Indian agent, and his sureties, - - - - - - - - - 478 65
For compensation to an agent and two interpreters for the Indian tribes of Texas, in addition to former appropriations for this object, - - 3,000 00
For surveying the northern and western boundary lines of the country now owned by the Creek Indians, - - - - - - - - 15,000 00

1,000,988 65

By the act authorizing the payment of interest upon the advances made by the State of Alabama for the use of the United States Government, in the suppression of the Creek Indian hostilities of eighteen hundred and thirty-six and eighteen hundred and thirty-seven, in Alabama.

For the payment of interest on advances. [Indefinite.]

By the act to authorize the Secretary of War to make reparation for the killing of a Caddo boy by volunteer troops in Texas.

To enable the Secretary to make the stipulated reparation, - - - - - - - - $500 00

By the act to provide for carrying into execution, in part, the twelfth article of the treaty with Mexico, concluded at Guadalupe Hidalgo.

For the payment of the instalment and interest which will fall due the thirtieth May, eighteen hundred and forty-nine, - - - - $3,720,000 00
For the payment of the instalment and interest which will fall due the thirtieth May, eighteen hundred and fifty, - - - - - - 3,540,000 00
$7,260,000 00

By the act making appropriations for the payment of navy pensions for the year ending the thirtieth of June, one thousand eight hundred and fifty.

To pay invalid pensions, - - - - - $40,000 00
To pay the pensions of widows and orphans of officers, seamen, and marines, - - - 50,000 00
To pay the pensions of invalids who were wounded on board private armed vessels during the last war with Great Britain, - - - - 3,000 00
$93,000 00

By the act to establish the Territorial Government of Minesota.

For the purchase of a library, - - - - $5,000 00

By the act for the settlement of the claims of New Hampshire against the United States.

For sundry militia expenses, not to exceed - $7,000 00

By the resolution to defray the expenses of certain Chippewa Indians and their interpreter.

To defray the expenses attending their coming to Washington, and their return, - - - $6,000 00

By the act to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico, of the 2d day of February, 1848.

For the payment of salaries and contingent expenses. [Indefinite.]

By the act requiring all moneys receivable from customs and from all other sources to be paid immediately into the treasury, without abatement or reduction, and for other purposes.

For the payment of debentures, or drawbacks, bounties, and allowances. [Indefinite.]
For the payment of certain expenses of collection. [Indefinite.]

By the act for the relief of James Norris, and for other purposes.

For payment of salaries of the governor, three judges, and secretary of Minesota, - - - $9,000 00
For contingent expenses of the Territory of Minesota, - - - - - - - - - 350 00
For compensation and mileage of the Legislative Assembly of Minesota, pay of officers and attendants, printing, stationery, fuel, and other incidental expenses of the Territory, - - 13,700 00
$23,050 00

By the act for the relief of Philip J. Fontane.

For the payment of a balance due for mason work, - - - - - - - - - - $1,000 00

By the act for the relief of Charles Waldron.

For his payment, - - - - - - - $198 50

By the act for the relief of Archibald Bull and Lemuel S. Finch.

For services as judge and sheriff, - - - $63 38

By the act for the relief of Colonel Robert Wallace, aid-de-camp to General William Hull.

For services and for a horse, - - - - $914 00

By the act for the relief of Joseph Bryan.

For certain disbursements, - - - - - $282 00

By the act for the relief of James H. Conley.

For his payment, - - - - - - - $222 80

By the act for the relief of Stephen Champlin.—[Indefinite.]

By the act for the relief of Capt. Dan Drake Henrie.

For gallant services, - - - - - - $2,000 00

By the act for the relief of William Harding.

To refund part of a penalty, - - - - - $100 00

By the act to provide for the settlement of the claim of Henry Washington, late deputy surveyor, &c.

For damages for the abrogation of a contract.—[Indefinite.]

By the act for the relief of John M. Moore.

For compensation as acting Commissioner of the General Land Office.—[Indefinite.]

By the act for the relief of Joseph F. Caldwell.

For carrying the mail, - - - - - - $1,167 00

By the act for the relief of the owners of the Spanish brig Restaurador.—[Indefinite.]

By the act for the relief of Thomas Douglas, late United States Attorney for East Florida.

For services in certain suits.—[Indefinite.]

By the act for the relief of William Fuller and Charles Savage.

For services in carrying the mail, - - $1,229 17

By the act for the relief of Jeanette C. Huntington, widow and sole executrix of William D. Cheever, deceased.

For losses sustained by payments in treasury notes, - - - - - - - - $21,231 18

By the act for the relief of James Glynn and others.

For certain surveys and charts.—[Indefinite.]

By the act for the relief of Thomas T. Gammage.

For articles taken for United States volunteers, - $991 00

By the act for the relief of James Y. Smith.

For the use of a steamboat, - - - - - $3,064 00

By the act for the relief of E. B. Cogswell.

For coal and iron, and for services as blacksmith to Indians in Texas, - - - - - $1,200 00

By the act to provide for the final settlement of the accounts of Abraham Edwards, register of the land office at Kalamazoo, Michigan.—[Indefinite.]

By the act for the relief of Joshua Barney, United States agent.

For services, this sum, with interest, - - - $104 50

By the act for the relief of A. C. Bryan and others.

For horses captured in Mexico, to the persons specified, - - - - - - - - - $420 00
For certain horses and equipments lost.—[Indefinite.]

By the act for the relief of Mary McRea, wife of Lieutenant Colonel William McRea, late of the United States army, deceased.—[Indefinite.]

By the act for the relief of Henry D. Garrison.

For his pay as assignee of an Indian claim under treaty, - - - - - - - - - $800 00

By the act for the relief of George Center.

For property destroyed in the Florida war.—[Indefinite.]

By the act for the relief of James F. Sothoron.

For property destroyed by British troops.—[Indefinite.]

By the act for the relief of John P. Skinner and the legal representatives of Isaac Green.

To reimburse a sum recovered against Skinner and Green, as sureties of Emerson, - - - $8,313 00

By the act for the relief of John F. Ohl.

To reimburse a sum paid as duties on merchandise destroyed, - - - - - - - $420 00

By the act for the relief of James Morehead.

To make compensation for losses for the suspension by the Government of the erection of a dam, in the Ohio river. [Indefinite.]

By the act for the relief of Dr. Adolphus Wizlizenus.

For medicines and for pay.—[Indefinite.]

By the act for the relief of Samuel A. Grier.

For an amount collected from him as surety, - $462 10

By the act for the relief of David Thomas, of Philadelphia.

For an amount illegally exacted as duties, - - $141 54

By the act for the relief of Alexander Montgomery, Captain and Assistant Quartermaster of the Army.

To indemnify losses sustained as disbursing officer, - - - - - - - - - $6,000 00

By the act for the relief of Captain George R. Shoemaker.

For services under a contract.—[Indefinite.]

By the act for the relief of Daniel Robinson.

For damages for the violation of a contract.—[Indefinite.]

By the act for the relief of Noah A. Phelps.

For the amount of an award in his favor, - - $416 13

By an act for the relief of Satterlee Clark.

This amount to be paid, - - - - - $15,632 61

By an act for the relief of William P. Yonge.

For this sum to be paid, - - - - - $214 96

By the act for the relief of John W. Hockett.

For an amount due for work, - - - - $303 52

By an act for the relief of Lowry Williams.

For the amount of an outstanding certificate, under a treaty with the Cherokees, - - - $960 50

By the act for the relief of Thomas H. Noble.

For charcoal furnished, - - - - - $284 62½

By the act for the relief of Peter Shaffer.

For work performed, - - - - - - $372 46

By the act for the relief of Charles Benns.

For an amount paid into the treasury for duties, - $387 20

By the act for the relief of Thomas Talbot and others.

For horses and other property taken by Pawnee Indians, - - - - - - - - - $4,155 00

RECAPITULATION.

Civil, diplomatic, and miscellaneous	$6,301,605 74½
Military, including fortifications, Indian department, revolutionary and other pensions,	7,937,161 96
Naval, including naval pensions	9,601,892 91
Post Office Department	4,328,391 00
In fulfillment of the treaty with Mexico	7,260,000 00
Total	$35,429,041 61½

II.—OFFICES CREATED, AND THE SALARIES THEREOF.

By the act making appropriations for the civil and diplomatic expenses of Government for the year ending June 30, 1850.

One clerk in the office of the Register of the Treasury, at a salary not exceeding $1,400 per annum.
One clerk to the examiner of drugs, medicines, and chemicals, at New York, at a salary of $1,000 per annum.

By the act to establish an additional land office in the State of Missouri.

One register, to receive the same compensation, fees, and emoluments provided by law for other registers.
One receiver of public moneys, to receive the same compensation, fees, and emoluments already provided by law for other receivers.

By the act to provide for an increase of the medical staff, and for an additional number of chaplains of the army of the United States.

Ten additional assistant surgeons.
Ten additional chaplains, for military posts.
(To receive the pay allowed to others.)

By the act for changing the location of the land office in the Chippewa land district, and establishing an additional land district in the State of Wisconsin.

One register and one receiver of public moneys; each of whom to receive the compensation allowed to others.

By the act for the better organization of the district court of United States for the State of Louisiana.

One additional judge, at an annual salary of $2,000 per annum.
One clerk, appointable by the judge, who shall be entitled to receive the same fees provided for the clerk of the court at New Orleans.
One marshal, and one district attorney, each of whom to receive the same fees and emoluments heretofore provided by law for others.

By the act to make arrangements for taking the 7th Census.

One secretary to the board of commissioners, whose compensation is hereafter to be determined.

By the act to establish the Territorial Government of Minesota.

One governor, at an annual salary of $1,500.
as governor, and $1,000 as superintendent of Indian affairs.
One secretary, at an annual salary of $1,800.
One chief justice, at an annual salary of $1,800.
Two associate justices, each to receive an annual salary of $1,800.
One United States attorney, to receive the same fees and salary as the attorney for Wisconsin Territory received.
One marshal, to be entitled to the same fees as the marshal for Wisconsin.

By the act to establish the collection district of Brazos de Santigo, and for other purposes.

One collector, at an annual salary of $1,750.

Two additional inspectors, (the compensation not specified.)

One deputy collector, to receive the usual fees.

By the act declaring Covington, in the State of New York, a port of delivery, and for other purposes.

One deputy collector, authorised to reside at Delaware city, whose compensation shall be the usual fees.

By the act to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico, of the 2d day of February, 1848.

Three commissioners, at an annual compensation, each, of $3,000.

A secretary, to be appointed by the board, at an annual salary of $2,000.

A clerk, to be appointed by the board, at an annual salary of $1,500.

By the act to establish the Home Department, and to provide for the Treasury Department an Assistant Secretary of the Treasury and a Commissioner of the Customs.

A Secretary of the Interior, at the same salary as the Secretaries of the other Executive Departments.

A chief clerk of the Interior, at a salary of $2,000 per annum.

A Commissioner of Customs, at the same annual salary as the First Auditor of the Treasury.

An Assistant Secretary of the Treasury, appointable by the Secretary of the Treasury, at a salary of $3,000 per annum.

A clerk, in aid of the Assistant Secretary of the Treasury, at a salary of $1,700 per annum.

By the act to extend the revenue laws of the United States over the Territory and waters of Upper California, and to create a collection district therein.

One collector of the customs, at an annual salary of $1,500, and the fees and commissions allowed by law.

Three deputy collectors, at an annual annual salary of $1,000, and the fees and commissions allowed by law.

III.—THE OFFICES, THE SALARIES OF WHICH HAVE BEEN INCREASED, WITH THE AMOUNT OF SUCH INCREASE.

By the act making appropriations for the civil and diplomatic expenses of Government for the year ending June 30, 1850.

The examiner of drugs, &c., at New York, to receive $2,000 per annum, instead of $1,800.

By the act making appropriations for the naval service for the year ending June 30, 1850.

Chief engineers, on duty, after five years, $2,000, each, per annum, instead of $1,500.

Chief engineers, on leave, after five years, $1,400, each, per annum, instead of $1,200.

First assistant engineers, on duty, $1,000, instead of $900.

First assistant engineers, on leave, $850, each, per annum, instead of $700.

Second assistant engineers, on duty, $800, instead of $700.

Second assistant engineers, on leave, $600, instead of $500.

Third assistant engineers, on duty, $600, instead of $500.

Third assistant engineers, on leave, $400, instead of $350.

THE CONGRESSIONAL GLOBE.

PRINTED AND PUBLISHED AT THE CITY OF WASHINGTON, BY BLAIR & RIVES.

30TH CONGRESS, 2D SESSION. FRIDAY, DECEMBER 8, 1848. NEW SERIES.....No. 1.

THIS is the first number of the CONGRESSIONAL GLOBE for this session—the second of the Thirtieth Congress. We shall print several thousand surplus copies, for the purpose of supplying those who may subscribe within a reasonable time—say by the 10th of January—with complete copies.

We will print the first number of the APPENDIX early next week, and will also print several thousand surplus copies of it, to supply all who may subscribe for it before the 10th of January with complete files. The APPENDIX will be printed like the CONGRESSIONAL GLOBE, and will contain the President's Message, the Reports of the Heads of the Executive Departments, and *all* the Speeches made in both branches of Congress which the members write out or revise.

The following are our prices for them:

For one copy of the CONGRESSIONAL GLOBE.....$1 00
For one copy of the APPENDIX..... 1 00
For six copies of either, or part of both..... 5 00

☞ After the 10th of January the price for the CONGRESSIONAL GLOBE and APPENDIX for this session will be $1 50 each. The original price of $1 each does not pay the expense of the publications, in consequence of the great increase of matter published. We must make our profit out of those who neglect to subscribe early.

THIRTIETH CONGRESS,
SECOND SESSION.

SENATE OF THE UNITED STATES.

GEORGE M. DALLAS, of Pennsylvania, Vice President of the United States, and President of the Senate.

The names of Senators, with the expiration of the term of service of each. Democrats (36) in Roman, and the Whigs (22) in Italic letters.

FROM MAINE.
Hannibal Hamlin.....1851
James W. Bradbury.....1853

NEW HAMPSHIRE.
Charles G. Atherton.....1849
John P. Hale.....1853

MASSACHUSETTS.
Daniel Webster.....1851
John Davis.....1853

RHODE ISLAND.
Albert C. Greene.....1851
John H. Clarke.....1853

CONNECTICUT.
John M. Niles.....1849
Roger S. Baldwin.....1851

VERMONT.
William Upham.....1849
Samuel S. Phelps.....1851

NEW YORK.
John A. Dix.....1849
Daniel S. Dickinson.....1851

NEW JERSEY.
William L. Dayton.....1851
Jacob W. Miller.....1853

PENNSYLVANIA.
Simon Cameron.....1849
Daniel Sturgeon.....1851

DELAWARE.
John M. Clayton.....1851
Presley Spruance.....1853

MARYLAND.
James A. Pearce.....1849
Reverdy Johnson.....1851

VIRGINIA.
James M. Mason.....1851
Robert M. T. Hunter....1853

NORTH CAROLINA.
George E. Badger.....1849
Willie P. Mangum.....1853

SOUTH CAROLINA.
Andrew P. Butler.....1849
John C. Calhoun.....1853

GEORGIA.
Herschell V. Johnson....1849
John McPherson Berrien.1853

KENTUCKY.
Thomas Metcalfe.....1849
Joseph R. Underwood....1853

TENNESSEE.
Hopkins L. Turney.....1851
John Bell.....1853

OHIO.
William Allen.....1849
Thomas Corwin.....1851

LOUISIANA.
Henry Johnson.....1849
Solomon W. Downs.....1853

INDIANA.
Edward A. Hannegan...1849
Jesse D. Bright.....1851

MISSISSIPPI.
Jefferson Davis.....1851
Henry S. Foote.....1853

ILLINOIS.
Sidney Breese.....1849
Stephen A. Douglas.....1853

ALABAMA.
William R. King.....1849
Benjamin Fitzpatrick...1849

MISSOURI.
David R. Atchison.....1849
Thomas H. Benton.....1851

ARKANSAS.
Solon Borland.....1849
William K. Sebastian...1853

FLORIDA.
James D. Westcott.....1849
David L. Yulee.....1851

MICHIGAN.
Thomas Fitzgerald.....1849
Alpheus Felch.....1853

TEXAS.
Thomas S. Rusk.....1851
Sam Houston.....1853

WISCONSIN.
Isaac P. Walker.....1849
Henry Dodge.....1851

IOWA.
(Vacancy.)
(Vacancy.)

HOUSE OF REPRESENTATIVES,
Second Session, Thirtieth Congress.

Alphabetical List (by States) of the Members of the Thirtieth Congress. Whigs (117) in Italics; Democrats (111) in Roman; Native American (1) in Small Capitals.

MAINE.
Hiram Belcher,
Asa W. H. Clapp,
Franklin Clark,
David Hammons,
Ephraim K. Smart,
James S. Wiley,
Hezekiah Williams.

NEW HAMPSHIRE.
James H. Johnson,
Charles H. Peaslee,
Joseph Grinnell,
Artemas Hale,
Charles Hudson,
Daniel P. King,
John G. Palfrey,
Horace Mann,
Julius Rockwell,
Robert C. Winthrop.

RHODE ISLAND.
Robert B. Cranston,
Benjamin B. Thurston.

CONNECTICUT.
James Dixon,
Samuel D. Hubbard,
John A. Rockwell,
Truman Smith.

NEW YORK.
Ausburn Birdsall,
Esbond Blackmar,
William Collins,
Harmon S. Conger,
William Duer,
Daniel Gott,
Horace Greeley,
Nathan K. Hall,
Elias B. Holmes,
Washington Hunt,
Timothy Jenkins,
Orlando Kellogg,
Sidney Lawrence,
William T. Lawrence,
Frederick W. Lord,
William B. Maclay,
Dudley Marvin,
Joseph Mullin,
Henry C. Murphy,
William Nelson,
Henry Nicoll,
George Petrie,
Harvey Putnam,
Gideon Reynolds,
Robert L. Rose,
David Rumsey,
Daniel B. St. John,
Elitkim Sherrill,
John J. Slingerland,
George A. Starkweather,
Peter H. Sylvester,
Frederick A. Talmadge,
Cornelius Warren,
Hugh White.

NEW JERSEY.
Joseph E. Edsall,
Dudley S. Gregory,
James G. Hampton,
William A. Newell,
John Van Dyke.

PENNSYLVANIA.
John Blanchard,
Jasper E. Brady,
Samuel A. Bridges,
Richard Brodhead,
Charles Brown,
Chester Butler,
John Dickey,
George N. Eckert,
John W. Farrelly,
John Freedley,
Moses Hampton,
Charles J. Ingersoll,
Joseph R. Ingersoll,
Alexander Irvin,
LEWIS C. LEVIN,
Job Mann,
Abraham R. McIlvaine,
Henry Nes,
James Pollock,
Andrew Stewart,
John Strohm,
William Strong,
James Thompson,
David Wilmot.

DELAWARE.
John W. Houston.

MARYLAND.
John G. Chapman,
John W. Crisfield,
Alexander Evans,
Thomas W. Ligon,
Robert M. McLane,
J. Dixon Roman.

VIRGINIA.
Archibald Atkinson,
Thomas H. Bayly,
Robert L. T. Beale,
Henry Bedinger,
Thomas S. Bocock,
John M. Botts,
William G. Brown,
Thomas S. Flournoy,
Andrew S. Fulton,
William L. Goggin,
Richard K. Meade,
James McDowell,
John S. Pendleton,
William B. Preston,
Robert A. Thompson.

NORTH CAROLINA.
Daniel M. Barringer,
Nathaniel Boyden,
Thomas L. Clingman,
John R. J. Daniel,
Richard S. Donnell,
James J. McKay,
David Outlaw,
Augustine H Shepperd,
Abraham W. Venable.

SOUTH CAROLINA.
Armistead Burt,
Isaac E. Holmes,
Robert Barnwell Rhett,
(Vacant)
Richard F. Simpson,
Daniel Wallace,
Joseph A. Woodward.

GEORGIA.
Howell Cobb,
Hugh A. Haralson,
Alfred Iverson,
John W. Jones,
Thomas B. King,
John H. Lumpkin,
Alexander H. Stephens,
Robert Toombs.

ALABAMA.
Franklin W. Bowdon,
Williamson R. W. Cobb,
John Gayle,
Samson W. Harris,
Henry W. Hilliard,
George S. Houston,
Samuel W. Inge.

MISSISSIPPI.
Albert G. Brown,
Winfield S. Featherston,
Jacob Thompson,
Patrick W. Tompkins.

LOUISIANA.
John H. Harmanson,
Isaac E. Morse,
Emile La Sère,
Bannon G. Thibodeaux.

OHIO.
Richard S. Canby,
John Crowell,
John D. Cummins,
Rudolphus Dickinson,
Daniel Duncan,
Thomas O. Edwards,
Nathan Evans,
James J. Faran,
David Fisher,
George Fries,
Joshua R. Giddings
William Kennon,
Samuel Lahm,
John K. Miller,
Jonathan D. Morris,
Thomas Ritchey,
Joseph M. Root,
William Sawyer,
Robert C. Schenck,
John L. Taylor,
Samuel F. Vinton.

KENTUCKY.
Green Adams,
Linn Boyd,
Aylett Buckner,
Beverly L. Clarke,
Garnett Duncan,
Richard French,
John P. Gaines,
Charles S. Morehead,
Samuel O. Peyton,
John B. Thompson.

TENNESSEE.
Washington Barrow,
Lucien B. Chase,
William M. Cocke,
John H. Crozier,
Meredith P. Gentry,
William P. Haskell,
Hugh L. W. Hill,
Andrew Johnson,
George W. Jones,
Frederick P. Stanton,
James H. Thomas.

INDIANA.
Charles W. Cathcart,
George G. Dunn,
Elisha Embree,
Thomas J. Henley,
John Pettit,
John L. Robinson,
William Rockhill,
Caleb B. Smith,
Richard W. Thompson,
William W. Wick.

ILLINOIS.
John A. McClernand,
Orlando B. Ficklin,
Abraham Lincoln,
William A. Richardson,
Robert Smith,
Thomas J. Turner,
John Wentworth.

MISSOURI.
James B. Bowlin,
James S. Greene,
Willard P. Hall,
John Jameson,
John S. Phelps.

ARKANSAS.
Robert W. Johnson.

MICHIGAN.
Kingsley S. Bingham,
Robert McClelland,
Charles E. Stuart.

FLORIDA.
Edward C. Cabell.

TEXAS.
David S. Kaufman,
Timothy Pillsbury.

IOWA.
Shepherd Leffler,
William Thompson.

WISCONSIN.
Mason C. Darling,
William P. Lynde.

OREGON T.
(Vacancy.)

IN SENATE.

MONDAY, *December* 4, 1848.

At twelve o'clock, the Senate was called to order by Mr. ATCHISON, the following Senators appearing in their seats:

From MAINE—Mr. Bradbury and Mr. Hamlin.
NEW HAMPSHIRE—Mr. Atherton and Mr. Hale.
MASSACHUSETTS—Mr. Davis.
RHODE ISLAND—Mr. Clarke.
CONNECTICUT—Mr. Baldwin.
VERMONT—Mr. Phelps and Mr. Upham.
NEW YORK—Mr. Dix and Mr. Dickinson.
PENNSYLVANIA—Mr. Cameron and Mr. Sturgeon.
DELAWARE—Mr. Spruance.
MARYLAND—Mr. R. Johnson.
VIRGINIA—Mr. Hunter and Mr. Mason.
NORTH CAROLINA—Mr. Badger.
SOUTH CAROLINA—Mr. Butler.
GEORGIA—Mr. Berrien.
KENTUCKY—Mr. Metcalfe and Mr. Underwood.
TENNESSEE—Mr. Bell and Mr. Turney.
OHIO—Mr. Allen and Mr. Corwin.
LOUISIANA—Mr. H. Johnson and Mr. Downs.
MISSISSIPPI—Mr. J. Davis and Mr. Foote.
ILLINOIS—Mr. Breese and Mr. Douglas.
ALABAMA—Mr. King.
MISSOURI—Mr. Atchison and Mr. Benton.
MICHIGAN—Mr. Felch and Mr. Fitzgerald.
TEXAS—Mr. Houston.
WISCONSIN—Mr. Dodge and Mr. Walker.
FLORIDA—Mr. Westcott.

On motion of Mr. BREESE,

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate has assembled, and that the Senate is ready to proceed to business.

On motion of Mr. BRADBURY,

Ordered, That the daily hour of meeting of the Senate be twelve o'clock, meridian, until otherwise ordered.

NEW TERRITORIES.

Mr. DOUGLAS gave notice that he should, to-morrow, or at some early day, ask leave to introduce the following bills:

A bill to establish the Territory of Minesota.
A bill to establish the Territory of Nebraska.
A bill to establish the Territory of New Mexico.

NEW STATE.

A bill for the introduction of California as a State of the Union.

SEVENTH CENSUS.

Mr. CAMERON gave notice that he should, to-morrow, or at some early day, ask leave to introduce a bill to provide for taking the Seventh Census, or enumeration of the inhabitants of the United States.

The following message was received from the House of Representatives, by Mr. CAMPBELL, their Clerk:

"Mr. PRESIDENT: I am directed to inform the Senate that a quorum of the House of Representatives is assembled, and ready to proceed to business.

"Also, that the House of Representatives had adopted a resolution appointing a committee on their part to join such committee as should be appointed by the Senate, to wait on the President of the United States, to inform him that the two Houses of Congress had assembled and were ready to receive any communication he might be pleased to make; and that Messrs. WENTWORTH, ROCKWELL, and SHEPHERD had been appointed said committee on the part of the House."

On motion of Mr. KING,

Resolved, That the Senate concur in the resolution passed by the House of Representatives for the appointment of a joint committee to wait on the President of the United States, and to inform him that a quorum of each House had assembled, and that Congress is ready to receive any communication he may be pleased to make.

On motion of Mr. KING, the committee was ordered to be appointed by the Chair; and Messrs. KING and DAVIS of Massachusetts were appointed by the Chair the committee on the part of the Senate.

On motion of Mr. CAMERON,

Ordered, That each Senator be supplied during the present session with newspapers as heretofore, not exceeding the cost of four daily papers.

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 4, 1848.

At twelve o'clock, m., the House was called to order by the Speaker, Hon. ROBERT C. WINTHROP, and the roll (as published above) having been called by the Clerk, THOMAS J. CAMPBELL, Esq., it appeared that 178 gentlemen had answered to their names—being all the members of the House, with the exception of the following, who were absent:

From the State of MAINE—Messrs. Hiram Belcher, Asa W. H. Clapp, and David Hammons.

From the State of NEW HAMPSHIRE—Mr. Chs. H. Peaslee.

From the State of MASSACHUSETTS—Mr. Horace Mann.

From the State of NEW YORK—Messrs. William Collins, Washington Hunt, Robert L. Rose, and Peter H. Silvester.

From the State of PENNSYLVANIA—Messrs. Saml. A. Bridges, Chester Butler, John Freedley, Alexander Irvin, Andrew Stewart, and David Wilmot.

From the State of DELAWARE—Mr. John W. Houston.

From the State of MARYLAND—Mr. John G. Chapman.

From the State of VIRGINIA—Messrs. Richard L. T. Beale, Thomas S. Flournoy, Andrew S. Fulton, and John S. Pendleton.

From the State of SOUTH CAROLINA—Messrs. Armistead Burt, R. Barnwell Rhett, Richard F. Simpson, and Daniel Wallace.

From the State of GEORGIA—Messrs. Alfred Iverson and Robert Toombs.

From the State of ALABAMA—Messrs. John Gayle and George S. Houston.

From the State of LOUISIANA—Mr. Bannon G. Thibodeaux.

From the State of OHIO—Mr. David Fisher.

From the State of KENTUCKY—Messrs. Green Adams, Beverly L. Clarke, Garnett Duncan, and Charles S. Morehead.

From the State of TENNESSEE—Messrs. William M. Cocke, John H. Crozier, and Meredith P. Gentry.

From the State of ILLINOIS—Messrs. Orlando B. Ficklin, Abraham Lincoln, and John A. McClernand.

From the State of MISSOURI—Mr. James B. Bowlin.

From the State of ARKANSAS—Mr. Robert W. Johnson.

From the State of FLORIDA—Mr. E. Carrington Cabell.

From the State of TEXAS—Mr. Timothy Pillsbury.

From the State of IOWA—Mr. Shepherd Leffler.

Two new members, elected to supply vacancies which occurred at the last session in the representation from the State of New York, appeared, were qualified according to law, and took their seats, viz: Mr. ESBON BLACKMAR, elected to supply the vacancy occasioned by the death of the Hon. JOHN M. HOLLEY; and Mr. HORACE GREELEY, elected in the place of DAVID S. JACKSON, Esq., whose seat, being contested at the last session by James Monroe, Esq., was declared vacant by the House.

Mr. WENTWORTH rose to offer a resolution, which he sent up to the Clerk to be read.

A PRIVILEGED QUESTION.

Mr. WILSON rose to a privileged question. At the commencement of the last session of Congress, he said, the Territory of Wisconsin was represented on this floor by the Hon. Mr. TWEEDY, as Delegate. In the course of the last session of Congress an act was passed for the admission of Wisconsin into the Union, and subsequently to the passage of that act two gentlemen were elected by the State of Wisconsin to represent her upon this floor. By the act for the admission of Wisconsin into the Union, the boundaries of that State were defined, leaving out a portion of the territory and people who had formerly constituted a part of the Territory of Wisconsin.

Mr. WENTWORTH interposed, and stated that the resolution he proposed was merely the ordinary resolution for the organization of the House; and as the resolution of the gentleman from New Hampshire would be likely to give rise to some debate, he asked the gentleman to waive it for a moment, that his resolution might be adopted.

The SPEAKER stated that the proposition of the gentleman from New Hampshire, relating to the admission of a member of the House, would clearly be a privileged question.

Mr. WILSON, however, yielded for a moment to

Mr. WENTWORTH, who offered the following resolution; which was agreed to:

Resolved, That a committee be appointed, on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and to inform him that a quorum of the two Houses is assembled, and that Congress is now ready to receive any communication he may be pleased to make.

The following gentlemen were appointed by the Speaker to compose the said committee on the part of the House:

Messrs. WENTWORTH, ROCKWELL of Connecticut, and SHEPPERD.

Mr. WILSON resumed. Subsequently to the members from the State of Wisconsin taking their places in this House, Hon. Mr. TWEEDY, the Delegate from that Territory, as formerly constituted, formally resigned his office. The former Governor of that Territory was elected to represent the State in the Senate of the United States, and accepting of that office, the office of Governor was of course vacated. By the law, in the absence of the Governor of the Territory, or in case of his death, resignation, or disqualification, the Secretary of the Territory becomes the acting Governor. Governor Catlin, the Secretary of the Territory, issued his proclamation to the people requiring them to assemble and elect a Delegate to represent them in this Congress, and on the 30th October an election was held, and Hon. Henry H. SIBLEY was elected. He (Mr. S.) had the certificate of Governor Catlin, under the seal of the Territory of Wisconsin, certifying the fact of his election.

In reference to this case, the House, he hoped, would pardon him while he referred to one or two precedents. The first which he found occurred as early as 1803 or 1804. It related to the Delegate from the Northwest Territory. The gentleman elected before the admission of Ohio into the Union held his seat upon the floor of this House, and, upon that State being admitted, and upon the representatives from the State of Ohio taking their seats in the House, a resolution was offered declaring the seat of the Delegate vacated in consequence of Ohio being admitted as a State. The resolution was referred to the Committee of Elections, and that committee immediately decided that the Delegate was entitled to hold his seat. The case he found in the volume of "Contested Elections," from the Library, page 127—the case of Paul Fearing. He would read but a single sentence from it: "The erection of a Territory into a State does not necessarily vacate the seat of the Delegate." The committee reported a resolution that the Delegate from the Territory northwest of the Ohio was still entitled to a seat in this House, and Mr. Fearing having taken his seat at the commencement of the session, continued to hold his seat.

The next case which he found was in the year 1835, and sprung from the very same Territory to which he was now asking the attention of the House. The Territory of Michigan, as first organized, embraced simply the peninsula which now constituted the State of Michigan. Subsequently, as the Indian titles were extinguished to the Territory of Wisconsin, that was added to the Territory of Michigan, making a part of Michigan, and subject to the laws of Michigan. At a still subsequent period, Iowa was also added, and constituted a part of Michigan. In the year 1835, Michigan called a convention, organized a State Government, adopted a constitution, and proceeded to elect Representatives to Congress. The Territory of Michigan elected Hon. George W. Jones to represent them, who took his seat, and was permitted to hold his seat. The State of Michigan elected Hon. Mr. Cary to represent the State, and subsequently Mr. Cary took his seat. Mr. Jones continued to hold his seat as Delegate from Michigan, notwithstanding the admission of the State of Michigan into the Union, and its being represented by Mr. Cary.

The present case rested upon a precisely similar state of facts, and involved the same principles. Mr. SIBLEY represented a portion—three or four thousand—of those inhabitants who were formerly under the jurisdiction and laws of Wisconsin, and were still governed by the laws of the Territory of Wisconsin, with magistrates exercising their authority under the laws of the Territory of Wisconsin. He (Mr. S.) now presented himself as a Delegate.

He had thought proper to make these remarks, and he hoped Mr. SIBLEY would be admitted without objection.

Mr. COBB, of Georgia, said the remarks submitted by the gentleman from New Hampshire involved many important principles, which should be considered by the House and ought to be investigated by a committee; and as the House were not now in a situation to dispose of the subject to its own satisfaction, and as no danger or injury was likely to arise from its delay until the committees were appointed and the House was organized, he would suggest to the gentleman from New Hampshire not to press this subject at this time, but allow it to lie over until the appointment of the committees, and then have it referred. If the gentleman should insist upon the consideration now, he should feel constrained to move its reference to the proper committee.

Mr. WILSON replied, that he had submitted his remarks with the papers in the hope that the case was so clear that no objections would be made. Understanding, however, the suggestion of the gentleman from Georgia to be of the nature of an objection, he would submit the papers and ask that they be printed and referred to the Committee of Elections.

The motion was agreed to.

SEATS.

Mr. EVANS, of Maryland, moved the following resolution:

Resolved, That the Clerk of this House, immediately after the passage of this resolution, place in a box the name of each member of the House of Representatives, upon a separate piece of paper, and that he then proceed, in the presence of the House, to draw from said box, one at a time, the said pieces of paper; and as each is drawn, he shall announce the name of the member upon it, who shall then choose his seat for the present session: *Provided*, That before said drawing shall commence, the Speaker shall cause every seat to be vacated, and shall see that each seat continues vacant until it is selected under this order.

Mr. MURPHY moved to amend the resolution by striking out all after the word resolved, and inserting—

"That the members retain for the present session the seats which they occupied at the last one."

The amendment was rejected.

The resolution was then, under the operation of the previous question, moved by Mr. EVANS, agreed to, and the House proceeded to execute the order; which having been disposed of—

HOUR OF MEETING.

Mr. COBB, of Georgia, moved the following resolution, which was agreed to:

Resolved, That twelve o'clock, m., be the daily hour of meeting until otherwise ordered.

CHAPLAINS.

Mr. HENLEY offered the following resolution:

Resolved, (the Senate concurring,) That two chaplains, of different denominations, be elected by Congress, one by each House, to serve during the present session, who shall interchange weekly.

Mr. H. moved the previous question, which was seconded; and, under the operation thereof, the resolution was agreed to.

Mr. SMITH, of Illinois, gave notice of his intention to ask leave to introduce bills of the following titles:

A bill granting to the State of Illinois the right of way, and a donation of the public lands, for

making a railroad connecting the upper and lower Mississippi with the chain of northern lakes at Chicago; and also for the northern cross railroad, with a branch to Alton; and for other purposes.

A bill granting the right of way to the States of Indiana and Illinois, and a donation of each alternate section of public lands for six miles on each side of said road, to aid in the construction of a railroad from New Albany, in the State of Indiana, to Alton, Illinois.

On motion of Mr. COBB, of Georgia,

The House adjourned.

IN SENATE.

TUESDAY, *December* 5, 1848.

The VICE PRESIDENT assumed the chair.

Messrs. DAYTON and MILLER of New Jersey, BRIGHT of Indiana, NILES of Connecticut, and PEARCE of Maryland, appeared in their seats.

On motion of Mr. KING, the reading of the Journal was dispensed with.

Mr. KING, from the Joint Committee appointed on the part of the Senate, jointly with the committee appointed on the part of the House of Representatives, to wait on the President of the United States, to inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make, reported, that they had performed the duty assigned to them, and that the President had replied that he would be prepared to make a communication to the two Houses this day at twelve o'clock.

The following message was received from the House of Representatives, by Mr. CAMPBELL, their Clerk:

"Mr. PRESIDENT: I am directed by the House of Representatives to inform the Senate that the House has passed a joint resolution for the appointment of two Chaplains, of different denominations, to officiate during the present session, alternately, in each House; in which they ask the concurrence of the Senate."

The following Message was received from the President of the United States, by Mr. J. KNOX WALKER, his Secretary, and was read:

Fellow-citizens of the Senate
and of the House of Representatives:

Under the benignant Providence of Almighty God, the representatives of the States and of the people are again brought together to deliberate for the public good. The gratitude of the nation to the sovereign Arbiter of all human events, should be commensurate with the boundless blessings which we enjoy.

Peace, plenty, and contentment reign throughout our borders, and our beloved country presents a sublime moral spectacle to the world.

The troubled and unsettled condition of some of the principal European Powers has had a necessary tendency to check and embarrass trade, and to depress prices throughout all commercial nations; but notwithstanding these causes, the United States, with their abundant products, have felt their effects less severely than any other country, and all our great interests are still prosperous and successful.

In reviewing the great events of the past year, and contrasting the agitated and disturbed state of other countries with our own tranquil and happy condition, we may congratulate ourselves that we are the most favored people on the face of the earth. While the people of other countries are struggling to establish free institutions, under which man may govern himself, we are in the actual enjoyment of them—a rich inheritance from our fathers. While enlightened nations of Europe are convulsed and distracted by civil war or intestine strife, we settle all our political controversies by the peaceful exercise of the rights of freemen at the ballot-box. The great republican maxim so deeply engraven on the hearts of our people, that the will of the majority, constitutionally expressed, shall prevail, is our sure safeguard against force and violence. It is a subject of just pride, that our fame and character as a nation continue rapidly to advance in the estimation of the civilized world. To our wise and free institutions it is to be attributed, that while other nations have achieved glory at the price of the suffering, distress, and impoverishment of their people, we have won our honorable position in the midst of an uninterrupted prosperity, and of an increasing individual comfort and happiness. I am happy to inform you that our relations with all nations are friendly and pacific. Advantageous treaties of commerce have been concluded, within the last four years, with New Granada, Peru, the Two Sicilies, Belgium, Hanover, Oldenburg, and Mecklenburg-Schwerin. Pursuing our example, the restrictive system of Great Britain, our principal foreign customer, has been relaxed; a more liberal commercial policy has been adopted by other enlightened nations, and our trade has been greatly enlarged and extended. Our country stands higher in the respect of the world than at any former period. To continue to occupy this proud position, it is only necessary to preserve peace, and faithfully adhere to the great and fundamental principle of our foreign policy of non-interference in the domestic concerns of other nations. We recognize in all nations the rights which we enjoy ourselves, to change and reform their political institutions, according to their own will and pleasure. Hence we do not look behind existing governments, capable of maintaining their own authority. We recognize all such actual governments, not only from the dictates of true policy, but from a sacred regard for the independence of nations.

While this is our settled policy, it does not follow that we can ever be indifferent spectators of the progress of liberal principles. The Government and people of the United States hailed with enthusiasm and delight the establishment of the French Republic, as we now hail the efforts in progress to unite the States of Germany in a confederation, similar in many respects to our own Federal Union. If the great and enlightened German States, occupying, as they do, a central and commanding position in Europe, shall succeed in establishing such a Confederated Government, securing at the same time to the citizens of each State, local governments adapted to the peculiar condition of each, with unrestricted trade and intercourse with each other, it will be an important era in the history of human events. Whilst it will consolidate and strengthen the power of Germany, it must essentially promote the cause of peace, commerce, civilization, and constitutional liberty throughout the world.

With all the governments on this continent our relations, it is believed, are now on a more friendly and satisfactory footing than they have ever been at any former period.

Since the exchange of ratifications of the treaty of peace with Mexico, our intercourse with the Government of that Republic has been of the most friendly character. The Envoy Extraordinary and Minister Plenipotentiary of the United States to Mexico has been received and accredited; and a diplomatic representative from Mexico of similar rank has been received and accredited by this Government. The amicable relations between the two countries which had been suspended have been happily restored, and are destined, I trust, to be long preserved. The two Republics, both situated on this continent, and with coterminous territories, have every motive of sympathy and of interest to bind them together in perpetual amity.

This gratifying condition of our foreign relations renders it unnecessary for me to call your attention more specifically to them.

It has been my constant aim and desire to cultivate peace and commerce with all nations. Tranquillity at home, and peaceful relations abroad, constitute the true permanent policy of our country. War, the scourge of nations, sometimes becomes inevitable, but is always to be avoided when it can be done consistently with the rights and honor of the nation.

One of the most important results of the war into which we were recently forced with a neighboring nation, is the demonstration it has afforded of the military strength of our country. Before the late war with Mexico, European and other foreign Powers entertained imperfect and erroneous views of our physical strength as a nation, and of our ability to prosecute war, and especially a war waged out of our own country. They saw that our standing army on the peace establishment did not exceed ten thousand men. Accustomed themselves to maintain in peace large standing armies for the protection of thrones against their own subjects, as well as against foreign enemies, they had not conceived that it was possible for a nation without such an army, well disciplined and of long service, to wage war successfully. They held in low repute our militia, and were far from regarding them as an effective force, unless it might be for temporary defensive operations when invaded on our own soil. The events of the late war with Mexico have not only undeceived them, but have removed erroneous impressions which prevailed to some extent even among a portion of our own countrymen. That war has demonstrated, that upon the breaking out of hostilities not anticipated, and for which no previous preparation had been made, a volunteer army of citizen-soldiers equal to veteran troops, and in numbers equal to any emergency, can in a short period be brought into the field. Unlike what would have occurred in any other country, we were under no necessity of resorting to draughts or conscriptions. On the contrary, such was the number of volunteers who patriotically tendered their services, that the chief difficulty was in making selections, and determining who should be disappointed and compelled to remain at home. Our citizen-soldiers are unlike those drawn from the population of any other country. They are composed indiscriminately of all professions and pursuits: of farmers, lawyers, physicians, merchants, manufacturers, mechanics, and laborers; and this, not only among the officers, but the private soldiers in the ranks. Our citizen-soldiers are unlike those of any other country in other respects. They are armed, and have been accustomed, from their youth up, to handle and use fire-arms; and a large proportion of them, especially in the western and more newly settled States, are expert marksmen. They are men who have a reputation to maintain at home by their good conduct in the field. They are intelligent, and there is an individuality of character which is found in the ranks of no other army. In battle, each private man, as well as every officer, fights not only for his country, but for glory and distinction among his fellow-citizens when he shall return to civil life.

The war with Mexico has demonstrated not only the ability of the Government to organize a numerous army upon a sudden call, but also to provide it with all the munitions and necessary supplies with despatch, convenience, and ease, and to direct its operations with efficiency. The strength of our institutions has not only been displayed in the valor and skill of our troops engaged in active service in the field, but in the organization of those executive branches which were charged with the general direction and conduct of the war. While too great praise cannot be bestowed upon the officers and men who fought our battles, it would be unjust to withhold from those officers necessarily stationed at home, who were charged with the duty of furnishing the army, in proper time, and at proper places, with all the munitions of war and other supplies so necessary to make it efficient, the commendation to which they are entitled. The credit due to this class of our officers is the greater, when it is considered that no army in ancient or modern times was ever better appointed or provided than our army in Mexico. Operating in an enemy's country, removed two thousand miles from the seat of the Federal Government, its different corps spread over a vast extent of territory, hundreds and even thousands of miles apart from each other, nothing short of the untiring vigilance and extraordinary energy of these officers could have enabled them to provide the army at all points, and in proper season, with all that was required for the most efficient service.

It is but an act of justice to declare, that the officers in charge of the several executive bureaus, all under the immediate eye and supervision of the Secretary of War, performed their respective duties with ability, energy, and efficiency. They have reaped less of the glory of the war, not having been personally exposed to its perils in battle, than their companions in arms; but without their forecast, efficient aid, and coöperation, those in the field would not have been provided with the ample means they possessed of achieving for themselves and their country the unfading honors which they have won for both.

When all these facts are considered, it may cease to be a matter of so much amazement abroad how it happened that our noble army in Mexico, regulars and volunteers, were victorious upon every battle-field, however fearful the odds against them.

The war with Mexico has thus fully developed

the capacity of republican governments to prosecute successfully a just and necessary foreign war with all the vigor usually attributed to more arbitrary forms of government. It has been usual for writers on public law to impute to republics a want of that unity, concentration of purpose, and vigor of execution, which are generally admitted to belong to the monarchical and aristocratic forms; and this feature of popular government has been supposed to display itself more particularly in the conduct of a war carried on in an enemy's territory. The war with Great Britain in 1812, was to a great extent confined within our own limits, and shed but little light on this subject. But the war which we have just closed by an honorable peace, evinces beyond all doubt that a popular representative government is equal to any emergency which is likely to arise in the affairs of a nation.

The war with Mexico has developed most strikingly and conspicuously another feature in our institutions. It is, that without cost to the Government or danger to our liberties, we have, in the bosom of our society of freemen, available in a just and necessary war, virtually a standing army of two millions of armed citizen-soldiers, such as fought the battles of Mexico.

But our military strength does not consist alone in our capacity for extended and successful operations on land. The navy is an important arm of the national defence. If the services of the navy were not so brilliant as those of the army in the late war with Mexico, it was because they had no enemy to meet on their own element. While the army had opportunity of performing more conspicuous service, the navy largely participated in the conduct of the war. Both branches of the service performed their whole duty to the country. For the able and gallant services of the officers and men of the navy—acting independently as well as in coöperation with our troops—in the conquest of the Californias, the capture of Vera Cruz, and the seizure and occupation of other important positions on the Gulf and Pacific coasts, the highest praise is due. Their vigilance, energy, and skill rendered the most effective service in excluding munitions of war and other supplies from the enemy, while they secured a safe entrance for abundant supplies for our own army. Our extended commerce was nowhere interrupted; and for this immunity from the evils of war, the country is indebted to the navy.

High praise is due to the officers of the several executive bureaus, navy-yards, and stations connected with the service, all under the immediate direction of the Secretary of the Navy, for the industry, foresight, and energy with which everything was directed and furnished to give efficiency to that branch of the service. The same vigilance existed in directing the operations of the navy, as of the army. There was concert of action and of purpose between the heads of the two arms of the service. By the orders which were from time to time issued, our vessels of war on the Pacific and the Gulf of Mexico were stationed in proper time and in proper positions to coöperate efficiently with the army. By this means their combined power was brought to bear successfully on the enemy.

The great results which have been developed and brought to light by this war, will be of immeasurable importance in the future progress of our country. They will tend powerfully to preserve us from foreign collisions, and to enable us to pursue uninterruptedly our cherished policy of "peace with all nations, entangling alliances with none."

Occupying, as we do, a more commanding position among nations than at any former period, our duties and our responsibilities to ourselves and to posterity are correspondingly increased. This will be the more obvious when we consider the vast additions which have been recently made to our territorial possessions, and their great importance and value.

Within less than four years the annexation of Texas to the Union has been consummated; all conflicting title to the Oregon Territory south of the forty-ninth degree of north latitude, being all that was insisted on by any of my predecessors, has been adjusted; and New Mexico and Upper California have been acquired by treaty. The area of these several Territories, according to a report carefully prepared by the Commissioner of the General Land Office from the most authentic information in his possession, and which is herewith transmitted, contains one million one hundred and ninety-three thousand and sixty-one square miles, or seven hundred and sixty-three million five hundred and fifty-nine thousand and forty acres; while the area of the remaining twenty-nine States, and the territory not yet organized into States east of the Rocky Mountains, contains two million fifty-nine thousand five hundred and thirteen square miles, or thirteen hundred and eighteen million one hundred and twenty-six thousand and fifty-eight acres. These estimates show that the territories recently acquired, and over which our exclusive jurisdiction and dominion have been extended, constitute a country more than half as large as all that which was held by the United States before their acquisition. If Oregon be excluded from the estimate, there will still remain within the limits of Texas, New Mexico, and California, eight hundred and fifty-one thousand five hundred and ninety-eight square miles, or five hundred and forty-five million twelve thousand seven hundred and twenty acres; being an addition equal to more than one-third of all the territory owned by the United States before their acquisition; and, including Oregon, nearly as great an extent of territory as the whole of Europe, Russia only excepted. The Mississippi, so lately the frontier of our country, is now only its centre. With the addition of the late acquisitions, the United States are now estimated to be nearly as large as the whole of Europe. It is estimated by the superintendent of the coast survey, in the accompanying report, that the extent of the seacoast of Texas on the Gulf of Mexico is upwards of four hundred miles; of the coast of Upper California, on the Pacific, of nine hundred and seventy miles; and of Oregon, including the Straits of Fuca, of six hundred and fifty miles; making the whole extent of seacoast on the Pacific one thousand six hundred and twenty miles, and the whole extent on both the Pacific and the Gulf of Mexico two thousand and twenty miles. The length of the coast on the Atlantic, from the northern limits of the United States, around the Capes of Florida to the Sabine, on the eastern boundary of Texas, is estimated to be three thousand one hundred miles; so that the addition of seacoast, including Oregon, is very nearly two-thirds as great as all we possessed before; and, excluding Oregon, is an addition of one thousand three hundred and seventy miles; being nearly equal to one-half of the extent of coast which we possessed before these acquisitions. We have now three great maritime fronts—on the Atlantic, the Gulf of Mexico, and the Pacific—making in the whole an extent of seacoast exceeding five thousand miles. This is the extent of the seacoast of the United States, not including bays, sounds, and small irregularities of the main shore, and of the sea islands. If these be included, the length of the shore line of coast, as estimated by the superintendent of the coast survey, in his report, would be thirty-three thousand and sixty-three miles.

It would be difficult to calculate the value of these immense additions to our territorial possessions. Texas, lying contiguous to the western boundary of Louisiana, embracing within its limits a part of the navigable tributary waters of the Mississippi, and an extensive seacoast, could not long have remained in the hands of a foreign power without endangering the peace of our southwestern frontier. Her products in the vicinity of the tributaries of the Mississippi must have sought a market through these streams, running into and through our territory; and the danger of irritation and collision of interests between Texas as a foreign State and ourselves would have been imminent, while the embarrassments in the commercial intercourse between them must have been constant and unavoidable. Had Texas fallen into the hands, or under the influence and control of a strong maritime or military foreign power, as she might have done, these dangers would have been still greater. They have been avoided by her voluntary and peaceful annexation to the United States. Texas, from her position, was a natural and almost indispensable part of our territories. Fortunately, she has been restored to our country, and now constitutes one of the States of our Confederacy, "upon an equal footing with the original States." The salubrity of climate, the fertility of soil, peculiarly adapted to the production of some of our most valuable staple commodities, and her commercial advantages, must soon make her one of our most populous States.

New Mexico, though situated in the interior, and without a seacoast, is known to contain much fertile land, to abound in rich mines of the precious metals, and to be capable of sustaining a large population. From its position, it is the intermediate and connecting territory between our settlements and our possessions in Texas, and those on the Pacific coast.

Upper California, irrespective of the vast mineral wealth recently developed there, holds at this day, in point of value and importance to the rest of the Union, the same relation that Louisiana did, when that fine territory was acquired from France forty-five years ago. Extending nearly ten degrees of latitude along the Pacific, and embracing the only safe and commodious harbors on that coast for many hundred miles, with a temperate climate, and an extensive interior of fertile lands, it is scarcely possible to estimate its wealth until it shall be brought under the government of our laws, and its resources fully developed. From its position, it must command the rich commerce of China, of Asia, of the islands of the Pacific, of Western Mexico, of Central America, the South American States, and of the Russian possessions bordering on that ocean. A great emporium will doubtless speedily arise on the Californian coast, which may be destined to rival in importance New Orleans itself. The depôt of the vast commerce which must exist on the Pacific will probably be at some point on the bay of San Francisco, and will occupy the same relation to the whole western coast of that ocean, as New Orleans does to the valley of the Mississippi and the Gulf of Mexico. To this depôt our numerous whale ships will resort with their cargoes, to trade, refit, and obtain supplies. This of itself will largely contribute to build up a city, which would soon become the centre of a great and rapidly increasing commerce. Situated on a safe harbor, sufficiently capacious for all the navies as well as the marine of the world, and convenient to excellent timber for ship building, owned by the United States, it must become our great western naval depôt.

It was known that mines of the precious metals existed to a considerable extent in California at the time of its acquisition. Recent discoveries render it probable that these mines are more extensive and valuable than was anticipated. The accounts of the abundance of gold in that territory are of such an extraordinary character as would scarcely command belief were they not corroborated by the authentic reports of officers in the public service, who have visited the mineral district, and derived the facts which they detail from personal observation. Reluctant to credit the reports in general circulation as to the quantity of gold, the officer commanding our forces in California visited the mineral district in July last, for the purpose of obtaining accurate information on the subject. His report to the War Department of the result of his examination, and the facts obtained on the spot, is herewith laid before Congress. When he visited the country, there were about four thousand persons engaged in collecting gold. There is every reason to believe that the number of persons so employed has since been augmented. The explorations already made warrant the belief that the supply is very large, and that gold is found at various places in an extensive district of country.

Information received from officers of the navy and other sources, though not so full and minute, confirm the accounts of the commander of our military force in California. It appears, also, from these reports, that mines of quicksilver are found in the vicinity of the gold region. One of them is now being worked, and is believed to be among the most productive in the world.

The effects produced by the discovery of these rich mineral deposites, and the success which has attended the labors of those who have resorted to them, have produced a surprising change in the state of affairs in California. Labor commands a most exorbitant price, and all other pursuits but that of searching for the precious metals are abandoned. Nearly the whole of the male population of the country have gone to the gold district. Ships arriving on the coast are deserted by their crews, and their voyages suspended for want of sailors. Our commanding officer there entertains apprehensions that soldiers cannot be kept in the public service without a large increase of pay. Desertions in his command have become frequent,

and he recommends that those who shall withstand the strong temptation, and remain faithful, should be rewarded.

This abundance of gold, and the all-engrossing pursuit of it, have already caused in California an unprecedented rise in the price of the necessaries of life.

That we may the more speedily and fully avail ourselves of the undeveloped wealth of these mines, it is deemed of vast importance that a branch of the mint of the United States be authorized to be established, at your present session, in California. Among other signal advantages which would result from such an establishment would be that of raising the gold to its par value in that Territory. A branch mint of the United States at the great commercial depôt on the west coast, would convert into our own coin not only the gold derived from our own rich mines, but also the bullion and specie which our commerce may bring from the whole west coast of Central and South America. The west coast of America and the adjacent interior embrace the richest and best mines of Mexico, New Granada, Central America, Chili, and Peru. The bullion and specie drawn from these countries, and especially from those of Western Mexico and Peru, to an amount in value of many millions of dollars, are now annually diverted and carried by the ships of Great Britain to her own ports, to be recoined or used to sustain her National Bank, and thus contribute to increase her ability to command so much of the commerce of the world. If a branch mint be established at the great commercial point upon that coast, a vast amount of bullion and specie would flow thither to be recoined, and pass thence to New Orleans, New York, and other Atlantic cities. The amount of our constitutional currency at home would be greatly increased, while its circulation abroad would be promoted. It is well known to our merchants trading to China and the west coast of America, that great inconvenience and loss are experienced from the fact that our coins are not current at their par value in those countries.

The Powers of Europe, far removed from the west coast of America by the Atlantic Ocean which intervenes, and by a tedious and dangerous navigation around the southern cape of the continent of America, can never successfully compete with the United States in the rich and extensive commerce which is opened to us at so much less cost by the acquisition of California.

The vast importance and commercial advantages of California have heretofore remained undeveloped by the government of the country of which it constituted a part. Now that this fine province is a part of our country, all the States of the Union, some more immediately and directly than others, are deeply interested in the speedy development of its wealth and resources. No section of our country is more interested, or will be more benefited, than the commercial, navigating, and manufacturing interests of the eastern States. Our planting and farming interests in every part of the Union will be greatly benefited by it. As our commerce and navigation are enlarged and extended, our exports of agricultural products and of manufactures will be increased; and in the new markets thus opened, they cannot fail to command remunerating and profitable prices.

The acquisition of California and New Mexico, the settlement of the Oregon boundary, and the annexation of Texas, extending to the Rio Grande, are results which, combined, are of greater consequence, and will add more to the strength and wealth of the nation, than any which have preceded them since the adoption of the Constitution.

But to effect these great results, not only California, but New Mexico, must be brought under the control of regularly organized governments. The existing condition of California, and of that part of New Mexico lying west of the Rio Grande, and without the limits of Texas, imperiously demand that Congress should, at its present session, organize territorial governments over them.

Upon the exchange of ratifications of the treaty of peace with Mexico on the thirtieth of May last, the temporary governments which had been established over New Mexico and California by our military and naval commanders, by virtue of the rights of war, ceased to derive any obligatory force from that source of authority; and having been ceded to the United States, all government and control over them under the authority of Mexico had ceased to exist. Impressed with the necessity of establishing territorial governments over them, I recommended the subject to the favorable consideration of Congress in my message communicating the ratified treaty of peace, on the sixth of July last, and invoked their action at that session. Congress adjourned without making any provision for their government. The inhabitants, by the transfer of their country, had become entitled to the benefits of our laws and Constitution, and yet were left without any regularly organized government. Since that time, the very limited power possessed by the Executive has been exercised to preserve and protect them from the inevitable consequences of a state of anarchy. The only government which remained was that established by the military authority during the war. Regarding this to be a *de facto* government, and that by the presumed consent of the inhabitants it might be continued temporarily, they were advised to conform and submit to it for the short intervening period before Congress would again assemble and could legislate on the subject. The views entertained by the Executive on this point are contained in a communication of the Secretary of State, dated the seventh of October last, which was forwarded for publication to California and New Mexico, a copy of which is herewith transmitted.

The small military force of the regular army, which was serving within the limits of the acquired territories at the close of the war, was retained in them, and additional forces have been ordered there for the protection of the inhabitants, and to preserve and secure the rights and interests of the United States.

No revenue has been or could be collected at the ports in California, because Congress failed to authorize the establishment of custom-houses, or the appointment of officers for that purpose.

The Secretary of the Treasury, by a circular letter addressed to collectors of the customs on the seventh day of October last, a copy of which is herewith transmitted, exercised all the power with which he was invested by law.

In pursuance of the act of the fourteenth of August last, extending the benefit of our post office laws to the people of California, the Postmaster General has appointed two agents, who have proceeded, the one to California, and the other to Oregon, with authority to make the necessary arrangements for carrying its provisions into effect.

The monthly line of mail steamers from Panama to Astoria has been required to "stop and deliver and take mails at San Diego, Monterey, and San Francisco." These mail steamers, connected by the isthmus of Panama with the line of mail steamers on the Atlantic between New York and Chagres, will establish a regular mail communication with California.

It is our solemn duty to provide, with the least practicable delay, for New Mexico and California, regularly organized territorial governments. The causes of the failure to do this at the last session of Congress are well known, and deeply to be regretted. With the opening prospects of increased prosperity and national greatness which the acquisition of these rich and extensive territorial possessions affords, how irrational it would be to forego or to reject these advantages, by the agitation of a domestic question which is coeval with the existence of our Government itself, and to endanger by internal strifes, geographical divisions, and heated contests for political power, or for any other cause, the harmony of the glorious Union of our confederated States; that Union which binds us together as one people, and which for sixty years has been our shield and protection against every danger. In the eyes of the world and of posterity, how trivial and insignificant will be all our internal divisions and struggles compared with the preservation of this Union of the States in all its vigor and with all its countless blessings! No patriot would foment and excite geographical and sectional divisions. No lover of his country would deliberately calculate the value of the Union. Future generations would look in amazement upon the folly of such a course. Other nations at the present day would look upon it with astonishment; and such of them as desire to maintain and perpetuate thrones and monarchical or aristocratical principles will view it with exultation and delight, because in it they will see the elements of faction, which they hope must ultimately overturn our system. Ours is the great example of a prosperous and free self-governed Republic, commanding the admiration and the imitation of all the lovers of freedom throughout the world. How solemn, therefore, is the duty, how impressive the call upon us and upon all parts of our country, to cultivate a patriotic spirit of harmony, of good fellowship, of compromise and mutual concession, in the administration of the incomparable system of government formed by our fathers in the midst of almost insuperable difficulties, and transmitted to us, with the injunction that we should enjoy its blessings and hand it down unimpaired to those who may come after us!

In view of the high and responsible duties which we owe to ourselves and to mankind, I trust you may be able, at your present session, to approach the adjustment of the only domestic question which seriously threatens, or probably ever can threaten, to disturb the harmony and successful operation of our system.

The immensely valuable possessions of New Mexico and California are already inhabited by a considerable population. Attracted by their great fertility, their mineral wealth, their commercial advantages and the salubrity of the climate, emigrants from the older States, in great numbers, are already preparing to seek new homes in these inviting regions.

Shall the dissimilarity of the domestic institutions in the different States prevent us from providing for them suitable governments? These institutions existed at the adoption of the Constitution, but the obstacles which they interposed were overcome by that spirit of compromise which is now invoked. In a conflict of opinions or of interests, real or imaginary, between different sections of our country, neither can justly demand all which it might desire to obtain. Each, in the true spirit of our institutions, should concede something to the other.

Our gallant forces in the Mexican war, by whose patriotism and unparalleled deeds of arms we obtained these possessions as an indemnity for our just demands against Mexico, were composed of citizens who belonged to no one State or section of our Union. They were men from slaveholding and non-slaveholding States, from the North and the South, from the East and the West. They were all companions-in-arms and fellow-citizens of the same common country, engaged in the same common cause. When prosecuting that war, they were brethren and friends, and shared alike with each other common toils, dangers, and sufferings. Now, when their work is ended, when peace is restored, and they return again to their homes, put off the habiliments of war, take their places in society, and resume their pursuits in civil life, surely a spirit of harmony and concession, and of equal regard for the rights of all and of all sections of the Union ought to prevail in providing governments for the acquired territories—the fruits of their common service. The whole people of the United States and of every State contributed to defray the expenses of that war; and it would not be just for any one section to exclude another from all participation in the acquired territory. This would not be in consonance with the just system of government which the framers of the Constitution adopted.

The question is believed to be rather abstract than practical, whether slavery ever can or would exist in any portion of the acquired territory, even if it were left to the option of the slaveholding States themselves. From the nature of the climate and productions, in much the larger portion of it, it is certain it could never exist; and in the remainder, the probabilities are, it would not. But however this may be, the question, involving as it does, a principle of equality of rights of the separate and several States, as equal co-partners in the Confederacy, should not be disregarded.

In organizing governments over these Territories, no duty imposed on Congress by the Constitution requires that they should legislate on the subject of slavery, while their power to do so is not only seriously questioned, but denied by many of the soundest expounders of that instrument. Whether Congress shall legislate or not, the people of the acquired Territories, when assembled in convention to form State constitutions, will possess the sole and exclusive power to determine for themselves whether slavery shall or shall not

exist within their limits. If Congress shall abstain from interfering with the question, the people of these Territories will be left free to adjust it as they may think proper when they apply for admission as States into the Union. No enactment of Congress could restrain the people of any of the sovereign States of the Union, old or new, north or south, slaveholding or non-slaveholding, from determining the character of their own domestic institutions as they may deem wise and proper. Any and all of the States possess this right, and Congress cannot deprive them of it. The people of Georgia might, if they chose, so alter their constitution as to abolish slavery within its limits; and the people of Vermont might so alter their constitution as to admit slavery within its limits. Both States would possess the right; though, as all know, it is not probable that either would exert it.

It is fortunate for the peace and harmony of the Union that this question is in its nature temporary, and can only continue for the brief period which will intervene before California and New Mexico may be admitted as States into the Union. From the tide of population now flowing into them, it is highly probable that this will soon occur.

Considering the several States and the citizens of the several States as equals, and entitled to equal rights under the Constitution, if this were an original question, it might well be insisted on that the principle of non-interference is the true doctrine, and that Congress could not, in the absence of any express grant of power, interfere with their relative rights. Upon a great emergency, however, and under menacing dangers to the Union, the Missouri compromise line in respect to slavery was adopted. The same line was extended further west in the acquisition of Texas. After an acquiescence of nearly thirty years in the principle of compromise recognized and established by these acts, and to avoid the danger to the Union which might follow if it were now disregarded, I have heretofore expressed the opinion that that line of compromise should be extended on the parallel of thirty-six degrees thirty minutes from the western boundary of Texas, where it now terminates, to the Pacific Ocean. This is the middle ground of compromise, upon which the different sections of the Union may meet, as they have heretofore met. If this be done, it is confidently believed a large majority of the people of every section of the country, however widely their abstract opinions on the subject of slavery may differ, would cheerfully and patriotically acquiesce in it, and peace and harmony would again fill our borders.

The restriction north of the line was only yielded to in the case of Missouri and Texas upon a principle of compromise, made necessary for the sake of preserving the harmony, and possibly the existence of the Union.

It was upon these considerations that, at the close of your last session, I gave my sanction to the principle of the Missouri compromise line, by approving and signing the bill to establish "the Territorial Government of Oregon." From a sincere desire to preserve the harmony of the Union, and in deference for the acts of my predecessors, I felt constrained to yield my acquiescence to the extent to which they had gone in compromising this delicate and dangerous question. But if Congress shall now reverse the decision by which the Missouri compromise was effected, and shall propose to extend the restriction over the whole territory, south as well as north of the parallel of thirty-six degrees thirty minutes, it will cease to be a compromise, and must be regarded as an original question.

If Congress, instead of observing the course of non-interference, leaving the adoption of their own domestic institutions to the people who may inhabit these Territories; or if, instead of extending the Missouri compromise line to the Pacific, shall prefer to submit the legal and constitutional questions which may arise to the decision of the judicial tribunals, as was proposed in a bill which passed the Senate at your last session, an adjustment may be effected in this mode. If the whole subject be referred to the Judiciary, all parts of the Union should cheerfully acquiesce in the final decision of the tribunal created by the Constitution for the settlement of all questions which may arise under the Constitution, treaties, and laws of the United States.

Congress is earnestly invoked, for the sake of the Union, its harmony, and our continued prosperity as a nation, to adjust at its present session this, the only dangerous question which lies in our path—if not in some one of the modes suggested, in some other which may be satisfactory.

In anticipation of the establishment of regular governments over the acquired territories, a joint commission of officers of the army and navy has been ordered to proceed to the coast of California and Oregon, for the purpose of making *reconnoissances* and a report as to the proper sites for the erection of fortifications or other defensive works on land, and of suitable situations for naval stations. The information which may be expected from a scientific and skillful examination of the whole face of the coast will be eminently useful to Congress, when they come to consider the propriety of making appropriations for these great national objects. Proper defences on land will be necessary for the security and protection of our possessions; and the establishment of navy-yards, and a dock for the repair and construction of vessels, will be important alike to our navy and commercial marine. Without such establishments, every vessel, whether of the navy or of the merchant service, requiring repair, must at great expense, come round Cape Horn to one of our Atlantic yards for that purpose. With such establishments, vessels, it is believed, may be built or repaired as cheaply in California as upon the Atlantic coast. They would give employment to many of our enterprising shipbuilders and mechanics, and greatly facilitate and enlarge our commerce in the Pacific.

As it is ascertained that mines of gold, silver, copper, and quicksilver exist in New Mexico and California, and that nearly all the lands where they are found belong to the United States, it is deemed important to the public interests, that provision be made for a geological and mineralogical examination of these regions. Measures should be adopted to preserve the mineral lands, especially such as contain the precious metals, for the use of the United States; or if brought into the market, to separate them from the farming lands, and dispose of them in such manner as to secure a large return of money to the treasury, and at the same time lead to the development of their wealth by individual proprietors and purchasers. To do this, it will be necessary to provide for an immediate survey and location of the lots. If Congress should deem it proper to dispose of the mineral lands, they should be sold in small quantities, and at a fixed minimum price.

I recommend that surveyor generals' offices be authorized to be established in New Mexico and California, and provision made for surveying and bringing the public lands into market at the earliest practicable period. In disposing of these lands, I recommend that the right of preëmption be secured, and liberal grants made to the early emigrants who have settled or may settle upon them.

It will be important to extend our revenue laws over these territories, and especially over California, at an early period. There is already a considerable commerce with California; and until ports of entry shall be established and collectors appointed, no revenue can be received.

If these and other necessary and proper measures be adopted for the development of the wealth and resources of New Mexico and California, and regular territorial governments be established over them, such will probably be the rapid enlargement of our commerce and navigation, and such the addition to the national wealth, that the present generation may live to witness the controlling commercial and monetary power of the world transferred from London and other European emporiums to the city of New York.

The apprehensions which were entertained by some of our statesmen, in the earlier periods of the Government, that our system was incapable of operating with sufficient energy and success over largely extended territorial limits, and that if this were attempted, it would fall to pieces by its own weakness, have been dissipated by our experience. By the division of power between the States and Federal Government, the latter is found to operate with as much energy in the extremes as in the centre. It is as efficient in the remotest of the thirty States which now compose the Union, as it was in the thirteen States which formed our Constitution. Indeed, it may well be doubted, whether, if our present population had been confined within the limits of the original thirteen States, the tendencies to centralization and consolidation would not have been such as to have encroached upon the essential reserved rights of the States, and thus to have made the Federal Government a widely different one, practically, from what it is in theory, and was intended to be by its framers. So far from entertaining apprehensions of the safety of our system by the extension of our territory, the belief is confidently entertained that each new State gives strength and an additional guarantee for the preservation of the Union itself.

In pursuance of the provisions of the thirteenth article of the treaty of peace, friendship, limits, and settlement, with the Republic of Mexico, and of the act of July the twenty-ninth, 1848, claims of our citizens which had been "already liquidated and decided against the Mexican Republic," amounting, with the interest thereon, to two million twenty-three thousand eight hundred and thirty-two dollars and fifty-one cents, have been liquidated and paid. There remain to be paid of these claims, seventy-four thousand one hundred and ninety-two dollars and twenty-six cents.

Congress, at its last session, having made no provision for executing the fifteenth article of the treaty, by which the United States assume to make satisfaction for the "unliquidated claims" of our citizens against Mexico, to "an amount not exceeding three and a quarter millions of dollars," the subject is again recommended to your favorable consideration.

The exchange of ratifications of the treaty with Mexico took place on the thirtieth of May, 1848. Within one year after that time, the commissioner and surveyor which each Government stipulates to appoint, are required to meet "at the port of 'San Diego, and proceed to run and mark the said 'boundary in its whole course to the mouth of the 'Rio Bravo del Norte." It will be seen from this provision, that the period within which a commissioner and surveyor of the respective Governments are to meet at San Diego, will expire on the thirtieth of May, 1849. Congress, at the close of its last session, made an appropriation for "the expenses of running and marking the boundary line" between the two countries, but did not fix the amount of salary which should be paid to the commissioner and surveyor to be appointed on the part of the United States. It is desirable that the amount of compensation which they shall receive should be prescribed by law, and not left, as at present, to Executive discretion.

Measures were adopted at the earliest practicable period to organize the "Territorial Government of Oregon," as authorized by the act of the fourteenth of August last. The Governor and Marshal of the Territory, accompanied by a small military escort, left the frontier of Missouri in September last, and took the southern route, by the way of Santa Fé and the river Gila, to California, with the intention of proceeding thence in one of our vessels of war to their destination. The Governor was fully advised of the great importance of his early arrival in the country, and it is confidently believed he may reach Oregon in the latter part of the present month, or early in the next. The other officers for the Territory have proceeded by sea.

In the month of May last, I communicated information to Congress that an Indian war had broken out in Oregon, and recommended that authority be given to raise an adequate number of volunteers, to proceed, without delay, to the assistance of our fellow-citizens in that Territory. The authority to raise such a force not having been granted by Congress, as soon as their services could be dispensed with in Mexico, orders were issued to the regiment of mounted riflemen to proceed to Jefferson Barracks, in Missouri, and to prepare to march to Oregon as soon as the necessary provision could be made. Shortly before it was ready to march, it was arrested by the provision of the act passed by Congress on the last day of the last session, which directed that all the non-commissioned officers, musicians, and privates of that regiment, who had been in service in Mexico, should, upon their application, be entitled to be discharged. The effect of this provision was to disband the rank and file of the regiment; and before their places could be filled by recruits, the season had so far advanced that it was impracticable for it to proceed until the opening of the next spring.

In the month of October last, the accompanying

communication was received from the Governor of the temporary government of Oregon, giving information of the continuance of the Indian disturbances, and of the destitution and defenceless condition of the inhabitants. Orders were immediately transmitted to the commander of our squadron in the Pacific, to despatch to their assistance a part of the naval forces on that station, to furnish them with arms and ammunition, and to continue to give them such aid and protection as the navy could afford, until the army could reach the country.

It is the policy of humanity, and one which has always been pursued by the United States, to cultivate the good will of the aboriginal tribes of this continent, and to restrain them from making war, and indulging in excesses, by mild means, rather than by force. That this could have been done with the tribes in Oregon, had that Territory been brought under the government of our laws at an earlier period, and had suitable measures been adopted by Congress, such as now exist in our intercourse with the other Indian tribes within our limits, cannot be doubted. Indeed, the immediate and only cause of the existing hostility of the Indians of Oregon is represented to have been, the long delay of the United States in making to them some trifling compensation, in such articles as they wanted, for the country now occupied by our emigrants, which the Indians claimed, and over which they formerly roamed. This compensation had been promised to them by the temporary government established in Oregon, but its fulfillment had been postponed from time to time, for nearly two years, whilst those who made it had been anxiously waiting for Congress to establish a territorial government over the country. The Indians became at length distrustful of their good faith, and sought redress by plunder and massacre, which finally led to the present difficulties. A few thousand dollars in suitable presents, as a compensation for the country which had been taken possession of by our citizens, would have satisfied the Indians, and have prevented the war. A small amount properly distributed, it is confidently believed, would soon restore quiet. In this Indian war, our fellow-citizens of Oregon have been compelled to take the field in their own defence, have performed valuable military services, and been subjected to expenses which have fallen heavily upon them. Justice demands that provision should be made by Congress to compensate them for their services, and to refund to them the necessary expenses which they have incurred.

I repeat the recommendation heretofore made to Congress, that provision be made for the appointment of a suitable number of Indian agents to reside among the tribes of Oregon, and that a small sum be appropriated to enable these agents to cultivate friendly relations with them. If this be done, the presence of a small military force will be all that is necessary to keep them in check, and preserve peace.

I recommend that similar provision be made as regards the tribes inhabiting northern Texas, New Mexico, California, and the extensive region lying between our settlements in Missouri and these possessions, as the most effective means of preserving peace upon our borders, and within the recently-acquired territories.

The Secretary of the Treasury will present in his annual report a highly satisfactory statement of the condition of the finances.

The imports for the fiscal year ending on the thirtieth of June last were of the value of one hundred and fifty-four million nine hundred and seventy-seven thousand eight hundred and seventy-six dollars; of which the amount exported was twenty-one million one hundred and twenty-eight thousand and ten dollars, leaving one hundred and thirty-three million eight hundred and forty-nine thousand eight hundred and sixty-six dollars in the country for domestic use.

The value of the exports for the same period was one hundred and fifty-four million thirty-two thousand one hundred and thirty-one dollars, consisting of domestic productions amounting to one hundred and thirty-two million nine hundred and four thousand one hundred and twenty-one dollars, and twenty-one million one hundred and twenty-eight thousand and ten dollars of foreign articles.

The receipts into the treasury for the same period, exclusive of loans, amounted to thirty-five million four hundred and thirty-six thousand seven hundred and fifty dollars and fifty-nine cents; of which there was derived from customs thirty-one million seven hundred and fifty-seven thousand and seventy dollars and ninety-six cents; from sales of public lands, three million three hundred and twenty-eight thousand six hundred and forty-two dollars and fifty-six cents; and from miscellaneous and incidental sources, three hundred and fifty-one thousand and thirty-seven dollars and seven cents.

It will be perceived that the revenue from customs for the last fiscal year exceeded by seven hundred and fifty-seven thousand and seventy dollars and ninety-six cents the estimate of the Secretary of the Treasury in his last annual report; and that the aggregate receipts during the same period from customs, lands, and miscellaneous sources, also exceeded the estimate by the sum of five hundred and thirty-six thousand seven hundred and fifty dollars and fifty-nine cents—indicating, however, a very near approach in the estimate to the actual result.

The expenditures during the fiscal year ending on the thirtieth of June last, including those for the war, and exclusive of payments of principal and interest for the public debt, were forty-two million eight hundred and eleven thousand nine hundred and seventy dollars and three cents.

It is estimated that the receipts into the treasury for the fiscal year ending on the thirtieth of June, 1849, including the balance in the treasury on the first of July last, will amount to the sum of fifty-seven million forty-eight thousand nine hundred and sixty-nine dollars and ninety cents; of which thirty-two millions of dollars, it is estimated, will be derived from customs; three millions of dollars from the sales of the public lands; and one million two hundred thousand dollars from miscellaneous and incidental sources, including the premium upon the loan, and the amount paid and to be paid into the treasury on account of military contributions in Mexico, and the sales of arms and vessels and other public property rendered unnecessary for the use of the Government by the termination of the war; and twenty million six hundred and ninety-five thousand four hundred and thirty-five dollars and thirty cents from loans already negotiated, including treasury notes funded, which, together with the balance in the treasury on the first of July last, make the sum estimated.

The expenditures for the same period, including the necessary payment on account of the principal and interest of the public debt, and the principal and interest of the first instalment due to Mexico on the thirtieth of May next, and other expenditures growing out of the war, to be paid during the present year, will amount, including the reimbursement of treasury notes, to the sum of fifty-four million one hundred and ninety-five thousand two hundred and seventy-five dollars and six cents; leaving an estimated balance in the treasury on the first of July, 1849, of two million eight hundred and fifty-three thousand six hundred and ninety-four dollars and eighty-four cents.

The Secretary of the Treasury will present, as required by law, the estimate of the receipts and expenditures for the next fiscal year. The expenditures as estimated for that year are thirty-three million two hundred and thirteen thousand one hundred and fifty-two dollars and seventy-three cents, including three million seven hundred and ninety-nine thousand one hundred and two dollars and eighteen cents for the interest on the public debt, and three million five hundred and forty thousand dollars for the principal and interest due to Mexico on the thirtieth of May, 1850, leaving the sum of twenty-five million eight hundred and seventy-four thousand and fifty dollars and thirty-five cents; which, it is believed, will be ample for the ordinary peace expenditures.

The operations of the tariff act of 1846 have been such during the past year as fully to meet the public expectation, and to confirm the opinion heretofore expressed of the wisdom of the change in our revenue system which was effected by it. The receipts under it into the treasury for the first fiscal year after its enactment exceeded by the sum of five million forty-four thousand four hundred and three dollars and nine cents the amount collected during the last fiscal year under the tariff act of 1842, ending the thirtieth of June, 1846. The total revenue realized from the commencement of its operation, on the first of December, 1846, until the close of the last quarter, on the thirtieth of September last, being twenty-two months, was fifty-six million six hundred and fifty-four thousand five hundred and sixty-three dollars and seventy-nine cents—being a much larger sum than was ever before received from duties during any equal period under the tariff acts of 1824, 1828, 1832, and 1842. Whilst by the repeal of highly protective and prohibitory duties the revenue has been increased, the taxes on the people have been diminished. They have been relieved from the heavy amounts with which they were burdened under former laws in the form of increased prices or bounties paid to favored classes and pursuits.

The predictions which were made, that the tariff act of 1846 would reduce the amount of revenue below that collected under the act of 1842, and would prostrate the business and destroy the prosperity of the country, have not been verified. With an increased and increasing revenue, the finances are in a highly flourishing condition. Agriculture, commerce, and navigation, are prosperous; the prices of manufactured fabrics, and of other products, are much less injuriously affected than was to have been anticipated, from the unprecedented revulsions which, during the last and the present year, have overwhelmed the industry, and paralyzed the credit and commerce of so many great and enlightened nations of Europe.

Severe commercial revulsions abroad have always heretofore operated to depress, and often to affect disastrously, almost every branch of American industry. The temporary depression of a portion of our manufacturing interests is the effect of foreign causes, and is far less severe than has prevailed on all former similar occasions.

It is believed that, looking to the great aggregate of all our interests, the whole country was never more prosperous than at the present period, and never more rapidly advancing in wealth and population. Neither the foreign war in which we have been involved, nor the loans which have absorbed so large a portion of our capital, nor the commercial revulsion in Great Britain, in 1847, nor the paralysis of credit and commerce throughout Europe in 1848, have affected injuriously to any considerable extent any of the great interests of the country, or arrested our onward march to greatness, wealth, and power.

Had the disturbances in Europe not occurred, our commerce would undoubtedly have been still more extended, and would have added still more to the national wealth and public prosperity. But notwithstanding these disturbances, the operations of the revenue system established by the tariff act of 1846 have been so generally beneficial to the Government and the business of the country, that no change in its provisions is demanded by a wise public policy, and none is recommended.

The operations of the constitutional treasury established by the act of the sixth of August, 1846, in the receipt, custody, and disbursement of the public money, have continued to be successful. Under the system the public finances have been carried through a foreign war, involving the necessity of loans and extraordinary expenditures, and requiring distant transfers and disbursements, without embarrassment, and no loss has occurred of any of the public money deposited under its provisions. Whilst it has proved to be safe and useful to the Government, its effects have been most beneficial upon the business of the country. It has tended powerfully to secure an exemption from that inflation and fluctuation of the paper currency, so injurious to domestic industry, and rendering so uncertain the rewards of labor, and it is believed has largely contributed to preserve the whole country from a serious commercial revulsion, such as often occurred under the bank deposite system. In the year 1847 there was a revulsion in the business of Great Britain of great extent and intensity, which was followed by failures in that kingdom unprecedented in number and amount of losses. This is believed to be the first instance when such disastrous bankruptcies, occurring in a country with which we have such extensive commerce, produced little or no injurious effect upon our trade or currency. We remained but little affected in our money market, and our business and industry were still prosperous and progressive.

During the present year, nearly the whole continent of Europe has been convulsed by civil war and revolutions, attended by numerous bankruptcies, by an unprecedented fall in their public

securities, and an almost universal paralysis of commerce and industry; and yet, although our trade and the prices of our products must have been somewhat unfavorably affected by these causes, we have escaped a revulsion, our money market is comparatively easy, and public and private credit have advanced and improved.

It is confidently believed that we have been saved from their effect by the salutary operation of the constitutional treasury. It is certain, that if the twenty-four millions of specie imported into the country during the fiscal year ending on the thirtieth of June, 1847, had gone into the banks, as to a great extent it must have done, it would, in the absence of this system, have been made the basis of augmented bank paper issues, probably to an amount not less than sixty or seventy millions of dollars, producing, as an inevitable consequence of an inflated currency, extravagant prices for a time, and wild speculation, which must have been followed, on the reflux to Europe, the succeeding year, of so much of that specie, by the prostration of the business of the country, the suspension of the banks, and most extensive bankruptcies. Occurring, as this would have done, at a period when the country was engaged in a foreign war; when considerable loans of specie were required for distant disbursements, and when the banks, the fiscal agents of the Government, and the depositories of its money, were suspended, the public credit must have sunk, and many millions of dollars, as was the case during the war of 1812, must have been sacrificed in discounts upon loans, and upon the depreciated paper currency which the Government would have been compelled to use.

Under the operations of the constitutional treasury, not a dollar has been lost by the depreciation of the currency. The loans required to prosecute the war with Mexico were negotiated by the Secretary of the Treasury above par, realizing a large premium to the Government. The restraining effect of the system upon the tendencies to excessive paper issues by banks has saved the Government from heavy losses, and thousands of our business men from bankruptcy and ruin. The wisdom of the system has been tested, by the experience of the last two years; and it is the dictate of sound policy that it should remain undisturbed. The modifications in some of the details of this measure, involving none of its essential principles, heretofore recommended, are again presented for your favorable consideration.

In my message of the sixth of July last, transmitting to Congress the ratified treaty of peace with Mexico, I recommended the adoption of measures for the speedy payment of the public debt. In reiterating that recommendation, I refer you to the considerations presented in that message in its support. The public debt, including that authorized to be negotiated, in pursuance of existing laws, and including treasury notes, amounted at that time to sixty-five million seven hundred and seventy-eight thousand four hundred and fifty dollars and forty-one cents.

Funded stock of the United States, amounting to about half a million of dollars, has been purchased, as authorized by law, since that period, and the public debt has thus been reduced, the details of which will be presented in the annual report of the Secretary of the Treasury.

The estimates of expenditures for the next fiscal year, submitted by the Secretary of the Treasury, it is believed will be ample for all necessary purposes. If the appropriations made by Congress shall not exceed the amount estimated, the means in the treasury will be sufficient to defray all the expenses of the Government; to pay off the next instalment of three millions of dollars to Mexico, which will fall due on the thirtieth of May next; and still a considerable surplus will remain, which should be applied to the further purchase of the public stock and reduction of the debt. Should enlarged appropriations be made, the necessary consequence will be to postpone the payment of the debt. Though our debt, as compared with that of most other nations, is small, it is our true policy, and in harmony with the genius of our institutions, that we should present to the world the rare spectacle of a great republic, possessing vast resources and wealth, wholly exempt from public indebtedness. This would add still more to our strength, and give to us a still more commanding position among the nations of the earth.

The public expenditures should be economical, and be confined to such necessary objects as are clearly within the powers of Congress. All such as are not absolutely demanded should be postponed, and the payment of the public debt at the earliest practicable period should be a cardinal principle of our public policy.

For the reason assigned in my last annual message, I repeat the recommendation that a branch of the mint of the United States be established at the city of New York. The importance of this measure is greatly increased by the acquisition of the rich mines of the precious metals in New Mexico and California, and especially in the latter.

I repeat the recommendation, heretofore made, in favor of the graduation and reduction of the price of such of the public lands as have been long offered in the market, and have remained unsold, and in favor of extending the rights of preëmption to actual settlers on the unsurveyed as well as the surveyed lands.

The condition and operations of the army, and the state of other branches of the public service, under the supervision of the War Department, are satisfactorily presented in the accompanying report of the Secretary of War.

On the return of peace, our forces were withdrawn from Mexico, and the volunteers, and that portion of the regular army engaged for the war, were disbanded. Orders have been issued for stationing the forces of our permanent establishment at various positions in our extended country where troops may be required. Owing to the remoteness of some of these positions, the detachments have not yet reached their destination. Notwithstanding the extension of the limits of our country and the forces required in the new territories, it is confidently believed that our present military establishment is sufficient for all exigencies, so long as our peaceful relations remain undisturbed.

Of the amount of military contributions collected in Mexico, the sum of seven hundred and sixty-nine thousand six hundred and fifty dollars was applied towards the payment of the first instalment due under the treaty with Mexico. The further sum of three hundred and forty-six thousand three hundred and sixty-nine dollars and thirty cents has been paid into the treasury, and unexpended balances still remain in the hands of disbursing officers and those who were engaged in the collection of these moneys. After the proclamation of peace, no further disbursements were made of any unexpended moneys arising from this source. The balances on hand were directed to be paid into the treasury, and individual claims on the fund will remain unadjusted until Congress shall authorize their settlement and payment. These claims are not considerable in number or amount.

I recommend to your favorable consideration the suggestions of the Secretary of War and the Secretary of the Navy in regard to legislation on this subject.

Our Indian relations are presented in a most favorable view in the report from the War Department. The wisdom of our policy in regard to the tribes within our limits, is clearly manifested by their improved and rapidly improving condition.

A most important treaty with the Menomonies has been recently negotiated by the Commissioner of Indian Affairs in person, by which all their land in the State of Wisconsin—being about four millions of acres—has been ceded to the United States. This treaty will be submitted to the Senate for ratification at an early period of your present session.

Within the last four years, eight important treaties have been negotiated with different Indian tribes, and at a cost of one million eight hundred and forty-two thousand dollars; Indian lands to the amount of more than eighteen million five hundred thousand acres, have been ceded to the United States; and provision has been made for settling in the country west of the Mississippi the tribes which occupied this large extent of the public domain. The title to all the Indian lands within the several States of our Union, with the exception of a few small reservations, is now extinguished, and a vast region opened for settlement and cultivation.

The accompanying report of the Secretary of the Navy gives a satisfactory exhibit of the operations and condition of that branch of the public service.

A number of small vessels, suitable for entering the mouths of rivers, were judiciously purchased during the war, and gave great efficiency to the squadron in the Gulf of Mexico. On the return of peace, when no longer valuable for naval purposes, and liable to constant deterioration, they were sold, and the money placed in the treasury.

The number of men in the naval service, authorized by law during the war, has been reduced by discharges below the maximum fixed for the peace establishment. Adequate squadrons are maintained in the several quarters of the globe, where experience has shown their services may be most usefully employed; and the naval service was never in a condition of higher discipline or greater efficiency.

I invite attention to the recommendation of the Secretary of the Navy on the subject of the marine corps. The reduction of the corps at the end of the war, required that four officers of each of the three lower grades should be dropped from the rolls. A board of officers made the selection; and those designated were necessarily dismissed, but without any alleged fault. I concur in opinion with the Secretary, that the service would be improved by reducing the number of landsmen, and increasing the marines. Such a measure would justify an increase of the number of officers to the extent of the reduction by dismissal, and still the corps would have fewer officers than a corresponding number of men in the army.

The contracts for the transportation of the mail in steamships convertible into war-steamers, promise to realize all the benefits to our commerce and to the navy which were anticipated. The first steamer thus secured to the Government was launched in January, 1847. There are now seven; and in another year there will, probably, be not less than seventeen afloat. While this great national advantage is secured, our social and commercial intercourse is increased and promoted with Germany, Great Britain, and other parts of Europe, with all the countries on the west coast of our continent, especially with Oregon and California, and between the northern and southern sections of the United States. Considerable revenue may be expected from postages; but the connected line from New York to Chagres, and thence across the isthmus to Oregon, cannot fail to exert a beneficial influence, not now to be estimated, on the interests of the manufactures, commerce, navigation, and currency of the United States. As an important part of the system, I recommend to your favorable consideration the establishment of the proposed line of steamers between New Orleans and Vera Cruz. It promises the most happy results in cementing friendship between the two Republics, and in extending reciprocal benefits to the trade and manufactures of both.

The report of the Postmaster General will make known to you the operations of that department for the past year.

It is gratifying to find the revenues of the department, under the rates of postage now established by law, so rapidly increasing. The gross amount of postages during the last fiscal year amounted to four million three hundred and seventy-one thousand and seventy-seven dollars, exceeding the annual average received for the nine years immediately preceding the passage of the act of the third of March, 1845, by the sum of six thousand four hundred and fifty-three dollars, and exceeding the amount received for the year ending the thirtieth of June, 1847, by the sum of four hundred and twenty-five thousand one hundred and eighty-four dollars.

The expenditures for the year, excluding the sum of ninety-four thousand six hundred and seventy-two dollars, allowed by Congress, at its last session, to individual claimants, and including the sum of one hundred thousand five hundred dollars paid for the services of the line of steamers between Bremen and New York, amounted to four million one hundred and ninety-eight thousand eight hundred and forty-five dollars, which is less than the annual average for the nine years previous to the act of 1845, by three hundred thousand seven hundred and forty-eight dollars.

The mail routes, on the thirtieth day of June last, were one hundred and sixty-three thousand two hundred and eight miles in extent—being an increase during the last year of nine thousand three hundred and ninety miles. The mails were transported over them, during the same time, forty-one million twelve thousand five hundred and seventy-nine miles; making an increase of trans-

portation for the year of two million one hundred and twenty-four thousand six hundred and eighty miles, whilst the expense was less than that of the previous year by four thousand two hundred and thirty-five dollars.

The increase in the mail transportation within the last three years has been five million three hundred and seventy-eight thousand three hundred and ten miles, whilst the expenses were reduced four hundred and fifty-six thousand seven hundred and thirty-eight dollars—making an increase of service at the rate of fifteen per cent., and a reduction in the expenses of more than fifteen per cent.

During the past year, there have been employed, under contracts with the Post Office Department, two ocean steamers in conveying the mails monthly between New York and Bremen, and one, since October last, performing semi-monthly service between Charleston and Havana; and a contract has been made for the transportation of the Pacific mails across the isthmus from Chagres to Panama.

Under the authority given to the Secretary of the Navy, three ocean steamers have been constructed and sent to the Pacific, and are expected to enter upon the mail service between Panama and Oregon, and the intermediate ports, on the first January next, and a fourth has been engaged by him for the service between Havana and Chagres; so that a regular monthly mail line will be kept up after that time between the United States and our territories on the Pacific.

Notwithstanding this great increase in the mail service, should the revenue continue to increase the present year as it did in the last, there will be received near four hundred and fifty thousand dollars more than the expenditures.

These considerations have satisfied the Postmaster General that, with certain modifications of the act of 1845, the revenue may be still further increased, and a reduction of postages made to a uniform rate of five cents, without an interference with the principle, which has been constantly and properly enforced, of making that department sustain itself.

A well-digested cheap postage system is the best means of diffusing intelligence among the people, and is of so much importance in a country so extensive as that of the United States, that I recommend to your favorable consideration the suggestions of the Postmaster General for its improvement.

Nothing can retard the onward progress of our country, and prevent us from assuming and maintaining the first rank among nations, but a disregard of the experience of the past, and a recurrence to an unwise public policy. We have just closed a foreign war by an honorable peace—a war rendered necessary and unavoidable in vindication of the national rights and honor. The present condition of the country is similar in some respects to that which existed immediately after the close of the war with Great Britain in 1815, and the occasion is deemed to be a proper one to take a retrospect of the measures of public policy which followed that war. There was at that period of our history a departure from our earlier policy. The enlargement of the powers of the Federal Government by *construction*, which obtained, was not warranted by any just interpretation of the Constitution. A few years after the close of that war, a series of measures was adopted which, united and combined, constituted what was termed by their authors and advocates the "American system."

The introduction of the new policy was for a time favored by the condition of the country; by the heavy debt which had been contracted during the war; by the depression of the public credit; by the deranged state of the finances and the currency; and by the commercial and pecuniary embarrassment which extensively prevailed. These were not the only causes which led to its establishment. The events of the war with Great Britain, and the embarrassments which had attended its prosecution, had left on the minds of many of our statesmen the impression that our Government was not strong enough, and that to wield its resources successfully in great emergencies, and especially in war, more power should be concentrated in its hands. This increased power they did not seek to obtain by the legitimate and prescribed mode—an amendment of the Constitution—but by *construction*. They saw governments in the Old World based upon different orders of society, and so constituted as to throw the whole power of nations into the hands of a few, who taxed and controlled the many without responsibility or restraint. In that arrangement they conceived the strength of nations in war consisted. There was also something fascinating in the ease, luxury, and display of the higher orders, who drew their wealth from the toil of the laboring millions. The authors of the system drew their ideas of political economy from what they had witnessed in Europe, and particularly in Great Britain. They had viewed the enormous wealth concentrated in few hands, and had seen the splendor of the overgrown establishments of an aristocracy which was upheld by the restrictive policy. They forgot to look down upon the poorer classes of the English population, upon whose daily and yearly labor the great establishments they so much admired were sustained and supported. They failed to perceive that the scantily-fed and half-clad operatives were not only in abject poverty, but were bound in chains of oppressive servitude for the benefit of favored classes, who were the exclusive objects of the care of the government.

It was not possible to reconstruct society in the United States upon the European plan. Here there was a written constitution, by which orders and titles were not recognized or tolerated. A system of measures was therefore devised, calculated, if not intended, to withdraw power gradually and silently from the States and the mass of the people, and by *construction* to approximate our government to the European models, substituting an aristocracy of wealth for that of orders and titles.

Without reflecting upon the dissimilarity of our institutions, and of the condition of our people and those of Europe, they conceived the vain idea of building up in the United States a system similar to that which they admired abroad. Great Britain had a national bank of large capital, in whose hands was concentrated the controlling monetary and financial power of the nation; an institution wielding almost kingly power, and exerting vast influence upon all the operations of trade, and upon the policy of the government itself. Great Britain had an enormous public debt, and it had become a part of her public policy to regard this as a "public blessing." Great Britain had also a restrictive policy, which placed fetters and burdens on trade, and trammeled the productive industry of the mass of the nation. By her combined system of policy, the landlords and other property-holders were protected and enriched by the enormous taxes which were levied upon the labor of the country for their advantage.

Imitating this foreign policy, the first step in establishing the new system in the United States was the creation of a national bank. Not foreseeing the dangerous power and countless evils which such an institution might entail on the country, nor perceiving the connection which it was designed to form between the bank and the other branches of the miscalled "American system," but feeling the embarrassments of the treasury, and of the business of the country, consequent upon the war, some of our statesmen who had held different and sounder views were induced to yield their scruples, and, indeed, settled convictions of its unconstitutionality, and to give it their sanction, as an expedient which they vainly hoped might produce relief. It was a most unfortunate error, as the subsequent history and final catastrophe of that dangerous and corrupt institution have abundantly proved. The bank, with its numerous branches, ramified into the States, soon brought many of the active political and commercial men in different sections of the country into the relation of debtors to it, and dependants upon it for pecuniary favors; thus diffusing throughout the mass of society a great number of individuals of power and influence to give tone to public opinion, and to act in concert in cases of emergency. The corrupt power of such a political engine is no longer a matter of speculation, having been displayed in numerous instances, but most signally in the political struggles of 1832-'3-'4, in opposition to the public will represented by a fearless and patriotic President.

But the bank was but one branch of the new system. A public debt of more than one hundred and twenty millions of dollars existed; and it is not to be disguised that many of the authors of the new system did not regard its speedy payment as essential to the public prosperity, but looked upon its continuance as no national evil. Whilst the debt existed, it furnished aliment to the national bank, and rendered increased taxation necessary to the amount of the interest, exceeding seven millions of dollars annually.

This operated in harmony with the next branch of the new system, which was a high protective tariff. This was to afford bounties to favored classes and particular pursuits, at the expense of all others. A proposition to tax the whole people for the purpose of enriching a few, was too monstrous to be openly made. The scheme was, therefore, veiled under the plausible but delusive pretext of a measure to protect "home industry;" and many of our people were, for a time, led to believe that a tax which in the main fell upon labor, was for the benefit of the laborer who paid it. This branch of the system involved a partnership between the Government and the favored classes—the former receiving the proceeds of the tax imposed on articles imported, and the latter the increased price of similar articles produced at home, caused by such tax. It is obvious that the portion to be received by the favored classes would, as a general rule, be increased in proportion to the increase of the rates of tax imposed, and diminished as those rates were reduced to the revenue standard required by the wants of the Government. The rates required to produce a sufficient revenue for the ordinary expenditures of government, for necessary purposes, were not likely to give to the private partners in this scheme profits sufficient to satisfy their cupidity; and hence a variety of expedients and pretexts were resorted to for the purpose of enlarging the expenditures, and thereby creating a necessity for keeping up a high protective tariff. The effect of this policy was to interpose artificial restrictions upon the natural course of the business and trade of the country, and to advance the interests of large capitalists and monopolists, at the expense of the great mass of the people, who were taxed to increase their wealth.

Another branch of this system was a comprehensive scheme of internal improvements, capable of indefinite enlargement, and sufficient to swallow up as many millions annually as could be exacted from the foreign commerce of the country. This was a convenient and necessary adjunct of the protective tariff. It was to be the great absorbent of any surplus which might at any time accumulate in the treasury, and of the taxes levied on the people, not for necessary revenue purposes, but for the avowed object of affording protection to the favored classes.

Auxiliary to the same end, if it was not an essential part of the system itself, was the scheme which, at a later period, obtained, for distributing the proceeds of the sales of the public lands among the States. Other expedients were devised to take money out of the treasury, and prevent its coming in from any other source than the protective tariff. The authors and supporters of the system were the advocates of the largest expenditures, whether for necessary or useful purposes or not, because the larger the expenditures the greater was the pretext for high taxes in the form of protective duties.

These several measures were sustained by popular names and plausible arguments, by which thousands were deluded. The bank was represented to be an indispensable fiscal agent for the Government; was to equalize exchanges, and to regulate and furnish a sound currency, always and everywhere of uniform value. The protective tariff was to give employment to "American labor" at advanced prices; was to protect "home industry," and furnish a steady market for the farmer. Internal improvements were to bring trade into every neighborhood, and enhance the value of every man's property. The distribution of the land money was to enrich the States, finish their public works, plant schools throughout their borders, and relieve them from taxation. But the fact, that for every dollar taken out of the treasury for these objects a much larger sum was transferred from the pockets of the people to the favored classes, was carefully concealed, as was also the tendency, if not the ultimate design of the system, to build up an aristocracy of wealth, to control the masses of society, and monopolize the political power of the country.

The several branches of this system were so intimately blended together, that in their operation each sustained and strengthened the others. Their

joint operation was, to add new burdens of taxation and to encourage a largely increased and wasteful expenditure of public money. It was the interest of the bank that the revenue collected and the disbursements made by the Government should be large, because, being the depository of the public money, the larger the amount, the greater would be the bank profits by its use. It was the interest of the favored classes, who were enriched by the protective tariff, to have the rates of that protection as high as possible; for the higher those rates, the greater would be their advantage. It was the interest of the people of all those sections and localities who expected to be benefited by expenditures for internal improvements, that the amount collected should be as large as possible, to the end that the sum disbursed might also be the larger. The States being the beneficiaries in the distribution of the land money, had an interest in having the rates of tax imposed by the protective tariff large enough to yield a sufficient revenue from that source to meet the wants of the Government, without disturbing or taking from them the land fund; so that each of the branches constituting the system had a common interest in swelling the public expenditures. They had a direct interest in maintaining the public debt unpaid, and increasing its amount, because this would produce an annual increased drain upon the treasury, to the amount of the interest, and render augmented taxes necessary. The operation and necessary effect of the whole system were, to encourage large and extravagant expenditures, and thereby to increase the public patronage, and maintain a rich and splendid government at the expense of a taxed and impoverished people.

It is manifest that this scheme of enlarged taxation and expenditures, had it continued to prevail, must soon have converted the Government of the Union, intended by its framers to be a plain, cheap, and simple confederation of States, united together for common protection, and charged with a few specific duties, relating chiefly to our foreign affairs, into a consolidated empire, depriving the States of their reserved rights, and the people of their just power and control in the administration of their Government. In this manner the whole form and character of the Government would be changed, not by an amendment of the Constitution, but by resorting to an unwarrantable and unauthorized construction of that instrument.

The indirect mode of levying the taxes by a duty on imports, prevents the mass of the people from readily perceiving the amount they pay, and has enabled the few, who are thus enriched, and who seek to wield the political power of the country, to deceive and delude them. Were the taxes collected by a direct levy upon the people, as is the case in the States, this could not occur.

The whole system was resisted from its inception by many of our ablest statesmen, some of whom doubted its constitutionality and its expediency, while others believed it was, in all its branches, a flagrant and dangerous infraction of the Constitution.

That a national bank, a protective tariff, levied not to raise the revenue needed, but for protection merely, internal improvements, and the distribution of the proceeds of the sales of the public lands, are measures without the warrant of the Constitution, would, upon the maturest consideration, seem to be clear. It is remarkable that no one of these measures, involving such momentous consequences, is authorized by any express grant of power in the Constitution. No one of them is "incident to, as being necessary and proper for the execution of, the specific powers" granted by the Constitution. The authority under which it has been attempted to justify each of them is derived from inferences and constructions of the Constitution which its letter and its whole object and design do not warrant. Is it to be conceived that such immense powers would have been left by the framers of the Constitution to mere inferences and doubtful constructions? Had it been intended to confer them on the Federal Government, it is but reasonable to conclude that it would have been done by plain and unequivocal grants. This was not done; but the whole structure of which the "American system" consisted, was reared on no other or better foundation than forced implications and inferences of power which its authors assumed might be deduced by construction from the Constitution.

But it has been urged that the National Bank, which constituted so essential a branch of this combined system of measures, was not a new measure, and that its constitutionality had been previously sanctioned, because a bank had been chartered in 1791, and had received the official signature of President Washington. A few facts will show the just weight to which this precedent should be entitled as bearing upon the question of constitutionality.

Great division of opinion upon the subject existed in Congress. It is well known that President Washington entertained serious doubts both as to the constitutionality and expediency of the measure; and while the bill was before him for his official approval or disapproval, so great were these doubts, that he required "the opinion in writing" of the members of his cabinet to aid him in arriving at a decision. His cabinet gave their opinion, and were divided upon the subject—General Hamilton being in favor of, and Mr. Jefferson and Mr. Randolph being opposed to the constitutionality and expediency of the bank. It is well known, also, that President Washington retained the bill from Monday, the fourteenth, when it was presented to him, until Friday, the twenty-fifth of February—being the last moment permitted him by the Constitution to deliberate, when he finally yielded to it his reluctant assent, and gave it his signature. It is certain that as late as the twenty-third of February—being the ninth day after the bill was presented to him—he had arrived at no satisfactory conclusion; for on that day he addressed a note to General Hamilton, in which he informs him that "this bill 'was presented to me by the joint committee of 'Congress at 12 o'clock on Monday, the fourteenth 'instant;" and he requested his opinion "to what 'precise period, by legal interpretation of the Con-'stitution, can the President retain it in his posses-'sion, before it becomes a law by the lapse of ten 'days." If the proper construction was, that the day on which the bill was presented to the President, and the day on which his action was had upon it, were both to be counted inclusive, then the time allowed him, within which it would be competent for him to return it to the House in which it originated with his objections, would expire on Thursday, the twenty-fourth of February. General Hamilton on the same day returned an answer, in which he states: "I give it as my opinion that you 'have ten days exclusive of that on which the bill 'was delivered to you, and Sundays; hence, in the 'present case, if it is returned on Friday, it will be 'in time." By this construction, which the President adopted, he gained another day for deliberation, and it was not until the twenty-fifth of February that he signed the bill; thus affording conclusive proof that he had at last obtained his own consent to sign it not without great and almost insuperable difficulty. Additional light has been recently shed upon the serious doubts which he had on the subject, amounting at one time to a conviction that it was his duty to withhold his approval from the bill. This is found among the manuscript papers of Mr. Madison, authorized to be purchased for the use of the Government by an act of the last session of Congress, and now for the first time accessible to the public. From these papers, it appears that President Washington, while he yet held the bank bill in his hands, actually requested Mr. Madison, at that time a member of the House of Representatives, to prepare the draught of a veto message for him. Mr. Madison, at his request, did prepare the draught of such a message, and sent it to him on the twenty-first of February, 1791. A copy of this original draught, in Mr. Madison's own handwriting, was carefully preserved by him, and is among the papers lately purchased by Congress. It is preceded by a note, written on the same sheet, which is also in Mr. Madison's handwriting, and is as follows:

"February 21st, 1791. Copy of a paper made 'out and sent to the President at his request, to be 'ready in case his judgment should finally decide 'against the bill for incorporating a national bank, 'the bill being then before him."

Among the objections assigned in this paper to the bill, and which were submitted for the consideration of the President, are the following:

"I object to the bill, because it is an essential 'principle of the government that powers not del-'egated by the Constitution cannot be rightfully 'exercised; because the power proposed by the bill 'to be exercised is not expressly delegated, and be-'cause I cannot satisfy myself that it results from 'any express power by fair and safe rules of inter-'pretation."

The weight of the precedent of the bank of 1791, and the sanction of the great name of Washington which has been so often invoked in its support, are greatly weakened by the development of these facts. The experiment of that bank satisfied the country that it ought not to be continued, and at the end of twenty years Congress refused to recharter it. It would have been fortunate for the country, and saved thousands from bankruptcy and ruin, had our public men of 1816 resisted the temporary pressure of the times upon our financial and pecuniary interests, and refused to charter the second bank. Of this the country became abundantly satisfied, and at the close of its twenty years' duration, as in the case of the first bank, it also ceased to exist. Under the repeated blows of President Jackson, it reeled and fell, and a subsequent attempt to charter a similar institution was arrested by the veto of President Tyler.

Mr. Madison, in yielding his signature to the charter of 1816, did so upon the ground of the respect due to precedents; and, as he subsequently declared, "the Bank of the United States, though, on the original question, held to be unconstitutional, received the Executive signature."

It is probable that neither the bank of 1791, nor that of 1816, would have been chartered but for the embarrassments of the Government in its finances, the derangement of the currency, and the pecuniary pressure which existed—the first the consequence of the war of the Revolution, and the second the consequence of the war of 1812. Both were resorted to in the delusive hope that they would restore public credit, and afford relief to the Government, and to the business of the country.

Those of our public men who opposed the whole "American system," at its commencement, and throughout its progress, foresaw and predicted that it was fraught with incalculable mischiefs, and must result in serious injury to the best interests of the country. For a series of years their wise counsels were unheeded, and the system was established. It was soon apparent that its practical operation was unequal and unjust upon different portions of the country, and upon the people engaged in different pursuits. All were equally entitled to the favor and protection of the Government. It fostered and elevated the money-power, and enriched the favored few by taxing labor, and at the expense of the many. Its effect was to "make the rich richer, and the poor poorer." Its tendency was to create distinctions in society based on wealth, and to give to the favored classes undue control and sway in our Government. It was an organized money-power, which resisted the popular will, and sought to shape and control the public policy.

Under the pernicious workings of this combined system of measures, the country witnessed alternate seasons of temporary apparent prosperity; of sudden and disastrous commercial revulsions; of unprecedented fluctuation of prices, and depression of the great interests of agriculture, navigation, and commerce; of general pecuniary suffering, and of final bankruptcy of thousands. After a severe struggle of more than a quarter of a century, the system was overthrown.

The bank has been succeeded by a practical system of finance, conducted and controlled solely by the Government. The constitutional currency has been restored; the public credit maintained unimpaired, even in a period of foreign war; and the whole country has become satisfied that banks, national or State, are not necessary as fiscal agents of the Government. Revenue duties have taken the place of the protective tariff. The distribution of the money derived from the sale of the public lands has been abandoned, and the corrupting system of internal improvements, it is hoped, has been effectually checked.

It is not doubted, that if this whole train of measures designed to take wealth from the many, and bestow it upon the few, were to prevail, the effect would be to change the entire character of the Government. One only danger remains. It is the seductions of that branch of the system, which consists in internal improvements, holding out, as it does, inducements to the people of particular sections and localities to embark the Government in them without stopping to calculate the inevitable

consequences. This branch of the system is so intimately combined and linked with the others, that as surely as an effect is produced by an adequate cause, if it be resuscitated and revived, and firmly established, it requires no sagacity to foresee that it will necessarily and speedily draw after it the reëstablishment of a national bank, the revival of a protective tariff, the distribution of the land money, and not only the postponement to the distant future of the payment of the present national debt, but its annual increase.

I entertain the solemn conviction, that if the internal improvement branch of the "American system" be not firmly resisted at this time, the whole series of measures composing it will be speedily reëstablished, and the country be thrown back from its present high state of prosperity, which the existing policy has produced, and be destined again to witness all the evils, commercial revulsions, depression of prices, and pecuniary embarrassments, through which we have passed during the last twenty-five years.

To guard against consequences so ruinous, is an object of high national importance, involving, in my judgment, the continued prosperity of the country.

I have felt it to be an imperative obligation to withhold my constitutional sanction from two bills which had passed the two Houses of Congress, involving the principle of the internal improvement branch of the "American system," and conflicting in their provisions with the views here expressed.

This power, conferred upon the President by the Constitution, I have on three occasions, during my administration of the Executive department of the Government, deemed it my duty to exercise; and on this last occasion of making to Congress an annual communication "of the state of the Union," it is not deemed inappropriate to review the principles and considerations which have governed my action. I deem this the more necessary, because, after the lapse of nearly sixty years since the adoption of the Constitution, the propriety of the exercise of this undoubted constitutional power by the President has for the first time been drawn seriously in question by a portion of my fellow-citizens.

The Constitution provides that 'every bill which 'shall have passed the House of Representatives 'and the Senate shall, before it become a law, be 'presented to the President of the United States: if 'he approve, he *shall* sign it; but if not, he *shall* 'return it, with his objections, to that House in 'which it shall have originated, who shall enter the 'objections at large on their Journal, and proceed 'to reconsider it."

The preservation of the Constitution from infraction is the President's highest duty. He is bound to discharge that duty, at whatever hazard of incurring the displeasure of those who may differ with him in opinion. He is bound to discharge it, as well by his obligations to the people who have clothed him with his exalted trust, as by his oath of office, which he may not disregard. Nor are the obligations of the President in any degree lessened by the prevalence of views different from his own in one or both houses of Congress. It is not alone hasty and inconsiderate legislation that he is required to check; but if at any time Congress shall, after apparently full deliberation, resolve on measures which he deems subversive of the Constitution, or of the vital interests of the country, it is his solemn duty to stand in the breach and resist them. The President is bound to approve, or disapprove, every bill which passes Congress and is presented to him for his signature. The Constitution makes this his duty, and he cannot escape it if he would. He has no election. In deciding upon any bill presented to him, he must exercise his own best judgment. If he cannot approve, the Constitution commands him to return the bill to the House in which it originated, with his objections; and if he fail to do this within ten days, (Sundays excepted,) it shall become a law without his signature. Right or wrong, he may be overruled by a vote of two-thirds of each House; and, in that event, the bill becomes a law without his sanction. If his objections be not thus overruled, the subject is only postponed, and is referred to the States and the people for their consideration and decision. The President's power is negative merely, and not affirmative. He can enact no law. The only effect, therefore, of his withholding his approval of a bill passed by Congress, is to suffer the existing laws to remain unchanged, and the delay occasioned is only that required to enable the States and the people to consider and act upon the subject in the election of public agents who will carry out their wishes and instructions. Any attempt to coerce the President to yield his sanction to measures which he cannot approve, would be a violation of the spirit of the Constitution, palpable and flagrant; and if successful, would break down the independence of the executive department, and make the President, elected by the people, and clothed by the Constitution with power to defend their rights, the mere instrument of a majority of Congress. A surrender, on his part, of the powers with which the Constitution has invested his office, would effect a practical alteration of that instrument, without resorting to the prescribed process of amendment.

With the motives or considerations which may induce Congress to pass any bill, the President can have nothing to do. He must presume them to be as pure as his own, and look only to the practical effect of their measures when compared with the Constitution or the public good.

But it has been urged by those who object to the exercise of this undoubted constitutional power, that it assails the representative principle and the capacity of the people to govern themselves; that there is greater safety in a numerous representative body than in the single Executive created by the Constitution, and that the Executive veto is a "one-man power," despotic in its character. To expose the fallacy of this objection, it is only necessary to consider the frame and true character of our system. Ours is not a consolidated empire, but a confederated Union. The States, before the adoption of the Constitution, were coördinate, coequal, and separate independent sovereignties, and by its adoption they did not lose that character. They clothed the Federal Government with certain powers, and reserved all others, including their own sovereignty, to themselves. They guarded their own rights as States and the rights of the people, by the very limitations which they incorporated into the Federal Constitution, whereby the different departments of the General Governmeni were checks upon each other. That the majority should govern, is a general principle, controverted by none; but they must govern according to the Constitution, and not according to an undefined and unrestrained discretion, whereby they may oppress the minority.

The people of the United States are not blind to the fact that they may be temporarily misled, and that their representatives, legislative and executive, may be mistaken or influenced in their action by improper motives. They have therefore interposed between themselves and the laws which may he passed by their public agents, various representations, such as Assemblies, Senates, and Governors in their several States; a House of Representatives, a Senate, and a President of the United States. The people can by their own direct agency make no law; nor can the House of Representatives immediately elected by them; nor can the Senate; nor can both together, without the concurrence of the President, or a vote of two-thirds of both Houses.

Happily for themselves, the people, in framing our admirable system of government, were conscious of the infirmities of their representatives; and, in delegating to them the power of legislation, they have fenced them around with checks, to guard against the effects of hasty action, of error, of combination, and of possible corruption. Error, selfishness, and faction have often sought to rend asunder this web of checks, and subject the Government to the control of fanatic and sinister influences; but these efforts have only satisfied the people of the wisdom of the checks which they have imposed, and of the necessity of preserving them unimpaired.

The true theory of our system is not to govern by the acts or decrees of any one set of representatives. The Constitution interposes checks upon all branches of the Government, in order to give time for error to be corrected, and delusion to pass away; but if the people settle down into a firm conviction different from that of their representatives, they give effect to their opinions by changing their public servants. The checks which the people imposed on their public servants in the adoption of the Constitution, are the best evidence of their capacity for self-government. They know that the men whom they elect to public stations are of like infirmities and passions with themselves, and not to be trusted without being restricted by coördinate authorities and constitutional limitations. Who that has witnessed the legislation of Congress for the last thirty years will say that he knows of no instance in which measures not demanded by the public good, have been carried? Who will deny that, in the State governments, by combinations of individuals and sections, in derogation of the general interest, banks have been chartered, systems of internal improvement adopted, and debts entailed upon the people, repressing their growth, and impairing their energies for years to come?

After so much experience, it cannot be said that absolute unchecked power is safe in the hands of any one set of representatives, or that the capacity of the people for self-government, which is admitted in its broadest extent, is a conclusive argument to prove the prudence, wisdom, and integrity of their representatives.

The people, by the Constitution, have commanded the President, as much as they have commanded the legislative branch of the Government, to execute their will. They have said to him in the Constitution, which they require he shall take a solemn oath to support, that if Congress pass any bill which he cannot approve, "he shall return it to the House in which it originated, with his objections." In withholding from it his approval and signature, he is executing the will of the people constitutionally expressed, as much as the Congress that passed it. No bill is presumed to be in accordance with the popular will until it shall have passed through all the branches of the Government required by the Constitution to make it a law. A bill which passes the House of Representatives may be rejected by the Senate; and so a bill passed by the Senate may be rejected by the House. In each case the respective Houses exercise the veto power on the other.

Congress, and each House of Congress, hold under the Constitution a check upon the President, and he, by the power of the qualified veto, a check upon Congress. When the President recommends measures to Congress, he avows, in the most solemn form, his opinions, gives his voice in their favor, and pledges himself in advance to approve them if passed by Congress. If he acts without due consideration, or has been influenced by improper or corrupt motives—or if from any other cause Congress, or either House of Congress, shall differ with him in opinion, they exercise *their veto* upon his recommendations, and reject them; and there is no appeal from their decision, but to the people at the ballot-box. These are proper checks upon the Executive, wisely interposed by the Constitution. None will be found to object to them, or to wish them removed. It is equally important that the constitutional checks of the executive upon the legislative branch should be preserved.

If it be said that the Representatives in the popular branch of Congress are chosen directly by the people, it is answered, the people elect the President. If both Houses represent the States and the people, so does the President. The President represents in the executive department the whole people of the United States, as each member of the legislative department represents portions of them.

The doctrine of restriction upon legislative and executive power, while a well-settled public opinion is enabled within a reasonable time to accomplish its ends, has made our country what it is, and has opened to us a career of glory and happiness to which all other nations have been strangers.

In the exercise of the power of the veto, the President is responsible not only to an enlightened public opinion, but to the people of the whole Union, who elected him, as the representatives in the legislative branches, who differ with him in opinion, are responsible to the people of particular States, or districts, who compose their respective constituencies. To deny to the President the exercise of this power, would be to repeal that provision of the Constitution which confers it upon him. To charge that its exercise unduly controls the legislative will, is to complain of the Constitution itself.

If the Presidential veto be objected to upon the

ground that it checks and thwarts the public will, upon the same principle the equality of representation of the States in the Senate should be stricken out of the Constitution. The vote of a Senator from Delaware has equal weight in deciding upon the most important measures with the vote of a Senator from New York; and yet the one represents a State containing, according to the existing apportionment of representatives in the House of Representatives, but one thirty-fourth part of the population of the other. By the constitutional composition of the Senate, a majority of that body from the smaller States represent less than one-fourth of the people of the Union. There are thirty States; and, under the existing apportionment of representatives, there are two hundred and thirty members in the House of Representatives. Sixteen of the smaller States are represented in that House by but fifty members; and yet the Senators from these States constitute a majority of the Senate. So that the President may recommend a measure to Congress, and it may receive the sanction and approval of more than three-fourths of the House of Representatives, and of all the Senators from the large States, containing more than three-fourths of the whole population of the United States; and yet the measure may be defeated by the votes of the Senators from the smaller States. None, it is presumed, can be found ready to change the organization of the Senate on this account, or to strike that body practically out of existence, by requiring that its action shall be conformed to the will of the more numerous branch.

Upon the same principle that the veto of the President should be practically abolished, the power of the Vice President to give the casting vote upon an equal division of the Senate should be abolished also. The Vice President exercises the veto power as effectually by rejecting a bill by his casting vote, as the President does by refusing to approve and sign it. This power has been exercised by the Vice President in a few instances, the most important of which was the rejection of the bill to recharter the Bank of the United States in 1811. It may happen that a bill may be passed by a large majority of the House of Representatives, and may be supported by the Senators from the larger States, and the Vice President may reject it by giving his vote with the Senators from the smaller States; and yet none, it is presumed, are prepared to deny to him the exercise of this power under the Constitution.

But it is, in point of fact, untrue that an act passed by Congress is conclusive evidence that it is an emanation of the popular will. A majority of the whole number elected to each house of Congress constitutes a quorum, and a majority of that quorum is competent to pass laws. It might happen that a quorum of the House of Representatives, consisting of a single member more than half of the whole number elected to that House, might pass a bill by a majority of a single vote, and in that case a fraction more than one-fourth of the people of the United States would be represented by those who voted for it. It might happen that the same bill might be passed by a majority of one, of a quorum of the Senate, composed of Senators from the fifteen smaller States, and a single Senator from a sixteenth State, and if the Senators voting for it happened to be from the eight of the smallest of these States, it would be passed by the votes of Senators from States having but fourteen Representatives in the House of Representatives, and containing less than one-sixteenth of the whole population of the United States. This extreme case is stated to illustrate the fact, that the mere passage of a bill by Congress is no conclusive evidence that those who passed it represent the majority of the people of the United States, or truly reflect their will. If such an extreme case is not likely to happen, cases that approximate it are of constant occurrence. It is believed that not a single law has been passed since the adoption of the Constitution, upon which all the members elected to both Houses have been present and voted. Many of the most important acts which have passed Congress have been carried by a close vote in thin Houses. Many instances of this might be given. Indeed, our experience proves that many of the most important acts of Congress are postponed to the last days, and often the last hours of a session, when they are disposed of in haste, and by Houses but little exceeding the number necessary to form a quorum.

Besides, in most of the States the members of the House of Representatives are chosen by pluralities, and not by majorities of all the voters in their respective districts; and it may happen that a majority of that House may be returned by a less aggregate vote of the people than that received by the minority.

If the principle insisted on be sound, then the Constitution should be so changed that no bill shall become a law unless it is voted for by members representing in each House a majority of the whole people of the United States. We must remodel our whole system, strike down and abolish not only the salutary checks lodged in the Executive branch, but must strike out and abolish those lodged in the Senate also, and thus practically invest the whole power of the Government in a majority of a single assembly—a majority uncontrolled and absolute, and which may become despotic. To conform to this doctrine of the right of majorities to rule, independent of the checks and limitations of the Constitution, we must revolutionize our whole system. We must destroy the constitutional compact by which the several States agreed to form a Federal Union, and rush into consolidation, which must end in monarchy or despotism. No one advocates such a proposition; and yet the doctrine maintained, if carried out, must lead to this result.

One great object of the Constitution, in conferring upon the President a qualified negative upon the legislation of Congress, was to protect minorities from injustice and oppression by majorities. The equality of their representation in the Senate, and the veto power of the President, are the constitutional guarantees which the smaller States have that their rights will be respected. Without these guarantees, all their interests would be at the mercy of majorities in Congress representing the larger States. To the smaller and weaker States, therefore, the preservation of this power, and its exercise upon proper occasions demanding it, is of vital importance. They ratified the Constitution, and entered into the Union, securing to themselves an equal representation with the larger States in the Senate; and they agreed to be bound by all laws passed by Congress, upon the express condition, and none other, that they should be approved by the President, or passed, his objections to the contrary notwithstanding, by a vote of two-thirds of both Houses. Upon this condition, they have a right to insist, as a part of the compact to which they gave their assent.

A bill might be passed by Congress against the will of the whole people of a particular State, and against the votes of its Senators and all its Representatives. However prejudicial it might be to the interests of such State, it would be bound by it if the President shall approve it, or it should be passed by a vote of two-thirds of both Houses; but it has a right to demand that the President shall exercise his constitutional power, and arrest it, if his judgment is against it. If he surrender this power, or fail to exercise it in a case where he cannot approve, it would make his formal approval a mere mockery, and would be itself a violation of the Constitution, and the dissenting State would become bound by a law which had not been passed according to the sanctions of the Constitution.

The objection to the exercise of the *veto* power is founded upon an idea respecting the popular will, which, if carried out, would annihilate State sovereignty, and substitute for the present Federal Government a consolidation, directed by a supposed numerical majority. A revolution of the Government would be silently effected, and the States would be subjected to laws to which they had never given their constitutional consent.

The Supreme Court of the United States is invested with the power to declare, and has declared, acts of Congress passed with the concurrence of the Senate, the House of Representatives, and the approval of the President, to be unconstitutional and void; and yet none, it is presumed, can be found, who will be disposed to strip this highest judicial tribunal under the Constitution of this acknowledged power—a power necessary alike to its independence and the rights of individuals.

For the same reason that the Executive veto should, according to the doctrine maintained, be rendered nugatory, and be practically expunged from the Constitution, this power of the court should also be rendered nugatory and be expunged, because it restrains the legislative and executive will, and because the exercise of such a power by the court may be regarded as being in conflict with the capacity of the people to govern themselves. Indeed, there is more reason for striking this power of the court from the Constitution than there is that of the qualified veto of the President; because the decision of the court is final, and can never be reversed, even though both Houses of Congress and the President should be unanimous in opposition to it; whereas the veto of the President may be overruled by a vote of two-thirds of both Houses of Congress, or by the people at the polls.

It is obvious that to preserve the system established by the Constitution, each of the coördinate branches of the Government—the executive, legislative, and judicial—must be left in the exercise of its appropriate powers. If the executive or the judicial branch be deprived of powers conferred upon either as checks on the legislative, the preponderance of the latter will become disproportionate and absorbing, and the others impotent for the accomplishment of the great objects for which they were established. Organized as they are by the Constitution, they work together harmoniously for the public good. If the Executive and the Judiciary shall be deprived of the constitutional powers invested in them, and of their due proportions, the equilibrium of the system must be destroyed, and consolidation, with the most pernicious results, must ensue—a consolidation of unchecked, despotic power exercised by majorities of the legislative branch.

The executive, legislative, and judicial, each constitutes a separate coördinate department of the Government; and each is independent of the others. In the performance of their respective duties under the Constitution, neither can, in its legitimate action, control the others. They each act upon their several responsibilities in their respective spheres; but if the doctrines now maintained be correct, the executive must become practically subordinate to the legislative, and the judiciary must become subordinate to both the legislative and the executive; and thus the whole power of the Government would be merged in a single department. Whenever, if ever, this shall occur, our glorious system of well-regulated self-government will crumble into ruins—to be succeeded, first by anarchy, and finally by monarchy or despotism. I am far from believing that this doctrine is the sentiment of the American people; and during the short period which remains in which it will be my duty to administer the Executive Department, it will be my aim to maintain its independence, and discharge its duties, without infringing upon the powers or duties of either of the other departments of the Government.

The power of the Executive veto was exercised by the first and most illustrious of my predecessors, and by four of his successors who preceded me in the administration of the Government, and, it is believed, in no instance prejudicially to the public interests. It has never been, and there is but little danger that it ever can be abused. No President will ever desire, unnecessarily, to place his opinion in opposition to that of Congress. He must always exercise the power reluctantly, and only in cases where his convictions make it a matter of stern duty, which he cannot escape. Indeed, there is more danger that the President, from the repugnance he must always feel to come in collision with Congress, may fail to exercise it in cases where the preservation of the Constitution from infraction, or the public good, may demand it, than that he will ever exercise it unnecessarily or wantonly.

During the period I have administered the Executive Department of the Government, great and important questions of public policy, foreign and domestic, have arisen, upon which it was my duty to act. It may indeed be truly said that my administration has fallen upon eventful times. I have felt most sensibly the weight of the high responsibilities devolved upon me. With no other object than the public good, the enduring fame, and permanent prosperity of my country, I have pursued the convictions of my own best judgment. The impartial arbitrament of enlightened public opinion, present and future, will determine how far the public policy I have maintained, and the measures I have from time to time recommended, may have tended to advance or retard the public prosperity at home, and to elevate or depress the estimate of our national character abroad.

Invoking the blessings of the Almighty upon your deliberations at your present important session, my ardent hope is, that in a spirit of harmony and concord, you may be guided to wise results, and such as may redound to the happiness, the honor, and the glory of our beloved country.

JAMES K. POLK.

WASHINGTON, *December* 5, 1848.

Mr. ATHERTON moved that five thousand copies of the message, and two thousand copies of the message and accompanying documents, in addition to the usual number, be printed for the use of the Senate.

Mr. BREESE suggested that the importance of the document rendered it necessary that it should be generally circulated, and he would suggest that the order be so modified as to read ten thousand of the message and documents.

Mr. ATHERTON said that the documents were voluminous, but as the message without the documents would be generally circulated through the newspapers, he was willing to yield to the suggestion of the Senator from Illinois, and to modify his motion accordingly.

The motion, as amended, was then agreed to, and the order was passed in the following form:

Ordered, That ten thousand copies of the message and accompanying documents, in addition to the usual number, be printed for the use of the Senate.

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 5, 1848.

Several other members appeared this day and took their seats, viz:

From the State of PENNSYLVANIA—David Wilmot and Andrew Stewart.

From the State of SOUTH CAROLINA—Armistead Burt and R. Barnwell Rhett.

From the State of GEORGIA—Alfred Iverson.

From the State of TENNESSEE—John H. Crozier and William M. Cocke.

From the State of MARYLAND—J. G. Chapman.

From the State of ILLINOIS—O. B. Ficklin.

From the State of IOWA—S. Leffler.

On motion of Mr. JAMES THOMPSON,

Resolved, That the Clerk cause to be furnished to the members of this House, during the present session, such papers as they may direct, the expense thereof not to exceed the rate of thirty dollars per annum to each member, from the commencement of this session.

On motion of Mr. HENLEY,

Resolved, That the standing committees be appointed according to the rules and orders of this House.

NOTICES OF BILLS.

Notices of motions for leave to introduce bills were given as follows, viz:

By Mr. SAWYER: A bill to legalize the location of certain land warrants at the land office at Defiance, Ohio, and for other purposes.

By Mr. GOGGIN: A bill to reduce the rates of postage on letters and newspapers, to establish uniform postage charges, and to correct abuses of the franking privilege.

Mr. McCLELLAND gave notice of a motion for leave to introduce bills of the following titles:

A bill making appropriations for the preservation, repair, and completion of certain harbor improvements on the northern lakes.

A bill making appropriation for the improvement of certain harbors on Lake Michigan, and of the St. Clair Flats.

A bill making an appropriation of land for the construction of a canal around the falls of St. Marie, in the State of Michigan.

By Mr. GREELY: A bill to discourage speculation in public lands, and to secure homes thereon to actual settlers and cultivators.

Mr. WENTWORTH, from the Joint Committee appointed to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and that Congress is ready to receive any communication he may be pleased to make, reported that the committee had waited on the President of the United States and discharged the duties of its appointment, and that the President answered that he would make a communication in writing to the two Houses at twelve o'clock, instant.

PRESIDENT'S MESSAGE.

A communication in writing was received from the President of the United States, by J. KNOX WALKER, his Private Secretary; which was read.

[See Senate report for the message.]

The Clerk being interrupted in the reading by the confusion occasioned by the pages distributing printed copies of the message, and by members rushing forward to the Clerk's table for them,

Mr. STEPHENS moved that the further reading of the message be dispensed with.

The SPEAKER stated that the motion could only be received by unanimous consent.

Objections were made, and the Clerk resumed the reading; at a subsequent stage of which,

Mr. HASKELL renewed the motion to dispense with the reading, observing that every member of the House had a copy in his hand, and that the reading would consume the entire day.

Mr. VINTON said he believed the reading of the President's message had never been dispensed with upon any occasion, and as it would perhaps be regarded as disrespectful to the Executive, he hoped the Clerk would proceed.

The SPEAKER repeated that the reading could not be dispensed with except by common consent.

Objections were again made, and the reading was resumed; and having been concluded—

Mr. BRODHEAD moved the following resolution:

Resolved, That the message of the President of the United States be referred to the Committee of the Whole on the state of the Union, and that fifteen thousand copies, with the accompanying documents, be furnished for the use of this House.

Mr. BRODHEAD remarked that the number he proposed was the usual number—the number printed at the last session of Congress. He did not provide in the resolution for the printing of any of the messages unaccompanied with the documents, because he believed the simple message would be in the hands of all their constituents before those printed by order of the House could reach them. But the accompanying documents were important, and were not so generally published in the newspapers.

Mr. SMITH, of Indiana, moved to amend the resolution, by striking out "fifteen thousand," and inserting "ten thousand."

Mr. CONGER suggested, that under the rules of the House, all motions to print extra copies must be referred to the Committee on Printing.

The SPEAKER stated his impression that the annual message of the President was an exception to the general rule.

Mr. SMITH observed, that during the last session, and the preceding session, there had been great anxiety felt throughout the country to get hold of this document, because it contained information in relation to the war of great interest. That subject had now lost much of its interest, and there was not now the same anxiety felt to obtain the message. He was satisfied that 10,000 copies would be ample to supply every man in the country, who was really desirous of getting this document.

He understood that a large portion of the documents of the last session were not yet printed; and judging from the manner in which the public printing had been executed recently, they would not be able to get 15,000 copies of this document by the end of the session, and then, he presumed, no gentleman would want them.

Mr. CONGER read from the law regulating the public printing, the third section, which prescribes that all motions to print extra copies of any bill, paper, or document, in either House, shall be referred to the Committee on Printing, to report upon the proper number.

The SPEAKER stated that he had always been of the opinion that the House of Representatives made a great mistake in allowing any other branch of the Government to interfere with its own rules of proceedings. The Constitution gives each House the right to determine its own rules of proceedings, and was paramount to any law. There was a rule of the House requiring all motions to print extra copies of documents, except the President's message, to lie on the table one day for consideration. Here the President's message was excepted from the general rule, and the Chair was under the impression that there was no rule requiring the question of printing the message to be referred to the Committee on Printing.

The question was taken on the amendment proposing to reduce the number to 10,000, and was decided in the negative: ayes 68, noes 70.

The question recurring on the adoption of the resolution—

Mr. HENLEY said he could not understand from his quarter of the Hall, whether a motion had been made to refer this motion to the Committee on Printing, or not.

The SPEAKER stated that no such motion had been made.

Mr. HENLEY would make the motion, then. That was the law, as read by the gentleman from New York, [Mr. CONGER.] It required that all motions to print extra copies of documents should first be referred to the Committee on Printing.

The SPEAKER stated that the motion was in order, but repeated that the Chair was of the opinion that the Constitution, giving to each House the power to determine its own rules of proceedings, was superior to a law.

Mr. EVANS, of Maryland, moved that the House adjourn. Lost.

The question was then taken on so much of the resolution as proposed to refer the message, and was decided in the affirmative.

So the President's message and accompanying documents were referred to the Committee of the Whole on the state of the Union.

The question recurring on Mr. HENLEY's motion, to refer the proposition to print to the Committee on Printing—

Mr. HENLY remarked that Congress had undertaken to pass some laws in reference to regulating the public printing. It was a very important question. The printing of the public documents involved a very large expenditure. Congress, two years ago, after maturely examining the subject, had passed a law in order to carry into effect a complete system in relation to the public printing, and to prevent the extraordinarily and unnecessarily large numbers of public documents being printed without examining into the necessity of such printing. Congress had decided, among other things, that the motion to print extra copies should always first be referred to the Committee on Printing, to examine the necessity and propriety of their printing. That committee had always carefully examined the questions referred to them, and had never reported in favor of printing unnecessarily large numbers. The practice of printing large numbers of documents had grown to a most extraordinary degree of excess. If they had a law, let them pay some attention to it; if they were not to be governed by it, let them repeal it: but as long as the solemn law remained on the statute book requiring motions to print extra numbers of public documents to be referred to the Committee on Printing before they were acted on by the House, let the law be observed.

He concluded by demanding the yeas and nays on the motion to refer.

The yeas and nays having been refused—

The resolution was agreed to without a division.

So fifteen thousand copies of the President's message and accompanying documents were ordered to be printed.

On motion of Mr. POLLOCK,

The House adjourned.

IN SENATE.

WEDNESDAY, *December* 6, 1848.

The VICE PRESIDENT laid before the Senate a communication from the Department of State, containing the report of he Secretary of State, made agreeably to law, accompanied by statements showing the appropriations and disbursements for the service of the Department for the year ending 30th June, 1848; which was read, and laid on the table.

The VICE PRESIDENT also laid before the Senate a report of the Treasurer of the United States, accompanied by copies of his accounts for the third and fourth quarters of the year 1847, and the first and second quarters of the year 1848, as adjusted by the accounting officers of the Department; which was laid on the table.

Mr. PHELPS presented the credentials of the Hon. WILLIAM UPHAM, elected a Senator from the State of Vermont for the term of six years from the 3d of March next; which were read.

Mr. PHELPS asked leave to withdraw from the files of the Senate the petition and papers of Thomas Fillebrown; and leave having been granted, they were referred to the Committee on the Judiciary.

Mr. DAVIS, of Mississippi, asked and obtained

leave to withdraw from the files of the Senate the papers in the case of John Crawford and wife.

Mr. DICKINSON asked and obtained leave to withdraw from the files of the Senate the petition and papers in the case of S. J. Bowen.

Mr. JOHNSON, of Louisiana, asked and obtained leave to withdraw the petition and papers in the case of Peter A. Carnes from the files of the Senate.

The Senate proceeded to the consideration of the following joint resolution from the House of Representatives:

Resolved, (the Senate concurring,) That two Chaplains, of different denominations, be elected by Congress, one by each House, to serve during the present session, who shall exchange weekly.

The resolution having been read, considered, and agreed to,

Mr. CAMERON moved that the Senate proceed forthwith to the election of a Chaplain on their part.

Mr. R. JOHNSON. I hope not.

Mr. HALE. The resolution had better lie over for a day or two, to give time for a fuller attendance of Senators.

The question was then put on the motion of Mr. CAMERON, when the following was announced as the result: Ayes 16, noes 13—no quorum.

The CHAIR being about to repeat the question—

Mr. KING said he would suggest to the Senator from Pennsylvania so to modify his motion as to make it for one o'clock this day. This would give time for Senators to come in.

Mr. CAMERON said he had no objection to alter his motion accordingly.

Mr. DAYTON suggested the propriety of fixing one o'clock to-morrow, as the time for proceeding to the election.

Mr. KING replied that he would have had no objection to this change but for particular reasons which would probably prevent any action on the subject to-morrow, in which case the election would go over until Monday.

Mr. DAYTON said he would then move to proceed to the election on Monday, at one o'clock.

Mr. CAMERON intimated that he would prefer going into the election to-day.

Mr. HALE inquired whether the Senate would not have the services of the acting Chaplain until Monday.

The question was then again put, and the numbers appearing as before—no quorum having voted,

Mr. DAYTON moved that the Senate now adjourn.

The question being taken on this motion, the result was announced as follows: Ayes 13, noes 15—no quorum.

Mr. DOUGLAS. Do I understand the CHAIR that there is no quorum present?

The CHAIR replied that there was no quorum.

Mr. DOUGLAS. Then if there is no quorum, I presume no business is in order.

The CHAIR replied that no business was in order until a quorum was present.

On motion of Mr. HALE,

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 6, 1848.

Several other members appeared this day, viz:

From the State of KENTUCKY—Mr. Garnett Duncan.

From the State of TENNESSEE—Mr. Meredith P. Gentry.

NOTICES OF BILLS.

Mr. BINGHAM gave notice that he should ask leave to introduce a bill for a grant of land to aid in the completion of the Clinton and Kalamazoo canal, in the State of Michigan.

Also, a bill for the construction of a military road from Lansing, the capital of the State of Michigan, to Mackinac, in said State.

Mr. ROCKWELL, of Connecticut, moved that the House do now proceed to the election of a Chaplain. Agreed to.

The SPEAKER announced that nominations were now in order.

Mr. POLLOCK nominated Rev. Mr. GURLEY.

Mr. LORD nominated Rev. Mr. DEWEY.

Messrs. POLLOCK, LORD, and ROCKWELL of Connecticut, were appointed tellers.

The SPEAKER then directed the Clerk to call the roll.

Which being done—

The tellers reported that the whole number of votes given were 173; necessary to a choice, 87; of which—

Rev. Mr. Gurley received	156
Rev. Mr. Dewey	16
Rev. Mr. Cushman	1
	173

Mr. GURLEY, having received a majority of the whole number of votes given, was declared duly elected Chaplain of the House for the present session.

Mr. WENTWORTH asked leave to offer the following resolution:

Resolved, That the President of the United States be requested to inform this House whether he has received any information of the imprisonment or arrest of citizens of the United States in the Province of Ireland by the British authorities; and if so, the causes thereof. And also, if not deemed inconsistent with the public interests, to inform this House what steps have been taken for their release; and to furnish it with copies of all correspondence that has taken place in relation to the matter.

Mr. HUDSON objected to the reception of the resolution, and to all other business out of order.

Mr. HAMPTON, of Pennsylvania, asked leave to give notice of a motion for leave to introduce a bill. Objected to.

The SPEAKER laid before the House the following messages received at the close of the last session of Congress, and which had not been laid before the House at that session owing to want of time:

I. A message from the President of the United States, assigning his reasons for his approval of the bill to establish the Territorial Government of Oregon. Laid on the table, and ordered to be printed.

II. A letter from the Secretary of the Treasury, transmitting copies of the treasury accounts of the United States for the third and fourth quarters of the year 1847, and the first and second quarters of the year 1848. Laid on the table, and ordered to be printed.

III. A letter from the Secretary of the Treasury, stating that it was found impracticable for that department to comply with the joint resolution of Congress of the 3d March, 1847, prohibiting the sale at private entry of certain lands in Cincinnati, Ohio. Laid on the table.

IV. A letter from the Secretary of War, transmitting, in obedience to the 20th section of the act of August 26, 1842, and the act making appropriations for the civil and diplomatic expenses of Government for the year 1836, statements showing what expenditures have been made under the authority of that department during the year 1848. Laid on the table, and ordered to be printed.

V. Certain papers from N. P. Trist, Esq., in addition to those laid before the House at the last session. Laid on the table.

On motion of Mr. COBB, of Georgia,

The House adjourned.

ESTIMATES OF APPROPRIATIONS.

Letter from the Secretary of the Treasury, transmitting estimates of additional appropriations required for the service of the fiscal year ending June 30, 1849, *and for the fiscal year ending June* 30, 1850.

TREASURY DEPARTMENT,
November 16, 1848.

SIR: Agreeably to the joint resolution of Congress of the 7th January, 1846, I have the honor to transmit, for the information of the House of Representatives, printed estimates of additional appropriations proposed to be made for the service of the fiscal year ending the 30th of June, 1849, amounting to $3,744,903 69

All of which is on account of the civil list, foreign intercourse, and miscellaneous, including payment to be made to Mexico under the 12th article of the treaty.

To the estimates is added a statement showing—

The indefinite appropriations for the service of the three last quarters of the fiscal year ending the 30th June, 1849, made by former acts of Congress, of a permanent character, amounting to 6,542,431 43

Viz:

Civil list, foreign intercourse, and miscellaneous, including payments made of liquidated claims against Mexico under the 13th article of the treaty, $2,882,019 84.	
Pensions, $213,000.	
Interest, &c., public debt and treasury notes, $3,285,422 28.	
Reimbursement of treasury notes issued under the several acts prior to act of July 22, 1846, $161,989 31.	
	$10,287,335 12

I am, very respectfully, your obedient servant,

R. J. WALKER,
Secretary of the Treasury.

Hon. ROBERT C. WINTHROP,
Speaker of the House of Representatives.

Estimate of Additional Appropriations required for the support of Government for the fiscal year ending June 30, 1849.

CIVIL LIST, MISCELLANEOUS, AND FOREIGN INTERCOURSE.

For salary of the late Paymaster General (Daniel Parker) from January 1, to May 9, 1822, at $2,500 per annum, being the amount carried to the surplus fund on the 31st of December, 1824	$886 00
For contingent expenses of the General Land Office, to cover a deficiency in appropriation for parchment, the increase required to satisfy military locations being much greater than was estimated	4,000 00
For contingent expenses of the office of the Register of the Treasury for amount due on an account for printing and binding blank books for the entry of the collectors' quarterly returns of the commerce and navigation of their several districts	975 00
For salary of the Secretary to sign patents for public lands, per act of 4th July, 1836, (9 Laws, page 536,) omitted to be appropriated last year	1,500 00
For the salary of the Governor and Superintendent of Indian Affairs of Oregon Territory, from 18th August, 1848, to 30th June, 1849, at $3,000 per annum, per act 14th August, 1848, page 198	2,608 74
For salaries of the Chief Justice and two Associate Judges of Oregon Territory, at $2,000 each per annum, from 14th August, 1848, to 30th June, 1849, per same act	5,266 29
For salary of the Secretary of Oregon Territory, from 14th August, 1848, to 30th June, 1849, at $1,500 per annum, per same act	1,316 58
For salaries of the District Attorney and Marshal of Oregon Territory, from 14th August, 1848, to 30th June, 1849, at $200 each per annum, per same act	351 08
The Secretary of State estimates, to complete the service of the fiscal year ending June 30, 1849, viz:	
For compensation to the Commissioner in China, under the act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, &c., of 11th August, 1848, page 127	583 33
For compensation to the Consuls of the United States at the five ports in China, viz: Kwangchow, Amoy, Fuchow, Ningpo, and Shanghai, under same act	2,916 67
For outfit of a Chargé d'Affaires to the Papal States, per act 1st May, 1810, page 309	4,500 00
For payment to be made under the 12th article of the treaty with Mexico of 2d February, 1848, including interest	3,720 00
	3,744,903 69

Estimated indefinite appropriations which may be required for the service of the three last quarters of the fiscal year ending the 30th June, 1849, made by former acts of Congress.

Additional clerks in the offices of the Treasurer of the United States and Register of the Treasury, per acts 12th October, 1837, and 28th January, 1847	$8,100 00
Relief of the several corporate cities of the District of Columbia, per act May, 1836. Principal	60,000 00
Interest	35,940 00
Two, three, and five per cent. to certain States under the several acts for their admission into the Union, &c.	129,000 00
Repayments for lands erroneously sold, per act 12th January, 1825,	20,000 00
Refunding purchase money for lands sold in the Greensburg district, Louisiana, per act 29th August, 1842	3,000 00
Payment of horses, &c., lost, per act 2d March, 1847	5,000 00
Relief of certain inhabitants of East Florida, per act 26th June, 1834,	10,000 00
Refunding duties in certain cases where they are unascertained or paid under protest, per act 3d March, 1839	200,000 00
Additional compensation to collectors and other officers of the customs, per act 21st July, 1840	3,750 00
Debentures and other charges, per act 16th October, 1837	37,500 00
Marine hospital fund, per act 3d May, 1803	56,250 00
Smithsonian Institution, for interest on $515,169 due in January, 1849, per act 10th August, 1846, page 162	15,455 07
Payment of liquidated claims against Mexico under the 13th article of the treaty, per act 29th July, 1848,	2,098,024 77
Postages on letters, &c., received by the executive departments or bureaus thereof, and for both Houses of Congress, per act 3d March, 1847	200,000 00
Revolutionary claims, per act 15th May, 1828	6,000 00
Revolutionary pensions, per act 7th June, 1832	175,000 00
Claims of the State of Virginia, per act 5th July, 1832	8,000 00
Unclaimed pensions, per act 23d August, 1842	9,000 00
Certain naval pensions, per act 3d March, 1847	7,500 00
Certain naval pensions, per act 11th August, 1848	7,500 00
Public debt (old) payable at the treasury, per act 3d March, 1817	2,000 00
Interest on the public debt created under acts 15th April, 1842, 3d March, 1843, 22d July, 1846, 28th January, 1847, and 31st March, 1848	2,776,306 43
Interest on Mexican indemnity stock	7,589 35
Interest on war bounty stock	11,500 00
Interest on treasury notes	488,026 50
Reimbursement of treasury notes issued under acts prior to act 22d July, 1846	161,989 31
	$6,542,431 43

TREASURY DEPARTMENT,
Register's Office, November 16, 1848.

DANIEL GRAHAM,
Register of the Treasury.

TREASURY DEPARTMENT,
November 16, 1848.

SIR: Agreeably to the joint resolution of Congress of the 7th January, 1846, I have the honor to transmit, for the information of the House of Representatives, printed estimates of the appropriations proposed to be made for the fiscal year ending June 30, 1850, amounting to $24,153,102 92

Viz:

Civil list, foreign intercourse, and miscellaneous, including payment to be made to Mexico under 12th article of the treaty	$7,786,662 48	
Army proper	4,432,286 00	
Military Academy	170,142 61	
Fortifications, ordnance, &c.	1,564,581 00	
Surveys, lighthouses, &c.	15,700 00	
Indian Department	857,473 45	
Pensions and arrearages	467,400 00	
Naval establishment,	8,858,857 38	

To the estimates are added statements showing—

1. The appropriations for the fiscal year ending the 30th June, 1850, made by former acts of Congress of a permanent character, amounting to 5,297,512 52

Viz:

Civil list, foreign intercourse, and miscellaneous	$869,410 14	
Arming and equipping militia	200,000 00	
Civilization of Indians	10,000 00	
Pensions	419,000 00	
Interest, &c.; public debt and treasury notes	3,799,102 38	

2. The existing appropriations which will be required to be expended in the fiscal year ending the 30th of June, 1850, amounting to 3,762,753 29

Viz:

Civil list, foreign intercourse, and miscellaneous	$691,718 29	
Army proper, &c.	1,300,000 00	
Pensions	572,000 00	
Indian department	236,541 00	
Fortifications, &c.	462,278 00	
Naval establishment	500,000 00	
		$33,213,152 73

3. There is also added to the estimates a statement of the several appropriations which will probably be carried to the surplus fund, amounting to $3,157,197 03

Accompanying the estimates are sundry papers furnished by the Treasury, War, and Navy Departments, containing reference to acts of Congress, &c.; on which the estimates are founded.

I am, very respectfully, your obedient servant,

R. J. WALKER,
Secretary of the Treasury.

Hon. ROBERT C. WINTHROP,
Speaker of the House of Representatives.

IN SENATE.

THURSDAY, *December* 7, 1848.

Mr. BORLAND, of Arkansas, and Mr. RUSK, of Texas, appeared in their seats to-day.

The Journal having been read,

On motion, it was ordered, that when the Senate adjourns, it adjourn to meet on Monday.

DEATH OF DIXON H. LEWIS.

Mr. KING then rose, and addressed the Senate as follows:

I rise, Mr. President, to call the attention of this honorable body to an afflictive dispensation of Providence, which has deprived the Senate of the United States of one of its most esteemed and honored members, the country of a talented and useful citizen, and the State of Alabama of a vigilant and faithful representative.

On the 25th day of October last, and in the 47th year of his age, DIXON H. LEWIS, a Senator from the State of Alabama, breathed his last in the city of New York. Although far from his home, he was surrounded by anxious and devoted friends. The amiable and affectionate partner of his bosom watched over him with that tender care which none but woman could bestow; and nothing was omitted which, it was believed, could contribute to his recovery, allay his sufferings, or soothe his dying moments. His immortal spirit calmly passed away without a struggle, and his lifeless body alone remained to his bereaved family and sorrowing friends.

Then it was, Mr. President, that the Mayor and Common Council of the city of New York, actuated by that liberal spirit which has ever characterized the emporium of our country, desirous of showing the high respect in which they held that distinguished individual for his many private virtues and useful public services, asked and obtained permission to take upon itself the necessary arrangements for his funeral. They were of a public character, and conducted in such a manner as could not fail to be most gratifying to the family and friends of the deceased.

His body reposes in the beautiful grounds of Greenwood, in the identical spot, as I am informed, where he once expressed a wish to be interred, should it so happen that his earthly career should be terminated while in its vicinity. Providence so ordered it; and I avail myself of this occasion to tender to the Mayor and Common Council of the city of New York, the gratitude of the State of Alabama for the distinguished respect paid to the memory of one of her most honored and cherished sons.

Mr. LEWIS, Mr. President, was a native of the State of Georgia. He received his education at the College of South Carolina, where, by his social qualities, he endeared himself to his associates; while his scholastic attainments furnished evidence that he was possessed of talents of a superior order, and pointed him out as one destined to acquire reputation in whatever pursuit he might engage.

On the completion of his collegiate course, Mr. LEWIS removed to the State of Alabama, became a student in a law office, and, by close application, soon qualified himself for the bar. He obtained a license to practise in the several courts of the State. His professional career was short, but he had obtained a reputable standing; and had he continued to pursue the profession, he must soon have become eminent as a lawyer. The inclination, however, of Mr. LEWIS immediately led him to engage in politics. He became a candidate for the State Legislature, and the people of the county in which he resided elected him with great unanimity as one of its members. Although quite a young man, he very soon acquired a commanding influence with the members of the House in which he served.

Mr. LEWIS was what is termed a State-rights man, a strict constructionist; and, while a member of the Legislature, rendered himself conspicuous by an able advocacy of resolutions denying to Congress the power to establish a national bank, to impose a tariff for protection, or to execute works of internal improvement. His opinions were in accordance with those of a large majority of the people of Alabama; and in the year 1829, as I believe, he was elected by the Congressional district in which he resided to represent them in the Congress of the United States. He continued, without intermission, to serve in the House of Representatives until the spring of the year 1844, commanding, by his talents, firmness, and urbanity, the respect and confidence of its members.

In 1844 a vacancy was produced in the Senate of the United States by my resignation, and Mr. LEWIS was appointed by the Governor of Alabama to fill the vacancy. On the meeting of the State Legislature, the selection of the Governor was approved, and Mr. LEWIS was elected, without opposition, for the unexpired term. Again was he chosen, at the session of the Legislature of the last winter, for the full term of six years.

Few, Mr. President, very few of the distinguished men of our country have, for so long a period, maintained their position in the councils of the nation, and have more firmly adhered to the principles they professed, than my late lamented colleague. Most of the Senators present have served with him, and to them I can fearlessly appeal to bear testimony to the high esteem in which he was held by his brother Senators, and to the zeal and ability with which he discharged the various duties which devolved upon him.

But it is not my purpose to pronounce a eulogy on the life and public services of DIXON H. LEWIS. They are known and properly appreciated by his countrymen; and nothing which I could say would add to his well-earned reputation, or cause his loss to be more deeply lamented. He has gone from

among us; and the places which knew him shall know him no more forever.

It only remains for me, Mr. President, to submit the following resolutions for the adoption of the Senate:

Resolved, unanimously, That the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. DIXON H. LEWIS, deceased, late a member thereof, will go into mourning by wearing crape on the left arm for thirty days.

Resolved, unanimously, That, as an additional mark of respect for the memory of the Hon. DIXON H. LEWIS, the Senate do now adjourn.

The resolutions being under consideration—

Mr. DIX said:

I rise, Mr. President, to second the resolutions offered by the honorable Senator from Alabama, [Mr. KING.]

When the career of his lamented colleague was suddenly terminated in the city of New York, I chanced to be there, and I was the only one of his associates on this floor who had the opportunity of following him to his final resting-place. It seemed to me for this reason that I might appropriately speak of his last illness; of the honors paid to his memory; and, for the satisfaction of distant friends, of the spot where his remains repose. Of his talents, his patriotism, his public services, the kindly feeling which he carried into his intercourse with others, the purity of his private character, his stern integrity, and his fidelity to all the obligations of life, I need say nothing. On this subject the honorable Senator who moved the resolutions has left little to be said. But I cannot forbear to add, that all my intercourse with him in this body strongly impressed me with his liberality as a gentleman, his uprightness as a man, and his conscientiousness as a legislator.

Mr. LEWIS arrived at New York on the 9th of October unwell, though not, as was supposed, seriously so. He accompanied a friend, shortly after his arrival, on an excursion through the city, and passed nearly an entire day in the examination of various objects of interest. On several succeeding days he was out again. But he soon afterwards became indisposed a second time; from this moment his strength rapidly declined, and on the 25th of October his connection with the things of earth was dissolved forever.

The Mayor of the city, on receiving the mournful intelligence, called the Common Council together, and it was immediately resolved, with one accord, to give his remains a public burial. I will not dwell on the funeral ceremonies performed at the City Hall, the words of eloquence spoken over him, or the extended procession moving through streets thronged with the population of the city. Suffice to say, the former Mayors of New York, members of Congress, State and city authorities, public societies, citizens, all united in paying the honors due to him as one of the representatives of a sovereign State in this body, cut off at a distance from those by whom these tributes of respect would otherwise have been rendered.

Thus attended, his remains were consigned to the earth, in one of the rural cemeteries, which the principal cities of New York and some of the neighboring States have, within a few years set apart for the reception of their dead—places selected for their natural beauty, and adorned with all that art could devise, or taste suggest. Greenwood, where our departed associate lies, is one of the most beautiful of these receptacles for the dead. It is on Long Island, four miles from New York, and contains near two hundred acres, covered with forest trees, and in its season with luxuriant vegetation, swelling into hills and sinking into valleys and dells, where all that could offend the eye has given way to embellishments in harmony with "the religion of the place." There is nothing in which the spirit of improvement has manifested itself in a purer sentiment and taste. Our ancient burying-grounds were too often bare and unsheltered fields, on which settlement had encroached and robbed them of their only fitness—solitude. Sometimes they had become unsightly enclosures, in the heart of busy towns, with the tide of population sweeping by, and the noisy conflict of life perpetually breaking the silence of the scene.

Turning from these exposed and neglected repositories to the rural cemeteries, the mind is relieved and elevated by the contrast. It was a noble conception—worthy of our endowments and our destinies—to make the cities of the dead more attractive in their external aspect than the cities of the living.

Among the surest of our instincts is the desire that our own remains, and those of our kindred, may rest amid scenes of rural beauty in undisturbed repose. Nature herself associates quietude and stillness with sleep—whether it be the sleep of life or of death. It is her voice which speaks within us, when we ask that our last resting-place may be chosen apart from the turbulent haunts of men. It is said (with what truth I do not know) that Mr. LEWIS, when he first visited Greenwood, intimated a wish, if he should die in the neighborhood, that his remains might be deposited there. I have before me a letter from one of his most intimate friends in New York, who says: "A year ago he visited Greenwood, and was enchanted with it. He often referred to this visit, and spoke of the cemetery as above all others suited to be the last resting-place of men. It was, therefore, with melancholy pleasure that we selected it for him."

It is satisfactory to reflect, that he rests in the spot which so often called forth expressions of his admiration, and to believe that his own wishes, in this respect, could not have been better fulfilled. Near the principal entrance into these consecrated grounds, on a slight elevation overlooking some of the most varied and beautiful scenery they contain, reposes all that was mortal of our deceased associate and friend. And if I might express the feeling of the community, by whom his remains were given back to the dust, from which they came, it would be responsive to his own—that they may rest where, in the order of Providence, the thread of his life was severed—among those whose mournful privilege it was to enshrine them with the ashes of their own kindred. If this feeling shall be gratified, his family, his friends, the State he represented here, may be assured that he will lie among us—not as a stranger, but as one of ourselves—children alike of a common Union, and heirs of a common prosperity and fame.

Mr. DICKINSON said: With no ordinary emotion, Mr. President, I rise to unite in lamenting the dispensation which has deprived a sovereign State of an able and faithful representative and the Senate of a courteous and honorable member; and to second with my whole heart the glowing and eloquent tribute which has just been paid to the memory of a valued friend by his late colleague. The deceased was amongst my earliest and most intimate acquaintances here. Our seats were adjoining, and we had much opportunity for free and friendly conversation. I found him kind, frank, and sincere; a ready and able counsellor; firm and decided in his opinions, yet yielding and conciliatory, and regardful of the opinions and motives of those with whom he differed. With an intuitive perception and a mind of uncommon vigor, he grasped the most intricate subjects; and, though he seldom spoke publicly, he gave evidence in his intercourse of the mature strength of the statesman and the cultivated taste of the scholar. Though he finished his earthly course in a State distant from his own, he died at home, for his home was the Union. He was surrounded by kind and sympathizing friends and skillful professional attendants, and the companion of his joys and sorrows stood by his bedside to smooth his dying pillow and close his eyes in death. He expired in a city where his public services and private virtues were properly appreciated, and where the public authorities did honor to themselves and their State by paying becoming respect to his memory. His mortal remains were interred at Greenwood, whose fadeless verdure aptly illustrates the immortality to which his deathless spirit has flown, and where we are often admonished, by seats made vacant in our midst, we must soon be prepared to follow.

The resolutions were then agreed to, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 7, 1848.

The Journal of yesterday was read and approved.

Several other members appeared this day, viz:
From the State of VIRGINIA—Mr. Beale.
From the State of KENTUCKY—Mr. Morehead.
From the State of ILLINOIS—Mr. Lincoln.
From the State of LOUISIANA—Mr. Thibodeaux.

NOTICE OF A BILL.

Mr. NICOLL gave notice of a motion for leave to introduce a bill of the following title.

A bill to amend an act making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th day of June, 1849, and for other purposes, approved August 12, 1848, by declaring that a proviso in said bill limiting the fees for taking depositions in certain cases be extended to all and every civil cause between any parties whatever, and all proceedings in admiralty brought and to be brought in the circuit and district courts of the United States; and further directing that the clerks of said courts furnish to all persons desiring to inspect the same during office hours, all alphabetical and other indices of the judgment and decrees recorded in said courts, without any fee or charge therefor.

CONGRESSIONAL REPORTS.

Mr. ASHMUN offered the following resolution:

Resolved, That in order to secure a more full, impartial, and prompt publication of the proceedings and debates of this House, the Clerk be authorized and directed to enter into a contract, to take effect from the beginning of the present session, and to continue until otherwise ordered by this House, with the proprietors of the two daily papers in this city—the National Intelligencer and Union—for the daily publication in each paper of the proceedings and debates of this House; for which the Clerk shall make weekly payment out of the contingent fund, at the rate of seven dollars and a half for a column of brevier type: *Provided*, That the proceedings and current debate shall be transferred to the country edition of each of said papers, and one copy of each of said daily papers shall be furnished to each member during the session of Congress without additional charge.

Mr. THOMPSON, of Pennsylvania, inquired of the Chair if the resolution was in order? If not, he objected to its reception.

Mr. JONES, of Tennessee, made the same inquiry and objection.

Mr. ASHMUN said the resolution was in order notwithstanding the objections. He did not understand that any rules had been adopted at this session—certainly not those of the last session; those rules had been in force only for the last session. He understood that a different opinion had been entertained in the House, and by the Chair, but that he found was an error growing out of a misprint of the Journal; for, on looking at the original resolution, which was in the handwriting of the gentleman from Pennsylvania, [Mr. C. J. INGERSOLL,] it expressly confined those rules to the then session of Congress. He would send the original resolution to the Chair, and ask that it be read.

The CLERK read the said resolution in manuscript of the last session, which adopted the rules only for "this session of Congress."

The SPEAKER read the printed Journal on this point, to sustain the construction which he said he had been disposed to place upon the resolution, and which had been acquiesced in by the House, viz: that the resolution kept alive the rules of the last session as long as the present Congress was in session. The original resolution, however, seemed to confine the rules to "this [the last] session of Congress." Under these circumstances, the House was without rules, and the resolution of the gentleman from Massachusetts was in order.

Mr. WENTWORTH raised a point, and made an ineffectual effort, under this decision of the Speaker, to bring up the resolution which he had yesterday asked leave to offer, but which had not been received on account of objections made.

Mr. HARALSON inquired of the Speaker what evidence there was that the manuscript resolution just read was the resolution adopted by the House? It might be the original resolution reported by the gentleman from Pennsylvania, and yet not the resolution adopted by the House.

The SPEAKER replied, that it was taken from the files of the Clerk's office, and the name of the mover was appended to it. There was no question but it was the original paper.

The resolution being thus before the House—

Mr. ASHMUN said he wished merely to state, in reference to this resolution, that it was similar in substance to the one which he had introduced at the last session of Congress, and which then failed, for two reasons: it was then objected to by the gentleman from Georgia, [Mr. COBB,] and others, that it was too late in the session, and that it ought to be adopted at the commencement of the session; and it was also objected to on the ground that it would then provide for the publication of the revised speeches of members. But these objections were now obviated. He had stricken from the original resolution the provision authorizing members to revise and write out

THE CONGRESSIONAL GLOBE.

PRINTED AND PUBLISHED AT THE CITY OF WASHINGTON, BY BLAIR & RIVES.

30TH CONGRESS, 2D SESSION. WEDNESDAY, DECEMBER 13, 1848. NEW SERIES.....No. 2.

speeches; so that the resolution now only provided for the publication of the current debates in the next morning papers. He would not consume the time of the House; he would only say he thought it was the only practicable mode in which the people of the country could ascertain what Congress was doing.

Mr. WENTWORTH called for the reading of the resolution, which was again read.

He said, before the resolution was adopted by the House, he thought it should be referred to the Committee on Printing, that that committee might ascertain what the expense would be arising from this publication. His opinion was, that no member of this House knew anything like what would be the enormous expenditures that would accrue to the country from the adoption of this resolution.

Mr. ASHMUN wished to state, on that point, that this subject had been referred to a joint committee of the two Houses at the last session of Congress. That committee investigated the question of expense; they had before them practical printers, and those who were best qualified to give an opinion on the subject; and the committee reported the precise sum which they believed to be the actual expense of the reporting and publication.

[A voice: "What was it?"]

Mr. ASHMUN. Seven dollars and a half for a column brevier type.

[A voice: "What was the aggregate sum?"]

No reply was heard from Mr. ASHMUN.

Mr. McLANE wished to make an inquiry; but—

Mr. WENTWORTH claimed the floor, and stated that he had but a few words to say.

Since the last session of Congress (he continued) we had had some new light on the subject, and a committee could investigate it, and come to a more accurate and satisfactory conclusion, as to what the expense of this publication would be. For instance, the two papers mentioned in the resolution had been publishing, during the recess, the speeches delivered in the Senate at the last session, with everything else which their authors had seen fit to add; and the House could know, after an examination, what the publication of these speeches had cost the country, and what would be the expense, if they should also adopt the system.

But he had another objection: he objected to singling out two papers in this city. He believed the day had passed when there were but two parties in the country; and it did not become them, who belonged to one or the other of the two parties, to attempt to pension their organs—the two old partisan papers of this city—upon the treasury of the Government, to the exclusion of other papers. Why was the Washington "Globe" left out? He would willingly vote for the National Intelligencer. But why was the "Globe" left out? and the "National Era?" and Mrs. Royall's paper? [a laugh.] He would as soon vote for that paper as he would for one of the papers mentioned in the resolution. It was not for the members of the House to attempt to select out the papers in which the people would read the proceedings of Congress. Every individual had his own taste as to the paper he would take. The country was all divided up into parties; and if the two old parties could not stand without pensioning those two papers upon the public purse, then surely they ought to stand no longer.

Mr. MURPHY would like to *know* of the gentleman what party the Washington "Globe" represented?

Mr. WENTWORTH replied, he understood it belonged to the great party that has recently triumphed in this country—that was, to *no party at all!* [A general laugh.]

He did not believe, if the people of the country understood the expenses this resolution would involve, that a single individual on this floor could sustain himself before his constituents in voting for it. He believed it unjust in every sense, and prodigal and extravagant in the highest degree; and, in order that the members of this House might know what they were voting for, he should move that the resolution be referred to the Committee on Printing. He would first move, however, that it be laid on the table; and upon that motion he demanded the yeas and nays.

The SPEAKER was about to propound the question, when—

Mr. C. J. INGERSOLL said, if there were no rules in force, he desired to ask the Chair if the motion to lay on the table was not a debatable question?

The SPEAKER replied, he believed it was under the Parliamentary law.

Mr. INGERSOLL. I do not wish to debate it.

Mr. JONES, of Tennessee, wished to know, if the Chair decided the House was without rules, on what the decision was grounded—on the printed journal, or on the original record?

The SPEAKER replied, on the original record.

Mr. JONES inquired if the House was to be governed by that as their record? It might be the original resolution as offered by the gentleman from Pennsylvania; but it might have been modified subsequently, and no record made of the modification.

The SPEAKER stated that he was of the opinion that the point of order came too late. The same point had already been decided by the Chair, and the decision had been acquiesced in by the House.

Mr. JONES. Will it be too late to take an appeal?

The SPEAKER replied in the affirmative.

Mr. ROOT said he should vote for this motion to lay the resolution on the table, with a view to get rid of the whole subject, as the shortest way to defeat it, if there were enough members of the House to go with him. If it was not precisely the same proposition, it was very nearly like the one moved at the close of the last session. That resolution had failed. The reasons given by the gentleman from Massachusetts might have had weight on the minds of some gentlemen, but he confessed they had had but very little weight with him. He was opposed to it for other and different reasons.

He did not know what were the intentions of gentlemen in bringing forward this resolution; it was not for him to speak of the intention of gentlemen; the motives of those who had moved in this matter might be all very correct; but he believed the effect of this resolution would be to bolster up *Old Hunkerism* of both kinds in this Hall and in the country. He believed it was intended to put down political heresies. It would tax the people of this country to support the two leading presses in this city; and in return for the compensation the House was to give them, what were they to get? Why, more perfect, fair, prompt reports of their doings! Everything they did here worth knowing the people heard of. It was for the interest of every public journal to publish all that was done and said in both Houses of Congress which was worth being published; and he thought, for fear of leaving out something which ought to be published, they sometimes published that which had better be left out—that which he did not believe did the country any good, or this House any good. He did not believe it raised the character of this nation at home or abroad to have everything which was said and done in Congress published; nor did he believe it would have any good effect upon the House—any salutary restraint upon the members, or upon their discussions here.

He should like to know something more about the expenses which this system would involve. The gentleman from Massachusetts had told them that it had been ascertained by a committee at the last session that the expenses would be $7 50 a column. Well, as there were two papers in which the publication was to be made, the expense to the country would be $15 a column for all the matter giving an account of their proceedings and debates. He was not prepared to say—for he was no practical printer—that this was too much; but he should really like to know how many columns they were likely to have in publishing the proceedings of this House?

Mr. C. J. INGERSOLL rose to a question of order. He always liked to hear the gentleman from Ohio—he had not the least objection to hear him now—but as he (Mr. I.) was answerable for this debate, he begged leave to ask the Chair another question: that was, whether the parliamentary law, which admitted of debate on a motion to lay on the table, did not strictly confine the debate to that motion?

Mr. GIDDINGS, (in his seat.) My colleague is assigning his reasons why he would lay the resolution on the table.

Mr. INGERSOLL. If so, then he is in order.

Mr. ROOT said he understood that this was a proposition to lay the resolution on the table. He was in favor of it, because he wanted to defeat the resolution, and he wanted to defeat the resolution for the reasons he was now giving. If he was wandering from the question, he should be under great obligations to the gentleman from Pennsylvania and to the Chair to restrain him.

He had not one word to say about these papers. He believed they were as good as papers in general. But it was wrong to pay any paper in this way; it was wrong to tax the whole people of the United States to sustain the Union and the National Intelligencer; for that would be the effect of the resolution. Why, the Senate had already been trying this system since the close of the last session. We had had one speech which had been delivered, or which purported to have been delivered, in the Senate of the United States, which had been published under a similar resolution of the Senate, which had occupied two-thirds or three-fourths of the Intelligencer and Union for he did not know how many weeks; the publication of which single speech, he understood, had cost the Government some $1,600. It was one of the best speeches, made by one of the greatest men in the United States; but he presumed nobody had ever read it, or ever intended to read it, such was its great length.

But this resolution did not provide, it was said, for publishing revised speeches. So much the worse. If it was good to have the speeches published as reported, it was better to publish them revised. If they were to send forth the speeches made here, it was better for those who made and for those who read them, that they should be revised before they were sent forth.

But they were to have them published so promptly that there would be no opportunity for revision, and that, it was said, would lessen the expense. But if the speeches were reported fully, the report would contain as great an amount of matter.

DEATH OF HON. DIXON H. LEWIS.

A message was here received from the Senate, informing the House of the death, during the recess of Congress, of the Hon. DIXON H. LEWIS, Senator from the State of Alabama.

The message having been read—

Mr. HARRIS, of Alabama, rose and addressed the House as follows:

Mr. HARRIS said: Mr. Speaker, the communication just made by the Senate to the House, notifies us officially that a seat upon its floor is no longer filled by its accustomed occupant!—that DIXON H. LEWIS, another Senator of this great confederated republic, has passed from the council chambers of earth to the unseen, mysterious, and solemn realities of another state of existence. Days, yea weeks, have passed away since the unwelcome event was first heralded to the nation at large. We have all accustomed ourselves to contemplate the unalterable fact, free from that shock to the sensibilities of our nature which every generous bosom first feels when a good and a great man is called from his country, his family, and his friends. Perhaps the assuasive influence of time may have even partially relumed with returning cheerfulness the happy domestic circle, rendered lonely and desolate by his taking away. She, the companion of his youthful days; the mother of his children; his faithful, constant friend, even to the gates of death; she who bends lowest beside his bier; even she may have learned to school her wrung sensibilities to the hard lessons of Christian resignation! Heaven grant that it may be so!

But still, Mr. Speaker, the long and uninterrupted

continuance in the councils of the country of this distinguished statesman; the relations of intimacy and friendship in which he stood to many on this floor, and of official responsibility and coöperation in which he stood to all, render peculiarly fit the melancholy task of pausing in the midst of other duties, briefly to contemplate the character of a great man, who was with us but yesterday, and with whom *we* may be to-morrow.

DIXON H. LEWIS was born in the county of Hancock, in the State of Georgia. At an early period of his life he emigrated with his father to the State of Alabama, then a new State, and destined to prove the cherishing friend of his unfolding talents and his manly virtues. At a premature age he exhibited traits of that mental vigor and power of discrimination which in after years, developed and strengthened by exercise in the practical business of life, placed him among the profoundest statesmen of his country. His education was completed at South Carolina College; and there, within the walls of his *alma mater*, the first intellectual triumphs of the embryo statesman were achieved. In the emulous conflicts of scholastic rivalry, his were competitors whose ascendency would have reflected no discredit upon any from whom they might have snatched the palm. In the catalogue of names constituting the class in which Mr. LEWIS graduated are an unprecedented number of those who have held high and prominent positions before the country; many of whom have graced with their presence the halls of this Capitol, and adorned other stations of equal responsibility in the States to which they respectively belonged. And yet among these stood, *primus inter pares*, the distinguished Senator whose death we deplore. Emerging from the shades of the academy crowned with its highest honors, and with a mind well stored with the rich endowments of classic lore, he entered upon the more rugged arena of practical life. And here the promise of his schoolboy days was not disappointed. Competition paused to admire his rapid and early ascendency to the head of his profession as a lawyer. He continued, however, but a short time at the bar. His active and excitable mind panted for a more enlarged and congenial range of thought than could be supplied by the dry details of the law. He stepped upon the theatre of politics, and there performed his part till the curtain of death concealed him from our eyes.

Perhaps no circumstance connected with the history of this eminent citizen is so demonstrative of his true worth, as the long and uninterrupted career of public honor it was his fortune to enjoy. Scarce had he passed the boundary which separates youth from manhood, when, in eighteen hundred and twenty-six, the voice of the people placed him in the Legislature of his State. He took at once, and by common consent, a position in that body to which mere pretension or mediocrity would have aspired in vain. And be it spoken to his honor, as a consistent and farsighted statesman, that at that period, twenty-two years ago, he impressed upon the archives of the State the evidence of those principles of public action from which, to the day of his death, he never departed. From the councils of the State he was transferred to this branch of Congress, and was removed hence only to be promoted to an office of still higher dignity in the other end of the Capitol. On this floor he sat as a representative for eighteen consecutive years; in the Senate for two; and had been elected in December last for an additional full senatorial term, under circumstances which went far to show how strong the confidence his talents and fidelity had inspired. It was at a time like this, with the highest honor his State could bestow, newly conferred upon him, with a bright career of honor and usefulness before him, that the inexorable tyrant summoned him away.

DIXON H. LEWIS, whether we regard the physical, the mental, or the moral man, was cast in no ordinary mould. The more than usual proportions which distinguished him physically, but typified the large and comprehensive grasp of intellect which was his, and which directed the impulses of a heart which beat in unison with all that was generous or elevated in man. There was nothing groveling in his nature. The attainment of "noble ends by noble means," was the highest reward to which his virtuous ambition aspired. From all expedients of doubtful propriety he shrunk with instinctive timidity. But, governed as he was, in all the relations of life, by well-considered and fixed principles, he always moved forward to the performance of a known duty with a heart that knew no quailing. Hence, amid all the fluctuations of opinion to which the public mind has been subjected, since he became connected with the political history of his own times, his last recorded acts are in perfect consistence with his first. His nature was essentially democratic. His sympathies were ever with the masses. Hence his uniform opposition to every species of partial legislation, and his strenuous advocacy of whatever respected the greatest good of the greatest number. A more critical review of his public life than would be suited to the present occasion, would exhibit him as prominently connected with every great measure of progress and reform which has marked the last twenty years of our public history.

But his race on earth is ended. He will be missed from the councils of his country, so long adorned by his virtues and enlightened by his wisdom; from the social throng, once enlivened by the flow of his generous heart; but most of all, from that magic circle where cluster the hallowed affections of home, and where he formed the idol of every heart.

Unlike the patriarch statesman who fell before our eyes, full of years as well as of honors, his earthly sojourn was comparatively brief.

Forty-six years only served to fill the measure of his allotment in time. His sun of earthly existence was but at its meridian when the midnight of death was tolled; the summer of his life but half gone, when the sickle was put in, and the harvest gathered!

> The hand of the reaper
> Takes the ears that are hoary;
> But the voice of the weeper
> Wails manhood in glory.

Mr. HARRIS concluded by offering the following resolutions, which were read, as follows:

Resolved, That the House of Representatives has received with deep sensibility the message from the Senate announcing the death of the Hon. DIXON H. LEWIS, a Senator from the State of Alabama.

Resolved, That the members and officers of this House, from a sincere desire of manifesting their respect for the memory of the deceased, will wear the usual badge of mourning for thirty days.

Resolved, That the proceedings of this House, in relation to the death of the Hon. DIXON H. LEWIS, be communicated to his family by the Clerk.

Resolved, That, as a further mark of respect for the memory of the deceased, the House do now adjourn.

Before the question was put on the above resolutions—

On motion of Mr. HILLIARD, it was

Ordered, That when the House adjourns, it adjourn to meet on Monday next.

The question was then put on the foregoing resolutions, and they were unanimously adopted.

And the House accordingly adjourned to Monday, at twelve o'clock.

PETITIONS, ETC.

The following petitions were presented under the rule, and referred:

By Mr. KAUFMAN: A petition for the erection of a light-house at Sabine pass, in the State of Texas.

By Mr. WHITE: The petition of Abraham Van Ingen, only surviving son and heir of Dr. Dirk Van Ingen, praying Congress to authorize the payment to him of a loss he sustained in continental money, &c.

IN SENATE.

MONDAY, *December* 11, 1848.

Messrs. CLAYTON of Delaware, YULEE of Florida, and JOHNSON of Georgia, appeared in their seats.

The VICE PRESIDENT laid before the Senate a communication from the Navy Department, enclosing reports from the officers of the First and Second Comptrollers, in compliance with the act of May, 1820.

Mr. KING presented the credentials of BENJAMIN FITZPATRICK, appointed a Senator from the State of Alabama, to fill a vacancy caused by the death of the Hon. DIXON H. LEWIS.

The credentials having been read, Mr. FITZPATRICK was duly qualified, and took his seat.

Mr. FELCH presented the credentials of SOLON BORLAND, elected a Senator from the State of Arkansas, to fill the vacancy created by the resignation of the Hon. AMBROSE H. SEVIER.

The credentials having been read, Mr. BORLAND was qualified, and took his seat.

A message was received from the House of Representatives, announcing that the House had elected the Rev. R. R. GURLEY as their Chaplain.

On motion of Mr. DICKINSON,

Resolved, That the Secretary of the Treasury be requested to report to the Senate, as far as practicable, what portion of the transfers of the stocks of the United States are made for account of residents of the city of New York, or for whom said residents are acting agents. And that he further report whether a transfer office established in said city would be of public convenience; and if so, a plan for establishing the same.

The VICE PRESIDENT laid before the Senate a communication from the Treasury Department, containing the report of the Secretary on the financial state of the country, and a statement of the receipts and expenditures for the last year.

The report of the Secretary of the Treasury having been read—

Mr. TURNEY moved that it be printed.

Mr. DAVIS, of Mississippi, moved that twenty thousand extra copies thereof be printed. He said he disliked very much to make a motion to print so large a number of any document; but he looked upon this report as embodying a new system of finance—which, however, had been in operation long enough to be tested by the people.

Mr. CAMERON hoped so large a number would not be ordered. He thought that the country had already decided on the merits of the Secretary's system of finance, and they had decided against it. Besides, a greater number of copies of the Secretary's report of last year were printed than the members of the Senate had been able to use. Many of them were now lying waste in the committee rooms. He thought that the number of copies of the President's message and accompanying documents provided for by the resolution of last Tuesday, ten thousand, would be amply sufficient to meet all the wants of the Senate and the country.

Mr. KING said he was prepared, in the first instance, to go against the printing of the extra number; but the remarks of the Senator from Pennsylvania [Mr. CAMERON] convinced him that the whole matter should go before the country for examination, and that it should be disseminated as widely as possible. He differed entirely from the honorable Senator when he said that the country had decided against the financial system of the present Administration; and he would therefore cheerfully vote for printing the larger number.

Mr. CAMERON desired to say a word in reply to the remarks of the Senator from Alabama. In his State, (Pennsylvania,) the question upon the financial system introduced by the Secretary of the Treasury had been fairly before the people, and they had decided against it. He thought that the candidate of the Democratic party at the late election was unfortunately defeated chiefly on account of the opposition of the people of the United States to this financial system of the present Secretary of the Treasury. This fact furnished the most incontrovertible evidence to his mind that the people of this country disavowed the system; and it was also a sufficient reason with him for opposing the motion of the honorable Senator from Mississippi, [Mr. DAVIS.]

Mr. DAVIS, of Mississippi, was sorry that the honorable Senator from Pennsylvania [Mr. CAMERON] had introduced the subject of the tariff in this irregular manner. But, since it had been introduced, he would ask, has that Senator, or has any other member of this honorable body, ever presented the issue of the tariff of 1846, or known it to have been fairly and distinctly presented, to the people of the United States during the late Presidental contest? If so, I should like to know where. It is not the financial system of the Secretary of the Treasury alone. The Democratic party in the two Houses of Congress enacted the tariff of 1846. The Secretary has carried it out as an Executive officer, and the people should understand the manner in which he has discharged that duty. And I add, is it fair, if it has been decided against him, as the Senator from Pennsylvania [Mr. CAMERON] says, that the Secretary should not be heard in relation to the manner in which he has executed the high and imperative law of the United States? Why does he wish to conceal the facts and arguments embodied in the Secretary's report? Has the decision of the people—the honorable gentleman's constituents—been given upon a false showing? Why not allow the testimony in favor of the system to go before the country as broadly and freely as the accusation against it?

Mr. ALLEN said he should vote for the largest number proposed, because he believed that the expense of printing will bear but a very small proportion to the value of the intelligence which the document contains, and the benefit which its dissemination will confer. The financial condition of a country at the termination of a war, is always a very important part of the business of its Government—showing the means with which the Government has had to carry on the war—the manner in which it has applied those means—and the amount of debt, if any has been incurred. In one word, the financial condition of any country, at the termination of a war, is a most important part of the public concern.

I shall not undertake to say what has or what has not been decided by the recent Presidential election. I leave all such questions to the revelations of the future, when those shall have come into place who have derived the benefit of the election. But I will undertake to say that the party who are responsible for the present tariff, and the present financial condition of the country, should be allowed to spread their justification and the result of their policy fairly and fully before the country. It is a custom coeval with the Government, whenever a report from either department is invested with peculiar importance, arising out of any contingency of the public affairs, to give to such a document greater publicity than other reports from the same department. Such was the case with the report of the Secretary of War communicated at the last session. It became interesting to the whole country, because it contained the details of the war; and especially was it interesting and important to the friends and relatives of the gallant men who fell in the service, as an authorized record of the time, place, and circumstances under which they fell.

The Government was now about to change hands, and an Administration whose policy had been engraven upon the country was drawing to its close, and the main principles upon which was constructed the present financial system of the country, as well as its results, were to be found in the document on the table. It was due, therefore, to the outgoing Administration, it was due to the American people, that the document should be printed and spread before them in great abundance, that all might see for themselves whether the pledges of the Democratic party have been violated or not.

Mr. CAMERON voted last year for twenty-five thousand copies of the President's message, but this year only ten thousand copies had been ordered to be printed; and he did not see why the Secretary's report should receive peculiar attention, nor why a greater number of copies of it should be printed than of the President's message. It must be for some other reasons than its mere connection with the financial policy of the present Administration. The substance of this report will be published in all the newspapers in the land long before this document will be ready, and, therefore, ten thousand will be sufficient.

Mr. NILES said he did not know that any person had a right to know the contents of the document under consideration till they had been communicated officially to the Senate. He was disposed to act upon this question as upon every other; and, without knowing what the report was, without knowing what critical views and arguments it might contain in reference to matters connected with the finances of the country, he certainly was disposed to be reasonable, but he could not vote for the printing of an unusual extra number of copies of the report. He was not disposed to treat the report of a subordinate member of the Cabinet with any more consideration than they treated the message of the President. Hear the merits of the document, and make them the basis of the number to be printed. He thought the debate altogether irregular, and he would not be drawn into it. The subject would probably come up during the session, when it could be freely and thoroughly discussed. His friend from Mississippi, [Mr. DAVIS,] it seemed to him, ought not to be uneasy nor particularly anxious to go into the merits of this subject upon the present occasion. If the peculiar system which he wishes to maintain is to be supported by arguments, his friend (the Secretary of the Treasury) had laid arguments before the country in which the merits of the system were strongly set forth and ably enforced. He made a report—a very voluminous one—preceding the tariff of 1846. His report on that occasion was almost of the size of the President's message; and at every session since that period he has made a very elaborate report His views and arguments have been before the country. He (Mr. NILES) hoped they would be fully considered, and have that influence upon the public mind to which they were entitled. But he certainly would not depart from the usual course in such cases. He would treat this like all others of a like kind. When the question came up in its regular order he would probably have something to say upon it. Perhaps it would not so completely establish the views of the Secretary as his friends imagine. He thought it would not be found that our exports will amount to three hundred millions odd, as he believed was to be the result, according to certain estimates made some three years ago. But he would not now go into that matter. He would only add, that as only ten thousand copies of the message had been ordered, he would vote for no greater number of copies of the Secretary's report.

Mr. DAVIS, of Mississippi, replied, that if the honorable Senator from Connecticut [Mr. NILES] imputed to him that he was one who had been anxious to go into the merits of this system of finance, he had done him injustice. He had only asked that it should go to the country, not that he wished to treat it with more respect than the President's message, but because the subject was one of peculiar interest, of peculiar historical interest, and formed, he thought, the most striking example ever presented to the world of a Government carrying on its financial operations, while engaged in a foreign war, without the aid of any other machinery than the ordinary revenue of the country, derived from its imports, and without suffering any loss by its greatly increased and multifarious disbursements. That the revenue of the country has increased under such circumstances, notwithstanding all adverse influences, is true. These are facts, not arguments; and it is these facts that we wish to lay before the people, that the public mind may be prepared for that powerful argument which the Senator from Connecticut [Mr. NILES] will make when the subject shall be brought before the Senate. That is why he went for the printing of so large a number of copies of the report.

Mr. FOOTE supposed the only good reason for printing the document at all was, that it should be distributed throughout the country; and that reason must be potential always in proportion to the value of the information to be distributed. The reasons already adduced in support of the proposition for printing a large number of this document were sufficient to show its immence and peculiar value. He begged leave to suggest, in addition—not in any spirit of fulsome adulation by any means—that one reason with him for desiring to print the largest number of this particular document was the presumption, that from the former productions of that officer upon the same subject, this particular report may well be recognized as being of immense and incomparable value, not only to this country, but to all countries. Such has been the character of the reports of that Secretary upon this subject heretofore; and various considerations combine to show that this particular report, marked as it is with that ability which has heretofore characterized the productions of that Secretary, must be the more important and valuable to this country and to the world than any of the former productions of his pen. If the fact be, as suggested by the Senator from Pennsylvania, that the people of the United States have recently settled the question of free trade, and against the doctrine well known to be advocated by the Secretary of the Treasury, there was an additional reason, it struck him, for the printing of the largest number of this document that the Senate could, under any circumstances, think of publishing.

There is, evidently, if the state of things be such as the Senator from Pennsylvania [Mr. CAMERON] has said, a want of illumination in regard to this matter—a sad want of light which he was inclined to supply to the full extent of his ability. He regretted to find that it was a Democratic Senator from the State of Pennsylvania with whom this suggestion originated. He (Mr. FOOTE) was sure that no member of that party which had been victorious at the late Presidential election, would have ventured upon such a suggestion; for it is undeniable that, in nearly all the States of this Union, where the names of Taylor and Fillmore were borne triumphant at the recent Presidential election, the doctrine of "free trade" was not gainsaid by one single advocate of that ticket. Such being the case, it seemed to him that the honorable Senator from Pennsylvania had been somewhat in haste, and had committed a blunder, which was a common one. He [Mr. CAMERON] has imagined his own State of Pennsylvania, whose late action he has himself misunderstood, to be the whole Union. He (Mr. FOOTE) was yet to be satisfied —and he should not be satisfied without conclusive evidence—that the State of Pennsylvania, the population of which has been heretofore so remarkable for its intelligence, astuteness, and patriotism, has made so egregious a blunder as that suggested by the honorable Senator from that State. He (Mr. FOOTE) never should believe, for one, that the people of Pennsylvania are so much in the dark upon this great subject. He was less willing to believe that the people of that noble State have been influenced in the late Presidential election simply by the sordid and contemptible principle, love of pecuniary gain.

Mr. HALE said he should go for printing the smallest number proposed, because he considered that this printing large numbers of the public documents had been made the subject of great abuse. He cherished no sort of feeling on the subject more than what he expressed. He took the same ground at the last session, when it was proposed to print a large number of copies of the report of the Commissioner of Patents, of which vast number, he believed, not half had yet been distributed. He esteemed this making books by order of Congress as another verification of the saying of Solomon, "Of making books there is no end."

Being on the floor, he desired to say a word with reference to the remarks of the Senator from Pennsylvania, [Mr. CAMERON.] He confessed that he was somewhat surprised to learn from that gentleman that the people of this country, in the late Presidential election, had decided against the late tariff act, and in favor of the tariff of 1842. For, so far as he (Mr. H.) knew anything about the contest, this question of a tariff did not enter very much into it. As he understood it, the one great question connected with that election was, whether General Taylor, or either of the other nominees, was the most genuine Free Soil man? And it was generally conceded that General Taylor was the genuine, Simon Pure Free Soil candidate; while Mr. Van Buren and his friends were held as mere pretenders and interlopers! [Laughter.] If anything had been settled by the result of that contest, it was, that General Taylor was the Free Soil candidate, and he was elected as such. He held it, therefore, to be unfair toward the great Free Soil party to affirm that there was any greater issue involved. Things should be taken as they were. General Taylor was the Free Soil candidate, and the Secretary should make up the record accordingly.

Mr. FOOTE was sure that the honorable Senator who had just taken his seat made a great mistake, for everywhere in the South and Southwest, during the late Presidential campaign, General Taylor was upheld as the opponent of "free soil." General Cass was rejected as not being quite so violent an opponent of the Free Soil movement as General Taylor.

Mr. CAMERON was sorry that his friend from Mississippi [Mr. FOOTE] had so misapprehended the position of parties during the late contest. He believed that in the South General Taylor was the candidate of the Free Soil party—[Some of the Senators remarked that he must mean the North.] Yes; in the South, in Mississippi. He had been led to that belief from the vote of Mississippi. The honorable Senator from Mississippi [Mr. FOOTE] had been talking about the blunders of Pennsylvania. He (Mr. C.) remembered that it was charged upon General Taylor by certain gentlemen in Mississippi that he was in favor of free soil, and, when he came to look at the election returns, he observed that there was very near being a blunder in Mississippi. In my State, (Pennsylvania,) where the people live by their honest industry, where every man works, and subsists upon the labor of his own hands, there the tariff was the question that was discussed, the issue that was placed before the people. The Democratic party would not have been prostrated had it not been for this financial system. He spoke of this with sorrow. When he rose he did

not intend to go into extraneous matters. But he found, upon an examination of the printing bill, that, with the great reduction of prices, the printing of the last year cost upwards of one hundred thousand dollars. Had the Government paid the prices given to Gales & Seaton, it would have been four hundred thousand dollars. They had now a large number of those documents about the House, in the committee rooms, and he believed that it was the duty of every Senator to stop this wasteful extravagance.

Mr. WESTCOTT. There is one thing shown by this debate, started upon the trifling question of printing this document, which has gratified me. It is, that *as yet* those who supported and elected General Taylor as President have not said one word against the printing of the largest number proposed of this paper. I hope they will not vote against it. The illustrious soldier and statesman under whose banner they rallied and defeated the Democratic party, when he assaulted Monterey, after he had bombarded the town, got possession of the suburbs, and when he had Ampudia and his forces in his power, generously and magnanimously accepted a capitulation, in which he allowed the Mexican chief to retire with the honors of war—with his colors flying, and with his other arms, artillery, and his baggage. *He* had confidence that if Ampudia did join Santa Anna, he could flog him again. This conduct became a chivalric and proud soldier. I am glad to see, sir, that as yet no Senator on the other side of this Chamber—those I mean who were for General Taylor "first, last, and all the time"—has evinced a disposition to be less generous and magnanimous towards the Administration they have just defeated by the ballot-box than the old hero was towards the Mexicans. It is creditable to them. The only opposition is from the Senator from Pennsylvania, [Mr. CAMERON,] the Senator from Connecticut, [Mr. NILES,] and the Senator from New Hampshire, [Mr. HALE,] all of whom opposed General Taylor's election. It would seem as if the honorable Senators were inclined to change sides and join the victorious party, since the battle has been fought and won. New converts are always the most zealous, and deserters the most vindictive. While the original Taylor Whigs are, as I presume from their silence, disposed to give quarter, the honorable Senators seem determined to tomahawk and scalp the defeated Administration without mercy. They deny them an honorable capitulation—they would refuse them the honors of war, and insist upon the surrender of their colors, artillery, small arms, and all. Those who follow the camp for plunder are the most cruel to the defeated foe. I hope the friends of General Taylor will not allow those who resisted his election as strenuously as I did, to grasp all the honors and spoils of the victory.

But one of the strongest arguments in favor of the printing of the largest number of this document proposed (20,000) is, that it is a document which, from its character, is excluded from most of the newspapers. They cannot well insert the statistical statements accompanying it, and without which it is not worth a great deal, but the people have to rely on the copies franked by members of Congress. The number proposed will allow us but 360 each. The Senator from Pennsylvania says there are bushels of the Secretary's report of last year in the committee rooms. If so, it is because Senators have been too indolent to frank them off, or, being opposed to free trade, have been disposed to suppress the circulation of the report. I know very well the honorable Senator very kindly gave me many of his copies of the report of last year, which I sent away. He had objections to sending it to Pennsylvania; though, if he had done so, I have little doubt he would not now have to lament the defeat of the Democratic candidate. If the Senator will send to his constituents the present report, he may reform the State in some degree, and four years hence the Whig candidate will be defeated. I hope that twenty thousand will be printed; it is just to the Secretary—it is just to the Administration.

Mr. METCALFE. It would afford me great pleasure, as one of the friends of Gen. Taylor, if I thought it were consistent with the duty which I owe to the country, to accord the whole number of printing desired by the gentleman from Mississippi, [Mr. DAVIS.] For one, it is not my purpose to allow anything to drop from my lips that can provoke party disputations in the Senate. The question is this: Shall we print twenty thousand copies of this report—double the number of copies ordered for the President's message; or shall we not rather print only the same number—ten thousand? Is it possible, sir, that it is necessary that the public mind should be illuminated, as the language of the honorable Senator from Mississippi seemed to intimate, by Congressional documents exclusively? Are there no other sources of popular information accessible to the intelligent people of this country, besides the documents emanating from this body? On the contrary, the people are sick and tired of the dissemination throughout the country of so many of these large documents. For what are our printers of newspapers scattered abroad all over the country, if they cannot disseminate the matter of these reports without the necessity of issuing from this Capitol so many thousands of copies every year, and extending them to such numbers that, as the gentleman from New Hampshire has very properly said, we have not yet distributed half the copies of one of the documents ordered at the last session, for the reason that they have not yet come into the possession of members. They had become extravagant—extremely extravagant—in relation to the printing of public documents. Concurring then, as he heartily did, with the views presented by the Senator from Connecticut, he was constrained, notwithstanding the appeal which had been made to his magnanimity by the honorable Senator from Florida, to vote against the proposition to print twenty thousand copies.

The question was then taken upon Mr. DAVIS's motion, by yeas and nays, and resulted as follows:

YEAS—Messrs. Allen, Atchison, Atherton, Borland, Bradbury, Breese, Bright, Butler, Davis of Mississippi, Dickinson, Dix, Dodge, Douglas, Downs, Felch, Fitzgerald, Fitzpatrick, Foote, Hamlin, Houston, Hunter, Johnson of Georgia, King, Rusk, Sturgeon, Turney, Walker, Westcott, and Yulee—29.

NAYS—Messrs. Badger, Baldwin, Bell, Benton, Berrien, Cameron, Clarke, Clayton, Corwin, Davis of Massachusetts, Dayton, Hale, Johnson of Maryland, Johnson of Louisiana, Metcalfe, Miller, Niles, Pearce, Spruance, Underwood, and Upham—21.

So the order was agreed to.

RAILROAD ACROSS THE ISTHMUS.

Mr. DOUGLAS presented a memorial in relation to the construction of a railroad across the Isthmus of Panama.

He remarked that the memorial set forth the great importance of the construction of a railroad across that Isthmus, in connection with steamships of the Government for commerce, the post office, military and naval stores, &c. It also set forth that the company have obtained from the Government of New Granada a charter giving them the exclusive privilege to the right of way across the Isthmus for ninety-nine years, which would of course be protected by the treaty which we have already made with that Government.

The memorialists ask no appropriation of money; they ask no aid from this Government in the construction of the work. They propose to make the road with their own money—their own means; and all they ask is, that this Government shall contract with them, at reasonable prices, for carrying the mails, munitions of war, and naval stores, when the road shall be finished, and no money to be paid until the work goes into operation and the service is performed.

The memorial is as follows:

To the Honorable the Senate and House of Representatives:

The memorial of Wm. H. Aspinwall, John L. Stephens, Henry Chauncey, and their associates, respectfully represents:

That the acquisition of California and the settlement of our boundary line in Oregon have opened a new era in the history of this country. Of the value of these new territories they do not propose to speak further than to say, that the mildness of the climate, the richness of the soil, the great promise of mineral wealth, and, above all, the long line of coast, with the magnificent harbors on the Pacific, seem to be sufficiently appreciated by all classes of our people. At this moment hundreds of young men, full of enterprise, from our eastern States, are buffeting the storms of Cape Horn, while in the coming spring the hardy pioneers of the West will be moving by thousands over the desolate prairies or climbing the rugged steeps of the Rocky Mountains, to build up for us new States on the Pacific. Already it is felt as a hardship by those who go out from amongst us, that, once settled in California and Oregon, they are, to a great extent, cut off from all the dearest relations of life, and that there are no means of returning or of personal intercourse with friends at home, except by the stormiest passage ever known at sea, or the most toilsome journey ever made by land.

In view of this condition of things, and to hold out some encouragement to emigrants that they might not be virtually expatriated when upon our own soil, and with a further view of facilitating our communications with our military and naval stations on the Pacific, Congress, at its session before the last, established a line of monthly mail steamers from New York to Chagres on the Atlantic side of the Isthmus of Panama, and from Panama, on the Pacific side, to California and Oregon. This will no doubt answer sufficiently the great purpose of facilitating correspondence by mail with those territories, but it cannot answer, to any extent, the immediate and pressing want of a thoroughfare for travel which women and children may pass over, nor can it answer at all the constant and sometimes pressing occasions for the transportation of men, munitions of war, and naval stores, for our military and naval stations on the Pacific; all of which, however great the emergency and at whatever sacrifice of time and money, must go by the long and hazardous voyage around Cape Horn, or by the wild paths across the Rocky Mountains, for half the year covered with snows, and entirely impracticable.

The Isthmus of Panama is about fifty miles in breadth, less than on any other part of the continent of America, and from the falling off of the great range of Cordilleras, running from the Rocky Mountains to the Andes, it has always been considered as the region in which, if ever, an easy communication would be affected, either by canal or road, between the two seas. The route over it is probably worse now than in the early days of Spanish dominion, when the gold of Peru passed over it, to freight with almost fabulous wealth the argosies of Spain. No wheel carriage has ever attempted to cross it. The present mode of doing so is by canoe, up the Chagres river, set, for a great part of the distance, by poles against the current, and requiring twenty-eight to thirty hours to Cruces. Thence to Panama there is a mule road, difficult at all times for women and children, particularly with the effects of a moving or emigrating party, and, during the rainy season, almost impassable.

The Pacific Mail Company, charged with the transportation of the mail from Panama to California, and to Oregon, comprising your memorialists, immediately upon assuming the obligations of their contract, saw the necessity, for their own interest, of improving the road across the Isthmus; and, after consultation with several gentlemen in high position at Washington, took upon themselves the burden and expense of fitting out an expedition for the purpose of an examination and survey. One of their associates, to whom the execution of this work was intrusted passed the last winter on the Isthmus, attended by two engineers of high standing, who, besides making general observations upon the face of the country, commenced a regular survey of high water mark on the shore of the Pacific, and carried it across the Cordilleras down to the first stream that enters into the Atlantic, when the farther prosecution of the work was broken up by the setting in of the rainy season; and the party returned to New York.

The scheme of this company, in incurring the expense of this expedition, contemplated, as your memorialists understand, some action on the part of the Government in the way of its aiding in the construction of at least a good wagon or a plank road; but the result satisfied them that, from the broken character of the country and the deluges of the rainy season, this would be a work of far greater magnitude than they had expected, and in the mean time a new aspect has been given in this matter by the important action of the Government itself.

A treaty has been negotiated with the Government of New Granada, by which the United States have undertaken, in consideration of a free and uninterrupted right of way over the Isthmus of Panama, by any road or roads then existing or thereafter to be made, to guaranty to the public the neutrality of the isthmus and the authority of New Granada over it: so that if the isthmus should be invaded by any foreign Power, the United States are bound to protect it with their army and navy. This treaty, so new in its character and so important in the obligations it assumes, was ratified by the Senate, as your memorialists understand, without a dissenting voice; and your memorialists regard it as a manifest indication on the part of our Government of the great national importance of a free and uninterrupted passage at all times and forever across the Isthmus of Panama, as the closing act of that policy which established the mail route to California and Oregon by way of that isthmus, and as devolving upon the Government the necessity of lending its countenance towards the improvement of the road across it, without which, they respectfully represent, the heavy obligations of the treaty will be attended with no equivalent advantage, and the right of way thus wisely secured can never be fully enjoyed. Impressed with the importance of this matter, as involving the prosperity of California and Oregon, and the welfare of all who are in any way connected with our citizens in those Territories; and regarding it as vitally affecting the best interests of our Government in a political and pecuniary point of view; and having under their control the maps, drawing, and other information procured by the Pacific Mail Company,—your memorialists have secured to themselves an exclusive grant or privilege of ninety-nine years, from the Republic of New Granada, for constructing a railroad across the Isthmus of Panama; and they come before your honorable body to ask the coöperation and aid necessary for carrying out this great American work. They beg leave to say, that its speedy completion by private enterprise alone, without the countenance of Government, cannot be expected. Privilege after privilege, similar to that which they now hold, has been granted to others, and all have failed. It does not promise any immediate or certain returns; and for complete and early success, it requires some engagement for employment and compensation by this Government, as an inducement to capitalists to unite with your memorialists in furnishing the necessary means.

Your memorialists believe that events have been rolling on towards a consummation of this long-talked-of work, and that the appointed time has now arrived; that the acquisition of California by the United States and the establishment of an organized government in our territory of Oregon have fixed the period and the hands by which it is to be accomplished; that it has become the destiny of this country, for its own interests, for the benefit of its own people, and for the good of the world, alone, promptly, and without delay, to achieve an enterprise which for more than three centu-

ries has, under some aspect, been contemplated and proposed by all the great Powers of Europe. It is under a strong sense that they but speak the feelings of the great mass of our people that they have ventured to embark in the great enterprise before them, and to aim at becoming instruments in carrying out a work which, from the time when Nunez Balboa, from the heights of Darien, first saw the great South Sea, has occupied the minds of all civilized people, which must reflect honor upon American enterprise, and which, by bringing into close relations the most distant parts of our republic, must add to and enlarge the sphere of human happiness.

Your memorialists hope that these and other considerations of the like nature may have all proper influence upon your honorable body; but they ask your coöperation on none of these grounds; they ask it only on the ground, first, of economy and pecuniary saving to the Government, in the transportation of men, munitions of war, and naval stores to our military and naval stations in California and Oregon; and second, on the higher and more important political ground of being able on an emergency, and when occasion requires, to send reinforcements in less than thirty days, instead of six months, as required to send them around Cape Horn or across the Rocky Mountains. They ask no advance of money towards the construction of the road, and no compensation until services are performed; but they respectfully pray your honorable bodies to empower and direct the Secretary of the Navy to enter into a contract with your memorialists for the transportation on said road, for a period of twenty years, of naval and army supplies, including troops, munitions of war, provisions, naval stores, the mails of the United States, and its public agents, at a sum not exceeding the amount now specified by law to be paid for the transportation of the mails alone from New York to Liverpool; provided that your memorialists shall within one year commence, and within three years complete, the construction of a railroad across the Isthmus of Panama, connecting the waters of the Atlantic and Pacific Oceans.

W. H. ASPINWALL,
JOHN L. STEPHENS,
HENRY CHAUNCY.

On motion, the memorial was ordered to be printed.

Mr. DOUGLAS gave notice that he would, to-morrow, or on some convenient day, introduce a bill granting the right of way, and making a donation of land to the State of Illinois, in aid of certain railroads connecting the upper and lower Mississippi with the line of northern Lakes and Chicago.

CALIFORNIA.

Mr. DOUGLAS. Mr. President, I now ask leave to introduce a bill, of which notice was given last Monday, for the admission of California as a State of this Union. I desire to submit a few considerations why I think this course should be adopted.

Leave having been given—

Mr. D. proceeded. The reason why I take this step in reference to the territorial government of California, a bill for which was proposed at the last session of Congress, is this: A great revolution has taken place in the prospects and condition of that country since the adjournment of the last session of Congress. The discovery of vast mineral wealth and the completion of the line of steamers connecting that country with the United States, furnishing the means of transportation between the two countries, have invited into that country a tide of emigration so great, and constantly increasing, that we find, that although we did not anticipate, for many years, a population sufficiently large to entitle that country to admission into our Union as a State, we now have reason to believe that the time is close at hand when California will possess a population far exceeding the number requisite to entitle her to admission as a State into this Confederacy. Another reason is, I despair of any hope of passing a territorial bill at this session of Congress, for reasons which may be apparent to all of us, as three different bills, presented for that purpose, have been already rejected. Another reason is, if we have to wait till the next session of Congress before we shall legislate, I apprehend that all idea of territorial government will be at an end, as there will be a population, as I have before said, in California sufficient to entitle her to admission as a State into this Union.

My bill provides that all the territory acquired from Mexico by the treaty of peace shall constitute one State in this Union, Congress reserving the right, at any time it may choose to exercise it, of forming new States out of any portion of said territory which lies east of the Sierra Nevada mountains, so that there will be a permanent State of California upon the coast; and the territory lying east of that range of mountains, including the valleys of San Francisco and Sacramento, would form a State of about the size of the State of Virginia. I also propose to divide this State into two judicial districts, to be known as the east district and the west district, the judges of which shall reside in their respective districts.

These are the outlines of the bill. I bring them forward merely as a suggestion, with the hope that out of it we may get something that will be a law to the people of that country. If it be the wish of the Senate that a territorial bill shall be introduced in the place of this, I am ready now, with great pleasure, to support the bill of the Senator from Delaware, [Mr. CLAYTON,] chairman of the special committee appointed at the last session, or, with still greater pleasure, support a bill presenting and carrying out the Missouri compromise, as I proposed myself at the last session. But if we cannot get this, I am in favor of giving law to the people of that country by bringing it into the Union at once, that we may give quietness and harmony to the country, and that we may be able to settle this question.

The Secretary then read the bill, as follows:

A BILL for the admission of California in the Union as a State.

Be it enacted, &c., That all that portion of the territory of the United States which was acquired by the "treaty of peace, friendship, limits, and settlement with the Republic of Mexico, concluded February 2, 1848," shall be one State, and the same is hereby declared to be one of the United States of America, on an equal footing with the original States in all respects whatsoever, by the name and title of the State of California: *Provided*, That Congress reserves to itself the right, at any time it may choose to exercise the same, of forming and admitting new States out of any portion of said territory which lies east of the summit of the range known as the Sierra Nevada or California mountains: *And provided, further*, That the United States reserve unto themselves all rights of property in the public domain and other property ceded by said treaty free from taxes and assessments of any kind by said State; and also the power of disposing of the same, including the right of adjusting all claims and titles to the same derived from foreign Governments, in such manner as Congress shall prescribe.

SEC. 2. *And be it further enacted*, That all the laws of the United States which are not locally inapplicable shall have the same force and effect within the said State of California as elsewhere in the United States. The said State shall be divided into two judicial districts, to be known as the eastern and western districts of California; and that portion thereof which lies west of the —— meridian of longitude from Washington shall constitute the western district, and all that part of said territory east of said meridian line shall comprise the eastern district. A district court shall be held in each of said districts, to consist of one judge in each, who shall reside therein, and be called the district judge. The said judges in their respective districts shall hold three sessions of their courts annually, to commence on the first Mondays in June, October, and February, in each year; and the said judges shall, in their respective districts, in all things, have and exercise the same jurisdiction and powers which were given by law to the judges of the Kentucky district, under an act entitled "An act to establish the judicial courts of the United States," and an act entitled "An act in addition to an act to establish the judicial courts of the United States," approved the second day of March, 1793, and the acts supplemental thereto. The said judges shall each appoint his own clerk, who shall receive and keep the records of the court at the place of holding the same, and shall receive for services performed by him the same fees to which the clerk of the Kentucky court is entitled for similar services.

SEC. 3. *And be it further enacted*, That there shall be appointed by the President, by and with the advice and consent of the Senate, for each of said districts, a district judge, an attorney for the United States, and a marshal. The judges shall each receive an annual salary of two thousand dollars, to commence from the date of appointment, and be paid at the Treasury of the United States. The district attorney shall, in addition to his stated fees, be paid by the United States two hundred dollars annually, as a full compensation for extra services. The marshal shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees as are provided for and prescribed to marshals in other districts, and shall moreover be entitled to the sum of two hundred dollars annually as a compensation for all extra services.

SEC. 4. *And be it further enacted*, That, until the next general census and apportionment, the said State shall be entitled to two Representatives in the Congress of the United States.

On motion of Mr. BERRIEN, the bill was read a second time by its title.

It was also, on motion, ordered to be printed for the use of the Senate.

On motion of Mr. WESTCOTT,

Resolved, That the Secretary of the Treasury communicate to the Senate such information as he may possess with respect to the expediency of a speedy survey, by the Coast Survey, of the reefs and coasts of South Florida, and the making of authentic charts thereof; and also, an estimate of such additional or special appropriation as may be necessary therefor.

Mr. ATHERTON submitted the following resolution:

Resolved, That the orders passed at the close of the last session, discharging the Committees on Commerce, Pensions, Military Affairs, and Naval Affairs, from the business not reported on, be rescinded, so far as they include bills, resolutions, and reports embraced in the joint rule adopted by the Senate on the 14th of August last.

Mr. ATHERTON asked the consideration of the resolution at this time; and the resolution being under consideration,

Mr. ATHERTON read the joint resolution adopted at the last session, as follows:

Resolved, That the following be added to the joint rules of the two Houses:

"After six days from the commencement of a second or subsequent session of Congress, all bills, resolutions, or reports which originated in either House, and at the close of the next preceding session remained undetermined in either House, shall be resumed and acted on in the same manner as if an adjournment had not taken place."

He then explained, that before the adoption of this rule, several of the committees had been discharged from the business before them. His object, in the introduction of this resolution, was to restore to these committees the business from which they had been thus discharged, in order that it might be resumed according to the instruction of the new rule.

The resolution was then agreed to.

On motion of Mr. KING,

Ordered, That the Senate will, at 12 o'clock to-morrow, proceed to the election of the committees.

Mr. DAVIS, of Mississippi, on leave, introduced a joint resolution reappointing two of the regents of the Smithsonian Institute, whose terms had expired; which was read a first time.

Mr. DAVIS explained the necessity for the immediate passage of the resolution, as a meeting of the regents would take place on Wednesday, and it was important that the board should be fully organized.

The joint resolution was then read a second time, passed through Committee of the Whole, and was read a third time and passed.

CHAPLAIN.

On motion of Mr. KING, the Senate proceeded to the election of a Chaplain.

The Senators proceeded to ballot, and on the first ballot, the numbers appeared as follows:

Total number of votes	47
Necessary to a choice	24
For Mr. Slicer	28
Mr. Henshaw	6
Mr. Smith	9
Mr. Dewey	4
Blank	1

So the Rev. Mr. Slicer was reëlected Chaplain.

Mr. RUSK presented a memorial from Marvin W. Fisher, praying compensation from Government for the use of his copper percussion caps; which was laid on the table.

Mr. BADGER presented the memorial, petition, and remonstrance of the ministers and delegates representing the churches which compose the Kehukee Primitive Baptist Association, assembled in Conference with the Baptist Church at Great Swamp, Pitt county, North Carolina, praying that Congress will abolish all laws or resolutions now in force respecting the establishment of religion, whereby Chaplains to Congress, the army, and navy, are employed and paid to exercise their religious functions.

Mr. BADGER said he wished it to be understood that he did not concur in the object of this memorial. He thought the petitioners were entirely wrong. But as the petition was couched in respectful language, he would ask for its reading, and would then move that it be laid on the table and printed.

The petition was then read, laid on the table, and ordered to be printed.

Mr. BRADBURY submitted the following resolution; which lies over under the rule:

Resolved, That, until otherwise ordered, Thursday of each week be set apart for the consideration of private bills; and that at one o'clock, p. m., on Thursday next, the Senate will proceed to the consideration of these bills, to the exclusion of other business.

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 11, 1848.

The Journal of Thursday last was read and approved.

Several other members appeared and took their seats, viz,

From the State of Texas—TIMOTHY PILLSBURY.

From the State of Pennsylvania—JOHN FREEDLEY.

From the State of Alabama—JOHN GAYLE.

From the State of Virginia—ANDREW S. FULTON.

From the State of Arkansas—ROBERT W. JOHNSON.

From the State of Kentucky—GREEN ADAMS.
From the State of Maine—DAVID HAMMONS and HIRAM BELCHER.
From the State of New York—WASHINGTON HUNT and PETER H. SILVESTER.

COMMITTEES OF THE HOUSE.

The SPEAKER announced the following as the committees appointed under the order of the House heretofore adopted:

Committee on Elections.—Messrs. Thompson of Indiana, Mullin, Chase, Boydon, Jenkins, Van Dyke, Inge, Roman, and Williams.

Of Ways and Means.—Messrs. Vinton, Stephens, McKay, Hudson, McDowell, Morehead, Pollock, Hubbard, and Nicoll.

On Claims.—Messrs. Rockwell of Connecticut, Crowell, Daniel, Nelson, Wilmot, Dunn, Ligon, Flournoy, and Thomas.

On Commerce.—Messrs. Hunt, Grinnell, Wentworth, Woodward, Hampton of Pennsylvania, Thibodeaux, Gregory, Atkinson, and Bingham.

On Public Lands.—Messrs. Collamer, Duncan, Shepperd, Brodhead, Putnam, Hall of Missouri, Evans of Maryland, Cobb of Alabama, and Greeley.

On the Post Office and Post Roads.—Messrs. Goggin, Root, Brown of Pennsylvania, St. John, Phelps, Embree, Jones of Tennessee, Lincoln, and Kaufman.

On the District of Columbia.—Messrs. Chapman, Tallmadge, Brown of Mississippi, Barrow, Ficklin, Henry, Edwards, Thurston, and Gaines.

On the Judiciary.—Messrs. J. R. Ingersoll, Ashmun, Pettit, Hall of New York, Lumpkin, Dixon, French, Taylor, and Meade.

On Revolutionary Claims.—Messrs. King of Massachusetts, Butler, Bowdon, Iverson, Kellogg, Morris, Newell, Smart, and Lynde.

On Public Expenditures.—Messrs. Clingman, Strohm, Bedinger, Hale, Jameson, Jones of Georgia, La Sere, Clark of Maine, and Conger.

On Private Land Claims.—Messrs. Gayle, Brady, Wick, Ramsay, Harmanson, Tompkins, Canby, Johnson of Tennessee, and Darling.

On Manufactures.—Messrs. Stewart of Pennsylvania, Abbott, Houston of Delaware, Edsall, Sherrill, Brown of Virginia, Crisfield, Johnson of New Hampshire, and Stuart of Michigan.

On Agriculture.—Messrs. White, Sawyer, Palfrey, Harris, Rockhill, Belcher, Thompson of Iowa, Slingerland, and Goggin.

On Indian Affairs.—Messrs. Barringer, Gentry, Thompson of Mississippi, McIlvaine, Cathcart, Giddings, Peck, Buckner, and Johnson of Arkansas.

On Military Affairs.—Messrs. Botts, Burt, Wilson, Haralson, Dickey, Boyd, Marvin, Haskell, and Fisher.

On the Militia.—Messrs. Thompson of Kentucky, Blanchard, McLane, Peaslee, Blackmar, Richardson, Beale, Featherston, and Dickinson.

On Naval Affairs.—Messrs. King of Georgia, Holmes of South Carolina, Schenck, White, Bayly, Levin, Stanton, Outlaw, and Tuck.

On Foreign Affairs.—Messrs. Smith of Connecticut, Hilliard, C. J. Ingersoll, Marsh, Rhett, Pendleton, Duer, McClelland, and Duncan of Ohio.

On the Territories.—Messrs. Smith of Indiana, Cranston, Cobb of Georgia, Rockwell of Massachusetts, Thompson of Pennsylvania, Gott, Morse, Evans of Ohio, and Pillsbury.

On Revolutionary Pensions.—Messrs. Cocke, Silvester, Cummins, Freedley, Bocock, Donnell, Hammons, Strong, and Sidney Lawrence.

On Invalid Pensions.—Messrs, Fulton, Nes, Fries, W. T. Lawrence, Venable, Thompson of Virginia, Eckert, Wiley, and Petrie.

On Roads and Canals.—Messrs. Schenck, Holmes of New York, Smith of Illinois, Irvin, Clapp, Warren, Peyton, Newell, and Mann of Pennsylvania.

On Patents.—Messrs. Farrelly, Maclay, Henley, Jones of Georgia, and Miller.

On Public Buildings and Grounds.—Messrs. Houston of Delaware, Preston, Faran, McLane, and Reynolds.

On Revisal and Unfinished Business.—Messrs. Nes, Lord, Hale, Turner, and Hill of Tennessee.

On Accounts.—Messrs. King of Massachusetts, Gregory, Starkweather, Kennon, and Henry.

On Mileage.—Messrs. Belcher, Richey, Warren, Richardson, and Green.

On Engraving.—Messrs. Levin, Murphy, and Adams of Kentucky.

Standing Committee on Library on part of the House.—Messrs. Preston, Murphy, and Palfrey.

Standing Committee on Enrolled Bills on part of the House.—Messrs. Hampton of New Jersey, and Robinson.

The following committees, appointed at the last session, stand through the Congress, viz:

On Expenditures in the Department of State.—Messrs. Barringer, Crozier, Lahm, Dixon, and Collins.

On Expenditures in the Treasury Department.—Messrs. Root, Donnell, Birdsall, Buckner, and Featherston.

On Expenditures in the Department of War.—Messrs. Crozier, Thompson of Indiana, Kennon, Lord, and Lincoln.

On Expenditures in the Navy Department.—Messrs. Tompkins, Boydon, Maclay, Clark of Kentucky, and Tuck.

On Expenditures in the Post Office Department.—Messrs. Wilson, Kellogg, Stuart of Michigan, Leffler, and Thompson of Kentucky.

On Expenditures on the Public Buildings.—Messrs. Cabell, Hampton of New Jersey, Sawyer, Holmes of New York, and Richardson.

RULES AND ORDERS OF PROCEEDING.

Mr. TRUMAN SMITH moved the following resolution:

Resolved, That the rules and orders of the House of Representatives, as they existed at the close of last session of Congress, be, and hereby are, adopted as the rules of the House for and during the residue of the present Congress; and that a committee be appointed to report such alterations and amendments as may be deemed advisable.

Mr. VINTON moved to amend the same, by adding thereto the following:

And no order of the House making a bill, report, or resolution, a special order of the day for any given day, shall entitle it to a preference over general appropriation bills; but, notwithstanding such special order, the House, or Committee of the Whole, may proceed to the consideration of such appropriation bills.

The amendment having been read—

Mr. VINTON desired to say a few words in explanation of the object of this amendment. It would, he said, be recollected by the House that at the last session of Congress special orders had taken precedence of the appropriation bills. The consequence had been, that the House had been arrested in the consideration of these bills for more than a month. Their consideration, during the last session, had occupied as much time as now remained for the deliberations of Congress at its present session; and if priority were to be given to special orders over the general appropriation bills, it would be seen that the House could not reach them without great difficulty, and that it would in fact be doubtful whether they could get at them at all. The object of the amendment was, not that appropriation bills should take precedence over special orders, but to place it in the power of the House to put such orders aside if it should think proper so to do.

The question was thereupon taken, and the amendment was agreed to without a count.

THE SMITHSONIAN INSTITUTION.

Mr. JOHNSON, of Tennessee, moved to amend the resolution of Mr. T. SMITH, so as to provide for the appointment of a Standing Committee, to be called the Committee on the Smithsonian Institute.

Mr. GOGGIN rose, and was understood to express his desire to offer an amendment providing that no member should have the right to call the previous question on any proposition presented to the House until the same should have been distinctly stated by the Chair or the Clerk.

Mr. G. desired, if in order, to offer this as an amendment to the amendment of the gentleman from Tennessee, [Mr. JOHNSON.]

The SPEAKER was understood to say that the proposition of the gentleman from Virginia [Mr. GOGGIN] would be in order, after the amendment of the gentleman from Tennessee [Mr. JOHNSON] had been disposed of. The question now was, on ordering the appointmont of an additional committee on the Smithsonian Institution.

The question was accordingly put by the Chair; but before the decision had been announced—

Mr. JOHNSON hoped, he said, that the House would adopt his amendment. The subject involved the expenditure of hundreds of thousands of dollars, and he could see no substantial reason why opposition should be made to the appointment of such a committee. The Regents were prepared, as he understood, to make a report. This Congress had the supervision of the fund, and had the appointment of some of its Regents; and he could not see why this body, or incorporation, or institution, upon which so much money had been expended, should not be reported upon, as to its proceedings and condition, to this House. Congress had received the fund, and had become responsible for it. They were the trustees. Were they to act before a committee of the House had reported upon the manner in which the funds had been disposed of, and upon other matters of that kind? He was utterly astonished that his amendment should find any opponent on this floor. Did gentlemen wish to exclude all light upon the subject—to prevent the country receiving such information as it was in their power to give—to keep from public view the facts connected with the expenditure of the money? It was strange that any gentleman should be found willing to say that he did not want a committee which might ascertain all the facts and report them to the country. Various complaints had been made as to the expenditure of the money, the structure of the building, and the material of which it was composed. Were gentlemen willing to exclude all those facts which it was requisite should be known in order to arrive at correct conclusions, and intelligently to direct the future operations of the institution? If all was going on well, if the building was properly constructed, and the money had been properly expended, let the country understand it. He trusted that the House would adopt his proposition, and that a committee would be appointed.

Mr. McCLELLAND said that he was not opposed to the appointment of the committee contemplated by the amendment of the gentleman from Tennessee, [Mr. JOHNSON.] At the same time, if he had no other reasons than those which had been assigned by the gentleman from Tennessee, he (Mr. McC.) should be radically opposed to such an appointment. Reports had been sent in by the Board of Regents that were very full and ample in regard to all the facts that the people throughout the country could desire to know concerning this institution. One very full report of all facts touching the institution had been laid before the House at the last session of Congress. The House had refused to print it. That report, his friend from Tennessee [Mr. JOHNSON] would find, had set forth, in a simple and lucid manner, everything connected with the institution since its organization—everything that had been done under the law passed by Congress down to that time. He, (Mr. McC.,) for one, as a member of the Board of Regents, would say, that it was not afraid of any investigation by a committee of this House or otherwise. He would go as far as any reasonable man in favor of economy and retrenchment; and he would say that the Board of Regents, so far as his knowledge extended, had acted upon both these principles in every step they had taken. He was astonished, on entering upon his official duties, to find that almost every report which had been put in circulation in regard to the institution was entirely false and groundless. He hoped that every gentleman here, who was a friend to the institution, would permit a committee to be appointed, and that it might be composed of members who were radically opposed to the institution, so that no barrier should be interposed to the most rigorous and searching scrutiny. And (continued Mr. McC.,) if that committee shall give to the country such a report as I know they will give, (for none other *can* they make,) the effect will be to raise the institution to a higher point in public estimation than any which it has ever yet attained.

Mr. HILLIARD rose, as a member of the Board of Regents in this House, to make no opposition to the amendment of the gentleman from Tennessee, if it should be the deliberate opinion of the House that such a committee should be appointed. But he wished the House to mark the spirit in which the motion was made. When the report was brought forward by him (Mr. H.) from the Board of Regents of the Smithsonian Institution, at the last session of Congress, and a motion was made to print it, the gentleman from Tennessee was the very one who interposed his objection to the printing. They had been reproached with not being willing to exhibit their doings to the country.

It had been said that there had been improper expenditures of money, an indiscreet distribution of funds authorized by them. Here was an ample report setting forth all the facts, making everything plain; and when he had moved the printing of the report, for the information of the country, to his amazement that very gentleman objected to the printing, on the simple ground of expense. But now the gentleman came forward with a proposition to form a standing committee whose business it should be to supervise the action of the three members of this House and the three members of the Senate who were already charged with directing the affairs of this institution. He should offer no objections to the proposition; he left it to the taste and judgment of the House. For one, he gave way, and yielded any objections which he had hitherto offered to the proposition.

Mr. JOHNSON, of Tennessee, said the gentleman from Alabama seemed to have stepped off upon the wrong track when he said that the simple objection which he (Mr. J.) had had to the printing at the last session of Congress was that it would involve an expenditure of money.

Mr. HILLIARD (in his seat) said he had so understood it.

Mr. JOHNSON continued. The gentleman from Alabama had wholly misconceived his opposition to the printing of this report at the last session of Congress. It would be remembered by the gentleman from Alabama, and by the whole House, that he (Mr. J.) was striving the whole session, that he had made effort after effort to procure the appointment of a committee before this report should be printed, that they might ascertain whether this was the report which should be printed or not. This was the objection he had to the printing of the report. He wanted it referred to a committee, with instructions to inquire into the expediency of printing this report, and also of printing a work which they desired to have printed upon architecture—a kind of mongrel report prepared by some of the regents. He wanted a committee appointed to inquire into all the facts about the institution, and to report them to this House; as well as to inquire into the expediency of printing this long, voluminous report of the regents.

Mr. HILLIARD said he believed he had understood the gentleman's remarks correctly, so far as his objections went to the expenses of the printing. The gentleman now chose to assume other grounds; that he desired to examine whether it was such a report as the House ought to receive. Now it would have been far better for the gentleman to have allowed it to be printed, and then this House would have been better enabled, at this session, to ascertain the fact whether it was such a report as they would receive.

But there was no concealing the fact, that the spirit in which the gentleman made his motion did not grow out of any desire to have the affairs of this institution better conducted, or to make its action more efficient, or to relieve it of a single burden; but, on the contrary, from the uncompromising hostility which the gentleman from Tennessee and a few others—he was happy to say they were but few—felt against this institution. The gentleman would be for destroying its organization, for razing its structure to the very foundations, and for returning to the British Government, or to the trustees of the donor, the munificent sum which had been received from that quarter. He asked the gentleman if it was not so, and if he was not opposed to any use whatever being made of the fund for the establishment of an institution in this country called the Smithsonian Institution?

Mr. JOHNSON said, as the question had been asked him, he would very cheerfully answer it. The gentleman wanted to know if his hostility was not fixed to this institution.

Mr. SMITH, of Connecticut, rose to a question of order. He wished to know of the Speaker whether it was in order to discuss the general merits of the Smithsonian Institution upon a mere proposition to appoint a committee?

The SPEAKER replied that the House had adopted no rules of proceeding, and that the Parliamentary law allowed a very wide range of debate.

Mr. JOHNSON proceeded in his explanation. He was satisfied that the gentleman from Alabama with no unkind spirit asked if he (Mr. J.) was not fixed in his hostility to the very organization of this institution. He could inform the gentleman from Alabama that he misconceived his relation to the Smithsonian Institution. He had no fixed hostility to it. The hostility (if it could be so called)—the opposition which he had to this institution rested upon other and different grounds from a mere hostility to the design of such an institution. One of the principal reasons why he wanted this committee appointed was not out of opposition to the Smithsonian Institution; but taking into consideration the peculiar crisis of the country at that time, and the continuation of that crisis at this time, and the burdens which this institution was imposing upon the Government, he wished to see its affairs thoroughly investigated and brought before the public. That this fund had been received from the United States; that the United States had discharged its duty as trustee with fidelity; that this fund had been sunk and lost,—these were all true; and according to his construction of the Constitution and of the duties of a trustee, he considered that the Government was exonerated from any further responsibility in connection with this fund. It was well known that the original fund had been lost, and it was known, too, that the law establishing the Smithsonian Institution, took the money out of the treasury of the Government—out of the people's pocket. When the Smithsonian Institution was founded, every dollar of the money received from Mr. Smithson was gone—not a dollar of it was available. He had opposed an institution of this kind being established with funds taken out of the treasury; not that he was opposed to an institution established upon the Smithsonian fund—not that he disapproved of the object of the donor, but he was opposed in time of war, when we were incurring a very heavy public debt, to going into the treasury, and establishing an institution of this description, at an expense to the people of some five or six hundred thousand dollars.

Another reason was, that he believed, under the law itself, the money had been improperly withdrawn from the treasury of the United States. The House had been informed, by the able and eloquent gentleman from Alabama, that the regents had withdrawn money from the treasury to the amount of $242,000, and by an extraordinary process of financiering, were doubling and compounding it. They had been informed, also, that none of the principal had been expended. How had this been done? Why, when the law was passed, every gentleman here at all familiar with the subject knew that this fund was gone—that not one dollar of it was left; he had the documents before him to show that this was the fact. But the law placed that in the treasury which was not there; it was a legal fiction. It said that a certain amount had been placed in the treasury in 1836, and had remained there and been drawing interest from 1836, and that the interest on that sum (which was not in the treasury) was $242,000; and this amount was appropriated to the erection of this institution, called the Smithsonian Institution. He had believed it wrong; he still believed it so. But under this law, how this amount of money had been drawn out of the treasury he had never been able to ascertain. He was in hope, now that a running discussion had arisen on the subject, that they would be informed how this large amount of money had been drawn out of the treasury. He could find no authority for it in the act establishing the institution—no authority for drawing out of the treasury this large amount of money, and placing it in the hands of their secretary, or at interest, or making any other disposition of it.

The reason why he had opposed the printing of this report at the last session, and proposed the appointment of a committee, was, that there were rumors about the city in relation to the contract for erecting the buildings; it had been charged that there had been bribery going on; cards had been published that there was maladministration in all these matters; that there was corruption in the very incipiency of this institution. They had been told that the building was bad, that the materials furnished were perishable, while he understood it was the design of the donor to have it made fireproof—a substantial, enduring building. He wanted all these facts ascertained. Let the committee take the whole matter under their charge and report the facts, and let the House and the country determine whether it was all right or not.

He referred, as another objection, to the question of the incompatibility, under the Constitution, of the same individuals holding at the same time the office of members of Congress, drawing per diem and mileage as such, and the office of regents of this institution, drawing also mileage and expenses from it—expenses which, when they came to look into these reports, they saw were extraordinary.

The gentleman had gravely charged that he had manifested hostility to the institution. Suppose he had; suppose he was determined to oppose it in every mood and tense: why, if the institution was right—if the object of the individual who gave the money was being carried out—in the name of common sense, would not a committee, by their investigation, convince the House and the country that his objections were not well-founded, if such was the fact? Would not such investigation put the institution and the regents on it better, a more enduring foundation? Then let them have a committee. If the institution was right—if the regents were carrying out the design of James Smithson, let it be ascertained by the committee, and be published to the House and the country.

Mr. HILLIARD resumed. The gentleman now said he had no hostility to the institution. And how did he prove it? Why, he said they had put a fictitious sum into the treasury, and therefore he would repeal the law, and replace the money in the treasury. It was well known that this Government had received the fund from the trustees of James Smithson as a sacred trust. The Government had thought proper to loan the money to the State of Arkansas, he believed; the money had been squandered; and now the gentleman from Tennessee was opposed to the use of a single dollar by the Smithsonian Institution, until the State of Arkansas was made to refund the money! Was he not opposed to the institution? and was not the very object of his motion to uproot the whole establishment, on the ground that the Government had loaned the money to the State of Arkansas, and that it had never been returned? By every moral, by every equitable consideration, the Government having loaned and lost the money, was bound to make good the trust. Therefore, when the Government had thought proper to make the establishment, it had authorized the regents in proper form to draw the money bequeathed by James Smithson. It was in this way that the money had been taken. And because they had thought proper to make a judicious use of it from time to time, they were arraigned by the gentleman as having squandered the funds. Let him agree to have the report published, and he would find that it gave a full account of what they had done.

But the gentleman had said it was a crisis. It had been a long crisis. Thank Heaven the crisis to which the gentleman referred had passed away. The gentleman's allusion to the war reminded him of the apology always offered by the steward in the Bride of Lammermoor, who always accounted for the absence of articles of luxury about the castle of his master, on the ground that there had been a great fire there; and now the gentleman would put down every appropriation, whether for new objects, or to maintain a great existing establishment, by the cry, "the war, the war." He thanked Heaven the war was at an end. He thanked Heaven peace had come in our time; and he trusted that if there had been much treasure squandered in war, this establishment, so sublime in its design, so magnificent in its conception, was not to share in the calamities of war. His objection to the gentleman's scheme was, that it would launch the institution on a political sea. Leave the superintendence of the establishment to the Board of Regents, of whom three were members of the House, and three members of the Senate, and who in some sense constituted a committee of Congress, and leave to them to report upon the state of its affairs from time to time. If their fidelity and discretion could not be confided in, then we had fallen on evil times. But he would not oppose the motion; he would leave it to the judgment of the House to dispose of.

Mr. SMITH, of Connecticut, thought this proposition altogether premature. He had offered a resolution in the ordinary form—a resolution which really ought to have been offered early last week—for the adoption of the ordinary rules and orders of the House, and had connected with this a proposition, as at the last session of Congress, to raise a committee to revise and report upon the rules, from time to time. If this resolution, as offered, should pass, then they would have

a committee upon the rules and orders of the House, and the gentleman from Tennessee could then offer his proposition, and refer it to that committee, who would take such action upon it as they might deem proper. He was now very apprehensive that there was to be no end to this discussion, and no end to their efforts to amend the rules, if they were to favor propositions of this character at all; and he desired to ask of the Chair whether it was competent for him to move the previous question?

The SPEAKER replied that the previous question might be moved; but the question on the amendment, having been first moved, must be first put.

Mr. SMITH inquired, in case the previous question was sustained, if it did not cut off the amendment?

The SPEAKER said the previous question could not be put until after the question was taken on the amendment; and he read from the Manual on this point.

Mr. SMITH. If the previous question is moved, does it stop debate on this proposition?

The SPEAKER replied in the negative; but said he would regard the previous question as moved, so that, when this amendment was disposed of, no other could be moved, and then no debate could arise except upon the previous question—the previous question being debatable under the Parliamentary law.

Mr. WHITE inquired, in case this resolution was adopted, if it did not place all the bills and resolutions, &c., on the calendar as they were at the close of the last session—if it did not leave the House precisely in the position in which they were at the close of the last session?

The SPEAKER replied in the affirmative.

Mr. WHITE said, then, that a proposition of this character had been referred to the Committee on Rules, and remained unacted on. He wished to know whether it would not be competent to reach it in the ordinary way? and whether there was, therefore, any necessity for the adoption of the amendment of the gentleman from Tennessee?

Mr. MARSH said he did not rise for the purpose of impugning or defending the conduct of the Board of Regents, or even for the purpose of entering into the discussion of the merits of this motion; but simply that it might not be inferred from his silence that any member of the board in this House was opposed to the adoption of the resolution. On the contrary, he was now, and had been from the time it was offered at the last session, decidedly in favor of its adoption. He was satisfied, from what he had seen of the management of this institution, that a committee such as was proposed by the gentleman from Tennessee would serve as a most wholesome and necessary check upon the proceedings of this institution. He believed that the Board of Regents would be, and ought to have been long since, made acquainted with its direct responsibility to the power which had created it.

Mr. RHETT said, for the reasons which the gentleman from Vermont had assigned, he trusted a committee would not be appointed. He wanted no such direct responsibility as the gentleman had spoken of. He was opposed to any connection of the Government with this institution; and he would suggest to the gentleman from Tennessee that his establishment of a standing committee was the very method of all others which was to give permanency to this institution, and attach it forever to the Government. The only way to get rid of it was, to let all the money be paid over to these gentlemen—the regents, and the Government cut themselves loose from it entirely. He was opposed to any committee, standing or otherwise, which set up a congressional supervision over the regents of this institution, or over the institution itself. He hoped, therefore, unless the House was determined to carry on this connection, to perpetuate it, and be responsible for the acts of this institution, that this committee would not be appointed. On the contrary, if the regents thought proper, let the whole money be paid over to them, and the Government be cut off entirely from all responsibility or connection with it.

Mr. JOHNSON, of Arkansas, said he would take the liberty of making a remark here, for the purpose of setting himself and the State which he had the honor to represent in some degree right, in reference to this Smithsonian fund. The gentleman from Alabama had said that the State of Arkansas had squandered all this fund. Now, whether it was any enjoyment to the gentleman to assail his (Mr. J.'s) State——

Mr. HILLIARD explained, disclaiming the slightest intention to assail the gentleman's State, and saying that he had merely spoken of the money as being lost or squandered by the General Government.

Mr. JOHNSON said the gentleman ought to have been aware of the fact, that he might wound the feelings of some persons on the floor, in his rather loose and general style of speaking. He had heard those who did not like some of the Yankees, damn them all as a class. He never thought they did exactly right to damn every Yankee (a laugh) because they disliked some few whom they had met. There were some very clever gentlemen amongst them; he wished there were as good elsewhere.

Now, he wished to say a few words in regard to this State and this fund. The gentleman had said the whole of this Smithsonian legacy had been squandered by the State of Arkansas. Squandered—how? Did the gentleman know anything about the disposal of this money by the State of Arkansas? If he did, he knew it had been lost by the adoption, by that State, of his loved system—the banking system.

He wished to state, in order that his State might stand free from any unjust charge here, that there was not, within the limits of that State, and never had been, a respectable party, known as a party, who would repudiate the first dollar of the debt she owed. If there were such persons, he could only pledge himself, as an humble individual, that he would always fight them. Small as she was, insignificant as she was, there was no man within her limits who could live a political life for one day, and espouse such a doctrine. What was her condition? She was poor; her population was small; the taxes upon her people would be increased beyond human endurance, if they were put on to pay this debt at once. She was growing; she had natural resources, great and extensive; give them time to be developed, and she would pay this debt, and every other debt she owed. He believed it, before God.

But in the account between the United States and the State of Arkansas, the debt was not altogether on the side of the latter. It had used to be a matter of jest with his predecessor—a proud and honorable man, whose post he could never fill—that whenever the United States would settle, *then* Arkansas would settle too. There was, nevertheless, a good deal of truth in this. The whole per centage on the sales of the public lands, which belonged to that State, had been reserved by the Government—for what? To apply towards the payment of this Smithsonian fund. What the amount was, he did not know. He hoped there would be enough to pay the interest; he would like it if there was enough to pay the principal too; there might not be enough to pay either. But that that State would come up to the mark, and fully pay all her debts, both principal and interest, whenever she was able to do so, he assured the gentleman from Alabama and the country. He hoped the gentleman would not further attack the State in general; he would rather he would attack him. He did hope they would hear no more of this general denunciation—as far, at least, as the State of Arkansas was concerned. [A laugh.] He did not care if the gentleman attacked Alabama, [renewed laughter,] or any other State, with the consent of those who were to defend her; but let him not jump upon his State, because she was small! Why, gentlemen of magnanimity ought to be ashamed of themselves for such a course.

He was against this amendment, because this business was already placed in the hands of honorable men, the regents of the institution, who were fully competent to discharge the duty assigned to them; and furthermore, because they were amply severe upon the State of Arkansas, [a laugh,] from the experience he had had with them, without other men being added to them.

Mr. HILLIARD rose simply for the purpose of disclaiming any intention, in the remarks he had made, to assail the State of Arkansas.

Mr. McILVAINE rose, and was understood to intimate his desire to move an amendment. But it was not now in order.

The question was thereupon taken on the amendment of Mr JOHNSON, of Tennessee, and was decided in the negative.

So the amendment was rejected.

The demand for the previous question was then seconded; the main question was ordered to be put; and, under its operation, the resolution of Mr. SMITH was adopted.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House sundry communications, viz:

I. The annual report from the Secretary of the Treasury on the state of the finances; which was referred to the Committee of Ways and Means, and ordered to be printed.

II. A letter from the Secretary of the Navy, transmitting, in compliance with the act approved on the first of May, 1820, a statement from the Second Comptroller of the Treasury, of the appropriations for the naval service for the fiscal year ending June 30, 1848; which letter and statement were laid upon the table, and ordered to be printed.

III. A letter from the Secretary of the Treasury transmitting the annual report of the operations of the General Land Office during the last year, by the Commissioner thereof; which letter and report were laid upon the table, and ordered to be printed.

IV. A report from the Clerk of the House of Representatives on the resolution of the House of the 7th of August, transmitting a statement of the books furnished in compliance with said resolution; laid on the table, and ordered to printed.

RESOLUTIONS.

The SPEAKER proceeded to call the States in their order for resolutions.

When the State of Massachusetts was called in its order—

Mr. ASHMUN rose and said, that he had not risen to offer any resolution, but simply to state the reason why he should not do so. The resolution which he had had the honor to introduce, some days ago, in relation to the reports of the debates and proceedings of this House, had met with an unexpected opposition. It had met not only the opposition of the gentleman from Illinois, [Mr. WENTWORTH,] and a sympathizing opposition of the gentleman from Ohio, [Mr. ROOT,] to which he (Mr. A.) would make no reply, but it had also met other opposition from gentlemen connected with the press. It appeared to have started the jealousies of the press, and he certainly would not dare to touch so delicate an organ.

He also understood that a petition had been this day presented from a paper published in the city of New York—the Herald—asking that the debates might be published in that paper, and making certain propositions, having that object in view. That petition has been referred to the Committee on Public Printing, and, so far as he was concerned, he was content to await the action of the committee on the subject. He desired, however, to say, that in declining for the present to renew the proposition directing the Clerk to enter into a contract with the proprietors of the National Intelligencer and the Union, he acted entirely with the concurrence of the editors of the former paper. He had in his possession a note from them, requesting him to withdraw the proposition, because they had observed the character of the comments which, here and elsewhere, had been made upon it. They declared that their self-respect would not permit them to place themselves in a position where they could be represented as the "baited" and pensioned agents of this House. Under the parliamentary law, he presumed the resolution would die on the day on which it had been offered. He had now the opportunity of renewing it; but, as he had stated, he should decline to do so. He wished to say, however, that in his judgment the House and the country could not secure accurate, fair, prompt, and impartial reports under any other system than that contemplated in his proposition. He knew that the only mode by which such reports had hitherto been promptly conveyed to gentlemen of all parties, had been through the medium of these papers. He knew of no other paper, with the single exception of the New York Herald, which had attempted a daily publication of the debates and proceedings of Congress. That paper had done more in this respect than any of its compeers in New York, enterprising as the proprietors of these papers were; and it was

entitled to credit for having done so. He did not, however, wish to debate the proposition; and, though he had now the opportunity, he should decline to avail himself of it.

Mr. BAYLY rose and said, that though he was aware that it would not be strictly in order, yet, if he might be indulged, he would like to say a word.

The SPEAKER stated that the gentleman could proceed only by unanimous consent.

Objection being made, Mr. BAYLY took his seat.

Mr. SMART offered the following resolution; which was read, and laid on the table one day under the rule, viz:

Resolved, That the Secretary of the Navy be requested to communicate to this House the number and places of birth of all persons employed in the naval and marine service, on the Gulf and Pacific coasts during the war with Mexico; and also that the Secretary of war be requested to communicate to this House the whole number of regular troops engaged in the late war with Mexico, and the States in which they were enlisted, and any other facts in possession of the War Department, showing the number of regular troops engaged in said war, from each State in the Union.

On motion of Mr. MURPHY,

Resolved, That it be referred to the Committee on Commerce, to inquire into the expediency of erecting a light-house on Governor's Island, in New York harbor, and improving Butter-milk channel.

On motion of Mr. CONGER,

Resolved, That Thomas Garner have leave to withdraw his papers from the files of the House.

On motion of Mr. DUER,

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the expediency of causing the triangular pieces of ground, formed by the intersection of the streets of the city of Washington with Pennsylvania avenue, to be enclosed and planted with trees and shrubbery.

Mr. WHITE offered the following resolution; which was read, and laid on the table one day, under the rule, viz:

Resolved, That the Secretary of War cause an estimate of the value of the public property, including the soil on Governor's Island, in the harbor of New York, to be made, and report the same to this House at the earliest practicable period, with a view of ceding the said island, and so much of the public property as cannot be moved, to the city of New York.

On motion of Mr. HUNT,

Resolved, That the Committee on Commerce be directed to inquire whether any, and what alterations ought to be made in the regulations of the Treasury Department in relation to the storage of goods in public warehouses at New York, and other ports of entry.

On motion of Mr. GREELY,

Resolved, That the Clerk of this House, under the supervision and with the approval of the Committee on Accounts, be, and he is hereby, instructed to ascertain and determine what sums are justly due to the witnesses, respectively, in the contested election of Monroe *vs.* Jackson, and also the commissioner who took their testimony, and the officer or officers by whom they were summoned; and, when ascertained, to pay the same out of the contingent fund.

On motion of Mr. W. T. LAWRENCE,

Resolved, That the Committee on the Judiciary be directed to inquire into the propriety of recommending to the States of this Union to so alter or amend the Constitution of the United States, that in all elections of President and Vice President, which may be had after the year 1850, the persons in each State entitled to vote for members of the most numerous branch of the Legislature of the State shall, on the Tuesday next after the first Monday of November, preceding the time when the term of the persons at the time holding the offices of President and Vice President shall expire, assemble at places designated for holding the polls for such elections, and there vote for one person for President and one other person for Vice President; after which, the number of votes given for President, and the number of votes given for Vice President, shall be counted, and the number given for each person for the offices respectively shall be counted, and returns made of the whole to officers authorized to receive the same; and the number of votes given to each person for President shall be estimated as such a proportion of the vote of the State (equal to the number of Senators and Representatives in the Congress of the United States to which the State is entitled) as the said votes bear to the whole number of votes given within the State for President: the like rule to be observed in regard to the votes given for Vice President. And returns shall be made from all the States on or before the —— day of December, at Washington, to officers authorized to receive the same, of the votes given and so estimated, who shall examine the same, and ascertain the correctness thereof; and any person receiving a majority of all the votes (so estimated) given in all the States for President (the total number of the votes given in each State being counted as so many votes as the said State shall be entitled to Senators and Representatives in the Congress of the United States) shall be President. But if no person shall receive a majority of the votes (thus estimated) for Vice President, then the Senate, on or after the fourth day of March next ensuing, shall select from the persons having the three highest numbers of votes so estimated, one to be Vice President; and if no person shall receive a majority of all the votes so estimated given for President, then the President shall be selected out of those who have received the five highest numbers of votes for President, (so estimated,) as follows: Each State shall be divided into the same number of districts as the said State shall be entitled to Representatives in the Congress of the United States, and the persons who were entitled to vote for President shall have at the same time voted for one person as a district elector, and two other persons as State electors; and the one who shall receive within the district the largest number of votes as district elector, and the two who shall have received within the State the largest number of votes for State electors, shall be electors for the State; and on notice given them that no President has been elected by the people, the electors shall assemble within their own States, at a place designated, and on the——day of——and if the whole of the electors of the State be not assembled by——o'clock of that day, those assembled shall proceed by vote to fill up their number, and on the next day at the same place shall proceed to vote for a person for President, each elector voting for one of the persons who received one of the five highest numbers of votes given for President. A return of all the votes given in all the States by the electors thus assembled, shall be made at the seat of Government of the United States, to officers authorized to receive and examine the same; and if neither of the persons so voted for shall have a majority of all the votes given by the electors of all the States, then from the two having the highest number of electoral votes, the House shall select one as President; but in thus selecting one for President, each State shall have but one vote.

Mr. SLINGERLAND offered the following resolution, which was read; and debate arising thereon, it was laid over one day under the rule, viz:

Resolved, That John B. Fry, who acted as clerk in the office of the Sergeant-at-arms, at the last session of Congress, be paid by the Clerk of this House the same amount of extra compensation as was allowed to the assistant clerks in the Clerk's office.

Mr. TALLMADGE offered the following resolution, which was read; and debate arising thereon, it was laid over one day under the rule:

Resolved, That bill (H. R.) No. 396, entitled "A bill to establish a branch mint of the United States in the city of New York," be taken from the general orders, and made the special order for Monday next.

On motion of Mr. LORD,

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of erecting a light-house on that part of Gardiner's Island, in Long Island sound, known as Gardiner's Point.

On motion of Mr. NEWELL,

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation to provide means for the better preservation of life and property from shipwreck on the coast of New Jersey, between Little Egg Harbor and Cape May, and that they report by bill or otherwise.

Mr. POLLOCK offered the following resolution, which was read; and debate arising thereon, it was laid over one day under the rule, viz:

Resolved, That House Bill No. 468, entitled "A Bill to set apart and sell to Asa Whitney, of New York, a portion of the public lands, to enable him to construct a railroad from Lake Michigan to the Pacific Ocean," be made the special order of the day for the first Tuesday in January next, and continue from day to day until disposed of.

Mr. BUTLER offered the following resolution, which was laid upon the table one day under the rule, viz:

Resolved, That the Secretary of the Treasury be, and he is hereby, required to furnish this House with a statement of the amount of iron imported under the tariff act of 1846, and the amount of revenue received on the same; specifying particularly the amount of each kind of iron imported, and the duties paid on each kind. Also, a similar statement of the amount of iron of all kinds imported annually under the tariff act of 1842, and the amount of revenue received on such importation.

Mr. FARRELLY offered the following resolution, which was read; and debate arising thereon, it was laid over under the rule, viz:

Resolved, That bill H. R. No. 102, entitled "A bill in addition to an amendment of the several acts to promote the progress of the useful arts," be made the special order for Tuesday of next week, and for each succeeding day until disposed of.

On motion of Mr. EVANS, of Maryland,

Resolved, That the Committee on Commerce inquire into the expediency of making an appropriation for the improvement of the harbor of Havre-de-Grace, Maryland, and that the said committee report by bill or otherwise.

On motion of Mr. VENABLE,

Resolved, That the report of the Clerk in relation to the books ordered to be presented to the members of this House, be reported to the Committee on Printing.

NOTICES OF BILLS.

Mr. WILLARD P. HALL gave notice of a motion for leave to introduce bills with the following titles:

A bill further to continue in force the acts for the payments of horses and other property lost in the military service of the United States.

A bill granting to the State of Missouri the right of way and a donation of public lands for the purpose of making a railroad from Hannibal to St. Joseph, in said State.

Mr. McKAY gave notice of a motion for leave to introduce a bill of the following title:

A bill to provide for the settlement of the accounts of officers of the army and navy, or other persons who may have received moneys which were raised in Mexico, either by contributions, penalties, or internal assessments.

Mr. HAMPTON, of Pennsylvania, gave notice of a motion for leave to introduce a bill to repeal the tariff act of 1846, and to restore the tariff of 1842.

In pursuance of previous notice, Mr. GOGGIN asked and obtained leave to introduce a bill (No. —) to reduce the rates of postage on letters and newspapers, to establish uniform postal charges, and to correct abuses of the franking privilege; which bill was read a first and second time, committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

Mr. JOHN A. ROCKWELL gave notice of a motion for leave to introduce a joint resolution of the following title: A joint resolution authorizing surveys of a route for a canal or railroad between the Atlantic and Pacific Oceans.

Mr. ANDREW JOHNSON gave notice of a motion for leave to introduce a bill of the following title: A bill to make the "soil free" or provide an inalienable home of one hundred and sixty acres of the public domain for every poor man who is the head of a family and a citizen of the United States, or a widow who is the mother of a minor child or children, "without money and without price."

Mr. VINTON gave notice of a motion for leave to introduce a bill of the following title: A bill granting lands to certain States, therein named, to aid them in the construction of roads and canals, and the improvement of their rivers.

Mr. FICKLIN gave notice of a motion for leave to introduce a bill of the following title: A bill to grant to the State of Illinois alternate sections of land, to aid in the construction of a railroad connecting the lower Mississippi with the northern lakes and the mineral region, and also a cross railroad from the Mississippi to the Wabash river, in the direction of Louisville, Cincinnati, or Pittsburg—the location to be determined by the Illinois Legislature.

Mr. ALEXANDER EVANS gave notice of a motion for leave to introduce a bill of the following title: A bill to appoint an officer to grant enrolments and licenses, to reside at Chesapeake City, Maryland.

Mr. DUNN gave notice of a motion for leave to introduce a bill of the following title: A bill granting the right of way over the public lands lying in the States of Indiana and Illinois to the Ohio and Mississippi Railroad Company, and a portion of the public lands within said States of Indiana and Illinois, to said States respectively, to be by them appropriated in the construction and completion of a railroad, to be constructed by said company.

Mr. HILLIARD gave notice of a motion for leave to introduce a bill of the following title: A bill to amend an act to divide the State of Alabama into judicial districts.

Mr. W. R. W. COBB gave notice for a motion for leave to introduce a bill of the following title: A bill to graduate and reduce the price of the public lands belonging to the United States, and for other purposes.

Mr. LEFFLER gave notice of a motion for leave to introduce a bill of the following title: A bill to grant to the State of Iowa certain alternate sections of the public lands, to aid said State in the construction of a railroad from Dubuque via Iowa City, to Keokuck, in said State.

On motion of Mr. STANTON,

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of establishing a collection district in that part of Tennessee which borders on the Mississippi, with a port of entry at Memphis.

On motion of Mr. VINTON,

Resolved, That the estimates of the Secretary of the Treasury of the appropriations which will be required for the expenditures of the Government for the fiscal year ending on the 30th of June, A. D. 1850, be referred to the Committee of Ways and Means.

On motion of Mr. EDWARDS,

Resolved, That the Speaker appoint a special committee of five members to inquire into the expediency of so amending the patent laws, as to prevent the patenting of compound medicinal agents, and that the committee report by bill or otherwise.

On motion of Mr. DICKINSON,

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of providing, by law, for the construction of three steam dredging machines, to be used

in protecting harbors on Lake Erie, and in removing the obstructions to the entrance of the same; and that a separate bill be reported for the purpose of carrying the above into effect.

Mr. LAHM offered the following resolution, which was read; and debate arising thereon, it was laid over under the rule, viz:

Resolved, That the Committee on Commerce be instructed to report to this House, at as early a period as possible, a bill making appropriations for such objects of internal improvements of a national character on the western rivers and lakes as are necessary for the protection of the commerce of said rivers and lakes, as also of the lives of persons traveling and employed upon the same.

Mr. TAYLOR offered the following resolution, which was read; and debate arising thereon, it was laid over under the rule, viz:

Resolved, That the Committee on Printing be, and they are hereby, instructed to inquire and report to this House the best mode of causing the proceedings of this House to be published.

Mr. THOMPSON, of Indiana, offered the following resolution, which was read; and debate arising thereon, it was laid over under the rule:

Resolved, That a select committee be appointed to inquire into the expediency of providing by law for the reconnoissance of a route for a railroad from some eligible point in the valley of the Mississippi to the Pacific Ocean, and that they have leave to report by bill or otherwise.

On motion of Mr. HARMANSON,

Resolved, That the Committee on Private Land Claims be directed to inquire into the expediency and justice of extending to confirmers of claims in the district west of Pearl river, Louisiana, known as the Greenbury Land District, the benefits allowed to the district east of Pearl river, in Missi-sippi, by the act of Congress approved March 3, 1845, entitled "An act to confirm the survey and location of claims for land in the State of Mississippi, east of Pearl river and south of the thirty first degree of north latitude" so far that in all cases in which the actual surveys of a claim may fall short of the quantity confirmed, to permit the deficiency to be located on other lands in the same district; and also to allow a new location to the extent which a confirmee may lose by conflict with other rights.

On motion of Mr. EMBREE,

Resolved, That the Committee of Ways and Means inquire into the expediency of adopting a more economical system of public expenditure: *First*, by reducing the salary or pay of all officers of Government one-fourth, where the salary or pay exceeds one thousand dollars per annum, and the Constitution does not prohibit such reduction. *Second*, By estimating the mileage of members of Congress, and Delegates of Territories by the nearest mail route from the city of Washington to the post office nearest the residence of each member or Delegate. *Third*, By providing that, after Congress has been in session for three months during any Congress, the pay of members and delegates shall be reduced one-half from that time to the close of the session. And by such other economical provisions as to said committee may seem right and expedient; and that said committee report by bill or otherwise.

Mr. CATHCART offered the following resolution, which was read; and debate arising thereon, it was laid over under the rule, viz:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of abolishing flogging in the navy.

On motion of Mr. FEATHERSTON,

Resolved, That the memorial of John H. Goldsby, and the accompanying papers, be withdrawn from the files, and referred to the Committee on Invalid Pensions.

On motion of Mr. WENTWORTH,

Resolved, That the President of the United States be requested to inform this House whether he has received any information that American citizens have been arrested by British authorities in Ireland; and if so, what have been the causes thereof, and what steps have been taken for their release, and if not, in his opinion, inconsistent with the public interests, to furnish this House with copies of all correspondence in relation to the matter.

On motion of Mr. WILLARD P. HALL,

Resolved, That the Committee on Public Lands be instructed to inquire into the propriety of so amending the acts granting rights of preëmption, as to grant rights of preemption to settlers upon public lands before they are surveyed, upon the same terms that such rights are now granted to settlers upon surveyed public lands.

On motion of Mr. CHARLES E. STUART,

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of surveying the mouth of north Black river, on Lake Michigan, and building a light-house thereat.

On motion of Mr. WM. THOMPSON,

Resolved, That the Committee on the Territories be, and are hereby, instructed to inquire into the expediency of so dividing the Territory of Upper California, as to organize and extend a distinct territorial government over that portion of said Territory which includes the white settlements in the vicinity of Salt Lake; and that they report at an early day, by bill or otherwise.

On motion of Mr. DARLING,

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of providing by law for a greater compensation to registers and receivers of land offices in the location of military bounty-land warrants.

On motion of Mr. LEVIN,

Resolved, That the Committee on Engraving be directed to contract for the engraving of the three maps accompanying the President's message, to accompany the extra copies of the same ordered by the House.

On motion of Mr. GREEN,

Ordered, That leave be given to withdraw the petition and papers in the case of the heirs of Joseph Spencer, a revolutionary soldier. Also, the papers in the case of Colonel Crockett, of Kentucky.

REGENTS SMITHSONIAN INSTITUTION.

The joint resolution of the Senate for the appointment of regents in the Smithsonian Institution was taken up, read three times, passed, and returned to the Senate.

THE TARIFF OF 1842.

Mr. ECKERT offered the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of reporting a tariff bill based upon the principles of the tariff of 1842.

Mr. KAUFMAN moved the previous question; which was seconded, and under the operation thereof was agreed to by yeas and nays—yeas 96, nays 94, as follows:

YEAS—Messrs. Abbott, Ashmun, Barringer, Belcher, Blackmar, Blanchard, Boydon, Brady, Buckner, Butler, Canby, Chapman, Cocke, Collamer, Conger, Cranston, Crisfield, Crowell, Crozier, Dickey, Dixon, Donnell, Duer, Daniel Duncan, Garnett Duncan, Eckert, Edwards, Alexander Evans, Nathan Evans, Farrelly, Fisher, Freedley, Gaines, Gayle, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Haskell, Henry, Elias B. Holmes, John W. Houston, Hubbard, Hudson, Hunt, Charles J. Ingersoll, Kellogg, Daniel P. King, William T. Lawrence, Levin, Lincoln, McIlvaine, Marsh, Marvin, Morehead, Mullin, Nelson, Nes, Newell, Outlaw, Palfrey, Pendleton, Pollock, Preston, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Root, Ramsey, St. John, Shepperd, Sherrill, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Stephens, Strohm, Tallmadge, Taylor, Thibodeaux, Richard W. Thompson, John B. Thompson, Thurston, Tuck, Van Dyke, Vinton, Warren, White, and Wilson—96.

NAYS—Messrs. Atkinson, Bayly, Beale, Bedinger, Bingham, Bocock, Bowdon, Boyd, William G. Brown, Charles Brown, Albert G. Brown, Burt, Cathcart, Clapp, Franklin Clark, Howell Cobb, Williamson R. W. Cobb, Cummins, Daniel, Darling, Dickinson, Faran, Featherston, Flournoy, French, Fulton, Goggin, Green, Willard P. Hall, Hammons, Haralson, Harmanson, Harris, Henley, Hill, I. E. Holmes, Inge, Iverson, Jenkins, Andrew Johnson, James H. Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, Lahm, La Sere, Sidney Lawrence, Leffler, Ligon, Lord, Lumpkin, Lynde, Maclay, McClelland, McKay, Job Mann, Meade, Miller, Morris, Morse, Murphy, Nicoll, Peaslee, Peck, Petric, Pettit, Peyton, Phelps, Rhett, Richardson, Richey, Robinson, Rockhill, Sawyer, Smart, Robert Smith, Stanton, Starkweather, C. E. Stuart, Thomas, James Thompson, Robert A. Thompson, William Thompson, Tompkins, Turner, Venable, Wentworth, Wick, Wiley, Williams, Wilmot, and Woodward—94.

CONGRESSIONAL CONTINGENT FUND.

In pursuance of previous notice, Mr. COBB, of Georgia, asked, obtained leave, and introduced a bill (No. —) to prevent either House of Congress from disposing of the contingent fund except by joint resolution of the two Houses; which bill was read a first and second time.

Mr. COBB moved that the bill be put upon its engrossment, and also moved the previous question.

After an inquiry by Mr. ASHMUN,

Mr. ROCKWELL, of Connecticut, moved to lay the bill on the table; which question was decided, by yeas and nays, in the negative—yeas 69, nays 107, as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Barrow, Blackmar, Blanchard, Boydon, Brady, Buckner, Butler, Canby, Chapman, Collamer, Cranston, Crowell, Dickey, Dixon, Donnell, Daniel Duncan, Eckert, Edwards, Alexander Evans, Nathan Evans, Fisher, Freedley, Gaines, Gayle, Grinnell, Hale, James G. Hampton, Moses Hampton, Haskell, Henry, John W. Houston, Hubbard, Hudson, Hunt, Kellogg, Daniel P. King, William T. Lawrence, Lincoln, Lynde, McIlvaine, Marsh, Marvin, Mullin, Nelson, Nes, Newell, Outlaw, Pendleton, Putnam, Julius Rockwell, John A. Rockwell, St. John, Sherrill, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Tallmadge, Taylor, Richard W. Thompson, John B. Thompson, Tompkins, Van Dyke, Vinton, Warren, and White—69.

NAYS—Messrs. Atkinson, Barringer, Bayly, Beale, Bingham, Bocock, Bowdon, Boyd, William G. Brown, Charles Brown, Albert G. Brown, Burt, Cathcart, Howell Cobb, Williamson R. W. Cobb, Cocke, Conger, Crozier, Daniel, Darling, Dickinson, Duer, Dunn, Embree, Faran, Featherston, Ficklin, Flournoy, French, Fulton, Giddings, Goggin, Gott, Green, Greeley, Gregory, Willard P. Hall, Nathan K. Hall, Hammons, Haralson, Harmonson, Harris, Henley, Hill, Hilliard, Inge, Charles J. Ingersoll, Iverson, Jenkins, Andrew Johnson, James H. Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, Lahm, La Sere, Sidney Lawrence, Leffler, Ligon, Lord, Lumpkin, Maclay, McClelland, McKay, Job Mann, Meade, Miller, Morehead, Morris, Morse, Nicoll, Peaslee, Peck, Petric, Phelps, Pilsbury, Pollock, Preston, Reynolds, Rhett, Richardson, Robinson, Rockhill, Root, Ramsey, Sawyer, Shepperd, Smart, R. Smith, Stanton, Starkweather, Stephens, Charles E. Stuart, Strong, Thomas, James Thompson, R. A. Thompson, William Thompson, Thurston, Tuck, Venable, Wentworth, Wiley, Wilson, and Woodward—107.

The previous question was then seconded; and, under its operation, the bill was ordered to be engrossed.

The question being on the third reading of the bill—

Mr. ASHMUN objected thereto.

Mr. COBB, of Georgia, moved a suspension of the rules, to allow the bill to be read a third time this day—yeas 83, nays 77. Two-thirds not voting in the affirmative, the motion was lost.

BILLS INTRODUCED.

In pursuance of previous notice, Mr. McCLELLAND asked, obtained leave, and introduced the following bills, viz:

A bill (No. —) making appropriations for the preservation, repair, and completion of certain harbor improvements on the northern lakes.

A bill (No. —) making appropriations for certain harbors on Lake Michigan, and for the improvement of the St. Clair flats; which bills were severally read the first and second time, and referred to the Committee on Commerce.

A bill (No. —) granting to the State of Michigan the right of way, and a donation of the public lands for the construction of a ship canal around the falls of St. Mary's, in said State; which bill was read the first and second time, and referred to the Committee on the Public Lands.

In pursuance of previous notice,

Mr. NICOLL asked, obtained leave, and introduced a bill (No. —) to amend an act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the thirtieth of June, one thousand eight hundred and forty-nine, and for other purposes," approved August 12, 1848; which bill was read a first time, and referred to the Committee on the Judiciary.

In pursuance of previous notice, Mr. ROBERT SMITH asked, obtained leave, and introduced a bill (No. —) granting to the State of Illinois the right of way, and a donation of public lands, for making a railroad connecting the upper and lower Mississippi with the chain of northern lakes at Chicago; which bill was read a first and second time, and referred to the Committee on the Public Lands.

The House adjourned.

IN SENATE.

TUESDAY, *December* 12, 1848.

Mr. CALHOUN, of South Carolina, appeared in his place to-day.

A message was received from the House of Representatives, announcing that the House had passed the joint resolution from the Senate for the reappointment of certain regents of the Smithsonian Institution.

The VICE PRESIDENT laid before the Senate a report from the Superintendent of the Coast Survey, of the operations of that bureau during the last year.

On motion of Mr. BALDWIN, 2,000 copies of this document, in addition to the usual number, were ordered to be printed.

Mr. WALKER presented a memorial of the registers and receivers of the several land offices in the State of Wisconsin, asking for a rearrangement of the compensation allowed for their services; which was read, and referred to the Committee on Public Lands.

Mr. DOWNS presented the petition of Joshua Holden, praying the right of preëmption to a certain tract of land; which was referred to the Committee on Private Land Claims.

Mr. DOWNS also presented a petition of Joseph Walker, praying the confirmation of his title to a certain tract of land; which was referred to the Committee on Private Land Claims.

Mr. DICKINSON presented the petition of William C. Sterrett, praying for a pension; which was referred to the Committee on Pensions.

Mr. BRADBURY presented a petition of Benjamin Stinson, asking payment of the amount due for the charter of the brig Orion, as a store-ship of the United States; which was referred to the Committee on Claims.

Mr. HAMLIN presented a petition of citizens of Cumberland and Lincoln counties, Maine, praying for a new post route from Lewistown to Topsham; which was referred to the Committee on the Post Office and Post Roads.

Mr. BREESE presented a petition of citizens of

Illinois, asking the establishment of a mail route from Galatia, in Saline county, to Mrs. Hawkins's, in Perry county, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. BREESE also presented a petition of Mary Hassell, widow of Benjamin Hassell, asking for a pension; which was referred to the Committee on Pensions.

Mr. BREESE also presented a petition of Ruth Keor, widow of a revolutionary soldier, asking for a pension; which was referred to the Committee on Pensions.

Mr. CAMERON presented two petitions from citizens of Columbia county, Pennsylvania, praying a modification of the existing tariff; which were referred to the Committee on Finance.

Mr. DAVIS, of Mississippi, presented a petition of Thomas M. Taylor, a purser in the navy, praying to be released from liabilities for certain moneys which were lost in consequence of the failure of the bank in which they were deposited; which was referred to the Committee on Naval Affairs.

Mr. JOHNSON, of Maryland, presented a petition of John S. Shriver, president of certain steamboat companies engaged in the coasting trade, asking to be relieved from certain charges imposed by the act of 1793; which was referred to the Committee on Commerce.

Mr. DAVIS, of Massachusetts, presented a petition of Charles Colbeever, asking compensation for services as yeoman in the navy; which was referred to the Committee of Claims.

Mr. DIX presented a petition of Charles M. Keller and others, in behalf of a convention of inventors, asking that certain defects in the patent laws may be remedied; which was referred to the Committee on Patents and the Patent Office.

Mr. RUSK presented a petition of Samuel Colt, asking that he may be authorized by law to furnish repeating fire-arms for the use of the Government; which was referred to the Committee on Military Affairs, and ordered to be printed.

Mr. JOHNSON, of Louisiana, presented a petition of Joseph Raynes, asking the confirmation of his claim to a certain tract of land; which was referred to the Committee on Private Land Claims.

On motion by Mr. UPHAM,

Ordered, That the petition of Azel Spalding, and the documents relating to the claim of Caroline Meek, on the files of the Senate, be referred to the Committee on Pensions.

On motion by Mr. JOHNSON, of Maryland,

Ordered, That the petition of Erskine & Eichelberger be taken from the files of the Senate, and referred to the Committee on Claims.

On motion by Mr. JOHNSON, of Maryland,

Ordered, That the petition of John McColgan be taken from the files of the Senate, and referred to the Committee on Commerce.

On motion by Mr. DIX,

Ordered, That the petition of the heirs of Joseph Wilson, deceased, on the files of the Senate, be referred to the Committee on Claims.

Also, that the memorial of Horace Southmayd & Son, and of Sarah Crandell, James Wermsbey, and the heirs of Samuel Beach, have leave to withdraw their petitions and papers.

On motion by Mr. DICKINSON,

Ordered, That Asa Andrews have leave to withdraw his petition and papers.

Mr. CLARKE presented a petition of William Barton, for arrears of pension; which was referred to the Committee on Pensions.

The following adverse reports, made at the last session, were taken up, and severally concurred in:

From the Committee on Pensions: On the petitions of Elijah Buchanan, Sarah Tyler, Amos Doughty, Joseph Hair, Henrietta Bedinger, Mary Coleman, Mehitable Gibbs, Reuben M. Gibbs, John Stanert, Nancy Jillson, Isaac Davenport, Jedediah Gray, Hector St. John Beetley, Joseph Barclay, Leonard Gray, and Mary Morris Foote.

From the Committee on Naval Affairs: On the petitions of John Baldwin, Ann Kellogg, widow of Daniel Kellogg, John Errickson, and Abel Gregg.

From the Committee of Claims: On the petitions of Arnold Naudain, Littleton D. Teackle, and Amos Holton.

From the Committee on Indian Affairs: On the petitions of Samuel Rusk, William Tyler, and George S. Gaines, late Choctaw commissioners; of the Seneca, Onondaga, and Cayuga Indians; of the citizens of Rochester, New York, in behalf of the Tonawanda Band of Seneca Indians.

From the Committee on Public Lands: On the petitions of Isaac Starke, and the heirs of D. Repentigray.

From the Committee on Private Land Claims: On the petitions of the settlers on, and claimants to, reservations of land in the county of Lee, Iowa.

On motion of Mr. RUSK, the unfavorable report of the Committee of Claims on the petition of C. P. Calkins, was recommitted to the Committee on Claims.

On motion of Mr. DIX, the unfavorable report of the Committee on Revolutionary Claims on the case of H. Solomon, was recommitted to the Committee on Revolutionary Claims.

RESOLUTIONS.

Mr. NILES submitted the following resolution, which lies over one day under the rule:

Resolved, That the committee to audit and control the contingent accounts of the Senate be instructed to inquire into the construction and effect of the resolution of the Senate adopted at the last session, in relation to reporting and publishing the debates of the Senate, and whether any modification thereof is required; and that said committee also ascertain the expense which has been incurred under said resolution since its adoption.

Mr. DICKINSON submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of providing for the advertising of mail lettings by contract, affording full and fair opportunity for competition.

Mr. BREESE submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Kane, in Greene county, in the State of Illinois, to Witt's Mill, or Jalapa, in the same county.

On motion of Mr. WESTCOTT, the following resolution offered at the close of the last session, was taken up, modified, and agreed to, after a few remarks, inaudable from the position occupied by the speaker immediately under the gallery:

Resolved, That the Secretary of the Treasury communicate to the Senate such information as he may have relative to the expediency of repealing or modifying the act of June 30, 1834, concerning tonnage duty on Spanish vessels.

Resolved, That the Committee on Finance be instructed to inquire into the expediency of repealing "An act concerning tonnage duty on Spanish vessels," passed June 30, 1834, or modifying the said act so as to allow Spanish vessels from Cuba to trade between that island and any port of the United States upon the same footing, as to tonnage duties, as vessels of other foreign countries are allowed to trade between the ports of their country and the ports of the United States.

The following resolution, presented yesterday by Mr. BRADBURY, was taken up for consideration:

Resolved, That, until otherwise ordered, Thursday of each week be set apart for the consideration of private bills; and that at one o'clock, p. m., on Thursday next, the Senate will proceed to the consideration of those bills, to the exclusion of other business.

The question being on the adoption of the resolution—

Mr. BRADBURY said, he had been induced to offer this resolution, because the calendar of the last session, which, under the new rule, was to be resumed, presented a very large aggregate of business. The numerous bills now to be acted on had been investigated by the various committees with great labor; and when the calendar was taken up, they would have to undergo examination. In addition to these bills, we shall soon have those from the other House. It appeared only proper, therefore, that the Senate should take up their own calendar, and act on it at once. There was another reason: the numerous claimants, who were waiting for the disposition of their claims, had a right to know their fate, whether or not their claims would be allowed.

Mr. KING stated his objection to the resolution. Experience had shown, that whenever a certain day was fixed to be appropriated exclusively to private claims, there was usually a thin attendance of Senators, as no general interest was felt in these cases. When brought forward in the regular order of business, they were examined with more attention. When particular days were assigned, it frequently happened that only one or two cases were disposed of before an adjournment took place. He thought, therefore, that the best way was to go on with the business in the ordinary way. He thought that if the Senator from Maine could be induced to take the same view of the subject, he would come to the same conclusion.

Mr. BRADBURY thought that the experience of the last session was opposed to the view of the Senator from Alabama. The special order occupied the whole time of the Senate, and no private bill could be acted on until a resolution appropriating certain days for private business was agreed to.

Mr. WESTCOTT regarded the vote on this resolution as settling the question whether any private business would be acted on during this session or not. Under the adoption of a similar resolution, more private business was disposed of last session than during any previous one. He complained of the injustice which was exhibited towards the Committee of Claims, as well as the claimants, by the neglect of the private bills.

The resolution was then agreed to.

On motion of Mr. KING,

Ordered, That the Committee on Military Affairs and the Committee on Naval Affairs consist of seven members each.

COMMITTEES OF THE SENATE.

Mr. KING then said he rose to propose, for the purpose of saving time, to suspend the rules of the Senate, in order that he might suggest to the Senate the expediency of suspending the rule appointing by vote the several chairmen and committees. He had a list in his hand which he believed would meet with no objection. He would therefore move to suspend the rule.

The VICE PRESIDENT remarked that it would require the unanimous vote of the Senate.

Mr. KING. I am aware of it.

The question was then put; and no objection being made, the rule directing the election of the committees by ballot was suspended, and the following list of committees was agreed to:

[Where the committees are not filled up, the vacancy will be supplied by a future arrangement between the Senators on the right and left of the Chair.]

On Foreign Relations.—Mr. Hannegan, chairman; Messrs. Benton, Webster, Mangum, King.

On Finance.—Mr. Atherton, chairman; Messrs. Dickinson, Clayton, Hunter, Phelps.

On Commerce.—Mr. Dix, chairman; Messrs. Breese, Johnson of Maryland, Davis of Massachusetts, Hamlin.

On Manufactures.—Mr. Dickinson, chairman; Messrs. Upham, Butler, Clarke.

On Agriculture.—Mr. Sturgeon, chairman; Messrs. Turney, Spruance, Atherton, Corwin.

On Military Affairs.—Mr. Benton, chairman; Messrs. Davis of Mississippi, Dix, Badger, Rusk, Borland, Metcalfe.

On the Militia.—Mr. Rusk, chairman; Messrs. Atchison, Greene, Dodge, Underwood.

On Naval Affairs.—Mr. Yulee, chairman; Messrs. Miller, Bright, Johnson of Maryland, Cameron, Badger, Dickinson.

On Public Lands.—Mr. Breese, chairman; Messrs. Corwin, Felch, Underwood, Borland.

On Private Land Claims.—Mr. Downs, chairman; Messrs. Foote, Johnson of Louisiana, Fitzpatrick.

On Indian Affairs.—Mr. Atchison, chairman; Messrs. Phelps, Houston, Bell, Foote.

Of Claims.—Mr. Mason, chairman; Messrs. Westcott, Underwood, Bradbury, Baldwin.

On Revolutionary Claims.—Mr. Bright, chairman; Messrs. Bradbury, Upham, Rusk, Johnson of Louisiana.

On the Judiciary.—Mr. Butler, chairman; Messrs. Berrien, Westcott, Dayton, Downs.

On the Post Office and Post Roads.—Mr. Niles, chairman; Messrs. Sturgeon, Pearce, Rusk, Corwin.

On Roads and Canals.—Mr. Hannegan, chairman; Messrs. Foote, Clarke, Walker, Spruance.

On Pensions.—Mr. Johnson of Louisiana, chairman; Messrs. Felch, Phelps, Dodge, Baldwin.

On the District of Columbia.—Mr. Johnson of Georgia, chairman; Messrs. Fitzgerald, Miller, Foote, Greene.

On Patents and the Patent Office.—Mr. Westcott, chairman; Messrs. Turney, Davis of Massachusetts, Dayton, Sebastian.

On Retrenchment.—Mr. Turney, chairman; Messrs. Douglas, Mangum, Niles, Clarke.

On Territories.—Mr. Douglas, chairman; Messrs. Bright, Clayton, Butler, Davis of Massachusetts.

On Public Buildings.—Mr. Hunter, chairman; Messrs. Yulee, Spruance.

To Audit and Control the Contingent Expenses of the Senate.—Mr. Walker, chairman; Messrs. Niles, Pearce.

On Printing.—Mr. Cameron, chairman; Messrs. Fitzpatrick, Johnson of Maryland.

On Engrossed Bills.—Mr. Rusk, chairman; Messrs. Mason, Baldwin.

On the Library.—Mr. Pearce, chairman; Messrs. Davis of Mississippi, Mason.

On Enrolled Bills.—Mr. Rusk, chairman; Mr. Hale.

POWERS OF THE GOVERNMENT.

The following resolutions, offered at the last session by Mr. BAGBY, coming up for consideration, viz:

Resolved, That the Constitution of the United States is a compact between coequal sovereigns, by which they, and each of them, delegated certain specified powers to form a General Government for the common benefit of all the parties to said compact, and such as might become parties to it.

Resolved, That the powers not thus delegated by the parties to said compact to the General Government, nor any department thereof, remain with the States respectively, or with the people.

Resolved, That the Government of the United States possesses no powers, except such as are expressly granted to it by the Constitution, or such as are necessary and proper to carry the granted powers into effect.

Resolved, That the power to construct roads, cut canals, make harbors, or improve the navigation of rivers in any one or more of the States or Territories of this Union, is not among the powers expressly granted to the General Government by the Constitution, nor is the exercise of such a power necessary and proper to carry any of the granted powers into effect.

Resolved, That the power to build piers and docks, erect buoys and light-houses, and improve the harbors on the lakes, if it exists at all, is not derived from the power to regulate commerce, but from the power to provide and maintain a navy.

Resolved, That the Government of the United States does not possess the power to create, originate, ordain, establish, or carry on commerce between or among the States of the Union, but only to regulate such commerce as the States or the people thereof may create, originate, ordain, establish, and carry on between or among themselves.

Resolved, That any attempt by the General Government, under any pretext whatsoever, to construct roads, cut canals, or improve the navigation of any river within the limits of any one or more of the States of the Union, or within any Territory, is a palpable violation of the Constitution; and if it be within the limits of a State or States, is a direct and dangerous encroachment on the rights and sovereignty thereof.

Mr. JOHNSON, of Louisiana, moved that the resolutions be indefinitely postponed.

Mr. KING said he would prefer that another course be taken. He wished the Senator from Louisiana would move to postpone to a certain day, as there might be some Senator who would desire to be heard on the subject.

Mr. JOHNSON then varied his motion, and moved to lay the resolutions on the table.

Mr. KING said he trusted it would be the general understanding that the resolutions might be called up at any time.

The resolutions were then laid on the table.

On motion of Mr. DIX, the bill making appropriations for the repair and preservation of certain harbors and rivers, from which the Committee on Commerce was discharged at the close of last session, was taken up, and recommitted to the Committee on Commerce.

Mr. YULEE gave notice that he would, on Tuesday next, ask the Senate to take up the bill to promote the efficiency of the military and naval establishment, and that this bill be made the special order for that day.

On motion of Mr. DIX, the Senate proceeded to the consideration of Executive business; and, after some time spent therein,

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 12, 1848.

The SPEAKER announced the call for petitions to be in order, and the Territories and States were called in the reverse order, beginning with the Territory of Oregon.

The call having reached the State of Louisiana—

SMITHSONIAN INSTITUTION.

Mr. MORSE observed that he did not rise to present a petition from the State of Louisiana, but to a privileged question; and he asked the attention of the House for a few moments. It was to the reconsideration of the vote on that part of the resolution for the adoption of the rules of the House which rejected the application for a commission on the Smithsonian Institution. He thought, without entering into any argument on this subject, that the House would see the propriety of appointing a committee, in order to meet the views expressed by the gentleman from Vermont, [Mr. MARSH,] as well as by the gentleman from South Carolina, [Mr. RHETT.] And he had no doubt that those of their friends on this side of the House who desired to terminate all connection between the Government and this institution, would see as well the propriety of submitting this matter to a committee, who would be authorized, without further instruction, to examine and see whether it would not be better, and whether it would not be carrying out the trust which the Government had solemnly accepted from the late James Smithson, to hand over all the moneys which had been received by the United States, to an incorporated body, who should have the sole charge of the funds arising from this legacy. Such of the gentlemen on the other side of the House as thought the affairs of the institution would be better managed under the surveillance of a committee, must be of the opinion that it would be well to bring to the knowledge of the House the true, exact state of that institution. It was true a very elaborate, a very able report had been made by the regents; but it was an *ex parte* report, so far as the interests of this country and the House were concerned. Let a committee be appointed, of capable men, who should take the matter into consideration, and see whether the ends of the donor would be best carried out by keeping it under the control of this Government, or whether they would not faithfully discharge their trust, after having passed a law for the erection of suitable buildings, by disembarrassing the Government and the House from all connection with the institution. He held it to be a responsible duty which this House had taken upon itself; and whatever might have been the opinion of gentlemen on this side of the House, as to the propriety of accepting the legacy, it was now too late to interpose any objections on that score. The two Houses of Congress were under solemn obligation faithfully to discharge the duty which, as the trustees of the people of the United States and of James Smithson, they had undertaken; and that duty could only be discharged by referring the matter to a committee, impartial in its character, capable of examining, who should report the facts to this House, as to the future conduct of this institution.

He was not disposed to commit himself now to either course, whether he should be in favor of continuing the connection of this institution with the Government or not; or whether he could see his way clear to disembarrass the Government from any further connection with it. He merely threw out the suggestion, that if a committee of gentlemen on this floor should show them, should indicate clearly that this could be done, then he apprehended there was no gentleman who would not be willing to leave it in the hands of the gentlemen who should have charge of this institution. The bill which established this Smithsonian Institution had passed hastily, without having undergone the surveillance of any committee. It was true, a distinguished gentleman had made an elaborate report from a committee appointed on this subject, accompanied by a bill; but the House would recollect that that report was rejected, and a substitute offered by a gentleman from New York, [Mr. HOUGH,] which embodied some amendments offered by himself, (Mr. M.,) and by other gentlemen, was passed, and became the act under which the institution was at present organized. That act was imperfect in itself. His objection to it was, that so far as this House at least was concerned, it was very little discussed, very little debated. He held that Congress could not be true to its trust, unless once in a year or two (if they were to continue the management of the institution) they authorized and delegated a part of their body to examine and report all the facts of the case. He did not desire to take a position either with his friend from Vermont or his friend from South Carolina; but he did desire that this House and the country at large should be possessed of all the facts in relation to the disbursement and management of the large amount of money left by this gentleman, and committed to them as trustees; and the committee might suggest some plan better calculated to carry out the views of the distinguished donor, than this hasty, imperfect act which they had passed.

With these views, he moved a reconsideration of the vote by which the amendment of the gentleman from Tennessee [Mr. JOHNSON] was rejected.

The SPEAKER said it would be necessary first to move to reconsider the adoption of the resolution, and announced the question accordingly.

Mr. POLLOCK moved to lay the motion to reconsider on the table; which was agreed to: Yeas 107, Nays 76, as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Atkinson, Barringer, Bayly, Beale, Belcher, Blackmar, Blanchard, Botts, Boydon, Wm. G. Brown, Butler, Canby, Chapman, Clingman, Cocke, Collamer, Conger, Cranston, Crowell, Dickey, Donnell, Garnett Duncan, Dunn, Eckert, Alexander Evans, Nathan Evans, Faran, Farrelly, Fisher, Flournoy, Fulton, Gentry, Giddings, Goggin, Gott, Green, Greeley, Gregory, Grinnell, Hale, Willard P. Hall, Nathan K. Hall, James G. Hampton, Moses Hampton, Henry, Isaac E. Holmes, Hubbard, Hunt, Charles J. Ingersoll, Jenkins, James H. Johnson, George W. Jones, John W. Jones, Daniel P. King, William T. Lawrence, Lefflер, Ligon, Lincoln, Lumpkin, McIlvaine, McKay, McLane, Marvin, Morehead, Mullin, Murphy, Nelson, Nes, Nicoll, Outlaw, Peck, Pollock, Preston, Putnam, Rhett, Julius Rockwell, John A. Rockwell, Rumsey, St. John, Shepperd, Sherrill, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Stanton, Stephens, Strohm, Strong, Tallmadge, Taylor, Thibodeaux, Thomas, James Thompson, R. W. Thompson Robert A. Thompson, Tompkins, Van Dyke, Wallace, Warren, White, Wick, and Wilson—107.

NAYS—Messrs. Bedinger, Bingham, Bocock, Bowdon, Brady, Brodhead, Charles Brown, Albert G. Brown, Buckner, Cathcart, Clapp, Franklin Clark, Howell Cobb, Williamson R. W. Cobb, Crozier, Cummins, Daniel, Darling, Dickinson, Dixon, Duer, Edwards, Embree, Featherston, Ficklin, Freedley, French, Fries, Gaines, Hammons, Haralson, Harris, Hill, Elias B. Holmes, Inge, Irvin, Iverson, Kaufman, Kellogg, Kennon, Lahm, La Sère, Sidney Lawrence, Levin, Lord, Lynde, Maclay, Job Mann, Marsh, Miller, Morris, Morse, Palfrey, Peaslee, Phelps, Richardson, Richey, Robinson, Rockhill, Root, Sawyer, Smart, Robert Smith, Starkweather, Charles E. Stuart, Jacob Thompson, John B. Thompson, William Thompson, Thurston, Tuck, Venable, Vinton, Wentworth, Wiley, Williams, and Woodward—76.

So the motion to reconsider was laid on the table.

THE CONTINGENT FUND.

Mr. EVANS, of Maryland, rose, he said, to a privileged question. He moved to reconsider the vote by which the House had yesterday ordered to be engrossed the bill (introduced by Mr. COBB, of Georgia) entitled "A bill to prevent either House of Congress from disposing of the contingent fund, except by joint resolution of the two Houses."

Mr. E., in support of his motion, said that the gentleman from Georgia, [Mr. COBB,] in the introductory remarks made by him yesterday, had stated, that at the last session of Congress he had introduced the same bill, and that then a majority of members had been in its favor. In this, so far as his (Mr. E.'s) recollection served him, he apprehended that the gentleman from Georgia was mistaken. His (Mr. E.'s) remembrance of it was, that the House had refused to consider it, and had not shown it favor.

Mr. COBB rose, and asked leave to explain.

Mr. EVANS having yielded the floor for the purpose—

Mr. COBB said, that he would state the fact as it occurred. At the last session of Congress, he had given notice of his intention to introduce the bill. It so happened, that after that notice had been given, it never was in order to introduce bills; but he had moved a suspension of the rules, and his recollection was (for he had not looked at the Journal) that a *majority* of the House voted in favor of the motion to suspend. The rule, however, required a vote of two-thirds, and therefore the bill was not introduced. If the gentleman would refer to the Journal, the fact, Mr. C. thought, would be found to be as he had stated.

Mr. EVANS stated that he had been for the last hour engaged in examining the Journal, but had been entirely unable to find the proceedings of the House upon the subject. If the gentleman from Georgia could find in the Journal what was done at the last session in the premises, he (Mr. E.) would consider him a successful hunter, and be much obliged to him besides. However this might be, he hoped the House would deliberately consider and reconsider what it had done yesterday. The gentleman from Georgia was, as all gentlemen well knew, both intellectually and physically, a man of weight. Was it to be submitted to, that if he should break down his chair or desk, before either could be repaired the assent of the President of the United States

should be obtained? The House could not purchase a carpet, repair a broken bench, order a pound of ice for the water jar, print a bill, nor upon the death of one of its members pay his remains the last decent tribute of respect, except by all the delay attendant upon the passage of a bill. Did the gentleman from Georgia desire to invoke the aid of the veto power in order to prevent what he chose to consider extravagant expenditures, in order to prevent the public money from being lavished in the purchase of useless books and documents? He (Mr. E.) would go as far as any gentleman, but not in this way; he would not consent that the President should be set up as a guardian of this House, and he would not consent that the aid of the veto should be invoked in order to prevent them from doing what their own decent regard for their own reputation and their own sense of right and propriety ought to hinder them from doing. Did the gentleman from Georgia desire, that before the House printed one of its bills, the assent of the President should first be had and obtained?

Mr. COBB (in his seat) here remarked that he did not desire to invoke the aid of the veto.

Mr. EVANS resumed. What, then, *did* the gentleman desire? What was the object of his bill? If he sought for general indefinite appropriations which should afterward be specifically applied, he did not remedy any one of the evils of which he complained. Every dollar of the fund would be expended, and the House would be subjected to all the inconveniences and delays before mentioned. He hoped that the House would not be so wanting in regard to its own dignity, reputation, and welfare, as to deprive itself of all control of its own moneys. He hoped that it would not, from an unmanly fear that abuses might arise, because abuses had arisen, consent to put itself into bonds and trammels; to seek a guardian; and thus publicly profess its own incompetency to manage and control its own contingent fund. If the gentleman from Georgia believed that the signature of the President was not necessary to the expenditure of the contingent fund, under the bill introduced yesterday; if the gentleman believed that by it abuses would be corrected, he would here pause and yield the floor to that gentleman, for explanation. I am sure he sought to do right and justice, and to preserve the rights, the honor, and the dignity of the House. But perhaps the gentleman rather desired to be heard in reply?

Mr. COBB (in his seat) intimated his intention to reply.

Mr. EVANS continued. In that case, he said, he would, after apologizing to the House for speaking so long upon a matter which he must nevertheless regard as one of great importance, yield the floor, in order that the gentleman who upon every subject spoke so sensibly and so well, might vindicate his own bill.

Mr. COBB, of Georgia, said that he would refer the gentleman from Maryland [Mr. EVANS] to the one hundred and seventeenth page of the Journal of the last session of Congress, where it would be found, that on a motion submitted by himself (Mr. C.) to suspend the rules, for the purpose of enabling him to introduce a bill, the vote stood yeas 99, nays 73. He cited this fact in confirmation of the statement he had yesterday made, that the object of the bill had, at the last session, received the approval of a majority of the House.

The gentleman seemed to be alarmed by the apprehension of the exercise of the veto power. He (Mr. C.) would state candidly that he had had no reference to the exercise of that power by the bill which he had introduced, nor did he cherish any desire to bring the contingent fund of the House of Representatives or of the Senate within the operation of that power. He did not even contemplate rendering necessary the signature of the President to the joint resolution providing for the expenditures of the contingent fund of either branch of Congress; and it seemed to him, that if the gentleman from Maryland would reflect a little on the occurrences of the last few months, he would see that there was very little reason to apprehend any difficulty on that point during the next four years. He did not think that the joint resolution would require the signature of the President, any more than a joint resolution providing for the election of chaplains to the two Houses.

Mr. EVANS here rose with the purpose (as the reporter understood) of reading the clause of the Constitution applicable to bills, &c., (and which is hereafter quoted.)

Mr. COBB said he was well aware of the requirements of that clause of the Constitution to which the gentleman referred. But he (Mr. C.) did not consider the resolutions contemplated by the bill to be one of that class of resolutions contemplated by the Constitution of the United States.

Mr. EVANS. If the gentleman will give way for a moment——

Mr. COBB continued. He had the Constitution before him. He did not propose to enter into a discussion upon the constitutional point; but he would say, that even if the gentleman could satisfy him that the signature of the President was necessary, he (Mr. C.) should still urge the bill upon the consideration of the House. He would not say that the reasons why he considered the passage of the bill necessary, had reference merely to the apprehension that the contingent fund would be uselessly or unnecessarily squandered. He would not say that that was the only reason; but he would just ask gentlemen to refer to the history of the disbursements of the contingent fund, that they and the country might see the abuses which had grown out of its expenditure within the last few years.

What was the contingent fund? What was it at the time the Government first went into operation? From a sum of one, two, or three thousand dollars, appropriated for the purpose of defraying the small and necessary expenses of the two Houses to which the gentleman had referred, it had now risen to an aggregate amount of expenditures equal to those of each of two-thirds of the States of the Union, and to double, treble, and even quadruple of those of some of the States. The contingent fund—which was never examined into except by the Committee on Accounts, which never underwent the supervision of the House, the disbursements of which never saw the light of day, amounted at this day to hundreds of thousands of dollars. Where it had originally reached, as he had stated, an aggregate of one, two, or three thousand dollars, it now approximated to the sum of half a million of dollars. Was it right that the money of the people should be thus annually voted away by resolution, perhaps at a midnight session, when not one-third of the members present were conscious of the object to which the money was to be devoted? The proper remedy was a joint resolution providing that whenever money belonging to the contingent fund passed out of their hands, the object for which it was designed should receive the full and deliberate consideration and action of both Houses.

How much had been voted away at the close of the last session of Congress? Neither the gentleman from Maryland nor the House knew the amount which had been voted away, under resolution, on the last night of the last session—the amount of extra compensation to persons who now receive salaries as good as any that were paid under this Government; the amounts voted away for purposes that were wholly unnecessary. Mr. C. referred to a case of this description, which had occurred within his own experience as a member of the Committee on Accounts. A resolution had been introduced, which passed without investigation or inquiry, (because no member felt sufficient interest in the matter to look into it,) directing the purchase of a manuscript, the property of an individual, which was said to contain valuable statistical information. He (Mr. C.) resisted the appropriation on this floor; but he could not obtain a hearing; the members would give him no attention. He had also resisted it before the Committee on Accounts, but to no purpose. What was the result? The sum of two thousand dollars was paid for this valuable statistical book, which turned out to be nothing but a compilation from public documents, useless to the country; and rather than incur the expense of printing, the book was ordered to be carried to the Treasury Department, where it was buried among those old and musty documents which never saw the light of day. Would the sum of two thousand dollars have been thus uselessly squandered, thrown into the fire, if a proper investigation into the merits of the matter had been made? This was but one of many similar instances. He could enumerate objects which, in his judgment, never could have received the sanction of the two Houses, if both had been required to act upon them. Let gentlemen look into these matters. They would be struck with the fact, that very large amounts of money had been paid out of the contingent funds of the Senate and of the House, for objects of which they were entirely unconscious. Was it not right and proper to throw around expenditures of one, two, or three hundred thousand dollars, all the checks and guards of which legislation was susceptible? The sum itself, it was true, was voted in the appropriation bills, but there was no reference to the objects for which it should be appropriated.

He was willing that the contingent fund should be placed at the disposal of the two Houses, but that the action of both be such as to show that the objects upon which the money was expended had undergone a fair scrutiny. Could any reasonable objection be made to such a system? If there were any purposes for which it was requisite that these expenditures of the public money should be made, let them be brought fairly into consideration, and if they were meritorious, there could be no doubt that both the Houses would concur in voting the appropriations.

Mr. EVANS interposed and said, that the gentleman was evidently leading the House to suppose that the Senate and the House could dispose of this fund under the joint resolution proposed, without the sanction of the President. He (Mr. E.) desired, therefore, to read the clause of the Constitution to which he had referred:

"Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, (except on questions of adjournment,) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a law."

Mr. COBB remarked, that he would refer to that matter hereafter. He had been going on to ask what objection could be brought to this resolution, unless gentlemen wished to vote away the public money for objects which could not commend themselves to the approval of the House and the Senate? Why did gentlemen oppose it? He asked the gentleman from Maryland, if he believed, in case the concurrence of both branches was required, that appropriations, such as were made at the closing scenes of sessions of Congress, could ever pass? No one believed it. He asked the gentleman if he believed that this appropriation, by which they gave to themselves some eighty thousand dollars' worth of books, by virtue of a mere resolution, hurried through at the closing scene of a session, could receive the sanction of the two Houses, if it was deliberately acted on? Did the gentleman believe that thousands and thousands would be voted away on objects less meritorious even than those to which he had referred? Did he believe that this House and the other would vote these large amounts of extra pay to its officers and everybody connected with the two Houses, if it required the sanction of both Houses?

But it was unnecessary further to refer to instances of wasteful, prodigal expenditure from this contingent fund. The fact was, that this resolution did nothing more or less than place this system of appropriations on its proper basis. Such objects as were meritorious in themselves, such as could bear the light of day, such as could be sustained when deliberately, coolly acted on, would pass, and to these no objections could be made. But as long as the present practice was suffered to continue; as long as they slipped in resolutions at midnight sessions, and pressed them through under combinations of different interests; as long as they passed the resolutions without inquiry, without knowing whether any good was to result, so long would this contingent fund continue liable to these gross abuses, from which nothing but the system he proposed would relieve it.

But the gentleman from Maryland had said, that under the Constitution of the United States, these joint resolutions would require the sanction of the President. He (Mr. C.) confessed, that at the time he introduced this resolution, and still, he was of the opinion that resolutions of the character proposed, were not such as were contemplated by the Constitution in requiring the President's assent to their passage. He asked the gentleman, in what would they differ from joint resolutions for the election of chaplains? Did they not by joint resolution provide for the election of chaplains,

and by joint rules, which were nothing more or less than laws passed in conformity with the Constitution of the United States, provide for the government of the two Houses? If the gentleman drew the distinction between joint rules passed for the government of the two Houses and a joint resolution, it was a distinction only technical, and purely so, and did not affect the merits of the question at all. Suppose that, instead of introducing this resolution, he had proposed a joint rule, by which the two Houses should agree that no portion of the contingent fund of either should be paid out except by the consent of the other: would that have been a violation of the Constitution of the United States? Would that joint rule have required the assent of the President? Well, if that would not be a violation of the Constitution; if such a rule would not require the approval of the President, then the gentleman's objection became a mere technical one, and could be avoided, if necessary, by putting this proposition in the form of a joint rule of the two Houses, instead of a resolution passed by the two Houses.

But he confessed he was willing to let it remain in its present form, even though it required the concurrence of the Executive to give it validity. He had no fear about the improper exercise of the Executive veto. He had no apprehensions that the President of the United States, in the exercise of that high conservative power intrusted to him by the Constitution, and by our fathers who framed it, would improperly, unnecessarily interfere with the action of the two Houses upon a matter of this kind. It did not in the least shake his confidence; it did not abate his anxiety for this measure.

The gentleman has said they could not purchase any little articles which were necessary for the use of the House, if this resolution were carried into effect, without the approval of the Executive; but he (Mr. C.) saw no difficulty under this resolution, in placing a small sum for the purchase of such articles at the disposal of either House. His object was to arrest these enormous expenditures of money from this contingent fund. Let them bring back these contingent expenditures to what they were in the early days of the Republic, when a few hundred or a few thousand dollars were sufficient for the contingencies of either House of Congress. Something must be done, some measure must be adopted, some reform must be resorted to, or the whole appropriations for the contingent funds of the two Houses would swell up beyond the appropriations in their regular appropriation bills. They were already pressing on with tremendous strides to that point. The amount of the contingent fund had increased more rapidly since the organization of the Government than any other expenditure which came from the treasury. It must be arrested; reform must be had on this subject, or a vast system of irregular, unauthorized expenditures would grow up before us. From half a million of dollars, which it had nearly reached, it would go to one million and two millions, and no one could foretell where it would stop. Let them incur the hazard of the Executive veto even, if the Executive approval were required to pass such resolutions, (which he denied,) rather than allow this monstrous system of expenditure to go on.

Mr. WHITE remarked, that he was not a little amused at the language of the gentleman from Georgia. He was amused because, within the last two or three years, the gentleman and his political associates had not only poured out the public treasury at the bung, but had even knocked in the head, and let it all pour forth; and now the gentleman was zealously advocating a measure which he said was to effect some saving in the contingent expenses of this House and the other House of Congress. He was beginning at the small end of the horn; and, so far as he (Mr. W.) was able to discover, the tendency of the gentleman's movement was to blow a little smoke into the eyes of his constituents. He (Mr. W.) was not in favor of any such petty scheme of reform; he believed the people of this country would reform the legislation of this House, if it was necessary, so far as related to its own expenditures; and whenever the expenditures from the contingent fund should reach that point which should render them objectionable to the people, they would take the reform into their own hands, and send a different class of men here to legislate for them. With these views, he should move the previous question.

The demand for the previous question was not sustained: Ayes 59, noes 62.

Mr. COLLAMER said he was unwilling to give a final vote upon this question at the present moment, without an opportunity of protesting at least against the ground on which the gentleman from Georgia had sought to show that that vote would have been given. The gentleman had attempted to detail, at some little length, the great abuses which he said had taken place in the exercise of the power of this House over the disposition of its contingent fund. Now, if nothing at all was to be said in answer to this, and if gentlemen voted against this bill, or voted to reconsider the vote by which it was passed, they, and he among them, would be charged before the country with countenancing this abuse of power. Inasmuch, therefore, as he felt it his duty at present to vote to reconsider; and inasmuch as, at present advised, he should vote against the bill; and inasmuch as his vote would be guided by entirely different considerations from those with which those with whom he acted had been reproached—viz: that they gave countenance to extravagance in the expenditures from the contingent fund—he wished to say a single word in relation to the matter.

He understood that the purpose intended to be effected by this bill was to prevent abuse of the power of the House in the disposition of its contingent fund. Perhaps, without inquiring whether it was true that there had been this abuse of power, it would be a sufficient answer to say, that the abuse of power generally, almost universally, was no reason for abolishing the existence of that power. There was no power which was delegated under this Government, there was none which could be, however important, however vital, but was capable of abuse; and the more important the power, the deeper the danger of its abuse. Therefore, the abuse of power constituted no reason at all for the abolition of that power—none at all. This, perhaps, might be considered a sufficient answer.

But the gentleman from Georgia had served on the Committee on Accounts, and the subject, therefore, had passed under his especial review, and that, he (Mr. C.) supposed, was the reason why the gentleman repeated that this House was not aware of the extent of this abuse. He thought that was so; and he did not think it anything at all arrogant in the gentleman to say he knew a little more about it than most of the members of the House, because he had been in a position which gave him this peculiar opportunity for information on the subject. But the House had been told on this occasion, in relation to these abuses, by the gentleman who had introduced the bill and sustained it, that they did not understand the subject; that they were not at all aware what had been done; that they did not understand what they were about. What then? Why, I want you to swallow this bill, without any examination, without inquiry, upon my representation! That was what was asked. He (Mr. C.) had no objection to its taking a proper examination before the proper committee; he had no objection that all the abuses which existed should be exposed to the country—none at all. He wished them exposed to this House, for the gentleman said the House did not understand them. But was he to vote for the bill conclusively, positively to-day, when the gentleman said we did not understand it? That was the strongest reason imaginable for opposing the passage of the bill at present.

Therefore, if his first position was correct, that the abuse of power constituted no reason for the abolition of that power, and if, as the gentleman had said, it was an important subject, and not understood by the House, these were strong and sufficient reasons why this bill should not now be pressed to a final decision.

But he had another objection—which, perhaps, might be removed; that was, what was meant by a contingent fund? What was the reason for its being created? How, and in what manner, was it created? Our Constitution provided that no moneys should be drawn out of the treasury but by virtue of appropriations by law. Exactly. But inasmuch as small matters, such as penknives, stationery, mending broken chairs, &c., could not all be placed in a bill—especially, could not be anticipated for another session, and put into the estimates—why, a general provision was made in the appropriation bills, setting apart, appropriating out of the treasury, as a contingent fund, a sum of money, to be used for the purchase of contingencies, under the discretion of the House. Now, what were they asked to do? Why, to make a law that the money could not be gotten out of that fund unless by the consent of both Houses and of the President; for the Constitution was very explicit that every joint resolution should be presented to the President, and meet his approval. The gentleman from Georgia said this was not a resolution of that kind; and the case which the gentleman mentioned of the two Houses acting under a joint resolution in the election of chaplains, did not satisfy his mind—not at all. Did not each House separately elect? Was the election the result of the joint resolution? Not at all. Each House chose its own chaplain, and the other could not veto the choice. But under the gentleman's bill, money could not be taken out of the contingent fund except by the joint action of the two Houses and the approval of the President.

Now, it simply came to this: by the adoption of this resolution, would they not practically repeal and do away with the whole system of contingent funds? They would require just as much formality to get the money out of the contingent fund as was necessary to get that fund out of the treasury in the first instance. Therefore, if they wanted a penknife, a ream of paper, or wanted to send their Sergeant-at-arms to arrest a man, before they could do it, they must have a joint resolution to get it out of the contingent fund. They were unwilling to trust themselves with their own money. They wanted the action of the President and of the Senate, to know whether they might use their own money. Now, he did not know but this was necessary. But this would be the effect, as he had described. The appropriations for the contingent fund would be rendered absolutely nugatory; they might just as well get their money, each time, out of the treasury, as out of the contingent fund.

It seemed to him, therefore, that a sort of paradox was involved in the proposition. It was an inconsistency all round. He might, however, be mistaken, and he wanted time before the House was called finally to act upon the question, to have it examined by a committee and thoroughly understood. But the gentleman from Georgia and other gentlemen who pushed forward this bill, seemed to say that they should not take time for inquiry; that the bill should be pressed through the House now.

He had wished briefly to state these views. He could not vote for this bill now, as at present advised, and he wished it distinctly understood, that in so doing he did not mean to throw himself in the way of any inquiry, of obtaining any information, or taking any action which might be necessary to guard against an improper expenditure of the contingent fund.

Mr. BINGHAM asked for the yeas and nays; which were ordered.

The question, "Shall the vote by which the said bill was ordered to be engrossed, be reconsidered?" was then taken and decided in the affirmative: Yeas 97, nays 86, as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Barrow, Belcher, Blackmar, Blanchard, Boydon, Brady, Charles Brown, Buckner, Butler, Canby, Chapman, Clapp, Clingman, Collamer, Conger, Cranston, Crowell, Darling, Dickey, Dixon, Donnell, Duer, Garnett Duncan, Dunn, Eckert, Edwards, Alexander Evans, Farrelly, Fisher, Flournoy, Freedley, Gayle, Gentry, Goggin, Gregory, Grinnell, Hale, Nathan K. Hall, Hammons, James G. Hampton, Moses Hampton, Henry, Hilliard, Isaac E. Holmes, Elias B. Holmes, John W. Houston, Hubbard, Hudson, Hunt, Irvin, John W. Jones, Kellogg, Daniel P. King, Lahm, Lawrence, Levin, Lincoln, Lord, Lynde, McIlvaine, Marsh, Marvin, Mullin, Nelson, Nes, Nicoll, Outlaw, Palfrey, Petrie, Pollock, Putnam, Julius Rockwell, John A. Rockwell, Rumsey, St. John, Sherrill, Silvester, Slingerland, Truman Smith, Stephens, Strohm, Strong, Tallmadge, Taylor, Thibodeaux, Richard W. Thompson, John B. Thompson, Thurston, Tompkins, Van Dyke, Vinton, Warren, White, and Wilson—97.

NAYS—Messrs. Atkinson, Barringer, Beale, Bedinger, Bingham, Bowdon, William G. Brown, Cathcart, Chase, Franklin Clark, Howell Cobb, Williamson R. W. Cobb, Cocke, Crozier, Cummins, Daniel, Dickinson, Embree, Featherston, Ficklin, French, Fries, Fulton, Giddings, Gott, Green, Greeley, Williard P. Hall, Haralson, Harmanson, Harris, Henley, Hill, Inge, Charles J. Ingersoll, Iverson, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, La Sère, Sidney Lawrence, Leffler, Lumpkin, McClelland, McKay, McLane, Job Mann, Meade, Miller, Morris, Morse, Peaslee, Peck, Peyton, Puelps, Preston, Rhett, Richardson, Robinson, Rockhill, Root, Sawyer, Shepperd, Smart, Robert Smith, Stanton, Charles

E. Stuart, Thomas, James Thompson, Jacob Thompson, Robert A. Thompson, William Thompson, Tuck, Venable, Wallace, Wick, Wiley, Williams, and Woodward—86.

So the vote was reconsidered.

And the question recurred on ordering the bill to be engrossed for a third reading.

Mr. POLLOCK inquired of the Speaker whether it would now be in order to move that the bill be referred to the Committee on Accounts?

The SPEAKER said that such a motion would be in order.

Mr. POLLOCK submitted it.

Mr. HALL, of Missouri, demanded the previous question.

Mr. POLLOCK inquired whether that motion, if it should prevail, would cut off the motion to commit?

The SPEAKER said no; under the amended rules it would not.

The demand for the previous question was then seconded, the main question was ordered, and being taken, was decided in the affirmative.

So the bill was referred to the Committee on Accounts.

Mr. COBB rose and said, that the disposition just made by the House of the bill which he had introduced, was regarded by him as a final disposition of it. He believed that the House had assented to that disposition in consequence of the suggestion which had been thrown out by the gentleman from Maryland, [Mr. EVANS,] that the sanction of the President would be required to any disbursements which might be made out of the contingent fund. To avoid that difficulty, he (Mr. C.) would now move that the House propose to the Senate the adoption of a resolution, (which he sent to the Clerk's table.)

Mr. ROCKWELL, of Connecticut, inquired of the Speaker whether the resolution was in order?

The SPEAKER said it would be in order when the States were called for resolutions.

Objection was made to the reception of the resolution.

Mr. COBB presumed (he said) that it might be read for information.

And it was read.

Mr. COBB said, that if the objection to the resolution was persisted in, he would give notice of his intention to offer it when the States should be called in their order for resolutions.

Mr. ROCKWELL, of Connecticut, objecting, the resolution was not received.

PETITIONS.

Mr. MURPHY presented the memorial of the underwriters and merchants of the city of New York, asking for the removal of the obstructions to Hurl Gate channel, and for the removal of the rocks in the harbor of New York: referred to the Committee on Commerce.

Also, petition of Captain Joshua P. Powers, for the continuance of the protection of the United States in the matter of his claim against the Republic of Texas, for spoliation of the schooner Mary Elizabeth and cargo: referred to the Committee on Foreign Affairs.

By Mr. N. K. HALL: Petition of John Morrison, of Geneva, in the State of New York, praying for a pension from the passage of the act of April 24, 1816, to the time he obtained his pension certificate as an invalid pensioner under said act.

Also, petition of J. W. Nye, praying for payment for services rendered under a contract with the Postmaster of the House of Representatives, and deposition and papers in support of his claim.

Petitions were presented also, and appropriately referred, by Messrs. WICK, MORSE, DICKINSON, GREGORY, RUMSEY, WHITE, ROCKWELL of Connecticut, GRINNELL, and HAMMONS.

Mr. ROCKWELL, of Connecticut, presented joint resolutions of the Legislature of the State of Connecticut, in approbation of Mr. Asa Whitney's proposed plan of a railroad from Lake Michigan to the Pacific Ocean.

Mr. ROCKWELL moved that the resolutions be printed, and referred to a select committee; but Mr. JONES, of Tennessee, giving notice of his desire to debate them, they were laid over under the rule.

Mr. VINTON, from the Committee of Ways and Means, reported the following resolution; which was read, and agreed to:

Resolved, That the Committee of Ways and Means be authorized to employ a clerk for so much of the session as their business may render necessary, who shall receive the same per diem compensation usually allowed for similar services.

Mr. ROCKWELL, of Connecticut, from the Committee on Claims, to which were referred Senate bills for the relief of William H. Prentiss, and for the relief of Columbus Alexander and Theodore Barnard, reported same back to the House without amendment: committed.

FALSE SWEARING.

Mr. ROCKWELL, of Connecticut, under the direction of the Committee on Claims, moved that the Committee of the Whole be discharged from the consideration of the bill "providing for the punishment of false swearing in certain cases;" and he asked that it might now be put on its passage.

Mr. FARAN suggested that some explanation of its object should be given.

Mr. ROCKWELL simply remarked, that the object was to punish false swearing before the committees—a case which existing laws did not reach.

The bill was then read through, ordered to be engrossed, and was read a third time and passed.

Mr. KING, of Massachusetts, from the Committee on Accounts, reported the following resolution; which was read, and agreed to:

Resolved, That the Committee on Accounts procure a copy for each member of the House, of Colton's Pocket Map of the United States and Mexico, showing the country from the Atlantic to the Pacific Ocean

BILLS INTRODUCED.

Under notices heretofore given, bills were introduced, as follows:

By Mr. HALL, of Missouri: A bill to continue in force the acts for the payment of horses and other property lost in the military service of the United States.

A bill granting to the State of Missouri the right of way, and a donation of public lands, for the purpose of making a railroad from Hannibal to St. Joseph; which were severally read twice, and referred.

By Mr. VINTON: A bill granting lands to certain States therein named, to aid them in the construction of roads, canals, and the improvement of their rivers; read twice, and referred.

By Mr. SAWYER: A bill in addition to an act entitled "An act in relation to military land warrants;" read twice, and referred.

NOTICES OF BILLS.

Notices of motions for leave to introduce bills were given:

By Mr. PHELPS: A bill to pay to the State of Missouri the two per cent. upon the proceeds of the sales of the public lands which have been sold within the limits of the said State, and which have been reserved for the purpose of constructing a road leading to said State.

By Mr. FRENCH: A bill for the relief of Joseph Decret.

By Mr. DICKINSON: A bill granting lands to the State of Ohio, for the construction of a road from Lower Sandusky, Ohio, to the Greenville treaty line, agreeably to the provisions of the treaty of Brownstown, of 1806.

By Mr. GOGGIN: A bill to regulate and equalize the pay, and to provide against future interruptions in the transportation of the mails on railroads in the United States, and the territories thereof.

By Mr. PALFREY: A bill for the repeal of all acts, or parts of acts, of Congress, establishing or maintaining slavery or the slave trade in the District of Columbia.

By Mr. FEATHERSTON: A bill granting a portion of the public lands lying within the State of Mississippi to said State, for the construction of a levee on the east bank of the Mississippi river, in said State.

RESOLUTIONS.

On motion of Mr. LEFFLER,

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of so amending the act of Congress fixing the time of holding the District Court of the United States for Iowa, as to authorize two terms of said court annually, instead of one, as now authorized by law.

On motion of Mr. McCLELLAND,

Resolved, That the Committee on Public Lands be instructed to inquire into the propriety of reducing the price of the mineral lands of Lake Superior.

CONTINGENT FUND AGAIN.

Mr. STUART, of Michigan, moved the following as an additional joint rule of the two Houses:

"That neither the Senate or House of Representatives will dispose of any portion of the contingent fund of their respective Houses without the assent and concurrence of the other House first had and obtained."

Mr. STUART moved the previous question.

Mr. ASHMUN moved to lay the proposed amendment on the table, which was decided by yeas and nays in the negative—yeas 80, nays 87—as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Barrow, Belcher, Blackmar, Botts, Boydon, Brady, Buckner, Butler, Canby, Clapp, Clingman, Collamer, Conger, Cranston, Crowell, Dickey, Dixon, Duer, Garnett Duncan, Dunn, Eckert, Edwards, Alexander Evans, Nathan Evans, Fisher, Gaines, Gayle, Goggin, Gregory, Grinnell, Hale, Nathan K. Hall, Hammons, Moses Hampton, Henry, Isaac E. Holmes, Elias B. Holmes, Hubbard, Hunt, Irvin, Jenkins, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Lincoln, Lord, Lynde, McIlvaine, Marsh, Mullin, Nelson, Outlaw, Palfrey, Pollock, Putnam, Julius Rockwell, John A. Rockwell, Rumsey, St. John, Sherrill, Silvester, Slingerland, Truman Smith, Starkweather, Stephens, Strohm, Tallmadge, Taylor, John B. Thompson, Thurston, Tompkins, Van Dyke, Vinton, Warren, White, and Wilson—80.

NAYS—Messrs. Atkinson, Beale, Bocock, Bowdon, William G. Brown, Charles Brown, Albert G. Brown, Cathcart, Chase, Franklin Clark, Howell Cobb, Williamson R. W. Cobb, Cocke, Crozier, Daniel, Dickinson, Embree, Faran, Featherston, Ficklin, Flournoy, Freedley, French, Fries, Fulton, Gentry, Gidding-, Gott, Green, Greeley, W. P. Hall, Haralson, Harmanson, Harris, Henley, Hill, Hilliard, Inge, Iverson, Andrew Johnson, James H. Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, La Sere, Leffler, Ligon, Lumpkin, Maclay, McClelland, McKay, Job Mann, Meade, Miller, Morris, Morse, Nicoll, Peaslee, Peck, Phelps, Preston, Rhett, Richardson, Richey, Robinson, Rockhill, Root, Sawyer, Shepperd, Smart, Robert Smith, Stanton, Charles E. Stuart, Strong, Thomas, James Thompson, Jacob Thompson, Robert A. Thompson, William Thompson, Venable, Wallace, Wentworth, Wick, Wiley, Williams, and Woodward—87.

The question was then put on seconding the previous question, and decided in the negative.

The proposed amendment then giving rise to debate, it was laid over under the rule.

On motion of Mr. HALL, of Missouri,

Resolved, That the Committee on Public Lands be instructed to inquire into the propriety of establishing an additional land office in the State of Missouri north of the Missouri river.

On motion of Mr. GREEN,

Resolved, That the Committee of Public Lands be instructed to inquire into the expediency of providing by law for a complete and full geographical and mineralogical survey of the State of Missouri, and especially of all public lands in said State, and that said committee report by bill or otherwise.

On motion of Mr. GAYLE,

Resolved, That Senate bill No. 331, granting to the State of Alabama the right of way and a donation of public land for making a railroad from Mobile to the mouth of the Ohio river and for other purposes, be taken from the table and referred to the Committee on Public Lands.

On motion of Mr. WENTWORTH,

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of passing a law providing for the election of all officers of the United States Government directly by the people.

On motion of Mr. HENLEY,

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of providing immediately for a geological survey of New Mexico and California, for the establishing of a United States mint in one of those Territories, and for the immediate occupation of the gold mines of California, that the products thereof may be saved to the Government, and appropriated to the payment of the national debt and current expences of the Government.

On motion of Mr. DICKINSON,

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of providing by law for the entry and purchase of the unsold lands in the Wyandot reserve in the State of Ohio with soldiers' land warrants, the purchaser paying any excess in money, and also to inquire into the propriety of authorizing in like manner the purchase of the alternate sections still unsold on the Wabash and Erie canal.

FUNERAL EXPENSES OF MEMBERS.

Mr. JOHNSON, of Tennessee, offered the following resolution; which, giving rise to debate, was laid over:

Resolved, That the Clerk of this House, in making out his report of the disposition of the contingent fund, as now required by law, arrange, under a separate and distinct head, the funeral expenses of the members of this House, setting down, under each deceased member's name, the item of expense incurred, by its proper name, stating the aggregate amount of each at the bottom of the account.

BOUNDARY OF TEXAS.

Mr. MEADE offered the following resolution; which, giving rise to debate, was laid over.

Resolved, That the Committee on Territories report a bill to this House transferring to the State of Texas, in pur-

suance of the terms of her annexation to the Union, all that portion of New Mexico which lies east of the Rio Grande.

Mr. McLANE offered the following resolution:

Resolved, That a select committee of five be appointed by the Chair, to inquire and ascertain to what extent this House has exercised its constitutional obligation to provide for the publication of its journal of proceedings, and to report thereon; with such recommendations as they may deem expedient, by bill or otherwise.

Mr. McLANE remarked, that he had a few words to say upon this resolution, and he presumed they would be in order, if not under the ordinary rules, on the ground that this was a privileged motion. He said he had been among those who had voted in the inception of this business to provide for a full and efficient publication of their debates. He was anxious to have it done, and to give a fair and just compensation to anybody who would do it. He felt that this public printing could not, and ought not to be done fairly, without just and full compensation. Various representations had been made in the form of memorials and petitions; and whether it was worth $1,000 or $10,000, by offering it to the lowest bidder, and saving specifically what they wanted, viz: its daily publication, they would ascertain what its value was; for it would be quite impossible for any "pensioned" press here to monopolize such a work, which was open to competition with the papers of immense circulation in the cities; such as the Herald, Tribune, and Sun, in New York; the Philadelphia Ledger; the Baltimore Sun—mentioning these papers without disparagement to others. He should have introduced a resolution at once to offer it at contract to the lowest bidder; but inasmuch as petitions and memorials from practical printers had been presented to this House, he deemed it but respectful to them that they should go to a committee; hence, instead of moving a direct resolution for these reports, he had proposed to refer the question and the memorials which had been, and which should be, received, to a select committee.

Now, the constitutional obligation of this House to keep and publish a journal, from time to time, could not be satisfied by the publication of a journal of its acts merely, as it was now made up, and by laying it on their desks, or sending it to them at the close of the session. He would here state, that frequently, in the latter part of the last session, he had made application to the Clerk to see the journal of the proceedings of the day before, or the week before, and he found, on one occasion, that two weeks, he might say three weeks—and he intended no disrespect to the Committee on Printing—had elapsed, and no journal of their proceedings was on their desks. Now, he was decidedly of the opinion that the journal of their proceedings ought to be contracted for to be laid on their desks every succeeding morning; that the contract should be absolute; and that sufficient inducement in the way of pecuniary compensation should be given to any printer who would perform the business. He would propose and recommend, that, in connection with the journal, a full report of the debates should be printed. He considered the current debates just as much part of their proceedings as their mere votes; and that as necessary as was the insertion on the journal that Mr. A or Mr. B made such a motion, was the explanation of that motion; and that it was as much a part of their proceedings. Therefore, he would require the Clerk to contract with the lowest bidder—let it be the editor of a paper in Washington or in New York. All he asked was, that upon their tables, here in this Hall, every morning, they should have a copy of their proceedings on the previous day.

One word more. He had taken some pains to ascertain what would be the expense of such a publication, and he felt assured, with the competition that pervaded every branch of industry—and certainly the press as much or more than any other—that for the subscription price of a daily paper, they could have this publication; that for five dollars for two sessions, or something like it, they could have this full publication. They had already paid $25,000 to have twelve copies of the Congressional Globe furnished to every member. Now, they could, if they chose, divert one-fifth of that $25,000, and have this daily publication by these same printers. These printers were attached to the House, were the only official or quasi-official printers. But he did not propose to disturb any existing arrangement; he proposed to have a journal of their proceedings and debates published, and laid on their tables every morning, with the obligation to transmit a copy daily to every newspaper in the United States that would agree to republish them. Now, what would be the practical effect of this? The papers in the city of Washington would all be obliged to publish it, or lose their subscriptions. Without obtruding himself into the affairs of any individual or any concern, it was within the range of every man's observation in this House that the proceedings published in the Globe and the Intelligencer at the last session were one and the same report. It was evident, therefore, to every gentleman, that there must have been, and it was right there should have been, a combination between these two journals to furnish full, efficient reports. Now, the effect of his resolution would be to bring into that combination every one of the papers published in the city of Washington, without pensioning any. But if the charge was made that it was unjust to the other papers of the country to select the papers or any of the papers printed in this city, as the medium of communication between Congress and the country, let the editors of the papers he had named in New York, Philadelphia, and Baltimore, and of other papers through the country, come here and lay the reports of their proceedings and debates on their tables every morning, and they would receive the just and fair compensation. We did not know the value of these publications. He believed that a paper published in the city of Washington could afford, and always had afforded, to make their reports. Had not the editors of one of the papers, gentlemen respected for their integrity, told us that they had sunk large sums of money in making these reports, he would not have hesitated in making the assertion. He was disposed, therefore, as a member of this House, anxious to be reported, accustomed to be reported, to accept so far the assurance given by these gentlemen that they had sunk large sums of money in reporting without compensation—to say to the editors of these and of other papers, For how much will you furnish the country and the House with full publications of our journal and proceedings? And he submitted to the House, if it could be ascertained that for five dollars a column these reports could be obtained, the adoption of this system would supersede all others that had been in use. At all events, as they had these propositions of enterprising men who told them they could publish their proceedings, and distribute them to thousands and thousands of their fellow-citizens cheaper than they could possibly do it, he was disposed to test the matter fairly, and bring in the bids of all these gentlemen, and contract with the lowest bidder.

Mr. JONES, of Tennessee, said, that when the gentleman from Massachusetts, [Mr. ASHMUN,] had yesterday given notice that he should not again introduce the resolution concerning the reports of the debates and proceedings of this House, he (Mr. J.) had hoped that the question had been finally set at rest.

Mr. CROWELL here rose, and inquired of the Speaker whether the resolution was debatable.

The SPEAKER was understood to say, that it was clearly debatable. The gentleman from Maryland [Mr. McLANE] had put the resolution on the ground of privilege; and in the form in which it now stood, the Chair was disposed to acquiesce in that view. The resolution related to an inquiry by a committee, whether the House had done its duty in respect to the printing of the journal of its proceedings, as required by the Constitution. To that point the debate ought legitimately to be confined, though the gentleman had extended his remarks beyond it.

Mr. McLANE said, that he had so framed the resolution, that he might have the privilege of extending his remarks.

Mr. JONES continued. The resolution did not specify all that the gentleman frrom Maryland desired to attain under it; but his remarks developed the plan which he proposed to carry out by it, and the committee to be appointed under it. It was the same object sought to be attained by the resolution of the gentleman from Massachusetts; it provided not only for the printing of the Journal of the House, but it authorized the publication of a debate—an extended debate, if gentlemen pleased—on every subject that might come up for consideration. The gentleman from Maryland had told them that it could be done almost for a song; that for the sum of five dollars a session for each member, the House could have the benefit of daily reports, to be laid on their tables every morning. If the object could be attained for that amount, or double that amount, he (Mr. J.) was willing to contribute it out of his own pocket. All this might do very well until the thing was started—until the time came when they must meet the expense out of the contingent fund. Some idea of the amount of expenditure which would be thus incurred, might be formed from a glance at the columns of the two daily papers—the Union and Intelligencer—which were published this morning. On reference to them, it would be seen that each paper contained about sixteen columns of the Senate's proceedings of yesterday. At seven dollars and fifty cents per column, (which was the price fixed by the Senate contract,) the sum of one hundred and twenty dollars would be paid out of the contingent fund to each of those papers, for the reading of the report of the Secretary of the Treasury, and of a short debate on printing it, and of some two or three petitions or memorials published as a part of the proceedings of the Senate.

Now, he would appeal to the members of this House—he would appeal to the experience of every gentleman on this floor—if it had been customary to print, or if they had ever seen petitions and memorials which had been presented in either House, printed in the papers, or in the current proceedings of either House, until the Senate had adopted a resolution authorizing the payment of seven dollars and fifty cents per column for the reports of its proceedings. Gentlemen might try to limit the amount which should be expended under the resolution; they might try to specify what should be published and what should not. But let the system once go into operation, and no project ever brought before either House would be found more liable to abuse. One hundred and twenty dollars, as he had stated, was to be paid to each paper for the Senate proceedings of yesterday. And here we had the same important document (to wit, the report of the Secretary of the Treasury) published in the Baltimore "Sun," and distributed by the carriers, probably, before either of those two papers had left the respective offices. Why was it necessary at all to enter upon this system of publishing reports? The Government had been long in existence, and no such thing had been done. If he was not mistaken, it arose out of the contract system of doing the public printing. Before that system was entered upon, either party that happened to be in power elected a partisan Printer, and took no care of any other press. When the other party came into power, they also elected a Printer belonging to their own party. But now, since the printing had been put out by contract to those who published no newspapers, proposals were made in behalf of the two papers here, to give them this patronage, for the purpose of sustaining them. If newspapers could not be supported by the support of the intelligent people of the country, it was wrong that their representatives should take this mode of fostering and sustaining them.

Mr. VINTON moved that the House adjourn.

The motion prevailed, and

The House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. BUTLER: Two petitions of citizens of Columbia county, Pennsylvania, remonstrating against a continuance of the present tariff policy, and asking for an immediate modification of the existing revenue laws.

By Mr. TAYLOR: The memorial of John Coates, of Ross county, Ohio, for compensation for extra services lately performed by him as receiver of public moneys at Chillicothe; referred to the Committee on Claims.

By Mr. ATKINSON: The petition of John C. P. Edwards, of Norfolk county, Virginia, for permission to sue the United States for damages done to real estate of the petitioner: referred to the Committee on the Judiciary.

By Mr. McCLELLAND: Petition of Major George Deas, United States army, for payment for a horse lost in the Mexican war.

By Mr. HARMANSON: Petitions of Joshua Holden, Sidney Flower, and Amelia Covillion, for a right of preëmption

By Mr. S. LAWRENCE: Petition of Levi M. Roberts, for increase of pension: referred to the Committee on Invalid Pensions. Also, the petition and papers of Polly Carver, for damage done by British army, in 1812.

By Mr. HUNT: Seven petitions from citizens of Niagara county, New York, in favor of an appropriation to improve Wilson Harbor at Twelve-Mile Creek, on Lake Ontario.

By Mr. LEVIN: The petition of sundry painters of Washington city, praying compensation for services rendered about the Capitol.

THE CONGRESSIONAL GLOBE.

PRINTED AND PUBLISHED AT THE CITY OF WASHINGTON, BY BLAIR & RIVES.

30TH CONGRESS, 2D SESSION. TUESDAY, DECEMBER 19, 1848. NEW SERIES.....No. 3.

By Mr. NICOLL: The memorial of William F. Harrmeger, Boorman, Johnson & Co., Phelps, Dodge & Co., Sturges, Burnet & Co., and others of the city of New York, asking that the dangerous rocks in the channel of Hurl Gate, and in the harbor of New York, may be removed.

By Mr. RUMSEY: The petition of Mr. Kruckubackut and 1,325 others, citizens of Steuben county, New York asking for the passage of the bill introduced at the last session of Congress upon the subject of postage on newspapers, and also for a uniform rate of postage on letters.

IN SENATE.

WEDNESDAY, *December* 13, 1848.

The Journal having been read—

A message was received from the House of Representatives, by Mr. CAMPBELL, their Clerk, announcing that the House had passed a bill providing for the punishment of false swearing, in certain cases, in which they requested the concurrence of the Senate.

The VICE PRESIDENT laid before the Senate a communication from the Department of State, enclosing a report of the number of foreign passengers arrived at the various collection districts in the United States, for the year ending 30th September, 1848.

On motion of Mr. ALLEN, the petition and papers of William Tracey were ordered to be withdrawn from the files of the Senate.

NEW MEXICO.

Mr. BENTON. Mr. President, the honorable Senator from Delaware, who is seated opposite to me on the other side of the Senate, [Mr. CLAYTON,] and myself have received a communication from New Mexico, framed by a convention that lately sat there, for taking into consideration the condition of that country. That communication they have forwarded to our care, to be presented to the Senate of the United States, with a petition, in which they pray for the establishment of a civil government over them, and put forth other prayers in relation to that general one. The petition is entitled "The People of New Mexico, in Convention assembled, to the Congress of the United States," and is signed by the president and secretary of the convention, and dated Santa Fé, October 14, 1848.

As a compliance, Mr. President, with that rule of the Senate which requires the substance of petitions to be briefly stated when they are presented, I ask the Senate to have this petition read, because it is so brief that it could not be made more so, and has a precision in its language and mode of expression which cannot be obtained by any paraphrase. I therefore send the petition to the table that it may be read, and afterwards I will move to have it printed and referred to the appropriate committee.

The Secretary read it, as follows:

Petition of the people of New Mexico, assembled in convention, to the Congress of the United States of America.

We, the people of New Mexico, respectfully petition Congress for the speedy organization, by law, of a territorial government for us.

We respectfully petition Congress to grant us a government purely civil in its character.

We respectfully represent, that the organic and statute laws promulgated by authority of the United States, September 22, 1848, for the temporary civil government of New Mexico, (a copy of which is despatched,) with some few alterations, would be acceptable to us.

We desire the following offices to be filled by appointment of the President of the United States, by and with the advice and consent of the Senate: The Governor, Secretary of State, United States Marshal, United States District Attorney, and Judges.

We desire to have all the usual rights of appeal from the courts of this Territory to the Supreme Court of the United States.

We respectfully but firmly protest against the dismemberment of our Territory in favor of Texas, or for any cause.

We do not desire to have domestic slavery within our borders; and until the time shall arrive for our admission into the Union as a State, we desire to be protected by Congress against their introduction among us.

We desire a local Legislature, such as is prescribed in the laws of New Mexico, September 22, 1848, subject to the usual acts of Congress.

We desire that our interests may be represented by a delegate, who is to be entitled to have a seat upon the floor of the Congress of the United States.

In consideration of the fact that New Mexico contains from seventy-five thousand to one hundred thousand souls, we believe that we have made no unreasonable request, and we confidently rely upon Congress to provide for us laws as liberal as any enjoyed by any of the Territories.

SANTA FE, *October* 14, 1848.

Signed by JOSE MARTINEZ,

JOHN GIDDINGS, *Secretary*, and others.

Mr. BENTON. Mr. President, I move that that communication be printed for the use of the Senate; and also that the accompanying memorial in the Spanish language be printed with it, and that it be referred to the Committee on the Territories.

Mr. CLAYTON. As one of those to whom this petition was intrusted, I desire to second the motion of the Senator from Missouri. I would briefly say, sir, that as I labored faithfully during the last session of Congress to organize a civil government over this territory of New Mexico, I shall labor with equal fidelity for the same object at the present session. I entirely concur with the reference moved by the Senator from Missouri, as being the best and most appropriate that can be made.

Mr. BENTON. Mr. President, there was received at the same time with the communication a copy of the laws which have been promulgated in New Mexico, which I desire to submit to the Senate, but I do not desire them to be printed. I desire, sir, to refer them to the same committee.

Mr. CALHOUN. Mr. President, I rise to make no objection to the motion of the honorable Senator from Missouri; but I rise to express my opinion that the people of this Territory, (New Mexico,) under all the circumstances of the case, have not made a respectful petition to this Senate; but, on the contrary, that they have made a most insolent one. I am not surprised, however, at the language of this petition. That people were conquered by the very men they wish to exclude from that Territory, and they know that. I enter my protest, sir, at once against being governed by a consideration presented under such circumstances as that petition has been upon this subject.

Mr. BENTON. Mr. President, I should suppose, sir, that myself, and perhaps the Senator from Delaware, [Mr. CLAYTON,] are equally charged with the presentation of this petition. And I should suppose, sir, that we should feel ourselves called upon, when a Senator rises in his place and characterizes as insolent such a petition as has been presented, to get up and disclaim for those who have signed that petition, and sent it to us, the least disposition to be insolent or impertinent. We think, sir, there is nothing of that kind upon the face of the paper, and that it is gratuitous and unfounded to apply such an epithet to it.

Mr. CALHOUN. It is not at all strange that the Senator from Missouri [Mr. BENTON] should consider the charge of insolence against the petition gratuitous, looking upon the matter as he does, nor that I should make the charge, looking upon it as I do. I look upon the rights of the southern States, proposed to be excluded from this territory, as a high constitutional principle. Our right to go there with our property is unquestionable, and guarantied and supported by the Constitution. The Territory belongs to us—to the United States. It belongs to the States of Carolina and Virginia as much as it does to New York and Massachusetts. The Senator from Missouri differs from me upon this point, and therefore he does not consider it insolent on the part of the people of that Territory to ask that we should be excluded from it. But these are my convictions, and I repeat that I consider the petition to be insolent.

Mr. RUSK. Mr. President, I do not think that the proper time has come to discuss the various questions involved in the petition presented by the Senator from Missouri, [Mr. BENTON;] but, inasmuch as it has been made a matter of remark upon the motion to print the memorial, it is proper that I should assert the indisputable title of Texas to all the territory lying on this side of the Rio Grande—a title, sir, which will be found to be borne out by the law of nations, the facts as they exist, and by the sovereign action of this Government. But I shall not now enter into an argument in support of our right to this territory.

These individuals, the inhabitants of New Mexico, are, as a matter of course, anxious to have, and it is proper and right that they should have, a civil government established over them. It is due to them. As an act of justice it should be done. A civil government should be established over such portions of the territory as do not belong to Texas; but, at the same time, I will here and elsewhere enter my solemn protest against the establishment of a distinct and separate government over any of the territory belonging to, and which has cost the blood and treasure of, the State of Texas. I can well imagine that a few individuals, anxious to be members of Congress—a few individuals anxious to appropriate to themselves a large and valuable territory which has never cost them a month's service nor a drop of blood, should wish to take this territory and institute a separate and distinct government over it, as proposed in this petition. However, I shall cast no reflections upon their motives. They have a right, if they can, to get it away from us; but it belongs to the State of Texas. We have an indisputable right to the territory, which we can never surrender.

Mr. BENTON. I rise, sir, merely to protest that I brought in this petition in a manner which I deemed the most judicious. Certainly it was my opinion that it would avoid one single word being said about it of this kind. It presents questions which will occupy our consideration, sir, when we arrive at them. There is no necessity for anticipating their discussion. I did not even make a statement of the contents of the petition, because that statement could not be better made than in the document itself. I simply asked to have it read, and it was read. I asked to have it printed and referred, not making one word of remark. All this was doing just as little as could be done to comply with the parliamentary forms, of getting a subject before a legislative body.

But it has been assailed, and epithets applied to it. The Senator from South Carolina has said it was natural for me to think of the petition as I did, and for him to think of it as he did. Sir, the only opinion I expressed about it was, that it was a petition for the rights of the petitioners, and respectfully worded and presented, and that the petitioners were not subject to the imputation of insolence: but since the imputation has been made, and persevered in, I will say, that if any part of that paper could be esteemed insolent, it must be that which relates to the subject of slavery. If so, I will say that, perhaps, without knowing it, these petitioners have used upon this subject the very words of the petition of the General Assembly of Virginia, in their petition to George III., before the breaking out of the American Revolution; and although George III. did not grant their petition, I never heard that he said it was insolent in the General Assembly to present it.

Mr. CALHOUN. I made no charge against the manner of presenting the memorial. My objection was to the petition itself. The Senator sees in that petition no disrespect to one-half of the people of this Union; but I see the greatest disrespect. The Senator endeavors to assimilate it to the case of the petitioners of George III.; but they are antagonistic; they bear no comparison. Sir, we of the southern States claim the right, under the Constitution, to go into that Territory with our property. These memorialists are a conquered people—conquered by the arms of the United States, and especially by troops drawn from the southern States; and for them now to turn round and propose to exclude us, it is the very height of insolence, if the Senator from Missouri does not see it.

Mr. BENTON. I wish to know what the Senator means? I will give him time to reply.

Mr. CALHOUN. My meaning is clear to every Senator. I do not interfere with the Senator from Missouri. I have stated the ground upon which I consider the petition disrespectful. It is disrespectful, coming from a conquered people, and because it infringes our constitutional rights. If the Senator does not see that there is foundation for my opinion, it is no fault of mine.

Mr. BENTON. What is the question, Mr. President?

The VICE PRESIDENT. The question is on the printing of the memorial.

A VOICE: "No objection to that."

Mr. BENTON. If there is no objection, then what are we debating about? Is it possible that the grave American Senate, at the commencement of a brief session, is engaged debating about nothing at all? Is that our occupation to-day? Sir, this seems to be a very lame and tame conclusion of what commenced so fiercely just now. [Laughter.] But the term "insolent" has been applied to those who present this petition. Sir, I deny the imputation. I assert that only the constitutional rights of these people have been represented in this proceeding. Conquered or unconquered—a portion of New Mexico or Texas—take them as you please—I say they have a constitutional right to present their petition here. And I say more, sir: I am quite sure that every subject which these memorialists have presented in that petition is a fair subject of legislation, and they have presented them in respectful terms. They have done what they had a right to do. And I will not hear the term "insolent" applied to them, when I have presented their memorial, without saying and repeating, in a manner such as shall be heard, that the expression is gratuitous and unfounded.

Mr. CALHOUN. The Senator ought to understand that I rose to make a remark against the petition itself, not against its reference or printing, nor the manner of presenting it. I had a right to remark on every part of that petition. There is nothing unparliamentary or unusual in my course. But he seems to think that himself and the Senator from Delaware [Mr. CLAYTON] are responsible for every word and expression that it contains. That is not my view of it at all. I did not say the petition was unconstitutional; for petitions may be presented here, constitutional or unconstitutional; but I do say that the petition undertakes to exclude one-half the Union nearly from territory that belongs to the States collectively; the Constitution declares the territories to be the territories of the United States—the States in their federal capacity. And I say such a petition, coming from a people recently subdued by our arms, and under our control, is insolent; and whether the Senator from Missouri thinks so or not, it is to me a matter of perfect indifference.

Mr. WESTCOTT. It seems to me, Mr. President, that the importance of this document presented to the Senate is much overrated. Its character is misconceived. I desire, sir, to attract the notice of the Senate and of the country to its true character. I do not intend that, through newspaper reports of what occurs here to-day, the public mind shall be misled. I intend to disabuse it in advance of the idea that this petition speaks, as it pretends to speak, the voice of the seventy-five or the hundred thousand souls it states are in New Mexico. It is presented here assuming, and it states, that by it the people of all New Mexico express their wishes to Congress on the subject of their territorial government. It purports to come from the people of New Mexico assembled in convention. In this, I regard it as an abuse of the right of petition, and as an attempted imposition upon Congress. Why, sir, when, how, and by whom were delegates elected to this convention? Who authorized its convocation? Was, in fact, such a convention ever held? I find nothing authentic in the paper to satisfy me as to this fact. The Secretary did not read the names to this petition, and I have sent for it to his desk, and I ask the attention of the Senate to the signatures.

First, however, let me refer to the preliminary heading, which reads, "*Petition of the People of New Mexico,*" &c.; and then the petition states, "*We, the people of New Mexico, respectfully petition Congress,*" &c. "*The*" people of New Mexico—all the people—the whole seventy-five or a hundred thousand souls. And how is it signed? It states that it is from the people of New Mexico assembled in convention; and it is signed by a Mexican or Spaniard, in a very illegible scrawl, which I make out to be "*José Martinez, Presidente del Condada,*" &c., and by "J. M. Giddings, *Secretary;*" and then follow *ten* signatures of Spanish or Mexican names, and *two* American or English. Without any disrespect to the Senator from Missouri, [Mr. BENTON,] or the Senator from Delaware, [Mr. CLAYTON,] I do not hesitate to say that it is manifest that the assumption of these *fourteen* people to speak in behalf of the whole people of Mexico is an attempted imposition. Who authorized them to speak for that people? They say they were assembled in convention. Who elected delegates to such convention? Who called it? From all I have seen or heard on this subject, I feel justified in expressing the belief that this self-styled convention was a mere gathering of a few people about Santa Fé. It is dated Santa Fé, October 14, 1848. There is nothing in the conclusion of this petition showing how or in what character the twelve persons who sign it, besides the President and Secretary, signed it.

Who are those persons? Are they citizens of the United States, made so by the treaty with Mexico, or what are they? Do they sign as individuals or as delegates? This does not appear. Who is this president "*José Martinez,*" and who is the "*Mr. Giddings*" who signs as secretary? I should like to be informed as to these points, to judge whether this is or is not a got up concern; for, if it is, we should not print it. "*We, the people,*" these *fourteen* persons call themselves. Had the ten, or fifteen, or twenty thousand American citizens who have gone to New Mexico from the United States any participation in this convention? I mean those who went there as conquerors, and staid there as conquerors under the flag of the United States. There is no evidence to this effect to be found in this paper. My opinion is, that this paper is of very inconsiderable and trifling consequence in every respect. It is probably a mere contrivance of a casual assemblage of some eleven or twelve Mexicans and two Americans, with Mr. Giddings, who have, without any authority, dignified themselves as a convention of all the people of New Mexico.

My sole object is to disabuse the country in advance of the idea that "the people of New Mexico" have remonstrated against slavery. Three Yankees, including Mr. Giddings, and eleven Mexicans have so remonstrated; but as yet we have to hear from ninety-nine thousand nine hundred and eighty-six other Americans and Mexicans in the country besides this fourteen. I do not desire to make any observations upon the point as to which the Senators from Missouri and South Carolina disagree, for I really do not regard this petition worthy any notice or respect whatever. The notion that the inhabitants of a Territory who go there first after its being annexed to the United States, or who were there before, are to control this question; have the right to exclude any other citizens of the United States and their property that political prejudice or fanaticism may incite them to exclude; or that, until the Territory becomes a State, they can be regarded as a "people" in the political and constitutional sense of the term; or that the inhabitants of such Territory, either of themselves or through Congress, can make such an exclusion, it is well known I discard. I do not intend to discuss that. I repeat, all I desire is, that the people of the United States may not be misled and deceived as to the character of the document now presented, and which I believe, from its appearance and its tenor, is mere sham and humbug.

Mr. BENTON, (to Mr. WESTCOTT.) Will you hand me that petition? I wish to read the words that the Senator from Florida left out. He read it twice, sir, as a petition from the people of New Mexico. He read it twice as relating to the people of New Mexico, and he read, sir, "the people of New Mexico" twice—[laughter]—twice, sir, and by reading it twice he thought himself entitled to leave out the few following words.

Mr. WESTCOTT. I trust the Senator from Missouri will not misrepresent me. I did not——

Mr. BENTON. I have the floor, sir. He did read it twice, sir, leaving out the next few words "assembled in convention, to the Congress of the United States," and then went on, sir, to say that the petition is signed by only fifteen persons, and that it is the production of but a few people assembled at the village of Santa Fé, and acting without authority.

Sir, they say in that petition that they are a convention, assembled in convention. It is signed by the president as president of the convention, and by the secretary as secretary of the convention, and by some ten or fifteen men as members of that convention. It comes to us, sir, as a petition of a convention representing the people of the Territory of New Mexico. It comes to us, sir, in that form. Upon its face it is that thing, sir—the petition of an organized convention representing the whole body of the people. In that form it stands before us. And, sir, if there is an abuse or an imposition, it is in the attempt to present this petition as the unauthorized action of a few individuals. Aye, the abuse, the imposition, if there is one, is in the attempt to cast discredit upon the genuineness of this petition.

Mr. WESTCOTT. The remarks I have made will be reported and published; and it is therefore unnecessary for me to appeal to the Senate and to every one in this Chamber who heard them, to verify my denial of the correctness of the statement of the Senator from Missouri just made. Why, sir, I expressly stated over and over again, that the petition purported to come from a *convention* of the people of New Mexico, and the very ground of my objection to it was, that I was satisfied this was untrue, and therein the right of petition was abused, and an attempt made to impose on the Senate and the country. Sir, not a man in this Chamber, who heard what I said, and desired to hear aright, but so understood me. I did read the words "*the people*" and the words "*we the people,*" both, twice, sir, if you please, because they are in the petition in two separate places. I stated emphatically and distinctly several times that it purported to be from the people assembled in convention, and I stated it was signed by a Mexican as president of a convention. This very thing is what I characterized as an imposition. I deny emphatically that I stated here that this paper purported to be from a mere casual assemblage, or a town meeting of a few persons at Santa Fé; and, on the contrary, *that it did not so state* what I believed was the fact, was the foundation of my objection to it.

The Senator would produce the impression that I misread the petition. All the answer I deem it necessary to make to such imputation by that Senator is, that there is not another Senator on this floor, nor any one who heard me, that will sustain him in making it. Why, sir, did I not ask, who elected delegates to this self-styled convention? who convoked it? and for what purpose? How was it called? How organized? &c. I did say, sir, there was no evidence besides the statement of the eleven Mexicans and three Americans whose names were signed to it, and who had no respectable voucher here, that there ever was such a convention; and I did state that, in the absence of this, I was satisfied it was a humbug, contrivance, and imposition. Did I not ask whether the residue of the hundred thousand souls in New Mexico, besides those fourteen, had participated in this convention, of which Mr. Giddings says he officiated as secretary? I did say, that from the absence of any evidence of its being a convention of the people of New Mexico, I was satisfied it was a mere casual assemblage at Santa Fé, and not a convention of all the people of all New Mexico; and how is this gainsaid? The Senate has seen and heard, and the country will know. What has occurred has fortified my conviction that this petition is an imposition, and worse than a mere imposition. Without any further observations by me—for I only rose to correct the misrepresentation made with respect to myself—I am content that the Senate and the country should decide whether the paper is or is not an attempted imposition, and who are culpable in reference to it. I care nothing about the printing or the reference, one way or the other. I intended to disabuse the public in advance as to the credit due to this petition, and that I have done. I am content that the remarks of the Senator from Missouri go to the public with no other reply from me.

Mr. CLAYTON. I do not rise to extend this debate, but regret exceedingly that it has occurred. I am sure that it has not been provoked either by myself or the gentleman who has been associated with me in presenting this memorial. Before it was presented we consulted together upon it, and concluded to present it, and, after hearing it read, to ask its reference to the appropriate committee, and that it be printed. This was done. Not one word fell from the Senator from Missouri or myself to excite unpleasant feelings in the bosom of a single Senator here, or of anybody anywhere; and I would not now make any further remark, after all that has occurred, if I did not think some of the observations of the Senator from Florida,

[Mr. WESTCOTT,] and of the Senator from South Carolina, [Mr. CALHOUN,] might unjustly prejudice the object of these petitioners. The Senator from Florida insists upon it that the whole paper is an imposition. Why, sir, it comes accredited to the Senator from Missouri and myself by letters from persons residing in New Mexico; and we believe, from every evidence laid before us, that it is a genuine petition of a great number of persons assembled at Santa Fé, to the Congress of the United States, for the purpose of obtaining protection as a people. They are now without law and protection, and they ask, they humbly ask, this Congress to give them the protection of civil government. As to the imposition which the gentleman suspects, there is no shadow of reason to suspect any such thing. The petition is signed by a gentleman declaring himself to be the president, and countersigned by a gentleman representing himself to be the secretary, of the convention; and it is additionally accredited by some twelve or fifteen persons, who, I suppose, thought, by the addition of their names, they would at least remove any discredit which might attach to the identity of the names of the president and secretary of the convention which was assembled for the purpose presented in the memorial. Now, I deprecate any discussion which may be calculated to prejudice the object of these memorialists at this moment. I deprecate any discussion extending to the question whether slavery shall be admitted into this Territory, or whether its boundary shall stop at the Rio Grande. These matters may be appropriately discussed when the committees having them in charge shall make their reports. At present, sir, there is no question before the Senate, and debate can only have the effect of prejudging the claims of the people of New Mexico to have established for them the protection of civil government.

I do think, sir, that the gentleman from South Carolina, on reflection, will reconsider the charge of insolence with respect to this petition; for, if the paper be insolent, it must be disrespectful; and if it be disrespectful toward any portion of the Senate, I admit that it ought not to be received. But it is not disrespectful. There is not a single word of this character in it. These gentlemen say they are opposed to the introduction of slavery there. I care not whether they are abolitionists or not—have they not the right to say that? Why, sir, suppose a petition to be presented here by other citizens of that Territory, praying that slavery should be introduced there, would any gentleman rise up and say such a petition was disrespectful to half the country—to the great North, who maintained throughout the great political campaign which the country has just passed through, that there should be no slavery in New Mexico or California?

Mr. President, I rose to discharge my duty, by simply stating my disposition to give to the people of this country the protection of a form of civil government. I desire to express no opinion that can excite the prejudices of any person. I regret that observations should have fallen from any quarter calculated to injure the great cause of a people who claim that the protection of civil government should be extended over them. I hope, sir, that, without further opposition, the memorial will be printed.

Mr. CALHOUN. Mr. President, I rise to say one word in reply to the Senator from Delaware, [Mr. CLAYTON.] It is impossible to change my opinion that this petition is disrespectful to the Senate. The Senator [Mr. CLAYTON] says that the rule of the Senate is, that when the petition is disrespectful to a Senator it should not be received. Granted. Well, he says if it is disrespectful to our constituents, the same rule applies: it is disrespectful to the Senate and ought not to be received. Well, sir, I took the same view as the Senator from Delaware now takes when abolition petitions were first presented here. That was my ground. The Secretary (of the Senate) will very well remember that I called upon him to pull out three or four of those petitions and read them to the Senate. They were disrespectful to the South in the extreme, calling us thieves, and everything else that was distasteful. I then appealed to the gentlemen on the other side of the Chamber that those petitions were disrespectful to our constituents, and, therefore, disrespectful to the Senate. I appealed to the gentlemen, but my appeal was in vain. They voted me down and received those petitions.

Sir, I hold that this petition ought not to be received, for the very reason that it is disrespectful to the constituents of one-half the members of this body. But I do not wish to make the point here. I rise here to express my sentiments, and I shall ever rise when any imputation is cast upon the rights or honor of those whom I represent.

It is highly insolent when a people, recently subdued by our arms, to the accomplishment of which the southern portion of the country contributed more than their full share by a great deal, come here and pray the American Congress to exclude one-half the States of this Union, to which this very territory belongs as States. It does not belong to us as a Congress. It does not belong to the North as the North, nor to the South as the South. It belongs to the thirty States of this Union. And can there be a higher piece of insolence than to come here and present such a petition? Sir, had I taken the ground which the impulse of the moment dictated, I would have moved to lay this petition upon the table, as has been the fate of all petitions of this kind.

Mr. BENTON. Sir, as the Senator from South Carolina [Mr. CALHOUN] reiterates in the most formal manner the insolence of this petition towards the representatives of one-half the States of this Union, and his opinion that it should not be received, I ask, sir, that he may have the privilege of recording his vote against it, if he will make the proper motion. I pause to give the Senator an opportunity to make the motion.

Mr. CALHOUN, (in his seat.) I shall make no motion, sir.

Mr. BENTON. Then, sir, I call for the yeas and nays upon the question of printing and reference, that we may see, sir, how far it is the opinion of the Senator from South Carolina [Mr. CALHOUN] that this petition is insolent, and that myself and the Senator from Delaware, [Mr. CLAYTON,] the instruments of communicating it to the American Senate, are chargeable with that imputation. I call for the yeas and nays.

Mr. FOOTE. Before offering any remarks upon this question, I will beg leave to propound the inquiry to the honorable Senator from Delaware—one that I presume will be answered—whether or not there is any other testimony in his possession, now adducible, that this document did emanate from any large number of the people of New Mexico?

Mr. CLAYTON. I will say, in answer to the question of the honorable Senator from Mississippi, that I have received two or three letters from individuals in the Territory of New Mexico, with whom I have no acquaintance personally, and do not know that I have ever seen them, requesting me to assist in establishing a civil government for that Territory. The arguments presented in those letters, in explanation and support of the object of the memorial, and the allusions made to the proceedings of the convention, satisfy me that there can be no question or doubt as to the fact that they are citizens of that Territory. They have presented their views at length in those letters with respect to the design of the memorial.

Mr. FOOTE. Then I understand the honorable Senators from Delaware and Missouri as explicitly declaring it as their decided opinion that this is a genuine document, and that it did emanate from a convention of the so-called people of New Mexico. Of course I will not, I do not, question in the slightest degree that the Senators truly entertain such an opinion; but what I wish to know is, if there are in the honorable Senator's possession any facts of an official or semi-official character, or if any have been communicated to any individual, which will tend to illustrate the point upon which so much stress has been laid by the Senator from Florida? I wish to know whether the Senator from Delaware, or any other Senator on this floor, is prepared to assert that this document is one regularly emanating from a convention composed of representatives elected by the people inhabiting the various portions of the Territory of New Mexico?

Mr. CLAYTON. The memorial came to me in the same manner as all other memorials come; and I have no reason to doubt that the paper is genuine, or that the convention alluded to assembled at Santa Fé on the 14th of October.

Mr. FOOTE. I consider, from the explanation given, that there is simply a difference of opinion between the Senator from Delaware and myself upon the question whether this document is in fact a genuine document, originating in the right way, and entitled to consideration accordingly. I do not think the evidence such as to sustain the judgment announced by the Senator from Delaware. The word convention is of very high and comprehensive import in this country. We are not limited to the mere grammatical sense of the word. A convention is not the mere *coming together* of A B C for any purpose whatsoever, or for no purpose. In its political sense it means a grave deliberative assembly, composed of delegates chosen by the people in their primary capacity, according to some approved mode, and met to hold conference and adopt appropriate action upon questions of high civic import. But to call that a convention which merely declares itself to be a convention, without proof of public notice of any kind to the people represented, without proof of public meetings of any kind being held for the election of delegates, is going further than I, for one, am willing to go.

Can any person, I will ask, who has simply witn essed thepresentation of this document, and heard the remarks with which its presentation was accompanied, and without looking narrowly into the facts, come to any other conclusion than that this convention spoken of was an actual one, such as I have just described, and a body composed of individuals duly authorized to perform high political functions? But what are the true facts in the case? Upon a close examination of the affair, it turned out that there was nothing of substance in the proceeding, *stat nominis umbra;* indeed, there is hardly the shadow of a shade to justify the suspicion that any convention was even held at all in New Mexico. If such a body ever did sit, the preparations for its session, and its actual course of proceeding, were the most noiseless by far that I ever heard of: no notification in public newspapers, or otherwise; no divulgence of its acts, no promulgation of its deliberative resolves. All was complete mystery and silence. Had this convention been held in Erebus, its actings could not have been more mystically and portentously conducted. I will not charge that the document in question has been gotten up falsely, or for delusive purposes; nor will I say that the Senators from Delaware and Missouri have been imposed upon, although I rather suspect such to have been the case; and it has sometimes happened that the wisest men are mere dupes of the contriving.

This memorial purports to have emanated from *the people of New Mexico.* Pray, who are understood in New Mexico to be the people? Are they white men, black men, Indians, Spaniards, Englishmen, or Americans? Does any one yet know of the existence of such a collective political body as the people of New Mexico? Surely there is some want of clearness on this point. This appears to me to be a suspicious document on its face, and I am inclined to conjecture that it has been gotten up extemporaneously, for the purpose of forwarding the designs of faction, or imparting artificial consequence to some scheming individual. I did not rise to present unkind opposition to the wishes of the real people of New Mexico; and when I become informed, in some satisfactory mode, what are their actual wishes in regard to the government which it is our duty to organize for them, I shall be found as willing as others to gratify all their reasonable and constitutional desires.

Mr. WESTCOTT. The courteous manner in which the Senator from Delaware has expressed himself in this debate, becoming alike his high character as a gentleman, his elevated position as a Senator, and the still more elevated position which public rumor, or rather certain newspapers, say he is ere long to take in the Government of this country, induces me to make an explanation to him as to a point which he seems to misunderstand in relation to what I said about this petition. I can readily suppose that Senator did not hear me correctly, as he sits so far from me, though I spoke audibly and distinctly. His misconception has probably arisen from what others said.

I have not charged or intimated that this paper was simulated or forged; that the signatures were not genuine, or that there may not be such veritable persons in Mexico having those names. What I said and still say was this: these eleven Mexicans and three Americans (including Mr. Gid-

dings) were not *the* people of Mexico. Now, if that honorable Senator will inform me that he has any information that he relies on that a convention of the people of New Mexico—I mean of all parts of it, of all sections of it—assembled upon public notice, and that delegates were duly elected to such convention, I shall be satisfied. I should place implicit credit in that honorable Senator's statement as to the result of the authentic information he has; I do not desire particulars, except as to one point, and of that I would now require of the Senator, *Were the people of the remote counties, or districts, or political subdivisions of New Mexico represented in this convention, and how?*

Mr. CLAYTON. The honorable Senator and all present have been put in possession of all the facts that have come to my knowledge. They have not the private letters received by me from several citizens of that country, but they have been informed substantially of their contents. The letters which have been addressed to me are letters, sir, that went even into the discussion of the subjects contained in the memorial. I do not know the individuals; I never saw one of them in my life, that I recollect. The petition comes to me, however, as well authenticated as all other petitions are. I have as much evidence as to the genuineness of this petition, and the facts stated that a convention was assembled, and that the petition represents the wishes of that convention, as I ordinarily have in presenting a petition here. Of course I am liable to be imposed upon at any time. A gentleman may send me a petition here from Maine, Missouri, Oregon, or Florida, and I hold myself, having no reason to doubt the genuineness of the signatures attached to the petition, bound to present it here. I never, sir, should hesitate, unless I had some reason to doubt the facts stated, to present the memorial. Now, I know nothing at all about the fact whether the people of New Mexico was represented there. I take it for granted that there was a very large convention there, and that the persons who have signed their names to this petition believed that they were entitled to call themselves the people of New Mexico.

Mr. FOOTE. Did the newspapers publish anything concerning that convention?

Mr. CLAYTON. Yes, sir, the newspapers published the whole proceedings weeks ago throughout the country.

A SENATOR. I have never seen anything of it.

Mr. CLAYTON. They published the memorial and all, long ago. Among other papers, it was published in the National Intelligencer at the time. Nobody ever doubted it. I heard, sir, that this was a proper memorial, got up by a convention of the people of New Mexico. Well, now, sir, what is the proper course for the Senate to take with the memorial before it? Is the Senate to esteem the fact as a humbug? Or is the Senate to take this paper and refer it, as they usually do, and leave the committee, if there be any question in relation to the genuineness of these signatures, to investigate and report upon the matter? It would undoubtedly be the duty of the committee to make a report upon this subject. I do not believe that any man can doubt the genuineness of this paper. I cannot conceive that all this is mere humbug, when I reflect upon the fact that I have letters addressed to me from persons who have recited what was done at that convention, and have gone into an argument to show that they were entitled to what they ask.

Mr. WESTCOTT. The Senator still misunderstands me. I do not deny that, to use the trite phrase, "a very large and respectable meeting" was held at Santa Fé in October last, and this petition is the result. Whether it was composed of fourteen, or one hundred and forty, or fourteen hundred, I care not. But was it a convention of the people of New Mexico, authorized to speak their wishes—authorized to petition for the people of New Mexico here? I do not understand the Senator to state there was a convention held. I do not say these signatures are forged, but I contend the statement there made, of there having been a convention of the people of New Mexico at Santa Fé, is an attempted imposition.

Mr. CLAYTON. The honorable Senator has all the information that I have upon this subject. Whether it was a convention of all the people of New Mexico, or of a great body of the people of that country, he knows as well as I do. Even were it but the petition of one hundred or less of the people of New Mexico, I hold, sir, that we would be bound to receive it respectfully, and refer it.

Mr. HALE. Mr. President, as the subject has excited some debate at this unusually early stage of its progress, I do not know but the present is as good a time to meet the peculiar views of Senators upon this question as any time which may hereafter present itself. It is an unusual mode, it seems to me, to introduce this delicate subject at such a time. But, inasmuch as the petition which has been presented is itself termed *insolent*, I do not know but that I may expose myself to the same charge by the motion that I am about to make, or the amendment which I am about to propose to the motion of the Senator from Missouri. It is, that the petition be committed to the Committee on the Territories, with instructions to report a bill agreeably to the prayer of the petitioners.

And now, sir, let me say one word in regard to the character of this memorial. The objections of the honorable Senator from Mississippi [Mr. FOOTE] and of the honorable Senator from Florida [Mr. WESTCOTT] are, that this memorial does not come authenticated as the proceedings of a regular convention. The honorable Senator from Mississippi [Mr. FOOTE] has intimated that this matter of conventions had got to have a pretty definite and settled meaning among us. He says that when we speak of a convention we mean a delegated body representing constituencies, due notice of the same having been given and regular preparatory meetings holden. I think, sir, if the honorable Senator will look back upon the history of this country, which enjoys a much higher state of civilization, and a great deal more learning on this matter of conventions than the people of New Mexico, he will find that the subject is not yet thoroughly understood even in this country. If this matter is not sufficiently understood in this country, how could the new population in New Mexico, that have not been drilled in this matter of conventions, have understood it thoroughly? Why, sir, there is the great Empire State of New York, that has had as much discipline, drilling, and experience upon this subject of conventions as any other State in the Union, which, putting all its wise heads together, could not, to save themselves, choose a delegate to throw one vote in a regular convention. Sir, this is a matter not any better understood here than in New Mexico. Well, sir, some parts of the country have more learning upon this subject. In South Carolina they could choose a man in two or three minutes to throw nine votes; while they could not choose in New York thirty-six to cast one single vote.

Taking into consideration these facts, we might exercise, it seems to me, a little leniency towards the population of New Mexico. This is, undoubtedly, the first time they have undertaken to hold a convention. That may be the reason why it is not so formally set out. This may be the convention of the Free Soil party in New Mexico. It is possible it may be the convention of the Democratic party. It is not utterly impossible that it is the convention of the Whig party, for a great part of the Whig party, in many parts of the country, are opposed to the extension of slavery, and in favor of the restriction here sought to be imposed. If this matter of origin of this petition is of so much importance, it seems to me a select committee should be appointed for the purpose of investigating the subject. We should have a committee on conventions, so that, if the origin of the thing is of so much consequence, that point might be investigated. This is a petition asking legislation on a most serious subject—a subject, sir, upon which, as the Senator from Mississippi [Mr. FOOTE] has well said, "the public mind has been greatly agitated," and will continue to be agitated until it is definitely settled, sir—not compromised. I do not believe that compromise will answer in this case. Sir, it *must* be settled, and settled upon principle. It is to be met, and to be met here. I hope, sir, that those who believe that the people of this Territory are entitled to a government will be prepared to give a vote upon this subject, and to give it now. Besides, sir, this petition puts us upon the Democratic platform—the "Nicholson letter." That letter declared that this matter should be left to the people of the Territories. Well, now, sir, the people have spoken. They have probably read the "Nicholson letter." They have thought, perhaps, that Congress, in its progressive march, had got up to the step indicated by that letter, if no change had been going on in the public mind. They have taken it for granted that there was no change, and they have acted upon the Nicholson platform in petitioning for a civil government. I trust, sir, that although the result of the last Presidential election was disastrous to the man that built that platform, the principles of it are not so entirely demolished but that we may with some confidence appeal to those who helped to build it, and who stood on it and fought on it so manfully, to stand by its principles now, when there is an opportunity to give them practical and efficient meaning.

Now, for the first time, the people of the Territory have come to ask for a civil government, and they have come in the very spirit of the Nicholson letter. They ask us to give them the first dose of the Nicholson medicine. And shall we, sir, who have been fighting so nobly for this great principle, during the great campaign which has just closed—shall we now belie our own sentiments, and turn our backs upon the petitioners, and kick over the platform upon which we stood and fought so manfully? No, sir, I trust not; and I trust that all those who have believed that the Nicholson letter contained the true doctrine, who have not had a change going on in their minds since, will come up on this occasion and vote to give this people what they would have expected to have received if the author of the Nicholson letter was at the head of the Government.

I move, sir, that it be referred to the Committee on Territories, with instructions to report a bill organizing a government agreeably to the prayer of the petitioners.

Mr. FOOTE. The Senator from New Hampshire [Mr. HALE] has entertained the Senate very highly, though it seems to me that he has failed to elucidate the question under consideration. The definition which I have already assigned to the word "convention" is not disputed to be the true one; nor is it properly a subject of dispute. From the face of the memorial before us, it would be inferable that such a convention has actually assembled in some part of New Mexico for high political purposes, composed of members regularly chosen by the people of that country at elections which have proceeded in the usual manner, and in accordance with previous notice. Now, I repeat that we have no evidence of such a conventional assembly having ever met in any such mode, nor does it appear, upon the basis of documentary testimony, that a single public meeting has ever been held in any part of New Mexico having in view the assemblage of such a body. We are called upon to presume everything in favor of this memorial. The Senator from New Hampshire [Mr. HALE] has exhibited much of the recondite learning appertaining to the subject of conventions, and is doubtless as well qualified to lecture us in a regular way upon the proper mode of getting up and carrying on conventions as any other member of this body. But he will permit me to remind him that there is one fact of recent occurrence with which he sustains a very particular connection, which should admonish him very forcibly touching the danger of relying too much upon high-sounding conventional pretensions. He was, if I recollect aright, an active participant in the movements that led to the assemblage of the celebrated Buffalo Convention; a body which got together under circumstances not a little imposing. It was described, at the time of its occurrence, in some of the newspapers, as the most multitudinous body of the kind ever assembled. Many were led to conjecture, from the vast number of the delegates convened, that they could not possibly represent less than nine-tenths of the votes of the whole Confederacy. And yet, after all, the Free Soil party turned out to be the feeblest faction that ever undertook to bear arms in a Presidential contest; they were not able to give the candidate of their choice a single electoral vote.

Such may be the result in the instance under consideration. This document sets itself forth as the product of a grave deliberative assembly, representing and entitled to represent the whole people of New Mexico; and yet there is evident reason to doubt whether the small number of names subscribed to the memorial do not equal the whole number of persons who have been consulted in regard to its contents. To urge, as the Senator

from New Hampshire has done, that we are opposing a respectful petition from the people of New Mexico, is plainly begging the question, since it does not appear, and I am confident cannot be made to appear, that the people of New Mexico have ever been called to consider the various questions presented in the memorial at all.

For my part, I respect the right of petition as highly as any member of this body, and had I assurance that this memorial had emanated from any considerable portion of the people of New Mexico, no matter how objectionable I hold it in several respects to be, I should not object either to receiving it respectfully or to printing it. But thus to receive it, and thus to print it, would, in my judgment, be affording the Senatorial sanction to the pretension held forth by the document itself, that it is the memorial of a convention entitled to act for the whole people of New Mexico. It would be seriously wronging that people thus to presume upon evidence so trivial, inasmuch as the memorial proposes to strike a fatal blow at the constitutional rights of half the sovereign States of this Confederacy, and to do special injustice to the neighboring State of Texas. In the absence of further testimony, I prefer presuming, as I certainly do, that this document has been got up in some irregular way, for special purposes, wholly unconnected with the general welfare of the Republic, or the particular interests of the people of New Mexico, who I doubt not will be profoundly surprised when they hear that such a memorial of their views and wishes have been formally presented in the American Senate. But for the high respectability of those who have become godfathers of the document here, I should be inclined to speak of it as one of the most ridiculous attempts to set forth the deliberate views and feelings of a whole people that I have ever heard of.

The Senator from New Hampshire has thought proper to go out of his way, in order to attack what he calls the Nicholson letter; he charges upon that letter that it contained views similar to those expressed in the memorial before us, and accuses those of us who oppose the printing of the memorial, and who sanctioned the Nicholson letter, of a gross inconsistency. That Senator has surely not read this New Mexican memorial, else he would have easily discovered that it recommends to Congress a violation of the constitutional rights of the southern States of the Confederacy in the form of the Wilmot proviso, to which the Nicholson letter was opposed. Does not the Senator from New Hampshire know that the Nicholson letter declared that Congress had no right to legislate on the subject of slavery in the Territories of the Union; asserted that such legislation was beyond the jurisdiction of the Federal Government, and could not but result in the dissolution of the Confederacy? Surely, the Senator from New Hampshire must perceive that he has done serious injustice both to the distinguished author of the Nicholson letter and his supporters.

Mr. President, I look upon this movement as one of a decidedly serious character. It has originated with two of the oldest and most distinguished members of the Senate; gentlemen of great weight of character and extended influence. It involves a subject of the highest importance to the Republic, and one which has excited the most intense interest throughout our limits. I have deemed it becoming, therefore, to meet it with all proper gravity, and, in language at the same time earnest and explicit, to declare the views which I entertain concerning the document now under consideration, and to hint, as I have done, at the circumstances under which it probably originated. I am glad that the yeas and nays have been called for, and shall not hesitate in recording my vote against the printing of a paper which comes before us at a time so unseasonable, and in a manner so suspicious.

Mr. BERRIEN rose to inquire whether the yeas and nays had been ordered on the original motion?

The VICE PRESIDENT. They have not been ordered.

Mr. BERRIEN. Has the amendment been withdrawn?

Mr. RUSK. The gentleman from New Hampshire, I understand, wishes to withdraw his amendment.

Mr. HALE. As I find, on consultation with the Senator from Texas, that my motion to amend might lead to discussion involving a prejudgment of the question of the boundary of Texas, I will, with the consent of the Senate, withdraw it. There will, I apprehend, be ample opportunity for the discussion of this question when it shall come up regularly.

The VICE PRESIDENT. The question is on printing the memorial. The yeas and nays have been called for.

The yeas and nays were then ordered.

Mr. CALHOUN. I shall certainly oppose this motion. I entirely concur with the views taken by the Senator from Mississippi and the Senator from Florida, that this whole affair is an imposition. We have no evidence going to show that the paper is anything but the petition of those persons whose names are attached to it. It is hardly probable that, in any convention, a part of the members would sign their memorial, whilst others would not. Under this belief, I do not think it should be taken as the petition of the people of New Mexico; and therefore I cannot give my vote to print the paper.

The question on the motion to print was now taken by yeas and nays, as follows:

YEAS—Messrs. Allen, Atchison, Atherton, Badger, Baldwin, Benton, Bradbury, Breese, Butler, Cameron, Clarke, Clayton, Corwin, Dayton, Dickinson, Dix, Dodge, Douglas, Felch, Fitzgerald, Hale, Hamlin, Johnson of Maryland, Johnson of Louisiana, Metcalfe, Miller, Niles, Pearce, Spruance, Sturgeon, Underwood, Upham, and Walker—33.

NAYS—Messrs. Berrien, Borland, Calhoun, Davis of Mississippi, Downs, Fitzpatrick, Foote, Houston, Hunter, King, Rusk, Turney, Westcott, and Yulee—14.

So the order to print was agreed to; and then the memorial was referred to the Committee on Territories.

CALIFORNIA.

Mr. DOUGLAS gave notice of the following amendment, which he proposed to offer to the bill for the admission of California into the States of the Union:

"SEC. 5. *And be it further enacted*, That the district judges, attorneys, and marshals, herein provided to be appointed, are hereby authorized and empowered to lay off said Territory into election districts, for the election of seventy-five delegates to a convention to form a constitution for said State of California, and to apportion the number of delegates to said districts, according to the number of voters in each, according to the best information they may be able to obtain; to prescribe the time and places of holding the elections, and to designate the persons who shall conduct the same; and also to prescribe the time and place for the assembling of said convention.

"SEC. 6. *And be it further enacted*, That all citizens of the United States, resident within the limits of said Territory, including all Mexican citizens who have become citizens of the United States under the 8th article of the treaty referred to in the 1st section of this act, shall be entitled to vote at the election of said delegates to the constitutional convention: *Provided*, That no person shall vote at said election except white male inhabitants, who shall have attained the age of twenty-one years."

On motion of Mr. DOUGLAS, the amendment was ordered to be printed.

Mr. DOUGLAS gave notice that he should move, hereafter, the reference of the amendment to the Committee on Territories.

Mr. BUTLER gave notice that he should oppose this reference. A bill to admit a State into the Union had uniformly been referred to the Committee on the Judiciary, which was the most proper committee, on account of the many delicate questions which it necessarily involved. If this bill was sent to the Committee on Territories, he believed it would be the first instance of such a reference since the establishment of the Union.

Mr. DOUGLAS replied, that he had served on the Committee on Territories in the House, and to that committee similar bills had been always referred; but he had no pride on the subject.

PRESENTATION OF PETITIONS.

Mr. RUSK presented a petition of Margaret A. Fisher, asking compensation for the use of a machine; which was referred to the Committee on Military Affairs.

Mr. DIX presented a petition from John B. Emerson, asking compensation for the use of an improvement on the steam-engine, of which he is the inventor and patentee; which was referred to the Committee on Patents.

Mr. DIX presented a memorial from James G. King, G. W. Blunt, and others, praying the removal of obstructions at Hurl Gate, in the East river, and of rocks, &c., in the harbor of New York; which was referred to the Committee on Commerce.

Mr. DICKINSON presented the petition of the sachems and chiefs of the Stockbridge tribe of Indians, praying compensation for certain lands purchased by the United States from the Delaware tribe, in which they held an interest; which was referred to the Committee on Indian Affairs.

Mr. BENTON presented the petition of Major Baker, of the ordnance corps, asking to be allowed brevet pay and emoluments; which was referred to the Committee on Military Affairs.

Mr. STURGEON presented the petition of Ward Marston and others, late officers of the United States marine corps, asking to be restored to their positions in the corps, from which they were dropped in consequence of its reduction on the termination of the Mexican war; which was referred to the Committee on Naval Affairs.

Mr. ATCHISON presented the petition of Joseph Crocket, late marshal of Kentucky, praying for an equitable adjustment of his accounts; which was referred to the Committee on Claims.

MEMORIAL.

Mr. JOHNSON, of Maryland, asked leave to withdraw from the files of the Senate the memorial of John S. Skinner, and that it be referred to a special committee.

Mr. BREESE objected to raising a special committee while there was a standing committee to which this memorial could go. He suggested that the appropriate committee to which it should be referred was the Committee on Agriculture.

Mr. JOHNSON requested the Secretary to give him the date of its reference at the last session.

The SECRETARY replied that it was referred on the 11th of April.

Mr. JOHNSON continued. It was referred on the 11th of April to the committee to which the Senator from Illinois desired it now to be sent, and no report was made during the whole session. If that committee would say that they should be able to report upon it, he had not the slightest objection to send it back to them.

Mr. STURGEON briefly explained, and expressed his concurrence in the suggestion that it should go to a special committee.

Mr. DAYTON spoke in opposition to the proposition to refer to a special committee, and maintained that it should go to the appropriate committee—the Committee on Agriculture.

Mr. YULEE demanded the yeas and nays; which were ordered, and being taken, appeared as follows:

YEAS—Messrs. Badger, Baldwin, Berrien, Cameron, Clarke, Clayton, Corwin, Davis of Massachusetts, Houston, Johnson of Maryland, Johnson of Louisiana, Miller, Pearce, Rusk, Spruance, Sturgeon, Turney, Upham, Walker, and Westcott—20.

NAYS—Messrs. Allen, Atchison, Atherton, Borland, Bradbury, Butler, Calhoun, Davis of Mississippi, Dayton, Dickinson, Dix, Dodge, Downs, Felch, Foote, Hamlin, Hunter, King, Niles, Underwood, and Yulee—21.

So the motion for a select committee was not agreed to, and the memorial was referred to the Committee on Agriculture.

On motion of Mr. ALLEN,

Ordered, That William Tracey have leave to withdraw from the files of the Senate his petition and papers.

A message was received from the House of Representatives, by Mr. CAMPBELL, their Clerk, announcing that the Speaker of the House had signed the enrolled resolution for the reappointment of certain regents of the Smithsonian Institution.

The VICE PRESIDENT signed said enrolled resolution.

VACANCIES IN COMMITTEES.

On motion, the vacancy in the Committee on Private Land Claims was filled by the appointment of Mr. BADGER.

The vacancy in the Committee on Manufactures was filled by the appointment of Mr. SEBASTIAN.

The vacancy in the Committee on Enrolled Bills was filled by the appointment of Mr. FITZGERALD.

CLAIM OF THE STATE OF ALABAMA.

Mr. KING, in pursuance of notice heretofore given, asked and obtained leave to introduce a bill for the payment of interest on money advanced to the Government by the State of Alabama, during the Creek hostilities in the years 1836 and 1837; which was read twice, considered as in Committee of the Whole, and reported back without amendment.

The bill being read a first and second time—

Mr. KING moved its consideration at this time; and the motion being agreed to—

The bill was taken up for consideration, and

passed through the Committee of the Whole; and the question being on engrossment—

Mr. PEARCE suggested the propriety of letting it remain over, as he desired to see the amendment offered by him last session, making the principle general in its application, adopted.

After a few words in explanation, Mr. PEARCE withdrew his objection, and the bill was read a third time and passed.

The VICE PRESIDENT laid before the Senate a communication from the United States Treasurer, containing a report of the receipts and expenditures for the Post Office Department, for the year ending June 30, 1848; which was laid on the table, and ordered to be printed.

Also, a memorial from the Legislature of the State of Wisconsin, in favor of a road from Neenah to Manitowoc; also, asking the grant of Fort Winnebago for a penitentiary.

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 13, 1848.

Mr. McCLERNAND, from Illinois, appeared this day.

The Journal of yesterday was read and approved.

JOURNAL OF PROCEEDINGS.

The SPEAKER announced the business first in order to be the following resolution offered yesterday by Mr. McLANE, and which was pending at the time the House adjourned:

Resolved, That a select committee of five be appointed by the Chair, to inquire and ascertain to what extent this House has exercised its constitutional obligation to provide for the publication of its journal of proceedings, and to report thereon, with such recommendations as they may deem expedient, by bill or otherwise.

Mr. WHITE moved the previous question.

Mr. JONES, of Tennessee, moved that the resolution be laid on the table.

Mr. STUART, of Michigan, called for the reading of the resolution; which having been read—

The question was taken on the motion of Mr. JONES, and was decided in the negative.

So the House decided that the resolution should *not* be laid on the table.

And the question recurring on the demand for the previous question—

Mr. WHITE called for tellers, who were appointed.

And the question having been taken, the affirmative vote stood—yeas 77; the nays were not counted.

So there was a second. And the main question (being on the adoption of the resolution) was ordered to be now taken.

Mr. SAWYER asked for the yeas and nays; which were ordered, and being taken, were yeas 87, nays 87—a tie vote, as follows:

YEAS—Messrs. Adams, Ashmun, Barringer, Belcher, Blackmar, Blanchard, Boydon, Brady, William G. Brown, Buckner, Butler, Clapp, Clingman, Conger, Cranston, Crowell, Dickey, Donnell, Duer, Dunn, Eckert, Edwards, Alexander Evans, Farrelly, Fisher, Freedley, Fulton, Gaines, Gayle, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, Moses Hampton, Henry, Hilliard, Elias B. Holmes, Hubbard, Hudson, Hunt, Charles J. Ingersoll, Irvin, Kellogg, Daniel P. King, William T. Lawrence, Levin, Lincoln, McIlvaine, McLane, Marsh, Marvin, Meade, Morehead, Mullin, Nelson, Nes, Palfrey, Pendleton, Pollock, Preston, Putnam, Julius Rockwell, John A. Rockwell, Rumsey, St. John, Shepperd, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Stanton, Tallmadge, Taylor, Thibodeaux, Richard W. Thompson, John B. Thompson, Robert A. Thompson, Thurston, Tompkins, Tuck, Van Dyke, Vinton, Warren, White, and Wilson—87.

NAYS—Messrs. Abbott, Atkinson, Beale, Bedinger, Bingham, Bocock, Boyd, Charles Brown, Albert G. Brown, Burt, Canby, Chase, Howell Cobb, Williamson R. W. Cobb, Cocke, Crozier, Daniel, Darling, Dickinson, Faran, Ficklin, French, Fries, Gentry, Goggin, Green, Willard P. Hall, Haralson, Henley, Hill, Inge, Iverson, Jenkins, Andrew Johnson, James H. Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, Lahm, La Sere, Sidney Lawrence, Leffler, Ligon, Lord, Lumpkin, Lynde, McClelland, McClernand, McDowell, McKay, Job Mann, Miller, Morris, Morse, Murphy, Nicoll, Outlaw, Peck, Peyton, Phelps, Reynolds, Rhett, Richardson, Richey, Robinson, Rockhill, Root, Sawyer, Sherrill, Smart, Stanton, Starkweather, Charles E. Stuart, Strohm, Strong, Thomas, James Thompson, Jacob Thompson, William Thompson, Venable, Wentworth, Wick, Wiley, Williams, and Woodward—87.

The SPEAKER thereupon voted in the affirmative; so that the vote stood—yeas 88, nays 87.

So the resolution was adopted.

Mr. McLANE moved to reconsider the vote by which the resolution was adopted, and to lay that motion on the table.

Mr. JONES, of Tennessee, demanded the yeas and nays on the motion; which were ordered, and being taken, resulted—yeas 89, nays 86—as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Barringer, Barrow, Belcher, Blackmar, Blanchard, Boydon, Brady, Buckner, Butler, Clingman, Collamer, Conger, Cranston, Dixon, Donnell, Duer, Dunn, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, Fulton, Gaines, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Henry, Hilliard, Elias B. Holmes, Hubbard, Hudson, Hunt, Charles J. Ingersoll, Irvin, Kellogg, Daniel P. King, William T. Lawrence, Levin, Ligon, Lincoln, McIlvaine, McLane, Marsh, Marvin, Meade, Morehead, Mullin, Nelson, Nes, Palfrey, Pendleton, Pollock, Preston, Putnam, Julius Rockwell, John A. Rockwell, Rumsey, St. John, Shepperd, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Strohm, Tallmadge, Taylor, Thibodeaux, Jacob Thompson, Richard W. Thompson, John B. Thompson, Tompkins, Tuck, Van Dyke, Vinton, Warren, White, and Wilson—89.

NAYS—Messrs. Atkinson, Bayly, Beale, Bedinger, Bingham, Bocock, Boyd, William G. Brown, Charles Brown, Albert G. Brown, Burt, Cathcart, Chase, Howell Cobb, Williamson R. W. Cobb, Cocke, Crozier, Darling, Dickinson, Faran, Ficklin, French, Fries, Gentry, Giddings, Goggin, Green, Willard P. Hall, Haralson, Harmanson, Henley, Hill, Isaac E. Holmes, Inge, Jenkins, Andrew Johnson, James H. Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, Lahm, La Sere, Sidney Lawrence, Leffler, Lord, Lumpkin, Lynde, Maclay, McClelland, McClernand, McDowell, McKay, Job Mann, Miller, Morris, Morse, Murphy, Nicoll, Peck, Peyton, Phelps, Reynolds, Rhett, Richardson, Richey, Robinson, Rockhill, Root, Sawyer, Sherrill, Smart, Robert Smith, Stanton, Starkweather, Charles E. Stuart, Strong, Thomas, James Thompson, William Thompson, Venable, Wallace, Wentworth, Wick, Wiley, Williams, and Woodward—86.

So the motion to reconsider was laid on the table, and the resolution stands passed.

Mr. MORSE, on leave, made a personal explanation, correcting certain inaccuracies which occurred in the report of his remarks of yesterday, published in this morning's Union.

PRESENTATION OF PETITIONS.

Mr. MURPHY presented the memorial of John B. Emerson, for compensation for the use of his improvements of the steam engine by the United States. Referred to the Committee on Patents.

Mr. ABBOTT presented the petition of Edmund Bartlett, and seventy-nine others, agriculturists, mechanics, merchants, ship owners, manufacturers, and other citizens of the United States, without distinction of party, praying Congress so to amend the revenue act of 1846, as to establish specific duties, and give protection to home industry.

Mr. McCLERNAND presented the petition of William Pickering, Esq., an intelligent and respectable citizen of Illinois, praying Congress for a grant of alternate sections of public land for the construction of a railroad connecting with the Mississippi river at Alton, and the Ohio river at Louisville and Shawneetown; which was referred to the Committee on Public Lands.

Other petitions were presented, and appropriately referred, by Messrs. ROCKWELL of Connecticut, S. LAWRENCE, JENKINS, GREELEY, CONGER, SILVESTER, BUTLER, McDOWELL, THOMPSON of Kentucky, HILLIARD, DARLING, and KAUFMAN.

The SPEAKER presented the memorial of Ward Marston, late a captain in the marine corps, praying to be reinstated. Referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES.

Mr. LEVIN, from the Committee on Engraving, reported the following resolution; which was agreed to:

Resolved, That the Committee on Engraving be directed to contract for the engraving of the plans accompanying the report of the Secretary of the Navy, for the extra copies ordered by the House.

Mr. VINTON, from the Committee of Ways and Means, reported the following resolution; which was agreed to:

Resolved, That the Committee of Ways and Means be discharged from so much of the estimates for additional appropriations for the fiscal year ending June 30th, 1849, as relates to the salary of Daniel Parker, as Paymaster General, from January 1st to May 9th, 1822, and that the same be referred to the Committee on Military Affairs.

Mr. ROCKWELL, of Connecticut, by direction of the Committee on Claims, moved to discharge the Committee of the Whole from the bill to authorize an increase in the number of clerks in the Treasury Department; which was agreed to.

Mr. ROCKWELL, from the same committee, reported the following resolution; which was read, and agreed to:

Resolved, That House bill No. 412—a bill to provide for the settlement of claims against the United States—be the special order for the first Tuesday in January, and so continue, from day to day, until finally disposed of.

BILLS INTRODUCED.

Under notices heretofore given, bills were introduced as follows, viz:

By Mr. EVANS, of Maryland: A bill to authorize the appointment of an officer to grant enrolments and licenses, to reside at Chesapeake city, Maryland; read and referred.

By Mr. GREELEY: A bill to discourage speculation in the public lands, and to secure homes thereon to actual settlers and cultivators; read and referred.

SLAVERY IN THE DISTRICT.

Mr. PALFREY asked leave to introduce a bill, of which previous notice was given, to repeal all acts, or parts of acts, of Congress establishing or maintaining slavery or the slave trade in the District of Columbia.

Mr. HOLMES, of South Carolina, objecting,

The question was then stated on granting leave.

The yeas and nays were demanded and taken, and resulted—yeas 69, nays 82, as follows:

YEAS—Messrs. Abbott, Belcher, Blackmar, Blanchard, Canby, Collamer, Conger, Cranston, Darling, Dickinson, Dixon, Dunn, Eckert, Embree, Faran, Freedley, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, Henry, Elias B. Holmes, Hubbard, James B. Johnson, Kellogg, D. P. King, Lahm, William T. Lawrence, Sidney Lawrence, Lord, McClelland, Marsh, Marvin, Morris, Mullin, Nelson, Palfrey, Peaslee, Petrie, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Sawyer, Silvester, Slingerland, Smart, Truman Smith, Starkweather, Charles E. Stuart, Strohm, Tallmadge, Taylor, James Thompson, William Thompson, Thurston, Tuck, Van Dyke, Vinton, Warren, Wentworth, White, Wilmot, and Wilson—69.

NAYS—Messrs. Atkinson, Barringer, Barrow, Bayly, Beale, Bocock, Boyd, Boydon, Brady, William G. Brown, Charles Brown, Albert G. Brown, Buckner, Burt, Butler, Franklin Clark, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crozier, Daniel, Donnell, Garnett Duncan, Ficklin, Flournoy, French, Fulton, Gayle, Gentry, Goggin, Green, Willard P. Hall, Haralson, Hill, Hilliard, Isaac E. Holmes, John W. Houston, Inge, Charles J. Ingersoll, Irvin, Andrew Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, Leffler, Levin, Lincoln, Lynde, McClernand, McDowell, McKay, McLane, Job Mann, Meade, Miller, Morse, Outlaw, Pendleton, Peyton, Phelps, Preston, Rhett, Richardson, Robinson, Shepperd, Sherrill, Robert Smith, Stanton, Strong, Thibodeaux, Thomas, Jacob Thompson, Richard W. Thompson, John B. Thompson, Tompkins, Venable, Wallace, Wiley, and Woodward—82.

Before the result of the vote was announced—

Mr. PECK rose, and asked leave to vote. He stated that he was not within the bar at the time his name was called; but if allowed to vote, he would vote in the affirmative.

Objection being made, Mr. PECK was not allowed to vote.

Mr. HUNT also asked leave to vote. He stated that he was called out of his seat just before the vote was taken, and hoped the House would grant him leave to vote.

Objection being made, Mr. HUNT did not vote.

NOTICES OF BILLS.

Notices of motions for leave to introduce bills were given—

By Mr. POLLOCK: Of a bill extending the provisions of existing laws granting bounty land to the officers and soldiers of the late war with Mexico, to the officers and soldiers engaged in the Indian wars prior to the treaty of Greenville, in 1795; also, to the officers and soldiers of the late war with Great Britain, who have not been embraced in laws in such cases made, or who have not received bounty land.

By Mr. BROWN, of Mississippi: A bill to grant a quantity of land to the State of Mississippi, for the purpose of improving the navigation of certain rivers in said State. Also, a bill to provide for the graduation of the price of the public lands.

By Mr. DUER: A bill to provide for the revision, consolidation, and methodical arrangement of the statutory laws of the United States.

By Mr. PHELPS: A bill to pay to the State of Missouri the two per cent. upon the proceeds of the sales of the public lands which have been sold within the limits of said State, and which have been reserved for the purpose of constructing a road leading to said State.

By Mr. GIDDINGS: A bill to authorize the people of the District of Columbia to express their wishes as to the continuance of slavery and the slave trade within said District.

RESOLUTIONS.

Mr. HOUSTON, of Delaware, moved the following resolution:

Whereas the Clerk of this House has not paid to John B. Fry, who acted as clerk in the office of the Sergeant-at-

arms during the last session of Congress, the extra compensation voted by resolution to the clerks, messengers, &c.,

Therefore, resolved, That the said Clerk of the House do pay to said John B. Fry the same amount of extra compensation as was allowed to each of the assistant clerks in the Clerk's office.

Mr. HOUSTON moved the previous question, which was seconded, and under the operation thereof the resolution was disagreed to, by yeas and nays—yeas 72, nays 75.

On motion of Mr. WENTWORTH, Senate bill (No. 95) granting to the State of Illinois the right of way and a donation of public lands, for making a railroad connecting the lower Mississippi with the chain of northern lakes, at Chicago, was taken from the Speaker's table and referred to the Committee on Public Lands.

On motion of Mr. EVANS, of Maryland,

Resolved, That the papers of Elizabeth McLean be withdrawn from the files of this House, in order that the same may be put upon file at the Pension Office.

On motion of Mr. GREGORY,

Resolved, That the Committee on Commerce inquire into the expediency of establishing a light, to be placed at Bergen Point, at the mouth of the Kill Van Kull, and a light at the mouth of the Passaic river, in aid of the commerce of the Passaic and Hackensack rivers, the Staten Island sound, and Newark bay.

On motion of Mr. POLLOCK, from the Committee of Ways and Means:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of repealing so much of the existing laws relating to public lands as requires all patents issued from the General Land Office to be signed by the President of the United States, and also so much of said laws as authorizes the President to appoint a secretary to sign said patents; also, to inquire into the expediency of amending said laws so as to require all patents for public lands to be signed by the Commissioner and countersigned by the Recorder of the General Land Office; or to be executed and issued in such manner as will be most compatible with the public interest, without the signature of the President, and as will avoid unnecessary delay in the issuing thereof.

Mr. WHITE moved that the bill to reduce the rates of postage, and to correct the abuse of the franking privilege, &c., be made the special order of the day for Monday, December 19.

This motion giving rise to debate, was laid over.

On motion of Mr. GRINNELL,

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of providing for the erection of a fort and other works for the defence of the city of New Bedford, according to surveys made under the direction of the Secretary of War.

On motion of Mr. BELCHER,

Resolved, That the petition of Palmer Branch, for a pension, and the accompanying papers, be taken from the files and referred to the Committee on Invalid Pensions.

Mr. GOGGIN offered the following resolution:

Resolved, That House bill (No. 575) further to amend the act, entitled "An act to reduce the rates of postage, to limit the use, and correct the abuse of the franking privilige, and for the prevention of frauds on the revenues," be the special order of the day for the first Wednesday in January and until disposed of.

Mr. GOGGIN moved the previous question; which was seconded, and under the operation thereof, the resolution was agreed to.

Mr. BARRINGER offered the following resolution; which was agreed to:

Resolved, That the President of the United States cause to be communicated to this House the amount of moneys and property received, during the late war with the Republic of Mexico, at the different ports of entry, or in any other way, within her limits, and in what manner the same has been expended or appropriated.

On motion of Mr. WALLACE,

Resolved, That the Sergeant-at-arms be directed to cause the remains of the Hon. James A. Black, late a member of this House, to be taken from the Congressional vault, where they now lie, and have the same decently interred in the State of South Carolina, in such place as his family shall direct.

Mr. COBB, of Georgia, moved the following, to be added to the Rules of the House:

"It shall not be in order to consider or act upon any order, resolution, or motion, whereby it is proposed to create a charge upon the contingent fund of the House, or dispose of any portion of the same, (except in cases of printing,) until the same has been considered and reported upon by the Commitee on Accounts; and all such propositions shall, on their introduction, be referred, by virtue of this rule, to said committee; nor shall this rule be suspended, except by unanimous consent."

Mr. COBB moved the reference of the proposed rule to the Committee on Rules. Agreed to.

Mr. CROZIER moved the following resolution; which, giving rise to debate, was laid over:

Resolved, That House bill (No. 80) entitled "A bill to promote the education of the indigent deaf and dumb," b made the special order of the day for next Tuesday.

GOVERNMENT OF NEW TERRITORIES.

Mr. ROOT offered the following resolution:

Resolved, That the Committee on Territories be instructed to report to this House, with as little delay as practicable, a bill or bills providing a territorial government for each of the Territories of New Mexico and California, and excluding slavery therefrom.

Mr. ROOT moved the previous question.

Mr. HALL, of Missouri, moved to lay the resolution on the table.

Mr. GIDDINGS moved there be a call of the House. Agreed to.

The Clerk then called the roll, and 187 members answered to their names.

Mr. JONES, of Tennessee, moved that further proceeding in the call be dispensed with. Agreed to.

The question was then put on laying the resolution on the table; and was decided by yeas and nays in the negative: Yeas 80, nays 107.

YEAS—Messrs. Adams, Atkinson, Barringer, Barrow, Beale, Bocock, Botts, Boyd, Boydon, William G. Brown, Charles Brown, A. G. Brown, Buckner, Burt, Chase, Clapp, Clingman, Howell Cobb, W. R. W. Cobb, Cocke, Cranston, Crozier, Daniel, Donnell, G. Duncan, Alex. Evans, Ficklin, Flournoy, French, Fulton, Gaines, Goggin, Green, Willard P. Hall, Haralson, Harmanson, Harris, Hill, Hilliard, Isaac E. Holmes, Inge, C. J. Ingersoll, Iverson, Andrew Johnson, R. W. Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, La Sère, Leffler, Ligon, Lumpkin, McClernand, McDowell, McKay, McLane, Meade, Miller, Morehead, Morse, Outlaw, Pendleton, Peyton, Phelps, Preston, Rhett, Richardson, Sawyer, Shepperd, Stanton, Thibodeaux, Thomas, Jacob Thompson, John B. Thompson, Tompkins, Van Dyke, Venable, Wallace, and Woodward—80.

NAYS—Messrs. Abbott, Ashmun, Belcher, Blackmar, Blanchard, Brady, Butler, Canby, Cathcart, F. Clark, Collamer, Conger, Crowell, Cummins, Darling, Dickey, Dickinson, Dixon, Duer, Daniel Duncan, Dunn, Eckert, Edwards, Embree, Nathan Evans, Faran, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, N. K. Hall, Hammons, J. G. Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, Irvin, Jenkins, James H. Johnson, Kellogg, D. P. King, Lahm, Wm. T. Lawrence, Sidney Lawrence, Levin, Lincoln, Lord, Lynde, Maclay, McClelland, McIlvaine, Job Mann, Marsh, Marvin, Morris, Mullin, Murphy, Nelson, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pollock, Putnam, Reynolds, Richey, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Sherrill, Silvester, Slingerland, Smart, C. B. Smith, Robert Smith, Truman Smith, Starkweather, C. E. Stuart, Strohm, Strong, Tallmadge, Taylor, James Thompson, R. W. Thompson, William Thompson, Thurston, Tuck, Vinton, Warren, Wentworth, White, Wiley, Wilmot, and Wilson—107.

The question then recurring on seconding the demand for the previous question—

Mr. VINTON rose, and wished to know whether this was a resolution instructing the committee to inquire into the expediency of reporting the bill, or directing the committee to report?

The SPEAKER. It directs the committee to report forthwith.

Mr. VINTON. Then I hope the previous question will not be sustained.

The question was taken by tellers, and decided ni the affirmative—ayes 76, noes 52.

So the previous question was seconded.

Mr. VINTON rose, and proposed to amend the resolution.

The SPEAKER. No amendment is in order after the previous question has been seconded.

The main question was ordered.

Mr. EVANS, of Maryland, called for a division of the resolution, so as to vote first on the simple motion to refer.

The SPEAKER decided that the resolution did not admit of a division.

The question being on the adoption of the resolution, the yeas and nays were asked by many members, and were ordered.

Mr. GOGGIN moved that the House adjourn, but subsequently withdrew the motion.

The question on the resolution was taken, and decided in the affirmative—yeas 106, nays 80—as follows:

YEAS—Messrs. Abbott, Ashmun, Belcher, Bingham, Blackmar, Blanchard, Brady, Butler, Canby, Cathcart, Clapp, Collamer, Conger, Crowell, Cummins, Darling, Dickey, Dickinson, Dixon, Duer, Daniel Duncan, Dunn, Eckert, Edwards, Embree, Nathan Evans, Faran, Farrally, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, Hammons, James H. Hampton, Henley, Henry, Hubbard, Hudson, Hunt, Irvin, Jenkins, James H. Johnson, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Levin, Lincoln, Lord, Lynde, Maclay, McClelland, McIlvaine, Job Mann, Marsh, Marvin, Morris, Mullin, Nelson, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pollock, Putnam, Reynolds, Richey, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Sherrill, Silvester, Slingerland, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Starkweather, Charles E. Stuart, Strohm, Strong, Tallmadge, Taylor, James Thompson, Richard W. Thompson, Wm. Thompson, Thurston, Tuck, Vinton, Warren, Wentworth, White, Wick, Wiley, Wilmot, Wilson—105.

NAYS—Messrs. Adams, Atkinson, Barringer, Barrow, Bayly, Beale, Bocock, Botts, Boyd, Boydon, William G. Brown, Charles Brown, Albert G. Brown, Buckner, Burt, Chase, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Cranston, Crozier, Daniel, Donnell, Garnett Duncan, Alexander Evans, Flournoy, French, Fulton, Gaines, Gentry, Goggin, Green, Willard P. Hall, Haralson, Harmanson, Harris, Hill, Hilliard, Isaac E. Holmes, Inge, C. J. Ingersoll, Iverson, Andrew Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, La Sère, Leffler, Ligon, Lumpkin, McDowell, McKay, McLane, Meade, Miller, Morehead, Morse, Murphy, Outlaw, Pendleton, Peyton, Phelps, Preston, Rhett, Richardson, Sawyer, Shepperd, Stanton, Thibodeaux, Thomas, Jacob Thompson, John B. Thompson, Robert A. Thompson, Tompkins, Venable, Wallace, and Woodward—80.

So the resolution was adopted.

Mr. ROBINSON obtained the floor, and moved a reconsideration of the vote, stating that he wished to make some remarks on the question, but preferred not to go on this evening.

On his motion, the House adjourned.

IN SENATE.

THURSDAY, *December* 14, 1848.

Mr. WEBSTER appeared in his place.

On motion,

Ordered, That when the Senate adjourns, it adjourn to meet on Monday.

The VICE PRESIDENT laid before the Senate a communication from the chief of the Engineer Department, transmitting a memorial from Isaac S. Keith Reeves, of the United States army, asking that his allowances as adjutant of the Military Academy may be placed on the same footing with those of an adjutant of a regiment of dragoons.

The VICE PRESIDENT laid before the Senate a communication from the Treasury Department, accompanying the annual report of the Commissioner of the General Land Office, and papers; which was ordered to be printed.

MEMORIALS AND PETITIONS.

Mr. JOHNSON, of Louisiana, presented the petition of Ward Marston, late a captain in the marine corps, praying that he may be restored to the rank in the corps from which he was dropped at the termination of the war with Mexico; which was referred to the Committee on Naval Affairs.

Mr. J. also presented the petition of L. McIntire, register and receiver of land offices in Louisiana, praying an increase of compensation for services rendered in the land offices; which was referred to the Committee on Public Lands.

On motion of Mr. JOHNSON, of Louisiana,

Resolved, That the Committee on Pensions be instructed to inquire into the expediency of reporting a bill providing for the confirmation of the claim of Benjamin T. Bosworth for bounty lands.

Mr. DIX presented the petition of James Fry and others, employed in the Quartermaster's Department, praying that the bounty lands, and three months' extra pay, granted to persons engaged in the war with Mexico, may be extended to them; which was referred to the Committee on Military Affairs.

Mr. FELCH presented the petition of citizens of Michigan, asking an appropriation for the survey and improvement of the harbor at the mouth of the Ontanagon river, on Lake Superior; which was referred to the Committee on Commerce.

Mr. FELCH presented the petition of certain citizens of Michigan, praying for an extension of the general preëmption law to the mineral lands on Lake Superior; which was referred to the Committee on Public Lands.

Mr. HALE asked and obtained leave to withdraw from the files of the Senate the petition and papers of Pearce and Cogswell.

On motion of Mr. DICKINSON, the petition and papers of Amasa Dana and others, were taken from the files of the Senate, and referred.

Mr. DIX presented the petition of Daniel Webb, praying to be allowed the arrears of pension due to him; which was referred to the Committee on Pensions.

Mr. HUNTER presented the petition of A. G Grinnan and other heirs of Andrew Glassel, deceased, praying for indemnity for French spoliations prior to 1800; which was referred to the Committee on Foreign Relations.

On motion of Mr. STURGEON, the petitions and papers in the cases of William Parkeson and Benjamin Miller were withdrawn from the files of the Senate, and referred to the Committee on Pensions.

On motion of Mr. WESTCOTT, the petition

and papers in the case of Francis Cazeau were withdrawn from the files of the Senate, and referred to the Committee on the Judiciary.

Mr. DAYTON asked and obtained leave to withdraw the documents accompanying the petition and papers of Aaron Carman.

Mr. BREESE presented the petition of Rosanna Maury, praying for a pension; which was referred to the Committee on Pensions.

On motion of Mr. UNDERWOOD, the petition and papers in the cases of Joseph Radcliffe and John Bruce were withdrawn from the files of the Senate, and referred to the Committee on Claims.

NOTICES OF BILLS.

Mr. KING gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a bill for the remission of duties on an equatorian telescope, contracted for in London by the trustees of the University of Alabama.

Mr. DOWNS gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a bill authorizing new sections of land in lieu of worthless school sections, or sections of inferior quality, and for other purposes.

Mr. WALKER gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce bills of the following titles:

A bill to grant to the State of Wisconsin the military reservation at Fort Winnebago, in that State;

A bill in relation to the Sabine lands in the State of Wisconsin; and

A bill to provide for the construction of a military road in the State of Wisconsin.

BILL INTRODUCED—SEVENTH CENSUS.

Mr. CAMERON, in pursuance of notice, asked and obtained leave to introduce a bill for taking a seventh census, or enumeration of the people of the United States; which was read twice, and referred to a select committee of five members.

On motion of Mr. CAMERON, it was

Ordered, That the VICE PRESIDENT appoint said committee.

The committee was then appointed by the CHAIR, to consist of the following Senators:

Messrs. CAMERON, DAVIS of Massachusetts, BUTLER, UNDERWOOD, and BADGER.

RAILROAD ACROSS PANAMA.

Mr. BENTON, from the Committee on Military Affairs, to which was referred the memorial of W. H. Aspinwall, J. L. Stephens, and Henry Chauncey, praying for aid in the construction of a railroad across the Isthmus of Panama, reported the following bill:

A BILL to make compensation for the transportation of troops and supplies, for a limited time, over the Isthmus of Panama.

Be it enacted, &c., That the Secretary of the Navy be, and he is hereby, authorized and directed to enter into a contract, in behalf of the Government of the United States, for a period not exceeding twenty years, with William H. Aspinwall, John L. Stevens, and Henry Chauncey, all of the city of New York, for the transportation, by steam, of naval and army supplies, including troops, munitions of war, army, naval, and public stores, the mails of the United States, and all persons in its employment, to and fro, over a railroad, to be constructed by them and their associates, across the Isthmus of Panama, from the Atlantic to the Pacific Ocean: *Provided*, That the annual sum to be paid for such transportation shall not exceed three-fourths of the amount now stipulated by law to be paid for the transportation of the mails alone from New York to Liverpool: *And provided, also*, That no payment under such contract shall be made until said railroad shall be so far advanced as to permit said transportation across the Isthmus of Panama wholly by steam power: *And provided further*, That the contract to be made in pursuance of this act shall require the said railroad to be commenced within one year from the date of said contract, and be completed within three years from the 1st day of June, in the year eighteen hundred and forty-nine.

The bill having been read a first and second time—

Mr. BENTON stated, that if the work which was contemplated was to be done at all, it must be done during the dry season. If this bill, therefore, was to be passed, it should be passed immediately. He would therefore move to postpone the further consideration of the bill until Monday next, and to make it the special order for that day.

Mr. CAMERON intimated a wish that a longer interval should be allowed. The bill had been read to-day for the first time. It contemplated giving a profitable contract to citizens of New York; but if publicity were given to the subject, others might come forward and offer more favorable terms.

Mr. DAVIS, of Mississippi, reminded the Senator that the right of way was secured by treaty, and that the petitioners for this contract had obtained a charter from the Government of New Granada. No others could come forward in the face of this monopoly charter. The dry season would now set in until July, and it was important that advantage should be taken of the season.

Mr. BENTON explained that it was not likely it would be disposed of on Monday. He was desirous that it should be taken up for discussion on that day.

On motion of Mr. UNDERWOOD, the memorial accompanying the bill was ordered to be printed.

The bill was then made the special order for Monday next.

EXPENDITURES OF THE POST OFFICE.

Mr. UNDERWOOD. Mr. President, yesterday a report was presented by the Chair to the Senate from the Treasurer of the United States, containing accounts of the receipts and expenditures of the Post Office Department for the four quarters ending June 30th, 1848. When this report was laid before the Senate, no other Senator seemed to pay any attention to it, and, supposing that it might contain information valuable to the Senate, I rose in my place and asked for it to be printed. The motion prevailed, and the printing was ordered. Afterwards the Secretary informed me that this was a document which it was not usual to print; and thereupon I went to the table and examined it. I found it to contain nothing more than an account of the deposites made by the Post Office Department at the various depositories to the credit of that department, and drafts paid by the Treasurer of the United States out of the fund so deposited, to a great variety of persons, whose names are given in the account—some twelve or thirteen hundred; but what the money was paid for is wholly omitted. I therefore conceive that it is wholly useless to print the document in its present shape; and I have risen, therefore, for the purpose of moving a reconsidertion of the vote by which the printing of it was ordered.

I desire, sir, to call attention to the manner in which these accounts are kept. There are four large volumes of the account, which shows how much labor has been bestowed upon the report, which can be of no practical value whatever in its present shape. In this account there is a credit given to the Post Office Department for $189,204 60; and charges are made against this fund for an amount paid to Mr. Francis J. Grund of $972 75; an amount paid to Hamilton & Fournoy, $815; and for an amount paid to Gales & Seaton, $16 25; and so on, going through the twelve or thirteen hundred names set down in the books. And this is all the information which the book contains. It would have been just as valuable to have said, that, for the second quarter of the year 1848, the receipts of the department were so much in the aggregate, and the expenditures so much.

In looking into this subject, it has occurred to me that many of the reports made by the various departments of Government, showing how money has been expended, are very unsatisfactory, in not stating for what the money was paid—in not exhibiting the nature of the service rendered, or the kind or quality of the property purchased. There might be, in the voluminous reports made by the different departments of the Government, all this information given to us at every session of Congress. But if it is communicated in the intelligible form in which it ought to be done, showing the amount paid to each individual, and for what service, or if it be on a contract, the amount actually purchased and delivered by the vendor, I am not apprized by the reports made. In view of this subject, after my motion shall be disposed of, I will, with the leave of the Senate, submit a resolution, which will be a joint resolution, for the purpose of instructing the various departments of the Government making report of disbursements of money, that they inform us, not only to whom the money has been paid, but for what specific purpose. And that can be stated very briefly, and the information communicated in that way would be valuable. When I have submitted my joint resolution it may lie on the table, and in the mean time I will consult those better informed on the subject, if this information is annually given. If not, perhaps I shall call up the resolution, and ask the action of the Senate. At present, sir, I move to reconsider the vote by which this very useless account, as I think, has been ordered to be printed.

The order was then reconsidered, and the motion to print withdrawn.

DEATH OF HON. A. D. SIMS.

A message from the House of Representatives was received by Mr. CAMPBELL, their Clerk, announcing that the House had received information of the death of the Hon. A. D. SIMS, late a Representative from the State of South Carolina, and communicating the proceedings of the House thereupon.

The message having been read—

Mr. BUTLER rose and said:

Mr. PRESIDENT: My late colleague, the HON. ALEXANDER DROMGOOLE SIMS, whose death has been announced by the message just read, took his seat in the House of Representatives, for the first time, in the Twenty-ninth Congress. A few days before his sudden death, which took place on the 16th of the last month, at Kingstree, South Carolina, he learned that he had been returned, for the third time, by the same district to Congress. These marks of popular favor were honorable evidence that he had won and retained the confidence of an intelligent constituency.

Mr. SIMS was born in Brunswick county, Virginia, on the 12th of June, 1803. His highly respectable parents, though in moderate circumstances, belonged to that class of persons who placed a high value on the advantages of a liberal education; and two of their sons attained eminence and distinction, and, by their success in life, made a worthy requital for the sacrifices of their parents.

The deceased, of whom I am speaking, if not a scholar in the highest import of that term, was a gentleman of excellent intellect, of various and elegant literary attainments. His brother (late a professor of Alabama University) was an eminent divine and ripe scholar. My colleague, after passing through his ordinary academic course, became a student in the North Carolina University, and continued in that institution until his junior year, when, perhaps attracted by the high reputation of Dr. Nott, for whose character he seemed to have entertained a pious veneration, he joined one of the higher classes in Union College, in the State of New York, and was graduated in that institution in 1823, leaving behind him a high reputation for capacity and attainments, especially in those branches of learning comprehending the tasteful pursuits of literature and the philosophy of the human mind.

On his return from college he studied law in the office of his uncle, (the late General DROMGOOLE,) and, for one or two years after his admission to the bar, he practised in the courts of Virginia. His success not being equal to his expectation or the aspirations of his ambition—for he was an ambitious man—he removed, in 1826, to Darlington district, South Carolina, and took charge of an academy. In this situation he was eminently useful, and laid the foundation of many enduring friendships, to which he may perhaps have been indebted for his subsequent success in life. Some of his pupils are now citizens of distinction, and bear testimony to the excellence of their teacher and preceptor, and perhaps the highest and most honorable monuments he has left behind him are the intelligent citizens who acknowledge with gratitude the instructions derived from him.

Mr. SIMS was admitted to the bar of South Carolina in the year 1829, and soon acquired a lucrative practice. As a counsellor, solicitor, and advocate, I can speak of him with unfeigned pleasure. He was engaged in the most important causes on his circuit, and was always equal to them. In the Supreme Court, some of his arguments are marked by research, learning, and ability.

His ambition aspired rather more to political distinction than to forensic reputation, and before he entered upon the responsible duties of public life he took an active part in popular meetings in the exciting politics of the time. In 1840 he was returned a member of the Legislature of South Corolina. His efforts here enhanced his reputation among his constituents and fellow-citizens, and he was transferred to the Congress of the United States.

His career in that body is better known to others present than to myself. Judging from a notice taken of him in a late book of biographical sketches, he

has acquired something like a historical reputation. In early life he was thoroughly schooled in the doctrines of the Republican party, and throughout his political career he adhered to them with consistency and firmness.

Mr. SIMS possessed in a very high degree what is implied in the term address. He was a pleasing speaker, a man of frank and conciliating manners, and of kind and tolerant disposition.

The triumph of his late success, and his sudden death, were brought in instructive proximity with each other, and are mournful commentaries on the mutability of human life, and the nothingness of human ambition.

If he had faults, Mr. President, (and who of us is without them?—"the heart knoweth its own bitterness,") let them sleep with him in the grave, the common lot and the rebuking leveler of mankind.

Mr. President, I offer the following resolutions:

Resolved, unanimously, That the Senate has heard with deep sensibility of the sudden death of the Hon. ALEXANDER D. SIMS, a Representative from the State of South Carolina.

Resolved, unanimously, That the members of the Senate, from a sincere desire of showing every mark of respect to the memory of the deceased, will wear the usual badge of mourning for thirty days.

Resolved, unanimously, That, as a further mark of respect for the memory of the deceased, the Senate do now adjourn.

Agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 14, 1848.

SAMUEL A. BRIDGES, from the State of Pennsylvania, appeared this day and took his seat.

On motion of Mr. BOTTS,

Resolved, That the Secretary of the Treasury be, and he is hereby, required to furnish this House with a statement of the amount of coal imported under the tariff of 1846, and the amount of revenue derived from the same; also, the amount of coal imported annually under the act of 1842, and the amount of revenue derived from the same.

OBITUARY.

Mr. WALLACE rose and said:

Mr. SPEAKER: I rise, sir, to call the attention of this honorable body to an afflictive dispensation of Divine Providence, which has deprived this House of one of its most useful members, and the State of South Carolina of a much valued and honored citizen.

On the 16th day of November last, in the forty-sixth year of his age, my colleague, the honorable ALEXANDER DROMGOOLE SIMS, breathed his last, in the village of Kingstree, Williamsburg district, in the State of South Carolina. He died, surrounded by devoted friends, in the midst of the people he so ably and faithfully represented on this floor.

The approach of death, even when his fatal dart is pointed at the aged and infirm, to the reflecting mind, is always terrible; but it is calculated to impress our minds with feelings of far more than ordinary solemnity, when the blow falls upon the young, or when a brother, in all the pride of his strength, in the full vigor of health and manhood, full of hope and of promise, is stricken down before our eyes, and his connection with the things of this world forever dissolved.

A few days only has passed since my honorable colleague filled that seat (pointing to Mr. SIMS's seat on the floor of the House) with distinguished honor to himself and his country. He was in the prime of life, in the full enjoyment of health, and apparently with a long and honorable career of usefulness and distinction in the path of life before him. But when most unlooked for by himself or his friends, "the silver cord was loosed, the pitcher broken at the fountain," and he now calmly sleeps, undisturbed and unshaken by the rude blasts of the storms of life, "in the narrow house appointed for all living."

This awful dispensation of Divine Providence is of consequence not only to the dead, to the immortal destiny of our departed friend, but is full of instruction and admonition to the living also. It most forcibly reminds us of the frail and uncertain tenure of human life, the vanity and nothingness of all human ambition and human pursuits, and that, of a truth, "in the midst of life we are in death."

Mr. SIMS was a native of Virginia, and was born in Brunswick county, in that State, in the year 1803. At the age of twenty-three, he graduated at Union College, in the State of New York. After the close of his collegiate course, he read law with his friend and relative General Dromgoole, at one time a distinguished member of this honorable body from the State of Virginia.

In 1826, he removed to Darlington district, in the State of South Carolina; and in 1829, was admitted to the practice of law in the courts of that State, where he soon rose to eminence in his profession, in the practice of which he continued until the year 1840, when he was returned a member of the General Assembly for Darlington, in which service he continued until elected to Congress, in 1844. And his constituency, among the most intelligent in the State, have pronounced their approval of his course as a member of this honorable body, by reëlecting him *twice* to the same responsible position, his last election having transpired but a few days before his death.

Mr. SIMS was a statesman of the State-rights school, and his public life—at all times distinguished by much ability, the strictest integrity, and a conscientious discharge of every duty—was in strict conformity to the doctrines of the true republican faith.

Of our departed friend it may be truly said, he was a faithful friend and a true patriot—the honest man and the worthy citizen. But it has pleased an allwise Providence to remove him hence; and while we bow with humble resignation to the will of Him who holds the destinies of nations as well as individuals in his hand, we, at the same time, cannot but feel that the loss of a citizen of such distinguished public worth and ability is indeed a public calamity.

In order, Mr. Speaker, that suitable and appropriate honors may be paid to the memory of the distinguished dead, I move, sir, the following resolutions:

Resolved unanimously, That this House, from a sincere desire of showing every mark of respect due to the memory of the Hon. ALEXANDER D. SIMS, deceased, late a member of this body, will go into mourning by wearing crape on the left arm for thirty days.

Resolved unanimously, That, as a further mark of respect to the memory of the Hon. ALEXANDER D. SIMS, this House do now adjourn.

And the House adjourned until to-morrow at twelve o'clock.

HOUSE OF REPRESENTATIVES,

FRIDAY, *December* 15, 1848.

The Journal of yesterday was read and approved.

PRIVATE CALENDAR.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole for the purpose of proceding to the consideration of bills on the private calendar.

The motion having been agreed to, the House resolved itself into Committee of the Whole (Mr. COBB, of Georgia, in the chair,) and proceeded to the consideration of the private calendar.

The bill first in order was the bill for the relief of Lyon & Howard.

At the suggestion of Mr. ROCKWELL, of Connecticut, it was informally laid aside for the present, in consequence of the absence of two members who felt deeply interested in it.

The bill next in order was the bill for the relief of Jeremiah Moors.

The bill having been read—

Mr. STARKWEATHER called for the reading of the report made in February last, by Mr. CROWELL, from the Committee on Claims; which was read.

It appears from the report, that Henry T. Blake contracted with Adam D. Stewart, an agent of the United States, on the 30th of August, 1831, to build a light-house and dwelling-house on the Outer Bay, Thunder Island, in Lake Huron. On the same day on which this contract bears date, Mr. Blake assigned it to the memorialist, Jeremiah Moors, or rather constituted him his agent to perform the work, fulfill the contract, and receive the pay. The memorialist was accepted as the substitute of Mr. Blake, to perform the contract, by the Government agent.

The site for the light-house was selected by the Government agent, and it was erected on this site by the memorialist, in conformity to the stipulations of the contract, and, as it appears, to the entire satisfaction of the superintendent.

There is no evidence to impeach the integrity of the Government agent in selecting the site; but, on the contrary, the committee say it appears plain that he acted in good faith, and that it was owing to his entire ignorance of the island, and the irresistible storms that beat upon it, that an improper site was selected. The work was commenced and prosecuted with great skill and energy, until the whole structure was completed, except a small amount of labor to be performed upon the lantern.

It appeared from the testimony that two storms, before the last which caused the tower to fall, visited the island during the progress of the work; and on both occasions some damage was done to it, which, under the direction of the superintendent, was promptly repaired by the memorialist, and the work continued. The proof left no room for doubt that the falling of the tower, after the masonry was completed, must be wholly attributed, not to any defect in the materials, or unskillfulness in the workmanship, for both were unexceptionable, and in strict conformity to the contract—but to the severity of the storms, and the injudicious and exposed location of the building. No light-house, constructed of the materials and in the manner provided in the contract, could be made to stand on the site selected by the Government agent. The testimony on this point is conclusive. It was elevated only about two feet above the surface of the lake, and within a few feet of the water; and the structure was exposed to the winds that swept over the broad surface of the lake, and the resistless violence of the waves. In proof that the place selected was an unwise and impracticable one, (besides that afforded by the opinions of the witnesses,) the committee quote the fact, that the Government agent made a different location for the new light-house built since the first one fell down. The second light-house, which was also built by the memorialist, and of the same materials, but on a different site, and further from the shore, has stood firm to the present time. The fall of the light-house, the committee is forced to conclude, was owing wholly to its location; and not to any fault of the memorialist. He seeks payment for the masonry and mortar used in the erection of the first light-house. The committee conclude that he is entitled to compensation therefor.

The bill which they reported in accordance with this state of facts, authorizes the Secretary of the Treasury to pay the memorialist "a just compensation."

Mr. STARKWEATHER now called for the reading of an adverse report which had been made at the first session of the twenty-third Congress; and it was read accordingly.

Mr. S. then very briefly opposed the passage of the bill. He called the attention of the committee to the fact, that four adverse reports had heretofore been made against this claim, one of which was that which had just been read. He recapitulated the amounts which had been paid to the memorialist under his contract, and proceeded to show that the amount received by the memorialist had been greater than that to which he was, under the original contract, entitled to receive. The object of the memorial, Mr. S. contended, was to induce Congress to guaranty the party against work improperly executed. There were four reports adverse to the claim to one in its favor, and he hoped the bill would not pass.

Mr. DANIEL moved that the bill be laid aside to be reported to the House, with a recommendation that it do not pass.

And the question being on this motion—

Mr. McCLELLAND said, that he thought the gentleman from New York [Mr. STARKWEATHER] was mistaken in the view he had taken of this case. If the gentleman would refer to a report made at the last session of Congress, he would find that this claim had been presented at the Treasury Department immediately after the disaster to the work had occurred; and that the Secretary of the Treasury expressly refused to make compensation either on account of the light-house or the dwelling-house. A light-house and a dwelling-house were to be constructed. For the dwelling-house the memorialist had been paid, but never one farthing for the material of the light-house, or for labor. And if the gentleman from New York would refer to the decision of the then Secretary of the Treasury, Louis McLane, he would see that the Secretary had declared that he had no authority to pay for the light-house, but that the petitioner could obtain relief only through the interposition of Congress. That was the principal fact developed in the report—that on account of the appro-

priation being a specific appropriation, for a particular purpose, it was out of his power to divert the money from its original purpose to pay Moors for this disaster, which had arisen not from his negligence or incapacity, but in consequence of the want of skill and knowledge on the part of the agent of the Government who located the light-house. He (Mr. McC.) wished to state the facts simply and plainly, that gentlemen might be able to make up their minds understandingly as to the propriety of passing or rejecting this bill.

The light-house, as he had stated, was located by the agent of the Government in a particular spot. He was told, that if it was located there, the building would not stand. He determined, however, that that should be the spot, and the contractor was compelled to build it there. When it was nearly completed, the lantern only remaining to be fixed, several storms destroyed the light-house. The superintendent then came forward, and, in an equivocal manner, (for he had not made the allegation directly,) intimated that the light-house had not been constructed according to contract. It appeared, however, from the testimony of twelve or fifteen of the most respectable citizens of Michigan, whose respectability was vouched for by Messrs. Cass, Woodbridge, and Porter, that the Government agent had told them that the contractor did the work well; that he had discharged all his duties as faithfully as they could have been discharged; and that he was not in any manner to blame by reason of the falling of the light-house.

These were the circumstances under which the memorialist came before this body. If any one would read the report and the affidavits laid before the Secretary of the Treasury at the time the disaster occurred—if he would read the decision of the Secretary himself—he could not come to any other conclusion than that the Secretary thought that the memorialist was entitled to compensation, but that it was not in his power to grant it. The affidavits then and subsequently filed established the fact beyond all controversy, that if ever any man was entitled to relief at the hands of Congress, the memorialist was that man. He was one of the best men in the State of Michigan, and there was no one whose statement he (Mr. McC.) would sooner believe. He would believe anything he said; but he could not, in the present instance, place confidence in the statements of the Government agent, because respectable gentlemen came forward and declared that he now made statements explicitly contrary to those which he made in his letter to the Secretary of the Treasury. That letter was not disclosed until ten years after it was written, so that the memorialist had been kept in ignorance of it, and had never taken any steps to counteract its effects. The memorialist asked nothing but compensation for labor and materials. To that compensation he was entitled. The proof in the case was conclusive. The cause of the disaster lay in the action of the Government agent. If the Government appointed incompetent agents, citizens who entered into contracts with them ought not to be injured by their errors or their incompetency.

Mr. DANIEL spoke in favor of the motion he had submitted, and argued strongly against the passage of the bill. He contended that the light-house had not been built in strict conformity with the contract. If it had been so, no man probably could have said whether this difficulty would or would not have arisen. One of the provisions of the contract—material, in his judgment—had been, that the walls of the light-house, on the water side of the rock upon which the building was to be erected, were to be pointed with Roman cement, and whitewashed. This material was much more tenacious, and likely to make the work more durable, than lime-mortar. Instead of complying with his contract in this respect, the memorialist had used nothing but the common mortar. In this particular Mr. D. thought he had been in default, and no man could say but that the falling down of the light-house was a consequence of this default. In other respects, it appeared that the work had been well done; but still, no man could say, that if the species of cement provided by the contract had been used, the disaster would have occurred. He begged the committee to note that fact, and then to turn their attention to some other facts in the case, from which, it seemed to him, gentlemen would see the propriety of the adverse report which had been made by Mr. Whittlesey, and which had been followed up by similarly adverse action on the part of all subsequent committees that had investigated the matter until the last session of Congress. If there was any other report, except that made at the last session, which was not adverse, he (Mr. D.) had yet to learn the fact. The case had undergone four several investigations previous to that, and each of these investigations had brought the committees to the conclusion that the report of Mr. Whittlesey was correct, and that the petitioner was entitled to no aid at the hands of Congress.

Mr. D. then proceeded to examine the provisions of the contract, and into the nature and extent of the work to be executed under them, and its results. The Treasury Department, he argued, knew that it had no authority to make compensation; but from what had taken place, the conclusion could not be resisted, that there was a disposition, on the part of that department, and of those who were authorized to appraise the work, to make the memorialist such compensation as would cover all damages. He referred to the terms of a second contract which Mr. Moors had entered into for the construction of a light-house of the same dimensions as that which had fallen down, and contended that, by the liberality of the appraisers, the memorialist had received ample compensation for all that he had done. He believed that, in equity, justice, or law, the memorialist had no claim upon this Government.

Mr. CROWELL (who reported the bill from the direction of the Committee on Claims) briefly stated and enforced the grounds upon which the claim was based. He said it was a claim merely for the labor and mortar expended in the erection of the first tower. The work was done under contract with the Government. The site for the structure was, by the terms of the contract, to be selected by a Government agent—the collector, perhaps, of Mackinaw. This site was selected about eight feet from the water's edge, upon a rock about two feet above the surface of Lake Huron, on Thunder Bay Island. Here the contractor was directed to build a light-house. He proceeded with the work. Mr. C. gave an account of the progress of the work, its being retarded by two successive storms, and of its finally being swept away by a third when it was entirely completed, with the exception of setting a few lights of glass in the lantern. He stated that by the terms of the contract, the claimant having been obliged to build this structure upon a site selected by the Government agent, and having done so, and completed the structure within perhaps a day's work, the accounting officers had demurred to making him compensation, because the contract had not been complied with to the letter, in the full completion of the work, and had made him no allowance. He stated also that the site had been selected by the Government agent after the contract was entered into; and although it became quite apparent, before the structure was completed, that the site was an impracticable one, yet the agent insisted upon a fulfillment of the contract on the part of the memorialist, and obliged him to go on and complete the structure on the site which had been selected.

The contractor now claimed compensation for these reasons: that the light-house was built upon a site where no light-house could be made to stand; there was ample, conclusive evidence of skillful, scientific, practical men, embodied in the report of the Committee on Claims at the last session, that no structure could be made to stand on the site selected. The second light-house which was authorized to be built was located on a different point on the island, thirty rods from the edge of the lake. It was built by this same man, and had there stood from that day to this—thus illustrating, by the conduct of the agent himself in making the change, as well as by the continuance of the work to this time, that the first location was an improper and impracticable one. Now, in consequence of the ignorance of the Government agent, this site having been selected, he held that the amount of loss resulting to the contractor, both in labor and mortar used in the erection of the first light-house, was a plain, legal, and equitable claim upon the Government. This question as to the value of the labor and mortar was by the bill referred to the accounting officers of the treasury, to be hereafter ascertained.

He noticed the objection brought to the claim, that adverse reports had been made upon it, especially by Mr. Whittlesey, some fourteen years since; and in reply, said that but little evidence had at that time been obtained; and while the present Committee of Claims might be very willing to concur with Mr. Whittlesey upon the evidence at that time before him, they considered that the important additional testimony obtained since that time changed the state of the case, and clearly sustained the claim.

In reply to Mr. DANIEL's statement, that the present was the only favorable report upon this claim which had been made in the House, he said the gentleman was mistaken; and that out of five reports, two of them, made since the testimony was collected, sustained, and three made previously opposed the claim—one of the three having been made by the honorable gentleman himself, [Mr. DANIEL,] who now opposed the claim.

The amount which would be allowed to the memorialist was comparatively trifling; still, in his judgment, and in the judgment of the committee, who had directed him to make the report, the memorialist was fully entitled to it. The whole amount would not perhaps exceed $100, or, at any rate, $150.

In reference to the allegation that the terms of the contract had not been complied with, he said that the Government agent, the superintendent of the work, had made no complaint that the contract was not fulfilled to the letter. There was no pretence that there had been any want of skill, faithfulness, or integrity on the part of the memorialist in the completion of the work; on the contrary, the Government agents had themselves certified that the materials and workmanship were of the first order, and had said nothing about the omission to use cement, upon which so much stress was laid by the gentleman from North Carolina. He believed, and the Committee on Claims believed, that the claim was just and legal, and that, could the case be brought into court, before any jury of the country, a verdict might be obtained for the amount claimed. He therefore hoped that the motion of the gentleman from North Carolina might be rejected, and the bill be laid aside to be reported to the House.

Mr. DANIEL inquired of the Chair if an amendment was now in order, while the motion to lay aside the bill to be reported with a recommendation that it do not pass, was pending?

The CHAIR replied, that an amendment would not be in order at this time.

Mr. GREEN appealed to Mr. DANIEL to withdraw his preceding motion, to enable him to move an amendment to limit the amount to be paid under this bill to $150.

Mr. DANIEL preferred to adhere to his motion, as he thought that the claimant, having received more than the contract stipulated, was already amply paid. If, however, the motion to report, with an adverse recommendation, should be rejected, he had himself thought of proposing an amendment similar to that of the gentleman from Missouri.

Mr. McCLELLAND (under the impression that the amendment had been offered) expressed the hope that the proposed limitation would not be adopted. He did not know the amount of the claim, but thought the accounting officers should be left at liberty to report the amount they should find justly due, without being restricted to a certain sum.

The CHAIR here interposed, and informed the gentleman that the amendment had not been offered.

The question was taken on the motion to report the bill with a recommendation that it do not pass; and was negatived.

Mr. GREEN offered the amendment which he had indicated, providing that no more than $150 should be paid under this bill, and that the amount paid should be in full satisfaction of the claim. He briefly stated that he had based his proviso of limitation on the assurance of Mr. CROWELL, that the amount of the claim would not be more than the amount to which he proposed to restrict it, viz: $150.

Mr. CROWELL explained that he did not pretend to speak of the precise amount due upon the claim; but that it was small, and the bill referred to the proper accounting officers of the treasury to ascertain it.

Mr. GREEN repeated that his proposition wa

intended to meet the impression made by the gentleman's remarks, that the claim would not exceed $150, and urged that the claim being pressed upon Congress, on the ground that it was small, the amount should not be left indefinite; but, if passed, that the accounting officers should at least be restricted to the amount which was claimed by the advocates of the bill.

Mr. LAHM opposed the amendment, on the ground of its evident impropriety, holding that, the claim being for labor bestowed on the structure and for mortar used, if the memorialist was entitled to anything, it was to the full value of both; and urging that a casual estimate by his colleague that the amount would not exceed one hundred and fifty dollars, should not prejudice the claim, but that it should be allowed to stand on its own merits, and whatever amount was ascertained to be due should be paid. He had listened to the arguments on both sides, and, although his feelings had been the other way, he had come to the conclusion that the claimant was entitled to compensation. Why? Because he had constructed the light-house in accordance with the terms made by the Government agent, upon the site selected by the Government agent, where the agent was told at the time that the buildings would not probably stand. The structure having thus been erected, the contract having been complied with to the satisfaction of the Government agent, and the work being overthrown by a storm, it was clearly the fault of the agent, and not of the contractor, and the contractor should be compensated for the amount of his labor and mortar used.

The question was then taken on the amendment of Mr. GREEN, and decided in the negative.

So the amendment was rejected.

Mr. MEADE said that he had heard both sides of the argument on this bill, but had not been able to make up an opinion either on the one side or the other. He found himself in the same predicament in respect to this bill, as that in which he had found himself as to all other private bills—that unless he took up the papers, and examined them himself, it was impossible to arrive at any tust or satisfactory conclusion upon the merits of jhe case. He supposed the same difficulty existed with nine-tenths of the members of the House.

On referring to the calendar, it would be seen that there were six hundred and fifty-one cases now awaiting decision; and if the same time was to be spent upon them which had been consumed on this, gentlemen would readily perceive that it would require two sessions, or rather two Congresses, to get through with the calendar. In order to do justice, not only to the public, but to these private claimants who come before Congress, he thought that the bill which had heretofore been reported, to provide for the appointment of a board of commissioners to settle these claims, should be taken up and acted upon. He therefore moved that the committee now rise; giving notice, that if that motion prevailed, he should move that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of considering that bill.

Mr. ROCKWELL, of Connecticut, proceeded to say, that he concurred entirely in the remarks which had been made by the gentleman from Virginia, [Mr. MEADE,]——

The CHAIRMAN here interposed with the remark, that no debate was in order. The motion was, that the committee rise.

Mr. MEADE (to enable Mr. ROCKWELL to proceed) withdrew for the moment his motion that the committee rise.

Mr. ROCKWELL said, he was fully sensible of the evil which resulted from the system at present adopted in respect to private claimants. So strongly, indeed, had he felt the existence of that evil, that he had, at the last session of Congress, introduced a bill of the character alluded to by the gentleman from Virginia. But it would be recollected, that two or three days ago the House had made that bill the special order of the day for the first Tuesday in January. He hoped, therefore, that the gentleman would not press his motion that the committee rise, because it would require unanimous consent to go into Committee of the Whole on the state of the Union on that bill; and, under such circumstances, nothing would be gained by moving that the committee rise. The true way, he thought, would be, to go on with the calendar as far as they could make any progress with it, and then to correct the evils which grew out of the present system as soon as possible.

Mr. MEADE said he had not been aware that the bill to which he alluded had been made the special order of the day; but inasmuch as the bill now before the committee, like others which were upon the private calendar, would go before the board of commissioners, if one should be appointed, and inasmuch as he wished that bill to be in the same category with all others, he should persist in his motion that the committee rise.

And the question being taken on that motion, the vote stood—ayes 38, noes 89.

So the committee refused to rise.

Mr. NICOLL rose to inquire of the Chair whether it would now be in order to move to take up bills from the Senate with a view to act upon them?

The CHAIRMAN replied that such a motion would not be in order.

And then no further motion having been made to amend the said bill, it was laid aside to be reported to the House.

NIMROD FARROW AND RICHARD HARRIS.

The bill next in order was the bill for the relief of the legal representatives of Nimrod Farrow and of Richard Harris.

[Farrow and Harris contracted with the Government to build a fort on Dauphin Island. The claim is for profits that would have accrued on the contract which was abandoned by the Government.

The report on this memorial is made by Mr. FLOURNOY, from the Committee on Claims. It does not give the particulars of the case. It says that the claim has been repeatedly examined by committees of the House, and that it had been very minutely investigated by a commissioner, Mr. Swann, (see House document No. 69, 2d session 18th Congress,) and by a commission, composed of the Second Comptroller, the Chief of Engineers, and the Third Auditor, (see House document No. 78, 23d Congress 2d session.)

The amount involved is very large; even the majority of the last commission recommended an allowance of $131,022 83.

The papers are very numerous; the accounts are complicated; the points of law difficult; and the opinions of members of commissions exceedingly diverse. The committee therefore concur with a former committee in the opinion, "that the interests of the United States require that the claim should be thoroughly investigated by officers fully competent to the task, and their decision to be final and conclusive upon both parties."

For a full account of the matter involved in this large claim, the House is referred to the report made by the same committee at the first session of the twenty-ninth Congress, and numbered 196. It is too large, the committee say, to justify a reprint with the present report. The committee also refer to certain papers which they annex, and they report a bill in accordance with the opinion expressed above.

The bill provides that David Graham, Register of the Treasury, R. H. Gillett, Solicitor of the Treasury, and Colonel Joseph G. Totten, of the Corps of Engineers, be authorized and directed to examine and arbitrate the claims of the legal representatives of Nimrod Farrow and Richard Harris (the award of any two to be binding upon the parties) against the United States, arising from a contract to construct a fortification on Dauphin Island, on the principles of justice and equity; and they are empowered and directed to take further testimony on the part of the United States, if they shall think the same necessary to accomplish the ends of justice, &c.; the award to be reported to the Secretary of the Treasury, who is directed to pay the sum awarded, &c.]

The bill having been read—

Mr. THOMAS rose, and moved that it be laid aside, to be reported to the House with a recommendation that it do not pass.

Mr. T., in support of this motion, said that he had had but a short time to examine the case now under consideration; yet he had ascertained some facts necessary to be understood by the committee. He premised that the amount of this claim was estimated at from $130,000 to $180,000. He called the attention of the committee to the amount, not to influence the decision—not as to its justice or injustice—but that the *large* amount of the claim might induce the committee to bestow a more patient, diligent, and thorough examination upon its merits, than they might be disposed to give if the amount involved were less considerable.

Farrow and Harris, in 1818, contracted with the United States to erect a fortification on Dauphin Island, for which they were to be paid a given rate per cubic yard, and received about $45,000 before they commenced the work. The whole work was estimated to cost about $586,000. By the terms of the contract, the United States were to pay $12,500 per month, provided work of that value was performed in the month.

After the claimants had made some progress in the work, the United States abandoned it. But, in the mean time, the advances by the United States to the claimants exceeded the value of the work done at the time of the abandonment, about $100,000. Suits were brought by the United States against the contractors and their securities, for alleged failures upon their part to perform their contract. In the year 1823, Congress passed an act *staying* these suits, and directing the Secretary of War to appoint "suitable persons" to ascertain and report to Congress whether the United States had failed to perform anything, upon their part, of the contract, and the amount of damages the claimants had thereby sustained. In the year 1825, a report having been made, Congress passed an act (which act Mr. T. read) directing the suits against the claimants to be dismissed, and that the further sum of $73,747 78 should be paid to the claimants, and further providing, for the payment of losses by depreciation and otherwise, of the claimants employed in connection with their undertaking. This act has been carried out, and the several sums therein provided for paid to the claimants. These sums, added to the amounts previously paid, make the aggregate sum of $257,449 15, received from the United States by the petitioners.

They were not yet satisfied; and, in 1832, they induced Congress to pass an act directing the Third Auditor, the Second Comptroller, and the Chief of Engineers, to take proof and report, what further relief was wanted. This commission differed in their conclusion—one reported against the claim, and two recommended the payment of the additional sum of $131,022 83; but Congress refused to pass the bill to that effect; and since that time several reports have been made, some favorable and some against it. This committee was not to arbitrate, and finally settle, but to collect testimony, and report the same, with their conclusions.

The favorable report made by a part of this committee in laying down the principles upon which they arrive at their conclusions, states: "All that is considered essential to inquire into is, first, the quantity of work to be done by the contract; second, the amount actually executed when the work was abandoned; third, the probable cost and *consequent profit* of completing the whole work." It is this last position to which he wished to call the attention of the committee. He would not detain the House to discuss whether, if the contractors were progressing rapidly with their work, or so as to complete it in the time specified by the contract, they would be entitled to the *prospective* or the *imaginary* profits that they might possibly have realized. But the facts made it unnecessary to investigate this point.

Mr. T. then proceeded to show, from the report of the Auditor, that when the work was abandoned by the United States, so much of the time stipulated in the contract for the completion of the work had passed, and from the inefficiency of the contractors, so little progress had been made, that it would have been impossible to have completed it within the time stipulated by the contract; so that if the United States had not abandoned the work, the claimants would necessarily have failed to perform the contract, and would have been, therefore, liable to the United States. Now, for this, the United States had paid already very dearly. The report of the commissioners allowing them $131,000 was the most favorable report ever made for the claimants, as far as he was informed.

The work done at the abandonment is estimated at $30,618 26; to be performed, at $358,908 13. So that for work really performed by the complainants to the value of $30,618 26, the United States have paid $257,449 15; and this House was now asked to pay more; and the amount yet claimed exceeded $100,000 more; and this de-

mand was made more than twenty years after the claim was fully investigated and fully paid, according to the then decision of Congress.

Under the circumstances of this case, the claimants had a right to be fully paid for all work actually done. This they had received. They were entitled to all necessary and proper expenses which they had incurred, or labor performed, to complete the work. This had also been paid to them. They now claimed, that if the work had not been abandoned, and they had performed it upon their part, they would have realized a profit of one hundred and thirty-one thousand dollars; and that the United States should pay them this sum. But had they performed their part of the contract? They had not; and, from all the circumstances in the case, it might safely be said they would not. From their delay, it was impossible to do it in the time prescribed.

This claim had been twice examined and reported upon by special commissioners appointed by the United States, and this at much labor upon the part of the commissioners, and cost upon that of the United States. He considered the claim as without merit, and had therefore moved that the bill be laid aside, and reported to the House, with a recommendation that it do not pass.

Mr. FLOURNOY said the mass of papers and evidence in the case was so great that it could not be expected that any committee of the House could ever be able to devote sufficient time to its investigation to report a specific sum to be appropriated. The bill, accordingly, only provided for the appointment of a commission to be composed of the proper accounting officers of the treasury, to make a fair and full investigation, with power to send for additional testimony, if it was necessary on the part of the Government, and to report the amount justly due, to the Secretary of the Treasury, to be paid by him. He did not see what other course the House could take, for, as he had already said, it would be impossible for them sufficiently to investigate the case to enable them to come to a direct conclusion, as was shown by the gentleman from Tennessee, [Mr. THOMAS,] who, although he had given considerable attention to the case, and although the report of the committee had been made early at the last session, admitted he had not time to go into a full investigation.

The only question was, whether this commission should report to the House, or directly to the Secretary of the Treasury, for that officer to pay the amount ascertained to be due? He thought, having confided it to the proper officers of the Government, and having required of them full and complete investigation, that it would be unnecessary to send it back to the House, and moreover, that it would amount to an indefinite postponement, because the House would be called again to go over the subject.

In reference to the justice of the claim, he thought there could be no doubt but that there was an amount, and probably a large amount, due to the memorialist. The only difficulty was, to ascertain the precise amount. It seemed to him that the only proper course was, to leave to a commission of the officers of the Government to ascertain the amount, and report it to the Secretary of the Treasury, and let the Secretary of the Treasury pay it. He therefore hoped the amendment of the gentleman from Tennessee would be rejected.

Mr. CUMMINS wished to know of the gentle- from Virginia, who had said that a large amount was due, what that amount was, and for what it was claimed; whether for labor actually performed, for depreciation of materials, utensils, &c., or for imaginary loss of profits which the claimants supposed might have accrued if the contract had been fulfilled?

Mr. FLOURNOY replied, that a former commission had reported that two or three hundred thousand dollars were due, and that for work which had been done; for depreciation of materials, utensils, &c.; for losses sustained by a contract which the claimants had made for continuing the work; and, in addition, for loss of profits which would have been received had the Government carried out its contract.

Mr. CUMMINS further inquired who were the persons that now pressed the claim—whether the heirs, or the creditors of the deceased?

Mr. FLOURNOY said he thought it was pressed by the legal representatives, the administrators and the creditors. Probably the creditors were more interested in the claim than the representatives, as Harris & Farrow were rendered absolutely insolvent by the contract.

Mr. CUMMINS inquired of the gentleman from Tennessee, [Mr. THOMAS,] whether the amounts due for labor actually performed, and for depreciation of materials and instruments, had been ascertained by former commissions, and whether they had been paid?

Mr. THOMAS replied in the affirmative to both branches of the inquiry.

Mr. PENDLETON was understood to say that the gentleman was mistaken, and that a large amount had been reported by former commissions to be due; but that the award had never been paid, nor any part of it, because of the difficulties of getting Congress to act upon it.

Mr. DANIEL read from a report made by a committee of the House in 1832, to confirm the statement of Mr. Thomas, that both these awards had been paid.

Mr. CUMMINS said he understood, then, from the statements of gentlemen, and from the report read, that originally there had been three different grounds of claim, viz: for labor under the contract; for depreciation of materials, implements, &c.; and for imaginary damages that had accrued to the contractors by the Government abandoning the contract. He also understood that awards had been made for the first two grounds of claim, and been satisfied by the Government, leaving only the claim for loss of profits, which it was supposed would have been realized, had not the Government discontinued the work. He was opposed to receiving testimony, and going into an investigation of a claim for imaginary damages, after the lapse of twenty or twenty-five years. If it was claimed, or could be shown that the contractors had not been fully indemnified for labor, expenses, and actual losses, he would be willing now to vote such ample indemnity; but he was opposed to fanciful, unsafe legislation, which would go back twenty years to satisfy claims for damages which individuals might imagine had resulted to them from the action of the Government.

Mr. BOTTS said it was not often that he engaged in the discussion of private claims, and that he should not at this time were it not that this claim had been committed somewhat to his charge when formerly in Congress; and at that time he had made a full investigation of it. The circumstances had in a great degree passed from him; yet the general facts were so forcibly impressed upon his mind that he could not permit the occasion to pass, with the objections which had been made, without presenting one or two views. It appeared, from the evidence in the case, that some twenty-odd years ago, these two individuals, Harris and Farrow, entered into a contract with the Government of the United States for the performance of a very extensive and costly work; that they incurred very heavy expenses in preparation for the execution of the work; that they furnished themselves with a large body of hands, procured at very high prices; that they supplied themselves with materials necessary for the execution of the work; and just at the time when they had placed themselves in a position to execute it at a profit to themselves, and just at a time when there was considerable depreciation in prices both of labor and materials, it suited the pleasure of one of the contracting parties, the Government, to cancel the contract, and dismiss the contractors.

He proceeded to trace the subsequent history of the claim, noticing the facts that it had been several times passed in each House, but lost in the other for want of time; that under an agreement of both parties, that the whole matter should be left to the arbitration of three disinterested, intelligent officers of the Government, it was investigated by the Second Comptroller, the Chief of Engineers, and the Third Auditor, who made an award of $120,000 in favor of the claimants, which he had thought at the time, and still thought, was binding upon the Government. He did not understand that species of arbitration which was binding upon one party, and not upon the other. If the United States could have been sued in the courts of law, the claimants could have recovered every dollar of the award. But Congress had refused to sustain the decision of their own arbitrators, and the great difficulty in the way of a settlement from that day to this, had arisen from the fact that there were various creditors of Harris and Farrow who had objected to the appropriations heretofore proposed to be made, because they were to be paid over to the legal representatives of the contractors, and from apprehension that the statute of limitations of Virginia would prevent them from establishing their claims. But for this, no formidable objections would heretofore have been made. He was authorized by some of the parties in this case, creditors of Harris and Farrow, to state that they now made no objections to this bill.

But it was claimed by the gentleman from Ohio [Mr. CUMMINS] and the gentleman from Tennessee, [Mr. THOMAS]—although they were willing to indemnify the claimants for labor performed and for materials lost—that no valid claim could be set up for profits lost. But was this Congress to be asked to draw the distinction between claims for one item and claims for another? He put it to this House, whether the Government of the United States was not as much bound by its contract to pay for profits that would have been made as for work executed or materials lost? Were the United States to enter into contracts which they might abandon at their pleasure, and yet hold the other contracting party? Why, he wished to know, when this principle should once be established, who would be willing to enter into a contract with the United States? Suppose he had made a contract with the Government, and he had made a good bargain, and the Government a bad bargain: had he not the same right to hold the Government to execute its contract with him, as, if the case had been reversed, and the Government had made the good and he the bad bargain, the Government would have had to hold him to fulfill it? It was so plain a proposition, that it would not be seriously disputed.

These parties had purchased materials and undertaken the work when everything was at the highest price; and the Government had chosen to abandon it at the most unfavorable time. He said, therefore, the Government was bound to pay the fair amount of the claim. But if they did not, they could not in justice and honor refuse to refer it to their own officers to ascertain the amount justly due.

The gentleman from Ohio [Mr. CUMMINS] had objected to the claim, because, after the lapse of twenty years, the claimants, he said, came before Congress, and asked for leave to take new testimony to establish the old worn-out claim. The gentleman here labored under a grievous error. The claimants asked no such privilege. The bill only provided that the United States might take testimony in their own behalf; but the claimants rested their claim on the evidence already adduced and acted on.

He wished gentlemen to note the fact, that the present bill did not propose to appropriate one single dollar. It only provided, upon the recommendation of one of the standing committees, whose opinion was entitled to far more weight than his opinion, or that of any individual member of the House, that the matter should be sent to three disinterested officers of the Government, to examine the claim and ascertain whether anything was due or not; and, if so, what was the amount? Could any harm to the Government grow out of this proposition? If the Register of the Treasury, the Solicitor of the Treasury, and Colonel Joseph G. Totten, of the Corps of Engineers, were the honest, intelligent men they ought to be, and that he presumed them to be, and that no man here questioned them to be, could any harm to the United States result? But, on the contrary, if Congress refused this claim, might not the grossest and most manifest injustice be done to the individuals concerned?

Mr. GIDDINGS wished to inquire of the gentleman from Virginia whether the contractors, Harris and Farrow, had received compensation for all their outlays for the purchase of materials, and for time, trouble, and labor?

Mr. BOTTS repeated, that many of the particulars of the case were not fresh in his mind, as he relied entirely on his recollection of what passed some four or five years since, when he had this subject under his charge, and when he got a bill making an appropriation for this claim through the committee of this House.

Mr. GIDDINGS asked if it was sought by the supporters of this claim to overturn the principle

which had heretofore prevailed, and to establish the new and unheard-of doctrine under this Government of allowing claims for prospective profits—for speculations which might be realized upon contracts?

Mr. BOTTS replied he was not prepared to admit that it would be establishing any new precedent. He should be very sorry if it would be. Upon what principle, let him ask, was it that the Government of the United States undertook to institute a suit agrinst Harris and Farrow for the non-performance of the contract?

Mr. GIDDINGS was understood to reply, for damages sustained by the Government.

Mr. BOTTS said it was precisely on the same principle that the claimants rested their claim. They were willing to refer the case to a commission of officers of the Government; and if these arbitrators said it would be establishing a new and dangerous system, or that the claimants were not entitled to compensation, of course they would report against the claim.

Mr. GIDDINGS referred to a report made by Mr. Russell, of New York, in 1840—one of the most indefatigable, unyielding, persevering, honest men who had ever sat upon the Committee on Claims in this House—who had bestowed unbounded labor upon this case, having spent weeks and weeks in its investigation; which report set forth that these claimants had already received a vast amount over and above all their outlays, all their trouble and expenses, and that every dollar they claimed was a prospective speculation on the Government. From the foundation of the Government down to the present time, or at least down to within two or three years, one uniform, unbroken system of deciding claims of this character had prevailed, which was, never to pay for prospective speculations upon this Government. It was enough to pay for actual speculations upon it. He was as willing to pay for claims coming from this State (Virginia) as from any other; but he protested against the principle of paying for prospective profits upon the Government for that which the claimants had never earned.

Mr. MEADE again intimated that he was unprepared to vote upon the present bill, because he did not know the nature of the contract, and had not examined the papers. The case presented another proof of the necessity of some impartial tribunal or board, to determine upon all such claims. There were now before the committee, of which he was a member, claims as just as any that had ever been brought before a court of justice, and which had been lingering before Congress some twenty and even thirty years. Justice to the parties themselves, and to the country, called loudly for the establishment of such a tribunal. With a view to refer this case, as well as all others, to that board, if it should be appointed, he would again move that the committee rise.

And the question being taken, the vote stood—ayes 42, noes 79.

So the committee refused to rise.

Mr. DANIEL now took the floor, and proceeded to address the committee in urgent opposition to the bill. There was one point, he said, which had not been adverted to in the course of the debate, which had some weight with him, as he thought it should have with the House. It was this: he regarded the case as having been once adjusted and settled. It had been settled, and that, too, in the mode prayed for by the petitioners themselves.

Mr. D. then adverted briefly to the facts connected with the contract and its abandonment, and to the amounts which had been paid under awards made since that time. He argued that the claim had been continually kept before Congress. The petitioners had got to be something like lawyers, in issuing their writs when they expected damages. They laid their damages at a very high amount; and if Congress would not give them, they would hammer and hammer and hammer, until they got what they demanded.

A brief conversation followed between Mr. BOTTS and Mr. DANIEL.

Mr. D. repeated, that the case had been settled and adjusted in the mode pointed out by the petitioners themselves; but, because they did not get all they desired, they still clamored for more. The question, therefore, to be decided was, would Congress consent to regard claims which had been settled as always open? Was there to be no end to the adjustment of these things? Was it desired that they should be kept open almost to the remotest generation, so long as the Government existed? The true principle upon which Congress should act—and upon which he hoped they would in this case act—should be, that when a case had once been adjusted with apparent fairness—when once Congress had done all that law, justice, and equity required—the claim should not further be considered an open matter, unless it could be shown that great injustice had been done.

There was no ground whatever upon which the present claim could be brought before Congress. There had been no mistake, nor anything of that kind. But it was merely to give these petitioners a sort of chance, like that in a lottery, to go to the Executive department and see whether, by hook or by crook, they could get a little more. He was opposed to it. He hoped the bill would not pass. There was neither law, justice, nor equity in its favor.

Mr. FLOURNOY here rose, and was understood to inquire whether, since the last commission had been appointed, which recommended an allowance of $131,022 83, the petitioners had ever received anything?

Mr. DANIEL. I do not suppose they have. My ground is, that they have had a commissioner appointed, and that their claim has been settled and adjusted. If it can now be reopened, there is no claim that has been adjusted by this Government that cannot in like manner be brought up again.

Mr. ROCKWELL, of Connecticut, said that the Committee on Claims had thought proper to pursue a somewhat different course in this case from that which was ordinarily pursued. It referred the claim to three officers of the Government, whose characters were such as to secure the confidence of this House and of the country. The papers were so voluminous that it was impossible for any individual to examine them. Even the gentleman from North Carolina [Mr. DANIEL] could not, and he (Mr. R.) was pursuaded that the gentleman had not given that examination to the claim which was requisite to a full and impartial understanding of its merits. The papers weighed more than thirty weight; they would fill more than a bushel measure; it would take a week or upwards to read them. Several investigations had been made. In most cases, the committees had reported in favor of the claim. Since then, reports had been made, the case had been referred to three officers, and of these three, two had reported in favor of a large allowance of upwards of one hundred and thirty thousand dollars. One of the commissioners was adverse to the award; and as a unanimous agreement on the part of the commission was required, the amount awarded had not been paid.

What course, then, was proper to be taken? Was it possible that this House could sit here and go into the investigation of such a claim in all its details? Could it be done? Could anything like justice be done by individuals here upon such a claim? Since this decision had been made by these two high officers, there had been a constant pressure here on the part of these claimants; and it came with an ill grace from gentlemen to bring a charge against them that they had long been knocking at the doors of this Hall and asking that their claims might be acted upon. He saw, in the calendar before him, cases which had been here twenty years. They had been uniformly reported upon favorably, by unanimous votes of the committees. They had constantly passed one or the other House, but had never been reached or acted upon by both. There had never been adverse reports made upon them by committees, nor adverse action by Congress. And one of the most intolerable features connected with this Government, was the condition of these private claims; not that Congress decided against them, but that they would not act at all—that they would not give them a chance to be heard—that there was not any tribunal before which they might look to have their claims acted upon and decided with something like despatch and certainty.

The bill before the committee proposed to appoint a commission, composed of David Graham, Register of the Treasury, R. H. Gillett, Solicitor of the Treasury, and Colonel Joseph G. Totten, to examine and to arbitrate the claim. It was his intention to move an amendment, which would guard against the expiration of the commission by the death of the parties designated.

[Some jocular interruptions here, called forth from Mr. ROCKWELL the remark, that he did not mean their actual, or physical death, but merely their *official* death.]

He gave notice, also, of his intention to offer another amendment, setting forth that the act should not take effect unless the petitioners should assent to abide and be concluded by the award; that the arbitrators should be governed by the rules of law and chancery which govern controversies between individuals, so that the Government itself should not be made subject to any other law than that which would control individuals if similarly situated. With these guards, it seemed to him that justice required the passage of the bill.

Before taking his seat, Mr. R. proposed to submit these amendments formally.

The CHAIRMAN said it would not now be in order to do so.

After a brief explanation between Mr. BOTTS and Mr. GIDDINGS on an incidental point—

The question was taken on the motion of Mr. THOMAS, and it was decided in the affirmative—ayes 76, noes 46.

So the committee decided that the bill should be reported to the House with a recommendation that it do not pass.

The committee therefore rose and reported.

On motion of Mr. STEPHENS, it was

Resolved, That when the House adjourns, it adjourn to meet on Monday next.

And then the House adjourned.

IN SENATE.

MONDAY, *December* 18, 1848.

Mr. DICKINSON presented the petition of George Wilkes, of New York, praying the construction of a railroad by the General Government from the Missouri river to the Pacific; which was referred to the Committee on Roads and Canals.

Mr. D. also presented the petition of Barclay & Livingston, and others, of New York, praying to be refunded the duties on certain goods lost by fire; which was referred to the Committee on Finance.

Mr. DOUGLAS presented the petition of H. O'Reilly, praying for aid in establishing a telegraphic communication between the Valley of the Mississippi and California and Oregon; which was referred to the Committee on Territories.

Mr. WESTCOTT presented the petition of Elizabeth Marn and others, heirs of Dorsey Ragsdale, asking for commutation pay; which was referred to the Committee on Revolutionary Claims.

Mr. CAMERON presented a petition from certain citizens of Centre county, Pennsylvania, praying for a change in the post office laws, so as to allow newspapers to go free in the counties where printed; which was referred to the Committee on the Post Office and Post Roads.

Mr. C. also presented several petitions from the counties of Columbia and Schuylkill, Pennsylvania, praying for a modification of the tariff; which were referred to the Committee on Finance.

Mr. STURGEON presented a petition from citizens of Centre county, Pennsylvania, praying for a reduction of postage; which was referred to the Committee on the Post Office and Post Roads.

Mr. DIX presented the petition of James Disturnell, asking an appropriation for taking, with the census, statistical information relating to North American and the West India Islands; which was referred to the Select Committee on the Census.

Mr. JOHNSON, of Maryland, presented the petition of Julia Martin, praying for a pension for her brother, Luther Martin, late a midshipman in the Navy; which was referred to the Committee on Pensions.

Mr. JOHNSON, of Louisiana, presented the petition of John Collins, of the United States navy, praying for the difference of pay between a boatswain and a boatswain's mate; which was referred to the Committee on Naval Affairs.

Mr. DAVIS, of Mississippi, presented the petition of Captain William Shriver, praying to be allowed certain arrears of pay; which was referred to the Committee on Military Affairs.

Mr. D. also presented the petition of several officers belonging to the Ordnance corps, asking for double rations; which was referred to the Committee on Military Affairs.

Mr. BORLAND presented the petition of Captain Wetmore, praying for compensation for horses

lost in the military service of the United States; which was referred to the Committee on Military Affairs.

Mr. TURNEY presented the petition of James M. Scantland, asking an increase of pension; which was referred to the Committee on Pensions.

On motion of Mr. BERRIEN, the petition of Moses E. Levy was withdrawn from the files of the Senate, and referred to the Committee on Private Land Claims.

On motion of Mr. YULEE, the petition of Isabella Street was withdrawn from the files of the Senate, and referred to the Committee on Private Land Claims.

On motion of Mr. YULEE, the petition of the Rev. John E. Tucker was withdrawn from the files of the Senate, and referred to the Committee on Military Affairs.

On motion of Mr. JOHNSON, of Maryland, the petition of Robert Sewell was withdrawn from the files of the Senate, and referred to the Committee on Claims.

RESOLUTIONS ADOPTED.

On motion of Mr. DOWNS,

Resolved, That the Committee on Finance be instructed to inquire into the expediency of establishing a mint in the gold region of California, to coin the gold offered by American citizens at such rate as to pay the expenses thereof, and remunerate the Government for the use of digging on the mineral lands belonging to the United States, until the same shall be sold.

On motion of Mr. BREESE,

Ordered, That so much of the President's message as relates to the graduation and reduction of the price of the public lands and granting preëmption rights thereon, and all other matters pertaining to the subject of the public lands, be referred to the Committee on Public Lands.

On motion of Mr. ATHERTON,

Ordered, That so much of the message of the President of the United States as relates to a tariff of duties on imports; to the collection, custody, and disbursement of the public moneys; to the establishment of a branch mint in California, and the revenues of the Federal Government generally, be referred to the Committee on Finance.

PURCHASE OF CUBA.

Mr. MILLER submitted the following resolution; which lies over one day for consideration:

Resolved, That the President of the United States be requested to inform the Senate whether any and what negotiations or correspondence have taken place between this Government and the Government of Spain, or between any persons acting under the direction or authority of either Government, in relation to the purchase of Cuba by the United States; and that he communicate to the Senate copies of such negotiations or correspondence, so far as the same may be communicated consistently with the public interest.

NOTICES OF BILLS, ETC.

Mr. CAMERON gave notice that he should to-morrow, or on some subsequent day, ask leave to introduce a joint resolution authorizing Henry Simpson, administrator of George Simpson, to bring suit against the United States.

Mr. BADGER gave notice that he should to-morrow, or on some subsequent day, ask leave to introduce a bill for the relief of William Plummer, executor of Starkey Armistead, deceased.

Mr. BREESE gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a joint resolution to amend the act of 1837, to provide for the payment of horses lost while in the service of the United States.

Mr. BORLAND gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a bill to dispose of the Hot Springs of Arkansas, and the four sections of land reserved from sale by the act of Congress of 1832.

RECIPROCITY OF TRADE.

Mr. DIX gave notice that he should to-morrow move the Senate to take up the bill to admit certain articles, of the growth or production of Canada, into the United States free of duty, upon the condition that like articles, of the growth or production of the United States, are admitted into Canada free of duty.

BRANCH MINTS.

Mr. WESTCOTT stated that last session he had moved to reconsider the vote by which the bill for the establishment of branches of the United States mint at New York and Charleston was rejected. The motion had never been called up. He now gave notice that he would to-morrow move the Senate to reconsider said vote.

BILLS ON LEAVE.

Mr. DOUGLAS asked and obtained leave to introduce a bill granting to the State of Illinois the right of way and a donation of public lands for making a railroad to connect the waters of the upper and lower Mississippi with the chain of lakes at Chicago; which was read twice, and referred to the Committee on Public Lands.

Mr. DOWNS asked and obtained leave to introduce a bill for a new selection of public lands in lieu of worthless school sections and sections of inferior quality, and for other purposes; which was read twice, and referred to the Committee on Public Lands.

Mr. KING asked and obtained leave to introduce a bill for the remission of duties on an equatorial telescope contracted for in London by the trustees of the University of Alabama; which was read twice, and referred to the Commitee on Finance.

The bill from the House for the punishment of false swearing in certain cases was read a first and second time, and referred to the Committee on the Judiciary.

EVERGLADES OF FLORIDA.

On motion of Mr. WESTCOTT, the Senate proceeded to consider the bill to authorize the draining of the Everglades in the State of Florida, and to grant the same to the said State for that purpose.

On motion of Mr. WESTCOTT, the bill was then postponed till Wednesday, and made the special order for that day.

ADMISSION OF CALIFORNIA AS A STATE.

Mr. DOUGLAS moved that the Senate take up the bill for the admission of California as a State into the Union, with a view to its reference; which motion having been agreed to, the bill was read a second time.

Mr. D. then moved that the bill, with the amendments subsequently offered by himself and printed, be referred to the Committee on Territories.

Mr. BERRIEN. The uniform practice of the Senate in disposing of a bill for the admission of a State is to refer it to the Committee on the Judiciary. I was struck the other day with the novel direction which it was proposed to give to this bill, and I have since requested one of the officers of the Senate to consult the Journal upon the subject. Upon looking at the Journal of the Senate, I find that, on the 14th of February, 1845, the bill for the admission of Florida into the Union was referred to the Committee on the Judiciary. On the 23d of December, 1846, the bill of the House of Representatives for the admission of Iowa into the Union was referred to the Committee on the Judiciary. On the 17th of February, 1847, the bill for the admission of Wisconsin was referred to the Committee on the Judiciary. Now, I am not aware of any reason why the practice of the Senate should be departed from in this instance. Bills for the organization of territorial governments have been uniformly referred to the Committee on Territories, whilst those for the admission of States into the Union have been invariably referred to the Committee on the Judiciary. I do not see the chairman of the Committee on the Judiciary in his place, and suppose he is absent, or I should have submitted this matter to him.

Mr. DOUGLAS. If it were the opinion of the Senate that it is for the general good that all bills for the admission of new States into the Union should go to the Committee on the Judiciary, I would not be tenacious. I do not desire any departure from the regular practice of the Senate in behalf of this bill. I do think, however, that the Senator from Georgia [Mr. BERRIEN] has overlooked at least one instance which the Journal furnishes in regard to the reference of bills of this class. The history of the rule in regard to the reference of such bills, as I understand it, is this: For many years the Territorial Committee had no existence in the Senate. There was a Committee on Territories in the House of Representatives long before the establishment of such a committee in the Senate, and in the other House it was the province of the Territorial Committee to take charge of all bills of this description. As far as I know, this practice has been uniform. But there being no Territorial Committee in the Senate, the practice obtained of referring such bills to the Committee on the Judiciary. And it was only a few months after the adoption of the rule in the Senate for the establishment of the Committee on Territories that the bill for the admission of Iowa (to which the Senator has alluded) was brought into the Senate. Last year a bill was passed for the admission of Wisconsin into the Union; and when that bill was under consideration, without intending to infringe upon the former practice of the Senate, I moved its reference to the Committee on Territories. The same objection was then made that has now been made, but the motion prevailed, and the reference was made. With the assistance of one of the clerks I examined the record on Saturday, and found that I did myself make the report upon which that bill was considered and passed. I am therefore compelled to say that the practice to which the Senator from Georgia has referred was overruled, upon the last reference by the Senate of a bill of this kind—the reference having been made to the Committee on Territories. I merely state this without any feeling whatever.

Mr. BERRIEN interposed here, and read from the Senate Journal, 29th Congress, 2d session, page 200, the proceedings by which the bill from the House of Representatives for the admission of Wisconsin was read the first and second time by unanimous consent, and referred to the Committee on the Judiciary. This (he said) was in 1847.

Mr. DOUGLAS. Yes, sir; I admit that. But the bill to which I refer is the bill of 1848. If there is the least embarrassment about this in the minds of Senators, and the Secretary will bring in the record, it will be found, that when the bill of 1848 for the admission of Wisconsin came in from the other House, it went to the Committee on Territories, which afterwards reported upon it, and the bill passed.

Mr. JOHNSON, of Georgia. If I remember distinctly the proceedings in the case of the bill for the admission of Iowa, the point was this: It depended on the character of the question to arise out of the bill referred. The Senate did determine that matter affecting the organization of territorial governments should be referred to the Committee on Territories. But the bill now under consideration is for the admission of a State into the Union, which presents the question in a very different point of view. Such a bill involves the consideration of questions very different from those coming before a committee called upon to organize a territorial government. I consider it exceedingly proper that this bill should be referred to the Judiciary Committee, in accordance with the decisions and practice referred to by my honorable colleague, [Mr. BERRIEN.] The Senator from Illinois has only established the point that the Senate has determined that bills for the organization of territorial governments should go to the Territorial Committee; but where it is proposed to admit a State into the Union, the question assumes a different character, and should be referred to the Committee on the Judiciary. I consider it exceedingly proper that such bills should be so referred, in view of the peculiar character of the questions which must arise upon their examination before the committee—questions respecting the nature and extent of the powers to be conferred. The admission of a State into the Union, it seems to me, involves the consideration of matters much more delicate and responsible than those which pertain to the organization of a territorial government. I am decidedly in favor of referring this bill to the Committee on the Judiciary.

Mr. BUTLER. As chairman of the Judiciary Committee, it may be expected that I should say something on the subject under discussion. The precedent referred to by the chairman of the Committee on Territories [Mr. DOUGLAS] was in reference to the admission of Wisconsin into the Union as a State. That bill was referred to the Committee on Territories, but under such circumstances as to give the precedent little authority. It is, by the acknowledgment of all, a deviation from the uniform usages of this body. I was not present when this bill was passed into a law, and cannot speak of the discussion which may have taken place at the time. I recollect, however, that at the same time there was a bill for the organization of the territorial government of Minesota, and it was necessary to define the limits of the State before the boundaries of the Territory could be indicated. The matter involved in both these bills was so much alike as to make a reference to the same committee not improper then.

The bill now under consideration is of a distinct character, and, as an illustration of the propriety of its being referred to the Committee on the Judiciary, it might be said that it involves grave

questions of constitutional law, supposed to be familiarly known only to gentlemen of the legal profession. The bill on the table assumes that Congress may of its own accord invest California and New Mexico as one territorial State, with the attributes of sovereignty; with a reservation to Congress hereafter to take away part of the territory and form it into a separate State at its will; in other words, to make a deed, irrevocable in its purport, subject to the power of Congress hereafter to control it, or to give Congress a creative modeling power heretofore unknown in practice. This is a question calling for judicial determination or legal investigation, and ought to go to a committee composed of lawyers.

Mr. YULEE. I have some recollection of the history of the organization of the Committee on Territories in this body. I was the delegate in Congress from Florida at the time, and I very well recollect that the organization of the Territorial Committee was induced by the memorial transmitted to Congress from the delegates in the Florida convention; and, by reference to that memorial, it will appear that our object in asking for the formation of that committee had reference to the business of our territorial organization. I recollect also, that, after the organization of the Territorial Committee, the first question that arose as to which was the proper committee to have the charge of a bill for the admission of a State into the Union, went to a vote by yeas and nays, and the Senate decided that the Judiciary Committee was the proper committee for the reference. The vote to which I refer had respect to the bill for the admission of Iowa and Florida, as will be seen upon reference to the proceedings. The question was then formally decided by yeas and nays, that the Judiciary was the proper committee for such a reference; and I do not understand that, since the formal decision was made, there has been any departure from this practice—not even in the case referred to by the Senator from Illinois, [Mr. DOUGLAS,] which was explained by the chairman of the Committee on the Judiciary.

Mr. DOUGLAS. I do not say anything of the former practice and decisions of the Senate. I have merely stated that the Secretary showed me in the Senate Journal, where the bill for the admission of Wisconsin was referred to the Territorial Committee, was reported back to the Senate by that committee, and so became a law. This is no conjecture of mine, but a plain matter of record.

Mr. WESTCOTT (interposing) said: If my colleague will allow me, I will suggest that the bill of 1846–'47, respecting the admission of Wisconsin as a State, was referred properly to the Judiciary Committee; as, like this bill, on it arose, as an original question, the organization and establishment of the federal judiciary of the State. That bill was conditional, to have effect if the people ratified the constitution formed by their State convention. The people rejected it, adopted a new constitution, and asked for admission under it. In 1847–'48 the only question involved was principally of limits and boundaries, and therefore the bill was properly referred to the Committee on Territories. This question was expressly decided by the Senate two years since, on a bill respecting Oregon Territory, and, if I am not mistaken, by yeas and nays. I recollect a debate occurred on a motion by the Senator from Illinois [Mr. BREESE] to send the bill to the Judiciary Committee, which prevailed.

Mr. DOUGLAS. The Senator from Florida is in error as to these bills respecting Wisconsin. The bill of 1847–'48 provided for the organization and establishment of the State federal judiciary in Wisconsin; and the same propriety existed, if any existed, for its reference to the Judiciary Committee as with respect to the first.

Mr. YULEE. Admitting that the chairman of the Committee on Territories is correct, it is but precedent against precedent; and I imagine that the question was not raised and seriously decided by the Senate in reference to the Wisconsin bill, but it was raised and discussed, and finally decided upon the yeas and nays, by the Senate upon another bill. If we admit the antagonistic precedent, it is but precedent against precedent. And it does appear to me more appropriate, according to the view taken by the two honorable Senators who are members of the Committee on the Judiciary, that the bill should go to that committee; and I shall certainly give my vote for such reference.

Mr. DOUGLAS. In order to settle the question, I ask for the yeas and nays.

They were ordered.

Mr. KING. I have not myself conceived it to be a matter of primary importance whether the bill be referred to the Committee on Territories, or to the Committee on the Judiciary; nor have I examined the organization of the Committee on Territories, to ascertain whether the gentlemen composing that committee are possessed of those legal acquirements which are necessary to enable them to decide upon questions involving legal points, and particularly constitutional questions; and I am inclined to think that questions of this character will be raised by this bill. I think, therefore, it would be eminently proper that the bill should go to the Judiciary Committee. I can only state, in regard to the practice of the Senate, that during the twenty-five years that I have been conversant with the proceedings of this body, I have not known an instance, and I believe the Senate will bear me out in saying that there has not been an instance, in which a bill for the admission of a State into the Union has not been referred to the Committee on the Judiciary. That has always been considered the appropriate committee to decide matters of this kind.

I am surprised to see a struggle in regard to this reference. I am surprised to see gentlemen so anxious to send the bill to a committee to which it has not been usual to send bills of this description, as if they were willing that the committee which is known to be especially qualified to decide upon the important matters contained in the bill should be precluded from taking cognizance of them. And I ask, why is it, when there has been no case, except the isolated case mentioned by the honorable Senator from Illinois, of a reference to any other than the Judiciary Committee, that there should be so much anxiety manifested? Will Senators tell me why it is? Sir, in the case to which the Senator has alluded, there was a very extraordinary decision made by the committee, and sanctioned by the Congress of the United States. There was a decision made by which they formed an additional State out of territory that was set apart for five States. And if this were done by decision of the Committee on Territories then, and with the assent and concurrence of the gentleman who is chairman of that committee now, I would hesitate long before I would send another bill of a similar character to the same committee. I am decidedly in favor of adhering to the uniform practice of the Senate which has prevailed ever since the formation of the Government, and of sending the bill to the Judiciary Committee, that it may undergo the investigation of gentlemen of profound legal attainments.

Mr. DOUGLAS. I will simply remark to the Senator from Alabama, that if he had looked into the Journals of the Senate he would have found the reason why, in the course of his twenty-five years' experience, such bill had never been sent to the Committee on Territories. The reason is this: there never was a Committee on Territories in existence.

A SENATOR. And never would have been but for the case alluded to.

Mr. DOUGLAS. And never would have been but for that case; and the reason why references have since been made to the Committee on Territories is, that there has been such committee since. Now, I have not a word to say in reference to the action of the committee in relation to the Northwest Territory. The Senator from Alabama says it would be wrong to send the bill to the Committee on Territories, because he says that committee have violated their duty by making more than five States out of that Territory. I wish the honorable gentleman had listened to the remarks of the Senator from Georgia, who told us that the measure came from the Judiciary Committee and not from the Committee on Territories.

It was by the bill as it came from the Judiciary Committee that the territory was divided, and the Committee on Territories, at the last session, only acted in deference to the Judiciary Committee, and bowed to its decision. I hope, therefore, the honorable Senator will aim his shafts at the Judiciary Committee, and not at the Committee on Territories, and that he will speak understandingly in regard to the facts.

Mr. BRIGHT. As at present advised, I am opposed to any legislation looking to the organization of territorial governments in either California or New Mexico during this Congress; nevertheless, I will lend my aid in giving every proposition, having this object in view, a proper and legitimate direction. The Senator from Georgia moves the reference of a bill, offered by the Senator from Illinois, to the Committee on the Judiciary. This I regard as a departure from the precedents established by this body, under similar circumstances, upon like propositions. If the Senator from Illinois had proposed by his bill to organize a territorial government in California, instead of admitting California *directly* as a State, I apprehend no Senator would have objected to a reference to the Committee on Territories. All would have acquiesced in this disposition of the subject. But because the bill contemplates an abridged method of disposing of a question that has lately occupied so much of public attention, therefore it is said the Committee on the Judiciary is the proper one to investigate and report upon the measure. Is there a gentleman upon this floor who believes that any bill or proposition having for its object the organization of any of the Territories of these United States, can be passed upon by Congress without an issue made *directly* as to whether slavery shall not be *absolutely* excluded? He who comes to this conclusion must have been an inattentive observer of what passed in this Chamber at its last session. This geographical question arose then. It will arise again, and with increased strength. To send this bill to the Committee on the Judiciary is a useless waste of time, as far as their reasoning and recommendation are concerned. I accord to the members of that committee as large a share of legal talent as belongs to the same number of gentlemen in or out of this Chamber; but when I recollect that four out of the five members of that committee are from the slaveholding States of this Union, I am not mistaken in saying they cannot present a bill that will receive the sanction of this Congress.

The Committee on Territories is free from the geographical objection I have made as applicable to the Committee on the Judiciary. I think, therefore, it would be in conformity with past usage, and more appropriate, to refer it to the former, and shall vote accordingly. I have said, Mr. President, that I was opposed to the organization of all Territories during the present session of Congress. I am still, believing as I do that there is no great public necessity existing for haste in this matter; and further, I always bow with deference and submission to the will of the majority. If the American people decided *anything* in the late national election, it was a reference of this question of territorial acquisitions and organizations to the "incoming Administration." It was in November last bequeathed to them as a rich political legacy, pregnant with capital, marketable in every section of this Union. For one, I think it would be in bad taste, and out of place, for this expiring Administration to prevent the execution of the will in the manner pointed out by the testators, as would be the case were we to prejudge and settle the question this session.

Mr. BALDWIN. It appears to me that the question now before the Senate is a very different question from any that has heretofore been presented, being solely a question in regard to a matter of reference. The question ordinarily presented when a bill is introduced for the admission of a State is one which involves only matters of detail in regard to that of which the policy is already determined. But this bill presents a question of policy, whether this territory, comprised within the limits of our acquisition under the treaty with Mexico, shall be organized into one or more territorial governments, or whether it shall be organized into a State government. This bill includes California and New Mexico, and proposes to establish a State government over each. The people of one portion of the Territory have already applied to Congress to be organized into a Territorial government. Another portion have asked for a State government, but the people of the Territory of New Mexico have already transmitted to Congress a petition which has been presented to the Senate, and, if I mistake not, referred to a committee; but, at all events, the question is now pending before the Senate, upon the application of the people of New Mexico, whether they shall have a Territorial government or not. Now this question of policy is a question, it appears to me, that is

appropriate for the Committee on the Territories to consider and report upon. It does not involve matters which require peculiarly the action of a committee constituted for the purposes for which the Judiciary Committee is constituted. I think, therefore, that, aside from any of the precedents which have been cited by those who are in favor of the reference to the Judiciary Committee or to the Territorial Committee, but standing on the mere question itself, as an isolated one, distinct from all others, I think it is peculiarly proper that the bill should be referred to the committee which is conversant with matters of this sort, and established for the consideration of such subjects, rather than of legal questions arising out of questions of policy that have been already settled and determined.

Mr. RUSK. I shall vote against the reference of this bill to the Committee on the Territories, and shall vote for its reference to the Committee on the Judiciary; and I shall do so without being influenced by any of those extraneous circumstances or considerations which have been brought to bear upon the question, and which have been urged here; for the reason that all the precedents for referring bills of this description, with the exception of one, are in favor of referring them to the Committee on the Judiciary. If the precedents were equal, or if it were a new question, it seems to me there should be no difficulty or hesitation in determining to which committee the bill should be referred. But if precedents have any influence, we can have no hesitation, because the precedents, in all cases of a similar nature, with but a single exception, have been on the side of a reference to the Judiciary Committee.

A proposition is here made to introduce a State into this Union, the proposed State not having previously adopted a constitution for itself. We propose, or rather it is proposed by this bill, to admit a State, and leave it to the people of that State hereafter to form a State constitution conforming in all respects to the requirements of the Constitution of the United States. This, it appears to me, is changing the entire order of things. Congress has heretofore required, from a State applying for admission into the Union, a State constitution, and they have carefully examined to see if that constitution conformed to the requirements of the Constitution of the United States. This is a grave question; for this bill proposes to make the people of these Territories an integral portion of the people of this country. The Senator who has just taken his seat draws an argument from the fact that New Mexico has petitioned Congress for a government, and with it has coupled a request that slavery shall be excluded from that Territory. Now, the honorable Senator, before he takes this petition as the foundation of an argument in favor of acceding to their request, should examine how it originated. I have made some little examination in relation to this convention that was held in New Mexico. I have not, however, completed the examination, but, as far I have gone, the facts in connection with the so-called convention seemed to be these: About forty or fifty persons, who have followed our army into New Mexico, are about all the American citizens that are to be found on this side of the Rio Grande. These individuals, I understand, have had the principal management in getting up this petition, the object of which, with them, is twofold: in the first place, to wrest from Texas what is justly and legally and rightfully her due—that which unquestionably belongs to her, and which has not only been defined to be her property by her own law, but which has been so recognized by foreign Governments, and so recognized by the President of the United States and by the citizens of the United States. In order to effect this object, they thought it necessary to appeal to a strong and excited party in Congress; and hence this position, setting forth that they desire to be freed from the institution of domestic slavery. Now, with regard to the population of New Mexico, I have some information. I know, from the experience that I have had, what sort of people these Mexicans are; and, by the way, what I have heard in relation to the person who figures most conspicuously in this convention is not very creditable to him. He has been acting there as alcalde. Now, the alcalde in Mexican jurisdiction has almost the entire control over matters of a judicial character. This individual left our army, and endeavored, at the outset of his civic career, to overturn the established system which prevailed in that Territory; but in this he was not altogether successful. I have some experience also in respect to popular conventions in that country; for I remember I came nigh getting into the calaboose once for attending one of them. The manner of getting them up is this: The chief officer of the district collects the principal citizens, and they hold what they call a "junta." I remember that in 1835, shortly after I went to Texas, being at Nacogdoches, I was called on to attend one of these "juntas," or conventions, by the alcalde. Certain questions were laid before us, and we were invited to express our opinions upon them. I expressed mine very freely; and, after the meeting was broken up, the alcalde ordered me to be taken to the calaboose; and if there had not been more Americans present than Mexicans, I should have been imprisoned for the mere expression of my opinions. And this is the sort of men who are assuming to dictate to us! Has it come to this, that, upon a question which has been agitated since the formation of the Government, we must now be instructed by ihe people of New Mexico how we are to act? I regret that the question has been dragged into this debate; but, without reference to it at all, I shall vote for sending this bill to the Committee on the Judiciary, because I believe that it involves some very important legal questions, such as should be investigated thoroughly before we act upon the bill.

Mr. BERRIEN. I desire merely, before the question is taken, that the Senate should understand what has been formerly done. The Committee on Territories was formed in 1844. The first question that occurred was in regard to the admission of Iowa and Florida, upon the motion of Mr. Evans, of Maine. The question was discussed whether the bill should be referred, not to the Committee on Territories, but to a select committee. Mr. Evans moved that the bill should be referred to a select committee; and, after discussion, it was determined by the Senate that it should be referred to the Committee on the Judiciary. Though the Committee on Territories was in existence, and though a proposition was made to abstract the bill from the Judiciary Committee, yet it was not thought proper by the Senate to do so. That was in 1845. In December, 1846, the bill for the admission of Iowa was read a first and second time, and referred to the Committee on the Judiciary. That was two years after the Committee on Territories had been in existence. In 1847 the bill for the admission of Wisconsin was read a first and second time, and referred to the Committee on the Judiciary. This was the third reference after the Territorial Committee had been in existence. At the last session the bill for the admission of Wisconsin was sent to the Committee on Territories. There is one instance, therefore, of a reference to the Territorial Committee in opposition to three distinct references to the Judiciary Committee.

Now, one word in reply to what was said by the chairman of the Committee on Territories, in answer to the remark of the Senator from Alabama, that there had been a violation of the ordinance of 1787, by permitting a greater number of States to be formed out of the Northwest Territory than was provided for in that ordinance, and that this received the deliberate sanction of the Committee on the Judiciary. Now, I beg to say that that was a bill passed by the House of Representatives, sent here, and referred to the Committee on the Judiciary, before we knew that such a question was made. The Committee on the Judiciary reported back the bill without amendment, and without being aware, as far as I am informed, of the existence of the question suggested by the Senator from Alabama. The Senate is now in possession of the facts, and it can determine whether it will adhere to its long-established practice, or whether it will adhere to the isolated case referred to by the chairman of the Committee on Territories.

Mr. President, I do not feel disposed to enter into the discussion of questions apart from the immediate question of reference, but I think there is no Senator who looks upon this bill with attention, and considers the extraordinary character of the measures which it proposes to adopt, and who reflects upon the important legal and constitutional questions necessarily involved in the discussion of the bill, who will hesitate to admit that there is a manifest propriety in referring it to the Committee on the Judiciary.

Mr. BUTLER. One word, Mr. President, concerning the bill passed at the last session. The Senator from Alabama has asked how it happened that the Committee on the Judiciary, in the first place, and the Senate subsequently, allowed a part of the Territory of Wisconsin under the operation of the ordinance of 1787 to be taken off, and hereafter—as it will be in a short time—organized into a separate State? In answering that question, perhaps I am, in some measure, answering the objection that has been made by the honorable Senator from Indiana, when he speaks of the sectional character which, he says, characterizes the Judiciary Committee. Sir, in answering him as chairman of the Committee on the Judiciary, I shall state what took place in regard to that matter. When this question came up before the committee, (which, I believe, was not organized with any sectional views, for although there are four gentlemen from the South, and but one from the North, upon that committee, it is merely accidental, and not the result of design in the organization,) I stood alone, sir, when it was proposed to take off part of the Territory of Wisconsin, and give it to the Territory of Minesota, to be formed, hereafter, into a separate State.

I am from that part of the country which has observed, so far as I know, all the obligations of the ordinance of 1787, or any other constitutional obligation; but I then stood alone on this question, and I object now, most solemnly object, to your taking one inch of this territory from under the operation of the ordinance of 1787. Sir, I stood alone in the committee, and four of its members were against me; and had I not been absent from my seat when the committee reported that bill, and it was passed into a law, you would have heard my voice in this Chamber upon that very subject. And I think, with the Senator from Alabama, that all the precedents in relation to this matter show that the bill under consideration should be referred to the Committee on the Judiciary, and that, under the circumstances, it cannot be otherwise disposed of.

I cannot take my seat without making one remark in relation to the Senator from Illinois, chairman of the Committee on Territories. I believe that he has acted in good faith, so far as concerns this question; and I do him but justice when I say that he has done all that he could do, considering his peculiar local position, to settle the question which has shaken our Union for many years past.

But when my friend, the Senator from Indiana, chooses to say that the Committee on the Judiciary has been so organized that a majority of its members—all but one—are from the South, I feel it incumbent on me to disclaim all intention or design of unfairness, on the part of myself or any other members of the committee, towards any section of the country, in the organization of that committee. That the committee is so constituted is an undoubted fact, but its constitution is purely accidental. When the committee was organized I was in favor of retaining a gentleman from the North, who was directly opposed to us, because he was a good lawyer, and I wanted the benefit of his counsel upon judicial matters, and I was not disposed to forego that benefit because he happened to be from the northern section of this Union. Sir, I repeat that I believe there has been no design in the organization of the Judiciary Committee, nor that any unfairness towards any section of this Union is to be apprehended from its organization.

It is a very strange proceeding, when we speak of organizing a government for California, that the Federal Government in Congress assembled, in making the deed conferring the power of government upon her for the first time, shall be the creating and regulating power. This, sir, is establishing a precedent never known before. I have always understood, heretofore, that a State came here to ask admission in our Union, clothed with all the attributes of sovereignty; but we are assuming the power of making the State—making the deed which is to confer the power of government, and giving it a certain character. This is establishing, as I have said, a precedent heretofore unknown in the history of the Federal Government.

I have found myself, contrary to my intention and my rule, betrayed into remarks of this kind; but I have been actuated by no wish to draw invidious distinctions between the Committee on

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Territories and the Committee on the Judiciary. I stated the fact that I stood alone on the proposition to take a part of the Territory of Wisconsin and organize from it the Territory of Minesota, and gentlemen may look over the list and see who constituted that committee. I will repeat, that had I been in the Senate when that bill was passed, you would have heard my voice here as well as in the committee.

Mr. NILES. Mr. President, I agree with the Senator from Georgia [Mr. BERRIEN] that all bills for the admission of States into this Union always have been, and always ought to be, referred to the Committee on the Judiciary. I do not think that anybody can be so blind as not to perceive and understand the real character of this bill. It is a territorial bill, but under a different name: nothing more nor less than that.

Certainly no Senator can contend that the Senate has any constitutional right to go into a territory comprising six hundred thousand square miles and a foreign population of forty thousand souls, with no civil organization whatever, and organize a State government. The admission of a State into the Union supposes the existence of a political organization; but here there is none. This is a territorial bill, and in that view I shall vote for its reference to the Committee on Territories.

For one, I shall not be asleep with reference to the suggestion of the Senator from Indiana [Mr. BRIGHT] to postpone the consideration of this subject, and the exciting question connected with it, till the next session of Congress. I am ready to meet that question now—a question which the country expects us to meet, and which cannot be dodged either one way or the other. I shall, therefore, vote for the reference to the Committee on Territories.

Mr. YULEE. Mr. President, I move as an amendment to the motion before the Senate, to strike out the word "territory," and insert the word "judiciary."

Mr. BUTLER. It will amount to the same thing. Never mind; let it go as it is.

SEVERAL SENATORS. Yes, yes; let it remain as it is.

Mr. YULEE withdrew his amendment.

The question was then taken on the question to refer the bill to the Committee on the Territories, and decided as follows:

YEAS—Messrs. Allen, Atherton, Baldwin, Bradbury, Breese, Bright, Cameron, Clarke, Clayton, Corwin, Davis of Massachusetts, Dickinson, Dix, Dodge, Douglas, Felch, Fitzgerald, Hale, Hamlin, Miller, Niles, Sturgeon, Upham, and Walker—24.

NAYS—Messrs. Atchison, Badger, Bell, Benton, Berrien, Borland, Butler, Calhoun, Davis of Mississippi, Downs, Fitzpatrick, Foote, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Johnson of Georgia, King, Metcalfe, Pearce, Rusk, Turney, Underwood, Westcott, and Yulee—25.

So the motion was not agreed to.

On motion of Mr. BERRIEN, the bill was then referred to the Committee on the Judiciary.

RAILROAD ACROSS THE ISTHMUS.

Mr. BENTON moved that the Senate proceed to the consideration of the special order, being the bill to make compensation for the transportation of troops and supplies, for a limited time, over the isthmus of Panama; which motion was agreed to.

Mr. BENTON then said: Mr. President, the object of that bill has been very fully set forth by the petition of the memorialists, which was laid before the Senate several days since, and which has been printed by order of the Senate for the use of its members, and reprinted in the newspapers in this city and many newspapers throughout the country.

The object which the petition so fully and yet so briefly and clearly points out, needs nothing at all from me to enhance it in the estimation of this body or the country. It is vain, sir, for me to enlarge upon the subject. This great object, favored by all persons and circumstances and considerations, needs no commendation from me.

The bill, Mr. President, puts it into the hands of the Secretary of the Navy to contract with those petitioners for a limited time, and for a sum not exceeding a certain amount.

The conclusion of this contract is put into the hands of the Secretary of the Navy, because in his hands alone is the great business of the mail steamers plying between our possessions on the Atlantic and our possessions on the Pacific side of North America. These mail steamers are designed, to a certain extent, to become auxiliary and subservient to the naval operations of the United States, liable to become a part of its naval force, and on that account they are not under the control of the Postmaster General, to whom their immediate supervision would seem to belong.

Nor does this bill command the Secretary of War—to whom, also, might be referred the approval of such contracts with propriety—to conclude it. The Secretary of the Navy is the person to whom the bill refers the conclusion of the contract, because he already has in his hands the great business of controlling the steamships which carry mails between the eastern and western extremes of our possessions, and it only lacks, sir, that a link be completed which lies between the Atlantic and Pacific Oceans to perfect the communication between the two sides of our continent.

The bill also provides for the transportation of naval as well as military stores; therefore, it very appropriately refers the completion of the contract to the Secretary of the Navy.

The persons, Mr. President, named in the bill, and who, if the bill passes, are those with whom the contract will be made, are persons who, in my opinion, are entitled to the most favorable consideration. They are, in the first place, persons who are acquainted practically with what they undertake to do. One of the petitioners, Mr. Stephens, is known throughout the reading world for his travels in a part of South America, which lies near the country over which this road is to run. Besides being known as a traveler in all this region, he has visited the isthmus in company with two engineers to ascertain for himself not merely the practicability, but the cost of the work; and, though necessarily aided by the surveys which have been made heretofore under the contracts of different governments, he has nevertheless examined every inch of ground himself, accompanied by skillful engineers, who have made their own report of the route. He has knowledge upon the subject, and without knowledge of the subject it is in vain for anybody to undertake it.

The company who apply for this privilege have another recommendation—that of capital to accomplish it. They then, sir, have another recommendation, which is, an interest in the completion of the work. They are the contractors for the transportation of the mails on the other side of the isthmus. They have already put afloat three steamers of the first class, which have cost them six hundred thousand dollars. These steamers are now passing round to commence the business of transportation on the other side of the isthmus. They have, then, a great sum already embarked in this business, and they have a direct interest in making successful the large amount of money which they have invested on the other side. They who undertake to carry "persons and things" from the other side of the isthmus are those who, above all others, are the most interested in having the means of accomplishing, in the shortest possible time, the transit across the isthmus of the "persons and things" in the transportation of which their success depends. They have a direct interest in their money already invested, and they have an interest in the success of their enterprise.

They have another reason, Mr. President, why they should have this grant from us. They already have it from the Government which owns the country—from the Government of New Granada—and are at this time in possession of the privilege of opening this road.

I will read to the Senate the letter of General Herran, Minister from New Granada to this Government, procured by these three gentlemen, Messrs. Aspinwall, Stephens, and Chauncey. It is dated—

LEGATION OF NEW GRANADA,
Washington, Dec. 18, 1848.

GENTLEMEN: I have had various conferences with Mr. John L. Stephens, as representative of the association which you have formed, and with powers sufficient to solicit the privilege of constructing a railroad in the Isthmus of Panama, under the conditions which, in the name of my Government, I have proposed to him. From these conferences it has resulted that Mr. Stephens has given me sufficient guarantees, besides those which are expressed in the privilege conceded to Matthew Klein, under date of the 8th of June, 1847, to ensure the execution of this work, [this is a very material statement, sir,] and that your association binds itself to fulfill the conditions which I have proposed in favor of New Granada, besides those which are set forth in the privilege.

In virtue of this agreement, I declare that you are in possession of the privilege conceded by the Government of New Granada for the construction of a railroad over the Isthmus of Panama. I am, your very obedient servant,

P. A. HERRAN.

MESSRS. W. H. ASPINWALL, JNO. L. STEPHENS, and HENRY CHAUNCEY.

This letter is in Spanish, sir, and I give it a literal translation as I go on. The last sentence is perhaps the most essential of all. "In virtue of 'this agreement I declare that you are in possession of the privilege conceded by the Government 'of New Granada for the construction of a railroad 'over the Isthmus of Panama."

So that, Mr. President, besides securing to these applicants this contract heretofore, as stated by them in their petition, the Minister of New Granada has now, on this day, given them an official letter declaring that they are in possession of it. And it is probable that the Minister himself may be within the sound of my voice when I make this declaration, that he has, on this day, and for the purpose for which it is now used, declared that these persons are in possession of the privilege granted by that Government. Let it be known that this day the parties are in possession.

I deem it fortunate, Mr. President, that, after the delays which have taken place for more than three centuries in executing some easy and practicable communication between these two great oceans, the time has arrived now when the great work can be accomplished. Two Governments, both in the New World, republics, and friendly to each other, have entered into a treaty for the purpose of securing the execution of this work. An article has been inserted in the treaty, unanimously agreed to on the part of the American Senate, by which, sir, we acquire an interest, an invaluable interest, in the use of that work, provided we use the right secured to us of opening the way across the isthmus.

This is done by two republics—Powers of the New World—acting together in making this treaty, and taking into their own hands, as appropriate, the great work which is to carry into effect the great idea of Columbus, in proposing to go west in order to arrive at the east. It is now in our power to accomplish it. The petitioners undertake to do it within three years; and that undertaking is made upon an actual view, an actual examination by engineers of the whole work to be accomplished. Their contract with the Government of New Granada gives them eight years in which to do this work. The privilege of which they alone are now in possession expires after eight years, and does not expire for eight years; but, actuated by their own interests, as well as anxious to comply with the universal desire to facilitate the intercourse between the two great oceans, these petitioners are ready to make extraordinary efforts, and to accomplish this work within less than half the time.

This is as desirable to us, to the Government of this country, and to all who have yet to traverse the two oceans, as it is to them. Their interest requires it, and our convenience, and the successful carrying on of our own business requires it also. In the case of this company—informed as they are—acquainted as they are with the work which they have to do, and in possession of the necessary capital to accomplish it—already having six hundred thousand dollars invested in the line, which is on the other side of the Isthmus, and deeply interested in the returns which they have themselves to get from capital already laid out—we have every possible human guarantee that these gentlemen will have the work accomplished within the time which they name. Then, Mr. President, it is a subject of congratulation, a subject of rejoicing,

that the United States of America, one of the first Powers in the world, shall be the first to carry out the great idea of Columbus of going west to obtain the east. Other plans may follow, sir. There is one contemplated across the Isthmus of Tehuantepec by an English company. Let it go on. Let it succeed. Let there be as many as possible. But, sir, when that work is accomplished, it is still a British work. It is none of ours. It is not guarantied to us by treaties. We will have to take our chance along with other nations.

We may also, sir, in time, perhaps before long, accomplish the great idea of Mr. Jefferson in sending Lewis and Clarke to the Pacific Ocean, the great object of which was to examine into the practicability of opening a communication between the two sides of the continent. We may have an American road yet to the Pacific Ocean: but that must be a work of time. The work across the Isthmus of Tehuantepec may be called a foreign work, as it concerns us. This across the Isthmus of Darien may be considered an American work, and that will be completed immediately. I hope, then, that the Senators may see that every interest and every feeling that belongs to the Americans—for I appropriate that term by way of distinction to the first Power in the New World—should make us anxious to accomplish this work, and to do it at once. Great will be the pride of all America to be the first to accomplish this work, and to accomplish it under circumstances which will give it a national character with respect to ourselves.

Mr. BREESE. Mr. President, I do not rise at this time for the purpose of discussing the merits of this important enterprise. I shall leave that for some other and more auspicious time. But I rise to express my hope that the honorable Senator from Missouri will not attempt to precipitate action upon this bill, nor attempt to get a vote of the Senate upon it to-day, nor this week, but that he will give us ample time and abundant opportunity to consider it fully in all its details, and in its whole scope. I rise, sir, merely to state to the Senate that I have received information, upon which I can implicitly rely, that a far more beneficial proposition than this presented by the Committee on Military Affairs will very soon be offered for the consideration of the Senate.

Sir, this is a vast matter and a vast undertaking which these individuals, the memorialists to this Government, are about to attempt, and for which they are to receive the sanction, patronage, and funds of the Government. If I understand anything about it, this road will be about fifty miles in length, which, at a cost of fifty thousand dollars per mile, would amount to a little more than two millions of dollars. And now, sir, by this bill the Government proposes to pay to them, for twenty years, six millions of dollars for transportation of all kinds, leaving a profit of four millions, without counting the tolls levied on that portion of the commerce of the world that may pass over the route.

The Senator says we have obtained the right to pass across the isthmus by treaty with New Granada, and that that right will be gone unless we exercise it. What is that right designated by the 35th article of the treaty? It is nothing more than a right of way guarantied to us, and we are not subjected to the condition of constructing a road in order to secure the privileges guarantied by this right of way.

I hope the attention of the Senate will be called to this matter, and to the vast sum of money proposed to be paid to these gentlemen; and that Senators will bear in mind that a proposition much more favorable will be presented to them. The Senate, therefore, should not act hastily upon this subject, but give us all time to look into it, and to make up our minds fully in regard to it.

Mr. HALE. Mr. President, I do not wish to be understood, in the very few remarks which I propose to make upon this subject at this time, as indicating what vote I shall give this bill on its final passage. I confess, however, at the outset, that my impressions are all against it—very strongly against it; and I wish to be informed about it. If I understand the treaty between this country and New Granada, to the 35th article of which reference has been made by the Senator from Illinois, [Mr. BREESE,] a great and valuable privilege was secured to the Government and citizens of the United States. Well, sir, I take it that when that treaty was ratified by the Government of New Granada, their power, so far as it relates to any railroad that was to be built across the isthmus, either by the United States or her citizens, was performed and finished, and that it now remains with the Government of the United States to prescribe the mode and manner and terms upon which the citizens of the United States are to enjoy the privilege of constructing a railroad; or, in the words of the treaty, "any mode of communication which may exist, or which may hereafter be constructed."

SEVERAL SENATORS. Read it.

Mr. HALE. The 35th article of the treaty is as follows:

"The Government of New Granada guaranties to the Government of the United States that the right of way or transit across the Isthmus of Panama upon any modes of communication that now exist, or that may hereafter be constructed, shall be open and free to the Government and citizens of the United States for the transportation of any articles of produce, manufactures, merchandise, and commerce belonging to the citizens of the United States; and that no other tolls or charges shall be levied on citizens of the United States, or their merchandise, than are levied upon the citizens of New Granada."

I take it, sir, that, as far as that Government is concerned, the right of this construction is vested by this treaty in the Government of the United States, and it is not competent for any of the citizens of the United States to go in and buy a contract with that Government, subsequent to this treaty, and pass a snap statute, and say to the Government, "Your hands are tied; you cannot accomplish your object except by contracting with us."

Again, sir, this bill not only authorizes but directs the Secretary of the Navy to enter into a contract with these three individuals. Now, it seems to me, that though the word has grown somewhat odious of late, this is, in the strictest sense of the definition, a monopoly. All the other citizens of the United States, except Mr. William H. Aspinwall, John L. Stephens, and Mr. Chauncey, by this bill are deprived, for twenty years, of the privileges which might accrue to the citizens and Government of the United States under the treaty with New Granada. The Secretary is not at liberty, after this bill becomes a law, to receive proposals from anybody else, no matter how favorable may be the terms.

If I understood the honorable gentleman from Missouri, [Mr. BENTON,] one of the reasons assigned in his introductory remarks as favoring the passage of this bill, is, that these gentlemen have already very vast contracts with the Government on the other side of the isthmus, where they have the carrying of the mails. I suppose that there is to be a sort of scriptural-revelation doctrine here, that to those who have much, much shall be given, and that these gentlemen, because they have already secured very large and valuable contracts, are now to have this privilege given to them for twenty years. If this bill lies over, I, if no other Senator does it, will propose an amendment, instructing the Secretary of the Navy to issue proposals to the whole people of the United States, and see if there cannot be three other gentlemen found that have as much skill, as much knowledge, and as much capital too, to construct this railroad as they have.

It is a new measure; it is one of vast moment. It opens a new era in the hisiory of the world, connecting the two sides of this continent by this railroad; and I am not prepared, at this moment, to say that this new phase of civilization and commerce, which is now exciting the interest of the whole world, at the very first day that it sees the light, is to be transferred for twenty years to Messrs. Aspinwall, Stephens, and Chauncey.

I do not know, sir, but that I may have mistaken altogether the character of this bill; but this is the way that it strikes my mind at present. I am open to conviction. If there are any arguments to be given to a mind willing to hear them, and to be convinced by them, I would be very happy to hear them stated. If my convictions are overcome, I am as ready to vote for this measure as anybody else; but at present my impressions are more decidedly against this bill than they have been upon any act of legislation since I have been a member of the Senate.

Mr. BENTON. Mr. President, I regret that I asked the Senate to make this bill the special order for to-day. All that I expected, was to open the subject and bring it before the Senate, and that, after due deliberation and discussion, we would proceed to act upon it. I did not intend to ask the Senate to take any vote upon it to-day, of any kind. I therefore stand ready to agree to the putting off the bill from day to day, or for a short time, until Senators can have an opportunity to examine it; and I must repeat, what I then stated, that the only way by which Senators can understand this matter, is to leave the subject open, and to discuss it. That is the only way. That there is necessity for time for Senators to understand the subject, is very clear from what the Senator from Illinois, [Mr. BREESE,] who sits upon my right, has just said. He supposes that by this bill twelve millions of dollars are to be paid for transporting mails across the Isthmus of Panama.

Mr. BREESE. I said six millions.

Mr. BENTON. Well, then, six millions. I do not care about the precise amount. Why, sir, this contract is already in the hands of these gentlemen, as a part of the contract for carrying the mails on the other side of the isthmus. When the mail line of steamers was established by the Congress of the United States, for connecting these two parts of America, it was stipulated, in the contracts entered into between the Government and the mail companies, that the gentlemen who have the contract on this side should carry the mail as far as Chagres, and that those who have the contract on the other side should carry them from Chagres across the isthmus and to the Pacific coast.

There is, then, sir, in the hands of these gentlemen, at this time, not merely the privilege, but the obligation to carry the mails from Chagres across the isthmus, and I can say that, over and above that contract, they have already despatched a small steamer to Chagres for their own advantage in transportation, and for the convenience of passengers going by that direction. And I may say that, for considerations of humanity, they have provided against the detention of passengers at Chagres, a place in itself most contemptible, and most incommodiously situated upon the coast, and inhabited by a people with whom it cannot be desirable for any one to stay over night; for I believe there is not a white man among them; and, as in Rome it is necessary to do as Romans do, so it is necessary to do as these people do when stopping among them. These gentlemen, to provide against this inconvenience, have already provided a small steamer for the purpose of meeting the steamer that goes down from the American coast, and receiving persons at the mouth of the river, and taking them up as far as steamboats run, which is about eighteen miles. They have already provided this steamer, and the mails are now carried under that contract.

Mr. President, it is not only that there is nothing to be paid for the transportation of the mails, but there is nothing to be paid any way. There is nothing stipulated for any sum or for any time. The authority is only given to the Secretary of the Navy for contracting at a rate not exceeding certain rules, and for a period of time not exceeding a certain number of years. Now, sir, there is a rule to be taken—the rate which we pay for carrying the mail between New York and Liverpool. Here are your rules to go by. The rate is not to exceed three-fourths of the amount which is now paid for transporting the mails alone from New York to Liverpool.

The Secretary may make the rate as much below that as he can bring down the parties, and we all know well enough that an American officer, in making a contract under an act that gives him discretionary powers, feels bound by every consideration to represent the wishes of his Government and the mass of the community in making his contract. So much as to amount. Now as to the time. The bill specifies a great deal. The Secretary is not bound to make it one year. He may make it as short as he can. Let persons make as many propositions as they please. These propositions will aid the Secretary in making his contracts. Let persons make propositions for carrying the articles mentioned in the bill for less. But these propositions must come from persons who know what they are going to do, like these gentlemen, who are able to do it, and have an interest, like them, in accomplishing it in the shortest time. And when all is done, they will have to show, sir, that they have the right to obtain it from the Government of New Granada, the right to obtain what is shown, by a declaration made this morn-

ing for the purpose of being read to the American Senate, to have been already guarantied to these gentlemen.

Now, sir, it is not the mails alone which they are to carry, but naval and military supplies of every kind. But the mails are already provided for by a separate contract. They will carry them on this railroad, whereas, at present, they carry them on the backs of mules.

The articles proposed to be transported by this company are of every species of military and naval supplies. But it is not merely these supplies, it is also for the transportation of persons; not merely military, but of all persons. These are the great ends to be attained and accomplished, and for these the bill stipulates to pay nothing. There is no stipulation for anything, either in point of money or in point of time. All is left open to contract. But the bill has a consideration which is of the highest possible moment. It is that the work shall be completed within three years after the time of contract.

We are to thank the gentleman from Illinois [Mr. BREESE] for bringing forward his objections; but he misconceived the object of the bill, and his misconceptions put him off the track.

With this I will make a few observations to the honorable Senator from New Hampshire, [Mr. HALE.] That Senator has an argument, which I feel as strongly as any one, against all monopolies—all monopolies. But there happen to be cases in which monopolies are both just and politic. There are cases in which new and extraordinary works cannot be accomplished except by giving advantages to the company engaged in them. Of that kind is the work before us; of that kind, sir, are our mail steamers, which not only go to California, but to Europe. Of that kind is the great Cunard line of steamers, which have won the admiration of the world. They are steamers employed by the British Government. Of that kind are all great enterprises set on foot, for which individuals are not competent; and it is necessary, in order to secure the fulfillment of such enterprises, to add a consideration suffieient to insure the company against loss, in order to get a great work accomplished; and all that duly considered, I should advise the Secretary of the Navy to be careful before he enters into any contracts with this or any other company. The bill states a maximum beyond which he cannot go. And there is no minimum to which he is confined. The maximum, sir, is in favor of the country, and I trust we can be satisfied that an officer of the American Government will make the contract upon the best terms for his Government.

I have no objection to the bill going over, but as for extending it, it is death to the bill. The loss of a few months now is the loss of a year. And then it is something novel, sir, for legislation to stop for the mere purpose of giving others an opportunity to come in and bid against a proposition desirable in itself, and particularly, sir, when the object contended for is already in the possession of another. An application which may come in may mar the whole object. They may offer to carry it for the smallest possible sum and the merest fraction of time. What then? The right, sir, the right is already in the possession of another. And what becomes, then, of the contract? No, sir, the bill is open. The bill submits the whole matter to the discretion of a high officer of the Government, and I see no reason why we should be afraid to trust to his discretion in the limitations.

Mr. ALLEN. As this is a matter of great importance, sir, and a subject entirely new, I desire some information in regard to it. The Government of the United States has, I believe, in virtue of treaty stipulations, the right of way for itself and for its citizens across the Isthmus of Panama. I desire to know whether the intention of this bill is to transfer that right from the Government of the United States to a company in New York, so that no other citizen of the United States, except that company, can exercise that right across the Isthmus of Panama.

Mr. BENTON. I apprehend that all persons who would be at liberty to traverse the Isthmus if this bill were refused, would still have the same liberty concerning this and all other privileges if the bill were to be passed.

Mr. ALLEN. I do speak of the rights of those gentlemen in New York. Their rights have no special concern in this Senate. Our business is with the rights of the people of the United States, which are secured to them by this treaty. I desire to know whether it be the intention of this bill to divest the Government and the people of the United States of the right of transit across the Isthmus of Panama, and invest this company in New York with this right, to the exclusion of the people of the United States who may desire to construct railroads or canals across that isthmus. That is what I wish to know. I desire simply to know whether we are to give up any rights that we have acquired under this treaty, by this bill, to any company in the United States, or whether the people of the United States, everybody in the United States, shall have the right to go there and make a road, canal, railroad, or anything else. I simply wish to know whether we lose any of the rights which we have acquired by the treaty with New Granada.

Mr. BENTON. Mr. President, I would merely say that, so far as the railroad is concerned, the right is exclusive for a limited time; the grant is for ninety-nine years. But as to transit, every person can go according to his choice—on foot through the woods, on mules, or in any manner he may please. The privilege of the road is to be exclusive, and it is that in which the people of the United States are to get the benefit of the treaty.

Mr. CLARKE. I rise at this moment to ask for the contract which was made by the Government of New Granada with a company of the citizens of France, in 1838, which contract has been transferred to these persons—the memorialists. If any Senator has a copy of that contract, I shall be happy to see it before this debate proceeds further. It is very desirable, in order to understand what will be the situation of the United States, and the citizens of the United States, in case this bill pass, for that contract to be understood by the Senate, before we proceed to any ratification of the petition of these memoralists.

If this is to be restricted, it is very desirable that we should know it; and if it is to be unrestricted and unlimited, we should also know it.

I would ask whether a copy of the contract is in possession of the honorable Senator from Missouri, [Mr. BENTON,] or of any other person.

Mr. BENTON. It is in the city, and can be produced; but it has expired.

Mr. CLARKE. I understand that that contract has expired, and that the same terms have been granted to the present memorialists. It is very desirable to know what are the terms of that contract, and what are the terms of the contract under which the present memorialists claim the exclusive right of way across the isthmus.

Mr. JOHNSON, of Maryland. Mr. President, it is not probable that I shall vote for this bill, unless I understand it more thoroughly than it is possible to understand it in its present shape. I rise now simply to suggest one or two things, and I shall be much indebted to the honorable Senator from Missouri if he can remove my objections. The bill itself is not, if I understand the honorable Senator aright, a bill authorizing the Secretary of the Navy to enter into a contract with these gentlemen for the transportation of munitions of war, naval stores, &c., but it is a bill directing as well as authorizing him to enter into a contract with these gentlemen. The language of the bill is, that he "is hereby authorized and directed" to enter into such a contract. It gives him no option at all, but compels him to enter into a contract upon such terms as the bill prescribes.

Another provision of the bill is—and, so far as that is concerned, it is entirely in the power, the exclusive power, of these directors—that he is to give not more than three-fourths the amount which is now paid for the transportation of the mail from New York to Liverpool. The bill, if I understand it correctly, directs the Secretary of the Navy to enter into a contract, to the provisions of which I have just referred, with no limitation, except that the amount paid for this service shall not exceed three-fourths the sum which we now pay for the transportation of the mails to Liverpool. They may go up that high, if these gentlemen think proper to say that they will not contract for anything short of that amount.

Now, if I recollect aright, the amount which we pay for the transportation of mails from New York to Liverpool is very nearly four hundred thousand dollars per year. Hence we shall be paying these gentlemen three hundred thousand dollars per year for the period of this contract—twenty years—which, in twenty years, would amount to six millions of dollars. Now, if I am correctly apprized of the character of the country and the length of the road, I am very much inclined to think that it would not cost, at the maximum, to make this road, more than two millions of dollars; perhaps it might be done for a million and a half. At the very utmost, the cost of making this road would not exceed two millions. The result would be, that it would place in the hands of these directors a clear profit of four millions upon an expenditure of two, and that without imposing on them any obligation to do more than to carry the supplies of the Government, munitions of war, public stores, the mails of the United States, and all persons in its employment—that is, persons standing in an official relation to the Government.

But I have another objection to the bill. I have not seen the contract which Messrs. Aspinwall, Stephens & Co. are said to have made with the Government of New Granada. I understood the honorable Senator from Missouri [Mr. BENTON] to have said, in answer to an interrogatory of the honorable Senator from Rhode Island, [Mr. CLARKE,] that the original contract has expired. But I suppose that it has been, in some shape or other, revived, as they are now in possession of the authority to make this road. I believe I understood the Senator aright.

Mr. BENTON nodded assent.

Mr. JOHNSON. Well, now, Mr. President, I would like to know whether the authority of which they are now in possession for making this road is an authority on the same terms as those contained in the original contract; and, if so, I should like to know what those terms are. I have been informed by one who spoke with certainty of the fact, that the original contract was a general and a sweeping one. It contained no limitation upon the amount of toll to be charged by those gentlemen. They might fix any amount of toll that they thought proper for the transportation of merchandise of every description across the isthmus, from one end to the other, and for the transportation of passengers. The practical operation of a bill of this description may be this; I do not say that these gentlemen would use it for any such purpose, but they might use it so; and, looking to the interests of the people of the United States, we should not give them the power. It may be that they may charge such an amount of toll for the transportation of goods and persons as will make it the interest of persons to go themselves or to send their goods upon this route as the cheapest of any of the other routes which will be opened to them. Now, what is the other route? Around the cape? By charging five per cent. less than is charged on the other route, they would get the whole travel. It is unnecessary for me to say what an immense profit it will be to this company. Nobody can tell what it would amount to.

I make these suggestions merely for the purpose of showing that, if we pass the bill as it has come from the Committee on Military Affairs, we place in the hands of these gentlemen four millions of dollars, and we at once put into their hands a charter—for it is literally a charter—under which they may impose millions and millions more, not only for the whole period of twenty years, but for the whole period that their road may last. Senators are aware that they have a charter from the Government of New Granada for ninety-nine years. I do not know anything of its renewal. Now, sir, as to the suggestion made by the honorable Senator from Missouri, [Mr. BENTON,] on which he places great weight, that these particular gentlemen have a decided advantage over others who would be likely to engage in an undertaking of this description; why, sir, I should be very glad to undertake it without a dollar of capital belonging to myself, and I could raise the money in five days; for whoever has the authority to make the road, with the certainty of receiving the six millions, based on the credit of the United States Government, will be greatly facilitated in obtaining the fifteen hundred thousand or two million dollars which will be necessary to accomplish the work. But I understood the honorable Senator that he did not intend to press a vote on the bill today; if he is not now prepared to answer my objections, he may do so when the bill comes up on its final passage.

Mr. BENTON. I have no objection that there

should be a brief delay, provided the subject be continued from day to day, until finally disposed of. With respect to the paper asked for by the Senator from Maryland, it shall be forthcoming. The application for it is a very proper one, for the letter contains other terms which are referred to by the parties, and which do not appear upon the face of the contract. I concur very readily in the proposition which the gentleman makes for a brief delay and the production of the paper, but the Senator must excuse me if I do not join him in his calculation respecting so compendious a mode of expending four millions of dollars. In the first place, upon no principle upon which he or I can govern ourselves can we take away two millions. We cannot set up our opinion as to the sum necessary to be expended in the construction of the road, in opposition to the estimate of competent engineers. The gentleman will find the basis of his calculation to be erroneous in another particular. The receipts for transportation are not to be considered in the light of profit to the company. I apprehend that their expenditure, which will be very considerable, will absorb those receipts. A large number of persons will have to be employed along the line of the road, and there must be a large outlay for buildings to shelter those who are so employed, and to shelter those who travel. I apprehend there will be a large outlay from the time that the work is completed and transportation upon it commences until the transportation shall entirely cease. We know that such is the case with all our railways, and we know that such is the expense attending them, to say nothing of supplies of wood and water, from the number of hands to be employed, that it eats deeply into the amount received for the conveyance of passengers. If we were to go upon the assumption of the gentleman, that all the receipts are clear profits, we might well be astonished to see how rapidly fortunes could be made. But when you come to look at the detail of business, you will find that one-half, two-thirds, or perhaps three-fourths of your receipts must go for the necessary expenses. Thus the gentleman's calculation wholly fails as to these enormous profits.

Mr. BREESE. It is not my intention to trouble the Senate with any remarks in relation to the merits of this bill at its present stage, but I desire to correct a slight misunderstanding which seems to prevail in regard to one of the sections of the bill. It appeared to me that the language of that section would bear the interpretation which I have put upon it. For twenty years' service they will certainly receive six millions of dollars, and they will receive that allowance whether they construct a railway the whole distance or not; for the Senator has himself informed us that they have alraady sent a steamboat to ply upon the Chagres river, and that the whole extent of land travel will not exceed twenty-five miles. Their outlay, then, I apprehend, cannot exceed one million of dollars. I merely wish to direct the attention of the Senate to this subject.

Mr. CAMERON rose to address the Senate.

Mr. BREESE. For the accommodation of my friend from Pennsylvania, I will move that the Senate adjourn.

Mr. DIX (the motion to adjourn being withdrawn) rose for the purpose of calling the attention of the Senate to another point in relation to this subject. He apprehended that the Government of the United States had no right, under the treaty with New Granada, to confer the power of constructing a road across the Isthmus of Panama at all. The only right (said Mr. D.) that we acquire, as I understand it, is this: that citizens of the United States, with their merchandise, &c., may pass across the Isthmus upon any roads which are now constructed, or which may be hereafter constructed, with the same privileges as are enjoyed by the citizens of New Granada, while the right of constructing roads, or of authorizing their construction, is reserved to them. I make this suggestion merely for the purpose of calling the attention of the Senate to the subject.

Mr. CAMERON. I rise for the purpose of moving that the Senate adjourn; but before doing so, I would inquire if there be a copy of this compact with the French company, upon which this whole matter is based, in print, because we ought to have it before us.

Mr. BENTON. In reply to the Senator, I will say that I will do all that is in my power to have it put in the hands of Senators as soon as it can be done.

On motion, the Senate proceeded to the consideration of Executive business; and, after some time so spent, the doors were reopened,

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 18, 1848.

Several other members appeared and took their seats, viz:

From the State of Georgia—ROBERT TOOMBS.

From the State of Florida—E. CARRINGTON CABELL.

From the State of Alabama—GEO. S. HOUSTON.

From the State of Missouri—JAMES B. BOWLIN.

From the State of Massachusetts—HORACE MANN.

From the State of Kentucky—BEVERLY L. CLARKE.

The Journal of Friday was read and approved.

The SPEAKER announced that the business first in order was the motion heretofore made by Mr. ROBINSON, to reconsider the vote by which the House had adopted the resolution offered on Wednesday last, by Mr. ROOT, in relation to the government of the new Territories.

But the SPEAKER suggested that there were a number of Executive communications on the table; which, by general consent, he would now lay before the House.

No objection having been made—

The SPEAKER laid before the House the following communications:

I. A letter from the Secretary of State, transmitting, in compliance with the act of March 2d, 1819, regulating passenger ships and vessels, tabular statements showing the number and designation of passengers who arrived in each collection district of the United States during the year ending September 30, 1848; which letter and statements were referred to the Committee on Commerce, and ordered to be printed.

II. A letter from the Secretary of the Treasury, transmitting, in pursuance of the resolution of the House of Representatives of December 30, 1791, a report of the receipts and expenditures of the Government for the fiscal year ending June 30, 1848; which letter and report were laid on the table, and ordered to be printed.

On motion of Mr. POLLOCK,

Ordered, That 100 copies extra be printed for the use of the office of the Register of the Treasury.

III. A letter from the Secretary of the Treasury, transmitting a report of the Commissioner of the General Land Office, exhibiting the operations in that branch of the public service during the last year; which letter and report were laid on the table, and ordered to be printed.

On motion of Mr. COLLAMER,

Ordered, That 500 copies extra of said letter and report be printed for the use of the General Land Office.

IV. A letter from the Secretary of the Treasury, transmitting the report of the Superintendent of the Coast Survey, showing the progress of that work during the past year; which letter and report were laid on the table, and ordered to be printed.

On motion of Mr. GRINNELL,

Resolved, That there be printed 2,000 extra copies of the report of the Superintendent of the Coast Survey, including the engravings, and 250 copies be placed at the disposal of the Superintendent.

V. A letter from the Treasurer of the United States, transmitting copies of accounts of receipts and disbursements for the Post Office Department, for the year ending 30th June, 1848; which letter and copies of accounts were referred to the Committee on Printing.

VI. A letter from the Secretary of War, transmitting a report from the Adjutant General stating the cause of the delay in furnishing certain information relative to the military forces employed in the late war with Mexico, called for by a resolution of the House of Representatives of the 31st July last; which letter and report were laid upon the table and ordered to be printed.

VII. A letter from the Clerk of the House of Representatives, transmitting a detailed statement of the expenditure of the contingent fund, from the 8th day of December, 1847, to the 1st day of December, 1848.

A statement of the amounts paid for stationery during the first session of the thirtieth Congress, for the use of the House of Representatives.

A statement of the several articles and cost of stationery furnished the Postmaster of the House of Representatives.

A statement of the stationery furnished the Clerk's office; and

A statement of the balance of money on hand on the 1st day of December, 1848; which letter and statements were laid upon the table, and ordered to be printed.

Mr. VINTON, by unanimous consent, from the Committee of Ways and Means, reported a bill (No. 665) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1849; which bill was read a first and second time, and committed to a Committee of the Whole on the state of the Union, and ordered to be printed.

On motion of Mr. VINTON,

Ordered, That the said bill be made the special order of the day for Wednesday, the 27th day of December instant.

Mr. ROCKWELL, of Connecticut, by general consent, from the Committee on Claims, to whom was referred the bill from the Senate (No. 107) entitled "An act for the relief of George Center," reported the same back without amendment. Committed.

Bill from the Senate (No. 351) entitled "An act authorizing the payment of interest upon the advances made by the State of Alabama for the use of the United States Government in the suppression of the Creek Indian hostilities of 1836 and 1837 in Alabama," was read twice and referred to the Committee on Claims.

THE NEW TERRITORIES.

The House proceeded to the consideration of the motion to reconsider the vote by which the following resolution had been adopted:

Resolved, That the Committee on Territories be instructed to report to this House, with as little delay as practicable, a bill or bills providing a territorial government for each of the Territories of New Mexico and California, and excluding slavery therefrom.

And on this question, Mr. ROBINSON was entitled to the floor.

Mr. COLLAMER rose to a question of order. He desired to inquire whether it was in order to debate this question. He understood that a resolution had been introduced by the gentleman from Ohio, [Mr. ROOT,] upon which the previous question had been moved, and which must otherwise, under the ordinary operation of the rule, have gone over for debate. The previous question having been moved and seconded, the resolution was adopted. A motion had been made to reconsider the vote. Could that motion be now debated? Because, if so, the House might thus pass all its resolutions, which, under the rule, could not be debated on the day on which they were offered, and, by moving to reconsider the vote, could avoid the operation of the rule.

The SPEAKER said that the resolution had already gone over three days. The gentleman would take notice that the motion to reconsider had been made on Wednesday or Thursday of last week.

Mr. COLLAMER suggested that there were very many resolutions standing on the calendar before this.

The SPEAKER. A motion to reconsider takes precedence of all other motions.

Mr. COLLAMER. Then it would not ordinarily be subject to debate unless it had laid over.

The SPEAKER. The Chair will decide that question when it comes up. The motion to reconsider is debatable this morning.

Mr. ROBINSON then proceeded with his remarks.

He said that when he had made the motion to reconsider the vote by which the House had adopted the resolution of the gentleman from Ohio, [Mr. ROOT,] it was only for the purpose of making explanatory remarks in relation to his own views. He thought that the vote ought to be reconsidered, with a view to allow gentlemen on both sides to do this. The practice which prevailed here to a considerable extent, of offering resolutions and compelling gentlemen to vote upon them, under the pressure of the previous question, often subjected them to much misrepresentation and to many unjust imputations before their constituents and the country; especially when, as in this case, the resolution was a compound one, embracing two distinct propositions, about which members differed widely as to which was the major and which the minor.

The resolution proposed to instruct the Committee on the Territories to report a bill organizing territorial governments in New Mexico and California, and excluding slavery therefrom. There were members on this floor who considered the question of organizing a territorial government there as of more importance than anything else; whilst there were others who considered the question of slavery, as connected with them, as paramount to every other consideration. Yet, according to the decision made by the SPEAKER, the question was indivisible. The House must take all or none.

Again: there were other gentlemen who thought it inexpedient to attempt any legislation during the present session of Congress upon the subject of these territories. For his own part, he admitted that he was one of the last class. These territories had been acquired not only since the present Administration came into power, but they had been acquired since the present Congress had been elected. If, therefore, the question was settled during the present winter, the constituents of gentlemen here would have had no opportunity to act directly upon the question through their representatives elected with relation to it, or to a President elected after the question had been mooted. An effort was made to legislate upon it during the last session, and it failed. It was not unreasonable to suppose that any attempt to legislate upon it during the present session would terminate in a similar way.

Since the question, however, had come up before the country, a Presidential election had been decided. Since an attempt had been made here to take action upon the subject, this election had taken place; and upon the result of that election, this question, above and beyond all others, had had a most controlling and all-pervading influence.

It would not be denied by any one, come from what section of the country he might, that the question of slavery, as connected with these Territories, absorbed every other. The old domestic questions of bank, tariff, distribution, and so forth, sank into insignificance beside it, and were rarely ever referred to, especially by the opponents of General Cass. The result disclosed the extraordinary fact, that the two extremes of the Union, upon this question of slavery, had met and united upon the same Presidential ticket, and, as each professed to believe, to subserve directly antagonistic and adverse purposes. But however widely the friends of General Taylor might have differed upon the question of slavery, the North and the South, the East and the West, all seemed to think that he could settle the question, and had more confidence in him than in either of the two other candidates who were before the country.

The party of which he (Mr. R.) professed to be an humble member went before the country with a candidate whose opinions and views had been expressed in the most unequivocal manner. He was in favor of what was termed non-interference. He was in favor of keeping the question of slavery, as connected with these Territories, out of this Hall. This doctrine seemed to have been condemned by the result of the late election. He would add, that so far as he was individually concerned, his position had always been, that the doctrine of non-interference was the better doctrine. If the party to which he belonged were to consult the old Democratic platform—if they were to follow the track which that party had pursued upon all questions—or very generally, at least—such would have been their course. Their object had been to bring into these halls as few questions as possible—to leave to the States themselves as many questions as it was possible to leave to them; and, still pursuing that path, their party—or, all events, the candidate of that party—was willing to adhere to it on this question of slavery.

It had, however, as he (Mr. R.) had stated, been condemned, and it seemed that legislation must be had; but it seemed also that it must not be had under this Administration. The question was taken out of their hands. The people had devolved the duty upon other hands; and under these circumstances, with a dying Administration, and an expiring Congress, he conceived it would be improper to step in between the people and the next Administration, and undertake to settle the question before General Taylor entered upon the duties of the executive office. Suppose it were one of the old domestic questions in which the country had been so much interested, and about which it had been so much agitated—say, for example, the bank or the tariff question—place either of these questions in a parallel condition with this, and he would ask, would it be proper, with a Democratic Administration, just defeated, to undertake to settle it? He thought not. And such also was his opinion of this question.

He was perfectly well aware that the two ends of the Union which supported General Taylor on this particular question of slavery, differed widely from each other; yet on one question they all agreed: that was to say, they had with one accord agreed—if in anything—upon this point, that this Government had the power to legislate on this question of slavery here, and that it ought to exercise that power. He believed, too, that the southern division of the Confederacy which supported General Taylor had taken the lead, if possible, in contending that the Government had the power, and that it was expedient to exercise it. So far as they of the North who had opposed legislation on this question were concerned—he spoke at least for himself—he had opposed it on the ground of expediency alone. He had never opposed it on constitutional grounds. The southern friends of General Taylor seemed unwilling, however, to abide by this doctrine. They were as zealous for legislation as the Wilmot-proviso men of the North. He spoke from the record; he drew his authority from the book. He spoke from the speeches of these gentlemen, here and elsewhere.

In proof of this assertion, he would take leave to turn the attention of gentlemen to the bill which came to this House from the Senate, at the last session, known as the compromise bill of Mr. CLAYTON. That bill proposed to leave the question of slavery where the Constitution of the United States and international law had left it. If under their operation the slaveholders of the South could have taken slaves into these Territories, the bill did not propose to cut them off; but if slaveholders would have been prohibited by these laws from doing so, then the bill did not propose to confer upon them any constitutional right to do so. The bill passed the Senate by a large majority; and, as a party, the Democratic party of the country were willing to abide by this constitutional doctrine, lead where it might. It was a doctrine older than this question; and it would have been anti-Democratic and anti-Republican, nay, more, it would have evinced a willingness to trample on constitutional rights to have contended for more. Yet, when the bill came to this House, a distinguished gentleman from Georgia and a decided friend of General Taylor, [Mr. STEPHENS,] moved that it be laid on the table, and it was accordingly laid on the table, seven other southern members voting with that gentleman. The gentleman subsequently obtained the floor, and explained his reasons for his motion and his vote. They were, that under the operation of the Constitution and of international law, his constituents would not be permitted, under the bill, to take their slaves into these Territories. He went into an elaborate argument to show that slavery was a local institution; that the Constitution had nowhere established it; that slavery had already been abolished in New Mexico and California, and that the passage of the bill would have continued the prohibition, unless altered by competent authority. The gentleman quoted writers upon constitutional law, and the decisions of the Supreme Court, and, as he (Mr. R.) thought, very ably made out his case. And he had closed his speech with these propositions:

The first is, that by the bill the whole subject of slavery in California and New Mexico, without any legislation on the part of Congress or the Territorial Governments, one way or the other, is refered to the Judiciary, to determine whether it can legally exist there or not.

2d. That the Constitution of the United States fully recognizes and amply protects the institution of slavery where it exists by the laws of the State or place; but it does not establish it anywhere where, by the laws of the place, it is prohibited.

3d. That California and New Mexico being Territories acquired by conquest, all the laws which were in force at the time of the conquest, not inconsistent with the Constitution of the United States, or the stipulation of the treaty of peace, or which were purely of a political character, are, according to well-settled principles and the adjudication of our own courts, still in force.

4th. That as slavery did not exist there at the time of the conquest, but had been prohibited by express law, the Supreme Court of the United States, to whom the matter was to be referred in the last resort, could not be expected, from the principles of numerous decisions already made, to decide otherwise than that slavery cannot be protected there, until the existing law abolishing it be altered by competent authority.

5th. And, lastly, that these positions being incontrovertible, the bill offered, as it was, as a *compromise*, and a final settlement of the question, amounted to nothing but a total abandonment and surrender of the right of extending the institutions of the South to these Territories.

In that speech the gentleman had further said, that before he would even vote to carry into effect the treaty, by making the necessary appropriations, he would have some legislative guarantee for the protection of slave property in those Territories; he had said that that bill was as effectual a prohibition against slavery as the Wilmot proviso itself, and even that it was worse.

Another distinguished gentleman, in the other end of the Capitol, [Mr. BADGER,] a Senator from North Carolina, upon the same question, had made a like argument, if possible in stronger language, in which he had said:

"But it is conceded on all hands that African slavery, as recognized in certain States of the Union, was not an institution recognized in these Mexican Territories.

"Now, I hold, upon this concession, the law in Mexico not having recognized slavery as it exists with us, such slavery stands prohibited in Mexico until it shall be allowed by law. Nothing, I apprehend, is clearer, than that by the acquisition of a territory, whether it forms a part or the whole of a foreign nation—whether subdued by arms or ceded by treaty—no laws are repealed except those which are inconsistent with the relations which the subjugated people bear to their new sovereign; that such acquisition implies only a change of dominion and allegiance, a transfer of legislative authority and Executive control; and that all laws, not *necessarily* inconsistent therewith, remain in full force until the new sovereign shall modify, alter, or abolish them."

[On this subject he then quoted Vattel, and Chief Justice Marshall.]

Again, he said:

"Now, sir, it is agreed by all the writers on national law, by all judges who have treated upon this subject, that slavery owes its existence to positive law—to municipal law; that independently of law authorizing it, it does not exist anywhere; from which it necessarily follows, that whether African slavery be expressly prohibited in these Territories or not, it does not exist, unless by their law it be allowed, which no one pretends. Whether it shall be introduced or exclusion continued, depends, in my judgment, upon the will of Congress. If nothing be done by Congress, it remains excluded; and their power over the subject is complete and perfect."

It seemed, then, that the South itself, so far at least as these gentlemen represented her, was unwilling to leave this question to the operation of the Constitution of the United States; that she demanded a legislative guarantee from Congress for the extension of slavery. She had advised the country that she intended to bring it here, and if she did, that she expected but one kind of action, so far as the northern Democracy were concerned.

The candidate of the honorable gentleman from Georgia, to whom he had alluded, and of the honorable Senator from North Carolina, had been triumphant: whether he would encourage the kind of legislation which the gentlemen favored, was not for him to say. It was reasonable, conceding the importance which the gentleman from Georgia attached to the subject, and his activity and zeal in favor of General Taylor, that he thought this would be the case.

He would now turn to the other division of the Federal Union. It had everywhere been contended in the North, by the friends of General Taylor, that this Government ought to legislate upon the subject of slavery in the Territories. It had been made the principal objection to General Cass, that he was opposed to such legislation. Everywhere they had said that the question ought to be brought to Congress; that they would trust General Taylor on the subject; that he would approve anything which Congress might do on this question.

Thus we had witnessed the remarkable fact, that gentlemen entertaining such opposite sentiments had so far coöperated, and zealously and efficiently coöperated too, as to bring this question into these Halls. The friends of General Taylor at the North said it must come here; the friends of General Taylor at the South said it must come here. What course, then, remained for the northern Democracy—those who had taken the ground of non-interference? They could not, if they would—and,

for one, he would not, if he could—now keep this question out of these Halls; and it being here, legislation being inevitable, and there being no retreat, you cannot expect us (said he) to go otherwise than for the non-extension of slavery, even, if you please, to the supererogation of putting the ordinance of 1787 into any bill that may be brought forward to organize the Territories.

These being the facts, he repeated it would seem very improper for a defeated party, like the Democracy, now to undertake to take this question out of the hands of the successful party. Whatever the legislation might result in, it should be remitted to them; they should have a trial, and a fair trial, at settling this question; and he said to his Democratic friends, *Stand from under*, and let this question go to General Taylor. Let us see what General Taylor will do with it. He recollected to have heard a gentleman from Alabama, on the other side of the House, [Mr. HILLIARD,] at the last session of Congress, say upon this subject, that his candidate for the Presidency (General Taylor) would hush the storm which had been raised concerning this question—that he would calm the troubled waters. The country would be fortunate if it turned out so. So far as he (Mr. R.) was concerned, he was not disposed to deprive the President elect and his party in Congress of an opportunity of exhibiting what they would do upon this question.

There was another view of this question to which he would call the attention of gentlemen. While the friends of General Taylor at the South were making speeches in his advocacy, stating, in most dogmatical and explicit terms, that he could be trusted on this question of slavery, and that General Cass could not; that he (General Taylor) was a southern man, that his interests, feelings, and education were allied and identified with theirs; and that General Cass was a northern man, and the very reverse in his sympathies, education, and interests; while such a man as Bailie Peyton, a distinguished and confidential friend (or so supposed to be) of General Taylor himself, in a discussion with an honorable gentleman from Kentucky, who occupies a seat on this floor, [Mr. BOYD,] at Paducah, in Kentucky, had said that General Taylor would veto the Wilmot proviso; and that men who could argue otherwise ought not to be reasoned with;—ex-Governor Metcalfe was at his State, (Indiana,) and made a speech at the Capitol, of which the following account was given in the Indiana "State Journal," the Whig newspaper organ in that State:

"He told the people, as a southern man, and 'as a Senator representing a southern State in the 'United States Senate, that he did not wish Gen- 'eral Taylor to interpose the veto to defeat the 'passage of a bill extending the ordinance of 1787 'over our newly-acquired territories. That Gen- 'eral Taylor stood pledged before the country, so 'understood, North and South, not to do it, and he 'would dishonor himself were he to do it. The 'Whigs of the South would scorn to resort to the 'one-man power to defeat it, or any other measure 'of deliberate legislation."

More than this: Ex-Governor Letcher, from the same State, was at the same place, and gave the same pledges in reference to General Taylor, and, in addition, called the attention of the people to the fact, that in the other end of the Capitol the slave and the free States were equally divided—there being thirty Senators on each side; and that upon a sectional question like this, if they elected Mr. Fillmore, he would have the casting vote, and he would decide it in their favor: he urged that as a reason why the Taylor and Fillmore ticket was the true free-soil ticket. His friend and colleague, who was now in his seat, from the metropolitan district of that State, [Mr. WICK,] heard this with his own ears; and more than this, it was published in the same Indiana "State Journal," and extra copies scattered far and wide over their State.

Seeing these facts, let him ask again, could any man living south of Mason and Dixon's line expect a northern man to do more for them (the South) than they were willing to do for themselves? Why, the very fact of the election of Mr. Fillmore as Vice President appeared on its face to have decided the question of the ordinance; and the decision to have been made by the South itself; for who did not know that that gentleman, (Mr. Fillmore,) in the year 1838, gave an affirmative answer to the direct question whether he was in favor of the immediate abolition of slavery in this District? He saw, since the election of that gentleman, in a congratulatory letter to a friend, speaking of his southern friends, he said, they were a "*noble set of fellows.*" Well, it would seem that they were a little pliant on this subject. Whether it resulted from their indifference to this slave question or from their love of political power, was, perhaps, a debatable question. For himself, he had thought for a good while, that these gentlemen, both at the South and the North, who had made so much noise about the slavery question, cared very little about it—that they only used it as a political trap to catch votes. So far as he was concerned, he would not stand by and encourage them in that game. He had used all his reason and all his influence in keeping this question out of these Halls; and in so doing he had been actuated by no other motive than those of comity, friendship, and good neighborhood; but if they of the South were determined they should legislate upon it, he said to them—

"Lay on, Macduff!"

He had stated (while he impugned no man's motives) that the action of these gentlemen on its face seemed to indicate that they cared nothing about this question of slavery, except for the purpose of making political capital. They could not let Congress settle the question at the last session; they seemed determined it should not be settled then; but they appeared now, or the indications seemed to point in that direction, to be quite willing that the present Congress should step in and settle it before their candidate came into power. Why was it that when the honorable gentleman from Ohio, [Mr. ROOT,] the other day moved his resolution, instructing the Territorial Committee to bring in a bill to organize a government for these Territories, excluding slavery, that such a fluttering had showed itself upon that side of the House among the northern Whigs? Everywhere, in all the elections which had taken place since that question had come up, they had made the exclusion of slavery from the newly acquired territories the *sine qua non*. Yet, when the gentleman from Ohio had moved his resolution, they had seen the honorable chairman of the Committee of Ways and Means [Mr. VINTON] rise in his place, and appeal to his friends to vote down the previous question. Let gentlemen examine the yeas and nays, and they would find the names of those who heretofore had been distinguished and loud in favor of the Wilmot proviso, voting to lay this resolution on the table; nay more, they would find one or two of these gentlemen recorded in the negative on the direct vote upon the resolution. Why was this? Were we to witness again, as we had witnessed at Philadelphia, another slaughtering of principles? He said to his fellow-citizens of the free States, *Beware! Look to this Congress?* Were these timid Whig gentlemen waiting for a bill which had made its appearance in the other end of the Capitol, and hoping that it would come in, and they would step in, and save them from the responsibility and exposure? If they were, he hoped and believed they would find that they were mistaken.

Some, perhaps, might think he was arguing this question from partisan views and motives merely. Not at all. It was a question which rose higher than party, and higher than the giving to these Territories a government. It went to the vitality of our institutions themselves—to the question of the right and power of this people to govern themselves; for if, as in the late canvass, the candidate for the Presidency was to be permitted to withold his opinions upon a great subject like this, and to allow himself to be represented by his friends, in one section of the Union, as a friend and supporter of slavery, and as certain to veto the Wilmot proviso if passed, and to be advocated in other portions on the ground that he held opinions diametrically opposite, our system of government was a failure; the people did not govern themselves. He repeated, that this question rose higher and far above the matter of giving these Territories a government; and from reasons of this character, the settlement of this matter should be permitted to go to the next Administration, that the deception and fraud which had been practised upon the people might be exposed.

It cannot, I think, be denied but that the question of slavery had determined the result of the late Presidential election. If, as ought always to be the case, when a great question like this becomes a controlling element in Presidential elections, the views and opinions of both candidates were fully and unequivocally known, no one would have had a right to complan. But when, as in this case, the views and opinions of one candidate are obstinately withheld, or, if expressed at all, done in such a way and in such language as to warrant his friends, who entertain opposite opinions on the subject, each to infer that he is with them, it is a fraud, a deception, which ought to be uncovered, and from which the successful candidate ought not to be permitted to escape. That this question has aided General Taylor, and injured General Cass, both north and south, is undeniable. It has lost General Cass and the Democratic party the thirty-six electoral votes of New York, and, as he thought, the twenty-six in Pennsylvania in the free States, because he was regarded as too favorable to the South; while it is no less evident, that it has also lost him the States of Georgia, Louisiana, and Florida, in the South, because he was regarded as too favorable to the North. Besides, it is evident, that in all the other southern States the Democratic vote is greatly diminished on this account. While he awarded to his southern Democratic friends (he meant those on this floor now, as well as the party generally) as much political integrity and fidelity to the Democratic cause as exists in any other portion of the Confederacy, yet they cannot deny but that the fact that General Taylor was a southern man, owning a large number of slaves, identified in feeling and interest with them upon the institution of slavery, had a powerful influence in bringing about this result. How, then, is this evil to be cured? Are all the great questions which naturally divide the two parties to be swallowed up by this one. He hoped not. But he confessed he saw no way of preventing it, except to compel General Taylor to take such responsibility on this subject as would show what are his real opinions, show who in the late contest have been the dupes, and who the dupers.

He would now make a few remarks in reference to his own views and position upon this subject. He might, if he chose, fill up his hour by adducing evidence here—by reading letters and speeches of northern and southern friends of General Taylor, in order to establish more effectually the position he had taken; but he deemed it unnecessary. It was denied by no one; the truth of what he had said as to the difference between General Taylor's positions as represented at the North and at the South, was admitted by all, and was notorious to the country. It was denied by no one that great and distinguished Senators, (such as Mr. CORWIN,) in the free States, had told those who belonged to the "free soil" church, that the Taylor and Fillmore ticket was the true one; that as to Mr. Van Buren, he never had belonged to that party. In every shape and form—by every possible means—it had been urged upon the people of the North that the Taylor and Fillmore ticket was the true one to subserve the Free Soil purposes; and by no less means had it been attempted to be proved to the South, that General Taylor was the only man who could be trusted on the slave question. He presumed no southern gentleman here could deny that General Taylor's advocates, everywhere at the South, had argued that he would veto the proviso. This had been the case; and some of his prominent supporters had declared that it would be unreasonable, and an insult to them, to ask the question what General Taylor's course would be? They had argued that his living where he did, at the South, and owning two or three hundred slaves, was a sufficient pledge that he would carry out the views of the South; while, at the North, the Allison letter, which had stood at the head of every newspaper that had borne his name, had been held up as ample pledge that he would sanction whatever Congress saw fit to do upon this subject.

He had said he was willing to leave this question where the Constitution had left it. He was no longer permitted to occupy that ground; he was compelled to legislate. He repeated, being so compelled, he would legislate but one way—that was, for the exclusion of slavery. He had voted at the last session against the insertion of the Wilmot proviso in the Oregon bill, and he would have voted to strike it out of a bill organizing governments for New Mexico and California; but he

would not now vote to strike it out. He had seen no necessity for it in the Oregon bill, as the people of Oregon had already decided the question. In their fundamental law, in the constitution of their provisional government, they had adopted the very language of the ordinance of 1787; and the bill reported by the chairman of the Committee on Territories [Mr. SMITH, of Indiana] proposed to affirm that fundamental law. The people of the Territory had legislated for themselves; and he had then seen no necessity for having another Wilmot proviso. He knew it would make mischief, and nothing else; and it did well-nigh defeat the bill. Hereafter he should give no such vote. He would at any time vote for organizing these Territories with the Wilmot proviso extended over them. He had opposed legislating on the subject; but his objections were defeated and cancelled; the South themselves had brought the question here; they must now abide its settlement by Congress.

He would add, he thought, and he had always thought, his southern friends had done wrong in asking any legislation of Congress to extend slavery. Why, what was the history of our country? Since the Government was organized, we had obtained Louisiana, Florida, and Texas—all slave Territories. The last acquisition was the only free acquisition we had made. Was it right, then, seeing that their acquisitions were as three to one, for the South to come forward and ask Congress to extend slavery over this Territory? He thought not. We had introduced into this Union four slave States, which had been carved out of these various acquisitions, and but one free State. And he told gentlemen of the South he did not think the North ever would permit territory now free to be made slave territory. What this unnatural union between the North and the South, which had resulted in the election of General Taylor, might bring forth, however, it was impossible to tell; what might result from some of these compromises which they were willing to adopt, remained to be seen. Under the non-interference doctrine—the old Democratic platform—slavery would never have gone into New Mexico and California; but agitate the question, bring it up in Congress, and no man could tell in what manner it would be decided.

The continued agitation of the question may float slavery into them. The patronage in expectancy of General Taylor, *before* he comes into power, may so silence and spike the cannon of Wilmot-proviso Whigs from the North, as to permit some compromise to pass this session which will subserve the purposes of the slaveholding interest. It is remarkable, that in *all* instances heretofore, northern Whigs have, in every shape, and without exception, on this floor, stood up for the proviso; yet we now see some of them apparently quite willing to compromise the question. For myself, I do not so far commit myself as to say I will not vote for anything this winter; but I do say, my decided opinion now is, that we should let the question alone till next session.

The necessity for legislation, for the giving of governments to these Territories, is not now so emergent as it was at the last session. Since then, the President has sent out troops and provided for their permanent military occupation, under the administration of General P. F. Smith, an able and prudent man, who will incidentally be invested with sufficient civil power as to insure to the people of that country (California) such protection in their persons and property as they have never hitherto enjoyed; and they can get along well enough under such a government for a few months longer.

He had now subserved his purpose; and if it were not a seeming unfairness to make a speech and then withdraw his motion, he would do so; as it was, however, he would leave the question open to be disposed of by the House.

Mr. RUMSEY moved the previous question.

Mr. WENTWORTH moved to lay the motion to reconsider on the table.

Mr. COBB, of Georgia, asked the yeas and nays on the motion to lay on the table; which were ordered.

The question was then taken, and the vote stood —yeas 105, nays 83—as follows:

YEAS—Messrs. Abbott, Adams, Bingham, Blackmar, Blanchard, Butler, Canby, Cathcart, Clapp, Franklin Clark, Collamer, Conger, Crowell, Cummins, Darling, Dickey, Dickinson, Dixon, Daniel Duncan, Dunn, Eckert, Edwards, Embree, Nathan Evans, Faran, Farrelly, Ficklin, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Hale, Nathan K. Hall, Hammons, James G. Hampton, Moses Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, Jenkins, James H. Johnson, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Lincoln, Lord, Lynde, McClelland, McIlvaine, Job Mann, Horace Mann, Marsh, Morris, Mullin, Nelson, Nes, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pettit, Pollock, Putnam, Reynolds, Richey, Rockhill, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Sherrill, Silvester, Slingerland, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Starkweather, Strohm, Strong, Tallmadge, Taylor, James Thompson, Richard W. Thompson, William Thompson, Thurston, Tuck, Turner, Warren, Wentworth, White, Wick, Wiley, Wilmot, and Wilson—105.

NAYS—Messrs. Atkinson, Barringer, Barrow, Beale, Bedinger, Bocock, Botts, Bowlin, Boyd, Bridges, Brodhead, William G. Brown, Albert G. Brown, Buckner, Burt, Cabell, Chapman, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Cocke, Cranston, Crisfield, Crozier, Daniel, Garnett Duncan, Alexander Evans, Flournoy, French, Fulton, Gaines, Gayle, Gentry, Goggin, Green, Harmison, Harmanson, Harris, Hill, Isaac E. Holmes, George S. Houston, Inge, Charles J. Ingersoll, Iverson, Andrew Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kennon, T. Butler King, La Sère, Leffler, Ligon, Lumpkin, McClernand, McDowell, McKay, McLane, Meade, Miller, Morehead, Outlaw, Pendleton, Peyton, Phelps, Pilsbury, Preston, Richardson, Sawyer, Stanton, Stephens, Thibodeaux, Thomas, Jacob Thompson, John B. Thompson, Robert A. Thompson, Tompkins, Toombs, Van Dyke, Venable, Vinton, Wallace, and Woodward—83.

So the motion to reconsider was laid on the table.

SLAVERY IN THE DISTRICT OF COLUMBIA.

Mr. GIDDINGS, in pursuance of notice heretofore given, rose and asked leave to introduce a bill.

No objection having been made,

Mr G. introduced a bill of the following title: "A bill to authorize the people of the District of Columbia to express their desire as to the existence of slavery therein."

The bill having been read twice by its title—

Mr. GIDDINGS said, that as its object was very well understood by the members of the House, and as the subject had been so long agitated, he trusted there would be no objection to allowing the bill to be put upon its engrossment at this time.

Mr. COBB called for its reading.

Whereupon the bill was read, as follows:

Be it enacted, &c., That it shall be lawful for the male inhabitants of the District of Columbia over twenty-one years of age, who have resided therein during one year next preceding the passage of this bill, to assemble on the first Monday of April next, at the court room in the City Hall of the City of Washington, and at eight o'clock, a. m., of said day, or so soon thereafter as twenty-five persons of the above description shall have assembled, to select, *viva voce*, three judges and two clerks of said convention.

SEC. 2. That each of said judges and clerks, before entering upon the duties of said appointment, shall take an oath or affirmation faithfully and impartially to discharge the duties assigned him by this act, and to prevent so far as able all fraud, deception, or abuse in conducting the same.

SEC. 3. That each person above described may then express his desire for the continuance of slavery within said District by handing to one of the judges a ticket on which shall be written or printed the word "SLAVERY," and those who desire the establishment of freedom in said District may express the same by handing to one of said judges a ticket on which shall be written or printed the word "LIBERTY." And it shall be the duty of the judge receiving said ticket to announce the name of the person handing it to him audibly before placing the same in the box; and the clerks shall each record the name of said person so voting in a poll-book provided for that purpose, and the judge shall then place said ticket in the box without examining the same.

SEC. 4. That said box and books shall be kept open for the purpose of receiving tickets until four o'clock, p. m., and from eight o'clock, a. m. until four o'clock, p. m. of the succeeding day; and said box, at the close of each day, shall be sealed up in the presence of all the judges, and shall remain in charge of one of said judges during the time said judges shall be separated.

SEC. 5. That after said box shall be closed on the second day of said convention, the judges shall certify at the foot of said list, the number of persons who have voted, which certificate shall also be attested by said clerks.

SEC. 6. That said judges and clerks shall meet at the same place, at eight o'clock, on the third day of said convention, and when assembled shall open said box, and proceed to count said tickets, carefully designating those in favor of slavery and those in favor of liberty; and said clerks shall keep tally in said poll-books, carefully placing each tally in its appropriate column; and, if in unfolding said tickets, it shall be found that two tickets were folded together and given to the judge by one person, such ticket shall not be counted in either column; but the number of such fraudulent tickets shall be noticed, and recorded as such by said clerks.

SEC. 7. That when the whole number of tickets shall be counted, the judges shall make out a certificate in said poll-book showing the number of ballots in favor of slavery and the number in favor of liberty, and the number of fraudulent tickets or blanks, (if such there be,) which said certificate shall be signed by the judges, and attested by the clerks; and one of said poll-books shall be deposited with the Secretary of the Senate, and the other with the Clerk of this House, to be reported to said Senate and House at the next session of Congress.

SEC. 8. Provides for the punishment of frauds, by confinement in the penitentiary.

The reading having been concluded—

Mr. GIDDINGS said, that he had endeavored, in drawing up this bill, to make everything so plain that every member could understand it. It was simply a question to be propounded to the people of the District of Columbia, whether they, in fact, desired the continuance of the institution of slavery or not?

Mr. JACOB THOMPSON here rose and said, that, with the permission of the gentleman from Ohio, [Mr. GIDDINGS,] he (Mr. T.) wished to put an inquiry to the chairman of the Committee on the District of Columbia.

The SPEAKER. Does the gentleman yield the floor?

Mr. GIDDINGS having expressed his willingness to yield for the purpose of inquiry—

Mr. THOMPSON said: I desire to know whether the people of this District have expressed in any way a desire that Congress should pass such a law as is contemplated by this bill?

Mr. GIDDINGS. I say they have. I say that a number of them, and of the leading men among them, have made such a request, and it is in accordance with that request that this bill has been drawn.

Mr. THOMPSON said he desired to know from the chairman of the committee——

Mr. GIDDINGS claimed the floor.

Mr. THOMPSON said the gentleman would certainly yield for the purpose of enabling him to obtain the information he had asked.

Mr. GIDDINGS insisted on his right to the floor, at the same time expressing his readiness to answer any inquiry that the gentleman might think proper to put to him. He repeated, in reply to the inquiry of the gentleman from Mississippi, [Mr. THOMPSON,] that he (Mr. G.) had been requested to bring forward this bill. It met the approbation of many citizens here—of every one, certainly, with whom he had conversed.

Mr. TOMPKINS here rose, and expressed his desire to put an inquiry to the gentleman from Ohio.

The SPEAKER. Does the gentleman yield the floor?

Mr. GIDDINGS. For the purpose of inquiry.

Mr. TOMPKINS said that he had probably not distinctly heard the reading of the bill; but he understood one of its provisions to be, that every male inhabitant of the District over twenty-one years of age, should vote at the contemplated convention. Now, he wished the gentleman to explain whether, in using that expression, it was his intention that negroes, bond and free, or negroes, bond or free, were to take part in this expression of public sentiment?

Mr. GIDDINGS said, that when he looked abroad upon the family of man, he knew no distinctions. He knew of no persons in this District that did not come from the same creating hand that formed himself, or the gentleman from Mississippi, [Mr. TOMPKINS;] and when he (Mr. G.) spoke of the people of this District, he meant precisely what he said. He meant every male inhabitant of the District of Columbia over twenty-one years of age. He did not draw any distinctions. He would not suffer the man who held his fellow-man in bondage to say whether he would do this thing or not, and then refuse to put the question to him who was thus bound. If the gentleman from Mississippi chose to offer an amendment excluding both the slaveholder and the slave, he (Mr. G.) would go with him; but as the advocate of the eternal principle of truth and justice, he never would submit to give one man the control of another man's liberty. Any such attempt struck at the very foundation of his principles. Every feeling of his soul shrunk with abhorrence from the proposition. He stood here as the advocate of our common humanity; he stood here to uphold those rights, and to demand that the enduring principles of justice should be meted out to every individual in the District of Columbia. He did not come here the advocate of any peculiar rights—of one man claiming rights over another. He stood here on sound Democratic principles——

The SPEAKER said, the Chair must arrest the gentleman from Ohio in his remarks. According to the rule, if debate arose on any proposition or resolution, it must, except by general consent, go over one day.

Mr. GIDDINGS suggested, that if the proposition to introduce his bill had given rise to debate, it would have gone over. But the bill had been received, had been twice read, and the question

now was on ordering it to be engrossed for a third reading. As a matter of course, he presumed that question was debatable. Had not the ground been yielded by the very fact of putting the bill upon the question of engrossment?

The SPEAKER. The twenty-sixth rule of the House is in the following words:

"All the States and Territories shall be called for resolutions on each alternate Monday during each session of Congress; and, if necessary to secure this object on said days, all resolutions that shall give rise to debate shall lie over for discussion under the rules of the House already established; and the whole of said days shall be appropriated to resolutions, until all the States and Territories are called through."

The SPEAKER continued: The Chair thinks that the spirit of the rule requires that everything which gives rise to debate, except a motion to reconsider, should go over.

Mr. GIDDINGS. Is it in order to move the previous question on the question of engrossment?

The SPEAKER. It is.

Mr. GIDDINGS. Then I move it.

Mr. JACOB THOMPSON moved that the bill be laid on the table, and asked the yeas and nays on that motion.

Mr. T. said that, with the permission of the House, he would like to say one word. He had heard of no call for such a measure.

Some calls to order.

The SPEAKER said, the question before the House was on the motion to lay the bill on the table, and that question was not debatable.

Mr. CHAPMAN, of Maryland, rose to move that the bill be referred to the Committee on the District of Columbia. He supposed, he said, that the motion to lay the bill on the table took precedence.

The SPEAKER said, that the motion to lay on the table took precedence, and so also did the motion for the previous question.

The yeas and nays were then ordered.

And the question "Shall this bill be laid on the table?" was taken, and resulted—yeas 106, nays 79—as follows:

YEAS—Messrs. Adams, Atkinson, Barringer, Barrow, Bayly, Beale, Bedinger, Botts, Bowlin, Boyd, Boydon, Brady, Bridges, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Buckner, Burt, Cabell, Chapman, Chase, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Daniel, Garnett Duncan, Dunn, Eckert, Edwards, Alexander Evans, Faran, Ficklin, Flournoy, French, Fulton, Gaines, Gayle, Gentry, Goggin, Green, Hammons, Haralson, Harmanson, Harris, Hill, Isaac E. Holmes, George S. Houston, Inge, Charles J. Ingersoll, Joseph R. Ingersoll, Iverson, Andrew Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kennon, Thos. Butler King, La Sere, Leffler, Ligon, Lincoln, Lord, Lumpkin, McClernand, McDowell, McKay, McLane, Job Mann, Meade, Miller, Morehead, Morris, Morse, Outlaw, Pendleton, Phelps, Pilsbury, Preston, Richardson, Richey, Robinson, Shepperd, Truman Smith, Stanton, Stephens, Strong, Taylor, Thibodeaux, Thomas, Jacob Thompson, Richard W. Thompson, John B. Thompson, Robert A. Thompson, Tompkins, Toombs, Venable, Vinton, Wallace, Wick, Wiley, Williams, and Woodward—106.

NAYS—Messrs. Abbott, Ashmun, Bingham, Blackmar, Blanchard, Canby, Cathcart, Clapp, Franklin Clark, Collamer, Conger, Cranston, Crowell, Dickey, Dixon, Daniel Duncan, Nathan Evans, Farrelly, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, Jenkins, James H. Johnson, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, McClelland, McIlvaine, Horace Mann, Marsh, Marvin, Mullin, Nelson, Nes, Newell, Palfrey, Peaslee, Peck, Pettit, Pollock, Putnam, Reynolds, Rockhill, Julius Rockwell, Root, Rumsey, St. John, Sherrill, Silvester, Slingerland, Smart, Robert Smith, Starkweather, Strohm, Tallmadge, Thurston, Tuck, Turner, Van Dyke, Warren, Wentworth, White, Wilmot, and Wilson—79.

So the bill was laid on the table.

NOTICES OF BILLS.

Notices of motions for leave to introduce bills were given as follows:

By Mr. PALFREY: A bill to extend to the personal liberty of American freemen the protection of trial by jury.

By Mr. N. K. HALL: A bill making a donation of public lands to the several States and Territories, to be by them appropriated to the encouragement and improvement of the agriculture of such States and Territories.

By Mr. MILLER: A bill extending the provisions of the 9th section of the act entitled "An act to raise for a limited time an additional military force, and for other purposes," approved February 11, 1847, to the commissioned officers below the rank of brigadier general who served in the late war with Mexico.

By Mr. LAHM: A bill giving to the clerks of paymasters in the army mileage for traveling performed in discharging the duties of their office.

By Mr. HARMANSON: A bill authorizing new selections of land, in lieu of worthless school sections, or sections of inferior quality, and for other purposes.

By Mr. LA SERE: A bill for the relief of the assignees under Baron de Ferrit.

By Mr. HAMPTON, of Pennsylvania: A bill granting to the State of Pennsylvania a portion of the public lands, for the purpose of aiding in the construction of the Pennsylvania railroad, the Pittsburg and Connellsville railroad, and the Pennsylvania and Ohio railroad.

BILLS INTRODUCED.

Under previous notices, bills were introduced as follows, viz:

By Mr. MILLER: A bill extending the provisions of the ninth section of the act entitled "An act to raise, for a limited time, an additional military force, and for other purposes," approved February 11, 1847, to the commissioned officers below the rank of brigadier general, who served in the late war with with Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

By Mr. PHELPS: A bill to pay to the State of Missouri the two per cent. upon the proceeds of the sales of public lands which have been sold within the limits of said State, and which have been reserved for the purpose of constructing a road leading to said State; which was read twice, and referred to the Committee on Public Lands.

By Mr. SMITH, of Illinois: A bill granting to the States of Illinois and Indiana the right of way and a donation of public lands for making a railroad to connect the falls of the Ohio river opposite to Louisville, in Kentucky, with the Mississippi river, by the way of New Albany, in Indiana, and Mount Carmel, on the Wabash river, to Alton, in Illinois; which bill was read a first and second time, and referred to the Committee on Public Lands.

By Mr. DICKINSON: A bill granting lands to the State of Ohio for constructing a road from Lower Sandusky to the Greenville Treaty line, agreeably to the treaty of Brownstown of 1808; which was read twice, and referred to the Committee on Public Lands.

By Mr. DUNN. A bill granting the right of way over the public lands in the States of Indiana and Illinois to the Ohio and Mississippi Railroad Company, and a portion of the public lands within said States of Indiana and Illinois to said States respectively, to be by them appropriated in the construction and completion of a railroad to be constructed by said company; which bill was read a first and second time, and referred to the Committee on Public Lands.

In pursuance of previous notice, Mr. LEFFLER obtained leave, and introduced a bill to grant certain alternate sections of the public lands to the State of Iowa, to aid said State in the construction of a railroad from Dubuque, via Iowa City, to Keokuc, in said State; which was read a first and second time, and referred to the Committee on Public Lands.

RESOLUTIONS.

On motion of Mr. CUMMINS,

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of causing to be located and constructed a military road from Westport, on the western border of the State of Missouri, or from some other suitable point on the western border of the said State, by the nearest and best route, to some suitable point on the Bay of San Francisco, in the Territory of Upper California.

On motion of Mr. TAYLOR,

Ordered, That the petition and papers of Samuel Reed, of Pike county, in the State of Ohio, be withdrawn from the files of this House, and referred to the Committee on Claims.

On motion of Mr. VINTON,

Ordered, That leave be given to withdraw the papers in the case of Captain John Oldham.

On motion of Mr. SMITH, of Illinois,

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of providing for the location of military bounty land warrants, in forty, eighty, or one hundred and sixty acre tracts, at the option of the person wishing to locate the same.

On motion of Mr. RICHARDSON,

Resolved, That the Secretary of War be requested to communicate to this House order No. 172, issued at the mouth of the Rio Grande, in Texas, on the 7th July, 1848, by command of Major General John E. Wool.

Mr. WENTWORTH offered the following resolution, which, after ineffectual efforts by him to obtain a vote, went over under the rule, (debate arising thereon,) as follows:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of passing a law, providing for the abolition of slavery, and the prohibition of its extension, wherever Congress has the power so to do, and thus relieving this Government from all responsibility for the existence of that institution, and also from all agitation concerning it.

Mr. FICKLIN offered the following preamble and resolution, which was read; and debate arising thereon, it was laid over under the rule:

Whereas, the guarantee to the new States, that they shall come into the Union on an equal footing with the original thirteen States, is not complied with so long as the Federal Government exercises the right of disposing of the public lands in the new States:

And whereas the right of disposing of the soil of the public lands within their limits is one of the highest and most essential attributes of State sovereignty: Therefore be it

Resolved by the House of Representatives, That the Committee on Public Lands be instructed to inquire into the expediency of reporting a bill ceding to each one of the new States all of the public lands within their respective limits, except such as may be reserved under the Constitution for public purposes.

On motion of Mr. GAYLE,

Ordered, That the Committee of the Whole House be discharged from the further consideration of the bill (No. 28) from the Senate, entitled "An act for the relief of Thomas Rhodes, and that it be referred to the Committee on the Post Office and Post Roads.

Mr. VINTON introduced a series of resolutions, referring the several portions of the President's Annual Message to the appropriate committees. He moved that the resolutions be referred to the Committee of the Whole on the state of the Union, and ordered to be printed. He gave notice that he would to-morrow ask that the House resolve itself into Committee of the Whole on the state of the Union, to take up the President's Message for reference, when he should offer the resolutions which he now brought forward.

Mr. MEADE inquired of the Speaker, if it would be in ordor now to move an amendment to the resolutions? He wished to amend them, so as to refer that portion of the Message which related to the Territories to a select committee, instead of to the Committee on Territories.

The SPEAKER replied, that it was not now in orded to amend the resolutions, but that they would be open to amendment in committee.

Mr. MEADE appealed to Mr. VINTON to accept his amendment.

Mr. VINTON said the gentleman could move it in Committee of the Whole on the state of the Union.

Mr. MEADE. Then the gentleman refuses to accept my amendment.

The resolutions were referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

On motion of Mr. BOWLIN,

Resolved, That a select committee of five be appointed to take into consideration and report upon the several memorials of the State Legislatures of Arkansas and Missouri, relative to the draining and reclaiming of the swamp or submerged lands of said States, and that they report by bill or otherwise.

On motion of Mr. GRINNELL,

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of so amending the laws relating to prize money that all shares or amounts due to the commanders, officers, and crews of vessels shall be placed in charge of the Secretary of the Navy, to be paid to the persons to whom due.

On motion of Mr. HUBBARD,

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of placing soldiers' certificates issued under the act of February 15, 1847, on the same basis with treasury notes, as per act of January 28, 1847, and, if they deem proper, report a bill for that purpose.

In pursuance of notice, Mr. JOHN A. ROCKWELL introduced a joint resolution to authorize the survey of certain routes for a canal or railroad between the Atlantic and Pacific Oceans; which resolution was read a first and second time, and referred to a select committee.

On motion of Mr. JACOB THOMPSON,

Resolved, That the Select Committee raised for the purpose of reporting upon the memorials of the States of Arkansas and Missouri, upon the subject of swamp or submerged lands, also consider and report upon the memorial of the Legislature of Mississippi, and petitions of the citizens of said State, on the same subject.

On motion of Mr. E. B. HOLMES,

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of erecting fortifications, and establishing a military depôt at or near the mouth of the Genesee river, in the State of New York.

On motion of Mr. JENKINS,

Resolved, That Nancy G. Van Rensselaer, widow of the late Colonel Henry Van Rensselaer, have leave to withdraw her petition and papers (praying for a pension) from the files of this House.

On motion of Mr. STARKWEATHER,

Resolved, That leave be granted to withdraw the papers on the files of this House in the case of Minard Hardeni, in order that the same may be placed before the Postmaster General.

Mr. TALLMADGE offered the following resolution, which was read and laid upon the table:

Resolved, That the Secretary of the Treasury be requested to have prepared, for the use of this House, a statement showing the manner in which every public debt of the United States, from the time of the Continental Congress up to the present year, has been contracted; the amount of each, from whom obtained, under what law authorized, the manner and time of payment, and the amount, if any, now due on each, together with the amount of unclaimed dividends, both of principal and interest.

On motion of Mr. N. K. HALL,

Resolved, That the Secretary of War transmit to this House a copy of the report and plan of the board of engineers appointed, under the Bureau of Topographical Engineers, to examine and report upon the different plans for the improvement of the harbor of Buffalo, New York.

On motion of Mr. N. K. HALL,

Ordered, That leave be granted to withdraw the papers in the case of E. F. Gilbert, on file in the office of the Clerk of the House.

On motion of Mr. WHITE,

Resolved, That the Clerk of this House pay to the widow, or her order, of the late Hon. JOHN M. HOLLY, the expense of removing the remains of her late husband to the place of his former residence, in the State of New York, providing the said expense shall not exceed the sum of three hundred dollars.

Mr. GREELEY offered the following resolution, which was read, and laid on the table:

Resolved, That the Committee on Naval Affairs be requested to inquire into and report the expediency and feasibility of temporarily employing the whole or a portion of our national vessels, now on the Pacific station, in the transportation, at moderate rates, of American citizens and their effects from Panama, and the Mexican posts on the Pacific, to San Francisco, in California.

On motion of Mr. CHARLES BROWN,

Resolved, That the Committee on Printing be instructed to inquire into the propriety of printing 20,000 extra copies of Colonel Frémont's last report to the Senate, with the accompanying maps, and of having the same bound up with the report of Colonel Abert, already ordered to be printed by this House.

On motion of Mr. ECKERT,

Resolved, That the Committee on Commerce be instructed to inquire what proportion of the imports into the United States is made by foreigners and on foreign account, and what proportion by citizens of the United States. And also what frauds, if any, are committed against the revenues of our Government, under the present ad valorem duties; stating what proportion of these frauds are committed by foreign, and what by American importers; and report to this House.

Mr. CHARLES BROWN introduced a joint resolution (No. —) to furnish the Official Register or Blue Book to the State libraries of the several States; which was read twice.

And the question being stated, Shall the resolution be engrossed and read a third time?

Mr. HARALSON moved to amend the same by striking out the words "State libraries," where they occur in the resolution, and insert in lieu thereof the words "Secretary of State in the several States."

Pending the amendment, the resolution giving rise to debate, was laid over under the rule.

On motion of Mr. CHAPMAN,

Ordered, That leave be granted for the withdrawal of memorial and vouchers of Benedict I. Heard.

On motion of Mr. CHAPMAN,

Resolved, That the Committee on the District of Columbia be instructed to inquire into the practicability and expediency of so improving the Tiber, flowing at the foot of the Capitol Hill, as to prevent the floods coming down the same from injuring the public grounds, and destroying the navigation of the Washington canal, and proving injurious to the health of the city.

Mr. BOTTS offered the following resolution:

Resolved, That the President of the United States be requested to communicate to this House, (if not incompatible with the public interests,) under what law, or provision of the Constitution, or by what other authority, the Secretary of the Treasury of the United States did, by his sanction and approval, during the war with Mexico, establish a tariff of duties in the ports of the Mexican Republic; and that he also communicate to this House by what legal, constitutional, or other authority, he undertook to appropriate the revenue thus derived, to the support of the army in Mexico, without the sanction of the tax-laying and appropriating power of Congress, as established by the Constitution of the United States.

The said resolution was read; and, the rule requiring the same to lie one day upon the table being suspended, the resolution was considered, and agreed to.

Mr. MEADE offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State cause to be transmitted to this House the correspondence of George W. Gordon, late, and Gorham Parks, present consul of the United States at Rio de Janeiro, with the Department of State, on the subject of the African slave trade; also, any unpublished correspondence on the same subject by the Hon. Henry A. Wise, our late minister to Brazil.

On motion of Mr. ATKINSON,

Resolved, That leave be given to Thomas Chaney to withdraw his petition and other papers, now on file in the Clerk's office of this House.

On motion of Mr. BEDINGER,

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of selling so much of the public land at Harper's Ferry, Virginia, as may not be required for the use of the United States armory at that place.

On motion of Mr. GREGORY,

Resolved, That the Committee of Ways and Means take into consideration the propriety of reporting a bill for reducing the size of the one cent coin, and to authorize the coining of a three cent piece, both to be composed of copper and some other precious metal.

On motion of Mr. VAN DYKE,

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route between Plainfield and Baskenridge; and also between New Germantown and German Valley, in the State of New Jersey.

On motion of Mr. NEWELL,

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation for the better protection of life and property from shipwreck along the Atlantic coast of Long Island, between Plum Inlet and East Hampton, and that they report by bill or otherwise.

On motion of Mr. HAMPTON, of Penn.,

Resolved, That the Committeee on Public Lands inquire into the expediency of granting to the State of Pennsylvania one million acres of the public lands belonging to the United States, to be appropriated as follows: 500,000 acres for the construction of the Pennsylvania railroad, 300,000 for the construction of the Pittsburg and Connellsville railroad, and 200,000 for the Pennsylvania and Ohio railroad, to be expended within the State of Pennsylvania. And that said committee do further inquire into the expediency of making a just and equitable division of the public lands amongst the several States of this Union; and that said committee report by bill or otherwise.

On motion of Mr. GOGGIN,

Resolved, That the Committee on Rules be instructed to inquire into the expediency of so amending the rules of the House as to provide that no member shall have the right to call the previous question on any proposition, resolution, or bill, submitted to the House, until the same shall have been distinctly stated from the Chair, or by the Clerk.

On motion of Mr. FRENCH, the petition and papers of Martha Flood, of Bath county, Kentucky, on the files of the House, were referred to the Committee on Invalid Pensions.

On motion of Mr. COCKE,

Resolved, That the Committee on Revolutionary Pensions be instructed to inquire into the expediency of making further provisions by law for the relief of widows and orphans of deceased officers and soldiers of the army of the United States, and that they have leave to report by bill or otherwise.

The following resolution, offered by Mr. BUTLER on the 11th instant, was taken up, read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be, and he is hereby, required to furnish this House with a statement of the amount of iron imported under the tariff act of 1846, and amount of revenue received on the same, specifying particularly the amount of each kind of iron imported, and the duties paid on each kind: also, a similar statement of the amount of iron of all kinds imported annually under the tariff act of 1842, and the amount of revenue received on such importations.

And then the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. PETNAM: The petition of Alanson Pool, of Murry, New York, praying for a pension and for bounty land. Also, the petition of J. W. Nye, relating to his claim for Macadamizing the Pennsylvania avenue.

By Mr. BLANCHARD: The petition of sundry inhabitants of Centre county, Pennsylvania, that provision be made by law, that newspapers may be carried in the mails free of postage within the county printed, and to the distance of thirty miles from the place where such papers are printed: referred to the Committee on the Post Office and Post Roads.

By Mr. SLINGRELAND: The petition of John Hancock and 27 citizens of Albany, New York, praying for the passage of a law establishing a cheap and uniform postage: referred to the Committee on the Post Office and Post Roads.

By Mr. BEALE: The petition of Charles Russell, praying a pension for disability incurred whilst a soldier in the late Mexican war: referred to the Committee on Invalid Pensions.

By Mr. NES: A petition of citizens of Adams county, Pennsylvania, praying Congress that the provision in the act of Congress of March 3, 1847, requiring three cents postage to be pre-paid on all newspapers, not marked from the office of publication, may be repealed: referred to the Committee on the Post Office and Post Roads.

By Mr. CLAPP: The petition of St. John Smith and 201 merchants of Portland, praying Congress to authorize the purchase of the Granite Exchange Building of that city for a custom-house: referred to the Committee on Commerce.

By Mr. TUCK: The petition of Uriah Kingman, for arrears of pension: referred to the Committee on Pensions. Also, the petition of Phebe Fitz, for a pension. Also, the petition of Charles Wingate and 17 others, for a mail route from Exeter to Pittsfield, in the State of New Hampshire. Presented December 14.

IN SENATE.

TUESDAY, *December* 19, 1848.

The VICE PRESIDENT laid before the Senate a report of the Secretary of State, communicating, agreeably to law, an abstract of returns of American seamen registered in the several ports of the United States during the year ending September 30, 1848; which was read.

The following is the recapitulation of the number of seamen, as far as returned:

STATES.	CITIZENS.		
	Native.	Naturalized.	Total.
Maine	1,134	12	1,146
New Hampshire	69	3	72
Massachusetts	3,724	58	3,782
Rhode Island	304	3	307
Connecticut	44	-	44
New York	1,428	-	1,428
Delaware	21	-	21
Maryland	464	15	479
District of Columbia	6	-	6
Virginia	426	-	426
North Carolina	41	-	41
Georgia	85	-	85
Louisiana	399	-	399
Florida	14	1	15
	8,159	92	8,251

Mr. RUSK presented the memorial of John A. Regan, proposing to drain the inundated public lands in the valley of the Mississippi, on certain conditions; which was referred to the Committee on Public Lands.

Mr. RUSK presented the petition of Thomas Lenard, asking compensation for forage furnished for the use of mounted volunteers in the Mexican war; which was referred to the Committee on Claims.

Mr. ATCHISON presented the petition of Talcott Reed, a revolutionary soldier, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. JOHNSON, of Maryland, presented the petition of Mary Wilkinson, widow of John Wilkinson, late a sailing master on board a private armed schooner, "Nonsuch," asking to be restored to the pension roll and for arrears of pension; which was referred to the Committee on Pensions.

Mr. CAMERON presented the petition of Wm. H. Burns, master's mate United States navy, asking compensation for services rendered in the line of his duty; which was referred to the Committee on Naval Affairs.

Mr. WESTCOTT presented the petition of Asa Lift, praying for a law to change the name of a vessel, and to issue a new register for the same; which was referred to the Committee on Commerce.

Mr. BORLAND presented the petition of Hiram Smith, register of the land office at Champagnolle, Arkansas, setting forth certain claims for compensation; which was referred to the Committee on Public Lands.

Mr. BREESE presented the petition of the Mount Carmel Company, praying for a grant of land; which was referred to the Committee on Public Lands.

Mr. BENTON presented the petition of James L. Lellard, and the legal heirs and representatives of Joseph Simpson, praying for bounty land and commutation pay; which was referred to the Committee on Pensions.

On motion of Mr. RUSK, the petition and papers in the case of ——— Jones, were withdrawn from the files, and referred to the Committee on Military Affairs.

BILLS, ETC., PRESENTED ON LEAVE.

Mr. BREESE, pursuant to notice, asked and obtained leave to introduce a joint resolution to amend the act of 1837, to provide for the payment of horses lost while in the service of the United States; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. BADGER, pursuant to notice, asked and obtained leave to introduce a bill for the relief of

William Plummer, executor of Starkey Armistead, deceased; which was read a first and second time, and referred to the Committee on the Judiciary.

REPORTS FROM COMMITTEES.

Mr. BREESE, from the Committee on Public Lands, reported a bill making a grant of a right of way and a donation of public lands to the State of Illinois, in aid of certain railroads connecting the Mississippi and the chain of lakes at Chicago, without amendment, and the report was ordered to be printed.

Mr. BENTON, from the Committee on Military Affairs, reported a bill for the relief of Major Baker; which was read a first time, and ordered to a second reading.

Mr. ATCHISON, from the Committee on Indian Affairs, reported a bill to authorize the Secretary of War to make reparation for the killing of a Caddo boy by volunteer troops in Texas; which was read a first time.

Mr. ATCHISON said he was instructed to move for the immediate passage of this bill. He accordingly moved that it be read a second time.

The bill was then read a second time, and taken up for consideration, as in Committee of the Whole.

Mr. ATCHISON submitted some documents from the War Department in relation to this case, which were read.

The case was that of a Caddo boy who was unfortunately killed by our volunteers. Such was the excitement caused by the circumstance, that it had nearly produced a war. An arrangement, however, was effected, by which it was agreed that the United States should pay five hundred dollars as a reparation. The bill accordingly appropriates that sum.

The bill was reported without amendment, and was then read a third time, and passed.

BILL WITHDRAWN.

Mr. KING stated that he had yesterday introduced a bill for the remission of duty on an equatorial telescope, contracted for in London by the trustees of the University of Alabama, which had been referred. On examining the appropriation bill of last session, he found a clause which he had overlooked, and which covered the case. He therefore moved that the Committee on Finance be discharged from the further consideration of the bill. The motion was agreed to, and the committee was discharged from the bill.

NOTICES OF BILLS.

Mr. DOWNS gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a joint resolution to authorize the Secretary of the Treasury to contract for carrying the mail from New Orleans to Vera Cruz.

Mr. JOHNSON, of Louisiana, gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a bill.

RESOLUTIONS, ETC.

On motion of Mr. YULEE, it was

Ordered, That so much of the President's message as relates to the United States navy, be referred to the Committee on Naval Affairs.

Mr. FOOTE submitted the following resolution, which lies over:

Resolved, That the resolution of the Senate, authorizing the Vice President to appoint the superintendent of the anteroom, be, and the same is hereby, rescinded; and that the superintendent now in charge be continued, at his present compensation, under the authority of the Sergeant-at-arms.

On motion of Mr. BALDWIN,

Resolved, That the Committee on Military Affairs be instructed to ascertain, so far as the same may be practicable, and report to the Senate the particulars of the contract existing between the Government of New Granada and Messrs. Aspinwall, Stephens, & Chauncey, in regard to the construction of the proposed railroad across the Isthmus of Panama, and the terms on which the use of such railroad for the transit of passengers and merchandise is secured to the Government and people of New Granada and of the United States.

The following resolution, submitted by Mr. NILES, was taken up and agreed to:

Resolved, That the committee to audit and control the contingent accounts of the Senate be instructed to inquire into the construction and effect of the resolution of the Senate adopted at the last session, in relation to reporting and publishing the debates of the Senate, and whether any modification thereof is required; and that said committee also ascertain the expense which has been incurred under said resolution since its adoption.

PURCHASE OF CUBA.

The following resolution, submitted yesterday by Mr. MILLER, was taken up for consideration:

Resolved, That the President of the United States be requested to inform the Senate whether any and what negotiations or correspondence have taken place between this Government and the Government of Spain, or between any persons acting under the direction or authority of either Government, in relation to the purchase of Cuba by the United States; and that he communicate to the Senate copies of such negotiations or correspondence, so far as the same may be communicated consistently with the public interest.

Mr. BERRIEN. Mr. President, I would suggest to the mover of the resolution, [Mr. MILLER,] whether it would not be better to transfer it to the Executive session.

It seems to me, sir, to be an interference, which is not according to the usage of the Senate, with the Executive powers of the Government. The very fact of the pendency of the negotiation, if any negotiation be pending, and the fact that the President is authorized by the Constitution to enter into such negotiations, show the importance of preserving the secrecy upon which the success of a negotiation in a great measure must depend.

I do not believe myself that any importance is to be attached to the present inquiry, because I do not believe that any such negotiations are pending. But we should refrain from interfering with what properly belongs to the President by virtue of powers in him vested by the Constitution of the United States; and we should, at least, protect the Executive from an exposure which may prove injurious to a negotiation.

I would suggest, therefore, to the mover of the resolution the propriety of waiving that inquiry here, and making it the subject of inquiry in Executive session.

Mr. MILLER. Mr. President, in submitting that resolution, I had no intention at all to interfere with the executive power of the President. It is well known, probably, to the Senate, that for some time the public prints and the public mind have been somewhat excited by the rumors relative to this question—I mean the purchase of Cuba. I did not presume, nor can I presume, that the President has opened any negotiations of that kind. On a subject of such importance it is not to be presumed, I apprehend, that the Executive, without giving any intimation whatever to the country, has commenced such a negotiation. This resolution was offered merely for the purpose of satisfying the public mind upon this question, and not with any design of encroaching upon the powers of the Executive. I believe there are many precedents for a resolution of this kind. I believe such resolutions were offered in regard to Oregon and Texas, in open session, and no objection was urged against them.

Without saying what course I shall adopt myself in reference to this matter, I am willing to allow the resolution to pass over.

The resolution was passed over accordingly.

The following resolutions, submitted by Mr. BALDWIN, on the 18th of February last, were taken up for consideration; and, upon motion of Mr. B., who said that the subject had been anticipated by other action of the Government, were laid upon the table:

Resolved, That the amount collected by the army of the United States in Mexico from the revenues of that Republic, and from the contributions levied on the people thereof by order of the President of the United States for the support of the army, ought to be applied to the payment *pro rata* of the awards in favor of claimants under the convention between the United States and the Mexican Republic of the 11th of April, 1839, for which the proceeds of the direct taxes of the Mexican Republic were solemnly pledged by the convention of the 30th January, 1843.

Resolved, That it pertains exclusively to Congress to raise and support armies by appropriations of money to that use for a limited term, and that no power is conferred by the Constitution on the President to apply any moneys collected under the authority of the United States to the support of the army without a specific appropriation therefor.

Resolved, That the President be requested to communicate to the Senate a particular account of all moneys collected from the revenues of Mexico, or from military contributions levied by his authority, and of the manner in which the same has been disposed of or applied.

The following resolution, submitted by Mr. JOHNSON, of Maryland, on the 28th April last, was taken up for consideration, and on motion of Mr. J., laid upon the table:

Resolved, That the President of the United States is requested to inform the Senate whether any officers are now in the military or civil service of the United States, under appointments from the President, which have not been submitted to the Senate; and, if there be any such appointments, that he state the date of such appointments, and why it is that it has not been in the power of the President to submit them to the consideration of the Senate.

The following resolution, by Mr. HUNTER, reported from the Committee on the Public Buildings and Grounds, on the 9th August last, was taken up for consideration, and, at the suggestion of Mr. H., laid over for the present:

Resolved, That a sum not exceeding $8,770, be expended out of the contingent fund of the Senate in completing the system of ventilating and warming the Senate chamber, commenced and proposed by John Skirving: *Provided, however*, That the money shall be expended, and the work executed, under the direction of the Secretary of the Senate.

The following resolution, submitted by Mr. CAMERON on the 10th August last, was taken up for consideration, and, at the suggestion of Mr. C., laid over for the present:

Resolved, That the Secretary of War be requested to communicate to the Senate any information that may be within the knowledge of the department in reference to claims made against the Cherokees who are parties to the treaty of August 6, 1846, especially against that portion of the nation called old settlers, or Western Cherokees, for services or any other aid and assistance rendered the said Cherokees in the prosecution of their claim, which resulted in the treaty afterwards. If such claims are based on written contracts, he is requested to state whether the contracts were made by the duly authorized representatives of the *Cherokees* in their *national* or *aggregate* capacity, for the benefit of those who are made recipients by the treaty in all moneys arising out of the settlement of their claims. And also whether, within the knowledge of the department, such contracts have been fully and faithfully complied with, as far as practicable, by the other parties named in them. And that he will communicate the evidence upon which he bases his opinion, with any paper in the possession of the department showing the extent of the services rendered, and the character of the claims thus made against the moneys which may be awarded under the treaty of August 6, 1846.

BILLS INTRODUCED ON LEAVE.

Mr. BREESE, agreeably to notice, asked and obtained leave to bring in a joint resolution explaining the act to provide payment for horses and other property lost while engaged in the military service, approved 18th January, 1848; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

Mr. BADGER, in pursuance of notice, asked and obtained leave to introduce a bill for the relief of William Plummer, executor of Starkey Armistead, deceased.

Mr. BADGER. Before I move the reference of this bill, I wish, in three words, to state to the Senate the nature of the bill, and to call the attention of the committee to it.

In the year 1829 an action was brought in the district court of the United States, in North Carolina, holden at Albemarle, in that State, upon a duty bond. Judgment was afterwards recovered upon the bond, and in 1835 Plummer, in whose behalf the proceeding took place, as the executor of Armistead, paid the full amount of the judgment, interest, and costs into the clerk's office of the court in which judgment was rendered. Things remained in this condition until 1846, nearly eighteen years afterwards, when application was made to the district judge to have satisfaction entered, and the execution quashed. This application was overruled. Thereupon a *scire facias* was sued out of the United States court to show cause why execution should not cease on the original judgment. The judge held, however, that it did not appear that the judgment had been satisfied, and his award was against the application. It is to relieve the party from this proceeding that this bill has been introduced. While up, I will add, that the difficulty, or supposed difficulty, of the case has arisen from this circumstance: it has been the uniform practice of the State court, in times past, when judgment has been rendered, for the parties against whom such judgment was rendered, either before or after execution issued, to pay the money into the hands of the clerk of the court in which such judgment was rendered. Some five-and twenty years ago a question was raised as to the validity of such payment; the question was carried to the Supreme Court, and that court sustained the validity of the payment in this case; but having intimated some doubt as to the regularity of the practice, the State Legislature immediately passed an act to give validity to what had been the previous custom. In consequence of this, it has happened that the same course of proceeding has been adopted in the courts of the United States, without an exception being taken, as far as known, until 1846; the clerk of the district court who received the money not having reported it to the treasury; the collector living in the same town,

and knowing of the payment; the clerk having ultimately died, and being unable to make good the money to the Government. The question, therefore, presented to the consideration of Congress by this bill is, whether it can possibly be the duty, or even the moral right of this Government, to enforce the repayment of this money after it has once already been honestly and fully paid, and thereby put the individual to great loss and inconvenience in consequence of gross neglect on the part of one of its officers? I hope the committee will find it convenient to give immediate attention to the subject, and I now move that the papers which I send to the Clerk's table be referred to the Committee on the Judiciary.

The bill was then referred to the Committee on the Judicary.

Mr. KING. Mr. President, I introduced a bill yesterday for the remission of duties on an equatorial telescope contracted for in London by order of the trustees of the University of Alabama. Since that time I have found in the appropriation bill of the last session of Congress a clause which, I think, amply provides for the case presented by the bill which I introduced. I would move, therefore, that the committee be discharged from the further consideration of that bill.

The motion was agreed to.

RAILROAD ACROSS THE ISTHMUS.

Mr. BENTON. Before any regular business is taken up, I beg leave to state to the Senate, that, at the request of some Senators on my left, I have obtained the contract made between the New Granadian Government and the company which held the grant originally. That contract is now produced for the information of the Senate. I have it here in Spanish. It is a document of considerable length—too much so to be useful to read here. The only way to make it useful to the Senate will be to have it translated and printed. I therefore move that the paper be translated under the direction of the Secretary, and printed.

Mr. CAMERON. If I understand this business, there certainly must be a contract in addition to the one now presented. I refer to the one that, it has been stated, was made by the Granadian Government with the French, upon which the present one before us is based. I would amend the motion of the honorable Senator from Missouri, by moving that the contract originally made with the French, together with General Herran's letter, be also printed.

Mr. KING. I would ask if the contract to which the honorable Senator alludes is before the Senate?

Mr. CAMERON. I am not able to answer that question; but if the gentleman will permit me, I will explain. I asked yesterday, as a matter of information, if the contract entered into between the Government of New Granada and the first company to whom the right of way was granted could be produced, which contract, as I understand, was abandoned. I wished to have also the contract of the Messrs. Aspinwall and Co. with the Granadian Government, and the letter of Mr. Herran produced along with it. It is necessary to a proper understanding of the subject that we should be made acquainted with the terms of both contracts.

Mr. KING. It is certainly necessary that we should have all the requisite information pertaining to this subject; but we cannot order a paper to be printed that is not in our possession; and that, too, when we do not know in whose hands it is placed. Whenever the Senate shall obtain it, no doubt it will be printed.

Mr. FOOTE. I should have supposed that the distinct intimations which have been thrown out by various Senators, in hearing of the avowed friends of the measure under consideration, as to the importance of bringing before the Senate, for our inspection, and, if we so decide, for the purpose of being printed, the original contract so often referred to, and upon which this measure is founded, might before this have caused the production of this document. Why it is withheld from our view I cannot divine, unless some of the rumors afloat in regard to its provisions be true. For one, I am unwilling, (and I desire to be understood as being perfectly serious on this point,) I am wholly unwilling to vote for the measure so urgently pressed upon us, unless I am permitted beforehand to inspect and scrutinize the original contract.

Mr. WESTCOTT. I do not see any necessity for the introduction of this contract. It has been stated here in the petition—and that statement has been certified to in the letter read to the Senate yesterday—that this French contract has been transferred to these parties. The arrangement which may have been made between these parties is one with which we, as a Congress, have nothing to do. We have no right to legislate with reference to an arrangement of this character. The only questions we have a right to put concerning this matter are, whether these parties have the exclusive road, and whether they have the power and ability to perform the services they have engaged to perform upon certain conditions.

Mr. FOOTE. I simply rise for the purpose of saying, for the benefit of my friend, the honorable Senator from Florida, that, to my mind, it is obviously important that we should perfectly understand the true character and specific stipulations of the contract between Messrs. Aspinwall & Co. with the Government of New Granada before we act upon the bill which is based upon it. I have no decided and settled opinion touching the expediency of the measure proposed for our adoption. Certainly I do feel a lively interest for the great object expected to be attained; and I am not without a proper sympathy, also, I trust, for the enterprising projectors of the scheme before us. Surely I intend to present no opposition to this measure, in advance of a more formal and explicit exposition of it on the part of those who are presumed best to understand it. But I am desirous of having it distinctly understood, that if certain rumors which have reached me as to the provisions of this contract shall not be met and negatived by the contract itself, submitted seasonably for our inspection, I shall be very painfully constrained to vote against the bill. Pernaps I ought to go further, and say, that it has been intimated to me that there are clauses in this same contract which cannot be carried into execution without serious detriment to certain substantial interests of a portion of the citizens of this Republic. I do not feel authorized, at present, to use language of a plainer import, nor is it necessary, at this stage of the proceeding. It certainly must be now evident to the Senator from Florida, and others, that the original contract should be brought before us, in order to avoid the commission of some serious blunder, and the possible production of much mischief to great public interests.

Mr. ALLEN. I may as well state at once what will be my position on this subject. We were told yesterday by my friend from Illinois [Mr. BREESE] that there will be a rival proposition brought into the Senate on this subject. That remark implied that he would be in favor of one of these propositions. And for fear, sir, that I may labor under the suspicion of entertaining the same opinion, I desire to say that I shall oppose any form of proposition, come from what quarter it may, which has for its object to confer on a select body of men a monopoly of the transit of commerce of the two hemispheres across the Isthmus of Panama. If the gentlemen whose names are in this bill, or any other gentlemen in the United States, have agreed with the Government of New Granada for the right to construct a road across the Isthmus of Panama, let them make it. They need no legislation of ours to enable them to make it; and the only question with me is, why come they here? We have acquired by treaty, in behalf of our Government and our whole people, the right of transit, which implies, notwithstanding the remarks of yesterday, the right to make the means of transit across the Isthmus of Panama. This is a vast right. Viewed as a national right, it is a privilege worth more to the people of the United States than the privilege of passing over an equal distance anywhere else on the surface of the globe; and I would as soon think of granting to a company a monopoly of the navigation of the globe as a monopoly of the transit commerce of the Isthmus of Panama—just as soon.

This bill proposes that the Government of the United States shall, in advance, contract with this company to pay them for the transportation of troops, arms, munitions of war, and the mails, across the Isthmus on their railroad. Sir, this transportation of the few troops of the Government, and the few persons employed as agents of the Government, will bear no more proportion to the transportation of the property of the people of the United States across the Isthmus than the Isthmus itself bears to the continent of North America. Our interest, as a Government, is the smallest concern in all the transaction. The whole of our transportations across that Isthmus, as a Government, will not perhaps amount to ten thousand dollars' worth of freight yearly, whilst our transportation, as a nation, will amount to, perhaps, the value of a hundred millions annually, within, perhaps, ten or fifteen years from this time. In this view of it, looking upon this matter as affecting so largely and lastingly the interests of this great people, I shall not vote for a bill which deprives them of the full enjoyment of this great privilege, by conferring it on any select body of men on earth. I will not establish a Barbary power to levy tribute upon the commerce of the two hemispheres passing over the Isthmus of Panama. We want that for all; and the only way to secure it, is to keep it out of the hands of monopolists, and keep this right of way under the control of our Government, so that the whole people, if they choose, may construct roads and canals across, and use them as they please. I have thought proper, sir, to make this explanation, lest I should be misunderstood in the vote which I shall give upon the motion to print this paper.

Mr. FOOTE. Will the honorable Senator from Ohio [Mr. ALLEN] permit me to propound a question to him, an answer to which, it strikes me, may become important in connection with what has just now fallen from him? Has the Senator from Ohio matured any plan, other than the one before us, of connecting the Pacific and Atlantic seas, either by railway or otherwise?

Mr. ALLEN rose to reply; but he gave way to

Mr. BENTON, who said: The application of the Senator from Pennsylvania is one perfectly natural. I would say, however, that the original contract is the same in substance with that which I have offered. I believe that some additional compensation is exacted from these New York gentlemen; but the original contract and all its privileges are there—the same that expired in the hands of the original holders. It has been presented according to my promise yesterday, and ordered to be translated and printed. The Secretary, with the promptitude that is characteristic of him, is now searching for a translator. This paper will show the whole contract.

Mr. DOWNS. If I recollect aright, the honorable Senator from Missouri, in presenting the communication which has been ordered to be printed, stated that this company was invested with the privileges granted to a former company, and that the former contract contained the stipulations embraced in the new contract.

Mr. BENTON, (in his seat.) Yes, sir.

Mr. DOWNS. If that be so, it seems to me that we can form no opinion of the present charter, unless we see the new contract. Unless we see them both, we shall not know what provisions have been modified. I think, therefore, the object in calling for this paper will be entirely disappointed unless the last contract be also furnished. While I am up, I will state that I differ entirely from the honorable Senator from Ohio as to the nature of this application. He seems to speak of it as a charter to be granted by Congress, which, if the bill should pass, might result in a monopoly that would be injurious to the people of the United States. I do not view it in that light at all. The Government of the United States is not the sovereign of the territory over which this contract extends, and has no right to establish monopolies there. The only right we have has been established by treaty with New Granada, to the effect that whatever road may be constructed there, the United States shall have the same right of transportation over it as other nations. We have nothing to do with monopolies. I understand that the only object which makes it desirable to obtain this contract at the present time, is to facilitate the emigration to California. They ask of the United States to give them this contract, in order to encourage and assist them in an object which is acknowledged to be of great importance. There is no monopoly in this. The question is, whether we shall or shall not have this work done as soon as possible—a work which is to be so highly promotive of the public interests.

I should like to see this contract adopted; but at the same time I entirely concur with the Senator from Mississippi, [Mr. FOOTE,] and would like to know the nature of the conditions of the charter. There may be provisions in that charter of which we may not approve. It may contain a power to

extort onerous charges from our own citizens. If there be such a provision in it, it may well be matter of serious consideration with this Government whether it should not withhold the contract. Anxious as I am to see the measure adopted, I cannot vote for the bill unless satisfied fully that there is nothing in the charter that would be objectionable on the part of the Government and the people of the United States. I really think that the paper now presented will fail in its object unless we can ascertain what are the modifications made and conditions imposed in the new charter; and we can know nothing about them until we can see them. I move that both of these documents, together with the letter, be printed for the use of the Senate.

Mr. BENTON. There was a paper asked for yesterday, and this morning it was brought in and ordered to be printed. That is the parliamentary usage. And this having been done, there is now a debate got up as if there had been a refusal to produce the paper. Why, sir, one word from a Senator on this floor would have been sufficient, and the paper now sought to be obtained would have been produced as readily as the other; it would have been forthcoming precisely in the same manner; but I have it not in my pocket. I cannot produce it upon the instant; and here a debate is got up as if there was a disposition to withhold it

Mr. CAMERON. I am not going to detain the Senate with any extended remarks. I merely have to say that I desire not only that this paper should be produced, but that we should be put in possession of the contract itself. I had two reasons for making the suggestion yesterday in regard to the production of these papers. I desired, first, that the contract made with the French citizens, upon which I am told this is based, should be laid before us, in order that the Senate and country might see the enormity of its provisions in granting extraordinary powers to a private corporation; and I desired also to see whether these gentlemen have actually made a contract, for I confess I have strong doubts on the subject. My impression is, that they have made a conditional contract with New Granada, to be complete upon the contingency of their forming an agreement with this Government, which will guaranty to them the making of the road. This system of connecting the public treasury with the interests of private individuals is not altogether new to me. It began in my State twenty years ago. It commenced by the State guarantying the interest of a million of dollars of stock for making the Union canal, and ended by involving us in a debt of more than forty millions of dollars. I am utterly opposed, therefore, to connecting the public treasury with the interests of individuals. We ought to endeavor to induce competition instead of conferring exclusive privileges. Important as this work is to the trade of the world, I do not consider it of sufficient magnitude to require the assistance of the Government. In my State we have overcome the obstacle presented by the altitude of the Alleghanies, in the formation of a channel of communication—I mean the Portage railroad, with its expensive inclined planes and machinery, at a cost not exceeding two millions of dollars; and we are told that this Panama road, which is but a small affair in comparison, will cost fifteen or twenty millions. It is a work not exceeding forty miles in extent, in which there are no grades exceeding twenty feet in the mile, without the necessity for inclined planes, and altogether a road of cheaper construction; and yet it is proposed that we shall give to these gentlemen three hundred thousand dollars a year for twenty years for carrying our mails and munitions of war, leaving to the company the profits of the whole trade that will pass over that route, which, in itself, would be sufficient to induce men of enterprise and of capital, after the road had been surveyed, and its real difficulties understood, to undertake the work.

It is said to be a gigantic undertaking, and one which has been too great for the people inhabiting that country to accomplish. Why is it that it has never been undertaken? The reason why it has not been attempted is, that the people of that country have been in a state of ignorance and semi-barbarity; but the moment it is thrown open to Americans, who are accustomed to works of that description, it will be found an easy enterprise, and capitalists will be glad to undertake it for the sake of the profits that are to be derived from it. I would certainly be willing to forego many scruples that I have in order that the road may be constructed; for I am aware that it will be of great advantage to the country in a commercial point of view. The trade that would be carried on upon that route would be of more importance than any advantage which the Government might derive from any privileges in regard to transportation of the mails or of troops and munitions of war. But I desire to have our contract so framed, if one be entered into, as to secure to our people the conveyance of their merchandise at as low a rate as the goods of the people of that country may be transported for. I would have the tolls so regulated by law as to prevent any imposition being practised upon our citizens. It is but reasonable, at all events, that we should be put in possession of all the facts in relation to the agreement entered into by these gentlemen. What is there to prevent them, so far as we are at present informed, from selling the road after it shall have been made? Ought we not to have some guarantee against this, and ought we not to have a guaratee that the road shall be constructed in a proper manner, and with all the guards and securities which experience and science can furnish? I desire that we should have all the information which these papers will afford us; and if it prove that these gentlemen have only a conditional contract, it will deserve mature reflection whether we ought, upon such representations as have been made to us, to extend the aid of this Government to them. I have no doubt that the work might be very easily accomplished by individual enterprise; and I doubt not that this discussion will have the effect of bringing the matter to the notice of individuals who would be willing to undertake the work without exacting from this Government so great a degree of patronage. I am unwilling that we should act upon the subject until we have before us the proper data upon which we may be able to act understandingly.

Mr. FOOTE. I rise for the purpose of vindicating myself from an imputation which has been thrown out by the Senator from Missouri. That Senator manifests some dissatisfaction that a debate has been got up here in regard to the production of these papers. He seems to think it a very unseasonable debate; and, by way of showing that such is the fact, he goes on to say, that upon the first intimation of a desire on the part of the Senator from Pennsylvania in regard to the paper presented this morning, the document was brought into the Senate. Now, I feel bound to say, simply in vindication of myself, that I did not understand, nor did any one in this neighborhood understand on yesterday, that there was a distinct intimation that this document would be produced; nor did we know this morning that it would be produced until the greater part of the debate had taken place. Therefore, I must suppose that the debate was got up for want of the document, and not, as the Senator intimates, from any captious spirit or from any desire to occasion unnecessary delay in the consideration of the proposition which is now submitted to us.

While I am up, I desire to repeat the inquiry which I propounded some time ago to the Senator from Ohio, for I deem it a matter of some importance. That Senator appears to be opposed to this particular scheme for connecting the Pacific with the Atlantic, although he seems to appreciate the importance of such a work; and, speaking of it as he does, we have a right to take for granted that he has some distinct and mature notion on the subject of the mode of establishing this communication. In addition to this, I will mention that it has struck me—and I only throw it out as a very imperfect idea, one that I have not duly considered myself, but I hope that others have investigated the matter more thoroughly, and that it will be elucidated by those who are capable of throwing light upon it—it has appeared to me, upon a superficial view of the matter, that it is within the constitutional power of this Government to establish a railway from the Atlantic to the Pacific upon the authority of this treaty for military purposes; and if so, incidentally, and merely incidentally, to secure to itself all the peculiar advantages likely to arise from the establishment of the railway, and also to retain within its own hands the means of saving our citizens from those injuries which have been so graphically portrayed this morning by the Senator from Louisiana. There would then be no tolls to be imposed by the company; the Government would always have it in its power to see that justice was done to those who have goods to transport along this railway in their passage to the remote shores of California and Oregon.

I do not myself advance an opinion on this subject; but it is the opinion of men who are well qualified to decide, that it is competent for the Government to establish a railway upon that route. I have seen elaborate opinions from high authority to that effect. I have not fully scrutinized the matter myself, but I have an imperfect idea that if hereafter it should be ascertained that it is necessary for the defence of California and New Mexico against foreign aggression, or against domestic violence, that a military road should be constructed for the transportation of troops and munitions of war from the Atlantic to the Pacific, our Government has a right to establish such a road by its own means, and, by establishing such a road, incidentally to secure to us the immense advantages to be derived from its use. With this view, and with the deference I have ever felt for the judgment of the Senator from Ohio in regard to such matters, I had hoped that he would, in the progress of the debate, have given some response to the inquiry which I propounded that would be satisfactory to the Senate.

Mr. ATCHISON rose for the purpose of moving a postponement of the further consideration of the subject.

Mr. ALLEN. If the Senator will allow me, I will answer the question of the Senator from Mississippi. When that Senator propounded his question I would have replied to him had not another Senator obtained the floor. I have no hesitation in stating what my views are upon the subject. If we have a right to acquire by treaty a passage across the Isthmus of Panama, we have a right to open the passage and to enjoy all the fruits which we sought by the negotiation of the treaty. And I believe that we not only have a constitutional right to open a passage, but I believe it will become the imperative duty of the Government of the United States to accomplish that object.

Mr. ATCHISON. I now renew my motion.

Mr. DOUGLAS. I desire that the subject should be postponed, and I do not intend now to enter into its discussion. I feel bound, however, to make one or two remarks in regard to it. I see no impropriety, in fact I can see a manifest propriety, in requiring the contract, as it is called, to be submitted to the Senate. I had supposed that the charter, together with the letter of General Herran, would have been sufficient; but, looking at the letter, it will appear that it may be possible it contains matter that will enlighten the Senate. In consequence of the absence of Mr. Aspinwall, the document cannot immediately be obtained, but I have no doubt that upon his return to the city it will be produced. I trust, therefore, the Senate will allow the subject to be postponed.

I must say I do not comprehend the argument that is made against this measure on the ground that it is creating a great monopoly which this Government ought not to submit to or tolerate. I understand the fact to be that we have a treaty with the Government of New Granada, which secures to us a right of way across the Isthmus of Panama, upon any road now made or hereafter to be made by authority of the Government of New Granada, upon the same terms and at the same rates of toll as shall be charged upon the citizens and their merchandise of the Government of New Granada, under such charter for making roads. The sovereignty of the country remains in the Government of New Granada, while the right of way, the right to travel upon roads now made or which shall be made by or under the authority of that Government, is secured to us; and the conditions upon which we are to travel upon those roads are to be the same which that Government shall impose upon her own citizens; that the tolls to be charged upon our citizens with their freight and merchandise are to be the same as those charged upon her citizens with their freight and merchandise, and no more. Therefore it would seem, from these facts, that this Government has nothing to do with the terms and conditions upon which the road shall be made, and nothing to do with the terms and conditions upon which passengers and freight shall be transported upon it. It would seem by the charter which is submitted to the Senate, I apprehend, when you examine it, that these individuals have secured the right of making a road across the isthmus—

the exclusive right—and that the Government of New Granada retains no right to grant the privilege to any others, or to authorize this Government to make it. If there is any monopoly, therefore, it is a monopoly already invested in Messrs. Aspinwall, Stephens & Co. If there be any monopoly, they have it already; and it is one which we cannot control. These individuals, possessing this charter and these privileges, and being prepared to go on and construct the road, come to us and say, if we have a monopoly, we propose to relieve you from that monopoly; if you are apprehensive that we will charge you too much, we will make a contract with you now in regard to the rate at which your freight shall be carried. The proposition which they make to you is one by which they propose to relieve you from the monopoly which they possess, by offering to make a contract with you. And what is the contract which they propose to make? They propose to contract with you, by which your transportation shall be secured by the payment of a certain amount. If the amount proposed be considered too great, let it be reduced. I was sorry to see my colleague yesterday assuming that we were to pay six millions of dollars. We have not yet determined what amount we are willing to pay. They are proposing to carry such freight as shall be agreed on, at such rate of charge as shall be agreed upon.

Again: it is assumed that the contract is to be for twenty years; whereas the bill is a proposition to make a contract for a period of years not exceeding twenty, leaving it discretionary with this Government whether it shall continue for one year, for five, for fifteen, or for twenty years. It is not a proposition for the continuance of the contract for twenty years absolutely, and I apprehend that it is a fair subject for discussion with us whether or not the sum proposed as the limit beyond which we are not to go is too high, and whether we should reduce it; whether or not the period is too long, and, if so, whether or not we should not fix a shorter time. It will become a question for us to determine whether we should fix upon a short period or a long one. It is certainly evident that the amount of transportation that we shall have occasion for will increase every year.

In a few years more we shall have a large empire upon the Pacific, and it is reasonable to suppose that we shall have occasion for five or ten times as much transportation as we have now; and if we now make a contract to last for twenty years, it may be that we shall secure an enormous amount of transportation at a very little cost—at a price far below what it would be furnished for under the new contract. But these are subjects for discussion upon which I am not yet prepared to express an opinion. My only object is to direct attention to the fact that the price is not fixed by this bill, but is reserved, to be determined by Congress and the Secretary of the Navy, or whatever officer of the Government may be authorized to form the contract; that the time for the continuance of the contract is not fixed, but reserved for the determination of the same parties; that we are granting no power to make a road, but, on the contrary, that the power is already granted by New Granada; that our refusing the application that is now made to us will not take from these individuals the privilege of constructing the road, for it is already secured to them. It is not in our power to take it away, nor is it in the power of New Granada to take it away from them. If it be an odious monopoly, then it seems to me to be a reason why we should remove that monopoly from ourselves while we have it in our power to do so. But I apprehend it is not so odious a monopoly, for the reason that our treaty with New Granada puts American citizens, in regard to the right of way, upon an equality with her own citizens; and I apprehend that that Government would be cautious how it granted a monopoly that would operate against her own citizens to foreigners, who seek nothing but how to make as much money as possible out of the enterprise in which they are about to engage. It seems to me, therefore, that we ought not to prejudge this measure before we have examined all the facts of the case. I have made these remarks for the purpose of inviting attention to the subject while the charter and the other documents connected with it are being procured, in order that we may be prepared to discuss the matter and arrive at a proper conclusion.

Mr. FOOTE. Mr. President, I have no desire to detain the Senate any longer; but, notwithstanding the general impatience to get rid of this subject, which I see manifested, I feel bound to say to the Senator from Illinois, [Mr. DOUGLAS,] that he seems to me to have entirely forgotten the fact that it is provided in this bill that the Secretary of the Navy shall be directed to make a contract with this company. Directed, sir—most imperious language.

Mr. DOUGLAS. I intended to remark, that I thought the word "directed" should be stricken out of the bill.

Mr. FOOTE. That word being retained, the effect certainly will be to throw the Government into the hands of this company, who, acting of course that selfish part which such corporations are sure to act, would charge the maximum amount, or three-fourths of what we pay for the transportation of the mails across the Atlantic. This would certainly amount, as stated yesterday by the Senator from Illinois, [Mr. BREESE,] to some six millions of dollars, paid to this company for the transportation of certain articles along this railway, which is to cost, by estimation, only two millions five hundred thousand dollars, leaving this company greater profits than were ever made by any company in the world.

It is a fact, sir, that it is deliberately proposed to pay the sum of six millions of dollars to this company—and I do not doubt the respectability or the worth and intelligence of those who compose it, one of whom has a high reputation in the literary world—for the transportation of munitions of war, naval stores, and other supplies of the Government, by this railway, which is to cost that company only two millions and some hundred thousand dollars, by estimation. And yet, so far as has been intimated by the friends of this bill, this company is not to be limited in the least in its charges upon our citizens who may desire to travel upon this railway—and many of them, doubtless, will desire to visit California and Oregon hereafter—or who may desire to have their effects transported, either for the purpose of carrying on mercantile operations, or for the purpose of establishing themselves as residents in these fair regions. No limitation, so far as we have heard from the friends of this measure, is to be imposed, except—what? Why, sir, that this company is not to charge the citizens of the United States more than they charge the citizens of New Granada. So far as we are at present informed, the citizens of New Granada will have but very little use for this railway at all; and if it should turn out that some contract or arrangement should hereafter be made between this company and the Government of New Granada, in relation to this affair, which may prove satisfactory to that Government and people, this company may obtain authority to establish such rates as will enable them to charge for the whole period of ninety-nine years whatever they please upon the citizens of the United States. For one—I say it in advance—I shall not be in favor of this measure, unless this company will submit to a reasonable tariff of rates.

We have all doubtless had experience in such matters; for it is a fact well known in the history of the different States, that wherever a company obtains the privilege of establishing a road of any kind without a tariff of rates being in the first instance imposed, competition being completely precluded, the companies take it upon themselves to charge such enormous rates as they may judge to be consistent with their own interests. Their own interest alone will be their guide. Before this Government, then, supplies to this company the means of establishing this railway, I trust they will be required to agree upon such a tariff of rates as will save our citizens in all time to come from that oppression and injustice which must otherwise, in my judgment, inevitably accrue from this transaction.

One more remark, and I have done. We have as a Government, the right of way across the Isthmus of Panama. And now the Government of New Granada have entered into a contract with this company which empowers it to establish a railway from the Atlantic to the Pacific. That is not our right of way, but it is the privilege, simply, of establishing the means of communication between the two oceans, given by that Government to this particular company. Our right of way still exists under the treaty. But what will become of it, I ask, under the contract now proposed? It will be argued, I doubt not, hereafter, ingeniously and plausibly argued, that the sanction which we shall have given to the proposition has entirely extinguished the right of way which accrued to us under the treaty. We have the right of way at present, and that right of way, notwithstanding all the reasons so eloquently stated by the Senator from Illinois, [Mr. DOUGLAS,] we are bound to retain and preserve for ourselves and our posterity.

Suppose, sir, this railway established, and what becomes of our right? If not positively and solemnly transferred, it will be extinguished by what may turn out, after all, to be the unwitting action of the Congress of the United States upon the measure now before us. I conceive, sir, that it is our duty to preserve the right of way across the isthmus, and to adopt only such legislation upon this subject as may secure it to us and to our citizens in all time to come, free from all obstructions whatsoever.

It may be, sir, that the company who propose to establish this road may occupy the only ground suitable for such a purpose. In this case, in what a predicament should we find ourselves! We should find that our right of way had completely evaporated. The company has a railway there which occupies the only ground suitable for the construction of such a road; our right of way still remains, but it can only be enjoyed by submitting to the terms which will be imposed upon us by this company, which will make our right of way a nullity.

I conceive that it is our highest duty—so ably argued by the Senator from Ohio, [Mr. ALLEN,]—to keep this right of way open forever. We ought not to permit any company to impose the least bar or obstruction to the full enjoyment of this right, not only on the part of our Government, but also on the part of our citizens.

I think that the Senator from Illinois [Mr. DOUGLAS] has made a very great mistake, one of which it is not usual, certainly, for that Senator to make. He seems to suppose that we shall have continual and increasing need of this railway during all that period of twenty years, for the purpose of sending munitions of war to our Pacific settlements. I differ with him essentially. In my judgment, when our frontier on the Pacific shall become supplied with the means of defence, the growing population of that country will make it wholly unnecessary for us to use this railway for any such purpose.

The grandeur of this scheme seems to have captivated the mind of the honorable Senator, [Mr. DOUGLAS.] The immense advantages which are almost certain to arise from it seem wholly to have absorbed the attention of the distinguished gentleman, and he does not seem to reflect that all these results will not accrue to our citizens at large.

But I did not rise to discuss this proposition at length. I have merely risen for the purpose of suggesting the difficulties which pressed upon my mind at the time this proposition was laid before the Senate, and which have continued to press upon my mind with increasing force during the discussion upon it. These difficulties have been ably set forth by some of the distinguished Senators who have opposed the bill in its present shape, and they have not been removed by the arguments of its friends. If any reply has been made to the clear and cogent objections urged yesterday by the Senator from Maryland, [Mr. JOHNSON,] it must have been while I was absent from this Chamber.

The question being taken on the motion to translate and print the paper presented by Mr. BENTON, it was agreed to.

A message, in writing, was here received from the President of the United States.

A message was also received from the House of Representatives, announcing that they had passed the Senate bill for the relief of the heirs of Jean F. Perry, Josiah Blakely, Nicholas Jarant, and Robert Morrison.

RECIPROCAL TRADE WITH CANADA.

Mr. DIX, in pursuance of the notice which he gave to the Senate on yesterday, moved that the Senate proceed to the consideration of the bill to admit certain articles the growth or production of Canada into the United States free of duty, on condition that the like articles of the growth or pro-

duction of the United States are admitted into Canada free of duty.

Mr. D. said: Mr. President, the bill was before the Senate at the last session of Congress. It passed the House of Representatives and came up here. At the request of several Senators it was repeatedly postponed, and the bill was finally lost in consequence of the pressure of business at the close of the session. The whole recess has elapsed, and Senators have had sufficient time to examine it thoroughly. I am very desirous that it should be acted upon, and what I now ask is, that the bill shall be taken up, that it may be read and understood. Then, if any further time is necessary, I will not object to its being passed over for a time, although I am in favor of acting on it immediately, as the Parliament of Canada is now about to meet, and we should dispose of the bill in time for them to take action upon it, inasmuch as it involves matters of mutual importance to the two countries.

The question being then taken upon the motion made by Mr. DIX, it was decided, on a division, in the negative: Ayes 17, noes 26.

On motion of Mr. YULEE, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened,

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 19, 1848.

The Journal of yesterday was read and approved.

The SPEAKER presented the memorial of Isaac S. K. Reeves, first lieutenant in the regiment of United States artillery, and adjutant of the Military Academy, in relation to his allowances. Referred to the Committee on Military Affairs.

Also the memorial of Archibald R. Bogardus, praying that his pension for disability may be made to commence from the date of said disability. Referred to the Committee on Naval Affairs.

PETITIONS.

The Senate being called for the purpose, petitions were presented by Messrs. KING of Massachusetts, ABBOTT, NICOLL, WILLIAM T. LAWRENCE, ELIAS B. HOLMES, GREELEY, STARKWEATHER, WHITE, ECKERT, BRADY, POLLOCK, STROHM, BUTLER, HAMPTON of Pennsylvania, CHAPMAN, FULTON, DANIEL, DONNELL, FRENCH, EVANS of Ohio, LA SERE, HARRIS, and DARLING.

On motion of Mr. CROWELL,

Ordered, That leave be granted for the withdrawal of the petition and papers of John S. Devlin, administrator of E. J. Weed, deceased.

On motion of Mr. EVANS, of Ohio,

Ordered, That the petition of George Cassady for a pension, with the accompanying papers, be withdrawn from the files of the House, and referred to the Committee on Invalid Pensions.

BILL INTRODUCED.

Mr. THOMPSON, of Iowa, in pursuance of previous notice, introduced a bill (No. 675) to amend "An act granting certain lands to the Territory of Iowa, to aid in the improvement of the navigation of the Des Moines river, in said Territory;" which was read twice, and referred to the Committee on Public Lands.

NOTICES OF BILLS.

By Mr. WENTWORTH: A bill for the relief of W. O. Walker.

By Mr. HARRIS: A bill regulating evidence in the circuit and district courts of the United States.

RESOLUTIONS.

Mr. NICOLL, from the Committee of Ways and Means, reported the following resolution; which was read and agreed to:

Resolved, That the Committee of Ways and Means be, and they are hereby, discharged from the further consideration of the item of $22,500 for clerks in the offices of the Surveyors General of the Land Office, contained in the estimate of appropriations for the ensuing fiscal year, and that said item and the papers relating thereto be, and the same are hereby, referred to the Committee on Public Lands; and said last mentioned committee be instructed to inquire into the manner in which said appropriation has been expended in prior years, and whether the public interest requires that said appropriation be further continued.

Mr. HUDSON, from the Committee of Ways and Means, reported the following resolution; which was read and agreed to:

Resolved, That a special committee be appointed to inquire into the expediency of revising the penitentiary system of the District of Columbia, and reporting a plan by which the convicts can be supported at less expense to the Government.

REPORTS FROM COMMITTEES.

Mr. COLLAMER, from the Committee on Public Lands, to whom was referred Senate bill to modify the fourth clause of the seventh section of an act entitled "An act to enable the people of Wisconsin Territory to form a constitution and State government, and for the admission of such State into the Union," approved August 6, 1846, reported the same back to the House without amendment; and the bill was ordered to be laid on the table.

Mr. HUNT, from the Committee on Commerce, reported a bill to authorize an appropriation for removing the rocks at Hurl Gate, and the reefs in the harbor of New York; which was read twice, and committed to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. BRADY, from the Committee on Private Land Claims, to whom was referred the bill from the Senate entitled "An act for the relief of the heirs of Jean F. Perry, Josiah Bleakley, Nicholas Jarrot, and Robert Morrison," reported the same back to the House without amendment.

The bill was read a third time and passed, and returned to the Senate.

Mr. HARMANSON, from the Committee on Private Land Claims, reported bills for the relief of Sidney Flower, of Louisiana, and for the relief of Amelia Covillion, of Louisiana; which were read twice, and committed.

Mr. DARLING, from the same committee, to whom was referred the bill from the Senate entitled "An act for the relief of the heirs of John Wall, deceased," reported the same back to the House without amendment. Committed.

Mr. COCKE, from the Committee on Revolutionary Pensions, to whom was referred the bill from the Senate, entitled "An act granting a pension to Bethiah Healy, widow of George Healy, deceased," reported the same back without amendment. Committed.

Mr. FULTON, from the Committee on Invalid Pensions, to whom was referred the petition of John McIntosh, reported a bill for his relief, accompanied by a report in writing; which was read twice, and committed.

Mr. W. T. LAWRENCE, from the same committee, to whom was referred the petitions of William Slocum and John H. Goolsby, made adverse reports thereon; which were laid on the table and ordered to be printed.

Also, reported a bill for the relief of Levi M. Roberts; which was read twice and committed.

The SPEAKER said, that the business next in order will be resolutions heretofore offered, calling upon the departments for information, and which had been laid over by the rule.

REFERENCE OF PRESIDENT'S MESSAGE.

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of proceeding to the consideration of the President's Message.

The question having been taken and decided in the affirmative—

The House resolved itself into Committee of the Whole on the state of the Union, (Mr. THOMPSON, of Indiana,) in the chair, and proceeded to the consideration of the resolutions offered yesterday by Mr. VINTON, referring the several portions of the message to the appropriate committees.

The resolutions having been read, are as follows:

Resolved, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session as relates to our treaties, diplomatic intercourse, and relations with foreign countries, be referred to the Committee on Foreign Affairs.

2d. That so much of said message as relates to compensation to those citizens who have served in the Indian war in Oregon, to the state and condition of the army, to the duties levied on American and neutral commerce in the ports of Mexico, and the disbursement of the moneys so collected, and the accountability therefor by the officers who collected and disbursed the same, with the report of the Secretary of War accompanying said message, be referred to the Committee on Military Affairs, with instructions to said committee to inquire into and report upon the legality of the collection of such duties, and the disbursement of the money so collected.

2d. That so much of said message as relates to the condition and operations of the navy, the marine corps, and the establishment of a line of steamers between New Orleans and Vera Cruz, together with the report of the Secretary of the Navy, be referred to the Committee on Naval Affairs.

4th. That so much of said message as relates to the tariffs of 1846 and 1842, the revenue, the state of the treasury, the public debt, the subtreasury, the general condition of the finances, the estimated receipts and expenditures for the next fiscal year, the unliquidated claims of citizens of the United States against Mexico, and the establishment of additional branch mints, be referred to the Committee of Ways and Means.

5th. That so much of said message as relates to the public lands, the graduation and reduction of the price thereof, the surveys thereof, geological, mineralogical, and lineal, the appointment of additional surveyors general, and to the sale of the mineral lands in California and New Mexico, be referred to the Committee on Public Lands.

6th. That so much of said message as relates to our intercourse and relations with the Indian tribes, and to the appointment of additional Indian agents, be referred to the Committee on Indian Affairs.

7th. That so much of said message as relates to the commerce and navigation of the country, and to the extension of the revenue laws of the United States over California, be referred to the Committee on Commerce.

8th. That so much of said message as relates to the establishment of territorial governments over California and New Mexico, and the enforcement of governments *de facto* in those Territories, be referred to the Committee on the Territories, with instructions to said committee to inquire and report whether the Executive of the United States has rightful authority to exercise the powers of government now being enforced over those Territories.

9th. That so much of said message as relates to the post offices and post roads, and the reduction of the rate of postage, be referred to the Committee on the Post Office and Post Roads.

Mr. MEADE moved to amend the eighth resolution by striking out the words "the Committee on the Territories," and inserting in lieu thereof "a select committee."

Mr. M. said a very few words in explanation of his amendment. They were very imperfectly heard, but were understood to be, that he did not think that, in the organization of the Committee on Territories, justice had been done to the South. There were upon that committee three members from the South, and out of that number there was not one belonging to that party which had lately achieved a triumph in the Presidential election. If his motion for a new committee should prevail, he hoped that a due proportion of Whigs and Democrats from the South would be placed upon it.

The question was then taken on the amendment; and the affirmative vote was declared to be forty-nine.

Tellers were called for; and Messrs. MEADE and DUNCAN were appointed.

And the question being again taken, the vote stood: Ayes 73, noes 80.

So the amendment was rejected.

THE TARIFF.

Mr. RUMSEY moved to amend the 4th resolution, by striking out the words, "the tariffs of 1846 and 1842," and to add the following as an additional resolution:

"*Resolved*, That so much of the said message as relates to the tariffs of 1846 and 1842, be referred to the Committee on Manufactures."

Mr. HOLMES, of South Carolina, rose to inquire from the chairman of the committee, [Mr. VINTON,] whether this subject had not already been referred to that committee?

Mr. VINTON said that the subject of the tariff had already been referred by a resolution of the House, upon motion of a gentleman from Pennsylvania, to the Committee of Ways and Means.

Mr. RUMSEY was understood to suggest that the amendment was simply a proposition of inquiry.

Mr. HOLMES said that all resolutions of this kind were, from necessity, he presumed, resolutions of inquiry. Was this House prepared, after the close of a protracted war, at once to refer the question of the tariff—which was a question of revenue—to a committee pre-judging the whole subject? He would ask whether it did not become the House to have a full report from the Committee of Ways and Means upon the state of the finances, and the prospects of the country in relation thereto, before proceeding in this hasty manner to pre-judge the question? No doubt the object of the gentleman who had moved the amendment [Mr. RUMSEY] was to get the House to commit itself, by referring the whole subject to the Committee on Manufactures. In this inchoate state, as he might call it, and before the new Administration had come into power, he hoped no such course would be adopted.

Mr. COBB (addressing the Chair) said he presumed it would be in order to move an amendment to the amendment.

The CHAIRMAN indicated that it would be in order.

Mr. COBB said, that as the proposition of the gentleman from New York [Mr. RUMSEY] took the question of revenue out of the hands of the

Committee of Ways and Means, and referred it to the Committee on Manufactures, he took it for granted that the object of the gentleman was, that the tariff of 1846 and of 1842 should be considered without any reference to the question of revenue; and that it should be considered with reference to the effects of our tariff system on the manufactures of the country.

Mr. RUMSEY rose to explain. The gentleman from Georgia [Mr. COBB] was mistaken. The question of revenue was still left with the Committee of Ways and Means. His (Mr. R.'s) proposition did not contemplate taking that branch of the subject from that committee.

Mr. COBB continued. He could not (he said) perceive any other motive which the gentleman could have had in offering his proposition, except it was for the purpose of having the question of protection considered by the Committee on Manufactures, in opposition to the question of revenue arising under our tariff system. He did not rise to discuss the subject at this time. But if we were to lose sight of the question of revenue in connection with our tariff system, there were two other questions connected with it which ought not to be lost sight of. He referred to the interests of agriculture and of commerce. He could see no reason why the question of the tariff should not be considered by committees upon agriculture and commerce, as well as upon manufactures. For his own part, he was willing that the subject should pass over upon the motion which had been made by the chairman of the Committee of Ways and Means, [Mr. VINTON,] giving to it its proper direction. But if that was not to be done, then he should move, as an amendment to the amendment, to add the Committees of Agriculture and Commerce, in order that our tariff system might be considered with reference not only to the manufacturing interests, but also to the agricultural and commercial interests.

He desired to see whether the House, at this early stage of its session, was disposed to lose sight of these two great interests, and to direct all their inquiries, and shape all their proceedings, in legislation upon the tariff, to the object of manufactures alone.

He trusted that gentlemen would make no objection to his amendment. He trusted that they had a sufficient regard for the agricultural and commercial interests, to let the subject go to these committees as well as to the Committee on Manufactures. He saw no way to effect this object, except by a joint action of these committees. He therefore moved to amend Mr. RUMSEY's amendment, by adding, after the word "Manufactures," the words "the Committee on Agriculture and the Committee on Commerce, and that said committees act jointly."

Mr. C. J. INGERSOLL said he thought his friend from Georgia, and every other member of this House, could not fail to perceive that, by referring this subject to the Committee on Manufactures, they gave it its appropriate direction, for this simple reason: There were gentlemen in this House (of whom, no doubt, the gentleman from Georgia was one) who thought this altogether a revenue subject; there were others who did not think so. He (Mr. I.) was one of those who had always acted under a different impression. He had voted the other day with some hesitation upon the resolution of his colleague over the way [Mr. ECKERT] for referring to the Committee of Ways and Means the question of the propriety of establishing a tariff based upon the principles of the tariff of 1842. He had regretted what appeared the perplexity of the language. If the resolution had spoken of a tariff based upon the principle of specific duties, and a protective tariff, he should have liked it a good deal better; because these had always been his principles, and he thought would be to the end.

He now submitted to his honorable friend from Georgia, that, by changing this reference from the Committee on Manufactures, and referring the subject to any other committee, they would preclude—they would shut out—they would settle the whole question, by declaring at once that it was a question of revenue, and not a question of manufactures, or whatever they pleased to call it; that it was not a protective question.

It was not necessary now, he thought, to enter into the question, which was right and which was wrong. There had been some evidence given in the late election as to the opinions of the people upon it.

Mr. COBB, (in his seat.) Whereabouts?

Mr. INGERSOLL. In Pennsylvania. But let that pass. All he meant to say was, that the subject should go to the Committee on Manufactures, or those who thought this was not a mere revenue question were at once precluded from the consideration which they desired.

Mr. COBB wished to inquire of the gentleman from Pennsylvania, whether, in considering this subject in reference to protection, he thought the agricultural and commercial interests of the country were at all to be consulted; whether the farmer and the man engaged in commerce were interested in this question?

Mr. INGERSOLL replied, very much. There was a Committee on Agriculture and a Committee on Commerce, and to these Committees on Agriculture and on Commerce let the appropriate portions of this subject be specifically referred; but do not refuse to refer that part of the message which relates to the question of protection to the Committee on Manufactures, for they would, in that case, at once preclude those who, like him, believed this to be a question of protection, from that consideration which they desired.

Mr. COBB, with the permission of his friend from Pennsylvania, desired to ask if the gentleman looked upon the tariff question as purely a manufacturing question?

Mr. INGERSOLL. Yes, mainly so, certainly. [A laugh.]

Mr. HOLMES, of South Carolina, desired to ask the gentleman a question.

Mr. INGERSOLL. Yes, certainly. I shall willingly respond to any interrogatories that may be made by any gentleman.

Mr. HOLMES wished, then, to inquire under what category the Pennsylvania coal came—whether under that of manufactures or agriculture? (or excavations?)

Mr. INGERSOLL. Under neither. It belonged to the list of minerals. [Laughter.]

Mr. HOLMES desired to ask the gentleman another question. Did not the gentleman, in his advocacy of the reference of this question to the Committee on Manufactures, mean to include the mineral interests, the interests of Pennsylvania coal?

Mr. INGERSOLL. No. If the committee think proper to include them, I shall include them; but, at all events, there is another substance coming from the earth, not altogether coal, but something more valuable than the gold of California.

Mr. HOLMES. Then do I understand the gentleman to say, that he has no reference to coal, and no desire for an increase of the duty upon it?

Mr. INGERSOLL. I am rather inclined to think there is no occasion for an increase of the duty upon coal, but there certainly is for an increase of the duty upon iron. That is an answer to the gentleman; and now, if there are no other interrogations to be addressed to me, I will take my seat. I will repeat, however, that my object in rising was to express this one sentiment, that, by taking this subject from the Committee on Manufactures, you put an end to the whole doctrine, which is entertained by some members on this floor, and by a large portion of those who come from the State which I have the honor in part to represent.

Mr. GENTRY remarked, that the proposition of the gentleman from Georgia was rather a singular one. The gentleman proposed to conjoin, to associate three separate, distinct committees to act in concert upon this subject. He did not know that in his experience on this floor he had ever heard of such a proposition being made to this House. It seemed to proceed on the supposition that one committee upon the revision of the revenue laws was not competent to look at the effect which such revision would have upon the agricultural and commercial as well as the manufacturing interests of the country.

Mr. COBB, with the permission of the gentleman from Tennessee, would very frankly admit, that his amendment, in its present form, he deemed impracticable. He had moved it, however, for the purpose of calling the attention of the House and the country to the impropriety of the reference proposed by the amendment of the gentleman from New York, [Mr. RUMSEY,] and to show the propriety of the reference proposed by the resolution to the Committee of Ways and Means.

He should not insist upon the amendment in its present form, but with the permission of the gentleman from Tennessee, he would modify it by striking out the words "and that said committees act conjointly," so as to leave these committees to act in their separate capacities upon this subject.

Mr. GENTRY (continuing) said it seemed to him an immaterial question, to what committee this question should be referred. If the committee to whom it was given in charge were competent to the performance of their duty, they must look to the effects which a revision of the tariff would have alike upon commerce, agriculture, and manufactures, for these three interests were so indissolubly connected that one could not be considered without considering them all,

Mr. HOLMES, of South Carolina, wished to know of his friend from Tennessee, if he meant to say, that if this question was referred to the Committee on Manufactures, it was not an indication of the sense of this House that the question should be considered of imposing duties expressly for the encouragement of manufactures, without any regard to the question belonging exclusively to the Committee of Ways and Means, to wit: the question of revenue?

Mr. GENTRY replied, that he undertook to say that whenever this House referred this subject to a committee with a view to readjust in any degree our revenue laws, the House had under consideration the question of protection to our manufacturing interests, alike with the questions of agriculture and commerce—all of which were involved in this subject; and that this House expected a committee which might be charged with this question to take into intelligent consideration all these various interests; and that the one could not be legislated upon in any important degree without affecting the others. Hence, he maintained, if the committee was competent for the duty with which it was charged, that it mattered not whether it was the Committee of Ways and Means, the Committee on Agriculture, or the Committee on Manufactures, to whom this question should be committed. But, in conformity with the usage of this House, he deemed the Committee of Ways and Means to be the appropiate committee.

Mr. HOLMES wished again to ask the gentleman, whether if this House referred the question to the Committee on Manufactures, it would not be a manifestation of this opinion, that they thought a tariff should be framed expressly for the purpose of protection, and not of revenue, and that they would prefer less revenue with a protective tariff than more revenue with a revenue tariff?

Mr. GENTRY said he did not know that that conclusion would necessarily follow. But if the gentleman had waited a moment, he would have seen that he (Mr. G.) was in favor of the reference proposed by the resolution, and opposed to the reference proposed by the amendment of the gentleman from New York.

He was about to remark that the tariff of 1842, if he remembered aright, had emanated from the Committee of Ways and Means. That tariff was a very good revenue tariff; it was a most excellent protective tariff. He had no doubt, however, but an intelligent committee, whether it was the Committee of Ways and Means or the Committee on Manufactures, with the lights of experience before them, could now make a better revenue tariff and a better protective tariff. He was not, therefore, for the resuscitation of the tariff of 1842. He was not for referring that portion of the President's message which related to this subject to the Committee on Manufactures; but he should support the resolution of the honorable chairman of the Committee of Ways and Means, to give it the usual reference, which was the proper one; and he hoped his friend over the way would withdraw his motion, and terminate this debate.

Mr. THOMPSON, of Pennsylvania, said when the subject of the tariff bill was under the consideration of Congress between two and three years ago, he was one of the few members of the Democratic party who had protested against its passage. He had opposed it most conscientiously, foreseeing, as he thought, the effects of the change, so sudden and radical, in the adoption of a new system—of the establishment of an entire new principle—foreseeing, as he believed, that it was going to have a great effect upon the future policy of the country. He should leave to those of the present day to decide whether his predictions then were right

or wrong. What had taken place had taken place, and could not be altered. He had voted the other day against the resolution of his colleague on the other side of the House, [Mr. ECKERT,] for the resuscitation of the tariff of 1842. He had no hesitation at all in saying that he would not return to a system deemed so odious, and which would necessarily destroy itself in a very short period of time. The tariff of 1842 was sent forth to the world bearing the marks of its own condemnation and that of some of its friends upon it. It had carried within its own bosom the seeds of its eventual destruction: we had seen, in the process of time, that they had sprung up, and its destruction consummated. Its principles that were bad—obnoxious, were its system of minimums. They violated everything like reason, common sense, and, he might say, common honesty. Why, cotton cloths which it cost one, two, or three cents per yard to manufacture, were called worth twenty cents, and a duty, as if worth that sum, levied. It discriminated against the poor and in favor of the rich, taxing cheap articles that were mere imitations most heavily, and laying but a light hand upon articles of luxury of the richest kind.

There were objections to the tariff of 1842. The seeds of decay were deeply implanted within its bosom at the moment it came into existence. He had been opposed to that bill, and exceedingly anxious for a compromise that might give us something better. There had once been a certain committee organized for the purpose of compromising the tariff bill. He was one of that committee: he had proposed to his friend from North Carolina, the then chairman of the Committee of Ways and Means, [Mr. MCKAY,] that he should give them the tariff bill which he had reported in 1844, and he (Mr. T.) would have voted for it. No, sir, they would not agree to this. New lights had been shed upon the world. Men had become wiser, perhaps better; they thought they had at least—perhaps they were. This was refused, although it had been proposed by what was called the free-trade portion of the country. He was desirous of compromise. He wanted something reasonable and something permanent.

Now, sir, what followed? The tariff of 1846. Sir, (said he,) I opposed this measure, earnestly and with all my might. It was a radical change—a new principle—one that I thought wrong, and which, in many particulars, I still think wrong. And now, sir, I go for a modification of it; a change to suit the wants and interests of the country. I am not wedded to dates—the bill of the 30th August, 1842—nor to the identical one of August, some date, of 1846. I subscribe to the principle of progress and reform. What might have been right in 1842, may have become wrong in 1846 and 1848. Empires have fallen down; dynasties become extinct; policy had changed; revolution in everything had taken place, altering the commerce, the trade, and manufactures of almost every country in the world. A change in some—in many things, became, was necessary, to us. Wisdom would, and he thought did, dictate that we should change our systems only so far as the changes in times required them. This was his doctrine. Notwithstanding his objections to the tariff of 1846, and that of most of his colleagues, the tariff of 1846 was passed. The objection to the new system was great. The doctrine of a tariff for revenue, discriminating for protection, seemed to be universally held. This was a doctrine that all seemed to go for: protection as an incident to revenue. This is all we wanted, he said. But the act of 1846 discriminated against protection. It operated badly, when most needed for protection as well as revenue. Look at its operation: take, for example, iron. And he instanced this article, as he was most familiar with it. He put it as an example. We will suppose, at the time of the passage of that act, that pig metal was selling for $30 per ton; the thirty per cent. on that would be a duty of $9. This was a high duty—more than was wanted; but to the example: When the price of iron abroad came down to $18 per ton, thirty per cent. was $5 40 duty; a loss of $3 60 cents revenue, as well as $12 cheaper by way of competition. But if it came down to $9—and he believed it had at one time—then the duty was $2 70 per ton, and a reduction of $21 per ton in the price, to facilitate competition. Thus, sir, you lost $6 30 revenue per ton, and $21 protection, if you choose It discriminated against labor when products were abundant abroad, and cheap. We thus become losers of revenue, without a shadow of a shade of protection.

Now, sir, what is the remedy for all this? It is plain. Specific duties—moderate specific duties—moderate, not inconsistent with revenue. Take iron again as an example: fix a price for it, say $20 or $25 per ton; calculate it at $20, if you please; say thirty per cent. on this valuation; this would be six dollars. Now, sir, when it would become abundant abroad, and should come in at nine dollars, (the valuation per ton,) you would still get your six dollars on the ton; and the more that should come in, (the evidence of superabundance, and want of market abroad,) the more revenue there would accrue to the country. Let this be the system in regard to the great articles of manufacture and produce of the country. Specific duties would give stability. Our affairs would not be made to fluctuate, nor our revenue either.

Mr. C. J. INGERSOLL inquired, if his colleague did not consider specific duties necessary on liquors, wines, and brandies?

Mr. THOMPSON said he did not know—he could not answer—he did not deal in these articles.

Mr. C. J. INGERSOLL. You will, if you consider the interest of the country.

Mr. THOMPSON said he could not charge his colleague, for whom he had the highest regard, with any want of consistency, not in the least. But it seemed to him to be within his recollection, that his colleague, at the last session of Congress, proposed a reduction of duties on liquors to fifteen per cent.

Mr. INGERSOLL. I proposed it—for there ought, no doubt, to be a reduction, but it ought to be a reduction to specific duties; they are a good deal better than your ad valorems.

Mr. THOMPSON said he was opposed to ad valorems as universally applied. He thought it a mistaken policy in every point of sight. He was in favor of reasonable specific duties, but opposed to minimums.

Mr. GREELEY begged the gentleman from Pennsylvania to tell him how he could have specific duties and not minimums?

Mr. THOMPSON. There was a difference between them, he thought—so thought the framers of the tariff act of 1842. They fixed by law an artificial value, without any regard to its real value, and assessed a duty equal to its whole value in some cases, without any regard to supply, demand, market, or anything else.

VOICES. You are wrong.

Mr. THOMPSON. I am not wrong, I think. The act of 1842 contained specific duties—and minimums, not as a consequence of specific duties, but as a consequence of the ad valorem system. Without critically inquiring into that branch of the matter, he had not taken the terms as convertible. At all events, these minimums, to a greater extent than anything else, overthrew the tariff of 1842.

Mr. THOMPSON proceeded. He wanted specific duties, moderate and reasonable. Those fluctuations that contingencies produced abroad, he wanted to avoid; and he only wanted this when any part of our industry was of the kind to be injuriously affected by foreign revulsions. Let us have a system, uniform, that will not run up prices to-day, and depress them to-morrow, by the accidency of want of demand in other countries. The Democratic doctrine was a tariff for revenue, with incidental protection; and it can be arrived at by no other process than by the imposition of specific duties. He, for one, asked no "protection for protection." This, he conceived and believed, was exploded. And he was glad it was so. But these extreme and radical changes he was opposed to. Their suddenness is objectionable. That the change from specific duties to ad valorems—and very radical at that—have effected, to some extent, the politics of the State he had the honor in part to represent, he did not doubt; but to what extent, he was unwilling to say. Many agencies were at work to defeat the Democracy of the old Keystone. This was one of them, and contributed, to some extent, to produce the result.

Mr. Chairman (said he) I was opposed to the tariff act of 1846 in its then shape. I preferred amending the act of 1842. I now desire most earnestly a modification of the act of 1846. I care not about the increase of duties; it is their form I wish to alter. The interests of my State (said he) require (and he spoke only of them from his being better acquainted with them) stability—the stability to be acquired from specific duties. He was opposed to the repeal of the act of 1846. He most earnestly opposed going back to the exploded system of 1842. Sir, if reënacted, it would only become the object of the most untiring warfare. No reliance could be placed in its stability. It would be the nucleus around which, in opposition, thousands and thousands would constantly accumulate, until it would be overthrown and destroyed. It would be the element in every Presidential contest, and become a mere political question, in disregard of all the principles, whether of revenue or protection, upon which it might be based.

Amend, sir, this bill. He appealed to his friends over the way. They now had the power. Now amend—reform—do not destroy. The tariff question had some effect in Pennsylvania at the late election. Let not the hope of keeping that State dissatisfied, and thus keeping her out of Democratic traces, prevent your amending the system. You are expected to do it—not give her the act of 1842—that would be broken down as soon as it should come into existence—but reform the present system. Sir, we ask for stability—moderate duties, but in a form consistent with revenue, discriminating, within this principle, in favor of our interests. The gentlemen on the other side of the House are in power now, and will be, at least in the House and in the Executive department, for some time to come. Let me advise them to give us reasonable measures. Amend, and not destroy. No subject, he supposed, ever occupied the mind of man of greater practical difficulty than the financial system of this country. It must frequently be revised and altered, and our great error has been in overthrowing, and not amending established systems, slowly and cautiously

Mr. FRIES begged to ask the gentleman a question. Were not the prices of iron higher now than they were in 1846?

[SEVERAL VOICES: "No."]

Mr. THOMPSON said no, they were not; and gave a statement showing considerable difference at this time. As to the passage of the act of 1846, Mr. T. said he could not now say whether the other side of the House, who opposed it now, were to blame for its passage or not—not now, he said, but he would have something to say about it at some future time. [A laugh.]

There is a resort sometimes to a smile, when an answer is not at hand, (said Mr. T.) and it has been said that some men can laugh who cannot always reason. It was enough for him to remark now, that a Whig Senator in the other branch voting for the act of 1846, carried it, or his vote had the effect of doing so.

"But we shall see," he said, what the gentlemen on the other side will do with this question—whether they will reform or destroy systems. It is with them, and the responsibility rests with them. I invoke the spirit of moderation as the only medium of stability, or the means by which it may be arrived at. He said he had no great choice as to the committee to which this subject should go, so that reform should be the result.

Mr. VINTON said he had not risen for the purpose of entering into any discussion upon the policy of the tariff, much less of discussing the question of its influence upon the revenue, the commerce, the capital, and the industry of the country, with which that subject was necessarily and inseparably connected. He had risen only to say a word in explanation of the reason which had induced him to give to this subject the direction proposed by the resolution which he had offered.

As the gentleman from Tennessee [Mr. GENTRY] had truly remarked, the tariff of '42 emanated from the Committee of Ways and Means. The tariff of '46—the existing law of the land—came also from the same committee. During the present session of Congress, the House, by a very decided vote, had committed the same subject to the Committee of Ways and Means. He presumed that that committee was not ambitious of it; but in drawing the resolution, not only from the history of what had been done heretofore, but from the direction which the House had given to the subject at the present session, he understood it to be the decisive intention of the House that it should be committed to the Committee of Ways and Means. If, however, it was the wish of the House that the Committee on Manufactures should have

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charge of it, he presumed the necessary inference to be, as a matter of course, that the Committee of Ways and Means should be discharged from its consideration, under the resolution which had been adopted, and that it should go to the other committee.

Mr. BURT rose and intimated his desire to put an inquiry to the gentleman from Ohio [Mr. VINTON].

Mr. VINTON having yielded the floor for the purpose—

Mr. BURT proceeded to inquire, whether the Committee on Manufactures since it originated in the year 1819, had ever reported any bill connected with the revenue of the country?

Mr. VINTON, in reply, said that his impression was, that the tariff of 1824 (as it was called,) which was reported at the first session of which he was a member of this House, had come from the Committee on Manufactures, the chairman of which was Mr. Mallory, of Vermont.

Mr. BURT. I think that is the only bill.

Mr. C. J. INGERSOLL rose, and was understood to suggest that the tariff of 1828 had, he thought, come from the same committee.

Mr. VINTON said, such probably might be the fact; but, at all events, for the last eight or ten years—he might safely say for the last ten years—by common consent the subject had been referred to the Committee of Ways and Means. As his friend from South Carolina had said, the subject was much broader than a mere question of manufactures; it embraced a duty upon every agricultural product, upon all grains and grasses, upon everything that came out of the ocean. In fact, it embraced the labor of the country in almost every form in which it was employed. The question, therefore, was much wider and broader than the mere process of what should come from the hands of the manufacturer.

Mr. GREEN said, that he was in favor of the proposition of the gentleman from Georgia, [Mr. COBB.] It seemed to him (Mr. G.) that the committee to which the subject should appropriately be referred was the Committee of Ways and Means; but if any other committee was to be added, if any other committee was to have charge of the matter, if it was to undergo supervision and investigation by any other body, it must be by virtue of the incidental effect which the revenue laws have upon some particular branch of industry. No member would go so far as to contend that Congress had, in the abstract, a right to legislate for the promotion of the manufacturing interest, as a substantive branch of power. The interest that any gentleman would contend for would be, that Congress had power over the revenue, and that as that might affect the business of the country, Congress probably might appropriately investigate the effect which its exercise would have upon it.

So with the tariff: if the imposition of duties would affect the manufacturing interest, as it must, he had no objection that the Committee on Manufactures should investigate the question, and say how far that branch of the industry of the country would be affected by the revenue laws—how far it had been affected by the tariff of 1846—how far by the tariff of 1842. But as this was purely an incidental right, and not a substantive branch of power, and as it was manifest that the tariff duty must affect other branches of industry, was it not their duty to propose that other committees having charge of these other branches, should inquire how far they had been affected by the operation of these laws? If the object was to take from the Committee of Ways and Means the investigation of the subject, he was opposed to it. If the Committee on Manufactures came in merely as an adjunct to show the effect of these laws upon the manufacturing interests, he was content to consider it as having equal claims with any other—no more, no less. Nine-tenths of the people were engaged in other branches of business than manufactures. Should Congress investigate the interests of the manufacturers, and leave others uninvestigated? He denied that Congress had any right to legislate, as a substantive branch of power, for any one class of industry. But in raising revenue, in laying duties upon imported articles, or in framing any other system of taxation, it was their duty to investigate the incidental effect which was produced on the great body of the people. Would this House confine their investigation exclusively to manufactures? The same duty which devolved upon them in respect to manufactures, was imposed upon them also in respect to agriculture and commerce.

He would not go into an argument upon the tariff in one form or another. He agreed with the gentleman from Pennsylvania, [Mr. THOMPSON,] that in the adjustment of the details of a tariff, it was impossible for any class of men so to frame the law that it would be equitable and just in its operation in all time to come. The changes which were constantly taking place in the business and the commerce of the country, the improvements and innovations which were constantly springing up under the enterprising spirit of our people must call for corresponding change. But Congress could at least settle the principle upon which that legislation should rest. They could not say how far it should go as to this or that particular article, but the principle might be fixed: and that was precisely what Congress should do.

The gentleman from Pennsylvania [Mr. THOMPSON] was mistaken in saying that the people of the United States had decided against the tariff of '46. The most violent advocates of the tariff in the opposition party had said, we are satisfied with the tariff of '46; we make it no test in this election; and if Pennsylvania alone had permitted her vote to be influenced by that question, still it was to be remembered that she, though calling herself the Keystone State, was not *the Union*.

It was not true that the tariff of 1846 was the cause of the defeat of General Cass. It might be that his advocacy of that measure operated injuriously upon him in Pennsylvania. But suppose it did: Was not the gentleman himself a supporter of General Cass? and was not he also a supporter of the protective principle? How was this to be reconciled? The gentleman was in favor of protection. He came out in favor of the abandonment of *ad valorem* duties, and of the substitution of specific duties. Yet the vote in Pennsylvania had been given against General Cass, because he was in favor of the tariff of 1846. One of the two things was wrong; either the gentleman, in voting for General Cass, was not acting in conformity with the views of the great body of his constituents, or he was not acting so on this question here.

Mr. G. would here reply to one objection which had been urged against the tariff of 1846. The gentleman objected to the *minimum* principle, because it was unjust; it assumed a value to the article which it did not intrinsically bear—which it did not bear in the market. Now, he (Mr. G) would ask whether the practical effect of the two principles—the *minimum* and the specific—was not precisely the same? For example: the *minimum* principle taxed an article without reference to its value. The specific principle also taxed it the same amount without reference to its cost. So it would seem, according to the gentleman's argument, that the *minimum* principle was all wrong in relation to cotton goods, but all right in relation to iron.

Mr. C. J. INGERSOLL rose and asked leave to explain.

Mr. GREEN having yielded the floor—

Mr. INGERSOLL said that the difference between the lowest price and what was called the *minimum* duty was this—that one was an assumed price, known to every one to be false: the other was the actual value. Nothing could be more unlike.

Mr. GREEN continued. He said he understood the matter perfectly well. It was not a new one to him. Did iron now bear the value of $25? If so, the gentleman is satisfied with a duty of $7 50, which is equivalent to an ad valorem duty of 30 per cent. But if iron should decline to $15, then the gentleman desires the same specific duty of $7 50, which is equivalent to an ad valorem duty of 50 per cent. And so on in the same proportion with all other prices. Now, the *minimum* principle, which the gentleman very properly condemns, has precisely the same effect. A duty of 30 per cent. on iron, *assuming it to have cost* $25, *whether it cost but* $15 *or less*, is a uniform duty of $7 50, and is what is called the minimum principle; but a *specific* duty of $7 50, without regard to the cost or value, is the same in effect. And yet the gentleman condemns the one, and approves the other. All specific duties amount to an introduction, by disguise, and under a different name, of the odious *minimums*, which have justly received the condemnation of the people—the tax-payers; and but for that fact, we should, in all probability, hear no arguments in favor of specific duties.

It might be that some modification of the law of 1846 was required; but, from the commencement to the conclusion, the principle for which he contended was that of *ad valorem* duties. Let Congress shape its legislation so as to defeat, detect, and punish frauds; but let it not hold out a false principle of taxation to the people to mislead and deceive them. The iron of Pennsylvania was entitled to some degree of incidental protection, as much so as any other interest of the country, and no more. The sugar of the gentleman from Louisiana [Mr. HARMANSON] was to be lowered to the same principle.

Now, so far as the individual and personal interests of his (Mr. G.'s) constituents were concerned, he was willing to settle the principle, and to act upon that principle so long as he should retain a seat here—of assessing revenue upon the principle of *ad valorem* duties. He would apply the same principle of taxation to all; but he was not to be understood as saying that he would support a horizontal tariff. It was not right that the same duties should be levied on all articles. But whilst Congress was exercising this revenue power, it should so exercise it as that the impositions and burdens should be disseminated over the whole body of the people, without reference to any particular class, calling, or locality.

He regarded all taxation, whether direct or indirect, as an evil and a burden to the people; but it was, to some extent, a necessary evil, as Government must have revenue to defray its expenses and keep its machinery in motion. To raise that revenue, he was satisfied with the imposition of duties on imported articles for consumption; and, as such duties must of necessity afford some protection, as an incident to their revenue quality, he was in favor of so adjusting the duties as to afford the same incidental benefit to all classes of the community—not to the manufacturers only, but to the farmers, the mechanics, laborers, and all others. Why not, then, make the same inquiry, and have the same investigation, with reference to agriculture and commerce, as proposed for manufactures? And why not also make a similar inquiry with the view of equalizing the burdens of taxation? We ought to equalize the burdens imposed upon the people for the support of Government among all classes of the community, in proportion to their ability to pay; and we ought, with the same care, to equalize the incidental benefits which might result from such taxation.

For these reasons he was in favor of the amendment of the gentleman from Georgia, [Mr. COBB;] that if the operation of the revenue laws was to be investigated as they bore on manufactures, it should also be investigated with respect to agriculture and commerce.

Mr. GREELEY said, he was very sure that if they could have a fair understanding of each other on this question, this committee could come to a satisfactory conclusion. For his part, he would just as soon have this subject referred to the Committee on Agriculture, as to the Committee on Manufactures. He repudiated the idea that there was any diversity, any discordance of interests between agriculture and manufactures; and he regarded it as most unfortunate, that two committees had been appointed on this subject. There ought to be one common grand committee of this House to look to the industrial interests of the country—a committee on industry, who should look to the

effect which the tariff would have upon every branch of industry, without discriminating in favor of any. They never should have admitted tn the organization of the committees of this House, that there was any divergence, any conflict between the interests of agriculture, commerce, and manufactures.

Why desire another reference, then, than that pointed out by the resolution under consideration? With all respect to the Committee of Ways and Means, (probably the strongest committee in this House,) and to its honorable chairman, he recognized, in the amount of business before that committee, an absolute impossibility for any such early, prompt consideration of this subject by them as ought to be given. What were they now considering? Not the enactment of a tariff. He did not suppose that any member of this House expected they would enact a tariff this winter. He would be very unwilling to take the general subject of the tariff from the Committee of Ways and Means. What he would wish done was, to refer that part of the message which related to protection, to a committee who would give it thorough, earnest consideration, and a prompt, respectful reply. The message proposed no action on this subject. It was a general indictment by a retiring President, on behalf of a defeated party, against the party which had triumphed, and the policy which has, in the main, been predominant since the adoption of the Federal Constitution. Now, he wanted a committee of the House to take this subject into consideration, and make a report. Were the other side of the House unwilling that they should have this privilege? This indictment had gone to every portion of this country; a heavy number of extra copies had been ordered printed; it had probably already been read by almost every voter and it would be by many more. Now, he thought they ought to have the privilege of an answer, which could not by any means be circulated over a quarter of the ground where the indictment had gone; but which, at any rate, should stand as the answer of this House to this indictment of the early Presidents, the early Congresses, and of almost all the public men from the formation of the Constitution to the present. The first Congress had openly declared, and almost every Congress since had directly or indirectly maintained, the constitutionality of protection. The present incumbent of the Presidential chair did not admit this, but imputed, by plain implication, if not in words, the most unworthy motives to the Congresses, the Presidents, the Secretaries, the majorities of the people who had successively passed protective tariffs. He (the President) imputed to them the purpose of building up an aristocracy in this country, of favoring one class at the expense of another, of oppressing the poor for the benefit of the rich, of building up as near as might be an imitation of the aristocratic system of Europe. This was the grave charge which had gone out. Ought they not to have the opportunity of an answer in some way or other? Would the Committee of Ways and Means take this matter in charge and prepare an answer? Would their other duties permit them to do it? If they would, he was willing they should; if not, he was willing that the Committee on Agriculture should, or any committee who would give the subject that ample investigation, and that early reply which was demanded.

But the reference proposed by his colleague was the natural one, because the Committee on Manufactures had had charge of the subject before. That committee reported the tariff of 1828; the Committee on Manufactures reported substantially the tariff of 1842; afterwards it was recommitted to the Committee of Ways and Means, as he should wish it now to be done; but the framing of the bill was done by the Committee on Manufactures, Mr. Saltonstall being their chairman. The tariff of 1846 was not. Why not? Because that tariff was framed by the enemies of protection, and with the avowed purpose of levying duties for revenue, not for protection; therefore it was very proper that this tariff should have been committed exclusively to the Committee of Ways and Means.

He therefore hoped that his respected friend, the chairman of the Committee of Ways and Means, would consent to let this subject go to some other committee of this House, unless he avowed himself willing and able, in view of the mass of business before that committee, to make a report to this House upon that part of the President's message which so gravely implicated the established policy and nearly all the public men of this country.

Mr. BAYLY said, if this committee had before had any doubt as to the object of the motion to refer to the Committee on Manufactures, since the remarks of the gentleman from New York [Mr. GREELEY] they could have that doubt no longer. That gentleman had explicitly declared that that motion had not been made with a view of expediting in any respect the business of this House; that it had not been made with a view to any legislation upon their part—with a view to which alone were the committees of this House raised—but that it was to be referred to the Committee on Manufactures, with the view of having them manufacture an electioneering document, an official reply to the message of the President of the United States. Now, he believed that the proper mode of replying to that message, if a reply was desired, that the usual and parliamentary mode was by debate in this committee. It was one of the objects of referring the message to the Committee of the Whole on the state of the Union, that it might be criticised—that its topics might be discussed—that its recommendations might be considered. The gentleman from New York avowed that the purpose was to take this message from this Committee of the Whole, in which every district of the Union was represented, and to commit it—where? He (Mr. B.) objected to the reference of this subject to the Committee on Manufactures, not only because that committee was organized in reference to subjects with which this part of the message had no legitimate connection, but he objected to it on the ground of the constitution of that committee itself. How was that committee constituted? There were many of the largest and most important interests of this country which were not represented upon it at all. They had been told by the chairman of the Committee of Ways and Means, [Mr. VINTON,] and by almost everybody else who had spoken, that in this subject of the tariff every interest of the country was concerned. That was doubtless true. But how was the Committee on Manufactures constituted?

There was one great interest of this Union, that which constituted the great bases of its commerce, that, without the existence of which the commerce of our country would languish—the cotton interest, which had not a solitary representative on that committee. There was another great interest of agriculture—that of tobacco, which had not a representative on that committee at all. It was true, his honorable colleague from the Kingwood district [Mr. BROWN] was on that committee; but it was known that his district, to a considerable extent, was a coal and iron district, although he was glad to know that he was a true free-trade man. When they came to the great States of the West with their hemp, with their pork, and with their other vast agricultural products, they were represented on that committee only by a gentleman from the extreme Northwest. The only member on that committee from the West at all was the honorable gentleman from Michigan [Mr. STUART.] There was no man on that committee south of western Virginia. There was another interest—the sugar interest, too, was unrepresented. Then, there was the great commercial interest, which he regarded, and which all the political economists of our country had regarded, until of late, as second only to our agricultural interest—without which our agricultural interest could not live at all (for it furnished the way of getting our agricultural products to market)—that interest was not represented. From none of the great commercial portions of the country was there a single member upon that committee. Now, was it possible, when the object was avowed to be the getting up of an electioneering document, that all these great interests which were concerned, were not to be represented upon the committee that was to manufacture it?

He begged the House to turn to the constitution of that committee, which seemed directed especially to the manufacture of this electioneering document. There was at its head—Mr. Andrew Stewart, of Pennsylvania; and there were also Mr. Amos Abbott, of Massachusetts; Joseph E. Edsall, of New Jersey; John W. Houston, of Delaware; Charles E. Stuart, of Michigan; Eliakim Sherrill, of New York; William G. Brown, of Virginia; John W. Crisfield, of Maryland; and James H. Johnston, of New Hampshire. Indeed, it was a committee almost entirely a New England committee, as contradistinguished from a committee which should represent the interests of the great West and the South; and he said not only because the committee was organized in reference to the consideration of no subject such as this did he object, but the constitution of the committee was an insuperable objection to the reference sought.

He would not go into any other of the topics which had been debated. The question of protection, the expediency and wisdom of the tariff of 1846—all these subjects, it was probable, at some time or other, would come up. Whenever they did, he held himself prepared to vindicate the tariff of 1846, and to show that it had more than met the expectations of its friends, and falsified all the predictions of its enemies.

Mr. MARVIN did not propose to enter into any discussion in regard to the question of protection, but to confine himself purely, strictly, to the question before the committee. He thought—and he wished to state his reasons for that opinion—that the amendment offered by his colleague ought to prevail, and that the amendment to the amendment should not prevail. He read the 4th resolution, to show the questions which it proposed to refer to the Committee of Ways and Means, and said that the amendment of his colleague proposed to refer the question of the tariff of 1842, and of 1846, to the Committee on Manufactures; and the question was, ought it so to be referred? Why, the whole history of the doctrine of protection, as it was found among the public documents of this House, showed most conclusively that to no other committee could that subject with propriety be referred. Let them look a moment to the history of the proceedings of this House touching this subject of protection; for let it be remembered, that the President of the United States, in his message lately communicated to this House, had gone into an elaborate argument for the purpose of showing that duties imposed with a view to protection are unconstitutional; that they are constitutional only when imposed with a view to revenue.

Now we knew there were two classes of opinions held by statesmen in this country in reference to this great subject; we knew our country was divided in regard to it; and the President had offered us a long argument for the purpose of sustaining those views which had governed him during his administration of the Government. To what committee, then, was it proper, according to the usage of this House, to assign the duty of taking up and examining the President's argument? Let them look for a moment to the history of this House, so far as the doctrine of protection was concerned. Why, a bill was passed in 1816, early after the late war with Great Britain, that was regarded as a bill for protection: that was its ostensible object. But from whom did that bill emanate? From the Committee on Commerce and Manufactures.

The gentleman from Georgia had said there was a great intimacy between manufactures, agriculture, and commerce. So said Congress at that time—so said the House of Representatives, that there was so close a connection between the interests of manufactures and commerce, that, in determining whether duties ought to be imposed with a view to the encouragement of manufactures, a perfect knowledge of the commerce of the country was necessary. Hence, it was one committee only which embraced the subjects of commerce and manufactures. By that committee the tariff of 1816 was reported. That committee had the charge of the subject of protection for a series of years. But by and by the whole country became anxious to see this subject thoroughly revised; the country, in various parts, called for a bill to protect the manufacturing interests of the country—not so much to protect the manufacturing interests of the country as such, but because the only way they could reach and protect the great interest which overspread the whole country—he meant the agricultural interest—was through the manufacturing interest. Hence there was an uprising in all parts of the country, and a bill was called for, for the protection of the home interests of the country, as the only way to reach the overwhelming interest of agriculture. Did not the name of that distinguished citizen of Pennsylvania recur to

every gentleman within the sound of his voice—the Hon. Mr. Baldwin, subsequently a Judge of the Supreme Court of the United States, who was so long a distinguished member of this House from the State of Pennsylvania, and a member of the Committee on Commerce; and the name of the chairman of that Committee on Commerce, Hon. Mr. NEWTON, of Va., who was so long a member of this House, that he was styled emphatically "the father of the House," having been a member of it, and at the head of the Committee on Commerce and Manufactures for 20 years? Yet Judge Baldwin, though not at the head of that committee, placed himself at the head of the great subject of protection, and, as a member of the committee, year after year, reported bills with a view to protection, and year after year furnished reports, which were not exceeded, perhaps, in ability and masterly argument even by the great report of Alexander Hamilton on this subject—reports most replete with argument in favor of protection. These reports, long and able, were on the files of this House. Well, after he had thus labored and worn himself out, year after year, Judge Baldwin was one day complaining of his misfortunes to the then distinguished Speaker of this House, (Mr. Clay,) that he had so long labored, and labored in vain, that he did not know but he must give up the whole subject of protection. "Why," said that distinguished Speaker to him, (in conversation,) "I have hit upon a plan which will relieve you. There must be a new committee created in this House—a Committee on Manufactures,—and you, Mr. Baldwin, must be its chairman." And so he was. A Committee on Manufactures was established, and Judge Baldwin was made chairman of it; and here again he produced those reports upon protection which had been cited as text-books from that day to this, and would be when the subject again came up for discussion. Judge Baldwin ceased to be a member of this House, he (Mr. M.) believed, simply because he had been laboring under an illness which prostrated him for a series of years. His successor, Mr. Todd, was elected, and he was placed on the Committee on Manufactures.

He (Mr. M.) did not see the gentleman from Ohio, the chairman of the Committee of Ways and Means, now in his seat; but he wished to correct the suggestion which had been made by him, when speaking of the tariff of 1824, that it was reported by Mr. Mallory. The fact was otherwise: Mr. Todd, who succeeded Judge Baldwin from the State of Pennsylvania, reported the tariff bill of 1824, which was discussed almost for the entire session. But although he reported that bill, he did not accompany it with any report upon the subject of protection. Why? Those reports which had been furnished to this House, and those on its files and among its printed documents, which had been made by Judge Baldwin, were deemed amply sufficient, so far as regarded the settling forever the great constitutional question. He said, therefore, that that bill was reported by Mr. Todd from the Committee on Manufactures. He (Mr. M.) happened to be a member of that committee at that time, and therefore the gentleman from Ohio, he hoped, would excuse him for setting him right upon this matter of history.

Mr. M. proceeded to state that the great bill of protection of 1824 was considered as having taken especial care of the iron interests of Pennsylvania, but not of the great wool growing interests of New England; and hence it became necessary that the tariff should be revised with a view to that interest. And it was not necessary for him to say, that when any alteration was proposed to be made in the tariff system, the whole subject had to be gone into. In 1828, the other great bill of protection was brought forward by Mr. Mallory. That gentleman had previously been a member of the committee; but he was then chairman of the Committee on Manufactures, and he it was who reported the great bill of protection of 1828. That law remained in force until the passage of the bill known as the compromise bill, which looked forward to a continued reduction of duties, to a diminution little by little, until it brought the country into a predicament from which it could scarcely see any mode of escape. Then it was that the Committee on Manufactures again took up the subject, and labored and labored upon it. They labored in vain. They were resisted at every point; until, ultimately, to save the country and prevent an adjournment of Congress without anything being done, the Committee of Ways and Means—of which a distinguished gentleman from New York, recently elected to a more elevated station, (Mr. Fillmore,) was chairman—relieved the country from its embarrssment, by bringing in a bill based upon that which had already been introduced by the Committee on Manufactures.

What, then, was the true state of the case? During the whole history of protection in this House, no other committee had ever taken up, examined, and reported on this subject. The first reports emanated from the Committee on Commerce and Manufactures. When a new Committee of Manufactures was created, (of which Mr. Baldwin was chairman,) that committee had charge of the subject, and had furnished many able reports. And again, at a subsequent period, able reports had been made for and against the principle. The Committee on Manufactures was framed upon the revenue principle. A majority of the committee were in favor of that principle. Mr. M. alluded to majority and minority reports which had been made by the committee—one in favor of free trade, 40 pages long—the other in favor of protection, 50 or 60 pages—(one of the ablest arguments ever made in favor of the protective policy.)

He alluded to these facts, to show what he believed to be the case—that there never had been a committee in this House that had taken up and reported upon the doctrine of protection, except the Committee on Manufactures; and he drew thence the inference, that the argument contained in the President's Message should be referred to that committee. And he quoted the opinion expressed by General Jackson, in his first message, in relation to the right and duty of the Government to protect the country from the injurious commercial regulations of foreign Powers.

The interests of commerce were great—so also were the interests of agriculture. But the subject of manufactures had been separated from that of commerce, because it required the labors of a separate and distinct committee. And now the amendment to the amendment proposed to go back—not only to send the subject to the Committees of Commerce and Manufactures, but also to add the Committee on Agriculture. It was true, he repeated, that the interests of commerce and agriculture were great interests. But did it follow, when a subject was referred to the Committee on Commerce and Manufactures, that the committee must necessarily confine its views to considerations affecting only this or that particular branch of industry or business? Surely not. Mr. M. very briefly enforced this view of the case, by reference to the interests of the agriculturists, and the mode by which they could best be promoted.

He did not propose to discuss the question of protection. He thought he had said enough to show that if the House did not now refer the subject to the Committee on Manufactures, it would depart from that which had been its uniform usage since this interesting question had first been discussed. To that committee, where the duty properly belonged, he hoped it would be referred.

Mr. FISHER proposed, he said, to make a few remarks on this question, if the committee would give him its attention for a short time. The subject was one of conceded importance to all parts of the country. The section of country which he represented was devoted principally to agriculture. It had been truly said, that all the interests of the United States were alike allied and connected together by the tariff system. In his opinion, the subject should be referred especially to the Committee of Ways and Means, which, as he thought, was the proper committee to make a report.

And here, in the commencement, he wished to submit a few remarks in relation to the different views entertained by different sections of country upon this question of the tariff.

It seemed to him that very erroneous opinions existed in the minds of those who were in favor of free trade—in other words, of those who were opposed to the protective policy. It was contended that the consumer paid the duty—that it was computed in the price of the article—and that, therefore, the consumer had to pay it. And this was one of the principal objections urged in opposition to the protective policy, and in favor of free trade. Now, if it could be shown that this position was not correct, that the consumer did not pay the duty, of course it followed, as a necessary consequence, that this argument ceased to have any force or validity. It fell to the ground.

He knew only of three objections which had been urged in opposition to the protective policy by the free-trade party. If these objections could be shown, as he believed they could, to be unsound and fallacious, then, as a matter of course, objections to the system could no longer be urged.

The first objection was, that the system was unconstitutional. In answer to this position, he would reply, that it was enough for us to know that such a policy had been introduced at the organization of our Government, under the first administration, and that there never had been a time (excepting only that which had elapsed since the enactment of the tariff law of 1846) in which the authority of this Government to establish a protective policy had not been recognized. The principle had been acknowledged in every tariff.

Another objection was, that which he had noticed at the outset of his remarks, namely, that the consumer paid the duty; and hence all the arguments of the free-trade party were directed to that point. They attempted to prejudice the minds of the people against the rich. They said that it was the imposition of a tax on the poor for the benefit of the rich. Now, that not being true, of course this objection to the protective policy was removed. The duty was a tax upon the foreign importer—to be paid by whom? Who were the taxed party, and to whom was the tax to be paid? The free-trade party assumed (and it was nothing more than an assumption) that the tax was paid by the consumer to the manufacturer; when the fact was, that the duty was paid by the foreign importer or manufacturer to the Government of this country. They said it was a bounty paid—by whom? By the consumer to the manufacturer; when, in truth, it was a bounty paid by the foreign importer to the Government of the country for the privilege of selling his commodities in our market. There was but one method by which the consumer of our country could be taxed. If the free-trade party could prove that the duty was added to the price of the commodity, and that the consumer had it to pay, he (Mr. F.) would yield the argument. But until this was done, he must be in favor of the policy of protection. If it was true that the duty was added to the price of the article, (and the President, and the Secretary of the Treasury, in all his reports, had assumed but not proved it,) then the imposition fell practically upon the people of the country. If this was true, it could be proved. Let him briefly pursue the argument.

Mr. F. here gave way to—

Mr. STANTON, who moved that the committee rise.

The motion having prevailed,

The committee rose, and reported progress.

And the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. RITCHEY: The petition of John Clark and 241 other citizens of Washington and Athens counties, Ohio, praying the establishment of a mail route from Constitution, in Washington county, Ohio, to Federalton, in Athens county: referred to the Committee on the Post Office and Post Roads.

By Mr. MANN, of Massachusetts: The petition of Martin Lincoln, of Massachusetts, and 115 others; of John Patten, of Maine, and 412 others; of Charles Geber, of Maine, and 70 others; and of Christopher Comstock, of Rhode Island, and 84 others,—severally in behalf of cheap postage. Also a memorial of the yearly meeting of anti-slavery Friends, held at Newport, Indiana, praying for the abolition of slavery in the District of Columbia, its non-extension to the Territories, &c.

By Mr. CHAPMAN: The petition of C. P. McCorkle, for difference of pay between captain's clerk and purser on board the United States schooner Petrel, in 1846 and 1847. Also the petition of Matilda W. Braw, for a pension.

By WILLIAM T. LAWRENCE: The petition of inhabitants on the route, for the establishment of a post route between Ithaca, in Tompkins county, and Bath, in Steuben county, in the State of New York: referred to the Committee on the Post Office and Post Roads.

By Mr. PENDLETON: The petition of Dangerfield Fauntleroy, praying for a law directing a fair and equitable adjustment of his accounts as purser of the United States navy, for expenditures made in California, by order of his commanding officer.

By Mr. ABBOTT: The petition of Thomas H. Cutter and others, citizens of Newburyport, Massachusetts, praying for a reduction and uniform rates of postage throughout the United States: referred to the Committee on the Post Office and Post Roads. Also, the petition of John Balsh and others, citizens of Massachusetts, praying that the law may be so amended as to increase the per diem pay and mileage of jurors serving in the courts of the United States.

IN SENATE.

WEDNESDAY, *December* 20, 1848.

The VICE PRESIDENT laid before the Senate a report from the Secretary of the Senate, containing a statement of the disbursements from the contingent fund of the Senate; which was ordered to be printed.

On motion of Mr. JOHNSON, of Louisiana, the bill for the relief of George Poindexter was recommitted to the Committee on Claims.

Mr. BRIGHT presented the petition of Samuel O. Davis, a revolutionary soldier, praying to be allowed an increase of pension; which was referred to the Committee on Revolutionary Pensions.

Mr. ATHERTON presented the petition of John A. Webber, United States military storekeeper at Watertown, Massachusetts, asking compensation for extra services; which was referred to the Committee on Military Affairs.

Mr. DIX presented the petition of J. W. Nye, asking compensation for public lots leased to him and now required to be surrendered; which was referred to the Committee on Public Buildings.

Mr. JOHNSON, of Maryland, presented the memorial of Benedict Heard, asking compensation for the destruction of property by the enemy in 1814; which was referred to the Committee on Claims.

Mr. FOOTE presented the petition of the receivers and registers of the public lands in the State of Mississippi, asking compensation for extra services in making out land warrants; which was referred to the Committee on Public Lands.

On motion of Mr. KING, the petition of Hugh Wallace was taken from the files of the Senate and referred to the Committee on Pensions.

Mr. DOWNS, pursuant to notice, asked and obtained leave to introduce a joint resolution to authorize the Secretary of the Navy to contract for carrying the mail from New Orleans to Vera Cruz; which was read a first and second time, as follows:

Resolved, &c., That it shall be the duty of the Secretary of the Navy to contract, on behalf of the Government of the United States, for the transportation of the United States mails from New Orleans, (La.,) to Vera Cruz, in Mexico, twice a week and back, touching, if practicable, each way, at Galveston and Matagorda Bay, (Texas,) and Tampico, in Mexico; the said mails to be transported in at least two steamships, of not less than eight hundred tons burden, and of ample power; each to be constructed under the direction of a naval constructor in the employ of the Navy Department; and to be so constructed as to be convertible into war steamers at the least possible cost; and that each of said steamships shall receive on board, and provide suitable accommodations for, without charge to the Government, one agent, to be appointed by the Postmaster General, who shall have charge of the mails to be transported in said steamships: *Provided*, That the term of service aforesaid shall not be for less than ten years, and the compensation for the same shall not exceed $150,000 per annum, and that sufficient security be required for the faithful fulfillment of the stipulations of the contract: *Provided, further*, That the Secretary of the Navy shall be authorized (in view of an early commencement of the service hereby contemplated) to accept for a period not to exceed two years, from July 1849, the service of two suitable steamships, to be received after being inspected by a proper officer designated by the Navy Department for that purpose.

Mr. DOWNS moved that the joint resolution be referred to the Committee on the Post Office and Post Roads, presuming that this was the appropriate committee

Mr. YULEE suggested that its more appropriate reference would be to the Committee on Naval Affairs. The subject of the employment of steamers in the transportation of mails was now before that committee. If the subject was now sent to another committee, it might lead to a confusion of policy. All the bills of this character proposed to place these mail steamers under the charge of the Secretary of the Navy. He would therefore move the reference of the joint resolution to the Committee on Naval Affairs; which motion was agreed to.

Mr. CAMERON, pursuant to notice, asked and obtained leave to introduce a joint resolution for the relief of the heirs of George Simpson; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. UNDERWOOD gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a bill for the relief of Theodore Offutt.

Mr. DAVIS, of Mississippi, gave notice that he would to-morrow, or on some subsequent day, ask for leave to introduce a bill to grant a right of way and a donation of lands to the State of Mississippi for certain purposes.

Mr. WESTCOTT moved that he might be excused from serving on the Committee on Claims; and he was accordingly excused, and Mr. FITZPATRICK was appointed in his room.

On motion of Mr. DOUGLAS, the bill for the establishment of a territorial government in Minesota, and the bill for the establishment of a territorial government in Nebraska, were recommitted to the Committee on Territories.

The following resolution, offered by Mr. FOOTE, was taken up:

Resolved, That the resolution of the Senate, authorizing the Vice President to appoint the superintendent of the anteroom, be, and the same is hereby, rescinded; and that the superintendent now in charge be continued, at his present compensation, under the authority of the Sergeant-at-arms.

Mr. FOOTE, in explanation of the resolution, stated that it had been introduced last session by the Senator from North Carolina, [Mr. BADGER,] and was then objected to, because there existed some difficulties between the Sergeant-at-arms and the young gentleman who had charge of the anteroom. Since that time, these differences had been obviated, and the parties were reconciled.

Mr. HALE said he had received applications similar in their character from other individuals, in which he had declined interference, not considering them as proper subjects to occupy the time of the Senate. He moved to lay the resolution on the table; but the motion was negatived, and the resolution was agreed to.

Mr. NILES submitted the following resolution, which lies over for consideration:

Resolved, That the Secretary of the Treasury inform the Senate what construction has been given to the revenue act of 1846, in respect to duties accruing and collected on importations on which a bounty is paid on their exportation by any foreign country; and particularly, whether the amount of such bounty has been deducted from the invoice or valuation of such imports at the place from whence imported.

On motion of Mr. NILES, the bill (of last session) to reduce the rates of postage, was taken from the table, and recommitted to the Committee on the Post Office and Post Roads.

PUBLIC LANDS.

On motion of Mr. BREESE, the bill to reduce and graduate the price of public lands, and for other purposes, was taken up, and postponed until the second Monday in January, and made the special order for that day.

CANADA GOODS.

On motion of Mr. DIX, the bill to admit certain articles of the growth or production of Canada into the United States free of duty, upon the condition that like articles of the growth or production of the United States, are admitted into Canada free of duty, was taken up, and postponed until the 4th day of January next, and made the special order for that day.

The adverse report of the Committee on Claims on the petition of Arnold Naudain was considered and concurred in.

The adverse report of the Committee on Revolutionary Claims, on the petition of Gustavus E. Hamer, was taken up, and, on motion of Mr. JOHNSON of Louisiana, was laid over for the present.

REPORT FROM COMMITTEE.

Mr. DIX, from the Committee on Commerce, reported a bill to authorize the Secretary of the Treasury to issue a new register or enrolment to the vessel Anne Lift.

The bill was then read a first and second time, and, on motion of Mr. DIX, was subsequently read a third time, and passed.

RESOLUTIONS OF THANKS.

The resolution giving the thanks of Congress to Brigadier General Price (from last session) was taken up for consideration as in Committee of the Whole, and reported to the Senate, without amendment.

Mr. HALE asked if the present of a sword, which was embraced in this joint resolution, was the usual accompaniment of a vote of thanks. If not, he saw no reason for its insertion in this resolution.

Mr. ATCHISON said, that a resolution had been reported last session giving the thanks of Congress and swords to Brigadier General Price and Colonel Doniphan. But he knew nothing of the origin or existence of this joint resolution. Perhaps the Senator from Mississippi could give some information.

Mr. DAVIS, of Mississippi, said he knew nothing of this joint resolution.

Mr. BADGER asked if it was usual to fix the price of the sword. He perceived that 500 dollars was named in the joint resolution.

Mr. YULEE suggested that it would be as well to refer the joint resolution to the Committee on Military Affairs.

On motion of Mr. BADGER, the joint resolution was then recommitted to the Committee on Military Affairs.

The joint resolution giving the thanks of Congress to Colonel Doniphan (from last session) was then taken up for consideration as in Committee of the Whole.

Mr. ATHERTON asked the Senator from Missouri if he did not understand him as saying that the subject of this resolution was embraced in the joint resolution of last session to which he had referred?

Mr. ATCHISON replying in the affirmative—

Mr. ATHERTON moved to recommit the joint resolution to the Committee on Military Affairs.

Mr. HALE said he hoped the committee would report all these matters back in a single batch, and not bring them before the Senate piecemeal.

The motion was then agreed to, and the joint resolution was recommitted to the Committee on Military Affairs.

LANDS TO ALABAMA AND FLORIDA.

The bill to grant the right of way and a donation of public lands to the States of Alabama and Florida, for making a railroad from Montgomery, in the State of Alabama, to Pensacola, in Florida, and from thence to the waters of the Tensaw river, on Mobile Bay, in the State of Alabama, was then taken up for consideration as in Committee of the Whole.

On motion of Mr. KING, the bill was laid on the table for the present, to allow time for further examination.

The bill concerning pilots (from last session) being taken up on its second reading—

On motion of Mr. DIX, no objection being made, the bill was passed over informally.

SPECIAL ORDER.

The VICE PRESIDENT then called up the special order, being the bill to grant compensation in aid of the construction of a railroad across the Isthmus of Panama.

Mr. WESTCOTT remarked, that as the Senator from Missouri, [Mr. BENTON,] who had charge of this bill was not now in his seat, he would ask the Senate that the bill be informally passed over.

No objection being made, the bill was passed over informally.

THE EVERGLADES OF FLORIDA.

Mr. WESTCOTT moved that the Senate proceed to the consideration of the bill to authorize the draining of the Everglades, in the State of Florida, and to grant the same to said State for that purpose; which had been made the special order for this day.

The motion being agreed to, the Senate proceeded to the consideration of said bill; which was read.

Mr. WESTCOTT. My reason for asking the early action of the Senate upon this bill is, that, if it passes Congress, it requires, before it can have any efficacy, that the stipulations in it connected with the grant of lands it makes to the State of Florida must be accepted by express law passed by the State Legislature. The sessions of the State Legislature are only *biennial*. It is now in session, but will probably adjourn in January, and will not again convene till November, 1850.

I will not detain the Senate by a detail of the reasons which should induce Congress to make this grant for the objects and with the conditions prescribed in the bill. They are fully and lucidly set forth in the report of the Committee on the Public Lands, in the report of the Secretary of the Treasury, and in the report of the Commissioner of Public Lands, and the documents accompanying those reports; all of which I have caused to be laid on the desks of Senators this morning. All those reports recommend the cession or grant, and in the form and manner prescribed in this bill. The interests of the United States are guarded and

protected fully by the conditions so prescribed. They were suggested by those whose duty it is to see to the protection of those interests, and I fully acquiesce in the propriety of every one of them.

I presume there is no Senator who has read the documents I have referred to who is not fully satisfied that the entire territory proposed to be granted to the State is now utterly valueless to the United States. Why, sir, your surveyor general has reported officially that in its present situation, and without being drained, as it is the object of this bill to effect, it is not only so worthless that it would not pay the cost of survey, but, in fact, that a very large portion of it cannot be surveyed at all till it is so drained.

There is a map of the lands, prepared at the Land Office, on the Secretary's table, to which I would request Senators to look. Nearly the whole region is a vast lake of fresh water—a prairie covered with water during all seasons, from three to six feet deep. This water is chiefly supplied from Lake Okechobee, which is at the northern end of the grant proposed to be made. It is proposed to cut large and deep canals from this lake to the waters of the Gulf on the west side and the waters of the Atlantic on the east side, and also to cut smaller canals or drains through the rim of soft limestone rock by which the Everglades are separated from the Gulf and the Florida straits and the Atlantic Ocean. In addition to these canals, there must be local improvements made by the purchasers of the drained lands, or rather by associations of such purchasers, or by the State, with the sole view of enhancing the value of the lands for agricultural purposes. In this respect the undertaking is like that of *leveeing* the banks of the Mississippi river. These are improvements which it is out of the question to suppose can be done by the Federal Government, and especially by your engineer officers. If attempted to be so made, millions may be squandered to no good end. They should be made by practical men acquainted with the country, interested in it, and in its agricultural prosperity, and it is best that it should be under the control of the State. I do not suppose that the State will undertake the work itself, but I suppose it can readily make arrangements on highly favorable terms, with individuals or associations, to undertake it under conditions, securing against speculation on the one hand, and with guarantees against failure to accomplish what may be done, on the other hand.

The lands should be conditionally disposed of as the work progresses, and the conditions in each case should be such as the circumstances—its location and character—call for to secure the keeping up of the improvements hereafter. Besides, there are those who conscientiously believe Congress has no constitutional power to undertake such works, even on the public lands, and I frankly concede such are my convictions. The idea of the United States undertakng this work has never been entertained by me. Pass a law, and what will be the result? Thousands of dollars will be squandered in reconnoissances, and surveys, and reports, and maps, and plans, and estimates, and ciphering of all kinds, which will take some four or five years, and then, if the work is commenced, enough probably to effect its completion will be expended in traveling expenses and contingencies, and in getting ready to do it, and then there must be steamboats and other expensive apparatus provided; and though it may be done in a very scientific style, some ten or fifteen years hence, it will cost more than it will be worth when it is done. I hope even if this bill fails, the Federal Government will not undertake to do this work.

Senators are requested to notice two facts set forth in the documents appended to the report of the committee:

1. That if the work is successfully effected, some hundreds of thousands of acres of the most valuable sugar lands in the country, now annually overflown by the Kissimme river, will be reclaimed for cultivation. All of these lands lie outside of the proposed grant, and north of it, and the entire benefit of their being reclaimed will inure to the United States. I refer to General Jesup's letter, on page 43, and to the committee's report, page 2, on this point.

2. That while about one million of acres of lands in the grant have been surveyed several years since, only 360 acres have yet been sold. These lands are poor pine barrens, except in limited quantities, and their location, contiguous to the everglades, until the latter are improved, forbids the idea of their ever being settled upon or sold. They will be enhanced in value so soon as the improvements are made. The timber on them will render most of them then worth perhaps the *minimum* price of public lands. *In this bill, one-half, in alternate sections, is reserved to the United States of these lands.*

The Senate will notice that the bill prescribes the objects of the grant, and imposes on the State, if it accepts the grant, the obligation to effect them as far as practicable. It does not require of the State to do more than to devote the entire proceeds and avails of the grant to the work; but the conditions imposed secure such appropriation of those proceeds. Those conditions are—

1. That the State shall appoint a competent engineer and commence the work, which is specifically described, before 1st January, 1851, and finish it within ten years; and that, "if practicable, a communication for vessels shall be made by the proposed canals between the Gulf and Atlantic waters."

2. That the State shall not alien, transfer, pledge, or mortgage, or otherwise dispose of any of the lands, except to effect the "full and faithful fulfillment of the first condition, and the entire avails and proceeds shall be *exclusively* and *sacredly* appropriated to the completion of the work."

3. Until the works are completed, no sale of any of the lands shall be made for less than one dollar and a quarter per acre.

4. Until the President shall authorize it, in writing, no entry or encroachment shall be made on the lands on which the Seminole Indians reside within said grant.

5. The sixteenth section, or school section, in each township may be located by the Legislature on another section, so as to secure in each township a valuable section for school purposes.

6. One-half of the surveyed lands in grant reserved by United States. State to have the right of way. President to reserve within two years lands for lighthouses, forts, arsenals, docks, navy-yards, or other public works, &c. Grant not to affect Spanish grants now or hereafter confirmed, or lands bought of the United States at public sale or private entry, or donation or preëmption right or rights under armed occupation acts.

7. After work is finished, residue of avails of lands to be invested as a permanent perpetual fund, the interest of which is to be expended for purposes of education *in the territory granted*..

8. No tolls or charges for United States vessels or property of any kind, or mails, or troops, &c., through canals. All tolls to be fixed by State Legislatures, and applied to keeping said works in repair.

9. The surveys of the lands are to conform to those of the United States as far as practicable.

But I will not go further into this subject. My object is not to press this bill to-day. I desire to attract the notice of Senators to the subject, in order, when it is again called up, they may be prepared to vote upon it. If any objections are entertained, I hope Senators will now express them. I desire to furnish any explanations that may be asked for.

Mr. NILES. I would inquire of the honorable Senator as to the extent of the area conveyed by this grant—whether under water or not?

Mr. WESTCOTT. It is fully set forth in the Commissioner's report, page 6, which I will advert to. Within the grant, there is now always covered with water, and which estimate includes rivers, lagoons, sounds, the large lake Okechobee, from thirty-five to forty miles in diameter, and other lakes south of the northern line of the grant, and which it is not proposed to drain or reclaim, and which cannot be reclaimed, and including also the everglades at Atseenahooffa and Halpatiokee

swamps.....acres	4,300,000
There is occasionally covered with water low lands that it is not expected will ever be of great value	1,000,000
There has been surveyed 590,682 into sections, and 409,318 into townships, mostly worthless pine barrens.....	1,000,000
There is yet unsurveyed worthless sand barrens, reported as not worth surveying, about.....	1,500,000
Whole area of land and water in grant.....	7,800,000

Of the first item of 4,300,000, which include the everglades and Atseenahooffa and Halpatiokee swamps, all the lands that it is estimated can be reclaimed do not exceed one million of acres. The residue will yet remain inundated, and whether those reclaimed or not will turn out to be as valuable as is anticipated by some, is quite doubtful.

Mr. KING observed that he would call the attention of the Senator from Florida to the phraseology of the fifth condition, which, if not corrected, might bear the construction that the thirty-six sections there described were in lieu of all the sixteen sections in the State.

Mr. WESTCOTT. I thank the Senator for directing my attention to the error he pointed out, and which I presume was a typographical error, and which will be corrected.

Mr. YULEE. I understand from my colleague [Mr. WESTCOTT] that it is his intention to defer final action on this bill, and that he desires to hear stated all objections to its passage which Senators may entertain. Not having been consulted in relation to this bill, I had not given it any attention till a few days since, when, for the first time, I was requested to examine it. On examination, I found the bill very objectionable to my mind, so much so that I have some doubt whether I shall give it my vote.

My colleague has given considerable time and labor to the subject, and, for one, I thank him for having devoted his talents and labors to its investigation. I think it would be very desirable that the lands specified in this bill should be improved, that they may be settled and brought under cultivation, because it would add very greatly to the elements of wealth and to the resources of the whole country. It would give us several millions of acres of available and fertile lands in a strictly tropical climate, such as we have not now in any portion of the Union. I would be in favor, sir, and would support with great readiness any measure which shall propose to relinquish to the State of Florida either this land—if Congress should prefer to confine its action to this land—or all lands which are now overflown, and which cannot be reduced to agricultural purposes without the expense of canalling and draining. I think all lands which require draining should be ceded to the States within the limits of which they happen to be located. A measure of this sort has been long urged upon the attention of Congress, and, I think, has been brought forward on one or two occasions heretofore, and, if I am not mistaken, has passed the Senate. A similar measure was proposed in relation to the wet lands in the State of Arkansas, and I believe received the general assent of Congress.

If my colleague would reduce his bill to a single section—the first—making an unconditional cession to the State of Florida of these unreclaimed lands, I would vote very readily for it. But my objection to his bill in its present shape is, that it is clogged with conditions which it would be impolitic on the part of Congress to prescribe, and which it would be inexpedient on the part of the State to accept. In fact, the conditions would make the grant utterly valueless. I think the simple course would be, by a single section to cede to the State of Florida these lands, leaving her to adopt such rules and regulations in regard to their reclamation as she may deem the most consistent with her own interests, trusting to her own activity and energy, necessarily stimulated by the advantages and profits which she will derive from them.

It is probable, sir, that the conditions contained in this bill may have been imposed by the committee which reported it, but they seem to me to be altogether impolitic.

I have no hesitation in saying that the unconditional grant of these lands to the State of Florida would be altogether profitable on the part of the Federal Government, and in every respect politic. These lands are now, and must continue to be, utterly unavailable and valueless. Not only valueless as a source of profit to the United States, and for purposes of settlement and agriculture, but they leave the military defences of the country in a very unsatisfactory and precarious condition. These lands comprise a very essential and important part of the possessions of the country. Perhaps there is not a more important point on the whole continent than the peninsula of Florida; but its use for military purposes is entirely obstructed by the circumstance that nearly all the lands intervening between the line of coast on either side of the Gulf of Mexico and the Atlantic are always covered with water, and are not traversable even by boats, not being covered with water to a sufficient depth

to enable boats to pass with much facility or any degree of certainty from one side of the peninsula to the other. Consequently, these lands are perfectly useless. They may possibly be reduced to use; and, if they can be reclaimed, the military defences of the country will be greatly strengthened and its wealth greatly increased by the population, which will, by this means, in all probability, be added to the peninsula. This measure will add not only to the strength, and dignity, and wealth of the State within the boundaries of which these lands lie, but to the strength, and dignity, and wealth of the general Union, of which that State is a member.

I trust, sir, that when this bill is brought forward again, it will be reduced to a single clause of cession, unrestricted by conditions, and especially by those which now clog this grant; for these conditions, I think, will oblige me to withhold my support from the bill, because it is my opinion that it would be altogether inexpedient on the part of the State to accept the grant clogged by these conditions.

I will not now specify the several points of objection which I make to the clauses of this bill. They are all objectionable, and especially that one which restricts the price at which these lands may be sold to the minimum price of $1 25 per acre, and attempts to direct the manner and limit the time of sale. I think all these restrictions are unwise, and that they will render the grant perfectly valueless.

Mr. WESTCOTT. I confess I am somewhat surprised at the course of my colleague as to this bill, and especially at the extraordinary objections he urges to it. I do not hesitate to say, that I prefer the stipulations and conditions presented in this bill to an *unconditional* grant to the State. I have once before declared on this floor, that, anxious as I am for the United States to get rid of the public lands, and disposed to grant it in all cases to settlers without price, I do not regard it as wise, with reference either to the United States or to a State, to make, in any case, an unconditional grant to a State. Such grant generally creates in a State a fund for speculators and jobbers, pecuniary and political, to plunder from. They will seek to divert and pervert it to selfish purposes, and very likely succeed; and the State, or citizens generally, do not derive much benefit from it. The only preventive is, restrictions and conditions in the grant; and these often fail. I hope every grant to my State hereafter made will specify the objects, and contain stipulations securing their being effected, and to prevent the funds being perverted.

Sir, my object by this bill is not to ask a favor, a boon for my State. I am not begging for alms in her behalf from Congress. I am not seeking to fill the coffers of her treasury by the sale of these lands. I declare to you, sir, I should regard as a curse upon the State any measure of the kind. The primary, the great object I wish to attain, is he reclaiming of these now worthless inundated lands in South Florida, to make them cultivable, make them susceptible of producing sugar, and what no other part of the Union can produce, tropical plants; cause them to be filled with an industrious agricultural population, and thus, while they will add to the wealth and prosperity of my State, the independence of other sections of foreign countries as to those products will be increased, and the security of an important frontier naval and military position strengthened. I seek nothing that will not as much benefit other portions of the United States as it will my own State. If these lands are reclaimed, and should be worth millions upon millions, not a dollar goes into the State treasury of Florida; all belongs to the citizens *on the lands*, and are to be devoted to educational purposes *there* and *nowhere else*. I repeat, my colleague seems to mistake the great object of this bill. It is to secure the *reclaiming of the lands*, and nothing more. I do not seek the grant to the State to make a pecuniary speculation out of the work. The conditions are inserted to prevent any possible effort to divert or pervert any portion of the proceeds of the lands to any object or purpose but that of reclaiming the lands, and inducing their speedy settlement. It is not to furnish an internal improvement fund for any other section of the State.

I regret that my colleague did not particularize but *one* of the conditions that he objected to, but contented himself with denouncing them generally. I wish he had done otherwise, as I think I could readily have removed any objections he could have made to them. As to his objection to the third condition, which provides that no sale shall be made of any of the lands under one dollar and a quarter per acre till the work is completed, it is a good restriction. After the work is finished, the sales can be for fifty or twenty-five cents, if deemed proper. But, before such completion, it is necessary to prevent jobbers and speculators from obtaining the lands under a fair price by any of the many pretences always readily preferred. Such sum is a fair price in that region for even the poorest kind of land, if it is at all fit for cultivation, on account of lumber on it. If the land is worth *anything*, it is worth that sum. While the United States own lands contiguous to these, it should not, in reference to its own interests, allow, until it decreases its *minimum* price, the sale of lands it grants below such price. The effect will be to secure the lands from being sacrificed before the work is done. Without this restriction the price may be fixed by contractors and others influenced by interested motives to have it below the value of the land. Besides, when it is found that this restriction operates injuriously, it will be time enough to have it stricken out.

This bill binds the State, as I have said, to honestly and faithfully appropriating all the funds raised out of these lands to this improvement, and when it is done the residue is to be converted as an education fund for the benefit of those who purchase the lands. I have no idea of permitting the State to apply any money that may be made by this work, to its public works or improvements elsewhere in the State, or to pay it into its treasury generally. It would be unjust to make South Florida pay for the public works of the other sections in this way. There are different projects in different sections of every State for canals and railroads, and so forth, and I dare say those interested would like to have capital furnished by such mode. I can imagine in my own State that there are those who would like the everglades or any other lands given to construct some work they feel interested in outside of this grant. We are all too apt to be selfish in such matters. Florida had a large donation given her for internal improvements when admitted as a State, and my judgment is, that it will be so managed, and the effect of the selfish struggles to get hold of the proceeds of these lands will be, that it will never do the State much good. Hence, in this bill I have carefully stipulated that every cent raised from these lands shall be expended for the citizens who purchase and reside on them. I repeat, sir, I would vote against an unconditional grant of these or any other lands to any State, even my own; but all know such bill would stand no chance of favorable success here. No such bill can pass Congress. A grant without conditions, or not stating its object, or for internal improvements generally, would be the creation, as I said on a former occasion, of a *corruption fund* in the State. Surely my colleague must be aware of the fate of all past applications to Congress with respect to lands situated in some respects as these everglades are. The Senator from Missouri, [Mr. BENTON,] not in his seat to-day, for twenty-five years has sought to get such a law passed with respect to worthless sunken lands in Missouri; the Senator from Arkansas [Mr. BORLAND] tried a bill of the same kind last session; the Senator from South Carolina [Mr. CALHOUN] advocated such measure in his celebrated Memphis report; the present Secretary of the Treasury, [Mr. WALKER,] while in the Senate, sought for successive years to get such a law; the delegation from Louisiana, for several sessions, have been asking for such law; and it cannot be got through both Houses. The difficulty of details being made, in a general law, to suit all the cases is insuperable. Unless such law secures the action of the State to effect the reclaiming of the lands, it is useless, perfectly useless, I had as lief the United States owned these worthless lands as anybody else, if they are to remain worthless. The object of every cession should be to secure the reclaiming of the lands. It is not alone for the benefit of Florida that they should be reclaimed. The Union are deeply interested in the navigation through the canal across the peninsula the bill secures; in the productions the reclaimed region, and none other in the United States, can rear; and in the increase of strength to a frontier position important in a naval and military point of view. This is what I seek to accomplish. If I desired a stipend for my State, I would ask it at once from the treasury rather than try to attain it indirectly though these lands. I hope my colleague will state his objections hereafter more fully and particularly, when I will endeavor to answer them. Unless some Senator desires to say something, I will now ask that this bill may be passed over informally till to-morrow, that Senators may read the documents.

Mr. FITZPATRICK. Being a new member, my attention has not been directed to the bill reported at the last session, and I have only seen the report and documents this morning. I should prefer to have time to examine the documents, and hope that the bill will be passed over for a day or two to enable me to do so, as I understand the Senator from Florida [Mr. WESTCOTT] advocating it is willing that such a course should be taken.

Mr. YULEE. I desire to say that it was not my purpose to throw any impediment in the way of this bill; on the contrary, I shall be rather disposed to facilitate its progress. My purpose is simply to state the views which I entertain in relation to the subject, and the policy that will govern my course in regard to all applications of this kind. I do not feel disposed to act in regard to my own State in a manner in which I would not act in regard to all others. I shall be governed by general rules which I have prescribed for myself, and from them I shall not depart.

The bill was then passed by informally.

COLLECTION DISTRICT IN NEW YORK.

Mr. DIX asked the Senate to take up the bill to establish a collection district in the State of New York, which came from the House last session.

The motion was agreed to, and the bill was taken up for consideration as in Committee of the Whole, and reported as amended in committee.

Mr. UPHAM said his colleague had some objection to make; but as he was absent, he moved to postpone the further consideration of the bill until to-morrow.

The motion was agreed to.

The Senate then proceeded to consider the bill for the relief of E. J. Fontaine; which was taken up as in Committee of the Whole.

[This was a claim for services rendered in the building of a light-house at Key West. The petitioner executed more work than was required by the contract; and the collector being removed, the extra work was not allowed. Subsequently, the executive officers became satisfied of the justice of the claim, and recommended its payment. The committee, however, only reported a compensation of $1,000, the sum named in the bill.]

The bill was reported without amendment; and was then read a third time and passed.

On motion of Mr. CAMERON, the Senate took up for consideration the bill for the relief of E. K. Mellan, which was considered as in Committee of the Whole, and was ordered to a third reading. The bill was then passed.

On motion of Mr. BUTLER, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 20, 1848.

Another member appeared and took his seat, viz: from the State of South Carolina, Mr. RICHARD F. SIMPSON.

PETITIONS.

Petitions and memorials (the States being called for the purpose) were presented by Messrs. JOHNSON of Arkansas, SMITH of Illinois, EVANS of Ohio, and GREGORY.

On motion of Mr. IVERSON, the petition of Isaac Beall, for the claim for the revolutionary services of his father, Thomas Beall, and accompanying papers, were referred to the Committee on Revolutionary Claims.

On motion of Mr. GREEN, the petition and papers relating to the claim of Reuben Gentry and others, now on the files of the House, were referred to the Committee on Indian Affairs.

On motion of Mr. McCLERNAND, the memorial of Hannah Munday and Jane Hammer, heirs,

&c., of Leah Munday, deceased, was referred to the Committee on Revolutionary Pensions.

On motion of Mr. SMITH, of Illinois, the papers in the case of Captain William P. Lamothe, praying compensation for carrying the mail between the cities of St. Louis and Alton, and also the papers in the case of Mark Dickson, for arrears of pay for carrying the United States mail, were taken from the files of the House and referred to the Committee on the Post Office and Post Roads.

On motion of Mr. SMITH, of Illinois, the papers in the case of Thomas Allen, of St. Louis, Missouri, were taken from the files of the House, and referred to the Committee on Claims. Also, the papers in the case of Charles F. Jackson, late deputy inspector of the city of Philadelphia, be taken from the files of the House, and referred to the Committee on Claims.

BILLS INTRODUCED.

By Mr. WENTWORTH, in pursuance of previous notice: A bill for the relief of Martin O. Walker; which was read twice, and referred to the Committee on the Post Office and Post Roads.

By Mr. FRENCH: A bill for the relief of Joseph Decret. Referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. VINTON, from the Committee of Ways and Means, reported the following bill, which was read twice, and committed to the Committee of the Whole on the state of the Union, and ordered to be printed, and made the special order for Wednesday next:

A BILL to provide for carrying into execution, in part, the twelfth article of the treaty with Mexico, concluded at Gaudalupe Hidalgo.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums of money be, and the same are hereby, appropriated out of any money in the treasury not otherwise appropriated, for the purpose of carrying into execution, in part, the twelfth article of the treaty between the United States and Mexico, made and concluded at Guadalupe Hidalgo, on the 2d of February, A. D. 1848.

For payment of the instalment and interest which will fall due under said article on the 30th day of May, A. D. 1849, the sum of three millions seven hundred and twenty thousand dollars, ($3,720,000.)

For payment of the instalment and interest which will fall due under said article on the 30th day of May, A. D. 1850, the sum of three millions five hundred and forty thousand dollars, ($3,540,000.)

Mr. HUBBARD, from the Committee of Ways and Means, reported the following resolution, which was read and agreed to:

Resolved, That the Committee on Foreign Affairs be instructed to inquire whether any alteration is necessary in our consular system in the Chinese and Turkish empires; and also, whether any of our consuls, or the houses with which they are connected, have been or are engaged in any trade in violation of the laws of either of said empires; with power to send for persons and papers, and report by bill or otherwise.

TERRITORIAL GOVERNMENT.

Mr. SMITH, of Indiana, from the Committee on the Territories, reported a bill to establish the Territorial Government of Upper California, which was read and committed.

[The following is a synopsis of the bill:

The first section of this bill provides for the organization of "the Territory of Upper California." That nothing in this act shall impair the rights of the Indians of the country, or of the General Government, to make any regulations respecting such Indians. Also, that this act shall not be construed to prohibit the Government from dividing said territory in such manner and when Congress may choose.

The second section provides for the appointment of a Governor in the usual way, and for four years; gives him the usual duties to perform, with the duties and emoluments as Superintendent of Indian Affairs.

Section three provides for a Territorial Secretary, to hold his office for five years, unless sooner removed, and devolves the usual duties upon him.

Section four provides for a Territorial Legislature, a Council, and House of Representatives. The former to consist of nine members, to serve three years, &c.; the latter at first of eighteen members, but not to be increased beyond forty. This section also provides the manner in which the Legislature shall be elected, and how long it shall sit at a session.

Section five designates who shall be voters in the Territory. All free male citizens of the United States over twenty-one years of age, except Indians and Africans, or the descendants of the latter, who shall have been inhabitants of the Territory when organized, and eligible to election; prevents soldiers, sailors, and marines of the United States from voting, &c.

Section six defines the powers of the Legislature to be those usually granted in such cases.

Section seven provides how county, township, and other minor officers of the Territory shall be elected.

Section eight precludes members of the Legislature (except the first) from holding offices created, &c., during the term for which they may have been elected.

Section nine provides a Judiciary for the Territory, defines its duties, and limits the authority of its several branches.

Section ten provides a District Attorney for the Territory.

Section eleven provides in what manner certain of the territorial officers shall qualify, and what shall be their compensation.

Sec. 12. *And be it further enacted*, That the inhabitants of said Territory shall be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio by the articles of compact contained in the ordinance for the government of said territory on the 13th day of July, 1787, and shall be subject to all the conditions, restrictions, and prohibitions in said articles of compact imposed upon the people of said territory.

Section thirteen provides for the selection of a seat of government, and the erection of suitable buildings for the government purposes, for the meeting of the first session of the Legislature.

Section fourteen provides for the election of a territorial representative in Congress; how he shall be chosen, &c.

Section fifteen provides for the temporary selection of certain judicial officers, before the judiciary of the Territory, &c., can be permanently organized.

Section sixteen provides that the officers of the Territory in whose hands the public money may come, shall give proper security.

Section seventeen establishes the Territory in one collection district, the district of Upper California, and provides for the requisite custom-house officers.

Section eighteen designates the salaries or compensation of said custom-house officers, &c., and extends the revenue laws of the United States over the Territory.]

Mr. ROCKWELL, of Connecticut, from the Committee on Claims, reported a bill for the relief of John Poe; which was read twice, and committed to the Committee of the Whole.

On motion of Mr. McLANE, leave was granted to withdraw the petition and accompanying papers of Richard Patterson.

CALLS ON THE DEPARTMENTS.

The SPEAKER announced the next business in order to be the consideration of the resolutions heretofore offered, calling on the Executive departments for information, then lying on the table under the rule—

When the following resolution, offered by Mr. WHITE on the 11th instant, was read and agreed to by the House:

Resolved, That the Secretary of War cause an estimate of the value of the public property, including the soil, on Governor's Island, in the harbor of New York, to be made, and report the same to this House at the earliest practicable period, with a view of ceding said island, and so much of the public property as cannot be moved, to the city of New York.

The following resolution, offered by Mr. SMART on the 11th instant, was read and agreed to by the House:

Resolved, That the Secretary of the Navy be requested to communicate to this House the number and places of birth of all persons employed in the naval and marine service on the Gulf and Pacific coasts during the war with Mexico. And, also, that the Secretary of War be requested to communicate to this House the whole number of regular troops engaged in the late war with Mexico, and the States in which they were enlisted; and any other facts in possession of the War Department showing the number of *regular troops* engaged in said war *from each State in the Union*

The following resolution, offered by Mr. BARRINGER on the 13th instant, was read, considered, and agreed to by the House:

Resolved, That the President of the United States cause to be communicated to this House the amount of moneys and property received during the late war with the Republic of Mexico, at the different ports of entry, or in any other way, within her limits, and in what manner the same has been expended or appropriated.

The following resolution, offered by Mr. TALLMADGE on the 18th instant, was read, considered, and agreed to by the House:

Resolved, That the Secretary of the Treasury be requested to have prepared, for the use of this House, a statement showing the manner in which every public debt of the United States, from the time of the Continental Congress up to the present year, has been contracted, the amount of each, from whom obtained, under what law authorized, the manner and time of payment, and the amount, if any, now due on each, together with the amount of unclaimed dividends, of principal and interest.

The following resolution, offered by Mr. GREELEY, on the 18th instant, was read, considered, and agreed to by the House:

Resolved, That the Secretary of the Navy be requested to inquire into and report upon the expediency and feasibility of temporarily employing the whole or a portion of our national vessels, now on the Pacific station, in the transportation, at moderate rates, of American citizens, and their effects, from Panama and the Mexican ports on the Pacific to San Francisco, in California.

The House next proceeded to the consideration of the following resolution, offered by Mr. ASHMUN on the 7th instant:

Resolved, That in order to secure a more full, impartial, and prompt publication of the proceedings and debates of this House, the Clerk be authorized and directed to enter into a contract, to take effect from the beginning of the present session, and to continue until otherwise ordered by this House, with the proprietors of the two daily papers in this city—the National Intelligencer and Union—for the daily publication in each paper of the proceedings and debates of this House; for which the Clerk shall make weekly payment out of the contingent fund, at the rate of seven dollars and a half for a column of brevier type; *Provided*, That the proceedings and current debate shall be transferred to the country edition of each of said papers, and one copy of each of said daily papers shall be furnished to each member during the session of Congress without additional charge.

Mr. CONGER moved that the resolution be referred to the Committee on Printing.

Mr. WENTWORTH inquired of the Speaker where the resolution had come from?

The SPEAKER was understood to say, that it had been offered by the gentleman from Massachusetts, [Mr. ASHMUN.]

Mr. JONES, of Tennessee, said, he had understood the Chair to decide, when he (Mr. J.) had made the question—the next morning, he believed, after the resolution had been offered—that there being no rules in force, it had expired on the day on which it was offered, and that to have any force it must be again introduced.

The SPEAKER said, the resolution had been found on the regular files under the direction of the Clerk.

Mr. JONES said, if he was correct in the statement he had made of the decision of the Chair, he hoped the Chair would adhere to it.

The SPEAKER said, that if the resolution was the same as that on which the Chair had heretofore given its decision, the resolution would not be regularly before the House.

The Clerk having stated that the resolution *was* the same—

The SPEAKER said that it had been irregularly placed on the files, and was not therefore before the House for consideration.

COMPENSATION TO MR. FRY.

The resolution next in order provided for the payment to John B. Fry, who acted as clerk in the office of the Sergeant-at-arms during the last session of Congress, of the extra compensation voted by resolution to clerks, messengers, &c.

Mr. ATKINSON moved that the resolution be laid on the table.

Mr. STUART rose to a question of order. If he was correct in his recollection, the House had the other day acted on the same resolution, and it was defeated.

The SPEAKER was understood to say that the objection came too late. It should have been made when the resolution was offered.

Mr. COBB inquired whether it would be in order now to move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union?

The SPEAKER replied in the affirmative.

And the question was then taken, and decided in the affirmative.

REFERENCE OF PRESIDENT'S MESSAGE.

So the House resolved itself into Committee of the Whole on the state of the Union, (Mr. THOMPSON, of Indiana, in the chair,) and resumed the consideration of the resolution heretofore offered by Mr. VINTON, referring the several portions of the message to the appropriate committee, and of the pending amendments.

Mr. FISHER (who was entitled to the floor from yesterday) resumed and concluded his remarks. In the few moments during which he had spoken yesterday, (he said,) he had indicated his intention to vote for that portion of the resolutions reported by the chairman of the Committee of Ways and Means which referred that part of the President's message relative to the tariffs of 1842 and 1846 to the Committee of Ways and Means, and against the amendment of the gentleman from New York to refer it to the Committee on Manufactures. It made but little difference to him to what committee it should be referred. He was not at all afraid, if a report was made at all, but it would be a report which would do full justice to the subject of the tariff, and to the President's message on that subject. He thought it proper to state, however, that, on further reflection on the subject, he adhered to the conclusion that it should be referred to the Committee of Ways and Means. In his opinion, it was necessary that a report should go before the people at this time, and with as little delay as possible. He knew it had been said by some on the opposite side of the House, that gentlemen on this side were afraid of the influence of the President's message upon the country, and that they wanted to prepare an answer to it to go out

to the people. Very well; they certainly had a right to send out documents to disabuse the minds of the people of the impressions made upon them by the false arguments of the President's message; for certainly that part of it which referred to the tariffs of 1842 and 1846 was mainly designed as an electioneering document. It really belonged not to the message of the President, but it was intended as an electioneering document: indeed, about five or six of the last columns of that voluminous message were entirely devoted to that purpose—to electioneering; and it appeared principally to have been made up of scraps, perhaps written by the President himself—prior to the election, for aught he knew—and designed for publication in the "Union." But "Father Ritchie," having too much prudence, would not allow them to go out in the columns of his paper until after the result of the election was known. Indeed, the venerable editor of the Union himself told us that that part of the President's message which related to this subject was written prior to the election; and he (Mr. F.) presumed it was designed for publication in the columns of that paper, but the President not being willing to have his argument lost upon that subject, had imbodied it in this message.

The message was a medley of contradictions, sophistry, and downright falsehood, from the beginning to the end, so far as the question of the protective policy was concerned. He was truly glad that the President had thrown off the cloak and disguise that had covered the party for years gone by. They had heretofore denied that they were opposed to the old Republican party, and had declared and proclaimed aloud that they were the true Democracy, the old Republican party of 1816; and formerly they had made attacks on the modern Whig party, and endeavored to identify them with the old Federal party of days gone by. But in this document, strange to say, the President had thrown off this disguise, and laid hold of the old Republican party of 1816, and impugned their motives and acts in every respect, though it had never been done by any public document which had gone out to the country from a person holding so elevated a station. He (the President) attacked and impugned the motives of the old Republican party with a virulence scarcely equalled even by the old Federal party. The disguise, then, was thrown off; the Democratic party of the present day were not the old Republican party; they avowed they were not; they denounced the sentiments, the policy, and the very motives of that party of that day, and (through the President) declared that that party were in favor of trampling under foot the poor for the benefit of the rich, and of building up monopolies and an aristocracy to override the mass of the people; that this was the design and the motive of that party. We found in the message the President had said but little about the modern Whig party—very little. His whole spleen seemed to be vented upon the old Republican party of 1816, whom he denounced in unmeasured terms, and whose measures he said were new measures, when it was well known that the very policy which was revived at that day originated at a period coeval with the foundation of the Government—originated in the administration of General Washington, and had been carried on, through the various successive administrations, down to 1846. The President told us, that during the existence of this policy, there had great revulsions taken place in the United States. Let him (Mr. F.) say that the general revulsions which had taken place, from the organization of the Government down to the present time, had taken place only in the absence of these measures of the protective policy, and had been the very things that had induced the reëstablishment of these measures. Three great general commercial revulsions had taken place in this Government since its organization. The first was induced by the revolutionary war, and continued from 1783 to 1789. This revulsion induced the fathers of the Republic to adopt the policy which was adopted by them—a protective system and a national bank. Again, after the war of 1812, the nation was found in debt, the President told us, to the amount of more than $120,000,000. Very well; it was found necessary at this time to re-establish the protective policy, which the President said was then a new policy, although it was the reviving of an old policy. It was rendered necessary to pay off the national debt, and to relieve the country from the effects of the revulsion under which it was then suffering. The Republican party, having the power at that day, revived the old policy, and it paid off the national debt, notwithstanding we were told here by the President and the Secretary of the Treasury, that the protective policy prohibited foreign importations, reduced the revenue, and would finally bring us to direct taxation. He asked, how did that policy pay off the debt of the Revolution and the debt of the war of 1812? Did it drive out foreign imports? Was the Government driven to direct taxation? How happened it, then, that these successive heavy debts had been all paid off under a protective policy, and that, too, of a very high character? This, then, proved the falsity of the doctrine, that the protective policy would prohibit foreign importations to such an extent as to bring us to direct taxation; for it was the only policy that had ever paid off the debt of the Government, and the only policy that ever would. Let it be remarked, that upon all occasions, in the absence of this policy, this Government and the nation had become involved in debt. Look back, for instance, to 1840 and 1841: what was the condition of the country then? We had a tariff of *ad valorem* duties of 20 per cent., and a universal revulsion took place throughout the United States, and the Government, though in a time of profound peace, became involved, under the operation of these *ad valorem* duties, in a debt of several millions of dollars. How was this debt paid off? Why, by the revival of the same policy that paid the debt of the Revolution and of the war of 1812, established under the administration of John Tyler.

Hence, so far from its being true that the protective policy induced commercial and business revulsions throughout the country, precisely the reverse was the fact. No general revulsion had taken place except in the absence of these measures; but, on all occasions in the absence of them, commercial revulsions *had* prevailed, and the Government had been obliged again to adopt them. We were now involved in a national debt again, and a universal revulsion would as certainly come as we were a nation at this time, in one or two years at most, unless the policy of the Government was changed. What had prevented its taking place before this time? Why, the only reason had been the famine in Europe. Gentlemen laughed at the famine in Europe being assigned as the cause; did they not recollect that thousands had starved to death there, and that millions of dollars in grain and breadstuffs had been sent from this country to supply the foreign demand? It was this alone that had prevented a general revulsion from taking place ere this time. We were told that the only cause for the present reduction in the prices of our agricultural products, was the revulsions, revolutions, and wars that had taken place in Europe; but these causes, every reasonable man knew, would only furnish a better market there for our breadstuffs.

He would now proceed to say a few things on the subject of the tariff, and he wished the attention of the committee, especially to his remarks upon this subject, as he might advance some ideas that might not be altogether in accordance with the views entertained by his own political party. He did not profess to be thoroughly conversant with this subject; and if he assumed positions that were untenable, he hoped to be corrected by his opponents or by his friends.

The main opposition existing against the protective policy—in fact he might say the *only* opposition, because all the objections, in whatever form they might be brought forward, resolved themselves into these—was based upon three grounds: It was contended, first, that the protective policy was unconstitutional; second, that under the protective policy the duty was added to the price of the article, and that the poor consumer had it to pay; and third, it was said the protective policy prohibited importations, and would thus drive us to direct taxation for the support of Government. He knew of no objections that did not resolve themselves into one of these three positions.

If these objections were correct, he admitted that the protective policy ought not to be established; but he wished to introduce a few arguments, to show why he did not believe these positions He admitted the premise of one, but denied the conclusion, viz: That the protective policy prohibited importations, he admitted, but he denied the conclusion that it would drive us to direct taxation. It prohibited importations to a certain extent; if it was to prohibit them entirely, as a matter of course it would drive us to direct taxation. But this it never had done, and never would do.

With regard to the constitutionality or unconstitutionality of the protective policy, it appeared that the question should be settled in the mind of every honest man. It was a policy coeval with our Government. The very first Congress assembled under our Constitution enacted a protective tariff law, the preamble of which expressly declared, that it was "for the collection of revenue, for the encouragement and protection of the manufactures of the country." That was the design of that law; that was the policy which had been pursued under every administration of the Government, from that time down to the present administration.

The second, and the most formidable position—that by which the opponents of the protective system managed greatly to prejudice the minds of the poorer classes of the community—was the argument, or the assertion, (he called it an argument, but really it was an assertion, a mere begging of the question, as the logicians say; an assuming without proof the very point in controversy,) that the consumer pays the duty. Now, he denied that the consumer had the duty to pay under the protective system. He did not know that he should be sustained by all his Whig friends, but he took the ground that the price of imported goods to the consumer was not increased by the amount of the duty levied under the protective system. What were the facts on this subject? On referring to our experience under the protective policy, if it was found that the duty was added to the original cost of the article, and the article sold so much higher,—if this had ever taken place under any protective tariff, then of course he would yield the point. If it had taken place, it was capable of demonstration.

He called upon gentlemen on the other side to bring forward the prices current, prior and subsequent to the going into operation of any of our protective tariffs; and if it was true, as a matter of fact, that imported goods, wares, and merchandise, subsequent to the taking effect of any tariff law, sold as much higher than they did prior to that time, as the amount of duty levied, then they had gained their point; but if they could not do so, then they had failed. He said that no protective tariff, from the beginning of the Government, had enhanced the prices of goods generally; it might have had that effect with reference to some articles, but upon the average it never had, from the first to the last. Let them go back to the tariff of 1842. What was its result? Had not the Whigs told their opponents and the country that the duty would not be added to the price of the article, and that the goods would not sell that amount higher? And had it not been contended by the other party, from the President and Secretary of the Treasury down to the smallest two-penny newspaper or stump speaker, that the duty would be added, and the consumer would have to pay it? The tariff of 1842 went into operation: did it increase the price of goods? Could gentlemen show, by invoices of merchandise prior and subsequent to its going into operation, that the duty it imposed was added to the previous cost of goods? The truth was, and must be acknowledged by every man with an honest heart, that, according to the predictions of the Whig party, the prices of goods generally, and almost universally, did fall, after the tariff of 1842 went into operation. It was true, that in about a year after its taking effect, the prices of cotton goods rose to a considerable degree; but the cause of this was, that the price of the raw material rose, (which he presumed, as a matter of course, was no disadvantage to the cotton-planter,) and hence, as a matter of necessity, the price of the component parts having risen, the price of the material rose also. The truth of the case was, that, prior to the tariff of 1842, our manufactories, many of them, had been obliged to stop, and the laborers had been turned out of employment; but, after the tariff of 1842, they had again gone into operation, and again employed their laborers at good prices, and yet the prices of goods were lower. But their opponents asked, How was this possible? for, unless the duty is added to the price of the goods, it would not be a protection. How was it possible, asked they, that when the manu-

factories again went into operation, the prices of their goods fell, and became lower than they were when they ceased operation? They took this position: If the duty is not added to the price of the article, of course it will not be protection.

Now, he took directly the opposite position. He said if the duty was added to the price of the article, it would not be protection. As a matter of course, if the duty was added to the price of the article, the goods came in from foreign countries precisely as they did before, so far as the interests of the foreign manufacturer, or importer were concerned. Here was where the opponents of a protective tariff were in error. They could see protection in nothing but in increase of prices, when, in truth, it did not consist in that. In what, then, did it consist? It was in the furnishing a market—a steady, regular market. "Protection" did not mean the enhancing of prices. If you were to order your son to go and *protect* your farm from the ravages of your neighbor's cattle, which had broken in, and were destroying your crops, it would not be *protection* for him to go out to cultivate your corn and other crops, while your fence was down, but for him to put up the fence and protect you hereafter from the ravages of your neighbor's beasts, that they might no longer come in and destroy the crops, precisely as foreigners come in and destroy our market, unless it was protected for our manufacturers.

Mr. LAHM said, he understood his colleague, that the object of protection was to drive foreigners out of the country, and keep the market exclusively for ourselves: he asked the gentleman, would he be in favor of making his protection so high as to bring about that result?

Mr. FISHER replied, he had said in the outset that the friends of protection had never designed to have a tariff so high as to amount to an entire exclusion of foreign manufactures, but they did desire to prohibit the importation of certain goods.

Mr. LAHM wished to know where the gentleman would stop? where he drew the line of demarcation between exclusion and prohibition?

Mr. FISHER said, the party with whom he acted had always contended for a revenue tariff, with discriminations in favor of protection; and they would prohibit the importation of certain articles. Under the tariff of 1842, we had received about $100,000,000 worth of foreign imports annually; from the duties levied by that tariff upon the dutiable goods, we had received revenue enough to meet the current expenses of the Government, and pay off the public debt which had accrued under the previous low tariff. And that tariff had, in addition, brought a surplus into the treasury. But since the tariff had been reduced about one-third, it now took $150,000,000 of importations to raise the same amount of revenue as the tariff of 1842 did, or $100,000,000 of importations. Yes; we protected the manufacturers, and the mechanics of this country, by prohibiting $50,000,000 worth of goods from coming in.

Mr. LAHM wished to ask his colleague one other question. If it was legitimate to exclude $50,000,000 of the importations, when they amounted to $150,000,000, why did not the same principle hold good to the exclusion of fifty additional millions, or of the whole?

Mr. FISHER replied, that it was in our power to do so, but it was not necessary for protection, nor was it desirable, because we did not expect to manufacture all the articles which were consumed in the country.

But with reference to the other point, all would admit that importations could be and were prohibited by protective tariffs to a certain extent. This was admitted by the Secretary of the Treasury, and by the President, and by all; and yet in the same report, and in the same message, we were told that the consumer had the duty to pay. Now, if the President or Secretary or any gentleman on this floor would reconcile these two positions, then he was willing to become a free-trade man. The positions that a protective tariff prohibited foreign importations, and at the same time that the duty was added to the price of the article to be paid by the consumer, were entirely inconsistent. Now, the truth was, that a protective tariff would prohibit importations to a certain extent, and this was proof positive that the consumer did not pay the duty. Suppose, by way of illustration, that without a duty a hat could be procured here of the foreign importer for $3, and suppose that Congress laid a duty upon it of $1, the duty added to the original cost would be $4. Supposing the doctrine was correct that the consumer paid the duty, the hat would then sell for $4 instead of $3. He asked, would that have an effect to prohibit the importation of hats? Not at all, because the importer would sell his hat for $4 instead of $3, and, paying the $1 duty to the Government, would take home his $3 net proceeds, as before.

Mr. LAHM inquired who, in that case, paid the additional duty of a dollar upon the price of a hat. Was it the man who consumed the hat or not?

Mr. FISHER replied that the gentleman did not understand the subject at all. [Laughter.] He had denied that the duty was added to the price of the hat; and the fact that it was not was the reason (and a good reason it was too,) why it prohibited the importation, to some extent, because the importer, instead of taking home three dollars, took home two. So also, if a duty of ten dollars was levied, and the hat, after that, (according to the doctrine of gentlemen on the other side,) sold for thirteen dollars, the importer, after paying the ten dollars to the Government, would still have three dollars net proceeds, as before; and the duty would be no prohibition at all upon the importation. The very reason that the duty *did* prohibit importations was because the importer paid it, and it was not added to the price of the goods. Hence the two positions, that the consumer had the duty to pay, and that it prohibited importations, could not be reconciled. If any man could make out these positions to be correct, he (Mr. F.) would give up the argument.

Again: what was the reason that manufactories could now go into operation, and sell at lower rates than they could previous to the tariff of 1842? This was easily accounted for. It was because capitalists turned their capital oftener. Prior to the enactment of the tariff of 1842 the market was glutted by foreign importations. Manufacturers invested all their capital in goods. These goods all lay dead upon their hands. They could not sell them at any price. Hence, many of the manufacturing concerns of the country had to stop. But the tariff of 1842, by prohibiting to a certain extent foreign importations, gave a market to our own manufactures. These establishments again went into operation. They sold as fast as they could manufacture, and of course they sold lower. He would briefly illustrate his point: Suppose that there were two merchants in the city of Washington, each employing a capital of twenty thoussnd dollars. One of them would sell tardily; he would turn his capital once a year at a profit of forty per cent. The other would turn it four times a year. Of course the latter could undersell the former thirty per cent., and make as much money.

For example: if he sold at a profit of ten per cent. and turned his capital four times, it would amount to as much profit as would be received on the same amount of capital turned but once with a profit of forty per cent.; and consequently, twenty thousand dollars turned four times would be as much money in the hands of the capitalist as eighty thousand dollars turned but once. And this was the secret. All the manufacturing establishments could sell at a lower rate than they did before. And this was the way the protective policy would operate. Now, if Congress were to lay a duty of fifty per cent. in addition to the duty which now existed upon foreign importations, and the goods would rise that much, it would not prohibit importations, but would step over manufactures just as the tariff did now. And therefore it was entirely incorrect to say that the duty was added to the price, and that the consumer had to pay the duty. This stood in diametrical opposition to the position that the protective duty prohibited foreign importations. If any gentleman could reconcile these positions, he (Mr. F.) would, he repeated, abandon the argument.

If gentlemen would read that portion of the message of the President, they would see that he assumed this position—that the consumer had to pay the duty; that it was oppressive upon the poor, whilst it enriched the wealthy capitalist of the country. The President placed himself entirely on that position. Now, any man conversant with the subject knew that this was not the common operation of trade in this country. He (Mr. F.) had been brought up a farmer—he had followed that pursuit nearly all his life. Every farmer knew that the statement was not correct. Suppose that a farmer lived out of this city a distance of some fifty miles, and that, coming to market with his wagon-load of flour, he paid a toll at several gates: by the time he arrived here, his flour had cost him a toll of twenty-five cents per barrel. He offered it in market, and, if he believed this doctrine, asked six dollars and twenty-five cents per barrel. What said the merchant? His reply would be, "I can buy it at six dollars." "No matter," the farmer would reply, "I had to pay toll to the amount of twenty-five cents. If the doctrine of my party is correct, the tollage is added to the price of the article, and the consumer has to pay it." The merchant would laugh. He would say, "I tell you, you must take the market price for your flour, or you cannot sell it at all. You would be right if there were no other flour in market; but mind, you come in competition with others, and hence you must be content to get the market price, whatever that may be." Precisely such was the case with foreign manufacturers. They might add the duty to the price of the article, but they would come in competition with other manufacturers, and must therefore sell at the market price. But under the present law, in a short time, they would not meet our manufacturers in competition, because the latter would be broken down. If they did come in competition, under the protective policy, they must take the market price, whatever that might be, and ask whatever price they pleased. This was the course of our trade. Every man who had ever been concerned in trade knew it to be so.

He knew it had been said, that the cotton planter of the South had been injured by the operation of the protective policy. When he spoke of the South in this connection, he meant the cotton planters and rice growers only, because they only had reason to complain. The agriculturists of the South, he presumed, had no reason to complain. If he was correct in this position, that goods did not sell higher, but lower, under the protective policy than under that of free trade, what reason had the cotton planter to complain? Why was he dissatisfied with the tariff of 1842? He did not pay higher for his goods under that tariff than he had paid before its enactment. Why, then, he repeated, should the cotton planter be dissatisfied with it? For if he did not pay the tax by increased prices, then he did not pay it at all; for that was the only means by which he could pay it. The only controversy was, then, in relation to that point. The opponents of the protective policy said that the poor man was taxed; that he paid this duty to the manufacturer; whilst the truth was, that although he (Mr. F.) acknowledged that the duty was a tax, yet it was a tax upon the foreign importer, which the foreign importer paid to the Government of the United States. It was a bounty paid by foreigners —not by the consumer—by the importer, to the Government for the privilege of selling his goods in our market. If this was so, and if the duty was not added to the price of the article, why should the cotton and rice grower object to it?

At the present time we had in operation a system of free trade, as it was called. But let him ask the cotton planter whether there had ever been a time, since the formation of the Government, when the prices of cotton were lower than they were at present? If such was the fact, and if it were true that our goods, wares, and merchandise, cost no more under the protective policy than under a system of free trade, what objection was there to it? He could see no reason for it.

It was said that the farmers of the country complained. He, (Mr. F.,) as a farmer, did not complain. The farmers did not need much direct protection. What they wanted, was a market for their products, and it was to their advantage that the market should be as convenient to them as possible. The more convenient, the better for them. The opponents of protection declared that all our workshops should be in Europe, and the farmers in this country. Let him say, that no agricultural country, at a distance from a manufacturing country, could compete with that manufacturing country; because the produce of the former never could be taken to market, on account of the bulk and the cost of transportation. Could we take our corn, wheat, pork, &c., to China? No; it would not pay cost to do so. But we could build up manufactures in our own country, and make the world our market. We could build up manufactures; we could take some from the pursuits of farming, and we could put them into our

workshops; and thus divide the labor of our country. The produce which they consumed would become a constituent part of the goods; and thus our produce could be taken to China and sold, not in the crude state, but in the shape of cotton goods.

Suppose we were to say to the iron manufacturers of Pennsylvania, It is to your advantage to take your coal and iron ore, without manufacturing it, to Europe, and then let it be brought back and sold here, and let them manufacture it there. Would that be proper? Surely not. Just so it would be in relation to agricultural products. We could not take them, with advantage, to foreign countries. We must build up a home market. That would not destroy our foreign market. We knew that to be so. Precisely so with the cotton planters. If they went against the protective system, they would destroy their home market for cotton; and thus be in the same condition with the farmer, that is, they would only have the foreign market. Hence, we should be placed at the mercy of the foreign market alone. There would be no competition. Therefore, it could not be to the advantage of the agriculturists to destroy our own manufactures.

He was aware that the West labored under the disadvantage of having its markets in the East. Much more disadvantageous would it be if that market had to be sought in Europe. It would be to the advantage of Ohio to build up manufactures in that State, and a regular system of protection would accomplish that object; and whatever would give a market for the farmer's produce, would be an advantage to the farmer. This could be accomplished only by building up manufactures.

He had now said about all that he cared to say at this time. He would not have said even so much, but that he did not suppose that there was any probability that he might, for some time to come, obtain the floor again. He had just thrown out these few arguments and ideas, in order that, if gentlemen could refute them, they should do so. He would like to hear them. He would like gentlemen on the opposite side of the question to substantiate, if they could, the proposition which had been put forth by the President of the United States and the Secretary of the Treasury. The President, in the course of his argument, maintained that the duty was added to the price of the goods, and that the consumer had to pay it. In addition to this, it was seen that the Secretary of the Treasury contended that the protective policy prohibited foreign importations, and that hence it would drive us to direct taxation. If these two positions could be brought together and reconciled, he (Mr. F.) would like to see it done.

But it appeared to him that the Secretary of the Treasury was arguing strangely, for if he (Mr. F.) understood his report, it certainly went entirely in favor of the doctrine of free trade. It was for no tariff whatsoever; if he did not mean that, his arguments were as much in opposition to a revenue tariff as to the protective policy. The Secretary, as Mr. F. understood, went in for entire free trade and direct taxation. If the opponents of the protective policy were consistent upon this subject, and believed that the consumer in our country had the duty to pay, why had they not changed the whole policy of the Government, so as not to compel him to pay it? Why had they not taken off all duties on foreign imports and laid them upon exports to foreign countries, because, according to their doctrine, the foreign consumer would have to pay them? Why would gentlemen compel the home consumer to pay the expenses of our Government instead of the foreign consumer?

Mr. F. having concluded, the Chairman gave the floor to

Mr. LAHM, who proceeded to remark, that he had not obtained the floor for the purpose of making a speech on the tariff, and that if it had not been for a few positions which had been advanced by his colleague, [Mr. FISHER,] he (Mr. L.) should not have sought the floor at all, for he admitted that he was as little acquainted with the tariff as with any other political subject. But it seemed to him that there were some self-evident truths and positions that must be apparent to any individual who had given the subject any consideration whatever.

In the first place, he would come for a moment or two to the question immediately before the House; that was to say, as to the reference of that part of the President's message which related to the tariffs of 1842 and 1846. It was proposed to strike out of the original resolution the words "tariffs of 1842 and 1846," and substitute in their place a reference of the whole subject to the Committee on Manufactures.

Now, he would ask gentlemen on the other side of the House, what was the object of the institution of the Committee of Ways and Means? It seemed to him that the province of that committee was to provide means to carry on the affairs of the Government. Such, in his judgment, was the legitimate object for which that committee had been created. It was a committee which had been in existence ever since the organization of the Government, because the necessity of its existence had been apparent ever since that time.

But according to the argument of the gentleman from New York, [Mr. MARVIN,] the Committee on Manufactures had been raised at a subsequent period. It seemed that it had been raised to gratify the objects of certain politicians who could not carry out the measure of protection by referring the subject to the Committee of Ways and Means; and that with a view to accomplish their ends, an additional committee was to be appointed—a Committee on Manufactures.

What was the object of a tariff? Why did we pass revenue laws at all? To raise means to pay the expenses of the Government, and to defray its debts, if any debts it had. And if laws for these purposes were to be passed, the Committee of Ways and Means was the proper committee to have charge of the subject. Why, then, he would ask, should not the whole subject be referred to that committee?

But the gentleman from New York [Mr. GREELEY] had told them, very plainly, what the object of the contemplated reference was. He had said, that an indictment had gone forth to the country from the President of the United States and the Secretary of the Treasury, against that party which had recently succeeded in the Presidential election. He (Mr. L.) knew before it was thus openly avowed, what the object of gentlemen on that side of the House was. He knew that they felt the force of the message of the President, and of the report of the Secretary of the Treasury. He knew that they felt the truth of the position, that the declarations of gentlemen, made when the Democratic party was about to repeal the tariff act of 1842, had not been made good; that the predictions made by Mr. WEBSTER and other gentlemen on that side of the question, that a revulsion would overtake the business and ruin the affairs of the country, had not been realized. Gentlemen knew that something must go to the country from them, to counteract with their political friends the arguments of the message of the President, and of the report of the Secretary of the Treasury. They had therefore avowed that to be their object. The business of the House, and the interests of the country, it seemed, must all yield to their political wishes and considerations. The gentlemen who desired a select committee should have asked at once for a select committee, to be chosen from their own friends, and that the subject might be referred to that committee with express instructions to report to the country an argument in opposition to that of the President and of the Secretary of the Treasury. This would have been laying the matter open at once—this would have been walking boldly up to it—this would have been giving a full sweep and fair play. For his own part, if gentlemen desired to have a committee composed of their own friends, he was willing to give it them. Let them have it, and let them make their report to the country. Any report they could make in reply to the message, would only prove its truth—would only demonstrate the force of its reasoning, the correctness of its conclusions, and the wisdom of the policy which had been adopted by the Administration in relation to this great and important subject. He feared no report that could be sent abroad. He wished the country to see all that could be said on both sides, for and against the policy—to compare them, and to draw conclusions accordingly. But he submitted to the House, whether the whole object of the gentleman from New York had not been satisfied? whether his colleague from Ohio, [Mr. FISHER,] had not stepped in this morning, and accomplished all that the gentleman from New York proposed to accomplish by a committee? The gentleman had made a full and elaborate reply to the President and the Secretary of the Treasury. That speech would go abroad to the country; it would go abroad as an argument emanating from one of the champions of a protective tariff in this House; as an argument in reply to the President, as the sentinels of that side of the House, on the great question of the tariff. He suggested, therefore, to the gentleman from New York, whether his whole purpose had not now been accomplished, and whether he was not willing to abandon his proposition.

He would here remark, that he had never, either publicly or privately, committed himself to the tariff of 1842 or to the tariff of 1846. When he was a candidate for a seat in this Hall, he had refused to commit himself to either of these laws, because he had believed then, as he believed now, that some modifications might perhaps be required in the tariff of 1846. But he had no hesitation in saying that he had always been of the opinion, that the tariff of 1846 was infinitely superior to the tariff of 1842.

Something had been said by the gentleman from Pennsylvania [Mr. THOMPSON] yesterday, in regard to the *ad valorem* system; and here let him remark, that he (Mr. L.) was in favor of the *ad valorem* system, and of discriminations under that system. He was in favor of raising revenue by duties on imports, just sufficient to defray the expenses of the Government, economically administered; and in raising that amount of revenue, he would discriminate, not as the tariff of 1842 did, in favor of the luxuries and against the necessaries of life; but he would discriminate in favor of the necessaries of life—those articles which were consumed alike by the rich and by the poor, by the whole community; and against the luxuries of life—those articles which were consumed only by the aristocracy of the country. That was the discrimination which he favored. Again: he would levy low duties upon such foreign articles as we needed, and such as we could not produce; while he would levy high duties upon such as we did not need, and such as we might produce.

His colleague had this morning taken a position that the imposition of duties upon foreign importations did not increase the price to the consumer. He had illustrated his position by supposing that a hat was imported and sold for $3, when no duty was imposed; and had said, if a duty of $1 was levied, the price of the article would be increased. Now, it seemed to him this was surrendering the position that the gentleman had taken—that the imposition of the duty did not increase the price of the article. He had asked his colleague who paid the additional dollar? and he had received the reply that he did not understand the question. He presumed he did not as well as the gentleman; but he thought it was at least evident, that if a hat was imported and sold for $3, without a duty, and when a duty of $1 was imposed the price was raised to $4, that the additional dollar would be paid by the consumer.

But the gentleman seeing the difficulties in which he had involved himself, assumed another position, and said, the imposition of the duty would not increase the price, because it would prohibit the importation. Well, this would result in direct taxation. If the duty was laid so high as that there were no importations of the article, of course we should get no revenue, and should be obliged to resort to direct taxation for the support of the Government. Well, to get rid of this difficulty, the gentleman had said that it would still be imported, but the foreign manufacturer would have to pay the duty, and (in the case of the hat) would go home with $2 in his pocket instead of $3. What did that position amount to? Simply to this: that the object and end of tariff protection was no more nor less than to decrease the profits of the foreign manufacturer, and, at the same time, not affect the American manufacturer.

The gentleman had argued, that although we levied a protective tariff, and (as he contended) took the duty out of the pockets of the foreign manufacturer, it would not affect the sale of our products in the foreign markets. But suppose other countries took the same view, and levied a protective tariff upon our exportations to them: according to the gentleman's argument, the duties thus levied would come out of our pockets, and, of course, would tend to prohibit our exportations.

But take the article of coffee. Under the tariff

of 1846, if imported in American vessels, it was exempt from duty—as it should be; for it was one of the necessaries of life, and consumed by everybody. Suppose that a duty of 20 per cent. was levied upon it: did it not increase the price of the article to the consumer here? Could the importing merchant pay the 20 per cent. duty and sell it at the same price? Clearly not. The duty, then, would finally be paid by the consumer. He compared this to the increased price charged for goods by merchants at the West, to reimburse them for the expense of transportation: the cost of transportation entered into the price of the article, and fell upon the consumer, as he argued the duty imposed also did.

But the gentleman had argued that it was a great object for the farmers of Ohio and of the West to have a home market for their products. He (Mr. L.) lived in a strictly agricultural community, and the farmers there found that when they had produce to sell, the merchant was governed, as to the price he would give, by the state of the foreign markets. It was the foreign prices which regulated the prices of agricultural products in New York, at Cleveland, and in all parts of the country.

But the gentleman had said that the object of the protective tariff was to enable our manufacturers to compete with foreign manufacturers. He (Mr. L.) asked, did not our cotton manufacturers compete with the whole world? Our cottons now went to South America, to India, to China, and throughout the world; where, then, was the necessity of this protection to enable our manufacturers to compete with foreigners at home? Why, the gentleman would have us protect our manufacturers at home, while they were able to compete with foreigners throughout the world.

The gentleman had made one remark which, as far as it related to him, he disclaimed. The gentleman had said that the Democratic party were in favor of free trade and direct taxation. For himself, he disclaimed that doctrine; he believed the party with which he was connected disclaimed it. The tariff of 1846 disclaimed it from beginning to end. They were in favor of levying duties to raise revenue, sufficient to meet the expenses of the Government, economically administered; and in imposing those duties they would discriminate in favor of such articles as required more protection, and against those which required less. Free trade and direct taxation were not the doctrines of the Democratic party, at least in that section of the country from which he came.

They had passed the tariff of 1846 in order to raise revenue sufficient to meet the expenses of the Government, and it afforded protection also—a protection of 20 per cent. upon iron, of 100 per cent. on spirits, of 10 to 100 per cent. on almost every article except a few on the free list. He asked, what more protection was needed? Did gentlemen want protection to the exclusion of foreigners? If they did not, where would they draw the line of demarcation—the line at which protection should cease? How much would they keep out, and how much would they allow to come in? Let them propose their system, and if it was any better than the present law, he would vote for it.

Mr. L., apologizing for having troubled the House with remarks for which he had made no previous preparation, concluded by expressing the opinion as to the proposition directly before the committee, that the reference to the Committee on Manufactures, proposed by the amendment of the gentleman from New York, would be improper. That committee had nothing to do with it. It was the legitimate business of the Committee of Ways and Means; and, unless they intended that the promotion of partisan objects should be paramount to the prosecution of the business of the country, they could not refer it to the Committee on Manufactures.

Mr. BRIDGES obtained the floor, and moved that the committee rise.

The motion was rejected.

Mr. HUNT said the gentleman from Virginia, [Mr. BAYLY,] who had spoken yesterday, had expressed a strong opposition to the reference of this subject to the Committee on Manufactures, from the apprehension that that committee would report an electioneering document. The bare idea that an argument might be made by a committee in reply to the President's message, seemed to excite that gentleman to unusual vehemence, and almost to move him from his propriety. It would seem that that gentleman, and others who acted with him, had strong opposition to the manufacturing of electioneering documents, unless they came from the Executive. With their habitual clamors of opposition to monopolies, it seemed that they claimed it to be the exclusive prerogative of the Executive to send forth electioneering documents upon all questions touching our national interests. At every session of Congress, year after year, the President had sent in his annual message, in which he placed before Congress the state of the country generally; but, in addition to the exercise of this constitutional function, he had traveled far beyond, engaging in discussion upon political subjects, vindicating the measures which he had thought proper to propose, not only, but frequently going further, and reflecting, in the most unkind and offensive manner, upon the motives as well as upon the measures of his opponents. Did any of the intelligent and reflecting people of this country object to the manner in which the Executive had upon one occasion usurped the extraordinary power of war, and while Congress was in session, involved the country in war without their authority and even without their knowledge: the President did not hesitate to impute to that portion of his countrymen, not only a want of patriotism, but he used terms in reference to them which in their very nature implied moral treason—a want of patriotism and loyality to the Government. He had hoped, that after the recent expression of the will of the people of this country upon the great measures which divided parties—after its expression in relation not only to the general merits of this Administration, but in reference to its specific policy, that the President would have thought proper, on this occasion at all events, to waive the practice which he had pursued from the very commencement of his administration, in reflecting in gross and offensive terms upon the motives of his opponents.

Mr. TURNER here interposed, and was understood to inquire what question the gentleman considered to have been decided by the people at the late election? and how?

Mr. HUNT said he would come to that subject directly. If the gentleman was desirous of an answer, however, he would inform him that one point, among others, had been put at rest by the people at the last presidential election: it was the signal condemnation of the present Executive and measures of his administration. The people had decided, by the vote they had recently given, that the policy of the Administration should be changed in regard to the management of our foreign affairs, as well as in reference to those domestic measures which deeply affected the industry and the prosperity of this country.

Before he was interrupted, he had been about to say that he had hoped the President would have waived all political discussions on this occasion; that he would have received the rebuke which had been administered to his administration by the people with a graceful deference; that he would have yielded to the popular will, if not with a real, at least with a seeming respect. But on the present occasion he seemed to have gone far beyond his former practice, and to have outdone himself. He (Mr. H.) doubted if an Executive message had ever been submitted to an American Congress which contained such an unusual and extraordinary display of party spirit, such a determination to stand on mere party questions before Congress and the country, as the President had evinced in this message.

It was fortunate for the liberties of mankind, and for the cause of truth, that rejected governors were not received as the most reliable historians of their own times and conduct. If the protestations of discarded ministers were to be received as evidence of their patriotism, disinterestedness, and public virtue, it would often be found that those who, by their acts, had rendered themselves the most odious, had the strongest claims upon the gratitude and affection of mankind. If State papers and official mandates promulgated by those who, either in ancient or modern times, had been rejected by the popular will, were to be received as authentic evidence, it would follow that the people had been always wrong, and rulers always right. The greatest tyrants would appear to be the greatest benefactors, and those whose government had been most intolerable and oppressive, would seem to have been animated by the highest motives and the purest patriotism. It would seem that the people in all time had been well and wisely governed, but that, failing to appreciate their rulers, they had ejected them from power.

In reading that portion of the message which was historical, since it portrayed the measures of the Administration, and the beneficent effects which had flowed from them, one was almost persuaded that the President had done more for the welfare and prosperity of the country than all his predecessors. It would seem from the tone of triumph which he had assumed, that the people of the United States had the highest cause for gratitude, and that they never could sufficiently appreciate their obligations to his administration.

He (Mr. H.) believed his Democratic friends would concede that the American people were an intelligent, thrifty, sober-minded people, as well as a people competent to judge of the merits of their public agents; and that, after a full discussion of public questions, as these questions had been discussed for the last year, it was not their habit to set their public agents aside, unless they were convinced that they had failed to fulfill their obligations to the country.

It was strange that an Administration which claimed so much—which claimed so large a share of glory for conquests abroad and beneficent measures at home—which claimed to have extended the srea of freedom to an almost unlimited extent—which claimed to have projected measures looking only to the prosperity and interests of the country—an Administration intent purely on the promotion of the public good, turning neither to the right hand nor to the left—professing to be governed only by the Constitution of the country;—it was (he said) passing strange that the people should have shown themselves incapable of appreciating the merits of such an Administration. Yet the President had assumed the same triumphant tone, as though he and his measures had been sustained. The gentlemen on the other side of the House had inquired what it was that the people had condemned in the late election. He (Mr. H.) would tell the gentlemen: they had condemned those very measures of policy upon which the President had taken his appeal to posterity; they had condemned those very measures of policy upon which he claimed, for himself and his administration, the gratitude not only of the people now but in all future time; they had determined that the policy of the Government should be changed, first, as it concerned our foreign relations and intercourse; they had determined that a new and peaceful policy should animate our councils in the future management of our foreign affairs.

In passing judgment upon the great measure of his administration—that upon which the President laid so much emphasis—he (Mr. H.) alluded to the late war with Mexico; he understood the people to have determined, now and forever, that the question which had hitherto occupied so much of the time and attention of both Houses of Congress—that the war was not begun in accordance with the principles of the Constitution. He (Mr. H.) did not propose to go into the merits of that war, or into the consequences likely to result from it; but upon what point the parties of the country had made up an issue, upon which they had appealed to the people—that was to say, whether the President of the United States had, in violation of the Constitution, and without consultation with the people's representatives, usurped the power of making war. The party to which he (Mr. H.) belonged had contended from the first, as they contended now, that in requiring our forces to invade territory which had, up to that time, always been in possession of Mexico, the President committed a gross and palpable violation of that clause of the Constitution which gave the war-making power to Congress alone. In other words, they insisted that that act was a usurpation on the part of the President, to issue an order to the army, which, of itself, was an act of war, and which was followed, as all reasonable persons ought to have foreseen it would be followed, by hostilities upon that territory. In this view, more perhaps than in any other, the result of the election which had lately been decided was a vindication of the rights of the people, and of the representatives of the people, in relation not only to the war-making power, but of those other powers which of late years had so often been arrogated and exercised by the President. But it was not only the original act of war in respect to which the President

had usurped powers not conferred upon him by the Constitution. It was by establishing, in the course of the prosecution of that war, military governments in territories which had been declared to be part of the United States; in laying duties upon goods imported into a foreign country, and expending the moneys received from these duties without the authority of Congress. Without enumerating particular instances, he might point out occasions on which the President had exercised powers which, under every free government, resided nowhere save in the legislative department, and which could not be legitimately and constitutionally exercised without its authority.

But the subject to which he had specially intended to refer (and he had taken the floor with much reluctance) was the immediate topic which had been under discussion in the course of this debate. The people, in his opinion, by their late vote, had intended to condemn the course of the Administration in respect to the protective policy. That was a measure which had been repeatedly and distinctly presented as a great doctrine upon which the Democratic party had taken its position before the people, and upon which the Whigs had uniformly taken theirs in favor of the protective principle, as one requisite to sustain our own people in their pursuits, and in the various branches of their industry.

The gentleman from Virginia, [Mr. BAYLY,] who had spoken yesterday, had, in a tone of defiance, as he (Mr. H.) thought, declared himself ready to prove that the tariff of 1846 had not only fulfilled all the hopes and expectations of its friends, but that it had falsified all the predictions of its opponents. He proposed to join issue with that gentleman in the whole length and breadth of the question; and on some suitable occasion, if opportunity should present itself at the present session, and, if no other gentleman more competent than himself should take up the issue, he proposed to meet it. He thought it would be an easy matter to establish the converse of the proposition presented by the gentleman from Virginia. He thought it would be an easy matter to show, that in everything which was essential, the predictions of those who had opposed the tariff of 1846 had been literally and truly fulfilled, whilst the arguments and reasons urged in its favor by its friends had, to a great extent, failed of their object. He would not on the present occasion go into details, but he would refer to one or two facts in support of his position.

What was the condition of the country at the time of the passage of the tariff act of 1846? The protective policy had been in existence for the period of four years under the tariff of 1842, and had produced all the revenue the country required. It had given an unprecedented prosperity to all branches, manufacturing and agricultural. Money was abundant. Labor was well rewarded. Wages were sufficiently high to satisfy the laboring people in manufacturing and agricultural employments. What were the reasons urged for its abandonment? He would not now enter upon them; but he would ask the attention of gentlemen to one fact which was in conflict with the position of the gentleman from Virginia. The effect of the changes which had been made had been to depress the manufacturing interests in almost every branch. He might refer to the testimony which had yesterday been given by a distinguished gentleman from Pennsylvania, [Mr. THOMPSON,] who had supported the general policy of this Administration. That gentleman declared that the iron interest of Pennsylvania—that great leading interest which now employed so much of the industry of the country, and which, if developed and sustained, constituted in itself a source of inexhaustible wealth—had been prostrated by the act of 1846. The gentleman said that that question had a controlling influence on the result of the election in Pennsylvania. Look at the cotton and woollen manufacturing interests. Would any man deny that in all these branches there had been the greatest embarrassment for a year; that prices had been so low that it had been impossible for the manufacturers to sustain themselves against foreign competition, and that many of them had been under the necessity of suspending business? The practical knowledge of many gentlemen on this floor would bear out these assertions; and he was surprised that any gentleman should venture to assert that the predictions which had been made in regard to the effect of the law by its opponents had been falsified. They had declared that it would break up the manufacturing establishments of the country; and although, by the force of circumstances, a most unexampled demand (which could not be expected to occur again) for our breadstuffs and other agricultural products, had sprung up abroad, which had turned the balance of trade in our favor, yet, for the last year, the effect had been felt in all parts of the country where the people depended upon the success of manufacturing and mechanical operations; and wherever the manufacturing interest was embarrassed, it followed that the agricultural interest must to some extent be involved in the same difficulty.

But it was said that the tariff of 1846 had produced an abundant and overwhelming amount of revenue, sufficient not only to meet the wants of the Government, but furnish a surplus to be applied to the payment of the public debt. He was willing to admit that a larger amount had been realized than any of them expected. But the fact might be attributed to the extraordinary causes to which he had referred. The President himself admitted that our manufacturing interests had in some measure been embarrassed, but he attributed the fact to the extraordinary fluctuations which had taken place during the past year in foreign countries. Mr. H. admitting that these fluctuations had been the cause of some embarrassment, proceeded briefly to point out the effect of the protective policy in guarding our people against them, and contended that, in the absence of that policy, we must, as an inevitable consequence, experience in an aggravated degree the evil consequences of these fluctuations year after year. He then referred to the price of cotton, urging that, instead of advancing the price of that or other agricultural productions, the effect of the tariff of 1846 had been (especially as to cotton) to bring them to a lower point than ever. Under the tariff of 1842, cotton had borne a much higher price than it had since attained, and the change had been decidedly unfavorable to that great interest of the South.

He had said that he did not propose to enter upon a general discussion of the tariff bill at this time. He had no such design. But he wished to direct the attention of gentlemen to these great, undeniable facts to which he had referred, in order to show the error of the gentleman from Virginia, who assumed that the tariff policy of 1846 had produced all the beneficial results claimed for it. And at any future time, when the subject could be appropriately taken up, it would not be difficult to establish the fact beyond all controversy, that the law had produced, and was still producing, the very evils which had been anticipated; that all the benefits which the country was said to have derived from its operation were imaginary, and that they existed only in the theories of gentlemen who attributed effects to causes most consistent with their preconceived opinions.

There was another subject which had been referred to in the message of the President, to which he (Mr. H.) would advert for a moment, since a gentleman on the other side had asked what precise measures the people had intended to pass upon at the late election. He (Mr. H.) asserted that, at that election, as in the election of 1840, the people had again repudiated and rejected the scheme of finance for the collection, safe-keeping, and disbursement of the public money, commonly called the sub-treasury. The sub-treasury stood condemned. It was rejected by the people. They would have none of it.

Mr. H. here alluded to the marvelous results which, it was said, this scheme had accomplished for the people—a scheme which, from the glowing and rapturous language in which the President had spoken of it, would seem to be the very essence of political wisdom. Mr. H. proceeded to argue that its operation had been to produce those very effects which it professed to avoid. He instanced the state of the money market for the past year. Had our financial condition been prosperous for the pursuits of legitimate and regular business? The rate of interest had been extravagantly high in our commercial cities and manufacturing places, and business men had been compelled to pay two or three times the legal rate of interest, to carry on their regular business operations. He alluded, also, in this connection, to the state of uncertainty and alarm in which the banks had been kept by the operation of the system.

He believed it to be the deliberate intention of the people of the United States that these measures should be changed. These different propositions had been deliberately submitted to them by the Baltimore Convention. That convention had laid down a platform on which all these measures were glued together. The candidate whom they selected, sustained that platform, and it was understood that if he was elected, he would carry out the same glorious policy—free trade—the subtreasury—annexation of foreign territories—wars and conquests—opposition to internal improvements. And to this career of glory there never was to be an end. All these things were put before the country. It was to be the same thing over again, and perpetually. But the people had decided that they would not have it. For the last two or three years they had been tired and wearied of the policy pursued by the Administration. It had not, since the first year of its existence, enjoyed the confidence of the people. In proof of this assertion, he might cite the returns of election for members of the existing Congress. The President came here with a majority in this House, numbering nearly two to one. Yet at the first opportunity which was presented to the people to speak upon his measures, they returned to this House a majority against him. From that day to this, the Administration never had enjoyed the confidence of the people, notwithstanding the triumphant tone assumed by the President in the vindication of his measures.

Mr. H. believed that the opinion of the people, as it had been expressed at this time, would be the deliberate judgment of posterity. He believed that when the course and policy of this Administration should be written down in history; when it should be held up to the examination of our people in future time, it would be pronounced one of the most mischievous and corrupt administrations that had ever wielded power. The encroachments of the Executive upon the rights of the people, more than anything else, had alienated the confidence and regard of the people from him.

The President had claimed great merit, and had entered into an argument to vindicate the exercise of the veto power, in which he had suffered himself so freely to indulge; and he had gone on, by a formidable display of his logical powers, to prove (what had never yet been disputed) that, under certain circumstances, since the power had been vested in the Executive, it might be proper to use it. But he had gone far beyond the intentions of the original framers of the Constitution, and claimed it to be his duty, on all occasions when the sentiments of Congress differed from his, to place his opinions against the deliberate judgment of the people's representatives. He assumed that he was to judge what laws should be enacted—considering himself the representative of the whole people, to the exclusion of their immediate representatives, elected by themselves in their own districts, and sent here, under the Constitution, to exercise the legislative power of the nation; and he assumed to be a constituent branch of the Legislature. He (Mr. H.) denied this doctrine. Such never was the design of the great and wise men who framed our Constitution; and neither they nor the people of the country contemplated that an Executive could receive the support of the people who would afterwards arrogate to himself powers directly in conflict with all correct ideas of popular government.

He thought that the President had been unfortunate in the instances he had brought to sustain his course in the exercise of this prerogative. What were the instances which, in his judgment, had made it proper in him to place himself in conflict with the representatives of the people? The first bill he had arrested by the exercise of this arbitrary prerogative, was an act to provide for the payment of claims of our own citizens—claims which had been long before Congress—which had been deliberately considered, and which, finally, after careful investigation, had passed both Houses of Congress. The bill was but an act of justice to those who had long been kept out of their rights. Congress decided that these claims for French spoliations should be paid, as they ought to have been paid forty years ago. The question was one purely of justice and expediency, belonging to the representatives of the people. Yet, upon an impression of the President, that it would be inconvenient to pay the money, or because the claims

were old and might be suspicious, he decided that the bill should not become a law.

But there was another subject far more important, transcending, in its effects upon the interests of the country, almost every other, on which the Executive had thought proper to interpose his arbitrary will against the action of Congress. He alluded to the appropriations made from time to time for the improvement of the great channels of commerce in this country, both internal and external. Congress, at almost every session, had passed bills appropriating a portion of the public revenue to improve the navigation of the great lakes, rivers, and harbors on the seaboard. The appropriations which had passed this Congress and the last Congress for this purpose were precisely of the same character as those which had been passed by every preceding Congress for more than twenty-five years. Bills of the same character as those which had been defeated by the present Executive had received the sanction of all his predecessors, including General Jackson and Mr. Van Buren; but he had assumed to go a long way beyond all the political abstractionists of his school, and reject appropriations of every description for the improvement of our internal commerce. The bill which he had vetoed two years ago, at the session of 1846, was confined to unfinished works, which had been commenced under the sanction of his predecessors. He would remind the gentleman from Illinois [Mr. WENTWORTH] that the candidate of the Baltimore Convention was pledged to this same system, to carry out the same hostility to internal improvements, and he thought the people had decided also that they would not have a President who would thwart and defeat their wishes, and prevent the free action of Congress on this subject, as our present Executive had done. It would really seem as if the Executive could find no constitutional power to expend money upon any beneficial work of improvement within the limits of the United States. After going beyond our boundaries, after passing over to Mexico, and going down to the Isthmus of Panama, his constitutional objections were immediately dissipated. We had a Constitution under his construction of it whose power seemed to increase the very moment it was made to operate beyond the sphere for which it was originally created. The President saw no difficulty in securing the right of making railroads, canals, and internal improvements of all kinds, but he insisted that they must be somewhere without the country. Where it was proposed to improve our great rivers, the harbors on the lakes and seaboard, and the navigation of the maritime waters, altogether within our Federal jurisdiction, he stopped Congress short, year after year, and defeated the action of the people through their representatives.

But he had not intended to go into a full discussion of any of these matters. He had thought it proper to allude to them, on account of the efforts which had been made, not only now, but upon former occasions, to convey the idea that the people of this country, in the exercise of their own high power and privilege of electing their Chief Magistrate, and deciding what policy should prevail in the administration of the Government, had been carried away by mere blind freak and passion, without having any settled purpose. If gentlemen on the other side had any such idea, he could assure them, as much as they admired the people of this country—and they professed to be the especial admirers of the people—that they had entirely mistaken the popular character.

The American people knew full well what it was they desired, and what it was they were doing, when they had accomplished that great change of rulers which was about to restore this Government to its original purity, and to carry us back to the better days of the Republic. They had decided to put an end to Executive encroachments and Executive corruption. They had decided to put an end to all those theories which had operated so oppressively upon the industry of the country—to the free-trade policy, and the sub-treasury, by which the circulating medium of the country was actually excluded from all the operations of the treasury. They had determined that this great indispensable power, so important to all the producing sections of our country—the appropriation of the public moneys for the facilitating and promotion of commerce, for removing the obstructions which impeded our navigation—should no longer be restrained in its exercise. They had determined, at the same time, to put an end to the Executive usurpation of the war power; to put an end to conquest—to the false, dazzling, delusive career of glory which had been opened before our people, by those who were ready and eager upon all occasions to engage in "inevitable" war, as if that was the only way by which we were to work out our "manifest destiny." All these things had entered as elements into the canvass. He believed, that with reference to them all, we should see a new order of things. He anticipated, from that honest, incorruptible patriot who had been elected by the free suffrages of the people, a hearty co-operation, a ready conformity, to the will and wishes of the people upon all these great questions; that he would carry out the true intent and design of the Constitution under which we live—that the laws shall be made by the people, through their representatives in Congress, and shall be administered in good faith by the Executive department of the Government.

He wished to refer, for a single moment, to the instance which was alluded to in this very message, from which the President attempted to show the propriety of the exercise of the veto power. He (the President) was not satisfied with touching upon questions which had been before the country during his Administration; but he had gone out of the way to consider a question which, for some years past, if not "obsolete," had been entirely removed from public discussions, and had occupied no considerable share of public attention—he alluded to the question of a United States bank. He believed it had not been proposed by any party to establish a national bank since the present Executive came into power, and he supposed it was not at all probable he would be called, before the expiration of his term of office, to give his assent to any such measure. Yet he (the President) could not satisfy himself in this farewell legacy to the country without going out of his way to amuse Congress and the people with a labored argument against the constitutionality of a bank of the United States, taking care, at the same time, to impute to all those who differed with him the most unworthy motives. He entered into an argument which, a few years ago, would have been very fitting in Tammany Hall; but even in the discussions of party clubs in this country the subject had passed out of view; yet it was revived with all the freshness of novelty by this retiring President, who referred to Washington, who signed the first bill to charter a national bank, and to Madison, who signed the bank bill of 1816. These Presidents, he told us, had serious doubts in their own minds as to the constitutionality of a bank; indeed, he said that Washington, in his individual opinions, doubted the existence of this power in the Government; that his original opinion was against it; and that he went so far as to engage Mr. Madison to frame a message respecting the bill, which was originally sent to him. Well, he (Mr. H.) thought, if the President had studied the philosophy of his own precedent, he would have seen that it furnished the strongest argument which could be adduced in favor of a spirit of deference on the part of the Executive to the Legislative branch of the Government. General Washington had doubts; his individual opinions might be, as they probably were, rather against the existence of this power; yet he decided, as every wise and patriotic man would do, that while there were doubts in his mind, the will of the people, through their legislative organs, should prevail; and he sanctioned the bill. That was the wise decision to which General Washington and Mr. Madison arrived: they yielded their own constitutional scruples in deference to the will of the people, declared through their representatives. He (Mr. H.) believed that we had elected another President now, (and he hoped we should elect such during all time,) who would be animated by the same elevated, patriotic spirit. He trusted we should see no more of this race of self-sufficient, all-sufficient Presidents, who considered themselves wiser and better qualified to judge what was for the benefit of the people than their own representatives.

Before taking his seat, he had a single word to say upon the immediate subject under discussion. He did not consider it very material to which of the two committees this portion of the message should be referred. It was hardly probable that a revision of our present tariff system would be carried into effect at the present session of Congress; but he believed it would be one of the first, if not the very first act which would be passed by the new Congress. The most that could be done, perhaps, at this session, was to refer the subject to a committee where it would be thoroughly investigated, and from whom a proper report would be presented, showing the operation and effect of the tariff policy now in force. The tariff of 1846 should be thoroughly discussed and examined at this session of Congress. The sophistries and fallacies which were contained in this message of the President, and which were so well calculated to delude the people who had not the opportunity to investigate it thoroughly for themselves, should be exposed by a committee of this House; and he thought it would be eminently proper to place this subject before a committee who, at the proper time, should make a full, candid, fair report, presenting the entire merits of this subject, meeting the views of the President in a proper spirit, and placing the question on those grounds where, sooner or later, it must stand. He doubted very much whether the Committee of Ways and Means, in the great multitude of their engagements, and under the heavy labors which had already been devolved upon them, would have the time to institute the necessary investigation, and make the elaborate report which the subject required.

He was therefore in favor of sending that portion of the message to the Committee on Manufactures. He did not know for what other purpose the Committee on Manufactures was organized: unless this subject, so far as its bearing on industry was concerned, should be referred to them, it struck him that the House might as well dispense altogether with this committee. By a rule of the House, the Committee on Manufactures was one of the standing committees of this House, but it had no duty to perform except this or some similar subject were specifically referred to them. He thought the present a suitable occasion to send the question to a committee who would investigate it, and present a full and satisfactory report, which should be laid before the country, and should counteract the existing erroneous influences upon public opinion, giving to all men the necessary means of forming a correct and deliberate opinion on the subject.

Mr. BROWN, of Mississippi, obtained the floor, and yielded,

And, on motion of Mr. McCLERNAND, the committee rose.

And the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. STROHM: The petition of Henry Bullman and John Borgstrom, discharged recruits, praying that bounty land and extra pay may be allowed to them, and all others similarly situated: referred to the Committee on Revolutionary Pensions. Also, the petition of Jacob Waresch, late of the marine corps, praying that bounty land and extra pay may be granted to him and all others similarly situated: referred to the Committee on Revolutionary Pensions. Also, the petition of Lorenzo Poelzel, a discharged soldier, praying for a pension on account of his disability to labor: referred to the Committee on Invalid Pensions.

By Mr. A. JOHNSON: The petition and other papers of Mr. John Kenbaugh, of Green county, Tennessee, asking Congress to place him on the roll of invalid pensioners: referred to the Committee on Invalid Pensions. Also, the application of Mr. Nathaniel Wills, of Washington county, Tennessee, to be placed on the roll of invalid pensioners: referred to the Committee on Invalid Pensions.

By Mr. BOWLIN: The petition of Peter A. Carnes, praying to be indemnified for losses sustained by him whilst a sutler in the army, in consequence of irregular orders of the War Department, and to be protected in his office of forage and wagon-master: referred to the Committee on Claims.

By Mr. HARMANSON: The petitions of M. McIntyre and R. Benjamin.

The following Committees were on Tuesday announced by the Speaker:

Committee on Rules.

Mr. Truman Smith, Mr. Julius Rockwell,
Mr. Caleb B. Smith, Mr. Geo. S. Houston,
Mr. Howell Cobb, Mr. Jenkins,
Mr. Chapman, Mr. Brady.
Mr. Cabell,

Committee on the Publication of the Journals of the House.

Mr. McLane, Mr. Wallace,
Mr. Toombs, Mr. Collamer,
Mr. Ashmun,

IN SENATE.

THURSDAY, *December* 21, 1848.

Mr. SEBASTIAN, from Arkansas, appeared in his place.

Mr. ATCHISON presented the credentials of the Hon. WILLIAM K. SEBASTIAN, elected a Senator from the State of Arkansas, for the term of six years from the 4th of March next.

The credentials having been read, Mr. SEBASTIAN was qualified accordingly.

PETITIONS.

Mr. HUNTER presented the petition of John B. White, asking for a pension due to his father, who was an officer of the Revolution; which was referred to the Committee on Revolutionary Claims.

Mr. UPHAM presented the petition of John Dickey and 130 other citizens of Vermont, asking for the establishment of a new post route; which was referred to the Committee on the Post Office and Post Roads.

Mr. UNDERWOOD presented the petition of the administrator of the late Major Weed, asking for the settlement of his accounts on equitable principles; which was referred to the Committee on Claims.

Mr. DICKINSON presented the petition of Hugh W. Dobbin, asking remuneration for military services; which was referred to the Committee on Military Affairs.

On motion of Mr. DICKINSON, the papers of this petitioner were taken from the files and referred to the same committee.

Mr. YULEE presented a communication from the vestry and wardens of the Episcopal church at Saint Augustine, remonstrating against a claim for a lot of ground, set up by N. Madeore, Catholic Vicar General of Florida; which was referred to the Committee on Private Land Claims.

On motion of Mr. KING, the petition and papers in the case of C. G. Gunter, were taken from the files and referred to the Committee on Private Land Claims.

On motion of Mr. FELCH, the petition of Thomas L. L. Brent was taken from the files and referred to the Committee on Foreign Relations.

BILL ON LEAVE.

Mr. UNDERWOOD, pursuant to notice, asked and obtained leave to introduce a bill for the relief of Theodore Offutt; which was read a first and second time, and referred to the Committee on Claims.

CLERK TO A COMMITTEE.

Mr. JOHNSON, of Louisiana, moved that the Committee on Pensions have leave to employ a clerk.

Mr. JOHNSON stated that such was the accumulation of business before the Committee on Pensions, as to render it impracticable for the committee to dispense with the services of a clerk.

The motion was agreed to.

MOTIONS.

On motion of Mr. KING, the bill to grant a right of way and a donation of public lands to the States of Alabama and Florida, for making a railroad from Montgomery, in the State of Alabama, to Pensacola, in Florida, and from thence to the waters of the Tensaw river, on Mobile Bay, in the State of Alabama, was taken up and referred to the Committee on Public Lands.

On motion of Mr. WESTCOTT, the bill was taken from the table and reinstated on the calendar.

On motion of Mr. CORWIN, the bill for the relief of Cadwalader Wallace was taken from the table, and reinstated among the general orders on the calendar.

On motion of Mr. JOHNSON, of Louisiana, the Senate proceeded to consider the bill to authorize the Secretary of the Treasury, with the approbation of the Attorney General, to purchase for the United States the interest of Balie Peyton in the tract of land on which the lighthouse stands at the Southwest Pass, at the mouth of the Mississippi river.

On motion of Mr. J., the bill was postponed until Wednesday next, and was made the special order for that day.

REPORT OF COMMITTEE.

Mr. DIX, from the Committee on Military Affairs, reported the bill reorganizing the pay department of the army, with amendments.

PANAMA RAILROAD.

Mr. CAMERON rose to ask the Senator from Illinois if there would be any objection in postponing the further consideration of the bill to give compensation in aid of the construction of a railroad across the Isthmus of Panama? He desired to be absent until after the holidays, and he hoped the bill would not be taken up until after his return.

Mr. DOUGLAS replied that the Senator from Missouri, [Mr. BENTON,] who had more particularly the charge of the bill, was not in his seat; but he presumed the parties interested would not object to a delay. He would therefore name Tuesday week for the consideration of the bill.

The adverse report of the Committee on Revolutionary Claims, on the petition of Gustavus C. Hamer, was taken up, and, on motion of Mr. JOHNSON, of Louisiana, was laid on the table for the present.

Mr. CLAYTON moved to reconsider the vote by which the adverse report on the petition of Arnold Naudain was yesterday concurred in.

The motion lies over for consideration.

COLLECTION DISTRICT IN NEW YORK.

On motion of Mr. DIX, the Senate proceeded to consider the bill to establish a collection district in New York; which was read a third time, and passed.

On motion of Mr. DIX, the title was amended to read, "An act to extend certain privileges to the town of Whitehall, in the State of New York."

RESOLUTIONS.

The following resolution, submitted yesterday by Mr. NILES, was taken up, and agreed to:

Resolved, That the Secretary of the Treasury inform the Senate what construction has been given to the revenue act of 1846, in respect to duties accruing and collected on importations on which a bounty is paid on their exportation by any foreign country; and particularly, whether the amount of such bounty has been deducted from the invoice or valuation of such imports at the place from whence imported.

On motion of Mr. BRIGHT, it was

Resolved, That the President of the United States be requested to communicate to the Senate (if in his opinion not incompatible with the public service) a copy of the despatches transmitted to the Secretary of State in August last, by the resident Minister at Rio Janeiro, in reference to the service and general conduct of Commodore G. W. Storer, commander-in-chief of the United States naval forces on the coast of Brazil.

On motion of Mr. CLARKE, it was

Resolved, That the President of the United States be requested to communicate to the Senate a list of all treaties of reciprocity in navigation, which have been concluded between the United States and other nations, with the date of the execution of each. Also, a statement of the trade and commerce of such nations, respectively, together with the population of each, and the effect of such treaties, comparatively, upon the commerce and navigation of the United States.

On motion of Mr. NILES, it was

Resolved, That the Postmaster General be directed to communicate to the Senate a copy of the report to him made by S. R. Hobbie, Assistant Postmaster General.

CAPTORS OF THE PHILADELPHIA.

Mr. YULEE. I have been requested to ask the Senate to take up, though not in its order, a bill for the relief of the captors of the frigate Philadelphia, at Tripoli. It is a case of long standing, and a very meritorious one. It should therefore be acted on very speedily.

The bill was taken up accordingly, and read and considered as in Committee of the Whole. It proposes to give the sum of $100,000, under the direction of the Secretary of the Navy, to the officers and crew of the ketch *Intrepid*, commanded by Stephen Decatur, who were engaged in the capture and destruction of the frigate *Philadelphia*, in the harbor of Tripoli, on the 16th February, 1804, to be distributed *pro rata* among the officers and crew, according to the rates fixed by the 6th section of the act of April 23d, 1800, for the better government of the navy of the United States. The sum specified in the bill appears to have been regarded as one half of the estimated value of the frigate.

At the request of several Senators, the report made by Mr. YULEE, from the Committee on Naval Affairs, on the 10th of August last, on this subject, was read by the Secretary. The facts therein stated are memorable in our history. During our contentions for the freedom of navigation of the Mediterranean, and after the war with Tripoli had commenced, a small squadron, under the command of Commodore Preble, (the United States frigate Constitution being the flag ship,) was despatched by our Government for the purpose of carrying on hostilities against that despotic Power, and bring it to terms.

The United States frigate Philadelphia, one of the squadron commanded by Captain Bainbridge, when cruising off the harbor of Tripoli, struck upon the rocks lying in the immediate vicinity of the fortifications, and was stranded. Finding it impossible, after using every exertion, to get off his vessel, or to resist the overwhelming force of the enemy, Captain Bainbridge was forced to surrender, and his officers and men were made prisoners, and removed to the dungeons of the city fortifications. The frigate, subsequently, was got off the rocks by the Tripolitans, having sustained but little injury, and was moored by them within pistol-shot of the Tripolitan navy, manned and made ready for sea. More than one hundred pieces of heavy cannon were mounted on board of the different vessels of the Tripolitans, manned by upwards of one thousand seamen; and the whole lay within the immediate protection of formidable land batteries, consisting of one hundred and fifteen pieces of heavy artillery, and within sight of a force of twenty thousand troops, stationed in the city and its vicinity.

The loss of this fine frigate and her noble crew was most seriously felt, and proved a great detriment to the American squadron, in carrying on efficient operations against an active enemy.

Under these circumstances, so annoying to our squadron, the then Lieutenant Stephen Decatur, conceived the bold idea of recapturing the Philadelphia with his vessel, the United States schooner Enterprise, which he then commanded, and communicated his plan of operation to Commodore Preble.

The Commodore was fully impressed with the importance of so daring an act, approved the plan, and accepted the offer of Lieutenant Decatur's services. But, sensible that success must depend on the secrecy, celerity, and gallantry of its execution, and that an attempt to bring out the frigate, if captured, would, in all probability, be attended with too great hazard and loss of life, gave peremptory orders to set fire, after capture, to every accessible part of the frigate; and, after "blowing out her bottom," to abandon her.

In compliance with this permission and his orders, Lieutenant Decatur manned a small ketch, of about sixty tons, (which he had recently captured, and was named by Commodore Preble the "Intrepid,") with seventy officers and men, volunteers from his own vessel, and sailed from Syracuse, where the American squadron lay, on the 3d February, 1804.

He had an unusually stormy passage, and arrived on the 16th following off the coast. After perfecting all his arrangements, he ran, after dark, into the harbor of Tripoli, disguising his movements as much as possible, to deceive the enemy, by whom he was observed and suspected; and at about 10 p. m. lay his vessel boldly alongside the Philadelphia, boarded and carried her, sword in hand, in the most gallant style, after a severe though short conflict on the decks of the frigate, in which upwards of twenty of the enemy were slain, and the rest driven below or overboard.

The capture was made with such gallant daring, and with so many concurring favoring circumstances, that, in the opinion of many, the frigate could have been easily carried out of the harbor, and again added to the American squadron. But the peremptory orders of Commodore Preble forbade such an attempt; and, after deliberately setting her on fire, as directed in his instructions, and remaining on board "until the fire had communicated to the rigging and tops," Decatur abandoned her to her fate, bringing off his whole crew, under a heavy fire from the batteries and shipping, without the loss of a man, (having but one slightly wounded,) and rejoined the American squadron.

Mr. KING. I would ask the chairman of the Committee on Naval Affairs whether a bill making an allowance of a considerable sum of money to some of the individuals under the claim now proposed to be allowed, has not already been paid?

Mr. YULEE. No, sir. Several favorable reports have been made, and several bills have been reported to Congress, but they have always failed of passage, on account of the contest that has been going on with respect to the distribution of prize-money. The contest arose from the fact that the vessel had not the usual quota of officers on board;

and the officers in command claim that they should receive the whole amount which would have been allowed had the vessel been fully officered. They would thus have received a larger proportion of the prize-money than they were justly entitled to. The present committee have been endeavoring to bring this struggle to a close by adoping a new scheme for the distribution of the prize-money, under which the men and inferior officers will receive a much larger proportion of the prize-money than they have heretofore expected. It is indeed a case of high merit, and one that would have been settled long ago but for the claims set up by the representatives of Commodore Decatur.

Mr. KING. I suppose there is not a member of this body who is not prepared to give full credit to all—particularly to the commanding officer—who were engaged in this enterprise. It was certainly one of the most brilliant ever undertaken, and in consequence of the gallantry evinced by all concerned in the expedition, Commodore Decatur and the officers under him received very rapid promotion. I recollect the case well. It has been before Congress many years, and was not brought forward at an earlier period because Decatur was not the man to present it. He, as well as all the officers connected with him, regarded their promotions somewhat in the light of remuneration. In regard to allowing the officers one-half the amount of the value of the vessel captured, that principle was adopted in order to secure to our naval officers an appropriate reward, in cases of vessels destroyed because of their crippled state at sea, or because they could not be brought into port for fear of capture by the enemy. This rule prevailed for some time, though it was ultimately disregarded. If I am not very much mistaken, the honorable Senator from Florida [Mr. YULEE] is in error as to the statement of an allowance having been made to any of these parties whose claim is now before us. I would ask the Secretary if a law was not passed some years ago, giving a considerable amount of money to Susan, widow of Commodore Decatur, in consequence of certain claims put forth by her, and arising out of the destruction of the frigate Philadelphia?

Mr. YULEE. It was some other claim, sir.

Mr. KING. I am under the impression that such is the fact; but, at any rate, it is a matter worthy of inquiry whether we have not acted upon this subject before; and whether a partial, if not a general allowance has not been made to some of these officers? I think the honorable Senator had better allow the bill to lie over till the facts can be inquired into. I am prepared to go as far as any man on this floor in rewarding our officers and seamen for gallantry and good conduct, upon any and every occasion, when we have the opportunity. A more meritorious officer than Stephen Decatur never served any country under the sun. The officers associated with him were men who distinguished themselves not only upon that occasion, but subsequently upon other occasions; and, although I am disposed to act liberally towards them, I am not inclined to pass this bill without first knowing whether they have not already been compensated in some degree by the Government. I do not allude now to the fact of their promotion, but to a bill for their compensation.

Mr. HALE. I would call the attention of the chairman of the Committee on Naval Affairs to the facts in this case, as I have gathered them from the public newspapers. This claim has been before Congress as long as I have been in the habit of reading newspapers. I recollect the fact alluded to by the Senator from Alabama. This claim was originated before Congress some twenty years ago, and failed to pass. Soon after the failure of this specific bill, there was introduced into Congress, and it became a law, a bill for the distribution of the naval pension fund, which made most extravagant and extraordinary appropriations to the widows of naval officers. Under the operation of this bill the naval fund was soon dissipated and entirely wasted. I think it will be found that under that act Mrs. Decatur received more than four times the amount to which she would be entitled under the present bill. That general law having entirely dissipated the naval pension fund, we are now obliged to make appropriations from the treasury to meet such cases as are now renewed and asked for in the passage of this bill. I trust, if the bill be permitted to lie over a few days, the honorable chairman of the Committee on Naval Affairs will be able to state to the Senate how much the widow of Commodore Decatur has actually received under the act for the distribution of the naval pension fund.

Mr. BADGER. I agree with the Senator from Alabama [Mr. KING] that if Government has heretofore paid all or any portion of these claimants, they ought not to be paid again. I think the Senator will find that no payment has at any time been made with reference to the claim upon which we are now called upon to act. It seems proper though, and I hope the honorable chairman of the Committee on Naval Affairs will yield to the suggestion, that the bill should not pass without full opportunity for investigation. I take this opportunity, however, to say, that I know of no event in the history of the American arms so worthy of the attention of our countrymen as the exploit of the noble and heroic little band who engaged in the destruction of this vessel. And if they had not heretofore received the just pecuniary compensation to which they were entitled, I consider it only proves that Congress ought not to suffer this debt to remain longer unpaid; the payment of it, in fact, has been already too long delayed for the credit of the Government.

A word in reference to the suggestion of the Senator from New Hampshire. He is mistaken in supposing that the allowance to Mrs. Decatur, under the act passed by Congress by which the distribution of the naval pension fund was made, has anything to do with the case now under consideration by the Senate. That act, or the allowance under that act, has nothing to do with this claim.

Mr. YULEE. Undoubtedly the Senator from Alabama is mistaken in his impression that there has been already a part payment of this claim. I am willing, in accordance with the general rule, that the bill should lie over till he can satisfy himself on this point. I feel quite sure that he will find himself mistaken as to the impression resting upon his mind: however, that impression existing, the bill ought to lie over until Senators shall be satisfied with respect to it—to be taken up again at the earliest period practicable.

While I am up, I would say that I apprehend the Senator is mistaken in reference to the practice of Congress in cases of this description; and, in order that this case may not pass off, leaving an incorrect impression upon the minds of Senators, I will call the attention of the Senate to precedents which will remove any doubt in relation to it. The committee who have had this case under examination have decided in the former reports they have made, that it was in accordance with long-continued and well-established precedents in the legislation of the country to allow claims of this character. These precedents will be found in the volume of Naval Laws; and if the Senator will refer to them, he will find that they completely establish the practice of the Government in reference to cases of this description. He is mistaken in supposing that a meritorious reward has not always been allowed in cases of the destruction of captured vessels, whether destroyed or brought into port. On the contrary, such allowance of reward has always been made. In this particular instance, the destruction was carried on by the express command of Commodore Preble, who apprehended, owing to the extreme hazard of the enterprise, and the necessary exposure to which it would subject the lives of the crew, that the attempt to bring the Philadelphia into harbor would prove a failure. Nevertheless, it has been found, upon examination of the papers of his associate officers, that but for this order she might have been preserved. Here are two laws, passed in quick succession, in the year 1813, which establish the precedents to which I have alluded. The first is an act rewarding the officers and crew of the frigate Constitution, and the officers and crew of the Wasp, and others. It authorizes the President of the United States to have distributed as prize money to Captain Isaac Hull, of the frigate Constitution, his officers and crew, the sum of $50,000, for the capture and destruction of the British frigate Guerriere; and the like sum in like manner to Captain William Bainbridge, his officers and crew, for the capture and destruction of the British frigate Java; and the sum of $25,000 in like manner to Captain Jacob Jones, of the sloop of war Wasp, his officers and crew, for the capture of the British sloop of war Frolic; and the sum of $125,000 was appropriated thereby for these purposes. This act was approved March 3, 1813. Senators will find it on pages 175-6, of the volume of Naval Laws.

The second act to which I have referred will be found on page 176 of the same work. It is entitled "An act to reward the officers and crew of the sloop of war Hornet, and Lieutenant Elliott and his officers and companions;" and it authorizes the President of the United States to have distributed as prize money, to Captain James Lawrence, late of the sloop of war Hornet, his officers and crew, or their widows and children, the sum of $25,000, for the capture and destruction of the British brig Peacock; and to Lieutenant Elliott and his officers and companions, or their widows and children, the sum of $12,000, for the capture and destruction of the British brig Detroit; and the sum of $37,000 was thereby appropriated for those purposes.

Here are five or six precedents, under two single acts, in succession, and, upon reference, there might be found a dozen others.

A word in regard to another point which may be calculated to awaken prejudices against this bill. The Senator refers not only to what Decatur's widow has received under a certain provision of law, but also to the rapid promotion of Decatur himself. It may be true that Decatur was rapidly promoted, but certainly not beyond his merits. It may be true, also, that his widow received a considerable amount of money, but it was for the pension due her under the general law. This bill comes now before the Senate upon the petition of the steward of the vessel, who volunteered and acted as a sailor on this occasion, and the petition of a poor worn-out old sailor at the navy-yard. It is not on the petition of the officers commanding when the prize was destroyed, but on the application of the seamen, whose claim comes to us in the character of a debt, the payment of which has been delayed for so many years on account of the struggle amongst the officers for a larger share of the prize money than they were entitled to under the prize act. The committee have adopted the prize act as the rule of distribution, which accords to the men a larger proportion of the prize money than the officers would have been inclined to give them. The application comes from the men; and if the Senate choose to exclude the officers from any participation in the distribution proposed, it should at least do justice to the men.

Mr. KING. I do not intend to consume the time of the Senate; I merely wish for the information which the honorable Senator has proposed to afford. I know, sir, that during the late war with Great Britain there were many cases, some of which he has cited, in which we departed from what we considered the correct course, and allowed salvage to the captors of vessels which could not be brought into port on account of their crippled state, or for fear of their falling into the hands of the enemy. But the principle upon which the Government acted was to allow for prize money one-half the amount of the value of the prize vessel only when brought into port.

Mr. YULEE. I would ask when that precedent was established? During the war of 1813 I know of no such precedent

Mr. KING. I am referring to vessels captured in the war with Great Britain. It was apprehended that some of them would fall again into the hands of the enemy, and, in consequence, a suitable reward was made for their destruction; but the reasons for these cases appear on the statute book, and do not constitute a precedent. I was aware, as I before stated, that a bill had been passed allowing compensation to one of these claimants. That bill, I find, is a joint resolution, and passed on the 3d of March, 1837; and it gives to the widow of Stephen Decatur, to be paid out of the navy fund, a pension for five years; and another act was passed on the 30th of June, 1837, allowing to her the pay of a post-captain.

[Mr. K. here read the acts referred to.]

This pension bill, as I understand it, was passed at that time in consequence of her peculiar situation, and because of this claim on account of the gallant and meritorious services of her husband. But was it usual to allow pensions to the widows of officers not destroyed in the service? The Senator will say no.

Mr. YULEE. I will answer the Senator on that particular point. The legislation of the country has been devious and fluctuating in this particular. Sometimes the law has allowed pensions to the

widows of officers who have died in service in consequence of wounds, and sometimes to the widows of those dying a natural death; but now the benefit of pensions is extended to the widows of all officers who die in consequence of the extraordinary vicissitudes of the service. Whatever may have been the reason which has induced Congress to pass laws which may have thus conflicted, it is certain that a law allowing to the widows of deceased officers a pension cannot be pleaded as an offset against the payment of a debt due to officers and men as the captors of a prize vessel. I say debt due, because what has been an established and regular practice in such cases should be regarded as a certainty, upon which all engaged in the public service may rely. I do not think it proper, or politic, or even legal, to disregard the established practice of Government in any particular case. Every rule of practice of this description has some good end in view; and those who direct their energies toward the accomplishment of the end ought to receive the benefit of the rule. Under this invariable practice of the Government, I cannot but regard this prize money as a debt due by the Government to these men. The rule should be observed with respect to these men, as it has been towards all other captors of prize vessels. I do not know that there is a single precedent to the contrary. If the Senator knows of one, I wish he would cite it. I have no objections to the postponement.

No amendment being offered to the bill, it was reported to the Senate, when, the question being upon the engrossment—

Mr. HALE demanded the yeas and nays, which were ordered.

Mr. BREESE again called for the reading of the bill; and it was read.

Mr. UNDERWOOD. I would be glad if this matter could lie over for a few days. The claim is a very stale one, originating many years back. For one, I should like to know a little more about it. I am inclined to vote for the bill as at present advised; but for the purpose of getting some more perfect and satisfactory information upon the subject, I hope that, for the present, it will be allowed to lie over.

Mr. YULEE. I have no objection to its being passed over informally.

Mr. UNDERWOOD. I move that it be postponed until to-morrow.

The question was taken upon the postponement, and agreed to.

PRIVATE CALENDAR.

The Senate proceeded to the consideration of the bill for the relief of Frederick Dawson, Frederick Schott, and Elisha D. Whitney; which, on motion of Mr. JOHNSON, of Maryland, was passed over for the present.

The Senate proceeded to the consideration of the House bill for the relief of Calvin Emmons, reported from the Committee on Patents and the Patent Office.

Mr. WESTCOTT. In relation to this bill, I will observe, that I desire to offer a slight amendment to it, but have not at this moment in my possession a paper which it is necessary for me to have in order to enable me to do so. Since the bill was reported, Mr. Emmons has died, and it will be necessary that there should be a provision for the payment of the money to the executor or administrator, whose name I am not now in possession of. I therefore ask that the bill be passed by informally, or that the further consideration be postponed until to-morrow.

The bill was accordingly postponed.

The Senate proceeded, as in Committee of the Whole, to the consideration of the House bill for the relief of Colonel Robert Wallace, aid-de-camp to General William Hull; which was reported to the Senate without amendment.

The question being on ordering the bill to a third reading, a division was called for.

Mr. BRIGHT objected to the passage of the bill; he desired that it should be passed over.

Mr. UNDERWOOD. I regret very much to see any opposition manifested to the passage of this bill. The petitioner, who is a citizen of Kentucky, I know to be in great need of the allowance. He is an aged man, and there is no doubt about his having rendered the services as stated in the report. Why then refuse to grant the allowance? The claim has been passed upon by the committee upon the testimony of General Cass, General Jesup, and others, and I hope there will be no obstacle now thrown in the way. At all events, if there is opposition, the grounds of that opposition should be stated. The testimony is of such a nature as ought to be satisfactory.

Mr. BRIGHT. If it is desirable that objection should be stated, I will state what my objections are. This is one of that class of cases which seems to depend upon their antiquity for their success. If the claim had any intrinsic merit, I have no doubt it would have been paid long since. One hundred and eighty dollars is claimed as the price of a horse. This, it strikes me, is an exorbitant sum. The whole claim is just one of that kind that ought never to be entertained by Congress.

Mr. BUTLER. I am not aware of any principle upon which payment for a horse can be claimed. Perhaps the Senator from Kentucky can furnish some light in regard to that point. It may be all right, but I confess I know of no such principle.

Mr KING. Let the bill lie over.

Mr. UNDERWOOD. I have no objection that it should lie over, but I will state to the gentleman over the way that there was a bill passed, I believe, at the last session of Congress providing for the payment for property lost in the late war with Mexico, horses included, which is precisely establishing the principle that is doubted by the gentleman, and that is proposed to be pursued in this case by paying the aid of General Hull for the horse he lost. A bill of that sort certainly passed one if not both Houses of Congress last session. However, I have no objection that this bill should be postponed until to-morrow, and I will endeavor to look further into the case. The bill has passed the House of Representatives after having been submitted to the Committee on Claims of that body, and has also been examined by the Committee on Military Affairs here, and that committee, General Cass being at its head, reported favorably upon it. It belongs, therefore, rather to some member of that committee to fortify and sustain the bill by argument. But, sir, coming to us as it does from the Military Committee with the sanction of General Cass, who must be presumed to have known something of the facts attending the case, having been acquainted with the individual personally, I am surprised that it should meet with the opposition it has. There is no doubt that the service was rendered; and because the man was unfortunately captured, is that a reason why his claim should not be paid? If it is to be our rule of action that the successful soldier alone is to be compensated, and he who is captured to be treated with neglect, and his just rights refused, we shall not long continue to find men willing to enter the military service. Are we going to establish a rule of that sort? This gentleman did act as aid to General Hull: I wish his aid had been more effective, and that the whole expedition had been successful, instead of ending in a surrender of the army. But that is no reason why we should refuse to allow this officer the price of his horse; and as to the amount claimed for the horse, I can inform the gentleman that there were horses owned by officers of our army during the war of 1812 that were worth double that sum. Gentlemen, if they choose to inform themselves on the subject, will find that our officers were in the habit of riding the most valuable horses that were to be procured in the country; and they will find that the price here named is a very moderate one. At all events, I do not think the gentleman opposite was at all justified in making the remark he did, that the sum charged was double the value of this particular horse. However, I am willing that the bill should lie over, and in the mean time I will endeavor to look into all the facts.

Mr. BRIGHT. I submit to the Senator's own judgment whether the lapse of time that has been suffered to occur before the presentation of this claim be not sufficient evidence *prima facie* that the claim has no merit. Besides, there is no testimony to prove that any service was rendered. On the contrary, the report rather goes to show that the committee were not satisfied of the justness of the claim. I say the presumption is, that if the party were entitled to remuneration, he would have asserted his right at the time it accrued. The fact of the claim not having been brought forward until years afterwards, is to my mind conclusive that it is a trumped-up affair, and I am sorry to say there are too many cases of that kind brought forward session after session.

Mr. UNDERWOOD. I do not know that my friend over the way is altogether correct in supposing that this is a claim that has but recently been brought forward. It is suggested by my friend on my left, that it is an acquaintance of his of ten or twelve years standing. When it was brought forward for the first time, I am not apprized. I believe the rule applicable to wine is applicable to claims before Congress; the older they get, the better they are; and in my official character, in one or the other House of Congress, I have had to act sometimes upon claims of forty and fifty years standing, and very good claims they were too, even when originally presented. Now, of the peculiar circumstances in this case which prevented it from being brought forward sooner, I am not apprized. It may be that Mr. Wallace never intended to present his claim at all until the hand of necessity was laid upon him, so as to make the pittance of some consequence to him in his old age. That may have been the case. If the subject is postponed, I will endeavor to obtain all necessary information, so as to be enabled to answer the objections which the gentleman from Indiana has started by laying all the facts before the Senate. I hope, therefore, the motion to postpone will prevail.

Mr. BREESE. I cannot see the necessity for postponement. The report of the committee, it seems, puts the Senate in possession of all that need be stated. It fails entirely to show the existence of any valid claim. It does not appear that the petitioner ever held rank in the army. It is very probable that he was an amateur aid, else why were his accounts never allowed by the accounting officers of the Government? If he had rank in the army it would have been known at the War Department, and his accounts would have been adjusted. For my own part, I cannot find that any claim has ever been presented at the proper department.

Mr. KING. My honorable friend from Illinois has not examined the case, or he would have understood distinctly that the claim was made by Mr. Wallace in 1837, and not before. It was in 1812, I think, that the surrender of General Hull took place, and it was not until 1837 that this claim was presented, and it was then rejected by the proper officers of the Government, upon grounds probably thought satisfactory. Mr. Wallace did not think proper to come before Congress until 1846. Then his claim was presented and this report was made. If the friends of the claim persist in urging it forward without furnishing some more substantial evidence of its validity, I apprehend they will sustain a signal defeat. The claim is a most extraordinary one. Suppose the Government should acknowledge and pay such claims, it would be neither more nor less than offering a premium for treachery. Is it the policy of this Government to encourage the surrender of our troops to the enemy by paying for all the property they may lose? The representatives of General Hull might claim payment for five or six horses—as a major general he would be entitled to that number—and he lost a good deal of property besides. Upon the same rule that would have to be paid for by the Government. He lost also—which was a matter of much greater consequence—the power of protecting our frontier; he lost his gallant little army, who were as indignant as men could be at the dastardly conduct of their leader, and he was himself afterwards tried for the act. Now, very possibly this gentleman (Mr. Wallace) was there as a volunteer. Why was he not paid as the other officers were? Why come forward at this late day and ask to be paid for services as aid to General Hull? If he was in truth an officer of the army, he must have been paid, or ought to have been paid, as the other officers were. As for paying for the property lost, I suspect, if we examine the subject, it will be found that this is the first case of the kind that has ever been presented to Congress; and, being the first, I hope that, instead of allowing it to become a precedent for the introduction of similar applications, we shall at once stamp it with our reprobation.

The further consideration of the bill was postponed until to-morrow.

The Senate then proceeded to the consideration, as in Committee of the Whole, of the House bill for the relief of Archibald Bull and Lemuel S. Finch; which was reported to the Senate without

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amendment, ordered to a third reading, read a third time, and passed.

The Senate proceeded, as in Committee of the Whole, to the consideration of the House bill for relief of Esther Russell; which was reported to the Senate without amendment, ordered to a third reading, and subsequently, by unanimous consent, was read a third time, and passed.

The Senate proceeded, as in Committee of the Whole, to the consideration of the House bill for the relief of Zilpha White; when the report accompanying the bill was read—

Mr. BRIGHT remarked there was nothing in the paper just read to show that there was the least merit in the claim. The object in granting pensions was to give compensation for long and tried services. The services rendered by the deceased husband of the present applicant were not of that description. The passage of the bill would be a departure from the principle which had heretofore governed their legislation.

Mr. FELCH. I merely wish to remark, that under the law as it now exists, a pension may be allowed, and it would have been allowed, if the Commissioner of Pensions had been satisfied that there had been six months' service. The only difficulty in the case was the doubt whether there had been six months' service performed, and in the muster roll the christian name of the husband of the applicant was left blank. There is a mass of testimony showing that this White was the husband of the petitioner, and the only question was as to the length of the period of service.

Mr. BUTLER. I am satisfied that this man served more than six months; but, even if this were not the case, I should be in favor (and I am ready to pledge myself to that extent) of giving a pension to any revolutionary soldier, or the widow of any such soldier, who had served but three months. There were many deserving men in the ranks of the army, men who rendered most efficient service, whose period of service did not exceed three months. I certainly have no hesitation in voting for this pension on the ground that the period of service was brief.

Mr. WESTCOTT. I would inquire of the honorable Senator from Michigan whether the general law granting pensions to revolutionary soldiers authorizes a pension where the period of service did not exceed six months? My impression is, that nine months' service was required.

Mr. FELCH. Six months' service was all that was required.

Mr. WESTCOTT. Does that apply to soldiers not in the continental army? Does it apply to State troops?

Mr. FELCH. It applies equally to both.

The bill was then reported to the Senate without amendment, was ordered to a third reading, and was read a third time and passed.

The Senate proceeded, as in Committee of the Whole, to the consideration of the House bill for the relief of the heirs of William Evans; which was reported to the Senate without amendment, was ordered to a third reading, and read a third time and passed.

The Senate proceeded to the consideration of the bill for the relief of Henry D. Garrison; which was read a second time, and considered as in Committee of the Whole.

The report accompanying the bill having been read—

Mr. BRADBURY inquired of the chairman of the committee by whom this bill was reported, what amount of money it involved, and from what source the money was to be derived?

Mr. DOWNS replied that the whole amount of money granted by the bill was about fifty thousand dollars, and that it was to be derived from the sale of lands which had been obtained from the Indians. The land had been held for some time at five dollars per acre, and some of it had been disposed of at that price, but it had been thought advisable to reduce the price to two dollars and a half per acre. The money which ought to have been devoted to the payment of this claim, which was of long standing, had been appropriated to other purposes. After a full consideration of all the facts connected with the case, the committee had come to the conclusion to recommend, that out of the future proceeds of the sale of these lands, this claim should be paid. There was a bill upon the calendar providing for the sale, and no doubt the money would readily be obtained.

Mr. BRADBURY. I think I understand, from the reading of the report, (for the committee state it very frankly,) that the case is regarded by them as one that is not free from doubt. And bills are frequently reported in such cases in order that the subject may be presented for the consideration of Congress. It would seem that the treaty provides for the payment to be made from the proceeds of the sales of the lands, and that the price at which they had been offered in the market was such that the lands had not been disposed of; and now it is proposed to make a disposition of the lands by a reduction of price. I think it is deserving of consideration whether it would not be as well to wait and see whether we can realize from the sale of the land the money to make the payment according to the terms of the treaty, and not anticipate it; and I would suggest, therefore, that the bill be passed by informally, that an opportunity may be afforded, now that attention has been attracted to the subject, to examine the matter a little. I confess I should like to look into it somewhat further; for I do not wish to oppose the measure, nor am I prepared at present to vote for it. It involves a large amount of money, and deserves a careful examination.

Mr. DOWNS. If the Senator entertains a doubt as to the propriety of the passage of the bill, I have no objection that the subject should be postponed until to-morrow, in order that he may examine it.

The bill was accordingly postponed.

The Senate proceeded to the consideration of the bill for the relief of Henry Vincent, administrator of the estate of James Lecaze; which was read a second time, and considered as in Committee of the Whole.

The report accompanying said bill having been read—

Mr. WESTCOTT. I feel constrained to vote against all bills of this character, based merely upon these old balances found canceled on the treasury books. I will state some facts as to this class of claims, which should induce great caution by Congress in allowing them. At the last session a claim was presented by the representatives of a gentleman named Cox, of New Orleans, founded upon a balance, I believe, of thirteen or fourteen hundred dollars, stated in a certificate of the Fourth Auditor of the Tressury to stand on the books of his office open and in favor of Cox for stores sold to the navy agent. Being referred to the Committee on Claims in the other House, it reported in favor of the claim, and I believe the bill passed the House and was sent here. If not, a petition was presented here and referred to the Committee on Claims. The committee were about reporting in favor of the claim, when it was suggested that Mr. Cox was a wealthy merchant and a strict business man of high respectability, not likely to let such a claim remain unsettled; and it was recollected that he had once been sued as security of the navy agent, and the case decided by the Supreme Court; and the Solicitor of the Treasury, Mr. Gillet, being applied to, that vigilant officer hunted up the record of the suit, and found that Cox had claimed to set off this identical balance claimed as against the United States in that suit, and that it had been allowed to him. The mode of settlement was the cause of the omission by the clerks to enter the credit on the books. Mr. Cox had died, and most probably some one of these persons who make a business of hunting up those old balances, and kindly advising the representatives of deceased parties of the existence of them, informed his adminstrators of its standing open, and then comes the petition to Congress. There have been several cases of like character before the Committee on Claims at former sessions. The fact that balances are found open in an old book is no evidence of their not being paid. The treasury has been twice or three times burnt, and books and papers destroyed. The only safe general, rule is to enforce the limitation act of six years strictly. Delay for a longer time should, at least till rebutted, afford strong presumption against the justice of the claim. I shall therefore vote against this claim, and all like it.

Mr. RUSK. Mr. President, the argument of the honorable Senator from Florida, [Mr. WESTCOTT,] it seems to me, is not very well founded. He apprehends, that because one or two facts show that the Committee on Claims have been once or twice deceived, all balances due from the Government to individuals should be disallowed. The sum and substance of that argument is, therefore, that we ought not to pay any claim whatever because a few mistakes have been made by the Committee on Claims.

I have investigated the case now under consideration thoroughly. When I commenced the investigation I entertained strong prejudices against the claim, but my prejudices were dispelled by the facts elicited during my examination of the case. I find the fact to be this: that on the books kept at the time that this debt was contracted by the Government, a large balance stands credited to the claimant. I also find, that when these accounts were shortly afterwards transferred to other books, this balance was likewise transferred, and appears in another place. The proof, then, is, that the claimant left this country and went to the Island of San Domingo, where he was killed, during the negro insurrection that overthrew the government of that island.

In all the books, this balance is put down as coming to the claimant. The individuals who have presented this petition are his heirs, and the fact that they knew nothing about the existence of the claim sufficiently accounts for their not presenting their petition before.

I have taken much pains to give this case a thorough and careful examination, because I was prejudiced against it at the outset on account of its long standing, and I have been convinced that it is a just and true claim for means actually furnished to the United States when they needed aid. I have never seen any claim that stood upon a better foundation than that upon which this claim rests.

Mr. NILES. Mr. President, it is no reason that a claim should be admitted because a balance is found upon the register in favor of the claimant. In every case of this kind there are two points which should be considered:

First. Is the claim preferred against the Government supported by such proof as to justify the inference that the party in whose favor it is preferred is entitled to receive it?

Second. Have the heirs a legal right, as administrators of the affairs of the deceased, to collect the claim?

And now, with reference to the first point, is it established, sir, in the case before us? The register is resorted to for proof in this case. But the register is by no means a guide as to whether there be a balance for or against any individual. I believe that there are balances standing on those books against the most distinguished men of the country. I think I have seen balances on them against John Adams, Albert Gallatin, and many other of our most distinguished citizens, which balances, it cannot be doubted, had long since been liquidated; and there is a strong presumption that this claim has been in some way paid.

Again: the second point, mentioned as being necessary to be established, has not, it seems to me, been satisfactorily settled. I see no proof that the claimants in this particular case are heirs. They show no facts which go to prove that they are the legal heirs of the party to whom the amount claimed is said to have been originally due. Well now, sir, this balance belongs to the creditors of that party. They are entitled to all personal assets, and, if there be no creditors, then it belonged to the heirs.

How long, sir, has this matter lain without

being claimed either by the creditors or heirs of the original party? It has lain nearly seventy years, and no claim has been made during that long period. And now, since 1844, some one has taken out letters of administration, after a lapse of fifty years, and comes up here and demands this old balance. These letters, sir, have been taken out for the express purpose of securing this balance. The clerk has given information of its existence to some one, who has hatched up this claim, and Senators are now calling upon us to pay this balance to somebody who has no right to it whatever. I contend that the party before us has no right, either as creditor, heir, or administrator, to come before us and ask us to pay this money to him. If there was a balance due to the original party, I think, from the lapse of time that has rolled away without any claim being made for it, that he had no creditors or heirs. At all events, since the claim has been neglected for more than sixty years, I think it is not worth while for us to recognize it at this time.

The bill was then reported to the Senate without amendment; and the question being put upon ordering the bill to a third reading, it was decided in the negative.

The Senate next proceeded, as in Committee of the Whole, to the consideration of the bill for the relief of Charles Waldron.

Mr. YULEE moved to amend the bill by the addition of a clause authorizing the adjustment of all claims of the same character, upon satisfactory evidence of their validity being presented.

Mr. DICKINSON. Mr. President, I apprehend that the amendment offered by the honorable Senator from Florida [Mr. YULEE] draws too wide a margin, and leaves room for a great deal of imposition. I would prefer that this bill should lie over or pass on its own merits; and it seems to me that we should adopt, as a general principle, that which is embodied in the amendment.

Mr. YULEE. The report seems to me to be a very full and distinct one. I supposed, as it was being read, that no member of the Senate present could fail to be convinced of the correctness with which the committee has acted.

The intention of the amendment is simply this: that where a quartermaster of the United States has purchased from a citizen supplies for the public use, and has failed to account for the disposition made of the supplies thus purchased, the citizen of whom the purchase was made shall not be called to account for that disposition. Nothing can be plainer than that. An officer of the United States purchases my corn, and gives me a certificate that I have sold and delivered it to him, for the use of the army; I apply at the department for payment, and I am told that the officer has not accounted to the Government, and because he has not thus accounted, the Government refuses to pay for my corn, although I can prove that I have actually delivered it to the proper officer. Nothing can be more plain or more simple than that the citizen who sells should be secured against the possibility of the proper officers not accounting to the United States. The Government may secure itself against the action of its own officers. It seems to me to be such a plain and self-evident principle that no delay ought to ensue before it is adopted.

Mr. DICKINSON. Mr. President, the objection I have to this amendment is a direct and practical one. Here is a special bill, reported for a special case, and the Senator from Florida [Mr. YULEE] proposes, by his amendment, to ingraft a general principle upon this special bill. Now, sir, that, in my judgment, is very dangerous and unsafe legislation. If this principle should be adopted, and extended to all cases, let us make it in the manner in which a general law is usually made, and not bring a bill before Congress for a special purpose, and legislating for a special case, and then ingraft upon it a general principle, which is to have authority in all time hereafter.

Mr. WESTCOTT. The Senator from New York [Mr. DICKINSON] is not aware of all the facts in this case. This is a bill from the House. When the bill was before the House, the Claims Committee there examined it thoroughly, and made an able report, which is among the papers. The House committee's report, I can properly state, (as I believe I drew the report of the Senate committee,) exhibits the case much more fully and ably than that which has just been read. It shows, in a striking manner, the impropriety of disallowing claims for subsistence stores sold to a quartermaster in the United States service, unless the citizen who sells them to him can prove that he purchased no more than the troops were entitled to; that the officer had dealt them out in legal quantities according to the regulations, and had rendered his accounts fully and fairly. I concede, in all cases of well-founded suspicion of *collusion* between the vender of the stores and the officer purchasing them, the accounting officers should properly suspend their allowance, and send the parties to Congress. But the notion that a citizen, who sells flour, or corn, or pork, or beef, to a quartermaster in service, for a fair price, and honestly, and without any collusion, must first ascertain whether the officer has already purchased the *quantum* allowed by law, and must then see that he deals it out to the troops legally, and then render his vouchers and accounts properly, and if any of the articles have been destroyed by the enemy, lost at sea, or burnt on land, or sea-damaged and condemned, he must *furnish the proof of it*, and, in fact, to make the citizen vender a *surety* to the amount of his sale for the officer's good conduct, is perfectly preposterous. It is not only absurd, but it is abhorrent to justice, and it is a most miserable policy. Why, sir, no citizen who has any prudence, under such rule, will sell to a quartermaster any corn, or beef, or pork, under two or three prices. It would lead to collusive speculations. Honest sales, at just prices, and from patriotic motives, would be discouraged, however great the straits of the service. This rule was denounced by the House committee, and also by the Senate committee, and I have no doubt the Senate will agree with them. I have heard of no Senator who sustains the rule. I admit, as I said before, that in cases of suspected collusion, the seller should be held to strict proof; and it is safe, where doubts exist, founded on evidence, to send the parties to Congress; but the United States are responsible, and not the individual citizen, for the misfeasance or nonfeasance of its own officer, who purchases articles of such citizen under color of his official station. I have no feeling as to this bill. Though the bill states the articles were sold in Florida, the claimant resides in Maine, I believe. [Mr. BRADBURY: Ohio.] But I have no patience with the rule enforced in it by the accounting officers, and I think the bill ought to pass to nullify it.

Mr. DICKINSON. My attention has not been called particularly to this bill, and therefore I have not spoken in opposition to it, but against extending it to a principle, as proposed by the amendment of the Senator from Florida at my right, [Mr. YULEE.]

Mr. BRADBURY. Mr. President, I was a member of the Committee of Claims which reported this bill, and concurred with the committee in the result at which they arrived, that the bill ought to be passed; but I did not concur in some of the reasons for the result arrived at by the committee, as the honorable Senator from Florida [Mr. WESTCOTT] will recollect. I did not concur in the condemnation of the accounting officers in regard to the principle which they have adopted. On the contrary, it has appeared to me that the accounting officers have adopted precisely the correct principle. I understand it to be this: that where a quartermaster who is authorized to contract for supplies for the army does not account for provisions purchased, showing that they went for the use of the army, or has purchased an over-supply, they refuse to allow the account. I apprehend they are correct in so doing. They have their regulations. These regulations are well understood by officers of the army. They are regulations calculated to protect the treasury, and they are regulations under which the army can be, ordinarily, supplied.

Now, when there are applications that do not come within these rules; for instance, where the quartermaster has purchased a larger quantity than he should, or has purchased provisions for the army and squandered them, I think it is proper that the vender should be turned over to Congress, and that the matter should be investigated, not at the department, but investigated elsewhere, that there may be public exposure of the officer who thus violates his duty. I think, then, that it is a safe and wise rule which they have adopted.

So much in regard to the rule. Hence the accounting officers were correct in saying, "We cannot allow the payment in this case. His claim may be just. It is true that the quartermaster has certified that he received the provisions, but he has not brought himself within the rules by which we are authorized to allow it. Let the matter be investigated by Congress."

Then the question is presented for our consideration, What will we do? Here is the proper officer of the United States army, who states that he has purchased of the petitioner provisions for the army, and he has never received payment for them at the department, and that, under the rules which they have established, they cannot allow the payment. There is no question in regard to the purchase. There is no question in regard to the fact that the claimant has sold provisions to an officer who was authorized to make a purchase. Hence, I think, that in this case we should allow the claim of the petitioner, which is trifling in amount. The principle is correct, and Congress should allow the claim.

I am opposed to the amendment offered by the honorable Senator from Florida, [Mr. YULEE,] that this should be made a general principle, and that the department should be instructed in all cases of this kind to make the allowance. I think that all such claims should come before Congress and be examined, and for that reason I oppose the amendment. If that amendment be withdrawn or voted down, I should be pleased at the passage of this bill, and would give it my hearty support.

Mr. YULEE. I would suggest that the bill be passed over, and before it is called up again I will prepare a general bill with appropriate restrictions.

Mr. YULEE then withdrew his amendment, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 21, 1848.

Another member appeared and took his seat, viz: from the State of New York, Mr. ROBERT L. ROSE.

Mr. CONGER, from the Committee on Printing, reported the following resolutions:

Resolved, That the Clerk of the House cause to be returned to the public printer the copies of the Report of Lieutenant Abert, Lieutenant Cook, and the Journal of Captain Johnson, respectively, now in the folding-room, in order that they may not be detached from the document ordered to be printed by this House.

Resolved, That Executive document No. 41, as ordered to be printed by the House, being the Report of Lieutenant Colonel Emory, Lieutenant Cook, and the Journal of Captain Johnson, be bound together in one volume, and that the Committee on Accounts be, and they are hereby, authorized to contract for the binding of the same.

Mr. McLANE desired to know whether that resolution proposed to bind the report of Lieutenant Emory together with the other reports? If so, he objected to the resolution.

The SPEAKER said the resolution was in order, and the question was on its adoption.

Mr. HOUSTON, of Alabama, and other gentlemen called for the reading of the resolution; which was again read.

Mr. McLANE said he hoped this House would not adopt the resolution. The three or four reports named therein, if bound together, would constitute a book of some 600 or 700 pages; and bound in the manner in which the Patent Office report had been, gentlemen could understand at once that the book would go to pieces almost in transportation in the mail, but it would certainly go to pieces before it could be read by any of our fellow-citizens to whom it should be sent. The report of Lieutenant Emory was a report of a totally different character from any of the others. It was a scientific work; a work full of the most abstruse, scientific calculations and observations. Honorable gentlemen would find it their pleasure to distribute this work to a different class of citizens from those to whom they would send the geographical report of Captain Johnson. The report of Captain Johnson was an interesting memoir of his march following the army; that of Captain Cook was of a military character; that of Lieutenant Emory was the report of a topographical officer, especially assigned to his duty as such. Now, he submitted whether this House would send forth this report to the country, mixed up with some half dozen geographical memoirs? Would they, furthermore, send it out bound in this loose manner, constituting a volume of some 600 or 700 pages? It would fall to pieces before it reached their constitu-

ents. For his part, he should deeply regret any such action.

Mr. CONGER said the history of the matter was simply this: The reports of Lieutenants Emory, Abert, and Cook, and the journal of Captain Johnson, were all sent in together to this House from the War Department, and were ordered to be printed by this House as one and the same document. If they did not treat of one and the same subject, their subjects were at least so similar in their nature as to make it very proper, in the estimation of this House, as well as of the Committee on Printing, to have them so printed. It was sufficient to say, that according to the order of this House, they had been printed together as one document. A resolution had been adopted by this House at the last session, authorizing the Clerk of this House to contract for the binding of that document. Without any other direction or order of this House, the Clerk of the House had taken it upon himself to cause the reports of Lieutenants Abert and Cook and the journal of Captain Johnson, to be detached from the report of Lieutenant Emory, and sent into the document room, to be laid upon the desks of members. This action, in the estimation of the Committee on Printing, was opposed not only to the direction and order of the House, as made in the adoption of the report of the Committee on Printing authorizing the printing of 10,000 extra copies of this work, but was also opposed to the order of this House, in the adoption of the resolution reported from the Committee on Accounts, authorizing the binding of this document. For himself, he saw no warrant for the Clerk having ordered the reports he had named to be detached from the report of Lieutenant Emory, and placed upon the desks for distribution. The House had authorized the printing and binding of these reports as one document. He had before him the reports of Lieutenants Abert, Cook, and Captain Johnson, which made but a small portion of the work as ordered printed; and the document (as stitched together by the direction of the Clerk of the House) commenced with page 423. He undertook to say that the Clerk would have as much authority to detach and print separately a part of the President's annual message and accompanying documents. For himself, he regarded this as a matter of some importance, and it was no objection in his mind, that the document, when bound together, made a large volume. Altogether, it only comprised six hundred and fourteen pages—a document not too large to be bound up in one and the same volume.

Mr. BROWN, of Pennsylvania, said, the gentleman from New York had informed this House that the document would contain only 614 pages; but he had neglected to tell them that there were two very large maps accompanying, which would be very cumbersome if the work was bound in one volume. He was satisfied if it was bound altogether, and in the quality of binding proposed, it would not hold together at all; but by taking the reports as stitched together under the order of the Clerk—by taking the reports of Lieutenants Abert and Cook; and the journal of Captain Johnson, and binding with them the map of Lieutenant Frémont, it would make a very respectable volume; and the report of Lieutenant Emory, with a map, would also be a very sizable volume. He was satisfied they should be bound in two volumes, and that there should be added thereto the last report and the map of Colonel Frémont.

He moved to amend the resolution, as follows:

Strike out all after the word "resolved," and insert in lieu thereof the following:

"That the report of Lieutenant Emory, with the accompanying maps, be bound in one volume; and that the reports of Lieutenant Abert, of Lieutenant Cook, and Captain Johnson, together with a like number of the last report of Lieutenant Colonel Frémont, with the accompanying maps ordered by the Senate, be bound together in one volume also; and the Committee on Accounts be, and they are hereby, authorized and instructed to contract for the binding for the same."

Mr. EVANS, of Maryland, said, that if the House determined to bind the reports of Major Emory, and of Lieutenant Abert, Lieutenant Colonel Cook, and Captain Johnson, in one volume, it would have to order the binding to be done in a much firmer and stronger manner than that in which the report of Major Emory was now executed; *that* binding, from the very small sum paid, was very badly done, in fact only pasted, and the books were now dropping to pieces; if, therefore, the volume were swelled to six hundred pages by the addition of the other reports and of the very extensive maps published with document No. 41, it would be absolutely necessary to order the binding to be strongly executed. He thought that it would be better to have the reports in two separate volumes: this, to be sure, would disarrange the paging, but it would secure the books from destruction; for if bound together in the style in which the binding was generally executed here, the reports would very soon effect their own separation.

Major Emory's work treated of the route to New Mexico, and from Santa Fé, by way of the Gila, to the Pacific; it embraced a large body of astronomical observations, and treated, beside, of the geology and botany of the country through which the army of the west had passed; the latitudes and longitudes of a number of important positions had been ascertained with accuracy by the method of lunar distances, and by chronometric observations; and the book was, beside, one of great interest.

The work of Lieutenant Abert treated of New Mexico alone; the reports of Lieutenant Colonel Cook and of Captain Johnson, of the route to California, where the latter was unfortunately killed in the battle of San Pasqual. These works might therefore be properly bound together, or separately, as the House pleased; but if bound together, Mr. E. remarked that the binding must be ordered to be more strongly executed than had generally been done. All these reports were highly instructive, and gentlemen might be less properly occupied than in their perusal.

Mr. KING, of Massachusetts, said he agreed with those gentlemen who had expressed the opinion that these reports should be bound separately for distribution. The gentleman who had reported the resolution from the Committee on Printing had referred to the resolution which had been reported from the Committee on Accounts, and which had been adopted, under which Lieutenant Emory's report was ordered to be bound up separately. He read the order directing the printing, which provided that "10,000 copies of each of said reports be printed for the use of the House." The gentleman from New York had said that these reports had been ordered to be printed together. He (Mr K.) had never so understood it, and he believed the Com-mittee on Accounts, who reported the resolution for binding, only understood that Lieutenant Emory's report was to be bound; and, under the direction of the Committee on Accounts, the Clerk had ordered the binding of Lieutenant Emory's report, which was a large volume of itself, containing maps and plates to a considerable extent. It had not been the intention of the committee to order the binding of anything except Lieutenant Emory's report. He desired that these reports, which were separate and distinct reports, which had been submitted by the War Department as such, should be bound up or stitched in distinct and separate documents, so that they might be distributed throughout the country in a manner more general and extensive than they could be if they were bound up in one document. Besides, he wished the House to understand that these reports could not be bound up in one volume without a good deal of delay.

Mr. CONGER said there was a resolution providing for the printing of a number of extra copies of Lieutenant Frémont's report, which had been referred to the Committee on Printing, and which was still before that committee, for consideration. He hoped, therefore, that the House would not adopt the amendment of the gentleman from Pennsylvania, [Mr. BROWN.]

He read the letter of the Secretary of War covering the reports in question, and treating them (he considered) as one document; and he said that when the House ordered these reports printed, it was with the understanding that they were to make one entire document, and the Committee on Printing so understood the matter. Gentlemen would also recollect, from a subsequent report made from the Committee on Printing, that they had been thus printed. It was now the province of the House to decide whether they should thus be bound also, or whether the report of Lieutenant Emory should be detached from the other reports, and bound separately.

The question was taken, and the amendment was agreed to; and the resolution, as amended, was adopted.

PETITIONS.

Petitions (the States being called for that purpose) were presented by Messrs. ECKERT, THOMPSON of Virginia, MORRIS, MORSE of Louisiana, FICKLIN, and others.

The State of Maryland being called in its order—

Mr. EVANS rose and said, that he had been requested by the messengers who had borne to the seat of the General Government the electoral votes of the several States for President and Vice President of the United States, to present a petition. Mr. E. was proceeding to make a remark, to the effect (as the reporter understood, though hearing very imperfectly) that if he thought there was anything disrespectful in the petition, he should not have offered it——

When the SPEAKER interposed and said, that it was not in order to submit any remarks, except by unanimous consent.

[Several calls for information as to what the petition was.]

Mr. EVANS said he would move that the petition be laid upon the table and printed.

He was proceeding to explain that the messengers held a meeting here last night——

The reading of the petition was called for.

The Clerk proceeded to read it. It was signed by three gentlemen, and sets forth the satisfaction which they experienced that the law for the reduction of the mileage of messengers bearing electoral votes had been tested by experience; congratulating Congress on the success of this example of retrenchment and reform, and recommending its extension to Congress, &c., &c.

The memorial had not been read through, when

Mr. ROCKWELL, of Connecticut, moved that the further reading be dispensed with.

[Cries of "Let it be read."]

The reading having been concluded, and the names read—

The SPEAKER stated that the question would be on laying the petition on the table.

Mr. RICHARDSON moved that it be referred to the Committee on Mileage.

The SPEAKER said that the motion to lay on the table would be first in order.

And the question being taken, the petition was laid on the table.

The question was then taken on the motion to print, and it was rejected.

SLAVE TRADE IN THE DISTRICT.

Mr. GOTT offered the following resolution, and demanded the previous question thereon:

Whereas the traffic now prosecuted in this metropolis of the Republic in human beings, as chattels, is contrary to natural justice and the fundamental principles of our political system, and is notoriously a reproach to our country throughout Christendom, and a serious hinderance to the progress of republican liberty among the nations of the earth: Therefore,

Resolved, That the Committee for the District of Columbia be instructed to report a bill, as soon as practicable, prohibiting the slave trade in said District.

The resolution having been read—

Mr. HARALSON moved that it be laid on the table.

Mr. WENTWORTH and Mr. GOTT demanded the yeas and nays, which were ordered.

And the resolution having been again read—

The question on the motion of Mr. HARALSON was taken, and resulted—yeas 81, nays 85, as follows:

YEAS—Messrs. Adams, Barringer, Beale, Bedinger, Bocock, Botts, Boyd, Boydon, Bridges, William G. Brown, Charles Brown, Albert G. Brown, Buckner, Burt, Chapman, Chase, Franklin Clark, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Daniel, Donnell, Garnett Duncan, Dunn, Alexander Evans, Featherston, Ficklin, Flournoy, French, Fulton, Gaines, Gentry, Goggin, Green, Willard P. Hall, Haralson, Harmanson, Harris, Hill, George S. Houston, John W. Houston, Charles J. Ingersoll, Joseph R. Ingersoll, Iverson, Jameson, Andrew Johnson, Geo. W. Jones, John W. Jones, Kennon, La Sère, Levin, Ligon, Lincoln, Lumpkin, McDowell, McLane, Miller, Morehead, Morse, Outlaw, Peyton, Pilsbury, Preston, Sawyer, Shepperd, Simpson, Stanton, Stephens, Thibodeaux, Thomas, Richard W. Thompson, Tompkins, Toombs, Venable, Wallace, Wiley, Williams, and Woodward—81.

NAYS—Messrs. Belcher, Bingham, Blackmar, Blanchard, Brady, Butler, Canby, Collamer, Conger, Cranston, Crowell, Cummins, Darling, Dickey, Dickinson, Dixon, Daniel Duncan, Edwards, Embree, Nathan Evans, Farran, Farrelly, Fisher, Fries, Giddings, Gott, Greeley, Nathan K. Hall, James G. Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, James H. Johnson, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Leffler, Lord, Lynde, McIlvaine, Horace Mann, Marsh, Marvin, Morris, Newell, Nicoll, Palfrey, Peaslee, Peck, Pettit, Polleck, Putnam, Reynolds, Richey, Robinson, Julius

Rockwell, John A. Rockwell, Rose, Root, Rumsey, St. John, Silvester, Slingerland, Smart, Starkweather, Charles E. Stuart, Strohm, Strong, Tallmadge, James Thompson, William Thompson, Thurston, Tuck, Van Dyke, Vinton, Warren, Wentworth, White, Wilmot, and Wilson—85.

So the House decided that the resolution should not be laid on the table.

The question, then recurring on the demand for the previous question—

Mr. VINTON rose to inquire of the Chair whether the resolution was open to amendment?

The SPEAKER said it would be open to amendment if the previous question should not be seconded.

And the question being then taken by tellers (Messrs. ROOT and VENABLE acting in that capacity) on the demand for the previous question, the vote stood: Ayes 85, noes 49.

So there was a second.

And the question then being, "Shall the main question be now put?"—

Mr. FEATHERSTON asked the yeas and nays, which were ordered.

Mr. HARALSON said, as this resolution presents an important question—more so, perhaps, than might be supposed by some—he would move that there be a call of the House.

The SPEAKER said, that that motion was not in order after the previous question had been seconded.

And the question, "Shall the main question be now taken?" was then put, and decided in the affirmative—Yeas 113, nays 63, as follows:

YEAS—Messrs. Abbott, Ashmun, Beale, Bedinger, Belcher, Bingham, Blackmar, Blanchard, Bowlin, Boyd, William G. Brown, Albert G. Brown, Burt, Canby, Cathcart, Chase, Franklin Clark, Beverly L. Clarke, Williamson R. W. Cobb, Collamer, Conger, Cranston, Crowell, Cummins, Dickey, Dickinson, Dixon, Daniel Duncan, Edwards, Nathan Evans, Faran, Farrelly, Ficklin, Fisher, Fries, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, Hammons, Harmanson, Harris, Henley, Henry, Elias B. Holmes, G. S. Houston, Hubbard, Hudson, Hunt, Inge, Jameson, Andrew Johnson, James H. Johnson, George W. Jones, Kellogg, Kennon, Daniel P. King, Lahm, La Sere, William T. Lawrence, Sidney Lawrence, Ligon, Lord, Lynde, McClelland, McIlvaine, McLane, Job Mann, Horace Mann, Marsh, Marvin, Meade, Morris, Morse, Mullin, Newell, Palfrey, Peaslee, Peck, Pettit, Pollock, Putnam, Reynolds, Robinson, Rockhill, Julius Rockwell, Rose, Root, Rumsey, Sawyer, Silvester, Simpson, Slingerland, Smart, Stanton, Starkweather, Strohm, James Thompson, William Thompson, Thurston, Tuck, Venable, Wallace, Warren, Wentworth, White, Wiley, Williams, Wilson, and Woodward—113.

NAYS—Messrs. Adams, Barringer, Bocock, Botts, Boydon, Brady, Bridges, Buckner, Butler, Chapman, Cocke, Crisfield, Crozier, Daniel, Donnell, Dunn, Embree, Alexander Evans, Featherston, Flournoy, Freedley, French, Fulton, Gaines, Gentry, Goggin, Green, Willard P. Hall, James G. Hampton, Hill, John W. Houston, Charles J. Ingersoll, Joseph R. Ingersoll, Irvin, John W. Jones, T. Butler King, Leffler, Lincoln, Lumpkin, Mc Clernand, McDowell, Miller, Morehead, Nicoll, Outlaw, Pendleton, Peyton, Pilsbury, Preston, Richey, John A. Rockwell, Shepperd, Truman Smith, Stephens, Charles E. Stuart, Strong, Thibodeaux, Thomas, Richard W. Thompson, Tompkins, Toombs, Van Dyke, and Vinton—63.

So the House decided that the main question should be now taken;

Which main question was on the adoption of the resolution.

Mr. HOUSTON, of Alabama, and Mr. VENABLE called for the yeas and nays, which were ordered.

Mr. DONNELL inquired of the Chair, if it would now be in order to move that there be a call of the House?

The SPEAKER answered in the negative.

And the main question, "Shall the resolution be adopted?" was then taken, and decided in the affirmative—Yeas 98, nays 88, as follows:

YEAS—Messrs. Abbott, Ashmun, Belcher, Bingham, Blackmar, Blanchard, Butler, Canby, Cathcart, Collamer, Conger, Cranston, Crowell, Cummins, Darling, Dickey, Dickinson, Dixon, Daniel Duncan, Edwards, Embree, Nathan Evans, Faran, Farrelly, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, Irvin, James H. Johnson, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Leffler, Lord, Lynde, McClelland, McIlvaine, Job Mann, Horace Mann, Marsh, Marvin, Morris, Mullin, Newell, Nicoll, Palfrey, Peaslee, Peck, Pettit, Pollock, Putnam, Reynolds, Richey, Robinson, Rockhill, Julius Rockwell, J. A. Rockwell, Rose, Root, Rumsey, St. John, Sherrill, Silvester, Slingerland, Robert Smith, Starkweather, C. E. Stuart, Strohm, Tallmadge, James Thompson, William Thompson, Thurston, Tuck, Turner, Van Dyke, Vinton, Warren, Wentworth, White, and Wilson—98.

NAYS—Messrs. Adams, Barringer, Beale, Bedinger, Bocock, Botts, Bowlin, Boyd, Boydon, Bridges, William G. Brown, Charles Brown, Albert G. Brown, Buckner, Burt, Chapman, Chase, Franklin Clark, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Daniel, Donnell, Dunn, Alexander Evans, Featherston, Ficklin, Flournoy, French, Fulton, Gaines, Gentry, Goggin, Green, Willard P. Hall, Hammons, Haralson, Harmanson, Harris, Hill, George S. Houston, John W. Houston, Inge, Charles J. Ingersoll, Iverson, Jameson, Andrew Johnson, G. W. Jones, J. W. Jones, Kennon, Thomas Butler King, La Sere, Ligon, Lincoln, Lumpkin, McClernand, McDowell, McLane, Meade, Miller, Morehead, Morse, Outlaw, Pendleton, Peyton, Pilsbury, Preston, Sawyer, Shepperd, Simpson, Smart, Stanton, Stephens, Strong, Thibodeaux, Thomas, R. W. Thompson, Tompkins, Toombs, Venable, Wallace, Wiley, Williams, and Woodward—88.

So the resolution was adopted.

Mr. FRIES rose, and desired to inquire whether there was not a rule of the House which required every member present to vote? And he stated that the gentleman from Connecticut, [Mr. T. SMITH,] and the gentleman from Indiana, [Mr. CALEB B. SMITH,] were present when the roll was called, and had not voted on the resolution which had just been adopted.

The SPEAKER said that there was such a rule, but was understood to add that there was no power to enforce it, except by a vote of censure.

Mr. STUART, of Michigan, rose to a privileged question.

Mr. SMITH, of Connecticut, rose and said that if his name was called, he was ready to vote.

The SPEAKER said it was too late to vote, except by unanimous consent.

Mr. STUART now moved that the act by which the resolution of the gentleman from New York, [Mr. GOTT] had been adopted, be reconsidered.

The SPEAKER. Did the gentleman vote in the affirmative?

Mr. STUART said that he had so voted. He proceeded to remark that he had made the motion to reconsider from motives which he thought could not be impugned by any gentleman on this floor. And upon that question he begged briefly yet distinctly to state the views which had hitherto controlled, and which would continue to control, his action upon this subject.

Mr. COLLAMER rose to a question of order. He desired to inquire of the Chair whether this motion was now debatable?

The SPEAKER said, Clearly so.

Mr. COLLAMER. Is it debatable to-day, without going over one day?

The SPEAKER was understood to say that he did not remember a case in point; but it seemed to him to be a violation of the spirit of the rule to debate a motion to reconsider a vote on a resolution when debate on the resolution itself would not be in order. The Chair felt disposssd to rule, therefore, that the motion to reconsider should go over until to-morrow morning, because it involved the general merits of the resolution. If no objection was made, the gentleman would now proceed with his remarks.

Objections were made in several quarters.

Mr. COBB, of Georgia, said he believed that this question had been decided some days ago, on a motion made by the gentleman from Indiana, [Mr. ROBINSON,] to reconsider a vote upon a resolution under the same circumstances.

The SPEAKER suggested that that had been passed over.

Mr. COBB said, it was true that a motion to reconsider had been held to be debatable on the day on which it had been submitted; and that, in the case to which he had just referred, the gentleman from Indiana [Mr. ROBINSON] had taken the floor to address the House, and that the House had, on his motion, adjourned, so that he might speak the next day. The motion had been made the same day.

The SPEAKER suggested that the States had then been called through for resolutions, and that the motion had been made after the general business of the House had been gone through with.

Mr. ROBINSON. I made the motion to reconsider upon the spot.

Mr. HOUSTON, of Delaware, was understood to suggest that the question of order had not then been raised.

The SPEAKER said, it had not.

Mr. COBB said, he had not understood the Chair as having decided the question to-day; and he referred to it now in order that it might be decided. He would not say that the question had not heretofore been distinctly made. But hitherto a motion to reconsider had been considered debatable on the same day on which the original resolution had been adopted, if the motion had been made on the same day. It was, he thought, right that it should be so. This iron rule compelling members to vote at once, without consideration or debate, had been enforced more than once upon this House; and he thought that a motion to reconsider should be held debatable on the day on which it was made, so as, in some degree, to relieve the House from the effect of that rule.

After an inquiry by Mr. COLLAMER—

Mr. STUART, of Michigan, said that he believed no objection had been made to his proceeding.

Objections were made.

Mr. HOLMES, of South Carolina, said that he had a suggestion to make, by which the necessity of any further motion might be superseded in a very easy manner. He proposed that every southern member should withdraw from the Hall, and leave the debate altogether.

Mr. C. J. INGERSOLL inquired whether the Speaker had decided the question of order?

The SPEAKER. The Chair has decided that the motion to reconsider is not debatable to-day.

Mr. INGERSOLL. I appeal from the decision.

So the Chair stated the question to be, "Shall the opinion of the Chair stand as the judgment of the House?"

The yeas and nays were asked, and refused. Some misunderstanding arose on this point. The result was that tellers (Messrs. VENABLE and PENDLETON) were appointed.

The SPEAKER now said, in respect to the decision which had been made, that he believed he had uniformly decided that motions to reconsider always followed in some degree the character of the business to which they belonged. For example: by the rules of the House, Fridays and Saturdays were set apart for the consideration of private bills. If a motion to reconsider a private bill were made on a public day, the Chair had decided that it would go over until private bill day. Precisely in the same way with public business: if a motion had been made to reconsider a public bill on private bill day, the Chair had decided that the rule which gave preference to private business overruled the motion to reconsider, and that the House must proceed with private business.

There was an express rule of the House which provided that the Chair should call for petitions, reports, and then resolutions, by States, and that no resolution should be debated on the day on which it was offered. If, therefore, a motion to reconsider a vote by which the House had passed a resolution, should be decided to be debatable on the day on which it was offered, the effect would obviously be to interrupt every call of the States for resolutions, and to evade the rule which declared that they should not be debated.

In this view of the matter, the Chair decided that the motion to reconsider was not debatable to day; but that it must lie over, subject to debate, until to-morrow, as the original resolution would have done, if the previous question had not been called for.

The question was then taken, Shall the decision of the Chair stand as the judgment of the House? and was decided in the affirmative: Ayes 116, noes not counted.

So it was decided that the decision of the Chair should stand as the judgment of the House.

And, accordingly, the motion to reconsider was laid over until to-morrow.

[But to-morrow being private bill day, the Speaker, at a subsequent stage of the day's proceedings, stated that private business would, by the rules, have the preference; but that it would be for a majority of the House to decide whether they would proceed with that order of business, or take up the motion to reconsider.]

REPORTS OF COMMITTEES.

Mr. VINTON, from the Committee of Ways and Means, reported a bill making appropriations for certain fortifications of the United States, for the year ending 30th of June, 1850; which was read twice, and committed to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. GOGGIN, from the Committee on the Post Office and Post Roads, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Postmaster General be requested to communicate to this House any report or letter in his possession from the First Assistant Postmaster General, or any other officer of his department, in regard to a system of reduced postages.

Mr. LYNDE, from the Committee on Revolu-

tionary Claims, made an adverse report upon the petition of the legal representatives of Samuel Beach; which was laid upon the table, and ordered to be printed.

On motion of Mr. KING, of Massachusetts, from the same committee,

Ordered, That the Committee on Revolutionary Claims be discharged from the further consideration of the petition of Catherine O'Neal, and that it be referred to the Committee on Revolutionary Pensions.

On motion of Mr. SMITH, of Connecticut,

Ordered, That the Committee on Foreign Affairs be discharged from the further consideration of the memorial of Joshua P. Powers, and that it be referred to the Committee on Claims.

Mr. FARRELLY, from the Committee on Patents, reported a bill for the relief of James Harley, accompanied by a report, in writing; which was read twice, and committed to the Committee of the Whole, and the bill and report ordered to be printed.

BILLS INTRODUCED.

In pursuance of previous notice, bills were introduced as follows:

By Mr. COLLAMER: A bill for the relief of certain settlers on the sixteenth section in township twenty-one north, range eleven east, Ouachita land district, Louisiana; which was read twice, and referred to the Committee on Public Lands.

By Mr. LAHM: A bill giving to clerks of paymasters in the army mileage for travel performed in the discharge of their official duties during the late war with Mexico; which was read twice, and referred to the Committee on Military Affairs.

By Mr. HARMANSON: A bill authorizing new selections of land in lieu of worthless school sections, or sections of inferior quality, and for other purposes; which was read twice, and referred to the Committee on Public Lands.

NOTICES OF BILLS,

Notices of motions for leave to introduce bills were given—

By Mr. GREGORY: A bill to prescribe the terms of the sessions of Congress.

By Mr. WICK: A bill for the relief of Slaughton A. Fletcher.

By Mr. FEATHERSTON: A bill for the relief of John P. Montgomery and other soldiers in the late war with Mexico.

By Mr. BRIDGES: A joint resolution to construe the several acts of Congress heretofore passed for the relief of revolutionary soldiers, so as to embrace teamsters, and other persons employed in transporting baggage and supplies for the revolutionary army.

Mr. PALFREY gave notice of his intention to move the following amendment to the rules and orders of the House: To rule 25th, after the words "he shall resume the next call where he left off," insert as follows: And after the expiration of thirty days from the reference of any subject to any committee, it shall be in order for any member or members of said committee to present a report or reports upon said subject, in his or their own behalf, whenever said committee shall be called upon for reports: provided the majority of said committee shall have failed to offer a report upon said subject.

RESOLUTIONS.

On motion of Mr. LUMPKIN,

Ordered, That leave be granted to withdraw the papers relating to the claim of William Y. Hansell, W. H. Underwood, and the legal representatives of Samuel Rockwell, and that they be referred to the Committee on Claims.

On motion of Mr. ROCKWELL,

Resolved, That the Committee on Commerce be instructed to inquire as to the expediency of making an appropriation for the improvement of Mystic harbor, in the State of Connecticut, with liberty to report by bill or otherwise.

On motion of Mr. WHITE,

Resolved, That the Committee on Patents inquire into the causes of delay at the Patent Office in examining the applications of persons applying for patents, and the reasons why the business of that department, under the additional examiners, has not been sufficiently efficient to answer the demands of the public.

On motion of Mr. HALL, of New York,

Resolved, That the Committee of Ways and Means inquire into the expediency of reporting a bill or joint resolution providing for the annual examination, by a committee of Congress, of all the accounts, vouchers, and warrants paid at the treasury of the United States during the preceding fiscal year, with the view of ascertaining whether such warrants, and the expenditures for which they were made, were authorized by law, and whether the necessary proofs to authorize the allowance of such accounts were furnished to the accounting officers before the drawing of such warrants.

Mr. GREELEY offered the following resolution, which was read and laid on the table one day, under the rule:

Resolved, That the Secretary of the Treasury be, and he hereby is, requested to communicate to this House, if such communication be not in his judgment incompatible with the public interest, the considerations of equity or public policy which justify the assessment, by the tariff of 1846, on woollen blankets, flannels, baizes, &c., and on hempen cables, cordage, and several other descriptions of imported manufactures, of rates of duty five to ten per cent. lower than are charged on the principal raw material from which they are respectively fabricated; and if the same be not justified as aforesaid, what action of Congress in relation thereto is deemed by him desirable.

On motion of Mr. NEWELL,

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation to place buoys at the mouth of Toms river, and at Barnegat Inlet, on the coast of New Jersey; and that they report by bill or otherwise.

Mr. GOGGIN offered the following preamble and resolution, which were read and agreed to:

Whereas it was resolved, on the 29th of October, 1781, by the United States of America in Congress assembled, to erect at York, in Virginia, a marble column, "inscribed with a succinct narrative of the surrender of Earl Cornwallis to his Excellency General Washington, commander-in-chief of the combined armies of America and France:

Resolved, therefore, That a committee of one member from each State be appointed by the Speaker, to inquire what steps (if any) have been taken to carry out the objects of said resolutions; and if the same have not been fully accomplished, to report to this House some practicable plan or scheme for effecting the object aforesaid, with all such matters in relation thereto, as may be deemed proper by said committee.

Mr. FLOURNOY moved the following resolution:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the expediency of retroceding to the State of Maryland all that portion of the District of Columbia not occupied by the public buildings and public grounds.

Mr. FLOURNOY moved the previous question, which was seconded; and, under the operation thereof, the resolution was agreed to.

Mr. JONES, of Tennessee, moved to reconsider.

On motion of Mr. STEPHENS,

Resolved, That the Committee on Military Affairs be instructed to report a bill providing payment for the loss of horses by our troops engaged in the Mexican war, under such limitations and instructions as they may deem proper and expedient.

On motion of Mr. DONNELL,

Resolved, That the heirs of Captain John Slaughter have leave to withdraw their papers from the Clerk's office, and that their petition, with the accompanying papers, be referred to the Committee on Revolutionary Claims.

Mr. BOTTS introduced the following resolution, which lies over one day, under the rule:

Resolved, That the Secretary of War be directed to furnish to this House, a full and complete statement of the amount of stores, arms, munitions of war, and other property connected with the Quartermaster's, Commissary's, Ordnance, and other departments, that have been sold during the existence and since the termination of the war with Mexico; together with the names of the purchasers and those who conducted the sales, the amount of money realized by such sales, and the disposition that has been made of the same.

Mr. KING, of Georgia, by unanimous consent, introduced a joint resolution to authorize the appointment of a geologist, to accompany the army and navy officers who have been appointed to examine the coasts of California and Oregon; which was read.

The resolution having been read the first time—

Mr. KING said that this commission was very soon to go to California and Oregon, and it was very important that a geologist should accompany them. It was requested by the officers, and——

The SPEAKER interposed, and stated that debate was not in order.

The resolution having been read a second time—

Mr. KING asked that it be put upon its passage.

The SPEAKER said the question would be on its third reading and passage, if no motion to refer was made.

Mr. McCLELLAND moved to refer it to the Committee on Public Lands.

Mr. KING appealed to the gentleman not to insist upon the reference, but allow it to be passed now.

Mr. McCLELLAND would ask the gentleman a question: Whether it was not in the contemplation of Congress to pass some law in regard to all the surveys in California?

Mr. KING was about to reply, when—

The SPEAKER interposed and said, if debate arose upon the resolution, it must take its place upon the Speaker's table.

Mr. McCLELLAND (under an earnest renewal of the request from Mr. KING) withdrew the motion to refer.

Mr. STUART, of Michigan, however, objected to the third reading now; and

The resolution took its place on the Speaker's table.

On motion of Mr. EVANS, of Ohio,

Resolved, That the papers of Henry Haines, relative to his application for a pension, be taken from the files, and referred to the Committee on Revolutionary Pensions.

On motion of Mr. MORRIS,

Resolved, That the papers, in the application of Joseph Ross for a pension, be taken from the files of this House, and referred to the Commissioner of Pensions.

On motion of Mr. LA SERE,

Resolved, That the Committee on Military Affairs be instructed to inquire into the condition of the fund appropriated on the 2d of March, 1847, for the relief of sick and disabled soldiers discharged from the service of the United States, and into the propriety and expediency of using the Hospital erected near New Orleans, in furtherance of the object of said appropriation, as an asylum for disabled soldiers who have been, or may be, discharged from the military service, and of applying any unexpended balance of the before-mentioned appropriation to the maintenance of the proposed asylum.

On motion of Mr. DICKINSON,

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of amending the laws providing for the naturalization of foreigners, as to authorize the clerks of the proper courts to administer the oath, and issue the final certificate of naturalization, under the seals of such courts, during the vacation of the same.

Mr. SMITH, of Illinois, offered the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of giving three months' extra pay to all non-commissioned officers, musicians, and privates, of the late war with Mexico, who have received or are entitled to bounty land.

On motion of Mr. WENTWORTH,

Resolved, That the Committee on Commerce inquire into the expediency of erecting a suitable building for a custom-house, Government warehouse, and a United States court room, in the city of Chicago.

Mr. McCLERNAND moved the following resolution:

Resolved. That the present traffic in the public lands should cease, and that they should be disposed of to occupants and cultivators on proper conditions, at such a price as will nearly indemnify the cost of their purchase, management, and sale.

Mr. McCLERNAND moved the previous question—not seconded.

Mr. THOMPSON, of Indiana, moved to lay it on the table;

Which motion was decided in the affirmative, by yeas and nays—yeas 104, nays 60—as follows:

YEAS—Messrs. Abbott, G. Adams, Barringer, Bayly, Beale, Belcher, Blackmar, Bocock, Botts, Boydon, Brady, Bridges, William G. Brown, Buckner, Butler, Canby, Chapman, Howell Cobb, Cocke, Collamer, Conger, Cranston, Crisfield, Crowell, Crozier, Daniel, Dixon, Donnell, Daniel Duncan, Eckert, Edwards, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, French, Fulton, Gaines, Gayle, Goggin, Gott, Gregory, Grinnell, Hale, Nathan K. Hall, Hammons, Moses Hampton, Harris, Henry, John W. Houston, Hubbard, Hudson, Hunt, Inge, Irvin, Iverson, James H. Johnson, Kellogg, Thomas Butler King, Daniel P. King, William T. Lawrence, Levin, Ligon, Lord, Lumpkin, McDowell, McIlvaine, Job Mann, Marsh, Marvin, Meade, Miller, Morehead, Mullin, Nicoll, Outlaw, Pendleton, Peyton, Pollock, Preston, Julius Rockwell, John A. Rockwell, Rumsey, Shepperd, Silvester, Slingerland, Truman Smith, Stephens, Strohm, Strong, Taylor, Thomas, Richard W. Thompson, Robert A. Thompson, Van Dyke, Venable, Vinton, Wallace, Warren, White, Wilson, and Woodward—104.

NAYS—Messrs. Bedinger, Bingham, Bowlin, Albert G. Brown, Cathcart, Chase, Franklin Clark, Williamson R. W. Cobb, Cummins, Darling, Embree, Faran, Featherston, Ficklin, Fries, Giddings, Green, Greeley, Henley, Hill, George S. Houston, Charles J. Ingersoll, Andrew Johnson, Robert W. Johnson, George W. Jones, Kennon, Lahm, Sidney Lawrence, Leffler, Lincoln, Lynde, McClelland, McClernand, McLane, Morris, Newell, Palfrey, Peaslee, Petrie, Pilsbury, Putnam, Richey, Robinson, Rockhill, Root, Sawyer, Sherrill, Smart, Caleb B. Smith, Robert Smith, Stanton, Charles E. Stuart, William Thompson, Thurston, Tompkins, Toombs, Turner, Wentworth, Wick, and Wiley—60.

And then the House adjourned.

IN SENATE.

FRIDAY, *December* 22, 1848.

Mr. DICKINSON presented the petition of Ephraim F. Gilbert, of New York, praying for a settlement of certain claims against the United States; which was referred to the Committee on Claims.

Mr. HAMLIN presented the petition of Nathan Weston, asking for additional pay; which was referred to the Committee on Military Affairs.

Mr. UNDERWOOD presented the petition of Charles J. Burgess, asking for bounty land and

extra pay for services; which was referred to the Committee on Military Affairs.

On motion of Mr. PHELPS, the petition of Thomas Fillebrown was ordered to be taken from the files and referred to the Committee on the Judiciary.

On motion of Mr. UNDERWOOD, the petition of Archibald Williams and Charles Griffin was ordered to be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. METCALFE, the petition of Sally Ross was withdrawn from the files of the Senate.

BILL ON LEAVE.

Mr. JOHNSON, of Louisiana, pursuant to notice, asked and obtained leave to introduce a bill granting to the State of Louisiana ——— acres of land for internal improvement; which was read a first and second time, and referred to the Committee on Public Lands.

REPORT OF COMMITTEE.

Mr. UNDERWOOD, from the Committee on Claims, reported House bill for the relief of J. B. Smith and Simeon Darden, with an amendment, and asked the immediate consideration of the bill; which was agreed to.

The bill gives $100 for the apprehension of a mail robber; and the amendment strikes out the interest on that sum.

The bill was then considered as in Committee of the Whole; the amendment was agreed to; and the bill, as amended, was reported to the Senate, and read a third time and passed.

CHAIRMAN OF MILITARY COMMITTEE.

Mr. BENTON moved that he be excused from serving as chairman of the Committee on Military Affairs.

The motion was agreed to; and, on motion of Mr. DIX, Mr. DAVIS of Mississippi was appointed as chairman of said committee.

On motion of Mr. BREESE, the Senate proceeded to consider the bill for ascertaining claims and titles of land within the Territory of California and New Mexico, to grant donation rights, and to provide for the survey of the lands therein.

On motion of Mr. BREESE, the further consideration of the bill was postponed till Tuesday next, and made the special order for that day.

RESOLUTIONS.

Mr. DOUGLAS submitted the following resolution; which was considered and adopted:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the expediency and propriety of the retrocession of said District to the State of Maryland.

Mr. BREESE introduced the following resolution; which was considered and adopted:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a mail route from Hennepin, in Putnam county, Illinois, to Magnolia, in the same county and State.

Mr. CLARKE introduced the following resolution; which was considered and adopted:

Resolved, That the Committee on Foreign Affairs be instructed to inquire whether there has been any alteration in our consular system in the Chinese and Turkish empires; and also, whether any consul of the United States, or the commercial house with which he is connected, has been, or is engaged in any trade, in violation of the laws of said empires; with power to send for persons and papers, and report by bill or otherwise.

Mr. JOHNSON, of Maryland, submitted the following resolution; which lies over under the rule:

Resolved, That the President of the United States be requested to furnish the Senate with a copy of an official despatch from Mr. Wheaton to the Secretary of State, dated at Berlin, the 17th December, 1845, concerning a communication between the Atlantic and Pacific Oceans, and the Mediterranean Sea, with such map or maps as accompanied the same.

On motion of Mr. WESTCOTT,

Ordered, That the Secretary of the Senate cause each of the newspapers that have contracted to publish the debates of the Senate, to be furnished with a copy of the documents printed for the use of the Senate.

On motion,

Ordered, That when the Senate adjourns, it adjourn to meet on Tuesday next.

PRINTING OF REPORTS.

Mr. ALLEN rose to ask the chairman of the Committee on Printing when it was expected that the Senate would be able to get any of the reports of the departments from the public printer? It was now the close of the third week of the session, and not a copy of either of these reports had reached the Senate. He did not see the chairman of the committee in his seat, but he hoped some member of the committee was present who might be able to give the information he asked for.

No answer was made to the interrogatory.

PRIVATE BILLS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Reuben Perry and Thomas Ligon; which was reported to the Senate without amendment.

The bill was then ordered to a third reading, and was read a third time and passed.

The Senate resumed the consideration of the bill for the relief of John P. Baldwin; when—

Mr. WESTCOTT moved that its further consideration be postponed until to-morrow; which motion was agreed to.

Mr. CORWIN. Mr. President, there was a motion made yesterday to transfer the bill for the relief of Cadwalader Wallace to the general calendar. I move that the Senate now reconsider the vote taken on that subject.

The motion to reconsider was agreed to.

Mr. CORWIN. The bill now stands on the calendar as a proposition lying on the table. I move that the bill be taken up for consideration.

The motion prevailed.

Mr. CORWIN. I merely wish, at this time, to call the attention of the Senate to this bill. I do not propose to take up the subject for final action to-day, for I am aware, that when the Senate shall come to look into it, there is likely to be found, in certain quarters, some opposition to its passage; especially if it should be taken up and pressed to its passage without a full and fair consideration of the subject, and of the report of the committee made at the last session, which discloses, to some extent, the ground on which the bill proceeds. I move now, Mr. President, to make this bill the special order for Thursday next, which I believe is the day set apart for the consideration of private bills.

Mr. KING. Why then make it a special order?

Mr. CORWIN. Before the question is taken upon this motion I beg leave to refer the Senate to one or two general propositions which, determined affirmatively, will insure the passage of the bill. But if the Senate take an adverse view of the matter, it will have to undergo, perhaps, an elaborate discussion before the Senate will be able to decide upon it.

This is a claim for seventy-five thousand dollars, founded upon a land claim in the survey of what is called the Virginia military lands, or the Virginia reservation, in the State of Ohio. Now, I hope that such Senators as are desirous of giving an intelligent vote upon this bill, (as all doubtless are,) will take the trouble to look into the report which has been made upon the subject, and acquaint themselves with the facts upon which this claim is predicated. I will refer to but one or two facts at present, which involve considerations such as I think ought to influence every mind.

We all know, in the year 1784 the State of Virginia, in compliance with a resolution passed by Congress at the time, transferred her right to the whole Northwestern Territory to the United States. I should state, however, that, about the year 1789, the State of Virginia proposed to give to her military officers and soldiers a certain amount of bounty land. There were two sorts of troops included in this grant—what was called the Continental establishment and the Virginia State line. They set apart lands in the State of Kentucky, which belonged to them, for the satisfaction, at first, of these claims. Subsequently it was found out that there was not good land enough reserved in Kentucky to satisfy these claims; and, at the time when this deed of cession was made, in 1784, it was prescribed in that deed that all the country between the Little Miami and Scioto rivers, in the State of Ohio should be reserved for the satisfaction of the bounty land claims due to officers and soldiers of the Virginia State line and the Continental establishment if the lands reserved in Kentucky should prove insufficient. In the year 1790, as any one may see by reference to the United States laws, Congress passed an act recognizing the fact that the good lands reserved in Kentucky had failed to satisfy these claims, and authorizing the holders of warrants to locate them on the reservation in Ohio, between these two rivers. Prior to that time, however, some of the holders of these warrants had proceeded to make their locations on that good land without law. These locations were afterwards legalized. They have continued from 1790, and have been going on even down to the present time. In 1802 a law was passed—indeed previous to that time a law was passed by Congress—authorizing the survey and sale of the Congress lands in the State of Ohio. The public lands in the Northwestern Territory were called Congress lands, to distinguish them from the military lands. Now, in opening the surveys of these Congress lands, it was necessary to ascertain the boundary between them and this Virginia reservation. To that end, in the year 1802, the Executive Government here authorized a surveyor by the name of Ludlow, well known in this country, to run a direct line distinguishing the boundary of this reservation.

In discharging the duties of this commission, Mr. Ludlow first ascertained the source of the Little Miami river, and from thence he undertook to run a straight line to what was by him supposed to be the source of the Scioto river, which line, if it had been accomplished, would have been the true boundary. He proceeded, however, only about forty miles, for, upon reaching the Indian country, he was stopped by a tribe of Indians who would not allow him to proceed, and, consequently, he never found the source of the Scioto. However, Mr. Ludlow returned his survey, thus half finished, as furnishing the boundary of the reservation, to the Surveyor General's office, and upon the basis of this survey the Government proceeded to authorize the survey and sale of Congress lands in that region. Afterwards, it was found out that this line went too far to the eastward; and, if carried out, would strike the Scioto river a considerable distance below its source. Of course, this line could not be the true boundary. But the reservation of the country between these two rivers being a matter of compact between the United States and Virginia, it is obvious that neither party, without the consent of the other, could settle what should be the true boundary. Congress, therefore, in the year 1804, passed a law proposing that this line of Ludlow's should be extended, in the direction already taken, to the Scioto river; and if within two years from the passage of this act Virginia should consent, it should be held and recognized as the boundary of the Virginia military reservation—thus recognizing on the part of Virginia her concurrent right to establish this line. But Virginia gave no consent.

I will here remark that on a subsequent occasion, a judicial decision was had upon the conflicting claims arising out of this state of things, and the question being brought before the Supreme Court, it was held and decided in two cases that neither of these parties—the United States or the State of Virginia—could settle this boundary without the consent of the other. Some time afterwards, in 1812, a proposition was made in Congress, and a joint resolution or act passed, authorizing the appointment of three commissioners on the part of the United States, to act with such commissioners as might be appointed on the part of the State of Virginia, to ascertain and mark this boundary. This proposition was accepted by Virginia; but the commissioners on the part of the General Government and those on the part of Virginia could not agree upon the principle upon which the boundary should be settled, and consequently they made no joint report. But the commissioners on the part of the General Government employed a surveyor, by the name of Roberts, to run a line from the source of the Little Miami to the source of the Scioto, which line the Supreme Court, in the two cases to which I have adverted, decided to be the true boundary. Congress in the mean time had surveyed and sold lands by the Ludlow line, which the Supreme Court had decided to be within the Virginia reservation. So matters stood until Mr. Cadwalader Wallace, the holder of certain military warrants located between these lines, brought an action against landholders under the General Government for the possession of his claim under his warrants. This gentleman (Mr. Wallace) was a surveyor in that country, and held a large number of military warrants located upon lands lying between the two lines of Roberts and Ludlow, and which the Supreme Court had decided to be within the Virginia reservation. But as Congress had sold these lands, the authorities here at Washington refused to give Wallace a title to them. The

extent of these lands sold, as well as the amount brought into the treasury by their sale, and all the details, are given *in extenso* in the report made at the last session to which I have alluded.

Now, this bill proposes to pay to Cadwalader Wallace the Government price of these lands, and to make this payment in land scrip instead of cash, as proposed in the bill heretofore reported for his relief. It is, therefore, a simple question submitted to the Senate, whether the Government shall oust their own tenants, so to speak—the vendees who have bought these lands—and put Wallace in possession, with all their improvements; or whether the Government shall pay to Wallace, in land scrip, which he may locate elsewhere, the Government price of these lands, and which he is now willing to take without interest.

Having submitted these considerations, I move that the bill be made the special order for Thursday next.

Mr. JOHNSON, of Louisiana. From the explanation made by the honorable Senator from Ohio, it is very evident that the consideration of this bill will lead to a discussion of one if not of several days' length. The object of setting apart Thursday of each week for the consideration of private bills, was to dispose of the many bills that have long been awaiting our action—reported upon at the last session—as promptly as possible. I think it decidedly unjust to take up this bill, that has been already laid on the table, in preference to all other private bills which have been on our calendar since the first of last session. I hope that the honorable Senator will appoint some other day for the consideration of the bill.

Mr. CORWIN. I am very sure the Senator from Louisiana [Mr. JOHNSON] has forgotten my forbearance for two or three sessions past. I find that, notwithstanding my agreement that this bill should lie upon the table at the last session, I am still represented as obtruding myself upon the Senate, by asking now that it shall be made the special order for Thursday next. If the Senator desires opportunity to examine the bill, I must say that it was for the very purpose of giving opportunity for examination that I had it laid on the table at the last session. The bill has been thus treated for three sessions past, and I find that my uniform kindness and forbearance in waiving its consideration has been entirely lost upon the Senator, and the bill is to be treated as heretofore. I did not make my motion for the special order for that day because I wished to delay the consideration of private bills. I am still perfectly willing that the time should be extended—say till Friday week. I move that it be made the special order for that day.

The motion was agreed to.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Charles Waldron; which was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

DRAINING THE EVERGLADES OF FLORIDA.

On motion of Mr. WESTCOTT, the Senate resumed the consideration of the special order, namely, the bill to authorize the draining of the Everglades of Florida, and to grant the same to said State for that purpose.

Mr. WESTCOTT proposed to amend the sixth section of the bill, by inserting after the word "lands," the words "so granted to the State."

The amendment was adopted.

Mr. YULEE. I move, sir, to strike out that condition which requires the State to commence the work in two years, and to complete it in ten years.

I am perfectly satisfied that the State is totally incompetent to fulfill the requirements of that condition. She has as much as she can do to sustain herself under the ordinary operations of her own Government. As to her undertaking to commence a work like that proposed in this bill in two years, and completing it in ten, I am satisfied that the idea is chimerical and preposterous; and if the grant be clogged with such conditions, they will render it utterly valueless. I would move, therefore, that those conditions be stricken from the bill.

Mr. WESTCOTT. Mr. President, I am opposed to the striking out of those words; and, sir, I would not vote for this bill at all, were there not some such conditions inserted. My object, as I have before stated, is to have these lands reclaimed, not that they should be given to the State of Florida, but that they may add to the wealth and strength and interest of the whole country. I know very well, sir, that being a young State, and impoverished by the Seminole war, Florida has not funds of her own to commence and complete this work. I know, still further, that she will not have funds of her own sufficient to defray the expenses of this gigantic scheme in ten years, nor in twenty years. And, sir, I do not hesitate to say, God forbid that she ever should have money enough in her treasury to complete this work, or any more than enough to defray the ordinary expenses of her government; for whenever she does have a surplus in her treasury, every man, woman, and child in the State will be struggling to obtain it. I am opposed to either State governments or the Federal Government accumulating large surpluses in their treasuries; for I believe their purity, in a great measure, depends upon their having just money enough to get along with; and I think the people of a poor State are more likely to be honest than the inhabitants of a rich one.

But, sir, notwithstanding the inability of Florida to defray the expenses of this work out of her own treasury, I believe that, if she should undertake in good faith to reclaim these lands, plentiful opportunities would be offered, of which she could avail herself, to raise funds sufficient to carry on and complete the work. I do not suppose that the State will perform this labor herself. I do not believe that there is a man in the State, or in the whole country, that supposes she will do so. The State will make arrangements with proper persons, possessing the requisite skill, energy, and capital, and they will carry on the work. That is the only way in which it can be done, either in ten or twenty years. It is only proposed, that if they do not undertake the work in two years, not to give them the land at all. They can commence the work within two years, and if they cannot complete it within the specified time—ten years—they can ask for an extension of the time, and Congress can give it to them. But I have no doubt, however, that such arrangements could be made as would insure the completion of the work within the specified time.

Besides, there is another condition which may come to the aid of those to whom the task of executing this shall be confided. The Seminole Indians reside on a tract of land which is included in the proposed grant, and it is stipulated that they shall not be encroached upon until authority shall be given so to do by the President in writing. If this authority be not given, the work cannot be completed, and must be deferred till the authority shall be received. But I have no fear that the work cannot be completed in ten as well as in fifty years.

Mr. NILES. Mr. President, I see no great use of limiting the time in which this work shall be commenced. I see no force at all in that limitation. A man can go there and open a trench in one day, and the work is commenced.

In regard to the bill, sir, I wish to say that the principles involved in it are very important. It is stated in the bill that these lands are now, and ever will be, valueless to the United States. But it seems that the cession of them to the State of Florida is, some way or other, to render them very valuable. I do not understand this. They may be now of little or no value to the United States, for all that I know, but it seems to me that they are worth as much to the nation at large as to a single State. We have very little data on which to base an estimate of the worth of these lands; but from the description which we have had, it appears that considerable portions of them are not covered with water. These dry lands, it seems to me, may be of some service hereafter.

Well, now, sir, what will be the effect of this grant? I apprehend it will be this: I apprehend that the State will sell all such lands as are now available at such times as they may come into market, and that all the others will remain as they are. The great difficulty attending all measures of this kind is, that we are compelled to act in the dark. That was the difficulty attending our action upon the bill introduced last session giving to the State of Arkansas certain lands lying within her boundaries.

We have no reliable information at all concerning these Florida lands. We have no information by which we can be governed. The description of the lands given in the bill is less full, and probably less accurate, than that which might be gleaned from the newspapers of the country. It cannot be relied on to an extent which would warrant us in making it the basis of liquidation, and such a general sweeping grant once made, may deprive the country of a very large and valuable portion of the public domain. No such grant should be made till after a careful survey of the lands has been made by some officer of the Government, and his report thereon, giving an accurate description of the lands, stating their situation, condition, and extent, and assigning their boundaries, has been published for the use and information of the Government and people.

It may, perhaps, be good policy to grant away these lands that are of little value, but at the same time care should be taken not to grant away lands that are or may be valuable hereafter. This bill, it seems to me, would introduce a new principle in legislation. It is on the principle that these lands are without value to the United States, and that by cession to State authority they will be made valuable. But it is said that the State will render them valuable by reclaiming them at a great outlay. We have no guarantee that this will be done. In order to accomplish this object, I think we should have some security on the part of the State that will render the reclamation of these lands certain. As the matter now stands, there is nothing that renders it at all obligatory on the State to fulfill the accomplishment of the work. And they will probably avail themselves of that portion of the lands which is of some value, and leave the rest as they are.

Mr. WESTCOTT. It is stated in the bill that every dollar raised from the sale of these lands shall be sacredly appropriated to the completion of the work, and that none of the lands can be sold for less than a dollar and a quarter per acre until the entire work is completed.

Mr. NILES. I know that the proceeds of the lands are to be applied to educational and other useful purposes. The bill evinces a very proper and laudable object; but take the terms of the paper as it stands, and it does not propose a national object at all. I should have no objection, sir, to grant to States in which such lands lie the privilege of reclaiming them, and allow the State for so doing the privilege of disposing of certain portions of the lands reclaimed, together with preëmption rights, or something of that kind. If the privilege of reclaiming these lands be indeed so great, I think the State should be satisfied with a mere indemnity, and I have no objection to a practice of that kind. But if these lands be ceded to the State, I take it the rights of the United States will be gone forever. I do not think, therefore, that I can vote for this bill.

The question was taken on the amendment of Mr. YULEE, and it was rejected.

Mr. HALE. I would ask the Senator from Florida [Mr. WESTCOTT] if he proposes to make this grant absolute, without any condition that the lands are ever to be drained by the State?

Mr. WESTCOTT. I would respectfully refer the honorable Senator [Mr. HALE] to the bill, which contains nine conditions, one of which is, that the State shall, expressly by law, accept these conditions. The State furthermore pledges itself to accept the conditions which render it obligatory upon her to commence the work in two years and complete it in ten years; and if practicable, with the completion of the work, to build a canal for vessels across the peninsula out of the proceeds of the lands reclaimed, and that the canal shall be free to all United States vessels, and for the transportation of mails, troops, or United States property of any kind, forever. And the residue of the avails of the lands are not to go into the State treasury, but to be invested as a permanent and perpetual fund, the interest of which is to be expended for purposes of education in the territory granted.

Mr. HALE. I thought the amendment offered by the Senator's colleague [Mr. YULEE] was to strike out these conditions.

Mr. WESTCOTT. That amendment was rejected.

Mr. UNDERWOOD. Mr. President, I move to strike out all of this bill after the enacting clause, and insert a proposition appropriating a certain sum of money to authorize the Secretary of War to have the Everglades explored, and a report made

to Congress, with a view of showing what action is necessary in regard to them. I do this for the purpose of testing the principle involved in the bill, and to ascertain how far we are to depart from the usual legislation of Congress on the subject of granting these lands to the States. Senators will recollect, that we have had propositions from the State of Arkansas, to grant to it all the swamp lands contained within its boundaries. And we shall have propositions, no doubt, from every State in the Union, where there are public lands, if any of these bills should pass, to grant all swamp lands to the States within the limits of which they are respectively situated.

Now, my object is to test the sense of the Senate as to whether this policy shall be commenced or not, without full information upon the subject. I am perfectly willing, as a member of the Committee on Public Lands, to have all this land explored, at the public expense, by the topographical engineers of the United States, and to have reports made from them, recommending the nature of the improvements which ought to be made, and explaining to us the quantity of land which, if the improvements are made, will be saleable, and the value of the land thus saleable, and the expense that will be attendant upon the improvements which they recommend.

Now, sir, I understand that we have in our employ officers competent to do all these things. And if, before we avail ourselves of their experience and knowledge, by sending them to the ground to ascertain all the facts to be obtained with regard to the proposition before us, we vote bills appropriating millions and millions of acres of the public land, worth, perhaps, millions and millions of dollars, I think we are acting with far too great precipitation, and very unwisely. I ask Senators if it is prudent and right to do these things in such haste? It does seem to me that we ought to have examinations and explorations of these lands made by the topographical engineers, and reports made to us, before we take any steps in this matter.

Now, sir, the Secretary of the Treasury, in relation to these everglades, gave a commission, in part, to a gentleman by the name of Smith, who had to perform a great many other duties, according to the appointment conferred upon him by the Secretary, in relation to the lands in that quarter of the country; but in addition to these duties, he was particularly requested to make some examination in regard to the practicability of draining these everglades.

Mr. Smith has made a very long report on that subject, and I must say that, without a very accurate ascertainment of the facts, he has taken for granted a number of things. His reasonings upon the subject are very prettily made out, supposing the facts to be as he has stated them. I will read to the Senate some of these statements, in order that Senators may consider what is here presented. Mr. Smith says:

"To reclaim the everglades, and the Atscenahoofa and Halpatiokee swamps, and the lowlands on the margin of the Kissime river and its tributaries, and the other rivers emptying into Lake Okeechobee, this lake must be tapped by such canals, running into the Caloosa-Hatchee, on the one side, and the Loca-Hatchee or San Lucia, or both, on the other, and cuts must also be made from the streams on both sides of the peninsula into the glades. Besides, after the height of the waters in the glades should be decreased, even as much as five feet, there will probably be a necessity for several drains through the glades and those swamps, by which the waters accumulating from the rains may be conducted to the ocean or gulf."

This is Mr. Smith's plan for draining the everglades.

Now, sir, as to the depth of these canals, which are to be thus carried into Okechobee lake, here is the most definite and accurate information that I have been enabled to procure by reading these papers. This is a statement made by Mr. J. McClelland, captain of the topographical engineers. He does not make the statement from any examination or exploration made by himself, but he bases the statement which he makes upon what Captain J. R. Vinton, 3d artillery, stated to him. Here is what Captain Vinton told Captain McClelland, of the topographical engineers. Captain McClelland says: "In the course of the year 1840 or 1841, I was informed by the late J. R. Vinton, 3d artillery, that he had run a line of levels"—so it appears from this that the instruments had actually been applied to the surface of the ground—"from the Atlantic Ocean to the glades, and found their elevation above it from ten to fifteen feet. This was taken at Fort Dallas, at the mouth of the Miami river, which empties into Biscayno bay."

According to this information, it will be necessary to dig a canal through the rim, which I am informed surrounds the everglades, and by means of this canal to connect the waters in the basin with the waters of the ocean, for the purpose of draining them off; and, according to the information here given, this canal, to be efficient in draining the everglades, must be from ten to fifteen feet deep.

Well, now, what the length of this canal is, we are uninformed; what is the position to be secured for that canal, we are uninformed; and what will be the expense, (as that depends upon the length, position, and depth,) we are uninformed.

Mr. WESTCOTT. Will the Senator permit me to correct him? His mistake evidently arises from his want of knowledge upon the subject. Had he read the next sentence of Captain McClelland's letter, he would not have fallen into the error which he now labors under. Canals are contemplated from Lake Okechobee, which is nearly one hundred miles above the point where this level was taken by Captain Vinton. The drains from the rim, to which the gentleman refers in his letter, are not contemplated to serve any other purpose except draining off the water in the rim. It is not necessary, nor is it stated to be necessary in the report, that these small drains should be ten or twelve feet deep; but the canals from Lake Okechobee to the Atlantic on the east, and to the Gulf of Mexico on the west side, are to be from twelve to fifteen in depth. The height of that lake is considerably more than that of the rim. I would remind the honorable Senator that if he would look at the previous part of the letter just read, and at the letter from Colonel Long, of the Topographical Engineers, he would find that the length of one of these canals would be twelve miles, and the length of the other from ten to eighteen miles.

Mr. UNDERWOOD. Mr. President, if my friend had heard me out, he would have had no cause to complain. I intended to read the clause to which he has called my attention. But that clause only makes the matter worse. I am speaking now about the canals which must be dug in order to get into the basin, and before you get to Lake Okechobee, a hundred miles beyond that, I understand. If gentlemen will take the trouble to look at the map as I have done, they will find that the rim of this basin is not more than some ten or fifteen miles from the Atlantic—the Gulf Stream. Well, sir, you have to make these canals in order to get into the basin. And when you get over there, what is to be done? Why, says the gentleman, (and this is stated by Mr. McClelland as coming from Captain Vinton,) this lake, when you get into the rim, is considerably higher. How much higher we do not know. Well, then, it may become necessary to extend your canals fifty or a hundred miles further. Concerning the obstructions, if any, the depth, or the length, we are left entirely in the dark. Instead of the clause which the honorable Senator [Mr. WESTCOTT] read, it is no objection to my argument, but only makes it so much the stronger.

Sir, my objection to the whole bill lies a little beyond this. I do not know that anything that I can say will arrest the practice of Congress, of which I complain, in regard to the administration of the public lands. I have been for a long time in a minority upon this subject. I do not know but that I shall remain till the end of my official life here in a minority. I am anxious to make the attempt now, to see if the policy of the Government can be changed. My wish in reference to this subject, if it can be done, is to allow the General Government to retain its jurisdiction and control of this great fund, (the public lands,) not only in Florida and in Arkansas, but Louisiana and all other States where these drains are to be made. For the purpose of saving the public land from its present useless condition, I would have all these drains constructed by the General Government, and then I would have it sell the lands and allow every State in this Union to participate in the distribution of the proceeds in an equal interest. While I avow this to be my policy, and while I declare that it has always been my policy, yet I frankly confess that if the Government of the United States will not do this, if the Government will not take hold of these swamps and lakes, sooner than that the country should remain in its present unproductive condition—for I would not play the policy of the dog in the manger—I would be in favor of the States draining these lands and appropriating such as are now valueless to some useful purpose. I frankly confess, that if my policy is overruled I will go with the Senator from Florida, [Mr. WESTCOTT;] I will go with the Senator from Arkansas, [Mr. BORLAND;] I will join my friend from Louisiana, [Mr. JOHNSON;] I will join with every one to make something beneficial for the States out of this now useless land.

But, sir, I believe that the General Government can do it better than the States, and I believe that the General Government ought to do it. The principle that we have adopted, almost from time immemorial, that we have the right to appropriate the public domain in the States, has been long sanctioned, and no one, I think, will presume to question the general authority of Congress to exercise this right. There is no constitutional question involved in this matter. It is simply a matter of policy. What will Congress do in regard to these lands? For the present, I do not wish them to act on this matter until they get proper information upon which they can base their action. I acknowledge, as a member of the Committee on the Public Lands, that I have not yet been enabled to find that information. I am not now willing to grant to the States these useless lands, unless it be ascertained that we cannot reclaim them and appropriate them to the general use. I do not know but that, if we send out competent engineers to explore, to level, and to estimate the cost of such a proceeding, after they shall make a full report to us of what they have done, we shall ultimately take the course now proposed by the gentleman from Florida, [Mr. WESTCOTT,] and give the lands to the States in which they lie. If we send out these engineers and have the land explored and leveled, the information acquired from their report would be of great value to the States to whom we propose to give the lands. Will not this course facilitate operations hereafter? Surely it will. I ask, then, if it be not good policy to provide for this public exploration at the expense of the United States, even if we give the lands to the State? By thus obtaining this knowledge, we can determine whether we will grant the lands to the State or not.

I observe that on the subject of expense, Mr. Smith, in his report, speaks most indefinitely. Indeed, he does not even venture to make an estimate. He says in one part of his report: "The maximum of probable expenditure is $300,000. I presume, under any circumstances creating the necessity of an augmentation of this amount, that $500,000 would, beyond question, defray all outlay necessary for the successful accomplishment of the work." From $300,000 to $500,000 is a very wide gap—a gap of almost a hundred per cent. If it costs only $300,000 to reclaim this fine and valuable country in the centre of Florida, which, if it can be reclaimed, will become one of the finest orange districts in the world—if, indeed, it cannot be used for sugar and other planting purposes—I do not hesitate in saying that the value of that country will compensate for the expenditure, I was about to say a hundred fold—perhaps it will not reach so high as that—but I may be safe in saying fifty fold.

Whether it can or cannot be done at that expense, we have no means of ascertaining. This is a mere conjectural estimate. It is the minimum, to be sure, but the highest estimate of Mr. Smith is only $500,000.

Well, suppose the work can be accomplished, and this valuable land, as it will be, in case it can be drained, should be saved at an expenditure of that sum: why, sir, the proceeds resulting from its sale would be a sufficient remuneration for this outlay. And I will venture to say that it will be, ultimately, beneficial to the State of my friend over the way, [Mr. WESTCOTT,] if this Government will undertake to do the work.

This bill proposes to reserve two years within which to commence the work, and ten years within which to accomplish it. Now, sir, if you send out your topographical engineers, and they report that this great work can be accomplished by an outlay of $300,000, or even $500,000, how long will it take the General Government to accomplish the work? One, two, or three years, at the furthest; whereas, if it is to be accomplished by the

State, according to the provisions of this bill, if they commence it within two years, you need not expect, especially under the condition of the finances of the State, mentioned by the other gentleman from Florida, [Mr. YULEE,] the completion of the work for some ten or fifteen years, at the least. In that state of things, I ask my friend from Florida, [Mr. WESTCOTT,] if he can get the General Government to undertake this work, upon the report of the topographical engineers, will it not be sooner done? Will not your State settle faster, and become improved more rapidly, by the plan of operations I have suggested, than in the manner which the bill provides?

For the purpose, sir, of testing the views of Senators on the subject, I will now offer my amendment. It is simply, sir, to appropriate ——— dollars, out of any money in the treasury not otherwise appropriated, to be expended by the Secretary of War in exploring the everglades in Florida, with a view to ascertain the practicability of draining the same, and that he cause a report to be made at the next session of Congress, or as soon thereafter as may be practicable.

Mr. WESTCOTT. It is true, as stated by the Senator from Kentucky, that we have had no topographical survey made with the view of ascertaining the precise estimate of the amount necessary to be appropriated to effect the draining of the everglades, and to make the proposed canal. That is so; but so far as respects the objects of this bill, that information would be perfectly useless to Congress. Now, what information have we got? We have got information that is authentic beyond a dispute. We have got authentic information, derived, first, from the surveyor general of the State; secondly, from the Commisioner of the Land Office; thirdly, from the Secretary of the Treasury; fourthly, from the intelligent gentleman sent by the Secretary of the Treasury to examine the lands. We have letters from Judge Sheriff, who is well acquainted with the situation of the lands, from Colonel Harney, from General Gadsden, and others, who traversed that country thirty years ago, all of them coinciding in the statements that these lands are perfectly worthless to the Government, and, if surveyed, would not pay the cost of surveying. Then, sir, with all the information necessary to be obtained by Congress, unless—and I will at once meet the question propounded by the Senator from Kentucky—unless Congress are at once disposed to enter upon a system of public improvement, why should we refuse to put it in the power of the State to bring these lands into an available condition? Is Congress prepared to do it? That is the question, if I mistake not, which the Senator from Kentucky propounds to the Senate. Is Congress prepared to enter upon the business of improvement with regard to these lands, as well as those tracts which are overflowed by the Mississippi and its tributaries, and which can only be redeemed by the construction of canals or embankments? The Senator says that there is no obstacle to these improvements being made by the General Government.

Mr. President, there are some who entertain constitutional objections as to the power of Congress to improve either private or public lands, and to enhance their value by making public improvements within the States; for the power would be abused as long as the Federal Government owned a foot of land in the new States. But, as I said on a former day, I have objections besides these constitutional objections. Of all methods under heaven that can be devised for making public improvements of this character, those undertaken by the General Government are always the most expensive and the most likely to be inefficacious when effected. Of all public improvements, those devised, carried on, and completed by the Federal Government are the worst. I do not mean to detract from the intelligence and capacity of our corps of topograpical engineers. I am fortunate in being acquainted with several of them, whom I regard as my most valued friends. Among them are the most intelligent persons to be found in this or in any country. But look at the public works that have been conducted by this Government, works even of the most trifling character, and you will find that impediments continually intervened to protract the work. You will find that all sorts of expenditures are accumulated upon you. You will find that it takes a year to prepare to enter upon the work; another year to make the necessary reconnoissances and surveys; another year to put the result of the calculations in proper form, in printed statements and maps; another year to bring the matter before Congress; another year or two to have it criticised and canvassed; and some three or four years after that to get an act passed authorizing the commencement of the work.

This is the way in which improvements, undertaken and carried on by the Federal Government, are managed where the persons carrying on the works are not interested in their completion. The delays are innumerable, the expense almost incredible. I would inquire of the Senators from Arkansas how long the Federal Government have been endeavoring to get the raft removed from Red river? Ten or twelve years, I believe. Sir, I happened accidentally to look at debates in Congress when that work was first proposed, and I remember that we were assured that it could be completed in eighteen months.

A SENATOR. The work was completed.

Mr. WESTCOTT. It *was*, after a fashion, but it filled up again. In 1838 a work was undertaken in Florida. It cost some seven or eight hundred thousand dollars, and the work is now not worth a single dollar. And so with all public works where the persons employed are not interested in the work being well done. So with all public works. Except those of a peculiarly scientific character, the army officers are the worst persons to be employed on them. They are gallant in warfare, but they know very little of other matters. There are fewer practical men among them than among our civil engineers throughout the country; and I would rather trust the execution of a work to a practical civil engineer than to the whole corps of topographical engineers, as high a respect as I have for most of them. But this is not such a work as belongs properly to them. We do not expect to construct this work in very superior style; it requires no carved marble, no elegant columns, no superb gilding, nothing of the kind. On the contrary, all that we want is plain old-fashioned work, such as the most unskilled can accomplish. Any man can dig a ditch. Sir, I should be opposed to the Federal Government undertaking it, because I do not believe it would be done in twenty years; and when done, which would be whenever the officers became tired of remaining there among the musquitoes and the frogs, it would not be more than half done as it should be. It would be executed infinitely better by officers appointed by the State, who would be interested in having it done effectually.

As before said, if the State accepts this grant, there will be no possibility of misapplying the proceeds, for every surplus dollar must go for the support of education within the region thus ceded and reclaimed.

While up, I will answer one objection, or rather misstatement, that was made by the Senator from Connecticut. He stated that there were not a million of acres overflowed. There are two millions five hundred thousand overflowed. Of these, one million have been surveyed for a number of years, and, so far from being available, as my friend from Connecticut supposes, they are as worthless as the rest—about three hundred and sixty acres only having been disposed of out of that whole tract of a million of acres. If the lands should ever be reclaimed, they will be worth perhaps one dollar and a quarter per acre; but with regard to the sand-bottoms, they will never be worth the cost of surveying. Sir, I hope the amendment of the Senator from Kentucky will be rejected, for I am extremely anxious that this matter should be decided without further delay.

Mr. BALDWIN. I am not prepared to vote for this bill in the shape in which it has been reported by the committee. On the contrary, I am inclined to favor the amendment proposed by the honorable Senator from Kentucky, as well for the reasons which have been assigned by him, as for others which are apparent upon the face of the bill itself as reported. The object which the Government of the United States has in view in making this grant to the State of Florida, if it be made at all, is to secure the accomplishment of the work for which the lands are to be granted. Now, it appears to me that this bill affords no such security to the Government. The grant is founded upon the basis of a donation of all these lands to the State of Florida, upon certain conditions to be acceded to by the State, and one of these conditions is, that the State, within a specified time, shall enter upon the execution of this work, and shall complete it within the period of ten years. But what are the powers of the State in the mean time? She is authorized to sell every acre of this land which is already surveyed, or capable of being surveyed: thus she is authorized to sell, at all events, a large portion of the land; and suppose, having made sale of this land, the State should fail of completing the work within the period assigned: what remedy, what redress, has the Government of the United States? What means of enforcing the future execution of the work for which those public lands were ceded? Settlers will have bought them and paid for them in good faith; they cannot be disturbed in consequence of any condition appended to the grant, for the provisions of this act recognize the right of the State, notwithstanding those conditions, to proceed to make sale of the lands, limiting her only in regard to the price at which the lands are to be sold. But, furthermore, the State will not be bound to complete the work within the period of ten years, nor within any definite period, unless the President of the United States should deem it expedient to issue an order in writing authorizing an intrusion upon that portion of the lands which has been assigned to the Seminole Indians. The 4th section of the bill is as follows:

"Until the President of the United States shall authorize the same in writing, no entry or encroachment shall be made or allowed by said State into or upon the district reserved for the Seminole Indians yet remaining in Florida, part of which is within said boundaries; and for any delay occasioned to the commencement or completion of said work, by the withholding of such authority, the period stipulated for such commencement and completion in said first condition shall be extended a corresponding term."

So that until the President of the United States shall issue an order in writing authorizing the authorities of the State of Florida to enter upon this Indian reservation, the period for the commencement of the work is to be prolonged, and of course the period for its completion will also be prolonged indefinitely. Now, I am not satisfied with these provisions of the bill. I think they are entirely wrong. But, however guarded the bill might be in respect to its provisions, I altogether prefer, upon the information which we now have in regard to these lands, adopting the course suggested by the Senator from Kentucky.

Mr. WESTCOTT. I will make one remark, which I think will be sufficient to correct the misapprehension of the honorable Senator from Connecticut. He seems to think that the State ought to give some security that it will appropriate the funds derived from the disposal of these lands according to the intention of Congress in making the grant. Sir, if the State fail in the performance of the conditions accompanying the grant, it will be an anomaly. But it so happens that there is a security provided by this bill which is better than any bail, even if it be justified bail. That security is this: There is not one acre of land comprised within the grant that is worth twenty-five cents; there is not one acre in the whole grant that can be sold at any price until the everglades are reclaimed. And that is proved by these facts. It is so stated in all the reports that have been made on the subject—in the report of the Surveyor General, in the report of the Commissioner of the Land Office, in that of the Secretary of the Treasury, and in all the official reports: it is proved also by the fact that a large portion of these lands has been surveyed for many years, and they have never been able to sell more than three hundred and sixty acres. Now, sir, the law expressly provides that, until the work is completed, a single foot of land shall not be sold for less than $1 25 per acre. Sir, they never can find a purchaser for a foot of it, unless it be purchased with a view to the prospective completion of the work. Thus, my honorable friend will see that he is under a mistake in regard to the interest of the purchaser, and in regard to the supposed want of security.

Mr. DOWNS. The chief object of the amendment, as I understand it, is to have an examination made in order to ascertain the value of the land. It happens that in this case, though it is a rare thing, there is a report on the subject; and during a tedious passage in low water upon the Mississippi I read it from beginning to end. It contains sufficient to satisfy my mind, though perhaps not sufficient to satisfy every Senator, that

the bill ought to pass. It is true, we do not know what may be the value of these lands hereafter; but we know this, that the lands proposed to be ceded, the everglades, are now totally worthless to the United States. The fact mentioned by the gentleman from Florida, that a large portion of the land has been surveyed, and that out of more than a million of acres not more than one hundred and thirty-six have been sold, is sufficient to prove that they are totally worthless. Now, when this fact is ascertained, I think that, in regard to the lands in Florida, as in regard to those in every other State, the Government of the United States ought not to hesitate a moment. It is a feeling which is very prevalent in all the new States, that the holding over for a great length of time of the public domain in those new States, is a diminution of the power and resources of those States.

The question has sometimes been raised whether the Government of the United States could hold the public land unsold in this way at all. Of its power to do so I have no doubt, but all admit that it is an interference with the authority and resources of a State to hold large bodies of public land within it which are not available either for the purposes of the General Government, or for the use of the State. Now, here is a very large portion of territory, not less than one-eighth of the State of Florida, that is totally worthless both to that State and the General Government. The State thinks that she can make these lands available; that she can, instead of permitting them to remain a desert, where a human being can scarcely penetrate either by land or by water, make them available. I think, then, it is one of those cases in which, the fact which I have stated being satisfactorily ascertained, there ought to be no hesitation in ceding the land to the State even without conditions. But the gentleman from Kentucky thinks that a better system might be adopted, and that (I believe his amendment embraces this proposition) the improvement should be made by the United States Government, and that it is important as a part of the system that the most that can be made from the lands should be made by the Government of the United States, and that the proceeds should be distributed among the several States. These are his ideas, if I rightly understood the gentleman's remarks. Now, I cannot concur in opinion with him. Apart from the general principle that the United States Government has no right to make improvements such as these, it would be unequal and unjust to make such improvements at the common expense.

In Louisiana one-third of the waste lands have been reclaimed at her own expense. It is certainly neither fair nor just nor equal towards the State of Louisiana, where the value of her lands have been immensely increased by her own resources, that that increased value should be made a common fund to be distributed among the States. A large portion of the alluvial land in the State of Mississippi has been reclaimed by individuals. Are we to take those improvements, or their value, and make it a common fund to be distributed? I think not. I do not think it would be just or reasonable, and I trust it will never be attempted to be carried into effect. When such attempt is made, if I should have the honor of having a seat here, I shall certainly insist that Louisiana and the other States where those improvements have been made shall first be reimbursed. But a more equitable, reasonable, and propor course is, in accordance with the proposition contained in this bill, and one submitted by a Senator from Arkansas at the last session, (which I hope will come up again,) to make something of these lands if you can, and to provide that they shall remain no longer than is absolutely necessary in a condition in which they are utterly unprofitable to the State or to the General Government. If the Senator from Kentucky continues to press his motion, I shall feel it my duty to vote against the amendment.

Mr. UNDERWOOD. I will only remark that I did not allude to my policy in reference to the distribution of the proceeds of the sales of the public lands as having an immediate bearing upon this bill or upon the adoption or rejection of my amendment. I stated the policy, to be sure, to which I was attached, to show that I wanted to get rid of the system of the administration of the public lands which now prevails. But this amendment of mine does not propose now to distribute the proceeds of the public lands. If my amendment be adopted it does not touch that question. All that it proposes to accomplish is to get certain information which I think we do not now possess. All that my amendment seeks to do is to employ the officers of the topographical corps in obtaining for us the information that we desire; that is all; and the simple question upon the amendment is, whether the Senate prefers by a little delay to get more information, or to give away at once seven million eight hundred thousand acres of land.

Mr. WESTCOTT. Seven million eight hundred thousand acres of land and water! Four million three hundred thousand acres of it is altogether valueless.

Mr. UNDERWOOD. The Commissioner of the General Land Office, in his report to the Secretary of the Treasury, states as follows:

"That the greater part of the peninsula below this line, between townships thirty-six and thirty-seven, and which it is proposed by the bill now before the Committee on the Public Lands of the Senate (which bill has been submitted to me by Messrs. Westcott and Cabell, of said State) to be ceded to the State of Florida, being unsurveyed, and there not being any nautical surveys of the western coast below Tampa in this office, an approximate estimate only can be made of the area of the peninsula and keys, including the lands and interior waters south of said line, and excluding the islands and keys south and east of Cape Sable. It is supposed, however, that such area may be stated at about seven millions eight hundred thousand acres of land and water. Of this aggregate area it is estimated that there is always covered with water about four millions three hundred thousand acres. This estimate includes the rivers, lagoons, sounds, and Okeechobee and other lakes south of said line that it is not proposed to drain and cannot be drained. It includes, also, the swamps and all those portions of country comprising parts of the region called the everglades, the greater part of which it is not supposed can be reclaimed."

Mr WESTCOTT. It has never been contemplated to attempt reclaiming the lagoons. It is supposed, however, that the everglades may be drained.

Mr. UNDERWOOD. When I speak of seven millions eight hundred thousand acres as being the quantity of land to be given to the State, I do not mean to convey the idea that every foot of that land can be drained and made useful. A great portion of the lagoons and lakes, I admit, can never be drained, but that is the whole amount ceded by the provisions of this bill—waterland, swamp, and all. Well, the question comes up between the provisions of the bill and the amendment. Will you wait for more information? Will you employ the Topographical Bureau to get that information? or are gentlemen satisfied now to make this large grant upon the information they have? If they are, let them do so. All that I can say is, that notwithstanding the confidence of the gentleman from Florida in those officers who may be employed by the State, he must excuse me if I have more confidence in the officers of the Topographical Corps than I have in any gentlemen who may be selected for the occasion. This being a short session, if the bill be passed with the amendment which I propose, it cannot, I presume, delay our progress very much. We will be in possession of the requisite information by the time of the next meeting of Congress. But let this bill pass as it now stands, and it cannot but be evident that it will be the entering wedge for other grants of a similar kind. My honorable friend from Louisiana will assuredly come forward with an application, and I shall certainly vote for his bill as readily as for this one, that all may stand upon equal ground. I will assure my honorable friend from Florida that I shall not be opposed to ceding lands of this description to the States in which they lie; but let us first have a report from the Topographical Bureau. I believe there are within the Yacco Points hundreds of thousands of acres that might be drained. I lay down the proposition, however, that if Congress will do nothing in reference to the improvement of these lands, it is the duty of the Government to surrender them to the States rather than leave them in their present condition. All that I ask is, that legislation be deferred until the report comes in, and I have no doubt it will be of such a character as to induce Congress either to undertake the work or to cede the land to the State without any longer hesitation.

Mr. JOHNSON, of Louisiana. As regards the suggestion made by the Senator from Kentucky, that the United States should retain these lands and endeavor to render them saleable; as the subject is connected in some degree with the present condition of a part of the public lands in Louisiana and other States, I wish to make a single remark. As far as regards this Government attempting to improve those lands, I consider it utterly out of the question. There has not been a single instance since the formation of the Government, of the United States adopting a measure of that kind. I recollect a proposition being made on behalf of Louisiana some ten or twelve years ago, and strong arguments used to induce Congress to cut a canal for the purpose of reclaiming some of the lands in that State, and it was made manifest that it would have reclaimed a very large extent of country, and would have brought a large sum into the treasury of the the United States. The proposition was hooted at; and a very distinguished member of the Government was the first to oppose it. The United States Government never has listened, and never will listen, to a scheme for the purpose of accomplishing a work of internal improvement.

Mr. UNDERWOOD. Will my honorable friend allow me to make a single remark? It is this: If you will look into the reports made by the Committee on Public Lands, upon applications by which it is proposed to obtain a cession of land for the purpose of constructing railroads in Illinois and in other States, you will find that in all those reports the principle upon which the cession is sought to be justified is, that it would render the lands still retained by the Government so much the more valuable. Now, if the Government can give to a State or a company a portion of the public domain, in order to render that which is reserved the more valuable, I ask my friend why may not the Government accomplish the same object directly, by opening a canal or otherwise draining the land, for the purpose of making the whole so much the more valuable? That is the principle running through all these cases.

Mr. JOHNSON. The works to which the honorable Senator alludes are works performed by the States, not by the General Government. It is true that making these donations for these purposes will have the effect of rendering the remainder of the lands more valuable, but that was not the object. The object was to enable the State to perform a great work—a work important not only to the State itself, but to the whole nation. This is the purpose for which these grants were made.

Mr. UNDERWOOD. Will the Senator pardon me? The principle upon which the grants were made was, as I have stated, with reference to one side of the House. If I understand the matter correctly, the Democratic members put it upon the ground that it tended to make the remaining lands so much the more valuable, while the other party contended for the making of the improvement directly by the General Government; and my argument was to show that if a portion might be granted for the purpose of making the remainder more valuable, the General Government might, by undertaking the work, make the whole valuable.

Mr. JOHNSON. A question of that sort arose after the acquisition of Louisiana; and in a discussion it was contended by an honorable Senator from Virginia and others that it was incompatible with the interests of the other States. There were complaints from different States against the United States for retaining the public lands in its possession when they might have been disposed of advantageously. I have not gone to that extent, though representing a southern State. I have been willing to give a sufficient time for their disposal, but there should be a limit to that time. I should be glad to know what length of time would be necessary. It is forty-five years now since Louisiana was acquired. Some portions of the State have been overflowed from the Mississippi. To reclaim these lands a large outlay in the construction of levees and otherwise would be required. Some of them never have been reclaimed. Congress have been appealed to, year after year, to make the necessary works to reclaim them, or else to cede them to the States. But they have uniformly refused to do either. Proposition after proposition has been made to this Government to take measures for rendering these lands available, but such propositions have always been rejected.

It is utterly out of the question, then, I conceive, that the Government of the United States should ever think of adopting a system of internal improvement within the limits of the States; and I concur entirely with the Senator from Florida, that if they should attempt to do it, it can never be effected as well by the General Gov-

ernment as by the States. It they were to undertake it, it would cost twenty times as much as it would if accomplished by the States. In the State of Mississippi certain portions have been reclaimed by individuals, in consequence of which the General Government has already derived considerable benefit; yet there are still remaining extensive tracts of country that are overflowed and rendered uninhabitable, and other portions rendered so unhealthy that the persons living there are obliged to absent themselves for a part of the year; but whenever the subject has been brought up before Congress, it has been put off. Three or four years ago a bill was brought in and discussed; the departments were called upon for information; a select committee was appointed, with the distinguished Senator from South Carolina at its head; a very lengthy report was made, containing estimates from the departments and from officers in Louisiana; and yet, when we came to act, further information was required, and it was suggested that it ought to be deferred. Now the time has arrived when I think the question should be settled. There ought, I think, to be some limit to the time in which the lands are to be disposed of, and that the Government is now bound to adopt some measure to reclaim the lands, or else yield them to the States. The resources of the States are crippled by having a large extent of country within their borders uninhabited, and the adjacent lands rendered almost uninhabitable by reason of the unhealthiness produced by the overflow.

As it regards this particular bill, I am under the impression that we have already sufficient information to enable Congress to act. A part of the land in question is constantly covered with standing water; it is somewhat different from swamp land, but it may possibly be reclaimed by great outlay. I rose, however, merely to offer a single remark in reply to the proposition which the gentleman from Kentucky had suggested, that the Government of the United States ought to undertake the work of improvement, which I am perfectly satisfied is out of the question.

Mr. BENTON. We have appropriate officers under our laws for reporting the condition of the public lands. We have officers whose duty it is, under very high obligations, to report upon the character of all public lands. Their report must be minute in regard to the qualities and the description of the public lands. These officers belong to the General Land Office. These officers are employed in examining the public lands and surveying them and in making reports. These are the officers who are able to give us all the information that we want upon the subject. The topographical corps (I say it with great deference to the honorable Senator from Kentucky) is not the appropriate corps for doing business of this kind. It was never created for this kind of business; it has never been employed in this kind of business; and if that corps should be so employed it would be taken away from its appropriate duties and set to do the duties of other officers. If we need any information, then, the place to look for it is through the General Land Office, and through the reports of the surveyors employed in Florida, and by them transmitted to the Commissioner of the General Land Office. That is the means of getting information that concerns public lands. We already have the report of the proper officers upon this point; we have the report of the Commissioner of the General Land Office, founded upon the report made officially to him by the surveyors whose duty it is to survey and report. The Commissioner of the General Land Office, in his letter to the Secretary of the Treasury, states:

"That the entire peninsula south of the northern line of the proposed grant to Florida, whether occasionally covered with water or not subject to overflow, is *at this time* utterly worthless to the United States for any purpose whatever. Colonel Robert Butler, the Surveyor General of that State, in his official report made October 2, 1847, says: 'I now ask your attention to the everglades, which *cannot be surveyed without first being drained.*' And that officer recommends the cession of a moiety of that region to the State of Florida for the purpose of having the lands reclaimed."

Here is an official report which states that the lands cannot be surveyed until they have first been drained. So, then, we have all the information which it is necessary for us to possess in order to act definitively upon this bill. The bill applies to the everglades—a name which of itself implies a kind of ground different from that which is covered by lakes, and different from dry land. The name itself implies that it is land partly and slightly covered with water, but so deeply covered as to be of no use while the water remains upon it. The history of that portion of the country to which this name applies is perfectly well known; it has been known from the time that Florida was first known; it has been traversed by our army officers during the late war, besides having been examined and reported upon by our land officers. We know, as well as the reports of all the officers in the world can ever make us know it, that these everglades are land covered with water; that they are a species of marsh; that they have vegetable productions in them; that they have shallow places and deep places; and that they never can be used until the water is drained off. I have understood that there lies upon these everglades a very rich mould of earth, which, being exposed to the action of the sun and the weather, will become very valuable in furnishing all the productions peculiar to that part of the country; but while the water remains upon it, it is of no use whatever.

Now, it is an axiom that when any property passes from hands that cannot use it into hands that can use it, there is a public gain, and in that point of view I look upon it, that, with regard to all these inundated lands now lying not only useless to the United States, but injurious to the country in which they lie, it would be a great public benefit to pass them away from the United States, which can make no use of them, into hands that can; and for that purpose I prefer, infinitely prefer, the action of the local government of the State to that of this Government, at this remote distance. I have no idea of this Federal Government making money by any operation it engages in. I do not think it can make money by any enterprise it undertakes. It ought not to do it if it could. The resources of the country should be developed by operations to be carried on by individual enterprise. From these the Government will derive advantage in the amelioration of the condition of the people. That is the only way in which it ought to be a gainer.

The State governments have a direct interest in removing whatever is pestilential in their respective States, and introducing whatever is useful, and in rendering valuable, if possible, whatever is not so originally; and, being upon the spot, they are capable of regulating the details and of superintending those who are engaged in the work. The State governments are the proper parties to undertake matters of that kind. I am, therefore, utterly opposed to employing any officers to make any further explorations here, and particularly opposed to employing the Corps of Topographical Engineers, for the reason I have given. The information is to be obtained through the Land Office. We have already everything that is necessary for us to know. We have the official information through the proper channel, and, besides that, we all have a general knowledge of the subject from our reading and experience, that here is a tract of country, consisting of what are called everglades, which is a harbor for pestilential animals, a region that is wholly useless to the Federal Government.

I think we have all the information that we can require. We have sufficient, at all events, to convince us that it will be the interest of the Federal Government, as well as of the people of Florida, that we should, as soon as possible, put those lands in a condition in which they may be useful. It is a large region of country, running far down to the extremity of the peninsula, a point that requires protection and defence. The population of that country requires the means of communication through it, and I think we should be making a most beneficial disposition of all that peninsula if we could pass it off to the State government, which would bring it under the dominion of man, which would put people upon it, which would make roads through it, and make it valuable and more easily traversable for military purposes. Upon national considerations, then, as well as upon considerations which apply to the State, I think it important that we should pass this bill.

Mr. BREESE. As I reported this bill, it may be reasonably expected that I should say a few words in regard to the views entertained by the committee. And first, I must be permitted to observe, that the committee bestowed much attention upon the subject, and sought all the information that they could gather, in order that they might have as clear a knowledge of the facts as they could obtain.

Mr. BUTLER. I hope the gentleman will give way, for the purpose of going into Executive session.

Mr. WESTCOTT. If the bill will come up for consideration to-morrow, I have no objection that it should be deferred; but I am exceedingly anxious that it should encounter no unnecessary delay.

The further consideration of the bill was postponed until to-morrow; and,

On motion by Mr. BUTLER, the Senate proceeded to the consideration of Executive business; and, after a short time so engaged, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 22, 1848.

The Journal of yesterday was read and approved.

THE PRIVATE CALENDAR.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole, for the purpose of proceeding to the consideration of the private calendar.

Mr. COBB, of Georgia, rose to inquire of the Speaker whether it would not be in order to move that the House proceed to the consideration of the motion submitted yesterday by the gentleman from Michigan, [Mr. STUART,] to reconsider the vote by which the House had adopted the resolution of the gentleman from New York, [Mr. GOTT,] instructing the Committee on the District of Columbia to report, as soon as practicable, a bill for the abolition of the slave trade in the said District.

The SPEAKER said, that immediately before the adjournment of the House yesterday, he had given notice, that Friday being private-bill day, that order of business would have the preference. If the House should now refuse to proceed to the consideration of the private calendar, then the business first in order would be the motion to reconsider.

Mr. COBB said he hoped the House would not go into private business, but would proceed to the disposition of the motion to reconsider.

Mr. ROCKWELL said this was what was known as objection day, and he hoped the House would proceed with the regular order of business.

The question on the motion of Mr. ROCKWELL was then taken, and the vote stood: Ayes 76, noes 49.

Mr. COBB asked for the yeas and nays; which were ordered, and being taken, were: Yeas 96, nays 63.

So the motion was agreed to.

Whereupon the House resolved itself into Committee of the Whole, (Mr. MCCLELLAND, of Michigan, in the chair,) and proceeded to the consideration of bills on the private calendar, under the restriction prescribed in the 30th rule, which is in the following words:

"On the first and fourth Friday of each month, the calendar of private bills shall be called over, and the bills to the passage of which no objection shall then be made, shall be first considered and disposed of."

The following bills were read and ordered to be reported without amendment, viz:

A bill for the relief of the grandchildren of Baron de Kalb.

A bill for the relief of Zachariah Lawrence, of Ohio.

A bill for the relief of the legal representatives of Bernard Todd, deceased.

A bill for the relief of William Fuller.

A bill for the relief of John Campbell.

A bill for the relief of the legal representatives of Captain Samuel Jones, deceased.

A bill for the relief of the legal representatives of Joseph Savage, deceased.

A bill for the relief of Charles A. Barnitz, husband of Margaret Barnitz, the only surviving heir of Lieutenant Colonel David Grier, of the army of the Revolution.

A bill for the relief of the legal representatives of William McFarland, deceased.

A bill for the relief of John J. Young, a commander in the navy of the United States, and a joint resolution for the relief of Samuel T. Anderson.

The following bills were amended by striking out the item allowing interest, and ordered to be reported to the House, viz:

A bill for the relief of the heirs of Joshua Eddy, deceased; and

A bill for the relief of William Blake.

The following bills were read and objected to, viz:

A bill for the relief of Lyon and Howard;—by Mr. WENTWORTH.

A bill for the relief of John P. Skinner and the legal representatives of Isaac Green;—by Mr. HAMMONS.

A bill for the relief of the grandchildren of Major General Baron De Kalb;—this bill was laid aside to be reported to the House.

A bill for the relief of the legal representatives of Antonio Pacheco;—objected to.

A bill for the relief of the widow and heirs-at-law of Silas Duncan, late commandant in the United States navy;—by Mr. HAMMONS.

A bill for the relief of Noah A. Phelps;—by Mr. THOMAS.

A bill for the relief of the legal representatives of Colonel Francis Vigo;—by Mr. PECK.

A bill for the relief of Mathews, Wood, and Hall;—by Mr. THOMAS.

A bill for the relief of the legal representatives of William D. Cheever;—by Mr. DANIEL.

An act for the relief of Jeannete C. Huntington, widow and sole executrix of William D. Cheever;—by Mr. DANIEL.

A bill for the relief of Andrew A. Jones, an inspector of the customs of the port of New York;—by Mr. SAWYER.

A bill for the relief of Casper B. Cook and others;—by Mr. STARKWEATHER.

A bill supplementary to the joint resolution authorizing the accounting officers of the treasury to audit and settle the accounts of William P. Zantzinger, approved the 15th of June, 1844;—by Mr. DANIEL.

A bill for the relief of Daniel Steenrod;—by Mr. DICKEY.

A bill for the relief of the legal representatives of Captain William Smallwood Tillard;—by Mr. THOMAS.

A bill for the relief of the owners and crews of certain vessels employed in the cod fishery;—by Mr. SAWYER.

Senate bill for the relief of Richard S. Coxe;—by Mr. STARKWEATHER.

A bill for the relief of Mrs. Susan C. Randall;—by Mr. THOMAS.

A bill for the relief of the heirs of François Cazeau;—by Mr. DICKEY.

Senate bill for the relief of Peter Capella, administrator of Andrew Capella, deceased, and for the relief of John Capo, and for the relief of Elijah Petty and Hannah Petty his wife, heirs of John Beardon, deceased;—by Mr. BOWLIN.

A bill for the relief of the heirs of Colonel David Hopkins;—by Mr. DANIEL.

Senate bill for the relief of Thomas Talbot and others;—by Mr. SAWYER.

Senate bill to enable and authorize the accounting officers of the treasury to audit and settle the accounts of certain acting officers therein mentioned;—by Mr. STARKWEATHER.

A bill for the relief of Thomas Ap Catesby Jones;—by Mr. SAWYER.

A bill for the relief of Andrew C. Armstrong;—by Mr. BOWLIN.

A bill for the relief of Elisha H. Holmes;—by Mr. WENTWORTH.

A joint resolution for the relief of Alexander Hunter;—by Mr. DICKEY.

A bill to renew the patent heretofore granted Hamilton Lapham;—objected to.

A bill to authorize the Commissioner of Patents to renew the patent of Cyrus H. McCormick for his horizontal plough;—by Mr. RUMSEY.

A bill for the payment of a debt due to the heirs of Antoine Pelteir;—by Mr. HAMMONS.

A bill for the relief of the heirs of Nicholas Lachance and others;—by Mr. DICKINSON.

A bill for the relief of Cassius M. Clay;—by Mr. DICKEY.

A bill for the relief of Thomas Crown;—by Mr. THOMAS.

A bill for the relief of George R. Ward, of the city of New York;—by Mr. HALL, of Missouri.

A bill for the relief of the legal representatives of George W. Milam, deceased;—by Mr. SAWYER.

A bill for the relief of Lawrence Daily;—by Mr. SAWYER.

A bill for the relief of the widow and orphan children of Colonel William R. McKee;—by Mr. DICKEY.

A bill for the relief of Captain Dan Drake Henry;—by Mr. DICKEY.

An act for the relief of Mary Mac Rea, widow of Lieutenant Colonel William Mac Rea, late of the United States army;—by Mr. SIDNEY LAWRENCE.

Mr. HAMMONS now moved that the committee rise.

Tellers were called for on that motion; and the vote stood—ayes 37, noes 52.

There was no quorum voting.

The 126th rule of the House (adopted on the 18th of December, 1847) is in the following words:

"Whenever the Committee of the Whole on the state of the Union, or the Committee of the Whole House, finds itself without a quorum, the chairman shall cause the roll of the House to be called, and thereupon the committee shall rise, the chairman shall report the names of the absentees to the House, which shall be entered on the Journal."

The CLERK thereupon proceeded to call the roll; which having been done—

The SPEAKER resumed the chair, and the chairman reported that the committee had been unable to proceed with its deliberations, in consequence of the absence of a quorum.

And the names of the absentees were thereupon ordered to be entered on the Journal.

A quorum being now present, the chairman resumed his seat in Committee of the Whole.

Mr. TURNER moved that the committee rise.

The CHAIRMAN said that that was the pending question, no quorum having acted upon it when it was originally put.

The tellers again took their places, and the vote being again counted, stood: Ayes 67, noes 54.

So the committee rose and reported the bills which it had had under consideration—some with amendments, some without.

Mr. HALL, of Missouri, rose to a privileged question. He stated that his name was not recorded as having voted on the motion to lay on the table the resolution of the gentleman from Illinois, [Mr. MCCLERNAND,] in relation to the disposition of the public lands. He (Mr. H.) had voted in the negative.

The SPEAKER said that the Journal would be so amended as to conform to the fact.

Mr. MILLER also rose and stated that his name was recorded as having voted in the affirmative on the same resolution, the fact being that he had voted in the negative.

The SPEAKER said, the Journal would be so amended in that particular also.

Mr. KENNON rose to inquire of the Chair whether his name was recorded on the roll of the absentees when the Committee of the Whole had risen for want of a quorum?

The SPEAKER said it was not in order now to enter upon that matter. If, when the Journal should be read to-morrow morning, any inaccuracy should be found to exist, it would then be in order for the gentleman to state it, and to move that it be corrected.

COLONEL FREMONT'S REPORT.

Mr. BROWN, of Pennsylvania, rose and said, that there seemed to be a difficulty existing in relation to the order of the House of yesterday, ordering the report of Lieutenant Colonel Frémont and the accompanying maps to be printed with the reports of Lieutenant Abert, Lieutenant Colonel Cook, and Captain Johnson. He desired, therefore, to offer the following resolution:

Resolved, That so much of a resolution of this House, adopted on the 21st instant, as orders the report of Lieutenant Colonel Frémont and accompanying maps to be bound with the reports of Lieutenant Abert, Lieutenant Colonel Cook, and Captain Johnson, be, and the same is hereby, rescinded; and that twenty thousand extra copies of said report of Lieutenant Colonel Frémont (with maps) be printed in pamphlet form, similar to that printed for the Senate.

The SPEAKER said the resolution was not now in order.

And it was not received.

The SPEAKER said that the first business in order would be the report of the Committee of the Whole on the private calendar. Those private bills which had been passed upon last Friday, would be first in order. There were also some private bills which had been upon the calendar since last session, and the rule of the House required these bills to be proceeded with first, in their order.

CHRISTMAS HOLIDAYS.

Mr. TURNER moved that when the House adjourns, it adjourn to meet on Tuesday next.

The yeas and nays were asked and ordered.

Mr. COBB, of Georgia, suggested to the gentleman from Illinois, [Mr. TURNER,] so to modify his motion as that the House should meet to-morrow, and that when it adjourns to-morrow, it should adjourn to meet on Wednesday.

Mr. TURNER did not so modify his motion.

Mr. COBB inquired of the Speaker, whether it would be in order for him to move an amendment in accordance with the suggestion he had made?

The SPEAKER said the amendment would not be in order. It was only a motion that *when* the House adjourns, it adjourn to meet on a particular day which was in order.

Mr. TURNER thereupon withdrew his motion,

THE PRIVATE CALENDAR.

And the House resumed the consideration of business on the private calendar.

Mr. HAMMONS suggested that as there had been a number of bills reported from the Committee of the Whole to the House, without amendment, they should severally be read by their titles, and passed.

The SPEAKER said that that course could be pursued only by general consent.

Mr. JONES, of Tennessee, insisted upon the regular course of proceedings.

The House then proceeded to the consideration of the bills reported this day from the Committee of the Whole, when the amendments to the two bills last mentioned on the list were agreed to; and all the bills reported by the committee were severally ordered to be engrossed, and being engrossed, were read a third time and passed, and sent to the Senate for concurrence.

The House proceeded to the consideration of the following bills heretofore reported from the Committee of the Whole, which were lying on the Speaker's table, viz:

A bill for the relief of William De Buys, late postmaster of New Orleans;

A bill to refund to Charles A. Kellett the tonnage duties and light money paid on the Chinese junk Keying;

A bill for the relief of Jeremiah Moors;

When the same were severally ordered to be engrossed, and being engrossed, were read a third time and passed, and sent to the Senate for concurrence.

Mr. CONGER from the Committee on Printing, to whom was referred a communication from the Clerk of the House, of the 11th instant, in relation to furnishing books to the members, made a report thereon, accompanied by the following resolution:

Resolved, That the Clerk of this House be, and he is hereby, directed to accept the above recited proposition to furnish the American State Papers, and such other books as have been not yet purchased by him, at prices not exceeding those heretofore paid.

The report and resolution having been read—

Mr. EMBREE moved to amend the resolution, by striking out all after the word "*Resolved*," and inserting the following:

"That the original resolution of the last Congress [ordering the books] be, and hereby is, rescinded."

Mr. WENTWORTH said he had been in the habit, ever since he had had a seat on this floor, of voting with his fellow-members for these books. He had voted them for himself, and had received them some sessions since. But when the individuals who were interested here in the sale of these books had come to himself and other gentlemen of the same Congress of which he was first a member, and in which he had received the books, they had suggested to him that the edition was about exhausted; that there were only a few of these books remaining; and the books were voted by members under a limitation of some kind, which it was expected would soon put an end entirely to their distribution. The next Congress had adopted the same resolution, with a similar limitation; and so it came to the last Congress, when he had voted for them also. Still these books were to be found; and upon investigation, he was perfectly well satisfied that they were the same old books. He thought there had been some three or four hundred of these books going round this Congress for the last ten years. Now, he was willing to vote for this resolution, but he wished some gentleman

would have it modified, so that the Clerk of this House should take these books and send them to the places of residence of gentlemen who were to receive them; and let them have an end of voting away, over and over again, the same books. He was convinced that these books had been taken by members, bought from them for a very few dollars by the booksellers in the city, and furnished by them again, to supply the new orders of the House.

Mr. HUNT begged that the gentleman would not make a charge of that kind without bringing forward some satisfactory evidence to sustain it.

Mr. WENTWORTH said he had given his authority and his evidence.

Mr. BROWN, of Pennsylvania, said he could give a fact bearing upon the question. He had received a letter at home from some of the booksellers in the city, offering for these State papers a sum which was a good deal less than one-third the sum charged by them when furnished by them to the House under its order.

Mr. WENTWORTH said he wished new members to understand that he was not embarrassing their proposition at all. He was not going to oppose it, and they need not be alarmed. He had got the books himself, and he was ready to vote them for gentlemen who had not received them; but there should be an end of this system somewhere, and he was honestly of opinion that if the books now distributed could be sent out of the city and kept out, future orders (if the House should make any) could not be supplied, and hundreds and thousands of dollars would be saved to the Government.

Mr. McLANE wished the opportunity to say that he was opposed to the report of the committee and to the resolution, and hoped they would be laid on the table. He thought the Clerk of the House, in the exercise of his own sound discretion, would be under obligation to see that books were not purchased from former members.

Mr. WENTWORTH (continuing) said there were older heads in the matter in this District than any gentleman on this floor. The House had guarded the resolution every year, and he believed some two or three years since they had a committee to investigate this subject; but it had ended in nothing. The books were given to members; when they went away, it was optional for them to take them or sell them.. There was no doubt but the books had been sold; but when they voted these books to members of Congress, for the benefit of their districts, their schools, their libraries, &c., (for such were the usual pretexts brought up to justify the vote,) they should go there—they should be taken from here; and, he believed, if members of Congress should take the books home which they would get under this resolution, there would never any more be found in the District.

[Great sensation, and cries of "Name them."]

He wished the Clerk to draw up an amendment which he would offer, providing that the Clerk should see that these books were taken to the respective residences of the members of Congress receiving them. It might cost a little for transportation, but it would save the Government thousands of dollars.

Mr. McLANE said he was opposed to the adoption of the report and of the resolution. He did not mean to indulge in speculations as to the course of honorable gentlemen in relation to this matter who had been members of preceding Congresses. There could be no doubt at all that this Congress, when they had adopted the resolution at the last session providing for these books, intended in good faith to receive all the books which were at the command of the Clerk; and that no gentleman supposed he would receive the books which some other member had received and sold. Now, if he understood this report and resolution, it was substantially to enable the Clerk of the House to obtain, by indirection, the books which had been furnished to members of preceding Congresses, and by them sold, and which had found their way into the hands of booksellers in this city. This was undoubtedly the substantial effect of this resolution. He was opposed to it. If it was not passed, he supposed he should receive, as a member of this Congress, all the books ordered by the resolution of the last session which the Clerk could obtain in good faith without reprinting, without purchasing from former members. These books, he supposed, were now ready for delivery. And he supposed that those books which the Clerk could not obtain without a violation of his duty, he would not receive. He hoped the House would either lay the report and resolution on the table, and leave the Clerk, on his own responsibility and character as a public officer, to execute the original resolution, or that they would refer this whole subject to a committee of this House. Now, as a member of this House, he was unwilling, after the statement of the gentleman from Illinois, [Mr. WENTWORTH,] to receive these additional books, in the face of the communication of the Clerk of this House that he could not obtain them except by contract with the booksellers, and of the statement made by a member of this House, that the booksellers got them from members. He was disinclined to receive them. He did not want the gentleman from Illinois to designate the names of members who had sold their books; he should not be called on to do so. It was enough for him (Mr. McL.) to know that it was within the knowledge of the gentleman that that was the mode and manner in which the booksellers got these books.

He repeated that they, as members of this House, knew that the Clerk was ready to deliver all that could be obtained in good faith; and he submitted that they should adopt no additional resolution to enable the Clerk of the House to obtain, by indirection, what no gentleman on this floor would obtain by direction.

He moved to lay the report and resolution on the table. He however withdrew the motion at the request of—

Mr. BOTTS, who, remarking that he had no desire to occupy the attention of the House for one moment, said he had offered this resolution at the last session of Congress, to furnish members of the House with books; and he simply desired to state the circumstances under which he had moved it. Having been a member here several sessions before, he had himself received all these books, and he had them now in his library at home. That resolution had been drawn up from the Journal of some preceding session, and was, he believed, a *verbatim* copy of some previous resolution of this character; and it had been brought to him at his desk, and he had been earnestly solicited, by a number of gentlemen who had not received these books, as an older member of the House, and as one who had received these books, to present this resolution. Being disposed to extend to gentlemen the same liberality as on a former occasion had been extended to him, he had presented the resolution, without any knowledge as to the mode by which these books had been obtained; and he was rather disposed to think that some of these gentlemen who had been so urgent in requesting him to offer the resolution voted *against* it on the yeas and nays. [A laugh.] That was their look-out, however.

He had simply desired to state the circumstances under which he had offered the resolution at the last session, to acquit himself from any participation in any such arrangement as was stated to have existed, and to state, at the same time, that the books which he had received, he had at home in his library.

In compliance with his pledge to Mr. McLANE, he concluded by renewing the motion to lay on the table.

Mr. McLANE, at the earnest request of Mr. COCKE, and on pledge of its renewal, again withdrew the motion to lay on the table.

Mr. COCKE said, he thought it was high time for the House of Representatives to turn their attention to this system of purchasing books for members of Congress. He thought that the greatest frauds and the most outrageous transactions had been carried on under this system, of which the House had no conception at all. He thought it was wrong, and grossly wrong, and the less the matter was stirred by the House, the better, he had no doubt, it would be for gentlemen on this floor before their constituents. The people knew nothing about this matter, about what had been the secret working of this system heretofore. He would pledge himself, if this House would give him a committee, to examine into the proceedings and bring to light the history of this system of purchasing books. What had been the facts? Did not the Clerk of the House tell them that the editions of these books had been exhausted? that the publishers of them had not had copies for years, and that they had only sold them to Congress? How, then, did the booksellers get them into their possession? How could they, except by purchasing them from gentlemen who had heretofore been members of this House? What had been the history of the matter heretofore? Why, the House of Representatives had passed resolutions giving—

Mr. TURNER here interposed and begged to inquire of the gentleman from Tennessee whether he himself had got these books?

Mr. COCKE would respond to the gentleman with great pleasure. He had received these books, and they were at his residence.

He wanted the country to see the manner in which the system had worked. How had it been? Why, gentlemen who were entitled to receive these books under the resolutions which had been passed from time to time, would go down to the bookseller in the city of Washington, who had, or who professed to have these books for sale, (and it frequently happened that they had none of them,) and instead of actually getting the books, would receive from the bookseller $150 or $200, and execute a receipt in satisfaction of his claim for books under the resolution of the House; the bookseller would present this receipt to the Clerk of the House, and receive some $700 or $800, without a book being produced or received. Why, it would be far better at once to give the member who desired to engage in this speculation his $150 or $200; and the Government would save the $500 or $600 which the bookseller put into his pocket by it.

He was opposed to the whole system; and if the country could know the manner in which it worked, no member would dare go before his constituents and support it.

He would pledge himself before this House, if the House would just institute a committee, to expose and bring this whole matter to light.

[Some gentlemen suggested that there had been a committee raised during the last Congress on this question.]

It was true (said Mr. C.) that a committee was raised during the last Congress, with power to send for persons and papers, and inquire whether members of preceding Congresses had sold their books, and as to the manner in which they were furnished to the House.

Mr. COBB, of Georgia, (in his seat.) What was the report of that committee?

Mr. COCKE. They never reported at all.

Mr. COBB said he did not know whether that committee made a report; but the result of their investigation, he believed, was to furnish themselves with books. [Laughter.]

Mr. COCKE replied, that the result of their investigation was, that it was best to say as little as possible—to keep the whole thing from the country. In conclusion, in compliance with his pledge, he moved to lay the whole subject on the table.

Mr. TURNER hoped the gentleman would withdraw the motion, as he wished to say a few words.

Mr. COCKE declined to do so, not feeling himself at liberty, having been enabled to speak himself only by the courtesy of Mr. BOTTS, and that under pledge to renew the motion.

Mr. JONES, of Tennessee, demanded the yeas and nays on the motion to lay on the table; which were refused, only six gentlemen rising to order them.

The question was then taken without a division, and the House refused to lay the report and resolution on the table.

The question recurring on the amendment of Mr. EMBREE—

Mr. GIDDINGS said he wished to detain the House but a moment. He had received these books as a member of a former Congress; they were now at his home, and at the service of his constituents; and he hesitated not to say, he would as soon sell his own fair fame as to dispose of these books. No man could take them from his constituents. They had been received by him as a trustee, for the benefit of those whom he represented; they were held by him as such. From all parts of his district his constituents came to get information from them. Now, so far from laying this subject on the table, he was prepared at once to vote to go to the expense of printing new editions, if necessary, of all these works, to be distributed among the people of the United States. He believed it was a far higher duty to send out this information to the people than it was to enter

into the expenditure of untold millions for the purpose of destroying people.

Mr. G. said we could carry on a foreign war, but when we talked of sending out information to the people, it was quite another thing with political economists of a certain school, who were ready to enter into petty calculations of economy and retrenchment. He discarded all such systems of economy. Any expenditure for the information of the public mind—he cared not in what form—he was prepard to meet. He was prepared to go to any amount of expenditure for the purpose of sending out to the people that information which could be obtained from no other source, for the information contained in these publications could, much of it, be found nowhere else. He had these books himself; he had opposed the resolution at the time; he had voted against it. He had felt honestly, sincerely opposed to the practice of voting books to be distributed among the members of Congress; but experience had taught him the utility and the necessity of sending out these publications to the country; and he was now prepared (as he had said before) to vote them. He would not take them at second hand from former members, (if there were any such to be obtained,) but he would go to the expense of publishing new editions, and distributing them to every member who had not got them. Those members who came from the far West (for there had never been a copy in that section of country) ought to be supplied. They ought to go to the people, and be accessible to them.

He concluded by moving to refer the whole subject to a select committee.

Mr. VENABLE said he had been somewhat astonished at the course of remark in which the gentleman from Illinois [Mr. WENTWORTH] had indulged in relation to this subject. He had been somewhat astonished to hear gentlemen rise and make declarations and charges against the House which well-bred and honorable gentlemen would repel and rebuke in a becoming manner, if made against them individually. He had heard gentlemen rise on this floor and charge members of the House of Representatives with the low, little, dirty trick of selling, for their own private, pecuniary advantage, books which had been given them by the vote of this House. He had heard the charge made; and no man ought to make it without being willing to name the individuals who were guilty. He had been taught from his childhood to consider the man who insulted a crowd as a coward, because he assailed them all equally, and no one had the opportunity to rise and redress the insult. He held that a man who rose and insulted the American Congress had traveled without the rules of good breeding. If there was a man who had sold his books—who had committed this little, dirty act—let him be known.

The gentleman should not shoot from behind a wall. If they had to make laws to prevent peculation and fraud by the American Congress, the American people should be informed whose misdeeds occasioned such laws. It had been necessary heretofore to make rules for the restraint of abuses in the use of paper and stationery and the franking privilege; but he supposed the facts which made such rules necessary were well established. He felt the blush of shame upon his cheek, that this House—that an American Congress should have this slander upon them, thrown broadcast before their constituents and before the world, that they were a low class of swindlers. He called upon gentlemen to fix the charge—to specify the individual members who had been guilty. He [Mr. V.] never made a charge which he was not willing to substantiate by specific facts.

He had voted against receiving these books, but the resolution having passed the House, he meant to receive them, and he meant to stand before his constituents upon that action. He had received the Congressional Globe last fall, a portion of it: he meant to receive all these books, and to carry them home for the use of his constituents.

He repeated, that the American Congress, composed of gentlemen, (for they came as gentlemen to represent the people of the United States,) for the protection of its character and good name, should demand, that when a charge was made involving dishonor upon all those to whom it applied, the member who made it should fix it specifically upon those who were guilty.

[SEVERAL VOICES: "Give them the committee."]

He was willing (he said) to give them the committee, but he hoped he should never see the day when he should stand on this floor and charge members with swindling, without being willing to name the individuals who were guilty.

Mr. WENTWORTH wished to explain, and (the floor being yielded) stated that his remarks were based upon these facts, to which he wished to call the attention of the gentleman from North Carolina, [Mr. VENABLE,] viz: that the first time they had got these books, they had been told that there were only so many to be had; the next Congress had been told the same story, but had ordered and received the books; and now Congress heard the same thing, that the books could scarcely be found, and yet they had a bookseller of this city offering to contract to furnish them.

This had been the case for several Congresses, and he wished the gentleman from North Carolina to bear in mind, if he was a member of the next Congress, the prophecy which he (Mr. W.) now made, that unless some such measure as he proposed were taken to prevent a repetition of this proceeding, in spite of all the difficulties they now had to obtain the books, the same resolution would be offered, and the books would be furnished by the booksellers. Where, he would ask the gentleman, did the booksellers get them?

Mr. VENABLE continued—

He hoped the House would understand him. He objected to the intimation of the gentleman from Illinois, [Mr. WENTWORTH,] that in order to preserve the morals of the members of this House, it was necessary that an order should be passed taking these books out of their control, and sending them to the place of their destination by special messengers, or by the public carrier. The gentleman was afraid to trust the books in the possession of those to whom they belonged, lest they should enter into some low, dirty contract for the disposition of them. Every suggestion of that kind was a reflection upon the American Congress—it was a reflection upon every member of the body, and especially upon every new member. The gentleman was so much afraid to trust the new members of this House, that he proposed to take the guardianship of their property upon himself, or to make the Clerk of this House the special guardian of it. If there were any members of this House who had acted wrongly in regard to this matter, it was to their shame. He trusted there were none such here now. He could not sit here, and hear the honor and the integrity of the American Congress assailed by a proposition which was designed to keep them from cheating the public.

He would vote for the resolution of the committee. He would vote for the books—they were valuable. He had already received a portion of them, and he had taken them home, where his constituents might have the benefit of them. There was no necessity to reprint them. If members had sold them, and booksellers had bought them, that was a question of morality between the member and the bookseller. The books were none the less valuable for having passed through other hands.

Mr. EVANS, of Maryland, rose to explain.

Mr. VENABLE having yielded the floor—

Mr. EVANS was understood to say, that the gentleman from Illinois [Mr. WENTWORTH] had stated that quite a limited number of copies of these books were printed at first. He (Mr. E.) was informed that there had been as many as seven hundred and fifty copies printed. There certainly had not been seven hundred and fifty members.

Mr. WENTWORTH. How many years is it since we first had these books?

Mr. VENABLE claimed the floor.

Mr. BROWN, of Pennsylvania, asked Mr. V. to yield for one moment.

Mr. VENABLE having done so—

Mr. BROWN said he desired to state the facts of the case. There had always been an indisposition to circulate these books; but it was said that they were printed on the faith of Congress, and that it was due to the printers that Congress should pay for them, and distribute them. This was the ground upon which the books were distributed at first. All the old members knew that.

Mr. VENABLE resumed the floor, and proceeded. He repeated that these books were of value, and he was glad that he had them in his office. He did not think the money misspent. He believed that they contained political and historical information of great value to the country, and that, for the records of facts which they contained, they would continue to be valuable. But, in the name of every member who had not received the books, in the name of the American Congress, and for the honor of the American people, he entered his solemn protest against any member making a direct charge of immorality, without distinctly naming before the House the individuals who had committed it.

He concluded by demanding the previous question.

The SPEAKER directed the attention of the House to the fact, that an amendment had been offered by the gentleman from Indiana, [Mr. EMBREE,] providing that the order of the House in relation to the distribution of these books should be rescinded.

There was some parliamentary authority, the SPEAKER was understood to say, for deciding that the order might be rescinded. But in the present case the order had, as far as possible, been executed. So far as it had been executed, it was not the subject of reconsideration. The SPEAKER ruled the amendment out of order.

Mr. EMBREE submitted that the question on his amendment should be taken, so far as it could operate in this case.

The SPEAKER expressed doubts on the point of order

Mr. EMBREE insisted on his amendment.

The SPEAKER requested the gentleman to reduce it to writing; which was accordingly done.

And the SPEAKER admitted it.

A motion was made that the House adjourn; which motion was rejected.

The question then recurred on the modified amendment of Mr. EMBREE, which was to strike out from the resolution of the Committee on Printing all after the word "Resolved," and insert a provision that so much of the order contained in the original resolution as had not been executed, should be rescinded.

Mr. BOTTS rose to inquire of the Chair what the effect of this amendment would be? It was known to the House that some of the books had already been received by the members.

The SPEAKER interposed with the remark, that the previous question having been called for, it was not in order to debate.

The question was then taken on the demand for the previous question; and there was a second.

And the main question (being first on the modified amendment of Mr. EMBREE, and then on the resolution of the Committee on Printing) was ordered to be now taken.

Mr. EMBREE asked for the yeas and nays on his amendment.

But on seconding the demand therefor, only four members rose.

So the yeas and nays were not ordered.

The question was then taken, and decided in the negative.

So the amendment as modified was rejected.

And then the original resolution was adopted.

Mr. STRONG moved a reconsideration of the vote; which was laid upon the table.

A motion was made that the House adjourn; but was withdrawn at the request of—

The SPEAKER, who, by general consent, laid before the House the following communications:

I. A letter from the Secretary of War, transmitting, in compliance with a resolution of the House of the 18th instant, a copy of "Order No. 172, issued at the mouth of the Rio Grande, in Texas, on the 7th July, 1848, by command of Major General John E. Wool."

II. A letter from the Secretary of State, transmitting, agreeably to the act of March 2, 1799, an abstract of the returns made to the Department of State by the collectors of customs, pursuant to the act of May 28th, 1796, for the relief and protection of American seamen; showing the number of seamen registered in the several ports of entry of the United States during the year ending 30th September, 1848.

Laid on the table, and ordered to be printed.

III. A letter from the Secretary of the Treasury, transmitting, in compliance with a resolution of December 14, a statement showing the amount of coal imported under the several tariffs of 1846 and 1842, and the amount of revenue derived therefrom.

Laid on the table, and ordered to be printed.

IV. A letter from the Postmaster General, transmitting, in compliance with a resolution of the House of the 21st instant, a report from the First Assistant Postmaster General in regard to a system of reduced postages, &c.

Laid on the table, and ordered to be printed.

And then the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. STEPHENS: The memorial of Dr. D. V. Quenaudon, asking a grant of land to a regiment of volunteers to go to Oregon, on certain conditions, &c.: referred to the Committee on Military Affairs.

By Mr. CUMMINS: The petition of Ephraim Harrison and 112 others, citizens of Coshocton county, Ohio, praying for the establishment of a post route from Humphrey's Villa, in Holmes county, via Van Buren, to Warsaw, in Coshocton county, Ohio.

By Mr. GRINNELL: The petition of S. C. Dillingham and thirty-eight other citizens of Falmouth, Massachusetts, asking the reduction of postage on letters to the uniform rate of three cents. Also, the petition of E. Swift and twenty-five other citizens of Falmouth, and forty-four citizens of Nantucket, asking an appropriation for the preservation of Great Woods Hole Harbor, in Massachusetts.

By Mr. NICOLL: The memorial of Andrew J. Clifton, praying compensation for the salvage of public property wrecked at Tampico, Mexico: referred to the Committee on Claims.

By Mr. TALLMADGE: The memorial of George Wilks, of the city of New York, for the construction of a national railroad, commencing at a point on the Missouri, and extending to the Pacific Ocean.

By Mr. BOWLIN: The petition of Solomon Davis and sixty other citizens of Oregon county, Missouri, praying a change of entry of a small tract of land which by mistake was located upon hills entirely unfit for cultivation, or any other purpose, instead of his home, which he designed to enter: referred to the Committee on Public Lands.

By Mr. N. K. HALL: The petition of sundry inhabitants of the county of Erie, praying for a new mail route from Evans to Brant, in said county, with statements of the postmasters at Evans, Collins, Brant, and Irving, in favor of the same.

HOUSE OF REPRESENTATIVES,

SATURDAY, *December* 23, 1848.

The Journal of yesterday was read.

Mr. KENNON rose to a privileged question, and stated that his name was recorded on the Journal in the list of absentees reported yesterday from the Committee of the Whole to the House. He was present, (he said,) and answered to his name, but he presumed the Clerk did not hear him. He moved that the Journal be amended to state the fact that he was present.

The motion was agreed to.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole on the private calendar; but waived the motion for a moment at the request of—

Mr. COBB, of Georgia, who moved that when the House adjourns, it adjourn to meet on Wednesday next.

Mr. GREELEY moved to amend the motion by striking out "Wednesday" and inserting "Tuesday;" and called for the yeas and nays on the amendment.

The House refused to order the yeas and nays, and the question being taken, the amendment was rejected.

The question recurring on the resolution—

Mr. GREELEY asked the yeas and nays; which were not ordered.

The resolution was then adopted.

Mr. ROCKWELL renewed his motion; but again waived it at the suggestion of—

The SPEAKER, that there was lying on the SPEAKER's table the joint resolution for the relief of Samuel T. Anderson, which had been engrossed, and that it now be put on its passage.

The joint resolution having been taken up for consideration, the reading of the report was called for; and some delay arising in finding the paper, the resolution was passed over informally.

The SPEAKER propounded the question on Mr. ROCKWELL's motion.

Mr. PETTIT moved that the House adjourn.

On this question the yeas and nays having been asked and not ordered, the vote was taken, and stood—ayes 50, noes 62—no quorum voting.

The question was again taken by tellers, and the vote stood—ayes 57, noes 66—a quorum.

So the House refused to adjourn.

The question recurring on Mr. ROCKWELL's motion, was taken by tellers, and the vote stood—ayes 71, noes 26—no quorum voting.

Mr. WENTWORTH moved a call of the House, and on that motion demanded the yeas and nays.

Mr. THOMPSON, of Pennsylvania, moved that the House adjourn.

Mr. PETTIT rose simultaneously to make the same motion.

The yeas and nays being asked and ordered, the question was taken, and the vote stood—yeas 68, nays 101.

So the House again refused to adjourn.

Mr. WENTWORTH (a quorum having voted) withdrew his motion for a call of the House.

And the question recurred on Mr. ROCKWELL's motion.

Mr. McCLERNAND moved that the House resolve itself into Committee of the Whole on the state of the Union.

The SPEAKER stated that the motion to go into Committee of the Whole on the private calendar was still pending, and had the preference. If that motion was rejected, the motion of the gentleman from Illinois would be in order.

THE PRIVATE CALENDAR.

The question was then taken on Mr. ROCKWELL's motion, and was decided in the affirmative.

The House accordingly resolved itself into a Committee of the Whole House, (Mr. BOYD, of Kentucky, in the chair,) for the consideration of bills on the private calendar.

The CHAIRMAN announced that the first bill in order was the bill for the relief of Lyon and Howard.

At the suggestion of Mr. ROCKWELL, of Connecticut, who stated that it was the desire of gentlemen who were interested in this bill upon both sides, it was informally passed over by general consent.

The bill for the relief of John P. Skinner and the legal representatives of Isaac Green next came up.

[It provides for the payment from the treasury to the parties named of $8,313 34, "being the amount received by the United States, on a judgment recovered by them against the said John P. Skinner and Isaac Green, in his lifetime, as sureties of Thomas Emmerson."

The reading of the report was called for; and it having been read—

The bill was laid aside to be reported to the House.

Mr. DICKINSON inquired if the rule did not require the committee to commence at that point on the calendar where they had left off at their last session?

The CHAIRMAN replied, he believed it had not been the practice, except on objection days.

The next bill was for the relief of the legal representatives of Antonio Pacheco.

[This bill was reported February 9, 1848, by Mr. BURT, from the Committee on Military Affairs, and provides for the payment to the parties named of $1,000, "this sum being the value of a slave transported with the Seminole Indians to the West, by order of General Jesup."

Two reports accompany the bill: the majority report by Mr. BURT, and the minority report by Mr. DICKEY, signed also by Messrs. WILSON, FISHER, and MARVIN. The majority and the minority agree in the statement of the facts in the case, which are thus set forth by Mr. BURT, in behalf of the majority of the committee:

"It is thus proved that Pacheco was the owner of a negro slave named Lewis, who was hired by an officer of the army, duly authorized from his owner, as an interpreter and guide to the ill-fated command of Major Dade; that he was one of the few survivors of the disastrous defeat of that command, and remained, either voluntarily or as a captive, among the hostile Indians, until the spring of 1837, when he accompanied Jumper, a Seminole chief, to one of the military posts in Florida; that he was then claimed by his owner; and the military commander in whose control he was refused to deliver him to his owner, and ordered that he be sent with the Indians to the West, because he deemed his transportation proper, inasmuch as he was considered capable of exercising an injurious influence over the Indians; and that, in pursuance of this order, he was transported to the West, and his owner thereby deprived of his value."

The constitutional and other questions involved are elaborately argued by both the majority and the minority of the committee: the former report the bill, the latter "that the petitioner is not entitled to relief."]

Mr. DICKEY desired the Clerk to read so much of the report as presented the facts of the case. There was a very elaborate report made by the majority of the committee for payment for the slave. The minority in their report resisted the payment for the slave upon constitutional grounds. The constitutional question was elaborately argued both by the minority and the majority. But apart from the constitutional objections, the minority contended that there was nothing in this case which would constitute a good claim for the payment for this man Lewis, even if he were property; and they contended further, that slaves had never been recognized as property, and never paid for as such by Congress, except in one solitary case; which occurred at the first session of the twenty-eighth Congress. In that instance, the bill was allowed to pass on an objection day, by oversight. He himself was a member of the House at that time, and being aware that the late distinguished gentleman from Massachusetts, [Mr. ADAMS,] and the gentleman from Ohio, [Mr. GIDDINGS,] were watching it, he had not paid particular attention to it. It passed in the absence of the gentleman from Massachusetts, and for some reason or other it escaped the notice of the gentleman from Ohio, and it was the only instance on our legislative records where a slave had been paid for as property. Upon investigation, it would be found that cases much stronger than the present one had been presented and rejected. One of these arose upon application made by a person of the name of Larche, for payment for a negro man who was killed at the battle of New Orleans. The slave, together with a horse and cart, the property of Larche, were impressed into the public service by order of the commanding officer. During the battle the negro and horse were killed, and the cart destroyed, by the cannon shot of the enemy. The Committee on Claims reported in favor of paying for the horse and cart as property, but against paying for the man, because he was a person. This was one of the strongest cases that could be presented to the consideration of Congress. The owner had not hired the slave to Government, but the slave had been impressed, against the will of his master. If any case could be attended with circumstances which demanded pay from the Government for the loss of a slave, this was surely such a case. Yet the committee, composed of men from the southern States as well as from the northern States, appeared to have come to the unanimous conclusion that to allow this claim would be an overturning of the established usages of the Government. That committee said, that upon examination made at the Treasury Department, they had learned that no instance could be found of slaves killed during the revolutionary war, or during the war of 1812, being paid for, although claims had been presented in various instances. If gentlemen would examine into our past history, they would find that it had been an established principle of the legislation of Congress never to pay for slaves as property.

He referred to another case, in which this subject had undergone a very deliberate consideration by Congress in the year 1828: it was a claim presented by a Mr. De Autrieve, for payment for a negro man who was pressed into the public service in 1812, at New Orleans. In this case, the slave was not killed, but was wounded. Time was lost in healing those wounds, and a medical bill was incurred. The committee who had charge of this case reported against paying for these items; and a gentleman who was then a distinguished member of this House from Louisiana, [Mr. Livingston,] moved to amend the bill, by providing for payment for the time lost and the services rendered by the slave. The question underwent discussion in this House for three weeks; and gentlemen who would refer to that debate, would find from its tenor, as well as from the ultimate result, that Congress did not contemplate payment for the time and services of this person as property; and this had been the uniform legislation of Congress.

Within a few years past, he knew that efforts had been made to establish a different principle—the principle of paying for slaves as property. It was that which the minority of the committee resisted, and which they resisted on constitutional grounds. He would not now enter into the constitutional argument; but he contended, that in this particular case, (independently of the constitional objections,) Congress were not bound, by any principles of law or of equity, to sustain the claim.

He must ask the Clerk to read to the House the statement of facts as presented by the majority of the committee, and which he believed were correctly stated.

The Clerk commenced the reading, when—

Mr. WHITE interposed, and asked the gentleman from Pennsylvania if it was necessary to have the report read? It was very long.

Mr. DICKEY said he should like to have the facts presented to the consideration of the House. This case involved a very important principle, which must be presented to the consideration of Congress.

The Clerk then continued and concluded the reading of that portion of the report (given above) which sets forth the facts of the case.

Mr. DICKEY continued. The House would perceive (he said) from the statement of the facts, that this negro was hired as an interpreter or guide in Dade's command; that he was captured by the Seminole Indians, or escaped to them; that he was subsequently recaptured, or came in with Chief Jumper at the capitulation with General Jesup in 1837; that his former owner claimed him as his property; that the officers refused to deliver him up, because he was a captive taken in the war fighting against our country. Application was made to the court of Louisiana by the owners of slaves for the delivery of slaves who had come in under the capitulation with General Jesup. General Gaines defended them against the claims of their masters, on the principle that they were prisoners of war, who had been captured bearing arms against our country; and the court of Louisiana sustained General Gaines's view, and refused to deliver them over; and they went to the western country, and were now there.

Mr. BURT wished the gentleman from Pennsylvania to do him the favor to mention the case in which that decision was made.

Mr. DICKEY replied, that he could not at the moment give the honorable gentleman from South Carolina the title of the case; but he would refer him to document No. 225, third session twenty-fifth Congress, in which he would find set forth all the facts he was now stating to the House; and it might be when he (Mr. D.) came to reëxamine that document No. 225, he might find that the man Lewis was one of some sixty slaves captured by the Creek Indians, and claimed by them as their property under the General Orders of General Jesup. Our Government finding itself in difficulty, growing out of that order of General Jesup, instead of paying some $6,000 or $7,000 for the negroes thus captured, concluded to deliver them over to the Creek chiefs, and they sold the right and title to them to a Mr. Watson, whom the gentleman from Georgia [Mr. COBB] knew. He was not certain but that this man (Lewis) would be found among this number.

Mr. GIDDINGS (from his seat) said he would not.

Mr. DICKEY. The gentleman from Ohio said he would not. But he would refer his friend from South Carolina to document No. 225, where he would find that the courts of Louisiana held that these persons could not be turned over to the individuals claiming them as slaves, because they were warriors, and must go to the western country; and they had gone there. Our officers could not deliver them up, and they very properly refused, and we were not answerable for this man being taken, on the ground that he was taken for the public use. We had not got this property in our possession; we were not using him. He was now in the West, enjoying all the rights of a freeman among the Indians. It was not such a taking of private property for the public use as was contemplated by the Constitution of the United States, because, they contended, by the Constitution of the United States there could be no property in man. No such principle was recognized in that Constitution. The Constitution treated slaves as persons subject to be hired into your service, as his son or your son might be hired; and if they were lost or killed in the public service, as his son or your son might be lost or killed, those who claimed to be their owners were no more entitled to be paid for them than he would be for his son. The principle was the same. They were recognized as persons by the Constitution of the United States; they were recognized as property by the local, municipal laws of the State. There was no part of the Constitution of the United States which recognized any claim to them but that which enabled those to whom their labor was due, to reclaim them when escaping from that service into a free State; and there was nothing, so far as he knew, to hinder the owner of the man Lewis from going to the Indian territory and reclaiming him. He was there; his owner could get him. This Government interposed no opposition to his doing so. The representatives of Pacheco had no right to claim of this officer the delivery of this man.

If they had the right, there were the judicial tribunals to which they might have resorted to enforce their claims: why did not they resort to them? Because he supposed they were aware of the decision of the courts of Louisiana, where General Gaines had defended the rights of these persons, and had been sustained by the court.

As he had before said, he was not going to enter into the constitutional argument at this time. It was elaborated in the majority and minority reports; and he only begged of gentlemen on all sides of the House to examine into these reports, to go back and refer to the past legislation of Congress—legislation sanctioned by some southern men; for in the case of Larche, a gentleman from Virginia, Mr. McCoy, a former distinguished member of this House, acquiesced with the Northern men in settling that principle; and it had never been broken down since the organization of the Government. He hoped Congress were not now about to break it down for the first time. The question of property had been fully argued by the Congress of 1828, for three weeks together; and yet we found that the proposition of Mr. Livingston to pay for the medical attendance and the loss of time which the slave owner suffered from the maiming of his servant, was laid on the table.

In every sentiment which he had uttered or might utter, he wished to be understood as having no desire to wound the feelings of gentlemen from the South, or to injuriously affect their interests; but he would call them to a sense of the duty which they owed to this Confederacy of ours—that when a principle was so well established as this had been for sixty years past, they would not now, when other questions of magnitude and importance were pending, urge upon them of the North to appropriate from the treasury of our common country for the payment of slaves as property, when it never had been done in the history of our Government, except in the case referred to, which claim was accidentally passed. Why should Southern gentlemen now ask them to abandon this principle, which had been settled in part by themselves? for when we came to refer to the history of this question, we found Southern men joining with Northern men in this expression of opinion, in this establishment of principle. There had been nothing of sectional, partisan feeling in the establishment of this principle; and nothing of such feeling ought now to be entertained, for the purpose of trying to undo that long and well-settled principle.

If gentlemen from the South would forbear—as the men of the South seemed to think they ought to, in the debate of 1828, when they conceded the principle that these persons could not be paid for as property, even when impressed into the public service, and lost or killed—if they would forbear to urge upon the men of the North this question of paying for slaves as property, and if they would go one or two steps further, (where they ought to go, and in doing which, their jurisdiction over their own slaves would not be affected,) and would abolish the traffic here in this District, there would no longer be furnished causes for agitating the peace and harmony of this Union—whether by fanatics of the South, or by fanatics of the North; if they would concur in the support of the proposition which had been submitted to this House, and which, he was proud to say, had met the sanction of a majority of the American House of Representatives—to abolish the slave traffic in this District; if they would provide for its abolition, and would cease to press claims upon Congress for payment for slaves as property, which question had long agitated the country,—the bonds of the Union would be cemented, and we would continue a united and prosperous people for all future time.

Mr. BURT interposed, and rose to a question of order.

Mr. DICKEY disclaimed any intention of being out of order, and said he had concluded what he had to say.

Mr. BURT said the gentleman seemed conscious that he had voluntarily violated the rule of order. He did not rise to make any objections to the allowing of a latitude in this debate; but he did rise to know, in advance, whether it was the intention of the committee that these subjects were to be debated at this latitude upon this bill. If such was the desire of the committee, he was ready to take his chances in a discussion which they all knew was out of order. He did not shrink from it, but he wished to know what course the Chair would pursue in reference to this latitude of debate?

The CHAIRMAN was understood to reply that it was difficult for him to prescribe particular limits within which gentlemen must confine their remarks; but he would decide questions of order as they arose.

Mr. STANTON said he did not know but he would make a speech at this time upon this or some other subject, were it not for the fact that he understood most of the reporters were absent from the city, which would be a very great misfortune to him if he were to address the committee, as he should be anxious to have what he might say reported and published. He did not know that other gentlemen felt so, but he had thought that he would give this information to those who were disposed to make speeches. Under these circumstances, he was not inclined to address the committee, but would move that they rise.

The motion being agreed to—

The committee rose and reported progress upon the bill under their consideration, together with the bill for the relief of John P. Skinner and the legal representatives of Isaac Green.

The latter bill was considered, ordered to be engrossed, read a third time, passed, and sent to the Senate for concurrence.

Mr. MEADE stated that he had offered a resolution a few days since, which was adopted, calling for certain correspondence. He had found that he had given it an improper direction, and that the call should have been made on the President of the United States; and he asked the general consent of the House now to modify the resolution.

The SPEAKER said, if there was no objection, the resolution would be received.

No objection being made—

Mr. MEADE offered the following resolution, which was read, considered, and agreed to:

Resolved, That the President of the United States cause to be transmitted to this House, if compatible with the public interest, the correspondence of George W. Gordon, late, and Gorham Parks, the present consul of the United States at Rio de Janeiro, with the Department of State, on the subject of the African slave trade; also, any unpublished correspondence on the same subject by the Hon. Henry A. Wise, our late Minister to Brazil.

Mr. McLANE moved that the House adjourn; which being agreed to—

The House adjourned to Wednesday next, at twelve o'clock, m.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule and referred:

By Mr. BOWLIN: The petition of the citizens of Perry county, in the State of Missouri, praying the establishment of the Western Armory at the town of Birmingham, in the State of Missouri; which petition is accompanied with a petition of the president and two directors of said town, proffering every facility for the accomplishment of said object. Also, the petition of William R. Dawson, and 187 others, citizens of Missouri, setting forth the superior advantages of the site, and praying for the establishment of the Western Armory at the city of Cape Girardeau, Missouri.

By Mr. TALLMADGE: The memorial of George Wilks, of the city of New York, for the construction of a national railroad, commencing at a point on the Missouri and extending to the Pacific Ocean.

IN SENATE.

TUESDAY, *December* 26, 1848.

After the customary prayer,

Mr. ALLEN rose and said: Understanding that the VICE PRESIDENT is absent, I submit the following resolution:

Resolved, That the Hon. DAVID R. ATCHISON be appointed President of the Senate *pro tempore*.

The resolution was then considered, and unanimously agreed to.

Mr. ATCHISON then took the chair, and

The Journal was read.

On motion of Mr. BRIGHT, it was

Ordered, That the Secretary of the Senate inform the President of the United States and the House of Representatives, that the Hon. DAVID R. ATCHISON has been elected President *pro tem.* for this body.

THE CONGRESSIONAL GLOBE.

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30TH CONGRESS, 2D SESSION. FRIDAY, DECEMBER 29, 1848. NEW SERIES..:..No. 7.

Mr. DAVIS, of Mississippi, presented the credentials of AUGUSTUS C. DODGE, elected a Senator from the State of Iowa; which were read.

Mr. DODGE presented the credentials of GEORGE W. JONES, elected a Senator from the State of Iowa; which were read.

The two Senators were then qualified, and took their seats.

Mr. ALLEN offered the following resolution; which was considered and agreed to:

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of Iowa shall be inserted, in conformity with the resolution of the 14th May, 1789, and as the Constitution provides.

Mr. ALLEN submitted the following resolution; which was considered and agreed to:

Resolved, That the Secretary of the Senate put into the ballot-box two papers of equal size, one of which shall be numbered "one," and the other shall be numbered "three;" and each Senator shall draw out one paper. That the Senator who shall draw the paper numbered "one" shall be inserted in the class of Senators whose term of service will expire on the 3d day of March, 1849; and the Senator who shall draw the paper numbered "three" shall be inserted in the class of Senators whose term of service will expire the 3d day of March, 1853.

The Secretary then proceeded to place the ballots in a box, and the two Senators drew therefrom; when it was announced that GEORGE W. JONES had drawn number "three," and AUGUSTUS C. DODGE had drawn number "one."

The term of Mr. JONES will therefore expire on the 3d day of March, 1853.

The term of Mr. DODGE will expire on the 3d day of March, 1849.

The PRESIDENT *pro tem.* laid before the Senate a communication from the Treasury Department, containing a report from the Commissioner of the General Land Office, with certain papers from the surveyor of the land district of Louisiana; which was ordered to be printed.

Also, a communication from the Posmaster General, made in compliance with a resolution calling for the report made by S. R. Hobbie, Assistant Postmaster General, to the Postmaster General of the United States; which was read and ordered to be printed.

Mr. DICKINSON presented the memorial of Barclay and Livingston, of New York, asking to be refunded the duties on goods destroyed by fire; which was referred to the Committee on Finance.

Mr. BADGER presented the petition of William Plummer, legal representative of William A. Turner, asking to be released from a judgment against the deceased; which was referred to the Committee on the Judiciary.

Mr. CALHOUN presented the memorial of Peter Von Schmidt, proposing a plan for rendering the gold mines in California productive, &c.; which was referred to the Committee on Territories.

On motion of Mr. STURGEON, the petition of James Harvey was taken from the files of the Senate, and referred to the Committee on Patents and the Patent Office.

On motion of Mr. UNDERWOOD, the papers on file in the case of J. P. Mackall was referred to the Committee on Claims.

NOTICES OF BILLS.

Mr. JONES gave notice that he should to-morrow, or on some subsequent day, ask leave to introduce a bill for the construction of a mail route from the city of Dubuque, via the city of Iowa, to Keokuk, in the State of Iowa.

Mr. DODGE, of Iowa, gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a bill to cause the northern boundary of the State of Iowa to be run and marked.

Mr. BENTON gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a bill to establish a land office in the State of Missouri.

BILL ON LEAVE.

Mr. DAVIS, of Mississippi, pursuant to notice, asked and obtained leave to introduce a bill granting to the State of Mississippi a right of way and a donation of public lands, for the purpose of locating and constructing a railway from Brandon to Montgomery, in Alabama; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. BELL, on leave, introduced a joint resolution authorizing the Secretary of War to pay to John C. Mulloy $550, for expenses incurred by him in taking the census of 1840; which was read a first and second time, and referred to the Committee on the Judiciary.

HOUSE BILLS AND RESOLUTIONS.

The following joint resolution and bills were received from the House of Representatives, and were read a first and second time, and referred:

A joint resolution for the relief of Samuel P. Anderson;

A bill for the relief of James Moore;

A bill for the relief of Charles A. Kelly;

A bill for the relief of the legal representatives of Captain Samuel Jones, deceased;

A bill for the relief of John J. Young, a commander in the navy of the United States;

A bill for the relief of John Campbell;

A bill for the relief of Zachariah Lawrence, of Ohio;

A bill for the relief of William Fuller;

A bill for the relief of the grandchildren of Major General Baron de Kalb;

A bill for the relief of the legal representatives of William McFarland, deceased;

A bill for the relief of the heirs of Joshua Eddy, deceased;

A bill for the relief of John P. Skinner and the legal representatives of Isaac Reid;

A bill for the relief of Charles A. Barnitz;

A bill for the relief of the legal representatives of Bernard Todd, deceased;

A bill for the relief of William De Buys, late postmaster at New Orleans; and

A bill for the relief of the legal representatives of Joseph Savage, deceased.

RESOLUTIONS.

On motion of Mr. NILES,

Resolved, That the Secretary of the Navy be directed to report to the Senate the amount of expenditure for the freight of provisions, clothing, small stores, and other supplies for our squadron in the Pacific, on the northwest coast, during the year ending on the 30th of June, 1848; also, during the first two quarters of the present fiscal year; also, the expenditure, if any, for transporting seamen or other persons connected with the naval service on that station; and also to inform the Senate of the number of officers, seamen, and marines, who have been employed on said station during the aforesaid period.

Mr. FELCH submitted the following resolution; which was considered, and agreed to:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of reducing the price of public lands on Lake Superior to the minimum price of other public lands, and of allowing preëmption rights, as in other cases.

On motion of Mr. UNDERWOOD,

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of establishing one or more boards of commissioners, to ascertain the quantity of appropriated lands in California and New Mexico; and also what disposition should be made of the public domain in the Territories upon which gold and other minerals are found.

GENERAL ORDERS.

Several bills were then called from the general orders, but were severally postponed in consequence of the absence of Senators interested in their progress.

SAGINAW INDIAN LANDS.

The Senate proceeded, as in Committee of the Whole, to the consideration of the bill to provide for the sale of the lands purchased by the United States of the Saginaw tribe of Chickasaw Indians.

The report accompanying the bill having been read—

Mr. WESTCOTT. I would inquire of the Senator from Michigan [Mr. FELCH] where this band of Saginaw Indians are to be found at this time: whether they reside in the State of Michigan?

Mr. FELCH. A portion of them only are residing upon the territory embraced in the provisions of the bill; other portions are scattered. I do not know their exact location.

Mr. DOWNS. There can be no doubt whatever that the lands ought to be sold at some price. As the report states, the price of these lands was limited by the stipulations of the treaty, and by repeated acts of Congress the price has been fixed at five dollars per acre at one time, and two dollars and a half at another, for limited periods of time. These limits will expire very soon. The present bill provides that these lands shall be sold at the ordinary Government price. It is approved by the Commissioner of the General Land Office. I trust that it will meet with no objection on the ground that the price is to be reduced; and this is the only question involved in this bill. The other bill reported with it is of a private nature.

Mr. WESTCOTT. My attention was first directed to this bill when it was brought before the Senate the other day.

Mr. DOWNS, (in his seat.) This is not the same bill.

Mr. WESTCOTT. I am aware that there are two bills. As a member of the Committee of Claims, having had under consideration one or two claims founded upon stipulations referred to in these treaties, I have some understanding of the matter. If I understand the matter aright, the Saginaw Indians are a portion of the Chippewa Indians who were hostile to this Government in the war of 1812 between this country and Great Britain. Some time after the war treaties were made between this Government and these Indians; and in one of these treaties it was stipulated that, for certain spoliations which they had committed upon the defenceless inhabitants of Michigan—during the war and after the peace—there should be deducted from the price of the lands ceded by these Indians to the United States an amount of money sufficient to reimburse the sufferers for their spoliations. The amount of these claims was to be adjudged by the President of the United States. A number of them were accordingly presented to the President, and passed upon by the War Department; but some of them, owing to difficulties arising from the want of the necessary evidence to establish their validity, were not presented within the time prescribed for their adjustment. A number of them have since been presented to the department, and then afterwards to Congress—the War Department refusing to act upon them because not presented within the time prescribed in the treaty.

I have, Mr. President, some difficulty in regard to this bill, because it affects the treaty. In the first place, we have seen, at the last session, in the case of the claims of the Creek and Cherokee nations, how the time of the Senate was consumed for weeks, in consequence of Congress having improperly interfered by legal enactments with the terms of treaties made with those Indian tribes. There is no Senator but can remember that nearly two weeks of our time was thus consumed. The practice of recognizing tribes of Indians as sovereign nations, and making treaties with them, if it had not been hitherto recognized, ought not to be commenced. For one, I am opposed to making such treaties. I would as soon make a treaty with a tribe of mules as with a tribe of Indians. I have never yet voted for one of these treaties, and I never expect to do so. But, since this is the practice of the Government, I submit that it will be unjust in Congress to change the terms of such treaties by *ex parte* legislation, without the consent of the Indians. What is to prevent us from appointing commissioners to meet the Saginaws, and so change the terms of the treaty as to make them equitable on both sides, stipulating expressly for the payment of these spoliations—which in justice ought to be paid—out of the proceeds of these lands?

I understand, from the report which has been read, that the last bill reported provides merely for the sale of these lands at reduced prices; and that the first bill reported—the private bill—provides for the payment of these claims for spoliations. In the general bill there is inserted a rule for the adjustment by the President of the United States, out of the proceeds of the sales of these lands, of all the just claims for these Indian spoliations in 1813 which have not yet been paid. I submit whether

there should not be an arrangement made with these Indians fully covering the whole ground.

Mr. KING. I have no very serious objections to authorizing the sale of these lands, if, of such lands as can be disposed of, the proceeds shall be applied as directed by the stipulations of the treaty. The question is, whether, by reducing the price of these lands to the minimum price, we do not render ourselves liable to the Indians for the difference between their proceeds at seventy-five cents per acre and what they would amount to at a dollar and a quarter per acre? I think, in strict honesty, we should be bound to pay this difference. We gave to these Indians all the proceeds of the sales of these lands for the purpose of getting them away—said proceeds to go for their benefit after satisfying the claims for spoliations, amounting in all to twelve thousand dollars, the residue to be invested for the benefit of the tribe. But it was found that the Government could not sell the land at that time, and Congress was urged to do something for them. Congress, in the superabundance of its liberality, advanced the sum of seventy-five thousand dollars, to be applied, under the direction of the President, for the benefit of these Indians, to be reimbursed out of the subsequent receipts from sales of the lands—the Government receiving no present advantage except that of getting the Indians away. Now, the Government is asked, and may be urged in other bills, to assume the payment of these claims by an appropriation out of the treasury. This suggestion has complicated the matter very much. It renders the Government liable for the payment of claims which it never expected to be responsible for. Instead of going on in good faith, in conformity to the terms of the treaty, in our anxiety to accommodate we have stepped aside from the original terms of the contract, and we are now urged to make ourselves still further liable, and extend our generosity so far as to pay these claims before any land can be sold. And supposing that they be all sold at the price now proposed, they will not bring the requisite amount for the payment of these claimants. I think we shall render ourselves liable for the difference of the receipts under the sale at the reduced price proposed and what the receipts would be at the regular price; and it is for the Senate to say whether they will pass the bill with this provision and take the chance of this liability. We may rest assured that the matter will not sleep here if this bill should pass with that provision. Shall we, then, take the chance of thus becoming liable, and sell these lands, which, it seems, cannot be sold at the present minimum price?

Mr. DOWNS. There certainly can be found no serious objection to this bill upon a just apprehension of its provisions. The Senator from Florida [Mr. WESTCOTT] mistakes, when he intimates that the passage of this bill will interfere with our Indian treaties. The reading of the bill itself dispels that objection. The bill does not propose to modify any Indian treaty, but it repeals an act of Congress the provisions of which did modify several Indian treaties upon this subject. A proper understanding of the subject will also remove all the doubts of the Senator from Alabama, [Mr. KING.] This bill will neither increase nor diminish the liability or responsibility of the United States. By the original treaty with these Indians, these lands were not to be sold at a price less than seventy-five cents an acre. Some years afterwards, the prices of these lands being high on account of the rapid emigration to that quarter, an act was passed providing that these lands should not be sold for less than five dollars an acre, and afterwards an act was passed fixing the price at two dollars and a half per acre.

Finding upon trial, that the limitations imposed by these acts would not extricate the Government from responsibility in this matter, but rather increased the difficulty, in consequence of their inability to sell the land at these prices, and in order to get through with this business, the Committee on the Public Lands have thought it necessary and proper that these lands should be reduced to the ordinary Government price, and when sold, the money will of course be appropriated under the direction of Congress. Whether the Government shall be liable for the whole amount of these claims which are set up is immaterial; but certainly we are bound, in good faith, to make the money out of these lands as soon as we can. As it is now, under the present arrangement, it is probable that not a dollar can be paid towards these claims for several years. I think, that so far from increasing the obligations of the Government by thus providing for the sale of these lands, we rather decrease them. If we pass this act, the Government may very well require of these claimants to wait a brief period, and see whether the proceeds of the lands will be sufficient for their demands, and so the matter will be adjourned for the present. If the proceeds of the land sales should prove not to be sufficient for this purpose, the question may afterwards come up, whether the United States shall be held responsible for the remaining portion of the claims due?

If any alteration is to be made in the bill, I would suggest an amendment providing that lands in unfavorable locations shall be sold for their value. I would not object to a provision that such portions of the lands should be sold at something less than the Government price.

The Senator from Florida also suggests that a new treaty ought to be made with these Indians. But if the Senator will look at the treaties already made, he will find three or four of them, and so confused and complicated were they in their character, that an act of Congress was rendered necessary in order to elucidate them and declare what should be done on the subject. It is absolutely necessary, in order to get along with this case at all, that a bill of the character now before the Senate should be passed.

Mr. KING. Do I understand the honorable Senator from Louisiana to say that, by the treaty, the price of the land is fixed at seventy-five cents per acre?

Mr. DOWNS. The treaty stipulates that the land shall not be sold for less than seventy-five cents an acre.

Mr. KING. We shall, then, at any rate, get seventy-five cents per acre! The objection to the reduction is withdrawn on my part, which brings us back to the original bill.

Mr. FELCH. The question in regard to the assumption by the United States of a certain liability does not arise here. When the bill was presented the other day for the payment of these claims, I desired time to look into the treaties. I have not yet pursued these examinations far enough to satisfy my mind as to whether it would be proper to pay them. But as to this bill, it is nothing more nor less than a modification of existing laws. I would call the attention of the Senate to the situation of this land. It was in the possession of the fraction of a tribe of Indians—one hundred thousand acres in extent—embracing sixteen sections, and scattered in their location upon the waters of various rivers emptying into the Saginaw bay. At the time of the treaty, or shortly afterwards, the probability was that the lands would sell for a much higher price than the prescribed limit; and the acts of 1844 were passed in view of this fact, and were fully justified by the tide of emigration which was then coming in. But these prices ($5 and $2 50 per acre) it soon became impossible to obtain; and it was plain that many years must elapse before they could be sold at those prices. The question of reducing these prices has nothing to do with the question of the liability of the United States to pay these individual claims. That must depend upon the construction of the treaty itself. The United States, according to this treaty, have undertaken the sale of these lands. The title having been ceded to the United States—whether they are liable for the claims or not—they are bound to sell the lands within a reasonable time, and under the stipulated limitation, for not less than seventy-five cents per acre. It is impossible to make sale of the lands now at the prices fixed by the Government. The Government stands as a trustee in the case; and it becomes its duty to fix prices upon the lands at which their sale can be the most readily and profitably effected. The bill proposes nothing more nor less than to fix their price at the minimum of one dollar and twenty-five cents, instead of seventy-five cents.

Mr. BADGER. I simply desire to ask of the Senator from Louisiana whether the bill was reported with the unanimous concurrence of the Committee on Public Lands?

Mr. DOWNS. According to my recollection the committee were unanimous in recommending it. Upon the bill for the private claims they were not unanimous.

The bill was then reported to the Senate, ordered to be engrossed for a third reading, and was read a third time and passed.

CADWALADER WALLACE.

On motion of Mr. UNDERWOOD, the Senate, as in Committee of the Whole, resumed the consideration of the bill for the relief of Cadwalader Wallace.

Mr. UNDERWOOD. Mr. President, I rise for the purpose of giving Senators, and particularly my friends on the opposite side of the Chamber, such information on this subject as I have collected. Since this bill was under consideration the other day, I have taken the trouble to look over all the documents connected with it, and I believe now that I understand the facts and the principle on which the Military Committee have reported in this case. The bill allows compensation for a horse valued at one hundred and eighty dollars. It then allows compensation for collateral services as the aid of General Hull for one year. Gentlemen on the other side desire to know on what principle the allowance was made. First, as to the horse. I have taken the trouble to examine the statutes in regard to private claims of this character; and among the various acts of Congress passed, there have been several allowances made for the purpose of compensating their owners for horses lost in the service of the United States. I will only trouble the Senate with reading from one or two of them. Indeed, sir, it is difficult to pass over this subject without looking at a few of those acts. I will only call the attention of the Senate, by way of precedent, to a few of the first acts which have been passed in relation to the subject. In the year 1816 an act for the relief of Joseph Wilson was passed, paying for a horse killed by a sentinel. The accounting officer was directed to ascertain the value of the horse, and the Government paid for the horse thus destroyed as being in the service of the United States. In 1820 an act was passed for the relief of Joseph Bruce, allowing the sum of sixty-five dollars in full for his claim against the United States for a horse lost in the public service; and this, too, without saying how lost—whether killed by a sentinel, shot by the enemy, lost for want of forage, or escaped and run away. In 1820 an act was passed for the value of a horse lost in the service. The next class of acts are for payments allowed for horses lost for want of forage. Now, sir, in this case the horse has been lost in consequence of an American general surrendering an American army to the enemy. The horse has been lost in the service of the United States, and without the fault of his owner. The owner has been deprived of that property—the fault being with the commanding general, who refused to allow him to fight. If you pay for horses lost for want of forage, you may say you pay because the Government failed to furnish the means of keeping the horse alive. If you pay for an accident whereby a certain piece of property has been lost by an individual, and he is not to blame for it, upon what principle do you refuse to pay for this horse, lost because an American general, in violation of his duty, surrenders an army to the enemy? Recollect General Hull was tried for this offence, condemned, and ordered to be shot for it; and by that proceeding—the act of your own court martial—you fix the offence upon the head of the general, and exonerate the troops. Thus, in the rejection of this bill—in the refusal to pay for this horse—you are about to say, that when an officer or soldier loses his property by the default of his general in the service of the United States, and he presents a claim against the Government, it is not to be respected. Yet, by your own acts, the principle has been established, that when property has been lost in the service of the Government, accidentally, without the fault of the loser, the Government is under moral obligations to pay for it.

But, sir, let me contrast this case with other cases, in which you have sanctioned this principle. What did you do in the case of Captain Center? You directed in that case that where officers of the Government destroy property to prevent its falling into the hands of the enemy, which, if not so destroyed, most assuredly would, the sufferer should be paid for his property. You there established the principle, for the first time upon its discussion, that when an officer or soldier has property so situated as not to be worth one cent to him, on account of indications that it will certainly fall into the hands of the enemy, and so be lost or destroyed,

that in such a case—where property is destroyed to prevent it falling into the hands of the enemy—the officer or soldier should be reimbursed. But here, where the horse was lost in the service without fault of his owner, notwithstanding the precedent you have established, you refuse to reimburse the owner.

Now, as to the value of the horse, and the testimony in the case proving that he was worth two hundred dollars, I can inform the gentleman on the other side of the Chamber, who thinks this a high price, that, in the country where I reside—a horse-raising country—every horse purchased for the use of the army uniformly sells for from one hundred and fifty to two hundred dollars. So much upon that subject.

Now, as to the objection to paying Colonel Wallace as the aid of General Hull. Here is a case of the payment of an individual precisely under similar circumstances. General Jesup certifies that one of the aids of General Scott, (A. H. Kenner,) called an aid-de-camp, was paid under circumstances precisely similar to the case of Colonel Wallace. Wallace was appointed as the aid of Governor Meigs, and held his commission under the great seal of the State of Ohio, as also did Governor Meigs. He assisted Governor Meigs in the organization of the army of 1812. After thus coöperating with the Government for some time he was turned over, with the army raised, as volunteer aid to General Hull. While acting under that commission he rendered the service upon which this claim is founded; and while acting in that capacity the circumstances occurred which induced the surrender of General Hull. The objection as applied to Wallace is, that he was not commissioned by the United States. But it happens that in the case of Kenner that officer was appointed under similar circumstances as aid to General Scott in the southern campaign.

And now, with that precedent before us, can gentlemen refuse to pay Wallace upon the ground that he was not commissioned under the authority of the United States? He was commissioned by State authority; mustered into service in the army thus organized by State authority; and now, having performed certain laborious services, I ask upon what principle you can refuse to the laborer the wages which are his due? If he had performed this service without any commission; if, as a volunteer, he had served in your ranks and fought your battles, it would have been but liberal, and just, and moral, and right to pay him for the services rendered. And now, because he was received into service with a higher rank conferred upon him by State authority, will Congress say that he shall not be paid? I hope not. Here is all the proof. His commission under the great seal of the State of Ohio; the affidavits establishing the value of the horse; the certificates of General Jesup and of General Cass, who knew his rank and the service rendered by him. All the facts are now before the Senate. I have thus performed my duty in behalf of this old gentleman. The bill comes from the House of Representatives, where it passed without objection. It has now been unanimously reported by the Military Committee of this body; and what ground can be taken against the passage of the bill?

Mr. NILES. I understand the gentleman from Kentucky to say that this individual was in the military service of the State of Ohio, commissioned by the Governor of the State, and that from the service of the State he was called into the service of the United States. Now, this being the case, it appears to me that he must have been paid as the other officers in the service were, either by the United States or by the State of Ohio. Why this particular officer has to come here for pay seems to me a little singular. Why was he not paid when his associates were paid? All the others who were in the same service, I take for granted, were paid. Having been transferred to the service in which General Hull had command does not alter the nature of his claim for pay.

Mr. UNDERWOOD. If the Senator will allow me, I will explain how it was that he was not paid.

Mr. NILES. Certainly. I shall be extremely glad to be informed.

Mr. UNDERWOOD. Mr. Wallace was never attached to any regiment or brigade in the service of the State which was turned over to the United States; if he had been, he would have been regularly paid, as all troops mustered into the service of the United States were paid; but Mr. Wallace, being commissioned by the Governor of Ohio, went into the service of the United States as volunteer aid to General Hull, and was not reported upon any muster-roll of brigade or State troops that were mustered into the service of the United States. If he had been reported upon any such roll, he would have been paid; but going into the service as a mere volunteer aid to General Hull, his name did not appear upon the army roll. I will now state, in answer to an inquiry that was made the other day, and which I omitted to do when I was up before, the reason given by Mr. Wallace himself why this claim has been so long delayed. When the subject was up for consideration a few days ago, it was asked why this claim had been delayed for such a length of time. In the response which I made to the inquiry at the time, I anticipated the very reason assigned by the petitioner. He says the reason why he never preferred the claim before was, because he had never thought of doing it until necessity compelled him to do it. Having belonged, as he says in his petition, to an unfortunate corps which surrendered to the enemy, he thought, so long as he could do without the money, he would never make application for it; but having been reduced to very straitened circumstances, he asks the Government now to do him that justice to which he conceives himself entitled.

Mr. KING. I hope it will not be considered necessary to consume any more of the time of the Senate in discussing this bill, especially when, owing to the thin attendance of Senators, it would hardly be proper to take the vote upon its final passage. The honorable Senator from Kentucky has fairly stated the action of the Government in regard to payment for horses. The course pursued by Government originally was to pay for the horses that were lost in the service in consequence of a want of sufficient forage to sustain the lives of the animals, the Government being bound to supply the necessary quantity. The fault, therefore, being on the part of the Government, there was an evident propriety in the Government paying individuals for the loss of their horses. They went a step further. They, in some particular instances, paid for horses lost in the service by the act of an officer of the Government, such as dismounting the men, those who entered the service as cavalry, forcing them to leave their horses, by means of which they were lost, when in all probability they would not have been lost but for the action of the officer in forcing the men to depart from the line in which they had entered the service. This was the case in Florida. With regard to the peculiar case which the honorable Senator alluded to, in which the horse was killed by a sentinel, that was also considered to be the act of the Government, a man in the service of the Government having destroyed an animal belonging to one of the soldiers. That is but a solitary case, however; and I think the honorable Senator will not be able to find an instance where horses killed in battle have been paid for. The destruction of horses in battle was one of those risks to be encountered upon entering the service; the lives of the animals were necessarily exposed to the fire of the enemy. I know no instance in the history of the Government in which we have paid for horses thus destroyed. The Senator has also alluded to a special case, in which a bill was passed to indemnify an individual for the loss of his horse; but shall we now, because there has been one case in which a bill has been passed to make good a loss of this kind, sustained by an individual, assume the responsibility in all cases? The Senator does not state the grounds upon which the payment was made in that case. Is it not reasonable to presume, that the loss in that particular case arose from some action of the Government itself, such as failing to supply forage? Why was the individual paid in that instance, unless the loss arose from some fault on the part of the Government? Unless it can be shown that there was some fault on the part of the Government, I apprehend the honorable Senator cannot sustain his case.

Again, with regard to the payment of this gentleman as the volunteer aid of Gen. Hull. As to his being the aid of the Governor of Ohio, that has nothing to do with the case. He ceased to be in the service of the State of Ohio; and where is the evidence to show that he was in the service of the United States? He had the certificate of General Cass and of General Jesup that he performed services. Sir, what right had General Hull to employ volunteer aids?

Mr. UNDERWOOD. If the honorable Senator will allow me, here is the letter of General Hull thanking this officer, and complimenting him upon the manner in which he had discharged his duty.

Mr. KING. I am not going to controvert the fact that this gentleman did serve as a volunteer aid to General Hull; but I would ask military men whether it is in the power of a commanding officer to draw around him officers at his pleasure, and make their pay a charge to be borne by the treasury? He has, of course the power of selecting aids, but they must be taken from the army. There are certain established rules in regard to this matter. There was the army from which he might have made his selection. These were the officers who were entitled to be so chosen; and that a commanding officer should be at liberty to go beyond them, and select a man who was not commissioned in the service at all, seems to me, I confess, somewhat strange. If you once establish a principle of that kind, there will be no limit; it may be carried to any extent. And this is the reason, I entertain no doubt, why this claim has been suffered to remain for a quarter of a century without being brought before Congress. I know nothing of the individual; I take the case as I find it; and really it does appear to me that if we are bound, after the lapse of so many years, to pay claims of this description, we cannot tell where we shall stop. Claimants innumerable will come forward and say, although we had a valid claim we did not need the money, and therefore we were silent, but now our necessities compel us to ask that it be granted to us. Establish a precedent of this kind, and you will have cases enough. I have seen how this thing goes on from unwillingness to vote against the claim of an individual who represents that he has performed services. Establish such a precedent, and you open the doors of the treasury to every applicant who can make out anything like a plausible case.

Mr. UNDERWOOD. I am not altogether certain, but I believe that it is provided by act of Congress that horses killed in battle are to be paid for. I think I have some recollection of such an act, and that the honorable Senator is mistaken in regard to that point.

Mr. KING. It will be well to examine the law and ascertain whether it is so or not.

Mr. UNDERWOOD. I would like to have time to do so; but I do not wish that the passage of this bill should be again deferred. I would rather let the case be disposed of without further delay. If I find the act, or any authority which bears upon it, I will point it out to the honorable Senator over the way for his satisfaction. One remark, though, before the Senate votes. The honorable Senator from Alabama says there is danger of opening the door to cases in which persons, under a change of circumstances, and upon a plea of present necessity, may bring forward claims which they had previously abandoned. Sir, if services have been rendered, they should be paid for upon every principle of equity and propriety. The only question is, has the service been rendered, and has it been paid for? If you have received the service, you ought to pay what it is reasonably worth. When you have done this, you are not a loser: it is but a just equivalent. That you have received the service in this case, the gentleman over the way himself acknowledges. Besides, here is the evidence of General Hull, of General Cass, and of General Jesup—the evidence of all those who were present when the service was rendered—that you have received that service. Then, sir, why should you refuse to pay for it? My honorable friend over the way does not discriminate between the case of Kennan and this case. Here it is as set forth in the report, and gentlemen who have opposed the principle in this case have taken up the report of the Military Committee, and shown why Kennan ought to have been paid and the claim of Wallace rejected. Sir, I dislike that unfortunate rule of human action which allows to one individual what is denied to another. I dislike that principle of human nature which is ready to yield everything to one, and equally ready to condemn another for the very same thing for which the first is commended. Sir, I admit, that

an indiscriminate allowance of claims of this kind would be highly improper; but we have here a case which is not without the support of precedent, and which is sustained by abundant testimony in regard to the fact of the service having been rendered.

Mr. NILES. I think the main point to be determined is, whether we will recognize the service and make it regular. One thing is certain, which is, that the service was recognized by General Hull. The individual was not regularly in the service of the United States, and the whole matter turns upon the point as to whether we will overlook the informality, and regard the service as regular. It is clearly contrary to usage for a commanding general to call citizens into his service as aids. But there is another fact in this case which should not be overlooked. General Hull was not an officer in the regular army at the time when this gentleman was appointed as his aid—he was acting as Governor of Michigan. Now, it appears to me that his position as Governor of that Territory might authorize him to call in the service of an aid who was not a commissioned officer in the regular army. Well, if this be so, there can be no difficulty; but, at all events, I think it certainly deserves consideration whether it would be just towards an individual who had been called into the service, and who had continued to serve for a considerable length of time, that he should be treated as a stranger, and that his claim should be disallowed. Would it not be more proper to visit the punishment upon the officer through whose means the individual was brought into the service? The officer is the party who should be held amenable for interfering with the rights of the officers under him when appointing his staff.

To refuse this claim, it seems to me, would be rather severe upon a man who in a time of need had nobly volunteered his services, and had served in a distinguished position, his offer of service having been accepted by an officer of the army, and he having been employed for a whole year. To be told now we know nothing about you, is, to say the least of it, rather harsh. Upon the whole, I am inclined to vote for the bill.

Mr. WESTCOTT. The allowance to be paid to Mr. Wallace as aid-de-camp to the Governor of the Territory is not without precedent. At the last session of Congress, a bill was brought in to remunerate Charles L. Hill for services rendered as aid to the Governor of Florida. The Military Committee reported in favor of the bill. And there have been instances in which such claims have been allowed by the department without the intervention of Congress, where it is clearly ascertained that the service has been rendered, though not strictly regular, on the ground that the service was absolutely necessary. As regards the payment for the horse, for that I cannot vote.

Mr. DAVIS, of Mississippi. The case to which the honorable Senator from Florida refers rests upon very peculiar ground. The claim was not for his services as aid, but as inspector general and mustering officer for the troops. And I would observe to the honorable Senator from Kentucky, that in such cases as these we should always make a discrimination. There can be no claim for services on the part of any volunteer aid, because, as has been stated by the Senator from Alabama, a commanding officer has no right to select his aids from those who are not commissioned officers of the army. If an individual serves as a volunteer, he must do it for the honor of the position; he cannot expect to be paid. If paid, it is out of gratitude for services rendered, without an obligation to render them, and cannot be demanded as a right. And if Congress decide that any particular person shall be paid for such services, it must be after a full examination of what such services were, and upon a just discrimination in regard to them. The pay department of the army cannot exercise any discretion in the matter. It is altogether outside of the regular business of that department.

I will state simply—as I do not intend to detain the Senate, and as the matter has been examined by the Military Committee—that, as an individual member of this body, I was not in favor of the claim in either case—that of Florida, or the present one. In regard to the claim for the horse, although the law does, as the Senator from Kentucky supposes, authorize the payment for horses killed in battle, I have never heard of horses, or any other property, being paid for, which had been surrendered to the enemy by the volition of the individual himself to whom such property belonged.

If General Hull had been fighting against a semi-barbarous foe, we might easily believe that the troops would be plundered of their property; but we all know the usages of war too well to believe that in this case the private property of individuals was taken away from them. If the Senator from Kentucky will make it apparent that his property was rendered amenable to seizure by the British troops by the action of his commander solely, then I will admit that a case is made out, and that, if you recognize the man as having been in service, he should be paid for the horse so lost. But I put the Senator on his guard that he must first fully establish these facts.

Mr. UNDERWOOD. Mr. President, I am happy that I am able to obviate both the objections of the honorable Senator from Mississippi [Mr. DAVIS] and those of the honorable Senator from Alabama, [Mr. KING.] I think I may be permitted to say that I have had a little experience in relation to surrenders to combined armies of British and Indians, and consequently that I possess some little knowledge of such matters. I know, from personal experience, that when such unfortunate and lamentable events occur, the Indians are tolerated in seizing the property of the officers of the captured army, and are allowed to convert it to their own use.

Here, then, is the proof called for by the Senator from Mississippi, [Mr. DAVIS.] The proof is this: the last that was seen of the petitioner's horse, an Indian was upon its back—an Indian had it in possession.

We all know that in the battles fought upon our northwestern frontier during the last war with Great Britain, whenever our armies surrendered to a combined force of British and their allies the Indians, the rules of civilized warfare, to which the honorable Senator from Mississippi [Mr. DAVIS] has referred, were not respected, but that, on the contrary, they were uniformly set at defiance; and, as before stated, we have in this case the proof, clear and indubitable, to show that this gentleman's horse was taken by the Indians.

Mr. DAVIS, of Mississippi. Seeing an Indian on the horse, or in possession of the horse, is not the proof I called for.

Mr. UNDERWOOD. If I understand the gentleman, the proof required is this, viz: that the rules of civilized warfare were not respected, and that the petitioner lost his horse in consequence of this disrespect, and not by reason of any fault of his own. All I can say in relation to the first point is, that, from personal knowledge, I know the rules of civilized warfare were not respected on such occasions. We have need of no other proof on this point than our country's history furnishes, or that which the memories of hundreds who passed through those bloody scenes can furnish.

As to the second point, we have here cumulative testimony amounting to incontrovertible proof, that the petitioner was separated from his horse, that the horse was forcibly taken from him, and that the last that was seen of the horse it was in the possession of an Indian, and that immediately after the surrender of the army.

If this does not prove circumstantially that the petitioner was deprived of his horse, that he was not permitted to retain the control of the animal, then it does not come up to the requirements of my friend over the way, [Mr. DAVIS;] but it seems to me that, on every principle of deduction, this proof comes up to the requirements of the law.

Mr. DAVIS, of Mississippi. If the honorable Senator from Kentucky will allow me, I will put him on his guard in relation to these matters.

There is a very great distinction between an officer losing his horse in the moment of battle—whether surrender follow or not—and that of his horse being taken from him in violation of the rules of war. If the officer abandons his horse, if the horse runs away and is taken by an Indian, the loss is chargeable to the loser's own neglect. If, however, the honorable Senator shows that this officer was entitled to serve on horseback, and was dismounted at the surrender of Hull's army, and his horse taken from him, regardless of the rights of private property, his claim should be granted; otherwise, it should not.

Mr. UNDERWOOD. I think I can come up to the gentleman's requirements. Sir, the evidence is, first, that the army was surrendered. Then the evidence is, that, after this surrender, the horse was seen in the possession of an Indian. Well, now, can the gentleman infer that the horse escaped, and that the Indian caught him by accident? That he escaped, through some accident, from the officer, and that the Indian caught him afterwards, is not the inference. The inference is, that the horse, as well as the officer, was surrendered to the enemy, and that the enemy tolerated this Indian in taking the horse, in violation of the rules which the gentleman prescribes. This is my deduction.

Sir, another case, and I have done with this protracted argument. I am requested to state, in answer to some suggestions on the other side, that Hull was actually a general of the American army at the time of his surrender, and not the mere governor of a Territory.

Mr. DAVIS, of Mississippi. He was a military governor merely.

Mr. UNDERWOOD. He was a general, and acting in that capacity.

Now, sir, here is another case, furnishing another precedent in favor of the passage of this bill. I informed my friend from Alabama [Mr. KING] that I had not read the hundredth part of the cases establishing such precedents; but since the argument commenced I have turned to this case, one of the very many which this book contains.

[The honorable Senator held in his hand a volume of the acts passed by Congress, from which he read, as follows:

"*Be it ordered*, That the Secretary of the Treasury pay out of any money in the Treasury, not otherwise appropriated, to Samuel Chestnut, the sum of eighty-five dollars, ($85,) for loss of a horse, while in service, by reason of his being dismounted by order of Governor Shelby, at Portage river, while on an expedition to Canada.]

Now, sir, here is a soldier dismounted by the order of the Governor of a State, said governor not being in the service of the United States by any commission; for Governor Shelby never was commissioned by this Government. He orders the soldier to dismount; he separates him from his horse; the horse is lost, and the Government pays for it. Here is, if you please, a volunteer aid in your service, and the general commanding surrenders that individual's horse to the enemy, compels him to part with it, and you refuse to pay it. I have done with the case.

The bill was then reported to the Senate without amendment; when the question being on ordering it to be engrossed for a third reading, on a division no quorum voted.

Mr. HALE demanded the yeas and nays, which were ordered.

A motion for adjournment was made and negatived.

The yeas and nays being then taken upon the engrossment of the bill, resulted as follows:

YEAS—Messrs. Atchison, Badger, Baldwin, Bell, Clarke, Clayton, Corwin, Dodge of Wisconsin, Douglas, Downs, Felch, Fitzgerald, Hale, Houston, Johnson of Louisiana, Metcalfe, Niles, Phelps, Rusk, Sebastian, Sturgeon, Turney, Underwood, Upham, Walker, and Westcott—26.

NAYS—Messrs. Allen, Atherton, Breese, Davis of Mississippi, Dickinson, Dix, Fitzpatrick, Hamlin, Johnson of Georgia, and King—10.

So the bill was ordered to be engrossed for a third reading; and the bill was then read a third time, by unanimous consent, and passed.

On motion of Mr. DICKINSON, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and

The Senate adjourned.

IN SENATE.

WEDNESDAY, *December* 27, 1848.

Mr. ALLEN presented the petition of John P. Brown, asking compensation for extra services as chargé d'affaires at the Sublime Porte; which was referred to the Committee on Foreign Relations.

Mr. ALLEN presented the petition of citizens of Guernsey county, Ohio, asking that newspapers should be permitted to pass free of postage within thirty miles of the place of publication; which was referred to the Committee on the Post Office and Post Roads.

Mr. A. desired particularly to call the attention of the committee to this subject. It was a question of great importance to every part of the country, and to the newspaper press in particular. Unless

the committee should act on the subject shortly, he might himself bring the matter before the Senate.

Mr. BENTON presented the petition of Sashel Woods, praying for mining privileges in California; which was referred to the Committee on Public Lands.

Mr. JOHNSON, of Maryland, presented the petition of the heirs of William Flanigan, and William Parsons, deceased, for indemnification for losses sustained in building a frigate; which was referred to the Committee on Naval Affairs.

Mr. WESTCOTT presented the petition of John P. Duval, praying compensation for extra services as acting Governor of Florida; which was referred to the Committee on Territories.

On motion of Mr. BADGER, the petition of Guier & McLaughlin was taken from the files of the Senate, and referred to the Committee on the Post Office and Post Roads.

On motion of Mr. BRIGHT, the papers in the case of the petition of the executors of Henry King were taken from the files, and referred to the Committee on Revolutionary Claims.

On motion of Mr. CORWIN, the papers in the case of Moses Shepherd were taken from the Secretary's office, and placed on the files.

Mr. DAVIS, of Mississippi, submitted the following resolution:

Resolved, That the President of the United States be requested to cause to be communicated to the Senate, the expenditures for the survey of the coast, from the time of its commencement, in 1807, to the period when the work was discontinued, and the results obtained; the expenditures from the period when the work was resumed in 1834, to 1844, and the results obtained; the expenditures and results since 1844, up to the present time, under the present superintendent.

At a subsequent stage of the session,

On motion of Mr. KING, the vote on the adoption of this resolution was reconsidered; and, with the consent of the mover of the resolution, it was so modified as to be a call on the Secretary of the Treasury; and, in its modified form, was agreed to.

NOTICES OF BILLS.

Mr. BRIGHT gave notice that he would to-morrow, or some subsequent day, ask leave to introduce a bill to repeal the act of last session reducing the mileage of messengers.

Mr. DODGE, of Iowa, gave notice that he would to-morrow, or some subsequent day, ask leave to introduce a bill to establish a land office in the State of Iowa.

Mr. JONES gave notice that he would to-morrow ask leave to introduce a bill.

BILLS ON LEAVE.

Mr. BENTON, pursuant to notice, asked and obtained leave to introduce a bill to establish an additional land district in the State of Missouri; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. DODGE, pursuant to notice, asked and obtained leave to introduce a bill to cause the northern boundary of the State of Iowa to be run and marked; which was read a first and second time, and referred to the Committee on the Public Lands.

Mr. DODGE asked and obtained leave to introduce a bill for the relief of Elisha Hampton; which was read a first and second time, and referred to the Committee on the Public Lands.

WASHINGTON AND ALEXANDRIA BOATS.

Mr. BENTON, on leave, introduced a bill in addition to an act entitled "An act to incorporate the Washington and Alexandria Steamboat Company."

The bill having been read a first and second time,

Mr. BENTON asked that the Senate would proceed to the consideration of the bill at this time. It was important that there should be immediate action on the bill, as the term of the existing charter had nearly expired.

The motion having been agreed to, the bill was taken up for consideration as in Committee of the Whole, was reported without amendment; and, the question being on its third reading—

Mr. FITZPATRICK wished some explanation of the bill. He was opposed to monopolies; and before he could cast his vote, he desired to be more fully informed on the subject.

Mr. BENTON briefly replied, that the act chartering this company had been in existence twenty years, and was nearly run out. To stop the boats, would be a great inconvenience to the public of the District.

Mr. DAVIS, of Mississippi, said circumstances had changed since the charter was granted. Alexandria had since become a part of Virginia; and to renew the charter now, would be an invasion of State rights. He was also opposed to it on the ground of monopoly. Alexandria might now obtain a charter from the State of Virginia.

Mr. KING suggested the propriety of referring the bill to a committee before any further action be taken upon it.

Mr. NILES asked if the company had exclusive privileges of navigation. He supposed not.

Mr. BENTON. Certainly not.

Objection being made to the third reading of the bill at this time, it was passed over.

PRIVATE CLAIMS.

On motion of Mr. BENTON, the Senate proceeded to consider the joint resolution for the relief of Major R. M. Baker, of the ordnance corps; and the bill was considered and read a third time and passed.

On motion of Mr. DOWNS, the Senate proceeded to consider the bill for the relief of T. W. Chinn and others; and the bill was considered and passed.

COMMUNICATION BETWEEN ATLANTIC AND PACIFIC.

The Senate proceeded to the consideration of the following resolution, submitted by Mr. JOHNSON, of Maryland, on the 22d instant:

Resolved, That the President of the United States be requested to furnish the Senate with a copy of an official despatch from Mr. Wheaton to the Secretary of State, dated at Berlin, the 7th December, 1845, concerning a communication between the Atlantic and Pacific Oceans and the Mediterranean Sea, with such map or maps as accompanied the same.

Mr. JOHNSON stated, that since the resolution was submitted, a communication had been received obviating the necessity of its adoption; and he moved, therefore, that it be laid upon the table; which motion was agreed to.

CLAIMS ON CHEROKEE INDIANS.

The Senate resumed the consideration of the following resolution, submitted by Mr. CAMERON on the 10th of August last:

Resolved, That the Secretary of War be requested to communicate to the Senate any information that may be within the knowledge of the department in reference to claims made against the Cherokees who are parties to the treaty of August 6, 1846, especially against that portion of the nation called old settlers, or Western Cherokees, for services, or any other aid and assistance rendered the said Cherokees in the prosecution of their claim, which resulted in the treaty afterwards. If such claims are based on written contracts, he is requested to state whether the contracts were made by the duly authorized representatives of the *Cherokees* in their *national* or *aggregate* capacity, for the benefit of those who are made recipients by the treaty in all moneys arising out of the settlement of their claims. And also whether, within the knowledge of the department, such contracts have been fully and faithfully complied with, as far as practicable, by the other parties named in them. And that he will communicate the evidence upon which he bases his opinion, with any paper in the possession of the department showing the extent of the services rendered, and the character of the claims thus made against the moneys which may be awarded under the treaty of August 6, 1846.

Mr. KING stated that the Senator from Pennsylvania was absent, and moved that the further consideration of the resolution be postponed until to-morrow; which motion was agreed to.

GOVERNMENT LAND PURCHASE.

On motion of Mr. JOHNSON, of Louisiana, the Senate proceeded, as in Committee of the Whole, to the consideration of the bill to authorize the Secretary of the Treasury, with the approbation of the Attorney General, to purchase for the United States the interest of Balie Peyton in the tract of land on which the light-house stands, at the Southwest Pass, at the Mississippi river.

Mr. JOHNSON said: Mr. President, the object of this bill is, to authorize the Secretary of the Treasury to purchase from the holder his interest in a certain tract of land near the mouth of the Mississippi river, in the State of Louisiana, on which there has been erected a light-house. This tract of land was settled originally by a man of the name of Fitzgerald, who obtained, under the act of Congress, a preëmption right to it. He paid for the land and settled it. After he had established his claim and obtained his certificate of ownership, the Secretary of the Treasury, being informed that this tract was the only site near the Balize calculated for the erection of a light-house, undertook to reserve it from public sale, and to set aside the certificate which had been granted to Fitzgerald. Thereupon a suit was instituted by Fitzgerald in the circuit court of the State of Louisiana, and a decision was given establishing his claim to the land. The case was subsequently carried to the Supreme Court, and this decision of the circuit court was there sustained. Afterwards, the title of Fitzgerald was purchased by two individuals, a Mr. Carter and a Mr. Peyton. The United States having a claim against one of these purchasers, (Mr. Carter,) his interest in the land was seized upon by the Government, and two appraisers appointed to value it, in conformity to the laws of the State of Louisiana. These appraisers disagreeing—one estimating the value of his interest at $22,500, and the other at $15,000—another appraiser or umpire was by law appointed, and gave his decision in favor of the lowest estimate. The value of his interest in the land being thus ascertained, according to the laws of Louisiana, to be $15,000, it was bid off at public sale by the Government at that price. The Government being thus possessed of Carter's interest, and having already a light-house erected upon the land, this bill proposes now to purchase the interest of Peyton, the joint partner of Carter in the purchase from Fitzgerald.

Mr. DAVIS, of Massachusetts. I would ask the Senator from Louisiana what it was that the Government gave Carter for his interest?

Mr. JOHNSON. Fifteen thousand dollars in cash; and now this bill authorizes the Secretary of the Treasury to purchase Peyton's interest—giving him the same amount that was given to Carter, and no more, provided the Attorney General, on examination, shall be satisfied as to the character of the title. But there can be no doubt as to the title, its validity having been sustained by a decision of the Supreme Court.

Mr. DAVIS. How many acres are there in the tract?

Mr. JOHNSON. One hundred and sixty acres—lying near the mouth of the Balize, and the only high land suitable for the site of a light-house within several miles.

Mr. DAVIS. What do you want with a hundred and sixty acres of land for a light-house?

Mr. JOHNSON. The Government wants it; and the light-house being already upon the land in which Peyton holds a joint interest, it is necessary that the Government should purchase his interest in order to control the work. The bill comes to us recommended by two different committees, who have thoroughly examined the case; the report accompanying it is so lengthy, that unless some Senator desires it, I will not ask for the reading.

Mr. BALDWIN was understood to inquire whether the land could not be divided, so that the portion owned by the Government, with the improvements, may be retained?

Mr. JOHNSON. The light-house cannot be divided!

Mr. DAVIS. I do not, with my present views of the subject, feel disposed to vote for this bill. It seems to me a pretty extravagant price to pay thirty thousand dollars for the site of a light-house; and I do not exactly see why we should require a hundred and sixty acres of land for that purpose.

Mr. JOHNSON. I would remark that the great value of the land consists in its peculiarly favorable position, and it cannot be divided. According to the laws of Louisiana, a tract of land held by two persons, if either of the parties desire the sale, or the sale becomes imperatively necessary, cannot properly be divided, and the law provides that it shall be sold. The bill does not make it absolutely binding upon the Government to give $15,000 for Peyton's interest in the land. It only authorizes the Secretary to offer that amount.

Mr. NILES. There is no evidence before us that this land is worth anything like $15,000 for the site of a light-house. In order, therefore, to give time for a more particular examination of the subject, I think the consideration of the bill had better be postponed.

Mr. JOHNSON. This bill was postponed from time to time during the whole of last session, because it was considered a public bill. In addition to what I have already stated with reference to the appraisement and value of this land, I would further remark, that the Government made a proposition to Mr. Peyton to purchase his interest, and appointed two persons in this city to value it. One

of these appraisers was the Comptroller of the Treasury, and the other Mr. Pierce Butler. These gentlemen estimated the value of the interest, for the second time, at $15,000.

Mr. WESTCOTT. Will the Senator answer me a question?

Mr. JOHNSON. Certainly.

Mr. WESTCOTT. I understand this land was originally procured for a light-house. Mr. Balie Peyton owns one-half of it, and the United States gave $15,000 for the other half. The question I wish to propound is, whether, since the United States purchased this interest of Carter, this site for a light-house has not been abandoned, and the building itself gone into ruins?

Mr. JOHNSON. Not to my knowledge.

Mr. DIX. I was not aware, until my attention was called to the subject, that this is the same bill which was brought forward several times at the last session. I understand that the Government do not want this land; that the light-house on it has decayed; and that, in all probability, another site will be selected. I have not now before me the information pertaining to this matter, which was in my possession last winter. This is not an application on the part of the Government, but an application on the part of an individual, for the Government to pay a large sum of money for land which we do not want. I understand, moreover, that the Government has sold the other half of this land for a few hundred dollars—at any rate less than a thousand—with the exception of fourteen acres reserved for a light-house. I hope the bill may be postponed, and I will take some pains to collect the necessary information upon the subject.

Mr. JOHNSON. If it is the desire of gentlemen to obtain information in regard to the bill, I shall not object to its postponement, though I should prefer present action upon it. If the Government have abandoned this light-house, it must have been done very recently. It is not known to me, however, and the gentleman is probably mistaken. With regard to the selling of this land by the Government, I know nothing. I know that the Government has recently advertised for sale numerous tracts of land in different States of the Union, which were not wanted for public purposes; and whether this land has been so offered for sale I know not. It is my impression that it has not. But this does not affect the question before the Senate. The land is now occupied by Peyton, and it is necessary to possess his interest, in order to place the whole within the control of the Government.

Mr. BRIGHT. I recollect this bill distinctly; for I presume it is the same one that was brought forward on several occasions for consideration at the last session. Unless its features and the facts connected with it have changed since that time, it is nothing more nor less than a bill to compel the Government to pay fifteen thousand dollars for a piece of property that we do not want, and have no earthly use for. This is the view which, upon examination, I took of the bill at the last session. I shall vote against its passage.

Mr. BELL. I have not examined the reports upon this case. My knowledge of the matter has been gathered wholly from the discussions to which I have listened. I do not rise for the purpose of opposing the proposition to postpone, but with the object of answering, before any final vote shall be taken, some objections urged against it, which are calculated to prejudice the minds of Senators. The only knowledge I have of the matter, as I have already said, has been collected from the remarks of my friend from Louisiana and others who have taken part here, and from another friend of mine, who argued the question before the Supreme Court some seven or eight years ago. In his argument, I recollect, he represented this as a point of land that intrinsically would be considered of great value, because of its being the highest point of land in a particular pass of the river for some distance, and where the Government deemed it very important to establish a light-house for the protection of the commerce of the Mississippi. The Government had assumed the power of reserving this tract of land, which had been settled and claimed under the preëmption laws of the United States, and had proceeded, at considerable expense, to build a light-house upon it. But the settler contested the right of the Government to make the reservation, upon the plea that the possession of the land was important for Government purposes, and instituted legal proceedings against the Government. The district court of Louisiana confirmed the right of the claimant; but, by order of the Government, under the motion of the United States District Attorney, the case was brought up regularly by appeal to the Supreme Court, where it was warmly contended by the Attorney General that the Government had a right to exclude the complainant. The Supreme Court, however, affirmed the decision of the court below, and confirmed the title of Fitzgerald. At that time, however, it was in the possession and use of the Government of the United States. Of other circumstances connected with the case, I have no knowledge except what I have gathered from reading the report and what has been said here.

I think that honorable Senators have done injustice to this case; and first, with regard to the remark of the Senator from Massachusetts, [Mr. DAVIS,] who asks, what use has the Government for more than a few acres, even if it be important to establish a light-house there? Now, I put it to the honorable gentlemen, whether, in the idea of the value attached to property situated as this is—by the purchasers from a preëmptive claimant—they may not well include the importance of such a point to the United States Government for the erection of a light-house or fortifications. I ask, whether the purchasers from Fitzgerald might not very properly consider and include this in the idea of value in their purchase, and so give a large price for it, on the ground that it would at some day be very important to the Government that it should become the possessor of it at a fair and reasonable price; though truly, it would be iniquitous in citizens to exact an exorbitant valuation of such property from the Government. If these gentlemen became purchasers of this property, have they not the right to claim a fair consideration for the idea of value attached in purchasing the property with reference to its public utility, and of consequent future use by Government? But again: Who can estimate the value of a hundred and sixty acres of land situated as this is? The honorable Senator from Louisiana is better informed than I am, and can give a better idea of their value. But I have seen some of these rich lands, situated on what is called the coast of the Mississippi, below New Orleans; and when gentlemen talk of $30,000 being an exorbitant valuation, I would have them to remember that it is only with reference to the present year that they can so speak of it. When we estimate the value of these rich alluvial lands, so productive in their nature, and so favorably situated, by the value of property in the Old World, and in many parts of the New, we make up our estimate by an erroneous standard. I have no hesitation in saying that one hundred dollars per acre for these rich lands below New Orleans, and for hundreds of miles above, would be considered a moderate valuation even now; and that, within a few years of time even two hundred or two hundred and fifty dollars an acre will not be considered too high. In this point of view, then, the valuation now placed upon this ever-enduring soil cannot be considered exorbitant. And besides this, it may have been purchased, and, at any rate, may fairly be sold, by Carter and Peyton, upon a valuation having reference to its importance for the public use, and future purchase by Government.

Some Senators have thrown out the idea that this Government, having a claim against one of these copartners, had levied on his interest in the land; and that interest having been appraised, in conformity to the laws of Louisiana, by gentlemen selected by the court for the purpose, at $15,000, became owner of that interest; and now, says an honorable Senator, why not have a partition of the property, hold on to that reserved for the light-house, and then let the other owner go on and sell his interest for what he can get afterwards? But now I ask the honorable Senator whether that would be fair? Would it be fair and equitable to take this very extraordinary course, and so depreciate the value of his lands that they would not be worth probably more than twenty-five per cent. of their present valuation, thus depriving him of nearly all his property? Would it be right, I ask you, sir? But you cannot do it.

A message was here received from the House of Representatives, after which—

Mr. BELL continued. I was about to inquire what right the Government would have to lay out fourteen acres of this land and sell it, to the prejudice of this claimant? What right would the Government have to sell their undivided interest for some few hundred dollars, as was stated by the honorable Senator from New York, [Mr. DIX]? What right would the Government have to make any such division at all? What right would they have to do this, even if the authority to do so existed; and, especially, what right would the Government have to communicate such authority for the very purpose of making the division? Would it not be arbitrary and unjust of them to make such a division of this property, even if they could do so under the laws of Louisiana? I believe that, according to the laws of that State, (Louisiana,) the Government has no right to partition off this property, and sell the most valuable portion of it, to the prejudice and loss of the owners of the remainder of the land. If I am wrong in this belief, the gentleman from Louisiana [Mr. JOHNSON] can inform me whether, according to the laws of that State, such a proceeding could take place.

What portion of the land did those fourteen acres which were sold by the Government include? They included, I presume, that portion on which the light-house was erected; which was erected upon private property, without any authority whatever. If this light-house was erected upon private property originally, it was, in all probability, done under the idea that the Secretary of the Treasury knew of some law by which he could set aside the claim of the individuals holding the property and sell it, or convert it to the use of the Government. And the same must have been the case if the Government has sold a portion of the land, as stated by the Senator from New York, [Mr. DIX.] I apprehend, however, that the information received by the honorable Senator [Mr. DIX] is incorrect, and cannot be relied on. But, at any rate, would it not be arbitrary and unjust for the Government, by any proceeding, to deprive the gentlemen to whom this property rightfully belonged of any portion of it, or to appropriate a part of it to their own use, to the detriment and loss of the just and lawful owners of the land? Such a proceeding, in my opinion, would be wholly illegal and altogether unjustifiable. And I would here remark, that the parties to whom this land belongs have a right to take into consideration the public uses to which it may hereafter be applied in their estimation of its value. They have a right to include, in all their estimates and valuations of the property, whatever advantages may be incident to its position, and whatever advantages may accrue, or may be likely hereafter to arise, on account of its future importance to the Government of the United States. And would it not be iniquitous for the Government to deprive them, by any manner of proceeding, of any of their rights, privileges, or advantages, present or prospective?

The fourteen acres, sir, may include all that portion of the land held to be of any value. Fortifications may be erected upon it; a light-house may be permanently located and erected there; and it seems to me that it would be illegal and unjust for the Government to dispose of the most valuable portion of the land, and leave the remaining and comparatively worthless part only to those to whom the whole rightfully belongs. It seems to me, therefore, that the information which has come to the ear of the honorable Senator from New York [Mr. DIX] in relation to the Government's having made a division of this land, and selling their interest in the moiety reserved for themselves, must be incorrect.

Now, sir, in all this I do not mean to say that we are called upon to authorize an exorbitant or extravagant price being paid for this property. The bill itself proposes that there shall be a limitation to the price at which it shall be purchased; and if the Secretary of the Treasury, who is to be requested and authorized by the bill to settle the whole matter, thinks that the lands are not worth more than two thousand dollars, he will give no more for them. If the Secretary considers the lands to be worth five or ten thousand dollars, he will pay that price for them, and no more. If, however, that officer thinks the lands are worth the sum named in the bill as the highest point, beyond which he must not go, namely, fifteen thousand dollars, and if he cannot get them for a less amount, why then the bill proposes that it shall be given. It is scarcely probable, however, that fifteen thousand dollars would be paid for the

land. That sum has been placed as a limitation upon the bill on the ground that the Government paid fifteen thousand dollars for the other moiety—the moiety purchased from Mr. Carter.

I do not pretend to say, sir, that this property is worth five thousand, much less fifteen thousand dollars. I only infer, from the information that I have received, that it will eventually become of great value. If I am rightly informed, this land is situated on a high land, on that part of the Mississippi which must render it forever valuable; and more especially in reference to the public uses which it is likely the Government will, sooner or later, demand it for.

If it be true, sir, that the Government intends to dispense with this land, as has been intimated by Senators over the way, [Messrs. DIX and BRIGHT,] it is not worth while for us to consume time in deliberating and legislating upon the subject. If the bill were suffered to lie over a short time, I presume that all the information in relation to the matter necessary to an enlightened legislation upon it, could be easily obtained. This, perhaps, would be the better course.

I have only taken this occasion to throw out these remarks for the purpose of dispelling the prejudices against the bill which the observations of the honorable Senators might have raised in the minds of others.

Mr. DAVIS, of Massachusetts. Mr. President, the inquiry made by my friend from Tennessee [Mr. BELL] seems to imply just what I suppose everybody conjectured before; that is, that this land, in all probability, acquires its value, real or imaginary, from some supposed emergency for the occupation of it by the United States; and if I can gather anything from my friend's remarks, it is that certain individuals have stepped in with this view, this hope, this expectation, and purchased these lands. And the gentleman [Mr. BELL] says, is it not reasonable, is it not right and just and proper, that the purchasers should receive some equivalent for fair and just expectations of this description founded on the public exigency? Well, sir, if a man supposes that I have a great need and want of a piece of property, and steps in and purchases that property in order to see what he can get out of me by the speculation, I will stop and consider a while, when the question whether I will buy or not comes up, and it must take a pretty urgent case to induce me to give four, five, six, eight, or ten times as much as the property is worth, under such circumstances.

And, sir, the rule that I would apply in individual transactions, I would also apply in the transactions of the Government. The parties, who are the owners of this land, stepped in here and purchased it because Government may be supposed to have some occasion for the use of this property; because Government may want it as a site for a light-house, fort, or road, or for some other use, and they hoped out of that consideration to make some money. Why, sir, it will require a case of pretty strong necessity—a case of the most urgent necessity, to make me vote for a bill which proposes to pay more than this property is worth.

Well, sir, what is this land worth? We seem to have no reliable evidence touching this point before us. The honorable Senator from New York [Mr. DIX] or the honorable Senator from Indiana, [Mr. BRIGHT,] I do not know which—at all events the remark was made by some one on the other side of the House—says that after reserving fourteen acres of this land—the whole of which amounted to one hundred and sixty acres—one undivided moiety of the residue sold for a thousand dollars, or thereabouts. If this be so, it is an answer to all that my friend from Tennessee [Mr. BELL] has urged. This land was put into the market, and there is the price of an undivided moiety. It was sold for the meager sum of only one thousand dollars or less.

I do not know what the motive was that guided that sale. I take the fact as it was stated, and I hope there was no dishonesty about it. If that be so, upon what principle—unless we adopt the views of the Senator from Tennessee, [Mr. BELL,]—can we justify ourselves in paying thirty thousand dollars for the site of a light-house? That sale was really unimportant, no matter what motive induced it; no matter what price was paid for the land. Perhaps the honorable Senator is correct that, if this be a joint property, the United States the owner of one-half and some other party the owner of the other half, they could not probably make such a partition of the land as has been suggested when they come to sell it. But I do not hold that fact at all important; and all the information we have concerning the value of the property goes to show that the estimate of this individual is far too high—is far beyond its real value.

Again, sir, it is said that there is a limit in the bill—that the Secretary of the Treasury is not authorized to pay more than fifteen thousand dollars for the land. We all know, sir, very well how these limitations operate. We have witnessed their operations time and again. The result invariably is, that if the party of whom the purchase is to be made refuses to sell his property for less than the amount named as the outward limit of the bill, that amount has to be paid. The vender is sure to tell the party instructed, whether the Attorney General, the Secretary of the Treasury, or any other officer of the Government, that Congress would never have passed such a law unless they had been willing that the maximum amount should be paid; and the contracting officer gives the ultimate amount, and he gives it simply because Congress has authorized him so to do, and because the vender will not accept anything less. Therefore, if you pass this bill, you must consider yourselves as proposing to give fifteen thousand dollars for the interest of this individual in this property.

Well, now, sir, if it be satisfactorily shown to me that this property is worth fifteen thousand dollars, and that the United States are in want of this moiety of the one hundred and sixty acres of land owned by this individual, for the purpose of erecting on it a light-house, or for any other purpose, I will vote for the bill. I will experience no difficulty in giving it my sanction and support. But what I desire is to see some satisfactory evidence, in the first place, that there is an emergency for it; and, in the second place, that it is worth the money.

Mr. JOHNSON, of Louisiana. Mr. President, I feel very confident that the Senator from New York [Mr. DIX] is mistaken in saying that a portion of this land has been sold by the Government of the United States, for I am very confident that the Government could not select fourteen acres out of the whole estate and sell it.

Mr. DIX. Sir, I did not state that fourteen acres had been sold by the Government. I only stated my understanding of the matter, based on what I heard at the last session of Congress. This bill has been taken up out of its place. I was not aware that it was under consideration till a friend called my attention to the fact. I stated that I had some memoranda concerning it that I could not now lay my hand on. I may have been mistaken in regard to the statement that an undivided half had been sold for less than a thousand dollars. It was either a moiety of this land, or a lot adjoining, concerning which there was some dispute.

Mr. JOHNSON. Mr. President, this bill was not taken up out of its order. Some days ago it was made the special order for to-day.

Mr. DIX. I was mistaken, then. I was not aware that the bill had been made the special order.

Mr. JOHNSON. According to the laws of Louisiana, where property is held jointly by two parties, if either party wishes a partition, or wishes to have the property sold, he must institute a suit for that purpose. Then, if the land cannot be divided to the satisfaction of both parties, the court shall order the sale of the whole land, and divide the proceeds justly between the parties. This is one of those tracts of land that could not be divided. I presume the light-house was in the centre of the land, and it could not be divided so as to give the Government the light-house, which occupied probably the best part of it. And even if it could have been divided, the Government should have brought a suit, in conformity to the laws of Louisiana, praying for a division of the land, or that it should be sold jointly. That is the law of Louisiana, and that was the course pursued when Carter's interest in the land was sold. The Government instituted a suit, obtained a judgment against Mr. Carter, and seized his half of the land. Appraisers were appointed—the Government appointing one and Mr. Carter the other. The appraisers could not agree. One estimated the value of the land at twenty-two thousand five hundred dollars, and the other estimated it at fifteen thousand dollars. When two appraisers cannot agree, the court appoints an umpire. The umpire was appointed, and he decided the value of Carter's portion of the land to be fifteen thousand dollars. The land was put up at auction, and the Government purchased Carter's interest in it for fifteen thousand dollars.

Gentlemen say that fifteen thousand dollars would be too high a price to pay for the residue of this land—that it may not be worth two thousand dollars. Why, sir, it would be difficult to get any piece of land in that vicinity for less than a hundred dollars per acre, and there are very few owning land on the Mississippi, for a hundred miles above, who would sell it at that price. But, sir, this land, independent of the light-house, will be exceedingly valuable. It is the highest point of land in that vicinity. It is situated at the mouth of the Mississippi, and there will ere long be a town there: there is a little village there now. It is the highest and most eligible spot of land near the Balize, rendering it not only a most valuable tract of land for the site of a light-house, but for a town. I know, sir, that the land must be valuable without the light-house entering into the consideration at all. But, sir, the United States have taken possession of it. They hold it, and it cannot be divided.

Again: gentlemen have said that the United States have no use for this land. Well, sir, I stated at first that a very lengthy report had been made, in which all the facts of the case are set forth, and that I would be very happy to have it read if any gentleman desired to hear it, but no one asked for its reading.

Mr. BRIGHT. I would ask the honorable Senator, if he will allow me, whether this land is anything more than a sand bank which has been thrown up by the action of the waves?

Mr. JOHNSON. All the lands in that region are the result of alluvial deposites, made gradually, perhaps in the course of a hundred years, or more. I do not know that there is any difference between this land and other lands on the Mississippi, for two hundred miles up. They have all been made gradually, by deposites of alluvium. As I stated before, this is the only high land near the mouth of the Mississippi, and will be immensely valuable, if not for a light-house, for a town. There is a village there now, and I presume that, had it not been for this occupation of the land by the United States, there would have been a large town there before this time.

Mr. FITZPATRICK. Will the honorable Senator allow me to interrupt him for a moment? I wish to ask if the Government has ever intimated a wish to purchase this land for the purpose of erecting a light-house thereon?

Mr. JOHNSON. I would refer the gentleman to the report, wherein he will find everything bearing upon the subject fully and clearly set forth.

The Government has use for the land. I will now read from that part of the report which, after stating that the case had been tried in the United States circuit court for that district, and decided in favor of Carter and Peyton, was carried by appeal to the Supreme Court of the United States, goes on to say——

Mr. CLAYTON. When was the report made?

Mr. JOHNSON. Two years ago, sir.

Mr. CLAYTON. By whom was it made?

Mr. JOHNSON. It was reported by Mr. Jarnagin, chairman of the Committee on Private Land Claims. I will read from the report, as I was about to do when the honorable Senator from Delaware [Mr. CLAYTON] propounded his inquiry:

"That court, in January, 1841, affirmed the judgment of the circuit court, and thereby gave to the defendants in error a title, or, in the language of Mr. Gilpin, the Attorney General, 'a possession which nothing is to disturb. A patent could give them no more.' From this time up to August, 1842, the title of Carter and Peyton was not disputed, but a correspondence was kept up between them and the Treasury Department, in relation to the price to be given by the United States. No agreement could be effected, and the matter was submitted to the arbitration and award of James McCulloh, First Comptroller of the Treasury, and the Hon. Pierce M. Butler—the first chosen by the Treasury Department, and the latter by Carter and Peyton."

So that it appears from the document that the Government have been in correspondence for the purchase of this land for several years, and at one time appointed the Comptroller of the Treasury to purchase Carter's interest in these lands; and the Comptroller estimated the value of that interest at fifteen thousand dollars. If anything has occurred

very recently, I am uninformed of it. The document shows that the Government made application for the purchase of this land, and the only difficulty appears to be in arranging the price to be paid for it, and in its division. The land could not be divided. To be sure, they might sell their interest in it, either wholly or in part, subject to a future division. But the Government has no right to divide this land, and say, "I will have this particular spot." They have no such power at all. The law of Louisiana prescribes the manner in which it shall be done, if done at all. It must be sold, or divided by persons appointed for that purpose by the court. And, as I have remarked before, it could not be divided by the Government, and a portion of it sold by them, as has been intimated.

I will conclude by remarking that the bill merely authorizes the Government to purchase, after due examination of the whole subject by appropriate and competent officers, Mr. Peyton's interest in this land, at a sum not exceeding fifteen thousand dollars, and for as much less, of course, as can be agreed upon.

Mr. CLAYTON. I trust that the Senator who has this bill in charge will not press it to a vote to-day. I would greatly prefer that the proposition of the Senator from New York should prevail, in order that we may have a little more time to consider of the propriety of passing the bill. But if I am forced to vote upon the bill now, I shall found my vote upon one single consideration—upon one single fact, if that fact can be ascertained, and that is, if the site proposed for this light-house is really indispensable for the purposes of navigation at that place. If this be so—and gentlemen of the southern States can inform us upon this point—I see no difficulty in voting for the bill. The true purpose of the bill does not seem to be understood. It is not a bill peremptorily ordering the purchase of a site. It is a bill authorizing the Attorney General, in the first place, to ascertain the fact of the desirableness of the situation; and, after being thoroughly satisfied in regard to that point, then to agree upon terms of purchase; that is to say, provided the cost shall not exceed the sum of fifteen thousand dollars. It is not declared that fifteen thousand dollars shall be paid absolutely, for we do not know that that is the value of the property; we do not commit ourselves to any valuation or to the specification of the sum which shall be paid further than this: we say we will give no more than fifteen thousand dollars. The Attorney General will be bound undoubtedly to make the best bargain he can. The only question, then, with me, as I have said, is, is this site absolutely necessary for the navigation and commerce of the United States? One of the Senators from Louisiana is clear upon this subject. His opinion seems to be in accordance with the opinions of the committee from which this bill was originally reported. They say, in one of the clauses of their report, "that the 'purchase of the right of Mr. B. Peyton in this 'section of land is indispensable to the commerce 'and navigation and substantial interests of the 'United States." Such, too, was the opinion of the Secretary of the Treasury at that time; and I do not know that any other Secretary of the Treasury has ever given a contrary opinion.

Now, sir, if this be true—if the site is really indispensable for the commerce and navigation of the United States at the mouth of such a river as the Mississippi, why I am prepared to vote the sum of fifteen thousand dollars, or one hundred thousand dollars, if need be, to procure it. I do not intend, however, to give a vote that will enable anybody to extort money from this Government. I do not think that any such thing is intended by this bill; if it be, we have a complete check upon such a scheme through the intervention of our own officer.

My honorable friend from Massachusetts observes, that he would deal in a matter of this kind as he would in a matter appertaining to private life. So would I. But if a person should happen to purchase a tract of land directly in front of my mansion, through which it would be necessary for me to have a road, and even if that purchase should be made for the purpose of extorting money from me, I do not know upon what principle I could force a road through another individual's ground. I should have to obtain it by purchase, if it cost me treble its real value. We are sometimes compelled to give more for a thing than its intrinsic value. As I said before, the only question with me in this case is, is this site necessary? The gentleman from Louisiana who sits furthest from me can, I have no doubt, afford us information in regard to this point. I have not yet had the pleasure of hearing him make any remarks upon the subject. He and other southern gentlemen are better informed upon the subject, probably, than we are who live at so great a distance.

Mr. DOWNS. Although this bill was reported from a committee of which I am a member, I have not paid particular attention to it. I have no other information than that which the other members of the committee possess—I mean such as appeared from the papers that were laid before the committee. I understand there is a light-house upon a part of the land in question that is still in use; and I take it for granted, therefore, that a light-house is necessary. But how far a light-house may be considered indispensable to the navigation of the Mississippi, I am not prepared to say; but that it is necessary, I think is manifest from the circumstance that one has been kept up for a long time, and still is in use, at that place. I have no particular information on the subject.

Mr. JOHNSON, of Louisiana. I will simply remark that an appropriation was made some years ago for the purpose of erecting a light-house; the old site being considered an improper position, it was deemed necessary to have a new one, and this, I believe, was universally acquiesced in. An appropriation at all events was made by Congress for the purpose, and the Treasury Department was authorized to contract for the building and to select the spot. A spot was selected and a light-house built; and that one is necessary, there can be no doubt. There is not a spot on the globe where one is more required. There has been a light-house there ever since the first settlement of the country; but, as I have said, the old one fell down, and the Secretary of the Navy has selected this spot as the site of the new one.

Mr. BRADBURY. There is one consideration which I think should be taken into view in acting upon this question, and that is, whether the United States cannot now, from the interest which it has in the property, secure to itself all the land which is necessary for the site of the proposed light-house. The United States Government is the owner of one-half of the lot of one hundred and sixty acres, unless they may have disposed of some portion of it. Being the owner of one-half of it, then, I apprehend, as but a small portion of land is necessary for the construction of a light-house, there will be no manner of difficulty in securing, by division, a portion sufficient to erect a light-house upon, or in securing that portion upon which the light-house now stands, if one is erected that is worth preserving.

It is impossible for me to conceive that, owning one-half of the tract, so called, the Government cannot secure to itself a spot suitable for the erection of a light-house. It is said that it ought to stand on higher ground, but the difference in expense of building between the different sites will be very little, it appears to me; and it will be much better for the Government to build upon the cheaper spot, even though they should be obliged to build the light-house higher.

It is said that the Government has parted with its undivided interest. I know not how that may be; but if it be true, it is undoubtedly a proof that the Government think they have more than sufficient for their purpose. I should regard it as conclusive proof that the Government have sufficient space for the purpose of building their light-house. I do not understand that this grows out of any application that has been made on the part of the Government. The Senator from Louisiana has not stated that the application proceeds from the Government for authority to make this purchase. And it does seem to me it would be time enough for us to make provision for the purchase and payment of fifteen thousand dollars for this tract of land, on which to erect a light-house, when the Government comes forward and signifies its desire that we should do so. Why should we undertake to anticipate the wants of the Government? Undoubtedly the officers of the Government are sufficiently awake to the wants and interests of the country, and will make all needful inquiry as to the requirements of commerce and navigation. It is not for us to anticipate them.

The honorable Senator, I think, speaks of this as a claim. What! the owner of an undivided interest coming forward and claiming that the Government shall purchase his interest! The Government has a right to say we will divide; it will be as well for us, perhaps, that there should be a division; and if we then have need of land, the Secretary of the Treasury will ascertain how much is requisite; and when the application comes from that quarter, with the specification of how much we want, we shall be in a better situation to act upon the subject.

Mr. BELL. One word further. I have not examined the report, and am not aware, perhaps, of all the facts of the case; and I will premise what I have now to say, by suggesting to the honorable Senator from Louisiana, who has charge of the bill, that it would be imprudent to press the bill now, after the suggestions that have been made that the Government no longer want the site, and that they have parted with a portion of what they had. Many Senators might be unwilling to vote for the bill under such circumstances. It would be better, therefore, I think, that the bill should lie over. But I beg leave to remark, in order that no injustice may be done in reference to this claim, whatever it may be worth, that the Senator from Massachusetts avoided answering the query that I put in regard to the limit of value that is fixed by the bill; and the honorable Senator proceeded to say, that, taking it for granted that the site proposed to be procured is necessary, he would act for the Government as he would for an individual, and would consider well before he would submit to any exaction. He would consider diligently whether the site was actually wanted by the Government. That is exactly my argument. If it is not considered indispensable, then we ought not to buy it at all. I will go with the Senator, and not submit to this extortion, if it be extortion to make the demand. But I would press upon the Senator the inquiry whether, if, having erected a light-house in its own wrong, it is worthy of the Government to proceed upon a technicality—if it could be done—whether it would be worthy of the Government to give one tenant the full value, or whatever he asks, and then to make the remainder worthless, and by some adroit management to get the spot laid off to itself? I ask whether this would be worthy of the Government, unless the demand were unreasonable?

As I have already stated, I know nothing of the facts of the case. I know nothing of the circumstances that have transpired since the Government became the joint owner of the tract. If I mistake not, it was contended, on the part of the officers of the Government, that the Government had a prior right to this property; that they could exclude settlers and preemption claimants; and I am strongly of the opinion that if the Government could dispense with the property it would be done. But I consider it would be unworthy conduct on the part of the Government, whatever it would be on the part of individuals, because it might have the power to get possession of a spot of land on which to build a light-house, to do it in disregard of the rights of individuals.

But the Senator from Maine has suggested that this is not a claim set up by the Government, but that it is an individual claim; that the Government is in a state of composure in regard to it. That may be so, so far as their having the use of the property, and the possession of it; but I presume that the rights of an individual claimant are not to be wholly disregarded, and that when he applies to Congress to remedy a private injury, an individual grief, that the Government occupies arbitrarily his property, and refuses to compensate him for it, he has a right to be heard. I cannot conceive that there is the slightest impropriety in asking for redress in such a case. It is the only remedy the individual has. I hope the Senator from Louisiana will allow the bill to lie over. For my own part, I shall not vote for the bill if it be made to appear that the proposed site is not important for the safe navigation of the Mississippi at that place.

Mr. DAVIS, of Massachusetts. If the honorable Senator from Tennessee understood me as implying that the owner of any property was seeking to build up his interest at the expense of the Government, he greatly misunderstood me. The position assumed by my friend from Tennessee is this: Shall the Government, after having given increased value to property, be required, when it becomes necessary to purchase that property, to

pay for it according to its increased value? I can assure the gentleman that when a matter of that kind is submitted to a court and jury, the occasion which the Government has for the property is never taken into the account; it never enters into their consideration; and no court has ever, within my knowledge, instructed a jury, where property was required for public use, either for railroads, canals, light-houses, or for any other purpose, that in consequence of the urgency of the demand the value is enhanced. Not at all: its value is estimated upon very different considerations. But, says the gentleman, you have a strong arm, and you enter unceremoniously upon the property of your cotenant; you take possession and hold it. Why, I see no evidence of this. The Government, in anticipation of a want at an early day, erected a light-house, and I suppose they still have possession of it; but we have no evidence that the Government is keeping the cotenant out. He has a right to enter upon the property and do as he pleases with his undivided moiety. It is a well settled principle of law that each of the cotenants has the right to enter into and enjoy the property, and that one cotenant has no right to shut another out. Now, I do not understand that this individual is coming here with a complaint that the Government has shut him out. They have taken this little position, it is true, and have applied it to the exigencies of the Government. They have probably exclusive possession of it. Well, now, the party has a right to meet the question as he sees fit, and have it equitably adjusted. I do not complain of this. What I object to is, the paying an extravagant price which cannot be justified by the circumstances of the case. I wish to act upon evidence as to its value.

Mr. JOHNSON, of Louisiana. I have no desire to press this bill to a final vote at this time. I am quite willing that it should be deferred for the present.

The further consideration of the bill was then postponed until to-morrow.

APPROPRIATIONS FOR THE COAST SURVEY.

The following message was received from the President of the United States:

To the Senate of the United States:

I communicate, herewith, in compliance with the request contained in the resolution of the Senate of the 19th instant, a report of the Secretary of the Treasury, with the accompanying statement, prepared by the Register of the Treasury, which exhibits the annual amount appropriated on account of the coast survey, from the commencement of said survey.

JAMES K. POLK.

WASHINGTON, *December* 27, 1848.

The following is the statement referred to in the above message:

Statement of the annual amount appropriated on account of the coast survey, from the commencement of said survey, rendered in compliance with a resolution of the Senate of December 19, 1848:

Dates of appropriations.	Amount.
1807, February 10	$50,000 00
1812, February 26, reappropriation	49,284 25
1816, April 16, reappropriation	29,720 57
1816, April 27	54,720 57
1832, July 10	20,000 00
1833, March 2	20,000 00
1834, June 27	30,000 00
1835, February 13	20,000 00
1836, May 9	80,000 00
1837, March 3	60,000 00
1838, July 7	90,000 00
1839, March 3	90,000 00
1840, May 8	100,000 00
1841, March 3	100,000 00
1842, May 18	100,000 00
1843, March 3	100,000 00
1844, June 17	80,000 00
1845, March 3	100,000 00
1846, August 10	111,000 00
1847, March 3	146,000 00
1848, August 12	165,000 00
	1,605,725 39
Deduct amounts carried to the surplus fund, viz:	
In 1809	$49,284 25
In 1814	29,720 57
In 1832	14,816 75
In 1835	2,586 00
	96,407 57
	$1,509,317 82

DANIEL GRAHAM, *Register.*

TREASURY DEPARTMENT,
Register's Office, December 22, 1848.

A message was received from the House of Representatives by Mr. CAMPBELL, their Clerk, announcing that the SPEAKER of said House had signed several enrolled bills, and had sent them to the Senate for the signature of their President.

The bills were signed by the PRESIDENT *pro tem.*, and were directed to be transmitted to the President of the United States for his signature.

Mr. FELCH moved that the prior orders of the day be postponed in order to take up the bill granting to the State of Michigan the right of way and a donation of public land for the construction of a ship canal around the falls of St. Mary, in said State, for the purpose of making it the special order for Wednesday next.

Mr. DICKINSON hoped there would be no more special orders made at this time.

The question was then taken on the motion of Mr. FELCH, when no quorum voted.

After a brief conversation, Mr. FELCH withdrew his motion for the present,

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 27, 1848.

The Journal of yesterday was read and approved.

Mr. HENLEY asked and obtained leave to give notice that he should, at a future day, move for leave to introduce a joint resolution in relation to the mileage of persons appointed by the electors of the several States to deliver the votes for President and Vice President, to the President of the Senate.

Mr. DIXON asked and obtained leave to give notice of a motion to introduce a bill to abolish the franking privilege.

Mr. GOGGIN said he rose to ask to be excused from serving on the Select Committee raised yesterday, on his motion, upon the subject of a memorial of the surrender of Cornwallis to General Washington, at Yorktown. His reason for doing so was, that as it related to an event which happened in the district of his colleague, [Mr. BAYLY,] and as the terms of the resolution admitted of but one member from each State, he preferred that his colleague should occupy the post of chairman of that committee, and hoped he might be appointed in lieu of himself. He had moved the resolution of inquiry as one of a national character, and not as pertaining to any particular State or district; and he only felt desirous of seeing some action on the subject, his own attention having been called to it by the proceedings of the Historical Society of Virginia, in the course of the remarks of its distinguished president, Mr. W. C. Rives.

The motion was agreed to, and Mr. GOGGIN was excused from service on the committee

The SPEAKER announced, that if the consideration of the pending motion to reconsider was not insisted on, the Chair would proceed to call the States for petitions.

Mr. BROWN, of Pennsylvania, asked the House to take up the motion made by him some days since, to reconsider the vote by which the House agreed to the resolution in regard to the binding of Emory's, Abert's, Johnson's, and Frémont's (last) reports.

The SPEAKER said, there were two or three motions to reconsider which had priority, in the order of business, over the motion of the gentleman from Pennsylvania. The gentleman's motion could only be taken up at this time by general consent.

Mr. WHITE moved that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. KAUFMAN inquired of the Speaker which motion to reconsider was first in order?

The SPEAKER replied, the motion of the gentleman from Michigan, [Mr. STUART,] to reconsider the vote by which the resolution relative to the slave trade in the district of Columbia was adopted.

Mr. KAUFMAN insisted, then, on the order of business.

Mr. WHITE also insisted on his motion; but it was understood to be ruled by the Speaker to yield to the motion to reconsider.

SLAVE TRADE IN DISTRICT OF COLUMBIA.

The House accordingly proceeded to the consideration of the motion of Mr. STUART, made several days since, to reconsider the vote by which the following resolution (offered by Mr. GOTT) was adopted, viz:

Whereas the traffic now prosecuted in this metropolis of the Republic in human beings as chattels is contrary to natural justice and the fundamental principles of our political system, and is notoriously a reproach to our country throughout Christendom, and a serious hinderance to the progress of republican liberty among the nations of the earth: Therefore,

Resolved, That the Committee for the District of Columbia be instructed to report a bill, as soon as practicable, prohibiting the slave trade in said District.

Mr. STUART was entitled to the floor, and proceeded to address the House. He said that some time had elapsed since he had had the honor of moving to reconsider the resolution which had been adopted by the House; and if there had been at that time any improper excitement growing out of the subject of that resolution, ample time had passed for the minds of gentlemen in this House to become perfectly calm. He proposed to state, as briefly as he could, but yet with perfect distinctness, the views which he entertained upon this exciting subject. In so doing, he should speak plainly, but at the same time he should not undertake to censure the course of any gentleman here, or to dictate what course he ought to pursue. He should state facts; he should state wherein, in his judgment, the opponents of this measure had not done in this House what they ought to have done. It was well known, that at the North, as well as at the South, a difference of opinion was entertained by different gentlemen on this subject. Every vote, however, which had been taken in this House since he had had the honor of being a member, had been taken without opportunity for explanation, upon the motion of some member from the South, either to lay on the table, or to apply the previous question; both of which, he submitted, were wrong in principle, wrong towards gentlemen at the North, who were not disposed to carry measures on this subject to the extreme. The history of this very resolution under consideration would show that gentlemen from the South, on his side of the House, who were opposed to this resolution, had voted to sustain the previous question. The records of this House showed that these same gentlemen voted in the affirmative, by yeas and nays, on the question whether the main question should be now put; thus cutting off every opportunity for explanation; thus preventing gentlemen from the North who desired to vote against the resolution, from having an opportunity to do so without a misconstruction of their vote.

He had said, he deemed this course wrong in principle, and unjust to gentlemen of the North who were opposed to the adoption of the resolution in its present form. The subject of slavery in the District of Columbia was one which had occupied the attention of every statesman and every lover of his country for a very considerable number of years past. He had brought to bear upon the subject the limited abilities which he possessed. He had come to certain conclusions, which he begged here to state, which would control his action hereafter, and would have controlled it heretofore, if he had had an opportunity for explanation. He should not undertake to speak for the people of the North; he claimed no such authority; he was invested with no such right; but he should undertake to speak what he believed to be the opinions of a vast majority of the people whom he had the honor to represent.

It was known that at the North there was a portion—a very small portion, however—of the people who avowed themselves in favor of the dissolution of this Union, unless slavery could be abolished in the District of Columbia. There was a portion of the people of the South who, he had been forced to believe, were not unfavorable to such a fatal result, unless they could maintain the balance of power in this Republic. That portion, he thought, was small also. There were a few individuals of another class of people at the North, of no merit, seeking to acquire eminence by agitating this exciting subject, but seeking in vain. There was a similar class at the South, exercising equal energy, and with no better success. But the great body of the people, both North and South, in his humble judgment, were disposed to make every proper sacrifice; to do everything that was consistent with the rights and the interests of the whole country, in order so to adjust this question, as to save and perpetuate our institutions.

To this latter class, humble as were his pretensions, he claimed to belong. In reference to the District of Columbia, therefore, his opinions were these: That the abolition of slavery should depend entirely upon the will of the people resident in the District. Many of them had been thrown into this District without their own consent, by the action of the States of Maryland and Virginia on the one

side, and of the General Government through its constituted authorities on the other side. They were here with certain habits, associations, customs, and institutions. They had no voice in the election of the National Legislature. The Constitution, however, had conferred upon this Legislature full, ample, unqualified powers of legislation over them. But every principle of right, of justice, and of morality required that the requests of these people, so far as they were reasonable, should be the only criterion of legislation in reference to the question. Therefore, in his opinion, slavery should not be abolished in this District except upon the request of the people who resided in it. In uttering these views, he was not speaking the impulses of his heart—every fibre of which was struck with horror at the existence of this institution, in all its forms and complexions; but he was undertaking to present a view of the subject, which he thought was founded in the immutable principles of justice which should always govern the intelligent legislation of Congress.

The question that arose was this: Was the abolition of the slave trade within this District an exception to the rule which he had laid down? He humbly submitted that it was. While he would say that he regretted the introduction of this resolution; while, had he been consulted on the subject, he would have advised against it; yet the resolution having been introduced, and being called to vote upon it, he should state the views which would control his vote in reference to it.

He should vote to reconsider this resolution, for several reasons, which he would now attempt to state: First, on account of the language of the resolution itself. It did not convey the meaning which the mover himself most probably intended. It was so comprehensive in its terms, that it would prevent any resident of this District from disposing of his slave, however great the necessity. He doubted whether this Congress possessed such a power—a power to render the property of individuals here absolutely worthless, by taking from them the right of disposing of it.

But, waiving the question of constitutionality, the resolution, he repeated, in its present form, fell within the rule to which he had alluded. It would constitute a direct interference with the rights of the people of this District. It was a proposition to act at once, so as to prevent them from disposing of their property—a right in which they were deeply interested—without any expression of their wishes upon the subject.

Mr. TUCK here interposed, and wished to ask the gentleman a question; but

Mr. STUART declined, and said if the House would not consider it disrespectful, he would be obliged to gentlemen if they would allow him to go on with the remarks which he had to make without being interrupted. He should be very happy, if his time would allow, to answer the questions which any gentleman on this floor might desire to put, but he would prefer—very much prefer to go on without interruption.

[Cries of "Go on—go on."]

He should vote for the reconsideration of the resolution, (he continued,) for another reason: he doubted the propriety—not the power, but the propriety—of a direct act of Congress on this subject. He very much preferred to authorize the municipal authorities of the District to control this question. If it was believed on the part of this House, that they would not exercise the power, he would be in favor of a law which would compel its exercise. But, in his opinion, they would exercise it. Why, the Representatives of the southern States would affirm what he now said, that a man who was a slave-dealer, who carried on that traffic for a livelihood, even in the midst of slaveholders, never could, and never did acquire that degree of respectability which belonged and attached to men engaged in the ordinary concerns of life.

If that were so, he would ask, what reason was there to suppose that the municipal authorities of this District would not enforce the provisions of law with which Congress might clothe them? He was in favor of this proceeding, because he considered it more effective. Clothe the authorities of this District with power to expel that trade. They were here upon the spot. They had a police—they had the judicial system necessary to carry out such a law to its utmost provision.

But it was his desire that the language of the resolution should be perfected, because it was to remain on the records of the country as a precedent, and it would be resorted to any number of years hence for the purpose of deciding precisely what the opinion of the present House of Representatives had been.

Upon this question a little history might not be unimportant. It had been charged, in high places, that all these movements were but emanations from the Abolitionists of the North. This was not true. They were the ebullitions of the heart, based upon the strongest and purest principles of morality; and, for the purpose of showing what was the opinion of the House of Representatives in the year 1816, he proposed to state what were the views and action of John Randolph, of Virginia, and how they had been sustained by the House of Representatives of that time.

On the 1st of March, 1816, (says the National Intelligencer,) John Randolph "moved the subjoined resolution, the necessity of which, and of providing a remedy for a practice so heinous and abominable, (making this District a depôt for the slave trade of the neighboring States, and a medium for evading the laws in force, by collusive sales,) he impressed by a variety of remarks; and concluded by declaring that if the business was declined by the House, he would undertake it himself, and ferret out of their holes and corners the villains who carried it on.

"After some opposition by Mr. Wright, and support by Mr. Goldsborough, and being varied, at the suggestion of Mr. Hopkinson, so as to refer the subject to a select committee instead of the Committee on the District, the resolution passed, as follows:

"On motion of Mr. Randolph,

"*Resolved*, That a committee be appointed to inquire into the existence of an inhuman and illegal traffic in slaves, carried on in and through the District of Columbia, and report whether any and what measures are necessary for putting a stop to the same.

["Messrs. Randolph, Hopkinson, Goldsborough, Mayrant, and Kerr, were appointed the said committee."]

Now, (continued Mr. S.,) such was the resolution which emanated at that time from that distinguished Virginian, enforced with all the power of language for which he alone was known to be remarkable. This proposition was not regarded as an insult to the institutions of the South. No such insult was intended. It excited no unnecessary or unusual alarm. It was but the manly beating of a moral sensibility pervading the bosoms of all civilized men.

But there was another reason why he (Mr. S.) should vote in favor of the adoption of the resolution, if it should be amended in the manner he had suggested. It was this: that the State of Maryland at this day prohibited the traffic in human slaves as merchandise. It was not, therefore, depriving the people of the District of the right they would enjoy if they were at this day citizens of the State of Maryland. It did not affect a right of theirs, but it did that which the States of Maryland, Kentucky, and probably many other States, did to prevent citizens who did not, or who did, reside within the boundaries of the District, from herding up these individuals, like cattle in the stall, and holding them until an opportunity should present itself to sell them—a practice abhorrent to every principle of morality and justice.

He hoped that the House would indulge him for referring to the history of this question for a few years past; not for the purpose, as he had before stated, of censure or dictation, but for the purpose of stating facts, and drawing from them his own conclusions.

It was worthy of remark, that during the present session of Congress not a single proposition on this subject had been made by any member on the Democratic side of the House. Gentlemen from the North, occupying seats on this floor, had silently cast their votes, and, with one or two exceptions, had done no more. It was also worthy of remark, that from the time this question was agitated, the Democratic party of this House went with the South, and, by the adoption of a rule commonly known as the 21st rule, prohibited the introduction of petitions into it—an act which was carrying out the wishes and opinions of gentlemen of the South, and, in his judgment, carrying out a grave error. By doing so, they gave food to the fanatics of the North on the abstract question of the right of petition; whereas, if they had permitted one of the late distinguished members on that floor—the "old man eloquent"—to have drawn up a report against the propriety of those petitions, it would have silenced every source of agitation; whilst, by adopting the other course, the result was to make that gentleman the champion of the right of petition.

It is true, that at a subsequent period that position was abandoned before the irresistible force of public opinion; but it was abandoned too late. While the Democratic party in this nation had, at all times and under all circumstances, shown a strong disposition to go even to the outside of every rule of propriety to pacify this agitation, how had the South responded to their action? While the States of Florida and Texas had been brought into the Union, as they were found, as slaveholding communities—notwithstanding that two distinguished Secretaries of State had urged as a reason, the desire to perpetuate all and render permanent the institution of slavery in the South, the Democracy of the North overlooked the folly of that reasoning, and marched boldly up to the accomplishment of an object so desirable in itself: thus bringing into the Union these two States, with three Representatives and four Senators in Congress; and yet, at the last Presidential election, the aggregate vote of both these States was less by about five thousand than that of the district he had the honor to represent. As a consequence of that action, ultimately, we had new territories brought within the jurisdiction of this Union.

Now, he begged leave to state his position on this subject. In doing so, he did not assume to state what the position of the North was; but he could state what he believed it to be—and that was, a fixed and unalterable determination to preserve the territories of the United States, so far as related to the institution of slavery, in the same condition in which we received them. If they were slaveholding territories at the time they came into the Union, as in the case of Florida, Louisiana, and Texas, let them remain so. If non-slaveholding, as in the case of New Mexico and California, let them remain so. This was the public sentiment of the North, and this was the extent of that sentiment. And he regretted from his heart that the gentleman from New York [Mr. GOTT] had moved this resolution, or that any other resolution should be offered in relation to slavery in the District of Columbia; because, so far as this subject was agitated in any other form, to that extent the great question itself would be injured.

But he would ask, how had this sentiment on the part of the Democratic party of the North been responded to? The returns of the late elections showed that twelve southern States (excluding in this computation the State of South Carolina, which elected by her Legislature, and excluding, also, Florida and Texas, which in 1844 were not admitted into the Union) had increased their aggregate vote something less than twenty-four thousand. General Cass had not received in these twelve States as many votes by nearly fifteen thousand as Mr. Polk received in 1844; while General Taylor in the same States had received about ninety-three thousand votes more than Mr. Clay. Was this because the South was not satisfied with the candidate whom the Democratic party had selected? They had on this floor avowed otherwise. The same avowal had been repeated throughout the southern States. The candidate of the Whig party was a southern man—a man born and educated in the South—associated with its peculiar institutions; and that reason, and that alone, overrode every other consideration.

It is true that the Whigs of the South had supported, for the second office in the Government, a gentleman who had declared himself openly in favor of the abolition of slavery in the District of Columbia; and in a private letter written by him, but which was undoubtedly intended for publication, they had received the flattering distinction of being a glorious set of fellows. The Whigs of the North who had supported General Taylor for the Presidency were certainly entitled to the appellation of being a *most* glorious set of fellows.

With what propriety, then, were they of the North, upon such a question as this, deprived, by the votes of gentlemen from the South who were opposed to that measure, of the right of uttering their sentiments, by calls for the previous question,

or motions to lay on the table? He begged to say that the history of the last few years in this country had absolved every northern man from every political tie connected with this institution, and had left him fully at liberty to act according to the dictates of his own conscience. He had stated distinctly the position he occupied; he would undertake to act upon the abolition of slavery in this District only upon the presentation of petitions from the people residing therein; but the subject of traffic in slaves was a very different question.

It had been frequently urged upon this floor that Congress had no power to prohibit the extension of slavery into the Territories of New Mexico and California. Was this so? Gentlemen from the South, with a unanimity not exhibited on any other question, had voted at the last session for a law which excluded slavery in these Territories north of thirty-six degrees thirty minutes. Now, he was unwilling to believe that gentlemen of such distinguished ability, great experience, and unquestionable probity, having sworn to support the Constitution of the United States, would ever consent to vote for a law which in their hearts they believed to be unconstitutional. And if Congress possessed the power to exclude slavery north of that line, it was difficult to see why they might not also exclude it throughout the Territories.

What, then, was the great cause of alarm? Why was the tocsin sounded? Why were meetings held? Why was the South banded together as one man? It was said that the North was attempting to encroach upon the rights of the South by passing laws which the Constitution of the United States would not sanction. What great evil, he would ask, could grow out of the enactment of a law which was unconstitutional? The South had but to raise the question before the Judiciary, and the law would be pronounced unconstitutional, and would become a dead letter upon the statute book. But if the Congress of the United States refused to pass laws which were constitutional, and in consequence of which refusal, property and lives were sacrificed, that portion of the country which was thus suffering was without a remedy. We were told by the South, not that this measure was unconstitutional in itself, but that it was an entering wedge to interference with their institutions in the States, by which they were to be robbed of their property, and their safety and their lives were to be hazarded. Every single year the same gentlemen who raised this complaint, by refusing to pass laws which *were* constitutional, caused the utter destruction of our property upon the lakes, and consigned our seamen and our citizens to watery graves. Yet (continued Mr. S.) *we* never talk of a dissolution of the Union. *We* never consider the propriety of secession. We have stood here boldly confronting those who have the power to save us. We have brought back the great champion of the South to the position which he occupied in 1816; and having reclaimed the great apostle of strict construction, we hope that the time is not far distant when every disciple of his will come up to the true faith also.

In casting your eye, Mr. Speaker, to that figure on the left, [pointing to the portrait of Lafayette,] your mind is thrown back in history to the day when he left his home—the home of his youth, and the luxuries of France—came to this country, and entered the Continental army, battling for freedom. On your right you see the portrait of the Father of his Country. You can imagine him making every sacrifice that mortal man ever made; and for what object? For what did our revolutionary fathers contend? It was that for which Patrick Henry declared in the House of Burgesses in Virginia—Liberty or Death.

What a commentary would it be upon the efforts of these distinguished patriots, resulting in the freedom of the colonies and the Union of these States, if a portion of their descendants should secede from, or dissolve that Union, for the purpose of extending and perpetuating human slavery. I wish not to see, and hope I never may see, the approach of that day. Time, the great remedy for all excitements, will afford opportunities to introduce some measure on some basis which shall calm the agitation of the country.

For myself, I wish to see the question transferred to that party which has used it so fraudulently in the northern States during the late election to bring themselves into power. Let us see whether the interests of the South or the North are to be best protected under their influenee and their administration. They are about to assume the reins of Government. To them I am ready to transfer all power and authority; and if they can carry out the discordant doctrines, in the name of which they acquired that power, most happy will it be for them, whatever may be its effects upon the country. For myself, I expect to see them shattered in pieces by the very weapon which elevated them.

In conclusion, Mr. S. remarked, that he was in favor of reconsidering the vote on the resolution, for the reasons which he had stated, and in the hope that it would be amended in accordance with the opinions he had expressed. Should the House, however, refuse that, he should then vote for the resolution as it was. He was greatly obliged to the House for the attention it had shown. He hoped he had said nothing offensive to any gentleman present, or to any portion of this Union; and would now resign the floor to other and abler hands.

Mr. VINTON rose and said, it would be recollected that this day had been specially set apart for the consideration of the deficiency bill, and also for the Mexican treaty bill. It was important that the first bill should be acted upon as speedily as possible. He had risen for the purpose of proposing that the subject now under consideration should be postponed until some day certain—some day when there would be a fuller House, or that it should, by common consent, be passed over informally, as might be most acceptable to the House, with a view to move that they go into Committee of the Whole on the state of the Union. If general consent should not be obtained to pass over the subject informally, he would then move that its further consideration should be postponed until this day week.

The SPEAKER. To make it the special order?

Mr. GOGGIN suggested that the day designated by the chairman of the Committee of Ways and Means [Mr. VINTON] had already been specially set apart for the consideration of the post office bill.

Mr. VINTON. Then I will say this day two weeks.

Mr. WENTWORTH, with a view, he said, to dispose of the subject entirely, moved that the motion to reconsider be laid on the table. If any other gentleman wished to speak on the subject, he could introduce a resolution.

Mr. SMITH, of Indiana, inquired of the Speaker, whether the motion to lay on the table had the precedence of the motion of the gentleman from Ohio, [Mr. VINTON.]

The SPEAKER replied in the affirmative.

Mr. SMITH said he would be glad if the gentleman from Illinois [Mr. WENTWORTH] would withdraw his motion.

Mr. WENTWORTH said the gentleman could introduce another resolution at some other time, and could then make his remarks.

Mr. SMITH appealed to the courtesy of the gentleman from Illinois to withdraw his motion, to allow him (Mr. S.) to say one word.

Mr. WENTWORTH said he must insist upon his motion, and would ask the yeas and nays upon it.

The SPEAKER said the motion would then be to lay the motion to reconsider on the table.

Mr. SMITH still pressed his request upon Mr. WENTWORTH, remarking that that gentleman had himself often asked similar courtesies, which had not been refused. He (Mr. S.) felt that he occupied a somewhat peculiar position on this subject, and he wished the opportunity to say a single word in explanation.

Mr. WENTWORTH said he could not withdraw the motion. The gentleman could make his explanation on some future day, by moving another resolution. Whenever he did so, he (Mr. W.) would afford the gentleman all the aid that was in his power toward the accomplishment of his object.

Mr. SMITH said he would renew the motion if the gentleman from Illinois would withdraw it.

Mr. WENTWORTH said he could not, without placing himself in a false position.

Mr. SMITH. I will renew the motion.

Mr. WENTWORTH insisted.

And some conversation followed on a point of order.

Mr. McCLERNAND inquired of the Speaker whether, if the motion of the gentleman from Illinois [Mr. WENTWORTH] to lay the motion to reconsider on the table should be rejected, the whole subject would be again open to debate?

The SPEAKER said that the question would then immediately come up on the motion of the gentleman from Ohio, [Mr. VINTON,] to postpone for two weeks.

Mr. McLANE inquired of the Speaker whether, if a motion should be made to go into Committee of the Whole on the state of the Union, and that motion should prevail, debate would not arise on the reference of the President's message?

The SPEAKER said there was a special order of the day, which would have priority.

Mr. McLANE. Will not a motion to go into committee supersede any special order?

The SPEAKER. The special order is in Committee of the Whole on the state of the Union.

The yeas and nays were then ordered on the motion to lay the motion to reconsider on the table.

Mr. McLANE moved that the House resolve itself into Committee of the Whole on the state of the Union.

The motion was not now in order.

The question "Shall the motion to reconsider be laid on the table?" was then taken and decided in the negative—yeas 58, nays 107—as follows:

YEAS—Messrs. Ashmun, Bingham, Blackmar, Cathcart, Conger, Cranston, Crowell, Cummins, Dickey, Dickinson, Dixon, Nathan Evans, Faran, Fisher, Fries, Giddings, Gott, Greeley, Nathan K. Hall, Henley, Henry, Hubbard, Hudson, Hunt, James H. Johnson, Kellogg, Daniel P. King, Lahm, Sidney Lawrence, McClelland, Horace Mann, Marvin, Morris, Mullin, Newell, Palfrey, Peaslee, Peck, Petrie, Pettit, Putnam, Robinson, Rockhill, Julius Rockwell, Rose, Root, Rumsey, St. John, Robert Smith, Starkweather, Jas. Thompson, Thurston, Tuck, Turner, Warren, Wentworth, Wilmot, and Wilson—58.

NAYS—Messrs. Adams, Barringer, Bayly, Bedinger, Bocock, Bowlin, Boyd, Boydon, Brady, Bridges, W. G. Brown, C. Brown, A. G. Brown, Burt, Butler, Canby, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Williamson R. W. Cobb, Cocke, Crozier, Darling, Donnell, Dunn, Edwards, Embree, Alexander Evans, Farrelly, Featherston, Ficklin, Flournoy, French, Fulton, Gaines, Gentry, Goggin, Green, Grinnell, Hale, Willard P. Hall, Hammons, James G. Hampton, Harmanson, Hill, Elias B. Holmes, George S. Houston, John W. Houston, Inge, Charles J. Ingersoll, Joseph R. Ingersoll, Irvin, Jameson, Andrew Johnson, Geo. W. Jones, John W. Jones, Kaufman, Kennon, Thomas Butler King, La Sère, Leffler, Lincoln, Lord, McClernand, McDowell, McLane, Job Mann, Marsh, Miller, Morehead, Morse, Peyton, Pilsbury, Pollock, Preston, Richardson, Richey, Roman, Sawyer, Schenck, Shepperd, Silvester, Smart, Caleb B. Smith, Truman Smith, Stanton, Stephens, Charles E. Stuart, Strong, Tallmadge, Taylor, Thibodeaux, Thomas, Richard W. Thompson, John B. Thompson, Robert A. Thompson, Tompkins, Toombs, Van Dyke, Venable, Vinton, Wallace, White, Williams, and Woodward—107.

So the House decided that the motion to reconsider should not be laid on the table.

The question recurring on the motion of Mr. VINTON to postpone for two weeks the further consideration of the motion to reconsider—

Mr. SMITH, of Indiana, said, before the question was taken, he wished to ask leave to have read at the Clerk's table an amendment which he proposed to offer as a substitute for the resolution, in case the vote upon its adoption were reconsidered.

Mr. VINTON said, after the proposition of the gentleman had been read, he would move the previous question on the motion to postpone.

The SPEAKER reminded the gentleman that the previous question, if sustained, would cut off the motion to postpone, and bring the House to a direct vote on the main question.

The proposition of Mr. SMITH was then read, as follows:

Resolved, That the Committee on the District of Columbia be instructed to inquire what legislation is necessary to prevent the introduction of slaves from any of the States of this Union into the District, for sale here or elsewhere, and that they report by bill or otherwise.

The SPEAKER announced the question before the House to be upon the motion to postpone the further consideration of the motion to reconsider, for two weeks.

Mr. GIDDINGS. Can it be postponed without a suspension of the rules?

The SPEAKER replied that it could.

Mr. GIDDINGS. Does not a postponement of this motion to reconsider amount to a suspension of the rules?

The SPEAKER'S reply was not heard.

Mr. GIDDINGS wished further to inquire, if the question were postponed, and it should not be taken up on the day to which it was postponed, what would become of it?

The SPEAKER replied that it might be called up by any member upon that day.

Mr. GIDDINGS. Suppose the House is not in session on the day to which the subject is postponed, or from any other reason it is not called up that day: will it not go over to the end of the session?

The SPEAKER replied that it would not. If the House postponed it two weeks, the consideration of the subject might be called up that day, or any day thereafter, by any member.

The question was then taken by count—the yeas and nays having been asked and refused—and agreed to: Ayes 76, noes 49.

So the further consideration of the motion to reconsider was postponed to two weeks from to-day.

Mr. VINTON renewed his motion to go into Committee of the Whole on the state of the Union.

THE MILEAGE OF MEMBERS.

Mr. SAWYER rose, he said, to a question of privilege. He supposed it would be a question of privilege, inasmuch as it involved the honesty, the honor, and the integrity of members of this House, and of himself among the number. He referred to a publication made in the Tribune of the 22d instant, relative to the mileage of the members of this House. Inasmuch as he thought a good deal of his character as an honest man, he did not want the gentlemen upon this floor, especially a member of this House, to charge him with doing that which was decidedly wrong in itself; for, among other members, he was charged with taking an unreasonable and excessive amount of mileage as a member of this House, and, as he understood, in a dishonest and fraudulent manner. His position was probably a little worse, as represented, than that of any member on this floor. He was put in contrast, in this publication, with one of his colleagues, [Mr. SCHENCK.] The charge against that gentleman was, that he had taken some two dollars of excess, [a laugh,] and he was charged with having taken two hundred and sixty-odd dollars of excess, [renewed laughter;] when the facts were these: he lived in the neighborhood of his colleague, and probably some sixty or seventy miles further from the seat of Government, and the only possible way for him to get to Washington city, was through the town where his colleague lived. The charge on the bill of indictment, preferred by the gentleman from New York, [Mr. GREELEY,] in his paper, was, that his mileage was legally for four hundred and ninety-eight miles, and his colleague's [Mr. SCHENCK's] for seven hundred and seventy-seven miles, while he (Mr. SAWYER) was charged with having taken mileage for eight hundred and fifty miles, and his colleague for seven hundred and eighty miles. The gentleman from New York excused his colleague as having taken but $2 40 excess of mileage, while he charged him with having taken $281 60 excess. Now, one of two things must be true: either the gentleman himself did not examine and make his statements accurately, or else he had designedly placed him (Mr. SAWYER) in an unenviable and false position.

Mr. SCHENCK interrupted, and assured his colleague that there had been no collusion between him (Mr. SCHENCK) and the gentleman from New York. [A laugh.]

Mr. SAWYER said he charged no collusion, but he asked his colleague to state to the House whether what he had now stated was not true—that he (Mr. SAWYER) lived some sixty-five or seventy miles further from the seat of Government than his colleague did; and whether he did not have to go through his colleague's place of residence, in going to and returning from the city of Washington?

Mr. SCHENCK was understood to reply in the affirmative.

Mr. SAWYER repeated that the gentleman from New York represented him as having charged a large excess, and that his colleague had charged only a very small one, with the evident intention of placing him before his constituents in the light of having acted falsely and fraudulently in this matter.

Mr. PETTIT (in his seat) said the gentleman need not be disturbed, for nobody who read the paper [the Tribune] believed it.

Mr. SAWYER said he had drawn the attention of the House to this publication for this reason, although he considered it a very small business, to make the best of it, and a species of demagoguism of which he could never consent to be guilty while he occupied a seat on this floor, or while he made any pretensions to stand as an honorable man among his constituents; yet this article did him gross injustice, as he presumed it did to other gentlemen. For what reason was this done in his own case especially? He believed it was for the purpose of lowering him in the estimation of his people, in such a manner as neither the gentleman from New York nor anybody else could do by fair and honorable means.

The SPEAKER interposed and said, it must be quite obvious to the House, that if one gentleman was allowed to proceed on this subject, as a question of privilege, all the members of the House might, with the same propriety, claim the same right. [Laughter, and cries of "Suspend the rules, and let the whole House make their personal explanations."]

The SPEAKER propounded the question, whether the House would entertain this subject as a question of privilege? which being taken, was decided in the affirmative.

So the House decided that it was a question of privilege; and

Mr. SAWYER proceeded. He wished now to call the attention of the House to another point in this matter. He would inform the gentleman from New York, [Mr. GREELEY,] that the Tribune, with all its attacks upon him, past, present, or prospective, would not deter him from the fearless discharge of his duty, both here and elsewhere. He would call the attention of the House to the following paragraph, under the editorial head, in the article in the Tribune, in which this statement in reference to mileage was made:

"Twenty years ago, the member from Northeastern Ohio charged 341 miles in his distance to Washington, coming hither on horseback, and receiving $272 80 for the session. His successor in the present Congress can come here much quicker, and certainly as cheap; but he charges 850 miles, and receives $680 for mileage! It is but just to add, that he lives 40 miles further away."

He did not know whether the editor of the Tribune referred to him in this paragraph, but he was inclined to think he did. It was true, he had spoken of the member from Northeastern Ohio, and he came from the northwestern part of the State; but he might have been mistaken on this point. He supposed the reference was to him, as the exact number of miles for which his predecessor had charged was stated.

Mr. GREELEY (in his seat) said that part of the article referred to Mr. GIDDINGS.

Mr. GIDDINGS, (in his seat.) I claim that, Mr. SAWYER.

Mr. SAWYER accepted the correction, and recurring to the contrast which he said was made in the article between himself and his colleague, [Mr. SCHENCK,] unfavorable to him—asked, in case the design of the writer had been to act fairly in the matter, why he had not taken the trouble to ascertain the facts? The publication made was of such a character as to affect the personal relations of every gentleman on this floor; and the gentleman from New York well knew, before this publication, that there was great excitement and feeling on this subject, and had evidently desired to fan the flame, and add fuel to the fire. In so doing, he had done manifest injustice to him, (Mr. S.,) however he might have affected other gentlemen, and he had thought proper to call attention to it, that he might vindicate himself before the House and the country; and that neither a publication which did him so gross injustice, nor its author, should escape that public rebuke which they deserved.

Mr. SCHENCK said he understood his colleague as complaining that he had been charged with receiving a greater excess than he (Mr. SCHENCK) had done—with receiving upwards of $200 excess, while he (Mr. SCHENCK) was charged to have received only $2 40.

Mr. SAWYER assented.

Mr. SCHENCK. Well, to relieve my colleague from the dilemma, I will swap with him. [Laughter.]

Mr. SAWYER having concluded—

The SPEAKER again propounded the question on the motion of Mr. VINTON to go into Committee of the Whole House on the state of the Union.

Mr. TURNER rose to a question of privilege. It related somewhat, he said, to the same matter as that upon which the gentleman from Ohio [Mr. SAWYER] had been addressing the House; but as the gentleman who wrote this article had been exceedingly liberal with him, (Mr. T.,) and had set him down as receiving a very respectable sum, he was disposed to pass it over, not feeling that his constituents would regard him as any more of a thief in consequence of the gentleman from New York [Mr. GREELEY] having——

[The SPEAKER interposed, but with what remark the reporter could not hear. Its import may be inferred from what follows.]

Mr. TURNER (continuing) said, he would then refer to the editor of the Tribune. He (Mr. T.) had been charged with grand larceny, together with several others; but he had risen more for the purpose of calling attention to the slander upon the honorable Speaker of this House, who, in the same paper, had been charged with petty larceny—receiving only the sum of fourteen dollars and fifty cents.

Mr. HENLEY here rose, and expressed his desire to make a few remarks, by way of explanation.

Mr. TURNER having yielded the floor for the purpose—

Mr. HENLEY said, he had felt it to be his duty to say a few words, because, during the first two sessions of which he had been a member of this House, he had been a member of the Committee on Mileage. He felt it due to gentlemen whose character seemed to have been assailed, to make a statement, which he was enabled to make upon this subject of mileage.

He had not read the article in the Tribune; he had heard of it. He did not know that it charged fraud on those members who had received what was set down as an excess of mileage. If it had charged fraud, he was prepared to say that it had done great injustice. If it intended to charge members with receiving more mileage than the law allowed, it also did great injustice—an injustice which he should think neither the editor of the Tribune nor its correspondent——

Mr. GENTRY here rose, and asked Mr. HENLEY to yield the floor, to allow him (Mr. G.) to make an explanation.

The SPEAKER said, the floor had been yielded by the gentleman from Illinois [Mr. TURNER] to the gentleman from Indiana, [Mr. HENLEY.]

Mr. TURNER having assented—

Mr. HENLEY yielded the floor to

Mr. GENTRY, who said, that as he understood the facts, the law of Congress, and the rule of the House, no member *charged* mileage at all. A law of Congress determined the mileage of each member under the law. He could not see that the honor or honesty of any member was involved.

Mr. HENLEY resumed. It was his intention, he said, to have come to the point suggested by the gentleman from Tennessee, [Mr. GENTRY.]

The question of the mileage of the members was referred to a committee He believed it was the fact, that no member of this House had ever made any charge of any particular number of miles. He believed—in fact, he knew from his own experience—that it was impracticable for almost any member to state the exact number of miles that he traveled. It would have been exceedingly difficult for him (Mr. H.) to have done so; and such, he presumed, must be the case with almost all other members. The Committee on Mileage, at the time he was a member of it, addressed a circular to every member, asking him to state, as nearly as he could, the number of miles he had actually traveled. Most of the circulars were answered. Many of the members stated, that they did not know the distance they traveled, and left it to the committee to make out such a number of miles as they might consider them entitled to be paid for. The committee, after the most careful examination, made out a list of mileage, with very little reference to charges made—if any were made—by these gentlemen.

The law of Congress authorized members to receive eight dollars for every twenty miles of travel going to and returning from the capital, upon the most usually-traveled route. He presumed that the gentleman who wrote this article did not mean to charge that gentlemen had received compensation to which they were not entitled by law. He presumed that the object of the gentleman was to show that the law itself was not right. The committee would say—he as a former

member of the committee would say—that, according to the present mode of travel, he did not think the law was correct. It had been altered three or four times, and made to conform to the suggestion which he supposed the gentleman from New York intended to make; that was to say, that the computation should be made by the mail route, instead of the usually-traveled route. Inquiry was made of the member, what was the usually-traveled route; and that route was ascertained in the best way it could be. The committee had been very careful not to allow any member more than he was by law entitled to receive. But he would state, that the list of mileage published in the Tribune (whether by the editor or correspondent he knew not, for, as he had said, he had not seen the article) was not made by the members of this House, but by the committee under a solemn conviction of their duty—that by law they were compelled to make it what they did. He knew that there were great inequalities in it.

At this part of Mr. H.'s remarks, a message in writing was received from the President of the United States, by the hands of J. KNOX WALKER, Esq., his private secretary.

Mr. HENLEY continued. He might, he said, make many explanations which would throw light on the subject, but he did not wish to be tedious. He might, however, as an example, take the State of Ohio. It was peculiarly situated. There were several gentlemen residing upon the lakes; the usually-traveled route for them was by way of the lakes—a long and circuitous route: so that it might happen, and had happened, that gentlemen residing not fifty miles apart—the one traveling by way of the lake and the other through the interior—were, by law, entitled to mileage differing in amount several hundred dollars. All general laws must be the subject-matter of such inequalities.

Mr. LAHM asked Mr. H. to yield the floor for a moment, to allow him (Mr. L.) to make a statement.

The floor having been yielded under the same assent as in the case of Mr. GENTRY—

Mr. LAHM said the statement he desired to make was this: He resided near the Ohio canal, sixty miles south of Cleveland, and his colleague on the other side of the House [Mr. DUNCAN] resided on the same canal, some fifty or sixty miles further south; and he knew of no route by which that gentleman could get to the lake, without going either through or west of his (Mr. L.'s) district. Yet that gentleman, residing so much further away from the lake, was allowed mileage by the lake, and got $796, when he (Mr. L.) resided near the lake, and got but $375. He would therefore like to know by what process of calculation the committee arrived at this conclusion.

Mr. HENLEY resumed. He did not (he said) understand anything of the state of the case put by the gentleman from Ohio, [Mr. LAHM.] It was not his business to explain particular cases. He had been explaining the general law and its general operation. He had said that it sometimes happened that individuals living some fifty miles apart, the one traveling by way of the lake, and the other through the interior, were, by the existing law, entitled to mileage differing in amount several hundred dollars. Such, also, was the case with those who lived further west. The usually traveled route was by the rivers, a much greater distance than by the mail routes. He might specify a large number of cases of a similar character, but he would not detain the House with them.

If the gentleman from New York [Mr. GREELEY] aimed at reforming the law, he (Mr. H.) did not object to it. His efforts might be well. But if he meant to say that any member of this House had been guilty of an attempt to defraud the public treasury, by taking more for his mileage than the law allowed, he (Mr. H.) felt it to be his duty, whatever the effect might be upon himself, to state that this list of mileage had been made out by a committee of which he was a member. The principle, he believed, had not been changed by this Congress, and he, for one, felt himself responsible to the country for the list, and he felt called upon to say, in justice to gentlemen on this floor, that it was no fault of theirs if this list was wrong, unless there might be some small errors here and there. If it was wrong, it was the fault of the committee, for it had been made out by them without reference to the charges of gentlemen. He did not justify the law, but he did justify those gentlemen who received, not what they charged, but what the committee said they were entitled to charge. It was due to truth and to justice to say this much, and if the whole responsibility was to rest upon himself, he should still feel bound to say what he had said in reply to what he understood to be an imputation upon the members of this House. If the object of the article was to show that the law needed amendment, he did not object to it; on the contrary, he was in favor of restricting the mileage to the distance by the mail routes in all cases. He had so voted at every Congress of which he had been a member, and he would again vote for that or any other proposition calculated to make the law more equal in its operation.

Mr. TURNER resumed the floor.

Mr. McLANE rose to a point of order. It was this: the question which had been propounded to the House by the Chair was, whether the gentleman from Ohio [Mr. SAWYER] rose to a question of privilege. He (Mr. McL.) understood the Chair to submit that question to the House, and ask its decision upon it; and that the House decided that the question was one of privilege. The gentleman from Illinois [Mr. TURNER] now had the floor, and the decision of the House upon the question raised by the gentleman from Ohio was not a decision upon the question to which the gentleman from Illinois had risen. He (Mr. McL.) made the point of order, that the gentleman from Illinois was out of order—that this was no question of privilege.

The SPEAKER'S reply was not heard: some conversation followed; after which—

The SPEAKER was understood to say, the Chair would not decide the question raised by the gentleman from Maryland, [Mr. McLANE.] The SPEAKER never had decided what was privilege in this House. The gentleman could raise the point of order, and the Chair would put it to the House.

Mr. HENLEY submitted that the gentleman's point of order came too late.

Mr. McLANE submitted that it was no question of privilege when any member rose to say, or to insinuate, that any article in a newspaper had been written by a member of this House.

The SPEAKER said that the House had decided otherwise in the case of the member from Ohio, [Mr. SAWYER.]

A brief conversation followed.

Mr. McLANE gave notice of his intention to arrest this discussion if he could; and he called upon the gentleman from Illinois [Mr. TURNER] to state what the question of privilege was.

Mr. TURNER said that he was about to say something upon a charge of fraud upon this House and nation, which had been made against him in a public journal.

The SPEAKER made the statement to the House, and said that the question would be, whether the House would entertain this as a question of privilege?

And the question being taken, the affirmative vote stood 74; and when the negative vote was counted, it appeared that a quorum had not voted.

Mr. TOOMBS, in the interim between the announciation of the affirmative vote and the counting of the negative vote, had demanded the yeas and nays.

In making this demand, he said: this matter is just simply ridiculous; that is all.

The yeas and nays were then ordered.

The call of the roll having been commenced—

Mr. COLLAMER rose to inquire of the SPEAKER, what was the question upon which the House was to vote?

Mr. C. J. INGERSOLL submitted that the inquiry came too late, a member having already answered to his name.

The SPEAKER restated the question.

And the roll having been called through, the vote resulted—yeas 85, nays 76—as follows:

YEAS—Messrs. Barrow, Bayly, Bedinger, Bingham, Bocock, Bowlin, Brady, Bridges, William G. Brown, Charles Brown, Burt, Canby, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Williamson R. W. Cobb, Cummins, Darling, Dickey, Dickinson, Alexander Evans, Featherston, Ficklin, Fisher, French, Fries, Fulton, Goggin, Green, Greeley, Willard P. Hall, Hammons, Harmanson, Henley, Henry, George S. Houston, Hubbard, Hudson, Inge, Irvin, Iverson, Jameson, Andrew Johnson, George W. Jones, Kaufman, Kennon, Lahm, La Sère, Sidney Lawrence, McClernand, McDowell, Job Mann, Horace Mann, Miller, Morris, Morse, Newell, Palfrey, Peaslee, Petrie, Petrit, Peyton, Richey, Rockhill, Rose, Sawyer, Sheppard, Robert Smith, Stanton, Starkweather, Charles E. Stuart, Thomas, James Thompson, Robert A. Thompson, Tompkins, Tuck, Turner, Venable, Wallace, Warren, Wentworth, Wick, Williams, and Wilmot—85.

NAYS—Messrs. Abbott, Adams, Ashmun, Barringer, Blackmar, Boyd, Boydon, Albert G. Brown, Buckner, Butler, Cathcart, Clingman, Cocke, Collamer, Conger, Cranston, Crowell, Crozier, Dixon, Dunn, Edwards, Embree, Nathan Evans, Faran, Farrelly, Flournoy, Gaines, Gentry, Gott, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Hill, Elias B. Holmes, John W. Houston, Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, James H. Johnson, John W. Jones, Daniel P. King, Lincoln, McClelland, McLane, Marsh, Marvin, Morehead, Mullin, Peck, Pollock, Preston, Putnam, Richardson, Robinson, Julius Rockwell, John A. Rockwell, Roman, Rumsey, St. John, Schenck, Silvester, Smart, Caleb B. Smith, Truman Smith, Stephens, Strong, Taylor, Richard W. Thompson, John B. Thompson, Thurston, Toombs, Van Dyke, Vinton, White, and Wilson—76.

So the House decided that the question raised by Mr. TURNER should be entertained as a question of privilege.

Mr. TURNER expressed his acknowledgments to the House for sustaining his question of privilege, and said he considered it a matter of considerable moment when an individual was charged with peculation of any kind, whether the charge was intended to injure him at the time or at some subsequent time, to be allowed an opportunity of exculpating himself.

He now wished to call the attention of the House particularly to these charges made by the editor of the New York Tribune, most, if not all of which charges he intended to show were absolutely false; and that the individual who had made them had either been actuated by the low, groveling, base, and malignant desire to represent the Congress of the nation in a false and unenviable light before the country and the world, or that he had been actuated by motives still more base—by the desire of acquiring an ephemeral notoriety, by blazoning forth to the world what the writer attempted to show was fraud. The whole article abounded in gross errors and willfully false statements, and was evidently prompted by motives as base, unprincipled, and corrupt as ever actuated an individual in wielding his pen for the public press. He would read one extract from the editorial article introductory to the list of the members who appeared to be shown up:

"Let no man jump at the conclusion that this excess has been charged and received contrary to law. The fact is otherwise. The members are all honorable men—if any irreverent infidel should doubt it, we can silence him by referring to the prefix to their names in the newspapers—and we presume each has charged just what the law allows him."

Could any man (asked Mr. T.) mistake the character of an article which set out with language like that?

He was speaking of the editor of the Tribune—it made no matter who that man was—whether the people had elected him by their suffrages to take a seat on this floor, or whether he was an individual sitting behind a desk in the city of New York. He should speak of the publication and of its author with the same freedom, whatever position he might occupy. He had only to say, that when that article was penned, the individual who wrote it was either ignorant, grossly ignorant, of the facts of which it treated, or willfully, corruptly lied from beginning to end. He had charged him (Mr. T.) with an overcharge of mileage to the amount of $998; and the article stated that he (Mr. T.) resided, by the most direct route, eight hundred miles from Washington. Now, it was known to every gentleman on this floor that he resided in the extreme Northwest; that until Iowa and Wisconsin were admitted, his district was the extreme northwestern corner of the Union; and that by an air line, it was over eight hundred miles from Washington. He said further, that there was not a merchant, not an individual, who traveled by public conveyance from his part of the country to Washington, Baltimore, Philadelphia, or New York, that could come by any different route, unless he took his knapsack on his back and swam rivers and waded marshes, to come by an air line, and then it would fall little, if any, short of a thousand miles. But there was no public conveyance, no stage-coaches, no railroads or steamboats, by which any man, from the town in which he resided, could reach the seat of Government without traveling over two thousand miles. Perhaps the gentleman (he begged pardon) or rather the individual, perhaps the *thing*, that penned that article was not aware that his (Mr. T.'s) portion of the country was not cut up by railroads and traveled by stage-coaches and other direct means of public conveyance, like the omni-

busses in the city of New York, between all points; they had no other channel of communication except the mighty lakes or the rivers of the West; he could not get here in any other way. The law on the subject of mileage authorized the members to charge upon the most direct usually-traveled route. Now, he ventured the assertion, that there was not an individual in his district who ever came to this city, or to any of the northeastern cities, who did not come by the way of the lakes or the rivers.

Further: this charge was made in this article directly upon the members. The gentleman from Indiana [Mr. HENLEY] had principally anticipated what he had intended to say on this point, viz: that the whole subject of allowance of mileage was, by the rules, referred to a committee of this House, who decided the amount to which each member was entitled. The members themselves did not charge. No man, perhaps, had ever charged his mileage. He knew how it had been in his own case. He had furnished the committee Mitchell's "Traveler's Guide;" had told them that he had not made the computation, but he believed the distance he traveled (by the nearest usually-traveled route) was over two thousand miles; and the committee had made their calculation upon the authority of Mitchell's "Traveler's Guide." Was there any other mode by which the Committee on Mileage could arrive at the truth in regard to the matter?

Mr. GREEN said he was a member of the Committee on Mileage, and as the chairman was not present, he felt called upon, with the leave of the gentleman from Illinois, to state the process by which that committee made their estimates of what each member was entitled to.

The SPEAKER interposed, and said the gentleman could proceed only by general consent.

No objection being made—

Mr. GREEN said, the Committee on Mileage had their duty pointed out by a rule of this House. That duty was, "to ascertain and report the distance to the Sergeant-at-arms for which each member should receive pay."

In order to ascertain the number of miles for which the members should receive pay, they must first look at the law. That provided that members of Congress should receive a certain amount—$8 for every twenty miles travel upon the usually-traveled routes. This was the law which controlled the matter. There were, then, two questions of fact to be determined: first, what was the usual route? and second, what was the distance to be traveled by pursuing that usual route? The House would readily perceive, that in order to ascertain these two questions of fact, evidence must be before the committee. Whence was this evidence to come? It had been the custom for the committee, he believed, time out of mind, to call upon the members themselves for evidence as to their own case; if this was the only evidence before the committee, they were governed by it exclusively; but if there was other evidence, they compared the one with the other, and drew such conclusions as seemed warranted by all the evidence before the committee. If the "usually-traveled" route was the post route, they ascertained the distance, by obtaining the certificate of the Postmaster General; if the member's residence was a distance from where any post route run upon which he could travel, they ascertained, from the member himself or from other sources, that distance, and added it to the certified distance of the Postmaster General. If the route was not a post route, but a great public highway, they had to rely upon general information as to the distances, and they frequently referred for aid to publications of an authentic character. But there were cases in which the committee relied exclusively upon the evidence of the member; and while gentlemen sought to exculpate themselves from the charge, and throw the whole responsibility upon the committee, he begged to make this remark: so far as the committee were responsible for having passed upon and allowed unjust claims, let the responsibility be thrown upon them; if they had done wrong in not subpœnaing witnesses, &c., let them bear that wrong. In some cases they might have been too liberal; if so, let them bear the responsibility.

He did not understand that the editor of the Tribune had charged fraud upon the members of the House, in illegally drawing from the treasury the amounts of mileage which they received; but he understood his design to be, to show the necessity of a change in the law. He did not charge, as he (Mr. G.) understood, that the law had been improperly executed; if he did, he certainly was grossly mistaken; if he undertook to say that the law did not justify and make it the duty of the Committee on Mileage to make the allowances which were made, he certainly construed the law very differently from the manner in which he (Mr. GREEN) construed it, and in which the Committee on Mileage construed it.

Mr. VINTON rose to a point of order; and insisted, that although this was a question of privilege so far as the member was concerned, and although it was entitled to be heard in preference to any other, still a resolution or a proposition should be submitted to the House before it could be debated. There was no proposition—no question before the House; and he made the point of order, that the debate could not proceed until a motion or a proposition was submitted to the House for their consideration.

The SPEAKER said he was of the opinion that the gentleman from Illinois [Mr. TURNER] might be called to submit some proposition. It had been usual, however, when a member rose to a question of privilege, to allow him to state his case, make his argument, and submit his proposition at the close of his remarks.

Mr. TURNER (resuming) said he had a proposition ready; but he wished first, as the gentleman from Missouri had explained the action of the committee, and put something of a different construction upon the article in the paper from that which he (Mr. T.) had been led to give it, to read a further extract or two from that article, to show what was its character. It would be seen that the editor of this paper had had an immense amount of trouble—he had laid awake nights, and written by moonlight, he supposed—for the purpose of laying this whole matter before the world. He said in the commencement:

"The following transcripts of the *mileage*, or compensation of members of the present Congress for traveling to and from Washington by reason of their attendance at the last session, has been obtained and prepared for *The Tribune, not without considerable delay and difficulty.* The schedule of the House was open to us, and no objection made to its use; but the Secretary of the Senate refused to permit a transcript of the mileage of that illustrious body to be taken, *even on the requisition of a member of the House;* and we were constrained to apply to the Secretary of the Treasury, *certifying that it was wanted as the basis of action in the House;* and then our reporter was tossed about from bureau to bureau of the Treasury buildings for some time before he could obtain a sight of the document in question. But we have it at last."

"*Even on the requisition of a member of the House!*" Ay, some "honorable" gentleman had been engaged in this! Some gentleman with a "prefix" to his name. And he was "constrained to apply 'to the Secretary of the Treasury, certifying that '*it was wanted as the basis of action in the House.*'" Had the House asked the Secretary of the Treasury for any information on this matter? Did they want any "basis" of the kind? or had the reporter or editor of the Tribune taken upon himself the arduous and difficult duty? He stated that he had been obliged first to go to the Clerk of the House, then to the Sergeant-at-arms, then to the Secretary of the Senate, then to the Secretary of the Treasury, for the purpose of obtaining this information as the basis of some action of this House. He must be a patriotic man, indeed!

He wished now to read another extract, to show that this editor was exceedingly patriotic, that he did not wish to injure any live man, especially a member of Congress. Perhaps he was under the influence of the sublime doctrines of Fourrierism, that would destroy all the forms of society; that would mix up men, women, and children, Indians, negroes, mulattoes, and whites, in one conglomerated mass; that would break down all laws, and all the salutary restraints of society as at present organized; perhaps motives of this kind actuated the individual who penned these lines; he (Mr. T.) would not charge him by any means with wishing to injure the character of any member in this House, especially of the gentleman from Louisiana, [Mr. MORSE;] but he would read another paragraph from the same article:

"We have heard it affirmed that one at least of the Louisiana members charges from his residence down the Red river to the Mississippi, down the Mississippi to New Orleans, thence *back up that same Mississippi* by the mouth of Red river to the Ohio, and so up to Wheeling, and by Baltimore to Washington. Should not this be corrected?

Mr. MORSE satd he represented the Red river district, but he did not travel a foot upon the Red river, either going up or down; nor did he charge for any such travel.

Mr. TURNER said, of course the gentleman who represented the Red river district must be involved, and he left it for the gentleman to settle that matter.

He did not know (he said) but he was engaged in a very small business. A gentleman near him suggested that the writer of this article would not be believed anyhow; that therefore it was no slander. But his constituents, living two or three thousand miles distant, might not be aware of the facts, and therefore it was that he had deemed it necessary to repel the slanderous charges and imputations of fraud, so far as they concerned him.

He did not feel disposed to pursue this matter, so far as words were concerned. He had risen particularly to propose some action of the House in regard to this matter, because one of two things was apparent to the American people: either that every member on this floor was an arrant thief, and (addressing the Speaker) yourself among the number—for you are charged with the petty larceny of $14 50—or that the writer of that article had basely, falsely, knowingly, willfully, undertaken to cast a slander upon this House, in the face of the American people and the civilized world.

Mr. T. concluded by offering the following resolution:

Resolved, That the Committee on Mileage be instructed to inquire into, and to report to this House whether, during the present Congress, any greater amount of mileage has been drawn from the treasury by any one or more of the members of this House than he was entitled to by law; and if so, by whom so drawn, and to what amount. Also, that said committee report to this House by what rule the mileage in every case is computed, by whom the claim for it is allowed, and upon what evidence allowed.

Resolved, secondly, That a publication made in the New York Tribune, on the —— day of December, 1848, in which the mileage of the members is set forth and commented on, be referred to the same committee, with instructions to inquire into, and report whether said publication does not amount, in substance, to an allegation of fraud against most of the members of this House in the matter of their mileage; and if, in the judgment of the committee, it does amount to an allegation of fraud, then to inquire and report if that allegation is true or false.

Resolved, That said committee have power to send for persons and papers.

The resolution having been read—

Mr. T. demanded the previous question, but subsequently withdrew the motion.

Mr. EVANS, of Maryland, renewed it.

Mr. GREELEY gave notice that when this resolution was disposed of, he should rise to a privileged question.

Mr. THOMPSON, of Indiana, moved that the resolution be laid on the table.

The yeas and nays were asked and ordered; and, being taken, were—yeas 28, nays 123—as follows:

YEAS—Messrs. Abbott, Ashmun, Boydon, Canby, Cranston, Dickey, Garnett Duncan, Nathan Evans, Farrelly, Fisher, Gaines, Giddings, Hale, Hudson, Hunt, Morehead, Mullin, Palfrey, Root, Schenck, Stephens, Thibodeaux, Richard W. Thompson, Thurston, Toombs, Van Dyke, Warren, and White—28.

NAYS—Messrs. Adams, Barringer, Barrow, Bayly, Bingham, Bowlin, Boyd, Brady, Bridges, William G. Brown, Charles Brown, Albert G. Brown, Burt, Butler, Calhcart, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Williamson R. W. Cobb, Cocke, Collamer, Conger, Crowell, Crozier, Cummins, Darling, Dickinson, Dixon, Daer, Dunn, Edwards, Embree, Alexander Evans, Faran, Featherston, Ficklin, Flournoy, French, Fries, Fulton, Goggin, Gott, Green, Greeley, Grinnell, Willard P. Hall, Nathan K. Hall, Hammons, James G. Hampton, Harmanson, Henley, Henry, Hill, Elias B. Holmes, George S. Houston, John W. Houston, Hubbard, Inge, Charles J. Ingersoll, Irvin, Iverson, Jameson, Andrew Johnson, James H. Johnson, George W. Jones, John W. Jones, Kaufman, Kellogg, Kennon, T. B. King, D. P. King, Lahm, La Sere, S. Lawrence, Lincoln, McClelland, McClernand, McDowell, McLane, Job Mann, Horace Mann, Marsh, Marvin, Miller, Morris, Morse, Newell, Peaslee, Petric, Pettit, Peyton, Pilsbury, Pollock, Preston, Richey, Robinson, Rockhill, Julius Rockwell, Roman, Rose, Ramsey, St. John, Sawyer, Shepperd, Silvester, Smart, Caleb B. Smith, Truman Smith, Stanton, Starkweather, Charles E. Stuart, Strong, Tallmadge, Taylor, Thomas, James Thompson, John B. Thompson, Robert A. Thompson, Tompkins, Turner, Venable, Vinton, Wallace, Wentworth, Wilmot, and Wilson—128.

So the House decided that the resolution should not be laid on the table.

And the question recurring on the demand for the previous question—

Mr. FRIES inquired of the Speaker whether the question was susceptible of division?

The SPEAKER said that the question could be taken separately on each resolution.

A number of members here requested Mr. EVANS to withdraw the demand for the previous question.

Mr. EVANS declined to withdraw the motion, and desired to state the reason why he did so. The reason was, that the gentleman from New York [Mr. GREELEY] had spoken to an audience to which the members of this House could not speak. If the gentleman wished to assail any member of this House, let him do so here.

The SPEAKER interposed, and was imperfectly heard, but was understood to say that it was out of order to refer personally to gentlemen on this floor.

Mr. EVANS said he would refer to the editor of the Tribune, and he insisted that the gentleman was not entitled to reply.

[Loud cries from all parts of the House, "Let him speak," with mingling dissents.]

The question was then taken on the demand for the previous question,

But the House refused to second it.

Mr. GREELEY, after alluding (in a manner not heard by the reporter) to the comments that had been made upon the article in the Tribune relative to the subject of mileage, and the abuses which had notoriously been practised relative to it, said he had heard no gentleman quote one word in that article imputing an illegal charge to any member of this House, imputing anything but a legal, proper charge. The whole ground of the argument was this: Ought not the law to be changed? Ought not the mileage to be settled by the nearest route, instead of what was called the usually-traveled route, which authorized a gentleman coming from the centre of Ohio to go around by Sandusky, Albany, New York, Philadelphia, and Baltimore, and to charge mileage upon that route. He did not object to any gentleman's taking that course if he saw fit; but was that the route upon which the mileage ought to be computed?

Mr. TURNER interposed, and inquired if the gentleman wrote that article?

Mr. GREELEY replied, that the introduction to the article on mileage was written by himself; the transcript from the books of this House and from the accounts of the Senate was made by a reporter, at his direction. That reporter, who was formerly a clerk in the Post Office Department, (Mr. Douglass Howard,) had taken the latest book in the department, which contained the distances of the several post offices in the country from Washington; and from that book he had got—honestly, he knew, though it might not have been entirely accurate in an instance or two—the official list of the distances of the several post offices from this city. In every case, the post office of the member, whether of the Senate or the House, had been looked out, his distance as charged set down, then the post office book referred to; and the actual, honest distance by the shortest route set down opposite, and then the computation made how much the charge was an excess, not of legal mileage, but of what would be legal, if the mileage was computed by the nearest mail route.

Mr. KING, of Georgia, desired, at this point of the gentleman's remarks, to say a word; the gentleman said that the members charged; now, he (Mr. K.) desired to say, with reference to himself, that from the first, he had always refused to give any information to the Committee on Mileage with respect to the mileage to which he would be entitled. He had told them it was their special duty to settle the matter; that he would have nothing to do with it. He therefore had charged nothing.

Mr. GREELEY (continuing) said, he thought all this showed the necessity of a new rule on the subject, for here they saw members shirking off, shrinking from the responsibility, and throwing it from one place to another. Nobody made up the account, but somehow an excess of sixty or seventy thousand dollars was charged in the accounts for mileage, and was paid from the treasury.

Mr. KING interrupted, and asked if he meant to charge him (Mr. K.) with shirking? Was that the gentleman's remark?

Mr. GREELEY replied, that he only said that by some means or other, this excess of mileage was charged, and was paid by the treasury. This money ought to be saved. The same rule ought to be applied to members of Congress that was applied to other persons.

Mr. KING desired to ask the gentleman from New York if he had correctly understood his language, for he had heard him indistinctly? He (Mr. K.) had made the positive statement that he had never had anything to do with reference to the charge of his mileage, and he had understood the gentleman from New York to speak of shirking from responsibility. He desired to know if the gentleman applied that term to him?

Mr. GREELEY said he had applied it to no member.

Mr. KING asked, why make use of this term, then?

Mr. GREELEY'S reply to this interrogatory was lost in the confusion which prevailed in consequence of members leaving their seats and coming forward to the area in the centre.

The SPEAKER called the House to order, and requested gentlemen to take their seats.

Mr. GREELEY proceeded. There was no intimation in the article that any member had made out his own account, but somehow or other the accounts had been so made up as to make a total excess of some $60,000 or $70,000, chargeable upon the treasury. The general facts had been stated, to show that the law ought to be different, and there were several cases cited to show how the law worked badly; for instance, from one district in Ohio, the member formerly charged for four hundred miles, when he came on his own horse all the way; but now the member from the same district received mileage for some 800 or 900 miles. Now, ought that to be so? The whole argument turned on this: now, the distances were traveled much easier than formerly, and yet more, in many cases *much* more, mileage was charged. The gentleman from Ohio who commenced this discussion, had made the point that there was some defect, some miscalculation in the estimate of distances. He could not help it; they had taken the post office books, and relied on them, and if any member of the press had picked out a few members of this House, and held up their charges for mileage, it would have been considered invidious.

Mr. TURNER called the attention of the member from New York to the fact, that the Postmaster General himself had thrown aside that post office book, in consequence of its incorrectness. He asked the gentleman if he did not know that fact?

Mr. GREELEY replied, that the article itself stated that the department did not charge mileage upon that book. Every possible excuse and mitigation had been given in the article; but he appealed to the House—they were the masters of the law—why would they not change it, and make it more just and equal?

Mr. SAWYER wished to be allowed to ask the gentleman from New York a question. His complaint was, that the article had done him injustice, by setting him down as some 300 miles nearer the seat of Government than his colleague [Mr. SCHENCK] was, although his colleague had stated before the House, that he [Mr. SAWYER] resided some 60 or 70 miles further.

Now, he wanted to know why the gentleman had made this calculation against him, and in favor of his colleague?

Mr. GREELEY replied, that he begged to assure the gentleman from Ohio that he did not think he had ever been in his thoughts from the day he had come here until the present day; but he had taken the figures from the post office book, as transcribed by a former clerk in the Post Office Department.

Mr. SAWYER said, if the gentleman had been as particular when he made out the statement as he was now, he (Mr. S.) would have been saved this trouble. But the article, whether intentionally or not, had done him injustice, and therefore he had felt bound to call the attention of the House to the fact.

Some conversation (which was too indistinctly heard to be minutely reported) here took place between Mr. GREELEY and Mr. TURNER, with reference to the shortest distance of the latter gentleman's residence from the seat of Government; Mr. TURNER stating, that by an air line the distance was greater than it had been put down in the newspaper article in question, and repeating that the only modes of conveyance from his residence were by the lakes or by the rivers; and Mr. GREELEY stating that General Dodge, of Iowa, who had just taken his seat in the Senate, had come by another and more direct route; to which Mr. TURNER replied that General Dodge resided three hundred miles below him, and consequently he could take the southern route, while he (Mr. T.) could not.

Mr. HOUSTON, of Delaware, said: May I ask the gentleman from New York a single question? I wish to know what is meant by the "nearest mail route:" whether by it is meant the nearest route by which the mails of the United States are actually transported from this city to the place of the residence of a member. If so, and if this is to be the standard by which the mileage of a member is to be ascertained and graduated, as seems to be contemplated by the honorable gentleman, then injustice has been done to me in the publication alluded to; because the route by which my mileage is charged, is the only route by which the mails are conveyed from this place to the place of my residence in Delaware, and which is full two hundred miles, I believe. It is the only route by which the mails are sent from the city of Washington to that place, and it is the identical route by which I travel when coming to and returning from this city. I would also inform the gentleman, that it is not only the "usual route" traveled between the two points, which is the route very properly provided for in the law as the distance for which mileage is to be allowed, but it is the route invariably traveled by all who have occasion to visit the capital from that place. There may be some shorter route between the two points, but of this I know nothing; all I can say is, that it is not the route by which the mails are transmitted between the two places, nor is it the route that is ever traveled by the public passing to and from the same points; and yet I stand charged, with other gentlemen, in the article referred to, with an excess of mileage over and above what the law ought to allow by some other route.

Mr. GREELEY said, it must be obvious that no gentleman could go around inquiring into the mail routes, and guessing whether the distance of the residence of each member ought to be computed as great as it was put down in the post office book. All that he could do, was to direct the official list to be taken; he had made no alterations in it.

He had felt it his duty to call the attention of the House and of the country to these abuses which existed in reference to the allowance of mileage to members of Congress. They were certainly gross abuses, and ought to be corrected. There was no imputation in the article upon any member, that he had made illegal charges; but arguments and facts had been brought forward to show the necessity of altering the law.

Mr. MILLER demanded the previous question, which was seconded.

And the main question was ordered to be now taken.

Which main question was on the adoption of the resolution.

Mr. LINCOLN called for a division of the question, so that it should be taken on the resolutions separately.

And it was accordingly ordered.

The question was then taken on the first resolution, and it was adopted.

On the question of adopting the second resolution,

Mr. COBB, of Alabama, called for the yeas and nays, which were ordered; and being taken, were —yeas 101, nays 43—as follows:

YEAS—Messrs. Adams, Ashmun, Bayly, Bingham, Bowlin, Boyd, Bridges, Charles Brown, Albert G. Brown, Burt, Chase, Franklin Clark, Beverly L. Clarke, Clingman, Williamson R. W. Cobb, Crozier, Cummins, Darling, Dickinson, Daniel Duncan, Dunn, Alex. Evans, Nathan Evans, Featherston, Ficklin, Flournoy, Fulton, Goggin, Gott, Green, Greeley, Grinnell, Hale, Willard P. Hall, Nathan K. Hall, Hammons, Harmanson, Henley, Hill, Elias B. Holmes, George S. Houston, Hubbard, Inge, Iverson, Jameson, Andrew Johnson, James H. Johnson, George W. Jones, John W. Jones, Kaufman, Kellogg, Keanon, Thomas B. King, Daniel P. King, Lahm, La Sere, Sidney Lawrence, Lord, McClernand, McDowell, McLane, Job Mann, Horace Mann, Marvin, Miller, Morris, Morse, Newell, Peaslee, Peck, Petrie, Peyton, Pilsbury, Pollock, Preston, Putnam, Richey, Rockhill, Rose, Sawyer, Silvester, Smart, Robert Smith, Stanton, Starkweather, Charles E. Stuart, Strong, Taylor, Thomas, James Thompson, John B. Thompson, Thurston, Tompkins, Turner, Venable, Wallace, Wentworth, Wick, Wilmot, Wilson, and Woodward—101.

NAYS—Messrs. Barringer, Barrow, Blackmar, Boydon, Brady, Butler, Canby, Cathcart, Clapp, Cocke, Collamer, Conger, Cranston, Dickey, Duer, Garnett Duncan, Edwards, Embree, Faran, Farrelly, Fisher, Gaines, Giddings, James G. Hampton, Henry, Hudson, Irvin, Lincoln, McClelland, Morehead, Mullin, Robinson, Julius Rockwell, Roman, Root, Rumsey, Shepperd, Stephens, Tallmadge, Tuck, Vinton, Warren, and White—43.

So the second resolution was adopted.

The question was then taken on the third resolution, and it was rejected.

Whereupon, the House adjourned.

SELECT COMMITTEES.

The SPEAKER announced the following:

Relative to draining and reclaiming the swamps and submerged lands in the States of Missouri and Arkansas, viz:

Mr. Bowlin, Mr. Jacob Thompson, Mr. Garnett Duncan, Mr. Bridges. Mr. Rose,

On revising the Penitentiary laws of the District of Columbia, viz:

Mr. Horace Mann, Mr. Crisfield, Mr. Boydon, Mr. Thomas, Mr. Meade, Mr. Embree, Mr. Tallmadge, Mr. Lahm. Mr. James Thompson,

On erecting a marble column at York, Virginia, in commemoration of the surrender of Earl Cornwallis to his Excellency General George Washington, viz:

Mr. Goggin, Mr. Featherston, Mr. Belcher, Mr. La Sere, Mr. Peaslee, Mr. Faran, Mr. Peck, Mr. Daniel Duncan, Mr. Abbott, Mr. Buckner, Mr. Cranston, Mr. Crozier, Mr. Dixon, Mr. Dunn, Mr. Starkweather, Mr. Lincoln, Mr. Van Dyke, Mr. Phelps, Mr. Wilmot, Mr. R. W. Johnson, Mr. J. W. Houston, Mr. C. E. Stuart, Mr. Ligon, Mr. Cabell, Mr. Donnell, Mr. Kaufman, Mr Simpson, Mr. Wm. Thompson, Mr. John W. Jones, Mr. Darling. Mr. Hilliard,

In reference to railroad or canal across the Isthmus of Panama:

Mr. John A. Rockwell, Mr. Alex. Evans, Mr. R. W. Thompson, Mr. Green, Mr. Robert Smith, Mr. Tompkins, Mr. Hale, Mr. Lynde. Mr. Strong,

IN SENATE.

THURSDAY, *December* 28, 1848.

Mr. HANNEGAN appeared in his seat.

Mr. DOWNS presented the petition of the representative of J. W. Mason, deceased, praying for a right of preëmption; which was referred to the Committee on Private Land Claims.

Mr. D. also presented the petition of Jacob Wilcox, praying the repayment of money advanced to the late Republic of Texas; which was referred to the Committee on Claims.

Mr. DAVIS, of Mississippi, presented the petition of N. B. Hill, praying compensation for the use of a steamboat in transporting United States troops during the Seminole war; which was referred to the Committee on Claims.

On motion of Mr. JOHNSON, of Maryland, the petition of Alexander Murdoch was taken from the files, and referred to the Committee on Finance.

On motion of Mr. JOHNSON, of Maryland, the petition of Henry P. McBlair was taken from the files, and referred to the Committee on Naval Affairs.

Mr. CLAYTON presented the petition of William D. and Julia Achen, representatives of William Yool, deceased, a master's mate in the navy, praying for a pension; which was referred to the Committee on Pensions.

On motion of Mr. CLAYTON, the petition of John A. Rogers was taken from the files of the Senate, and referred to the Committee on Claims.

On motion of Mr. WESTCOTT, the petition of David L. White was taken from the files of the Senate, and referred to the Committee on Commerce.

REPORTS FROM COMMITTEES.

Mr. DOWNS, from the Committee on Private Land Claims, made a favorable report on the petition of John Holden; which was ordered to be printed.

Mr. NILES, from the Committee on the Post Office and Post Roads, to which was referred the bill for the reduction of the rates of postage, reported the same with various amendments; which were ordered to be printed.

RESOLUTIONS.

Mr. BREESE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of so amending the act entitled "An act to raise for a limited time an additional military force, and for other purposes," approved February 11, 1847, as to extend the provisions of the ninth section thereof to the devisees of deceased soldiers.

Mr. BENTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to cause the Senate to be informed of the number of vessels annually employed in the coast survey, and the annual cost thereof, and out of what fund they were paid; also, the number of persons annually employed in the said survey who were not of the army or navy of the United States; also, the amount of money received by the United States for maps and charts made under such survey, and sold under the act of 1844.

STEAMBOAT COMPANY.

The bill in addition to an act entitled "An act to incorporate the Washington, Alexandria, and Georgetown Steamboat Company, was taken up; and,

The question being on the passage of the bill—

Mr. BENTON said that he had, since yesterday, examined the old law, and found that it conferred no privilege on any one. It authorized nothing to be done in any State.

Mr. ALLEN asked for the yeas and nays on the passage of the bill; and they were ordered.

The question was then taken, and decided as follows:

YEAS—Messrs. Atchison, Badger, Baldwin, Bell, Benton, Bradbury, Clarke, Clayton, Corwin, Davis of Massachusetts, Dix, Dodge of Wisconsin, Douglas, Fitzgerald, Fitzpatrick, Hamlin, Houston, Johnson of Maryland, Johnson of Louisiana, Metcalfe, Niles, Phelps, Rusk, Sturgeon, Underwood, and Upham—25.

NAYS—Messrs. Allen, Atherton, Breese, Bright, Davis of Mississippi, Dickinson, Downs, Felch, Hale, Johnson of Georgia, King, Sebastian, Turney, Walker, and Westcott —15.

The bill was then passed.

ELECTORAL VOTE MESSENGERS.

Mr. BRIGHT, pursuant to notice, asked and obtained leave to introduce a joint resolution relating to the compensation of persons bearing the votes for President and Vice President of the United States.

The bill having been read a first and second time—

Mr. BRIGHT moved that the Senate now consider the joint resolution at this time; and the motion having been agreed to—

Mr. BRIGHT stated that previous to last year these messengers had been entitled by law to 25 cents per mile. At the last session, a clause had found its way into the general appropriation bill reducing the rate of mileage to 12½ cents. The change of the law was out of place in an appropriation bill; and he presumed it was an oversight on the part of the Senate. Even 25 cents was less than the service was worth. No gentleman could leave his business and travel to Washington for this small compensation. It was a blow at retrenchment out of place, and on a petty scale.

Mr. JOHNSON, of Louisiana, expressed his belief that if the clause had met the attention of any Senator, it would not have been inserted. He hoped the bill would be passed.

Mr. BREESE said he thought it wrong to change a law in this informal manner. The pay of twenty-five cents per mile had been the pay from the commencement of the Government.

The joint resolution was then considered as in Committee of the Whole, and was then read a third time and passed.

THE PILOT ACT.

The bill to repeal the act of 2d March, 1837, entitled "An act concerning pilots," was taken up; and, on motion of Mr. DIX, was passed over.

SAGINAW INDIAN LANDS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill to provide for the sale of the lands purchased by the United States of the Saginaw tribe of Chickasaw Indians.

Mr. KING remarked, that his main objection to the bill was because of its making provision for the payment of the claims of these individuals out of the public treasury. He thought they should be reimbursed from the proceeds arising from the sale of the lands.

Mr. FELCH. The committee reporting this bill (the Committee on Indian Affairs) reported also the public bill to which the honorable Senator [Mr. KING] has referred, but which was a separate and distinct matter. The honorable Senator [Mr. DOWNS] who reported the bill stated, when the matter was under discussion the other day, that the committee were unanimous in reporting the bill providing for the reduction of the Saginaw lands to the minimum price of Government lands, but that they were not unanimous in regard to this bill for private claims. This claim is one of a large number mentioned in the schedule annexed to the treaty, amounting in the aggregate to $12,000. If this claim shall be allowed, it will stand as a precedent in the settlement of other claims mentioned in the same class in the treaty. It becomes, therefore, a question of some importance to determine the rights of the parties interested in these treaties. I desire to call the attention of the Senate to a brief consideration of these treaties, as far as this question is involved. There are four of these treaties in all, but it will only be necessary to refer to the first two of them.

According to the provisions of the first of these treaties, which was made on the 14th of January, 1837, these Chippewa Indians conveyed to the Government of the United States one hundred and two thousand four hundred acres of land, and the Government, among other things, assumed, as a consideration for this cession, the payment of certain debts incurred by these Indians. The cession of these lands was an absolute, unqualified conveyance; and by the terms of this treaty, it seems to me that the United States undertook, absolutely and without qualification, the payment of these claims. Senators will understand, that under this first treaty, the total amount specified to be paid, in the fourth article of the treaty, is $128,743 75. This sum, within a small fraction, would be equivalent to an allowance of one dollar and twenty-five cents, the regular Government price, per acre, for these lands. Now, the fourth article of this treaty provides for the payment of nine classes of claimants. But there is a distinction made between these several classes. While a certain portion of them were to be paid immediately, another portion were to await the sale of the lands, and were to be paid out of their proceeds. This of Mr. Garrison, together with a portion of the other classes provided for in the fourth article of the treaty, stand on an entirely different basis. By the fifth article of the treaty, the United States were to advance the amount prescribed in the preceding article, for the purchase of goods and provisions; and also enumerates the classes of cases mentioned in the ninth article, which the Government thereby stipulated to pay as soon as practicable. It is evident that a distinction is made in these nine classes, because in enumerating them, six only are particularized. Nine classes of cases were to be paid; but in the fifth article, the United States assumed the immediate payment of only six out of the nine. It was contended the other day, that because the Government were obliged to keep an account of the proceeds of the sales of these lands, therefore the payment of the whole amount of these claims was to be suspended until the proceeds of the sales should be all received, and to be paid only out of those proceeds.

But it will be seen, upon looking at this article of the treaty, that such was not the intention. While the Government was authorized to sell the land, the price was not fixed upon. The lands were to be sold as other public lands, being first exposed at public sale to the highest bidder; and if they brought a higher price, the surplus was to belong to the Indians: and hence the necessity for keeping an account of the sales on the part of the Government. So with regard to the two classes of unsettled claims mentioned in the fourth article—claims for Indian depredations and unliquidated debts—which were not to be paid until their amounts should be severally ascertained; and even then they were not to be paid without the consent of the Indians. Now, suppose the Indians had refused to allow this class of claims, and the land had been sold by the Government, there would have been fifty thousand dollars which the Government would have been compelled to pay to the Indians. The position which seems to me to be the correct one is this: that under this first treaty the class of cases mentioned here is assumed to be paid by the United States; for it is there stipu-

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lated that the advance of money was for the purpose of liquidating these claims. In brief, the Government has received an absolute title to these premises, and in consideration thereof assumed by the treaty the immediate payment of specified debts, leaving other debts to be paid upon the final return of the proceeds of the lands, and the balance of the proceeds, if any, to go to the Indians. This, in my judgment, is the correct view, as presented in the first treaty.

I will now refer to the second treaty; because, if these claims are not to be allowed, it must be in consequence of the provisions of the second treaty restricting the operations of the first treaty; and if such is to be the effect of this treaty, it then becomes simply an arrangement by which the United States were to rid themselves of responsibilities assumed in the first treaty. It seems to me to be a question of some importance whether this Government had the power, without the consent of the claimants, to throw off this responsibility. I do not pretend to be very familiar with treaties of this kind, nor do I know what construction has heretofore been given to a clause by which the United States have assumed a payment to the creditor of the Indian tribe making the cession; but it certainly would not have been competent for the Indians and the Commissioner of the United States to get together and make a new arrangement, by which the interests of third persons secured by the first treaty, could be prejudiced; nor do I perceive how the United States, by a subsequent arrangement, can throw off a responsibility which they have incurred by treaty without the consent of the party interested.

The manner of doing business by the Indian traders, and others who credit the Indians, is well known. They never leave the tribe until they are secured in their rights. They rely for payment on the proceeds of the chase and amounts assumed by Government on the cession of lands of the tribe. When, upon such cession, the Government by treaty undertakes the payment of such claim, the creditor pursues it no further. This is sufficient for him. It is written in the treaty, and is as secure as any other acknowledged indebtedness of the Government.

Claims thus allowed on Indian treaties are also the subject of assignment by the individual to whom it is to be paid. The claim provided for in this bill has been so assigned. Can the Government, by a second treaty abrogating the liability assumed by the first, thus defeat the rights of the innocent assignee of the claim? To do so, would be rank injustice. It would be to permit the Government to assume a debt in one instrument, and to repudiate it by another, and that without the consent of the person interested.

In many of the Indian treaties the creditors of the tribe are compensated for their claims by the reservation of lands for their benefit. If this treaty had given lands to the creditor instead of a promise to pay the debt due him, it would hardly be contended that a second treaty, made without his consent, could defeat his title. His right to the land and his title in it would become perfect the moment the first treaty was ratified. Such titles have often become the subject of judicial investigation, and have always been held good. A second treaty could no more defeat the title than a second deed could defeat a prior conveyance by an individual grantor. The first treaty gives rights that cannot be resumed without the consent of the party interested. I do not see why the absolute undertaking of the Government to pay the debt of the creditor is not equally conclusive. It is a question whether the Government have in fact undertaken by the second treaty to defeat the operation of the first treaty upon these claims.

The third article of this treaty provides that nothing embraced in the fifth article should oblige the United States to advance out of the treasury, *at that time*, the entire amount appropriated for the payment of the whole of these claims. It then goes on to provide that the seventy-five thousand dollars appropriated by Government, instead of being paid out according to the terms of the first treaty, shall be disbursed by the President, who shall select out of the nine classes of claims embraced in the terms of the first treaty, such of them as in his judgment ought to be entitled to preference, the balance to be paid out of the proceeds of the sales. Now, looking at this section of the treaty, it seems to me to be the design of the Government, not to rid the treasury of the payment assumed by the first treaty, but merely to defer the time of discharging the claims by payment. Ample time has already elapsed for the Government to make the payment of these claims even under the terms of the second treaty. Eleven years have now passed away since the arrangement was made for these payments by the first treaty.

If the construction of the second treaty is such as not merely to defer the time of paying these claims, and it is valid in its operation upon them, then it abrogates entirely in effect the obligations of the first treaty. Not only will this claim, but the whole class to which it belongs, be defeated altogether. The second treaty burdens the property that has been granted with the payment of fifty cents per acre upon all the lands ceded. This will at least be one-half of the whole value of the property. It also gives a preference to this and some other new incumbrance over all the claims mentioned in the first treaty. If this is the true interpretation of the terms of this treaty, it is evident that the arrangements made will wholly defeat the payment of the claims assumed in the first treaty.

If we assume that the Government by its own acts has thus defeated the claims in the first treaty, it was of course done without the consent of the claimants. And how has the Government done it? They have done it by delaying the time for selling these lands—by asking a higher price for them than could be obtained; thus keeping them for years out of the market, and finally, by appropriating the proceeds to other objects than the payment of the debts mentioned in the treaty by which they were ceded. In the report of the committee it is remarked that in the case of a claim, standing upon the ground of that under consideration, if the United States have in any way interfered so as to delay the payment of the claims under the first treaty, that act is of itself a sufficient reason to induce Congress to make a proper compensation to such claimants. Where by the act of the Government the payment is altogether defeated, the case is still stronger. It is not, as it should never be, the object of Government to withhold that which is due to honest claimants. This is, in my opinion, a correct view of the question. This is all I desire to say on this matter. I thought it my duty to say thus much, after having made a brief examination of the treaties since the discussion of the subject a few days since.

Mr. KING. I am sorry to see so little consideration given to a bill of this important character, involving as it does so large an amount of money. For one, I should much prefer that it lie on the table until Senators are prepared to judge correctly of every argument appertaining to its merits. I would be the last man to withhold from an honest claimant what is actually his due; yet with my present views of this case I cannot vote for the bill. I would suggest to honorable Senators the propriety of examining the matter more closely, promising that I will also look more particularly into it. I move that its further consideration be postponed until Tuesday next.

The further consideration of the bill was accordingly postponed.

PRIVATE CLAIMS.

The Senate then proceeded to the consideration of the bill for the relief of John P. Baldwin, owner of the Spanish brig Gil Blas.

Mr. WESTCOTT. If I can secure the attention of the Senate, I will explain in a few words the merits of this bill, which, as I think, fully deserves a favorable consideration at our hands. At the last session of the Senate, when this bill was called up, it was laid on the table upon a motion of my honorable friend from Kentucky, [Mr. UNDERWOOD,] a member of the Committee of Claims, in order that the principle in this case, supposed to be involved in the Center case, might be discussed and decided in the final examination of that bill. The Center case was soon after discussed elaborately, and the Senate decided by two distinct votes in favor of the principle upon which the claim was based. I would, however, state here, that this case should be viewed in a much more favorable light than that of Center. This is the case of an owner of a foreign vessel, the Spanish brig Gil Blas, wrecked on the coast of Florida; the vessel being loaded with lead. Commodore Dallas, who commanded the squadron upon that coast during the Seminole war, hearing of the wreck of this vessel, despatched an officer of the navy, (whose testimony is here on file) to the brig, with an order to have the vessel burnt, fearing that the lead might fall into the possession of the Indians.

Mr. President, in my opinion this case has been hastily reported upon, both by the Senate and House of Representatives, and I would therefore particularly invite the attention of the Senate to facts disclosed in those reports. In the House of Representatives the claim was reported against; but the committee there were satisfied, from the testimony adduced, that if this officer of the navy had not burnt the vessel—in conformity with Commodore Dallas's order—the Indians would have burnt it, and therefore the vessel and cargo of course would have been lost. In the Senate, the committee under whose review the case properly came, upon one occasion reported that the owner was not entitled to the claim, because the officer burnt it unnecessarily, when there was no danger at all to be apprehended from the Indians, and that it was a case of private trespass, for which the Government was not responsible. The last report made by the committee of the Senate was recommitted, and a second report was made, in which the principle of the claim was sustained. The principle involved in this case is as follows: A foreign vessel is wrecked on our coast in a position favorable to the Indians obtaining possession of her cargo, which might be of great use to them in their war with us. She is ordered to be destroyed by a commodore of the United States navy, on the coast of Florida, in order to prevent her falling into their hands. With respect to the value of the vessel, I would say that it has been satisfactorily appraised by respectable merchants, appointed to value her by the circuit court of Florida, as is usual in such cases. Though the reports presented by the different committees on the subject are at variance—one asserting that there was no danger of the vessel falling into the hands of the Indians, and another declaring that if it had, they would have destroyed it—I cannot but think, allowing either statement to be true, that it would be doing great injustice to withhold the value of the property lost—twelve hundred dollars—from the owner.

Mr. HALE. I would inquire of the honorable Senator from Florida whether the Center case became a law at the last session?

Mr. WESTCOTT. I believe not.

Mr. BRADBURY. The bill passed the Senate.

Mr. HALE. If the bill passed, it must have been in a modified form. I know the bill was before us for consideration on several occasions, and that various amendments were offered.

Mr. WESTCOTT. If the honorable Senator from New Hampshire will allow me, I would remind him that I did not urge the Center case as a precedent. This case is a different one from that of Center; and I think, therefore, the honorable Senator from Kentucky misapprehended the principle involved in it when he moved to lay it on the table.

Mr. HALE. I understood the Senator from Florida, when he first addressed the Senate, as advocating the passage of this bill, because of its being a parallel one with Center's—citing Center's as a precedent. I would here remark, in reference to the Center bill, that if it has passed the Senate—so far as I am concerned—it passed very much as the bill granting compensation to the messengers

for bringing on the Presidential votes passed; that is, when a good many Senators knew nothing about it. My impression is, that the bill did not pass the Senate, and I understand from the honorable Senator from Kentucky, that whether it has passed or not, it has not yet become a law. I should be sorry to see this bill presented as analogous in principle to the case of Center, because if it is thus presented I shall be compelled to vote against it. I think it would be as well if the Senator from Florida would allow the bill to lie over until we can examine its merits more particularly.

Mr. WESTCOTT, (in his seat.) I have no objections.

Mr. BADGER. I wish to say, after what has been remarked by the Senator from New Hampshire in reference to the Center case, that I entertain an entirely different opinion from that which he has expressed. I think that the principle upon which that claim was based, viz: that the Government should pay for property destroyed by any of its military officers, for the purpose of preventing it from falling into the hands of the enemy, is a measure of security necessary to efficiency in the military operations of the United States; and that the Government has no moral right, when called upon to pay for property thus destroyed, to reply that if their agents had not destroyed it, it would have fallen into the hands of the enemy and been destroyed by them. I did not understand, from the remarks of the Senator from Florida, what was the peculiarity that distinguished this from the case of Center; but would say, that if it is a parallel case with that of Center's, I am ready now, and will be at any future time, to vote for the bill.

Mr. WESTCOTT. I stated explicitly, in my former remarks, that this was a different case from that of Center's, and I will now show wherein that difference exists. This is not a case (as was that of Center's) in which the property of a citizen of the United States is involved, but one in which the property of a foreigner (a citizen of Spain) is concerned. It is true, since the burning of the property, an American citizen has purchased the claim for restitution, of the Spaniard, who owned the property.

Mr. BADGER. Will the Senator from Florida pardon me for interrupting him a moment? I desired one of the officers of the Senate to inquire as to the final action of the Senate upon the Center case, and he informs me that it passed at the last session.

Mr. WESTCOTT. Before proceeding with my remarks, I ask that the report may be read by the Secretary.

The report was read.

Mr. KING. I would inquire whether the applicant in this case is an American?

Mr. WESTCOTT. He is an American citizen.

Mr. KING. How comes it, then, that he is the owner of a Spanish brig?

Mr. WESTCOTT. I will state for the information of the gentleman the circumstances attending the case. When a vessel is wrecked upon that coast, if the cargo, or any part of it, can be saved by the wreckers, it is carried into Key West, and sold at auction for the benefit of the underwriters, and all parties concerned; and if the vessel itself can be saved, it is treated in the same way. In this case, the vessel was sold by the marshal while the matter was still in process of adjudication, to this gentleman, who paid, I believe, twelve hundred dollars for her. This was a short time previous to her being destroyed.

Mr. KING. There are several points to be observed in reference to this case. In the first place, it seems the vessel was never carried into port. She was condemned while lying on the reef on the coast of Florida; and while remaining in this situation, thus exposed to the action of the waves, and to be depredated upon by the Indians or whites, it seems the vessel was destroyed by order of an officer of the United States. Have we any evidence to show that this vessel ever could have been brought into port? that she was not a total loss? Wreckers are generally very expert in extracting property from perilous positions, and saving it from loss where it is possible to be done, and they have a direct interest in saving as much as can be saved. Where the vessel must necessarily be lost, they save all that they can of the cargo. Now, we should be distinctly informed that such was the condition of the vessel that it might have been saved, if it had not been destroyed by order of the officer. We ought also to be informed in respect to the cargo; whether it was that description of property which could have been saved; and whether, if exposed to the water, it would not be destroyed. All these things ought to have been clearly stated. If the property had been owned by a Spanish subject, we should have had an application from the Spanish Government through their minister, and we should have had a thorough investigation of the subject under a commission, in order that the claimant might be remunerated if entitled to remuneration. Upon the whole, it seems to me to be very doubtful, under every aspect of the case—exceedingly doubtful—whether the Government ought to be called on to make good the loss; there is not by any means sufficient testimony to convince me that the claim ought to be allowed.

Mr. WESTCOTT. The honorable Senator from Alabama is not apprized of all the facts concerning the mode pursued in relation to wrecks. As I stated before, when a vessel is wrecked in the vicinity of Key West, she is taken into Key West in all cases when she could immediately get off the reef, and the cargo sold. With respect to condemnation, there is no such proceeding in the admiralty courts in regard to wrecked vessels. Nor is such proceeding necessary. If the parties are not able to pay the salvage, the vessel is sold.

Mr. KING. Who is it that fixes the amount of the salvage?

Mr. WESTCOTT. The judge of the admiralty court. But that is not the matter about which the Senator makes the difficulty. He says he is not satisfied that the vessel could have been saved, that there is no proof that it could have been saved. But there were several witnesses who testified distinctly and unequivocally that the vessel was in such a position that she could have been got off without difficulty, and that there was no danger to be apprehended from the Indians at all; and that but for the destruction of the vessel by order of the naval officer, the owner could have raised her and obtained the value by a sale of the vessel. Other witnesses differ upon minor points, though none as to the practicability of getting the vessel off, or as to the danger of her being destroyed by the Indians. None of the witnesses say that the pretended hostility of the Indians would have occasioned any risk in getting the vessel off. The question that is made here is with reference to the situation and condition of the vessel, and the manner and form in which the court decided in relation to the value of the vessel. The first proceeding in such cases is by petition to the judge; he appoints respectable and impartial men to appraise the vessel upon oath, and they have here given a true inventory. In that inventory we find that twelve hundred dollars was the valuation fixed upon by the appraisers. If Senators will advert to it they will find that the hull of the vessel was not included in the valuation, but only such portion as every one will see could readily have been saved, such as the anchors, cables, sails, spars, and rigging. This property could have been saved without any difficulty. There are affidavits of respectable witnesses to this effect; but if the Senator desires further time to look into the matter, I am perfectly willing that it should be postponed.

Mr. PHELPS. I hope the honorable Senator will consent that this bill shall lie over.

Mr. WESTCOTT. Certainly I will do so.

Mr. PHELPS. It is by no means a new case, and I recollect on a former occasion making an adverse report in a similar one. I am not now prepared to vote upon it.

The further consideration of the bill was then postponed until to-morrow.

The Senate then proceeded to the consideration of the act for the relief of Hugh Riddle.

The report of the committee which accompanied the bill was read.

Mr. HALE. I know it is an ungracious task to oppose a pension bill; but if the Senate is going to sanction applications of this sort, I know not where we are going to stop. Now, if the report of the committee be true, this man has a right, under the existing law, to receive the amount of his claim; and if there is evidence enough to satisfy the minds of the honorable chairman of the committee and of the members of the committee, who ought certainly to have carefully weighed the evidence, then, beyond all controversy, the Commissioner of Pensions will weigh the same evidence, and come to the same result. And I do think, that so long as we have competent officers and competent laws for all such cases, it is a very dangerous precedent for us to set about overruling and stepping out of the provisions of the law. If there be any merit at all in the case, there is ample provision for it under existing laws, and the Commissioner of Pensions can act without the intervention of Congress.

Mr. JOHNSON, of Louisiana. This bill has passed the House of Representatives, where it was reported upon by a committee in a very full, minute, and satisfactory manner. It is a long time since I have read that report, but I remember that the case was satisfactorily established by the evidence set forth in the report.

Mr. HALE. I desire to ask the honorable Senator whether, if the facts are as stated in this report, the existing laws do not give a remedy?

Mr. JOHNSON. They do not; because there are certain rules established in the Pension Office by which the party applying is required to produce evidence of a particular description; that is, he must produce the testimony of his commanding officer; and the office will receive no other. In this case, the commanding officer is dead. It has been proved by other testimony, to the satisfaction of the committee, that this is a case which ought to be provided for. As I have said, it is some time since I have read the evidence, but I remember that it was considered satisfactory at the time. I certainly think we ought not to allow cases like this to be set aside upon a mere technicality by the Pension Office.

Mr. HALE. I apprehend it will be found that there is no such rule as the Senator supposes enforced at the Pension Office. The Commissioner of Pensions has, as every tribunal ought to have, some rules regulating the business of his office; but when the particular kind of evidence that is required in ordinary cases cannot be procured, the Commissioner, I apprehend, is very far from saying that he will not receive other evidence. I know, from the business transactions that I have had with that office, that no such rigid adherence to an arbitrary rule is allowed to stand in the way of the allowance of a just claim. I know that the Commissioner of Pensions always takes the best evidence that the case admits of. And I do hope that the Senate will not, so long as we have so vigilant and efficient an officer, interpose while the existing law affords ample remedy in all cases which have any real merit. If there be any peculiar difficulty in this case, I hope it will be explained, so that we may understand clearly what it is; and that we shall not be answered by the assertion that there are technical rules, the existence of which prevents justice from being done.

We are told that the Commissioner of Pensions is vigilant; but he is not more so than he ought to be. He allows ten claims for pensions where he should scarcely allow one, such is his desire that no injustice shall be done to any individual. Vigilant as he is, he is not so vigilant as those whom he has to contend with. I do not feel prepared to vote upon this bill, and I think the Senate ought not to act upon it without a report from the Commissioner of Pensions showing the grounds upon which the application was rejected at the Pension Office—showing wherein the evidence before him operated against the claim. I think, without some information of this kind, it would be dangerous for us to interfere. The pension list has been exceedingly enlarged of late; applications are increasing; and, if we go on at this rate investigating claims that have been pronounced upon by the proper officers, we shall have our hands full for thirty years to come.

Mr. JOHNSON, of Louisiana. According to the argument of the Senator from New Hampshire, there is no necessity for Congress to act upon the subject of pensions at all; for that the Commissioner of Pensions has power to dispose of all cases. Now, every case that has come before Congress has first been presented at the Pension Office, and been disallowed. And why have they been disallowed? Because they have strict rules, by which the Commissioner of Pensions is bound, and from the operation of which he cannot relieve himself in any case. He often recommends cases, in which he has not the power to act favorably, to the consideration of Congress; and I have no doubt there is a communication from him in relation to this case.

Mr. HALE. I should be glad to see it.

Mr. JOHNSON. I presume there is one.

Mr. HALE. Let it be read.

Mr. JOHNSON. I did not know that this bill would come up to-day, or I should have been prepared to furnish all the information that may be desired by the Senator from New Hampshire. The report that has been made in the case ought to be sufficient to satisfy every Senator; it refers minutely to all the evidence. I hope the Senator will withdraw his opposition.

Mr. HALE. If there is a communication from the Commissioner of Pensions, I hope that it will be read. [The Secretary could find no such paper.] I understand that there is no such communication in this case.

Mr. JOHNSON. I did not know positively that there was a communication in this case, but I stated that I presumed there was, for such communication generally accompanies every case. I presume, therefore, there has been a communication made, though it be not now in the possession of the Senate; but, at any rate, whether there is any communication or not, there is proof sufficient to show that this individual is entitled to a pension.

Mr. KING. Do I understand the Senator to say there is no communication?

Mr. JOHNSON. I said I presumed there was, but I have not looked through the papers in the case.

Mr. KING. My friend from Louisiana, then, had better let the bill lie over until we ascertain whether there be any such communication.

Mr. JOHNSON. It appears to me that there can be no necessity for further investigation of the case. It has been examined by two committees, and reported upon very minutely and satisfactorily. It is very easy for gentlemen to get up and raise objections, but if we continually procrastinate our business in this way it will never be disposed of. The bill has passed the House of Representatives, and the committee in that House, by whom the case was examined, pronounced it to be a very meritorious case. The applicant was not only wounded, but he was made an invalid for life. It is a very meritorious case.

Mr. KING. I cannot but admire the eagerness with which the honorable Senator from Louisiana advocates every case where a pension is sought to be obtained. But, sir, I think my friend ought not to charge other Senators either with a want of proper liberality towards applicants, or with a want of attention to such cases. If he, the chairman of the committee, is not able to tell us whether any communication from the Pension Office has been made in the case, how can he expect that we should be in possession of the requisite knowledge on the subject? Now, sir, this may be a very meritorious claim; the applicant may have been a very gallant soldier, and may have entitled himself to the bounty of the Government; but in all cases of pensions we should be governed by certain rules, unless where a specific reason is assigned for dispensing with them. For myself, while I am perfectly ready and willing to vote a pension to every soldier who has served his country faithfully in cases where the bounty of the Government has been extended to others, yet I am not ready to vote for this bill without ascertaining why this individual, upon his application being made at the Pension Office, did not receive a pension. I want to know the reason why it was withheld from him.

Mr. JOHNSON. If Senators are not satisfied with the evidence contained in the papers which are produced, it would, I think, be hard to satisfy them. However, I have no objection that it should lie over until to-morrow; but I certainly think it would be better to take the vote upon it at once.

The question being taken, the bill was ordered to a third reading; and, having been read a third time, was passed.

The bill for the relief of Jesse B. Toller came up for consideration; when

Mr. BREESE moved that the bill be postponed indefinitely, giving as a reason, that a general law had already been passed embracing the case.

The Senate then proceeded to consider the bill for the relief of David Penrod; when

Mr. BREESE observed that this bill was also embraced in the same general law; and he would therefore move that it be indefinitely postponed; which motion was agreed to.

The Senate proceeded to the consideration of the act to confirm Elizabeth Burriss, her heirs or assigns, in their title to a tract of land.

Mr. KING observed that it ought to be taken for granted when a case was reported upon unfavorably, there was an end of it. Such had been the general practice. In regard to the present case, he did not think the Senate ought to sanction such a claim at present. At all events, inasmuch as they had authorized suit to be brought in reference to a portion of the same quarter section of land to determine the title, until the proceedings in that suit were concluded, it seemed to him that as prudent men they ought to take no action on the subject, but leave the matter to be decided by the court; and if the decision should be adverse to the individual claiming title, then it would become a question how far they should exercise their liberality in behalf of the present applicant; for the claim in both cases rested upon the same ground. The proceeding upon this bill he regarded as altogether premature. He had very little expectation, however, that anything that he might urge would have any weight.

Mr. DOWNS. The question in regard to this grant was presented many years ago; and Congress decided that in a case like this, where there was *bona fide* proof of settlement, the grant should be confirmed. And they did confirm such claims. And I think that in a matter so small as this, where the equity is so strong in favor of the individual, it ought to prevail.

Since the report was made in the House of Representatives in regard to this case, a similar claim in relation to the same grant has been decided by the court of Louisiana. The court held that the grant was a good and valid one. A trial was had by jury, and they decided that the grant was a good one. It is but a small matter, and the property has been in the possession of the present claimants for more than forty years.

Mr. DAVIS, of Massachusetts. I do not know that I understand the Senator from Louisiana. If I do, he has stated the best reason in the world why the bill should not pass. Here has been a judicial decision declaring that the grant is a good one, and now it is proposed to take possession of another man's land and give it to this individual by act of the Congress of the United States. I understand the Senator to say it is a valid grant.

Mr. DOWNS. If the Senator will allow me, I will state what it was that I said. I said the court had decided that the title of another individual to another portion of the same grant was good.

Mr. DAVIS. I understood the gentleman, so. Perhaps I made the case a little stronger than I ought; but is it not sufficient demonstration to us, that when one portion has undergone judicial investigation, and the title has been established to be good, we ought to be cautious how we proceed? Suppose the question should be raised in the courts as to the title to the very tract that is covered by the bill on your table: is it not plain that the United States, undertaking to convey the property, and to give a good title to the individual, will be bound to support that title? The bill ought to go no further than to concede all the interest which the United States has in the property, and no more.

Mr. JOHNSON, of Louisiana. That is all that it proposes.

Mr. DAVIS. I ask that the bill may be read.

The bill was read by the Secretary.

Mr. DAVIS. Well, it turns out as I supposed. It is an absolute confirmation of the title to this individual. It is not a release of the title of the United States, but an absolute title to the tract of land, a concession of the whole of it. The bill ought to be amended so as to concede nothing but the interest which the United States possesses.

Mr. DOWNS. I have no objection to add a proviso to that effect. I thought it was so expressed in the bill.

Mr. JOHNSON. I was under the impression that it only amounted to a relinquishment of the title of the United States. If it be not so, the bill should be amended.

The bill was amended by adding the words, "s far as the United States has title thereto."

The bill was read a third time and passed.

The Senate proceeded to consider the bill for the relief of James B. Davenport; which having been read—

Mr. DOWNS. A memorial was presented at the last session in relation to the same section of land, and referred to the Committee on Private Land Claims. This morning the committee have reported, directing that Joshua Holden have authority to enter the east half of the southwest quarter of the sixteenth section, &c. I move that the bill be amended by adding this clause.

Mr. BREESE. It will be seen, by looking at the calendar, that this bill is reported from the Committee on Private Land Claims, while the subject embraced in the bill belongs exclusively to the Committee on Public Lands. I should like to hear the report read.

The report was read by the Secretary.

Mr. BREESE. I should like to have time to look into this bill. I see it provides that the grant of the sixteenth section shall not be valid until a majority of the voters of the township shall express their wishes in that behalf. This is a subject which appropriately belongs to the Committee on Public Lands, and it should have been submitted to that committee.

Mr. DOWNS. If the Senator had expressed such a desire last session, it would undoubtedly have been complied with; but as it has been examined by the Committee on Private Land Claims, I think it is sufficient. Cases of a similar nature have been repeatedly referred to that committee, and no objection has ever before been made. I certainly think it is somewhat strange that the gentleman should raise such an objection now. The amendment which I propose makes no difference in the principle of the bill; it only was intended to obviate the necessity for a separate bill. Each of the claimants has acquired title to a small portion of that section of land, and has settled upon his respective portion in good faith, holding it upon the condition that the inhabitants of the township give him the right to hold it; and it seems to me they should be allowed what they ask. This case has been long pending. A great many of these cases were thrown over at the close of the last session; we have now reached them, and I certainly think they ought to be acted upon without further delay.

Mr. BREESE. Neither the ability nor the fidelity of the Committee on Private Land Claims is at all doubted. I have no disposition to question their ability to do justice to any subject; but that is not the question. There are certain classes of cases which ought always to have a similar reference; there are distinctions which should always be preserved. Nor have I dissented from the passage of the bill. I only ask that it may be postponed until I have an opportunity to look into it.

Mr. DOWNS. To that I have no objection.

The further consideration of the bill was postponed until to-morrow.

HOUSE BILLS.

The following bills from the House were severally read a third time and passed:

An act for the relief of Elisha Thompson;

An act for the relief of James P. Sexton;

An act for the relief of Simon Rodrigues.

The Senate then proceeded to consider an act for the relief of Marcus F. Johnson; and, without disposing thereof, on motion,

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 28, 1848.

The Journal of yesterday was read and approved.

The SPEAKER said that the first business in order would be the call of the States and Territories for petitions, (commencing where the call had last been suspended.)

Petitions were presented by Messrs. STUART of Michigan, FRIES, THOMPSON of Pennsylvania, POLLOCK, BUTLER, GREELEY, TUCK, HALL of New York, and CLINGMAN.

When the State of Illinois was called—

Mr. RICHARDSON inquired of the SPEAKER whether it would be in order to present a resolution?

The SPEAKER said it would be in order when the States were called.

Mr. RICHARDSON inquired whether the States would be called for resolutions to-day?

The SPEAKER said, that unless the regular order of business was interrupted, the States would be called.

MILEAGE OF MEMBERS.

Mr. GAYLE said he rose to a question of privilege. He had read in the morning papers a discussion, which occured yesterday, in relation to a statement contained in the New York Tribune, of the excess of mileage pay received at the last session by the members of this House. He was confined to his room by indisposition, and regretted that he could not be present during the discussion. The statement in the Tribune was well calculated to furnish demagogues with a weapon to injure the members of this House.

In relation to himself, he found that the Tribune had put him down as receiving $188 more than his proper mileage would justify.

He begged leave to state to the House that he had never made an inquiry of any person on the subject. He did not know, at this moment, how much he had received for mileage at the last session. It was occasionally drawn in small sums. He was at one time informed by the Sergeant-at-arms, that he had placed his (Mr. G.'s) mileage as it stood with his predecessor. Without further inquiry, he rested satisfied that this was right. Since his attention had been called to the subject, he was satisfied that his mileage pay was too small, and he should apply to the committee to increase it.

APPROPRIATION BILLS.

Mr. VINTON, from the Committee of Ways and Means, reported bills of the following titles, viz:

A bill (No. —) making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1850, and for other purposes;

A bill (No. —) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30, 1850.

Mr. VINTON said it was very important that these bills should be got through with, certainly in the course of the month of January, so that the Senate might have an opportunity to review all the estimates, &c. It would be recollected that all the labors of the Committee of Ways and Means of this House must necessarily undergo the review of the Senate, and it was a work which occupied a good deal of time. He was exceedingly desirous that the appropriation bills should be passed through the House in all January, so that the Senate might have at least the month of February to act upon them. He would therefore move to make these two bills the special order of the day for this day week, so to continue until they should be finally disposed of.

The SPEAKER said it could be done only by unanimous consent.

Mr. GOGGIN suggested that the post office bill had been made the special order of the day for Wednesday next, and he desired to inquire of the SPEAKER whether, if that bill should not be disposed of on that day, it would go over, to make way for the bills reported by the chairman of the Committee of Ways and Means, [Mr. VINTON]?

The SPEAKER was understood to say, that all bills made special orders would retain their places at the head of the calendar, except as against bills of general appropriation.

Mr. GOGGIN. The post office bill would then go over.

After a brief conversation—

Mr. GOGGIN requested the gentleman from Ohio [Mr. VINTON] to withdraw his motion, or to modify it, so as not to interfere with the post office bill.

Mr. VINTON said he had no disposition to interfere with the action of the House on that bill. He was anxious that it should be acted upon. If it should not be disposed of on the day for which it had been made the special order, he should not be inclined to press his bills until that had been disposed of.

And the question being on making the said bills the special order—

Mr. POLLOCK asked the gentleman from Ohio [Mr. VINTON] so to modify his motion as to except Fridays and Saturdays, (being private bill days.)

Mr. VINTON said he had no objection to do so, and he modified his motion accordingly.

The question was then taken, and decided in the affirmative.

So the said bills were made the special order of the day for this day week, and for each succeeding day (Fridays and Saturdays excepted) until finally disposed of.

COLONEL FREMONT'S REPORT.

Mr. BROWN, of Pennsylvania, called up the motion heretofore made by him, to reconsider the vote by which the following resolution had been adopted:

Resolved, That the report of Lieutenant Emory, with the accompanying maps, be bound in one volume; and that the reports of Lieutenant Abert, of Lieutenant Cook, and Captain Johnson, together with a like number of the last report of Lieutenant Colonel Frémont, with the accompanying maps, ordered by the Senate, be bound together in one volume also; and the Committee on Accounts be, and they are hereby, authorized and instructed to contract for the binding of the same.

Mr. BROWN explained that his object was, that the vote should be reconsidered, in order that the resolution might be referred back to the Committee on Printing.

The question was then taken, and decided in the affirmative.

So the vote was reconsidered; and,

On motion of Mr. BROWN, the resolution was referred to the Committee on Printing.

Mr. HUBBARD, from the Committee of Ways and Means, reported the following resolution; which was read and agreed to:

Resolved, That a communication made to the Committee of Ways and Means from the Secretary of War, relative to the settlement of the accounts of Captain M. M. Clarke, with the accompanying papers, be referred to the Judiciary Committee.

REPORTS OF COMMITTEE ON PUBLIC LANDS.

Mr. COLLAMER, from the Committee on Public Lands, reported a bill to grant the right of way across the public lands, and to dispose of said lands in aid of the several States in the construction of railroads and canals; which was read twice, and committed to the Whole House on the state of the Union, and ordered to be printed.

Mr. COLLAMER, from the same committee, to which was referred the bill granting lands to certain States therein named, to aid them in the construction of roads and canals, and the improvement of their rivers, reported the same back to the House without amendment.

[The first section provides, that there shall be granted to each of the States of Michigan, Wisconsin, Illinois, Iowa, Missouri, Arkansas, Louisiana, Alabama, and Florida, for the purpose of aiding said States respectively in making roads, canals, and in improving the navigation of rivers within their respective limits, a quantity of public land equal in amount to the several grants made by Congress to the State of Ohio; the lands to be selected by each of said States, under the authority and by direction of the Governor thereof, from any lands belonging to the United States, subject to private entry at the minimum price, in quantities of not less than one section; the lands to be selected within two years from the passage of the act, and the selection to be reported to the register of the land district in which the land lies; the selection to be confirmed by the Secretary of the Treasury.

The second section provides, that any land heretofore granted to either of the above named States to aid such State in the construction of roads, canals, and the improvement of rivers, whether appropriated to that purpose or by consent of Congress appropriated to any other use, shall be deemed as a part of the grant made to said State by preceding section; and such State shall select, by virtue of this act, such a quantity of land only as will, with lands heretofore granted, amount in quantity to the lands granted to the State of Ohio.

The third section provides, that the lands granted shall be subject to be disposed of by the Legislatures of the said States, for the purposes before mentioned, and for no other use whatever, at a price not less than the minimum price of the public lands subject to private entry; and that the said States shall have power to grant titles in fee simple to purchasers of said lands.]

Mr. COLLAMER, under the instructions of the Committee on Public Lands, moved to lay the bill on the table.

Mr. WENTWORTH called for the reading of the bill; which was read.

He inquired if the bill had ever been printed; and receiving a negative reply, appealed to the gentleman from Vermont [Mr. COLLAMER] to withdraw the motion to lay on the table, let the bill be printed, and referred to the Committee of the Whole on the state of the Union.

Mr. COLLAMER insisted upon the motion.

Mr. McCLELLAND desired to ask the Chairman of the Committee on Public Lands, who introduced that bill?

Mr. COLLAMER. The gentleman from Ohio, [Mr. VINTON.]

Mr. VINTON said, he had introduced the bill. It was a bill simply proposing to give to the new States of the Union the same quantities of land which had been given to Ohio. It did not propose to give the State of Ohio anything. He was not anxious about the disposition of the bill, although he should be glad to have it go to the Committee of the Whole on the state of the Union, and not be laid on the table.

Mr. McCLERNAND suggested to the chairman of the Committee on Public Lands, that the bill be allowed to be printed, and laid on the table informally.

Mr. COLLAMER inquired, in case debate arose, if the bill did not lie over?

The SPEAKER replied, that the motion to lay on the table was not a debatable question.

Mr. COLLAMER said, he did not know but debate would be allowed, as it was the report of a committee.

The SPEAKER stated, that if the committee had simply reported a recommendation that the bill be rejected, that motion would have been open to debate. The motion to lay on the table, made by the chairman of a committee, however, like any other motion to lay on the table, was not debatable.

Mr. THOMPSON, of Pennsylvania, inquired of the chairman of the Committee on Public Lands, [Mr. COLLAMER,] or of the gentleman who had introduced the bill, [Mr. VINTON,] whether the States which were to be benefited had made application for these lands?

No reply to this interrogatory was heard.

The yeas and nays having been asked and ordered, the question was taken and decided in the affirmative—yeas 93, nays 77—as follows:

YEAS—Messrs. Adams, Bayly, Blackmar, Blanchard, Brady, Bridges, Brodhead, William G. Brown, Burt, Butler, Canby, Chase, Beverly L. Clarke, Clingman, Williamson R. W. Cobb, Cocke, Collamer, Conger, Cranston, Crozier, Cummins, Dickey, Dickinson, Dixon, Duer, Garnett Duncan, Alexander Evans, Farrelly, Flournoy, French, Fries, Fulton, Gentry, Goggin, Greeley, Hale, James G. Hampton, Henry, Hill, Isaac E. Holmes, John W. Houston, Hudson, Joseph R. Ingersoll, Andrew Johnson, James H. Johnson, George W. Jones, John W. Jones, Kellogg, Kennon, T. Butler King, Daniel P. King, Sidney Lawrence, Lord, Lumpkin, McDowell, Job Mann, Marsh, Marvin, Morehead, Mullin, Murphy, Newell, Peaslee, Peck, Petrie, Peyton, Pollock, Preston, Putnam, Julius Rockwell, Roman, Rumsey, St. John, Shepperd, Silvester, Simpson, Smart, Truman Smith, Stanton, Starkweather, Stephens, Strong, Thomas, James Thompson, John B. Thompson, Thurston, Tuck, Van Dyke, Venable, Wallace, Wiley, Williams, and Woodward—93.

NAYS—Messrs. Abbott, Barringer, Bingham, Bowlin, Boyd, Albert G. Brown, Cabell, Cathcart, Darling, Dunn, Embree, Nathan Evans, Faran, Featherston, Ficklin, Gott, Green, Grinnell, Willard P. Hall, Nathan K. Hall, Harmanson, Harris, Henley, Elias B. Holmes, George S. Houston, Hubbard, Hunt, Inge, Charles J. Ingersoll, Jameson, Kaufman, Lahm, La Sère, Leffler, Lincoln, McClelland, McClernand, McLane, Horace Mann, Miller, Morris, Morse, Palfrey, Pettit, Phelps, Pilsbury, Richardson, Richey, Robinson, Rockhill, Rose, Root, Sawyer, Schenck, Slingerland, Caleb B. Smith, Robert Smith, Charles E. Stuart, Tallmadge, Taylor, Thibodeaux, Richard W. Thompson, Tompkins, Turner, Vinton, Warren, Wentworth, White, Wick, Wilmot, and Wilson—77.

So the bill was laid on the table.

Mr. VINTON moved that the bill be printed. Agreed to.

Mr. HALL, of Missouri, moved to reconsider the vote by which the bill had been laid on the table; and, at his suggestion, the motion was informally laid over.

Mr. COLLAMER, from the Committee on Public Lands, to whom was referred the bill in addition to an act entitled "An act in relation to military land warrants," approved August 14, 1848, reported the same back to the House without amendment.

The said bill was ordered to be engrossed and read a third time; and, being engrossed, was accordingly read a third time, and passed.

Ordered, That the Clerk acquaint the Senate therewith.

Mr. EVANS, of Maryland, from the Committee on Public Lands, to whom was referred the bill from the Senate entitled "An act concerning

the school lands in the State of Florida," reported the same back to the House without amendment.

On motion of Mr. EVANS,

Ordered, That the said bill be laid upon the table.

Mr. CABELL moved that the vote by which the foregoing bill was ordered to be laid on the table be reconsidered; which motion to reconsider was postponed for the present.

Mr. HALL, of Missouri, from the Committee on Public Lands, to whom was referred a resolution of the House of the —— instant, directing the said committee to inquire into the propriety of establishing an additional land office in the State of Missouri north of the Missouri river, made a report thereon; which was laid on the table, and ordered to be printed.

REPORT FROM COMMITTEE OF CLAIMS.

Mr. THOMAS, from the Committee on Claims, to whom was referred the petition of George W. Farmer, made an adverse report thereon; which was laid on the table, and ordered to be printed.

LOST HORSES.

Mr. J. R. INGERSOLL, from the Committee on the Judiciary, to whom was referred the bill further to continue in force the acts for the payment of horses and other property lost in the military service of the United States, reported the same back to the House without amendment.

Mr. INGERSOLL briefly explained that the existing acts would expire on the 3d of March next, and that the bill only proposed to continue them in force as they now stood for five years longer. He appealed to the House to allow a bill so necessary as this to pass at once.

The bill having been read through—

Mr. DICKEY said, Congress had passed an act at the last session which made provision for the payment of horses lost, and which had no limitation to its operation—which did not expire with the close of the session. That act came from the Committee on Military Affairs, and provided for the payment of the Texan volunteers, and for other purposes. Every class of claims for horses lost was provided for in that bill; and he thought the Committee on the Judiciary would find, upon examination, that there was a law now in force continuing all the provisions of the act of 1837. He did not see in his seat the gentleman from South Carolina, [Mr. BURT,] who was a member of the Committee on Military Affairs; but he knew that gentleman's recollection would be perfect on that subject—that there was a law now in force which provided for every case, and whose operation was without limitation.

Mr. HALL, of Missouri, said his friend from Pennsylvania [Mr. DICKEY] was right in saying that a bill had passed at the last session of Congress, providing for the payment of all horses lost in the Mexican war. But that gentleman would no doubt remember that that bill was an amendment to the bill which had been passed two years ago, and which expired on the 3d of March next. Upon inquiry at the Third Auditor's office early in the session, he had learned from the Third Auditor that that was the construction which he placed on the act; and owing to the fact of his having received that information from that quarter, he (Mr. H.) had introduced this bill at this session, it being a bill which merely revived the acts which were now in force. All these acts expired on the third of March next, according to the construction of the proper department. He would further remark, that this bill did not add anything to the acts already existing; it merely continued them in force just as they were.

Mr. INGERSOLL said he would remark, with entire respect to his colleague, [Mr. DICKEY,] that the impression of the Committee on the Judiciary, after examination, was exactly that which had been stated by the gentleman from Missouri, [Mr. HALL;] they thought that there would be a defect in the law if the present bill should not be passed. If the gentleman thought that there was anything in it dangerous or supererogatory, he could take exceptions to it.

Mr. DICKEY said that he should prefer that the bill should go over until time had been allowed for its examination, and to see whether the cases contemplated by it had not already been provided for by law. He thought that the bill of the last session continued to provide, without limitation, for every supposable case. If there were any case not provided for by the bill of last year, he was willing to make provision for it. His only objection to the bill was, that it was supererogatory, because there was now a law in force adequate, as he supposed, to meet all cases.

Mr. HALL, of Missouri, was proceeding briefly to state what the action of Congress had been, when—

Mr. J. R. INGERSOLL suggested that it would be agreeable to all parliamentary exaction, and contributory to the end desired by his colleague, [Mr. DICKEY,] as well as by the gentleman on the other side of the House, that the bill should be allowed to pass now; that a motion to reconsider should be entered; and if by to-morrow morning it should appear that the bill should not have been passed, the motion to reconsider could be agreed to.

This suggestion having been assented to—

The bill, by general consent, was ordered to a third reading at this time, and having been read a third time, was passed.

On motion of Mr. J. R. INGERSOLL,

Ordered, That the Committee on the Judiciary, to whom was referred the resolution of the House of the 11th instant, directing said committee to inquire into the propriety of recommending to the States of this Union so to amend the Constitution as to change the mode of electing the President and Vice President of the United States after the year 1850, be discharged from the further consideration thereof, and that the said resolution be laid upon the table.

On motion of Mr. J. R. INGERSOLL,

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the petition of citizens of Newburyport, and others, citizens of Massachusetts, praying that the law may be so amended as to increase the per diem pay and mileage of jurors serving in the courts of the United States, and that said petition be laid upon the table.

ELECTION OF GOVERNMENT OFFICERS.

On motion of Mr. J. R. INGERSOLL,

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the resolution of the House of the 12th instant, directing said committee to inquire into the expediency of passing a law for the election of all officers of the United States Government directly by the people, and that said resolution be laid upon the table.

Mr. WENTWORTH called for the reading of the resolution. He understood that the gentleman from Pennsylvania [Mr. INGERSOLL] had moved to lay the resolution on the table.

The SPEAKER suggested to Mr. INGERSOLL, that the more parliamentary motion would be to ask that the committee be discharged from the further consideration of the subject, and that the report be laid on the table.

Mr. INGERSOLL said, that was the character of the motion he had intended to submit.

The SPEAKER, (addressing Mr. WENTWORTH.) And that motion is not debatable.

Mr. WENTWORTH said he would like to have the yeas and nays upon the motion, and he hoped the House would give them to him.

The SPEAKER said, the question would be on discharging the committee from the further consideration of the subject, and on laying the report on the table.

Mr. WENTWORTH called for tellers on the yeas and nays, but they were refused. And the House refused also to order the yeas and nays.

The question was then taken, and the Committee on the Judiciary were discharged from the further consideration of the subject, and the report was ordered to lie on the table.

HEIRS OF GENERAL KOSCIUSKO.

On motion of Mr. J. R. INGERSOLL,

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the memorial of Vladislaus Wankowiez, grand nephew of General Thaddeus Kosciusko, praying for the passage of a special act of venue, providing for the removal of cases concerning the estate of General Kosciusko from the United States Circuit Court for the district of Maryland, and that the said memorial be laid upon the table.

DEFICIENCY IN APPROPRIATIONS.

Mr. VINTON rose and said, that the bill to supply deficiencies in appropriations for the service of the fiscal year ending on the 30th of June, 1849, having been made the special order for yesterday, he would move that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of proceeding to its consideration.

Mr. V., however, at the request of the Speaker, waived his motion for the moment, to enable

The SPEAKER to present the following Executive communication:

To the House of Representatives:

In compliance with the resolution of the House of the 11th instant, requesting the President to inform that body "whether he has received any information that American citizens have been imprisoned or arrested by British authorities in Ireland; and if so, what have been the causes thereof, and what steps have been taken for their release; and (if not in his opinion inconsistent with the public interest) to furnish this House with all correspondence in relation thereto," I communicate herewith a report of the Secretary of State, together with the accompanying correspondence upon the subject.

JAMES K. POLK.

WASHINGTON, *December* 27, 1848.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a communication from the Commissioner of the General Land Office, enclosing the annual report of the Surveyor General of Louisiana, and accompanying papers; which letter, &c., were referred to the Committee on Public Lands, and ordered to be printed.

Mr. GAYLE, by unanimous consent, obtained leave and introduced a bill granting to the State of Alabama the right of way and a donation of public lands, for making a railroad from Mobile to the mouth of the Ohio river, and for other purposes; which was read twice, and referred to the Committee on Public Lands.

Mr. VINTON now renewed his motion.

And the question was taken thereon, and decided in the affirmative.

So the House resolved itself into Committee of the Whole on the state of the Union—Mr. THOMPSON, of Indiana, in the chair.

Mr. VINTON moved that the Committee proceed to the consideration of the bill making appropriations to supply deficiencies in appropriations for the service of the fiscal year ending on the 30th of June, 1849.

The bill was read through.

Mr. POLLOCK took the floor, with the remark that he had a word to say on the bill.

In reply to a suggestion by the CHAIRMAN, not distinctly heard—

Mr. POLLOCK said that this bill made appropriations to supply certain deficiencies in appropriations. It was his intention to vote for it. He did not propose, by the part he might take on the subject to which he intended to address his remarks, to provoke any discussion which should delay its passage. He hoped it might be passed at the earliest practicable moment.

Mr. VINTON rose to make a suggestion.

Mr. POLLOCK having yielded the floor for the purpose—

Mr. VINTON said that there were several amendments to be offered to the bill from the Committee of Ways and Means; that before the gentleman from Pennsylvania [Mr. POLLOCK] entered into a debate, in which he probably would be followed by others, he (Mr. V.) hoped he would be permitted to offer these amendments; and that, if gentlemen desired to open a general debate, it should be done afterwards. He had hoped that a bill merely designed to supply deficiencies in appropriations—and which, he believed, was all right—might have been disposed of without debate.

Mr. POLLOCK said he had no objection that the amendments referred to by the chairman of the Committee of Ways and Means should be reported.

The CHAIRMAN. Does the gentleman from Pennsylvania yield the floor?

Mr. POLLOCK said, (on consideration,) that the amendments could be offered after he had submitted the few remarks he intended to make.

Mr. VINTON thereupon resumed his seat; and

Mr. POLLOCK continued. The bill, he said, involved appropriations of money; and as a matter of course, the means by which funds were to be raised to meet these appropriations was legitimately the subject-matter of debate. If money was to be appropriated, it was legitimate and proper for this House to inquire by what means that money was to be brought into the treasury.

He had not risen with the intention of entering into a general discussion on the tariff question. If the House had gone into committee for the purpose of resuming the consideration of the President's message, he (Mr. P.) had intended to have submitted his remarks on the question of its reference. He would have advocated and would vote for the reference of so much of the message as related to the finances of the country to the Committee of Ways and Means; believing that up to this period in our history this had been regarded as the appropriate committee. He had no objection to the reference to the Committee on Manu-

factures other than this—that the settled policy of this Government seemed now to be to combine the principles of revenue and protection. The reference to the Committee on Manufactures would seem to separate the question, whilst a reference to the Committee of Ways and Means would obviate that difficulty; and, in the last-named committee, that consideration which its importance demanded would be given to the subject, both as to the question of revenue and the question of protection, which he believed was, and ought to be, the fixed and settled policy of the Government.

No gentleman on this floor was a more firm advocate of the protective policy than he was. And when he voted, as he should vote, for the reference of that portion of the message to the Committee of Ways and Means, and against the reference to the Committee on Manufactures, it was not on account of any opposition he might have to that doctrine. On the contrary, if the question was referred to the Committee of Ways and Means, the effect, as he had no doubt, would be, that a report would be presented to the country, which would investigate the subject in all its length and breadth, and put it in such a form as to establish the principles of those who advocate the protective policy. There was a necessity for this reference. There was a necessity that the subject should be thoroughly examined by some committee or other. When the act of 1846 was passed, the friends of the law of 1842 opposed its passage for many reasons. Among others, the *ad valorem* principle, which had been substituted in lieu of specific duties, was considered an innovation, not only upon the principles which had heretofore controlled the legislation of this country, but of all the civilized countries in the world. No country could be found where a system of *ad valorem* duties prevailed as it did in our own. The friends of the law of 1842 were not only opposed to this innovation, but they said that the law of 1846 was a total abandonment of the protective policy. It was so regarded at the time of its passage. Experience had proved that the fears then entertained were more than realized; for while the revenue had been temporarily augmented, it had been found that the other great principle which had been surrendered in that bill was utterly destroyed, and that, as a consequence, our manufactures had been prostrated with it.

They opposed it not only on the ground of the abandonment of the protective principle, but because the mode of assessment discriminated against the manufactures of the United States. The bill would show that a higher rate of duty was assessed on the raw material than upon manufactured articles; the difference of duty being but a premium to the foreign manufacturer to introduce his wares and merchandise (foreign rivalry, as it was termed in the report of the Secretary of the Treasury) into the United States, and substitute them for the American manufactured article. These discriminations had acted injuriously, and the result would be, that unless the act was repealed, every branch of industry must suffer.

He did not propose to enter upon an elaborate argument to show how these *ad valorem* duties necessarily destroyed the principle of protection. Specific duties, fixed and permanent as they were, operated, under all circumstances, to maintain the industry of the country. But *ad valorem* duties, fluctuating, changeable, fickle as the wind, failed to give protection when protection most was needed, as could be demonstrated in cases without number.

He must confess his surprise that his friend and colleague over the way [Mr. THOMPSON] should a few days since, in the debate on the President's message, have referred to the tariff of 1842 in the terms which he had used. Why, that gentleman and himself, shoulder to shoulder, had battled on this floor in defence not only of the act of 1842, but of the protective policy embodied in it; and when the gentleman had risen and denounced that measure as an odious one, containing within itself the elements of its own destruction, he confessed he was struck with surprise. He knew not how to account for the change which had come over the spirit of the gentleman's dream; certainly there was nothing in the recent events that had transpired in Pennsylvania that could change his sentiments on the protective policy. But political associations often involved gentlemen in strange inconsistences, and it might be, that having attached himself to the fortunes of a party, the gentleman had felt constrained, in consistency with the course of that party, in some degree to violate the doctrines which he himself had laid down. The gentleman's great and paramount objection to the tariff of 1842 was to the minimum principle it contained; yet, at the same time, he advocated the modification of the tariff of 1846, by repealing the *ad valorem* duties so far as related to the protection of coal and iron, and by substituting upon these articles specific duties. The question had been asked his colleague by gentlemen on this floor how he would discriminate between the principles of minimum and specific duties—what was the difference? It was a question which was very properly asked, and his friend had certainly failed to give a very definite or a very satisfactory answer. The difference between minimum and specific duties was, in fact, merely a difference in form, not in substance; the one was an assessment upon a certain fixed quantity; the other was the assessment of a certain *ad valorem* duty upon a determinate value, which was assumed to be fixed: under the minimum principle, twenty cents was taken to be the value of a yard of cotton; a duty of 30 per cent. levied upon that value, made a duty of six cents unchanged and unchangeable.

Mr. HOLMES, of South Carolina, interposed and said, as he had not heard the bill, he desired the gentleman to inform him to what part he was referring—what section it was that treated of *ad valorem* and specific duties? [Laughter.]

Mr. POLLOCK admitted it *was* very difficult to point out the precise section [renewed laughter] to which his remarks were applicable; nevertheless, he believed he was in order according to the usages of the Committee of the Whole on the state of the Union, and he hoped to be excused while he continued the course of remark upon which he had entered.

He proceeded at length to examine and criticise various portions of the annual report of the Secretary of the Treasury, and of the message of the President, as far as it related to the state of the finances, and to point out, in both, what he charged to be serious errors—especially in the statement of the total amount of our importations during the year ending 30th June, 1848. The Secretary, he said, stated that total amount to be $127,490,012, and that the revenue raised thereon was $31,500,000. This was an increase, according to that officer's own reports, in the revenue, of $8,000,000 over the revenue received during the previous year, while the increase of importations was but $11,000,000. An increase of $8,000,000 revenue, and of only $11,000,000 imports! He argued, from the Secretary's own figures, that the revenue of $31,500,000 was raised, not upon $127,000,000, but upon $141,024,844; and thus that the Secretary was in error $13,534,832 in stating the total amount of foreign productions consumed in the country during the year, and per consequence in error when he stated the balance of trade for the year to be in our favor $2,713,697, whereas his own figures showed that it was $10,821,135 against us.

He dealt largely in figures, in his demonstration of the above and other points, and several times gave way to Mr. McLANE, who combated his positions, and vindicated the correctness of the Secretary's report.

[We do not attempt, in this report, to enter into the minute statistical statements of either gentleman, but leave them to be recorded in full in the Appendix.]

Mr. P. then proceeded to argue, by a comparison of the practical operation of the acts of 1842 and 1846, that, as a revenue measure—all things being equal—the act of 1842, in principle and in details, was preferable to the act of 1846, and that, had it not been for extraordinary and exciting circumstances connected with trade, the ruinous effects of the latter would long since have been demonstrated.

At this point in his remarks, he said he would stop. He had not said all he intended to say, but would probably avail himself of some other occasion to do so.

Mr. VINTON repeated, that he had entertained the hope that a bill to supply deficiencies in appropriations for the current year would not have given rise to debate. It was important that it should be speedily passed. There was great pertinence in the inquiry which had been made by the gentleman from South Carolina [Mr. HOLMES] of the gentleman from Pennsylvania, [Mr. POLLOCK,] when he (Mr. H.) desired to be informed what part of the bill he was speaking to.

This subject of the tariff had been opened by the gentleman from Pennsylvania. It was a very broad one, and if entered upon, would be debated here—so far as could be conjectured—for weeks. There would be other occasions on which gentlemen could debate the subject, and the report of the Secretary of the Treasury. It was already before the Committee of Ways and Means; and to put a stop to this debate—which, if it proceeded further, bid fair to be a debate without limit—he would, for the purpose of getting the bill through with some amendments which ought to be acted upon immediately, move that the committee rise, with a view of enabling him to offer a resolution in the House to stop debate.

The question was taken, and the motion was agreed to.

So the committee rose and reported progress.

Mr. VINTON offered a resolution in the usual terms, providing that all debate on the said bill should cease, in Committee of the Whole on the state of the Union, in five minutes after it should again have been taken up, and that the committee should then proceed to vote on all amendments pending or to be offered.

The resolution was adopted.

And then, on motion of Mr. V., the House again resolved itself into Committee of the Whole on the state of the Union, (Mr. THOMPSON, of Indiana, in the chair,) and resumed the consideration of the said bill.

Under the resolution which had been adoped in the House, five minutes only remained for debate.

Mr. THOMPSON, of Pennsylvania, occupied these five minutes in a few remarks, mainly directed to a reply to a position taken in debate on a former day, that minimums and specific duties were the same thing. Mr. T. declared this to be a new discovery. He contended that there was a vast difference between the two—specific duties being always assessed on the real value, whilst minimum duties applied to any artificial rule.

The time allotted for debate having expired, the committee proceeded to vote.

Mr. VINTON, from the Committee of Ways and Means, offered the following amendments: Insert between lines 41 and 42, the following; which was agreed to:

For the reappropriation of this sum, (carried to the surplus fund,) being the purchase of agricultural implements, cattle, mechanics' tools, for the Ottawas and Chippewas, stipulated in the fourth clause of the fourth article of the treaty of 28th March, 1836, $5,406 47.

Mr. VINTON moved to add after the foregoing amendment, the following; which was agreed to:

For payment of services of blacksmith and striker, of the Choctaws, rendered after the treaty provision had expired by limitation, and before he was notified thereof; and for coal furnished the shop during the same time, $156 98.

For expenses of an agent in taking the census of the North Carolina Cherokees, under the fourth section of the act of 29th July, 1848, $400.

For continuing the collecting and digesting of such statistics and materials as may illustrate the history, the present condition, and future prospects of the Indian tribes of the United States, $5,000.

For reappropriation of this sum, (carried to the surplus fund,) for pay, subsistence, and clothing of the company of sappers and miners and pontoniers, and for carrying out the other purposes of the act of May 15th, 1846, $23,259 40.

Mr. VINTON moved to add after the foregoing, the following:

To enable the Clerk of the House to furnish to members of the House the books authorized by the resolution of the 7th August, 1848, $76,000.

Mr. VINTON, in explanation of this amendment, said that this was an appropriation to carry into effect a vote of the House of the last session of Congress, and which had been the subject of its consideration last week. The House had last week decided that the books provided for in a resolution should be purchased. The Committee of Ways and Means had no alternative, if they had any other disposition, but to report this amendment. The appropriation was based on the estimate which the Clerk of the House made, as necessary to carry out the object of the resolution.

Mr. JONES, of Tennessee, moved to strike out the words "seventy-six thousand" dollars, and insert "seventy thousand" dollars.

Mr. J. said, he had this morning learned that there were probably about twenty-six copies of some of these books for sale in this city, and that probably there were no places where they could be purchased, unless they might be purchased from

members of Congress who had heretofore received them.

He learned further, that every resolution which had been passed by this House for the distribution of these books contained a proviso against their republication; that as to some of them, the original edition was about fifteen hundred copies, and that upwards of fourteen hundred had been distributed by this House. There were several hundred copies in the State Department, and consequently the books could not be upon sale. Therefore, if the amendment should be agreed to, and these were to be purchased, he desired to have another amendment adopted, providing that the Clerk of the House should report how the order had been executed.

With this view, he withdrew the amendment he had offered, and moved to amend the amendment so as to add a proviso, that the Clerk of the House report from whom, and upon what terms, the books were purchased.

After a suggestion by Mr. HENLEY on a point of order,

The question was taken, and the amendment to the amendment was rejected.

The question then recurred on the amendment of Mr. VINTON, and it was decided in the affirmative.

So the amendment was agreed to.

Mr. VINTON, after the above, moved to add the following.

For copying abstracts from old sea journals for the "wind and current charts," and for payment of duties on books, maps, charts, instruments imported for the use of the navy, $4,000. And from and after the 30th of June next, all books, maps, charts, mathematical instruments, philosophical apparatus, and all other articles whatever imported for the use of the United States, shall be imported free of duty, anything in the act of July 30, 1846, entitled "An act reducing the duty on imports, and for other purposes," to the contrary notwithstanding.

Mr. VINTON, in explanation, said it seemed that the Government of the United States imported charts for naval purposes, which were made by the British, French, and other foreign governments. The Government of the United States had to pay duties on these charts, which increased the price by the amount of the duty, and, in addition to that, we paid a commission upon these very duties. The object of the amendment was to enable these charts to come in free of duty.

The question was taken, and the amendment was agreed to.

Mr. VINTON, after the above, moved to add the following; which was agreed to:

For salary of the Secretary to sign patents for public lands, $1,500.

Mr. VINTON, after the above, moved to add the following:

To pay two messengers in the Pension Office, in addition to those now employed, at the rate of $400 each per annum, for the last two quarters of the current fiscal year, $400.

Mr. VINTON said he held in his hand a letter from the Secretary of War, covering a communication from the Commissioner of Pensions, in which he stated the necessity of these messengers. He stated, that for want of them he was obliged constantly to employ clerks to do the business which should be done by them. He made out a very strong case—as to which the Committee of Ways and Means had no doubt; but if gentlemen desired it, the letters of the Secretary of War and of the Commissioner of Pensions could be read. The amount of them was, that it was requisite to take clerks, who were receiving regular salaries from the Government for the performance of other duties, from their appropriate labors, and employ them instead of messengers.

The question was taken, and the amendment was agreed to.

Mr. VINTON moved to add the following; which was agreed to:

For furnishing sixteen rooms in the new building occupied by the Pension Office, at an average of $100 per room, for carpets, matting, desks, tables, shelves, book-cases, chairs, and other necessary articles, $1,600.

Mr. VINTON moved to add at the end of the item "For contingent expenses of the House of Representatives, $50,000," the following:

Including the compensation of a clerk to the Sergeant-at-arms, at the rate of $4 per day during the present session.

Mr. VINTON said that he had in his possession a communication from the Sergeant-at-arms. The subject had been before the House at the last session of Congress; and the same provision contemplated by this amendment had gone into the general appropriation bill, which, as a matter of course, was a recognition by this House of duties to be discharged. The clerk in the office of the Sergeant-at-arms performed duties which were known to all the members, as they all had to resort there. This amendment proposed to put the clerk on the same footing as clerks of committees; that was to say, it gave him a *per diem*, instead of making him a permanent officer with a fixed salary.

At the last session of Congress a proposition had been introduced to make him a permanent officer, with a fixed salary; but the Committee of Ways and Means had refused their assent, on the ground that there was no necessity for such an officer except during the sessions of Congress. He was put upon a footing with clerks of committees. The appropriation went into the general appropriation bill for the last session, and the amendment contained a provision for the present session.

Mr. BROWN, of Mississippi, was understood to inquire whether this was not the first Congress at which a clerk had been proposed for the office of the Sergeant-at-arms, and whether before the last session that officer had not always conducted the business of his office without a clerk having been allowed?

Mr. VINTON said he would state, for the information of the gentleman from Mississippi, [Mr. BROWN,] that until the present Congress the duties of the office of the Sergeant-at-arms had been discharged in the manner spoken of. He had a letter in his possession from the late Speaker of the House, [Mr. J. W. DAVIS,] stating the necessity of the employment of this clerk. The letter was addressed to a member from the State of Missouri. It set forth the great necessity of the employment of such an officer. He (Mr. V.) believed it was a fact, that in consequence of the want of such an officer, the late Speaker of the House had been obliged to come on (as Mr. V. understood) from the State of Indiana, to settle his accounts with the Treasury Department; and that he had had great trouble, for the want of some one to keep the accounts. The moneys were drawn and disbursed by the Speaker, and it was not possible for him to keep the accounts of every member. It could not be done. That business was turned over to the Sergeant-at-arms. As a matter of course, he employed a clerk. For many years (Mr. V. was understood to say) there had been a clerk; but how he had been paid he did not know. He would ask that the letter of ex-Speaker DAVIS might be read, and also the letter from the Sergeant-at-arms. They were very short. He repeated that, after some discussion, the same appropriation had been inserted in the general appropriation bill of last year.

The letter of Nathan Sargent, Esq., Sergeant-at-arms, was then read. It set forth the indispensable necessity of the appointment of a clerk to the prompt performance of the duties of the office, &c.

The letter of ex-Speaker Davis was then read. It expresses his opinion of the necessity of the appointment, and adverts to the inconvenience which has hitherto been experienced from the want of it.

Mr. VENABLE rose to inquire of the gentleman from Ohio [Mr. VINTON] what was the amount of the *per diem* proposed by the amendment?

Mr. VINTON said, four dollars.

Mr. VENABLE moved to strike out four dollars, and insert three and a half dollars.

The CHAIRMAN said, that when he had occupied the chair at the last session of Congress, he had ruled it out of order to propose an amendment for the purpose of making a speech.

Mr. VENABLE said his purpose was not to make a speech, but to go against the whole matter.

The CHAIRMAN (interposing) said, that he had made the statement generally, and not with reference especially to the proposition of the gentleman from North Carolina, [Mr. VENABLE.]

Mr. VENABLE continued. He referred to the several occasions on which the same subject had been brought up during the present Congress, and to the fact of the rejection of the proposition several times during the last session, until it finally found its way into the general appropriation bill. If he was correctly informed, this was the first Congress at which the Sergeant-at-arms had asked for such an officer. If it was necessary that he should have a clerk, let the country know it. He would vote for a dozen clerks, if necessary; but let not the House thus, by a side wind, create new officers. The true doctrine was, to pay a man a fair salary, and let him discharge the duties of his office—not employ another man to do it for him. If the present incumbent felt himself unable to perform its duties, let him resign, and let his place be supplied by another who could perform them; but so long as he received the salary of the office, he should do the duty of it.

Mr. ROOT desired to offer an amendment to the amendment, so as to provide that no messenger should hereafter be employed in the office of the Sergeant-at-arms.

He did not (he said) look upon this proposition as a matter of any great importance, so far as the mere amount of money was concerned; but he did look upon it as a fair specimen of the manner in which the House was drawn into extraordinary expenditures which no one understood, and which were always provided for without anybody's recommendation, except that of the chairman of the Committee of Ways and Means.

Mr. R. alluded to the difficulty which had arisen at the twenty-ninth Congress between the then Sergeant-at-arms and his messenger, up to which time (Mr. R. said) all had gone along well.

Mr. VINTON interposed and said, that at the last session of Congress a recommendation was sent to the Committee of Ways and Means, signed by a majority of all the members of the House, in favor of this clerk.

Mr. ROOT continued. Nothing, he said, was more likely. For about three months after the commencement of the last session, a member offered resolutions authorizing the Sergeant-at-arms to employ a clerk. They were objected to; they were kept out; and the subject was not acted upon until the general appropriation bill was under consideration. At that time his colleague, [Mr. VINTON,] acting, as he said, under the recommendation of a majority of the members, (since any one would sign a petition if it did not call for money,) came in and moved an amendment appropriating the sum of $4 per day for this clerk, whose employment no one had authorized. And then, and not till then, the Sergeant-at-arms got the clerk.

What next? Already, at the present session, a resolution had been introduced providing for the payment to this clerk of the same extra compensation which had been allowed to others. He (Mr. R.) insisted that there was no necessity for more than one assistant in the office of the Sergeant-at-arms. Let gentleman call the office by what name they would. The Sergeant-at-arms had already a messenger allowed by law. He might employ him as a clerk; if he did not like him, let him get a messenger whom he could employ in that capacity.

He (Mr. R.) believed that the Sergeant-at-arms had once resigned an office in Florida, because there was no use in keeping it up. He had set an example which no office-holder had ever set before, by recommending to the President of the United States to abolish the office because there was no use in retaining it any longer. He (Mr. R.) was for holding him to his doctrine, and felt a little astonished that such a proposition as this should come from him.

Mr. ROOT moved to amend the last amendment by adding,

Provided, That hereafter there shall not be allowed a messenger in the office of the Sergeant-at-arms.

The question on the amendment to the amendment was then taken.

But no quorum voted.

The question was again taken, (a second count having been called for,) and the vote stood—ayes 69, noes 57.

So the amendment to the amendment was agreed to.

The question was then taken on the amendment as thus amended, and was decided in the affirmative.

So the amendment of Mr. VINTON, as amended by the amendment of Mr. ROOT, was agreed to.

FURNITURE OF THE WHITE HOUSE.

The bill having been gone through with—

Mr. HOUSTON, of Delaware, inquired of the Chair if it was still open to amendment.

The CHAIRMAN replied in the affirmative.

Mr. HOUSTON offered an amendment, (of which we have not a copy,) but which was un-

derstood to appropriate the sum of $20,000 for refurnishing the President's mansion, in addition to such sum as might be realized by the sale of the old furniture.

Mr. HOUSTON said he had offered the amendment at this time, because he thought that the bill was one in which the appropriation contemplated by it might appropriately be made. The amount proposed did not greatly exceed that usually appropriated at the incoming of a President elect.

Upon looking at the various appropriations made for the same object since the foundation of the Government, he found that the sums appropriated would average about fifteen thousand dollars. About four years ago, when provision was made for refurnishing the President's mansion, the sum of sixteen thousand dollars was appropriated. The whole of that sum (Mr. H. was understood to say) was expended in things requisite for the lower apartments. The upper apartments remained as they had been during the preceding Administration, and how much longer no one could say. He had been assured, upon good authority, that the furniture in all the apartments was tattered and torn—some of it even in rags—and that it was necessary to have both the upper and lower apartments furnished. That was the reason why the sum he had asked for was somewhat larger by five or six thousand dollars than the amounts usually appropriated. Probably some gentlemen might object to it; but he was satisfied that the amount was not larger than was necessary.

Mr. PRESTON moved to amend the amendment, by reducing the appropriation from twenty to ten thousand dollars.

Mr. HUDSON rose to a point of order. He did so, he said, for the purpose of settling a principle which he thought ought to be settled before proceeding further.

He believed that by a resolution which had just been adopted by the House, all debate on this bill must cease, and that it was not in order for gentlemen to debate an amendment. The five minutes' rule—as it was called—by which it was in order for any gentleman offering an amendment to speak that length of time in explanation of it, was in this condition. It was one of the rules and orders of the last session of Congress. Towards the close of that session, the rule was suspended. Shortly after the commencement of the present session, the House had adopted a resolution adopting the rules and orders as they were in force at the close of the last session. Hence, he submitted, the five minutes' rule was not in operation, and therefore debate was not in order.

The CHAIRMAN overruled the point of order, with the remark, that he thought the suspension of the rule to which the gentleman alluded had expired with the close of the last session.

The question recurring on the amendment to the amendment—

Mr. PRESTON briefly opposed the appropriation. It had been the custom (he was understood to say) for the Committee on the Public Buildings, on the advent of a new President, to institute an investigation into these matters, and to see what was necessary to be done. In the present case no such investigation had been made; and he was opposed to any appropriation unless that inquiry should have taken place. Whatever amount of money was necessary he was willing to vote; but he should oppose all appropriations till the committee had inquired what was proper to be done in the premises. The sum appropriated about four years ago was, he believed, some seventeen thousand dollars. He did not know whether it was sufficient for the purpose or not. He was willing to vote what would be sufficient, but not until the proper investigation had been made.

Mr. HOUSTON said, he was not aware that it had been the practice for the Committee on the Public Buildings to recommend this appropriation—he meant the uniform practice since the formation of the committee. It was certain that all appropriations for the purpose had been made in some such bill as this.

Mr. H. then explained the efforts he had made before the holidays to get the committee together, for the purpose of taking the matter into consideration; and that a meeting fixed for Tuesday last had been prevented by the adjournment. Since that time, (he was understood to say,) the committee had instructed him to make the necessary examination.

After a brief explanation—

Mr. PRESTON withdrew his amendment, expressing the hope that the House would make no appropriation until the proper investigation had taken place.

Mr. COBB, of Alabama, moved an amendment to the amendment, as follows:

Provided, further, That the *Ogle gold* spoons shall not be sold, or in any manner disposed of.

But before it was read—

Mr. HOUSTON rose and withdrew his amendment.

On motion of Mr. STANTON,

The committee rose and reported the bill and the several amendments to the House.

The SPEAKER announced the question to be first on agreeing to the amendments of the committee, and then upon the engrossment and third reading of the bill.

Pending which question—

On motion, the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. TUCK: The petition of T. G. Brainard and 272 others, praying for the establishment of a mail route between Manchester, in the State of New Hampshire, to Lowell, in the State of Massachusetts.

By Mr. TALLMADGE: The memorial of Barnabas Bates and 90 others, for cheap postage. Also, the memorial of Richards and Van Wart, for compensation for delivery of stone at the navy-yard at New York.

By Mr. FRIES: The memorial of A. L Frazer, of Steubenville, Ohio, proposing to construct a railroad from St. Louis, or some other suitable point, to San Francisco, in California, and asking a donation of public lands for the same.

By Mr. THOMPSON, of Iowa: The petition of William C. Jones, praying for a grant of the public lands.

By Mr. HENLEY: The memorial of the Ohio and Indianapolis Railroad Company, asking a donation of unsold lands in the region of country through which the road passes, to aid in its construction.

IN SENATE.

FRIDAY, *December* 29, 1848.

Mr. UNDERWOOD presented the additional petition in the case of Robert Jewell, deceased; which was referred to the Committee on Claims.

Mr. STURGEON presented the petition of William Norris, of Philadelphia, asking for a remission of the duties on iron used in the manufacture of locomotive steam-engines exported to foreign countries; which was referred to the Committee on Finance.

Mr. NILES presented a petition from the publishers of New York, asking that the privilege of exchanging works may be extended to them as it is to the publishers of newspapers; which was referred to the Committee on the Post Office and Post Roads.

Mr. NILES stated that the object of the petitioners would be accomplished in the bill reported by the committee, which he would call up at an early day.

Mr. DAVIS, of Mississippi, presented the petition of George Martin, of the ordnance corps, wounded by guerrillas in the Mexican war; which was referred to the Committee on Pensions.

Mr. BRIGHT presented the petition of members of the Legislature of Indiana, praying that a pension may be allowed to Gideon Walker, a soldier in the last war; which was referred to the Committee on Pensions.

REPORTS.

Mr. DIX, from the Committee on Commerce, reported House bill to refund to Charles A. Kellett tonnage duties and light money paid on the Chinese junk Keying, with an amendment.

Mr. WESTCOTT, from the Committee on the Judiciary, reported the bill for the relief of William Plummer, executor of Starkey Armistead, with verbal amendments.

Mr. WESTCOTT asked for the consideration of this bill at the present time, explaining that it was a case of a judgment obtained by the United States against the deceased, which Plummer, as executor, paid in full with costs; that the payment was recorded, and he received a receipt from the clerk of the court. The officers of the treasury, however, neglected to make the entry of the payment, and Government had again instituted suit against Plummer, and had obtained a new judgment. Since that time, they had become satisfied that the judgment was previously satisfied; but, as they had no power to correct the error, they had delayed proceedings, to give time for an application to Congress.

Mr. BADGER stated that the case had been correctly stated by the Senator from Florida, and that he would therefore refrain from any additional remarks.

The bill was then considered, and read a third time, and passed.

BILL ON LEAVE.

Mr. DODGE, of Iowa, pursuant to notice, asked and obtained leave to introduce a bill to establish an additional land office in the State of Iowa; which was read a first and second time, and referred to the Committee on Public Lands.

ADJOURNMENT.

On motion,

Ordered, That when the Senate adjourns, it adjourn to meet on Tuesday.

NOTICES OF BILLS.

Mr. DODGE, of Iowa, gave notice that he would to-morrow, or on some day thereafter, ask leave to introduce a bill to provide for the payment of the Iowa militia called into service in December, 1839.

Mr. DAVIS, of Mississippi, gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a bill in relation to a new land office.

ARNOLD NAUDAIN.

The motion made by Mr. CLAYTON, to reconsider the vote by which the adverse report of the Committee on Claims in the case of Arnold Naudain was concurred in, was taken up.

Mr. CLAYTON expressed a desire that the question should lie over, as a Senator who took an interest in the matter was absent.

Mr. WESTCOTT hoped the motion would now be taken, and the vote reconsidered. He desired the subject to be referred to the Committee on Commerce. His attention had been called to an error in the appropriation bill of last session, by which collectors were refused any compensation for the light-house establishment. Some officers, therefore, who had very onerous duties to perform, received no compensation whatever for these duties.

Mr. CLAYTON expressed his willingness to permit the report to take this course, should the motion for reconsideration succeed. He concurred in the propriety of what had fallen from the Senator from Florida.

Mr. KING suggested, that as this special claim would not bring up the whole subject before the committee, it would be better to introduce a resolution reinstating the law as it existed before the last session.

Mr. CLAYTON declined doing this, as his object was merely to obtain justice for an individual.

Mr. WESTCOTT explained that the law of last session prohibited collectors from receiving any compensation for the superintendence of light-houses.

Mr. KING remarked that there was a risk of loss to the Government, in a pecuniary view, from the change which prevented the employment of persons connected with the custom-house, who were conversant with the business of light-houses, and left it optional with the Executive department to appoint any other person.

Mr. CLAYTON stated that this case involved the matters referred to by the Senator from Alabama.

The question was then taken, and the motion to reconsider was agreed to.

The report was then referred to the Committee on Commerce.

EVERGLADES OF FLORIDA.

The Senate proceeded to consider the bill to authorize the draining of the Everglades in the State of Florida, and to grant the same to said State for that purpose; the question pending being the amendment offered by Mr. UNDERWOOD to provide for the appropriation of a sum of money to be expended in surveying the Everglades.

Mr. UNDERWOOD. The Senator from Rhode Island, on my left, placed this amendment in my hand the other day, his object being to test the sense of the Senate upon the question of granting lands to the different States of the Union for the purposes of education and internal improvements, as well as for objects of State advantage. But as

I perceive that Senator is not now in his place, and may not be prepared to offer his objections to the bill at this moment, I hope the gentleman on the opposite side of the Chamber [Mr. WESTCOTT] will not be disposed to press the consideration of the bill. I hope it will be allowed to lie over till some day when the Senator from Rhode Island shall be in his place.

Mr. WESTCOTT. I hope the Senator from Kentucky will not insist upon his motion, for this reason: The Legislature of my State is now in session, and will probably adjourn in January; and unless this bill be passed to-day, I apprehend it will be delayed too long in the House of Representatives for the action of the Florida Legislature during the present session. I am persuaded that the bill will pass the other House without opposition; and if it can be passed here to-day, it may be in time for the acceptance of the State. I regret that the Senators from Missouri and Illinois [Mr. BENTON and Mr. BREESE] are not in their places, but I must press the consideration.

Mr. UNDERWOOD. I will make a motion that the consideration of the bill be postponed till to-morrow; and I will add, that if this motion does not prevail, the Senator from Rhode Island must be prevented from offering his opposition.

Mr. WESTCOTT. Is the Senator from Rhode Island anywhere in the city?

Mr. UNDERWOOD. I do not know where he is.

Mr. WESTCOTT. The bill might pass over for an hour or so, until the Senator shall appear.

Mr. UNDERWOOD. I apprehend that the Senate will adjourn shortly, and it will be all the same whether the bill lie over only for an hour or till Tuesday.

Mr. WESTCOTT. Very well. I urge no further objection.

So the consideration of the bill and amendment was then postponed till Tuesday.

JOHN P. BALDWIN.

The Senate then proceeded to consider the bill for the relief of John P. Baldwin; and the report having been read—

Mr. UNDERWOOD. Mr. President, this claim belongs to a class of cases with the principle of which I have never been satisfied since I have been a member of Congress. I do not know, sir, that until the present session of Congress, this principle has ever been discussed. It may have been discussed at former sessions of Congress; but if so, I am not apprized of the fact. It does appear to me that if the new principle upon which this claim is based, after looking at it in all its various aspects, is to be sanctioned and established by the authority of Congress, it will lead to very dangerous results. I rise now, therefore, in a few words, to enter my last protest against it.

Now, sir, the simple principle involved in the matter is this: that when an officer of the navy or army of the United States orders the destruction of property to prevent its falling into the hands of the enemy, and the property is destroyed in accordance with that order, the Government is morally bound to pay for it. I deny, sir, that there is any such principle, or that there ought to be such a one existing. Now, suppose it be true that if the property was abandoned without being destroyed, it would have fallen into the hands of the enemy and by them been destroyed—suppose that to be the case, what has the individual owner of the property lost? Nothing, sir; not one cent. What does the Government gain by the destruction of the property? Not a cent, sir. The only gain the Government derives from the destruction of the property is, the preventing of an enemy from coming into possession of the property, and appropriating it to his use. Sir, is that the principle you intend to establish, that when property is abandoned because of the approach of an enemy, it must be destroyed in order to prevent its falling into the possession of that enemy, and that the sufferers by such destruction are to be reimbursed for their losses? Is that the principle, sir? If so, let us look for a moment to the consequences.

I ask the Senate this question: If the property would inevitably have been destroyed by the enemy, in case it had been abandoned, what has the individual owner of that property lost? I affirm that he has lost nothing. In the case of Captain Center you pass a bill claiming damages for property lost in a small place called Micanopy. The troops quartered there, and all the inhabitants, abandoned the place. They could not carry all the property in the place away, and accordingly the property remaining was destroyed to prevent its falling into the hands of the Indians; and a portion of it being owned by Center, he comes here for reimbursement for his loss. Let me illustrate with this fact a moment. Suppose this property, for want of means of transportation, had been left at Micanopy, and that, in the course of an hour after its abandonment, the Indians enter the place and appropriate the property to their own use, would not the appropriation of the property by the Indians to their benefit have been equally as much a loss to Center as to have it destroyed by the United States? Now, if this be true—and it is upon the truth of this hypothesis that all these bills are based—I say, if it be true that in any case the property would have been destroyed, what, I again ask, has the individual owner lost? When you come to value and pay for property destroyed, you should, of course, take into consideration the circumstances connected with its injury and destruction; and now I put to any member present, what is any article of property worth in a frontier town after the town has been abandoned and left to the mercy of Indians? How much would any sensible man give for property left in such a situation? What would it bring in any market upon earth? It would be worth nothing, sir, nothing. But yet, in the allowance of this class of cases, you compensate the individual for the full value of his property, when, taking the peculiar circumstances in which it was placed into consideration, if you should make it an individual transaction, no man living would have given a cent for the property.

Allow me for a moment to advert to the other idea which has been advanced in this discussion. It has been argued, that if the property had been left without being destroyed, it would have fallen into their possession, and would have enabled them to prosecute with more vigor their campaign, besides inflicting a greater amount of injury upon this country. I will admit, sir, that good foraging ground is always an advantage to the enemy; rich fields, well-filled barns, and good smokehouses, are means of usefulness in the prosecution of a military campaign not to be despised. But is this the principle, sir, that we are now about to establish, that when a country is invaded the inhabitants of that country may burn up their haystacks, kill their bullocks, destroy their houses, and make way with all their property, and run off from the defence of their country, and afterwards come to Congress and have the Government pay them for all the loss they have sustained by such destruction? But, say you, in this case the officer burnt it because he found he could not defend the property against an invading enemy; this is the difference, and this constitutes the principle upon which you reimburse the sufferer, that if you had not caused the property to be destroyed it would have been used by the enemy advantageously against us. This is a very cowardly principle, sir. It invites the people of the country, in case of invasion, to abandon their homes and destroy all their property, instead of manfully meeting and resisting the enemy; and when they have done that, they can call upon the Government to reimburse them for their property upon the principle, that if they had not done so the enemy would have taken it into their possession, and made profit out of it.

Upon that ground it is manifest that it makes no material difference whether the destruction is occasioned by the officer or by the act of the owner of the property—none whatever in that point of view; for payment for loss sustained will be made in either case. Where is the difference, let me ask? Here is a military officer holding possession of a certain location of country, and giving protection to the inhabitants residing there and in the immediate neighborhood. An enemy approaches, and the officer, fearing that he will not be able to maintain his ground, retires from the place, marching off with all the people at his heels. Now, does it make any difference whether the property owned in the place is destroyed by the officer or by the inhabitants, to prevent its falling into the hands of the enemy, as regards payment for that destroyed property? In either case, as I before stated, if you establish this principle, the value of the property destroyed must be returned to the owners. This, sir, is a new principle, and was never introduced until recently. During the whole of the revolutionary war—to my knowledge, and I was for four years a member of the Committee on Revolutionary Claims—there never was a claim allowed in Congress for property destroyed to prevent its falling into the hands of the enemy; or, if there were such a claim allowed, I suppose it must have passed—as it was said the other day the act reducing the mileage of the messengers bearing the Presidential votes was passed—at a time when nobody was paying any attention to it. But in all these cases, if you settle the principle at all, it must be on the ground that the enemy would have been benefited by the property if it had not been destroyed. But I cannot see that this circumstance can make any particular difference, either with the owners of property or the commander who might order its destruction.

Formerly, the officers of the United States, for acts of this description, were sued by the owners of property destroyed by their order, and judgments being obtained against them, they came to Congress for relief, where they might show that their orders were given in the proper discharge of their duty, and for the benefit of the country; but that the circumstances were of such a character as that the judiciary of the country were obliged to hold them responsible for the property destroyed. Under all these cases, formerly, the officers, not the sufferers, applied to Congress for relief. Your officers had to resist the judgment of the courts, and throw themselves upon the liberality and good sense of Congress for remuneration. But in these modern times we have got clear of that practice. Now it is only necessary for a petitioner to come in here and say, my property has been destroyed to prevent its falling into the hands of the enemy; some one of your officers ordered its destruction, and now the Government must pay me for it.

Let me illustrate this by an example. Here is a house on fire in the neighborhood of other houses—they may be of wood or of brick—and there is no engine at hand to put out the fire; what is that house worth? It is worth nothing; and men pull it down to save the other property, near and remote, if they have no engine to put out the fire. And what is the adjoining house worth? That also is worth nothing; and why? because its destruction is also inevitable; because it will certainly be burnt with the house that is already being consumed.

Well, sir, according to the principles of the common law, the house destroyed under these circumstances is not to be paid for. But there is frequently established a conventional rule on the part of all the people of a city or large town—a rule which a single community establishes for itself—that, inasmuch as the destruction of the house under such circumstances may have been a means of the preservation of other property, the owner should be compensated. But this is only a conventional principle, not a rule of the common law. Now, sir, it seems to me, that if this conventional principle by which we pay for the destruction of a house adjoining the flames, which would have been inevitably consumed at any rate, because its destruction was a means of preservation to other property, were to be applied to such cases as that now before the Senate, it seems to me it would be establishing a principle that would pay for all the property destroyed by an invading army, as well as for all property destroyed to prevent its falling into the hands of the enemy. I trust, therefore, that you will not extend the principle to this latter description of cases. The reason why I think there should be a discrimination made between the case which I have given and the case before the Senate is this: in the one case the flames were consuming the property, which fact is ascertained by positive proof, and reduced to such certainty as to leave no doubt on the mind of anybody; while in the other case, the property in question having been scattered along over the whole country, it is truly impossible to have the facts presented with sufficient clearness and certainty to show precisely how the matter stands. In all these cases heretofore presented the testimony has been entirely *ex parte*.

Sir, we have what we call freshets sometimes out in the West, which do much mischief to the inhabitants—freshets which overflow the river bottoms, and destroy the crops of corn and other grains, and carry off stock; and sometimes there

rises a little hillock in these bottoms, on which the neighboring stock collect themselves as they retreat from the flood, but where they are still exposed, not only to the encroaching waters, but to inevitable starvation. Now, suppose property to be found in such a condition by some benevolent individual, who would say, it is better to kill these cattle than to leave them to remain here and starve or be drowned in the river. Suppose that, under these circumstances, he actually kills them and is sued for damages. In the estimate of damages you must take into consideration the probabilities of saving this property from the flood; and if the jury should be convinced that they would have been inevitably swept away by the rising river, or perished from starvation, they would come to the conclusion that the property was really worth little or nothing. Now, the principle which would direct our judgment in estimating the value of these cattle, is precisely similar to that which should guide us in the case now before the Senate; for, if you allow this claim, you make no consideration of the circumstances under which the property was placed, upon which the claim is founded. The only question must be, what was the actual value of the property? I should be extremely sorry to see this principle prevail in the legislation of the country.

Sir, I have suggested these things time and again, in my humble way, to the consideration of the Senate, and I reiterate them now as the grounds on which, in my judgment, this class of claims ought not to be allowed. How do these principles apply to the case before us? Here was a vessel—

Mr. WESTCOTT. Will the Senator distinguish this case from the claim for Robert Wallace's horse, which the other day was presented from the other side of the Chamber, and advocated with so much ability?

Mr. UNDERWOOD. Yes, sir, I can very soon show the distinction between these cases. But if I could not, it would not affect my argument; for I insisted upon that claim as an application of the principle adopted in the Center case. It will be recollected that I did not fix any value to the property upon which that claim was founded, under the circumstances in which it was placed. All that I said then I am willing to say now. I only intended to carry out a rule which the Senate had already established, and which I had been resisting all along; but which, if established, should be applied equally to all this class of cases, without making any distinction. The mind of that individual must be very obtuse indeed, that cannot see the difference between the case of Wallace and this claim of Baldwin. Wallace was a subordinate officer, whose duty it was to obey the commands of his superior, who has a right to command him; and under the direction of that superior officer, he is compelled to give up his property without being allowed any chance to fight and defend it. Whereas the principle which I advocate would compel the citizen to stand up and defend his property. If the Senator cannot see the distinction between these cases, argument is useless, and I might as well take my seat.

But, sir, let us apply these principles to the case before us. This vessel was stranded on the coast of Florida. An officer of the United States navy, hearing of the wreck, and supposing there might be something valuable in it, which the Indians might obtain, ordered it to be burnt. Now, if this officer supposed the vessel ought to be burnt to prevent the Indians from manning it as sailors and cruising in the Gulf, his head must have had as soft a place in it as any head could well bear. If he could have imagined such a thing he was not fit to command in either the army or navy of the United States. What the particular circumstances were which induced him to have the vessel burnt, I do not know perhaps as well as others. It certainly could not have been to prevent the vessel itself from falling into the hands of the Indians. It might have been to prevent the property from falling into their hands. The property would have fallen into their hands, I suppose, at any rate. How much the property on board was worth, the report does not show; if it does, it has escaped my recollection. If it shows anything, then, it is that we should pay the value of the vessel itself.

Mr. WESTCOTT. No, no. The case is, as I have before distinctly stated and read from the papers, that this man does not claim a single cent on account of the value of the vessel or for the whole cargo, but only for that portion of the cargo on board—the rigging, anchors, and lead—which, but for the order to burn the vessel, might have been saved. I will state now to the Senator that there was no probability whatsoever of getting the hulk of the vessel off.

Mr. UNDERWOOD. It then comes more fairly into my principle than I expected. The Senator says he does not ask remuneration for the value of the vessel. The Indians could have no use for the vessel. They might have made use of the lead and other articles to be found on board, and doubtless would have taken them. Now, sir, the question before us is this: Where is the difference to the owner whether the Indians take the lead and apply it to their own use, or whether the officer, by burning the vessel, melted the lead, and sunk the whole in the Gulf—where is the difference, I say, to this owner? What injury has he sustained in the destruction of his lead by the burning, more than he would have sustained had it fallen into the hands of the Indians? None whatever. You then propose to pay in this case the full value of the lead, without regard to the circumstances which should rightfully diminish its value, which value I have commented upon by citing analogous cases. I have endeavored to show, that under certain circumstances the lead would have been worthless. But, sir, the lead has been destroyed. It might have been appropriated by these Indians; and now it seems to be held that you ought to pay for it, upon the ground that, had the Indians got possession of it, they might have made good use of it for themselves, by shooting our citizens and soldiers with it, when their country was invaded by them. What I want to say of this principle is, that if you are determined to establish it, to ingraft it upon the legislation of the country, I, for one, am for carrying it out, as in the case of the claim for Robert Wallace's horse, and every other claim where the principle applies. But, until the principle shall become firmly established, I shall oppose it.

Mr. WESTCOTT. I regret that the Senator from Kentucky has not made himself more particularly acquainted with the facts in this case; for I am satisfied that, with the candor and intelligence which he brings into the review of any case, he could not fail to see that the principle he discusses here is totally inapplicable to this case. The principle of this case, I would say also to the honorable Senator, has a closer connection with that in the case of Wallace and his horse, which he advocated the other day, than he seems willing to admit. For my part, I cannot see any difference in the cases, saving that in the matter of Wallace, his property—the horse—was not burnt. I will briefly recall the attention of the Senate to the facts in this case, in order to show that the honorable Senator from Kentucky has totally misconceived its peculiar bearing. This case is not a parallel one with that of Center; it is a much stronger case. Let me state it. A Spanish vessel is wrecked on the coast of Florida; her cargo is all taken to Key West, with the exception of two tons of lead, the anchors, rigging, and a few other articles, and there sold for the benefit of the underwriters of the Spanish owner. The wreck or hull, as it is called, of the vessel is also sold at auction, after an appraisement by two distinguished merchants appointed by the district court, as is customary, and is purchased by an American citizen, Mr. John P. Baldwin, for the sum of one thousand dollars. Upon going up to take possession of the wreck, he found it had been destroyed by order of Commodore Dallas. That gentleman, hearing of the wreck, had ordered a party from his squadron to go up and burn the vessel, for fear of its contents falling into the hands of the Indians. I would say that it is not pretended here that the claim is for the full value of the vessel, cargo and all. The papers connected with the case show that the vessel was in a situation from which it was impossible to get her off. Now, sir, this is, as I have already said, a case of an officer of the United States navy destroying certain property by command of Commodore Dallas; and I contend that if an officer either of the army or navy thus executes an order given him by superior authority, the Government is bound to remunerate the sufferer. This case, sir, is a much stronger one than Center's. In regard to the want of precedents bearing on this case, I think the Senator in error. If an officer of the army goes into my stable, and impresses my horse for the use of the United States, I am entitled, by virtue of precedent established as far back as the revolutionary war, to apply to Congress and obtain remuneration. Congress are to inquire into the facts, and if it is proved that the seizure of the horse was a case of necessity, the uniform rule, from the days of the Revolution, has been to pay for it, and, if the officer is sued, even to pay the officer. In 1816, you passed a law which recognizes the principle adverted to on a former occasion—that is, reimbursement for necessary destruction of property—as may be seen by reference to third volume Statutes at large, page 262. Afterwards, another law of a similar nature was passed in 1817.

Mr. UNDERWOOD. In the case to which the Senator from Florida alludes the Government got the benefit of the property.

Mr. WESTCOTT. This case seems to illustrate my position, as I will explain. The rule in those cases, observed in the war of 1813, and rigidly observed also in the Black Hawk and Seminole wars, is, that where a certain piece of property has been occupied by the United States as a military position, and it is taken and destroyed by the enemy, the Government pays for all loss incurred by the destruction. These cases are but illustrations of the principle, this case being a much stronger one. In this case the officer has performed a given duty; he has burnt a vessel in pursuance to the order of a commodore in the United States service; we are therefore bound to pay for the destruction occasioned by the fulfillment of the order of our commodore to burn and destroy. It may do for citizens of the interior States, where there is no probability of such depredations being committed, to contend for the contrary principle; but the citizens of a frontier State, exposed to assaults from a foreign enemy, will never sustain such a rule. Consider for a moment the result of carrying into effect the principle advanced by the Senator from Kentucky. Why, in time of war you leave the property of citizens subject to the caprice of your own military or naval officers; if they are of the opinion that certain portions of property should be destroyed, no matter whether there is any necessity for such destruction or not, it must be destroyed, and there is no probability of redress.

Mr. DOWNS. I would inquire of the Senator from Florida what composed the cargo of this brig?

Mr. WESTCOTT. She was loaded with lead and various other articles. The lighter description of goods were taken out, as I before stated, and sold at Key West.

Mr. DOWNS. I understand, then, that there was a large quantity on board of a Spanish brig, on the coast of Florida, at the time of the war with the Seminoles?

Mr. WESTCOTT. The claim presented in this bill is not for any of the cargo taken out, but for that which was destroyed. The report accompanying the bill states the facts in the case. I suppose the Senator from Louisiana [Mr. Downs] founds his last question or statement upon the supposition that this Spanish brig was upon the coast to furnish the Indians with supplies. The papers accompanying this bill contain the testimony of witnesses respecting this matter, and they uniformly state—with the exception of the testimony of the officer who burnt her—that there was not the slightest danger of the Indians approaching the spot where this vessel lay, and that she was at least one hundred miles distant from the seat of war.

Mr. DOWNS. Had it never been supposed that Spanish vessels were in the habit of furnishing the Indians with lead, ammunition, and various other articles?

Mr. WESTCOTT. There have been suspicions of that nature excited from various circumstances that have occurred; and there is no doubt as to the fact that, during and anterior to the Seminole war, the Seminoles had a continued intercourse with Cuba and the British isles, and were thus furnished with ammunition, provisions, &c. The conveyers of such articles would cross the straits of Florida in the night, in canoes and other small boats, thus avoiding detection. The idea of Spanish vessels hovering along the coast of Florida for the purpose of trading with the Indians, when a United States squadron was stationed there, is preposterous. I apprehend the Senator from Louisiana is not very particular as to a further explana-

tory answer to his query. As I have before stated, all the officers on board of this vessel, with the exception of two, repel the idea that the Indians would have come and taken possession of her. The vessel lay upon a part of the coast where there were no settlements, and where the Indians were not in the habit of coming. There was no inducement to come there, no prospect of plunder, no settlements to ravage and destroy. The Indians were on the other side of the peninsula, and they could not have reached the vessel without crossing the everglades, which my honorable friend from Kentucky, who has examined the map of that part of Florida with his customary candor, could not but testify would be a journey of some difficulty.

It was remarked yesterday, by the honorable Senator from New Hampshire, that the bill of Center passed in the same way as the bill compensating messengers of Presidential votes had passed, viz: without any knowledge of the fact by Senators. I have taken the trouble to examine the Journal of the Senate of last session, and at page 549, I find that the yeas and nays were taken on the final decision in relation to the bill; and therefore the Senator from New Hampshire is mistaken in supposing that the Senate were taken by surprise in their final vote upon the bill. By reading the names of those voting on that occasion, I find also that the Senator from New Hampshire was not present—a good and sufficient reason for his not being acquainted with the action of the Senate on the question.

Allowing, sir, that the principle advocated by the Senator from Kentucky were carried out, what would be the result? An army or naval officer may be commissioned to destroy property, under an unfounded apprehension that it may be of service to an enemy of the United States, and he may execute that commission; where, I would again inquire, is reimbursement to be had for such destruction? Suppose the officer who gives the order is a fool—or is reckless and careless, and thus worse than a fool—and causes property to be burnt or destroyed without any cause whatever, or commits injury without any reasonable pretext, would not the principle of my friend from Kentucky, if applied here, prevent the owners of that property thus wantonly destroyed from being remunerated for their losses? Suppose the owner institutes an action against the officer, the officer may not be worth a cent, and, as Government is not responsible, I would not give a fig for the value of the verdict, even though it might be rendered in favor of the owners. We know something about these verdicts from experience; the officer pays no attention to the suit or verdict either, considering that the mischief he has done was a part of his regular business. A suit of this character is but a mockery, a mere form. The best mode of proceeding in a case of destruction of property in this manner—whether Government has by precedent admitted the validity of such claims or not—is to apply directly to Congress for redress. I have thus presented briefly, and somewhat incoherently, my views upon this case, and I would again recommend it to the favorable consideration of the Senate.

Mr. BADGER. I had supposed that the principle involved in this question was amply discussed by the Senate at the last session. It appears to have again come up, and as the discussion upon it is increasing in energy and zeal, and as also there are matters that require all the spare time for deliberation between this and Tuesday next that we can afford, I move that the Senate do now adjourn.

Mr. HAMLIN. I trust that the Senator will alter his motion to one of postponement, as there are several communications on the Secretary's table that require our consideration.

Mr. BADGER. I move that the further consideration of the question be postponed until Tuesday next.

The consideration was postponed accordingly.

On motion of Mr. HAMLIN, the Senate then proceeded to the consideration of Executive business; and, after some time spent therein, the doors were re-opened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 29, 1848.

The Journal of yesterday was read and approved.

Mr. HOLMES, of New York, moved to reconsider the vote by which the Committee on the Judiciary was discharged from the further consideration of the memorial of Vladislaus Wankowicz, grand nephew of General Thaddeus Kosciusko, praying the passage of a special act of venue, providing for the removal of cases concerning the estate of General Kosciusko from the United States circuit court for the District of Columbia to the United States court for the district of Maryland; which motion was postponed for the present.

Mr. RICHARDSON (by unanimous consent) obtained leave, and introduced a joint resolution to authorize and require the Secretary of War to pay certain troops dismounted by order of General Wool; which was read twice, and referred to the Committee on Military Affairs.

Mr. ROCKWELL, of Connecticut, offered the following resolution:

Resolved, That all debate in the Committee of the Whole House, on House bill for the relief of the legal representatives of Antonio Pacheco, shall cease at half-past one o'clock this day, (if the committee shall not sooner come to a conclusion upon the same;) and the committee shall then proceed to vote on such amendments as may be pending or offered to the same, and shall thus report it to the House, with such amendments as may have been agreed to by the committee.

Mr. WHITE inquired of the Speaker whether the resolution was not in such form as to require the Committee of the Whole to rise when they had acted upon the bill?

Having received an affirmative reply from the Clerk, he suggested to the gentleman from Connecticut, [Mr. ROCKWELL,] so to modify the resolution as, after the committee had acted upon the bill, to allow them to go on to consider other bills.

The SPEAKER stated that there was but one form of resolution known to the rules of the House to be offered without a suspension of the rules. If the gentleman deviated from that form, it would require a vote of two-thirds to introduce the resolution.

Mr. GIDDINGS, said as this was a very important bill, he hoped the resolution would not pass, and he demanded the yeas and nays.

The resolution was again read at the request of several members.

Mr. STUART, of Michigan, called for the reading of the bill, that gentlemen might know upon what they were voting.

A VOICE: "Read the report, too."

The SPEAKER said the bill could be read only by general consent, as it was in Committee of the Whole House.

No objection being made—

The bill was read. [It appropriates to the legal representatives of Antonio Pacheco $1,000, the estimated value of a slave transported with the Seminole Indians to the West, by order of General Jesup.]

The yeas and nays were ordered; and the question having been taken, the vote stood—yeas 96, nays 52—as follows:

YEAS—Messrs. Bedinger, Blackmar, Bocock, Botts, Bowlin, Boydon, Brady, William G. Brown, Charles Brown, Buckner, Burt, Butler, Cabell, Canby, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Williamson R. W. Cobb, Cocke, Conger, Cranston, Crozier, Cummins, Darling, Duer, Garnett Duncan, Dunn, Embree, Nathan Evans, Farrelly, Featherston, Fisher, Flournoy, French, Fulton, Gaines, Goggin, Green, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Harmanson, Harris, Henley, Hill, Elias B. Holmes, Hunt, Joseph R. Ingersoll, Irvin, Jameson, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Thomas Butler King, La Sère, Leffler, Levin, Lincoln, Job Mann, Morse, Mullin, Murphy, Newell, Petrie, Peyton, Pilsbury, Pollock, Preston, John A. Rockwell, Roman, Rose, Rumsey, St. John, Silvester, Caleb B. Smith, Truman Smith, Stanton, Charles E. Stuart, Taylor, Thibodeaux, James Thompson, Richard W. Thompson, Toombs, Van Dyke, Venable, Vinton, Wallace, Warren, White, Wick, Williams, and Woodward—96.

NAYS—Messrs. Abbott, Ashmun, Bingham, Linn Boyd, Bridges, Albert G. Brown, Cathcart, Crowell, Dickey, Dickinson, Dixon, Edwards, Faran, Ficklin, Freedley, Fries, Giddings, Gott, George S. Houston, Hubbard, Jenkins, Andrew Johnson, Kennon, Daniel P. King, Lahm, Sidney Lawrence, Lord, McClelland, Horace Mann, Marsh, Miller, Morris, Palfrey, Peaslee, Peck, Putnam, Richardson, Richey, Robinson, Rockhill, Julius Rockwell, Root, Sawyer, Smart, Starkweather, Thomas, Jacob Thompson, Thurston, Tuck, Turner, Wentworth, and Wilson—52.

So the resolution was adopted, and the House (at twenty-five minutes past twelve) agreed to terminate debate on the said bill at half past one o'clock this day.

APPROPRIATION BILLS.

Mr. VINTON, from the Committee of Ways and Means, reported bills of the following titles, viz:

A bill making appropriations for the support of the army for the year ending the 30th of June, 1850; and

A bill making appropriations for the support of the Military Academy for the year ending the 30th of June, 1850; which bills were severally read twice, and committed to the Committee of the Whole on the state of the Union, and ordered to be printed.

On motion of Mr. VINTON,

Ordered, That the said bills be made the special order of the day for the 4th day of January next, and so to continue (Fridays and Saturdays excepted) until disposed of.

NOTICES OF BILLS.

Notices were given for leave to introduce bills, as follows:

By Mr. HUBBARD: A bill making a grant of land to aid the New York and Boston Railroad Company in the construction of the air line railroad.

By Mr. CABELL: A bill to cede the Everglades to the State of Florida.

On motion of Mr. TAYLOR, it was

Ordered, That the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (No. 146) from the Senate, entitled "An act to provide compensation to William Woodbridge and Henry Chapman, for services in adjusting titles to land in Michigan, and for other purposes;" and that it be committed to a Committee of the Whole House.

THE PRIVATE CALENDAR.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole, for the purpose of proceeding to the consideration of bills on the private calendar.

The motion having been agreed to—

The House resolved itself into Committee of the Whole, (Mr. BOYD, of Kentucky, in the chair,) and proceeded to the consideration of the said calendar.

COMPENSATION FOR SLAVE.

The committee took up the bill (heretofore under discussion) entitled "A bill for the relief of the legal representatives of Antonio Pacheco."

The CHAIRMAN said that the gentleman from Tennessee [Mr. STANTON] was entitled to the floor.

Mr. STANTON was understood to say, that when, on a former day, he had submitted the motion that the committee rise, it was not with the intention of addressing the committee.

Mr. WILSON then took the floor, and addressed the committee at some length in opposition to the bill.

He said that the claim before the committee, by which compensation was sought from the Government of the United States, was one of a very peculiar character. It raised, in his judgment, a very important question, which it was of high moment to the Government and the people of this country should be duly considered, maturely weighed, and settled so as to give satisfaction to every part of the Union.

It was a claim for a slave. The circumstances under which it was made were set forth in the report of the committee; and he believed, that so far as the facts of the case were concerned, there was very little discrepancy between the report which had been made by the majority of the committee and that which had been made by the minority. It was a claim growing out of the Florida war. An officer of the United States Government had applied to Pacheco for some person to act as guide and interpreter to the ill-fated command of Major Dade. A colored man, by the name of Lewis, claimed as a slave by Pacheco, was furnished to act in that capacity. When that command was captured, and most of those composing it were massacred, Lewis, in some way or other—either by desertion or being captured by the Indians—escaped. Subsequently, upon the surrender of the Indians to General Jesup, Lewis came in with them, and was claimed by the principal chief, Jumper, who surrendered, as his man, by virtue of the right he had to him by having captured him in battle.

It appeared that subsequently to this, the representatives of Pacheco, or Pacheco himself, made application to the officer in command of the United States army in Florida for the surrender of Lewis—claiming him as property. He was not given up; but the officer declared that he must be sent to the West with the emigrating Indians. This was done; and now this claim was brought on the part of the heirs of Pacheco for compensation.

He (Mr. W.) was not able to state with certainty

when this claim had first been made upon the Government of the United States. He was certain that it had been made as early as the commencement of the present Congress. It might have been here for a number of years. He had ascertained that upon some former occasion, and before some former committee, an adverse report had been drawn, but that it had not been submitted to the consideration of Congress. Similar claims, he saw by the Journal, had been almost uniformly referred to the Committee on Claims. Such had been the course of proceeding since the year 1818. The present petition had been referred to the Committee on Military Affairs. This, he presumed, was all right; but the direction was not in accordance with what, as exhibited in the Journals of preceding years, had been given to such claims.

It was a little strange to look into the history of this matter. During the war of the Revolution, almost all the States of the Union tolerated slavery. Slaves were found, more or less, in all parts of the country. There were, to be sure, but few in the North as compared with the number in the South; but still there were some in almost all the Colonies when they went into the struggle; and that relation continued during the existence of the struggle.

Although the presumption was strong that during the war persons of this description were engaged in the service of the United States, and suffered and were destroyed in it, yet it did not appear that a single application was made after the adoption of the Constitution of the United States for any remuneration for loss of slaves. In fact, it did not appear that claims of this kind began to be made until the fourteenth Congress.

What had been the early history of the Government on this subject? The first case to which he had turned his attention would be found in the fourth volume of MS. reports, page 160, at the first session of the fourteenth Congress. It was the case of Lieutenant Montgomery, who took his slave with him, Lieutenant M. being an officer in the service. The slave was killed. Claim for compensation was made. The committee, composed of men from all sections of the country, said in their report, that "it was not conceived that the 'United States ought to be liable for the value of 'the slave if he should be killed, or by any other 'accident lost to the owner."

This was the first case he had been able to find. Such had been the report of the committee in that case, and that report had been sustained, upon full consideration, by the House. This was some time subsequent to the last war. That colored persons were employed was unquestionable. Many of them were killed, maimed, or otherwise injured, yet he found no claim asking for compensation prior to the fourteenth Congress.

The next case he would instance was that of William P. Lawrence, a slave, who died of contagious disease. The claim was disallowed, upon the ground that Congress was not liable to pay for slaves. (See MS. reports, vol. 4, page 186.)

These cases had been reported upon by the Committee on Claims. Sometimes there had been on that committee a majority of one from the North, sometimes of one from the South; but in the cases to which he had referred, so far as appeared from the reports, the opinion was always unanimous against the liability of Congress to pay for this species of damage.

The third case was that of Basil Shaw, (1st sess. 15th Congress, MS. reports, vol. 4, page 396)—a claim for a slave killed on the 8th of January, 1815. The committee in that case declared that "they were decidedly of the opinion that Congress were under no obligation whatever to remunerate the petitioner." No principle of legislation was perhaps better settled than this, that for such losses Government could not be liable.

A slave case occurred at the 16th Congress, and resulted in a similar decision.

There was another case to which he would ask the attention of the committee——

Mr. BURT here rose, and asked the gentleman from New Hampshire [Mr. WILSON] if he would yield the floor, to allow him (Mr. B.) to make a suggestion?

Mr. WILSON said he would do so with pleasure; and the floor having been yielded—

Mr. BURT said that he desired to call the attention of the gentleman and of the committee to the fact, that, in all these cases the slave had been lost by being voluntarily exposed by his owner to the cause of his death, and that that was the ground, and the only ground, upon which these decisions rested.

He desired to say, further—in order that the gentleman might answer if he could—that he invited the gentleman to produce a solitary case in which Congress had refused to pay for a slave that had been taken against the will of the owner, where the evidence before the committee was that the slave had been impressed or otherwise taken against the will and consent of the owner.

Mr. WILSON expressed his obligations to the gentleman from South Carolina [Mr. BURT] for calling his attention to that point; but if he (Mr. W.) had been permitted to proceed, it would have been seen that the suggestion respecting the distinction between voluntary and involuntary service (if any such distinction really existed) had not escaped him.

The fourth case to which he would invite attention, was that of Robert Evans, (1st session 15th Congress, 4th volume MS. reports, page 473.) The slave attended the sick, and died of fatigue and exposure. The committee declared that if the slave had been killed in battle, the owner would not have been entitled to any compensation.

The fifth case was that of Parkhill's slave, (1st session 16th Congress, vol. 1, page 32,) the facts of which would be found to approach nearer to the suggestion of the gentleman from South Carolina. Parkhill lent his slave to another man, to aid in navigating a boat. On his arrival at New Orleans he was impressed. He worked in the marshes or swamps, and there contracted a disease of which he died. The claim was rejected. The gentleman from South Carolina might say that there was a distinction, because it was not distinctly proved that the death was the consequence of exposure, and that upon that ground it was rejected.

There was another case in the seventeenth Congress, to which he would not particularly refer.

In all these cases, claims for compensation for losses of this description had invariably been rejected. But he would go further. During the eighteenth Congress, a case came up in which it appeared, that either voluntarily or by impressment, a slave had been put to work on the defences of New Orleans. It was the case of D'Autrieve. The committee reported against the claim; but the friends of the petitioner on the floor of the House moved an amendment providing compensation for injuries the slave had received, which rendered him less valuable after the service than he had been before. A long debate followed, and the result of the whole matter was adverse to the claim.

The cases which he had cited all bore upon the claim now before the committee. That claim necessarily brought up for the consideration of Congress the question of property in colored men.

He was opposed to the passage of the bill, because he believed that the whole policy of the Government, as illustrated in its history, had been adverse to the recognition, under the Constitution of the United States, of the right of persons to property in slaves. He spoke of the subject with reference to the Constitution of the United States. He did not intend to deny that slaves might be property according to the local laws of the States in which laws might be passed to make them property. He held, however, that these laws were against natural right, and that they should not have any influence beyond the territory to which they were made to apply.

And he would ask the particular attention of the committee to this point. It was necessary, in the first place, for the friends of the bill to show, that under this Government, slaves were property, and property merely;

In the second place, that if taken into the public service, slaves were taken as property, and not as persons;

In the third place, that slaves could not be used by the Government in any other way than as property, and not as persons.

His own view of the Constitution of the United States regarded them altogether, from beginning to end, as persons and nothing else. It did not regard them as property in any form; and the members of this House were here to legislate for the Union of the country under the Constitution of the country.

In the next place, it would be found that all the allusions made in the Constitution to this kind of thing was made as to persons. For example: in the second section of the first article, it was provided that "representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons."

This was the first reference.

Again: they were referred to in another clause of the Constitution, which provides that "persons held to service or labor" shall be delivered up to those to whom such service or labor may be due. In one other instance also, they were referred to as persons.

But was there not on this floor evidence of the fact that they were regarded as persons, and nothing else? Would the gentleman from South Carolina [Mr. BURT] say how it was that the State of South Carolina, with a white population under the last census of two hundred and sixty thousand, stood here with six colleagues, while the State of New Hampshire, with a free white population of two hundred and eighty thousand, was represented here by only four Representatives, unless it was that these other persons were represented also in this Hall? Would he explain how it was that the State of South Carolina, with a population, as he had said, of two hundred and sixty thousand, and the State of Florida, (from which this claim came,) with a white population of thirty thousand, (the two combined falling short of three hundred thousand,) were represented in this House by eight members, and in the other end of the Capitol by four, when the State of Connecticut, with a population of three hundred and three thousand, had but four Representatives here, and two at the other end of the Capitol? Was it not because these were regarded as persons and counted as persons? The very declaration that they were not persons would vacate the seats of those who represented this class of persons on this floor. Not only here, but in the elections to fill the highest executive offices of the Government, that very population gave to the two States which he had named just double the power which the State of Connecticut, with her population of three hundred and three thousand, possessed. It was because these persons were regarded as persons, and not as property. Could the doctrine be tolerated, that there was a representation on this floor and a power given in the popular elections of the country founded upon property?

But he considered that there was manifest injustice in this claim. It was put upon the ground that the slave was property. Mr. W. proceeded to argue the injustice and inequality which would result, in the operation of the laws upon different sections of the Union, from the admission of such claims. It would be conceded that there were occasions when every person might be called upon to expose his person and property in defence of the country. Under such circumstances, a military commander could not stop to weigh the circumstances of the case very nicely. The person was bound to obey, and if he did not obey, he was liable to be shot down. The commander might call out a son, or an apprentice, and appropriate him to the purposes of defence. Was the South to enjoy a superior guarantee in this respect from the other portion of the country? Were the relations of the Government towards different sections of the country to be thus disastrously changed? If a freeman was called upon to do service, should he be allowed to say, excuse me and take my slave? Were the obligations of the country thus to be changed? The rights of the Government and of individuals were reciprocal. Should the slave take the place of the master, and should the Government pay for the slave when it would not pay the man himself? Could it be possible that this Government was to be so administered as to make compensation for that kind of persons, when every other man was bound to render his person for the defence of his country without compensation? The idea was not to be entertained for a moment.

The operation of the principle advocated here, and upon which the claim for the relief of the heirs of Pacheco was founded, changed the liability of the Government in relation to the rights of the owner of the property. The laws in all countries

recognized certain rights: the parent had the right to the service of his son during his minority; the master had the right to the service of his indented apprentice during the period of his apprenticeship; but nowhere in this or in any other country of Christendom, since the introduction of the Christian religion, had it ever been heard that a parent or a master had received pay for losses sustained by the death or by the injury of his son or apprentice when exposed under these circumstances in the defence of his country.

He begged to inquire of gentlemen on the other side, what particular point they now took upon which they undertook to fix the liability of the Government for this man Lewis? Was it because Pacheco hired this man for $25 per month to the United States? Was that the point where the liability attached? Suppose, for a moment, that Pacheco had possessed the accomplishments of his servant Lewis; that he had been a philologist; that he had spoken four languages; that he had known the geography of the country; that he could talk the Indian, the Spanish, the French, and the English languages; and that Pacheco had gone himself instead of sending this man Lewis: would any man pretend that the heirs of Pacheco, if he had been lost or captured, could have brought in a claim for damages? Again: supposing Pacheco had had a son eighteen or nineteen years of age, possessing all the accomplishments necessary for him to have performed the duties required by the officer of the detachment, and that he had entered the service and been captured or killed: would the father or the heirs have presented a claim for damages? And was it to be said in this country, that because a colored man was made a slave by the laws of Florida and of other southern States, he stood on any higher ground, or his master stood on any higher ground, or had any stronger claim for damages when such colored man was killed in the defence of his country, than the parent or the master had for his son or his apprentice, who also fell in the service of his country? The colored man was made property by law, and against natural right. Human laws might make the African a slave; God made him a man, a person. Now, he asked gentlemen if there could be any distinction of that kind taken here—if Pacheco, or Pacheco's heirs, could come here with any less claim for the loss of the father or son, than for the loss of the slave? Or did the disability which attached to the colored man by the local operation of the local laws, give this individual any superior claim upon the Government, or impose upon the Government any superior obligation to make compensation?

Let gentlemen take notice, that from the commencement of the Government up to 1816 or 1818, such claims had never been thought of being made. Since that time they had been brought forward; but with one solitary exception, which had been noticed by the gentleman from Pennsylvania [Mr. DICKEY] the other day, they had been resisted by the Government, and liability had been constantly refused. Now, he regretted the introduction of this subject here at this time. God knew that the country had been agitated quite enough upon this question. He dreaded it as much as any man dreaded it; and he hoped that in whatever he might say now, or at any other time, he should make use of no unkind expression which could give pain or distress to any gentleman on this floor. If he did, it would escape from him in the excitement of debate, when he intended no such thing. He had been treated with too much kindness, with too much courtesy and consideration by gentlemen composing this honorable body, from every section of the Union, to allow him to say a word which should prompt any unkind feelings towards himself, or in the least impair his harmonious and friendly relations, either here or elsewhere, with gentlemen. But it must be obvious, that this question was agitating the country from one end of it to the other; it sprung from causes to which he might refer at some future time when he had opportunity; causes which took a strong hold upon the feelings of the people causes which struck at the very foundation, and ran through every ramification of society. He knew it was said that it was a temporary excitement, and would soon be over; but he could speak here in the hearing of this House, and conscious that he was speaking to this country, that in his poor judgment, this hostility that was springing up in the minds of the people of the North to being involved in the maintenance or in the responsibility of the system of slavery was not easily to be quieted; nor were the people to be prevented from uttering their sentiments, and explaining its operation upon them. It sprung from a deep cause; gentlemen would find it so. In his judgment, there was every occasion for the members of this House to be cautious, careful, quiet in all their movements. Let him say that, in his poor judgment, there was no disposition and no feeling anywhere manifested to interfere with the rights of the slaveholders within the States. He did not understand it so. The people of the North stood upon the Constitution as it was; they planted themselves upon the Constitution as it was, and there they were ready to stand. Where the local laws of other sections operated, it was theirs to regulate the question of slavery; if slavery was a blessing, theirs were the benefits of it; if it was an evil and a curse, they must suffer for it, and not the people of the North. They had no disposition whatever to interfere with the local institutions of the South; but whenever southern gentlemen came to the Government of the country, and asked them to recognize the right of property in slaves, and that this Government was obligated to pay for them, then they of the North took their stand, and said that the Constitution did not so obligate them. Whatever might be the views of southern gentlemen at home, however they might look upon their slaves as property, under the Constitution of the United States, they of the North believed they were not property, and that the treasury of the United States was not bound to pay for them when they were lost in the service of the country as any white citizen might be.

Mr. GREEN interposed, and inquired of the gentleman from New Hampshire, if this Government had not imposed a direct tax upon slaves, and authorized them to be sold? and if they had not been sold by the Government? and if this was not a recognition by the Government that slaves were property?

Mr. WILSON replied that he could not say what might have been the action of the Government at some time; he did not feel authorized to say that it might not have been such as the gentleman stated; but if it had been in any particular instance, it was not, in his poor judgment, such action as should bind the Government in all future time, or such as the free people of the country would tolerate to be continued.

But, he repeated, he wanted to know by what particular act of the Government of this country, or by what particular legal act of any of our military officers, this Government had become responsible for this man Lewis? He asked gentlemen if the mere act of letting him go to the commanding officer as an interpreter and guide for Dade's detachment, constituted the liability upon the Government? And who gave the officer such authority? Where was his authority to make any contract of that kind, which should render the Government liable for the loss of this slave? Why, he was voluntarily permitted to be taken from the control of his master. Supposing the person who had been intrusted with him had taken him into a free State, he would, immediately upon crossing the line, have become a freeman: he would have gone in the enjoyment of his liberty, and nobody could have reclaimed him, either against himself, or have established a valid claim upon the Government for his estimated value as a slave.

What took place subsequently to this? He was lost with Major Dade's defeat. He went into the possession of the Indians; he remained with them a considerable time, and finally, when the Indians surrendered, this man Lewis was brought in with them, and the chief, Jumper, claimed him as his property, on the ground that he had conquered him in battle, and saved his life. Then, of course, he became subject to the operation of the local laws, and an action of trover, or replevin, or any action which would raise the question of property, might have been brought by the claimants, and they might have had their claim fairly adjudicated before the legal tribunals. He was there to be recovered by legal process, if the claim which was set up to him was good. General Jesup said, when asked to deliver him up, "No: send him west of the Mississippi, and let the Government pay for him." Was a transaction of this kind enough to bind the Government? Who, he asked, authorized General Jesup, or any other officer, to bind the Government for the payment of this slave? He submitted to his southern friends, if they were willing to place their property in that situation—if, when a demand was made upon our officers to give up property taken in war, they were willing to permit the officers, by their mere *ipse dixit*, to make the treasury of the United States responsible? He thought every member of the committee would deliberate, would hesitate long, before they would consent to yield a principle like that.

He could not, for the life of him, (even if they went the whole length contended for by the friends of this bill—if they admitted the whole question of the right of the owner to this property,) see when, where, how this Government became liable for the slave. It was under the clause of the Constitution which provided that just compensation should be made for private property which was taken for public use that the friends of the bill undertook to advocate it. They said that the slave was to be regarded as property, as nothing but property, and that, being private property, he was taken for the public use, and thereby that this Government was responsible for his value. Now, he might, in pursuance of this same idea, ask gentlemen to go a little further, and supposing, for the purpose of argument, it was true that this man Lewis was property when he was returned from the possession of the Indians, and was within the reach of General Jesup, what he had done—whether he had emancipated the slave in such a way as to make the Government liable? whether the private property claimed in the man had been appropriated by the Government in such a way as to constitute a liability upon the Government? Why, if he was a slave then, and slave property, he was so to-day for aught he (Mr. W.) knew, and perhaps within the control of the slave laws of the States.

He would not detain the committee longer on this subject. He had desired to present his views of this claim as briefly as he could, without going into the general discussion of the slavery question at all. There might be a time—he hoped there would be—when he should have the opportunity of explaining his views upon the subject generally. He hoped he should be able to do so in a manner not offensive to any gentleman of the House of Representatives. It was a question in which his constituents—those who had done him the honor to delegate him to speak, to act and vote for them here—felt a very deep and abiding interest. He was desirous to discharge his duty to his constituents in such a manner as to explain their views fully and fairly before the Congress of the United States, and that, too, without giving offence to any gentleman.

He was aware that gentlemen were influenced by different feelings on this subject. They sprung from the difference in their early education—in their early habits and early associations. It was to be expected that they should have different feelings. But, in his judgment, the true and proper course was, to come together in perfect good temper, without excitement, without feeling, and discuss this matter fairly, honestly, that they might preserve the union of the country; that this great American Republic might go on prosperously, and hereafter enjoy, as it had hitherto enjoyed, the signal blessing of the Great Governor of the Universe.

Mr. BROWN, of Mississippi, said, the views presented by the gentleman who had just taken his seat were of a character so extraordinary as to require an immediate response. They were the views frequently presented by northern men, and by which the people of the North had continually been led into error upon the subject of slavery. The gentleman had said that he did not desire to inflict any torture upon the feelings of southern men. He begged the gentleman to accept his acknowledgments; but he must say, that no one had been seriously injured, or was likely to be, by what had fallen from the gentleman. The people of the South knew their rights, and knowing, dared maintain them both here and elsewhere, and maintain them as men.

The gentleman had said there was nothing in the Constitution of the United States which made slaves property, and therefore that he was not disposed to pay for them when taken for public use. Slaves were property under the Constitution whenever it subserved the purposes of the Government

to consider them as such. If they wanted to levy taxes upon them, then they were property. This Congress might levy taxes upon slaves as property; they might collect them, and put the avails into the coffers of the Union, to defray the expenses of the Government. For that purpose slaves were property. If it was desired to satisfy an execution in favor of the Government against some southern defaulter—some custom-house officer, some postmaster, or other defaulting agent of the Government—slaves were property enough for that purpose. Whenever it was for the advantage of the Government, their northern friends were ready enough to consider them as property; but when the Government was asked to give fair compensation for such property which had been appropriated to public use, their northern friends found that there was nothing in the Constitution to justify their being regarded as property. The Supreme Court of the United States, sitting at this hour in this Capitol, had time and again adjudicated questions involving the right of property in slaves; and never had that court intimated that there was as much as a doubt as to the existence of that right. In the case of Groves *vs.* Slaughter, among other things, that court had clearly and distinctly recognized the right of property in slaves.

But the gentleman from New Hampshire found that there was nothing in the Constitution recognizing the right of property in slaves, and therefore he was not going to give it by his vote. He (Mr. B.) would like to know of the gentleman if there was anything in the Constitution which pointed out a horse, or any other animal or thing, as property? Where was the clause of the Constitution which declared the right of property in a house, in a wooden clock, or any other product of the great State of New Hampshire, or the right of property in corn, in breadstuffs, or in any article of merchandise? The Constitution of the United States was profoundly silent on all these points, as it was upon the question of the right of property in slaves.

So far as the action of this Congress was concerned, the question had time and again been settled, that there was such a thing as the right of property in slaves. But it belonged to gentlemen of the school of politics to which the gentleman from New Hampshire belonged, within the last three or four years to discover that there was no such thing in existence. Why, he would like to know of the gentleman when and where it was that he had made the marvelous discovery, that there could be no right of property in anything unless that thing was specified in the Constitution of the United States.

The Supreme Court, in, he supposed, a thousand cases involving the principle that there was property in slaves, had affirmed, directly or indirectly, that right; Congress also, in repeated instances, had affirmed it. Gentlemen ought to admit some principle as settled. When we had precedent after precedent, both in our judicial decisions and in the action of Congress, all pointing one way, or (to use more approved language) if the question had been "settled by the various departments of the Government," the principle must be regarded as established; and (we were told) we were to expect no veto from the President elect, and he should hope that no objections to it would come from the President's friends.

He repeated, he had not risen for the purpose of discussing the point whether this particular claim was valid, but to correct the improper, the erroneous doctrine which had been promulgated by the gentleman from New Hampshire—a doctrine which, in his judgment, had done more to poison the minds of the northern people, to lead them into error, and shake the foundations of society, than all other false doctrines combined.

The CHAIRMAN recognized Mr. BURT, who yielded to Mr. CABELL, who had been striving to get the floor; when—

Mr. CABELL said he regretted that he had not an opportunity of going into the consideration of the various questions involved in this case. He would like to give his views fully. But he had only four minutes before the debate would terminate, and he would devote that time to a brief statement of the *facts*, so as to divest it of all considerations but the single and simple point made by the gentleman from New Hampshire, [Mr. WILSON,] that *there cannot be property in slaves.* He was not disposed to discuss *that question* with the gentleman from New Hampshire or any one else. He could not admit that it is open to discussion. He wished this Congress—the people's representatives—to come up to the question, and say whether or not, in their estimation, the Constitution under which we all live guaranties to the citizens of the *southern States* the right of possession and property in their slaves. What is the testimony?

Captain Casey, of the United States army, deposes that in 1835, by order of Captain Belton, commanding at Fort Brooke, he hired a negro man, named Lewis, from the legal representatives of Pacheco, for $25 a month, to act as a guide to the troops of the United States under the command of the lamented Major Dade, which were massacred soon after. Lewis escaped to the Indians. He was brought into Fort Brook in 1837, with a party of Seminoles, recognized by his owner, and *demanded* of General Jesup. He was also claimed by the chief Jumper, on the ground that he had saved Lewis's life at "Dade's massacre." Jesup refused to surrender the slave to Pacheco, and ordered him to be sent to Fort Pike, Louisiana, with the Indians and negroes, to be removed to the land reserved for them in the West, against the remonstrances of his owner. Lewis was sent to the West, though the officer commanding at Fort Pike was notified of the claim of Pacheco.

Lieutenant Reynolds, the emigrating agent, deposes that he told General Jesup that Lewis was the property of Pacheco, but that General Jesup replied, "Take him west, and let the Government pay for him." Reynolds took charge of Lewis, and handed him over to the receiving agent at Fort Pike.

General Jesup, in his testimony, corroborates the statements of Casey and Reynolds, and adds that *he refused to surrender* the slave to his owner, because he had learned that Lewis would be sent to Cuba, whence he would return to Florida, and find his way among the Indians, and be employed against us. He therefore ordered him to be sent west.

Thus, said Mr. C., it appears that General Jesup, knowing and admitting that Lewis was the property of Pacheco, refused to surrender him to his owner, purely from considerations of regard for the public good, and ordered him to be sent beyond the reach of his owner.

Major McIntosh testifies that he at one time owned and sold the slave Lewis to Pacheco. He recognized and had several interviews with said slave in the Indian nation, in Arkansas, where he had been sent with the Seminole Indians.

No case, added Mr. C., could be more clearly made out. The liability of this Government is palpable, unless this Congress determines to assent to the mischievous and unconstitutional doctrine which is avowed by the opponents of this bill.

The question is divested of all extraneous matters, and is simply this: whether there is property in slaves in the United States? and whether this Government will remunerate the owner for the value of a slave forcibly taken and retained from his possession by its officers, and removed beyond his reach, for considerations of national policy, and for the public good and benefit?

Under the rule of the House, one hour is allowed after debate *generally* shall have terminated, to the member reporting the bill.

Mr. BURT (who had reported the bill) rose and was understood to say, that as a member of the committee which had had this matter in charge, he felt that it was probably due to the zeal and vehemence with which it had been opposed that he should at least pay to those gentlemen who had opposed it the respect of showing, as he now proposed to do, that if any man in this Hall voted against the claim, he could not escape the responsibity of doing so upon the grounds which had been taken by the gentleman from New Hampshire, [Mr. WILSON.]

Mr. COLLAMER rose and asked leave to submit an inquiry.

Mr. BURT having yielded the floor—

Mr. COLLAMER was understood to ask whether the gentleman from South Carolina desired to be understood as saying that gentlemen could vote against the bill *only* on the grounds which had been taken by the gentleman from New Hampshire?

Mr. BURT resumed the floor. He was understood to answer the question in the affirmative, and to proceed to say, that he did not intend to leave to the gentleman from Vermont, [Mr. COLLAMER,] a single loophole through which to escape. He intended to show, that as to every other circumstance, as to every other fact upon which the claim depended, the human mind could not entertain a doubt; and that gentlemen, if they decided against the claim, would be compelled to do so upon the ground that slaves were not property under the Constitution of the United States.

This was one of those cases in which there was no difference of opinion in the committee as to the facts. The proof allowed no difference of opinion as to the facts of the case; and these facts, as stated in the report of the majority, were assented to by the minority. What were they?

[Mr. B. recapitulated the facts as they have been heretofore published in this paper; at the same time speaking of the slave *Lewis* as a man of remarkable intelligence, comeliness, and sagacity, "and black as the spirit of darkness."]

He then proceeded to say, that on the 28th day of the month for which he had been hired, the command of Major Dade (as was well known to the country) had been massacred by the Indians. *Lewis* was one of the few persons who survived. He was not again heard of until he came in with Jumper, the Seminole chief, to Tampa Bay, who came for the purpose of surrendering himself to General Jesup, the commander-in-chief of the army of the United States in Florida. Upon his return, Lewis was demanded by his owner; but General Jesup, deeming him a mischievous person, from the fact that he had so long resided with the Seminoles, and for no other reason, decided that it would be unsafe to the peace and quiet of the community in Florida to deliver him to the owner, and therefore directed him to be "emigrated" (to use the language of the department,) with the Indians west of the Mississippi. And there he was taken.

It had been said that General Jesup suspected that Lewis had betrayed the command of Major Dade. That officer evidently entertained a most unfavorable opinion of him; he thought that he was a mischievous person; and high considerations of the public peace induced him to withhold him from his owner, and to have him transported, as he (Mr. B.) had stated, with the Indians west of the Mississippi. These were the facts of the case. He should also say, that the worth or value of Lewis, as set forth in the bill, had been proved by two witnesses, who seemed to be reputable.

The gentleman from New Hampshire, [Mr. WILSON,] with great simplicity, and no doubt with equal sincerity, had asked him (Mr. B.) to indicate the point in this transaction at which the Government of the United States became liable—or, in other words, to specify the act by which the Government became responsible for the value of Lewis. The gentleman was a lawyer—an able one, he (Mr. B.) had no doubt; and he would direct the attention of the gentleman to this point. Here was an officer of the Government, in command of the military forces of the United States, whose authority to make this contract the gentleman did not controvert, hired of Pacheco a slave, at the rate of twenty-five dollars per month. The officer not only did not return the slave to Pacheco, but he withheld him from the owner after the term for which he had been hired had ceased. He (Mr. B.) supposed that neither in New Hampshire nor anywhere else was there a court which would not, under such circumstances, decide that the bailee should be held responsible for the damages sustained. What did the contract avail, if this were not so? And what *was* the contract? It was, that the owner should deliver the slave to the bailee for a certain time, and that at the expiration of that time the bailee should deliver the slave to the owner. Would any man professing to be a lawyer deny that that was law? There was no possible excuse; there was no sort of allegation on the part of the bailee that circumstances beyond his control had rendered it impossible to re-deliver the property. He commended that fact to the consideration of gentlemen.

What was the excuse here? There was none upon earth. The owner demanded of the bailee the possession of his property. It was not delivered, but was per force withheld from him. Upon the strictest principles of law, upon those principles of law which applied to individuals, there

could be no diversity of opinion as to the liability in this case.

This man was carried west by the Indians. And it had been said by the gentleman from New Hampshire, that admitting, for the purposes of the argument what he could by no means concede, that property could be held in slaves, that this slave—even if he was property—was still property in the West, in the gorges of the Rocky Mountains, or, it might be, at the head-waters of the Arkansas river. What an argument was this! What a suggestion—to relieve the Government or an individual from the obligations of a contract voluntarily entered into, for the benefit, too, of the bailee—to say, "I have removed your property beyond your reach, and I now tantalize you, by telling you, that if ever this was property, it is so now—go and get it!" Was the Congress of the United States, in its transactions with its citizens, to act upon principles of such morality? But so far as he had the authority to do it, General Jesup, the commander of the army in Florida, deprived Pacheco of his property and delivered it to Jumper; and he did so upon the allegation that the Government of the United States should pay him for his slave.

This brought him (Mr. B.) to one of the points which had been made by the gentleman from New Hampshire, and also in the report of the minority of the committee—that was to say, that it had been the invariable practice of Congress not to regard slaves as property, and not to pay for them as such.

Now, he desired to bring to the attention of the gentleman from New Hampshire the point which he (Mr. B.) had made, and upon which (as, by the rule, he was to have the last word) he should rely. It was this: that no solitary case—(and he thought that, for the accuracy of this statement, he might pledge his veracity, and whatever of respect he might have in the estimation of this House, and which, small as it might be, he much valued)—that no solitary case could be found on the records of Congress where it had refused to pay for a slave because he was not property. He challenged the production of a case to the contrary. Larche's case was one of the earliest. It occurred in 1828. That was the case of a mulatto in New Orleans, who, it was alleged, had been impressed in the battle of New Orleans. He (Mr. B.) had gone this morning to the files of the Senate, in which body the case came up. He had examined them. He found that in 1828 a report had been made by Mr. Williams, saying that there was no evidence that the slave had been impressed. The committee of the Senate, and the Senate itself, very circumspectly and very properly required the production of the order of impressment, if any such order there was, and that the officers of the War Department should be required to see if there was any evidence of a proceeding of that kind on record. There was none. There was evidence, and still is, that the cart and horse had been impressed, and Larche was paid fifty dollars for the use of them, and he (Mr. B.) believed that at a subsequent period Larche had been paid for the cart and the horse.

Mr. GIDDINGS rose and desired to put an inquiry to the gentleman from South Carolina.

Mr. BURT having yielded the floor—

Mr. GIDDINGS inquired whether a subsequent report had not been made in 1830 from the Committee on Claims, by Mr. Whittlesey, its chairman, which specifically set forth that this man was impressed with the horse and cart?

Mr. BURT said, he should be glad that gentlemen should freely interrogate him in the course of his remarks, if difficulties of any kind occurred to their minds. But the gentleman from Ohio [Mr. GIDDINGS] was entirely mistaken. Mr. Whittlesey, of Ohio, in his report, had quoted from the report of the Senate, in which the fact was assumed. But Mr. Whittlesey did not say so. He (Mr. B.) would have occasion to speak of that gentleman hereafter.

Well, D'Autrieve's case was similar to Larche's. He (Mr. B.) had looked over the whole debate on that case in 1827-'28; and he had taken from the remarks of Mr. Whittlesey—at that time the chairman of the Committee on Claims—the admission that there was not the slightest evidence on earth that the slave had been impressed; and, he added, that if the case was to turn upon that question, the inquiry of the committee should be directed to it, and it would be shown that there was not the least evidence of the fact. That was the language of Mr. Whittlesey; and that was the fact. There was no evidence of impressment.

But the debate in the cases of Larche and D'Autrieve turned upon the question, whether a slave was bound to aid in the defence of the country. There was a diversity of opinion upon that point—a diversity almost as well defined as the geographical lines which separated the members who took part in it. On the one side it was said that slaves, like free persons of color, and all others who had physical strength, should aid in the defence of the country. The contrary position was maintained by southern members; but in that debate Mr. Whittlesey, who was habitually referred to here on these questions, was asked emphatically and directly, whether he admitted or denied that, under the Constitution of the United States, property was recognized in slaves. He answered—as everybody else that he (Mr. B.) had known, except in these latter times, had answered—that, for many purposes they were property, but that for all political purposes they were persons.

Now, if any gentleman would take the trouble to turn to the Federalist, one of the earliest commentaries upon the Constitution of the United States, it would be seen that Mr. Madison took the view of slaves which had been taken by southern men ever since, that they were persons in whom property was held; although, for some purposes, under the Constitution of the United States, they were regarded as persons.

Before he entered upon the examination of that question, (for he wished to place the right of this claimant upon strict legal principles,) he would say that he, for one, would never have consented to report this case to the House if, in his judgment, it did not stand upon unassailable and impregnable principles of law.

It had been alleged that the Government of the United States should not pay this claim, because property could not be held in slaves. Here was a Government, by the act of hiring a slave from the owner, recognizing property in that owner; and now, members of this House came here and denied that Pacheco held property in that slave. He asked gentlemen to revert to the principles upon which cases of contract were every where decided. Was not the Government bound by its own act? Were not its lips sealed? Was it not estopped? The argument ought never to have been introduced here.

If it should be said that the Government received no consideration for this contract with its officer, he (Mr. B.) would ask, if inconvenience to one party, without necessary benefit to the other, was not a consideration? Who ever doubted it? Whether this property were worthless or not, it was deemed valuable by the owner, was recognized by the Government to be valuable and useful, and Government made a contract for the use of it.

It had been said that General Jesup had no authority to order Lewis to be sent west with the Indians. Did the right exist in this general to take private property for public use? He (Mr. B.) apprehended that there was no doubt on this point. The only question was as to the mode in which that right should be exercised. The right was admitted by the Constitution of the United States—admitted with the correlative duty to pay for property so taken. The right had been admitted since the revolution in England in 1688. No one had denied it. But the modification of the right under the Constitution of the United States was, that when private property was taken for public use, it should be paid for.

The report of the minority of the committee denied that the use made of Lewis was a public use—that was to say, it was said that he was not taken for public use. If gentlemen would look to any commentary upon the Constitution of the United States, or to any decisions of the English courts, they would see that an appropriation of private property to public use was a taking of private property for public use. The individual whose property it was, certainly was not to be held responsible for its appropriation by the Government to purposes which should be beneficial. It was enough that it was taken from him for public purposes by the functionaries of the Government.

He would now proceed to consider whether General Jesup, as the commanding officer, had the right to take the slave from the owner, and send him west of the Mississippi. He held in his hand a table, which had been prepared by one of the Auditors, of the number of cases in which this thing had been done. It appeared from this table, that in eleven cases slaves had been taken, by the order of the commanding general, from the owner under similar circumstances, and had been sent west. The owners were in every instance paid by the order of the War Department, out of the fund appropriated for the prosecution of the war. Here were the cases; here was the recognition by the War Department of the right of the commanding general so to take, for public purposes, the slaves of the citizens of Florida.

If gentlemen would consult the writers upon public law, they would find that no principle was more incontestable than that the commander of an army had a right to take private property for public use. He would refer to Vattel in numerous citations. He would refer to the elder writer, Grotius, and to all writers upon the laws of war; by whom it was laid down that if it be necessary to destroy an orchard, or a field of grain, to make a place for the encampment of the army, or the site of a fort, or a temporary breast-work for the defence of the army during the night, the commanding officer had a right to appropriate that private property for public use, and to destroy it. But he apprehended that gentlemen need not at this day be told, after the numerous instances with which their own recollections would furnish them, that the commanding officer of an army had the right to do all this.

That being the case, he said that no candid mind could see in the facts, in the evidence, but one single ground upon which this claim could be resisted; and therefore he had felt himself authorized to say, in the outset, that if this committee would hear the argument and the evidence, there was but one solitary ground on which they could vote against this bill.

Mr. RUMSEY interposed, and was understood to refer the gentleman from South Carolina to the document, which he thought presented other grounds of opposition to the claim, founded on the facts of the case; one of which was, that the emigrating agents had been directed to deliver up the slaves to their owners.

Mr. BURT assured the gentleman from New York that he was perfectly acquainted with the document to which he referred, and he said that the gentleman from Pennsylvania who had addressed the committee the other day, [Mr. DICKEY,] had totally misconceived the document. The orders of the Indian Office to the agents who were engaged in removing these Indians were, that those slaves which belonged to the citizens of Florida should be delivered to their owners, and that those who belonged to the Seminole Indians should be sent with their owners to the West. He remembered the case to which reference had been made; it was the case of an officer who was directed by the Indian bureau to deliver certain slaves to their owners, and who, not doing so, was censured. The chief, Jumper, brought in this slave Lewis. When he came in he surrendered him to General Jesup, and he was immediately put on the march. He said that this transaction occurred before the close of the war, and that it was of a strictly military character, and that it was not competent for the Indian agent, or anybody else except the commander-in-chief of the army and navy, to interfere with the rights and duties of the military commander in Florida.

Mr. RUMSEY said, it appeared, from the evidence contained in the document, that the slave was not hurried off to the West, as the gentleman stated, and that he was not always kept in the possession of the commanding general, from the time of his recovery to the time of his being sent away; but that he was under the orders of the court, and in charge of the sheriff.

Mr. BURT asked if the gentleman wanted this committee to understand him as saying that this slave, Lewis, was ever withdrawn from the authority of the commander-in-chief of that army? That was the point. He was in possession of the quartermaster, or of the emigrating agents.

Mr. DICKEY said he would like an opportunity to answer that question.

Mr. RUMSEY repeated that the slave was withdrawn from the possession of the commanding general, and kept in the custody of the sheriff, during the pendency of the trial

Mr. BURT said he would give the gentleman time, if he would take the paper on which he relied, and show the fact which he asserted.

Mr. RUMSEY repeated that he referred the gentleman to the document, to sustain the statement he had made.

Mr. BURT denied that the position of the gentleman was sustained by the facts of the case, and repeated, that any gentleman who would candidly examine the document, would readily see that this slave, Lewis, was in the possession of the commanding general from the time he was brought in till he was marched west under orders of General Jesup, who, upon demand being made for him, had said, "Let him go west, and let the Government pay for him."

He begged to say, in reply to the statement of the gentleman from Pennsylvania the other day, (with regard to the decision of the courts of Louisiana, as contained in this document to which the gentleman from New York now referred for authority that those negroes were prisoners of war,) that any one who would look at the document would see that an application was made to the courts of Louisiana to prevent the removal of certain slaves that were alleged to be the property of citizens of the United States, and not to belong to the Seminole Indians; that the process of the court was served upon General Gaines; and that among other grounds taken by General Gaines was, that these negroes were prisoners of war, and that the position was absolutely ridiculed by the court. He held in his hand the orders of the Indian Department and of the War Department, that the slaves belonging to citizens of the United States should be delivered to their owners. He supposed that would answer the purpose of the gentleman from New York. Here was a positive order that they should be delivered up.

Well, with reference to the idea that the slaves could be prisoners of war: General Jesup, by an order issued to his army, gave to the Creek Indians who operated in that war against the Seminoles—with great effect in many instances—all the slaves of the Seminoles which they should capture. And in one of the orders issued at the same time from the same command, he offered them the amount of twenty dollars for every slave belonging to citizens of the United States that they should recapture from the Seminole Indians which had been taken from the whites; and that twenty dollars was given that the Creeks should take these slaves alive, and not kill them, as they had done in some instances. That was what was done; those were the orders under which the proceedings were conducted.

Mr. RUMSEY again interposed, but with what object the reporter could not hear.

Mr. BURT (continuing) stated to the committee the facts of the case; the application made to the courts of Louisiana, and the orders that these slaves should not be removed until the rights of the owners were satisfied; and what more did the gentleman want? What more, he asked, could he show? That was all of the case.

But he came now very briefly to notice what had been very candidly admitted by the gentleman from New Hampshire to be the main ground of those who oppose this claim, viz: that slaves were not property under the Constitution of the United States. That gentleman had asked him to point out the difference between a slave and an apprentice.

Mr. ASHMUN interposed, and asked if the gentleman from South Carolina would allow him, before he proceeded to the next point in his argument, to ask him a question.

Mr. BURT. Certainly.

Mr. ASHMUN said, for the sake of argument, admitting the point the gentleman was now about to argue, that slaves were property, and that the Government of the United States had the right to take private property for public use, and was bound to pay just compensation for it: he desired the gentleman to inform him to what public use this private property was put.

Mr. BURT was understood to say he would do so with great pleasure, and that that was the very point to which he had been directing his remarks.

Mr. ASHMUN said he had understood the gentleman that the only alleged public use which was made of the slave was, that he had been taken from Florida, after having been liberated from captivity by General Jesup, and by General Jesup sent beyond the Mississippi, and sent because General Jesup thought he would be a mischievous person at home. That was the only public use which had been made of the slave. Now, let him ask the gentleman, if General Jesup had captured from the chief, Jumper, one of his [Mr. Burt's] slaves, what General Jesup would have done? Would he have had the authority—the arbitrary, supreme, uncontrolled authority—to send the gentleman's slave beyond the Mississippi?

Mr. BURT replied, that with every disposition in the world, he assured the gentleman from Massachusetts, to be respectful and courteous to him, (and he could not be otherwise,) the very object of his citations from Vattel and Grotius had been to show that a commanding general had the right to take private property for purposes necessarily connected with his military expedition. He held these authorities in his hand; they were ample and abundant. The gentleman from Massachusetts, he knew, was a very excellent lawyer, and he must have seen, in his researches into public law, and even into the commentaries upon the Constitution of his own country, that the "public use" which was intended by the Constitution, was any public purpose whatever. If the gentleman would look to the consideration which constituted the obligation of a contract, he begged him to remember his Blackstone—that inconvenience to the one party, as well as advantage to the other, was a consideration. But the consideration here was, he thought, of a very high character. It was no capricious exercise of military power by the commander-in-chief of the army, but it was a discreet exercise of authority vested in him as connected with that war, and indispensable to the termination of the war. This man Lewis was deemed a mischievous person; he was deemed a person of infamous character; he was suspected of having betrayed the command of Major Dade; and General Jesup said, if he had had time, he would have had him hung for that. He (General Jesup) believed he was so dangerous a person as that it was necessary, for the public interest, as that it was indispensable to the termination of that war, that he should be sent off with Jumper, who claimed him.

Mr. ASHMUN desired to put to the gentleman from South Carolina one single question. If General Jesup had hung this man Lewis, would the owner have been entitled to pay? Would that have been a "public use," and the Government have been liable for his value?

Mr. BURT, (continuing.) Ah! He asked the gentleman from Massachusetts if he sought to escape through that hole? *Did* General Jesup hang him? He (Mr. B.) preferred to argue the case: he meant to stick to the case. If General Jesup had hung him, perhaps they never would have heard of the claim here. But he would say to the gentleman from Massachusetts, that in all the slave-holding States, as far as he was informed, where a slave was executed, except for a few specified capital offences, the owner was compensated. There were a few crimes so heinous and atrocious, that when they were committed the owner was not compensated; but otherwise he was.

He would proceed in his remarks (which were somewhat broken by the course of interrogatories addressed to him) to the point whether slaves were considered as property by the Government. He held in his hand an extract from the act of 1815, imposing direct taxes, which was to be found in the 3d volume United States Statutes, page 172. He would read an extract from section 24:

"That the annual amount of the taxes so assessed shall constitute a lien upon all the real estate *and all the slaves* of individuals who may be assessed for the same."

There was not only a tax imposed upon slaves as property, but it was made to constitute a lien upon each slave for two years from the time the tax law was passed. Well, in the 29th section of the act, it was provided—

"If the property shall not sell for the amount of the taxes, *it shall be lawful to buy it in for the Government of the United States.*"

And he would suggest to gentlemen—not on his own observation, to be sure, but on the information of others—that there were cases in which these slaves were sold for taxes not only, but in which they were actually bought in by the Government of the United States. He apprehended that the act of 1815 was some evidence on this subject.

But he remembered that in 1827, when the D'Autrieve case was before this House, a very distinguished gentleman from Virginia, who was not more remarkable for his extraordinary genius than for his great benevolence—for, eccentric as he was, his heart was ever true to real purposes of benevolence—he remembered that John Randolph, when it was sought, in 1827, in the case of D'Autrieve, to question the right of property of the South in their slaves, said, in this Hall, "it was a question he would not condescend to answer, and hoped no southern man would answer it." Although he (Mr. B.) was one of that class who, he knew, were considered of rash and fiery spirit on questions of this kind, he proposed, very briefly, to submit some arguments on this point. He was not willing, God knew, to favor any purposes of agitation. The South could not agitate; it could only defend; it had no power to assail. He said in that spirit he met the assault which was made by the gentleman from New Hampshire, in which he met the assault made by the minority of this committee. The gentleman from New Hampshire had asked him, with an air of seeming great confidence, how he could explain the fact that he (Mr. B.) and his colleagues were here in greater numbers, in proportion to the white population they represented, than the numbers of Representatives on this floor from the New England States representing the same amount of white population. The gentleman very well knew that provision of the Constitution by which, in the enumeration of persons to constitute the basis of representation, slaves were included; and the gentleman knew, that in that number two-fifths of those who were slaves were not included, because to that extent, under the Constitution of the United States, they were not persons, but property. And that gave suggestion to the idea of Mr. Madison, that these "*slaves are persons in whom property is held.*"

But the gentleman from New Hampshire had asked him if he could tell why it was that an apprentice who was draughted into the army, or who was otherwise called upon to aid in the defence of the country, and who was slain, or why a child who was slain under these circumstances, was not paid for by the Government, and a slave should be paid for? And the gentleman had rested his argument on what he said was a great principle of natural right. Now, the distinction between an apprentice and a slave was recognized by the Constitution of the United States; the one was described as a "person held to *labor*," and the other as a "persons held to *service*." "Held to service," he begged to suggest to this House, was a technical phrase.

But he would like to know what was that principle of natural right to which the gentleman referred, that authorized a father to control the service of his child until he was twenty-one years of age—what was that principle of natural right? He would, however, answer the question, by suggesting to the minds of this committee, that if one entice from his master an apprentice, or from a parent his child, during the time he was held to service under the laws of the country, was he not liable for it? Did any one suppose that in these cases the person so enticing would not be bound to make compensation? Why, before an assembly comprising so many lawyers, he could not think of arguing such a proposition.

But the gentleman from New Hampshire had said, that if a slave was killed in the service of the country, he stood in precisely the same category as the child or the apprentice. Well, it was not for him (Mr. B.) to argue that question. It was not presented by this case. The slave was not killed here, but was deliberately withheld from the owner. He might as well enter into a metaphysical and foggy argument with the gentleman from New Hamphire about those principles of natural rights which seemed to float through his imagination, as to discuss with him questions totally irrelevant and collateral which might be raised. He preferred—for the time would not allow him, if he had the inclination to such disputations—he preferred to argue the case; and he asked the committee to decide the case, and to decide it upon its facts, and upon the principles of law and justice.

But if the act of 1815, which he had cited, thus distinctly admitted that there was property in slaves, so also did every treaty which the United States had made with foreign Powers at the termination of a war where slaves had been taken.

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In both the treaties with Great Britain, in the treaties with the various Indian tribes, these slaves were regarded as property, and the stipulation had been made to the Government by the foreign Power that they should be delivered up. Gentlemen talked about the slaves at the close of the revolutionary war: did they not know that, by the treaty concluded by Franklin, John Adams, and John Jay, and by the subsequent treaty concluded by John Quincy Adams—the treaty of 1815—these persons were treated as property and recognized as property? If the gentlemen had taken the trouble to read the quotation from the language of John Quincy Adams, embodied in this report, they would have seen that he declared that slaves were property—private property—and, as such, that they were "not properly prizes in war." Under both the treaties with Great Britain, then—the treaty at the conclusion of the revolutionary war, and of the last war—these slaves were surrendered to their owners, and upon the demand of the Government of the United States, or compensation was made.

He went to the decisions of the Supreme Court of the United States, and he appealed to every lawyer, to every man of intelligence, if the admissions of eastern judges, of Story, and Baldwin, of Chief Justice Parker of the Supreme Court of Massachusetts, and of the Judges of the Supreme Courts of Pennsylvania and New York, were not abundant, explicit, direct, that they did hold property in these slaves; that the stipulation of the Constitution as to the surrender of fugitive slaves was indispensable to the preservation of that property; and if the emphatic declaration of Judge Baldwin, that "if the Government owes a duty to its citizens, it owed the duty of surrendering up fugitive slaves,"—if these high authorities should not be considered conclusive upon the question of the right of property in slaves? He should like to know what gentlemen supposed was contemplated by that stipulation in the Constitution of the United States for the surrender of fugitive slaves, if it was not that their owners had property in them. Why, what was property? That which might be possessed, used, and disposed of. Property was not created by law, but by the usages and understanding of communities. There were but three different kinds of property recognized in the Constitution of the United States; and it was singular that that Constitution should have recognized slaves as property for one of these three cases—the three being property in slaves, in literary productions, and in mechanical inventions. Property in slaves, then, was one of the three species of property which was expressly recognized by the Constitution of the United States.

The hour here expired, and Mr. BURT resumed his seat.

Mr. DICKEY moved that the bill be reported to the House, with a recommendation that it do not pass.

And on that motion he said he would ask for tellers; who were appointed.

The question was then taken, and decided in the negative: Ayes 44, noes 70.

So the House decided that the bill should not be reported to the House with a recommendation that it do not pass.

Mr. VAN DYKE inquired of the Chair if it was now in order for him to move an amendment?

The CHAIRMAN said it was in order.

Mr. VAN DYKE then moved to amend the bill, by striking out the sum of one thousand dollars therein appropriated, and inserting, in lieu thereof, "one cent."

Mr. VAN DYKE, in explanation, said that he had voted in favor of the motion which had just been rejected, to report the bill to the House with a recommendation that it do not pass. But he begged leave to say, that he had not done so upon the ground that he did not suppose slaves to be property.

The CHAIRMAN here interposed, and was understood to suggest that the motion which the gentleman had submitted was out of order, because it was tantamount to the destruction of the bill.

Mr. VAN DYKE then modified his motion, by striking out *one cent*, and substituting *five hundred dollars*, being the half of the sum appropriated in the bill.

The CHAIRMAN said that motion would be in order.

Mr. VAN DYKE then proceeded with his explanation. He desired to say, that upon the question whether a slave was property or not, he had no doubt. He had not voted, and should not vote, against the bill on any such grounds. He had no doubt that if the Government of the United States, recognizing the right in certain States of the Union to make slaves property, went, in case of war, to those States where, by the local laws, slaves were property, and impressed them into its service, and the property thereby got lost or destroyed, he had no doubt that the Government was as much bound to pay for these slaves as for any other property it might take. But he had looked in vain in the present case for the evidence of such impressment. He had read both the reports; he had listened to the arguments; and he confessed he could not find any such impressment as would justify the owner of this slave in calling upon this Government for compensation. That was the reason why he had voted against the allowance made in the bill. He did not find that the case had been made out. There was no impressment. This man was voluntarily placed in peril by the owner, for a high remuneration. He himself took the risk; and if the slave was killed, he could not come upon the bailee for compensation. He (Mr. V. D.) had seen the evidence of no attempt on the part of the owner to establish his right to his slave through the courts of the country after his recapture, and if General Jesup took upon himself to order him to be sent to the West, he transcended his authority, and the remedy lay between the owner of the slave and the individual. The Government was only bound for the legal acts of its agents; it was not bound for their unlawful acts. If, therefore, General Jesup exercised authority which was not legal, and if, while doing so, the owner made no effort to recover his property beyond asking for it, it was the fault of the owner, and he could not come on this Government for redress.

Mr. V. D. then withdrew his amendment.

Mr. STANTON moved that the committee rise.

Which motion having been agreed to, the committee rose, and reported the bill to the House, without amendment.

Mr. BURT demanded the previous question; which was seconded.

The main question was ordered to be now taken.

Mr. CROWELL inquired of the Speaker, if it would now be in order to move that the bill be laid on the table.

The SPEAKER replied in the affirmative.

Mr. CROWELL submitted that motion.

Mr. VENABLE and other members asked the yeas and nays; which were ordered.

And the question, Shall the bill be laid upon the table? was taken, and resulted—yeas 66, nays 85—as follows:

YEAS—Messrs. Abbott, Ashmun, Bingham, Blackmar, Cathcart, Collamer, Conger, Crowell, Dickey, Dixon, Duer, Embree, Nathan Evans, Fisher, Fries, Giddings, Gott, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Henry, Hubbard, Hudson, Jenkins, James H. Johnson, Kellogg, Kennon, Daniel P. King, Lahm, Sidney Lawrence, Leffler, Lincoln, McClelland, Horace Mann, Marsh, Marvin, Morris, Mullin, Palfrey, Peaslee, Peck, Petrie, Pollock, Putnam, Richey, Robinson, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Sawyer, Schenck, Silvester, Smart, Truman Smith, Starkweather, Thurston, Tuck, Van Dyke, Vinton, Warren, Wentworth, White, and Wilson—66.

NAYS—Messrs. Adams, Barringer, Bayly, Bocock, Botts, Bowlin, Boyd, Boydon, Brady, Bridges, William G. Brown, Charles Brown, Albert G. Brown, Burt, Butler, Cabell, Canby, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Williamson R. W. Cobb, Cocke, Cranston, Crozier, Darling, Dickinson, Donnell, Garnett Duncan, Dunn, Edwards, Alexander Evans, Farrelly, Featherston, Ficklin, Flournoy, French, Fulton, Gaines, Goggin, Green, Willard P. Hall, Hammons, Harmanson, Harris, Hill, George S. Houston, Inge, Irvin, Iverson, Jameson, Andrew Johnson, Robert W. Johnson, George W. Jones, Kaufman, Thomas B. King, La Sere, Lumpkin, McDowell, McLane, Job Mann, Morse, Murphy, Peyton, Pilsbury, Preston, Richardson, Rockhill, Roman, Rose, Shepperd, Stanton, Stephens, C, E. Stuart, Taylor, Thibodeaux, Thomas, James Thompson, Richard W. Thompson, Toombs, Venable, Wallace, Wick, Williams, and Woodward—85.

So the House decided that the bill should not be laid on the table.

The question then recurred on the main question, which was on ordering the bill to be engrossed for a third reading.

And the question having been taken, the bill was ordered to a third reading at this time.

Mr. GIDDINGS rose and moved a reconsideration of that vote.

On this motion (he said) he desired to submit a few remarks. It was now three o'clock. He was willing either to postpone his remarks to another day, or to proceed with them, as might be the pleasure of the House.

Mr. CROWELL (Mr. GIDDINGS yielding the floor for that purpose) moved that the House adjourn.

Mr. STANTON moved that when the House adjourns, it adjourn to meet on Tuesday next.

Mr. EMBREE asked the yeas and nays on the last named motion; which were refused.

And the question being taken thereon, it was decided in the affirmative.

So it was resolved that when the House adjourns, it adjourn to meet on Tuesday next.

The question then recurred and was taken on the motion of Mr. CROWELL, that the House do now adjourn.

But the House refused to adjourn.

Mr. GIDDINGS then resumed the floor, and proceeded to address the House.

He said he well understood the inconvenience to which he was subjecting himself as well as the House by proceeding with his remarks to-day; and had it not been for the importance of the principles involved in this bill, he should not have intruded upon the patience of the House. But there were questions involved highly important in his view, and he should consider himself derelict in his duty if he permitted himself to sit in silence when it was possible for him to express his views upon them. And he would say to gentlemen, and to gentlemen of the North on the present occasion, that if they would look into this question and investigate it, there would, in his opinion, be but one sentiment among all parties and all men. It was the dread of investigation on such matters that created the differences of opinion that existed among them. It was because they did not refer to the fundamental principles upon which the Government had been established that they imbibed sentiments so conflicting as these which had been manifested here to-day.

At the foundation of this Government great truths were laid down, which every man here this day either adhered to or rejected. He did not refer to the formation of the State governments, but of the Federal Government of the United States; and it was declared as a fundamental principle that these truths were held to be self-evident, "that all men were created equal." Tell him not that men differed upon principles or practice. Here were fundamental truths about which there could be no difference of opinion. He did not now interfere with the slaveholder; he did not mean to take hold of the subject there; but he was setting forth the principles upon which this Federal Government was instituted. He spoke to the country; and permit him to assure gentlemen that he spoke to an audience that would hear him, whether members of this House would listen to him or not. He felt conscious, before God, that there was an audience that would hear him—which had listened to him before, and which would still continue to listen to him.

He said, then, that every individual—he cared not whether he was Whig or Democrat, whether he came from the North or the South—every individual on this floor either held to the fundamental truth that "all men are created equal," or they denied it. Let them tell him not that they held to this important and fundamental truth, and yet undertake to legislate for the oppression of their fellow-men, and involve his people and the people

of the whole land in the payment for immortal souls.

There was a further principle which was laid down in the formation, and which lay at the very basis of our Government—that among the "inalienable rights" of man, were "the enjoyment of life, liberty, and the pursuit of happiness." Now, let him not be mistaken on this subject; he said there was no member of this House but could lay his hand on his breast, and before his God declare that he believed every single individual was entitled to the enjoyment of these rights which God had given him, or but denied this fundamental truth.

There was still another fundamental principle which was important upon this question. It was, "that governments are formed among men to secure the enjoyment of these rights." Was it a fact that this Government was formed to maintain the right of man to his liberty, and had they to-day prostituted its power to the legislation of slavery—to the degradation of man? Tell him not that they held to these fundamental truths, and then prostitute their political and official power, as they had done in this instance, to compel him and his constituents to pay for the blood, and bones, and muscles, and sinews of his fellow-man. Let him say to gentleman that there was a power, as had been well remarked by the gentleman from New Hampshire, that had gone forth to the people of this Union, which took hold of the public mind, which took unyielding, undying grasp of the popular sentiment, that would hurl from this Hall and from public confidence the betrayers of freedom. He spoke with confidence; he spoke with warmth.

At this point of his remarks, Mr. G. yielded to a motion by Mr. ROSE, that the House adjourn; which being agreed to—

The House adjourned to Tuesday next, at twelve o'clock, m.

PETITION.

The following petition was presented under the rule, and referred:

By Mr. WENTWORTH: The petition of fifty-nine citizens of Horse Creek, Iroquois county, Illinois, praying that the public lands shall not be sold forever, but shall be given to such landless citizens as will occupy them.

IN SENATE.

TUESDAY, *January* 2, 1849.

Mr. BERRIEN presented the credentials of GEORGE E. BADGER, elected a Senator from the State of North Carolina, for the term of six years from the 4th of March next; which were read.

MEMORIALS AND PETITIONS.

Mr. WEBSTER presented the petition of Chas. Colburn, praying compensation for services rendered at the navy-yard at Charlestown, Massachusetts; which was referred to the Committee on Naval Affairs.

Mr. DAVIS, of Mississippi, presented the petition of Hugh Wallace, praying for a pension for disability; which was referred to the Committee on Military Affairs.

Mr. WESTCOTT presented the petition of W. W. Loring, M. E. Van Buren, and R. M. Morris, officers of the army, praying compensation for horses lost in the service of the United States; which was referred to the Committee on Military Affairs.

Mr. DICKINSON presented the petition of Montgomery Gibbs and others, of New York, praying an appropriation for the purpose of erecting a line of electro-magnetic telegraph, to communicate across the Isthmus of Panama; which was referred to the Committee on the Post Office and Post Roads.

Mr. NILES presented the memorial of citizens of New York, asking for a reduction of the rates of postage and the discontinuance of the franking privilege; which was referred to the Committee on the Post Office and Post Roads.

Mr. UNDERWOOD presented additional documents in the case of the heirs of Henry Ragsdale; which was referred to the Committee on Revolutionary Claims.

On motion of Mr. BRADBURY, the petition of Amaziah Goodwin was taken from the files of the Senate, and referred to the Committee on Naval Affairs.

BILLS ON LEAVE.

Mr. DODGE, of Iowa, pursuant to notice, asked and obtained leave to introduce a bill to provide for the payment of the Iowa militia called into service in December, 1839; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. DAVIS, of Mississippi, pursuant to notice, asked and obtained leave to introduce a bill to authorize and require certain illegal entries of public lands at the land office in Columbus, Mississippi, to be cancelled, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

RECIPROCITY TREATIES.

Mr. CLARKE. Some days since I had the honor to introduce a resolution requesting the President of the United States to communicate to the Senate a list of all reciprocal treaties of commerce and navigation existing between the United States and foreign nations; and also a statement of the tonnage and commerce with the population of each of such nations, respectively. A further consideration of the subject has satisfied me that the resolution embraced more than I desired, for it included all treaties of reciprocity for a direct trade between the United States and other nations as well as reciprocal treaties for an indirect trade. It was the information in regard to the indirect trade only which I desired to obtain.

By an act of Congress approved 24th of May, 1828, the President of the United States, upon satisfactory evidence that all discriminating acts of tonnage and imposts in the ports of foreign nations, upon vessels and merchandise of the United States, are abolished, is authorized to issue his proclamation discontinuing such discriminating duties so far as respects the vessels of such nation. This class of reciprocal indirect trade was not included in the resolution which has already passed the Senate. I propose to rescind the resolution passed heretofore by the Senate, and ask leave to offer a resolution to that effect; and another resolution embracing a call for such information as is desirable to show all the indirect trade which is authorized and exists between the United States and all foreign nations, and the effect of such indirect trade upon the commerce of the United States.

Resolved, That the President of the United States be requested to communicate to the Senate a list of all the treaties of commerce and navigation between the United States and foreign nations, conferring upon the vessels of such nations the right of trading between the United States and the rest of the world, in the productions of every country, upon the same terms with American vessels, with the date of the proclamation of such treaties. Also, a list of the proclamations conferring similar rights upon the vessels of foreign nations, issued by the President of the United States, under the provisions of the first section of the act entitled "An act in addition to an act entitled 'An act concerning discriminating duties on tonnage and imports, and to equalize the duties on Prussian vessels and their cargoes,'" approved May 24th, 1828. Also, a statement of the navigation and commerce of such nations, respectively, with the United States since the date of the said treaties or proclamations, discriminating between the vessels and tonnage employed in the direct and indirect trade. And, also, a statement of the navigation and commerce of such nations with the United States, for a period of five years before the date of such treaties or proclamations, respectively.

Resolved, That the resolution passed on the —— day of December last, requesting the President of the United States, to communicate to the Senate a list of all the several treaties of reciprocity between the United States and foreign nations, with the date of such treaties, and a statement of the commerce and the population of such nations, be, and the same is hereby, rescinded.

Mr. WEBSTER. I should doubt, sir, from hearing the resolution of the honorable member from Rhode Island, [Mr. CLARKE,] whether it embraces the case of the arrangement made with England under authority of law and by proclamation of the President of the United States, I think in May, 1830. That is one of the most important of these cases. I wish my honorable friend would so far look to his resolution as to see whether it embraces that case.

The Senate is aware that, under a previous law of Congress, an arrangement was made with England, commonly called a commercial arrangement, and afterwards the provisions of the law and of that arrangement were carried into effect by a proclamation of President Jackson. This is the most important perhaps of all these cases, and I hope, if the resolution does not now embrace it, that it will be made to embrace it.

Mr. CLARKE. Mr. President, I will propose that the resolution be passed over until to-morrow; and, in the mean time, I will endeavor to inform myself in relation to the matter mentioned by the honorable Senator from Massachusetts.

Mr. WEBSTER, (in his seat.) My honorable friend will find the law and arrangement among the acts of 1830, or thereabouts.

Mr. CLARKE. I move that the resolution lie over till to-morrow.

The resolution was postponed accordingly.

Mr. CLARKE submitted the following resolution; which also lies over, under the rule:

Resolved, That a select committee be appointed to inquire into the expediency of repealing the first section of the act entitled "An act in addition to an act entitled 'An act concerning discriminating duties on tonnage and imports, and to equalize the duties upon Prussian vessels and their cargoes,'" approved 24th May, 1828, so far as the same authorizes the President, by proclamation, to extend to the vessels of any foreign nation the right to engage in the trade between the United States and such foreign country upon the same terms with American vessels.

Mr. BRADBURY submitted the following resolution; which lies over:

Resolved, That the Committee on Claims be instructed to inquire into the expediency of providing, by law, for the establishment of a board of commissioners for the settlement of claims of individuals against the Government of the United States.

Mr. MASON submitted the following resolution; which was considered, and agreed to:

Resolved, That the Committee on Claims be authorized to employ a clerk, on the usual terms, whose appointment shall relate back to the commencement of the present session, since which time a clerk has been so employed by said committee.

Mr. DODGE, of Iowa, submitted the following resolution; which was considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of granting to the State of Iowa the buildings and quarter section of land upon which Fort Atkinson, Iowa, is situated, for an agricultural and manual labor school.

Mr. DOUGLAS submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of directing the coinage at the mint and branch mints of gold dollars and the double eagle.

Mr. HALE submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of increasing the salary of the district judge of the United States for the district of New Hampshire.

REPORTS.

On motion of Mr. JOHNSON, of Louisiana, the Committee on Pensions were discharged from the further consideration of the petition of Julia Martin; and it was referred to the Committee on Naval Affairs.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, to whom were referred the papers relative to the proposed railroad across the Isthmus of Panama, reported three documents—one a letter from Aspinwall & Co., and two communications in the Castilian tongue. He moved that the Castilian documents be translated and printed, and that the letter also be printed; which was agreed to. He also asked for the reading of the letter, and it was read as follows:

WASHINGTON, *December* 29, 1848.

SIR: We have the honor to acknowledge the receipt of your communication, informing us of the resolution of the Senate instructing the Committee on Military Affairs to ascertain the particulars of our contract with New Granada, for the construction of a railroad across the Isthmus of Panama, and the terms on which the use of such railroad for the transit of passengers and merchandise is secured to the government and people of New Granada and of the United States.

In reply, we beg leave to say, that the document submitted some days since, under the resolution of the Senate, and which probably has by this time been translated and printed, contains most of the particulars of our contract with the Government of New Granada. It is a copy of a grant made June 8, 1847, by that Government to an association of French citizens, under the style of the Panama Company. The company having failed to make the pecuniary deposite required as a guarantee for the completion of the work, the grant by its terms became forfeited. The Executive of New Granada having full power for that purpose, authorized the minister of that Government, resident here, to transfer the same to such association in this country as might, in his judgment, offer a sufficient guarantee for the fulfilment of its obligations. By virtue of this authority, the minister of New Granada transferred the same to us.

In the assignment to us, the privilege granted to the French company is restricted by the reduction of the terms from ninety-nine to forty-nine years, and by our conceding to the Government of New Granada the right to purchase the road for its own benefit, at the end of twenty years from its completion, for the sum of five millions of dollars; at the end of thirty years, for the sum of four millions of dollars; and at the end of forty years, for the sum of two millions of dollars. Some alterations are proposed by us, but no terms are fixed for the use of the railroad for the transit of passengers or merchandise, either as regards the government and people of New Granada, or of the United States; the only provision on that subject being that contained in

the grant to the French company, which is, that the rates of toll shall be uniform, and that no preference shall be given to the citizens or merchandise of any one country over those of another.

The assignment, with the proposed alterations, (which latter, as they require to be ratified by the Congress of New Granada, are contained in a separate paper,) are herewith submitted; and these, with the original grant to the French company, already before the Senate, will inform you fully of all the particulars of our contract with the Government of New Granada.

We have the honor to be, your obedient servants,

WM. H. ASPINWALL,
JOHN L. STEPHENS,
HENRY CHAUNCEY.

Hon. JEFFERSON DAVIS,
Chairman of the Committee on Military Affairs.

PRIVATE CLAIMS.

The Senate proceeded to the consideration of the bill for the relief of Henry B. Garrison.

Mr. WALKER. Mr. President, I have waited in the expectation that older and abler Senators than myself would discuss the merits of this bill; but inasmuch as I perceive no indications that it will be taken up by them, I must beg the indulgence of the Senate for a few moments while I express my views of the case.

For one, I am not satisfied to see this appropriation made to Mr. Garrison in the way it is proposed to be made here. If I understand the case, it is simply and briefly this: A treaty was made with this tribe of Indians, (the Sagimaws,) and provision was made for the payment of certain claims in this wise: There are lands to be disposed of, and out of the proceeds of the sale of these lands these claims were to be paid. The land was limited to be sold, in the first instance, at not less than seventy-five cents per acre, subject to be increased to five dollars. We have, at this session, passed an act reducing the price of these lands to one dollar and twenty-five cents per acre, on the ground that they could not be sold at five dollars per acre, and consequently the claimants were deprived of the payment of their just claims.

Mr. KING, (in his seat.) The lands were reduced by the act passed at this session to the minimum price of seventy-five cents per acre.

Mr. WALKER. I did not so understand the bill. I thought the minimum was one dollar and twenty-five cents per acre.

Now, sir, if I understand this bill, it proposes to take the case of Mr. Garrison entirely out of the provisions of the treaty, and no longer to rely on the proceeds of the sales of the lands for remuneration, but to go directly to the treasury and take from it the amount of his claim and give it to him out and out, while other claimants are left to receive their remuneration out of the proceeds of the lands whenever they shall be sold. I think this is unfair and unjust. I cannot see any reason why Mr. Garrison should receive his remuneration directly and immediately out of the treasury, and the other claimants, whose demands are equally just and pressing, be left to get their payments out of the proceeds of the sales of the lands.

If there be any peculiar merit in the claim of Mr. Garrison, I have not yet heard it explained; and now—if the land be worth anything—the probability is, since the price has been reduced, that it will soon be sold, and he, on his claim manifest, may receive satisfaction as soon as other claimants. But suppose the land is not worth anything, and he gets nothing from the proceeds of its sale; or suppose there is but a small amount to be distributed *pro rata* among the claimants: in this event he will stand in the same situation as the other claimants. If the land shall prove worthless and unsaleable, and be left on the hands of the Government, and these claims have to be paid out of the treasury, I see no reason why Mr. Garrison should be preferred before any other claimant.

But, sir, this is not the mode provided in the treaty for the payment of these claims, and it seems to me that Mr. Garrison should be left to receive the payment of his claim in the same mode as the other persons holding claims of a similar character against the Government. They should all be met and discharged according to the mode prescribed in the treaty.

I felt it, sir, to be the duty of some one to present these facts for the consideration of the Senate. I was in hopes that some of the older and more experienced members would discuss these points; but, having waited till the last moment—till the bill was ordered to its third reading, and no Senator rising to speak, I felt it incumbent upon myself to perform that duty, or at least to present these as my individual views upon the subject. I have presented them, and if they are worth anything, if they are sound and just, it seems to me that this bill ought to be defeated. If, however, they are not tenable—if I am mistaken in my views, I shall take great pleasure in reversing the opinion which I now entertain in regard to this case, and will give the bill my cordial support. But until I can perceive that there is some peculiar merit in the case of Mr. Garrison not possessed by the other similar claims, I cannot bring myself to depart from the course prescribed by the treaty, and vote to pay him directly out of the funds of the treasury, and leave all the other claimants to get their pay out of the proceeds of the sales of the lands.

Mr. FELCH. I only wish to say one word, to correct my honorable friend who has just addressed the Senate, in regard to the facts of this case. If the case was such as has just been stated, I would agree with the honorable Senator that this bill ought not to pass. But I do not regard the matter as standing in that position. The difference between this claim and the other is this: The first treaty, (for there are two treaties,) instead of providing that this claim should be paid out of the proceeds of the sales of the lands which were ceded, provides expressly that the Government shall pay this claim immediately, and without regard to the question whether the lands were sold or not. This is by the provision of the fifth article of the treaty. The fourth article of the treaty sets forth certain claims which are to be paid from the proceeds of the sale of the lands. The fifth article provides that a certain portion of these claims shall be paid immediately from the public treasury by the Government, while other claims are left out, and, consequently, take the position which the gentleman has assigned to this; that is, they have to wait and abide the result of the sale of the lands, and must be paid from the proceeds of those sales. But there is a difference between this case and the other cases, as will be easily perceived by reading the fourth and fifth articles of the treaty.

If my view of the matter be correct, the Government have absolutely undertaken the payment of this claim. The subsequent proceedings in the second treaty, and the action of Congress in raising the price of the lands, have had the effect, at all events, of defeating this claim. Even if it were to be paid out of the proceeds of the sales of the lands, the Government has effectually withdrawn the land from sale, and held it now, up to this time, some eleven or twelve years, and has burdened the fund so that it is now evident that this claim cannot be paid from the proceeds of the land sales. This is not such a case as that supposed by the honorable Senator who has just taken his seat, [Mr. WALKER,] but one which the Government was from the first to pay out of the treasury. Look at the fifth article of the treaty, and he will find that this case is altogether different from the others, and that he is wholly mistaken in his view of it.

Mr. WALKER. What committee reported this bill?

Mr. FELCH. The Committee on Indian Affairs.

Mr. WALKER. Is there a report accompanying the bill?

Mr. FELCH. There is a report.

The PRESIDING OFFICER. Does the gentleman from Wisconsin [Mr. WALKER] desire to hear the report read?

Mr. WALKER. I do not wish to consume the time of the Senate. I presume that if the Government entered into any arrangement to pay the claim directly out of the treasury, the report sets them forth. The gentleman from Michigan can inform me.

Mr. FELCH. It does. The report states all the provisions of the treaty touching this subject.

The bill was then ordered to be engrossed for a third reading, and was subsequently read a third time and passed.

JOHN P. BALDWIN.

The Senate then proceeded to the consideration of the bill for the relief of John P. Baldwin, owner of the Spanish brig Gil Blas.

Mr. PHELPS. I remarked the other day, that this bill was an old acquaintance of mine. It was before the Committee of Claims, I think, in the summer of 1846, and an adverse report was made upon it at that time. I had that report before me the other day, but I have it not now. I think the Senator from Florida has presented the claim upon its true footing. The facts of the case I understand to be these: This vessel was wrecked upon the capes of Florida; and while lying stranded upon the coast, was sold for the benefit, as I suppose, of the underwriters. The petitioner set himself at work endeavoring to secure the rigging and canvass of the vessel, as well as whatever else might be saved from the wreck. But while so employed, the vessel was burnt by order of an officer of the United States, as was alleged, to prevent it from falling into the hands of the Indians. At the same time, it appears most distinctly, I think, from the evidence accompanying the claim, that there was not the slightest danger of molestation by the Indians. The petitioner states, in his petition, in the most absolute and unequivocal terms, that he had no such apprehension, and that he could have succeeded in saving his property if he had not been interrupted by the execution of the officer's order. This statement, if I recollect right, is sustained by the testimony of all concerned. The witnesses all agree that there was no danger to be apprehended, although the officer of the United States considered that it would be more advantageous to the public service that the vessel should be destroyed. The report which I had the honor to submit on a former occasion, rested upon this ground, that the Government of the United States would not hold itself responsible for the act of an officer, unless the officer was governed by a sound discretion. In other words, placing it upon the ground, that if the act of the officer was unjustifiable, or if it were without sufficient reason or necessity, in that case the individual would have his remedy against the officer. I believe that Congress has always decided, where it appeared that the act was not justified by the circumstances, that the remedy was against the officer. In other words, I believe Congress has never adopted the principle, which has been advanced by some gentlemen here, that this Government should hold itself responsible, at all events, and under all circumstances, for losses occasioned by the acts of its officers. I believe the contrary has always been the case, and that the individual has been indemnified by the Government only in those cases where Congress was satisfied that the act was justified by the circumstances, or was required by the exigencies of the public service.

It was insisted by an honorable Senator, when the bill was up the other day, that, whether the officer acted right or wrong—whether the exigencies of the public service required the act or not, the Government would hold itself bound, of course, to indemnify the owner of property which had been destroyed by the act of an officer, without inquiring into the sufficiency of the reason by which the officer was influenced in ordering the destruction of the property.

My object in rising, sir, was merely to state that, in my view, this case bears no sort of analogy to those in which the Government recognizes its liability to indemnify the citizen for the loss of property. It stands in the category of those cases wherein the acts of the officer is not necessary for the public service; and, being unnecessary and uncalled for, the officer is the party responsible, and not the Government.

Mr. BRADBURY. I have bestowed some little attention upon the case under consideration, and I find myself unable to adopt the principle referred to by the honorable Senator from Vermont. I understand that the principle which he proposes should govern the decision of this case is, that where an officer of the army or navy of the United States undertakes to direct the destruction of the property of private individuals, the Government will refuse to make compensation unless the officer was guided by a sound discretion. There would, it seems to me, be some difficulty in the application of this principle. An officer, acting honestly, believes that it is necessary for the public interest, to prevent property from falling into the hands of an enemy, that it should be destroyed; and he, backed by the bayonets that have been placed under his command, orders the destruction of the property. Now, if the principle which the Senator from Vermont has invoked is to be the rule, that the private individual is to regard the officer only in the light of a trespasser, and may be called on to defend his own property, he then, under a

principle adopted by Congress, must array his own forces, and call out his neighbors to resist by force an officer backed by the bayonets under his command. This would necessarily bring on a collision between individuals and officers of the Government. You tell the citizen that he shall have no redress unless he protects his own property, or runs the venture of finding the officer responsible in a pecuniary point of view, and capable of making compensation. I think the proper rule would be this, that when an officer of the army or of the navy directs the destruction of the property of an individual, the Government should make compensation by paying the value of the property. This case differs essentially from that of Center, upon the principle that the Government should be held liable to pay only the value of the property at the time of its destruction. At the time when the property in that case was destroyed, it was actually worth nothing, because there was evidence to show that it would have fallen immediately into the hands of the enemy. In this case the property could have been saved had not the officer directed its destruction. He, believing that the interests of the service to which he was attached required its destruction, gave the order; and shall we now say that we will make no compensation because he misjudged, and that the individual whose property was thus destroyed ought to have stood by and defended his property in opposition to the authority of the officer? For these reasons, I think the case is distinct from that of Center, and that we ought to grant compensation.

Mr. HALE. I know it is a very hopeless task to undertake to interpose propositions of law against the proceedings of any officer of the army or navy. Whenever he determines, in his discretion or caprice, that the property of the citizen, or the life of the citizen, should be sacrificed, the laws, the Judiciary, and Congress itself, are silent before him. Take the principle which is advocated by the Senator from Maine, and what are all the safeguards of the law worth before the behests of an officer? He judges or thinks, or pretends to think, that the public interest requires the destruction of a man's property, or, as was done not many years since in the navy, to think that it requires the sacrifice of three or four lives without the idle ceremony, the form of a trial by law. The command issues from the mouth of the officer, the citizen is at once slung up to the yard-arm of the ship. Not a word is said, not an inquiry made; the Judiciary itself is silent in regard to the outrage.

The principle advocated by the Senator from Maine is monstrous. The Senator could not, with that discretion which he possesses, have looked at the immense consequences which must follow from the adoption of such a principle in our national legislation, as that the Government, whenever or wherever an officer of the army, in his caprice, chooses to suppose that a necessity exists for the destruction of property, is bound to throw open the doors of its treasury to pay damages to an unlimited amount, when the facts of the case prove that there was no such necessity. Why, we might as well dispense with the dull form of law altogether, and let our officers run according to their discretion throughout the country, and thrust their arms into the treasury elbow deep to pay for their misjudgment or malpractices, whichever they may be called. Sir, it appears to me that the principle stated by the Senator from Vermont is quite as far as the Government should go in all conscience; and that is, if it turn out that the necessities of the case required the exercise of the power of summarily destroying the property, the Government should pay, and not till then. But the principle advocated by the Senator from Maine is unlimited in its application. How is it, where there is an assault made upon a private individual, or a case of false imprisonment by an officer of the army? Why, in such case it has always been the practice, where the circumstances did not justify the imprisonment, that the officer should be held to answer in damages to the party aggrieved. And the judicial records will show that after the restoration of peace, officers have had to answer to the civil tribunals for the abuse of their arbitrary power. Well, that is going far enough: let them stand on a level with other citizens of the Republic. And if they have committed improper acts, no matter whether backed by bayonets and military power or not—indeed this would be but an aggravation of the wrong, and should render them liable to more vindictive damages—they should be held responsible for those acts in their individual capacity. I suppose that this attempt to stand before the treasury and to resist such claims as this will be utterly useless; but I cannot consent, by any vote of mine, to give countenance to any principle involving such monstrous consequences as I am satisfied must ensue from its adoption.

Mr. RUSK. I think that the complaint of the Senator from New Hampshire against the officers of the army and navy is not deserved. Those officers, it is true, in time of war are placed in very responsible situations, when it becomes their duty in the defence of the country to adopt all the means which they deem necessary for the purpose. They have the powers of Government, as has been justly remarked, under their control, so far as their command extends. What is the citizen to do if an officer of the navy or army, judging that certain property might, if suffered to remain exposed, prove injurious if not disastrous to the service, destroys it in order to prevent it from falling into the hands of the enemy, or to prevent it from falling into the hands of the Indians, as in this case? Various cases may occur where it will be necessary for the safety of the army to destroy property. Then the question arises, whether the Government should be responsible for the act of its officer? The principle contended for by the Senator from New Hampshire is, that the officer is individually liable, and responsible to the citizen, if he unnecessarily destroys his property. Well, if you carry out that principle, you must make it apply to all cases: how can you discriminate? It seems to me that it would be a severe principle, when this power is vested in an officer and he destroys the property of a citizen under the belief that it is necessary for the defence of the country, to hold him individually responsible for the value of the property. There is ample safety against an improper exercise of power by officers of the army; if they were to attempt to run riot, as the gentleman supposes, disregardful of the rights of private citizens, there is a law by which they may be punished. What security would it be to the citizen to make the officer answerable to him for the value of the property? The officer is at one place to-day, and at another and a distant point to-morrow, conducting his operations for the defence of an exposed frontier. Is the citizen to be compelled to pursue him? and perhaps, after all, he finds the officer unable to satisfy the claim, if he had the inclination to do so, or if the claimant had recovered a judgment against him. The Senator from Louisiana the other day asked a question, which seemed to be dictated by the idea that the lead which was on board of his vessel was there for improper purposes. I made inquiry of a gentleman of my acquaintance, how the lead happened to be there; and in reply he wrote me a letter, which I will ask may be read by the Secretary. I shall feel no hesitation in voting for this bill; for if it was a mistake on the part of the officer, it was, at all events, a very natural mistake.

The Secretary then read the following letter:

WASHINGTON, *January* 2, 1849.

DEAR SIR: Agreeably to your request, I give you a statement of my knowledge of the claim of John P. Baldwin, Esq., owner of the Spanish brig Gil Blas. My position as an officer of the customs at Key West when the case occurred, made me familiar with all the circumstances, and I recollect them distinctly. The brig was from Cuba, bound to Old Spain. She was partly laden, and went ashore at night in boisterous weather on the main beach of Florida, near Hillsborough Inlet. A large quantity of pig lead was on board of her. The master, with the assistance of wreckers, saved most of the cargo and few of the materials, and sold them at Key West to pay salvage and expenses; where he also sold the brig as she lay, with everything on board, lead included. Mr. Baldwin purchased her at auction at a good bargain, made proper arrangements for saving everything, and would have done so had not the officers of the United States burnt her. Indian hostilities would not have prevented it. Florida wreckers, throughout the Florida war, repeatedly saved property and life stranded on this beach. It was not the seat of war, and but few Indians visited it. I saw and conversed with some of the officers detailed to burn the Gil Blas, and it was done to prevent the Indians from possessing themselves of the lead. I notice that an honorable and distinguished Senator, in the debate some day last week, made some inquiries of one of the Senators from Florida, which indicated a suspicion that the vessel may have been hovering on the coast to supply the Indians with lead. I can assure you that there is not the slightest reason to suppose such was the fact. The facts of this case are succinctly and very fairly stated in a report of the honorable Senator PHELPS, made January 14, 1847, No. 58, reports of Sen. Com. 1846–'47. The principle maintained in that report, that the citizen is not entitled to remuneration for his property destroyed by an officer of the army or navy under the ill-founded apprehension of its being taken and used by an enemy, if it be sound, covers this case fully.

A report of the Hon. Mr. GIDDINGS, of the House of Representatives, July 10, 1840, No. 698, twenty-fifth Congress, first session, in this case, maintains a different principle, and refuses the claim on the ground that if the property had not been destroyed by the naval officers it would have been destroyed by the Indians. It was erroneous in respect to such being the fact in this case. Except those who destroyed the vessel, no one had any idea of its being taken possession of by the Indians; and they expressed mere *apprehensions* only of such a result.

Of the value of the property destroyed, and which, but for being burnt, Mr. Baldwin would have saved, say at least twelve hundred dollars, there can be no question. The sale at auction and the appraisement made, both specifying the articles, by two of the most respectable merchants of Key West, selected by the judge of the county court of that place, is full proof; and the claimant, though continually petitioning Congress, has been delayed remuneration for twelve years and upwards. I have no interest in the case whatever, and this effort in Mr. Baldwin's behalf is made without his knowledge. Very respectfully, your obedient servant,

S. R. MALLORY.

Hon. Senator RUSK.

Mr. RUSK said he had also another letter respecting the claim from a gentleman in this city having knowledge of the facts, which he regarded as furnishing testimony of its justice. The letter was as follows:

WASHINGTON, *Jan.* 2, 1849.

SIR: S. R. Mallory, Esq., the collector of the customs at Key West, has shown me his letter to you respecting Mr. John P. Baldwin's case before the Senate. As you once made a favorable report on this claim, there is no indelicacy in my stating that I was at Key West about the time of the transaction, and the facts are notorious to everybody there.

It is simply a case of the burning and destruction of an individual's property by naval officers in time of war, under a mistaken apprehension that the enemy might take possession of it and use it. And the sole question is, whether that individual should bear the loss or look to the officer only for redress; or whether the United States will indemnify him for the mistaken though honest act of its officers?

The inventory and appraisement on file among the papers is as follows:

6 tons lead	$480
5 do. kentledge	100
31 water casks	75
3 anchors	75
2 chain cables	300
Hull, sails, rigging, &c.	170
Total	1,200

You will notice the hull of the vessel is not taken into account, as the sails and rigging of such a vessel are only charged at $170. It was not anticipated that the hull could be got afloat, but all the other articles could have been saved without difficulty by the wreckers, if she had been let alone by the navy officers, and there was not the slightest danger to be apprehended from the Indians. Mr. Baldwin could have saved and carried to Key West the articles above specified, at a small expense, and realized much more than their valuation. The merchants that made the valuation under oath are all men of the highest character. Payment of this just claim has been delayed to a just man for more than twelve years; and I can assure you that your continued efforts in his behalf will be worthily bestowed.

Very respectfully, your obedient servant,

J. W. SIMONTON.

Hon. T. J. RUSK, *Senate U. S.*

Mr. PHELPS said he had before him the report referred to in the communication just read, and he asked for the reading of it.

The report was read by the Secretary.

Mr. MASON. I do not mean to detain the Senate long in what I have to say; but having reported this bill by the direction of the Committee of Claims, I do not feel at liberty to refrain from answering what has fallen from the honorable Senator from Vermont, [Mr. PHELPS.] The case is this: The petitioner claims to be reimbursed for certain property destroyed by order of an officer in the military or naval service of the United States. I suppose there can be no question, either in law or justice, that where private property has been destroyed by order of an officer in the service of the Government—the officer being and acting in the proper discharge of his duty—the Government is bound to reimburse the owner. I suppose there can be no question about that. The Senator from Vermont says that the mere fact of the destruction of the property does not entitle the claimant to reimbursement; but it must be shown that the officer who destroyed the property was moving in the proper sphere of his duty. Now, how can this fact be shown? It seems to me that it can be shown very easily, both by the statement of the officer himself, and by reference to the circumstances under which the property was destroyed. What were these circumstances? This Government was engaged in an expensive Indian war, carried on at the time in the Territory of Florida. The Indians were seeking opportunities of escape from the arms of the United States in some instances, and for opportunities of committing depradations upon individuals in others. The his-

tory of this war will show that our army was sedulously employed in the effort to deprive the Indians of the means of committing depredations by destroying their camps, crops, and villages—by destroying everything which might assist them in carrying on these operations against our citizens. It was at such a time that this vessel was wrecked on one of the keys on the coast of Florida. Everything was taken from her that could be taken away; there being left on board only the anchors, sails, and a quantity of lead, which remained in the hull. In this condition the vessel was found by the officer who ordered her to be burnt; declaring in his letter that he destroyed the wreck to prevent what remained on board from falling into the hands of the Indians. And payment is asked for here to satisfy the owner's demand for this destruction of his property. Gentlemen say, however, that this is not conclusive evidence that the claim is just. But it may be regarded at least as *prima facie* proof, because the officer, on his own responsibility, declares that the destruction of this property was necessary to prevent its falling into the hands of the enemy. Whether the act of this officer was judicious or injudicious, I apprehend that there was manifest propriety in the act, considering the condition of the property and the circumstances of the country at the time. Were all the circumstances before us, I apprehend that it would appear there was really but little risk of the loss of this property by falling into the hands of the enemy. But allowing that there was but little risk, I apprehend there could still be no doubt upon the question whether or not it was the duty of the officer to extinguish that little risk. I am perfectly aware that in a case of wanton trespass committed by a United States military officer, the Government would not be responsible. But in the case of a proper discharge of duty, though the officer might have been over-cautious, the Government is most certainly responsible. But now, since the order of the officer for the destruction of the property must have been given in good faith, the committee, after an examination of the case, upon which they bestowed a great deal of care, have reported in favor of the allowance of the claim.

Mr. NILES. This is a case of no great importance in itself, but it involves a great principle—a great modern principle. Gentlemen who have expressed their opinions appear to have looked only on one side of the principle involved—at what would have been the consequences if the property had not been destroyed, but had fallen into the hands of the enemy. That is very proper; but should we not also look upon the other side of the question in reference to the rights of private property? Should we not see to it that we do not recognize rules in relation to the conduct of our officers in such cases as would be destructive of the rights of private property, and that we do not revive, as one of the rights of war, any of those arbitrary powers which formerly belonged to war, and which exposed all private property that came within their reach to be sacrificed without any prospect of redress? Now, sir, the Senator from Kentucky, the other day, in an elaborate argument, assumed that we were not responsible for the destruction of this property, because, if our officer had not destroyed this property, the Indians would have destroyed it. That, sir, is not a matter of fact, whether they would or would not have destroyed it. It is an uncertainty. I do not know that we have a right to assume, in any case, that a public enemy would destroy private property if it should fall into their hands. They might use it for their own particular advantage. By the laws of war, private property and land are not to be subjected to destruction. But it may be argued that the Indians would not carry out these rules, nor care for them. With respect to these Indians, who can say that, in getting possession of private property in any particular case, they would destroy it? Sometimes they do; sometimes they do not. The expectation that they will destroy such private property as may fall into their hands is no justification for its destruction on our part. This is a course which appears to me cannot be justified at all. I do not know that any of the writers upon war approve of such an idea, or justify such a principle. It is nowhere maintained that an officer may, at his pleasure, destroy private property without incurring a responsibility. An officer commissioned, and in the service of the United States, may have this right; but, in order to guard against an abuse of it, he must exercise it subject to being held responsible for its injudicious exercise by the Government. This principle may be applied to the destruction of private as well as public property. An officer may destroy a fort or magazine belonging to the United States if the exigencies of the service require, and he may exercise the same power with respect to private property. But, in assuming the fact that private property which should fall into the hands of the enemy may be used by the enemy for the purposes of war, he decides that it would be for the benefit of the United States that it be destroyed, and consequently, by causing that destruction to be made, he converts that private property into public property. He converts it into public property by using this power in ousting the real owners from its possession. Here is the case of an individual who was trying to save his property, and in that very act an officer of the United States navy steps in and assumes the right to take it into his possession and destroy it. The owner might probably have escaped with the whole or a part of the property.

The position taken by the Senator from Kentucky, I consider a very alarming one, and totally inconsistent with the rights of private property as guarantied by the provisions of the Constitution. In one of the articles of the Constitution—the fifth I believe—it is said "that no private property shall be taken for public use without compensation therefor." In taking possession, therefore, of private property, and destroying it in order to prevent its being used by the enemy, we make it public property, and are therefore responsible for such destruction. Now, the gentleman from Vermont takes a different position—perhaps more tenable, though I think not a sound one—and one which equally exposes private property at a seat of war to destruction. He says that Government depends upon its officers in the exercise of this power in using a sound discretion. Why, sir, is this a sound position? Is the Government to be responsible for the act of its officer only when he exercises a sound discretion? The Senator is misinformed with regard to facts. He supposes the enemy to have made certain movements which they did not make. If he had been right in his facts, he would have been right in his conclusions. But his facts being wrong, his inferences were equally wrong; for, as it turns out in this case, it was altogether an idle and useless sacrifice of property. Or, even supposing the officer to have misjudged in the matter: what then? Is the Government to be responsible for the misjudgment of its officer, or the owner of the property? Why, an officer might destroy a whole town, or village, asserting that if it should not be destroyed it would certainly fall into the hands of the enemy and become available for his advantages. Is the Government to be responsible for such an act, or the officer? Where is the security to private property when the investigation comes before the court, and the fact is questioned whether the officer has erred in judgment or not? or whether, if the property had fallen into the hands of the enemy, it would have been useful to his operations in the war? These and other questions of great doubt and uncertainty would arise, so that there could be no security to private property whatever. Would it be right for us to authorize officers to destroy property at pleasure, and leave the claim of the owner to depend on the question whether they have erred in judgment or not? Would it be right thus to rest the owner's claim for payment upon his action for trespass against the officer? Sir, this will not do. The act of the officer is the act of the Government, if he has destroyed the property in the discharge of his official duty. The position of the Senator from Virginia is entirely correct. He has drawn the true line. The question here is not whether there was any necessity for the act, nor whether there was any error of judgment on the part of the officer, but whether the act was performed in the discharge of his official duty? If the act was performed in the proper discharge of his duty on the part of the officer, and because he considered it was necessary to sustain his position against the enemy, it became the act of the Government; and, whether wise or not, the Government is morally responsible for it, and ought to be held responsible. But, even if the act was out of the line of his duty, and it was a mere case of wanton trespass, he becomes responsible for the act, the same as any other individual; but the owner of the property is not to be told that he has his remedy in bringing an action against the officer. For such a remedy is good for nothing. There might be a case in which large quantities of property would be thus destroyed; and what would the individual responsibility of an officer of the army amount to in such a case?

Another consideration is, that the Government should be held responsible for the act of their agent, engaged in the discharge of important service. If the act of the agent or officer appears to have been improper or injudicious, why, he can be court-martialed; and it becomes a proper subject for investigation, involving the reputation of the officer The only way he can be reached is through his reputation; and his responsibility consists only in this, and not at all in pecuniary amercements. Let the officer know that his act is the act of the Government, and that, while the Government is responsible for his acts, he is held responsible for them to the Government.

I can hardly conceive of a case clearer than this one. This claimant was endeavoring to save his property: we come in, by our officer, and destroy it; and he comes here and claims to be reimbursed. Should we then say to him, the Indians would have destroyed your property if we had not destroyed it? But another gentleman says, the officer acted indiscreetly; he erred in judgment. Well, who is responsible for his error? It would be monstrous to say that the officer alone is responsible, and turn the claimant over to him; for his act has become our act. He acted, undoubtedly, according to his best judgment. The presumption of danger that the property would fall into the hands of the enemy, might be held to have been conclusive, in the judgment of the officer, that it was expedient for the public security that this property should be destroyed. I have yet heard no proof that this was a case of wanton or malicious trespass.

Mr. BUTLER. I had, at one time, the honor of serving upon the Committee of Claims. I then formed an opinion upon the principle which should regulate the action of Congress in these cases, and the opinion then formed I still entertain. I know it is very difficult to lay down a rule for the guidance of this body in relation to a claim like this. I am satisfied that during the Florida war large quantities of private property were improperly destroyed, and am aware also that in some instances after such property had been destroyed, our officers were in the habit of giving certificates with too much readiness. I do not say that the Government should be held responsible for every act of its officer which may have been performed in good faith, and with a just regard for the public good; not at all. But I do say that the Government should be responsible whenever the act of destruction comes within its scope of duty, and is necessary for the public good. In such a case, the destruction becomes an incident of the war.

As far as I have been able to look into the history of this claim, into the retrospect of debate, it seems that this vessel was destroyed by our Commodore on account of his apprehension that it might fall into the hands of the Indians, and some part of its cargo become a source of annoyance to us. I remember several cases of similar character to have been before the Committee of Claims, and, as an illustration, I will state my recollection of one of them. I refer to a case wherein a gentleman in the State of Alabama demanded compensation for his corn, which had been destroyed in the Florida war. It appeared in this case that an officer of the army, with his detachment of men, were in possession of this gentleman's plantation—I have forgotten his name—and he was ordered to leave it and repair to some other field in the service. Well, one mode of carrying on this war with the Indians was to starve them out; and, accordingly, upon leaving the plantation, the officer ordered the destruction of all the corn to be found upon it—the corn in the crib and the corn standing in the field—because, had it fallen into the hands of the enemy, it would have been a material advantage to them while the contest was going on. In this case I am inclined to think the officer acted in good faith, and clearly within the scope of his authority. He gave the order for the destruction of the property under such circumstances as by no means to favor the owner. There was no acquaintance, and there could be no collusion between the officer and the owner. If there was any mistake

about it, it must have been a mistake in the judgment of the officer; and I am not prepared to say that there was even a mistake in judgment. I lay down the principle, that in all such cases of the destruction of private property, when the officer acts in good faith, within the scope of his authority, the act is clearly an incident of the war, and the Government ought to adopt the act.

Mr. WALKER. From the views which impress themselves on my mind, I conceive there is some misapprehension on the part of several gentlemen who have spoken in relation to this case. The case, briefly stated, is this: A Spanish brig is stranded off the coast of Florida. While in this position a portion of her cargo is removed by wreckers, and disposed of for the benefit of the underwriters. The vessel, with her rigging, tackle, anchors, and a quantity of lead—not yet placed in a state of preservation—is sold also for the benefit of the underwriters, and is purchased by a Mr. Baldwin. The United States is at war with a hostile tribe of Indians in a country contiguous to the place where the vessel is stranded. The property thus remaining was destroyed by order of the naval officer commanding the United States squadron on the coast at that time, for fear of its falling into the hands of these hostile Indians, and we are now called upon to pay for the property thus destroyed.

Now, the question has been discussed mainly in relation to the proposition, whether this property would not have fallen into the hands of the enemy. If it had fallen into the hands of the enemy, the Senator from Kentucky contends that the claimant would have lost nothing more than he has by its being destroyed by an officer of the United States navy. This may be so. But the error I think he has run into in this case, in asserting that he would have lost nothing more by the act of destruction by the officer, than he would if it had fallen into the hands of the Indians, is an error of principle. Let me refer to the case which the Senator cited to illustrate his argument, in order to show more clearly my meaning. I refer to his application of the Center case. Suppose, while the inhabitants of the town to which he alluded were about leaving their property to the mercy of the Indians, the officer of the United States army should have remarked, "I will take possession of this property 'for the benefit of the Government. If I destroy 'it, you will receive no benefit, and if it is left the 'Indians will certainly get it; therefore, in either 'case, it is of no benefit to you. I will use it for 'governmental purposes." But the owner of the property interposes and says, "Sir, you cannot take this property; it belongs to me." But the officer persists in his determination, declaring that the property will be of no use to the owner, therefore he should take it for the benefit of the Government; and thereupon carries his design into execution. Now, suppose a claimant under that state of the case comes before Congress to have remuneration for the property taken: in such a case, if the principle for which the Senator from Kentucky contends were carried out, the claim would be of no value, and could not be allowed.

But, again, it is stated that the Indians would have destroyed the property if it had not been destroyed by this officer. This rule, laid down by the Senator from Kentucky, I think a false one. Suppose it had fallen into the hands of the enemy; the Senator from Kentucky asserts that it would have made no more difference to the owner than if it had been destroyed by this officer. I cannot agree to that principle. Is it not clear that the Government of the United States, in thus appropriating this property—to a certain extent, although not directly—received benefit from its use by depriving the enemy of the benefits arising from its possession? So far as this case extends, I am satisfied there is a certain well-defined rule upon which the action of Congress can proceed. It is, that where property thus situated is appropriated to the use of the Government negatively, on the plain principle of the Constitution that "private property shall not be appropriated to the public use," the owner shall be entitled to compensation.

I come now to another question involved in the discussion of this subject: would this property have fallen into the hands of the enemy, or would it not? I conceive that the position taken by the memorialist and sustained by the Senator from Florida—that the property would not have fallen into the hands of the Indians—is one which entirely debars Congress from an affirmative action in the question of reimbursement for destruction of the property. If we grant the remuneration asked for upon the ground that the property would not have been destroyed by the Indians, we by our own act fasten the charge of absolute malicious mischief on the part of the officer in destroying the property. The Senator who advocates this claim does it upon this ground, and the proof is to the same effect. I do not wish to be understood as casting any reflection upon this officer, neither upon any officer of the army or navy. But I do say, that in point of law—as between individuals—the responsibility would not attach to him. Take the relation of master and servant. Let me illustrate the responsibility which accrues to the master from the actions of a servant, by referring to a case familiar to the Senate, and particularly the Senator from South Carolina. A master orders his servant to remove the ashes from a fireplace to a certain part of the yard adjoining the house. There being some live coals mixed in with the ashes, upon its being laid against the building adjoining the yard, the house takes fire and is burnt up. Now in this case, in carrying out the order of the master, the master becomes responsible for the consequences that have resulted. But suppose that, in crossing the yard, the servant meets with a person of pugnacious propensities, who will not give way, and knocks him down; in such a case the master would not be responsible for such assault. The principle is, that the master is not liable for the malicious acts of the servant, which do not come within the proper sphere of his duty, though he might be at the same time in the service of his master. Therefore, from the argument of the Senator from Florida and the petition of the memorialist, I can come to no other conclusion than that there was no justification for the act of this officer in the destruction of this property; and that it was clearly a case of wanton and malicious trespass.

But more might be said upon this subject. What was more desirable, during this Florida war, than that the Indians should be drawn out of their fastnesses? This difficulty went so far, that even a celebrated military character, who has since become somewhat famous as a civil character, advised that bloodhounds should be procured from Cuba to chase the Indians out of the everglades; and they were accordingly procured and used for that purpose. Now, here is the case of one of our own officers on the coast of Florida, who, fearful that these Indians would come out from their fastnesses—would do precisely what it was desirable they should do—seizes upon this vessel and destroys it. Had the Indians ventured out to seize upon this vessel, would it not have given an opportunity for their capture—the very thing which the army professed to desire most? But the argument here is, that it was to be feared that the Indians would come out and take possession of or destroy this property. I say, sir, that the evidence drawn from the condition of the country at that time convinces me that there was something peculiar and astonishing in the destruction of this property, as also in the claim set up for reimbursement. If we are to make remuneration in cases of this kind, without looking to the principle I have laid down, great injury may result to the Government of the United States. If we do not look to the fact as to whether the destruction of the property was positively or negatively advantageous to the Government, we fail to come to any just conclusion.

Suppose we adopt the principle, that wherever an officer, in the exercise of his discretion, destroys property, we pay for it: mark my word, that as soon as this practice shall become established, in case of a war, when an individual sees that he cannot preserve his property, he will be anxious for some officer to order it to be destroyed, in order that he may come upon Congress for remuneration. This evil would soon become manifest upon the presentation of memorials of this character; and the burden that would thus be thrown upon the Government could not be estimated.

Again: allowing that the property had not fallen into the hands of the enemy, what is the remedy, supposing the destruction to have been a wanton and malicious destruction? The remedy would be against the officer individually, though he may be at the time the action would be brought, and perhaps within a month after the destruction of the property, in another extremity of the United States. This may be a hardship to the individual, but not more so than the consequences which result from the relation of debtor and creditor in all business transactions. The creditor may not be able to reach the debtor because of his removal to another part of the country. But this is a hardship to which all are subject, and may obtain in any other case of trespass. I contend that the owner of the property thus destroyed should be left to his private action against the officer. The officer will thus become interested in mitigating the damages and making them as light as possible. And then the question arises, will Congress pay these mitigated damages? But by the principle which has been advocated by the Senator from Florida, Congress takes the fearful responsibility of indemnifying the owner of the property in a case of wanton and malicious trespass by the officer.

But how is it in regard to the amount of remuneration claimed here, particularly for the lead? We know that this article is scarce in Florida, and it has probably been appraised according to the war prices of lead there, which are enormous. Do we not know that the Government is almost always imposed upon as to prices?

Mr. WESTCOTT was understood to say that the prices charged for the munitions of war mentioned in the petition could not be considered exorbitant, but, on the contrary, very reasonable. The lead was appraised and charged at only eighty dollars per ton, kentledge at twenty dollars per ton, and other articles in a like ratio. This would seem to be very reasonable.

Mr. WALKER. That may be the case; but I am speaking of the general rule. We all know that munitions of war at the seat of war are appreciated and valued generally according to the circumstances of the time and place. I am speaking of the general rule. And, sir, the Government has no chance to test the accuracy of these charges. Suppose we say to the contractors, your charges are too high. They will turn, perhaps, to contracts made at the same identical seat of war and say, we have charged you only the ordinary rates, only the same prices as have been heretofore given. But for all that, the charges may be a hundred per cent. higher than they ought to be. There is every opportunity, therefore, it occurs to me, left for the Government of the United States to be imposed upon. But when an individual claimant brings a suit against the officer who ordered the destruction of the property, then there is a fair test by which the value of the property may be arrived at.

But is it fair in that case to appreciate the property at the rate at which property of the same kind was selling in secure hands? No, sir; and we know that between private individuals, between the claimant and the officer who ordered the destruction, the criterion of damages would be this: what would the property be worth under all the circumstances? And when the fact that the property is liable to fall into the hands of the enemy, and that it is liable to be destroyed to prevent its falling into their hands, are taken into consideration, they would materially depreciate the value of the property; and in such case the inquiry before a court of justice would be, what is the value of the property under the circumstances? This would be the criterion of damages which a jury would render against the officer as a private individual. But all this is kept out of the way here.

To sum up briefly, I look upon this case as taken out of the rule which I have mentioned. This property was neither availed by the Government of the United States positively nor negatively, and this is stated both by the memorialist himself and his witnesses. They state that the Government of the United States received no benefit from the property, either positively or negatively, and if we take their evidence, we must conclude that the destruction of the property was uncalled for, and was a wanton and malicious act on the part of the officer who gave the order.

Mr. WESTCOTT. If the honorable Senator who has just resumed his seat [Mr. WALKER] will permit me, I think it an act of justice to the Senate, I think it an act of justice to the gallant officer of the navy (Commodore Dallas) who gave the order to burn the ship, and an act of justice to Lieutenant Clarke, who executed the command, to say that all these officers acted, as they supposed, in the exercise of their best discretion, and as the interest and welfare of the country demanded.

But, sir, error in judgment, if not malice and wanton acts, are imputed to them. But what are the facts? This was at the breaking out of the war. It was in eighteen hundred and thirty-six, when the Indians were lurking in ambush in unknown and inaccessible positions. It was before any troops had been sent upon that section of the coast. When the officers were in ignorance (as all the officers of the army and navy were) of the character of the contest in which they were to be engaged, a small band of Indians had made their appearance in that part of the peninsula, and the presumption was that they would seize upon the military stores contained in the vessel. I say, sir, that when we take into consideration all the circumstances of the case, it would be unjust to impute to those officers anything like malice or wantonness in the destruction of these stores. They acted *bona fide*. They did what they deemed to be their duty. They did what they thought was proper and right. They were governed by honest impulses. Their intentions were patriotic intentions. But it has been shown that the destruction of the property was unnecessary. It has been satisfactorily proved that there was no danger at that time. But subsequently, when the Indians were driven to that end of the peninsula by Gen. Taylor and General Jesup, they committed great depredations. They burnt a light-house at Florida Key and sacked Indian Key, and murdered its inhabitants. They were driven to the seacoast by Generals Taylor and Jesup, and roamed along the shore, burning, and plundering, and seizing everything within their reach. But at the commencement of the war, the Indians at the lower end of Florida committed no hostilities, and were not, in fact, hostile at that time. It was in the upper portions of the peninsula that the Indians commenced hostilities, and to those portions they for some time confined their operations. But the officers who ordered the destruction of this vessel thought there was danger there at the time, and they acted in good faith. I have no idea that the honorable Senator from Wisconsin [Mr. WALKER] intended to impute to these officers anything unjust, or to accuse them of malicious and wanton conduct; but I have deemed these remarks necessary to a fair understanding of the circumstances under which they acted.

Mr. WALKER. I certainly did not intend to charge, upon my individual responsibility, anything like corruption, malpractice, fraud, collusion, or anything else upon these officers; but I was speaking of the evidence before us, and it is to that to which I proposed to confine myself; and if I was understood to say anything against the officers in this case, all the answer I would have made to my honorable friend from Florida [Mr. WESTCOTT] would be, that I charged it upon the testimony of the memorialist, for he has furnished the evidence of what I did not profess to say on my own responsibility. In regard to the evidence here, as the memorial presents it, I say it takes the case out of the principle of the rule which I have mentioned, and furthermore, it makes out a case of wanton and malicious mischief against the officer. I presume we are to judge from the memorial, and, judging from it, the only question for the Senate to decide is this—(and I will remark that if this bill is allowed to pass, it will be followed up by claims innumerable)—that whatever rash or wanton act an officer of the army or navy may be guilty of, we take upon ourselves the consequences of the act. You cannot present a stronger case than this.

There might be other cases where the plaintiff might come forward and prove a case of unnecessary destruction of property, and at the same time ask remuneration, but they could be no stronger than this; and if this bill can pass, there is no act of an officer which the Government hereafter, taking this as a precedent, will not feel itself bound to endorse. And this is the point upon which I ask Senators to reflect. This is no great sum for the great Government of the United States, but it is a great precedent. There is a great principle involved in it, and we should reflect seriously whether we will, in this manner, endorse the unauthorized, unjustifiable, and, by the testimony of the memorialist, wanton acts of a military officer, and make remuneration without first turning the officer over to a legal examination, in order that his conduct may be investigated, and if proved to be wanton and unjust, subjecting him to the responsibility and pecuniary loss consequent upon it. I use these terms, not upon my individual responsibility, for I have heard the name of the officer for the first time when mentioned by the honorable Senator from Florida, [Mr. WESTCOTT,] but upon the testimony adduced here; and I conclude by saying that the point is, whether the Government of the United States, through its Congress, will take upon itself the responsibility of endorsing the unauthorized, and, according to the testimony here given, unqualifiedly wanton act of an officer, in the destruction of private property.

Mr. WEBSTER. Mr. President, this belongs to a class of cases very numerous, and which have been discussed by Congress for thirty years, in which necessary distinctions are to be stated and drawn. This is not taking private property for public use. There is no taking to the use of the United States in the case. The facts I suppose to be, that military officers, or legally commissioned officers of the United States, destroyed this lead to prevent, as they say, its being not destroyed, but seized by a public enemy, and converted to the use of an enemy hostile to the United States.

Now, in the first place, there is no doubt of the ownership of the petitioner in the property, and, although the vessel containing it was wrecked upon the sands of Florida, there is no doubt that the value, to a great extent, still subsisted in that property. It was not lost by the storms of the ocean, nor derelict, nor abandoned by the proprietor. It was, therefore, property. Now, the property has been destroyed, the owner has lost it, and he has lost it without fault of his own. It has been destroyed by officers of this Government, and the question is, whether it has been destroyed in such manner as that nobody is answerable for it—for there may be cases of that kind—or whether it has been destroyed under circumstances which make the officers giving the command for its destruction answerable, and rendering them alone answerable; for there may be cases of that sort.

And then, again, it may be a case in which the Government itself is answerable to the owner and loser of the property. I say nothing, sir, now, of the proved value of this property. The committee were judges of that, and in that respect, Congress judging for itself, and nobody being able to control its judgment in its own case, there is no great fear of an over-valuation.

Now, sir, I wish merely to state my own opinion upon cases of this sort, in order that I may let every one understand what governs my vote in this case. I do not think that there can be any such definite and mathematical rules laid down in these cases as may be desired. There are certain known, acknowledged qualifications, which must accompany almost every proposition of public law announced in regard to such cases. I take the true doctrine to be this: that, if it be clear and manifest that the property would have been seized by the enemy, at any rate, if it had not been destroyed, then neither the officer nor the Government of the United States is answerable. If it be plain to common apprehension, and to the satisfaction of every intelligent and candid mind, that the enemy would have seized the property, if neither the Government of the United States nor its officers had destroyed it, then neither the Government nor its officers are answerable.

In the second place, I think, sir, the rule to be as applicable to this case, that if it be now doubtful whether the enemy would have been able to seize the property or not, if it had not been destroyed, and yet, if it appear that the officer destroying the property acted honestly and fairly, under the circumstances of the case, discreetly in making such destruction, then the Government ought to indemnify the owner; and, upon the whole, that is the judgment I have come to upon this case.

Further, sir, I think that, if the officer was plainly acting unnecessarily in destroying the property—wantonly, recklessly—in such case, he could not justify himself as acting under his public authority, nor would the Government be responsible for his act. It would, in that case, stand on the ground of private or individual trespass. If the officer acted under the pretence of authority, and not in the honest and discreet performance of his public duty, for such an act he would be answerable personally, and could not throw the responsibility on the Government. In this case, I see no evidence whatever that the officers, in ordering this destruction, acted in bad faith, wantonly, recklessly. I believe they did all, and no more than all, that they supposed to be their duty; and yet it now appears, I think, by no means clear that the property would have been seized by the enemy, if the officers of our own Government had not destroyed it. Therefore, the inference is, that the property has been lost, not by the imminent pressure of war, or presence of the enemy, or a flagrant danger growing out of the action of the enemy, but from the exercise of an authority on the part of the officers of the United States fairly and discreetly exercised, but which, as it turned out, was not clearly necessary in order to prevent the seizure of the property by the enemy.

Now, sir, if these propositions be true, the only question is, whether the officers in this case acted discreetly, honestly, in good faith. The honorable member before me, from Wisconsin, [Mr. WALKER,] would recommend that a suit be brought against the officer, for the damages could then be better ascertained, and then indemnity might be awarded by Congress. I would ask the honorable member what would be the progress of such a prosecution? Suppose the owner of this property brought his action for trespass against Commodore Dallas—although Commodore Dallas was the superior officer, and his inferior officers destroyed this brig in his absence, yet he approved of it, if I understand the case: suppose, then, the petitioner in this case had brought his suit against Commodore Dallas, and the Commodore had justified what he did, showing that he did it as a public officer, under a public authority, and in the discreet and conscientious exercise of that public authority: so far, that is a bar, I may be allowed to say, against any recovery against him; because, for acts honestly done in the exercise of a public authority, public agents are not answerable.

Well, then, suppose that justification should be met by the allegation, "What you say is not true. You were not acting in the faithful and discreet exercise of public authority. You were acting wantonly, recklessly. All that you say about public authority is pretence. It was a malicious act; and that we have found to be the fact." And suppose that upon that issue the petitioner here—the plaintiff in such a supposed case—should recover a verdict of damages against the officer. Then, of course, the officer could not come here for any indemnity. The case would show upon its face that he was entitled to no indemnity. The case would show that it was his own unauthorized, individual, private act, and not an act in proper pursuance of delegated public authority.

Now, I think that all these qualifications belong to these cases, and, as I have said, no very plain and strict mathematical lines can be drawn. I think that all the propositions must take with them the qualifications which I have mentioned. For one, as I see not the least reason in this case to impute a want of good faith and honest purpose to respectable officers who caused the destruction of this lead; and as, on the other hand, I do not see clearly that the property must, in all rational understanding, fall into the hands of the enemy if it had not been destroyed, then I think it is a case of the destruction of an individual's property by officers acting fairly and honestly, who ought not to be responsible themselves, yet a case in which the individual ought not to suffer; and that, therefore, it is a case for the indemnification of this individual which this bill proposes.

Mr. KING. Mr. President, this question has been discussed at very great length, and the general principles which ought to regulate our action upon such matters have been viewed in very different lights. Senators have taken very different views of this subject. It is not my purpose to enter at all into the examination of the merits of the bill. I have only to say that the Government is not in the habit of paying for property destroyed as this was destroyed, until the whole matter has been officially investigated.

If the destruction of this property by an officer in the service of the United States was not absolutely a wanton act, if it was done in the conscientious discharge of his duty, the Government then, if a judgment be obtained against him by the claimant, may pay the amount. Yes, sir, even on the northwestern frontier, during the late war with Great Britain, as the honorable Senator from Massachusetts [Mr. WEBSTER] will well recollect, where persons in league with the enemy attempted to furnish them with supplies were

arrested by officers of the United States, and these supplies seized and destroyed, and the officers were prosecuted by the losers, the Government assumed the payment of the amount. There was the case of General Hamilton, which I distinctly remember, and many others. In all those cases, when Congress believed that the officer discharged his duty properly and in good faith, and believed the supplies were actually going to the enemy, the Government assumed the payment of the claim. If necessary, I could refer the honorable Senator to many other cases, for I had some interest in the subject at the time, and the facts were strongly impressed upon my memory.

But, sir, as I have said, I am not going to enter into the merits of this case. Whether in this particular case the property was destroyed for the purpose of preventing it from falling into the hands of the enemy or not, I shall not now stop to argue. I look, sir, at the case precisely as it was presented. In the year 1835 this vessel was stranded on the coast of Florida. The individuals who owned her, in order to save as much of the property as possible, carried her into Key West for the purpose of discharging her cargo. The vessel lay there on the breakers till the year 1836, and in that year she was burnt by an officer of the United States. In 1838, two years after she was burnt, this individual petitioned the judge having jurisdiction in that district to take testimony in regard to the property thus destroyed. That testimony was taken by order of the judge, and the testimony is just as full as might have been anticipated under such circumstances. One seaman, who says he was on board the ship, among other things declares there were twenty water casks on board. Another seaman says there were thirty water casks. Another seaman states in evidence that it was said that there were six tons of lead on board the ship. "It was said!" Well, sir, when they come to value this property—the vessel lay there from 1835 to 1836—two years after it was burnt, they valued not only the lead, but they valued the ballast in the ship. "Six tons of lead!" The evidence that there were six tons of lead on board the ship rests upon the simple declaration of an individual that "it was said"—what? That there were six tons of lead on board? No, sir. "That there was a good deal of lead on board." Another says there were six tons of kentledge, which means nothing but ballast, and thirty water casks. One seaman swears that there were twelve water casks. This vessel lay there twelve months exposed to the waves and the storms, and her hull, sails, and rigging are valued at only one hundred and seventy dollars; and yet her ballast is valued at one hundred dollars. The vessel was destroyed in 1836; and in 1838, two years after, the testimony was taken, and the petition presented to Congress, and the committee has reported on the bill; the last reports are from 1846 up to this time, made in 1846, 1847, and 1848. Now, I would ask honorable Senators if, from such testimony as this, so vague and uncertain, they can be induced to believe that this old hull, which had been there twelve months, battered upon the rocks, could be worth anything, even in case it could be removed?

Without reference, therefore, to the actual value of the property, or its being destroyed by the officers of the United States, I will submit if this statement does not, on its very face, show that it is extravagant in regard to certain articles charged in the schedule.

Mr. WESTCOTT. I regret very much that the Senator from Alabama [Mr. KING] had not examined the papers in this case previously, and could not have made the objections he has, instead of at this time, just as the case is about being decided. They could have been readily explained. The vessel was wrecked in the latter part of 1835, or early in 1836; the petition says, I believe, the latter part of 1835. She was burnt in the spring, or in June or July, 1836, I am not certain. The Senator seems to think it singular that this property was allowed to lay on the beach several months. It is not at all strange; it was not perishable. The hull was not expected to be saved. The anchors and chain cables, rigging, lead, iron, &c., certainly could not be injured if left there unmolested for a much longer period. The cause of the delay in getting out the lead is explained in the papers filed. It is not a novel occurrence with respect to wrecks stranded on the coast. Those interested await favorable tides, seasons, times, and opportunites to take away property so situated—sometimes a whole season.

But the Senator says the proof in this case was not taken till 1838. Some of it was obtained as soon after the vessel was burnt as was practicable; and in 1838, when Mr. Baldwin was about to petition Congress for relief, he applied to the judge of the county for an order of appraisement, and to take evidence, as is usual in such cases furnished for other purposes. The judge selected respectable merchants, who did appraise the property as worth, when it was burnt in 1836, $1,200—specifying the items; and they made oath of it. Their report is on file. But the Senator says the depositions are of the sailors of the brig, and that they are very loose and contradictory. I do not think any of the brig's crew were examined. I notice the names of citizens there who are witnesses, and I do not know that any of the Spanish sailors were examined. I think the Senator is mistaken in this.

Mr. KING, (interposing.) One of the depositions is of Peter Scott, who swears that he was a seaman on board the brig Gil Blas. I read from his deposition.

Mr. WESTCOTT. Well, sir, as to Peter Scott, the Senator is, I am satisfied, right, and I am wrong. There are many depositions, some taken before the appraisers, and several since. Among the first, there is a deposition of Mr. Cooly. My colleague, I presume, will recognize that as the name of a citizen of Florida, a federal officer there, formerly keeper of a light-house on the coast destroyed by the Indians. He is no seaman, and there are others who may be seamen, wrecking, or following the water on the coast; but this Mr. Scott is, I believe, the only one stated to be of the crew of the brig, and I had not noticed that fact before. As to the discrepancy in their testimony, one recollects twenty, one twenty-four or twenty-five, and another thirty water-casks. He speaks of about five tons of kentledge, and about six tons of lead, and another states the quantity more positively. They do not, I think, contradict each other, but some are more specific than others are. The lead is charged in the appraisement six tons, at $80 per ton. Nobody will say that is a high price for pig lead, even in our northern cities. There are five tons of kentledge or pig iron ballast, appraised at $20 per ton. Is this an extravagant price? Is this charged, as the Senator from Wisconsin [Mr. WALKER] feared this property was charged, extravagantly, and at an enhanced price? No, sir. In 1836, or 1838, or now, you could not get pig iron in any part of the United States for this price per ton.

Mr. NILES. Perhaps you could get it for such price now.

Mr. WESTCOTT. I suppose its cheapness now, the Senator thinks, is owing to the tariff of 1846. If so, I hope the fact will be remembered when the tariff of 1842 is sought to be revived; but, at any rate, the charge is reasonable. And as to the water-casks, and anchors, and chain-cables: There are thirty casks, valued in a lump at $75; if it is too much, reduce it. There are three anchors, at $25 each, and two chain-cables at $150; and if they are charged too high, dock them. I have no objection, if Senators think that this claimant, after waiting twelve years for remuneration, will get too much to be allowed $1,200, without interest, to abate all that any one may deem exorbitant. Allow for only twenty water-casks, and reduce the kentledge; reduce all the articles, if Senators consider the committee should not have allowed them.

Mr. HALE. Will the Senator inform me if the iron cables and anchors were consumed by fire? and if not, what became of them?

Mr. WESTCOTT. I do not know exactly and precisely what became of the articles as to which the Senator so anxiously inquires if they were burnt. I do not suppose the effects of fire on iron is very different down South from its effects at the North. I think, but am not certain, that it is quite probable that when this vessel was burnt, the anchors and cables, being of iron, did not float off, but sunk to the bottom, and became covered with the sand in a very few days.

Mr. HALE. Were they irreclaimable?

Mr. WESTCOTT. If the Senator had any knowledge of the manner in which the sea serves property wrecked on the Florida reef, he would be satisfied on this score. Until burnt or broken to pieces by a gale, the hull of the vessel stranded upon the beach might remain for months without injury; but once broken up, all articles that do not float sink, and are soon covered with the quicksands, and all trace of them is lost. Why, sir, if it were otherwise, and the honorable Senator could tell where several Spanish galleons, laden with gold and silver from Mexico, which were wrecked on our coast some century ago, could be found, he could make a greater fortune in getting the gold out of them that he could by going a gold hunting in California.

No amendment being submitted, the bill was reported to the Senate; when, the question being upon ordering the bill to be engrossed for a third reading—

Mr. HALE asked for the yeas and nays; which were ordered.

The question was then taken, and decided as follows—Yeas 22, nays 23:

YEAS—Messrs. Benton, Berrien, Bradbury, Butler, Clarke, Clayton, Dayton, Dodge of Wisconsin, Dodge of Iowa, Downs, Foote, Houston, Johnson of Maryland, Johnson of Louisiana, Johnson of Georgia, Jones, Mason, Niles, Rusk, Webster, Westcott, and Yulee—22.

NAYS—Messrs. Allen, Atchison, Atherton, Bell, Breese, Bright, Davis of Massachusetts, Davis of Mississippi, Dickinson, Dix, Felch, Fitzpatrick, Hale, Hamlin, King, Metcalfe, Phelps, Spruance, Sturgeon, Turney, Underwood, Upham, and Walker—23.

So the bill was rejected; and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 2, 1849.

The Journal of Friday was read and approved.

Another member appeared to-day, and took his seat, viz: From the State of New York, Mr. WILLIAM COLLINS.

REPORTS OF COMMITTEES.

Mr. CONGER, from the Committee on Printing, to whom was referred the resolution in relation to binding the reports of Lieutenant Emory, Lieutenant Abert, Lieutenant Colonel Cook, and the journal of Captain Johnson, as also the printing and binding of the memoir of Lieutenant Colonel Frémont, reported the following resolution, which was read and agreed to:

Resolved, That the report of Lieutenant Emory, Lieutenant Abert, Lieutenant Colonel Cook, and the journal of Captain Johnson, respectively, be bound together in one volume, and that the Committee on Accounts be authorized to contract for the binding of the same, in good and durable form.

Mr. HENLEY, from the Committee on Printing, to whom was referred the letter from the Treasurer of the United States, transmitting copies of his accounts of receipts and disbursements of the Post Office Department for the year ending 30th June, 1848, made a report thereon adverse to the printing of said document; which report was laid on the table.

Mr. HENLEY, from the same committee, to whom was referred the resolution of the House of the 18th of December last, instructing said committee to inquire into the propriety of printing twenty thousand extra copies of Colonel Frémont's last report to the Senate, with the accompanying maps, and of having the same bound up with the report of Colonel Abert, already ordered to be printed by the House, reported the following resolution; which was read, and agreed to by the House:

Resolved, That twenty thousand extra copies of Colonel Frémont's last report to the Senate, without the appendix, be printed.

Mr. VINTON, from the Committee of Ways and Means, reported bills of the following titles:

A bill making appropriations for the payment of revolutionary and other pensions of the United States, for the year ending 30th June, 1850.

A bill making appropriations for the payment of navy pensions for the year ending 30th June, 1850.

A bill making appropriations for the naval service for the year ending 30th June, 1850; which bills were severally read twice, and committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

On motion of Mr. VINTON,

Ordered, That the said bills be made the special order of the day for the 4th day of January, and so to continue (Fridays and Saturdays excepted) until disposed of.

On motion of Mr. VINTON,

Ordered, That the Committee of Ways and Means be discharged from the further consideration of the letter from

the Secretary of the Treasury, respecting an appropriation for erroneous surveys of land in Louisiana, and that the same be referred to the Committee on Public Lands.

Mr. THOMPSON, of Indiana, from the Committee on Elections, to whom was referred the question of the right of HENRY H. SIBLEY to his seat as a Delegate from the Territory of Wisconsin, submitted a report thereon, accompanied by the following resolution:

Resolved, That HENRY H. SIBLEY be admitted to a seat on the floor of the House of Representatives as a Delegate from the Territory of Wisconsin.

Which report and resolution were laid on the table, and ordered to be printed.

NOTICES OF BILLS.

Notices of motions for leave to introduce bills and a joint resolution, were given under the 114th rule, as follows:

By Mr. EVANS, of Maryland: A bill for the relief of the legal representatives of Uri Emmons.

By Mr. FLOURNOY: A bill to retrocede to the State of Maryland all that portion of the District of Columbia not occupied by the public buildings and public grounds.

By Mr. PHELPS: A bill granting to the State of Missouri the right of way for making a railroad from Lexington, on the Missouri river, to Ohio City, at the mouth of the Ohio river, in said State.

By Mr. SMITH, of Indiana: A joint resolution to repeal a joint resolution entitled a "Joint Resolution directing the manner of procuring the printing for the two Houses of Congress," approved August 3d, 1846.

A message, in writing, was received from the President of the United States by J. KNOX WALKER, his Private Secretary, which was delivered at the SPEAKER's table.

APPROPRIATIONS FOR DEFICIENCIES.

The SPEAKER announced as the next business in order, the consideration of the bill to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th June, 1849, reported from the Committee of the Whole House on the state of the Union on Thursday last with sundry amendments.

The House proceeded to the consideration of said bill, the question being on agreeing to the amendments.

The first and second amendments were read, and agreed to, viz:

For the reappropriation of this sum, (carried to the surplus fund,) being the purchase of agricultural implements, cattle, mechanics' tools, for the Ottawas and Chippewas, stipulated in the fourth clause of the fourth article of the treaty of 28th March, 1836, $5,406 47.

For payment of services of blacksmith and striker, of the Choctaws, rendered after the treaty provision had expired by limitation, and before he was notified thereof; and for coal furnished the shop during the same time, $156 98.

The third amendment being read, viz:

For the expenses of an agent in taking the census of the North Carolina Cherokees, under the 4th section of the act of 29th July, 1848, $400.

Mr. CLINGMAN said he had examined the report made by the agent who was employed to take the census. He (Mr. C.) was of opinion that this sum of $400 was not sufficient to pay his expenses. He had had occasion to witness the manner in which the agent had discharged his duties. It was quite a troublesome office. The agent had to ride some three or four hundred miles through the mountains to hunt up the Indians. He had also some other expenses for the pay of interpreters, &c. In his (Mr. C.'s) opinion, $550 would not be too much. He moved to amend the amendment by increasing the amount from $400 to $550, and by providing that the sum should be paid to John C. Mullay, the person employed for the service.

The question being put—

The amendment to the amendment was agreed to.

The said third amendment, as amended, was then agreed to.

The fourth, fifth, and sixth amendments were severally read and agreed to, viz:

For continuing the collecting and digesting of such statistics and materials as may illustrate the history, the present condition, and future prospects of the Indian tribes of the United States, $5,000.

For reappropriation of this sum, (carried to the surplus fund,) for pay, subsistence, and clothing of the company of sappers and miners and pontoniers, and for carrying out the other purposes of the act of May 15, 1846, $23,259 40.

To enable the Clerk of the House to furnish to members of the House the books authorized by the resolution of the 7th August, 1848, $76,000.

The 7th amendment was then read as follows:

For copying abstracts from old sea journals for the "wind and current charts," and for payment of duties on books, maps, and instruments imported for the use of the navy, $4,000. And from and after the 30th June next, all books, maps, charts, mathematical instruments, philosophical apparatus, and all other articles whatever, imported for the use of the United States, shall be imported free of duty, anything in the act of July 30, 1846, entitled "An act reducing the duty on imports, and for other purposes," to the contrary notwithstanding.

Mr. VINTON moved to amend the same, by inserting after the word "mathematical," the word *nautical;* which amendment to the amendment was agreed to; and

The amendment as amended was then agreed to.

The eighth, ninth, and tenth amendments, were then severally read and agreed to, viz:

For salary of the secretary to sign patents for public lands, $1,500.

To pay two messengers in the Pension Office, in addition to those now employed, at the rate of $400 each per annum, for the last two quarters of the current fiscal year, $400.

For furnishing sixteen rooms in the new building occupied by the Pension Office, at an average of $100 per room, for carpets, matting, desks, tables, shelves, book-cases, chairs, and other necessary articles, $1,600.

The 11th amendment was then read, viz:

At the end of line 57, in the printed bill, insert, "including the compensation of a clerk to the Sergeant-at-arms, at the rate of four dollars per day, during the present session: *Provided*, That hereafter there shall not be allowed a messenger in the office of the Sergeant-at-arms;" when—

Mr. VINTON moved to amend the amendment, by striking out the proviso.

Mr. ROOT called for a separate vote upon the amendment relative to the clerk for the Sergeant-at-arms of the House.

Mr. VINTON asked for a division of the amendment, so as to vote upon the appropriation independent of the proviso.

The SPEAKER said the amendment could not be divided. The gentleman, however, might move to strike out the proviso, and that motion would first bring up the question of the proviso.

Mr. VINTON accordingly moved to amend the amendment by striking out the proviso.

He said he would simply state that there had formerly been an assistant doorkeeper, who was one of the regular officers of this House. Some years ago—he believed at the death of the assistant doorkeeper—that office was discontinued, and this messenger substituted in his place. The proposition, if he understood it aright, was now to discontinue the messenger, on the ground that it was not necessary to continue that officer if they permitted a clerk to keep the accounts of the House. It appeared to him that there should be a messenger or an assistant doorkeeper, or some officer of that sort, to the Doorkeeper of the House; so that, in case of his sickness or disability, or what was more, in case of his discharging any duties so that he could not be here, they would have somebody to take his place.

Now, as to the accounts of the House, though he had never looked into them, he took it for granted that in theory the disbursements were made and the accounts were kept by the Speaker. He believed the moneys were drawn by the Speaker, and were paid out and accounted for by him. Now, every gentleman must know that it was impossible for the Speaker of this House to keep the accounts of two hundred and thirty members. He presumed there were some thirty or forty checks drawn every day. There should be some officer, therefore, to keep these accounts. He did not know, but instead of devolving that duty upon the Sergeant-at-arms, instead of having this clerk or assistant of the Sergeant-at-arms, he did not know but it would be better and more appropriate—it struck him it would be more appropriate to give the Speaker of this House a clerk, and make it the duty of that clerk to keep the accounts of the Speaker and of the House. This was what this clerk now did. He supposed that the clerk kept the accounts of the Speaker, the accounts of all drafts drawn by the Speaker, and that the members relied on him. He (Mr. V.) knew that on some occasions he had kept no accounts for himself, having relied entirely upon the clerk. He took it for granted, also, that this messenger was every day under the necessity of going to the Treasury Department or to the banker with his check to draw the money, which necessarily consumed one or two hours. Now, it was impossible for the Speaker, the Doorkeeper, or the Sergeant-at-arms, to discharge this duty; the Sergeant-at-arms could not leave the House to go during banking hours to perform that service. He thought, therefore, that it would be better to permit this assistant messenger to remain as he was. He did not think this House had too much machinery, or that there were too many officers connected with it.

Mr. SMITH, of Indiana, said he was very glad that the gentleman from Ohio had made the motion to strike out the proviso. He himself had intended to make that motion if it had not been made by some other gentleman. The gentleman from Mississippi [Mr. BROWN] had, the other day, made the inquiry, whether the Sergeant-at-arms had ever had a clerk previous to this Congress? He (Mr. S.) did not know that a clerk had been authorized previous to this Congress; but he knew that, during the last Congress, and the preceding Congress, there were very frequent complaints made on the part of members of the House, of errors of the Sergeant-at-arms; not that there were any defect in the effeiency or in the integrity of the Sergeant-at-arms; but in consequence of his not being authorized to employ a clerk, he was not able to keep the accounts so accurately as he otherwise would have done. He knew that those complaints had been frequently made, and, in several instances, that there had been a difference of opinion between members of the House and the Sergeant-at-arms, as to the state of their accounts. The accounts had then been kept by the Sergeant-at-arms with the assistance of his messenger—a part of the time the messenger was keeping the books, a part of the time he was absent getting the money; and by this division of his labors, the accounts were not properly attended to. He knew that there had been complaints on the part of the Speaker, on the part of members, and on the part of the Sergeant-at-arms.

Now, to obviate these difficulties, the Sergeant-at-arms should employ both a clerk and a messenger. Gentlemen talked about economy; he (Mr. S.) desired to see as rigid economy as anybody, but they might carry their notions of economy too far—so far as not to allow the necessary means for the proper discharge of the duties connected with the House. The entire amount of per diem and mileage during a long session would perhaps amount to nearly a million of dollars, and in a short session to a half million; or, in both sessions, to a million. He asked, was it unreasonable to allow an officer having these labors to perform, having all the responsibility growing out of the disbursement of these sums of money, one clerk to keep the books, and one messenger to get the money and distribute it among the members? They could not expect that these duties would be properly performed at a less expense. Suppose they deprived him of a messenger: how, then, was the duty to be performed? Would they expect the Sergeant-at-arms every day—(for this duty was performed daily)—would they require their Sergeant-at-arms every day to leave his post in the House, and go to the banking-house and obtain the money for members? That was no part of the duty of the Sergeant-at-arms.

Mr. BROWN, of Mississippi, wished to ask the gentleman this question: He understood that the proposition was to give the Sergeant-at-arms a clerk, in addition to the messenger; so that he would have a messenger to bring the money and distribute it, and a clerk to perform the duty of keeping the books; what, then, he wished to know, would be the duty of the Sergeant-at-arms?

Mr. SMITH replied, that the duty of the Sergeant-at-arms was neither to get the money and distribute it, nor to keep the accounts; but it was to be in attendance upon the House; to execute its process; to be here every moment during the daily sessions; to be ready to preserve order, upon the requisition of the presiding officer, whenever it should become necessary, and he (Mr. S.) had seen times upon this floor when the interposition of the Sergeant-at-arms was indispensable to preserve order and prevent bloodshed. The Sergeant-at-arms should be at his post within the Hall every moment of time during their sessions. The idea that the Sergeant-at-arms was to be employed as a messenger, getting the money and distributing it, was a contracted and mistaken idea; the office ought not so to be degraded. That was a duty which should be performed by the messenger; and the duty of keeping the books was one that

should be performed by the clerk. It was impossible for the presiding officer, upon whom the responsibility rested, to keep the accounts; they ought, in justice to the Speaker, to permit the Sergeant-at-arms to employ a clerk, who should be an efficient, intelligent man, who would have the time and the ability correctly to keep the accounts, and to prevent errors. He was in favor of employing both officers.

Mr. ROOT said, the simple question before the House was, whether the Sergeant-at-arms should have more than one assistant: that was all there was of it. Well; up to the last session of Congress this officer never had had but one assistant; and during the greater part of the last Congress he had had no assistant at all. But now they were told about the wonderful responsibility of this officer—the great amount of moneys which passed through his hands. Was it necessary, because a man disbursed a large amount of money, and got a good large salary, to keep up the respectability of his office by giving him two assistants? Now, as to the amount of his duties, he (Mr. R.) ventured to say there was not a teller or a clerk in a bank that did not do more than all these three persons had to do, and who would not be glad to exchange places with the Sergeant-at-arms, and do his arduous duties and those of all his assistants.

[A voice: But this officer prevents bloodshed.]

No, he don't, (said Mr. R.) [A laugh.]

Let the Sergeant-at-arms (continued Mr. R.) have a messenger, if it was necessary, to help him to disburse the moneys of the House, and let him be a book-keeper himself. If he was a book-keeper, let him keep the accounts; and if he did not know how, let the messenger do it for him; and if he (the Sergeant-at-arms) or any of his friends thought there was any incongruity in a messenger doing this, let them call him a clerk.

The gentleman from Indiana [Mr. C. B. SMITH] had said, Don't degrade the office. He (Mr. R.) never thought it was a particularly degrading office to go after money, particularly when you had a prospect of getting it. [A laugh.]

It had been said, too, that it would take the messenger an hour or two daily to go after the money; but could he not go in the morning before they commenced their session? They commenced now at twelve o'clock; the bank opened at nine; he would then have three hours; by and by they would commence at eleven, then he could have two hours; and when they met as early as ten, he could then have one hour to get it before the meeting of the House. Except the "degradation" of going up to Corcoran and Riggs's, and getting the money and bringing it to the House, he did not see that there was any incompatibility between the office of the Sergeant-at-arms and the performance, with the assistance of a messenger, of all the duties which belonged to the office.

He did not wish to argue the proposition. He thought it would succeed. When it was first made, it found but few friends in the House; but there had been constant managing and pressing, and he supposed it would now carry. All he asked was, that he might have the opportunity to record his vote; he therefore demanded the yeas and nays.

Mr. THOMPSON, of Pennsylvania, said that the gentleman from Ohio [Mr. ROOT] had remarked that every member understood the proposition before the House. For his own part, he (Mr. T.) was in favor of giving to the Sergeant-at-arms such a number of officers as might be necessary to enable him to discharge satisfactorily and efficiently the duties of his office. It was a singular anomaly to impose the duties of a fiscal officer upon a man who was merely a bailiff or a peace officer. The Sergeant-at-arms should have assistants enough about him to be enabled to perform the duties of the office without embarrassment.

Having announced his intention to vote in favor of the proposition, he would, with a view to put an end to the discussion, move the previous question.

The SPEAKER said that the previous question, if seconded, would cut off all additional amendments to the bill.

Mr. THOMPSON said, in that event he would prefer not to move the previous question, and would withdraw the motion. He hoped that the vote would be taken on the pending proposition.

Mr. VINTON. The previous question, as I understand it, will leave all the amendments which have been reported from the Committee of the Whole on the state of the Union, as well as the amendment that is pending, to be voted upon?

The SPEAKER said such would be the effect of the previous question.

Mr. VINTON. Then I move it.

The question was then taken on the demand which had been submitted by Mr. ROOT for the yeas and nays on striking out the proviso; and they were ordered.

Mr. C. J. INGERSOLL asked for the reading of the proviso, and it was again read.

The question, "Shall the proviso be stricken out?" was then taken, and decided in the affirmative—yeas 94, nays 79, as follows:

YEAS—Messrs. Abbott, Belcher, Blackmar, Blanchard, Botts, Boydon, Bridges, Charles Brown, Butler, Canby, Chapman, Clapp, Clingman, Collins, Cranston, Crowell, Dickey, Dixon, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Gayle, Gentry, Gregory, Grinnell, Hale, James G. Hampton, Harris, Henry, George S. Houston, John W. Houston, Hudson, Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, Irvin, Iverson, Jameson, Robert W. Johnson, John W. Jones, Kaufman, Kellogg, Lahm, La Sere, Levin, Lincoln, McClernand, Horace Mann, Marvin, Morehead, Morse, Newell, Outlaw, Palfrey, Pettit, Phelps, Pilsbury, Pollock, Putnam, Julius Rockwell, John A. Rockwell, Roman, Rose, Rumsey, St. John, Schenck, Sherrill, Silvester, Caleb B. Smith, Robert Smith, Truman Smith, Charles E. Stuart, Strohm, Strong, Taylor, Thibodeaux, James Thompson, Richard W. Thompson, Thurston, Tompkins, Tuck, Turner, Van Dyke, Vinton, Warren, Wentworth, White, Wick, Wiley, and Williams—94.

NAYS—Messrs. Barringer, Bayly, Bedinger, Bingham, Bocock, Boyd, William G. Brown, Albert G. Brown, Buckner, Burt, Cathcart, Chase, Beverly L. Clarke, Williamson R. W. Cobb, Cocke, Collamer, Crozier, Darling, Dickinson, Dunn, Faran, Featherston, Ficklin, Flournoy, French, Fulton, Gaines, Goggin, Green, Greeley, Willard P. Hall, Hammons, Henley, Hill, Hilliard, Elias B. Holmes, Hubbard, Inge, Jenkins, Andrew Johnson, G. W. Jones, Kennon, Daniel P. King, Sidney Lawrence, Leffler, Ligon, Lord, Lumpkin, McKay, McLane, Job Mann, Meade, Miller, Morris, Mullin, Peaslee, Petrie, Peyton, Preston, Richardson, Richey, Robinson, Rockhill, Root, Sawyer, Shepperd, Simpson, Smart, Stanton, Starkweather, Stephens, Thomas, John B. Thompson, Robert A. Thompson, Toombs, Venable, Wallace, Wilson, and Woodward—79.

So the proviso was stricken out.

The question then recurred on agreeing to the amendment reported from the Committee of the Whole on the state of the Union, as thus amended, and which made provision for the appointment of a clerk to the Sergeant-at-arms, at the rate of compensation of four dollars per day during the present session.

Mr. FICKLIN asked the yeas and nays; which were ordered, and, being taken, were—yeas 89, nays 72.

YEAS—Messrs. Abbott, Adams, Belcher, Blackmar, Blanchard, Botts, Bridges, Charles Brown, Butler, Cabell, Canby, Chapman, Clapp, Clingman, Cranston, Crowell, Dickey, Dixon, Dunn, Edwards, Embree, Nathan Evans, Farrelly, Fisher, Fulton, Gaines, Gayle, Gregory, Grinnell, Hale, Hammons, Harris, Henry, John W. Houston, Hudson, Hunt, Charles J. Ingersoll, Irvin, Iverson, Jameson, Robert W. Johnson, Kaufman, Kellogg, Lahm, La Sere, Leffler, Levin, Ligon, Lincoln, Horace Mann, Marsh, Marvin, Morehead, Morse, Murphy, Outlaw, Palfrey, Pettit, Pilsbury, Pollock, Putnam, Julius Rockwell, John A. Rockwell, Roman, Rose, Rumsey, St. John, Schenck, Sherrill, Silvester, Caleb B. Smith, Truman Smith, Stephens, Charles E. Stuart, Strong, Taylor, Richard W. Thompson, Robert A. Thompson, William Thompson, Thurston, Tompkins, Tuck, Van Dyke, Vinton, Warren, White, Wick, Wiley, and Williams—89.

NAYS—Messrs. Barringer, Bayly, Bedinger, Bingham, Bocock, Boyd, Boydon, William G. Brown, Albert G. Brown, Burt, Cathcart, Beverly L. Clarke, Williamson R. W. Cobb, Cocke, Collamer, Collins, Crozier, Cummins, Darling, Dickinson, Alexander Evans, Faran, Featherston, Ficklin, Flournoy, French, Goggin, Gott, Green, Greeley, Willard P. Hall, Henley, Hill, Elias B. Holmes, George S. Houston, Hubbard, Inge, Andrew Johnson, Geo. W. Jones, Kennon, Daniel P. King, Sidney Lawrence, Lord, Lumpkin, McKay, McLane, Job Mann, Meade, Miller, Morris, Peaslee, Petrie, Peyton, Phelps, Preston, Richardson, Richey, Robinson, Rockhill, Root, Shepperd, Simpson, Stanton, Starkweather, Thomas, John B. Thompson, Toombs, Venable, Wallace, Wentworth, Wilson, and Woodward—72.

So the amendment as amended was agreed to.

The amendments having been disposed of—

The bill was ordered to be engrossed and read a third time; and,

The question being on its passage—

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were not ordered; and the question being taken—

The bill was passed.

Mr. VINTON moved to reconsider the vote on the passage; and on his motion, that motion was laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

BINDING REPORTS.

Mr. McLANE moved to reconsider the vote by which the resolution reported from the Committee on Printing, providing for the binding of the reports of Lieutenants Emory, Abert, Cook, and Captain Johnson, had this morning been passed.

He said it would be recollected by the House, that when the Committee on Printing had, some days ago, reported a resolution for the binding of these reports, the House had determined that they should be divided and bound in two volumes instead of one; and that Lieutenant Emory's being about the size of the others, should be bound so as to make one volume, and the others so bound as to make one volume. It had become necessary to reconsider the resolution, to pick out the report of Lieutenant Colonel Frémont, which had been included with the others on the motion of the gentleman from Pennsylvania, [Mr. BROWN.] After the reconsideration of the resolution, it had been sent back to the Committee on Printing; and although there had been on the part of the House a very general manifestation of the opinion that they should be bound in two volumes, the report had been made this morning from the Committee on Printing, providing that all these reports should be bound together in one volume. He now moved to reconsider the adoption of the resolution, with a view to move an amendment to provide that they should make two volumes—the report of Lieutenant Emory to constitute one volume, and the reports of Lieutenants Cook and Abert, and the journal of Captain Johnson to constitute another volume; and on that motion, he demanded the previous question.

Mr. CONGER appealed to the gentleman from Maryland to withdraw his demand for the previous question.

Mr. McLANE replied that he felt bound to insist upon it, as this day had been set apart for a special order.

Mr. CONGER begged that the gentleman from Maryland would not get up and impugn the action of the Committee on Printing, and then demand the previous question.

Mr. McLANE withdrew the demand on condition that Mr. CONGER would renew it.

Mr. CONGER said he entirely dissented from the explanation which had been given by the gentleman from Maryland, of the purpose for which the original resolution of the Committee on Printing had been rescinded, viz: that it was to withdraw Colonel Frémont's report from the other reports, as they had been ordered to be bound. He thought there was nothing in the history of this question which warranted such a construction to be placed upon the action of this House. The Committee on Printing were not at liberty to presume what had been the motives of the House in moving the reconsideration, but they had as good a right to presume that the House intended to have the reports bound together, as——

Mr. PETTIT interposed, and wished to ask the gentleman from New York a question: he wanted to know how many pages the whole work bound together would make?

Mr. CONGER replied, six hundred and fourteen pages all told—a less number of pages than was contained in the large edition of the Patent Office report, which had already been bound; a less number of pages than could properly be divided and bound in two volumes. The objection, or at least the ostensible objection, here raised to binding them in one volume was, that they would make too large a document—that they would fall to pieces in being sent in the mail. Now, six hundred and fourteen pages could be bound together in a substantial, durable form, and so that they would remain together in being sent through the mail.

But the real purpose for which the reconsideration was attempted, as he doubted not, was that Lieutenant Emory had a little pride about this matter; that he desired his report to go out to the country alone; to have the full credit and honor of having a book which contained the results of his labors bound by authority of this House, and not connected with, or attached to, the report of any other officer of the Government. He asked, would this House, if they believed that was the purpose of the motion to reconsider, listen to it, when the several documents would more properly be bound together?

Mr. SCHENCK inquired of the gentleman from

New York, whether, if these works were divided, the second would not be an extremely small volume—scarcely an overgrown pamphlet?

Mr. CONGER (holding up a book in his hand, the size of which the reporter, from the glimpse he obtained of it, cannot attempt to describe) said this was the size of Lieutenant Emory's report, as bound under order of the Senate.

Mr. SCHENCK said it was on his suggestion at the last session, that the journal of Captain Johnson was added to the others. He had thought that the reports and the journal made by these officers ought to go in connection with the report of Lieutenant Emory, as constituting the whole history of General Kearny's expedition, and he was still of the same opinion.

Mr. CONGER said he could only repeat what he had said a few days since, that such was the view which was taken of this question both by the Committee on Printing and by this House, when this document was ordered to be printed. It was the view also which was taken by the Committee on Printing at this time. It was because these several reports related to one and the same subject that the committee and this House had ordered the printing of this document as one and an entire document. It had thus been printed, and the reports of Lieutenants Abert and Cook, and the journal of Captain Johnson, which he held in his hand, and which had been stitched together by the order of the Clerk of this House, commenced at page 420.

He renewed the demand for the previous question.

Mr. MURPHY made a warm appeal to his colleague to withdraw the demand; but—

Mr. CONGER declined, stating that he had pledged himself to Mr. McLANE to make the motion.

Mr. STEPHENS moved to lay the motion to reconsider on the table; which was agreed to.

CLAIMS AGAINST THE UNITED STATES.

On motion of Mr. ROCKWELL, of Connecticut, the House resolved itself into Committee of the Whole on the state of the Union, (Mr. BURT, of South Carolina, in the chair,) on the bill to provide for the settlement of claims against the United States,

The bill having been read through, was taken up by sections; and the first section having been read—

Mr. ROCKWELL, of Connecticut, (who was imperfectly heard throughout his remarks,) said he did not propose to occupy any great length of the time of the committee in relation to this bill. It would be obvious to every gentleman that the duty was one of the utmost importance, so far as the claimants were concerned, and so far also as the country was concerned.

After adverting to the amount of the expenditures of the Government, to its receipts, and to the large number of individuals who were brought directly in contact with the officers of the Government, Mr. R. proceeded to refer to the mode in which questions of this character arising between individuals and the Government were adjudicated in other countries. In many nations, he said, resort was had to the ordinary courts of justice. As chairman of the committee, who, at the last session of Congress, had reported the bill now under consideration, he had endeavored to procure some information in regard to the course of other nations concerning claims against the Government. The information was obtained through the medium of letters addressed to the ministers representing the different nations of Europe at the seat of Government in this city, and the information which had been obtained was embodied to some extent, though not entirely, in the report which had been laid on the tables of gentlemen. It appeared that in Russia, Austria, and in almost all the German States the course was to allow the Government to be sued, the same as an individual was sued in the ordinary courts of justice. The same principle existed in the Netherlands and in Belgium. There was also a mode of proceeding adopted in France under the Royal Government, which allowed proceedings to be had before what was called the Council of State; and these proceedings, although not absolutely final by the law, were practically so, (Mr. R. was understood to say,) in nearly all cases, because of the few instances in which the decision of the Council was set aside. In every civilized nation, so far as his experience went, there was some tribunal in the nature of a court of justice, in which Governments allowed themselves to be sued, or proceedings to be taken against them.

It was not the design of the committee to recommend such a measure in relation to the Government of the United States, from the fact that attempts of that kind had heretofore been made without success, and because, in the judgment of the committee, it was probably not the best mode that could be adopted at this time with reference, at all events, to a great variety of the claims. In regard to the evils which resulted from the present system, it was scarcely necessary to make any allusion to them. The members of the House were perfectly well aware of their character and extent. Some facts, however, had been collected, which would show very clearly that the present system was about the worst that could be devised. A report was made some years since by the former chairman of the Committee on Claims, (Mr. Whittlesey, of Ohio,) which went into some statistics in relation to private claims before Congress, for the 22d, 23d, 24th, and 25th Congresses. The present committee had procured from the Clerk of the House an accurate statement in relation to private claims in the 26th, 27th, 28th, and 29th Congresses—making altogether a period of sixteen years.

One of the most serious evils connected with the system arose from the fact, that claimants had not an opportunity of being heard; that they had not an opportunity of having their claims acted upon by Congress. It appeared from the statements referred to, that the following is the number of petitions of private claimants against the Government, within the period named, and the number of petitions of this character which were not reported on at all:

Private petitions presented.	*1st sess.*	*2d sess.*	*Total.*
22d Congress	2,176	617	2,893
Not reported upon	514	300	814
23d Congress	1,902	943	2,845
Not reported upon	649	496	1,145
24th Congress	1,999	1,162	3,161
Not reported upon	653	469	1,122
Total presented			8,899
Total not reported			3,081

Private petitions presented to House of Representatives alone:

	1st and 2d sess. extra.	*3d sess.*	*Total.*
25th Congress	2,975	1,265	4,240
Not reported upon	1,303	580	1,883
	1st sess.	*2d sess.*	*Total.*
26th Congress	2,625	964	3,589
Not reported upon	1,550	690	2,240
	1st and 2d sess. extra.	*3d sess.*	*Total.*
27th Congress	2,201	1,082	3,283
Not reported upon	959	516	1,475
	1st sess.	*2d sess.*	*Total.*
28th Congress	1,747	961	2,708
Not reported upon	1,038	697	1,735
29th Congress	1,922	831	2,753
Not reported upon	920	693	1,613
Total presented House of Representatives in 25th, 26th, 27th, 28th, and 29th Congresses			17,573
Total not reported upon during same sessions			8,948

It thus appeared that in six years 8,999 petitions were presented to both Houses of Congress by private claimants, and of these 3,081 were not reported upon at all by any committee; and that in the ten succeeding years there were presented 17,573 petitions to the House of Representatives, and 8,948 were not reported upon by any committee, being more than half the number.

But this was not the worst evil resulting from the system. As regarded those claims which *were* passed, every gentleman knew that they were almost all passed upon those days devoted to private claims, when only such bills were acted upon as did not give rise to debate. The bills thus passed were generally for small amounts—revolutionary pensions, or claims of that description. Where any considerable amount was involved, objections were interposed in almost all instances by some one member, whose objection, under the rule, was fatal to action upon the bill for that day. These claims, therefore, must go over; and the consequence was, that during an entire session of Congress, probably not more than twelve, fifteen, or twenty cases that gave rise to debate would be reached, even if the ordinary time given to the consideration of private bills on Fridays and Saturdays should be awarded to them. The result of this state of things was, that there were claims upon the calendar which had been examined by the committee of which he was a member, which had been before the Senate or the House of Representatives for a space of fifteen or twenty years. They had been uniformly reported upon favorably during every session of Congress; had sometimes been acted upon by one House, and never unfavorably by either. In relation to these claims, no reasonable or valid objection existed; and yet, after having been here for that great length of time, they might be here fifteen years longer without being heard or acted upon.

In this point of view alone, it was apparent that there was not, in any civilized country in the world, such an outrageous system as exists here. He was aware that it would be urged as an argument by many gentlemen, that claims unfounded and fraudulent were presented here. Such undoubtedly was the fact; but that was no reason why those claims which were well-founded and just should not receive the prompt consideration of Congress.

But it was not his intention to dwell upon the evils which attached to the present system. They were well known and understood by the members of this House. The question to which he would now direct the attention of the committee was, what was the remedy? Various plans, directed to the removal or mitigation of the evil, had been proposed.

Mr. R. adverted briefly to the several plans which had been hitherto submitted to Congress, and the main objection to which had been, that, in relation to claims of a certain limited amount, the decision of the Board of Commissioners was declared to be final as against the Government, and then provision was made for the payment of the award of the commissioners, without reference to Congress. And he then proceeded to direct the attention of the committee to that provision of the present bill which required the Board of Commissioners to report the cases for the final action of Congress. Many of these claims were such as addressed themselves to the discretion of Congress—which did not come under any legal or chancery provision, and which could not be addressed to the discretion of any board or tribunal. He did not very well see how such a provision could be dispensed with; though, in respect to claims of a strictly legal character, some provision might possibly be introduced referring them to the courts of justice. Perhaps some such clause might be introduced, which, whilst it would operate beneficially to the claimants, would at the same time protect the Government. Under these circumstances, the committee had come to the conclusion, unanimously, to report a bill which should not give final jurisdiction to the Board of Commissioners, but should require them to report to Congress.

The question then was, what was the Government and what were the claimants to gain by this cause? In his judgment, much. He had already alluded to the evils which existed under the present system as respected the claimants. The evils existing as respected the Government were not less serious or apparent.

About one-third of the time of this House was consumed during the sessions of Congress, under the rules, in the consideration of private bills, besides the time consumed in receiving reports from committees. The amount involved in many of these bills was very far short of the actual expense of the session of the House for one day. Indeed, it was no unusual thing for the amount appropriated by a bill not to exceed one-tenth part of the expense of the session. Then there was the time consumed by the members in committee, and the many hours and days which were devoted to this portion of the business of Congress fruitlessly. It was matter of wonder to him that committees were found willing in making reports upon subjects that were never reached, and that had been reported upon from year after year, perhaps for a quarter of a century. The evil existed in the fact that these cases could not be acted upon. Gentlemen seemed to forget that Congress was acting in the capacity of a court—sitting as judges in trial cases—with the responsibility attaching to those who acted in that capacity. Some gentlemen, it was said, made it a rule to go against all claims. Equally fair it would be for a judge to make a rule deciding against all defendants, as for members of this House to decide against all claimants.

But there was another evil. It was, that opportunity was given to bring in claims grossly unfounded and fraudulent. No member could have been here a single session without knowing that

claims of this description sometimes slipped in, and that large amounts were thus taken from the public treasury. In his own experience, he could refer to a number of such cases. It was impossible it should be otherwise; because, if a report should be presented to one committee, and an unfavorable report should be made on a claim, its name or character could be changed in some form or other, and in that way it could not be recognized, except by means of great vigilance on the part of those whose attention might be directed to it. So that every opportunity existed for the grossest fraud. If it was found that a claim was not acted upon favorably by one committee, it would the next time be brought up before another, (since all that was required, under the rule, was, that the member should hand the petition to the Clerk, with the reference endorsed upon it,) and in that way the report of a bill might be obtained. But the testimony in favor of such claims was uniformly *ex parte*. No one appeared on the part of the Government. No one was present to cross-examine witnesses. No one found testimony for the Government, and under these circumstances, the argument was necessarily one-sided.

The course proposed by the present bill was this: it established a board of three commissioners, who were to hold a permanent session in Washington, with a salary of three thousand five hundred dollars a year, and to be appointed by the President, by and with the advice and consent of the Senate. The board were to have a clerk and an assistant clerk. The Solicitor of the Treasury was required to render his assistance, so far as might be necessary. The district judges of the different States were required to take testimony, except in the few cases where their engagements were such that they could not attend to it, and in those cases a commission was to be issued to a commissioner of the United States, whose duty it should be to execute the said commission. In all cases, opportunity was to be given to the Government of the United States to be represented, and to appear, either by cross-interrogatories or by its district attorney, to examine witnesses, and the same opportunity is to be allowed to the claimant, in cases where testimony is taken on behalf of the United States. The testimony thus got, was brought before the board. The claimants might file written arguments, and the Government, through its officers, might do the same thing. After going through an examination, a decision, or rather a recommendation was made to Congress by the board; and it was made their duty, at the commencement of each session, and periodically, at subsequent times, to accompany their reports by bills. The committee thought that the commissioners would embrace in one bill claims similar in their character, to be governed by a certain principle; as, for instance, that claims relating to revolutionary pensions should be put in one bill, and so on. So that, at the commencement of a session, there might probably be ten or fifteen bills, embracing various claims. The cases would thus be put into such a shape as that they could all be acted upon by Congress during the session, in at least one-third of the time that was now occupied; since many cases, governed by the same principle, might be decided in one bill.

It was also provided, that in case action should not take place at the same session at which the report should be made, it should be acted upon at the next session; and if not disposed of then, that it should be taken up at the subsequent Congress, and proceeded with in the same manner as though it had been finally acted upon at the session when presented. The committee thought, that by adopting this course, the final decision of Congress, either in admission or rejection of the claims, might certainly be obtained.

Some provision was requisite in relation to claims upon which adverse reports were made. The provision of the bill was, that claims referred to the commissioners, and by them adversely reported upon, should be reported to the House in which they originated; and if Congress should confirm the decision of the board, then the commissioners should not be required again to consider these claims, except on such grounds as would be good grounds for relief in law or equity.

The course proposed for the presentation of the claims was, that so soon as the petitions should have been presented, the Clerk of the House or Secretary of the Senate should pass them over to the Board of Commissioners, that they might be acted upon; that during the recess any person or corporate body having such a claim might file it; and that when so filed, the same course should be pursued as if the petitions had been regularly presented to Congress.

There were parts of the bill, he was aware, which, in this hasty explanation of its provisions, he had overlooked. It seemed to him that it would obviate the objections which had been made to other bills, and at the same time secure the intelligent and prompt action of Congress upon these claims which were brought forward; that it would procure something like justice to claimants so far as it could be obtained before any tribunal whatever; and that, at the same time, it would protect the Government to the amount of thousands and tens of thousands of dollars every year.

Having thus briefly explained the objects and purposes of the bill, he would not further tax the attention of the committee.

Mr. J. R. INGERSOLL said that there would probably be little difference of opinion as to the propriety of legislation on the subject now before the committee. Whether the object would probably be reached by the measure proposed, is a question by no means free from doubt. The Committee on Claims, in whose investigations and experience the plan had originated, is entitled, for many reasons, to confidence. Every effort, it is to be presumed, has been made by the committee to give consistency to a contemplated reform. It was to that committee that most of the private claims were habitually referred; by them they were examined and reported on, and under their guidance they were, if at all, conducted through the House. They were fully competent to judge of the defects of the present system, inasmuch as they had constant occasion to mourn over them, and they now present a scheme by which those defects are to be remedied or supplied. It was to be feared that the evil had not been completely met. Conceding to the authors of the bill all the advantages of experience in existing errors, it might be, and perhaps was, that the remedy, if at all better than the disease, was not calculated to effect anything like a radical cure.

The aim of the proposed plan seems to be to accelerate, in a greater or less degree, the movements of Congress in relation to a very large class of cases. These cases are now, after passing an ordeal in the committee-room, placed upon the calendar, and in the course of time may, if they are fortunate enough to be among the early reported ones, get to a vote. The progress is slow, the impediments are numerous, and the perils great. From these difficulties, which are so bad as to be intolerable, it is proposed to clear the way of claimants by instituting a board that shall hear and decide, and then, after an indefinite, although not perhaps infinite delay, or delay without end, the cases are to be brought to Congress back again, or for the first time, it matters not which, to undergo exactly the same delays and dangers to which they are exposed agreeably to existing usage. It is not quite obvious how even expedition is to be promoted by leaving procrastination to do all its work as it does now, after interposing another tribunal in addition, though the speed of the wind may be in its limbs.

That, however, is not the principal objection. If accelerated velocity be attained, there are yet, at first blush, fatal errors in the plan. You will have still the same unsatisfactory tribunal to adjudicate your cases that you are dissatisfied with now, and are endeavoring to get rid of. It recurs with no substantial change, having only the doubtful advantage in preliminary of the judgment of a board of strangers, instead of the report of a board of fellow-members. The numerous representatives of the people of the United States are the court of appeals which is to determine in the last resort. Is it not well known that while a majority of voices make the decree, a very small minority of minds are brought to bear upon the subject? Now and then a claim of peculiar interest may arise involving some popular or exciting topic, or connected with matter that happens to be familiar to everybody. Not one case in a hundred is of that description. Even that one is often decided by the influence of preconceived notions, or what would be called leading principles, rather than by means of a careful and conscientious study of essential details. Members are otherwise occupied: they have not been aware of the prominence of the case on the calendar, and are taken by surprise by its sudden approach; or they are willing to adopt the sentiments of perchance a majority, and perchance a minority of the committee from which reports have been made, or they do not understand it, and therefore vote against it, or they are favorably disposed towards particular classes of claimants, and therefore they vote for it. In any and all of these cases it is perfectly certain that there is a judicial sentence, without any actual or pretended exercise of the judicial mind. No parallel is to be found anywhere to this. Every court of justice in Christendom professes to hear as well as to decide. It assumes a virtue, though it has it not. Even the judge of the infernal regions, though he may first punish, yet at some stage of the proceeding, late as it may be, hears. A large proportion of this tribunal will not hear at all. It is a reproach to the name of justice to call that judgment which is none.

Where is the harm in submitting the claims to final determination before a proper board? It will have the advantage of permanency, reflection, knowledge of all its business, and entire responsibility. The accounting officers of the treasury already decide cases without number and of countless value, growing out of official duties, under every department of the Government. Those are all claims upon the Government, and there is warrant in existing law for acting upon them. The decrees so made are final. A certificate of the balance created by them is sufficient for an appropriation, which is always the consequence of them. Claims upon individuals, on the other hand, are the proper subjects of investigation before courts of justice, and they are determined before such tribunals finally. Men are but men. The ermined judge holds his high office under pledges of responsibility not essentially different from those which would be given by the members of a board of claims. Both are alike appointed for their fitness and integrity. The judges have more learning in the law. The commissioners (if such be the name) might have more familiarity with the arithmetic of claims upon the Government, and the nature of the cases to be decided, and the practice of Government agents in making or avoiding equitable liabilities for the Government. Yet here is a whole volume of proper objects of investigation, with nobody to investigate and pass upon them. A blank is left in the provisions of remedial justice, which can be readily filled. Express liabilities are settled by the accounting officers already. Implied liabilities, which are exactly as just, as binding, as well entitled to be paid, are left either absolutely without remedy, or with a remedy so uncertain and precarious that it does not deserve the name.

Mr. DUER said he approved very heartily of the general objects sought by this bill, and likewise, from the cursory examination which he had been able to give, of most of its particular provisions. There were some matters of detail, however, in which it appeared to him improvement might be made.

With respect to the general objects sought by this bill, he might say, in the first place, that it was demanded of this Government, not only on the ground of which the honorable gentleman from Connecticut [Mr. J. A. ROCKWELL] had spoken, of justice to private claimants, many of whom had been deprived year after year of what was justly due to them; but, in his opinion, it was infinitely important to this Government; for if just claims had not been paid, there were claims which never would have passed a board of commissioners which had been paid. He believed, therefore, it was calculated to do justice to those to whom justice had not been done, and also to protect the Government by preventing unfounded claims from passing.

As had been said by gentlemen who had preceded him, this House and the other House of Congress, the judges of these claims, paid very little attention. Gentlemen here voted in classes; it was found absolutely impossible for all gentlemen to examine thoroughly every claim; therefore, some took the report of the committee and voted for every claim, unless it was made perfectly clear that it ought not to pass; while others took the opposite ground, and, disregarding the report of the committee, voted against every claim which was not proved on the floor of the House to be *clearly* just. Now, these were results which were unavoidable; for it was

absolutely impossible for gentlemen, with all the other duties which devolved upon them, thoroughly to examine every claim which was presented to Congress. Another consideration: as our Government increased in territory, population, and wealth, these claims would constantly accumulate. They never died, for if they were defeated they would come back to Congress year after year for fifty years. Without meaning to say anything derogatory to this or any other House, but speaking of men as they were, and of human nature as it was, he said that in process of time a state of things might exist dangerous to the purity and integrity of this House.

For these and for other reasons he was in favor of the principles sought to be established by this bill.

But there were some guards which might be adopted which were not in this bill. He thought first, that the rules to govern this board of commissioners should be defined. He did not think that these commissioners should consider every case where a man might claim anything from the Government. It struck him that this rule should be laid down: that no claim should be heard, unless first it was based upon ground of claim in law and equity that would be allowed by a court, if an individual were in the place of the Government; or, secondly, unless it was such a claim as it had been the practice of this and other governments to allow. It seemed to him that these two classes embraced every claim which the commissioners ought to be called upon to hear. If there were any other claims, they must be those in which men made demands upon the Government as a matter of favor, not of right. Well, if they were even granted by the Government, (and he did not say that there were not cases in which they should be granted,) let the individuals come to Congress, and come to Congress with the avowal that they had no claim either in law or in equity.

He thought, likewise, there should be a statute of limitations. He thought, when ten years had elapsed since the claim accrued, and no petition had been presented to Congress, that should be a bar. The Government wanted that bar as much for itself as in cases of individuals. Why not? It wanted it much more; and the limitation of ten years appeared to him very liberal.

Another consideration: Where a claim had been preferred to Congress, and rejected by both branches, it should be a bar. He would not say that a rejection by one House, or that adverse reports in both Houses even, should bar the claim; but where it had been rejected in one House one year, and in the other another year, it should be barred.

Mr. ROCKWELL, of Connecticut, interposed and stated, that the bill made a provision of this character. It provided that where claims were rejected by this commission, and their action was sanctioned by Congress, it should be a bar.

Mr. DUER said he proposed not only that the adverse report of the commission, but that the adverse action of both Houses of Congress, previously had, should bar these claims. He would not burden this commission with the accumulation of claims which had been rejected by both Houses of Congress for fifty or sixty years. This rejection should be considered a bar. Some injustice might be done, (entire justice could not be done in any case,) but he thought this rule should prevail.

He would likewise suggest now, that he did not see the propriety of the 14th section, with respect to rejected claims. He could not agree with the gentleman from Pennsylvania, that the report of the commission ought to be binding upon Congress. He was afraid, if this provision was insisted upon, this bill would not be likely to pass. He himself should be adverse to such a measure, in claims involving perhaps a million of dollars; nor did he see how it could practically be enforced; for he supposed the claim could not be paid, except by appropriation of this House, and gentlemen must judge for themselves whether they would vote the appropriation. He did not see, then, how the report of the commission could be binding upon Congress. But he supposed Congress, unless there were some strong objection, would usually pass those claims which had been passed by the commissioners. He did not, however, see why those claims, which were rejected by the board, should come before Congress. It seemed to him it would be placing upon Congress the same burden which they had now. Why should not the same rule prevail as prevailed in cases between individuals? Why should not the decision of the board, if adverse, be final? If there was any good ground for re-hearing, which would apply in the courts of law, let the claimants come to Congress.

There was another suggestion which he would make; that was, whether the business of these claims was not one, as respected the interests of this Government, that should require all the time and attention of an officer. He thought a special officer should be constituted, whose business it should be to represent the Government, and attend to this business before the board of commissioners.

The bill provided for the petitions being presented to Congress. Why not let the claimant apply directly to the commissioners? There was no necessity which he could perceive for the claimants coming to Congress. He would have no man come to Congress, unless he came avowedly with a claim which was not founded in law or in equity. He would put the claimant in that position; he should make that admission when he came to Congress.

He had thought proper to make these suggestions, and he would remark, that it was a matter of importance that this bill should be thoroughly considered. If there was any desire to engage in general debate on the merits of the bill, it might as well go on now as at any time; but he suggested that before taking up the bill to act upon it, section by section, the committee should rise, and report progress, in order to give a general opportunity for gentlemen to examine the particular provisions of this bill.

Mr. MULLIN said, it had become pretty obvious, he apprehended, that if private business was to remain to be adjusted hereafter as it had been heretofore, it would amount in a short time virtually to an absolute denial of justice to claimants. There were now on the calendar some four or five hundred claims, and no man would pretend that one-fifth of that number could be disposed of by the present Congress. What was true of this Congress would be true of the next, and would continue to be true of every succeeding Congress, so long as private business was attempted to be disposed of in this way. Upon principles of justice, therefore, it was due to their fellow-citizens who had claims upon the Government, that they should devise some plan by which these claims could be more speedily adjusted. Why, the honorable gentleman from Connecticut had assured them that there were claims upon their calendar to-day, which had been presented here year after year for fifteen or twenty years. Upon these the interest for the time during which the claimant had lain out of his money amounted to more than the original claim itself.

Mr. ROCKWELL, (in his seat.) And the Government pays no interest.

Mr. MULLIN, (continuing.) And the Government paid no interest. Now, what right had the Government, what justice was there in Congress, thus delaying payment to its creditors year after year? If some plan could be devised by which the rights of the claimants and of the Government could be equally protected, and these claims could be speedily adjudicated, would it not be an achievement of the highest importance? He knew this matter was not free from difficulty, and that it was almost impossible for the members of this House to agree upon any plan by which this object could be attained. While he concurred with the objects which the honorable chairman of the Committee on Claims had in view, still he differed with him in many of the details of his plan.

The first great object which the gentleman had in view was to expedite the decision of these claims. Now, he (Mr. M.) submitted to the consideration of the committee whether the bill of the gentleman effected this object. The claims, under this bill, were to be presented, in the first instance, to this board. It was to take evidence, and do what? Simply, to express an opinion whether the claim was valid or invalid. If the board declared in favor of the claim, it was to report that fact to this House. What then? The claimant had to come here, to urge his claim before the committee and then before the House; and thus the same delays would ensue, the same form of proceedings would become necessary, which were now. He desired to know what there was in the decision of this board that would force the action of this House any more speedily than it now took place? He apprehended it would only be charging the claimant with the double expense and trouble of first urging his claim before the board, and second before Congress itself, in order to have it allowed; in other words, to obtain the appropriation; because moneys could not be taken out of the treasury except by appropriations made by Congress; and they could not provide a fund in advance out of which these claims should be paid without many objections. Here, then, was the first difficulty. If every claim which was allowed by this board had first to undergo the examination of a committee of this House, and then to be passed upon by the House, and appropriation by law was required specifically for this object—had anything been gained?—anything in point of despatch—anything of protection, either of the rights of the claimant or of the Government?

The difficulty also occurred, whether the decision of this board could be made binding upon Congress, or whether it would be only matter of recommendation—merely advisory—having the effect of the opinion of three men; and he submitted whether that opinion, in the manner in which the commission would ordinarily be constituted, would have any more weight than the decision of respectable officers? He said the Committee on Claims would often be as competent, or more competent to investigate these claims than any three men who would be appointed to constitute this board. The decision of the board would have no additional weight if they were to make that decision merely advisory.

The next object sought to be attained by this bill was to relieve Congress from the burden and expense incident to the examination of all these claims. Now, he submitted to this committee whether the bill of the honorable gentleman from Connecticut effected that object? As he had before remarked, the claims would have to go through all the formula to which they were now subject. In what way, then, was this House relieved from labor? It was true, they might be relieved from going through the original papers, but not from examining the facts, from passing upon the recommendations of the board, and deciding whether or not the appropriations should be made.

The labor of Congress was not lessened by this plan, and could not be lessened unless they made the decision of this board final, either wholly or in part. It seemed to him that there would be no difficulty, if they organized a board, in making the decisions of that board final up to a certain amount. Gentlemen would find, upon examining the details of this plan, that they could establish no arbitrary rule to accomplish this object: that was, that they could not divide the claims into classes and make the decision of the board final upon one class, and merely advisory upon another class. If they established the rule that the decisions of the board should be final only on claims which were founded upon strictly equitable principles, the question would occur whether the individual claims belonged to that class; and if the decision of that question were left to the board, what would it be but a mere question of discretion on the part of the board? Who would control that discretion? Was Congress to control the board, and say, You have passed upon claims which are not strictly equitable, and therefore your decision is not final, but must be reviewed by us? Such a distinction between claims would lead to endless confusion, and constant conflict between Congress and the board.

The matter, then, was only to be determined by a certain fixed rule; and that was, by giving the board authority to decide finally upon claims up to a certain amount. This rule would be plain; and they might just as well, with as much propriety, fix the distinction in the amount as in any other way.

The gentleman from Connecticut, [Mr. ROCKWELL,] in the course of his remarks, had suggested that there would be some difficulty in controlling the discretion of Congress—or rather he should say, in Congress transferring its discretion to the board of commissioners proposed by this bill. If the claim were one which would be allowed by law against the Government, the accounting officer had power to dispose of it. If it was not such a claim, then it was a question of discretion resting in Congress in all cases, and we should not advance one step by the adoption of that rule. Every claim became a question of discretion whether Congress would allow it or not. Then,

if the amount was fixed, that difficulty was obviated, and the board would be enabled to decide as the courts would. For his own part, he would refer every case to the courts of the State in which the claimant lived, to be adjudicated either with or without the aid of a jury. It was the fairest, the speediest, the most direct, and, in his judgment, the most judicious mode of adjustment. There was a confidence felt in the judiciary of the country which could never attach to any other tribunal; there was a fairness in its mode of proceeding which commended it to the confidence of the country and of Congress.

What was the objection which was raised against vesting this jurisdiction in the courts? If their decision was made final, then the mode by which it was arrived at, the fairness which marked the proceedings, the character of the men who passed upon the case, and the great legal learning which was brought to bear upon it—all these things, he submitted, were in favor of these tribunals. But he presumed that no such law could pass. The judiciary would not be charged with these cases, although, if the committee came to that conclusion, he thought that it would do injustice both to the Government and the claimants. If a board of commissioners was to be appointed, it should, he thought, have the power of final decision up to a certain amount; but above that amount, Congress should exercise its discretion whether the claim should be allowed or disallowed. In that way, all confusion would be obviated between Congress on the one side and the board on the other.

He concurred in the opinion expressed by his colleague, [Mr. DUER,] that instead of sending petitions to Congress and transferring them to the board, he would provide that the petitions be presented directly to the board, duly tried, with copies of all the vouchers relating to the same; thus enabling the board to determine whether evidence should be taken in the case; and if the taking of evidence should be ordered, that the expense and risk of transferring the original papers be avoided; when the testimony should be taken, that the original papers should be transmitted then to the board.

The board should then be required to place these claims upon the calendar in the order in which they were presented; to take testimony, and to dispose of them in that form. When the decision was made, let the claimant receive a certificate that the claim was allowed; that a decision within a certain amount would be allowed; if beyond a certain amount, then let it be sent to Congress to be appropriated, if Congress should assent.

He had another objection to this bill. The plan proposed contemplated a permanent organization. It seemed to him to be too hazardous an experiment to risk the establishment of such a board; and he had several reasons for this opinion.

In the first place, the plan was an experiment, and nothing more, and, as such, should be fully and fairly tested. And further, every man who had any knowledge of the legislation of this House, or of Congress, knew that it was much easier to force legislation when it became absolutely necessary, than to procure legislation which might be delayed, or passed upon from session to session or from Congress to Congress. The men who composed this board would be brought, from the necessity of the case, in communication with the claimants upon whose cases they had to decide. Here, then, was a door opened to corruption. And although we might say that no men would be placed upon this board whose characters were not a sufficient guarantee of their integrity, yet no man's experience would justify him in saying that corruption would not at some time or other enter it. It was liable to be prostituted to bad purposes, and, in the hands of party, might become an instrument of power. This was a contingency which ought to be provided against. He would venture to assert, that but a few years would pass before numerous and grievous complaints would be made.

He would try the board as an experiment. He would limit its existence to a certain term, so that if Congress should be satisfied that all was not as it should be, it would be in the power of the Government to put an end to it, and to take away its power. Whilst Congress might have sufficient confidence in men to justify the establishment of such a board, they should throw around it all the checks and guards which were essential to all human tribunals. The courts of the country, by the guards which were thrown around them, and the watchfulness which attended their proceedings, were removed from the hazard of such contingencies. He never could consent, by his vote, to establish a permanent tribunal of this description. He would vote for the bill, if it could be so amended as to carry out the object he had in view; but he could not consent to make the board permanent until the experiment had been fairly tested. If, after that, Congress should find that it secured justice to claimants and protection to the rights of the Government, it could then be continued. If not—if it should be found that it had not answered the ends for which it had been created, let further power be taken away from it. These were his objections, briefly stated. He would, at the proper time, offer such amendments as seemed to him proper to be ingrafted on the bill.

Mr. FICKLIN said it might be very proper that some such bill as this should be passed, and he had hoped that the zeal which the Committee on Claims had manifested in regard to the subject, would have enabled them to devise some bill less liable to objection than that now before the committee.

It would be seen that several of the members on this floor who had themselves voted in favor of claims at every session during which they had been here, and who had voted liberally, objected, nevertheless, to the passage of the bill, as opening the doors of the public treasury too wide, and inviting persons to come and partake at their will.

To the first section of the bill there was this objection, which had been noticed by at least two of the gentlemen who had preceded him. This board was to hold office for life. There was no limitation of the term of office after the appointment had been once made. That was one objection; it would certainly be made a very serious objection on his side of the House; and he was glad to find that it would be made so with many gentlemen on the other side of the House also. If these gentlemen were to hold office during life, why not make the offices themselves hereditary, and let the oldest sons succeed to their fathers? The hour had gone by when life offices would be tolerated here.

He thought, also, that a smaller board would subserve the purposes contemplated by this bill. In examining carefully the sixteenth section of the bill, it would be perceived that these commissioners were to do little else than collect testimony and report to this House, in relation to the merits of each claim to be presented to them. Now, he concurred in the views of one of the gentlemen who had suggested his objections to this bill. He (Mr. F.) thought, that instead of there being three commissioners, it was sufficient to have one commissioner; and to have a solicitor—a skillful, efficient, and competent member of the bar—to guard the interests of the Government in all adjudications of this kind. There was no doubt that the claimants would be represented; there was no doubt that individual interests would take care of themselves; and what was important was, that the interests of the Government should be guarded by a competent officer. He repeated, therefore, that instead of having three commissioners, he would prefer to have but one, together with one competent solicitor, and one competent secretary; and let a report be required on the evidence, and also on opinions as to the soundness and validity of the claim.

He would venture to predict, that if gentlemen would read the bill carefully, so far as the public moneys were concerned, they would find it one of the most loose, one of the least guarded bills ever reported to this House. None of those safeguards were thrown around the treasury which this House ought to throw around it for its protection. Every facility was granted to claimants; and they were invited to come before this board and prove their claims in any manner in which they might be able to do so.

He gave notice, that at a proper time he should move an amendment to the bill, to strike out the number of three commissioners, and insert one; and also an amendment limiting the time during which he should serve to four years, unless sooner removed by the President.

As to the salary of three thousand five hundred dollars a year, he had no objection to it. It was a high salary. It was above that which was given to the Commissioner of the General Land Office. In fact, it was elevating these officers above the Commissioner of the Land Office, who had in his charge all the public lands of this great nation. Still, he had no objection to that, if the number of commissioners should be reduced, and if a responsible and competent man could be appointed to adjudicate these claims.

He, for one, had opposed very many of the claims presented to this House. But he was not opposed to just, fair, righteous, and equitable claims. He was not opposed to individuals who had just claims having these claims properly adjusted; and it was with a view to accomplish this object, and to do equal justice on either side, that he wished the bill before the committee to be amended and perfected.

He would, for a moment, call the attention of the chairman of the Committee on Claims [Mr. ROCKWELL] to the second section, which provided for the presentation of these claims, first to Congress, and during the recess, to the Secretary of the Senate and the Clerk of the House of Representatives. He could see no reason, no ground for presenting these claims to Congress, or placing the papers in the hands of the Clerk in one instance, or the Secretary in the other, to be referred to these commissioners, and if Congress decided that a board should be established, let the claimants go there first, without the necessity of taking a circuitous route through either House of Congress. Could any good reason be shown for this provision of this bill? He thought not. The first notice which, in his judgment, either House should have of these claims, should be the report of the commissioner and solicitor on the evidence, accompanied by their opinion as to the justice and soundness of the claim.

There was one other section of the bill to which he would call the attention of the chairman of the Committee of Claims and of the House. It was section 10. It read as follows:

SEC. 10. *And be it further enacted*, That all letters and other written and printed papers, to and from each of said commissioners and the secretary of said board, on business of the board, shall be received and carried by the mail free of postage; and if either shall violate the franking privilege, he shall be liable to the samepenalties as are prescribed for violation of the same privilege by other officers of the Government.

Now, (Mr. F. continued,) the House could not fail to see the alarming extension of the franking privilege which was contemplated by this section. Every individual who either had, or pretended to have, a claim before the board of commissioners; every person who might set up any excuse whatever in relation to a claim, would have the privilge of writing to the commissioners, and being written to by them free of postage in respect to that claim against the Government, or to any other species of business which could possibly be connected with it; and all that matter would pass and repass through the mails free. In looking at the scope and extent of the section, it would be found that it increased the franking privilege enormously, and to an alarming extent. He, for one, thought that, under a system of low postage, which seemed to be obtaining throughout the country, it was important to narrow down the franking privilege rather than to enlarge it. It was important that the mails should not be burdened as they would be under this tenth section.

With these general remarks, he would yield the floor.

Mr. STRONG, of Pennsylvania, obtained it.

Whereupon the committee rose, and the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. SMART: The petition of A. Martin and 135 others citizens of Camden, Maine, asking for the erection of a light-house at the mouth of Goose river harbor. Also, the petition of Thomas Cookson and 60 others, asking for the erection of a light-house at the entrance of Gilkey's harbor, in the town of Islesboro'.

By Mr. A. JOHNSON: The petition of Mr. John English, asking to be placed on the roll of invalid pensioners.

By Mr. GAINES: The petition of C. M. Clay, praying relief from the effects of a judgment rendered against him in Louisville, Kentucky, for injuries done to private property in the discharge of his duty as captain in the service of the United States. Also, the petition of J. B. Richison, for himself and other heirs of Colonel Holt Richison, praying compensation of their ancestors for revolutionary services.

By Mr. IVERSON: The petition of Messrs. Haley and Collins, asking the aid of the Government in the establishment of a telegraphic line from New Orleans to California.

By Mr. HUNT: The petition of R. G. Winslow and 54 citizens of Cleveland, Ohio, for an appropriation to place buoys and a light-ship at the entrance of the Niagara river, on Horse-shoe Reef.

IN SENATE.

WEDNESDAY, *January* 3, 1849.

Mr. BREESE presented the petition of Lewis Morris, late captain of volunteers, praying compensation for military services in Mexico; which was referred to the Committee on Military Affairs.

Mr. DIX presented the memorial of Captain B. O. Payne, employed in the Ordnance department, asking for a pension; which was referred to the Committee on Pensions.

THE MONROE PAPERS.

Mr. DIX. Mr. President, I have been requested to present the memorial of Samuel L. Gouverneur, the son-in-law and sole executor of the late James Monroe, fifth President of the United States, praying that Congress may adopt such measures as it may think proper to aid in the publication of the manuscript papers which Mr. Monroe left behind him, and which are believed to be essential to a correct understanding of some of the most important public measures and events of his time.

The connection of Mr. Monroe with the war of the Revolution; with the executive departments of the Government; with its foreign negotiations; and with the administration of the office of President of this republic for two successive terms of four years, makes him a part of the history of the country during the half century he spent in its service.

He left behind him a mass of papers partially prepared for publication by himself—papers not only considered essential to the elucidation of the history of the country, but to the vindication of many of the great measures with which he and his distinguished associates were identified. The publication of these papers, which were intrusted by him to his executor for the purpose, and which the latter has been engaged in arranging, has been partially anticipated by the arrangements made by Congress for the publication of the papers of Mr. Jefferson, Mr. Madison, and General Hamilton. While, on the one hand, these arrangements are likely materially to interfere with the purpose Mr. Gouverneur was preparing to execute, they are, on the other hand, calculated, as he supposes, to afford but a partial view of some of the leading measures and transactions with which Mr. Monroe was connected, and to render the publication of the papers left by the latter necessary to his own vindication. In this view of the case, Mr. Gouverneur appeals to Congress to render an act of justice to Mr. Monroe, by affording him the same advantage which has been extended to his illustrious associates, in giving their manuscript papers to the world.

I felt it my duty, sir, to vote against the appropriations which were made for the publication of the papers of Mr. Madison and General Hamilton, on account of objections which, to my mind, were insuperable. But, to the majority of this body, who entertained no such objection to the course adopted in the cases referred to, this petition of Mr. Gouverneur, I am sure, will address itself with great force, and I invoke their attention to it.

As this is a matter of public importance, and as a like disposition was made of the petition of Mrs. Hamilton, which I had the pleasure of presenting—although I could not support the application it contained—I move that this petition of Mr. Gouverneur be printed, and referred to the Committee on the Library.

The motion of Mr. DIX was agreed to.

Mr. MASON presented the petition of Maria L. Nourse, asking an allowance of interest on the claims of her late husband, Joseph Nourse, deceased; which was referred to the Committee on Claims.

Mr. MASON presented the petition of General Roger Jones, Adjutant General of the United States army, praying a correction of the date of his commission, and to be allowed arrears of pay incident to said correction; which was referred to the Committee on Military Affairs.

Mr. WALKER presented the petition of Vladislaus Wankowicz, grand nephew of General Thaddeus Kosciusko, praying that suits instituted concerning the estate of General Kosciusko may be removed from the circuit court of the District of Columbia to the United States court for the district of Maryland; which was ordered to be printed, and referred to the Committee on the Judiciary.

Mr. SEBASTIAN presented a memorial from the General Assembly of Arkansas, setting forth the advantages of a national road from Fort Smith to Santa Fé, by way of the valley of the Canadian, and asking for the passage of an act to survey said route and open a road; which was referred to the Committee on Military Affairs.

Mr. SEBASTIAN presented a memorial of the Legislature of Arkansas, asking for the adoption of measures to protect the western portion of that State against Indian incursions and depredations; which was referred to the Committee on Military Affairs.

Mr. SEBASTIAN presented the petition of Lewis Marchand, asking indemnity for French spoliations prior to the year 1800; which was referred to the Committee on Foreign Relations.

Mr. ATCHISON presented the petition of William Jenks, asking the adoption in the military service of an improved firearm of which he is the inventor; which was referred to the Committee on the Militia, and ordered to be printed.

Mr. ATCHISON presented the petition of Jas. Duffer, asking for an increase of pension; which was referred to the Committee on Pensions.

On motion of Mr. SEBASTIAN, the papers in the case of Daniel Butler were withdrawn from the files of the Senate.

REPORTS OF COMMITTEES.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported a bill to continue the office of Commissioner of Pensions; which was read a first time.

Mr. J. also, from the same committee, reported a bill for the relief of James Wormley; which was read a first time.

Mr. J. also, from the Committee on Pensions, reported a bill for the relief of Benjamin F. Bosworth; which was read a first time.

Also, from the same committee, to which was referred the petition of Wm. D. and Julia Aiken, representatives of William Yool, asked that the said committee be discharged from the further consideration of said petition, and that it be referred to the Committee on Naval Affairs; which was agreed to.

On motion of Mr. JOHNSON, of Louisiana, the Committee on Pensions were discharged from the further consideration of the petition of William C. Sterrett, and it was on his motion referred to the Committee on Naval Affairs.

Mr. FELCH, from the Committee on Public Lands, made adverse reports on the petitions of Peter Whitmore Knaggs and Peter Godfroy; which were ordered to be printed.

Mr. BREESE, from the Committee on Public Lands, reported the bill to establish an additional land district in the State of Missouri, with an amendment.

Mr. BREESE, from the Committeee on Public Lands, reported a bill to cause the northern boundary line of the State of Iowa to be run and marked, with an amendment.

On motion of Mr. BUTLER, the Committee on the Judiciary was discharged from the further consideration of the petition of Thomas Fillebrown; which was referred to the Committee on Claims.

BILLS INTRODUCED ON LEAVE.

Mr. JONES, pursuant to notice, asked and obtained leave to introduce a bill granting a certain quantity of land to the State of Iowa, for the purpose of aiding said State in the construction of a railroad from Dubuque to Keokuk, in said State; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. DODGE, of Iowa, asked and obtained leave to introduce a joint resolution to give three months' extra pay to all officers, non-commissioned officers, musicians, and privates, of the volunteer corps, for each term of enlistment, during the late war with Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

NOTICE OF BILL.

Mr. JONES gave notice, that he would to-morrow, or on some subsequent day, ask leave to introduce a bill to authorize the laying off a town at Trading Point, on the east bank of the Missouri river, upon the unsurveyed lands within the State of Iowa.

JOHN P. BALDWIN.

Mr. BELL submitted a motion to reconsider the vote of yesterday by which the bill for the relief of John P. Baldwin was rejected.

The motion was laid over for further consideration.

APPROPRIATIONS.

A bill from the House of Representatives to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1849, was read a first and second time, and referred to the Commitee on Finance.

PILOTS.

The bill to repeal the act of 1837, entitled "An act concerning pilots," was called up; and,

On motion of Mr. DAYTON, was laid on the table for the present.

RESOLUTIONS.

The resolution submitted yesterday by Mr. BRADBURY was taken up, considered, and agreed to, as follows:

Resolved, That the Committee on Claims be instructed to inquire into the expediency of providing, by law, for the establishment of a board of commissioners for the settlement of claims of individuals against the Government of the United States.

The resolutions submitted yesterday by Mr. CLARKE were taken up, and, after a brief explanation by the mover, were considered and agreed to, as follows:

Resolved, That the President of the United States be requested to communicate to the Senate a list of all the treaties of commerce and navigation between the United States and foreign nations, conferring upon the vessels of such nations the right of trading between the United States and the rest of the world, in the productions of every country, upon the same terms with American vessels, with the date of the proclamation of such treaties. Also, a list of the proclamations conferring similar rights upon the vessels of foreign nations, issued by the President of the United States, under the provisions of the first section of the act entitled "An act in addition to an act entitled 'An act concerning discriminating duties on tonnage and imports, and to equalize the duties on Prussian vessels and their cargoes,'" approved May 24th, 1828. Also, a statement of the navigation and commerce of such nations, respectively, with the United States since the date of the said treaties or proclamations, discriminating between the vessels and tonnage employed in the direct and indirect trade. And, also, a statement of the navigation and commerce of such nations with the United States, for a period of five years before the date of such treaties or proclamations, respectively.

Resolved, That the resolution passed on the —— day of December last, requesting the President of the United States to communicate to the Senate a list of all the several treaties of reciprocity between the United States and foreign nations, with the date of such treaties, and a statement of the commerce and the population of such nations, be, and the same is hereby, rescinded.

The resolution submitted yesterday by Mr. CLARKE was taken up:

Resolved, That a select committee be appointed to inquire into the expediency of repealing the first section of the act entitled "An act in addition to an act entitled 'An act concerning discriminating duties on tonnage and imports, and to equalize the duties upon Prussian vessels and their cargoes,'" approved 24th May, 1828, so far as the same authorizes the President, by proclamation, to extend to the vessels of any foreign nation the right to engage in the trade between the United States and such foreign country upon the same terms with American vessels.

Mr. CLARKE. Inasmuch as the law of 1828 does not affect the McLane arrangement made with England, by a convention made with that Power in 1831 or 1832, I have concluded to offer the resolution that has just been read, embracing the amendment suggested by the Senator from Massachusetts, [Mr. WEBSTER.] It is manifest, from the inequality in population and mercantile advantages of smaller nations, that treaties made by the United States with such nations are disadvantageous to this Government. Certain nations, small in population and of but few resources, though not deficient in intelligence and industry, enjoy indirectly a large portion of the trade of the whole world. For example, a nation with a population of four millions, limited in resources and enterprise, has the same right to contribute to the commerce of other countries that this nation, with a population of twenty millions, and in the possession of almost boundless resources and ability to carry on commercial transactions, enjoys. The inequality that is thus manifest has struck me as being grossly unjust. With a view that the subject may properly come before the Senate and the country for their mature examination, I have prepared this resolution for the purpose of creating a select committee which shall look into these treaties and the inequality in population and resources of the various commercial nations, and lay the result of their labors before the Senate and the country. I suppose if the resolution were referred

to one of the standing committees, that they would not have leisure to examine it; I therefore move its reference to a select committee.

The resolution was agreed to; and,

On motion of Mr. CLARKE,

Ordered, That the select committee be appointed by the Chair.

TITLES TO LAND IN CALIFORNIA AND NEW MEXICO.

Mr. BREESE moved the postponement of the prior orders, with a view to take up the bill for ascertaining claims and titles of lands within the Territories of California and New Mexico, to grant donation rights, and to provide the survey of the lands therein; which motion was agreed to.

The Senate proceeded, as in Committee of the Whole, to the consideration of the said bill.

Mr. BREESE remarked that the bill now before the Senate was reported last session from the Committee on Public Lands. At the beginning of this session, at his own suggestion, after consultation with the Treasury Department, he had proposed certain amendments to the original bill, which amendments had been printed by order of the Senate. He desired that the bill might be read by the Secretary, and afterwards the amendments, in order that the provisions which they contained might be examined, for he believed they were of great importance to the interests of the United States.

The bill was read by the Secretary.

Mr. BREESE. I do not propose to enter at present into a discussion of this bill; I merely wish to call the attention of the Senate to its provisions. It will be seen that a commission was at first proposed for settling these land claims, and that the Surveyor General, when a sufficient number had been ascertained to absorb the lands already surveyed, should proceed to survey the residue in order that they might be sold to settlers who are now within the territory, or who may hereafter emigrate thither under the conditions proposed. Since the time of draughting the bill it has been found that the Territory of California is filling up more rapidly than was expected, and it therefore becomes necessary that certain modifications should be made in the provisions of the bill. With this view I have proposed the amendments which are now before the Senate, and which I desire may also be read by the Secretary, when I will proceed to point out the purpose to be accomplished by each in its order. I understand, however, that this day has been set apart for the consideration of Executive business. That being the case, I move that the further consideration of the bill be postponed.

The motion was agreed to.

On motion of Mr. BUTLER, the Senate, at a quarter past one o'clock, proceeded to the consideration of Executive business; and, after considerable time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 3, 1849.

The Journal of yesterday was read and approved.

Mr. EVANS, of Maryland, rose and asked leave to introduce a bill.

The SPEAKER said the Chair was about to proceed with the regular order of business, which would be the call of the States for petitions, then the call of the committees for reports, and after that the call of the States for resolutions. It would then be in order for the gentleman to introduce his bill.

BOARD TO SETTLE PRIVATE CLAIMS.

Mr. ROCKWELL, of Connecticut, rose, he said, to a privileged motion. He sent to the Clerk's table a resolution providing that all debate in Committee of the Whole on the state of the Union, on the bill to provide for the settlement of claims against the United States, should cease in two hours after it should again have been taken up, if the committee should not sooner come to a conclusion thereon; and that the committee should then proceed to vote upon all amendments pending or to be offered, &c.

Mr. R. said he would say a single word in explanation. The House had ordered all the appropriation bills to be made the special order of the day for to-morrow, and for every subsequent day, (Fridays and Saturdays excepted,) until they should have been disposed of. If the resolution should be adopted, gentlemen would have an opportunity of offering their amendments, and of explaining them before the vote should be taken.

Mr. GOGGIN said, that while he would not oppose the resolution of the gentleman from Connecticut, [Mr. ROCKWELL,] he (Mr. G.) hoped the House would bear in mind that this was the day specially set apart for the consideration of the postage bill; that, however, unless the resolution was adopted, or some other course taken to bring the debate to a close, it was evident the postage bill to-day could not be taken up, for the bill to which the resolution of the gentleman had reference would occupy the whole day; and by the rules of the House, the general appropriation bills would supersede the postage bill, as they were made the order for to-morrow. He (Mr. G.) regretted this, as the postage bill was of great interest to all the country.

Mr. PETTIT expressed the hope that the resolution would not be adopted, and was understood to say that he had certain amendments which he desired to offer to the bill, and which he asked might be read for information.

The SPEAKER said it would not be in order to have the proposed amendments read while the resolution of the gentleman from Connecticut [Mr. ROCKWELL] was pending.

Mr. PETTIT said he hoped that the House would not adopt the resolution.

The SPEAKER put the question.

Mr. VENABLE said that the bill to which this resolution referred was one of the most important measures to be acted upon at the present session. It proposed to change the whole mode of ascertaining and deciding upon claims presented against this Government, and to create a new tribunal to investigate and determine them. If gentlemen proposed to pass any bill on this subject which should lead to good results, it could only be done after mature deliberation. It was impossible that, upon a bill of this character, after a debate of less than two days, such a system could be organized as to give satisfaction to Congress and to the public. If some better mode of settling these claims than that which at present existed was to be provided, it could only be done after ample consideration and discussion. None other would satisfy the claimants and the country. He trusted the resolution would not be adopted, and he moved that it be laid on the table.

The reading of the resolution was again called for.

The question was then taken on the motion of Mr. VENABLE, and decided in the affirmative.

So the resolution was laid on the table.

The SPEAKER said the business first in order would be the call of the States for petitions. And he was proceeding to call for them accordingly; when—

Mr. HUNT made a suggestion (the precise character of which was not heard by the reporter) in relation to certain business on the Speaker's table, which he moved should be taken up, (Senate bills, &c.;) and he moved that the House proceed to dispose of that business.

The SPEAKER said that there was on the table a message from the President of the United States. It would be in order to move to proceed to that order of business after one hour had been devoted to reports of committees and resolutions.

Objection having been made to the motion of Mr. HUNT, it was not entertained.

COMMUNICATIONS FROM THE PRESIDENT.

Mr. STANTON said that he desired to submit a question to this House in relation to the subject which had just been referred to by the gentleman from New York, [Mr. HUNT.]

He (Mr. S.) made the point of order whether he could call for the reading of the message of the President of the United States at this time?

The SPEAKER. No, sir.

Mr. STANTON said he should feel constrained to appeal from the decision of the Chair.

The SPEAKER said, the question would then be, "Shall the decision of the Chair stand as the judgment of the House?"

Mr. STANTON said he desired to say a few words on the point of order.

By the Constitution of the United States it was made the duty of the President to communicate to Congress information of the state of the Union, and to recommend to their consideration such measures as he shall deem necessary and expedient. He (Mr. S.) presumed, that if it was made the constitutional duty of the President to communicate information, it was equally the duty of Congress to listen to, and receive it. Now, during the time the present incumbent had occupied the chair of this House—during the last session of Congress—messages of an important character from the President of the United States had been received, and had lain upon the table for weeks, and sometimes, he (Mr. S.) believed, for months together. He did not speak of the respect which was due to the President of the United States, but he spoke of the rights (he was understood to say) of the members of this House. He believed it was the right of the members to know what the information was which was thus communicated by the President to this House.

He was aware that one of the rules of the House prescribed the order in which proceedings should take place. He was aware of the opinion which the Speaker himself entertained of the obligatory character of that rule. But he (Mr. S.) imagined that the President of the United States, in accordance with the custom of the earlier Presidents, had a right to come to this House, and in person make his communication; and he (Mr. S.) supposed that it would not be in the power of the House, or of either House, to refuse to hear him. He believed that formerly it had been the custom of the President to come in person with his annual message, and to deliver it to one of the two Houses; and that Mr. Jefferson was the first President who sent in a written message, and that he gave his reasons for doing so. Now, he would ask, if the President should come to this House in person to deliver information in regard to the state of the Union, it would be consistent with the Constitution; and whether this House, by its rules, could put him off day after day, week after week, and month after month, before his communication should be made?

He knew of no other clause which required the Prediedut to make any communication to this House, except that to which he had referred, and which required him, from time to time, to give to Congress information as to the state of the Union.

What would be the entry on the Journal? In accordance with the rules of the House, messages received from the President of the United States were to be spread upon the Journal. A message had been received yesterday. It was dated yesterday. The entry upon the Journal would be, that a message was received—without anything further; and then two or three weeks hence, it would be stated that such a message was before the House, having been received two or three weeks previously.

If he was not mistaken, he believed that such had not been the case, under former Speakers, with executive communications. He believed that on all occasions the Speaker had laid them before the House. How did the communication of the President get upon the table? How did it come there? There had been an order of the House to place it there. It seemed to him that so soon as a message had been received, it was the duty of the Speaker to lay it before the House—to open and present it to the House. It would then be before the House for consideration—it would then be properly upon the Speaker's table. Until that time it was merely privately in the hands of the Speaker.

The rule which prescribed the order in which the business (on the Speaker's table) of the House should be taken up, provided that "messages and other Executive communications should be first" taken up. He presumed that this branch of the rule referred to communications of this sort after they had been laid before the House, and were regularly upon the Speaker's table. He did not perceive how the President could, in pursuance of this constitutional provision, make his communication unless it were received. It was not a communication until it was in possession of the House; and it seemed to him that the constitutional provision would override any and every rule which might be made by this House.

At the present session of Congress, the Speaker had decided that although the rule required that every proposition for printing a public document should be referred to the Committee on Printing,

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yet the reference need not be made in pursuance of that rule; the House might dispense with it. How was it, then, in relation to this constitutional provision, by which members were to receive the information which the President communicated? As a representative of the people, he demanded, under this provision, to know what the President desired to communicate to him as one of the members of this House. It was a constitutional provision, which could not be smothered by any rules which this House might think proper to adopt.

He trusted that gentlemen older in the consideration of these questions than himself, and having more experience in such matters, would have something to say. If it should be found that he was mistaken in his views, he would cheerfully acquiesce.

The SPEAKER briefly announced the point of order. He was imperfectly heard by the reporter; but the grounds of his decision seem to have been substantially as follows:

The SPEAKER was not the servant of the President, but the servant of this House. It was his duty to obey the rules of the House—to receive executive communications respectfully at the door of the House, but not to present them to the House out of the regular order of business, unless the House called for them.

The Constitution of the United States declared that each House might determine its own rules of proceeding. This House had done so, and by one of these rules had declared that "after one hour shall have been devoted to reports from committees and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion that the House do now proceed to dispose of the business on the Speaker's table, and to the orders of the day; which being decided in the affirmative, the Speaker shall dispose of the business on his table in the following order, viz: first, messages and other executive communications."

A note appended to the branch of the rule which prescribes that messages and communications should be first received, gave the date of its adoption as the 14th of September, 1837; at which time, the SPEAKER believed, the chair was occupied by the present Executive of the United States—though of that fact he was not quite certain—it might not be so; but whether it was so or not, that rule was adopted by the House. The Chair had always enforced it; and if messages had not been seasonably laid before the House, it was in consequence of the action of the House itself, and not by any decision of the SPEAKER. It would be in the recollection of many gentlemen, that at the close of the last session of Congress, the SPEAKER had attempted again and again to lay before the House a message from the President, which was not laid before it until after the commencement of the present session. The House insisted upon other proceedings—calling for the yeas and nays, and submitting different motions. The SPEAKER, in the course he had taken, had conformed, not only to the rules of the House, but to the precedents established by all his predecessors; and until the House changed the rule, he should continue to execute its order. The SPEAKER would remark, that during the last session of Congress—on the 3d of April, 1848—a question had been raised somewhat analogous to that now submitted by the gentleman from Tennessee, [Mr. STANTON.] That case was thus stated on the Journal:

"While the House was engaged in a discussion upon resolutions introduced by Mr. CUMMINS, tendering 'our warmest sympathies to the people of France and Italy,' Mr. C. J. INGERSOLL moved that a message from the President of the United States, that day received, be laid before the House.

"The SPEAKER hearing no objection, accordingly handed the said message to the Clerk.

"The Clerk was in the act of opening it, when Mr. ADAMS objected.

"Mr. C. J. INGERSOLL raised the point of order, that the objection came too late, the message having passed from the possession of the Speaker.

"The SPEAKER decided that the objection was in season, the reading of the message not having been commenced, and that the message could not now be laid before the House.

"From this decision Mr. C. J. INGERSOLL appealed.

"And the question being put, 'Shall the decision of the Chair stand as the judgment of the House?'

"It was decided in the affirmative, by tellers—ayes 90, noes 30."

Mr. STANTON desired to inquire of the Chair what the state of the case would be if the President of the United States should appear in person: whether the Speaker would consider that the House was bound, under the Constitution, to receive his communication?

The SPEAKER (very doubtfully heard) was understood to say, that in such an event, he could not leave his own seat, or dispense with the rules of the House, except by a vote of the House.

And the SPEAKER again stated, that the question would be, "Shall the decision of the Chair stand as the judgment of the House?"

Mr. C. J. INGERSOLL appealed to the gentleman from Tennessee [Mr. STANTON] to withdraw his appeal. It seemed to him (Mr. I.) that the House had decided a very analogous question. It was an exceedingly interesting and important question, but he thought that it would be better that the House should not pass upon it without more full consideration than it could at this time bestow.

Mr. STANTON acquiesced in the suggestion.

So the appeal was withdrawn.

PETITIONS AND MEMORIALS AGAIN.

The SPEAKER then proceeded with the call of the States for petitions and memorials.

The States being called for the purpose, petitions were presented by Messrs. SMITH of Connecticut, JENKINS, HUNT, KELLOGG, GREELEY, DUER, FREEDLEY, BLANCHARD, HAMPTON, ECKERT, THOMPSON of Pennsylvania, GOGGIN, PRESTON, GIDDINGS, FISHER, SCHENCK, WICK, HILLIARD, JOHNSON of Arkansas, and BINGHAM.

Mr. VINTON asked leave to offer a resolution to grant the use of the Hall to the American Colonization Society on the evening of the 16th instant. Objected to.

NOTICES OF BILLS.

Notices for leave to introduce bills were given—

By Mr. TOMPKINS: A bill granting to the State of Mississippi the right of way and a donation of public land, for the purpose of locating and constructing a railroad from Brandon to the eastern boundary of said State, in the direction of Montgomery, in the State of Alabama.

By Mr. BINGHAM: A bill granting a quantity of land to aid in the construction of the Detroit and Romeo and Port Huron railroad, in the State of Michigan.

On motion of Mr. FEATHERSTON,

Resolved, That the bill entitled "An act to cancel certain illegal entries of the public lands at Columbus, Mississippi," be taken from the Clerk's files and referred to the Committee on Public Lands.

BILLS INTRODUCED.

In pursuance of previous notice a bill was introduced as follows:

By Mr. HARRIS: A bill regulating evidence in the circuit and district courts of the United States; which bill was read twice, and referred to the Committee on the Judiciary.

In pursuance of previous notice, Mr. BRIDGES obtained leave to introduce a joint resolution to construe the several acts of Congress heretofore passed for the relief of revolutionary soldiers; which resolution was read twice, and referred to the Committee on Revolutionary Pensions.

Mr. HILLIARD (by unanimous consent) obtained leave, and introduced a bill to amend an act regulating the district courts of the United States for the District of Alabama; which bill was read twice, and referred to a select committee composed of the Representatives in Congress from the said State of Alabama.

Mr. PHELPS, in pursuance of previous notice, obtained leave and introduced a bill granting to the State of Missouri the right of way for making a railroad from Lexington, on the Missouri river, to Ohio City, at the mouth of the Ohio river, in said State; which bill was read twice, and referred to the Committee on the Public Lands.

Mr. BINGHAM introduced a bill to apply certain alternate sections of the public domain towards the completion of the Clinton and Kalamazoo canal, in the State of Michigan; which was read, and referred to the Committee on Public Lands.

On motion of Mr. THOMPSON, of Iowa,

Ordered, That leave be granted for the withdrawal from the files of the House, of the papers in the case of Samuel I. Bayard.

The said papers were thereupon delivered to Mr. THOMPSON.

On motion of Mr. THOMPSON, of Iowa,

Ordered, That leave be granted for the withdrawal of the papers, from the files of the House, in regard to the Iowa militia.

The said papers were thereupon delivered to Mr. THOMPSON.

Mr. ROCKWELL, of Connecticut, from the Committee on Claims, to whom was referred the Senate bill entitled "An act authorizing the payment of interest upon the advances made by the State of Alabama for the use of the United States Government in the suppression of the Creek Indian hostilities of 1836 and 1837, in Alabama," reported the same back to the House with an amendment. Committed to the Committee of the Whole on the state of the Union.

Mr. R. also, from the same committee, to whom was referred the petition of Samuel Perry, made a report thereon, accompanied by a bill for his relief. Read twice and committed.

On motion of Mr. ROCKWELL, of Conn.,

Ordered, That the Committee on Claims be discharged from the consideration of the memorial of David A. Ely and others, praying for confirmation of preëmption rights.

Ordered, That the Committee on Claims be discharged from the consideration of the petition of Hannah Cole for bounty land on account of the military services of her husband, Samuel Cole, deceased, in the Mexican war.

Which petitions were severally referred to the Committee on Public Lands.

Mr. CROWELL, from the Committee on Claims, to whom was referred the petition of John Coates, made an adverse report thereon. Laid on the table.

Mr. C. also, from the same committee, reported a bill to provide for the payment of the passage of General Lafayette from France to the United States, in the year 1824, accompanied by a report in writing. Read and committed.

Mr. GOGGIN, from the Committee on the Post Office and Post Roads, to whom was referred the memorial of William B. Stokes, surviving partner of John N. C. Stockton & Co., praying that the amount of compensation on the upper route between Augusta and Columbus be paid him *pro rata* for seventy-three days, in the same manner as the compensation from Columbus to Mobile has been allowed, made an adverse report thereon, which was laid on the table.

Mr. JOSEPH R. INGERSOLL, from the Committee on the Judiciary, reported a bill for the settlement of the accounts of Captain M. M. Clarke; which was read twice and committed, and made the order of the day for to-morrow.

Mr. JOSEPH R. INGERSOLL, from the Committee on the Judiciary, to whom was referred the petition of Frederick Dawson, James Schott, and Elisha Dane Whitney, for payment for certain vessels furnished the Republic of Texas, given up to the United States on her annexation thereto, made a report thereon, accompanied by a bill for their relief. Read and committed.

Mr. J. R. INGERSOLL, from the same committee, to whom was referred a memorial of citizens of New York, praying for the abolition of the punishment of death, made a report thereon; which was laid on the table.

On motion of Mr. J. R. INGERSOLL,

Ordered, That the Committee on the Judiciary be discharged from the consideration of the petition of Wyatt Eppes, asking the payment of a bill of costs allowed by the district judge of the United States for the State of Mississippi, and that the same be laid on the table.

Mr. J. R. INGERSOLL, from the Committee on the Judiciary, reported the following resolution:

Resolved, That the Clerk be, and he hereby is, directed to purchase from the author, William Hickey, Esq., for the use of this House, the same number of copies of the authentic copy of the Constitution, with an analytical index, and compilation of other public documents and useful informa-

tion, as were ordered for the use of the Senate by the second of their resolutions of the 18th of February, 1847, to be by the members distributed to public libraries, colleges, other literary institutions, and public offices: *Provided*, That copies of the last edition of such work can be procured at a reduction of twenty per cent. from the price authorized to be paid for the said work by the first of the resolutions of the Senate of said 18th February, 1847.

Mr. JONES, of Tennessee, objected to the resolution.

The SPEAKER stated that it was the report of a committee, and was in order.

Mr. JONES said this resolution, if he understood it correctly, proposed to authorize the Clerk to purchase the same number of copies of "Hickey's Constitution," as had been purchased by the Senate. That, he believed, was 20,000, or perhaps 30,000 copies. If he mistook not, the resolution which had heretofore been passed by this House, at the last session, for the distribution of books, included one copy of that "Constitution" for each member of this House. Now, if the Senate had distributed 20,000, or perhaps 30,000 copies, (for he thought they had purchased two or three editions,) if they had distributed the number they had ordered to the colleges, universities, and public libraries of the country, there was perhaps not one public library in the country but had been furnished with this "Constitution." He objected to this way of contracting for the book; if they were going to buy it, they should do it in such way as would show on the face of their proceedings what they were doing. Why should they undertake to shield themselves under what the Senate had done? Why not do the thing directly, and say, in so many words, how many copies of this "Constitution" they would authorize to be published and paid for out of the contingent fund of this House? Now, he could not tell how many copies the Clerk would consider himself authorized to purchase under this resolution. There had been some two or three editions, he understood, published and bought by the Senate; the last one, he thought, was twenty thousand copies; how many there were in all, he could not tell. Now, whether the Clerk of the House would consider himself authorized to buy the number the Senate last purchased, or whether he would consider himself authorized and instructed to purchase a number of copies equal to all that had heretofore been purchased by the Senate, he knew not. If this House was disposed, or intended to buy this book, not for the benefit of the people, not for the benefit of the public libraries, not for the benefit of anybody (as he considered) on the face of the earth, except of Mr. Hickey, they should frankly declare to the country, upon the record of their proceedings, how many copies they purchased, and what was the object of the donation which they proposed to make to Mr. Hickey for getting up and publishing this book.

If the House wanted this "Constitution," why not, as had been suggested by a friend near him, order it to be published by contract? Why not direct their public printers to print, bind, and deliver it here, at the rates on which he performed the other printing of the House under contract?

It was said that Mr. Hickey had a copyright. But any man in this country who had the ability to compile any work at all, could compile one equally valuable with this. A great deal of it was of no service to anybody. As to the copyright, if ten lines were altered, he presumed anybody would have the right to publish it.

If they wanted this "Constitution" of Mr. Hickey, to distribute it for the benefit of the people, they ought to purchase it on some other terms than those prescribed by the resolution, from one who had probably already realized ten times or a hundred times the value of his labor and trouble in getting up the book.

He hoped the resolution would not be adopted; and when the question came up on its passage, he would ask the yeas and nays, that the country might know who the gentlemen were that were disposed to vote for these extravagant appropriations.

Mr. BRODHEAD (remarking that he thought this Congress had purchased books enough) moved to lay the resolution on the table.

Mr. JONES, of Tennessee, asked the yeas and nays on this motion; which were ordered.

Pending the question—

Mr. ROCKWELL, of Connecticut, rose and called for the orders of the day; and moved that the House resolve itself into Committee of the Whole on the state of the Union, with a view to resume the consideration of the special order, being the bill to provide for the settlement of claims against the United States.

Mr. KAUFMAN objected to the motion, on the ground that the morning hour had not yet expired.

The SPEAKER stated that the motion to go into Committee of the Whole on the state of the Union was always in order. A motion to proceed to the business on the SPEAKER's table would not be, until one hour after reports were called for.

The question was taken, and decided in the negative.

So the House refused to go into Committee of the Whole on the state of the Union.

The question recurring on the motion to lay the resolution reported by Mr. J. R. INGERSOLL on the table—

Mr. FICKLIN asked for the reading of the resolution; which was read.

Mr. LORD inquired of the SPEAKER *how many* copies had been ordered by the Senate?

The SPEAKER. The Chair has no knowledge.

The question was then taken on the motion to lay on the table, and decided in the affirmative—yeas 126, nays 47—as follows:

YEAS—Messrs. Adams, Barrow, Bayly, Bedinger, Blanchard, Bocock, Bowlin, Boyd, Bridges, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Burt, Butler, Canby, Chase, Franklin Clark, Beverly L. Clarke, Williamson R. W. Cobb, Cocke, Coliamer, Conger, Dickinson, Dixon, Donnell, Duer, Garnett Duncan, Eckert, Embree, Alexander Evans, Nathan Evans, Faran, Featherston, Ficklin, Fisher, Flournoy, French, Fries, Fulton, Gentry, Goggin, Gott, Green, Greeley, Gregory, Grinnell, Hale, Willard P. Hall, James G. Hampton, Harmanson, Harris, Henley, Henry, Hill, Hilliard, Elias B. Holmes, George S. Houston, John W. Houston, Hudson, Inge, Irvin, Jameson, Andrew Johnson, James H. Johnson, George W. Jones, Kaufman, Kennon, Daniel P. King, Lahm, La Sere, Ligon, Lincoln, Lord, Lumpkin, McClelland, McClernand, McDowell, McKay, McLane, Job Mann, Meade, Miller, Morris, Morse, Outlaw, Palfrey, Peaslee, Peck, Petrie, Pettit, Peyton, Phelps, Pollock, Preston, Putnam, Richardson, Richey, Rockhill, Julius Rockwell, John A. Rockwell, Root, Rumsey, Sawyer, Shepperd, Sherrill, Silvester, Smart, Caleb B. Smith, Stanton, Starkweather, Charles E. Stuart, Strong, Thibodeaux, Thomas, James Thompson, Robert A. Thompson, Toombs, Tuck, Van Dyke, Venable, Wallace, Wick, Wiley, Wilmot, and Woodward—126.

NAYS—Messrs. Abbott, Belcher, Bingham, Blackmar, Botts, Boyden, Brady, Buckner, Cabell, Chapman, Collins, Crowell, Darling, Dickey, Dunn, Edwards, Farrelly, Freedley, Gayle, Giddings, Nathan K. Hall, Moses Hampton, Hunt, Charles J. Ingersoll, Jenkins, Kellogg, Sidney Lawrence, Leffler, Levin, McIlvaine, Horace Mann, Marsh, Marvin, Mullin, Rose, St. John, Schenck, Truman Smith, Taylor, Richard W. Thompson, William Thompson, Tompkins, Turner, Vinton, Warren, Wentworth, and White—47.

So the resolution was laid on the table.

On motion of Mr. TAYLOR,

Ordered, That the Committee of the Whole House to-morrow be discharged from the consideration of joint resolution for the relief of Alexander Hunter, and that the same, together with the accompanying papers, be referred to the Committee on the Judiciary.

Mr. FRENCH, from the Committee on the Judiciary, reported a bill to amend the act entitled "An act supplemental to the act for the admission of the States of Iowa and Florida into the Union;" which bill was read twice, and ordered to be engrossed and read a third time; and, being engrossed, was accordingly read a third time and passed.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

Mr. KING, from the Committee on Revolutionary Claims, reported a bill for the relief of the heirs of Wadleigh Noyes, deceased; which was read twice, and committed to the Committee of the Whole, and ordered to be printed.

On motion of Mr. KING, of Massachusetts,

Ordered, That the Committee on Revolutionary Claims be discharged from the consideration of the petition of William H. Russell, and that it be laid on the table.

Mr. DARLING, from the Committee on Private Land Claims, reported a bill granting the right of preemption to Joshua Holden, accompanied by a report in writing; which was read twice and committed.

Mr. DARLING, from the same committee, reported a bill to satisfy the claim of the legal representatives of Joseph Reynes, accompanied by a report in writing; which bill was read twice and committed.

Mr. TOMPKINS, from the Committee on Private Land Claims, to whom was referred Senate bill for the relief of James G. Carson, reported the same back to the House without amendment. The bill was then read a third time and passed, and returned to the Senate.

Mr. WHITE, from the Committee on Agriculture, reported the following resolution, which was read and agreed to, viz:

Resolved, That the heirs of Jethro Wood have leave to withdraw their petition and papers.

On motion of Mr. FULTON,

Ordered, That the Committee on Invalid Pensions be discharged from the consideration of the petition of John Barrett, and that it be laid on the table.

Mr. FULTON, from the Committee on Invalid Pensions, reported a bill for the relief of John France, accompanied by a report in writing; which bill was read twice and committed.

Mr. FULTON, from the same committee, made adverse reports upon the petitions of Mathew Macklem and of John W. Howell; which reports were laid on the table, and ordered to be printed.

On motion of Mr. FULTON,

Ordered, That the Committee on Invalid Pensions be discharged from the consideration of the petition of George Grey, and that it be laid on the table.

Mr. STRONG, from the same committee, made an adverse report upon the petition of Peter Riffe; which was laid upon the table, and ordered to be printed.

On motion of Mr. SMITH, of Illinois,

Ordered, That leave be granted to withdraw from the files of the House the papers relating to the claims of William C. Honnens, John P. Boyce, Michael Dowling, Patrick Meran, and William Lerillard.

Mr. BRODHEAD moved that the House resolve itself into Committee of the Whole on the state of the Union.

The question was taken, and the motion was rejected.

When the States had been called through for petitions, and the Speaker was calling upon the committees for reports—

Mr. FICKLIN rose to inquire whether it would be in order to move to proceed to the consideration of business on the Speaker's table?

The SPEAKER said, it would be in order in twenty minutes from that time.

Mr. SMITH, of Indiana, from the Committee on Territories, reported a bill to establish the Territorial Government of New Mexico; which was read twice and committed.

Mr. PILSBURY, on behalf of the minority of said committee, submitted a report and protest against the *dismemberment* of the State of Texas.

Mr. CALEB B. SMITH, chairman of the Committee on Territories, said, that under the instructions of that committee, a bill had been reported, which, however, had not been accompanied with any report. The minority of the committee dissented from the majority, so far as the boundaries of the Territory of New Mexico were concerned. The paper now presented by the gentleman from Texas, [Mr. PILSBURY,] he (Mr. S.) understood to be the report of the minority of the committee. He submitted, that inasmuch as the majority of the committee had made no report, it was a question to be decided by this House, whether a minority report could be made.

The SPEAKER said that there was no such thing known to the rules as a report from the minority of a committee. A minority of a committee could, by leave of the House, make a statement of their views, and the vote of a majority of the House was sufficient to enable them to do so.

Mr. BURT rose, he said, to reply to the suggestion which had been made by the gentleman from Indiana, [Mr. SMITH.] He (Mr. B.) begged leave to say, that the report of a minority was the only form in which the minority could express their views. And he would appeal to the oldest members on this floor to sustain his assertion, that in no solitary case had a respectful paper which had been offered by the minority of a committee been refused.

Mr. SMITH said, in reply to the suggestion of the gentleman from South Carolina, [Mr. BURT,] that he did not wish to be understood as making the slightest objection to the introduction of the report offered by the gentleman from Texas, [Mr. PILSBURY.] All that he (Mr. S.) had intended or desired to do was, to state what the facts were; and if the House was willing to receive the report, he had no objection; nor did he suppose that objection was entertained by any member of the committee.

Mr. BURT. I see nothing in the merits——

The SPEAKER (interposing.) No objection

appears to be made; if so, there is no question before the House.

Mr. BURT. I trust there will be no objection.

The report was then received, and ordered to be printed.

Mr. ROCKWELL, of Massachusetts, from the Committee on Territories, to which was referred the resolution of the House of the 11th of December, 1848, instructing them "to inquire into the 'expediency of so dividing the Territory of Upper 'California as to organize and extend a district 'Territorial Government over that portion of said 'Territory which includes the white settlement in 'the vicinity of Salt Lake," made an adverse report thereon. Laid on the table.

THE PUBLIC PRINTING.

Mr. SMITH, of Indiana, asked leave to report a joint resolution, of which he had heretofore given notice.

The resolution was read, for information, by its title. It was a joint resolution to repeal the joint resolution directing the manner in which the public printing should be executed.

Objection being made, the resolution was not introduced.

Some conversation took place respecting the order of business; and a motion by

Mr. ROCKWELL, of Connecticut, that the House resolve itself into Committee of the Whole on the state of the Union, was rejected.

TARIFF OF 1846.

The House proceeded to the consideration of the following resolution offered by Mr. GREELEY, on the 21st of December, ult., viz:

Resolved, That the Secretary of the Treasury be, and he hereby is, requested to communicate to this House (if such communication be not, in his judgment, incompatible with the public interest) the considerations of equity or public policy which justify the assessment, by the tariff of 1846, on woollen blankets, flannels, baizes, &c., and on hempen cables, cordage, and several other descriptions of imported manufactures, of rates of duty five to ten per cent. lower than are charged on the principal raw material from which they are respectively fabricated; and if the same be not justified as aforesaid, what action of Congress in relation thereto is deemed by him desirable?

Mr. WENTWORTH said, if he understood the resolution of the gentleman from New York aright, it asked the Secretary of the Treasury why this Congress had passed the tariff of 1846. If the gentleman from New York would call upon him, (Mr. W.,) he would answer him why he had helped to pass it, for he had had as much to do with passing the tariff law as the Secretary of the Treasury had had. It was the first instance he (Mr. W.) had ever known of a member of this House bringing forward a resolution asking an executive officer of the Government why this Congress had passed such or such a law.

He moved to lay the resolution on the table; but he subsequently withdrew it, on pledge of its renewal, and at the request of

Mr. GREELEY, who said he wished to set the gentleman from Illinois right on a question of fact. The tariff law now in question had not been enacted by this Congress at all; it had been enacted by a former Congress, upon the recommendation, and mainly upon the compilation of the Secretary of the Treasury, and was mainly his work.

Mr. WENTWORTH. How is that known? I was here when the law was passed; I don't know any such thing.

Mr. GREELEY replied, that it was known by the report of the Secretary of the Treasury before them. The Secretary came before this House as the eulogist of this tariff in all its features, and claimed the credit of it. Now, appearing before the country in that capacity, he (Mr. G.) wished to get information from him in regard to a particular and a very important feature of that tariff—how it worked, what considerations of public policy justified this provision.

Mr. WENTWORTH said he would suggest to the gentleman from New York that he make this inquiry of their friend, the former chairman of the Committee of Ways and Means, [Mr. McKAY.] That gentleman was here then; he had reported the tariff of 1846, and the gentleman from New York had no right to say that the chairman of a committee of this House had been dictated to by the Secretary of the Treasury as to what bill he should report.

Mr. GREELEY (evidently having misunderstood Mr. W.) said the present chairman of the Committee of Ways and Means [Mr. VINTON] was not the chairman when the tariff bill of 1846 was reported.

Mr. WENTWORTH. But the former chairman who reported the bill is here now, and the gentleman can inquire of him.

Mr. GREELEY. But a call upon a former chairman of the Committee of Ways and Means would not be in order. [A laugh.]

He (Mr. G.) thought the resolution was perfectly in order. If there was a good answer, it could be given by the Secretary of the Treasury. The objection to this inquiry did not look well, coming from a friend of the tariff of 1846.

Mr. WENTWORTH said he had no objection to giving the gentleman from New York any information that might be in his power, nor had he any objection to the gentleman's calling upon any of the bureaus for information; but he appealed to the House to know if this thing was just and fair. The gentleman from New York had risen in his place, and told the House that the Secretary of the Treasury had dictated the present tariff. Now, he (Mr. W.) remembered the circumstances attending the passage of that law. The bill had been altered materially in this House; and the gentleman had no right to charge that the chairman of the Committee of Ways and Means had taken this bill from the Secretary of the Treasury; and he came now and wanted to know of the Secretary of the Treasury how it was that he had done so and so?

Mr. HUNT inquired if the gentleman from Illinois did not know that the Secretary of the Treasury had prepared the tariff bill of 1846, and communicated it to the Committee of Ways and Means?

Mr. WENTWORTH replied, that he did not know any such thing. He knew that he (Mr. W.) had had a hand in framing it, and voting for it.

Mr. HUNT said, he believed it was a fact well known to gentlemen who were members of the House at that time that the bill was framed by the Secretary of the Treasury.

Mr. WENTWORTH said, that bill had been altered materially in this House, and by the Committee of Ways and Means.

But that had nothing to do with the case. There had never such a thing been heard of before in this Government, as such a call by a resolution offered by a gentleman upon this floor. It was disrespectful to the Secretary of the Treasury, and for that reason, among others, it should not be adopted. If the gentleman wanted any information, and would modify his resolution so as merely to call for information, he (Mr. W.) would have no objection; but so long as it implied to the country and the world that the Secretary of the Treasury had dictated this tariff to the Committee of Ways and Means, and to Congress, he would not vote for it.

He moved to lay the resolution on the table.

Mr. GREELEY asked for the yeas and nays, which were ordered.

The question was taken, and decided in the negative—yeas 86, nays 87—as follows:

YEAS—Messrs. Bayly, Bedinger, Bingham, Bowlin, Boyd, Boyden, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Burt, Cabell, Chase, Clapp, Franklin Clark, Williamson R. W. Cobb, Collins, Cummins, Darling, Dickinson, Dunn, Faran, Featherston, Ficklin, Flournoy, French, Fries, Fulton, Goggin, Green, Hammons, Harmanson, Hill, Hilliard, Isaac E. Holmes, George S. Houston, Charles J. Ingersoll, James H. Johnson, Robert W. Johnson, George W. Jones, Kennon, Lahm, La Sere, Leffler, Ligon, Lord, Lumpkin, McClelland, McClernand, McDowell, Job Mann, Horace Mann, Meade, Miller, Morris, Murphy, Outlaw, Palfrey, Peaslee, Petrie, Pettit, Peyton, Phelps, Richardson, Richey, Rockhill, Sawyer, Smart, Robert Smith, Stanton, Starkweather, Charles E. Stuart, Strong, Thomas, John B. Thompson, Robert A. Thompson, William Thompson, Thurston, Turner, Wallace, Wentworth, Wick, Wiley, Williams, Wilmot, and Woodward—86.

NAYS—Messrs. Abbott, Barrow, Blackmar, Blanchard, Bocock, Botts, Brady, Butler, Caney, Chapman, Beverly L. Clarke, Clingman, Cocke, Conger, Cranston, Crozier, Dickey, Dixon, Donnell, Garnett Duncan, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Freedley, Gayle, Gentry, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Willard P. Hall, Nathan K. Hall, Moses Hampton, Harris, Henry, Elias B. Holmes, John W. Houston, Hubbard, Hunt, Inge, Joseph R. Ingersoll, Irvin, Jameson, Jenkins, Andrew Johnson, Kaufman, Kellogg, Thomas Butler King, Daniel P. King, Lincoln, McIlvaine, McKay, McLane, Marsh, Marvin, Morehead, Mullin, Newell, Peck, Pollock, Preston, Putnam, Julius Rockwell, John A. Rockwell, Rose, Rumsey, St. John, Schenck, Shepperd, Sherrill, Silvester, Caleb B. Smith, Truman Smith, Taylor, Tompkins, Toombs, Tuck, Van Dyke, Venable, Warren, White, and Wilson—87.

So the motion to lay on the table was rejected.

Mr. GREELEY moved to amend the resolution by striking out the words, "if such communication be not, in his judgment, incompatible with the public interest."

He remarked that he understood that such a provision was unusual in a resolution of this character.

Mr. BOTTS hoped the gentleman from New York would further modify his resolution so as to make it conform to the established practice of the House, by directing the Secretary, &c.

Mr. GREELEY expressed his willingness to make that modification, if it was necessary to make the resolution in the usual form.

The SPEAKER suggested to the gentleman from Virginia, [Mr. BOTTS,] that it was not usual to direct an officer to report a matter of opinion; it was the practice of the House to direct him to give any information as to facts, but request him to give his opinion.

The amendment of Mr. GREELEY was agreed to.

Mr. FICKLIN moved to amend the resolution, by adding thereto the following:

And that Abbot Lawrence be requested [a laugh] to inform this House what motives of public interest justified the establishment of minimums and specifics in the tariff act of 1842, by the joint operation of which a square yard of cotton goods that cost five cents was taxed as high as a square yard of the same kind of goods that cost twenty cents, and a yard of silk worth fifty cents was taxed as high as a yard of silk worth two dollars.

The SPEAKER said the amendment was not in order, as the resolution itself called upon the Secretary of the Treasury for information.

Mr. FICKLIN modified the amendment by striking out the words "Abbot Lawrence," and inserting "the Secretary of the Treasury."

Mr. HENLEY moved to amend the amendment, by adding thereto the following:

And that he also be requested to inquire into and communicate the causes that produced a reduction of the wages of the operatives in the manufactories at Lowell.

Mr. COCKE demanded the previous question.

Mr. BOWLIN made a question of order, as follows: That the resolution called upon the Secretary of the Treasury virtually for the motives that influenced an act exclusively of legislation, and it was not competent for this House to call upon the head of a department to explain or justify the motives of Congress in adopting any particular system of legislation.

The SPEAKER said that the point of order should have been made when the resolution was introduced. The House might rule out a resolution of this character on the ground of impropriety, but it was not for the Chair to rule it out on the ground of order.

Mr. GREELEY said there was nothing in the resolution relative to the motives of the Secretary of the Treasury or of Congress in passing the act of 1846.

Mr. HOUSTON, of Alabama, inquired of the Speaker if it was too late to make the point that the resolution, giving rise to debate, should lie over one day?

The SPEAKER replied that it had already lain over a fortnight.

Mr. HOUSTON. The amendment of the gentleman from Illinois, then, does not change the order of the resolution?

The SPEAKER. The amendment does not carry the resolution over.

The question was then propounded on seconding the demand for the previous question.

Mr. McLANE moved to lay the resolution on the table.

Mr. WENTWORTH called for the yeas and nays.

The yeas and nays were not ordered.

And the question being taken, it was decided in the affirmative—ayes 88, noes 53.

So the resolution was laid on the table.

MESSAGE FROM THE PRESIDENT.

On motion of Mr. STANTON, the House proceeded to the consideration of business on the Speaker's table; and—

The SPEAKER laid before the House a message from the President of the United States, as follows:

To the House of Representatives of the United States:

In answer to the resolution of the 18th of December, 1848, requesting information "under what law or provision of the Constitution, or by what other authority," the Secretary of the Treasury,

with the "sanction and approval" of the President, established "a tariff of duties in the ports of the Mexican Republic" "during the war with Mexico," and "by what legal, constitutional, or other authority," the "revenue thus derived" was appropriated to "the support of the army in Mexico," I refer the House to my annual message of the 7th of December, 1847; to my message to the Senate of the 10th of February, 1848, responding to a call of that body, a copy of which is herewith communicated; and to my message to the House of Representatives of the 24th of July, 1848, responding to a call of that House.

The resolution assumes that the Secretary of the Treasury "established a tariff of duties in the ports of the Mexican Republic." The contributions collected in this mode were not established by the Secretary of the Treasury, but by a military order issued by the President, through the War and Navy Departments. For his information, the President directed the Secretary of the Treasury to prepare and report to him a scale of duties. That report was made, and the President's military order of the 31st March, 1847, was based upon it. The documents communicated to Congress with my annual message of December, 1847, show the true character of that order.

The authority under which military contributions were exacted and collected from the enemy, and applied to the support of our army during the war with Mexico, was stated in the several messages referred to.

In the first of these messages, I informed Congress that "on the 31st of March last I caused 'an order to be issued to our military and naval 'commanders to levy and collect a military contri- 'bution upon all vessels and merchandise which 'might enter any of the ports of Mexico in our 'military occupation, and to apply such contribu- 'tions towards defraying the expenses of the war.

"By virtue of the right of conquest and the laws 'of war, the conqueror, consulting his own safety 'or convenience, may either exclude foreign com- 'merce altogether from all such ports, or permit 'it upon such terms and conditions as he may 'prescribe. Before the principal ports of Mexico 'were blockaded by our navy, the revenue derived 'from import duties under the laws of Mexico was 'paid into the Mexican treasury. After these 'ports had fallen into our military possession, the 'blockade was raised, and commerce with them 'permitted upon prescribed terms and conditions. 'They were opened to the trade of all nations 'upon the payment of duties more moderate in 'in their amount than those which had been pre- 'viously levied by Mexico, and the revenue which 'was formerly paid into the Mexican treasury 'was directed to be collected by our military and 'naval officers, and applied to the use of our army 'and navy. Care was taken that the officers, sol- 'diers, and sailors of our army and navy should 'be exempted from the operations of the order; 'and as the merchandise imported, upon which 'the order operated, must be consumed by Mexi- 'can citizens, the contributions exacted were in 'effect the seizure of the public revenues of Mex- 'ico, and the application of them to our own use. 'In directing this measure, the object was to com- 'pel the enemy to contribute, as far as practicable, 'towards the expenses of the war."

It was also stated in that message, that "meas- 'ures have recently been adopted, by which the in- 'ternal as well as the external revenues of Mexico, 'in all places in our military occupation, will be 'seized and appropriated to the use of our army 'and navy.

"The policy of levying upon the enemy contri- 'butions in every form consistently with the laws 'of nations, which it may be practicable for our 'military commanders to adopt, should, in my 'judgment, be rigidly enforced, and orders to this 'effect have accordingly been given. By such a 'policy, at the same time that our own treasury 'will be relieved from a heavy drain, the Mexican 'people will be made to feel the burdens of the 'war, and, consulting their own interests, may be 'induced the more readily to require their rulers 'to accede to a just peace."

In the same message, I informed Congress that the amount of the "loan" which would be required for the further prosecution of the war, might be "reduced by whatever amount of expenditure can be saved by military contributions collected in Mexico;" and that "the most rigorous measures 'for the augmentation of these contributions have been directed, and a very considerable sum is expected from that source." The Secretary of the Treasury, in his annual report of that year, in making his estimate of the amount of loan which will probably be required, reduced the sum in consideration of the amount which would probably be derived from these contributions, and Congress authorized the loan upon this reduced estimate. In the message of the 10th of February, 1848, to the Senate, it was stated that "no principle is better 'established than that a nation at war has the right of 'shifting the burden off itself, and imposing it on the 'enemy by exacting military contributions. The 'mode of making such exactions must be left to the 'discretion of the conqueror, but it should be exer- 'cise in a manner conformable to the rules of civil- 'ized warfare. The right to levy these contribu- 'tions is essential to the successful prosecution of 'war in an enemy's country; and the practice of 'nations has been in accordance with this princi- 'ple. It is as clearly necessary as the right to 'fight battles, and its exercise is often essential to 'the subsistence of the army. Entertaining no 'doubt that the military right to exclude com- 'merce altogether from the ports of the enemy in 'our military occupation included the minor right 'of admitting it under prescribed conditions, it be- 'came an important question, at the date of the 'order, whether there should be a discrimination 'between vessels and cargoes belonging to citizens 'of the United States and vessels and cargoes be- 'longing to neutral nations."

In the message to the House of Representatives of the 24th of July, 1848, it was stated that "it is 'from the same source of authority that we derive 'the unquestioned right, after the war has been 'declared by Congress, to blockade the ports and 'coasts of the enemy, to capture his towns, cities, 'and provinces, and to levy contributions upon 'him for the support of our army. Of the same 'character with these is the right to subject to our 'temporary military government the conquered 'territories of our enemy. They are all belliger- 'ent rights, and their exercise is as essential to the 'successful prosecution of a foreign war as the 'right to fight battles."

By the Constitution, the power "to declare" war is vested in Congress; and by the same instrument it is provided that "the President shall be commander-in-chief of the army and navy of the United States," and that "he shall take care that the laws be faithfully executed."

When Congress have exerted their power by declaring war against a foreign nation, it is the duty of the President to prosecute it. The Constitution has prescribed no particular mode in which he shall perform this duty.

The manner of conducting the war is not defined by the Constitution.

The term *war*, used in that instrument, has a well-understood meaning among nations. That meaning is derived from the laws of nations, a code which is recognized by all civilized Powers as being obligatory in a state of war. The power is derived from the Constitution, and the manner of exercising it is regulated by the laws of nations, When Congress have declared war, they, in effect, make it the duty of the President, in prosecuting it by land and sea, to resort to all the modes and to exercise all the powers and rights which other nations at war possess.

He is invested with the same power in this respect as if he were personally present, commanding our fleets by sea or our armies by land. He may conduct the war by issuing orders for fighting battles, besieging and capturing cities, conquering and holding the provinces of the enemy, or by capturing his vessels and other property on the high seas. But these are not the only modes of prosecuting war which are recognized by the laws of nations, and to which he is authorized to resort. The levy of contributions on the enemy is a right of war, well established, and universally acknowledged among nations, and one which every belligerent possessing the ability may properly exercise. The most approved writers on public law admit and vindicate this right as consonant with reason, justice, and humanity.

No principle is better established than that "we 'have a right to deprive our enemy of his pos- 'sessions, of everything which may augment his 'strength and enable him to make war. This every 'one endeavors to accomplish in the manner most 'suitable to him. Whenever we have an opportu- 'nity we seize on the enemy's property, and convert 'it to our own use; and thus, besides diminishing 'the enemy's power, we augment our own, and ob- 'tain at least a partial indemnification or equivalent 'either for what constitutes the subject of the war, 'or for the expenses and losses incurred in its prose- 'cution; in a word, we do ourselves justice." "In- 'stead of the custom of pillaging the open coun- 'try and defenceless places," the levy of contribu- tions has been "substituted." "Whoever carries 'on a just war, has a right to make the enemy's 'country contribute to the support of his army, 'and towards defraying all the charges of the war. 'Thus he obtains a part of what is due to him; 'and the enemy's subjects, by consenting to pay 'the sum demanded, have their property secured 'from pillage, and the country is preserved." These principles, it is believed, are uncontroverted by any civilized nation in modern times. The public law of nations, by which they are recognized, has been held by our highest judicial tribunal as a code which is applicable to our "situation" in a state of war, and binding on the United States; while in admiralty and maritime cases it is often the governing rule. It is in a just war that a nation has the "right to make the enemy's country contribute to the support of his army." Not doubting that our late war with Mexico was just on the part of the United States, I did not hesitate, when charged by the Constitution with its prosecution, to exercise a power common to all other nations, and Congress was duly informed of the mode and extent to which that power had been and would be exercised at the commencement of their first session thereafter.

Upon the declaration of war against Mexico, by Congress, the United States were entitled to all the rights which any other nation at war would have possessed. These rights could only be demanded and enforced by the President, whose duty it was, as "commander-in-chief of the army and navy of the United States," to execute the law of Congress which declared the war. In the act declaring war, Congress provided for raising men and money to enable the President "to prosecute it to a speedy and successful termination." Congress prescribed no mode of conducting it, but left the President to prosecute it according to the laws of nations as his guide. Indeed, it would have been impracticable for Congress to have provided for all the details of a campaign.

The mode of levying contributions must necessarily be left to the discretion of the conqueror, subject to be exercised, however, in conformity with the laws of nations. It may be exercised by requiring a given sum, or a given amount of provisions, to be furnished by the authorities of a captured city or province; it may be exercised by imposing an internal tax, or a tax on the enemy's commerce, whereby he may be deprived of his revenues, and these may be appropriated to the use of the conqueror. The latter mode was adopted by the collection of duties in the ports of Mexico, in our military occupation during the late war with that republic.

So well established is the military right to do this under the laws of nations, that our military and naval officers, commanding our forces on the theatre of war, adopted the same mode of levying contributions from the enemy, before the order of the President of the 31st of March, 1847, was issued. The general in command of the army at Vera Cruz, upon his own view of his powers and duties, and without specific instructions to that effect, immediately after the capture of that city adopted this mode. By his order of the 28th of March, 1847, heretofore communicated to the House of Representatives, he directed a "temporary and moderate tariff of duties to be established."

Such a tariff was established, and contributions were collected and applied to the uses of our army. At a still earlier period, the same power was exercised by the naval officers in command of our squadron on the Pacific coast.

Not doubting the authority to resort to this mode, the order of the 31st of March, 1847, was issued, and was in effect but a modification of the previous orders of these officers, by making the rates of contribution uniform, and directing their collection in all the ports of the enemy in our military occupation and under our temporary military government.

The right to levy contributions on the enemy in the form of import and export duties in his ports was sanctioned by the treaty of peace with Mexico. By that treaty, both Governments recognized and confirmed the exercise of that right. By its provisions, "the custom-houses at all ports occupied by the forces of the United States" were, upon the exchange of ratifications, to be delivered up to the Mexican authorities, "together with all bonds 'and evidences of debt for duties on importations 'and exportations *not yet fallen due;*" and "all 'duties on imports and exports collected at 'such custom-houses or elsewhere in Mexico 'by authority of the United States," before the ratification of the treaty by the Mexican Government, were to be retained by the United States, and only the net amount of duties collected after this period was to be "delivered to the Mexican Government." By its provisions, also, all merchandise "imported previously to the restoration of the custom-houses to the Mexican authorities," or "exported from any Mexican port whilst in the occupation of the forces of the United States," was protected from confiscation and from the payment of any import or export duties to the Mexican Government, even although the importation of such merchandise "be prohibited by the Mexican tariff." The treaty also provides, that should the custom-houses be surrendered to the Mexican authorities in less than sixty days from the date of its signature, the rates of duty on merchandise imposed by the United States were, in that event, to survive the war until the end of this period; and, in the mean time, Mexican custom-house officers were bound to levy no other duties thereon "than the duties established by the tariff found in force at such custom-houses at the time of the restoration of the same." The "tariff found in force at such custom-houses," which is recognized and sustained by this stipulation, was that established by the military order of the 31st of March, 1847, as a mode of levying and collecting military contributions from the enemy.

The right to blockade the ports and coasts of the enemy in war is no more provided for or prescribed by the Constitution than the right to levy and collect contributions from him in the form of duties, or otherwise; and yet it has not been questioned that the President had the power, after war had been declared by Congress, to order our navy to blockade the ports and coasts of Mexico. The right in both cases exists under the laws of nations. If the President cannot order military contributions to be collected without an act of Congress, for the same reason he cannot order a blockade; nor can he direct the enemy's vessels to be captured on the high seas; nor can he order our military and naval officers to invade the enemy's country, conquer, hold, and subject to our military government his cities and provinces; nor can he give to our military and naval commanders orders to perform many other acts essential to success in war.

If, when the city of Mexico was captured, the commander of our forces had found in the Mexican treasury public money which the enemy had provided to support his army, can it be doubted that he possessed the right to seize and appropriate it for the use of our own army?

If the money captured from the enemy could have been thus lawfully seized and appropriated, it would have been by virtue of the laws of war, recognized by all civilized nations; and by the same authority, the sources of revenue and of supply of the enemy may be cut off from him, whereby he may be weakened and crippled in his means of continuing or waging the war. If the commanders of our forces, while acting under the orders of the President, in the heart of the enemy's country, and surrounded by a hostile population, possess none of these essential and indispensable powers of war, but must halt the army at every step of its progress, and wait for an act of Congress to be passed to authorize them to do that which every other nation has the right to do by virtue of the laws of nations, then, indeed, is the Government of the United States in a condition of imbecility and weakness, which must in all future time render it impossible to prosecute a foreign war in an enemy's country successfully, or to vindicate the national rights and the national honor by war.

The contributions levied were collected in the enemy's country, and were ordered to be "applied" in the enemy's country "towards defraying the expenses of the war," and the appropriations made by Congress for that purpose were thus relieved, and considerable balances remained undrawn from the treasury. The amount of contributions remaining unexpended at the close of the war, as far as the accounts of collecting and disbursing officers have been settled, have been paid into the treasury, in pursuance of an order for that purpose, except the sum "applied towards the payment of the first instalment due under the treaty with Mexico," as stated in my last annual message, for which an appropriation had been made by Congress. The accounts of some of these officers, as stated in the report of the Secretary of War accompanying that message, will require legislation before they can be finally settled.

In the late war with Mexico, it is confidently believed that the levy of contributions, and the seizure of the sources of public revenue, upon which the enemy relied to enable him to continue the war, essentially contributed to hasten peace. By those means the Government and people of Mexico were made to feel the pressure of the war, and to realize that if it was protracted, its burdens and inconveniences must be borne by themselves.

Notwithstanding the great success of our arms, it may well be doubted whether an honorable peace would yet have been obtained, but for the very contributions which were exacted.

JAMES K. POLK.

WASHINGTON, *January* 2, 1849.

During the reading of the message—

Mr. STANTON interposed, and moved to suspend the further reading.

[Cries of "No, no."]

The SPEAKER stated that the motion was not in order, except by general consent.

Objection being made—

The reading was resumed and concluded.

Mr. TOOMBS moved that the message be referred to a select committee. It involved, he said, very important questions, extraordinary assumptions—assumptions, in his judgment, dangerous to this form of government. It was a document that ought to be answered; he had no objection to its going to the country, but a report should go out with it. He therefore moved to refer the message to a select committee, and he did not propose to print it until the report was made.

Mr. C. J. INGERSOLL said he heartily concurred in the motion of the gentleman from Georgia. The message was a very able argument; but part of it, he confessed, he could not subscribe to; and he had taken the liberty, some time since, of intimating that to the President, and to a member of his cabinet. It was as interesting a question as had ever arisen; there was no question more deserving of a select committee. He heartily concurred in the propriety of giving it to a select committee.

[A voice: "And printing."]

Yes, (said Mr. I.,) and printing. He had not made the motion, because he did not know what gentleman had introduced the resolution to which the message was a reply.

[A voice: "There is no motion to print the message."]

Mr. INGERSOLL. Well, I make the motion, then.

Mr. VINTON said he regarded this as a very important message, asserting principles that were totally unwarranted in the Constitution or in the previous history of the Government. He did not think it should go out to the public without some remark here that should go along with it. As he understood the message, from hearing it read at the Clerk's table, it proceeded upon two assumptions: upon the assumption that in a state of war the military commander had a right to levy military contributions, (which, he presumed, no one disputed;) and, in the next place, that the conqueror of a portion of the enemy's country had the right to prescribe such laws and regulations there as he pleased.

Now, as to the first of these propositions—that we had the right in an enemy's country to levy military contributions—no one had ever disputed it; but the question was, *What is a military contribution?* If he understood it aright, a military contribution was a substitute, under the amelioration which the laws of war had undergone in modern times, for the right of plunder. The laws of war originally gave to the nation at war the right of plundering their enemy; these military contributions were a substitute for that right, by which, by making exactions in money upon the people of the enemy, or exactions in some other form, the enemy was enabled to purchase an exemption from plunder. Upon those, then, and those only upon whom, under the ancient usages of war, you had the right of plunder, had you the right to levy military contributions according to the modern usages of war—the right to levy military contributions being a substitute for the right of plunder.

Whom, then, had a nation at war the right to plunder? Its enemies; not its own people, or neutrals. The right of plunder was restricted to the enemy alone. But here, under the plea of exercising the right of levying military contributions, or of plunder, the President claimed that we had the right to levy duties—upon whom? Upon our enemy? No; upon American commerce; upon the commerce of neutrals. He asked, had the President of the United States any right to plunder or to levy contributions upon American citizens, or upon American property? It is too plain to admit of argument for a moment, that neither the Executive nor any other authority in this country had the right to plunder, or to levy military contributions upon American citizens, or upon American property.

Mr. STANTON interposed, and asked if the gentleman from Ohio would permit him to ask a question?

Mr. VINTON. Certainly.

Mr. STANTON. I would like to know whether the Government of the United States, upon taking possession of the port of Vera Cruz or any other Mexican port, had not the right, under the laws of war, to collect duties as they were levied by the laws of Mexico at that port?

Mr. VINTON. That is the very thing I am talking about. By and by I will speak about the right of the Government—the sovereign, the conqueror.

Mr. C. J. INGERSOLL (Mr. V. further yielding at his request) remarked, that he did not mean to say anything on this subject at present, more than to intimate that he did not subscribe at all to the argument of the honorable gentleman from Ohio. But he begged leave to call the attention of the gentleman to that clause of the Constitution of the United States upon which his (Mr. I.'s) doubt had always rested, and which had been passed upon in the former war by the Supreme Court of the United States—that was to say, to the eighth section, first article, which empowered Congress "to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water."

Now, he (Mr. I.) had no doubt at all of the right to seize; but the question arose as to the right to disburse afterwards.

Mr. VINTON (continuing) said he had no doubt at all about what Congress might do; he was speaking of what the Executive had a right to do. He said that the Executive, as the officer intrusted by the Constitution with the command of the army of the United States, (for it was upon that basis that the President had placed all his argument,) had the right to levy military contributions upon the property of the enemy; and he repeated, that being the assumption, the question arose, upon whom may these military contributions be levied? He thought gentlemen might in vain search the laws of nations to find any authority for a military commander to levy military contributions upon any but upon the enemy; from him and from him alone might he enforce them. That was the mode by which he might distress the enemy. But it was no part of the law of nations, or of the practice of nations, in carrying on war, that you might distress your own people, that you might seize the property of your own people, and call that a military contribution.

That was precisely what had been done in this case—done, it was true under the forms of a law enacted *by the President of the United States.* When American ships had gone into the port of Vera Cruz with merchandise, or when the ships of neutrals had gone there, they had been made to pay contributions—they had been made to pay that which you could exact only of the enemy. The Executive had seized upon a part of the property of our own people, and upon property of neutrals, upon the ground that it was a military

contribution, and in so doing he had treated them as enemies. It appeared to him, that if there ever had been a departure from the law of nations, if there ever had been a usurpation plain as the noonday sun, that this was such a case.

But if it were even granted that these contributions were justified by the law of nations, the great question still arose, Who may levy these contributions? The President of the United States said the conqueror might levy them; that he had full power and authority in the country that he had occupied by hostile arms. That might be granted. Grant that it was so; and yet the question which then arose here under our Government was not that which arose in monarchical Governments, where all the powers of the Government were vested in the same hands. The sovereignty in this country was divided; and if the right to levy contributions were conceded, or rather if the right to make these commercial regulations were conceded, still the inquiry arose as to the nature of the thing to be done. The Executive of the United States, as commander-in-chief of the army of the United States, would have the undoubted right in the enemy's country to do those things which pertained to the duties of commander-in-chief; but when he came to make a code of laws that should regulate commercial intercourse not only between our own citizens, but between neutrals and foreign nations, that, as a matter of course, was an act of usurpation, and totally unauthorized under our form of government. It was essentially a legislative power. A duty levied upon commerce was a tax upon commerce; and the power of levying taxes was vested by the Constitution in the Congress of the United States, and not in the Executive department of the Government.

And, besides, it was perfectly apparent—no one could mistake it—that if the President of the United States, as the military commander of the country, whenever the American army put its foot upon foreign territory, could do anything and everything he pleased, (he alone having the power to negotiate a treaty of peace; the country having no power to make a treaty of peace, except at his will,) it followed, as a necessary consequence, that he was a despot; that just as long as he could find the means by plunder or by levying contributions either upon the property of the enemy, or upon the property of our citizens, or of neutrals, he might carry on the war in despite of the will of the people, in despite of the will of this House and the other House of Congress, in despite of any limitation upon the supplies that might be granted by Congress for carrying on the war, which supplies under the Constitution could only be granted for two years; this provision being evidently intended as a restriction upon the Executive of the country.

Of what avail was the restriction upon the Executive of the United States, or this restriction upon this House, in granting supplies to carry on a war, if the President of the United States, whenever he got possession of an enemy's country or of a portion of an enemy's country, could levy such taxes, under the form of military contributions, as he pleased, and disburse them as he pleased, without the consent of Congress? for it followed, as a natural and necessary consequence, that if he could not levy them without the consent of Congress, he could not disburse them except by the authority of Congress. But the President of the United States had undertaken to do both: he had raised these moneys without the authority of the law of nations or of the legislative department of the country; and he had disbursed them, also, without the authority of the Congress of the United States. If he had the right to levy these duties without the consent of the Congress of the United States, he (Mr. V.) did not know why he might not disburse the moneys without the consent of Congress. But there was no power to levy duties in this country vested anywhere under the Constitution except in the Congress of the United States.

From the moment he (Mr. V.) had first seen that order issued, he had been satisfied that it was an unconstitutional order, and he had believed—for the good of this country, and for the preservation of its liberties, to prevent these violent infractions upon the Constitution, by the assumption on the part of the Executive of such dangerous powers, (as they had been termed by the gentleman from Georgia,) [Mr. TOOMBS,]—he would say he had hoped that the validity of these orders would ultimately be determined by that tribunal which the Constitution of the country had provided to decide upon the constitutionality of measures. He had no doubt, that if any of those persons upon whom these levies had been made—that if any citizen of the United States whose commerce had been subjected to taxes, or if any neutral who had been subjected to pay these exactions—should bring a suit against the President of the United States, who had ordered these moneys to be collected, or against any of his officers who had been the immediate agents in their collection, that it would be maintainable for the recovery of all that had thus been paid.

Mr. STANTON said he presumed that gentlemen would not deny that the President of the United States, as commander-in-chief of the army and navy, upon taking possession of any Mexican port, would be bound, as the representative of the Government, and the head of the army, to collect, by his agents appointed by the commander of the army, the revenues of such Mexican port. He took any particular item of commerce upon which revenue is collected—as a barrel of flour—upon which he supposed the Government of Mexico to have levied a duty of five dollars. By the laws of war, the commander-in-chief of our army might, by blockade, if he thought proper, exclude every barrel of flour that might be shipped for that port, or, in his discretion, he might permit flour to come in; but if he did so, it would become his duty, as the agent of his Government, to collect the revenue upon it. But as it is the duty of the President to seize upon the revenue of the conquered port, he might, in the discharge of this duty, determine that he would not exact a duty so heavy as that imposed by the Mexican laws. He might say he would only assess two dollars and fifty cents on every barrel of flour. This, in effect, is what the President did.

Mr. C. J. INGERSOLL (interposing, and Mr. STANTON giving way) desired the gentleman from Tennessee, as he proceeded with his argument, to say what the President should do with the money when he had got it.

Mr. STANTON. That is a question foreign to my present inquiry. But I would like to know whether the gentleman from Pennsylvania concedes the correctness of my argument as far as I have gone

Mr. INGERSOLL said he conceded the argument thus far: by the laws of war, the President of the United States was empowered to distress the enemy by all manner of means. He was directed, by the act of Congress declaring the existence of the war with Mexico, to prosecute the war to an honorable conclusion. They knew very well what was to be done—what the term "war" implied: he was to distress the enemy, by making these captures, and killing the enemy too, if it was necessary, by means of his military and naval agents.

But when property was taken, could it be distributed without a law of Congress declaring what should be done with it? What was the whole design of the law of prizes, of captures, in this and in all countries? Why, here it was upon the face of the Constitution, that there must be an act of Congress declaring what should be done with it. Otherwise, if at the commencement of the war the commander should take prizes and property enough, he might carry on the war *ad libitum*, eternally.

Mr. STANTON resumed. He did not admit the latter part of the argument of the gentleman from Pennsylvania. He thought the gentleman misapplied the word "capture" in speaking of the subject in question. The seizure of the revenues of Mexico or of any Mexican port, by the army of the United States, could not be called a "capture by land or sea," in the sense in which that term is used in the Constitution. At the same time he entertained no doubt of the power of Congress to make rules for the regulation of our conquests of every kind so as to derive every legitimate advantage from them. But, if it be the right of the commander-in-chief to seize the revenues of the ports he has conquered for the benefit of his Government, no one can complain of the President in this matter, unless the complaint be, that he has not collected so much as the Mexican laws allowed. If he had authority to exact the heavy duties imposed by that Government, he could certainly exact a part of them, and no man could object and say he had proceeded contrary to the laws and usages of war. The President had been very strongly supported in this proceeding, at all events. He had received the support which arises from the acquiescence and silence of both parties in this House, from the beginning to the close of the war. [Cries of "No, no."] It was true, he admitted, that a resolution of inquiry upon the subject had been offered early in the last session; but it was never pushed to any definite action. At no time during the progress of these events had any gentleman from the other side of the House thought proper to come forward and propose, by act of Congress, to regulate the exercise of this power in the hands of the President of the United States.

Mr. VINTON interposed, and said that the gentleman from Tennessee having stated that this thing had been acquiesced in without objection, rendered it proper for him to say, that very early in the last session of Congress this subject had been referred to a committee of this House, under a resolution offered by himself, (being one of the resolutions for the distribution of the President's message,) with express directions to inquire and report into the authority of the President of the United States to levy these taxes and disburse these moneys. And he would further say, that during the last session of Congress, the War Department had sent in an elaborate communication to the Committee of Ways and Means, asking for the adoption of some law or regulation by which the officers who had received these moneys might be able to settle their accounts with the Government. The Committee of Ways and Means refused to act on the subject; they refused to extend any relief to the Executive, from the conviction of the majority of the committee that it was an Executive usurpation, which ought not, and should not, be countenanced.

Mr. STANTON, (resuming.) The gentleman from Ohio, by his own admissions, had now placed himself precisely in the position which he (Mr. S.) had assigned to that party, namely: that seeing the usurpations, as they are called, of the President, no member of the opposite party, though in a majority here, ever brought forward any measure for preventing them, and saving the Constitution from violation. But the gentleman had admitted, also, that he was urged by a letter from the War Department, to make these regulations; and still he acknowledged here, in the face of the representatives of the people, that he refused to perform the duty which belonged to him.

As to the legality of the act of the President in collecting the revenues, he (Mr. S.) felt that his position here was utterly unassailable. No man upon the other side, he supposed, would deny that it was the duty of the commander of our army to seize upon the revenue of Mexico, and collect it at his discretion, either under the laws of Mexico, or at a reduced per centage, as was done. The only complaint upon this score was, that the President did not take as much revenue as he was authorized to take.

Mr. COLLAMER said, he denied distinctly that the President had any right to levy duties in the Mexican ports. This Government might have had that power; the President had not.

Mr. STANTON. Very well; he supposed the Government, then, had a right to seize upon the revenues of the Mexican Government. But now, the commander-in-chief of our army and navy takes possession of certain Mexican ports, and commerce comes in: what should be done with the revenue? Was it not the duty of the United States officer there to collect such revenue? or should he wait for Congress to pass a law on the subject? Would the gentleman from Vermont deny that it was the duty of the officer to commence this collection of revenue, without the express authority of Congress?

Mr. SCHENCK interrupted and said, taking the gentleman on his own ground, assuming (which he did not admit) that the President had the power, he asked the gentleman if it was not the fact, that the President, instead of seizing the revenues of Mexico, as he [Mr. STANTON] claimed, had really abolished the revenue laws of Mexico, and taken it upon himself to establish a tariff system of his own in their stead?

Mr. STANTON (resuming) said, he knew very well, that it was incumbent upon gentlemen on the other side of the House to deny to the President this power in order to maintain their consistency. They must deny to the commanding officers stationed at the conquered ports the

power to seize the enemy's revenues there, in order to maintain their position before the country. But if we consulted the laws of nations which have obtained in all time past, we should find it to be the duty of every commander in a conquered port to do precisely this thing; and that the officer, for neglecting this duty, subjected himself to the reprimand of his Government, or perhaps the loss of his commission. The officer in such a position has the undoubted right to exclude neutral vessels from entering the ports of the enemy. He may exclude or admit, upon his discretion; but no sensible man, having such a charge, would admit commerce except upon the payment of duties as exacted by the enemy, or at rates more reasonable and productive. And, besides, this course of not collecting the revenue would be a relief to the Mexicans themselves. It would be giving them a bonus, it might be said, according to the amount collected: it would be a throwing into their hands many thousands of dollars, and relieving their ordinary burdens, instead of oppressing them with the iron hand of war.

As this position could not be denied, he came now to the question of the gentleman from Ohio, [Mr. SCHENCK,] whether the President did not abrogate the revenue laws of the Mexican Government, and set up a system of his own? Certainly the President had done this; and it was precisely what he(Mr. S.) had affirmed that he was authorized to do; and, as he had shown, when the President might have taken five dollars on every barrel of flour, he had actually taken only two dollars and fifty cents. But the other gentleman from Ohio [Mr. VINTON] says the President has not levied these exactions upon the people of Mexico, nor upon the commerce of neutral nations, but upon our own citizens.

Mr. SCHENCK said, if he understood the gentleman aright, he now took the ground, that the revenue laws of Mexico imposing duties of a certain amount upon specified articles, the President, in the exercise of the power which he claimed for himself, might annul the tariff laws of Mexico, and substitute a tariff law established by himself, provided the duties did not exceed those which had heretofore been imposed by Mexico; as, for instance, if Mexico had levied a duty of five dollars per barrel upon flour, he might not go up to a duty of six dollars, but he might impose a duty of two dollars and a half; or, in other words, that the President was confined to levying duties less than those which had been levied by Mexico, but could not impose greater duties. Was that the gentleman's explanation?

Mr. STANTON, in reply, said that the officer or agent of any civilized Government was responsible for the prudence, moderation, and humanity with which he exercised the power intrusted to him for making these military exactions, for seizing upon the revenue and other property of a nation with which his Government is at war. He might exact more or less than Mexican laws allowed. But in the present case less had been exacted. His (Mr. S.'s) argument was, that our own commander might seize the public revenues, and in his discretion he might, at all events, diminish the taxes.

Mr. SCHENCK said, perhaps the gentleman did not understand his question. Did he understand the gentleman that, claiming this power for the President as commander-in-chief, he held that the President might levy impost duties upon articles imported into Mexico, but that those duties must be limited within the sum of the duties imposed by the Mexican Government? Was that the gentleman's proposition?

Mr. STANTON replied, No, sir; that was not his proposition. He had affirmed the power of the President to exercise, to any extent, his power of exacting military contributions, as commander-in-chief, in time of war, subject only to the responsibilities of reason and humanity: but he spoke now with respect to the seizure upon the revenues of the Mexican Government, which, by the admission of everybody, it was his duty to make. He exercised his discretion entirely as to the question whether he should collect the revenue at the rates imposed by the Mexican laws, or at more reasonable rates. In exacting military contributions of any kind, whether in conformity to any system or otherwise, the President and his agents were undoubtedly responsible for the moderation and propriety with which they exercise the power. The mere fact of *uniformity* or *system* being adopted did not alter the nature of the power. It was, in truth, an alleviation to some extent of the disadvantages of war to the innocent inhabitants of the enemy's territory, as well as to the neutral nations. No doubt the object of the President, in reducing the duties in the Mexican ports, was to increase the actual amount of revenue. This effect was produced with benefit to both this country and to neutral Powers.

But the gentleman from Ohio [Mr. VINTON] had stated that the President levied these exactions upon American commerce, and upon the commerce of neutral nations, while no exactions were made from the Mexicans themselves. It was not necessary to enter into the question whether the consumer pays the duty upon imports. It was sufficient to say, Mexico exacted duties by her existing laws. When her ports fell into our hands, we might exclude all commerce by blockading the port, or we might admit it upon payment of the Mexican taxes, or any restrictions more reasonable. No one could claim from us that we should make the ports free. We had the clear right to exact the full amount of Mexican taxes, and neither citizens of the United States nor of neutral Powers could complain when we relaxed the stringent terms of the laws of the enemy.

Mr. VINTON said he understood the gentleman from Tennessee to claim that these revenues were Mexican revenues, or would have been Mexican revenues, and therefore that our military commanders had the right to seize them. With the gentleman's permission, he would ask him this question: after the capture of Vera Cruz, for instance, would the revenues levied upon commerce there, while we were in possession of the place, go into the Mexican treasury? or were they not ours while we held possession?

Mr. STANTON replied, Well, if they were ours, it was certainly the duty of the President to receive and take care of them. The gentleman had admitted, that by the capture of the port the revenues became the property of our Government. If so, it was the duty of our military commander to take care of it; he ought not to let it slip through his hands. He would have been negligent and culpable had he done so.

Mr. VINTON. Because it was ours, it belonged to the Congress of the United States to say whether a tax should be imposed upon our own people and upon neutrals, and how the revenue should be disposed of afterwards.

Mr. STANTON. This commerce was also allowed to come into all the Mexican ports in our possession. But so far as the articles in which this commerce was carried on went towards furnishing the army or individual soldiers of the United States, the direction of the President was, that they should be subject to no duty. Thus far, then, the regulations adopted by the President transferred to our Government the duties which would have been paid to the Mexican Government. He appropriated to our use that which, by the chance of war, had become ours.

But it seemed that another principle was to be applied to the acts of the President. From all that was to be elicited by the question just propounded, it seemed that gentlemen were disposed to claim that the Government of the United States was the owner of these revenues, that this Government had a right to seize upon the revenue of the Mexican Government. Well, if these revenues, then, were actually property of the United States—property which, by the chances of war, had come into the possession of the United States, why should not the President proceed to take possession of it and apply it to the use of the United States. He admitted that the question of the right to take possession of these revenues was a very different one from the question as to the authority for its disbursement. But as to the seizing and taking possession of property which had become ours, it was clearly within the scope of the President's duty to take possession of this public property and apply it to the benefit of the United States. Especially was it his duty so to do, so long as Congress would not make any regulation in reference to it. The gentleman from Ohio [Mr. VINTON] had avowed here to-day, that, although the Secretary of War had called on him in his capacity as chairman of the Committee of Ways and Means to propose some law upon this subject, no effort was made to arrest the action of the President.

Mr. VINTON said the gentleman was mistaken when he had said that they had been called upon to make regulations to control the exercise of this power, or right—whatever it might be called. The Secretary of War had called upon the Committee of Ways and Means to report some regulation by which these officers might settle their accounts at the Treasury Department; in other words, he had called upon the Congress of the United States, in that mode, to sanction what had been done. This was after these levies had been made. It was about the time, or, if he recollected right, a short time after the conclusion of the war with Mexico.

Mr. STANTON said he remembered, that, some time early in the last session, something was said on the subject by gentlemen on the other side of the House, who undertook to question the propriety of the measures of the President; but he reiterated the assertion, that no serious effort was made to arrest the President in his alleged illegal course, or to regulate his admitted powers in the premises.

Mr. MEADE interposed and said, with the leave of the gentleman from Tennessee, he would state, that that portion of the President's annual message which was referred to the Committee on the Judiciary contained his argument in relation to the right of our Government to impose these duties upon the importations into Mexico. That question was brought up before the Judiciary Committee, which was constituted of a majority of gentlemen who were of the other side of the question, and it was referred to one of them—he thought to the gentleman from Massachusetts, [Mr. ASHMUN,] or to the gentleman from New York, [Mr. HALL]—to make a report on the subject to the committee. That had never been done. He had been very punctual in his attendance upon that committee, and he had never heard that there was any attempt made to bring up the question again in any tangible form.

Mr. STANTON, (resuming.) That was precisely what he had before asserted. And now, what was the position in which gentlemen on the other side had placed themselves? During the whole of the eight months of the last session, they say that the President has been exercising a power which they believed to be an unconstitutional encroachment upon the legislative authority—a grave charge of usurpation, rendering him liable to impeachment. And yet, having it altogether in their own hands, they do not signalize their sincerity by the slightest attempt by law to arrest his proceedings! Sir, (said Mr. S.) if the course of the President was an usurpation, these gentlemen are responsible for its permission and continuance, because, seeing it all the time, they did not attempt to arrest. They have at least left it to the country to infer, that it is nothing but the voice of faction now, when they charge this course upon the President as an unwarrantable usurpation of power.

But one single remark more in reply to the gentleman from Ohio, and he would have done with these desultory observations. The gentleman had said, that the President, as commander-in-chief of the army and navy, could not rightfully seize upon the revenues of Mexico, but the *Government* could have seized upon them. The argument was, that the President has not the power to take possession of property which the chances of war have cast upon our hands, but he must wait for Congress to pass a law in relation to it. He must wait—how long? The chairman of the Committee of Ways and Means had declared that he could do nothing; and during the eight months of the long session past, he did not even attempt to bring forward any measure to enable the officers of the army to take possession of this property. I speak of the revenues of Mexico as property, for the gentleman [Mr. VINTON] has said, that by the capture of the ports of the enemy, they became ours—our property.

Mr. VINTON wished to be allowed to set the gentleman right. The very first week of the last session, he had offered a resolution, which had gone to the Judiciary Committee, directing that committee to inquire by what right or authority the President of the United States had levied these moneys, and disbursed them without authority of law.

Mr. STANTON. An inquiry, simply—a mere resolution of inquiry into the legality of the measure, which was prosecuted to no issue by the committee of the House to which it was referred.

and of which committees a majority belonged to the gentleman's party, the political enemies of the President, and of those who defend him. He repeated the assertion which he had before made—standing, as it did, still unrefuted—that these gentlemen saw what they considered as an usurpation going on, hour after hour and day after day, during these eight months of the war, yet they never raised their hand to prevent these illegal proceedings. And now it was only when the occasion had gone by, when there remained no necessity for action, that it was proposed to do something. But what now was proposed to be done? He left it for gentlemen to say what they would do, now when they were powerless to do any good.

Mr. BOTTS said, from the first moment of the issuing of this order levying taxes in the Mexican ports, he had regarded it as one of the most arbitrary and unwarrantable usurpations of power and violations of duty that had occurred since the foundation of this Government Entertaining that opinion, he had felt it to be his duty—(and he said this in reply to the repeated remark of the gentleman from Tennessee, [Mr. STANTON,] who had called upon his (Mr. B.'s) side of the House to know why no effort had been made during the whole of the last session to bring this subject before the country)—he had felt it to be his duty, at the earliest period of the session in which the opportunity had presented itself—it was either in the month of January or February—to present to this House the identical resolution, *verbatim et literatim*, that had been adopted some three weeks since, upon which the answer of the President of the United States was predicated; and upon a motion made by him at that time for a suspension of the rules, in order to obtain the passage of the resolution, he believed almost every member on the other side of the House, including the gentleman from Tennessee, had voted against a suspension of the rules. And there had stood the resolution from that time to the termination of the session upon their calendar, where it could never be reached; and it had died with the session itself. But so firmly had he been impressed with the importance of this question, that he had again felt it to be his duty, at the commencement of this session, at the first opportunity, to repeat that proposition—to offer the resolution again; and then, after some of the political questions of the day had been settled, had this resolution been permitted to pass, by gentlemen who had previously opposed it. It might have been suspected, that for political ends this resolution had been introduced at the previous session, when it was rejected by the other side of the House; but no such imputations could be made upon him at this time, as far as the Presidential election was concerned.

Mr. STANTON suggested to the gentleman, that the passage of that resolution was not necessary to the passage of a law on the subject.

Mr. BOTTS replied, if it was not necessary for the passage of a law, it was not necessary for gentlemen on the other side to have opposed it. It asked for information; information was what he wanted now. He had wished to act fairly, impartially, justly towards the Executive of the United States. He had been anxious to make a call upon him, to know on what authority he had based his action, in order to give him a full and fair opportunity, before the country of sustaining himself, if he could.

This document he regarded as one of the most important documents which had ever been presented to Congress, certainly while he had had the honor of a seat on this floor. It was one in the discussion upon which, when the proper time should arrive, he should be anxious to take part. But he was not now prepared, and he presumed no gentleman was prepared, to enter into a full argument upon the question; and he thought it should be reserved to a future day. He thanked the gentleman from Ohio [Mr. VINTON] for the remarks which he had made on the spur of the occasion, and still more, he was obliged to the gentleman from Pennsylvania [Mr. C. J. INGERSOLL] for the few remarks that had fallen from him, inasmuch as they served to show that there was still a disposition on the part of that side of the House to hold to a proper and rigid accountability the executive officers of the Government.

It was his purpose, when this message had been received, inasmuch as he had moved the resolution to which it was a response, to have moved its reference to the Committee on the Judiciary; but he was perfectly satisfied with the proposition of the gentleman from Georgia, to send it to a select committee; and he hoped that, before the House engaged in a general discussion, they might have a full, deliberate investigation, and an elaborate report.

In accordance with the suggestion of gentlemen about him, he would move the previous question.

The previous question was seconded, and the main question was ordered.

Mr. STANTON inquired if it was a part of the motion to print the message?

Mr. TOOMBS said he had not made a motion to print, in connection with the motion to refer.

Mr. C. J. INGERSOLL said he had made the motion to print.

The SPEAKER said the motion to print of the gentleman from Pennsylvania had been received previous to the demand for the previous question.

Mr. ROCKWELL, of Connecticut, called for a division of the question, then.

The question was accordingly taken on the first branch, and decided in the affirmative, without a division.

So the message of the President was referred to a select committee.

The question recurring on the second branch of the question, viz: the proposition to print, was taken, and decided in the affirmative—yeas 103, nays 59.

So the message was ordered to be printed.

Mr. VINTON moved a reconsideration of the vote just taken, and moved to lay that motion on the table; which was agreed to.

Mr. McLANE said he rose to move an adjournment; but before doing so, he wished to give the gentleman from Virginia [Mr. BOTTS] an opportunity to correct an error in his statement in regard to the votes of gentlemen on his (Mr. McL.'s) side of the House.

Mr. BOTTS said he would do so with great pleasure. He had said a few moments since that when he had at the last session of Congress presented the resolution to which the message now received from the President of the United States was an answer, it had been voted against by gentlemen on the other side of the House pretty generally, and, he believed, among them by the gentleman from Tennessee, [Mr. STANTON.] Upon reference to the Journal, however, he did not find that he had made a motion to suspend the rules to consider the resolution. Upon application to the Clerk, he had been informed, that though the fact was that every such motion should be recorded, when the House refused to suspend the rules, the motions to do so were sometimes not entered on the Journal. Whether it had occurred in this case, he was not able to say. It was possible he might have confounded this resolution in his recollection with some other for which the House had refused to suspend the rules. It might be that the House had refused to suspend the rules; or it might be that it was laid over under the rules, as the Journal stated.

Mr. McLANE wished the gentleman to read what the Journal did state.

Mr. BOTTS read accordingly. [The Journal stated that Mr. BOTTS offered the following resolution, which lay over under the rule, &c.]

He repeated, he was willing to allow that he might have confounded this resolution with some other resolution on which the House had refused to suspend the rules, and it might not have been considered, because the gentlemen on the other side had made their customary objection, or the House might have refused to suspend the rules, and the motion not have been entered upon the Journal.

Mr. HOUSTON, of Alabama, wished to ask the gentleman from Virginia whether it was at all to be presumed, in this case, that the Clerk had omitted what it was his sworn duty to do, viz: to keep a true record of the proceedings of the House, but that he had recorded a positive falsehood, by saying that it lay over under the rules, if it was the fact, as the gentleman said it might be, that a motion to suspend the rules had been made and lost?

Mr. BOTTS said the gentleman placed a very forced construction upon what he had said. He had not intended to implicate the Clerk at all; but had referred to what he had been informed by the Clerk was sometimes the practice in making up the Journals. He had certainly placed it on fair ground. He admitted he might have confounded the resolution with some other which he had offered, and for the consideration of which the House had refused to suspend the rules.

The SPEAKER here interposed, and reminded gentlemen that there was no question before the House.

On motion, the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. PHELPS: The petition of George W. Kidd, praying compensation for property destroyed by order of the commander of a detachment of our troops in New Mexico.

By Mr. FRANKLIN CLARK: The petition of J. Spofford and 497 others, citizens of East Thomaston, for a new collection district at East Thomaston, in the State of Maine. Also, of Thomas Martin and 82 others, citizens of St. George; of Alden Robinson and 72 others, citizens of Cushing; of Eleazer Crabtree and 121 others, citizens of North Haven and Vinalhaven; of William Thomas and 77 others, citizens of North Haven; of Lewis Ames and 48 others, citizens of Matinicus Plantation: all for the same object. Also, of Manasseh H. Smith and 64 others, citizens of Warren, in the State of Maine, for a reduction of postage.

By Mr. WENTWORTH: The petition of fifty-nine citizens of Horse Creek, Iroquois county, Illinois, praying that the public lands shall not be sold forever, but shall be given to such landless citizens as will occupy them.

By Mr. KELLOGG: The petition of inhabitants of Crown Point, New York, praying for a revision of the tariff, and for a restitution of specific, instead of ad valorem duties on foreign imports.

By Mr. MANN, of Pennsylvania: The petition of Joseph S. Bernett, Henry Smith, J. G. Woodward, and 366 others, citizens of Jefferson, Indiana, Armstrong, and Clearfield counties, Pennsylvania, praying for a mail route from Lutheresburg, Clearfield county, via Punxsutawney, Schmicksburg, and Rural Village, to Kittaning, in Armstrong county. Also, of Samuel Cooper, a captain in the Pennsylvania volunteers, in the army of the United States, in the late war with England, praying for a pension.

By Mr. PEYTON: The petition of W. S. McDowell and others, for a post route from Russellville, via Rochester, to Hartford.

By Mr. MURPHY: The petition of N. B. Morse, C. C. Smith, and 55 other citizens of Brooklyn, New York, praying a reduction of postage and the abolition of the franking privilege. Also, of J. P. Brown, Samuel B. Judson, and 58 other citizens of Brooklyn and New York, also praying a reduction of postage and the abolition of the franking privilege.

IN SENATE.

THURSDAY, *January* 4, 1849.

The VICE PRESIDENT presented to the Senate a communication from the War Department, containing a statement of the Second Comptroller, showing the balances of appropriations for the services of the War Department, as follows:

Amount applicable to the service of the fiscal year 1847–'48		$43,931,642 06
From which sum deduct amount of refunding and transfer requisitions		3,301,770 62
Will show the amount actually applicable to the above period		40,629,871 44
From which deduct amount drawn by requisitions from the treasury	$32,576,681 43	
From which last sum deduct amount drawn by refunding and transfer requisitions	3,301,770 62	
		29,274,910 81
Will leave the aggregate, on the 30th June, 1848		11,354,960 63

ALBION K. PARRIS, *Comptroller.*

TREASURY DEPARTMENT,
Second Comptroller's Office, December 29, 1848.

MEMORIALS AND PETITIONS.

Mr. DICKINSON presented the petition of the publishers of papers in the city of New York, asking that they may be allowed to exchange their publications free of postage; which was referred to the Committee on the Post Office and Post Roads.

Mr. DICKINSON presented a memorial from the captains of steamboats and other citizens, asking for the removal of the dangerous rocks in Hurl Gate channel and New York harbor, setting forth that "Pot Rock," which obstructs nearly the middle of the channel, is the cause of about half the disasters that occur, and that this rock is but eight feet below the water, and has a top not larger than a barrel head, extending downward in a slant, and of a pyramidal shape, and can be removed by blasting, as there is from sixty to seventy-two feet on one side of it. Mr. Southard, a pilot at the Gate, has offered to blast this rock thirty feet below water for $6,000. The memorial was referred to the Committee on Commerce.

Mr. DIX presented the petition of ninety-four citizens of New York, praying for a reduction of

the rates of postage; which was referred to the Committee on the Post Office and Post Roads.

Mr. CAMERON presented seven petitions of citizens of Berks county; seven petitions of citizens of Schuylkill county; a petition from citizens of Lebanon county; a petition from citizens of Dauphin county; a petition from citizens of Elizabeth township; and a petition from citizens of Philadelphia county, in the State of Pennsylvania, asking an increase of the duties on foreign manufactures, and complaining that the manufacturing and mining interests of said State are suffering great depression, and threatened with entire prostration; which were referred to the Committee on Finance.

Mr. BORLAND presented resolutions adopted by the Legislature of Arkansas in favor of the establishment of a mail route from Antoin post office, Arkansas, to Clarksville, in Texas; a mail route from Arkadelphia to the county seat of Montgomery county, Arkansas; a mail route from Boonville to Ozark; and a mail route from Clarksville to St. Paul's office, in said State; which were referred to the Committee on the Post Office and Post Roads.

Mr. DICKINSON presented the petition of Catharine Elves, widow of a naval surgeon, asking for a pension; which was referred to the Committee on Pensions.

NOTICES OF BILLS.

Mr. DIX gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a bill authorizing an appropriation for removing rocks, &c., in the harbor of New York.

Mr. ATCHISON gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a bill granting to the State of Missouri a right of way and a donation of public lands, for the purpose of constructing a railway.

REPORTS OF COMMITTEES.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, reported a bill for the relief of Adjutant General Roger Jones; which was read a first time, and the report was ordered to be printed.

[The bill allows to General Jones the pay and emoluments of his commission as Adjutant General from the time of the reduction of the army in 1821 to March 7, 1827, when he was restored to his rank in the staff of the army; provided that the pay and emoluments of captain of artillery during the same period be deducted therefrom.]

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, to whom was referred the joint resolution to amend an act entitled "An act to raise, for a limited time, an additional military force, and for other purposes," approved 11th February, 1847, reported that, in the opinion of the committee, it was inexpedient to enlarge the limit of the provisions in the act above recited; and asked to be discharged from the further consideration of the same; which was ordered to be printed.

Mr. DOWNS, from the Committee on the Judiciary, reported House bill providing for the punishment of false swearing in certain cases, without amendment.

PENSION TO A WOUNDED SOLDIER.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, to whom was referred the petition of James M. Scantland, reported a bill for his relief; which was read a first and second time by unanimous consent.

Mr. TURNEY. This is a very extraordinary case, and one which, in my opinion, requires the immediate attention of Congress. It will be seen, on reference to the papers accompanying the report, that Scantland was severely and dangerously wounded, a musket ball entering his right eye, and coming out below the left ear. It appears by the report that his wounds, and the care and anxiety which he has since undergone on account of his utter inability to support himself and his family, have induced a pulmonary disease, and that he cannot possibly live but a very short time. It is further shown by the statement of the Surgeon General that he is unable to labor, and that it is altogether probable he will in a very short time lose the sight of his other eye, and especially if he is obliged to continue to labor for the support of his family. In fact he cannot labor. He is entirely dependent for support upon the appropriation proposed to be made by the bill, and cannot sustain himself without it. It is now in the power of Congress, by speedy action, not only to reward past injuries and sufferings, but to prevent the additional and irreparable loss of the man's remaining eye, which would entirely deprive him of the faculty of vision.

This is a case which calls strongly for the sympathy of Congress. I have, therefore, to ask that the Senate will take up this bill and act upon it at once. It can consume but a few minutes, and under the circumstances I think that the sum named in the bill is very moderate, while by its passage this worthy and gallant, though unfortunate man, will be enabled to pass the few remaining days he has to sojourn on earth in comparative ease.

Mr. JOHNSON, of Louisiana. This is a very extraordinary case, and strongly calls for our sympathy, as the Senator from Tennessee has said. The petitioner served throughout the whole of the Mexican war, and uniformly displayed great gallantry. He led the forlorn hope at one of the most desperate battles in Mexico, and was shot through the head, as has already been stated. In consequence of that wound he has lost the sight of one eye. It was a dreadful wound, and the bones are working out of it now. He has not only lost the use of one eye, but the probability is that he will lose the other, which is now much impaired.

At the last session of Congress he was allowed thirty dollars per month; but not being able to support his family upon that sum, he was compelled to resort to manual labor. He obtained a clerkship in one of the departments. But his friends remonstrated against his applying himself to any labor whatever; and the Surgeon General declared, and has certified, that if he continued in that employment, or in any employment, he would inevitably lose the use of his other eye. He is consequently cut off from all hope of contributing to the support of his family by the labor of his own hands.

The pension allowed the petitioner at the last session is altogether insufficient for the support of his family; and as he cannot, except at a fearful risk, aid in their support, it seems to me that it would be no more than an act of justice to him to allow him an increase. This is one of the strongest cases that can possibly be presented. The petitioner was shot down, and for some time was supposed to be dead, and the preservation of his life was almost miraculous. His sufferings have been severe, and they are still severe. I will mention, by way of precedent, that some years ago a petition was presented from a Captain Harrison, who had served in the northern war of 1812-'13, and who lost his leg. He was allowed a pension, but it being rather small, as he supposed, he applied for additional pay, similar to the application now before the Senate. Mr. Bates, who was then chairman of the Committee on Pensions, in whom the Senate have always had the greatest confidence, never having reversed one of his favorable reports, made a report on the case, and allowed this captain fifty dollars per month. This man, I am told, is a very hearty man. He lost only his leg. He can walk about; and his loss does not materially injure him in the performance of business. He is able to write and to do many other things by which to earn a maintenance, but he was allowed fifty dollars per month. Now, it seems to me that this is a much stronger case, and one much more deserving of sympathy and alleviation than the one to which I have referred. I will state, for the information of the Senate, that the committee were of the unanimous opinion that the petitioner should be allowed fifty dollars per month, and I hope, with my friend from Tennessee, [Mr. TURNEY,] that the Senate will take up this bill and pass it at once.

Mr. RUSK. Mr. President, I am satisfied that if Senators were all acquainted with the facts of this case there would not be a dissenting voice on the passage of this bill. This individual is a worthy man. He was wounded in the head, and his wound has, perhaps, to some extent affected his intellect. He has a large family, if I am rightly informed, dependent upon his exertions for support, and such has been his anxiety to provide for the support of that family that he has resorted to a laborious occupation. I have no doubt that the anxiety and exertion which this individual has undergone have very seriously injured him, and have contributed still more to lessen his ability to provide for the necessities of his family.

I understand that without the increase of pension contemplated in this bill he cannot possibly support his family. His anxiety, together with the exertions which it would be necessary for him to put forth to maintain his family, I am satisfied would in a very short time terminate his existence. What little acquaintance I have with him justifies me in pronouncing him a very correct, upright, and honorable man. This is a very serious case, and I think there will be no danger in establishing a precedent of this sort. Few men are ever wounded as this individual has been; and if there should be others thus wounded, I think no better appropriation of money could be made than in extending to all such individuals a support for themselves and families.

Mr. NILES. I should like to know upon what sound or established principle fifty dollars per month is allowed to this claimant.

Mr. JOHNSON. I mentioned the fact before, that Congress three years ago passed an act allowing the same stipend to Captain Harrison because of the loss of a leg. This is a much stronger case. This man has lost an eye, and the other one is so much affected that he can scarcely use it. He has also nearly lost his hearing. In addition to these physical injuries, he is afflicted with a pulmonary complaint, which his physician certifies was brought on by exposure and the vicissitudes of the service during the war. There being a precedent in the case of Captain Harrison, we can safely pass this bill. I would say, in reference to the amount proposed to be allowed him, that some of the members of the committee were of the opinion that it should be increased.

Mr. TURNEY. I trust the Senate will pass this bill. His peculiar condition, from the wounds which he has received, totally disabling him from laboring for a subsistence, gives great force and pertinency to the application for assistance.

Mr. NILES. I object to the passage of this bill on principle. It cannot be assumed that Government is responsible for the subsistence of all the families who have lost fathers, sons, or brothers in the service of the United States. I ask, would not the principle here proposed to be set up apply with equal force to the widows and relatives of those individuals whose lives were sacrificed during the war? I opposed the bill for the relief of Captain Harrison, and as this case rests upon the same principle, I equally object to it. In cases of this character, as with families who have been entirely deprived of their natural supporters, we can do nothing more than afford a reasonable compensation for their privations. We cannot make full and complete indemnity. I move that the amount be fixed at forty dollars per month, in place of fifty. This, I think, will be a sufficient allowance.

Mr. BELL inquired if there was any precedent for a case so peculiar as this?

Mr. JOHNSON stated that he was not aware of any.

Mr. BELL. I cannot conceive of a case more deserving of the action of the Senate. The circumstances and physical condition of this individual have been already forcibly presented; and I trust Senators will be influenced by their peculiar character to affirmative action in the case. I was about to propose an amendment to the bill, but as I am informed it might perhaps endanger its passage, I will not present it. I trust the bill will pass.

The question was taken on the motion of Mr. NILES, and it was decided in the negative.

The bill was then reported to the Senate, and no further amendment having been offered, it was ordered to be engrossed for a third reading, and was subsequently, by unanimous consent, read a third time, and passed.

RESOLUTIONS.

Mr. DAYTON presented the following resolution; which was considered and agreed to:

Resolved, That the Committee on Printing be instructed to inquire into the propriety of purchasing, for the use of the Senate, copies of a map of the United States, the British Provinces, Mexico, &c., showing the routes of the United States mail steampackets, &c., to California, lately published by J. H. Colton, of New York.

On motion of Mr. ATHERTON, the act requiring all moneys receivable from customs and from all other sources to be paid immediately into the treasury, without abatement or deduction, and for other purposes, was recommitted, for the purpose of amendment, to the Committee on Finance.

PRIVATE CLAIMS.

The Senate then proceeded to consider the motion made by Mr. BELL, on the 3d instant, to re-

consider the vote on engrossing the bill for the relief of John P. Baldwin.

Mr. KING. I would not say a word upon the subject of this bill, after the lengthy discussion which has been had upon it, were it not that the few remarks I made upon the occasion of its consideration were so reported that I seem not only to have misstated the facts in the case, but to have been guilty of the grossest inconsistency and ignorance in my statements. What I did state upon that occasion was, that I did not intend to enter into any discussion whatever, in regard to the obligation on the part of Government to make good to its citizens all losses sustained by them in consequence of the destruction of their property by an officer of the United States, provided it were apparent that the destruction took place from an honest conviction on the part of the officer occasioning it that it was necessary to the interests of the service, and of course to the Government.

I stated further that the first action of the Government with regard to claims of this character was after it had been submitted to judicial decision; and that in the war with Great Britain many cases arose in which officers were first subjected to a suit from the individual aggrieved, based upon the charge that a trespass had been committed on his property, and that then, if judgment was obtained against the officer, the Government took it into consideration whether the officer had acted in good faith, and for the interests of the United States, in causing the property to be destroyed, to prevent its falling into the hands of the enemy, and should therefore indemnify the sufferer. Since that time, in several cases, the Government have gone further, and made the indemnity prior to any judicial decision or casting of judgment.

I then stated also that I would not upon that occasion enter into any examination as to the propriety of the action of the officer in causing the destruction to be made.

What caused me to vote against the bill was this: This property, purchased by Mr. Baldwin, had been lying upon the coast of Florida for several months; for it was in evidence that the vessel was wrecked in 1835, and that it was not until some time in 1836 that it was destroyed. I would here say that I did not state, as I am reported in one of the papers, that the vessel was carried into Key West, but that she lay upon the coast in her wrecked condition for several months, and was then destroyed. I then stated that the ballast, rigging, and spars were valueless; for can any one believe that those articles would remain there for several months, necessarily exposed as they were, without being rendered completely useless? The testimony, I also remarked, in relation to the amount of property on board, was contradictory. I would here state that the names of these seamen prove that they were not Spaniards; they have English or American names. One of the men swears he heard it said that there were six tons of lead on board, and another swears that he knew it to be the fact. Whether these six tons of lead could have been saved or not, is for Senators to determine. These were my objections to the bill, which induced me to vote against its passage, as they will influence me to vote against its reconsideration.

Mr. YULEE. The principle involved in this bill has been already so fully discussed that I presume the mind of every Senator is made up in regard to it. The objection of the honorable Senator from Alabama, as I understand it, is made simply to the amount of compensation provided by the bill. It is not denied, I believe, that if the principle asserted by the committee by whom the bill was reported, and maintained in argument by gentlemen in this Chamber when the question was formerly before the Senate, be correct, that the case comes within the principle; and the only question now is, as I understand it, whether the compensation allowed by the bill exceeds a just and proper compensation. If this be the ground of the honorable Senator's objection, I would suggest to him, as the proper course on his part, to propose such amendments as will enable the proper officers of the Government to ascertain and fix, by some just and proper means, the true value of the loss sustained by the claimant.

Mr. KING. Why does not the Senator propose such amendments himself?

Mr. YULEE. My colleague has more particularly the charge of the bill; I have not the charge of it; and I will suggest to the honorable Senator from Alabama, that the opposition made to the reconsideration precludes the friends of the bill from the power of offering an amendment. It is not now in order. If the Senator will withdraw his opposition, and permit the vote on reconsideration to be taken, then it will be in the power of those who advocate the bill to propose such amendments, or in the power of the Senator from Alabama, who now objects to the reconsideration, to propose such amendments as may be necessary and proper. And I submit to the gentleman from Alabama that the opposition he is making to the reconsideration of the bill is scarcely a fair one, if his objection be simply to the amount proposed to be allowed; because it places it out of the power of those who have the management of the bill, or those who are friendly to its passage, to propose any necessary amendment. It is only after the question of reconsideration has been decided that an amendment can be offered. I hope, therefore, that the honorable Senator will withdraw his opposition, and vote for the reconsideration.

Mr. WALKER. I do not rise to discuss the merits of the motion for reconsideration, but merely for the purpose of making a few observations in regard to the report of the discussion which we had the other day upon this subject. The honorable Senator from Alabama having made allusion to that report, I desire also to state, that upon looking at the Intelligencer, I find myself made to say precisely the reverse of what I did say, and I understand that it was by mere accident that the Senator from Florida was not made to say, in the report of his remarks in another paper, that I had acted very ungentlemanly. I understand that the Senator from Florida, having the good fortune to see the report that was made of his remarks before its publication, and finding such language attributed to him, had the generosity and kindness to amend the report, and to insert what he really did say. In regard to the report of my own remarks, I was made to say exactly the reverse of what I really said; and I shall certainly take the earliest opportunity when the subject comes up, to give my vote for reversing the resolution of the Senate under which the reports of our proceedings are made.

Mr. KING. I will go with you in reversing that resolution.

Mr. WALKER. I was made to say that where the property of an individual was made use of indirectly by the Government, the individual was not entitled to compensation. What I said was, that in such case the claimant would be entitled to compensation. For one, if I am to be reported in this way, I shall be under the necessity of requesting that my humble efforts may be suffered to pass without being reported at all.

Mr. WESTCOTT. It is not my desire to press this bill to its final passage; and I assure the honorable Senator from Alabama that if he votes for the reconsideration, and the motion prevails, the bill may lie over, so that he shall have ample opportunity to satisfy himself in regard to it. I presume, therefore, there will be no objection to the reconsideration.

The question for the reconsideration of the vote upon the bill being put, it was, upon a division, decided in the affirmative: Ayes 18, noes 17.

Mr. WESTCOTT. The remarks of the Senator from Wisconsin [Mr. WALKER] make it proper that I should say a few words in explanation of a matter he alluded to. After the debate on this bill when last before the Senate, I obtained the notes of the reporter for the Union for my revision, as, when I have leisure, is usually my practice, and as I have found, unless I am willing to be erroneously reported, is the only safe practice with any reporter. I was mortified and surprised at finding by these notes that I was reported as having used the word "ungentlemanly" with reference to the allusions of the Senator from Wisconsin to the navy officers. I corrected it at once; but, apprehensive lest I might have been misheard by others, I called on the Senator immediately, and stated that the report was as I have observed, and that I had corrected it; that it was a mistake, as I could not have used such language; in which the Senator agreed with me. While on the floor, I take occasion to say I do not agree with the Senators who condemn the reporters. The reporters employed by both the Intelligencer and Union are, I think, infinitely superior to any the Senate has had since I have held a seat here. They are impartial and obliging, and disposed to afford every facility to enable Senators to be represented properly in the reports; and if all the Senators would revise their remarks as several do, whenever the subject is at all important, there would be no trouble or dissatisfaction. I am surprised that the reports are so nearly accurate as they are, when the difficulty of hearing from the seats of the reporters is so great, and if they are given better seats, I doubt not it would obviate all complaint.

The further consideration of the bill was then postponed until to-morrow.

PAY FOR VOLUNTARY CLERICAL SERVICES.

The Senate proceeded to the consideration of the motion made by Mr. DICKINSON, on the 18th of June last, to reconsider the vote on passing to a third reading the bill for the relief of John Devlin; and the motion having been agreed to—

Mr. KING. I believe there is not a Senator who knows what is the nature of this claim; and it is evident, therefore, that if the vote be taken now, we cannot vote understandingly. I think, under the circumstances, it will be as well to recommit the bill, in order that we may be put in possession of the requisite information.

Mr. DICKINSON. When this matter was before the Senate a few months ago, it was fully examined. I do not pretend to understand all the details. I made this motion in order to put it in the power of the friends of the bill to make such explanation as may be necessary. I do not take it upon myself to explain, nor do I understand minutely the facts upon which the claim is based.

Mr. WESTCOTT. As I reported this bill from the Committee of Claims, I will state briefly the nature of the claim, and I apprehend that Senators will at once remember the case, for it was fully discussed at the time. When it was first presented I was decidedly opposed to it, and reported against it. It was subsequently recommitted, and the committee being satisfied with the evidence that was produced before them, reported in favor of the bill. The case is simply this: The Fifth Auditor of the Treasury employed Mr. Devlin in one of the offices attached to his bureau during the temporary absence of one of the regular clerks. The business of the department increasing very much, he continued to be employed some thirteen months or more after the return of the gentleman whose place he had filled, in anticipation of Congress making an appropriation for an additional clerk in that department, and during that time he was employed in the discharge of very important duties. Congress did not make the appropriation, and the consequence was, that this man could not get his allowance from the Auditor, because there was no law which authorized the payment of an additional clerk. I was opposed to the claim until the Auditor wrote a letter setting forth the facts of the case, and I then became satisfied, although there was some difference of opinion among Senators in regard to it, that he ought to be remunerated for his labor.

Mr. KING. I have now some recollection of the case, since the explanation of the Senator from Florida. There is but one point in the case which is now presented to the Senate that is in the slightest degree hostile to the allowance of the claim, and that point is, that he was employed to do the labor which properly belonged to others, while there was no specific appropriation made by Congress authorizing the payment of an additional clerk; but the evidence is complete and perfect that he not only labored in the office during the time set forth, but that he discharged duties there of the most important character, such as perhaps few men in the office could have performed, and by which the Government of the United States was saved probably some thirty or forty thousand dollars in the settlement of claims which had been previously allowed, but which were found, upon his investigation, to be erroneous. I repeat, there is but one solitary objection, and that is, that he was not employed under the specific authority of an act of Congress authorizing the appointment of an additional clerk. But, passing that by, and considering the claim upon its merits as a claim for compensation for services rendered, I think the individual is fairly entitled to the compensation which he asks, for it is certain that he honestly and faithfully performed the duties of his position—duties which could scarcely have been performed by any other individual.

Mr. NILES. I recollect his case very well. I

recollect that I opposed it when it was up before, and I shall oppose it now. The claim is not a correct one. This man was not employed by the Auditor. There was nothing like such employment. He was, in the first instance, employed by a clerk, to take his place during his absence. When that employment ceased he continued in the office without any employment by the Auditor; he remained there as a volunteer, so as to be ready to step into any vacancy that might occur. I voted against this claim in the first place, because I believed it was not exactly correct for a man to volunteer his services and then ask to be paid, and because this sort of proceeding is becoming too common, and ought to be discountenanced: I mean that of men waiting in expectation of a vacancy, ready to step into the first that occurs, to the exclusion of others who are better entitled to the appointment. This is becoming so common that no member of Congress, unless he is far more successful than I have been, can get an opportunity to introduce a citizen of his own State for any appointment. You may hear this morning of a vacancy which occurred yesterday evening, and upon going to the department you find it has been already filled by a candidate who has been a hanger-on at the office awaiting such vacancy.

Mr. KING. In regard to the facts upon which this claim is based here is the affidavit of the claimant, and here is the letter of the Auditor himself. If the Senator will not believe the one or the other, then he is correct and I am wrong; but if those documents are to be believed, then I am right and the Senator is wrong. Here is also a report made by Mr. JOHNSON, of Maryland, upon the subject. [Mr. K. read from the report, from the deposition made by the claimant, and from the letter of the Auditor.]

Mr. NILES. It does not appear, after all, that this individual continued to be employed by authority of the Auditor. He was there only as a volunteer, in order that he might drop into the first vacancy, and having accomplished that object, he now comes and asks compensation. The question is, Shall we countenance this practice of foreclosing and cutting off the community from competition for office? And, besides, here was a violation of law. It was an act of usurpation which no officer has any authority to exercise. I want to know why this man, thus volunteering his services, should be compensated. The reason assigned is no reason at all. I should like to know what is the treasury proper, it if be not the bureaus of that department, the expenditures of which are provided for by specific appropriations.

Mr. CAMERON. I remember this case very well, and I am satisfied that the claim is a just one. It has been customary, I find, to employ men temporarily, with the view of giving them eventually permanent employment. This man served the Government for thirteen months, as appears by the evidence of the officer who employed him. The Government having received his services, the question now is, shall he be compensated? And I am surprised that the Senator from Connecticut, of all other men, should object to giving him compensation for his labor. It is usual with us, and the Senator from Connecticut offers no opposition in such cases, to give large compensation to our foreign ministers and others for small services; but here is an application for compensation for daily labor, duly rendered, of which the Government has availed itself; and I am not a little surprised that there should be any objection to the allowance of so fair a claim; and much more am I surprised to find that objection coming from the Senator from Connecticut.

Mr. UNDERWOOD. I have, sir, a little scrip, not belonging to myself, however, to draw some dividend upon, and I went up this morning to the department to ascertain whether I could get the little pittance that was coming, and was referred by the officers of the treasury to an establishment over the way, the banking-house of Corcoran & Riggs. I went over and found some pretty large operations going on there, in the way of settling claims and transacting other business for the Government. Are we going to pay all these people hereafter, when they come forward and say, we have been working for the Government; we have rendered important services; we have attended to the settlement of claims, and have paid for you millions of dollars, now we ask to be compensated for our labor? Sir, I ask what will all this lead to? Are officers of the Government, who are charged by law with particular functions, whose duty it is to perform certain services for the public, and who are paid for those services, to assume to themselves the right to employ whom they please, to engage the services of whom they please, and thus to lay the foundation for those employees coming to Congress and asking compensation for services rendered, without law and without authority? Sir, there ought to be a stop to this thing.

Another thing: we are in the habit here, after discussing a claim day after day, and deciding against it, of having a motion made to reconsider; the motion lies over for weeks and months, and then it comes up and is discussed again until everybody is tired, and nobody attends to the subject; the question is then taken, and the bill is passed. This ought not to be.

The gentleman from Connecticut is right in saying that this man was originally employed by another clerk, who was either inefficient or out of the way, and, having been so employed by one who was himself deficient in the performance of his duty, he was continued in the department, as the papers accompanying the claim show, without any promise of reward, and when a vacancy occurred, or provision was made for another clerk, he stepped into the enjoyment of an office. Now, if this thing is to be tolerated, if such a practice as this is to prevail, I do not see why we should not pay another man for performing his appropriate duties, nor why we should not pay Corcoran & Riggs for their services when employed to discharge the duties *properly* belonging to the officers of Government.

Mr. HOUSTON. I cannot see any analogy between the petition of a poor clerk to Congress for compensation for services rendered and the claim of the principal officers of the Government. I have made no particular inquiry into the subject, but I understand that this case rests upon its individual merits; that it is not connected either with precedents or anything else. As it is presented to me, I understand it to be an application for remuneration for services faithfully rendered to the Government by an individual; for the documents presented to us show that he faithfully performed the duties assigned him, from the time the clerk returned whose substitute he was until he was himself regularly appointed a clerk in the office, for a period of thirteen months. Now, the question arises whether the services have been performed? I say they have; and whether they were voluntary or regular, I care not, so long as the Government was the beneficiary and received the service. Would it be honest in us in such a case to refuse to pay him? Would it not be a dishonest and selfish transaction to withhold from him remuneration for his actual services? I think this Government is not so stricken in misfortune as to be driven to the necessity of extorting from a private individual his labor, his daily toil, and not give him a just and fair remuneration for it. I would be sorry to sit in any hall of legislation in this country, and say, that because a citizen was not regularly inducted into office, although he had rendered services of which the Government was the beneficiary, he could not be remunerated, because he had not passed through all the formalities of appointment. This individual has rendered thirteen months' service; and shall the Senate of the United States hesitate to accord to him a just remuneration? I cannot realize that a serious objection can exist, or can be made to it.

I do not wish to discuss private claims; I do not wish to enter into the duties of committees; but when they have investigated a case, year after year, and when they have manifested that the service has been performed, and faithfully performed, no matter whether he was appointed or not, I am willing to be governed by their finding, and to accord, by my vote, a just remuneration. We have abundant proof that the applicant in this case faithfully performed the duties that were assigned him; and shall we hesitate to do him justice? If he remained there until he was regularly appointed, in the expectation that an additional clerk would be required, it does not alter the case. Will you subtract from him the value of thirteen months' labor? The Government has not been defrauded; on the contrary, we have received benefit from his labor; and will you refuse the pitiful sum of one thousand dollars, because he was not regularly appointed? Can you be just without according him remuneration? Can you withhold remuneration without positive injustice?

Mr. JOHNSON, of Louisiana. I remember this case, and I remember that when it was before the Senate formerly I was clearly of opinion that it was a just claim, and that it ought to be paid. I think so now. It appears that this clerk performed the duties of the office; and although he, at first, performed them only as a substitute in the absence of the other clerk, yet he continued there and performed the duties of the office for thirteen months afterwards; and not only performed them faithfully, but it appears he saved the Government about forty thousand dollars by reëxamining accounts which had been allowed. I well remember the case. It appeared to me, when presented, to be a very just one—a case which appealed strongly to the sense of justice of the Senate. And, if I am not mistaken, it appeared from the papers which were submitted, that Judge Woodbury, who was then Secretary of the Treasury, though he did not personally employ him, recommended him for the employment, and that the business of the office required the aid of an additional clerk. I am not positive about this, but such is my impression. He was recommended, if I am not mistaken, by the then Secretary of the Treasury to remain in the department, upon an assurance that his services would be remunerated; and that it was not his voluntary and unauthorized act, as has been represented, and that the Government would make an appropriation for the purpose of compensating him for his labor. I hope that the bill will be reconsidered; and that, if the Senator from Connecticut still entertains doubts, he will give the subject an examination; for I am persuaded, if he does so, he will be satisfied that the bill ought to pass.

Mr. BUTLER. I desire to say a very few words in regard to this matter. The claim was before the committee when I was a member of the Committee of Claims. This gentleman certainly performed services, but they were services that ought to have been performed by other clerks. If the other clerks had performed their duties according to the terms of their appointments, there would have been no necessity for this man going there at all. He was never employed by any competent authority, and he received no positive assurance that he should be paid for what he was doing. He has obtained a very snug little office by means of his diligence, however; but, as for direct compensation for the thirteen months' service which he voluntarily performed, he had no reason to expect any such thing.

The question being taken upon the reconsideration of the bill, it was, upon a division, decided in the affirmative; ayes 18, noes 15.

The question then being upon the engrossment of the bill—

Mr. WESTCOTT said he preferred that the bill should be laid over, in order that the objections entertained by the Senator from Connecticut might be removed, which he believed would be the case upon a further examination of the testimony. He had no objection, however, if it were the desire of the Senate, that the vote should at once be taken.

Mr. NILES asked for the yeas and nays on the engrossment of the bill, and they were ordered.

The question was then put, and decided as follows:

YEAS—Messrs. Baldwin, Benton, Berrien, Cameron, Clarke, Dodge of Wisconsin, Dodge of Iowa, Fitzgerald, Foote, Hannegan, Houston, Johnson of Louisiana, Jones, King, Mason, Miller, Pearce, Phelps, Rusk, Upham, Walker, and Westcott—22.

NAYS—Messrs. Allen, Atchison, Atherton, Bell, Borland, Bradbury, Breese, Bright, Butler, Clayton, Corwin, Davis of Mississippi, Dickinson, Dix, Downs, Felch, Hunter, Metcalfe, Niles, Spruance, Turney, Underwood, and Yulee—23.

So the bill was rejected.

ANOTHER CASE OF DESTRUCTION OF PROPERTY BY MILITARY ORDERS.

On motion of Mr. RUSK, the Senate, as in Committee of the Whole, proceeded to the consideration of the Senate bill for the relief of Bryan Callaghan; which was read.

Mr. RUSK moved to amend the bill by striking out the words "so as to prevent the said merchandise from falling into the hands of the enemy."

Mr. TURNEY desired to hear the honorable Senator's reasons for the motion which he had made. He wished to know whether it was de-

signed to make the terms of the bill general, so that other property might be comprehended to swell the amount.

Mr. RUSK. The amendment is offered for no such purpose. The facts of the case are these: Colonel Harney, upon his expedition from San Antonio to the Rio Grande, found himself destitute of the means necessary for the prosecution of his enterprise. In this emergency the individual who is the applicant in this case furnished him with supplies to the value of twenty thousand dollars; or rather, he furnished to the quartermaster, for the use of the colonel's command, that amount of supplies. When Colonel Harney withdrew from his position there, he ordered the goods that remained in the charge of the quartermaster to be destroyed, to prevent them from falling into the enemy's hands. There is no necessity for having those words in the bill, because the goods were furnished for the use of the United States, and it makes no sort of difference what disposition was made of them.

Mr. BORLAND. I have some knowledge with regard to the time and circumstances under which these goods were destroyed, having been at San Antonio a few days before Colonel Harney returned from the Rio Grande. The expedition was an unauthorized one. It was one for which Colonel Harney was ordered back to San Antonio and placed under arrest. The whole act of going to the Rio Grande and crossing it was disavowed by the commanding general. As I understood at the time, and believe, the goods were not destroyed at the time of the return of Colonel Harney, but some time afterwards. Two or three of the Texan companies remained after his withdrawal with his immediate command. Such were the facts, substantially, as stated to me by several persons who were there; in fact, by Callaghan himself. What was the amount of the goods destroyed I have no means of knowing, further than as stated in the bill. But I rose simply to inquire whether the goods were destroyed under the positive order of Colonel Harney, with a knowledge of all the circumstances?

Mr. RUSK. They were destroyed by the captain having charge of the troops that remained. I ask for the reading of the paper marked No. 2, the statement of the quartermaster, and also the statement of the account of the quantity of goods delivered to the quartermaster.

[The papers were read by the Secretary.]

Mr. BORLAND. These certificates are all very good, as far as they go; but, after all, they amount to nothing more than an expression of opinion on the part of Colonel Harney and Colonel Rogers that these goods were destroyed. They were not present at the destruction of the goods, and cannot speak of their own knowledge. They were upon the road on their return at the time; and there is no direct evidence as to the order for their destruction, and no evidence that any necessity existed for such destruction. It seems to me that the whole matter is presented by this paper, whatever it may be called. This Callaghan was a trader, having extensive business transactions beyond the Rio Grande, in the mining country, especially in the mines of Santa Rosa, and he was doubtless anxious to go in that direction to carry on his trading operations, and thought it would be an excellent opportunity for carrying out goods. This is the impression that I received, not only from persons at San Antonio, but from Callaghan himself, and that impression has not been removed by anything which these papers contain. There is no direct evidence, but merely an expression of opinion. Where is the evidence to show that the destruction of the goods was necessary for the public service? Colonel Harney left the goods there, for what purpose never has been known. And, as I remarked at the beginning, the expedition itself was considered to be unwarrantable; and he was suspended from his command. Now, it seems to me that, even if the evidence were furnished that these goods had been destroyed by the officer then in command, under circumstances which he might suppose properly justified their destruction, there is no obligation on the part of the Government to endorse and pay for every unauthorized act of an officer who might without orders take upon himself to destroy property. Not only was the expedition unauthorized and unwarranted, believed to be wrong, and the officer commanding it punished, but evidence was never furnished by the officer setting forth any necessity for the destruction of the goods.

Mr. RUSK. Will the Secretary be good enough to read again the certificate that is upon the back of the account?

It was again read.

There is a positive statement that by command of Captain Eddy the merchandise was destroyed on the banks of the Rio Grande. But it is altogether immaterial, as far as this case is concerned, what became of it, so long as it was furnished for the use of the troops. Colonel Harney makes arrangements with this individual to furnish the means of support to the troops. Is Mr. Callaghan liable for any of the charges brought by the Senator from Arkansas against Colonel Harney? Certainly not. Colonel Harney alone is responsible. Callaghan finds an officer there who is destitute of the necessary supplies, and agrees to furnish them: that is all.

Now, the idea advanced by the Senator from Arkansas in relation to making a trading expedition to the mines is entirely out of the record. Nothing of the kind appears upon the papers. On the contrary, I know that Mr. Bryan Callaghan rendered important services to the army. I know him to be as patriotic a man as there is to be found anywhere. He furnished the goods in question at the request of Colonel Harney, and they were taken in charge by the quartermaster; a large portion of them were disposed of for the use of the troops; the balance of them, while under the charge of an officer, and not in the possession of Callaghan at all, were destroyed by order of an officer of the army. It makes no difference for what purpose they were destroyed, it was from no fault of Callaghan's; he had furnished his goods to the troops, and they had received value for a large portion of them; and the officer having charge of the residue destroyed them. Whatever sins Colonel Harney may have committed, they are not chargeable at all to Mr. Bryan Callaghan; nor is there any question whether there was or not a necessity for destroying the goods, so far as he is concerned. But the gentleman states that there is not sufficient testimony to show that they were destroyed. Were he sitting on a jury examining the evidence in this case, would this sort of testimony satisfy him that they had not been destroyed? An officer of the Government has certified upon his honor that they were destroyed, and he also certifies to the correctness of the account.

Mr. PHELPS. It is possible that I am so unfortunate as not clearly to comprehend this case. I understand that a portion of these goods were sold and transferred to an officer of the Government for the supply of the troops; the residue, if I understand correctly, was destroyed. I desire to inquire whether that portion of the goods actually sold, and which went into the hands of the officer, is to be compensated for by this bill?

Mr. RUSK. This bill proposes compensation for those that were destroyed, and a portion of those that were sold.

Mr. PHELPS. Under these circumstances it seems to me that the amendment proposed is a very proper one. If the exigencies of the service required that these goods should be destroyed, there can be no doubt that we ought to compensate the owner for the loss of his property. The whole matter turns, in my judgment, upon another question, and that is, whether these goods are to be considered as having been originally transferred to the Government?

Mr. RUSK. The certificates show that such was the case.

Mr. PHELPS. If that be so, the destruction of the property does not alter the case. If they were sold to the Government, the Government was certainly at liberty to dispose of their own goods in their own way; but if the goods continued to be the property of Mr. Callaghan, and they were destroyed to prevent them from falling into the hands of the enemy, it raises the question which has been so much discussed here. If it can be clearly made out that the goods had been transferred, and were the property of the Government, then we have nothing to do with the fact of their destruction; but if we are to take the converse of this proposition as the true state of the case, and consider them the property of the Government only so far as they were disposed of, then the question which we have discussed so often arises. I have only to say that I believe heretofore the practice of the Senate has been to treat property destroyed to prevent it from falling into the hands of the enemy as property lost by the casualties of war.

Mr. RUSK. The testimony shows that the goods were placed under the care of the quartermaster at San Antonio; that they were carried with the army for the benefit of the troops, at the instance of Colonel Harney, who was destitute without them of the means of carrying on his operations, and that they were placed in the quartermaster's department.

Mr. BORLAND. I wish, in the first place, to disavow any intention of making a charge against Colonel Harney, or any one else. When I prefer charges, I shall certainly adopt a very different form from this. I merely stated a fact which was within my own knowledge, and which the official reports of the officers employed in the service in that part of the country exhibited. I maintain that they show the circumstances under which this expedition went to the Rio Grande, and the circumstances under which the goods were carried there. I merely state the facts for what they are worth. The certificates, as far as they go, show that Mr. Callaghan was to furnish certain articles of supplies for the army, and for that he was to receive drafts from the Government. To this extent the transaction appears to be a proper one; but, admit it to be a proper expedition, the Government would be bound by the contract and the evidence would be found in the proper department.

But this bill is to compensate Callaghan for goods beyond the amount furnished for the use of the army—for goods carried out for the purpose of private speculation. That sort of speculation is entered into oftentimes by some of the most respectable men in the country without any imputation upon their character; but it is a well known fact that the claim here is not only for goods furnished to the army, but for goods carried out for private speculation. Now, shall the Government be made responsible to Mr. Callaghan for the success or failure of his private speculations in Mexico? I, for one, say not. And I say the evidence is not sufficient to show that these goods were destroyed by proper military authority. The evidence of the officer who ordered the destruction of the goods is not here, and my opinion is, that Colonel Harney was not on the banks of the Rio Grande at the time, but upon the road on his return to San Antonio. None of the regular troops remained on the Rio Grande.

Again: the necessity for the destruction of these goods, I think, is not shown; and from this fact, if from no other, that when Colonel Harney received the order to return from the Rio Grande, he returned with all the regular troops under his command, and that there was sufficient time to have brought all the supplies of the regular army along with him, it is to my mind abundantly evident that my position is correct. He left these Texan companies there, and, believing there was no danger of an attack, Callaghan remained there with his goods, and when the enemy came down and fired upon them the goods were then destroyed. The destruction of the goods I consider a matter of certainty; but the question is, whether they were destroyed under such circumstances as to impose an obligation upon the Government to make compensation for them. If they were goods which the Government had purchased, there would be no doubt about the liability of the Government; but this fact is not established.

As I said at the beginning, the expedition was not a lawful one, but in regard to these surplus goods, amounting to about twelve hundred dollars' worth, whether the expedition were lawful or not, there can be no obligation on the part of the Government to pay for them, and most certainly when we have no evidence of any necessity for their destruction.

Mr. WALKER. Mr. President, the other day a bill was presented for our consideration containing the very principle involved in this case. I then asserted a rule which I thought ought to govern the Senate in instances of this kind. I then stated that if it was clearly proved that the property must certainly have fallen into the hands of the enemy if it had not been destroyed, and that it was destroyed to prevent it so falling into their hands, it ought to be paid for; it being the taking of private property for public use. And, under the principles of the Constitution, private property could not be so taken without making compensation.

Upon that occasion the distinguished Senator from Massachusetts, [Mr. WEBSTER,] who, I regret, is not now in his seat, was very careful in pronouncing his own views in regard to the rule—so careful that he announced them from a written paper. That distinguished Senator took direct issue with me upon that principle. I confess that I felt so overwhelmed by the opinion of that great Senator that I neither felt the disposition to reply to him, nor could I at the time take issue again with him. I am gratified, however, to be able to say that my memory of international law bearing upon this subject, though not having been adverted to for some nine years, was correct, and that I have now the authority to satisfy that Senator that my position was correct. Great and distinguished as he is, and humble as I am—and disposed as I always have been to bow with great deference to his knowledge of law—my position was correct, and his was wrong.

Under the head of whether the State is bound to indemnify the subjects for damages sustained in war, I find the following:

"The damages under consideration are to be distinguished into two kinds—those done by the State itself or the sovereign, and those done by the enemy. Of the first kind, some are done deliberately and by way of precaution, as when a field, a house, or garden, belonging to a private person, is taken for the purpose of erecting on the spot a town, rampart, or any other piece of fortification; or when his standing corn or his store-houses are destroyed, to prevent their being of use to the enemy. Such damages are to be made good to the individual, who should bear only his quota of the loss."

That is the plain authority. I asserted the rule the other day from memory. I rise now to assert the principle again, and quote the authority (Vattel's Law of Nations) from which the assertion was then made. I regret very much that a motion has been made—which has succeeded in this case—by the Senator from Texas [Mr. RUSK] to strike out from this bill the declaration that this property was destroyed to prevent its falling into the hands of the enemy. I can take the motion in no other sense than that it is intended impliedly to assert that the property was not so destroyed.

Mr. RUSK. By no means. The claim does not depend upon it. Several Senators, as it is known to the Senator from Wisconsin, object to that principle in the bill. The liability of the Government occurred by Mr. Callaghan placing the goods under the control of the quartermaster at San Antonio.

Mr. WALKER. The bill then rests on the contract.

Mr. RUSK. Yes, sir. This principle was inserted in the bill without necessity, and therefore, to avoid the discussion of a principle which was not at all necessary to the object of the bill, I moved to strike out those words.

Mr. BALDWIN. Mr. President, the question of the liability of the Government for this loss depends so materially upon the circumstances under which the goods came into the possession, or were placed under the control of Colonel Harney, or the quartermaster's department, that it appears to me that the Senate cannot be prepared to act upon it, simply on the report made by the Committee of Claims. I do not think that the facts under which the goods came into the possession, or under the control of the quartermaster's department, or under which the goods were ultimately destroyed, are, either of them, stated with sufficient explicitness in the report to enable us to act intelligently on the bill. I therefore move that it be recommitted to the Committee of Claims.

Mr. WESTCOTT. Mr. President, I must confess that I have been very much dissatisfied with the course that has been taken upon private bills during this session of Congress. I have always supposed that the debate upon private bills was to be confined to the discussion of general principles, and I believe this has been the case at previous sessions. We have standing committees upon claims as well as upon other things, who investigate the facts connected with the matters brought under their notice, take the testimony relating to the subject in hand, state the results, and decide upon the merits of the claim. Their decision upon the facts, if it is worth anything, ought to be regarded as final. If they err in principle, it is proper that their error should be corrected. If a member of the committee dissents from the decision of a quorum of the committee, it is proper and right that he should state to the Senate the grounds of this dissent. But if in every paltry case, from fifty dollars in amount up to thousands of dollars, we are to discuss the claims item by item, as if they were in some petty court before a justice of the peace, the time of the country will be consumed in the discussions, and it will cost more than all the claims amount to.

The general principles of this case have been decided, and all are satisfied with respect to them. With respect to the facts, they have been twice reported upon by the standing Committee of Claims. They have been made the subject of examination, and reported upon at a former session of the Senate. The Senator from Texas, [Mr. RUSK,] a member of the Committee of Claims, has made a report upon this case, which the honorable Senator from Connecticut [Mr. BALDWIN] does not think sufficiently clear and precise to warrant the Senate in basing its action upon it. The report states the results of the investigations which were made at the last session of the Senate. This case was reported upon two years ago, but the report was referred back to the Committee of Claims at the last session; but the committee were satisfied with the previous report, and they adopted it and made no additional report. Thus two committees have investigated this claim and have made the same report, and this is strong evidence that their decisions have been correct.

The only medium through which the Senate can receive testimony on private claims is their committees, and if their decisions upon matters of fact are not to be regarded, the committees are useless. When we go beyond their reports the committees become a nullity. With respect to general principles, it is proper that we should exercise much care and discrimination. If there is anything bearing upon the case which is unknown to the committee, it is proper to submit to it, and in that light the motion of the honorable Senator from Connecticut to recommit this bill to the Committee of Claims would be proper. But this bill has been twice reported upon, and both committees reported in its favor. I apprehend that all the facts connected with it have been investigated, and, therefore, I shall not vote in favor of its recommitment.

Mr. BALDWIN. I ask for the reading of the report.

[The report was read.]

Mr. BALDWIN. Mr. President, from the reading of the report I think it must be very apparent to Senators, that all the facts which it is necessary that the Senate should know, in order to act intelligently on this bill, have not been stated by the committee.

If these goods became the property of the United States at San Antonio, as the honorable Senator from Texas now supposes, then it would make no difference whether the goods were destroyed from the apprehension of their falling into the hands of the enemy or from any other cause whatever. In either case, the United States would be bound to pay the owner of the goods, who had sold them to the Government, the price which was stipulated to be paid for them at San Antonio, or the value of the goods, if no particular price was stipulated, at the time they were received from the seller at San Antonio. But if Mr. Callaghan simply accompanied the detachments with his own goods, to make sale of them under the protection of the army, and to make a deposite of the proceeds of the sale with the quartermaster's department, with permission to draw on the Government for the avails, and if, while the goods still remained the property of Mr. Callaghan, they were destroyed from an apprehension that they might fall into the possession of the enemy, then, certainly, very different considerations present themselves in regard to the responsibility of the Government.

In the first place, is the Government responsible at all for the destruction of these goods? In the second place, if at all responsible for goods destroyed under these circumstances, for what amount is the Government responsible? It is because the report is not explicit in regard to these points, that I ask that the matter may be recommitted to the Committee of Claims, to report the facts with more particularity.

Mr. RUSK. Mr. President, I see no necessity for a recommittal of this report. All the facts of the case are stated, not only in the report, but in the certificates and the evidence accompanying it The report is as full and explicit as reports usually are. The only difficulties are the inferences which gentlemen choose to draw from a statement of the facts, and that the Senate can do as well as a committee.

Mr. President, we are getting into very nice distinctions, very metaphysical distinctions, as to the precise time at which the ownership of these goods passed from the individual to the United States. The evidence shows that these goods were placed at San Antonio, under the control of Colonel Harney and the quartermaster's department, to support the troops. This transfer was made one hundred and fifty miles from the Rio Grande, where the goods where destroyed.

Now, sir, whether the expedition was authorized or unauthorized does not amount to anything as far as regards the justice of Callaghan's claims. Suppose that this individual had placed a certain amount of money in the hands of a quartermaster, to enable him to purchase supplies for the troops, and it had been expended or lost: would not his claim have been perfectly manifest? But, sir, the money would not have answered as well as the goods in this case. I am well acquainted with Mr. Callaghan. He has been engaged in mercantile transactions at San Antonio for a long time. He is well acquainted with the customs and wants of the Mexicans, and speaks the Spanish language with fluency; and he could purchase the necessaries required by the troops much more readily, and at much greater advantage in exchange for his goods, than they could have been obtained by the quartermaster for the money.

Suppose, again, that he had placed a quantity of corn in the possession of the United States officers for the purpose of supplying the troops: the officers would then have had the control of it, to all intents and purposes. Suppose they had thought that it might fall into the hands of the enemy, and, to prevent this, had ordered the corn to be destroyed: then, according to the doctrines of the honorable Senator from Arkansas, [Mr. BORLAND,] we ought to go into a long investigation to ascertain whether the officer who ordered the destruction was acting under a proper command from his superior, or whether there was actually any danger of the goods falling into the hands of the enemy. Sir, it seems to me that these facts are plain. In 1846, Callaghan furnished these goods, in good faith, to Colonel Harney—and consequently to the Government—for the purpose of supplying his troops. The question before the Senate is, whether they will pay for the supplies so furnished?

The question was then taken on the motion of Mr. BALDWIN to recommit; and it was lost.

Mr. PHELPS desired to hear the bill read, with the amendment.

The bill and the amendment offered by Mr. RUSK were read accordingly.

Mr. PHELPS. Mr. President, it seems to me that the bill, as proposed to be amended by the honorable Senator from Texas, will be incongruous. It provides, in the first place, for payment for the property of the claimant which was destroyed by order of an officer of the United States, and goes on to add, "which was used by the United States." It seems to me very incongruous.

Mr. BERRIEN. Mr. President, I would suggest to the friends of this bill the propriety of modifying it so as to relieve it from the incongruity mentioned by the Senator from Vermont, and to which it is of course liable as it now stands. The bill provides for the payment of goods which were destroyed by the order of an officer of the United States, and which were used by the United States. If the gentleman having charge of the bill will look over it, he will see the necessity of striking out that portion of it.

Mr. BRADBURY. Mr. President, this bill was reported by the Committee of Claims, after a careful consideration of the facts, and I believe that it was drawn with sufficient precision and care to express the views of the committee, and I apprehend that the honorable Senator [Mr. RUSK] who has the bill in charge will not, on reflection, insist on the motion to amend, but take the bill as it is. It is very obvious, that if we commence amending the bill, the safer and better plan would be to recommit it to the Committee of Claims. But I hope the bill will be left to stand as it is.

Mr. RUSK. I withdraw my amendment.

Mr. BERRIEN. Mr. President, I am very sorry that the friends of the bill are determined to press it to a vote as it now stands. As I understand this matter, these goods were taken posses-

sion of by Colonel Harney, and delivered over to the quartermaster's department, and portions of them were used, and some of them sold, and the proceeds applied to the use and sustenance of the army. What was done with the residue of these goods remaining specifically on hand is not shown. The party is entitled to payment from the Government for the amount of goods which were taken into the possession of the officers of the army and used as the Government at the time thought proper. A portion of the goods were used, and the rest were destroyed. My idea would be, therefore, that all that part of the bill relating to the destruction of the property should be stricken out, and that the accounting officer of the Government should be required to pay for the goods which were delivered over to the quartermaster's department and used by the Government.

For such a bill I could vote, but I cannot vote for a bill which involves the incongruity of paying for goods which were both "destroyed" and "used" by the Government.

Mr. NILES. Destroyed *or* used would answer.

SEVERAL SENATORS. Yes, destroyed or used, would express the facts correctly.

Mr. UNDERWOOD. I suppose that my friend over the way, who moved to amend the bill, thought that the amendment proposed would meet my peculiar views. I made the motion to lay the bill on the table for the purpose of having the amendment made. I think that a portion of these goods ought to be paid for, and that a part ought not to be paid for. Being a member of the committee, I wish to state my recollection of the facts, and then the Senate may dispose of the bill.

My recollection is, that the owner of these goods, Mr. Callaghan, made a contract with Col. Harney to go with him and take his goods along to supply the army, by exchanging them for whatever articles of subsistence it might be necessary to obtain from the inhabitants of the country, or to furnish the army with goods upon the march, just as the goods themselves or the property which might be obtained by their sale were needed. The claimant, under the arrangement made with Colonel Harney, marched with his command from San Antonio to the Rio Grande, and while upon the march these goods were used just as Colonel Harney needed them. After they reached the Rio Grande they were also used just as Colonel Harney needed them, and a goodly portion of the property of this man actually supplied the officers and soldiers with subsistence, and ministered to their necessities. Now, so far as that was done, I think the Government of the United States have received the property of this individual, through its proper officer, and appropriated it to the use of its army, and therefore ought to pay for it, and with the amendment the accounting officers would pay for the property thus taken.

But, according to my recollection of the facts, there was a considerable portion of this property left undisposed of in the manner in which I have stated. When Colonel Harney was ordered to abandon that campaign and return, these goods were destroyed or left behind, perhaps turned over, as the gentleman to the right says, to the quartermaster's department, but upon that point my recollection does not serve me. My impression was, however, upon the examination before the committee, that these goods had never been turned over to the United States in such a manner as to make them its property. If I am mistaken upon this point—and it would seem that I am from the statement of the honorable Senator from Texas—I think the claimant should be paid for his entire stock of goods.

Mr. RUSK. I stated this, that, under an arrangement with Colonel Harney, these goods were placed at the disposition and under the control of the quartermaster, and that in consequence of that arrangement Callaghan took them from San Antonio to the Rio Grande, a distance of one hundred and fifty miles.

Mr. UNDERWOOD. There is no doubt at all about that.

Mr. RUSK. Then the officer destroyed them.

Mr. UNDERWOOD. There is no doubt at all, sir, but that by this arrangement Mr. Callaghan united with the army, and marched with it to the Rio Grande, and that a large portion of his goods were converted to the use of Colonel Harney's regiment; and so far, I think, there is a claim for compensation.

But here is the turning point in my mind. I am not satisfied, from the testimony, that this man ever parted with the control of the goods so as to place them under the command of Colonel Harney and the quartermaster's department. If he did, I think it is a clear case, and the claimant ought to be compensated: but I doubt whether the report is exactly according to the facts in that respect. My impression is, that they were never beyond the control of Callaghan himself, and I thought that as he retained the control of the goods upon the Rio Grande after Harney left there, and having remained behind to dispose of them for his own use, he took upon himself the risk of their destruction, and therefore that he ought not to be paid for the goods thus left.

These are the conclusions at which I arrived in the committee, and that is the reason why I wished that part of the bill which proposes to pay for the goods left behind on the banks of the Rio Grande stricken out. There is clearly a case made out against the Government for a considerable portion of the goods, and to that extent I can vote for the bill. If, therefore, the portion of the bill to which I have referred be stricken out, I will give it my hearty support.

Mr. PHELPS. I would propose the following amendment to this bill: Insert the words "and delivered to the officer of the army for the use of the army;" and strike out the expression "to prevent the said merchandise from falling into the hands of the enemy." This alteration will make the bill stand where the implied terms of the contract would rightfully make it stand, and of course would make compensation for such of the goods as were legally sold to the United States, and become its property, and refer the question as to payment for the goods destroyed back to the accounting officer.

Mr. MASON. I reported this bill from the committee at the last session. The claim was thoroughly discussed and deliberated upon by every member of the committee, and retained by the committee, as appears by its record, until the month of July, with a view to satisfy themselves of the facts in the case. Although I do not mean to complain, yet I would say that the Senate, in discussing questions of fact which have been settled in committee, devolve upon the head of that committee a most ungracious duty to particularize the reasons which have induced such committee to come to a decision upon those facts. The committee can state the principle upon which they have acted, but it is impossible for Senators individually to determine questions of fact for themselves. The facts ascertained by the committee are these: Col. Harney, in undertaking a military expedition from San Antonio, in Texas, to the Rio Grande, found it necessary, in order to subsist the expedition—which is so certified—to make the contract out of which this claim arises. Whether this was an authorized or an unauthorized expedition, I consider immaterial in its application to the question of reimbursement for property destroyed at issue in this claim. Colonel Harney has certified, that in order to maintain his expedition he was obliged to make this contract, and he specifies how it was made. He states that he contracted with Mr. Callaghan, a resident merchant of San Antonio, to accompany the expedition with a stock of merchandise for the purpose of furnishing the army with such supplies as would be necessary, under the direction of the quartermaster of the expedition. These goods were disbursed to the troops on various occasions in lieu of money. The honorable Senator from Texas states that from his personal knowledge the Harney expedition was better supplied with this merchandise than if it had been money.

It appears, then, from the facts of the case, that Colonel Harney made contracts; and the question comes up, how was he authorized to make them? I apprehend that a military officer of Colonel Harney's rank, who undertakes a military campaign from his own country during a state of war, is presumed at least to have a certain specific authority vested in him to provide subsistence by the way. If he does it without authority, he is amenable to his Government; but it would be very difficult to carry forward an expedition of this character, unless such authority was understood to be vested in the commanding officer of the expedition. Colonel Harney, as I have said, certifies that this merchant did accompany him, and that, according to the contract, this merchandise was understood to be subject to the order of the quartermaster for the use of the army during the expedition. The quartermaster certifies also that Mr. Callaghan accompanied the expedition with a stock of merchandise, said stock and proceeds of sales being subject to his order for the use and subsistence of the army. I trust that I have now answered the inquiries put forth by the honorable Senator from Kentucky. The merchandise, then, was subjected to the control of the quartermaster of the expedition by order of the commanding officer. Now, it appears that so much of the merchandise as was not used by the way, was deposited on the Rio Grande, and used there for the purposes of the expedition. Colonel Harney was recalled, and left an officer in command of a detachment of troops, who had under their charge the protection of this property. What the actual contract was is not shown; but it seems to have been of this character: that the merchandise was to be taken charge of by the expedition, and for such portion of the goods as were used Mr. Callaghan was to be reimbursed by drafts on the Government; and I presume if the portion of the goods that were not used had been returned to Mr. Callaghan at San Antonio, it would have become individual property, and therefore the Government would not have been responsible for it.

It appears by the certificates of Colonel Harney and the quartermaster, that when Colonel Harney was recalled he gave the merchandise in charge of an officer commanding a detachment left upon the Rio Grande. That officer, upon abandoning his position, found it necessary to destroy the property. The question then arises, was this merchandise destroyed as the property of the merchant, or as the property of the Government? The destruction of the property, after it was transferred for the use of the Government to the hands of the quartermaster, of course makes the Government responsible for such destruction. I think, therefore, that the claim stands upon a sure basis; and that it would be better to leave it in its present position: that is, that the claimant lost his property by having placed it under the control of this military officer during the expedition from San Antonio to the Rio Grande. It is to be inferred from the certificates of the officers of the expedition that a portion also of this property, after its arrival at the Rio Grande, was used by the officer to whom it was left in charge, and that the entire amount of goods left was under his control, precisely in the same manner and to the same extent that it was under the control of the quartermaster on the march. When he abandoned the post he did not take the property with him—for very good reasons, probably because it would have been an incumbrance during the march—but destroyed it. I submit, with all due deference to the Senator from Vermont, that, if his object is to pay the claimant for this property—which was under the control of the Government, and which was destroyed by one of its officers, as if it were its property—he had better allow the bill to pass as it now stands.

Mr. PHELPS was understood to remark that he concurred in the view taken by the honorable Senator from Virginia, that the Government in taking charge of this property became for the time being its actual proprietor. The proposition which he advanced in his amendment would not only give compensation for the whole of the property lost, but avoid the discussion of the troublesome question that had been so often before the Senate—that the Government was responsible in all cases for property destroyed by order of any of its officers.

Mr. UNDERWOOD. I am really anxious to vote for this bill; and the remarks of the chairman of the committee who reported the bill have served to strengthen my opinion that the property destroyed ought to be paid for by the Government. It was used by the army substantially for army purposes, and the owner of the property, when he marched with the expedition to the Rio Grande, never expected that the army would abandon him and his property and leave them at the mercy of the enemy. Having entered into the service of the army with his goods in that way, I am inclined to think the full value of his property destroyed by that army should be paid. But if the gentleman from Vermont withdraws his amendment from this bill, he forces upon me the principle which I have always resisted, viz: that we are bound to pay for property destroyed by the Government to prevent

its falling into the hands of the enemy. I am not willing, sir, to vote for a bill containing that principle; and desire greatly that that principle be stricken out from this bill. The gentleman from Texas may amend the bill in any way he pleases, provided he takes out that obnoxious principle; I should then vote for the bill with great cheerfulness; for even if there were a balance over from the Rio Grande, and that balance was transferred into the hands of Mr. Callaghan, I apprehend there could not have been any great amount of property that would have fallen into the hands of the enemy and been destroyed. Allowing that there was a large quantity of merchandise destroyed to prevent its falling into the hands of the enemy, the consideration of the fact that all of the goods were placed under the entire control of the officer of the Government presents the claim under such favorable circumstances as to fully authorize its payment. My only objection, as I have before said, is to the retention of the principle I have alluded to in this bill.

Mr. RUSK. One word in reference to this matter. I hope the amendment offered will not prevail, for I cannot but think it will embarrass the bill. Every Senator appears to be satisfied as to the correctness of the claim; what, then, is the use of particularizing in reference to this principle? The transfer of the property actually took place at San Antonio, and the merchandise was placed entirely under the control of the commanding officer of the expedition; Mr. Callaghan accompanying the expedition, because of his acquaintance with the Spanish and Mexican languages, and of his being better able to dispose of the goods. In order to bring a charge of speculation, we must step aside from the facts. The officer states that it was at his instance that Mr. Callaghan furnished this merchandise and accompanied the expedition. He doubtless was actuated by motives of patriotism in thus transferring his property. The army could not otherwise, at that time, have been supplied with the necessary provisions for its use. At the instance of a United States officer, Mr. Callaghan caused the goods to be removed where they were destroyed. If the goods removed to the Rio Grande had been destroyed by the enemy, it would have been a clear case of reparation. It seems to me, however, that, under the peculiar circumstances of this case, and which induced favorable action, any such amendment would be unnecessary.

The question was then taken upon the amendment offered by Mr. PHELPS, and it was rejected.

The bill was then reported to the Senate without amendment, was ordered to be engrossed for a third reading, and was subsequently read a third time by unanimous consent, and passed.

ADJOURNMENT.

Mr. YULEE moved that when the Senate adjourns, it be to meet on Monday next.

SEVERAL SENATORS. No! no!

Mr. DOWNS. I hope that the motion will not prevail. The holidays are now over, and there are a great many bills upon the calendar yet untouched. We have been all this day trying to pass one or two private bills, and have succeeded in passing one. By-and-by, if we go on at this rate, we shall get down to none at all. I ask the yeas and nays upon the motion.

Mr. HAMLIN. I would simply inquire of the gentleman who made this motion what are the reasons which should induce Senators to vote for it. The holidays, as has been stated, have passed, and the very large calendar before us admonishes us to despatch business as rapidly as possible. There are a large number of private claims on that calendar of a character which will excite discussion, and the length of the discussions which have been already held upon certain private bills admonishes us also that if they are to be all acted upon at this session we must be vigilant and active. I should be glad to hear the reasons, if there are any, which should influence the Senate to an adjournment until Monday.

Mr. BUTLER. I trust the motion of the Senator from Florida will succeed. There are some very important reports to be made up by several of the committees, and unless the Senate adjourn over, they will not have time to prepare them. I think the adjournment will facilitate business rather than delay it.

Mr. YULEE. I made this motion, sir, because it was my sincere opinion that the business of the Senate would be promoted and facilitated by an adjournment for a few days. Without such adjournment I do not think the business of the committees, and particularly of the one with which I am connected, will be completed.

Mr. DOWNS. I believe there are already more bills reported and awaiting our consideration than can be acted upon at this session. The question is, whether committees shall report or the Senate act? There are several hundred bills now upon the calendar, and if we get through with them this session I think we shall have done a good business. Besides, there are only one or two committees that will require the attendance of the members, and it appears to me much better that they should absent themselves from the Senate than that the Senate should adjourn upon their account.

Mr. DOWNS asked for the yeas and nays; which were ordered, and the question being taken, was decided as follows:

YEAS—Messrs. Atchison, Bell, Benton, Berrien, Butler, Clarke, Clayton, Davis of Massachusetts, Dayton, Hale, Hannegan, Miller, Pearce, Phelps, Rusk, Sturgeon, Turney, Upham, Westcott, and Yulee—20.

NAYS—Messrs. Atherton, Borland, Bradbury, Breese, Bright, Corwin, Davis of Mississippi, Dickinson, Dix, Dodge of Iowa, Douglas, Downs, Fitzgerald, Fitzpatrick, Foote, Hamlin, Houston, Hunter, Johnson of Louisiana, Johnson of Georgia, Jones, King, Mason, Metcalfe, Niles, Sebastian, Spruance, Underwood, and Walker—29.

Mr. NILES moved that the Senate proceed to the consideration of Executive business; which motion was not agreed to.

And then the Senate adjourned.

The following is the Select Committee appointed by the VICE PRESIDENT on the resolution submitted by Mr. CLARKE of Rhode Island:

Mr. CLARKE, Mr. DAVIS of Mississippi, and Mr. DAVIS of Massachusetts.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 4, 1849.

The Journal of yesterday was read and approved.

Mr. EVANS, of Maryland, rose to a privileged question, and moved to reconsider the vote of yesterday by which the President's message was referred to a select committee; and he moved to lay that motion on the table.

Mr. McCLERNAND expressed the hope that the gentleman from Maryland would not move to lay the motion to reconsider on the table. He would like to be heard upon it.

The yeas and nays were asked and ordered; and being taken, resulted—yeas 87, nays 78—as follows:

YEAS—Messrs. Abbott, Adams, Barrow, Belcher, Blackmar, Brady, Buckner, Butler, Cabell, Canby, Chapman, Clingman, Collamer, Conger, Cranston, Crisfield, Crowell, Dickey, Dixon, Donnell, Dunn, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Fisher, Flournoy, Freedley, Fulton, Gaines, Gayle, Goggin, Gott, Greeley, Gregory, Grinnell, Nathan K. Hall, Moses Hampton, Henry, Hilliard, Elias B. Holmes, Hubbard, Hudson, Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, Irvin, Kellogg, Daniel P. King, William T. Lawrence, Ligon, McIlvaine, Marsh, Marvin, Morehead, Mullin, Nelson, Newell, Outlaw, Palfrey, Pendleton, Pollock, Preston, Putnam, Julius Rockwell, John A. Rockwell, Rose, Root, Rumsey, St. John, Schenck, Sherrill, Silvester, Caleb B. Smith, Truman Smith, Strohm, Richard W. Thompson, Tompkins, Toombs, Tuck, Van Dyke, Vinton, Warren, White, Wilson, and Woodyard—87.

NAYS—Messrs. Bedinger, Bingham, Birdsall, Bocock, Bowlin, Brodhead, Charles Brown, Albert G. Brown, Burt, Clapp, Franklin Clark, Cummins, Daniel, Darling, Dickinson, Faran, Featherston, Ficklin, French, Giddings, Green, Willard P. Hall, Harmanson, Hill, George S. Houston, Iverson, Jameson, Jenkins, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, Lamb, La Sere, Sidney Lawrence, Leffler, Levin, Lincoln, McClelland, McClernand, McDowell, McKay, McLane, Job Mann, Meade, Miller, Morris, Morse, Nicoll, Peaslee, Peck, Petrie, Pettit, Peyton, Pilsbury, Richardson, Richey, Robinson, Rockhill, Sawyer, Smart, Robert Smith, Stanton, Starkweather, Thomas, James Thompson, Jacob Thompson, Robert A. Thompson, William Thompson, Thurston, Turner, Venable, Wallace, Wentworth, Wick, Wiley, and Williams—78.

So the motion to reconsider was laid on the table.

Mr. GAYLE asked the general consent of the House to take up the bill from the Senate providing for the payment of the messengers bringing the electoral votes for President and Vice President of the United States to the seat of government. There were a number of those gentlemen here now waiting for the passage of that bill, and he hoped there would be no objection to taking it up and passing it forthwith.

Objection was made.

BOARD TO SETTLE PRIVATE CLAIMS.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the special order of the day, being the bill to provide for the organization of a board of commissioners to settle private claims.

FUNERAL OF THE LATE MR. GOLD.

Mr. HUNT asked Mr. ROCKWELL to waive his motion for a moment, to enable him (Mr. H.) to offer a resolution, to which he thought there would be no objection.

Mr. ROCKWELL said he would with pleasure accommodate the gentleman, but it was important, in view of the other business before the House, that the bill should be disposed of.

Mr. HUNT then suggested that the resolution which he proposed to offer was a privileged question.

The SPEAKER said if the gentleman would send the resolution to the table, the Chair would decide that question.

The resolution was read, as follows:

Resolved, That, with a view to enable the officers of the House to attend the funeral of the late Daniel Gold, for many years a faithful and useful assistant of the Clerk of this House, the House will adjourn at two o'clock to-day.

Mr. HUNT said that the gentleman whose funeral was referred to had been for many years a clerk in this House, and was well known to many of its members. He hoped there would be no objection to the adoption of the resolution.

And the question having been then taken, the resolution was adopted unanimously.

Mr. ROCKWELL, of Connecticut, now renewed his motion that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. HOUSTON, of Alabama, rose to ask information of the Chair, (as the reporter understood,) on the point, whether the bill to provide for the establishment of a board of commissioners to settle private claims shall retain its position as a special order.

Mr. ROCKWELL explained, that the bill had been made the special order of the day for a day certain, and for every other day until it should have been finally disposed of. He had himself introduced the resolution, and the terms of it were such as he had stated.

Mr. McCLELLAND said there were a number of bills from the Senate upon the Speaker's table, which he desired should be referred to the appropriate committees. He requested that the gentleman from Connecticut would waive his motion to go into committee, in order to allow these bills to be referred.

The SPEAKER said there were a large number of bills upon his table—some upon their first reading, and some upon amendments between the two Houses. If it was the pleasure of the House, the Speaker would proceed to dispose of them.

Mr. ROCKWELL said that, with the understanding that the motion to go into Committee of the Whole on the state of the Union after the bills had been referred should be renewed, he would waive it for the purpose indicated.

The SPEAKER said, by unanimous consent, he would lay the bills before the House.

No objection was made.

BILLS ON THE SPEAKER'S TABLE.

A bill from the Senate for the relief of William Plummer, executor of Starkey Armistead, deceased, was taken up, read twice, and referred to the Committee on the Judiciary.

The following House bills, which had been returned from the Senate with an amendment to each, were taken up, viz:

An act for the relief of Anthony Bessee.

An act to confirm Elizabeth Burriss, her heirs or assigns, in their title to a tract of land.

An act for the relief of James B. Davenport.

An act for the relief of John B. Smith and Simeon Darden.

An act to establish a collection district in the State of New York.

The amendment of the Senate to each bill was read and concurred in, and the title of the last bill amended so as to read, "An act to extend certain privileges to the town of Whitehall, in the State of New York."

MESSENGERS OF ELECTORAL COLLEGE.

A joint resolution from the Senate, entitled "A resolution relating to the compensation of persons appointed to deliver the votes for President and Vice President of the United States to the President of the Senate" came up.

The said resolution was read a first and second time.

The SPEAKER said that he had just received a memorial from messengers of the electoral college from the States of Michigan, Wisconsin, Ohio, Florida, and Vermont. It was very short, and, with the leave of the House, it would be read.

No objection having been made—

The memorial was read. [It prays for the passage of the joint resolution of the Senate, (now before the House,) and assigns reasons why the mileage should be increased, as contemplated by the resolution.]

The reading having been concluded—

Mr. VINTON moved that the memorial be referred to the Committee of Ways and Means.

In support of this motion—

Mr. VINTON said it would be borne in mind by the House, that the subject embraced in this resolution had been fully discussed and examined during the last session of Congress; and he thought, therefore, that the bill which had then been passed should not be repealed without some consideration.

The joint resolution now under consideration came here, as he supposed, predicated upon the supposition that these messengers should be entitled to receive as much mileage as was paid to members of Congress, which was the compensation that would be allowed to them if this joint resolution should become a law.

Mr. McCLELLAND interposed, and asked if the gentleman from Ohio [Mr. VINTON] would allow him to make an explanation.

Mr. VINTON having yielded the floor for the purpose—

Mr. McCLELLAND said that the joint resolution authorized only twenty-five cents a mile to be paid to the messengers, whereas the members of Congress received forty cents a mile.

Mr. VINTON resumed. If he understood the provision of the law which had been passed at the last session, it gave to a messenger from Texas or Louisiana some seven or eight hundred—and he was not sure but a thousand dollars—for coming here, delivering a letter, and going back again. This law paid them both ways. Now, the reasons which applied to members of Congress did not apply to these messengers. Members of Congress had a mileage allowed them beyond their traveling expenses for a reason—one of the best of all reasons, which had been assigned here at the last session—that was to say, that no gentleman could support himself and his family here upon the *per diem;* or, in other words, if he left his family at home, he could not support himself here and his family at home on the *per diem.* This mileage, therefore, was intended to make up, to some extent, for the great disadvantage that arose from their being subjected to the extra expense of maintaining their families here and for the necessary abandonment of their business at home; and it was for that reason that he had always thought that the distant members should be compensated in some way for the insufficiency of their pay.

But gentlemen who came here in the capacity of messengers bearing the electoral votes of their States, merely to deliver a letter, could, if they pleased, turn about and return home the very next day. All the gentlemen who had accepted this trust knew perfectly well what the law was. He did not know how the fact might be, but he would venture to predict that there were applications enough to bring these letters.

[A member here was understood to suggest twenty in each case.]

Mr. VINTON resumed. A gentleman near me suggests twenty, which I dare say is the fact. I hope that the joint resolution will be referred to the Committee of Ways and Means.

Mr. McCLELLAND said that he had listened attentively to the reasons which had been assigned by the chairman of the Committee of Ways and Means [Mr. VINTON] for the motion he had made, and that he thought they were insufficient. He did not think that any good or sufficient reason could be assigned why the disparity which existed between the mileage of members of Congress and the mileage of these messengers should be allowed to exist. So long as members received forty cents per mile, he could see no reason for the disparity.

Members of Congress received mileage at the rate of forty cents per mile. These messengers, under the law as it at present existed, received but twelve-and-a-half cents a mile. Some of the messengers had informed him that they did not know of the enactment of this law at the time they were selected in that capacity; and that, in his judgment, was one reason why the members of this House should vote in favor of the change contemplated by this joint resolution. If gentlemen would reflect upon the matter, they would perceive that it was as necessary for these messengers to make preparations for their journey to this capital as for members of Congress to do so, and probably a different kind of preparation from that which members themselves made; and that their expenses for so short a period might perhaps be greater than those of members. He thought, therefore, that the reasons given by the chairman of the Committee of Ways and Means were not applicable.

But as that gentleman had stated, the subject was fully discussed at the last session of Congress; and when he (Mr. McC.) had made the appeal to the gentleman from Connecticut [Mr. ROCKWELL] to withdraw his motion to go into Committee of the Whole on the state of the Union, in order that bills on the Speaker's table might be taken up and disposed of, it was under a promise that, so far as he (Mr. McC.) was concerned, there should be no discussion. He had felt constrained to make these few remarks in reply to the positions of the gentleman from Ohio, [Mr. VINTON.] He (Mr. McC.) thought every member was prepared now to vote. If he was not mistaken as to the operation of the rule, the demand for the previous question would not cut off the motion to refer the resolution to the Committee of Ways and Means, but that that would be the first question.

The SPEAKER assented.

Mr. McCLELLAND. Then I move the previous question, so as to bring the House to a vote on the engrossment of the joint resolution.

Mr. CONGER moved that the joint resolution be laid on the table.

Mr. McCLELLAND asked the yeas and nays on that motion; which were ordered.

Mr. VINTON rose to inquire of the SPEAKER whether he understood the Chair to decide that the previous question, if sustained, would cut off the motion to commit?

The SPEAKER replied, that the previous question would not cut off the motion to commit; but the question immediately before the House was on the motion of the gentleman from New York, [Mr. CONGER,] that the joint resolution be laid upon the table.

And the question, "Shall this joint resolution be laid on the table?" was then taken, and decided in the negative—yeas 52, nays 122—as follows:

YEAS—Messrs. Abbott, Bayly, Bedinger, Boyden, Bridges, William G. Brown, Burt, Chapman, Beverly L. Clarke, Conger, Cranston, Crisfield, Daniel, Duer, Garnett Duncan, Eckert, Embree, Alexander Evans, Nathan Evans, Fisher, Freedley, Giddings, Gott, Greeley, Hill, Elias B. Holmes, Hubbard, George W. Jones, Kennon, Daniel P. King, Wm. T. Lawrence, Lord, McDowell, McKay, Nelson, Palfrey, Preston, Rose, Root, Rumsey, St. John, Shepperd, Sherrill, Truman Smith, Thomas, John B. Thompson, Toombs, Vinton, Wallace, White, Wick, and Wilson—52.

NAYS—Messrs. Adams, Barrow, Belcher, Birdsall, Blackmar, Botts, Bowlin, Brady, Charles Brown, Butler, Cabell, Canby, Cathcart, Franklin Clark, Clingman, Williamson R. W. Cobb, Cocke, Collamer, Collins, Cummins, Darling, Dickey, Dickinson, Dixon, Donnell, Dunn, Edwards, Faran, Farrelly, Featherston, Ficklin, Flournoy, French, Fulton, Gaines, Gayle, Goggin, Green, Gregory, Grinnell, Nathan K. Hall, Hammons, Moses Hampton, Harmanson, Harris, Henley, Henry, Hilliard, George S. Houston, John W. Houston, Hudson, Inge, Charles J. Ingersoll, Irvin, Iverson, Jameson, Jenkins, James H. Johnson, Robert W. Johnson, Kaufman, Lahm, La Sere, Sidney Lawrence, Leffler, Ligon, Lincoln, McClelland, McClernand, McIlvaine, McLane, Job Mann, Horace Mann, Marsh, Meade, Morehead, Morris, Morse, Mullin, Murphy, Nicoll, Outlaw, Peaslee, Peck, Pettit, Peyton, Phelps, Pilsbury, Pollock, Putnam, Richardson, Richey, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Sawyer, Schenck, Silvester, Simpson, Robert Smith, Stanton, Starkweather, Charles E. Stuart, Strohm, Strong, Taylor, Thibodeaux, Jas. Thompson, Jacob Thompson, Richard W. Thompson, Robert A. Thompson, William Thompson, Thurston, Tuck, Turner, Van Dyke, Venable, Warren, Wentworth, Wiley, Williams, and Woodward—122.

So the House decided that the joint resolution should not be laid on the table.

The question recurring on seconding the demand for the previous question, was taken, and decided in the affirmative.

The main question was then ordered to be now put, being first on the reference of the joint resolution to the Committee of Ways and Means; and, being taken, was decided in the negative: Ayes 65, noes 67.

So the House refused to refer the resolution.

The resolution was then ordered to be read a third time; and having been read, the question was on its passage.

Mr. McCLELLAND moved the previous question.

Mr. GREELEY inquired of the SPEAKER if it was now too late to object to the third reading today? If it was not, he objected.

The SPEAKER replied that it was too late, as the joint resolution had already received its third reading.

The demand for the previous question was seconded—ayes 87, noes 31; and the main question was ordered, being upon the passage of the resolution.

Mr. HOLMES, of New York, demanded the yeas and nays, which were ordered; and being taken, resulted—yeas 114, nays 62—as follows:

YEAS—Messrs. Barrow, Belcher, Bingham, Birdsall, Blackmar, Botts, Brady, Brodhead, Charles Brown, Butler, Cabell, Canby, Cathcart, Franklin Clark, Williamson R. W. Cobb, Cocke, Collamer, Collins, Cummins, Darling, Dickey, Dickinson, Dixon, Dunn, Edwards, Faran, Featherston, Ficklin, Flournoy, French, Fulton, Gayle, Goggin, Green, Gregory, Grinnell, Hammons, James G. Hampton, Moses Hampton, Harmanson, Harris, Henley, Henry, Hilliard, George S. Houston, John W. Houston, Inge, Charles J. Ingersoll, Irvin, Iverson, Jameson, Jenkins, James H. Johnson, Robert W. Johnson, Kaufman, Lahm, La Sère, Leffler, Ligon, Lincoln, McClelland, McClernand, McIlvaine, McLane, Job Mann, Moses, Horace Mann, Marvin, Meade, Morehead, Morris, Morse, Mullin, Murphy, Newell, Outlaw, Peaslee, Pendleton, Pettit, Peyton, Phelps, Pilsbury, Pollock, Putnam, Richardson, Richey, Robinson, Rockhill, John A. Rockwell, Sawyer, Silvester, Simpson, Caleb B. Smith, Stanton, Starkweather, Stephens, C. E. Stuart, Strohm, Taylor, Thibodeaux, Jacob Thompson, Richard W. Thomson, Robert A. Thompson, William Thompson, Thurston, Tompkins, Turner, Van Dyke, Venable, Warren, Wentworth, Wiley, Williams, and Woodward—114.

NAYS—Messrs. Abbott, Adams, Bayly, Bowlin, Boyden, William G. Brown, Burt, Beverly L. Clarke, Clingman, Conger, Cranston, Crisfield, Daniel, Donnell, Duer, Garnett Duncan, Eckert, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Freedley, Giddings, Gott, Greeley, Hill, Elias B. Holmes, Hubbard, Joseph R. Ingersoll, George W. Jones, Kennon, Daniel P. King, William T. Lawrence, Sidney Lawrence, Lord, McKay, Marsh, Nelson, Nicoll, Palfrey, Petrie, Preston, Julius Rockwell, Rose, Root, Rumsey, St. John, Shepperd, Sherrill, Smart, Truman Smith, Strong, Thomas, James Thompson, John B. Thompson, Toombs, Vinton, Wallace, White, Wick, and Wilson—62.

So the resolution was passed.

Mr. McCLELLAND moved to reconsider the vote, and moved to lay that motion on the table; which was agreed to.

Mr. MOREHEAD moved that the vote by which was passed the bill of the Senate for the relief of James G. Carson be reconsidered; which motion to reconsider was postponed for the present.

Bills from the Senate of the following titles were severally read twice and referred, as follows:

An act to provide for the sale of lands purchased by the United States from the Saginaw tribe of Chippewa Indians in the State of Michigan: referred to the Committee on Indian Affairs.

An act for the relief of Henry D. Garrison: referred to the Committee on Indian Affairs.

An act for the relief of Thomas W. Chinn and others: referred to the Committee on Claims.

An act to authorize the Secretary of War to make reparation for the killing of a Caddo boy, by volunteer troops in Texas: referred to the Committee on Military Affairs.

An act to authorize the issuing of a register or enrolment to the ship Annie Tift: referred to the Committee on Commerce.

The joint resolution from the Senate entitled "A joint resolution for the relief of Major R. L. Baker of the ordnance corps," was read twice and referred to the Committee on Military Affairs.

The bill from the Senate entitled "An act in addition to the act entitled 'An act to incorporate the Washington, Alexandria, and Georgetown Steam Packet Company'" was read twice; when—

Mr. EDWARDS moved to amend the same, by adding thereto the following as an additional section, viz:

SEC. 2. *And be it further enacted,* That no suit or action depending in any court whatsoever, in which the said corporation is plaintiff or defendant, shall abate or be discontinued by reason of the expiration of the original charter of the said corporation, but the same shall continue and be prosecuted in all respects as if the said charter had not expired; and the President and Directors who were in office

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at the time it expired shall continue in office under and by virtue of this act, until others shall be duly chosen in their places.

Which was agreed to.

Mr. EDWARDS moved that the bill be put on its passage. It was merely the extension of an act which had expired on Monday last, and it was necessary that it should be passed.

The bill was read.

Mr. JONES, of Tennessee, proposed to move to amend the bill by adding another section.

Mr. EDWARDS said there was an amendment pending, which might answer the purpose the gentleman had in view. He asked that it be read.

The amendment was read accordingly.

Mr. JONES, of Tennessee, moved to amend the amendment, by inserting at the end thereof a proviso making the stockholders liable, in their individual capacity, for all the debts of the corporation.

The SPEAKER said, the first question would be on the motion of the gentleman from Ohio, [Mr. EDWARDS.]

And the question was taken thereon, and decided in the affirmative.

So the amendment was adopted.

The question then recurring on the amendment proposed by the gentlemen from Tennessee, [Mr. JONES]—

Mr. PETTIT asked the yeas and nays thereon, which were ordered.

Mr. NICOLL rose to inquire of the Speaker whether the amendment was amendable?

The SPEAKER replied in the affirmative.

Mr. NICOLL then offered the following amendment to the amendment:

Provided, That such individual liability shall only extend to embrace an amount equal to double the amount of stock owned by each stockholder.

Mr. JONES remarked that he was opposed to this Government passing any law placing it in the power of any incorporated company to swindle honest men out of their rights.

Mr. ROCKWELL, of Connecticut, demanded the previous question.

In reply to an inquiry, the SPEAKER said that that motion would not cut off the motion of the gentleman from New York, [Mr. NICOLL.]

Tellers were called for and ordered on the demand for the previous question; and Messrs. STUART of Michigan and WILSON were appointed.

And the vote having been taken, stood—ayes 58, noes 42.

But no quorum voted.

Several other members presented themselves, and were counted either in the affirmative or negative; and the vote was finally decided to be—ayes 69, noes 47: a quorum voting.

So there was a second to the demand for the previous question.

And the main question was ordered to be now taken, (which main question was first on the amendment proposed by Mr. NICOLL to the amendment of Mr. JONES.)

The reading of the amendment was again called for.

Mr. JONES said that he had reduced his amendment to writing.

And it was read, as follows:

And be it further enacted, That each stockholder in said corporation shall be liable, in his individual capacity, for the debts and liabilities of said corporation, and an execution issued on a judgment against the company may be levied upon and satisfied out of the property of any one or more of the stockholders.

Mr. ROBINSON demanded the yeas and nays on the amendment to the amendment; which were not ordered.

Mr. MORSE rose (he said) to a point of order. He desired to be informed whether the amendment of the gentleman from New York [Mr. NICOLL] was not out of order, by being in contradiction, in direct opposition, to the amendment of the gentleman from Tennessee, [Mr. JONES.]

The SPEAKER. The Manual expressly states, that the Speaker has no right to decide questions of consistency. It was for the House to decide what is consistent and what is not. The question before the House is on the adoption of the amendment to the amendment.

And the question was taken, and decided in the negative.

So the amendment to the amendment was rejected.

The question then recurred on the adoption of the amendment of the gentleman from Tennessee, [Mr. JONES;] upon which question (as heretofore stated) the yeas and nays had been ordered.

And the question, "Shall the amendment be adopted?" was taken, and decided in the negative: Yeas 89, nays 91—as follows:

YEAS—Messrs. Bayly, Bedinger, Belcher, Bingham, Birdsall, Bocock, Bowlin, Bridges, Brodhead, W. G. Brown, Chas. Brown, A. G. Brown, Franklin Clark, B. L. Clarke, W. R. W. Cobb, Cocke, Collins, Cummins, Daniel, Darling, Faran, French, Fries, Green, Willard P. Hall, Harmanson, Harris, Henley, Hill, G. S. Houston, Inge, Chas. J. Ingersoll, Irvin, Iverson, Jameson, Jenkins, Andrew Johnson, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, Lahm, La Sere, Sidney Lawrence, Leffler, Ligon, Lord, Lumpkin, McDowell, McKay, McLane, Job Mann, Miller, Morris, Morse, Newell, Peaslee, Peck, Pettit, Peyton, Phelps, Pilsbury, Richardson, Richey, Robinson, Rockhill, Sawyer, Simpson, Smart, Robert Smith, Stanton, Starkweather, Charles E. Stuart, Strong, Thomas, James Thompson, Jacob Thompson, Robert A. Thompson, William Thompson, Thurston, Tompkins, Turner, Venable, Wallace, Wentworth, Wick, Wiley and Williams—89.

NAYS—Messrs. Abbott, Adams, Barrow, Blackmar, Botts, Boyden, Brady, Buckner, Burt, Butler, Cabell, Canby, Chapman, Clingman, Collamer, Conger, Cranston, Crisfield, Crowell, Dickey, Dixon, Donnell, Duer, Dunn, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, Fulton, Gaines, Giddings, Goggin, Gott, Greeley, Gregory, Grinnell, Nathan K. Hall, Moses Hampton, Henry, Hilliard, Elias B. Holmes, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, Daniel P. King, William T. Lawrence, Lincoln, McIlvaine, Marsh, Marvin, Morehead, Mullin, Murphy, Nelson, Nes, Nicoll, Outlaw, Palfrey, Pendleton, Petrie, Pollock, Preston, Julius Rockwell, John A. Rockwell, Rose, Root, Ramsey, St. John, Schenck, Sheppard, Sherrill, Silvester, Caleb B. Smith, Truman Smith, Strohm, Taylor, Richard W. Thompson, John B. Thompson, Toombs, Tuck, Van Dyke, Vinton, Warren, White, and Woodward—91.

So the amendment of Mr. JONES was rejected.

The question then recurred on ordering the bill to a third reading; and having been taken and decided in the affirmative—

The bill was read a third time.

And the question now being upon its passage—

Mr. JONES inquired of the Speaker if it was in order to move an amendment?

The SPEAKER. No amendment is in order after the third reading.

Mr. JONES. Is it in order to move to recommit with instructions to amend?

The SPEAKER. Not with instructions *to amend*.

Mr. THOMPSON, of Mississippi, rose and addressed the Chair.

Mr. JONES claimed the floor.

Mr. THOMPSON said he had merely risen to inquire whether this corporation was authorized to issue promissory notes, or a circulation of any kind? Had they the right to do it?

No formal answer was given to the inquiry.

Mr. JONES continued. There was another amendment which he thought important, and which would no doubt readily suggest itself to the minds of the members of this House, from the recent experience they had had of the proceedings of some corporations, and especially of a steamboat company in connection with a railroad and the subject of carrying the mails.

Mr. EDWARDS rose to explain.

Mr. JONES yielding the floor—

Mr. EDWARDS said, that the company referred to in this bill had no connection with any other company.

Mr. JONES continued. I say we have had experience in the case of a steamboat company as connected with a railroad company in carrying the mail.

Mr. EDWARDS. This company has nothing to do with it.

Mr. JONES. I do not know that it has. I suppose it has not.

Mr. EDWARDS desired to inquire of the Speaker whether debate was in order.

The SPEAKER said it was in order.

Mr. JONES continued. Perfectly in order, he said. In chartering a company, Congress should make some provision in respect to the transportation of the mail in case the service should be required to be done by their boat. The company was to ply between this city, Georgetown, and Alexandria. They might drive all other boats out of competition, and they might then prescribe their own terms in carrying the mail. Probably the boat from hence which connected with the Richmond railroad might carry the mail, but circumstances might arise requiring the mail to be carried by these boats in the absence of others which might be driven out by them. And as it was not in order to move to amend the bill, he intended to move to recommit it to some committee—perhaps the Committee on the District of Columbia—in order that the Committee might investigate the subject, and see what were the powers which Congress was granting to this company by reviving and extending its charter.

The powers and privileges conferred upon this company were not specified, but were, he presumed, contained in the bill which this bill revived, or rather extended; and what might have been thought very appropriate in an act of incorporation of this description twenty years ago, might be considered at this day to be altogether contrary to the true policy of the country, and even to the powers of the Congress of the United States. And, as had been suggested by a gentleman near him, a portion of this District which was incorporated in it at the time the former act was passed, had been retroceded. Alexandria was not now within the District of Columbia. Alexandria was not now under the exclusive jurisdiction of the Congress of the United States; and there might be something in the terms of the act now proposed to be extended which might be inconsistent with the powers and duties possessed by Congress in making laws.

On another point, too, that of carrying the mail, he thought it was all-important that some provision should be made by which this company should be required either to carry the mail without charge, or to carry it upon such terms as should be prescribed by Congress, and tendered to them by the Post Office Department.

In this connection, he might with propriety refer to the course which had been adopted by the Legislatures of the States. He might refer, for example, to the State of New York, which compelled all her carrying or railroad corporations to perform this service under heavy penalties. He might refer, also, to a more recent act which had been passed by the Legislature of Virginia, in which he believed there was a provision requiring all the railroad companies to carry the mail on such terms as might be prescribed by Congress.

At this point of the remarks of Mr. JONES,

The SPEAKER interposed and said, that in pursuance of the order of the House this day adopted, the hour of two having arrived the House stood adjourned until to-morrow at twelve o'clock.

And, thereupon, the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred.

By Mr. NICOLL: The petition of Francis Bradley, Edmund Power, and 143 others, of the city of New York, asking for a reduction of postage on letters and newspapers, and for the abolishing of the franking privilege. Also, the petition of William S. Wetmore, Robert D. McEwen, S. T. Armstrong, and others, of the city of New York, asking for the admission of *gutta percha* free of duty.

By Mr. TAYLOR: The petition of A. Ruckman and 55 others, citizens of Pike and Scioto counties, in the State of Ohio, praying Congress to establish a new post route between Piketon and the Ruckman and Galford settlement, on Little Scioto creek, in Union township, in Pike county, Ohio.

By Mr. ROCKWELL, of Massachusetts: The petition of Thomas Robinson and 17 others, citizens of North Adams, Massachusetts, praying for a reduction of postage, &c.

By Mr. MANN, of Pennsylvania: The petition of Joseph Shoemaker, Isaac N. Hodge, and 124 others, citizens of Armstrong county, Pennsylvania, praying for a mail route from Kittaning, in said county, by way of Cochran's Mills, to Apollo, a distance of 24 miles.

IN SENATE.

FRIDAY, *January* 5, 1849.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, enclosing the report of the Commissioner of Pensions; which was referred to the Committee on Pensions, and ordered to be printed.

The VICE PRESIDENT also laid before the Senate a communication from the Secretary of War, containing a report of the expenses of the national armories for the year ending June 30, 1848.

The VICE PRESIDENT also laid before the Senate a communication from the Secretary of War, enclosing a report of the expenditures from the appropriations for contingencies of the department during the year ending 30th June, 1848.

MEMORIALS AND PETITIONS.

Mr. ATCHISON presented the memorial of Henry C. Miller and Philip W. Thompson, praying compensation for certain depredations committed by the Osage Indians on the Santa Fé road; which was referred to the Committee on Indian Affairs.

Mr. HANNEGAN presented a petition from a number of colored persons of Indiana and other States, praying that Government vessels may be allowed to carry colored emigrants to Africa, when such vessels are ordered thither; which was referred to the Committee on the Judiciary.

Mr. FELCH presented the petition of citizens of Ypsilanti, Michigan, asking for a reduction of postage and free transmission of newspapers within a certain distance; which was referred to the Committee on the Post Office and Post Roads.

Mr. DIX presented the petition of Priscilla Decatur Twiggs, praying to be allowed a portion of prize money due her uncle, Stephen Decatur, on account of the recapture of the frigate Philadelphia at Tripoli; which was referred to the Committee on Naval Affairs.

Mr. BORLAND presented the petition of Joseph Kerwin, late sergeant in the sixth United States infantry, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. BORLAND presented the petition of Thomas and Elizabeth Armstrong, praying compensation for losses of property by the Creek Indians; which was referred to the Committee on Indian Affairs.

Mr. RUSK presented the petition of Samuel Jones, surviving partner of the firm of E. P. Calkins & Co., asking the return of duties exacted from him in the name of the Republic of Texas, after her annexation to the United States; which was referred to the Committee on Claims.

Mr. BRIGHT presented papers in relation to the claims of the heirs of Joshua Eddy, an officer of the revolutionary army; which was referred to the Committee on Revolutionary Claims.

Mr. STURGEON presented the petition of a number of citizens of Mercer county, Pennsylvania, praying the restoration of the tariff of 1842; which was referred to the Committee on Finance.

Mr. DICKINSON presented additional papers in relation to the petition of merchants of New York, praying for a return of duties on goods destroyed by the great fire: which was referred to the Committee on Finance.

Mr. WESTCOTT presented additional evidence in relation to the claim of Manuel X. Harmony; which was laid on the table.

On motion of Mr. DOWNS, leave was given to withdraw the papers in the case of Peter Randon.

On motion of Mr. STURGEON, the papers in relation to the claim of the legatees of Thomas J. Anderson were taken from the files of the Senate, and referred to the Committee on Foreign Relations.

REPORTS FROM COMMITTEES.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported a bill for the relief of William Barton and other surviving children of General William Barton; which was read a first time.

Mr. BALDWIN, from the Committee on Claims, reported, without amendment—

House bill for the relief of the widow of Lieutenant Richard E. Cochran, deceased;

House bill for the relief of A. C. Bryan and others;

House bill for the relief of the legal representatives of Robert Fulton, deceased.

Mr. UNDERWOOD, from the Committee on Claims, reported, without amendment, a bill for the relief of Theodore Offutt.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, made an adverse report on the joint resolution explanatory of the act of June 2, 1848, entitled "An act to refund money for expenses incurred, subsistence or transportation furnished, for the use of volunteers during the present war, before being mustered and received into the service of the United States," and asked to be discharged therefrom.

Mr. BRADBURY, from the Committee on Claims, made an adverse report on the petition of E. P. Calkins, of Galveston, Texas.

BILLS ON LEAVE.

Mr. BORLAND, pursuant to notice, asked and obtained leave to introduce a bill to grant to the State of Arkansas the Hot Spring reservation, in that State, and for other purposes; which was read a first and second time, and referred to the Committee on Public lands

Mr. ATCHISON, pursuant to notice, asked and obtained leave to introduce a bill granting to the State of Missouri a right of way and a donation of public lands, for making a railroad from Lexington, on the Missouri river, to Ohio City, at the mouth of the Ohio river, in said State; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. DIX, pursuant to notice, asked and obtained leave to introduce a bill to authorize an appropriation for removing the rocks at Hurl Gate and the reefs in the harbor of New York; which was read a first and second time, and referred to the Committee on Commerce.

PURCHASE OF CUBA.

The following resolution, offered by Mr. MILLER, December 18, was taken up for consideration:

Resolved, That the President of the United States be requested to inform the Senate whether any and what negotiations or correspondence have taken place between this Government and the Government of Spain, or between any persons acting under the direction or authority of either Government, in relation to the purchase of Cuba by the United States; and that he communicate to the Senate copies of such negotiations or correspondence, so far as the same may be communicated consistently with the public interest.

Opposition being manifested—

Mr. MILLER called for the yeas and nays on the adoption of the resolution, but the call was not sustained.

Mr. RUSK moved to lay the resolution on the table, but withdrew the motion.

Several SENATORS called for the yeas and nays on this motion.

Mr. MILLER rose to offer some explanations concerning the resolution; when—

Mr. DICKINSON said the question was not now debatable.

Mr. MILLER. I hope that the Senator who moved to lay the resolution on the table will withdraw his motion, in order to allow me an opportunity to say a few words in explanation.

Mr. RUSK. I have no objections, so far as the subject is under my control, to allow the gentleman from New Jersey to offer any explanations he may be pleased to make. For one, I do not believe that any such negotiations or correspondence have been entered into by the two Governments named in the resolution; and the only authority for entertaining any such belief, on the part of any one, is a few vague rumors which have been circulated in some of the newspapers.

Mr. MILLER. I would state to the Senate that this resolution is in the ordinary form of resolutions of inquiry of this nature. The answer to the resolution is submtted to the discretion of the President. If he thinks it inconsistent with the public interest to give the information asked for, he may decline to furnish it.

When the resolution was called up a few days since, the Senator from Georgia [Mr. BERRIEN] suggested to the Senate that it was not strictly in order to present a resolution of this kind in open Senate, but that it should be made the subject of executive session. Since that time I have been looking into the precedents of this kind, and I find abundance of them, which authorized the presentation of this resolution in open Senate.

Resolutions requiring information from the President in regard to correspondence between this Union and other nations might, perhaps, develop matters which it would be more proper to deliberate and act upon in executive session. But in the cases of the negotiations between this Government and Mexico, and in the negotiations with regard to the annexation of Texas, and the negotiations between this Government and Great Britain in relation to the Territory of Oregon, resolutions of this kind were offered and received in open Senate. Therefore the resolution is not subject to any objection of that character.

Again: I consider that the subject-matter of this resolution is not of the ordinary character. This matter of purchasing foreign nations, people, and territories is not of the ordinary character of the negotiations between nations. Hence I deemed it proper to offer this resolution, for the purpose of informing the country whether any negotiations of this kind have been carried on between this and the Spanish Government.

My impression at the time I offered the resolution was, and still is, that if any such negotiations between the two nations are in progress, the country ought to be informed of the fact: the country should know it before the object of the negotiations is consummated; and it was for this purpose that I presented the resolution.

Mr. RUSK. I wish simply to ask the honorable Senator from New Jersey if he entertains any suspicion that such negotiations or correspondence are or have been in progress?

Mr. MILLER. Since the honorable Senator from Texas has propounded the question, I must say that I have such suspicions. I know very well, sir, that the pretty general impression of the country is, that something of the kind has been going on, and my only object in offering the resolution was to elicit the truth, and quiet the public mind.

Mr. FOOTE. From the manner in which this subject has been introduced by the Senator from New Jersey, I feel myself authorized to propound an inquiry to him, which he may answer or not, at his pleasure and discretion. I wish to know whether, in the event of his ascertaining that any correspondence or negotiations in reference to this subject have actually taken place, he is prepared to assume an attitude hostile to the annexation of Cuba to this country, and whether he is or is not prepared to act upon the subject? If he is not prepared to act, then I think there is no necessity for this resolution. If, however, the Senator from New Jersey, in the event of such a correspondence or negotiation having actually occurred, or being in progress, intends to throw obstacles in the way, for the purpose of preventing its consummation, there is some reason for his resolution; but if he intends to remain inactive, and is resolved that no action shall follow after the information shall be obtained, I must repeat that I see not the slightest reason whatever for the passage of the resolution.

Mr. DICKINSON. I renew the motion to lay the resolution on the table.

Mr. MILLER. I hope the honorable Senator from New York will withdraw his motion for a moment, in order that I may reply to the question of the Senator from Mississippi.

Mr. DICKINSON. I will withdraw my motion if the Senator from New Jersey will renew it after he has made his reply.

Mr. MILLER. I would not like to renew the motion to lay the resolution on the table myself, but I have no doubt others will do it. The gentleman can renew it himself.

Mr. DICKINSON. I will withdraw my motion for the present.

Mr. MILLER. Mr. President, perhaps it would be wise in me to reserve my answer to the question of the Senator from Mississippi till the facts of the case are laid before the country. But I have no desire to conceal my opinions or intentions in regard to this matter. My own opinion is made up upon this subject, and I do not hesitate to say that I shall be opposed to the annexation of Cuba to this country at all times and under all circumstances.

Mr. FOOTE. I would simply state, that if such be the determination of the honorable Senator from New Jersey, he will find himself in an awkward position in less than four months, for the President elect is decidedly in favor of the annexation of Cuba, and has so declared himself.

Mr. DICKINSON renewed his motion to lay the resolution on the table.

Mr. HALE called for the yeas and nays, which were ordered, and resulted as follows:

YEAS—Messrs. Atchison, Atherton, Berrien, Borland, Bradbury, Breese, Dickinson, Douglas, Downs, Felch, Fitzgerald, Fitzpatrick, Foote, Houston, Hunter, Johnson of Louisiana, Jones, King, Mason, Rusk, Sebastian, Turney, and Yulee—23.

NAYS—Messrs. Baldwin, Benton, Clarke, Clayton, Corwin, Davis of Massachusetts, Dayton, Dix, Hale, Hamlin, Metcalfe, Miller, Niles, Pearce, Phelps, Spruance, Underwood, Upham, and Westcott—19.

So the resolution was laid on the table.

RESOLUTIONS.

Mr. DOWNS presented the following resolution; which was considered and agreed to:

Resolved, That all memorials, petitions, or other papers, referred to the committees of the Senate at the last session, and remaining before them at its close, be recommitted to the same committees.

Mr. BELL submitted the following resolution; which was agreed to:

Resolved, That the memorials and all other papers or matters referred to the Committee on Indian Affairs at the last session of Congress, and which were not reported on by the committee, be now recommitted to said committee.

Mr. JONES submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on Pensions be instructed to inquire into the expediency of increasing the pension of Isaac W. Griffith, of Iowa, on account of the loss of his right arm whilst in the service of his country at Churubusco, in Mexico.

A bill from the House of Representatives to amend an act supplementary to an act for the admission of the States of Iowa and Florida into the Union, was read a first and second time, and referred to the Committee on the Judiciary.

Mr. JOHNSON, of Louisiana, moved that the Senate proceed to the consideration of the private calendar; but before the question was put—

On motion of Mr. KING, the Senate proceeded to the consideration of Executive business; after which the doors were reopened, and

The Senate adjourned till Monday.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 5, 1849.

The Journal of yesterday was read and approved.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. BOYDEN, from the Committee on Elections, submitted the views of the minority of said committee on the claims of Mr. HENRY H. SIBLEY to a seat upon the floor of the House, as a delegate from the Territory of Wisconsin; which was laid upon the table, and ordered to be printed.

Mr. ROCKWELL then renewed his motion to go into committee.

Mr. HOUSTON, of Alabama, said that the report of the "Globe," in recording the proceedings of the House on the bill making appropriations to supply certain deficiencies in appropriations, reported him as having voted in favor of striking out the proviso in relation to the employment of a messenger in the office of the Sergeant-at-arms. This was a mistake: he had voted against striking out; and he desired that if the error appeared on the Journal, it might be corrected.

The SPEAKER said, that if the vote of the gentleman had been incorrectly recorded, the Journal would be corrected.

The question then recurred on the motion of Mr. ROCKWELL to go into Committee of the Whole on the state of the Union.

Mr. LIGON said, he presumed that the object of the gentleman from Connecticut, [Mr. ROCKWELL,] in the motion he had submitted, was to proceed with the consideration of the bill to provide for the establishment of a board of commissioners to settle private claims. He (Mr. L.) hoped that the House would not proceed to the consideration of that bill. This day was that which was known to the rules as objection day, when many claims might be disposed of. He hoped the House would proceed to the consideration of the private calendar.

Mr. ROCKWELL said it was well known that he had always been in favor of giving to private claimants the benefit of those days which had been set apart by the rules for the consideration of their cases; but it so happened that the bill to provide for the establishment of a board of commissioners to settle private claims must be disposed of to-day and to-morrow, or upon some other private-bill day, or he apprehended that it could not be disposed of at all. It would be recollected by gentlemen, that, by a vote of the House, the Committee of Ways and Means had procured the adoption of a rule giving priority to all the appropriation bills. Under these circumstances, it was necessary that the bill should be considered att his time. He must therefore adhere to his motion.

Mr. KAUFMAN rose to inquire of the Speaker whether a motion to go into Committee of the Whole on the private calendar, if it should now be submitted by him, would not have preference over a motion to go into Committee of the Whole on the state of the Union?

The SPEAKER answered, that the motion to go into Committee of the Whole would have the preference over the motion of the gentleman from Connecticut, [Mr. ROCKWELL,] because this day was set apart for the consideration of private bills.

Mr. KAUFMAN. Then I make the motion, and hope it will be agreed to.

Mr. ROCKWELL hoped that the gentleman from Texas [Mr. KAUFMAN] would consent that the question should be first taken on the motion which he (Mr. R.) had submitted.

Mr. KAUFMAN did not assent.

So the question was stated by the Speaker to be on the motion that the House resolve itself into Committee of the Whole for the purpose of proceeding to the consideration of the private calendar.

Mr. JONES, of Tennessee, rose and said, that he had understood from one of the proprietors of the "Globe" that the copy of the vote which had been furnished to that paper, on his (Mr. J.'s) amendment yesterday submitted to the Washington, Georgetown, and Alexandria steamboat company bill, in relation to the liability of individual stockholders, gave the aggregate vote as 94 in the affirmative and 87 in the negative.

He merely wished to call the attention of the Speaker and of the Clerk to the point, so that an examination might be made by the Clerk, and the true state of facts be ascertained; so that if there was any mistake on the Journal, it might be corrected.

The SPEAKER said the Clerk would state the vote as recorded on the Journal.

The CLERK read as follows: "Eighty-nine in the affirmative, ninety-one in the negative."

[This is the vote announced by the SPEAKER yesterday, and as set forth in the "Globe" of this morning.]

The question then again recurred on the motion of Mr. KAUFMAN, that the House resolve itself into Committee of the Whole on the private calendar.

Tellers (Messrs. CLINGMAN and KAUFMAN) were appointed.

And the question was taken and decided in the negative—ayes 47, noes 74.

So the House refused to go into Committee of the Whole on the private calendar.

And the question then recurred and was taken on the motion of Mr. ROCKWELL, and decided in the affirmative.

BOARD TO SETTLE PRIVATE CLAIMS.

So the House resolved itself into Committee of the Whole on the state of the Union, (Mr. BURT, of South Carolina, in the chair.)

The CHAIRMAN stated the first business before the committee to be the bill, heretofore under consideration, to provide for the establishment of a board of commissioners to settle private claims.

Mr. STRONG was entitled to the floor.

Mr. GOGGIN rose and said that he did not wish to interfere with the business before the committee. He supposed that the bill designated by the chairman was regularly before it. But he desired to be informed whether it would be in order for him to move to postpone the consideration of that bill, with a view to take up the bill to regulate the rates of postage?

The CHAIRMAN thought not, he said.

Mr. STRONG then took the floor, and addressed the committee during the greater part of the allotted hour.

He said it was a matter of some regret to him that he had not made the observations he proposed to submit to the committee on the day on which this bill had first been brought up for consideration. It was not his intention then, nor did he propose now, to enter very much at large into the discussion. He had yielded on a former day to what appeared to be the manifest desire of the committee, that an adjournment should take place; and he feared that, by so doing, he had led gentlemen to expect from him a more particular investigation of the provisions of the bill than he felt disposed to bestow upon them.

He confessed that he felt a deep interest in the fate of this bill. It proposed a remedy for an evil, the existence of which was universally admitted. It was not often that as much unanimity of sentiment was found in this Hall, as had been exhibited in the opinion, that the present mode of settling private claims against the Government of the United States was utterly inadequate for the purpose designed to be accomplished—that it was alike unjust to individuals and unjust to the Government.

Nor was it here alone that the voice of condemnation against the existing system had been heard. The language of complaint had come up to this Capitol from all parts of the country; and they were often reproached for the injustice they were doing to the Government, and to those having meritorious claims upon the Government, who had a right to demand an early hearing, and a speedy adjudication of their claims.

It was undoubtedly true that the grounds of complaint in respect to the present system were very different. Some there were who complained of it as being substantially a denial to meritorious citizens of their right to recover what was justly their due; and not only a denial of that, and a withholding of their dues, but as being a refusal to permit them to be heard before the only tribunal known to the Constitution and the laws of the country for the adjustment of these claims.

There were others who complained of the system as being the means of permitting unfounded claims against the Government to be prosecuted to a successful termination; and they were told that many frauds had been perpetrated on the treasury of the nation.

There could be no doubt that both these causes of complaint existed. There could be no doubt that they were well founded; and what was more, that the cause of complaint was increasing from year to year. In the early history of the Government, the claims presented against it were, comparatively speaking, but few in number. They were about one-sixth of those which were now presented from year to year; and even whilst the number was thus small, the tribunal was never fitted for their adjudication. Yet the evil was not so universally felt as it was at the present time.

But it was to be remembered, that from the foundation of the Government to this hour these claims had been growing in number and in magnitude. They had kept even pace with the population and wealth of the country; and as our population at this time was about six times as large as it was at the date of the adoption of the Constitution of the United States, so were these claims in number about six times as many as were presented at the time the Constitution went into operation. Many of these claims, beyond doubt, were just. No man in this House would hazard his reputation by the assertion that all of them were ill-founded. Some of them certainly were meritorious. They were such as, if they were made by one citizen against another, would, by universal sentiment, be declared fit subjects for speedy settlement and early adjudication. They were not less just because they were made against the Government, and not against individuals. They were not the less due to the citizen than they would be if his claim had been against a fellow-citizen, and not against the Government. And yet many of these claims had been upon the calendar for the period of ten, fifteen, or twenty years, and were no nearer to adjudication now than they were on the first day on which they had been presented.

Now, if it were in the power of Congress to devise any system which would give to these meritorious claimants an earlier hearing; if it were in the power of Congress to devise a system by which those claims could be adjudicated at an earlier day than that at which they could now be adjudicated, he asked whether a refusal to do so was not tantamount to a denial of justice? It was more: it was, in many cases, a denial of an express constitutional right. There were many cases—some he himself knew, and he doubted not there were many—where private property had been impressed—taken for public use. Now, the Constitution of the United States, in one of its provisions, had de-

clared that private property should not be taken for public use without just compensation. And the obvious meaning of the Constitution was, that compensation should be made at the time the private property was impressed. And if those individuals whose property was thus taken for public use—thus impressed—must continue, as under the present system they were compelled to do, to knock at the doors of Congress in vain from year to year, when it was in the power of Congress to provide the means of a more speedy settlement, what, he would ask, was this constitutional provision worth? What was the value of the right thus guaranteed by the Constitution of the land?

But many of these claims were unfounded—many of them were unjust; and yet, under the present system, the very nature of the tribunal before which they were adjudicated—the character of the evidence by which they were substantiated, and the impossibility of giving such an examination as the merits of the different cases required, only invited the presentation of claims that were manifestly unfounded.

What had been the past history of our legislation? No man doubted that many of these unfounded claims had been successful, both in this and the other House of Congress; that they had passed with very little examination; that they had passed under misapprehension; and that they had frequently been forced upon them in the form of riders to the civil and diplomatic appropriation bill, or some other public statute.

All these things were admitted. But what could be done? What remedy was to be proposed for evils which were so manifest as to be apparent to every member of this House, whether he had long held a seat or had come but recently here? The Committee on Claims had proposed a remedy. It was not perfect. There were defects in it. It would be strange if, guided by the light of no past experience, and fettered in some measure by constitutional provisions, the remedy which they proposed had been perfect. It would be passing strange if a bill prepared under such circumstances should not be found susceptible of some improvement.

There were objections to it. Some of those objections had been pointed out. He intended to point out others, which had suggested themselves to his mind; but he would say, that, taken as a whole, there was much in the bill which met with his approval. There was much in its provisions which tended to the improvement of the present system; and he thought it incumbent upon those gentlemen who, with the gentleman from Illinois, [Mr. FICKLIN,] regarded the objections to the bill as so radical that it could not be so amended as to improve the present system, to recommend to the consideration of the House some better mode by which the desired object could be accomplished.

He liked the general features of the bill, as he had already remarked, and he liked them because they threw around the treasury additional guards; because they tended to prevent those frauds which they knew had been perpetrated in past days, and which the future promised would again be perpetrated, unless some such measure was adopted to prevent them. He regarded this bill as more important to the Government, by far, than it was to meritorious claimants.

One of the benefits which they might anticipate from the passage of this bill, with such restrictions and amendments as this House could add to it—and it was no small benefit—was, that it would put an end to a large portion of the claims which, from year to year, had been presented for the consideration of Congress. He thought he was within bounds when he said that at least one-half of the claims which had been presented to Congress during the last year were not founded in justice. He thought it was fair to presume that in most of those cases—that in almost all of those cases where there had been adverse reports made upon the petition, the claim had no merit. Now, it would be found, by turning to the report accompanying this bill, and upon reference to the statistics contained in that report, that during the last two, three, or four Congresses, a large majority of the reports which had been made upon these petitions had been adverse reports. In the first session of the 28th Congress, 254 bills, it would be seen, had been reported, granting relief to private claimants; during the same session there had been made the same number of adverse reports, (254,) and there had also been 240 instances of the discharge of the committee from the further consideration of the claims. It was to be presumed that the committee was discharged because they had found, upon examination, that the claims had no merit. Thus there had been two to one, nearly twice as many, of the claims which had received the unfavorable action of the committees of this House, as there had been of those which had received their favorable action. Well, by turning to the 29th Congress, it would be found that the number of private bills reported in this House was 382; that the number of adverse reports was 506, and of the discharges of the committees from further consideration 177; thus there had been nearly 700 cases of adverse action to 300 favorable reports. And by running through the action of the 26th, 27th, 28th, and 29th Congresses, he had arrived at very much the same result.

It was, then, apparent, that of those claims which had been presented to Congress, more than one-half were not founded in justice, and had no merit. Well, what was the fact in regard to them now? Why, those very claims which had received the unfavorable action of the committee or of the House, were presented to another committee or to another Congress; and presented, not in the shape in which they had at first been presented, but shorn of some of the unfavorable evidence at first exhibited. The claimant was instructed by the first report as to the deficiency of the evidence—as to what it was necessary to prove to substantiate his claim; and he was also instructed as to the testimony which made against him. Of course he withdrew the evidence which was unfavorable to him: he went out and sought additional evidence, where there was a deficiency; and the result was, that he often procured from a second committee a favorable report: and bills were to be found on our statute book making payment for such claims. Such bills had been passed at the present session of Congress. Now, he need not say—it was apparent to every lawyer—that second trials were always dangerous; they afforded temptation to perjury, temptation to fraud; and especially so before such a tribunal as this House, or the other branch of Congress: and why? Because the testimony was *ex parte;* because there was no testimony on the part of the United States. The whole matter of procuring the evidence, and making up the case, was within the discretion of the claimant; and he presented just that testimony which he found necessary, and which the first report of the committee had shown to be necessary, to substantiate his claim.

Well, how did this bill secure the termination of such claims? Why, under its operation, if it were enacted into a law, these private claims would be referred to this board of commissioners which the bill proposed to establish; by them they would be thoroughly examined, and if an unfavorable report were made by the commissioners, it would be placed upon the files of this House, and if the House approved of that report, the claim could never again be acted upon, until the law was repealed. Petitions, it was true, might be presented—they could not be avoided; but those petitions would be immediately referred to the commissioners, and the commissioners were debarred from further action upon such claims as had before received their unfavorable action. This provision of the bill, in his opinion, would sweep from their calendar more than one-half of the claims which were presented to Congress from year to year; and it was the only measure which had ever been proposed which tended in the smallest degree to put an end to those claims which were year after year renewed, and which were often forced through Congress to the great public detriment. Now, if this bill provided for nothing more, if it promised to do no more than to relieve the committees of both Houses of Congress, and the Houses themselves from the repeated examination of the same claims; if it promised to do no more than put an end to more than one-half of the claims which were presented to Congress, it would be worthy of their support.

But the bill promised more. The very existence of this commission would of itself be a bar to the presentation of unfounded claims. Everybody knew that in this House it was impossible to bestow such examination as should be bestowed upon claims of individuals against the Government. Everybody knew that a commission constituted specially for the purpose would be able to bestow a thorough, searching examination of every claim which might be presented to them. We had had a little experience in this matter. There were members on this floor who remembered, that after the work was stopped on the Cumberland road, Congress was very much infested with claims of contractors and others for alleged damages growing out of the suspension of the work. After these claims had troubled Congress for some time, a commissioner was sent out upon the road to take testimony and to examine them. What was the result? Why, the claims almost entirely ceased; Congress was troubled with them no more; and he had been informed, by good authority, that in some cases the commissioner had actually been applied to by claimants who had presented their claims to Congress, and had been requested not to take testimony in their cases; and he had been told if he would not take it—if he would not enter into the examination of their claims—they (the claimants) would give a full, written renunciation of the claims which they had presented to Congress. Now, these were facts which we had derived from our experience, and which fully sustained him in saying that the existence of this commission would tend very much to throw obstacles in the way of, and to prevent, the presentation to Congress of unfounded claims.

But again: the bill which the Committee on Claims proposed provided for the cross-examination of witnesses. Now, he need not say to a body constituted as was this House, of so large a proportion of members of the legal profession, that cross-examination was essential to elicit truth—that it was absolutely necessary to the development of truth and to the detection of falsehood. So it was found in all our courts, and so it had ever been found; and yet what was the practice of Congress in this respect? How were the claims which were presented here and adjudicated by this House and by the other House of Congress settled? Upon what evidence? Why, upon *ex parte* evidence, entirely *ex parte* evidence. There was no cross-examination—no opportunity for cross-examination. The claimant selected his own witnesses; of course he selected those most favorable for himself: he not only selected his own witnesses, but he procured from those witnesses the statement of just those facts which made for him, and the omission of those facts which made against the claim. In many cases the claimant himself drew up the affidavit, stating precisely what he wanted, and nothing more, and procured the witnesses to testify to it; and it was upon such evidence that Congress, year after year, voted away thousands and hundreds of thousands of dollars. Evidence which was not sufficient in any court of law in this country to enable one citizen to recover one dollar from his neighbor, was here sufficient for the adjudication of hundreds and thousands of dollars against the Government.

But there was a double reason for the necessity of cross-examination in the cases of many of the claims which were brought before Congress: many of them were but appeals from the decisions of the various accounting officers of the different bureaus of the different Secretaries of this Government. These officers had established rules by which they were governed in the adjudication of claims upon the Government, and by those rules *ex parte* evidence was allowed. The party was not able, even upon *ex parte* evidence, to establish his claim before the proper accounting officer, and he appealed to Congress. Now, was it not fair to presume, after he had failed with *ex parte* evidence, to substantiate his claim before the accounting officer, that the claim was unfounded? And ought he not to be held, when he took his appeal to Congress, to the production of such evidence as was required before every other tribunal—to the production of evidence subject to cross-examination?

But this bill also provided for procuring testimony on the part of the United States—a species of evidence which was excluded under our present system; for who ever heard of depositions being taken on the part of the United States? Who ever heard of witnesses being called to prove facts which were important to the United States in the adjudication of claims against the Government? Our present system gives to the tribunals by whom these claims were passed upon—to the two Houses of Congress—the power to determine the cases brought before them only upon that evidence which should

be presented in behalf of the claimant. But the system proposed to be established by this bill afforded the opportunity, and imposed upon the officers of the Government the duty, of seeking for that evidence which might be in existence favorable to the United States, and adverse to the claimants. And permit him to say, that he regarded it as a matter of no small consequence that this bill provided for the examination of witnesses on the part of the United States and on the part of the claimant, in the vicinage of the claimant, and where the claim originated. Persons residing there must, as a matter of course, know more of the circumstances; and he had no doubt that many such cases would be found as had occurred relative to the Cumberland road, if testimony were taken on both sides, subject to cross-examination, in the vicinage of the party, or in the immediate neighborhood where the transaction occurred out of which the claim originated.

These were the protections which were thrown around the treasury of the United States by this bill. He regarded it as the only mode by which these proper and just checks, obstacles, and guards could be thrown around the treasury; and in this point of view, he regarded it as an exceedingly important measure to the Government, as far more important to the Government than to the claimant.

But this bill provided for a far more thorough examination of these numerous claims than could possibly be bestowed upon them in this House. This board would be composed of men who were qualified for their duty—men of experience, acquainted with every class of claims, and who must, of course, be better fitted for a thorough examination of the various claims which might be presented to them, than any members selected out of this or the other House of Congress. And it being their sole duty, they having nothing else to attend to, it might be fairly presumed that their examination would be more thorough and searching, would more strongly tend to elucidate the truth, to discover the merits and demerits of the claims, than any examination which could be made in this or in the other House of Congress.

Mr. CUMMINS interposed, and (the floor being yielded) moved the following amendment to the bill:

And that the term of office of said commissioners shall be four years, unless, for sufficient cause, they, or either of them, shall be sooner removed from said office by the President of the United States.

Mr. STRONG continued. There were other benefits (he said) which we were to derive from the system proposed by this commission. No man could doubt that it would tend exceedingly to accelerate the business of Congress. It would do this in various ways. It would do it, in the first place, by taking away, in the manner of which he had spoken, half of the claims which had been presented, and which were unfounded, and by leaving the time which was now devoted to them to be devoted to other and more important business. It would do this, by the board sitting during the year, and at all times affording to the claimants an opportunity to have their claims examined. It would do this, by bringing up these claims in their order: an end which could not be attained under the present system. Who did not know that many claims were presented to this House which were acknowledged to be meritorious, which had been reported favorably upon again and again, by committee after committee, and which were never reached; while others, much younger in point of time and far less deserving in point of merit, were passed through this and the other House of Congress, and became laws? He would suppose one of those cases to which he had already alluded—a case of the impressment of private property for the public use; many such undoubtedly existed; many such would grow out of the Mexican war, as they had grown out of the war of 1812. Now, the individual whose property was taken presented his petition here; it was referred to a committee; that committee, after a time, made a report; the report went upon the calendar, and was never reached: the same process took place during the next session or the next Congress, and during the next succeeding, and so on. The petition, perhaps, went into the hands of some individual who might be unable to bestow upon it the time necessary to examine it, or who might be sick, and from some cause unable to make his report at an early period of the session; and when it finally took its place at the bottom of the calendar, it was postponed and postponed to others far younger and less meritorious. Now, this bill, which was reported by the Committee on Claims, provided a remedy for all these evils. The claim would be presented, under its operation, to this commission, and by it, after as prompt and as thorough an examination as could be had, would be reported to this House, or the other House, and would come up in its order, and could not be postponed; as, under the present system, meritorious claims had been postponed, five, ten, fifteen, or twenty years, to give place to claims much less meritorious.

The people's business, moreover, would be accelerated in still another way, viz: by a classification of claims. How far this could be done, he would not attempt to say. He knew there were difficulties in regard to it, but yet he believed a classification could be made, and under that classification the business could be very much expedited. Claims for invalid pensions, for instance, might constitute one class; claims for revolutionary pensions, another; claims growing out of the seizure of private property for the public use, another; and in that way they might be enabled to act more understandingly and more justly upon them than was possible under the present system; at all events, they would act more rapidly, and they would show to the claimant that they were doing all they could to give him a fair and honest hearing of his claim, to enable him to arrive at an adjudication; and thus they would remove some of the causes which now existed to embitter one citizen after another against the Government of their country.

These were his views of some of the advantages which they would secure by the passage of this bill, by the adoption of the system. He did not say it was perfect; he admitted it had its defects; but he did not feel the force of some of the objections which had been urged against it by gentlemen who had addressed the committee. One gentleman [Mr. MULLIN] had told them he was in favor of allowing suits to be brought in the Federal courts against the General Government. He (Mr. S.) was utterly opposed to any such course of proceeding as that. In the first place, he apprehended it could not be without an alteration of the Constitution of the United States As a lawyer, he apprehended that the Constitution gave to these courts no such jurisdiction as would be necessary in the case of a suit against the sovereignty. That had never been granted to any court by the Constitution, and it would be strange if it should be. What was a claim against the Government? How was it recovered? The party did not recover it by any compulsory process. It was not compulsory upon the Government; it was an appeal to the good faith of the Government, and, as a matter of course, it could not be the subject of adjudication in any court of law. The Constitution, as he understood, had given jurisdiction to the courts of two classes of cases: one class was that of particular parties; such as, among others, of controversies "between two or more States, 'between a State and citizens of another State, 'between citizens of different States, between citi- 'zens of the same State claiming lands under grants 'of different States, and between a State, or the 'citizens thereof, and foreign States, citizens, or 'subjects." The other class was where jurisdiction was not marked at all by the persons who should be the parties, for these were the cases, as he understood it, which were provided for in the following clause of the section second, article third:

"The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority."

Now, no claim against the Government was a case arising "in law and equity." The party did not found his claim against the Government upon any principle of law or equity, and certainly these claims were not cases which arose under the Constitution or the laws of the United States.

Mr. FICKLIN interposed, and said he would like to inquire of his friend from Pennsylvania, in case these claims which were presented to the Government were founded neither in law nor in equity, if they ought to be allowed by Congress or by any other department of the Government?

Mr. STRONG replied, that he regarded the terms "law and equity" as well-defined terms, bearing a settled, technical meaning, signifying something different from what was ordinarily understood by the terms justice and equity. They were used in that particular sense in the Constitution. Now, he regarded the Government of the United States as not responsible, under the principles of law or equity, in their constitutional signification, but as responsible under the faith which it owed to its citizens.

Mr. LAHM interposed, and inquired of the gentleman whether Congress could not by law constitute the judges of the respective district courts of the United States commissioners to adjudicate claims against the Government in the same manner in which it was proposed under this bill to constitute these individuals commissioners?

Mr. STRONG replied, that he should come to the point which the gentleman had raised in a very few moments.

It was not necessary for him, (he continued,) in this part of his remarks, to say positively, that under the Constitution, without amendment, there could be no such law passed. He intended to do no more than to suggest very serious doubts in regard to it; that was sufficient for his present purpose. But there were cases, he knew—and some of them were referred to in this report—in which suits were permitted to be brought by the citizens against the Government, not in our own country, not under the common law, not in England, but in the German States and other parts of the Continent. The course of proceeding there, however, being under the civil law, was entirely different from proceedings under the common law. There, the courts were not much more than commissioners; there was no jury. In fact, he was not aware that any civilized government upon earth submitted to a jury the decision of claims against itself. He knew that in some of the German States suits were allowed to be brought by the citizens against the government; but those suits were determined by judges standing very much in the relation to the government in which this bill proposed to place these three commissioners. He did not, therefore, think that the same reasons existed, even if they had the power under the Constitution, for giving to the Federal courts the power to adjudicate claims against the Government, or that the same propriety existed that would exist in case our proceedings were under the civil law. The Constitution seemed to imply that our proceedings in this country should be as far as possible (though they were not exclusively) under the rules of the common law. He did not, therefore, feel the force of the suggestion thrown out by the honorable gentleman, that these claims should be tried by the Federal courts; on the contrary, it seemed to him that there were insuperable difficulties in the way of such a proceeding.

But it was objected that the adjudications of these commissioners were not to be final. Well, he admitted that the first impression of his mind was, that if the decisions of the board could be made final in cases of claims of small amount, it would be better. But he doubted whether any such system could stand. If the appropriations were to be made subsequently to the adjudication of the commissioners, Congress, of course, would have it in its power to refuse to make the appropriations. If, on the other hand, a sum was to be appropriated in advance, from which to pay the claims which were passed by the board, he should fear that the same state of things would exist as existed in 1816, when something like this plan was adopted. At the close of the late war, on the 9th of April, 1816, an act of Congress was passed which appointed a commissioner for the settlement of claims against the Government for property taken by the enemy, and for property impressed by our own Government. If he mistook not, Mr. Lee was appointed commissioner under that act of Congress. His decisions were made final so far as this, at least, that an appropriation was first made, and it was provided that the sums by him adjudicated should be paid out of the treasury That act provided:

"And when such judgment shall be in favor of such claim, it shall entitle the claimant, or his legal representative, upon presentation of a copy of such judgment, duly certified by the clerk of said commissioner, to payment of the amount thereof at the treasury of the United States."

There was a proceeding somewhat similar to this, in which it was attempted to make the adjudication of the commissioner final. What was

the result? In less than one year after the passage of the law, President Madison sent a communication to Congress complaining of the action of the commission, and stating that, as it was not subject to review by Congress, he had suspended the commissioner; and Congress repealed the law. He (Mr. S.) thought, therefore, that it would be more safe to leave this provision of the bill as it had been reported by the committee.

But he had said that there were some amendments which he would desire to see made to this bill. He had some objections to certain of its provisions, some of which had been pointed out, and to some others to which he would allude; and he found that he should be obliged to refer to them very briefly in the short time which remained to him.

He objected, first, that there was no limit to the tenure of the office of these commissioners. His own view in regard to this matter was, that they ought to remain in office sufficiently long to become familiar with the modes and rules of doing business, and with the nature and character of the claims, so that they could act wisely and efficiently. His own impression was, that this board should never be entirely new. He would prefer to see it so constituted that one of the commissioners would go out every two years; that they should hold their offices for the period of six years, and that one should go out every two years. Thus we would have a permanent board; thus we would escape from all the evils of repeated changes; and thus we would have men who, by their experience, would be fitted for the discharge of the duties which should be imposed upon them.

He had another small objection, which was easily remedied. In the fifth section, it was provided that "the Solicitor of the Treasury shall file a written argument, whenever a written argument is filed by the claimant." He thought there ought to be a direct, positive prohibition (there was, perhaps, an implied one) against any oral arguments being allowed before the commission, to prevent the unnecessary consumption and waste of time which would otherwise result.

He had another objection. He was inclined to think that Congress, in passing this bill, should prescribe the rules of decision by which the commission should be governed. They were to report their opinion in regard to each case which was presented to them: he was inclined to think, that in forming that opinion, they should be limited to the rules of law and equity. These, as he had already remarked, were well-defined terms.

The honorable gentleman from New York, who had spoken the other day in regard to this matter, had seemed to think that there should be two rules adopted, within which two rules, all the claims should be embraced which came before this board. He found the gentleman reported thus:

"It struck him that this rule should be laid down: that no claim should be heard unless first it was based upon ground of claim in law and equity against an individual. [He (Mr. S.) accorded with the gentleman in that.] Or, secondly, unless it was such a claim as it had been the practice of this and other governments to allow."

Now, this rule appeared too indefinite for him, (Mr. S.) He would ask the honorable gentleman what kind of a claim it was that it had not been the practice of this or some other Government to allow? He would ask the honorable gentleman whether that was any limit at all, or any definite rule by which this commission was to decide claims? It seemed to him that what was just and fair between individuals was just and fair between the Government and any of its citizens. And if the rules of law and equity were sufficient to secure justice between two citizens, they were also sufficient to secure justice between the citizen and the Government.

Mr. DUER interposed, and appealed to the gentleman from Pennsylvania to give him an opportunity for explanation.

Mr. STRONG assented, requesting the gentleman, however, to be brief, as his time was limited.

Mr. DUER, upon this consideration, forbore to trespass upon the courtesy of the gentleman from Pennsylvania, and resumed his seat.

Mr. STRONG continued. There were those cases (which were called claims) which were appeals to the charity, to the benevolence of Congress; and acts of Congress, if passed to meet them, were mere gratuities. He did not think these cases should be referred to this commission; they were not claims. A claim was an assertion of a right, and no man could have a right to a gratuity. He did not think any of these cases should be sent to the board, which he was inclined to think should be limited to the rules of law and equity, and in this way that we should secure all the objects for which it was intended to be established.

He was inclined to think, also, that there should be, as had been suggested by the gentleman from New York, [Mr. DUER,] a limitation upon the time within which these claims might be presented. He knew that no laches was imputable to the Government, but there were obvious reasons why the Government should not suffer by its laches, which did not apply to individuals. He found, in the act which was passed in 1816, that there was a limit, and a much shorter one than that proposed by the gentleman from New York, (viz: ten years.) The 15th section of that act provided that no claim authorized by the act should be paid, unless the same was exhibited within two years. He thought this time was much too short, but he was very much inclined to think there ought to be a limit within which claims should be presented to the Government.

Another restriction should be imposed upon this commission; that was, that all the evidence should be taken according to legal rules. Those rules were the result of vast experience; they had been found to be the best for the purpose of eliciting truth and detecting falsehood; and he knew no reason why, in claims against the Government, the parties should not be restricted to the best mode of securing truth, and why the Government should not have the benefit of the best mode of detecting falsehood; he knew no reason why the same rules should not apply to the adjudication of claims against the Government which were applied to the adjudication of accounts between one citizen and another.

He remarked that he had occupied much more time than he had intended. He felt a deep interest in this bill. These were some of the views which he entertained in regard to it; his views of some of the advantages which he thought this bill, as reported by the Committee on Claims, promised. He thought it might be amended in such a way as to make it all that could reasonably be demanded; as to secure as far as possible the best interests of the Government—protection to the treasury, and at the same time a speedy hearing and adjudication of the claims of our citizens. He did not say that it was entirely perfect. With the benefit of some experience of the workings of the system, there would no doubt be found some particulars in which it might be improved. But he was not one of those men who, because they could not at once reach perfection, would not take one step in the path of improvement. He believed that this bill promised improvement, and that, with such amendments as might be made by this committee, it would become productive of incalculable good to the country and to meritorious claimants.

Mr. MEADE said he had not long been a member of this body before he had become convinced of the necessity of establishing some such tribunal as was proposed by this bill; and he thought, if the members of the House had taken the trouble to read the able report of the Committee on Claims, originating, he understood, with the chairman, [Mr. ROCKWELL,] there would be but one mind in this House upon the subject. There were various reasons recommending the bill to them. It was not perfect; it might be amended; and by amendment it might be made more acceptable than it was in its present form. But still, as it was, he would vote for it without the change of a letter in it, if he could get no other bill which was better suited to their purpose. It was complete in itself; and if it was passed by this body, without any amendment whatsoever, he had no doubt that most of the objects contemplated by the report of the committee would be subserved. It would insure, at any rate, a hearing to the many claimants who came before Congress, some of whom had grown grey in their fruitless attempts to induce Congress to listen to their just demands. He had the honor to be a member of the Committee on the Judiciary; and before that committee there were petitions that had been acted on by Congress after Congress, which had been reported upon favorably no less than six or eight times, and which had been hanging here twenty, twenty-five, or thirty years. The bare statement of a fact like this showed conclusively the necessity of passing some such law as this, or for this House to adopt a rule, which should be rigidly executed, that it should appropriate at least one-half its time to the adjudication of claims of this nature. But this bill came recommended to them by the fact, that while it insured speedy justice to the creditors of the country—justice which had been denied to them heretofore—it also afforded protection to the treasury. If any member felt disposed to vote against the bill, he would recommend him to read the able report from the Committee on Claims; and he undertook to say, if it should be read by all, there would be a general concurrence in the opinion of the necessity of passing this law, or some similar law. There was, at this time, before the committee of which he was a member, a petition from several gentlemen of the State of Massachusetts, accompanying which were papers very long and numerous; and he ventured to affirm, that there were but two members of this body who could give a vote upon that petition understandingly: these two members were the two members who had read the papers; and they differed in opinion. It had been favorably reported upon by the Committee on the Judiciary. Now, when the case comes up, it would be utterly impossible for a single member of this body, other than these two gentlemen, to give a vote and say he was satisfied with the vote. And when the battle came on between the petitioners and the country, the claim would be advocated on the one hand by one member of that committee, and opposed by another. It involved the amount of some $95,000, and that money stood at this time to the credit of these petitioners, awaiting only the action of the proper officers to enable them to receive it. In this predicament had this claim been placed for the last twenty-five years. He appealed to this House, if the character of the nation for justice, for justice alone, did not require some steps to be taken to secure a prompt hearing for the creditor of the Government? We had provided laws by which we were enabled to recover debts due to the Government by a simple, stern process. We could issue a distress warrant, and in a few months the debtor of the Government must pay the demand of the Government. Did not sheer justice require that we afford to those who had claims upon us as speedy means of recovering those claims as we had seen fit to provide for ourselves?

There was another reason why they should pass this bill: it insured justice not only to the claimant but to the Government. It insured it as completely as human institutions could insure anything. They were all imperfect, and Congress could not expect that any tribunal which they might establish would be free from objections. But he ventured to assert, that there was not one that could be established that would be more objectionable than the one before which these claims were now preferred: that was, the Congress of the United States; for whenever claims came up in either branch of Congress, the members who might be in the House, ignorant of the report, ignorant of the petition, ignorant of the testimony, must listen to the speakers who advocated the claim on the one hand, or opposed it on the other; and according as confidence might be placed on the one side or the other, so would the claimant have justice administered. Now, it was utterly unfair that the creditors of the country should be obliged to depend upon chances like this for the payment of their just demands. The bill proposed a cheaper mode of settling these claims. He ventured to affirm—he had not looked critically into the matter—but he ventured to say, that the sums of money which were expended here in legislation upon these claims would more than trebly pay every claim preferred before Congress, whether just or unjust. Hence it could not do much injury to the treasury of the country to establish a tribunal, imperfect as it might be, for the adjudication of these claims. There had been, during this session of Congress, a claim before this House involving the value of a negro; and upon that claim there had already been expended, in the way of legislation, more than treble the amount which would satisfy the claimant; and that had been the case with regard to another private bill which had been before the House a few days ago, for the relief (he believed) of Harris & Farro. A whole day had been occupied upon it, and the petition had finally been rejected without one-tenth part of the mem-

bers of the House understanding the merits of the case.

Mr. HALL, of Missouri, interposed, and wished to inquire of the gentleman from Virginia, how it was that he proposed, by the passage of this bill, to prevent debate in this House upon these petitions when they came before the House? Would he make the decision of the commissioners final, and make their award payable out of the treasury without any other action of Congress?

Mr. MEADE said that he should answer the question of the gentleman before he finished his remarks, because the scope of the gentleman's inquiry came within the scope of the remarks which he intended to make, and he hoped they would satisfy him.

As had been said, there were two classes of claimants which came before Congress: one class that addressed themselves to the principles of law and equity, and made claims upon the Government, which, if they were against individuals, could be recovered before a court of justice. These claims should of course go before this tribunal, and this tribunal should be regulated by the principles of law and equity in deciding upon them. But there was another class of claimants which had been alluded to by the gentleman from Pennsylvania, [Mr. STRONG,] who were of a different character; a class who did not rest their petitions upon the principles of law and equity, but who addressed themselves exclusively to the justice, the abstract justice of Congress, or to its generosity or benevolence. These claims were equally meritorious, in many respects, with those which were founded upon law and equity. They of course could not be finally adjudicated by this tribunal; but in this bill, which had been reported from the Committee on Claims, and which it appeared to him had been very maturely considered by its author, provided that this tribunal should report a succinct statement of the facts to Congress; and while the petition was before that tribunal, of course it would collect the testimony, taking care that the interests and rights of the United States were protected therein.

Mr. CLARKE, of Kentucky, interposed, and desired the gentleman to specify some cases where individuals could have claims against the Government of the United States, which would be just claims, but which would not be recognized in cases between individuals, and upon the principles of law and equity.

Mr. MEADE replied, that if the gentleman was to look over the list of private claims upon the calendar, he suspected he would find many such. It was taxing his ingenuity rather too much, to require him now to specify a case growing out of a state of facts which would accompany a claim of that sort. But he would suppose that some individual citizen of the United States, in time of war, should find it very essential to the interests of the country that he should immediately convey certain information which he had obtained concerning our enemy to the commander-in-chief of our army, or to some other officer, and that he undertook, upon his own expense, to travel some thousand miles to do so. Now, here would be no claim, other than upon the generosity of the nation, none whatever. If such a service as that was performed for a private individual, with the same view of accommodating that individual, it would furnish no ground of claim before a court of justice. But, when it was performed for the Government, although the citizen would have no claim upon the principles of law or equity, was not the gentleman from Kentucky ready to admit that it would come equally recommended to the favorable consideration of Congress? If the gentleman wished to be referred to other claims of this character, he would refer him to the calendar, and he (Mr. M.) ventured to affirm, that probably one-half of the claims before this body were just such claims; claims which, if due from an individual, could not be recovered by any process of law.

But it was objected by the gentleman from New York, [Mr. MULLIN,] a few days ago, that the decisions of this board would not be final. Neither would the decisions of any board be final. Even if Congress were to provide a court of chancery, and invest it with the express authority to decide these cases, and to declare that the decisions of that court should be conclusive against the person, it would be clearly transcending their constitutional powers; for the Constitution expressly guarantied to the citizen the right to petition Congress for redress of grievances; and he could as well petition against the judgment of the courts of the United States as against the judgment of the accounting officers, or of any other officers of the Government. In this respect, the board of commissioners would stand precisely on the same footing as Congress itself; for if Congress passed upon a claim, it could do nothing to prevent a petition, founded on the same claim, from being again preferred before it. They had numerous cases of this kind; and, as had been well remarked by the gentleman from Pennsylvania, they came back with all those defects supplied which had caused the previous rejection.

He had a case of this character in his mind, and the members of the Judiciary Committee would remember it: it was a petition which was sent to that committee, and it was referred to him to examine it—the petition of a man asking to be relieved from suretyship upon a Government bond. The circumstances recommended it to the favorable consideration of Congress. The petition had merit in it, although it would not insure the favorable judgment of Congress, either upon principles of law or equity. He (Mr. M.) had been prepared to report favorably in that case to the committee, but there was a small piece of evidence which showed him that the case, some seven years before, had been before this body; and he had desired to see why it had not then been favorably acted upon. With some difficulty he had obtained the original papers, and he had found that one of the parties who had petitioned in the latter instance had preferred the claim in the former; and that the testimony which the petitioner gave, under oath, which accompanied the latter petition, might be found alluded to in his own original petition, which set forth a state of facts utterly in conflict with his own affidavit. Upon that the Committee on the Judiciary had reported unfavorably upon the claim, and saved to the Government upwards of $2,000.

This instance showed the necessity of referring even cases which were not based upon the principles of law and equity to some such board. The commissioners would be authorized to take testimony, and to require the district attorneys of the various federal districts of the country to attend to taking these depositions, whenever it became necessary.

But it had been urged as an objection to this bill, that the commissioners to be appointed under it might be corrupted. That objection was equally applicable to the judiciary itself. Our district courts were held by a single judge. He might be corrupted. The Supreme Court might be corrupted. But the objection was not more available against such a board, practically, than against the members of this House. He did not wish to be understood as saying that they were corrupted; but it was very well known to all gentlemen who had any knowledge of such matters, that there was a system of electioneering which accompanied these petitions, and that meritorious cases were often thrown out, because the petitioners had no friends to press their claims, whilst others of doubtful character received the favorable consideration of the House, from no other reason than because the claimant was active and industrious, either by himself or his agent, in prepossessing the members in favor of the claim. Of all tribunals, it seemed to him that the Congress of the United States was about the worst. But, as he had said before, the decision of this board could not be final against the applicant, because the Constitution of the United States gave him authority to appeal to Congress in any and every case in which he considered himself aggrieved. But after an opportunity had been given to him of being fully and fairly heard before the court established for the purpose—after he had had every opportunity to present his case, and when he knew that these commissioners were not prejudiced or corrupted,—in nine cases out of ten he would be satisfied with the decision; he would despair of getting anything by an appeal to Congress, and he would remain quiet.

He (Mr. M.) had, however, an amendment which he proposed, at the proper time, to offer, which made these decisions, in certain cases, conclusive against the Government.

He was glad that the chairman of the Committee on Claims [Mr. ROCKWELL] was in his seat, because there were some amendments which he (Mr. MEADE) wished to suggest to the consideration of the committee, and to which he would call the particular attention of that gentleman. He knew that that gentleman had bestowed great pains upon this bill, and upon the report which accompanied it; and that, with a fidelity which few men would have manifested towards the claims of the private creditors of the country, and which entitled him to the thanks not only of the creditors themselves but of the whole nation, he had prepared this subject for the consideration of Congress. It was fortunate, indeed, that there should have been found one man in this body who had thought it a duty incumbent upon him as a member of this House, sworn to do his duty here, to give his time and attention to the private grievances of the citizens of the country.

The third section of the bill provided that petitions asking relief on account of any claim against the Government should first be presented to Congress. He would suggest whether this was not supererogatory. Would it not be better that they should be referred at once to the board of commissioners without troubling Congress? for one great object of the bill was to save time and expense to this body.

He would propose that the latter part of the section should be stricken out, and that a provision should be inserted, "that all claims against the 'United States which should not properly be pre-'sented to the accounting officers of the treasury, 'should in future be preferred by petition, in the 'nature of a bill in chancery, before the said board 'of commissioners, or before the circuit courts, as 'hereinafter provided." And he would strike out the words "and if, during the recess of Congress, 'any person or corporation shall desire to prefer 'any such petition to Congress, such person or 'corporation shall be allowed to file his petition 'with the Secretary of the Senate, or Clerk of the 'House of Representatives; and when so filed, the 'same course shall be pursued as if the said peti-'tion had been regularly presented during the ses-'sion of Congress; and all petitions so filed shall, 'after the same shall have been duly registered, be 'by the said Secretary and Clerk transmitted, to-'gether with the accompanying papers, to the said 'board of commissioners."

In the fourth section, he would provide that the commissioners should keep a record of their proceedings.

All these amendments he would offer at the proper time. His present object was to call the attention of the gentleman from Connecticut [Mr. ROCKWELL] and of the House to them; and he (Mr. M.) thought he would be able to show (though he hoped that the fact might be made manifest without argument on his part) that the bill, good as it was, would be better if these provisions which he had suggested should be added.

He would also direct the attention of the gentleman from Connecticut to the terms of the 7th section. It was as follows:

"*And be it further enacted*, That in all cases where it shall appear to the board that the facts set forth in the petition of the claimant do not furnish any good ground for relief, it shall not be the duty of the commissioners to authorize the taking of any testimony in the case, until the same shall have been reported by them to Congress, as is hereinafter provided: *Provided, however*, That if Congress shall, in such case, fail to confirm the opinion of said board, they shall proceed to take the testimony in such case."

Now, (Mr. M. continued,) if the board believed that the facts set forth in the petition did not give the petitioner any claim to relief, why should this House be required to take any action so as to direct the commissioners to take testimony? because, if such a petition were dismissed, it would be upon the ground that it would be bad upon demurrer; that, admitting all the facts to be true, still there was no ground for relief; and that, if the facts were proved, it would have no effect upon the court that decided it. He would, therefore, strike out all that portion of the section, and would require that, whenever a petition which had no equity in it should be brought before the board, it should be dismissed.

If this decision should not be acquiesced in by the petitioner, he could come here again. No matter how many decisions against him might be made, he could come here again It was a right secured by the Constitution of the United States, and no decision by any court or board could deprive him of it. In the proper place, therefore, he would move to strike out all that part of the

bill which says that the decisions shall be final, because it would have no operative effect.

The fourth section provides, that the "said 'board shall, at the commencement of each session 'of Congress, and at the commencement of each 'month during the session of Congress, report to 'Congress the facts found by them in the several 'claims referred to and acted upon by them, with 'their opinion in relation to the same, and shall 'prepare a bill or bills in those cases which shall 'have received the favorable decision of said board; 'and that the said board shall transmit with said 'reports the testimony in each case, whether the 'same shall receive the favorable or adverse action 'of said board."

He would suggest to the chairman of the Committee on Claims, that that portion of the section which required the board to report the testimony in the several cases was entirely unnecessary. And he (Mr. M.) would therefore retain simply that portion of the section down to the words "decision of said board." If any case should arise in which there should be any difficulty or difference of opinion in relation to the propriety of the decision, the House could call for the testimony; and it seemed to him, that in any other case, it would be unnecessarily subjecting the board to trouble in making anything beyond a succinct report upon the facts.

The 13th section provides that "said reports of 'said board, and the bills reported by them, shall, 'if not finally acted upon during the session of 'Congress to which said reports are made, be con-'tinued from session to session, and from Con-'gress to Congress, until the same shall be finally 'acted upon, and the consideration of said reports 'and bills shall, at the subsequent session of Con-'gress, be resumed, and the said reports and bills 'be proceeded with in the same manner as though 'finally acted upon at the session when presented."

He would make this section apply only to favorable decisions. And he would also amend the clause so as to stop at the words "finally acted upon," (*i. e.* where they *first* occur.) The other portion of the clause, he thought was not necessary.

The 14th section was in the following words:

"*And be it further enacted*, That the claims reported upon adversely shall be placed upon the calendar when reported, and if the decision of said board shall be confirmed by Congress, said decision shall be conclusive; and the said board shall not, at any subsequent period, consider said claims, unless such reasons shall be presented to said board as, by the rules of common law or chancery, in suits between individuals, would furnish sufficient ground for granting a new trial."

He would strike out a portion of this section, because, in his opinion, it was unnecessary for Congress to act upon claims which had been adversely reported upon, unless the claimant himself came here and asked Congress to reverse the decision of the board; and in all such cases he could apply for his papers and come here, for the purpose of asking a reversal of the judgment. If no such application should be made, there would be no necessity to trouble Congress at all; and why should Congress act at all in the matter, if the claimant himself was satisfied with the decision? He would, therefore, retain only the latter part of the clause, which provided that the claims should not be reconsidered, except upon such grounds as, by the rules of common law or chancery, in suits between individuals, would furnish sufficient cause for granting a new trial. And he would add after the word "trial," the words "or a bill of review." If the board decided that a claim should be rejected, and afterwards some new facts should arise, or if any errors should be apparent on the face of the decision, the person would have the right to a new trial, so as to bring the case again before the board.

In addition to these amendments, he would also desire to introduce two or three other clauses. He would ask the particular attention of the committee to them, inasmuch as the principle contended for in them had been controverted, especially by his friend from Pennsylvania behind him, [Mr. STRONG.] That gentleman had said that the United States could not suffer itself to be sued. Why? That clause of the Constitution which gave to the Judiciary of the United States the jurisdiction in certain cases embraced all the cases in which the United States was a party. What case could the gentleman specify in which the United States could be a party under present laws?

Mr. STRONG rose to answer the inquiry.

And Mr. MEADE having yielded the floor—

Mr. STRONG was understood to say, the United States may sue, or may be a party plaintiff.

Mr. MEADE, (continuing.) The Constitution of the United States contemplates cases in which the United States may be a party defendant or a party plaintiff; it makes no exceptions. What authority, then, has the gentleman from Pennsylvania to limit the jurisdiction? There can be none at all.

He (Mr. M.) would, therefore, provide an additional clause granting claimants the right to go before the courts, and giving also to them the right of appeal from these courts. It was evident that no case would be brought in the circuit courts (and he would have the proceedings commence there) except such as would enable a party suing to recover for a similar demand against an individual. As to those cases which appealed to the magnanimity of Congress, or to the abstract sense of justice of the nation, they must, of course, go before this board; and the benefit to be derived from going before it was, that the testimony and the facts would be fairly elicited before the board would decide. If it should decide against the claimant, he could appeal to this House. But when time and attention had been bestowed upon the testimony by men qualified to decide upon it—men who had taken the pains to investigate the facts, and who would embody their opinions in such a way as to set forth the facts upon which those opinions were founded—in nine cases out of ten there would be an appeal. The petitioner himself would be satisfied. But where was the objection to allowing him to proceed to the court nearest to him, and ask for an adjudication of his claim? There was none whatever. It was the cheapest way. This did not, however, do away with the necessity of the board. Some of these petitioners would prefer, as a matter of convenience, to submit their claims to the circuit courts. An amendment which he would offer proposed simply to allow a party to prefer his petition before the circuit court, and made it the duty of the district attorney to attend to and protect the interests of the United States. It was in the following words:

Be it further enacted, That any person having a claim against the United States, may, by petition in the nature of a bill in chancery, prosecute the same in any circuit court of the United States which shall be governed by those principles of law and equity which control its decisions in controversies between individuals. And in all such cases notice shall be given to the district attorney of the district in which the court is held, whose duty it shall be to attend to and defend the interest of the United States.

Congress (Mr. M. continued) could make the decree conclusive against the United States in any court, but not against the individual. He had argued that point before. It was better that the Government should suffer from the result, than that it should rip up the decisions of its own agents against itself; and therefore he desired to provide that in all cases where the claim depended on legal or equitable principles, and was decided in favor of the individual, the decision should be final. He would provide that the decision against the United States should be final in all cases under the sum of $5,000. It would be better to pay any amount up to that rather than have the petitioner come before Congress again; for all such cases gave rise to long discussions, and the money expended in revising the decision of the commissioners would, in nine cases out of ten, discharge the decree. He therefore proposed that the decision should be final against the Government, and intended to offer the following amendment:

After the 14th section, insert:

Be it further enacted, That the decision of the board shall in all cases be final against the Government, where the amount to be paid to the claimant shall not exceed the sum of $5,000; and the accounting officers shall pay the same out of any money in the treasury not otherwise appropriated. And the petitioners and the United States shall have the right of appeal to the Supreme Court; which appeal shall be regulated by the same rules that are applicable to the cases of individuals, and shall be controlled by the same principles of law and equity, except that the said court shall in all cases decide the merits of the cause, without regard to technicality in pleading; and the decrees of said court shall be conclusive against the United States, and the sums decreed to the claimants shall be paid out of any money in the treasury not otherwise appropriated.

He would also propose another section, allowing an appeal from the decision of the board only in those cases where the claim would constitute a right of action against an individual. He would allow either the individual or the Government to appeal to the Supreme Court if the amount was sufficient to give jurisdiction. That amendment was in the following words:

Be it further enacted, That the petitioner, as also the United States, shall have the right to appeal from the decisions of the circuit to the Supreme Court, and the decree of the Supreme Court shall be conclusive against the United States; and said decree shall be satisfied out of any moneys in the treasury not otherwise appropriated.

It might be that the treasury had in it unappropriated moneys enough immediately to satisfy these demands, and thus the time and trouble of Congress might be saved in making appropriations for the satisfaction of the decisions. If the money was in the treasury, not otherwise appropriated, there would be no necessity to come here for appropriations.

Whilst the decision to be thus made, either by the board or the circuit courts, could not be made conclusive against the petitioner, yet it would be practically conclusive against him—especially as respected the Supreme Court—because he would be satisfied, (after he had had a fair hearing,) not only of the justice of the decision, but he would also be satisfied of another thing—that there would be little or no prospect of the reversal of it, unless he could show unfairness in the proceedings, or corruption in the court; and he would know that the very fact of an appeal to Congress, except under these circumstances, would so prejudice his case as to render his appeal hopeless.

He had now gone through with the various amendments he proposed to offer, with one exception. He would limit the existence of the board, mainly because it was an experiment. Congress could not give immediate birth to a full-grown system that should be free from all imperfections. They must wait and see what would be its practical operation. They might become dissatisfied with the system. They knew, that that which already existed was bad enough; that Congress was not the tribunal which they themselves were content with. The experiment must first be made, as in other cases; but there should be a provision in the bill by which the tribunal could be got rid of, if it should be found that it did not answer the purposes for which it was designed. And as it was easier to limit its existence now, than to repeal the law, if it once passed without such a limitation, he should move an amendment restricting the operation of the act to the term of four years from its passage.

If it should be found, by experience, that the tribunal recommended itself to the favorable consideration of the country, a law could be passed by which its existence might be continued.

Mr. BOWLIN said he regarded this bill as one of the most important measures that had ever demanded the attention of the House of Representatives. He thought it involved consequences to the treasury and to the tax-paying people of this nation of the highest importance; and, before making the suggestions which he proposed to offer to the consideration of the House, it was proper that he should at once declare that he took his stand against the passage of this bill. He looked upon its character as being that of a base abandonment by the representatives of the people of the curatorship of the treasury of the United States to a few commissioners. He would, in the first instance, premise that he intended to oppose it every step, and he felt proud of the opportunity which had been afforded to him to record his name against a system in comparison with which the infamous bankrupt law of 1842 was a glorious and an honorable measure.

In investigating the merits of this bill, he did not feel himself in any degree bound by the rule which had been laid down by the gentleman from Pennsylvania, [Mr. STRONG.] He (Mr. B.) did not feel that it was the duty of those who were opposed to the passage of this bill, to furnish a better plan for the consideration of the House. They were not reduced to that necessity. All that they were bound to do was, to show that this bill was wrong in principle; that it proposed a system of adjudication upon what were miscalled claims in this country which was unwarrantable under the Constitution, and unwarranted by the genius of our Government, by the abandonment of the treasury to claimants, and their agents, and this board of commissioners.

He must confess, that when gentlemen here advocated the provisions of this bill, he could not

well understand what they meant. A gentleman from Pennsylvania [Mr. STRONG] had said that the bill proposed to allow claims—not claims founded on law and equity in their technical sense, but claims upon a mere vague idea of justice.

Mr. STRONG (interposing) asked leave to explain.

Mr. BOWLIN yielding the floor—

Mr. STRONG said the gentleman was mistaken. He (Mr. S.) only urged those claims that were founded on law and equity.

Mr. BOWLIN resumed. The gentleman said he urged no other claims but such as were founded in law and equity. If that was to be the criterion upon which the judgment was to be based, we already had a board, established by the laws, where every just and rightful claim could be heard, and receive a fair and liberal adjudication. What was the use of this board, if it was not, in the very language of the bill, to adjudicate according to justice and right? to settle claims according to justice, and not according to law and equity, as technically understood? What was to be the measure of that justice, so far as the United States were concerned? It had been said that the conscience of the court of chancery was to be measured by the length of the chancellor's foot; but he supposed the conscience of this tribunal was to be measured according to the length of their shadows before the setting sun. He wanted to see where the distinction was to be drawn between a case founded in law and equity, and a case arising upon a vague idea of justice. We had Auditors of the Treasury, who were virtually commissioners; they were sworn judges; they acted under the supervision of the Comptroller, and the Comptroller acted under the supervision of the Secretary of the Treasury. And they constituted a board to decide all legal and equitable claims against the Government.

What, then, did the bill propose? What was this board to do? He would tell them: it was to abandon all principles of law and equity, so far as the treasury of the United States was concerned, to this host of claimants and claim agents that were constantly encircling the Capitol. That was to be the result. And when the claim came to be decided by the commissioners, they were not to decide according to well-fixed principles of law and equity, but, as he had said, by some vague idea of justice in their own minds. The treasury was to be thrown open, and thus was the money, wrung by taxation from the hard earnings of the people, from their toil and sweat, to be squandered upon plunderers and favorites around the Capitol. This would be the effect of the bill, whether designed or not.

The bill proposed to establish a commission with this unlimited power over the public treasury. The effect would be, that the decisions of the board would take from the treasury every cent wrung from the people by taxation. Upon what character of claims was this bill to act? The gentleman from Pennsylvania [Mr. STRONG] had stated, that these claims were increasing from year to year. He (Mr. B.) admitted the fact. They grew, as a rolling snowball increased in size, by time and action. Claims against the Government never died. One hundred adverse reports against them did not stop them. They lived forever. They were the only thing in this Government which had an eternal and immortal life. They never died until they were paid. That was the cause of the accumulation. An adverse report made at one session did not prevent the claim being again brought up at the next, and so on continually. If one committee reported against it, it would at the next session be pushed before another and different committee who were not advised of the facts, and from whom occasionally a favorable report would be procured. There was nothing remarkable, therefore, in the accumulation of these claims. That was the fault of the House and of the committees, in not keeping these things in their appropriate places; and the accumulation was the result of that system. The Government for the last few years had been making rapid strides towards throwing itself into the hands of claimants and claim agents; and if this evil was not arrested, the consequence would be, that the people, through their representatives, would have to appeal to the mercy of these people for the pittances that were requisite to carry on the operations of the Government. This bill did but serve to precipitate that result. Why was this so? Because these claims had no foundation in fact. Nine times out of ten they had no foundation.

Under our Government, what was the class of claims that ought to demand the attention of Congress? In the very nature of things, they ought to be few; for every legitimate and equitable claim, a tribunal already existed competent to decide upon it. There were some claims, however, the justice of which he admitted; but, if rightly treated, there would be but few; for the only cases in which appeals could be made to the equity of Congress were such as, from some defect of evidence, could not be allowed at the departments; although, in the universal opinion of mankind, the facts might be beyond controversy. In such cases, an appeal to Congress was proper.

But what sort of claims were daily and hourly presented here? Some man, the descendant of a patriot, in the third generation, came here for money, because, perchance, a company of soldiers quartered upon his ancestors' farm had burnt up a little dry wood; and the committee would report favorably upon the claim, and the sympathies of this House would be appealed to, and would grant, in the name of military renown, what it would have denied to the intrinsic merit of the claim.

The bill did not provide for a final decision by the board of commissioners. It could not, without trampling upon the Constitution. That House dare not do it in the eye of the American people, because it would be a base abandonment of that treasury which they were sworn to protect.

Mr. MEADE here interposed, and asked the gentleman from Missouri [Mr. BOWLIN] to allow him to ask a question.

Mr. BOWLIN having yielded the floor—

Mr. MEADE said he wished to inquire whether the time employed in legislating upon private bills did not cost the country more than the amount paid to claimants

Mr. BOWLIN said, in reply to the question of the gentleman from Virginia, [Mr. MEADE,] that he (Mr. B.) did not know how the fact might be; he did not feel himself capable of judging of the matter. He was one of those who believed that legislation was like ditching—the less the work done, the better it was. It was frequently the case, that the less that was done, the better; and he thought, perhaps, that a discussion upon private claims might sometimes have had a good and salutary effect upon the House, by keeping it out of proceedings more mischievous. But it was to be recollected, that these claims had been accumulating for years: how many millions might be the amount which they had now attained, it was impossible to tell. He had in his mind's eye a few claims that would cover a hundred millions: for example, the Meade claim, voted down by this House, with the hundred claims depending on the same principle, might be set down at nearly forty millions of dollars. The French spoliation claim, also frequently rejected, might be set down as approximating to nearly forty millions more. In this respect, the effect of this bill would be like that of the bankrupt law of 1842; the extent of the evil inflicted would only be known when all the affairs came to be wound up. And the analogy between the two cases would not even stop there; the one was instituted to rob individual creditors—the other to plunder the treasury itself. And he would venture to predict, from pure instinct, that if this bill passed, not one Congress would expire before the American people would indignantly demand its repeal.

How many millions were at stake under the issue of this bill? Could any man tell? Some idea might be formed of the Government liabilities, but none of imaginary claims. Was there a claim agent that was not in favor of it? They went for it as a matter of course, because it enabled them to carry out magnificent schemes of speculation upon the treasury. If they were for it, could it be a measure favorable to the interests of the Government? Ten thousand lawyers in the city of Washington could, under such a bill, accumulate each a fortune within the next two years; but the treasury would be bankrupt.

What, then, would be gained if the bill should become a law? It was not made final; Congress dare not make it final. What, then, was gained in point of time and legislation? These claims would have to be reported back to Congress for appropriations. Would the representatives of the people sit by and see the treasury plundered without raising their voices? Did gentlemen suppose that these claims had not to be acted upon here again? Did gentlemen believe that the business of any committee of this House would be lessened, unless the decision of the board was made final? Not at all. The claims would be referred here to committees, and when they came into the House, the members would, in the exercise of their right as the representatives of freemen, resist this species of plunder as they had done before, and as they did now upon the bills themselves. If time were sometimes wasted unnecessarily in the discussion of these bills, yet gentlemen should remember that important developments sometimes followed. Very few bills ever passed this House that would bear the test of discussion, and of the scrutiny which attended it; and none, he would undertake to say, where the shout of military and naval glory could not be brought to bear upon the claim. He referred to these things to show the worthless character of the claims generally. He knew, as he had said, that there were some few that were valid, and indulgence towards those which were not valid, did but destroy the prospect of those that were so.

Nothing, then, he insisted, was gained by the bill. Ah! but, said the gentleman from Pennsylvania, [Mr. STRONG,] what an important point was gained in the cross-examination of witnesses. He (Mr. B.) did not desire to intimate that anything of the kind was intended, but he thought that this provision for the examination of witnesses was one of the greatest humbugs of the age. Who was to examine them? The prosecuting attorney. Look at the State of Missouri, with its seventy thousand square miles. The prosecuting attorney resided at St. Louis. A claim was got up on the Indian frontier, five hundred miles off. Was he to leave his home and go there to examine witnesses?

Mr. STRONG rose and asked the gentleman from Missouri [Mr. BOWLIN] to yield the floor for a moment.

Mr. BOWLIN having done so—

Mr. STRONG (scarcely heard at the reporter's desk) was understood to call the attention of the gentleman from Missouri to the terms of the provision of the bill under which testimony was to be taken.

Mr. BOWLIN continued. That (he said) did not in the least interfere with the position he had taken. The gentleman, in the course of his argument, had contended that the testimony was to be taken in the neighborhood in which the case arose, and this provision of the bill had been thrown in merely as a make-weight to help it along. By looking at the question practically, it would be seen that in any State larger than Rhode Island or Delaware, there could be no such thing as the district attorney attending to these examinations. Was any provision made to pay him? None at all; and in his, (Mr. B.'s) opinion, the provision would result in nothing at all; and the testimony would be as *ex parte* after the passage of the bill as it was now before the Congress of the United States.

Another objection to the bill which he entertained was, it provides that these commissioners are to be appointed by the President, and that there is no limitation to the term of their service. The gentleman from Ohio, [Mr. CUMMINS,] indeed, had proposed an amendment to this portion of the bill, but which, in his (Mr. B.'s) opinion, was really no amendment; for the Constitution settled the matter, that officers appointed under the authority of the President are removable by the same authority. Now, what sort of a political machine, acting under the patronage of the Executive, would the passage of this bill create? What sort of a machine would this be, adjudicating upon claims upon the treasury amounting to hundreds of millions of dollars? It was to be entirely the creation of the Executive—a tribunal which he could make and unmake at pleasure; and this tribunal was to pass upon questions which would involve the paying out of millions upon millions of the people's money.

[Here a question was asked, which was not heard by the reporter.]

Mr. BOWLIN replied, since the question was asked, he would answer it. It was true that the Auditors and Secretary of the Treasury were appointed by the Executive; but then they were to examine and decide claims against the Government upon established principles of law and equity, as

technically understood. But to this board of commissioners it was proposed to give a discretion as broad as that which pertains to a popular vote in town meeting. They were to do justice—to do justice, he supposed, according to their own vague ideas of justice. Were he one of the commissioners, and the claim of some worthy friend of his for half a million of dollars should come before him, he confessed that his feelings might be warped perhaps a little too much in his favor, when he had to act upon mere personal ideas of justice. These commissioners were to decide upon no established rule. If they were to proceed upon the principles of law and equity, they would occupy the same position with the Auditors and Secretary of the Treasury; and although, with this restriction, they might not do any harm, yet the board would thereby be rendered perfectly useless. The friends of such a tribunal would find no use for it, unless they could extend to it this unlimited jurisdiction. This broad discretion was the whole idea of the bill. From first to last, it was nothing more nor less than a proposition to give to this board a kind of jurisdiction wholly unknown to the law.

He would give a case for illustration: He supposed a claimant to come into Congress with his petition, urging his claim in a flourish of trumpets about the services of his father or his grandfather in the revolutionary war; but the family have since become poor, and he wants to be set up in life. Such would be the character of many cases that would be presented for adjudication before this board to be decided upon their ideas of the principles of justice. It was not necessary for him to travel over all the provisions of the bill, and look at each distinctive feature of it; for his objections to it as a whole, from beginning to end, were so insuperable, that no amendment could help it. He contended that the power with which it was proposed to invest this board—the power of deciding claims against the Government upon undefined principles of justice and equity—could not be exercised under the Constitution. Even Congress could not constitutionally exercise this power, though it was exercised occasionally upon the principle of benevolence. Yet it was proposed now to intrust this power to the hands of a board of commissioners, to give them the appropriating power of Congress—the power to expend the money of the treasury at their will and pleasure.

He remarked, that though he appeared in this discussion somewhat unprepared, yet he was willing to take a position against the bill at once; and to that he would stand. He solemnly believed that the member who should register his vote in its favor would seal his eternal doom as a politician. The people, he was perfectly sure, would not submit to it.

He would, however, invite the attention of the committee for a single moment to one obvious objection against the bill. The case of every claim against the Government would have to go for adjudication first before the officers of the treasury. Before this tribunal every case would be decided according to the principles of law and equity, technically understood. But, under the provisions of this bill, all claimants would have the right of appeal to the newly constituted board, who are to decide their cases upon principles entirely different. The former tribunal decides the case upon the known and established principles of law and equity, whilst the other tribunal decides upon their own ideas of justice. The consequence would be, that, in every case, the decision of the treasury officers would be reversed. Every man could see what would be the effect of setting up such a tribunal. The case of every claim which the Auditor might refuse to allow would be appealed to this board, where a decision might be obtained that would overrule the decision of the Auditor and Treasurer; and where the decision upon every case, in the very nature of things, was compelled to be reversed. Such would be the result of the passage of this bill. There was no escape from it.

He desired to be allowed one word more on the idea of the representatives of the people surrendering the treasury of the country into the hands of a board of commissioners. It presented to his mind views of the most strange, the most extraordinary character. He had never heard of anything like it, either in this or any other country. There was no example of the kind in history. He did not believe that even the honorable chairman himself, who reported the bill, could cite the House to a single precedent in the legislation of the known world. There was nothing of the kind known to the British Government; there was nothing like it that ever came to his knowledge in the history of any of the German States.

Mr. ROCKWELL, of Connecticut, (Mr. Bowlin giving way for the purpose,) was understood to state here, that in the German States, whenever a controversy arises between the Government and any of its officers, it was lawful for the officer to bring suit against the Government in any of the courts of justice. In the British Government, also, there was a similar provision of law.

Mr. BOWLIN continued. The gentleman's statement was no contradiction at all of what he had alleged. There was no board of commissioners, with such a jurisdiction as that proposed in the bill, existing anywhere on earth. In Germany, he knew, suit might be brought against the Government, in the ordinary courts; but were not these courts governed in their decisions by the settled principles of law and equity? He still believed that such a board of commissioners was without precedent, differing materially from anything to be found in any judicial system.

Mr. ROCKWELL interposed, with another remark, which was wholly inaudible at the reporter's desk.

Mr. BOWLIN continued. Still affirming that the creation of a board, with such a broad discretion to decide upon claims against the Government, was wholly without example, and as he could not say anything in favor of the proposition, he would tell gentlemen what he was in favor of. He was not in favor of plundering the public treasury by creating a tribunal for the allowance and payment of false claims; he was not in favor of building up a petty money aristocracy in this Government, to live upon the taxes of the people; he was not in favor of keeping up families, at the public expense, from generation to generation, because some member of the family once occupied a high place before the people; he was not in favor of rewarding public men beyond their merits; but he was in favor of that principle which places every American citizen upon the same broad, Democratic platform of equality. The reverse of all these positions would have to be taken by all who took upon themselves the support of this bill.

He now came to the idea which he was about to advance when he was interrupted by the statement of a fact, about which there was no difference of opinion. He invited the committee to examine this measure with more scrutiny. He called upon every member to examine it. It was fraught with considerations of the most vital importance. He solemnly believed, that the Congress passing such a bill as this would become more odious than that Congress which passed the famous bankrupt law of 1842, which wiped out once more than two hundred millions of debt. This bill was to operate on the treasury, and he would undertake to say that one single year of its operation would be sufficient to bankrupt the Government. There would not be a dollar left for the pay of the army or navy, or for the civil and diplomatic list.

Let the House pass the bill, and with it the constitutional rights of the people and the control of their representatives over the national treasury would be gone forever. No man could anticipate the result, but all would behold its fruitfulness of evil, as it would be exhibited here in a general scramble for the public money, derived from the sweat and toil of the people.

Mr. SCHENCK had something to say about this bill which had just now been so strenuously objected to. It seemed to him that there was extraordinary differences of opinion as to the merits of the bill before the committee, resulting perhaps from its being looked at from different points of view. It had been but a little while ago that the chairman of the Committee on the Judiciary [Mr. J. R. Ingersoll] expressed his apprehension that the bill would not be of any permanent advantage to the country, nor accomplish the objects intended by it, because of its inefficiency: he thought it too weak. But just now the gentleman from Missouri [Mr. Bowlin] had attacked it in all its principles and details, as a monstrous engine of mischief and deviltry, such as never before received countenance in a legislative hall.

So far, however, from being alarmed by the denunciations of the gentleman from Missouri, or permitting them to influence him to vote against the bill, the very character of the attack, he was inclined to think, would, if anything, help to induce him to go more earnestly in its favor.

It was but just (said Mr. S.) to remove the claims of our citizens away from the influence of that prejudice with which they seemed to be met by some members—he trusted not many—whenever they came before Congress. When he found gentlemen taking it for granted, that to be a creditor of the Government is synonymous with being a villain and stealing into the treasury, that seemed to his mind to afford, of itself, a reason why some tribunal should be created by law, in order that fair and impartial investigations might take place. The gentleman had not only denounced all creditors or claimants *en masse* as dishonest, but he assumed, also, that every attorney or agent employed by these claimants against the Government, must necessarily be a scamp. He did not much like that sort of denunciation; for in his time he had tried to practice law a little himself, and had thus been employed frequently in the prosecution and collection of claims.

But, not stopping there, the gentleman from Missouri [Mr. Bowlin] went further, and denounced every board of commissioners or court that might be established under this bill, as capable of corruption—of being fit subjects for undue influence, or even bribes. He (Mr. S.) had no experience as a judge, and therefore he could not tell so well about that as the honorable gentleman from Missouri, [laughter,] who, he believed, had once worn the ermine. The gentleman had been both attorney and judge; he had had the advantage of a double experience; and therefore on that point he must yield to him. [Laughter.] Judging from his own experience and observation, he thought the gentleman had been harsh in his judgment against agents and attorneys, and he had therefore, with a fellow feeling, ventured to say a word in their behalf; but the character of a court for honesty, he supposed, he must leave to the tender mercies of the gentleman, who had once exercised—honorably and ably, he was bound to believe—the judicial functions. He only hoped that in neither case was the gentleman offering himself as "State's evidence" against the brethren. [Laughter.]

Mr. S. had no remark to make with reference to the general character of the bill. Its necessity, objects, and purposes had been sufficiently developed in the speech of the gentleman from Virginia, [Mr. Meade,] whose critical examination of its provisions he was glad to hear. He desired to speak to an amendment which he would offer at the proper time. But before doing so, he would state, that notwithstanding the denunciations of the bill, by the gentleman from Missouri on the one hand, and the apprehensions of its want of efficiency on the other, he was almost persuaded, and ready to say, that he would vote for the bill, let it be put in what shape it might. The evil to be remedied was so crying—the necessity of doing something for the many honest claimants against the Government so urgent—that it was hardly possible for the majority of that House to give such form to the bill that he would not vote for it. He would support it in its present shape, if that were insisted upon; but he would prefer it if amended as he would propose in some of its features and provisions. All he would insist upon was some effectual, operative, speedy plan of relief to those deserving creditors who are now compelled to wait too long for the relief or justice to which they are honestly entitled.

There were two classes of claimants who came here with their petitions, asking for relief or sheer justice—relief or justice which comes often so tardily as to amount to a denial, or a mockery often, even when allowed. The first of these classes arises under the law of the land, and consists of such demands as would be recognized between individuals, when, upon some known principle and state of facts, as upon a contract, &c., there is a debt, or demand, or liability, which ought to be adjusted. Then there was another class of claims, addressing themselves to the abstract sense of justice in the Government; in some instances, appealing only for a gratuity for peculiar services rendered or injury sustained in the general behalf. Examples of both sorts had been given by other gentlemen. Now, he would have all this latter class come directly before Congress, as heretofore.

But as to those of the former description, such as claims arising out of some contract, or where damages have been sustained by fault of the Government, or property taken for public uses, he would constitute some tribunal, with original jurisdiction, or with power to try appeals from decisions at the departments, as the case might be; and that tribunal should make the necessary examinations, and give final judgments in reference to them. He would not longer burden the calendar of the Legislature with any of this class of claims. He would do this for the double purpose of having them investigated more fully than they could possibly be before Congress, and that there might be also some limit to the time when they would be finally adjusted. Their progress now was slow, uncertain, interminable.

For further information of his amendment, and the object of it, he asked for the reading of the paper which he sent to the Clerk's table.

The amendment was then read, as follows:

Strike out the 2d and 3d sections, and insert—

SEC. 2. *Be it enacted, &c.*, That said board shall have jurisdiction over all claims against the Government of the United States, arising under any contract, express or implied, with the Government, or with any department or officer thereof, or under any existing law of the United States, in cases where the subject-matter of the claim is now cognizable by any of the officers of the Treasury Department, or other officers of the Government; or in any case where damages to individual property have been sustained by reason of the act or order of any officer or person employed by the Government, while such officer or person was in the discharge of a lawful duty; and the decision of said board shall be final. But any such claims, when cognizable by any accounting officer of the Government, shall be first presented to, and settled by, the proper accounting officer; and if, upon such settlement, the claimant be dissatisfied with the decision, he may appeal to the board herein constituted, and the proper officer shall lay before the board all papers and facts on which he acted, with his decision in the case.

Strike out the 12th, 13th, and 14th sections.

The amendment, perhaps, explained itself sufficiently; but the committee would perceive that his purpose was to frame the law so as to provide for the adjudication of two or three kinds of cases, which are specifically mentioned. First, this tribunal was to have jurisdiction over all that class of claims arising under any contract, express or implied, with the Government, or with any department or officer thereof, or under any existing law of the United States: Secondly, over cases where the subject-matter of the claim is now cognizable by any of the officers of the Treasury Department, or other officers of the Government: Thirdly, over any case where damages to individual property have been sustained by reason of the act or order of any officer or person employed by the Government, while such officer or person was in the discharge of a lawful duty. While many of these various cases were now cognizable by the accounting officers of the Executive departments of the Government, still quite a number (especially of the latter class) were not.

He could conceive of numerous cases where redress could not be obtained at all now, except under special enactment, but where damages were clearly due, and could be established not only upon every principle of justice, but (if the committee better liked the phrase) upon application even of the strictest rules and principles of law and equity.

He took instances where claims of this character might arise—as, in time of war, private property might be seized by the Government, against the will of the owner, for the purpose of carrying on military operations: or the case where a Government vessel, negligently or unskillfully navigated, runs into a merchantman at sea. What would be the relief of the losers of property in these cases? He knew of no other than that which might be obtained by application to Congress; and yet the decision of them was purely a judicial act, and the proper function of a court, or board of commissioners, if you choose to call them so. He cared not for the name, so that they were virtually judges, and competent ones.

He had mentioned cases over which the accounting officers in the executive departments now have jurisdiction. In such instances these officers, though ministerial as to their ordinary duties, act judicially. His amendment proposed that there should be a tribunal established somewhere between Congress and the executive departments, whose province it should be to entertain by appeal, and investigate and decide upon all these cases; for, upon examination of the calendar, it would be found that more than half of the claims which come here for allowance, are cases coming in the nature of appeals from the accounting officers of the Government. The gentleman from Missouri would have the decisions of the Auditors and Comptrollers to be final; but he (Mr. S.) would not; because these were mere ministerial officers, and not in all cases perhaps the most competent to exercise judicial power. The gentleman from Missouri objected to the proposed court, because its action would interfere with the proper province of Congress. But now, where was his consistency? He would have all claims come before Congress, because he could trust no other tribunal; and yet, he would not have any case come before Congress which had been adjudicated upon by an Auditor or Comptroller.

Again, the gentleman from Missouri [Mr. BOWLIN] had objected to the establishment of this board, or court, because he said it would be unprecedented. But the gentleman from Connecticut, the chairman of the committee reporting the bill, [Mr. ROCKWELL,] had given him examples in other countries where the Government allows itself to be sued, in order that more complete justice may be done. And if it were needful, he could cite instances from his own experience and knowledge, in the State which he had the honor in part to represent. He knew, from his own experience in the legislation of the State of Ohio, of cases where the State had submitted to the courts of the State to adjudicate upon a claim against the State, according to the principles of law and equity—the State waiving her sovereignty, and submitting to be defendant in the case. He had himself framed a bill of this character, and there was no difficulty whatever in its operation. True, you could not enforce against the Government the collection of the amount adjudged or decreed; but it was only necessary to make some appropriation of money, so that, the warrant for the amount found due to a claimant being issued after the judgment of the court, the money might be paid without the matter coming before Congress at all. As an illustration of this, he referred to what had been done in the State of Ohio in the settlement of certain claims arising out of the construction of the public works of the State.

The gentleman from Missouri had cited the case of the French spoliation bill as an instance where an immense fraud was practised upon the Government by those claimants, and which was only happily arrested, he might have added, in his opinion, by the Executive veto. But he (Mr. S.) did not agree with that gentleman in regard to the character of that bill. He believed it to be a very proper bill. He remembered that he was happy to vote for it, as he would be again. So far from its being cited as an instance of the injustice of legislation of this sort, he did not know of a stronger instance which could be cited to show the injustice and wrong on the part of the Government, in withholding payment of the claims of its creditors, extending, as those did, as far back as the beginning of the present century. But why had the gentleman quoted that case against this bill? If there was a fraudulent or unfounded claim admitted there, it was done by act of Congress, not by a court or board of commissioners.

He mentioned a case occurring to his mind now, which had, early in his experience here, induced him to believe that some legislation was necessary upon this subject. He was first returned a member to the twenty-eighth Congress; and in the first session of that Congress, the first petition, he believed, which he had the honor to present was the petition of the grandson of a man claiming the value of a boat belonging to his ancestor, seized upon by an officer of the Government during the revolutionary war. The owner, the grandfather, had been the original petitioner; then the father; and at last it had descended, this claim against the Government, as an heir-loom, to the third generation. The proof was clear. There was no reason why it should not have been promptly paid. Indeed, there had been two or three favorable reports by committees, as is often the case, but no action thereon. He had it again referred to the proper committee. He had never heard from the boat since; and it was probably yet afloat somewhere.

The gentleman from Missouri objects to the creation of this board, because of its liability to corruption. But it did not appear very clearly why he entertained that apprehension. Why not make the same objection against the adjudication of claims by Congress?—for we are all men, perhaps infirm alike—unless it might be urged that the difficulty would be greater because this body is more numerous than the board would be. But then, he should remember that for that very reason we present more assailable points to the enemy. [Laughter.] And that, too, it should be remarked, is an objection against all courts. With equal propriety he could urge the same objection against any court in Christendom; for nothing could be said, upon the supposition of corruption, against this mode of settling private claims against the Government, which could not, with equal force, be urged against the settlement by a judicial tribunal of claims and controversies between individuals. But I have no such poor opinion of human nature. I do not believe that honesty is so scarce a commodity, either in or out of courts. If it were true that we cannot constitute a board of commissioners, and invest it with judicial functions, and have it free from the possibility, or at least the probability, of corruption and bribery, we might as well give up the whole matter of government at once; for we have nothing but such instrumentalities as men are to trust and work with.

Mr. GREEN interposed here in a few words, the object of which appeared to be a correction of the apprehension of his colleague's argument on the part of the gentleman from Ohio. His colleague (who was not now present) had objected to the board, not because of men's liability to corruption, but because this board was to be organized and proceed upon the adjudication of claims without any fixed rules except such as their own discretion might suggest.

Mr. SCHENCK replied that he certainly understood the gentleman to object to the constitution of this board because of their liability to be bribed. He would be pleased to think that he had misapprehended him. But the gentleman, he observed, was present again, and he would thank him for correction if he was wrong.

Mr. BOWLIN, who had now reappeared, made some explanation which was too doubtfully heard to be written, but which may perhaps be inferred from what follows.

Mr. SCHENCK. There would probably be no difference of opinion between the gentleman and himself, as to that. He (Mr. S.) would not have the mere vague or crude notions of abstract right on the part of the commissioners to control the action of the board any sooner than that gentleman. He would have this tribunal to stand between the creditor and the Government, and he would have them to try all questions permitted to come before them according to the known principles of law and equity. So the gentleman's objection on that point, if there be anything in it, must be rather to the form or phraseology of the bill, than the system which it proposes to establish.

He understood the gentleman as taking a broad view of things—as taking his stand upon the eternal principles of equity and justice! He said that he stood on this subject upon the broad, Democratic platform of equity—where every man should be equal to his fellow-man!! Well, that was liberal and large sounding doctrine; but what did it mean, as applied to the present subject of debate? They were discussing the relations and obligations, and mutual rights of creditor and debtor. Did the gentleman mean to teach that *they* should stand upon the same platform of equality—the creditor acknowledging and paying nothing to the debtor, and the debtor acknowledging and paying nothing to the creditor? That was not his (Mr. S.'s) ground. It was a little too liberal—a little too Democratic for his notions—rather too much of a dead level! He had an old-fashioned notion that the debtor ought to pay the creditor his just demand, whether that debtor were an individual or a corporation or a government. But perhaps he was extending too far the construction of the honorable gentleman's idea of those "eternal principles" he had invoked.

His object is rising was simply to present the amendment which had been read, but which, he supposed, was not now in order. If it were in order, he would offer it now.

The CHAIRMAN said the amendment was not in order at this time, an amendment to the first section of the bill being under consideration.

Mr. JOHNSON, of Tennessee, then obtained

the floor, but yielded to a motion by Mr. STANTON that the committee rise; which motion prevailed.

So the committee rose and reported.

A motion was made that the House adjourn.

Mr. ROCKWELL, of Connecticut, desired to offer a resolution.

The SPEAKER put the question on the motion to adjourn; which being decided in the affirmative.

The House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. GREELEY: The petition of William E. Cox and several hundred other citizens of New York, for reduced and uniform rates of postage, and for the abolition of the franking privilege. Also, the petition of Gilbert Smith and other citizens of New York, for the same. Also, the petition of Charles F. Briggs and many other citizens of New York and Brooklyn, for the same. Also, the petition of Nelson Smith, of Carrollton, Alabama, for lower postage, especially on chance newspapers. Also, the petition of James S. Anderson and other citizens of New York, for reduced postage. Also, the petition of A. E. Everest and 64 other citizens of New York, for reduced postage and no franking. Also, the petition of M. S. Gore Nichols and other citizens of New York, for low postage and no franking privilege.

By Mr. BOYD: The papers in the case of Mrs. Winifred Ashley, asking a pension.

By Mr. DICKINSON: The petition of S. N. Beach and 12 other citizens of Perrysburg, Ohio, masters of vessels and forwarders, praying Congress to place a light-ship at the entrance of the Niagara river, on Horse Shoe reef, for the protection of lives and property.

By Mr. CLARK, of Maine: The petition of Albert G. Lowett and 135 others, citizens of South Thomaston, for a new collection district at East Thomaston, in the State of Maine.

By Mr. FARRELLY: The proceedings of a meeting of citizens of Mercer county, Pennsylvania, in favor of the exclusion of slavery from the new Territories of New Mexico and California. Also, the petition of John S. King and numerous other citizens of Mercer county, Pennsylvania, for the immediate repeal of the existing revenue laws and the restoration of the tariff act of 1842, with a view of affording more efficient protection to the mining and manufacturing interests.

By Mr. GRINNELL: The petition of Jeremiah Mayo and other citizens of Brewster, Massachusetts, asking for a floating light, to be placed near Pollock Rip, off Chatham, Massachusetts.

By Mr. ROCKWELL, of Connecticut: The petition of G. Trumbull and 127 other citizens of the town of Stonington, in the State of Connecticut, praying for a uniform rate and reduction of postage, and the abolition of the franking privilege.

SELECT COMMITTEE on the President's Message, in relation to the levying of duties in Mexico:

Mr. Toombs,	Mr. Venable,
Mr. Duer,	Mr. Collamer,
Mr. C. J. Ingersoll,	Mr. McClernand,
Mr. Stanton,	Mr. Garnett Duncan.
Mr. Bouts,	

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 6, 1849.

The Journal of yesterday was read and approved.

Mr. ROCKWELL, of Connecticut, offered the following resolution; which was agreed to:

Resolved, That all debate in the Committee of the Whole House on the state of the Union, on House bill to provide for the settlement of claims against the United States, shall cease at half past one o'clock on Monday next, (if the committee shall not sooner come to a conclusion upon the same;) and the committee shall thereupon proceed to vote on such amendments as may be pending or offered to the same, and shall then report it to the House, with such amendments as may have been agreed to by the committee.

On motion of Mr. ROCKWELL, of Conn.,

Ordered, That a message be sent to the Senate, requesting that the joint resolution of the House for the relief of Samuel T. Anderson, be returned to this House.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole on the state of the Union, to resume the consideration of the bill to establish a board to provide for the adjudication of private claims.

Mr. GIDDINGS called for the regular order of business.

The SPEAKER. The motion of the gentleman from Ohio [Mr. GIDDINGS] to reconsider the bill for the relief of the legal representatives of Antonio Pacheco is the first thing in order, and the gentleman from Ohio is entitled to the floor.

By general consent, (the SPEAKER continued,) the Chair will lay before the House certain Executive communications which have been lying on the Speaker's table for several days.

Mr. GIDDINGS yielding for this purpose, and no objection being made—

The SPEAKER laid before the House the following communications.

I. A letter from the Secretary of War, transmitting a report from the Second Comptroller of the Treasury, made in pursuance of an act approved May 1, 1820, showing the balances of appropriations under the direction of the War Department, remaining in the treasury on the first of July, 1847; the appropriations made for the fiscal year 1847–'48; the amounts added thereto by repayments and transfers in that year; the total amounts applicable to the fiscal year 1847–'48; the amounts drawn by requisition from the treasury in the same time; and finally, the balances on the first of July, 1848; together with such appropriations as have been carried to the surplus fund.

Laid on the table, and ordered to be printed.

II. A letter from the Secretary of War, transmitting, in compliance with the twentieth section of the act approved twenty-sixth of August, 1842, statements of expenditures from appropriations for contingencies of the various offices and bureaus of the War Department during the fiscal year ending June 30, 1848.

Laid on the table and ordered to be printed.

III. A letter from the Secretary of War, transmitting a statement of the expenses of the national armories, and the number of arms and appendages made and repaired thereat, during the fiscal year ending 30th June, 1848.

Laid on the table, and ordered to be printed.

IV. A letter from the Secretary of War, transmitting, in pursuance of a resolution of the 29th May, 1830, a report of the Commissioner of Pensions, with lists of pension claims rejected during the past year.

Laid on the table, and ordered to be printed.

V. A letter from the Secretary of War, transmitting reports from the Adjutant General and Second and Third Auditors, assigning reasons for the delay in furnishing, as required by the resolution of the House of June 14, 1848, "a transcript 'of the official army list, in such form as to affix 'opposite the name of each person contained there-'in, in separate columns, the annual pay of such 'officer or person, the amount paid him for rations, 'servants, and forage, and the gross amount paid 'or allowed him in all respects, for and on his ac-'count for and during the preceding year."

Laid on the table, and ordered to be printed.

VI. A letter from the Secretary of the Navy, transmitting, in compliance with the resolution of the House of December 20, 1848, statements showing the number and places of birth of officers and marines employed in the naval and marine services on the Gulf and Pacific coasts during the late war with Mexico.

Laid on the table, and ordered to be printed.

VII. A letter from the Secretary of the Treasury, transmitting a report of the superintendent of the coast survey, on an application of the galvanic circuit to an astronomical clock and telegraph register in determining local differences of longitude, and in astronomical observations generally.

Laid on the table.

On motion of Mr. J. R. INGERSOLL,

Resolved, That the report and communication of the Secretary of the Treasury be printed; and that one thousand extra copies be printed, of which two hundred and fifty copies shall be for the use of the Superintendent of the Coast Survey.

VIII. A letter from the Secretary of War, transmitting, in compliance with a resolution of the House, of the 18th ult., a communication from the Colonel of the Corps of Topographical Engineers, with a copy of the report and plan of the board of "engineers, appointed under the Bureau of Topo-'graphical Engineers, to examine and report upon 'the different plans for the improvement of the 'harbor of Buffalo, New York."

Referred to the Committee on Commerce, and ordered to be printed.

On motion of Mr. STUART, of Michigan,

Ordered, That Chester Stebbins have leave to withdraw his petition and papers, which, at the last session, were referred to the Committee on Public Lands.

The said petition and papers were thereupon delivered to Mr. STUART.

BILL INTRODUCED.

By Mr. TAYLOR: A bill to cede to the State of Ohio all the public lands remaining unsold in the Chilicothe land district, in that State, for certain purposes therein named; read twice, and referred to the Committee on Public Lands.

PAYMENT FOR A SLAVE.

Mr. GIDDINGS resumed the floor.

Mr. ROCKWELL, of Connecticut, rose and appealed to the gentleman from Ohio to consent to postpone his [Mr. G.'s] motion to reconsider, with a view to resume, in Committee of the Whole on the state of the Union, the consideration of the bill to establish a board for the settlement of private claims, on which bill the House had just agreed to terminate debate on Monday.

Mr. GIDDINGS replied that he could no longer give way. This subject was resting on his mind; he wanted to dispose of it; he had given way with pleasure to the gentleman yesterday; he should occupy but an hour.

He then proceeded to address the House.

Mr. GIDDINGS said, that when on a former day he yielded the floor for an adjournment, he was saying that great and important principles lay at the foundation of our Government. Those who formed it declared the object and ulterior design of this and of all civilized governments. That design was, "*to insure to all men* (residing under our jurisdiction) *the enjoyment of life, liberty, and the pursuit of happiness.*" Are we to-day (said he) carrying out these objects? Here, sir, are two hundred and thirty American statesmen legislating for the benefit of *slavery*. There is no evading this plain and obvious fact. No subterfuge can hide it from the people. The powers of government were instituted by our patriot fathers, for the express purpose of securing to all for whom we legislate the blessings of liberty. We are now sitting here to compensate the oppressor of his fellow-man for his inability to continue his power over the victim of his barbarous cupidity. The members who vote for this bill will give unmistakable evidence of their approbation of slavery, and their willingness to sustain it.

Before I proceed further, I will give a synopsis of the facts involved in the case. The claimant, in 1835, residing in Florida, professed to own a negro man, named Lewis. This man is said to have been very intelligent, speaking four languages, which he read and wrote with facility. The master hired him to an officer of the United States, to act as a guide to the troops under the command of Major Dade, for which he was to receive twenty-five dollars per month. The duties were dangerous, and the price was proportioned to the danger. At the time these troops were massacred, this slave Lewis deserted to the enemy, or was captured by them. He remained with the Indians, acting with them in their depredations against the white people, until 1837, when General Jesup says he *was captured by a detachment of troops under his command*. An Indian chief, named Jumper, surrendered with Lewis, whom he claimed as a slave, having, as he said, *captured him at the time of Major Dade's defeat*. General Jesup declares that *he regarded him as a dangerous man; that he was supposed to have kept up a correspondence with the enemy from the time he joined Major Dade until the defeat of that officer; that to insure the public safety, he ordered him sent west with the Indians; believing that if left in the country, he would be employed against our troops*. He was sent west; and the claimant now asks that we should pay him a thousand dollars as the value of this man's body.

The Committee on Military Affairs were unable to unite in a report upon the case. Five *slaveholders*, representing slave property on this floor, and constituting a majority of the committee, have reported a bill for the payment of this amount to the claimant. Four northern members, representing freemen only, have made a minority report against the bill. This report, as I think, is sustained by irrefutable arguments.

The majority of the committee assume the position, that slaves are regarded by the Federal Constitution as *property*, and that this Government and the people of the free States are bound to regard them as property, and to pay for them as we would for so many mules or oxen taken into the public service. The minority deny this doctrine. They insist that the Federal Constitution treats them as *persons* only, and that this Government cannot constitutionally involve the people of the free States in the guilt of sustaining slavery; that we have no constitutional powers to legislate upon the relation of master and slave. There are several other

points on which the committee differ, some of which I intend to notice; but I propose first to examine for a few moments that of the constitutional power. It is due to myself and to the country that I should call public attention distinctly to the fact, that these questions are forced upon us by southern gentlemen against the wishes and remonstrance of every member of the committee from the free States. Involving as it does the great fundamental principles of our Government, a distinguished member from the North [Mr. ROCKWELL, of Connecticut] introduced a resolution to close the debate in one hour from the time we went into committee. I thought it unbecoming northern members to attempt thus to stifle debate on so important a matter, forced upon us by the South. I therefore called for the ayes and noes on that resolution, and now hold the floor by a sort of legislative fraud, having voted *for* the engrossment of the bill with the sole object of obtaining the floor.

Sir, at the formation of the Constitution slavery was condemned in the severest language by the delegates who framed that instrument. It is true, they had been regarded in England as property. In 1749 Lord Hardwicke had decided that trover lay for a slave in the British courts. That was the last decision of the kind made in England or in civilized Europe. One hundred years has elapsed since that decision. Its doctrines have been a thousand times discarded, contemned, and overthrown by the statesmen and jurists of that nation; but here, in an American Congress, we now hear this barbarous doctrine revived.

In 1772 Lord Mansfield boldly assailed the doctrine laid down in this Hall to-day, and exhibited its absurdity in one of the ablest opinions to be found on record. From that period this doctrine of *property in man* has found no supporters under the Government of England. With all our refinement as a nation, with all our boasted adherence to liberty, on this subject we are three quarters of a century behind our mother country.

When Sir Warren Hastings was on trial in the House of Peers in 1787, Mr. Sheridan, speaking on this subject, in his own peculiar and fervid eloquence, declared, that "allegiance to that Power 'which gives us the *forms* of men, commands us 'to maintain the *rights* of men: and never yet 'was this truth dismissed from the human heart— 'never in any time in any age—never in any clime 'where rude man ever had any social feelings— 'never was this unextinguishable truth destroyed 'from the heart of man, placed as it is in the core 'and centre of it by his Maker, *that man was not made the property of man.*" This was the language of British statesmen sixty-two years since. To-day we have before this branch of the American Congress the report of a committee avowing that under this Federal Government, in the middle of the nineteenth century, "*man is the property of his fellow-mortal.*"

These sentiments of the British statesmen and jurists inspired the hearts of our American patriots in 1776, when they declared it to be a "SELF-EVIDENT TRUTH THAT ALL MEN ARE CREATED EQUAL." When they framed our Constitution, they declared their object was "to establish justice, and to secure to themselves and their posterity the blessings of liberty." This subject of holding property in men did not escape their attention, nor have they left us ignorant of their views in regard to it. Mr. Madison, the father of the Constitution, has left to us a clear and explicit account of their intentions. He informs us, that on

"Wednesday, August 22, the Convention proceeded to consider the report of the Committee of Detail, in relation to duties on exports, a capitation tax, and a navigation act. The fourth section reported was as follows:

"'No tax or duty shall be laid by the Legislature on arti- 'cles exported from any State, nor on the migration nor im- 'portation of such persons as the several States shall think 'proper to admit; nor shall such migration nor importation 'be prohibited.'

"Mr. Gerry thought we had nothing to do with the conduct of the States as to slavery, *but we ought to be careful not to give any sanction.*"

Our people think with Mr. Gerry, that "*we have nothing to do with slavery in the States.*" We are determined that we will not be involved in its guilt. With Mr. Gerry, we intend "*to be careful to give it no sanction.*" No, sir; we will not sanction your slavery by paying our money for the bodies of slaves. This is the doctrine which we hold, and which we expect to maintain; yet the members of this body are now engaged in legislating upon the price of human flesh. If we pass this bill, we shall give our most solemn sanction to that institution which Gerry and his compatriots detested. Will the members from Pennsylvania, the successors of Franklin and Wilson, lend their sanction to slavery, by voting the moneys of the people to pay for slaves?

But Mr. Madison tells us that "Mr. Sherman (of Connecticut) was opposed to any tax on slaves, as making the matter worse, *because it implied they were property.*"

Will gentlemen here admit that slaves are *property?* I understand that *some* gentleman from the North admit that slaves are property. Mr. Sherman and the framers of the Constitution would do no act by which it could be *implied* that they were property.

Mr. Madison also participated in the discussion himself; and, as he informs us, "*declared that he thought it wrong to admit that there could be property in men.*" And the report of the committee was so amended as to exclude that idea.

In that assemblage of illustrious statesmen, no man expressed his dissent from these doctrines of Gerry, of Sherman, and of Madison. These doctrines are distinctly expressed in the quotation just made. 1. That "*we should have nothing to do with slavery, but ought to be careful not to give it any sanction.*" 2. That "*we should do no act by which it can be implied that there can be property in men.* 3. "That it would be *wrong for us to admit that there can be property in men*" Such were the views of those who framed the Constitution. They intended to express their views in such language as to be understood. Will this House stand by these doctrines?

The gentleman from South Carolina [Mr. BURT] declared that he would leave us no room to escape this issue; that we must say by our votes either that there *is* property in men under the Federal Constitution, or that there is *not*. I am most happy to meet the gentlemen on that point, and am prepared to submit the question to those who framed that instrument, to Mr. Madison. His decision is left on record. The only question is Have the Representatives of the people here the firmness and the independence to maintain the Constitution? There stands the record of their intentions. "He who runs may read." No man can fail to understand the intentions of those who framed our political compact. The people of the free States understand them. They know their rights under the Constitution; that they hold the indisputable right to be free, and entirely exempt from the corroding stain of slavery. So perfectly were these principles understood in the early days of the Republic, that after the war of the Revolution no man asked pay for his slaves that were taken from him or killed in the public service. In 1830 the Register of the Treasury declared that no instance of the payment for slaves during the Revolution was to be found on record. No, sir; Madison and Jefferson, and their cotemporaries, were then living. They well understood the principles on which the Union had been formed. They respected the rights of the *free* as well as of the slave States, and no man then attempted to involve the people of the North in the support of slavery. I believe the first attempt to make this Government pay for slaves was in 1816. This was twenty-seven years after the adoption of the Constitution, and forty-two years after the declaration of American independence. It is an important historical fact, that shows clearly the opinions then entertained on this subject.

After the close of the late war with England, a bill was pending in this House, providing for the payment of property lost or destroyed during that war. When the section providing for the payment of horses, carts, &c., *impressed* into the public service and destroyed by the enemy. Mr. Maryant, from South Carolina, moved to amend the bill so as to embrace slaves. The motion was opposed by Mr. Yancy and Mr. Robertson, and was negatived by a large majority. (See National Intelligencer, December 28, 1816.) This was a motion so to amend this bill as to pay for slaves if killed in the public service, when they had been *impressed*. I have heard northern members express the opinion, pending this bill, that we ought to pay for slaves, if lost, when they were *impressed* into the service. Sir, such was not the case thirty-five years since. Our predecessors then spurned the proposition. Where now is the feeling, the spirit, which animated them? We have no record of the speeches, but every member will see that the case proposed was the strongest case that could be imagined. It was where a slave was taken against the will of the master, and pressed into the service, and killed by the enemy. Yet they rejected the proposition by a large majority. The claim before us is of incomparably less force. Here the master hired the slave, at a high price, to go with the troops as a guide, and of course took upon himself all risks.

The next case was that of D'Autrieve. He had claims against the United States for wood and other necessaries furnished the army, and for the loss of time and the expense of nursing a slave who was wounded in the service of Government at New Orleans. This case is more interesting from the fact, that there was at that time an attempt, as on the present occasion, to break down that well-known principle in our Constitution, that "slaves are *persons* and not *property.*"

The Committee on Claims at that time (1828) was composed of four northern and three southern men. At its head was an honorable southern man, Lewis Williams of North Carolina, who served his country longer in this body than any other that ever sat in this Hall. For more than a quarter of a century he was a distinguished member of this House. There are few, very few, now present, that had the pleasure of serving with him; but his cotemporaries can attest to his great abilities and deserved influence. That committee reported in favor of allowing compensation for the articles furnished to the army, but said, expressly, that "*slaves not being property*, they could not allow the master any compensation for his loss." This was the unanimous report; Mr. Williams of North Carolina, Mr. McCoy of Virginia, and Mr. Owen of Alabama, uniting in the report. Mr. Williams had been contemporaneous with Madison and Jefferson, and he did not hesitate to avow the doctrines of the Constitution, and to maintain them. Here is the record of his opinion and of the views of his associates. When the bill came up in Committee of the Whole, certain southern gentlemen suddenly became excited, worked themselves into a passion, threatened a dissolution of the Union, and all that sort of thing. They made a strenuous effort to reverse the decision of the Committee on Claims; but after some two weeks' discussion, gave it up, laid the subject on the table, and there the matter ended.

This discussion was thirty-nine years subsequent to the adoption of the Constitution, and more than fifty from the Declaration of Independence. The principle that slaves were *persons*, and *not* property, was reaffirmed, upon full discussion, without the light which we possess on the subject. The Madison Papers were not then published. The views of Gerry and Sherman and Madison, in the Convention, and the action of that body in relation to this matter, was unknown to them. Should we now reverse that decision, and overturn the practice, we shall sin against greater light than they possessed.

The next and only remaining instance in which the question of appropriating the treasure of the nation to pay for slaves was in 1843. "A bill for the relief of the people of West Florida," intended to provide for the payment of slaves taken by the army of General Jackson from the inhabitants of that Territory, in 1814, came up for discussion. The slaves had been taken against the consent of their owners by the military power of the nation. I think there were about ninety slaves taken from different individuals. The proposition was distinct in its character. The object of the bill was to pay for human flesh. I myself opened the debate upon it; and stated, as the principal grounds of my opposition to it, that slaves were not regarded as property under the Federal Constitution. My venerable and lamented friend, now no more, (John Quincy Adams,) sustained my positions. Several southern gentlemen spoke in favor of the bill. The Journal is now before me, and shows the bill to have been rejected, by a vote of one hundred and thirteen to thirty-six. This was done by a *Whig* Congress. Not one of that party from the free States voted for the bill.

I have now given a history of our legislation on this subject. There was a bill passed this body, "*sub silentio*," on one of those days when there is, by the rules of the House, no discussion, by which payment was made for a slave. My friend from Pennsylvania [Mr. DICKEY] has stated the facts in regard to it. I knew that such a bill was

pending, and so did Mr. ADAMS; and we had mutually agreed to oppose its passage; but it slipped through unnoticed, and, therefore, constitutes no precedent.

In 1843 a bill passed this body to pay over moneys obtained by the Government from Great Britain, and held in trust by us, to be paid to the owners of slaves lost on board the "Comet and Encomium." This bill also passed the Senate, and became a law. At the last session we passed two bills to pay over moneys held in trust for the same purpose. These cases were not to take the treasure of the people of the free States to pay for slaves, but to pay over moneys that did not belong to us, but which we held for the use of those who claimed it. But from the dawn of the Revolution to this day, being more than seventy years, this House has expressed but one opinion on this subject. They have at all times *refused to tax the people of the North to pay for the slaves of the South.* We have never regarded them as property. But an attempt is now making to change the essential elements of our Government. Statesmen, now, in the high councils of the nation, deny that "*all men are created equal;*" that "*they are endowed by their Creator with the unalienable right to their lives and their liberties;*" or, that "*Governments are instituted among men to secure the enjoyment of those rights.*" It is now urged, that this Government was instituted for the purpose of robbing men of those rights; of disrobing a portion of our race of their humanity, and reducing them to the state of brutes, and making them the property of others. Will northern members assist to commit this outrage upon the honor of the nation and constitutional rights of the northern States? Is there a member from the free States who will vote to tax his constituents to pay for the blood, and bones, and muscles, of southern slaves? If so, let them place their names on record in favor of this bill, and let that record descend to coming generations, as a lasting memento of the principles which guide them.

I have now referred to the history of our legislation on this subject. The action of our committees was well commented upon by my friend from New Hampshire, [Mr. WILSON.] I wish, however, to add a few words on this point. I am not aware that any committee of this House ever reported in favor of paying for slaves, until the first session of the 27th Congress—being more than sixty-five years from the formation of the Government.

In 1830, my predecessor, the Hon. E. WHITTLESEY, reported upon the case of Francis Larche. This was the case alluded to by the gentleman from South Carolina, [Mr. BURT.] I understood him to say that the slave of Larche was *not impressed.*

Mr. BURT. The gentleman is mistaken.

Mr. GIDDINGS. I take it back, then.

Mr. BURT. The statement which I made was this: that no case could be adduced in which a refusal to pay for a slave had been made, on the ground that he is not property. The gentleman is totally mistaken.

Mr. GIDDINGS. I certainly understand the gentleman now, and I refer particularly to the case of D'Autrieve, which was rejected on this identical point, and is so averred in the report of the committee, as I have already stated; and that, too, when these southern men were members of the committee, and they united in the report.

But to return to the case of Larche. The Committee on Claims of the Senate (vide Rep. H. R. 401, 1st session 21st Congress) say, in distinct language, that "the cart, horse, and negro man Antoine, belonging to the petitioner, were *impressed,* and sent to the lines of the American army, on the 1st day of January, 1815, where the negro man was killed by a cannon ball from the British batteries."

The gentleman from South Carolina [Mr. BURT] assures us that he was *not* impressed. I can hardly suppose that he was authorized thus distinctly to deny the accuracy of that report, in a matter of fact. However that may be, it is certain that the committee understood that the man *was impressed.* They therefore acted upon that hypothesis: and with that belief the committee unanimously reported against the bill. No stronger case can be imagined. The horse, cart, and negro, were *impressed,* as the committee reported and believed. The petitioner was paid for the *property*—that is, the horse and cart, but the claim for the slave was *rejected.* Yet, sir, they had not the advantages of knowing the sentiments of the framers of the Constitution which we possess. They were unconscious that the members of the Convention declared, that "*they ought to be careful to give no sanction to slavery;*" that they should do nothing by which "*it could be implied that slaves were property;*" "*that it was wrong to admit that there could be property in man.*" I repeat, that to the best of my knowledge, (and I have bestowed much labor upon the subject,) no report was made in favor of paying for slaves from the public treasury during the first half century which this Government existed under the present Constitution.

In the 27th Congress, the claim of James Watson for slaves was committed to the Committee of Claims, of which I was myself chairman. The friends of the claim, by some means, learned that that committee had always reported against the payment for slaves. They therefore obtained the transfer of that case to the Committee on Indian Affairs, who reported a bill to pay for the slaves claimed by Watson. That report, made seven years since, was the first in favor of paying for slaves as property, so far as my knowledge extends, ever made to this body. During the same session, a report from the Committee on Territories was made of the "bill for the relief of the people of West Florida," to which I have already alluded, and which was rejected by the House.

Mr. BURT. Will the gentleman allow me the floor a moment?

Mr. GIDDINGS. With pleasure.

Mr. BURT. I stated in committee the other day, in reply to the interrogatory of the gentleman from Ohio, that Mr. Whittlesey, in his report on Larche's case, quoted the report of the Senate. I stated further, that Mr. Williams, to whom the gentleman from Ohio alluded, made a report in the Senate, on this case of Larche, saying that there was no evidence that the slave had been impressed at all. I stated further, that I had examined the Senate files in that case; and there is no evidence there, except the depositions of one or two men, (in the absence of any order,) that he was impressed at all.

Mr. GIDDINGS. Here is the historical record, the documentary proof, on which we are bound to act. I ask the gentleman from South Carolina if he intends to overthrow it by his sidebar testimony?

Mr. BURT. What is it?

Mr. GIDDINGS. That this man was impressed?

Mr. BURT. I do, sir. There is no evidence of the fact.

Mr. GIDDINGS. Then I leave the gentleman to take issue with the history. The documentary evidence is, that this slave was impressed; that he was taken to the American lines, and from thence sent to the Indian country.

[This extract was not furnished.]

Here (said Mr. G.) is the declaration of the committee. I don't know whether it is true or not.

Mr. BURT. Will the gentleman have the fairness——

Mr. GIDDINGS. Certainly.

Mr. BURT, (continuing the sentence)——now to read Mr. Williams's report in the Senate on the same case. That is upon the record also.

Mr. GIDDINGS. Does the gentleman undertake to say that Lewis Williams made a report in the Senate?

Mr. BURT. I say a Mr. Williams. I don't know that it was *Lewis* Williams. I have not known the public records as long as the gentleman from Ohio.

Mr. GIDDINGS, (in his seat.) Nor so well either.

Mr. BURT. I said Mr. Williams did make a report.

Mr. GIDDINGS. I said Lewis Williams did make a report, at the head of the Committee on Claims in this House, among whom were three southern slaveholders, who gave their approval of the report, which stated that this slave, together with the horse and cart, were impressed, and that he was killed by a shot from the enemy's battery.

At the period to which I was referring when interrupted, I had been placed at the head of the Committee on Claims, by the then Speaker of this House, [Hon. JOHN WHITE, of Kentucky,] of whom, though a slaveholder, I can never speak except with profound respect. There were at that time many claims for slaves before that committee. In this Hall, before the House, I was interrogated by a slaveholder [Mr. WISE, of Virginia] on this subject. I was asked distinctly whether our committee *would report in favor of paying for slaves?* I answered, that I would follow the established practice on that subject. He replied, that my answer was evasive, but that the established practice was not to pay for slaves. It so happened, that on the 21st March, 1842, I introduced certain resolutions declaring the rights of the people of the free States to be exempt from the support of the slave trade. For this I was driven from my seat. Another member was added to the Committee on Claims; and then, sir, during my absence, just eight days after I left the committee, this case was urged upon the members, who were most of them inexperienced in their duties, and unacquainted with the precedents. I left this Hall on the 22d March, and on the 1st day of April following a bill was reported by a slaveholding member of that committee, to pay for this man Lewis. This was the first case of the kind that ever received a favorable report from that particular committee; and that report was obtained in the manner just stated. It was in the sixty-seventh year of American independence, and the fifty-third of our Constitution. This is the history of this subject, and of this bill. It was reported seven years since by a Whig committee. We are yet to see whether this House can be induced to pass it.

Sir, we have the power to overturn the practice of this body from its first formation; we may overthrow its established and time-honored principles; we may defeat the objects of those who framed the Constitution; we may subvert the essential elements of that sacred compact which we are sworn to support; we may attempt to change the law of our existence—to deface the work of God, and declare his image to be *property;* we may do all this at the bidding of the slave power; we may humble ourselves in the presence of those who hold the rod of terror over us: but there is a superior Power that will hold us to a strict account of our stewardship. Sir, the eyes of the people are upon us; they are watching our actions. The concentrated rays of intelligence now brought to bear upon all our doings, render it impossible for us to deceive them. No evasion, no subterfuge will screen those who would render *northern freemen* subsidiary to the support of *southern slavery.*

To this day there has been in this Hall sufficient independence and patriotism to reject all propositions of this humiliating character. As I have said, we are now driven to legislate by southern slaveholders, under the lash of the South.

Mr. BURT. I hope the gentleman from Ohio will allow me this opportunity to disclaim utterly and indignantly any such imputation.

Mr. GIDDINGS. Withdraw it then.

Mr. BURT. I venture to appeal to this whole committee, who heard my remarks.

Mr. GIDDINGS. I thought when the gentleman said he would hold northern gentlemen to this point, whether a slave was property, "*no loop hole to escape,*" that it looked a little like the language of intimidation, a little of the crack of the whip. And I will say to the gentleman from Connecticut, [Mr. ROCKWELL,] that I took it a little unkindly.

Sir, when I reflect that I am now constrained to sit in this Hall to legislate upon the price of human flesh as *property,* I feel humbled. Before the nation, before Heaven, I protest against this degradation. By what rule shall I arrive at the *value* of this *man?* He is said to be very intelligent and learned, reading and writing four languages. In this respect he has, probably, few equals in this Hall. I mean no offence by this comparison, either to gentlemen now present, or to the negro who is absent. I regard the moral qualities of a man as the proper criterion by which to graduate my respect. In this light, I know not whether the comparison be unjust to him or to those who estimate *his value at precisely a thousand dollars.* I would be as willing to enter into an inquiry as to the value of the body of the honorable member reporting this bill, as I am to estimate the value of a man who, as a linguist, probably has not a dozen equals in this body. If we are to judge of him by the report of the committee, if placed in this body, he might have reflected honor upon our country and our race. The splendor of his genius might have soared far above the groveling intellects now en-

gaged in figuring up his value in dollars and cents. His name might have been placed in future history beside that of Wirt, of Henry, of Burke, and of Sheridan; or perhaps his philanthropy might have placed him on the roll of fame with Adams and Wilberforce. And yet we are now sitting here to inquire as to the value of this immortal mind, to estimate its price in "glittering dust." My soul shrinks from the impious sacrilege with loathing and disgust. But this etherial, immortal intellect, was bound in the chains of bondage, shut out from that sphere of usefulness and of action in which God designed it to move; and we are now asked to compensate this claimant for committing this wrong to mankind, this crime against God. I am anxious to see how northern members estimate their fellow-men. What price do they put upon their constituents? Let their votes give the answer.

On a former occasion, I cited the opinion of an eminent jurist (Judge McLean) on this subject.

In the case of Groves *vs.* Slaughter and others, (15 Peters' Reports, 449,) this question came distinctly before the Supreme Court of the United States. The constitution of Mississippi had prohibited the introduction of slaves into that State after a certain day. Slaves were taken there and sold on a credit after the time allowed by the constitution of that State. Suit was commenced on the note given in consideration of the slaves. The defence set up was, that the contract was illegal and void under the constitution of that State, which prohibited the sale therein of slaves from without the State The reply to this was, that slaves were *property*, and therefore the State of Mississippi had no power to prohibit their introduction into the State, as the power to regulate commerce between the States belonged only to Congress. In deciding the law, Judge McLean said:

"By the laws of certain States, slaves are treated as property; and the constitution of Mississippi prohibits their being brought into that State by citizens of other States for sale or as merchandise. Merchandise is a comprehensive term, and may include every article of traffic, whether foreign or domestic, which is properly embraced by a commercial regulation. But if slaves are considered in some of the States as merchandise, that cannot divest them of the leading and controlling quality of persons, by which they are designated in the Constitution. The character of the property is given them by the local law. This law is respected, and all rights under it are protected by the Federal authorities; but the Constitution acts upon slaves as persons and not as property."

But one member of that court dissented from these views. It may therefore be regarded as an authority, so far as the Judiciary are concerned.

If the doctrine contended for by the friends of this bill be correct; if slaves be property, slave markets may be opened in Boston, and Massachusetts will have no power to prohibit there the revolting scenes which are witnessed in this city. If the doctrine contended for by southern men be correct, no State can exclude slave markets from its territory, or consecrate its soil to freedom. It well becomes southern gentlemen to examine this subject before they base themselves upon the principle that slaves are property. Let that be established, and Congress will have power to prohibit the internal slave trade at its pleasure.

I now proceed to another branch of the case. With great propriety the gentleman from New Hampshire inquired, at what time the liability of Government to pay for this slave commenced? The question has not been answered, nor do I think it can be answered. The undertaking was hazardous in the highest degree. The troops were all killed but two or three by the enemy, and those were supposed to be dead. This man alone escaped unhurt, I believe. This danger was foreseen, and the master put a price upon the services to compare with the risk. Did this contract bind the Government to pay for the master's loss, admitting the slave to have been *property*? Was it any part of the compact that the Government should insure the property? It strikes me that no lawyer would answer in the affirmative. The law of bailment is surely understood by every tyro in the profession. The bailee for hire is bound to exercise the same degree of care over the property that careful men take of their own property. If, then, the property be lost, the owner sustains such loss. Now, conceding this man to be property, the Government would not have been liable had he run away, or been killed by accident, or died of sickness. Yet, sir, when property is lost or destroyed by the act of God or the common enemies of the country, no bailee is ever holden responsible—not even common carriers: and that is the highest species of bailment. Had this officer, acting on his own responsibility, agreed to take this negro through the country for hire, (admitting the man to have been property, and governed by the same rules of law as though he had been a mule or an ass,) and he had been captured by the enemy, no law would have held such bailee liable. But, sir, an entirely different rule of law prevails where the owner of a chattel lets it to a bailee for wages. Had this man been a mule or an ass, and the officer had hired him of the owner for wages to ride through that country, or to work in a team, or in any other manner, and he had been captured by the enemy, the bailee would not have been liable upon any rule of law or of justice; nor would he have been liable if lost in any other manner, except by neglect of the bailee.

The gentleman from South Carolina [Mr. BURT] said he would place this case upon *strictly legal principles*. Sir, I meet the gentleman on that proposition. I, too, for the sake of the argument, am willing to submit it on principles of law; and I believe that no jurist, or even justice of the peace, would hesitate to reject the claim on those grounds. All must admit that the liability of the Government concerning this man ceased when he was captured by the enemy: up to this point, the Government was not liable. I understood the author of this bill [Mr. BURT] to argue, however, that we became liable under the contract of bailment. That contract was ended when the man was captured. The claimant then failed to perform his part of it. The stipulation on the part of the master was, that the negro should pilot the troops from Tampa Bay to Fort King, the place of their destination, at the rate of twenty-five dollars per month. He was captured when only half the distance was accomplished. Here the master ceased to perform his compact: it was beyond his power to do so. The contract then ceased to exist; and from that time forth the claimant had no demand on us, either in equity or in law.

I now enter upon another view of this case. It is shown by the testimony of General Jesup, that this man was supposed to have kept up an understanding with the enemy, from the time he united with Dade's command until the massacre of that unfortunate battalion; that while he was with the enemy, which was more than two years, he united in committing depredations upon the frontier settlements; in short, that he was *one of the enemy*. Our army was sent there to protect this claimant, and his wife and children and neighbors, against this very man, who, in company with others, murdered the people of Florida, and destroyed their property. This expenditure of blood and treasure by the United States was occasioned in part by this very negro, for whom the master now claims compensation. With his extraordinary intelligence, with a knowledge of the wrongs which he and his people had suffered at the hands of those who claimed them as *property*, he must have thirsted for vengeance. He could have felt no attachment, no respect, for a people at whose hands he had received nothing but abuse and degradation. It was natural that he should have sought revenge; and it was natural that his master should become his victim, if within his power. But our army was sent there to protect the people against their slaves who were with the Indians, and their effective allies. It was under these circumstances that Lewis was captured, with other enemies. General Jesup says that he would have tried and hanged him, if he could have found time. This, under martial law, he might undoubtedly have done. And the gentleman who reported this bill admitted that in such case this claim would never have been presented. Suppose he had been slain in battle: I think we should never have heard of this claim. But why had General Jesup a *right* to hang him? Because he was an enemy, dangerous to the people and to the Government. But who will for a moment hesitate to say that he had the same power, yea, greater power, to send him out of the neighborhood, than he had to slay him in battle, or to hang him. Humanity surely would dictate that he should be sent out of the neighborhood, rather than his life should be sacrificed. Has the claimant's loss been greater than it would have been, had the negro been slain or hanged? Not at all. He had been taken in arms, had committed depredations upon the people; he had occasioned much loss of blood and treasure to the nation; could General Jesup have left him in Florida, consistently with his duty? I think not.

Here another important question arises: had the claimant any right to keep an enemy so dangerous within any civilized community? Is there a member of this body who will rise in his place and assert that any master possesses the right to retain such a foe on his plantation? Has any man the right to keep a rabid dog, or other animal, and suffer him to go at large in the community? I am now arguing the legal question. I am considering this man as property, the same as though he were an ass or a mule. And I lay it down as clear and indisputable law, that had such mule or ass killed the people, and destroyed their property, as this man had done, any member of the community might either have shot him or chased him out of the neighborhood with impunity.

I therefore meet the gentleman who reported this bill on every point involved in this case, legal, equitable, or constitutional, and I can find no merits in it.

But, sir, as I am for the moment engaged in a *legal* examination of the case, I desire to follow it a little further. This man was guilty of treason against the United States, or he was an enemy to our Government. I think it doubtful whether slaves can commit treason, as they owe no allegiance to our Government. But if he was not a traitor, he was surely an enemy to the country. Now, sir, whether traitor or enemy, and the master, knowing the fact, "had harbored him," "adhered to him," or "given him aid and comfort," would not the master have been guilty of the crime of misprision of treason against the United States, and punishable under our laws? Of this, I think there is no doubt. And yet we are called upon to pay him a thousand dollars for taking away a man thus dangerous to himself, who, if he had remained with him, would probably subjected him to the gallows. Let gentlemen reflect and vote as men, as intelligent statesmen.

Another question arises in this case which, to me, is equally fatal to the claim. A state of war existed. General Jesup was the commanding officer in Florida. He was the agent of the Government, and whatever the Government might do to insure the safety of the people, their agent for the time being could accomplish under the martial law. By the term "martial law," I mean the *war power*, which is the most dangerous, the most indefinite, the most unlimited, exercised among nations. I do not refer to the rules and articles of war. It is that vague, indefinite, undefinable power which knows no limits. It is that power which, in time of war, may do anything in the power of man to accomplish; may command any sacrifice of the people, or of any portion of them, in order to secure the safety of the Government, and of the subjects generally. It is that power which authorizes the military commander, in short, to do whatever he deems necessary for the security of the public: by which, suspected men were arrested and imprisoned in Connecticut and New York during the Revolution: by which, others were ordered to leave the country: and by which, others were shot down, their dwellings burned, and their estates confiscated. It is the power exercised in South Carolina, during the Revolution, by Sumter, and by Marion, and their compatriots.

It was by virtue of this power that Jackson, at New Orleans, suspended the writ of *habeas corpus*—adjourned the Legislature of Louisiana—ordered old men and boys, not liable to do military duty by law, on to the lines to defend the city—*sent all foreigners out of the city*, as he regarded them dangerous, as this man was supposed to be—suffered no communication between the city and country—ordered a portion of the slaves also into service, and sent the others back into the interior. Many of those slaves were killed, but we have at all times refused to pay for them. But does any one deny these unlimited powers? Not at all. If General Jackson had the right to send freemen and slaves away from the scene of danger, had not General Jesup the same power? Most assuredly he had. But the best illustration of this tremendous power is said to have occurred at Fort Erie, at the time the British attacked it, in 1814. A lieutenant commanded a *picket guard* at the west of the fort, perhaps a mile distant. A beautiful plain extends in that direction some half or three-fourths of a mile, bounded by a dense forest. He was

posted in this forest. As the British column advanced, the brave lieutenant, with his little band, retreated in front of them, keeping up his fire in gallant style, in order to retard their progress, and give notice to our men in the fort, and time for them to prepare to receive the enemy. A gallant officer had command of a heavy park of artillery on that wing of the fort. And as the British column emerged from the forest, and he saw its force, he opened a tremendous fire upon it. Our little guard and their brave commander were directly between the fort and the advancing column of the British army. They of course fell beneath the same fire that cut down the hostile column. As the story is related, General Brown was informed of the fact, and sent peremptory orders to the officer to cease his fire. To this order he paid no attention, but kept up such a shower of grape and canister, that the British column was broken and scattered before they reached the fort, so that not a man scaled its walls. But the whole of our picket guard, with their commander, were sacrificed; not a man survived. For this conduct the officer was arrested, and on trial showed conclusively that the sacrifice of our own guard of thirty men was *necessary to save the fort* and those in it. They, sir, were freemen. Their lives were surrendered for the safety of the army. These five southern gentlemen, who reported this bill, now insist that the widows and orphan children of those men shall contribute a portion of their substance to pay for a southern slave, who, for the safety of his own master as well as others, was sent out of the neighborhood. If there be a northern man in this body willing to lend his vote to consummate such an insult to the honor of the free States, let him stand forth and avow it. Were it not chilling to the feelings of humanity, I would give another illustration of this indefinite and unlimited power. I refer to the execution of those lads on board the sloop of war "Somers," a few years since, when several midshipmen and apprentices were hanged by order of a lieutenant, without trial, in order to secure the safety of the ship and crew. Shall we now tax the fathers and brothers of those young men to pay for this slave? But, sir, to come more immediately to the precise case before us, I refer gentlemen to the Southampton riots in 1832. The newspapers of that day informed us that slaves, and indeed colored freemen, were shot down in the streets, others sent to prison, and others sent out of the neighborhood. Shall northern men be taxed to pay for them? Certainly, if you pass this bill, we must expect to open the treasury to the slaveholders in all these and in ten thousand other cases. By virtue of this same power exercised at Southampton, General Jesup, in order to secure the safety of the people of Florida, sent this man Lewis with the Indians west of the Mississippi; and now the master, instead of paying the expense of arresting this man; instead of refunding to this Government and to the people of Florida the losses he has occasioned by bringing this slave among them; instead of paying for the property this man destroyed—he comes here and demands that we should pay him a thousand dollars for preventing Lewis from killing more people and destroying more property.

I have now stated my own views in regard to the powers of General Jesup to send this man out of the neighborhood. If he possessed these powers to deal with him as with any other enemy, no man will urge that we are in law or justice bound to pay for him. Admitting, however, for the sake of the argument, that General Jesup had no right to deal with him as an enemy, but that he was bound, under the order of the War Department, to deliver him over as a slave; that he disobeyed this order, and sent him west upon his own responsibility and in violation of his duty: in such case, I ask, is there a member on this floor who for a moment would suppose the people bound to pay for a slave taken by General Jesup, in violation of his duty and of positive orders from the War Department?

Every member must be aware that the rules which control a public agent are the same as those which govern in private life. Suppose I employ a man to act as my agent. While he confines himself to the business on which he is authorized to act, I am bound in law and in justice by his contract. Suppose I employ my friend on my right to go and purchase a horse for me: he makes a contract for the horse in my name; I am bound by it; and must perform it. But suppose he purchase a *farm* in my name: no man would suppose me obligated to take the farm.

Military officers are the agents of Government, to do all things pertaining to their office, and which come within the line of their duties. General Jesup was an agent to send out of Florida all enemies of the country; but he was not our agent to send the friends of Government west of the Mississippi. If he has done so, the act is his, not ours. It was unauthorized, and he alone is liable. Now I understand the gentleman from South Carolina [Mr. BURT] to urge that he was an enemy, and dangerous to the country. I admit the fact, and say that he should be *treated* as an enemy. But if he were not an enemy, then there is no claim on the Government.

But the committee are not content with urging that he was an enemy to the country, and dangerous; they suddenly change the argument, and say that he was taken for *public use*. An *enemy to the nation* is taken for *public use!* Well, sir, the argument is ingenious. It never found a place in the mind of Grotius or Puffendorf, or of any writer upon the law of nations or the rights of government. But the point was adopted by the argument of the gentleman from South Carolina, and perhaps I ought to notice it. For *what* use was he taken? *To* what use was he applied? The gentleman admits the right to shoot or to hang him. Would not that have been as much a "taking for public use" as it was to banish him? The *use* of sending him out of the country was the preservation of the lives and property of the people. That would have been equally attained by shooting or hanging the negro. But the reply to this is, that he was *property*. Well, I repeat, suppose he had been a rabid dog or a vicious mule, killing people and destroying their property, and General Jesup had shot or chased him out of the country to prevent him from killing his master or others: would the Government have been liable? I will not argue the point further.

Again: it is said, that by the act of hiring, we admitted the slave to be property, and that the Government is now *estopped* from denying that fact. We are bound to treat all arguments on this floor with respect. But to suppose that this obscure lieutenant, who, perhaps, never read a commentary on the Constitution, and who, I dare say, never dreamed that he was affecting, or doing anything to affect, our rights or our duties: I say, to suppose that his acts would *estop* Congress from maintaining the Constitution, or that such acts would have any weight whatever with this body, is a proposition which I will not detain the House to examine. He was our agent for the purposes of doing his military duty; but we never authorized him to legislate for us, or to give construction to our constitutional rights. Why, sir, I may hire out my son or apprentice or my hired servant: but would that be an admission that they were my *property?* Or suppose I agree that the gentleman from South Carolina [Mr. BURT] shall attend the Speaker to a given place: does that imply that I hold him as property? No, sir; the only fact implied is, that I have a right to receive the wages when the labor or duty is performed, according to my contract. In this case, the claimant agreed that Lewis should accompany the troops, and the officer agreed to pay the master twenty-five dollars per month. The claimant may have made the same arrangement in regard to any freeman as he did in regard to Lewis; and when the labor was performed, he would have the same right to the money. But in such case, would the Government be obligated to pay him for the body of such freeman. No doubt the same obligations would rest upon the hirer that now rests on the Government, and no more.

But the gentleman from South Carolina [Mr. BURT] says, that the act of 1815, levying direct taxes, recognizes slaves as property. That law provides, "that such tax shall constitute a lien upon the real estate and upon all slaves of individuals upon whom said taxes shall be assessed." My presumption is, that this bill was drawn by some southern man who did not reflect that slaves were less property under the Federal Constitution than they were under the laws of the slave States. The gentleman does not pretend that at the passage of that law, the question whether slaves were persons or property, was raised or discussed or thought of. I need not say, that a bill passed, *sub silentio*, constitutes no precedent. In our courts of justice, the judge takes no notice of questions not made by the parties, nor do the proceedings of a court form any authority on points not raised nor discussed by counsel, nor examined by the court.

The case of Depeyster, to which I referred, was a stronger case than that of the law of 1815. My friend from Pennsylvania, [Mr. DICKEY,] as well as myself, stated that that case passed when no one knew it. I knew that my lamented friend (Mr. Adams) and myself, both intended to oppose its passage, and we were both watching it; but it got through when we were unconscious of it. Does any man—I will not say lawyer—suppose that its passage constitutes any precedent showing that slaves are *property?* Yet this law of 1815, so far as we know, received no more attention, (or at least that part of it relating to slaves,) than did the act for the relief of Depeyster. It can, therefore, constitute no precedent.

The force of a precedent consists in the respect which we pay to the *judgment* of a former Congress. It is therefore necessary, to give a precedent any force whatever, that the *judgment* of the tribunal should have been exercised upon the question; and it is immaterial whether it be a judicial or legislative precedent. Thus, in each case that I have cited as precedents either in this House or in committees, you noticed the questions now under consideration were discussed, and deliberation had, and a *judgment* given upon the point before us. Now, sir, let me say, with all due respect to southern gentlemen, that I challenge them to produce an instance in which this House, or the Supreme Court of the United States, or any respectable court of any free State, has decided *slaves to be property under the Federal Constitution*, in any case where that question has been raised, discussed, or examined. I desire to see gentlemen come to a definite issue on this subject. I wish to meet them fairly and distinctly. They must admit that the framers of the Constitution intended to exclude from that instrument the idea that there could be property in man. To that point I intend to hold them. And I call upon them to meet the record of Mr. Madison, to which I have referred. Let them deny that record, or carry out the intentions of the framers of that instrument.

The gentleman from South Carolina [Mr. BURT] says he "should like to know what was contemplated by that clause in the Constitution which stipulates for the surrender of fugitive slaves, unless it be that their owners hold property in them?" I answer, that clause *means just what it says*. It gives to the holder of slaves the right to pursue and recapture them in a free State, precisely as it gives me the right to pursue and retake my apprentice or my son in any State to which he may escape. It no more admits the slave to be *property* than it admits the apprentice or the minor to be property. I am tired of hearing this clause of the Constitution quoted to prove almost every doctrine advanced by southern men. Its provisions are of the most plain and obvious character. It merely provides for the recapture and return of slaves, and nothing more.

But my hour is nearly expired. I and my constituents hold slavery to be a crime of the deepest dye. The robbing a man of his money or property, or the seizing of his ship upon the high seas, we regard as grievous offences, which should exclude the perpetrator from human associations for the time being. But we look upon those crimes as of small importance when compared with that of robbing a man of his labor, his liberty, his social, his intellectual enjoyments; to disrobe him of his humanity, to degrade and brutalize him. On this account we protest solemnly against being involved in the wickedness and in the crimes of that institution. To-day we are asked to pay our money for the liberty of our fellow-man. We hold that he was endowed with that liberty by his Creator; that it is impious, and in the highest degree criminal, for one man, or for a government, to rob any portion of our race of their God-given rights. As the representative of a Christian and a moral constituency, I deny the right of Congress to involve them or me in the support of such crimes. By our compact of Union, no such power is delegated to Congress. By the passage of this bill, we shall become slave dealers ourselves—traders in humanity. The people of one State shrink from the foul contagion. With Mr. Gerry, we hold

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that "*we have nothing to do with slavery in the States, but we will be careful not to give it any sanction;*" with Mr. Madison, we hold that "*it would be wrong to admit that there can be property in man;*" and with the signers of the Declaration of American Independence, we hold that it is a "*self-evident truth, that all men are created equal.*" We believe our rights to enjoy these doctrines unmolested by this Government are as clear and indisputable as are the rights of the slave States to *deny* them in theory and in practice. We claim no superiority of privileges under the compact. We admit them, under the Constitution, to enjoy their slavery unmolested by Congress or by the free States. Its blessings and its curses; its horrors and its disgrace, are theirs. We neither claim the one, nor will we share in the other. We will have no participation in its guilt. "It is the object of our perfect hate." Southern gentlemen may continue to misrepresent us, by saying that we seek to interfere with that institution in the States; but, thank God, we have at last obtained access to the public ear. The people of the free States now understand that all our efforts, politically, are based upon the constitutional right of being exempt from its support. For years I have made it a practice, in almost every speech I have made in this Hall, to guard against misrepresentation, by avowing my doctrines. I am aware of the efforts now making by northern presses, letter-writers from this city, and editors who pander to the slave power, to misrepresent my views, and assail my motives. Sir, let me say to those men before Heaven: If they will come up to the work, unite their influence, and separate this Government from the support of slavery and the slave trade, and leave that institution where the Constitution placed it—with the States in which it exists—with gratitude to God, and with love and good will to all my fellow-men, I will retire from these halls to the obscurity of private life.

Sir, I may, on the present occasion, disabuse myself of the imputation that I wish to embarrass the friends of the incoming Administration. Those who have done me the honor to observe my course in this Hall for the last ten years, must do me the justice to say, that my efforts here have been against no *party*. I desire to see every member of every party lend his influence to support the Constitution of my country and the rights of humanity. Sir, I war upon no party. My assaults have ever been upon existing evils. I wish to see the people of the free States purified from the support, the crimes, the contagion of slavery. I would oppose any member or any party who seeks to uphold the slave trade or slavery by Congressional laws, or lends his influence to continue within this District, or on the high seas, a commerce in human flesh. I know that the sympathies, the consciences, and the judgment of the people are with me. Recent events have demonstrated the power of truth. Its omnipotence is irresistible. It is rolling onward. No political paltering, no party evasions, no deceptions, no dodging of responsibility, will satisfy the people. No; gentlemen must come up to the work; they must take their position upon the line of the Constitution, and maintain the rights of the *free* as well as of the slave States, or they will be overwhelmed by the indignation of a free and virtuous people. Gen. Taylor and his friends will have an opportunity of gaining immortal honors, and of deserving and receiving the gratitude of the American people. Let them at once abolish slavery and the slave trade in this District, and upon the high seas; let this Government cease to oppress and degrade our race; let us cease to legislate for slavery; let the powers and influence of Government be exerted to promote human liberty, to elevate mankind in his moral and physical being; and honors of men, and the blessings of Heaven, and the gratitude of this and of coming generations, shall be theirs.

The hour being expired—

The SPEAKER gave the floor—for which there were several competitors—to

Mr. HILLIARD, who was understood to say, that he had not risen for the purpose of replying to the speech of the gentleman from Ohio, [Mr. GIDDINGS.] The question had already been fully discussed. He did not think that the House could be benefited by further debate upon it. He was not unwilling to risk the issue of the case upon the speech which had been this day made.

He had risen for the purpose of doing that which he believed it was well to do in most of these cases: instead of discussing general principles connected with existing topics, it would be better for the House, if it could, to proceed to vote at once. The object of all discussion should be to spread light on a subject that might come up, so that the House might arrive at an enlightened conclusion. When that light had been given, it was their duty to vote. He would therefore move the previous question. If the House desired to sustain the motion, it could do so; if not, if gentlemen desired to speak and the House desired to hear them, the motion would not be sustained.

The question on the demand for the previous question was then taken, and decided in the affirmative.

So there was a second.

And the House decided that the main question should be now taken, (which main question was on the motion of Mr. GIDDINGS to reconsider the vote by which the bill had been ordered to be engrossed for a third reading.)

Mr. GIDDINGS now rose and said, that to save the time of the House, he would withdraw the motion to reconsider.

The SPEAKER. The motion to reconsider is withdrawn. The question before the House is, "Shall this bill pass?"

Mr. DICKEY asked the yeas and nays on that question; which were ordered.

And the question, "Shall this bill pass?" was then taken.

And the SPEAKER declared the result to be—in the affirmative 90, in the negative 89.

[The twelfth rule of the House provides, "that 'in all cases of election by the House, the SPEAKER 'shall vote; in other cases he shall not vote, unless 'the House be equally divided, or unless his vote, 'if given to the minority, will make the division 'equal; and in case of such equal division, the 'question shall be lost."]

The SPEAKER proceeded to discharge the duty imposed by this rule. His remarks were taken under great disadvantage of position, but are believed to be as follows:

The SPEAKER. A case has occurred in which, under the rule of the House, it is the duty of the SPEAKER to vote. The SPEAKER regrets that in this, as in many other cases, he has been deprived of the opportunity of listening to the full discussion of the question, having heard no speech except that which has been made this morning, the debate having taken place mainly in Committee of the Whole on the private calendar.

The SPEAKER also has had little opportunity, if any, to turn his attention to the principles or the facts involved in this case. He cannot shrink, however, from giving his vote. But it is a well admitted Parliamentary principle, laid down in the books, that where the SPEAKER has any doubt in relation to a question, his vote shall be given in such a way as not finally to conclude it. It shall be given in such a way that the consideration of the question may be again open to the House, if the House, under any circumstances, shall choose to reconsider it.

The SPEAKER takes the opportunity to say, that he does not concur in full with either of the principles which have been maintained on both sides of the House. So far as the circumstances of the case have come to his knowledge, he doubts exceedingly whether the question of property in slaves is involved. And it has been to him a matter of great doubt from such part of the arguments as he has heard——

At this point of his remarks, the Speaker was interrupted by the Clerk, who showed him a paper containing the state of the vote.

The SPEAKER said the Clerk was mistaken in the vote. The vote stands—ninety-one in the affirmative, eighty-nine in the negative.

The annunciation was received with varying expressions of amusement, applause, or gratification.

So the bill was passed by the following vote:

YEAS—Messrs. Barrow, Birdsall, Bocock, Bowlin, Boyd, Boyden, Brady, Bridges, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Burt, Butler, Cabell, Chapman, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Daniel, Donnell, Garnett Duncan, Dunn, Featherston, Ficklin, Flournoy, French, Fulton, Gaines, Gayle, Goggin, Green, Hammons, Harmanson, Harris, Hill, Hilliard, Isaac E. Holmes, George S. Houston, John W. Houston, Inge, Iverson, Jameson, Andrew Johnson, Robert W. Johnson, George W. Jones, Kaufman, La Sère, Leffler, Levin, Ligon, Lumpkin, McDowell, McKay, McLane, Job Mann, Meade, Morehead, Morse, Outlaw, Peyton, Phelps, Preston, Richardson, Richey, Rose, Shepperd, Stanton, Stephens, Taylor, Thibodeaux, Thomas, James Thompson, Jacob Thompson, Richard W. Thompson, John B. Thompson, Tompkins, Toombs, Venable, Wallace, Wiley, Williams, and Woodward.

NAYS—Messrs. Abbott, Belcher, Bingham, Blackmar, Canby, Cathcart, Collamer, Collins, Conger, Cranston, Crowell, Darling, Dickey, Dixon, Duer, Eckert, Edwards, Embree, Nathan Evans, Faran, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Gregory, Grinnell, N. K. Hall, Jas. G. Hampton, Moses Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Jenkins, James H. Johnson, Kellogg, Kennon, Daniel P. King, Latham, William T. Lawrence, Sidney Lawrence, Lincoln, Lord, McClelland, McIlvaine, Horace Mann, Marsh, Marvin, Miller, Morris, Mullin, Nelson, Nes, Newell, Palfrey, Peaslee, Peck, Petrie, Pettit, Pollock, Putnam, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Sawyer, Sherrill, Silvester, Smart, Caleb B. Smith, Truman Smith, Starkweather, Charles E. Stuart, Strohm, William Thompson, Thurston, Tuck, Van Dyke, Vinton, Warren, Wentworth, White, and Wilson.

[The reporter does not attach the *numbers* to the negative and affirmative votes as given in this list, because it will be seen, by reference to a subsequent part of the day's proceedings, that the *result* is still in dispute.]

Mr. BURT now rose, and said that he had risen, not for the purpose of re-arguing this question, but of moving a reconsideration of the vote by which the bill had been passed; and he moved to lay that motion on the table.

And, continued Mr. B., before that question is taken, I move that there be a call of the House.

Mr. PALFREY rose and asked the attention of the gentleman from South Carolina, [Mr. BURT.]

The SPEAKER. This motion for a call of the House is not debatable.

Mr. PALFREY. Under the extraordinary circumstances under which that bill has been passed——

Mr. BURT. I do not yield the floor.

Mr. PALFREY. I ask the gentleman——

Mr. BURT. I trust the gentleman will not interrupt——

The SPEAKER. The question is on the motion that there be a call of the House.

Mr. LINCOLN, (addressing the Chair). I have had information brought to me in relation to the record of my vote on the bill which has just been passed. I desire to be informed by the Clerk how my vote is recorded.

The CLERK. The vote is recorded in the negative.

Mr. LINCOLN. That is right.

Mr. WENTWORTH said, as the question before the House was one of some importance, he would ask the yeas and nays on the motion for a call of the House.

And the yeas and nays were ordered.

The question was then taken on the motion that there be a call of the House, and decided in the negative—yeas 78, nays 105.

So a call of the House was refused.

The question then recurred on the motion to lay on the table the motion to reconsider.

Mr. BURT rose and said, that at the suggestion of many of his friends about him, with a view to save the time of the House, and as a call of the House had been refused, he would withdraw the motion to reconsider.

So the motion to reconsider was withdrawn.

Mr. COCKE rose, and renewed the motion to reconsider, and moved that that motion be laid upon the table.

Mr. PALFREY said, he renewed the motion that there be a call of the House.

Mr. HILLIARD rose to inquire if the gentleman from Massachusetts [Mr. PALFREY] had voted with the majority on the passage of the bill?

The SPEAKER. The motion of the gentleman from Massachusetts [Mr. PALFREY] is, that there be a call of the House.

Mr. PALFREY. I have nothing to do with the motion to reconsider. It is not my motion.

Mr. BURT inquired of the Chair whether a motion for a call of the House was in order at this time?

The SPEAKER said, the gentleman from South Carolina [Mr. BURT] would remember, that under the practice of the House, a single motion intervening had generally been considered enough to permit a motion to be again made.

Mr. BURT. I do not understand that any motion has been put.

The SPEAKER. The gentleman from Tennessee [Mr. COCKE] has moved to reconsider the vote by which the bill was passed, and that that motion be laid on the table.

Mr. BURT. My motion was to reconsider the vote by which the bill had been passed, and to lay that motion on the table. I then said I would move a call of the House, before the question was taken on the motion to lay on the table.

The SPEAKER. If the gentleman had persisted in his two motions, the motion for a call of the House would not now have been in order. But the gentleman withdrew them. The same motions have been renewed, and the same opportunity is afforded for a call of the House now as was afforded then.

Mr. COCKE. I withdraw my motion to reconsider.

Mr. PALFREY rose to a point of order. He submitted to the Chair, whether the fact that the motion to reconsider, upon which motion a motion for a call of the House had supervened, had been withdrawn, caused his motion to be out of order?

The SPEAKER. The gentleman can move a call of the House if he pleases; but the motion to reconsider having been withdrawn, some other business must intervene before the motion for a call of the House would be in order.

Mr. PALFREY submitted that the state of facts was not precisely such as was understood by the Chair. The gentleman from Tennessee [Mr. COCKE] had made a motion to reconsider. Upon that motion he (Mr. P.) had moved that there be a call of the House. The gentleman from Tennessee withdrew his motion to reconsider. He (Mr. P.) held that the withdrawal of the motion to reconsider did not make his motion for a call of the House out of order.

The SPEAKER. It would not make it out of order if a motion for a call of the House had not been the very last question upon which the House has acted. But, in accordance with all Parliamentary practice, the same motion cannot be put twice.

Mr. PALFREY. But the gentleman has made another motion since.

The SPEAKER. And the gentleman has also withdrawn his motion; and if the motion for a call of the House were now entertained, nothing would appear upon the Journal but that two motions for a call of the House had been made successively.

Mr. McLANE. Will the motion to go into Committee of the Whole on the private calendar supersede the motion for a call of the House?

The SPEAKER. There is no such motion pending as a motion for a call of the House.

BOARD TO SETTLE PRIVATE CLAIMS.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of proceeding to the consideration of the bill to provide for the settlement of claims against the United States.

And the question having been taken and decided in the affirmative—

The House again resolved itself into Committee of the Whole on the state of the Union, (Mr. BURT, of South Carolina, in the chair,) and resumed the consideration of the said bill.

Mr. JOHNSON, of Tennessee, was entitled to the floor.

Mr. PETTIT asked him to yield, whilst he (Mr. P.) could send to the Chair, with a view to have read, a substitute, which he proposed to offer for the bill.

Mr. JOHNSON having assented—

Mr. PETTIT sent his substitute amendment to the table, and it was read.

Mr. JOHNSON, of Tennessee, said that it was not his intention to occupy the time of the committee during the whole hour allotted by the rule.

The bill now under consideration, which had been reported by the Committee on Claims of this House, was one of some importance, and one which, he thought, should engage the serious consideration of this House. The evils which had been complained of were admitted by all to exist; that was to say, that citizens or individuals having claims against the Government of the United States were delayed in the prosecution of those claims; that they had to come before Congress for relief, either by memorial, or in some other way; that their cases were postponed and postponed, until the petitioners were worn out, and finally despaired of obtaining anything at the hands of the Government. That such evils did, to a great extent exist, was, he repeated, admittted on all hands, and he supposed that only one sentiment existed in this House, and that was in favor of some plan by which the procrastination attendant upon the action of Congress, in such cases, could be prevented. Upon this proposition they were all agreed. They all admitted that there were many claims presented here; that great delay took place in their adjudication, and that the parties were put to great expense in the prosecution of them. Such was the evil—such the defect which this bill, as he understood it, proposed to remedy.

But in order that he might make himself better understood, he proposed to read one or two extracts from the report which accompanied this bill. It laid down the premises more concisely and more intelligently than he had done. The report said:

"It thus appeared that in six years 8,999 petitions were presented to both Houses of Congress by private claimants, and of these 3,081 were not reported upon at all by any committee; and in the ten succeeding years there were presented 17,573 petitions to the House of Representatives, and 8,948 were not reported upon by any committee—more than half the number.

"But this is not the whole nor the most serious part of the evil. It is not surprising that the committee have not reported upon all the petitions presented, but that they have been willing to expend so great an amount of labor in examining claims which never receive the action of Congress."

And again the report said:

"Far otherwise, however, is it with reports in favor of the claim of the petitioner; and a most just ground of complaint, on the part of claimants, is, not the adverse action of the House on claims which have received the favorable action of a committee, (although often a most hasty and unintelligent action,) but that when bills are reported for their relief, but a small part are reached and acted upon at all by the House in which they originate," &c.

Thus the difficulties and defects proposed to be remedied were plainly enumerated and set forth. In the first place, it was assumed that there were a great many petitions presented. These petitions were referred to the Committee on Claims. That committee reported in favor of some and adversely to others; and upon many claims which were favorably reported upon, the House refused or failed to act. This was the difficulty—here the delay. Claims were presented, reported upon by the committee, and submitted to the House; and the complaint was, that Congress would not act on the cases thus coming before them.

The report went further. It gave the following as the number of cases during the twenty-fifth Congress:

"Private petitions of the House of Representatives alone, 4,240.
House bills reported, 1,240.
House bills which passed the House, 375.
House bills which passed both Houses, 347."

It thus appeared, that at the twenty-fifth Congress, nearly one-half the claims upon which favorable reports had been made were left unacted upon. And this bill was intended to remove the evil, and to enable the petitioners to receive justice at the hands of the Government.

Let gentlemen see how this thing would work in practice. After ascertaining where the unsound part was, they ought, before prescribing a remedy, to be fully satisfied that they had a remedy adequate to the cure of the disease; that they had a plaster whose healing influence should be coextensive with the unsound portion of the system—a remedy suited to the malady which all admitted to exist.

How was this? Did the bill before the committee touch the defect? Did it reach the difficulty pointed out in the report? He thought not. What did the bill propose? It resolved itself into a very narrow compass. Did it propose to facilitate the action of Congress upon bills which had been favorably reported upon? He thought not. It did not, in his judgment, approach the point of relief to the petitioner. The report said, expressly, that, during the 25th Congress, 4,240 petitions were presented to the House; that 1,240 bills were reported; and that out of these 1,240, only 735 received the sanction of the House. Did the bill meet the exigency of this case?

The report proved that there were many more bills reported to the House than the House acted upon. The bill did not propose to facilitate action, but only to facilitate the process by which more reports might be got before the House, though there were already more than the House acted upon. The bill did not, in any one of its provisions, touch the point. Take an example: when a petition was presented, it was referred to the Committee on Claims. The committee collected all the facts and evidence set before them, and embodied them in the form of a report, either for or against the claim, to be submitted to the House. If the committee were in favor of the claim, they reported a bill; and it was seen, that upon a large number of such bills, the House did not act. Did the bill before the committee provide a remedy for that? Certainly not. It merely took the labor away from the Committee on Claims and transferred it to the board of commissioners.

The duties of that committee were thus defined by the 82d rule of the House:

"It shall be the duty of the Committee of Claims to take into consideration all such petitions and matters or things touching claims and demands on the United States as shall be presented or shall or may come in question and be referred to them by the House, and to report their opinion thereupon, together with such propositions for relief therein as to them shall seem expedient."

Now, what did this board of commissioners propose to do? They were constituted a tribunal to act upon claims against the Government, and to report their decisions to this House, for the action of Congress. It was provided in the twelfth section of the bill—

"That said board shall, at the commencement of each session of Congress, and at the commencement of each month during the session of Congress, report to Congress the facts found by them in the several claims referred to and acted upon by them, with their opinion in relation to the same, and shall prepare a bill or bills in those cases which shall have received the favorable decision of said board; and that the said board shall transmit with said reports the testimony in each case, whether the same shall receive the favorable or adverse action of said board."

He would suppose a case, to illustrate the practice under this bill. A petition is presented here, and it is transferred immediately to this board of commissioners. The board collect the facts; examine them; come to a decision upon the case; and after that, whether their decision be for or against the petitioner, the whole business is to be submitted again to the House in the shape of a report—the facts all compiled and submitted for the action of Congress. What, now, had the board accomplished? Had they done anything more than what pertains now to the duty of the Committee on Claims? Had they advanced the legislation of the country? He affirmed that they had not; and that the bill was nothing, in effect, but a proposition to transfer the business of the Committee on Claims to a board of commissioners; for, when we should get the compilation and the report of the commissioners upon any case, whether favorable or adverse, would not the business of Congress with respect to the case remain just where it was before the papers were sent away? It would; and the legislation of the country would not be at all facilitated by the action of the board. Besides, if Congress now had more bills reported for their consideration than could be acted on, and if the board should increase the number of these reports, how would their labors facilitate legislation? The fact was, that after all their labors, they leave the real business in hand precisely where it started.

But it was contended by some, that if we could have the merits of claims investigated by a board of commissioners, and a report made upon each case, Congress might take the report of the board as conclusive; and so, perhaps, many claims might be passed upon, which are now kept a long time

on the files. Now, to his mind, this was a strange argument; for here was a Committee on Claims appointed, the several members of which had taken the oath to support the Constitution—entirely to understand and faithfully to discharge their duties; and when such a committee, having claims referred to them, make a report to the House, it seemed to his mind, that their judgment and decision ought to have as much weight on the minds of the House as the report from any board of commissioners. Would any man say, that in the organization of such a committee, we cannot have as much reliable integrity, talent, and information, as would be likely to be found in any board of commissioners which the President would appoint?

But the principal argument for a change of the system for the adjudication of claims was derived from the fact, that many cases of claims hang on so long. Well, how had the matter stood under the present system? He took the case of M. Cazeau, a Canadian Frenchman, whose property was confiscated in the revolutionary war. This man became an applicant for the value of his confiscated property in the year 1817, and there was allowed and appropriated, to satisfy his claim, the sum of forty-two thousand dollars; but by some fraudulent means the money was paid into improper hands, so that the claimant never obtained a dollar of it. These facts being fully established and made known to Congress, in the year 1836, (twelve years ago,) the other branch of Congress, (the Senate,) by resolution, referred the case to the Solicitor of the Treasury, at that time Mr. Maxcy, and he reported favorably; but from that day to the present time there had been no further steps taken in the matter. Twelve long years had passed away since this favorable report was received in the case of M. Cazeau, yet to this day the claim was pending before Congress, and still undecided. Now, if he could pick up such a case of twelve years' standing since it had been favorably reported upon by such a man as Mr. Maxcy, remaining still unacted on by Congress, what security was there that this branch of legislation would be facilitated by the examinations and reports of such a board of commissioners as it was proposed by this bill to establish?

He repeated, that the design and purpose of the bill could not be anything more nor less than a transfer of business from the Committee on Claims to the board of commissioners, under the pretext that the business of legislation would in this manner be greatly facilitated; when the truth was, that, under the present system, there were more claims reported for consideration than Congress could possibly act upon. He had just made a reference which he would state in confirmation of this fact. To the twenty-fifth Congress there were a thousand claims reported, while only seven hundred of them were acted upon by that body—leaving three hundred on the calendar.

The very next section of the bill following that which he had recited, showed conclusively that the new system was liable to every objection he had pointed out. It provided that these commissioners' reports "shall be continued from session to session, and from Congress to Congress, until the same shall be finally acted upon." There was a rule of the House which would not admit of business being continued from Congress to Congress; but by a change of that rule, the same result would be obtained as that proposed to be brought about in the bill. The bill, therefore, did not meet the case which it was intended to meet. The malady was one thing, and the antidote was another thing: and when we come to examine the bill in this light, aside from the general principle to which he had objected, we could not fail to meet with the most glaring defects. It was, in fact, nothing but a string of defects and incongruities; and it seemed to him, that if the ingenuity of the most astute individual were to be tasked to invent a scheme of incongruities, he could not prove more successful than the committee reporting this bill, supposing their object to have been the same. Viewing it in all its aspects, from beginning to end, it fell wholly short of the object for which it was intended. In these remarks upon the bill, he did not mean to be understood as speaking at all invidiously of the presenters of it, but he just meant to speak of the thing as it was.

It might not be entirely clear to some gentlemen, but it was evident to his mind, that the chief purpose intended to be accomplished by the framers of this bill was wholly lost in the performance. Let us see how it would work. The committee had been told that in most other countries there was to be found some court or tribunal through which the government could be reached by its creditors; and it was monstrous that some such tribunal was not also to be found in this country. But there were two things always to be considered in connection with the establishment of a tribunal of this sort. In the establishment of such a court, or board of commissioners, in this country, we should first look at the genius and spirit of our Government; and then we should consider whether the operations of such a tribunal would completely harmonize therewith. He admitted that tribunals similar to that pointed out in the report of the Committee on Claims might be found in other countries; but their governments all differing materially from ours in their genius and spirit, there was left no analogy in the case. For instance: in our Government no money could be drawn from the treasury only in the way of appropriation by act of Congress; and even if we transfer the adjudication of claims to this board, an act of Congress will still be necessary before the judgment of the board, in any case, can be satisfied. Hence every case would be open still to legislation. It must come before Congress. It could not be taken away.

Again: the people of this country had secured to themselves, by the Constitution, the right of petition. And now suppose a creditor of the Government comes here to-day by his petition, and we refer his case to a board of commissioners, and the board decides either for or against his petition, or declaration, or whatever the paper may be called—suppose the board to decide against him: have we estopped him? is his case concluded here? have we estopped him from further legislation? No, sir; he can turn round to-morrow, and, under that provision of the Constitution which secures the right of petition, he may insist upon legislation in his case. Hence, in the establishment of a court of this kind, we should be careful to see that its operations would be perfectly consonant with the genius of our Government. He denied distinctly that Congress had the power to establish a tribunal whose decision should be final in these cases. They could not say that Congress shall not hear these cases. What, then, was to be accomplished by the bill? Just nothing at all. All that could be accomplished, were the arrangement to be carried into operation, would be a transfer of business from the Committee on Claims to the board of commissioners.

Instead of diminishing and facilitating legislation, it seemed to him that this arrangement would increase and procrastinate legislation. Congress had means enough now by which to originate subjects of legislation; but this board would be a kind of manufacturing establishment, by which the subjects of legislation would be increased and accumulate on our hands. How, then, would Congress get along, since they have now a so much larger amount of matter reported than the time permits to be acted on? and where was the necessity of a new arrangement to furnish other subjects of legislation, which never could receive the consideration of Congress? It had been said that one-third of the time of legislation would be saved by the passage of the present bill. But could not every man see at a glance that the new arrangement would bring up new subjects of legislation, and more of them? and did not all know, when they came to look at it, that it would not shorten the session a single hour? for the same routine of legislation would have to be passed over, after the report of the commissioners, that we go through now. This was all very clear to his apprehension.

But there were other objections to the bill equally clear and tangible. He read from the first section: "That a board for the settlement of claims against 'the United States be, and the same is hereby, con-'stituted and established, to consist of three com-'missioners, to be appointed by the President, by 'and with the advice and consent of the Senate. 'The said commissioners shall severally take an 'oath before a judge of the circuit court of the 'United States for the District of Columbia, faith-'fully and impartially to execute the duties of his 'office to the best of his judgment and ability; and 'each commissioner shall receive a compensation of 'three thousand five hundred dollars per annum, to 'be paid quarterly from the treasury of the United 'States." In another section, the bill empowers this board to prescribe their own rules in regard to the receipt of the applications of claimants, the species of evidence that shall be produced, and the manner of taking it. All this was clear from the terms of the bill. It appoints three commissioners, at a salary of thirty-five hundred dollars each, without any limit to the term of their service, and without any provision by which they may be turned out of office for corruption, as far as the bill is concerned. This, of itself, was a sufficient objection to the bill for him; and on this account he regarded it as a proposition lagging very far behind public opinion in this country. Public opinion had now generally condemned that rule of appointments to office during good behavior. If the board were to be created, he should be in favor of their being appointed for a certain number of years, and removable for certain specific offences. He did not know but that this doctrine of appointments for life was gaining ground in the minds of some; but it certainly was not so with the masses of the people. They did not think that office, conferred on a particular individual, became in his hands a kind of vested right, as something that may be clutched and claimed like goods and chattels, and transferred from one member of the family to another.

In the last section of the bill, in connection with the appointment of these three judges, or commissioners, at a salary of thirty-five hundred dollars each, he found that the board was authorized to appoint a principal clerk, to receive a salary of eighteen hundred dollars per annum, and an assistant clerk, to receive a salary of fifteen hundred dollars per annum. The annual salaries altogether amounting to nearly fourteen thousand dollars. By this bill, then, it was proposed to create a board of commissioners which was to cost the treasury the sum of fourteen thousand dollars per annum; while it could not be demonstrated that the arrangement would diminish the expense of legislation to the amount of one single dollar; but, on the contrary, was the foundation of a system which must inevitably increase that expense.

He did not say that there were certain individuals in this country standing ready, cut and dried, for these places; he did not say that these individuals did not need these places much worse than the Government needed their services; he did not affirm these things, but they might be so. But when he looked over the States of this great Confederacy, where there could be found gentlemen, in the proper sense of the term, who were qualified, legally and in the proper sense of that term, to sit upon the supreme bench of the State, and properly decide all the questions arising there; when he found distinguished men and able lawyers thus willing to go upon the supreme bench of a State, and serve for salaries of eighteen hundred dollars and two thousand dollars per annum—men of as good standing and character for integrity and legal information as any that might be selected to constitute this board,—he could not see the propriety nor the justice of fixing the salary of these commissioners so high as three or four thousand dollars. The salaries of the Federal Government here, he contended, were too high in comparison with those of the State governments. The officers of the State governments sunk into insignificance in the comparison; and hence the great rush to the capital to pick up the offices of the Federal Government.

He would greatly prefer the amendment of the gentleman from Indiana, [Mr. PETTIT.] He would prefer throwing the courts of the country open, and allowing to every creditor of the Government the privilege of making suit and maintaining his action against the United States. He would go for thus letting in all claimants upon the Government, before he would support such a string of incongruities as he found in the bill under consideration: for, he reiterated the assertion, it was nothing but a bill of defects from beginning to end, falling so far short of the remedy proposed, that it did not even touch the evil complained of by the chairman of the Committee on Claims himself.

The gentleman from Pennsylvania [Mr. STRONG] (from a sense of weakness, perhaps, in his argument for the bill) had made this issue before the committee: he had said it was incumbent upon those who oppose this bill to recommend something better in its place—to offer a substitute by which the desired object could be better accomplished. He (Mr. J.) admitted that it was much easier to

find fault and complain of existing defects than to propose a remedy for them—much easier to tear down a system than to construct one. He knew very well that a novice might demolish this Capitol, while it would require the hands of an accomplished architect to build it up again. But the gentleman from Pennsylvania had presented a false issue: for we were not compelled to take this bill, or something else that might be substituted for it. Such was not the dilemma; or if it was, it had three horns to it. The country was compelled to take the plan of this bill for adjudicating claims, or fall back upon the present mode, or, it might be, resort to something better. The real question before the country was, Does this bill propose anything better than the existing system? Will it cure the disease complained of? Will it remedy the defects of the present system? This was the only question before the committee; and he had fairly shown, as he believed, that but a few moments' examination was necessary to convince every mind that the bill did not meet the case; it did not relieve the case from any difficulty: and now, would the committee pass a bill, the operation of which, with reference to the legislation of the country, would not only leave us just where we are, but increase the annual expenses of the treasury some fourteen thousand dollars? He thought not.

It was his intention, when he rose, to occupy the committee but a few moments with his remarks upon this bill. His object was merely to assign a few reasons why he should go against it. And now, upon the review of it, he would be almost unwilling to reprint it. It was a production so utterly worthless, to his apprehension, that he would advise the committee reporting it to commence their work anew. If the present system could be improved, let the improvement be pointed out, and he would go for it. But with reference to this bill, (though he knew the cry of demagoguism would go out against him for it,) he would say, that it did seem to him that the time had arrived when Congress should begin to husband the resources of the treasury, and when they should begin in earnest to diminish, instead of increasing, the avenues of expenditure. It was time that gentlemen who make professions of economy at home should begin to act upon their professions here, and set on foot some system by which the public expenditures might be reduced, instead of setting up a system by which they were to be increased. For himself, he saw no necessity, at the present time, for opening new leaks in the treasury. He thought it better to leave the arrangement for adjudging private claims where it was—better to hold on to the old system, in preference to taking that proposed in the bill.

With reference to the immense numbers of claims cases said to have been presented and reported to Congress at various times, in the report which accompanies the bill, he would state to the committee that many of these cases were such as have been decided upon in Congress again and again, yet they were all put down in the report as new applications.

He came back now to the general principle upon which he acted, namely: if there were more bills by thousands reported to the House under the present system than could be possibly acted on, what could be the advantage of a system which proposed to report more bills and business to be left unfinished and unacted on? The bill did not offer a plan to facilitate business, but only a plan to carve out more business, when there was already more on hand than could receive proper attention. He hoped the bill would be rejected. Its passage, in his opinion, would open a door to immense frauds and peculations upon the treasury. It would establish a tribunal where those large, antiquated claims would be worked over till they might get legs to stand upon, and after a while get more strength, and so get through. If it be true, that a smaller number of men may be corrupted with a much smaller amount of money than a larger number, then it would be a much easier job to buy up these three commissioners than the whole two hundred and thirty members of the House of Representatives. All men had their faults, which would cling to them throughout their lives. He had no more confidence in commissioners than he had in other men; and it would be seen, that so soon as this board shall be established, all these old claimants would flock about them as eagerly (for their prey upon the treasury) as the eagles gather about the carcase.

He had no hard things to say here about applicants and agents for claims especially. He looked alike upon all classes of the community. There were some good and some bad amongst them all. It was the same here in Congress. He did not denounce indiscriminately.

But there was another influence which might be touched, in connection with this bill, independently of what might be done by these claimants. Just in proportion to the number of courts which might be established, would the public business be increased, as well as the number of officers and agents to carry it on, with all the attendant expenses for their compensation.

He considered that, if any change from the existing system were necessary, it would be far better to allow these claims to be preferred before the Federal district courts in the several States. Such a plan would divide the business amongst the professional men throughout the country, and give a better chance to all; whereas, were all this immense business to be brought up to the seat of Government, it would amount to a monopoly in the profession, and a few favored ones would get all the loaves and fishes. He would say, let this business go into the district courts, which would be convenient to all parties. There was where it should go, if it were determined to establish another tribunal to pass upon these claims. He did not know what was to be the character of this board of commissioners. He could not tell whether it was to be a branch of the judiciary, a court, or a sort of administrative tribunal, or whether it should be considered as an auxiliary of the present system. He knew nothing of what was to be its function, further than it was to be a tribunal to sit and act upon claims against the Government. For himself, he would very greatly prefer the United States district courts for this business, where there was certainly as much honesty and integrity as could be brought into the new court, where better progress and more thorough examinations would be insured, and where justice would be awarded "without sale or denial."

Mr. JOHNSON having concluded—

Mr. PETTIT obtained the floor, and remarked that he had sent to the Clerk's desk a proposition which at the proper time he intended to offer as a substitute for the bill, and he was desirous to present his views upon it to the committee; but he desired first that it should be printed, that gentlemen might see it. He would therefore move that the committee rise, with the view of moving in the House that the amendment be printed.

He yielded the floor at the request of

Mr. MEADE, who sent up certain amendments which he wished to offer at the proper time, and which he wished printed.

The CHAIRMAN stated that the committee had no power to order the printing.

Mr. PETTIT said he so supposed; and he intended to move the printing, in the House.

On his motion, the committee then rose and reported progress.

Mr. PETTIT moved that the amendments to the bill providing for the establishment of a board to settle claims against the Government, of which notice had been given in committee by himself and the gentleman from Virginia, [Mr. MEADE,] and by other gentlemen, together with the bill, be ordered to be printed.

Mr. FICKLIN said he had an amendment which he intended to move, and he requested the gentleman from Indiana to modify his motion so as to include it among the papers to be printed.

Mr. PETTIT acceded to the request, and modified his motion by inserting Mr. F.'s amendment in the motion to print.

ANTONIO PACHECO, AGAIN.

Mr. WENTWORTH rose (he said) to a privileged question, and said that a mistake had been discovered at the Clerk's desk, in the vote upon the passage of the bill for the relief of the legal representatives of Antonio Pacheco. He asked that the Journal might be corrected.

The SPEAKER stated that corrections of the Journal would be in order on Monday morning after the reading of the Journal.

Mr. WENTWORTH asked if it would not be in order now to make a correction in the vote?

The SPEAKER replied that it would not.

No objection being made—

The question upon Mr. PETTIT's motion was taken, and decided in the affirmative.

So the bill and amendments were ordered to be printed.

On motion of Mr. STEPHENS,

The House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. STROHM: The petition of citizens of Lancaster and Chester counties, State of Pennsylvania, praying for a modification of the revenue laws. Also, the petition of citizens of Elizabeth township, in the county of Lancaster, Pennsylvania, praying for a modification of the revenue laws

By Mr. BARROW: The petition of John Dies, praying that the benefits of the acts of February 11, 1847, and of May 27, 1848, may be extended to him.

By Mr. HAMPTON, of Pennsylvania: The petition of Henry King and 19 others, citizens of Lehigh county, Pennsylvania, praying for a modification of the existing revenue laws.

By Mr. TUCK: The petition of Edward Cleaveland and 65 others, citizens of Bath and vicinity, in the State of New Hampshire, praying for the passage of a law prohibiting the slave trade. Also, the petition of G. W. Chamberlin and 66 others, praying for the repeal of the 3d and 4th sections of the act of February 12, 1792, in regard to slavery. Also, the petition of John H. Carbee and 70 others, praying for the abolition of slavery in the District of Columbia. Also, the petition of George W. Flint and 73 others, praying for the prohibition of slavery in Oregon, and the other Territories of the United States.

By Mr. McCLELLAND: The memorial of sundry citizens of Ypsilanti, Michigan, for a reduction of postage, &c.

By Mr. FARRELLY: The proceedings of a meeting of citizens of Mercer county, Pennsylvania, in favor of the exclusion of slavery from the new Territories of New Mexico and California. Also, the petition of John S. Ring and numerous other citizens of Mercer county, Pennsylvania, for the immediate repeal of the existing revenue laws, and the restoration of the tariff act of 1842, with a view of affording more efficient protection to the mining and manufacturing interests.

By Mr. BINGHAM: The petition of E. Warner, praying compensation for the construction of a light-house.

By Mr. ROOT: A petition of citizens of Elyria, and another of citizens of Milan, Ohio, for a light-ship at the entrance of Niagara river.

IN SENATE.

MONDAY, *January* 8, 1849.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, accompanying a report from the Commissioner of Patents, in compliance with a resolution of the Senate, of the 24th January, 1848, in relation to the explosion of steam boilers.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting an account of the expenditures from the contingent fund; which was ordered to be printed.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a report from the Commissioner of Indian Affairs, of the expenditures in that department during the year 1848; which was ordered to be printed.

The VICE PRESIDENT laid before the Senate a communication from the Treasury Department, transmitting a letter from the Superintendent of the Coast Survey; which was ordered to be printed.

RESOLUTIONS FROM STATES.

Mr. WESTCOTT presented resolutions of the Legislature of Florida, remonstrating against the removal of certain arms and munitions of war from the city of St. Augustine, and in favor of more adequate protection to the eastern frontier of the State; which was referred to the Committee on Military Affairs.

Mr. WESTCOTT presented a resolution of the Legislature of Florida, in favor of an appropriation for paying certain volunteers of that State for services in the Seminole war; which was referred to the Committee on Military Affairs.

Mr. WESTCOTT presented a resolution of the Legislature of Florida, in favor a law granting bounty lands to the officers and soldiers who served in the Seminole campaign; which was referred to the Committee on Public Lands.

MEMORIALS AND PETITIONS.

Mr. CLAYTON presented a petition from the pilots, masters of vessels, and others, asking an appropriation for an ice harbor at Delaware City; which was referred to the Committee on Commerce.

Mr. BREESE presented a petition from James

Hotchkiss, Simeon Hotchkiss, and Nelson Hotchkiss, asking for a right of preëmption to the lands on which they settled in Illinois; which was referred to the Committee on the Public Lands.

Mr. BREESE presented a petition from citizens of Perry county, Illinois, asking a grant of lands on each side the route of the Illinois central railroad, to aid in its completion; which was laid on the table—a bill on the subject having been reported.

Mr. ATCHISON presented a petition from Anderson Estes, asking payment for his services as a teamster in the employ of the United States; which was referred to the Committee on Military Affairs.

Mr. ATCHISON presented a petition signed by many citizens of Hannibal and Marion counties, Missouri, asking a grant of 20,000 acres of land, for the purpose of establishing free schools; which was referred to the Committee on Public Lands.

Mr. WALKER presented a petition from citizens of Wisconsin, asking the establishment of a post route from West Bend to Sheboygan *via* Sheboygan Falls; which was referred to the Committee on the Post Office and Post Roads.

On motion of Mr. HUNTER, the petition from the faculty of William and Mary College, Virginia, was taken from the files of the Senate, and referred to the Committee on Revolutionary Claims.

Mr. CAMERON presented a petition from J. W. Skiles, a volunteer, praying for bounty land; which was referred to the Committee on Pensions.

Mr. CAMERON presented a petition from citizens of Harrisburg, asking Congress to purchase Mount Vernon; which was referred to the Committee on Agriculture.

Mr. CAMERON presented two petitions from Norristown, Pennsylvania, and from Montgomery county; the first asking for the abolition of slavery within the District of Columbia, and the other, that slavery should be prohibited in the new Territories.

The motion to receive these petitions was made, and laid on the table.

Mr. CAMERON presented two petitions from citizens of Essex county, New York, asking for a change in the rates of the present tariff duties; which was referred to the Committee on Finance.

Mr. CAMERON presented petitions from citizens of the counties of Lehigh, Huntington, Columbia, Schuylkill, Union, and Philadelphia, asking for an increase of the tariff; which were referred to the Committee on Finance.

On motion of Mr. CAMERON, the petition from Rebecca Robeson, on the files of the Senate, was referred to the Committee on Pensions.

Mr. DICKINSON presented a petition signed by 438 citizens of New York, asking for the reduction of the rates of postage, and the franking privilege abolished; which was referred to the Committee on the Post Office and Post Roads.

Mr. STURGEON presented a petition from Calvin Blythe, executor of Jesse D. Elliot, praying remuneration for expenses incurred in entertaining royal personages while in command of a national ship; which was referred to the Committee on Naval Affairs.

Mr. STURGEON presented a petition from Lieutenant David D. Porter, asking compensation for certain diplomatic services in the Island of San Domingo; which was referred to the Committee on Foreign Relations.

Mr. KING presented a petition from the Mobile and Ohio Railroad Company, asking for a right of way and a donation of public lands for the construction of their railroad; which was referred to the Committee on Public Lands.

Mr. PEARCE presented a memorial of the Maryland Historical Society, asking a donation of a copy of the American archives for the use of their library; which was referred to the Committee on the Library.

Also, submitted a communication from Winthrop W. Cheney and S. E. Guild, executors of Abel Phelps, addressed to the Committtee on the Library, in relation to the portraits of the early Presidents of the United States now in the Library of Congress; which was referred to the Committee on the Library.

Mr. BORLAND presented a petition from William Bayard & Co., for a charter for a railroad from the Mississippi river to California; which was referred to the Committee on Public Lands.

Mr. CORWIN presented a petition from citizens of Essex county, New York, praying for an increase of duties on foreign imports; which was referred to the Committee on Finance.

Mr CORWIN presented a memorial from the Society of Friends of Ohio, in Yearly Meeting, remonstrating against the extension of slavery into any of the new Territories.

On motion of Mr. KING, the question of reception was raised, and laid on the table.

Mr. WESTCOTT presented a petition from George Foster and others, of Washington county, Florida, asking a grant to the said county of a quarter section of land, for the purpose of erecting county buildings; which was referred to the Committee on Public Lands.

Mr. BRADBURY presented a petition from Patrick Walker, praying for an increase of pension; which was referred to the Committee on Pensions.

SLAVERY IN THE TERRITORIES.

Mr. HALE. I have a very large number of petitions, numerously signed by women of various sections of the country, praying Congress to "adopt measures to prevent the extension of sla-'very, to withdraw the protection and cognizance 'given to the slave trade, and to suppress slavery 'effectually in those sections over which Congress 'has jurisdiction."

I move, sir, that the petitions be received and referred to the Committee for the District of Columbia, with instructions to report a bill abolishing slavery and the slave trade in the District of Columbia. Upon that motion I have simply a word to say.

Mr. KING. Discussion is not allowable upon this motion. I move to lay the motion of reception on the table.

Mr. HALE. But I have the floor.

VICE PRESIDENT. The gentleman from Alabama has moved to lay the motion of reception on the table.

Mr. HALE. But I had not yielded the floor, and I beg leave to ask the Senator from Alabama why I should yield the floor? I made the motion, and upon that motion was proceeding to remark that I had a word to say, when I was interrupted by him.

Mr. KING. Simply because the Senator cannot discuss the subject until the petitions are received. When they are received they are debatable, but until they are received they are not open for discussion by any Senator.

Mr. HALE. The practice at the last session was different. If I do not forget entirely what occurred, upon one occasion the Presiding Officer at the last session decided that a motion to receive was a debatable motion, and a debate of several days' continuance, under his sanction, occurred upon a question of this sort. I made a motion to have leave to introduce a bill, and the result, as I have said, was, that we spent several days in discussion—and pretty long days at that.

Mr. WESTCOTT. If the Senator will permit, I will state the difference existing between that motion and the present one——

Mr. HALE. I have not yielded the floor.

Mr. WESTCOTT. Then I call the Senator to order, that I may have an opportunity to show wherein he is out of order.

Mr. HALE. If the Chair will allow me to make a suggestion, I will state that my motion that was debated at such length at the last session was one to introduce a bill for the suppression of riots in the District of Columbia.

PRESIDING OFFICER. The Chair recollects that, but in this case the Senator from Alabama has interposed an objection.

Mr. HALE. If the Chair will allow me, I would inquire whether the Senator from Alabama had the right to interpose when I was proceeding to suggest to the Senate some reasons in relation to it? The Senator from Alabama had no right then to interpose with his objection. It appears to me that the floor belonged to me at least until I was called to order, or ruled out of order in my remarks.

Mr. KING. The parliamentary law is as plain in relation to this question as it can possibly be. It is, that when any paper is presented by any Senator, and it is objected to, the question is to be put, "Shall the paper be received?" A motion to lay the motion for reception on the table is not debatable. That has been the practice of the Senate for the last eight or ten years. Parliamentary law is plain upon this question; and, even if it is known to the Presiding Officer that objection would be made to the reception of the paper after it has been offered, the motion to lay the proposition of reception on the table must be taken without debate. The Senator from New Hampshire, then, was not in order when he attempted to go on and discuss the question involved, and could not with propriety proceed with his remarks until the Senate had decided whether they would receive the paper. The Senate had not made that decision, and the Senator's remarks, therefore, being out of order, I interposed with my motion to lay the question of reception on the table; and that question, as I have already stated, is not debatable.

Mr. HALE. Does the Chair decide that I am in order to proceed?

PRESIDING OFFICER. The Chair has decided that the motion before the Senate is to lay the proposition to receive on the table.

Mr HALE. Upon that question I ask the yeas and nays.

The yeas and nays were ordered.

Mr. DOUGLAS. I would ask what is the object of the petitioners? I would like to hear the petition read before I vote upon it.

Mr. BUTLER. He has told you the purport of it.

Mr. HALE. It is to prevent the introduction of slavery where it does not now exist; and wherever the Government has jurisdiction, to prevent the continuance of American slavery and the slave trade.

Mr. KING. Yes, in forts and arsenals, for instance.

Mr. HALE. I have moved that it be referred, and that the committee report a bill abolishing slavery and the slave trade in every place over which Congress has jurisdiction. This is the design of the petitioners.

Mr. WESTCOTT. I understand, then, that its object is to abolish slavery in the District of Columbia.

Mr. HALE. It is to abolish it in every place over which Congress has jurisdiction.

Mr. DOUGLAS. I ask that the petition be read.

Mr. KING. I object to the reading. It has not been received, and it is not in order to read until it has been received.

PRESIDING OFFICER. The motion pending is the one offered by the Senator from Alabama.

Mr. DOUGLAS. Is it not in order to ask to have the paper read before it is received. I do not see that there can be any objection to our knowing the contents of the paper.

PRESIDING OFFICER. It may be read by unanimous consent.

Mr. KING. The substance of the paper was stated by the Senator in offering it, in accordance with the rule, and then, if objection be made, the question is, "Shall the paper be received?" Objection was made; the question of reception was then pending, and I moved to lay it on the table. Until that motion is decided, debate will be out of order.

Mr. DOUGLAS. Surely the gentleman cannot have any objection to knowing what he is about to vote upon.

Mr. KING. I suppose the Senator from New Hampshire has stated the substance of the petitions correctly.

Mr. DAYTON. It is the ordinary practice of the Senate, I know, on the presentation of memorials which appear to interfere with slavery in any of the States, to lay the question of their reception on the table; but where the memorial has reference simply to those topics which come within the regular jurisdiction of the Government, and asking only that which we have a constitutional right to grant, has it ever been customary to treat such papers in this way?

Mr. KING. It is not debatable.

Mr. DAYTON. I would ask the Senator from Alabama if he has ever known such a practice obtain here?

Mr. KING, (in his seat.) If it were in order, I would answer the Senator very readily.

PRESIDING OFFICER. This is not a debatable motion.

Mr. DOUGLAS. We are then to vote to receive the paper in order to have it read!

PRESIDING OFFICER. The Chair has decided that the motion now before the Senate is not debatable.

The vote was then taken on laying the motion to receive on the table, and resulted as follows:

YEAS—Messrs. Atchison, Atherton, Bell, Benton, Berrien, Borland, Butler, Clayton, Davis of Mississippi, Dickinson, Downs, Fitzgerald, Fitzpatrick, Foote, Houston, Hunter, Johnson of Louisiana, King, Metcalfe, Pearce, Rusk, Sturgeon, Turney, Underwood, and Westcott—25.

NAYS—Messrs. Allen, Baldwin, Bradbury, Bright, Cameron, Corwin, Dayton, Dix, Felch, Hale, Hamlin, Miller, Niles, Spruance, Upham, and Walker—16.

REPORTS OF COMMITTEES.

Mr. DOUGLAS, from the Committee on Territories, reported back the bill to establish a territorial government in Minesota, with amendment.

On motion of Mr. DOUGLAS, the bill was then taken up, and made the special order for Wednesday, the 17th.

Mr. ATCHISON, from the Committee on Indian Affairs, reported a joint resolution authorizing the appointment of commissioners to examine into certain Indian debt claims; which was read a first time.

Mr. ATCHISON, from the Committee on Indian Affairs, reported a bill to provide for the extension of the existing laws in relation to Indian affairs over the Territories of Oregon, California, and New Mexico, and for the appointment of agents for the Indian tribes therein; which was read a first time.

SWORD FOR RELATIVES OF MAJ. RINGGOLD.

Mr. HALE. I ask leave of the Senate at this time to introduce a joint resolution, which I desire may be read and referred to the Committee on Military Affairs; and I wish to accompany this motion for leave with a single remark, if I may be permitted.

PRESIDING OFFICER. By unanimous consent of the Senate, leave will be granted.

Mr. KING. Let the resolution be read.

Mr. HALE. I desire that it may be read.

The resolution was read by the Secretary, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to present a sword to the nearest male relative of Major Samuel Ringgold, who was slain gallantly fighting the enemy in the battle of Palo Alto, on the 8th of May, 1846, and to communicate to him the deep regret which Congress feels for the loss of that brave officer.

Mr. HALE. I wish, in presenting this resolution, to make a few suggestions explanatory of my course in presenting it. Entertaining the views which I do of the late war with Mexico, and which I fully stated to the Senate at the last session, I must vote against this as I have against all resolutions of a similar character. But a very large majority of the Senate think otherwise, and have heretofore decided otherwise. If, then, this course is to be pursued, justice ought to be done in the distribution of these tokens of national approbation by Congress—justice not only to the living, but to the dead. Major Ringgold, I believe, is considered as the father of that peculiar branch of the service in which he became so eminent, and left no superior for gallantry and good conduct in the army. While, then, the manifestations of congressional and national gratitude have been so liberally bestowed on the living, it has seemed to some that a sense of justice requires that the feelings of the friends of the illustrious dead should be remembered. Major Ringgold left friends, to whom his name, his fame, and memory are dear.

It is in obedience to considerations such as these that I have been induced, at the request of a friend of the late Major Ringgold, to present the foregoing resolution. In doing it, I have discharged all the duty which I have to perform in relation to the subject. I leave the subject in the hands of the Senate, not doubting that they will do full justice to the memory of Major Ringgold, and to the feelings of those friends to whom his fame and memory are so rich an inheritance.

Precedents for a similar course in regard to deceased meritorious officers are to be found in the history of our previous legislation, and I have adopted one passed in a like case, for services rendered in the late war with Great Britain, by a deceased officer.

I have said thus much to explain my course in offering this resolution, as without such an explanation, it might appear that I had acted in a manner inconsistent with the course I had heretofore pursued. I still entertain the same opinions I have heretofore expressed on the subject of the Mexican war and thanks to the officers who fought its battles; and if I vote on this resolution I must vote against it, as I have against all of a similar character.

The resolution was received, and, having been read a first and second time, was referred to the Committee on Military Affairs.

Mr. BREESE, pursuant to notice, asked and obtained leave to introduce a bill for the relief of the legal representatives of John Rice Jones, deceased; which was read a first and second time, and referred to the Committee on Private Land Claims.

RESOLUTIONS.

Mr. HOUSTON submitted the following preamble and resolutions; which were read, and ordered to be printed:

Whereas, by the acquisition of the territory of New Mexico and California, and the recent occupation of Oregon, new interests of a great national character have been created, the early development of which is of the highest importance in the advancement of the prosperity of our country; and whereas, it becomes us, as a wise people, to take such measures as will insure protection in war as well as in peace, to those distant portions of our Republic, by establishing between them and the existing States the safest and speediest routes by land, which will always remain open under our exclusive control, and not be subjected to any change of relations between ourselves and other powerful nations: therefore,

Resolved, That a special committee be appointed, to consist of —— members, to inquire into and report upon the expediency of establishing a railroad by the Government of the United States, for military purposes, between San Francisco, on the Pacific, and the most suitable point which may be found on the navigable waters of the valley of the Mississippi; and that the said committee be, and are hereby, instructed to examine and report, as far as can be ascertained, according to the facts known, what would be the probable amount of gold produced to the Government of the United States, per annum, for a period of ten years, at the rate of an assessment of eight per cent. rent upon all that may be dug within that time in California; and also to report upon the expediency of applying the first proceeds of that fund to the building of such a road.

Resolved, further, That the said committee are hereby instructed to inquire into and report upon the expediency of making a military road, of the usual class, between the points indicated for selection by the preceding resolution, by the employment by the Government of the United States of such a portion of the military force as would be necessary to complete it at the earliest period.

Resolved, further, That the said committee are hereby instructed to inquire into and report the number of military posts proper to be established upon said road, for the protection of the lives and property of the citizens of the United States; and report the extent of the military force which would be necessary to maintain the said posts.

Mr. BELL submitted the following resolution, which lies over one day under the rule:

Resolved, That the Second Auditor and Second Comptroller of the Treasury report to the Senate, as early as practicable, what amount is due to the Cherokee nation of Indians, according to the principles established by the treaty of 1845 between the United States and the said Cherokee nation, taking as a basis for their calculation the statement of amounts made by the Commissioner of Indian Affairs, in his report of May 10, 1848.

RECIPROCITY WITH CANADA.

On motion of Mr. DIX, the prior orders were postponed, and the Senate proceeded to the consideration of the bill to admit certain articles of the growth or production of Canada into the United States free of duty, upon condition that the like articles of the growth or production of the United States are admitted into Canada free of duty; the question pending being upon the amendments reported by the Committee on Commerce.

The bill having been read—

Mr. DIX. The amendments are not material, and I will therefore not ask the Senate to adopt them. If it were in my power, I would withdraw them; but as they were reported by the committee at the last session, I am not at liberty to do so. Before the question is taken on the bill, however, I will ask the Senate to non-concur in them. The provisions of the bill are so simple and so clear that it may perhaps be unnecessary for me to enter into any explanation of their object. On the other hand, sir, it may perhaps be expected that I should make a few observations, rather by way of enlarging the considerations which the bill necessarily suggests than for the purpose of presenting new ones; and I may therefore be permitted to occupy the attention of the Senate for a few minutes.

The bill provides for freedom of intercourse and exchange between the United States and Canada, in relation to certain enumerated articles which are the growth or production of either of the two countries. These articles all belong to the department of agriculture, and they are of common production in both countries. The countries themselves are not essentially different in climate or soil at the points of contact, but as we turn from the frontier the advantage in both respects is on our side. The provisions of the bill, therefore, are not likely to violate the policy of this Government in regard to our intercourse with foreign countries generally, while the marked difference in the social relations between the two countries, which will necessarily result from making the terms of exchange equal as this bill proposes, must be advantageous to both. The bill provides for the reciprocal abrogation of duties on both sides, so far as the enumerated articles are concerned, so that when any of our citizens choose to go into Canada with their pork or flour, and dispose of it there, they may bring back an equivalent, without being subjected to the payment of duties upon reëntering the United States. It is, in fact, an abrogation of the custom-houses on both sides, so far as the enumerated articles are concerned. It will relieve the inhabitants on both sides, especially those on the frontier, from a common burden, equally inconvenient to be borne, and, as I believe, equally advantageous to be cast off; I mean the inconvenience of going to the custom-house and paying the duty on every pound of pork or bag of wheat which passes the frontier—an inconvenience which is often now got rid of by avoiding the officers of the customs, and evading the payment of the duty which the law requires. A very earnest desire is felt by the inhabitants on both sides of the frontier that this bill should be passed. Speedy action also is looked for, as the Canadian Parliament is about to meet, and this measure, if adopted by us, will become the basis of a similar enactment there; and it is thought that it will prove highly beneficial to the interests of the two countries. The Legislature of Canada has labored for many years, by all the means in its power, to get rid of the restrictions by which commerce between them and us has been embarrassed; the most liberal course has been adopted on their part, by abolishing the old system of differential duties, and placing us on a footing with the mother country in relation to the exchange of products. I really hope that this policy on her part may be met by a corresponding spirit on ours, and that between the two countries, bordering upon each other as they do, and the inhabitants of each necessarily brought into contact continually, there may be established the most friendly intercourse. It is desirable that the occasions should be as few as possible in which the inhabitants of either shall find any impediment thrown in the way of the most unrestricted intercourse with those of the other.

The suggestion, sir, which I am now making, touching the interest of the frontier inhabitants, although in accordance with the nature of the subject, is perhaps the most narrow view that can be taken of it. A more statesmanlike view is that which looks to the abolition of all restrictions between neighboring States, except such as are demanded for the preservation of their mutual interests. I believe that the interests sought to be secured by this bill are of this character. The laws now in existence for the protection of both parties yield little revenue and no protection, and are not likely to commend themselves to any legislature; their removal, therefore, would be advantageous to both parties. That this measure will tend to promote the good neighborhood and friendly feeling that now exists between the two countries, cannot be doubted; and for this reason, as well as those I have before stated, I trust that the measure may meet with no opposition.

This is all that I propose to say now in explanation of the provisions of the bill; but if any Senator should suggest any point of inquiry in relation to its provisions, I may be under the necessity of trespassing again upon the patience of the Senate, but it shall be as briefly as the nature of the subject and the interests involved therein will admit.

Mr. PEARCE. I feel it to be my duty to withhold my assent to this bill, and therefore very briefly to state to the Senate the grounds of my opposition.

The bill was introduced into the House of Representatives unaccompanied by any report; it passed without any discussion; and, I believe, without

the knowledge of a majority of the members of that body. It has been brought into the Senate without any report, and no papers accompanying it which give us the statistics of the trade between Canada and the United States, or any of those details without which we cannot clearly understand the operation and effect of the measure. I think it a very important measure—a departure from the general revenue policy of the country, involving in its consequences, direct and remote, a probable and serious injury to one of the greatest interests of the country—an interest as little, or less protected than any other, and quite as much entitled to the benefit of direct or incidental protection as any. The bill proposes to allow the importation into the United States from Canada free of duty of wheat and breadstuffs generally, and other products of that colony, upon condition that similar articles, the product of the United States, may be imported into Canada free of duty. Now, sir, there is really no reciprocity in all this: the bill is delusive. If it pass, not a dollar's worth of any of these products will be exported from the United States to Canada. These products are common to both countries, and both have a surplus of them for exportation. Canada is not, and cannot be a market for such products of the United States; while the direct effect of the bill is to give her a participation in our home market. So that there will be no equivalent afforded to us; certainly none to the great grain-growing interest, which is mostly concerned in the legislation on this subject.

It has been hinted that if we pass this bill the navigation of the St. Lawrence will be opened to us. Of this we have no guarantee; and if we had, however much the navigation of the St. Lawrence may formerly have been desired by us, it is of no importance to us now. Our artificial channels of communication supply us much better than the St. Lawrence can do. And if it is of so little value to Canada that she desires to obtain the full use of our routes of transportation, it is clear that it must be of little or no value to us. Formerly, when Great Britain had a system of differential duties, allowing the importation of colonial wheat and flour at much lower duties than those laid upon wheat and flour from the United States, we did export grain to that colony, which passed as colonial produce, and so was shipped to England without payment of the differential duty. But now England had changed her policy, and abolished the differential duty, and all this trade is at an end. My objections to the bill are of two characters. I fear that if it be passed the result will be the introduction of all foreign breadstuffs into the United States free of duty. We have reciprocity treaties with many nations—with Russia, Prussia, Austria, Portugal, Sardinia, almost all the German States, and also those of South America. Some of these, as Russia and Prussia, are great grain-producing States. Now, the reciprocal provision in all these treaties is, I believe, in the same words, with the exception of that with Chili. The treaty with Prussia provides, in the 5th article, that—

"No higher or other duties shall be imposed on the importation into the United States of any article the produce or manufacture of Prussia, and no higher or other duty shall be imposed on the importation into the Kingdom of Prussia of any article the produce and manufacture of the United States, than are or shall be payable on the like article, being the produce or manufacture of any other foreign country."

Now, sir, as soon as we admit Canadian breadstuffs free of duty, Russia and Prussia, which produce wheat at lower prices than we do, may and probably will demand that their breadstuffs shall come into the United States free of duty—and so we shall have free trade in breadstuffs with all those Powers with whom we have reciprocity treaties. I know it is said in a letter from the Treasury Department, which is brief, meager, and I think very unsatisfactory, that this result will not be feared, because Canada is a colony of Great Britain, and not an independent Power. But this is of no consequence. Canada is a foreign country as to us. Her produce is the produce of a foreign country, though that country be only one of the dependencies of a great empire. But it is said that this freedom of duty is allowed upon an equivalent, and, therefore, other countries who give no such equivalents cannot claim the same freedom from duty. But it is manifest that if the doctrine of equivalents be correct, Russia, Prussia, and the other Powers will have nothing to do but to enact that American breadstuffs may be imported into their dominions free of duty. Then the objection of a want of equivalents would fall to the ground, and we should have to compete in our own markets with the vast store-houses of the Baltic and the Black Sea. Our own Government has given a construction to these reciprocal provisions worthy of notice.

The Senate will remember that in 1831 Mr. Rives, of Virginia, then our Minister to France, negotiated with that Government a convention which provided for the importation of French wines at very low duties, established by the treaty; and that this was in consideration of the abandonment by France of certain reclamations which that Government had formed in relation to the eighth article of the treaty of cession of Louisiana. In 1840 we entered into one of these reciprocal treaties with Portugal, the language of which is precisely the same with that of Prussia. And yet, notwithstanding the equivalent in the French convention, our Government thought it necessary to guard against the right or claim of Portugal to the admission of her wines on payment of the same duties as those imposed by the convention on the wines of France. Hence, in the proviso to the third article of the Portugal treaty, it was carefully stipulated that nothing in the general reciprocal clause which I have mentioned "should be understood to interfere with 'the stipulation entered into by the United States 'of America for a *special equivalent* in regard to 'French wines," &c.

In the treaty with Chili it is provided that any particular favor in respect of commerce and navigation granted to any other nation, shall immediately become common to the other party upon the same terms.

It seems to be enough to state these provisions of our treaties to show their necessary and inevitable effect. Indeed, the general result which I apprehend, and object to, seems to have been intended and desired by the Treasury Department. In the letter of the acting Secretary of the Treasury to the Committee on Commerce in the House, I find this language:

"Were it conceded that the adoption of this measure, in regard to Canada, a colony of Great Britain, by reciprocal legislation, would render it necessary that we should grant the same privileges on the same terms to several other nations, or to their colonies, during the periods embraced in certain treaties with them, the advantages of such reciprocal introduction of these articles free of duty, by similar enactments, with such countries or colonies, would in all such cases prove highly advantageous to the United States; and indeed the law, in similar phraseology, might be safely and advantageously extended, if the committee thought proper, so as to embrace in similar reciprocal enactments, as to all these articles, on the same terms, all the nations of the world."

From this it seems that the Treasury Department thinks it would be advantageous to throw open our ports and markets to all the wheat-growing countries of the world. This bill, therefore, may be considered as the first movement towards the entire withdrawal of all, even incidental, protection to the grain-growers of the United States, while other great interests retain the protection which the tariff of 1846 gives them. I do not think the people interested in the agriculture of the country will be satisfied with this. If they are not to have an equality of benefits, they will insist upon an equality of another sort. Benefits not generally given must be generally withdrawn; and other interests must abandon the protection given to them.

Certainly there is no equivalent offered by this measure to the agricultural interest. Whatever benefit is to be derived from it will inure to the millers of northern New York, to northern railroads and canals, and to northern shippers and manufacturers; and to them the profit must be much smaller than the injury to the agricultural class. I do not desire, sir, to force up the price of wheat by partial legislation. But surely, in a country like ours, which produces a surplus of twenty to twenty-five millions of bushels of wheat beyond all the wants of our ordinary consumption, we have a right to ask that we may enjoy our home market without competition from other countries on terms such as apply to no other great interest of the country.

Before the act of 1846 the duty on wheat was a specific one of twenty-five cents per bushel; now it is an ad valorem one of twenty per cent., which ordinarily makes a duty of about fourteen or fifteen cents per bushel on Canadian wheat, the average price being seventy-five cents per bushel, as I learn from a work on my table entitled "Canada and the Colonies." It is now seventy cents, as the Senator from Vermont [Mr. PHELPS] tells me. This is a very moderate duty, and the rate of twenty per cent. is that which I remember a former Secretary of the Treasury pronounced to be the common and proper standard of a revenue duty. It is less, however, than the average of duties under the act of 1846.

The memorial on which the bill is based states that we have considerable trade with Canada now, and that it would be greater, if that colony had the means of making payments in the United States; and these they can only have by introducing their produce into our country duty free. In other places, we are told that the only effect of denying this measure will be to confine the products of Canada to their own channels of exportation, and that they will still meet us in competition in the various markets of the world. These positions destroy each other; for if the products of Canada can compete with us in the markets of the world without this bill, then they will still furnish the means of paying for these importations in our own or other markets.

I suppose breadstuffs to be the chief, if not the only, articles mentioned in the bill as to which the Canada people feel any concern. I have been told so, and I am sure, that if they were stricken from the bill, there would be no interest felt for its passage. I speak, therefore, only of these articles. If the bill should pass, its operation would be injurious in this way. The United States produce much more wheat than they ordinarily consume, and the surplus is larger than the demand in all the markets of the world.

I have made, from the annual reports on the commerce and navigation of the United States, a table showing the annual exportation of breadstuffs for a period of six years prior to the extraordinary period of 1846–'47, when there was a famine in Ireland and scarcity in England and over the continent of Europe. In these six years, the average of wheat and flour exported from the United States is between six and seven millions of bushels of wheat, reducing the barrels of flour into bushels of wheat; while the surplus was certainly twice as much, as is proved by the extraordinary supplies furnished by us to Europe with so much facility during the period of famine and scarcity which I have mentioned. The surplus of wheat grown in Canada for exportation, I find stated in the work to which I have referred to have averaged, during a period of four years, terminating in 1835, about eight hundred thousand bushels. Since that period the population of Canada has increased very greatly, and emigration has gone chiefly to the wheat-growing part of the colony, Canada West. It seems to me to be fair to assume that they now have an annual surplus of near two million bushels of wheat for exportation. This may now be exported through our maritime cities, a drawback of the duty being allowed by our recent legislation, retaining only the small usual per centage. But this, the memorialists say, is inconvenient and cumbrous. But it must be manifest that the inconvenience is inconsiderable if the object really be merely to ship through our ports. This measure will enable them to sell for consumption on our northern seaboard, and this would be a decided benefit to them. The St. Lawrence is closed half the year by ice, and when its navigation is open the cost of transportation by that route is much larger than from the lakes through New York. The same authority which I before quoted states the cost of getting a bushel of wheat from the Canada shore of Lake Erie to England to be about sixty-two and a half cents.

This, then, is a decided advantage, which the grain-growers of the United States have over those of Canada, and this we propose to give up without any solid equivalent.

To what extent this measure will affect the price of flour and injure the agriculturists of our Union, I will not venture to predict. But I am very sure that the introduction of even a million of bushels of wheat in a market already overstocked, whether for consumption or exportation, must necessarily reduce the value of the article. Besides, such legislation, on our part, will stimulate the production of wheat in Canada, and make that colony an increasingly formidable rival in this respect. I cannot consent, therefore, to throw away the advantages which nature and the ordinary legislation of the country give us. At all events, I desire to see what the effect of opening the ports of Great Brit-

ain to trade in our grain may have upon this intercourse between the two countries; and in the mean time I hope that our legislation will in nowise be changed.

The question being on the adoption of the amendments—

Mr. DIX hoped that the Senate would not concur in them.

Mr. MASON asked to have the amendments read.

The bill and amendments were again read.

The question was then taken on the amendments, and they were rejected.

The bill was then reported to the Senate; and the question being on the third reading of the bill—

Mr. NILES, in a low tone of voice, spoke of the importance of the bill which then engaged their attention. He was understood to say that the arrangements of the commercial interests of the United States and foreign countries were mere matters of contract, and the best course would be to render these contracts mutually beneficial, as far as possible. We excel (continued Mr. N.) our Canadian neighbors in navigation, commerce, manufactures, and all the great enterprises in which our interests are mutually identified; and this fact should be taken into the account in the settlement of commercial arrangements between the two countries.

This particular bill proposes that between the provinces of Canada and the United States all restrictions upon commerce shall be repealed, so far as the articles enumerated in the bill are concerned; that we shall sell to them, and they to us, precisely the same as though these provinces belonged to our Confederacy. What is to be the practical operation of this bill? Why, sir, the several articles enumerated are articles for the sale of which both countries are dependent, in no small degree, upon foreign markets. Both the United States and Canada produce a surplus of these articles, and this surplus naturally seeks a foreign market. It seems to me, therefore, that in the interchange of articles for home consumption between the United States and Canada, this bill will not, ordinarily, be brought into operation. They will not want to buy of us what they raise a surplus of themselves; and, on the other hand, we will not want to buy of them those articles of which we raise more than we can consume. Nevertheless, if it should so happen that either country would be under the necessity of purchasing any of these articles from the other, I have no doubt that the provisions of this bill would operate very favorably for both countries.

If their crops should fail, we could supply them, and, our grain being admitted free of duty, we would have great advantages under this law. On the other hand, if our crops should fail, we could buy of them to much better advantage under the operations of this law than under the existing regulations between the two countries; and ordinarily, I apprehend, the balance of trade would be greatly in our favor, with the exception of the timber trade. It is probable that their resources for supplying foreign countries with timber are much greater than ours; but I think that in every other respect we have greater resources and facilities than our Canadian neighbors.

Again: on the other hand, in this case, as in all others where you extend the reciprocity principle to any nation, you are to look to it that you get a full equivalent in fact as well as in law and in principle. This leads us to the inquiry, which has the better market? The market of the United States, compared to that of Canada, is, undoubtedly, as ten to one, and consequently so far as the home consumption of the articles enumerated is concerned, I should be inclined to oppose this bill because it would operate against us. But, as I have said, the exchanges of produce between the two countries for home consumption will be very small, and, consequently, this point is comparatively unimportant.

There is another view of this subject which I think is the most important one, and that is this: inasmuch as the several articles enumerated are articles of which both countries produce a surplus, and as this surplus must and will seek a foreign market, what will be the effect of this bill, so far as the trade of supplying the foreign markets with these articles is concerned, upon our own business and revenue? Will the products of their soil, and the articles manufactured by them, be brought hither and carried to market through the United States? or will our products and our manufactures be taken there and seek a market through Canada? This, I apprehend, is the most important consideration, because, as I have already said, both countries produce a surplus of the enumerated articles, and this surplus must seek a foreign market, and it must be transported by that nation which possesses the greatest facilities for such labor. In this respect I apprehend that our advantages for carrying on a trade in grain, flour, provisions, and perhaps all the articles enumerated, are double those of the provinces, and this will give us the greater portion of this direct trade in foreign imports. It will enable us to carry on a lucrative trade in all these articles, which must inevitably seek some channel through which to reach a foreign market, and they will seek those channels which interpose the slightest barriers, and which offer the greatest facilities. This being the case, the goods and trade of Canada will take their direction through the United States, and we will reap benefits from them in various ways. Their goods will be sent across the Lake to Rochester, and from thence will be transported over our canals and railroads to New York. From New York they will be transported across the ocean to their foreign market, and our shipping will have the carrying of them. This carrying trade is the most valuable and important part of the whole subject of the trade with which this bill is connected; and if we can secure to ourselves the advantages which will result from this trade, and divert the products of the provinces from their own channels of transportation to ours, and thus employ our capital, our railroads, and our canals, the revenue derived from this source would soon constitute an important item in the receipts of our treasury.

As for the price of flour being reduced in our markets by the operation of this bill, I cannot see how that can happen. The flour, as well as the products of Canada, will seek a foreign market, whether this bill be passed or not, and it will go into some markets with our own flour, whether it takes a direction through the United States or through the St. Lawrence, and in either case the effect upon the price will be the same. Therefore, I cannot see how this bill is to affect the price of flour in our markets.

Mr. DAYTON. Will the Senator from Connecticut permit me to suggest, that if it will suit his convenience, it will greatly gratify Senators if he will speak a little louder. We on this side of the Chamber have not been able to hear one word that the gentleman has uttered.

Mr. NILES. I have a cold and cannot speak very loud, though I think I might have been heard with a little attention. I am very sorry that gentlemen have not been able to hear my few remarks. I can only repeat that my main consideration in favor of this bill is, that it will advance our interests in regard to the internal and external trade of this country in conducting the products of Canada to foreign markets. But as regards the exchange of those products which are to be consumed by the two countries, I think it will act unfavorably towards us, for the simple reason that we have a very extensive market, and they have a very small one; and this objection to the reciprocity principle applies to other countries as well as to these provinces.

But, in relation to the trade with foreign markets, I believe that the operation of this bill will be to bring the trade of Canada directly through the United States; and it is well known that where the products of the country are sold, there must be some return made for them, and it is highly probable, taking into consideration the fact that their products will be diverted through our country, that we will reap greater advantages and benefits from their trade than they will reap from ours.

I think, however, that the operation of the bill should be limited to four years, or something of that sort, in order to give us an opportunity of testing its practical workings before we enter into permanent arrangements of this kind.

In regard to the point raised by the Senator from Maryland, [Mr. PEARCE,] which is certainly one meriting our serious consideration, whether this bill will open our ports to other countries with whom we have reciprocity treaties, I will say that our treaties with other countries are not exactly reciprocity treaties, because their provisions are simply that no other or higher duties shall be imposed on the products and manufactures of their respective countries than on the like products and manufactures of any other foreign country.

The great question for our consideration now is, whether or not Canada is a foreign country? It strikes me that it is not. A foreign country is a country proper, with which we negotiate and make treaties. But Canada is a mere province. It is not a country of Great Britain; it is a mere colony of Great Britain. It is not a country which we recognize as a foreign Power, and with which we form treaties. If we had diplomatic intercourse with them, if we had a resident minister there, and if they maintained a resident minister here; if they were, in fact, a foreign nation proper, then it might possibly be said that this bill would open our ports to Russia, and the countries on the Baltic, which have surplus products to dispose of. But Canada can by no means be considered a foreign country, and, therefore, no foreign nations can contend, that by this bill we have introduced the products of Great Britain as an independent Power, and consequently cannot claim for themselves the privileges which it extends to the provinces.

Mr. HUNTER. Mr. President, I have listened to the arguments which the friends of this bill have adduced for its support, and, although a friend of free trade, I am constrained to say, after a full examination of the bill, that I shall not be able to give it my support.

This bill is partial and unequal in its operation. We all know that one of the greatest objections to the tariff of 1842, on the part of those who opposed it, was, that it was unequal in its protection; that it was delusive; that while it promised something to the farmers, it gave them nothing in comparison with the protection which it afforded to manufactures. And it is fair for one who is in favor of the doctrines of free trade as a general principle, (and there is no one who subscribes to the doctrine more cheerfully and cordially than myself,) to object to a provision which puts one of the producing interests of this country upon the footing of free trade, and leaves the remaining interests to a very high protection.

Sir, I was making a rough calculation just now, and I find, that according to the statement of the Secretary of the Treasury, the net duties upon the imports consumed in this country amount to something like twenty-five per cent. The manufactures of iron, wool, and cotton are getting very high protection, and all the protection that is now afforded to the agricultural and great farming interests of the middle States is taken away by the provisions of this bill. It is taken away, because we let in the only rival from whom we have much to fear—Canada, on our northern frontier.

I think that the argument of my friend from Maryland [Mr. PEARCE] has not yet been met, in which he maintains, and successfully, as I think, that if we admit the wheat of our Canadian neighbors duty free, we are also bound to admit the wheat of the countries lying on the Baltic, on the same terms.

Is it fair to take away all the protection afforded to the agricultural interest, while you retain that afforded to the manufacturing interest? Suppose, sir, we were to offer an amendment, that if any country would receive our agricultural products free of duty, we would take their manufactured articles at a reduced rate of duty, say fifteen per cent. *ad valorem*—and I have no doubt that some reduction of that kind would actually increase the revenue of the country—what favor would it find in this Hall? It would seem as if the agricultural interest were considered a great beast of burden, doomed to bear all the loads to be imposed upon the productions of this country, and we tax it freely and without remorse.

Now, sir, I am willing, so far as the agricultural interests are concerned, to place them on the footing of free trade, provided all other interests are placed on the same footing. But to allow the manufacturing interests to receive high protection, and to take from the agricultural interests all the protection which is afforded to them—and that much less than is afforded to the others—is unfair and unjust. I know that the acute and able Senator from Connecticut has endeavored to meet the argument of the Senator from Maryland by saying that Canada is not a foreign country, but only a dependency of Great Britian. It is not our territory; it is not yet annexed, although, perhaps, this is a bill of *quasi* annexation. I say it is a bill

of *quasi* annexation, because the advantages which are urged as arising from it seem to relate to some such measure in the future. If the provinces are not of this country they are foreign, and, according to that provision of the treaty with Prussia which the Senator from Maryland has read, they are entitled to be placed on the same footing with other foreign countries. Why, sir, in this way we might take in different parts of the British empire from time to time, and give them advantages which the countries on the Baltic do not enjoy, and thus evade the provisions of this treaty. Such would not be the construction which the Prussian Government would put upon it. Such would not be the construction which an impartial arbiter would put upon it.

The Senator from Connecticut objects to many of our treaties which profess to be reciprocal, upon the ground that there is no real reciprocity in their provisions. He admits that the benefits of the arrangement proposed by this bill are not reciprocal, and yet he is willing to let in the Canadians, on account of the benefits which would accrue to the New York canals, and to the commerce of the North and East from the absorption of the trade between Canada and foreign countries. I acknowledge that this is a fair and persuasive argument. I should be willing to afford them any advantages we can without doing injustice to other portions of the country, and to other more general interests. But is it necessary for that purpose that we should give the Canadians a law by which they can export their grain through our channels of trade? Do they not now receive a drawback upon all goods shipped at our ports on the Atlantic? Have we not extended to them every encouragement to induce them to bring their produce through the canals of New York? We know that it has taken that channel already, and that all the facilities we have afforded them have been taken advantage of.

I was reading a leading commercial paper of New York city a short time since, and I there saw it stated that the Canadians say that they can already export their goods at less expense through our ports than through their own.

As to the other consideration upon which we are urged to pass this bill, viz: that we will be allowed to navigate the St. Lawrence upon equal terms with them, the present course of trade shows that it will be of little advantage to us; for notwithstanding our high duties under the drawback law, the trade from Canada to foreign countries is carried on almost wholly through our ports, and the majority of their exports are made from New York.

We have thus done all that is necessary, in order to give New York all the advantages and profits arising from the carrying trade between Canada and foreign ports. We have done all that is legitimate for us to do, all that the commercial interest requires, and now they come here and ask that they may be allowed to receive the productions of Canada free of duty for home consumption. While the manufacturers of the North and East have the protection which is afforded them under the present tariff, they are to be allowed to receive breadstuffs free of duty from Canada, and probably from the Baltic also.

Now, sir, is not this unequal in more than one point of view? Unequal not only between the agricultural, commercial, and manufacturing interests, but also unequal between different sections of the country. Would such a proposition be received in relation to the productions of Cuba, or Mexico, or any of the countries which lie to the south of us? No, sir, not for a moment. In that point of view it is a bill to give the sole benefit of the Canadian trade to New York and New England. The commercial and navigating interests have all that they can rightfully demand in the act allowing a drawback on Canadian productions shipped from our ports. This is a law properly enacted for their benefit. But they have no right to demand, and surely the manufacturing interest ought not to expect us to injure the agricultural classes by the passage of such a law as this for their benefit. With these views, I am opposed to this bill, and trust that the Senate will not agree to its adoption.

Mr. DOUGLAS. I represent an agricultural State, but I do not see how the trade of Canada in agricultural products will interfere with us. For one, sir, I have no fear of their underselling us in those articles. I apprehend that the effect of this bill will be, that at this season of the year, when the navigation of the St. Lawrence is closed, the agricultural productions of Canada will pass over railroads and canals, through Atlantic States, and then go abroad in American instead of foreign bottoms. If I am right in this suggestion, the effect would be to enable American railroads, canals, commission merchants, and all persons interested in American trade, to tax Canadian products on their transit from American to foreign ports. Instead of being a tax upon the shipping interest, as has been suggested by the Senator from Virginia——

Mr. HUNTER, (in his seat.) I stated it would be to their benefit.

Mr. DOUGLAS. I regret that I misunderstood the honorable Senator. It would then be a benefit to the shipping interest, to our works of internal improvement, and to all parties connected with this trade; and I do not see that it injures any one. I do not believe that they can bring in agricultural products from Canada so as to undersell us. I believe, on the contrary, that we can undersell them. I am willing, then, to put this question upon the ground that the advantage would be reciprocal. It is important to our commerce that there should be reciprocity in trade and kind feeling between the people upon the different sides of the lakes and the St. Lawrence and the Niagara rivers. On the Canada side they have some articles which we want, and on this side we have some articles which they want; and commerce can be carried on with greater facility and more good feeling if this reciprocity should exist. It appears to me, that if any one is to be injured by this arrangement, it will be those who reside upon the lakes, and have immediate and direct intercourse with Canada; but, sir, I doubt whether the people of the country on the borders of the lakes—who would be most affected by this bill—would have any apprehensions that they are to be injured by its passage.

Mr. PHELPS. I have had very little opportunity to examine this bill, but so far as I have been able to examine it, my impressions are most decidedly against it; and for the reasons already presented. I can perceive no advantage to be derived from its passage to any portion of the people of this country. Whether the effect of it would be to introduce a competition in the article of breadstuffs, is a question perhaps that cannot now be decided; but, taking either horn of the alternative, it appears to me the bill promises no advantage at all. If we suppose that the introduction of these articles will affect the market, it must then be conceded that the effect of the bill will be pernicious. If, on the other hand, no effect takes place, the question with propriety may be asked, of what use is a bill that has no effect upon the market; or what advantage is to be derived from the introduction of this bill if it has no sort of bearing upon the market? But there are other considerations; and first in relation to the advantage which it is supposed will accrue to what is called the carrying trade in the transportation of Canada products to foreign markets. As the law stands, articles from Canada pass through this country subject to duty, but entitled to a drawback upon leaving the country. There is, then, no duty in reality to be paid upon the productions of Canada which pass through this country as the law now stands. A bill, therefore, repealing the duties amounts to nothing, for the articles by the present law are left in the same condition that the law finds them. Another consideration: I am told that the transportation of a barrel of flour by way of the St. Lawrence for England costs fifty cents more than by way of New York. This difference in the cost of transportation, and the risk of obstructed navigation on the St. Lawrence, gives the railroads and canals of this country the benefit of the transportation. In this particular, also, the bill amounts to nothing. But when I come to look at the articles upon which duty is proposed to be remitted, I find that there is no probability that any one of them will ever be imported into this country; and so far as my personal knowledge extends of the trade between the provinces and the United States, I can readily affirm that not one of these articles proposed to be sent to Canada will be required to leave the United States and go to Canada for a market. Therefore, there can be no reciprocity in the matter. It is an advantage—if such it can be called—given to the producers of breadstuffs in Canada, without an equivalent to us, so far as I am informed. If, however, we are to place ourselves on the footing of reciprocity with Canada, and this liberal system is to be introduced in order to facilitate the export of such articles as we desire to send to Canada, let us enlarge the number of articles which we propose to send there. There is a great variety of manufactured articles produced in New England which would find a very advantageous market there. Our agricultural productions would not go there; therefore, if we make provision in this bill to introduce such articles into those provinces as are made in New England, there would then be something like reciprocity. With a view of testing the principle, I offer the following amendment:

"Insert hats, boots, shoes, and other manufactures of leather, cotton and woollen fabrics."

Mr. CLAYTON demanded the yeas and nays upon the amendment, and they were ordered.

Mr. DAVIS, of Mississippi. I would say to the honorable Senator from Vermont, that I would like to amend the amendment by inserting "cotton, sugar, and tobacco, the growth of the United States."

Mr. PHELPS. I have no objection to that.

Mr. WESTCOTT. I regret that it appears from the remarks of the honorable Senator from Virginia, [Mr. HUNTER,] and from the indications of the opinions of most of the southern Senators of the Democratic party, that on this bill I shall separate from them. I shall vote for this bill. I will not now discuss at length the principles involved in the bill, but I will briefly advert to that one which chiefly influences me to give such a vote. Sir, I will not yield to any Senator on this floor in my devotion to free trade. It is because I am uncompromising in my support of that principle that I will vote for this bill. It maintains those doctrines. I wish it was more general; that the principles of it were more widely extended; that it was not so local and sectional and special in its character. Still, sir, the true course, as I conceive, is not to allow sectional jealousy or sectional prejudice or feeling to induce me to abandon the principles and doctrines in relation to duties on imports that I hold to be the only sound rules of legislation. I will not hesitate to establish this principle whenever and wherever I can in any section of the Union. Sir, such a course will result in its establishment ultimately in all sections. Establish it in the North, along your Canada lines, and you will win the support of your citizens, who will feel and realize its salutary and beneficial effects. They will become advocates of the principle and will aid in upholding it throughout the Union. All that is necessary, sir, is for the agricultural portion of our citizens, the most intilligent as a mass of all the different classes, and who are properly called the "bone and sinew of the land," to see the beneficial effects of the non-restrictive doctrine with respect to their own interests, and they will become converts to it. They will soon tell the interests, antagonistical to theirs—the manufacturing capitalists and the domestic merchants—that they will no longer submit to partial legislation, exacting from the pocket of the farmer tribute to the manufacturer and merchant. This is one reason for my vote for this bill.

Mr. President, this is a proper occasion to advert to another subject connected in principle with this bill. I regret that the honorable Senator from New York [Mr. DIX] is not in his seat to hear what I now say.

A SENATOR. He is on the other side of the Chamber.

Mr. WESTCOTT. I ask the Senator's attention to my remarks, and to the reference I shall make to the Committee on Commerce, of which he is chairman. Sir, while the East and North are asking for the special legislation proposed by this bill, it would have been well had the committee that reported it reported also a provision to repeal the special law, passed fourteen years ago, that, even if not designed, does directly assail the agricultural interests of at least six *southern* States, and that, in fact, prohibits and destroys an important branch of the trade they once had. I say, sir, fourteen years ago an act was passed, the chief effect of which, as it respects the commerce of the United States, is to destroy a profitable market for the agricultural products of at least six southern States, and to give to a few merchants of New York, Boston, and Philadelphia, and other eastern

Atlantic cities, a monopoly of all the commerce, part of which the disposition of these products gave to those States.

The position and relation of Cuba towards the Gulf States, and Georgia, and South Carolina, is, in some respects, similar to the position and relation of the Canadas towards the northern and eastern States. Prior to 1834, our southern ports—Charleston, Savannah, St. Augustine, Key West, St. Marks, Apalachicola, Pensacola, Mobile, and New Orleans, or at least those of them that had any foreign commerce—had no inconsiderable trade with Cuba, not merely with Havana, but with different parts of that island, and a small trade with Porto Rico.

I learn, sir, that Wilmington, North Carolina, had also some trade of the same kind. It was carried on in small Spanish vessels, which brought to us the agricultural products of those islands, and exchanged them for our rice, corn, cotton, and live stock, and other articles that our agriculturists, in the vicinity of the ports to which those vessels came, could dispose of then. It was a trade of no little value to the agriculturists who possessed it. And yet, sir, Congress, to gratify the cupidity of a few northern merchants, in 1834 cut it off, destroyed it by a law passed hastily, and towards the close of a session, and which we have since vainly sought to have repealed. The merchants who procured its passage have monopolized under it the Cuba and Porto Rico trade ever since, and some of them have amassed fortunes from it. The pretence for the act was this:

The local authorities of Cuba and Porto Rico impose heavy tonnage duties on vessels of the United States coming into those ports, ($1 06 per ton, I believe, perhaps more,) and heavy duties on their cargoes. Well, sir, on the 20th of June, 1834, in the manner and by the influence of the interests I have stated, you passed an act called "An act concerning tonnage duties on Spanish vessels," by which you charged all Spanish vessels coming into the United States from Cuba and Porto Rico tonnage duty equivalent to the duties charged on American vessels and their cargoes in those islands. The Treasury Department was to estimate these retaliatory duties, and I believe $1 06 per ton is now charged; and further, as if the object was to destroy the trade between those islands and the southern ports, and to secure the monopoly to the merchants who would establish regular lines of vessels, you prohibited Spanish vessels sailing from the United States, unless they cleared for these islands directly, from going to them, by requiring them to give bond with security before clearing that they would not land the cargoes there, and by requiring a consular certificate of the cargo being landed elsewhere to cancel the bond. This of itself was sufficient to put an end to the trade by the Spanish coasters, even if the duty was not imposed. This act is still on your statute-book. The South has few vessels. The trade before 1834 was chiefly carried on in small Spanish coasters that came from the interior ports of those islands. The effect of the law was, from the day of its passage, to stifle the trade. Up to that act the trade amounted to as many millions of dollars annually as it now amounts to thousands. I allude to the trade in Spanish vessels. Up to the date of that act the wharves of our southern commercial cities were crowded with Spanish vessels bringing in their produce and fruits, and receiving for them the agricultural products of the neighborhood.

The amount of such imports to the South in 1833 and 1834 exceeded a million of dollars in Spanish vessels, and now it does not amount to one thousand dollars a year. We buy, in Florida, but little Louisiana sugar or molasses. In fact we raise ourselves some for sale. Georgia and the Carolinas do not consume much of the produce of Louisiana. The destruction of the Cuba and Porto Rico trade with the southern States is therefore no advantage to those States that produce sugar. The effect is, that the Havana and Porto Rico sugar and molasses, and other products that are consumed in the southern States are first imported into the Atlantic cities, and then shipped coastwise down South, and we have to pay all the increased expenses, besides losing the market for our products and stocks that I have referred to, and some of which can only be disposed of in such trade. Now, sir, I repeat, it is high time, when the North and East are asking for special legislation for the benefit of their agricultural interests, for them to strike off the shackles they have imposed by legislation injurious to the agricultural interests of the South. Fair play, justice, equal legislation, are all that we want. Your wealthy merchants of the Atlantic cities, establishing regular lines of traders to Cuba and Porto Rico, could obtain by gratifications to the Spanish authorities, exemptions from some of the onerous charges which the casual trader could not; and hence they have monopolized the entire trade.

At the last session of Congress I proposed a resolution instructing the Committee on Commerce, of which my friend from New York [Mr. Dix] is chairman, to bring in a bill to repeal the act of 1834. Its consideration at that session could not be obtained by me. At this session I modified it to a resolution of inquiry, and the subject is now before his committee. I am assured by the Senator that he is favorable to the principle such repeal would maintain. The bill now under discussion sustains that principle. It is the principle of striking off all shackles from trade and commerce, and allowing it to be free and unrestricted, except as it should be made subservient to the financial wants of the country. Above all, it should be equal. The doctrine of reciprocity is one that our pride may induce us to sustain, sometimes to the prejudice of the interests of our trade with other nations, that cannot, from local causes, establish the principles of free trade. In such cases it should not be enforced. The Cuba and Porto Rico trade is such a case. I would have been gratified if this bill had contained a provision repealing the act of 1834. It would have done justice thus far to southern farmers in the vicinity of our seaports, whose interests are sacrificed by that law for the northern merchants and vessel owners. But, sir, without that amendment I will vote for the bill, and rely on the justice and honesty of the East, North, and West, who desire this bill, to mete out to us the same liberality. I will not suppose that they will refuse it. I trust that the Committee on Commerce will report a bill repealing the act of 1834, forthwith, and that it will be passed at this session. As the bill has already passed the House, I will not embarrass it by an amendment, repealing the act, though, if proposed, I shall feel bound to vote for it; and if even it is rejected, it will not induce me to vote against this bill.

Mr. DOWNS. I shall vote, sir, against the bill, and I shall do so for the reason, among others, that it will tend to make the revenue laws of the country partial in their operation. Here is the provision of the Constitution on the subject: "No 'preference shall be given, by any regulation of 'commerce or revenue, to the ports of one State 'over those of another." Now, I contend that there is a difference created by this bill. Among the articles enumerated are fruits. Now, the Capes of Florida do not certainly get their fruits from Canada; they get them from Cuba. So it is with New Orleans, Charleston, Savannah, &c. You say, then, that fruits from Canada shall pay no duty, but that fruits, because they come from another place, shall pay a duty. You thus make the revenue law unequal. It is a clear preference given to the North. Why, if you establish this principle, you may have to apply it where you least expect. The citizens of Texas may find some article in Mexico which it would be desirable to have admitted free of duty, and they will claim an equal privilege with that enjoyed by their brethren of the North. Whenever you admit articles free of duty in one quarter, you give that quarter a decided preference. I, therefore, cannot vote for this bill. I concur with the Senator from Florida, however, in what he has said in regard to the injustice done to the South by the difficulties thrown in the way of trade between the West Indies and the southern ports. I would like to see those difficulties removed or modified, and most assuredly I cannot consent to carry the inequality further by giving additional privileges to another portion of the Union while those restrictions exist in the South.

It seems to me that the Senator from Illinois has not looked so deeply into the interests of his own State, in connection with this subject, as he usually does; it seems to me that if he had, he would have found that its interests would be better promoted by extending the interests of the southern ports. How is it now? One of the chief southern exports, flour, that goes to Cuba, is taxed a hundred per cent. This is a matter which concerns the gentleman's State, and it concerns the interests of the southern ports, particularly New Orleans. The city of New Orleans is the commercial emporium of the whole West. If this principle is to be adopted, I think that reciprocity should be extended to Cuba; but the great objection which operates upon my mind, and which I regard as conclusive, is that suggested by the Senator from Virginia; that is, the unequal operation of such a principle in different parts of the United States. It was suggested by the Senator from Connecticut that the benefit of such a law would not accrue to the agricultural interests, but to those of navigation; that the steamboats and transportation companies would be benefited chiefly. Still, he was willing to go for the bill.

Suppose, then, you increase the business of your steamboats in one locality, by granting peculiar privileges, does not that operate unequally upon the interests of navigation? If the commerce of the country is to be promoted by this bill, and that alone, its purpose is as unequal, and its effect will be as unequal, in that point of view as in any other.

But the chief ground of objection, and one which seems to me insuperable, is, that it proposes an inequality in the revenue law, by permitting articles the growth or production of one neighboring country to be brought into our ports at one rate of duty, while the same articles, if brought from any other neighboring country, would be subjected to the payment of a different rate of duty. This comes within the provision of the Constitution against giving a preference to one State over another, because, owing to geographical position, one State will enjoy a greater share of advantage than another. I cannot, for these reasons, give my vote in favor of this bill.

Mr. METCALFE. Is it in order to move to lay the bill upon the table?

PRESIDING OFFICER. It is perfectly in order.

Mr. METCALFE. I shall be disposed to make that motion, for it seems to me that the sooner we rid ourselves of this bill the better, in order that we may proceed with other business which it is necessary should be done at this session. It appears to me that the passage of a bill of this description would be but the commencement of a system, the effect of which would be very greatly to confuse our revenue system, introducing a system partial, sectional, and local in its operation. If we commence a system of legislation of this character, I do not know where we are to stop. There will be no end to it. I rose for the purpose of moving that the bill be laid upon the table, and I now make that motion.

Mr. DIX. I really hope the Senator from Kentucky will withdraw that motion. There have been various objections made to the bill to which I desire to reply.

Mr. METCALFE withdrew his motion to lay the bill upon the table.

Mr. DIX. It is now late, and I understand there is a Senator on the other side who desires to speak upon the subject, and I should not probably be able to finish what I have to say before the time for adjournment to-day. I therefore move that the bill be postponed till to-morrow.

The further consideration of the bill was then postponed until to-morrow.

PATENT OFFICE REPORT.

The PRESIDING OFFICER laid before the Senate the report of the Commissioner of the Patent Office for the year 1847.

Mr. WESTCOTT. I have cursorily examined that report. It is, in my judgment, one of the most valuable documents ever laid before Congress. It was made by the Commissioner of Patents, in obedience to a resolution of the Senate adopted in January last, which I had the honor to propose, under the instructions of the Committee on Patents. The Commissioner has delayed the report until now in consequence of the difficulties in acquiring the proper data necessary to render the report authentic and valuable. The report contains—

1. Statistics respecting steamboat explosions up to the time of the report, obtained from reliable data.

2. Scientific information as to the causes of such explosions.

3. Scientific information as to preventives to such explosions.

4. It contains suggestions as to legislation with reference to the prevention of accidents by such

explosions, and on the subject of steam navigation generally, and with respect to patents for inventions relating to that subject.

Regarding the report as of great importance, and that the information it contains should be disseminated throughout the country, and a copy placed on board at least every steamboat in the United States, I move that thirty thousand copies of it be printed, and that it be referred to the Committee on Patents.

Mr. TURNEY. It does seem to me extraordinary that it should be considered necessary to print so large a number. I move that the motion to print be referred to the Committee on Printing.

Mr. PHELPS. Is there not a standing rule which requires that all such documents should be referred to the Committee on Printing?

The matter was referred to the Committee on Printing.

On motion, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 8, 1849.

The Journal of Saturday having been read:

Mr. NICOLL rose and addressed the Chair.

COMPENSATION FOR A SLAVE.

The SPEAKER rose and said, the House would remember that the vote on the passage of the bill for the relief of the legal representatives of Antonio Pacheco, on Saturday last, was originally made up by the Clerk as ninety in the affirmative, and eighty-nine in the negative. The record having been handed to the SPEAKER, and the vote having been announced, the SPEAKER proceeded to make some remarks preparatory to the vote which the rule of the House made it his duty to give.

Whilst the SPEAKER was explaining, he was interrupted by the Clerk, who stated that there had been a mistake in making up the record, and that the vote stood ninety-one in the affirmative, and eighty-nine in the negative. In this state of the vote the intervention of the SPEAKER was no longer allowable, and the bill was declared to have been passed.

Upon a more careful reëxamination of the vote, an error was discovered, and the vote should have been stated as 89 in the affirmative, and 89 in the negative—a tie. If, therefore, there were no further corrections of the Journal to be made, a case was presented for the decision of the Chair.

Mr. FARRELLY rose and inquired of the Chair whether his vote had been recorded?

The CLERK (through the Speaker) replied that the vote of the gentleman was not recorded.

Mr. FARRELLY. I voted *no*.

The SPEAKER. It is the right of the gentleman to have his vote recorded.

Mr. HOUSTON, of Alabama, rose and said, that as there seemed to have been a miscount of the vote two or three times, it would probably be more satisfactory to gentlemen on both sides of the House if the record should again be read over distictly.

The Clerk read the record accordingly.

Mr. PETTIT rose to inquire of the Speaker, if it was in order to move a reconsideration of the vote. He understood the case to have been decided by the vote this morning.

The SPEAKER. The Clerk will state the vote.

Mr. VENABLE rose and (addressing the Chair,) said, he desired to inquire whether the gentleman from Pennsylvania [Mr. FARRELLY] had voted when the question on the passage of the bill was taken.

The SPEAKER. The gentleman can answer for himself. The gentleman has stated to the Chair that he voted in the negative.

Mr. FARRELLY. I voted no.

Mr. VENABLE. I understood the gentleman to say that he voted on Saturday.

Mr. FARRELLY said that he had distinctly stated that he had voted on Saturday.

The SPEAKER called the attention of the gentleman from North Carolina [Mr. VENABLE] to the fact, that the first vote which had ever been given by the Speaker in this House had not been heard by the Clerk, and consequently had not been recorded. Four days afterwards, an adjournment of the House having intervened, on the suggestion of the Clerk, the vote of the gentleman was recorded. It changed the result, and the whole question was again brought before the House.

Mr. VENABLE said he wished to be understood. He had not heard this declaration of the gentleman. If he had heard it, he should not have asked the question.

The SPEAKER. The Clerk will now announce the result of the vote.

Mr. C. J. INGERSOLL rose and said, that he did not exactly know whether he was entitled to vote or not. He had left the House for a short time, for the purpose of going into the library to consult. He did not precisely know the point of time at which he entered the House, but he knew that it was before the name of Mr. LEVIN was called, because he (Mr. I.) had stopped on his way down the aisle to ask that gentleman a question, and he had put him (Mr. I.) aside whilst he answered it. He did not exactly know whether he was in time or not, but he knew that he was very nearly in time to answer to his name.

Mr. COBB, of Georgia. How many names intervene between the gentleman and his colleague [Mr. LEVIN]?

SEVERAL VOICES. About twenty.

The SPEAKER said, he knew of no case in which a gentleman had been allowed to vote where he did not vote.

Mr. INGERSOLL. I certainly did not vote.

The SPEAKER. The Clerk will now state the result of the vote.

The Clerk then read—in the affirmative, eighty-nine; in the negative, ninety.

The SPEAKER said, the House would perceive by the vote, that as it now stood, it was not in the power of the Speaker to change the result. He might make a tie; but upon whatever side he might vote, the result would still be the same. Under these circumstances, although he had come to the House in full preparation to give his vote, and without having in any degree anticipated the action of the gentleman from Pennsylvania, [Mr. FARRELLY,] the Speaker did not feel called upon to vote.

Mr. HILLIARD rose and was understood to inquire of the Chair, whether the vote of the Speaker might not change the result by keeping the question still in the power of the House, under the rule which regulated motions to reconsider?

Mr. BOTTS rose and asked for the reading of the twelfth rule of the House, in order to ascertain whether, under that rule, it was not obligatory on the Speaker to vote.

The Clerk read the rule, as follows:

"In all cases of election by the House, the Speaker shall vote; in other cases he shall not vote, unless the House be equally divided, or unless his vote, if given to the minority, will make the division equal; and in case of such equal division, the question shall be lost."

Mr. BOTTS. I now inquire whether, under that rule, the Speaker is not obliged to vote?

The reply of the Speaker was not heard beyond the remark, that the precedents were precisely the reverse.

Mr. RHETT said, if he correctly understood the rule, it provided that the Speaker should vote, if his vote would change the result.

[Several voices: "His vote will not change the result."]

Mr. RHETT, (continuing.) He was coming to that point. The rule required the vote of a majority to carry a question. If the Speaker voted in the affirmative, it would make a tie, and the bill would be lost; so there would be no difference in the result.

The SPEAKER. In that case, the vote would be ninety in the affirmative, and ninety in the negative, and the bill would still be lost. If the Speaker voted against the bill, the vote would then be eighty-nine in the affirmative, and ninety-one in the negative; so that, in either event, the bill would still be lost; in other words, whether the Speaker voted in the affirmative or in the negative, the result would still be the same.

Mr. TOOMBS rose and said, that there was an important point which he would suggest to the consideration of the Chair, for information as to which he had been indebted to the Speaker on Saturday last. The Speaker had then stated, that under the principles laid down by the Parliamentary law, if he gave his vote, it should be in such a manner as to leave it in the power of the House to reconsider the question, if the House should feel disposed to do so.

If, therefore, the Speaker should vote in the affirmative, it would be in the power of either side of the House to move a reconsideration—precisely the state of facts that existed on Saturday, when the Chair seemed to have been prepared to give the matter that direction. If the Chair should now vote in the affirmative, gentlemen on either side could move a reconsideration; but as the matter now stood, only a gentleman who voted in the negative could make that motion.

The SPEAKER said it had been decided by this Congress, by the present Speaker, and with the assent of the gentleman from Georgia, [Mr. TOOMBS,] that when a bill was lost, whether by tie or otherwise, a member voting with the prevailing side could alone move a reconsideration. That decision of the Speaker had been sustained, on appeal, by the House. If, therefore, there was a tie vote, those who voted against the bill could alone move a reconsideration.

Mr. SAWYER moved that the vote on the passage of the bill be reconsidered, and that that motion be laid on the table.

But Mr. S., almost in the same instant, withdrew the motion to lay the motion to reconsider on the table.

Mr. GIDDINGS rose to a point of order. He submitted, whether a motion to reconsider made to-day—being a day devoted by the rules to *public* business—must not necessarily go over until next private bill day, unless the House should suspend the rules to consider it.

The SPEAKER. Undoubtedly it would go over, unless the previous question were moved.

Mr. GIDDINGS. Would it be in order to take the question on the demand for the previous question, if a motion to reconsider was made? Must not the question, as a matter of course, go over until private bill day, except by a suspension of the rules?

The SPEAKER. The Chair thinks that the gentleman is right. The motion to reconsider a vote on a private bill must go over until private bill day.

Mr. HOUSTON, of Alabama. Would the call for the previous question produce any change in the mind of the Speaker? The gentleman from Ohio [Mr. SAWYER] has not yet yielded the floor.

The SPEAKER. It would not produce any change.

So the subject went over until a day set apart by the rules for the consideration of private business.

BRANCH MINT AT NEW YORK.

Mr. NICOLL rose and asked leave of the House to offer the following resolution, which was read for information:

Resolved, That the bill to establish a branch mint in the city of New York, be made the special order for Tuesday, the 16th day of January instant, and continue to be such special order until said bill is finally disposed of.

Objections were made.

Mr. NICOLL moved that the rules be suspended to enable him to offer the resolution.

Mr. COLLAMER rose and inquired of the Speaker whether the resolution was debatable? If so, he wished to debate it.

The SPEAKER. The gentleman has moved a suspension of the rules for the purpose of receiving and considering the resolution at this time.

Mr. NICOLL. I desire to say to the House, that in moving a suspension of the rules, I am actuated by the conviction, that unless this bill——

The SPEAKER. Debate is not in order.

Mr. NICOLL demanded the yeas and nays on his motion; which were ordered.

And the question, Shall the rules be suspended? was then taken, and decided in the negative, as follows:

YEAS—Messrs. Barrow, Bedinger, Belcher, Bingham, Birdsall, Blackmar, Bocock, Bowlin, Boyd, Brodhead, William G. Brown, Albert G. Brown, Burt, Butler, Canby, Cathcart, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Collins, Conger, Crowell, Daniel, Darling, Dickinson, Dixon, Duer, Dunn, Edwards, Embree, Faran, Featherston, French, Fries, Gentry, Gott, Green, Greeley, Gregory, Grinnell, Willard P. Hall, Nathan K. Hall, Haralson, Harmanson, Harris, Henley, Isaac E. Holmes, Elias B. Holmes, George S. Houston, Inge, Iverson, Jameson, Jenkins, Kaufman, Kellogg, Thos. Butler King, Lahm, La Sère, William T. Lawrence, Sidney Lawrence, Ligon, Lincoln, Lord, Lumpkin, McClelland, McClernand, McDowell, McKay, McLane, Horace Mann, Marvin, Meade, Miller, Morris, Morse, Mullin, Murphy, Nelson, Newell, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pettit, Phelps, Pilsbury, Putnam, Richardson, Richey, Robinson, Rockhill, John A. Rockwell, Rose, Ramsey, St. John, Sawyer, Sherrill, Simpson, Smart, Caleb B. Smith,

Stanton, Starkweather, Charles E. Stuart, Taylor, Thomas, Jacob Thompson, Richard W. Thompson, Thurston, Tuck, Turner, Van Dyke, Venable, Vinton, Wallace, Warren, Wentworth, White, Wick, Wiley, and Williams—124.

NAYS—Messrs. Abbott, Atkinson, Blanchard, Botts, Boyden, Brady, Bridges, Buckner, Cabell, Chapman, Clingman, Cocke, Collamer, Cranston, Crisfield, Crozier, Dickey, Donnell, Garnett Duncan, Eckert, Nathan Evans, Farrelly, Ficklin, Fisher, Flournoy, Freedley, Fulton, Gaines, Goggin, James G. Hampton, Moses Hampton, Henry, Hill, Hilliard, Hubbard, Hudson, Charles J. Ingersoll, Joseph R. Ingersoll, Irvin, Andrew Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kennon, Daniel P. King, Levin, McIlvaine, Job Mann, Marsh, Morehead, Nes, Outlaw, Peyton, Pollock, Preston, Julius Rockwell, Root, Schenck, Shepperd, Truman Smith, Stephens, Strohm, Strong, James Thompson, John B. Thompson, Robert A. Thompson, Tompkins, Toombs, Wilson, and Woodward—70.

So (two-thirds not voting in the affirmative) the rules were not suspended, and the resolution was not received.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole on the state of the Union, to resume the consideration of the bill to provide for the settlement of claims against the United States.

Mr. THOMPSON, of Pennsylvania, called for the order of the day.

The SPEAKER. The motion to suspend the rules is in order. If the House should not adopt it, the Chair will proceed to call the States for petitions, and afterwards for reports of committees, and for resolutions from the States in their order.

The question being taken, the House refused to suspend the rules—ayes 62, noes 69.

RECOVERY OF FUGITIVE SLAVES.

Mr. MEADE moved a suspension of the rules to enable him to offer a resolution, on which he desired the House now to act.

Mr. COLLAMER objected, and wished the States to be called for resolutions in their order.

The SPEAKER, (to Mr. COLLAMER.) The gentleman from Virginia moves a suspension of the rules.

Mr. COLLAMER. I submit whether the gentleman has the right to take the floor, except upon the call of his State for resolutions.

The SPEAKER. Any gentleman has a right to take the floor to move to suspend the rules.

The resolution of Mr. MEADE was then read by the Clerk, as follows:

Whereas it is the duty of the Congress of the United States to enact all laws necessary to enforce such provisions of the Constitution as were intended to protect the citizens of the several States in their rights of property, and past experience has proved that laws should be passed by Congress to enforce the second section of the fourth article of the Constitution, which requires that persons held to labor in any one State, escaping to another, shall be delivered up on claim of the party to whom such labor may be due: therefore,

Resolved, That the Committee on the Judiciary is hereby instructed to report a bill to this House, providing effectually for the apprehension and delivery of fugitives from labor who have escaped or may hereafter escape from one State into another.

Mr. MEADE. I call for the yeas and nays on the motion to suspend the rules.

Mr. BRODHEAD desired to suggest to the honorable gentleman from Virginia the propriety of so modifying his resolution as to provide for an inquiry, by the committee, into the expediency of amending the laws on the subject.

Mr. MEADE replied that he would do so with very great pleasure, if he thought such an inquiry necessary. [Cries of "Order, order!"] There were no laws on the subject at this time, and gentlemen knew a law was necessary.

Mr. COLLAMER inquired of the Speaker what rule it was that it was proposed to suspend?

The SPEAKER replied, all the rules of the House which present the order of business.

Mr. COLLAMER. If the rules are suspended, will the resolution be open to discussion?

The SPEAKER. The gentleman from Virginia [Mr. MEADE] will have the floor on his own resolution. He can make a speech or move the previous question.

The yeas and nays were ordered, and being taken, resulted—yeas 79, nays 100—as follows:

YEAS—Messrs. Atkinson, Barrow, Beale, Bedinger, Bocock, Botts, Bowlin, Boyd, William G. Brown, Albert G. Brown, Buckner, Burt, Cabell, Chapman, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Daniel, Featherston, Flournoy, French, Fulton, Gaines, Gentry, Giddings, Goggin, Green, Greeley, Willard P. Hall, Haralson, Harmanson, Harris, Hill, Hilliard, Isaac E. Holmes, George S. Houston, John W. Houston, Inge, Charles J. Ingersoll, Iverson, Jameson, Andrew Johnson, George W. Jones, John W. Jones, Kaufman, Kellogg, Levin, Ligon, Lumpkin, McDowell, McKay, McLane, Horace Mann, Meade, Morehead, Morse, Outlaw, Palfrey, Peyton, Phelps, Pilsbury, Preston, Rhett, Root, Shepperd, Simpson, Stanton, Thomas, Jacob Thompson, Richard W. Thompson, Robert A. Thompson, Tompkins, Toombs, Wallace, and Woodward—79.

NAYS—Messrs. Abbott, Bingham, Blackmar, Blanchard, Boyden, Brady, Bridges, Brodhead, Butler, Canby, Cathcart, Clapp, Franklin Clark, Collamer, Collins, Conger, Cranston, Dickey, Dickinson, Dixon, Duer, Dunn, Eckert, Edwards, Embree, Nathan Evans, Faran, Farrelly, Ficklin, Fisher, Freedley, Fries, Gott, Gregory, Grinnell, Nathan K. Hall, James G. Hampton, Moses Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Irvin, Jenkins, James H. Johnson, Kennon, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Lincoln, Lord, McClelland, McIlvaine, Job Mann, Marsh, Marvin, Miller, Morris, Mullin, Murphy, Nelson, Nes, Newell, Nicoll, Peaslee, Peck, Pettit, Pollock, Putnam, Richey, Robinson, Rockhill, Julius Rockwell, J. A. Rockwell, Rumsey, St. John, Sawyer, Schenck, Sherrill, Smart, Caleb B. Smith, Truman Smith, Starkweather, Charles E. Stuart, Strohm, Strong, Taylor, James Thompson, Thurston, Tuck, Turner, Van Dyke, Vinton, Warren, Wentworth, White, Wiley, and Wilson—100.

So the House refused to suspend the rules.

NOTICES OF BILLS.

Notices for leave to introduce bills were given, as follows.

By Mr. LINCOLN. A bill in relation to school lands which have been or may be relinquished.

By Mr. DICKINSON: A bill to amend an act entitled "An act vesting in the commissioners of the counties of Wood and Sandusky the right to certain lots in the towns of Perrysburg and Croganville, in the State of Ohio, for county purposes."

BOARD TO SETTLE PRIVATE CLAIMS.

Mr. SMITH, of Indiana, who was recognized by the Chair from among many competitors, moved that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. HOUSTON, of Alabama, desired to inquire whether, if the House resolved itself into Committee, the special order would not be the bill (relative to private claims) which was now under the investigation of the committee, and on which the House had ordered that debate be terminated at half-past one o'clock to-day?

[Cries of "Yes; yes."]

The question having been taken and agreed to—

The House resolved itself into Committee of the Whole on the state of the Union, (Mr. BURT in the chair,) and resumed the consideration of the bill to establish a board for the adjudication of claims against the United States.

Mr. PETTIT was entitled to the floor. He rose and explained that the object which he had in view in moving that the committee rise, on Saturday last, was, that the House might order the amendments, and, amongst others, an amendment which he himself had proposed as a substitute for the bill to be printed. These amendments had not yet been sent back to the House, and he could not well discuss the subject in their absence. It was his intention to vote against the bill in the form in which it stood at present; and he gave notice, that when the committee rose, he should move to refer the bill and the proposed amendments to the Committee on the Judiciary.

Mr. STUART, of Michigan, said he understood the gentleman to move that the committee rise.

The CHAIRMAN said he had not so understood the motion.

Mr. STUART inquired whether, if the committee were to rise, it would be in order to move to reconsider the vote by which the House had adopted a resolution terminating the debate?

Several moments elapsed in the effort of the Chairman to bring the committee to order.

Mr. PETTIT moved that the committee rise, giving notice that it was his intention, in the House, to move that the bill and pending amendments be referred to the Committee on the Judiciary.

Tellers were asked and ordered on the motion; and Messrs. HARRIS and FULTON were appointed.

Mr. COLLAMER inquired what the precise character of the motion was?

Mr. PETTIT explained it, as given above.

Mr. GOGGIN made a remark, which could scarcely be heard amidst the confusion, but was understood to be the expression of a hope that the committee would not rise, but would proceed to the consideration of the post office bill.

The question on the motion of Mr. PETTIT was then taken, and decided in the affirmative: Ayes 71, noes 64.

So the committee rose and reported progress.

Mr. PETTIT said that a resolution had been adopted on Saturday last providing that all debate on the bill to provide for the settlement of private claims against the United States should terminate in committee at half past one this day. On the same day an order had been made for the reprinting of the bill, and the printing of various proposed amendments. The said printing had not been done. Neither the bill nor the amendments were before the House. It must be apparent that the committee or the House could not proceed without them.

He moved, therefore, to reconsider the vote by which the resolution closing all debate this day had been adopted; or if gentlemen preferred, he would move that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill, and that, with all pending proposed amendments, it be referred to the Committee on the Judiciary.

The SPEAKER. The motion can only be made by unanimous consent, or by a suspension of the rules.

Mr. PETTIT. By unanimous consent?

The SPEAKER. Or a suspension of the rules.

Mr. PETTIT. Then I move that the rules be suspended for the purpose of enabling me to submit the motion.

The SPEAKER put the question, and announced that two-thirds seemed not to have voted in the affirmative.

Mr. PETTIT asked for tellers, who were ordered, (Messrs. PETTIT and FULTON acting in that capacity.)

And the question was taken, and the vote stood —ayes 105, noes 48.

Mr. ROCKWELL, of Connecticut, asked the yeas and nays, which were refused.

So two-thirds having voted in the affirmative, the rules were suspended.

Mr. PETTIT now moved that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill to provide for the settlement of private claims against the United States, and that the said bill and proposed amendments be referred to the Committee on the Judiciary.

And on that motion he asked the previous question.

Mr. ROCKWELL, of Connecticut, asked the gentleman from Indiana [Mr. PETTIT] to allow him to say a word.

Mr. PETTIT adhered to his motion.

Mr. DUER rose to a point of order. He desired to be informed whether the bill, if referred to the Committee on the Judiciary, would retain its place as a special order.

The SPEAKER said it would not.

Mr. DUER inquired whether the gentleman from Indiana could not, as a part of his motion, incorporate a motion by which the bill could retain its place as a special order?

The SPEAKER replied in the negative.

Mr. ROCKWELL, of Connecticut, made a remark, or suggestion, as to the bill being again made the special order.

Mr. DUER suggested to the gentleman from Indiana [Mr. PETTIT] to embrace in his motion that all such amendments as might, within a day or two, be handed to the Clerk, should also be printed.

Mr. VINTON inquired of the SPEAKER if the motion before the House was not divisible? He was glad to get the bill into the House, and he would be glad to vote upon it.

The SPEAKER said the question was divisible.

Mr. VINTON asked a division; which was ordered.

The question was then taken on the demand for the previous question; and there was a second.

And the main question was ordered to be now taken.

And the main question, being first on discharging the Committee of the Whole on the state of the Union from the further consideration of the said bill, was taken and decided in the affirmative.

So the committee was discharged.

And the question on the second branch of the main question, to wit: on referring the bill and amendments to the Committee on the Judiciary, was then taken, and decided in the affirmative.

So the bill and amendments were referred to the Committee on the Judiciary.

TWELFTH ART. OF TREATY WITH MEXICO.

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of

the Union, for the purpose of proceeding to the consideration of the bill to provide for carrying into execution, in part, the twelfth article of the treaty with Mexico, concluded at Guadalupe Hidalgo.

This bill, Mr. V. remarked, had been made a special order some time since.

Mr. TOOMBS rose to inquire of the Chair whether such was the fact? He thought it had not been made a special order.

The SPEAKER said, it was in the power of the House to go into committee, and the committee could decide what business was first in order. The Clerk, however, stated that the bill had been made a special order.

Mr. TOOMBS. When?

The Clerk. On the 20th of December.

Mr. TOOMBS. The vote was otherwise; and the Journal is wrong. The bill was not made a special order.

Mr. GOGGIN rose to inquire whether the post office bill had not the priority in point of time?

The SPEAKER was understood to say, that these were questions which the record would decide. In committee, the special orders would be taken up according to their dates.

Mr. VINTON inquired of the Chair whether, at the commencement of the present session, a rule had not been adopted which provided that no special order should take precedence over the appropriation bills?

The SPEAKER was understood to say, that the Committee of the Whole on the state of the Union, in taking up its business, would be governed by the rules of the House.

Mr. THOMPSON, of Pennsylvania, rose to inquire, if this was not resolution day?

The SPEAKER said, Petition day.

Mr. THOMPSON. Then it will require a vote of two-thirds to go into Committee of the Whole on the state of the Union.

The SPEAKER. No; that motion is in order at any time and on any day.

The question was then taken on the motion of Mr. VINTON, and decided in the affirmative.

So the House resolved itself into Committee of the Whole on the state of the Union, (Mr. ROCKWELL, of Connecticut, in the chair.)

Mr. VINTON moved that the committee proceed to the consideration of the bill he had designated.

Mr. GOGGIN said, if in order, he would move that the committee take up the bill in relation to the rates of postage and the franking privilege.

Mr. THOMPSON, of Pennsylvania, moved that the committee resume the consideration of the President's message.

The question was taken first on the motion of Mr. VINTON; but no quorum voted.

Tellers (Messrs. HUBBARD and MCCLERNAND) were appointed, and the affirmative vote having been taken, was declared to be 94. The noes were not counted.

The title of the bill having been read—

Mr. TOOMBS rose to a point of order. He wished to be informed what the special orders were, if there were any. He understood that this bill was not a special order.

The CHAIRMAN said, the Clerk would refer to the Journal.

Mr. TOOMBS. I want to know what the Journal says.

Mr. VINTON said, that at the commencement of the session, one of the rules which had been adopted by the House, provided that it should be in order to take up appropriation bills either in the House or in committee, notwithstanding any other bill had been made a special order.

Mr. TOOMBS made a remark in reply, not distinctly heard, but which closed by appealing to the Journal.

The CHAIRMAN caused the records to be searched, but (as the reporter understood) without finding an entry of such a special order.

Mr. TOOMBS asked that it be shown that this bill had been made a special order. He made the point of order, that, in case there were a special order which was an appropriation bill, it was not competent for the committee to take up this bill until it could be shown by the Journal that it had been made the special order for this day. He inquired of the Clerk if there were other special orders which were appropriation bills?

The Clerk replied there were.

Mr. VINTON said his impression was this: that this bill was reported with the deficiency bill, and that both were made special orders together.

Mr. HUBBARD said his recollection fully concurred with that of the gentleman from Ohio.

Mr. TOOMBS said this discrepancy of opinion among gentlemen showed the necessity of referring to the Journal. He knew that the gentleman had made the motion on the 20th December, to which he (Mr. T.) had objected. The Chair had announced, that if objection was made, it would require a suspension of the rules to receive the motion to make a special order, and the motion to suspend could not be made that day. He was satisfied, that if the Journal stated it had been made a special order, it was an erroneous entry at the time, for the annunciation had been otherwise.

EIGHTH OF JANUARY.

Mr. SAWYER said, in order that gentlemen may have time to settle this difficulty, I move that the committee rise, for the purpose of adjourning, so that we Democrats may celebrate the eighth of January. [Laughter.]

The motion of Mr. S. was agreed to.

And the committee rose and reported.

Mr. STEPHENS moved that the House adjourn.

Mr. GREELEY asked the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 120, nays 70.

YEAS—Messrs. Atkinson, Barrow, Beale, Bedinger, Bingham, Birdsall, Bocock, Bowlin, Boyd, Brady, William G. Brown, Charles Brown, Cabell, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Cocke, Collins, Daniel, Darling, Dickey, Dickinson, Donnell, Faran, Featherston, Ficklin, Flournoy, French, Fulton, Gayle, Gentry, Goggin, Green, Willard P. Hall, Hammons, Haralson, Harmanson, Harris, Hill, Hilliard, George S. Houston, Inge, Charles J. Ingersoll, Joseph R. Ingersoll, Irvin, Iverson, Jameson, Jenkins, Andrew Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Kellogg, Kennon, Lahm, La Sère, Sidney Lawrence, Leffler, Ligon, Lord, Lumpkin, McClelland, McClernand, McDowell, McIlvaine, McKay, McLane, Marvin, Meade, Miller, Morehead, Morris, Morse, Murphy, Nes, Outlaw, Peaslee, Peck, Petrie, Pettit, Peyton, Phelps, Pilsbury, Pollock, Preston, Rhett, Richardson, Richey, Robinson, Rockhill, Rumsey, Sawyer, Sherrill, Simpson, Smart, Robert Smith, Stanton, Starkweather, Stephens, Charles E. Stuart, Thomas, James Thompson, Jacob Thompson, Richard W. Thompson, John B. Thompson, Robert A. Thompson, William Thompson, Thurston, Toombs, Turner, Venable, Wallace, Wentworth, Wick, Wiley, Williams, and Wilmot—120.

NAYS—Messrs. Abbott, Adams, Belcher, Blackmar, Blanchard, Botts, Boyden, Brodhead, Buckner, Burt, Butler, Canby, Cathcart, Chapman, Williamson R. W. Cobb, Collamer, Conger, Cranston, Crisfield, Crozier, Cummins, Dixon, Duer, Dunn, Eckert, Edwards, Embree, Nathan Evans, Farrelly, Fisher, Freedley, Gaines, Giddings, Gott, Greeley, Gregory, Grinnell, Nathan K. Hall, James G. Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Thomas Butler King, Daniel P. King, William T. Lawrence, Lincoln, Mullin, Nelson, Newell, Nicoll, Palfrey, Putnam, Julius Rockwell, John A. Rockwell, Rose, Root, St. John, Schenck, Shepperd, Truman Smith, Strohm, Taylor, Tuck, Van Dyke, Vinton, Warren, White, Wilson, and Woodward—70.

So the House adjourned.

PETITIONS, ETC.

The following memorials and petitions were presented under the rule, and referred:

By Mr. FREEDLEY: The petition of Thomas Read and 36 other citizens of the borough of Norristown, Pennsylvania, for the passage of a law for the immediate abolition of slavery in the District of Columbia, and protesting against the retrocession of any part of said District. Also, the petition of William Rossiter and 32 other citizens of the borough of Norristown, Pennsylvania, asking that the Jeffersonian ordinance of 1787, prohibiting slavery, may be ingrafted on any law which may be passed organizing Territorial Governments for New Mexico and California, and protesting against any compromise whereby slavery may be allowed to encroach on territory now free; also, against the boundaries of Texas being enlarged beyond its original limits, so as to embrace territory recently acquired from Mexico.

By Mr. FRIES: The memorial of F. Ritman, of Franklin county, Ohio, asking addition to pension.

By Mr. MURPHY: The petition of Charles Johnston, praying for a pension, in consideration of injuries received in the United States naval service.

By Mr. WILLIAM T. LAWRENCE: The petition of the publishers of periodicals, on the subject of postage.

By Mr. ANDREW JOHNSON: The petition of Charles Cargill, praying Congress to grant him a pension.

By Mr. CROWELL: The petition of John T. Ball, for extra pay for services rendered in the Clerk's office of the House of Representatives.

By Mr. CRANSTON: The petition of J. K. Angell and others, praying Congress to pass an act to reduce the rates of postage to uniform rate of two cents for a single letter.

IN SENATE.

TUESDAY, *January* 9, 1849.

Mr. YULEE presented a petition from the land officers of the State of Florida, asking for commissions on the entry of military land warrants; which was referred to the Committee on Public Lands.

Mr. DODGE, of Iowa, presented a petition from John W. Mount, a volunteer in the Mexican war, asking for an increase of his pension; which was referred to the Committee on Pensions.

Mr. DODGE, of Iowa, presented a petition from citizens of Iowa, asking for the construction of a bridge over the Des Moines river, at Keosauqua, in that State; which was referred to the Committee on Roads and Canals.

Mr. BENTON presented a petition from Frederick Dent, asking the confirmation of his land claims; which was referred to the Committee on Private Land Claims.

Mr. STURGEON presented three petitions from Luzerne, Lancaster, and Chester counties, Pennsylvania, praying for a modification of the tariff of 1846; which were referred to the Committee on Finance.

COLONIZATION OF COLORED PERSONS.

Mr. UNDERWOOD presented the petition of Daniel P. Beddinger, asking that an annual appropriation may be made by Congress for the transportation of such free persons of color as may desire to emigrate to Liberia, or such slaves as may be manumitted.

In stating the substance of the petition, Mr. U. remarked: It prays that Congress will appropriate money for the purpose of sending out free people of color to the colony of Liberia, or elsewhere; and also that they will make an appropriation for the purpose of colonizing slaves hereafter to be manumitted. I present the memorial, and ask its reference to the Committee on the Judiciary, together with the following instructions: To inquire and report whether Congress possesses the constitutional power to appropriate money for the removal of free people of color who may choose to emigrate, and slaves who may hereafter be emancipated for that purpose, to the Republic of Liberia or elsewhere; and if, in the opinion of the committee, Congress possesses the power, whether it be expedient and proper to make such appropriation. If the Senate will indulge me, I will make one or two remarks.

Mr. HALE. I call the gentleman to order.

PRESIDING OFFICER. The gentleman from Kentucky will be seated, and the question of order will be stated.

Mr. HALE. It was decided yesterday by the Chair that I was out of order in undertaking to make some remarks upon introducing and asking the reception and reference of a petition praying the Senate to take action against slavery. This, sir, is a petition of precisely similar character, except that it prays Congress to take action in favor of slavery. The question of order that I raise is, whether the rule applies both ways, to petitions asking the action of Congress favorable to slavery, as well as to those asking adverse action? The question of order that I make is, that this petition comes within the rule that was applied to me yesterday.

Mr. BUTLER. I would like to hear those instructions read.

PRESIDING OFFICER. There is a question of order pending. The decision of the Chair that was made yesterday is mistaken by the Senator from New Hampshire. The motion of the Senator was, in the first place, that the petition be received; and he immediately superadded to that motion a motion that the petition be referred to the committee, with instructions, stating at the same time that, upon this last motion, he wished to address the Senate. The Senator from Alabama then immediately interposed a desire that the motion to receive should be first disposed of. That, according to the practice of the Senate, was the proper course to be taken. The present motion on the part of the Senator from Kentucky is not to receive the petition, but that it be referred to the Committee on the Judiciary, with instructions; and it appears to the Chair that the Senator from Kentucky is perfectly in order.

Mr. UNDERWOOD. I will now inform the gentleman from South Carolina over the way, if he will give me his attention, what the instructions

are which I propose to send to the committee. I will explain again. The petition of Mr. Beddinger prays Congress to appropriate money for the purpose of removing to the Republic of Liberia or elsewhere, free people of color; and, furthermore, that they will make an appropriation for the removal of such slaves as may be hereafter manumitted for that purpose from the United States. Now, I propose referring the petition, with the following instructions, to the Committee on the Judiciary: To inquire and report whether Congress possesses the constitutional power to appropriate money for the removal of free people of color who may choose to emigrate, and slaves who may hereafter be manumitted for that purpose, to the Republic of Liberia or elsewhere; and if, in the opinion of the committee, Congress possesses such a power, then further to report whether it be expedient and proper to make any such appropriation as the petitioner asks.

The remark which I intended to make, if the motion prevailed, was this: Congress has appropriated large sums of money for the removal of the Indians from one part of the United States to another portion of the United States. Congress has appropriated considerable sums of money for the removal of captured Africans from the United States to the shores of Africa. Now, the removal of Indians from one part of the United States to another, and the removal of captured Africans from the United States to the shores of Africa, constitute precedents that I hope the committee will take into consideration, and that they will distinguish between those precedents and the prayer of the petition. I have been induced furthermore, sir, to ask its reference to the Judiciary Committee, that they may be charged with the constitutional and legal questions connected with the subject, from the consideration that a gentleman by the name of Cook, from Illinois, not long since, sent me a string of amendments to the Constitution of the United States, asking me to present them; the object of which was, to procure an amendment to the Constitution authorizing just such an appropriation as this petition asks for without such previous amendment. In consideration, therefore, of the importance of the question, I ask its reference to the committee.

Mr. HALE. I object to the reception of the petition, and move that the motion for its reception lie upon the table; and upon that motion I ask the yeas and nays.

Messrs. DAYTON and UNDERWOOD simultaneously rose to address the Chair.

PRESIDING OFFICER. The motion to lay upon the table is not debatable.

Mr. UNDERWOOD. Can I not ask for a division of the question?

PRESIDING OFFICER. The question that must first be put is the question upon the motion to lay the motion for reception on the table. That is a privileged motion, and there can be no division of that motion.

Mr. UNDERWOOD. I will ask the Chair if the petition has not already been received? I was permitted to state the contents, and not only to state the contents of the petition, but to repeat those contents for the information of the Senator from South Carolina, and also to read the instructions which I propose to send to the committee; and I supposed that the question would come up on the instructions I proposed for the committee, directing their attention to the subject of the power of Congress in such a case.

PRESIDING OFFICER. In the opinion of the Chair, nothing more has been done than the reading of the petition and accompanying papers, and it is perfectly competent for the Senator from New Hampshire to move that the motion of reception be laid on the table.

On that question, the yeas and nays having been asked for, they were ordered, and, having been taken, resulted as follows:

YEAS—Messrs. Butler, Davis of Mississippi, Downs, Foote, Hunter, Johnson of Georgia, King, Mason, Westcott, and Yulee—10.

NAYS—Messrs. Allen, Atchison, Atherton, Baldwin, Bell, Benton, Berrien, Bradbury, Calhoun, Cameron, Clarke, Clayton, Dayton, Dickinson, Dodge of Iowa, Douglas, Felch, Fitzgerald, Hale, Houston, Johnson of Louisiana, Jones, Metcalfe, Miller, Niles, Pearce, Phelps, Rusk, Spruance, Turney, Underwood, Upham, and Walker—35.

PRESIDING OFFICER. The question is now upon the reception of the petition.

Mr. HALE. I withdraw my motion.

Mr. DAYTON. I hope the resolution will lie over a day or two. Ordinarily, I would not present any objection to immediate action; but inasmuch as the question mooted in the petition will devolve upon the Judiciary Committee great labor and difficulty, I would be gratified if the Senator from Kentucky will consent to the petition lying over for a short time.

It was laid over accordingly.

Mr. BRADBURY presented the memorial of Wells & Co., asking the aid of Congress in the construction of a railroad across the Isthmus of Tehuantepec.

Mr. BRADBURY moved the reference of this memorial to the Committee on the Post Office and Post Roads.

Mr. DOUGLAS suggested that as a similar subject was before the Committee on Military Affairs, the most appropriate reference would be to that committee.

Mr. BRADBURY persisted in his motion; which was negatived.

The memorial was then referred to the Committee on Military Affairs, and ordered to be printed.

Mr. RUSK presented a petition from John J. Simpson, asking compensation for damage done to his property by United States troops; which was referred to the Committee on Claims.

Mr. CAMERON presented memorials from the counties of Franklin and Tioga, Pennsylvania, praying for a change of the tariff; which were referred to the Committee on Finance.

Mr. CAMERON presented several petitions from Pennsylvania, praying that Congress would purchase the estate of Mount Vernon; which were referred to the Committee on Agriculture.

Mr. CAMERON presented a petition from Joseph Nock, asking compensation for a violation of his contract by the Post Office Department; which was referred to the Committee on the Post Office and Post Roads.

Mr. CAMERON presented additional documents in the case of James Harley; which was referred to the Committee on Patents.

On motion of Mr. CAMERON, the petition of Samuel H. Thompson was taken from the files of the Senate, and referred to the Committee on Naval Affairs.

Mr. DICKINSON presented a petition from the Ohio and Indianapolis Railroad Company, asking a grant of lands for the construction of a railroad from Jeffersonville to Columbus; which was referred to the Committee on Public Lands.

Mr. DICKINSON presented a petition from citizens of New York, asking for a reduction of the rates of postage, and the abolition of the franking privilege; which was referred to the Committee on the Post Office and Post Roads.

GEOLOGICAL SURVEY OF CALIFORNIA AND OREGON.

Mr. PEARCE asked the unanimous consent of the Senate to introduce a joint resolution authorizing the appointment of a suitable person to make a geological reconnoissance of California and Oregon.

Leave having been granted, the joint resolution was introduced, read a first and second time, and referred to the Committee on the Public Lands.

The joint resolution is as follows:

Resolved, &c., That the President of the United States be, and he is hereby, authorized, by and with the consent of the Senate, to appoint a geologist to accompany the navy and army officers who have been appointed to examine the coast of California, for the purpose of reporting on the proper places for forts, dock-yards, light-houses, &c. The said geologist shall be allowed the salary of —— thousand dollars per annum, and the necessary outfit to be supplied by the War and Navy Departments.

APPELLATE JURISDICTION OF THE SUPREME COURT.

Mr. YULEE, pursuant to notice, asked and obtained leave to introduce a bill in addition to the "act to regulate the appellate duties of the Supreme Court of the United States in certain cases, and for other purposes," approved February 22, 1817; which was read a first and second time, and referred to the Committee on the Judiciary.

RETURN OF A JOINT RESOLUTION.

On motion of Mr. KING, the Senate ordered that the joint resolution of the House of Representatives for the relief of Samuel P. Anderson be returned to the House in compliance with the request transmitted in a message from that body.

RECONSIDERATION.

Mr. UNDERWOOD. I rise, Mr. President, for the purpose of making a motion—which I do not care to have disposed of now, but wish to have entered and laid over till to-morrow—to reconsider the vote by which the petitions offered by the gentleman from New Hampshire [Mr. HALE] yesterday were laid on the table. I make this motion, sir, because it is manifest, from his remarks, that he thinks that the peculiar interest—which we regard him as the peculiar representative of here—is not treated like the particular interests of other Senators. At the instance of the Senator from New Jersey [Mr. DAYTON] the petition which I presented this morning, and the resolution I offered in connection, giving instructions to the committee to whom it was referred, have been laid on the table until to-morrow. I wish this motion of mine entered and disposed of to-morrow, when the petition I presented comes up for final action. I wish to say, in addition, that in this motion I desire to embrace not only the petition of the gentleman from New Hampshire, but that presented by the Senator from Ohio, [Mr. CORWIN,] who sits near me. Let them fare alike.

REPORTS OF COMMITTEES.

Mr. ATHERTON, from the Committee on Finance, reported a bill from the House to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1849, with amendments; which were ordered to be printed.

Mr. BALDWIN, from the Committee on Claims, reported House bill for the relief of Joseph Gerard, without amendment.

RECIPROCITY WITH CANADA.

Mr. FITZPATRICK gave notice, that when the Canada trade bill should come up again, he would offer the following amendment as an additional section:

Be it further enacted, That the act passed June 30, 1834, entitled "An act concerning tonnage duty on Spanish vessels," be, and the same is hereby, repealed; and that hereafter Spanish vessels from the islands of Cuba and Puerto Rico shall pay the same and no higher or other tonnage duties, and the same and no higher or other duties shall be charged upon their cargoes, than if said vessels were from other ports of Spain.

Mr. FITZPATRICK observed that the act referred to was the act commented on yesterday by the Senator from Florida, [Mr. WESTCOTT,] in discussing the bill to which this amendment was now offered, and which was passed over to-day in consequence of the absence of the Senator from New York [Mr. DIX] on account of a domestic bereavement.

The amendment was ordered to be printed.

ADMISSION OF CALIFORNIA.

Mr. BERRIEN, from the Committee on the Judiciary, to whom was referred the bill for the admission of California into the Union as a State, reported the same back without amendment, and submitted a report in writing.

The report was read by the Secretary, as follows:

The Committee on the Judiciary, to whom was referred the bill for the admission of California into the Union as a State, ask leave to submit the following report:

The bill proposes to declare that *all* that portion of the territory of the United States which was acquired by the treaty of peace with Mexico shall be one State.

That the said territory shall be declared to be at once (by force of this bill) one of the United States of America.

That such State shall be on an equal footing with the original States, in all respects whatsoever, by the name and title of the State of California.

With a proviso which declares—

That Congress reserves to itself the right, at any time it may choose to execute the same, of forming and admitting new States out of any portion of said territory which lies east of the summit of the range known as the Sierra Nevada, or California Mountains, and with certain other reservations for the protection of the public property of the United States in the said State.

It provides for the establishment of district courts of the United States and the appointment of the requisite officers, as in the other States of the Union, and for the representation of the said State in the Congress of the United States.

The proposed amendments which have been laid on the table of the Senate, and printed by its order, and which accompany the bill referred to the committee, provide for the election of delegates to a convention to form a constitution for the State of California, prescribe the number of those delegates, and authorize the judges, attorneys, and marshals provided for by the bill, to lay off the *Territory* into election districts; to apportion the delegates; to prescribe the time and place of holding the elections; to designate the persons who shall conduct the same; and to prescribe the time and place for assembling of the convention. The last amendment proposed declares who shall be entitled to vote for delegates to the convention.

The actual condition of the Territory of California, as stated in a letter from the Department of State, recently laid before Congress, is this: The military government established in that Territory ceased by the conclusion of the treaty of peace to derive its authority from that source of power. But the Secretary thinks that the termination of the war left a government *de facto* in full operation, which will continue, with the presumed consent of the people, until Congress shall provide for them a territorial government. The great law of necessity, he says, justifies this conclusion; and the consent of the people is inferred from the fact, that the only alternative would be a state of anarchy, beyond the protection of all laws. The substance and import of the letter are given, not its language. The political condition of New Mexico is the same. According to this view, there is then no legitimate government existing in these Territories. Mexican rule over them was superseded by the military government established during the war, and in every event, by their transfer to the United States by the treaty of peace, on the occurrence of which that temporary government ceased also to have a legal existence. A government *de facto*, resting on the presumed assent of the people, is all, therefore, that protects them from anarchy.

In view of this state of things, the President, in his annual message at the commencement of the present session, declares it to be the duty of Congress to provide, with the least possible delay, for New Mexico and California regularly organized territorial governments. Adhering to the usages of our predecessors, in relation to territories which have been acquired by the United States by treaties with foreign nations, the President recommends the establishment of territorial governments. The bill which has been referred to the committee, departing from this settled and uniform policy, proposes to create a State to unite the Territories of New Mexico and California, very large in extent, sparsely populated, and inhabited by a people the greater portion of whom are strangers to our Constitution and laws, and, in the judgment of the committee, unfitted, in their present condition, to be incorporated into this Union on terms of political equality with the people of the United States. Such, it will be recollected, was the view taken by the Senate when the treaty with Mexico was under consideration. The ninth article of that treaty was in consequence amended, so as to give notice to the Mexican Government, and to those Mexicans who chose to transfer their allegiance to the United States, of the terms on which they would be incorporated into the Union, and be admitted to all the rights of citizens of the United States; that this would be done, not instantly, as is proposed by this bill, but "at the proper time, to be judged of by the Congress of the United States;" that is to say, when, by a course of territorial pupilage, they had become acquainted with our Constitution and laws, conversant with the operations of the Government, and had acquired, in some degree, that similarity of character which can alone fit men for the intimate political association which exists between the several States of this Union. Without doubt the power thus reserved to Congress, by the amendment which has been spoken of, would have existed without this express reservation, unless the contrary had been stipulated in the treaty; but it was fit, in treating with strangers to our peculiar institutions, to advise them of the existence of the power, and of the determination of Congress to exercise it; and it is as an expression of the views of the Senate evincive of that determination, that it is now referred to.

But, independently of these considerations, which they think would render it inexpedient to pass this bill, there is, in the opinion of the committee, a question of power which deserves the attention of the Senate.

The third section of the fourth article of the Constitution provides that "new States may be admitted by the Congress into this Union;" and the last paragraph of the same section declares that "the Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States."

Under this last clause, or under the power to govern, which is necessarily implied in the right to acquire territory, Congress has passed laws to organize the various territorial governments which have from time to time existed within the limits of the United States, while under the first they have admitted the people of those territories into the Union, when, in process of time, they have become States duly organized as such. The States so admitted have been either—

1. Such as formed a part of some one of the States of this Union, and were separated from it by the consent of such State; or

2. Such as were formed out of territories ceded to the United States by one of the States, or by a foreign Government.

Those of the first class were promptly admitted into the Union as States, having previously organized governments composed of a people familiar with our institutions, and sufficiently numerous to entitle them to this privilege. Vermont and Kentucky are examples of this class. The States which have been formed out of territories ceded to the United States by some one of the States, have been uniformly subjected, in the first instance, to territorial governments, and have been subsequently admitted as States, when they had attained the requisite numbers, and on the exhibition to Congress of a constitution establishing a republican form of government, which, by the fourth section of the fourth article of the Constitution, the United States were bound to guarantee to every State. Tennessee and Ohio are the earliest examples of this class.

The same course of proceeding has been adopted in relation to territories acquired by cession from foreign Powers. They have first been organized as Territories, and subsequently admitted as States. Louisiana and Florida are instances of this. In no case has the power conferred by the Constitution to admit new States, been exercised in behalf of an unorganized body of people having no constitution, or laws, or legitimate bond of union, by the *creation by Congress of a State*, and its instant admission into the Union as one of the sovereign States of the Confederacy. Independently of the inexpediency of such a course, in the opinion of the committee, Congress has no power to adopt it.

The power conferred by the Constitution on Congress is to *admit* new *States*, not to *create* them. According to the theory of our Government, the creation of a State is an act of popular sovereignty, not of ordinary legislation. It is by the will of the people of whom the State is composed, assembled in convention, that it is created. Congress may provide for the assembling of a convention, but it is the will of the people, expressed in that convention, which alone creates the State; and, until that is done, the power conferred by the Constitution on Congress "to *admit* new *States*" into the Union is not called into exercise. There is nothing upon which it can operate. In the opinion of the committee, then, this bill ought not to pass, because it proposes the exercise by Congress of a power not vested by the Constitution in the National Legislature, namely, the *creation of a new State*.

But there are other, and, as the committee think, valid objections to this bill. It proposes to unite all the Territories acquired by the treaty with Mexico, and with it to constitute one State. This territory, extending over —— degrees of latitude and —— degrees of longitude, is obviously too large for one of the States of this Union, and that such was the view of the framer of this bill is manifest from the proviso by which "Congress re 'serves to itself the right, at any time it may choose 'to exercise the same, of forming and admitting 'new States out of any portion of said territory 'which lies east of the summit of the range known 'as the Sierra Nevada, or California Mountains."

In the opinion of the committee, this proviso would be simply void, if the purview of the bill would have any validity; and if it would not, the proviso would have nothing on which to operate.

By the enacting clause it is provided that these Territories shall be one State, and the same is thereby declared to be "one of the United States of America, on an equal footing with the original States in all respects whatsoever, by the name and title of the State of California." If this enactment were valid, the effect would be, that immediately on the passage of this bill, these united Territories would become one of the sovereign States of this Union, on an equal footing with the original States in all respects whatsoever. Now, it is the privilege of each of the sovereign States of this Union not to be dissevered without its consent; for the same section of the Constitution on which this bill is founded, provides that "no new State shall be formed or erected within the jurisdiction of any other State" without the consent of the Legislature of such State. If, therefore, under the enactment of this bill, these Territories were admitted as one of the sovereign States of the Union, the integrity of this new State in its whole extent would be guarantied by the Constitution; and so long as that instrument is held sacred, it might safely defy the utmost power of the Government, or of its co-States, to circumscribe the limits of its jurisdiction. Again: This bill having created a new State, which is to spring into existence at the moment of its enactment, clothed with all the powers and invested with all the rights which belong to the original States, on an equal footing in all respects whatever with each of the sovereign States of this Union, such State is thereafter entitled to regulate its own internal concerns according to its own discretion, and unembarrassed by the interference of Congress. The power which Congress may thereafter exercise within this new but sovereign State is precisely such as it exercises within any other State of the Union. To the State itself belongs exclusively the establishment of its own municipal and domestic regulations. If the people who compose it desire to originate a constitution, or to provide a new one, the manner in which this shall be accomplished, the State alone must prescribe. It alone can determine upon the assembling of a convention, the number of delegates of which it shall be composed, the qualifications of voters, and the time and place at which the convention shall assemble. If this is not so, the new State is not sovereign—it is not on a footing in this respect with the other States of the Union; for no one will doubt that such an exercise of power by Congress within any of those States would be absolutely nugatory. If this bill, therefore, were effective to create, as it proposes to do, a new and sovereign State, it seems to the committee that all the provisions which relate to the convention, the number of the delegates, the mode of their selection, the qualification of the voters, and the time and place at which it shall assemble, are beyond the jurisdiction of Congress, and exclusively within that of the State.

If it be said that Congress has heretofore exercised similar powers on the admission of States into the Union, the answer is, that they have only been exercised over the territories of the United States preparatory to their admission as States, and were to be and were carried into effect before such admission. And if, again, it be said that the people of this new State, being without a constitution of government, will be unable to provide the means by which a convention may be assembled and a constitution may be formed, it seems obvious to reply that this difficulty, if it be insurmountable, only serves more distinctly to prove the incongruity of an act of legislation which proposes to create a sovereign State, whose sovereignty necessarily excludes all foreign interference in its internal concerns, and which has at the same time no agencies of its own by which its sovereign powers may be exercised.

The committee have deemed it their duty to submit to the Senate one further suggestion in relation to the bill which has been referred to them. It proposes to admit as a State the whole territory acquired by the United States from Mexico, including thus in its whole extent the Territory of New Mexico. It is known that the State of Texas claims the Rio Grande as its western boundary, which claim embraces a considerable portion of that Territory. The effect of the proposed bill would therefore necessarily be to lay the foundation of a litigation between the new State and the State of Texas, to be determined by the Supreme Court, with the delay incident to such an investigation. So long as it retains its Territorial form

it is subject to the jurisdiction of Congress, so far as the rights of the Territory are concerned, and without looking to the terms of the resolution for the annexation of Texas, or inquiring whether it may not be considered wholly subject to their jurisdiction. In every event, with a view to the equitable and more speedy adjustment of the boundary between the State of Texas and this newly acquired territory, and without expressing an opinion of the validity or invalidity of the claim of that State, in the opinion of the committee it would be desirable that this boundary should be determined before any new State is created whose limits would be affected by it.

The committee are, however, very sensible of the importance of providing a government for each of these Territories, as well from a just regard to the welfare of the people who inhabit them, as to the interests of the United States and of our treaty stipulations with Mexico; and without entering into details on this subject which are familiar to all, and awaiting the further instructions of the Senate, the committee ask leave to submit the following resolution:

Resolved, That it is inexpedient to pass the bill entitled "A bill for the admission of California into the Union as a State."

A majority of the committee also recommend the adoption of the following resolution:

Resolved, That it is proper to organize Territorial Governments for that portion of the Territory of California which lies west of the Sierra Nevada, or California Mountains, and for the Territory of New Mexico, lying west of the western boundary of the State of Texas.

The reading of the report and resolutions having been concluded—

Mr. MASON. The report that has just been read is upon a subject not only deeply interesting to the Senate, but to the whole American people. In consideration, therefore, of its great importance, and of the necessity of placing the document before the people as extensively as possible, I move, that in addition to the usual number, ten thousand copies of the report be printed for the use of the Senate.

Mr. DOUGLAS. I do not know that I shall vote against the printing of the extra number of this document proposed by the honorable Senator from Virginia. I should have been glad, however, if an opportunity had been given to the author of this bill to have placed his views of the subject before the Senate prior to this report against it. I should be gratified, nevertheless, if, when this document goes to the country with its course of reasoning and its facts, the other side of the question could accompany it, so that the country may judge of both sides for themselves. I am not wedded to the bill in the precise form in which it went to the Committee on the Judiciary. It is well known to Senators, that as far as my own opinions were concerned, I was willing to make important amendments in this bill, provided the principle was retained of admitting California into the Union at this session of Congress. The question of boundary I was willing to have obviated, and the question of division would have fallen with it.

As I understand, there are three objections made to the bill. First, that it is unprecedented, and perhaps unconstitutional, for Congress to admit a State before she has previously organized a State government; secondly, that the proviso of one of the sections of the bill is unconstitutional, because in that proviso it is stipulated that the ceded territory may be divided; and thirdly, because it leaves the question of the Texas boundary to be decided by the Supreme Court of the United States. This last objection is one of the merits of the bill, in my estimation. I contend, sir, that the Supreme Court of the United States is not only the true tribunal, but the only constitutional tribunal for the settlement of this question.

The committee think, sir, that this question ought to be settled by Congress, inasmuch as Congress has the full power of settling it, so far as the rights of the Territory are concerned. That is very true, sir. But has Congress the power of settling it so far as the rights of the State of Texas are concerned? Texas sets up a claim to this country up to the Rio Grande. Can Congress decide whether the claim of Texas be valid or not? If the claim of Texas is valid, can Congress take away one inch of the territory from her possession? Does the Constitution specify that Congress shall decide a question of disputed boundary of this character? I apprehend not. But the Constitution has given to the Supreme Court jurisdiction in such a question. The effect of withdrawing the decision of this question from the Supreme Court, and vesting it in Congress, is to declare that this question shall be decided against the Territory, and to deny the claims of the Territory without reference to whether these claims are valid or not. I desire to have a just decision upon the question by a tribunal competent to adjudicate it; and to have a decision on this question according to the laws and the facts applicable to those laws, and thus to do justice to both parties. The objection of the committee, if carried into effect, will abandon the rights of the Territory, and decide in advance that those rights shall be surrendered, whether just or not. An argument in favor of the bill was, that it would provide for a legal and just decision in the matter. I do not intend to enter into a discussion of this question. I merely wish to state the effect of the principle taken by the committee, if carried out.

And now as to the second objection—taking them in the reversed order in which they are presented by the committee—that the proviso in one of the sections of the bill retaining the power of subdivision, grants a power that it is not competent for the Government of the United States to exercise. I suppose, if the committee had inserted two words as an amendment, it would have been equally as clear and acceptable. It would then read, "has the power to divide, with the consent of the State." Senators know I was willing to insert those two words. As as addition of the committee it would have had great merit, but I am not willing to yield the point that the proviso would be of no effect without those words. I would acquiesce in their insertion. At the same time that I maintain the proposition that Congress can put no clause in its laws limiting the sovereignty of a State, yet the assertion that, in this case, the reservation of the power of subdivision merely for the purpose of regulating the boundary, involved necessarily the right of limiting the sovereignty of the State, I do not admit. The question of sovereignty does not depend upon the extent of the State, whether it is large or small. If you attempt to limit the rights of the State upon the subject of banking, the finances, the currency, or taxation, then the question may arise, Are you not violating the State sovereignty? But if it is only a question of boundary, as to what particular limits the State sovereignty shall extend, I am not willing to admit that you cannot limit the extent of the State, because it has the same attributes of sovereignty with a small as with a large boundary.

Then, sir, upon the main proposition, the only one in which I feel a particular interest, and which I am not willing to yield. If by that proposition it is maintained that it is not competent for Congress to admit California into the Union at this time, I would maintain the affirmative of the proposition, that it is competent: I maintain that the precedents are uniformly in favor of the proposition, instead of being uniformly against it.

The framers of the Constitution never dreamed that a State constitution was to be presented to Congress for the purpose of seeing whether that State constitution was in conformity with the Constitution of the United States, under the clause that Congress guaranties a republican form of government to each State. That clause states that the United States shall guaranty a republican form of government, and, in case that form of government shall be subverted, then the United States must interfere to protect it, and raise it up again. Sir, none of the original States ever furnished its constitution to Congress, so that Congress might see whether it was republican or not. Some did not have a written constitution at that time; Rhode Island, for instance, although she had enactments and a certain form of legislation which might pass very respectably for a constitution. Congress never had the opportunity of seeing whether the constitutions of the first new States admitted were republican in its judgment or not; yet it guaranties to maintain a republican form of government to each State, in conformity with the policy of the Government of the United States. The first act that ever passed for the admission of a new State into this Union was that for the admission of the State of Kentucky. Kentucky had no constitution at the time Congress passed the act for her admission into the Union. She never presented a constitution to Congress, and to this day Congress has never seen it. Kentucky was formerly a district of the State of Virginia; but, in consequence of Virginia passing an act which gave consent to her separation and formation into a new State, a convention met in Kentucky and petitioned Congress to pass an act admitting her into the Union as a State. On the 4th of February, 1792, Congress passed an act declaring that Kentucky should become one of the members of the Confederation on and after the 1st day of June. But at the time of the passage of this act by Congress, Kentucky had no constitution, no organized government, and was not a State in any sense of the word—in short, had no State organization of any kind. It was composed of detached counties of the State of Virginia, without any regular organized form of government—in a state of anarchy, I suppose, in the estimation of the committee. After Congress passed the act of 4th February, 1792, in the month of April, a convention of the people of Kentucky assembled and formed a constitution and State government, and she came into the Union on the 1st of June thereafter, the time specified. But Congress never saw that new constitution; it was never presented to us here to investigate and see whether it was conformable to the Constitution of the United States. There was no State constitution, as I have before said, existing in Kentucky when she was admitted into the Union any more than now exists in California.

The next case of the admission of a new State into the Union was that of the State of Vermont; which State occupied a peculiar position during the Revolution, having a government of her own at that period, and when she applied for admission into the Union upon an equal footing with the original States, she was received into the Union; but, as respects her constitution, it was never presented here for examination. Congress had no official notice even that she had a constitution. It was not customary at that time to acquaint Congress with the fact whether she had organized a constitution, and no such notice was ever presented here.

The next State that was admitted was that of Tennessee. Whether Tennessee was admitted into the Union without any constitution, or without showing it, if in possession of one, I am not prepared at this moment to say positively, because, upon looking for the history of that State, I found that it was in the possession of the committee, to aid them in their investigations. But it does not appear from the act of admission, as is usual in such cases where the fact exists, that she ever presented a constitution to the consideration of the United States, or that Congress knew of its existence.

Thus, sir, in the three States first admitted into the Union under the Constitution of the United States, it was never officially recognized by Congress that they had any organized State governments. They never furnished their constitutions to Congress for inspection. Ohio was the first State that did this. And why did Ohio furnish her constitution for the examination of this Government? It was because Ohio was part of the Northwestern Territory, and that Northwestern Territory was governed by the ordinance of 1787; that ordinance providing that certain fundamental principles of liberty laid down in its provisions should form a part of the government of any State that should be formed out of said territory. The articles of compact contained in that ordinance were made between the State of Virginia and other States, as such were binding, and were held at that day to have been guarantied by the Constitution. Under this view, it was deemed necessary that Ohio should present her constitution, not that Congress might see whether it agreed with the Constitution of the United States, but whether the compact—which compact required that these fundamental principles of liberty should be incorporated into their constitution—was fulfilled. Hence you find it stated in the act declaring Ohio to be admitted into the Union, that whereas the people of Ohio formed a certain constitution at a certain day, in conformity with the articles of the compact contained in the ordinance of 1787, therefore she should be admitted into the Union. I find that the same thing occurred upon the admission of the State of Indiana into the Union, and that it is specified in the act of Congress that whereas the people of Indiana have formed a constitution in compliance with the articles of compact contained in the ordinance of 1787, therefore Indiana should be admitted into the Union. So with Illinois. In

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the act relating to her admission, it states, that whereas the people of Illinois, assembled in convention at Kaskaskia, have formed a constitution, and have made application for admission into the Union, in conformity with the principles laid down in the compact of the ordinance of 1787, therefore Illinois shall be admitted, &c. But the necessity of the presentation of these constitutions arose under the ordinance of 1787, and not under the Constitution. In these cases there was a departure from the customary rule. We come, next, to the admission of the State of Maine; and in the act relating to it we find it stated, that, whereas the Commonwealth of Massachusetts passed an act authorizing the District of Maine to form a constitution and seek admission into the Union, therefore, be it enacted, that the State of Maine is one of the States of this Union. In this case the right to form a State constitution proceeded from the Commonwealth of Massachusetts, and not from any provision in the Constitution of the United States. It does not appear, either, that Maine ever presented her constitution here for examination.

Mr. BUTLER. There is no such principle contended for in the report, in relation to the admission of States, that the Senator from Illinois has been combating.

Mr. DOUGLAS. I am very happy to be assured that there is nothing of the kind in the report. I trust, then, that this principle will not be contended for as an objection to the passage of a bill admitting California into the Union. If this principle is not contended for, there can be no objection—after obviating the other minor objections pressed—to the admission of California into the Union at this session. I have been arguing all along in reference to the principle which I understood to be advanced in the report—that the precedents of admission of new Sates were against the admission of California without a constitution. I wished to show that the precedents had been uniformly the other way, unless there was something requiring such departure from established rule besides the Constitution. What is that something? I have shown that the ordinance of '87—the articles of compact therein contained—furnished the reason for departure from the uniform rule. I have shown also that after Congress got into that habit, that it did not adhere to it in the case of Maine, but went back to the old course of proceeding. When we come to the admission of Louisiana we find a departure from the old rule, but that departure was occasioned by certain stipulations in the treaty under which Louisiana was acquired. From the examination which I have given to the legislation of Congress with reference to new States, I have deduced the precedents in favor of the principle I have established. I have come to the conclusion that there can be no objection to the admission of California at this session as a State. This principle was embraced in the bill I prepared. I waive the details of the bill; I care for nothing if this great principle be carried out and accomplished. I wish, sir, to put an end to the eternal agitation of this question upon this floor. I desire forthwith to give a government to the people of California that will yield them protection in their lives and in their property; I despair of being able to do it at this session by a territorial bill. We all know the difficulties that exist against a territorial bill; and if there is no constitutional objection in the way, I think there are ample and adequate reasons for the admission of California at this session as a State.

Again, there is a government *de facto* in California now. I admit that it is not a good government, and for that reason it ought to have a better one. I admit that it is not a republican government, and in fact not a legal one; and that is the reason why there ought to be a legal government there. California can be admitted as a State upon the principle recognized in the admission of Vermont, Kentucky, and Tennessee, without violating any of the principles of the Constitution, without violence to any practice or act of this Government. It ought to be done now, sir, and not postponed; for the reason that there are people enough there to create a State Government, and for the reason that, before another session of this Congress expires, there will be more than enough for three States. At that period the idea of a Territorial government will be obsolete. The question, then, is this, Shall we form a State government now, giving law and protection to the people of California? or shall we postpone action, wait a period of two years, and then do the same thing? Sir, I trust that if Congress does not act at this session the people will act for themselves. I trust they will come together and form a government for themselves. I trust that they will not for two years longer consent to live under a form of military government. I trust, sir, that Colt's pistols will not continue to be the common law of that land.

I think, sir, that the only issue now presented is, whether you will admit California as a State, or whether you will leave it without government, exposed to all the horrors of anarchy and violence? I have no hope of a Territorial government this session. No man is more willing to adopt such a form of government than I would be; no man would work with more energy or assiduity to accomplish that object at this session than I would. But, as I have said before, I regard the passage of a Territorial bill at this session as almost an impossibility. I do trust, therefore, that the Senate will consent to pass a State bill at this session of Congress. And it was, sir, in consequence of entertaining this view that I have endeavored to present the constitutionality of such a bill, and to advocate its passage. I should have postponed saying anything at the present time, but for the proposition that was presented for printing an extra number of copies of the report to be sent forth to the country—a proposition which I conceive does great injustice to my opinions as framer of the bill, unless the arguments advanced in its favor were connected in some way with the report.

Mr. DOWNS. Mr. President, before I proceed with the few remarks which I intend to make, I would request the gentleman who reported the resolutions to make a slight modification of one of them. I understood that the first resolution, as well as the other, was to be reported as from a majority of the committee; but I find, on hearing it read, that a change has been made, so as to report the first resolution from the whole committee, and the other as from a majority of the committee.

Mr. BERRIEN. I do not think that the understanding of the committee, in reference to the first resolution, was, that it should be reported as from the majority of the committee.

Mr. DOWNS. I so understood it.

Mr. BERRIEN. The agreement to which the Senator refers was confined to the last resolution.

Mr. DOWNS. I certainly understood that the agreement embraced the first resolution as well as the other, and I hope that it may be so altered as to express that fact.

Mr. BERRIEN. So far as I am personally concerned, I am willing that the alteration should be made.

Mr. DOWNS. I desire that this change may be made, in order that the counter report, which I intend to make, may be relieved from the charge of inconsistency; for, as the first resolution now stands, it appears that the whole committee were in favor of rejecting the bill.

Mr. DOUGLAS. I would inquire of the Senator from Louisiana, if the report should not also appear as the report of a majority of the committee?

Mr. DOWNS. I understood that it was to be so stated.

Mr. DOUGLAS. Then I understand that the Senator does not concur in the report.

Mr. DOWNS. I desired that the resolutions should be reported as from a majority of the committee, but I was not anxious that it should be so stated concerning the report, as I did not consider it a matter of so much consequence. But, as the resolutions now stand, it will appear that the first was reported by the whole committee, which is not the fact according to my understanding of the case. Hence I desire that the report may be so altered as to state that the first resolution was reported by a majority of the committee.

Mr. BUTLER. As chairman of the committee that reported the bill, I wish to say one word in explanation of this matter. One member of the committee thought it was not necessary to report any resolutions, inasmuch as the committee had discharged all the duties devolving upon it by reporting against the bill. There was great unanimity of thought and action among the majority of the members of the committee. I believe that the Senator from Louisiana differed from the majority upon some propositions, the purport of which I do not remember.

As regards the first resolution, I agree with the Senator from Georgia that it was understood that it was to be reported as from the whole committee. The last resolution was to be reported, I believe, as from a majority of the committee. However, I have no objection that the first resolution should appear as reported by a majority of the committee.

Mr. DOWNS. This is not a very material point, except that it will prevent the appearance of inconsistency in my counter report.

I differ from the majority of the committee in relation to the first resolution, as well as the other; and I differ from them in relation to several of the minor suggestions contained in the report.

Mr. BUTLER. I think this debate is not in order. If these explanations are continued, I shall feel myself called upon, and so, I think, will my friend from Georgia, to come forward and vindicate the report. If the debate goes on in this way, I shall have to beg the indulgence of the Senate while I enter into a full explanation of the action of the committee.

Mr. DOWNS. I will state that the report was brought into the committee room this morning at eleven o'clock, and that I never saw it before that time.

I have entertained a different opinion from the majority of the committee upon one of material points of the report. I thought that upon that point the report was erroneous, but I did not ask the committee to defer its presentation till I could make out a counter report. I knew that the Senate was anxious to hear the report of the committee, and therefore offered no objection to its being made at once.

I rise now to state that I differ from the report, especially in one point; that I differ from the resolutions; and that, as soon as time will permit, I shall draw up a counter report, exposing what I consider the errors in some of the arguments of the report presented. I think that on so important a matter as this, where it is proposed that an extra number of copies of the report shall be printed and disseminated throughout the country—for all admit the immense importance of the question involved—it is necessary that the position of every member should be clearly defined and perfectly understood.

Mr. FOOTE. There are many Senators who are anxious to hear this question discussed in all its bearings, and I would suggest to the Senator from Louisiana that it would be better to defer further debate till he shall present his counter report, when both sides of the question can be fairly presented.

Mr. DOWNS. If gentlemen will allow me to proceed, they will find that I want to do precisely what they desire. I do not intend to argue the question now. I did not come here prepared to argue it at this time; but I think that, in justice to myself, I should state some of the points upon which I rest my opinion. I think that upon so important a matter it is right—occupying the position which I do on the committee, being in a minority of one—that my position, and the considerations which induced me to take that position, should be known. I will therefore merely state the points of difference between the majority of the committee and myself, and this will occupy but a few minutes.

My objection to the first resolution is, that although I could not accord with all the details of the bill presented—nor would I have asked the

committee to accord with them all; nor did the Senator who introduced the bill [Mr. DOUGLAS] expect the committee to accord with all its details—still I could see very clearly that a bill might have been made out of it—which it was competent for the committee to make—which would obviate all the constitutional objections urged against it. If the committee considered it incompetent or improper to bring California into the Union at once as a State, according to the terms of the bill, it was certainly competent for the committee to modify the bill so as to make it prospective, as has been done in the case of other States, so that on the formation of the constitution the people of California might come into the Union as a State. Such a course would have been proper, and in accordance with precedents. For if gentlemen will look into the precedents of this kind, they will find that in the very first foreign territory we ever acquired—Louisiana—and within fourteen months after the American flag was first raised in New Orleans, an act of Congress was passed allowing the people of that part of the State of Louisiana organized into the Territory of Orleans to come into the Union whenever there should be sixty thousand inhabitants in the Territory. What was to prevent the committee from modifying this bill in that way? They might have made it prospective. They might have modified it in any manner they chose.

For the same reason I cannot see why the objections urged on account of California embracing too much territory should have been insuperable. This difficulty might have been obviated by proposing to confine the State to that portion of California west of the Sierra Nevada, which limitation, I understand, is contemplated by the resolution reported by the committee in favor of a Territorial government. I prefer, that in a matter so important as this, which affects to a high degree the great interests of the country, instead of casting it off at a single blow, we should enter into the measures of that bill, and if we do not like it in its present form, that we should put it into a shape that would be acceptable.

I cannot see, even supposing the constitutional objections urged against admitting California into the Union as a State to be true, that there could be any objection to the passage of a bill authorizing the people of California—whatever boundaries you may please to affix to the Territory—to form a State constitution; and then—as in the case of Louisiana, of Florida, and of many other Territories, whether acquired from a foreign country or not—admit them into the Union as a State, on the presentation by them of a republican constitution.

For these reasons I could not concur in the report of the majority of the committee, that the bill ought to be rejected. I preferred that it should be amended.

I shall not now dwell upon all the points taken in he report. I did not disagree to all the points; on the contrary, I concurred in several of them. As to that point which doubts or denies the power or the practice of the Government of the United States to admit Territories into the Union without a constitution, or without an organization of some kind, I differ materially from the report. I think the main error of the report is based on that point.

I do not intend to enter into the discussion of that subject now. Even were I disposed to do so, I have been anticipated, in a great measure, by the eloquent gentleman from Illinois, who has devoted much attention to this matter, and has investigated it thoroughly. I differed in opinion with the committee as to the main question, whether or not this bill should be rejected. I differ also from that clause of the report in which it is asserted that it is not competent or usual for Congress to admit any Territory into the Union as a State until a constitution or organization of some kind has been formed. I have risen, on this occasion, merely to allude, in as brief a manner as possible, to the points of difference between the majority of the committee and myself. I will give the reasons upon which I base my opinions when the subject properly comes up. In order to bring the real point at issue before the Senate, I will submit the following resolution, and ask that it be printed and laid on the table, with the understanding that I shall offer it as a substitute for the resolutions of the committee when the report comes up for consideration:

Resolved, That it is competent and expedient, and not inconsistent with the practice of the Government in some cases, to admit California, or such portion of it as Congress may deem proper, immediately into the Union, on an equal footing with the other States; and that the Committee on ——— be instructed to report a bill for that purpose for that portion of California which lies west of the summit of the Sierra Nevada mountains.

There is one point to which I would refer very briefly. I concur with the Senator from Illinois, who has so eloquently addressed the Senate on this subject, that it is important that something should be done immediately to give the people of California a government of some kind. I very much doubt, after all the impressions of the Senate and the country, whether any steps can be taken in this matter which will be perfectly satisfactory to every quarter of the Union. I have serious, unhappy forebodings resting on my mind in regard to this subject. It is difficult for me to despair of the republic. I cannot give up all hopes of conciliation and harmony. But I have strong, serious forebodings of evil, that are every day increasing. I see, sir, the cloud coming. I see the danger afar off. I see the position which my section of the country must take when that event shall come. But I believe that we should use every means and put forth every exertion to avert the crisis. While I am thus situated, I wish my position and the position of my section of the country to be understood. I wish it not to be left in doubt, but to be so plain that it may be read on the heavens, so that when that crisis, with its dreadful consequences, shall come, no one can say that every means of conciliation was not exhausted which could prevent it.

I shall not be partial to this or to any scheme of compromise. I have concurred cheerfully in two others heretofore, and I will concur in a dozen others, if they are all reasonable, fair, and proper.

This proposition for admitting California into the Union as a State at once, differs from the two other propositions, but I thought it might be satisfactory and that it might terminate happily; hence, I felt it to be my duty, as I think it the duty of every one, on both sides, to exhaust all the means of compromise, and try to settle this matter in a spirit of conciliation. It is for these reasons I take the course that I do, notwithstanding the superior abilities and experience of the other members of the committee, who unfortunately differ from me upon this subject.

But that is not the only question involved in the measure now before us. California is in an extraordinary position. I recollect very well, and all must recollect, the action of the Senate on the treaty with Mexico. On the subject of forming, from the territory thus acquired, new States, bringing them into the Union, all concurred in the belief that a certain period of probation was necessary before any of those Territories could be thus admitted. There was no difference of opinion on that point. But an extraordinary event, relative to that country, has since taken place, and is now taking place. There has been an extraordinary influx of American population into California, which no one at that time expected, and the future extent of which cannot now be calculated. And if Congress does not act immediately in this matter, before another opportunity for action will be offered, there will be sufficient population in California to form two or three States. This population will be composed of American citizens, men possessing energy, enterprise, and talents, who have been accustomed to govern themselves, and able to institute a government of their own. They are there, without a legal government, perhaps with no government at all; for I think it is very probable that the slight military authority held by this Government and their soldiers has ere this fallen to pieces, and that the soldiers have gone, with the rest of the population, to the gold-diggings, and left the country in a state of anarchy. If Congress does not act upon this matter now, they will not, in all probability, act upon it in less than two years; and it is not probable that the people of California will remain for that length of time in their present state of anarchy. They will organize a government for themselves, and, after they shall have settled all their difficulties, and shall have set up a government for themselves, and reduced their country to order and peace, I hardly suppose that they will think it competent or desirable for them to come back to a Government which has neglected them so long, and neglected them especially when they most needed its aid.

I think that, besides the ordinary question of expediency, whether we shall admit California now or at some future day, this bill involves the more important question whether we shall admit her now or lose her forever, with all her fine territory, and her inexhaustible mines of gold and other stores of mineral wealth.

These are some of the reasons why I differed from the first resolution and the report, and why I differed from the reasons assigned by the majority of the committee in their support. I shall present a counter report as soon as possible, and in the mean time I ask that my resolution be printed and laid upon the table. I will call it up when the report of the committee shall be presented for our consideration.

Mr. BUTLER. This debate has been wholly unexpected by me; and, if I may be permitted to say so, I think it entirely out of order. It is certainly not in conformity with parliamentary law, as far as I understand it, or with the usages of this body; and I shall certainly not violate what I regard as the correct parliamentary usage, by going into a further discussion of the principles that have been adverted to; but there are some matters demanding an explanation on the part of some one of the committee which I will briefly notice. I understand the Senator from Louisiana to have charged the committee with precipitating their report.

Mr. DOWNS. Not at all. On the contrary, I was anxious that the report should be made. I merely stated that I had not had an opportunity of knowing what were the contents of the report.

Mr. BUTLER. The gentleman certainly intimated that he had been precluded from presenting a counter report by the precipitancy by which this report had been brought forward. As far as I am concerned, I can safely assert, in regard to this matter, that if I have ever given attention to any one subject more than another, if I have ever labored to arrive at an impartial determination to reach what I believe to be the truth upon any subject, it is this. If I have ever labored to make a report with a strict regard to constitutionality, after a most careful examination, it has been on this occasion. I called the committee together four times, and I think that every one of the propositions that have been adverted to by Senators in this debate was fully, minutely, and deliberately discussed, and the question upon each of them was put to the committee as fairly and distinctly as any proposition could be submitted. If my honorable friend from Louisiana had asked for delay, delay would have been granted him for the purpose of enabling him to bring in a counter report. If he had given the least intimation of a desire for delay, it would have been accorded to him.

One word in regard to the honorable Senator from Illinois. The committee were disposed to treat his bill with the respect due to a bill coming from such a source, from a gentleman of ability, who must be supposed to have considered well its details; and it is known to him that I was anxious that he should be present at the deliberations of the committee, in order that the points upon which there might be a difference of opinion between the committee and himself might be canvassed. I intended, and I believe the committee were so disposed, to yield to any suggestions that we might consider reconcilable with our views.

Mr. DOUGLAS. I regret that any seeming complaint should have been made by the Senator from Louisiana. When the proposition was made that we should confer together, I thought that I very distinctly accepted the proposal, and I was astonished when I found that the committee had met and agreed upon their report, and I had had no notice; but I nevertheless had no inclination to complain of the course taken by the committee.

Mr. BUTLER. I am very glad that the gentleman has made this explanation. I was desirous, as I have already said, that he should have an opportunity to confer with us; but when I suggested that the gentleman should be notified, it was said that if he were so disposed he would be present without a special notification. The matter was thoroughly deliberated upon and debated, and I think that the result will be approved by the Senate. I shall be very much surprised if, when it comes to be discussed here, we shall find ten Senators to dissent from it. I shall be very much surprised if, upon some of the abstract propositions contained in the report, we shall find ten Senators to dissent from them. Do gentlemen

suppose that we are to remove all apprehensions of anarchy from the minds of the people by telling them that they are a State? Why, really, they would awake the most surprised people on the earth at being told they were a State without any preliminary organization on their part. I intend, and have always intended, to treat the Senator from Illinois with marked respect and delicacy, but I do not know that, according to parliamentary usage, he could with any propriety express his views in regard to the subject before a bill had been reported. He will have the same opportunity that all other Senators have. How can he complain of this? The report has to be made before the Senator, according to parliamentary usage, can have an opportunity of being heard. If I have failed to treat the Senator with that respect which he considered due to him, it has arisen from inadvertence—assuredly not from inclination on my part.

Mr. DOUGLAS. I regret that the Senator from Louisiana should have considered it necessary to make the remark that I had not been favored with an intimation of a meeting of the committee. I regard the conduct of the committee as having been kind and respectful at all times. I had no wish to intimate the least dissatisfaction.

Mr. FOOTE. I do not rise to detain the Senate with any lengthened remarks; and certainly, if I entertained the opinion avowed by the Senator from South Carolina, that this debate was out of order, I should not desire to be heard at all. But considering a motion to print as a motion upon which discussion may legitimately occur, I consider the debate to be in order, and do not yield my own right to enter, if I choose, somewhat extendedly into the subject which has been already so much discussed. I take it, then, to be no small degree of forbearance on my part in sparing the Senate a speech upon this occasion. At the same time, I take upon myself, humble as I may be, to state, that while I will vote for the printing of a legitimate number of any report that shall be proposed to be published, I do so in part on account of the magnitude and importance of the subject treated of in the report, and in part on account of the perfect deference I feel for the high abilities of the gentlemen who constitute that committee; in part, also, because I wish the public mind of this country to be thoroughly illuminated upon this whole question.

I did not hear the report with sufficient distinctness to be able to make up my mind upon its merits. That it is a very able report, all I presume will be ready to acknowledge. I trust it may be as satisfactory as predicted by the Senator from South Carolina, though I confess I am rather inclined to doubt it. It is important to me, sir, humble as I may be, that I should make this explanation, because I presume some will recollect that I had the honor at the last session of this body, in a very hasty manner and under very unpropitious circumstances, to suggest the main proposition discussed in this report, as a proposition of compromise. I argued the proposition, sir, some half hour or more at the last session of Congress, certainly not deeming it chargeable with unconstitutionality. I had not at that time, it is true, fully investigated the question. I was full, as most of us were, of this spirit of compromise. I was seriously anxious to have this great question adjusted in some manner, in order that the public mind might be satisfied, that the public feeling might be calmed, and that the Union, which we all prize so highly, might be secured against the perils which in my judgment at that time environed it. I drew up a statement hastily, and without that mature investigation which has undoubtedly been given to the subject by the committee. But I must say that I am not yet thoroughly satisfied that the propositions brought forward by myself in the first instance, and with more deliberation by the Senator from Illinois, are subject to the constitutional objections which are urged against them by gentleman on this floor. I am prepared, however, to give the subject a more full and complete investigation, in order to come to the conclusion which sound reasoning and competent authority may seem to demand at our hands. But for the present I wish to be distinctly understood as not giving my sanction to all the doctrines contained in the report by the vote which I shall give for the printing of 10,000 copies. Indeed, I should, for one, regret exceedingly to be deprived of all hope that some expedient of this sort might be successfully resorted to at the present session of Congress; for certain it is, various other expedients have been suggested at the last session ineffectually; certain it is, that no proposition has yet been brought forward in which the minds of Senators have been able to concur; and yet it is important that the question should be settled, speedily settled, with the view of saving the Union from detriment, for the purpose of saving to the country that valuable region which this morning we are solemnly admonished we are in danger of losing if the present condition of things be permitted much longer to exist. This may be so or it may not be so; but it does seem to me that we should now direct our attention earnestly to all such propositions as may be brought forward, in order to see if we cannot do something at the present session of Congress to save the country from all the various evils which we know we have a right to apprehend from the longer continuance of the present unfortunate state of things. I say, then, that I should be exceedingly unhappy if I were perfectly convinced that there was nothing in these propositions, if they were not capable of being so modified finally as to give satisfaction to every part of this Republic, and of being made conformable to the strictest principles of justice and constitutional law to which we are bound to pay the most profound respect.

I must say, sir, that I should have been prepared some time since to have urged, and to have urged most earnestly, some such propositions myself, but for the general appearance of apathy or opposition to any new plan of compromise that could be suggested, which I have discovered in various quarters. I do not yet despair, however. I cannot yet despair of settling this question, though I certainly do concur with those, some of whom advanced the opinion here this morning, that unless something be done for the settlement of this question during the present session of Congress, we are in danger of losing California; in danger of losing, moreover, that which all are bound to value more highly than anything on earth—our glorious Union. I do hope that all the circumstances which do surround us will admonish gentlemen, whether representing the northern, southern, eastern, or western States, of the importance of calmly considering these propositions, and every other proposition which may be suggested, with the view of endeavoring to ascertain whether it be possible to do something at this session of Congress to ward off the evils which now surround us. I repeat, I do not despair of the Union. If I believed that the dominion of prejudice would be longer continued—would be allowed longer to prevail, in room of legislation; that the same fell spirit which appeared in our councils at the last session, that the same spirit of discord and faction which marked our councils then, should continue henceforward to exhibit itself,—I, for one, should consider that there was much danger of our realizing all the evils that have been predicted, and perhaps even worse.

I am anxious to see 10,000 copies of this report printed, and I am anxious to see the counter report of the able Senator from Louisiana. I am anxious to see this subject presented in all the bearings and in all the lights of which it is capable; for I hope that we may be able, in the progress of the discussion that will take place, to find some solid ground upon which we may place our feet, some scheme of compromise that will tend to give relief to the public mind, and to give security to the public interest, which I confess appear to me at the present time to be involved in the most serious danger. I shall vote, then, for the motion to print 10,000 copies of this report.

Mr. BERRIEN. The position in which I stand, sir, may seem to make it my duty to say something, after the discussion which has taken place this morning, in relation to this subject. I desire, in the first place, to say that that position has not been sought by me; that, in the fulfillment of the duty which has been devolved upon me by the Judiciary Committee, and under the constant supervision of that committee, I have performed the duty belonging to the position according to the best of my abilities. But, sir, it seems to me that the Senate of the United States, to-day, is exhibiting a somewhat singular condition. We are here developing the proceedings held before one of our committees, and subjecting them to a certain degree of scrutiny. We are here settling in advance and discussing the merits of a report made by one of our committees, which report, in the ordinary course of our proceeding, must be hereafter deliberately discussed. Now, sir, I do not venture to say, since gentlemen have thought proper to adopt this course, that it is out of order, that it is unparliamentary, but I feel myself bound to say that I have been entirely unprepared for such a course; that I have never before known it to prevail.

And now, sir, in addition to what has been stated by the chairman of the committee, since the course of the committee seems to be brought in question, the Senator from Louisiana disclaims the idea of imputing to the committee precipitancy in making their report, and yet the statement that this report was only communicated to the gentleman this morning, and consequently he was entirely unprepared to submit a counter report, or to discuss the question, would seem to lead to the inference that the Senator had not been prepared for the report submitted by the committee.

Now, I desire to say, since the scrutiny of the proceedings of the committee has been commenced, that the report was brought before the committee at an anterior meeting; that every one of the questions included in the report was discussed at that meeting of the committee, and the vote of the committee taken upon it; and it was only after such deliberate scrutiny and decision that it was the pleasure of the committee to require me to imbody in the form of a report the opinions which had then been expressed. In reference to the Senator from Louisiana, and his presence at the meeting of the committee, I can only say——

Mr. DOWNS, (interposing.) Will the honorable Senator allow me to correct a misapprehension? I did not mean to state that the result of the deliberations of the committee was not known to me. What I wish to state, and what was the fact, is, that the reasons and the course of arguments by which the committee was governed were not communicated to me, and I had no opportunity of knowing what they were. It is very difficult to reply to arguments that I have not heard. This is the reason which I intended to assign for not being prepared with a counter report.

Mr. BERRIEN. It will readily occur to the mind of every Senator that the opinions expressed in the report, having been adopted by the committee, must have been preceded by arguments which led to the conclusion, and that those points were investigated and discussed before the committee at an anterior meeting, at which, as a member of the committee, I was designated to make the report.

With respect to the suggestion of the Senator from Illinois, as being present before the committee, I desire to say that I myself had no conference with the Senator; but that, as a member of the committee, understanding his wish to confer with the committee, I gave him most cheerfully my assent, and that the idea of his being present was only abandoned when, by his non-attendance, it was considered that he did not wish to comply with the informal arrangement. I hope that the committee will, then, stand acquitted as to the manner in which they have conducted themselves in reference to this bill.

Now, sir, with regard to the report itself, if there were any additional evidence required to prove the impropriety of introducing a discussion in advance in regard to the merits of the report, it would be afforded by the fact, that, in questions of law and of fact, there is an entire discordance between the views of the Senator and those of the committee, and that there is no possibility of bringing that discordance to an agreement. The arguments of the Senator from Illinois may be sustained, and yet the report stand unassailed. The first ground taken in the report is, that Congress does not possess the constitutional power to create a State, and that question is argued upon the Constitution itself, as if this was a case of primary occurrence, and not affected by precedents in any manner whatever. Suppose, then, that the honorable Senator from Illinois was correct in exhibiting instances in which Congress had transcended their powers——

Mr. DOUGLAS. The honorable Senator misrepresents my argument entirely. I did not attempt to show that Congress did possess the power to create a State, nor does my bill propose to do so. It proposes to declare that California is one of the States of the Union, and leaves the people to erect a State government for themselves.

Mr. BERRIEN. It proposes to declare that California is——

Mr. DOUGLAS. In this Union.

Mr. BERRIEN. Yes, in the Union; one of the States of the Union. By the mere force of this bill, then, *eo instante*, California becomes one of the States of this Union; and if she can be one of the States of a Union, and yet not a State at all, is the question that is submitted to those who differ with the committee.

But this mode of discussing this question is not calculated to lead to any justiciary results. I will say further, that the proposition does not go to the extent which is supposed by the Senator. The committee have not asserted that Congress have not admitted a State unless its constitution had been prepared in advance and laid before Congress. No such proposition is to be found in the report. They have asserted that the power of Congress to admit a State into the Union has never been exerted in behalf of an unorganized people having no constitution, or laws, or legitimate bond of union. The statement made by the Senator from Illinois does not take the case to which he has referred out of the rule. The State of Kentucky was separated from Virginia, by legislative enactment, in 1787, declaring that portion of the State of Virginia to be a separate State. By subsequent act of 1789, reciting the preceding act, which, in some particulars, was not deemed satisfactory, a convention was authorized to be assembled for the purpose of forming a constitution for the State, which, by the act of the Legislature of Virginia, had been declared to be a separate State. And, lest the people of that separate State should be interminably in a state of anarchy, or, to use the express words of the Legislature, to prevent a state of anarchy existing interminably in that portion of the State thus severed, it proceeds to make certain provisions. A convention assembled in accordance with the legislative enactment of Virginia in 1790. And it was the act of that convention, thus constituting the government of this separate State, which brought before the Congress of the United States the application to admit Kentucky as a separate State into the Union on some day in June, 1792. There was, then, from the moment when Kentucky was separated from Virginia by her legislative act up to the time when Congress legislated upon the subject, for the purpose of her admission as a State, a government existing under the act of the Legislature of Virginia and by the assent of the people of Kentucky. But such is not the condition of California.

Now, with respect to Vermont, she had been existing as a State long anterior to the time when she had a constitution; and in regard to Tennessee, it will be found, by a reference to the history of that State and the legislation of Congress in regard to it, that when that portion of North Carolina which lies west of the mountains desired to be separated, there was a protracted controversy regarding the course proper to be pursued.

By an act of the Legislature in 1789, North Carolina ceded to the United States a certain portion of her territory. The United States accepted the cession in 1790. The people formed a convention in February, 1796, and applied for admission into the Union. These facts will be found by reference to what are called the Miscellaneous State Papers, in the public documents in the adjoining chamber. But the United States, when they accepted the cession in 1790, did not proceed to organize this territory into a State, but to provide a territorial government for its people, under which they continued from the year 1790 to the year 1796, when they met in convention and formed a constitution, and were admitted by act of Congress into the Union. The Senator from Illinois, then, has presented no exception which militates against the position assumed in this report.

I have adverted only to the cases which have been suggested, because I did not know, and I presume that the Senate did not expect, that the committee, or any member of the committee, would enter into an elaborate discussion of the whole merits of a report embracing so many points as that now under discussion. But with such means as I possess, I shall, at the proper time, endeavor to maintain and defend the principles contended for in the report with as much anxiety as any other Senator, in order that this unhappy question, which seems to connect itself with every other which may be suggested, may be set at rest. I have not supposed that it could be quieted in the mode suggested by the Senator; but when the report shall come up, and I can obtain a favorable hearing, it is my intention to address some observations to the Senate in regard to the propositions which it contains, and endeavor to satisfy the Senator from Illinois that the view which he takes is entirely erroneous. I assure the Senator that it is my desire and intention to treat him at all times with the utmost consideration and respect.

Mr. DOUGLAS. I was struck and gratified, too, with the assurance on the part of all the committee that it is their intention to treat me with all due respect. It has never occurred to me that there was anything in the report, or in the manner of bringing it forward, which was at all deficient in that quality; and I am a little at a loss to understand how it is that these assurances come so thick on this point; but yet I take them, as I hope and trust they are given, in all sincerity.

Mr. BERRIEN. The observations made by me were simply in answer to suggestions that were made in the course of this discussion.

Mr. DOUGLAS. I have but a word or two to add in this connection. I do not think that I am mistaken in regard to the case of Kentucky, and when the time arrives to which the Senator alludes, when this matter shall be investigated, I shall endeavor to maintain by argument the position I have assumed. If I fail to do so, I shall be as free to acknowledge my error as I am to state my convictions.

The Senator will find that the convention of which he speaks met much earlier than he supposes; that they met five, or six, or seven different times by their own authority; and he will find, furthermore, that this convention from time to time petitioned Virginia to assent to the separation, with the view to their admission into the Union as a separate State; and he will find that the Legislature of Virginia passed four different acts giving their assent, upon certain conditions, which conditions in the first three cases were rejected, and the fourth agreed to by Kentucky. The last act was passed December 18, 1789, and provided that the separation should take place on some day *after* the first of the year 1791, and the period of final separation was fixed for the first of June, 1792. The laws and institutions of Virginia continued in operation up to that period. Congress passed an act admitting Kentucky as a State, on the 4th of February, 1791, while the convention which formed the constitution of Kentucky did not assemble until long afterwards, to wit: the first Monday of April, 1792; and the State came into the Union the next year thereafter. I undertake to say that on the day on which Congress passed the act declaring that she should be one of the States of the Union, Kentucky was not separated from Virginia; that she had no separate government or organization of any kind. I undertake to say, that at the time the act was passed declaring Kentucky a part of this Union, it was not a State; it was under Virginia law; it had no constitutional law of its own, no officers known as Kentucky officers; there was no separate organization there any more than there is in any six counties in Virginia now. The act of Virginia declared that from and after the first of June it should be separate; and subsequently a State government was formed.

With regard to Vermont, I will only say, that though she had a constitution long before her admission into the Union, she did not send that constitution to Congress. The message of the President which I just read communicated to Congress certain papers, being the application of Vermont to be admitted; but among those papers there was no State constitution. And in regard to Tennessee, I apprehend that the Senator will find the same to have been the case. But I do not intend to go into this matter any further at present than merely to point out the error of the Senator. When the proper time for discussion arrives I shall be prepared to go fully into the discussion.

Mr. WESTCOTT. The course of this debate, and the reference to what occurred before the Judiciary Committee in the consideration of this bill, makes it proper for me to submit a few remarks with respect to my connection with this report. The positions maintained in the report, of which the distinguished Senator from Georgia was the author, were, before the report was drawn, discussed fully in the committee; and on each distinct point a majority of the committee, by an express vote, decided that the report should set them forth; and the Senator who wrote that document imbodied the decisions of that majority in it, as he was instructed. I voted in the committee with the majority, after having failed in effecting the adoption of somewhat different measures that I proposed. From the outset I concurred fully in the view that Congress, under the Federal Constitution, has no power but to *admit* a State, and that it cannot *create* a State by such admission. The term State, in its constitutional sense, has a definite meaning. It is an organized political community, distinct in its character, with a government and laws established. The power of creation must be exercised to make California and New Mexico a State at this time. Without discussing the question how far the political governments and political laws existing in these countries, prior to their conquest by our arms, are now to be considered in force, certainly the two Territories cannot be regarded as ONE State at this time. The act proposing to admit them both as *one* State is itself the act of amalgamation. There never has been any political government over them as one State. Civil and municipal laws regulating the rights of property may be in force in both, but their political laws are distinct. Therefore, to admit these as *one* State, they must first be created and organized, and exist as *one* State before such admission.

If Congress does not possess the power of creating a State, it has no power to pass this bill; for it is the exercise of that power, and not the regulation or admission of a preëxisting State or united political community. Even as separate Territories now, while their old municipal laws may be in force, their former political governments and laws are nullified by the conquest and the confirmatory cession. They are without any separate organized political governments, except the temporary arrangements necessity has created. They are not organized, but disorganized. The Senator from Illinois mistakes the terms and meaning of the report on this point. The objection it advances is not, as he supposes, that there is no *written* State constitution. A constitution may exist and not be written. The constitution of England is to be found in her immemorial customs and ancient statutes, through the writings and decisions of her jurists; but except in Magna Charta, and other old statutes, it is not written. The report is in the alternative. It denies that any people can be regarded as a State in the constitutional sense of the term, unless they have a State constitution *or* government, *or* laws, *or* are an organized political community, *or* a State, *or* have some legitimate bond of union as such State. This is not the condition of either California or New Mexico at this time, separately or together.

In no one of the instances that the Senator from Illinois [Mr. DOUGLAS] refers to was the doctrine maintained by this report contravened by Congress. Vermont formed and adopted a State constitution in 1777, during the revolutionary war. The Congress of the Confederation recognized her as a State, and treated her as a State before the Federal Constitution was adopted. Her delegate to the Continental Congress was admitted to its deliberations. Tennessee had a Federal Territorial Government before she was a State, and had a constitution formed and adopted by her own people as the State of Frankland long before her admission. As to Maine and Kentucky, they were both, before admission, communities of American citizens, distinctly formed and organized—the one from Massachusetts and the other from Virginia, by the act of the Legislatures of those States, and by such acts made independent and distinct communities. As to all the other cases of the admission of new States, the State Governments were first created, established, and organized before their admission. Who were citizens of the United States was known. They were not as the communities of California and New Mexico, a population of Mexicans, at liberty to become citizens or not, as they may choose, without any legal regulations by which they are to manifest their election—a collection of peons, Camanches, diggers, and of people of all the nations of the earth, with emigrants from the United States, and its military forces gathered there, totally without a constitution or political organization. If they can be called a State, any collection of people may be called a State. I have

no idea that Congress has any power, as to a country situated as California and New Mexico are, to prescribe any regulations to them as to the formation of a State government, by electing delegates to their convention to form a State constitution, in this, or that, or the other mode. All this belongs to the people themselves. In organized Federal *Territories* Congress have in some circumstances done this to signify their assent to the wishes of the people and the Territorial government, but it was not necessary; and in other cases such previous permission has not been asked. In Florida the people adopted their State constitution without asking for the leave of Congress, and so of other States; and the interference of Congress may be had in the case of an organized Territory with much more propriety than in a case of this kind.

But, sir, I had another radical objection to the making of the two provinces of California and New Mexico one State, which I urged upon the committee; but as a majority did not agree with me as to the necessity of advancing it in the report, it does not allude to it. I deny, in the first place, the power of Congress, even if it possesses the power to create a State as proposed, to unite and amalgamate them into *one* State; and, in the second place, if Congress had such power, it would, in my judgment, be an act of gross injustice and an outrage on the people of those Territories; and, in the third place, it is impolitic as it respects this Government. Before the conquest and cession, each of these separate and independent Mexican States had its own peculiar institutions, laws, customs, and government. Their local and municipal laws were as dissimilar as are those of the different States of this Union. The attempt to melt down these laws at once into a common mass under one government, without any preparatory legislation, would lead to confusion worse confounded. Which laws are to be nullified? Which are to be enforced in the interim till the State laws are adopted? The same laws it is impossible can suit the people of both provinces. California is on the seacoast, New Mexico more than a thousand miles inland. What relation can the commercial laws necessary in California have to New Mexico; and, *vice versa*, the laws of New Mexico, applicable to its condition, have to California? The great distance between the two sections would result in the neglect of one of them, for the influence of the State government could not reach it, and its laws would often fail to be promulgated till repealed. But, sir, what right have we, without the consent of the people of these provinces, to join them together, when Nature has intended that they should be kept asunder? From whence do we derive this arbitrary power? It is not found in the Federal Constitution. By what rule is it exercised? Nothing on earth but mere whim and caprice. Such act by Congress would, in my judgment, justify the inhabitants of these Territories in disowning all allegiance to, and connection with, this Government; and, sir, I am becoming to think such would be best for all concerned on many accounts. They can regulate their own affairs as an independent republic, I doubt not, well enough, and perhaps better than we can. Such amalgamation is against the spirit of the treaty with Mexico. The treaty refers to the provinces as distinct territories. It is true, sir, there is a precedent for this arbitrary act in the course pursued with respect to the Floridas. East and West Florida were separate and distinct provinces of Spain, under separate governments, and with laws, and customs, and population, and interests quite dissimilar. Their geographical position made them, and it still makes them, more foreign to each other than West Florida is to Alabama and East Florida to Georgia. Yet you forced them under *one* Territorial government, and the only argument was, that it saved expense! You would not heed the protests and remonstrances of the citizens of both sections, and compelled them to come into the Union as *one* State.

The misshapen and exceedingly inconvenient geographical formation of the State should induce you to hereafter dissever them, and make another State; and if the jealousy and hostility against the South does not stifle justice, you will be compelled by its dictates to do so. Before the committee I sought to avoid a repetition of the injustice and wrong done to the Floridas, and, by preserving the original boundaries of the two States, to prevent the confusion, and trouble, and dissatisfaction that will otherwise ensue. The subdivision of a portion of one province into a new Territory cannot be a subject of just complaint, as would be its union to another province; such division, as in the case of the province of Louisiana, looking to the ultimate admission of all the subdivisions as separate States, and thereby adding to the political influence of all, could not be objected to. I was, before the committee, and am yet, in favor of the division of California into two separate Territories, and of organizing New Mexico, west of the Rio Grande, into one, and to have still a fourth Territory, if at all necessary. But I will advert to this more particularly hereafter.

On one other subject, also, I wish to explain my course and opinions. I do not hesitate to say that I believe the claim of Texas to all the country east of the Rio Grande is just. I am in favor of yielding it to her. Even if her claim was not indisputable, I would yield it to her. Sir, it is unbecoming this great Confederacy to be exacting with a young State, just overcoming the perils and troubles incident to her revolution for independence, about a few paltry acres. And what good is to result from such a course?

Will you make any money out of these New Mexico lands east of the Rio Grande? No; after your horde of land officers are paid, you will find they have cost as much as they will sell for, and probably more. Besides, of what avail is it, if they are settled by industrious citizens, whether the United States or Texas has sold them? The settlement of the lands and the prosperity of the country should be the objects of the United States and of the State of Texas, and should be effected even by giving away the lands to settlers, if necessary.

If I understand the Senator from Illinois [Mr. DOUGLAS] correctly, he misconceives the report on this subject. I sought to obtain the incorporation into the report of an express admission: 1st, of the claim of Texas; and 2d, of the policy of yielding the lands to her, even if the claim could be disputed. This a majority of the committee refused to do, as being uncalled for in this report. But the report does not, as the Senator seems to suppose, claim either the power for Congress to intrude upon Texas, nor does it assume the ground that a reference of this question to the Supreme Court should be avoided, and that it is preferable that Congress should exercise its power by establishing a territorial government over the country in dispute. The very reverse is the fact. Before the province is admitted a State, Congress can yield to Texas, at its discretion, the sovereignty and title to all of the disputed country, which, after the proposed State was admitted, it could not. This, and the consideration that it is the duty of Congress to adjust the dispute with Texas before a State is created and admitted, is the substance of the report. If the dispute can be compromised by the transfer of the sovereignty of the disputed territory to the United States—by Texas retaining her proprietary right in the public lands there—and a State ultimately formed there by the act both of the United States and of Texas, it will be much better than to admit a new State with a lawsuit about this new territory attached to it.

I have stated that I was in favor of three or more separate Territorial Governments in the newly-acquired territories, and I urged upon the committee to recommend such subdivision, and also to report a bill or bills organizing such governments. The upper part of California would make one large enough for one State, of which San Francisco would be the chief port, and the southern boundary of which would extend some miles south of that city. Lower California, of which San Diego would be the chief port, extending east to New Mexico, could be well made another; and New Mexico, west of the Rio Grande, a third. They could be better defended than if two only are established; and, as I will seek to show at the proper time, be preferable even on the score of economy. Failing in my efforts to get my own convictions that I have alluded to incorporated in the report, and to have a bill or bills reported as stated, and concurring, as I have stated, in the argument of the report, so ably made by the Senator from Georgia, I voted in committee for both resolutions as the next best measure, and I should sustain them here with additional provisions that will be offered when they are considered.

Mr. DAYTON. I do not design to enter upon the discussion of this bill at this time. I have been very much surprised at the course this debate has taken, and at some of the arguments advanced in opposition to the report of the committee. It so happens that every member of that committee has been heard, either at length or otherwise, in reference to the matter before the Senate. I occupy on that committee a position somewhat peculiar, being associated there only with southern friends. I have concurred in the main propositions embodied in this report, to wit, that we cannot now, upon this bill, admit California as a State into the Union.

Mr. ALLEN. Mr. President, the gentleman is going into a discussion at rather a late hour, and if the Senator from New Jersey will yield the floor, I will move an adjournment.

SEVERAL SENATORS: This is an explanation.

Mr. DAYTON. I desire simply to say, that I have concurred in the main propositions embodied in this report.

In the first place, we cannot admit California as a State for the want of constitutional power. In the second place, we ought not to admit it now, as a matter of expediency and policy. I desire to say, that if I do not now embark in this discussion, at the proper time, and under proper circumstances, I shall be prepared, if need be, to bear at least my portion in the burden of sustaining the report of this committee. I think that it can be proved to a demonstration that the Government has no constitutional power, at this time and under these circumstances, to admit California as a State into the Union.

While upon the floor, sir, I desire merely to say, that as regards the last resolution reported by the committee; to wit: "that, in the opinion of the committee, we should now proceed to give California a territorial form of government," I express no opinion. I desired that no such resolution might be reported, simply because I looked upon it as being, to a certain extent, extrajudicial, being the expression, by the committee, of an opinion on a question not submitted to it. At a proper time I will with pleasure, as I have said, take part in this discussion; and, I think, will satisfy, at least myself, that the course taken by the committee has been the only one they could pursue.

Mr. KING. Mr. President, I am very desirous that this discussion should be postponed in order that my friend from Louisiana may have an opportunity to present his minority report upon the subject. Therefore, I move to postpone the further consideration of the whole matter until to-morrow. At that time the minority report can be presented, and the whole matter can then be fully and fairly discussed. I wish to make the proposition for another reason, and that is, that we may go into Executive session.

Mr. DAYTON. With the permission of the gentleman from Alabama, I would suggest that it would be more agreeable to have this matter delayed till the documents shall have been printed, and put in the hands of the Senators.

Mr. DICKINSON, (in his seat.) Let the usual number be printed, at any rate.

Mr. KING. I would be perfectly satisfied to allow the usual number of documents to be printed.

Mr. DAYTON. It might be ordered to lay the report on the table and print.

Mr. DICKINSON, (in his seat.) I hope the order will be to print the usual number.

Mr. BELL. I would respectfully inquire of the gentlemen who have charge of this report, on the one hand, and of the gentleman from Illinois [Mr. DOUGLAS] whose province it is to call it up again, on the other, whether it is proposed to call this subject up again at an early day, or at a remote period? I make this inquiry for my own convenience, as I wish to examine the subject before I vote upon it. I do not wish to go into the discussion now, but some points have been thrown out during the debate in which I do not altogether concur with honorable Senators on either side. I desire, whenever the subject is again called up, to express my opinions briefly, and especially with regard to one point, and that is, the question connected with the excitement which is likely to grow out of the subject.

With regard to acting upon this subject at the present session of Congress, however important I may consider it, still I do not consider it of sufficient importance to delay the Senate by discussing it at this time. I should be pleased to learn, how-

ever, when it is proposed to call the subject up again.

Mr. DOUGLAS. In response to the Senator from Tennessee, I will say, that if it is within my province to call the subject up again, I shall be in favor of the earliest possible day, after the minority report shall have come in, and I desire that it shall come in as soon as possible, because the subject has been delayed long enough.

Mr. DICKINSON. Mr. President, I ask that the question may be taken on printing the usual number of copies of the report.

Mr. MASON. Mr. President, I made the motion to print an extra number of copies, not knowing that there was to be a minority report made. I am perfectly willing to delay the printing of the extra number till we get the minority report, if the Senator from Louisiana desires it.

Mr. DOWNS intimated that he would prefer to have the printing of the extra number delayed.

Mr. MASON. I would suggest, as we are always so much in arrear with our printing, that if the whole number is ordered to be printed we shall not be able to get more than the usual number as soon as will be necessary to enable Senators to obtain copies for examination. The extra number we shall not be able to get in less than three weeks or a month, at which time extra copies of the minority report can also be printed. Still, if the Senator from Louisiana desires it, I will withdraw my motion to print the extra numbers.

Mr. DOWNS. Mr. President, it has been suggested to me several times whether or not the printing of the report should be postponed. I desire nothing of the kind; on the contrary, I desire to have the report printed in order that I may obtain a copy. I would, therefore, prefer that the usual number should be printed at once; but at the same time I would prefer that the printing of the extra number should be delayed till after the minority report shall have been presented.

Mr. MASON. I withdraw my motion.

Mr. BERRIEN. When I presented this report, I submitted a motion that the usual number of copies be printed by the Senate for the use of its members. On that motion I now ask the sense of the Senate.

The motion was agreed to, and the usual number was ordered.

Mr. DOWNS. I move that the resolution submitted by myself be printed for the use of the Senate.

Mr. BERRIEN. I would suggest to the Senator from Louisiana, that it would be better to incorporate his resolution in the minority's report, and then the whole subject will be brought up at the same time.

Mr. DOWNS withdrew his motion, in accordance with the suggestion of the Senator from Georgia.

On motion of Mr. ALLEN, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 9, 1849.

The Journal of yesterday was read and approved.

Mr. FEATHERSTON, by unanimous consent, in pursuance of previous notice, obtained leave and introduced a bill for the relief of J. P. Montgomery and others, soldiers in the late war with Mexico; which was read twice, and referred to the Committee on Military Affairs.

BOARD TO SETTLE PRIVATE CLAIMS.

Mr. BUTLER moved to reconsider the vote by which the bill to establish a board for the adjudication of private claims was yesterday referred to the Committee on the Judiciary.

The SPEAKER. Did the gentleman from Pennsylvania vote in the affirmative upon the question of reference?

Mr. BUTLER replied that he did.

The SPEAKER. The question is on the motion to reconsider.

Mr. ROCKWELL, of Connecticut, said he was desirous of saying a single word upon this motion. He should certainly be glad, in common with other members of the House, to have the opinion of so large and able a committee as the Committee on the Judiciary upon a bill of this character; but if the bill was so referred, it lost its place as a special order, and the effect would almost certainly be fatal to the passage of any such measure during the present session of Congress; because, if it went to the Committee on the Judiciary, in order again to make it a special order it would require a suspension of the rules on some Monday, and that must be by a vote of two-thirds, which every gentleman knew would be almost, if not entirely, impracticable with regard to any bill which might hereafter be referred to the Committee of the Whole on the state of the Union.

In addition to this, there were a large number of bills which had already been made special orders in Committee of the Whole on the state of the Union, viz: all the appropriation bills and the postage bill; so that the result would be (if they should succeed in again making it a special order) that the action of the House would be obtained, if at all, at so late a period of the session, that it would be almost impossible to have the action of the other branch of Congress at this session.

Besides, if the bill was reported back from the Committee on the Judiciary, and went to the Committee of the Whole on the state of the Union, without being made a special order, it would go to the foot of the calendar; and every gentleman knew, that during the last long session of Congress, the House did not take up the first bill in Committee of the Whole on the state of the Union in its order. It would be put at the foot of the calendar, and, as a matter of course, could not be reached.

He was aware it might be said, if ever this bill should come back to the House, that it would not be necessary to refer it again to the Committee of the Whole on the state of the Union. But the question, if it came up in the House without being referred to the Committee of the Whole on the state of the Union, would be, whether they would vote for the amendments which might be submitted by the committee, or for the original bill? because every one knew, that such was the desire for discussion on this floor, they could never get a vote upon the bill except under the operation of the previous question, which precluded gentlemen from offering amendments, and brought them to a vote upon the amendments of the committee, with, perhaps, one amendment which might be moved before the previous question. So that the operation of this course would be, to prevent the consideration and action of the House upon the various propositions which gentlemen might desire to submit.

Now, although he should desire, indeed, above all other things, to have the minds of the Judiciary Committee brought to bear upon the subject, and to have a report from that committee, yet he did not think they ought to give the bill this direction, at the hazard of losing the action of this House and the other House upon it at this session. He should be sorry that this bill, or any other bill, should be forced through the House, without having time to examine it in Committee of the Whole on the state of the Union, in order to meet the objections which gentlemen might have to it.

It ought further to be remarked, that it was very apparent that gentlemen who were members of the Committee on the Judiciary had examined the bill, and with considerable care, as several of them had indicated their views upon it, viz: the honorable chairman, [Mr. J. R. INGERSOLL,] the honorable gentleman from Virginia, [Mr. MEADE,] and the honorable gentleman from Indiana, [Mr. PETTIT,] who had offered a substitute for the entire bill; and, so far as he could understand the views of these gentlemen, from their amendments and their remarks, they differed in regard to the bill. It would be very well to have the concurrence of these gentlemen, if time allowed, and it could be obtained.

He hoped the bill would not be referred under existing circumstances, as the effect of a reference would be to defeat action upon it during the present session of Congress.

He would refer for a moment to the previous history of this measure, in order to show that there was no necessity for referring the bill to another committee. For the last twenty-five years this proposition had been before Congress. In 1825, a gentleman from Virginia had introduced a proposition on the subject. Every one was aware of the bill introduced by a former chairman of the Committee on Claims, (Mr. Whittlesey,) and of the action of the House upon it. A bill of this character was introduced in the Senate in 1839, by a Senator from Vermont, (Mr. Prentiss;) and the House would see that when the minds of Senators were brought to bear upon the subject, they finally came to very nearly the same result as the Committee on Claims had arrived at in this bill. The bill, as originally introduced by the gentleman from Vermont, was one which did not give final jurisdiction to the board of commissioners. It came before the Senate, and was referred to the Committee on the Judiciary. The Committee on the Judiciary reported an amendment to give final jurisdiction to the board. It again came before the Senate, and, after being thoroughly debated, that amendment was not agreed to, and the bill, without that provision, embodying substantially the same provisions as were contained in the bill now before this House, was passed, upon the yeas and nays being taken, by a vote of 30 to 12.

Now, he said, a measure having, in one form or another, been before Congress almost every year for a series of years, it could not be necessary, when the members of that committee had themselves considered it, that it should go to the Committee on the Judiciary, in order to obtain the lights of their large experience and great learning, which might as well be brought to bear upon it in Committee of the Whole on the state of the Union as in the Judiciary Committee.

He knew not that he ought to say anything more. He had been desirous of submitting a few remarks, by way of meeting some of the objections which had been made; and were he not at this moment fearful of trespassing upon the patience of the House, he should be glad to do so. The objections, he might remark, appeared to him to be of a very opposite character; some gentlemen opposing the bill on the ground that its provisions were too inefficient, and others opposing it from the apprehension that it would be a monstrous scheme to take money out of the treasury. But he hoped to have the opportunity of discussing the proposition at another time; and therefore he trusted the House would reconsider the vote referring the bill to the Committee on the Judiciary, in order that it might again be considered in Committee of the Whole on the state of the Union.

Mr. INGE moved to lay the motion to reconsider on the table.

Mr. ROCKWELL, of Connecticut, remarking that he regarded this a test vote, he called for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

Mr. HAMMONS moved a call of the House. Rejected.

The question was taken on the motion of Mr. INGE, and decided in the negative—yeas 80, nays 96—as follows:

YEAS—Messrs. Atkinson, Bingham, Bocock, Boyd, Bridges, William G. Brown, Albert G. Brown, Chase, Beverly L. Clarke, Howell Cobb, Cocke, Collins, Crowell, Crozier, Daniel, Dickey, Dickinson, Dunn, Faran, Featherston, Ficklin, French, Goggin, Green, Willard P. Hall, Nathan K. Hall, Hammons, Haralson, Harmanson, Harris, Hill, Elias B. Holmes, George S. Houston, Inge, Charles J. Ingersoll, Iverson, Jameson, Andrew Johnson, James H. Johnson, Robert W. Johnson, John W. Jones, Kaufman, Kennon, Sidney Lawrence, Leffler, Lord, Lumpkin, McClernand, Job Mann, Horace Mann, Miller, Morris, Mullin, Peaslee, Peck, Petit, Peyton, Preston, Rhett, Richardson, Richey, Robinson, Rockhill, Root, Sawyer, Simpson, Smart, Stanton, Charles E. Stuart, Thomas, James Thompson, Jacob Thompson, Robert A. Thompson, Thurston, Toombs, Turner, Van Dyke, Venable, Wick, and Woodward—80.

NAYS—Messrs. Abbott, Adams, Barringer, Beale, Bedinger, Belcher, Blackmar, Boyden, Brodhead, Buckner, Burt, Butler, Canby, Cathcart, Chapman, Clapp, Franklin Clark, Clingman, Williamson R. W. Cobb, Collamer, Conger, Cranston, Crisfield, Darling, Dixon, Duer, Eckert, Edwards, Embree, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, Fulton, Gaines, Gayle, Gentry, Giddings, Gott, Greeley, Gregory, Grinnell, James G. Hampton, Moses Hampton, Henry, Hilliard, Isaac E. Holmes, John W. Houston, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, Irvin, Kellogg, Thomas Butler King, Daniel P. King, William T. Lawrence, Levin, Lincoln, McClelland, McDowell, McIlvaine, McLane, Marsh, Meade, Nelson, Nes, Nicoll, Outlaw, Palfrey, Petrie, Pollock, Putnam, John A. Rockwell, Rose, Rumsey, St. John, Schenck, Shepperd, Sherrill, Silvester, Caleb B. Smith, Truman Smith, Strong, Taylor, Richard W. Thompson, John B. Thompson, Tompkins, Tuck, Vinton, Warren, Wentworth, White, Williams, and Wilson—96.

So the motion to reconsider was not laid on the table.

Mr. INGE moved the previous question on the motion to reconsider.

The SPEAKER said the Chair had recognized the gentleman from Pennsylvania, [Mr. BRODHEAD.]

Mr. BRODHEAD said, that as this was the short session, and there was much important business

to be acted upon, he would move the previous question on the motion to reconsider.

And there was a second.

And the main question was ordered to be now taken.

Mr. JAMESON asked the yeas and nays on the main question; which were ordered.

And the main question, "Shall the vote by which the said bill and amendments were referred to the Committee on the Judiciary be reconsidered?" was then taken, and decided in the affirmative, as follows:

YEAS—Messrs. Abbott, Adams, Barringer, Beale, Bedinger, Belcher, Blackmar, Botts, Boyden, Brodhead, Buckner, Burt, Butler, Canby, Cathcart, Chapman, Clapp, Franklin Clark, Williamson R. W. Cobb, Cocke, Collamer, Conger, Cranston, Crisfield, Dixon, Duer, Eckert, Edwards, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, Fulton, Gaines, Gayle, Giddings, Gott, Greeley, Gregory, Grinnell, James G. Hampton, Moses Hampton, Harris, Henry, Hilliard, Isaac E. Holmes, John W. Houston, Hubbard, Hudson, Hunt, Irvin, Kellogg, Thomas B. King, Daniel P. King, William T. Lawrence, Levin, Lincoln, McClelland, McIlvaine, McLane, Marsh, Marvin, Meade, Morehead, Murphy, Nelson, Nes, Nicoll, Outlaw, Palfrey, Petrie, Pollock, Putnam, Julius Rockwell, John A. Rockwell, Rose, Rumsey, St. John, Schenck, Shepperd, Sherrill, Silvester, Caleb B. Smith, Truman Smith, Strong, Taylor, Richard W. Thompson, John B. Thompson, Tompkins, Tuck, Van Dyke, Vinton, Warren, Wentworth, White, Williams, and Wilson—99.

NAYS—Messrs. Atkinson, Barrow, Bingham, Bocock, Boyd, Bridges, William G. Brown, Albert G. Brown, Chase, Beverly L. Clarke, Clingman, Howell Cobb, Collins, Crowell, Crozier, Daniel, Darling, Dickey, Dickinson, Embree, Faran, Featherston, Ficklin, French, Gentry, Goggin, Green, Willard P. Hall, Nathan K. Hall, Hammons, Haralson, Henley, Hill, Elias B. Holmes, George S. Houston, Inge, Charles J. Ingersoll, Iverson, Jameson, Andrew Johnson, James H. Johnson, Robert W. Johnson, John W. Jones, Kaufman, Kennon, Sidney Lawrence, Leffler, Lord, Lumpkin, McClernand, McDowell, McKay, Job Mann, Horace Mann, Miller, Morris, Mullin, Peaslee, Peck, Pettit, Peyton, Pilsbury, Preston, Richardson, Richey, Robinson, Rockhill, Root, Sawyer, Simpson, Smart, Stanton, Starkweather, Stephens, Charles E. Stuart, Thomas, James Thompson, Jacob Thompson, Robert A. Thompson, William Thompson Thurston, Toombs, Turner, Venable, Wick, and Woodward—85.

So the vote was reconsidered.

The question then recurred on the reference of the bill and amendments to the Committee on the Judiciary.

Mr. ROCKWELL, of Connecticut, asked the previous question.

Mr. PECK rose to inquire, (as the reporter understood,) whether the amendments had yet been printed?

Mr. ROCKWELL was understood to say, that the amendments had not yet been printed; but if the motion to refer the bill to the Committee on the Judiciary should not prevail, and if the bill should be recommitted to the Committee of the Whole on the state of the Union, it was his (Mr. R.'s) intention to move that the subject should be informally passed over for a day or two, until the bill and amendments should have been returned from the printer.

If he had understood the chairman of the Committee of Ways and Means, [Mr. VINTON,] it was the intention of that gentleman to move that the House go into Committee of the Whole on the state of the Union, for the purpose of proceeding to the consideration of appropriation bills which were entitled to priority.

Mr. PETTIT rose and said, he withdrew his motion to refer the bill and amendments to the Committee on the Judiciary.

The SPEAKER. The question is on the reference to the Committee on the Judiciary.

Mr. PETTIT said he had withdrawn that motion.

Mr. MEADE rose and addressed an inquiry to the Chair, which was not heard, but which was understood to have reference to the divisibility of the question.

Mr. PETTIT now inquired of the Speaker whether he could not withdraw his motion?

The SPEAKER said he doubted very much whether a motion, on which there had been so much action, could be withdrawn. The question was on the motion to refer the bill and amendments to the Committee on the Judiciary.

Mr. COBB, of Georgia, said, if he had correctly understood the proposition of the gentleman from Connecticut, [Mr. ROCKWELL,] it was, that the bill should be allowed to remain in Committee of the Whole on the state of the Union, and that it should be passed over informally for a few days.

Mr. ROCKWELL said such was his proposition.

Mr. COBB then submitted to the Chair, whether it was in the power of the committee thus to pass over a special order. He submitted, that after a bill had once been made a special order, it was not in the power of the committee to pass it over; they were compelled to take it up. And he inquired of the SPEAKER whether, if the motion to recommit should prevail, the committee must not of necessity take up the bill, and act upon it?

Mr. VINTON said that there were certain special orders, of appropriation bills, which took priority over this bill, and which he proposed to take up.

Mr. COBB. How the priority?

Mr. VINTON. By a rule of the House.

The question was then taken on referring the bill and amendments to the Committee on the Judiciary, and was decided in the negative.

So the House decided that the bill should not be referred to the Committee on the Judiciary.

The bill, therefore, was again before the House.

Mr. DUER (after a brief conversation with the SPEAKER on a point of order, of which very little was heard by the reporter) moved to reconsider the vote by which the Committee of the Whole on the state of the Union had been discharged from the further consideration of the said bill.

Mr. COBB, of Georgia, inquired if the gentleman from New York had voted with the majority?

Mr. DUER said he had not.

Mr. COBB then submitted that the gentleman could not move to reconsider.

The SPEAKER so decided.

Mr. BUTLER said that he had voted with the majority, and he would move a reconsideration of the vote, and on that motion he asked the previous question.

Mr. ROCKWELL, of Connecticut, at the same time demanded the previous question.

Mr. VENABLE moved that the motion to reconsider be laid upon the table; and asked the yeas and nays, which were ordered.

Mr. HOUSTON, of Alabama, said that he had understood the Chair to decide yesterday, when the Committee of the Whole on the state of the Union was discharged from the consideration of the bill, (and the vote of the House was in accordance with the decision of the Chair,) that a vote of two-thirds was necessary to discharge the committee. Would it not, therefore, require a vote of two-thirds to reinstate the bill in its former position.

The SPEAKER said the gentleman was mistaken. The Speaker had not decided that a vote of two-thirds was necessary to discharge the committee, but that such a vote was necessary to suspend the rules, for the purpose of enabling the gentleman from Indiana [Mr. PETTIT] to submit his motion. The rules were suspended. The motion had then been made and carried by the vote of a majority. The question now was on reconsidering that vote. If, however, a vote of two-thirds was required to carry a proposition, it would rather seem that any number over one-third could reconsider it.

Mr. VENABLE withdrew his motion to lay the motion to reconsider on the table.

Mr. HALL, of Missouri, renewed it.

Mr. VENABLE then renewed his own motion.

Mr. RICHARDSON inquired what was the question?

The SPEAKER stated it.

The question on the motion to lay on the table the motion to reconsider the vote by which the Committee of the Whole on the state of the Union had been discharged from the consideration of the bill, was then taken, and decided in the negative—yeas 62, nays 120—as follows:

YEAS—Messrs. Atkinson, Barrow, Bocock, Bridges, Albert G. Brown, Howell Cobb, Williamson R. W. Cobb, Collins, Crozier, Dickey, Dickinson, Faran, Featherston, Ficklin, Gentry, Goggin, Green, Willard P. Hall, Hammons, Haralson, Harmanson, Henley, Hill, George S. Houston, John W. Houston, Inge, Charles J. Ingersoll, Iverson, Jameson, James H. Johnson, John W. Jones, Kaufman, Kennon, Lumpkin, McKay, Job Mann, Miller, Morris, Peaslee, Peck, Peyton, Pilsbury, Rhett, Richardson, Richey, Rockhill, Root, Sawyer, Shepperd, Smart, Stanton, Charles E. Stuart, Thomas, Jacob Thompson, Robert A. Thompson, Wm. Thompson, Thurston, Toombs, Van Dyke, Venable, Wallace, and Woodward—62.

NAYS—Messrs. Abbott, Adams, Barringer, Beale, Bedinger, Belcher, Bingham, Birdsall, Blackmar, Blanchard, Botts, Boyd, Boyden, Brodhead, Buckner, Burt, Butler, Canby, Cathcart, Chapman, Clapp, Clingman, Cocke, Conger, Cranston, Crisfield, Daniel, Darling, Dixon, Duer, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, French, Fulton, Gaines, Gayle, Giddings, Gott, Greeley, Gregory, Grinnell, Nathan K. Hall, James G. Hampton, Moses Hampton, Harris, Henry, Hilliard, Isaac E. Holmes, Elias B. Holmes, Hubbard, Hunt, Joseph R. Ingersoll, Irvin, Andrew Johnson, Robert W. Johnson, Kellogg, Thomas Butler King, Daniel P. King, William T. Lawrence, Sidney Lawrence, Leffler, Levin, Ligon, Lincoln, Lord, McClelland, McDowell, McIlvaine, McLane, Horace Mann, Marsh, Marvin, Meade, Morehead, Murphy, Nelson, Nes, Newell, Nicoll, Outlaw, Palfrey, Petrie, Pettit, Pollock, Preston, Putnam, Julius Rockwell, John A. Rockwell, Rose, Rumsey, St. John, Schenck, Sherrill, Silvester, Simpson, Caleb B. Smith, Truman Smith, Starkweather, Stephens, Strong, Taylor, Richard W. Thompson, John B. Thompson, Tompkins, Tuck, Turner, Vinton, Warren, Wentworth, White, Wick, Williams, and Wilson—120.

So the motion to lay on the table was rejected.

The question recurring on the motion to reconsider the vote by which the Committee of the Whole House on the state of the Union was discharged from the further consideration of the bill—

Mr. ROCKWELL, of Connecticut, moved the previous question.

The demand for the previous question was seconded, and the main question was ordered; and being taken, was agreed to.

So the vote by which the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill, was reconsidered, and the bill took its former place in Committee of the Whole on the state of the Union.

FREMONT'S MAP.

Mr. LEVIN, from the Committee on Engraving, reported the following resolution; which was read and agreed to:

Resolved, That the Committee on Engraving be directed to contract for 10,000 copies of Frémont's map, to accompany the report ordered by the House.

THE APPROPRIATION BILLS.

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of taking up the Indian appropriation bill; but, before the question was put, with the indulgence of the House, he begged leave to say one word.

No objection being made—

Mr. VINTON proceeded. There were (he said) but little over thirty days of the session remaining which were appropriated to the general business of the House; and none of the appropriation bills for the next fiscal year had yet been passed. It was a matter of justice to the Senate that these bills go to that body in time for them to review the estimates and examine the bills. It was by no means impossible, though it was to be hoped otherwise, that that pestilence which had visited this country might make its appearance here. He had been here fifteen years ago, when that disease was approaching this city; and if it should happen to strike them during the present session as it had done in the city of New Orleans, from the sensation which he knew had existed at that time, he was sure it would be impossible to keep Congress together; and the result would be that they would go away without passing the appropriation bills, (which was a possible thing,) and we should be obliged to have a special session in consequence. His purpose was to press the appropriation bills, and he hoped to have the concurrence of all parts of the House, (for the reason he had stated,) so as to get them into the Senate as early as possible. He had stated two weeks ago that it was his intention to get them into the Senate in all the month of January, which would leave the Senate about four weeks to dispose of all the appropriation bills. There were but one or two days remaining to get us into the middle of January.

The question on Mr. VINTON's motion was then taken and agreed to.

INDIAN APPROPRIATIONS.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. ROCKWELL, of Connecticut, in the chair,) and, on motion of Mr. VINTON, proceeded to the consideration of the bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30, 1850.

On motion of Mr. COCKE, by common consent, the general reading of the bill was dispensed with, and the Clerk proceeded to read it by sections, for amendment.

The bill having now been gone through with, and no amendment having been offered—

Mr. VINTON moved that the committee rise and report the bill to the House.

The motion having prevailed, the committee rose and reported the bill to the House without amendment.

The SPEAKER stated the question to be on ordering the bill to a third reading.

Mr. HALL, of Missouri, rose to inquire of the chairman of the Committee of Ways and Means, [Mr. VINTON,] whether there was any provision in the bill interfering with the number of agents and sub-agents in the Indian country?

Mr. VINTON said he could not hear the interrogatory put to him by the gentleman from Missouri, [Mr. HALL.]

Mr. HALL said that the question he had asked of the gentleman was this: whether there was anything in this bill interfering with the number of agents and sub-agents, who were now authorized by a law passed at the last session of Congress, and which was, in its several provisions, similar to this?

Mr. VINTON said, in reply, that he presumed there was not. The bill contained an appropriation for all the usual agents and sub-agents estimated for by the Indian or War Department. He had the estimates in his hands. He presumed that they embraced all.

Mr. HALL said, he then understood the gentleman to say that there was nothing in this bill which proposed to alter existing laws.

Mr. VINTON said he supposed not.

Mr. JOHNSON, of Arkansas, rose to inquire of the chairman of the Committee of Ways and Means whether he knew that this bill was in perfect consistency with the bill of the last session? and, in order that the gentleman might more fully understand what his (Mr. J.'s) object in making the inquiry was, he would state that the Indian appropriation bill, which was passed at the last session of Congress, without debate or consideration, contained provisions striking out the whole system of our Indian relations west.

The SPEAKER interposed, and said that this bill must either have its third reading or not. If not then, there was no question before the House.

Mr. JOHNSON said he must object to the third reading of the bill. He had just written to the department, and he would desire to have an answer to that communication before this bill was disposed of.

Mr. BARRINGER said that he thought he could answer the inquiry of the gentleman from Arkansas, [Mr. JOHNSON,] so as to render any delay in the passage of this bill unnecessary. He (Mr. B.) had not looked through all the details of the bill, but as he understood it, it simply made appropriations to carry into effect all laws and treaties now in force concerning this particular branch of the public service. It was true that the bill had passed, (as nearly all appropriation bills, excepting perhaps the civil and diplomatic appropriation bill, did pass,) without any very minute consideration; but at the last session an amendment was offered (as the gentleman from Arkansas would remember) to limit and reduce the number of agents and sub-agents in the Indian country. Upon that amendment a debate arose; and that question was not now before the House at all. The bill now under consideration did not conflict, or rather did not interfere with, the present number of agents or sub-agents.

Mr. VINTON appealed to the gentleman from Arkansas [Mr. JOHNSON] to withdraw his objection, and to suffer the bill to pass.

Mr. JOHNSON, in reply, said that a delay of one day could make no great difference. He had addressed a letter to the department, the object of which was to ascertain the facts. He did not wish to delay the passage of the bill; but, on the other hand, he did not wish it to go from this House without being certain upon these points, because he had been deceived upon the subject at the last session, and had suffered much solicitude on that account.

Mr. BARRINGER sustained the appeal of Mr. VINTON, that the gentleman from Arkansas would now withdraw his objection and suffer the bill to pass. If the gentleman would do so, and should to-morrow show that there had been the slightest interference with the subject, he (Mr. B.) would pledge himself to move a reconsideration of the vote.

Mr. JOHNSON said, upon that condition he would withdraw his objection to the third reading of the bill.

So the objection was withdrawn.

And, thereupon, by general consent, the bill was read a third time, and passed.

CIVIL AND DIPLOMATIC APPROPRIATIONS.

Mr. VINTON said that the next bill standing upon the special orders was the civil and diplomatic appropriation bill, and he moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of proceeding to the consideration of that bill.

Mr. HAMPTON, of New Jersey, from the Committee on Enrolled Bills, made a report of certain bills, which received the signature of the Speaker.

The question then recurred and was taken on the motion of Mr. VINTON, and was decided in the affirmative.

So the House again resolved itself into Committee of the Whole on the state of the Union, (Mr. SMITH, of Indiana, in the chair.)

On motion of Mr. VINTON, the committee proceeded to the consideration of the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1850, and for other purposes.

The Clerk, under direction of the chairman, proceeded to read the said bill.

Mr. KAUFMAN moved to dispense with the reading of the *whole* bill, as had been done in the case of the Indian appropriation bill.

The CHAIRMAN put the question; but before the vote was announced—

Mr. HUDSON said that he believed, if the committee would reflect a moment, they would dispense with the reading. If the bill was read entirely through at the commencement, and then again read by sections, the first reading would be entirely lost. If it was read by sections, it could be understood as it was read, and considerable time might be saved.

The question was then taken, and the reading of the bill was dispensed with.

It was then taken up by sections.

MILEAGE OF MEMBERS.

The following item being under consideration, viz:

For compensation and mileage of Senators, members of the House of Representatives, and Delegates, $768,200.

Mr. EMBREE moved to amend it by adding thereto the following:

Provided, That the mileage of members of both Houses of Congress shall hereafter be estimated and charged upon the shortest mail route from their places of residence, respectively, to the city of Washington.

Mr. STEPHENS moved to amend the amendment by striking out the word "shortest," and inserting the word "usual."

Mr. STEPHENS suggested to the gentleman from Indiana, [Mr. EMBREE,] to accept this amendment as a modification of his own.

Mr. GREELEY said a few words (very imperfectly heard by the reporter) in explanation of what he conceived to be the objectionable operation of the amendment of Mr. STEPHENS—illustrating that objection by reference to certain mail routes, and their length, in comparison with the shortest routes. Members from eastern Vermont, he said, used to come to Troy, and thence down to New York. Now they went round by the way of Boston to New York, which was some one hundred and fifty miles further.

Mr. EMBREE declined to accept the amendment of Mr. STEPHENS as a modification of his own. He preferred that his amendment should stand as it was.

Mr. STEPHENS thought that the correct principle, and that by which all the difficulties attending this subject of mileage could be removed, was, that the member should be allowed mileage by the route over which the mail was actually carried.

Mr. GAYLE (very indistinctly heard) was understood to suggest to the gentleman who moved this amendment, [Mr. STEPHENS,] that he presumed there were many members of this House who did not come to this city over any mail route at all, to whose place of residence there was, perhaps, no mail route. What would the gentleman say of the member from Oregon? Certainly there was no mail route thither. And how would his mileage be computed, under the gentleman's amendment?

Mr. EVANS, of Maryland, inquired of the Chairman whether the amendment of the gentleman from Georgia was pending.

The CHAIRMAN replied that it was.

Mr. EVANS. Is it in order to move an amendment to it?

The CHAIRMAN. No; that is an amendment to the amendment of the gentleman from Indiana, [Mr. EMBREE.]

The question still being on Mr. STEPHENS's amendment to the amendment of Mr. EMBREE—

Mr. HOUSTON, of Delaware, said he did not see the necessity for any change in the existing law. The law, as it now stood, provided that mileage should be charged upon the route usually traveled between the Capitol and the residence of the member. Now, if compensation was to be allowed for traveling expenses, undoubtedly it should be computed upon the route usually traveled by the public who had occasion to visit the Capitol, from the respective residence of members of Congress. There might be allowances of mileage which were too large, but the principle on which gentlemen proposed to reduce the mileage was radically wrong and defective. They seemed to contemplate that mileage should be allowed to members of Congress as compensation for their traveling expenses; and, if so, it ought to be according to the route on which gentlemen usually traveled. Now, if gentlemen had been guilty of any evasion of law, of a fraud, (if he might use that term,) it could be corrected by the proper committee. If any gentleman, in either branch of Congress, had charged upon a route longer than that which was usually traveled, then let the Committee on Mileage take the subject into consideration, and redress the evil and the wrong. But there was no necessity for further legislation, unless they were to draw their air lines, unless they were to provide that the mileage be computed upon lines drawn by parallels of latitude or of longitude. He was therefore opposed to any change or modification in the existing law.

The amendment offered by the gentleman from Georgia embraced his (Mr. H.'s) own case. As he had said on a previous occasion, the mileage allowed him was upon the usual mail route between this city and his place of residence; and it was also the route which was usually traveled. It was well known that there were a great many obscure post routes. He believed there was a small route across Chesapeake Bay to Cambridge and to Easton, Maryland, and thence to his place of residence, but it was not the route on which the mail between this city and his residence was transported, nor was it the route that was usually traveled. He was informed by a gentleman who had taken the trouble to investigate this newspaper article, that the route there given as that upon which he (Mr. H.) should receive mileage was not that over which the mails were transported; and what was more, over a portion of it there were only little weekly or semi-weekly mails transported on horseback or in a sulky. Of course it was impossible for any gentleman to find any general public line of communication between his place of residence and this city upon that route. Why, then, should mileage be charged according to that route over which a gentleman could not travel, unless he took his own conveyance, to reach Washington?

The ground on which gentlemen were seeking to amend this law, he repeated, was not correct in itself; it was radically wrong. If gentlemen were to be allowed compensation for their traveling expenses, it ought to be according to the route usually traveled. Entertaining these views, he was opposed to any change in the existing law. If gentlemen desired to reduce the amount of compensation, let them reduce the rates of mileage; but let them not do it by the adoption of a false system.

Mr. TUCK said he was compelled to differ from the views which had been expressed by the gentleman from Delaware, [Mr. HOUSTON.] This matter of the limitation of the mileage of members of Congress was one to which the people had turned their attention. They saw, and members knew that it was a matter in which they (the members) were particularly and personally interested, and they were called upon by the unmistakable voice of the people of this country to correct one great evil in regard to the expenditure of the public money; they were called upon to correct an evil in a matter wherein their own pockets were concerned.

What were the facts of the case? That while the facilities of travel had been greatly increased within the last twenty-five years upon most of the great routes of the country, while the time and the labor of travel had been reduced in the same proportion, the people of the country were charged much more for the expenses of members of Congress coming to the seat of Government. When this compensation of eight dollars for every twenty miles travel had been fixed years ago, the difficulties of traveling were very great, the toil and labor of coming to the Capitol were severe, and attended with great expense; but while the facilities had increased many fold, the charge had increased proportionately.

Mr. WENTWORTH interposed, desiring (he remarked) to say just one word; and (the floor being yielded) said that the gentleman from New Hampshire had spoken about the unmistakable voice of the people in favor of the reduction of mileage. Now he (Mr. W.) had heard nothing from the people on this subject, but he could refer to the action of their representatives; and he wished to call attention to what had taken place a few days since, when this House, by a very large majority, had repealed a measure of reform in relation to mileage, (viz: that of messengers bringing the electoral votes,) and had put the matter back where it used to be. That was evidence the very reverse of what the gentleman had stated.

Mr. TUCK (resuming) said he did not consider the expressions which often came from this House as the best evidence, in many cases, of public opinion; and he would instance the excitement which had taken place in this House some days since, at the introduction of an article written by the gentleman from New York, [Mr. GREELEY,] as a notable example wherein the Representatives had expressed sentiments which were not concurred in to any extent by the people. He himself had not seen a single newspaper of the country which did not approve of the course which the gentleman from New York had taken; and he believed there was no instance where the editor of a paper had spoken out the genuine sentiments of the people, and made any expression of disapprobation in regard to the effort of the gentleman from New York to limit this unjustifiable taxation of mileage; for, no matter whether the taxation was made by a committee of this House or by the individual members themselves, it was, in his (Mr. T.'s) opinion, an unjustifiable construction of the law, to change the mode of computing the mileage from the old direct routes, as it was formerly computed, and tax travel upon the new, indirect, and circuitous routes. Now, while they were here, from time to time, making large draughts upon the treasury for books and publications, at the expense of the Government, to be distributed among their constituents, or to be taken to their homes, for the use of themselves and neighbors, he thought, when the people had directed their attention to a system of this sort, by which over $40,000 had been annually taken from the treasury, the representatives of the people should pay proper attention to the voice of those who sent them here.

He was heartily in favor of adopting a proposition which should confine the mileage to the nearest mail route between the seat of Government and the residence of each member. Some gentlemen now came here by routes as short as the nearest mail routes between their residences and this city, and received pay on those routes. With them, therefore, the amendment would make but little difference. But there were others who traveled two or three days on one of these circuitous routes, and who took from the treasury hundreds of dollars for each day's ride. Was this right? If this amount was to be taken from the public treasury, let them have the manliness to come boldly up and take the spoils, without any equivocation, or any aid from an equivocal law. He did not, in these remarks, intend any imputation upon any member of Congress.

Mr. SAWYER (the floor having been yielded for explanation) said, as the gentleman was objecting to the amounts of mileage paid to members of Congress, he would like to know whether he [Mr. T.] approved of the publication made in the New York Tribune, and considered it correct? If he did, he would inform the gentleman that he [Mr. T.] himself was charged with having charged a pretty considerable sum too much; and before the gentleman set himself up to rebuke others for these extra charges, he would suggest that it would be well to clear himself of the charge against him.

Mr. TUCK replied that he did not take it upon himself to rebuke any gentleman in this House; but least of all would he rebuke any member who, acting in the capacity of a member, or of a newspaper editor, had published to the country the amount of money which each member of Congress took from the treasury. He would ask the gentleman from Ohio if he was willing to receive from the treasury any sum of money for any purpose whatever, and then condemn a member for making it known?

Mr. SAWYER replied that he condemned false publications, certainly. The article was false in every particular; there were more than a hundred false statements in it, as he held himself ready to prove on the floor of this House.

Mr. TUCK said it was the first time he had heard it charged that the article contained falsehoods. The gentleman from New York, like any other gentleman, might have made a mistake; although he (Mr. T.) was not called upon to speak for any other member, he believed if there were any mistakes in the article, the gentleman who wrote it would be most anxious to correct them.

Mr. SAWYER would ask the gentleman from New Hampshire, then, if his own account as set forth in that article was correct? and if it was correct, how it was that it made him overcharge his mileage, and receive the amount overcharged?

Mr. TUCK (resuming) said the gentleman made inquiries in relation to how much he (Mr. T.) was represented as having overcharged. Now, he could not tell the gentleman positively, but if his memory served him aright, it was twelve or thirteen dollars, and he was willing either to remit it to the treasury, or to make any other disposition of it which the honorable gentleman from Ohio should see fit to suggest, provided that the gentleman would follow the example in relation to the amount of excess which he was stated to have received.

For himself, he made no complaint of the publication, though it charged him with having received twelve or thirteen dollars more than his mileage would have been, if computed upon the shortest mail route. He could not, the House could not, complain, of any man for making public the exact amounts which they individually received from the treasury, and for stating to the country the apology they had for so doing. He did not understand the gentleman from New York as charging any member on the floor of this House with the willful design of pillaging the United States treasury; but he only asked Congress to correct the law as it now stands. And he repeated, he believed, among the rank and file of the great body of the people, there was but one opinion on this subject, there was but one voice spoken to Congress in regard to this subject, and that was, demanding a judicious and economical management of the people's money, and a correction of the existing law on mileage. He hoped that call would not be disregarded. He hoped, if it was necessary that any more indignant expressions should come from the people, that they would speak with a voice which members of Congress could not misunderstand, and which they could not disregard. They called upon Congress to legislate so as to do away with the abuses which existed relative to the mileage of members, and also to do away with the franking privilege; and he trusted there would be found a sufficient number of gentlemen upon this floor, and upon the floor of the Senate, to respond to that voice of the people, and meet the just demands of their constituents.

Mr. BROWN, of Mississippi, asked that the pending amendments be read; which were read accordingly.

Thus far (he was understood to say) he had said nothing with regard to this question of mileage, because, although he was one of those whom the editor of the Tribune had seen fit to arraign before the country as having pilfered the treasury by charging too much mileage, it was a matter about which he felt very little solicitude. So far as his experience had gone among the people, (and he had necessarily traveled a good deal among them in coming here and in returning home,) he believed that this excitement among the people was confined to a few who were disposed to play a little demagoging game in this House. He had never heard any intelligent man among the people say anything in regard to the mileage of members of Congress. Occasionally, it was true, he had found a small, upstart politician trying to work his way into Congress over a man of more merit, entering into some little calculations before the people in regard to the amounts of mileage which his opponent had received; but he had yet to find the first intelligent honorable gentleman in any part of these United States—*out of Congress*, of course, [a laugh;] he supposed he must say so to be within the rule—who complained of this subject. Let them go to the States, and what did they find? Several officers receiving more compensation for their services than members of Congress. To what did the compensation which a member of Congress receive, including per diem and mileage, amount, taking the two years together? Did he receive three thousand dollars a year? Go to the southwestern States: the circuit judges, the State treasurers were paid that amount, and all the State officers were paid in that proportion. He would scorn to represent a people who would wish him to incur the expenses of traveling to Washington and of a residence here, and pay him less than the State officers of many States received. He had had the honor of being elected one of the judges of the circuit court of his State. He was engaged in the duties of his office about twelve weeks in the year, and received a salary of $3,000, and he had never believed the salary was too large. The people who elected him did not think so. He had held that station not by the nomination of the Governor and the approval of the Senate, but by election of the people, from whom he preferred to receive any office he might have the honor to hold. And the people of his State would laugh to scorn these contemptible efforts to arouse them to excitement because a member of Congress got a few dollars more than some editor, who edited his paper from a desk on this floor while he was receiving his $8 per day from the public treasury, happened to think was right. If gentlemen were so anxious to correct abuses, let them correct their own first; let this thing of editing papers by gentlemen who were paid from the public treasury for public service cease; let members who came here attend to their duties, and let members who dishonored seats here—perhaps that expression would be out of order—let members who occupied seats on the floor of this House, before they published charges involving the personal honor of every member of Congress, at least know that they told the truth. He cared nothing for the charges in his own case. He had no expectation that the people whom he had the honor to represent, if he voted aright upon great questions of national policy, would call him to account if he did get a few dollars more than the editor of the "New York Tribune" thought he ought to have.

He thought this a matter of exceedingly small importance, an unnecessary wasting of the public time. Let them do what they pleased on this question, he would tell them what he was willing to do: abolish this whole doctrine of mileage, and pay the member of Congress his actual expenses in coming to and returning from the seat of Government, and his eight dollars per day while in his seat, and nothing more. If members of Congress left their places, as was well known to be the practice of some gentlemen, and went to practice law in New York, Philadelphia, or Baltimore, or to attend to their private business anywhere, let their pay be stopped while they were gone. If members who happened to be editors of newspapers could find no better employment than to edit their papers here, he would stop their pay also. [Laughter.]

The gentleman from New Hampshire. [Mr. TUCK,] to whom he alluded with no very high degree of pleasure—for it was never a pleasure for him to make any allusion in that direction—that gentleman, tender-hearted as he was on this subject, was found not too tender-hearted to vote for books to be distributed to himself. There was an abuse much more crying, he (Mr. B.) apprehended, than any abuse which might exist in regard to mileage, an abuse without warrant or sanction of law. Why, he believed that the editor of the New York Tribune had also voted these books for himself. Well, where was the authority for it? what law was there to justify it? He understood gentlemen on all sides to admit that their mileage accounts were charged according to law. Although

the attempt was in the first instance to charge each member of Congress with committing peculations upon the national treasury, that charge had now been withdrawn, and it was admitted that these mileage accounts were made up according to law. How was it that men who saw great abuses in this matter of mileage, could see no abuse in voting away thousands and thousands of the people's money to put books into their own libraries?

Mr. TUCK rose and requested the gentleman from Mississippi to allow him the floor for an explanation.

The CHAIRMAN. Does the gentleman from Mississippi yield the floor?

Mr. BROWN, (addressing the Chair.) He is a member, I believe?

Mr. TUCK. It sometimes happens that a member takes such a course on this floor as to put it out of his power to insult another member.

In regard to this matter of books (said Mr. T.) he stated what has been publicly stated by others, that these books had been distributed according to their votes for public purposes, and that gentlemen who had voted to receive them had heretofore taken them to their residences in order to hold them in trust for their constituents, and that their action was justified on that ground. These books contained information which in no other manner could find its way to the public mind. And he would vote at this session for a law providing public depositories for the books for the use of the people in each congressional district, so that members of Congress should have no greater interest or privileges in regard to them than other citizens.

Mr. RICHARDSON asked the gentleman if the money which members of Congress received for mileage was not held in trust for the people of the United States?

Mr. TUCK replied that the gentleman could probably answer that question without any assistance from him, (Mr. T.)

Mr. BROWN. I did not hear the gentleman.

The CHAIRMAN now directed further proceedings to be suspended until order was restored in the committee. After which—

Mr. BROWN continued. He was about, he said, to proceed with the few additional remarks which he had proposed to submit to the consideration of the Committee, and which would, by this time, have been concluded, but for the interruption of the gentleman from New Hampshire, [Mr. TUCK.] He (Mr. B.) had not distinctly heard the remark which that gentleman had made, and he would now request him to repeat it.

The CHAIRMAN interposed, and expressed the hope that the gentleman would not indulge in personalities.

Mr. BROWN was understood to say, that he was not doing so. He was inquiring whether anything of that character had been intended by the gentleman on the other side.

Mr. TUCK said that he had understood the gentleman to inquire of the Chair whether he (Mr. T.) was a member of the House; and that, considering the remark, when made, to have been intended as a personal indignity, he had made the remark that it was possible for a gentleman on this floor to take such a course as to put it out of the power of any member to insult him, or words to that effect.

Mr. BROWN. I do not understand you.

[SEVERAL VOICES: What do you mean? Let us know what you mean.]

The CHAIRMAN called to order.

Mr. BROWN. I reckon, for the time being, it had better pass. When I was interrupted, I was going on to say that——

Mr. TUCK rose and addressed the Chair.

The CHAIRMAN, (to Mr. BROWN.) Does the gentleman from Mississippi yield the floor?

Mr. BROWN. For explanation, or anything of that sort, I do.

Mr. TUCK. I believe that the remark I made was this: that it was possible for a member to take such a course as to put it out of his power to insult another member.

Mr. BROWN, (continuing.) I think, that about the time I was interrupted, I was speaking of mileage, and especially with reference to the charges which had been made by the New York Tribune. I said before that the matter of that charge had never disturbed me in the slightest degree; and I should not now refer to it, except as connected with this subject before the committee, and because I happen to be on my feet.

Mr. B. proceeded to remark, that by the merest accident, he was looking the other day over the post office book, and he learned that the city of Jackson was thirteen hundred and thirty-three miles from Washington, and he was thirty-eight miles beyond that. The editor of the New York Tribune had set down the distance as between eight and nine hundred miles. How any member of this House, or any other man, looking to the post office book for information, could make such a mistake as this, he (Mr. B.) did not know. Probably it might be all fair. He would not now say whether he thought it was so or not. What he desired to say—and to repeat, in order that gentlemen might distinctly understand it—was this: that he was willing to abolish this whole system of mileage; he would vote in favor of such a bill to-day. He never had seen the day when he would not have voted to abolish it. But he should vote for no such proposition, except there should be a clause inserted in the same law prohibiting this practice of members of Congress absenting themselves week after week whilst they were attending to their own private business. This was a cause of great and just complaint. So also was the system of members, as the time for the Presidential election approached, leaving their seats here, and making peregrinations into New York, Massachusetts, or distant parts of the western country, haranguing the people, and getting their eight dollars a day during their absence. It was all wrong. He would stop it all by law. If gentlemen persisted in making such trips, he would stop their pay. He had never heard these gentlemen of the press, who professed to have such consciences, complaining of these things, either on the part of friends or adversaries. It was a matter of serious abuse; and, whether done by Whigs or Democrats, the practice should be abolished. If a member of Congress was sent here to do his duty, let him remain in his seat and attend to the public business and vote, unless accident or some cause beyond his control should call him away——

Mr. GIDDINGS. Will the gentleman allow me to ask a question.

Mr. BROWN. Oh! yes.

Mr. GIDDINGS. Would the gentleman also exclude pay for the time occupied here in making presidential speeches, of which——

Mr. BROWN. Yes; and especially all those free negro speeches. Whenever the gentleman from Ohio [Mr. GIDDINGS] gets up to make abolition speeches, considering that they cannot subserve the public interests, nor do the country any service, I would deduct eight dollars per day. The thing is not right. It does not promote the public interest. Members are not sent here for such purposes. They are sent here to legislate and to promote the substantial interests of the country; and if they will waste the public time in abolition speeches, they ought not to have pay for it. My constituents should not be taxed for such things.

Mr. GIDDINGS desired to ask another question.

Mr. BROWN yielded.

Mr. GIDDINGS. I desire to ask whether the gentleman would also deduct pay for the time spent in discussing questions of payment for negro men, when southern men bring claims of that character into this House?

Mr. BROWN. That is a matter of legitimate trade, sanctioned by law; and when questions of that character are brought in here, it is well enough to discuss them.

But I do not care to detain the committee any longer, although many thoughts present themselves to my mind. I think the sooner the matter is settled, the better.

Mr. ROOT said this subject was an old acquaintance. It seemed necessary that a discussion upon the reduction of the mileage of members should be brought up in every Congress, if not at every session; and a beautiful subject it was for patriotic declamation. He desired to say something upon it himself, though he acknowledged his powers were entirely unequal to the subject. He had had occasion frequently to vote upon questions similar to that now presented, and it might be well enough for him to state what he had observed with respect to them. The first amendment, in the common practice upon this subject, had been a proposition to charge mileage according to the nearest post-route from the member's residence to the seat of Government; and that amendment generally succeeded. Then would come up another amendment, deducting the per diem for the time during which a member might be absent from his place; and that also would be sure to carry. Then this amendment would be succeeded by a proposition, that in all cases where a gentleman happens not to be present at any time when the yeas and nays are taken, he shall be deemed as absent from the House, and the time deducted accordingly. And then, by the time all these amendments are agreed to, gentlemen generally get sick of the whole subject, and lay it on the table. Or, if the bill happens to pass the House, it comes back with amendments from the Senate, striking out all these provisions; and if the House adhere, the result of a committee of conference would be—as it might be announced by the venerable Senator from Missouri, in the other end of the Capitol—that the House recede from its amendments.

He believed the mileage system to be wrong; but, at the same time, he did not believe that any member of Congress obtained a larger compensation (including both per diem and mileage) than he ought to have, if he discharged his duty. He believed the per diem compensation was too small; while, in some instances, the mileage compensation might be too large. But the amendment of the gentleman from Indiana [Mr. EMBREE] did not propose the reform which was needed in the case. The proposition was not fair and equal, under the circumstances which existed, and to which he would allude particularly, if he could have the attention of the committee for a few moments.

The proposition was, that members should be allowed mileage, made up according to the distance by the nearest post-route. He admitted that the present rate of mileage was enough in some instances; but he could assure the most strenuous advocate for retrenchment that it would never make any man rich. He admitted, that where one might get on a boat at Brownsville, and float down the river to the mouth of the Mississippi, he might do very well as to mileage. It was not bad, neither, to get on the lakes, and sailing down to Buffalo, take the cars to Albany, and a boat to New York. But when one gets upon the rails from New York to Washington—that, he said, was the best part of the business lying in his route, [laughter,] and he always came that way. He never came over the mountains but once, and the tediousness of that route was so fresh in his recollection, that he declared he would never come that way again, so long as he could get round any other way. He preferred the lake route, because it was the most expeditious and comfortable. There was a great deal in this thing of being comfortable. He did not pretend to know the rule by which the Committee on Mileage made up the accounts. They never asked him what route he came. He supposed they took his statement as to the distance. Another reason, which might have had some influence upon his decision in favor of the lake route, arose from his knowledge that two other gentlemen from his neighborhood had traveled by the lake route before him, and were allowed their mileage accordingly.

Mr. RICHARDSON interposed here, and stated that the practice of the Committee on Mileage was to address a letter upon this matter to each member, and to allow for mileage the amount claimed in the reply. The route traveled was not considered by the committee. Such had been the rule, he believed, in all the previous Congresses.

Mr. ROOT had nothing to say with reference to the manner in which the committee discharged their duty; but he wanted to come to the amendment of the gentleman from Indiana. He was opposed to it. He hoped it would be voted down, as well as every other amendment which, like that, might be so much opposed to fairness and justice. He had admitted that the amendment might allow of a mileage compensation sufficient to pay the expenses of travel; but it was wholly unfair and unequal to allow eight dollars for every twenty miles by the nearest post route from the residences of members from Indiana, Ohio, and Pennsylvania, where they could not travel more than fifty miles in twenty-four hours, and make the same allowance to those Boston and New York gentlemen, who, in order to travel by the nearest post route, have but to step into the cars at eight o'clock

in the morning, and at night go to the Sergeant-at-arms and draw their ninety or a hundred dollars. [Several voices: "Three hundred dollars," "two hundred," &c.] He did not know exactly how much the day's mileage from New York was worth. It was somewhere about one hundred dollars. He had not inquired, and he did not care particularly about the odd dollars and cents. New York lay in his route, and what he was most clear about was, that there was no portion of his route over which he could make money so fast as that from New York to Washington—starting from New York in the morning, and in the evening drawing a hundred dollars for mileage.

[A voice: "You can't come from New York in one day."]

Mr. ROOT replied that he had done it; and there was no difficulty about it at all. Gentlemen having the good fortune to live on this route, could travel by the most direct mail route, and in the most expeditious manner at the same time, and get their pay for every mile of travel; while the effect of the amendment would be to compel western members to make the whole sweep of Lake Erie, the New York railroad, and the Hudson river, for the same compensation, which eastern members earn so easily. Eight dollars for every twenty miles might be enough in his case, but it was a great deal too much for members living on all these great routes of travel.

Mr. MURPHY said, when he came on, he left New York at 5 o'clock in the afternoon, and arrived at Philadelphia to supper; and then, entering the cars again, he slept very comfortably, and was here in the morning at 8 o'clock. He lost no time. The mileage was ninety dollars.

Mr. ROOT would inquire of the gentleman from New York, whether he took his passage and came on, as what the agents sometimes call "a dead-head?" [Laughter.]

Mr. MURPHY replied, (amidst considerable merriment and laughter,) that he did not know of more than one member belonging to the New York delegation to whom that appellation could properly attach.

Mr. ROOT said, although his friend from New York was tolerably expert in everything he treated of, yet he might not understand the meaning of the term he had used. He would inform him that the term "dead-head" was applied by the steamboat gentlemen to passengers who were allowed to travel without paying their fare. But Mr. R. was opposed to all personalities. He never indulged in any such thing himself, and he never would favor such indulgence on the part of other gentlemen.

Mr. LEVIN. I want merely to say——

Mr. ROOT. I am afraid——

[The confusion of voices and merriment which followed completely drowned the few words of pleasant explanation delivered here by Mr. LEVIN.]

Mr. GREELEY addressed the Chair.

The CHAIRMAN. The gentleman from New York will suspend his remarks till the committee shall come to order.

Order being restored—

Mr. GREELEY said he did not pretend to know what the editor of the *Philadelphia Sun*—the gentleman from Pennsylvania, [Mr. LEVIN]—had done. But if any gentleman, anxious about the matter, would inquire at the railroad offices in Philadelphia and Baltimore, he would there be informed, that he (Mr. G.) never had passed over any portion of either of those roads free of charge—never in the world. One of the gentleman interested had once told him he might; but he never had.

Mr. ROOT continued. The gentleman from New York would do him the justice to admit that he had intended no personalities. All knew how he had been drawn into this conversation. He had given the gentleman credit for eight dollars and a fip in the omnibus. [A laugh.]

[The meriment here again prevailed against all possibility of hearing distinctly for some time; while the gentleman from Ohio expressed his dissent from some of the conclusions of the gentleman from Mississippi, [Mr. BROWN,] and ridiculed those editors and others in the country who join in the cry against the mileage of members of Congress.]

He argued that it never would do to allow members from Boston and New York the same rate of mileage with those who came across the country. His friend from Virginia, on his right, residing far back from any railroad conveyance, and at about the same distance from the capital with the New York members, could not travel in the same time with them, and therefore they should not receive as much mileage as he. This thing of distance would have to be disregarded in adjusting the charges for mileage. It would not do. Time was the principal thing to be considered. He had thought of a rule which he would now suggest, by which these northwestern members, who have to travel through the mud, might be placed on an equality with the more favored members, who have the best facilities for traveling. He would propose that there should be allowed to each member —— dollars per day for the time consumed in traveling at the usual rate of speed, over the nearest post route from his residence to the seat of Government. [Laughter.] If this rule was established, it would be an easy matter to ascertain the requisite time that should be charged on every route, as there might be a committee for that purpose. This would place all upon an equality. That was the word; and he went for that. Upon this principle the mileage compensation could be adjusted by a rule securing the strictest equality; and gentlemen might travel only by day. They might take the top of the day, and get upon the road in the morning; or if they were disposed, like his friend from New York, they might wait till evening, those of them who find comfortable sleeping, as he says he has found in the cars. It would be of no sort of consequence how much time might be occupied on the road. Gentlemen might travel day and night continually, or stop and take their rest. It would be only necessary to ascertain the time required to carry the mail over each route, for that, in all cases, might be taken for the most expeditious rate of traveling.

He would not say how much this per diem should be, but he would say it ought to be enough to pay traveling expenses, and something more. Where men were called upon to leave their homes and business, and come here to legislate for the nation—if they discharged their duties faithfully—he thought they ought to make at least one dollar a day clear of expenses—[a laugh]—that was about the price of a bushel of wheat. He knew there was considerable difference in men in respect to the amount of their expenses, and that some gentlemen did not make even as much as this. But they were doing injustice to their families.

The committee had been so exceedingly disorderly, that he had not been able to speak as correctly as he could wish; but he felt that he had been able to point out an amendment the operation of which would be much more equal than that under consideration. He was not opposed to the amendment of the gentleman from Indiana, because it proposed to reform a long established rule. He never had any fears about a reform. But he did not want a reform which did nothing more than remove a burden from the shoulders of one class of men and place it on those of another. He protested against this idea of traveling over rough roads and through the woods at the same rate per mile with gentlemen from New York, and Boston, and Cumberland, and Charleston.

Mr EMBREE next obtained the floor, but gave way for

Mr. HARALSON, who moved that the committee rise.

Mr. GREELEY appealed to the gentleman from Georgia [Mr. HARALSON] to withhold his motion, while he might, by the courtesy of the gentleman from Indiana, [Mr. EMBREE,] make a brief reply to the allusions which had been made to him, and his course upon this subject. He asked only for five minutes. But

Mr. HARALSON adhered to his motion; which was agreed to.

So the committee rose, and reported, No conclusion.

SETTLEMENT OF CLAIMS.

Mr. NICOLL presented the petition of Grinnell, Minturn, & Co., Daniel Lord, Elias H. Ely, and others, of New York, asking for the passage of the bill to provide for the settlement of claims against the United States; which was read, and laid on the table.

HARBOR AT BUFFALO.

Mr. CONGER, from the Committee on Printing, reported the following resolution:

Resolved, That one thousand extra copies of the letter of the Secretary of War, and the accompanying papers, in relation to the harbor at Buffalo, New York, communicated to this House on the 6th instant, be printed for the use of this House; and that two hundred and fifty extra copies thereof be printed for the use of the Bureau of Topographical Engineers.

The resolution having been read—

Mr. CONGER said this report was sent in a few days ago from the Secretary of War, and it was deemed by the committee that the benefit to be derived from its circulation was so manifest, that the cost of printing could hardly be thought of in the comparison. It was but a small report; and as the ten thousand copies would only cost fifteen dollars, he hoped the resolution would not be objected to. In addition to those copies of the report required by the Bureau of Engineers, the people about Buffalo and residing on the lake were desirous of obtaining copies.

Mr. TOOMBS said he hoped the House would not now act on the resolution. It seemed to him that one of the greatest abuses of this Government was that which arose out of the printing of Congress. It was never before carried to such an extent as by the Printing Committee of the present Congress. It was but the other day that twenty thousand copies of Frémont's report were ordered; and the members had now on their hands so many copies of the Patent Office report, made at the last session, that they did not know what to do with them. He repeated, that he regarded this as one of the most infamous and wasteful of all the abuses of the Government, and which ought to be corrected at once. He believed it was a practice of the Printing Committee always to recommend the printing of the highest number referred for their consideration.

Mr. HENLEY said the gentleman from Georgia was incorrect in stating that the Committee on Printing had uniformly recommended and adopted the largest numbers of copies of documents referred to them for their consideration to print. On the contrary, the committee had invariably endeavored to curtail expenses, and restrain the extravagance of the House in this regard. An instance was before his mind, where the House rejected the smaller number reported as the recommendation of the committee, and ordered the printing of a much larger number. He referred to the last report of the Commissioner of Patents.

Mr. TOOMBS said he understood that the last order to print extra copies of this report of the Commissioner of Patents was for a much larger number than had been ever before printed; and that this practice of increasing the number of copies of the report from this officer had been going on, year after year, for some time.

Mr. CONGER (interposing) simply desired to say, that on one or two occasions, during this very session, he had taken this matter of recommending printing out of the hands of the Printing Committee; and when it had been referred to the discretion and judgment of the House, the largest number had been ordered. As one instance of this kind, he referred to the late annual report of the Secretary of the Treasury.

Mr. TOOMBS continued. So far as the House was concerned, he had remarked the greatest extravagance in this respect—an extravagance, in his judgment, wholly unaccountable. He would not by any means make the Committee on Printing answerable to the public for the whole of this crying evil. He admitted that the House had been even a little worse than the committee; because, as the gentleman had said, there was no instance of the House reducing the number of copies recommended by the committee. He was among the objectors to those extravagant orders for printing referred to; and he objected to the present order recommended, because he looked on the general rule as an extravagance that ought to be curtailed. Besides, the interest in this report was a local one, confined to the people of the city of Buffalo alone——

Mr. CONGER said it was a subject of the highest interest, not only to the people of Buffalo, but to all the inhabitants along the lakes.

Mr. TOMBS said, it was not a subject which interested the whole country. It was purely a local question. It was not of the slightest interest to his constituents, nor, perhaps, to the constituents of twenty gentlemen in the House, not the slightest. He repudiated the consistency which would allow gentlemen to fix up a number of extracts from the agricultural journals, call it a Patent Office report, and order the printing of fifty or one hundred thousand extra copies,

at a cost of ninety thousand dollars, and then come here and higgle about mileage, as had been done by gentlemen this day. He desired to call the attention of the House and the country to this enormous evil, and to invoke a feeling that might induce its reduction. It was manifestly a great abuse of the Government, and he went distinctly for its curtailment. He knew there were other abuses, but he would not allow himself to hesitate because of their number. He would take them as they came, and the first presenting itself he would first restrain.

He would now move that the House adjourn; which was agreed to, and accordingly

The House adjourned.

PETITIONS, ETC.

The following petitions, memorials, &c., were presented under the rule, and referred:

By Mr. BUTLER: The petition of citizens of Columbia county, Pennsylvania, praying for an immediate modification of the existing revenue laws.

By Mr. GREELEY: The petition of William V. Barr, and other citizens of New York; also, of Raymon Whitcomb and other citizens of Illinois, for a stoppage of the sales of public lands, and the free allotment of the same in limited quantities to actual settlers. Also, the petition of Charles E. Osgood and other citizens of Tioga county, Pennsylvania, asking for a revision of the tariff with a view to the protection of home industry. Also, the petition of A. P. Leighton and other citizens of New York, asking for cheap and uniform postage, with no franking.

By Mr. GAINES: The petition of Peter M. Grant, devisee and executor of Jacob Phillips, deceased, praying the passage of a law authorizing the Commissioner of Pensions to issue a land warrant to him for a quarter section of land, in lieu of one heretofore issued to said Jacob Philips, deceased.

By Mr. KELLOGG: Resolutions of the American Colonization Society, relating to an appropriation, &c.

By Mr. CANBY: The petition of Stephen Johnson, praying compensation for one half section of land, situated in the Wyandot reservation of lands in the State of Ohio, which half section was improperly sold by the United States.

On motion of Mr. DANIEL, Ordered that the petition and accompanying papers of Grison and Laughlin be taken from the files of the House and referred to the Committee on the Post Office and Post Roads.

By Mr. NICOLL: The petition of J. M. Chichester & Co., John McCaffit, and others, of the city of New York, asking for a reduction of the present rates of postage, and for the abolishment of the franking privilege.

By Mr. DIXON: The petition of Major Charles Larabee, for an increase of pension.

By Mr. MURPHY: The petition of Philip Riley, for compensation for the loss of his horse, while employed at the dry dock now being constructed at New York.

By Mr. HOLMES, of South Carolina: The memorial of Isaac S. Keith Reeves, first lieutenant of the 1st regiment United States artillery, adjutant of the Military Academy, praying to be placed on the same footing as dragoon adjutants. Also, the memorial of Thomas Bayard & Company, praying for a charter for a railroad from the Mississippi river to California. Also, the memorial of certain citizens of the United States, praying Congress to distribute public documents amongst common schools.

By Mr. WILLIAMS: The petition of Arno Wiswell, and 23 others, citizens of Hancock county, Maine, for a reduction of postage.

By Mr. GRINNELL: The petition of W. R. Easton, and other citizens of Nantucket, asking for a floating light near Pollock Rip, off Chatham, Massachusetts; of Edmund P. Lewis, and other citizens of Barnstable; and of Banks Hearding, and other citizens of Boston, for the same object. Also, the petition of George Lovell, and other citizens of Massachusetts, asking for reduced rates of postage.

By Mr. CHAPMAN: A communication from the President of the Maryland State Agricultural Society, upon the propriety of an appropriation in aid of the agricultural interest.

IN SENATE.

WEDNESDAY, *January* 10, 1849.

The VICE PRESIDENT laid before the Senate a report from the Secretary of the Navy, accompanied by a report of the Commissioner of Pensions, containing the names and residence of persons who have applied for relief under the navy pension laws.

MEMORIALS AND PETITIONS.

Mr. DICKINSON presented a petition from H. W. Barnes and R. M. Cooley, praying payment for certain clothing made for volunteers of the State of New York; which was referred to the Committee on Military Affairs.

Mr. DICKINSON presented a petition from citizens of New York, praying a reduction in the rates of postage and the abolition of the franking privilege; which was referred to the Committee on the Post Office and Post Roads.

Mr. UNDERWOOD presented a petition from G. W. Norton and P. E. Norton, praying to have certain bonds of the State of Texas, given previous to annexation, paid by the United States; which was referred to the Committee on the Judiciary.

Mr. DOWNS presented a petition from Francis Barnes asking compensation as an inspector of customs at New Orleans; which was referred to the Committee on Commerce.

Mr. DAVIS, of Massachusetts, presented a petition from Lucretia O. Everett, widow of the late Alexander Everett, praying for certain allowances due to her late husband while Commissioner to China; which was referred to the Committee on Foreign Relations.

Mr. DAVIS, of Massachusetts, presented a petition from David Baker, asking the extension of a patent for an improvement in the saw-mill; which was referred to the Committee on Patents.

Mr. DAVIS, of Mississippi, presented a petition from Peter A. Carnes, a wagoner and forage master in the army of the United States, asking for a pension, in consequence of disabilities contracted in the service; which was referred to the Committee on Pensions.

Mr. KING presented a petition from Farley D. Thompson, praying to be released from liability as security for a defaulting postmaster; which was referred to the Committee on the Post Office and Post Roads.

On motion of Mr. DICKINSON, the papers in the case of Jethro Wood were ordered to be withdrawn from the files of the Senate.

On motion of Mr. BREESE, the papers in the case of the legal representatives of John Rice Jones were ordered to be taken from the files of the Senate and referred to the Committee on Private Land Claims.

On motion of Mr. METCALFE, the papers in the case of E. Atkins were ordered to be taken from the files, for the purpose of being returned to the Pension Office.

REPORTS FROM COMMITTEES.

Mr. DOWNS, from the Committee on the Judiciary, reported, without amendment, House bill for the relief of John P. Skinner, and the legal representatives of Isaac Greene.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported, without amendment, House bill for the relief of Elizabeth Clapper, of Muskingum county, in the State of Ohio.

Mr. FITZPATRICK, from the Committee on Printing, to whom was referred the resolution of the Senate of the 4th instant, inquiring into the expediency of purchasing, for the use of the Senate, copies of a map of the British provinces, Mexico, &c., reported thereon in favor of the purchase of 5,000 copies of the same.

Mr. FITZPATRICK. I have not examined the subject under consideration very thoroughly; but the chairman of the Committee on Printing, [Mr. CAMERON,] who is not now in his seat, and at whose request I have presented the report, has given the subject a careful examination, and has expressed himself decidedly in favor of purchasing the maps, for the use of the Senate. From the slight examination of the subject which I have been enabled to make, I am satisfied that the map would be useful, particularly at this time, to those who desire to go to California, and to all who may be called upon to give information as to the best routes and most speedy modes of conveyance thither.

I have lately received many letters from gentlemen asking for such information, if in my power to give it, as would enable them to select the most appropriate and convenient routes to California. This map has been compiled for the purpose of giving this information. A table of distances, together with the prices charged by the various modes of conveyance on the different routes, and many other facts which must prove of essential benefit to persons going to that country, are given in notes appended to it. I do not know that the remark will apply to other Senators, but, as for myself, I have been frequently engaged, during the past week, in examining various maps for the purpose of gathering sufficient information upon this very subject to enable me to give correct answers to the communications that have been addressed to me from different parts of the country in regard to the best routes to California. It seems to me that this map would be of essential service to Senators in answering such communications. This is the view which the chairman of the committee took of the matter, and which he desired me to state to the Senate when I should present the report.

If it is the opinion of the Senate that the number of copies proposed to be procured is too large—and I will not undertake to say that it is not too large—I am willing to have the number reduced. Perhaps a less number would answer all necessary purposes.

Mr. BRIGHT, (in his seat.) I would inquire what the cost of this map will be?

Mr. FITZPATRICK. I was about to remark, that I put myself to some trouble, before I made the report, to ascertain from the agent of the map its price. The agent says that the map in this form [here the gentleman held up a map of the size and form of an ordinary traveler's guide to the view of the Senators] will cost thirty-five cents. The map itself, without the cover, will cost about fifteen cents.

I think it probable that many members of the Senate have received similar communications in relation to the modes of conveyance to California as myself, and that they will want this map to enable them to furnish the desired information. There is an intense feeling throughout the country in regard to emigration to that region, and a work like this cannot fail to prove of great utility to all who may design to go thither.

I will state that the agent for the sale of the map is anxious to have the Senate act upon this matter at once, in order that he may know, without delay, what course he is to take in regard to the publication of a large number of copies. It has been intimated by Senators near me—and the intimation is in accordance with my own feelings—that a less number than is mentioned in the resolution annexed to the report should be procured by the Senate for the use of its members. I would therefore move to amend that resolution, by substituting "two thousand" for "five thousand."

Mr. DAYTON. Mr. President, with the permission of the Senator from Alabama, I would ask if this is the map recently published by Mr. Colton, showing the routes, distances, &c., to California and New Mexico?

Mr. FITZPATRICK. Yes, sir, it is the same map. Here is a copy of it, [holding up the map.]

Mr. DAYTON. It is a small matter. I placed one of these maps in the hands of the Committee on Printing, with a view to its examination, and was informed that it could be published at twenty cents. I would suggest, therefore, that if it be purchased at all, it should be purchased at a price not exceeding twenty cents.

Mr. FITZPATRICK. The map without the cover can be purchased for eighteen cents, perhaps for less.

Mr. PEARCE. I should be glad to know from what authority the map has been compiled, by whom made, and whether it is only a compilation from old maps, or derived from original surveys. I think it is not usual to purchase for distribution maps not made by officers and others in the service of the Government, or drawn from surveys made by such persons. Maps compiled from materials common to every one have been sometimes purchased for the use of members of the Senate, but not for distribution. If this is the character of the map, I shall oppose its purchase.

Mr. DAYTON. Mr. President, one single word, in explanation, to the Senator from Maryland, in relation to this subject.

As has been stated by the Senator who reported this bill, almost every Senator has had numberless applications for information as to the routes, distances, and courses of travel from this country to California. Here is a map—not published by the Government, nor at the instance of the Government, nor founded on any survey made by Government officers, but compiled and published, I suppose, by individuals—which shows the courses of travel, routes, and distances to California. In other words, it is a map which forms a complete answer to all these inquiries, and can be obtained at a cheap rate, and it is proposed to furnish a few copies to members of the Senate, to enable them to answer these inquiries conveniently.

The question on Mr. FITZPATRICK's amendment was taken, and the amendment agreed to.

The question being on the passage of the resolution—

Mr. BENTON. Mr. President, what is the motion? I would like to have the honorable Senator from Alabama explain what the object of the resolution is.

Mr. FITZPATRICK. It is a resolution autho-

rizing the purchase of two thousand copies of this map.

Mr. BENTON. What map?

Mr. FITZPATRICK. It is a map compiled and published by Mr. Colton, of New York. I have not examined it very attentively, but the chairman of the Committee on Printing, [Mr. CAMERON,] as I have before remarked, informed me that he had examined it minutely, and was much pleased with it, and was satisfied that it is a work of great utility, and especially to those who are about to emigrate to California or New Mexico.

Many Senators are in the daily receipt of letters, from persons residing in various parts of the country, asking for information as to the best routes to those countries, and this map furnishes a complete answer to all these inquiries. It is proposed, therefore, to furnish members with a few copies, which they can forward to persons asking for such information, and thus answer them, at once, with accuracy and convenience. This was the view which the chairman of the committee, at whose request I presented the report, took of the subject.

Mr. BENTON. When was the original resolution introduced?

Mr. FITZPATRICK. It was introduced on the fourth of this month.

Mr. BENTON. By a rule of the Senate, whatever takes money out of the contingent fund must have as many readings as a bill, and in the same way. This resolution, therefore, must have three readings before it can be passed. I would like to see a copy of this map.

Mr. FITZPATRICK handed the gentleman a map.

Mr. BENTON, (holding up the map and closely inspecting it.) I have seen so much of these persons who make maps and books, and come here to get Congress to buy them, that I have become suspicious of all such things.

With respect to this map, sir, here is a border made after the most approved patterns of the latest French fashions. It is very pretty. I have a little granddaughter, and if I get one of these maps, I shall give it to her that she may learn to embroider borders by. Here are pictures, too, and colors. They are gay colors, sir; yellow, red, purple, blue, and white. And here are how many degrees of latitude and longitude put into a space which I can cover with my two hands. All North America, sir, is under my two hands. Who can travel by such a map! It has all California on it. It has the empire in North America on it, too, including Churchill's bay. It has got Mexico on it, sir, and the Isthmus of Tehuantepec, and Lake Chagres. It has also the Isthmus of Panama on it. Then it has got South America down pretty low. So, sir, let a person be going anywhere, it will show him the way in all directions.

Mr. President, this is a little map of North America, and it can be of no earthly use to any member of this body; and if it would be of any use to persons going to California, they would give twenty cents for it. Surely, any persons going to California would willingly give twenty cents for a map which would show them the best route thither; but perhaps it would not be safe for the publisher to sell it on the condition that the purchaser should pay for it out of the proceeds of the gold mines.

I think, sir, the whole subject should be laid on the table. This is not only a map of California, but a map of North America and South America, too, including the West Indies and Cuba, with the catch-word of California. It seems that this word is now a "catch." It is the "catch" here, sir, for the map has "California" emblazoned upon it in large letters. And it points out the most direct and best route to the gold region. Yes, the gold region—that is the "catch." This purports to be a map showing the routes and distances of the mail steam-packets to California, and contains also a plan of the gold region. What does the publisher of this map know about the gold region? Was he ever there? I presume he never was near it. Yet he can make a "plan" of the gold region good enough to sell, but I hope he cannot sell it to the Senate of the United States. I am opposed to everything of the kind, and this map is the poorest thing I have ever seen. I hope that the gentleman who brought the subject up will allow it to be laid upon the table.

Mr. FITZPATRICK. Mr. President, the honorable Senator from Missouri has certainly amused the Senate, and I hope he has also enlightened it. I do not profess to be skilled in matters of this kind, and it is proper that I should state, as I did at first, that I have not critically examined this map myself, but that the honorable chairman of the Committee on Printing [Mr. CAMERON] told me that he had examined it, and that he was decidedly in favor of purchasing it for the Senate, as it would be a very valuable document in enabling Senators to furnish all the information that might be desired of them in relation to the gold regions, and the best mode of going thither. There is a great deal of anxiety manifested throughout the country to obtain all possible information in relation to that region, and there is a constantly increasing tide of emigration flowing thither which renders information, such as that furnished by this map, if not absolutely necessary, at least of high value.

I trust that I shall not be held responsible for the introduction of a report which recommends the printing of a map which has called forth the criticism and satire of the gentleman from Missouri. I do not profess to be intimately acquainted with the geography of that country, and cannot, perhaps, scan this map with the same accuracy that the Senator from Missouri seems to have done, in the hurried manner in which he has examined it; nor do I know that I can gainsay his criticisms. I will leave that task to those who feel a deeper interest in this matter than I do.

I feel persuaded, however, that the Senator from Missouri has done the publishers of this map injustice. I am also persuaded, that at the present time this map would, to a certain extent, be useful to those who are seeking that desirable land, which, in the estimation of many, is a land not flowing with milk and honey, but abounding in gold dust.

So far as I am concerned, it is due, perhaps, to myself to say, that I did not attend at the committee room yesterday. Attendance upon a sick friend prevented me from doing so. The honorable chairman of the committee [Mr. CAMERON] conferred with me, however, informally upon the subject in this Chamber, and evinced an anxiety that it should receive prompt action at the hands of the committee. I glanced over the map, and heard his suggestions upon the subject, and I said to him, that in so far as my action was concerned, I was content that he should report it to the Senate, and let them judge of the map, and determine whether they would purchase it or not. Late in the evening the honorable chairman of the committee informed me that business would compel him to leave the city for a few days, and he requested me to make the report for him this morning, and in conformity with that request I have presented the report. He distinctly assured me that he had examined the map, and was satisfied of its correctness and usefulness. Now, sir, I have great respect for the opinions of that gentleman, and, as an evidence of that, I will state that I conferred with him fully as to the most practicable and direct route that citizens of my State, who have written to me for information upon the subject, should take in wending their way to the gold region.

I think, sir, the gentleman from Missouri is incorrect in characterizing all such maps as this, without exception, as catchpenny concerns. As a general rule, perhaps, the gentleman is right in so characterizing them. I entertain some distrust of them myself, and I think that most of them are better calculated to lead those who trust to them into difficulties than to afford useful information; but the decided approval of the present map by the honorable chairman of the Committee on Printing, who assured me of its accuracy and utility, I presumed would take it out of the range of the gentleman's prejudices as well as my own. The map professes to give accurate information in respect to the best and quickest routes to California. Whether this information is absolutely authentic or not, I will not undertake to say; but I presume that it is sufficiently accurate to enable persons going to that country to reach some point where they can obtain further and sufficient information upon this subject, and will prove a valuable auxiliary to other means of information they may possess.

I am not sufficiently conversant with the history of the Senate and of the Government to say that this is the first attempt to settle upon the Senate the policy of purchasing books and maps for distribution among the people. But I have read to but little purpose unless I have understood that the Congress of the United States have repeatedly purchased maps published by individual enterprise. I am not, as I have already remarked, correctly informed upon this subject. Some of the older members of the Senate may be able to inform me whether this is a new principle or not. If it be a new principle, attempted to be ingrafted upon the policy of the Senate now, for the first time, I am very glad to say that I shall not give it my support. I will go as far as he that goes furthest, to restrict this Government and this body to the limits prescribed by the Constitution. I have no particular interest in this matter. I presented the report merely as an act of courtesy towards the chairman of the Committee on Printing, who requested me to do so.

I would state that I have answered a large portion of the calls for information in regard to the best routes to California, which have been made upon me, by the purchase of this map, as well as of many other documents, out of my individual means, and enclosed them to those seeking information upon that subject. I have thought, therefore, as this map affords nearly all the information upon this subject which it is desirable to obtain, that it would prove of essential aid to Senators, who will, doubtless, be frequently called upon to give this information. I do not desire, by any means, to press this matter upon the Senate, and am content, therefore, to let it lie over until the return of the honorable chairman of the Committee on Printing. I should not have said what I have, but for the absence of that gentleman.

Mr. DICKINSON. Mr. President, I have not looked at this map, nor do I propose to do so. I shall content myself with saying that the Senate of the United States is the last body that should attempt the publication of maps. This map may have merits; but, if it has, they will be appreciated elsewhere, and those who may wish for it can obtain it for themselves. If this resolution be passed, its operation will, at best, be partial, and that reason alone is sufficient to induce me to cast my vote against it. As a member of the Committee on Finance, I have had occasion to look at the galloping consumption of our contingent fund for a few years past. Formerly, it was twenty thousand dollars per annum; now it is upwards of one hundred and twenty thousand dollars per annum. This large increase comes from the printing of books, the publication of maps and documents of various kinds, with the vain idea of supplying the country with useful information. I shall go against the purchase of this map, without regard to its merits, because I consider that this is not the place to turn publisher.

Mr. BENTON. I said, sir, that the course indicated by the resolution is against my system in such matters, to say nothing about the system that should be pursued by the Senate. I have a system for authorizing the Senate to print maps constructed from original materials, and published without copyright, for the purpose of bringing something original and new before the country, and letting it pass without the restrictions of a copyright into the service of the country, and into the possession of the great mass of the people. That is my system, and according to it I voted for the publication of some original maps, and also some original works relating to the geography of our country. But I am not willing, sir, that the Senate should print books to furnish the contents of libraries, either European or American. Nor am I willing that the Senate should purchase compilations of maps, whether good or bad. I go for the construction of books and maps from original materials, and these to be published without copyrights; so that the public may reap the benefit of them at once, and the boundaries of science be thus enlarged, and the interests of art and literature advanced. But, sir, it excites some little feeling in me to see, as I have frequently seen it, since the breaking out of the Mexican war, on many occasions, when a little fever has been gotten up by some occurrence, or perhaps discovery, a man who knows nothing under God's heavens about the subject, get up a book or map concerning it, and, taking advantage of the fever, sell it to everybody in the country that has got the fever, and then come to the Senate to see if they had caught the fever, so that he can sell them his book also. Yes, sir; without knowing any thing about the merits of

this particular map, or caring anything about them, I said to the Senate, that the maps which are got up for the ostensible purpose of furnishing authentic and reliable information concerning California and the gold region, and the best modes of conveyance thither, are mere catchpenny maps. They are got up by men living in the different cities of this Union, who know nothing in God's world about the subjects upon which they pretend to furnish authentic information, nor do they care a straw about them. They know there is a fever, and, like quacks, they try to communicate it to every one, so that they may sell their worthless productions. But, great God! do not let them come to the Senate and sell their catchpenny books and maps here. We are too old, and, I should hope, possessed of too much dignity, to enter into any such transactions as these. Let us confine ourselves, then, to the construction of maps from original materials.

Mr. DAVIS, of Massachusetts. Mr. President, believing that this will not prove a very profitable speculation to the country, and that it does not in any respect commend itself to our consideration, without any reference whatever to its merits, I move that the report and resolution be laid upon the table.

This motion was agreed to.

SENDING FREE NEGROES TO AFRICA IN PUBLIC VESSELS.

On motion of Mr. BUTLER, the Committee on the Judiciary were discharged from the further consideration of the petition of free colored persons in Indiana and adjoining States, praying that United States vessels going to Africa might carry free negroes desirous to go to Liberia.

Mr. BUTLER moved its reference to the Committee on Naval Affairs.

On motion of Mr. YULEE, the petition was laid on the table.

PAYMENT FOR HORSES.

On motion of Mr. BUTLER, the Committee on the Judiciary were discharged from the further consideration of House bill further to continue in force the acts for the payment of horses and other property lost in the military service of the United States.

RESOLUTIONS.

Mr. YULEE submitted the following resolution:

Resolved, That the Committee on the Post Office and Post Roads inquire why the counties of St. Lucie and Dade, in the State of Florida, are excluded from the benefit of the mail system; why the provisions of the fourth section of the act of 3d March, 1835, regulating the Post Office Department, have been complied with in regard to these counties; and whether any, and what legislation is necessary in the premises.

Mr. HALE. I ask that the resolution be read.

PRESIDING OFFICER. It is a resolution of inquiry.

The resolution was read.

Mr. BENTON. If this was merely a resolution of inquiry relating to a local matter, I presume there would be no objection to its passage by any member of the Senate. But here is a resolution of affirmation, which affirmation is in fact, if not in words, that the Postmaster General has not complied with the requirements of the law.

Mr. YULEE. The papers presented to the Senate contained the affirmation, and the resolution is in accordance with that statement. I have, however, no objection to its being altered in any way the Senator may desire.

Mr. DICKINSON called for the reading of the resolution.

Mr. YULEE. I would move that the resolution be amended by inserting the words "if it be so."

PRESIDING OFFICER. The reading of the resolution is called for.

The resolution was again read.

Mr. YULEE. I would amend my motion by requesting the substitution of the word "whether" for the word "why," wherever the latter occurs in the resolution.

Mr. BREESE called for the reading of the resolution as it was proposed to be amended.

The resolution as amended (by substituting "whether" for "why" in the second and fourth lines) was read and adopted.

Mr. BENTON submitted the following; which lies over one day, under the rule:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to contract with a suitable person for compiling a synoptical index to the laws and treaties of the United States, in continuation of the like index compiled by order of the House of Representatives, of 15th May, 1845.

The following resolution, submitted on the 8th by Mr. BELL, was taken up, considered, and agreed to:

Resolved, That the Second Auditor and Second Comptroller of the Treasury report to the Senate, as early as practicable, what amount is due to the Cherokee nation of Indians, according to the principles established by the treaty of 1846 between the United States and the said Cherokee nation, taking as a basis for their calculation the statement of amounts made by the Commissioner of Indian Affairs, in his report of May 10, 1848.

COLONIZATION OF COLORED PERSONS.

The Senate proceeded to the consideration of a motion made yesterday by Mr. UNDERWOOD, that the petition of Daniel P. Bedinger, praying that an annual appropriation may be made by Congress for the transportation of such free persons of color as may desire to emigrate to Liberia, or such slaves as may be manumitted, be referred to the Committee on the Judiciary, with instructions to inquire and report whether Congress possesses the constitutional power to appropriate money for the removal of free people of color who may choose to emigrate, and slaves who may hereafter be emancipated for that purpose, to the Republic of Liberia, or elsewhere; and if, in the opinion of the committee, Congress possesses the power, whether it be expedient and proper to make such appropriation.

Mr. DICKINSON. Will it be in order to ask that the question be taken upon the motion for the reference of the petition and of the instructions separately.

PRESIDING OFFICER. The subject can be separated, in the opinion of the Chair, if it be desired.

Mr. DICKINSON. I desire that the question may be taken separately. I am in favor of the reference of the petition as a matter of course, and opposed to instructions in such cases as this. I hope that the question will be taken separately, unless my honorable friend from Kentucky will consent to strike out that part of his motion which relates to the instructions.

Mr. UNDERWOOD. I have no objection to a separation of the question, but I will remark to the honorable Senator from New York that the proposition contains no instructions for positive action upon the subject beyond mere inquiry. The motion made by me was for the reference of the petition, with a request to the committee that they would inquire and report upon certain questions embraced in the petition.

Mr. DICKINSON. I misapprehended, then, slightly the tenor of the honorable Senator's motion. I withdraw my objection.

Mr. DAYTON. I have no purpose, and have had none, to interpose any obstacle to the wishes of the honorable Senator from Kentucky upon this subject. But when a reference of an important subject is made to a committee, I think it is desirable not to forestall either the judgment of the committee or the course of action of the committee by any hasty instructions that may be sent to them; because it sometimes happens that petitions or memorials may be sent to a committee which it is not desirable for the committee to act or report upon, and it would be well, I think, to leave some little discretion of this kind to the committee. Now, this is just one of those questions upon which the committee ought to be allowed the exercise of some discretion. I submit, therefore, to my honorable friend, that he strike out so much of his resolution as instructs the Judiciary Committee to take action and to make a report to the Senate. Let us have a little discretion in the matter.

Mr. UNDERWOOD. I had really no great object to subserve in moving the instructions to the committee to inquire and report, but I did think, sir, that this was an appropriate occasion to have a report from the committee on the subject. I desired it because the petition itself, and because the letter accompanying the petition, spoke of proceedings now in agitation in reference to a convention, and the influence which possibly a report of this committee might have upon the action of the convention. I regarded it as a duty I owed to the petitioner. My colleague, who is acquainted with him, informs me that he is a very respectable man. I know nothing of him personally, although I have done business for him, and am acquainted with his handwriting. Knowing him to be a man of respectability, I felt it due to him to ask the reference, with the hope of getting a report of the committee upon the constitutionality and expediency of a measure of this sort during the present session. I did not expect the action of the Senate upon the report, but I wanted to see what the committee thought of the constitutional question, and also what the committee thought with regard to the expediency of the measure.

Mr. DAVIS, of Massachusetts. What is the nature of the measure the constitutionality and expediency of which is desired to be ascertained?

Mr. UNDERWOOD. The gentleman from Massachusetts not having been in his seat at the time the petition was presented, I will ask permission to repeat to him its object, in order that he may understand it. The petition prays Congress to appropriate money to send out free persons of color who may desire to go, and also such slaves as may hereafter be manumitted for the purpose of emigrating to Liberia or elsewhere, with a view to colonization.

Another object that I had in view was this: Certain quarters of this country have been perpetually reproaching the South on the subject of the institution of negro slavery. It is perfectly well known that in the slaveholding States there is a divided opinion. It is perfectly well known that among slaveholders themselves there is a portion of them who are willing to manumit their slaves, provided they can be sent from the country, but who are entirely hostile to their manumission if they are to be allowed to remain. Now, I do want to test the opinion of northern men, of northern representatives upon the question of the power and expediency of appropriating money out of the national treasury for relieving the country of the slaves, whenever slave-owners may be disposed to manumit them. And in the remarks which I made the other day, I called the attention of the committee to the appropriations which have been made for the removal of the Indians and of recaptured Africans, and requested them in their report to make a distinction, if they could, between that appropriation and this appropriation, which this petition asks for. I wait to be informed in relation to these matters.

One remark more, and I have done. It is this: There seems to be a sensitiveness on this subject which I myself have never felt. There is a southern sensitiveness and a northern sensitiveness, and a disposition perhaps to agitate in certain quarters, which I have always wholly disregarded. I look upon it as utterly hopeless, as entirely useless, to attempt the suppression of the discussion of any subject by the American mind. Any attempt to suppress it, here or elsewhere, must end in a failure; and we of the South only do ourselves an injury, in my opinion, whenever we attempt to exclude a discussion here, if northern gentlemen choose to enter upon it.

Sir, I always have been, while a member of the other House, opposed to the 21st rule. I am opposed to all restrictions here, and I am for throwing the responsibility upon northern men, when they choose to investigate and speak upon the subject, either in or out of Congress. I want to ascertain the length and breadth, the height and depth, of public sentiment, and all its bearings, speculative and practicable bearings; and I have deemed it my duty, as representing a portion of the slaveholding community, to get from these northern gentlemen, at all times, upon all occasions, and everywhere, precisely what they think, and what they design to do; and therefore I always have been and am for unshackling them in every particular. It was for the purpose of making known their opinions that I moved a reconsideration of the vote by which the petition of the gentleman from New Hampshire was laid upon the table.

Sir, do you ever expect, does any sensible, rational man expect, that you are to allay the excitement which has been progressing year after year until it is at the point almost of severing this Union—do you ever expect to allay that excitement unless you can get men rationally to think and rationally to talk on the subject? When a northern man or a northern woman sends his or her petition here, as in the case to which I have alluded, asking you not to extend slavery over any part of the United States for which you can legislate, do you expect you can conciliate that man, or that woman, by

turning round and saying, You have no right to speak on the subject; or, if you do, we will not hear you; we will treat you with contempt?

Mr. President, it is utterly hopeless to do any good by the course which has been taken in reference to petitions sent here. What has been the result of this thing in the other branch of this Legislature? When I first came into Congress all these petitions were received and referred. Things went on this way for some time. At last we passed the 21st rule, refusing to receive such petitions, rejecting them without question, without action, without doing anything in regard to them. Did the passage of the 21st rule do any good? It has only, in my judgment, aggravated the evil; and the course which we take here can have no other effect than to aggravate and increase the evil? What is the remedy? Sir, refer the petitions, and then give the appropriate answer.

On the subject of the right of petition, allow me to say that I entertain the opinion that it is not unlimited. There is a restriction upon it, and that restriction consists in two things. If the body petitioned have no power to grant the prayer of the petition, then the petitioner has no right to prefer a petition. If he prefers his petition to a body that cannot comply with the wishes of the petition, that has no constitutional power to do it, the petitioner is in fault in petitioning that body which, in respect to the action which the petition desires, has no possible power to act. There is no right to petition in any case of that sort.

The other limitation is where the petition asks a body that has the power to act to pass a law, or to modify or repeal a law, which law does not operate on the petitioner, but upon somebody else than the individual who is not affected by the law. Whoever cannot be affected by it, has no right whatever to interpose his petition asking the legislative authority of the country, by its action, to affect the rights and interests of others, from which action he himself is altogether exempted. In a case of that sort it is a direct despotism—it is tyranny in its worst sense, for a man who does not feel the operation of the law, and who, from his situation, cannot feel it, to apply to the legislative body of the country, and ask that legislative body to put manacles upon others when he is not to feel them himself. Now, sir, this restriction of the right of petition has been violated in numberless instances by persons at the North, who have been constantly calling upon the legislative body of the country to do that which cannot affect themselves; and I want, in reference to my view of the subject—I want the committees of this House and the other, to answer those petitioners—to answer them in a calm and dignified manner, and say to them, When your petitions come here, you are begging for a law which you are not to feel yourselves, but which you are seeking to make others feel most sensibly. There are differences of opinion upon the subject, I know. These northern gentlemen, and their constituents, may think, perhaps as conscientiously as I believe the contrary, that they have a right thus to invoke the action of Congress upon a subject which they cannot feel. I think that they have no such right. I am, however, for allowing the petitions to go to the committee, and then let these northern gentlemen, who are disposed to agitate, do it at their peril. Sir, we shall have all these things discussed as we have had them heretofore; it is perfectly unavoidable. The territorial bill in regard to New Mexico and California brings the whole question before us; and why on this occasion, any more than on any other, should we of the South be alarmed by its discussion? Why should we be afraid to allow these northern gentlemen to bring whatever they please, connected with this institution of ours, into discussion before the Senate? Sir, I feel as though I stood upon impregnable ground in reference to this institution; I fear nothing they may choose to discuss by their petition. I therefore not only hope that the inquiry which is now asked for may be made during the present session, but I am perfectly willing to have a reconsideration of the vote upon receiving the petition which was presented the day before yesterday by the Senator from New Hampshire, and to send it to the same or some other committee, and have a report upon it likewise.

Mr. METCALFE. I desire to submit a few, and very few remarks on this subject. The petitioner is a gentleman well known to me. I have known him long, and known him intimately. I believe his venerable father was the first man for whom I ever cast my vote for a seat in the other end of the Capitol. A venerable man of revolutionary memory, who has recently gone to his account at the age of about ninety years, was his father. The petitioner himself is a sincere man, a man of as elevated character as any farmer living in this broad land. It is a subject on which he has thought long and thought deeply, and upon which he has written occasionally, too, in the course of the last ten or fifteen years. He is the owner of land and slaves in Kentucky, and he is in favor of a system of gradual emancipation of some sort or other. At a moment like the present, when a convention is about to assemble in the State of Kentucky, and as this great question is to be agitated in that convention, it seems to me it was a most appropriate moment for this distinguished citizen to present this petition to the Congress of the United States. Sir, the decision that will be given here on this subject will have an immense bearing doubtless upon the question in Kentucky. That there are men there who are willing to emancipate their slaves upon condition that they could be carried out of the country, to some place where they could be provided for, there is no sort of doubt. Thousands would be emancipated by their owners, who would ask nothing for their slaves, and be sent from the State, if they only had the means of transporting them to some quarter of the world where it would not be inhuman to send them. We know, Mr. President, that one of our sister States has passed a constitutional interdict to a residence on the part of free persons of color within their limits. We know that to a greater or less extent several of the new States have passed laws that are severe in their operation upon free persons of color; we know it has not been very long since three large States in the northern portion of this Confederacy have forcibly driven out from them free persons of color. Where, oh, where is to be their place of refuge? We all know there is not a citizen in Kentucky, and perhaps not in this broad land, who does not know the fact that it is not practicable to liberate and retain that population in our own borders. Why, the laboring population of Kentucky would revolt at the thought of a free black population existing there with privileges which place them on an equality with themselves. Where, then, where are they to go? Would our northern friends refuse, if they had the constitutional power to do so? I see the Senator from New Hampshire looking at me, and I take for granted we should have his cordial support, for he is an excellent philanthropist in theory, and I hope practically. Would they refuse to contribute a small sum, having for its object this new purpose? I trust they would not. I do not wish to detain the Senate with this subject. I desired, however, to bring to the mind of honorable Senators this true state of the case as it respects the condition of Kentucky at this very moment. It is a matter of the utmost importance to Kentucky at least that she should now understand whether or not she can receive any aid from this source, whence it is asked by the petition, to transport beyond the bounds of this Government that race. We all know that there is nothing philanthropic in liberating them and allowing them to remain among us. We all know that their condition in such case is a more degraded one than when they are in a state of slavery; for they have then no master; no one who is interested in giving them protection—no one at all. We know it is impossible to make them an intelligent and educated people so long as they remain in this country. But if we could aid the Colonization Society, and assist in carrying them beyond the confines of this country of ours to some place where their condition could be ameliorated, it is certainly an object worthy of the serious consideration of this Senate, of this nation, and more especially of those who apprehend danger to this Union on account of the continuance of the institution of slavery. Why cannot we appeal to northern people, who have so much to say about this institution, who are continually presenting to us memorials and petitions, some of which are offensive, and cannot be otherwise from the manner in which they are presented—I say, cannot we appeal to our northern friends, with some hope of success, and ask them whether they cannot aid us in this great measure? They are anxious that there should be no slavery here. We lament that the African race was ever brought to this country; but they are here, and it now becomes us to make the best we can of our situation. But I will not indulge in any course of argument on this subject; I merely rose for the purpose of making known to this body that I am intimately acquainted with the gentleman who has signed this petition; that I know the sincerity of his heart; that I am aware of his sincere and ardent desire that something should be done like that he has petitioned for: and I desired to let it be known to this body what was the present condition of Kentucky, and of that portion of this Union which is to be affected by the decision to be had now upon this question.

Mr. HALE. I rise for the purpose of expressing my grateful acknowledgments to the honorable Senator from Kentucky, who first addressed the Chair, for the magnanimous and liberal course he has pursued in regard to the petition which I presented to the Senate yesterday. Indeed, nothing else was to be expected from him. But, while I do this, I beg leave to give my unqualified dissent to the limitations which that Senator has laid down to the right of petition. With the restrictions which the Senator puts upon it, and which I am sure he would not have done if he had brought his usual keenness of perception to bear upon the subject, the right of petition would be utterly destroyed. If I understand the Senator's limitations, they are these: First, the petition must be addressed to a body having the power to grant the prayer of the petition; and, secondly, that it must not pray for measures which are to affect others than the petitioners. Now, what is the right of petition worth thus limited, thus hampered, thus fettered? Why, the very question is, whether Congress has power to do what the petitioners ask? They come and ask you to institute certain measures, to pursue a certain course, and if you say at the outset you have not power to do it, you just as effectually destroy the right of petition as if you had said, we will not do it for any other reason. It as effectually destroys the right of petition as any other course which human ingenuity can devise. One of the limitations declared by the Senator is, that the petition must not pray for measures which are to affect others than those who petition. Why, I read the other day a correspondence between the Government of the United States and that of Great Britain relative to some American citizens said to be detained in prison in Great Britain, and I read with very high satisfaction the letters of the Secretary of State—they are very much to his credit—urging upon our minister at the Court of St. James that he should interpose his offices, not only in behalf of American citizens, but in favor of that whole class of persons who had fallen under the displeasure of the Government for the attempts—mistaken attempts, perhaps—that had been made to reform or to revolutionize Ireland. What would be our fate if the right to pray the bestowal of any good should be confined to the individual praying, unless the privilege of asking blessings for others, as well as ourselves, be recognized? What is the whole tenor and scope of the religion we profess? Is it not the duty of our Christian ministers and all who profess christianity to make prayer and intercession for all men? And is it to be asserted here to-day that this privilege is to be narrowed, that the circle of human charity is to be circumscribed, and that we have no right to pray for others? And is the right of petition to be so restricted? I understand from the Senator from Kentucky that these are the restrictions that he would impose upon those who address the Senate of the United States.

I shall trespass but a moment longer upon the patience of the Senate. I must say that I have been amused, and not a little astonished, at the tone of remark that I have heard every day, in this Senate and elsewhere, upon the subject of American slavery, as if northern gentlemen were aggressive upon that subject. Aggressive! How, when, and where aggressive? Why, the course of northern Representatives and northern Senators—I say it to our shame, and I take my portion of it—has been so pusillanimous, so cowardly, so craven, and so submissive upon the subject, that the very women and children reproach us for it. Yes, sir; and I received a letter from a female friend to-day, inquiring how it was that northern spirit had so oozed out that we had become utterly silent? Why, slavery has so ruled this Government, from the adoption of the Constitution to this time, that we

have at length reached such a condition that if we now attempt to exercise the poor right of the beggar and cry for some slight relief, we are denounced as insolent. Yes, sir, if we look up to our masters and cry, God bless us, we are called insolent. Now, I protest, once and forever, against the justice of any such remarks as those. We have been and are now too submissive. We have bowed our faces to the earth, with our backs to the lash, and yet we are reproached as being insolent. We have been submissive long enough, heaven and earth knows, and I am at a loss to know why it is that we are to be reviled for it. I have no wish to interfere with the rights of our brethren of the South. I have no desire to be aggressive; I only wish to be let alone. Nay, I am willing, so far as I speak the sentiments of those who sent me here, to be made responsible for the sustentation of human slavery, so far as our constitutional obligation reaches. I am willing to go to the full limit and letter of the bond; and if you find that the pound of flesh is written down, take it; if you find human blood written there, take it; but when we ask, in the name of humanity, that we shall not go beyond the line of our constitutional obligation, I do ask that we may not be called aggressive.

Mr. DOUGLAS. I do not intend to enter into a discussion of the question now under consideration. It is only the last few remarks of the Senator from New Hampshire that have brought me to my feet. As a northern man, I am not willing to have it asserted here, without being denied promptly and unequivocally, that the North has been degraded by the South. I am not willing to have the libel pronounced on this floor and be silent. Northern men have always maintained their rights, and they are the last people to yield to an infraction of those rights. Northern men have shown their willingness to meet any issue, at all times, in the halls of legislation, whenever an issue has been presented; and, sir, if there has been any submission on the part of the North in former times—any humble submission—it was an humble submission to the principles of the Constitution, and not to any dictation from the South. I have only regretted, in these latter days, that this humble submission to the principles of the Constitution, on the part of some of my northern friends, had not been continued. I, sir, have voted to keep abolition petitions out of these halls. I have voted to keep down the spirit of fanaticism that was agitating and exciting the country to no good, which could have no other effect than to array the North against the South, and the South against the North, to weaken the bond of union between the different portions of the country, and to build up men and factions who are willing to destroy the safeguards of the Constitution and of the Union. And, sir, is this submission to the spirit of the principles of the Constitution to be denounced as a submission to southern faction? No, sir, I wish to execute the powers of this Government in that spirit of harmony and conciliation which brought the Constitution into existence. If, sir, the South had come forward, as the North has done, taunting and adding insult to insult every time one of their number rose upon this floor, do you think that we ever would have had a Constitution? And shall we be the degenerate sons of those patriotic sires who formed the Constitution? If the Constitution was good when it came from their hands, how shall it be said that we who live under it and obey its provisions are degenerate for our fidelity to it? Sir, I undertake to say that there would be no cause for complaint on this question of slavery, if each man would mind his own business, and not introduce the subject of slavery into these halls. New Hampshire would not know how the poor negro suffers if it were not told to them by those who never saw it, who know nothing of what they are talking about. And the South would not know how badly they are treated by the North if it were not brought home to them for such kind purpose as to influence votes in a popular election. I wish to banish this whole agitation from these halls. Let us rival each other in our devotion to the Constitution, in a spirit of harmony, of conciliation, binding the different sections together more firmly, rather than in abuse and attacks upon different portions of the Union, merely to excite angry feelings and discontent. Sir, if we wish to settle this question of slavery, let us banish the agitation from these halls. Let us remove the causes which produce it; let us settle it in the territory we have acquired, in a manner to satisfy the honor and respect the feelings of every portion of the Union. Do not insult one section of the Union by bringing forward your prohibition of slavery, nor defy the other by threats of disunion. Bring those territories into this Union as States upon an equal footing with the original States. Let the people of such States settle the question of slavery within their limits, as they would settle the question of banking, or any other domestic institution, according to their own will. Whatever that settlement may be, I shall be content with it; and if we of the North will but mind our own business, and if you of the South will be quiet and mind yours, and let California act for herself, I think we shall have very little to trouble us. Neither the North nor the South have any right to enforce their peculiar notions upon the people of those territories. I do not speak of constitutional rights. I do not choose to go into abstractions and metaphysical reasoning, but I speak of those moral rights which are violated when we go to dictating forms of government to a people who are about ready to assume the position of an independent State. And, sir, let us settle it in this District in the same way. Retrocede it to Maryland. When you have done these two things, there is nothing left for agitation on the subject of slavery. The Abolition party will become extinct, the Whigs can stand upon their own Whig measures, the Democrats upon their own immutable and eternal principles, and I shall believe the country is safe in the hands of either. But may God prevent that this country is to be ruled by a faction which comes into power by pandering to feelings and prejudices combining men from all parties, with no one principle in common! God prevent that we shall ever be ruled by such a party in this country! Quiet agitation, remove its causes, settle the question, in order to avert such a calamity.

Mr. UNDERWOOD. I rise not to make a protracted reply to the Senator from New Hampshire, but to call the attention of the Senate and of the country to the great error which the women and children of the North, and some of the men too, are falling into in reference to this very question. When I was up at first, I pointed out the restrictions and limitations upon the right of petition, and the gentleman from New Hampshire has thought proper to take issue with me in regard to those restrictions and limitations. My points were two: First, that the petitioner had no right to ask a legislative body to do anything, unless that body had the power of doing it. The gentleman did not deny that. My second position was, that the petitioner had no right to ask a legislative body to pass a law, or to repeal or modify a law, unless the law to be passed, repealed, or modified operated upon him; and upon that point the gentleman from New Hampshire takes issue. There, sir, is the great error of the North, and there is the basis upon which all this mischievous agitation which has prevailed in this Hall, and in the other branch of Congress, for years, rests.

Now, sir, it is upon this point that I wish to offer a few remarks; and if the northern mind would take hold of it and give it a practical application, it would be an essential benefit to the country. How does the gentleman attempt to evade this position? He does it, sir, by making the right of petition synonymous with praying. It is nothing but a prayer, an effusion of the feelings of the mind or the soul; and he insists that we have a right to utter such at all times, and upon all occasions. I shall not deny the general right of uttering sentiments and prayers in the closet, at all times, and in all places, when the person who may utter those sentiments is not interrupting other important business and interfering with the affairs of other persons; but let me tell the gentleman, and the country, that my view of the right of petition is, that it is a right which is not infringed by either branch of Congress by requiring that when the prayer of a petition is presented it shall relate to such subjects as we are at liberty to take cognizance of. My view of the right of petition is, that it is a practicable thing. And how is it practicable? It becomes practicable when you come to pass, repeal, or modify a law. Congress is a legislative body; and all its acts, as they affect the nation, are done in its legislative or executive capacity. Now, all that it can do in its legislative or executive character has a bearing upon the citizens of the United States generally, or in particular classes and districts, separate and apart from the whole, I hold it to be practicable and constitutional for the people of the United States to petition; but whenever the action of Congress, in its legislative character, affects a particular district only, then I hold that it is the business of that particular district, and that district alone, to petition Congress for the act. To illustrate this position: What are these northern petitioners doing? They are petitioning Congress to abolish slavery in this District. Do the laws which relate to slavery in this District operate upon northern men? Not at all. Do they affect their rights? Not at all. They may affect their moral and religious sentiments, if you please, but——

Mr. HALE. Will the Senator permit me to ask him a question in relation to this subject?

Mr. UNDERWOOD. Certainly.

Mr. HALE. I propose to ask the Senator whether the citizens of the whole Union do not contribute to the expense of supporting slavery in this District? Whether we do not pay our money for the institutions which exist here?

Mr. UNDERWOOD. I suppose you do to some extent. So far as regards the expense of maintaining the seat of government here, it falls upon the general treasury of the country; that I admit; but, in view of the Constitution of the United States, are you to be relieved from the expense of maintaining the seat of government in the ten miles square, ceded to the nation for the purpose of the seat of government? and is the mere fact that you are subjected to a small pecuniary contribution to be made the basis upon which you are to ask for the repeal or modification of a law which does not affect yourselves? Why, if this slight consideration is to give to such petition the character of not interfering with business foreign to the interests of the petitioner, you may say that there is a sort of connection between all the events that take place upon earth; that there is a connection, either remote or direct, between all the physical and moral events in the world, and that there is nothing which has not its relation and bearing upon other things. The Senator in this way would make the right of petition as unlimited as his right of prayer, to which he has alluded. But I say it is restricted to this practical operation; and, restricting it in this way, the gentleman's argument does not touch the position I have laid down. I regret to have consumed so much of the time of the Senate in relation to the petition which I presented in connection with the motion for reconsideration, which I proposed yesterday.

Mr. DAYTON. It must be obvious to every member of the Senate that this debate has wandered very much in its course away from the subject presented in the original proposition. And, sir, it will ever be so when the exciting subject which has been touched upon by members of this body is considered in connection with any question broached here. My special purpose in calling the attention of the Senate to the instructions connected with this reference was, that the Judiciary Committee might be left free to the exercise of a certain discretion—common in such cases—to report or not upon the question involved in the memorial. I wish, sir, to have the memorial stand as other memorials ordinarily stand, when referred to committees; and I think that the little which has been said by my friend from Kentucky [Mr. UNDERWOOD] touching the memorial he has presented, serves to show the propriety of the course which I have suggested. Does my friend who offered this memorial anticipate any immediate action by Congress upon the memorial? Not at all. He says that he anticipates no immediate action; but states there is to be a convention to assemble in Kentucky, and peradventure the expression of an opinion by so respectable a committee as the Judiciary Committee might have some influence upon the action of that convention. In other words, sir, we are to be furnished with a brief of facts, and the Judiciary Committee is desired to express an opinion—not with any view, or hope, or expectation of action upon the subject involved—but because of the influence which it might have upon the convention when it assembles in Kentucky.

This, sir, is a statement of the whole matter; but I beg leave to ask that the Judiciary Committee may be left to the exercise of a sound discretion as to whether it will or will not be made a

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very beast of burden, and be forced to investigate, look into, explore, and pronounce upon every question which any citizen may think proper to refer to them. Sir, there are other reasons to support the position I have advanced. The members of the Senate know full well how that committee is constituted; they know, sir, that I stand *alone;* four Senators of the South to one from the North. Does any man, can any man, hesitate or doubt as to what will be the action of that committee? No man can, sir. Sir, I would be willing to go as far as he who goes furthest upon the doctrine of the right of petition; I would go as far as he who goes furthest in reference to an appropriation by this Government which would relieve us from the curse of free blacks; but I ask, is there a probable hope that any opinion may be obtained from the Judiciary Committee in favor of the constitutional power of this Government to make such appropriations at this time?

Mr. WESTCOTT. Will the Senator from New Jersey permit me to interrupt him a moment by stating a fact in relation to this matter?

Mr. DAYTON. Certainly.

Mr. WESTCOTT. I would simply state that there is a petition which has been referred to the Judiciary Committee, praying for a law authorizing the transportation of free blacks by our public ships of war, now pending their action, and upon which a decision must be made.

Mr. DAYTON. Yes! I suppose the Judiciary Committee will take action upon the matter according to their sound discretion; that is, if they think it advisable to prepare a written report, and express an opinion upon the constitutionality of granting the petition, they will do so; otherwise it may lie in the committee room for some time to come. But in this case, when the Senate instructs the committee in advance to adopt a certain course of action, it must be evident that we would feel obliged to conform our report to the instructions of the Senate. I have another objection, sir, to having the action and judgment of the committee forestalled upon this question, and that is, because I am unwilling to open up another topic of excitement. I am unwilling, sir, to drag into this exciting question the only institution which now conciliates the kind feeling, the philanthropy, of both North and South. I refer to the Colonization Society—a society that in times past has placed itself for its success upon the sound feelings, virtuous hearts, and individual philanthropy of the citizen. I do not wish, for one, sir, that that question should be brought in here, for fear, sir, that those who were its former friends might be enlisted against the institution as an appurtenant to this vexed question of excitement. For Heaven's sake, sir, let us keep aloof from that! The Senator from Kentucky, and many of those whom he represents, are in favor of this institution—in fact one of the most distinguished citizens of Kentucky is one of its fathers. And now the question is to be presented here, and the Judiciary Committee is to be called on to express an opinion under the instructions of the Senate, whether or not the Government can and will aid in the colonization of free blacks. This question, sir, is to be dragged into the vortex. I have personally no sensitiveness, sir, upon the subject; Senators know full well where and how I stand; but, for one, I do deprecate unnecessary action, I do deprecate unnecessary excitement, and I ask only in reference to this memorial the course of action which is common in reference to other petitions.

Mr. President, it is no part of my purpose to consume the time of the Senate. By an examination of the twelfth rule, I believe I have the right to make a motion to strike out that part of the Senator's motion which gives certain instructions to the committee to which the memorial is proposed to be referred. Considering that I have that right, I would make that motion, so that the memorial may be referred as all other memorials are referred.

The motion was then put and carried.

The PRESIDING OFFICER. The question is now upon the reference of the memorial to the Committee on the Judiciary.

Mr. MASON. I do not mean to enter into an argument similar in kind to those entered into by gentleman on the other side of the Chamber. When the discussion upon this very interesting topic properly arises, I shall feel myself bound to take part in it. What I desire to say now is—without intending any disrespect whatever to the Senator who moved this reference, or to the constituency which he represents in the State of Kentucky—that I do not feel myself at liberty, representing as I do one of those States where the institution of slavery prevails, to permit any inquiry—so far as my vote will give such permission—to be gone into upon this floor of any matter pertaining to that institution. It is a subject, sir, which this body cannot approach without doing injury and mischief to the institution. I feel myself called on, therefore, whenever subjects are presented that will affect it in any form, so to direct my vote as to evince, on the part of Virginia at least, as one of its representatives, a determination to allow no inquiry into that subject of any kind or description. I should feel, sir, that I was humiliating my State as well as myself to discuss any matter pertaining to the subject, were it not for the allegiance which I owe to the Constitution; and it is only because I know that my feeble aid must be extended to protect that Constitution from violence and destruction that I take any part in the debates when they arise upon this topic. I am confident that debate will arise, and when it does, I shall feel called upon to express myself clearly and intelligibly as to what the course of Virginia must be when the question is finally voted upon. That course, I believe, I may say she is now about to vindicate by her General Assembly; and when the line is drawn—as drawn it will be—there will not be one of her sons, be his political bias what it may, that will flinch from marching up to that line, stand who will upon the other side.

I do not feel it necessary to say more than that I feel myself bound to vote against inquiry into this subject in any form whatever; and while I am willing to lend aid to the councils of Kentucky upon any question that interests her, I most respectfully submit to the Senator who has moved this inquiry whether any man in that State who has ever looked into the Constitution at all, and is capable of understanding its provisions, believes that the Congress of the United States possesses any authority to appropriate money for the deportation of blacks? I take it for granted, sir, that there is not one there who believes that Congress possesses constitutionally the right to make appropriations for the deportation of that class of the population of the United States. It is not to be expected, therefore, sir, that we would act affirmatively in reference to such a proposition. I shall vote to refuse the reference, sir, because I consider the subject as one that forbids inquiry, and which, under present circumstances, ought not to be inquired into.

Mr. DAVIS, of Mississippi. It is really to be regretted, Mr. President, that from day to day those who assemble here for the purpose of discharging their constitutional duties in legislation, should find themselves beleaguered by irritating questions forced upon them by individuals whose piety is so great that they must always be appropriating to themselves other men's sins. When did the South ask for this vicarious repentance, and whence do you derive your power to instruct her in her moral duty? Answer me these questions satisfactorily, or cease this perfidious interference with the rights of other men. But, sir, of all the clap-trap that ever issued from the lips of the advocates of such a policy, that which relates to the question of the right of petition is the greatest. What did the Constitution guaranty at the time that right was introduced, and for what purpose was it introduced? When these States were infant colonies, who ever denied the right of the colonists to petition? That was a right granted them. The right to assemble was the only right that was ever interfered with, and the right of petition carried with it the idea of the suppression of a grievance. Those rights are fully maintained in the Constitution. But what grievance is there to any non-slaveholding State if other communities think proper to keep slaves? And does that circumstance interfere with their right peaceably to assemble, guarantied to them under the Constitution? Sir, does this poor right to beg, as it has been described, carry with it the obligation to grant? This is the whole question before Congress. Shall we receive, entertain, and discuss petitions upon a subject which every one recognizes we have no right to grant, upon which we have no power to grant anything? It is an idle waste and a base abandonment of the duties of members upon this floor thus to squander the time which should be devoted to some useful purpose. Sir, it has been stated, in the progress of this debate, that the course of southern men, in objecting to these petitions, has created all this excitement. Let those who entertain this opinion refer to the action of the House of Representatives, and they will there find a decision against them. In the House, where this question has been made, where these petitions have been received, referred, and discussed, abolitionism has gone on step by step, steadily progressing; whilst in the Senate, where the wiser and more dignified rule has been adopted to lay the question of reception on the table without discussion, there was scarcely an allusion to the topic, until some over-zealous, over-pious, latter-day saints have come into the Senate and forced the subject upon us. We are told by them, sir, that they are for enlarging the circle of human sympathy; and it does appear, with many of these advocates of the enlargement of such circle here, that they cannot rest satisfied in any other circle than that of affection for the negro race. It begins, and ends, and has its middle with the negro race. I can hear of nothing else, sir; I can hear of nothing which is progressive in human reform, nothing which does not concentrate itself in this question concerning the African race. And what is the proposition, sir, now before us? Why, it is to take money from the treasury and bestow it upon a certain class of passengers to another country. What right, I ask, have you thus to distinguish between one class of passengers and another? None, sir. And when the Senator from Kentucky appealed to the North for their support, he should have said, You were the men who imported these negroes into this country; you enjoyed the benefits resulting from their carriage and sale; and you, having reaped the largest profit accruing from the introduction of the slaves, should of course contribute to carry them back whence they came, and not lay a new and oppressive burden upon the already burdened South. As to any influence that may be exerted upon the State of Kentucky, I not only agree with the Senator from Virginia, but go further, and say that I would be unwilling to allow any influence to operate upon the convention of Kentucky, believing that they are able to take care of themselves upon this subject, and it is their right so to do.

If the people of Kentucky wish to emancipate their slaves—though I should regret such a course—I would interpose no obstacle by saying that we would not make appropriations to transport their slaves, any more than I would offer an inducement by assuring them that we would make such appropriations. It would be better, sir, if these pious personages who cry out "Good God" were, instead, to cry out "Good devil," when their whole purpose is to scatter the seeds of dissension and disunion; and it would be much more to their credit if, instead of indulging in lamentations about the evils resulting from slavery, they were to look upon the other side of the picture, and ascertain if it has not prevented evils. Has it made any man a slave any more than he was a slave without this institution, or reduced any man from liberty to slavery? That is the question, sir; and I answer, it has not. Under laws older than the records of history men were taken captives in war, and held as slaves. These slaves were purchased from contending warring bands who held their captives in

slavery, and the slaves thus purchased were saved from a more ignominious and degrading slavery than they would be subject to on this side of the Atlantic. It benefits them, in removing them from the bigotry and the heathen darkness which hangs like a cloud over the country in the interior of Africa to the enjoyment of all the blessings of civilization and Christianity. Slavery brought with it commerce, sir; for it occasioned the necessity of enlarging our productions; and what is commerce but the parent of civilization, of international exchanges, and all those mighty blessings that now bind the people of the most remote quarters of the globe together? These are some of the fruits, sir, that are to be considered before you judge the tree. It is our tree, sir; and it is only to answer these libelous imputations cast upon an institution with which I am practically acquainted, and about which the aforesaid libelers speak ignorantly and presumptuously, that I deign to enter upon a discussion of this character.

I thank the Senator from Illinois for the fearless manner in which he met this question; and if all those of equal intelligence, representing like constituencies, would thus speak to the men they represent, I feel there is patriotism and good sense enough in the country to recall us from this wandering career, which will terminate in naught but evil. This, sir, is the question which is to destroy our republican institutions, if indeed they are to fall; and now is the time for those men who love the Union better than they love place—still better than they love the negro race—to speak plainly to those whom they represent, and tell them that when they raised the question of the restriction of slavery, it was an issue of their own—a mistaken one—and that they are bound first to promote the issue of non-interference with the rights of the slave States, or the disunion of this glorious Confederacy will follow, causing the destruction of all the bright hopes of liberty based upon its continued establishment. With this issue in mind, let our northern friends appeal to their constituents, and, if they are true descendants of such sires as Hancock and Adams, they will refrain from all further interference with southern rights.

Mr. BUTLER. I understand, Mr. President, that the motion before the Senate is upon the reference of this petition to the Committee on the Judiciary.

PRESIDING OFFICER. That is the motion.

Mr. BUTLER. I might object to that reference, for many reasons, but I certainly shall not discuss at the present time the important topic presented in this motion. I laid it down as a principle when I came into the Senate at this session that I would not, upon the presentation of a petition relating to slavery allow myself to be drawn into any discussion in relation to it. I shall not enter into any discussion of that kind, therefore, at this time. But, sir, I am a member of the Judiciary Committee, and if petitions of this character are to be presented to that committee for their action, I shall feel bound to be discharged from the duty—which in part at present devolves upon me—of entertaining them; for whilst I am willing, from a sincere respect to the authority of this body, to obey all its instructions, I trust in God that it will never make me the instrument of my own degradation, and of that portion of the Union known as the South.

Mr. DAYTON. I would inform the Senate that that part of the resolution which relates to the instructions to the committee has been stricken out, and the question now comes up upon the reference of the memorial to the Judiciary Committee.

Mr. BUTLER. I do not want any reference at all.

Mr. DAYTON. I suppose the reference must be made somewhere.

Mr. BERRIEN. Before the question is taken upon the motion to refer, I wish to state my understanding of the object of this petition. It states that there are a number of free persons of color who are desirous of emigrating to Liberia; but unfortunately, or perhaps fortunately—I use the words of the petition—they have not the means of defraying the expense of such emigration; it therefore proposes that Congress shall make an annual appropriation of money from the national treasury; and it is, I suppose, because it affords an opportunity of making this application, that the petitioner suggests that it is perhaps fortunate that these individuals who desire to emigrate to Liberia have not the means of defraying the expense.

It proceeds to present, as an inducement to this appropriation, the allegation of the fact that a convention is about to be held in Kentucky, which may probably devise a gradual system of emancipation; and that undoubtedly, if there is any action taken by the convention, there will be multitudes of private individuals who, in view of this appropriation by Congress, would be disposed to emancipate their slaves. If I am wrong in the view which I have taken of the tenor and purport of this petition, I will gladly submit to correction. If I am not, the question which it presents to the Congress of the United States is simply this: Will you make an annual appropriation from your treasury for the purpose of inducing the emancipation of slaves throughout the United States? Sir, it is neither more nor less than an appeal to the Congress of the United States to appropriate a sum of money annually out of the national treasury, which shall serve as an encouragement to owners of slaves to emancipate them, and thus to produce a gradual but general emancipation throughout the United States.

In this view of the subject it appears to me, that however much we may be disposed to respect the right of petition, and whatever opinions we may entertain upon the abstract question of the correctness of this institution—which I do not discuss—we must all be sensible that, recognized as this institution has been by the Constitution of the United States, and looking to the purposes for which the powers we exercise were conferred upon us, there is none of this power existing, either within the letter or the spirit of the Constitution, to draw from the national treasury money to be annually appropriated in the aid of emancipation of slaves throughout the United States—which is the distinct object and purport of the petition. With this view of the subject, impressed as it is upon my mind, I shall unquestionably be opposed to its reference.

Mr. NILES. I am opposed to the allowance of the appropriation asked for in this petition, though I have no objections to its going to a committee for examination. I am opposed to the object of this petition, because it would be an appropriation out of the public treasury for an object not contemplated by the Constitution. I know the subject of the power of the Government to make appropriations of money for extraneous purposes has been much controverted; but I have always believed that the true principle in relation to the power of such appropriation was not limited in itself, but necessarily limited by other grants of power. I do not think it would be right to apply the funds of the nation to objects of this character. I believe there is no such power vested in this Government, and that it would be improper for it to exercise any such power. This matter belongs to the States, and should be left with them. I shall vote for this reference, inasmuch as I do not think it will do any harm to have the question reported upon.

Mr. DICKINSON. In order to put an end to this lengthy and unprofitable discussion, I move that the consideration of this question be indefinitely postponed.

The question being stated upon this motion, the yeas and nays were demanded and ordered; and, being taken, resulted as follows:

YEAS—Messrs. Atherton, Bell, Berrien, Borland, Breese, Butler, Calhoun, Davis of Mississippi, Dickinson, Douglas, Downs, Fitzgerald, Fitzpatrick, Foote, Hannegan, Houston, Hunter, Johnson of Louisiana, Johnson of Georgia, King, Mason, Pearce, Rusk, Sturgeon, Turney, Westcott, and Yulee—27.

NAYS—Messrs. Allen, Baldwin, Benton, Bradbury, Bright, Clarke, Clayton, Corwin, Dayton, Dodge of Wisconsin, Dodge of Iowa, Felch, Hale, Hamlin, Jones, Metcalfe, Miller, Niles, Phelps, Spruance, Underwood, Upham, and Walker—23.

So the subject was indefinitely postponed.

BOUNTY LAND FOR SUBSTITUTES.

Mr. DAVIS, of Mississippi, asked and obtained the unanimous consent of the Senate to introduce a joint resolution, which was read twice, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions or bounty land and extra pay, as they have been granted to enlisted men who have served in the war with Mexico, shall in like manner and under like limitations be granted to such as have entered as substitutes, the substitution having been made by competent authority, and the requirements of the law fulfilled.

Mr. DAVIS (being called upon for an explanation) briefly stated the object of this joint resolution. It had been their usual practice to pass a special act in each particular case as it arose; to obviate which he proposed to provide a general law by which bounty land warrants would be issued to substitutes who had been received by competent authority. In some respects this joint resolution might be said to be a mere construction of law; but it was one which, while it did justice to the soldier, would save much trouble to Congress, inasmuch as it obviated the necessity of a special law in each case. He moved its reference to the Committee on Pensions.

Mr. BREESE suggested that a more appropriate reference might be given to it. He could not see how the Committee on Pensions could have anything to do with it. He would, therefore, move its reference to the Committee on Military Affairs.

Mr. DAVIS would state, for the information of the Senator from Illinois, that the Committee on Pensions had now charge of the subject of bounty lands, and hence it was that he had moved that reference.

The joint resolution was then referred to the Committee on Pensions.

A message was received from the House of Representatives, through Mr. CAMPBELL, their Clerk, announcing that the House had passed the bill making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling certain treaty stipulations with the several Indian tribes for the year ending 30th June, 1850.

LAND TITLES IN CALIFORNIA AND NEW MEXICO.

Mr. BREESE moved that the Senate proceed to the consideration of the special order, being the bill for ascertaining claims and titles to lands within the Territory of California and New Mexico, to grant donation rights, and to provide for the survey of the lands therein.

Mr. JOHNSON, of Louisiana, hoped the Senate would proceed to the consideration of Executive business.

Mr. BREESE said, in asking to have the special order taken up, it was simply that a little progress might be made with it, so that it might be in a position to come up to-morrow as unfinished business. He thought it too early a period of the day to go into Executive session.

The question was then taken on the motion of Mr. BREESE, and it was not agreed to.

On motion of Mr. JOHNSON, of Louisiana, the Senate then proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 10, 1849.

The Journal of yesterday was read and approved.

Mr. NEWELL rose and asked leave to offer the following resolution, which was read for information:

Resolved, That the Committee on Accounts be instructed to inquire into the expediency of procuring for the use of this House 15,000 copies of Colton's new Map of the United States, Mexico, &c., showing the routes of the United States' mail steam packets to California, and containing a plan of the gold region, providing the expense does not exceed eighteen and three quarter cents per copy.

Objections having been made, the resolution was not received.

SLAVE TRADE IN DISTRICT OF COLUMBIA.

The SPEAKER said, that before receiving any further motions, he would state what the regular order of business for this day was.

A motion had been made on a former day by the gentleman from Michigan, [Mr. STUART,] to reconsider the vote by which the resolution heretofore introduced by the gentleman from New York, [Mr. GOTT,] instructing the Committee on the District of Columbia to report a bill abolishing the slave trade in the said District, had been adopted. The consideration of that motion had been specially postponed until to-day; and if it was now called for, it would have priority over all other business.

If the House should consent to pass by that motion, the business next in order would be the resolution reported from the Committee on Printing, and which was pending at the adjournment of the House yesterday, directing the printing of one thousand extra copies of the letter of the Secretary

of War and the accompanying papers, in relation to the harbor of Buffalo, New York. If the other business should not be called for, the question would be on the adoption of that resolution.

Mr. WENTWORTH called for the consideration of the motion to reconsider the vote on the said resolution; which resolution was in the following words:

Whereas, the traffic now prosecuted in this metropolis of the Republic in human beings as chattles, is contrary to natural justice and the fundamental principles of our political system, and is notoriously a reproach to our country throughout Christendom, and a serious hinderance to the progress of republican liberty among the nations of the earth: Therefore,

Resolved, That the Committee for the District of Columbia be instructed to report a bill, as soon as practicable, prohibiting the slave trade in said District.

Mr. HALL, of New York, rose and addressed the Speaker.

Mr. BRODHEAD moved that there be a call of the House, (before disposing of the motion to reconsider.)

The SPEAKER said that the gentleman from New York [Mr. HALL] had been recognized by the Chair.

Then (addressing Mr. WENTWORTH) the SPEAKER said: Does the gentleman from Illinois call for the consideration of the motion to reconsider?

Mr. WENTWORTH replied in the affirmative.

The SPEAKER. (to Mr. BRODHEAD.) And the gentleman moves that there be a call of the House?

Mr. BRODHEAD said, Yes, in view of the disposition of the motion to reconsider.

The question was then taken on the motion, that there be a call of the House, and was decided in the affirmative.

So a call of the House was ordered.

The Clerk then called the roll; and then the names of the absentees.

And it appeared that 177 members had answered to their names.

The SPEAKER then said, that the doors of the Hall would be closed, and that the names of the absentees would be called over for excuses.

Mr. CLINGMAN moved that all further proceedings on the call be dispensed with.

Mr. GIDDINGS. No; let us have them in.

The question was then taken, and decided in the negative.

So the House decided that further proceedings on the call should not be dispensed with.

The doors of the Hall were then closed, and the names of the absentees were called over for excuses.

The name of Mr. DUNCAN, of Ohio, having been called—

Mr. EDWARDS said that his colleague [Mr. DUNCAN] had been confined to his room for two weeks, and was unable to attend the sessions of the House. He (Mr. E.) moved that he be excused.

The motion was agreed to.

The name of Mr. HARMANSON having been called—

Mr. MORSE rose and said that the family of his colleague [Mr. HARMANSON] was sick. He (Mr. M.) would therefore move that he be excused.

The motion was agreed to.

The name of Mr. BAYLY having been called—

Mr. BEDINGER said he knew that his colleague [Mr. BAYLY] was too sick to attend the House. He moved, therefore, that he be excused.

The motion was agreed to.

The name of Mr. HASKELL having been called—

Mr. GENTRY said he was informed that his colleague [Mr. HASKELL] had been confined to his room for several days by indisposition, and he moved therefore that he be excused.

The motion was agreed to.

The name of Mr. THOMAS BUTLER KING having been called—

Mr. KING answered, "Here."

The SPEAKER said that the gentleman, not having answered when his name was called, was not supposed to be within the Hall.

Mr. KING acquiesced, but remarked that at the time the call was going on, he was employed in the committee room. He was informed that the House was engaged in a call, and came into the Hall as soon as he could.

Mr. KING was excused.

The name of Mr. MACLAY having been called—

Mr. NICOLL said that he had received a letter from his colleague, stating that he was confined by sickness. He moved, therefore, that his colleague be excused.

The motion was agreed to.

The name of Mr. PENDLETON having been called—

Mr. FULTON said that his colleague [Mr. PENDLETON] had been unwell for two days. He was now, however, convalescent. He (Mr. F.) had promised him that if any important business came up, he would send for him; and he had done so. He moved, therefore, that he be excused.

The motion was agreed to.

The name of Mr. SMITH, of Illinois, being called—

Mr. FICKLIN said he was informed his colleague was detained from the House in consequence of sickness in his family. He therefore moved that he be excused.

The motion was agreed to.

The name of Mr. STEWART, of Pennsylvania, being called—

Mr. HAMPTON, of Pennsylvania, stated that his colleague had been confined to his room for several weeks. He moved that he be excused.

The motion was agreed to.

The SPEAKER announced that the names of the absentees had now been called.

Mr. THOMPSON, of Kentucky, stated that his colleague, [Mr. BUCKNER,] whose name had been called among the absentees, was detained from attendance upon the House on account of ill health. He moved that he be excused.

The SPEAKER said the motion could not now be made, except by general consent.

No objection being made—

The question was taken, and Mr. BUCKNER was excused.

Mr. GRINNELL asked leave to move that his colleague, Mr. HALE, be excused. He said he had suddenly been called home by indispensable business.

No objection being made—

The question was taken, and the motion was rejected.

Mr. LEVIN asked leave to move that Mr. ADAMS be excused, on the ground that he was engaged at one of the departments.

No objection being made—

The question was put, and the motion was rejected.

The SPEAKER. The Clerk will now report the names of gentlemen who are absent without excuse.

The names were read, as follows: Messrs. Adams, Ashmun, Bowden, Bowlin, Bridges, Burt, Cabell, Chase, Clapp, Franklin Clark, Garnett Duncan, Edsall, Featherston, Hale, Hammons, Isaac E. Holmes, Irvin, Lumpkin, McLane, Horace Mann, Peyton, Pilsbury, Reynolds, Rhett, Rockhill, Schenck, Slingerland, Tallmadge, Thibodeaux, and Turner.

The SPEAKER. What is the pleasure of the House with regard to the gentlemen who are absent without excuse? The Sergeant-at-arms cannot be sent for them without the order of the House.

Mr. NICOLL moved that all further proceedings in the call be dispensed with.

Mr. SAWYER rose and said he wished to make another motion, if it was in order, viz: that the absentees be fined the usual fine, that the doors be opened, and the House proceed to business.

The SPEAKER, (addressing Mr. SAWYER,) The motion may be made by the gentleman from Ohio, if the motion of the gentleman from New York does not prevail?

The SPEAKER announced the question upon dispensing with all further proceedings in the call.

Mr. GREELEY inquired of the Speaker, in case further proceedings in the call were now dispensed with, if the absentees who were not excused would be fined?

The SPEAKER replied they would not.

Mr. GREELEY. Then I hope that the House will not dispense with the further proceedings.

Tellers were called for and ordered, and Messrs. POLLOCK and VENABLE were appointed, who, having taken the vote, reported—ayes 90, noes 47.

But before the vote was finally announced—

Mr. THOMPSON, of Mississippi, called for the yeas and nays.

The yeas and nays were ordered, and being taken, resulted—yeas 120, nays 62.

So further proceedings in the call were dispensed with; and

The SPEAKER directed the doors to be opened.

The motion to reconsider being now before the House for consideration—

Mr. GREELEY rose, and was recognized by the Chair; but

Mr. WENTWORTH claimed the floor.

The SPEAKER. On what does the gentleman from Illinois base his claim?

Mr. WENTWORTH was understood to claim the floor on the ground, that he had this morning called up the motion to reconsider, and had not yet yielded the floor.

The SPEAKER sustained the gentleman's claim, and awarded him the floor.

Mr. WENTWORTH. I wish to ask if it be in order now to move to lay on the table the motian to reconsider?

The SPEAKER. It is in order.

Mr. WENTWORTH. It is in order?

There are some gentlemen (said Mr. W.) on this floor who wish to debate this question; there are some others who wish to have a direct vote upon it; and there are others still, no doubt, who would like to get rid of voting. They can easily get rid of voting, by allowing the motion to be discussed during the day, and when the House adjourns it would go over with unfinished business. If I understand the rules of the House aright, if the House adjourns when this question is pending, it is not first in order to-morrow.

The SPEAKER. The motion to reconsider is always in order in preference to other business, unless it be postponed by the vote of a majority of the House.

Mr. WENTWORTH. And would continue in order from day to day?

The SPEAKER. And would continue in order from day to day.

Mr. WENTWORTH. Well, if that is the case, I think it an additional reason for bringing this question to a test vote. We have a full House now, perhaps as full as we ever shall have; and if we go into a full debate, it will last for several days. I therefore move——

Mr. STUART, of Michigan, interposed, and appealed to Mr. W. to yield him the floor.

Mr. WENTWORTH, (continuing)——I therefore move that the motion to reconsider be laid on the table; and I ask the yeas and nays on that motion.

Mr. STUART again appealed to Mr. W. to allow him the floor, to enable him to give notice of an amendment which he desired to offer, if the resolution were reconsidered.

Mr. WENTWORTH. I ask if there can be an amendment to the motion as it now stands?

The SPEAKER replied that there could not be.

Mr. WENTWORTH insisted, then, upon his motion.

Mr. KAUFMAN inquired of the Speaker if the motion to lay on the table had not been put, as the last action of the House, when the subject was previously before the House?

The SPEAKER. The Chair has no recollection that such is the fact. The Clerk will refer to the Journal of the previous day when this resolution was under consideration.

Mr. KAUFMAN stated that such a motion had been made and acted upon.

Mr. WENTWORTH. Such were the facts of the case. I made the motion myself, and it failed. That was the reason why I asked the Speaker if the motion to lay on the table would now be in order.

The SPEAKER stated, that since the motion to lay on the table was acted on, the motion to reconsider had been postponed by a direct vote of the House. Another motion, then, had intervened, on which action had been had by the House. The Chair could not doubt, therefore, that the motion to lay on the table was now in order.

Mr. WENTWORTH. I make that motion.

Mr. STUART, of Michigan. I wish to make an appeal to the gentleman from Illinois to allow me to have read an amendment which I wish to move, if the resolution be reconsidered.

Mr. WENTWORTH was understood to inquire of the Speaker if he could yield to Mr. STUART for the purpose indicated without losing his right to the floor?

The SPEAKER. The gentleman from Illinois, if he withdraws his motion and takes the floor for

debate, by the courtesy of the House can give way to the gentleman from Michigan.

Mr. WENTWORTH. I would very gladly, but there may be a dozen more who will want me to yield to them.

The SPEAKER. Does the gentleman from Illinois insist on his motion now?

Mr. WENTWORTH. I must insist upon it, for fear of losing the floor.

Mr. KAUFMAN appealed to the gentleman from Illinois [Mr. WENTWORTH] to waive his motion, so as to permit the proposition of the gentleman from Michigan [Mr. STUART] to be read for information.

Mr. WENTWORTH hesitated.

The SPEAKER directed gentlemen to take their seats.

Mr. WENTWORTH said that if the resolution of the gentleman from Michigan could be read without his (Mr. W.'s) losing his right to the floor, or without the gentleman from Michigan making a speech, or without the House taking any action on the proposition, he would waive his motion.

Mr. STUART. I merely wish that the proposition should be read for information, and to give notice that I shall offer it if the motion to reconsider should prevail.

There was great confusion in the Hall.

Mr. GIDDINGS rose to a point of order.

The SPEAKER said that the Chair would decide no point of order, nor recognize any gentleman, until the House had come to order.

After a brief pause—

The SPEAKER proceeded. The Chair understood that the gentleman from Illinois [Mr. WENTWORTH] withdrew his motion to lay the motion to reconsider on the table. The gentleman held the floor for purposes of debate; and, as a matter of courtesy, he might allow the gentleman from Michigan [Mr. STUART] to have his proposition read for information.

Mr. GIDDINGS now stated his point of order. He submitted whether the gentleman could recall his motion for such a purpose, and then renew it.

The SPEAKER. The gentleman has a right to hold the floor for the purpose of debate—to make an hour's speech. If the gentleman chose to give way to the gentleman from Michigan, according to the courtesy of the House, it was his right to do so.

Mr. STUART sent his amendment to the Clerk's table to be read.

The SPEAKER. By the strict rule of the House, it is not the gentleman's right to have the amendment read by the Clerk. It is his right to suggest it himself.

[SEVERAL VOICES: Oh, let it be read by the Clerk.]

Mr. GIDDINGS objected.

Mr. STUART. I will read the resolution.

[SEVERAL VOICES. We cannot hear you.]

Mr. STUART. I think I can make myself heard. I propose to strike out all after the word "resolved," and insert—

"That the Committee on the District of Columbia be instructed to prepare and report to this House a bill authorizing and requiring the corporate authorities of the city of Georgetown to prevent the introduction of slaves into their city, for the purpose of sale or merchandise, and to suppress such trade within their corporate limits, and authorize and require the corporate authorities of the city of Washington to exercise the same power throughout the remainder of said District."

The resolution having been read, Mr. S. said he should offer it in case the vote was reconsidered.

Mr. WENTWORTH said he now renewed his motion to lay the motion to reconsider on the table, and asked the yeas and nays.

Mr. LINCOLN appealed to his colleague [Mr. WENTWORTH] to withdraw his motion, to enable him to read a proposition which he intended to submit, if the vote should be reconsidered.

Mr. WENTWORTH again withdrew his motion for that purpose.

Mr. LINCOLN said, that by the courtesy of his colleague, he would say, that if the vote on the resolution was reconsidered, he should make an effort to introduce an amendment, which he should now read.

And Mr. L. read as follows:

Strike out all after the word "resolved," and insert the following:

"That the Committee on the District of Columbia be instructed to report a bill in substance as follows:

"SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States in Congress assembled*, That no person not now within the District of Columbia, nor now owned by any person or persons now resident within it, nor hereafter born within it, shall ever be held in slavery within said District.

"SEC. 2. That no person now within said District, or now owned by any person or persons now resident within the same, or hereafter born within it, shall ever be held in slavery without the limits of said District: *Provided*, That officers of the Government of the United States, being citizens of the slaveholding States, coming into said District on public business, and remaining only so long as may be reasonably necessary for that object, may be attended into and out of said District, and while there, by the necessary servants of themselves and their families, without their right to hold such servants in service being thereby impaired.

"SEC. 3. That all children born of slave mothers, within said District, on or after the first day of January, in the year of our Lord one thousand eight hundred and fifty, shall be free; but shall be reasonably supported and educated by the respective owners of their mothers, or by their heirs or representatives, and shall serve reasonable service, as apprentices, to such owners, heirs, and representatives, until they respectively arrive at the age of —— years, when they shall be entirely free: And the municipal authorities of Washington and Georgetown, within their respective jurisdictional limits, are hereby empowered and required to make all suitable and necessary provisions for enforcing obedience to this section, on the part of both masters and apprentices.

"SEC. 4. That all persons now within said District lawfully held as slaves, or now owned by any person or persons now resident within said District, shall remain such at the will of their respective owners, their heirs and legal representatives: *Provided*, That any such owner, or his legal representatives, may at any time receive from the treasury of the United States the full value of his or her slave of the class in this section mentioned; upon which such slave shall be forthwith and forever free: *And provided further*, That the President of the United States, the Secretary of State, and the Secretary of the Treasury, shall be a board for determining the value of such slaves as their owners may desire to emancipate under this section, and whose duty it shall be to hold a session for the purpose on the first Monday of each calendar month; to receive all applications, and, on satisfactory evidence in each case that the person presented for valuation is a slave, and of the class in this section mentioned, and is owned by the applicant, shall value such slave at his or her full cash value, and give to the applicant an order on the treasury for the amount, and also to such slave a certificate of freedom.

"SEC. 5. That the municipal authorities of Washington and Georgetown, within their respective jurisdictional limits, are hereby empowered and required to provide active and efficient means to arrest and deliver up to their owners all fugitive slaves escaping into said District.

"SEC. 6. That the election officers within said District of Columbia are hereby empowered and required to open polls at all the usual places of holding elections on the first Monday of April next, and receive the vote of every free white male citizen above the age of twenty-one years, having resided within said District for the period of one year or more next preceding the time of such voting for or against this act, to proceed in taking said votes in all respects not herein specified, as at elections under the municipal laws, and with as little delay as possible to transmit correct statements of the votes so cast to the President of the United States; and it shall be the duty of the President to canvass said votes immediately, and if a majority of them be found to be for this act, to forthwith issue his proclamation giving notice of the fact; and this act shall only be in full force and effect on and after the day of such proclamation.

"SEC. 7. That involuntary servitude for the punishment of crime whereof the party shall have been duly convicted shall in nowise be prohibited by this act.

"SEC. 8. That for all the purposes of this act, the jurisdictional limits of Washington are extended to all parts of the District of Columbia not now included within the present limits of Georgetown."

Mr. LINCOLN then said, that he was authorized to say, that of about fifteen of the leading citizens of the District of Columbia to whom this proposition had been submitted, there was not one but who approved of the adoption of such a proposition. He did not wish to be misunderstood. He did not know whether or not they would vote for this bill on the first Monday of April; but he repeated, that out of fifteen persons to whom it had been submitted, he had authority to say that every one of them desired that some proposition like this should pass.

[Several voices: "Who are they? Give us their names."]

Mr. WENTWORTH again rose to renew his proposition.

Mr. McLANE rose and said that he desired to ask the gentleman from Illinois [Mr. WENTWORTH] if he would not waive his motion, so as to give an opportunity to gentlemen from Maryland, on both sides, to say a few words before the final vote was taken. It was the general request of the delegation from Maryland, on both sides, that such an opportunity should be afforded.

Mr. WENTWORTH (addressing the SPEAKER) inquired, how much time have I remaining?

The SPEAKER said it was not usual, nor in accordance with parliamentary courtesy, that a gentleman holding the floor should give way to a speech. He might give way to an explanation, or amendment; but if he gave way to a speech, he gave way altogether.

Mr. WENTWORTH said he would do all he could to accommodate gentlemen, so long as he retained his right to the floor; and it was for the Chair to prescribe the limits to which he could go. He was satisfied, from the several propositions which had been made to-day, that the House would rather vote directly on the question now before it, than sit here all day and vote by yeas and nays upon these various propositions. He therefore insisted on his motion, unless there was some other gentleman who had an amendment which he wished to have read.

Mr. EVANS, of Maryland, hoped the gentleman would give way for one moment.

Mr. WENTWORTH referred the gentleman to the limitation just prescribed by the Speaker.

The yeas and nays (which had been previously asked by Mr. WENTWORTH) were ordered on his motion.

And the question, Shall the motion to reconsider the resolution be laid on the table was then taken, and decided in the negative, as follows:

YEAS—Messrs. Abbott, Belcher, Bingham, Blackmar, Blanchard, Cathcart, Collamer, Collins, Conger, Cranston, Crowell, Cummins, Darling, Dickey, Dickinson, Dixon, Duer, Eckert, Edwards, Nathan Evans, Faran, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Gregory, Nathan K. Hall, James G. Hampton, Moses Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, Jenkins, James H. Johnson, Kellogg, Daniel P. King, Lahm, Sidney Lawrence, Leffler, Lynde, McClelland, McIlvaine, Horace Mann, Marsh, Marvin, Morris, Mullin, Nelson, Nes, Newell, Palfrey, Peaslee, Peck, Petrie, Putnam, Robinson, Rockhill, Julius Rockwell, Rose, Root, Rumsey, St. John, Sherrill, Silvester, Robert Smith, Starkweather, Strohm, Wm. Thompson, Thurston, Turner, Warren, Wentworth, White, Wilmot, and Wilson—80.

NAYS—Messrs. Adams, Atkinson, Barringer, Barrow, Beale, Bedinger, Birdsall, Bocock, Botts, Boyd, Boyden, Brady, Bridges, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Butler, Canby, Chapman, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Cristfield, Crozier, Daniel, Donnell, Dunn, Embree, Alexander Evans, Farrelly, Ficklin, Flournoy, French, Fulton, Gaines, Gayle, Gentry, Goggin, Green, Grinnell, Willard P. Hall, Hammons, Haralson, Harris, Haskell, Hill, Hilliard, George S. Houston, John W. Houston, Inge, Charles J. Ingersoll, Joseph R. Ingersoll, Irvin, Iverson, Jameson, Andrew Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, Thomas Butler King, La Sère, Levin, Ligon, Lincoln, Lord, Lumpkin, McClernand, McDowell, McKay, McLane, Job Mann, Meade, Miller, Morehead, Morse, Murphy, Nicoll, Outlaw, Pendleton, Phelps, Pilsbury, Pollock, Preston, Rhett, Richardson, Richey, John A. Rockwell, Roman, Sawyer, Shepperd, Simpson, Smart, Caleb B. Smith, Truman Smith, Stanton, Stephens, Chas. E. Stuart, Strong, Taylor, Thomas, Jacob Thompson, Richard W. Thompson, John B. Thompson, Robert A. Thompson, Tompkins, Toombs, Van Dyke, Venable, Vinton, Wallace, Wick, Wiley, Williams, and Woodward—120.

So the motion to reconsider was not laid upon the table.

And the question then recurring on the motion to reconsider the vote by which the said resolution had been adopted—

Mr. McLANE said that he desired to submit a few words to the House, as an inducement to the reconsideration of this vote. He hoped that it would be reconsidered; and he hoped so in view of the intrinsic merits of the abstract proposition involved in the resolution, as well as of these still higher considerations which entered into the question, and which gentlemen on all sides of the House knew to be vital to the peace and harmony of this Federal Government.

So far as the District of Columbia was referred to as a part of the State of Maryland, the foreign slave trade (as it was termed) had already been abolished. Gentlemen from the North could give the people of Maryland no new light upon the principles of morality or humanity. One of the earliest enactments of that State was a law prohibiting the slave trade. The original and steady policy of that State had been a policy looking to the ultimate emancipation of the black race. There was no man there who did not understand that, in the future of this country, this question was one of the gravest import; and the legislation of Maryland, he repeated, had steadily looked to ultimate emancipation. In the first place, it looked to the police and protection of the State itself in view of that institution. It looked first to the preservation and protection within the limits of the State of Maryland of slave property; then it regulated the process by which slaves could be emancipated; and the process of emancipation had been provided for and regulated by all the early legislation of Maryland. Then the great evil of increasing the slave population of the State by the introduction of slaves from other States was prohibited. The most stringent restrictions were imposed upon the intro-

duction of slaves, even when accompanying their masters with a view to a *bona fide* residence in the State. And such was the law of Maryland now. If a slave was brought into Maryland from Virginia, either to be sold in that State contrary to the restrictions imposed upon such importations, or to be sold without the State upon any terms, he was *ipso facto* free.

By virtue of this law the vagrant negro was picked out of your jails or out of your slave markets, (as they were variously termed,) by some friendly person, by some *prochein amy*, who presented to the court his petition; for which he had no cost to pay—the man who held the negro was responsible for all the cost. It was a simple process: a negro was brought from another State into Maryland, to be sold out of that State, or to be held there, contrary to the provisions of the law; a writ of *habeas corpus* was issued; the case had a prompt hearing in or out of chambers, and the negro gained his immediate release—not a restoration to his old master, but his freedom, his emancipation.

Mr. COLLAMER interrupted, with some question, which was not heard by the reporter, but which was presumed to be relative to the laws of Maryland on this subject.

Mr. McLANE replied that the original law was the law of the last century; there had, however, been modifications of that law, down to within a very recent period. But the law was as he had now stated. Mr. McL. referred especially to the law of 1831.

He had himself defended, or brought, within the last year, since he had been a member of this House, into court the petition of a negro woman, who was illegally sold from the State of Virginia into Maryland, who got her freedom, her emancipation, not her restoration to her Virginia master. Therefore the House, without being detained to examine the various modifications of the law of Maryland, might be assured of the fact that this was now the law. These modifications, which had been introduced into the law of Maryland, he would tell the gentleman from Vermont, [Mr. COLLAMER,] had been the result of the labors of the honorable gentlemen before him. The abolition agitation had drawn the State of Maryland, not from her original policy, not into any indifference upon this negro question, but it had obliged her in her own defence to make more stringent regulations, and there was not now quite the same facility for movements on the part of individuals who were looking to ultimate emancipation. Whatever might have appeared within the last few years in the way of interfering statutes, let the House and the country be assured had been the result of a pressing necessity brought upon that State by these abolition efforts. Let not gentlemen understand him now as reflecting upon any constitutional, legal, dignified attempt to redeem the black race; but the House would understand him as referring to the wanton and factious agitation of this question, which went outside of all acknowledged law in the free as well as in the slave States. The House would understand him as referring to such agitation as would bring into this House a proposition to poll the negro votes, both free and bond, in the slave States, when they were not polled in the free States.

Mr. LAHM interposed, and wished to address an inquiry to the gentleman.

Mr. McLANE hoped his friend would not put any inquiries foreign to the subject.

Mr. LAHM wished to ask the gentleman from Maryland, whether the law of Maryland, which provided that when negroes were brought into that State for the purpose of selling them into other States, was in force in this District? and if it was not, whether there was not as much propriety for the law here as there was there?

Mr. McLANE said he would be very much obliged if the gentleman would not interrupt the tenor of his remarks.

The House (he continued) would understand that he was referring to, and had not gone beyond the law of Maryland, and he had said all he meant to say in regard to it. He had stated the fact that the law was so and so in the State of Maryland; he had stated the fact that that law had been somewhat modified, and he had ventured to present to the House his judgment as to the cause which had led to the modifications, to all the modifications of the old Maryland code, than which a more liberal, a more humane, a more enlightened code was not to be found upon the statute book of any State in the Union, with regard to the black race, free or bond.

Now, what a man in Maryland would do in his own State, what a citizen of Maryland would do, looking at this whole question in its social and political aspects, he (Mr. McL.) would be most happy to see the competent authority do in the District of Columbia, or in any other State of this Union. His State having before this century, having cotemporaneously with the adoption of the Federal Constitution, prohibited the foreign slave trade, and adhering still to that prohibition, did any honorable gentleman suppose that a member of Congress from that State could fail to sympathize with any judicious, with any legal mode of accomplishing the same result here? As far as any gentleman applied such a supposition to him, he entirely mistook his conscience and his judgment. He was ready now, and he would be always ready, to prohibit everywhere in this Union any other slave trade than that which was involved in the recognition of slaves within a State as property; but such prohibition must necessarily emanate from the local sovereignties competent to legislate on the subject. Entertaining these views, why was it that he had not only voted "no" upon this resolution; why was it that he felt most unaffected resentment, (he might add if it were not out of order,) most unaffected indignation, when accomplished men, eloquent men, men familiar, far more so than he claimed to be, with the Constitution under which they here legislated, came into this House and prefaced their resolutions with insulting and offensive assertions, that the existence of a certain species of property was inconsistent with humanity and decency, and when it was declared by other gentlemen to be "revolting?" Why, he naturally turned to look at the man who "revolted," to find what there was of cultivation and refinement, what there was in his practical life, social or political, to authorize any such assumption. He would make his own reflections and form his own judgment upon that observation. He confessed that the first feelings of resentment were not much heightened—perhaps they were allayed. Yes, they were allayed when he found this denunciation emanating from a Representative on this floor in whose personal or political relations there was no just ground of pretension to uncommon refinement—when he found it emanating from one who was as accustomed to trade in politics as any slave-dealer ever was in slaves—his indignation was allayed rather than increased, and he went home to his people and told them, as he did last summer, as he did throughout the Presidential canvass, that there was not, after all, so much in this slave agitation as there seemed to be. He had told his people, that looking at the origin of the movement here in Washington—looking at the objects of those who agitated this question—he found it all in hands which were not entitled certainly to command *prima facie* the respect of this country. When honorable members, who had devoted the best years of their lives to the support of a political faith upon which they had, year after year, represented the fate of the country to depend—when such men were found bartering away all their former political doctrines and associations, to become "Free-soil" candidates for Congress, or "Free-soil" candidates for Governor—there was certainly not much in their movements *prima facie* entitled to respect; and in the results, certainly the advocates and supporters of this movement would not claim much respect for themselves. As compared to the public sentiment of this great nation, they were not more respectable than was the vote of the State of New York in favor of negro suffrage, compared with the aggregate vote of that State. If we went back to the adoption of the new constitution in the State of New York, and looked at the polls, we found that the few who there were in favor of elevating the negro to political and social equality with the white were as little entitled to respect for numbers, for intelligence, and for political morality, as was the Free-soil vote in the Federal or national contests. So he was not obliged at home to make any sacrifices in view of this question; he had been able to say there what he said here, and what he was glad this occasion gave him the opportunity hurriedly to say—he was glad to say everywhere in his State, intimately wrapped up as that State was in slavery, both socially and politically, that all he asked was to be left alone; so far as the institution of slavery was concerned, he only asked a rigid adherence to the doctrine of *non-interference*—no aggression by Congress on the people of the slave States, and their right of property. On the other hand, the people of that State would not desire to enlarge their constitutional rights by any aggressive action of Congress. Mr. McL. said he thought that the people of Maryland, and of the slave States generally, ought to be content to stand by their arms until their brethren who had the same political institution were assailed; and whenever this institution was assailed in any part of this Confederacy, of course they made common cause. It was not necessary that, as Maryland men, they should desire to take their negroes to California in order to find apology for resisting aggression; for any legislation by Congress prohibiting the existence of slavery in the Territories would involve the right and power of positive interference in the District of Columbia, and perhaps wherever else the discretion of Congress might prompt. They only wanted the principle of non-interference strictly observed; they only wanted Congress to confine itself within its express powers; and the moment they went beyond their express powers, Congress assailed the institution, and (he cared not where it was assailed) it was fatal to the Confederacy. Now, that principle was assailed when gentlemen contended that the power of Congress was omnipotent within this District. Did gentlemen suppose that when Maryland ceded her portion of the ten miles square, she ceded her people? Would it be said, that with the recollections of 1776, upon them, they had ceded away their people? They had done no such thing, and they did not now understand that the people who inhabited the ceded territory had ever been disturbed in the rights which they held at the time of the cession. The Constitution gave to Congress exclusive, but not omnipotent power over the District of Columbia. Neither Virginia, nor Pennsylvania, nor any other State, could come in here and legislate. Congress alone could legislate here, but not without limitations. Those limitations he had not heard stated precisely as he should state them, but he knew it was believed by sound jurists, in all parts of the country, that these limitations existed: first, the Federal Constitution, as far as it granted power; and, secondly, behind the Federal Constitution the power that made the Federal Constitution; just as the State constitutions first limited the State legislatures, and beyond the State constitution the power of the people of the State. He hoped that Congress, when they legislated for the District of Columbia would confine itself, first of all, to the strict limitations of the Federal Constitution; and if it wanted its power enlarged, it might go to the people of the States, and get an amendment of the Constitution to enable Congress to do more within this District than the Federal Constitution now permitted it to do.

He was not going to rest this question here, upon the abstract right of the people of the District of Columbia to settle this question. They must confine themselves in this Hall to their own powers: if they found those powers expressly limited, or limited by honest, by fair implication, let them observe those limitations. And if gentlemen from the North wished to hasten this question—if they wished to hurry the abolition of slavery upon the people of Maryland, before the people of Maryland, acting with the people of the District, voluntarily consented to such abolition, then, in God's name, if they wished to preserve the Union, let them go to the proper power, and get the authority to do it.

Now, in this view, when he came to the question of the slave trade in this District, he certainly would not vote for a direct act of Congress to prohibit the slave trade in the District of Columbia, because that was tantamount to abolishing slavery. Mark the distinction: as slaves were prohibited to be brought from other States into Maryland when Maryland made the cession of her portion of the District, and as that was the law of the District at the time of the cession, he was willing to recognize in Congress the police power to preserve this municipal regulation. If the foreign slave trade, the selling slaves brought from other States from this District into other States, were prohibited by the law of Maryland, (as it was at the time of the cession,) what else had Congress to do but to maintain the existing law?

Now, this whole question could go the Commit-

tee on the Judiciary, or to the Committee on the District of Columbia, he cared not which. It was a question which could no longer be smothered in committees. He wanted it to go to a committee of intelligence and patriotism, (and he knew both of these committees to be of that character.) He desired the resolution to be reconsidered, and then he should vote to refer the subject to one of these committees, that they might inquire and ascertain by what legal and constitutional means this slave trade (to speak of it in that sense) could be prohibited; and he should cheerfully vote for every law, for every regulation which looked to the maintenance of existing laws; but he would not vote for any law, new or original, which, emanating from Congress, should touch the subject of slavery outside of the express grants of the Constitution. This he believed to be the most enlightened sentiment of his State.

Mr. SMITH, of Indiana, said he desired to say a few words in regard to this matter, although it was not his object to enter into a discussion of the general subject of slavery, or of slavery in the District of Columbia. He believed, if he knew anything about the extent to which the slave trade, (the foreign slave trade, as it had been termed,) was carried on in the District of Columbia, that it was a great evil; an evil for which, he thought, public sentiment, in most emphatic terms, demanded a remedy; and he was as willing as any gentleman on this floor to adopt a proper remedy, and comply with the demands of the people. He did not desire to enter into that mode of legislation which was sometimes adopted by some individuals, for what was called the agitation of the subject of slavery. He did not desire to agitate this question of slavery as an abstract question, for the purpose of building up a political party; and God forbid that the organization of the political parties of this country should ever be compelled to turn upon the agitation which might be given to subjects of this character. They had seen agitations of this character here, producing most baleful effects. He desired, if they legislated upon the subject, that they should adopt that sound, wise, judicious legislation which should conduce to practical results, and remedy the evils which existed.

He should vote for the reconsideration of the vote by which the resolution had been adopted, not that he was desirous to prevent any proper action of this House to prohibit the slave trade within this District, but he should do it desiring to see an examination of the question, and an adoption of such measures to prevent the evil, to break up the practice which was said to prevail here of making this District a mart for the traffic in slaves. He desired to see a resolution which should be temperate in its character directed either to the Committee on the Judiciary or on the District of Columbia, who would be expected to enter into a dispassionate, wise, and patriotic examination of this question He heard a great many opinions expressed in regard to what was now the law: he heard gentlemen of intelligence say that this traffic in slaves was in violation of the laws now in force within this District. He did not profess to know what were the laws now operating here upon this question; and for the purpose of informing the House and the country upon this subject, he desired that an examination should be had by one of the committees of the House, who should report to them what were the laws which were in force, and what measures were necessary to correct the evils which existed.

He desired to do this without prefacing the resolution with a preamble similar to that of the resolution which had been adopted by the House; and he believed, although that resolution had received the sanction of a majority of the members of the House, that there was a large, an overwhelming majority here who desired to see what alterations were necessary to be made in the existing laws, without prefacing the resolution which instructed the committee to make the inquiry with a preamble of this character. He would say, in all sincerity and honesty, that he had no desire to inflame or excite the people of the South any more than the people of the North, in regard to this question. But whatever might be his opinions in regard to this institution, (and they were known to every gentleman here; he had never, on any proper occasion, attempted to conceal the opinions which he entertained in regard to the subject of slavery,) he believed they had been in the habit of acting upon the principle which he believed was not denied by any gentleman on this floor, that this institution, in the States where it existed, was a local institution, and that Congress had no right to interfere with it. Why, the gentleman from Ohio [Mr. GIDDINGS] admitted, in every speech which he made upon the subject, that Congress had no right to go into South Carolina, Georgia, or any other State, and interfere with their domestic institutions. The whole country concurred in this opinion. If, then, they had not the right to legislate in regard to slavery as it existed within the States, why, he asked, should they bring up a resolution, prefaced with a preamble, which was calculated to reflect upon the people of those States, and hold them up to the odium of the country? He desired practical legislation; and he did not believe that practical legislation or practical results were to be obtained by using the power of this House for the purpose of inflaming the public mind against the evil of slavery.

However great he might consider these evils to be, and however much he might desire to see the institution repealed, dsetroyed, eradicated—still, if he wished to express his opinions upon that question, he would go among his own constituents—among his own people—where he had a right to speak upon it. But he did not believe that any beneficial results could follow these attempts to inflame the public mind upon abstract discussions here upon questions which were acknowledged not to be within their control.

Mr. GIDDINGS rose and inquired of the gentleman if he would allow him to ask a question?

Mr. SMITH. Certainly.

Mr. GIDDINGS. I wish to inquire of the gentleman whether he intends to tax me or any other member with using illegitimate or improper arguments on this question of slavery?

Mr. SMITH. I made no charges against the gentleman.

Mr. GIDDINGS. The gentleman referred to the improper agitation of the subject on this floor. I want to know distinctly of him, whether he intends to charge me with agitation here upon subjects over which we have not supreme jurisdiction?

Mr. SMITH was understood to say, that he had made no reference to the gentleman, except as saying, that in all his speeches the gentleman had admitted that Congress had no right to interfere with slavery in the States.

Mr. GIDDINGS. There is one other question which I desire to put to the gentleman. Does he want to continue and sustain the institution of slavery in the District of Columbia? I ask for an answer.

Mr. SMITH. My own opinions, as I have stated before, are known to the House, and known to my own constituents. And whenever the question with reference to the abolition of slavery in the District of Columbia is presented to my action, I shall be found ready to act upon it. I can tell the gentleman, that I shall not be disposed to leave the settlement of this question to free negroes or slaves in the District of Columbia.

[There were some manifestations of applause at this part of the remarks of Mr. S., which the Speaker immediately checked.]

Mr. S. continued. He desired that there should be wise, patriotic, and practical legislation. He desired to see the slave trade in the District of Columbia abolished. He believed that there was a majority of southern men here who concurred in the propriety of such a measure; and he was pleased to hear the liberal and patriotic sentiments which had been expressed by the gentleman from Maryland [Mr. McLANE] on this question. It was an evil. To what extent it was carried on, he knew not. He had never witnessed it; but if the statements which had been made throughout the country in relation to it were true, the evil was one which Congress ought to eradicate.

The gentleman from Maryland [Mr. McLANE] had stated that there was a law of that State by which slaves were prohibited from being brought there for sale. He (Mr. S.) had understood that similar laws existed in the State of Virginia, and that they existed also in various slave States of the Union. If such was the fact—and he had heard enlightened and patriotic southern men say that there was no southern State in the Union which would tolerate a slave pen such as that referred to in the District of Columbia—he would appeal to his southern friends—he would appeal to those who were desirous of allaying agitation on this subject—he would appeal to those who were desirous of counteracting the evil influences which its agitation here was calculated to produce on the public mind—whether they would object to adopting the same legislation in the District of Columbia which they acknowledged was right and proper in their own States? He did not believe that they would object. He did not believe that patriotic gentlemen from the South who were desirous to preserve the Union—he did not believe that gentlemen desirous of maintaining that comity among the different States which was essential to the very existence of that Union—would object to the adoption of such measures here as were required in their own States as wise and proper, and the adoption of which would remove that ground of complaint now urged throughout the country.

Mr. MEADE interposed, and asked Mr. S. to allow him to say a word in explanation.

Mr. SMITH having yielded the floor—

Mr. MEADE said there was no slave State in the Union which prevented the sale of slaves to persons who intended to take them out of the State, or to remain with them. Many of the southern States had passed laws to prevent their introduction from other States. Virginia had once such a law.

Mr. MANN, of Massachusetts, rose to ask a question of the gentleman from Virginia, [Mr. MEADE.]

Mr. SMITH having again yielded the floor—

Mr. MANN said that he wished to ask the gentleman from Virginia [Mr. MEADE] if he was not aware that there was in the State of Delaware, for instance, a law which prohibited any owner of a slave from selling that slave without the State? There was such a law, he could inform the gentleman.

Mr. MEADE replied that he had not had Delaware in his mind when he made his remarks. He ranked Delaware among the slaveholding States.

Mr. SMITH said that the proposition of the gentleman from Virginia [Mr. MEADE] or the gentleman from Massachusetts [Mr. MANN] was altogether different from what he (Mr. S.) was discussing. He understood the law of Maryland to prohibit the introduction of any slave into that State for the purpose of being sold, or the carrying him out for that purpose.

Mr. CRISFIELD interposed, and said that he had the law of Maryland before him, which he would be glad to have read.

The law was sent to the Clerk's table, and the fourth section was read, as follows:

"SEC. 4. *And be it enacted*, That it shall not be lawful, from and after the first day of June next, to import or bring into this State, by land or water, any negro, mulatto, or other slave, for sale or to reside within this State: *Provided*, That nothing herein contained shall be construed to alter or annul any of the acts now in force in relation to the rights of non-residents to remove to or from, or employ their slaves upon their islands in the Potomac river; and any person or persons offending shall forfeit, for every such offence, any negro, mulatto, or other slave, brought into this State contrary to this act; and such negro, mulatto, or other slave, shall be entitled to freedom, upon condition that he consent to be sent to Liberia, or to leave the State forthwith; otherwise such negro, or mulatto, or other slave, shall be seized and taken and confined in jail by the sheriff of the county, where the offence is committed; which sheriff shall receive ten dollars for every negro, mulatto, or other slave, so brought into this State and forfeited as aforesaid, and seized and taken by him, to be recovered in an action of debt, in his own name, before any justice of the peace, as small debts are recovered from the person or persons so offending; moreover, said sheriff shall receive five dollars for such negro, mulatto, or other slave, actually confined by him in jail, and the usual prison fees now allowed by law; and any person or persons so offending under this act shall be punished by indictment in the county court of the county where the offence shall be committed; and upon conviction thereof, the said court shall, by its order, direct said sheriff to sell any negro, mulatto, or other slave, so seized and taken by him under this act, to the Colonization Society, for said five dollars, and the prison fees of any negro, mulatto, or other slave, to be taken to Liberia; and if the said Colonization Society will not receive such negroes, mulattoes, or other slaves, for said five dollars each, and the prison fees of each, upon refusing, said sheriff shall, after three weeks' public notice, given by public advertisements, sell any such negro, mulatto, or other slave, to some person or persons, with a condition that any such negro, mulatto, or other slave, shall be removed and taken forthwith beyond the limits of this State, to settle and reside; and said sheriff shall report any sale or sales made by him to the county court of the county in which he resides; and after deducting five dollars and prison fees for each and every negro, mulatto, or other slave, sold as aforesaid, which shall be settled by an account current, to be settled in said court, said sheriff shall pay over the balance of said sales to the treasurer of the Shore where he may reside: *Provided*, That this act shall not be so construed as to prevent any person or persons residing in this or any adjoining State, and who hold in their own right or

in right of any other persons, lands in both States within ten miles of each other, from removing their slaves to and from said lands, solely for the cultivation and improvement of the same: *And provided, also*, The names, ages, and sex, of any slaves so removed, shall be recorded in the office of the clerk of the county court of such county in this State, into which the said negroes shall be so removed within thirty days after their removal."

The section having been read—

Mr. CRISFIELD (under the courtesy of Mr. SMITH) said that by the act of 1842, (chapter 214, Laws of Maryland,) persons who entered the State with a *bona fide* intention to become citizens, were at liberty to bring in their slaves, and hold them as such in Maryland. It was the policy of Maryland to exclude the black race entirely from her borders. She had made provision to limit the introduction of slaves. She prohibited their being brought into the State to be sold, and also prohibited the introduction of free negroes, with the same view of excluding the entire race. That had been the policy which had characterized her legislation, and which was now embraced within her laws.

Mr. C. sent to the Clerk's table the act of 1842, which was read as follows:

"*Be it enacted by the General Assembly of Maryland*, That any person coming into this State for the purpose of residing or remaining, either permanently or temporarily, may bring with him any slaves for life from any other State or territory of the United States, and may carry said slaves out of this State again, and return with them again: *Provided*, That the person introducing such slaves shall comply with the provisions of the act of Assembly, passed at December session, in the year eighteen hundred and thirty-nine, chapter fifteen, so far as the same relates to filing a list of said slaves, and paying money for the benefit of the Colonization Society, and provided said slaves are not brought in this State for sale."

Mr. SMITH resumed the floor.

Mr. DICKEY asked him to yield for a moment.

Mr. SMITH said he did not desire that the whole day should be consumed in this sort of cross-examination. He had merely desired an opportunity briefly to express his own views. He desired to see some practical legislation which should remedy the evil; and if the vote on the resolution should be reconsidered, he believed that a proposition might be adopted which would be found satisfactory to a majority of this House, and which would accomplish the object. But he did not wish to see any proposition introduced here which would defeat the very object which gentlemen professed a desire to attain.

Whilst he was on the floor, there was one other point to which he wished very briefly to refer. A day or two since, some kind friend had sent him a paper—a Free-soil paper published in Cincinnati—the organ of that party there—which bestowed a liberal share of abuse upon him (Mr. S.) upon the charge that, as a member of the Committee on Territories, he had voted against extending the right of suffrage to negroes in California. He did not know by what process the committees of this House were furnished with reporters to take notes of their proceedings, or at whose expense these proceedings were furnished. There had been a discussion in the House upon a proposition to employ reporters to report *its* proceedings. But he did not know that there were reporters to take down the proceedings of the committees. However this might be, it appeared that his course had been reported as a member of the Committee on Territories, and that he had been held up to public odium for a vote which he had given there. It was true that he was not in favor of extending the right of suffrage to negroes in California. He had been as ardent and as consistent an advocate of free soil in that Territory as any gentleman. He desired to see the principle carried into that Territory; and when, as a practical man, he was called upon to present a bill to carry out that principle, was he to load it down with these ultra and extreme notions which would elevate the black man to the same social platform with the white? What hope could any man entertain of the passage of such a bill? What hope could any man have entertained of the passage of that bill which received the sanction of this and the other House of Congress, and which carried the principle of free soil into Oregon, if, as the chairman of the Committee on Territories, he had incumbered it with these extreme views in relation to the rights of humanity? He had never seen a negro deposite a vote in the ballot-box of Indiana. The negro did not deposite his vote in Ohio; nor did he believe that this thing was done in any State of the Union without restriction, except it might be in Massachusetts or Rhode Island. Probably it might be so there, but he presumed it was not so in any other State. [Some gentlemen appeared to make a suggestion to Mr. S.; when he continued:] Probably there might be three such States. But could gentlemen expect that men acting here as practical legislators, earnestly and honestly endeavoring to carry out a public measure, should load it down with extreme provisions, which, as every one knew, would insure the absolute defeat of the bill? And when he saw a free soil man advocating these provisions and anxious to ingraft them upon such a bill, he (Mr. S.) was compelled to doubt his sincerity; he was compelled to doubt whether he was sincere in his desire that free soil principles should be extended west of the Rocky Mountains or upon the shores of the Pacific; he doubted whether he was sincere in his professions, or whether he was not merely using this as an engine to promote his own political prospects and to build up a party; because, he repeated, every practical man knew that a measure thus incumbered with ultra and obnoxious provisions would be defeated—provisions obnoxious not only to southern members, but to many members from the North. In the State of Ohio, the proposition to allow negroes to vote had met with no favor. It had met with none in New York; it had met with none in Connecticut, where it was recently submitted to the test of a popular vote.

In his judgment, there was a vast difference between advocating the principle of free soil and advocating these ultra notions, which would place the black race on the same social platform with the whites. And he had never believed that those who desired the free soil principle to be carried out would advance these propositions, looking as they did rather to the disorganization of society than to the extension of that great principle.

In regard to the abolition of slavery in this District, he entertained no doubt of the power of Congress. He entertained no doubt of their power to abolish it at any moment. But whenever Congress should exercise that power (and he would not say whether this was or was not the proper time for its exercise)—whenever Congress should abolish slavery in this District, they should consult the wishes of the people of the District, and should make compensation to those who were the owners of the slaves held in bondage within its limits. However anxious he might be to abolish slavery here, he could not sanction the broad and sweeping proposition which had been made a few days ago by the gentleman from Massachusetts, which contemplated, at one fell swoop, the repeal of all laws recognizing the relations of master and slave.

Mr. PALFREY rose in explanation, and was understood to say: all laws of Congress sustaining the institution of slavery in the District.

Mr. SMITH. I understood the proposition of the gentleman to be, that at one single blow all laws or enactments sustaining the institution of slavery should be abolished.

Mr. PALFREY. In the District of Columbia.

Mr. SMITH continued. He had not, he said, applied the remark to anything else. The proposition was to destroy at once the institution of slavery here. Before that was done, Congress (having the power of legislation here) should inquire whether they had the right to deprive those men who had invested their all in this property, or persons, (or whatever it might be called) and had made it available to them as capital—of all that they possessed, without doing them the simple justice of remunerating them.

I thought Congress had not the right to do so. They had the same right to do this (as a gentleman from Ohio near him suggested) as they would have to repeal the law which gave that gentleman a title to his land. There might, indeed, be some great public necessity which required Congress to change existing relations; but when they did this, they must at the same time do justice to the parties. They could not sacrifice private rights. Independent of the question, whether the law of God recognized property in slaves or not, the municipal relations by which we had been bound from the organization of the Government had declared that slaves should be regarded as property, and individuals had vested their capital in it. If, therefore, Congress destroyed that institution, he would at least open the public treasury until justice should have been done to those individuals thus divested of that which the laws recognized as property; and if necessary, he was willing to impose upon his constituents whatever taxation might be necessary to do this act of justice.

He hoped that the vote would be reconsidered. He hoped that the House would take away the preamble from the resolution, and would put the resolution itself in such a form as would lead to practical results, and accomplish the object which gentlemen had in view.

Mr. SAWYER said he had heard this question discussed from time to time, and by one gentleman after another, until it would really seem that there was no other subject could be discussed in this Hall but negro slavery. Nearly half of the session had already passed away. There were on the calendar some seven hundred private bills yet to be acted upon, and petitions were coming here daily, asking that Congress would legislate on such matters. In addition to this, there were some one hundred and fifty or two hundred general laws on the calendar, and yet from morning to night, and from week to week, nothing was talked of here, and nothing could get a hearing, that did not relate to negroes or negro slavery.

Now, he would appeal to the good sense of the House, he would appeal to the patriotism of gentlemen here—to every consideration that was sacred in their minds in respect to the welfare and interests of the nation—to abandon this infamous manner of legislation, for such he must call it. He meant not to cast a censure upon the House; but he must say, that a question had been agitated here for some time which the House ought to have done with: it was one about which his constituents cared nothing; there were other subjects far more important and interesting to them. The House was spending its time, day after day, to no practical good, arguing abstract questions; and certain gentlemen seemed to aspire to nothing more than raising questions which must embarrass other gentlemen in the votes which they were to give. He, for one, would experience no embarrassment from this source. His constituents well knew this. They would not require him to give his vote, unless upon some tangible and practical proposition.

The session, he had said, was about half over. They had now a vast amount of public business to attend to. The people were suffering. All around, the voice of warning was heard. The cholera was approaching. Before one week, he predicted, it would be amongst us; and, in his judgment, if it should come, Congress could not be kept together one week afterwards.

He would ask gentlemen to look seriously into this matter; to proceed to the despatch of the public business, and to let this abominable thing of negroes and negro slavery alone. The people sent them here to do no such business. How was it with his own constituents, and with the constituents of other gentlemen here? There were questions in which their interests were much more deeply involved, and which ought to receive their attention.

The course pursued here reminded him of an anecdote which he had heard of a little boy, who went to a woman in his neighborhood, to get her to patch his pantaloons. The boy was like the mill boy of the slashes, when he went to the mill with his bag of corn, and the streamers hanging out behind. The woman asked him why his mother did not put the patch on for him. "Why," he said, "she is busy at a sewing society, making clothes to be sent to the Greeks." "Well," replied the woman, "ask your mother to come home and attend to her own household, and then, if she has time, she can attend to the Greeks."

Mr. S. proceeded to apply this anecdote to the case of his own people, urging the necessity, on the part of Congress, of adopting proper measures for the advancement of their interests, and for the benefit of the laboring classes throughout the country. "The Greeks," as John Randolph had said, "were at our doors." Let Congress legislate first for those whom the Constitution of the country had intrusted to their charge. Then it would be time enough to let our sympathies run out after this black population, that lived thousands of miles away, and who were not interfering with his or his constituents' rights.

He declared, in the presence of the House and his constituents, that the course that this House was pursuing was degrading to its character. And when thousands of others were suffering from the fact that the time of the House was thus consumed

in these disgraceful scenes, he felt it to be his duty to ask the Speaker to inform him how he could get clear of the subject—whether by a motion to lay on the table, or to postpone indefinitely, or by what other way.

[SEVERAL VOICES: Call the previous question.]

Well, (concluded Mr. S.,) I shall do so. And I am not afraid to vote upon it. I move the previous question, and I will not withdraw it.

Mr. GIDDINGS. I want the ear of my colleague for a moment.

Mr. SAWYER. No, sir.

Mr. GIDDINGS. I want to inquire of my colleague——

Mr. SAWYER. I want to go to some other business.

The question was then taken on the demand for the previous question, and there was a second; and the main question was ordered to be now taken, (which main question was on reconsidering the vote by which the resolution had been adopted.)

The yeas and nays (which had been ordered) were taken.

Before the vote was announced—

Mr. GOGGIN (addressing the Speaker) said that he did not rise to vote, not having been in his seat when his name was called. He was called out of the House, and could not therefore vote. Had he been in his seat, he would have voted in the affirmative.

The vote was then announced—yeas 119, nays 81—as follows:

YEAS—Messrs. Atkinson, Barringer, Barrow, Beale, Bedinger, Birdsall, Bocock, Botts, Boyd, Boyden, Brady, Bridges, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Burt, Butler, Cabell, Canby, Chapman, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Daniel, Donnell, Dunn, Eckert, Alexander Evans, Featherston, Flournoy, French, Fulton, Gaines, Gayle, Gentry, Green, Grinnell, Willard P. Hall, Hammons, Haralson, Harris, Haskell, Hill, Hilliard, George S. Houston, John W. Houston, Inge, Charles J. Ingersoll, Irvin, Iverson, Jameson, Andrew Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, Thomas Butler King, La Sère, Levin, Ligon, Lincoln, Lord, Lumpkin, McClernand, McDowell, McKay, McLane, Job Mann, Meade, Miller, Morehead, Morse, Murphy, Nes, Nicoll, Outlaw, Pendleton, Peyton, Phelps, Pilsbury, Pollock, Preston, Rhett, Richardson, Richey, Roman, Sawyer, Shepperd, Smart, Caleb B. Smith, Truman Smith, Stanton, Stephens, Charles E. Stuart, Tallmadge, Taylor, Thomas, James Thompson, Jacob Thompson, Richard W. Thompson, John B. Thompson Robert A. Thompson, Tompkins, Toombs, Van Dyke, Venable, Vinton, Wallace, Wick, Wiley, Williams, and Woodward—119.

NAYS—Messrs. Abbott, Belcher, Bingham, Blackmar, Blanchard, Cathcart, Collamer, Collins, Conger, Cranston, Crowell, Cummins, Darling, Dickey, Dickinson, Dixon, Duer, Edwards, Nathan Evans, Faran, Farrelly, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Nathan K. Hall, James G. Hampton, Moses Hampton, Henley, Henry, Hubbard, Hudson, Hunt, Jenkins, James H. Johnson, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Leffler, Lynde, McClelland, McIlvaine, Horace Mann, Marsh, Marvin, Morris, Mullin, Nelson, Newell, Palfrey, Peaslee, Peck, Petrie, Pettit, Putnam, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Rose, Root, Rumsey, St. John, Sherrill, Silvester, Robert Smith, Starkweather, Strohm, William Thompson, Thurston, Tuck, Turner, Warren, Wentworth, White, Wilmot, and Wilson—81.

So the vote was reconsidered.

And the resolution being thus again before the House—

Mr. SMITH, of Indiana, obtained the floor, and offered the following amendment, of which he had given notice some days since; and on that question he demanded the previous question:

Resolved, That the Committee on the District of Columbia be instructed to inquire what legislation is necessary, to prevent the introduction of slaves from any of the States of this Union into the District, for sale here or elsewhere, and that they report by bill or otherwise.

Mr. STUART, of Michigan, rose and wished to ask a question.

Mr. ROOT rose simultaneously, and inquired of the Speaker if the question could be so divided as, first, to vote upon striking out the preamble, and, next, upon striking out the resolution?

Before any reply was made by the Speaker—

Mr. BOTTS rose and moved to lay the whole subject on the table.

Mr. DUER called (if it was in order) for the reading of the original resolution, and of the amendment.

Mr. RHETT rose and addressed the Chair.

The SPEAKER interrupted, and requested the gentleman from South Carolina to give way until the Clerk had read the original resolution and the amendment.

Mr. RHETT. Is that resolution now before the House?

The SPEAKER. The resolution is now before the House.

The resolution and amendment were accordingly read by the Clerk.

The SPEAKER announced the question to be on the motion of the gentleman from Virginia, [Mr. BOTTS,] to lay the whole subject on the table.

Mr. WENTWORTH called for the yeas and nays on that motion.

The yeas and nays were ordered, and being taken, resulted—yeas 94, nays 110—as follows:

YEAS—Messrs. Atkinson, Barringer, Barrow, Beale, Bedinger, Birdsall, Bocock, Botts, Boyd, Boyden, Bridges, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Burt, Cabell, Chapman, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Daniel, Donnell, Alexander Evans, Featherston, Flournoy, French, Fulton, Gaines, Gayle, Gentry, Goggin, Green, Willard P. Hall, Haralson, Harris, Haskell, Hill, Hilliard, George S. Houston, John W. Houston, Inge, Charles J. Ingersoll, Iverson, Jameson, Andrew Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, Thomas Butler King, La Sère, Levin, Ligon, Lumpkin, McClernand, McDowell, McKay, McLane, Meade, Miller, Morehead, Morse, Murphy, Outlaw, Pendleton, Peyton, Phelps, Pilsbury, Preston, Rhett, Richardson, Roman, Sawyer, Shepperd, Simpson, Stanton, Stephens, Thomas, Jacob Thompson, John B. Thompson, Robert A. Thompson, Tompkins, Toombs, Venable, Wallace, Wiley, Williams, and Woodward—94.

NAYS—Messrs. Abbott, Belcher, Bingham, Blackmar, Blanchard, Brady, Butler, Canby, Cathcart, Clapp, Collamer, Collins, Conger, Cranston, Crowell, Cummins, Darling, Dickey, Dickinson, Dixon, Duer, Dunn, Eckert, Edwards, Embree, Nathan Evans, Faran, Farrelly, Ficklin, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Gregory, Grinnell, Nathan K. Hall, Hammons, James G. Hampton, Moses Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, Irvin, Jenkins, James H. Johnson, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Leffler, Lincoln, Lord, Lynde, McClelland, McIlvaine, Job Mann, Horace Mann, Marsh, Marvin, Morris, Mullin, Nelson, Nes, Newell, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pettit, Pollock, Putnam, Richey, Rockhill, Julius Rockwell, John A. Rockwell, Rose, Root, Rumsey, St. John, Schenck, Sherrill, Silvester, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Starkweather, Charles E. Stuart, Strohm, Tallmadge, Taylor, Richard W. Thompson, William Thompson, Thurston, Tuck, Turner, Van Dyke, Vinton, Warren, Wentworth, White, Wilmot, and Wilson—110.

So the House refused to lay the resolution and amendment upon the table.

The SPEAKER. The previous question has been demanded on the motion of the gentleman from Indiana [Mr. SMITH.]

Mr. GIDDINGS. Before the vote is taken, I would appeal to the gentleman who called the previous question, inasmuch as I have been personally assailed, to withdraw the motion. I make the appeal to him as a man of honor——

Mr. PETTIT moved that the House adjourn.

The question was taken and decided in the negative: Ayes 65, noes 101.

So the House refused to adjourn.

And the question recurring on the demand for the previous question—

Mr. DUER inquired of the Speaker whether, if the previous question was sustained, the question would not be on the amendment of the gentleman from Indiana, [Mr. SMITH,] and then on the resolution, and whether there would be any opportunity to offer other amendments?

The SPEAKER said, if the previous question was sustained, there would be no opportunity for other amendments.

Mr. SMITH inquired of the Speaker whether he had a right to modify his amendment?

The SPEAKER said the gentleman had a right to withdraw the previous question for his own purposes.

Mr. SMITH then modified his amendment to read as follows:

That the Committee on the District of Columbia be instructed to report, as soon as practicable, a bill so amending the present law in this District, as effectually to prevent the bringing of slaves into the District either for sale here, or to be sold and carried to any place beyond the District.

Mr. MEADE inquired of the Chair, whether the gentleman had a right to move this as an amendment to the amendment?

The SPEAKER said the gentleman had a right to modify his own amendment.

Mr. STUART, of Michigan, appealed to the gentleman from Indiana, [Mr. SMITH,] to allow him to offer an amendment. He had no wish, he said, to take up any of the time of the House.

Mr. SMITH adhered to his motion.

The question was then taken by tellers, (Messrs. VENABLE and WILSON,) on the demand for the previous question, and was decided in the negative—ayes 71, noes 80.

So there was not a second.

Mr. MEADE now offered the following as an amendment to the amendment of Mr. SMITH:

And that the said committee is hereby instructed to report a bill more effectually to enable owners to recover their slaves escaping from one State into another.

The SPEAKER. The amendment of the gentleman is out of order. It does not relate to the District of Columbia.

Mr. SMITH rose to a point of order.

Mr. MEADE inquired what the decision of the Chair upon his amendment was?

The SPEAKER. The Chair has decided the amendment to be out of order.

Mr. SMITH said he would again modify his amendment, and demand the previous question upon it.

The SPEAKER said that the gentleman might modify his amendment; but that the very last question taken was upon the demand for the previous question, and that motion, therefore, was not in order.

Mr. SMITH. Not upon that modification?

Mr. VINTON rose to inquire of the Speaker if it would be in order to move to strike out the preamble from the original resolution?

The SPEAKER said he did not know any principle upon which that motion would take precedence of the motion of the gentleman from Indiana, [Mr. SMITH;] if the motion to strike out and insert should fail, a motion to strike out any part would still be in order.

Mr. COBB, of Georgia moved that the House adjourn.

The question was taken, and the vote stood—ayes 105, noes 61.

The House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. BLANCHARD: The petition of sundry inhabitants of Huntingdon county, Pennsylvania, for the immediate modification of the tariff of 1846, so as to give more protection to domestic industry and manufactures

By Mr. PETTIT: The petition of Enoch Thornley, of Indiana, praying that the gold of California may be used by the United States in the removal of the negroes from the United States to Africa.

By Mr. SMART: Remonstrance of Joseph Jones and 219 others against forming a new collection district with principal port at East Thomaston, Maine.

By Mr. NICOLL: The petition of Griffin & Puttman, George Dickey, and 87 others, citizens of New York, asking for a reduction in the rates of postage, and for the abolishment of the franking privilege.

IN SENATE.

THURSDAY, *January* 11, 1849.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of State, made in compliance with the act to regulate and fix the compensation of clerks in the different offices, approved 20th April, 1818, and to the eleventh section of an act legalizing and making appropriations for such necessary objects as have usually been included in the general appropriation bills without authority of law, and to fix and provide for certain incidental expenses of the departments and offices, showing the names of persons employed in that department, including the Patent Office, with the salaries; which was read.

MEMORIALS AND PETITIONS.

Mr. BORLAND presented a memorial from the General Assembly of Arkansas, in favor of an exchange of school lands, and a further grant of lands for public schools; which was referred to the Committee on Public Lands.

Mr. BORLAND presented a memorial from the General Assembly of Arkansas, asking appropriations for the repair of certain forts and barracks on the western frontier of Arkansas; which was referred to the Committee on Military Affairs.

Mr. BRADBURY presented a petition from citizens of Brunswick, Maine, praying for a reduction in the rates of postage and the abolition of the franking privilege; which was referred to the Committee on the Post Office and Post Roads.

Mr. DAYTON presented a petition of William Green, asking for a patent for the improvement of sheet-iron so as to make it similar to the Russian sheet-iron; which was referred to the Committee on Patents.

Mr. BREESE presented a petition from Mary Hall, asking a pension; which was referred to the Committee on Pensions.

Also, the petition of Rhoda Abney, asking a

pension; which was referred to the Committee on Pensions.

Mr. NILES presented a petition from William Lacon and L. H. Bates, asking indemnification for a quantity of iron illegally seized by the United States; which was referred to the Committee on Commerce.

Mr. JOHNSON, of Louisiana, presented a petition from D. A. Watterson, for payment for services due him as clerk to the Surveyor General of Louisiana; which was referred to the Committee on Claims.

NOTICE OF A BILL.

Mr. BORLAND gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a bill to make Little Rock, Arkansas, a port of entry.

BILL INTRODUCED ON LEAVE.

Mr. JOHNSON, of Louisiana, pursuant to notice, asked and obtained leave to introduce a bill to authorize the payment of invalid pensions in certain cases; which was read a first and second time, and referred to the Committee on Pensions.

MILITARY LAND WARRANTS.

Mr. BREESE, from the Committee on Public Lands, to whom was referred the bill from the House of Representatives in addition to an act in relation to military land warrants, approved August 14, 1848, reported the same without amendment.

Mr. BREESE. Mr. President, I would say, in explanation of the bill, that there are some public lands in the States of Ohio and Indiana, the minimum price of which ranges from one dollar and twenty-five cents to two dollars and fifty cents per acre. At the last session of Congress an act was passed authorizing officers, musicians, and privates who had entered their land warrants, to locate them on these lands; but inasmuch as the act did not cover the cases of certain assignees and others, who had not at that time entered their warrants, the House of Representatives has sent us this bill.

Mr. WESTCOTT. Mr. President, I have heard a great deal about the applications of these individuals, and I consider it a very important matter. For one, I am opposed to it, and I trust the bill will not be passed hastily, but that the Senate will consider it well before it be pressed to a vote. I do not think that these assignees, many of whom have been speculating in soldiers' land warrants, deserve any special legislation from Congress. If my views of the subject are correct, I hope that the bill will not be discussed till there be a full Senate, when it can be fairly and fully debated.

The bill was ordered to a third reading; but objection being made by Mr. WESTCOTT to its third reading at this time, it lies over till to-morrow.

OTHER REPORTS FROM COMMITTEES.

Mr. FELCH, from the Committee on the Public Lands, to which was referred the bill for the relief of John Millikin and others, to secure certain rights to preëmption in the State of Louisiana, and for other purposes, reported the same without amendment.

Mr. JOHNSON, of Louisaina, from the Committee on Pensions, to which was referred the bill for the relief of Patrick Walker, reported the same without amendment.

The bill was then ordered to be engrossed for a third reading, and was subsequently read a third time, and passed.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, to which was referred the memorial of officers of the ordnance corps, praying that the sixth section of the act of 23d August, 1842, may be so amended as to apply to arsenals and armories in like manner as to other military posts, reported a bill amendatory of an act entitled "An act respecting the organization of the army, and for other purposes," approved August 23, 1842; which was read, and ordered to a second reading.

EXPLOSIONS ON STEAMBOATS.

Mr. DAVIS, of Massachusetts. Mr. President, I see by the Journal that the Commissioner of Patents has made a report in regard to steam navigation, and the causes of explosions on steamboats. That subject has been for a long time under the consideration of the Committee on Commerce, and they have been waiting for the appearance of this report, in order to present a bill or to make a report upon the various petitions relating to this matter which are now before them. I understand that the report of the Commissioner of Patents has been referred to the Committee on Patents. I would move, therefore, that the reference be reconsidered, and that so much of the report of the Commissioner of Patents as relates to steam navigation, explosions on steamboats, and remedies proposed for the same, be referred to the Committee on Commerce.

This motion was agreed to.

INDIAN APPROPRIATION BILL.

A bill from the House of Representatives making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling certain treaty stipulations with the various Indian tribes, for the year ending June 30, 1850, was read a first and second time, and referred to the Committee on Finance.

RESOLUTIONS.

Mr. DODGE, of Iowa, submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Albia, the seat of justice of Monroe county, via Chariton Point, in Lucas county, to Trader's Point, on the Missouri river; also, from Garnevillo, in Clayton, to Monona.

INDEX TO LAWS AND TREATIES.

The following resolution, submitted yesterday by Mr. BENTON, was next taken up for consideration:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to contract with a suitable person for compiling a synoptical index to the laws and treaties of the United States, in continuation of the like index compiled by order of the House of Representatives, of 15th May, 1845.

Mr. BENTON. Mr. President, I will merely say, that I only propose to continue a work which was brought down from 1789 to 1828, and which is a synoptical index to all the laws passed by Congress up to that time, and also a double index, by date and by reference to the volume and page, so that, by looking under any head whatsoever, you can find the time when any particular law was passed, together with a reference to the volume and page containing the law. Gentlemen, on looking over the index, can take the word Florida, for instance, under which they will find these references:

		Laws U. S. Vol.	*Page.*
1819. March	3. Authority given to take possession of East and West Florida, upon ratification of treaty of February 22, 1819, and to establish a temporary government therein	6	425
1821. March	3. Further authority for same purpose	6	579
1821. Jan.	15. Do. do. do.	6	592
1821. Feb.	12. That part of West Florida lying west of the Perdido to be taken possession of	6	593
1822. Feb.	23. Measures to be taken to preserve the timber on the public lands in Florida	7	12
1822. March	30. A territorial government established in Florida	7	16
1822. March	30. Certain rights and privileges secured to the people of Florida	7	21
1822. March	30. A Delegate to be elected to Congress	7	21
1832. May	7. An act made by Gen. Jackson as Governor, and an act of the City Council of St. Augustine, repealed by Congress	7	69

These extracts are sufficient to show the manner in which the book is arranged. I refer to this merely to show that, in one or two lines, you get at once a view under your eye of every law passed by Congress down to 1828, all arranged under appropriate heads, giving the purport of the law. The object is to continue that work down to the present time.

Mr. DAVIS, of Mississippi. Mr. President, the Committee on the Library have now in charge the very question to which this resolution refers. They have been considering the manner in which the index should be prepared, the terms of the contract, and the person with whom the contract should be made. If this resolution be adopted, the Secretary will have to make further examinations, and a separate contract will have to be entered into.

Mr. BENTON. Mr. President, I understand that the committee have been examining documents only. This resolution refers to the laws and treaties alone. This is a separate work by itself, referring to the statutes of Congress and treaties. I merely wish a continuation of this work, unincumbered by any other matter whatever. An index to the documents may be very proper by itself, but it should not be mixed with this. I should object to having the index for the laws affixed to the index for the documents. They are separate and distinct subjects in their nature. The documentary papers are much more numerous than those of the laws, and it is necessary for convenience sake that they should be kept separate. I wholly object to mixing the two subjects. I am perfectly willing to have an index to the documents by themselves, and an index to the laws by themselves, so that we may use one or the other without the inconvenience of having them mixed up.

The resolution proposes the continuation of a work which has been brought down from 1789 to 1828, and which is, in my opinion, perfect up to that time. I believe that no alteration could be made in the plan for reporting a synoptical index which would be an improvement upon the one which has been pursued in the arrangement and publication of this work. Besides, we want a continuation of this work, so that we may have all the laws which have been passed since its publication added to it, and in that way have a view of every law upon every subject, arranged under proper heads, which has been passed from the foundation of the Government down to the present time.

Mr. MASON called for the reading of the resolution.

The resolution was read accordingly.

Mr. MASON. Mr. President, I made an inquiry of the honorable gentleman from Mississippi [Mr. DAVIS] which probably led him to make the observation that he made a moment since. I was not wholly satisfied whether or not this matter should be referred to the Library Committee, not knowing what are the precise duties of that committee in relation to procuring the publication of an index to the documents, laws, and treaties. I have been informed, however, by a member of the other House, who is thoroughly conversant with the whole matter, that the Library Committee are confined to the documents alone.

Mr. DAVIS, of Mississippi, (in his seat.) They are to prepare a general index.

Mr. MASON. I understood it was to be a general index to the documents.

Mr. DAVIS, of Mississippi. Mr. President, it was a general index which the Library Committee had under consideration, and the plan now being under the consideration of the committee, and a contract contemplated, I suggested only to the Senator from Missouri, whether it would not be better to refer this subject to the Library Committee also, and let them take the whole matter under their supervision.

How far the public service will be promoted by referring one branch of the subject to a committee, and the other branch to another authority, is for the Senate to decide.

Mr. BENTON. Mr. President, my proposition is for the continuation of an approved work. In it we have already an index which takes up the acts of Congress and treaties from 1789 to 1828. We have such a work, unincumbered with any other matter whatever, referring to the laws, statutes, and treaties alone. Now, we have that work, and at the time it was completed it was perfect It took in all the laws and statutes down to 1828. What I now want is, the continuation of that work up to the present time. We do not want any other work upon the subject. I will undertake to say that any gentleman who will take the trouble to examine this work will find it to be as accurate a work as could be devised. I object, therefore, to any reference of this subject to the Committee on the Library. It is an old subject. It is an old and approved work. We have it for nearly thirty years, from 1798 to 1828. We have it for thirty years, and we want it down to the present time, and ten or twenty years hence we shall want it down to that time.

The index to the documents is another subject, and it will be a very voluminous work. That is a thing not yet decided upon. It is a new thing, and has been very appropriately referred to a committee. But the index to the laws and treaties is an old subject. It is an approved principle of

nearly thirty years' standing, and we want no report of a committee upon it.

Mr. DAVIS. Mr. President, I am sorry to trouble the Senate again, but I must say, that I think no one could state more distinctly than I have done my disapproval of any measure having for its object the mingling of the index to the documents with the index to the laws. But, no matter how old the index to the laws may be, the contract for its continuation must be a new one, and the question for the Senate to decide is, whether the public interests would be best promoted by one general contract, or by two particular contracts.

Mr. TURNEY moved to refer the subject to the Library Committee.

The question being taken on this motion—

The PRESIDING OFFICER decided that the ayes had it.

A division was called for, and on the vote being taken, eleven voted in the affirmative, and sixteen in the negative.

No quorum having voted, the question was again put, when the vote stood—ayes 14, noes 18.

So the motion to refer the subject to the Library Committee was disagreed to.

The question was then taken on the passage of the resolution, and it was agreed to.

INVALID PENSIONS.

Mr. JOHNSON, of Louisiana, in pursuance of notice, asked and obtained leave to introduce a bill to authorize the payment of invalid pensions in certain cases.

Mr. JOHNSON. The Senate will remember the case. A bill was passed at the last session granting a pension to Patrick Walker, who had been disabled in the service by the loss of both his arms. The bill granted him a pension for one year only, in consequence of a suggestion being made that there was a general bill under consideration in the House of Representatives, and would probably become a law, which would provide for all such cases. That bill never passed; indeed, there is no necessity for such a bill, for perhaps there is not such another case as this to be found. This man lost both his arms while gallantly fighting the battles of his country. After losing one arm he refused to leave his post, but continued serving the gun at which he was stationed until, by the loss of the other arm, he became entirely disabled. He conducted himself most gallantly, and is well deserving of the bounty of the Government. The committee has reported a bill for continuing his pension, and I hope it will be passed by the Senate.

The motion was agreed to, and the Senate proceeded to the consideration of the said bill, as in Committee of the Whole.

No amendment being offered, the bill was reported to the Senate, and ordered to be engrossed for a third reading.

The bill was then, by unanimous consent, read a third time and passed.

DESTRUCTION OF PROPERTY BY MILITARY ORDERS.

The Senate then proceeded to the consideration of the bill for the relief of John P. Baldwin, owner of the Spanish brig Gil Blas.

The question pending being upon the engrossment of the bill—

Mr. KING. Is there not an amendment to that bill?

PRESIDING OFFICER. There is no amendment.

Mr. KING. I certainly was under the impression that there was an amendment offered.

PRESIDING OFFICER. There was an amendment offered, but there is none now pending. The bill will be read for the information of the Senate.

The bill having been read by the Secretary—

Mr. BELL. I was very reluctant to move the reconsideration of this bill. After a subject has undergone discussion for two or three days, it is scarcely pardonable to renew the discussion. I was not altogether satisfied, however, with the examination that had been given to it; and, regarding the question involved as a very nice and delicate question, I felt authorized to move a reconsideration, that we might examine the facts more minutely; and I must say that I am not yet satisfied. I forbear to say anything upon the principle involved in the bill.

Mr. FITZPATRICK. I do not rise for the purpose of discussing the principle, but merely to say, that from all I have heard in the discussion upon this bill, it would seem to me that there is some merit in the claim. The main question seems to be as to the amount which the individual is entitled to claim. There are many things embraced here which are not chargeable to the Government. I am of opinion, however, that the vessel was destroyed unnecessarily, and that the amount of the actual loss sustained by the petitioner ought to be granted to him. I move, therefore, to strike out all after the enacting clause, and to insert the following:

[We did not obtain a copy of this amendment. It proposes to strike out all after the enacting clause, and insert a provision directing that the memorial be referred to the Secretary of the Navy, and that he be directed to make such compensation as he may deem equitable and proper, not exceeding twelve hundred dollars.]

Mr. WESTCOTT. The only difficulty was in regard to the amount. I have no objection to the amendment.

Mr. BRIGHT. We have already had a vote of the Senate determining that this claim is without merit. After much discussion, and upon a call of the yeas and nays, the Senate decided that there was no just reason why this claim should be paid by the Government. A reconsideration is moved, and the result is to give to the Secretary of the Navy the power to allow the claim. I hope the amendment will not prevail.

The amendment was, upon a division, negatived—ayes 12, noes 20.

On motion of Mr. WESTCOTT, the further consideration of the bill was then postponed.

CAPTORS OF THE FRIGATE PHILADELPHIA.

The Senate then proceeded, as in Committee of the Whole, to the consideration of the bill for the relief of the captors of the frigate Philadelphia.

The bill having been read—

Mr. DAVIS, of Mississippi, moved that it be passed over, on the ground that the Senator who reported it was not in his seat. The motion was agreed to.

WIDOWS OF DECEASED SOLDIERS.

Mr. BORLAND moved that the Senate take up for consideration the Senate bill to revive a portion of the act for the relief of the widows of deceased soldiers.

PRESIDING OFFICER. The bill referred to by the Senator is not on the calendar of private bills.

Mr. BORLAND. It ought to be there, for it is emphatically a private bill, though it has application to numerous cases.

Mr. BRADBURY. A resolution has been adopted by the Senate appropriating one day in the week to the consideration of bills upon the private calendar. Thus far we have made little or no progress, because, instead of taking up the calendar and proceeding with the business in the order which the resolution contemplates, we have had, on special motion, other private bills taken up irregularly, or bills of a public character taken up and discussed. I hope we will follow up the spirit of the resolution, and proceed with the consideration of the business on the private calendar, in its regular order. There are some peculiar cases of hardship which have remained untouched, although favorable reports were made upon them early in the last session; and bills which have passed the other House have remained upon our calendar, and have not been reached, simply for the reason that other and debatable bills have been taken up on special motion. I hope now that we will proceed with the business in its regular order.

Mr. BORLAND. I can assure the gentleman that this bill can be disposed of in a very short time. It is one which cannot give rise to any discussion whatever. The bill was reported at the last session. It is simply for the extension of a portion of the act granting pensions to the widows of deceased soldiers. If it is not on the private calendar, it ought to be there. It is for the relief of a few destitute and infirm widows.

Mr. BRADBURY. I regret that I do not feel at liberty to agree to the request of the honorable Senator, notwithstanding his assurance that the bill will only occupy a few moments. Last week we took up a bill at the instance of an honorable Senator, which we were assured by him would not occupy three minutes. The bill, however, not only occupied the whole day, but has been up once or twice since. The bill which the Senator from Arkansas proposes to take up is a public bill, and that alone is a sufficient answer to the proposition of taking it up. I will go with the Senator for taking it up to-morrow, and giving it such consideration as its merits demand.

Mr. BORLAND. If the bill should give rise to debate, I will consent that it be postponed.

Mr. BRADBURY. I should have less objection to the proposition, were it not that I think, if we commence breaking in upon the rule we have established, other Senators who have bills equally meritorious will claim the like privilege.

Mr. FOOTE. I do not see why we may not take up this bill and act upon it, notwithstanding the possibility that there may be some debate upon it. My own opinion is, that those bills which give rise to no debate ought to have precedence, leaving those that will occasion debate to be acted on hereafter. But it appears to me that this bill need not be posponed merely for the purpose of having the rule strictly observed. If it be found productive of debate, it may be postponed.

The motion of the Senator from Arkansas was agreed to.

The bill and amendments having been read—

Mr. NILES desired some further information in relation to the necessity for passing this bill from the chairman of the committee from which the bill was reported.

Mr. JOHNSON, of Louisiana. I will state that the committee have received from the department a communication giving the number of these cases. I am not at present in possession of that paper, not being aware that the bill would be taken up to-day. I would prefer that it be passed by until to-morrow.

The further consideration of the bill was accordingly postponed.

EXTENSION OF A PATENT.

The Senate then proceeded, as in Committee of the Whole, to the consideration of the bill for the relief of Calvin Emmons, which had been read twice and referred to the Committee on Patents and the Patent Office, and reported back with certain amendments.

Mr. NILES. This appears to me to be rather an extraordinary application. We are here asked to renew a patent for seven years by special legislation, without any reasons being assigned why we should grant such extension. It will be undoubtedly in derogation of the common rights of the community. And the bill, as I understand it, makes a partial provision for the assignees, and only a partial one; for they are to compromise and to make some further payment, I presume. Why are we called upon to interfere and to give rights to the patentee, which are inconsistent with the rights of the assignees? I am always opposed to special legislation in such cases as this. The patentee, when his patent has not been available to him, from some cause which he cannot control and without any fault of his own, may always obtain a renewal in the ordinary way.

Mr. WESTCOTT. As I reported this bill from the Committee on Patents, it is proper I should say a few words in reply to the Senator from Connecticut. The report which accompanies the bill gives the history of the bill; it states all the facts in relation to it. I will not detain the Senate by adverting to everything that is contained in the report; but if I can have the attention of the Senator from Connecticut, I will inform him of the leading facts in the case. The petition was presented to Congress in 1845, but, upon its first presentation, no action was had upon it. In December, 1845, however, a bill for his relief was reported, but was not acted upon. In 1846 another bill was reported, it was read a first and second time, and nothing further was done. The claim was presented again in 1847, and in December, 1847, it was again presented to the House of Representatives. On all those occasions, without exception, there have been favorable reports.

A bill passed and was sent up to the Senate, referred to the Committee on Patents, and they made a report. The bill, as it came from the House, granted Emmons an extension of his patent for fourteen years. The committee struck out fourteen and inserted seven, and they put in another provision, that the extension of this patent by act of Congress should have no other or greater

force than if it had been extended under the operation of the patent laws. If the extension of this patent affects any portion of the country injuriously, it is the South, the rice-growing country. It may, perhaps, have some effect upon those portions of the country where they raise large quantities of wheat for exportation; but a machine of this kind is too expensive to be used by small farmers. Its cost amounts to several thousand dollars. The evidence in the case shows that Mr. Emmons applied for an extension of his patent in consequence of the great cost of the machine. He made his application to the Commissioner of Patents for a renewal, but, in consequence of some informality in his application, and not from any deficiency of merit, he was unable to procure it. As I have already said, if the extension of this patent will operate injuriously upon any portion of the country, it is the South; and among the papers filed in the case are letters from many distinguished citizens of the South in favor of Mr. Emmons's claim for an extension.

With respect to the suggestion of the Senator from Connecticut that this bill makes no provision, or but partial provision, for the assignees, I regret that the Senator has not read the bill carefully. Why, the bill contains more favorable provisions to the rights of assignees than any bill that has passed the Senate or the House of Representatives in the last ten years. It is framed with a special view to protect their rights. The bill provides that the right to use the article shall inure to the patentee upon this condition: that he shall first endeavor to compromise with the assignees, and in case they cannot agree, the matter shall be brought before the circuit court of the United States in the nature of a bill in chancery, in order to settle the the terms upon which the assignee shall have his privilege extended. Honorable Senators must be aware that the Supreme Court of the United States has expressly determined in the case of Woodward, and subsequently in the case of Forsyth and Simpson, that in case of the renewal of a patent, either by the Board of Extension or by Congress, the assignee has no right whatever to any extension of his privilege. They have determined so in several cases, in one of which I was engaged as counsel for the defendant. This bill changes the policy of that decision of the court, by giving to the assignee the right to continue the exclusive use, if he desires to do so, upon equitable terms. I have always been a strenuous advocate for the rights of assignees, and this is the only mode in which those rights can be secured. If you say that that the assignee of a patent right shall be at liberty to use it *ad libitum*, without any additional payment to the patentee upon its renewal, there is no necessity for a renewal, there is no use in having a renewal, the patentee will receive no benefit from it whatever. I will add one other observation. This bill is for the benefit of the widow and heirs of the inventor, it is not for his executors or administrators; it is for the benefit of his family, and it is but a just return for the immense value to the community of the invention. It is of incalculable value, especially at the South, almost as much so as the cotton gin of Mr. Whitney, and it is calculated to be of still greater value hereafter.

Mr. NILES. I do not consider that the rights of the assignees are protected by this bill in any degree whatever. They may have expended large sums of money in the construction of the machines; and the question is, whether, having purchased all the right which the patentee held at the time of such purchase, in regard to their respective localities, they have not a right to use the patent without further compensation? Nothing can be more clear than that they paid for the whole right which the patentee had at the time; and when his exclusive privilege expired, they, having expended their money in the expectation of the continued use of the right, ought not to be compelled to repurchase what they are already entitled to. I do not hesitate to say, that we have never passed a bill like this. We never have passed a bill of this kind without protecting assignees.

Mr. PHELPS. I am always disposed to favor any measure for securing to inventors an ample and fair compensation; but it strikes me that this bill, as it at present stands, is liable to a variety of objections. I doubt very much whether it will carry out the intention which its friends have in view. It is so framed that it is impossible to apply to it that construction which the court applied to the law upon the subject of the extension of patents in 1846. That construction was precisely this: that an assignee of an exclusive privilege purchased an interest which would endure no longer than the original term of the patent. But they went still further, and declared that a person who had acquired the right to use the patent, however that right might have been acquired, would retain the right, notwithstanding a renewal might be obtained. The result of that decision is simply this: that the renewal of a patent put an end to the interest of assignees, except so far as the mere right to use was concerned, which falls more properly under the denomination of a license. This bill proposes to prolong the rights of the assignees beyond their original limitation. I have no objection to that. The only object of the renewal of a patent, however, is to afford compensation to the patentee. The act of 1846 puts it upon that ground. And his right to the extension of a patent depends upon the contingency whether, in the judgment of the Commissioner, he had or had not already received adequate compensation. If he had not, then the patent was to be renewed. But of what value is it to the inventor if his patent is protected only for the benefit of others? The idea that all the assignments are extended and perpetuated by the extension of the patent is utterly inconsistent with the very object of the extension of the patent.

But I believe this act goes still further; it proposes not only to extend the interest of the assignee, but to make a new contract. Why not leave the parties to make their own contract? If they are not able to make a contract among themselves, on what principle is it that you are to call in the aid of the circuit court? And here another difficulty arises: I am not prepared to say whether the court will take upon itself to act in the matter. The bill should certainly protect those who have expended money in the erection of machinery in the use of the patent, and I would therefore suggest to the honorable chairman of the committee so to modify it as to have the extension inure to the representatives of the inventor, with the simple modification of protecting the use in such cases and to such extent as it would be protected under the interpretation of the Supreme Court. If the bill be so modified, I shall have no hesitation in voting for it; but as it at present stands, I should vote for it with extreme reluctance.

Mr. DAVIS, of Massachusetts. The bill is certainly open to one objection. It proposes not only the renewal of the patent, but it proposes to authorize a new specification, which shall cover all subsequent improvements that have been made. It seems to me that every gentleman must perceive, upon the mere suggestion of this fact, that it covers so wide a ground that no one can comprehend how far it is to go. There is nothing before us to show for what purpose this extended permission is to be granted. But, without dwelling upon this, I recognize all the difficulties which are stated by the honorable Senator from Vermont in regard to these assignments. We passed a bill some two years ago containing provisions somewhat similar to those which this bill contains, directing that an equitable adjustment should take place between assignees and inventors; and it has been a source of nothing but legal contests between the parties. Whether the court would take jurisdiction in such cases is not for me to say; but what sort of jurisdiction is it which requires the court to dictate the terms of a contract between individuals? It seems to me to be a very extraordinary duty to be imposed upon the judiciary of the country. I agree mainly with the principle laid down by the Senator from Vermont. I have bestowed some little attention upon the subject of the interest of assignees, and it seems to me to be reasonable that when a patent is renewed, those who have purchased the right to use the patent and have erected machinery, should be protected; and that when you go so far as to protect the owner of the original patent, saving to the assignees the use which they have purchased, you have gone far enough. The renewal of the patent was never designed to recover territorial claims. And it is no part of our purpose to legislate for those holding assignments as territorial purchasers. I therefore, without troubling the Senate further, propose to strike out all after the thirteenth line, and insert the following:

Provided, That all persons who now enjoy the right to use said patent shall be protected in the enjoyment of such use.

Mr. WESTCOTT. The terms of the amendment virtually nullify the whole law, and render it entirely inoperative. The patent has now expired, and if any person who is using it is to be permitted to continue in the free use of it, the renewal of the patent is worth nothing.

Mr. DAVIS. I mean to cover the cases of purchasers who have prepared themselves for its use by the erection of machinery.

Mr. WESTCOTT. The particular cases to which the Senator alludes would, under the bill, be the subjects of equitable adjustment, as well as the cases of persons who had built machinery since the patent expired. Such persons would not be compelled to pay for the use at the same rate at which a new purchaser would be expected to pay. But this amendment virtually extends the right to use the patent to all persons, and nullifies the whole law. No injustice could accrue to assignees by directing that they should secure the continued use of their rights upon equitable and just principles, through the intervention of the district courts of the United States; and I can see no difficulty in referring the matter to the decision of the courts. But if this amendment is to be attached to the bill, it renders it utterly valueless.

Mr. BALDWIN. My honorable friend from Vermont is very correct in saying that the bill would do great injustice to those who have put this invention in operation since the expiration of the patent, whether they were assignees of the invention, or whether they availed themselves of the common right which the whole community has to use the invention after the expiration of the patent, if we were now, without such an amendment as has been proposed by the honorable Senator from Massachusetts, to grant the exclusive right to the original patentee to prevent their enjoyment of the use of the machinery which they may have been at great expense in putting in operation. I think, sir, that the amendment suggested by the Senator from Massachusetts does not go quite far enough. It protects those who are now in the use of the machinery in the enjoyment of that use; but, sir, to do entire justice, it should not only protect those who are now in the use of the machinery, but it should protect their assignees. The assignees of that machinery should also be protected in its use. This patent expired in 1843. Since that time the right to put up this expensive machinery has been common to all the people of the United States. The public has paid for this right in the exclusive privilege which has been granted for fourteen years to the patentee, and when that exclusive privilege expired, every one who felt an interest in so doing was invited by the Government to avail himself of the privilege of using the invention, which had become common property. Would we not be doing them great injustice if we were to allow those persons who had thus expended money in the erection of one of these machines no beneficial use of his machinery, or if we were to limit to him personally the enjoyment of it, and prevent him from selling or disposing of it to assignees, with the privilege of enjoying it in like manner? I am utterly opposed to granting the exclusive privilege to use the original patent after it has become common property, without giving full protection to all existing rights, to those who have incurred expense in the erection of machinery, whether such machinery were erected in pursuance of an original agreement with the patentee, or in pursuance of common right. I move that the amendment be further amended by adding the words "and his assignees thereof."

Mr. DAVIS, of Massachusetts. I have no objection to that addition being made to my amendment, although I think it is almost necessarily included in the amendment itself.

The amendment as amended was agreed to.

Mr. WESTCOTT. I now move that the bill be indefinitely postponed; and I do so for the simple reason that I consider the bill as now amended, as not of the slightest value to the heirs of the patentee or his representatives. If such a provision were inserted in every bill, I should of course not complain on account of its insertion here. It would effectually stop all applications to Congress for the extension of patents; and, hereafter, during the brief period in which I shall continue to be a member of this body, I shall propose such amendments to every bill of a similar nature.

The motion was agreed to, and the bill was indefinitely postponed.

PRIVATE BUSINESS.

The Senate then proceeded to the consideration of the bill for the relief of James P. Seston; which, after having been amended, was ordered to a third reading, and was subsequently read a third time and passed.

The Senate then proceeded to the consideration of the bill for the relief of William M. Blackford, late chargé d'affaires to the Republic of New Granada.

On motion, the bill was laid on the table, on the ground that the case was provided for in the general appropriation bill.

The joint resolution for the relief of Ann Chase was considered in Committee of the Whole, and, on motion, ordered to lie on the table.

The Senate then proceeded to the consideration of House bill for the relief of Sarah D. Bingham, wife of James H. Bingham; which, after having been amended, was ordered to a third reading, and was subsequently read a third time, by unanimous consent, and passed.

DESTRUCTION OF PRIVATE PROPERTY.

The Senate then proceeded to consider, as in Committee of the Whole, the bill for the relief of the owners of the schooner Ticonie.

Mr. WESTCOTT. Mr. President, I feel bound to oppose the passage of this bill; I feel bound to do it, sir, in vindication of the consistency of the Senate. The rule which has been adopted by the Senate, in a case of the same character, a short time since, if adhered to in this case, and in cases of a similar character when brought before the Senate, will prohibit their allowance. The case is this: Vessels were employed by the army and navy to carry troops, provisions, and munitions of war to the coast of Mexico, and land them there. A short time prior to the attack upon Vera Cruz, it was thought necessary by certain officers of the army, inferior subordinate officers, (quartermasters,) to have certain articles landed immediately. That was one thing thought necessary. It was thought necessary, also, that the vessel that had these articles on board should take a particular position in the harbor, in order that they might be speedily landed. The master of the vessel remonstrated against the taking of this position, informing the quartermasters of the army, who had ordered it to be taken, that in case a *norther* came up, the vessel would be lost. But the quartermasters forced the captain to take his vessel to his position, and, a *norther* coming up, the vessel was lost. Now, sir, payment is applied for on the ground that this vessel was taken for the public service, placed in a perilous situation, and while in that position lost; and therefore the United States are bound to indemnify the owners of the vessel, thus improperly placed in a position where it was lost by officers of the army. Now, I want gentlemen, if they can, to distinguish between the principle in this case and that involved in the case of the Gil Blas, destroyed to prevent its contents falling into the hands of the Indians. I should like to see my friend from Wisconsin, [Mr. WALKER,] who I perceive is in his seat, distinguish this case from that. This case proceeds upon the principle that it was taken for the public service by United States officers, and that, whether placed in the position where it was destroyed discreetly or indiscreetly, the Government is bound to indemnify the owners for their loss. I was in favor of the allowance of this case, when it was up before the committee, as a matter of justice; I think now, sir, it ought to be allowed. But I have no idea of making fish of claims from one section of the Union and fowl of those from another. I desire to have justice equally meted out to all. It was for the purpose of showing that the principle in both cases is the same that I rose to address the Senate.

Mr. WALKER. The gentleman from Florida calls upon me to distinguish between these two cases. Taking his word for it, there is no difference; if there be none, I am opposed to the present bill. I have not heard the report read, or read any statement of the case. The Senator from Florida chooses to assume that I am in favor of this case; but, as I before said, resting upon the evidence or statement he has presented, I suppose there is no difference in the two cases.

Mr. WESTCOTT. I supposed the Senator was in favor of the bill.

Mr. BRADBURY. I rise to call for the reading of the report, and, after that is read, perhaps some explanation may be necessary from me, I having reported the bill.

The report was read by the Secretary.

Mr. BRADBURY. It is so apparent to all who will read the report that this claim is just, and the facts connected with it are so conclusively in favor of the claim, that I did not expect that a single individual in the Senate would be disposed to oppose its allowance. In consequence, however, of the remarks of the Senator from Florida, it is perhaps incumbent upon me to make a brief explanation of the matter. This is a case, sir, where the property of individuals was taken from the control of the owners, by officers of the United States army, in time of war—at the period when the attack upon Vera Cruz was about being made. This ship, for the loss of which remuneration is asked, had a cargo of mules on board, that were intended for the use of the army in transporting munitions of war, and at this time—just previous to the attack upon Vera Cruz—certain officers of the army, deeming it of the highest importance that they should be immediately landed, directed the captain of this vessel to bring it into a position where that debarkation could be made most speedily. Although they were informed that the position was such as would expose the vessel to be lost, they thought that the public interests admitted of no delay, and that the landing of these mules should be effected at any risk. The captain remonstrated against placing the vessel in such an exposed situation, but finally consented, upon the quartermasters of the army assuring him that the vessel, while in that position, should not be at the risk of the owners.

This, sir, then, is a case which comes clearly within the principle recognized and acted upon by our Government. The vessel was taken possession of and used by officers of the Government, and there can be no question as to the order to take possession being a wise and discreet order. Nobody doubts that it was an order proper to be given, and beneficial to the army; and as such—as the quartermasters have themselves certified—the claim here presented is one that ought to be paid. It differs from the case up the other day—which the Senator from Florida supposes is lost, but which I believe yet remains for the future action of the Senate—inasmuch as this is a case where the property passed entirely under the control of our own officers, as has been shown from their orders, to have the mules immediately landed, they considering such landing as absolutely necessary in the prosecution of their military operations. I apprehend it is unnecessary for me to say more upon the subject, as the case comes within the principle which was recognized by the Senator from Wisconsin, [Mr. WALKER,] and cannot be objected to upon any principle. The bill, I am happy to know, met the cordial support of the honorable Senator from Florida, when before the committee for examination, he regarding it as a claim of the justice of which there was no manner of doubt.

Mr. WALKER. I would inquire of the honorable Senator from Florida what constitutes the difference, in his opinion, between this case and the one before us the other day?

Mr. WESTCOTT. I was in favor, Mr. President, of this case, when it was before the committee, as I stated when last upon the floor, regarding it as a claim which, upon every consideration of justice, ought to be allowed. But, sir, if the Senate are consistent in the application of the principle, which they set up in the case of the Gil Blas to all similar cases from different sections of the country, this claim cannot be allowed. I have no idea of letting a case slip through our hands, involving a principle we have established, that will present inconsistency in our action. Now, when the honorable Senator from Wisconsin asks what constitutes the difference in this case from that of the Gil Blas, I would reply that this is the case of a vessel from the State of Maine, lost upon the coast of Mexico, while that was the case of a Spanish vessel lost upon the coast of Florida. That is all the difference, sir; the great principle involved I consider to be the same. The officer in both instances took possession of the property, and it was destroyed for the promotion of the public interests—though I apprehend indiscreetly, and without sufficient cause. In this case particularly, the officers who gave the order to place the vessel in the situation in which it was almost sure to be lost, were informed of the consequences; and to my mind there was no necessity for placing the vessel in such situation, and therefore they were very censurable in putting it there. As I stated when up before, I do not wish to be considered as opposing the justice of the claim; I only insist upon the Senate's being consistent in its rules; I have not stated that I should vote against this bill; I only desire to impress upon Senators that they should be consistent in carrying out their rules.

The bill was then ordered to be engrossed for a third reading, and was subsequently read a third time and passed.

OTHER PRIVATE CLAIMS.

The Senate then proceeded to the consideration of House bill directing the mode of settling the claim of Charles G. Ridgely.

After a few remarks, the yeas and nays were demanded on ordering the bill to a third reading, and resulted as follows:

YEAS—Messrs. Baldwin, Bell, Bradbury, Dayton, Dodge of Wisconsin, Dodge of Iowa, Douglas, Hannegan, Johnson of Louisiana, Jones, Mason, Pearce, Phelps, and Sturgeon—14.

NAYS—Messrs. Atherton, Breese, Bright, Butler, Calhoun, Clarke, Davis of Mississippi, Dickinson, Felch, Fitzgerald, Houston, Hunter, Johnson of Georgia, King, Niles, Spruance, Turney, Walker, and Westcott—19.

So the bill was rejected.

PIERRE CHOUTEAU.

The Senate then proceeded to consider the bill for the relief of Pierre Chouteau, Jun., & Co., as in Committee of the Whole.

Mr. BELL. I do not think, sir, that there can be any objection to the passage of this bill. It is not proposed by the Senate committee to make allowance for the services of the Indian warriors who served six months in Florida in the army of the United States; that is a different question from the one here presented, although my individual opinion is, that a claim for such services, when presented, should be paid. This is a different claim, acknowledged by the chiefs of the nation who are responsible for its payment, and sent by them to this Government to be paid out of a fund belonging to the tribe, and held in trust by this Government. Its correctness is certified by the headmen and chiefs of the nation. The usual mode which these Indians pursue in reference to a claim against them is, to assemble together in council, investigate the charges made, and, after settling among themselves the amount that should be paid, give the claimant a draft upon this Government for the amount of said claim. The Indians hold in their memorial, that if the Government would do them justice with reference to the service of one hundred and ninety of their warriors in the Florida war for six months, it would not be necessary to trench upon the fund held in trust for them by the United States, and that there would still be a balance due them if the United States were to allow for the services of those warriors, and pay out of that allowance the claim here presented. But, as I have said before, that is a different question, not at issue at the present time. The claim now before us was presented by the chiefs of this tribe of Indians to the Executive Government, to be paid by the Government out of the fund due them.

Now, the only question which might induce the Senate to doubt whether it is expedient to pay this claim, arises under that article of the treaty which gives the disposition of this fund in the first instance to the Executive of the United States, to be used at his discretion. It was upon that ground that the Indians in their memorial suggested that this claim ought to be paid out of a sum that should be allowed for the services of their warriors in the Florida war; and that suggestion was taken into consideration by the Senate committee, but only in aid of the general proposition. I will just read for the satisfaction of the Senate that article of the treaty of 1831, under which any question that can be fairly made may arise. It is provided in that treaty, in the seventh article, that the fund arising from the sale of the land ceded by that treaty—land located in the State of Ohio—after certain deductions and payments made in advance by the United States out of the proceeds of the sale; I

say the balance, whatever it may be, shall be paid to the Indians; said fund to be continued during the pleasure of Congress, at the rate of five per cent. per annum on the amount of said balance, as an annuity. The article further proceeds to say, "that said fund is to be continued during the 'pleasure of Congress, unless the chiefs of the 'said tribe or band, by the mutual consent of their 'people, in general council assembled, desire that 'the fund thus to be created should be dissolved 'and paid over to them." This stipulation of the treaty they have complied with. The chiefs did resolve, with the consent of their people in council assembled, that this claim should be paid out of this national fund. But the difficulty in this case occurs with reference to the latter portion of this article of the treaty, which reads as follows: "in 'which case the President shall cause the same to 'be paid, if in his discretion he shall believe the 'happiness and prosperity of said tribe would be 'promoted thereby;" that is, provided they shall apply for the payment of the fund *in solido* over to the tribe, and not for the interest as provided in the general provisions of the section.

It will be seen, then, from this latter clause of the article, that payment out of this fund is referred to the discretion of the President, although I know of no instance in which the President, in the exercise of his discretion, has ever undertaken to pay over money *in solido*, as provided by Indian treaties. The President declines paying out a portion of this fund, as asked to do by these Indians to meet this claim, alleging that a portion of this fund has been invested in stocks not now at par; and that, if they do make payment of the claim, in consequence of this investiture in stocks not at par of this money, the Indians or the Government will suffer loss. The report states upon this point that the Government are bound to make this fund a par fund; that is, if any loss is to occur from this investiture in stocks not now at par, the Government should bear it; and I think it takes a correct ground, for there is no provision in the treaty that was made that authorizes the Government to vest the fund at all. The Government vested it at their discretion, as follows: in Maryland State fives at eighty per cent. on the dollar—and the Senator from that State can judge how much they are now worth—and in sixes at the proportion and rate at which they are now held in market. I take it, sir, that Government has no right to object to the payment of this debt out of the fund, because, by an unauthorized act of their own, they have invested that fund in stocks which are below par.

In consequeuce, then, of the President's refusing to exercise his discretion under these circumstances, these parties come to Congress to have the claim paid. The claim is founded in very great merit, and is one of those claims in which the executive officer of the Government is very much compromitted, and the Government obligations very strong in favor of paying the whole amount they stipulated to pay to this officer. This is a distinct claim, however; and if the tribe urge it, I do not see how we can get over paying it.

The question now before the Senate is this: These chiefs having assembled their nation in council, and the council having agreed this claim should be paid, have addressed a communication to the Secretary of War, over their signature, requesting that the draft enclosed in that communication, signed by their chief, for the payment of the debt, be honored from out this fund. Under these circumstances, I do not see that there can be any well-founded objection to the payment of the claim or the honoring of that draft. The claimants have waited for their dues a long time; and one question before the committee was, whether interest on the amount due had not better be allowed. Under all the circumstances, however, the committee thought it best to simply present the naked claim, and to report a bill merely for the payment of the claim out of this fund of thirty-six thousand dollars, which the Government is bound expressly to pay over to these Indians whensoever called upon.

Mr. BORLAND. I desire to have an opportunity to inform myself more fully upon the merits of this claim, and I think there are several other Senators who would like to do the same. I hope, therefore, the Senator from Tennessee will allow the bill to lie over.

Mr. BELL. The bill was very fully discussed and examined at the last session; nevertheless, if the Senator insists upon it, it may lie over.

Mr. BORLAND reiterated his wish; and the bill was accordingly laid over. And then

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 11, 1849.

The Journal of yesterday was read and approved.

Mr. KING, of Georgia, called for the regular order of business.

HARBOR OF BUFFALO.

The SPEAKER said, the first business before the House was the following resolution reported from the Committee on Printing:

Resolved, That one thousand extra copies of the letter of the Secretary of War, and the accompanying papers, in relation to the harbor at Buffalo, New York, communicated to this House on the 6th instant, be printed for the use of this House; and that two hundred and fifty extra copies thereof be printed for the use of the Bureau of Topographical Engineers.

Mr. WENTWORTH rose to a point of order, and asked the Speaker what had become of the resolution [a laugh] which they had had before the House yesterday, relative to the slave trade in the District of Columbia.

The SPEAKER replied that it was on the file of unfinished business.

Mr. WENTWORTH. And we shall never reach it again during this Congress? [Laughter.]

The SPEAKER. Yes, when the House proceed with the regular order of business, and come to the consideration of resolutions which lie over.

Mr. WENTWORTH. The Speaker would remember that I asked him this question yesterday, and was told it would continue the special order from day to day until disposed of.

The SPEAKER (very doubtfully heard) was understood to reply that he had stated to the gentleman that the motion to *reconsider* had priority over all other business. If the resolution had remained before the House upon the motion to reconsider, it would have had priority this morning; but, the House having reconsidered the vote, it was now a common resolution before the House, and would take its place upon the calendar.

Mr. WENTWORTH. Can I not move to reconsider the vote by which the House refused to lay the subject on the table yesterday?

The SPEAKER. Any motion can be reconsidered.

Mr. HALL, of New York, inquired whether the gentleman from Illinois could make the motion to reconsider the vote adopted by the House yesterday, while he (Mr. H.) had the floor upon the regular order of business?

The SPEAKER. No; he cannot. The gentleman from New York [Mr. HALL] is entitled to the floor, unless some gentleman rise to a point of order.

Mr. WENTWORTH. Is not mine a privileged motion?

The SPEAKER. Not so as to authorize the gentleman to take the floor from another gentleman.

Mr. BELCHER. I rise, Mr. Speaker, upon a question of mileage.

The resolution which was in order was read, (as given above.)

Mr. HALL of New York, obtained the floor, and said that, before submitting the remarks he desired to make upon the original resolution, and in reply to the remarks of the gentleman from Georgia, [Mr. TOOMBS,] made when this resolution was the other day under consideration, he would offer the following amendment:

And that the drawing and map attached to such report be engraved on a scale not exceeding one-half the size of the original, and that one copy of such drawing and map be attached to each copy of the report ordered to be printed by this House.

The question being stated on the amendment—

Mr. HALL said, that before the question was taken on his amendment and on the original resolution, he desired to submit a few remarks in reference to the character of the report proposed to be printed, and in reply to the remarks the other day made by the gentleman from Georgia, [Mr. TOOMBS.] He then proceeded to remark upon the character of the report which it was proposed to print; and stated that the harbor at Buffalo had been frequently the subject of consideration in Congress; and that prior to 1845, divers plans for its further improvement had been suggested. That in that year a board of commissioners was appointed by the Bureau of Topographical Engineers, under the direction of the War Department, to consider and report upon the different plans for the improvement of that harbor. This board consisted of Lieutenant Colonel Kearny, and Major Turnbull, of the corps of Topographical Engineers, and General Swift, an eminent civil engineer, who had, he believed, formerly held the position of Chief of the Corps of Engineers of the United States. This commission met at Buffalo, and, after spending several weeks in the consideration of the several plans for the improvement of the harbor, and in the survey and examination of the harbor, and the lake and river in its vicinity, made the report of which it was proposed to print 1,250 extra copies, at an expense, as had been stated by the chairman of the Committee on Printing, of fifteen dollars only. The eminent attainments of the gentlemen composing the commission was a sufficient guarantee that the report was worthy the consideration of Congress and the country; and it should be printed, that it might be preserved, and that copies of it might be distributed to some extent to the population of the large territory which was interested in this important harbor.

In reference to the importance of this harbor, and the interest in the subject of this report, which the gentleman from Georgia [Mr. TOOMBS] had asserted was a local one, confined to the people of the city of Buffalo alone, he desired to say that he conceded that the commerce of this harbor was, perhaps, of small importance when compared with that of New York city; but nevertheless, the commerce of the port of Buffalo was not, as he believed, exceeded in value by the commerce of more than five or six ports on the seacoast of the Union.

But to ascertain its comparative importance, he proposed to compare, in some respects, the commerce of this port with the commerce and annual products of the sovereign State of Georgia. That was, perhaps, a fair subject of comparison. That State was represented on this floor by eight gentlemen of high character, great intelligence, and extensive information; one of whom, [Mr. KING,] he was happy to believe, had reasonable expectations of presiding over the Navy Department, under the incoming Administration; and another, [Mr. TOOMBS,] if he had not been misinformed, had similar aspirations in regard to the War Department. To this he would not object, were it not that it would mortify himself and his constituents to have an officer at the head of that department (which had charge of the improvement of the rivers and harbors of the country) whose information in reference to the city of Buffalo, its location, business, and harbors, was so limited, that he could hazard the assertion that the interest in its harbor was purely local, and confined to the people of that city alone.

By an official report of the commissioners of the canal fund of the State of New York, it was shown that the property coming from other States which entered the Erie canal through this harbor in the year 1847 amounted to 659,996 tons, and was valued at $27,064,662, and that the value of the merchandise which went to other States through that harbor in the same year was $20,624,400.

By the statement of Professor Tucker, of the University of Virginia, contained in his work on the progress of the United States, it appeared that the value of the whole annual productions of the State of Georgia, based, as he supposed, on the census of 1840, was only $35,980,363. The commerce of Buffalo in 1847 was $47,689,062, as above stated, being a sum considerably larger than the whole annual production of the State of Georgia, for their own consumption and for export.

This commerce, it is estimated by the head of the Topographical Bureau, in an official report communicated to this House at the last session, will increase at the rate of about seventeen per cent. per annum. He also estimates that a population of nearly three millions of our citizens depends upon the chain of lakes, at the foot of which this harbor is situated, as the means of communicating with a market; and that this population, thus dependent on the commerce of the lakes, was increasing at the rate of 3.41 per cent. per annum.

To increase the facilities for this commerce at the harbor of Buffalo, the State of New York had, within the last two years, appropriated more than $300,000; and yet the gentleman from Georgia was

unwilling to incur the expense of fifteen dollars for publishing 1,250 extra copies of a most valuable report in relation to the improvement of this harbor.

The commerce of the harbor of Buffalo was connected, at that point, with a canal which had cost the State more than twenty millions of dollars, and from which was collected, at the collector's office in Buffalo alone, in the year 1847, for the tolls of that year, the large sum of $1,216,243 47; while the net revenue from customs in all the States south of Mason and Dixon's line, for the year ending June 30, 1847, was only $1,837,764 82, and in Georgia only $35,610 42.

The gentleman from Georgia appeared not to understand the location of the harbor of Buffalo. To show the gentleman where it was situated, he had brought a map, which accompanied a report of his colleague, the honorable chairman of the Committee on Naval Affairs. By this map it appeared that Buffalo was situated on Lake Erie; and the House would see that it was at the foot of a steamboat navigation exceeding one thousand miles by the most direct route, through lakes having more than two thousand seven hundred miles of coast. By a short portage these lakes were connected with Lake Superior, which had a coast a thousand miles in extent, and by a ship canal from Chicago, and canals and railroads from other points, they were connected with the tributaries of the Mississippi, and through those tributaries, with that great and mighty river.

This location of Buffalo was therefore established by Georgian authority. This map, made by his colleague, he thought, ought to convince the gentleman from Georgia that this was the correct location, and that most of the commerce of six States, which would soon be six of the most productive States of the Union, centered in this harbor: and for printing a valuable report upon such a harbor, he doubted not the House, and even the gentleman from Georgia, would be willing to sanction the expenditure of a sum much exceeding the paltry sum of fifteen dollars.

He had applied, personally, to the gentleman from Georgia, in reference to his opposition to this resolution, and had been told his opposition was caused by his determination to economize in the expenditures of Congress. He was sorry that the economical spasms of the gentleman had occurred while this particular resolution, involving so paltry an expenditure, was before the House. If the gentleman desired an economical reform, he would endeavor to direct his attention to a subject worthy the efforts of a gentleman of his gigantic intellect.

We had a Post Office Department, from which statements were made or procured, at the last session of Congress, which showed that the cost of the transportation of the mail in the State of New York, for the year ending June 30, 1847, was $229,307, and that the net revenues from postage paid in that State, during the same period, amounted to $494,756 51. The same sources of information would show the gentleman that the cost of transportation in Georgia, during the same period, was $153,001, and the net revenues from postages only $55,858 90. Yet the last session established new post routes in Georgia, for which he voted, and should do so again. He did not desire to object to these disproportions, or to seek to have them abrogated, for the benefits of nearly every appropriation and expenditure were unequally distributed; but he thought that common justice and common generosity required that the gentleman from Georgia should not object with such energy to the expenditure of $15, in relation to such a harbor as Buffalo, because he alleged that his own constituents were not interested in the expenditure. The gentleman opposed this expenditure, and he opposed the printing of the extra copies of the Patent report; and if he recollected aright, the gentleman had said on both occasions, that he should rather vote for buying Webster's Spelling Books and the New Testament for distribution among his constituents.

Mr. CONGER here suggested to his colleague, [Mr. HALL,] that the gentleman from Georgia, [Mr. TOOMBS,] in his remarks opposing the printing of the report of the Commissioner of Patents, named also Comic Almanacs.

Mr. HALL proceeded. He presumed the gentleman from Georgia and himself, in relation to these questions, desired to consult the best interests of their constituents. If there had been any alarming want of these useful publications in his (Mr. H.'s) district, he should have been most anxious to supply their most pressing need; and that if this resolution and his amendment passed, he would propose to give the gentleman from Georgia and his constituents the fair share of the benefit of the expenditure. The gentleman, in case the resolution as proposed to be amended should pass, would be entitled to four copies of the report in question; and he proposed to take them, and to procure for the gentleman, in exchange, two copies of Webster's Spelling Book, and two copies of the Testament, for the benefit of his constituents; and to make the proposition entirely acceptable, he would endeavor to procure, and throw in a copy of Morse's School Geography and Atlas.

Mr. H. said he had prepared himself with other statistics, in reference to this question, but they might appear to be sectional in their character, and he was the last man in the House who would willingly volunteer anything which might seem to increase the sectional feelings which, he was sorry to say, existed in this House. He should, therefore, not refer to them; but, believing that he had said enough to insure the passage of the resolution and amendment, and believing that the best retrenchment in this House would be in the unnecessary length of speeches, and the best economy the economy of time, he would yield the floor, that the question might be taken on the amendment and resolution.

Mr. HALL, in the course of his remarks, yielded the floor to his colleague, [Mr. CONGER,] who made the following explanation:

Mr. CONGER said: I desire my colleague to allow me to say a word on this subject, out of his time, as I shall have no other opportunity, unless I should *happen* to be fortunate in my attempt to obtain the floor.

It was said by the gentleman from Georgia, [Mr. TOOMBS,] who, the other day, opposed this report, that there had been gross and flagrant abuse in the action of the Committee on Printing, at the present as well as the last session of Congress, in recommending the printing of large and extravagant numbers of documents. Now, it so happens that the two notable attempts which have been made in this House to reduce the printing recommended by the committee have been put forth on propositions involving an expenditure in the aggregate of less than forty dollars. The first attempt at retrenching what the gentleman from Georgia [Mr. TOOMBS] is pleased to call extravagant and infamous abuses, made at the last session, was upon a report in favor of printing extra copies, where the whole amount of expenditure involved was only twenty-three dollars! The next instance is the violent opposition of the gentleman from Georgia on the report now under consideration, the adoption of which will involve an expenditure of fifteen dollars!

Now, if gentlemen are desirous of becoming reformers, and making an effort in good faith to retrench expenditures in printing, why do they confine their opposition to propositions involving comparatively insignificant amounts? Why do they not allow their voice to be heard when it is proposed to make large draughts upon the treasury? If the gentleman from Georgia is alarmed at the magnitude to which he says this abuse has grown, why does he not seek to retrench when thousands are involved, and not so trivial a sum? Why did he not oppose the extravagance incurred by the motion to print the large number of the President's message and the accompanying documents, made in the House, when the reference of the resolution to the Committee on Printing (where, in accordance with the provisions of the law under which the printing is executed, it should go) was refused? Why did he not oppose the printing of a very large number of extra copies of the report of the Secretary of the Treasury, a motion for which was also made in the House, and not by the committee? Why did he not oppose the printing of extra copies of the report of the same officer in relation to receipts and expenditures, which the House did not see fit to refer to the committee, and which they had nothing to do with? Why did he not go for retrenchment on the motion to print extra copies of the Land Office report, and the report of the Superintendent of the Coast Survey, both ordered by the House, without any report from the committee? In all these cases, large amounts were involved, and good opportunity was offered for gentlemen, who are now shocked at the expenditure of fifteen dollars, to prove themselves faithful guardians of the treasury. But not a word is heard when there is a chance to save thousands to the treasury. At the last session, the gentleman from Georgia, I believe, went for the printing of a large number of extra copies of the document known as the War Correspondence—a document which, in my judgment, was of as little importance to be sent forth to the country as any we have ever printed, and the printing of which, as the chairman of the Committee on Printing, I opposed. If the gentleman is opposed to printing books for the country, why did he not endeavor to save the expense of this publication, which amounted to several thousand dollars? If gentlemen are really in favor of reforming the action of the committee or the House in printing too largely, let them make the effort when it will tell on the treasury to the saving of something more than a few paltry farthings. There are opportunities for saving thousands of dollars on a single document, if we print too much.

But I will not abuse the indulgence of my colleague by entering at length into this discussion.

Mr. THOMPSON, of Kentucky, said that he had not taken the floor with any desire or intention to protract this discussion; but that, as a member of the Committee on Printing, whose course had been referred to, it was proper that he should not suffer the occasion to pass without making a few remarks. He did not propose to expend any of the time of the House upon the extravagant and profligate expenditure of fifteen dollars, involved in the printing of the copies of this report; nor did he intend to take part in the discussion of the point whether comic almanacs suited the literature of the constituents of the gentleman from Georgia, [Mr. TOOMBS,] or whether the Bible suited their religion or their lack of religion. He cared as little for these matters as he did for the fact whether the gentleman from New York, [Mr. HALL,] from his local position, was interested in having this report printed or not. He desired simply to state the facts connected with this contemplated appropriation, and then to proceed to lay before the House some facts concerning the system of public printing, as it now existed, and as it was now conducted.

The proposition was to print one thousand copies of the report of a survey of the harbor of Buffalo—not because it would be an accommodation to the gentleman who represented the city of Buffalo, but because the Committee on Printing supposed that a report made by the competent officer of the Topographical Engineers upon the subject, was a matter upon which the country might desire to be correctly informed. With that view, the printing was recommended, and not for the purpose, as he understood it, of giving to the gentleman who represented the district any particular favor by a report relating to a local or personal subject. The connection of this harbor of Buffalo with the lake commerce and marine of Iowa, Wisconsin, Minesota, and Canada, and its importance in reference to military and naval purposes, seemed in the judgment of the committee, to justify the appropriation they had recommended, without reference to what might be supposed to be a proposition to favor a particular item in a system of internal improvements.

It seemed to him that the gentleman from Georgia [Mr. TOOMBS] had been suddenly seized with an enthusiastic desire for reform in relation to this expenditure of fifteen dollars. It might be all allowable; probably it was laudable. But the gentleman seemed to imagine that the Committee on Printing had been egregiously extravagant in their recommendations for the printing of extra numbers of public documents.

Now, without desiring to evince any very rabid desire for retrenchment, he would inquire, what were the expenditures under the old system compared with those which were now made for the execution of the public printing?

The gentleman from Georgia was correct in one point—he was correct in supposing that there had been more printing done during the last session and during this—to the extent to which this session had gone—than was probably ever before executed for any previous Congress, or probably would be required for any future Congress. That fact had resulted necessarily from the increased army and navy operations, from the diplomatic correspondence, and all the detailed operations of the events

and occurrences connected with the Mexican war, and with the acquisition of New Mexico and California. To this cause was to be added the natural increase of the business of the country with the population and progress of the country. Yet, even under this additional and proper increase, how did the facts stand in relation to the expenditures? Mr. T. read the following statements:

Comparative statement of the prices of Ritchie & Heiss and Wendell & Van Benthuysen.

Number of pages.	Number of copies.	Prices of Wendell & Van Benthuysen.	Prices of Ritchie & Heiss.
Document of 2.	1,335	$1 73	$4 71
Do.....4.	1,335	3 46	9 42
Do....100	1,335	86 50	235 50
Do....130.	10,000	484 25	1,330 56
Do...996.	16,335	5,927 27	16,825 06
Do..1,184.	35,335	13,281 50	41,825 58
		19,784 71	60,251 83
			19,784 71
			40,467 12

Showing a difference of sixty seven per cent.

Wendell & Van Benthuysen's bill for the 30th Congress, 1st session, amounts to..... $101,632 00

Ritchie & Heiss's bill, for the same work, would have been..... 307,975 00

Showing a saving under the present contract, to Government, of..... 206,343 00

Under prices paid to Gales & Seaton, for the printing of the 27th Congress, the above work would have cost $441,921; showing a saving from their prices of $340,289.

This statement, Mr. T. said, was believed to be correct; but, being no practical printer himself, he had relied on the officer of the committee, who prepared it. He did not pretend, upon printing, upon points of order, speeches upon fifteen-dollar appropriations, and such like things, to be eminently able to gain newspaper eclat.

Mr. T. next read the following:

Extract from the statement of the public printers.

1. The amount received by us for the printing now completed, is..... $101,632

At the prices received by Messrs. Ritchie & Heiss, the cost would have been..... 307,975

At the prices received by Messrs. Gales & Seaton, the cost would have been..... 441,921

Showing a difference of $206,343 from Messrs. Ritchie & Heiss's prices, and $340,289 from those of Messrs. Gales & Seaton.

Mr. T. said that this table was furnished, or at least handed to him, as a statement believed to be correct by the proper officer of the committee; personally he had no doubt of its accuracy.

Mr. T. then read the following:

27TH CONGRESS—Gales & Seaton..... $189,202 65

22TH CONGRESS—Ritchie & Heiss..... $157,874 20
12,678 52

$170,552 72

These statements, Mr. T. said, were furnished by the Clerk of the House, and were believed to be correct.

This exhibit showed that under the former system, the rates were triple or quadruple more than those paid under the present contract system.

When Mr. T. read that portion of these tables which set down the amount paid for the printing of the first session of the present Congress at $101,632—

Mr. SCHENCK rose to inquire of the gentleman from Kentucky [Mr. THOMPSON] whether this sum of $101,000 included documents which had not yet been delivered—for example, the Patent Office report?

Mr. THOMPSON. I presume it includes everything.

Mr. SCHENCK said that the gentleman did not seem to understand his inquiry. He desired to know whether the documents which had been ordered to be printed, but which had not yet been delivered, were included in the sum for which bills had been rendered?

Mr. THOMPSON replied, that by the law and the action of the committee documents were never paid for until delivered to the binder—the delivery to the binder being considered a delivery, under the contract, from the printer. As to the tardiness of the work, or the amount of it accumulated on hand and unperformed, the gentleman knew as much as he (Mr. T.) did.

Mr. SCHENCK said that he did not know whether this contract system was likely to benefit the country or not.

He, for one, was anxious it should be adopted. But he would say, that the printing had been worse done, and more slowly done, since the adoption of that system, than it had ever been done before. A great proportion of the work had, he thought, been miserable in point of style, and had been executed so slowly as almost to amount to a denial of the execution of the order of the House. A portion of the Patent Office report had not yet been delivered. Could the gentleman tell him whether the charge for the whole ninety thousand copies of that report which had been ordered to be printed were included in this sum?

Mr. THOMPSON said he had no doubt they were included in this account; but not having the accounts before him, he could not positively say.

Mr. SCHENCK then suggested that this was the eleventh of January, and they had not yet seen the copies which were ordered to be printed of the President's message with the accompanying documents.

Mr. HENLEY asked the gentleman to yield the floor to allow him to say a few words.

Mr. T. having yielded—

Mr. HENLEY said that he understood the gentleman to say, that the printing had been done not near so well, and much more slowly under the contract system than formerly.

Mr. SCHENCK. Such was my impression.

Mr. HENLEY said, that so far as concerned the character of the printing, he admitted that it had not been quite so well done, nor upon as good paper, as it was done by Blair and Rives, not quite as good as by Ritchie and Heiss, nor so good as by Gales and Seaton.

But the gentleman from Kentucky [Mr. THOMPSON] had gone on to show that sixty-seven per cent. had been saved on the price of the printing. The contract system was now in its infancy. It had so far succeeded well; and if continued, it would continue to do so. It had been done about fifty per cent. cheaper than before.

In relation to the amount of printing, he wished to state a fact, for which he held himself responsible. The printing was now being done twenty-five per cent. more expeditiously than it ever had been done since the year 1819 by any one else. Gentlemen could look into the fact, and they would find it to be so.

He would also refer to another point. An opinion seemed to prevail here that the committee had been extravagant in reporting in favor of printing large numbers of documents. The charge had been thrown into his teeth by those whom he supposed would be called his friends—sometimes tauntingly and insultingly—that the committee had been extravagant, and neglectful of the public interests.

Mr. SCHENCK said he was not one of those who made complaints against the committee. His objections lay against the working of the system.

Mr. HENLEY said he had not referred to the gentleman. He (Mr. H.) was not afraid of the responsibility which attached to him as a member of any committee. But he was unwilling that these wholesale charges of profligacy and disregard of the interests of the country in reference to the public treasury in the discharge of its duties, should be brought against the committee. The committee had made every effort at reform. In almost every instance where the committee had endeavored to cut down the amount of printing, the House had overruled them, and in some instances by the votes of those very gentlemen who were now abusing the committee for extravagance. He had felt that great injustice had been done to the committee, and in some instances almost intentionally. He hoped that the attention of the House would in future be drawn more particularly to these matters, and that when the committee again reported in favor of reducing the number of documents, they would not be overruled by this House, and then taunted with extravagance.

Mr. THOMPSON now resumed the floor. The gentleman from Indiana [Mr. HENLEY] seemed to speak with some warmth on this matter; for his own part, he felt none. It was true, as he had stated, that more printing had been done than at any former period, because the interests of the country required it. But it had been done not by the order of the committee, but of the House. By the law of 1846, it was made the duty of the committee to report the cost and their opinion upon the propriety of printing extra copies. The matter was always settled by the House, not by the committee. The recommendation of that committee went only for what it was supposed to be worth as coming from a committee of this body. It was always in the power of the House to control the number and extent of the documents that should be printed.

As to the Patent Office report, (which had been referred to by the gentleman from Indiana, [Mr. HENLEY,]) it was an agricultural paper, suited to farmers. Commerce, by coast surveys, astronomical observations, and such things, was fostered and promoted. Manufactures, also, by law, and by the publication of everything to promote their interests, were countenanced. Were not farmers the great basis and substratum of society? Though remotely benefited by that which aided commerce and manufactures, surely we should not object that farmers should sometimes come in contact with, or have cognizance of the existence of a Federal Government, beyond the occasional receipt of a letter through the post office. They contributed to the support of that Government, and had a right at least to some of its benefits.

But a word upon the charge of extravagance against the committee. How was that committee constituted, and how did it act? Last year, as now, in this House, the gentleman from New York, [Mr. CONGER,] the gentleman from Indiana, [Mr. HENLEY,] and himself, composed it. In the Senate, Messrs. CAMERON, BRADBURY, and GREEN, constituted it; and now, Messrs. UNDERWOOD, CAMERON, and JOHNSON. This, except upon the point of extra printing for each House, was the Joint Committee on Printing. But for the better understanding of the matter, he would read the law. It was as follows:

"SEC. 2. *And be it further resolved*, That a committee, consisting of three members of the Senate and three members of the House of Representatives, shall be chosen by their respective Houses, which shall constitute a committee on printing, which shall have power to adopt such measures as may be deemed necessary to remedy any neglect or delay on the part of the contractors to execute the work ordered by Congress, and to make a pro rata reduction in the compensation allowed, or to refuse the work altogether, should it be inferior to the standard; and in all cases the contractor and his securities shall be responsible for any increased expenditure consequent upon the non-performance of the contract. The committee shall audit and pass upon all accounts for printing; but no bill shall be acted upon for work that is not actually executed and delivered, and which they may require to be properly authenticated.

"SEC. 3. *And be it further resolved*, That all motions to print extra numbers of any bill, paper, or document, in either House, shall be referred to the members of the committee of that House, who shall report upon the propriety of printing, and the probable expense thereof, as early as convenient. And all expenses for printing shall be paid from the contingent fund of the two Houses, in proportion to the number of copies ordered by each, except the expense of composition, which shall be paid by the House which shall have first ordered the printing of the paper or document; and if there shall be a second composition, it shall be paid for by the House which shall authorize and direct the same; and when extra copies of any document or paper shall be ordered by both Houses, they shall be delivered to the two Houses simultaneously, in proportion to the number of copies by them respectively ordered.

"SEC. 4. *And be it further resolved*, That all laws and parts of laws now in force, not in conformity with the provisions of this joint resolution, be, and the same are hereby, repealed.

"Approved August 3, 1846."

This contract system now in existence was enacted to withdraw from the great metropolitan press here in favor with the party in power for the time being a part of that patronage upon which it battened. The Executive printing, (the press being the organ of its party,) was sufficient to uphold a worthy press. The Congressional printing superadded, was only calculated to devote the press to a party, not to the country, to principle, or even to propriety.

It was true, the Whig party was now in power. He would, if it could be consistently done, give every encouragement to the "Intelligencer"—a most prudent, patriotic, conservative, and if not always right, always dignified and able paper—all the countenance and encouragement that long service and honest, patriotic efforts deserved.

The fault of the law was not the fault of the committee. The committee had reserved five per cent. on all work done, that the House or the committee might eventually enforce the contract, according to the law of retainer provided for. The committee never, that he remembered, when one House ordered printing, and the type had been distributed, ordered a second composition. The House often ordered extra printing without referring it to the committee—often overruled the committee. The law, perhaps, though it stood as law, being a mere regulation of the rules of pro-

ceeding of the House, he would not say was obligatory; and that, as such, it had been disregarded by the Speaker and the House by ordering extra copies over the head of the committee, without the reference contemplated by the law.

The inferior work or paper he did not defend. A new system, or economical system, deserved a fair trial; and the committee desired also a fair judgment.

The House, and not the committee, on a new and untried system, (but an economical one,) were, if there be blame, reprehensible. The great principles of public policy that dictated the separation of the public printing from the public press certainly ought to be feasible; it was practicable. He was for economy, despatch, creditable execution and typography, and not for pretended reform.

He had been in favor of the proposition of the gentleman from Massachusetts, [Mr. ASHMUN,] to engage reporters for this House; and he thought this matter of reporting and printing not here generally well understood. He did not pretend in detail to understand all the minutiæ connected with their functions, but he believed that the contractors for the public printing were zealously and honestly doing, under low prices and much embarrassment, their best to fulfill their contract. He was persuaded the committee had attempted diligently to execute the law of 1846, and to fulfill their duties. But it should always be remembered that the usual number of reports, executive communications, (being 1,300 or 1,400,) were always printed, or almost always; and the only grievance that could well occur, as to the excess of extras, must be from the negligence of the House, or the fault of the committee. For his own part, he felt no pride of opinion whether the system be continued, or the extra copies printed.

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. HALL, of New York, asked the gentleman to withdraw the motion, so as to allow the question to be taken upon the resolution.

Mr. VINTON said he had, some days ago, felt it to be his duty to state to the House the reasons which would constrain him to urge the appropriation bills to definitive action at as early a day as possible.

Mr. HALL said that the report was now in type. He had moved the previous question, but had withdrawn it, on the request of the gentleman from Kentucky, [Mr. THOMPSON,] and with the understanding that he should renew it.

Mr. VINTON. If we can get the previous question, I have no objection to waive my motion.

Mr. HALL thereupon demanded the previous question.

Mr. HARALSON inquired of the Speaker whether the gentleman from New York [Mr. HALL] had the floor to make the motion?

The SPEAKER. The gentleman had the floor with the assent of the gentleman from Ohio, [Mr. VINTON.]

Mr. HARALSON. I trust, then, that the previous question will be voted down, and that an opportunity will be given to my colleague [Mr. TOOMBS] to reply to the remarks which have been made.

Mr. HILLIARD inquired of the Chair whether it was in order to call for the orders of the day?

The SPEAKER said the hour had not yet expired.

The question was then taken on the demand for the previous question, and decided in the negative.

So there was no second.

CIVIL AND DIPLOMATIC APPROPRIATIONS.

Mr. VINTON then renewed his motion.

And the question having been taken thereon, and decided in the affirmative—

The House again resolved itself into Committee of the Whole on the state of the Union, (Mr. SMITH, of Indiana, in the chair.)

The committee, on motion of Mr. VINTON, resumed the consideration of the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1850.

Mr. EMBREE was entitled to the floor.

THE PRESIDENT'S MESSAGE.

Mr. COBB, of Georgia, rose and desired to call the attention of the committee and of the House to the fact, that under existing special orders made by the House, it was improbable that, in the regular order of business, the message of the President could be reached and acted upon during the present session.

The CHAIRMAN (interposing) said he would remark——

Mr. COBB said he was merely about to make a suggestion, and would not detain the committee more than a moment. He thought that the chairman of the Committee of Ways and Means [Mr. VINTON] and the whole House would see the propriety and necessity of referring the message. It would not take up much time to dispose of it; and he appealed to the gentleman to let it be taken up, so that the resolution referring the message might be reported to the House, and the message referred to the appropriate committees for their action, otherwise the end of the present session would arrive and the House would adjourn without having made any reference of it. He presumed that this was not contemplated by any gentleman.

Mr. VINTON, in reply, said, that at the time the President's message was last under consideration, the committee was engaged in a debate upon the tariff—a subject of which they would never see the end. And it was apparent that the whole session would pass away without the reference of the message, if that debate should be continued. It was his intention, however, on Monday next, to move that the Committee of the Whole on the state of the Union be discharged from the consideration of the message, and that it should be brought into the House, so that it might be referred. He thought there was no other way of disposing of it.

Mr. COBB said he would very cheerfully acquiesce in the suggestion of the gentleman from Ohio, [Mr. VINTON.] He (Mr. C.) hoped that the motion would be made by the gentleman at that time, and that the message would be referred accordingly.

Mr. VINTON. If I can get the floor on Monday, I shall certainly make the motion.

Here the conversation dropped.

The committee then resumed the consideration of the civil and diplomatic appropriation bill.

The state of the question was this:

The following item being under consideration:

For compensation and mileage of Senators, members of the House of Representatives, and Delegates, $768,260.

Mr. EMBREE had moved to amend it by inserting the following:

Provided, That the mileage of members of both Houses of Congress shall hereafter be charged upon the shortest mail route from their places of residence, respectively, to the city of Washington.

And Mr. STEPHENS had moved to amend the amendment, by striking out the word "shortest" and inserting "usual."

And the pending question was on the amendment to the amendment.

Mr. EMBREE resumed the floor, and proceeded to address the committee.

After a brief introduction, in which he stated that he had been little accustomed to address public assemblies, and therefore that the House need not expect to be entertained with any displays of eloquence from him, but that he should only attempt to bring forward some plain arguments, and present some facts in support of the amendment which he had a few days since moved. He proceeded to say, that on the 11th day of last month he had offered a resolution, which resolution had been adopted by the House, which was as follows:

Resolved, That the Committee of Ways and Means inquire into the expediency of adopting a more economical system of public expenditure: *First*, By reducing the salary or pay of all officers of Government one-fourth, where the salary or pay exceeds one thousand dollars per annum, and the Constitution does not prohibit such reduction. *Second*, By estimating the mileage of Members of Congress and Delegates of Territories by the nearest mail route from the city of Washington to the post office nearest the residence of each Member or Delegate. *Third*, By providing, that after Congress has been in session for three months during any Congress, the pay of Members and Delegates shall be reduced one-half from that time to the close of the session. And by such other economical provisions as to said committee may seem right and expedient: and that said committee report by bill or otherwise.

He might say, that at the time he had offered the resolution, he had never consulted with any member of the House upon it; in fact, it had been prepared at the last session of Congress. The gentleman from New York [understood to be Mr. GREELEY] and himself, it was true, had conferred in relation to that matter; but this very resolution had been prepared at the last session, and it had been offered by him eleven days previous to the appearance of the *exposé* in the Tribune upon the subject of mileage.

In what he was about to say, he had no complaint to make against any member of this House for the mileage he had received; but he had a complaint to make against the law under which the mileage was allowed; and he regretted that this matter had been made a personal matter.

When the law which was now in force in relation to mileage was first passed, the mode of traveling from the residences of members of Congress to Washington was on horseback, by the nearest and best routes. Since that time, in the general progress of improvements, the modes of traveling had been changed, and the usual routes were now by steamboats, railroads, &c. The river, lake, ocean, and railroad routes were now adopted, in lieu of the nearest route by land, as was the usage at the time of the passage of this law. In consequence of the change in the mode of traveling, resulting from the improvements of the times, we found that the mileage of members of Congress had been more than doubled, and that without any change of the law whatever. He thought the amount of mileage given to members of Congress was altogether sufficient; was too high at the time the law was passed; but the sum had been doubled, and it was now certainly too high.

He expected to show that the mileage of members of Congress at this time was not only unjust, but unequal and excessive, and therefore that the law ought to be amended. For this purpose, he proposed to refer to some calculations which he had made, and to which he wished the committee to give their attention, so that they might be distinctly understood.

He would read from a tabular statement, which he had prepared from the books of the Sergeant-at-arms, certain plain facts, which would present in a much stronger light than could be presented by any lengthened argument, the glaring abuses and extravagances which took place from year to year in the allowance of mileage to members of Congress under the existing law, and which imperatively called for a reform.

Mileage and Pay of Members of Congress, for second session thirtieth Congress.

By reference to the books it will be seen:

I. *Mileage.*

That the aggregate amount of mileage received by twenty members of Congress is only	$1,919 00
While the aggregate amount received by twenty other members is	34,757 00
The average amount for each member of the first twenty is less than	160 00
While the average received by each of the second twenty is	1,737 00
Each of the latter receives on an average more than each of the former	1,642 00
The aggregate amount of mileage of ten members is only	724 00
While the aggregate amount of ten others is the enormous amount of	19,233 00
The average received by each of the first ten	72 40
The average received by each of the second ten	1,923 30

The ten latter received twenty-six times as much as the ten former.

II. *Mileage and per diem.*

The average amount of mileage and per diem of twenty members (for the present session) is for each about	$816 00
The average amount of mileage and per diem of twenty others is about	2,457 00
Pay per day of each of the first a little over	9 00
Pay per day of each of the second more than	27 00
Average amount of mileage and per diem of thirty Representatives and Senators is for each (for the present session) about	2,522 00
Average amount of thirty others each about	810 00
Or for each of the first more per day (for the present session) than	28 00
While for each of the second a little more than	9 00
Average amount of mileage and per diem for four Senators, for each about	3,006 00
Or more per day (Sundays included) during the present session than	33 00
If these Senators received the full amount of books voted to new members, they would receive for every day of the session about	40 00

The per diem pay of the members of each house is eight dollars; but with the mileage it amounts, for many of them, to from twenty to twenty-five dollars per day.

THE CONGRESSIONAL GLOBE.

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Mr. EVANS, of Maryland, desired to ask the gentleman from Indiana, if the amendment which he proposed would, in his opinion, reduce these inequalities in any great degree? whether, in the gentleman's opinion, after the adoption of his amendment, inequalities would not still exist?

Mr. EMBREE said he would answer the gentleman with great pleasure. The amendment which he (Mr. EMBREE) proposed, would reduce the mileage of members of Congress more than sixty thousand dollars. It went, at least, so far; and if the gentleman would bring in another proposition still further to reduce it, he (Mr. EMBREE) would go with him most heartily.

Mr. HALL, of Missouri, interposed, and (the floor being yielded) wished to ask the gentleman from Indiana a single question. He wished to know whether the gentleman's amendment applied to the members of the present Congress?

Mr. EMBREE replied, that he had advocated a resolution of this character at the last session of Congress, that would apply to the members of the present Congress.

Mr. HALL repeated the question: whether the gentleman's amendment *did* apply to the present Congress? And he asked further, if the gentleman expected to be a member of the *next* Congress? [Laughter, and some playful allusions by gentlemen, in an under tone, to the recent nomination for Governor of Indiana.]

Mr. EMBREE said he would answer the gentleman with great pleasure. At the time when in the last Congress he had advocated a proposition of this kind, he had expected to be a member of the next Congress, as he had also when he had offered the amendment which was now under consideration. He did not now know whether he should be or not, [a laugh.] That would depend upon *circumstances*, [renewed laughter.]

To come back from this digression: he asked if the facts which he had stated did not show conclusively the necessity of amending the law now in force relative to mileage. From the facts it appeared that there were twenty members of Congress who received each $1,737 mileage for every session of Congress, and that there were ten who each received $1,923. It appeared, also, (for he need not further recapitulate the facts,) that there were thirty Representatives and Senators who received in per diem and mileage $28 per day during the present session; and that some (with the books allowed) received $40 per day. Now, when the people supposed that a member of Congress received $8 per day, it was the fact that they received from $25 to $40 per day!

Did not these facts show that the law was unjust? that the pay was enormous? It was, moreover, very unequal; for while some gentlemen received (as he had shown) from $25 to $50 per day, others received but $9 per day, per diem and mileage.

He wished to be distinctly understood he did not make this a personal matter; he made no complaints against anybody. He was afraid he might have to when they came to vote; there might then be some complaints which he should have to make and which the people would have to make, if gentlemen did not vote to correct the law. It was against the law that, on the authority of these facts, he now complained; and he called upon gentlemen on this floor to aid in amending the law so as to make it more equal and more just.

But the gentleman from Mississippi [Mr. BROWN] had said this was a "small matter." His (Mr. E.'s) amendment would effect a saving to the Government of more than sixty thousand dollars a year; and at the time when the chairman of this committee [Mr. SMITH, of Indiana] had been the Speaker in the Legislature of Indiana, the whole expenses of the State Government of Indiana had been about fifty thousand dollars; so that, *small affair* as it was, his amendment would save to this Government, every year, more than the entire expenses of the State Government of Indiana. If the gentleman from Mississippi called this a small matter, his estimates of the value of money were certainly very different from the estimates which the people in his (Mr. E.'s) section of the country placed upon it. They certainly would not consider the saving of sixty thousand dollars per year, in the item of mileage to members of Congress, a very small matter.

The gentleman from Mississippi had said, also, that he would go for any general system of reform, and the gentleman had proposed that kind of reform which would prevent members of Congress from receiving pay for time when they were not in attendance upon the sessions of their respective Houses. He (Mr. E.) would readily go with the gentleman for that proposition, whenever he would bring it forward. But every species of reform could not be brought forward in his (Mr. E.'s) amendment; and the course the gentleman took was calculated—whether or not it was so intended—to defeat every species of reform. The gentleman's course upon this matter reminded him (Mr. E.) of the boy who, having to travel one thousand miles, concluded he would not start upon the journey until his legs had grown long enough to make the whole distance in one single step. Now, if the gentleman had waited to be able to make the distance from his residence to Washington in one single stride, the country would never have had the benefit of his able services here; but he accomplished the journey stage by stage, and step by step. That was the only way in which they accomplish any reforms under this Government—step by step, item by item. Let the gentleman from Mississippi go for this amendment, and, when he introduced the one which he had spoken in favor of, he, (Mr. E.,) for one, would readily go with him in its support.

But the gentleman from Ohio [Mr. ROOT] had said he had a proposition to make. The offering of these various propositions, he (Mr. E.) repeated, were calculated—whether they were so intended or not—to defeat this whole measure. What was the gentleman's proposition? That members of Congress, instead of the mileage they now received, should be paid by the hour in traveling to Washington. We had heard from our boyhood of premiums upon industry, but here was a premium on laziness or idleness.

Mr. ROOT interposed, and wished the gentleman from Indiana to understand his amendment. He would read it to the gentleman. It provided that—

> In lieu of the mileage now allowed to members of Congress, there should be allowed to each member —— dollars per hour for the time necessarily consumed by him in traveling by the most expeditious route from his residence to the seat of Government and back.

Mr. EMBREE said the operation of that amendment would be like the operation of the old law. The old law provided that mileage should be allowed upon the most usually traveled mail-route, and the proposed amendment of the gentleman provided that each member should be paid so much per hour for each hour "necessarily consumed;" and that time "necessarily consumed" would increase from year to year, as the laziness of the members and their desire to make more profitable their traveling at the expense of the Government increased from time to time.

Mr. ROOT, (addressing Mr. EMBREE.) My amendment provides that they shall be paid for the time "necessarily consumed" upon the "*most expeditious* route." You cannot get out of it, sir. [A laugh.]

Mr. EMBREE. I ask the gentleman how he proposes to fill the blank?

Mr. ROOT was understood to suggest with "one."

Mr. EMBREE. A dollar an hour for traveling to Washington!

As he had the floor on this occasion, (he proceeded to say,) he would make a few remarks upon the other branch of his resolution, (which had been referred to the Committee of Ways and Means,) which alluded to general reforms in our Government.

The next proposition in the resolution was the reduction of the pay of all officers of the Government one-quarter, when such reduction would not bring their pay below $1,000. He had but a very few remarks to make upon this branch of the resolution, as he had not anticipated speaking upon it at this time. The salaries of the different officers of this Government varied from $25,000 to less than $1,000. Some were $22,500, some $13,000, some $6,000, and so on, to less than $1,000. Now, according to the best of his information and judgment, many of these officers did not earn half their pay. In the year 1836, an act had been passed requiring all the public offices in Washington to be kept open in the summer ten hours per day, and in the winter eight hours per day. It was the duty of the Executive of this Union to see the laws executed; but what had been the practice of the officers of this Government under this law? It positively required them to keep their offices open ten hours per day in the summer; yet during the last summer the public offices in this city had not been opened until nine in the morning, and were closed at three, p. m.; only keeping open six hours—but little more than half of the time required by the law. And when he and other members of Congress had gone to the offices out of these six hours which they saw fit to be there, they had been obliged to return, unable to attend to the business of their constituents, in consequence of this violation of the law. The consequence was, in the first instance, that it gave leisure time to these officers (who were paid from the public treasury to attend to the public business) to engage in electioneering and in partisan and private matters from three in the afternoon till nine o'clock the next morning; and the consequence, again, was, the vast increase of the number of officers over what would be necessary if the law were observed; for if they only served half the time the law required, as a matter of course twice the number was required.

These officers, as gentlemen would see, upon reference to the Blue Book, would receive—some of them—more than three dollars for every hour that they were in the office. During the balance of the time, from three o'clock in the afternoon until nine o'clock of the next morning—as was the case during the last Presidential canvass—some of them were engaged in directing documents or in writing humbug articles for the "Union," or some other newspaper. The law required that they should labor, during the summer, ten hours a day; they had only labored six, and the other four hours they had spent in electioneering. Every gentleman who had been a member of this House during the last session knew these facts to be as he had stated them.

Now, we saw the fruits of this violation of law: they helped to build up a party, and to secure the distribution of the spoils among the partisans of the Administration. At the last session, Congress had been called upon to give some two hundred other officers to the Government. He, for one, had opposed it. He had opposed it then upon the same ground which he took now. He would require the officers of this Government to work up to the provisions of the law; he would require them to keep their offices open during the number of hours required by the law.

But his time was fast running out; and he wished, before he concluded his remarks, to refer to other reasons which existed for the reduction of the pay of the officers of the Government. High salaries were calculated to create and keep alive political strife in our country; and he expected to be able to make this fact apparent to the minds of all gentlemen. We had under our Government about one hundred thousand officers and employees, and for every office there were about four applicants—thus making a grand total of five hundred thousand officers and applicants for offices; and when we held out high premiums in the form of high salaries to these five hundred thousand applicants and officers, we did but stimulate them to invent all kinds of humbuggery—to resort to every species of electioneering—and to take up their time between one election and another in endeavors to promote their own interests. Why was this so? To what other reason could gentlemen attribute it,

but to the stimulants in the shape of high salaries which were set before them? They thought that if they would occupy the time between one election and another in electioneering, they would, when the contest was over, receive an office—that kind of office which would make them rich.

It had been said that money was the root of all evil. Certain it was, that money was the root of all political evil, and the root of all political strife. It was that which, above all other things, created strife in our country. Let the pay of the officers of the Government be reduced to a reasonable amount, and it would soon be found that men would not employ their time in electioneering—in making strife and mischief—because they would turn their attention to other employments. We should thus disband, not the army of Mexico, not the fifty thousand soldiers who had fought our battles there, but the five hundred thousand electioneerers who kept up this strife throughout our country. The very moment that this principle of reduction should be applied, it would be seen that the persons who grasped so eagerly at these offices would take to other and equally honorable employments. For his own part, he would cut up this evil by the roots. He hoped it would be done. This was one of the reasons why he advocated the reform.

The next branch of the resolution to which he referred contemplated the reduction of the pay of members of Congress one-half after Congress should have been three months in session. This would not only save to the country some sixty thousand dollars per year, but hundreds of thousands of dollars if such an amendment should be adopted. Let gentlemen turn their attention to the Journals for the last ten or twelve years. They would find, that for the first thirty days of a session, Congress did not sit more than two hours per day. He had examined the Journals. Let gentlemen apply the principle of the resolution to the present session, and see how Congress would go to work in good earnest.

What did we hear during the last session? Many of the older members of this House had told us that it was necessary to fix a day of adjournment, because, they said, Congress would then do as much business in one day as they would otherwise do in a week. And such was the truth. Congress could do as much work in as little time, if they would apply the principle of his resolution, and set them to work, without fixing a day of adjournment. Let the members know that their pay was to be reduced.

How had this principle operated in the State of Indiana? They had discovered that it had shortened the session very considerably. And it would have the same effect upon Congress. This was another reason why he urged the adoption of his resolution.

But he had added at the end of that resolution a general saving clause. It was, that the Committee of Ways and Means should inquire as to all other means by which the expenditures of the Government could be curtailed. He would mention one or two that occurred to his mind when he drew the resolution. One of them was in respect to a matter with which the members of this House were familiar. It was the practice which this House had for many years indulged, of voting themselves some six hundred and odd dollars' worth of books to every member. For the last seventeen years, whilst members had been receiving, some of them, thirty-odd dollars a day, they had, in addition to that, voted themselves books to the amount of upwards of six hundred dollars. He found that members complained of one another for having sold their books. These complaints, however, did not go to the root of the evil. The debate should be confined to the propriety or impropriety of giving a member six hundred and odd dollars in addition to thirty or thirty-three dollars per day. During the last seventeen years, there had been distributed among members of Congress who had their pay, some eleven hundred thousand dollars in addition. This he considered as an abuse of the power of legislation, in both Houses; and his resolution, amongst other things, had reference to this.

The same branch of the resolution had reference also to another abuse—that was to say, the franking privilege of the two Houses. How much was annually lost to the treasury in this way? Upwards of two hundred thousand dollars was thus taken from the people of the country; or, the sum of two millions of dollars in ten years. He had been informed that during a part of the last session, something like five tons (he was understood to say) of mailable matter that was franked, had been sent daily from the city of Washington. There might possibly be some mistake in this; but he had received the information from the Postmaster General himself.

There was still another view of the case. It was the habit here to vote some thirty thousand dollars per session to the members in the shape of "Globes" and other papers. This was an abuse to which his resolution had reference. He believed, however, that his time had nearly expired, and he must hasten on with the observations that he still desired to submit.

Let him ask how it was that members of Congress could reconcile such extravagance as this; whilst, at the same time, (as was the case at the last session of Congress,) this House voted against giving to the soldiers of the war of 1812, and their widows or orphans, a small tract of land to make themselves a home. Could these abuses be permitted to exist for the benefit of members of Congress, and of the officers of the Government—could these abuses be permitted to exist that they might become rich by the loaves and fishes of the country, whilst this House would refuse to vote a poor pittance of land to give a home to the soldiers of the last war? The example had been set in the case of the soldiers of the Mexican war, yet we found that this proposition was defeated by a large vote. Members of Congress could receive thirty-three dollars a day here, and could vote themselves six or seven hundred dollars in addition, but they could not allow a small tract of land to the soldiers who had fought for the liberties of the country; they could forget to do justice to them. Against these things he had a right to complain, and so long as his hour had not expired——

Several members rose and claimed the floor.

The CHAIRMAN stated the gentleman's hour was not out.

Mr. EMBREE continued. He had not, he said, yielded the floor. In order that he might be distinctly understood, he would say that it was not the members of this House against whom he complained; and he hoped that when the vote upon the question came to be taken, he should have no complaint to make against any of them. He was complaining of the law as it was construed, and as it had been construed. He regretted that this had been made a personal matter; he thought such a course was rather calculated to militate against the object he had in view. No member of Congress was to be blamed for what he had received. Even since the days of Washington, no man, he believed, had been known to refuse that which he had a right to take. But when they were called upon, in the capacity of Representatives, looking to the welfare and the interests of those whom they represented, to change an unjust and an unequal law, then, if they voted against the proposition, their constituents would have a right to complain of them, and not before. He made no complaint of the past; but he feared, from the remarks which had fallen from the gentleman from Mississippi, [Mr. BROWN,] that there would be some complaint to be made against him, if he proposed such amendments as were calculated only to kill off this proposition. One mode of killing a measure—which was perfectly understood by all men having any knowledge of parliamentary tactics—was, when a proposition good in itself was brought in, to load it down with other objectionable propositions for accomplishing the same end, and thus get rid of the whole matter. And this was what he feared would be done upon this occasion. He called upon gentlemen to vote directly on the proposition. Let them say in so many words, whether they would receive thirty dollars a day. He did not wish to be personal. He had disavowed every feeling of that kind. But he could point to gentlemen who would have two thousand dollars taken off their mileage if his proposition should be agreed to. It was, he well understood, a matter of serious import to them. And when members of this House voted against the proposition, their votes would go forth to the country. Their constituents would know how they had voted: it was absolutely necessary that they should know.

No member who understood the proposition would vote against it, if he looked fairly into the question, and took into consideration the wishes of his constituents. The members of that House had come here to represent the interests of their constituents. Did any gentleman suppose that any of their constituents would be willing that their Representatives should receive thirty dollars a day, or more, when they supposed them to be receiving only eight dollars? Did gentlemen suppose that their constituents ever contemplated that they should receive more than eight dollars per day, and a reasonable mileage? It was this law of mileage that was complained of, and it ought to be changed. If any gentleman could offer a better proposition than that which he (Mr. E.) had submitted—if he could offer a proposition that would save to the people of this country more than sixty-two thousand dollars per annum, let him introduce it, and he (Mr. E.) would vote in favor of it. But let not gentlemen endeavor to get clear of the question by saying that they had a proposition in their pockets, which they expected to offer at some future day. Let them propose it now; and, he repeated, if it should be better than his, more calculated to reform existing abuses, and to accomplish the object which he had in view, he would vote for it. But let them not by indirect means kill off a fair proposition to retrench the expenditures of the Government. The gentleman from Mississippi did not wish to do anything till he could accomplish the whole at one time. Let this be done first; after that, he (Mr. E.) would cheerfully go with the gentleman for any other reforms that might be proposed. But let him not say that the present proposition should not be adopted, because he had other propositions in contemplation which would effect good purposes; because, if he did so, the tendency of his course was to kill off this amendment.

Mr. HENLEY interposed, and desired to ask a question of his colleague, [Mr. EMBREE.]

Mr. EMBREE having yielded the floor—

Mr. HENLEY inquired whether his [Mr. E.'s] proposition embraced the present Congress?

Mr. EMBREE said that it did not; but that, if the gentleman would offer such an amendment, he (Mr. E.) would vote for it.

Mr. HENLEY suggested to his colleague so to amend his own proposition as to include the present Congress.

Mr. EMBREE said this was just what he had expected. When a proposition was made here to reduce the expenses of the Government, gentlemen were for proposing such amendments as would prevent it from being carried, and could only have the effect of killing it off.

Mr. HENLEY said the gentleman entirely misunderstood his object. His sole purpose was to add strength to the proposition; and he felt surprised that the gentleman had not in the first instance incorporated the amendment into his own. He (Mr. H.) might not be a member of the next Congress. His colleague might not be a member. He thought such an amendment would be adopted; at least he hoped so. His desire was to aid his colleague. Why should he cut off the mileage of those who were to succeed him, if he refused to cut off his own?

Mr. EMBREE said he had a remark or two more to make. His colleague had asked him whether he was willing to let his amendment apply to the present Congress. At the last session he (Mr. E.) had advocated the very same amendment, which would have applied to members of this Congress; so that the gentleman could not find him (Mr. E.) in the wrong on this subject. If the gentleman thought proper, let him offer the proposition as an amendment.

Mr. HENLEY merely wished to state (he said) that he had himself advocated the same proposition, and had advocated a similar proposition for the five years of which he had been a member of this body.

Mr. EMBREE said he was glad to hear that his colleague had always supported such a measure, and regretted to hear his other colleague [Mr. PETTIT, who had expressed dissent] say that he would never support it. This was but an entering wedge to reforms that were to follow; and let him (Mr. E.) say that——

The hour having expired, Mr. E. was cut off in the midst of his sentence.

Mr. VENABLE said he had listened with attention to the remarks of the gentleman from Indi-

ana, on the subject of mileage, retrenchment, and reform in general. But he was fearful that the gentleman had undertaken too large a job to be successful; that he was traveling too weary a path to get many to walk with him; and he might perhaps find a great many willing to start with him, who would not be willing to go all the way. He had undertaken more, at least, he thought, than could be accomplished during the whole session.

Most of the remarks which he proposed to offer, he intended should have reference to the question of mileage, upon which he proposed, at the close of his speech, to offer an amendment. Perhaps he might be better understood, if the amendment were read at once, in connection with the amendment of the gentlemen from Indiana, and other amendments which had been proposed. He would send it to the Clerk's table for that purpose.

The CHAIRMAN said there was already pending an amendment to an amendment; and the amendment, therefore, of the gentleman from North Carolina could not be in order.

Mr. VENABLE did not propose to offer his amendment at this time. He desired it should be read merely for information.

The amendment was then read, as follows:

Provided, That the members of Congress shall receive their actual expenses for traveling from their residence to the city of Washington, by the usual traveling route, and eight dollars a day whilst on their way to the seat of Government; provided that in the estimation of the latter, no more shall be charged than the average time necessary to perform the journey: *And provided also*, That no member of either House of Congress, who is absent from itss ervice, without being excused by a vote of the House to which he belongs, shall be entitled to his per diem, unless such absence be occasioned by sickness, or other sufficient reason, to be judged of by the House of which he is a member: *And provided further*, That it shall not be lawful for the members of the Senate to receive any mileage for the meeting of that body usually called after the election or inauguration of any President of the United States."

Mr. V. continued. He said he should direct his remarks chiefly to the abuses under the law of mileage. He would say, at the outset, that he entertained but little objection either to the amendment by the gentleman from Georgia, or to the rate of mileage as it was now charged. His amendment, therefore, was proposed merely to test the sincerity of the advocates for retrenchment upon this subject, and to bring the whole matter in some tangible form before the committee. He was entirely willing that this whole subject might go before the public in any shape, and at any time. It was no new subject in this House. It was nothing new to him to hear gentlemen break forth in strains of the most stirring eloquence, as they compare the pay of members of Congress with that of the war-worn soldier, and the meagre pension for the support of his family; condemned to eat their scanty fare around a three-legged table, and the soldier, with a wooden leg himself, in tattered garments; while members of Congress are growing rich on the bounty of the treasury. He did not charge any gentleman of the House with a desire to recommend himself to the country as the friend and patron of the poor soldier, *par excellence*. He had heard these remarks from both sides of the House, but he made no personal reflection upon either hand. But he would say that the tendencies of all these remarks, and the efforts at retrenchment upon this subject, were against the strength and permanency of our institutions. He charged no man with being a demagogue; it would be unbecoming to make such a charge; but if there was a character on earth who deserved the unaffected loathing of men, it was the character to which he referred—the filthy, slimy being, who, like the snail, always left his mark in the track where he moved. If ever our beloved institutions should come to ruin, it would be when they should fall into the hands of these demagogues, whose hearts were always as filthy as their heads were empty.

Mr. EMBREE interposed here to inquire of the gentleman from North Carolina, whether he intended to be understood as making allusion to him by the remarks just made.

Mr. VENABLE replied: Not a word was so intended by him. He made no personal allusion—none whatever. He intended no distinct allusion either to the gentleman from Indiana or to any other gentleman. But he reiterated his statement, that demagogues were, of all men, the most dangerous to our institutions; and the page of history would bear him out in the assertion, that although the rights and liberties of the people were sometimes overthrown by the sword of the conqueror and the plots of the traitor, they more frequently fell by the stiletto stab of the demagogue. Demagogues in a free government were like children with fire in the woods: they always kindled a flame which would immediately rage beyond their power to control it. He warned every gentleman, therefore, to beware how he allowed himself to fan such a flame. He had never seen a man of this character who did not always, and on all occasions, profess the deepest affection for the people, and the suffering poor, who had served the country. As for himself, he loved the people about as much as they loved him; but they would spurn him from their confidence, whenever he might descend to talk in his place here about the poverty and sufferings of their wives and families, in contrast with the compensation of the functionaries of the Government. For himself and his colleagues, he would say, that they represented a noble constituency—an enlightened constituency; but whenever it was in his power to contribute anything to their further enlightenment, he was always happy to do so. Our constituents were not men to be operated upon by alarmists; they were never frightened at trifles. He declared that he never heard this question about the mileage of members of Congress so much as once mentioned amongst them; and the man that would go and tell them that he (Mr. V.) had received twenty-two dollars and a half more mileage than he was entitled to, would find himself nothing the gainer by such a course, but he would bring upon himself (what he would also deserve) the public scorn for his paltry effort. His constituents did not ask him any questions about his mileage. They did not expect of members of Congress to be such whole-hearted patriots as to be willing to beggar themselves for the sake of serving them. They considered that where a man was found to be worthy and willing to come to Congress, he ought to be paid for the service. And in view of the charge that members of Congress came here to make money, he affirmed the fact, that there was not a single member from his State who had not left a better business at home—who had not made a pecuniary sacrifice to serve the country, besides the sacrifice for the time of all the attractions of the social circle in which they moved, and all the endearments that cluster about their homes. Yet the gentleman from Indiana could talk about coming here as a money-making business! He could hardly think the gentleman serious. He could hardly believe that any gentleman who had abandoned a judgeship could seriously attribute to the purposes of gentlemen coming to Congress the sordid idea of making money. This mileage, and the per diem of eight dollars, the twenty-five thousand dollars for the President, and the salaries of other officers of the Government, were all fixed at a time when money was worth much more than at present; and this fact was a sufficient refutation of any proposition to retrench in these respects. The fact was, that so far from its being too large, the compensation of members of Congress was not large enough to afford any inducement to prefer the privations which their position rendered necessary, to the comforts and emoluments of private life or professional occupation.

He supposed no gentleman could charge him with speaking out of any special regard for his own case, for his mileage was an inconsiderable sum, and besides, he resided near the magnetic wires. He could be informed at any time of the affairs of his household, and in less than twenty hours he could go there and place himself in the midst of that domestic circle around which all the best affections of his heart were wont to cluster. But there were gentlemen here from the far-off State of Texas, where disease and distress might make its incursions, and where the fell destroyer might cut down the most cherished objects of their affections, whilst the distance precluded the possibility of their presence to aid or to console. Was there no sacrifice incurred in such cases? Did gentlemen suppose the country so ungrateful as to hesitate about rewarding men for devoting the best days of life to the public service, at the expense and sacrifice, for the time being, of the best feelings of the heart? The man that could doubt in this matter, though he might be sincere, yet he deserved to be compared with the blacksmith he once heard of, (none the worse man, however, for being a blacksmith,) who objected and argued that a certain judge should not receive a salary of fifteen hundred or two thousand dollars, upon the plea that he would be willing to judge all the causes for one hundred and fifty dollars. The inevitable tendency of this system of retrenchment in salaries would be to introduce disqualified persons into places of the highest trust. There could always be found loafers and vagrants enough to take these places; and offices would be left in the hands of men who would become the most facile subjects of corruption. But it was always the part of wisdom to place men charged with the high trusts of the Government, if possible, above the reach of corruption—in positions where they may be sure of adequate support in the independent discharge of their duties.

It was true that men of patrimonial wealth could afford to be members of Congress. But did gentlemen desire to make a seat in the councils of the nation desirable only to the unworthy and disqualified, or those whose opulence enabled them to encounter the sacrifice? Was the generous ambition which filled the breast of the obscure and penniless son of genius to be utterly extinguished, and a heartless aristocracy of wealth, or a still more heartless reign of insolent and undeserving ignorance appropriate the honors of the State to its detriment, if not its destruction? He looked around him, and was proud to recognize honorable gentlemen, respected at home and recognized as active, distinguished members of this House, and of the Senate, whose native talent and untiring energy had won for them their station in spite of the disadvantages which had beset their early life. He saw many here whose genius had bloomed in a desert, but by sedulous culture, had produced the rich fruits which had often been denied to those plants which had all the advantage of hot-house nurture. It was the genius of our institutions to elicit the best mental gifts of our people, and to reward them for their use. A paltry system of compensation would drive such men, (and he must say, valuable and practical men,) from the service of the public, because the duties which they owed to their families demanded the first payment—a demand to which no honest heart could ever be insensible.

But was it true that this princely compensation was really paid to members of Congress? It was not. We, the immediate representatives of the people, are paid less than any of the subordinates who are placed at the heads of bureaus, or their chief employees. Members of this House were rarely appointed to such stations, but they seemed to be reserved for retired Senators and ex-Governors of States. It was easy to cry out "reform—retrenchment"—a sound which catches the public ear, and sometimes may effect something, temporarily, for an anxious aspirant; but the Good Book had told us that "the beginning of strife is as the letting out of water." Those who raise such storms were often the greatest sufferers from the effects of their own arts. He cautioned gentlemen that such declarations as had been made here to-day of the corruption and unworthiness of the practices of the members of the American Congress could in no way serve to elevate them in the public estimation. Although the purpose of making such a charge was disavowed, yet the fact was said to exist; and the people must form a low estimate of the moral feelings of such a body of men. It was surely impolitic to weaken the moral force of our acts and opinions; and although a gentleman, by affecting to become a father confessor for this House, might make the people stare for a while, the recoil upon himself would be disastrous in the extreme. They will not readily believe that the men of their choice, respectable and respected at home, where best known, had suddenly become so altogether abandoned and corrupt.

It had been charged here that we were pouring the treasury into our pockets, in the shape of mileage, and rewarding the public officers with extravagant salaries, while the poor citizen-soldier was lost sight of. But he contended that there was not a country on which the sun shines, where the citizen-soldiers were so well paid as in our own, or where their widows and children were cherished by the Government with more sedulous care. No man in this Government could serve his country in the field without feeling well assured of his reward. Where were the millions of broad acres of military grants? To whom had they been given? To the men who had fought the battles of the

country, and hazarded their lives by warring for their country's rights and their country's honor. To such men had these lands been conveyed; and they were deserving of them. He begrudged them not a dollar of their pay. This was a beautiful and beneficent system of ours, for the encouragement and support of those who go forth to battle at the call of their country.

He desired no additional inducements to be offered to our young men to be soldiers, for the very soul of chivalry dwelt in their bosoms. At the first blast of war, myriads of swords leaped from their scabbards, and embattled legions poured forth in one mighty swelling flood. To the soldier the laurel wreath, with its unfading verdure, was a high reward. But the distinctions and honors of the country were also his; when he fell in battle, the country's flag was his shroud, and a nation's tears bedewed his grave. Should disease cut him down, or wounds disable him, the wife of his bosom and the children of his love were fostered by his country. Should we, then, add the continual flow of a stream of wealth from the treasury, and convert ourselves into a nation of soldiers making our trade war, and our delight carnage? Should we invoke a military spirit to ride with uncontrolled dominion over us? He would deplore such an event. There was not a more beautiful illustration of the efficiency of a citizen-soldiery, than that recently presented to our view at the close of the Mexican war. There were members of both Houses of Congress—some, members when the war commenced, and others now present before him—who, on the first call of the country, abandoned their civic duties and their domestic ties, and went forth to the battle-field—whose gallant hearts bore them on in the tide of battle, and whose cheerful voices gave energy to their gallant followers, and carried dismay to their enemies; and whilst in the full career of their military achievements, the last rude blast of war was blown, smiling peace came over the land, and immediately the tide of citizen-soldiers returned home to mingle in the courtesies of civil life, and to be known as soldiers no more—known only in the gratitude of their country, and the honorable recollection of posterity. Like the drops of water drawn from the earth by the sun, and borne by the winds that direct the clouds till they empty themselves into the ocean, no artist's skill or chemist's power can distinguish them from the waves with which they are mingled. But these (his gallant colleagues, to whom he had referred) could speak for themselves and the high-toned spirits which they had led, and he knew they would say here that the country was not ungrateful.

Nor had the soldiers of the Revolution been neglected. With an impoverished treasury, their wants were at first partially supplied; and upon the increase of national wealth, the soldiers, both regular and militia, had been pensioned and paid—the soldiers of all our wars, whether with Britain or with the savage tribes of this country—as the land warrants covering the States of Tennessee, Kentucky, Ohio, and other States, would testify. They won an empire with their swords, and a grateful people had, by law, given them their reward in the dominion of the soil. Let not gentlemen, then, raise this dust in the battle of retrenchment. The soldier had never been refused his claim, and millions had been added as a bounty for his services.

All this, however, he supposed was necessary, in the furnishment and paraphernalia of a speech on retrenchment and reform. But, could gentlemen expect that a man, such as should be selected to represent an enlightened constituency, would be willing to come here, subject himself to the numerous assaults made upon him by those who were unscrupulous enough to hazard any thing for effect—charged with petty larceny upon the treasury for receiving mileage improperly, and so branded in the newspapers before the whole country,—could any suppose that such an one would be willing to endure all this, in addition to his duties as a member of Congress, for any mere paltry compensation? For himself, he felt but little concern for the first named annoyances. He looked for a more enduring reputation than that which could be either given or taken away by paltry editorials, or newspaper puffs, or denunciations of any sort. He desired no wreath to entwine his brow which might be gathered from such a source. He desired not to soar in the atmosphere of popular applause on wings the plumage of which was to be borrowed from the pens of venal letter-writers. He was insensible alike to censure or approbation coming from such a source.

But the gentleman from Indiana [Mr. EMBREE] finds a panacea for these evils which are so alarming, in proposing to abate one half of the per diem after the session shall have continued a given number of days. Does he not recollect that excess of legislation is the greatest evil under which we labor?

Mr. EMBREE. With the gentleman's permission——

Mr. VENABLE. Certainly, sir.

Mr. EMBREE. Will not this curtail legislation by withholding the pay?

Mr. VENABLE. No, sir, it will make hasty and improvident legislation before business is digested by the committees; it will make confusion worse confounded; it will convert this House into a body of wealthy men who can do without pay, and a set of hungry office-seeking loafers, who continually look to Executive patronage for their reward. A venal House of Representatives and a venal Senate will be the result of such an experiment, make it when you will.

He thought that a seat in the American Congress ought to be regarded as one of the highest in the gift of the people. Members, amply and richly compensated for their services, would have no inducements to look out of this House for further honors and rewards. The awful recoil which this policy of paltry pay would produce in a subservient Congress to Executive will, was truly appalling. Already the influence of Executive patronage was felt, and nothing would make it so absolutely irresistible as to place members in circumstances to feel pecuniary pressure, brought on by their public duties. The heart that never shrunk from danger would sometimes give way before the corroding anxieties growing out of the unsupplied wants of those whose comfort he must provide for. The firmest nerves had been overcome by this pressure from without; and public security and the interest of the people demand that the temptation should not exist.

The gentleman from Indiana had also spoken of the franking privilege—of the tons of documents thus sent by the mails. But to whom were they sent? To our constituents. They received the benefits. They demanded this labor of their Representatives. The gentleman was perhaps the only person in the House who considered it a privilege. It was the greatest labor which a member had to perform. But it operated most usefully, and gave the people the information they desired. Our people were the best informed people in the world upon all subjects of public interest, because of those frequent communications with their Representatives at the seat of Government. The franking privilege was a privilege to the people, but a burden to the members of Congress—a burden which he would gladly throw off, but for the necessity which exists to meet the demands of the people for information. Neither was the complaint well founded that twelve copies of the *Congressional Globe* and *Appendix* were given to each member of Congress. It was right. It enabled them to deposite in the most public places in their districts copies of the legislative and documentary history of the country. The people could consult them with facility and with profit. No member desired more than one copy for himself, and to this he was fully entitled. But the time would not allow him to enter into a full examination of all the systems of retrenchment and reform which the gentleman had proposed. It was so vast and comprehensive that he feared all the powers of the gentleman would prove insufficient to compress it all into the present short session: and he might perceive, upon examination, that many things look like evils which are not so in fact. Perhaps the gentleman might be a member of the next Congress, or in some higher station, and a calm review of this matter, after the canvass of next summer shall be ended, might satisfy him that things are not altogether so bad as they appear.

He entertained very little feeling upon this question of mileage. He was willing to vote for the amendment which had been read, whenever it might be in order, and which would not leave one dollar of mileage in the pockets of members beyond their traveling expenses. He was most willing, also, to vote for the other branch of his amendment, which he esteemed a very important one, to wit: "That no member of either House, who shall be 'absent from its service without being excused by 'a vote of the House to which he belongs, shall be 'entitled to his per diem, unless such absence shall 'be occasioned by sickness, or other sufficient rea-'son, to be judged of by the House of which he is a 'member." This provision would exclude from their per diem such gentlemen as felt called upon to leave their places in Congress to make Presidential speeches in Buffalo and along the lakes. For all the time they might be absent on such business, or any other business, there would be so much deducted from their pay.

Mr. GIDDINGS. Will the gentleman from North Carolina allow me to ask him a question?

Mr. VENABLE, (with some hesitation.) Yes, as the gentleman is an old friend.

Mr. GIDDINGS. Would the gentleman deduct the pay of members for their absence while attending upon the Conventions at Baltimore and Philadelphia?

Mr. VENABLE replied, Certainly; and he added, he hoped the honorable gentleman who had received pay from his party for attempting to revolutionize the State of Maine, would not also receive pay of the Government for constructive services at the same time. [A laugh.]

In the palmy days of our Republic, members asked leave of absence, and their pay was deducted for each day they were not in their seats. This rule had now ceased to be observed, but he would revive it; and if gentlemen choose to visit, to stay in their quarters, or practise law in the country, let the treasury be spared the infliction of a payment for services not rendered. Such a rule was just, and obviously proper. Neither should Senators who adjourn on the 4th of March, and reassemble on the 5th, receive constructive mileage; and this was provided against in the third clause of his amendment. This needed neither argument nor illustration. But should his amendment fail, he would vote for that of the gentleman from Indiana, [Mr. EMBREE,] as amended by the gentleman from Georgia [Mr. STEPHENS]. He felt no objection to ample mileage for distant members. It was one of the ties which bound the Union together, and which prevented the removal of the capital further west. It enabled distant members to have their families with them here, which was proper and right. Gentlemen should not inconsiderately sever any tie which binds the States together. He would make but a poor demonstration as a statesman, who would allow himself to cipher out upon a slate the value of good fellowship amongst the members of this great Confederacy.

The subject of mileage uniformly furnishes a fruitful theme for declamation, and should be put at rest. The dear people are much more deeply concerned about other matters, and do not require any special demonstrations of punctiliousness on the part of Congress with reference to this subject. For the last ten years it had been frequently called up and subjected to an examination, but nothing had been made out of it yet. The wrongs of the people, resulting from the extravagant compensation of members of Congress, had been often proclaimed, but the people themselves did not seem to have found it out. Perhaps they may be galvanized into sensibility at last. But until they make their own manifestations of discontent, it will be but reasonable, perhaps, to conclude, that after all, they care but little about the matter.

In conclusion, he reiterated what he had said in the beginning of his remarks, that his design was simply to test the sincerity of gentlemen who seemed to be desirous of bringing this matter of mileage compensation down to the lowest point. He did not approve of it; but he would vote for it, because he was glad of the opportunity it might afford of taking away what had been such a fruitful source of patriotic declamation at almost every session of Congress, as far back as his recollection extended. For himself, he did not object if others received a large bill of mileage, while his was only a small one. He desired chiefly that the question be settled. He would have the matter of mileage settled as firmly as was the per diem. He would have it settled upon a plan the justice of which all would admit. Or if strict justice could not obtain in the case, he would say to the committee, Let us approach the subject at once, in a spirit of disinterested liberality, and settle it like men.

Mr. GREELEY obtained the floor, and, after a passing remark upon the proposition of the gentleman from North Carolina, [Mr. VENABLE,] (of which nothing more was heard by the reporter, than that it was, in his opinion, more liable to the objections which the gentleman himself had urged than perhaps any proposition which had been made, and that it would reduce the mileage of the members from Texas, for instance, three-fourths, while the pending proposition would only reduce it one-half,) he proceeded to say, that he should confine his remarks to the question of mileage. It had been alleged here (he said) that the compensation of members of Congress was inadequate. If it was so, (which he did not believe,) let it be fairly, equally adjusted; let it be raised; let the compensation be fair, if it was not fair; let the mileage be fair, if it was not fair. He did not plead for a niggardly economy; he but demanded justice. He said, your law is not just. That was the substance of the publication which he had made, which had called forth all the obloquy and defamation which had been poured out upon him. Was there any reason why, if these accounts were fair and proper, they should not be exposed to the public?

Gentlemen said, My constituents never talk about the mileage which I receive. Why, he ventured to say, probably not one-hundredth part of the constituents of members of this House, a month ago, had any definite idea of the amounts which were received by members of Congress for mileage. He had come forward and taken the responsibility of the accounts of mileage.

He had heard general charges made upon this floor, of falsehood, of defamation, and injustice in the article which he had written upon this subject. Now that he had the floor, let gentlemen make these charges directly, distinctly; he asked any member to say for himself, whether, in this publication which he (Mr. G.) had made, he was charged with having received more mileage than he had actually received. Was there any one so charged? If so, let him speak for himself. [A pause.]

There was not one, he believed. No gentlemen rose—

Mr. WM. T. LAWRENCE, (in his seat,) was understood to say there was a mistake of one figure in the statement of his mileage, which represented him as receiving $100 more than he actually received.

Mr. GREELEY said he was happy to be informed of the error, and he would gladly correct it. It was not to be wondered at, that in four long columns of figures one error should have occurred.

The gentleman from Ohio [Mr. SAWYER] had said there were a hundred errors in the article. Who had shown them? Had any gentleman (except one) shown them in his own account? Was there any error in the gentleman's account? If so, he had not stated it.

Mr. BARRINGER (who was standing in the area, in company with several other gentlemen, in reply, as was supposed, to some remark, in an undertone, and not heard by the reporter) said, I have never read the article.

Mr. GREELEY. Then do not charge any mistake. If there is any mistake, let it be made known.

Mr. TURNER. Do I understand the gentleman as challenging contradiction?

Mr. GREELEY. A contradiction of the statement. I ask any gentleman to say whether the number of miles set down in that article against his name is more than he does receive pay for? and whether the amount of mileage stated is more than he does receive?

Mr. TURNER. The gentleman from New York charged me with receiving $998 extra mileage, excess of mileage——

Mr. GREELEY (interrupting.) Excess above what would have been charged by the nearest mail route. That is explained twenty times in the article. It does not charge that you have received an excess above what is allowed you by law.

Mr. TURNER. The gentleman charges me with having received an excess of mileage——

Mr. GREELEY. An excess above what?

Mr. TURNER, (continuing his sentence,)—— of $998 above what I was entitled to——

Mr. GREELEY, (interrupting.) No, sir; no, sir.

Mr. TURNER, (continuing,)——if my mileage was charged by the nearest mail route——

Mr. GREELEY. Over what you would have charged if you had charged by the nearest mail route.

Mr. TURNER. I hope the gentlman will allow me to make my statement.

The gentleman also stated in that same publication that it was only eight hundred miles over the nearest post route from the city of Washington to where I reside.

Mr. GREELEY. What is your post office?

Mr. TURNER. I said, when I had the floor before, and I repeat it now, that that statement is utterly, unqualifiedly false. And if the gentleman had looked at the maps of the country—he (Mr. T.) had not gone with an instrument over the route, and taken the latitude and longitude—but if the gentleman had desired to have spoken the truth in that publication, and had looked at a map of the country, he would have found that upon an air line he (Mr. T.) resided more than eight hundred miles to the west, and over two hundred and forty north, of the city of Washington. Now, he charges me with taking an excess in what I took for over eight hundred miles, when by an air line, the distance is more than eight hundred miles. Therefore I say his publication is false and willfully false, and I repeat it.

Mr. GREELEY, (resuming.) Now, I shall use no such language; it is not used by gentlemen in my section of the country. I could not tell; I made no accounts; I stated to this House that I directed a clerk to make out from the post office books the distances——

Mr. HARALSON (interrupting) said he wanted to inform the gentleman that the books upon which he based his calculations were not the correct books; for when the Committee on Mileage, in making up his (Mr. H.'s) account, had written him a letter to know the distance between this city and his residence, he had not trusted his own recollection, but had referred that letter to the Postmaster General, and he had received in reply from the acting First Assistant Postmaster General that the distance was 947 miles by the direct route over which the great southern mail was transported. He read the letter, and said that the route which the Postmaster General had specified was that over which 999 out of 1,000 travelers went, and was the direct and almost the only route between this city and his residence.

The article which had been published by the gentleman did great injustice to many members of this House, as well as to him, (Mr. H.,) who had not pretended to estimate the distance between this city and his residence, but had referred it to the Postmaster General, and had received pay for the distance furnished by that officer. The gentleman charged him with having taken an excess of $166——

Mr. GREELEY interrupted, and claimed the floor.

The CHAIRMAN said that the gentleman from New York had the floor.

Mr. HARALSON said he had understood that the members of the House had been invited to show it, if any injustice had been done them in this newspaper article. It had been done to him, impliedly at least.

Mr. GREELEY. Now, here is the post office book. It was the only account I could get. Can I go around to correct the books of the department? I took the books, or rather my reporter took the books, and found that the gentleman from Illinois [Mr. TURNER] was put down as eight hundred and thirty-two miles from this city by the nearest post route, when he charged mileage for two thousand and eighty miles. Could I be expected to go behind these books, when I had not even the time to make out the account at all? I cannot say that the distances are all precisely as they are set down here; but this was the best authority I could get, and official authority.

The gentleman from Georgia [Mr. HARALSON] says the route over which he charged is the usual southern mail route. This I do not doubt. This very article says that the distances put down are not of those routes over which the mails are sent, or on which postage is charged in some cases. These explanations are made in the article; it went out with these statements; and every gentleman who has objected to the article has been obliged to take some ground to misrepresent it. The distances here set down are the distances given in the post office book of the United States.

Well, the gentleman from Mississippi, [Mr. BROWN,] who assailed me yesterday——

Mr. BARROW interposed, and (the floor having been yielded) said he had understood that while he (Mr. B.) had been absent from his seat, the gentleman from New York had challenged any member to say that he was put down in this article, which was written by the gentleman, as he himself had acknowledged, as having received more pay than he actually did receive.

Mr. GREELEY, (interrupting.) Than is stated upon the book.

Mr. BARROW, (continuing.) In that publication, as near as he recollected, he was stated to have received an amount, though small, more than he actually received.

Mr. GREELEY. How much is it?

Mr. BARROW. About twenty or twenty-five dollars.

If there was error in receiving what the gentleman put down, there was error in receiving five dollars too much, and therefore, as I have been challenged, I conceived it to be my duty to state that the gentleman has charged me with having received twenty or twenty-five dollars more than I do. It may be a typographical error, or it may be intentional. I do not mean to enter at all into the controversy, nor should I have said a single word, but for the challenge of the gentleman from New York.

Mr. GREELEY. I am glad to hear this explanation of the gentleman. I wish to give this opportunity for those statements. I asked your Sergeant-at-arms to give me his schedule, so that when any gentleman says there is a mistake, I could refer at once to it; but he refused to let me have it.

The gentleman from Mississippi [Mr. BROWN] made the direct charge, yesterday, that the article was a gross falsification in respect to his mileage; and he said that he lived thirty-odd miles beyond Jackson, Mississippi, and that Jackson, Mississippi, was placed in my list as only some seven or eight hundred miles from this city, whereas the actual distance was over one thousand three hundred miles. Now the gentleman is set down in my published list, "Albert G. Brown, Mississippi, 1,047," by nearest post route, and the distance for which he receives pay, 2,330 miles. I have here the post office book before me, which declares that Jackson, Mississippi, is 1,010 miles; and if he lives 37 beyond, his distance is 1,047 miles by the nearest post route. Here is the book——

Mr. BROWN, of Mississippi, appealed to the gentleman to yield the floor.

Mr. GREELEY. For explanation, not for argument.

Mr. BROWN. Will the gentleman refer me to the book from which he read?

Mr. GREELEY. The post office book for 1842.

Mr. BROWN. I wish to call the attention of the House to a portion of the gentleman's article which he says he wrote himself.

[He read that part which states that the distance is given at which each member actually lives from Washington, by the nearest post route, "as set down in the last official list of post offices, with their several distances from Washington."]

"The *last official list*," says the gentleman, in his article. Now, the gentleman has known, (if he did not know at the time this article was published,) for the last three weeks, that that is not the *last* official list published by the department. I have in my hand a book published in 1846——

Mr. GREELEY. A list of post offices?

Mr. BROWN, (continuing.) Now, let me show the gentleman, because I don't usually talk about matters of this sort without understanding them. Here is the book: "Table of post offices, for 1846. Distances from the capital of the United States to the capitals of the several States and Territories by due course of mail, as shown by the principal points through which it passes. The distances are given from post office to post office." Now, "from Washington to Montgomery, 1,035; from Montgomery to Jackson, Mississippi, 298," making 1,333, the very number I mentioned the other day.

Mr. GREELEY. Yes; but that is the circuitous route.

Mr. BROWN. It is not the circuitous route. It is the nearest mail route; the route over which the mails are transported.

Mr. GREELEY. I do not dispute that the mails are carried over that route.

Mr. BROWN. The gentleman says his book is the last book. It was published, he says, in 1842; this one was published in 1846.

Mr GREELEY. I told the Clerk to get the last; he got the last he could find. It does not at all touch the fact; the fact is the real distance to Jackson; by the nearest mail route, it is not over 1,050 miles, and the gentleman receives pay for 2,330 miles.

Now, let him (Mr. G.) reply to some of the remarks which the gentleman from Mississippi had seen fit to apply to him in the discussion yesterday. The gentleman had represented it as an abuse that an editor of a newspaper had a seat on this floor, and that he edited his paper from here. He (Mr. G.) presumed he had written less on this floor than almost any other gentleman; certainly he had done no editorial writing here. There was time enough for that out of this House. And besides attending to his duties on this floor and in the committee-room, he had been absent but one day, and that a private-bill day, and a short session; and the chairman of the Committee on the Public Lands, of which he was a member, would tell the gentleman that he (Mr. G.) had not been absent from the meetings of that committee, and that he had sought, rather than shunned, labor on that committee. He believed the gentleman from Mississippi would find he (Mr. G.) would be disposed to do as much on this floor, or off it, of his duties as a member of this House, as the gentleman would deem desirable. Now, what was the abuse? That he was the editor of a newspaper, was certainly true. That he had given away the time of the public to editing his paper, was not true. Here were lawyers who left their seats in this Hall for two or three weeks together, to attend to their practice. Of this he did not complain: he did not do it; he should devote his time to the discharge of the duties incumbent upon him, for the brief time he had to serve here.

Now, as to this matter of the reform of mileage: every gentleman who had spoken had admitted that the present system was wrong; that there ought to be some change. Almost every one suggested some amendment. If the present amount paid was just, it ought to be more fairly distributed. He said it was unjust. But this was a beggarly sum. It was only some sixty or seventy thousand dollars' saving. Did you ever know of reform, of retrenchment, that was not beggarly? Retrenchment was always a beggarly business; it was not a business for gentlemen. Gentlemanly instincts shunned it as a rather low business—as rather discreditable, even for editors. Reform when you will, it is always strike higher or lower, or it is something else that is to be amended—an entirely different thing from that which you are attempting to do. The country would understand this; he was entirely sure this House did understand it. It was the way, the gentlemanly way, never to mind the expense; go it lavishly; divide, distribute to your friends, even if you go ashore; run in debt, repudiate, curse your creditors as descended from Judas Iscariot. But he was not rocked in the cradle of gentility.

Mr. McKAY here interrupted, and wished to notice a small error in the gentleman's statement with reference to his mileage and distance from Washington.

Mr. GREELEY hesitated to yield, but finally gave way.

The CHAIRMAN several times called the committee to order, and requested both gentlemen to suspend their remarks until gentlemen had taken their seats, stating that it was in violation of the rules for gentlemen to congregate in the area.

Mr. McKAY, after considerable delay, made his statement, from which it appeared that his actual distance from Washington had been set down in the article in question at 387 miles, while it was stated that he received mileage for 395 miles, being an excess of mileage over what he should receive, computed by the nearest mail route, of $6 40. He stated that the gentleman from New York had omitted to add the distance beyond his nearest post office, and that that accounted exactly for the difference in the distances set down by the gentleman, and of course for the excess of mileage which he was stated to have received.

He stated that he had not made the correction with a view to find fault, but as the gentleman had invited corrections. He approved of the amendment, and should support it.

Mr. GREELEY accepted the correction with pleasure, and acknowledged that such inaccuracies must occur.

He now wished to pay his respects briefly to the gentleman from Ohio, [Mr. ROOT,] who had addressed the committee when it was last in session; and he must say that either the gentleman had changed, or he (Mr. G.) had not known him; for there was a time when he could not have made that speech. He confessed, while he (Mr. G.) took his own share in that speeech very easily, he felt sorry for the gentleman's. We did not easily part with our associates. The gentleman had commenced by saying that they had seen a great many such propositions before the House, and by asking what had become of them. He had said that when one reform came up, something else was piled upon it, until you run the thing into the ground and buried it there. And then, the gentleman had done the very same thing. He had said this is all wrong, and he had proposed an amendment of his own to charge for traveling by the hour. Why, under this plan, who would know how much to charge? For instance, say the gentlemen from Texas in November required three hundred hours' travel to come to Washington: who could tell how long it would require for them to go back in April or in August? It would be all a matter of guess work. And who guessed for the treasury? who guessed for Uncle Sam? It was totally impracticable. Some gentlemen might spend a dollar an hour in traveling, others only a shilling. They would make no equality.

He believed the proposition of the gentleman from Indiana [Mr. EMBREE] was the very fairest and most practicable proposition that had been brought before the House. They never would devise any means whereby this matter of mileage would be entirely equal. He wanted it liberal. The views of the gentleman from North Carolina [Mr. VENABLE] had great force. The distant members—those who were entirely separated from their families—he (Mr. G.) would like to see paid higher than those who could return to their homes at any time. He did not want a niggardly compensation to be given; it should be a generous one. But he insisted that the amount at present paid was enormously large; to many it was two thousand dollars and to some near three thousand dollars, for that which did not cost them three hundred dollars. And as new States continued to be admitted, these inequalities would increase.

He believed that this was a matter demanding the attention of the House. He believed, that if they should begin by first making a reform which touched their own pockets, the natural effect would be to lead to other reforms; and these proper and judicious reforms being effected, the confidence of the country in this House would be increased, and the power of this House to do good immensely enhanced. He believed it was desirable in every way; that it would strengthen the confidence of the people in the Government, and lead them to feel that it was an equitable, a just Government; that they were assembled here to do justice to themselves and to every one else; that they would correct abuses which affected their own pockets. He knew not whether, under the Constitution, this reduction of mileage could be made to apply to the present Congress; if it could, so much the better.

Mr. SCHENCK interposed, and wished to make an inquiry.

Mr. GREELEY having yielded the floor—

Mr. SCHENCK said, he understood the whole tenor of the gentleman's remarks to amount to this: that he denied any intention of charging fraud or wrong upon members of Congress, and claimed to be intent only upon obtaining a change of the law. He understood the gentleman to admit that, by the law as it now existed, and by the construction for many years, if not always, placed upon that law, members were legally authorized to receive mileage according to the usually traveled route, and were not restricted to the nearest post route; and that the gentleman wanted the law changed. Very well; with that understanding, he would now read from this article of the gentleman two or three sentences:

"Let no man jump at the conclusion that this excess has been charged and received contrary to law. The fact is otherwise. The members are all honorable men; if any irreverent infidel should doubt it, we can silence him by referring to the prefix to their names in the newspapers; and we presume each has charged just what the law allows him."

Now, he wished to inquire of the gentleman whether he used that language ironically or not? He inquired of him whether that was not a sneer at a member of Congress, with this "prefix" "honorable;" and if so, how he reconciled that with the assertion the gentleman had continually made here, that he never intended to impute anything wrong, fraudulent, or illegal to members of Congress?

Mr. GREELEY. I meet the inquiry directly. I don't think it dishonorable to take that which is fairly yours under the law; though I should think it dishonorable for this House to continue the abuse and the irregularity after they have been fairly exposed.

Mr. SCHENCK. Do I understand the gentleman's reply to be, that he did not intend a sneer upon members of Congress?

Mr. GREELEY. No; I don't say that. [Laughter.] I do allow that to be, if you choose, a slant at those who will not concur in correcting the abuse——

Mr. SCHENCK. Those who *won't* vote as the gentleman from New York says they ought to?

Mr. GREELEY. If you want to have it so.

Mr. SCHENCK. I ask, then, whether, in case a man should not vote as the gentleman from New York says, (many of them had already; but let their former action pass now,) the gentleman did not define his meaning to be, that he intended to charge him with being a dishonorable man?

Mr. GREELEY. I will say, I think he is an unjust man who don't vote to make this more equal.

Mr. SCHENCK. To go back to the gentleman's first reply, [laughter.] I understood the gentleman as saying that he did not charge a member of Congress with being dishonorable in taking the amount of mileage he now receives, because it is the law; but he wants the law changed; do I understand the gentleman as saying that anything may be honorable which is within the letter of the law? [Laughter.]

Mr. GREELEY. I do not think it quite so, [general laughter.] For instance, there is a national road which goes to the gentleman's place of residence, which is not more than five hundred miles from this city by that road; the gentleman charges mileage for seven hundred and eighty miles going around by the sinuosities of the river. I do not think that fair and equal.

I have done my duty to this House and the country in relation to this matter. It rests with you to do yours. I have been made the mark for obloquy, sneers, defamation. I did what I thought was right and proper. I brought this information before the public. Now, if the House chooses to alter or amend the law in the way which I believe according to justice, very well; if not——

Mr. SCHENCK. Will the gentleman allow me to say a word before he closes? I understand (though I could not hear him in the confusion) that he speaks of something of my own case.

Mr. GREELEY. I said this: as the United States have made a national road, on which the gentleman, by traveling five hundred miles, could reach this city from his residence, I think it not hardly fair for him to charge for seven hundred miles around by the sinuosities of the river.

Mr. SCHENCK. Which he thinks not fair and honorable!

First, as to the matters of fact: I do live near the national road, though not upon it. I have made no charge upon the Government, as the gentleman states me to do. I was inquired of by the Committee on Mileage, who, I think, sent me a circular as to the distance of my residence from this city. I told them that I lived fifty miles from Cincinnati, and that that was usually the traveled route. I will add that—such being the law, that the charge is to be by the usual route of travel—the distance from my residence, measuring by the river—not by Pittsburg, as many come, but by Wheeling—(which is the most usual route of travel backwards and forwards between my place of residence and this and other eastern cities,) is quite as much as I receive pay for. Now, I ask the gentleman, on that state of facts, what he means—whether his purpose is to charge that it was dishonorable in me to submit that statement to the committee, and to take my mileage computed by that way?

Mr. GREELEY. No, I say it is not; but it would be dishonorable to vote to continue that

abuse. If the gentleman do not vote to correct that inequality, then I think he will not vote as would be just and fair.

Mr. SCHENCK. As would be just and fair! I don't understand the gentleman to be my conscience-keeper in the matter. It happens that I have always voted for that amendment of the law to which the gentleman alludes. If he will take the trouble to consult the Journal, he will find that upon some three occasions at least, I have voted for the nearest mail route as the standard on which mileage is to be charged.

But I did not do it because I believed it would be dishonorable to vote the other way. It occurred to me that this was the best standard. I have not thought it necessary to justify, before the people, my vote, by referring to individual cases of members all around me, serving with me in Congress, as honorable men as I claim to be, who have only charged according to the law as it exists, or who rather have been allowed (and have made no charge themselves) according to the law upon the statute book. I have taken what the law allowed me, and what the gentleman knows the law allowed me.

Mr. GREELEY. I have so stated.

Mr. SCHENCK, (continuing.) I have taken no more; I shall vote hereafter, as I have done before, upon my own judgment; but I shall not undertake to fortify that judgment by sneer or irony, implying dishonor upon members around me, when I do not feel disposed, in an open, manly way, to make the charge upon them.

Mr. GREELEY having concluded—

Mr. MURPHY obtained the floor, and yielded to a motion that the committee rise; which prevailing—

The committee reported progress.

TERMINATION OF THE DEBATE.

Mr. VINTON said, that for the last two days, the Committee of the Whole on the state of the Union had been engaged in the discussion of a single item of the general appropriation bill. It was very manifest that the committee would not get beyond that for the next three weeks. It was a subject which he had heard debated here nearly every session for about twenty years, and always with the same result. The experience of the last session had been such as to satisfy the House that they never could get through the business part of the appropriation bill until debate was directed to be terminated. For the purpose, therefore, of bringing debate on this item of mileage to a close, he would offer a resolution proposing to terminate the debate in one hour after the House should again have gone into committee. If that resolution should be adopted, it would probably take a week, or something like that, to get through with the bill, as the committee would then commence the business part of it.

Mr. V. accordingly offered a resolution (in the usual terms) closing the debate upon the said bill in one hour after it should again have been taken up in committee, and providing that the committee should then proceed to vote on all amendments pending or to be offered.

And Mr. V. demanded the previous question on the adoption of the resolution.

There was a second, and the main question was ordered to be now taken.

Mr. HALL, of Missouri, asked the yeas and nays on the main question; which were refused, (only five members sustaining the call.)

The question was then taken, and the resolution was adopted.

MILEAGE AND ADJOURNMENT.

Mr. BELCHER, chairman of the Committee on Mileage, rose and asked leave to make a report from that committee on the subject of mileage.

Mr. STEPHENS objected, and moved that the House do now adjourn.

And the question being taken, it was decided in the negative.

So the House would not adjourn.

The Clerk was proceeding to read the report of the Committee on Mileage.

Mr. HENLEY moved that it be laid on the table and printed.

Mr. STEPHENS rose to a point of order. He did not know, he said, how this report had come before the House. He had objected to its introduction, and he had not withdrawn his objection.

The SPEAKER said the gentleman had not renewed his objection. The Chair thought that the gentleman was leaving his seat, and going out of the Hall.

Mr. STEPHENS said he had not renewed his objection, because he had never withdrawn it.

The SPEAKER said, if the gentleman from Georgia [Mr. STEPHENS] persisted in his objection, the report could not be received.

Mr. TURNER inquired if the report had not been referred?

Mr. POLLOCK moved that the House adjourn.

Mr. McKAY asked the gentleman to withdraw his motion, to allow him (Mr. McK.) to introduce a bill.

The motion to adjourn was withdrawn.

Mr. McKAY asked leave, at this time, to introduce a bill to regulate the mileage of members and delegates in Congress, and for other purposes.

Mr. STEPHENS objected.

Mr. McKAY gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce the bill.

Mr. STEPHENS. I object to the notice.

[Some merriment.]

Mr. HILLIARD moved that the House adjourn.

The motion having prevailed, the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. KING, of Massachusetts: The petition of Allen Putnam and 165 others, citizens of Salem, Massachusetts, for reduction of the rate of postage and the abolition of the franking privilege.

By Mr. MANN, of Pennsylvania: The petition of J. Clark, S. B. Young, and 29 others, citizens of Armstrong county, Pennsylvania, praying for a mail-route from Kittaning, in said county, via Cochran's Mills, to Apollo, a distance of twenty-four miles.

By Mr. COCKE: The petition of John King and 1,009 others, citizens of East Tennessee and Western Virginia, praying of Congress the restoration of four-horse post coaches on the mail-route from Blountsville to Knoxville, Tennessee.

By Mr. WILLIAM T. LAWRENCE: A petition for a post-route from Ithaca, in Tompkins county, to Bath, in Steuben county, in the State of New York.

By Mr. PALFREY: The petition of James Patterson and 266 others, of Lancaster, Massachusetts, praying for a reduction of the rates of postage.

By Mr. BUTLER: Two petitions from citizens of Luzerne county, Pennsylvania, asking for an immediate modification of the existing tariff laws.

By Mr. HUNT: The petition of 52 citizens of Painesville, Ohio, for a light-ship at the entrance of Niagara river.

By Mr. CLAPP: The petition of Ephraim Sturdivant and others, of Maine, praying Congress that an appropriation may be made for the erection of beacons and buoys on rocks and ledges in Casco bay.

On motion of Mr. DANIEL, the papers containing an application for the extension of the patent of William W. Gray were referred to the Committee on Patents.

IN SENATE.

FRIDAY, *January* 12, 1849.

The VICE PRESIDENT laid before the Senate the credentials of the Hon. JAMES COOPER, elected a Senator from the State of Pennsylvania, for the term of six years from the 4th of March, 1849; which were read.

MEMORIALS AND PETITIONS.

Mr. TURNEY presented a petition from R. M. Edwards; which was referred to the Committee on Military Affairs.

Mr. JOHNSON, of Louisiana, presented additional documents to sustain a petition presented last session from Caleb Green; which, with the petition, were referred to the Committee on the Judiciary.

Mr. DICKINSON presented a petition from citizens of the city and county of New York, asking for a reduction of the rates of postage, and the abolition of the franking privilege; which was referred to the Committee on the Post Office and Post Roads.

Mr. STURGEON presented petitions from citizens of the counties of Lebanon and Luzerne, in Pennsylvania, praying for a change in the tariff; which were referred to the Committee on Finance.

Mr. WESTCOTT presented a petition from James Hook, asking for commutation pay; which was referred to the Committee on Revolutionary Claims.

Mr. ATCHISON presented a petition from the councillors and warriors of the Seneca Indians, asking the payment of certain moneys, of which they state that they were unjustly deprived by an agent of the Government; which was referred to the Committee on Indian Affairs.

Mr. JONES presented a memorial from James A. Bayard, a receiver of public moneys in Iowa, asking to be released from the payment of money of which he was robbed; which was referred to the Committee on Public Lands.

On motion of Mr. YULEE, the papers in the case of Charles Brenan and others were ordered to be withdrawn from the files of the Senate.

On motion of Mr. BRADBURY, the papers in the case of Rowland Carleton and William Miller were withdrawn from the files, and referred to the Committee on Pensions.

On motion of Mr. BREESE, the papers in the case of Dorothea Payne were taken from the files of the Senate, and referred to the Committee on Pensions.

RESOLUTION.

Mr. DAVIS, of Mississippi, submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on Pensions be instructed to inquire into the expediency and propriety of so extending the provisions of the pension laws as to include those who, whilst engaged in the military service of the United States, may have been, or may be, disabled by casualty incident to the life of a soldier, or by the misconduct of others with whom their duty has brought them in contact.

Mr. BRIGHT submitted the following resolution; which was considered and agreed to:

Resolved, That the Secretary of the Treasury be requested to report to the Senate the name of each person appointed by him as designated depositary, in pursuance of the subtreasury act, approved August 6, 1846, who has performed the duties of the above offices without any compensation. Also, the amount of money received on deposit by such officers, from the date of their appointments up to their last report; and whether any of the appropriations made since the passage of the above act, to be applied, under the direction of the Secretary of the Treasury, for clerk hire, or any other service connected with the execution of said law, is now unexpended, and if so, what amount.

Mr. UNDERWOOD submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Russellville, Kentucky, by Buena Vista Springs, to Elkton, and from Elkton to Madisonville, Kentucky.

REPORTS OF COMMITTEES.

Mr. MASON, from the Committee on Claims, reported the bill for the relief of George Poindexter, with amendments.

Mr. BREESE, from the Committee on Public Lands, reported a bill for the relief of James Hotchkiss; which was read a first time.

On motion of Mr. BREESE,

Ordered, That the communication from the Commissioner of the General Land Office in relation to the claim be printed with the bill.

MILITARY LAND WARRANTS.

The Senate resumed the consideration of the House bill in relation to an act entitled "An act in relation to military land warrants," approved August 14, 1848.

The bill having been ordered to a third reading, was read a third time, and the question was stated upon its passage.

Mr. WESTCOTT. On yesterday, when this bill was called up, I stated that I had objections to it, as I then understood it. I have since made an examination with respect to it, and these objections are confirmed. In February, 1847, we gave the soldiers in the Mexican war one hundred and sixty acres of bounty land. I will read the ninth section of that act:

[It provides, among other things, that every soldier or volunteer who shall serve twelve months during the war with Mexico should be entitled to receive a certificate or warrant for 160 acres of land, which, in the event of his death, should inure to his family or relatives, according to a prescribed rule. If the children were minors, their legally constituted guardian was authorized to sell and dispose of such certificate for the benefit of those interested, and all sales, mortgages, powers, or other instruments of writing going to affect the title or claim to any such bounty right, made or executed prior to the issue of such certificate or warrant, was thereby declared null and void; nor was such claim to bounty right to be affected by, or charged with, or subject to, the payment of any debt or claim incurred by the soldier prior to the issuing of such certificate or warrant.]

Sir, the provisions securing this donation to the soldier himself, and in case of his decease, to his widow and heirs, were proposed by the Senator from Missouri, [Mr. BENTON,] as amendments to the propositions of the Senator from Ohio over the

way, [Mr. CORWIN.] There was considerable debate on its adoption, as all will recollect who were here. These provisions were adopted by a decided vote. By that vote the Senate manifested its purpose of discouraging the picaroon speculators, who, in previous cases of similar laws, experience had shown reaped the benefits of the gift intended for the soldier and his heirs. I well remember the emphatic denunciation of these harpies, always hovering around the discharged soldiers, used on that occasion by the Senator from Missouri, [Mr. BENTON.] Well, sir, what has been the result? Your law has been disregarded and trifled with, and you are now called on to sanction and legalize what, in the act I have referred to, you denounced and declared should be regarded as fraudulent and void. You are asked to recognize these assignees. I say your law has been evaded.

It is notorious that most of the bounty land certificates and warrants are in the hands of assignees. They were obtained by buying the *discharge* from the soldier, in some instances for thirty dollars, and in others for forty dollars, and so on up to one hundred and ten dollars. The certificate was, at the legal price of land, worth two hundred dollars. The current price in this city has not, I believe, exceeded one hundred and ten dollars. In defiance of the law, the soldier's right has been transferred before the warrant issued in nine-tenths of the cases. The contrivance adopted has been this: the soldier gave a power of attorney, often in blank, and authority to enter the land in his name. This is a mere shift and evasion. The officers of the Land Office here will not recognize any right in the attorney, and they act rightly. They allow the soldier to revoke his letter of attorney; and there are many cases in which caveats have been filed by the soldier, and the speculator has been punished for his attempt to evade the law. I am glad of it. It is right and just.

Well, sir, at the last session the act of August 14, 1848, was passed—an act by which we authorized the soldier and his widow or heir, excluding assignees, to locate their lands, first, in legal subdivisions, that is, forty, eighty, or one hundred and sixty acre tracts; secondly, where lands are held by law at higher prices than one dollar and twenty-five cents per acre, they might reckon the warrant at that price, and pay the balance in money.

Now, sir, this bill proposes to extend these *two* privileges to the assignees, to the piratical speculators who have got these warrants by hook and by crook from the soldier at half or one-fourth of their value. I will not consent to do this. I will not give these speculators an advantage they did have when they got the soldier's discharge or warrant. Why should we gratuitously give such a class as they are this benefit free gratis? Did they serve in the war? Have *they* earned anything to receive the peculiar favor of the Government or of the people? Is all the merit and glory of the patriot soldier, who has borne the brunt of the battles in Mexico, transferred or assigned to these people by power of attorney or assignment on the discharge or on the warrant? I think not. The privilege asked for did not exist when they obtained the assignment or power of attorney. If it had, the soldier could have perhaps got some of his claim. I would not object to extending the last privilege to the assignees; and if the act is amended to allow this alone, I shall be satisfied. I learn it is deemed good policy, with respect to certain public lands in some of the western States that are held at two dollars and a half per acre, that this second privilege should be given them, as it would be beneficial to the public; but what I object to is, to let these speculator assignees, by entries of forty and eighty acre tracts of public lands, get possession of the best small farms in the new States, to the injury of that class of citizens who would otherwise obtain them. They did not buy this privilege of the soldier, and we should not give it to them. I hope the bill will be amended so as not to allow this, and be confined to the allowance of the last privilege.

Mr. BREESE. I think the Senator from Florida is altogether mistaken as to the purport of this bill as it affects locating land warrants. No holder of the warrants, neither the widow nor heirs of the soldier, have a right to locate them on separate and disconnected tracts of land—taking an eighty acre tract in one place, and a forty in another. They can only enter them in a connected body; as, for example, four forty-acre tracts contiguous or adjoining each other.

Mr. WESTCOTT. Here is the express law.

Mr. BREESE. I understand the law, and am perfectly acquainted with its provisions, and with the practice of the land offices under it.

Mr. WESTCOTT. I cannot be mistaken. Forty acres is a "legal division," and the act of 1848 authorizes the soldier or his widow and heirs to enter his warrant by "legal subdivisions." This act proposes to give the *assignee* the same privilege. I learn this, and *authoritated* that this would be the construction of this act. If it is not its object, why not amend the bill to remove the objection? At the suggestion of the Senator near me, [Mr. ALLEN,] who desires the bill passed, I will move that it be postponed to Monday, and hope by that time an amendment will be presented.

The bill was accordingly postponed.

BILLS ON LEAVE.

Mr. JONES, pursuant to notice, asked and obtained leave to introduce a bill for the relief of Samuel J. Bayard, late receiver at Fairfield, Iowa; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. BORLAND, pursuant to notice, asked and obtained leave to introduce a bill to establish a new collection district in the State of Arkansas; which was read a first and second time, and referred red to the Committee on Commerce.

REDUCTION OF POSTAGE.

On motion of Mr. NILES, the Senate postponed the previous orders, and proceeded to consider the bill to reduce the rates of postage.

On motion of Mr. NILES, the further consideration of the bill was postponed till Monday next, and it was made the special order for that day.

DEFICIENCIES IN APPROPRIATIONS.

On motion of Mr. ATHERTON, the previous orders were postponed, and the Senate proceeded to consider the bill to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1849.

The bill was then considered as in Committee of the Whole, when the amendments reported from the Committee on Finance were agreed to.

Mr. ATHERTON moved further to amend the bill by adding: for the six swords ordered to be presented by the joint resolution, approved March 2, 1847, $9,000.

Mr. ATHERTON moved further to amend the bill by introducing an appropriation of $6,400 for the purchase of instruments, &c., for the service of the officers employed in making astronomical observations in the South Seas.

Mr. ATHERTON. Mr. President, it is proper for me to state that this amendment is offered by myself in consequence of a letter from the Secretary of the Navy, and also in consequence of a request coming from the chairman of the Committee of Ways and Means of the House of Representatives, made by the chairman in pursuance of a suggestion made to him by the Committee on Naval Affairs of the House of Representatives.

The resolution of the Committee on Naval Affairs having been presented after the bill had been ordered to be engrossed, was not acted on by the House of Representatives, and, consequently, it has been sent up here. It, however, did not reach me in time to be laid before the Committee on Finance in the Senate. It is proper, therefore, for me to state that this amendment is not offered by the authority of the Committee on Finance, but in consequence of the circumstances that I have stated.

Mr. PHELPS. I would like to know the amount proposed to be appropriated.

Mr. ATHERTON. Six thousand four hundred dollars.

Mr. PHELPS. As one of the Committee on Finance, I deem it my duty to withhold my support from this amendment, on account of the extreme repugnance I feel against countenancing the principle involved in it.

The history of this matter is precisely this: Some time since, an application was made by the Navy Department to the Committee on Finance for an appropriation for the purpose of making certain astronomical observations in the South Seas. It was then represented by that department that the instruments necessary for making the observations were on hand, or could be obtained without going to the expense of purchasing. Of course, under such circumstances, the appropriation solicited, amounting to about five thousand dollars, was granted. It was then stated that this sum would be sufficient for the purpose of making the observations, and that nothing more would be required. But we are now told, after having made that appropriation, that the observations cannot be carried on without an additional appropriation of six thousand four hundred dollars for the purchase of the very instruments which we were informed at the time the first appropriation was asked for and obtained were on hand, or under the control of the Navy Department.

Sir, my opposition to the amendment arises from my unwillingness to sanction and continue a practice which has tended greatly to increase the expenses of the Government. The practice I refer to is that of asking, in the outset of a new project, an appropriation altogether inadequate to carry out and complete that project. Under such circumstances Congress is often induced to make an appropriation because the amount solicited is small in comparison with the magnitude and benefits of the object sought to be accomplished. Taking this view of the subject, Congress comes to the conclusion that the amount asked for may be properly appropriated, and they accordingly grant the request of the party soliciting the appropriation. But after the appropriation has been made, we are told that it is only the beginning of a series of similar appropriations; that it is not sufficient to accomplish the purpose for which it was made; and that, unless further means are granted, the money already expended will prove a loss, a waste, and that no benefits whatever will accrue from its outlay; and thus we are led on, from time to time, to make appropriations for certain objects, when, in all human probability, if the amount of the whole expenditure required to accomplish the proposed object had been at first stated to Congress, it would not have considered the object worth the money expended in its acquisition.

Mr. President, I have a very strong desire, so far as I am concerned, to endeavor, at least, to put an end to this course of proceeding, by abandoning a project which has been forced upon us in the manner described. My repugnance to countenancing this practice is so great, that I am very desirous of setting an example which will teach the department not to endeavor to lead us into any projects like this, in the manner which I have described. I prefer to have it understood, that if any grant of this kind is solicited of Congress, that Congress not only desires but expects that an estimate of the expenditures should be made corresponding with the actual expense of carrying the enterprise out to its completion.

Under these circumstances, I must oppose this amendment. My main object in making these remarks has been, to discharge what I consider my duty, by calling the attention of the Senate to the facts which I have stated. A great many of these expenditures prove unprofitable. A great many of these appropriations have been imposed upon Congress in the manner which I have described, and we have thus been led into a series of appropriations which would never have been made if the full expense attending the accomplishment of the object proposed had been stated at the time the first grant was solicited.

Mr. ATHERTON. Mr. President, I fully concur with many of the suggestions made by my friend from Vermont, as to the manner in which Congress is led into many schemes by the supposition impressed upon them by misstatements or improper calculations as to the expenditures which make the probable expense necessary to carry out the scheme lower than it turns out to be after the full expense has been incurred. In regard to this particular project, I know that it was said, at the last session of Congress, that the five thousand dollars which were appropriated for this purpose would probably be sufficient. It was also said that there would be no need of purchasing instruments, because the instruments now owned by the Department of the Navy would be sufficient for the purpose contemplated. It will be recollected, however—and it ought to be mentioned in justice to the Secretary of the Navy—that the Secretary of the Navy did not originate this scheme. I believe that the importance of this expedition to the southern hemisphere was first suggested by some philosophical society in the city of Philadelphia, and perhaps its importance was also suggested by

gentlemen of astronomical intelligence and information in different parts of the country. I know that there is a communication on this subject on the files, from a society in Philadelphia. I have the communication here. There is also on the files a copy of a communication on the subject from Mr. Pierce, the celebrated mathematician, at Cambridge. They all unite in testifying to the great importance of this expedition. It will be recollected, also, that there was considerable discussion on this subject in the House of Representatives. A report was made to that House by a gentleman on the Naval Committee, as to the propriety of sending a person to the southern hemisphere for the purpose of making these observations, and the subject was then fully discussed, and the House and the Senate then determined to appropriate five thousand dollars in order to enable Lieutenant Gillis, together with such persons as might be sent with him, to go to the southern hemisphere for the purpose of taking observations at the time of the conjunction of Venus, and the opposition of Mars. I have a letter upon this subject from the Secretary of the Navy, which I think it would be proper to read to the Senate. He states in this letter that it was supposed at the time the first appropriation was asked for, that new instruments would be needed. I will read the letter from the Secretary of the Navy:

NAVY DEPARTMENT, *December* 23, 1848.

SIR: At the request of Lieut. J. M. Gilliss, of the Navy, I have the honor to transmit to you the enclosed communication addressed by that officer to you. He correctly states the decision of the department, that the cost of instruments to be purchased for the purpose of making observations under authority given by the act of Congress to which he refers, must be charged to the appropriation. It is also proper that I should say, that when the estimate of five thousand dollars was submitted by him at the last session of Congress, the belief was entertained that most if not all the instruments required could be furnished without additional purchases. The wants of the service have disappointed this expectation.

I have the honor to be, very respectfully, your obedient servant, J. Y. MASON.

Hon. F. P. STANTON, *House of Representatives.*

It is now requested that six thousand four hundred dollars be appropriated for the purchase of proper instruments to be used by the persons sent out to take these observations; and, sir, if this expedition is to go on—if these persons are to be sent out to make these observations—it is certainly highly important that they should have proper instruments, or the expedition will fail. We have sent out scientific men, officers of our navy, to make these observations; and if the result should be a failure, from the want of proper instruments, it would redound to the discredit of the country which authorized the expedition. There is among the papers a list of the instruments required, and their probable cost, which lays the foundation of the appropriation. As I have before said, the appropriation has not received the sanction of the Committee on Finance, as the request that it should be made was not received by myself in time to lay it before the committee at their regular meeting. I have thought it proper to introduce it to the notice of the Senate, in order that it might receive their consideration, and receive such disposition as they may see fit to give it.

Mr. CLAYTON. From the statement which has been made by the chairman of the Committee on Finance, [Mr. ATHERTON,] I think that this amendment ought not to be adopted. Last year we were told that five thousand dollars was all that would be asked, or that would be required to enable the Navy Department to carry out the project for making these observations. The Secretary of the Navy now says, that at that time he supposed that sum would be amply sufficient for this purpose. I suppose that he recommended on that view, and upon that understanding the Senate voted for the appropriation.

I am not disposed, for one, to encourage this practice, so often resorted to, of asking us in the first instance to commit ourselves by an insufficient appropriation, merely for the purpose of laying the foundation of an increased appropriation afterwards. Therefore I shall vote against the amendment.

Mr. MILLER. Mr. President, I differ from my friend the honorable Senator from Delaware in the view which he takes of this question. At the last session we settled the propriety of this expedition, and made an appropriation for the purpose of accomplishing it. If I understand the letter from the head of the Navy Department, it was anticipated at that time that the instruments under the command of that department would be sufficient for making the proposed observations. That was the view he then entertained, and in that view the Secretary now states that he was mistaken. He also states that the service requires the instruments now under the control of the Navy Department for other uses. The question, then, is this: Congress having authorized this expedition for the purpose of advancing science—and I consider it an expedition of vast importance—whether it shall fail for the want of proper instruments, or whether it shall be consummated at the additional expense named in the amendment, which expense, compared with the immense scientific benefits that will result from the successful accomplishment of the object of the expedition, is, in my estimation, small indeed. I hope most sincerely, for my part, that this expedition, undertaken for the benefit of science and of the navy, will not be allowed to fail for the want of proper instruments with which to make the necessary observations.

I agree with the gentleman from Delaware that it is highly improper for the department to come here and ask of us an appropriation for an expedition of this kind, without giving us the proper estimates of its cost at the time the appropriation is asked for. But we all know that it is almost impossible to estimate with unerring accuracy the full cost of an expedition such as this, especially where instruments of this kind are to be purchased. This case is an exception to the general rule, for the Secretary of the Navy informs us that, at the time the former appropriation was made, he thought the necessary instruments were under the command of the Navy Department. In that opinion he was mistaken, and to remedy that mistake we are called upon to make this appropriation.

Mr. CLAYTON. Mr. President, the reason assigned at the last ssssion for making the appropriation then granted, was the very one that we had the instruments on hand. But now it appears that this reason was without foundation; that it was no reason. At any rate, it has entirely failed to secure the desired results. It turns out that we have not the instruments, the possession of which was assigned at the last session as the reason for the appropriation then asked for and obtained upon that understanding. If we had known at the last session that the Navy Department was destitute of these instruments, we would not have made the appropriation then granted. The possession of the instruments was then assigned as a reason for asking us for an appropriation, and now their non-possession is assigned as a reason for a further appropriation. For one, I shall not countenance this practice of obtaining appropriations by such a course. I cannot, therefore, support the amendment.

Mr. WALKER. Mr. President, this subject strikes me in the same light in which it does the Senator from Delaware. The Senator from New Jersey [Mr. MILLER] says that the propriety of this expedition was settled at the last session of Congress; if so, it was settled without proper information as to its cost. I do not say that the omission to furnish the necessary and correct information was intentional; but I must say, that if the propriety of the expedition was not settled upon a falsehood, it was at least settled upon a suppression of the truth. I do not wish to be understood as charging the Secretary of the Navy with this suppression of the truth. He says he was mistaken, and I, for one, presume that he was mistaken. The impression upon the Senate, however, is, that either an incorrect statement was presented, or the true state of things suppressed. That appropriation was made on the supposition that the instruments which would be required in making the observations were already supplied and under the control of the Navy Department. But it turns out that we were then asked to make an appropriation to execute the work, and now we are called upon to make another appropriation to obtain the instruments by which the work is to be executed. I think it would be much more appropriate to make an amendment revoking the appropriation of five thousand dollars which was made at the last session of Congress than to make this additional appropriation. If I had the data before me, I would offer such a proposition as an amendment to this amendment; but inasmuch as I have not the data at hand, I must content myself with voting against the amendment now under consideration.

I do not wish to be understood as applying the force of what I have said to the Secretary of the Navy. I disavow all such intention. But such is its operation upon the Senate. The Secretary of the Navy is not infallible, but is liable to mistake as are all other men. But the circumstances being as I have stated them to be, I must vote against this amendment.

Mr. PEARCE. It is certainly to be regretted that any mistake should have been made in the estimate of the expense consequent upon this expedition, which was submitted to Congress at the last session. Yet I hope this amendment will be passed. The object sought to be attained by this expedition is very important to astronomical science, and of course important and useful to the art of navigation. I believe that the object of this appropriation is to carry out a new plan for ascertaining the parallax of the sun. The Senate is aware what that is. It is to ascertain the angle of variation or change of the position of the sun in reference to the different points of observation. The mode in which this has been ascertained heretofore—or the mode which has been most relied upon—is by an observation of the transit of Venus. A different mode has been suggested by a distinguished German philosopher, I believe, and has received the approbation of the learned secretary of the Smithsonian Institution, and of many other gentlemen thoroughly versed in astronomical science. I suppose, that by this observation—which I will not undertake to describe—greater accuracy in all astronomical observations may be obtained. This is certainly of very great importance, and it cannot be done by individual means; but, if done at all, must be done by means furnished by the liberality of the Government. I think we owe this much to science and navigation, if no more.

I understand that at the last session of Congress an appropriation of five thousand dollars was made for the purpose of enabling certain designated persons to make these observations, under the supposition that the necessary instruments might be furnished by the Navy Department. But the Navy Department has not the instruments, or rather it has not been enabled to withdraw them from other purposes to which they are now applied; and hence the department has desired Congress to make this appropriation. It is certainly not a very large one for the purposes of science.

It has been said that the Smithsonian Institution, in the event of the failure of the Government to make this appropriation, will contribute to the purchase of these instruments. But, sir, I trust that the Government will not allow the burden to fall upon that institution. I really think it would be disgraceful for the Government to allow the Smithsonian Institution, or any other institution, to aid in the purchase of these instruments.

Again: I think it probable that the Government will not lose the six thousand dollars proposed to be appropriated for the purchase of these instruments. I understand that there is a project on foot in Chili for the establishment of a national observatory in that country; and I am informed, that when these instruments shall have been used by us for the purposes desired, that Government will purchase them. Therefore, it will not be any waste of the public money to appropriate it for the purchase of these instruments; and, inasmuch as it cannot be supposed that any individual benefit is to be realized from the appropriation, or that any fraud can be perpetrated upon the treasury by it, and as it is an appropriation purely for the benefit of science, and of one of the most useful of all known arts, I hope that the Senate will make the appropriation, and let the Government take the whole credit and responsibility of the enterprise.

Mr. NILES spoke in a low tone of voice, and only a small portion of his remarks was intelligible to the reporter. He was understood to say that he would like to ask his friend from Maryland, who is a very scientific man, to what branch of the public service such an enterprise as that under consideration belonged, or by what authority the appropriation could be made? He (Mr. N.) thought that if we were to make appropriations out of the public moneys for astronomical discoveries, either in the southern hemisphere or in the northern hemisphere, we were straying very far from a strict construction of the powers vested in the Legislative branch of the Government by the Constitution. For himself, he should adhere to a strict construction of the Constitution during the brief time he

would remain in the Senate. He thought it unnecessary to go to the southern hemisphere to make observations upon the movements of the planets. We have an observatory here, and we can confine our observations within a range nearer home. He was aware that we had a great many very scientific men in our navy, and he was very sorry that the whole field of mathematical science spread out before them was not sufficient for them to expend their energies upon, but that they must wander off to the extremities of the earth in search of new fields of scientific research; and they say to us, "If the Government will only make sufficient appropriations, we will enlighten not only you, but the whole world." He presumed that these men were an honor to their country; but, in the first place, he considered that the Government had no power to make any appropriations for the purpose of promoting astronomical science or any other science whatever; and, in the second place, he did not believe that any good results would accrue from these scientific embarkations of the Government. He thought that, in all countries, science should be left free to work out its own problems; that it should be left to individual enterprise, and not be subjected to the chilling influences of governmental aid. He did not believe that the interests of science would be very greatly advanced by enterprises set on foot by Government. He considered scientific explorations and investigations to be highly necessary, and of exceeding value; but they should be left to individual enterprise.

I have learned (continued Mr. N.) from the newspapers, that during the past year we have sent out an expedition to make observations on the Dead Sea. I think that must be in the eastern hemisphere, or somewhere in that quarter, as it does not connect with the Atlantic, the Mediterranean, or the Pacific. I have been told that important results have been attained by that expedition, but I know of no important results that have been attained by it. If any have been attained, I should like to see them. I understand that, among other important things, they have discovered and brought home a part of Lot's wife. This is, indeed, important. I should like to see a thing so famous in ancient history come down bodily to us. It must be a rare and interesting object.

Mr. FOOTE. I would inform the gentleman that what he is pleased to designate as a part of Lot's wife may be now seen in the library.

Mr. NILES. I do not feel encouraged, by any results that have been yet attained by these expeditions, to go on making appropriations for such purposes. Therefore, I must vote against the amendment.

Mr. PEARCE. I believe it is now more than twenty years since the project was first started for the erection of a National Observatory. The edifice was then beautifully and appropriately, though sarcastically, denominated a "light-house of the sky," and a determination was evinced in certain quarters to blow the whole enterprise sky high. But, sir, the law for establishing that institution was passed, and went into effect with as great efficiency as though no shaft of sarcasm had ever been launched against it, and it has continued to flourish up to the present time, and is now a permanent institution, a *depôt* of science, and an honor to the country and the world. Now, sir, the enterprise under consideration is nothing but a continuation of General Jackson's policy. He would have compelled the Government to carry out this enterprise. He understood the vast benefits to be derived from such enterprises as this exploring expedition.

The gentleman from Connecticut seems to doubt the utility of the project now under consideration. I suppose I need hardly say that any observation that ascertains, with greater accuracy than is now ascertained, the distance between the sun and the earth, is of immense importance, not only in estimating all distances relating to the solar system, but also of immense importance to navigation—in which subject, I suppose, the gentleman from Connecticut feels as deep an interest as myself or any other member of this body, as the inhabitants of his State are great navigators, and traverse the pathway of nations with a frequency and daring seldom equaled by any people. This observation, if it results as scientific men suppose it will, will add greatly to the accuracy of all astronomical observations, and those calculations without which not a ship, whether belonging to the navy or to the mercantile marine, could put out from shore with any degree of safety. That is a utility which it does not require any arguments to demonstrate.

It must be admitted that the results of such an observation as this, if successful—for we cannot tell whether it will be successful or not until the experiment shall have been made—will be of eminent advantage, in the point of view which I have mentioned. I hope, therefore, that the Senate will pass the amendment.

Mr. WESTCOTT. I do not rise to say one word about the item objected to, except that I am satisfied it should be allowed, if we have any respect for the Government. My object is to notice the remarks of my honorable friend from Connecticut, [Mr. NILES,] which I regretted to hear, in relation to the visit of Lieutenant Lynch, of the navy, to the Dead Sea. I say I heard these remarks with regret, for there is no Senator on this floor for whose opinions, and for whom personally, I have greater respect (except on the subject of "free trade" and "free soil") than that Senator. Sir, I am satisfied, if he had known the facts respecting that visit, he would not have lugged the officer who made it unnecessarily into this debate. Sir, it is known that, some time ago at least, I was not very partial—I mean, I was not a very warm and devoted friend of the present head of the Navy Department; but I feel bound to say, that, so far as he is connected with the visit and exploration of Lieutenant Lynch, I cordially approve of his course. He deserves credit for it. This matter was misrepresented last session of Congress. I saw the misrepresentations in the newspapers, some in the shape of speeches in Congress. Doubtless they were made under misconception of the facts. I now take occasion to state them. It was necessary to send a store ship or transport ship to the Mediterranean. Lieutenant Lynch was detailed to command the ship selected for that purpose. The ship had to visit different ports in the Mediterranean Sea and contiguous waters, on public service of different kinds. Part of that service was, I believe, connected with the selection or establishment of a naval depôt in that quarter. Well, sir, Lieutenant Lynch, one of the most intelligent, scientific, and enterprising officers in the service, appied to the Secretary of the Navy for permission, while contiguous to the Dead Sea, to leave his vessel a few months, with some of his officers, and make an exploration, on his own account, of that sea, and other interesting points in its vicinity. The idea that this was a grand official exploration put on foot by the Secretary, as under the authority of Congress, but without law, and that it involved the Government in great expense, is all wrong. The Secretary gave Lieutenant Lynch the leave he asked, and approved and encouraged the object. And, as to the expense to the Government, the utmost that it could cost does not exceed $800 or $1,000, and that for a boat or two adapted to the service, and a few implements and instruments; all of which expenses are like those incurred and paid on every voyage made by any one of our ships of war, under the order of its commander. Nobody, I presume, will overhaul and object to these items. On the contrary, I think additional compensation should be given the officers, or at least that they should be reimbursed all their extra expenses; for, sir, the officers engaged in the expedition necessarily incurred additional expenses. This is the character of what has been denounced as a magnificent exploration scheme, got up at vast expense by the Secretary of the Navy without law. There is one thing respecting it which has not been exaggerated. It is the result of the expedition, the credit due to the Secretary, to Lieutenant Lynch, and his officers for their conduct. Sir, the credit of being the first to make a scientific exploration of that interesting region—of being the pioneers even to England and France there, is no little credit. I trust those who ridicule the expedition will read the report when made. It will rebuke their injustice. I hope those who censure Mr. Mason, Lieutenant Lynch, and those officers for undertaking the exploration, will give them all the credit for what they have done, and not hereafter seek to rob them of that also. Their account of their explorations, when published, will be read with avidity in every quarter of the world, and as much in Connecticut as anywhere else. The Senator [Mr. NILES] will find satisfaction in reading it.

I hope some Senator will call for Lieutenant Lynch's report at an early day. If not, I shall during the session, and hope it will be published by the Senate's order. It will be found that it is creditable to the service—creditable to all concerned, and useful too. I have had an opportunity to know something of this matter, and of the meritorious conduct of the officers who went to the Dead Sea, and of the credit they were entitled to; and, I repeat, I deeply regret that any Senator should have made them unnecessarily the subject of invidious remarks.

Mr. CLAYTON. I only rise, sir, for the purpose of calling the attention of the Senate to the facts concerning the question upon which they are going to vote.

In this case no committee recommends the amendment to this bill. Three members of the Committee on Finance, the appropriate committee to which this subject has been referred, have expressed themselves in opposition to the appropriation. Under these circumstances the amendment is still pressed. The objections taken by the members of the committee are based upon a broad principle, and for the purpose of insuring the safety of the finances of this country—a principle which it is important the Senate should sustain. The principle is this: when any enterprises of this description are first proposed, the sum which will be required to carry them out shall be fully and fairly stated to us, so that we shall not be called upon afterwards for further appropriations. We have been so often deceived by new schemes for explorations of this character which have been stated to us, with the recommendation that the sum demanded for them would be small, and that sum stated specifically, and we have so often found it necessary to double or triple the amount, that we have found it important and absolutely necessary to lay down the principle that the sum first stated shall be honestly and fairly stated, or else those who apply for the appropriation shall abide by the consequences of their own deception or neglect.

Now, in regard to this matter, important as it may be—and by the statement of my friend from Maryland, it seems to be of very great importance—I will say that I have no doubt that it appropriately comes within the province of an existing institution—the Smithsonian Institution. They can do everything upon the subject that is required by the American nation, and I would be content with their observations and examinations of this matter. If the bounty of the Government had been sought in the first instance by correctly stating the sum required, so that no further appropriations would have been asked for, I should have made no objection to granting a sufficient amount. But I propose now to put an end forever to this practice of parties coming here with a project and obtaining a comparatively small sum, and then telling us, a short time afterwards, that the appropriation is insufficient, and that we must grant them still further assistance. I hope, therefore, that the Senate will refuse to pass this amendment, and thus put a stop, at once and forever, to this pernicious practice.

Mr. DAVIS, of Mississippi. Mr. President, I would state to the Senator from Delaware, who has referred to the Smithsonian Institution as the appropriate institution for carrying out this enterprise, that that institution, which was founded by the enlightened munificence of a foreigner, is a young institution, and is now engaged in erecting its buildings, and that its funds are entirely devoted to that object, with the exception of a very small amount only which can be devoted to scientific purposes. Hereafter it may do more; at present it can do but very little.

Sir, I look upon the question that is now presented to us, whether these observations shall be made or not, as a question that was settled at the last session of Congress. No increase of appropriation is asked for. It has only been found that the Navy Department have not the necessary instruments with which to make the desired observations. What, then, is our present condition? We have determined to make the observations. We have made an appropriation for the purpose; and if no additional appropriation be granted for purchasing the necessary instruments, the navy must go on with imperfect instruments, to make imperfect observations, which will be discreditable instead of honorable to American science. Will you recall the appropriation already made? Will

you abandon the whole enterprise? Will you prevent the observations being made? If not, allow them to be done in a proper and creditable manner. Let the necessary appropriation be made to purchase the requisite instruments. Sir, it is not every year that an appropriation will be required. It is not every year that these observations can be made. I believe it was in 1760 that the last conjunction of Venus occurred. It was necessary to science and navigation that the observations should be then made. Seventy or eighty years of the present century will have rolled away before another opportunity for taking these observations will be presented.

Nor was this the hasty action of Congress of the last session. It was resolved upon after being deliberately weighed and reviewed by all the scientific societies of Europe, as well as of this country. It has received the favorable consideration of the astronomical societies in London and Berlin, as of our own societies in Boston and Philadelphia. Already we have been complimented for this expedition; and shall we now, for the poor and paltry sum of six thousand and four hundred dollars, abandon an expedition which we have undertaken for the benefit of navigation? We have contributed too little in times past to science. The Nautical Almanac of England has been used in our navy. It is time we did something for ourselves in this respect.

Nor is this so unimportant an enterprise as has been so facetiously stated by the honorable Senator from Connecticut, [Mr. NILES.] The distance of the sun from the earth is the great basis of all astronomical calculations; and here we are presented with a proper occasion—and it is an opportunity which seldom presents itself—for determining that distance more accurately than has been hitherto done. By connecting the observations made at the Observatory at Washington with those made at Chili, and thus establishing a base at Washington, connecting it with the result of the observations at the Cape of Good Hope, we shall have the two sides of a great triangle, which will furnish us the means of determining more accurately than has been determined in any time past the essential distance of the sun from the earth.

But, sir, we stand committed in another point of view. The action of the American Congress in relation to this important matter has been noticed by the Government of Chili, and they have made preparations for the reception of our nautical brigade. It would be but a poor act to send the brigade down there without the instruments by which alone the necessary observations can be made, and it would be a poorer act still to abandon the project entirely.

I do not think that the purchase of these instruments will cause any loss to the treasury. They will be necessary to the navy hereafter, and if they should not, they can be sold at their full value in Chili, as the Senator from Maryland [Mr. PEARCE] has observed. The Chilian Government has in contemplation the establishment of a national observatory, and would consider it a favor to be allowed to purchase these instruments.

From all these considerations, as well as from the fact that it is not now a question for us to decide whether we will make the observations or not—that having been passed upon at the last session of Congress—I hope this amendment will pass.

Mr. ATHERTON. I did not design to be understood as opposing the appropriation, but merely as concurring in the general scope and tenor of the remarks of the Senator from Vermont, in reference to applications accompanied by estimates purporting to cover the whole expense to be incurred, and afterwards additional appropriations being asked for. I consider it unfortunate that it should happen in this case; nevertheless, I shall vote for the appropriation. And I think it my duty to say, in regard to the Secretary of the Navy, that he is not responsible for the origination of this project. As has been suggested here, the proposition was first made in the House of Representatives, and after a full and elaborate discussion this clause was introduced in the naval appropriation bill, and the item was made a part of the expenses of our navy, it being determined that a naval officer should be sent out to make these observations, which are deemed so important to the interests of navigation.

Mr. YULEE. The proposition originated in the House of Representatives, and not in the department.

Mr. ATHERTON. Exactly; that is what I was saying. It was asserted in some of the newspapers, and perhaps in argument in the course of the debate which took place on the subject, that the instruments now in the possession of the Government would be sufficient. I cannot agree, however, with the Senator from Delaware that the supposed smallness of the expense was the reason for organizing the expedition. That was not the reason. The real reason was the importance of the observations for the furtherance of science, as connected with the purposes of navigation. The smallness of the expense might have been alluded to as an inducement, to be sure; but my impression is, that the expedition would have been authorized had the cost been double what it was supposed to be. Had the expense of the instruments been included in the estimate of the cost of the expedition, such was considered to be its importance that I have no doubt it would have been authorized. It appears that the exigencies of the public service have withdrawn the instruments that were expected to be used, and this appropriation is now asked for the purchase of others; and certainly it seems to me, that if the expedition is to go on, it is highly important, as regards its fruits and as regards the honor of the service, that proper instruments should not be wanting. I shall, therefore, vote for the amendment.

Mr. CLAYTON. The reason of the additional appropriation being required is as stated by the Senator from New Hampshire. There is no blame whatever to be imputed to the Secretary of the Navy. He was deceived undoubtedly; he was told, he says, that five thousand dollars would be enough, and upon the strength of that he made the recommendation. Now he is told that as much more is wanted.

Mr. FOOTE. I rise to give expression to mingled sentiments of surprise and regret—surprise and regret both mingled and duplicated. Two honorable Senators, one of them from the State of Connecticut, [Mr. NILES,] and the other from the State of Delaware, [Mr. CLAYTON,] without concert or intentional coöperation, have equally contributed to awaken this complex state of feeling in my bosom. The first of these gentlemen [Mr. NILES] formally announces himself to the Senate as a *strict constructionist*—the strictest and straitest of all who belong to the great strict construction party of the Union; and assures us that he cannot vote for this bill, because, as a consistent politician, he feels bound in conscience to declare his solemn and deliberate conviction that Congress has no constitutional power to pass it. Well, sir, I am heartily rejoiced to hear that my venerable friend from Connecticut has at last resolved, after so long and unprofitable a course of wearisome wandering along the grim and perilous pathways of latitudinous interpretation, to return once more to the paternal democratic mansion, within whose portals his countenance was once so familiar, and to whose inmates his voice was once full of cheering and instruction. His return, though, to our midst, being wholly unexpected, has startled us not a little; and if we have not been able to kill the fatted calf, and to arrange in other respects for a festive reception of our errant brother, I trust he will take no offence, but charge all that may look like a lukewarm hospitality on our part to his own failure in notifying us that he was coming back to our midst on this particular occasion.

The opposition presented to this bill by the Senator from Delaware, also, is peculiarly gratifying, though certainly altogether unexpected likewise, because there is something in that Senator's particular attitude before the country at the present time—his supposed relations with a distinguished personage whose presence here is to be expected shortly; there is something, too, in the very formal and emphatic manner adopted by the Senator on this occasion, which seems pretty distinctly to intimate that the Administration which will commence its course on the 4th of March next, is, after all the fears heretofore entertained by many, and predictions indulged to the contrary, to come forward boldly and nobly as a regular, zealous, thoroughgoing, strict-construction, democratic Administration. I congratulate the Senator upon the change in regard to the powers of the Government which his own views have recently undergone; and I do still more heartily congratulate the country upon the prospect which is so graciously opening upon us, that this democratic Administration now closing, which came into power upon well-known political pledges, every one of which it has most faithfully and gloriously redeemed, is about to be succeeded by another Administration, attaining the seats of authority without a single political pledge which is capable of being distinctly specified, but which, thus early, through authorized spokesmen, is spontaneously assuming for itself a truly democratic front and bearing, and becoming responsible for democratic opinions and sentiments which might almost justify us in exclaiming, as I hope we will have more right to exclaim after a while, "Truly a new sun has arisen upon mid-noon."

Mr. BADGER. The proposition for authorizing this expedition, I understand, originated in the other House; it did not come from the department. The House appropriated a sum, which they thought, from such information as they had, was sufficient to accomplish the purpose they had in view. It turns out, however, that it is not sufficient; that there was a mistake in the estimate as to the amount of the cost, for which mistake no person in the Executive offices appears to be to blame. There is no fault, as far as I see, anywhere; but if there be, it certainly does not rest with any Executive officer of the Government. It seems to me, then, that the only question for us to consider is, whether we will follow up and perfect an undertaking which is deemed by Congress to be important. I can only say that it seems to me that, under the circumstances, we ought to make the appropriation. And therefore I shall vote for it.

Mr. NILES. The main question is, whether the object is a legitimate, a rightful one or not. Some Senators say it is to facilitate navigation, but they do not tell us how; they all tell us, however, that it is to promote the great interests of science, and that is all. Now, I cannot see the necessity as regards any practical purpose for such astronomical accuracy as it appears to be the purpose of this expedition to attain. However important it may be to the science of astronomy, I apprehend we can get along without it; and acting as I always have upon the principles of strict construction, I cannot sanction the proposition that Congress shall enter into any enterprise of this kind, for the ascertainment of unsettled points in the science of astronomy. My friend from Mississippi, I apprehend, has not observed my course so closely as I have observed his. The Senator, I believe, goes occasionally a good way outside of the Constitution. If I mistake not, he was willing a year or two ago to swallow all Mexico, and subsequently he favored the project of swallowing it piece-meal. I could not go with him in that; and I could not even swallow these alternate sections which he was desirous of cramming down my throat, taking half and leaving half. The Senator has not been here quite so long as I have, but, during the time he has been here, I must say I have always found him steadfast in one thing; that is, in his opposition to the principles of free soil.

Mr. FOOTE. It would not be treating the Senator from Connecticut respectfully did I decline responding to what he has spoken with so much more than his usual animation. The Senator seems to suppose that I have not been heretofore a close and interested observer of him and his movements, and, therefore, more than insinuates that I can know but little of him, his acts, and his attributes. The Senator has indeed committed a grave error on this subject, sir. Since I attained the age of manhood and became a reader of newspapers, I have been a diligent observer of the honorable gentleman, and have taken particular delight in studying his temper and character, and in making myself a little familiar with his multiplied and multicolored actings and doings as a public man; and I flatter myself that whilst I have found this occupation of studying the honorable gentleman's life and character not a little recreating to my feelings, I have not entirely failed to derive instruction also from the survey of moral lineaments not often found thus associated, and from the calm exploration of certain curious motives and action seldom to be found developed in similar proportions, and producing, under different circumstances, such variant and opposite results.

Sir, the honorable Senator has never delivered a speech here, or given a vote on any occasion of moment, which I have not seriously considered, and either condemned or approved. He has been

long known to me, not only as one of our leading statesmen, but also as an extensive contributor to our historical literature. Sir, it is because I have thus made the honorable Senator a subject of scrutiny, that I am able to assure him that he never made a greater mistake in his life, than when he undertook just now in our hearing to set himself forth to the view of the American public as a strict-construction Democratic statesman. Why, sir, has the honorable Senator forgotten, or does he hope that we have forgotten, that, professedly a Democrat and strict-construer of the Federal Constitution, he has always been known as the advocate of a high protective tariff? Does he not assert now that the Federal Government has unlimited power to legislate on the subject of slavery in the Territories of the Union? Why, sir, I could go on enumerating measures almost without number, eminently consolidative in their tendency, which no other avowed strict-constructionist in the Union, save the gentleman himself, ever thought of sanctioning, but which have been approved and advocated by him with all the zeal and efficiency of which he is capable. But I forbear; it would be too severely tasking the patience of the Senate to run into detail upon a subject concerning which none who hear me can by possibility be ignorant.

But the Senator accuses me of having given some anti-democratic votes here, and of having also delivered anti-democratic speeches in this Hall. Happily for me, he confines himself to a single specification: and that is an amusing one, indeed. He says that I dared to declare here, not many months ago, that this Government had full constitutional power to extend the authority of the Confederacy over all Mexico. Did that Senator ever undertake to deny that the Government had full power to prosecute the Mexican war to an honorable conclusion? Did he ever doubt, did he ever presume to deny, that we had a right to obtain territorial indemnity for injuries received at the hands of that Power? Will he now risk himself before the country so far as to assert that territory may not be legitimately acquired by war, or that it may not be as legitimately acquired by treaty? The honorable gentleman dares not assume positions so absurd as all these would be. Then the honorable gentleman and myself do not differ at all in regard to the *power* of the Government to acquire foreign territory either by war or treaty. The question on which we differ is one of *expediency* merely. He did not desire any additional territory; I was in favor of acquiring enough to secure "indemnity for the past and security for the future." I wished to extend our territorial domain to the Pacific; I desired to acquire California and New Mexico. I was not opposed to acquiring all of Mexico north of the Sierra Madre. I did not even dread any ill effects from our obtaining all Mexico down to the Isthmus of Tehuantepec, in the event of the conquest of the whole country being necessary to the successful prosecution of the war. I took the liberty of asserting my opinion to be, as it yet is, that our political institutions are of a nature to derive additional vigor and solidity from their expansion over a widely-extended territorial surface. I said, with Mr. Jefferson, and I yet say, that our race is, in my judgment, destined to take possession of the whole of America, and to exercise a profitable control over all this wide domain. I said, and I still say, that it is my wish that we may hereafter peaceably, constitutionally, and with no unnecessary delay, obtain possession and enjoyment of all Mexico, and Cuba into the bargain. I am not ashamed of having thus declared myself; and I admonish that Senator, and all who concur with him in opposing territorial extension, that the American people have made up their minds on this subject in favor of increased territory. The day is not far distant when those who opposed the acquisition of California and New Mexico will be classed with those who opposed the acquisition of Louisiana. The day is coming, and is almost at hand, when men who undertake to uphold such narrow and contracted views as those which some of us heard announced a few months ago in this Hall, in opposition to the acquisition of new territory, will be either laughed at or treated with contempt. The day is not far distant, strange as it may seem to some ears here, when a wise and sagacious people *will unanimously demand that all peaceful, just, constitutional, and efficient expedients shall be employed by the Government in order to obtain Canada and Cuba too*—Canada, acknowledged by leading English statesmen to be but a grievous burden to the British empire: Cuba, that most beautiful of all the islands which bespangle the surface of the ocean, fertile as she is in all which we, as a people, need either for comfort or luxury—indispensable to our maritime ascendency—important to our territorial strength and safety—manifestly designed by Divine Providence to be an appendage and an ornament to the grand continent which we occupy, and to be a precious heritage and a boundless blessing to our posterity for ever. Perhaps before I conclude these very hasty remarks into which I have been in some degree surprised by the fierce attack made upon me by the Senator from Connecticut, it would be well for me to explain a few words uttered upon the spur of the moment, in this Hall, a few days since, and which have been to some extent misrepresented by some of those who supply the public journals with Congressional intelligence. I find I am reported in several newspapers as declaring, in positive language, that I knew General Taylor to be in favor of acquiring Cuba. I never used such language. I said this precisely: that I had heard it asserted by respectable persons that they knew General Taylor to be in favor of acquiring Cuba, and that I belived such to be the fact. I will now go further, and say, that if he is not in favor of acquiring Cuba, he, in my judgment, certainly differs with at least nine-tenths of his countrymen; and if he had been supposed hostile to the acquisition of Cuba during the late Presidental contest, two-thirds of those who voted for him would, I believe, have refused him their support.

Mr. HUNTER. I rise to make a single statement in relation to the facts connected with this appropriation. The present proposition is opposed upon grounds the general justness of which I readily admit; namely, that it has become too frequent to commence an enterprise asking a small appropriation, and afterwards increasing the demand to a very large amount, while, from all the circumstances of the case, it must have been known that more would be required than was at first asked. But on this occasion the deficiency appears to have arisen entirely from an error, for which there is no blame to be attached to any person. All agree—and very properly—in exempting the Secretary of the Navy; the project was not of his originating. It came from an accomplished and excellent young officer, Lieutenant Gilliss, whose estimate would have been correct, and there would have been no necessity for creating a fund for the purchase of these instruments, but for the fact that those instruments which he expected would be made use of in the taking of the proposed observations have been sent to California, for the purpose of making experiments there. The enterprise has been undertaken by this Government, and the question now is, whether it shall be further conducted? I have no hesitation in saying that I think the Government ought to execute the work at the expense of the United States, and to furnish proper instruments to enable a work so important to science to be executed in a creditable manner.

Mr. CLAYTON. I desire to ask the honorable Senator whether the Smithsonian Institution has not already ordered this instrument?

Mr. HUNTER. I am so informed by a member of the House of Representatives, a gentleman who takes a deep interest in the matter. He tells me that they have imported the instrument.

Mr. CLAYTON. I am then to understand that they have ordered and imported the instrument.

Mr. PEARCE. The gentleman is mistaken. The instrument has not been imported.

Mr. CLAYTON. I wish to know whether they have ordered or made a contract for an instrument.

Mr. PEARCE. They have made a contract for one.

Mr. CLAYTON. Have they ordered or contracted for all the necessary instruments?

Mr. PEARCE. They have contracted for one only.

The question was then taken upon the amendment, by yeas and nays, with the following result:

YEAS—Messrs. Atchison, Atherton, Badger, Baldwin, Bell, Berrien, Borland, Bradbury, Breese, Butler, Calhoun, Clarke, Corwin, Davis of Mississippi, Dayton, Dickinson, Dix, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Fitzgerald, Foote, Hunter, Johnson of Louisiana, Johnson of Georgia, Jones, Mason, Metcalfe, Miller, Pearce, Rusk, Spruance, Sturgeon, Underwood, and Westcott—35.

NAYS—Messrs. Benton, Bright, Clayton, Davis of Massachusetts, Fitzpatrick, Niles, Phelps, Turney, Walker, and Yulee—10.

So the amendment was agreed to.

The bill was then reported as amended, the amendments were concurred in, and the bill was read a third time and passed.

CALIFORNIA LANDS.

On motion of Mr. BREESE, the previous orders were postponed, and the Senate proceeded to consider the bill for ascertaining claims and titles of land within the territory of California and New Mexico, to grant donation rights, and to provide for the survey of the lands therein.

The bill being before the Senate as in Committee of the Whole—

LAND TITLES IN THE NEW TERRITORIES.

On motion of Mr. BREESE, the Senate proceeded to the consideration of the bill for ascertaining titles to land in California and New Mexico, for granting donation rights, and providing for the survey of lands therein.

Mr. BREESE. My object in calling up the bill at the present moment was, that we might make some progress with it, in order that it may come up to-morrow, and be proceeded with from day to day until we reach a final conclusion. It is a bill of very great importance. It will be seen that it proposes to follow, in the adjustment of these land claims, the course that was pursued in reference to such claims in Louisiana and Florida, after the acquisition of those Territories, and which has been pursued ever since; that is, to appoint commissioners for adjusting claims under certain restrictions, and also for ascertaining the extent of the public domain, which can only be done by first ascertaining the extent of private claims by means of commissioners, or in some other mode that may be suggested, and which may be considered better adapted to the peculiarities of that country. I have called the attention of the Senate to the subject now principally in order that the Senator from Missouri may propose the amendment which he designs to offer, that it may be printed and be ready to be taken up for consideration as unfinished business to-morrow.

Mr. BENTON. The committee which reported this bill, for ascertaining the land titles in New Mexico and California, has, as the chairman has stated, followed the form which was adopted at the time of the investigation of such titles in Louisiana. They have taken the same mode of proceeding which was adopted then; and in doing so they have done perhaps the only thing which was proper for them to do. Without some action of the Senate, without some suggestion, it might not have been expected of the committee to bring in a plan different from that which has been followed heretofore. I, however, who was contemporary with that plan, and under it, and saw its operation, am of opinion that it was very injudicious with respect to Louisiana and the other acquisitions which we made; that it was an injudicious mode, leading to delay, expense, disturbances of possession and of titles, and settling scarcely anything. Hardly had the system begun, when everybody saw the faults resulting from it, and plans immediately began to be devised for settling the same claims definitively, and on the plan upon which the parties had a right to have them settled, according to treaties and the laws of nations. Scarcely had the system begun to operate, when it was seen that it was necessary to have some other mode of proceeding, and as far back, I know, as the time when Mr. Crawford was Secretary of the Treasury, the House of Representatives directed, by resolution, that he should devise a plan for carrying those titles before the Judiciary, where they could be definitively settled. Finally, after worrying in the State of Missouri for about twenty years, examinations were had, by which many of them were settled; but still the Judiciary was cramped; and after worrying Congress, after wearing out the claimants, after destroying the property of many claimants, at last bills began to be granted for giving trials on the only ground on which such claims ought to be decided—trials by the Judiciary, and under treaties and the laws of nations. A few cases were carried into the Supreme Court of the United States under a law to that effect; and whenever that was done, they have been settled, and settled forever, and in the only way which could

be either decisive of the question or satisfactory to those who were interested.

I now propose, Mr. President, to bring in a substitute for the whole former plan, which, in my opinion, has operated so onerously upon the people of the Territories; and in making this declaration, I wish the Senators and Representatives of the States which were formerly a part of the great province of Louisiana, and also Florida, to recollect, for the purpose of giving us the benefit of their experience when the question comes up—to recollect, I say, the hardships, the delay, the expense, and absolute ruin to an immense number of families, which was occasioned by the mode that was then followed, and which is now proposed to be again adopted. I shall offer as a substitute—with a motion to have it sent to the Committee on the Public Lands, for the purpose of being by them considered, after having heard an exposition of it here—a counter-plan which I have drawn up, for carrying these titles to the Judiciary at once, with full powers, under the treaty, the laws of nations, and under the decisions of the Supreme Court of the United States, to finish everything, as I think, and save Congress from being importuned for fifty years to come with respect to California land titles, as they have been importuned for forty years past, on account of titles which grew and are still growing up in Louisiana. It will prevent all this. And when I present this plan, sir, I wish to make an exposition of it to the Senate, for the purpose of showing the evils of the old system, and the advantages of the one which I recommend; and, after making this exposition to the Senate, I desire that it shall go to the committee. It is too late this evening to go into the exposition, and I should like, in the mean time, in order that there may be no unnecessary delay, that the paper which I am about to submit should be printed.

I now submit the counter-proposition, and move that it be printed, and that the further consideration of the bill be postponed until to-morrow:

First. For the appointment of a recorder of land titles, who shall have the custody of all the public archives in relation to the disposition of the public lands, and shall record all the grants and claims that shall be discovered or made known to him, and shall make two abstracts of the same; one to be transmitted to the General Land Office in Washington, the other to be delivered to the Surveyor General of California, that he may lay down the grants and claims on a map, to be retained in his office, and of which map a copy to be transmitted to the General Land Office, and another to be filed with the recorder of land titles in California.

Second. To provide for the ascertainment of invalid grants or possessions, by authorizing a *scire facias* to be issued from the United States district court against the party in possession to come in and hear the objections to his claim, and to show cause why the grant should not be annulled, or the possession vacated in every case in which the recorder of land titles, upon consultation with the district attorney, or by orders from the General Land Office, shall be so instructed, shall be of opinion that the same is not valid under the treaty with Mexico, the law of nations, and the decision of the Supreme Court of the United States—the decision of the district court to be final if against the United States, in all cases where the land in question shall be worth less than five thousand dollars. But no *pueblo* or rancheria Indians to be disturbed in their possessions without special orders from the General Government.

Third. To provide for the appointment of a surveyor general and for the establishment of three land offices.

Fourth. To provide for donations of land to actual settlers, heads of families, widows, and single men over eighteen years of age, and an allowance of land for children under eighteen years of age, and for the wife in her own right, according to the provisions of the bill proposing donations to settlers in Oregon, which passed the Senate January 3, 1843.

Fifth. To provide for preserving order in working gold mines, by appointing an agent to grant permits for working small lots, and settling summarily and on the spot all questions of boundary or interference among the diggers; the said permits to continue in force while the lot is worked by the person receiving it, and to be limited to —— feet square.

The further consideration of the bill was then postponed until to-morrow, and the motion to print was agreed to.

COMMODORE RIDGELY.

On motion of Mr. CLARKE, a message was ordered to be sent to the House of Representatives, requesting the return of the act directing the mode of settling the claim of Charles G. Ridgely, rejected yesterday.

Mr. CLARKE then moved to reconsider the vote by which the bill had been rejected; which motion lies over.

COMMISSIONER OF PENSIONS.

On motion of Mr. JOHNSON, of Louisiana, the Senate proceeded to the consideration of the bill to continue the office of Commissioner of Pensions.

The bill having been read—

Mr. UNDERWOOD asked the chairman of the committee who reported the bill for information as to the necessity for the continuance of the office.

Mr. JOHNSON, of Louisiana. The judgment of the Committee on Pensions in relation to this matter I will explain very briefly.

The object of this bill is to continue the office of the Commissioner of Pensions, which has in effect become a permanent office. Business is constantly accumulating, and bills are being presented and passed here day by day requiring the performance of the duty of a commissioner, and which business will probably render the continuance of the officer necessary for years to come. The bill comes to us recommended by the department.

The bill was then ordered to be engrossed, and was subsequently read a third time by unanimous consent, and passed.

PRIVATE BILLS.

Mr. DAVIS, of Mississippi, asked the Senate to indulge him by taking up out of its order the bill for the relief of Nehemiah Brush.

Mr. D. said he had examined the claim with some care, and had reported the bill at the last session of Congress. It was a bill founded in strict justice—that of an old man afflicted with the palsy, who was in extremely indigent circumstances. He did not suppose that the bill would lead to any debate, and he would therefore move that it be considered.

The motion having been agreed to—

The bill was then considered in Committee of the Whole; and, no amendment having been offered, it was reported to the Senate, and ordered to a third reading, and was subsequently read a third time, by unanimous consent, and passed.

On motion by Mr. DICKINSON, the Senate proceeded, as in Committee of the Whole, to the consideration of the bill for the relief of Mrs. Anne W. Angus; when, no amendment being made thereto, it was reported to the Senate, ordered to a third reading, was read a third time, and passed.

On motion by Mr. FOOTE, the Senate proceeded to the consideration of the bill for the relief of Samuel F. Butterworth.

Mr. TURNEY. I do not think, Mr. President, judging from its present aspect, that this claim should be allowed. This draft, for which we are asked to pay a second time, was drawn by Mr. Stark, who, upon the records of the department, appears to have always been recognized as a member of the firm with whom the contract was made; and unless an official transfer had been made upon the books of Mr. Stark's interest in that contract; it appears to me the department was bound to recognize him as one of the firm. They were bound to look to Mr. Stark as one of the contractors, as liable in part for the performance of the contract, and as one to whom payment of money should be made. It does seem to me that in this case the Government ought not to pay twice, and that the Auditor has taken a legal view of the subject; and I should like to see something to justify the conclusion arrived at by the committee that he should pay it the second time. It should appear upon the records of the department that the transfer said to have been made by Stark was made, to justify such payment. I cannot vote for the bill without further explanation.

Mr. NILES. This case is somewhat a complicated one, perhaps; but, if the Senate will give me their attention, I will endeavor to state the points of it as I understand them. Two individuals, named Stark and Butterworth, entered into a contract to carry the Government mail. Whilst engaged in that undertaking jointly, there seems to have been some misunderstanding between them in relation to the matter, and they requested of the department that they should be paid for their services separately. This was done in one or two instances to Stark, though it does not appear that Butterworth was aware of the fact. After this, Stark sold out his whole interest in the contract to Butterworth—the contract still remaining in the name of the firm. Butterworth proposed to Stark that the transfer of the contract wholly into his hands should be made officially by the department; but, from the facts in the case, this does not appear to have been done. A notice, soon after this transfer was made, was sent by the firm to the Auditor of the Treasury, telling him that thereafter no payment was to be made for anything that might come due, to either of the individual names of the firm, but exclusively to the name of Stark and Butterworth. After this notice had been given, the draft in question was drawn by Stark in his own name—not the name of the firm—for twenty-eight hundred dollars; presented to Colonel Gardner, the Auditor, and duly accepted by him. Before this draft was honored, in the nature of a protested draft it went into the hands of a man named ———, and, after remaining in his hands for about two years, it was finally given to a Mr. Whittlesey.

The draft was drawn, then, by a man who, it appears from all the circumstances in the case, had no right to draw in his own individual name. Looking at this case, as it comes under the general law, it may be asked, what drafts ought to be honored? Certainly only those that are drawn in the name upon which the account for services rendered is made upon the book of the department. The parties themselves may make different arrangements for the transmission of the money due, and the department may honor the drafts in accordance with those arrangements; nevertheless they should be officially recorded upon the books of the department. The department may honor drafts drawn in individual names, but they should, as a rule, be guided by the record upon the books of the name of the individual or firm with which the contract was made. In this case there was not only the general obligation arising from the contract existing in the name of the two parties, requiring the department to pay drafts drawn in that name, but there was special notice given to the department not to pay drafts drawn in any other name.

About three months after this notice, as I before stated, this draft was drawn by one of the contracting parties, who in fact had no interest in the contract whatever, having sold out his interest. It appears to me that the case is a very plain one, though it is hard for the Government, to be sure, to pay the money twice. The only point at issue is, whether the action of the Auditor, endorsed by the Comptroller, should be binding upon the Government. We have gone further, however, than this at prior sessions. We have paid in cases where the claim was obtained under a judgment, after that judgment was withdrawn.

For the action of the accounting officers Congress may not be responsible, but it would be hard for them to suffer, especially as they honored the draft with the honest conviction that it was correct. In matters of this kind they should pay only those drafts that are presented in the name of the contracting parties, as that name is entered on the records of the department.

Mr. TURNEY. The Senator from Connecticut speaks of a period when these parties were paid separately, and also of a notice having been sent to the department not to pay any drafts made in the individual name of either of the contracting parties. Now, I should like to know whether, in accordance with that notice, any official transfer was made upon the books of the department stating that the whole contract was in the hands of Butterworth, or whether it was a mere letter written by this gentleman, who claims to be an assignee, requesting the department not to pay the money to the individual contractors?

Mr. NILES. The contract had not been transferred on the books of the department, as I before stated. It stood in the name of Stark & Butterworth, as it always had stood on the books. It is not well to acknowledge the allowance of this claim as a general principle; the payment of the draft of course should have been made to the names of the contracting parties, as they were recorded.

Mr. FOOTE. I would not have called up this matter had I not been thoroughly persuaded that no debate upon it would arise. It has been rigidly examined by the committee, and I did think that the expression of their opinion in the report would have been satisfactory to the Senate. It is not often that I trouble the Senate with calling up private bills, and I do trust gentlemen will allow this bill to pass. However, if objection is to be made to its passage, I shall feel bound to move it be informally postponed.

Objection being made, the bill was passed over informally.

On motion, it was ordered, that when the Senate adjourns, it adjourn to meet on Monday next.

SUBMERGED LANDS.

On motion of Mr. BORLAND, the Senate proceeded to consider the bill to grant to the State of Arkansas, and other States within which they lie, certain lands remaining unsold on account of overflow.

He then moved that the bill be made the special order for Wednesday next; which was agreed to.

The Senate then proceeded to the consideration of Executive business; and, after some time so spent, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 12, 1849.

The Journal of yesterday was read and approved.

NOTICES OF BILLS.

Mr. HILLIARD gave notice of a motion for leave to introduce bills of the following titles:

A bill to authorize the people of that portion of the territory of the United States, which was acquired by the treaty of peace, friendship, limits, and settlement with the Republic of Mexico, concluded February 2d, 1848, known as California, to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; and

A bill respecting the limits of the State of Texas, and that portion of the territory of the United States, which was acquired by the late treaty with Mexico, known as New Mexico.

On motion of Mr. HUBBARD,

Resolved, That the accompanying memorial from Major Baker, of the Ordnance Corps, presenting a plan for the preservation of the interests of the United States in the gold mines of California, be referred to the Committee on Military Affairs, and that said committee be authorized to report by bill or otherwise.

On motion of Mr. CRANSTON, it was

Ordered, That the heirs of Lieutenant Micah Whitmarsh have leave to withdraw their memorial and accompanying papers from the files of the House.

On motion of Mr. PUTNAM, it was

Ordered, That Eunice Crossman have leave to withdraw from the files of the House her petition and accompanying papers for a pension.

On motion of Mr. TUCK, it was

Ordered, That leave be granted to withdraw from the files of the House the petition from citizens of Londonderry, New Hampshire, for the reëstablishment of a post route, recently presented to the House.

Mr. BELCHER, from the Committee on Mileage, made a report on the subject-matter referred to said committee by resolutions of the House of the 27th December last, viz:

Resolved, That the Committee on Mileage be instructed to inquire into, and to report to this House whether, during the present Congress, any greater amount of mileage has been drawn from the treasury by any one or more of the members of this House than he was entitled to by law; and if so, by whom so drawn, and to what amount. Also, that said committee report to this House by what rule the mileage in every case is computed, by whom the claim for it is allowed, and upon what evidence allowed.

Resolved, secondly, That a publication made in the New York Tribune, on the —— day of December, 1848, in which the mileage of the members is set forth and commented on, be referred to the same committee, with instructions to inquire into and report whether said publication does not amount, in substance, to an allegation of fraud against most of the members of this House in the matter of their mileage; and if, in the judgment of the committee, it does amount to an allegation of fraud, then to inquire and report if that allegation is true or false.

Which report was laid on the table, and ordered to be printed.

THE UNFINISHED BUSINESS.

Mr. LORD rose and moved that the unfinished business be referred to the Committee on Revisal and Unfinished Business, for the purpose of being adjusted.

The SPEAKER inquired whether the gentleman from New York [Mr. LORD] referred to the unfinished business of the last session?

Mr. LORD answered that he did.

The SPEAKER said that by a rule of the House it was made the duty of the Committee on Revisal and Unfinished Business to examine that business, and see what portion required further attention. The motion of the gentleman, therefore, was in order.

Mr. COBB, of Georgia, inquired whether under a joint rule of the House, adopted at the last session of Congress, the unfinished business did not occupy a different position from that which it did occupy when the committee was appointed? Under that rule, he understood that the adjournment did not affect the business of Congress, but that it would be regularly proceeded with as if no adjournment had taken place. In point of fact, then, there was really no unfinished business at all. He did not recollect what the precise terms of the rule were, and he asked that it might be read. He thought it provided for a continuation of the business of the last session to the present session, precisely as if no adjournment had taken place. If the gentleman from New York [Mr. LORD] had any particular object in his motion, he (Mr. C.) would not make any objection to it.

The joint rule was read, as follows:

"After six days from the commencement of a subsequent session of Congress, all bills, resolutions, or reports, which originated in either House at the close of the next preceding session, remaining undetermined in either House, shall be resumed and acted upon in the same manner as if an adjournment had not taken place."

The rule having been read—

Mr. COBB said that it struck him that there was no necessity, under this rule, for the action of the committee. So long as he had been a member, he did not recollect that any action had been taken by the committee on any subject.

The SPEAKER said, he thought that the motion, if adopted, would lead to great inconvenience. There was a large calendar of private bills, for instance, many of which were in the nature of unfinished business, and subject to the consideration of the House, on any private bill day. Such a reference would take them from the custody of the House, and give them to the committee, until such time as they might think proper to report upon them.

By the one hundred and first rule of the House, it was made the duty of the Committee on Revisal and Unfinished Business, "to examine and report what laws have expired, or are near expiring, and require to be revived and further continued; also, to examine and report, from the Journal of last session, all such matters as were then depending and undetermined."

The SPEAKER was of opinion that the committee already had the power to examine the Journal of the last session, and to make such report as they thought necessary.

Mr. BURT (addressing the Speaker) said he believed the order of business was the consideration of private bills, and that the first business in that order before the House was the motion made the other day to reconsider the vote by which the bill for the relief of the legal representatives of Antonio Pacheco had been passed.

The SPEAKER. Yes, sir.

Mr. BURT. If in order, I move that the House proceed to the consideration of that motion.

The SPEAKER said that any gentleman could call up the motion to reconsider; and on that motion, the gentleman from Ohio [Mr. SAWYER] was entitled to the floor.

Mr. BURT. I understood that the previous question had been moved.

The SPEAKER said that the Chair did not hear the gentleman from Ohio [Mr. SAWYER] submit that motion.

Mr. BURT. Before the question is taken on seconding the previous question, I move that there be a call of the House.

The SPEAKER. The gentleman from Ohio [Mr. SAWYER] will state what his motion was.

Mr. SAWYER. I did not move the previous question. I simply moved a reconsideration of the vote by which the bill had been passed.

The SPEAKER. Then the gentleman is entitled to the floor, and to make remarks, or submit a motion.

Mr. SAWYER said that he proposed to occupy the time of the House only a very few moments. He thought his colleague [Mr. GIDDINGS] had put the case on wrong grounds. He (Mr. S.) believed that it had no such intrinsic merits as would justify him in giving his vote in favor of the bill. He should therefore vote against it.

He believed that this negro man, Lewis, was hired by his owner to the Government of the United States for a valid consideration, and that operated as a kind of insurance upon his life. And the owner of the slave got recompensed by the very large amount of the consideration he received. He therefore believed that the claim ought not to be allowed upon its merits. He thought it was wrong, and that it was not one of those cases which, by the evidence, would justify Congress in passing the claim. He should therefore vote against it.

Mr. STUART, of Michigan, requested the gentleman from Ohio [Mr. SAWYER] to yield the floor.

Mr. SAWYER having done so—

Mr. STUART proceeded to remark, that under the permission of the gentleman from Ohio, he wished to state, very briefly, the reasons which had influenced the vote he had given. Upon the question of the engrossment of the bill, he had voted in the affirmative. He had done so because he understood the facts of the case to be these: that the owner of this negro hired him to the Government of the United States, through its officers, to act as guide and interpreter in the Florida war, for a compensation of twenty-five dollars per month; that prior to the time when the service contracted for had expired, at Dade's massacre, the negro was captured by the Indians; that, at a subsequent period, and after the expiration of the term——

Mr. HUDSON rose to a question of order.

The SPEAKER. The gentleman will state his point of order.

Mr. HUDSON. It is this: that a gentleman obtaining the floor has no right to give way to another gentleman to make a speech. In the present case the gentleman from Michigan [Mr. STUART] rose and avowed that he was not going to explain, but that he had risen for the purpose of making a general speech expressive of his opinion on the whole matter. Now, he (Mr. H.) submitted, that it was not competent for one gentleman, holding the floor, to give way to another gentleman for a general speech on the merits of the case.

The SPEAKER said, that the Chair had, only a day or two since, decided in favor of the view taken by the gentleman from Massachusetts, [Mr. HUDSON.] If the gentleman from Ohio chose to give way for a mere explanation, he could do so; but if he gave way to allow a gentleman to make a speech, he would lose his right to the floor.

Mr. SAWYER. It is not possible for me to tell what object the gentleman from Michigan has in view.

Mr. STUART said that he had not risen for the purpose of making a speech.

The SPEAKER said that the gentleman had intimated his purpose so far as to commence assigning his reasons for the vote he had given. That was not explanation.

Mr. STUART said he did not wish to be out of order, and he thought the Chair would find that he kept within the rule——

The SPEAKER said there was no question whether the gentleman from Michigan was in order, or not; the question was solely as to the gentleman from Ohio, [Mr. SAWYER.] The question was, whether the gentleman from Ohio would lose the floor; and the gentleman from Michigan could proceed with that understanding.

Mr. SAWYER resumed the floor. He did not wish (he said) to lose his right to it. He was told that he had been misinformed as to the character of this claim. He thought not. He believed that Pacheco hired this man, Lewis, as guide and interpreter, for twenty-five dollars a month. If he had remained in the service one year at that rate of compensation, the owner would have received ample compensation for him. And he believed that such an agreement had been entered into.

It was true, that at the massacre of Dade's command, this negro (with one other man, he believed) was taken prisoner by the Indians. At a subsequent period the negro had returned with the Indians, and had been given up to the commanding officer, who sent him west of the Mississippi. If the officer in command of the troops took a freak into his head, he might dispose of all the property in the possession of traders and other persons. Gentlemen would have in their minds a case of that kind, where certain traders were on their route to Santa Fé with a large quantity of goods. These goods, as it was now alleged, to prevent their falling into the hands of the enemy, were ordered by the commanding officer to be burnt. If this principle was to be allowed, thousands of men would follow our armies, suttling, and by a collusion between the officers and them, might involve the Government in an immense amount of expenditure.

Mr. CABELL interposed, and asked the gentleman from Ohio to yield the floor.

Mr. SAWYER having done so—

Mr. CABELL said he had risen for the purpose of asking the attention of the House whilst he stated the points upon which, as a Representative of the State of Florida, he desired this case to be put to the House.

Mr. GIDDINGS, (addressing the Chair.) Then the gentleman loses the floor.

The SPEAKER said, the Chair must again state that the enforcement of the rule of order was insisted upon by a gentleman on the left—that one gentleman should not yield the floor to another for a speech.

Mr. CABELL said he proposed, in the brief statement he had to make, to confine himself simply within the limits of explanation, as defined by the Speaker.

The SPEAKER. It is in order for the gentleman to explain.

Mr. CABELL. The gentleman from Ohio [Mr. SAWYER] misunderstands the point, as I conceive. From the evidence which has been laid before the committee, it is clear that this negro Lewis came into the possession of an officer of the United States properly——

Mr. GIDDINGS. I call the gentleman to order.

The SPEAKER. The Chair thinks that at present the gentleman from Florida [Mr. CABELL] is in order.

Mr. CABELL (in continuation) said, that the fact was admitted by all that this negro, having thus come properly into possession of an officer of the United States, was demanded by the owner; that, by the authority of that officer, he was sent beyond the limits of the United States, and beyond the reach of his owner.

Now, the gentleman from Ohio and other gentlemen had made the point that when this contract was made between a citizen and the United States, it was made subject to all contingencies—as, for example, the loss or death of the negro. He (Mr. C.) would admit, that if the negro had been hired, and his life had been taken, there would have been no claim on the part of Pacheco. But that was not the case before the House. The negro came afterwards into the possession of an officer of the United States, and was then demanded by his owner.

Mr. NICOLL said he desired to ask a question.

Mr. CABELL having yielded the floor for the purpose—

Mr. NICOLL said that he desired to know under what circumstances the negro was brought in—whether voluntarily, or as a slave of Jumper, or under any stipulations whether he should be sent west.

Mr. CABELL resumed the floor.

Mr. BURT rose and said he would answer the gentleman.

Mr. STUART called both gentlemen to order. They were taking precisely the ground he had been taking—that is to say, they were stating facts.

It was exceedingly difficult to hear anything that was said at this point of the proceedings.

The SPEAKER said, the Chair could hear nothing as to the point of order or the facts of the case. Further proceedings would be suspended until the House came to order.

Mr. CABELL said he had the floor by the courtesy of the gentleman from Ohio, [Mr. SAWYER.]

Mr. STUART called the gentleman to order.

The SPEAKER said, that the gentleman from Florida [Mr. CABELL] was clearly in order. The only question was, whether the gentleman from Ohio [Mr. SAWYER] would lose his right to the floor. If the gentleman from Florida proceeded to debate the question, the gentleman from Ohio would lose his right to the floor.

Mr. CABELL said he was not arguing the case. He was saying that this principle was clear, that the negro Lewis having come into the possession of the officer of the Government of the United States, it was the duty of that officer to see that he was returned to the owner; and that the Government of the United States was answerable for him until he was returned. If he had been lost, that would have accounted for his not being returned. But if a negro, or a horse, or other property was hired to the Government of the United States, and one of its officers should, in violation of law, carry that horse, or negro, or other property beyond the reach of the owner, if the owner were standing by, and should see that negro, horse, or property shot down by that officer, it was a matter of no concern to him. He held the Government responsible, and it was not for the Government to disavow the legal acts of the officer.

The SPEAKER interposed.

Mr. SAWYER said, there were so many gentlemen desirous to explain, that he thought he must insist on his own right to the floor. He believed that this matter was perfectly well understood by the House. It had been debated a great length of time, and had it not been for some things which had been said by his colleague, [Mr. GIDDINGS,] he should not have said a word. He did not agree with the doctrine laid down by his colleague, that there was no property in slaves. He believed that the day was gone by when such a doctrine could be advocated. He believed it had been agreed on all hands, by the legislation of Congress, by the decisions of the Supreme Court, and everywhere else, that there was property in slaves.

But, as he had said before, this case was not one to justify the interference of Congress in behalf of the owner of the slave. He did not believe that the owner had any claim whatever to be paid for him.

In order that the House might proceed to other business, of which so much of far greater importance was claiming their attention, and believing that this matter was sufficiently well understood, he would move the previous question.

Mr. HUDSON asked the gentleman to withdraw the motion, to allow him to make a few remarks. He would not, he said, detain the House more than ten minutes.

Mr. BURT made the same request.

Mr. SAWYER said he was willing to do anything to accommodate gentlemen.

The SPEAKER. Does the gentleman withdraw the demand for the previous question?

Mr. SAWYER. No, I do not.

Mr. BURT moved that there be a call of the House.

Mr. COLLAMER asked the gentleman from Ohio [Mr. SAWYER] to extend to him the same courtesy which had been extended to others. As other gentlemen had been allowed to explain, it seemed to him (Mr. C.) that an opportunity should be afforded him or some other gentleman on the other side to make a counter statement.

Mr. STUART called to order.

The question on the motion of Mr. BURT, that there be a call of the House, was then taken by tellers, (Messrs. THOMPSON, of Mississippi, and POLLOCK,) and decided in the affirmative—ayes 73, noes 61.

So a call of the House was ordered.

The Clerk having called the roll, and the list of absentees, it appeared that 198 members were present.

The SPEAKER directed the doors to be closed, and the names of absentees to be called for excuses.

The roll was called accordingly; and, upon motion, the following gentlemen were respectively excused, on the ground of indisposition, viz:

Messrs Bayly, Clarke of Kentucky, Duncan of Ohio, Farelly, Gentry, Pendleton, Phelps, Pettit, Rose, Shepperd, Simpson, Stewart of Pennsylvania, Thompson of Virginia, and Thibodeaux.

And the following gentlemen were absent without excuse, viz:

Messrs. Ashmun, Bowdon, Bowlin, Chase, Edsall, Hale, Holmes of South Carolina, Charles J. Ingersoll, Johnson of Tennessee, Levin, Maclay, McClernand, Reynolds, Shngerland, Tallmadge, and Thompson of Kentucky.

On motion of Mr. COCKE, further proceedings in the call were dispensed with; and

The doors were again opened.

The question recurring on seconding the demand for the previous question—

Mr. PALFREY rose and said, he wished to appeal once more to the gentleman from Ohio [Mr. SAWYER] to withdraw his demand for the previous question. He hoped the gentleman from Ohio, in consideration of the position in which the question had been situated at the close of his remarks, would consent to do so. He did not apprehend that there was any disposition on the part of the House to go again largely into the constitutional argument.

Mr. SAWYER, (addressing the Speaker.) Have I the right to withdraw the motion for the previous question?

The SPEAKER. The gentleman has the right.

Mr. SAWYER. I cannot stand in the way of the expressions of the sense of the House upon this subject. I shall take the responsibility to withdraw the motion, and leave the matter to be disposed of by the House.

Mr. TURNER (who was the successful applicant for the floor, among many competitors) said, he supposed that some time to-day the House would have to cast their votes on this subject; and he confessed that his mind was not yet made up upon which side of the question he should vote. One great difficulty which was presented in this case, he thought, arose from a misapprehension of the law, and of the constitutional power of Congress over this subject. He supposed there was no gentleman who had any constitutional scruples with reference to casting his vote in favor of the payment for property which had been lost in the service of the country. When he spoke of property, he did not mean to be understood as speaking of negroes or slaves. But did this case present a constitutional question different from that which was presented by a claim for any other species of property which might be lost in the service of the country?

The main issue which had been made on this subject was this: Does the Constitution of the United States recognize the right of property in slaves, or in the right of persons to property in slaves? That seemed to be the issue which had been made by gentlemen from the North and from the South. He did not consider that that question was necessarily involved in this case; but as his vote upon the subject, in consequence of the issue that had been made by the contending parties, would be considered an expression of opinion in regard to the question of the recognition by the Constitution of the United States of this kind of property, he proposed, before casting his vote, to state what he conceived to be the correct doctrine upon this subject.

He denied that the Constitution of the United States recognized the right of persons to property in slaves. Yet, it would be absurd to say that a citizen of South Carolina, residing in that State, had not property in his slave. Why? Because the constitution and the laws of South Carolina made the slave property. But notwithstanding the constitution of South Carolina made him property, if a citizen of that State should go to New Hampshire with his slave, that slave could not be pursued by any process of the courts either of South Carolina or of the United States, and captured in New Hampshire.

Mr. GIDDINGS rose and requested the Speaker to call the House to order; stating that they could hear nothing in his part of the House, there was so much confusion, and expressing the hope that the gentleman would suspend his remarks until order was restored.

The SPEAKER called the House to order.

Order having been restored—

Mr. TURNER proceeded, and put another case, by way of illustration. Suppose that an execution out of a United States court was issued to Missouri against a man who was the owner of slaves: if that process reached Missouri in time to find the man, with his slaves, it might be levied upon the slaves; but if the slave-owner, before it reached there, had removed with his negroes to Illinois, the process of the United States court could not pursue the negroes to Illinois, and levy upon them as slaves. Now, if the Constitution recognized the right of property in slaves, it would protect its officer in pursuing that property throughout the United States. Alter the case; and say that, instead of negroes, the man owned a lot of mules: could he not be pursued, with his mules, and his mules levied upon, in Illinois, or New Hampshire, or any free State? Certainly he could. The distinction was between the right of property in persons and the right of property in things; the latter right inhered naturally in the human family, and it required no constitutional or legal enactment to make that property of which a man became possessed which was of the nature of animals or things. But, by the law and the Constitution, the right of property in persons had been a different right—a right which had never been acknowledged by any Government under the sun, except so far as it was made so by municipal law.

Mr. HALL, of Missouri, interposed, and (the floor being yielded) asked the gentleman from Illi-

nois to be so good as to state what provision of the laws of Missouri it was which established the right of property in slaves.

Mr. TURNER said he would answer the gentleman. The State of Missouri was formed out of a portion of that territory which we had purchased from France. At the time of, and previous to, the purchase by the United States, slavery existed in that territory by the laws which were in force there. By the treaty of acquisition, it was expressly stipulated that the laws of that territory which were then in force, and which did not conflict with the Constitution of the United States, should remain in force. Under that law, the institution of slavery had been continued in that State.

Mr. HALL would ask the gentleman, then, by what law it was that slavery existed in Virginia? Virginia was not formerly a part of France.

Mr. TURNER said, the same question had been suggested by a gentleman near him, in a private manner, which was now addressed publicly to him; and he would answer it.

Under the colonial laws—the laws which were in force in this country in its early history—slavery had been established here. It had been brought here under the English law, which recognized it. No point of national law was better settled than that a colony, going out from the mother country into a wild territory, carried with them the laws of the country from which they emigrated.

The question had been distinctly asked him, by what law slavery existed in Virginia? It was not requisite for him to go back to the origin of the institution of slavery in England, and thence to the United States, or rather to Spain, where the St. James's colony came from. He need not, he repeated, go back to the institution of slavery to answer that question. It was a fact that slavery existed in the colonies. It was a fact that when Virginia entered into the Confederacy of States, she entered it with the institution of slavery.

And he would now cite a parallel case. The constitutions of several States of the Union recognized the right of property in slaves. The constitutions and laws of several of the States did *not* recognize it. And when a slave went from a slave State to a free State, the Government of the United States by process could not pursue him. Suppose a case, for example, in Massachusetts: suppose a public river lying within the State of Massachusetts: no individual had any right of property in the water of that river. Of that there was no doubt. But by the municipal laws, or by an act of incorporation of the Legislature of Massachusetts, the right to use the water was conferred upon a company or an individual. If the process of the courts was taken into Massachusetts, it could levy upon that incorporeal hereditament; it could levy by the right acquired under the municipal act of Massachusetts granting the right to use that water. But, notwithstanding this fact, there was no gentleman here who would rise and say that the Constitution of the United States recognized the right of property in the waters of public rivers; they were property only so far as they were made so by statute laws.

The right of that property being acquired by the municipal law, it was a parallel case. That property could not exist without an act of legislation on the part of Massachusetts, nor could slavery exist without positive enactments in the State where it belonged.

Mr. JONES, of Tennessee, inquired if the gentleman would permit him to ask a question?

Mr. TURNER. Certainly.

Mr. JONES. I desire to ask the gentleman, whether he knows of any country—of any civilized community since the days of Adam—in which slavery has not existed where it was not prohibited by law? In other words, has not slavery existed in every civilized community, of which we have any account, in which it was not prohibited by special enactment; and if it did not now exist? And whether, if it was not for special prohibition in the State which the gentleman in part represented (Illinois,) and other free States, gentlemen could not take slaves there and hold them as property?

Mr. TURNER. The interrogatory of the gentleman leads me a little deeper into this debate than I was at first willing to go. I am not very familiar with the laws and regulations which controlled the different nations of the earth in the days of Adam and Methuselah; I do not know whether there were slaves then, or not; but from the time the ark rested on the summit of Mount Ararat, I profess to have some little knowledge of the history of slavery. And I will venture the assertion that slavery, in any form, never was tolerated in any country, from the day on which the ark rested on that spot down to the present time, where it was not established either by the bayonet—that is, by physical force—or by municipal law. I consider this an answer to the inquiry of the gentleman.

He had heard (Mr. T. proceeded to say) some disquisitions here upon the subject of slavery—that it was a natural right, or that it was not a natural right. He should not now enter into a discussion of that topic, because he did not wish to prolong the debate. What he desired to say was, that whether he voted for or against this claim, he desired it to be understood that he did not sanction the doctrine which had been put forth here, that the Constitution of the United States recognized the right of persons to property in slaves. It had been a matter which had caused some conflict in his own mind, whether this case was one which ought to receive the favorable consideration of Congress. The difficulty in his mind was this: he believed that if a slave in South Carolina or Florida was taken by the enemy in any manner that would make the Government responsible, he ought to be paid for; that was to say, if a case occurred where the Government could be held responsible to pay for any property that might be lost—the case of the slave being a parallel case, he ought to be paid for, because the laws of these States made slaves property.

There was another point to which he had not adverted. He conceded that the Constitution recognized this right—that it recognized and secured to each of the States the right to declare what should or what should not be property within their limits. He would go so far, but no further.

The question then presented itself, Was this claim on the part of Pacheco such as ought to be paid by this Government? The history of the case seemed to be, that Lewis was hired from his master to serve the army. If he was so hired to go into an enemy's country, he was hired with the full knowledge on the part of his master of all the dangers and vicissitudes to which he would be exposed; and if he had been killed in battle, or if he had died by sickness or from exposure, this claim never would have been brought here. But such was not the fact. His fate was different, and yet it was a fate that necessarily followed the treachery of the man himself. It seemed from the report that there was strong ground to believe that he had acted the part of a traitor, and that he had betrayed the army. When he was recovered, he was regarded as a dangerous man; and although the current belief was, that he had betrayed the army, yet he was not hung as a traitor, but was sent, as a dangerous individual, to the far West. Had he shared any fate that might not have been anticipated by the master at the time he hired him out? He (Mr. T.) thought not. And, holding that view of the case, he was inclined to think that the case was not one which should commend itself to the favorable consideration of this Government.

Mr. T. having concluded—

Several members competed for the floor.

The SPEAKER, (to Mr. TURNER.) Has the gentleman concluded his remarks?

Mr. TURNER. Yes, sir.

The Speaker then gave the floor to—

Mr. PALFREY said that the report of the Committee on Military Affairs represented the negro man Lewis as being the *property* of Pacheco, taken from him by the authority of the United States. The committee quoted the provision of the Constitution, that "no person shall be deprived of life, liberty, or property, without due process of law; nor shall private *property* be taken for public use, without just compensation." Again, they quoted Vattel as saying: "When a subject, or any part of his '*substance*, is fallen into the hands of the enemy, 'should any fortunate event bring them again into 'the sovereign's power, it is clearly incumbent on 'him to restore them to their former state; he is 'to reëstablish the persons in all their rights and 'obligations, to give back the *effects* to their own-'ers," &c. The man Lewis, then, being, in the view of the committee, *property*, *substance*, *effects*, the committee proceeded to argue that the circumstances were such as made the United States liable to pay for him as *property*, &c. But if, in the contemplation of the Constitution of the United States, the man Lewis was not property, then the basis of the reasoning of the committee was taken away.

Mr. P. said that this great constitutional question had been so fully and ably discussed in the debate on the bill before the House, that he did not propose to treat it at any length. He found that the Constitution of the United States in those places in which it was understood to refer to slaves, spoke of them uniformly not as property, but as persons, and that no case had been produced in which any United States court, or any court of any free or slave State had decided slaves to be property, *under the Federal Constitution*. The committee said, that in the second section of the first article of the Constitution, "all the inhabitants of a 'State are enumerated, in making its numbers for 'representation and direct taxes, except only Indians 'not taxed, and two-fifths of the slaves, and the latter 'are therefore not regarded by the Constitution as 'persons, but as property, otherwise they must 'necessarily have been included in the enumera-'tion." But this argument, if it is good to prove anything, proves too much; it is what the books of logic call a *reductio ad absurdum;* for if it shows the slaves, or two-fifths of them, not to be persons, it establishes the same thing concerning "Indians not taxed." Again: the committee say that "it 'appears to have been insisted and admitted [in the 'Convention for framing the Constitution] that the 'imposition of a duty or tax on the importation of 'slaves would imply that they are property, inas-'much as a duty or tax is applicable to merchandise 'and inapplicable to persons." But in some of our ports there was a "tax" on alien passengers: did that show them to be merchandise and not persons? In some States there was a poll or capitation tax, and in many cases it was paid by one person for another—by the father for his minor son: did that prove the young freeman of twenty to be merchandise? Nay, in the very clause of the Constitution which related to the importation of slaves, and in which it was provided that their importation might be taxed—in that very clause, they are expressly called persons.

In respect to the argument of the committee, that "the executive department of the Government had been explicit in its recognition of the rights of property in slaves," Mr. P. said that it would be sufficient for him to express his undoubting conviction that, whether in negotiations with foreign governments the executive treaty-making power had used, more or less deliberately and cautiously, language which seemed to confound *slaves* with *property*, no constitutional lawyer would for a moment maintain that any rule of interpretation was thus created for the judicial or legislative department of the Government.

Mr. P. repeated that he had not risen to enlarge upon this point; but before passing from it, he could not refrain from expressing his surprise at the pertinacity with which gentlemen attached to the institution of slavery maintained the doctrine of slaves being property under the Constitution of the United States. Did not gentlemen see what would be the consequence of their succeeding in the attempt to establish that doctrine? If Congress and the courts should become satisfied of its correctness, then not only would it follow that slave markets might be set up in Boston, New York, and Philadelphia, in defiance of the State jurisdictions, but another thing, which they might consider as more to be deprecated, would follow, viz: that when there should be a sufficient majority opposed to slavery in these Halls, the commerce in slaves between different States might be prohibited and stopped by act of Congress. By the constitutional action of the national Congress, if this doctrine should prevail, slaves in the several States might be converted into *serfs of the soil*—a measure involving a great improvement in their present condition, as well as a prospect of their speedy and complete emancipation. The great permanent obstacle in the way of such a measure was that which gentlemen from the slaveholding country seemed so anxious to remove, viz: the persuasion in the minds of the people of the free States, that slaves under the Constitution are not *property*,—not, therefore, subjects of commerce; and that accordingly they do not come within that constitutional provision which authorizes Congress to regulate commerce between the States.

THE CONGRESSIONAL GLOBE.

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Mr. P. went on to say, that, differing entirely, as he did, from southern gentlemen on this constitutional question, he could not see how they were to sustain the claim of Pacheco's representative, even on their own construction. If I held, as they do, (said Mr. P.,) that the man Lewis was property under the Constitution of the United States, I could not admit that, under the circumstances of the case as presented to the House, the United States are liable to Pacheco or his heir for the loss of their property in the man Lewis. Who sent Lewis beyond the Mississippi? Some person qualified to bind the United States by his action in the premises, or not? The committee say that General Jesup sent him. But this is not entirely clear from the evidence. Captain Casey and Lieutenant Reynolds depose to that fact. But possibly they state an erroneous impression on their minds, for it is not confirmed by General Jesup's own recollection of the circumstance. "Whether he was sent to the West or not, witness [General Jesup] had no means of knowing. Witness *certainly would not have sent him there*," &c. Major McIntosh, it is true, swears that the following year he saw Lewis among the Indians in Arkansas. But who sent him thither? That is the question. If it is not proved to have been General Jesup—if it may have been some subaltern—there is a fatal flaw in the argument of the committee—there is an end of the matter as far as this Government is concerned.

But suppose it was General Jesup who sent the man Lewis to the other side of the Mississippi: what then? What responsibility would be imposed upon the Government by that act of his? When and how did the Goverument constitute him its agent to do any such act? General Jesup gives his reason for refusing to surrender him to the representative of Pacheco. It was, in short, that, in the General's belief, the negro was an intriguing, treacherous, dangerous person; and Captain Casey thought that "it would be far better to pay any price for such a man and leave him in Arkansas, or hang him, than to return him to his owners and let him return to the borders of Florida." But when, how, and where was the authority given to a major general in your army, in peace or in war, to take a man, black or white, bond or free, and send him out of the country, because he believed him to be a bad subject, an ugly fellow, a troublesome neighbor, a plotting rogue? Show me General Jesup's commission. Let me see the articles of war. Point me to any provision of martial law, or common law, or statute law, or any law, making it appear that General Jesup was your lawful agent for any such purpose. The committee have correctly said: "The proper functionary of the Government is the sole judge of the necessity; and when, in the exercise of his official duties, private property is taken for public use, the Government is laid under instant and imperative duty to make compensation." The commander of your troops in Florida was not the "proper functionary of the Government" for such an exercise of power as that in question; and as to that provision of the Constitution which forbids that "private property be taken *for public use*, without just compensation," will any member of this House maintain such a construction of these words as will make it apply to Lewis, even supposing that he was property? Will any gentleman undertake to show that he was *taken for public use*, when he was sent away to Arkansas, to follow his own devices among the Indians?

No legal principle (said Mr. P.) is better established than that the agent has no right to bind his principal in any matter to which the agency vested in him does not extend. The commanding general was no agent of this Government for the purpose of doing any such act as that which makes the foundation of this claim. While Lewis remained in the country, after the refusal of the General to deliver him to Bunce, the right of the latter, whatever it was, could have been asserted in the courts. Whatever remedy there may be now, is against General Jesup, if he sent the man away. Should the law hold the General responsible, it will then be early enough for the claim to be brought here. Should a memorial from that distinguished officer hereafter set forth that the law had exacted from him damages for an act which he had done believing it to be within his official competency, and required by the public interests, doubtless such a memorial would receive the very respectful consideration of Congress.

[The above is but a general outline of Mr. P.'s remarks. In the course of them, he gave way, and made replies to inquiries from Mr. CLINGMAN, Mr. CABELL, Mr. HILLIARD, Mr. LAHM, &c.]

Mr. MORSE said, it was with extreme reluctance that he rose to make any observations in relation to the vexed question which had so often, out of order, agitated this House. But the question of the right of property in slaves was now legitimately before the House of Representatives; and the objection was made to indemnify citizens of the United States for property which had been taken, not for the use of the United States, not for the public use, but for property which, by the acts of the lawful agents of the Government, had been placed beyond the control of its owner. Gentlemen sought, on the floor of this House, to prevent this claimant from being indemnified for his slave which was sent away by the public authority, because, forsooth, in the Constitution of the United States, slaves were not particularly designated as property, and because, in that Constitution, in the provision relative to representation, they were alluded to as persons, and the word "slaves" had been carefully avoided.

But he thought he could show, upon the principles on which this Government acted, as they had been interpreted and enforced by a gentleman who held a high position in the "Free-soil" party, that this Government, so far as it related to its conduct towards foreign Governments, had treated slaves as property. Not many years since, the ablest argument that was ever delivered on this subject had been made at the Court of St. James, by a distinguished ex-President of the United States, Mr. Van Buren; and if gentlemen would look into that argument, they would see that Mr. Van Buren claimed indemnity for property in slaves that had been refused to be delivered up in the Island of Nassau by the agent of the English Government, and that he insisted, in language as strong as had ever been used in diplomatic intercourse, by our representative of the United States Government—ay, and insisted successfully, too—for $100,000; that was, £100 *per capita* had been paid by the English Government for the negroes, great and small, which that Government did not liberate, but which refused to allow coercive measures to be used by a captain of a vessel in order to take that property. This argument of Mr. Van Buren would be found to be unanswerable, and he would not weaken its force by repeating it here. He mentioned the name of this distinguished diplomatist and statesman, because he knew him to be in great favor with most of the gentlemen who seemed to have such conscientious scruples in regard to the right of property in slaves.

He need not refer to the treaty of '83 and the treaty of Ghent, of which the distinguished gentleman from Massachusetts, the late ex-President of the United States, had been a prominent commissioner; in both of which treaties, the right of property in slaves had been specially recognized, and under which, too, indemnity had been made for this species of property.

But it seemed to be contended that there was no constitutional provision for making indemnity for slaves that were lost, because an article specifically making such provision was not to be found in the Constitution or laws of the United States. It was admitted by gentlemen, that slavery existed by the municipal laws of the States; and the General Government having no particular statute upon the subject, he trusted gentlemen would suffer him to state what was the law in several of the States in regard to what was property, as that law bore upon this case.

The gentleman from Massachusetts [Mr. PALFREY] had argued, that because the negro was not converted to the use of the United States, therefore the United States was not liable to pay his owner for his loss. Now, the law in his State, and in other States, was this: if the owner of a slave hired that slave to another person for the discharge of certain duties, and if, in the performance of those duties, death ensued, the bailee was not responsible. But if the slave was diverted to other purposes, and was put to other business than that which was contemplated by the master, the person to whom he was hired was responsible. Upon this just principle, if this man Lewis was employed as an interpreter, and the agents of the Government chose to take him and send him out of the country beyond the reach of his master, the Government was responsible.

But the gentleman from Massachusetts had frankly told the committee, If General Jesup has transcended his powers as an officer of the United States, why, let the owner of the slave sue General Jesup, and obtain judgment against him for the value of his slave; and then let General Jesup come before this House and say, In the honest and conscientious discharge of my duty as an agent of the Government, I found it necessary to take from the possession of a citizen of the United States a valuable negro, and send him without the jurisdiction of his owner, and I ask you to indemnify me. The gentleman said he (General Jesup) would have a respectful hearing in this House. He (Mr. M.) doubted not that he would; and that the same argument would be brought up by these very gentlemen who now opposed this bill, that there was not the right of property in slaves.

Now, he did not rely upon the particular clause of the Constitution of the United States which gentlemen seemed to think was alone applicable to this case.

In the second section of the fourth article of the Constitution of the United States, the following provision was found:

"No person held to service or labor in one State, under the laws thereof, escaping into another State, in consequence of any law or regulation thereof, shall be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

Here was an absolute provision forbidding any State to pass any law—(and the question had often been tested, and whenever tested it had been decided that such laws were unconstitutional)—prohibiting the owner of a slave from recovering his property. Notwithstanding this great love of liberty—notwithstanding this great desire to extend the area of freedom—no free State that had any regard for the Constitution could pass such a law. This was the compact—a compact to which all the free States had submitted, but which they had not all kept; and should the United States, a party to this compact, deprive the person of the use of his property, and then, not having it in its power to return that property, shield themselves by such an argument, and say they were not responsible? What a ridiculous, what a contemptible attitude would this Government present to foreign nations, with whom it had gone to the very verge of a war, upon the ground that a foreign nation should indemnify our citizens, dollar for dollar, for property of this kind! The money had been received, and had been paid over, and yet the government had not the magnanimity to pay its own citizens. What would be thought of this Government, which had exacted from the haughty Government of Great Britain indemnity for liberated slaves that had been taken into the Island of Nassau, where the introduction of slaves was positively forbidden, that she should refuse to pay her own subjects? An American captain had been driven in there by stress of weather, and the British Government said a violation of the law of England had been committed, which would free them from responsibility. Mr. Van Buren, the great organ of the Free-soil party—the man who, it was said, had been sacrificed by the Democratic party, when the only States that supported him were the southern States—was the only man in the northern States who had taken the ground, previous to an election, that it was impolitic to interfere with slavery in the Dis-

trict of Columbia. And Mr. Van Buren told Lord Palmerston—for he (Mr. M.) had it in black and white—that the Government of Great Britain was as much responsible for slaves as for merchandise; that it was not the captain's fault that he was there; that he was driven in by stress of weather; that he came there to refit, to repair, to get water, and to save the lives of those whom he was quietly transporting across the seas, without any intention to violate the laws in relation to the slave trade. The argument was drawn up by a gentleman intimately and closely connected with him, (Mr. M.) It was endorsed by the representative of our Government at the Court of St. James, and the indemnity was allowed.

Mr. GIDDINGS rose and inquired if the gentleman would allow him to ask a question?

Mr. MORSE. Certainly.

Mr. GIDDINGS. Does the gentleman mean to say that indemnity was obtained from the British Government for slaves landed in Nassau after slavery had been abolished there?

Mr. MORSE. Yes.

Mr. GIDDINGS. I think the gentleman had better read the documents. I say, no.

Mr. MORSE (apparently not regarding the remark) proceeded to say, that whilst the attitude which we presented to foreign nations was that of demand for indemnity in these cases; whilst we stipulated in our treaties with them that we should have that indemnity; ay, and whilst we had gone to the point of a war to obtain it, yet, when one of our own citizens came to this House, and made out a case as clear as ever was presented to the consideration of Congress, then, forsooth, he was not to be indemnified, because the conscientious scruples of some men would not allow them to acknowledge property in slaves.

Mr. GIDDINGS again rose, and asked leave to put a question.

And Mr. MORSE having again yielded—

Mr. GIDDINGS said that all of us knew what had been done in former times, when no man objected to the exercise of the power on the part of this Government to pay for slaves escaped on British islands. But he interrupted the gentleman for the purpose of inquiring whether, since the year 1842, a demand had been made by the Executive of the United States for the loss of slaves in the brig "Creole," for which indemnity had been insisted upon by Mr. Tyler? Had not the right to that indemnity been surrendered by a slaveholding Executive? and had not entire peace and silence been maintained on the subject from that day to this?

Mr. MORSE. I say, in answer to the gentleman, that I do not know what the President of the United States may have done; but I apprehend that this House has never received information of any such surrender.

Mr. GIDDINGS. I would ask the gentleman——

Mr. MORSE, (continuing.) I am not in the secrets of the Executive. I do not know how far other matters may probably have occupied his attention. But I think that the people of the southern States will look seriously into the question whether any Executive of this country has abandoned the right of obtaining indemnity in these cases.

Mr. GIDDINGS. I want a definitive answer to my question.

Mr. MORSE. I do not know.

Mr. GIDDINGS. Has this House or this nation, or the Executive of the United States since 1842, made any demand on the British Government, on account of these slaves, or any other? Have they not been perfectly silent from the time that a resolution was introduced into this Hall declaring that act an outrage?

Mr. MORSE. I do not know.

Mr. GIDDINGS. Well, I do.

Mr. MORSE continued. A friend near him suggested that there were grievances of a much higher order than those of the "Creole" unredressed; and yet he (Mr. M.) apprehended that because the head of the Free-soil party in the United States forbore to claim indemnity for injuries done to citizens and property in New York, when a parcel of banditti came across the American waters and burnt that property—he apprehended that the want of firmness to enforce that right would not be allowed to be construed into a precedent by the British Government for future outrages. He was glad that this question, which involved the right of property in persons, had, for almost the first time, legitimately come up, and that it had been discussed with something like moderation, and with reference to the merits of the case. For his own part, he would not set an example of acrimonious remarks, although much had passed calculated deeply to wound the sensibilities of gentlemen in this Hall. Like Don Quixotte, they must be thankful for small favors, and not look a gift horse in the mouth.

The gentleman from Indiana, the other day, who had somewhat changed the course of his remarks and feelings, deprecated the insulting language which characterized the resolutions that were continually introduced into this House. He (Mr. M.) desired to say, in all candor, and particularly to those gentlemen who were so sensitive upon the subject of slavery, that if there were any remedy, if there were any law which directly or indirectly affected that question in the District of Columbia, it would be the part of kindness and good feeling not to clothe these resolutions in insulting and taunting language; not to put it out of the power of gentlemen who were disposed to do so, to give respectful consideration to everything here—and who were obliged to vote upon such questions without even the benefit of a discussion. He believed that much had been lost to the South on this question, because the character of the resolutions and the speeches with which the movers had prefaced them, caused gentlemen to feel indignant, and therefore they would not tolerate discussion. He made these observations because he had frequenlly voted to stop debate; not from the fear of discussion; not from the fear that the rights of the southern States could not be successfully maintained throughout the nation; but because there were propositions presented here of such a character, and couched in such language, that no gentleman entertaining a proper respect for himself could suffer any debate; or would, if they adopted his views, even vote upon them.

Mr. M. having concluded—

The SPEAKER gave the floor to

Mr. COLLAMER, who was interrupted by Mr. FRIES.

QUESTION OF PRIVILEGE.

Mr. FRIES rose (he said) to a question of privilege.

The SPEAKER recognized him.

Mr. FRIES (scarcely heard) was understood to say, that he had been instructed by the select committee, appointed during the last session of Congress to investigate certain charges which had been brought against the Commissioner of Indian Affairs, to make a report, and to ask the House to take such steps usually taken on like occasions. Mr. F. proceeded to state, that the committee had had a witness before them who refused to answer.

Mr. COLLAMER, (addressing the Chair.) Is any question pending?

The SPEAKER. The gentleman from Ohio [Mr. FRIES] stated the nature of the question.

Mr. FRIES moved that the Sergeant-at-arms be directed to confine the said witness, unless he would answer, &c. [The motion, as put into form, is given below.]

The SPEAKER said, that the gentleman must make the motion specific, by inserting the name of the individual.

Mr. FRIES said, the name was David Taylor.

And Mr. F. then offered the following resolution:

Resolved, That the Sergeant-at-arms be required to take David Taylor into custody and confine him, unless he agrees to answer all proper questions which the select committee, before whom he has been testifying, shall ask of him.

Mr. HARALSON said, that as a member of this House, before taking any action in this hasty manner, he would desire at least to know some of the facts upon which the House was to act. It was a matter of no small concern to order a citizen of the United States into confinement. He wished to know something of the character of the investigation—something of what had been going on in the committee—before he would give his vote for the imprisonment of any citizen.

In the first place, he did not like the phraseology of the resolution. Questions might have been proposed to the witness which he might think, and which on investigation might be determined to be, improper, and which the committee might have considered to be proper. He should prefer that the language of the resolution should be "legal" questions—questions pertinent to the matter before the committee. At all events, he wished to know what were the facts on which the application was based. Till then, he could not vote for it.

Mr. TOOMBS said that this resolution seemed to be in the nature of an attachment against this individual for contempt; and he thought that the same course should be adopted as would be adopted in the committees. When it was alleged that a contempt of court had been committed, a rule *nisi* was granted, that the individual might show cause why he did not answer. As to sending a citizen to jail on *ex parte* testimony of this kind, he (Mr. T.) could never assent to it.

The resolution itself was improper. The man should be brought before the House. The House sat here judicially, and the party had a right to be heard, and the House must then give its judgment. It seemed to him that some gentlemen acted upon the idea that this House, too, was omnipotent.

Mr. DUER briefly stated the facts as they had occurred in the committee: A sub-committee, he said, had been appointed to take the testimony of the witnesses; that sub-committee had reported to the committee that one of the witnesses whom they had summoned before them refused to answer a certain question. That question had appeared to him (Mr. D.) and to some other gentlemen of the committee, an irrelevant question, and the matter had been argued at some length. But the witness had refused to answer that question not only, but he had said he would answer no other question which might be put to him. That was clearly a case of contempt. The committee had determined to report the facts to the House, and leave it for the House to determine what action they would take in the matter.

Mr. WOODWARD said it struck him, although he approved of the course of this committee in submitting the matter to the House, that the committee was competent to take any proceeding necessary to the discharge of its duties. The committee was a court *quo ad hoc*—a court as to this particular matter submitted to them—and a court invested, by the resolution of the House constituting it, with power to send for persons and papers, and to require the attendance of witnesses. If the committee thought proper they could, in his opinion, take the necessary means without the intervention of the House, to compel this witness, who was before the court, to testify. He thought, therefore, the House might adopt the resolution without hesitation. He was no special advocate for special privileges in this Hall, as his course here had shown; nor was he an advocate for special privileges or exemptions out of this Hall. The witness had no right to disregard the process of the committee who were lawfully authorized to require him to testify; especially when he had appeared before the committee as a witness, and had testified as far as he thought proper to testify; when he had acknowledged their authority: he should never be permitted, with his (Mr. W.'s) consent, to withdraw at his own moment. He trusted such an example would not be sanctioned by any action the House might take at this time.

Mr. INGE remarked that this was a very delicate question, as it involved the personal rights of the citizen. He had no doubt, from what he had heard, that there had been a contempt shown to the committee; but as the House did not know the facts, he proposed to amend the resolution, by giving the committee the power to act at their discretion in the matter.

Mr. TALLMADGE said he could never vote for such a proposition as that of the gentleman from Alabama, [Mr. INGE.] He called for the reading of the resolution; which having been read—

He said the House would perceive that the resolution upon which they were now called to act, was a proposition to deprive a citizen of his liberty, on the ground stated by the gentleman on the other side, [Mr. WOODWARD,] that this House was to be regarded as a court, and that the conduct of this man was such as to constitute a contempt of the authority of this body. Now, in any court of justice where an application was made to commit a witness for contempt of court in not testifying, there was a preliminary step, as every gentleman who belonged to the legal profession in this House knew. It must be shown that the witness had been duly subpœnaed by competent authority.

Mr. WOODWARD interposed, and explained

that he considered this a different case from that which the gentleman had put. This was not a case where a witness was subpœnaed and refused to attend; but it was a case where he was actually in court, and after he had been submitting to an examination refused to answer any further questions; and he apprehended any judge would send him to prison immediately.

Mr. TALLMADGE. I apprehend he would not; if he did, he would be transcending his powers.

The principle (he said) was this: when the question was raised of the commitment of a witness for contempt of court in refusing to give his testimony, it must first be shown that competent authority was exercised to require his attendance.

Mr. FRIES explained that this witness had been regularly subpœnaed, and had been before the committee some four hours; that he had gone through his examination in chief, and was then on his cross-examination.

Mr. TALLMADGE wished the fact to appear upon the record of the House, if it was the fact, that this man, David Taylor, had been subpœnaed before the committee. The resolution made no allusion to the exercise of any power by the committee, or by this body, requiring his attendance. It merely alluded to the fact that he was testifying before the committee, and that he refused to answer a question. Suppose he had voluntarily appeared, and answered some questions and refused to answer others: would there be any contempt of the authority of the committee or of this body? The next step, as he understood it, in every court of justice, would be, that this man should be required to show cause why he had refused to answer. He should be allowed an opportunity to defend himself, and not be presumed to be guilty, merely because a committee had reported that he had refused to answer a question which had been put to him. Before they proceeded to the exercise of this high power proposed, of committing this man, let them give him a fair opportunity to be heard in his own defence, and let them act cautiously and wisely upon the matter.

Mr. J. R. INGERSOLL said, it was very obvious that the question now before the House was involved in a good deal of difficulty, and was in a great degree, if not altogether, new. He confessed himself not sufficiently acquainted with the delegation of power to the committees of the House to judge of the propriety of the exercise of so delicate a power—the power of imprisonment. He would suggest, in order to get rid of the difficulty, and to enable everybody to act with a consciousness of rectitude, that they postpone until to-morrow morning the further consideration of this question, which, without any improper intention on the part of the committee, had been suffered to be suddenly sprung upon the House. He was not now prepared to put this man into custody. There might be circumstances of various kinds which would go far to justify him in the course which he had taken. The House, it appeared to him, were imperfectly, because hastily, informed of the circumstances of this case. He would venture to suggest, that before formal action was taken on this subject by the House, it would be satisfactory to everybody if the chairman of the committee before whom the witness had appeared would make a somewhat formal report in writing to the House, upon which the House might act with proper consideration, and without involving themselves in any difficulty from which they could not afterwards escape. It would be very easy to take the course he had suggested. The individual could be brought back without any difficulty. There was no intimation of his desire to avoid communication with the committee. The question could be left open until the morning, and the House would then be enabled to act more deliberately and intelligently upon it.

Mr. CLINGMAN (the floor having been yielded for explanation) said, the individual proposed to be taken into custody was one of his constituents, and he should like to have time to look into the case. He hoped, therefore, that the course intimated by the gentleman from Pennsylvania would be taken, and that this matter would be postponed until to-morrow, or Monday, in order that he might have an opportunity, before his constituent should be imprisoned, of ascertaining whether there were any just ground for such action by the House. He thought this would be a safe proceeding. He presumed there was no special reason (though he knew nothing of the course of the examination in the committee) why this matter should be acted upon now. He hoped, therefore, by the general consent of the House, that this matter would be allowed to pass over. He did not want injustice done. He had no idea that the individual would leave the city; he knew that some time since, when he had talked with him, he was very anxious to testify. He presumed, therefore, that he had some excuse to offer, which should be given to the House.

Mr. BRADY said the examinations commenced yesterday morning; and in the evening they were adjourned about the time when the House adjourned, to be resumed again at the room of the gentleman from Ohio [Mr. FRIES]. He attended there—the gentleman from Ohio and himself having been appointed a sub-committee for this purpose. The parties all met at the room, and the examinations were continued perhaps two hours, until at length a question was propounded to the witness by Colonel Medill, Commissioner of Indian Affairs, when the witness replied that he did not refuse to answer that question particularly, but felt as though he should answer no more questions. Such was the position of the case which the committee had agreed to report to the House. These were all the facts as they had transpired, substantially. He did not desire any hasty action in the matter. He had nothing to say in favor of pressing its consideration upon the House at this time. If gentlemen felt that they were not prepared to act now upon the case, so far as he felt concerned he was perfectly willing for postponement. He added, that the witness refused to answer the question propounded to him by saying, that he felt as though he ought to answer no more questions.

Mr. J. R. INGERSOLL was understood to say that this proceeding was not likely to interfere with the rights of the witness as a citizen of North Carolina, and to express a doubt whether the select committee could delegate authority to examine witnesses. As had been already observed, there was a question of fact and a question of law involved in this case. It had not yet appeared what particular question it was that the witness was called upon to answer. If the committee, upon the statement made, were disposed to take upon themselves the responsibility of arresting the witness, they had the power to do so, and it was their business more properly than it was the business of the House in the present state of the case. He considered, however, since no difficulty could arise from a postponement of the subject till to-morrow, that that course had better be taken. He would therefore move that the further consideration of the resolution be postponed till to-morrow.

Mr. COBB, of Georgia, said he did not know how far this resolution might be made a subject of debate; but he had a few words to say in relation to it, and an amendment to propose. In the view he took of the case, he differed in opinion with gentlemen who think that this House can confer a power upon any committee, or that any committee of this House, in virtue of their appointment, possess a power which would authorize them to imprison a witness. He did not believe that the committee possessed this power, nor that the House could confer it. Nor did he believe that the facts reported would justify the imprisonment of the witness; but they certainly did justify his arrest for contempt, on the part of the House. He would therefore propose, instead of the resolution offered by the gentleman from Ohio, the following substitute, which he would read:

It having been reported to the House by one of its committees that David Taylor has been summoned before them as a witness, and having refused to answer the interrogatories propounded to him by said committee, it is

Ordered by the House, That the said Taylor be arrested by the Sergeant at arms of this House, and be brought before this body to answer the charge of contempt of the orders of this House in the premises.

He considered it the duty of the House to bring this witness to its bar, when all the facts might be obtained at once; and, after such an examination, it would be a question for the House to determine whether the case demanded further action.

Mr. CABELL (asking the permission of the gentleman from Georgia to say a word, and Mr. COBB yielding) desired merely to call the attention of the gentleman from Georgia, and of the House, to the proceedings of the House during a former session upon a similar case. He referred to the case of Reuben M. Whitney, and called for the reading of the resolutions authorizing his arrest, as matter bearing directly upon the point before the House.

The resolutions were then read, as follows:

"*Resolved*, That whereas the Select Committee of this House, acting by the authority of the House, under a resolution of the 17th of January last, has reported that Reuben M. Whitney has peremptorily refused to give evidence in obedience to a summons duly issued by said committee, and has addressed to the committee the letter reported by said committee to the House; therefore,

"*Resolved*, That the Speaker of this House issue his warrant, directed to the Sergeant-at-arms, to take into custody the person of Reuben M. Whitney, that he may be brought to the bar of the House to answer for an alleged contempt of this House; and that he be allowed counsel on that occasion, should he desire it."

Mr. COBB said these resolutions contemplated precisely what he had proposed to accomplish by his amendment.

Mr. THOMPSON, of Mississippi, said there was a difference between the case of Whitney and the case just reported. The former had peremptorily refused to testify; whereas, in the present case, the witness had been examined, and he had not refused to answer any specific question, but had declared that he would not answer other questions which might be propounded. Should this witness be brought before the House, he would ask what could be done with him? Had his conduct stopped the investigations of the committee? It did not appear to be so from the statements made.

Mr. COBB could not see what the committee were to do with such a witness. It was evidently impossible to proceed with the investigation so long as the witness might peremptorily refuse to answer. They were compelled to suspend business till the power of the House could be brought to the aid of the committee. If there was any more summary process than that which he had proposed, he would advocate it; but he knew of none The language of the resolution, just read from the Journal of a previous Congress, expressed exactly what he intended to embrace in his substitute; and as he liked the wording better than his own, he would ask the clerk to adopt it in lieu of what he had read, making the necessary changes of names. He would adopt the form of that resolution, the cases being similar.

Mr. THOMPSON, of Mississippi, insisted that these cases were not similar, because the facts recited in the case of Whitney show that he refused to respond to any question; while, in the present case, the witness had been some time under examination.

The SPEAKER stated the first question to be on the motion to postpone.

And the question being taken, it was decided in the negative.

The question then recurred upon the adoption of the amendment by the gentleman from Georgia, which was now read in its modified form, as follows:

That whereas the select committee, acting by authority of the House, under a resolution of the 11th of August, 1848, has reported that David Taylor has peremptorily refused, in the course of his examination before said committee, to answer any further questions which may be put to him by said committee; Therefore,

Resolved, That the Speaker of this House issue his warrant, directed to the Sergeant-at-arms, to take into custody the person of said David Taylor, that he may be brought to the bar of the House to answer for an alleged contempt of the House; and that he be allowed counsel on that occasion, should he desire it.

Mr. POLLOCK had but a single word to offer upon this subject. The case, in his opinion, did not amount to a case of contempt. The facts, as he understood them, were something like these: All that had been charged against the witness occurred before the sub-committee; and when the general committee came together, the sub-committee reported that a question had been propounded by them to the witness which he refused to answer. The general committee, having heard this report of the case, doubted of its relevancy as a case of contempt, and some discussion arose. They were informed that the witness declared that he would not answer any more questions. But he did not understand that the witness had refused to answer any particular question. The last question propounded was answered by him, as he understood the statement; and it was merely a refusal to answer any more questions.

Mr. DUER. Including the last question.

Mr. POLLOCK. I wish to ask the gentleman

from New York, whether the committee consider the matter a proper case of contempt?

Mr. DUER. A majority of the committee were of opinion that it was a proper case of contempt. When he refused to answer all questions, the committee agreed to report the facts to the House.

Mr. POLLOCK continued. He was clearly of the opinion, that where a witness states generally that he will answer no questions, it does not amount to a case of contempt. A question must be asked, and the answer refused, to constitute a case of contempt.

Mr. FRIES said the witness did not refuse to answer any question at the stand.

Mr. POLLOCK, (continuing.) That was his understanding of the case exactly. The witness had merely declared, in advance, that he would answer no more questions. He would ask, what was the question which had been propounded by the committee, and which the witness had refused to answer, upon which a case of contempt could be made out? He (Mr. P.) might declare that he would commit murder; but the mere declaration did not make him a murderer. So a witness might declare that he would answer no question by the court; but there was no case of contempt till the question asked was refused to be answered. But no such case as this was presented in the matter before the House. The resolution did not recite any such fact as having occurred before the committee. There was not even a *prima facie* case presented in the resolution; and for that reason he could not vote for it.

Mr. EVANS, of Maryland, said he entirely agreed with the gentleman from Pennsylvania, [Mr. POLLOCK,] and from Georgia, [Mr. TOOMBS.] In addition to the reasons which had been advanced by them in opposition to the resolution, he would adduce another. He supposed no legal maxim was better settled than this: *delegatus potestatem suam non potest delegare*. Now, in this case, it appeared that Taylor had refused to answer the questions propounded to him by the sub-committee, and it was clear that the committee had no authority to delegate any such power to the sub-committee, as they pretended to exercise. To be sure, it had been stated that the committee had afterwards held a meeting to consider Taylor's refusal, but it did not appear that the meeting was for the purpose of investigation, and in order to exercise the powers confided to the committee by this House, by pursuing the subject-matter of the inquiry. He understood that Taylor's refusal before the committee was merely to answer the questions propounded before the sub-committee. For these reasons, as well as those advanced by the gentlemen from Pennsylvania and from Georgia, he thought there was no evidence of a contempt upon which this House could now act.

Mr. THOMPSON, of Mississippi, said he was not a member of the sub-committee, but he was of the committee; and he could state, that after the witness had refused to answer further questions by the sub-committee, the whole committee were called together, and then he refused also to answer them.

Mr. EVANS (retaining the floor) said he was coming to that very point. He admitted the fact stated by the gentleman from Mississippi; but it would be recollected that the committee did not meet for the purpose of continuing their investigation, but merely to receive the report of the sub-committee. If the witness had refused to answer a question by the committee at large, it would present quite a different case.

Mr. THOMPSON wished to set the gentleman right. The sub-committee were charged with the general interrogatories to be used in taking the testimony; and whenever a question arose which was doubtfully understood, then all the committee were to come together for consultation, and when they were so convened, they were most certainly together for the purpose of continuing the testimony; and they were thus convened in full committee when the witness refused to answer.

Mr. EVANS would only add, that the present case was entirely different from the case of Whitney, because of the lack of authority in the sub-committee, whose questions the witness had refused to answer.

Mr. DUER said, if it were in order, he would prefer that the further consideration of this case be postponed till to-morrow; but he supposed it was not, because a similar motion was the last question acted on by the House. Nevertheless, he would state the reasons why, in his opinion, the question ought to be postponed. There was no danger, he supposed, that the witness would avoid the power of the House. His own opinion was, that this whole course of examination which had been going on was wholly irrelevant. He did not believe that any fact of consequence could have been got out of this witness, had he not refused to be interrogated. He stated further, that this witness was a very ignorant man, from appearances; and there was a probability, at least, that, were a little time allowed, either the witness would reconsider his determination not to be further interrogated, or perhaps the committee might conclude that the inquiries they intended to propound to him were too irrelevant to be persisted in. Seeing no necessity for prolonging this conversation, and supposing that time might be saved by such a course, he would move to postpone the further consideration of the subject till Monday, and call for the previous question thereon.

Mr. THOMPSON, of Mississippi, said he would greatly prefer that the matter might be settled to-morrow. It would facilitate the action of the committee.

Mr. DUER replied, that other witnesses could be examined in the mean time.

[A VOICE. "The previous question cuts off your postponement."]

Mr. DUER. Then I must withdraw it.

The SPEAKER said that a motion to reconsider the vote by which the House had refused to postpone till to-morrow, would be in order.

Mr. FRIES would make that motion, he said, in order to bring the case to a close as soon as possible. The committee were anxious to hasten the time when they might be ready to report.

The question was then taken upon the motion to reconsider, and agreed to.

And then, the question recurring upon the motion to postpone the further consideration of the subject till to-morrow, it was decided in the affirmative.

GENERAL APPROPRIATION BILL.

Mr. COBB rose to a privileged motion, which he desired to have entered upon the Journal. He moved a reconsideration of the vote of yesterday by which the House adopted the order to terminate debate in Committee of the Whole, upon the civil and diplomatic appropriation bill. He merely desired, at present, that his motion be entered upon the Journal, giving notice of his intention to call it up on Monday.

Mr. TOOMBS moved to lay the motion to reconsider on the table.

Mr. COBB objected to the latter motion, as out of order.

Some conversation followed upon the question of order between Mr. TOOMBS, Mr. COBB, and the SPEAKER.

Mr. COCKE said, his understanding was, that the gentleman from Ohio, [Mr. VINTON,] who moved the order of yesterday to terminate debate upon the civil and diplomatic appropriation bill, moved also the reconsideration—the motion now made by the gentleman from Georgia, [Mr. COBB] —and that that motion was laid upon the table.

The SPEAKER said that there was no evidence of the state of fact but what was furnished by the Journal.

Mr. VINTON affirmed that he made the motions to reconsider and lay on the table two or three times, but he believed he was not recognized by the Speaker. He had observed, also, that his motion was reported in the morning paper as laid upon the table. As the matter stood, he could but express his hope that the order would not be reconsidered.

The SPEAKER gave it as the opinion of the Chair that the gentleman from Georgia might claim the right to have his motion laid over till Monday.

And then, on motion by Mr. STEPHENS, the House adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 13, 1849.

The Journal of yesterday was read and approved.

The SPEAKER said, by unanimous consent he would lay before the House a message from the President of the United States.

Mr. BOYD rose and moved that leave be granted to Eliza Tharp to withdraw her papers; agreed to.

On motion of Mr. WHITE, the same leave was granted to William Fuller.

Mr. LINCOLN gave notice of a motion for leave to introduce a bill to abolish slavery in the District of Columbia, by consent of the free white people of said District, and with compensation to owners.

Mr. KING, of Georgia, asked that the committees be called for reports.

The SPEAKER said it could be done only by general consent.

Mr. KING hoped that consent would be given.

ARREST OF DAVID TAYLOR.

Mr. FRIES objected, and said he was instructed by the select committee appointed to inquire into certain charges against the Commissioner of Indian Affairs, under the instructions of which committee he had yesterday moved a resolution for the arrest of David Taylor, now to withdraw that resolution.

It was withdrawn accordingly, and thus the question was disposed of.

Mr. COLLAMER called for the regular order of business.

The SPEAKER announced that the bill for the relief of the legal representatives of Antonio Pacheco was the regular order.

Mr. COLLAMER was entitled to the floor.

POSTAGE.

Mr. GOGGIN (with the consent of Mr. COLLAMER) took the floor, and moved to postpone the consideration of the said bill for one hour, with a view to move to take up the bill which he had had the honor, some time since, to report from the Committee on the Post Office and Post Roads, for the reduction of postage.

He appealed to the House to allow it, by general consent, to be taken up. He saw that notice had been given in the other branch of Congress, by the chairman of the Post Office Committee, that he would call up the bill which was before the Senate for the same purpose on Monday next. He wished that this bill should be taken up for consideration to-day, that it might be brought before the House and the country, and that he might be enabled to move the printing of certain amendments which it was his design to propose to the bill.

Mr. COBB, of Georgia, called upon the gentleman to speak louder, as (he said) not one word which he had said had been heard in his part of the House.

The SPEAKER announced the question upon the postponement of the regular order for one hour.

Mr. COBB, of Georgia. For what purpose?

Mr. GOGGIN repeated the statement of his purpose in making the motion.

Mr. COBB inquired what progress the gentleman expected to make in the consideration of the bill in one hour?

Mr. GOGGIN repeated, to bring the bill before the consideration of the House and the country, and to move the printing of certain amendments which he intended to move.

Mr. ROCKWELL, of Connecticut, inquired, in case the regular order were postponed, if there would not be two other orders having priority of that proposed by the gentleman from Virginia, viz: the bill providing for the establishment of a board to settle private claims, (which was a special order,) and private bills upon the calendar? He would state that he certainly had no objection to early action upon the postage bill; on the contrary, he was very desirous that such action should be had in favor of cheap postage; but he could not consent that these bills of which he had spoken should be postponed, and they might be postponed indefinitely.

The question was then taken on the motion to postpone, and was decided in the negative.

PAYMENT FOR A SLAVE.

So the House resumed the consideration of the bill for the relief of the legal representatives of Antonio Pacheco.

The question being on the engrossment—

Mr. COLLAMER took the floor.

Mr. HOLMES, of South Carolina, appealed to the gentleman from Vermont to allow him five minutes to make an explanation on this bill.

Mr. COLLAMER assenting—

Mr. HOLMES said that on the merits of this Pacheco case he had nothing to say. It had been most ably argued, on the one part, by the gentleman from South Carolina, [Mr. BURT,] and as ably

argued by gentlemen on the opposite side of the House, on the other part. But he could not, as a southern man, suffer a doctrine advanced day after day in this House, uncontradicted to remain with the sanction of the learned, the intelligent gentleman from Massachusetts, [Mr. PALFREY.] He took issue with that gentleman on the law, and on the law alone. The gentleman from Ohio [Mr. GIDDINGS] had so often asserted that the United States recognized no property in slaves, that he really supposed the gentleman did believe it himself. But when he (Mr. H.) had heard a gentleman of the attainments, the dialectics of the distinguished gentleman from Massachusetts, upon this floor, assert—and it was to go out to the country—that the Government could recognize no property in slaves, he deemed it his duty to appeal to the candor of that gentleman, (in whose candor he had great confidence,)——

Mr. COLLAMER interrupted, and submitted whether, by the course of remark the gentleman was taking, he (Mr. C.) should not lose his right to the floor?

The SPEAKER replied that the House had yesterday insisted upon the point of order, that no gentleman had the right to give way to another gentleman to allow him to make a speech, and still retain his right to the floor.

Mr. HOLMES said the gentleman had given him five minutes, and he intended to confine himself within that time.

Mr. COLLAMER further yielding upon this assurance.

Mr. HOLMES proceeded. Now, his proposition was this: He supposed that gentlemen [Mr. PALFREY] would grant, that that was property which was matter of sale; if, then, he showed that the United States sold negroes, (and nothing but property could be sold,) the United States *ergo* recognized property in slaves. Now, he would refer the gentleman to the law of 1815, which levied direct taxes; in that law slaves were mentioned together with real estate, and it instructed the collector—in case the taxes which were levied upon the slaves were not paid, and in case other property could not be found—to seize the slaves and sell them for the benefit of the United States, and place the money in the coffers of the country. Now, had the United States any right to sell that which was not property? It had not; and as it by law sold slaves, slaves were *ergo* recognized as property by the United States. He asked his friend in candor if it was not so?

Mr. COLLAMER resumed the floor.

Mr. PALFREY appealed to Mr. C. to allow him the floor to reply to the interrogatory of the gentleman from South Carolina.

Mr. COLLAMER declined further to yield, and said he would go through the remarks which he had to offer, and would then submit to such cross-examination as gentlemen should be disposed to make. He proceeded to speak (but in so low a tone as to render it impossible for the reporter to hear distinctly several sentences) of the almost entire impossibility of a gentleman's directing his attention to the question involved in this bill without connecting it at once by association with kindred topics which had been agitated in this Hall. It was well known that there were, in relation to this subject of slavery, a class of ultraists, of extreme men, entertaining extreme views; that they differed from each other essentially, and some of them *toto cœlo*. But, somehow or other, circumstances had so transpired in this House, during this session, as to furnish a new illustration of the old remark, not unfrequently found true in politics, as in ethics and otherwise, that extremes meet. It seemed to him that, upon this and other kindred questions, it was true that extremes had met. Let them refer, for example, to the bill introduced by the gentleman from Ohio, [Mr. GIDDINGS,] wherein he had proposed the abolition of slavery in the District of Columbia, and that the question be submitted to the vote of the people living here, even to the vote of the slaves themselves; it was well known that upon a motion being made, upon so ultra a measure as this, for the previous question, gentlemen from different sections of the Union, of extreme views on either side, voted for sustaining the previous question. It was true, the record did not show the votes of gentlemen upon the previous question, but——

Mr. BURT interrupted, and called the gentleman from Vermont to order

The SPEAKER. The gentleman from South Carolina will state his point of order.

Mr. BURT said, he understood the bill for the relief of the legal representatives of Antonio Pacheco to be before the House. He did not understand the gentleman's remarks to have any reference to that question.

The SPEAKER was understood to say that he understood the gentleman from Vermont to be illustrating his argument by reference to this bill; he was not debating the question, but alluding to it by way of analogy. The Chair did not see that the gentleman was out of order.

Mr. BURT. Does the Chair say that it is in order for the gentleman from Vermont to be discussing the votes of members of this House upon a totally different proposition from that which is under consideration?

The SPEAKER replied, certainly not. The gentleman from Vermont was merely alluding to previous votes of members of this House, the Chair presumed, by way of illustration. The gentleman had the right to allude to the previous votes of this House, to anything in or out of this House, that would furnish him illustration or analogy.

Mr. BURT. Very well.

The SPEAKER. The gentleman had clearly no right to argue any other question than that which was before the House.

Mr. COLLAMER (resuming) said, if all that was said in this House which the member speaking considered argument, but which other men did not, was to be excluded, he feared very little discussion would be allowed. He did not know how it could be anticipated what species of application he might make of his general remarks to the bill before them. The gentleman should wait and see the ultimate application which he proposed to make of what he was saying.

He was remarking, that in pressing this question and kindred questions, extremes met. He felt gratified in saying this when he saw the demand for the previous question upon the bill of the gentleman from Ohio sustained by gentlemen of totally opposite views, from different sections of the country, and the question pressed upon the House without the possibility of explanation or of amendment. So, too, upon the resolution of the gentleman from Virginia, [Mr. MEADE,] directing the Committee on the Judiciary to report a bill for the more certain apprehension of fugitive slaves, with a preamble, by way of recital, stating, in effect, that the States did not regard their duties under the Constitution in reference to the delivery of fugitive slaves, and therefore that additional legislation by Congress was needed. Now, he was not going to argue that point. He could only say that when the appeal was made not to press that question in that form upon the House without allowing opportunity for explanation or amendment, it was unheeded, and the demand for the previous question was sustained—by whom? Why, the House could see. He had seen it stated that certain gentlemen on this side of the House voted for it that there might be an inquiry into the subject. But how was the fact? The gentleman from Pennsylvania, [Mr. BRODHEAD,) it would be recollected, had asked the gentleman from Virginia [Mr. MEADE] to modify the resolution so as to provide merely for an inquiry by the committee, and that gentleman had utterly refused to do it, saying that the facts were well understood, and that no inquiry was necessary.

Now, we saw how it was, when we came to this case of a private claim. We saw what was attempted to be put upon the House as the question in the case. The utmost pains seemed to have been taken by the gentleman who made this report, and sustained it by argument, [Mr. BURT,] to insist that this House, in passing upon this claim, must decide upon the question of whether or not a slave is property, and could reject the claim upon no other ground but that it was not property.

Mr. MEADE interposed, to put an inquiry to Mr. C., (the purport of which was not heard by the reporter.)

Mr. COLLAMER said, that when he had finished his remarks he would submit to any cross-examination through which gentlemen might desire to put him. He wished first to get through his examination in chief, and then he would be willing to submit to cross-examination. This, he believed, was the proper course of proceeding in the courts.

Mr. C. then proceeded to remark, that when the gentleman from South Carolina [Mr. BURT] was making the closing remarks, which admitted no reply, he (Mr. C.) had asked the gentleman if he meant to be understood as saying, that men could vote against this claim on no other ground but that a slave was not property? The ordinary courtesy of the gentleman did not then seem to serve him. Still he (Mr. C.) was not critical of words.

Mr. BURT rose and said, that after what had passed between the gentleman and himself on a previous day, he hoped the gentleman would not attribute any discourtesy to him. He (Mr. B.) had disavowed it.

Mr. COLLAMER. To me personally.

Mr. BURT explained, that in the remark to which the gentleman referred, he had merely meant to announce the confidence which he felt in the justice of the case; and that when he was interrupted by an inquiry from the gentleman from Vermont, he (Mr. B.) had perhaps used a stronger expression than he had intended. If, however, that expression was analyzed, it would, he thought, be seen that it was intended to convey nothing more than the expression of an opinion that the case, in all its circumstances, was an impregnable one, and that the only ground upon which it could be rejected, if rejected at all, was that slaves were not property. He trusted the gentleman would not charge him with discourtesy.

Mr. COLLAMER said, that he did not think that any charge he might make of discourtesy against a gentleman whose habitual courtesy was so well known, could be of much consequence. In saying, as the gentleman had in effect said, that he would not leave a place for escape, he (Mr. C.) had supposed that he implied a desire on the part of gentlemen to evade the responsibility of voting, and had deemed it rather discourteous. But, as the matter was now explained, it was all fair.

But he (Mr. C.) was well sustained upon this point, that, on the one side and on the other, the utmost pains had been taken to make the case turn upon that point.

Mr. GIDDINGS inquired of the gentleman from Vermont whether he had overlooked the fact that he (Mr. G.) had placed the case in every aspect in which he was able to place it, in law, in equity, or under the Constitution?

Mr. COLLAMER. I am sensible that the gentleman was making remarks which I thought were about to lead him to that view of the subject, when his hour expired.

Mr. GIDDINGS. Did I not distinctly state, that under the law of bailment, there was no responsibility fixed on the Government?

Mr. COLLAMER. I know that I heard that remark; but in his application of that, the gentleman was stopped by the expiration of the hour. But the part of the gentleman's remarks which I had the pleasure to hear, was all directed to the point of insisting that the slave was not property. He (Mr. C.) proceeded to state, that the position he had taken was this—that the turning point in the case was made to be, whether slaves were property or not. On one side it was said that they were property and should be paid for; on the other, that they were not property and should not be paid for. Therein they differed. But in making this the turning point of the case they all agreed, and in this respect extremes met.

He would endeavor now to show that this question was not necessarily involved in the case, notwithstanding the attempts that had been made to make it appear so. He did not think, in relation to many of these points, that he could make them much more clear than other gentlemen. He had a desire to connect and group the arguments, and perhaps add something to the force of them.

As a question of bailment, the case would just be one of those of letting for hire. The rule of *ordinary* cases would apply to it. The gentleman from Florida [Mr. CABELL] seemed, yesterday, to contend that the Government was obliged to return the man that was hired, as if that obligation could not be excused at all. He (Mr. C.) did not understand this to be the law. He understood that when property was hired for use, it was not true that the bailee was bound to return it at all events He was bound to exercise ordinary care; but if it was stolen, he exercising ordinary care, he was not bound to return it.

He was aware that this rule did not apply to common carriers. He was aware that nothing but

the act of God or of the public enemy could excuse them. But he was speaking of bailment for hire.

He would go further. If the property were merely taken by a third person by trespass, without legal authority, the bailee exercising ordinary care and prudence, that excused him. If he hired a horse to go to meeting or mill, or anything else, and whilst using it for that purpose, by himself or his servant, it was forcibly taken by a third person, he was excused. There was the end of the bailment, the end of the obligation. It was agreed on all hands, that this black man, or servant, or property in man, or whatever he might be called, (for he was not going to talk about terms,) was hired for $25 a month as a private in the military service; that he went into that service, and that, while so employed, he was captured by the enemy. Well, if the transaction had ended there, the bailee would undoubtedly have been excused, he having been exposed to no more than the risks of that business for which he had been employed. Whether the capture was by his own choice or otherwise, he considered entirely immaterial. It appeared that this man was brought in by the Indian chief Jumper, under the stipulations of a treaty, and that he was claimed by him as his property captured in war.

In the first place, the inquiry presented itself, why was not this negro obtained by the owner? What was the difficulty? It was alleged to be this: that General Jesup sent him to New Orleans, and thence with the Indians to the West. If property be taken from the bailee by a third person without authority, that was an excuse to the bailee, and the fact that that third person was a servant to the bailee in some other department of business did not alter the case. And now he came to the point.

The gentleman from South Carolina [Mr. BURT] had brought a body of books to show that any general, in separate command in time of war, had right and authority to do this. He called it taking private property for public use. How did the gentleman show this authority? He (Mr. C.) knew that gentlemen who had heretofore contended for the doctrine of strict construction under the Constitution had lately got to finding the extent and limitations of authority not in the Constitution, not in the laws, but in the pages of Puffendorf, Vattel, Grotius, and other writers on international law, good for the purpose of settling questions between this and other Governments. But were they safe guides by which to settle the powers, rights, and authorities of the officers of this Government, in relation to the Government itself and to its own citizens? They seemed to sieze upon this to clothe every man with supreme authority.

He knew that there was a message upon the table from the President on this subject. He knew that great powers were claimed by him, under these authorities, for every officer, from the commander-in-chief down to the corporal, in Mexico, in this country, everywhere in time of war. He utterly protested against these authorities having any bearing in the world on this question. They could not assist us in defining what were the limitations of power in the hands of our own officers, nor in relation to the division of authority in the different departments of the Government, and between these functionaries and our own citizens. They were no guide. This was all the authority that was brought; and yet, in the report of the committee, it was argued that the commanding general's own discretion in taking private property for public purposes was conclusive, he being the public functionary for that purpose.

[Mr. C. quoted a passage from the report, which the reporter has not. The above is the import of the passage.]

The case was made to turn upon this point. Now, in the first place, he said, in general terms, that a general commanding an army in time of war in our own country, had no legal right to take any man's property or to any amount whatever. He denied any such authority. If he had that legal right, it would be a good defence in a court of law. If a general was sued for forcibly taking a man's horse and wagon for public purposes, would any lawyer put in a plea for him that he had so taken it as a justifiation? Could any gentleman produce any adjudicated case sustaining such a plea? The same authorities would as well show that, in the exercise of the same honesty, he might also take persons as well as property. He could produce cases denying such authority.

The same books from which the gentleman from South Carolina [Mr. BURT] had quoted, said that the commanding general might imprison dangerous persons; and they were as full to this point as the other. And if this were law in this country, a commanding general might practically suspend the habeas corpus act—a power which was allowed by the Constitution to Congress in a time of war. We had had some such cases in which this authority had been repudiated by the courts. Such was the case of McConnell against General Wade Hampton, decided in the Supreme Court of the United States.

The gentleman from Massachusetts, [Mr. PALFREY,] who had said he was no lawyer, had come very near to the true point in this case. He said that a general might do this thing, but that it was entirely on his own responsibility; or, as he (Mr. C.) might say, in the language of General Jackson, "It is an unlawful act, but I take the responsibility." He did take it; and it might be a question between him and his Government, whether, after he had exercised such extreme authority, unlawful as it was, the Government would indemnify him. They might do so; they might pay for the property, if they pleased. They had done it. But he entirely denied that any or all of this showed that he had any legal right so to act. He (Mr. C.) had not time to trace all the dangerous consequences of such a doctrine. Was it possible, that in relation to property of this character, (if gentlemen chose to call it property,) southern men were aware of the tune they were teaching the people to sing? It might become necessary, in the history of a country, when invaded, for a general to lay waste the country, in the presence of an enemy, for miles and miles; to kill all the cattle; to burn every blade of grass; to raze every house to its foundation. What came next? Might he shoot all the slaves, as he killed all the cattle, and do it with impunity? Did gentlemen really mean this?

We had been told from year to year, that the General Government did not possess the power to emancipate slaves in the States. Did not General Jesup emancipate this man? Did not gentlemen insist that he had emancipated him, and that the Government should pay for him? Was it true that we could declare a war, and that a commanding general in the southern States, regarding the slaves as dangerous, might embody them, march them into a free State—Pennsylvania, for instance—and there disband them? Would they be thus all emancipated? They would not be *fugitive* slaves; they did not run away, and therefore they did not come within that provision of the Constitution which required them to be returned. It seemed that the principle contended for was dangerous in every aspect, and especially to the interests of the southern people.

Without spending more time on that point, he would pass to another. If this man be property, he should be treated so in all respects. Now, he was captured by the enemy in time of war. The enemy acquired that property, and it became theirs at least for the time being, as all other property captured when employed in military service did. The ground taken in the report was, that Lewis having subsequently come into our possession by the doctrine of *post limine*, he belonged to the former owner, and should have been returned to him. He did not so understand the doctrine. He knew that by abstract expressions in the writings on international law, property recaptured by the enemy, its armies, or forces, should be returned to the owner, he being our citizen. But this, he insisted, was the doctrine of war, and good only while war continued.

Now, to apply this doctrine to the present case. Lewis was taken by the enemy. There the bailment ceased. Did he ever afterwards come into the possession of this Government as a *recapture*, or anything amounting to it? Not at all. The fact was, that under the stipulations of the treaty, the Indian chief Jumper, with other Indians, came in, bringing this property (if it was called property) with them, and claiming it as his property. This was no recapture, and none could then be made. And the doctrine of *post limine* could not apply.

He had desired to say a few words more on the topic on which he first spoke—that of extremes meeting. There were in this House the Democratic party, and especially its southern members, who were vexed with the result of the recent Presidential election. The Van Buren, or Free-soil party of the North were equally so. Here these extreme parties had met, under a common feeling of vexation. They well knew that the Whig Representatives in Congress, like all other representatives, would, by their votes, speak the wishes of their constituents, when they understood them. It was also known that the constituents of these Whig members in the North and South differed on this subject of slavery: that being a known point of difference, it appeared to him that advantage was constantly taken of it with a view not to produce measures, but to create division in the ranks of the Whigs themselves, and to incurably divide them in advance of their coming into power. This wound of division thus existing was kept in a constant state of irritation by throwing in particles of broken glass, and other irritating substances, tending to make it incurable, and to create a state of feverish excitement of the whole body, and to render it utterly incapable of being restored to health. This was done by insisting upon votes upon crude measures, under the previous question, sustained by both these extremes, thus forbidding all possibility of amendment or explanation. Therefore he had taken part in the debate for the purpose of getting rid of that point which these parties had thrust upon the House, in respect to property in slaves, and of showing that no such question need now to be decided.

Mr. GIDDINGS inquired if the gentleman complained that he had been put to any difficulty by questions thrown in here in regard to his own votes?

Mr. COLLAMER. None in the world.

Mr. GIDDINGS. Does the gentleman impute to me, or any one else, the power of persuading any one here to vote against his own judgment?

Mr. COLLAMER. I make no complaint.

Mr. GIDDINGS. I understood the gentleman to be complaining.

Mr. COLLAMER. The gentleman entirely misunderstood me. I make no complaint at all.

Mr. C. having now closed his remarks, declared himself ready, in accordance with the notice he had given, to answer any questions that might be put to him.

Mr. BURT was the first to accept the invitation.

He said that the gentleman from Vermont [Mr. COLLAMER] had stated that two parties in this House—the extremes, as he called them—were anxious to make the question turn on the general proposition of property in slaves. He desired to ask the gentleman whether he had read the report of the majority of the committee?

Mr. COLLAMER. I have not read the whole of it.

Mr. BURT. If the gentleman, before he makes assertions, will read the report, he will see that the apology for discussing the question at all is stated to be the fact that the minority of the committee take that ground.

Mr. COLLAMER. I know they do; and that fact demonstrates that the two extremes *do* meet in bringing the question before the House on such a point.

Mr. BURT. One other question. The gentleman complains of these extremes. Now, I would ask him whether any single proposition has been moved in this House, by the extreme East or the extreme North, for which the gentleman has not voted?

Mr. COLLAMER. I cannot answer the question.

Mr. BURT. Did the gentleman vote for any one of these measures.

Mr. COLLAMER. I did; but I never have voted at any time for the previous question, to suppress inquiry, investigation, or amendment upon them, as others on the gentleman's side have.

Mr. I. E. HOLMES next availed himself of the opportunity afforded by Mr. COLLAMER.

He did not (he said) desire to put any question to the gentleman which would embarrass him. The question which he proposed to ask was a question of law, and the gentleman had shown himself too good a lawyer to be embarrassed by it.

The gentleman had said that some members were about to vote upon this question upon the ground on one side that slaves were property, and on the other that they were not. Now he (Mr. H.) would ask what the gentleman's own opinion was of the legal recognition by the Government

of the United States of slaves as property? Did they recognize it as property?

Mr. COLLAMER. I think that for certain purposes they regard them as property, and for certain other purposes they regard them as persons.

Mr. C. proceeded to add, that in making these remarks, he had made them from a belief in his own mind that the attempts made in this House to get up measures upon the subject of slavery, had been made in such a manner and form as to furnish no good prospect of beneficial results. In relation to the subject of slavery in the District of Columbia, and the slave trade here, he had desired that full examination should be made, and beneficial results produced. He would be happy to furnish any aid in his power towards such results, if they could be produced; but thus far all the measures looking to that end had been crude and ineffectual, and merely agitation and irritation.

Mr. MEADE next obtained the floor, and addressed the House.

He thought that the gentleman from Vermont [Mr. COLLAMER] had justly complained that gentlemen of this House had put forth extreme views on the subject of slavery. He thought the gentleman ought to have had the candor to say that no such proposition had emanated from southern members in this House; that they had never appeared upon this subject, unless they had been called upon by the course which the discussion here had taken, and then that they had come forward not for the purpose of attack, but of self-defence.

He had risen for the purpose of discussing the legal question. He intended to place the Government in the same situation in reference to this question that an individual would occupy, who, under similar circumstances, had acquired possession of this negro slave. He did not intend to enter into the question of the legality of slavery, or to discuss the right by which that property was held. If that were necessary, he might fall back upon the guarantee that the ancestors of gentlemen from the North had given to the ancestors of gentlemen of the South when they sold these slaves; at any rate, he might contend that gentlemen of the North were the last persons who ought to call upon the South to prove the title under which they held this property which they claimed through and by gentlemen of the North.

Mr. GIDDINGS interposed, and said he would feel under obligation to the gentleman from Virginia if he would point out, specifically, this guarantee to which he alluded; where it was to be found. If in the Constitution, let them have the article.

Mr. MEADE replied that it was not only in the Constitution, (that was a question which had been so often discussed here that it was unnecessary for him now to enter into it,) but it arose from that implied guarantee which all sellers of slaves, or any other property, entered into with the vendee; and he expected that if the private papers of gentlemen from the South who lived fifty or sixty years ago could be brought to light, there would be found express guarantees of the validity of the title acquired to slaves purchased from northern men.

He had not intended even to state the fact to this House, that every civilized nation on earth, and every uncivilized nation, as far as we had any knowledge, had acknowledged the right of property in slaves. The common law of England, which emancipated slaves who might tread upon English soil, had nevertheless been set aside, even by that Government, in favor of the title to property in slaves in their colonies; and he appealed, not to any municipal law, but to the common law of nations—to national law, as the evidence that property could be held in slaves.

It had never yet been denied, as he had heard, except in this country. It was not even denied by a majority of northern members in this House. A small clique of abolitionists, and some others—men whose conduct justified the conclusion that they were seeking to dissolve this Confederacy—were the only persons of whom he had ever heard, who seriously denied their title to property in slaves.

He had not intended to enter even thus largely into the question of the right of property in slaves. But when a man rose to speak upon this subject, especially a gentleman from the South, upon whose forehead a majority of this House had placed a placard with the inscription that they were a reproach to humanity, morality, and religion, it was utterly impossible for such an one to address this House without being carried further than he perhaps ought to go. He was the last person to discuss the question of slavery here; but he was one of those who believed that the interest and safety of the South required them to demand of northern members to discuss this question no more, or else they could no longer remain in bonds of fraternity with them. The slave population was now in a state of subjection, of obedience, and even of love to their masters; but if these discussions were to continue many more years, the time would come when no southern man could sleep in his bed without a guard at his door. It was the necessity of the case which compelled them to require of their northern friends, if they were friends, that these discussions should cease, and cease of their own free will and accord. They did not intend to impair the liberty of speech, to do violence to that great right in any particular; but they should require it, as an essential to their longer continuance in this Union, that this agitation must stop. Could any southern man, with a just appreciation of his honor and dignity of character, sit here with such a brand as was placed upon his forehead by a majority of this House a few days since, and remain perfectly quiet and undisturbed in his feelings?

If he had a true southern heart, he must rebel against such action on the part of this House. When that vote was passed upon the resolution of the gentleman from New York, [Mr. GOTT,] if there was a southern heart here which did not beat even with rebellion, if gentlemen chose to call it so, then it was the heart of no true southerner.

Mr. TOOMBS rose to a question of order, and called for the enforcement of the rule which the Chair had applied to the gentleman from Vermont. He thought the business before the House was about Pacheco and his negro, and he wanted to get at it; he did not want this subject discussed at large.

Mr. MEADE said, he had not expected an interruption upon this subject from a southern gentleman, especially after such a latitude of debate as had been taken by gentlemen from the North.

The SPEAKER said, the Chair would state to the gentleman from Virginia that when the gentleman from Vermont [Mr. COLLAMER] had commenced digressing by discussing resolutions which were not before the House, the Chair had called the attention of the House to the fact, and had stated that the gentleman could not go on without the leave of the House. That leave having been virtually given, as no objection was made, the gentleman was allowed to proceed. But now the point being insisted upon, it was not in order for the gentleman to discuss the general question of slavery. It was proper for him to allude to other subjects by way of illustration, not of argument.

Mr. TOOMBS said, having called the gentleman from Vermont to order for discussing a question of slavery, he deemed it not only his right but his duty to call the gentleman from Virginia to order. He insisted upon the point of order.

Mr. RHETT. Was not the gentleman from Vermont permitted to go on?

Mr. MEADE said he hardly thought he was traveling further out of the limits than the gentleman from Ohio [Mr. GIDDINGS] had a few days since, and he had not been called to order.

The SPEAKER said the Chair decided that any discussion of the resolution introduced a few days since by the gentleman from Ohio, was not in order upon this bill.

Mr. MEADE said he was speaking upon the subject of the Pacheco claim, and the ground had been taken, among others, by gentlemen in this discussion, that there was no right of property in slaves.

The SPEAKER. The gentleman has the right to argue that question.

Mr. MEADE. Then have I not the right to say that the agitation of such questions has a tendency to the disruption of the Union?

The SPEAKER. The Chair has no objection to that remark.

Mr. MEADE. I am only amplifying on the subject.

Since his remarks (continued Mr. M.) were rather distasteful to gentlemen, he was perfectly willing to leave that branch of the inquiry, and proceed to the question whether this Government was bound to deliver up this slave Lewis to his owner, or to indemnify the owner for his loss. We all knew that the Government could not be a defendant before a court of justice, and hence there were no decisions to be found in our reports which established the liability of the Government to damages in this form. They must, therefore, argue this question of law solely with reference to the liability of individuals similarly situated. Now, he intended to place this matter in such a light that no legal gentleman at least could vote against this bill, unless it were for some other reason than that this Government would not be bound to pay for the claim if it were placed in the same relation to the party as an individual would be. There were many who would vote against the bill on the ground that property could not be held in slaves; there were many who would vote against it, for fear of their constituents at home, or of those who held the balance of power at home, and under the ostensible plea that the Government was not bound. He could not believe that there were twenty members of the House who would vote against the bill on the ground that the Government was not morally bound to make remuneration for this slave, and that the Government would not, if it could be sued, upon principles of law and equity, be bound to make restitution.

The question had been made, whether or not General Jesup had exceeded his authority in sending this slave with the Indians to the West? Was it denied that he was the agent of this Government? If he was the agent, and the officers acting under him were the sub-agents, the only question to be inquired into, to fix the liability of the Government, was, whether his original possession of the slave was lawful? None could deny that he had the power to make this contract for the services of the slave; and none could deny, that under that contract he was bound to redeliver the property thus temporarily committed to his charge. Was that a legal proposition which was to be discussed at this day? And the only way in which he could relieve himself, as the agent of the Government, from redelivering this slave was, that circumstances intervened which made it impossible for him to do so. If the slave, after being captured by the Indians, had continued in their possession, or secreted himself so that he could not afterwards be found or recovered, the Government would not be bound to make restitution; for Pacheco, when he hired this slave at twenty-five dollars per month, took upon himself all the hazards of war and of the service for which he hired his slave.

But the original possession of the slave by General Jesup, under the contract, was a lawful possession, and it was a lawful contract; and after the service contracted for had ceased, he was bound by that contract to redeliver the slave to his owner, unless some contingency intervened which made it impossible for him to do so——

Mr. PETTIT interposed and (the floor being yielded) said, he had no difficulty at all in admitting that property might be held in slaves; but he wished to ask the gentleman whether, if private property, be it slaves or horses, were captured in war by the enemy, that private property did not become, as a necessary consequence, or *per se*, (as John Tyler would say,) the personal property of the captor? and whether it must not remain so, not only during the war, but forever, unless by the terms of peace, by the stipulations of the treaty of peace, private property was surrendered?

Mr. MEADE said he had intended to discuss that point, which had been adverted to by the gentleman from Vermont. He would do so; and, in so doing, would give an answer to the gentleman from Indiana. But the fundamental error committed by the gentleman from Indiana, as well as by the gentleman from Vermont, consisted in the idea that the Seminoles, whom we were endeavoring to reduce to subjection, were a nation. They had never been treated as a nation. The object of the Government in commencing this war with them, had been either to drive them beyond the confines of the country or to exterminate them. Was that ever the object in view between nations going to war? Were the captures made by the Indians during the Seminole predatory war to be governed by the same principles of international law as governed the intercourse between this country and Great Britain when they were at war? That was the error into which gentlemen had

fallen. No gentleman could contend with any plausibility, that a tribe of Indians living within a sovereign State of this Confederacy, temporarily occupying, by the consent of our Government, a small tract of country under our jurisdiction, was a nation, invested with all the rights of a nation. Was that the position assumed by gentlemen upon the other side—assumed as an excuse for their voting against this bill?

If there were not legal decisions even in favor of the restitution of this slave, or of indemnifying his master, there was a moral obligation, under the circumstances, resting upon the Government to do one of these things; and nothing could relieve gentlemen from the necessity of admitting this position, unless they took the ground that there was no property in slaves. General Jesup sent this slave abroad for national reasons alone; from motives of public policy, (as we are told,) for the purpose of keeping the country in which he lived quiet. For the good of the country at large was this step taken, and it had been sanctioned and ratified by the Government. How? By the refusal of the Government to redeliver him to his owner; by their never complaining to General Jesup that he had transcended his authority in this matter. Did we find, in the correspondence of the Executive department, any line which showed that our Government dissented from that act of General Jesup? Was not that, then, a virtual acquiescence and ratification of the act? Having retaken the property which had been hired by an agent of the Government, and having again obtained possession, did not the original contract fasten upon it, and require the Government to redeliver the property thus having been retaken, having been placed by the chances of war in a condition in which it could comply with the contract? What was it which relieved the Government from complying with the conditions of the contract? Was the original contract made with Pacheco good or not? And what was that contract? It was, that the United States should receive services of a certain character from the slave of Pacheco, for which Pacheco was to be paid a certain sum, he running all the hazards incident to the service; but the Government, on the other hand, of course binding itself under the contract to take such care of that property as it would take of its own. Would any gentleman contend that a slave belonging to General Jesup, retaken under the same circumstances, would not have been retained by him as his property? Would gentlemen contend that a wagon and horses impressed into the service, taken by the Indians, and recaptured from them under the same circumstances, would not have been returned to the owner? The idea was preposterous. If a wagon and horses had been taken by General Jesup to transport the Indians to west of the Mississippi, would the gentleman contend that the Government would refuse to pay for them? No such ground could be assumed.

He was right, therefore, in saying that gentlemen in voting against this bill were influenced by the fear that property in slaves would not be regarded as property by their constituents. Whatever might be said of southern slavery, he found a slavery in this House more servile and reprehensible than any which existed in the southern States. About one-tenth of the population of the North had enslaved gentlemen, and deprived them of their independence, so that they dare not vote their own opinions, but were held in bondage by a little squad at home, who held the balance of power between them and their political opponents. There were honorable exceptions, he knew. If gentlemen would at once break those chains, and join their hands as brothers over the altar of their common country, and unite in crushing with their heels these reptiles who are seeking to destroy this Confederacy, and to apply the knife to the throat of the southern master, we should never hear more of these discussions, and they would be seen acting as men emancipated from those shackles which had been imposed upon them by a fraction of their own people.

Gentlemen said that General Jesup had exceeded his authority. Sir, the principal is bound for even the malfeasance and torts of his agent. We had heard of a case which recently occurred in one of our northern cities, of an omnibus-driver who was hired by his master to transport passengers, who had run over an individual who recovered from the owner of the omnibus fifteen hundred dollars. Here the driver was certainly not hired for this purpose, yet the principal was held responsible for the acts of his agent. Cases of a similar nature filled the records of the law-reporters.

But the gentleman had argued that it would be a dangerous doctrine to the South if the general in command of an army was allowed to impress their slaves and transport them to the free States, where, of course, not being regarded as fugitive slaves, they would be entitled to their freedom. He was perfectly willing to run this hazard. There would be no justification for such an act, and the owner would be entitled to redress. There were cases in which the public safety was superior to all law. Would it be denied that a general, in want of provisions for his army, could go to the nearest plantation in the South or in the North and take them, even contrary to the assent of the owner? And would gentlemen refuse to make indemnity for them, on the ground that the general had exceeded his authority, and that the Government was not bound? There might be cases in which a commanding general had the right to burn the town of his own people: would it be contended that such an act was not the act of the Government? There were innumerable instances of impressments made by generals in command, and redress had been sought at the hands of Government. Had it ever been refused?

He referred to the fact that a general order had been issued from the War Department to deliver up to their owners the slaves that had been captured by the Seminoles in this war. He read the following extract from the letter of Mr. Poinsett (then Secretary of War) to General Jesup, dated October 7, 1837:

"With respect to the final disposition of the slaves, [captured by the Creek warriors,] great care must be taken that, as far as practicable, such of them as are runaways should be restored to their owners. The remainder must be kept in safe custody, and if possible, in such manner as will enable them to earn the value of their subsistence, till the close of the war; when, if deemed expedient, those belonging to the Indians can be restored to them; the residue remaining for such disposition as may be deemed proper. There does not seem to me to be any authority with the Executive to send them to Africa, but that measure can be recommended to Congress for its sanction."

This letter directed runaway slaves, where recaptured, to be delivered to their owners. Could there be any distinction drawn between runaway slaves taken by the Seminoles, and such as were seized in the fort in which Dade's command was massacred? The "residue" were to be reserved "for such disposition as might be deemed proper." By whom? By the Government. What disposition was deemed proper of the slave Lewis? General Jesup thought that he should be sent west with the Indians, and the act had been sanctioned by the Government, inasmuch as the Government had never complained of it. The Government was, then, as much bound to make indemnity for the slave, as an individual would be under the same circumstances.

Before the railroad between Washington and Baltimore was constructed, wagons ran as common carriers between the two cities. Suppose the driver of one of these had converted the goods intrusted to him to his own use: the owner of the wagon would be responsible. If he was robbed on the way, and had afterwards found or recovered the goods, and refused to deliver them, the owner of the wagon would be still responsible.

He proceeded to read several extracts from the law as laid down by Judge Story to fortify his position upon the nature of the contract entered into for the slave, and the consequences which attached to it.

Judge Story was preëminent among lawyers; no northern man would question his authority. He says, (Story on Agency, page 540:)

"But the responsibility of principals to third persons, is not confined to cases where the contract has been actually made under his express or implied authority. It extends further, and binds the principal, in all cases where the agent is acting within the scope of his usual employment, or is held out to the public or to the other party as having competent authority, although he has in fact, in the particular instance, executed or violated his instructions, and acted without authority. For in all such cases, where one of two innocent persons is to suffer, he ought to suffer who misled the other into the contract, by holding out the agent as competent to act and as enjoying his confidence. We have already seen that this doctrine applies to a large class of agencies, where the party acts under a general authority, as contradistinguished from a special authority."

Now, sir, the authority of commanding officers in time of war is scarcely ever, and from the nature of the service, can seldom be specifically defined. And in this case, General Jesup was clothed with general authority to close the war.

The same author says, on page 554:

"It is a general doctrine of law, that although the principal is not ordinarily liable, (for he sometimes is,) in a criminal suit, for the acts or misdeeds of his agent, yet he is held liable to third persons, in a civil suit, for the frauds, deceits, concealments, misrepresentations, torts, negligences, and other malfeasances or misfeasances and omissions of duty of his agent, in the course of his employment, although the principal did not authorize, or justify, or participate in, or indeed know of such misconduct, or even if he forbade the acts or disapproved of them. In all such cases, the rule applies *respondeat superior*."

No case could occur to which this rule of law would be more applicable than the case of Pacheco, even if General Jesup had exceeded his authority, which is denied. But, sir, the author goes still further, and says, page 580:

"The liability of the principal to third persons for the misfeasances, negligences, and torts of their agents and servants, may also arise, although the act is not done, or the wrong is not committed, within the scope of the ordinary business of the principal, if it is done or committed, by the previous command, or with the subsequent assent, adoption, or ratification of the principal. Thus, if the principal should direct his agent to commit a trespass, or to make a conversion of the property of a third person, or he should subsequently ratify or adopt the act, when done, for his own use or benefit, he will be liable as an original trespasser or wrong-doer."

It has already been shown, that this slave was sent away for public considerations, or, in the words of the author, for the "use and benefit" of the public, and that the Government, by its acquiescence, had "adopted and ratified" the act.

In controversion of the argument that the commanding general should be held responsible to the claimant, he read from the decision of the case of Gidley *vs.* Lord Palmerston, to show that a public agent could not be held personally answerable for actions of this nature, and that the Government was responsible even for the malfeasance and torts of its agent, and he proceeded to allude to some of the considerations of public policy upon which such a principle was founded. On the authority of the case of Gidley *vs.* Lord Palmerston, Judge Story (page 385) says: "It has been held that no 'suit will lie against a person who is Secretary of 'War for refusing to pay over moneys which he 'has received to distribute among certain claim-'ants."

In this case Mr. Justice Ashhurst observed: "In 'great questions of policy we cannot argue from 'the nature of private agreements. Great incon-'veniences would result from considering a gov-'ernor or commander as personally responsible. 'No man would accept of any office of trust under 'Government upon such conditions." Judge Story says that this personal responsibility may be assumed, but "the proofs ought to be exceedingly 'cogent and clear, in order to create such personal 'responsibility in a known public agent, and to '*repel the presumption of law* that he contracts only 'on the credit of the Government." General Jesup was the accredited agent of the country; he found it necessary, upon considerations of public policy, to send this slave Lewis out of the country. Even supposing that Gen. Jesup had transcended his authority, it was admitted that he had acted in good faith with reference to the general interests of the country, and, he asked, should an innocent person be made to suffer in consequence? Would gentlemen mete out justice to the citizen with so sparing a hand? The Government was bound to make restitution of the value of the slave. No gentleman would hesitate to do so if the claim was for other property which had thus been placed beyond the control of its owner.

He also read an extract of a letter from General Jesup to Mr. Poinsett, dated April 9, 1837, in which it was stated that the Indian chiefs had entered into an engagement "to surrender negroes taken during the war," and "to deliver them to the commanding officers of the posts on the St. John's." He presumed (though he had not looked minutely into the facts) that this slave Lewis was included in this stipulation.

He could see no excuse for gentlemen voting against this claim. He had never known a case which came before Congress more strongly recommended by justice. The owner having taken upon himself the risk of the chances of war, of the escape, and of the death of his negro, the Government was certainly bound, after the service had expired under the contract, to return the slave to his owner; and being in a position in which it was enabled to do so, but choosing to send him beyond

the reach of his master, justice most obviously required that indemnity should be made.

No reason had been assigned to the contrary; but the objections rested upon the animosity entertained by gentlemen from one section of the country against the property held by another section. If southern claimants were refused indemnity in cases of this description; if the doors of justice were closed upon them; and, in addition, if Congress refused to pass the necessary laws to enable them to recover their fugitive slaves under the express provisions of the Constitution,—he would like to know of what value was this Union to the people of the South?

When the States of Virginia, the Carolinas, and Georgia, came into the Union, it was supposed that the Union would be a means by which their prosperity and happiness would be promoted. It was certainly not intended, that by entering into this Confederacy, they should be restrained or restricted in the enjoyment of any right; but, on the contrary, the Confederacy was regarded as a means by which all their rights and their future prosperity would be more fully enjoyed and more perfectly secured. But has all this been realized? The southern States, indeed, had largely shared in the places of honor and trust in this Union. With respect to the laurels acquired in war, and with respect to the reputation accorded to our statesmen—with respect to all these benefits, the people of the southern States, he admitted, had enjoyed their full share. But to their own enterprise, to their own genius, and to their own gallantry are they indebted for these things. But, apart from these considerations, he would ask, of what value was this Confederation to the southern people, if their slave property, amounting to nine hundred millions of dollars, was no more to be regarded as a possession of right, and was to be subject continually to the depredations of the very men who had come under obligations of mutual protection? Why, upon the principle assumed by northern gentlemen, if a vessel, laden with this species of property, were to sail from the capes of Virginia for the mouth of the Mississippi, an abolition captain of a United States vessel, acting under a special mission from *Above*, might seize it, set the slaves ashore on a British island, and when their owners come in and require of the Government indemnity for their slaves, they would be told that the naval commander, acting under the holy influence of his conscience, was alone responsible for all the property so lost; that the Government could have nothing to do with it; they might be responsible for the little articles of property accompanying the slaves, but not for the slaves themselves. And the same plea might be set up by the British Government, or any other Government whose officers might commit a like aggression. Would gentlemen who hold that slaves are not property assist us in such a case?

He asked, if, at some future day, a hostile foreign crusade should be undertaken against the southern States, in order to put down the institution of slavery there, whether, in such event, they could expect any relief from their northern brethren? If Charleston, New Orleans, and all the intermediate coast, were to be invaded with hostile fleets, avowing such a purpose, what assistance could they expect? Was it to be reasonably expected by the South, that in such an event the people of Boston or New York would come forward to their assistance? No, sir, not if all were of the same mind as some on this floor, (and that they are rapidly approximating in opinion, no one will deny.) They would say to the South, We will take no part or lot in this strife; ye yourselves are the aggressors in the matter which oppresses you; and the invasion of your coasts is but a means by which, in the order of a good Providence, it has become necessary to chastise you! But if Boston or New York was sacked, they would expect (and not in vain) southern men to fly to their relief.

Consequences like these were intimately involved in the principle upon which the bill under consideration had been opposed. Reject it, and no slaveholder could longer look to Congress for protection, or to the Constitution as the broad panoply under which all may rest in safety. There was an evil feeling growing out of the agitation of this question of slavery. A feeling for separation was rapidly progressing at the South; and unless gentlemen here were prepared to tell the southern people that they still regarded them as a branch——

Mr. DICKEY (interposing) asked the gentleman from Virginia who introduced the bill under consideration? Was it introduced by any northern man?

Mr. MEADE replied: No, sir. But gentlemen from the North had raised the issue about property in slaves. Does the gentleman from Pennsylvania say that we are not to come here for the restitution of our property which the Government has appropriated?

Mr. DICKEY. Whenever you bring a well-grounded claim for property, you may expect it to be restored.

Mr. MEADE continued. That reply was exactly what he had expected The people of the South were to be debarred from maintaining a claim for property in slaves; and if they were not to be allowed by the North to maintain a claim of this sort, was it to be supposed that the North would aid the South in defence of their right to this species of property, even by repelling a foreign invasion? He would say to the House that such apprehensions prevailed extensively in the South. The slaveholder doubts whether his property would be protected by Congress if invaded; and he would ask how long this Confederacy could exist under the spreading influences of such an opinion? Nay, he would ask whether, if this bill should be rejected because slaves are not property, it could be regarded as a thing very desirable on the part of the South that it should exist at all? It certainly was not, unless the slaveholding States, as members of this great and growing Republic, could be allowed to enjoy their rights of property as fully and as freely as they shared the laurels of their country's victories and the reputation of her statesmen. He would like for gentlemen to show in what respect the Union could be considered of the slightest advantage to the southern States whenever a principle like this should obtain the sanction of Congress? For himself, he declared, that in such an event, he would not give the snap of his finger for it. When he took his seat in that body twelve months ago, there was scarcely a man at the South who regarded the Union with more reverence than he did. But in the course of the present session he had witnessed what he considered a most flagrant and uncompromising system of attack upon the rights and interests of the South; and he had been compelled to listen to the most opprobrious epithets, employed not only in debate, but in resolutions which had been passed by that body.

Mr. VAN DYKE (interposing, and Mr. MEADE giving way) said, if he understood the gentleman from Virginia, he was complaining of a matter as the act of the northern members, which was brought about by the votes of gentlemen from the South, and in part, as he believed, by the vote of the gentleman himself. He alluded especially to the vote sustaining the previous question upon the resolution to which the gentleman had just referred. He would like to know how many southern men voted to sustain the demand for the previous question upon that resolution, by which the House was forced to the vote, without any opportunity for amendment or explanation.

Mr. MEADE replied that he cared not how many southern men voted to sustain the previous question: even if he had so voted himself, it was to disclose to the South, by a vote on the subject, the danger that threatened them, and the real state of feeling on the part of northern men. He desired not to delay if he could not prevent the issue that was coming upon us. He perceived the danger, and was prepared to meet it at the threshold; and he would say now, that if there was to be any internal commotion on account of this question, it were better for the South for it to come at once, and not be delayed until after years, when the seeds of servile insurrections might be sown. It were much better for the crisis to come now, while the best feeling of love and confidence between master and slave prevailed upon every plantation, than for it to be procrastinated till the time when much of this good feeling might be destroyed: better far that it should not be delayed till the people of the South find themselves in the midst of enemies at their own homes, instead of the friends by whom they were now surrounded.

[Here the Speaker's hammer fell.]

Several gentlemen addressed the Speaker at nearly the same instant.

Mr. HALL, of New York, obtained the floor, and prepared to address the House.

Mr. KAUFMAN said, if the gentleman from New York would give way, he desired to move an adjournment.

Mr. HALL said, as far as he was concerned personally, he would prefer not to speak to-day. He would yield the floor for a motion to adjourn.

Mr. KAUFMAN then moved that the House adjourn.

Mr. ROCKWELL, of Connecticut, demanded the yeas and nays upon this motion; and the yeas and nays were ordered, and being taken, the vote was announced—yeas 24, nays 153.

So the House refused to adjourn.

Mr. HALL, of New York, said he had not come to the House this morning with any expectation of submitting any remarks upon the bill under consideration. But having yesterday given to some of the legal questions involved in this bill some little examination, in connection with the gentleman from Massachusetts [Mr. HUDSON] who sat behind him, it was understood between that gentleman and himself that the gentleman from Massachusetts would endeavor to obtain the floor and address the House to-day. That gentleman had this morning informed him that the condition of his health was such that he could not now undertake that duty; and it having been affirmed by gentlemen in favor of the bill that there was no ground upon which opposition could be made, except the single principle that there can be no property in persons, he had sought the floor for the purpose of referring very briefly to some of the conclusions, other than this, by which he was influenced to vote against it. The gentleman from Vermont [Mr. COLLAMER] had this morning expressed opinions in reference to some of the questions involved in this case; and concurring generally with those opinions, it was not his intention to go over the ground which that gentleman had maintained with an ability he could not hope to equal.

As he understood the facts in this case, it was claimed, on the part of those who support the bill, that the slave Lewis had been, or was, the property of Pacheco; and that by Pacheco, or some other person acting as his representative or agent, Lewis was hired to Major Dade, an officer of the United States army, to be used by him as a guide and interpreter, in his hostile operations against the Seminole Indians in Florida. It appeared, from the evidence adduced, that this was the specific purpose for which this slave was hired by the agent of the United States. It was known to his owner that these Indians were in open hostility arrayed against our troops, then in the field; and that war was being prosecuted against them. It was a part of the contract between the officer of the United States and the owner of the slave, that he was to be employed in this particular service as a guide to Major Dade's detachment. The evidence also showed that there was no stipulation in the contract in relation to any risk to be taken on the part of the United States, by which the owner might be indemnified for the loss of his slave by any of the casualties of the service. The risk, therefore, as such, was assumed by the owner, or left to be determined by the ordinary rules of law. This being the case, could there be any doubt where the risk or liability must rest, as between the bailor and the bailee? Could there be any doubt that the bailor—the party who owns the property—must, in such a case, take upon himself all the natural and ordinary risks of the service in which his property, with his consent, was to be engaged? Under the circumstances of the hiring, it was manifest that among the ordinary risks and liabilities of the service, were capture by the enemy, and death by the hands of the Seminole or hostile Indians. This negro, in pursuance of such hiring, accompanied the command of Major Dade. It was supposed, that while thus engaged as guide and interpreter to this detachment, he betrayed it into the hands of the enemy; but this fact was not clearly established by the evidence. All that could be certainly known of the case was, simply, that nearly the whole command was captured and massacred; and all that accompanied the detachment, including the slave Lewis, fell into the hands of the enemy.

Now, upon this statement of the case, he (Mr. H.) understood, that up to this period, nothing had transpired upon which could be founded any valid claim for indemnity on account of this negro, even if he were to be regarded as the slave and property of Pacheco. It would be conceded—the

gentleman from Florida, [Mr. CABELL,] himself a lawyer, had conceded, and as a lawyer was bound to concede—that this was only an ordinary risk of the service, and that no liability was incurred by the United States upon the capture of the negro Lewis at the time of the attack upon Dade's command; and, therefore, that gentleman placed the claim upon another and distinct ground, where alone it could be made to rest with any show of plausibility, namely, upon the subsequent action of General Jesup, as the agent of the Government of the United States. By the act of capture, the bailment was terminated. The hiring of the negro was for a particular service: he was to act as guide for Major Dade's detachment; and when the detachment was cut off, the bailment was terminated, and with it also was terminated the liability of the United States in their character of bailee.

When this negro was taken by the Indians, the right of property in him (if we were to regard him as property) passed with the possession of the property itself to the captors of the negro. The right of property was transferred to the captors, subject only to the right of postliminy; that was to say, in the event of his recapture within twenty-four hours after he fell into the hands of the enemy, the owner would be entitled to demand that his slave be returned to him by the United States. But after twenty-four hours had elapsed from the time the slave fell into the hands of the Indians, and was reduced into their absolute power, possession, and control, the right of postliminy was gone; the owner had lost his property, and was without recourse upon his recaptors if he should be retaken from the Indians. The owner's right to the slave was transferred, by the act of capture, for twenty-four hours, conditionally; and after that time, finally and absolutely vested in those who captured him.

Mr. GREEN interposed here, desiring to ask a question, and (Mr. HALL giving way for the purpose) said he would like to know whether the gentleman insisted upon it that the rules of civilized warfare were to be applied to the predatory operations of the Indian tribes? He supposed a case, where Sioux Indians might come down upon the western border of the State of Missouri, murder the settlers, and drive off all the property they could find. Did the gentleman from New York suppose the adjustment of such a case would fall properly under the laws of civilized warfare?

Mr. HALL said he did not intend to say, that where property of citizens of the United States might have been taken by mere bands of thieving Indians in their predatory excursions, the right to such property was transferred. But, as in the present case, where an Indian nation were in open war against the United States; where the United States had been in treaty with them repeatedly, and had recognized their national existence and sovereignty from time to time; where they had been acknowledged, so far at least, to be an independent nation, and they were as a nation engaged in open war with the United States—a war in which the United States employed its military force, and regarded its prisoners as prisoners of war, and not thieves and murderers—as prisoners of war taken in open war, and not as traitors taken in rebellion—he conceived that all the rules of civilized warfare, in relation to captures or booty, should apply in such a case. Prior to this Florida war, the Government of the United States had treated twice with the Seminole Indians, and by the treaties of May 9, 1832, and March 28, 1833, had recognized them as a sovereign nation; and, subsequent to the time of the capture of this negro, and prior to the time when he was found with Jumper, a capitulation or convention was made with a portion of the chiefs of these same Indians, by which their political sovereignty was recognized by General Jesup, as the agent of the Government of the United States.

Mr. CABELL interposed to ask a question; and the floor being yielded, he said, he would be glad to know of the gentleman from New York whether, in the whole history of this Government, he could point to a single case where, being at war with the Indians, they had been treated by the United States as civilized enemies? Had this Government ever made a formal declaration of war against any Indian tribe?

Mr. HALL replied, that the United States had often made war against the Indians; but that, ordinarily, there had been no circumstances which either required or made it possible to make a formal declaration of war as preliminary to the commencement of hostilities, hostilities having generally, and, he thought, uniformly, been commenced on the part of the Indians. The case of the Mexican war, if we could admit the President's assumption in that case, would be a good instance for illustration: it was exactly in point. There the United States proceeded without any declaration of war; and the majority in Congress, declaring that the war existed by the act of Mexico, passed an act, not declaring war, but merely recognizing its existence, and making appropriations for carrying it forward to a successful termination. In the same way had the Government of the United States sanctioned and carried on its wars against the Indian tribes, recognizing them as political communities, entitled to all the rights of war which obtain between civilized nations. The Supreme Court had also recognized the Indian tribes as independent political communities in our midst, capable of being treated with, as such, and of sustaining all the relations of enemies in war, and of allies in time of peace.

Mr. GIDDINGS interrupted here, to make a statement, (Mr. HALL yielding for that purpose.) He corroborated the statement of the gentleman from New York. Such was the manner in which the United States had always treated with the Indian tribes. The very first treaty that was ever made between the United States and any Indian tribe was made with the Creeks; and that treaty contained a stipulation for the return of captured negroes and runaways. That treaty was renewed in 1789; and in 1796 it was again renewed—still retaining precisely the same stipulation. In 1799, another treaty was made with the Creek Indians, containing the same stipulation; and he believed that a like stipulation was embraced in every treaty of peace between the United States and the southern Indians.

Mr. HALL continued. He did not propose to enter at length upon any discussion in relation to the political condition of the Indian tribes generally. It was enough for him to produce the authority of Chancellor Kent and the Supreme Court of the United States, and to say, with reference to this particular nation, (the Seminoles,) that the authorities of the United States had waged a protracted war against them as a political community, with the sanction of Congress, who had appropriated at different times large sums, he believed as much as twenty millions, for the prosecution of this war with the Seminoles, or as it was familiarly called the Florida war.

Kent, in his Commentaries, in remarking upon the great case of Worcester against the State of Georgia, in the Supreme Court of the United States, had said:

"The English, the French, and the Spaniards, were equal competitors for the friendship and the aid of the Indian nations. The Crown of England never attempted to interfere with the national affairs of the Indians, further than to keep out the agents of foreign Powers, who might seduce them into foreign alliances. The English Government purchased the alliance and dependence of the Indian nation by subsidies; and purchased their lands when they were willing to sell, and at a price they were willing to take; but they never coerced a surrender of them. The English Crown considered them as *nations, competent to maintain the relations of peace and war*, and of governing themselves under her protection. The United States, who succeeded to the rights of the British crown, in respect to the Indians, did the same and no more; and the protection stipulated to be afforded to the Indians and claimed by them, *was understood by all parties, as only binding the Indians to the United States, as dependent allies. A weak power does not surrender its independence and right of self-government by associating with a stronger, and receiving its protection.* This is the settled doctrine of the law of nations; and the court concluded and adjudged that the Cherokee nation was a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia could not rightfully have any force, and into which the citizens of Georgia had no right to enter, but with the assent of the Cherokees themselves, or in conformity with treaties and with the acts of Congress."

Besides, he perceived that in the report made by the majority of the committee charged with this subject, the case was treated under the rules of postliminy which are applied and obtain in a state of war between civilized nations. They claim indemnity for the slave under this right of postliminy. They insist that Pacheco, in virtue of this right, was entitled to have his negro returned to him, when he came into the hands of General Jesup, after the convention of March 6, 1837. As authority upon this question, and to sustain the position he had taken, that this right of postliminy expired in twenty-four hours after the capture, he would read from *Kent's Commentaries* an extract having reference to the right of capture which vested in these Indians all the property which could exist in Lewis as a slave. Judge Kent says:

"In a land war, movable property, after it has been in complete possession of the enemy for twenty-four hours, (and which goes by the name of booty, and not prize,) becomes absolutely his, without any right of *postliminy* in favor of the original owner."

If this negro was recaptured, he was recaptured by the troops of the United States, and the title to him, if he was then to be considered as property, would be vested in the United States as the recaptors, and they might emancipate him at their discretion, or otherwise dispose of him as they thought fit.

In the absence of any regulations on the part of the sovereign equivalent to an agreement entered into with their citizens employed in making captures, the right to all captured property would be vested in the sovereign; but by such regulations, the whole or a large portion of the captured property is usually allowed to the captors; but here the captors were the troops and agents of the United States, and all rights of capture acquired by their acts must vest in the government by whom they were employed.

But it had been affirmed of this case of the negro Lewis, by one gentleman, that he was not recaptured, but came in with the chief, Jumper, after the convention of the 6th of March, 1837. It was alleged, also, on the other hand, that General Jesup's statement was to the effect that he was recaptured from the Indians; and it was claimed that in either case the United States was under obligations to return him to his owner. It was then alleged that it was considered that the return of this negro to his master would be detrimental to the public service, and inconsistent with the public security in Florida, and that the lives and property of the citizens were deemed to be in jeopardy, while he was permitted to range at large in that country. It was for this reason that General Jesup sent him out of the country, to New Orleans, but not west of the Mississippi river. It was claimed that this was taking him for the public service, and that compensation should be made to the owner. He thought this was not a taking for the public use of the United States, even if it should be conceded he was the property of Pacheco; but he did not propose to stop to discuss that question.

It was also in evidence, that but for other pressing duties of the service at the time, General Jesup would have ordered the trial of this negro by a court martial, and that he would in all probability have suffered death for his correspondence with the enemy, and the betrayal of our troops. This, with the evidence that this negro "was as bad as he was bright," dangerous to his master and to his master's neighbors, might be urged to show that a thousand dollars was an unreasonable claim for the negro; but the amount of the claim he should not attempt to discuss. Passing this over, then, it was plain that if there was no recapture, the right of property in this negro (if he be regarded as property) was fully vested in the Indians, and was not disturbed by the arrangement entered into between General Jesup and the chief of the Seminoles on the 6th of March, 1837. He was the property of the Indians by virtue both of that convention and of the right of capture. Neither General Jesup nor the United States could have any right to return him to his former owner; but it was their duty to allow the Indians to take him with them, along with their other property, to their new homes west of the Mississippi river. Such was the conclusion of his mind, if the negro was to be regarded as property.

If the negro was not to be regarded as property, but as a person, and a prisoner of war, there could of course be no claim on the part of Pacheco. As a prisoner of war, not exchanged at the peace, he might decide to remain in the hands or the country of his captors, and no claim could on that account be made against the United States.

But it might be said that the Indians did not regard or hold slaves as property. Suppose they did not. They found the negro in immediate connection with a hostile force; they acquired the right to him, if he was regarded as property, by the right of capture, and it was their right, thus being the owners of him, to emancipate and set him free, if they chose to do so. If they did so under such circumstances, there was no right on

the part of the United States, or of the original owners, to reduce him again to servitude.

On reference to the facts of the case, it appeared that the negro was hired in December, 1835. If he recollected aright, he was taken by the Indians in some of the last days of that month; and the first that was heard of him after his capture that has any bearing upon the claim in this case was, that he came in with Jumper and his Indians in April or May, 1837. Therefore, being in possession of the Indians—in their full power—for about the space of a year and three months, all right of postliminy was gone. If he was to be regarded as property, the Indians, his owners, had a right to emancipate him or take him West as a part of their property, in case their laws authorized them so to hold him. In the event of his emancipation, as he had already said, neither the Indians nor his owner nor the United States, had any right again to reduce him to slavery. In case of his being claimed by the Indians under their right of capture and by them held as a slave, they had a right, under the provisions of the convention of the 6th of March, 1837, to take him west. The Government was not bound to protract the war after the period when the public interest required its termination for the purpose of restoring slaves, or this particular slave, to their owners. They made an arrangement to put an end to the war, and they had a right to make and did make an arrangement, by which they agreed that all the Indians should emigrate to the West, and that their negroes, who were their *bona fide* property, might accompany them.

The gentleman from Virginia [Mr. MEADE] had referred to a letter of General Jesup, in which he directed that slaves taken from the Indians should be held to the close of the war, and that runaways should then be restored to their owners. And on this letter the gentleman had based an argument in favor of the right and the duty of the United States to return this negro to his owner, Pacheco.

Now, he (Mr. H.) insisted that the language of the letter rather showed that there was no intention to restore any slaves taken by the Indians under circumstances of this character, and which had by the laws of war become the property of the Indians. The instructions given to the officer to deliver slaves to their owners were confined to runaways, who, instead of being taken in open war and becoming the property of the Indians by capture, had escaped and gone among the Indians to reside. No right of capture had there accrued, and it was the right (not the duty) of the Government, if they chose, to allow these runaways to be restored to their masters. The masters themselves would have had a right to reclaim or replevy them, but it was not the duty of the Government to interfere for the purpose of obtaining their return. And the Government made that distinction in the directions which they had issued to their officers, by applying the instructions to return negroes to those only who were runaways, having voluntarily joined the Indians in order to escape from their masters.

This distinction was shown by the letter of Mr. Poinsett, Secretary of War, dated October 7, 1837, in which he says:

"With respect to the final disposition of the slaves, great care must be taken, that as far as practicable *such of them as are runaways* should be restored to their owners. The remainder must be kept in safe custody, and, if possible, in such manner as will enable them to earn the value of their subsistence till the close of the war; when, if deemed expedient, those belonging to the Indians can be restored to them, the residue remaining for such disposition as may be deemed proper."

Mr. BURT rose to explain, and Mr. HALL having yielded the floor for the purpose—

Mr. BURT said, that if the gentleman would look into the documents which had been brought forward by the gentleman from Pennsylvania, [Mr. DICKEY,] he would find that every solitary slave who was found in possession of the Seminole Indians was restored to his owner, except the few sent to the West, under circumstances similar to those which attended the case of the slave of Pacheco. That was the original order of General Jesup, issued in accordance with the order of the Indian Bureau. In addition to the slave of Pacheco, there were eleven other slaves, who, from similar considerations of public policy, had been sent to the West.

He desired, with all respect, to ask the gentleman from New York, [Mr. HALL,] whether the right of capture was not a right of war? Was it any other right? Did not the laws of war exist only between independent sovereign nations? And would anybody on earth suppose that an Indian tribe in these United States was a sovereign nation, and entitled to the privileges of the laws of war?

Mr. HALL resumed the floor. He said that in answer to the inquiry of the gentleman from South Carolina, [Mr. BURT,] he would say, that probably these Indian nations were not independent sovereign nations, in the fullest sense of the term. The Supreme Court did not so consider them, although they held them capable of sustaining the relations of peace and war. We did not recognize them as such in all respects, but we claimed to exercise a sort of paternal control or authority over them. But we did recognize a state of war as existing between us and them, and we had recognized it as existing between us and this particular nation. A war with these Indians had been waged for years, at a cost to this Government of upwards of twenty millions of dollars. And yet the gentleman from Missouri, [Mr. GREEN,] and, if he (Mr. H.) understood him, the gentleman from South Carolina, [Mr. BURT,] claimed that this was no war; that these Indians, who had so long baffled the power of the United States, were nothing more than a small party of thieves and horse-stealers; and that therefore under no circumstances could the laws of war be made applicable to them.

But this principle could not be maintained. As between the Indians and us, when we entered into a solemn war against them, all the laws of war must apply to them as they would apply to other nations. Would gentlemen claim for a single moment, that if we had taken the Seminoles prisoners, we could have treated them as we were not authorized to treat prisoners, taken under similar circumstances from civilized nations? Would they claim that we had a right to arraign them for treason, or that we had a right to hang them for appearing in arms against the United States? No gentleman would contend that any such action could be taken under any legitimate authority. We had time and again made treaties with these Indians, recognizing them as sovereign and independent—as having at least a *quasi* sovereignty, such as we could recognize—such as would authorize them and us to treat each other as in a state of war, when hostilities were carried on between us.

But if we chose to regard them as sovereign and independent nations, and to apply to them the rules of war as existing between civilized nations, what right had one of our citizens to come here and say, that they were not sovereignties having rights as such, and so to be regarded? The question was a political question; and the political departments of the Government, and the Supreme Court of the United States also, if he recollected right, had recognized them as existing independent sovereignties with whom a state of war could exist, and with whom treaties could be made on the part of the United States.

But the gentleman from South Carolina objected that any of the laws of war in relation to this question should be applied as between us and the Indian tribes. If the gentleman would refer to the report which he had himself made in this case, he would see that he himself had taken the ground that there was a capture and a recapture of this negro, and that the laws of war and the right of postliminy applied to this case. He (Mr. H.) would read an extract from that report:

"Whether Lewis went into the possession of Jumper as a fugitive or a captive, when he came under the control of the commanding officer of the United States by surrender or recapture, upon the clearest principles of public law the rights of the owner were restored, and it was the duty of the Government to restore the possession of his property. In his treatise on the law of nations, Vattel says:

"'The sovereign is obliged to protect the persons and 'goods of his subjects, and to defend them against the ene-'my; therefore, when a subject or any part of his substance 'is fallen into the hands of the enemy, should any fortunate 'event bring them again into the sovereign's power, it is 'clearly incumbent on him to restore them to their former 'state; he is to reëstablish the persons in all their rights and 'obligations; to give back the effects to the owners; in a 'word, to settle all things as they were before they fell into 'the enemy's hands.'

"'Persons return and things are recovered by the right of 'postliminy when, after being taken by the enemy, they come 'again under the power of their own nation. Thus this right 'takes place as soon as such persons or things taken by the 'enemy fall into the hands of soldiers belonging to the same 'nation, or are brought back to the army, the camp, their 'sovereign's territories, or the places under his command.'

"Surely there was nothing in the relation which the Florida Indians bore to the United States which exempted them from the operation of laws so well established and of such paramount authority."

If the gentleman would look a page or two further into Vattel, he would see that the right of *posiliminy* in the original owner, in relation to movable property, captured by land forces in a land war expired in twenty-four hours; but that in relation to real property, which was immovable, the right of *postliminy* existed until the termination of the war; and if, by recapture or treaty, the property again fell into the hands of the Government, the right of *postliminy* existed, and the property was returned to the hands of the owner. He admitted that, in relation to slaves, the Roman law made a distinction, and that slaves were regarded for this purpose as immovable property, and that by this Roman law, the right of *postliminy* in slaves existed until the termination of the war. But this distinction was not recognized by any civilized country in the world, and he trusted that it never would be recognized by the United States. Slaves, if treated as property at all by this Government, must be treated as movable property, and the right of *postliminy* expired, as he had stated, with the termination of twenty-four hours from the time movable property came into the full possession and power of the captor. He thought that the gentleman from South Carolina could not very well stand up here and say, after attempting to apply to this case the principles of public law applicable in wars between civilized nations, that these principles had no application whatever. If they had no application whatever, by what right did the gentleman claim, that when the Government had recaptured the negro, if they did recapture him, he should be returned to his original owners? It was only under the laws of war as recognized by civilized nations, that such a claim could be made under the doctrine of *jus postliminii*, to which the gentleman had referred in his report.

The gentleman had quoted from Vattel; and following the gentleman's quotation, and perhaps upon the next page, would be found the following limitation of the general rule, as stated in the gentleman's quotation:

"§ 209. Naturally, every kind of property might be recovered by the right of post liminium; and there is no intrinsic reason why movables should be excepted in this case, provided they can be certainly recognized and identified. Accordingly, the ancients, on recovering such things from the enemy, frequently restored them to their former owners. But the difficulties of recognizing things of this nature, and the endless disputes which would arise from the prosecution of the owners' claims to them, have been deemed motives of sufficient weight for the general establishment of a contrary practice. To these considerations we may add, that from the little hope entertained of recovering effects taken from the enemy and once carried to a *place of safety*, a reasonable presumption arises, that the former owners have relinquished their property. It is, therefore, with reason that *movables or booty are excepted from the right of post liminium, unless retaken from the enemy immediately after his capture of them:* in which case the proprietor neither finds a difficulty in recognizing his effects, nor is presumed to have relinquished them. And, as the custom has once been admitted, and is now well established, there would be an injustice in violating it."

The modern rule had fixed twenty-four hours as the limit to this right of postliminy; and if property was recaptured within twenty-four hours, it was now deemed an immediate recapture within the rule laid down in the extract from Vattel which he had last quoted.

It was claimed General Jesup should have delivered up the slave to the original owner. And the gentleman from Virginia [Mr. MEADE] read one portion of the letter as an evidence that negroes had been delivered up to the commanding officer. General Jesup, in his letter of April 9, 1837, says:

[We were not able to procure this extract in time for publication.]

The gentleman from Virginia did not read another portion of the letter in which General Jesup said:

[We were not able to obtain this extract.]

If this negro, he repeated, came in under the terms of capitulation, there was nothing which required these Indians to restore the negroes, either to the owners or to the United States.

It had been claimed that the United States were bound to pay for the negro, because they took him for public purposes, and that they were bound to make compensation. They did not take him from Pacheco. He was not Pacheco's property; and if General Jesup did take him from Pacheco, as he (Mr. H.) insisted he did not, it was still

questionable whether Pacheco was entitled to compensation as against the United States. He would not, however, enter upon the question of the authority of General Jesup to send the negro west, if, as was claimed, he was the property of Pacheco. He (Mr. H.) did not propose to examine that point of the case. And he would not have sought the floor at all upon this occasion, if the declaration had not been made with such emphasis by the gentleman from South Carolina, [Mr. BURT,] and other gentlemen who were in favor of the passage of the bill, that there was no ground upon which the payment of this claim could be resisted, except the single one that slaves were not property. So far as he (Mr. H.) was concerned, (and such he knew, from the declarations of many other members, to be their opinions also,) opposition to the bill was based upon other and entirely different grounds.

As a lawyer, he could not deny, and he would not deny, that under certain circumstances, the United States were bound to regard slaves within the slave States as property in the strict legal sense of that term. He could not, and did not deny, that, under certain circumstances, and to a qualified extent, the Constitution and laws recognized colored persons as property in the slave States. And he did not put his vote upon the ground that they were not, and could not be property. He put it upon other and distinct grounds. It had been said by the gentleman from Virginia, [Mr. MEADE,] that if this House and this Congress refused to pay for this slave, the Union was of no value to the South. And he (Mr. H.) had understood the gentleman to intimate, that if pay was refused, he was willing, if not desirous, that the Union should be dissolved; that (to use an expression of his own) it was not worth the snap of his finger.

Mr. MEADE disclaimed.

Mr. HALL. Will the gentleman repeat what he did say?

Mr. MEADE said that he had stated, that if slaves were not to be regarded as property under the protection of the Constitution, and if that property was not to be protected from aggressions, the Union was of no value to the South.

Mr. HALL. Probably it is not important to settle precisely what the gentleman did say in reference to this question. But I understood him to do that which I never will consent to do—to calculate the value of this Union. I can tell the gentleman from Virginia, that if I felt that there was no other ground except the ground that slaves—colored persons—could not, under any circumstances, be considered so far property as to entitle their masters to compensation on their wrongful conversion; if, I say, I felt that there was no other ground on which I could justify a vote against this bill, I should be compelled to vote for it.

The gentleman from Virginia [Mr. MEADE] had said that there was a slavery in this House——

Mr. MEADE desired to ask the gentleman whether, in saying that that was not the only ground which would influence his vote, he was to be understood as saying that that would be a consideration with him?

Mr. HALL. I will tell the gentleman what influence it has upon me. The gentleman says that there is a slavery existing in this House on the part of northern Representatives, which, if I understood him, he characterized as more degrading and debasing than the African slavery of the South. And the gentleman intimated that members on this floor were afraid of their constituents, and dare not give their votes in accordance with their views of right and justice.

Mr. MEADE. I said, afraid of one-tenth part of their constituents, who hold the balance of power between the parties.

Mr. HALL. Well, then, afraid of one-tenth part of their constituents. I can say, for myself, that I have no fear of my constituents on this or any other subject, if I give my vote in accordance with my views of truth and justice. And especially I have no fear of that portion of my constituents which I suppose the gentleman intended to designate as the tenth part of them. They never elected, or voted for me; and they have not elected more than five or six members on this side of the House——

Mr. MEADE. Has the question of slavery any consideration with you in reference to this bill?

Mr. HALL. It has just this consideration with me in giving my vote on this bill, and no more: When gentlemen come here and ask me to vote money out of the public treasury in payment for a slave, for which slave it is said the Government is liable to pay, I will see whether, according to the strict rules of law—according to the letter of the bond—the United States are bound to pay. If I am satisfied that they are, I cannot, as an honest man and a legislator, refuse to vote in favor of the payment. But in a case of that character, I will not vote money as a gratuity in compensation for a slave, which I would vote as a gratuity under circumstances very similar, but relating to property of another kind. When gentlemen come here and ask payment for slaves as property, they must, before they can secure my vote, show that, by the strictest rules of law, they are entitled to demand it. In any other case, where hardship has been occasioned by the action of the Government, I will, as a matter of gratuity—just as we would give a pension, or pay for property where we were not strictly liable—give my vote to make compensation. To that extent this question of slavery shall influence my vote in this case. I will vote no money from the treasury in a case like this, on the ground of moral, as distinguished from legal, obligation; for I recognize only a legal, not a moral, right to hold property in slaves.

But the gentleman says that there is a slavery in this House, and that we of the North dare not vote in a particular manner, as our consciences would dictate.

Mr. MEADE. Would the gentleman, as to the measure of justice, apply a different rule to a slaveholder from that which he would apply to a non-slaveholder?

Mr. HALL. No, sir, not as to the measure of justice. I have explained myself upon that point fully. And I will request the gentleman not further to interrupt me, but to give me the benefit of the short space of time that I have yet left.

The gentleman has intimated that we dare not vote as our sense of justice prompts us, for fear of our constituents. I believe that my constituents would sustain me in giving any vote which my conscience approved, without reference to the consideration whether some of them would themselves have given the same vote under the same circumstances. If they would not approve, I am content. They have no more right to direct my vote against my sense of justice, than they have to direct that of any other member of this House, or other citizen of this Union. I believe that they will not condemn me for any vote which I may honestly give, although I may have been mistaken in my judgment. If any constituency desire a representative to vote against the dictates of his conscience, I cannot be a candidate for their suffrages. But I ask the gentleman from Virginia if there have not been some indications on this floor that some southern gentlemen are influenced to some extent, at least as much as northern members, by the views and wishes of their constituents? Why are they not willing to vote here to make the same rules applicable to the District of Columbia, which the slaveholding States have themselves adopted with reference to the slave trade, and to the purchasing and bringing slaves from other slave States, within their borders?

The gentleman from Maryland [Mr. MCLANE,] told us the other day, that if a person brought a slave into that State from the State of Virginia or elsewhere, for the purpose of sale, the slave became *ipso facto* free. And yet if a slave were brought into the District of Columbia under the same circumstances, he would still be held as a slave. Have the constituents of southern gentlemen nothing to do with their votes? I impeach the votes of no man; but it seems to me that gentlemen of the South should not cast such imputations upon gentlemen of the North. I cast no imputations, and I will say no more upon a point which I think it is better not to discuss here,—one which, in my judgment, should never have been mooted in this House.

As I stated in the outset of my remarks, I had no intention when I came here this morning to say a word upon this bill; but I desired, if no other gentleman did so, to indicate, as well as I could, some of the views which I have now endeavored to express. I feel that I have not only the capacity but the will to give upon this floor, or elsewhere, any vote upon a private bill, or public question, which strict justice may require me to give, without reference to any party at home; and I hope I may never be capable of cowardly yielding the convictions of my own judgment in consequence of the excited feelings of any portion of my constituents. I have desired, too, that gentlemen from the South, and the people of the South and the North, should not remain under the impression which the minority report in this case, and the speeches of some of those who, at an early day, engaged in the debate, seemed likely to create, that no northern man voted against the bill on any ground other than that they would not under any circumstances recognize the legal right denominated property in slaves.

Mr. TOOMBS obtained the floor; when, on motion,

The House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. CONGER: The petition of citizens of Cayuga county, New York, for cheap postage.

By Mr. BLANCHARD: The petition of sundry inhabitants of Blair county, Pennsylvania, for an immediate repeal of the tariff of 1846, and a restoration of the tariff of 1842.

By Mr. LYNDE: The petition of Theodore P. Sexton, John Martin, and others, citizens of Racine and Walworth counties, Wisconsin, for alteration of mail route between Rochester, Racine county, and Spring Prairie, Walworth county.

By Mr. NICOLL: The petition of F. G. Freeman, J. Williams, H. Little, William Hall, and 311 others, of the city of New York, asking for reduced and uniform rates of postage, and for the abolishment of the franking privilege.

By Mr. ATKINSON: The petition of Josiah Wiles, and others, of Norfolk, Virginia, asking that their bond for customs may, for reasons stated, be cancelled.

By Mr. DARLING: The petition of sundry inhabitants of Wisconsin, asking for the establishment of a mail route from Dodgeville, in the county of Iowa, to Adams, the county seat of Sauk county.

By Mr. CLARK, of Maine: The remonstrances of Joseph Clark, and 550 others, of Waldoboro; of J. N. Bond, and 131 others, of Jefferson; of Robert Robinson, and 128 others, of Warren; of Lewis Batcheldor, and 75 others, of Union, all against the division of the Waldoboro collection district.

By Mr. THOMPSON, of Iowa: The memorial of the General Assembly of the State of Iowa, praying for the establishment of a marine hospital at Rock Island, in the Mississippi river. Also, a petition praying for an increase of the pension of Isaac W. Griffith, who lost an arm in the Mexican war. Also, a petition praying for a grant of the public lands to aid in the improvement of the navigation of the river. Also, a joint resolution of the General Assembly accepting a reconnoissance and preliminary survey of a contemplated railroad from Dubuque, via Iowa City, to Keokuk; and instructing their Senators and Representatives in Congress to procure a grant of land to aid in its construction.

By Mr. NICOLL: The memorial of the Sun Mutual Insurance Company; the Atlantic Mutual Insurance Company; Badger, Peck, & Co.; Ralph Post, and others, underwriters and persons engaged in commerce in the city of New York, praying that additional appropriations may be made by Congress for the continuance of the observations and publications made under the direction of Lieutenant Maury.

IN SENATE.

MONDAY, *January* 15, 1849.

Mr. GREENE, of Rhode Island, appeared in his seat.

The VICE PRESIDENT presented a report from the Secretary of the Senate, of the number and compensation of the clerks employed in his office during the year 1848; which was ordered to be printed.

MEMORIALS AND PETITIONS.

Mr. DAVIS, of Massachusetts, presented a petition from publishers of periodicals in Boston, asking that they may be allowed to exchange their publications free of postage; which was referred to the Committee on the Post Office and Post Roads.

Mr. CALHOUN presented a petition from Lieutenant Reeves, a first lieutenant of United States artillery, and adjutant of the Military Academy, asking to be allowed the pay and emoluments of an adjutant of dragoons; which was referred to the Committee on Naval Affairs.

Mr. CLARKE presented a petition from citizens of Providence, Rhode Island, asking for a reduction of the rates of postage, and the abolition of the franking privilege; which was referred to the Committee on the Post Office and Post Roads.

Mr. JONES presented a joint resolution of the Legislature of Iowa, in favor of an appropriation of lands, for the purpose of constructing a railroad from Dubuque to Keokuk, in Iowa; which was referred to the Committee on Public Lands.

Mr. JONES presented a petition from the Legislature of Iowa, asking an appropriation of land on Rock Island, in the Mississippi river, for the con-

struction of a marine hospital on that island; which was referred to the Committee on Public Lands.

Mr. J. also presented a petition from the Legislature of Iowa, asking a grant of land to aid in the construction of a canal from Iowa City to the mouth of Iowa river; which was referred to the Committee on Public Lands.

Mr. J. also presented a petition from the General Assembly of Iowa, asking an increase of pension for Isaac W. Griffith, a soldier in the revolutionary war; which was referred to the Committee on Pensions.

Mr. UNDERWOOD presented the memorial of Henry O'Reilly, charging arbitrary conduct on the Judge of the United States District Court in the State of Kentucky, in a matter to which said O'Reilly was a party, and complaining of the evils of hasty legislation on subjects affecting the judiciary of the country and the proper execution of the patent laws. In doing so, he said: Mr. President, towards the close of the last session of Congress I obtained leave to bring in a bill to change the terms of holding the circuit and district courts for the district of Kentucky. This bill was passed. Yesterday I received a letter from Mr. Henry O'Reilly, and likewise a memorial from him to the Congress of the United States, in which he charges that that application to me for the change of the terms of holding the courts had something like a sinister object on the part of those who made the application.

At the time that I obtained leave to bring in that bill, and when it was passed, I had no other object in view than to accommodate the judge of the district court who had received an appointment to preside over a law school in Louisiana. Thinking that the change would accommodate him, and that it would not compromise the public service, I cordially supported the bill. This memorial and the letter accompanying it seem to intimate that the object of that application to me was to get rid of the district judge, and thus give to the judge of the circuit court the entire control of the cases in the two courts, and that in this way the interests of the suitors in the courts have been greatly injured.

I make this statement, sir, as a preface to the motion which I will now make to refer the memorial and letter of Mr. O'Reilly to the Judiciary Committee. I hope they will take the subject into consideration, and ascertain whether any injury has been done to the interests of suitors in making this change, and see whether there is any foundation for the charge here made against the circuit judge; and if so, how it can be remedied.

I feel it my duty to state, on this occasion, that I have known Judge Monroe for thirty years past, and that I do not believe there is any foundation for any charge which in the smallest degree impeaches his motives in this transaction. However, I conceive it to be my duty to bring a memorial from any citizen before the Senate, and therefore I move that this subject be referred to the proper committee.

Mr. DICKINSON presented a petition from citizens of Buffalo, New York, praying for the construction of a national railroad from the Missouri river to the Pacific Ocean; which was referred to the Committee on Roads and Canals.

Mr. STURGEON presented three memorials from citizens of Montgomery and other counties of Pennsylvania, praying for a change in the rates of the tariff duties; which was referred to the Committee on Finance.

Also, from citizens of Lancaster county, in the State of Pennsylvania, asking a modification of the present tariff; which was referred to the Committee on Finance.

Mr. BENTON presented a petition from Peter Parker, asking payment of a balance due to him as interpreter and translator to United States agents in China; which was referred to the Committee on Foreign Relations.

Mr. BORLAND presented a memorial of the Legislature of Arkansas, in favor of granting bounty lands to all officers and soldiers who have been engaged in actual service, and have never yet received any; which was referred to the Committee on Military Affairs.

Mr. BORLAND presented a memorial from the General Assembly of Arkansas, asking a donation of land to the Clarksville Institute, for the education of the blind; which was referred to the Committee on Public Lands.

Mr. CLAYTON presented a petition from the widow and children of John Robertson, deceased, a soldier in the last war with Great Britain, asking for a new bounty land warrant in lieu of one which is lost or destroyed; which was referred to the Committee on Claims.

Mr. SEBASTIAN presented the petition of Hiram Smith, a register in the land office in Champagnolle, Arkansas, asking for the allowing of certain charges and commissions in the settlement of his accounts; which was referred to the Committee on Claims.

Mr. SEBASTIAN presented the petition of Henry M. Rector, asking for the confirmation of his title to certain lands in the State of Arkansas; which was referred to the Committee on Public Lands.

UNFINISHED BUSINESS OF COMMITTEES.

Mr. YULEE. There was passed a short time since a resolution which directed the Clerk to return to the committees of the Senate all the papers which were given into his charge at the last session, and which had not been favorably acted upon. When that resolution was passed the other day, on motion of the Senator from Louisiana, I was not present, or I should have objected to it. It will cover an immense mass of cases, the most of which, I am told, do not again need consideration by the Senate committees. Those which the committees need have been returned to them. I understand it will take a week to collect these papers, as there are upwards of seven hundred of them, and they having been filed in their appropriate departments.

Now, in behalf of the Committee on Naval Affairs, I object to their receiving again for consideration a bundle of trash which was decided upon unfavorably at the last session, and which, upon my motion, was given in charge of the Clerk, as unnecessary for further consideration. By this resolution all these cases will be returned to us, and we will have to go over our labor again, thereby giving us much unnecessary trouble. My desire in rising was to ask the Senator who moved this resolution, that he so modify it as to apply it to his own committee; or, at all events, that the Committee on Naval Affairs be excluded from its operation. Chairmen of other committees may determine for themselves whether they will receive these papers or not.

Mr. BRIGHT. Mr. President, I do not understand that the effect of this resolution will be such as the Senator from Florida supposes it will be. I do not understand that the resolution offered by the Senator from Louisiana, [Mr. DOWNS,] and which was adopted by the Senate, authorizes necessarily that all papers which were before the committees at the last session, and were not acted upon, should be referred back to the committees which had them respectively under consideration at the last session. There is a rule of the Senate which declares that all papers on file must remain there unless otherwise ordered by the Senate.

The operation of the resolution adopted by the Senate is not to take all the papers unacted upon and put them before the various committees that have had them under previous consideration. That would be repealing a rule of the Senate which expressly declares that all papers on the file must remain there until otherwise ordered by the Senate. I think, therefore, that the apprehensions of the Senator from Florida in relation to the operation of the resolution are groundless.

Mr. DOWNS. The object of the resolution which I offered some time since was, to continue before the committees papers and business not finished at the close of the last session of Congress. I thought the resolution would tend to facilitate business, inasmuch as there was a great deal unacted upon when Congress adjourned. But, from what the chairman of the Committee on Naval Affairs has stated, it seems that that committee is somewhat differently situated from the rest of the committees; having examined all the subjects submitted for their consideration at the last session, before the close of the session they came in and were discharged in the usual order. But there are many important matters lying over that were not acted upon at all at the last session, and the object of my resolution was, to save the trouble of reporting upon and referring back each separate case, but that they might all stand just as they were at the close of the session. I therefore shall make no objection to the resolution now offered, although I hope that its operation may not be extended to other committees, because I know that there were a great many important measures referred to various committees at the last session which have not been acted upon, and which I would like to have acted upon during the present session.

Mr. YULEE. Mr. President, I shall be satisfied to confine the operation of my resolution to the Naval Committee alone.

Mr. BERRIEN. Mr. President, I have been unable to understand the nature of the resolution referred to by the Senator from Florida, and from the operation of which he wishes that his committee may be exempted. For the purpose of ascertaining its purport, I ask that the resolution may be read.

The resolution was read accordingly.

Mr. YULEE. Mr. President, I will state that a resolution has been already passed recommitting to the committees all bills and resolutions not yet acted upon. To that there is no objection. But this resolution carries back to the committees the whole mass of petitions and other papers which are now on file, thus overwhelming the committees with a vast amount of unnecessary business. It is to this that I object.

Mr. BERRIEN. Will the Senator from Florida allow me to inquire whether the committee of which he is chairman was not discharged at the close of the last session from all business before them not acted upon?

Mr. YULEE, (in his seat.) Yes, sir.

Mr. BERRIEN. These papers, then, are not before them?

Mr. YULEE. So I should suppose; but the Secretary informs me that all these papers have been sent back to the committee rooms. If the substance of the resolution be as stated by the Senator from Georgia, I shall make no objection against it.

Mr. BRIGHT. Mr. President, previous to the adoption of the resolution just read, the Committee on Naval Affairs had returned many papers, petitions, &c., and asked to be discharged from the further consideration of them. They were discharged; and there were several other committees in the same situation. Now, all the papers from the further consideration of which the committees were discharged remain on the files of the Senate, unless by the order of the Senate they shall be returned to the committees. In other words, the Secretary of the Senate does not necessarily carry these papers back into the committee rooms from which they were returned to the Senate.

Mr. YULEE. Mr. President, if that be the understanding of the gentleman who introduced the resolution, I have no objection to it.

Here the conversation dropped.

REPORTS OF COMMITTEES.

On motion of Mr. ATHERTON, the Committee on Finance was discharged from the further consideration of a petition from the President and Fellows of Harvard College for leave to import certain instruments free of duty, on the ground that the case had been provided for; and they were laid on the table.

On motion of Mr. PHELPS, the Committee on Finance was discharged from the further consideration of a bill for the relief of the Red River Railroad Company.

Mr. DAVIS, from the Committee on Patents and the Patent Office, to which was referred the memorial of John B. Emerson, reported the following resolution, which was considered and agreed to:

Resolved, That the petition and papers of John B. Emerson be referred to the President of the United States, and that he be requested to cause a report thereon to be made to the Senate, wherein the public officer making such report shall state in what cases, if any, the United States have used or employed the invention of said Emerson, contrary to law; and further, whether any compensation therefor is justly due to said Emerson; and if so, to what amount in each case.

Mr. METCALFE submitted the following resolution, which was considered and agreed to:

Resolved, That the Secretary of the Navy be directed to inform the Senate whether any contract has been entered into for the supply of the American navy with water rotted hemp, under the resolution passed during the last session of Congress, and approved 9th May, 1848; and if so, with whom, and upon what terms, and if no such contract has been made, whether any permanent arrangement for obtaining supplies of that article has been made, and if so, with whom, and the nature of the arrangement, and whether the

United States hemp agent, (Mr. Lewis Sanders,) has been instructed to suspend purchases.

Mr. DAYTON, from the Committee on Patents and the Patent Office, reported a bill authorizing a patent to be issued to W. Green, Jr.; which was read a first time.

ADMISSION OF CALIFORNIA.

Mr. DOWNS, from the Committee on the Judiciary, submitted a minority report on the bill for the admission of California into the Union as a State, together with certain amendments, and moved that the report and the amendments be printed for the use of the Senate.

Mr. BERRIEN inquired if it was according to the usages of the Senate for minorities of committees to make reports to the Senate which had not been submitted to the committees.

Mr. DOWNS responded that he had pursued what he believed to be the ordinary course in such cases.

Mr. DAYTON said that the truer and better practice was, that minorities should submit their views to the committees, for the reports of minorities might sometimes influence the action of majorities. He had no wish to occasion any delay, but at the same time he would like to inspect the report which had just been submitted.

Mr. KING remarked, that a practice had grown up in the Senate, in an evil hour, by which minorities of committees were permitted to submit reports directly to the Senate. The practice was a recent one, and he was not aware of more than half a dozen cases in which it had occurred. He believed it to be a wrong practice. He did not wish to be understood as objecting in this particular case, inasmuch as it seemed, the other day, when the majority report was presented, to be conceded by general consent that the minority should make a report. That being granted, and as the Senator who made this minority report had simply expressed his views—views which were in part expressed in debate on a preceding day—and submitted an amendment to the bill for the action of the Senate, he had no objection to offer. The practice, however, was a bad one, and should not be encouraged, except in cases for which strong reasons should be found.

Mr. DAVIS, of Massachusetts, concurred generally with the views expressed by the gentleman from Alabama, but not with all of them. He concurred with that gentleman that this was a practice which had gradually grown up in the Senate; but he had risen to say that he did not consider that what is here called a minority report was any report at all. It was not entitled to that appellation in any respect. It was simply the views of the minority of the committee, and it was merely as a matter of indulgence that it was received at all. It had, nevertheless, become a practice to receive and print such documents.

Mr. BERRIEN suggested that the document should have been first submitted to the committee.

Mr. DAVIS inquired why it should be submitted to the committee. Was it open to amendment? Did the committee propose to adopt it? It was true, as had been said, that the committee might be influenced by it, but that was only so far as the committee might concur in its propriety. But he did not think that was the usual course. The usual course was that which had been pursued by the gentleman from Louisiana, [Mr. DOWNS,] to submit a minority report to the Senate, or to the House of Representatives, and the simple question was, whether they would so far indulge the minority by printing their views. He could not see any good reason for committing this document to the committee.

Mr. CLAYTON said he believed the usual practice had been to print reports of minorities of committees. It was true, as had been said by the gentleman from Alabama, that such a practice had grown up; but however objectionable the practice might be ordinarily, he apprehended that objections would not be urged now, for this was an extraordinary case. He believed most Senators were anxious to hear the views of the Senator from Louisiana on this interesting subject; and because it was an important subject he should vote for printing this paper. He did not suppose it was necessary to refer it back to the committee, and he hoped it would be printed, for he desired that the Senate should be put in possession of the views of the minority of the committee.

Mr. FOOTE said he apprehended the gentleman from Massachusetts was in error respecting Senatorial usage when he undertook to assert that this could not be called a minority report. Reports from minorities of committees had always been called reports in congressional *parlance*.

Mr. DAVIS, of Massachusetts, assured the gentleman from Mississippi that the earlier practice was, to call them the views of the minority of a committee, and not reports. They had not been so entitled until these modern times.

Mr. FOOTE well recollected the minority report on the national bank question, and a great variety of others, which supported the position he had taken. And he must still insist that this was a congressional report, and was entitled to be treated as such in all respects. If he did not greatly err, it was in accordance with Senatorial usage to denominate the embodied views of the minority of a committee in such a form as had been adopted in the case before them as a report. It was entitled to be read and printed for the use of this body, and for the information of the public, for precisely the same reasons which claimed the reading and printing of a majority report. It was only in this way that the views which it contained, the statements of fact embodied in it, and its general argumentation could be fairly appreciated here and elsewhere. It was a report even in the grammatical sense, if gentlemen wished to be hypercritical on such a point—the word report being compounded of two well known Latin terms, which imply a bringing or carrying back. In this sense the word report simply means a bringing back into a legislative assembly the subject referred to a committee, with the views of such committee thereupon; and it was proper that, upon so important a subject, at so peculiar a crisis, such a report as that just offered to the Senate should receive the most liberal treatment at their hands, and he hoped it would have the most salutary effect elsewhere.

But he would not prolong this discussion, which he deemed by no means a profitable one. He had merely risen to ask that the report be read, and, when it should have been read, he believed no doubt would remain of the propriety of printing it.

Mr. DAYTON suspected that the Senator from Mississippi was laboring under a misapprehension. He, for one, was not opposed to the printing at all. The remarks which he had made, and he believed those of the gentleman from Alabama, [Mr. KING,] too, were merely in reference to the general practice; and, as to the general propriety of an interchange of views in committee there could be no doubt. When the members of a court dissented, it was the practice, and a courteous and proper practice, to consult; and so it should be with committees. But perhaps it was of less importance in this case, because they had had the views of the gentleman from Louisiana [Mr. DOWNS] from his place in the Senate.

Mr. FOOTE had not expected to hear a lecture on the general practice or general propriety, but had supposed that all this argumentation was applicable to the case in hand. Now, however, he understood it was not so, and that this discussion with which they had been favored did not pertain to the question before the Senate. That being so, and after the enjoyment of all the pleasure and delight which it was possible to derive from the lecture which they had heard, and as all now seemed to concur in the propriety of printing this report, he trusted they would advance a step further, to wit, to the reading of the report, for he believed all wished to hear it. The report of the majority was read, and he wished to hear this report also.

Mr. BERRIEN said he believed this discussion had arisen, not from any objection to the printing, but from an inquiry which he made, whether the manner in which it came before the Senate was according to the usage of the body.

After a few words of explanation between Mr. FOOTE and Mr. BERRIEN, the call for the reading of the document was withdrawn, and it was ordered to be printed.

JUDICIARY REPORT.

On motion of Mr. HUNTER, the Senate resumed the consideration of a motion, submitted some days since, to print 10,000 copies of the report of the Committee on the Judiciary, on the bill for the admission of California into the States of the Union.

The motion was then modified, so as to include the minority report presented to-day by Mr. DOWNS; and was then agreed to.

LAND TITLES IN NEW MEXICO AND CALIFORNIA.

On motion of Mr. BENTON, the Senate resumed the consideration of the bill for ascertaining claims and titles of land within the Territory of California and New Mexico; to grant donation rights, and to provide for the survey of the lands therein; which was under discussion on Friday last, and informally passed over.

Mr. BENTON. As I stated to the Senate on Friday, I am opposed to the whole scheme or plan contained in the bill which is now before the Senate; and I propose to substitute for it a plan founded on an entirely different principle. The principle of the bill now before the Senate is found in the first sections of the bill, which I will read to the Senate:

"SEC. 1. That for the purpose of ascertaining the claims and titles to lands within the Territory of California and New Mexico, as required by the treaty of second of February, eighteen hundred and forty-eight, and for surveying and selling the public lands, there shall be appointed by the President, by and with the advice and consent of the Senate, a surveyor general, a register of lands, and a receiver of public moneys, who shall act conjointly as a board of commissioners to adjudicate land claims.

"SEC. 2. They shall proceed to hold their sessions as commissioners as soon as practicable, at such points as may be directed by the President, giving public notice in some newspaper printed at each place, or if there be no newspaper, at the most public places at those points, respectively, of the time at which their sessions will commence, requiring all persons to bring forward their claims, with evidence necessary to support them. Their last session shall terminate on the thirtieth of September, one thousand eight hundred and fifty-one, when said commissioners shall forward to the Secretary of the Treasury, to be submitted to Congress, a detailed statement of all they have done; and deliver over to the surveyor general all the archives, documents, and papers, that may be in their possession." * * * * * * * * *

The first objection I have to this bill is, that it couples California and New Mexico in one single general land surveying district. The two countries are put together in one land district, and all the business which belongs to both is to be transacted in one office, which office can only be in one of the two countries. Now, California and New Mexico have been always politically totally distinct, and are geographically widely separated from each other. Each consists of a mere string of settlements, one upon the Rio Grande del Norte, a river falling into the Atlantic ocean, the other, a string of settlements along the coast of the Pacific. Between them is a wilderness country of about a thousand miles in extent, the whole of it the undisputed dominion of savages, over which no man travels except with a force sufficient to protect his life and property, moving militarily and encamping every night under the guard of sentinels, while traveling between the two countries. These two countries have never had any political connection whatsoever. Few of the inhabitants of either have ever been in the other. And to require the people of either of these strips to traverse this wilderness and go to the other for the purpose of transacting their business, is to impose on them a hardship which is intolerable—to impose on them a task which cannot be performed. There is a total disability of performing it, and when the surveyor general's office shall be established at San Francisco, as under this bill it is to be, the people of New Mexico may give up all thought or expectation of having their business done by this Board of Commissioners. That is one objection to uniting these two countries in one land district. But there is another, which must suggest itself at once to the mind of every Senator. New Mexico is a country of indefinite boundaries; it is a country about the boundary of which a serious question is impending—which question, sooner or later, must receive its solution—and when it comes up, it will be large enough to occupy exclusively the authorities who may have charge of the settlement of it. The bill before us does not undertake to settle its boundaries. And it would be most injudicious and improper for it to undertake to do so. There are questions enough in the bill without mixing them up with the question of boundary between Texas and New Mexico. The bill does not undertake to fix the boundary, and it is right in making no such attempt.

But it is equally wrong in undertaking to join together New Mexico and California, when one of those countries has no boundaries by which the

practical operation under this bill is to be governed. Treasury instructions must be sent out to the surveyors defining the boundaries. Their settlement will become a subject, not of law or legislation, but of an Executive order. Sir, we all know the usual course of such things. If this bill should be passed, New Mexico, having no definite boundary, it must be acted on nevertheless; instructions must go out under it; and the rule of practice is, that the instructions are to make precise and definite whatever is indefinite and unascertained. Instructions must, then, go out, if the bill be passed, by which the surveyors will have a boundary given to them, up to which they shall work, and beyond which they shall not go. And thus we shall have devolved upon the Secretary of the Treasury, as the head of the land department, the settlement of the great question of boundary between Texas and New Mexico. The mischief that must arise from such a proceeding is too palpable to require that I should add a single word upon this point. It is manifest that it is important to keep the two countries distinct; that it is utterly out of the question to combine them, one of them being without definite boundaries, leaving it to the deputy surveyors hereafter, under Treasury orders, to say where the boundary is. I carefully abstain from saying one word about the boundary of Texas, because it is not my intention to be the means of occasioning one word to be spoken on this bill which is not pertinent to its merits.

Here, then, is a preliminary objection to the bill, that of combining two countries geographically and politically separated from each other, and of sending a question of boundary to be decided by Executive instructions to deputy surveyors. It is in reference to this part of the bill that the instructions which I have proposed require the committee to inquire into the expediency of reporting a bill for California alone, leaving out New Mexico to take her chance hereafter. And while at this point I will say that, in my opinion, there is little occasion for any surveyor general's office in New Mexico—take the boundary of it where you please. From what I know of that country—a country which has been settled for at least two hundred and fifty years—there are no public lands in it. So far from there being any vacant land, you stand a better chance of finding titles piled upon each other three or four deep. But with respect to California, there are public lands there, and for the survey of those lands provision ought to be made. Some bill with respect to them will be required. The one which has been presented by the committee, I undertake to say—although the committee have copied an old plan which has been heretofore used—is a plan which is in violation of the treaty between the United States and Mexico; it is a plan in violation of the law of nations; it is a plan in violation of the decisions of the Supreme Court of the United States, made in similar cases. It is a plan unjust in itself, and equivalent in its operation to an entire confiscation of the whole landed property of California and New Mexico. These are large objections which I take to this plan, Mr. President, and which I will proceed to sustain by a more extended examination.

In the first place, the surveyor general of public lands, and the register or receiver, or other officer constituting the board—no matter who—are made commissioners for the purpose of deciding upon land titles; and to that end all the titles of the country are to be brought before them to be examined into and adjudicated upon, and within two years to be returned to the Government of the United States here, with the opinion of the commissioners in each case, having themselves no authority to confirm anything where the amount of the grant exceeds one thousand acres. This is one general impeachment of all the land titles of California and New Mexico. It is an assumption made by this Government that every title in those territories is invalid; and an affirmation that not one of them should be confirmed until legislatively passed upon by the Congress of the United States; for this board of commissioners is to make a return of their proceedings to the Secretary of the Treasury, who is to lay them before Congress, and Congress is to pass in detail upon every claim.

Sir, this is bringing the legislative power to decide judicial questions. It is first providing a board to impeach every title in the country—to invalidate every title—to arraign every title—with no power to confirm any claim that exceeds one thousand acres; and I apprehend there never was a grant made in Mexico or California of less than a league or half a league—4,428 or 2,214 acres square. I never heard of a grant being made of less. The board can confirm nothing. And when they have thus examined into every title, the case is to be sent here to the Congress of the United States for legislative action in passing upon judicial questions concerning titles. Sir, this is a confounding of the legislative power with the judicial power; and it is subjecting claimants who have *rights* to all the humiliation of being petitioners begging favors. It is to subject the man who has a claim of *right* in his hands to the degradation and uncertainty of petitioning for a favor. It is proposing to do a thing which cannot be done under the treaty—which cannot be done without a violation of the treaty—which cannot be done under the law of nations, without a violation of the law of nations—which cannot be done under the decisions of the Supreme Court, without a violation of those decisions—which cannot be done at all, without carrying alarm, consternation, and ruin throughout the entire provinces of California and New Mexico.

What is to be the practical operation of it? How is this thing going to work? What is the test by which the legislature is to construe them? There are three men constituting the board of commissioners, who are to be invested with power to bring before them the claims to land of every inhabitant of California and New Mexico for the purpose of examining his title. They make their examination, and afterwards make a report or return of the cases to the Congress of the United States. Each claimant throughout the entire country is to come with his title, and make it good before a board to be composed of foreigners, whose language they cannot speak. Terror and consternation will pervade the land when these Mexicans and Californians, a conquered people, a helpless people, ignorant of our language, find that the very titles to their property are subjected, not even to the law under which they have lived, but to the pleasure of the agents of their conquerors. How is it to act, sir? At the first summons to appear before such a board, I say—and I say it with a knowledge of what took place under similar boards in Louisiana—terror and consternation will pervade the land. What is the first feeling of these foreigners?—I call them foreigners because they are a conquered people not yet assimilated to us: their first feeling is, we are in the hands of our conquerors, of those who do not speak our language, who have power to do what they please.

And, sir, what is the means which suggests itself to them as a chance of saving some part of their property from this new tribunal, and from those who possess unlimited power over them? The first feeling is—I know it well—that they must go to an American, to one of those who belong to the nation which had conquered them, and has absolute power over them, and they must give him half as compensation for going before the board and saving the other half. That is the feeling, and that is the way in which they will feel compelled to proceed. When they have given one-half—for that is the usual proportion—when they have given one-half to get an advocate to go before the commissioners, there is then no power of deciding upon cases comprehending more than a thousand acres. There are no such quantities. It is then the claimant must follow his land to the Congress of the United States, three thousand miles distant from the country where these people live. What, then, is to be done? Then they must employ that agent or some other to follow the claim these three thousand miles across the continent to the seat of the Federal Government, and there become an humble suitor before the Congress to get their claim heard and adjudicated. And what must they pay for this further agency? Happy will they be if they get off with loss of the half of the remaining half. Happy, in fact, if they obtain any decision at all—if they do not like Louisiana claimants, sue in vain to Congress ten, twenty, thirty years, for an acknowledgment of their rights. Forty years have elapsed, and many of these claims are yet unadjusted, the claimants in the mean time, some bankrupt and dead, others clinging to a last hope, and spending the last dollar in annual attendance upon the two Houses of Congress. As it was in Louisiana, under former boards of commissioners, so will it be, and worse, because more distant, with the people of New Mexico and California, if this board is established there. Senators from States once a part of Louisiana know full well the truth of what I say. They know the ruin brought upon many claimants in Upper and Lower Louisiana. They know that many lost their homes, which they had received from the Spanish Government; that many, wearied out and disgusted, abandoned their possessions, and went off to Mexico to obtain new grants from that Power; and that, in fact, Texas was largely peopled in that way from Missouri.

I repeat it: Bad as things were under these boards in Upper and Lower Louisiana, it will be far worse with these people of New Mexico and California, so much more distant, so much more helpless, so much more ignorant of our real character, and finding themselves to be a helpless, conquered people. Terror and consternation will invade them: to purchase protection by giving up half their property will be their resource—and that an unavailing one; for the commissioners are to have power to impeach everything—to invalidate everything—and to confirm nothing. For there is no grant of one thousand acres in California or New Mexico: they go there by leagues and half leagues; and this maximum of one thousand acres is not over a divisional fraction of any grant. No grant can be divided by any number which will end with one thousand; it will be more or less.

New Mexico was conquered and settled by the Spaniards in 1594—the same century that Cortes conquered old Mexico—and ten years before Virginia was settled. Two hundred and fifty years have elapsed since that country was granted to its conqueror, Don Juan de Onate: almost ten generations have lived and died there. Yet they are all to be called upon now to show their land titles, and to prove them also, back to the time of the conquest. All titles are to be ripped up, and rooted up, back to the original grant, two hundred and fifty years ago. What would Virginia say if she had been conquered by a foreign Power, and should be served in the same manner? What would happen in that State if conquered, and called upon by the conqueror, every one to produce his title, and make it good, and wait upon Congress as humble petitioners, until it was acknowledged?—make it good up to the time of King James the First and Sir Walter Raleigh? Such a thing could not be done in Virginia; but the United States is strong enough to do what is worse in New Mexico, and will do it if this bill is passed, establishing a board of commissioners to impeach all titles, and send all claimants here to Congress to supplicate the legislative power to spare their lands.

California was settled in 1770—above three-quarters of a century ago—cotemporary with the settlement of Kentucky, and grants have been going on ever since. What would Kentucky say, if conquered, and her conqueror should require every landholder to bring in his title, and place it before a board with power to condemn all and to confirm none, and with the privilege to the impeached owner to go three thousand miles to some strange legislature to supplicate for the land of his fathers? Kentucky would not submit; and yet the Californians must submit to the same, and worse, if this bill passes. It is a bill tantamount in its effects to the general confiscation of all the land titles in California and New Mexico. I say this is a violation of the treaty. I will read:

"ART. VIII. Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, *retaining the property which they possess in said territories, or disposing thereof, and removing the proceeds wherever they please*, without their being subjected on this account to any contribution, tax, or charge whatever. * * * * In the said Territories property of every kind now belonging to Mexicans not established there shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire property by contract, shall enjoy with respect to it guarantees equally ample as if the same belonged to citizens of the United States."

"ART. IX. Mexicans who, in the Territories aforesaid, shall not preserve the character of citizens of the Mexican Republic conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and, in the mean time, shall be *maintained* and *protected* in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction."

Here is not only an assurance, but an absolute stipulation that their property should be inviolably respected; that the owners shall be at liberty to use it at their pleasure—selling it, and removing with the proceeds as they think proper. And, in the face of this positive stipulation for the inviolable respect of property, here is a bill for the impeachment and for the destruction of their titles—for the depreciation of their property—for rendering it useless and valueless. The title is impeached the very instant it is carried before the board: that very instant the treaty is violated. So far from being respected, the title is arraigned, the value depressed at least one-half or three quarters. Do we not all know that the value of the unconfirmed lands in Louisiana were sunk half or more? The confirmed titles are those which the United States have endorsed: the unconfirmed are those acted upon—the commissioners reject and bring before Congress. We all know the operations in regard to these unconfirmed claims: they are arraigned, invalidated; they cannot be sold or beneficially improved, being at the same time liable to pay taxes, and to be sold upon execution; and thus pass out of the hands of the owners for little or nothing. Now, in this treaty there is a peremptory stipulation against this invalidation of property: it is not to be impeached or violated—destroyed in any way. That is the stipulation in the treaty; and yet this bill goes to the destruction of the whole; for, sir, the property cannot be sold to any advantage while the title is thus impeached; and the owner cannot go on with any improvements, for he does not know to whom those improvements are to belong. He can do nothing. His arm is paralyzed, his heart is sick; he looks, and looks helplessly, to a foreign country—to its mercy, and not to its justice. He may beg, but cannot demand: he may supplicate, but cannot enforce his prayer. He cannot even go into court, but must come to Congress—a legislative body which, God knows, has more to attend to besides than they are able to do.

I have shown by the treaty that the scheme of this bill is a violation of its eighth and ninth articles. I now show you, sir, that it is a violation of the law of nations, a violation of the decisions of the Supreme Court, as applicable to the title of lands falling under our dominion by acquisition from other countries——

Puffendorff's Laws of Nature and Nations, lib. 8, *ch.* 6.—"The conqueror acquires over those whom he subdues a despotic power with respect to their lives, but not with respect to their possessions."

Vattel.—"The conqueror lays his hands on the *possessions of the State*, on what belongs *to the public*, while private persons are permitted to retain theirs. To them the result is, they only change their masters."

United States Supreme Court.—"It is a principle of the common law, which has been recognized as well in this as in other courts, that the division of an empire works no forfeiture of previously vested rights of property, and this maxim is equally consonant with the common sense of mankind, and the maxims of eternal justice."—5 *Wheaton*, 518.—(*Chief Justice Marshall.*)

"In the treaty by which Louisiana was acquired, the United States stipulated that the inhabitants of the ceded territory should be protected in the free enjoyment of their property. The United States, as a great nation, regarded this stipulation as the *avowal of a principle* which would have been held *equally sacred, though it had not been inserted in the compact.*"—4 *Peters*, 512.

"The term *property*, as applied *to lands*, comprehends *every species of title*, inchoate or complete."—*Ibid.*

"A treaty of cession from one country to another only passes such right as the sovereign, as such, has; but does not pass what belongs to the subjects or citizens. Whether those rights are inchoate or perfect, they are all held sacred."—9 *Peters*, 711.

"The customs and usages of the country which issued the grants are good proof in the ceded or conquered country."—*Ibid*, 712.

"A grant or concession made by that officer who is by law authorized to make it, carries with it *prima facie* evidence that it is within his powers. No excess of them, or departure from them, will be presumed."—9 *Peters*, 132.

"The people change their allegiance, but their relations to each other, and their rights of property, remain undisturbed."—7 *Peters*, 87.

Puffendorf, book 8, chapter 6th, says: "The conqueror acquires over those he subdues power as to their lives, but not as to their possessions." Vattel says: "The conquered lose the possessions of the State, but not that which belongs to private individuals." Thus we see private persons are permitted to retain their property. The result is, they only change their masters. The United States Supreme Court says it is a principle of common law, which has been recognized as well in this as in other countries, that the acquisition of a foreign country by force of arms works no forfeiture of individual rights; private property is not thereby divested. And this maxim is clearly consonant with the common sense of mankind and the principles of eternal justice. This was an opinion delivered by Chief Justice Marshall.

The treaty by which Louisiana was acquired stipulated that the inhabitants should be guarantied in the enjoyment of their property. The United States regarded any stipulation or avowal of this principle as being scarcely needed; that titles to private property would have been held equally sacred, though it had not been inserted in the compact. The term "property" applies to every species of title inchoate or complete. A treaty of cession from one country to another only passes such right as the sovereign, as such, has, but does not pass such as belongs to subjects or citizens. Whether those rights are inchoate or perfect, they are all held sacred. The customs and usages of the country which ceded the territory are the guides to be used and followed in regard to the conquered people. A grant or concession made by the officer who is authorized to make it carries with it *prima facie* evidence that it is within his power; no excess or departure from it will be presumed. The people change their allegiance, but their rights of property remain undisturbed.

Such are a few of the declarations of the Supreme Court of the United States which have been brought out on trials which have been authorized by law for the purpose of ascertaining the validity of claims which have been a long time before Congress, and have at last been determined by being carried where they ought to have been at first, that is, before the judicial tribunals. Chief Justice Marshall, in delivering the opinion of the court, declares that a treaty makes no addition to the rights of the party; it does nothing that the law of nations does not of itself do. The treaty is only the declaration of a principle which a great nation would hold equally sacred without it; inserted, to be sure, for the purpose of satisfaction to the parties, but adding nothing to the obligation of the Power receiving the sold or conquered domain. The new master is bound to protect, in all rights of property, precisely as they stood under the former Power. Now, sir, if a law shall go forth, in New Mexico and California, requiring all the people to come in with their titles, in order that they may be examined and sent to our Congress, certainly they will think that a confiscation of their titles was intended. In no conquered country of which I have ever heard, in Europe or Asia, have the people of the country been compelled to come forward and make good their titles. I have heard of no such instance; and, to give you an idea of the terror which the slightest approach to such a proceeding creates in every community, you have only to recollect the great revolt that occurred in Cairo in October, 1798—that most terrible revolt in the city of fanatics against the French, who then occupied it. What was the cause of that revolt? A mere call for the land titles, in order to register them, and convert them into fee simple estates. The great conqueror intended to benefit the land owners by giving them a fee simple title to their lands, instead of the feudal, or worse than feudal titles by which they were held at the will of their sovereign. It was merely a call for a registration of title, for the purpose of giving them a permanent and indefeasible title, in order that they might hold the land without danger of being resumed at the will of the sovereign. Yet it made that most terrible of all revolts. I mention this for the purpose of showing the terror and consternation that are created in the hearts of a people by an interference with their titles to property.

I have now shown you, Mr. President, upon the treaty, and the law of nations, and the decisions of the Supreme Court of the United States, that such a law as this bill proposes is a violation of them all. But the bill goes further. The fourth section provides:

"SEC. 4. *And be it further enacted*, That every person, or the heirs or representatives of such person claiming title to lands under any valid patent, grant, concession, or order of survey, issued *bona fide*, and on or previous to the seventh of July, eighteen hundred and forty-six, when military possession of the territory was taken by the United States, which were valid under the Mexican Government, or by the law of nations, shall lay before the commissioners, his, her, or their claim, set forth particularly its situation and boundaries, if to be ascertained, with the deraignment of title, where they are not the grantees or original claimants; which shall be recorded by the secretary, who, for his services, shall be entitled to demand from the claimants ten cents for each hundred words contained in said papers so recorded; he shall also be entitled to twenty-five cents for each subpœna issued." * * * * * *

Here is a deraignment of title required, which is to go back to the original concession and primary disposition of the soil. I have just said that New Mexico was settled ten years earlier than Virginia; and I put the supposition again: What would be the feeling, if an edict should require every person in that State to go before a board of land commissioners sitting a thousand miles off, to make out a chain of titles up to the time of Sir Walter Raleigh; and not only to go and make out such a chain of titles, but to pay for doing it—pay ten cents for every hundred words of their titles copied by a secretary, and twenty-five cents for every subpœna, and to be subject to punishment for not doing it? What would be the feeling of Virginia if such a law as that had given authority for this deraignment of title? (I believe I speak right if I said, arraignment.) After producing this long chain of title, and paying for it, he gains nothing but the privilege of appearing as a suppliant before a strange legislative body three thousand miles off. We may be strong enough to enforce this iniquity in New Mexico and California, but we could not enforce it in Virginia or Kentucky. And against what people is such a bill to be enforced? Against ignorant Indians, and mixed breeds, (for of such is the greater part of these people,) who cannot read a word, and do not know whether a paper in their hands is a deed for land, or a bill presented against them by their baker or butcher.

I have shown that what we propose to do is in violation of the Mexican treaty, in violation of the law of nations, in violation of the decisions of the Supreme Court. I now wish to show, Mr. President, that what we propose to do between man and man, between the individuals of California and New Mexico, is a violation of law which has existed long without change—for six hundred years in Spain, and of her colonies, (since they had colonies)—which has been law, and approved law, since the time of Alonzo the Wise,—the law of prescription, as called in the civil law—the statute of limitations as we call it. This is the law of prescription:

Spanish Law of Prescription.—"If one person receive from another, *in good faith*, an immovable thing, (*i. e.* real estate,) either by purchase, or in exchange, or as gift or legacy, or in any other manner, and shall continue in possession of it during *ten* years while the owner is in the country, or *twenty* years while he was out of it; such persons shall acquire the thing by prescription, notwithstanding the person from whom he received it was not the true owner; and thenceforward he shall not be held to answer for it to any man, although he should say that he could prove that he was the true owner of it."

This was the Spanish law in the thirteenth century, and has never been changed, and applies both to Spain and to Spanish America. It is wise law for the settlement, not for the disturbance of estates. It has remained without change at least six hundred years—from the time of Alonzo the Wise—in Spain, and in her colonies ever since she had colonies. People were safe under it in California and New Mexico; but if this bill passes, there is an end of their peace and security.

What I have read was the prescription where the acquisition was in good faith: there was a further provision where it was in bad faith, and all intended to quiet titles and to give peace and security to possessors. This is it:

"If the possession acquired be *in bad faith*, title shall nevertheless be gained in the above-mentioned periods of ten and twenty years, if the owner *knew* of the possession, and did not make his demand.

"Though the acquisition should be in *bad faith*, and the owner should *not know* of the adverse possession, yet a possession of *thirty years* shall gain an absolute title."—*Laws of the "Siete Partidas" of Alonzo the Wise.*—3 *Partidas-title* 29, *laws* 18, 19, 21.

Thus a possession even in bad faith was to be valid after thirty years; but we respect no time. We go back seventy years in California, and two hundred and fifty in New Mexico.

"SEC. 5. They shall examine into all *bona fide* claims arising under patents, grants, concessions, and orders of survey, where the surveys were actually made previous to the seventh July, eighteen hundred and forty-six, when military possession of the Territory was taken by the United States; whether they are founded upon conditions, and how far those conditions have been complied with; and if derived from the Spanish Government, how far they have been considered valid under the Mexican Government; and if satisfied that said claims are correct and valid, shall confirm them: *Provided*, Such confirmation shall only operate as a release of any interest which the United States may have, and shall not be considered as affecting the rights of third persons: *And provided*, That they shall not have power to

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confirm any claim or part thereof, where the amount claimed is undefined in quantity, or shall exceed one thousand acres; but in all such cases shall report the testimony, with their opinions, to the Secretary of the Treasury, to be laid before Congress for their determination." * * * *

One error begets another. Start wrong, and you must go on wrong. So of this bill. It assumes all land titles in New Mexico and California to be bad; it calls upon everybody to come in and prove up their titles. This is extraordinary power. It is inquisitorial. It is holding an inquisition upon property, and requiring the owner to appear and make good his claim. The requisition would be nugatory, if there was not power to enforce his attendance, and therefore this power is given to the commissioners. Here it is:

"The commissioners are hereby authorized to administer oaths, to compel the attendance of witnesses by the subpœnas issued by the secretary, and the production of such testimony as may be wanted; to inflict punishments, either by fine, imprisonment, or both, as they may deem proper, to the same extent that courts of law are now authorized, for any refusal or neglect to obey those subpœnas or to testify: they shall have access to all papers and records of a public nature relative to any land titles within said territory, and authority to make transcripts thereof." * * *

"Every witness attending under any process from the commissioners, shall be allowed one dollar a day, and one dollar for every twenty miles travel, to be paid by the party summoning him." * * * * * * *

This power over the person is to enforce the exercise of power over property. People are to be summoned to attend the commissioners, and pay for being summoned—to bring witnesses, and pay a dollar for every day's attendance, and every twenty miles' travel; and for not coming, or not answering, they are subject to be punished by fine or imprisonment, or both. The commissioners may inflict punishment upon them—upon the whole population of the two Territories: and thus, to sustain an inquisition into titles, contrary to the treaty, to the law of nations, to the decisions of the Supreme Court, contrary to the law of prescription, and to all justice, power is given to these commissioners over the persons of the land owners—power to inflict punishment upon them—to fine them without stint, and to imprison them as long as the board may continue.

Following up the scheme of the bill—the power to disturb and destroy everything—to decide and finish nothing—the section which I now read provides for putting the claims into four classes, and sending them to Congress for adjudication of each class. Here is the section:

"SEC. 6. *And be it further enacted*, That in making report in detail of all they have done to the Secretary of the Treasury, the commissioners shall separate the claims into four classes: class A, part one, to contain all complete titles, for less than one thousand acres, which in their opinion should be confirmed; class A, part two, those of a like character, which in their opinion should be rejected: class B, part one, those inchoate titles for less than one thousand acres, which should be confirmed; class B, part two, those of a like description, which should be rejected; class C, part one, those claims containing over one thousand acres, where, in their opinion, they are sustained by proof; class C, part two, those claims of like character which are not sustained by proof; and class D, all those cases where interferences exist between Spanish and Mexican grants."

Now, will Congress ever do this work? ever unravel these classes? ever go through this complication of claims? No. Never, never, never! It has not yet finished the Louisiana claims, which were close by, and which have had Delegates, Representatives, and Senators to attend to them for forty years. Forty years have not sufficed for Congress to finish the Louisiana claims with all these advantages: will one hundred years be enough for New Mexico and California?

The bill is fundamentally wrong—wrong even in the mode of getting at its own object. The object is to find out the vacant land. For this purpose a knowledge of all original grants is sufficient; but this bill must know all the present possessors. If there are a thousand—and I presume there are many thousands in some instances—of settlers under one grant, each settler must now bring in his title and prove. This is absurd. We only want to know the quantity and the locality of what has been granted away by the previous Government, that we may take the remainder. It is with that view, Mr. President, that the substitute which I propose requires all the grants and possessions to be laid down as they emanated from the previous Government, to be laid down upon the map according to their calls or boundaries. And then, in case there be reason to believe any titles fraudulent, there is a mode of trying them judicially, of trying the cases separately and independently: to proceed against the original grant—to impeach what is impeachable, and try it judicially—and not to impeach the whole country, and condemn without trial.

What I have said, Mr. President, applies to the first part of the bill—the part which relates to the ascertainment of land titles: there is a second part of the bill relating to a new subject, and to which I now speak. This new part relates to the gold mines, as they are called, though nothing but gold washings; and is not copied from any code in the world. It is a new thing, and not the creation of the Land Committee, or of any committee. It comes down from the Treasury Department, and the Land Committee is not responsible for it. I will read the sections which introduce these new provisions, that I may do entire justice to them:

"That the said surveyor general shall be, and he is hereby, authorized to subdivide the sections containing mineral lands into lots of suitable and convenient size for sale, not less than two acres each, by lines drawn north and south, or east and west as may be required, from points at equal distances between the section and half section corners to opposite corresponding points, and to designate those lots by numbers, giving the lengths of the lines bounding the same."

And again:

"The register, moreover, shall be, and he is hereby, authorized, immediately after the survey of the mineral lands, to proclaim the same for sale, or such portion thereof as he may deem most conducive to the interests of the United States at once to dispose of, giving at least thirty days' notice of the time and place of sale, and specifying the particular lands to be offered. He shall then offer the lands for sale at public auction, subject to such minimum as may be fixed by the commissioners, not less, however, than one dollar and twenty-five cents per acre."

This is the principle—a sale, in parcels of two acres, after a valuation fixed—of these gold washings; for gold, I presume, is only intended, although the comprehensive word *mineral* is used—a word which comprehends all the common and useful ores and metals, coal, medicinal waters, iron, copper, lead, and tin. Under this bill not merely the gold washings, but all the common and useful metals may be locked up from public use until valued by a mineralogist, and then sold in two-acre lots. The provision is evidently intended for gold; but the word mineral includes all ores, all metals, all natural substances capable of chemical attraction. It is a looseness and comprehensiveness of language not to be tolerated in a law But consider it as intended—as confined to these gold washings—and how unwise the idea of selling them, and in two acres, and upon valuation! As washings, they are brief and transient, exhausted in a few months or years. The gold in these washings is a temporary crop—as temporary as a crop of grass, or a harvest of acorns: and who would think of selling the fee simple where only one crop was to be gathered? A mine is one thing—a wash is another. Mining requires great capital—a fee simple estate—and a large tract of land—and is worked for an age or centuries. After these washings are exhausted, mining may follow; and that is the time to sell the fee simple, but not in patches of two acres. To the washer two acres is a hundred times too much; to the miner it is a thousand times too little. It suits nobody, and goes upon a wrong principle. It goes upon the principle that every two acres is alike, and that the value can be told by looking at it. No such thing. The value can only be told by digging, and many two acres will contain no gold, and many patches of twenty or thirty feet square will contain a rich deposite. The object is to find it, and that is to be done by hunting—by going from one place to another—by trying many places. For this purpose, it is not fee simples in two acres that are wanted, but permits to hunt, and protection in the discovery when a deposite is found. This is the only rational mode of working these gold washes. It is the mode followed in all countries where they exist.

These washings are called in Spanish *placer*, from the Latin *placere*, to please; because it is a pleasing thing to find the shining gold under one's feet. But it is a transient pleasure. There is no fee simple in it: there is not even a life estate in it: not even a lease for a year, a month, a week, or a day. The pleasure is soon gone. Exhausted *placers* now exist in New Mexico, formerly yielding much, now some twenty-five or fifty cents a day, and only pursued by the poorest Mexicans. Regular mining has followed there, and is now yielding considerable quantities. These washings of California are marvelously rich; for we have to believe what is certified to us by so many witnesses: but they are not the richest that ever were seen. Far from it. Those of Brazil, in the mountains back of Rio Janeiro, in the time of Lord Anson's voyage, say one hundred years ago, were far richer; and yet they have been exhausted so long that all memory of them is lost, and their history only lives in old books. Two millions sterling—ten millions of dollars—were annually sent to Europe, for years, from these washings. They were worked by slaves, who, to secure their fidelity and industry, were usually allowed by their masters all the proceeds of the day above a given amount; and in that way many slaves became rich, purchased their freedom, and then bought slaves of their own, lived in splendor and opulence, and laid the foundation of families. Yet these washings are exhausted, time out of mind; and so will be those of California; and the sooner the better.

I am a friend to a gold currency, but not to gold mining. That is a pursuit which the experience of nations shows to be both impoverishing and demoralizing to a nation. I regret that we have these mines in California; but they are there, and I am for getting rid of them as soon as possible. Make the working as free as possible. Instead of hoarding, and holding them up, and selling in driblets, lay them open to industry and enterprise. Lay them open to natural capital—to labor—to the man that has stout arms and a willing heart. Give him a fair chance. Give all a fair chance. It is no matter who digs up the gold, or where it goes. The digger will not eat it, and it will go where commerce will carry it. The nations which have industry—which have agriculture, commerce, and manufactures—they will get the gold, provided always that they keep out small paper money. Not sales, but permits, is the proper mode to follow, and the only practicable mode. People are going to California to dig, and dig they will. A wise legislation would regulate, not frustrate their enterprise. Permits would put them on the side of the law; for it would give them protection and security: sales and hoarding would put them in opposition to the law, and they would disregard it. Sir, this is a case in which the lawgiver must go with the current; and then he may regulate it: if he goes against the current, his law will be nugatory, and his authority will be despised. The current is for hunting, and finding, and digging: permits follow his current, and by granting them, the legislator may control and regulate the current.

If you want revenue, raise it from the permits—a small sum for each—and upon the coinage. In that way it would be practicable to raise as much as ought to be raised. But revenue is no object compared to the great object of clearing the ground of this attraction, which puts an end to all regular industry, and compared to the object of putting the gold into circulation. I care not who digs it up. I want it dug up. I want the fever to be over. I want the mining finished. Let all work that will. Let them ravage the earth—extirpate and exterminate the mines. Then the sober industry will begin which enriches and ennobles a nation. Work as hard as we may, we cannot finish soon. These gold indications cover more than two thousand miles. They are in New Mexico—on the waters of the Middle Colorado—on the mountains both beyond and on this side of the Sierra Nevada. Professor Dana, who was geologist to Captain Wilkes's exploring expedition, and who examined the country between the coast range and the Cascade range of mountains, found the gold-bearing rocks, as geologists call them, on the Umpqua, the

Shastl, and the Tlamath rivers, and at the head of the Sacramento valley. He did not visit the Sierra Nevada, but said there was gold yet to be discovered in the Sacramento valley. It has been discovered, and no one can tell where it is to end. The Sierra Nevada is six hundred miles long, ten or twelve thousand feet high, and has a slope of from forty to seventy miles; and all this seems to be an auriferous region. South of the Sierra Nevada are prolongations of the same chain and of the same character, and known to possess gold. In New Mexico the gold and mineral region is described as large and various by the learned and enterprising Dr. Wislezenus, who was making an exploration when the war with Mexico broke out, and whose work has been printed by order of the Senate. I read an extract from him:

"The mountainous parts of New Mexico are very rich in gold, copper, iron, and some silver. Gold seems to be found to a large extent in all the mountains near Santa Fé, south of it in a distance of about one hundred miles, as far as Gran Quivira, and north for about one hundred and twenty miles up to the river Sangre de Cristo. Throughout this whole region gold dust has been abundantly found by the poorer classes of Mexicans, who occupy themselves with the washing of this metal out of the mountain streams. At present the old and the new *placer*, near Santa Fé, have attracted most attention, and not only gold washes, but some gold mines too, are worked there. They are, so far as my knowledge extends, the only gold mines worked now in New Mexico. Several rich silver mines were, in Spanish times, worked at Avo, at Cerrillos, and in the Nambe mountains, but none at present. Copper is found in abundance throughout the country, but principally at Las Tijeras, Jemas, Abiquin, Guadelupita de Mora, &c. I heard of but one copper mine worked at present south of the placers. Iron, though also abundantly found, is entirely overlooked. Coal has been discovered in different localities, as in the Raton mountains, near the village of Jemez, southwest of Santa Fé, in a place south of the placers, &c. Gypsum, common and selenite, are found in large quantities in Mexico; most extensive layers of it, I understood, exist in the mountains near Algodones, on the Rio del Norte, and in the neighborhood of the celebrated "Salinas." It is used as common lime for whitewashing, and the crystalline or selenite instead of window-glass. About four days traveling (probably one hundred miles) south-southwest of Santa Fé, on the high table land between the Rio del Norte and Pecos, are some extensive *salt lakes*, or "*salinas*," from which all the salt (muriate of soda) used in New Mexico is procured. Large caravans go there every year from Santa Fé in the dry season, and return with as much as they can transport. They exchange, generally, one bushel of salt for one of Indian corn, or sell it for one or even two dollars a bushel.

"The annual production of gold in the two placers seems to vary considerably. In some years it was estimated from $30,000 to $40,000, in others from $60,000 to $80,000, and in the latter years even as high as $250,000 per annum."

The Ural Mountains, now yielding so much gold to Russia, are but twelve hundred miles long and five or six thousand feet high: the mountain chains in New Mexico and California which produce gold are near twice as long and twice as high as the Ural Mountains. Is all this to be hoarded by the Government—to be sold in two-acre patches—to be guarded as a thing too precious for the people? Is it to be the Hesperian fruits guarded by dragons? and, if so, where are the dragons to come from?

I am against the whole scheme of hoarding these mines, or endeavoring to confine their product to their own country. I am not for serving a *ne exeat* upon it. I am not for trying to stop it from going elsewhere. Let it go where it will: like water, it will find its level. Let it go where it will: it will find its way to industrious nations who banish small paper money. If we want to stop the emigration of gold we may begin nearer home—begin with the ten or twelve millions of coin exported this year from New York. But all that is absurd. Let it go; it will come back when we deserve it.

These gold provisions of the bill are not the work of the committee, and the authors of them seem to be fully aware of the difficulty of hoarding their treasure and keeping it from the reach of the people. They have had recourse to extraordinary enactments to restrain their own officers—surveyors, chain-carriers, markers, camp-followers, and so on. They are all to take oaths, and give bond and security to serve out their time, and to incur the forfeiture of their bonds and the penalties of perjury if they fail in their engagements. They are actually enlisted, like soldiers, and put under awful penalties not to desert until their time is out. Here are some of those penalties: hear them:

"That the President shall be, and he is hereby, authorized to appoint as geologist an individual well versed in that science, who also thoroughly understands mineralogy; whose duty it shall be, with such assistants as he may deem necessary, to make a thorough exploration of all the mineral lands in the territory, to determine the value of the several metals and minerals that may be discovered, and make report of the same to the Register, who shall transmit a copy thereof to the Commissioner of the General Land Office. He shall also aid the commissioners in determining the value of the lands, and the minimum price which shall be fixed upon them, whenever required so to do by the commissioners, or either of them.

"SEC. 15. That the surveyor general of said territory enter into bond, with approved security, for the faithful discharge of his duties. * * * * * * * * He shall also be authorized to require a bond, with security, from the surveyors, chain-carriers, markers, and all other persons employed in, or connected with, the surveying department, and from the clerks and other employees in his office, that they will faithfully serve out the periods for which they may engage, in such sum as he may fix as a penalty of a failure; and require of them an affidavit or affirmation to the same effect; and on failure or refusal to comply with the terms of their engagement, the party offending shall be subject to all the pains and penalties of perjury; and suit shall be immediately commenced for the recovery of the entire penalty of the bond, which, on such failure or refusal, shall be forfeited to the United States; and the institution of such suit shall attach as a lien upon the property of the delinquent party, and on that of his sureties." * * * * * * *

"SEC. 17. That, before entering on their duties, the mineralogist and his assistants shall execute bonds, with approved security, in such sums as may be fixed by the Secretary of the Treasury, for the faithful performance of the duties of their respective offices, for the time for which they may be engaged; and also take an oath or affirmation to the same effect; and, in case of failure, shall be subject to the same penalties, forfeitures, and obligations as are provided for the surveyors and their assistants, &c., in the fifteenth section of this act.

"SEC. 18. *And be it further enacted*, That, in addition to the usual form of bonds and oath of office of the surveyor general, register, and receiver, the bonds and oaths of office of those officers appointed under this act shall contain a provision, that they shall faithfully serve out the time for which they may be appointed; and on failure to comply with that provision, they shall be subject to the same penalties, forfeitures, and obligations as are provided for the surveyors and their assistants, &c., in the fifteenth section of this act. And, until otherwise directed, all the officers and agents, and their assistants, who may be appointed under this act, shall receive from the stores of the United States, at San Francisco or Monterey, such rations of beef, bread, pork, &c., as may be necessary for their actual support."

Here is a provision for a mineralogist, and his assistants—not assistance; and in it we detect the germ of one of those set-fast, growing, and enduring establishments which grow up in our country from small beginnings. The great coast survey establishment is founded upon a provision for an astronomer and his *assistants*. The colony now quartered upon the treasury at $40,000 to examine public lands in the northwest, is founded in a provision for a geologist, and his *assistants*. These establishments, which have no limits, are thus established; and here is proposed to be another of them. I am opposed to such origination of such establishments, which soon become set-fasts, and grow and expand forever. But what is to restrain this geologist, and his assistants, from helping themselves to this precious gold? What is to restrain them? The same machinery, oaths, and bonds!—all nugatory and idle, and only leading the men into temptation. The whole scheme of this geologist is wrong. If these gold mines, or washings, are not to be worked until first examined and valued by a mineralogist, it will be a long time before they are worked. We shall have to live a patriarchal age to behold it. It is a wrong process—putting the cart before the horse. The digger precedes the mineralogist. The digger finds, and the mineralogist tells what it is. All mines are found by accident or by labor: scientific men do not find them. They know the signs of different minerals; but signs are fallacious; and actual digging is the only test. Our business is to dig first, and let the mineralogist go afterwards. This whole scheme is wrong, and will not work. The people will not wait for the mineralogist. They will not wait for his discoveries and valuations: they will discover for themselves, and work for themselves, and they cannot, and ought not to be prevented.

This is going further than we go with soldiers. We do not make them give bond and security: we do not make desertion a lien upon their property for the amount of a penalty. Yet we propose to do this with our surveyors and land officers! Vain and impotent precaution, only showing the folly of the whole scheme; for who would take such oaths and sign such bonds but those who meant to violate them? Who supposes these pains and penalties would be of any avail, or in the least prevent all these persons, with their friends and followers, from taking what gold they could find, and going off with it when they pleased? Formerly there was a fine of forty pounds of tobacco in Virginia on the constable that would not serve out his time; and that might have been omnipotent with the constable; but these bonds, oaths, penalties, and forfeitures will be unavailing if the gold found is worth more than the salary.

Not content with these bonds and oaths, the bill even tries the mileage system upon these slippery officers. Having seen the good effect of mileage in bringing in members of Congress, and binding the Union together, it tries the same system upon these officers, and offers them an average of ten dollars a mile. Here is the temptation:

"And for surveying the public lands and private claims above mentioned, the deputy surveyor shall be allowed not exceeding the average of ten dollars per mile."

Ten dollars a mile! That is better than Congress mileage! But will it do, even if averaged? Will it stop the crew if they find the gold under their feet? Will they go on to the end of the miles in order to get the average, instead of stopping and helping themselves, with a wooden shovel, to some cart-loads of the shining stuff? Will any maximum or minimum, giving an average of ten to the mile, be sufficient—say three dollars where the gold is thin, only an inch thick, and seventeen dollars a mile where it is thick, say ancle deep, or so? Will the mileage tempt them to go on, as this sage legislation intends to make them do, or will they all stop at the first *placer*, as a turkey-hen and her young ones would all stop at the first ant-hill, and dig it up and pocket the gold as greedily as the old hen and her brood would scratch up, and gobble up, the whole hill of ants? Undoubtedly they would: and the provision only shows the impotence of legislation to sustain an unwise system.

Mr. President, I have made my objections to the bill of the committee; it is now right that I should produce my own. I do so, and offer a substitute for the whole bill, in the form of instructions to the committee, which I have drawn up, and which the Senate has ordered to be printed. This is my substitute:

"To recommit the bill for ascertaining claims and titles of lands within the territory of California and New Mexico, to grant donation rights, and to provide for the survey of the lands therein, to the Committee on Public Lands, with instructions to inquire into the expediency of reporting a bill for ascertaining the public and unappropriated lands in the territory of California, and for surveying and selling the same, and for granting donations to actual settlers, and permits to work the gold mines; and for that purpose to provide—

First. For the appointment of a recorder of land titles, who shall have the custody of all the public archives in relation to the disposition of the public lands, and shall record all the grants and all claims that shall be discovered or made known to him, and shall make two abstracts of the same, one to be transmitted to the General Land Office, in Washington City, the other to be delivered to the Surveyor General of California, that he may lay down the grants and claims on a map to be retained in his office, and of which map a copy to be transmitted to the General Land Office, and another to be filed with the recorder of land titles in California.

Second. To provide for the ascertainment of invalid grants or possessions, by authorizing a *scire facias* to be issued from the United States District Court against the party in possession to come in and hear the objections to his claim, and to show cause why the grant should not be annulled, or the possession vacated in every case in which the recorder of land titles, upon consultation with the district attorney, or by orders from the General Land Office, shall be so instructed, shall be of opinion that the same is not valid under the treaty with Mexico, the law of nations, and the decisions of the Supreme Court of the United States—the decisions of the district court to be final, if against the United States, in all cases where the land in question shall be worth less than five thousand dollars. But no *pueblo* or rancheria Indians to be disturbed in their possessions, without special orders from the General Government.

Third. To provide for the appointment of a surveyor general, and for the establishment of three land offices.

Fourth. To provide for donations of land to actual settlers, heads of families, widows, and single men over eighteen years of age, and an allowance of land for children under eighteen years of age, and for the wife in her own right, according to the provisions of the bill proposing donations to settlers in Oregon, which passed the Senate January 3, 1843.

Fifth. To provide for preserving order in working gold mines, by appointing an agent to grant permits for working small lots, and settling summarily and on the spot all questions of boundary or interference among the diggers; the said permits to continue in force while the lot is worked by the person receiving it, and to be limited to —— feet square."

This plan is equitable and just, and conformable to the rights of the parties under the treaty, the law of nations, and the decisions of the Supreme Court. It does not disturb the country. It only provides for trials in cases where there is a real impeachment of title. It gives a fair, judicial trial, in cases doubtful, to the party whose title is impeached. It saves the party from coming to Congress as beggars and suppliants. It makes liberal donations to actual settlers; and that is a point on which I have my own highest approbation. Forty years ago,

when a member of the General Assembly of Tennessee, I took the part of the occupant—the occupant of Nolichucky, French Broad and Big and Little Pigeon; and I have been defending occupants ever since. At this time there are some on the shores of the Pacific whose fathers I have protected in Tennessee and Missouri. And never were any settlers more meritorious and deserving than those who first settled and then conquered California for the United States; who were the first to carry the arms of the United States upon the waves of the Pacific; and who have as yet received no pay for their patriotic and heroic services.

The substitute is preferable to the original bill in all respects whatever. The object is to ascertain the vacant public lands. To do that, we only want to know the original grants and possessions—only want to know what the previous governments parted with; and to do that we want the number and extent of the grants—want them collected in an office, and laid down on maps, and then the vacant residuum is seen. This is all we want; and this disturbs nobody. It does not disturb titles: it alarms no possession: it overhauls nothing that is settled. But there may be grants and possessions which are illegal—which are not good against the Government under which they accrued—and that is the only test to which we can subject them: there may be such illegal claims; and my substitute goes upon the supposition that there are such, and follows the approved course to ascertain and cancel them. Grants and possessions, believed by the recorder and district attorney, or by the Government here, to be illegal, are to be brought into the district court in California or New Mexico, upon *scire facias*, to be examined, and if found illegal, to be cancelled. This is the course in England, where the court of chancery cancels the grants and patents illegally issued by the King. This is the approved course in the country from which we draw most of our ideas of jurisprudence, and I am for following it in California. I apprehend there will be found cases there—modern cases of alienations of land—very fit for examination under this bill—and the examination of which will be sufficient for the United States, without disturbing good titles and possessions.

But there is a class of possessors not to be disturbed at all, without special orders from the Government here: they are the *pueblo* or *rancheria* Indians. These are civilized Indians, living in towns and villages, where they have lived time immemorial—in fact found there when conquered by the Spaniards. The mass of the population of New Mexico, is of this kind: there is also a considerable population of this kind in California. They should not be disturbed in their possessions; yet under the bill before the Senate they will all be called in to verify their titles, and then be sent to Congress to beg for their lands. By the Spanish law there are two classes of Indians—the *pueblo*, or town Indians, (*pueblo* signifying a town, *puebla* a city,) are part of the population, and have rights: the others are wild Indians—*Indios bravos*—who have no rights, and are always at war with the Spaniards and the *pueblo* or town Indians. Our laws do not know these distinctions, but we must know them and must respect them. Our system only applies to wild, or independent Indians. In New Mexico and California, we gain dominion over domestic or civilized Indians, and must respect them accordingly. They must be respected and protected. They work, and have done the principal work both in New Mexico and California. In each country, they have been called *los brassos del pais*—the arms of the country—its laborers. We must not begin with disturbing them in the possessions which they have so long held under their Spanish conquerors.

My substitute proposes three land officers in California. States of less extent—of half the extent in the United States—have double and treble that number. California (I speak of California only below the Sierra Nevada) is just the length and breadth of Italy, in all the extent of Italy, from the Alps to the extremity of the Peninsula, about one hundred thousand square miles in extent. Three land offices are too few, but it may do to begin with,—one to the centre, in the region of the Bay of San Francisco, and one in the north, and the other in the south. There is much public land north of the Bay of San Francisco, out towards Oregon; much in the centre, on the Sacramento, San Joaquin, and the western slope of the Sierra Nevada—and some in the south. Each of these divisions would require a separate land office; and the substitute provides for them accordingly.

The substitute provides ample donations to actual settlers—not so much as was granted to settlers in Kentucky by Virginia—but four times as much as the bill of the committee proposes. And surely no people ever deserved better of their Government than these settlers in California. They are the true founders of the American power there—the true conquerors, and I grieve to say, the unpaid conquerors of the country. They saved the country before the United States flag was raised. They served without receiving pay, and found themselves in everything. They carried arms by sea and land, and are the first American land troops that ever carried arms on the Pacific Ocean. They have done and suffered much for the United States, and are well entitled to the liberal provision of lands which my substitute proposes to give them.

The last provision of my substitute is to regulate the diggings at the gold washings—to preserve order among the diggers—to settle questions among them upon the spot—and, in fine, to prevent them from having recourse to violence to settle questions of interference and of interruption from double claims. All this is necessary. Order must be preserved. It is not rent, or revenue, that I propose, but order. I want no revenue, and expect none. The expenses of the agency may be defrayed by a small fee for the permit, or a small per centum on the coinage; but as for rents, I expect none, and repudiate the idea. I broke up the lead-mine leasing system in Missouri, and foretold its fate in Wisconsin and Iowa—a mere loss of money to the United States—the expenses being greater than the profits, and the country retarded and delayed in all beneficial improvements and settlements. I repeat, all that I propose by these permits is the preservation of order among the diggers; and it is, in my opinion, the only way to preserve order in that remote country.

But here is a difficulty which seems to have been overlooked. All these gold mines, according to our ideas, are on Indian lands, and are trespassers, and should be expelled by the military: according to Spanish ideas, they are no Indian titles. They never extinguish Indian titles. They take what they please, when they are not afraid. Upon this idea our Americans are now working. They are not afraid. The Indians do not object, because they are used to it. But not so with this Government. It recognizes Indian titles, and extinguishes them by treaty, and does not survey them until after the treaty is made and ratified. This knocks the whole scheme of this geologist, and his assistants, this survey of two-acre patches, and all the oaths and bonds, and the ten dollars mileage: it knocks it all in the head. For the Government, upon its own principles, can do nothing of all this until they have treated with these *hippo-phagi*—these horse-eating, horse-stealing Indians of the Sierra Nevada—who never heard of a treaty, and will be bewildered and confounded at any proposition to treat them as owners of the country. Upon its own principles this Government can do nothing with these mines before they have treated with these fine Indians; and before that is done, the gold washings, I trust and hope, will be washed out.

Mr. BREESE. Inasmuch as the time of the Senate has already been fully occupied in the discussion of this subject, and as the arguments advanced will require considerable examination at our hands, I submit that we had better postpone the further consideration of the bill until to-morrow. I move that the Senate do now adjourn. The motion was agreed to; and the Senate adjourned accordingly.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 15, 1849.

The Journal of Saturday was read and approved.

DELEGATE FROM WISCONSIN.

Mr. THOMPSON, of Indiana, said he had risen for the purpose of proposing that the House should proceed to the consideration of the report of the Committee on Elections, in relation to the right of the Delegate of Wisconsin to his seat. He did not, he was understood to say, intend to enter into discussion upon the question, but merely proposed that the reports of the majority and minority of the committee should be read.

Mr. KING, of Georgia, was understood to desire that the committees should be called for reports.

Mr. HILLIARD asked Mr. THOMPSON to yield the floor for the purpose of enabling him to introduce a bill.

Mr. T. having done so—

Mr. HILLIARD asked leave to introduce a bill.

The SPEAKER said he would state before proceeding further, that the regular order of business was the call of the States for resolutions, but that the report of the Committee on Elections was a privileged matter. If the gentleman insisted on calling it up, the House might postpone it by the vote of a majority.

Objection was made to the introduction of Mr. HILLIARD's bill, and the regular order of business was called for.

Mr. HILLIARD moved a suspension of the rules for the purpose indicated by him.

The SPEAKER said, the gentleman could make that motion, if the gentleman from Indiana [Mr. THOMPSON] was willing; but that that gentleman would lose the floor, unless he should be again recognized by the Chair.

Mr. THOMPSON moved that the House proceed to the consideration of the subject he had indicated.

Mr. COBB, of Georgia, said, it would be recollected that a few days ago he had called the attention of the House, and particularly of the chairman of the Committee of Ways and Means, [Mr. VINTON,] to the fact, that the annual message of the President of the United States had not yet been referred; and that the chairman of the committee had declared it to be his intention to move this day that the Committee of the Whole on the state of the Union be discharged from the further consideration of that document, in order that it might be disposed of by the House, and be distributed among the appropriate committees.

Mr. STEPHENS said that the chairman of the Committee of Ways and Means was necessarily absent from the House to-day, and that he had called his (Mr. S.'s) attention to the matter referred to by his colleague, [Mr. COBB;] and that it was his (Mr. S.'s) intention to submit the motion which had been indicated, but he would yield to his colleague for that purpose.

Mr. COBB said that he had intended to state the fact of the gentleman's absence, and the reason of it, which the gentleman had communicated to him (Mr. C.) also. If his colleague [Mr. STEPHENS] would submit that motion——

Mr. THOMPSON, of Indiana, desired to know how the gentleman had become entitled to the floor.

Mr. COBB said that it was in the power of the gentleman from Indiana [Mr. THOMPSON] at any time to call up the report of the Committee on Elections, as it was a privileged question. He hoped, therefore, that the gentleman would not interpose any objection to his (Mr. C.'s) motion.

Mr. THOMPSON called the attention of the gentleman from Georgia [Mr. COBB] to the fact, that the Speaker had announced that if he (Mr. T.) yielded the floor, he would lose his right to it.

Mr. COBB. The Chair will no doubt state to the gentleman that he may call up this report, being a privileged question, at any time.

Mr. McCLERNAND inquired whether this conversation was in order?

The SPEAKER inquired whether the gentleman from Indiana insisted on calling for the report?

Mr. THOMPSON replied in the affirmative.

The SPEAKER. Then the Clerk will read the resolution reported by the majority of the Committee on Elections.

The resolution was read as follows:

Resolved, That Henry H. Sibley be admitted to a seat on the floor of the House of Representatives as a delegate from the Territory of Wisconsin.

Mr. COBB, of Georgia, inquired of the Chair whether it would be in order for him to move that the consideration of the subject be postponed until two o'clock?

The SPEAKER said the motion would be in order.

Mr. COBB. Then I make the motion for the purpose I have advocated, and none other.

Mr. THOMPSON claimed the floor.

The SPEAKER said the gentleman was entitled to it.

Mr. THOMPSON said that he did not intend, as he had already stated, to enter into any discussion upon this question. He believed that the case had been fairly and fully stated in favor of the right of the delegate by the report of the majority of the Committee on Elections; and he believed that the reasons against his right had been fully stated by the report of the minority. He would not, therefore, consume the time of the House in debate; but would suggest that the reports should be read, and that a vote should be taken on the adoption of the resolution. The motion in relation to the President's message could then be made either by the gentleman from Georgia, [Mr. COBB,] or his colleague, [Mr. STEPHENS.]

The SPEAKER said he had understood the gentleman to move that the reports be read. The question would be upon the reading of the reports.

The motion having been agreed to—

The reports of the majority and of the minority of the Committee on Elections were read.

The reading of the reports having been concluded—

Mr. THOMPSON, of Indiana, was understood to say that the arguments upon both sides of the question having been fully set forth by the majority and minority reports, he trusted the House would be willing to come to a vote without going into a debate; he therefore moved the previous question.

Mr. BOYDEN said he hoped the gentleman from Indiana would consent to withdraw his motion for the previous question. The case involved very important principles, and was one for which there was no precedent in the history of the Government.

He desired to move an amendment to the resolution, and briefly to present some views additional to those contained in the report of the minority of the committee, against the adoption of the resolution reported by the majority.

The SPEAKER interposed, and reminded the gentleman that debate was not in order unless the previous question was withdrawn.

Mr. THOMPSON adhered to his demand for the previous question.

The previous question was seconded, by a vote of ayes 90, noes 57, taken by tellers, (Messrs. POLLOCK and KAUFMAN,) and the main question was ordered.

Mr. KAUFMAN inquired of the Speaker whether it would be in order to move a postponement of the further consideration of the question until to-morrow, that gentlemen might have the opportunity of reading the majority and minority reports?

Mr. PETTIT called the gentleman to order.

The SPEAKER replied to Mr. KAUFMAN, that it would not be in order except by general consent, the House having ordered the main question to be now put.

Mr. COBB, of Georgia, inquired if the main question had been ordered to be now put?

The SPEAKER replied in the affirmative.

Mr. THOMPSON, of Indiana, called for the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered, and, being taken, resulted—yeas 124, nays 62—as follows:

YEAS—Messrs. Adams, Barringer, Bedinger, Belcher, Bingham, Birdsall, Bocock, Botts, Boyd, Bridges, Albert G. Brown, Buckner, Butler, Canby, Cathcart, Chapman, Franklin Clark, Williamson R. W. Cobb, Cocke, Collins, Crowell, Daniel, Darling, Dickey, Dickinson, Dixon, Dunn, Edwards, Embree, Nathan Evans, Faran, Ficklin, Fisher, Freedley, French, Fulton, Gaines, Giddings, Gregory, Grinnell, James G. Hampton, Harmanson, Henley, Elias B. Holmes, John W. Houston, Hubbard, Hudson, Charles J. Ingersoll, Joseph R. Ingersoll, Irvin, Iverson, Jameson, Kaufman, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Letfler, Ligon, Lincoln, Lord, Maclay, McClelland, McClernand, McIlvaine, McLane, Job Mann, Horace Mann, Marvin, Miller, Morehead, Morris, Morse, Nes, Newell, Palfrey, Peaslee, Peck, Petrie, Pettit, Peyton, Pilsbury, Pollock, Preston, Putnam, Reynolds, Richardson, Richey, Robinson, Rockhill, Julius Rockwell, Sawyer, Sherrill, Smart, Caleb B. Smith, Robert Smith, Stanton, Starkweather, Stephens, Charles E. Stuart, Strohm, Tallmadge, Taylor, Jas. Thompson, Jacob Thompson, Richard W. Thompson, John B. Thompson, Robert A. Thompson, William Thompson, Thurston, Tompkins, Tuck, Turner, Van Dyke, Venable, Warren, Wentworth, White, Wick, Wiley, Williams, Wilmot, and Wilson—124.

NAYS—Messrs. Abbott, Atkinson, Barrow, Blackmar, Boyden, Charles Brown, Clingman, Howell Cobb, Collamer, Conger, Cranston, Crisfield, Crozier, Duer, Garnett Duncan, Eckert, Featherston, Flournoy, Gentry, Goggin, Gott, Greeley, Willard P. Hall, Nathan K. Hall, Hammons, Moses Hampton, Harris, Henry, Hill, Hilliard, Isaac E. Holmes, George S. Houston, Inge, Jenkins, Andrew Johnson, Robert W. Johnson, George W. Jones, Kennon, Thomas Butler King, Lumpkin, McDowell, McKay, Marsh, Meade, Mullin, Nelson, Nicoll, Outlaw, Phelps, Rhett, John A. Rockwell, Roman, Rumsey, St. John, Schenck, Shepperd, Truman Smith, Strong, Thomas, Toombs, Wallace, and Woodward—62.

[Mr. GAYLE, when his name was called, asked to be excused from voting, on the ground of want of information relative to the facts of the case. The motion was not put, being out of order at this time.]

So it was—

Resolved, That HENRY H. SIBLEY be admitted to a seat on the floor of the House of Representatives as a Delegate from the Territory of Wisconsin.

A number of members spoke for the floor, which the Speaker gave to

Mr. HOUSTON, of Delaware, who said that he had risen to offer a resolution providing that the rules be suspended for the purpose of calling the committees for reports.

Mr. THOMPSON, of Indiana, rose, he said, to a privileged question. He moved that the vote by which the resolution reported by the majority of the Committee on Elections had been adopted, be reconsidered, and that that motion be laid upon the table.

Mr. ROCKWELL, of Connecticut, inquired whether it would be in order for him to move that the further consideration of that motion be postponed until to-morrow?

The SPEAKER. Not while the motions submitted by the gentleman from Indiana are pending.

Mr. DUER asked the yeas and nays on the motion to lay on the table, which were ordered.

Mr. McCLERNAND asked the Speaker to state the question.

Mr. HOUSTON, of Alabama, said that members in that part of the House could not hear a word of what was passing.

The SPEAKER stated the motions as made by Mr. THOMPSON.

And the question shall the motion to reconsider the vote by which the said resolution was adopted be laid on the table was then taken, and decided in the affirmative—yeas 111, nays 82—as follows:

YEAS—Messrs. Adams, Barringer, Belcher, Bingham, Birdsall, Bocock, Boyd, Bridges, William G. Brown, Albert G. Brown, Buckner, Canby, Cathcart, Chapman, Franklin Clark, Williamson R. W. Cobb, Collins, Crowell, Daniel, Darling, Dickey, Dickinson, Dixon, Dunn, Edwards, Embree, Nathan Evans, Faran, Ficklin, Fisher, Flournoy, French, Fries, Fulton, Gaines, Gayle, Giddings, Greeley, Grinnell, Henley, Elias B. Holmes, John W. Houston, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, Irvin, Iverson, Jameson, John W. Jones, Kellogg, William T. Lawrence, Sidney Lawrence, Letfler, Ligon, Lincoln, Lord, Lynde, Maclay, McClelland, McClernand, McIlvaine, McLane, Job Mann, Horace Mann, Morehead, Morris, Nes, Newell, Palfrey, Peaslee, Petrie, Pettit, Peyton, Pollock, Preston, Putnam, Reynolds, Richey, Robinson, Rockhill, Sawyer, Sherrill, Simpson, Smart, Robert Smith, Stanton, Starkweather, Stephens, Charles E. Stuart, Tallmadge, Taylor, James Thompson, Richard W. Thompson, John B. Thompson, Robert A. Thompson, William Thompson, Thurston, Tompkins, Tuck, Turner, Van Dyke, Venable, Warren, Wentworth, White, Wick, Wiley, Williams, Wilmot, and Wilson—111.

NAYS—Messrs. Abbott, Atkinson, Barrow, Bedinger, Blackmar, Botts, Boyden, Brady, Brodhead, Charles Brown, Butler, Clapp, Clingman, Howell Cobb, Cocke, Collamer, Conger, Cranston, Crisfield, Crozier, Donnell, Duer, Garnett Duncan, Eckert, Featherston, Freedley, Gentry, Goggin, Gott, W. P. Hall, N. K. Hall, Hammons, Moses Hampton, Haralson, Harmanson, Harris, Henry, Hill, Hilliard, Isaac E. Holmes, George S. Houston, Inge, Jenkins, Andrew Johnson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, Thomas Butler King, Daniel P. King, Lahm, La Sere, Lumpkin, McDowell, McKay, Marsh, Meade, Miller, Morse, Mullin, Murphy, Nelson, Nicoll, Outlaw, Pendleton, Phelps, Pilsbury, Rhett, Julius Rockwell, John A. Rockwell, Roman, Rumsey, St. John, Caleb B. Smith, Truman Smith, Strohm, Strong, Thomas, Jacob Thompson, Toombs, Wallace, and Woodward—82.

So the motion to reconsider was laid on the table.

REPORTS OF COMMITTEES.

Mr. HOUSTON, of Delaware, now moved his resolution, providing that the rules be suspended for the purpose of calling the committees for reports.

Mr. McCLERNAND inquired whether the resolution was in order.

The SPEAKER said that it was in order on this day to move a suspension of the rules for any purpose.

Mr. PETTIT inquired whether this was not resolution day?

The SPEAKER answered in the affirmative.

Mr. PETTIT hoped that the House would proceed to the consideration of the regular order of business.

The question was then taken, and the resolution of Mr. HOUSTON was rejected.

The SPEAKER said the Chair would now proceed to call the States in their order for resolutions.

THE PRESIDENT'S MESSAGE.

Mr. STEPHENS rose and said, that, in accordance with a notice which had been given a few days ago by the chairman of the Committee of Ways and Means, [Mr. VINTON,] in the absence of that gentleman he (Mr. S.) would now move that the Committee of the Whole on the state of the Union be discharged from the further consideration of the President's annual message, and of the resolutions which had been referred to it.

[Several members called for the orders of the day.]

Mr. STEPHENS proceeded. He hoped that the House would sustain the motion, and that the message might be sent with as little delay as possible to the appropriate committees.

The SPEAKER said the gentleman could only submit his motion under a suspension of the rules.

Mr. STEPHENS said he hoped he might make the motion by unanimous consent.

Objections were made, and a number of members again called for the orders of the day.

Mr. STEPHENS moved that the rules be suspended to enable him to submit the motion.

Mr. TURNER, at this stage of the proceedings, introduced to the House Mr. HENRY H. SIBLEY, Delegate from the Territory of Wisconsin, who was qualified and took his seat.

The question then recurred on the motion of Mr. STEPHENS.

Mr. PETTIT asked the yeas and nays; which were refused.

And the question was then taken, and decided in the affirmative—ayes 136, noes 5.

So two-thirds voting in the affirmative, the rules of the House were suspended.

The SPEAKER then said, that if a separate vote was demanded on the motion of the gentleman from Georgia, [Mr. STEPHENS,] (to discharge the committee, &c.,) the Speaker would now put the question. If not, the whole motion would be considered as having been put under the vote just taken, and the message of the President would now be before the House,

No objection appearing to be made—

Mr. McCLERNARD inquired of the Speaker what was the question.

Mr. STEPHENS claimed the floor.

The SPEAKER stated that by courtesy the gentleman from Georgia, [Mr. STEPHENS] was entitled to the floor.

Mr. McCLERNARD said he could not yield the floor except under a decision of the Speaker, that he was not entitled to it.

The SPEAKER said, that, in accordance with Parliamentary courtesy, the Chair must assign the floor to the gentleman from Georgia, [Mr. STEPHENS.] That gentleman had made the motion to discharge the Committee of the Whole on the state of the Union from the further consideration of the President's message, with a view of bringing it before the House. And the Chair decided, therefore, that the gentleman from Georgia was entitled to the floor.

Mr. McCLERNAND. I cannot concur in that decision. It appears to me to be novel and unwarrantable by the practice and rules of this House. I appeal from it.

The SPEAKER. When a question arises as to who is entitled to the floor when various gentlemen claim it, the question, if any gentleman demands it, must be put to the House, not in the nature of an appeal from the decision of the Chair, but whether the gentleman is entitled to the floor. The question, therefore, is, whether the gentleman from Georgia [Mr. STEPHENS] is entitled to the floor?

Mr. HENLEY desired to inquire of the Chair as to the facts of the case. As he understood them, the gentleman from Georgia [Mr. STEPHENS] had made a motion to discharge the Committee of the Whole on the state of the Union from the further consideration of the President's message. That motion had been agreed to. Then the gentleman from Illinois [Mr. McCLERNAND] rose, and, after all that had been done, and when the message was before the House, the Speaker had assigned the floor to that gentleman. After that, the gentleman from Georgia rose and claimed it. Such he (Mr. H.) understood to be the fact; and, under that state of facts, he understood the Chair to decide, by parliamentary courtesy—about which he (Mr.

H.) knew nothing—that the gentleman from Georgia was entitled to the floor.

The SPEAKER said, that the Chair had assigned the floor to the gentleman from Georgia, taking it from the gentleman from Illinois, [Mr. McCLERNAND,] to-day, on the same ground as that on which it had been done on a former occasion, when the floor, which had been assigned to the gentleman from New York, [Mr. GREELEY,] was taken from him and given to a gentleman from Illinois, [Mr. WENTWORTH,] under circumstances nearly the same.

Mr. McCLERNAND said, he wished to state the grounds——

The SPEAKER interposed and said, that the Chair thought that the resolution was not debatable. If it were so, the whole time of the House might be taken up in deciding who was entitled to the floor. The question before the House was simply, who was entitled to the floor?

And the question having been taken, and decided in the affirmative,

The House decided that Mr. STEPHENS was entitled to the floor.

Mr. STEPHENS said, as his object in making this motion at first was to get rid of discussion upon this subject, in order that the reference might be made; and as all the topics might be discussed upon other questions, he should feel bound to move the previous question.

Mr. McCLERNAND rose to a point of order. The gentleman from Georgia, he said, had assigned as his reason for moving the previous question, that he was desirous to have the message referred to the appropriate committees. Very well. The gentleman had said that those who wished to debate the doctrines or the questions involved in the message might discuss the same subjects upon some other question. He wished to ask the gentleman from Georgia whether, under the tyrannical rule of this House, the minority were not cut off from the exercise of the right of debate upon the civil and diplomatic appropriation bill; and whether, in view of the practice of the majority here, it would be practicable to debate any question in the sense in which the Constitution contemplated the freedom of debate in this House?

Mr. STEPHENS was understood to say, that the question of the gentleman from Illinois was perhaps not one which he was called upon to answer, but to which the House could respond. It was important that they should hasten to business; they could not get on with the business of the committees, without the reference of the message. He believed a large majority of the House were in favor of the disposition of the question. He therefore moved the previous question.

Mr. WENTWORTH inquired what was the question on which the previous question was moved?

The SPEAKER replied, the resolutions moved by the gentleman from Georgia for the reference of the President's message. The Clerk would read the resolutions.

Mr. WENTWORTH rose to a point of order. These resolutions (he said) had been referred to the Committee of the Whole on the state of the Union; the vote for a discharge of that committee did not embrace the resolutions also, and he knew of no motion having been made in this House to take the resolutions out of the Committee of the Whole on the state of the Union.

The SPEAKER stated that it was of very little importance whether the resolutions had come out of the Committee of the Whole on the state of the Union or not. The President's message had been brought before the House under a suspension of the rules moved by the gentleman from Georgia, [Mr. STEPHENS,] and that gentleman having the floor had renewed the resolutions of the gentleman from Ohio [VINTON] for the reference of the message, and thereupon had called the previous question.

Mr. STEPHENS said, he found it necessary to modify the resolutions of the gentleman from Ohio, so far as to leave out that which related to the Mexican tariff, as that subject had already been referred to a select committee.

A momentary pause ensued, while Mr. STEPHENS was engaged in modifying the resolutions. It was broken by

Mr. WENTWORTH, who called for the reading of the resolution before the House, and upon which the previous question had been moved.

The SPEAKER. The gentleman from Georgia has the right to withdraw the previous question, and make any modification of his resolutions. The Chair understands that the gentleman from Georgia is at this moment engaged in modifying them.

The resolutions were then sent up by Mr. STEPHENS, and read, as follows:

Resolved, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session as relates to our treaties, diplomatic intercourse, and relations with foreign countries, be referred to the Committee on Foreign Affairs.

2d. That so much of said message as relates to compensation to those citizens who have served in the Indian war in Oregon, to the State and condition of the army, with the report of the Secretary of War accompanying said message, be referred to the Committee on Military Affairs.

3d. That so much of said message as relates to the condition and operations of the navy, the marine corps, and the establishment of a line of steamers between New Orleans and Vera Cruz, together with the report of the Secretary of the Navy, be referred to the Committee on Naval Affairs.

4th. That so much of said message as relates to the tariffs of 1846 and 1842, the revenue, the state of the treasury, the public debt, the sub-treasury, the general condition of the finances, the estimated receipts and expenditures for the next fiscal year, the unliquidated claims of citizens of the United States against Mexico, and the establishment of additional branch mints, be referred to the Committee of Ways and Means.

5th. That so much of said message as relates to the public lands, the graduation and reduction of the price thereof, the surveys thereof, geological, mineralogical, and lineal, the appointment of additional surveyors general, and to the sale of the mineral lands in California and New Mexico, be referred to the Committee on Public Lands.

6th. That so much of said message as relates to our intercourse and relations with the Indian tribes, and to the appointment of additional Indian agents, be referred to the Committee on Indian Affairs.

7th. That so much of said message as relates to the commerce and navigation of the country, and to the extension of the revenue laws of the United States over California, be referred to the Committee on Commerce.

8th. That so much of said message as relates to the establishment of Territorial governments over California and New Mexico, and the enforcement of governments *de facto* in those Territories, be referred to the Committee on the Territories, with instructions to said committee to inquire and report whether the Executive of the United States has rightful authority to exercise the powers of government now being enforced over those Territories.

9th. That so much of said message as relates to the post offices and post roads, and the reduction of the rate of postage, be referred to the Committee on the Post Office and Post Roads.

Mr. WENTWORTH, (addressing the Speaker.) Are these resolutions in order? Or must not the gentleman wait until the State of Georgia is called for, before he can move them?

The SPEAKER replied that the House had suspended all rules for the purpose of bringing the President's message before the House for distribution——

Mr. WENTWORTH. That I understand. And now the gentleman from Georgia rises and introduces a new series of resolutions.

The SPEAKER. They are clearly in order. The President's message has been brought before the House for consideration; and, being under consideration, it is clearly in order for the gentleman from Georgia to move its distribution among the committees of the House.

Mr. RUMSEY addressed some inquiry to the Speaker, which was not heard by the reporter.

Mr. McCLERNAND inquired of the Chair whether it was proposed by the gentleman from Georgia to refer that portion of the message which related to the tariff to the Committee of Ways and Means?

Mr. STEPHENS replied: to the Committee of Ways and Means.

The demand for the previous question was sustained—ayes 105, noes not counted—and the main question was ordered, being on the adoption of the resolutions.

The SPEAKER stated that a division of the question might be had, if anybody desired.

A division not being called for—

The resolutions were collectively adopted.

Mr. SMITH, of Connecticut, moved to reconsider the vote just taken; and, on his motion, that motion was laid on the table.

Mr. PETTIT and Mr. HOUSTON, of Delaware, simultaneously called for the orders of the day.

The SPEAKER announced that resolutions were in order from the State of Maine.

Mr. WHITE moved that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. HILLIARD appealed to the gentleman to withdraw that motion, to enable him to make some motion, the object of which was not heard by the reporter.

Mr. PETTIT called for the yeas and nays on Mr. WHITE's motion; which were not ordered.

The question was then taken, and the motion of Mr. WHITE was rejected.

The SPEAKER then proceeded to call the States for resolutions, commencing at the State of Maine.

On motion of Mr. CLAPP, it was

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of authorizing the President of the United States to grant medals to individuals who saved the lives of persons or vessels in cases of disaster on the ocean, lakes, bays, sounds, harbors, and rivers, whether those who performed or were benefited by the act were Americans or foreigners.

Mr. STUART, of Michigan, rose to a point of order, and stated that according to his recollection, the Chair had not commenced the call of the roll at the point where it was last interrupted.

The SPEAKER said the Chair had no recollection where the call was last suspended, but this being the first Monday, which was exlusively devoted under the rules to the reception of resolutions, the Chair commenced at the head of the list.

Resolutions were then further received, as follows:

Mr. HAMMONS offered the following, which was read, and laid over under the rule:

Resolved, That the Secretary of War be requested to communicate to this House abstracts of the several pension laws and laws granting bounty lands now in force, together with the rules and regulations adopted under them, and such opinions of the Attorney General as may have been given upon the construction of said laws.

On motion of Mr. WILSON,

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of allowing bounty land to the men who composed the company of Capt. John Parker, who volunteered and were mustered for service on the Indian frontier, in the State of Iowa.

Mr. GRINNELL offered the following preamble and resolution; which was read, and the resolution agreed to:

Whereas, there is in possession of the Government engraved plates of the surveys made by the late Exploring Expedition, of the Bay of San Francisco, and the rivers Sacramento and San Joaquin, and the emigrants for that country being desirous of procuring copies thereof, and those heretofore printed having been disposed of: therefore,

Resolved, That the Secretary of the Treasury cause to be printed from the plates aforesaid, 2,000 copies, and disposed of at the cost of the paper, printing, &c.

Mr. ROCKWELL, of Massachusetts, offered the following, and moved the previous question thereon:

Resolved, That the bills reported by the Committee on Territories to establish Territorial Governments in Upper California and New Mexico, be made the special order for Tuesday, the 23d day of January instant.

The previous question was seconded, and the main question ordered.

Mr. COBB, of Georgia, asked of the Speaker, if it did not require a two-thirds vote to adopt the resolution?

The SPEAKER replied that it required a two-thirds vote to change the order of business; this resolution proposed a change.

Mr. ROCKWELL asked the yeas and nays.

The yeas and nays were ordered, and being taken, resulted—yeas 114, nays 51.

So the resolution was adopted.

Mr. COLLINS moved to reconsider the vote, and moved to lay the motion to reconsider on the table; which latter motion was agreed to.

THE FRANKING PRIVILEGE.

Mr. DIXON, in pursuance of notice heretofore given, asked and obtained leave to introduce the following bill:

A BILL to abolish the franking privilege.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, all letters, newspapers, documents, and other mailable matter, passing through the mails, shall be charged with the existing rates of postage for the time being, and that the franking privilege (so called) be, and the same is hereby, wholly abolished, in all cases whatsoever, and all laws or parts of laws inconsistent herewith, are hereby repealed.

The bill having been read twice by its title—

Mr. DIXON said he hoped the House would consent to put it upon its passage. He supposed that no gentleman desired to debate it.

SEVERAL VOICES. Call the previous question.

Mr. WENTWORTH called for the reading of the bill; which was read.

The SPEAKER said, if no objection was made, the question before the House would be on the engrossment of the bill.

Mr. KAUFMAN moved that it be referred to the Committee on the Post Office and Post Roads.

Mr. DIXON moved that the bill be put on its passage.

The SPEAKER said no motion was required. The question would be on the engrossment of the bill; but if debate arose, the bill must by the rule go over.

Mr. DIXON demanded the previous question on the engrossment of the bill.

Mr. KAUFMAN inquired if it would be in order to move to refer the bill to the Committee on the Post Office?

The SPEAKER said such a motion would be in order, if the demand for the previous question should be rejected.

Mr. GOGGIN inquired if it would be in order to move that the bill be laid on the table?

The SPEAKER answered in the affirmative.

Mr. GOGGIN made that motion.

Mr. DIXON and Mr. WENTWORTH asked the yeas and nays; which were ordered.

Mr. GRINNELL asked for the reading of the bill, if in order.

The SPEAKER said the bill had been once read.

The question was then taken on the motion of Mr. GOGGIN, and decided in the negative—yeas 86, nays 94.

So the House decided that the bill should not be laid on the table.

The question recurring on seconding the demand for the previous question—

Mr. FARAN appealed to the gentleman from Connecticut to withdraw the demand, to allow an amendment, which he desired to offer to be read.

Mr. DIXON declined to withdraw.

Mr. GOGGIN inquired of the Speaker whether, if the previous question were not sustained, the bill would not go over?

The SPEAKER replied, if there were debate, it would go over.

Mr. CABELL. Is it in order to have the bill read?

The SPEAKER. It has already been read. By general consent, it may be read again.

Objections were made.

The SPEAKER again announced the question on the second of the previous question.

Mr. FARAN. Cannot the amendment which I desire to propose be read?

The SPEAKER. If the gentleman from Connecticut withdraws the previous question for the purpose.

Mr. DIXON said he had no objection to the amendment being read, if it could be without interfering with his motion.

Mr. GOGGIN desired to say to the House (if it would at all influence their vote) that he wished to debate the bill.

The question was then taken by tellers, (Messrs. DIXON and WENTWORTH,) who reported ayes 43, noes 83.

Mr. MURPHY called for the yeas and nays on the second.

The SPEAKER reminded the gentleman that the yeas and nays could not be called for on this question.

So the demand for the previous question was not seconded.

Mr. KAUFMAN gave notice that he wished to debate the bill; and, under the rule, it lay over.

AMERICAN COLONIZATION SOCIETY.

Mr. J. A. ROCKWELL moved the following resolution:

Resolved, That the use of this Hall be granted for the annual meeting of the American Colonization Society on to-morrow evening, the 16th instant.

He moved the previous question; which was seconded.

Mr. JONES, of Tennessee, moved to lay the resolution on the table, and called the yeas and nays.

The yeas and nays were refused; and, the question being taken, the resolution was not laid on the table.

The resolution was then adopted; and a motion of Mr. ROCKWELL, to reconsider the vote, was laid on the table.

Mr. COCKE moved that the House adjourn: rejected—ayes 72, noes 78.

Mr. DIXON rose and desired to know what had become of the bill he had just had the honor to introduce. [Laughter.]

The SPEAKER replied that it was on the file of bills on their engrossment upon the Speaker's table. Whenever the House proceeded to this business, it would be in order.

Mr. DIXON inquired if it was in order to make any motion in regard to the bill?

No reply to this interrogatory was heard.

Mr. TUCK asked leave to offer a resolution out of its order.

On motion of Mr. MARSH,

Resolved, That John Newton, of Vermont, have leave to withdraw his petition and accompanying papers from the files in the office of the Clerk of this House.

On motion of Mr. COLLAMER,

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of loaning to the Norwich University, in Vermont, the use of two field pieces; security to be given for their preservation and return.

Mr. HUDSON offered the following resolution, which was read, and laid over under the rule:

Resolved, That the Secretary of the Treasury be requested to inform the House when the annual document on the commerce and navigation of the United States will be laid before the House, and the causes which have produced the delay in making this report to the House.

Mr. KING, of Massachusetts, offered the following resolution, which, giving rise to debate, was laid over under the rule:

Resolved, That the Secretary of the Treasury be authorized to appoint two suitable persons as a commission to examine the condition of the Marine Hospital fund and hospitals, and to report what improvements can be made in the administration of the same.

Mr. PALFREY moved the following amendment to the Rules:

To Rule 25 after the words, "he shall resume the next call where he left off," insert as follows, viz:

"And after the expiration of thirty days from the reference of any subject to any Committee, it shall be in order for any member or members of said committee to present a report or reports upon said subject, in his or their own behalf, whenever said committee shall be called upon for reports: *Provided*, The majority of said committee shall have failed to offer a report upon said subject."

On motion of Mr. COBB, of Georgia, the amendment was referred to the Committee on Rules.

BILLS INTRODUCED.

Mr. HUBBARD, in pursuance of previous notice, obtained leave, and introduced a bill making to the State of Connecticut a donation of public land to aid in the constructing the New York and Boston Air Line Railroad: which was read twice, and referred to the Committee on Public Lands.

Mr. HOLMES, of South Carolina, objected.

On motion of Mr. TOOMBS—agreed to by yeas 102, nays 84—

The House adjourned.

PETITIONS, ETC.

The following memorials and petitions were presented under the rule, and referred:

By Mr. NICOLL: The memorial of the Chamber of Commerce of the city of New York, asking the attention of Congress to Lieutenant Maury's wind and current charts, now in course of publication at the National Observatory, as one of the most valuable contributions of the age to practical navigation; and praying that two or more small vessels of the navy be placed under the direction of Lieutenant Maury, for the purpose of more effectually carrying out his instructions and experiments.

By Mr. FRANKLIN CLARK: Remonstrances of John Glidden and 39 others, citizens of Newcastle; and of Job Spear and 31 others, citizens of Warren, against the division of the Waldoboro' collection district.

By Mr. PECK: The petition of Samuel B. Mattocks and others, citizens of Danville, Vermont, for cheap postage. Also, the petition of 167 Friends of Hardinville and vicinity, Vermont, against the extension of slavery.

By Mr. BLACKMAR: The petition of 70 citizens of Seneca county, New York, asking the reduction of postage and the abolition of the franking privilege.

By Mr. BUTLER: Three petitions, signed by 187 citizens of Luzerne county, Pennsylvania, asking for an immediate modification of the existing tariff laws.

By Mr. ATKINSON: The memorial of Ferguson & Dulhado, merchants of Norfolk, Virginia, praying that their bond for duties may be cancelled, for reasons therein stated.

IN SENATE.

TUESDAY, *January* 16, 1848.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, containing a report of the names and compensations of clerks, officers, &c., in the employ of that department during the year 1848; which was ordered to be printed.

ADMISSION OF CALIFORNIA.

Mr. DOUGLAS rose and said, that after examining the reports from the Committee on the Judiciary, and weighing the objections urged against the bill for the admission of California into the States of the Union, he had come to the conclusion that he could prepare a bill which would obviate all the objections which had been made. He had therefore prepared a substitute, which he proposed to offer for the original bill; and he would now move that it be printed, and made the order for Monday next, for which day the California bill was made the special order.

The substitute was then read, as follows, and ordered to be printed:

Strike out all after the enacting clause, and insert:

"That Congress doth consent, that from and after the 4th day of July next, all that portion of the territory of the United States which is included within the following limits, to wit: beginning in the Pacific Ocean, three leagues from shore, on the parallel of 41° 30′ of north latitude, thence running east on said parallel to the summit of the Sierra Nevada or California Mountains, thence south along the summit of said range of mountains to the parallel of 34° 30′ of north latitude, thence west along said parallel to the ocean, thence north to the place of beginning, including the islands adjacent to the shore, shall constitute one State, and with the assent of the people thereof, the same is hereby declared to be one of the States of this Union, from and after said date, on an equal footing with the original States, in all respects whatsoever, with the unconditional reservation to the United States of all right of property in the public domain and other property ceded to the United States by the treaty of peace concluded with the Republic of Mexico, July 2, 1848, free from taxes or assessments of any kind by said State, and also the power of disposing of the same, including the right of adjusting all claims and titles to lands derived from foreign Governments, in such manner as Congress shall prescribe."

SEC. 2. *And be it further enacted*, That the acting Governor of the Territory of California, so soon as he shall be provided with a copy of this act, to the end that the people may have an opportunity of establishing for themselves a constitution and republican form of government for said State, prior to the 4th day of July next, shall immediately proceed to lay off the country embraced within the limits of the proposed State into convenient districts, for the election of delegates to a convention, for the purpose of forming a State constitution, and shall designate the time and place of holding the election in each district, appoint the officers to conduct the same, and prescribe the mode of making the returns thereof, and shall apportion the delegates, fifty in all, among the several districts as near as may be according to the number of legal voters in each, and he shall also designate the time and place for the assembling of said convention. Every white male citizen of the United States, including those who shall have become such under the provisions of the said treaty with Mexico, being actual residents of the proposed State, and having attained the age of twenty-one years, shall be entitled to vote at said election.

SEC. 3. *And be it further enacted*, That the laws of the United States, so far as they are not locally inapplicable, are hereby extended to, and declared to be in force in, said State; and until the next general census, the said State shall be entitled to one Representative in the Congress of the United States.

RESOLUTIONS FROM STATE LEGISLATURES.

Mr. DODGE, of Iowa, presented a joint resolution of the General Assembly of Iowa, in favor of an appropriation from Congress for the erection of a bridge across the Des Moines river, at the point where the military road crosses the same; which was referred to the Committee on Roads and Canals.

Mr. DODGE, of Iowa, presented a joint resolution of the General Assembly of Iowa, requesting their Senators and Representatives in Congress to procure an appropriation to pay the expenses of running the northwestern boundary of the State of Iowa; which was referred to the Committee on Public Lands.

MEMORIALS AND PETITIONS.

Mr. UNDERWOOD presented a petition from B. B. Crump, and 49 citizens of Glasgow, Barren county, Kentucky, asking for a reduction of the rates of postage, and the abolition of the franking privilege; which was referred to the Committee on the Post Office and Post Roads.

Mr. DAVIS, of Mississippi, presented a petition from Captain J. C. Barnard, of the United States engineers, asking for the restoration of certain allowances to officers of the engineer corps; which was referred to the Committee on Military Affairs.

Mr. STURGEON presented a petition from J. Murray Rush, asking payment for professional services rendered the United States as counsel in a case of felony; which was referred to the Committee on Claims.

Mr. DICKINSON presented a memorial from Barclay and Livingston, and other merchants of New York, asking for a return of duties paid on goods destroyed by fire; which was referred to the Committee on Finance.

Mr. NILES presented a petition from citizens of Deep River, Connecticut, asking a reduction

of the rate of postages and the abolition of the franking privilege; which was referred to the Committee on the Post Office and Post Roads.

Mr. YULEE presented a petition from Peter B. Dumas, clerk of the circuit court of the United States, in St. John's county, Florida, asking for an act for the transfer of exemplifications of the records of that court to the State courts; which was referred to the Committee on the Judiciary.

Mr. WESTCOTT presented a petition from William Emmons, administrator of Uri Emmons, asking for the extension of his patent for a planing machine; which was referred to the Committee on Patents.

Mr. KING presented a petition from Simon Snodgrass, asking the reimbursement of expenses incurred in aiding the removal of the Cherokee Indians in the year 1838; which was referred to the Committee on Indian Affairs.

Mr. CLAYTON presented a petition of the owners and masters of vessels, and pilots navigating the Delaware bay and river, asking the erection of a light-house on the Delaware breakwater; which was referred to the Committee on Commerce.

On motion of Mr. BUTLER, some additional papers in the case of E. P. Guion, &c., were referred to the Committee on Claims.

On motion of Mr. WESTCOTT, the Senate proceeded to consider the bill for the relief of Manuel X. Harmony, with a view to its recommitment to the Committee on Claims, with additional documents; and the bill was recommitted.

BILL ON LEAVE.

Mr. BORLAND, pursuant to notice, asked and obtained leave to introduce a bill to repeal a portion of the third section of the act of July 19, 1848, in relation to the medical staff of the army of the United States, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. DOWNS, from the Committee on Private Land Claims, reported a bill for the relief of J. Rice Jones, with amendments.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported a bill for the relief of B. O. Payne; which was read a first time.

Mr. WESTCOTT, from the Committee on Patents, made an unfavorable report on the petition of James Harley; which was ordered to be printed.

RESOLUTIONS.

Mr. WESTCOTT submitted the following resolution; which was considered and adopted:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of establishing a navy-yard and naval depôt at the island of Key West, in the State of Florida, or at some other proper place contiguous thereto.

Mr. JONES submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a tri-weekly mail route (the mail to be carried in four-horse post coaches) from the city of Dubuque via Iowa City, the seat of government, and Fairfield to Keokuk, in said State.

Mr, UPHAM submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of loaning to the Norwich University, in the State of Vermont, the use of two new mounted field-pieces, good security being given for the safe-keeping, preservation, and return of the same.

MILITARY LAND WARRANTS.

The Senate resumed the consideration of the House bill in addition to an act entitled "An act in relation to military land warrants," approved August 14, 1848.

Mr. UNDERWOOD. Mr. President, the gentleman from Florida [Mr. WESTCOTT] made some objections to this bill when it was up before the Senate the other day, and I thought at the time, and still think, there was considerable force in his objections. I rise now for the purpose of obtaining information in regard to this matter. If I understand the force of the objections to the bill, stated by the gentleman from Florida, it was, that heretofore the assignees of soldiers were not allowed to obtain grants of bounty lands given for military services, and that this bill provides, for the first time in our legislation, for issuing grants to the assignees of soldiers, and thereby encourages that pernicious system of speculation in these bounty lands which has heretofore prevailed.

If I understand this matter, Congress has hitherto limited the issue of grants to the original proprietor—the soldier himself, or, in the event of his decease, his heirs. And if I am correct in that view, I am not willing, so far as I am concerned, to allow these assignees, who, in most instances, have obtained possession of their claims at one-half their value, or less, to come in and obtain grants upon soldiers' warrants. I acknowledge, at the same time, that I have not investigated this subject very thoroughly, and that I am speaking from the objections to the bill advanced by the Senator from Florida, and I wish for additional information in regard to it.

If this is the introduction of a new principle by which the assignees of soldiers who have become assignees prior to the time of granting the land warrants, are to obtain patents from the Government for their lands, I am opposed to it. I think we had better adhere to the former determination of Congress, not to allow soldiers to part with their lands until they have their warrants in their pockets. That is all that I have to say, sir. If I am correct in the view which I have expressed, I shall vote against the bill; if I am not correct in those views, I shall not offer any opposition to its passage. Senators can inform me whether I am correct or not.

Mr. BREESE. Mr. President, I suppose that the Senator from Florida has waived the objections which he advanced against this bill a few days ago. I presume that Senator has ascertained by this time that he was entirely mistaken in regard to the object and operation of this bill. And I should judge, from the observations just made by the Senator from Kentucky, that he does not understand this matter at all. It would seem from the Senator's remarks that he supposes that the passage of the bill now under consideration would introduce a new principle into the legislation of Congress on the subject of military land warrants. It is not so. This land is granted, sir, under the act of February 11th, 1847. The ninth section of that act grants one hundred and sixty acres of land to each person who may have served in the army during the Mexican war, and who may have received an honorable discharge, regulars as well as volunteers. And there is a strong prohibition in that section of the law which prohibits a person from passing his title or claim to any such bounty land out of his possession before a warrant has been issued. After a warrant has been issued, he may assign it to whomsoever he pleases, and the person into whose possession the warrant passes can locate his land, subject to private entry, upon any legal subdivision. That is a provision of the act of 1847. The construction placed upon that act at the Land Office is this: When the Government grants a warrant for one hundred and sixty acres of land, the land officers do not require the party holding the warrant to locate upon a single quarter section, but they permit the holder to locate his land upon contiguous legal subdivisions, selecting eighty acres in one place, forty acres in another, and forty in another, provided that all are contiguous and in one body, being in the shape either of a square or of a parallelogram, as the situation of the land may determine. That has been the practice of the Government ever since 1847. At the last session of Congress, an act was passed authorizing the soldiers who held these warrants, or their widows or heirs, to purchase lands with their warrants, the price of which had been raised by the legislation of Congress from the minimum price of $1 25 per acre to $2 50; being some reserved lands in the States of Ohio and Indiana. That act authorized the widows and heirs of soldiers to whom these warrants had been issued to locate upon these reserved lands, their warrant being received *pro tanto*, and they paying the balance in money.

The object of this bill is simply to confer that same privilege upon the assignees, to make the warrant in the hands of the soldier, or his widow or heirs, a little more valuable. That is the sum and substance of the bill. It introduces no new principle of legislation whatever.

Mr. UNDERWOOD. Mr. President, the gentleman can answer all my objections in one word. What I wish to know is, whether or not these warrants were assignable prior to this act?

Mr. BREESE. Certainly, sir. They have always been assignable.

Mr. WESTCOTT. I objected to this bill the other day, and it was laid over that an amendment might be offered to it confining the privilege it bestows upon assignees to the right to enter the reserved lands held at two dollars and fifty cents an acre, upon payment of the residue over the amount of the warrant in money. What I object to is the right this bill, if passed, will give them of entering the land in "legal subdivisions;" not in a body, but in tracts of forty acres here and forty acres there, or eighty and one hundred and twenty acres in separate tracts; thus securing the best small farms in the new States, to the prejudice of the small farmers. I am opposed to recognizing these "assignees" by express law to any extent. Let them stand on their rights of contract, without such recognition. They should not be favored; I will do nothing to aid them. The act of 1847, giving this land, is founded on this policy. Most of them purchased under that act. They have got the warrants for half price in many cases, and in some cases for less. They are generally mere speculators, who are not entitled to favorable consideration. The land was intended as a home for the soldier, and it is against the policy of the law to recognize these transfers. The act of 1847 forbids transfers before the warrant is issued, and does not contain anything sanctioning them, even after the warrant is issued. The act of August 14, 1848, authorized the entry by the soldier, or his widow or heirs, of his land in "legal subdivisions," without providing that it shall be in a compact body. It is the first law that contains such a provision. The act of 1847 allows the entry by the soldier, his widow, or heirs, in legal subdivisions, but says it shall be in a compact body. A *bona fide* assignee may perhaps have the right given by the act of 1847, if the assignment is made after the warrant issued; but the act of 1848 impliedly excludes assignees, for it is a special favor granted to the soldier alone, or his widow or heirs alone. This law proposes to give the assignee the same right given to the soldier and his widow and heirs by the act of 1848. As to the privilege of allowing them to enter the "reserved lands," on paying the overplus of price in money, I have no objection to it, as it is the public interest, and not favor to these speculating assignees, that dictates such law; but what I object to is that part of the bill allowing them to enter the land in "legal subdivisions, not in a compact body." That privilege was not existing when they got the discharge of the soldier and the power of attorney by which they have evaded the act of 1847, prohibiting assignments before the warrant issued. I am told by the Senator that such construction has not been placed on the act of 1848, and will not be, if this bill is passed. Well, sir, let there be no ambiguity. I propose the following proviso to the bill to prevent it:

Provided, however, That nothing in this act shall allow assignees of bounty land warrants to enter lands under such warrants in any subdivisions less than one hundred and sixty acres in a body.

VICE PRESIDENT. If objected to by any Senator, the amendment cannot be received at this stage of the bill without the recommitment of the bill.

Mr. BADGER. I object.

Mr. WESTCOTT. I then move to recommit the bill to the Committee on the Public Lands. I make this motion with the sole view of having the bill amended as suggested.

Mr. BREESE. Mr. President, I am very sorry to be obliged to take up the time of the Senate in discussing this matter, which is of very little importance. This bill came from the House of Representatives, and I must insist that the Senator from Florida is wholly mistaken in regard to its operation. Ever since the act of February 11, 1847, was passed, the assignees of land warrants, after the warrants were issued, have had the same right to locate the lands as the original holders of the warrants possessed. No holder of a Government bounty land warrant has ever been permitted to locate his warrant upon disjointed tracts of land. He has always been required, by the regulations of the land office, to enter them in a body. The idea is ridiculous and absurd that a man possessing a warrant for one hundred and sixty acres of land would be allowed to locate upon forty acres in one place and upon forty acres in another place, and twenty miles distant from the first, eighty acres in another place ten miles from the last. How could a set of books ever be kept under such circums an-

ces? I repeat that such an idea is perfectly ridiculous. Under the act of 1847 the assignees have been permitted to locate their lands in legal subdivisions. Legal subdivisions are the express words of the law. I would ask the honorable Senator from Florida if he has ever read that law? Has he ever turned his attention to the phraseology of the ninth section of that act?

Mr. WESTCOTT, (interposing.) If the Senator will permit me, I will explain.

Mr. BREESE. By that act the assignees are authorized to locate their warrants in legal subdivisions, and this bill goes no further. This act is to provide for cases which I have distinctly announced to the Senate. It is well known that there are certain lands the price of which has been raised to two dollars and fifty cents per acre. At the last session, an act was passed authorizing the holders of land warrants to locate them on these lands by paying the balance in money; and this act authorizes the assignees to do the same thing. Now, sir, what will be the effect of this law? It will appreciate the value of the warrant while in the hands of the soldier, or of his widow or heirs. When the assignee discovers that he has the same privilege as the soldier to enter on these lands, he will give a higher price for the warrant than he would if restricted in its location and entry. This is the object of the bill. It will benefit the soldier who holds the warrant, or his widow or heirs who may have inherited it. It is not for the benefit of the speculator, for he is as much protected as he can be by the acts of 1847 and 1848.

Mr. WESTCOTT. The Senator talks entirely of the act of 1847. It was the act of 1848 I referred to, and not the act of 1847, as authorizing the entry on a warrant in legal subdivisions of 40 or 80 or 120 acre tracts, without the restriction that it should be in a body, and this act of 1848 is the first law that contains such provision. The act of 1847 does not.

Mr. BREESE. Yes, it does.

Mr. WESTCOTT. It authorizes the entry in legal subdivisions in a body. That is the difference in these acts. The act of 1848 does not prescribe that they shall be in a body. This bill proposes to give assignees the benefits of the act of 1848. The act of 1848 itself excludes them, and is confined to the soldier, his widow, and heirs. I don't want to change the act of 1848 in this respect. [Mr. W. here read the act of 1848.] I have no objection to allow them to enter the reserved lands. All I protest against is making a gift, a valuable gift, to a class of people that should receive reprobation instead of favor for defying the law of 1847 by their purchases of discharges, and taking powers of attorney from the soldier to evade its prohibitions.

Sir, if the Senator is right, and if I am wrong, the proviso I offer but carries out his views of the act of 1848, in which I differ from him, and it meets my objections fully. I did not refer to the act of 1847, as he supposes, and give it the construction he supposes, but it is the act of 1848 that I contend allows the entry in legal subdivisions, without the condition of being in a body.

Mr. BADGER. Mr. President, I have but a few words to say upon this subject. I objected to the incorporation of the amendment with this bill, and put the honorable Senator from Florida to the necessity of moving a recommittal, because I thought that that amendment ought not to be made; and I think that a single consideration will be sufficient to show it. It was a question originally made in the Senate, and much debated here, whether these claims should be assignable or not, and very strong reasons were assigned by the Senator from Missouri [Mr. BENTON] why he thought the claims should not be assignable at all. But they have been made assignable, and, being assignable, it is perfectly obvious, that if the original holder has a privilege respecting the claim, which will not pass to his assignees, the warrant in his hands becomes lessened in value. If he wishes to sell, and you do not allow him to sell his right, with all the privileges belonging to it, you diminish in his hands the value of what he has for sale, preventing him from getting a full price for it, whereby, under a desire to preserve from speculation the original holder of such a claim, you do him a positive injury by diminishing the value of the thing which you allow him to assign. Now, it is not a question whether you will allow him to assign or not, for this privilege you have already granted him. And it seems to me (and I respectfully submit it to the honorable Senator from Florida) that it is a positive benefit to the holder of the warrant to allow him to assign his right with all its privileges, because it enables him to get a better price for it. All restrictions of this kind act heavily upon the owners of the claims. They diminish the value of the rates of prices which they receive for their warrants, injure the holder, and do no good to any one. Therefore, I think the amendment ought not to be made, and that the motion to recommit ought not to prevail.

Mr. BREESE. Mr. President. I rise for one purpose only. I understand the Senator from Florida to say that the act of 1848, which was passed at the last session of Congress, was the first law of Congress authorizing the location of warrants in legal subdivisions. I assumed, when up before, that he was entirely mistaken in his construction of the act of February, 1847. I will read but a few lines:

"SEC. 9. *And be it further enacted*, That each non-commissioned officer, musician, or private, enlisted or to be enlisted in the regular army, or regularly mustered in any volunteer company, for a period of not less than twelve months, who has served or may serve during the present war with Mexico, and who shall receive an honorable discharge, or who shall have been killed or died of wounds received or sickness incurred in the course of such service, or who shall have been discharged before the expiration of his term of service in consequence of wounds received or sickness incurred in the course of such service, shall be entitled to receive a certificate or warrant from the War Department for the quantity of one hundred and sixty acres, and which may be located by the warrantee, or his heirs-at-law, at any land office of the United States, in one body, and in 'conformity to the legal subdivisions of the public lands, upon any of the public lands in such district then subject to private entry.'"

Mr. WESTCOTT. "One body."

Mr. BREESE. That is what I have been contending for. Under this law, the General Land Office allows the holders of warrants to locate them upon lands in the form of a parallelogram or square, as they may choose. But they must be located upon contiguous subdivisions.

Mr. WESTCOTT. Mr. President, if the Senator will permit me, we do not disagree about the construction of that law, but about the act of 1848. That act (1848) allows the warrants to be located in legal subdivisions without the restraint of being in one body, and, in fact, without any restraint at all.

Mr. NILES. Mr. President, from the explanation of the bill which the Senator from Illinois has just given, I am satisfied that it ought not to pass. As to the point of difference between the Senator from Illinois and the Senator from Florida, I must say that I have been unable to determine which is in the right; but I have become satisfied that I cannot vote for this bill. What is the application of this bill? Originally these land warrants were issued to soldiers, and were paid for in land scrip, used only in the purchase of land at the minimum price, and requiring no particular location.

But a law was passed at the last session of Congress giving them a further advantage, but confining the benefits to the soldiers and their widows and heirs. That law gave the soldiers and their heirs an additional capacity, allowing them to purchase with these warrants a new description of lands—those which had been reserved and sold at a higher minimum price than the other public lands. Now this bill proposes to extend this additional capacity to the assignees. What will be the effect of it? It will take away, in a great measure, from the officers and soldiers the benefits conferred upon them by the act of the last session. These reserved lands, which, by the act of the last session of Congress, are allowed to be purchased by these bounty land warrants, are limited in extent, and are very desirable lands. A large portion of these warrants are now in the hands of these assignees, and if you extend this additional capacity to them, they will take up all these lands, and the operation of your law, enacted for the benefit of the officers and soldiers and their heirs, will be wholly void. All these lands will soon be gone, and then where is the benefit that was to accrue to the soldier?

There is another objection, however, to this bill. I think it is not desirable to shape our laws so that these military land warrants shall constitute the entire currency for the land sales. If there are portions of the public lands in market for which these warrants are received in payment, so far they prevent money coming into the treasury; and if all the best lands belonging to the Government are thrown open to the operation of assignees, you must expect, for some few years at least, that nothing will be received into the treasury for public lands. These scrips can be bought at a discount, and persons wishing to purchase any of these reserved and superior lands would be apt to buy, in the first instance, some of this scrip, and present it instead of the money at the land office. It is not good policy to have all these lands taken up in a few years with this scrip; it would be better to have it spread over a series of years. Therefore I think this bill ought not to pass.

We have no right to confer any special benefits upon these speculating assignees. If they have obtained these scrips, what right have they to come here and ask us to give them, by special legislation, privileges which did not exist when they purchased the warrants? They obtained them under existing laws, and now they come and ask us to extend the law so as to give them additional privileges. These assignees are, for the most part, unscrupulous speculators, who have made themselves notorious in this matter. I cannot consent, for one, to legislate for their especial benefit.

Mr. DAVIS, of Mississippi. Mr. President, I think it is very much to be regretted that we have introduced the system of assignments of bounty land warrants at all. It was originally designed that this grant of land should form a homestead for the soldier after his military services had ceased. Again I say, it is greatly to be regretted that the grant was not so restricted as to have kept it as long as possible in the hands of the original grantee. Having departed, however, from that rule, having permitted the warrants to be made transferable, the question now is, whether the assignee shall have all the advantages which the country in its generosity bestowed on the soldier? To this I am decidedly opposed. Nor will the argument of the Senator from North Carolina change my opinion upon that subject. I do not think that the operation of this bill will at all enhance the value of the warrant in the hand of the soldier. The time has passed when that might have been done. These warrants were sold—generally hypothecated very soon after the discharge of the soldier—the buyer relying on the soldier's honor faithfully to discharge the warrants. And in a few cases where the warrants have not passed, either by hypothecation or by a subsequent sale into the hands of the assignees, they remain the property of those who intend to hold on to a little tract of land as a relic of their military services; hence such warrants cannot now be expected to be thrown into the market. It is, therefore, a bill for the benefit of the assignees, and in no possible contingency can the least good ever accrue to the original grantee—the gallant soldier, who periled health and life in the service of his country. For that reason I intend to oppose this bill.

Mr. WALKER. [The first part of this gentleman's remarks were inaudible to the reporter. He was understood to say that he did not intend to favor this bill, which appeared to be for the benefit of assignees.] I rise more particularly (continued Mr. W.) to make an inquiry connected with this subject, which the chairman of the Committee on the Public Lands will doubtless be able to answer.

The Senator from Connecticut [Mr. NILES] has very properly stated that this bill would make these land warrants the exclusive currency for the purchase of the public lands. Such is the state of things in the State in which I reside. The land officers there are not receiving revenue sufficient to compensate them for their services. The entry of lands located by the possessors of bounty land warrants is as expensive and troublesome to the officers as the purchase of lands with money; and owing to the fact that nearly all the lands purchased are paid for in this Government land scrip, the land officers do not receive money enough for their support. I introduced a memorial some time since from the land officers in the State of Wisconsin, praying for a compensation for services rendered in entering military land warrants, which was referred to the Committee on Public Lands. The inquiry which I wish to make is, whether that committee have taken into consideration the fact, that the land officers throughout the country are left without a compensation for their services in entering military land warrants, and whether they intend to report upon the subject;

and, if they do, whether it would not be better to recommit this bill, and to affix to it, as an amendment, some provision for the compensation of land officers? Either let the person who purchases the land with the warrant pay something like the compensation which the land officers have heretofore received by way of per centage, or else let the Government pay their officers reasonable salaries from the public treasury. It was to make these few observations that I rose.

Mr. BREESE. Mr. President, I can only say, in answer to the inquiry of the honorable Senator from Wisconsin, that the subject to which he has referred is still before the committee. They have not yet been able to decide upon it. I believe, however, that there is a disposition to give the land officers a greater compensation, for we all know that their labors are exceedingly arduous. But so far as the remark of the Senator in relation to the receipts at the various land offices, and his statement that almost the entire amount of land sold is upon Government scrip, are concerned, I must say that I can hardly reconcile them with the statements contained in the report of the Commissioner of the General Land Office. That report shows that the receipts at the Land Office during the past year amounted to something like three millions of dollars.

It is they who locate their lands upon sections of eighty acres or forty acres that bring money into the treasury. These military land warrants are located in quarter sections of one hundred and sixty acres. It is from the settler who buys small sections of land that the money is derived, and under the present system the treasury has received upwards of three millions of dollars for public lands during the past year.

Mr. TURNEY. Mr. President, I wish to make one remark. I think the Senator from Mississippi [Mr. DAVIS] is entirely mistaken in regard to one fact. He supposes that these warrants have already been transferred to the assignees. If the Senator will permit me, I will say that I know that this is not the case, inasmuch as the larger portion of the soldiers are now applying for their warrants. No transfer has been made, none can be made, till after the warrants have been issued. Nor have the rights of the soldier been hypothecated. This I know to be the fact, at least in relation to the soldiers in the State in which I live; and I presume it is the case in regard to the soldiers from the other States of the Union. My judgment is, that this bill is necessary in order to prevent the depreciation of the warrants. I take it for granted that those soldiers who live in a State in which there are no public lands will pretty generally sell their warrants; and, if they do, the loss by their depreciation will fall upon the soldiers alone. I think, therefore, that it would be better for them if this bill should pass, and consequently I shall vote for it.

Mr. DAVIS, of Mississippi. Mr. President, one point merely in answer to the Senator from Tennessee. I know something about his gallant fellow-citizens of Tennessee, who served so honorably in the Mexican war. I know something about what took place when they were discharged at New Orleans; and although I was not positively informed that such was the fact, yet rumor reported at that time that the soldiers were selling their discharges, hypothecating them at fifty and sixty dollars all over the city.

Mr. TURNEY, (interposing.) Those were not the first troops.

Mr. DAVIS. Yes, sir, they were, and they constituted the largest portion of your fellow-citizens who were engaged in the war.

Mr. BORLAND. Mr. President, this bill seems to me to be entirely for the benefit of assignees; in other words, for the benefit of speculators. I here take occasion to say, that while there may be many honorable exceptions, (some of whom I know,) the history of this country in all its transactions, whether in money or land, has never presented such a series of fraudulent transactions as have disgraced our country in the purchase and assignment of these land warrants. At the time of which the Senator from Mississippi speaks, when the soldiers were discharged at New Orleans and other points, a set of land-sharks, pirates, and harpies, (I know no terms too harsh to apply to them,) arose in every portion of the country to defraud the soldier out of his hard-earned gratuities from the Government.

The whole operations of the Pension Office have been suspended for the last three or four weeks for the purpose of ascertaining, if possible, the amount of frauds that have been committed in relation to these land warrants. Some of the clerks belonging to that office are now traversing the country in search of these harpies who have been eating up the products of the soldier's toil. The whole business of issuing land warrants has been suspended for the last four weeks, and the officers say it will be impossible to go on unless something be done to put an end to these fraudulent transactions, and to prevent the soldier and the Government from being imposed upon by these unprincipled sharpers. In a number of cases as many as three applications have been made for the same land warrant, and forged papers have been brought forward. For whose benefit has the law been passed? For whose benefit have these warrants been issued? For the benefit of the soldier and his family, and in many cases for the benefit of his widow and orphan children, who are now reduced to destitution and suffering by these speculators.

Mr. President, I am willing to go to any extent in extending the support, care, and protection of this Government to the soldier, his widow, and his children; but I am not willing that any act of mine should benefit these assignees, especially when it must be done at the expense of the gallant and deserving soldier. If we could ascertain that every case of assignment was a fair and equitable transaction, that the soldier had received the full market value of his warrant, I would be willing to extend to the assignee, who had made the purchase in good faith and with an honest purpose, all the benefit which the law could give him. I would be willing to allow him all the privileges which the soldier himself originally possessed and sold to him. But, inasmuch as I believe that in proportion to the whole number of cases of assignment, very few have been made with an honest purpose and in a fair manner, I am not willing to grant any privilege to the speculator.

That provision of the law which forbade the transfer of the claim before the warrant was issued is a very wise one. It was to prevent these speculators taking advantage of the soldiers when they first returned from Mexico, by all manner of deception and fraud. They left no device untried by which they thought it possible to fleece their victims. Among other things, they represented to the soldiers that it would be very difficult, and would require a long time to get their warrants from the officers at Washington; and in consequence of these misrepresentations, they in many cases obtained the claims at their own price. The provision which guards the soldier against such transactions is a good, a wise, and a proper one. The law which it is now proposed to enact would do away with all the benefits which have been derived from that provision, and would pay a bounty, as it were, for the very fraudulent transactions, the very misrepresentations by which the speculator defrauds the soldier of his hard-earned gratuity. If it is for the benefit of the soldier that the bill proposes to give increased value to land warrants, I will vote for it. But, inasmuch as I believe that it confers the benefit exclusively upon the speculator, and renders no service to the soldier or his heirs, I shall be compelled to vote against it.

Mr. BENTON. Mr. President, from the time the Government first granted land warrants to soldiers, a struggle has been going on by speculators to fleece the soldiers out of their warrants. That struggle is just as old as the warrants. When the bill was reported to the Senate for the purpose of granting bounty lands to soldiers, I struggled for three weeks upon this floor to confine that warrant to the soldier, or to his wife and children if he should die, and to keep it out of the hands, or rather out of the maws, of those cormorants who pursue them to devour them; those harpies who pursue them with every falsehood and every misrepresentation that can be devised to deceive them, telling them that it will be a long time before they can get their warrants, and that they will be worth nothing after they shall have obtained them, or that they can never get anything from the Government. I struggled for three weeks, Mr. President, to save the soldiers from the cormorants called assignees. I failed, and all that I said and said again upon this floor, until the very starlings could have repeated it word for word, if there had been any about, is now known to be true. Every person who has seen anything of the operation of the law knows it to be true, and that the soldiers have been pursued by these cormorants, who have fastened upon them like bloodhounds, and overcome them in every way they could. They have overcome them by liquor and false representations, and by every species of fraud, and have thus got the warrants out of their hands.

And now, when we have passed a law with every restriction, we are not safe, for every person knows that there are two legislative powers in every country, and the last is the most important one. First, there is the legislative power proper, which passes the law; and last, there is the legislative power improper, which construes the act and makes it either wide or narrow, according to their judgments or their prejudices. The statute in this case has received a construction which I never would have given it. I understand that powers of attorney are executed by which the whole statute is defeated. Even the few guards which we succeeded in putting upon it are completely evaded.

Now, Mr. President, I will tell you what I mean to do. I do not mean by any act whatsoever to admit the existence of an assignee. Far from giving him undue advantages now; far from making that warrant—which is as valuable now as when he got it—for he got it for half price—more valuable than it is at present; far from allowing him to go over the country, picking out the eyes of the land, picking out a rich tract here and a rich tract there, taking all the fat streaks and leaving all the lean ones, I will vote against every bill having the word assignee in it. Every bill, which contains the word assignee, in connection with these warrants, I shall oppose. Whenever a bill is presented, if any gentleman will just cry out "assignee," I will vote against it; because I do not mean to vote for any bill that recognizes the existence of an assignee.

The question on the recommitment of the bill to the Committee on Public Lands being taken, it was agreed to, and the bill was accordingly recommitted.

LAND TITLES IN NEW MEXICO AND CALIFORNIA.

The Senate then proceeded to the consideration of the unfinished business, being the bill for ascertaining claims and titles to lands within the Territories of California and New Mexico, to grant donation rights, and to provide for the survey of the lands therein; the question pending being the motion of Mr. BENTON to recommit the bill with instructions.

Mr. BREESE. The motion submitted by the Senator from Missouri [Mr. BENTON] brings to the consideration of the Senate, not only the proposition reported by the committee, but the amendments submitted by myself, and his own, as a substitute for all. He has presented, sir, a great many arguments against the bill, and in favor of his own plan, which, I think, is liable to some of the objections he makes to the original bill and the amendment. It will be perceived by the Senate, that this bill, as originally proposed by the Committee on Public Lands, provided for a board of commissioners and a surveyor general, to lay off the private claims and survey the residue—following the plan adopted many years since for the adjustment of private land claims in ceded territory. And, so far as I am informed, though there has been some delay, I believe justice has been done generally, and the interests of the Government protected by such a system.

The Senator, sir, has made objections to this bill—some of them radical in their character, and therefore not susceptible of amendment; and some which are special as to the details of the bill, and which can be amended. His first objection, as far as I understand it, is that the committee have embraced in their bill California and New Mexico—countries which have no natural connection with each other—and will subject the inhabitants of both to great trouble and expense to go to one place, either in California or New Mexico, passing through a wilderness of a thousand miles, in order that their titles may be examined before the board.

There is one plain and simple answer to this objection of the Senator, and the bill itself furnishes it. The first section provides that they shall hold their sessions as commissioners at such points in each territory as may be selected by the President.

Now, sir, instead of requiring the inhabitants of New Mexico to go to California, and those of California to go to New Mexico, the probability is that the President, under this law, will instruct this board to sit at different points of the territory—at Monterey, San Francisco, San Diego, and other points convenient to the inhabitants of both territories; and really, sir, it would be no great hardship, it would not be asking too much of them, to present to the board evidences of the claims after they meet at those places; but it would, I admit, be very great if they were stationary. They are not so. They are obliged to hold their sessions in such places as the President may appoint. So that the objection of the Senator is, I suppose, entirely answered by the provisions of the bill.

This, sir, was the practice adopted many years ago, when the domain in Louisiana was acquired. There were but few towns in Louisiana, and a board of commissioners sat at New Orleans and St. Louis, and the claims were presented, and they were confirmed or rejected as the evidence warranted.

The next objection that the Senator takes is, that, so far as New Mexico is concerned, it is a country of indefinite boundaries, and we should not meddle with it; there is an important question pending, and it would be injudicious in us to interfere with the question of boundaries. Now, sir, this bill does not interfere with that question at all; it does not meddle with it in any way whatever. No act is to be done by which an expression of opinion of the Government may be had with relation to the boundary. There is, however, sir, a portion of New Mexico about which there is no dispute, in regard to which no adverse pretension has been set up. I speak of the country west of the Rio Grande, embracing about eight degrees of latitude and one of longitude. I have never heard any adverse claim set up to that country—no other claim but that transferred to the United States by virtue of the treaty of February last. As these commissioners are to be governed by instructions emanating from the President of the United States, it is reasonable to suppose that they will be restricted in their investigations to the country west of the Rio Grande. Some discretion must be lodged somewhere, and I can see no person more fit than the Executive. The Senator objects that the duties of the commissioners are incidental to their appointments as surveyor general, register, and receiver; but the principal purpose for which they are appointed is to decide on the claims to land, their other duties are incidental; and the reasons which operated with me in proposing this amendment was to avoid a multiplicity of officers. The original bill proposes that there should be three commissioners, as such, and in addition to them, a surveyor general and other officers. I suppose the whole might be accomplished by organizing a board composed as the amendment provides. As to the objections that the titles are in Spanish, and their officers might not understand the language, the bill provides that the secretary of this board shall be a person well skilled in the Spanish language, and so far as that objection is concerned, it is also obviated.

But the gentleman objects that the bill is a violation of the treaty with Mexico, of the law of nations, and of the decisions of the Supreme Court, and is unjust in every particular. Now, sir, I have examined the treaty with great care, and I cannot see what provision of this law is in opposition to any stipulation of the treaty. There is an express reference in the bill to the treaty. Their decisions must be in conformity with the treaty with Mexico, the law of nations, and the decisions of the Supreme Court. It is required that they shall conform their decisions to those authorities. How, then, can it be said that it is in violation of them when express reference is made to them as a guide in adjudicating the claims?

The Senator also says the bill is in violation of the Spanish law of prescription, which has been in force six hundred years. Of this the committee and myself have no knowledge. We have very little knowledge of the Spanish law with regard to the distribution of the public domain by Spain or Mexico. California, however, from the year 1781, has been governed by a special regulation alone, and is not understood to be affected by the Spanish or Mexican usages in disposing of land.

The Senator says, sir, that the bill is an impeachment of all the titles in the country. How so, sir? How is it an impeachment of the titles, waiting upon the inhabitants and merely asking them to present a copy of their grant? And this can be done without difficulty, as no people are more careful of their records than the Spanish. Requiring them to show the deraignment of the title, to show how they claim the land, is I think objectionable; the bill ought to be amended in that respect. I do not think we ought to go beyond this question, Has the Spanish or Mexican Government relinquished their claim—in other words, have the Government of the United States any title to the land claim? It is a matter of perfect indifference who is the owner if this Government is not. The question should be, Has the Government of the United States any title to this property? This objection is well founded, and the bill should be amended in that particular. As to the Spanish law to which the Senator refers, sir, the law of prescription, I think that it is an excellent law, and should it be the pleasure of the Senate to recognize it, I would vote for it, and there is no doubt but it would be a salutary amendment to the bill; and also that it would be better, perhaps, to authorize the commissioners to recognize as valid the claim of every actual resident of the country peaceably occupying at the time we acquired the country from Mexico. I think that would be a good and fair plan. It would save much future difficulty, and give repose to all. I am disposed to be very liberal with regard to those people, and I would not, so far as I am concerned, subject the parties to any loss whatever; and it will be seen, by examination of the bill, that great care has been taken to prevent any such occurrence.

The Senator says it would be very hard to require those persons, ignorant of our language, to submit to an examination of their grants. It is well known that the records of Spain are better kept than those of any other government. The evidence of the grant exists in the archives of California and New Mexico, and it could not be considered an impeachment of their claims to require them to produce the original claim recorded at the time. The main object of the committee and myself is, to ascertain what lands the Government in fact own in those countries; and to do that, the committee believed the first thing to be done was to ascertain the amount of private claims, for it would be impossible to survey the country and subject it to sale until their extent was ascertained; and that could only be done by investing some one or more persons with power to investigate them. The committee knew of no other mode than that adopted by the Government near fifty years ago—the establishment of a board of commissioners, with certain powers, and to perform certain duties.

There is another portion of the bill to which objection is made; and that is, the mode by which it is proposed to dispose of the mineral lands. It is true, sir, that the committee had in their minds, as the gentleman supposes, the gold mines entirely. They had no regard to other minerals than that which is attracting so much attention in this country at the present time. The Senator says he is opposed to the bill because it proposes to sell these lands; and he supposes—for he so told the Senate—that it is to be surveyed in tracts of two acres, and in that way disposed of. Now, it will be seen, by reference to the bill, that there is no such provision as that in it. The bill authorizes the officers named in it, if in their judgment it shall conduce to the public interest, to lay them off into tracts of *not less* than two acres. They may subdivide the land in tracts of not less than two acres; but they have a discretionary power. They are not required to divide it into tracts of two acres; but they may do it if they think it is proper and for the interest of the United States.

The Senator says that two acres are not enough for mining purposes. But, sir, smelting and reducing the ore is one thing, and mining is another. The miner penetrates the soil, and requires but a few yards of ground for his operations; the smelter purchases the mineral of the miner, and has his establishment convenient to fuel. They are two distinct and different pursuits, carried on by distinct and different persons. So that two acres of land, if as rich as we suppose these lands to be, will be amply sufficient to be under the control of any one person. But this is a matter entirely left to the discretion and the discrimination of the board of commissioners. So far as the provision is concerned, it is one which I introduced myself; and my opinions were formed, in some degree, by Colonel Mason's report. If you look at his letter, it will be seen that he recommends that the land should be surveyed and sold in tracts of twenty or twenty-five acres, as soon as possible. The Senator says he would not think of selling the washings. We do not sell the washings. The lands are ours; and if they have this incidental value attached to them, by being supposed to be filled with gold dust and washings from the gold mines, is it not right that the Government should avail themselves of it? I have no doubt, sir, that, in the present state of the public mind, if this land was to be divided into small tracts, many hundreds of thousands of dollars would be received for lands not worth more than $1 25 per acre. On account of the fictitious value which the supposition of their being full of gold dust would be given to them, they would be brought under the influence of the excitement, though containing no gold whatever, or but small portions.

The Senator has stated that he supposes this to be the plan of the department; and he says that it ought not to be sanctioned by Senators. Now, sir, so far as the department is concerned, I must exonerate the Secretary of the Treasury, and every other head of a department, and the Executive, from any participation whatever in this bill. I do believe—in fact I am almost certain—that not one of them has ever seen it, or knew anything about it before the discussion which took place here yesterday The suggestion grew out of the letter of Colonel Mason, and from conversation with members of the Senate upon the subject. My own opinion, sir, is, that it is far better to sell the lands at once, while the excitement is up, than to keep them, than to grant permits upon the plan of the gentleman from Missouri. I must confess that I was very much astonished to hear that Senator advocating the leasing system. Ever since the year 1824 he has contended against that system, so far as his State was concerned, and it is but two years ago that the principle was abandoned in Illinois. These permits are nothing more than the old leasing system revived; a system which never gave satisfaction to the country, and from which the Government never derived any benefit whatever. It is far better that these lands should all become the property of individuals, and that the benefits derived, if any, should go into the pockets of individuals. All experience shows that this is the true policy.

The Senator says he is against hoarding up these mines, and hopes that they will be exhausted very soon. This bill provides that they shall not be hoarded; that they shall be surveyed and sold by the Government at once, that they may at once be laid open to individual enterprise. And if a mint is established there, some revenue may be derived from it for the Government. The Senator's idea of having an agent there to grant permits and preserve the peace of the country, and to settle primarily controversies growing out of boundaries and the mining lots, is singular indeed. I should like to have the Senator say who is to support this power there. He speaks of the moral power of the people, but I apprehend that it will require something more than that to govern such a community as is now there, and soon to be increased a thousand fold, stimulated as it will be by the cursed thirst for gold.

It would be impossible, it seems to me, for any one man to exercise the power of granting permits. He could have no power or authority at all: none whatever. It would not be regarded, but be contemned and derided. He would not be physically capable of granting them if they were applied for, and would have no power to protect the holder of the permit in the exercise of it. I do not wish to see the Government connected with mining operations at all. I have always opposed it.

The Senator has made objections also to the bill because it requires the officers to be appointed to give bonds for the proper performance of their duties; and also to take an oath that they would continue in the public service. He says it is a very singular provision; he says it is a novelty. It is so. No other bill which has ever come before Congress has contained such a provision. And the reason for this singular provision is, that here is a very singular state of things. We are told, sir, that crews have left their ships. Our ships of war are afraid to come near the coast for fear of

losing their men. Two-thirds of the detachments of different troops have deserted, and it is impossible to get assistance to perform even ordinary household duties. Sir, there must be something else than the mere pay you give these individuals to bind them to continue in their respective stations. You must bind their consciences; you must require of them an oath that after being appointed they will discharge their duties faithfully during the time for which they were appointed. True, all this may be of no value. It may not be able to accomplish all that it is intended to accomplish; but certainly it can do no harm to have such a provision in the bill. We can at least try its efficacy.

The Senator also objects to the grants of land as not being liberal enough. He says we should make as large grants in this bill as in the bill of 1843 to the settlers in Oregon, which proposed to give 640 acres to the actual settlers in that Territory. I think the gentleman is mistaken. I do not think the policy should be the same with regard to California as we proposed to pursue with regard to Oregon. We desired to have that country settled. It was in dispute; and it was important to us that there should be a power upon the Pacific coast of this continent to aid us in settling it. That was the reason why we were so liberal; that was the reason why we were so ready to give 640 acres to the settler.

But, so far as California is concerned, the case is widely different. It was at first a foreign country, and our citizens went there from speculative motives. We have purchased it; and we see that, without any inducement whatever other than its rich promises, the people are going there by thousands and by tens of thousands. They are going constantly there, and need no great inducements; but, notwithstanding that, the bill proposes to give 160 acres to any one who should have actual possession of the land, and had brought it under actual cultivation, or who should go there within a specified time. The committee supposed this to be amply sufficient.

These are the objections, very briefly answered, which have been urged by the Senator from Missouri. As he says he will not be an opposer without being a proposer also, he has submitted a proposition of his own; and I am free to say, that if there were courts organized in that Territory, I do prefer his plan to that submitted by me. But that is a great objection to his bill; it is fatal to his plan. There are no courts there, and therefore the writs of *scire facias* cannot be issued to try the cases. Whether they will be established or not, no man can say. There is no probability that any government can be organized in California at this session of Congress. If there was one there, and the courts were established, I repeat that I do not know that I have any objection to his plan; I will say that I think I should prefer the plan suggested by the Senator, were these courts established, to the present bill. But, sir, we must do something about it immediately. If we do not act this session, the bill will be delayed a year and a half, and the Government will derive no benefit from the lands for years to come. There are, however, sir, other objections to the Senator's plan, and akin to those he has urged against the bill.

Now, sir, so far as the Senator's plan is concerned, it proposes to give to the attorney power to impeach every title in the country. He first requires that the recorder shall hunt up and ascertain the titles of the lands. He shall record all that may be brought to him; and it will of course be for his interest to have as many come forward to present their claims to be recorded as posssible. And so with regard to the attorney. It is upon his suggestion that the *scire facias* will be issued: and it will be for his interest, in the way of fees, that he should attack every title in the country. It will be for his interest to have every single title in the country investigated, and as much "terror and consternation" will be brought upon the people by this investigation by the attorney as by the board of commissioners proposed by the bill. Instead of one suit, as the Senator supposes, there will be ten thousand suits, because the more cases the more fees to the attorney; and more titles will be impeached, because it will be for his interest to impeach them. I do not think, sir, that anything will be gained in that respect by the plan proposed.

I would prefer, myself, sir, so far as I have been able to examine this subject, as the settlements in California are almost entirely upon the coast, that a district should be laid off between the coast mountains and the sea, within which are almost all the missions, towns, and settlements, and leave the adjudication of the titles to the courts when they may be established, and in the mean time to survey and sell the rest of the country, and grant donations as speedily as possible; and I should prefer myself, sir, that the bill should be so amended as to authorize these commissioners to confirm the claim of any person found in peaceable possession of his land, town-lot, or farm, at the time of the treaty of 1848. I would do nothing to disquiet the settler. I would be liberal and kind to him; and, instead of confiscating his property, or any part of it, I would render him secure in its possession and enjoyment. I would do full justice to him in every particular: at the same time I would not overlook the rights and interests of the Government.

The question on the recommitment of the bill was then put, and decided in the affirmative.

So the bill was recommitted.

CADWALADER WALLACE.

On motion of Mr. CORWIN, the Senate proceeded to consider the bill for the relief of Cadwalader Wallace, as in Committee of the Whole.

Mr. CORWIN. For the information of the Senate, with respect to the merits of this bill, I will send to the Secretary a communication on the subject, which I believe comprehends every proposition of law or fact connected with the claim. It was made some years ago by a gentleman who is now a member of the other House. I will ask that it may be read by the Secretary.

[The communication was accordingly read.]

I will again, if any Senator desire it, trouble the Senate with a few words in explanation of this bill. We all know that a cession of lands was made by Virginia to the United States, which lands were reserved for the satisfaction of the claims of revolutionary soldiers. It is described as a tract lying between the Miami and Scioto rivers. Before this cession was obtained, the Government had sold lands lying within the Virginia reservation, and the vendee was in possession. The holders of revolutionary land warrants located their claims upon the same lands. Subsequently to the sale actions have been brought, and the Supreme Court has decided that the lands covered by these warrants of Cadwalader Wallace lie within this boundary. The holder of the warrants now asks Congress to give him the amount that was actually paid into the treasury on account of the sale of the said lands as reported by the Commissioner of the Land Office, fifteen years having elapsed whilst he has been unable to avail himself of the benefit of his location. By decision of the State court in Ohio, as well as of the Supreme Court of the United States, these lands belong to the Virginia reservation; the Government has sold them; and the patentees are many of them in possession. The lands are worth from ten to twenty dollars an acre. All that is required by this bill is, that the exact amount for which the lands were sold at the minimum price should be paid to the holder of the warrants, and it is provided that it shall be paid in land scrip. That is the whole extent of the claim, and there can be no possible objection that I can see to the payment by the Government for those lands, from which he has been ousted.

The bill was reported to the Senate, and ordered to a third reading. By unanimous consent, the bill was then read a third time and passed.

EXECUTIVE SESSION.

On motion of Mr. BRIGHT, the Senate proceeded to the consideration of Executive business. After a short time, the doors were reopened.

CLAIMS OF THE VIRGINIA LINE.

On motion of Mr. UNDERWOOD, the Senate proceeded to the consideration of a bill to provide for the unpaid claims of the officers and soldiers of the Virginia State and Continental lines of the revolutionary army.

The bill being under consideration as in Committee of the Whole—

Mr. UNDERWOOD made an explanation of the character of the bill.

Mr. NILES followed in a few remarks in opposition to the bill.

Mr. PHELPS made some observations sustaining the first section, but disapproving of the second section of the bill.

Mr. UNDERWOOD moved that the further consideration of the bill be postponed until Friday next, and made the special order for that day.

The question having been put by the Chair, there was no quorum voting.

And, on motion of Mr. MILLER,

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 16, 1849.

The Journal of yesterday was read.

The SPEAKER stated that a resolution had been offered yesterday in the following words:

Resolved, That the bills reported by the Committee on Territories to establish Territorial Governments in Upper California and New Mexico, be made the special order for Tuesday, the 23d day of January instant.

The vote (the SPEAKER continued) as handed to the Chair by one of the clerks, was 114 in favor to 51 against the resolution. There being two-thirds in its favor, the resolution was declared to have been adopted. It appeared that there had been a misreading of one of the figures on the part of one of the clerks, and that the true state of the vote was—yeas 114, nays 71. The correction would be made in the Journal this morning, and the resolution would be declared not to have passed. The motion to lay on the table the motion to reconsider the vote would of course be a nullity.

CONGRESS OF NATIONS.

Mr. TUCK asked leave to offer the following resolution, which being objected to, was not received, viz:

Whereas the evils of war are acknowledged by all civilized nations, and the calamities, individual and general, which are inseparably connected with it, have attracted the attention of many humane and enlightened citizens of this and other countries; and whereas it is the disposition of the people of the United States to coöperate with others in all appropriate and judicious exertions to prevent a recurrence of national conflicts: therefore,

Resolved, That the Committee on Foreign Affairs be directed to inquire into the expediency of authorizing a correspondence to be opened by the Secretary of State with foreign Governments on the subject of procuring treaty stipulations for the reference of all future disputes to a friendly arbitration, or for the establishment instead thereof of a congress of nations to determine international law, and settle international disputes.

Mr. HARMANSON asked leave to offer the folllowing resolution:

Resolved, That House bill No. 635, to aid the State of Louisiana in reclaiming the swamp lands therein, be made the special order for to-morrow week, and continue from day to day until disposed of.

Mr. WHITE objected to the resolution, and to all resolutions; and called for the regular order of business—the reception of reports from committees.

Mr. FRENCH, from the Committee on the Judiciary, reported a bill for the relief of the executors, devisees, and heirs-at-law of Thomas Fletcher, deceased, late of the State of Kentucky; which was read twice.

Mr. FRENCH briefly explained the bill, and appealed to the House to put it upon its immediate passage. He said that the children and heirs-at-law of Fletcher complained that the executors in the administration of the estate had done them great injustice. All the sureties to the bond were hopelessly insolvent; they had been so for years; the Government had lost everything upon the bond irretrievably; and the children of Fletcher claimed from the Congress of the United States the release of the legal representatives from all the obligations, for the purpose of retaining what they might recover (if anything) against the executors, upon a judicial investigation of their administration of the estate.

Mr. HALL, of Missouri, moved to commit the bill to the Committee of the Whole House. He could not understand the propriety of requiring the officers of this Government to give bonds for the faithful discharge of their duties, and, after having violated their duties, of allowing the sureties to go scot-free. He considered the principle entirely wrong: the bonds were required for the purpose of securing the Government from losses; if, therefore, after the officers proved defaulters, the Government were to release the sureties, it appeared to him that the process of requiring bonds was a mere mockery, and had better be dispensed with altogether.

Mr. FRENCH appealed to the gentleman from

Missouri to withdraw the motion to commit, that the House might hear two short statements read, one prepared by a gentleman in the other branch of Congress, and another by himself.

Mr. HALL assented, for the purpose specified, and the papers were read at the desk.

Mr. HALL stated that it appeared to him, from the reading of those papers, that it was most manifest that this bill ought not to pass. He understood, from the communications which had been read, that there were several sureties to the bond: now, he appealed to gentlemen in this House, if it was right or fair, when there were several sureties, to release one and throw the whole burden on the others?

Besides, he was not sure if there was not a point of law involved in this proposition, into which it would be well for the House to look. The ordinary rule of law was, that if the obligee of a bond released one of the obligors, he released all. That was the rule applicable to contracts between private parties. Now, had the Government the right to change the law which applied to contracts, in its operation upon the sureties of the Government, and in favor of itself?

It had been said by the honorable gentleman from Kentucky, that the surety whom he proposed to release was utterly insolvent. That was not a matter for the House to look into. Besides, if the surety were utterly insolvent, the release could do the heirs no good.

He thought the House ought to have time to deliberate upon the matter. He therefore renewed the motion to commit the bill to the Committee of the Whole House.

The motion was agreed to, under the operation of the previous question moved by Mr. WHITE, and the bill was committed to the Committee of the Whole House.

Mr. HARALSON, from the Committee on Military Affairs, to whom was referred the petition of John Dies, made an adverse report thereon; which was laid on the table.

PAYMENT FOR KILLING AN INDIAN BOY.

Mr. BOTTS, from the same committee, to whom was referred Senate bill entitled "An act to authorize the Secretary of War to make reparation for the killing of a Caddo boy by volunteer troops in Texas," reported the same back without amendment; committed.

Mr. BOTTS gave notice, that, as the public interests required that this bill should be passed without delay, he would take an early opportunity to move that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of considering it.

TRANSPORTATION OF TROOPS ACROSS THE ISTHMUS OF PANAMA.

Mr. King, of Georgia, from the Committee on Naval Affairs, reported a bill to make compensation for the transportation of troops and supplies, for a limited time, over the Isthmus of Panama, and to promote the interests of American commerce, accompanied by a report in writing.

The bill having been twice read by its title—

Mr. KING moved that it be committed to the Committee of the Whole on the state of the Union, and that it be printed; and it was referred accordingly.

Mr. KING, by the instructions, he said, of the Committee on Naval Affairs, moved that ten thousand extra copies of the report and of the accompanying map be printed. And he also moved that the bill be made the special order of the day, after the appropriation bills should have been disposed of.

Mr. BRODHEAD rose to inquire of Mr. KING whether the report contained a map.

Mr. KING said there was a map accompanying the report, which map had been printed by order of the House at the last session of Congress. The engraving was already on the stone. The expense of engraving the copies would be very trifling. That, however, was a question which he supposed belonged, under the rule, to the Committee on Engraving. He had merely made the motion in obedience to instructions from the Committee on Naval Affairs.

The SPEAKER said there were two questions before the House. The first was, on making the bill the special order of the day, after the appropriation bills should have been disposed of. This motion could be made only by unanimous consent.

Mr. ROOT rose and objected to any special orders until the territorial bills should first have been made the special order.

So the motion was not entertained.

The SPEAKER said the next motion, submitted by the gentlemen from Georgia, [Mr. KING,] was to print ten thousand extra copies. That motion must lie over one day, except by unanimous consent.

Mr. ROOT objected.

By general consent, the proposition to print was referred to the Committee on Printing.

Mr. KING now suggested, that if the House should prefer it, he would move that the bill should be made the special order next after the territorial bills should have been disposed of.

Mr. ROOT explained that the territorial bills had not yet been made the special order, and that his objection was to making the gentleman's bill a special order until that direction had been given to the territorial bills.

Here the conversation ended.

Mr. WICK, from the Committee on Naval Affairs, reported a bill for the relief of Daniel Sampson, accompanied by a report in writing; which bill was read twice and committed.

NAVAL AND MARINE SERVICE.

Mr. SCHENCK, from the same committee, reported a joint resolution for the purchase of copies of the General Navy Register and Laws.

The joint resolution having been twice read by its title—

Mr. SCHENCK moved that it be put upon its passage.

The SPEAKER. As there is no motion to commit, the question will be on the engrossment of the resolution for a third reading.

The resolution was then read.

Mr. FICKLIN inquired of the Speaker, as a point of order, whether the resolution did not contain an appropriation? and whether, therefore, it was not necessary that it should go to the Committee of the Whole on the state of the Union?

The SPEAKER said he did not hear, on the reading of the resolution, that it contained an appropriation.

Mr. FICKLIN asked that the resolution might be again read; which having been done—

The SPEAKER said that the resolution contained an appropriation.

Mr. FICKLIN moved that it be committed to the Committee of the Whole on the state of the Union.

Mr. SCHENCK said that he would, in as few words as possible, explain the object of the resolution. Recently there had been compiled a General Register of the Naval and Marine Service of the United States, comprising all the *personnel* of both branches, from their earliest organization to the present time.

This had been connected with a compilation of all laws passed at any time, or which had any bearing upon the history of the naval service. It was the only compilation of naval laws which we yet possessed, with the exception of a Manual, which was in use at the Navy Department. This book seemed to be regarded as an important work by those in charge of that department; and it was the unanimous opinion of the Committee on Naval Affairs, that such a work ought to be placed in the hands of the different commissioned officers of the naval and marine corps.

It was a fact, that a naval or marine officer could not at present know what his duty was in reference to a great number of points of discipline, and other matters, except by gathering them from different laws which had been passed from the year 1800 to the present time. He must look through half a century of legislation, and that he could not do, because he could not have access to the books.

This compilation had been prepared with great labor, by tracing not only through the various volumes of the laws, and the various registers, but by ransacking the files of the department itself, access to which was allowed for the purpose by the Secretary of the Navy. That officer had encouraged the preparation of the work. It had been prepared with great care and labor, and was of inestimable value to the service.

Mr. KAUFMAN was understood to inquire what would be the expense of the distribution of the work?

Mr. SCHENCK said, the expense would be about fifteen hundred dollars, and he proceeded to explain that no officer was a commissioned officer until he had reached the grade of lieutenant. Midshipmen and passed midshipmen held only under warrant, and the first resolution was confined in its operation to the commissioned officers.

When he was interrupted by the inquiry of the gentleman from Texas, [Mr. KAUFMAN] he (Mr. S.) was about to remark upon the value of the publication. He might say, in corroboration of the opinion of the Navy Department, and of the Committee on Naval Affairs, that he held in his hand a letter from the superintendent in command of the naval school at Annapolis, to whom the work had been referred, and who had given his opinion upon it. That opinion was of the most favorable kind. Independent of other considerations, he said that the expenses incurred in courts-martial would have been, many times over, saved to the country by the distribution of such a work. The letter was long, and as the House might be impatient, and might not like to hear it read, he would not ask that it should be.

Many experiments had been made by this House in respect to the purchase of books for members themselves. He believed that in such cases there had been no such thing known as a failure. He trusted that now, when it was desired to purchase, for an important branch of the public service, books which were absolutely requisite to enable the officers attached to it to perform their duties to the country intelligently and satisfactorily, members of this House would show by their votes that they were willing to be as liberal to that other branch of the service as they had usually been towards themselves.

Mr. KAUFMAN (imperfectly heard on the right of the Chair) was understood to say that he had never voted for any of the books to which the gentleman from Ohio [Mr. SCHENCK] alluded, nor should he now vote for the passage of this resolution. He did not know but what the officers of the navy themselves might consider it an insult on the part of this House to give them these books, and thus say to them that they were not themselves willing to pay even three dollars for a work which was said to be of so much value to them in their profession. He moved that the joint resolution be laid on the table.

And the question having been taken on that motion, the vote was announced—ayes 42, noes 49.

But no quorum voted.

Mr. KAUFMAN demanded the yeas and nays on his motion, which were ordered.

Mr. SCHENCK rose to correct an erroneous impression under which, he said, the gentleman from Texas [Mr. KAUFMAN] seemed to be laboring. The resolution was not his (Mr. S.'s) own, but it was a resolution reported from the Committee on Naval Affairs, acting under information from the Navy Department.

The question was then again taken, and decided in the negative—yeas 84, nays 94—as follows:

YEAS—Messrs. Atkinson, Beale, Blackmar, Bocock, Bowlin, Boyd, Boyden, Bridges, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Butler, Howell Cobb, Williamson R. W. Cobb, Collamer, Cummins, Daniel, Darling, Dixon, Embree, Featherston, Ficklin, French, Gayle, Gentry, Giddings, Goggin, Gott, Greeley, Willard P. Hall, Harris, George S. Houston, Inge, Iverson, Jenkins, Andrew Johnson, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, Daniel P. King, Sidney Lawrence, Leffler, Ligon, Lord, Lumpkin, McClelland, McDowell, McKay, Job Mann, Horace Mann, Marsh, Miller, Morehead, Morris, Nelson, Nicoll, Peaslee, Pettit, Peyton, Phelps, Pilsbury, Rhett, Richardson, Richey, Robinson, Roman, Root, Simpson, Smart, Robert Smith, Starkweather, Charles E. Stuart, Thomas, Jacob Thompson, R. A. Thompson, Toombs, Venable, Wallace, Wick, Wilmot, and Woodward—84.

NAYS—Messrs. Abbott, Barrow, Belcher, Brady, Buckner, Cathcart, Chapman, Clapp, Franklin Clark, Cocke, Collins, Conger, Cranston, Crisfield, Crowell, Crozier, Dickinson, Donnell, Garnett Duncan, Dunn, Eckert, Edwards, Nathan Evans, Faran, Fisher, Flournoy, Freedley, Fries, Fulton, Gaines, Green, Grinnell, Nathan K. Hall, Hammons, James G. Hampton, Moses Hampton, Haralson, Harmanson, Henley, Henry, Hill, Hilliard, Elias B. Holmes, John W. Houston, Hubbard, Hudson, Hunt, Charles J. Ingersoll, J. R. Ingersoll, Irvin, Jameson, John W. Jones, Kellogg, Thomas Butler King, Labm, La Sere, William T. Lawrence, Lincoln, Maclay, McIlvaine, Morse, Mullin, Murphy, Newell, Outlaw, Palfrey, Pendleton, Pollock, Preston, Putnam, Rockhill, Julius Rockwell, John A. Rockwell, Rumsey, St. John, Schenck, Caleb B. Smith, Truman Smith, Stanton, Strohm, Tallmadge, Taylor, James Thompson, Richard W. Thompson, Thurston, Tuck, Turner, Van Dyke, Vinton, Warren, Wentworth, Wiley, Williams, and Wilson—94.

So the House decided that the joint resolution should *not* be laid upon the table.

And the question recurring on the engrossment thereof——

Mr. GREELEY moved to amend the resolution so as to limit the distribution to one copy for each national vessel.

One word (said Mr. G.) about this book vote. The gentleman from Ohio [Mr. SCHENCK] had said that gentlemen here voted for books for themselves, and therefore ought to vote these. He (Mr. G.) had been two or three times accused of voting for books for himself; he had tried to vote against it, [a laugh;] but it seemed that in the Committee of the Whole on the state of the Union he must have voted for it upon some division of the committee, by rising when he did not know what was the question. [Renewed laughter.] He had voted for amendments which were moved by the chairman of the Committee of Ways and Means, when he had not been acquainted with them himself. He had never wanted to vote for these books. [More merriment.]

He would state, with reference to the vote of books for members of Congress, that he did not object to them on account of the books; but he believed, if they were distributed according to the true intent with which they were purchased—if the books were truly carried home and placed in the public libraries, it was a fair and honest appropriation of the public money.

Now, with reference to the distribution of these books for the navy: if one copy of the laws were placed in every public vessel, it would be within the reach of every officer while on duty service; when the officers were on shore waiting orders, he thought they could very well afford to buy them for themselves.

Mr. FICKLIN said this resolution introduced, as he understood it, a new principle into the legislation of Congress. It was true that they purchased books for the members of this House, and distributed them. To that policy he had never assented; he had always voted against it, and he would never consent now to enlarge it, to increaes the expenditure of the public money by embracing commissioned officers of the navy. Now, he asked, if they should publish books and distribute them to the commissioned officers of the navy, why they should not distribute like books to the officers of the army and to every officer of the Government? It seemed to him that there was no argument for this appropriation that did not apply in all its force to the other officers of the Government. If, at this session of Congress, they had these laws compiled and distributed, at the next session would they not be called upon to publish a new book revised and enlarged?

Why, he would ask the gentleman from Ohio, if the commissioned officers had these books, should not the non-commissioned officers have them? Why should not the seamen have them—the men upon whom the laws fell with their greatest force, who were liable to be whipped, or to be hung up at the yard-arm? Was the seaman to be ignorant of the law, and it to be held, as a sealed book, in the hands of the commissioned officers? It seemed to him that it was the extension of a principle which was wrong in itself at first.

Mr. STANTON said, he thought the honorable gentleman from Illinois [Mr. FICKLIN] took a view of this matter which was not justified by the character of the resolution itself. It was not the design of the resolution to give a gratuity to the officers of the navy, but to give them the means of properly performing their duties; and the expense in this case was as justifiable in every point of view as would be the expense of printing instructions to these officers as to the nature of their duties. This book had been compiled, not exactly under the authority, but at least by the permission and with the approbation of the Secretary of the Navy, and it was believed by him to be extremely useful, insomuch that he had purchased a number of copies for the use of the department. It was the only compilation of that character, and of an equal degree of usefulness, now extant.

In reply to inquiries by Mr. FICKLIN, as to the propriety of paying three dollars for a work of this size, he explained that it contained much rule and figure work, (as it was technically termed;) that it was of an unusual character of printing, and that from the limited number of copies that could be sold, it must necessarily come at a higher price. Instead of incurring a useless expenditure by the adoption of the resolution, there would be an actual saving to the Government.

He appealed to his colleague on the Naval Committee, [Mr. SCHENCK,] to send up, to be read at the Clerk's desk, a letter from a distinguished officer of the navy, showing the importance of the work.

The letter was sent to the Clerk by Mr. SCHENCK; but

Mr. ROCKWELL, of Connecticut, interposed and said, he hoped the resolution would pass, but he was sure the House did not want to listen to the reading of that long letter.

Mr. BOWLIN moved an amendment, to add at the end of the resolution the following:

And to each seaman, sailor, and marine, one copy of all the patriotic airs and national songs, provided they shall not cost more than fifty cents per copy.

The SPEAKER ruled the amendment out of order; first, on the ground that it was not an amendment to the amendment pending; and secondly, on the ground of irrelevancy, for (he said) the resolution provided for the distribution of a scientific work to the officers of the navy, and the distribution of "patriotic airs and national songs" [laughter] had no connection with it.

Mr. VINTON moved the previous question.

The previous question was seconded, and the main question was ordered.

Mr. FICKLIN inquired what had become of his motion to commit the resolution?

The SPEAKER replied, that he had not heard the gentleman make such a motion. If the gentleman asserted that he had, the motion would be received, and the question would be first upon it.

Mr. FICKLIN stated, that he had made a motion to commit previously to the demand for the previous question.

The question was then taken first on the motion to refer the resolution, which was rejected.

The amendment of Mr. GREELEY was rejected—ayes 46, noes not counted.

And the original resolution was ordered to be engrossed.

Mr. KAUFMAN objected to its third reading to-day, and—

The resolution passed to the file of bills, on their third reading, on the Speaker's table.

COMMITTEE REPORTS AGAIN.

Mr. BOYD, from the Committee on Naval Affairs, to whom was referred the bill extending the provisions of the 9th section of the act entitled "An act to raise for a limited time an additional military force, and for other purposes," approved February 11th, 1847, to the commissioned officers below the rank of brigadier general who served in the late war with Mexico, reported the same back to the House with an amendment; which bill and amendment were committed to a Committee of the Whole, and ordered to be printed.

Mr. GAYLE, from the Committee on Private Land Claims, reported a bill for the relief of the heirs of Semoice, a friendly Creek Indian, accompanied by a report in writing; which bill was read twice and committed to a Committee of the Whole, and made the order of the day for to-morrow; and the bill and report ordered to be printed.

Mr. GAYLE, from the same committee, reported a bill to extend the provisions of an act of the 3d March, 1845, entitled "An act to confirm the survey and location of claims for lands in the State of Mississippi, east of Pearl river, and south of the thirty-first degree of north latitude," to the district west of Pearl river; which was read twice and committed to a Committee of the Whole, and ordered to be printed.

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of the Union.

The SPEAKER suggested to the gentleman from Ohio and to the House that there were a large number of documents on the Speaker's table, which (the hour for the reception of reports having expired) might be laid before the House by a motion to proceed to business on the Speaker's table.

Mr. VINTON waived his motion for the purpose, and—

On motion of Mr. FICKLIN, the House proceeded to the consideration of the business upon the Speaker's table.

COMMISSIONER OF PENSIONS.

The Senate bill "to continue the office of Commissioner of Pensions" having been taken up—

Mr. VINTON said the Committee of Ways and Means had had this subject under consideration, and had directed him to report the same bill to the House. The necessity for the bill arose out of the fact, that by the law creating the office of Commissioner of Pensions, his office was to expire in 1846. The law had been renewed in 1846, to continue in force to the 1st of March, of this year; unless, therefore, this bill were passed, after the 1st of March next the office of Commissioner of Pensions would be abolished, and there would be nobody to perform its important duties. He asked that the bill be put upon its passage.

The bill was read a third time and passed.

MAJOR SCANTLAND.

The Senate bill entitled "An act for the relief of James M. Scantland" was read twice.

Mr. BARROW said: I hope the House will allow me, Mr. Speaker, to make a brief statement in this case.

Major Scantland enlisted as a private in Captain Foster's company of the first regiment of Tennessee volunteers in 1846, and having been selected as standard-bearer by its gallant colonel, he was present at the storming of Monterey, and had the honor, amid danger and death, to plant the banner which he bore upon the fort captured by the Tennessee and Mississippi troops.

He afterwards marched to Tampico, and having embarked there, was in time to take part in the capture of Vera Cruz, and the bloody fight of Cerro Gordo. When his term of service was about to expire, he received the appointment of captain in the fourteenth regiment, commanded by Colonel Trousdale, and raised under the ten regiment bill. He came immediately to the United States upon the recruiting service, and soon returned at the head of a full company. He participated in the battles of Contreras, Churubusco, Molino del Rey, and Chapultepec. In the last-mentioned fight, while leading his men in the assault, he was struck down by an escopet ball, which passed through the right eye, and, ranging downwards, came out under the left ear, and he was left for dead upon the field. He was afterwards discovered and saved. Major General Pillow, if I recollect aright, stated, in his report of this brilliant affair, that his escape was miraculous.

The brevet rank of major was conferred upon Captain Scantland, for his gallant conduct on this occasion.

At our last session, Mr. Speaker, a pension was granted to Major Scantland of thirty dollars a month. Finding, in a short time, that this sum was insufficient to support himself and his family, the major sought occupation as a temporary clerk in one of the departments. He soon discovered, however, that his health, already so much impaired by his wound, and by a pulmonary complaint, contracted in Mexico, was rapidly yielding before a labor to which his strength was inadequate; and he was advised by his physician to desist from further exertion. A certificate may be found, sir, among the papers in this case, from an assistant surgeon in the United States army, to the effect that Major Scantland is utterly incapacitated from pursuing the occupation of a clerk, not only from the state of his general health, and his pulmonary affection, but from the *amaurotic* condition—I believe such is the term—of his left eye. I may state, moreover, that small pieces of bone and offensive matter are continually issuing from his wound, and that he is becoming feebler every day. Under these circumstances he comes forward a second time, and asks assistance at the hands of Congress.

Can a fitter object be found for the exercise of the sympathy and liberalty of the representatives of a generous people?

Mr. MULLIN said that he had no hostility to the person for whose relief this bill had been reported, and that he should make no objection to it, if it could be passed without establishing a precedent which would ultimately swallow up the entire revenue of the Government. He apprehended that there was nothing in the case which had been presented, that furnished any stronger claims upon the generosity of this House than could be presented in favor of one-half of the officers and men who had served in the Mexican war. Gentlemen on this floor could not have failed to remark, that during the last summer the streets of this city were filled with maimed and disabled men, wholly de-

prived of the means of earning their subsistence, in consequence of their services in that war. Would Congress pass these cases over and give preference to this? Upon what principle would they do so? What justice was there in it? At the next session of Congress, if this bill should be passed, hundreds of applicants with claims upon the consideration of this body as strong as this would present themselves here. He repeated he had no hostility to Captain Scantland. But he (Mr. M.) was opposed to opening the door to such inroads upon the treasury, unless some system could be devised which would apply equally and justly towards all who had rendered service in the Mexican war. The sympathies of this House were not to be appealed to, and its action to be influenced by that rule in matters of this kind. Justice was to be done to the Government as well as to the soldiers. And if this system was adopted, we could not raise revenue enough to meet the expenditures to which it would lead. More had been given to this individual by the act of the last session, than to other officers under similar circumstances, and he moved, therefore, that the bill be laid upon the table.

But Mr. M. withdrew the motion (on pledge of renewal) at the request of—

Mr. VENABLE, who said he thought there was no danger that the evil which the gentleman who had just taken his seat seemed to apprehend would ensue by listening to the just claims of this gallant man. The gentleman seemed to think, that if the pension of this individual was increased a hundred dollars, others would come and ask similar grants. Let others make out such a case as this, and he (Mr. V.) would vote in favor of them all. He believed that the country would sustain him in that vote. He did not believe that the people of this country would cast censure upon their representatives for providing for the wants and necessities of men whose disabilities had been thus brought upon them. This gentlemen had fallen in the front rank, taking his troops into battle. He came here the mere wreck of what he was—standing with one foot in the grave—and asked the representatives of the people to provide support for him for the portion of life that yet remained. If there was one object upon earth for which our people were willing to be taxed, it was for just such an object as this. And if there ever was a country upon earth in which the gallant soldier, who had freely poured forth his blood for his country, should be provided for, it was *this*. And so it should be. He cared nothing for the increase which the gentleman seemed to fear in cases of this description. He cared not how many there were. Let such a case as this be made out, and he, for one, would vote to sustain the old age and infirmities of these, at the expense of that country for which they had fought and bled.

In accordance with his pledge, Mr. V. now renewed the motion (made by Mr. MULLIN) that the bill be laid upon the table.

And the question having been taken, the motion was rejected.

The question now recurring on ordering the bill to be engrossed for a third reading—

Mr. VINTON, for the purpose, he said, of clearing the way for other business, demanded the previous question.

And there was a second. And the main question was ordered to be now taken; and having been taken, the bill was ordered to a third reading at this time.

Mr. TURNER said he supposed, if objection was made, the bill must go over.

The SPEAKER answered in the affirmative.

Mr. TURNER moved a reconsideration of the vote by which the bill had been ordered to a third reading.

Mr. T. said that he admired and respected the feeling which had prompted a favorable report in this case. He knew very well that there was a very large class of individuals whose claims were quite as meritorious as that under consideration, and he much preferred that a general bill should be passed in which this class of cases should be provided for. For, notwithstanding what had been said by the gentleman from North Carolina, [Mr. VENABLE,] that he would vote at any time for a bill of this nature, where the case was so clearly made out, it was nevertheless true that there were but very few of these private claims that could be got before the House. This bill was in the nature of a private claim; and unless as a special favor to the individual reporting the bill, or through some special influence, no matter how meritorious a case might be, it received no favor. There were cases in various sections of the Union similar to this which the House was unable to reach, with reference to the rules, which prescribed the mode in which they should be taken up. The present case had been brought up merely through the sympathy of the House. He opposed this bill, not because he was opposed to giving Captain Scantland the pension, but because there were other cases that should also be provided for.

Mr. T. now withdrew his motion to reconsider.

The bill was then read a third time, and passed.

The following Senate bills were then taken up, read twice, and referred to appropriate committees, viz:

A bill continuing the pension of Patrick Walker;

A bill for the relief of the owners of the schooner Ticonie; and

A bill for the relief of Nehemiah Brush.

The bill to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1849, which had been returned from the Senate with amendments, was taken up and, together with the amendments, was referred to the Committee of Ways and Means.

The bills of the House for the relief of James P. Sexton, and for the relief of Sarah D. Caldwell, wife of James H. Bingham, which had been returned from the Senate with an amendment to each, were taken up, and referred to the Committee on Private Land Claims.

The House then proceeded to the consideration of the message from the Senate of the 12th instant, requesting the return to the Senate of the bill of the House entitled "An act directing the mode of settling the claim of Charles G. Ridgley;" when—

The request of the Senate was agreed to by the House, and the bill was directed to be returned to the Senate.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House the following communication:

To the House of Representatives of the United States:

I herewith transmit the annual report of the Inspectors of the Penitentiary of the District of Columbia, made in compliance with the act of the 3d March, 1829. JAMES K. POLK.

WASHINGTON, *January* 11, 1849.

The SPEAKER laid before the House sundry other communications, viz:

I. A letter from the Secretary of State, transmitting, in obedience to the acts of April 18, 1818, and the eleventh section of the act of 26th August, 1842, statements of the names of the clerks in that department, with their compensation; which letter and statement were laid on the table, and ordered to be printed.

II. A letter from the Secretary of War, transmitting the report of the Commissioner of Indian Affairs, with a statement of persons employed in the Indian Department during the year 1848, prepared pursuant to the 13th section of the act approved June 30, 1834; laid on the table.

III. A letter from the Secretary of War, transmitting a statement of the expenditures during the year 1848, from the appropriation for the contingent expenses of the military establishment; laid on the table.

IV. A letter from the Secretary of War, transmitting, in obedience to the resolution of the House of Representatives of the 20th of December last, the number of regular troops engaged in the late war with Mexico, and the States in which they were enlisted; laid on the table, and ordered to be printed.

V. A letter from the Secretary of the Navy, transmitting a report from the Commissioner of Pensions, of the list of the names and residences of the persons who have applied for relief under the navy pension laws whose claims have been rejected, and the reasons for rejecting the same; laid on the table, and ordered to be printed.

VI. A letter from the Secretary of the Navy, transmitting a report of the Fourth Auditor of the Treasury, in obedience to the resolution of the House of Representatives of the 14th of June last, requiring the amount paid each person borne upon the Navy Register, on account of his pay, rations, servant, forage, &c., and the gross amount paid or allowed him in all respects for and on his account for the preceding fiscal year; laid on the table, and ordered to be printed.

VII. A letter from the Secretary of the Treasury, transmitting a statement of the Register of the Treasury, showing the amount of treasury notes paid under the provisions of the act of 10th August, 1846, during the past year; laid on the table, and ordered to be printed.

VIII. A letter from the Secretary of the Treasury, transmitting, in obedience to the resolution of the 18th December last, a statement of the Register of the Treasury, showing the amount of iron imported under the tariff of 1846, and the amount of revenue received on the same; and a similar statement of iron of all kinds imported annually under the tariff of 1842, and the amount of revenue received on such importations; referred to the Committee of Ways and Means, and ordered to be printed.

IX. A letter from the Commissioner of Public Buildings, transmitting, in pursuance of law, a report of the manner in which all appropriations for the public buildings and grounds have been applied; laid on the table, and ordered to be printed.

CIVIL AND DIPLOMATIC APPROPRIATIONS.

Mr. VINTON called the recollection of the House to the fact, that on a former day a resolution had been adopted providing that all debate on this bill should cease in one hour after it should again have been taken up in Committee of the Whole on the state of the Union. He believed that a motion had been made, by a gentleman on the other side of the House, [Mr. COBB, of Ga.,] to reconsider that vote. He (Mr. V.) felt very sure, that from the disposition which had been manifested to debate the subject of the mileage of members the other day, the debate, if not arrested, might run on for weeks. He would therefore move that the motion to reconsider be laid upon the table; and he did so upon a doubt whether, if the House should go into committee before having disposed of the motion to reconsider, the resolution would be carried into effect or not.

Mr. COBB said he believed he had made the motion to reconsider, and that therefore he was entitled to the floor on that motion, in preference to the gentleman from Ohio, [Mr. VINTON.] It was not his (Mr. C.'s) intention to call up the motion to reconsider at this time. He was as heartily sick and wearied of the discussion upon the subject of mileage as the gentleman from Ohio. His (Mr. C.'s) purpose was to allow the motion to reconsider to remain as it was—that the House should go into Committee of the Whole on the state of the Union, and that the debate should be closed. And he did not intend to call up the motion to reconsider, unless debate should be found necessary on some important question. He did not wish to reopen the debate on mileage or anything else. He merely asked that the bill might be left open to debate, if, as the committee proceeded, it should be found requisite.

Mr. VINTON desired to be informed whether, if the motion of the gentleman from Georgia, [Mr. COBB,] should not be disposed of, and the House was to go into Committee of the Whole on the state of the Union, it would be obligatory on the committee to enforce the resolution?

Mr. COBB said, the resolution would of course be enforced. It had happened, not unfrequently, that after a resolution of this kind had been in part executed, the committee had risen, and the House had reconsidered the order. He should insist in committee that the order of the House should be executed, until the House should act, if at all, upon the motion to reconsider.

Mr. VINTON said, if the order of the House must be executed in committee, he was content that the proposition of the gentleman from Georgia should be carried into effect, because there might be some matters which, in the progress of the bill, might require debate.

Mr. COBB said, he had no doubt that course might be pursued; and he repeated that he had neither the intention nor the desire to reopen the debate, except for the cause he had indicated.

Mr. VINTON asked the opinion of the Chair on the point of order.

The SPEAKER, in reply to the inquiry of the gentleman from Ohio, [Mr. VINTON,] was understood to say, that the Committee of the Whole on the state of the Union would settle its own points of order.

Mr. COBB made a remark not heard by the reporter.

Mr. VINTON was understood to say that he moved to lay the motion to reconsider upon the table, with the understanding that if at any time there should be occasion to reopen debate, the motion might be taken up.

Mr. COBB said, if the gentleman insisted on his motion to lay on the table, he (Mr. C.) must resist it here, and he had yet the floor. There would, however, he repeated, be no difficulty in enforcing the order.

Mr. VINTON then moved that the House resolve itself into Committee of the Whole on the state of the Union.

Which motion having prevailed—

The House resolved itself into Committee of the Whole on the state of the Union, (Mr. SMITH, of Indiana, in the chair,) and proceeded to the consideration of the bill making appropriations for the civil and diplomatic expenses of the Government for the fiscal year ending the 30th day of June, 1850.

MILEAGE OF MEMBERS.

The question being on the amendment of Mr. STEPHENS to the amendment of Mr. EMBREE (heretofore published) on the subject of mileage—

Mr. MURPHY, who was entitled to the floor, proceeded to address the committee.

He had participated, he said, in the feeling which had been manifested here that this debate should be closed, and, when the floor had been assigned to him the other day, it was not his intention to make any extended remarks. He desired, however, to say, that whilst he condemned the course which had been pursued by his colleague [Mr. GREELEY] towards the members of this House, he (Mr. M.) must also dissent from the position which had been taken by other gentlemen in reference to this subject of mileage.

The system of compensation to members of this House worked unequally and unjustly. The system of mileage operating, as the gentleman from Mississippi [Mr. BROWN] had said, as compensation, was particularly unjust. It was never so intended. When, in the year 1818, the present rate of mileage was fixed, it was intended to cover the expenses of members coming to Washington, with such portions of their families as they might think proper to bring with them. At that time gentlemen could hardly come from New York in less than a week; and it was easy to see that ninety dollars mileage thence was not more than would pay the actual expenses of a member and such portion of his family as might accompany him. What was then true in relation to New York was equally true in reference to other sections of the country; probably more so, because the route to New York was over the most traveled route, whilst in other sections of the country there were difficulties and inconveniences to be encountered, and the expenses consequently were much greater. But it never was intended that a portion of the members should receive one or two thousand dollars more than others for their services here, as they were now receiving in the shape of mileage. He took it that the services of gentlemen here, coming from what district they might, were entitled to equal compensation. He did not know that a gentleman from Mississippi, or Louisiana, or Missouri could earn more at home than a member from Maryland, New York, or Massachusetts. He knew not that the services of a gentleman from one of those States were more valuable to himself or to the country, than the services of a gentleman from one of the nearer States.

But the gentleman from Mississippi [Mr. BROWN] said that this additional compensation, in the form of mileage to distant members, was intended as an equivalent for the advantages which members residing near the seat of Government possessed in going home and attending to their business. It was never so intended by the law. That was a sufficient answer to the gentleman. The law never contemplated compensation in this way. But it was not true in fact. Members from a distance—especially professional men—did more business whilst Congress was in session than members living near by. Who ever heard of a member from a near district having cases sent to him by other lawyers for argument in the Supreme Court? They came on and argued their own cases, but distant lawyers did not. Probably, now and then, a lawyer who lived at no remote distance might go home to attend court; but he insisted that it was not true in fact, that members living near were more absent than members living at a distance. He had in his eye a gentleman from the State from which the gentleman from Mississippi came, who was absent during the last session of Congress probably more than a gentleman who resided in New York. Gentlemen might have gone there from motives of patriotism—they might have gone there to make speeches—or from motives of curiosity and pleasure. He cared not; he inquired not. But he said, as a matter of fact, that distant members were as long absent as members from the near districts.

He did not object to this. He should like to see all the members of this House visit the city of New York. He was sure that if gentlemen from the South came there, they would find much less of what was called abolition than they were now disposed to credit. Probably they might get rid of some of the prejudices which they entertained against the North, or that part of the North. He would invite gentlemen from the West also to come and see that mighty heart of our trade. He thought it was probable that after having seen it, they would be willing to do something for the facilities of commerce, as to which some of them were such stern opponents on this floor. They would see our ships carrying forth the productions of the Far West to all parts of the world, and bringing back the conveniences, the comforts, and he might say the necessaries, of civilized life. They would find these facilities of commerce were not local in their character or influence, but that they tended to the prosperity of the whole Republic. He would like to see all these gentlemen there.

But he was digressing. He had been arguing that, in point of fact, the distant members were as much absent as members from nearer districts. And he repeated that the mileage system acted unequally and unjustly, and that it should be reformed. Of what advantage to the country were the facilities of communication which had been opened through the States, if the country was not to have the benefit of them here as well as elsewhere? Why should not the rate of mileage be reduced to what was a proper compensation for the expenses of traveling, as originally intended? Was there any reason? Certainly none.

But he had not risen to discuss this matter at length. He had no desire to do so. But he wished to repel the position taken by the gentleman from Mississippi.

In respect to the publication of his colleague, [Mr. GREELEY,] it had but little affected him, (Mr. M.) The gentleman had put him down as having received an excess of the paltry sum of $3 20. How he had made it out, he (Mr. M.) could scarcely tell.

[As Mr. M. referred more particularly to this matter at the close of his remarks, we omit stating it here.]

The gentleman (Mr. M. continued) was not now in his seat. If he were so, he (Mr. M.) would tell him, as he told this House, that what he charged upon him, the gentleman had done himself. That gentleman, on his own showing, had taken from the treasury a larger amount than he (Mr. M.) had taken, or than the gentleman was entitled by law to take. The gentleman took precisely the same amount allowed to him (Mr. M.) this session, and he lived beyond him and further from this place. This was in keeping with the character of the print in which the publication appeared.

He hoped something would be done to correct this matter of mileage, by which equality among members might be established. He did not desire to stint any one. He was willing, if the present *per diem* was not considered enough, to increase it to ten or twelve dollars. But he preferred to adopt the system of giving a fixed salary, together with the actual expenses of travel. By this means one thing would at least be got rid of—that was to say, the odium which was cast upon Congress for protracting its sessions, for the purpose of securing the eight dollars per day; a charge which was not true in fact. Equality among members also would thus be produced. He contended that, as Representatives here, they were entitled to such equality. He had nothing more to say.

Mr. M. was about to yield the floor, when, perceiving Mr. GREELEY in his seat, he (Mr. M.) continued—

My colleague is now in his seat. He charges, in his publication, that I took $3 20 more than I was entitled to by the nearest post route. I was entitled to take it by law. But he says the post route to my residence is some four miles shorter than the distance I charge. There is no traveled route to my residence except that by the usual post route. Therefore, his publication amounts to the charge that I have taken not only what was allowed by law, but $3 20 more than I was entitled to by law. Now, I say that the gentleman himself, traveling over the same route, and living in a district this side of mine, takes precisely the same amount, and therefore has himself taken more than he was by law entitled to take.

Mr. GREELEY said he had directed the Sergeant-at-arms to make out his account by the shortest post route, [laughter,] which was 225 miles; although he resided some three miles further than that gentleman [Mr. MURPHY] who received pay for 229 miles, and although he lived four miles beyond the post office, for which he received nothing. This was the distance given upon the shortest mail route in the post office book of 1842, being the latest book which gave the shortest distances.

Mr. MURPHY inquired if the gentleman had not received $184 mileage?

Mr. GREELEY replied, no: his account had been made out so, [laughter,] but he had subsequently directed the Sergeant-at-arms to correct it, and make it $180.

Mr. SCHENCK, (in his seat, to Mr. GREELEY.) Did "nobody" do it?

Mr. GREELEY, in reply, repeated, that the account had so been made out, but that he had directed it to be reduced to $180.

Mr. RICHARDSON wished to inquire of the gentleman from New York [Mr. GREELEY] if his account had not been presented to the Committee on Accounts by himself, and that the identical account for which the money had been drawn?

Mr. GREELEY replied that his account had been made out at first from what he believed to be the shortest route; he had found afterwards [laughter] that it was not the shortest post route, and had had the account corrected, as he had stated.

Mr. RICHARDSON. It turns out just as I supposed with the gentleman; he presented his own account to the Committee on Mileage—the same account that was allowed to others.

Mr. SAWYER next obtained the floor, and proposed to occupy some of the remaining time allotted to debate in calling the attention of the House to some features of the bill to which he objected, and upon which he might not have an opportunity to give his views under the five minutes' rule.

With reference to this matter of mileage he had nothing further to say; he had had full, ample satisfaction on that subject. The gentleman who had undertaken to bring him up, together with other members of this House, before their constituents, he thought, had received a just rebuke for the course which he had taken.

There were certain items of this bill to which he had serious objections. He had stated some of those objections at the last session, and he would now repeat them. He mentioned first the item of $1,000 for the purchase of law books for the libraries of the departments; also the item for the "Auxiliary Guard" of Washington.

What these contingent expenses were, he knew not. He understood there was a law in the case allowing to the captain of the guard a salary of one thousand dollars a year; to five officers of the guard, thirty-five dollars a month; and to ten others of these officers of the guard, thirty dollars a month each; making in all a yearly expenditure, in the item of salaries for this object, amounting to the sum of six thousand two hundred dollars. But here was an appropriation for six thousand seven hundred and seventy-five dollars, while the law only provides for salaries to the amount of six thousand two hundred dollars. What it was proposed to do with this excess of five hundred and seventy-five dollars put down in this item, he was wholly unable to say. He gave notice of his intention, at the proper time, to make a motion to strike out the whole of this item for contingent expenses. He had other reasons to support the objections which he had urged against this item; for there was a law authorizing the employment of guards for every public building: and notwithstanding this precaution for the security of the public property, it had not been long since the National Institute had suf-

fered the loss of some of the most valuable articles in the collection. These articles were lost while the guards of the Patent Office building were on their watch, or ought to have been; but they were probably sleeping in their rooms, and by sheer neglect suffered these things to be taken away. They were taken away, at all events, in spite of the vigilance of both the principal and the auxiliary guards. He expressed his utter disapprobation of that state of things which permitted of the employment of such guards, who were paid out of the people's money, and permitted to walk about at leisure. It was the reflection, that his constituents were called upon to contribute their proportion of money, which went for the pay of these officers, that his dislike of this proceeding was now excited and expressed. He passed over any remarks upon the just grounds of suspicion for dishonest connivance by which this loss had been sustained, to say merely, that there had been a most manifest abuse of their trust, and dereliction of duty on the part of these guards, as well as their auxiliaries.

There was another objection to this bill, which he founded upon the omission of any provision in that portion which relates to the Navy Department, for the abolishment of that most infamous and degrading practice of whipping the common sailors. He expressed his utter abhorrence of this most abominable and contemptible practice of whipping the sailors in the naval service, and added his intention, at the proper time, to offer an amendment to this portion of the bill, making it the duty of the Secretary of the Navy forthwith to publish an order to abolish this practice. He should offer this amendment, if not anticipated by the motion of some other gentleman, and demand the yeas and nays upon the subject.

He objected, also, to the item allowing for compensation of "four assistant draw-keepers at the Potomac bridge, including oil for lamps and machinery, firewood, and repairs, four thousand two hundred and ninety dollars." Some gentlemen might suppose this a small business for members of Congress to be talking about, but he did not so consider it; for, in the first place, this bridge was built at the expense of the General Government, and he referred particularly to a recent appropriation of thirty thousand dollars for that object. The bridge was built at the public expense for private and local use; and now, as he considered, the least that could be done by the people interested in the work, would be to keep it in repair. As a matter of duty, therefore, at the proper time he should move to strike out this item.

He had also another objection to the bill. He found, at line 501, the following item: "For completing the center strip of Pennsylvania avenue to fifteenth street west, one thousand two hundred dollars." At the last session of Congress there was appropriated to this object the sum of four thousand dollars; in the year 1847 there was appropriated for the improvement of this same street the sum of sixteen thousand dollars; and it was now proposed to make this additional appropriation—making a total of nearly $22,000 for this single improvement. Not content with the munificence of the General Government by which this street had been built as a gratuity, the people of the city were now coming forward and asking that it be lighted with gas, by the erection of lamps on both sides of the street, at the expense of the General Government. As for his constituents, (he said,) they made their own roads and bridges; lighted their own cities; paid their own city guards and their auxiliaries; and did everything else pertaining to their own interest and security at their own expense. The people of the State of Ohio and elsewhere provided and paid for all these things out of their own pockets; and in view of the injustice and inequality of the appropriation to which he was referring, were he a citizen of the city of Washington, he would spurn such a boon at the hands of Congress. He would stand up like a man, and say to the National Legislature, on the part of his fellow-citizens, We are able to do these things for ourselves, and we prefer not to be dependent on the General Government. But it was said that the people of Washington were making other improvements for the purpose of drawing trade to their town. How stood the facts? The people of Washington had indeed gone into one work of internal improvement of this character, now before his mind. He referred to the wet-weather canal, which they proposed to dig at their own expense, but afterwards called upon the country to pay the debt which they incurred by it. This canal, which had been broken and filled up in many places, he understood, was now to be opened anew; and he ventured the prediction, that a single year would not elapse before there would be a call upon the country for some reimbursement of this expenditure. To all such things he entered a solemn protest, in the name of his constituents. He knew not, and he regarded not, what gentlemen might think of his course now. He was determined to persist in calling attention to these things; and he would not be diverted from his purpose by looks, and frowns, and sneers. What he believed to be his duty he was ready to promulge and do in his place upon that floor.

The next item to which he would call the attention of the committee was, the compensation "for the warden, clerk, physician, chaplain, three assistant keepers, five guards and messengers, of the penitentiary of the District of Columbia, eight thousand five hundred and fifty dollars." This was an increase over the same item for last year of upwards of two thousand dollars—the item last year being only six thousand two hundred and eighty-three dollars. He would mention, merely, that this item might be reduced by the amount of the pay of the chaplain at least, as that officer was appointed without any warrant in the Constitution. He had nothing further to say against this item. For the same reason he had never yet given his vote for the appointment of any chaplain of this House, or any such officer.

He desired, also, to call the attention of the committee to his objections to the appropriation for the coast survey. With reference to this item, he would observe, that he regarded it as one of the most outrageous propositions in the whole bill: and if gentlemen would look at the report from the Secretary of the Treasury, exhibiting the annual amounts appropriated for the support of this branch of the service, recently laid on their tables, they would find a most alarming increase in the expenses of this coast survey. They would perceive that the table commences with appropriations of fifty thousand, forty-nine thousand, twenty thousand, thirty thousand, and so on: but when he looked down the column to the year 1845, he found this item was increased to one hundred thousand dollars; in 1846 it was one hundred and eleven thousand dollars; in 1847, it was one hundred and forty-six thousand dollars; in 1848 it was one hundred and sixty-five thousand dollars; and for this present year it was proposed to increase it to one hundred and eighty-four thousand dollars; and he predicted that it would be but a very short time before Congress would be called upon not merely for one or two hundred thousand dollars, but for perhaps a million of dollars for the annual support of this service. The child was not yet born that would see the end of this most ruinous system of public expenditure for these useless surveying and exploring expeditions. What were they now doing in this service? They were surveying the mouths of mere creeks, where no man could ever think of sending a vessel for the purposes of commerce. He referred to their maps to sustain what he alleged, and he would undertake to say, that, taking the country together, there was not one man in ten thousand who was or could be at all interested in what they were doing. They were neglecting to survey the mouths of the great rivers on the coast of the Gulf of Mexico, and they were neglecting the entire Lake coast—all the great channels of commerce were neglected by them, while Congress was making the annual appropriation of a hundred and eighty thousand dollars, for the support of these operations, which had been confined to portions of the coast so insignificant in the comparison, that he might say the whole could be overlooked from the top of the Capitol. The grand total of all the appropriations for this service from its commencement, was $1,605,725 39; and this was only as the entering wedge to the consequences which were to flow out from this system.

While upon this subject he would take occasion to remark, that this coast survey was but the offspring of one of the early and most objectionable institutions of this country. The Coast Survey, the Exploring Expedition, the National Observatory, the Expedition to measure the Sun's distance by observation upon the transit of Mercury—all these devices for the expenditure of the public money, had their source and origin in one of the institutions of this country, which had been long supported at a heavy public expense, and which had always taken to itself more praise than was its just due. He referred to the West Point Academy. In that institution were educated the young men of the country—sons of members of Congress, and generally sons of rich men. And after they were educated, they were thrown upon the country for employment, or left to themselves to rack their brains in order to devise the ways and means of getting up national observatories, and exploring and scientific expeditions at the public expense. They were continually asking Congress for appropriations for these objects. All these applications came from this quarter. And now it was proclaimed everywhere that this institution could not be dispensed with, because of the efficiency of its students in war; and these were the very men who were themselves proclaiming it from the house-top, as might be seen in one of the articles of this morning's *Union*, giving an account of a meeting to commemorate the gallant deeds of the swarm of officers from that institution in the late war with Mexico; while not one word was said about the deeds of those numerous and gallant officers, who left their plough-tails and their workshops to serve in that war, and who, he did not hesitate to declare, did ten times as much, and were more efficient in the service generally, than were the students of West Point. These students stood in the way, and effectually prevented the advancement of every meritorious young man who might rise up from his work-shop or his farm. Not one of these latter could get a commission in the army, nor a berth in an exploring expedition, not even a surveyorship; all such places were to be supplied by those who have been educated at the Military Academy, and fostered all their lives at the expense of the people. He repeated and emphasized what he had said. These students stood in the way of worthier men. Their position before the country amounted to a monopoly, a usurpation of all the places in the army or navy. No man could any longer be promoted to any prominent office in either of these departments, or intrusted with scarcely any other commission in the gift of the Government, except he hails from West Point Academy. To those select and favored young men, of distinguished families, were assigned all the chief official positions of the Government; while the other, the more numerous, and perhaps the more deserving portion of the boys of the country, were left to assume inferior positions.

He would not proceed any further. He had sought the floor for the purpose merely of declaring that he would not countenance such a system of extravagance and injustice. If these things were to be supported at the expense of his constituents, they should not have the sanction of his vote. He had merely given his views to the committee, as it was his privilege and his duty to do. As an honest man, and the representative of an honest constituency, he had offered his objections to the bill; and having done so, he would now resign the floor.

Mr. NICOLL was understood to say that the gentleman from Ohio had most seriously misapprehended the case of the United States coast survey. He undertook to say that there was nothing of exclusiveness in their operations which had been alluded to by that gentleman. In stating the increase of the appropriations for this service from year to year, the gentleman had neglected to state, also, that the amount of service actually performed had been more than quadrupled. Neither had their operations been restricted to the neighboring coast as intimated; but they had been extended to the Gulf of Mexico, and even round upon the northwest coast. He affirmed that more real work had been done in this branch of the service, than had ever been done in any other department of the Government for the same amount of money. Any gentleman, taking it upon himself to examine the office of the coast survey in this city, might be convinced of the necessity of devoting a portion of the year (generally reserved for the winter) to putting upon record the matter collected by the working parties during the milder seasons; and he thought no one could allow himself to examine the most accurate and excellent maps which accompany the reports from this office, without admitting that the

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money for this object has not been misspent. He believed these coast surveys to be of the greatest utility, not merely to the cities of the Atlantic, but to every town and hamlet in the whole country, as well as to those now directly engaged in carrying on the business of trade and commerce. He had no disposition to occupy the time of the committee any further than as he felt called upon to say a word in refutation of what might be construed into an unjust attack upon those engaged in the coast survey.

Mr. KING, of Massachusetts, next obtained the floor, but gave way for a moment at the request of

Mr. McLANE, who (scarcely heard) desired merely to say to the gentleman from Ohio, that if he would make the examinations suggested by the gentleman from New York, [Mr. NICOLL,]—if he would examine and compare the increase of expense which he had observed with the increased number of persons engaged in the service, and compare the whole with the results obtained, he (Mr. McL.) was satisfied, from his knowledge of the urbanity and fairness of that gentleman, that he could not find it in his heart to make the reflections upon this service in which he had just indulged.

Mr. KING then proceeded, and said he agreed fully with the gentleman from New York and the gentleman from Maryland in regard to the importance of the United States coast survey; and he thought, also, from his knowledge of the character of the gentleman from Ohio, that the excellence of his heart would not allow him to persist in his opposition to this coast survey, any further than at the last session he opposed a proposition which he (Mr. K.) had the honor to offer in relation to the marine hospital fund. And he would now take occasion to call the attention of the committee to the importance of this question, for fear that he might not again have an opportunity to do so. The gentleman from Ohio would recollect, that at the last session, he (Mr. K.) proposed an amendment to the annual bill now before the committee, refunding a sum of money which had been taken from an appropriation for a marine hospital at Key West. The gentleman from Ohio objected to this proposition as out of order, and the objection was sustained by the gentleman who then occupied the chair. Now, he knew the gentleman from Ohio had no objection to the hospital, but was merely mistaken as to the matter of the amendment; and as to the order, the place in the bill to which he proposed to apply the amendment was clearly the only proper place where it could be brought in. The committee would pardon him for saying now, that he did not appeal from that decision of the Chair, because so little attention was generally given to the subject contemplated in his amendment, that he felt an appeal would not be sustained, and that he might as well give it up without an effort. And to show further and more conclusively that members of Congress had no definite information at all in relation to this fund, he referred to an objection which was interposed the other day by the gentleman from Texas [Mr. KAUFMAN] to a mere resolution of inquiry, offered by himself, with reference to this fund. That gentleman had since done him the honor to say that he did not consider, when he made his objection, that the proposition was of any importance.

Mr. KAUFMAN interrupted merely to state that the ground on which he then proceeded was, not that he objected simply to the matter of the resolution, but he considered that it ought to have been a joint resolution.

Mr. KING continued. The object of the resolution was merely to obtain information. He had stated the reasons for the objections in these cases, and he considered both the gentlemen altogether excusable; but he did not think gentlemen should have a good excuse for remaining in such ignorance of this matter. He should, therefore, at some proper time, propose a resolution authorizing and requesting the Secretary of the Treasury to communicate any information, and make any suggestions to Congress, with respect to this fund, which he may deem important or advisable.

Within the last forty years upwards of three millions four hundred thousand dollars had been collected of this fund in the several collection districts; and for this immense sum there was no law regulating the manner in which it should be expended. There was, indeed, a law of 1798, which gave to the discretion of the President of the United States the care of the whole matter; and there was another law prescribing that hospital money collected in any particular district shall be expended in the same district where it has been collected. But there was before him a report from the Secretary of the Treasury, showing that, in the district of Massachusetts, there had been received $558,100 28, and that $454,485 55 had been expended in the same State. In another of the States there had been collected $74,565 35, and expended $92,074 97. In another there had been collected $188,041 29, and expended $385,914 62. In another State there had been collected $142,186 88, and expended $414,592 27. In another there had been collected 9,549 07, and expended $15,316 93. Yet, in one of these districts where there had been already more expended than had been received, there was about to be expended thirty thousand dollars more, notwithstanding the law which provides that this money shall be expended in the same district where it has been collected.

He did not say anything about the appropriations heretofore made, but only complained that the laws were contradictory upon the subject, and that gentlemen had a good excuse for being almost wholly ignorant of the law with respect to this fund. For these reasons, he should be in favor of charging the Secretary of the Treasury with the duty of collecting all the information within his reach upon this subject, and making such alterations in the present law as he may deem expedient; and he did not think that a thousand dollars, which should be appropriated to this object, could be better expended.

[A VOICE: The Secretary might furnish the information without expense.]

Mr. KING replied, that information upon this subject had been authorized by a joint resolution which passed both Houses of Congress more than four years ago, and it remained still unanswered. Nor did he blame the Secretary in the least for this delay; for his office was all the time burdened and borne down by duties devolved upon it by Congress, and which was altogether beyond the strength of the force it was allowed to employ. He could not believe that gentlemen would refuse to join him in an appropriation to obtain this much-needed information.

Mr. SAWYER (in his seat) said he considered that the committee and himself were very much enlightened upon the subject now. [A laugh.]

The hour allotted to debate having expired, the committee proceeded to vote.

The state of the question was as follows:

Mr. EMBREE had moved to amend the item for per diem and mileage of members of Congress by adding a proviso, that the mileage should be reckoned upon the shortest post routes from the respective residences of members to the seat of Government.

Mr. STEPHENS had moved to amend this amendment by striking out the word "shortest," and inserting "usual."

And the question was on the amendment to the amendment.

The question having been taken, the amendment to the amendment was rejected.

The question recurring on the amendment—

Mr. COLLAMER moved to amend, by providing further, that no constructive mileage should be allowed to any member of either House.

Mr. EMBREE accepted this proposition, and modified his amendment accordingly.

Mr. SCHENCK moved to amend the amendment by striking out the entire proviso, and substituting in lieu thereof a proviso, that hereafter the allowance of mileage for coming to and returning from the seat of Government should be ten cents per mile, the distance to be computed by the usual post route from the residences of the Senators, Representatives, and Delegates to the seat of Government; and in lieu of their present per diem, that each Senator, Representative, and Delegate should be allowed pay for his services at the rate of —— hundred dollars per annum.

Mr. HARALSON called for a division of the question upon the amendment of Mr. EMBREE, so as to vote first upon the proposition relative to the shortest mail routes, and secondly, upon that relative to constructive mileage. He was opposed (he said) to the one, and in favor of the other.

The CHAIRMAN said the amendment was not susceptible of division.

Mr. HARALSON appealed from the decision.

But subsequently it was ascertained that the Chair had understood the gentleman to allude to the amendment of Mr. SCHENCK; and the call for a division of the question having reference to the amendment of Mr. EMBREE, the matter of appeal was waived until that question should be reached.

Mr. SCHENCK (availing himself of the rule allowing gentlemen five minutes to explain their amendments) said, his amendment proposed to alter the whole principle of the compensation of members of Congress. With the exception of here and there a gentleman who derived great advantage from the present regulation, every one seemed satisfied that some amendment of the present system of allowing mileage was necessary. If his amendment could not be adopted, he was ready to go for the proposition to compute it by the shortest post route, because this would remedy the present evil in some small degree. He did not think, however, that it would furnish an efficient cure. The evil was fundamental, flagrant; a member coming one hundred or two hundred miles received some $600 for this short session, while a member from Louisiana, Florida, from the extreme parts of the Union, received from $3,000 to $4,000. There was no propriety, no equality in this; and this was not cured by the amendment of the gentleman from Indiana, which was so warmly advocated by the gentleman from New York, [Mr. GREELEY;] nor did it approach a cure. Now, he proposed what he thought would be an adequate remedy: to allow to each member ten cents a mile, which he thought would about cover the expense of traveling, amounting, as it would, for every one hundred miles to $10.

He proposed, moreover, instead of a per diem allowance, to substitute the principle of an annual, fixed allowance. He would pay to members some reasonable compensation. He should say that the blank might appropriately be filled with $2,500; some gentlemen said $2,000, some $3,000, and upwards. Perhaps $2,000 would be enough; he hardly thought so. But he held that a member of Congress, taken from his family as he was, and subjected, as he must be from the necessity of the case, to increased expenses—to the double expense of keeping up his family establishment at home and to the expenses here—ought to receive at least as much as the head of a bureau received; and there was not a head of a bureau who did not receive three thousand dollars. Two thousand five hundred dollars, then, would be low.

Again: it was argued that members of Congress ought not to be paid an annual salary, because they did not devote their whole time to the public service. That was not true. When a man was torn from his business from three to six and nine months every year, it operated almost entirely to destroy all other business. When at home, he was pulled by the elbow, and taken by the coat sleeve, and asked to pay attention to various matters relative to the public service, so as to be drawn almost continuously for the whole year from his private business. There was a propriety, then, in paying him for his time.

Again, (for he must hurry on, as he saw the hammer was about to fall,) there was a higher consideration: pay the legislative department properly, and you made that department independent, as it ought to be, of the executive department; and you would not find members of Congress running after clerkships, the posts of heads of bureaus,

and other petty, miserable offices, which, though less in dignity and character, now yielded better pay.

Again: fix the compensation at $2,500 per annum, instead of making it depend upon the length of the session, and you would secure short sessions, and thus save infinitely more than any sum of additional expense which the proposition might involve in some cases. He knew this was not the most popular proposition, but——

Here the hammer fell, and the explanation was terminated.

The CHAIRMAN announced the question on the amendment to the amendment.

Mr. SCHENCK said he supposed it was not in order to fill the blank now.

The CHAIRMAN replied that it appeared to him it should be filled now.

Mr. SCHENCK said that would require an amendment in the third degree, which was not in order. Let the amendment to the amendment be voted upon, and if the committee adopted the principle, it would then be for them to vote for filling the blank.

The question was then taken on Mr. SCHENCK's amendment to the amendment, and it was rejected.

Mr. LORD moved the following, as an amendment to the amendment:

That mileage of the members of Congress shall be paid at the rate of eight dollars for every twenty miles, for the first hundred miles; for the next succeeding one hundred miles, at the rate of seven dollars for every twenty miles; for the next succeeding one hundred miles, at the rate of six dollars for every twenty miles; for the next succeeding one hundred miles, at the rate of five dollars for every twenty miles; for the next succeeding one hundred miles, at the rate of four dollars for every twenty miles: and all remaining distances at the rate of three dollars for every twenty miles—distance of the residence of members being calculated by the route over which the mails are *usually* conveyed, from the places of their residence to the seat of the National Government: *Provided, nevertheless,* That no member of the Senate or House of Representatives from any State, or Delegate from any Territory, shall receive for mileage more than two thousand dollars, during any one session of Congress.

Mr. MORSE inquired of the Chair whether the amendment was amendable?

The CHAIRMAN answered in the negative.

The question was then taken on the amendment of Mr. LORD, and was decided in the negative.

So the amendment to the amendment was rejected.

Mr. MORSE inquired if it would now be in order for him to move to amend the amendment?

The CHAIRMAN having answered affirmatively—

Mr. MORSE said he would move to amend the amendment by inserting one dollar *additional* on every twenty miles after the first hundred. (That is to say, reversing the proposition of Mr. LORD.)

Mr. M. explained. He said that if any discrimination was to be made, either for or against persons residing at different distances, those furthest off were most entitled to that discrimination. He was compelled to leave home one month before the meeting of Congress, to insure his presence here when votes were to be given on important subjects. And he was one month after the adjournment of Congress before he could reach his home; whilst a large portion of the members resided within twenty-four hours' travel, could come here in one day before Congress met, and be at home the day after Congress adjourned; and when necessarily absent, they could make the journey in the same space of time.

Moreover, it was in the power of a large proportion of the members of Congress to communicate with their families and friends by telegraph, and to attend quietly to the business of the House, undisturbed by considerations affecting the health and welfare of those whom they had left at home. It was, therefore, but fair, if additional mileage was allowed, that those who resided at the greatest distance from the capital should be entitled to that additional mileage. Therefore, he submitted his amendment. He had not offered it for the mere purpose of clap trap. He would vote for it. It was fair, and it was the only practicable way of equalizing the mileage of members. And it was the only fair proposition, next to that which had been introduced by the gentleman from Ohio, [Mr. SCHENCK,] which was, to allow an annual salary. Looking to the extension of our territory, by negotiation, by war, by treaty, or by purchase, the time of gentlemen was occupied nearly the whole year, and they should be paid accordingly. And he would, at the proper time, move to fill the blank with five thousand dollars.

[This last annunciation was received with great good humor.]

The CHAIRMAN now asked the gentleman from Louisiana [Mr. MORSE] to reduce his amendment to writing.

[Mr. M. did so. We could not procure a copy of it; but, being the pending question, we will give it in the next publication.]

Mr. MURPHY now desired to ask the gentleman from Louisiana [Mr. MORSE] what was the actual expense of traveling from New Orleans to this city?

Mr. MORSE. About one hundred dollars. What is the expense of traveling from New York to this place?

Mr. MURPHY. Ten dollars.

Mr. MORSE. How much is your mileage?

Mr. MURPHY. Ninety dollars; ten times the actual amount. How much is yours?

Mr. MORSE. Mine is two thousand dollars, and it costs me one hundred. [Laughter.]

The CHAIRMAN. Does the gentleman from Louisiana insist on his amendment?

Mr. MORSE. Certainly, sir. (And he proceded to write it.)

Pending which question, the committee, on motion of Mr. DICKINSON, rose and reported progress.

Mr. ROBINSON, from the Committee on Enrolled Bills, made a report.

And the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. HALL, of New York: Concurrent resolutions of the Senate and Assembly of the State of New York, on the subject of slavery in the newly acquired Territories of the United States, and of the slave trade, slave prisons, and slave marts, in the District of Columbia.

By Mr. THOMPSON, of Iowa: A joint resolution of the General Assembly of the State of Iowa, instructing their Senators and Representatives in Congress to use their influence in procuring an appropriation for the erection of a bridge across the Des Moines river, where the military road from Dubuque to the southern boundary line crosses said river.

By Mr. ROOT: A petition of citizens of Ohio, for the preservation of the public lands for the use of actual settlers. Also, a petition of citizens of Medina county, Ohio, for the prohibition of slavery in California and New Mexico. Also, several petitions of citizens of Medina county, Ohio, for the reduction of the rates of postage.

By Mr. HOUSTON, of Delaware: The petition of pilots and masters of vessels of the State of Delaware, praying for the erection of a light-house on Delaware breakwater. Also, the petition of pilots and masters of vessels navigating the Delaware bay and river, praying for the construction of an ice harbor at Delaware City.

By Mr. ROCKWELL, of Massachusetts: The petition of G. S. Burbank and others, of Russell, Massachusetts, for the reduction of the rates of postage, abolition of the franking privilege, &c. Also, the petition of forty-two citizens of Pittsfield, Massachusetts, praying that the public lands shall be laid out in farms and lots for the freehold and homestead of such citizens (not having other lands) as will occupy them, &c.

By Mr. MANN, of Pennsylvania: The petition of Eli Eichelberger, H. C. Keyser, and thirty-six others, citizens of Blair county, Pennsylvania, representing that the manufacturing and mining interests of said State are suffering great depression, and in some instances threatened with entire prostration, in consequence of the insufficiency of the duties imposed upon articles of foreign manufacture; and praying immediate modification of the existing revenue laws.

By Mr. JOHNSON, of Tennessee: The petition of John Caukin, a citizen of Tennessee, praying Congress to grant him a back pension.

By Mr. FARAN: The petition of A. G. Stoo, for the establishment of a mail line of steamers from New York to Havre, in France.

On motion of Mr. WENTWORTH, the papers of Frederick Shaffer were referred to the Committee on Claims.

By Mr. MCCLELLAND: The memorial of Gurdon Williams, Oliver Newberry, Charles Howard, and others, shipping merchants at Detroit, praying Congress to place a light-ship at the entrance of Niagara river, on Horse-shoe reef, and buoys, &c. Also, the memorial of board of supervisors of Monroe county, Michigan, for a grant of certain lands therein mentioned.

IN SENATE.

WEDNESDAY, *January* 17, 1849.

The VICE PRESIDENT laid before the Senate a communication from the Second Comptroller and Second Auditor of the Treasury, in reply to a resolution of the 10th instant asking for the amount due to the Cherokee nation according to the principles established by the treaty of 1846; which was ordered to be printed.

RESOLUTIONS OF STATE LEGISLATURES.

Mr. YULEE presented a resolution of the Legislature of Florida, in favor of the establishment of a port of entry and delivery at Cedar Keys in that State; which was referred to the Committee on Commerce.

Mr. YULEE presented resolutions of the Legislature of Florida, in favor of a grant of public lands for a county site in Benton county; a grant of public lands for the erection of a court-house in Holmes county; a grant of land for a county site in Washington county, in that State; which were referred to the Committee on Public Lands.

Mr. YULEE presented a resolution of the Legislature of Florida, in favor of an appropriation for the payment of Captain Thomas Langford's company of volunteers for services in the Seminole war; which was referred to the Committee on Military Affairs.

Mr. YULEE presented a resolution of the Legislature of Florida, in favor of the establishment of a mail route from New Smyrna to Cape Florida, in that State; which was referred to the Committee on the Post Office and Post Roads.

On motion of Mr. YULEE, these several resolutions were ordered to be printed.

MEMORIALS AND PETITIONS.

Mr. UPHAM presented a petition from John H. Kembill, administrator of Elizabeth Bingham, widow of a revolutionary soldier, asking to be allowed a pension; which was referred to the Committee on Pensions.

Mr. FELCH presented a petition from Jonathan Kearsley, praying compensation for services, and reimbursement of expenses incurred as a depositor of public money; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. NILES, from the Committee on the Post Office and Post Roads, reported the following bill in relation to lines of mail-steamers to Southampton, Bremen, and Havre; which was read a first time:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the contract made with Ed. Mills, and by him assigned to the Ocean Steam Navigation Company, for carrying the mails from New York to Southampton and Bremen, with the privilege of running two of the ships to Havre at their option, be and the same is hereby extended for the term of ten years from its commencement, on condition that two of said ships are to run to Havre.

SEC. 2. *And be it further enacted,* That the Postmaster General is hereby authorized to make monthly advances to said contractors of the pay for carrying the mails, to enable them to complete the ships not yet put into the service, in the same manner and on the same terms and conditions as was allowed by an act passed at the last session of Congress to the contractors for transporting the mails to Liverpool, Havana, and from Panama to California and Oregon: *Provided,* That the sum so advanced shall not exceed one hundred thousand dollars on each ship.

Mr. WESTCOTT, from the Committee on Patents, made an adverse report on the petition of Caleb Green, late clerk of the United States District Court of Western Louisiana.

BILL ON LEAVE.

Mr. JOHNSON, of Georgia, pursuant to notice, asked and obtained leave to introduce a bill to authorize the payment to the State of Georgia of certain sums of money therein specified; which was read a first and second time, and referred to the Committee on Indian Affairs.

NAVY REGISTER.

A joint resolution from the House of Representatives, for the purchase of copies of the General Navy Register and Laws, was read a first and second time, and referred to the Committee on Naval Affairs.

PRIVATE BILLS.

The Senate proceeded to consider the bill for the relief of David Myerle, as in Committee of the Whole; when,

On motion of Mr. JOHNSON, of Maryland, the further consideration of the bill was postponed until to-morrow.

The Senate proceeded to consider the bill for the relief of John P. Baldwin; which was then postponed until to-morrow.

The bill to repeal the act of 2d March, 1837, entitled "An act concerning pilots," was then taken up; when—

Mr. DICKINSON moved that its further consideration be postponed, on account of the absence of his colleague

Mr. BRADBURY stated that the Senator from New York, who was absent, had intimated to him

a desire that the bill should not be postponed in consequence of his absence, as other Senators might wish to be heard on the subject.

The bill was then, by unanimous consent, informally passed over.

The Senate then proceeded to consider as in Committee of the Whole, the bill to change the times for holding the district courts of the United States for the western district of Virginia, and for other purposes; which was also passed over informally.

REDUCED RATES OF POSTAGE.

Mr. NILES moved to postpone the prior orders of the day with a view to take up the bill to reduce the rates of postage, and for other purposes.

The motion having been agreed to, the bill was taken up and considered as in Committee of the Whole.

The bill was read by sections.

Mr. NILES. The question is upon the amendments offered by the committee. The committee have had these amendments under consideration since they were printed; and in consequence of the treaty with Great Britain, they have deemed it necessary to alter some parts of the section relating to foreign letter postage. I have to offer an amendment as a substitute for the fourth section, adopting rules prescribed in the treaty with England—which we are bound by that treaty to adopt—with respect to our postal connections with her; and which rules, from the consideration of having uniformity in the matter, they have concluded to adopt in relation to the postal arrangements with all other foreign countries.

The amendment was read by the Secretary, as follows:

"SEC. 4. *And be it further enacted*, That all letters conveyed in the United States mail by sea from any place in the United States to any foreign country, or to the possessions of the United States on the Pacific, shall be charged with a uniform postage of twenty-one cents when not weighing over half an ounce, and the like sum for every additional half ounce, or fractional part thereof; the same rates of postage shall be charged on all letters conveyed in like manner, from any foreign country or the possessions of the United States on the Pacific, to any place in the United States. This rate is exclusive of the foreign postage chargeable on such letters. And all letters conveyed from any place in the United States to any foreign country, in a packet or mail ship belonging to any foreign Power, or to the citizens thereof, and employed by such Power to transport its mail, shall be charged with postage at the rate of five cents the half ounce in manner aforesaid; and all letters conveyed in such foreign packet or mail ship from any foreign country to any port or place in the United States shall be charged with five cents postage for each half ounce or fractional part thereof; and all letters posted or mailed at any place in the United States for any foreign country or the Pacific coast of the United States, and conveyed by a private vessel or ship, whether owned by citizens of the United States or citizens of a foreign country, and not employed in transporting a public mail, shall be charged with five cents postage the half ounce, in manner aforesaid, to be prepaid; and all letters conveyed in such private vessel or ship from a foreign country to the United States, and posted at any place in the United States, shall be charged with the like postage of five cents the half ounce; and no additional charge shall be made for inland postage. And all newspapers conveyed from the United States to any foreign country, or to the Pacific coast of the United States, or from any foreign countries or the Pacific coast to the United States, in any packet or steamship transporting a public mail, shall be charged with two cents postage for each newspaper, no addition being made for inland postage; and all pamphlets, magazines, or books, conveyed in the mail as aforesaid, from the United States to any foreign country or the Pacific coast of the United States, or from any foreign country or the Pacific coast to any place in the United States, and not weighing more than two ounces, shall pay two cents postage, and two cents for every additional ounce or fractional part thereof, no addition being charged for inland postage."

Mr. NILES. Mr. President, I presume the Senate would obtain a very correct idea of the section and the amendment offered as a substitute from their reading; but perhaps a few words by way of explanation will not be amiss. By the recent treaty with England we have established the rate of steam postage on all letters conveyed in her mails into that country, or in any mails of Great Britain and the United States, at sixteen cents; with the additional provision, also, that the inland postage of letters for England through the United States shall be five cents, and the inland postage of our letters through Great Britain three cents—making twenty-four cents, as the combined postage on letters going in our steamers or their steamers. Well, sir, as we were under the necessity of adopting these rates in our intercourse with Great Britain, we thought it best to make the rule applicable to all other countries, and therefore fixed the uniform rate of postage upon all other foreign letters conveyed in our mails at twenty-one cents; this rate to prevail with Great Britain or any other foreign country with whom we have established mail lines. This amount of twenty-one cents is uniform in its application to other countries, so that a person can send a letter from Liverpool, Bremen, or any other part of the Continent, at precisely the same rate of postage as it is received at New York. The same rate applies in regard to letters received from foreign countries, it being deemed necessary by the committee to preserve as much uniformity as possible; it making, therefore, no difference between letters received at New York from abroad, and those which may be received at any distant part of the country, fixing the English postage in all cases at five cents.

The section provides further, in regard to letters not conveyed in the foreign mails of the United States, where we cannot control the postage, except the English postage, that the same principle shall obtain, fixing the rate of postage on letters thus conveyed at five cents. This is the whole charge we impose on them. They of course will be subjected to the rate of foreign postage, sixteen cents in British mails—the only country that has any mail line established permanently to the United States.

A further provision is made in this section with regard to letters conveyed in private vessels that do not carry regular public mails. The section is limited to letters that are actually posted in the United States. Thus they are received by such vessels, and when they come into our ports go to the post office; and the provision is, that those that come from such vessels to the post office, or go from the post office to such vessels, pay five cents postage, including inland postage; so that in all parts of the United States the postage may be the same. As this section covers the whole of the arrangements for foreign postage, there is also a provision in regard to postage on pamphlets, magazines, and newspapers, though the postage upon this description of mailable matter has also been controlled by the treaty with England. The treaty fixes the rate of postage upon a newspaper by its weight; the English rate of postage on a newspaper being one penny English currency, while we have adopted two cents! This is a very low postage, and the committee had some doubts whether the sum would cover the English postage as well as the steam postage; but, considering that the bill proposes to reduce the newspaper postage at home to one cent and to half a cent, they thought it on the whole best to preserve uniformity, and that it would be better to let the rate stand at two cents, including the steam postage as well as inland. So that newspapers as well as letters can be received throughout the United States at uniform rates of two cents; the same to those going out of the country.

In respect to pamphlets, the custom of the English postal system is a singular one. They adopt a low rate for the first ounce, a higher rate for the second, and so progress upwards. We have adopted their rule in part. We propose the rate of two cents—a sum to which we are confined in the treaty as far as England is concerned—for the first ounce, including English postage, and we increase the postage on such mail matter as pamphlets and magazines, according to weight. We propose to advance the postage as the weight increases, but not to continue the principle of progression as the English law does. We merely propose to double the charge upon all exceeding the first rate. The first rate is two ounces. The English mail carries two ounces for one penny. Our old law fixed the rate at two and a half cents, and one cent for every succeeding ounce. I think we have had very good reasons for making these charges, particularly in regard to letters. With regard to these pamphlets, which are an important item in the communication between the two countries, this provision of the bill, I think, is very liberal—about what it ought to be. It fixes the first rate of two ounces at two cents, all beyond that at two cents the ounce; and this in the progression is considerably below the English rate of postage for similar matter. The first rate, as I have said, of this class of matter is two ounces, which is subject to one penny postage in England, and which we have been bound by the treaty not to increase. The first rate of two ounces is two cents, and an additional two cents for all beyond that.

Mr. DAYTON. Mr. President, it is certainly very desirable that this bill should be acted upon, and acted upon promptly. But it is still more desirable that it should be acted upon intelligibly. Now, if I understand the amendment offered by the Senator from Connecticut, and that portion of his remarks I have been able to hear, it seems to me that, in reference to the subject of foreign postage, it is an entirely new bill, regulating the whole subject-matter of foreign postage as applied to letters, newspapers, periodicals, and everything of that description; and likewise as affecting the question of franking, this amendment is a most important one. It has just been offered, and I am perfectly satisfied that Senators have not been able to give it a satisfactory examination; and, for one, I would much prefer that the bill and amendments offered by the Senator from Connecticut should be laid upon the table and printed by the Senate for the use of its members. I would move, therefore, that the bill and amendments be laid upon the table and printed.

Mr. NILES. I hope the Senator from New Jersey will withdraw his motion to lay on the table for a moment.

Mr. DAYTON withdrew his motion.

Mr. NILES was understood to say that he thought Senators had had time to consider the whole subject. He thought that if Senators had paid a little attention to the amendment when it was read, and to his subsequent explanation of it, they would have been able to understand the subject very well; but he presumed that, on account of the noise which prevailed in the Chamber, some Senators had not been able to hear the amendment and his remarks upon it very distinctly. He did not know when they would have a more favorable opportunity to consider the subject than the present. The whole matter had been before the country for some time, and the bill with the original amendments had been printed in all the newspapers, and he presumed they had been read and discussed by Senators and the people generally. The amendment which he had just offered was one which he presumed would not attract much attention here, although one of very great use to the country. The original amendments proposed by the committee had been printed, but the amendment which he had just presented did not come from the committee, and he did not propose to have it printed at all. He did not wish to embarrass the committee, and he thought it his duty to offer the amendment in the Senate in order that they might decide upon it as they might deem best.

In regard to the section that had just been read, and upon which he had made a few remarks, he would say, that although it had been considerably altered from that reported from the committee, it was much the same thing in substance as the corresponding section that had been printed. The alterations which had been made had been rendered necessary by the late treaty in regard to postal arrangements which have been entered into between this country and Great Britain. In the section reported by the committee, he would remark, the foreign postage had been stated at twenty-one cents. That was the sea postage, and it left the inland postage in this country and other countries to be regulated by the laws here and the laws there. But an arrangement having been made between this country and Great Britain in relation to the inland as well as the sea postage upon letters passing between the two countries, it had been thought best that all foreign postage rates should be made uniform, and in consequence the amendment to establish the uniform rate of twenty-one cents upon all letters sent to or received from foreign countries had been proposed.

Mr. WESTCOTT. I would inquire of the Chair whether the amendments that were reported by the Post Office Committee last week have been adopted?

PRESIDING OFFICER. These amendments have not been adopted. The question of their adoption is now pending, and also upon the amendment offered by the Senator from Connecticut.

Mr. WESTCOTT. I will give notice, then, that if the bill is laid over, I purpose to offer an amendment to one of the amendments of the Post Office Committee, reported on page third, line third, of that amendment; and in order to advise the Senator from Connecticut of the character of the amendment I purpose to offer, I will read it. At the last session of Congress, a bill containing the same principle was before the Senate, and at that time the same objection was made against the

principle; and, after a full debate, the Senate decided expressly against it. It is true that the bill reported at the last session proposed to exempt newspapers circulating within thirty miles of the place of publication, or within the county in which the paper might be published. I objected to that principle because it was exclusively and entirely for the benefit of that portion which is thickly populated, having a great many little newspapers that do not circulate beyond the limits of their respective counties. It was an unequal legislation upon the new States, where they have not so many newspapers—where, in fact, one of their counties is as large, and sometimes larger, than one of the New England States.

I shall move to amend this amendment by striking out the words "not more than fifty miles," and inserting in their place "and sent to a post office in the Congressional district in which its office of publication is situated."

Mr. NILES. Mr. President, I would say to my friend from New Jersey, [Mr. DAYTON,] and others, that I desire to get the action of the Senate upon the amendments, and, if they are adopted, I shall not object to the postponement of the bill in order to have it printed as amended.

This is a subject which every one must see depends very much upon the arrangement and perfection of its details. We had the subject under consideration nearly the whole of last session, and it has been discussed and debated in full; and, as the merits of the whole bill depend upon the details, I would like to get these amendments acted upon, as the committee wish to get the bill and amendments before the Senate in a connected form, and that has been my sole object to-day.

Mr. PEARCE. Mr. President, there are some amendments to this bill to which I shall be opposed; but the particular amendment under consideration seems to me to be entirely proper. That amendment relates to the postage of letters sent by sea, and has received the approbation of the whole Postage Committee. I believe the Senator from Connecticut has explained that, by the postal arrangements with Great Britain, certain rates of postage have been imposed upon letters sent or received by the British mail steamers, or by our own mail steamers, to and from Great Britain. The only object of the amendment proposed by the Senator from Connecticut, is to equalize the rates of postage upon all letters sent by sea. It is manifest and proper that we should not have one rate of postage where letters or papers are sent to or received from Great Britain, and another rate upon letters and papers which come from or are sent to other countries beyond the sea. The only object of this amendment is to equalize the rates of postage in all such cases. It seems to me that this is very proper, and cannot be liable to any manner of objection. The Senator from New Jersey cannot, I think, object to the amendments being acted upon in committee, and then printed for the use of the Senate.

Mr. DAYTON, (interposing.) I have no objection to that.

The amendment to the amendment was agreed to.

Mr. NILES proposed further to amend the amendment, at the close of the third section, by adding the following provision:

That publishers of newspapers and periodicals shall be entitled to receive, free of postage, one copy of any other newspaper or periodical in exchange for their own publication, and have the privilege of sending bills against their subscribers in their papers or periodicals, free of postage.

The amendment was agreed to.

On motion of Mr. NILES, the amendment reported by the committee was further amended, by striking out the words "an ounce and a half," and inserting "two ounces."

The question then being on agreeing to the amendment as amended—

Mr. DICKINSON rose and said: Mr. President, at the last session of Congress we had up this question of newspaper postage. I then offered an amendment proposing to give to newspapers that are published weekly throughout the country the privilege of circulating free of postage for a distance of fifty miles from their place of publication. The honorable chairman of the committee proposes, as I understand, to charge for that class of newspapers half a cent each. I am myself in favor of their being exempted from postage under the circumstances I have stated; but, as I was unable to procure the adoption of my proposed amendment for their free circulation, I am willing, in order to approach as nearly as possible to the accomplishment of my object, to take the amendment of the honorable chairman, with this slight modification, viz: to insert the words "published weekly only," and instead of one-half, to insert one-fourth of a cent. It appeared to be the sense of the Senate last session that that rate of charge would be high enough. I repeat, I am in favor of their circulating free; but if I cannot get that, I desire that the charge shall not exceed a quarter of a cent where the newspaper does not weigh more than an ounce and a half.

Mr. NILES. I wish that the Senator from New York would consent to postpone his amendment for the present; it involves the great principle that is to be decided by the bill. The principle of the bill, as every gentleman knows, is, that low postage may, in process of time, become as productive of revenue to the department as a higher rate; and I wish to have it tested in the shape in which it has been presented by the committee. I have myself gone somewhat further than my own judgment would have dictated in making the charge upon such newspapers half a cent.

Mr. DICKINSON. There is much force in what the honorable Senator says, that if we have a low rate of postage, it is necessary that everything that is conveyed by the mails should pay something; and although I did hope the honorable chairman, who understands the subject so well, would have consented that the rate of charge upon these papers should be one-fourth instead of half a cent, yet, as I do not wish to embarrass the measure, I will, at the suggestion of the Senator, withdraw my proposition for the present, and offer it at some future stage of the bill.

The amendment as amended was concurred in.

Mr. NILES then moved further to amend the bill by striking out all after the words "as follows," in the fifth line, to the end of the section, and inserting the following:

All letters conveyed by mail any distance in the United States shall be charged with postage by weight, and according to their rates; letters weighing not exceeding half an ounce, shall pay a rate of three cents to be prepaid, and five cents if not so prepaid; letters weighing more than half an ounce and not exceeding one ounce, shall pay two rates, of six cents, to be prepaid, and ten cents if not prepaid; letters weighing more than one ounce and not exceeding two ounces shall pay four rates, or twelve cents, to be prepaid, and twenty cents if not prepaid; and letters exceeding two ounces in weight shall pay an additional postage of four rates, or twelve cents, for every additional ounce or fractional part thereof if prepaid, and twenty cents if not prepaid.

The amendment having been read—

Mr. NILES explained its object. As the bill now stands, (said Mr. N.) three cents are to be charged, if the postage is prepaid, for every letter not weighing more than half an ounce, and the same sum for every additional half ounce. The amendment which I now propose departs from that rule of progression, and makes it conformable in some respects to the rule that has been adopted in relation to postage in England. Their rule is this: They charge one penny for the first half ounce, and one penny in addition for an additional half ounce. They then commence duplicating, and for the next ounce they charge two rates. Any thing beyond two ounces is charged four rates, and so on. This amendment proposes the same geometrical progression, continuing the uniform rule for all over two ounces, and not departing from it except so far as fractions are concerned. The section provides that letters weighing more than one ounce and less than two ounces shall pay two rates, whereas, as the bill now stands, they would pay one rate in addition for the fractional parts below the maximum of the third rate. When you get to two ounces there is a duplicate progression, but it is not continued any further; whereas the English law goes on duplicating. The effect of this amendment will not at all interfere with the great mass of communications that go through America, for they seldom exceed an ounce.

Now, a word as to the reason for the introduction of this principle. There are, I believe, two direct reasons. The first is to guard against a violation of the law. If we adopt the half ounce as the first rate, a person may write five letters upon such paper as may now be procured for the purpose—such as the French use—and the whole five will not exceed the weight to which the first rate is attached. Merchants and men of business having extensive correspondence with individuals at any particular place might send out a large number of communications under one cover, paying but one, or at most two rates of postage, and afterwards to be distributed. This principle of progression will cut up a practice of this kind, because as the weight advances, the postage will advance, and nothing will be gained by heaping communications together. Another advantage is, you secure to the whole mass of the people, as well as to the whole business community, merchants, lawyers, and others, the privilege of transmitting documents, such as deeds and other instruments in writing that are several ounces in weight, for which they can well afford to pay something more, without a very large increase of charge. If the Senate adopt this rate of progression, they will have gone further in the way of reduction than the British Government have gone in their late treaty with us regarding the transmission of letters. They will have the advantage, because they will charge upon all letters more than will be charged by us. Still I admit that will not be a consideration of sufficient importance to prevent us from adopting the rule which I have proposed.

The amendment was agreed to.

Mr. NILES. I will now offer the amendment in relation to the franking privilege, and then I will ask that the bill be laid over until to-morrow, in order that it may be printed as amended.

The amendment is as follows:

SEC. —. *And be it further enacted*, That from and after the first day of July, eighteen hundred and forty-nine, the franking privilege, except in respect to the President of the United States and the ex-Presidents of the United States, be, and the same is hereby, abolished. That all letters and packages, not weighing over an ounce, sent or received by the Vice President of the United States, the Secretary of the Senate, the Senators and members of the House of Representatives, and delegates from Territories of the Congress of the United States, and the Clerk of the House of Representatives, during the session of Congress, shall be paid from the contingent fund of the two Houses of Congress; and all documents printed by order of either House of Congress, when sent by any member of either House of Congress, shall be conveyed in the mail free of postage, agreeably to the existing law. That all letters and packages relating to official business of any of the Executive departments of the Government, sent or received by the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Postmaster General, the Attorney General, or by the heads of the bureaus of said departments, shall be conveyed free of postage, being certified on the envelope to be official communications by any of the Executive officers aforesaid; and if any officer shall make a false certificate on any letter or package, with the intent to defraud the Post Office Department, he shall, on conviction, forfeit and pay fifty dollars for the use of said department.

Mr. UNDERWOOD moved to amend the amendment last offered by inserting after "Attorney General" "the Judges of the Supreme Court." The provision as it stands reads thus: "That all letters and packages relating to official business of any of the Executive departments of the Government, sent or received by the Secretary of State," &c. And it is communications of the same description—that is, relating to the *official business* of the Judges of the Supreme Court—that I wish to have comprehended within the provision. And I will state the reason why I desire this amendment to be made. Some of the Judges of the Supreme Court—Judge Catron, for instance, whose jurisdiction extends to the Rocky Mountains, and others—are receiving communications, consisting of packages of considerable size, upon official business, upon matters which pertain entirely to their office as judges; they are applied to for injunctions, and very frequently a whole record is sent to them for their action. They are also applied to for writs of error, and upon all these communications they are chargeable with postage. Now, I think, if you allow the executive officers of the Government to receive everything which pertains to their official duties free of postage, there is the same reason for allowing the Judiciary department to receive communications of the same character also free of postage. No good reason can be shown why a distinction should be taken to the Judiciary and the executive departments in reference to their official duties. I hope the amendment will prevail.

Mr. DAVIS, of Mississippi. If the Senator will move further to amend the amendment by striking out the words "sent or," so as to make the privilege extend only to communications received by the judges and other officials, I will vote for it; and I will do it in accordance with the general principles that govern my votes upon this subject. Public agents may be justly entitled to receive communications free of postage; but I am decidedly opposed to the franking privilege, and I

would be in favor of taking it away from the members of both Houses of Congress. There may be a propriety in their receiving communications free, but none whatever in sending them.

Mr. UNDERWOOD. I will state, for the information of the Senator from Mississippi—for I agree with him entirely in what he has said—that it is my intention, if this amendment should prevail—indeed, whether it prevail or not—to move to amend the bill in another place in such a way as will meet his view. I think it is premature now to bring that subject before the Senate. At present my object is to see whether the Senate will put the judges of the Supreme Court upon the same footing with the executive officers of the Government. That is the solitary question that is now presented.

Mr. DAVIS. I would suggest to the Senator the propriety of making the restriction at once. He knows it is easy to avoid conferring a privilege, but exceedingly difficult to reclaim it when once conferred.

Mr. UNDERWOOD. It is a very little matter, however, in this particular instance; and I would rather it should stand by itself. We ought not to sell justice. The restriction in reference to the judges would make the suitor pay a little, to be sure, in the way of postage, but I wish to take the sense of the Senate simply upon the point as to placing the judiciary in this respect upon the same footing as the officers of the executive departments of the Government.

Mr. MILLER. I merely wish to inquire whether the amendment which has just been moved by the Senator from Connecticut, is an amendment proceeding from the committee.

Mr. NILES. It is not.

Mr. MILLER. Then I would hope, inasmuch as this amendment does not come from the committee, and as it is likely to bring up an exciting question as to the franking privilege, that the Senator would waive it and leave the bill with amendments as they came from the committee to be first acted upon. At present we have amendments which were offered by the committee lying upon the table, and which have been since amended by the Senate. I desire to see these amendments as amended printed, in order that they may be examined and clearly understood. I hope the Senator from Connecticut will withdraw his amendment for the present, and allow the bill to be printed.

Mr. ALLEN. I only rise to say that I shall oppose the conferring of the privilege of sending matter through the mail free of postage upon the judges of the Supreme Court of the United States. The principle of the proposition is this: to make the Government of the United States to that extent bear the expense of private litigation. The reason why the franking privilege has been conferred upon the officers of the Government is, because the communication between the citizen and the Government relates to matters pending between the two. But the matter pending before the Supreme Court of the United States is not between the court and the litigant, but between two litigants, the court being the mere intermediate or mediatorial power between them, in relation to a private transaction that is submitted to a public tribunal. The connection between the people of the United States and Congress, or between the people and the heads of departments, is direct, and the business is business which concerns the two; it is public business, the other is private business. I say then, sir, the proposition involves the principle of making this Government to that extent, small as it may be, pay the expenses of private litigation in the Supreme Court. What is the subject-matter of those communications which pass between that tribunal and private citizens? The records forwarded up to that court are records written by attorneys for their clients, and the answers written by the court, if the court ever answers letters on business of that description at all—a thing that I was not aware of before—to send the papers back, as my friend suggests, where an injunction is allowed, or to send the record back when the allowance of the injunction is written upon it. Well, all this relates to private business; it is a matter of private concern altogether.

In regard to the propriety of continuing the franking privilege to members of Congress, I have been heard on that subject before. My mind is unchanged. I take ground in favor of it, and have always maintained it as a great popular privilege, and the only one under this Government that is extended to the masses of the people. All other privileges are confined to small bodies of men. The franking privilege, which I maintain is not the privilege of the member, but the privilege of the people, is a privilege extending to the whole mass, including the rich and the poor, the great and the small—a privilege which imposes an immense labor upon members of Congress—a privilege which members themselves would undoubtedly be extremely glad to get rid of, if they could do so without giving umbrage to their constituents, who have so long enjoyed the benefit of the privilege, and are therefore unwilling to be deprived of it. This is not so in regard to the Supreme Court. That court has, unfortunately, too little association with or dependence on the people of the United States. In fact, it has no connection with them at all—none whatever. I repeat, sir, that the litigations in that court are the litigations of private men about private rights, the court being nothing but a mediatorial power between private men. We are not, then, to pay the expenses of private litigation. You might with the same propriety ask us to print the records and the briefs of the lawyers in all litigations that are decided in the Capitol of the United States, because we print the reports of the Secretary of State and the other heads of departments. The analogy does not hold. The one is public, and the other is private business committed to a public tribunal.

Mr. UNDERWOOD. As the gentleman from Ohio has thought proper to make a long speech upon the amendment offered by me, I feel called upon to pay some attention to it. His objection to the proposition which I make is, that the business to which it relates is altogether private. Now, sir, it is only half so. Is it not public business that the judge is required to attend to? Is not the granting of an injunction, the ordering a writ of error, or the making of any other order pertaining to his official station public business? Undoubtedly so, so far as he is concerned. Then, sir, whose pocket is taxed in the discharge of this public business? It is the judge's. If a record be sent to him, and the postage is not prepaid, it must either remain in the post office, or the postage must be paid out of his own pocket. That is all, sir. That is the tax which, according to the present practice, you are imposing upon the judiciary department. Why not exempt the judiciary as well as the executive departments from the burden? That is the simple question. Well, now, will the gentleman from Ohio be so good as to examine his own principle. An executive officer puts out an advertisement for contracts to supply the navy with provisions. The Post Office Department puts out advertisements for contracts all over the country for carrying the mails. A wants to supply provisions for the navy, or articles such as are required. B desires to contract for carrying the mail, or to perform any other service. I ask the Senator from Ohio if he writes a letter to the department proposing to furnish provisions, or to do any service, if it is not his private business? What is the motive for writing the letter? Is it not for private gain? The man who writes has provisions to sell, and wants a market. Or he can supply the service with horses and coaches, and he is ready to carry the mail for his own private gain, and he writes a letter to the department on the subject. Is it not his private interest that he is subserving by making the communication? Undoubtedly.

You allow the departments, and very properly, I think, to receive all these communications free of postage; but what more do you allow? You allow the departments to write answers to those letters, and you allow them to send those answers free of postage. The gentleman from Ohio has not the perception to see that there he is subserving private purposes; but when a judicial officer is about to have the same privilege conferred upon him which you grant to the executive officer, the gentleman is alarmed; and then, in his apprehension, it becomes altogether a private matter. Sir, it is no more private in the one case than in the other. Half of it, so far as the reception is concerned, is public, and it belongs to the public officer to receive it without a charge. The other half, I admit, is for the benefit of private individuals.

I said to the honorable Senator from Mississippi, [Mr. DAVIS,] that if he would allow these officers to be placed upon the same footing as the executive officers of the Government, I then intended to offer an amendment which would deprive the whole of them of any right to frank the communications made by them in reply to those received from individuals, leaving the expense to fall upon the individuals interested. I intended to come up to the idea of the gentleman from Ohio, also, if he had allowed me a little time, and in doing that to relieve the officers of the Government from the tax imposed on them by this official business. There was no necessity, then, as I conceive, for the Senator from Ohio taking an exception, upon the ground that I was desirous of promoting the interests of individual suitors, and to relieve them from expense. Not so. I want to relieve no private individual at the public expense, of any charge of this kind; but I want to place the judiciary and the executive departments on the same footing as regards their official business. I hope that I am understood now; and if I am, the Senator must perceive that I am desirous, not of relieving any parties from the necessary expense attending the transaction of their private business, but of enabling the judges of the Supreme Court, to exonerate themselves from the imputation of inattention to their public duties, when communications which are addressed to them remain unanswered and unredeemed at the post office on account of the non-payment of postage.

Mr. FOOTE. I understand the Senator from Kentucky [Mr. UNDERWOOD] to insist that the members of the Judiciary should be permitted to receive and transmit letters free of postage. For all the various reasons, so clearly and cogently stated by the Senator from Ohio, [Mr. ALLEN]—in every one of which reasons I do most heartily concur—I am opposed to the amendment proposed. As I have some additional objections to the amendment also, I shall proceed to state them. But, before I do so, I will offer a single suggestion, in reply to one of the remarks of my honorable friend from Kentucky, the force of which I cannot doubt he will fully appreciate. The Senator urges, that if we refuse to adopt his amendment, an evil state of things now existing—and the existence of which he so deeply deplores—will be continued. The judges will receive letters on official business from suitors or attorneys, which will come to their respective post offices without the postage having been paid in advance, and either the judge will have to pay the postage himself, or the business concerning which he has been addressed will remain unattended to, and the judge be left exposed to unjust crimination. Well, sir, the answer to all this is, that no man of ordinary understanding or common honesty will write to a judicial officer upon his own business without paying the postage. If he fail to pay the postage in advance, he will deserve to suffer the consequences. Besides, the honorable Senator seems to have forgotten for the moment one of the most striking examples which the history of the last twelve months has supplied—an example which I know to have attracted the attention of the gentleman at the time of its occurrence in a very peculiar manner, and which awakened a little innocent merriment in certain social circles, provoked strong surprise among certain experienced politicians in this particular vicinage, and was a subject of interesting speculation for several weeks all over the Union. It is an example which I do not cite for the purpose of censure, or even of ridicule; I am inclined to think that there was as much about it to admire as to condemn; and as it seems to have been productive of no special mischief—nay, may in fact have contributed more or less to a certain great political result, over which the Senator from Kentucky is known to have rejoiced as much as any one of the vast multitude who have been heard to hail Taylor and Fillmore as victors in the late Presidential contest—I feel authorized to commend it to his grave and favorable consideration. I allude, of course, to a certain illustrious Major General of the American army having been so harassed, annoyed, and utterly wearied out by a great multitude of letter-writers, who, in violation of all the laws of good taste, gentlemanly decorum, and proper social feeling, so cruelly persecuted him last summer by writing letters to him, that he at length resolved to take out no letters from the post office at all unless the same came postage paid; from the execution of which resolve on the part of that distinguished personage I know of no ill effect, or even inconvenience, having resulted, save that a knowledge of his intention to become the regular candi-

date of a great political party, instead of running as an independent candidate, was not communicated to the American public quite so early as it would have been had an earlier response been vouchsafed.

Sir, this is perhaps not exactly the Augustan age of American literature, but it is assuredly the age of polite *letters*—the age of letter-writing and letter-receiving with a vengeance. I do not doubt that more letters are now written in this country (and most of them without the least necessity or propriety, private or public) than were ever known before in any age of the world to be written or received. Every man and every woman, nowadays, that can scribble words on paper, and fold up nonsense in the form of an epistle, feels ambitious of gaining some notoriety in this way. Well, since the profits of the Post Office Department are enhanced by it, perhaps we ought not to complain. But yet, take it altogether, I consider it, in a social and political point of view, a great and growing evil. The most serious mischief connected with this state of things, though, I am bound to declare, arises from the propensity that certain of our judges have recently displayed to set themselves forth as magnates of the epistolary tribe. There is one judge of the Supreme Court of the United States whose proclivity for letter-writing has displayed itself, on several late occasions, in a manner offensive to every intelligent public-spirited and patriotic man in the Republic. This personage, forgetful of the wise precautionary arrangements provided by our venerated ancestors, in the very framework of that Constitution which he is sworn to support, against the interference of judges in political concerns; forgetful or unpardonably regardless of the noble example of a Marshall, a Story, and other illustrious political functionaries in the earlier, and I fear better days of the Republic; oblivious of the significant and impressing fact that the ancients caused Justice to be painted blind, or rather with bandaged eyes, in order to suggest to such as might be called to officiate in her sanctuary the high, the indispensable duty of keeping their minds exempt at all times from passion or prejudice, from fear, favor, or affection, from all undue sympathy for surrounding objects, and all regard whatever to consequences merely personal to themselves, which might be calculated to bias their understandings and warp them in their official action;—this judge, though affecting a peculiar elevation of heart and character, which he would have us believe has lifted him far beyond the reach of all those contaminating influences to which other poor mortals are subject: though he complains loudly of the gross degeneracy of the age in which he lives, and pompously announces his opinion to be that our people will never be happy and prosperous, and worthy of true respect and admiration—that our institutions will never be well and wisely and successfully maintained and administered, until what he is pleased to call *moral influence* can be brought to bear upon the Government; who dares to denounce the selected candidates of the great political parties of the country as mere *prize fighters*—he, even he, has on several grave occasions lately asserted his claim to recognition as the most indecent, offensive, malignant, factious, unpatriotic, and contemptible of all the letter-writers, whose multitude and fiend-like qualities alike justify me in saying that "*their name is Legion.*"

The first epistle general of the ermined scribe which I shall notice is the one to which I called the attention of the Senate last summer, in which he took it upon himself to lecture the two Houses of Congress upon their duties; in which he presumed, in the midst of a pending war between his own country and a foreign nation, (a war eminently just and necessary in its inception; wisely, valiantly, and gloriously conducted; and eventuating—in spite of domestic treachery never to be forgotten or forgiven—in the complete vindication of the national honor, and in the acquisition of a territory so valuable as to attract in our hands the admiration and envy of all nations of the earth,) to urge upon Congress that no more pecuniary supplies should be voted for the maintenance of this war, in order that the Government might be forced, for want of the sinews of war, to withdraw our victorious armies from the enemy's country in disgrace, without having achieved any of the objects whose attainment was necessary to our honor and happiness as an independent nation.

The next letter of this judicial personage which I shall notice, and the only remaining one which I care about noticing at present, is one in which he committed the most grievous sin of which a judge can be guilty; in which he undertook to adjudicate a question before it had been yet submitted to him for decision, and which he well knew was more than likely to be presented for decision in the court where he sits, with others, for the discharge of high judicial duties. Sir, this is a most aggravated and disgusting case of official misconduct, without precedent or parallel—without excuse or palliation; an outrage upon all the laws of judicial decency; a disgrace to the ermine; a sin and a shame before God and man.

A grave, momentous, and perplexed question had engaged the attention of both Houses of Congress for months. This question had excited the whole country to an extent which made all true-hearted patriots tremble with solicitude, and the enemies of our institutions to gladden and exult over their anticipated overthrow. This question had arrayed opposite sections of this Union against each other—friend against friend, brother against brother. Expedient after expedient had been tried; measure upon measure had been proposed, which it was hoped might calm the popular mind and avert the threatened consequences; but all in vain. The sky was still black over our heads; the red lightning was already flashing in our faces; the wild waves of a tempestuous ocean were raging around us, and the ship of State seemed about to be dashed to pieces amidst the breakers with which she was visibly almost in contact. At the awful moment of alarm—of peril, almost of despair—wise men of all parties, discarding sectional prejudice, throwing aside all party bias, forgetful of all things but their duty as patriots, got together, communed with each other calmly, patiently, seriously, perseveringly, and patriotically, and succeeded in framing the compromise bill of the last session, known generally in connecion with the name of the Senator from Delaware, [Mr. CLAYTON.] This bill proposed to submit the question in dispute to the Supreme Court of the United States for final adjudication. It passed the Senate; it was defeated in the House. But it was yet before the country. It was universally expected to be brought forward anew at another session of Congress. It was hoped that after the Presidential election was over, it might yet become a law, and that under it, and in accordance with its provisions, this perilous question might be settled. Under such circumstances, it was, precisely, that Mr. Justice McLean thought proper to issue his letter—written undeniably for publication in the newspapers—in which he declared his opinion in favor of the North against the South; in favor of the section of the Union where he resides, and against the opposite section; thus unfitting himself wholly to sit hereafter for the adjudication of the matter in controversy, and, as far as he could do so, extinguishing all hope of adjustment, such as had been sanguinely anticipated, by the Supreme Court of the Union, of which court he is unfortunately one of the judges.

Now, sir, I could easily recite other offences of a similar kind which have been perpetrated by this personage; but it is unnecessary. I have shown, I think even to the satisfaction of the gentleman from Kentucky, that one of the judges of the Supreme Court is unworthy to enjoy the *franking privilege*. I think that the Senator from Kentucky himself will hardly deem it wise to afford additional facilities to this particular judge for the dissemination of his factious views. Even the Senator from Kentucky will scarcely contend that it will be quite safe and politic to whet up anew this *cacoethes scribendi* with which the learned personage in question is so unfortunately cursed, and thus to some extent also making ourselves responsible for the mischief which he may hereafter engender.

I will conclude by declaring my firm belief to be, that the conduct of Justice McLean, as a political letter-writer, is unworthy of the bench, discreditable to the country, and wholly indefensible; and I venture to predict that not one of all the learned Senators here convened—not one of all these distinguished jurists by whom I see myself surrounded, will evince so little self-respect as even to utter a single word in his vindication.

Mr. UNDERWOOD. For fear the Senate may have fallen into the same error that my friend from Mississippi has, I beg to say that my proposition does not authorize any of the judges to frank any of their own private correspondence; or to receive any such free of postage. I am sure so great a mistake was never before committed by any Senator. I have already endeavored to explain, and I trust I have made myself understood. The whole bill goes upon the idea of cheapening correspondence, and thereby encouraging and increasing the very thing which the Senator seems to be so much at war with. It is the very thing the bill proposes; and, although you should refuse them the right to have their official correspondence free, yet they will be included in the benefits of the general provisions of the bill. To be serious in regard to the matter, however, I regret that the Senator from Mississippi has deemed it a proper occasion to introduce matter which perhaps has a personal bearing upon the gentleman to whom he has referred. I simply submitted the question whether the judiciary, in reference to communications of an official character, should be put upon the same footing with the executive departments, in reference to official communications to them. I can see no difference or distinction that can with propriety be made; and, as I had notified the Senate over and over again that I should afterwards propose such an amendment as would except private correspondence, and make the burden fall upon the individuals, it does seem to me there is no necessity for prolonging the argument. I hope the question will now be taken upon the amendment I have offered; and if it prevail, or whether it prevails or not, I will move the amendment of which I have given notice.

Mr. FOOTE. Well, it is just as I anticipated just as I predicted. A judge of the Supreme Court has been assailed with charges the most serious; his conduct has been denounced in language whose meaning could not be misunderstood; if as criminal as he is charged with being, he is unworthy to preside in the most obscure court of inferior jurisdiction to be found in the whole republic; and yet no Senator here has been found willing to compromit his own dignity by uttering a single syllable in his defence. This is an extraordinary case indeed; one I should suppose of rare occurrence anywhere, and which certainly should admonish that functionary, that conduct so meritoriously condemned, cannot be otherwise than censurable; and I hope that neither his well known self-esteem nor any other cause may prevent his making speedy atonement to his countrymen for the serious offences which he has committed. He owes to the country a solemn apology for the violation of public decency which he has committed; the dignity of our institutions demand from him that he go speedily through some solemn and appropriate form of public expiation; and with repentant soul he should solemnly ask pardon of his offended fellow-citizens for the deep dishonor which he has brought upon our noble institutions. I wish to be understood as by no means objecting to the other members of the Supreme Court becoming possessed of the franking privilege, provided Justice McLean can be made the subject of a special exception; at least I should be unwilling to permit him to possess that high privilege until I have satisfactory evidence of his contrition and reformation.

Mr. DICKINSON. Mr. President, I cannot consent to vote for an amendment of this kind, which proposes to give the franking privilege, either to send or receive communications, to the justices of the Supreme Court, and thereby throw on the department a tax such as it has scarcely ever had before. I do not undertake to say that it will amount to as much as the franking privilege given to Congress, but gentlemen who know anything of the practice of lawyers in the western States well know that its amount will be considerable. It is a proposition, therefore, of which I cannot approve. It is a proposition which will remove no hardship from the lawyers, nor afford any relief to the judges, unless it were extended to their private correspondence, while it will impose an onerous tax on the Government. I cannot, therefore, see any necessity for its adoption. I should really like to know what lawyer, who knows his business, would send papers to judges without paying the postage. If any should, sir, I expect the judges of the Supreme Court would do what judges in some of the States do—refuse to receive documents on which the postage is not paid. It will be no privilege, then, given to the judge if we adopt this amendment, for the papers sent to him by lawyers are prepaid by the person sending them, and the amount paid is an item in

the account charged to the client. The judge has nothing to do but to exercise his judicial functions when the papers reach him, and he sends them back to the lawyer from whom he received them, leaving the lawyer, on behalf of the client, to pay the postage on delivery. I repeat, therefore, sir, that unless you extend the franking privilege to the justices as a personal privilege, this amendment will afford them no advantage; but, on the contrary, it will be a privilege to parties litigant alone, and will enable them to send through the mail free of postage a mass of papers, amongst which will be some of the heaviest documents that it conveys, except perhaps some of the public documents published by Congress. Pass this amendment—extend to litigants this privilege—and you will have packages containing briefs, pleadings, injunctions, testimony, and every other paper which is requisite in the prosecution of legal business by private individuals transmitted over the country at the public expense. I see no reason, then, why we should give the privilege to the judges of the Supreme Court to receive mail matter free of postage, unless it shall be extended to their private correspondence, and I shall vote against the amendment.

Mr. UNDERWOOD. Mr. President, my object has been accomplished. I would have interrupted the gentleman who has just taken his seat by doing what I now intend to do, but that I wished to hear his views on this subject. I desired to see how far the weaker branch of this Government was to go to the wall, when it was compared with the strength of the executive departments. In relation to reforms, in connection with the subjects which have been here discussed, I intend to go as far as he who goes the farthest; and now, to test the sincerity of gentlemen, I will submit an amendment which will furnish a test vote as to the extent to which gentlemen are willing to go in reforming the abuses of the franking privilege. I can see no difference between the judicial and the executive departments of this Government; but yet I see that many around me appear determined that the executive departments shall receive and send communications free of postage, while the judicial shall not be permitted to send or receive communications without paying for them, even though it be a tax on the private purse of the judges.

But, sir, gentlemen are mistaken. They argue as if nothing but injunctions were applied for and transmitted by the judges. In this respect gentlemen are in error. The judges have much business of a public character to transact; there is much criminal business to occupy their attention, with which individuals, simply as individuals, have nothing to do, for it is business which interests and concerns the whole community. But let that pass. My object has been accomplished. Sir, I withdraw my amendment, and I will now give you an amendment which I think will be a test, on which I hope the Senate will give me the yeas and nays.

Mr. WESTCOTT. Mr. President, the gentleman cannot withdraw his amendment without the consent of the Senate, the yeas and nays having been ordered thereon.

Consent was given, and the amendment was withdrawn.

Mr. UNDERWOOD. Mr. President, I now move to strike out the words "sent or" from the sixth and seventh lines. If that amendment be agreed to, that part of the section will read as follows:

"That all letters and packages, not weighing over one ounce, [sent or] received by the Vice President of the United States, the Secretary of the Senate, the Senators and members of the House of Representatives, and delegates from Territories of the Congress of the United States, and the Clerk of the House of Representatives during the session of Congress, shall be paid from the contingent fund of the two Houses of Congress," &c.

If that amendment shall prevail, I shall then move to strike out the words "sent or" from the eighteenth line, so as to amend that portion of the section which now stands thus:

"That all letters and packages relating to official business of any of the executive departments of the Government, *sent or* received by the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Postmaster General, the Attorney General, or by the heads of the bureaus of said departments, shall be conveyed free of postage, being certified on the envelope to be official communications by any of the executive officers aforesaid," &c.

The section, as I propose to amend it, will allow the officers therein mentioned to receive communications on official business, and in other respects it will throw the burden where it ought of right to fall. It will be carrying out the principle which gentlemen have so eloquently advocated in their speeches, and secure a reform which I am very anxious to see carried out.

In regard to the first amendment which I have suggested, permit me to say, that it will be only depriving ourselves of the privilege of sending our correspondence free of postage to those with whom we correspond. I shall be very willing, sir, if it be the pleasure of Congress so to amend the bill, to pay for my own private correspondence. Our public correspondence, as Senators and Representatives, ought, I think, to be free. We should be allowed to receive all that relates to the business of our station and the public interest, free of postage; but I cannot see any reason why we should be privileged to correspond with our families and friends exempt from an expense which all other citizens of this country are required to bear. In this respect we should not secure for ourselves a privilege which the community at large does not enjoy.

Mr. President, I have suffered more in my public character in reference to this franking privilege than anything else. It has been made the basis of communications by which members of Congress have been charged with knowingly, willfully violating the law. I have nothing to say in vindication or exculpation of members of Congress, nor would I vindicate or exculpate myself from those charges. Sir, I scorn them, come from whence they may. But it is high time that members of Congress should so amend the law of the land that such charges cannot be made against them. I am tired, sir, of hearing such imputations on the honor of Senators and Members of the House of Representatives, and I hope by abolishing the privilege we shall leave no foundation for such imputations. I fear them, sir, as little as most men; but they are disagreeable, nevertheless, and I do not like to see them, whether they are made in public newspapers or in official communications from high places in this Government. It is not to our honor, sir, to leave any, even the shadow of a foundation for a charge that members of Congress violate the law of the land by defrauding the Post Office Department of its just revenue; and hence I wish the privilege which we enjoy abrogated, and that we shall be placed, in reference to our private correspondence, on an equality with all other persons. If this amendment shall prevail, we shall have made an advance step towards the attainment of that desirable end. We shall have accomplished something, sir. We shall thereby say to the community at large, If you correspond with us on matters pertaining to our public duties, send your communications, for they will cost nothing; but if you correspond with us in relation to private affairs, we must pay postage on such correspondence like others. Sir, the effect will be salutary, and I hope the Senate will give the amendment its sanction. I ask for the yeas and nays thereon.

The yeas and nays were ordered.

Mr. FOOTE. Did the Senator from Kentucky intend us to understand that he would not have proposed the present amendment if his first one found favor in the Senate?

Mr. UNDERWOOD. The Senator has misunderstood me. I intended to say, and think I did say, that I designed introducing the present amendment, whether the other one failed or not.

Mr. FOOTE. Well, sir, I am glad to be corrected. I shall, then, only respond to a single remark of the honorable Senator, which struck me at the time of its utterance as containing a sentiment not altogether as much entitled to approval as many things which are spoken by that Senator. He suggests, as an argument in support of his present amendment, that if adopted, it will save us from much of that calumnious reproach in connection with the exercise of the franking privilege to which we have been heretofore subject. I suppose him to allude to the denunciations of the press.

Mr. UNDERWOOD. Will the Senator allow me to say a word?

Mr. FOOTE. Certainly.

Mr. UNDERWOOD. I did not speak of the press. The censure to which I referred was in a communication from the Post Office Department received here some years ago. I can produce the document if necessary.

Mr. FOOTE. I certainly understood the Senator as employing language much more general than that which he now uses. But I am satisfied with his explanation, and will proceed.

The Senator still urges us to vote for his amendment in order to avoid decrial. Well, sir, having never been influenced for a single instant of time in my whole life by such a motive as the one suggested by him, I must beg leave to decline voting for his amendment. If whilst a member of this body I can satisfy my own conscience, secure the approval of my own honored constituents, and avoid giving just offence to the virtuous and patriotic portion of my countrymen, I shall care very little what men in office or men not in office—what editors or mercenary scribblers of slander for corrupt newspapers—may say of me. I expect not to escape calumny. I have never been able to escape it. I do not desire to escape it. My self-esteem would be indeed most deeply mortified were the wicked, the mercenary, the factious, the unprincipled of this world to praise me.

Though the humblest of the members here, it will be admitted by all who hear me that I have been more denounced, beslandered, and ridiculed than all the Senate besides. Were I a fiend incarnate, I could scarcely merit all the reproaches cast upon me. But will any man say he has heard me complain of it? Has it at any time appeared that I dreaded detriment from such atrocious assailment? Will any one assert that he has seen me angry, or cast down, or at all ruffled by all the ruffianly nonsense that certain maudlin scribblers have caused to be published against me? Have I departed to the right or to the left from the path of Democratic rectitude in consequence of such assailment? No, sir, no! The dread of undeserved censure should never find entrance in this Chamber. I know that there is such a thing as a virtuous man living down decrial, however skillfully it may have been devised; and in this country a public man who does not feel assured that he will have it in his power to meet and put down calumniators, sooner or later, however fiercely and thickly they may be arrayed against him, has none of that inspiring confidence in the sound sense and perfect justice of his countrymen, without which public duties can never be cheerfully performed, nor public honors legitimately acquired.

Mr. DAVIS, of Massachusetts. I have but a word to say in regard to this bill. I rise for the purpose of inquiring of the committee, whether in the modifications they have made of the old laws, the idea not only of reducing the postage, but of exacting prepayment of letters in all cases, has come under their consideration? Now, if this plan would answer our purpose, we would get rid of a great many difficulties. I know there are some objections to it, but I would say, for one, that I would most cheerfully and willingly give up the right of franking, provided you will bring with it the obligation to prepay letters; and I would take upon myself, as one of the members of Congress, the duty of prepaying any letters which I might write in return to letters received, and would think myself doing well at that. I do not consider, after all that is said upon the subject of franking, that this privilege secured to members of Congress is an equivalent for the labor it brings with it. None whatever; and, for one, I would be glad to get rid of it: only let it pass out of my hands upon terms reciprocal in their character, and let letters be prepaid in all cases. This arrangement would not perhaps be applicable to newspapers and periodicals, but there is no serious difficulty in the way of prepaying letters. Let letters be prepaid in all instances, and members would get rid of a most inconvenient burden imposed upon them by unnecessary correspondence. At any rate, correspondence carried on under such a system as I suggest, would bring upon the writers the burden of paying postage, which I think would do away with it almost entirely.

This plan brings with it another consideration. You are rid of all credits with the Post Office Department; rid of keeping a large quantity of account books, and money matters will settle themselves as they go along—for the Government realizes, ordinarily, in the transportation of the mails the revenue which is anticipated. It will also clear us of a large portion of the dead-letter office, and of the accumulated letters that lie there, transported without any compensation whatever. Now, I desire to know whether the committee has

investigated this subject, and whether they have found to this proposed provision insuperable objection? I do not speak with great confidence upon this point, nor after a full examination of this bill, which I may be induced to support; but it seems to me that a strong recommendation in favor of my proposition is, that it will do away with the franking privilege.

Mr. WESTCOTT. I am certainly, Mr. President, very highly gratified with the opinions expressed by the Senator from Massachusetts upon this subject. They are the only opinions that I have heard upon the question with which I heartily accord, and which I think, if carried into effect, would be to the benefit of the public in every respect. I believe, sir, if you establish the system of prepayment of letters in all cases, you would get rid of all the trash of which so vast an amount accumulates every year in the General Post Office, called dead letters; and also of a heavy expense in the way of hire for clerks to sort such letters. Prepayment of letters would also do away almost entirely with the trashy correspondence which at present has to be paid for by the person receiving it. I do not agree with the Senator that the franking privilege should be entirely done away with. I think that the letters of members relating to the business affairs of the nation, and connected in any way with their official duties, should go free. But in respect to the prepayment of all letters, I sincerely hope the Senator from Massachusetts will introduce an amendment to that effect.

Mr. NILES. The system proposed by the Senator from Massachusetts would make the prepayment of letters compulsory on the part of the writers of such letters. This is one objection to the adoption of such a plan. Again, it would subject such persons as wished to drop letters into the post office, after it was closed during the night, or at its advertised hours, oftentimes to great inconvenience and delay, so that they would probably lose a mail, and thus be productive perhaps of great detriment to them. The committee have thought that doubling the postage upon letters not prepaid in advance would be compulsion enough. By this system, proposed by the committee, the public have the privilege of paying less price if they pay postage in advance for letters; and the double postage charged on letters not prepaid is surely compulsory enough.

With regard to the question of the abolition or modification of the franking privilege, I would be much gratified if the Senator from Kentucky would withdraw his amendment relating to it. It will only embarrass the bill, as there is as much diversity of opinion upon the abolition or modification of that privilege as there are Senators on this floor; and it would be more subservient of the public interest if the bill as now prepared should be acted upon prior to the introduction of this disputed question.

The Senator from Connecticut then withdrew his amendment, and the further consideration of the bill, upon his motion, was postponed until to-morrow.

And then the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 17, 1849.

The Journal of yesterday was read and approved.

SLAVERY AND THE SLAVE TRADE.

Mr. COLLINS asked leave at this time to present certain joint resolutions of the Legislature of the State of New York, in relation to slavery in the Territories of New Mexico and California, and to the slave trade in the District of Columbia.

And Mr. C. asked that they might be read.

No objection having been made, the resolutions were read, and are as follows:

STATE OF NEW YORK—CONCURRENT RESOLUTIONS.

Whereas the people of the State of New Mexico have petitioned Congress for the establishment of a territorial government which shall protect them against the institution of domestic slavery while they remain a Territory of the United States, and have also petitioned Congress for protection against the unfounded claims of the State of Texas to a large portion of their territory lying east of the Rio Grande; and whereas it would be unjust to the people of New Mexico and California, and revolting to the spirit of the age, to permit domestic slavery—an institution from which they are now free—to be introduced among them; and whereas since the acquisition of New Mexico by the United States, the people thereof have a right to expect the protection of the General Government, and should be secured in the full possession and enjoyment of their territory: therefore,

Resolved, (if the Assembly concur,) That our Senators in Congress be instructed, and our Representatives in Congress be requested, to use their best efforts to procure the passage of laws for the establishment of governments for the territory acquired by the late treaty of peace with Mexico; and that by such laws involuntary servitude, except for crime, be excluded from such territories.

Resolved, (if the Assembly concur,) That the territory lying between the Nueces and Rio Grande, and that portion of New Mexico lying east of the Rio Grande, are the common property of the United States; and that our Senators in Congress be instructed, and our Representatives in Congress be requested, to use their best efforts to preserve the same as such common property, and protect it from the unfounded claims of the State of Texas, and prohibit the extension over it of the laws of Texas or the institution of domestic slavery.

Resolved, (if the Assembly concur,) That the existence of prisons for the confinement, and marts for the sale of slaves, at the seat of the National Government, is viewed by this Legislature with deep regret and mortification; and that such prisons and marts ought forthwith to be abolished.

Resolved, (if the Assembly concur,) That our Senators in Congress be instructed, and our Representatives in Congress be requested, to use their strenuous efforts to procure the passage of a law that shall protect slaves from unjust imprisonment, and shall effectually put an end to the slave trade in the District of Columbia.

Resolved, (if the Assembly concur,) That the Governor be requested to forward copies of the foregoing resolutions to each of our Senators and Representatives in Congress.

By order of the Senate:

A. H. CALHOUN, *Clerk of Senate.*

IN ASSEMBLY, *January* 6, 1849.

Resolved, That the Assembly do concur in the above resolutions.

By order: PHILANDER B. PRINDLE, *Clerk.*

And, on motion of Mr. C., they were laid on the table, and ordered to be printed.

LOUISIANA SWAMP LANDS.

Mr. HARMANSON asked the unanimous consent of the House to introduce a resolution providing that the bill to aid the State of Louisiana in reclaiming swamp lands therein, should be made the special order of the day for to-morrow week, and for every subsequent day until disposed of.

Mr. ROOT objected, he said, to any special orders until the territorial bills should have been made so.

So the resolution was not received.

Mr. FRIES asked leave to introduce the following resolution:

Be it resolved by the Senate and House of Representatives of the United States in Congress assembled, That the revenue laws of the United States be, and they are hereby, extended over the Territories of Upper California and New Mexico, and all the ports, harbors, shores, and waters of the main land of the Territories aforesaid, shall constitute a collection district. And a port of entry shall be established at San Francisco, and a collector of customs shall be appointed by the President, by and with the advice and consent of the Senate, to reside at such port of entry; and the President of the United States is hereby authorized to establish within the Territories aforesaid such ports of delivery, not exceeding three in number, as he may deem expedient, and may appoint, by and with the consent of the Senate, surveyors to reside thereat.

Objected to.

MEXICAN CLAIMS.

Mr. MEADE rose and said, that he understood that the Committee on Foreign Affairs had charge of the subject of Mexican claims. He desired to ask of the chairman of that committee whether he was prepared to make a report?

Mr. SMITH, of Connecticut, (chairman of the Committee on Foreign Affairs,) inquired of the Speaker if that committee had been called?

The SPEAKER. This moment called.

BOUNDARY LINE BETWEEN UNITED STATES AND MEXICO.

Mr. SMITH, of Connecticut, from the Committee on Foreign Affairs, to whom was referred the bill from the Senate entitled "An act to provide for carrying into effect the fifth article of the treaty between the United States and the Mexican Republic for establishing the boundary line between them," reported the same back to the House, with an amendment; which bill and amendment were left upon the Speaker's table, and ordered to be printed.

The bill having been read by its title—

Mr. SMITH said it did not contain an appropriation, and he supposed, therefore, that it was not necessary to commit the bill to the Committee of the Whole on the state of the Union.

The SPEAKER said no—the bill was upon the Speaker's table.

Mr. SMITH said he preferred that it should remain there, and that it be taken up after the bill and amendment should have been printed.

The bill (having been ordered, with the amendment, to be printed) takes its place on the Speaker's table.

Mr. J. R. INGERSOLL inquired if that bill had any reference to the subject of Mexican claims?

Mr. SMITH said it had not.

MEXICAN CLAIMS.

Mr. SMITH, of Connecticut, also, from the same committee, to which was referred the bill from the Senate entitled "An act to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico, of the second day of February, 1848," reported the same with an amendment.

Mr. SMITH moved that the bill and amendment be printed, and referred to the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee, asked a division of the question.

Mr. J. R. INGERSOLL asked leave to present, with a view to have printed, a certain amendment, which he proposed to offer as a substitute for the bill at the proper time,

Mr. THOMPSON, of Mississippi, rose to inquire whether the present bill, like that which had preceded it, contained an appropriation; and whether, therefore, it was not necessary that it should be committed?

Mr. SMITH said the bill did contain an appropriation.

Mr. THOMPSON said he very much feared that if the bill was sent to the Committee of the Whole on the state of the Union, it would scarcely be reached during the present session. He hoped, therefore, that the chairman of the Committee on Foreign Affairs would propose some particular day on which the bill should be taken up. He repeated his fear, that unless something of the kind was done, the bill would not be reached during the present session.

Mr. SMITH (referring to the proposition of Mr. J. R. INGERSOLL to print an amendment, which he proposed to offer as a substitute for the bill) said that a proposition of great importance to some of the claimants, as he (Mr. S.) understood, was involved in that amendment, and he thought, therefore, that it was entirely right that it should be printed with the bill, so that it might be fairly before the House.

The SPEAKER said that if no objection was made, the bill, with the amendment, would be printed.

No objection having been made, the bill was referred to the Committee of the Whole on the state of the Union, and, with the amendment, was ordered to be printed.

Mr. THOMPSON inquired of the Chair whether it would be in order for him to move that the bill be made the special order—say for Monday or Tuesday of next week?

The SPEAKER said the motion could only be received by unanimous consent.

Mr. ROOT objected.

So the motion was not received.

On motion of Mr. SMITH, of Connecticut, the Committee on Foreign Affairs was discharged from the further consideration of the petition of Edward L. Young, and of various citizens of Norfolk and Portsmouth, Virginia, praying Congress to pass an act for the relief of the said Young, for losses sustained in the public service; which petition was referred to the Committee on Naval Affairs.

On motion of Mr. STANTON, the Committee on Naval Affairs was discharged from the further consideration of the petition of Charles Colburn, for allowance of arrearages to the end of the time of his enlistment, as yeoman on board of the United States ship Ohio; which petition was laid on the table.

Mr. COCKE, from the Committee on Revolutionary Pensions, made a report upon the petition of Salsy Darby, of Randolph county, in the State of Georgia, accompanied by a bill (No. 723) for her relief.

Mr. COCKE said that he would ask the unanimous consent of the House to put this bill upon its passage; and if he could get their attention, he would detain the House but a moment. The petitioner was the widow of Richard Darby, who was a soldier of the Revolution, and at the time of his death was upon the roll of revolutionary pensions. The marriage occurred in 1784, and the widow is now between one hundred and one and

one hundred and two years of age. And the House would therefore perceive, that unless speedy relief was given, according to the laws of nature, it would be too late. The only difficulty in the case, as he learned, before the Commissioner of Pensions, was, that the marriage was not satisfactorily proved. But at this late day it would be almost impossible to obtain in any similar case testimony more conclusive on this point than is here presented. He hoped the House would pass the bill.

The bill having been then ordered to a third reading, was read a third time and passed.

Mr. SIDNEY LAWRENCE, from the Committee on Revolutionary Pensions, made adverse reports upon the petitions of Henry Bullman and John Booystrom, and of the citizens of Essex county, in the State of Massachusetts, praying for the benefits of the pension laws; which were laid upon the table and ordered to be printed.

Mr. CUMMINS, from the same committee, made adverse reports upon the petitions of Mary Woods, widow of Hugh Woods, and Margaret Kerr; which were laid upon the table and ordered to be printed.

On motion of Mr. CUMMINS, it was

Ordered, That the Committee on Revolutionary Pensions be discharged from the further consideration of the petition of the heirs of Lieutenant Daniel Starr; and that it be referred to the Committee on Revolutionary Claims.

On motion of Mr. FULTON, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the petitions of Samuel Cooper, Joseph Williams, jr., Joseph Farrar, Lorenzo Poelzal, and John English; and that they be laid upon the table.

Mr. FULTON, from the Committee on Invalid Pensions, made a report upon the petition of Charles Wilson, accompanied by a bill (No. 724) for his relief; which was read twice, and ordered to be engrossed and read a third time. The bill being engrossed, was read a third time and passed, and sent to the Senate for their concurrence.

Mr. WILEY, from the Committee on Invalid Pensions, made a report upon the petition of B. O. Payne, accompanied by a bill (No. 725) for his relief; which bill was read twice and committed to a Committee of the Whole House, made the order of the day for to-morrow, and the bill and report ordered to be printed.

Mr. WILEY subsequently moved to reconsider the vote whereby the said bill was referred to the Committee of the Whole House, so that it might now be put upon its passage.

He remarked that this case was a very meritorious one, and that the committee were of opinion that the petitioner was entitled to immediate relief. It appeared that he had lost the thumb from the right hand, and the middle finger of the right hand, and that the left fore-arm had been so shattered as to render it entirely useless. He presumed there would be no objection, and hoped the bill might now be permitted to pass.

Mr. PETTIT wanted to know what grade of officer it was that was described as an "ordnance officer or agent of the Government," (the terms used in the bill.) He was opposed to the bill.

Mr. JOHNSON, of Tennessee, opposed acting upon the bill out of its regular order, and said it should be referred to the Committee of the Whole House, to take its proper place upon the private calendar.

Mr. WENTWORTH considered the claim meritorious, and was ready to vote for its passage now. And he wished to call the attention of individuals who had claims upon the Government, and the attention of the country, to the fact, that there were a class of gentlemen in this House who uniformly opposed every application that was made to take up, out of order, a bill for the relief of the poor soldier or other claimant upon the Government, and insisted that they should go to the Committee of the Whole House; and then, when the House were regularly upon the private calendar, Fridays and Saturdays, those same gentlemen would sit here and object to bill after bill, and prevent action upon them, and after a short session break up the House in a "row," for the purpose of avoiding the expenditure of pitiful sums which were justly due to individuals, while they sat here quietly other days in the week and saw thousands and millions voted away without raising an objection. He repeated, he called the attention of the country to this system of defeating action upon private bills. For himself, he was a friend of the soldier, and he was willing to sit here all day, and all night too, to do justice in these cases of individual claims, and to take them up in their regular order. But this bill being before the House, he was ready to vote for it now. He would not, he dared not, object to it.

Mr. BRODHEAD said, he presumed that this soldier could receive a pension under existing laws. He had no doubt the House was much obliged to the gentleman from Illinois for the castigation he had inflicted upon them, and that they would profit by it. He moved to lay on the table the motion to reconsider.

The motion was agreed to—ayes 70, noes 54.

On motion of Mr. WILEY, the Committee on Invalid Pensions were discharged from the further consideration of the petition of George Cassady and John Forest, for pensions; and they were laid on the table.

Mr. WILLIAM T. LAWRENCE, from the Committee on Invalid Pensions, to whom was referred the petitions of Sally R. Johnson and Tabitha Wilder, made adverse reports thereon; which were laid upon the table.

On motion of Mr. WM. T. LAWRENCE, leave was granted to the heirs of Dr. Louis Wolfley to withdraw papers from the files of the House, referring to a petition for a pension.

On motion of Mr. WM. T. LAWRENCE, the Committee on Invalid Pensions were discharged from the further consideration of the petition of Mrs. C. H. Johnson, widow of Captain Hezekiah Johnson, late of the United States army, praying for a pension; the petition was laid on the table.

On motion of Mr. WM. T. LAWRENCE, the Committee on Invalid Pensions were discharged from the further consideration of the petitions of Daniel Bringman and Daniel Palmer, each praying for an increase of pension; and said petitions were laid upon the table.

Mr. ECKERT, from the Committee on Invalid Pensions, made an adverse report on the petition of Charles C. Cragill; which was laid on the table.

On motion of Mr. VINTON, the Committee of Ways and Means were discharged from the further consideration of the memorial of William Field, clerk of the United States district court for the district of Arkansas, praying remuneration for services in making an abstract of all bankrupt cases which had been or were pending before said court, in compliance with an order from the Secretary of State of the United States; and said petition was laid on the table.

On motion of Mr. HUDSON, the Committee of Ways and Means were discharged from the further consideration of the resolution of the House of the 21st of December ultimo, directing said committee to inquire into the expediency of reporting a bill to authorize a committee of Congress to make an annual examination of all the accounts, vouchers, and warrants paid at the Treasury Department; and it was laid on the table.

On motion of Mr. ROCKWELL, of Connecticut, the Committee on Claims were discharged from the further consideration of the memorials of David G. Bates, Thomas Jenkins, and Moses Meeker, praying for the refunding to them the amount of rents paid the United States for lead mined and smelted on certain Indian lands; and said memorial was laid on the table.

Mr. ROCKWELL, of Connecticut, from the Committee on Claims, reported a bill (No. 726) for the relief of Begbie Wiseman, of Glasgow, Scotland, accompanied by a report in writing; which was read twice and committed, and, with the report, ordered to be printed.

Also, the bill for the relief of Robert Roberts, which had been recommitted with instructions "to indicate the fund out of which" the claim of said Roberts "shall be paid," with an amendment. After some explanations, the bill and amendment were committed.

Mr. HILLIARD, from the select committee, consisting of the representatives from the State of Alabama, to whom was referred the bill to amend an act regulating the district courts of the United States for the State of Alabama, reported the same back to the House without amendment.

The said bill was then ordered to be engrossed, and read a third time; and being engrossed, was accordingly read the third time, and passed, and sent to the Senate for concurrence.

COMMITTEE OF THE WHOLE.

Mr. VINTON said, that at this period of the session, certainly not more than half of the morning hour should be consumed on a private bill on public bill day. He moved that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. HUNT was understood to request Mr. VINTON to withdraw his motion, (for what purpose the reporter could not learn.)

In answer to an inquiry as to the order of business to-morrow, if the House should now go into committee—

The SPEAKER stated that the business in order would be the report of the Committee on Printing, in relation to the report on the harbor of Buffalo.

Mr. MEADE asked Mr. VINTON to withdraw his motion.

Mr. VINTON said, if he did so, it was probable that the entire day would be consumed. The committee had already spent more than a week, he believed, on the general appropriation bill, and had not yet disposed of the first item of it. He must, therefore, persist in his motion.

And the question was taken thereon, and decided in the affirmative.

CIVIL AND DIPLOMATIC APPROPRIATIONS.

So the House again resolved itself into Committee of the Whole on the state of the Union, (Mr. SMITH, of Indiana, in the chair,) and resumed the consideration of the bill making appropriations for the civil and diplomatic expenses of the Government for the fiscal year ending the 30th day of June, 1850.

The pending question was on the amendment heretofore offered by Mr. MORSE (to the amendment of Mr. EMBREE) adding one dollar on every twenty miles of travel after the first one hundred miles.

And the question being taken thereon, the amendment was rejected.

The question then recurring on the amendment of Mr. EMBREE—

Mr. BROWN, of Mississippi, moved to amend it as follows:

That hereafter, instead of mileage, Senators and Representatives shall receive no more than their actual and necessary traveling expenses in coming to and returning from the sittings of Congress at each session, and they shall be entitled to receive eight dollars per day for each day's attendance on Congress, computing the time from the day they leave home until the day they return, respectively: *Provided*, That no more than twenty-one days shall be allowed to any one member in coming to, and a like number in returning from Congress, unless such member shall actually be detained on the road by sickness, in which case he shall be entitled to receive eight dollars for each day's actual detention as aforesaid.

Mr. BROWN, in explanation, said that he had offered this amendment in perfect good faith. It was a proposition carrying out the views which he had expressed the other day. If this matter of mileage was to be equalized, this, in his judgment, was the mode by which the object should be accomplished; let the actual traveling expenses of the member be paid. And now a word to his friend from New York, [Mr. MURPHY,] who had made some remarks in reply to him yesterday. He (Mr. B.) proposed to meet the gentleman on his own ground.

The gentleman had said that mileage constituted no part of the compensation allowed to members. If this was so—if it was intended only to defray the traveling expenses of members, then he (Mr. B.) proposed to pay those expenses, and nothing more. He was not willing to pay members by the nearest post route, because that was impracticable. Nineteen-twentieths of the nearest post routes were merely horse mails. Were gentlemen to be compelled to travel by those routes? Or did gentlemen wish to see members on mules, trotting along together to this Capitol?

A word to his particular and special friend from New York, [Mr. GREELEY.] Members thought that there was a great difference between him (Mr. B.) and the gentleman in relation to mileage. That was a mistake. There was scarcely any. When he (Mr. B.) spoke of long mileage, he meant no harm; and when the gentleman spoke of short mileage, he did not mean any good. Compare the two, and they would be found to approach very close to each other.

What was the amendment which he had offered? It proposed to pay to each member his actual traveling expenses to and from the seat of Govern-

ment, and to fine him $8 a day for each day he was absent; but it limited the time that should be allowed for traveling to twenty-one days going and returning, unless detained by sickness, in which event he should receive $8 for each day he was so detained. The limitation as to the time was inserted for the purpose of preventing impositions, as no more than twenty-one days could be employed in making the journey. That was as much time as could be employed. He did not mean that the twenty-one days should be paid for if they were not actually spent, but that the time paid for should not in any case exceed that number of days. If this was not putting members on an equal footing, he declared that he did not know what would place them so. It was his candid opinion that the compensation of members of Congress was too small. Although he was not a man of fortune, yet this was a matter of as little consequence to him as to any other member. He was able to get along with it, as others were. If the compensation of $8 per day was deemed satisfactory to other members, he also was satisfied. The amendment he had proposed would, beyond all controversy, place members on an equal footing. He, for one, was willing to vote for it. But he was not willing to vote in favor of pretended reforms, or for propositions to be paid by the nearest post routes, by which imposition could again be practised, as it had been practised heretofore. He had received his compensation by the usual traveled route. He was entitled by law to do so. He believed that the law was just; but if it was complained that it was unjust, he would go for an alteration. If other members could get along for $4 a day, he was sure he could do so. If gentlemen chose to have members serve for nothing, as in the British House of Commons, they could no doubt find men willing to do it, and even to pay a premium for the privilege of serving the public. If they let out the Presidency to the lowest bidder, they would find many ready to accept the office for less than $25,000; and he thought he could name men who would willingly pay $200,000 for it.

The hammer fell.

Mr. GREELEY rose to inquire whether twenty-one days would be a sufficient time in all cases.

Mr. BROWN. A member can come here in twenty-one days from any part of the United States.

The question was then taken on the amendment of Mr. BROWN, and the vote stood ayes 42, noes 76.

So the amendment was rejected.

Mr. SCHENCK now moved to amend the amendment of Mr. EMBREE, by striking out the entire proviso, and substituting the amendment he (Mr. S.) had prepared yesterday, *i. e.* allowing ten cents a mile for travel by the usual post route, and $2,500 a year to each Senator and member of the House, in lieu of their present per diem.

Mr. SCHENCK said he thought, from the indications that he had seen, that the committee was approaching some ground on which all might meet. He hoped that the proposition he offered might serve as a basis of union on this subject of mileage, so as to effect a compromise upon all points of difference. There was a desire to equalize all——

Mr. ROOT desired to inquire whether the gentleman meant that a member should only be paid for that part of the year during which Congress was in session? If so, in a short session of three months, the pay would be but a little over some six hundred dollars.

Mr. SCHENCK said not. If any gentleman died, resigned, or should be translated to the executive departments, or otherwise disposed of, he should be allowed for the time that he was in office as a member of Congress, and not for the year. The words "at the rate of" might be struck out if gentlemen pleased.

He was not particularly in favor of the sum of $2,500. It appeared to him, for the reasons he had stated yesterday, that this was about a reasonable sum. But if gentlemen preferred $2,000, let that amount be fixed. Twenty-five hundred or two thousand dollars would not be very far short of the average pay and compensation as they then existed. Although he did not think that this amount would increase the cost to the Government, yet other considerations which he suggested in part yesterday, would, he thought, make it a measure of just economy, even if it should increase the amount a little. It would shorten the sessions, and would be the means of effecting other reforms which could not be accomplished under the present system.

The proposition which had been offered by the gentleman from Indiana, and which had been sustained by other members, proposing to charge by the shortest mail route, made the matter better than it was before, but did not equalize the pay, and did not therefore remedy the evil. The proposition of the gentleman from Mississippi [Mr. BROWN] approached the object somewhat nearer, but he (Mr. S.) had objections to that plan. In the case of sickness, for instance, members were to receive eight dollars a day for every day they were detained on the road. Members of Congress might be falling sick, and be detained probably the whole summer; and we might trace them all along the line of road, like the soldiers of Napoleon's army on the march to Moscow.

The hammer fell.

Mr. GREELEY called to order. It was not in order, he said, to reflect upon members of Congress.

Mr. STROHM inquired if it was in order to move an amendment to the amendment?

The CHAIRMAN said not.

The question was then taken on the amendment of Mr. SCHENCK, and decided in the negative: ayes 43, noes 76.

So the amendment was rejected.

Mr. LAHM moved to amend the amendment, by striking out all after the word "provided," and inserting a provision dispensing with the present allowance of mileage to members of Congress, and substituting, in lieu thereof, a compensation of $10 per day for every day necessarily consumed in traveling back and forth between their respective residences and the seat of Government, calculating the time so consumed upon the nearest post route, *provided* that no member be paid for more than fifty days' travel.

He remarked, that although he had taken no part in the previous discussions on the subject of mileage, and had offered no amendment until now, he had long since been satisfied that the present law on the subject of mileage was exceedingly improper and exceedingly unequal. He thought that fact had been forcibly demonstrated some days since by the honorable gentleman from Indiana, [Mr. EMBREE,] and also conclusively shown yesterday by the gentleman from New York, [Mr. MURPHY.]

He proposed not to change the per diem compensation, but to dispense with that provision of the law which was almost universally acknowledged here to be wrong. His amendment provided that, in lieu of the mileage now received, every member should receive $10 for every day necessarily consumed in traveling to and from the seat of Government at each session of Congress. Now, let them take, for example, the case of the gentleman from Louisiana, [Mr. MORSE.] The gentleman had told the House yesterday that it took him some twenty-five days to travel from his residence to this city; that he now received $2,000 mileage, and the travel cost him about $100. Who would not admit that that was improper and unequal? The gentleman would receive, under his proposition, $250 for each way, or $500 for each session of Congress; his mileage both ways cost him $200; and he would save $300 over and above his expenses. He would pay the gentleman from Louisiana this amount, and every other gentleman in the same proportion, for the reason that he thought those gentlemen who resided at great distances, who could not hear from or reach their families as gentlemen who lived nearer could, ought to have some additional compensation. He (Mr. L.) could reach his residence in four days from this city; his mileage was about $40; it cost him $20 or $25; still he had a little left over and above those gentlemen whose residences were nearer the seat of Government.

The amendment to the amendment was lost.

Mr. BOWLIN, remarking that he had a proposition which he thought would satisfy all parties, moved to amend the amendment as follows:

Strike out all after the word "provided," and insert—

That the mileage shall be hereafter to Senators and members of Congress at the rate of ten cents per mile upon the nearest mail route; and the *per diem* pay of said Senators and members of Congress shall be as follows: For the first thirty days, eight dollars per day; for the second thirty days, seven dollars per day; for the third thirty days, six dollars per day; for the fourth thirty days, five dollars per day; for the fifth thirty days, four dollars per day; for the sixth thirty days, three dollars per day; for the seventh thirty days, two dollars per day; and for all time beyond that, one dollar per day. And if any member is absent on any day of the session, he shall forfeit eight dollars for every day so absent—to be charged by the Sergeant-at-arms, and settled in his account; and the Clerk shall each day furnish the Sergeant-at-arms a list of the absentees of the preceding day, and the Sergeant-at-arms shall charge such member's account with the eight dollars, and settle it accordingly. But if such member is absent on account of sickness, he may be relieved from such forfeiture upon the affidavit of his attending physician that he was unable to attend.

The amendment to the amendment was rejected.

Mr. VENABLE moved to amend the amendment, by adding a provision that no member of Congress should receive his daily compensation when absent from the House, unless he was detained from his seat by sickness.

As a good many of the amendments (he remarked) which had been offered did not appear on their face to be of a serious character, he would state that the proposition which he made was a practical one, intended to remedy flagrant abuse. During the last session, a number of gentlemen had been absent from the Hall, engaged in electioneering, in attending their courts, and transacting private business. When thus absent, it was not just or proper that they should receive their compensation, while other gentlemen were here doing the public business.

This was a grievance which could readily be corrected. He wanted this principle, which he proposed as a remedy, ingrafted upon the legislation of the country. With regard to the matter of mileage, he cared very little about that; but it was clearly right, that when members of Congress were absent attending to their private business, practising law, &c., they ought not to receive their pay as members of Congress.

Mr. BOWLIN suggested to the gentleman from North Carolina, that he modify his amendment, by providing further that the Clerk be required to certify to the Sergeant-at-arms the absences of members, that the deductions might be made from their accounts.

Mr. VENABLE accepted the suggestion, and modified his amendment accordingly.

He further modified his amendment, at the suggestion of Mr. MCKAY, so as to provide that the deduction should not be made in case of absence under order of the House, upon public business, or with the leave of the House.

The question was then taken on Mr. VENABLE's modified amendment to the amendment, and no quorum voted.

The CHAIRMAN directed the roll to be called: which having been done—

The committee rose and reported the names of the absentees to the House. A quorum (186 members) having appeared—

The committee resumed its session.

The question was again taken on Mr. VENABLE's amendment to the amendment, and it was agreed to.

Mr. BROWN, of Mississippi, offered the following amendment:

The mileage of Senators and Representatives in Congress shall hereafter be computed by a direct line from the residence of each Senator and Representative to Washington city; and the distance, in every case, shall be determined by the topographer of the Post Office Department, under the direction of the Postmaster General, and communicated to the Vice President of the United States and the Speaker of the House of Representatives within fifteen days after the meeting of each Congress.

Mr. B. explained. He said he regarded this as the next best proposition to that which he had first offered, and which the committee had rejected. It required that mileage should be computed by a direct route. He was making a serious and earnest effort to settle this question, and he hoped the amendment would be voted on in good faith. When he was cut off in his first explanation, he was about to say that he thought members of Congress and other public officers should be allowed the highest compensation which was consistent with the public interests. He did not think that public offices should be farmed out. A seat upon this floor might be sold for $500, instead of men receiving pay to fill them. But all the offices, executive, legislative, or judicial, he thought, should be filled with reference to the best talents and the highest qualifications; and the mode of accomplishing that object was not by reducing the sala-

ries. He referred to the course which had been pursued in the young Republic of France, where high rates of compensation were allowed, and which the members were not at liberty to refuse. That nation, in its infancy, had seen with disgust the demagoging that there would be before the people by those who were willing to offer to serve them for less. He referred, also, to the only case he had ever known of an attempt to bid for an office. It was the case of a member of the Legislature of his State, who offered himself as a candidate for the office of police justice. The compensation was $4 per day, but he said he would serve for nothing. He got only a very few votes, because an intelligent people spurned his offer. An intelligent people, and especially a republican people, were always ready to compensate men according to their services, because they perceived that they could thus direct towards these offices the aspirations of the best and ablest men in the country.

The hammer fell.

Mr. VINTON said, he would move to strike out from the amendment of the gentleman from Mississippi, [Mr. BROWN,] the words "by a direct line."

The CHARMAN said, the amendment was not now in order.

The question was then taken, and the amendment of Mr. BROWN was rejected.

Mr. SCHENCK said, that to make another test, he would move the amendment he had heretofore offered, and would fix the compensation at $2,000. He would ask the Clerk to read his amendment in that shape.

And the amendment (the same as heretofore given with the modification of the sum) having been again read—

Mr. SCHENCK said, he apprehended that the committee was quite tired of this subject of mileage; but he was determined, if possible, to ascertain whether there was sincerity on the part of the majority of the members of the committee in the desire they had expressed to equalize the pay of members.

Mr. EMBREE rose to a point of order. He submitted that the gentleman had offered the same amendment two or three times over, proposing various amounts of compensation; but they were all the same proposition.

Mr. SCHENCK apprehended, he said, that there was a substantial difference between twenty-five hundred dollars and two thousand. If so, the amendment was different. He thought the gentleman would himself appreciate the distinction.

Mr. RUMSEY suggested that the gentleman from Ohio [Mr. SCHENCK] should offer an amendment in blank, so as to let the committee insert any sum they might think proper.

Mr. SCHENCK said that that was precisely what he had wished to do yesterday. He did not then fill up the sum, but left it to the discretion of a majority of the committee. The committee, however, rejected the proposition. He could not now offer it in that shape. For his own part, he was not particular as to the sum. His object, as he had stated, was to ascertain the sincerity, feeling himself sincere, of the majority of the committee, or of the whole of the members, in respect to the equalization of the pay.

The gentleman from Indiana [Mr. EMBREE] had offered an amendment. His (Mr. S.'s) proposition was intended as a substitute for that. If that gentleman's amendment should be adopted, he (Mr. S.) wished it understood by the people, and especially by the people of Indiana, that it did not equalize the pay. It was good so far as it went, but, he repeated, it did not equalize the pay.

If two thousand dollars were adopted as the aggregate compensation of all the members of Congress, it would not be as much as it was now. Two thousand dollars, he found, was a little less than the average compensation now received.

The great difficulty which he apprehended to exist in regard to his amendment arose from the fear that it would not be popular. And, in this connection, he referred to a proposition of a similar character which had been introduced many years ago, and to the failure in the reëlection of many of those who voted for it. For his own part, he was confident in the opinion that if this matter was fairly explained to the people, we might calculate on their good sense to sustain it. There was a much more complete understanding and intercourse maintained between the people and their Representatives than there was thirty years ago, by means of public newspapers and otherwise.

The hammer fell.

Mr. VINTON said that the amendment of his colleague [Mr. SCHENCK] was a substitute, as he (Mr. V.) understood, for the pending amendment. Was it in order for him to move to amend the original proposition before the motion was taken on the substitute?

The CHAIRMAN answered in the affirmative.

Mr. VINTON then moved to strike out from the original amendment the words "nearest route," and insert "usual mail route."

The CHAIRMAN. That motion has been made.

Mr. VINTON. Then, for the purpose I have in view, I move to strike out "nearest mail route," and insert "longest."

Mr. MEADE rose to a point of order. He understood that there was another amendment before the committee.

The CHAIRMAN said, the proposition of the gentleman from Ohio [Mr. VINTON] was an amendment to the original proposition. The amendment of the other gentleman from Ohio [Mr. SCHENCK] proposed to strike out, and insert a substitute. It was always in order to perfect a proposition before taking the question on striking it out.

And the question being on the amendment of Mr. VINTON—

Mr. VINTON said, he need not say that he was not in favor of his own proposition. But he had risen for the purpose of making an appeal to the committee, and that was the only object he had in view in offering the amendment.

He had long been of opinion that, in the aggregate, the members of this House did not receive a greater compensation than they ought to receive——

Mr. MEADE here interposed, and appealed form the decision of the Chair deciding Mr. VINTON's amendment to be in order.

Mr. VINTON. If the gentleman from Virginia would——

The CHAIRMAN. Does the gentleman appeal?

Mr. MEADE said he did.

The CHAIRMAN. The question will then be, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. MEADE said he wished to state his point of order.

The CHAIRMAN said he understood it, and would again state it to the committee, (which was accordingly done.) The object of the amendment of the gentleman from Ohio [Mr. VINTON] was to perfect the original proposition, not to strike it out.

The question was then taken, and decided in the affirmative, without a division.

So it was decided that the decision of the Chairman should stand as the judgment of the committee.

And the amendment of Mr. VINTON being thus before the committee—

Mr. VINTON proceeded with his remarks. As he had already stated, (he said,) he had not risen for the purpose of debating this proposition, but to implore the committee, if possible, to bring this debate to an end. He believed that this House had first gone into committee on this bill on the 9th of January. The House had been in committee upon it, he believed, five days, and yet the first item had not yet been passed upon.

Without going into any discussion on the question of mileage, one thing he thought he might, from long experience here, say, and that was, that there was no gentleman here who seriously believed that there was to be any change in the system. That being the case, it appeared to him, that if gentlemen consulted public economy and the necessities of the public business, they would see that there was every reason to stop this debate at once, and to proceed to vote. He proposed, that upon this item the committee should adopt the rule which, until the last session, always had been adopted after debate had been closed, and that was, to vote upon propositions that might be offered without debate. If gentlemen desired to offer amendments, let them do so; and, if desirable, let them be adopted. But he begged to say, that this matter of mileage was regulated by a law which had been passed more than thirty years ago. This bill was not the place for it—certainly, at all events, the first item was not so. If it was put in here at all, it should be by adding a section to the end of the bill. If this proposition was put into it, the result in the end would be, that within twenty-four or forty-eight hours of the close of the session, this House would find itself brought to this point: that on the one hand, it must recede from the amendment, or, on the other, the bill must be lost, and a special session must be called for the purpose of making the appropriations necessary for the support of the Government. This was just the issue to which the matter would come. That being the case, and looking to the fact that five days had already been spent upon the bill and nothing been done, he thought that if gentlemen wished to bring forward these propositions, which would amount to nothing, the debate upon them should at least be stopped.

Mr. V. then withdrew his amendment.

Mr. MEADE moved an amendment striking out from the original proposition all after the word "provided," and inserting a provision that no member should receive more than fifteen hundred dollars mileage for one session, and that no constructive mileage should be allowed.

Mr. COLLAMER was understood to suggest to Mr. MEADE to add the words "nor less than five hundred."

Mr. MEADE declined so to modify.

Mr. M. said that it was not necessary to discuss this amendment. It must be evident to all that it would diminish the expenses of Congress very materially.

His chief object in rising was to bring to the notice of the House a subject to which its attention had already been turned some days ago. Mr. M. then referred to the article in the "Tribune," which had set him down as having received more mileage than he was entitled to receive. Instead of having received more than he was entitled to, he had (he said) received less. Instead of charging for one hundred and fifty miles, he should have charged for one hundred and fifty-three miles. The gentleman had put him down at one hundred and forty. He (Mr. M.) had looked at the Post Office Register to ascertain the distance, and he found it was one hundred and fifty-three miles, according to the computation there. He presumed, however, that the gentleman did not intend to do him any injustice.

The CHAIRMAN interposed and said, the gentleman could not discuss that question. He was merely entitled to explain his amendment.

Mr. MEADE said he was merely about to observe that he did not believe that the gentleman intended to make any misrepresentation in respect to his, (Mr. M.'s) mileage. He had no doubt that the old track had misled the gentleman. He (Mr. M.) merely desired to correct the matter before his constituents.

The amendment he now offered was one which he thought would recommend itself to the favorable consideration of members. He believed that the sum of fifteen hundred dollars was ample for any gentleman coming from any distance to the seat of government. This, in addition to the eight dollars per day, would be a compensation fair and adequate to members from a distance, especially when they reflected that, after a short session, there was an interval of nine months which gentlemen could devote to their profession or business, and the returns of which they would add to their pay.

The question on the amendment of Mr. MEADE was then taken, and decided in the negative.

So the amendment was rejected.

The question then recurred, and was taken on the motion of Mr. SCHENCK, to strike out the proviso from Mr. EMBREE's amendment; and (by ayes 67, noes 57) it was decided in the affirmative.

So that part of the amendment of Mr. SCHENCK was agreed to.

The question recurring on Mr. SCHENCK's substitute amendment to the amendment was taken, and the amendment to the amendment was agreed to.

The amendment as amended was declared to be agreed to.

Mr. GREELEY moved to amend the amendment, by reducing the annual compensation from $2,000 to $1,500.

The CHAIRMAN ruled the amendment out of order.

[The matter was thus settled, by providing that, in lieu of the mileage and per diem at present allowed to members of Congress, there should be allowed ten cents per mile on the usual mail routes between the respective residences of members of Congress and the seat of Government, and a compensation of $2,000 per annum.]

The item for purchase of books for the Library of Congress, $1,000, having been read—

Mr. SAWYER moved to strike out the item.

He remarked, that there was an item above of $5,000 for books of a general nature, and there was no necessity of $1,000 more for law books. If the appropriation were retained, he should move to add $1,000 for agricultural works.

The amendment was rejected.

Mr. WHITE moved an amendment, to add, after the item appropriating for the First Auditor's office, a proviso that the pay or compensation of said officer should not exceed the sum of $2,500.

The amendment was rejected.

SECOND AUDITOR'S OFFICE.

The item appropriating for the Second Auditor's office being under consideration—

Mr. JONES, of Tennessee, moved an amendment appropriating for additional clerks in the said office, at a salary not exceeding $1,000 per annum, $20,000.

At the last session of Congress (he said) it would be recollected by the members of this House, that they had made a provision for an additional clerical force in the office of the Second Auditor. At a subsequent period of that session he had learned, that instead of the number of clerks in that office having been increased, it had actually been decreased three; and now the business of the office was some twelve, fourteen, or fifteen months behind. There was a preferred class of claims there—those for the benefit of the widows of soldiers—and even that class was as far behind as May, 1848. Undoubtedly, every gentleman here knew that it was at present almost impossible to get any business transacted at that office—an office at which the widows and children and heirs of those who had been killed in the service of the country made their applications for back pay due their fathers, sons, and brothers who had thus fallen. This small pittance was withheld from these persons, because Congress refused to give this office a sufficient clerical force to audit these claims.

It was a case which every gentleman could see and appreciate, and he thought gentlemen would vote to increase this clerical force, if they did not wish an indefinite postponement of these numerous but small claims—claims for whose early adjustment and settlement it was their imperious duty to make provision. The office was now twelve months in arrears of its business, and with the present clerical force, it was running behind even in its current business.

Mr. HARALSON moved to amend the amendment by increasing the sum to $21,000.

He said he understood that that office particularly was really getting behind further and further every day, and was not even keeping up with its current business, as had been remarked by the gentleman from Tennessee. Not one solitary claim which had been presented to that office during the present session of Congress had received attention there at all, owing to the fact that it was so far in arrears in its business. Who were the claimants who ordinarily came before that office? As had been remarked, they were the widows and children of deceased soldiers, claiming the arrearages which were due to those who had fallen in the defence of their country in a foreign land. If regulation was requisite or justifiable in favor of one class of people in preference to another, it was in favor of these very claimants, whose claims were adjusted in that office.

He trusted that the amendment would be made, and that the additional clerical force would be given, in order that these meritorious claims might receive prompt attention and adjustment. It would save members of Congress the trouble of answering numerous letters. He himself had presented the claims of his constituents which had remained there some weeks without being acted upon, and he had received letters inquiring the reason, to which he had been obliged to reply that they were not reached on account of the press of business. A great deal of time was also taken up at the office in answering these letters.

An appropriation of $20,000, or even $40,000, if it was necessary, was a small consideration when compared with the great urgency of the claims that were now pressing upon that office, and the manifold and grievous injustice that was done the claimants by compelling them to wait month after month for their adjudication.

He trusted the amendment would be adopted. He supposed the appropriation of $20,000 would be sufficient, therefore he withdrew his amendment to the amendment.

Mr. NICOLL (speaking upon a *pro forma* amendment) said he had no disposition to quarrel with the general opinion of this House, with regard to the great delays which occurred in this office, in the adjudication of meritorious claims; but at the same time, he wished to inquire, if gentlemen knew that these delays were owing to the want of a sufficient number of clerks. He trusted that before the House took any decided action, they would make proper inquiry, and see whether there was not now a sufficient number of clerks to do the duties which were required of them. This proposition (if it were necessary) ought to come from a committee, and not be put into a general appropriation bill in this loose way. If he mistook not, Congress had passed a law at the last session to give a large number of additional clerks to this office.

[SEVERAL VOICES. They were temporary, and are not now continued.]

Gentlemen around him (said Mr. N.) said they were temporary clerks. He knew not whether this was the fact, but at any rate, he thought the House should have the recommendation of a committee before they made this appropriation. He deprecated as much as any gentleman could, any delay of these claims, but he thought the matter should be properly considered before the House acted upon it.

Mr. BRODHEAD said he would like to know, either from the gentleman from Tennessee [Mr. JONES] or of the gentleman from New York, [Mr. NICOLL,] what was the present number of clerks in the Second Auditor's office?

Mr. JONES, of Tennessee, said he could not tell how many there were, but he knew the business was not done.

Mr. BRODHEAD said he thought there ought to be a small increase; he would therefore move to strike out $20,000 and insert $10,000. If there were ten additional clerks he thought they would be able to do the business.

He withdrew the amendment at the request of—

Mr. CROZIER, who renewed it, and said he agreed perfectly with his colleague, [Mr. JONES,] and the gentleman from Georgia, [Mr. HARALSON,] with reference to the fact of the delay of business in this office. He presumed it was notorious to every man in this House, that the business of the Second Auditor's office was not done as expeditiously and promptly as it should be done. But the question was, what should be the remedy? When the additional number of clerks had been given to that office, at the last session, he had opposed it, not upon the ground that he did not know that some additional clerks were necessary, but because he wanted an examination, and that it should be ascertained how many were necessary; and that this House should have some guarantee, if the power was given to this officer to appoint additional clerks, that they should be faithful, capable men—capable of transacting the business.

Now, his opinion was, (and he was sorry to be obliged to state it,) from his own observation with reference to the bureau of the Second Auditor, that the reason why the business of that office was not transacted was because the head of the bureau was notoriously incapable of attending to the business, and because he appointed clerks who were incompetent to discharge their duties. Now, while the claims were of a most meritorious character, and should be promptly attended to, he presumed it was notorious to gentlemen here that this officer, instead of attending to them, had been engaged in electioneering during the last canvass, and in presiding over political meetings. So far as his observation went, he must say—and he was glad to have the opportunity to say to the country—that he believed this officer totally incapable of filling the station in which he was; and that he did not attend to the business of the office. Before he voted, therefore, for additional clerks, he wanted a resolution introduced inquiring into the subject, and he had been waiting two weeks to get in a resolution for this purpose.

Mr. COBB, of Alabama, interposed, and inquired if the gentleman from Tennessee had ever seen or known of this officer presiding over a political meeting in office hours? If he had, let him state it, and he would go with the gentleman to cut of his head.

Mr. CROZIER said he did not consider it important to make an issue with the gentleman on this point.

Mr. HARALSON (Mr. CROZIER yielding for explanation) said, a new Administration was about to come in; and if the present incumbent was an inefficient officer, he would be ousted; but whoever came in, and however efficient he might be, he (Mr. H.) wanted him to have sufficient clerical aid to bring up these claims.

Mr. CROZIER replied that he did also; and if it were shown that this was necessary he would vote it, even if a hundred or a thousand additional clerks were necessary. But he did not believe it; he did not believe this was the cause why the business was not transacted there; therefore he was opposed to the appropriation.

The amendment to the amendment was rejected.

Mr. ROCKWELL, of Connecticut, moved to amend the amendment by reducing the amount to $2,000, and subsequently to $200.

He stated, that during the last session of Congress, under the direction of a resolution of the House, the Committee on Claims had made an examination into the condition of the Second Auditor's office—an application having been made by the Second Auditor for an increased number of clerks. The committee, at that time, had become satisfied that there should be an increase, and had accordingly recommended an increase of twenty-six clerks. He traced the action of Congress at the last session upon the subject, resulting (as he said) in authorizing twenty-two or twenty-three clerks additional to the number which had previously been employed in that bureau. He understood the chairman of the Committee of Ways and Means to say that the amount reported in this bill for this office was the amount estimated for by the department. Under these circumstances, it appeared to him that there should not be an increase until it was shown to be absolutely necessary. The twenty-two or twenty-three clerks authorized at the last session (he added) were provided for in the bill.

The amendment of Mr. ROCKWELL was rejected.

Mr THOMPSON, of Mississippi, moved to amend the amendment, by increasing the amount to $30,000.

He said he believed, with gentlemen who had spoken, that the business of this office was in arrears. He knew that a good many claims had been presented to that office at the last session of Congress which had not yet been acted on. He very much regretted this delay; but he desired to know from the gentleman from Connecticut, whether those twenty-three clerks which were added at the last session of Congress were still employed in that bureau?

Mr. ROCKWELL was understood to reply that he had no doubt they were still employed.

Mr. THOMPSON inquired if they were not made temporary clerks? and when the appropriation run out, if their term of service did not expire?

Mr. ROCKWELL replied, that all he could say was, that he had understood, from the chairman of the Committee of Ways and Means, that all the clerks now employed in the bureau of the Second Auditor were appropriated for in this bill.

Mr. VINTON (Mr. T. yielding for explanation on this point) referred the gentleman to the estimates accompanying the bill, and read therefrom, showing that $21,270 were included in the item for this office, which provided for twenty-two additional clerks employed at the last session.

Mr. THOMPSON said, the number that thus appeared to be employed seemed to him sufficient; yet he regretted to say that the business was not done. He could not, however, vote to increase the number until he had more light on the subject.

He withdrew his amendment to the amendment.

Mr. HENLEY renewed it. He said there were but two questions which needed to be answered relative to this subject: first, was the force sufficient? and, second, if it were sufficient, was it now

there properly discharging its duties? He believed the force was not sufficient. Any gentleman could form an idea of how immense increase there must have been in the business of the office, when he reflected that from a peace establishment of 6,000 soldiers, our army had been raised to 100,000 soldiers in the field; and with this large increase, the number of clerks in this office had been increased only by these 22 or 23 clerks. He did not know what proportion of these soldiers had business with this office, but he knew the increase of business there must be in a much greater ratio than that of 23 clerks compared with the number previously employed. So any gentleman could judge that the clerical force in that office was not sufficient.

At the last session he had voted for an increase of the number of clerks in this office, because he wanted all those meritorious persons who had business with it, to have their business promptly attended to; and, further, because he did not want the Democratic party (of which he was an humble member) responsible for not promptly attending to the business of the poor soldier. Gentlemen on the other side of the House were soon coming into power, and the matter should be disposed of pretty much as they saw fit, as upon them would rest the responsibility of transacting the business. He was of the opinion, however, that the clerical force in this office should be increased.

The gentleman from Tennessee [Mr. CROZIER] had said that this officer had presided over political meetings. He (Mr. H.) thought he had done so upon one occasion in the night time. But did that gentleman mean to say that this fact would disqualify a public officer for the performance of his duties? Surely no gentleman would undertake to make such a declaration. But, in opposition to what the gentleman from Tennessee had said, he (Mr. H.) believed this officer to be a most faithful, efficient public officer. He had shown himself to be so by the diligence with which he had attended to his duties. He believed that neither the gentleman from Tennessee nor any other gentleman could say, that during office hours, this officer had not been at his post attending to the discharge of his duties. He had been as uniformly there as any other officer, and, in his (Mr. H.'s) opinion, was an efficient public officer. He should vote for the additional increase; and he was not sure that even that would be sufficient. If they did not make this increase, there would be a general clamor all over the country.

Mr. VINTON said, that before this question was acted upon, he would like to inquire of the gentleman who made the motion, whether this increase had been recommended by the departments, or from any other quarter?

Mr. JONES, of Tennessee, said he would answer the gentleman by saying, that he (Mr. J.) knew of no such recommendation. It was upon his own knowledge of the state of the business of the office; and here gentlemen rose——

The CHAIRMAN interposed and said, debate was not in order.

Mr. JONES said, he merely wished to state a fact. Gentlemen said that nothing must be appropriated without a recommendation; and then, when a recommendation was made, it was said that Congress legislated under the dictation of Executive officers.

Mr. HENLEY said, he believed that there was such a recommendation, but for how much, he did not know. He was himself in favor (he was understood to say) of an appropriation of $20,000.

Mr. ROOT moved to strike out $20,000, and insert $1,000.

He said that if there was any abuse which ought to be checked, it was the practice which had grown up of laying hold of these general appropriation bills and making them omnibuses for all sorts of truck which could not be got in by any other mode. Ever since he had been a member of this body, the civil and diplomatic appropriation bill had been used as a sort of catch-all for every reform, humbug or real—whether it was a reformation or not. Every project, no matter what, if it could only be got into this bill, was bound to go. Any one who could see the effect of these movements, and who would consider well what the result of them must be, ought, he thought, to vote against them as out of place here. There were many things which as independent propositions he would be willing to support, which were out of place here, and against which, therefore, he must give his vote.

As to increasing this force, what did this House know about it? How many members knew anything of the number of clerks that were already employed? Where did this information come from? Some gentleman had stated that he had made application for some matter, and that the business had not been attended to in time, therefore this appropriation was to be made. Let everything be put into this bill that was proper, and let everything that was wrong be kept out of it. Let everything that required legislation as an independent subject be kept out of this bill. It had no right there.

Mr. R. then withdrew his motion.

And the question recurring on the amendment of the gentleman from Tennessee, it was taken and decided in the negative.

So the amendment was rejected.

Mr. LAHM moved that the committee rise.

Mr. VINTON suggested that, now that the session had advanced so far, the committee should not rise until four o'clock; otherwise it would be impossible to get through the business.

The question was taken, and decided in the negative: ayes 66, noes 76.

So the committee refused to rise,

Mr. HENLEY moved an amendment, making an appropriation for certain items for the Patent Office, &c.

Mr. VINTON was understood to suggest, that the proper place for this appropriation would be under the "miscellaneous" head.

Mr. HENLEY said he thought not.

Mr. VINTON said the part of the bill under consideration contained appropriations for the clerks and officers in the different departments.

Mr. HENLEY said it was a mere matter of taste. He had, however, no objection to waive his motion for the present.

So the amendment was temporarily withdrawn.

The item for compensation of the Register of the Treasury being under consideration—

Mr. VINTON, under instructions, he said, from the Committee of Ways and Means, offered an amendment increasing the amount so as to provide for placing a clerk, therein named, on the footing of a permanent clerk. This officer (Mr. V. said) had, he understood, been employed in the Treasury Department for some twelve years, and had been engaged in the discharge of duties there. He held in his hand a recommendation from the head of the department, asking that the clerk might be put on a permanent footing.

The question was taken, and the amendment was agreed to.

The following item being under consideration:

"For compensation of the Commissioner of the General Land Office, and the recorder, draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, and packers, in his office, ninety-two thousand seven hundred and eighty-eight dollars and seventy-five cents."

Mr. CUMMINS moved to amend it by striking out $92,788 75, and inserting $93,288 75, and authorizing the Commissioner of the General Land Office to advance the salary of one clerk in the Military Bounty Land room from $1,300 to $1,500, and one other from $1,000 to $1,300.

Mr. CUMMINS, in explanation, said that this recommendation came from the Commissioner of the General Land Office, who was acquainted with all the subdivisions in his office, and their wants, with the duties devolving upon each clerk, and the manner in which he discharged his duty. The Military Bounty Land room had in possession and custody the titles of all the military bounty lands in the United States—more land, perhaps, than any other one room. The titles of these lands were unsettled; many of them in dispute and litigation. Daily calls were made upon that room for exemplifications of patents, copies of old warrants, and other necessary information. Its correspondence was very great on the subject of these old land titles. He (Mr. C.) was credibly informed, that within a few months past, some fifteen hundred letters have been written and recorded in that office. The business of the following old land districts was mainly transacted in that room:

1. The United States military district for revolutionary bounty lands, a district of fifty miles square.

2. The Virginia military district of 400,000 of acres.

3. The refugee lands. These still are in Ohio.

4. The three bounty land districts of the bounty lands of the war of 1812, embracing 600,000 of acres; 200,000 of this last district are in Illinois, 200,000 in Missouri, and 200,000 in Arkansas. Locations were yet being made in some of these old districts. A very large proportion of these lands were located and owned by non-residents. Large quantities of them had been sold for taxes, squatted upon, and otherwise encumbered, and were now and have been in litigation. This made the duties of that room very considerable in answering calls and correspondence. Prior to the Mexican war, this room was not so laborious a position as some of the other rooms in the Land Office, and the force employed in it, and the pay of clerks, were graduated and reduced accordingly.

The labors, responsibilities, and duties connected with the Mexican bounty lands had, to a large extent, been necessarily thrown upon the clerks in that room, and had largely increased the responsibilities and labors of the clerks, and, as the Commissioner informed us, *had increased the labor nearly three-fold.* Every land warrant issued was sent to that room—examined, registered, enveloped, and sent to its owner, accompanied with a letter. When these warrants were located, they were again returned to that room, and the correctness of the assignments upon them, and other matters connected with their location, again examined; and then the patents were issued, recorded, and sent off. It was of high importance to the soldiers that this business should be correctly and promptly attended to. Thus far it had been so done. Four of the clerks in this room have worked in office hours and out of office hours to keep the business up. They had done so. They had been faithful, and I desire to pay them a fair compensation for their fidelity and labor, and no more. The labor was intrinsically worth more than the pay they now get. The clerks in other rooms, no more laborious or important, if as much so, receive salaries for their services as high as those I propose. I am opposed to high salaries without an equivalent returned in services rendered, but in favor of paying a fair compensation for important services honestly, faithfully, and promptly rendered. This amendment proposed that payment, and no more.

Mr. TOOMBS (on a *pro forma* amendment) briefly opposed this system of increasing the salaries of office-holders. The compensation, he contended, was enough. He had no doubt that five hundred competent men could be procured in a week, to fill these very offices, at the compensation now allowed.

Mr. T. then withdrew his amendment.

On motion of Mr. MORSE, the committee then rose and reported.

And the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. NICOLL: The petition of Charles A. Willetts, Edward Hutter, Washington Davis, William A. Barnett, William B. Hall, and of 229 others, residents of the city of New York, asking for reduced and uniform rates of postage, and for the abolishment of the franking privilege.

By Mr. TALLMADGE: Three several petitions from citizens of New York, for a reduction of postage.

By Mr. ATKINSON: Memorial of Thomas Chaney, messenger to the Clerk of the House, for extra work as a painter after the adjournment of the 3d session of the 25th Congress.

By Mr. PALFREY: The petition of Pamela Child and 75 others, of North Woodstock, Connecticut, praying Congress to prevent the extension of American slavery, to withdraw the protection of Government from the American slave trade, and to suppress slavery wherever Congress has competent jurisdiction. Also, the petition of S. W. Guernsey and 547 others, of Charlestown, Massachusetts, praying Congress to prevent the extension of American slavery, to withdraw the protection of Government from the American slave trade, and to suppress slavery wherever Congress has competent jurisdiction.

By Mr. STEWART, of Pennsylvania: The petition of many citizens of Adams county, Pennsylvania, for a reduction of postage, &c. Also, a petition from publishers of periodicals, on the subject of postage. Also, the petition of citizens of Pennsylvania, in favor of the construction by the United States of a national railroad from the Missouri river to the Pacific Ocean.

By Mr. JENKINS: The petition of inhabitants of Oneida county, New York, for a railroad to the Pacific Ocean.

By Mr. GREELEY: The petition of R. G. Pardle, and other citizens of Wayne county, New York, for a reduction of congressional mileage. Also, of Isaac F. Boogy and others, New York, for a reduction of postage. Also, of E. W. Gibbs McNeil, and others, of New York, for the same.

By Mr. BEDINGER: The petition of Passed Assistant Surgeon Richard McSherry, for compensation for extra services performed by him in Mexico during the late war.

By Mr. THURSTON: The petition of J. H. Rouse, and thirty others, of Wickford, Rhode Island, for reduction of postage.

By Mr. JOHNSON, of Tennessee: The petition of Washington Denham, a citizen of Tennessee, praying Congress to grant him a back pension.

By Mr. CLARK, of Maine: The remonstrance of James B. Hall, and thirty-nine others, citizens of Damariscotta, against a division of the Waldoboro' collection district. Also, the petition of J. L. Emerson, and seventeen others, citizens of Muscle Ridge Plantation, in favor of a new collection district at East Thomaston.

IN SENATE.

THURSDAY, *January* 18, 1849.

Mr. YULEE presented resolutions of the Legislature of Florida, in favor of a mail route from Tampa to the settlements of Hitchapocksassa, Old Tampa, and Manateo, in Hilisborough county, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. YULEE presented resolutions of the Legislature of Florida, in favor of a mail route from Oulusta, Columbia county, to Gray's Inn Ferry, Duval county, Florida; which were referred to the Committee on the Post Office and Post Roads.

Mr. YULEE presented a resolution of the Legislature of Florida, in favor of making compensation to John Tucker, for services as chaplain to a Florida battalion.

PETITIONS.

Mr. JOHNSON, of Georgia, presented a petition of Martha Cox, widow of a revolutionary soldier, asking for a pension; which was referred to the Committee on Pensions.

Mr. MASON presented a petition from Francis G. Beatty and Samuel Walker, asking compensation for injuries received at the Treasury buildings in the year 1842; which was referred to the Committee on Claims.

Mr. DAVIS, of Massachusetts, presented a petition from E. Baldwin, praying for a return of duties paid by him on a cargo of rum; which was referred to the Committee on Commerce.

On motion of Mr. CLAYTON, the papers in the case of William Morrow, were withdrawn from the files.

REPORTS OF COMMITTEES.

Mr. ATHERTON, from the Committee on Finance, reported House bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the Indian tribes, for the year 1850, without amendment.

Mr. BREESE, from the Committee on Public Lands, to whom was referred the petitions of the registers and receivers of the land offices in Louisiana, Florida, Missouri, and Wisconsin, reported a bill to compensate the registers and receivers of the several land offices in the United States; which was read and ordered to a second reading.

On motion of Mr. BREESE, it was ordered that the communication from the Committee on Public Lands be printed with the bill.

Mr. BUTLER, from the Committee on the Judiciary, to whom was referred the petition of G. W. and P. E. Norton, asking payment of their claims against the late Republic of Texas, asked to be discharged from the further consideration of the same; which was agreed to.

NAVY REGISTER.

A message was received from the House of Representatives requesting the return of the joint resolution for the purchase of copies of the General Navy Register and Laws.

The message having been read—

On motion of Mr. KING, the said joint resolution was ordered to be returned to the House of Representatives.

The following bills were received from the House of Representatives:

An act to amend an act regulating the district courts of the United States in the district of Alabama; which was read a first and second time, and referred to the Committee on the Judiciary.

An act for the relief of Charles Wilson; which was read a first and second time, and referred to the Committee on Pensions.

An act for the relief of Salsey Darby, of Randolph county, Georgia; which was read a first and second time, and referred to the Committee on Pensions.

On motion of Mr. PHELPS, the communication received yesterday from the Second Comptroller and Second Auditor of the Treasury, in relation to the amount due to the Cherokee nation of Indians, was referred to the Committee on Indian Affairs.

ADVERSE REPORTS CONCURRED IN.

The adverse report of the Committee on Claims, on the petition of E. B. Calkins and Co. was concurred in.

The adverse report of the Committee on Public Lands on the petition of Peter Whitmore Knaggs was concurred in.

The adverse report of the Committee on the Public Lands on the petition of Peter Godfrey was concurred in.

The report of the Committee on Private Land Claims on the petition of Joshua Hobden, recommending that the case be incorporated in the bill for the relief of James P. Sexton, was concurred in.

RESOLUTIONS.

Mr. ALLEN submitted the following resolution; which was read:

Resolved, That the Postmaster General report to the Senate, as soon as practicable, what contracts exist between the Government and individuals or companies for the transmission of the mail in steamers between ports of the United States and ports of foreign countries, when such contracts have been entered into, with whom, at what cost per annum in each case, and the profits per annum in each case arising to the Government on the mail matter thus transmitted.

Mr. YULEE. I would suggest to the honorable Senator from Ohio whether the resolution will not require modification in order to accomplish the purpose he has in view. Many of the contracts to which the Senator probably refers were made by the Secretary of the Navy, and the Postmaster General may not be able to give the required information respecting them.

Mr. ALLEN. I will amend the resolution by inserting "and the Secretary of the Navy."

The resolution as amended was agreed to.

Mr. JOHNSON, of Louisiana, submitted the following resolution, which was considered and agreed to:

Resolved, That the Committee on Private Land Claims be instructed to inquire into the expediency of confirming the claim of James A. Scudday, of the State of Louisiana, to two certain tracts of land in the said State, of 640 acres each, described in the documents accompanying this resolution.

The following resolution, submitted by Mr. CAMERON on the 10th August last, was taken up on his motion, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate any information that may be within the knowledge of the department in reference to claims made against the Cherokees who are parties to the treaty of August 6, 1846, especially against that portion of the nation called Old Settlers, or Western Cherokees, for services or any other aid and assistance rendered the said Cherokees, in the prosecution of their claim, which resulted in the treaty afterwards. If such claims are based on written contracts, he is requested to state whether the contracts were made by the duly authorized representatives of the *Cherokees*, in their *national* or *aggregate* capacity, for the benefit of those who are made recipients by the treaty in all moneys arising out of the settlement of their claims. And also whether, within the knowledge of the department, such contracts have been fully and faithfully complied with, as far as practicable, by the other parties named in them. And that he will communicate the evidence upon which he bases his opinion, with any paper in possession of the department showing the extent of the services rendered, and the character of the claims thus made against the moneys which may be awarded under the treaty of August 6, 1846.

TERRITORY OF MINESOTA.

Mr. DOUGLAS moved that the Senate proceed to the consideration of the bill for the establishment of a Territorial Government in the Territory of Minesota.

Mr. JOHNSON, of Louisiana. I hope the gentleman will not insist upon that motion. This day has been assigned by special order for the consideration of private bills, many of which have been upon the calendar awaiting the action of the Senate ever since the early part of last session.

Mr. DOUGLAS. I will state to the Senator, that if we proceed with this bill and it should give rise to debate, I will agree to postpone it.

PRESIDING OFFICER. The consideration of private bills, in pursuance of the order of the Senate, is only to be entered upon at one o'clock.

Mr. MASON. I wish to understand this. Will the Senator, when the hour for the consideration of private bills arrives, give way and allow his bill to be postponed?

Mr. DOUGLAS. Certainly.

The motion was agreed to, and the Senate proceeded to the consideration of the bill as in Committee of the Whole, the pending question being upon agreeing to the amendments reported by the committee.

The amendments were concurred in.

Mr. BUTLER. I do not know that I shall oppose the bill, but I take occasion to say, what perhaps may not be properly understood, that there will be embraced in the Territory of Minesota about twenty thousand square acres of land that was covered by the ordinance of 1787, and formed a part of what was commonly called the Northwest Territory, out of which five States were to be created. The separation of this tract, and the formation of an additional State, is, to my apprehension, not only a violation of good faith, but a violation of the positive provisions of that ordinance. In saying this, however, I do not desire to be understood as imputing blame to the chairman of the committee. This is unfortunately the state of things, and I do not know that there is any remedy for it now, at this late day: it ought to have been looked to at an earlier period. We have no longer any control over the matter. I rose merely to bring the fact to the recollection of the Senate that there is this large tract that I have mentioned, which formed a part of that embraced by the ordinance, that is now proposed to be included in the new Territory of Minesota.

Mr. DAVIS, of Massachusetts. I would like to hear the bill read.

The Secretary began to read the bill——

Mr. DAVIS. I believe it is not the purpose of the chairman of the committee to ask for any definite action upon the bill at this time. I will not ask that the bill be read if he will suffer it, after having been reported to the Senate, to be postponed for the present.

Mr. DOUGLAS. I have no objection that the bill, if any Senator desire it, should be postponed until to-morrow. It contains merely the usual provisions.

Mr. DAVIS. It is probable that I shall not oppose the passage of the bill. I wish, however, that it should lie over one day.

Mr. WESTCOTT. I desire to make an inquiry in relation to one fact. There had been some amendments offered: had they in any respect relation to the judiciary?

Mr. DOUGLAS. No, sir; they had no relation to the judiciary.

Mr. WESTCOTT. The bill, as originally reported, I would suggest, provided for the organization of a judiciary for this Territory, which appeared to me to be entirely unnecessary. I understand that the population of the Territory does not exceed seven thousand at the utmost; that there are not more than twelve hundred voters; and this population is located all in one section of the Territory. It appeared to me, when the bill was presented at the last session, that the judiciary proposed to be organized there was unnecessary—at least there was no present necessity for it—and that it would be better to leave it to be provided for hereafter, when the population shall have considerably augmented.

Mr. DOUGLAS. The provision in relation to the judiciary, I will state, is precisely the same as that inserted in other territorial bills. There are to be three judges, who are to hold courts in three districts, the three together forming the superior court of the Territory. The objection which the Senator takes is, I believe, that there is no necessity as yet for three judges. In reply to that, I will state, the population is very much scattered; and, besides, if there be not a necessity for three judges now, there certainly will be in the course of the summer. I do not know that it will be obligatory on the President to appoint these judges at once, but I thought it better to make the bill perfect in regard to the judiciary, putting it upon the same footing as all other Territories.

Mr. WESTCOTT. I will say to the Senator that when the Territory of Florida was organized—a Territory containing a much greater area than that of Minesota, and containing a population of twenty-five thousand—we were allowed but two judges; and it was not until after the lapse of two or three years that we were allowed three judges; when a necessity manifested itself, Congress granted an additional judge. Now, it strikes me that there is no necessity for three judges for a population of six or seven thousand, and in a country, too, where there is no admiralty jurisdiction, where no admiralty cases arise, as was the case in Florida. I certainly think that it will be best to restrict

the number in the first place to two, and let them be augmented when it becomes necessary.

The proposition being assented to by the chairman, the bill was so amended. Its further consideration was then postponed until to-morrow.

The Senate then proceeded to consider, as in Committee of the Whole, House bill for the relief of David Myerle; when, on motion, it was passed over informally.

The Senate then proceeded to consider, as in Committee of the Whole, the bill for the relief of John P. Baldwin, owner of the Spanish brig Gil Blas; when—

Mr. WESTCOTT moved that it be passed over informally; which was agreed to.

CLAIM OF CHOTEAU AND COMPANY.

The Senate then proceeded to the consideration of the bill for the relief of Pierre Choteau, Jun., & Co.

Mr. BORLAND. The other day, when this bill was up for consideration, I asked that it might be postponed, in order that I might have time to give it a more close examination: other Senators also desired to examine it. Since then I have investigated the bill with some care, and would briefly state to the Senate the reasons which will govern my vote. The claim presented in this bill, as it appears from the papers on record, occupies the following position: Messrs. Choteau & Co. had been for many years, as traders with the Indians, engaged in furnishing them with various articles, particularly the Shawnee tribe. I think it is set forth in the narrative of Mr. Finley, the beneficiary of this bill, that the partner of Mr. Choteau was a half-breed of the Shawnee tribe. At the time the amount of this claim was contracted, this Indian was still a partner, and it was mainly through his instrumentality with his tribe that this indebtedness was created. During the Florida war, it was thought desirable by the War Department to organize a corps of Indians to assist in the prosecution of that war. An officer of the United States army was accordingly sent among these Indians for the purpose of raising this corps. This officer, together with the Indian agent, induced the Indians to come together in council, and the matter was presented to their consideration, whether or not they would engage in the Florida war, and send a number of their tribe in an organized corps to assist in its prosecution. After a lengthy deliberation by the Indian council, they determined they would not organize such a corps. This was in accordance with advice previously given to them by our agents, that they should continue to carry out the general policy laid down in the treaties with these Indians by our Government—that they would abstain from all wars in which they were not themselves interested, and remain in peaceable pursuits. After this resolve of the Indian council had been made known to the military agent of the United States, it dissolved. After the dissolution of the council, the Indian agent and the officer of the army sent for the purpose of raising this corps among these Indians, proceeded to make exertions for the success of their proposition, and succeeded in influencing some ninety or one hundred individuals of this Shawnee tribe to go to Florida in the United States service. This was, then, so far as these Indians were concerned, a private enterprise, engaged in by about ninety or one hundred of the tribe, in opposition to the expressed will of the whole tribe in council. It then became necessary, in order to fit out this expedition, that clothing, provisions, &c., should be raised, and that some arrangement also should be made for the care of the families, during their absence, of those who were going. As an inducement to the traders to fit them out in this way, it was agreed that the Indians so enlisting should receive a very large compensation. The officer, however, made a very great mistake, and promised them four times as much as the Secretary of War authorized him to promise: and these Indians were thus induced to go under these extravagant promises, when the Secretary of War had refused to give such compensation, so that the amount actually received by the Indians was much less than the officer agreed to pay them. Upon their return from the expedition, Messrs. Choteau & Co. presented a bill to these Indians for articles furnished to them, in amount about $9,600, which they were unable to pay. They were in service for a period of six months. During four months of this time they received the whole amount of compensation which the officer had promised them; but for the remaining two months they received only the reduced compensation which was the real amount that the Secretary of War had agreed to give them. The reason the Indians assigned for their inability to pay the debt due Choteau & Co. was, that the compensation promised them by the agent of the Government had not been paid them in full as it should have been. Mr. Choteau and his partner, who, as I have said, was a half-breed of the Shawnee tribe, induced the chiefs and headmen of that tribe to apply to the Government of the United States to pay this indebtedness of $9,600, and have it charged to the annuity fund which the Government was under obligation to pay to them. Application was accordingly made to the Executive Government, and the claim was rejected. The Commissioner of Indian Affairs, doubtless acting under the instructions of the President, rejected the claim upon several grounds. One was, that the treaty with these Indians required a certain disposition of this annuity fund, which fund was the result of the proceeds of the sales of the lands by this Government belonging to the Indians. Again, under that treaty it was agreed also that the fund arising from the sale of these lands should be retained by the Government, and five per cent. interest paid to the tribe as an annuity; and it was alleged by the Executive department that the fund had been invested by the Government in stocks, and, as the stocks were at that time depreciated in value, that it would be doing injustice to the Indians to withdraw those investments, and return the amount asked for. Another ground of objection on the part of the Government was, that Messrs. Choteau & Co. had no claim upon the whole tribe, as a tribe, and consequently no claim upon the United States. And, in the next place, it was urged that it was bad policy for the Government of the United States, and still worse for the Indians themselves, to pay the individual debts of the Indians due the traders. The Indian department, time after time, having refused to acknowledge the justice of this claim and pay it, Messrs. Choteau & Co. now come in and ask of Congress to take a portion of this fund—which the treaty provides shall be retained by the Government, and five per cent. interest on it paid as an annuity to these Indians—and pay the private debts of a portion of the tribe.

Now, sir, for my part I can see no just ground upon which Messrs. Choteau & Co. can place this demand upon Congress. In the first place, as the papers on record show, it was not a contract made between Choteau & Co. and this tribe of Shawnee Indians—not a debt incurred by that tribe as a tribe, but a debt created by some ninety or a hundred individuals, members of the tribe, in direct opposition to the expressed will of the entire tribe assembled in council. As I have said, the Shawnee tribe assembled in council and refused to enter into any such arrangement. It was, then, a private transaction between Messrs. Choteau & Co. and some ninety-odd Shawnees. It was not such a contract as the tribe, under any circumstances, would have agreed to enter into. The whole thing, then, resolves itself into this: Choteau & Co., traders among the Indians, sell to these ninety-odd Shawnees, going to Florida to engage in the war, in their individual capacity, as an outfit, $9,600 worth of goods; and upon these Indians stating that they were unable to pay the debt themselves, Messrs. Choteau & Co. attempt to change the whole contract, and bring it forward here as a debt against the whole tribe, although it had protested in council against its being incurred.

Sir, I can see no just grounds for the allowance of this claim whatever. By the treaty with the Shawnee Indians, the Government of the United States agreed to sell the land and retain the proceeds as a permanent fund for the use of the Indians. Upon this fund a five per cent. interest was to be paid to them as an annuity—this detention of the fund preventing them from squandering the original amount. This arrangement has heretofore always been carried out. This fund, as I remarked, is to be retained during the pleasure of Congress, and it is at their discretion to continue the payment of this annuity, or to pay the whole amount at once over to the tribe. It is provided, also, that when the tribe, assembled in council, shall resolve to make application to the President of the United States for any disbursement of the fund, the President may, at his discretion, make a different disposition of it. It was under this provision, causing a joint discretion between the council of the Shawnee Indians and the President of the United States to be exercised in relation to the fund, that Choteau & Co. induced the tribe to assemble in council and resolve to make application for a change in the disposition of the fund, so as to have paid out of it the amount due to these claimants. The President, in the exercise of his discretion, has determined that the application should be rejected; he has determined that the claim of Choteau & Co. is not founded in justice—at least so far as the tribe at large is concerned—and that compliance with the application would not be for the benefit of the Indians; and further, that it was inexpedient to pay this claim out of this fund, because of its investiture in stocks that had depreciated.

It is apparent from this brief statement of facts, all of which will appear from the papers on record, that this was a private transaction of Messrs. Choteau & Co. with a small portion of the Shawnee tribe of Indians. Under authority of the Indians assembled in council, who, in conjunction with the President of the United States, have the discretion of changing the disposition of the fund, Messrs. Choteau & Co. made application to the Executive department for the payment of this claim out of that fund. The application was refused; and it now comes before Congress for the exercise of its discretion: a discretion, sir, which is contemplated by the terms of the treaty for the benefit of the whole tribe of Indians, and a discretion which should discriminate between the action of a whole tribe and a few individuals. The question now before us is, will Congress admit the justice of such an application? Will Congress, in the exercise of the discretion conferred upon it by the treaty, draw from the original fund vested for the benefit of the whole tribe of Indians the large amount of money involved in this debt, incurred by some ninety-odd individuals only of the tribe? I cannot see the justice of such a claim. I cannot see the propriety of the exercise of such a discretion by Congress. I cannot see, under such circumstances, that any such discretion exists. It was obviously the intention of the treaty to protect the tribe of Indians against any tendency to improvidence, when it allowed this Government to retain the fund arising from the sales of their lands, paying a five per cent. annuity on the same, so that the Indians could have means always at command. This was the manifest intention of the treaty, and I deny, therefore, that Congress has any power under the treaty to make the disposition of the fund asked for. The discretion is given for the benefit of the whole tribe, and not for a few individuals. Messrs. Choteau & Co., by asking for the payment of their claim, would make the whole tribe liable for a contract made with some few individual members of the tribe. I do not think, sir, that Congress possesses the power to allow this claim, or, if it does, I should be for withholding any exercise of it.

I am opposed, Mr. President, to this whole scheme of interference by Congress with contracts made between Indian tribes and speculating traders. It gives rise to most of the evils which afflict the Indians themselves; and the difficulties and wars which are engendered between the Indian tribes and the frontier settlers are attributable to this more than to any other cause.

I believe these transactions of the traders with the Indians have given rise to most of the wars of the Indian tribes with the settlers on the frontiers. I think, sir, as far as my reading of Congressional proceedings has extended, that there has not been a session of Congress since the commencement of our transactions and intercourse with the Indians in which some such claim as this has not been presented, and that, too, in the very face of treaty stipulations. It is not to be forgotten, that toward the close of the last session, a claim of this kind was brought forward, in which the Indian tribes and speculators of my own State were concerned; it was a claim in violation of the treaty of 1846 with the Cherokee Indians. I, sir, was beset with application after application to give my support towards the payment of the claim. I listened to the arguments advanced in its favor patiently, and for a time favorably; but, sir, when the full merits of the claim and the facts connected with it came to my knowledge, I became satisfied that it was

not a valid claim, and more, sir, that it was a claim not founded in good faith, but in violation of treaty stipulations. I confess, sir, I oppose claims of this sort, not only from a sense of duty, but as a matter of feeling. I am free to state, sir, that I hold myself responsible to my constituents, in justice to them, to manifest this sort of feeling whenever any such claims are presented.

I take occasion to say that my position on this floor, at this moment, depends in some degree upon bringing all my influence to bear against the allowance of such claims. I know, sir, there are a number of individuals on the western frontiers who are deeply interested in these claims; and I know, sir, that in my own State there are such persons who have their attorneys and agents in Washington who are constantly bringing to bear all the influence that can be brought to get such claims through the executive department; and when they fail in their applications there, they bring them before Congress and attempt to pass them here. Why, sir, for my opposition to the claim presented at the last session, which I considered an unjust and nefarious one, I have been assailed from one end of my State to the other. It was stated in the newspapers, and in public and private circles, wherever it could be used to my prejudice, that I was opposed to western interests and hostile to the prosperity of that great portion of our country; and that I was opposed to the prosperity and advancement of the interests of the western portion of my own State, because I had opposed that particular claim. But, sir, the people of my own State had confidence in my judgment, and they have enrolled a permanent evidence of that confidence on the historical records of the country. Sir, I shall always oppose such nefarious and unjust claims, whatever may be the consequences. Feeling, therefore, sir, that it is not only a duty that I owe to myself, but one that is due to my constituents, I shall vote against this as against all similar claims.

Mr. BELL. The first few sentences of this gentleman's remarks were scarcely audible to the reporter. He was understood to say that he did not know whether the Senator from Arkansas regarded the claim now under consideration as belonging to that class of claims which he had characterized as nefarious or not; but, (continued Mr. BELL,) whether he did or not, I think that a little attention to the subject, on the part of Senators, will show that this claim is very fair, and well founded on the part of the claimants, at all events. Whether Congress, in their discretion, ought to admit or reject it, is another question.

I do not mean to detain the Senate long; but I wish to state in advance, that whether or not the argument of the gentleman in relation to the discretion of Congress in this matter, and their admission or rejection of the claim, be proper, I believe that all of the other positions assumed by the gentleman from Arkansas are wholly unfounded, at least so far as they have any relevancy to this claim. The gentleman says that this claim is unjust, and ought not to be allowed; in the first place, because it was contracted with a minority of the Shawnee nation, against the expressed will of the chiefs in council assembled, and in opposition to their decision. Now, sir, I undertake to say that this claim is founded on the solemn and deliberate resolve of the whole council of the nation. The chiefs of the nation, assembled in general council, ratified this claim.

Mr. BORLAND, (interposing,) Mr. President, if the Senator will allow me for a moment, I will state that I intended to draw a distinction between the action of the general council of the nation at different times. I referred, in my remarks, to the action of the chiefs in council prior to the time that these Indians went into the service of the United States, and before they proceeded to Florida. I stated, I thought with sufficient distinctness to be understood by all, that the claim as it now comes before Congress, is sustained by the action of the council of the chiefs of the Shawnee nation, but that the contract entered into by these private individuals of the tribe who went to Florida was not only unauthorized by the council, but directly in opposition to their expressed wishes.

Mr. BELL. I beg the gentleman's pardon. I understood him to say that this claim had not received the sanction of the council. He says the claim is unjust because it is a debt which was contracted in opposition to the expressed will of the nation, and, therefore, that it ought not to be paid out of the funds of the nation.

The honorable Senator, I believe, stated some of the circumstances that led the Shawnee nation to contract this large debt which it is beyond their ability to pay out of their annual annuities. I call upon that Senator, and other honorable Senators in this Chamber, to say whether there are not strong equitable grounds offered for the exercise of the discretion of Congress, vested in them by the treaty between this Government and that nation, entered into in 1831, to pay this debt? I said, when this matter was before the Senate, some days since, that, if it is argued that Congress ought not to pay this claim out of the fund belonging to the Shawnee nation, on the grounds that the debt was contracted with a trader, an almost irresistible appeal will be found in the argument to Congress to pay the debt out of the treasury of the United States. And I will now go further, and say that this position, which I took when this matter was up for the consideration of the Senate on a former occasion, is supported by a statement just made by the honorable Senator from Arkansas himself, and borne out by papers upon the Secretary's table. It was not the subordinate agents of this Government that induced these ninety-one, or one hundred and ninety-one, (for I believe the latter is the true number,) warriors of this small tribe—for I believe it is a very small tribe—to enlist into the service of the United States.

Mr. BORLAND. I think the papers on the Secretary's table state that there were ninety-two warriors that embarked in this expedition.

Mr. BELL. Very well, then; call it ninety-two. It was not the subordinate agents of the Government—the recruiting officer—that induced them, contrary to their general policy, to enlist in the Florida war. It was by a letter from the Secretary of War himself, under his own signature, to the recruiting officer or agent, stating that each warrior should be allowed two hundred and seventy dollars for six months' services in that campaign. Under this brilliant offer from the Secretary of War of two hundred and seventy dollars per man for six months' service, the young men of the tribe, contrary to the advice of their elder friends, the chiefs and aged warriors of the nation, resolved to go to Florida, and they went there. After they had been there some two or three months, they were told by the commanding general, General Jesup, that the Secretary of War had made a mistake; that the law would only allow them seventy-one dollars each, instead of two hundred and seventy dollars; and, instead of being paid for six months' service, at the rate originally stipulated by the Secretary of War, they were paid for only four months at that rate, and for the remaining two months they were paid at the rate of only seventy dollars for six months' service.

Now, Mr. President, these ninety-two warriors who went to Florida were taken away from home unexpectedly and at a season when they could be ill spared from their families, whom it was necessary to furnish with supplies sufficient to sustain them during the absence of the warriors; and, as I understand the evidence laid before the Committee on Indian Affairs, a large portion of this debt was contracted with Finley and his partner for furnishing these very supplies, and they (Finley & Co.) being indebted to Choteau & Co., transferred their claim to them. When the Indians returned home with their pay diminished, contrary to their expectations, they found themselves wholly unable to discharge this debt, which had been contracted to obtain the necessaries of life for their families while these warriors themselves were fighting the battles of this Government in the everglades of Florida. These warriors belonged to the Shawnee tribe. They were connected with the other warriors and chiefs of the nation by all the ties of color, and blood, and race which bind the members of an Indian tribe together. They had come home in straitened circumstances, and when they arrived among their old friends and relatives of the tribe, they found this debt standing against them, which had been contracted in their absence for the support of their families. They could not discharge this debt, owing to the fact that they had not been paid the sum stipulated to them by the Secretary of War at the time of their enlistment, or rather the sum held out to them as an inducement to enlist, and which probably had great weight in deciding them to embark in the expedition. Under such circumstances, what did the chiefs of the tribe do? They immediately assembled in council, and agreed to assume the payment of this debt out of their funds in the hands of this Government. That there may be no mistake upon this point, I will ask the Secretary to read the first memorial of those chiefs, on his table, which has been here for six years or more.

[The Secretary read the memorial referred to, the purport of which did not reach the reporter's ear. He also read a second memorial, at the request of the Senator from Tennessee, the purport of which was not understood by the reporter.]

Mr. BELL resumed. There is another memorial signed by the same chiefs, with the reading of which I will not detain the Senate, in which this claim is again recited. I would ask the Secretary to turn to the third memorial, and ascertain if this be not the fact.

The Secretary examined the third memorial, and signified that it was as the Senator from Tennessee had intimated.

Mr. BELL. Here is another memorial, then, in which this claim of nine thousand five hundred dollars is specifically referred to; and, sir, I think it is highly improper to characterize such a claim as one of those nefarious claims, one of which the Senator from Arkansas has said he so successfully opposed at the last session of Congress. This debt was contracted upon a statement made by one of the highest officers of Government, in which he held out inducements that could not be realized. Now, so far as this claim is based upon supplies furnished to these ninety-two warriors, surely the Senator from Arkansas will not, I think, say it is unjust. These supplies were furnished for their families in their absence. They were furnished for the support of the families of these warriors, while the warriors themselves were absent from home, and could not otherwise contribute to their support. While these warriors were absent, fighting the battles of this country in Florida, they could not leave their families to perish. Their families had to be supported, and to support them this debt was contracted; and I cannot believe that any Senator is prepared to pronounce a debt contracted under such circumstances nefarious or unjust.

Again: I understood the Senator from Arkansas to state that it is not sound policy for the Government to pay these debts, no matter how contracted, no matter how just, upon the same ground as that assumed by the Commissioner of Indian Affairs and of the War Department in various instances. I had one of these memorials read to the Senate, for the purpose of showing what was the sanction that the chiefs of the Shawnee tribe had given to this claim. I will not detain the Senate with the reading of the report of the Committee on Indian Affairs made at the last session of Congress. The only question which gave the committee any trouble was, whether it was sound policy to pay these funds over, when there was a discretion vested in the Federal Government to pay them over to the tribe or not, the tribe disposing of them as they might think proper, if paid over. That report, although not an elaborate one, goes into the reasonings upon this subject. Now, sir, I will not undertake to say, that perhaps in regard to many large tribes it would be good policy to pay over these funds. But here is a small tribe addicted to agricultural pursuits, the only exception being among that class of their young who are disposed to be idle and profligate. They receive this pittance annually from the Government, and hope to live by it throughout the year. They depend upon this pittance for support; and it is plain that it must necessarily tend to confirm the idle and dissolute in their prodigal and pernicious habits. This is shown by the statements of the chiefs themselves, who argue in their memorial that it would be better for the tribe in every respect to have this pittance withdrawn, so that their young men would cease to depend upon it for support, but rely instead upon their own labor, and thereby cultivate habits of industry and frugality. The committee came to the conclusion, that inasmuch as this was a small tribe of Indians, far advanced in the arts of civilization, not in a condition or location which would enable them to live by hunting, and not disposed to do so, the policy suggested by the chiefs themselves was the true policy in relation to them. I question whether it would not

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be better that this fund should be abstracted from them altogether, than that such an annual pittance should be from year to year a continual lure to idleness. I hold in my hand letters from the Superintendent of Indian Affairs for the State of Missouri to the Commissioner of Indian Affairs, asking him to pay this debt, as it is a just debt, and one in which the character of that nation is involved, and they have no other means of paying it except the fund secured to them by the treaty of 1831. I will read from the seventh article of that treaty:

"It is agreed that any balance which may remain of the avails of the lands, after sale as aforesaid, shall constitute a fund for the future necessities of said tribe, parties to this compact, of which the United States agree to pay to the chiefs, for the use and benefit of their people, annually, five per centum, on account of said balance, as an annuity. Said fund to be continued during the pleasure of Congress, until the chiefs of the said tribe or band, by and with the consent of their people, in general council assembled, should desire that the fund thus to be created should be dissolved and paid over to them; in which case the President shall cause the same to be so paid, if in his discretion he shall believe the happiness and prosperity of said tribe would be promoted thereby."

Well, sir, they have desired that this fund might be dissolved, over and over again. So far as I understand this section of the treaty, it depends upon the discretion of Congress to continue this annuity until the chiefs shall desire that it may be dissolved. Then, of course, Congress will cease to have any discretion, and must pay over to them the whole fund, according to the terms of the treaty. But here is the difficulty:

"In which case, the President shall cause the same to be so paid, if, in his discretion, he shall believe the happiness and prosperity of said tribe will be promoted thereby."

These chiefs applied (according to the first memorial, a copy of which has been read by the Secretary) to the Government to have this fund dissolved, and the Government declined to comply with their request. Upon what grounds did they decline? Not upon the ground that it would be impolitic, so far as the happiness and prosperity of the Indians themselves were concerned, but upon the ground that the President could not touch their funds, because they had been invested in State stocks which had depreciated in the market, and could not be sold without a loss. It is upon that ground that they had been put off.

When the committee came to inquire of the Commissioner of Indian Affairs upon what ground the payment of these funds had been refused, he replied "that such was the settled policy of the Government on that subject." His last communication made no allusion whatever to the State stocks, but simply placed the question on the ground that it was not sound policy to pay over the funds thus secured by treaty to these or any other Indians. This, as I have stated once or twice before, was the only question before the committee, and the one upon which they decided. The report has not been read to the Senate, but its reasonings are, that whatever might be the policy of the Government in relation to Indian tribes generally, yet in the case of this particular tribe, considering their advancement in the arts of civilization and their peculiar situation, and the chiefs themselves having taken the same view of the subject, it would be far better to have their fund dissolved than to dole out to their young men, year after year, this small annual pittance, thereby encouraging them in habits of idleness and dissipation, to the great injury not only of themselves and families, but to the injury of the tribe generally.

The committee decided that it would conduce more to the interests of the tribe to have the whole fund given them at once, that they might devote it to the construction of roads, the building of schoolhouses, and to the advancement of the general welfare of the tribe. The committee also decided that it would be better, in every case where a tribe is situated as these Shawnees are, to pay over their funds at once, inasmuch as the doling out of these small annual pittances furnish inducements to idleness, rather than act as stimulants to industry. These funds, small as they are, would furnish sufficient means to enable the tribes to make many beneficial improvements which would conduce greatly to the promotion of their comfort, happiness, and prosperity.

Who are these Shawnees? One of the oldest tribes that we have any knowledge of in the history of this country. They were originally located in Eastern Pennsylvania. They have contended with the whites from the shores of the Atlantic to the far West, where they are now situated. They have contended with the whites from time to time, and have only ceded their territory after the most bloody contests. But having, by long experience, become aware of the disasters which must ever attend their conflicts with the whites, and convinced that peace is their best policy, they have submitted to their destiny. It is the chiefs of this old and renowned tribe that have twice decided, in solemn council assembled, that this pittance should not be doled out to them, to the demoralization, and even utter ruin, of many of their young men. These decisions of the chiefs are worthy of much consideration, and should be heeded by us, for the chiefs that govern in their councils are men of great experience and sound judgment and discretion.

Mr. DODGE, of Iowa, (in his seat.) They are honest men, too, and among the most honorable men with whom I have ever been acquainted.

Mr. BELL. The Senator before me, who has some knowledge of these chiefs, says that they are as honorable men as he has ever known. Now, sir, it is the opinion of these chiefs that it would be to the benefit of their tribe to have all these funds paid over to them.

It is possible that, in the event of the passage of this bill, the President may veto it. He (the President) thought that he could not pay over these funds, because they are invested in State stocks which cannot be sold without a loss. Hence it is necessary to have an act of Congress authorizing their payment. If the act be passed, and the President shall think proper to interpose his veto to stay it, to defeat the will of the people in relation to this matter, why I, with all others, must bow in deference. If these old chiefs, sitting in council, and begging the Government from year to year, for nearly a half score of years, for the payment of this debt, which is a debt of honor, are at last to be refused their just and righteous demands, why, then, I say I will bow in deference to the power that shall so decree.

I will reiterate the opinion that I consider this claim just and honest. It had its origin in a great and egregious mistake of a high officer of this Government, in holding out to these young men inducements which could not be realized. Acting in accordance with the expectations which these inducements raised in their minds, these warriors made large provisions for their families in their absence. The traders accordingly supplied their families while they were absent. When the warriors came home they were not able to pay the demands of the traders: and why were they not able? Because they had not received the amount of pay which had been promised to them for their services. The tribe, with a generosity worthy of imitation, agreed to pay the debt for them; and accordingly have called upon our Government to pay it out of their funds, which we have under our control. It is a just debt, contracted by their young men, or at least the greater portion of it was contracted by them. Can anything, therefore, be more just than this claim? The chiefs of the tribe have agreed that it would be best to have this fund paid over to them; and the reasons which they have assigned for such a decision must, it seems to me, be conclusive to every mind; and I will conclude by repeating what I said the other day, that I know no well-founded objection to paying over this whole fund to those to whom it rightfully belongs.

Mr. BORLAND. As to the argument of the Senator from Tennessee in favor of the payment of this claim upon the ground that the debt was contracted in consequence of the action—the egregiously mistaken action even, as he has thought proper to call it—of a high public officer, all I have to say is, if this has been done in consequence of the action of the Government, let the Government of the United States pay the debt, and not take it from this trust, this annuity, this fund belonging to the Shawnee tribe of Indians. He seems to consider, that because the Secretary of War authorized the employment of these Indians at an enormous price, and because these Indians contracted this large debt with Choteau & Co., the debt should be paid, not by the Government, for whose benefit it was intended, but by the tribe, for whose benefit it was not intended, and in the face of the deliberate and positive resolution of the council of the tribe that it should not be paid. The argument, sir, might be good, if it were to induce the Government of the United States to pay this debt to Choteau & Co.; but it can have no force to establish the propriety of making the tribe pay it, or the propriety on the part of Congress passing any bill calling upon and requiring Congress to pay it.

On the subject of the discretion vested in Congress by the treaty of 1831, I would call attention to a single word in the provisions of that treaty. I stated in my remarks when up before, that this discretion on the part of Congress was limited. It was a discretion vested in Congress to use this annuity fund, either in payment of five per cent. annually, or the withdrawal of it from that disposition, and the payment of the whole in one sum to the Indians. That discretion was limited by the terms of the treaty itself, in which it is "agreed 'that any balance which may remain of the avails 'of the lands, after sale as aforesaid, shall constitute 'a fund for the future necessities of said tribe, par-'ties to this compact, on which the United States 'agree to pay to the chiefs, for the use and general 'benefit of their people, annually five per centum." The parties to this compact are the United States on the one part, and the whole tribe of the Shawnee Indians on the other; and it is agreed to pay the balance remaining from the sale of the lands referred to, so as to constitute a fund for the general benefit of their people. The general benefit! Now, sir, one of the main objections to this claim was, that it was not for the general benefit of the whole tribe; that it was diverted from the amount due to the whole tribe, to pay the debts of these ninety-two individuals, who, contrary to the wishes and express legislative act of the tribe in general council assembled, had entered into this contract. There is in the very face of the treaty a limitation of the exercise of this discretion on the part of Congress in relation to the payment of this fund, and the limitation, in my opinion, amounts in this case to a prohibition of the payment of this claim. Here is the limitation: "For the general benefit." How for the general benefit? Was it for the general benefit of the Shawnee tribe that these ninety-two individuals enlisted in the United States army and went to Florida? It cannot be supposed that it was, because the tribe had assembled in general council and decided that it was not for their general benefit. If the original act was not for the general benefit, but, on the contrary, against the general will of the tribe, it surely cannot be contended now that the payment of this debt, contracted by these ninety-two individuals, to an Indian trader, can be for the general benefit of the tribe. I think the Senator, in reading or in commenting on the treaty, committed a slight error in regard to one word, which materially affects the sense and intention of the treaty. "The said fund to be continued during the pleasure of Congress;" not "until" the tribe assembled, but "*unless* the 'chiefs of said tribe, by and with the consent of 'their people in general council assembled, should 'desire that the fund thus created should be dis-'solved and paid over to them." Now, the discretion of Congress has nothing to do with the will of the tribe. It is to be held in trust for the payment of annuities during the pleasure of Congress, without reference to the will of the tribe at all, "unless" the tribe, in general council assembled, should desire the payment in full. So that the discretion of the tribe and the discretion of Congress have nothing to do with each other. But the discretion of the President and the discretion of the tribe are united. And if Congress

thinks proper to hold this fund in its present condition, it can do so, "unless" the tribe come forward in their character as a tribe, when in council, and, in conjunction with the President, determine on a different disposition of it. Then it is at the discretion of the President to make said disposition, or not. He has decided, as I said before, that it is not proper, that it is highly improper to do it, and that, in his opinion, great injury to the tribe will result from its being done. I repeat, then, that under the treaty, Congress has not the discretion, because the treaty does not confer the discretion now asked to be exercised, and although it confers a discretion, it limits it to certain purposes, and these purposes are not embraced in the provisions of this bill.

I dislike to consume the time of the Senate, but in support of my views in relation to the proper policy to be pursued, I ask for the reading of the letter from the Commissioner of Indian Affairs on this subject, which will, I think, represent the discretion of the President on this question.

Mr. DICKINSON. I would suggest that if this bill is likely to occupy the entire day, it would be better to pass it by, in order to proceed to that class of cases which the order of the Senate contemplates as the special business for this day; that is, such as will give rise to little or no discussion.

Mr. BORLAND. I will inform the Senator, as far as I am concerned, I shall occupy but very little more of the time of the Senate; but I will remark, that the letter which has just been read reiterates in substance what is contained in the other communications from the department, that he deems it bad policy for the Government to interfere in the private transactions of individual Indians. Now, sir, I consider that this treaty is worth nothing at all; that it imposes no obligation whatever on this Government, if, in the very face of the treaty, a claim such as this has been represented to be by the Senator from Tennessee can be passed. The treaty confers a discretion upon this Government, to be exercised for the benefit of the Indians; and the bill limits that discretion, directing it to a small portion of the tribe, who are to be the beneficiaries. But the discretion in this matter is vested in the President of the United States. The Indians assembled in council, and adopted a remonstrance to the President, but the President has decided that there is no obligation resting upon him to regard their representations. Congress, then, has no power at all. It is entirely beyond the power of Congress. We should exercise no power that is not granted by the treaty. We might violate other stipulations of the treaty as well as this.

I will call the attention of the Senate to a fact to which I alluded in my opening remarks, for I think it is very important and significant in this connection. The proceedings of the tribe in council have been read, and a great array of names has been exhibited, showing those proceedings to be the national act of the Shawnee tribe of Indians. Well, with all deference to the views and opinions of those who are more familiar with Indian affairs —those who have had personal intercourse with them—with all due deference to their opinions, I must say, that I think all such representations coming from tribes of Indians, honest as the Indians may be, are to be taken with many grains of allowance. We know that, generally, the chiefs transact the business of the tribes; but in this particular case it is asserted that one of these Indians —I think a chief—was one of the partners of Choteau, and a co-beneficiary with him. We can readily understand, then, what influence he may have exerted, if it does not entirely do away with all force which might otherwise be attached to the memorial. It deprives it of all force with me. I cannot help regarding the memorial as a production got up, written, proposed, perhaps, and adopted by these Indians, after the departure of Choteau to his tribe. That is my opinion; let it go for what it is worth; and it seems to me, certainly, to be entitled to some weight. I have said, sir, all I design to say in relation to this matter.

Mr. NILES. I wish to make a few inquiries, and, until they are replied to, I shall not be prepared to vote for this bill. The matter appears to me to be somewhat complicated. I cannot yet understand it, although a great deal of time has been spent upon it. I desire to know whether the Choctaws were not to be paid out of this fund?

Mr. BELL. The facts appeared very distinctly in the papers which have been read. The tribe in general council took the matter into consideration and agreed to pay the debt. It was for supplies furnished to the families of the warriors during their absence in Florida. I understand, although I have not lately examined the evidence in the case, that these Indian warriors agreed to assign to the Government their shares. They agreed in solemn council to assume the debt, and then a second council was held in which they referred to that debt, and memorialized the Government, assuming that the Government was to pay it, and still insisting that it should be paid by the Government. Contemporaneously with these proceedings, they resolved that they would avail themselves of this fund of twenty-six thousand dollars that was made over to them. I would suggest to the Senator from Arkansas that there are certificates from the most respectable men, who have attended in the councils of the chiefs of the tribes, and who have taken the pains to explain the proceedings that took place at those meetings.

Mr. NILES. As I understand, then, the chiefs acknowledged the debt. I now want to know whether they are making application to the Government to pay it out of this fund?

Mr. BELL. I think they have presented three memorials to that effect.

Mr. NILES. They have asked, then, that this debt should be paid out of this particular fund?

Mr. BELL. It is so expressly stated in the memorial. I wish that the Secretary would read the latter portion of the memorial.

It was read by the Secretary.

Mr. BRADBURY. I desire to hear the reading of the report, in order to understand whether there has been an application made to Congress or the President on the part of this tribe, emanating from them in general council assembled, that Congress should pay the whole of the sums mentioned in the seventh article of the treaty, for I suppose that that is a material point in this case. I find, by reference to the seventh article of the treaty of 1831 with the Shawnees, that the original purpose to which the interest of this fund was to be applied was for the use and general benefit of the trbie, but that no provision was made in the treaty that the funds should continue during the pleasure of Congress, unless the chiefs of the tribe, by and with the consent of the people in general council, should express such desire. I wish to know whether there is authentic evidence before us of this application, not on the part of their creditors, but on the part of the tribe. If so, I think we should pay it over.

Mr. BELL. In one paragraph of one of these papers that is clearly stated.

The paper was read by the Secretary.

Mr. BRADBURY. One question more. This, I understand, emanates from certain chiefs. The stipulation in the treaty is not that the application is to be made by certain chiefs, but, inasmuch as the reservation was for the benefit of the mass of the tribe, the chiefs should possess no authority to make the application unless they derived the authority from the whole tribe assemhled in general council. And now my inquiry is, whether the application, which in its terms is broad enough, is an application springing from the people—does it emanate from them assembled in council, so that we shall fulfill the treaty stipulation by acceding to it? I hold that we should maintain the most inviolable good faith towards the Indians, and that, when they make the request in proper form, we should comply with it; and, therefore, if the request emanated from the Indians assembled in general council, I shall be in favor of the passage of the bill. And I do not know whether I am answered on this point, that there was an assemblage of Indians in council.

Mr. ATCHISON. There was a general council, attended by the Indians of the tribe.

Mr. BRADBURY. Well, I inquire also, si the evidence of that fact before us sufficiently authentic?

Mr. ATCHISON. It has been read by the Secretary.

Mr. BENTON. I believe all the facts of this case are certified by the United States agent, Mr. Cummings, and that all the papers have been drawn under his supervision. If that be the case, I can vouch for their correctness; for I can vouch for Mr. Cummings as far as I can for any man in the world. I have known him always. He has been for a long time the agent of this Government in its relations with these Indians. I know him to be one of the most correct men in the world, both in his public and private capacity. Whatever he does, he does with an entire sense of justice between man and man, whether white or otherwise. His name carries along with it a title to credence, and I find his name authenticating these papers.

The question being taken upon the engrossment of the bill, it was decided in the affirmative.

By unanimous consent, the bill was then read a third time and passed.

OTHER PRIVATE CLAIMS.

On motion of Mr. JOHNSON, of Maryland, the Senate proceeded to consider the bill for the relief of Frederick Dawson, James Schott, and Elisha D. Whitney; when—

Mr. J. moved that it may be made the special order for to-morrow; which was agreed to.

The Senate then proceeded to consider, as in Committee of the Whole, House bill for the relief of William Harding; and no amendment having been made thereto, the bill was reported to the Senate, and ordered to a third reading, and was subsequently read a third time and passed.

The Senate then proceeded to consider, as in Committee of the Whole, the bill from the House for the relief of Thomas Badger.

The reading of the report was called for.

Mr. FELCH. It will not be necessary to read the report. I can state in a very few words the nature of the case. The applicant served in the last war with Great Britain, and while in the service was wounded, and not having been a regular enlisted soldier, a pension could not be allowed him by the department, because there is no provision of law applying to such cases. It appears from the papers in the case that he was a Canadian refugee, and that he was employed in the service of this Government for several years. He was at the battle of Bridgewater, and it was there he received his wound, as appears by the certificate of General Scott. He was not, as I have said, a regular enlisted soldier, although he was in the service. These are the facts of the case.

Mr. KING. I understand the Senator from Michigan to say that this is a case where you are asked to give a pension to an individual who was not enlisted in the service of the United States, but a Canadian refugee, who was employed in some capacity and was wounded. Is that the case?

Mr. FELCH. The petitioner states that he was enrolled as a refugee, and the Commissioner of Pensions informs us that his name was not on the army list, but the testimony in the case shows that he was employed in the army, that he fought at Bridgewater, and that he subsequently joined Perry's expedition. The evidence is sufficient to establish the fact, that at the time he was wounded, he was actually engaged in the service. There have been several instances in which officers have been employed in the service, though not enrolled in the regular army; and men have been employed as spies who have not been so enrolled, and when the individual has received injury while so employed, pensions have been allowed them by act of Congress.

The bill was then ordered to be read a third time, and was subsequently read a third time and passed.

The Senate then proceeded to consider, as in Committee of the Whole, House bill granting a pension to John Morrison; and no amendment having been made, the bill was reported to the Senate, ordered to be read a third time, and, by unanimous consent, was read a third time and passed.

Mr. WALKER moved that the Senate proceed to the consideration of Executive business.

Mr. DICKINSON. I wish my honorable friend would waive that motion until we act upon the next bill. It will occupy no time. The individual is in destitute circumstances; he is suffering at this time severely.

Mr. WALKER withdrew his motion, and the Senate proceeded to consider the bill for the relief of Edward Quinn.

The report of the committee was read; and no amendment being offered, the bill was ordered to be engrossed and read a third time. It was then, by unanimous consent, read a third time and passed.

Mr. ATCHISON renewed the motion that the Senate go into Executive session.

Mr. CLARKE said he hoped the Senator would allow the next bill to be acted upon.

The PRESIDING OFFICER referred to the order of the Senate, by which Thursday in each week had been set apart for the consideration of private bills, to the exclusion of all other business.

House bill for the relief of Nancy Tompkins was passed over.

The Senate then proceeded to consider, as in Committee of the Whole, House bill for the relief of James Glynn and others; when—

On motion of Mr. BRIGHT, the further consideration of the bill was postponed until to-morrow.

The Senate then proceeded to consider, as in Committee of the Whole, House bill for the relief of James H. Conley.

Mr. BRIGHT said he should object to the passage of the bill at this time, unless some Senator who was acquainted with the facts of the case would state them to the Senate.

Mr. MILLER. There is a report; let it be read.

The report was read by the Secretary.

Mr. BRIGHT. I would ask the chairman of the committee to state why this individual has been singled out to be a recipient of the bounty of the Government, while others similarly situated have been passed by?

Mr. BADGER. That is not the case. He has not been singled out, as the Senator supposes. He was in the receipt of a pension, and afterwards it was decided by the Navy Department that his pension should be decreased one-half in consequence of his having been promoted. The committee report that, of all the instances of the promotion of officers, this is the only one in which the pension has been reduced in consequence of such promotion.

Mr. DICKINSON. Allow me to ask whether there is any rule of the department requiring such reduction, or whether the department acted upon its own discretion?

Mr. BADGER. It is very obvious there is no such rule, as this is the only case in which a reduction has been made.

Mr. DICKINSON. I understand the facts as the Senator does. What I wish to inquire is, whether the department has a right in its discretion to reduce the pension of one, and to allow the pension of another to stand under the same circumstances, or whether there is a rule requiring that they shall be reduced?

Mr. BADGER. My understanding is, that there is no rule which authorizes a reduction on account of promotion, but that it requiries disability. The committee report, that in point of fact, no disability existed here, but that the single reason with the department for the reduction was the promotion of the officer, and this is the only instance in which such reduction has taken place.

Mr. NILES. I would inquire whether the practice does prevail in original cases of pensions, that a reduced rate is allowed where the officer draws his full pay? I know that at a former day the practice did prevail of granting to the officers of the navy pensions for disability whilst they remain in the service and draw their pay.

Mr. BADGER. That is a fact which does not apply to this case. This bill is to pay the sum abstracted from his pension during the time when, according to the justice of the department, and according to the law of the land, he would be entitled to receive his pension.

Mr. NILES. I am satisfied.

Mr. BRIGHT. I am not satisfied with the explanation yet. If the reduction took place under the order of the Secretary, I apprehend there was law for it, and that the same rule was applicable to all individuals similarly situated.

Mr. BADGER. The report states distinctly that this officer was the only officer whose pension was reduced under such circumstances. The object of the bill is not to give him any distinction or privilege, but to relieve him from a peculiar disadvantage. If the Senator is not satisfied, let that part of the report which relates to the claim be read. It is only putting him upon the same footing with others.

The report was read by the Secretary.

The bill was ordered to a third reading, and was subsequently, by unanimous consent, read a third time and passed.

The Senate then proceeded to consider, as in Committee of the Whole, House bill for the relief of Elizabeth Mays; and no amendment having been proposed, the bill was ordered to be read a third time, and was subsequently read a third time and passed.

The Senate then proceeded to consider, as in Committee of the Whole, House bill for the relief of Stephen Champlin; and no amendment having been proposed, the bill was ordered to be read a third time, and was subsequently read a third time and passed.

The Senate then proceeded to consider, as in Committee of the Whole, House bill for the relief of G. F. de la Roche and William P. Sanger; and no amendment having been offered, the bill was ordered to be read a third time, and was subsequently read a third time and passed.

The Senate then proceeded to consider, as in Committee of the Whole, House bill for the relief of Joseph Bryan; and no amendment having been offered, the bill was ordered to be read a third time, and was subsequently read a third time and passed.

NATURALIST TO A NAVAL EXPEDITION.

The Senate then proceeded to consider, as in Committee of the Whole, House bill for the relief of John Percival, captain in the navy of the United States.

[The facts of the case on which this bill is founded are simply these: On or about the 7th of March, 1844, Captain J. Percival made application to the President of the United States to appoint a naturalist who should go out with Captain Percival in the frigate Constitution, which was under orders for a cruise to the East Indies and China. The President assented to the proposition upon the condition that the Secretary of the Navy had no objection; and it appears from a letter, bearing date 13th of March, 1844, from the then Acting Secretary, Commodore L. Warrington, that there was no objection on his part, except the want of authority by law to increase the number of officers on board the ship. This difficulty appears to have been overcome by assigning other duties to the naturalist, requiring him to perform the offices of chaplain and clerk. But upon returning home, and presenting his accounts for settlement at the accounting office of the Navy Department, the amount paid to the naturalist was not allowed in consequence of their being no such officer in the navy, and no provision by law for creating one. Consequently the amount paid by the purser to Dr. J. C. Reinhardt, the naturalist, was charged to the account of Captain Percival, and so stands charged to the present day. The petitioner, Captain Percival, claims to be exonerated from this charge upon the ground that he acted under the authority of the President of the United States and Secretary of the Navy, and paid, or ordered to be paid, to the said naturalist no more, and, in fact, not so much as he was directed to pay by the Secretary of the Navy, being $1,200, the pay of chaplain. Under these circumstances, the question was, whether a subordinate officer should be held responsible for the orders of his superior, especially when that superior is the commander-in-chief? It is argued in the report alluded to in the debate that all orders from such a source must be received as legitimate, unless so palpably otherwise that the most ordinary mind would readily discover the error; and even in such a case, an officer would be held responsible for disobedience or mutiny if he refused or declined to obey. There is no good reason why the amount should be charged to the account of Captain J. Percival. If charged to any individual account, it should have been charged to the President or Secretary of the Navy; but as they only gave the order, they have not appeared on the books of the department. And the same might be said of Captain Percival; he gave the order for payment, but did not pay; the purser paid; and as he was the man who finally finished what has been held as unlawful from the inception, it would seem that the purser, who actually paid the money, should be held accountable. It cannot, however, be maintained with justice, that either the commander who ordered, or the purser who paid the amount, are responsible, but the Government itself.]

Mr. ALLEN. Mr. President, that claim has never been recognized by this Government, and I hope it will not be recognized by the Senate; for we shall thereby sanction the principle that anybody can increase the officers of the navy by a mere permit to a man to go on board of a United States ship. It may, for aught I know, be a hard case—it may be that this individual claimant may have a remedy against those by whose authority this person went on board of his ship; but one thing is certain, that this Government is not answerable. I hope the Senate will pause; for if we pass this bill, an officer may, by his own volition, permit a person to go on board his ship, and then United States officers may be called upon to pay some claim which such person may set up.

Mr. MILLER. I know nothing of the facts of this case except as they are presented in the report. I see nothing except the principle by which justice should be done to Captain Percival. The simple question is, whether Captain Percival shall be charged with the salary of this man? The simple facts are these: By the authority of the President and the Secretary of the Navy this man went on board of that ship; remained in her for the purpose of science during her cruise, and then his salary was charged to Captain Percival. The question is not whether the President and the Secretary of the Navy had authority of law for what they did, but whether Captain Percival shall be obliged to pay the salary of a person who was sent on board his ship by the Secretary of the Navy, with the approbation of the President?

Mr. ALLEN. It is not only the case of appointing an officer without authority of law, but it is a case of smuggling a man on board, and then asking us to make him compensation.

Mr. MILLER. Of the "smuggling" I know nothing, and with it I have nothing to do. If the gentleman finds fault with the manner of the appointment, his censure should fall elsewhere. Because this man was smuggled on board, is it right that Captain Percival shall be called upon to pay this salary?

Mr. WESTCOTT. How much is the amount?

Mr. MILLER. About $2,000; and it appears to me to be an equitable claim, so far as Captain Percival is concerned.

Mr. BRIGHT. Mr. President, the abuses in this branch of the service have been such that Congress has found it necessary to pass laws restricting the power of the Secretary of the Navy and captains of vessels in such cases. It is provided by positive enactment that only such officers as are specified by law shall be kept in the service while our ships are at sea; but the passage of this bill will be neither more nor less than saying to captains of vessels and to the Secretary of the Navy, you may violate the law with impunity. I know nothing of the particular merits of this case. It may be that here was an individual who desired to travel, and who found it exceedingly pleasant to travel at the public expense. There are many men, sir, who are too lazy to do anything else, who would be glad to ship themselves on board the public ships as naturalists and men of science, and thus go a bug hunting or possum catching, if they can travel free or at the public expense. This, sir, I have no hesitation in saying, is an abuse, and one which ought to be corrected and frowned down. The passage of this bill will be virtually to license the conduct of persons in official stations who act without authority. If this officer has paid this money, he ought to lose it; for, as the commander of a ship, he knew who he should take with him, and that, if he takes other persons, he does it at his own risk.

Mr. BALDWIN. Mr. President, I have been unable to see on what ground this charge was originally made against Captain Percival. As I gathered the facts from the report, this gentleman who has received this compensation was received on board Captain Percival's vessel, in pursuance of permission given by the Secretary of the Navy, with the approbation of the President, and the Government have paid the amount; that is to say, the purser has paid the amount, and that has been directed to be charged on the books of the Government against Captain Percival. Now, if the purser has made this payment without authority, he has paid it in his own wrong; but where is the authority by which the Government charges to Captain Percival? I see nothing in this report which authorized this charge to be originally made to that officer, or to justify the continuing it on the books of the Government, and therefore I believe the provisions of this bill to be proper.

Mr. DAVIS, of Massachusetts. Mr. President, a more gallant officer does not belong to the naval

service than John Percival. He is a man who has performed meritorious service, and has maintained a distinguished reputation as a good sailor. He is now advanced in life and is in a state of infirmity, with very moderate means. I have on my table a letter, which I received no longer ago than yesterday, from as respectable source as the Chief Justice of the Commonwealth of Massachusetts, urging on me and the Senate the propriety of acting on this bill, because of the necessities of Captain Percival. This money is honestly due to him; he is suffering for want of it; and it will be a gross act of injustice to keep it from him.

Now, under what circumstances was it charged to him? It is hardly necessary to repeat, that it was by order of the President of the United States and the Secretary of the Navy that this man was put on board of his ship when she was sent, by order of the Government, on a cruise on the east coast of Africa, into the Indian Ocean, the China Sea, and around the world. He was put on board in the character of a naturalist; and he also performed service as a chaplain, and as a clerk likewise. Being placed there under such circumstances, he received pay from the purser. When Captain Percival gave up his accounts to the department, there was a sum of money due to him; but, extraordinary as it may seem, they deducted from the amount due to him in law the sum paid to this man, who was put on board his ship under such circumstances. They took that amount out of his pocket and put it into the treasury of the United States. Now, was that dealing fairly by a gallant officer? He had earned every dollar of the money which he claimed from the Government, beyond all dispute; and was it right that he should be required to pay this naturalist? If it was wrong in the President and Secretary of the Navy to put him on board, why should that wrong be visited on the man who but obeyed the orders of his superior officer? Let the wrong be visited on those by whom it was committed. Would it have been right in this officer to have set himself up on board that ship against the President and the Secretary of the Navy, and say, I will not receive this individual on board—I will not permit the purser to pay what is due to him? What would have been said of Captain Percival if he had acted thus? Why, he would have been denounced as an arrogant and presumptuous man, who assumed that which did not belong to him. He would have been accused of acting in a manner unbecoming an officer and a gentleman.

Thus, then, the case is very plain. Such are the facts. They have passed an examination in the House of Representatives. Captain Percival is entitled to the money on every right principle, and he stands in great need of it—a fact which I hope the Senate will take into consideration. To keep him longer out of his money will be to continue a monstrous wrong.

Mr. ALLEN. The merits of Captain Percival, whatever they may be, can confer no additional power on the Secretary of the Navy, nor do they impose upon us any obligation to disregard the habits, and practices, and laws of this Government. I know there never has been, probably in the whole history of man, an abuse that was not sanctioned, or seasoned in some way or other, by meritorious names. It is essential to all abuses that they should seize on something meritorious, and then address themselves to the sense of justice and generosity in men. In the very nature of abuses it is so. No abuse stands out and says, I am an abuse, and desire to be recognized as an abuse. What are the facts as they are presented to us in this report? Why, on the 7th day of March, 1844, Captain Percival made an application to the President of the United States to appoint a naturalist to go out in the Constitution on the cruise on which she was about to start. The President replied, I have no power to make such an appointment. It then seems that he got some other permission to take this person on board. I suppose a naturalist wanted to go to China in a Government ship, and that he applied to Captain Percival for permission, and Captain Percival applied to the President, and perhaps the President said he might go; but the President never dreamed of making him an officer of the United States. But, to get clear of the difficulty, the President not having the power to appoint a naturalist, they have assumed another power, which the law does not confer, to appoint an additional chaplain or clerk. By nicknaming this officer, from a naturalist to a chaplain or a clerk, the law is sought to be evaded, and we are asked to sanction that evasion, solely because of the merits of an officer of the navy.

Now, had the Secretary of the Navy authority to create a new chaplain? If so, the law fixed his compensation, and he would have been paid. Had he authority to appoint a new clerk? If he had, the officer so appointed would have been paid according to law. Why is this bill here? It is because there is no law by which he can be paid. That is the reason why it comes here. It is because there is money to be paid from the public treasury, and there is no law to authorize it—the payment of which is against law. That, sir, is the reason why it comes here, and there is no other reason. It may fall hard on this individual, but there must be a rule laid down; otherwise, the public ships will be borne down with adventurers, who will depend upon the favor they can make with the commanders of our ships or the heads of departments. If Congress sanctions this case, how can they reject the next one that may be presented? And a third case they will sanction with still greater facility, and an injurious system will grow up that will depend merely on the favor and volition of public officers. It is manifest from the report that this gentleman applied to Captain Percival for permission to make a trip; and I have no doubt, if the facts could be sifted down, that it was a mere application for a free passage in a national vessel for this naturalist, he being a man of science; and, having obtained that, like every other privilege, it is used to perpetrate another abuse. Having obtained a passage free, he next seeks to make money out of the trip.

Mr. JOHNSON, of Maryland. I rise to say but a word or two on this bill. The Senator from Ohio supposes that this individual was improperly appointed. Sir, I am not here to vindicate the conduct of the President of the United States or the Secretary of the Navy. But if I understand the facts as presented by the report, they are these: Captain Percival applied for a naturalist to attend his expedition, and the President of the United States gave his sanction, provided it met with the approval of the Secretary. The Secretary does approve of it, and they appoint this particular person to go on board that ship. Now, wrong or right, they doubtless believed that they had authority to make the appointment.

Mr. ALLEN. Let me say one word to my friend from Maryland.

Mr. JOHNSON. Certainly.

Mr. ALLEN. The report shows that they knew they had no authority to make the appointment, and therefore they nicknamed the officer.

Mr. JOHNSON. That was afterwards. When the expedition started they supposed that they had authority, but when the vessel returned, and Captain Percival was called upon to settle his accounts, they found that they had no authority by law to pay a naturalist, and what was paid to this individual, either as naturalist, chaplain, or clerk, was charged to Captain Percival. But, what right had they to make such a charge? If there was a right to make such a charge against anybody, the proper person would have been the purser, if the purser disbursed that money without authority. The purser is the officer who has charge of the funds; but, instead of making this deduction from him, they pass his accounts, allowing what he has paid to the naturalist; and then, to indemnify the Government, they take the amount out of Captain Percival's admitted pay. Why, they might as well have taken it out of the mileage of the Senator from Ohio.

The question then is, if we shall withhold part of the pay due to Captain Percival, on the ground that this Government has paid away to a naturalist that which, under the law, they had no right to pay? Without speaking of the merits of Captain Percival, which the Senator from Massachusetts has vouched for, here is a plain case of justice on our part to see that Captain Percival is not made to discharge the expense of this naturalist out of his admitted pay.

Mr. WESTCOTT. Will the Senator allow me to ask a question? I should like to know if the purser was at all bound to pay this amount?

Mr. JOHNSON. I doubt if he was.

Mr. WESTCOTT. There is a case of a purser who refused to pay a sum under an order of Commodore Hull; and if the purser was not bound to pay, even under the order of the Commodore, what right had they in this case to give the purser credit for the amount?

Mr. JOHNSON. That was my impression, that the purser had no right to pay it. But assuming it all to be true, then the purser paid it in his own wrong, and he should not have credit for it. However, instead of charging it to the purser as they ought to have done, they have charged it to the captain, and have taken it out of that which it is conceded belongs to him.

Mr. WESTCOTT. It is clear that the Government has paid it once.

Mr. MILLER. Here is the order of the Secretary of the Navy, which I find among the papers in the case. Will the Secretary be pleased to read it?

The Secretary read the letter as follows:

NAVY DEPARTMENT, *March* 13, 1844.

[Private but official.]

SIR: I have received your letter of the 7th instant, asking authority to take on board the *Constitution*, during your intended cruise, a naturalist, to be allowed the pay of chaplain. I find that there is some difficulty in this matter, as the law limits the number of officers to be employed; but, at the suggestion of the President of the United States, you may take Mr. Chandler on board the *Constitution*, and when you get to sea, direct him to perform such duties as may be deemed proper for the good of the service, for which he may receive the same pay as the law allows to a chaplain.

I am, very respectfully, yours,

L. WARRINGTON,
Secretary of the Navy ad interim.

Captain PERCIVAL,
Com'g U. S. frigate Constitution, Norfolk.

Mr. DAYTON. Question.

Mr. ALLEN. Mr. President, I want the yeas and nays.

Mr. DAYTON. By all means.

The bill was then reported to the Senate, and ordered to be engrossed for a third reading.

The bill having been read a third time, and the question having been put: Shall this bill pass?

It was decided in the affirmative, as follows:

YEAS—Messrs. Badger, Baldwin, Bell, Bradbury, Clarke, Clayton, Davis of Massachusetts, Dayton, Douglas, Downs, Fitzgerald, Greene, Houston, Johnson of Maryland, Johnson of Louisiana, Jones, King, Mason, Miller, Pearce, Phelps, Spruance, Sturgeon, Underwood, Upham, Walker, Westcott, and Yulee—28.

NAYS—Messrs. Allen, Atherton, Bright, Davis of Mississippi, Dickinson, Dodge of Iowa, Felch, Fitzpatrick, Hunter, Johnson of Georgia, Metcalfe, Niles, and Turney—13.

So the bill was passed, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 18, 1849.

The Journal of yesterday was read and approved.

Mr. BURT, (on leave,) from the Committee on Military Affairs, reported a bill to organize the Pay department of the army; which was read twice, committed, and ordered to be printed.

Mr. BRIDGES gave notice of a motion for leave to introduce a joint resolution to construe and extend the provisions of the ninth section of the act entitled "An act to raise for a limited time an additional military force, and for other purposes," approved February 11, 1847.

BUFFALO HARBOR.

The SPEAKER announced that the first business in order was the consideration of the resolution reported by Mr. CONGER from the Committee on Printing, on the 9th instant, directing the printing of one thousand extra copies of the letter of the Secretary of War and the accompanying papers in relation to the harbor of Buffalo for the use of the House, and the printing of two hundred and fifty extra copies for the use of the Bureau of Topographical Engineers.

To which was pending the following amendment, moved by Mr. HALL, of New York, viz:

And that the diagram and map annexed to such report be engraved on a scale not exceeding half the size of the original, and that one copy of such diagram and map be attached to each copy of said report printed by order of the House.

When the House proceeded to the consideration of the said resolution and amendment.

Mr. TOOMBS (who was entitled to the floor from a previous day) said, on a former occasion when this question was before the House, he had alluded to the action of the Committee on Printing, and stated that the practice of that committee had been to report in favor of printing large extra numbers of documents. He made special reference to the large number of copies of the Patent Office Report

recommended at the last session, which the gentleman from Indiana [Mr. HENLEY] attempted to correct, by a statement that the committee reported a smaller number than that which was ordered by the House. But upon referring to the Journal he found that the gentleman from Indiana was in error, and that he (Mr. T.) was correct in his statement, that the Printing Committee did report the extraordinary number of copies of that document, namely: ninety thousand copies of the agricultural portion, and ten thousand copies of the entire report, which were ordered by the House. The gentleman from Indiana was under a misapprehension only with reference to the action of the committee—he himself having attempted in the House to reduce the number when the report of the committee was under consideration.

Mr. HENLEY interrupted, to state, that at the time he made his remarks to which the gentleman had alluded, he was under the impression that the committee reported fifty thousand copies; but he was corrected by the Journal.

Mr. TOOMBS continued. He had called the attention of the House to this subject, not with reference especially to the miserable consideration of the cost of the printing now proposed, but for the purpose of showing that instead of retrenchment, the general bill of expenses for the public printing had gone on increasing; and that while the prices had been reduced, the amount of the printing had been so greatly increased that nothing had been saved to the country.

The chairman of the committee [Mr. CONGER] had given as a reason why all this printing should be ordered, that the people wanted the books; and he had before replied to this, that the people always wanted all the books that might be given to them; that they would receive all that might be furnished them free of cost, whether New Testaments, comic almanacs, or spelling-books; all would receive them, and all wanted them, upon such terms. But the great object in furnishing these large extra numbers of documents was, that members of Congress might strengthen themselves at home by distributing them in a complimentary way among their constituents. Now, he desired that all the printing of Congress, besides the printing of the Journals, should be confined and restricted by some established rule. He was willing to do all the necessary Congressional printing, to do it all well, and pay an adequate price for it; but he was opposed to making Congress a great book concern, as it was getting to be under the present contract system. This system, he affirmed, was supported at an enlarged expenditure, as appeared from a statement in yesterday morning's *Daily Globe*. It was there stated to the country, that the highest bill paid to Blair & Rives for the public printing, under the former system, was less than what is now paid to the cheap printers. And he would here remark, that the statement with reference to the printing of the last session, which cost one hundred and one thousand dollars—namely, that if this printing had been done at the prices paid to other printers, it would have cost the Government three or four hundred thousand dollars—was calculated to mislead and deceive. He would not be understood to say that Congress had not paid too much for printing formerly; but he said he was willing to pay fair, remunerating prices—such as would insure the work to be well done. [A VOICE: "And good paper."] Yes, he wanted the work well done—well printed, upon good paper, and well paid for. He complained only of the abuse of this subject on the part of the House, by ordering too much printing.

The gentleman from Kentucky [Mr. THOMPSON] had made a statement to show that the amount of printing executed at the last session could not have been done for the same amount of money at the former prices. But this did not meet his objection. It was unnecessary to say that this House had never before been so extravagant in the amount of printing ordered, as at the last session. It was this extravagance that he charged against the Printing Committee, and which he now reiterated. The gentleman from Kentucky, both by the statement made, and in all that he said, was arguing a question which he (Mr. T.) never made. By turning to the report of the remarks by that gentleman, it would be seen that he was proceeding upon the idea of price merely, to show a saving in the printing under the present system of two hundred and six thousand dollars. His whole argument amounted simply to this: that if former Congresses had been as extravagant in their printing orders as the present, instead of paying one hundred and one thousand dollars for an amount of work equal to that executed at the last session, they would have paid three or four hundred thousand dollars. All this might be true, but it did not affect his position. He would say, that after the publication of the Journals of Congress, and printing the public documents, bills, &c., necessarily connected with the business of legislation, there the public printing should stop. There might, indeed, be printed extra numbers of the annual messages and reports; but whenever Congress began to print books upon science and art, for the benefit of the agricultural and manufacturing interest, it assumed a business for which there was no warrant in the Constitution. Congress had just as much power to print a New Testament as a work upon agriculture. And there were now upon the hands of members some ninety thousand copies of a work on agriculture, which many perhaps did not know what to do with. To such he would suggest that there was one thing which might be done with them: they might be sold to the grocers, he believed, for about three cents a pound. That was one way of getting rid of them; or they might be sent to the people, for the people would not reject them so long as they came free.

The speech of the gentleman from Kentucky only showed the matter to be a great deal worse than he had ever thought it was before. He had no idea, before it was thus laid before him, that while Congress was saving some sixty, seventy, or eighty per cent. on the printing, they were actually spending more money than ever before. Even under this cheap system, the bill of printing for the present Congress might be run up as high as two hundred and fifty thousand dollars. He objected to the cheap system because of the abuses to which it led. He opposed it twelve months ago, and he should continue to oppose it.

With reference to the resolution before the House, for the printing of extra copies of the letter and papers in relation to the Buffalo harbor, he said this was not for the information of the House or the country at large, but only for the information of the people interested in the trade of a particular city; and therefore he considered the order to be a departure from the sound constitutional principle which should regulate these matters. Its adoption would sanction an abuse in the practice of Congress which was increasing every year, but which ought to decrease. Ever since he had been in Congress, he had labored for the purpose of lopping off these abuses, and he expected to continue so to labor. He had been attempting to strike at these abuses as they rose up on every hand, whether great or small, and he should continue in that work as long as he might be intrusted with any share in the legislation of the country.

He invoked the attention of the House to the principle for which he contended, and especially those who professed to be friends of reform, and the advocates of a just retrenchment in the expenses of Government. He would ask them whether they believed it to be the duty of this House to print books for the people which they did not want, and for which there was no warrant in the Constitution? He affirmed that this power, which had been of late years indulged in to such an alarming extent, could not be sustained even as an incident to any power conferred upon Congress. It was a sheer abuse of power, which had gone on increasing for the last ten years to such an extent that it now swallowed up a very large amount of the public revenue. Moreover, it stood in most direct conflict with the system of cheap postage, now so much desired in the country, by preventing the abolition of the franking privilege. Let the franking privilege be abolished, (as he trusted it would be,) and gentlemen would soon find out whether the people really wanted the heavy books and documents, these agricultural works, which were now being sent to them. If they wanted them they would pay the postage on them. He did not believe that ten thousand men in the whole country would be found willing to do that. Strike down the franking privilege, then, and Congress would at once get rid of this evil of extra printing.

But all this seemed to attract the particular ire of the Printing Committee. He found the members of that committee generally to be the advocates and apologists here of the abuse to which he had referred. It was under their administration that this abuse had run into an excess which was wholly unprecedented. The House now was able to get a large amount of worthless printing done for less money than the cost of the same amount of good printing; but the objection was, that while the printing was done at less than the former prices, there was no saving in the expense. Would gentlemen look at the condition of the Government twenty years ago, when a popular clamor was raised against the administration of the venerable gentleman from Massachusetts—[Mr. J. Q. Adams,] who recently fell a victim to death in our midst—because the expenses of the Government were increased to thirteen millions. He also joined in that cry, and the country believed it. They considered that thirteen millions for the annual expenses of the Government was an extravagance which demanded retrenchment. But now, instead of retrenchment, these annual expenses had gone up to forty millions. The expenses in many departments had been doubled, trebled, quadrupled—increased vastly beyond any necessity; while the actual expense of doing some things had decreased in a corresponding ratio. Though the demand for retrenchment might be called a clamor, he should continue to raise his voice against every abuse of the powers of the Government, and he would continue to invoke the aid of honest men of all parties in the work of striking them all down as they rise. He would say to the House, Print what you want, but do all your printing well, and pay a fair living price for it; but print no more than what may be actually necessary for the legitimate purposes of legislation; and whether it shall cost ten thousand dollars, or a hundred thousand, or a million, pay for it.

The SPEAKER stated the question to be on the amendment offered by the gentleman from New York.

The amendment was then read by the Clerk.

Mr. TOOMBS moved to lay the amendment on the table; but withdrew for

Mr. HENLEY, who assured the gentleman and the House that he would not inflict a long speech. He did not believe the gentleman from New York, who moved this amendment, had any disposition, more than any other gentleman, to oppose himself to any just reformation and retrenchment in the public expenditures. Certainly he (Mr. H.) had no disposition to contribute anything towards fastening any abuse upon the Government. He was agreed with the gentleman from Georgia [Mr. TOOMBS] in all that he had said or could say about the necessity of retrenchment. All that they could differ about now was the attack which the gentleman had thought proper to make upon the Printing Committee, of which he (Mr. H.) was a member. Possibly, the gentleman had considered it easier to direct a successful attack against the three members of this committee than against the whole House. But by attacking the House instead of the committee, the gentleman might have exhibited more valor—the gentleman was certainly bold enough to make the attack—and he might, by so doing, have found men more worthy of his steel.

If the gentleman would examine the Journal, he would see that the Printing Committee had never, except in the case of the late Patent Office report, reported any proposition to increase the number of extra copies referred to them for consideration; and whenever they reported a smaller number than that referred, the House had invariably overruled the report, and ordered the larger number. This practice on the part of the House had taught them to report the number referred, and they had done so in many cases when they knew that any attempt to cut down the amount of printing would be overruled by the House. He referred now particularly to the President's annual message, with the accompanying documents, communicated to Congress at the last session. It was considered that this document brought up the history of the war, and the committee could not venture to report any number less than that referred. He referred also to the orders for printing extra copies of other documents belonging to this class, which were in demand all over the country: to the Trist correspondence, the Scott and Taylor letters, the Emory and Frémont documents, &c. Every one of these documents was known to be in great demand all over the country, and he did not now recollect that in one single instance there was raised a voice in this Hall in opposition to the orders which were

passed. If, therefore, there was extravagance in all this, it was not to be charged at the door of the Committee on Printing. He threw back the charge upon the House, and would tell it now to the House and the country, that no successful motion could have been made by the committee to cut down the amount of this extra printing. It was the reports by Frémont, Emory, and Johnson—those men who were sent out to explore the new territory recently acquired from Mexico, and report upon its geography, its geology, and its soil—it was the printing of extra copies of these reports the gentleman from Georgia was understood to complain of, and to say that the country did not want them, or rather that it was wrong to gratify the desire on the part of the people to possess them. It might not be that the printing of similar documents would ever be demanded again, by the same desire manifested on the part of the people to possess them; but if such a circumstance should arise, the admonitions of the gentleman from Georgia would then be in order. His voice should be raised at such a time. But now his warning came too late. He had locked his door now that the horse was stolen. His remarks upon this subject, however, might still be allowed to apply to the future, and he (Mr. H.) promised to go along with him in all the retrenchment he could reasonably desire.

With reference to the manner of letting out the public printing, he understood the gentleman to admit that there might have been a saving by the adoption of the new system, if there had not been so much printing ordered; and to affirm that the orders had been so extensive that the Government had to pay more for the work than under the former system.

Mr. TOOMBS was understood to say that he affirmed the statement by Blair & Rives in yesterday's *Globe*.

Mr. HENLEY. I understand also that the gentleman admits that one hundred and one thousand dollars was the cost of the printing of the last session.

Mr. TOOMBS assented; and

Mr. HENLEY continued. From a memorandum before him, it appeared that the amount paid for the House printing, during the 27th Congress, was... ..... $189,202 65

During the 29th Congress.....	170,552 72
Amount paid for House printing during the 1st session of the 30th Congress.....	62,577 45
Amount paid last session for both Senate and House.....	101,622 00
The same amount of work at the prices charged by Gales & Seaton would have been.....	441,921 00
By Ritchie & Heiss.....	298,919 00
Saving upon the prices of Gales & Seaton.....	340,228 00
Saving upon the prices by Ritchie & Heiss.....	197,287 00

The gentleman was mistaken in his statement, that the country now pays as much for printing as formerly, though a great deal more printing was done. He (Mr. H.) affirmed that the printing by the contract system yielded a saving of more than 50 per cent. upon the prices heretofore paid to Blair & Rives and Ritchie & Heiss, and more than 70 per cent. upon Gales & Seaton's prices.

The contract system was now working very well. Its operation during the last session was a mere experiment, and the only failure was in the quality of the paper used for the President's message—the first document of the session. But the paper now used was a good article, and altogether sufficient for the purpose. The type upon which the printing was done, he admitted, was not quite so good an article as could be desired. But the Secretary of the Senate and Clerk of the House had taken the precaution to provide against these difficulties for the future, by requiring, in their proposals, the use of paper and type of specific quality and character; so that, hereafter, the printing would be as well done as ever it was by either of the former public printers; and at a rate at least 40 or 50 per cent. cheaper than ever before. Then, let the gentleman from Georgia come forward with his reform of the abuse of printing large numbers of extra copies, and the cost of the printing of the country might be cut down as much as 75 or 100 per cent.

And besides all this, and better than all this, there would be a discontinuance of the practice of having a newspaper editor brought to the seat of Government by every new Administration to become its organ. He wanted no such thing as a Government organ pensioned upon the printing of Congress. The prejudice of the country had been raised against this practice, and very properly, too, as he considered. Neither party should have a pensioned press at the seat of Government. Such a thing was equally pernicious, whether in the hands of one party or the other. He repeated, that there was no difficulty about the operation of the contract system. It would work well. It had worked well, so far—even better than the most sanguine of its friends expected at the first.

He recurred again to his memorandum, affirming the absolute saving to the country as before, and adding, that the gentleman from Georgia could not say that the same amount of printing which was done at the last session could have been ordered by Congress at the prices paid Gales & Seaton, &c., without the expenditure of a much larger amount of money than was paid to the present printers.

Mr. TOOMBS replied, all he had to say was, that he wanted the printing done cheap and done well. He said nothing of the contract system, in connection with the means of making the proceedings of Congress public.

Mr. HENLEY continued. He would say, then, to the gentleman and to the House, that if all the printing ordered at the last session had been done according to the prices charged by Ritchie & Heiss, it would have cost the country $298,000—nearly $300,000 instead of $100,000. He would state further, that the printing done for Congress for seven years prior to the year 1840 yielded a net average profit, according to the statement of the printers themselves, of $76,000 yearly; and that since that time, it must have been over a hundred thousand dollars; and that whosoever had been public printer had realized a princely fortune. Viewed at every point, the contract system of printing was a great saving to the country—perhaps the greatest retrenchment and reform that had ever been accomplished in the public expenditures. He hoped, therefore, that the House would not think of its abandonment. The country might be assured there was no necessity for doing so. It had succeeded so far, and it would succeed, as he believed, against every obstacle and opposition that might be brought to operate against it.

Mr. BRODHEAD said he understood the gentleman from Indiana to say, that the contract system worked well, but at the same time to admit that the printing had been done with inferior type and paper. But if the system worked well, why was there any complaint on the part of the contractors? Why was it that these printers were coming now to Congress and asking for additional compensation?

Mr. HENLEY replied. He had said the system worked well; but he could not have been understood to say that the contract was perfect. That could not be expected, for it was but an experiment. He had said that the President's message was printed upon paper of inferior quality, in consequence of an imposition practised upon the printers. He had also admitted that the type was not quite so good as should have been used—not quite so clear as that used by Blair & Rives, perhaps. The advertisement for the contract, perhaps, was not quite so strict as it ought to have been. But the paper was now of a quality sufficiently good—about as good as that which had been used heretofore. By all that he said, he intended to express his entire confidence in the complete success of the system.

Mr. WENTWORTH inquired of the gentleman from Indiana, as one of the Committee on Printing, whether there had been a compliance with the contract by the present printers?

Mr. HENLEY replied that he had already given his views on that question.

Mr. MURPHY inquired if the paper now used was a compliance with the contract?

Mr. HENLEY replied that the paper now used was of about as good a quality as that upon which the printing of Congress had usually been done. He believed that the paper used by Blair & Rives was of a better quality than the paper which had been used by any other of the public printers; though, perhaps, that used by Gales & Seaton for a portion of the time was as good. He believed the character and quality of the printing at present was about as good as that which had usually been done.

Mr. MURPHY. I beg to differ with the gentleman; and I say that the paper now used is a disgrace to Congress and the country.

Mr. HENLEY. It was difficult to tell what would disgrace Congress; perhaps gentlemen would differ in opinion on that point.

Mr. DUER demanded the previous question.

The previous question was seconded, and the main question ordered.

Mr. JONES, of Tennessee, moved to lay the resolution on the table.

The yeas and nays were asked and ordered on this motion, and being taken, resulted—yeas 76, nays 106—as follows:

YEAS—Messrs. Atkinson, Beale, Bedinger, Bocock, Bowlin, Boyd, Bridges, Brodhead, Wm. G. Brown, Charles Brown, Albert G. Brown, Burt, Cabell, Franklin Clark, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Cocke, Crozier, Cummins, Daniel, Dickey, Garnett Duncan, Embree, Featherston, Ficklin, Flournoy, French, Fulton, Gentry, Goggin, Green, Willard P. Hall, Hammons, Harmanson, Harris, Hill, Hilliard, George S. Houston, Inge, Irvin, Andrew Johnson, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, Ligon, Lumpkin, McKay, Miller, Peaslee, Pendleton, Peyton, Phelps, Pilsbury, Preston, Rhett, Richardson, Robinson, Rockhill, Sawyer, Simpson, Stanton, Stephens, Thomas, Jacob Thompson, Robert A. Thompson, Thurston, Toombs, Venable, Wick, Wiley, Williams, Wilmot, and Woodward—76.

NAYS—Messrs. Abbott, G. Adams, Ashmun, Barrow, Belcher, Bingham, Birdsall, Blackmar, Blanchard, Botts, Boyden, Brady, Buckner, Canby, Clapp, Clingman, Collamer, Collins, Conger, Cranston, Crisfield, Crowell, Dickinson, Dixon, Donnell, Duer, Eckert, Nathan Evans, Faran, Farrelly, Fisher, Gaines, Giddings, Gott, Greeley, Nathan K. Hall, J. G. Hampton, Moses Hampton, Henley, Henry, Elias B. Holmes, John W. Houston, Hubbard, Hudson, Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, Jameson, Jenkins, Thomas Butler King, Daniel P. King, Lahm, Wm. T. Lawrence, Sidney Lawrence, Lincoln, Lord, Mackay, McClelland, McIlvaine, McLane, Job Mann, Horace Mann, Marsh, Marvin, Morehead, Morris, Mullin, Murphy, Nelson, Newell, Nicoll, Outlaw, Palfrey, Peck, Petrie, Pettit, Pollock, Putnam, Reynolds, Richey, Julius Rockwell, John A. Rockwell, Root, Ramsey, St. John, Schenck, Sherrill, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Starkweather, Strohm, Tallmadge, Taylor, Richard W. Thompson, John B. Thompson, Tompkins, Tuck, Turner, Van Dyke, Vinton, Warren, Wentworth, White, and Wilson—106.

So the House refused to lay the resolution on the table.

The question recurring on the adoption of the amendment, it was taken, and agreed to.

The resolution as amended was then adopted.

And so it was

Resolved, That one thousand extra copies of the letter of the Secretary of War, and the accompanying papers, in relation to the harbor at Buffalo, New York, communicated to this House on the 6th instant, be printed for the use of this House; and that two hundred and fifty copies thereof be printed for the use of the Bureau of Topographical Engineers; and that the diagram and map annexed to such report be engraved, on a scale not exceeding half the size of the original, and that one copy of such diagram and map be attached to each copy of said report printed by the order of the House.

CIVIL AND DIPLOMATIC BILL.

On motion of Mr. VINTON, the House resolved itself into Committee of the Whole on the state of the Union, (Mr. SMITH, of Indiana, in the chair,) and resumed the consideration of the civil and diplomatic appropriation bill.

The question pending was on the amendment of Mr. CUMMINS, which proposed to increase the item for the General Land Office $500, to advance the salary of one clerk in the Military Bounty Land room from $1,300 to $1,500, and of one other from $1,000 to $1,300.

Mr. TAYLOR, on a *pro forma* amendment, said he was in favor of the amendment moved by his colleague [Mr. CUMMINS.] He believed that the recommendation of the Commissioner of the General Land Office, that the salaries paid to the two principal clerks in that office, where the military bounty land warrants were passed, are inadequate, was a proper recommendation, and should be adopted by this House. It had become necessary for him frequently to call at that office, at the present and the late session of Congress; and from the fact that the original title papers connected with all the public lands in the southern part of the State of Ohio were retained in the town in which he resided, and one of the military land offices was in that town, it had become his duty frequently to go to the land office in person, and to have almost daily communication with the Commissioner of the General Land Office, especially with that department in which the military bounty lands were regulated, and by that means he had become acquainted with the necessity of increasing the salaries of these two clerks.

He would state, that up to the year 1836, the chief clerk of the Land Office, who was assigned to the supervision of the military bounty-land warrants, received a salary of $1,500; in 1836,

when the Land Office was regulated anew by act of Congress, that salary was reduced to $1,300. The duties of that department had been very greatly increased since the bounty lands were awarded to the soldiers who had served during the Mexican war. He thought, as the duties of these two clerks (who, the Commissioner of the Land Office desired, should be better paid) had been greatly enlarged, that their pay, in some small degree, should be enhanced also. Their duties were very responsible; they had in charge the land titles to five distinct kinds of military lands:

First. The United States military district, for revolutionary bounty lands—a very important set of papers, involving the titles to sixteen millions of acres;

Second. The Virginia military lands;

Third. The refugee lands;

Fourth. The bounty lands of the war of 1812, embracing six millions of acres, viz: two millions in the State of Illinois, two millions in Missouri, and two milljons in Arkansas; and,

Fifth. All the military bounty lands granted to the soldiers of the Mexican war.

All these classes of military land titles underwent the supervision of these clerks. During the Mexican war the duties of these clerks had been greatly enhanced; and he was confident, from his daily observation of their business and duties, that they deserved to have their pay increased—the one to $1,500, and the other to $1,300. Many of the clerks in that department received $1,800, some $1,600, whose duties were not so arduous or responsible. He trusted the amendment of his colleague would be adopted.

Mr. POLLOCK moved to amend the amendment, by adding a proviso, that the salaries hereby increased should be reduced to their present rates at the expiration of five years.

He said that the increased duties devolved upon these clerks in consequence of the Mexican war, would not continue longer than five years, and of course the increase of salary should continue no longer. The amendment of the gentleman from Ohio [Mr. CUMMINS] proposed to make the increase of salary permanent. The Committee of Ways and Means had refused to sanction the proposition for this reason, and he himself was opposed to it, but with the amendment which he proposed, he thought it was proper.

The amendment to the amendment was lost.

Mr. POLLOCK moved to amend the amendment by adding a similar proviso, limiting the increase of salaries to three years. Rejected.

Mr. JAMESON moved to amend the amendment by adding a proviso, that in lieu of the per diem and mileage at present received by members of Congress, they should be paid $12 per diem and receive no mileage.

The CHAIRMAN ruled the amendment out of order, on the ground of irrelevancy.

Mr. JAMESON appealed.

The decision of the Chair was sustained by the House.

The question recurring on the amendment of Mr. CUMMINS, was taken, and the amendment was rejected.

Mr. VINTON, under the direction of the Committee of Ways and Means, in accordance with the recommendation of the Secretary of War, moved an amendment to the item for the Chief Engineer's office, to increase the appropriation so as to provide for an increase of the salary of the chief clerk of $200; in the salary of the $1,150 clerk, of $250; in the salary of the $1,000 clerk, of $150; and in the salary of the $800 clerk, of $200.

The amendment was agreed to.

Mr. JAMESON renewed his amendment relative to the mileage and per diem of members of Congress, but

The CHAIR decided it out of order at this stage of the bill also, and Mr. JAMESON acquiesced

Mr. VINTON, by direction of the Committee of Ways and Means, moved an amendment to increase the item for the office of Commissioner of Pensions from $2,850 to $7,050.

The amendment, after a word of explanation from Mr. VINTON as to its necessity, was agreed to.

Mr. HALL, of Missouri, moved the following amendment:

For the purpose of printing, under the direction of the Commissioner of Pensions, an additional number of House document No. 95 of the first session of twenty-ninth Congress, and all laws relating to pensions which have been passed since the 27th day of January, 1846, and are still in force, together with the constructions placed upon such laws by the War Department or Attorney General, and the forms necessary to be followed by applicants for pensions under the several laws, and the bounty land laws, together with the necessary forms for applications therefor, for the use of the Pension Office, the sum of eight hundred dollars.

Mr. HALL, in explanation, said, that he did not understand that the amendment which had just been offered by the gentleman from Ohio [Mr. VINTON] authorized the printing of this document; the copies of it were nearly all exhausted; the demand for it was great, not by members of Congress, but by the pensioners themselves. The argument which had been advanced here, that it was not proper to print documents for members, would not apply to the present case. It was for the use of the pensioners themselves. If it was proper to pass laws authorizing these pensions, it was also proper to print these laws, so that those who were entitled to them might avail themselves of them.

Mr. HUDSON moved to amend the amendment by striking out "two hundred," and inserting "eight hundred" dollars.

It was obvious (Mr. H. said) that all the reasons which could be alleged for the publication of this document (which was a considerable document) would require that at least three or four times the sum contemplated by the gentleman's amendment should be appropriated. Two hundred dollars would print but a few copies of a document of this size, especially when it was considered that its size had been increased by recent statutes, and the constructions which had been given to them by the department. He had no hostility to the measure, but he believed that every reason which would call for an appropriation at all would require at least the sum of eight hundred dollars.

Mr. HALL said he would accept the amendment as a modification of his own.

Mr. MULLIN moved to amend the amendment by adding, "the laws and forms in relation to bounty lands."

Mr. HALL said he would accept this also, as a modification of his own proposition.

And the question being taken, the amendment as thus modified was agreed to.

NAVY DEPARTMENT.

The following item being under consideration:

For compensation of the Secretary of the Navy, and the clerks, messengers, and assistant messengers in his office, twenty-one thousand nine hundred and fifty dollars.

Mr. SAWYER moved to amend it by adding at the end thereof a proviso, that it should be made the duty of the Secretary of the Navy forthwith to publish an order to abolish the practice of flogging in the navy.

And Mr. S. asked for tellers, who were ordered.

Mr. VINTON submitted to the Chair, whether this proviso was relevant to the proposition to pay the Secretary of the Navy his salary. It seemed to him (Mr. V.) that it was not germane as a condition upon which the Secretary of the Navy should receive his salary that he should stop flogging in the service.

The CHAIR thought that the amendment was in order.

And the question thereon was taken, and decided in the affirmative: Ayes 79, noes 37.

So the amendment was agreed to.

POST OFFICE DEPARTMENT.

The following item being under consideration:

For compensation of the Postmaster General, three Assistant Postmasters General, clerks, messenger, assistant messengers, and watchmen of said department, seventy-six thousand six hundred dollars.

Mr. GREGORY moved to amend it, by adding five hundred dollars as additional salary to the First Assistant Postmaster General.

Mr. GREGORY said that this amendment would place the First Assistant Postmaster General on the same footing with the Auditor of the department.

Mr. GOGGIN moved to amend the amendment, so as to make similar additional provision for the Second and Third Assistant Postmasters General.

This addition, Mr. G. said, would place these officers on the same footing, in regard to salary, with the Auditor of the Post Office Department, [Mr. WASHINGTON,] and would give them the same amount as that paid to all the heads of bureaus.

The question was taken, first, on the amendment to the amendment; and it was rejected.

And then the amendment of Mr. GREGORY was rejected.

OFFICE OF THE SURVEYOR GENARAL.

The following item being under consideration:

For compensation of the surveyor general of Wisconsin and Iowa, and the clerks in his office, eight thousand three hundred dollars.

Mr. COLLAMER moved the following amendment, to come in at the end of the item:

For clerks in the offices of the surveyors general, to be appointed to them according to the exigencies of the public service; and, if necessary, to be employed in transcribing field-notes of surveys, for the purpose of preserving them at the seat of Government, $22,500.

Mr. COLLAMER explained. He said that this amendment was drawn in precise conformity to the estimates sent in from the department as originally printed. By a resolution of the House of the 19th of December, this particular item had been referred to the Committee on Public Lands. It was not in the bill, although it was in the estimates, having, as he had said, been sent to the Committee on Public Lands for examination. He had not time now to enter upon explanations. The Committee on Public Lands thought that it should be passed, and had instructed him to ask that it might be placed in the bill. It was believed to be important, as the department had considered it necessary to put it in the estimates. It had at the last session been cut out by the Committee of Ways and Means, and had been replaced by an amendment in the Senate, which amendment had been agreed to by the House. He (Mr. C.) then explained the manner in which the business increased in one quarter as it diminished in another, rendering it necessary to apportion the services of the clerks accordingly.

The question was taken, and the amendment was agreed to.

Mr. SAWYER moved to strike out the following item:

For compensation of four assistants, draw-keepers at the Potomac bridge, including oil for lamps and machinery, firewood and repairs, four thousand two hundred and ninety dollars.

The amendment was rejected.

Mr. VINTON (under instructions, he said, from the Committee of Ways and Means) moved to amend by adding, between lines 443 and 444, the words—

"For machinery and machinists $1,500." Agreed to.

Mr. NICOLL offered the following amendment, to come in immediately after the item making appropriations for the judiciary:

Provided, That the proviso in the first section of an act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1849, and for other purposes," limiting the fees for taking and certifying the depositions of witnesses in civil cases, be, and the same is hereby, declared to extend and apply to all and every civil cause between any parties whatever, and to all admiralty proceedings: *Provided, however*, That where the actual taking of any such deposition shall necessarily require a longer time than three hours, the judge of the court in which said deposition is to be used is hereby authorized to certify an amount, not exceeding eight dollars, as a proper charge for taking such deposition, and the same shall thereupon be taxable as a part of the costs of the suit or proceeding.

Mr. NICOLL explained that the object of this amendment was, to give to the provision which had been inserted in the civil and diplomatic appropriation bill of the last year the operation which had been intended—an object which had not been accomplished under constructions heretofore put upon it.

Mr. JONES, of Tennessee, moved to amend the amendment by striking out "three" hours and inserting "ten."

The amendment to the amendment was rejected.

And then the amendment was agreed to.

THE QUESTION AS TO THE TERRITORY OF WISCONSIN.

Mr. MULLIN moved to add, at the end of line 491, an appropriation of the same amount ($10,500) for the same officers, &c., of the Territory of Wisconsin, as is included in the bill for the Territory of Oregon.

Mr. HALL, of Missouri, (on a *pro forma* amendment to the amendment) said it appeared to him that this was the most extraordinary effort which had ever been made to organize a territorial government. A proposition had been before the Senate since the early part of the last session of Congress, to organize the Territory of Nebraska, and both Houses of Congress had refused to pass such a bill. But here was an effort made to introduce into the civil and diplomatic appropriation bill an item, which, *per se*, established a territorial

government over Minesota. Now, was it proper to introduce a proposition of this kind into a general appropriation bill? Gentlemen could not relieve themselves of the difficulty by saying that the Territory of Wisconsin existed by law; on the contrary, he thought it was absolutely certain that no such territorial government did exist. Congress had authorized the people of Wisconsin to come into the Union as a State; they had come in; and Minesota, the part which had been stricken from the former Territory of Wisconsin, he apprehended, could not be called a Territory without a law of Congress declaring it to be a Territory.

He conceived that this was nothing more nor less than an attempt to establish a territorial government in an indirect way. He would inquire why a territorial government could be established in this manner over the Territory of Minesota any more than territorial governments could be established over the Territories of Nebraska, California, or New Mexico? If bills were necessary to establish territorial governments over these, why was not a bill equally necessary to establish such a government over Minesota? If Minesota required to have a territorial government, let a bill be introduced and passed, in the usual form, for that purpose; but let them not attempt to sneak a government through in this bill.

Mr. SCHENCK moved to amend the amendment by including a similar provision for the Territory of Iowa.

He said when the State of Iowa was admitted into the Union, there had been left without the State a much larger territory—a territory three or four times as large as that portion of the former Territory of Wisconsin, which had been left out of the State of Wisconsin. If a Territory was to be erected in this manner; if by admitting a Delegate they drew in a Territory, the example should be followed up by providing also for a much larger piece of Iowa, and now recognizing and providing for it as the Territory of Iowa. Congress would then have two Territories on its hands, without all the trouble of requiring the Committee on Territories to report bills, and those bills to pass both Houses, and be approved by the President, establishing territorial governments, and without the necessity of discussion upon the Wilmot proviso and other vexed questions. A very compendious way of doing the work! It was true, it looked rather preposterous—if anything done by Congress could be considered preposterous. He meant this with the most perfect respect. He did not think this House could do anything at which gentlemen ought to be surprised.

It had been attempted in this indirect way to admit one Territory (of Wisconsin). Now, he desired gentlemen to show the difference between the Territory of Iowa and the Territory of Wisconsin. One had organized a State government by the vote of its people; so had the other. In the case of Wisconsin, a small piece of the Territory of Wisconsin was left out of the State; in the case of Iowa, a piece much larger had been left out. If the one piece was now to be considered the Territory of Wisconsin, so also should the other be considered the Territory of Iowa. He hoped, inasmuch as the House had admitted a Delegate from Wisconsin, they would go on and provide all the necessary appropriations for the support of the territorial government, and that they would make the same provision for Iowa, in anticipation of their holding a convention and sending a Delegate. He did this to save the consistency of the House; and following up the amendment of the gentleman from New York, he moved to add Iowa.

Mr. MULLIN modified his amendment by accepting Mr. SCHENCK's amendment thereto.

The question was therefore on an amendment making provision for the expenses of the territorial governments of Wisconsin and Iowa.

Mr. COLLAMER rose to a point of order, and inquired whether this amendment was in order, as there was a rule of the House which provided that no appropriations should be made in the general appropriation bills for objects which were not provided for by law.

The CHAIRMAN said he was not able to say that the Territory of Wisconsin was not provided for by law.

Mr. COLLAMER. The Chair does not decide but what the Territory of Wisconsin by law now exists, as a territorial government?

The CHAIRMAN replied that he did not deem it necessary to decide that question. The Chair was of the opinion that the amendment was in order.

Mr. BOYDEN (upon a *pro forma* amendment to the amendment) said he denied that a vote of this House could establish a territorial government. A majority of the House had voted that a certain gentleman was entitled to his seat as a Delegate from Wisconsin; they must consider that conclusion upon the subject, but it by no means could operate to establish a territorial government.

It could be contended with more propriety that there was an additional *State* of Wisconsin, than that there was an additional *Territory* of Wisconsin. By an act of Congress, the people of the Territory of Wisconsin had been authorized to form a State constitution and establish a State government; and provision had been made for admitting the whole Territory into the Union as a State, and the State had been authorized to change its territorial limits; as a State, it had changed its territorial limits, and left out a part of the State of Wisconsin; and therefore it could be contended with much more propriety that the portion so left out was another State of Wisconsin, entitled to a Representative on this floor, and to two Senators, than it could be contended that it was the Territory of Wisconsin. The whole Territory—every foot of that which came here now and claimed to be a Territory—had been erected into a State, and had been admitted as a State by act of Congress; that act of Congress had authorized the State to change its territorial limits, and it had changed them under that authority.

He said, then, that there was no Territory of Wisconsin. It was perfectly idle to talk about it as a Territory; and it would be just as proper, and more so, (for this was but a little pea-patch at any rate,) to claim that that portion of the Territory of Iowa, which had been left out when Iowa was admitted as a State, was now a Territory, and entitled to a delegate on this floor. And if they were going on this principle, let them go the whole length, and at the same time recognize territorial governments over California and New Mexico.

Mr. VAN DYKE moved to amend the amendment by striking out "Iowa."

It was no time now (he said) to argue the question whether the Delegate had been properly admitted from Wisconsin, as the gentleman from North Carolina [Mr. BOYDEN] was disposed to do. He denied—it was not true that there was any law of Congress embracing that whole Territory as a State. The law of Congress which admitted Wisconsin as a State embraced but a portion of what was once, by the law of Congress, the Territory of Wisconsin. But, was it true that there was no such Territory as Wisconsin? There was a law upon our statute book creating the Territory of Wisconsin, and its limits were given. There was also a law upon the statute book carving out from that same Territory of Wisconsin a State, but leaving the balance of the Territory as it stood before. But the act of Congress which carved out that portion of the Territory and made it a State, did not repeal in words or effect the law by which the old territorial government was given to the Territory of Wisconsin. Congress had admitted about half that Territory as a State, and it was claimed that, in consequence, the former law was annulled; and that, too, without any repealing words—without any antagonism. If this were true, the people residing in that portion of the Territory were outlawed; society was there reduced to its original elements; there were no judges, no sheriffs, no judicial tribunals, and all the laws which Congress had ever given them as a Territory had been abrogated and destroyed, simply because Congress had erected a State out of a portion of that Territory.

Mr. SCHENCK interposed, and asked, Congress having the power to establish a territorial government, whether it could repeal the law?

Mr. VAN DYKE replied, that Congress had the power to establish a territorial government; and it had the power now, if it saw fit, to reëstablish a territorial government over that part of Wisconsin Territory which had been cut off; but, until it did so, did not that part of the law which had not been repealed remain in force? for there was no antagonism between it and the law admitting the State.

The question was taken on Mr. VAN DYKE's amendment to the amendment, and it was rejected.

Mr. VINTON moved to amend the amendment by striking out the Territory of Wisconsin.

He made this motion (he said) for the purpose of showing that all which the gentleman from New Jersey [Mr. VAN DYKE] had said about the Territory of Wisconsin was applicable in every particular to Iowa. The Territory of Iowa had, in the first place, been created with certain limits, (which he defined;) it had at first formed a constitution for admission, embracing a considerable portion of that territory; her boundaries were cut down by this House, and the State was subsequently admitted with these reduced limits. If gentlemen would look into the law which admitted Iowa into the Union, they would see that it made no disposition in respect to the Territory of Iowa. It did not repeal the law over that vast country between the Missouri river and the foot of the Rocky Mountains. It yet remained in full force, if the territorial law for Wisconsin remained in force over the little fragment of Wisconsin which had been left without the limits of the State. He had no faith himself that either of these Territorial Governments now existed. Nobody understood it so. But if either was to be recognized as a Territory, there was four or five times as much territory remaining, which should be known under the name of the Territory of Iowa, as there was which should be known under the name of the Territory of Wisconsin. And if the House admitted a Delegate from Wisconsin, they must have one from Iowa; and they would have one, let him tell gentlemen the next year. They were thus, without knowing it, making new Territories, and he did not know how many more would claim to exist.

Mr. V. waived his amendment for the present.

Mr. DUER renewed it. It struck him, he said, as a most extraordinary proceeding on the part of this House to insist upon a vote upon a question so important as had been involved in the admission of the delegate, who had recently taken his seat, without allowing any discussion—without allowing the members of this House the opportunity of reading the reports of the majority and minority of the committee, and examining the statutes. It had struck him then that there was no foundation for the claim of the gentleman who asked to be admitted as a delegate from the Territory of Wisconsin; and he had been confirmed in that opinion by a subsequent perusal of the reports, and by an examination of the laws bearing on the subject.

It was contended by gentleman, that the law constituting the Territory of Wisconsin had not been repealed, and therefore that it was now in force. Well, if that was so, what was now the Territory of Wisconsin? Why, it must embrace the whole State of Wisconsin. That was the only Territory of Wisconsin that Congress had ever constituted; and when Wisconsin was admitted as a State into the Union, what was it that was admitted? The recital in the act was, that the people of Wisconsin had formed a constitution, and asked admission as a State upon the same footing with the original States; and it was that Territory of Wisconsin, formed by act of Congress, which had been admitted into the Union as a State.

But gentlemen said that a little piece had been cut off, and therefore that all the laws which Congress had applied to the original Territory, now applied to this. Well, if Congress had said so, the argument was correct. But he denied that Congress had ever constituted the little slip which had been left out into a Territory.

He withdrew the amendment.

Mr. THOMPSON, of Indiana, rose and (*pro forma*) renewed it. He said he was a little astonished that gentlemen complained so much of having voted, the other day, on the admission of the Delegate from Wisconsin, without understanding the question. The reports of the majority and the minority of the committee had been laid upon the tables something like a week or ten days—he did not know precisely how long—before the House had been called to vote upon the admission of the Delegate from the Territory of Wisconsin. These reports presented but one simple, isolated, legal proposition; it was this: the Territory of Wisconsin was originally organized to embrace within its limits what now constituted the State of Wisconsin, and that district which claimed to be represented, and was in point of fact represented by the gentleman who now appeared here as a Delegate from the Territory of Wisconsin. The

Congress of the United States had, at several times, fixed upon different lines as the limits of the jurisdiction of the State of Wisconsin. At the last session of Congress, when the State of Wisconsin was admitted into the Union, the northwestern line of that State had been fixed at the river St. Croix. The only question, therefore, left for this House to determine was, whether, by forming the State of Wisconsin out of the Territory of Wisconsin, and leaving a portion of the Territory outside of the State, the original, primary law of Congress creating a Territory of Wisconsin was annulled beyond the line of that State.

He was astonished to hear gentlemen say that there could be any doubt about so clear a legal proposition as this. The Congress of the United States organized a Territory; subsequent to that organization, they created a State out of a portion of that Territory: did not the territorial law exist to all intents and purposes beyond the limits of the State? If it did not, then that portion of the inhabitants who lived beyond that line were entirely disfranchised by the act creating the State.

Mr. VINTON interposed, and inquired if the same argument would not apply to that portion of the former Territory of Iowa which had been left without the limits of the State?

Mr. THOMPSON replied that he was not arguing that question; neither did he care whether the Territory of Iowa now existed; this House might determine that question.

But he said, unless the Territory of Wisconsin now legally existed under the act organizing that Territory, by creating the State of Wisconsin Congress had, without their consent, disfranchised a large portion of the people of that Territory. If that was the legal effect of the act creating the State of Wisconsin, the Secretary of State, and all the officers in the Executive Department of the Government, had misunderstood the effect of the law.

These people were entitled to all the privileges and immunities conferred upon them by the act organizing the Territory, and there was nothing in the law creating the State of Wisconsin which took these rights from them. There was no abrogation of the territorial law; but that law was left in full force and effect. Congress had transferred to a portion of the people who had had the territorial laws a system of State laws, but they had not taken from the remaining portion the original privileges and immunities which they had given them.

He withdrew the amendment.

Mr. JOHNSON, of Arkansas, renewed the amendment. There were but few gentlemen here (he said) who had not felt that whenever a Territory, organized under the laws of Congress, had been formed into a State, the whole laws relating to that Territory were abrogated. This was the general feeling. The boundaries of the State were defined, and the balance of the territory was left as public domain, to be acted upon hereafter by future legislation. This was the natural and proper course. The idea that there would still be a law authorizing a territorial government there was nothing more than an admirable sophistry.

The House, by a vote which it had given a few days ago, had been brought to a condition so preposterous as scarcely to excite a smile. He had the kindest feelings towards the gentleman to whom a seat had been given, and would, as a mere evidence of his respect and regard, have been glad to have voted for him. But when it came to this question, he could not.

What was the condition of things? The Territory of Wisconsin and the State of Wisconsin! Did they exist? Where was the evidence of the fact, except the acknowledgment involved in the vote which had been given the other day? There were no governments there—no executive or legislative powers in either. There was no other organization than probably that which pertained to the judiciary.

He referred to former instances of the admission of States embracing a portion of the former territories, and asked if the remaining portions were to be considered territories still in existence? As, for example, in the case of Missouri. Was that portion of the Territory of Missouri which was left out of the State, now the Territory of Missouri? And were remnants of territories in this way to be brought into the Union, as States, and wield the power of States like Rhode Island or Delaware—which he did not consider as lawful tenders for a State here so far as dimensions were concerned. Yet in every such case the territory left over might as well be regarded in the same light as the Territory of Wisconsin.

Mr. J. withdrew his amendment.

Mr. LYNDE renewed it. He said he was surprised that any gentleman should consider the recognition of this Territory as an act of sophistry. He supposed that an act of Congress, unless there should be some subsequent action calculated to counteract its effect, was to be considered as still in force. But if gentlemen argued here, that the taking a portion of the Territory and forming it into a State made entirely void the original act of organization, when was it, he asked, that the Territory of Wisconsin became obsolete? A portion of this Territory was taken years ago and organized into the State of Michigan, when she had her quarrel with Ohio as to the line of boundary; and that became a part of the State of Michigan. There was but a portion of this Territory which had been organized into a State—one-third under the old original act was still left. Another portion of that Territory had been taken, and ceded to the British Government. Did these two acts of cession entirely invalidate the original act? If not, he could see no consistency in gentlemen arguing that a portion of the State being organized into a Territory necessarily rendered the original act void. It was true, it did so in regard to that portion of the Territory which became a State.

Gentlemen said there were other Territories in the same situation. It had been customary with Congress to pass laws repealing the old acts of organization. At the same session when a portion of the Territory was organized into a State, the balance was organized into a Territory. That had been done in many instances. And he could not see why the same rule should not apply in the present case.

Gentlemen said that this proved the necessity of the organization of a Territory. He could not see it, provided the machinery was sufficient, so that the balance of the Territory could go on.

At the last session, the members from Wisconsin addressed a communication to the Secretary of State, in regard to the balance of the Territory. He replied, that as to the laws passed by the territorial legislature, in relation to local offices, &c., there could be no doubt that they remained in force. He (Mr. L.) could see no reason why local laws, passed by the local legislature, should remain in force, unless the act of Congress passed as to that Territory still remained in force also. Therefore, he regarded the decision as covering the whole question, and recognizing the present existence of the Territory.

Mr. L. withdrew his amendment.

Mr. ROOT (*pro forma*) renewed it. He thought, he said, that it would be probably best to come back to the point from which they started. This had begun in a joke—in fun—and gentlemen had got to arguing it in earnest. If the committee was to have earnest action upon it, let gentlemen consider upon what they were acting.

He supposed the matter was intended in earnest thus far—to show the difficulty into which the House got itself the other day—the absurdity in which it had involved itself by admitting the gentleman who represented what was claimed to be the Wisconsin Territory. He would not discuss the question whether there was a Territory left there yet. This much, however, he would say, that if the territorial government still existed, it was just such an one as it was when it was first created. It was that or nothing.

The same question might arise with respect to Iowa. A portion of that Territory had also been left; and it might equally be contended that it now existed as the Territory of Iowa. The territorial law had not been repealed; but, as in the case of Wisconsin, the law establishing a State was utterly inconsistent with the essence and principles of the law establishing the territorial government.

He believed that it was out of place to settle questions of so grave a character in a civil and diplomatic appropriation bill. The committee would see that if the House was right the other day in admitting the delegate from the Territory of Wisconsin, they would be bound to go on and make provision for carrying on these territorial governments. There was no doubt about that. If they acted right the other day, they must go on and make these appropriations.

But he thought that there had been an error, and that they should stop where they were. The House could, as a matter of courtesy, allow the gentleman to retain his seat and receive his per diem, if it chose.

Mr. ROOT withdrew the amendment.

Mr. VINTON renewed his motion to strike out the appropriation for the Wisconsin Territory; which motion (by ayes 76, noes 35) was agreed to.

The question then recurred on the amendment as amended.

Mr. DICKINSON (*pro forma*) moved to amend the amendment by including California.

He had (he said) listened attentively to the discussion, and to the reasons which gentlemen had given for the admission of the Delegate from Wisconsin. He had listened also to the reports of the majority and minority of the Committee on Elections, and he was satisfied that there was no ground here for admitting a Delegate under any law that existed, because all territorial laws must be abrogated the moment Wisconsin and Iowa had been admitted into the Union. He had given his vote on some of the principles laid down in another report. He had high respect for the gentlemen who had made these reports, but he had voted for the admission of the Delegate upon another principle. When a Delegate from any portion of the people presented himself, claiming to represent their interests, it was within the discretion of Congress to say whether he should be admitted or not. But he took it that Congress had the right to admit a Delegate from any portion of the people of Wisconsin, Iowa, California, or New Mexico, without any law.

If the people sent a delegate here, they did it on the inherent principle of self-government, which existed in all cases. They did not do it under any law. He was opposed to all appropriations of this kind. We had no government there; no executive or legislative officers. And if Congress appropriated money for one Territory, they must do it for another.

Mr. D. withdrew his amendment.

Some conversation on a point of order followed between Mr. PHELPS and the CHAIRMAN.

The CHAIRMAN said, that he had considered the amendment in relation to California as not in order. That in relation to Wisconsin and Iowa was a grave question, which the House had been discussing, and therefore the Chair had not decided it out of order

The question was then taken, and the amendment as amended was rejected.

THE WHITE HOUSE.

Mr. HOUSTON, of Delaware, moved the following amendment to the bill:

For furnishing the President's House after the third day of March, 1849, in addition to such sum as may be realized from the sale of such articles furnished for the same by the United States as may be decayed, out of repair, or unfit for use, and the President may direct to be sold, a sum not exceeding $14,000, to be expended under the direction of the President of the United Ststes.

Mr. HALL, of New York, suggested a verbal amendment, which Mr. HOUSTON accepted as a modification.

And the amendment was agreed to.

A motion was then made that the committee rise; which motion, by ayes 72, noes 63, was agreed to.

So the committee rose and reported progress.

Mr. VINTON rose for the purpose of giving notice, that hereafter, while in Committee of the Whole on the state of the Union upon the appropriation bills, he should endeavor to prevail on the committee to sit until four o'clock. It would otherwise be impossible for them to get through with the appropriation bills.

[Cries of "Agreed, agreed."]

Mr. TAYLOR moved that the House proceed to the business on the Speaker's table.

Pending this question, a motion was made to adjourn.

Mr. HENLEY inquired if it would be in order to move that the House adjourn to 11 o'clock to-morrow morning?

The SPEAKER replied that it was not in order.

The motion to adjourn being agreed to,

The House adjourned.

PETITIONS, ETC.

The following petition and memorials were presented under the rule, and referred:

By Mr. THOMPSON, of Pennsylvania: Three petitions from citizens of Clarion county, praying for a modification of the existing tariff laws.

By Mr. BLANCHARD: The petition of sundry citizens of Blair county, Pennsylvania, for the immediate modification of the tariff of 1846, so as to relieve the mining and manufacturing interests from their present suffering condition.

By Mr. SHEPPERD: The petition of Martha Martin, praying a pension, on account of the services of her husband, Colonel James Martin, in the revolutionary war.

By Mr. BLACKMAR: The petition of John Mandeville, and many other citizens of Waterloo, in the State of New York, asking for reduced and uniform rates of postage, and the abolition of the franking privilege.

By Mr. BLANCHARD: The petition of sundry citizens Clarion county, Pennsylvania, setting forth that the mining and manufacturing interests are suffering under the low duties on foreign manufactured articles, and praying for the immediate modification of the tariff of 1846, to meet the emergency of the case.

By Mr. NELSON: The memorial of Thomas Harber, De Witt C. Kellenger, and 114 other citizens of the town of Yonkers, in Westchester county, in the State of New York, praying for the freedom of public lands.

By Mr. KELLOGG: A petition from publishers of periodicals in the city of New York, on the subject of the reduction of postage.

By Mr. PALFREY: The petition of Huldah White, and 77 others of Heath, in the State of Massachusetts, praying Congress to prevent the extension of American slavery, to withdraw the protection of Government from the American slave trade, and to suppress slavery wherever Congress has competent jurisdiction.

IN SENATE.

FRIDAY, *January* 19, 1849.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a map of the valley of Mexico, prepared by the Topographical Bureau; which was referred to the Committee on Military Affairs.

The VICE PRESIDENT also presented a report from the Secretary of the Treasury, made in compliance with the resolution of the Senate of the 12th instant, calling for a designation of the depositaries under the act of August 6, 1846; which was read and ordered to be printed.

MEMORIAL.

Mr. BELL presented a memorial from citizens of the State of Tennessee, asking for a reduction of the rates of postage; which was laid on the table, a bill on the subject having been reported.

REPORTS OF COMMITTEES.

Mr. PHELPS, from the Committee on Finance, reported the bill for the relief of the West Feliciana Railroad Company without amendment, with the recommendation that the bill do not pass.

On motion of Mr. PHELPS, the Committee on Finance were discharged from the further consideration of the bill for the relief of the Mexican Gulf Railroad Company.

On motion of Mr. JOHNSON, of Louisiana, the report was laid on the table.

Mr. DICKINSON, from the Committee on Finance, made an adverse report on the petition of W. Norris & Co., praying for a return of duties on iron imported for the construction of locomotives when reëxported.

NOTICE OF BILL.

Mr. KING gave notice of his intention to-morrow, or at some subsequent day, to ask leave to introduce a bill to grant the Mobile and Ohio Railroad Company a right of way through the public lands.

Mr. SEBASTIAN submitted a communication addressed to him by A. K. Parris, Second Comptroller, in relation to the report of the Second Comptroller and the Second Auditor of the Treasury of the 15th instant, on the subject of the claims of the Cherokee nation; which was ordered to be printed.

RECONSIDERATION.

The motion made by Mr. PEARCE, to reconsider the vote by which the act directing the mode of settling the claim of Charles G. Ridgely, was taken up and agreed to. So the bill is again before the Senate.

NATURALIST TO A NAVAL EXPEDITION.

Mr. ALLEN. There was a bill passed here yesterday, when the Senate was quite thin, for the relief of Captain Percival. I am in possession of some facts upon the subject which make me desirous that some gentleman who voted for the bill yesterday should move a reconsideration, in order that the subject may be again opened.

Mr. JONES. I will move such reconsideration.

Mr. DAVIS, of Massachusetts. What are the facts which the Senator states have come into his possession?

Mr. ALLEN. They relate to the authority under which these duties were said to have been performed, and go to show that the whole business is without any foundation whatever. Instead of this gentleman's performing the duties of clerk and chaplain, I am prepared to prove that he was appointed as naturalist and astronomer, and also that the purser refused to make the allowance until he was commanded a second time to do so by Captain Percival.

Mr. DAVIS, of Massachusetts. I hope the Senator will allow his motion to stand until the Senate is more full.

Mr. ALLEN. With great pleasure.

The question was, thereupon, passed over informally.

RESOLUTION.

Mr. KING submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on Foreign Relations be instructed to inquire into the propriety of allowing to Alexander Hammett the pay of a chargé d'affaires for the time he discharged the duties of that station at Naples.

INDIAN APPROPRIATION BILL.

Mr. ATHERTON moved to postpone the prior orders, with a view to take up the bill making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30, 1850.

Mr. WALKER said he hoped the Senator from New Hampshire would not press that motion at present. There were other estimates of appropriations which would be laid before the Senate, and which it would be necessary to include in this bill. He hoped its consideration, therefore, would be deferred. The Senator knew, no doubt, to what he alluded.

Mr. ATHERTON. I do not know that there is any necessity for delaying the consideration of the bill on that account. If there should be any additional appropriation necessary to the fulfillment of any treaty that may hereafter be ratified, it may be inserted in the civil and diplomatic appropriation bill. And I will also suggest to the Senator, that, for almost every day of next week, some special subject has been assigned, and I should be sorry that this appropriation bill should be delayed. I hope, at any rate, that the Senate will take it up and have it read, and make some progress with it, for I do not see that there need be any delay on account of the suggestion made by the Senator from Wisconsin; because, if there be any such additional appropriation necessary, it can be added to some other bill.

Mr. ATCHISON. I would ask the honorable Senator if he expects to get through with the bill to-day, or only to make some progress?

Mr. ATHERTON. That will depend very much upon the fact whether any amendments are offered. As the bill now stands it is simply an appropriation bill, providing for the fulfillment of the treaty stipulations.

Mr. ATCHISON. It is for that very reason, I believe, that my honorable friend from Wisconsin asks for delay. I do not know that it would be improper for me to suggest that there is now an Indian treaty pending before the Senate, which, when acted upon, may make it necessary that a further appropriation should be inserted in this bill.

Mr. ATHERTON. I hope, however, the bill will be proceeded with, and if it should be considered necessary to defer final action upon it for the purpose of including other appropriations, I shall have no objection to a short postponement for that purpose.

Mr. BELL. I perhaps misled the Senator from New Hampshire, the other day, upon his inquiring whether any further appropriations would be proposed. I stated, if my recollection is correct, that besides the appropriations in this treaty there were other appropriations that would probably be called for to carry into effect the treaties heretofore ratified, but that the committee was not yet prepared to determine what further appropriations would be required. I hope the Senator will not press the consideration of this bill to-day. When the appropriations are reported upon by the committee there will be no objection to taking up the bill, and I presume that there will be no great delay in passing it when it is taken up. If those omissions are made, it is exceedingly doubtful whether we shall get a separate appropriation bill passed during the session.

Mr. ATHERTON. I desire that some progress be made with the bill; and after that, if the Senator desires it, I will cheerfully consent that it shall be postponed.

Mr. JOHNSON, of Maryland. I wish to understand if it is the purpose of the Senator to do more than to have the bill read.

Mr. ATHERTON. I desire that we shall proceed with it as far as we can. If any amendments should be offered that require discussion they may be discussed; but I do not propose to close the bill to-day, or to take final action upon it.

Mr. JOHNSON. I will suggest to the honorable chairman of the Finance Committee, that in all probability it will be no saving of time, but, on the contrary, that it will be taking up more time than is necessary if the bill be taken up now. There are several subjects upon the orders of the day for this day, and I trust they will be proceeded with.

Mr. ATHERTON. There will probably be some information required upon some points already embraced in the bill; and if so, I want an opportunity to furnish that information. If the bill is proceeded with, we can settle the details now contained in the bill, and hereafter, if it become necessary to add further provisions, they may be inserted. But I think it will be a saving of time to proceed with the bill now.

Mr. A. then withdrew his motion.

TERRITORY OF MINESOTA.

Mr. DOUGLAS moved that the Senate proceed to the consideration of the bill establishing the Territory of Minesota.

PRESIDING OFFICER. The Senate will now proceed to the consideration of the bill asked for by the Senator from Illinois.

Mr. KING. I have not examined the facts connected with this bill to determine satisfactorily to myself what number of citizens of the United States are contained within the limits of the country now proposed to be organized into a Territory. Perhaps the Senator from Illinois can inform me in relation to this matter.

Mr. DOUGLAS. In answer to that question, I would state that my impression is, that there are now somewhere between eight and ten thousand people scattered in various parts of the Territory, though aggregated into compact settlements. There are more than the usual number of inhabitants necessary for the establishment of a territorial government.

Mr. KING. I am not willing, sir, to throw any obstacle in the way of establishing the laws of the United States over all our people, wherever they may be, provided they are so contiguous to each other that the laws can easily operate upon them. But if a few individuals are located here and there, and scattered over an immense tract of country, the Senator will perceive at once—as the Senator from Illinois himself must be aware—that it will be almost an impossibility to establish and carry into execution a territorial government.

Mr. DOUGLAS. Perhaps I have given a wrong impression by my former remarks—an impression which I had no design to convey. What I designed to make understood was, that there were compact settlements scattered throughout the Territory. There is a settlement in the valley of the St. Croix tolerably dense and compact; several miles below this place there are other settlements compact in themselves. Then some one or two hundred miles distant from these settlements are others compact in their nature. The settlements, though not adjoining each other, are within the proper limits of the Territory, and in a position where laws could very well apply. The map is here specifying the location of those settlements, and the committee have passed upon it several times.

Mr. WESTCOTT. I would state to the Senator from Alabama that, a day or two since, I had a very interesting conversation with the delegate from Minesota in relation to this very subject. Contiguous to the falls of St. Anthony, I understand there are about six thousand people located within about one hundred square miles of the territory. This settlement polls some twelve hundred votes, and this delegate with whom I had the conversation was elected as such by that settlement. There are two or three other settlements, as the Senator from Illinois has just stated, compact in

their nature. This delegate has impressed upon my mind the great necessity of having a territorial government for Minesota by a variety of reasons. Emigrants are crowding rapidly into the Territory, and the inhabitants are building mills of a very important character. They are absolutely making improvements on the rivers, and preparing to make a dam along the side of one of the larger streams. There is no law to affect the action of individuals in this respect; and in fact ever since Wisconsin was admitted into the Union, there have been no laws of any description to regulate the affairs of the inhabitants. I am told there are some forty lawyers practising there, which is a favorable sign as to the resources and extent of the settlement. I am fully satisfied of the necessity for an immediate organization of a government over them.

Mr. DODGE, of Iowa. The establishment of this territorial government in Minesota is a matter of deep interest not only to the inhabitants of that Territory, but to those of my State. There is no existing government or laws now in that Territory. Their establishment has been put off from time to time, without reason or justice, for a long time past. A bill similar to the one presented by the Senator from Illinois almost unanimously passed the House of Representatives at the last session of Congress. Ever since the adoption of a State constitution by Wisconsin, this Territory has been without laws. Whole counties that were once a portion of Wisconsin are now without any law whatever. The public mind has looked anxiously to this session of Congress with the expectation of the establishment of a territorial government. I trust that no opposition will be made to a measure that has been so long pending in both Houses of Congress.

Mr. BUTLER. Mr. President, as I understand this matter, part of the territory now called Minesota formed or constituted a part of the Territory of Wisconsin. The eastern boundary of the territory of Minesota, separating it from Wisconsin, runs down from the western point of Lake Superior to the St. Croix river. That river, therefore, forms a very valuable and important medium of communication between the settlers in this territory and the more easterly portions of this country, and in that part of the territory I understand there are many inhabitants. They have hitherto been under the protection of the laws of the Territory of Wisconsin, but since the admission of that Territory into the Union as a State, these settlers have been left without any such protection.

All that part of the territory called Minesota lying beyond the line which I have indicated, and extending to the Mississippi, falls under the ordinance of 1787. It is impossible for Congress now to retrocede it or to compel Wisconsin to take it back. The inhabitants of this territory are now without the protection of law, and they call for such protection perhaps as much as any other portion of the Union similarly situated. About fourteen hundred of the inhabitants are settled upon that portion of the territory formerly embraced within the limits of Wisconsin. Beyond the Mississippi, I believe, there is another settlement upon very good land.

Mr. DOUGLAS, (in his seat.) There are two settlements beyond the Mississippi.

Mr. BUTLER. Very well; there are two settlements, then. I understand the population is increasing very rapidly, and their judicial matters are becoming more and more complicated every day, and require a political jurisdiction of some kind to be established at once. If there are ten thousand inhabitants in that territory, they certainly demand at least an ordinary territorial government.

Mr. KING. I wish the honorable Senator from Iowa to understand that my object was not to oppose the establishment of a territorial government over this country, provided there are a sufficient number of inhabitants in that country to render the establishment of such a form of government over them proper and expedient. I have thought, however, that the movement made to establish such a government there was rather premature; but the statement of my honorable friend from Illinois [Mr. DOUGLAS] that there are some ten thousand inhabitants in that country, and that they are distributed in compact settlements, although distant from each other, has obviated my objections to the immediate establishment of a territorial government over them.

I think, however, the remarks of my honorable friend from South Carolina, in regard to having yielded so large a portion of the territory originally belonging to that section of the country from which five States were to be made, and five only, for the purpose of forming a new and additional State, is an evidence of the liberality of that section of the country in which I live. I am not disposed to oppose the formation of any such States, if of reasonable dimensions, although their formation might be supposed to operate in some degree against what is supposed to be the particular interests of my section of the country. I wish the same feeling actuated other quarters of this Union in regard to the establishment of territorial governments over sections of the country where there are at this time ten times as many inhabitants as Minesota now contains. But such is not the case, and I deeply regret it.

Mr. DODGE, of Iowa. Mr. President, I wish to say a few words in reply to my friend from Alabama. We know the Senator from Alabama. We know him well as one of our best friends. We know him as an enlightened and liberal statesman, who soars above all the petty and sectional prejudices which have well-nigh plunged our country into a civil war. As regards the feelings to which the Senator has referred, entertained in some sections of this Union in relation to the organization of territorial governments over certain Territories belonging to this country, I can say, for one, that I shall be found voting on all occasions in favor of the organization of governments in our new Territories, being willing to risk the small popularity which I now enjoy in the promotion of what I may consider the general good of this whole country. As to this matter of boundary, I will state that Wisconsin would have gladly retained all that portion of the territory embraced in the ordinance of 1787, which was at first assigned to her. That portion of her territory was not set off because it was the choice of her people, but because the Congress of the United States dismembered her territory, and curtailed her limits. I am sorry that the views of the Senator from Alabama with regard to Iowa and Wisconsin did not prevail at that time. If we have obtained too much elbow room it is not our fault, and if injustice has been done to Wisconsin by curtailing her limits, I hope the same injustice will not be done to Minesota by cutting off that portion of her territory which was originally embraced in the ordinance of 1787, and thus curtail her just limits and restrict her boundaries.

Mr. BUTLER. Mr. President, I may be laboring under a mistake in regard to this matter, but I understood that it was at the instance and earnest request of Wisconsin that a line has been run as I have described. Wisconsin desired to get rid of the territory beyond the St. Croix, because she thought it would be to her interest to exclude it, as it was so situated that she could not very well govern it, and therefore she did not desire to continue it in her jurisdiction. I have always understood that this territory was excluded from the State of Wisconsin at her own request, but I may have been mistaken.

Mr. BADGER. Mr. President, I would inquire of the honorable Senator who reported this bill what its provisions are? I would like to know if it is similar to other territorial bills that have been extended to the inhabitants of other sections of our country. I think this is clearly a case calling for a territorial government, but I would like to know how many officers it is proposed to give to these ten thousand people.

Mr. DOUGLAS. It strikes me that the provisions of this bill are the same as those of the bill by which a territorial government was extended to Wisconsin when she had not so many inhabitants as Minesota now has. It provides for precisely the same form of government as was extended to Iowa when she had not so many inhabitants as Minesota, and precisely the same government as was extended to Oregon when she had about the same number of inhabitants that Minesota now has, to wit: a territorial government with a small legislative body, a governor, a district attorney and judges, a marshal, and other necessary officers. The bill provides for the simplest form of a territorial government, and does not contain a single peculiar provision.

The bill was ordered to its engrossment, read a third time, by unanimous consent, and passed.

LIABILITY OF GOVERNMENT FOR DEBTS OF TEXAS.

Mr. JOHNSON, of Maryland. I now move that the Senate proceed with the order of the day.

Mr. NILES. I would inquire if that is not a private bill?

Mr. JOHNSON. It is a bill that was made the special order of the day for to-day.

The motion was agreed to, and the Senate proceeded to the consideration, as in Committee of the Whole, of the bill for the relief of Frederick Dawson, James Schott, and Elisha D. Whitney.

Mr. PHELPS. I have regarded this bill as involving a principle of great importance; and if the bill pass, I fear it will establish a principle that will be found to be troublesome hereafter. The bill involves this great question: how far the Government of the United States becomes responsible, in consequence of the annexation of Texas, for the debts of that republic? The report of the committee recommending the passage of this bill proceeds partly upon the ground that the United States are to some extent responsible, though it limits its responsibility to this extent, that if the debt be assumed and paid by the United States, the State of Texas, in the end, is bound to reimburse this Government. This claim is only a portion of the large amount of debt standing upon a similar footing. The precise extent of the debt is not known. If I am to judge from what has recently occurred, the State of Texas is not aware of its extent, as some portions of that debt have not been liquidated or ascertained. It becomes, then, a very important question whether we should, by the adoption of this bill, recognize or admit our liability for the debt of that republic.

I was induced, last session, in consequence of what was stated by honorable Senators here, to devote some little attention to this matter; and, although I am perfectly aware that if I were to go into a full discussion of the subject, I should not be able to throw any additional light upon it, yet the view which presents itself to me I desire to lay before the Senate; and I will endeavor to do it as concisely as is consistent with intelligibility.

In the first place, it is said, that in consequence of the absorption of this republic, in consequence of her becoming identified with the American Union, we became responsible for her debt. Sir, in my judgment, that argument is founded upon a misapprehension of the appropriate condition of a State. Her sovereignty is not obliterated; her capacity to provide for the fulfillment of obligations contracted by the sovereignty of that State is not destroyed, nor are the means taken away from her. Under these circumstances, according to my judgment, the principle does not apply. If this State had no independent sovereignty; if her separate and individual existence had been lost; if her capacity to contract, to raise revenue, or rather her power to raise revenue, or the means of raising revenue had been taken away, why, then, I admit that by its incorporation into another and a new republic, and the annihilation of the old, there is no question that the United States would become responsible for the debts of that State.

Well, sir, another ground upon which the suggestion that this Government is responsible for these debts grows out of the fact, or depends upon the fact, that Texas pledged her revenue, and, in doing so, pledged her revenue from imposts, to these creditors. It is said that as we have taken from her the thing pledged, as we have acquired the power of raising revenue by imposts, to the exclusion of the power of the State, that therefore, upon the principle that, having taken the thing pledged, we take it subject to the obligation of the pledge, we are bound to redeem it. Sir, in my judgment, this pledge bears no possible analogy to a legal pledge. In my judgment, it is utterly impossible to apply the doctrine relating to a legal pledge to a transaction of this kind. In the first place, there is nothing upon which a lien can act; there is no subject-matter upon which a lien can be considered as acting. It is nothing more than a nude contract.

Mr. President, I find myself too hoarse to speak. I hope the bill will be passed by until to-morrow.

Mr. JOHNSON, of Maryland. Certainly; let the bill be passed by.

The further consideration of the bill was then postponed until to-morrow.

REDUCTION OF POSTAGE.

On motion of Mr. NILES, the Senate resumed the consideration, as in Committee of the Whole, of the bill providing for a reduction of postage.

Mr. NILES. When this bill was up the other day I offered an amendment, the object of which was to apply a new principle in regard to the rule which governs the rates of postage where there are more than two rates charged. That amendment applied to the first section of the bill. It now becomes necessary to amend the fourth section in order to make it conform to the first; I move, therefore, to strike out, in lines six and seven, the following words: "And the like sum for any additional half ounce or fractional part thereof," and insert "all letters weighing more than half an ounce, and not exceeding one ounce, shall pay two rates, or forty-two cents; and all letters weighing more than two ounces shall pay an additional postage of four rates, or eighty-four cents, for each ounce of fractional part thereof."

The amendment was agreed to.

Mr. NILES. There is another verbal amendment which should be made, in order to avoid any misconception, which is to insert in the 18th line, after the word "aforesaid," the following: "In addition to the postage charged by such country."

And also, in the 22d line, add after "thereof" the words "in addition to the postage charged by foreign nations."

The amendments were agreed to.

Mr. CAMERON moved to strike out the word "one" in the 10th and 12th lines of the second section, and insert "two." My object (said Mr. C.) in offering this amendment is to preserve the responsibility of the letter-carriers. I consider them the most important officers in the whole post office establishment. Their business is to carry all letters within their particular district. They are paid for by those who receive the letters. Those who do not wish to incur the expense call at the post office themselves, or they have boxes where they are deposited; but the letters of men of business, bankers, and others, letters containing remittances, are usually delivered by the carriers to the individuals to whom they are addressed. The situation of a carrier, then, is a most responsible one, and they do not receive more than three or four hundred dollars a year beyond what they receive for the delivery of letters. If, then, you reduce their charge for the delivery of letters one-half, you make their receipts so low that responsible men will not accept the post, and the duty will be assigned to irresponsible individuals or to boys. Large sums are frequently intrusted to these carriers, and it is highly important that they should be trustworthy. Without dilating upon the point, I will merely say, that my object is to preserve in these situations responsible men.

Mr. NILES. The difference that will be made in the receipts of the carriers is but a small matter, and may be made up to them by an increase of salary, whereas the alteration which the Senator proposes interferes with the general policy of the bill. This second section is introducing a new principle into our system. There is no obligation on the part of the department to deliver letters out of the office, or facilitate the depositing of letters in the office in this country, although in some countries of Europe—in France, for example—it is a part of the service of the department to deliver letters at the places of their address, and to convey letters from numerous points in cities without additional charge, being remunerated by the increase of the number of letters conveyed through the mails. This second section will apply to not more than five or six post offices in the United States, being those situated in cities having a large population, and if the postmaster cannot get the service performed for the remuneration here provided, he must only increase the compensation of the carrier. As the law stands, the expense of advertising is more than the additional charge that is made upon advertised letters, the advertisements being required to be inserted in two newspapers at an expense of four cents, while two cents only are charged to the person receiving the letter. The object is to make postages as low as possible; if the service of the carrier cannot be performed for one cent, let more be paid to him by the department; but let not individuals be charged more than one cent. I want to guard against high charges in cities where the letters must be delivered by carriers.

Mr. CAMERON. Then why not let the persons receiving the letters be required to pay nothing at all? The whole system in regard to our Post Office Department goes upon the principle that the man who performs the least labor gets the most pay, and the man who performs the most labor gets the least pay. The carriers do the most work, and they get only $350 per year, while the lowest clerk in the post office gets $750. The postmaster pays the carrier no more than is directed to be paid him by law; and unless there be a special provision for an increase of their salaries, no increase will be made. These situations ought to be filled, as I have already said, by responsible persons. I wish to avoid the employment of youths in that capacity, and exposing them to temptation by having large sums of money committed to their charge. If there is to be anything charged for the delivery of letters, let it be a sufficient sum to remunerate the carriers, and to secure the services of competent and responsible men.

Mr. NILES. There is one other idea which I omitted to suggest. There is no diminution of compensation to the carriers. The gentleman does not seem to recollect that if the principle of this bill is carried out, it will probably duplicate the number of letters in one year, and in three or four years increase the number two or three hundred per cent. The carriers will receive the benefit of this increased correspondence, and will have but little more labor to perform; because, in passing upon their several rounds, they may as well deliver a large number as a small number of letters.

The question being taken upon the amendment, it was not agreed to.

Mr. CAMERON. I desire to amend a part of the proviso in the third section which reads thus: "*Provided*, that newspapers not weighing over one ounce and a half, and not sent more than fifty miles from the office of publication, shall be charged with one cent postage only." I wish to change the word fifty to thirty, and to provide that they shall go free of postage.

Mr. WESTCOTT. If the Senator will permit me I will move to amend his amendment by inserting, instead of "more than fifty miles from the office of publication," the words "out of the Congressional district."

Mr. CAMERON. The Senator can propose his amendment at another time.

Mr. WESTCOTT. I believe now is the proper time, before the original amendment is agreed to.

Mr. CAMERON. I would prefer that the gentleman should reserve his amendment until the vote be taken upon the one that I have proposed.

Mr. WESTCOTT. I do not know what the rule of order is; but if it will be in order to offer my amendment afterwards, I will await the action of the Senate upon this. Upon a former occasion I have submitted my reasons for this amendment. I prefer that the whole clause shall be stricken out. If my amendment be not adopted, I will still vote for the amendment of the Senator from Pennsylvania; and, if that be not adopted, I shall vote against the whole clause; for, as I have stated before, and repeat now, these papers, if the clause be adopted without amendment, are to circulate within a distance of fifty miles exclusively for the benefit of those portions of the Union that are thickly populated. It will be of no benefit to the new States. At a former session of Congress it was proposed to limit their free circulation to the counties in which the newspapers were published; and, as I said then, that was equally improper, because it would operate unequally upon the old and the new States. In the old States the great body of subscribers to a paper published in a county town reside within a short distance of the place of publication; but it is not so in the new States, where not more than two or three newspapers are published in the whole State, and where a large majority of their subscribers live at a distance of fifty or a hundred or a hundred and fifty miles from the place of publication. Now I would like to know why these papers are not entitled to the same immunity, why they are not to be as liberally treated as the little newspapers in the northern villages.

But the rule can be made equal by placing it upon federal principles, taking the Congressional district, not resorting for a boundary to the limits of a State or to its subdivisions into counties and towns, or the arbitrary geographical line of fifty miles off, which would put the Postmaster General to some little inconvenience, I should think, in ascertaining the distance. But, by placing it within the Congressional district there can be no sort of difficulty. And there is a peculiar propriety in assigning for the circulation of such papers the Congressional district within which the election of a member of Congress takes place, and for the circulation of political newspapers especially. I have no great objection to retaining the charge of half a cent, provided the limit of the Congressional district be adopted, inasmuch as it has been suggested that all matter conveyed through the mail ought to pay something; that it ought not to go entirely free, as proposed by the Senator from Pennsylvania. I am willing that it should pay enough to compensate the United States for carrying it, and within the Congressional district I think one cent is enough. The necessity for taking a paper is imposed upon every man in the district who wishes to perform his duty properly to his country and to the candidates for office; whereas, those who live out of the district may do as they please. I trust, then, that Senators, especially those living in newly-settled States—in States not so thickly settled as Pennsylvania and New York—will see the importance of making this law equal in its operation by the amendment which I propose.

Mr. HAMLIN. It seems to me that both the amendment submitted by the Senator from Pennsylvania, and the amendment to that amendment submitted by the Senator from Florida, are radically wrong; consequently, I shall vote against both the amendment and the amendment to the amendment. If the principle, however, of the original amendment is adopted, it establishes, to some extent, the principle which the Senator from Florida desires should prevail. For the reasons which have been stated, it may be proper that the circle within which these papers may be conveyed free of postage should be extended beyond the limits of any prescribed number of miles, and there would be greater justice perhaps in confining their circulation to the Congressional district than limiting it within a compass of thirty miles. But it seems to me, sir, that the whole, both the original amendment and the amendment to the amendment, are radically and entirely wrong. I suppose that a low rate of postage is a desideratum with all; that is to say, a rate as low as it can be made, and be at the same time sufficient to enable the department to sustain itself, without throwing itself permanently upon the treasury for its support. It is so at least with me. Well, then, we are attempting to effect that object, and to establish the lowest rates of postage which we may be enabled to do, and at the same time permit the department to sustain itself, without being permanently connected in any way with the treasury of the General Government. It certainly is worthy of consideration whether we should not be very careful, very guarded, lest we do anything to defeat the very object which we desire to accomplish; or, in other words, while we are seeking to establish a low rate of postage, it becomes necessary that all matter transmitted through the mails should be subjected to the payment of a certain sum—a sum which shall adequately remunerate the Government for the service which it shall perform.

I individually am opposed to the franking privilege in its whole extent. Believing that the Post Office Department is one that should rely upon its own revenue for its own support, it should clearly require every person, every department of the Government, or every individual who may receive any facilities or benefits from that department, to contribute to its support. I do not believe that any branch of the Government or any class of our citizens should reap the benefit which our mail system affords without contributing any payment for what those facilities may be worth; hence I hold that the whole franking privilege is entirely and radically wrong. The amendment which the Senator from Kentucky has proposed to offer goes far to effect that object, and, when he presents it, it shall receive my vote. Any proposition which tends to do away with the franking privilege shall receive my support, although I consider it very doubtful whether we shall be able to accomplish that object.

But, sir, I am opposed to this amendment for another reason. I have not heard from the Senator who offered the original amendment, nor did I hear from the Senator from Florida anything

that satisfied me why, within any prescribed limits, newspapers should be circulated postage free. Up to a certain line it is proposed that newspapers shall go free of postage, while beyond those limits they are to be charged with full postage. Now, what rule of right is there by which a citizen residing thirty miles from the office of publication shall receive his paper free of postage, and a citizen residing thirty miles and a half from the office should be compelled to pay full postage upon his paper? It seems to me, sir, that this objection is of itself sufficient, aside from other reasons which to my mind are sufficient, to prevent the adoption of the amendment. The amendment which the Senator from Pennsylvania has offered, so far as its application——

Mr. WESTCOTT, (interposing.) If the Senator will permit me, I agree with him entirely as to the effect of the original amendment; but, unless my amendment to it be adopted, the proper principle will not be established.

Mr. HAMLIN. It may be very true, as I have remarked, that the principle for which the Senator from Florida contends may be nearer right than the principle which the original amendment proposes. I think they are all wrong. I have a little experience in the matter, and as far as that experience goes, in my region of country, it has proved injurious to the local papers. I speak advisedly; I repeat only what I have been told by the publishers and editors of papers themselves, when I say that it really serves to limit and circumscribe their circulation, from the very fact that they go free within a certain number of miles, and beyond that not free. Their circulation beyond that limit, whatever it may be, whether it be the county, or a distance of thirty miles, or the Congressional district, beyond the free limit it serves to circumscribe the circulation of the papers, because those residing only a very short distance further than those who get their papers free, without any good reason that can be given, in my opinion, are compelled to pay postage, whilst individuals residing at a nearer point are not compelled to pay. Believing, as I do, that all matter that is transmitted through the mail should contribute to the support of the mail system, and believing that it will be much nearer right to make those residing within a certain number of miles, or any prescribed limit, contribute a portion to the support of the department, I shall vote against the amendment, and against the amendment to the amendment.

Mr. CAMERON. My object in making the motion, sir, is to benefit the country newspapers. I do not know whether my own judgment is right in regard to the proper mode to be pursued in order to accomplish that object, but I have proceeded according to the requests that I have received from persons residing in my own State, who are desirous that the class of papers to which I have alluded should be permitted to circulate for a limited distance free of postage. In my opinion, it is due to them that their requests should be complied with. We expend large sums of money for public schools, and, having done that, it is equally important that we should be furnished with facilities for receiving information upon political matters, as well as the current events of the day. I have no fears of disabling the post office to support itself, for it is to my mind a matter of very little consequence whether the post office supports itself or not, provided the benefit be given to the people.

It is my opinion, that before many years, the present post office system will cease to exist; that its duties will be performed by private enterprise. I believe that individuals will, after a while, perform the service cheaper and better. But, while the system does last, I am for diffusing its benefits as much as possible among the people. There should be a distinction made between papers that are published in cities and those published throughout the country. In the case of the city papers, they have greater facilities for obtaining intelligence, and are enabled to have their work done at a cheaper rate. With regard to fixing the limit at thirty miles, I think it is ample for the purpose intended, which is to facilitate the diffusion of information. I know that in some of the new States sometimes two or three hundred miles intervene between the places of newspaper publication, but we cannot provide for all cases.

Gentlemen talk about the abuse of the franking privilege. I am inclined to think that there is more said upon the subject than is really meant. Those who make so light of the cost of postage should be liberal enough to pay their own. I am willing to serve my constituents without compensation, but if I am obliged to pay postage on all letters I receive, it would require a very considerable sum to defray the expense. I received yesterday not less than one hundred letters. Do you expect me to pay that out of my eight dollars a day? I am convinced that my constituents do not. There is a great deal said about the franking privilege, but those who say the most about it often abuse it the most.

The privilege of circulating these papers free, as I have said before, has been asked for by intelligent men in my State. I think it is right to grant it; at all events it can do no harm to the public service or to the treasury.

Mr. NILES. I would call the attention of the Senator from Maine to the existing law on the subject of postage on newspapers. By the present law, newspapers not exceeding seventeen hundred square inches, which takes in all county newspapers, are required to pay one cent postage for any distance within thirty miles, and a cent and a half beyond that limit. When the weight of the paper does not exceed two ounces, it is carried at the uniform rate of one cent. Well, now, it will be seen, that within fifty miles I purpose to make a reduction of one-half the rate, and I think that is a pretty fair compromise between those who would have them entirely free and those who would adhere to the old law. My honorable friend from Maryland, I believe, is decidedly in favor of a discrimination.

If I had a doubt upon this subject it would be a reason with me for this discrimination. Although it is very difficult to fix upon a principle of strict right and justice that shall operate equally upon all, still there may be some propriety in making a discrimination; but, instead of giving a free circulation, I would bring the postage down to the lowest point—to the minimum charge—and reduce those classes of matter which are allowed to go free through the mails. This is not a new principle in the law; it was introduced, I think, in 1845. I was then decidedly opposed to it, and it has since been repealed. A distance of thirty miles will embrace a very large portion of the circulation of a country newspaper. The result will be, that you will lose that whole source of revenue entirely, and that source of revenue is important. It is important to the local postmasters, because gentlemen will recollect that this postage is for their benefit: they receive fifty per cent. upon that description of postage. All this we will take from them. Let us not suppose, then, that this operation will be unimportant. Take Boston, for instance, where the population is dense for thirty miles around, and railroads running in every direction. If they were permitted to send vast masses of those publications free of postage into the villages surrounding Boston, and not small villages either —some of them containing from thirty to forty thousand inhabitants—compelling the postmasters to overhaul them for nothing, it would be imposing no small burden upon them. It would never do at all. Besides, after reducing the rates of postage generally, as we propose to do in this bill, we can very ill afford to spare the amount accruing from this source. It amounts now to some seventy-five thousand dollars; if you relinquish it altogether, you may as well throw the department upon the treasury at once. There is one consideration which deserves attention as regards the postage on newspapers. Upon letters we have greatly reduced the postage, and we leave the privilege of carrying newspapers free to the enterprise of individuals. Not so in respect to letters; on them we claim a monopoly. I think, without going further into this matter, that the committee have gone quite far enough in the way of reduction.

Mr. ALLEN. I offered a resolution yesterday asking some information from the Postmaster General and the Secretary of the Navy. And I did so for the purpose of using that information in the way of argument upon the very point that is made in the debate to-day. I am in favor of the omission. I am in favor of extending to the local press and to the readers of the local press of the country this little boon, and I shall not be argued out of it by being told that there will be some slight deficiency in the income of the Post Office Department from that source if we pass this amendment.

I wish to show, sir, how easy it would be to supply the whole deficiency by putting an end to a single one of those contracts for carrying the mail between New York and Havre. I wish to show, sir, that we can circulate the local newspapers throughout this Union, free of charge to the publishers or readers, over an area of thirty miles, at less cost to the Government than we now pay for carrying the merchants' letters from the city of New York to the city of Havre. I will put the local circulation against the external circulation. I will put the question of communicating with our own constituents upon matters of the deepest moment to them, in contrast in this Senate against the other system of communication, which depends upon carrying the letters of a few merchants between New York and Havre. I wish to show, sir, that one single mail, carried now under these contracts with the ocean steamers between one American port and one European port, costs this Government more than it would to circulate all the local newspapers of this Union over an area of thirty miles or sixty miles from the places of their respective publication. That is what I wish to show; and, sir, I am not to be met successfully with this argument of economy and retrenchment in a body which passes acts giving four hundred thousand dollars a year for carrying a single mail between New York and Havre. I desire to receive this information from the departments; for I want to bring into competition the interior circulation against the exterior circulation. I wish to test the question in the Senate whether it is more important for us to communicate directly with the whole body of the people at the public expense, or to communicate as the agents of a few merchants in New York with the merchants of one of the cities upon the continent of Europe. I want my information officially from the departments, in order to have this thing fully measured. I put the interior circulation against the exterior circulation. That is my proposition. I put the communication of the Government with its own citizens in competition with the communication of the Government with subjects residing in foreign countries. Whilst these acts stand, whilst this policy is sanctioned, it behooves us not, sir, in this body, to talk about the little expense of giving a free circulation to newspapers for the benefit of the great bulk of the people and of the public press of this country. And I have a word to say—if the Senate will indulge me by the passing by of this bill until the answer comes in from the departments to the resolution which I addressed to them—I have a word to say upon the political view of this subject. I, of course, do not speak of party politics—nothing of the sort—but the political view which I shall undertake to present to the Senate for their consideration, if the opportunity is given me to receive from the department the information asked for in that resolution. I want to meet the argument of economy, sir, in regard to carrying the mail. When this project was up, I opposed it at its very inception, and I did so in all sincerity, because I knew that if these contracts were made we would not be able to bring down the postage in the interior.

I think it will appear, when we get the reports from the departments, that we are paying about one million and a half of dollars per annum for the transmission of the mails between two or three of the American ports and two or three of the European ports. Yes, sir, I think the amount will be between twelve or eighteen hundred thousand dollars per annum, while the diminution which comes from the interior post office establishment, as made by the proposition now under discussion, will be only a hundred or a hundred aad fifty, or at most two hundred thousand dollars. I desire, therefore, sir, that this bill shall be passed informally by until we receive an answer from the Post Office and Navy Departments to the resolution which the Senate passed yesterday. I move that the bill be informally passed by.

Mr. NILES. I shall certainly not press the further consideration of the bill at this time, if the Senator desires its postponement for the purpose of obtaining information which has relation to any of the main principles of the bill. But the Senator has had the benefit of his argument as it is. If he can make his argument stronger or more specific by obtaining the information which he says can be obtained, I certainly will not refuse the Senator an opportunity to procure it. The Senator has made a very triumphant argument. What is it?

He tells us that there is great abuse and extravagance in forming contracts for carrying the mail between this country and Europe, and that abuse is to excuse another abuse. The Senator might, with the same propriety, advocate a retrenchment in the expenditures of the navy proper, for it is very well known that these lines of mail steamers were never established merely as a part of our mail system. There was another consideration. They were established for defence. All these lines belong to the Navy Department. The Postmaster General has nothing to do with them. I see no possible connection between the establishment of these steamers and the matter contained in this bill, except so far as foreign postage is concerned, which is provided for in the bill. I know of nothing that can be obtained that will throw any additional light upon this subject, or aid us in the understanding of the provisions of this bill. I see no analogy between the cases to which the Senator has referred, so far as postage is concerned. Does the gentleman contend that these merchants get their letters free, as it is proposed that newspapers shall be carried? Not at all. They pay a very onerous postage. So far as postage is concerned, therefore, there is no privilege given to those who convey the mails abroad. There are other considerations that have led the Government to increase its disbursements, whether wisely or not, in the establishment of these lines.

The further consideration of the bill was then postponed until to-morrow.

On motion, it was ordered, that when the Senate adjourns, it adjourn to meet on Monday next.

MAILS TO FOREIGN COUNTRIES.

The VICE PRESIDENT laid before the Senate the following communication from the Post Office Department:

POST OFFICE DEPARTMENT, *January* 19, 1849.

SIR: In answer to the resolution of the Senate of the 18th instant, I have the honor to report that this department has in operation two contracts for carrying the mail in steam packets between the ports of the United States and the ports of foreign countries, viz:

One entered into the 4th November, 1847, with the Ocean Steam Navigation Company, at $200,000 per annum, for once a month's service in each direction between New York and Bremen Haven, in Germany, via Cowes or Southampton, England. This contract was originally made with Edward Mills, for twice a month's service at $400,000 per annum, with the privilege of running every other trip to Havre in France, instead of Bremen Haven, at $50,000 per annum less compensation, and by him transferred, with the consent of the department, to the present contractors. The monthly service has been only put in operation as above stated at $200,000 per annum. The information in possession of the department will not enable it to give a more specific statement of the annual amount of foreign postages by this line than is contained in my annual report to the President of the United States, which is $29,082 83.

The recent contract for mail conveyance to a foreign port or ports is that for service between Charleston and Savannah in the United States, and Havana in the island of Cuba. M. C. Mordecai is the contractor, at $50,000 per annum. The service commenced on the 18th October, 1848, under an acceptance for service between Charleston and Havana, at $45,000, made 21st August, 1847, on condition that it should be ratified by Congress. Congress ratified the acceptance, and allowed $5,000 additional for embracing Savannah in the route. No separate returns have been received to enable the department to show what amount of revenue has been received from this route exclusively.

I have the honor to be, respectfully, your obedient servant,

C. JOHNSON, *Postmaster General.*

Hon. G. M. DALLAS,
Vice President of the United States.

The communication was read and ordered to be printed.

The VICE PRESIDENT also presented a report from the Secretary of the Treasury, made in compliance with the resolution of the Senate of the 12th instant, calling for a designation of the depositaries under the act of August 4, 1846; which was read and ordered to be printed.

On motion of Mr. ATCHISON, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 19, 1849.

The Journal of yesterday was read and approved.

On motion of Mr. DIXON, (by leave,)

Resolved, That the Committee on Commerce be instructed to inquire what legislation is necessary to prevent the transportation of gold discovered within the territory of the United States in California to foreign countries, and to secure the coinage of the same at the mints of the United States, and that they report by bill or otherwise.

Mr. SMITH, of Illinois, (by leave,) presented resolutions of the Legislature of the State of Illinois, in relation to the improvement of the Des Moines rapids in the Mississippi river; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. CROWELL (by leave) presented the memorial of George Hurlbut, Charles Hickox, and others, merchants and ship-owners of Cleveland, Onio, praying an appropriation for a light-ship and buoys for the entrance of Niagara river.

Mr. CROWELL moved that the memorial be read; which motion was disagreed to.

On motion of Mr. CROWELL, the memorial was referred to the Committee on Commerce.

On motion of Mr. MURPHY, (by leave,)

Resolved, That it be referred to the Committee on the Library to inquire into the expediency of purchasing the diaries and other private papers of General Washington.

Mr. HILLIARD (by leave) presented a petition from citizens of Montgomery, Alabama, asking a reduction in the rates of postage; which was referred to the Committee on the Post Office and Post Roads.

RATES OF POSTAGE.

Mr. GOGGIN rose and said, he had risen to make another appeal to the House to take up the postage bill. He was aware that this was a day set apart for the consideration of private bills; but as so little progress had been, or was likely to be made, with that class of business, he did hope the House would proceed at once with the bill he had referred to, as one in which not only private individuals were interested, but one in which, he might safely say, the public—the people everywhere—felt perhaps a deeper interest than in any other subject which at this time was before this or the other branch of the Legislature. He daily received many letters in regard to this bill; and not an hour elapsed in the House without some inquiry when the bill would come up. He therefore hoped he should be excused for pressing a motion he should submit to go into Committee of the Whole on the state of the Union to take up this bill.

Mr. HILLIARD said, that in that connection he would ask leave to present a petition.

Mr. GOGGIN asked if he had not the floor for his motion?

The SPEAKER said he did not understand the gentleman to have made any motion.

Mr. GOGGIN said he had made the motion to go into committee on the postage bill.

The SPEAKER said unanimous consent would be required.

Objection was made.

Mr. HILLIARD said he only desired to present a petition, and he would then renew the motion of the gentleman from Virginia, [Mr. GOGGIN.] A more respectful petition, he said, had never been presented to a public body. It was a petition asking a reduction of the rates of postage. The subject was one of very great interest, and he entirely concurred in the wish which had been expressed by the gentleman from Virginia, that the bill providing for the reduction of the rates of postage should be taken up and disposed of at an early day. If ever public sentiment had been clearly and powerfully expressed in favor of any change, it had been expressed in favor of a change of the law regulating the rates of postage.

The SPEAKER interposed, and said that the gentleman could only proceed by unanimous consent.

Mr. HILLIARD moved that the petition be referred to the Committee on the Post Office and Post Roads. Ordered accordingly.

Mr. ROCKWELL, of Connecticut, called for the regular order of business.

The SPEAKER said the business first in order was the motion to reconsider the vote by which the bill for the relief of the heirs of Antonio Pacheco had been rejected.

Mr. GOGGIN referred to his motion.

The SPEAKER said objection had been made to it, and as no motion could be made to-day to suspend the rules, the objection of a member was equivalent to a rejection of the motion.

Mr. ROCKWELL again called for the orders of the day. It was, he suggested, entirely impracticable to adopt the motion of the gentleman from Virginia, [Mr. GOGGIN.] There were half a dozen other orders having precedence of the postage bill, and the gentleman's motion could only be made by general consent.

Mr. TAYLOR inquired, if it was in order to move to proceed to the consideration of business on the Speaker's table?

The SPEAKER explained what the course of business was.

Mr. GOGGIN said that he did not understand that any objection had been made to his motion.

Mr. ROCKWELL said that the post office bill was, he understood, a special order after the bill to establish a board for the settlement of private claims should have been disposed of. But the business having priority to-day was, he understood, the bill for the relief of the heirs of Antonio Pacheco. He hoped that the debate on that bill would soon close. Debate had already been closed on the other bill; and the bill of the gentleman from Virginia [Mr. GOGGIN] would be taken up in its regular order. He (Mr. R.) objected to taking up the bill out of the regular order.

So the motion of Mr. GOGGIN was not entertained.

COMPENSATION FOR A SLAVE.

The House then resumed the consideration of the motion to reconsider the vote by which the bill for the relief of the legal representatives of Antonio Pacheco had been rejected.

Mr. TOOMBS addressed the House in an argument almost exclusively legal, in which he maintained the right of the party to the compensation claimed. [A report of Mr. T.'s speech will be published in the Appendix.]

Mr. DUER asked leave to make a suggestion with reference to the point Mr. TOOMBS was then arguing, and permission being granted—

Mr. DUER said, that whatever difficulty he had at any time had in his own mind, had grown out of this contract of bailment or hiring. He agreed with the gentleman from Georgia so far as he had yet gone, on the point he was now discussing; and it was with reference to the question to which he was coming, as to the effect of the hiring, that he desired to make some suggestions.

Mr. D. said, he did not conceive the case to turn at all upon the question which had been so much discussed here as to property in slaves. He did not doubt that, in the general sense of the words, slavery was property. Slaves were property in persons. A slave was a person who was the property of another. To say, then, that slaves are not property, is to say they are not slaves. The proposition involves a contradiction. The idea of property enters into the very definition of a slave.

Now, what he (Mr. D.) held on this question was, that the Constitution of the United States had not extended, had not nationalized in any degree the institution of slavery, and that at the same time it had not in any respect weakened or impaired its local force. It had left it just as it found it—a local institution, valid in the States, but of no extra territorial force.

Mr. D. said that in this opinion of his there was nothing novel or peculiar. It was an opinion nearly universal in the northern States. And when gentlemen said slaves were not property, the position, he thought, must be taken with the qualification that they were not property otherwise or to any greater extent than the local law made them so; for (Mr. D. said) he did not think there was a gentleman in the House who denied that slaves were property within the slaveholding States.

But (Mr. D. said) he could not see how the doctrine to which he referred could have any bearing on this case; because here a slave was taken in a slaveholding State, where consequently the local law applied to and determined his condition. But the difficulty of the case grew out of this: that while by the local law a slave was property, he was a person too; and the question was, under these circumstances what law should apply? When Government took property for a public use it made compensation to the owner; but when the Government took a person for public use, no such compensation was made.

Mr. D. said that he took on this branch of the case the facts and the argument of the gentleman from South Carolina, [Mr. BURT,] who had reported the bill. He desired no escape from them. And for the sake of the argument, therefore, he would admit that General Jesup had, by authority of law and for the public good, taken this slave and sent him into the Indian country, thereby wholly de-

priving his owner of his use. And if this were so, Mr. D. thought it was correct to say, that he was technically taken for a public use; and that it made no difference whether the Government actually *used*, or whether it hung or banished him.

The question, then, was, whether a slave taken for a public use should be paid for? He would treat the interest which a master had in the labor of his slave precisely as he would treat an interest in the labor of a freeman. If an apprentice were taken from his master, impressed into the public service, and killed in battle; or if he were hung, imprisoned, or banished for crime, no compensation was made. So, by the laws of many States, parents are bound to support their children; children their indigent parents. Here is a legal interest in the labor of these persons; but claims for compensation in such cases had never been heard of.

So far, (Mr. D. said,) if he had rightly understood him, he did not differ with the gentleman from Georgia, [Mr. TOOMBS.] And now he came to the question, upon which he desired to make some suggestions——

Mr. TOOMBS here interposed, and said he had but little time remaining, and must resume the floor.

After Mr. T. had concluded—

Mr. DUER said he should much like to address the House on several of the questions involved, or supposed to be involved, in this case. But he believed it to be the general desire that the discussion should not longer continue, and if that were so, he would not interfere with that desire. He had, therefore, risen for the purpose of moving the previous question; but before he did so, as he had been interrupted in some suggestions he was making, he would ask the indulgence of the House for a few moments.

It was contended, that by the contract of hiring, the Government was bound to restore this negro to his master. Now, if he could think that such was the contract made by the Government, without any exception or reservation whatever, then he could not, on that branch of the case, deny the validity of the claim. But it seemed to him that there was this fallacy in the argument, that it supposed that the Government, by hiring this negro, surrendered the right which it possessed to take him for a public use—as to hang or banish him for crime. The argument, by the distinction it seeks to make, admits such right; and if such right existed, it would continue, notwithstanding the hiring, unless expressly relinquished. The case of an individual was not analogous, because an individual possessed no such right. But, to make the case of an individual analogous, let us suppose that an individual hiring a slave has a contingent interest in him which is to become absolute on the happening of some event, and that while the hiring continues such event happens: would the bailee thereby become divested of his interest and bound to restore the slave to the bailor as his (the bailor's) property? Clearly not, unless when he hired the slave he expressly relinquished his interest in him. So here, the Government, when it hired this slave, had the right, upon a certain event, to take him for their own use; and that right not having been surrendered, continued to exist.

Another technical answer might be given to this technical argument. The argument admits the general right to hang or bansh the negro, but insists upon the obligation to deliver him to his master. Suppose him, then, delivered, and the contract at an end: Government then have the right to take him—the contract no longer stands in the way. What, then, has Pacheco lost? Not his negro, but his momentary possession. It is a mere legal damage, and no actual loss whatever.

Mr. D. wished to be understood that in assuming that the act of General Jesup was authorized by law, and binding upon the Government, he did not mean to be understood as expressing his individual opinion; but he took in this respect the argument of the gentleman from South Carolina, without disputing it. And his single object had been, not to enter into any general argument, but simply to show that the fact of hiring was an immaterial one, which did not at all affect the merits of the case.

Mr. D. then moved the previous question.

Mr. MURPHY asked him to withdraw it.

Mr. DUER declined.

The question was then taken on the demand for the previous question, and there was a second.

Mr. HARALSON inquired if it would now be in order to move that there be a call of the House?

The SPEAKER said he thought not, after the previous question had been seconded?

Mr. HARALSON suggested that the demand had not as yet been seconded.

The SPEAKER explained, and stated that a call of the House would not now be in order.

The main question was then ordered to be taken; which main question was on the motion to reconsider.

After an inquiry from the Chair, by Mr. HILLIARD, as to the state of the question—

Mr. DICKEY asked the yeas and nays on the main question, which were ordered.

Mr. WENTWORTH moved that the bill be laid on the table.

The SPEAKER said the motion was not in order; the bill having been rejected, was not before the House.

Mr. WENTWORTH said he would, then, if in order, move that the motion to reconsider be laid upon the table.

The SPEAKER said that motion was in order.

And the question was taken, and decided in the negative.

So the motion to reconsider was not laid on the table.

The question then recurred and was taken on the motion to reconsider the vote by which the bill had been rejected, and was decided in the affirmative—yeas 98, nays 92—as follows:

YEAS—Messrs. Adams, Atkinson, Barringer, Barrow, Beale, Bedinger, Birdsall, Bocock, Botts, Bowlin, Boyd, Boyden, Brady, Bridges, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Buckner, Burt, Cabell, Chapman, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Cummins, Daniel, Donnell, Garnett Duncan, Dunn, Featherston, Flournoy, French, Fulton, Gaines, Goggin, Green, Willard P. Hall, Hammons, Haralson, Harris, Hill, Hilliard, Isaac E. Holmes, George S. Houston, John W. Houston, Inge, Charles J. Ingersoll, Andrew Johnson, George W. Jones, John W. Jones, Kaufman, Thomas Butler King, La Sère, Ligon, Lumpkin, Lynde, Maclay, McClernand, McDowell, McKay, McLane, Job Mann, Meade, Morehead, Morse, Murphy, Nicoll, Outlaw, Pendleton, Peyton, Phelps, Pilsbury, Preston, Richardson, Richey, Shepperd, Stanton, Stephens, Talmadge, Taylor, Thomas, Jacob Thompson, Richard W. Thompson, John B. Thompson, Robert A. Thompson, Tompkins, Toombs, Venable, Wick, Williams, and Woodward—98.

NAYS—Messrs. Abbott, Ashmun, Belcher, Bingham, Blackmar, Blanchard, Canby, Cathcart, Collamer, Collins, Conger, Cranston, Crowell, Darling, Dickey, Dickinson, Dixon, Eckert, Edwards, Embree, Nathan Evans, Faran, Farrelly, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Grinnell, Nathan K. Hall, James G. Hampton, Moses Hampton, Henley, Henry, Hubbard, Hudson, Hunt, Irvin, Jenkins, James H. Johnson, Kellogg, Kennon, Lahm, William T. Lawrence, Sidney Lawrence, Lincoln, Lord, McClelland, McIlvaine, Horace Mann, Marsh, Marvin, Miller, Morris, Mullin, Nelson, Nes, Newell, Palfrey, Peaslee, Peck, Petrie, Pettit, Pollock, Putnam, Reynolds, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Sawyer, Schenck, Sherrill, Smart, Caleb B. Smith, Truman Smith, Starkweather, Charles E. Stuart, Strohm, Thurston, Tuck, Turner, Vinton, Warren, Wentworth, White, Wilmot, and Wilson—92.

So the vote was reconsidered.

The bill was thus again before the House; and the question being "Shall this bill pass?"—

Mr. CABELL moved the previous question.

Mr. RUMSEY moved that there be a call of the House.

But the motion was rejected.

The demand for the previous question was then seconded.

And the main question was ordered to be taken.

Mr. DICKEY asked the yeas and nays thereon, which were ordered.

And the main question, "Shall this bill pass?" was then taken, and decided in the affirmative—yeas 101, nays 95—as follows:

YEAS—Messrs. Adams, Atkinson, Barringer, Barrow, Beale, Bedinger, Birdsall, Bocock, Botts, Bowlin, Boyd, Boyden, Brady, Bridges, Broadhead, William G. Brown, Charles Brown, Albert G. Brown, Buckner, Burt, Cabell, Chapman, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Cummins, Daniel, Donnell, Garnett Duncan, Dunn, Featherston, Flournoy, French, Fulton, Gaines, Goggin, Green, Willard P. Hall, Hammons, Haralson, Harris, Hill, Hilliard, Isaac E. Holmes, George S. Houston, John W. Houston, Inge, Charles J. Ingersoll, Andrew Johnson, George W. Jones, John W. Jones, Kaufman, Thomas Butler King, La Sère, Levin, Ligon, Lumpkin, Lynde, Maclay, McClernand, McDowell, McKay, McLane, Job Mann, Meade, Morehead, Morse, Murphy, Nicoll, Outlaw, Pendleton, Peyton, Phelps, Pilsbury, Preston, Rhett, Richardson, Richey, Shepperd, Stanton, Stephens, Talmadge, Taylor, Thomas, James Thompson, Jacob Thompson, Richard W. Thompson, John B. Thompson, Robert A. Thompson, Tompkins, Toombs, Venable, Wick, Williams, and Woodward—101.

NAYS—Messrs. Abbott, Ashmun, Belcher, Bingham, Blackmar, Blanchard, Canby, Cathcart, Collamer, Collins, Conger, Cranston, Crowell, Darling, Dickey, Dickinson, Dixon, Duer, Eckert, Edwards, Embree, Nathan Evans, Faran, Farrelly, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Gregory, Nathan K. Hall, James G. Hampton, Moses Hampton, Henley, Henry, Hubbard, Hudson, Hunt, Irvin, Jenkins, James H. Johnson, Kellogg, Kennon, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Lincoln, Lord, McClelland, McIlvaine, Horace Mann, Marsh, Marvin, Miller, Morris, Mullin, Nelson, Nes, Newell, Palfrey, Peaslee, Peck, Petrie, Pettit, Pollock, Putnam, Reynolds, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Sawyer, Schenck, Sherrill, Smart, Caleb B. Smith, Truman Smith, Starkweather, Charles E. Stuart, Strohm, Thurston, Tuck, Turner, Vinton, Warren, Wentworth, White, Wilmot, and Wilson—95.

So the bill was passed.

The joint resolution (H. R.) for the relief of Samuel T. Anderson was taken up, read three times, and passed.

STATE OF ALABAMA.

Mr. COBB, of Alabama, said he believed that there was no question now before the House. If not, he desired himself to bring a matter before it. He held in his hand a resolution which he desired to offer, which he was satisfied——

[Cries of "Read the resolution."]

Mr. COBB said the resolution provided that the Committee of the Whole on the state of the Union be discharged from the consideration of the bill authorizing the payment of interest upon the advances made by the State of Alabama for the use of the Government of the United States, in the suppression of Creek Indian hostilities, and that the bill be now taken up and disposed of.

Objection was made.

Mr. COBB asked the unanimous consent of the House to make a remark. Objected to.

COMPENSATION FOR A SLAVE.

Mr. CLINGMAN moved a reconsideration of the vote by which the bill for the relief of the legal representatives of Antonio Pacheco had been passed. And he moved to lay that motion on the table.

The SPEAKER said that it had heretofore been decided that when a vote had been once reconsidered, no other motion to reconsider could be made.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole on the state of the Union.

The motion was waived for the present, at the suggestion of

The SPEAKER, who laid before the House the following communications, viz:

I. A letter from the Postmaster General, transmitting, in compliance with the second section of the act of Congress changing the organization of the Post Office Department, approved July 2, 1836, specific estimates of the sums of money expected to be required for the service of that department during the fiscal year commencing July 1, 1849; which was referred to the Committee of Ways and Means, and ordered to be printed.

II. A letter from the Secretary of War, transmitting, in conformity to the acts of Congress of April 20th, 1818, and August 26th, 1842, and the resolution of the House of the 13th January, 1846, a list of the names of the clerks and other persons employed in all the branches of the War Department, other than officers of the army, during the year 1848; which was laid upon the table, and ordered to be printed.

Bills from the Senate were taken up, read twice, and referred, as follows, viz:

An act for the relief of Cadwalader Wallace: referred to the Committee on Public Lands.

An act for the relief of Bryan Callaghan.

BOARD TO SETTLE PRIVATE CLAIMS.

Mr. ROCKWELL, of Connecticut, renewed his motion;

Which having been agreed to, the House resolved itself into Committee of the Whole on the state of the Union, (Mr. BURT, of South Carolina, in the chair.)

Mr. ROCKWELL moved that the House proceed to the consideration of the special order, being (he said) the bill to provide for the settlement of claims against the United States.

Mr. COBB, of Georgia, rose to a point of order. He desired that the resolution of the House by which the bill had been made a special order might be read.

The CHAIRMAN. Will the gentleman state what his point of order is?

Mr. COBB said it was this: that the appropriation bills having been made the special order, and having the preference over all other special orders, it was not in the power of the Committee of the Whole on the state of the Union to pass them by and take up any other special business.

Mr. ROCKWELL said that, under the resolution by which the appropriation bills had been made the special order, Fridays and Saturdays had been expressly excepted. The resolution which had made the bill to provide for the establishment of a board to settle private claims the special order, did not except Fridays and Saturdays.

Mr. COBB was understood to say that he had never seen the rule, nor heard it read, although he had been informed that such a rule had been adopted giving preference to the appropriation bills over all special orders.

Mr. VINTON said that the rule which had been adopted at the commencement of the present session was a resolution offered by himself providing that no special order should have priority over the appropriation bills; the effect of which was, that it was in the power of the Committee of the Whole on the state of the Union to take up the appropriation bills instead of a special order.

Mr. COBB. Did not the House make the appropriation bills the special order of the day?

Mr. VINTON said, yes, Fridays and Saturdays excepted.

Mr. COBB said, the object he had in view was this: The committee had been urged on to the appropriation bills, even to the exclusion of debate, in order that those bills might be passed upon in this and the other branch of the Capitol. He trusted that the House would now go on with these bills, and not lay them aside to take up this or any other bill.

Mr. ROCKWELL said that the fact was as the gentleman from Ohio [Mr. VINTON] had stated, that in the resolution making the appropriation bills the special orders, Fridays and Saturdays were excepted.

Mr. COBB said he would not insist upon the point of order, but he would ask that a vote be taken on the motion of the gentleman from Connecticut, [Mr. ROCKWELL,] to take up the bill to provide for the settlement of claims against the United States. He (Mr. C.) hoped that the committee would proceed to the consideration of the public business of the country.

The CHAIRMAN said he presumed the gentleman was entitled to a vote on this point.

Mr. ROCKWELL asked for tellers on his motion, and Mr. ROCKWELL and Mr. POLLOCK were appointed.

The question was then taken, and decided in the affirmative—ayes 70, noes 47.

So the committee proceeded to the consideration of the bill to provide for the settlement of private claims against the Government of the United States.

Mr. ROCKWELL, of Connecticut, availed himself of the privilege allowed to the chairman of the committee reporting the bill, and addressed the committee in its support.

He said he was desirous of presenting some considerations to the committee in relation to the bill which had so long been before them. It was agreed on all hands, by every gentleman who had spoken, that the evils of the present system for the adjudication of claims against the Government were of a most serious character; that here was a tribunal of some two hundred and thirty judges to pass upon claims, many of them of a strictly legal or equitable character, and that they were decided by the majority of the judges without any examination of the testimony, without any knowledge in relation to the law or the precedents applicable to the particular cases; that one rule applied when claims were brought by the Government against an individual, and another applied when that individual came to ask justice from Congress; that when the Government had claims against an individual, summary process was often issued to enforce those claims, while, on the other hand, so far from summary justice being done when claims were brought by individuals against the Government, it was often the case, even when they had been favorably reported on by committee after committee, and passed by one House, that they remained here fifteen, twenty, or twenty-five years without receiving the final action of Congress. It was agreed on all hands that there could not possibly be a worse tribunal than that which now existed for the adjudication of claims of this character.

It was objected, however, that the bill now on their table was not one the best suited to remedy these evils. It might be so. All he asked of the House was, if the bill was not the one best suited for the purpose, that they would alter or amend it, or adopt a new system which might be deemed best as a substitute for the one which now existed. He must say, that the investigation which had been had in relation to this matter, and the discussion in relation to it, had satisfied him that its main principles were correct, and that it was the only bill which could now, or which perhaps ought to pass Congress in relation to this vexed question of private claims. It was not a new proposition. It had occupied the attention of Congress for a great many years; it had had shed upon it the lights of the experience and wisdom of many committees; it had been discussed in this House and in the Senate, and there had been brought to bear upon it perhaps as much of the learning and experience of Congress as had ever been conferred upon any question here.

With regard to the objections which had been made to the bill, he should advert to them, and then to some of the propositions which had been made as substitutes for it, in their order.

It had been objected by a number of gentlemen —by the gentleman from New York [Mr. MULLIN] and the gentleman from Illinois [Mr. FICKLIN]—that this bill was permanent in its character, or rather that the tribunal which it proposed to establish was permanent. For his own part, he very much regretted that it was not in the power of Congress to make a tribunal of this character more permanent than it could now be made. It was impracticable; Congress had not the constitutional power to make it permanent, for two reasons: First, Congress could at any moment repeal the law which might now be passed, when they thought the system was not working as well as was anticipated, and of course the board of commissioners would fall to the ground, and cease to act, and the claims would again be brought before Congress, as they were now, or a new system might be adopted for their adjudication. Again, it would be within the power of the President (and they could not deprive him of that power) to remove the commissioners from office. He should rejoice if it were possible for them to exercise the power of making these officers permanent during good behavior, or for a considerable number of years; but it was well known that they had no such power, and that an act of Congress, undertaking to limit the power of the President to remove these commissioners, would be perfectly nugatory. He need not refer gentlemen to what was well known to be the settled principle upon this subject, adopted at the very first session of Congress, to wit, that the President had the implied power of removing from office all officers appointed by him, unless there were some limitation of that power in the Constitution, as it was well known there was, in reference to particular officers. But in reference to this point he would state, that the bill provided that they should be appointed without limitation, and that that was the provision, *verbatim et literatim*, with regard to the appointment of the Comptrollers, Auditors, and the various officers at the head of the different bureaus in the Executive departments. It was also the same provision as had been made in every bill which had ever been brought before Congress for the establishment of a board of commissioners to settle private claims. It was an objection which struck him as clearly unfounded, because it was not possible for them to give permanency to this board.

With regard to the suggestion which had been made by gentlemen, of the propriety of a limitation of the time during which these individuals should hold their office, he had no objections to adopting them—none whatever—if the House saw fit; because, although the President would have the power to remove these officers, the fact that they were appointed for a limited time might be some check upon his exercise of that power.

There were some other points of objection: one related to a mere question of convenience; and it was contended that the petitions in relation to these claims should be presented directly to the board, and not in the first place to Congress. This suggestion had been made by a number of gentlemen, for whose opinions he had the highest respect—by the gentleman from Virginia, [Mr. MEADE,] by two gentlemen from New York, [Messrs. MULLIN and DUER,] and by the gentleman from Illinois, [Mr FICKLIN.] It was really a matter of very little importance, he apprehended, whether the petitions were presented directly to the board or first to Congress. The reason for the provision of the bill, that they should first be referred to Congress, was, that there would be some petitions brought to Congress after the passage of the bill, and it was deemed necessary to have some general provision which would place these petitions in the possession of the board, and that at once. It would not involve any trouble, or expense, or delay, to the claimant; all that he would have to do would be, either in or out of the session of Congress, to file his petition with the Clerk of the House or the Secretary of the Senate, and it would be immediately passed over to the board.

But not only would petitions be presented to Congress, if this bill were passed, which would require some provision of this sort, but there were many cases in which the papers were now on file, in one House or the other, and it would require some provision to take them out of the possesion of the Secretary of the Senate or the Clerk of the House, and refer them to this board of commissioners. For this reason, and because thereby there would be a double check in regard to the loss of papers, it was deemed desirable by the committee that they should first be presented to the Clerk of the House or the Secretary of the Senate, by whom minutes would be taken, and the papers then be referred to the board; and after the board had acted upon them, they would all be returned, and be in possession of one or the other House of Congress. He was satisfied, and the committee in considering that very question were satisfied, that this was the most advisable course.

It had been suggested by gentlemen that there should be a solicitor appointed for the especial purpose. If the House thought it best, he had no objections to its being done. But before making it the duty of the Solicitor of the Treasury to defend the rights of the Government in the cases of these claims, that officer had been applied to, and he had said he would be able to discharge this duty in addition to those duties which were at present devolved upon him. This being the case, he saw not why another officer should be appointed. If the House, however, saw fit to take the other course, he had no objections; it would not conflict with the principles of the bill.

Another objection was, that the claims rejected by the board should not come again before Congress. With regard to that, he did not see upon what principle a rule of that kind should be adopted. They did not make the decision of the commissioners final as against the Government, and it certainly would be grossly unjust, therefore, to make it final against the claimant.

Nor did he think the objection valid, that when adverse decisions were made by the board, those cases should not come before Congress. Congress would act upon them when the cases were fresh in their minds; and nineteen-twentieths of the adverse decisions would be concurred in by Congress. There should be an opportunity for revisal by Congress, but the result would undoubtedly be as was now the case with reference to adverse reports of the committees of this and of the other House. When bills were reported upon adversely by the committees, an inquiry was never made with reference to one-half of them, whether the committee had made a mistake, but the adverse reports were almost uniformly concurred in, and the subject was laid on the table.

It was objected, again, that the bill did not provide, in case where adverse reports had been made by the board, and those reports were concurred in by Congress, that the claims should not again go before the board. In these cases it was impossible to prevent petitions, in some instances, again being brought before Congress; but every one knew, when there had been a fair trial of the case before a tribunal properly constituted, and that tribunal had decided against the claimant upon the acknowledged principles of justice, that the claimant could not come to Congress at any subsequent time with hopes of success. And the proposition was, when claims of that kind came up, they should at once be referred to the commissioners, and that they needed not consider it unless there were grounds

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in law and equity why a new hearing should be granted.

Gentlemen well knew that one reason why the House was so overloaded with private claims which had been rejected, was, that they had been acted upon with an imperfect examination; and they were renewed from session to session, until you found repeated decisions against the same claim both by the committees and by Congress. If this evil were remedied, and if claims which were just were speedily acted upon by the board and by Congress, there would be no difficulty in bringing the subject within the compass of Congress, and of carefully adjudicating all these claims, and they would not determine and examine them as they did now—determine and examine them, he said, for, like the Prince of the Infernal Regions, of whom it was said, *Castigat, audit que*—they *punished* first, and *perhaps* heard afterward; though, for the greater part, unlike him, they gave no *hearing* at all.

With regard to the limitation of a time within which the claims should be presented, he thought there should be no rule adopted. There had heretofore been attempts made to establish such a limitation, but without success. The act of 1816 had been referred to, under which a commissioner had been appointed for the adjudication of a certain class of claims arising out of the last war with Great Britain. By its terms, the operation of that act had been limited to two years, and it was provided that only those who presented their claims within two years could have them allowed. The commissioner had been authorized to determine finally upon the claims thus presented, and the Secretary of the Treasury was directed to pay out of the treasury the amounts so awarded by him. President Madison, at the succeeding session of Congress, referring to some abuses which had occurred in the exercise of the power of the commissioner, had sent in a communication to Congress recommending a modification of the law; and the law was not repealed, (as had been said by gentlemen,) and it never had been repealed, but it had been modified at the succeeding session of Congress, so as to give to the commissioner final jurisdiction in cases not exceeding two hundred dollars; and to the commissioner, together with the Secretary of the Treasury, final jurisdiction in all other cases. So far from the law having been repealed, it had been continued from time to time by the successive acts of 1818, '24, and '37, and of the last session of Congress. So that it existed at this moment, and, until the 4th March next, the right on the part of these claimants would continue to go to the Third Auditor, who had been appointed expressly for that purpose and with an extra compensation for it, and have those claims adjudicated which had arisen during the war with Great Britain. Congress, therefore, had not found it practicable to make a limitation of this sort; and the act of 1816, with some modifications, had been continued from time to time until now.

But the limitation would be unjust. It would cut off the claims of individuals who had been knocking at the doors of Congress for the last twenty-five years, and whose claims had never been acted adversely upon at all. It would be saying, Because we have done you injustice for years, because we have not before acted upon your claim and satisfied your just demands, therefore we will forever cut you off from bringing it before us any more.

But from various quarters, from gentlemen of the highest respectability, had the suggestion been made that the proceedings of this board should be confined to those claims which were of a strictly legal or equitable character—the term *equitable* being used not to signify that which was abstractly just, but as describing that character of claims which would be sustained before a court of chancery. Now, he could see no reason why private claims of every character which now came before Congress, should not be considered by this board and reported by them to Congress. There might be very good reasons why the board should not pass them; but there was no reason, he apprehended, why the board should not act upon questions of this character which were now brought before Congress, and the committees be relieved from the severe labor which was now imposed upon them.

But further, there were many claims brought before Congress which were strictly, perfectly just, which, however, would not be sustained by the courts of law in actions between individuals. Those claims were constantly occurring. He mentioned some of these cases, such as the case of an officer who, in the honest discharge of his duties, by direction of his superior officer, did an act contrary to the law. Questions of this character had frequently arisen in reference to the slave trade, the embargo, the revenue laws; and Congress had almost always sustained claims arising out of such circumstances. The House had had before them a claim of this kind at the last session of Congress—that of a deputy postmaster who, under the directions of the Postmaster General from time to time given, had gone on to repair a post office, and it was subsequently found that it had been done without any legal authority. Here was a case which, according to the argument, could not go before the board; yet who could say that it was not strictly just? He had spoken of cases of this character which occurred under the revenue laws; they were so numerous that a provision had been made by law giving the Secretary of the Treasury the power to refund moneys which officers of the customs might have been obliged to pay in consequence of the honest and faithful discharge of their duties.

The gentleman from Ohio, [Mr. VINTON,] in his argument the other day that the orders given by the President for the collection of duties in Mexico were unconstitutional, had suggested that suits might be brought, by persons who had thus been obliged to pay duties, against the President or his subordinate officers who had collected them. Suppose such a suit was brought against a quartermaster or other officer who had thus collected a hundred or two hundred thousand dollars, and who had paid it over for the benefit of the Government, and that damages were recovered from him: here would be a case in which the officer would have no legal claim upon the Government, as the very act would have been declared illegal; yet who would say that he should not be indemnified by the Government? He referred to various other classes of claims, strictly just and morally binding upon the Government, and which Congress had repeatedly allowed, which were, nevertheless, not of a strictly legal character, mentioning especially the practice of the Government with regard to prizes awarded for captures in war; the law providing that when an enemy's vessel was captured by our citizens, they should be allowed a certain amount of prize-money; but the almost uniform practice having been of awarding prizes to those who, by their gallantry and bravery, had destroyed, burnt, or sunk the enemy's vessels. Here was no legal claim for prizes, yet they had almost invariably been allowed.

He had enumerated these cases to show, that if the principle which gentlemen advocated were adopted, that no claims should be referred to this tribunal which were not of a strictly legal or equitable character, a large class of claims would be cut off, which were as clearly just, and which the Government was morally bound to pay, as much as if they were of a strictly legal or equitable character, and such as would be sustained in a court of law or equity between individuals.

Again, it was said that unlimited power over the public treasury was given to this board. But did not gentlemen know that it was not in the power of this board to take one dollar out of the Treasury on account of any adjudication of claims made by them? Why, an objection, the very reverse of this had been urged by the gentleman from Pennsylvania [Mr. J. R. INGERSOLL] with great, though not, in his opinion, with conclusive force, that the board would not have final jurisdiction—that every claimant would have to come to Congress finally before he could receive his just dues from the treasury.

It appeared to him that gentlemen were not over fair in their opposition. For objections had been raised that the passage of this bill would bring a greater number of claimants to the capital; and that there were an insupportable number who were here already, who came here to reside, or had their agents residing at the capital, and who were a great annoyance on account of their pressing their claims continually upon the attention of members. These statements were made, as though, on this account, claimants ought not to be encouraged to come forward with their claims; as though they ought not to have a hearing upon their claims; as though they were not deserving of the privilege of having their claims rejected, and of being sent home upon an adverse decision. It was not for him to defend these claimants or their agents; but as far as his experience had extended as a member of the Committee of Claims, he could say, that so far from their besieging him, by insisting and pressing their business upon the attention of the committee in an improper manner, the contrary was true; and he had heard no such complaint on the part of the committee with which he was connected.

But there still remained a very serious question upon this subject—a question which had been suggested by several gentlemen, and which had been involved in several amendments to the bill, so that its fate seemed now to depend on it—the bill did not give any final jurisdiction to the board. It required of the board merely to take testimony, by examination and cross-examination of witnesses, and report their opinion upon the facts, in the shape of a bill or otherwise; and that their decisions, being thus ascertained, should be laid before the House for its action. It had been said by the gentleman whose seat was near him, that the bill should provide for a final adjudication of these cases; and the same thing had been insisted upon and was embraced in the amendments by the gentleman from Virginia [Mr. MEADE] and the gentleman from Indiana, [Mr. PETTIT.]

Now, with regard to this, it was plain, from the character of the bill itself, that it must have respect to a large mass of claims which are addressed to the mere discretion of Congress—to its sovereign power. When an individual applied to Congress for a claim not strictly legal in its character, and rested his appeal solely upon the sense of justice implanted in the bosom of every man, it was not in the power of Congress to turn over the case of such a person to any tribunal. It was out of the question to clothe any board of commissioners with the high discretion to be exercised in such a case; for it would be giving them unlimited control over the treasury, and hundreds of thousands and millions of dollars might thus be improperly drawn from it. His friend asked him whether there had not been cases in our legislation where the decision of a board of commissioners was made final by law? He replied affirmatively; but these decisions operated only upon cases very limited as to the amount involved, and very specific in their character; so that no mistake could possibly arise out of them. The case to which he referred was under the act of 1816; and within two years after it went into operation, it was found that even the discretion there delegated would have to be reduced, and it was reduced upon the suggestion of Mr. Madison. He repeated, that Congress could not impart an unlimited control of this matter; and desiring, as he did, that justice should obtain, he could not think that any board of commissioners in this country ought to have final jurisdiction in these cases. Yet there was a very urgent necessity that decisions in these cases might be facilitated. It was demanded in justice to individual citizens of the country; and upon an issue between the Government and the individual, he considered it far better that the Government should suffer than that the individual should be wronged.

Further, to show the unreasonableness of the idea of granting such a discretion to a board of commissioners, he took the instance of the French claimants, (whose claims he believed to be all just, and he considered it a most crying injustice that they had not been paid long ago,) and he felt that no

man could think that Congress could or would for a moment seriously consider a proposition to give to a board of three persons the power to make a final adjudication upon claims involving so vast an amount as five, ten, or fifteen millions of dollars. He took also the cases of the Texan, Mexican, and Californian claims—all involving large amounts—to show what an enormous discretion was to be exercised in passing upon them. He was aware that gentlemen had said that the exercise of this discretion should be limited in amount. But that did not vary the principle at all. He took the case of a claim amounting to one thousand or five thousand dollars, depending upon a certain principle, which might be decided upon by this board; and then supposed, that in the lapse of time a hundred men came forward, each with a thousand or a five thousand dollar claim, dependent upon the same principle upon which the first was decided. What he supposed was true. There were many cases of small amount, all belonging to the same class, and the principle which would decide one would decide them all. Was it not plain, therefore, that the case was not changed by a limitation as to the amount of the claim to be finally adjudicated?

Further, in opposition to this principle, he affirmed that it would be utterly impossible to carry through Congress any proposition to give to a board of commissioners the power of final adjudication upon claims of any amount; and in support of this assertion, he referred to the fact that such a proposition was embraced in a bill which was brought forward in the House by a former chairman of the Committee on Claims, [Mr. WORTLESEY,] and advocated with all his acknowledged talents and statesmanship; yet it could receive no countenance in the House. He referred also to a bill of similar character with that now before the committee, which, about ten years ago, was introduced in the Senate by one of the most distinguished lawyers of New England; he referred to Judge Prentice, of Vermont. Judge Prentice introduced a bill to provide for the settlement of claims against the Government, and being referred to the Judiciary Committee of the Senate, it was reported back in an amended form. A number of sections were added to the bill by the committee, and among them was one giving final jurisdiction to the board upon all claims for any amount less than —— dollars.

When the bill came up for consideration, upon a thorough discussion of its merits, the provision for final jurisdiction was stricken out; and when the bill came up on its final passage in the Senate, it was passed by thirty yeas to twelve nays. A copy of that bill was then before him; and he was gratified to observe that all its principal features happen to be ingrafted into the bill now before the committee, and which he had the honor to introduce at the last session. It was due to himself, however, to state, that he knew nothing of the existence of Judge Prentice's bill till his attention was directed to it at the present session. The history of these bills was sufficient to convince him of the impracticability of the principle of giving final jurisdiction to a board of this sort. When this principle had been so recently decided against and condemned upon full discussion in both Houses of Congress, it was perfectly idle to talk about its success.

But it had also been objected to this bill, that it did not afford the necessary relief; that it left the business just where it found it. He differed entirely with gentlemen taking this view. On the contrary, it was his decided impression and belief, that if a measure similar to that which he had proposed were adopted, the country might be entirely certain of getting some action upon every claim now before the country by the very first Congress that might assemble after the system should go into operation. With reference to the objection on account of the amount of labor the system would devolve upon the commissioners, he confessed the force of this; but still it was not so great but that it might be encountered. The business had been accumulating for years; but there were a few general principles the proper application of which, being once understood, large classes of cases would be readily determined by them. He referred to the several classes of claims coming under the different heads of Invalid Pensions, Revolutionary Pensions, and Patents. In a short time the board would become familiar with the proper application of these principles, and be able to decide readily whether almost any claim which might be submitted to their examination should be allowed or not. And he had no hesitation at all in saying that it would not be a difficult thing for the House to decide upon any case where the facts, the written arguments, and the opinion of the board, should be all laid before them. It would only be necessary for them to understand the relation of the facts reported to these governing principles. For the investigation of these facts, they might safely rely wholly upon the board. And then there would be the advantage of the assurance of obtaining a hearing on the part of the claimant, and the advantage of a cross-examination of witnesses on the part of the Government. Neither of these advantages could be said now to have any existence at all, for all claims were now either deferred from Congress to Congress, or considered and passed wholly upon *ex parte* testimony.

He proceeded to illustrate the facility with which the rule for a just classification of claims could be understood and applied in the House, and to show how it might reach any particular case in a general bill reported by the commissioners. These bills would partake of the nature of appropriation bills, but unlike other appropriation bills, might generally be got through upon a debate of not more than one or two days; and every claim would be thus decided upon with a far greater probability of justice than could obtain under the present system. Justice was the great matter, at last; and this, with a prompt hearing, would be amply secured under the operation of the system proposed.

Mr. JOSEPH R. INGERSOLL interrupted, to ask whether the opinion or recommendation of the board of commissioners, being strangers, should have more influence on the minds of members than an opinion or recommendation reported by a committee of the House upon any case submitted for investigation?

Mr. ROCKWELL replied, that he believed that the opinion of the commissioners should be entitled to the highest consideration, because of their superior advantages in the investigation. The committee had not the same opportunity for critical examination into facts; they had not the opportunity of hearing both sides. *Audi alteram partem* was the principle that should obtain in all these cases, and the commissioners would be best able to apply it. They would not only hear both sides, but they would have the opportunity of making a thorough cross-examination of witnesses. With reference to the objection about the reversal of these reports, that, he said, was not the main evil; for there were very few cases where the decision of the House had been wrong, after full debate.

Mr. THOMPSON, of Mississippi, interrupted here to inquire whether there was to be any limit fixed to the discretion of these commissioners, in their application of principles, whether of law, equity, or justice?

Mr. ROCKWELL would answer the gentleman when he had disposed of the former question. The evil complained of was, not that the decisions of the committee were reversed in the House, but it was the operation of the rule, by which claimants were put off from year to year by the will of a single member rising in his place and saying, "I object," "I object." Thus it was that many claims could not be reached for a long series of years.

With regard to the question of the gentleman from Mississippi, he said, if this board were to have final jurisdiction of the cases coming before them, precise rules for their direction would have to be defined. But when it was the duty of the board merely to ascertain and define the facts and bearings of the case, it would be useless to define rules for their direction, for they could not be observed. They could not proceed in many of the cases submitted, either upon the principles of law or chancery practice, from the very nature of the case; and it would be as impossible to restrict them in this respect as it would be to restrict a committee of this House.

Mr. THOMPSON repeated his question. From the terms of the bill it appeared that the commissioners must form an opinion upon every case, either favorable or unfavorable. Was there any limit to their discretion, whether they shall decide upon the principles of law, equity, or justice? and he desired also to know whether these principles were to be defined?

Mr. ROCKWELL continued. With regard to those claims which might be proper subjects of legal or equitable cognizance—with respect to these, the commissioner would, of course, be subject to definite rules; but with regard to those cases which have to be referred to the natural sense of justice, and where they were to report merely the facts, and an opinion thereon, he could not see how their proceedings could be regulated otherwise than under the discretion submitted in the bill.

With regard to what had been said about the liability of those commissioners to malfeasance and corruption, he would ask whether they could be considered as more liable to corruption than members upon this floor? Or should the House refuse to give such a tribunal to the country merely on the ground of their liability to corruption? Upon the same plea, the Government might refuse to allow of the adjudication of any claim against it. It was the same as to say, because there may be a wrong decision, there shall be no trial.

He repeated now what he had said on a former occasion, that ours was almost the only civilized country in which there was not a tribunal to adjudicate claims against the Government. Some such tribunal was to be found in all civilized communities; and the gentleman who asserted that Great Britain was an exception to this statement, was mistaken. Even Great Britain had a tribunal where suit might be brought against the Crown. He regarded it as the duty of every Government to furnish some such tribunal—as much so as it was to furnish tribunals for the adjustment of claims between individuals. The idea that the citizen should so humble himself before the Government as that he dare not assert his right, was monstrous, and wholly repugnant to justice, as it was to the spirit of republicanism. This principle stood at the very foundation of government, and its administration was observed by many of the ruder nations of the earth, and even by the Indian tribes of this country. He did not consider it either prudent or safe for any Government on the globe to deny this right to its citizens; and the time would come when the people would not endure it. If the present bill was not right in principle, it should be made right. Gentlemen could perceive that the time was approaching when something must be done; and it were better to adopt some measure of relief, though it might be an imperfect one, than to submit longer to the existing difficulty with reference to the settlement of claims against the Government. He did most earnestly hope that gentlemen would determine upon something, and that some measure might be adopted for the remedy of this crying evil, at the present session.

When Mr. R. had fulfilled the hour—

Mr. MURPHY moved that the committee rise.

Mr. HARALSON simultaneously made the same motion.

Mr. VINTON desired to inquire of the chairman whether, by the order of the House, debate had not been brought to an end on this bill with the speech just made by the chairman of the Committee on Claims who had reported the bill?

The CHAIRMAN answered affirmatively.

Mr. VINTON said, then, as there was nothing more to be done but to vote, he hoped the committee would go on and dispose of the bill.

Mr. MURPHY said, that with that understanding, he would withdraw his motion that the committee rise.

Mr. HARALSON renewed it.

And the question having been taken and decided in the affirmative, the committee rose and reported progress.

Mr. HAMPTON, of New Jersey, from the Committee on Enrolled Bills, reported correct certain bills, which received the signature of the Speaker.

DEFICIENCIES IN APPROPRIATIONS.

Mr. VINTON said the Committee of Ways and Means had instructed him to report back the bill making appropriations "to supply deficiencies in appropriations for the service of the fiscal year ending the thirtieth June, 1849," with their concurrence in the amendments made thereto by the Senate, with one small amendment.

It was important that the departments should be in possession of some of the means provided by this bill, and he asked leave, therefore, to report it at this time.

He would also ask the House to go into Committee of the Whole on the state of the Union, for the purpose of passing upon the amendments.

The bill having been reported, and read by its title—

Mr. VINTON supposed, he said, that it was necessary it should go to the Committee of the Whole on the state of the Union, in view of the amendments which had been made by the Senate.

The SPEAKER said, that the House by unanimous consent might act on the amendments without commitment.

And no objection having been made—

The amendments of the Senate were read, and, as amended in the unimportant particular designated by Mr. VINTON, were concurred in.

Whereupon, the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. DARLING: The petition of John Cummins, ordnance sergeant United States army at Fort Crawford, for the usual extra allowance which is made to commissioned officers for doing the duties of acting assistant commissary of subsistence.

By Mr. SAWYER: The petition of Collins Beaum and other shipping merchants and owners of vessels on the lakes, for a light-ship at the entrance of the Niagara river.

By Mr. PECK: The petition of George Howes and others, of Montpelier, Vermont, for cheap postage.

By Mr. PEASLEE: The petition of Benjamin Wadleigh, and many other citizens of Sutton, in the State of New Hampshire, asking for reduced and uniform rates of postage, and the abolition of the franking privilege.

By Mr. WENTWORTH: The petition of citizens of Illinois for the passage of a law prohibiting the traffic in public lands, and for the laying them out in farms for the use of actual settlers.

By Mr. STUART, of Michigan: The petition of Edward Evans, of Michigan, a soldier of the Revolution, for a pension.

By Mr. MANN, of Massachusetts: The petition of John Burbank and one hundred and seventy-two others, of Massachusetts, in behalf of cheap postage.

By Mr. PETTIT: The petition of Mrs. Hannah Albertson and sixty-four other ladies of America, for the release from slavery of all of their sex in the United States. Also, the petition of Hon. J. Naylor, and others, of Montgomery county, Indiana, for the reduction of postage.

By Mr. SMART: The remonstrance of Hon. William G. Crosby, and two hundred and thirty-six others, against the dismemberment of the Belfast collection district, for the purpose of forming a new district, with principal port at East Thomaston, Maine.

By Mr. CATHCART: The petition of John Rush, J. L. Jernegan, and ninety-six other citizens of Indiana, praying that "proper and efficient laws may be enacted to *prohibit forever* the existence of slavery in the Territories of the United States." Also, one of a like character, signed by Guy Johnson, Erastus Beach, and seventy other citizens of Indiana.

By Mr. PALFREY: The petition of Esther M. Fairbank and 74 others, of North Ashburnham, Massachusetts; also, of Marcy Bryant and 40 others, of West Stockbridge, Massachusetts; also, of Alma Lyman and 52 others, of Middletown, Connecticut, severally praying Congress to prevent the extension of slavery, to withdraw protection from the American slave trade, and to suppress slavery wherever Congress has competent jurisdiction. Also, the memorial of Benjamin Thompson, jr., and D. F. Davidson, of Boston, Massachusetts, praying restitution of tonnage duties illegally collected at the port of Laguna, in Mexico.

By Mr. TALLMADGE: The memorial of 138 citizens of New York, for a reduction of postage. Also, the memorial of Francis A. Carpenter and others, citizens of Lancaster county, Pennsylvania, asking the adoption of the plan proposed by Charles Wilkes, Esq., for the formation of a railroad from the Missouri to the Pacific.

By Mr. GRINNELL: The petition of Gorham Lovell and many others, citizens of Barnstable, Massachusetts, asking for a reduction of postage and the abolition of the franking privilege. Also, the petition of Atkins Dyer, for return of foreign tonnage money paid by him.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 20, 1849.

The Journal of yesterday was read and approved.

Mr. STARKWEATHER gave notice of a motion for leave to introduce a bill for the relief of Robert B. White.

Mr. NICOLL gave notice of a motion for leave to introduce a joint resolution to authorize a distribution of books and documents to the Free Academy of the city of New York.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole on the state of the Union, to resume the consideration of the bill to establish a board for the settlement of private claims. He waived the motion, however, for a moment, at the request of—

Mr. DANIEL, on whose motion it was

Ordered, That leave be granted for the withdrawal of the patent of W. W. Gray from the papers heretofore referred to the Committee on Patents.

EXTRA PAY TO VOLUNTEERS.

Mr. ROBINSON, asked the unanimous consent of the House to introduce a bill, to which he trusted there would be no objection; which, he said, was rendered necessary by the construction which had been placed by the War Department upon the act of 19th July last, which provided for extra pay to the volunteers of the Mexican war, who had served during the term for which they enlisted, and received an honorable discharge. It was well known that in the first place, the volunteers had enlisted for twelve months only, and had received an honorable discharge; that at the end of that time many had reënlisted to serve during the war, and at its expiration had again been honorably discharged. The War Department, however, had decided that those who had served during the two campaigns should receive their extra pay for but one——

Mr. ROCKWELL interposed, and insisted on his motion; which being agreed to by ayes 88, noes 28—

BOARD TO SETTLE PRIVATE CLAIMS.

The House resolved itself into Committee of the Whole on the State of the Union, (Mr. BURT, of South Carolina, in the chair,) and resumed the consideration of the bill to establish a board for the settlement of private claims.

The hour allotted to debate having expired, the committee proceeded to vote.

The first section of the bill provides as follows:

That a board for the settlement of claims against the United States be, and the same is hereby, constituted and established, to consist of three commissioners, to be appointed by the President by and with the advice and consent of the Senate. The said commissioners shall severally take an oath before a judge of the circuit court of the United States for the District of Columbia, faithfully and impartially to execute the duties of his office to the best of his judgment and ability; and each commissioner shall receive a compensation of $3,500 per annum; to be paid quarterly from the treasury of the United States.

Mr. HAMPTON, of Pennsylvania, moved to amend the first section so as to provide that the act should take effect "from and after the 4th July, 1849." Agreed to.

Mr. CUMMINS had moved to amend this section, by adding at the end thereof the following:

And that the term of office of said commissioners shall be four years, unless for sufficient cause they, or either of them, shall be sooner removed from said office by the President of the United States.

The question pending was on the amendment. It was waived, however, for the present; and

Mr. PUTNAM offered an amendment, to add at the end of the section the following, which was rejected:

And the commissioners may appoint a clerk for the said board, who shall be subject to removal at their pleasure, and shall take the like oath aforesaid as such clerk, and be entitled to a salary of —— dollars per annum.

Mr. VAN DYKE moved an amendment, to reduce the salary of the commissioners from $3,500 to $2,500. Rejected.

Mr. KAUFMAN moved to amend by striking out the word "settlement" and inserting "examination."

As the section now stood, (he said,) it conveyed the idea that the decision of the board was to be final, whereas it was only a recommendation to Congress. He wished this part of the section to conform to the general provisions of the bill.

The amendment was agreed to.

Mr. KAUFMAN moved to reduce the compensation of the commissioners to $3,000. Rejected—ayes 54, noes 63.

The question then recurred on the amendment of Mr. CUMMINS.

Mr. CUMMINS, in explanation, said that his amendment proposed two things: the first was, to limit the tenure of the office to four years; the next was, to throw some control over the officers whilst their office continued. In case of misconduct, or incompetency, or other cause, the incumbent could then be removed from office. This control, he thought, the Government ought to hold over every office. As the bill now stood, the office was a life office. No means were provided for impeachment or removal. This was not congenial with the principles upon which the Government was administered. The office should be limited to some reasonable term. He supposed four years to be such a term. If, after they had served four years, the officers should be found competent, they could be reappointed. He thought that in the two particulars he has designated, the bill was clearly deficient.

Mr. C., at the request of Mr. ROCKWELL, of Connecticut, yielded the floor.

Mr. ROCKWELL suggested that he supposed no action of this House could control the constitutional right of the President of the United States to remove these officers. He wished that it could be so. But he supposed that the right of the President, in this respect, had been established, from the origin of the Government to the present time. In the first Congress it was a subject of debate whether the President had, or had not, the implied power to remove officers.

The hammer fell, (Mr. CUMMINS's time having expired.)

Mr. ROCKWELL (*pro forma*) moved to amend the amendment by striking out "four years," and inserting "ten."

He was about, he said, to remark, that he supposed it to have been settled, ever since the first Congress after the adoption of the Constitution of the United States, that the power of the President to remove was a power incident to the power of appointment, except in those cases which were expressly provided for in the Constitution. From that time to the present, the power had been constantly exercised with reference to officers for a specific term, as well as to those appointments which were made without any limitation whatever. The provision in the bill was precisely the same which existed in relation to the heads of departments, the Comptroller, Auditors, &c. There was no limitation whatever. The power of removal was incident to the power of appointment. Congress could not control it; therefore, such a provision was not necessary.

Mr. MULLIN moved to amend the amendment by striking out all after the word "years."

Mr. M. said, that if the President had the powers claimed by the gentleman from Connecticut, [Mr. ROCKWELL,] this clause would be entirely unnecessary. It seemed to him that it was clearly so, or if not unnecessary, that it was improper.

The question was then taken, and the amendment of Mr. MULLIN was agreed to.

The question then recurring on the amendment of Mr. CUMMINS—

Mr. PECK offered the following substitute:

At the end of line 14, insert—

And that of the commissioners first appointed under this act, one shall hold his office for two years, one for four years, and one for six years; and they shall, at their first meeting for the purpose of organization, determine by lot their respective terms of service. Commissioners appointed thereafter shall hold their office for six years, unless when appointed to fill a vacancy happening otherwise than by the expiration of the term of service of their predecessors, in which case they shall hold their office for the residue of such predecessors' unexpired term.

Mr. CUMMINS inquired if it was not in order to perfect the amendment, before taking the vote on the substitute?

The Chair having so decided—

Mr. CUMMINS moved to amend, by striking out from the amendment the word "four," and inserting "three."

Mr. C., in explanation, said that his object was to reply to the remarks of the gentleman from Connecticut, [Mr. ROCKWELL.] That gentleman maintained, that in all cases where officers are nominated by the President and confirmed by the Senate, and in which no definite period or term of years is fixed by the Constitution or law creating the office, in such cases the officer thus appointed holds his office at the will of the President, and may by him be removed, with or without cause. He further maintained, that this point was made and decided at an early period in the history of this Government. He (Mr. C.) did not at this time propose to discuss the theory of the tenure of offices of appointees by the President, nor the power of the President to remove at will in such cases. It was his purpose rather to present the question in a practical than a theoretical point of view. In cases where the office was purely political, or closely connected with political opinions and movements, as in the heads of departments, where the appointees formed the President's privy counselors and constitutional advisers, there he granted that removals would be made with every change of administration. But in cases where the offices were not political, but of a business character, and where the incumbent had sagacity enough to conceal his political opinions, and *to be*

all things to all men, and nothing long, notwithstanding he might be incompetent to discharge the duties of the office, either from want of capacity, want of industry, or want of integrity, yet he would have his friends and adherents to stand by him, and it would be found difficult to have him removed without raising the cry of proscription for opinion's sake. Limit the tenure of the office to a fixed period, and when it expired, if there be well-founded objections to his reappointment, it would be much easier and a more agreeable duty for the President to select from the citizens of the nation a better and more competent man, than it would be to remove one man to make a place for another. Experience had proved the truth of this position. There were men now in office who had been there for many years, who, when they were appointed, were worthy and competent, but who, by the lapse of time, had become incapacitated for the duties of the places they fill, and by reason of whose incompetency the public interests suffered. If the tenure of these offices had a legal terminus, these incompetent men would not be reappointed, but better men would take their places. He was opposed to creating life offices, or offices without legal limit. He desired to keep the control of public officers in the hands of the people or their representatives; and he would vote for no bill that created a perpetuity.

Mr. CUMMINS withdrew his amendment.

The question then recurred on the amendment of Mr. PECK.

Mr. PECK briefly explained and sustained his amendment.

And the question having been taken thereon, the amendment was agreed to.

The question then recurred on the original amendment of Mr. CUMMINS, as thus amended.

And the question having been taken thereon, the amendment as amended was agreed to.

Mr. DUER now proposed to amend the first section by an amendment embracing a part of the amendment he had heretofore offered as a substitute for the bill, and which had been printed. But he waived his motion for the present.

Mr. JOHNSON, of Tennessee, moved to amend the first section as follows:

That if any member of Congress shall appear, or offer to appear as counsel or attorney, or otherwise aid any claimant in establishing any claim or claims against the United States before said board of commissioners, the seat of such member shall be *vacated*, and the member rendered ineligible the remainder of the term for which he was elected.

Mr. JOHNSON (in explanation) said that the amendment offered by the gentleman from New York [Mr. DUER] (and which the gentleman intended to offer as a whole) was designed to secure the interests of the United States. He (Mr. J.) had offered this amendment with a view to carry out that idea.

He had somewhere read, upon high authority he thought, that we should not be led into temptation. One thing was manifest to all: if this board was established, members of Congress would be employed to appear before it, to prosecute the claims of parties. As the matter now stood, with the Committee on Claims to act upon these cases, an individual would scarcely be bold enough to approach a member of Congress and offer a fee for the successful prosecution of the claim; but if this business was transferred to a board of commissioners, members of Congress could appear as agents or attorneys, could go before the board, and the individual say, I will give, not a bribe, but a certain amount of compensation. He thought members of Congress should be kept out of this business; if they were not, they would monopolize all the business of this new court. It was opening the door to corruption—it was offering an opportunity to members of Congress to receive bribes in the shape of fees. He would apply the same rule to members that was applied to lawyers practising in the courts of the States. As an evidence of the propriety of some such rule, he adverted to notices which, he said, even members of Congress had put in the newspapers, proposing to prosecute claims against the Government of the United States. If this court was established, it was, as he had said, merely transferring the business of the Committee on Claims to the board of commissioners; and gentlemen knew that these considerations must exercise an influence over the minds of members when the cases were brought up here.

Mr. VINTON moved to amend the amendment as follows:

And all contracts with any person for a share of the claim for his services in prosecuting the same shall be absolutely null and void.

Mr. VINTON, in explanation, said that he did not know but that there might possibly be some such evil to be apprehended as the gentleman from Tennessee [Mr. JOHNSON] seemed to anticipate. But he (Mr. V.) had long suspected that there was a much greater evil existing in regard to the cases of claimants that were brought before this House. Gentlemen had all heard the rumors that were abroad, that the agents who surrounded this House in the prosecution of claims were carrying on what was called *champerty;* that was to say, that they were prosecuting these claims for a share of the proceeds, and that share often the lion's share (as it was called.) If a board was to be established, and that board was to be surrounded by agents, he would adopt the rule which was made applicable by the common law of the States and by the statutes of almost all of them, in respect to the attorneys who might prosecute these claims. He had drawn up his amendment hastily, but with a view to test the sense of the committee. If the committee should think that a proviso of this kind ought to go into the bill, they could give it such shape and form as they thought proper.

Mr. JOHNSON said he would accept the amendment as a modification of his amendment.

Mr. VINTON withdrew his amendment, expressing his intention to offer it again hereafter.

Mr. JOHNSON renewed the amendment which was offered and just withdrawn by Mr. VINTON.

Mr. HALL, of Missouri, moved to amend the amendment of Mr. JOHNSON, by striking out all that part which provided that members of Congress should be rendered ineligible for the remainder of the term for which they were elected.

Mr. HALL was of opinion, he said, that Congress had no right to prescribe such disqualifications as these upon members of Congress.

The question was taken, and the amendment of Mr. HALL was *rejected.*

The question then recurring on the amendment of Mr. JOHNSON—

Mr. ASHMUN moved to amend the amendment, by striking out all that part which preceded the provision in relation to contracts. He said he did it on the ground that the two branches of Congress could not declare the seat of a member of this House vacant, nor declare a man ineligible to a seat here. The Constitution gave to each House the power to judge of the elections, returns, and qualifications of its own members.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. WOODWARD moved an amendment, to add at the end of the section the following:

That it shall not be lawful for any member of Congress, or other officer of any department of the Government, to be retained or employed as agent, attorney, or solicitor in the prosecution of any claim against the United States. And if any such member of Congress or other officer of the Government shall be retained, or presume to act, as such agent, attorney, or solicitor, or hold council with any member of the board of commissioners herein established, with a view to influence the action or judgment of the board upon any claim before it, the party so offending shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not exceeding $2,000.

He said he offered this amendment to strike at the root of the evil. The evil was, not that the claimant paid an attorney or solicitor, but that he employed an attorney or solicitor out of this House or the other, or out of any of the branches of the executive department. If the Government was corrupted by allowing a claimant to purchase such services, it would do very little good to give him a chance of escaping payment; if he bargained to pay he ought to pay, although the service were procured corruptly. He would not screen the claimant from this burden, but he would prohibit and prevent the immoral and corrupt practice.

Mr. BOWLIN moved to amend the amendment by adding at the end thereof the following:

And in default of payment of said fine, he shall be imprisoned in the jail of the District of Columbia for a term of not less than ninety days, nor more than twelve months.

Some irregular conversation took place, in the course of which Mr. THOMPSON, of Pennsylvania, expressed his dissent from the provisions of both the amendment and the amendment to the amendment, on the ground that they were an impeachment of the honor and integrity of members of Congress; and Mr. ASHMUN suggested to the gentleman from Missouri [Mr. BOWLIN] so to modify his amendment as to provide that if, at the expiration of the term of imprisonment, the fine should not be paid, the member of Congress or other officer be sold at public auction to the highest bidder for the payment thereof.

The amendment of Mr. BOWLIN to the amendment was rejected.

Mr. HOUSTON, of Delaware, moved to amend the amendment by striking out the words "any member of Congress or," and said he did not perceive the propriety of the amendment offered by the honorable member from South Carolina, so far, at least, as it applied to members of Congress. What occasion was there for it? The board of commissioners to be established under this bill, in case it should be adopted and become a law, are to preside as judicial officers in the investigation and adjudication of claims against the Government, and all the proceedings before it are to be transacted in public. What reason, then, could there be for the restriction sought to be imposed by this amendment upon members of Congress? and why should they be excluded from appearing before it for the prosecution of claims as legal counsellors of the claimants? For his part, he could not see the justice or necessity of their exclusion, although it seemed to be a very general opinion through the House that some restriction of this nature would be proper. If it was to be supposed, as seemed to be assumed in the amendment, that members may be corrupted by their contact with these claimants, the remedy was not to be found in this amendment; and he thought it would be better to change the penalty proposed by it, by providing, that if any member should appear before the board for the prosecution of any claim, he should thereby forfeit his right to vote on any appropriation to satisfy the claim, in the event that it should be allowed by the commissioners. Indeed, he thought it would be better, if gentlemen were fearful that members may be corrupted by their connection with claimants against the Government, to provide, by a standing rule of the House, that no member should be allowed to vote as such in favor of a claim of any constituent of his district, or in favor of any claim which he had been engaged, either here or elsewhere, in urging through Congress. If there was any danger of corruption in the case, gentlemen, he thought, would discover, on reflection, that it did not exist in the open proceedings of a judicial board of public officers, but rather in those secret transactions which were not contemplated in the amendment. With these views, he should vote against the amendment of the gentleman from South Carolina. He withdrew his amendment.

Mr. HILLIARD renewed the amendment, and expressed the opinion, that if the adjudication of the board was to be final, there could be no objection to members of Congress prosecuting claims before it. In many instances it might be a matter of great convenience to their constituents to be allowed to intrust the prosecution of their claims to them in preference to other counsel, with whom they might not be acquainted. He hoped the bill would be so amended as to make the adjudication of the board final; if so, there could be no necessity for the prohibition. But, as the bill now stood, the proposed prohibition upon members of Congress was just, as otherwise they would afterwards be called to act as judges upon claims which they had previously prosecuted as advocates before the board.

He withdrew the amendment.

Mr. THOMPSON, of Mississippi, moved to amend the amendment, by striking out the words "presume to." He said a member might be presumed to act as counsel when he laid papers before the board.

The amendment to the amendment was agreed to.

Mr. COBB, of Georgia, moved that the committee rise. Rejected.

Mr. HILLIARD moved to amend the amendment, by striking out that part which provided for the punishment of members of Congress, and inserting in lieu thereof a provision that they should be deprived of the right of voting upon said claims when they came before Congress.

He remarked that he considered it in very bad taste to enact severe penalties against members of Congress. Simply to deprive them of the right

of acting as judge upon cases in which they had appeared as advocates, would meet the whole case.

Mr. STRONG inquired what authority Congress had by law to say that members of either House had not the right to vote upon certain questions which might come before them?

Mr. HILLIARD replied that he perceived the difficulty, and that the true mode of reaching the case would be to add such a provision to the rules of the House as he proposed.

He therefore withdrew the amendment.

Mr. JOHNSON, of Tennessee, (upon a *pro forma* amendment,) was understood (referring to that portion of his amendment which had been stricken out on motion of Mr. ASHMUN) to argue that it was competent for Congress by law to prescribe certain qualifications for members of Congress, and that it would still remain for the House to judge and determine the question of qualification, as they were now the constituted judges, under the prescribed qualifications, (as to age, &c.,) in the Constitution.

Mr. POLLOCK moved to amend the amendment so as to extend the prohibition proposed to practise in the Supreme Court of the United States in any suit wherein the United States is a party.

He contended that if the restriction was proper in reference to the board of commissioners, it was equally so in reference to the Supreme Court. But he was opposed to the entire proposition, and was disposed to refer all questions of this kind to the honor and integrity of members of Congress. He considered the proposition a wholesale reflection upon them.

Mr. RHETT was understood to inquire of the gentleman if members of Congress should be allowed to appear as lawyers for the prosecution of claims before this board, and afterwards come into their respective Houses to vote as judges upon the same claims?

Mr. POLLOCK replied, if there was not integrity enough in gentlemen in this House or in the other to act as honest men, he would leave to their constituents to settle the matter with them.

He withdrew the amendment to the amendment.

Mr. ROCKWELL moved to amend the amendment by striking out that portion which relates to holding counsel with any member of the board with a view to influence him.

As to the first part of the amendment, he said he did not think that any member of Congress would think of practising as a lawyer before the board. To that part of the amendment, however, he should not object. As to the other part, it implied that such an occurrence might take place; and he did not think it possible, with reference either to the board or the member.

The amendment of Mr. ROCKWELL was rejected.

And the amendment of Mr. WOODWARD was agreed to—ayes 101, noes not heard.

Mr. BRIDGES offered the following amendment, which was rejected:

Section 1st, in the 7th line, after the word "Senate," add: "one of whom shall be styled president of the board, and the other two associate commissioners."

The second section of the bill being under consideration, in the words following:

SEC. 2. *And be it further enacted*, That claims against the United States shall, as heretofore, be presented to, and settled by, the proper accounting officers; and if, upon any such settlement, the claimant shall be dissatisfied, he may appeal to the board of commissioners herein constituted, and the proper officer shall lay before the board all papers and facts on which he acted, with his decision in the case. And in all cases where the subject-matter of the claim is by law cognizable by any of the officers of the Treasury Department, or other officers of the United States, it shall be the duty of the claimant first to make application to such officer or officers for the settlement of his claim; and the said claimant shall not be entitled to have his claim examined or acted upon by the said board, unless it shall have been so presented and acted upon as aforesaid, unless said board shall be satisfied that there has been unreasonable delay on the part of the proper officers in the consideration and decision of said claim.

Mr. KAUFMAN moved to strike out the words "unless said board shall be satisfied that there has been unreasonable delay on the part of the proper officers in the consideration and decision of said claim."

Mr. K. urged the adoption of this amendment as a salutary restriction upon the board.

The question was taken, and the vote stood—ayes 51, noes 46.

But no quorum voted.

The roll was then called over, and the committee rose, and the Chairman reported the names of the absentees to the House.

A quorum having appeared—

The committee resumed its session.

Mr. THOMPSON, of Mississippi, (on a *pro forma* amendment,) sustained the pending amendment, and argued that the board should not be allowed to pass upon the question whether the accounting officers of the Executive Departments acted upon claims before them without "unreasonable delay."

The amendment of Mr. KAUFMAN was agreed to.

A conversation arose upon a *pro forma* amendment, between Messrs. THOMPSON, of Pennsylvania, and STRONG, in which Mr. T. was understood to express the opinion, that appeals from the Commissioner of Pensions should not go before the board of commissioners; and Mr. S. to hold that there was quite as great a necessity in these, as in any cases, that the claims should undergo the examination of the board.

On motion of Mr. STEPHENS, the committee rose.

Mr. VENABLE moved that the House adjourn.

Mr. PUTNAM called for the yeas and nays.

The yeas and nays were not ordered; and the motion having been agreed to—

The House adjourned.

PETITIONS.

The following petitions were presented under the rule and referred:

By Mr. MILLER: The petition of citizens of Marion county, in the State of Ohio, praying for a reduction of postage, &c.

By Mr. BLACKMAR: The petition of the widow and heirs of Dr. Henry Perrine, asking an extension of the act of 1841, granting them a township of land in Florida, under certain restrictions.

By Mr. EVANS, of Ohio: The petition of 191 citizens of Muskingum county, Ohio, for an amendment of the law fixing the mileage of members of Congress.

By Mr. HALL, of New York: The petition of 105 legal voters of the city of Buffalo, in favor of cheap postage. Also, the petition of William Wilkeson and others, citizens of Buffalo, New York, praying for uniform and cheap postage, and the entire abolition of the franking privilege.

By Mr. STARKWEATHER: The petition of Peter Shutes and others, praying for a pension.

By Mr. LYNDE: The petition of Guy Staughton, M. B. Edson, and others, citizens of Rock county, Wisconsin, praying for the establishment of a mail route from Janesville, in Rock county, by the Indian ford on Rock river, to Columbus, in Columbia county.

By Mr. PALFREY: The petition of P. P. Warriner and 187 others, of North Wilbraham, Massachusetts, praying Congress to prevent the extension of slavery, to withdraw the protection of Government from the American slave trade, and to suppress slavery wherever Congress has competent jurisdiction.

IN SENATE.

MONDAY, *January* 22, 1849.

The VICE PRESIDENT laid before the Senate the following communication from the Treasury Department:

TREASURY DEPARTMENT, *Jan.* 19, 1849.

SIR: I have the honor herewith to submit a copy of a communication from the Commissioner of the General Land Office, under date of the 17th instant, enclosing a synopsis of the report of Dr. G. T. Jackson, on the geological survey made by him of the mineral lands in Michigan, and respectfully request that the synopsis may be printed with the Commissioner's annual report.

I have the honor to be, very respectfully, your obedient servant,

R. J. WALKER,
Secretary of the Treasury.

Hon. G. M. DALLAS, *Vice President U. S. and President of the Senate.*

On motion, it was ordered that the document lie on the table.

The VICE PRESIDENT also laid before the Senate the following:

TREASURY DEPARTMENT, *Jan.* 20, 1849.

SIR: I have the honor to transmit a report from the Register of the Treasury, containing the statement of the commerce and navigation of the United States for the last fiscal year, prepared as required by the act of the 10th February, 1820. I have the honor to be, sir, your obedient servant,

R. J. WALKER,
Secretary of the Treasury.

Hon. G. M. DALLAS, *Vice President U. S. and President of the Senate.*

On motion of Mr. DIX, it was ordered, that 5,500 additional copies be printed, 500 of which for the use of the Treasury Department.

The VICE PRESIDENT also laid before the Senate a communication from the Navy Department, in compliance with a resolution of the 18th instant, calling for contracts for transmission of the mail to foreign countries in steamships; which was ordered to be printed.

The VICE PRESIDENT also laid before the Senate a communication from the Mayor of the city of Brooklyn, New York, with a resolution of the Common Council of that city, recommending Brooklyn as a more desirable location than the city of New York for a branch mint; which was ordered to be printed.

SLAVERY IN THE TERRITORIES.

Mr. DIX presented resolutions passed by the Legislature of the State of New York, which were read as follows:

Whereas the people of the State of New Mexico have petitioned Congress for the establishment of a territorial government which shall protect them against the institution of domestic slavery while they remain a Territory of the United States; and have also petitioned Congress for protection against the unfounded claims of the State of Texas to a large portion of their territory lying east of the Rio Grande; and whereas it would be unjust to the people of New Mexico and California, and revolting to the spirit of the age, to permit domestic slavery—an institution from which they are now free—to be introduced among them; and whereas, since the acquisition of New Mexico by the United States, the people thereof have a right to expect the protection of the General Government, and should be secured in the full possession and enjoyment of their territory: Therefore,

Resolved, (if the Assembly concur,) That our Senators in Congress be instructed, and our Representatives in Congress be requested, to use their best efforts to procure the passage of laws for the establishment of governments for the territory acquired by the late treaty of peace with Mexico; and that, by such laws, involuntary servitude, except for crime, be excluded from such territories.

Resolved, (if the Assembly concur,) That the territory lying between the Nueces and the Rio Grande, and that portion of New Mexico lying east of the Rio Grande, are the common property of the United States, and that our Senators in Congress be instructed, and our Representatives in Congress be requested, to use their best efforts to preserve the same as such common property, and protect it from the unfounded claims of the State of Texas, and prohibit the extension over it of the laws of Texas, or the institution of domestic slavery.

Resolved, (if the Assembly concur,) That the existence of prisons for the confinement, and marts for the sale of slaves, at the seat of the National Government, is viewed by this Legislature with deep regret and mortification, and that such prisons and marts ought forthwith to be abolished.

Resolved, (if the Assembly concur,) That our Senators in Congress be instructed, and our Representatives in Congress be requested, to use their strenuous efforts to procure the passage of a law that shall protect slaves from unjust imprisonment, and shall effectually put an end to the slave trade in the District of Columbia.

Resolved, (if the Assembly concur,) That the Governor be requested to forward copies of the foregoing resolutions to each of our Senators and Representatives in Congress.

By order of the Senate:

A. H. CALHOUN, *Clerk of the Senate.*

IN ASSEMBLY, *January* 6, 1849.

Resolved, That the Assembly do concur in the above resolutions.

By order:

PHILANDER B. PRINDLE, *Clerk.*

Mr. DIX moved that the resolutions lie upon the table.

Mr. RUSK. Mr. President, I hope the gentleman will withdraw his motion for a moment, as I would prefer that the resolutions should be referred to the Judiciary Committee, as they involve some questions of considerable importance.

Mr. DIX. I would prefer that the usual course should be adopted. I believe that resolutions passed by State Legislatures and sent here have never been referred to a committee.

PRESIDING OFFICER. A motion to lay on the table is not debatable.

Mr. RUSK. I would make a further appeal to the Senator from New York——

PRESIDING OFFICER. The motion is not debatable.

The question was then taken on the motion of Mr. DIX; which was agreed to.

Mr. RUSK. Mr. President, I move that the resolutions be printed, in order that I may have an opportunity to say a few words in relation to this subject. I believe I have a right to make that motion.

Mr. DIX. If the Senator from Texas will permit me, I will make that motion.

The motion was so received.

Mr. RUSK. Mr. President, I shall vote for the printing of these resolutions; and I desired that they should be referred to the Judiciary Committee.

The Legislature of New York is a body of the highest respectability, and they take, at once, jurisdiction of the slavery question—a question which is likely to agitate this Union from one end to the other—and dispose of it in a most prompt and summary manner. I do not intend to question their jurisdiction as to that question; but, sir, I question here, and the State of Texas will question elsewhere, and I think properly, the jurisdiction taken by the Legislature of the State of

New York to dispose of her boundary—to take jurisdiction of a matter which is a question of sovereignty. For, if it is once conceded that the respectable Legislature of the sovereign State of New York can fix the boundaries of Texas at all, she may fix them where she chooses; she may pronounce the Sabine to be the western boundary of Texas, and thus annihilate her altogether.

The territory which the Legislature of New York claim for the United States, and thus summarily dispose of, without any knowledge of the facts, has cost the State of Texas a ten years' war, and it has cost her the loss of the lives of hundreds of her most brave and valuable citizens. Her title to that territory has been acquired by such an outlay of treasure and blood; and I am prepared here, if this Congress shall say they have jurisdiction over the adjustment of this question, to make it clear and manifest that the Rio Grande is her boundary, to any unprejudiced mind that is disposed to do justice and act fairly towards one of the sovereign States of this Union. I am prepared to do this at all times; but I would have preferred that the honorable Legislature of the State of New York—however patriotic and well-intentioned the motives which actuated them to grasp this jurisdiction which they are so anxious to assume to themselves—should have left the boundary of the State of Texas to go to a jurisdiction already acknowledged. What right has the State of New York or her Legislature—whatever may be their purposes—to determine upon the boundary of Texas? None upon the face of the earth. The claim of Texas to all the territory up to the Rio Grande rests upon as solid foundations, upon as clear and direct principles, as does the claim of New York to her own boundary. And it is a claim, sir, which will never be surrendered. Texas may not have the power to maintain her boundary. She maintained it upon a former occasion, and she then risked her all to maintain it; and her people know that it is their right, that it belongs to them, that it has cost blood! and they will only surrender it with the surrender of their existence as a sovereign State of this Union.

Mr. YULEE. Mr. President, I desire to say a single word in relation to the course I shall pursue on the motion of the honorable Senator from Texas. I shall vote against the motion to print.

I am aware, sir, that it has been a usual mark of respect manifested by the Senate towards the States of this Union, to receive and print the resolutions passed by their Legislatures, and perhaps there may not be a single instance in which a motion to print resolutions emanating from one of the sovereign States of this Union has been refused. I shall feel myself constrained, however, to cast my vote against the motion to print, for the reason that these resolutions are upon their face an insult to fifteen of the sovereign States of this Union. They are insulting, not in the inferences to be drawn, but in the very language employed. The preamble to the resolutions declares that "it would 'be unjust to the people of New Mexico and Cal-'ifornia, and revolting to the spirit of the age, to 'permit domestic slavery, an institution from which 'they are now free, to be introduced among them." It is declared to be revolting to the spirit of the age to admit an institution which exists legally in fifteen of the associated States of this Union. Now, without making the comment which my feelings would induce upon this high indignity and insult offered by the State of New York to her southern associates, I shall content myself by testifying my own sense of that indignity, by refusing to extend to New York the ordinary courtesy of printing the resolutions passed by her Legislature.

Mr. DICKINSON. Mr. President, I will merely say that the Senator from Florida will, if he adheres to his expressed determination, do what I apprehend has never been done before—that is, he will vote against the printing of the resolutions of a sovereign State.

If we enter into the discussion of the various resolutions that come here from the various States of this Union, and undertake to criticise the opinions expressed in these resolutions, and vote upon their reception and printing according to our own notions of right and wrong, or our own prejudices, we shall certainly enter upon a field which has not heretofore been cultivated by this body. I regret exceedingly to hear the Senator from Florida, who is so strenuous in his advocacy of the doctrine of State rights, say that he will vote against printing the resolutions of a sovereign State. We want them printed for our own accommodation and for our own convenience; and, besides, it is an act of courtesy which has never been denied, so far as I know, to any State.

It is well known what my sentiments are upon this miserable question of slavery, and how widely they differ from those of the great majority of the New York Legislature. But they have passed resolutions, as other States have done and are in the habit of doing, and they should be treated in the same manner. I have heretofore voted to turn this question out of doors whenever it has come here, and whoever watches my course hereafter will perceive that it will be in strict accordance with my previous career. But in this case is involved the right of the State to be heard through her Legislature. She is clearly entitled to that right, and whether she speaks sound doctrine or unsound doctrine—the doctrine of the North, the South, the East, or the West—her resolutions should be treated with that respect to which a sovereign State is entitled. That body is not amenable to us, nor, as a body, are we amenable to them. They express their opinions, we ours, and each stands or falls upon its own acts.

I hope this question will not be discussed in this form. No good can possibly arise from it, and much evil always comes from one section of the country assaulting the other. The North assaults the South, and the South assaults the North, and thus a pernicious sectional irritation is kept up, when, if each section would treat the other kindly, and in a manner such as is due from the inhabitants of one portion of this Republic to their brethren living in another portion of it, they would soon learn that the great masses of the people do not entertain such diverse opinions and desires in relation to these great questions as has been represented.

I recollect very well that the distinguished Senator from South Carolina, [Mr. CALHOUN,] (who, I regret, is not now in his seat,) when some of the most ultra abolition resolutions were presented here a few years ago, and which it was proposed should not be printed, arose at once in his place, and, strong as his opposition to such doctrine is, remarked that they were the resolutions of a sovereign State, and entitled to respect as such, and to be treated with the accustomed courtesy. That is all that I desire in this case. I have my own opinions on the doctrines sought to be inculcated in these resolutions, but it does not become my position nor the occasion to state what those opinions are. I only ask that these resolutions may be treated as all resolutions emanating from sovereign States have been treated, and as custom and courtesy demand.

Mr. FOOTE. I shall vote in favor of the resolution to print for several reasons, which I will concisely state. First, though as decidedly disapproving the doctrine contained in the resolutions in question as any member of this body, yet, as they have emanated from a State sovereignty of this Confederacy, I consider them specially entitled to respect at our hands as members of a body exclusively representing State sovereignties, and acting here, on all occasions, only as agents of these sovereignties. 2d. I understand that the usages of the Senate require that such resolutions, when offered here, should be printed. 3d. I shall vote for the printing, because, although these resolutions are highly objectionable both in doctrine and spirit, I do not believe that the printing proposed can be productive of any detriment to the Republic, inasmuch as "there is no danger in error, if truth be left free to combat it." 4th. I shall vote for printing, because I believe it will be better even for the States whose institutions are designed to be assailed, if we send within their limits, as early as possible, an authenticated copy of resolutions intended to operate with deadly effect upon their most vital interests. In the words of a revolutionary orator, I think it better that we should enable our constituents "to know the worst, and to provide for it." 5th. In a doubtful case I should be induced to vote for printing resolutions from the Legislature of the State of New York, somewhat from the respect which I feel for her patriotic achievements of the olden time, and somewhat also from the high personal respect which I feel for those gentlemen who represent her on this floor.

Mr. DIX. I should have said nothing, sir, in relation to these resolutions but for the remarks of the Senator from Florida; but feel myself bound, in view of the remarks made by him, that these resolutions are insulting to the other States, to see what they are. I have been four years a member of this body, and I have never before heard the printing of a resolution passed by the Legislature of a State objected to. These resolutions have been ordered to be printed by the House of Representatives, and they have been generally circulated by the newspaper press. The object cannot be, then, to suppress their publication: it is undoubtedly to keep them from the Journal, and thereby offer an indignity to the State of New York; and under this view of the subject I feel called on to make some remarks in reference to them. I will read them *seriatim*, that I may see what they are, and I will begin with the preamble:

"Whereas the people of the State of New Mexico have petitioned Congress for the establishment of a territorial government which shall protect them against the institution of domestic slavery while they remain a Territory of the United States; and have also petitioned Congress for protection against the unfounded claims of the State of Texas to a large portion of their territory lying east of the Rio Grande: and whereas it would be unjust to the people of New Mexico and California, and revolting to the spirit of the age, to permit domestic slavery—an institution from which they are now free—to be introduced among them: and whereas, since the acquisition of New Mexico by the United States, the people thereof have a right to expect the protection of the General Government, and should be secured in the full possession and enjoyment of their Territory: Therefore—"

Now, sir, there is no original matter in this preamble, with the exception of the sentiment that it would be revolting to the spirit of the age to extend domestic slavery to those, or permit it to be extended among those, who are now free from it; all the rest is a mere recital of the petition presented to this body from the people of New Mexico by the honorable Senator from Missouri, [Mr. BENTON]. I do not propose to inquire how far it expresses the opinions or the wishes of the people of New Mexico; when the subject comes fairly before us, I have no doubt the Senator who has the petition in charge will be prepared to show that it is a fair index of the wishes of the people of that Territory. But the resolutions of the Legislature of the State of New York have nothing to do with that. They take the proceedings of Congress as they find them, this petition being a part of them; and they have recited it as one of the moving causes to the expression of opinion they have made.

Now, I have said that there is no original matter in this preamble except the sentiment that it would be revolting to the spirit of the age to extend domestic slavery. It contains nothing but a repetition of what has been reiterated in resolutions and in speeches upon this subject, here and elsewhere, since the question of slavery, as connected with the Territories of New Mexico and California, has been agitated. It is a sentiment to which the people of the whole North have responded—all the non-slaveholding States—and no responsibility can rest upon the Legislature of New York which does not equally apply to the people and the Legislatures of the other non-slaveholding States. But I pass by the preamble, and proceed to the first resolution. It is this:

"*Resolved*, (if the Assembly concur,) That our Senators in Congress be instructed, and our Representatives in Congress be requested, to use their best efforts to procure the passage of laws for the establishment of governments for the territory acquired by the late treaty of peace with Mexico; and that, by such laws, involuntary servitude, except for crime, be excluded from such territories."

Resolutions almost in the same words have been passed by fifteen States out of the thirty States of this Confederacy. All the non-slaveholding States but one, and one of the slaveholding States, have declared themselves opposed to the further extension of slavery. As far as I am concerned, I concur entirely in the declaration contained in this first resolution. I believe that Congress has the power to prohibit slavery in New Mexico and California, and that it ought to exercise that power now. I am for acting on all occasions, when the proper time for action arrives. I am opposed to any course which shall cast upon others the responsibility which properly belongs to ourselves.

This resolution looks to the exclusion of slavery from those Territories during their territorial condition; but it does not look beyond that condition for the purpose of controlling or influencing in any manner the people of those Territories when they shall ask admission into the Union as a State. It

contemplates no invasion of State sovereignty; and in this view of the subject, one of the newspapers, I notice, which has uniformly opposed all interference by Congress with slavery in the Territories of the United States, pronounces these resolutions conciliatory in their character. I do not know whether I should call them conciliatory or the reverse. They take firmly the ground upon which New York has always stood, that slavery shall by no act of hers be further extended. She believes it to be the ground of principle, of justice, and right. And she never will abandon it—never. Now I will read the second resolution:

"*Resolved*, (if the Assembly concur,) That the territory lying between the Nueces and the Rio Grande, and that portion of New Mexico lying east of the Rio Grande, are the common property of the United States, and that our Senators in Congress be instructed, and our Representatives in Congress be requested, to use their best efforts to preserve the same as such common property, and protect it from the unfounded claims of the State of Texas, and prohibit the extension over it of the laws of Texas, or the institution of domestic slavery."

In respect to this resolution, I have only to say that it expresses the opinion of a large majority of the members of the Legislature of New York. I believe that the Democratic members of the Legislature generally voted against this resolution. When the subject comes up I shall listen with attention to what the Senator from Texas has to say upon the subject; but, sir, as an expression of the opinions of the Legislature of the State of New York, this resolution will receive my respectful consideration. The last resolution, with the exception of the resolution of instruction, which is intended to carry out the object of the others, is in these words:

"*Resolved*, (if the Assembly concur,) That our Senators in Congress be instructed, and our Representatives in Congress be requested, to use their strenuous efforts to procure the passage of a law that shall protect slaves from unjust imprisonment, and shall effectually put an end to the slave trade in the District of Columbia."

Now, this resolution embodies the opinions of the members of the Legislature in respect to the traffic in slaves which is said to exist in this District—a subject which has engaged the attention of the people of the United States somewhat extensively, and which on a former occasion has engaged the attention of the people of this District. There is in this resolution nothing which contemplates an interference with rights of property in this District. It does not propose abolition, but it condemns a traffic which is carried on, and which may be suppressed without any interference with the tenure of slaves by the inhabitants of the District—a traffic which might have been suppressed long ago had the District continued to be a part of Maryland. Mr. President, this is a matter which concerns the people of the whole Union. As the seat of the National Government, we all have an interest in it. Nothing which relates to the honor or prosperity of the District is alien to us. The people of Maine have as much interest, and are as fully empowered to express their opinions upon local concerns which belong to this District, as the people of Louisiana. It is under this view of the subject that the Legislature of New York has passed the resolution that I have just read. They believe the traffic in slaves here under the shadow of this Capitol to be wrong. They believe that it ought to be discontinued, and they have said so in this resolution. That is all. In expressing their opinion, they have done it in respectful language. They have not used terms half as significant as have been used by the inhabitants of the District themselves. I understand that in 1802, forty-six years ago, this traffic was presented by the grand jury of the city of Alexandria as a grievance which ought to be abated. John Randolph, of Roanoke, in 1816, introduced a resolution to inquire whether such traffic existed. He pronounced it to be illegal and inhuman, and the object of his resolution was, to adopt the necessary measures for its suppression. I understand, too, that the inhabitants of this city have presented it as a grievance before their judicial tribunal, and that the court replied that there was no authority to interfere, without an act of Congress. Mr. President, this is not all. I have a petition here, or a memorial from the inhabitants of the District of Columbia to Congress, praying for the gradual abolition of slavery. This memorial was presented in 1828, and I will read it for the purpose of showing that the resolution of the Legislature of New York, which is pronounced to be insulting, has not gone so far as the resolution of the inhabitants of the District:

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

We, the undersigned, citizens of the counties of Washington and Alexandria, in the District of Columbia, beg leave to call the attention of your honorable body to an evil of serious magnitude, which greatly impairs the prosperity and happiness of this District, and casts the reproach of inconsistency upon the free institutions established among us.

While the laws of the United States denounce the foreign slave trade as piracy, and punish with death those who are found engaged in its perpetration, there exists in this District, the seat of the National Government, a domestic slave trade, scarcely less disgraceful in its character, and even more demoralizing in its influence. For this is not, like the former, carried on against a barbarous nation; its victims are reared up among the people of this country, educated in the precepts of the same religion, and imbued with similar domestic attachments.

These people are, without their consent, torn from their homes; husband and wife are frequently separated, and sold into distant parts; children are taken from their parents without regard to the ties of nature, and the most endearing bonds of affection are broken forever.

Nor is this traffic confined to those who are legally slaves for life. Some who are entitled to freedom, and many who have a limited time to serve, are sold into unconditional slavery, and, owing to the defectiveness of our laws, they are generally carried out of the District before the necessary steps can be taken for their release.

We behold these scenes continually taking place among us, and lament our inability to prevent them. The people of this District have, within themselves, no means of legislative redress; and we, therefore, appeal to your honorable body as the only one invested by the American Constitution with the power to relieve us.

Nor is it only from the rapacity of slave traders that the colored race in this District are doomed to suffer. Even the laws which govern us sanction and direct, in certain cases, a procedure that we believe is unparalleled in glaring injustice by anything at present known among the Governments of Christendom. An instance of the operation of these laws, which occurred during the last summer, we will briefly relate.

A colored man, who stated that he was entitled to freedom, was taken up as a runaway slave, and lodged in the jail of Washington city. He was advertised, but no one appearing to claim him, he was according to law, put up at public auction, for the payment of his jail fees, and sold as a slave for life! He was purchased by a slave-trader, who was not required to give security for his remaining in the District, and he was soon after shipped at Alexandria for one of the southern States. An attempt was made by some benevolent individuals to have the sale postponed until his claim to freedom could be investigated, but their efforts were unavailing; and thus was a human being sold into perpetual bondage, at the capital of the freest Government on earth, without even a pretence of trial, or an allegation of crime.

We blush for our country while we relate this disgraceful transaction, and we would fain conceal it from the world, did not its very enormity inspire us with the hope that it will rouse the philanthropist and the patriot to exertion. We have no hesitation in believing your honorable body never intended that this odious law should be enforced; it was adopted with the old code of Maryland, from which, we believe, it has been expunged since this District was ceded to the General Government.

The fact of its having been so recently executed shows the necessity of this subject being investigated by a power which we confidently hope will be ready to correct it.

We are aware of the difficulties that would attend any attempt to relieve us from these grievances by a *sudden* emancipation of the slaves in this District, and we would, therefore, be far from recommending so rash a measure. But the course pursued by many of the States of this Confederacy, that have happily succeeded in relieving themselves from a similar burden, together with the bright example which has been set us by the South American republics, proves, most conclusively, that a course of gradual emancipation, to commence at some fixed period, and to take effect only upon those who may thereafter be born or removed into the District, might be pursued without detriment to the present proprietors, and would greatly redound to the prosperity and honor of our country.

The existence among us of a distinct class of people, who, by their condition as slaves, are deprived of almost every incentive to virtue and industry, and shut out from many of the sources of light and knowledge, has an evident tendency to corrupt the morals of the people, and to damp the spirit of enterprise, by accustoming the rising generation to look with contempt upon honest labor, and to depend for support too much upon the labor of others. It prevents a useful and industrious class of people from settling among us, by rendering the means of subsistence more precarious to the laboring class of whites.

It diminishes the resources of the community, by throwing the earnings of the poor into the coffers of the rich; thus rendering the former dependent, servile, and improvident, while the latter are tempted to become, in the same proportion, luxurious, and prodigal.

That these disastrous results flow from the existence of slavery among us is sufficiently conspicuous, when we contrast the languishing condition of this District and the surrounding country with the prosperity of those parts of the Union which are less favored in point of climate and location, but blessed with a free and industrious population.

We would, therefore, respectfully pray that these grievances may claim the attention of your honorable body, and that a law of Congress may be enacted, declaring that all children of slaves born in the District of Columbia after the 4th day of July, 1828, shall be free at the age of twenty-five years; and that those laws which authorize the selling of supposed runaways for their prison fees or maintenance may be repealed.

And, also, that laws may be enacted to prevent slaves from being removed into this District, or brought in for sale, hire, or transportation; without, however, preventing members of Congress, resident strangers, or travelers, from bringing and taking away with them their domestic servants.

This, sir, is a petition of the inhabitants of the District of Columbia. It was signed by one thousand and sixty persons: I counted the names, and believe that is the correct number. It contains the names of some of the most respectable inhabitants of the District. For instance, Judge Cranch, who is at the head of the judiciary of the District; Jonathan Elliot; and J. P. Van Ness, the largest property owner in the District. There are many other names equally respectable; names well known to many of us; but, as I have not the names of the signers before me, I can only instance those which occur to my recollection.

Now, sir, this petition goes much further than the New York resolutions. It not only asks for the suppression of the traffic in slaves, but it asks for the abolition of slavery in this District. It is much stronger language to pronounce the traffic disgraceful in its character and demoralizing in its influence than the language recited to the Senate in the New York resolutions. The people of this District have done all in their power to rid themselves of an evil which they believed—as this memorial states—to affect their good name and their prosperity. They have exonerated themselves from all responsibility on account of it. They have thrown the responsibility upon Congress, considering that it has the power to act in the premises. That is a question that I do not propose to touch; but the State of New York, one of the sovereign States of this Union, has ventured, in respectful language—in terms far less significant than those expressed by the people of the District of Columbia—to divest itself of any responsibility in the matter; that is all.

If the Legislature of the State of New York, then, in presenting these resolutions, merits any reproach on account of this expression of sentiment, gentlemen surely must perceive a far heavier burden of reproach falls upon the inhabitants of this District, who not only asked for the abolition of slavery, but in regard to the traffic expressed their opinion in very strong and emphatic terms.

Mr. President, I have felt it necessary, in reply to the suggestion that has been made by the Senator from Florida, to make these remarks. I regret to have been under the necessity of saying one word upon this subject. I came to this Chamber from a sick room—almost from a sick bed—and I never was less disposed in my life than I am now to enter into a discussion or controversy upon this or any other subject. But I will not sit in silence and listen to imputations upon the Legislature of the State I have the honor to represent which I consider to be wholly uncalled for. With these remarks, I leave the question to the consideration of the Senate.

Mr. MASON. I do not concur, Mr. President, in the objections which have been made by the honorable Senator from Florida to the printing of this resolution. The respect which I bear to him, and the alliance which exists between us, as alike representatives of the great interests of the South which are involved in this question, render it disagreeable to my feelings to differ from him. But, sir, I hold that, whenever one of the States of this Confederacy addresses the Senate of the United States, she has a right to be heard. And if the constituted authorities of the State of New York assume to speak the language of their people in terms that are contumelious or insulting to other confederated States, we can do no more here than remit them back to their own people, to whom alone this Legislature is responsible, and by whose judgment is to be decided the propriety of their enactments. Sir, it becomes us, the Senate of the United States, to extend every courtesy and respect—formal and substantial—to the States of the Confederacy when addresses are presented here by their constituted bodies; and therefore I shall certainly vote for the printing of these resolutions.

There is another reason why I desire the printing of these resolutions. I desire that these resolutions, and all others of kindred stock, which come from States where slavery now no longer exists, should be reported to the southern States in the language in which they are uttered. It is time, sir, that we understand each other. Nothing should be suppressed—nothing. If they speak of the domestic institutions of other sister States

in terms of indignity and contumely, those other States should know it; and we ought to know it under the high sanction which these resolutions bring—the sanction of their constituted authorities. Sir, this question is thickening upon us every day. We can shut our eyes to it no longer; and I, as one of the representatives of a sovereign State of this Confederacy where this institution exists, am happy to announce that the people of that State—the State of Virginia—are aroused and alive upon this subject. Why, sir, it may be, and if report is to be trusted, the State of Virginia will address herself to the Senate of the United States before this week passes; and if she does, I shall ask for the State of Virginia what I believe has always been conceded to every State, that her resolutions—be they what they may—shall be received, respected, and *printed* for the use of the Senate.

Sir, I do not mean to go into this question at all, now; but I would submit to the honorable Senator from New York, [Mr. DIX,] who, as in duty bound, has submitted these resolutions to the Senate, whether or not the people of New York, in this matter, have drawn a distinction between intermeddling in matters over which they have no control, in expressing their opinion in relation to the peculiar institution of other States, that it is a spectacle revolting to the spirit of the age—or whether we are to draw a distinction between such uncalled-for interference coming from the State of New York, and the action of the people of the District of Columbia—a people of another community, who meet and deliberate upon matters of common interest and express themselves upon their own institutions in the language which we have heard read? The people of Florida or Louisiana may meet in general assemblies and discuss among themselves the merits of this institution as they think proper; and they may speak of it in language of approbation or condemnation, without insult to any one. But when a State where this institution no longer exists—although it did exist there—characterizes it as an institution presenting a spectacle revolting to the spirit of the age, and that, too, when it exists in fifteen of the States of the Confederacy, and cherished—yes, cherished, sir, by many of them—I say, sir, such language is language of contumely and indignity.

Mr. DIX. If the Senator from Virginia will allow me, I would state that there is no reference in these resolutions to the institution of domestic slavery as it exists in the States. As one State of the Union, however, the Legislature of the State of New York say that it would be revolting to the spirit of the age to extend it into new territory where it does not now exist, and where the inhabitants themselves have already petitioned and protested against it.

Mr. MASON. I do not mean to question either the taste or the courtesy of the State of New York, but I submit it to the American people whether such language as has been presented to the Senate in these resolutions with reference to an institution now existing in and protected by the laws, and participated in by the people of sister States of this Confederacy, stating that the extension of this institution would be revolting to the spirit of the age, does not import that the institution itself is revolting?

I mean, sir, to make no allusion to the State of New York about its right to say what it pleases, but I desire that those sayings shall go forth to the southern States, and that they shall understand the position it takes and the language it enunciates upon the question at issue. Every step taken by the North in this matter is interesting to us. Every sentiment put forth by the properly constituted authorities representing the people of the States upon this question is of interest to us. If these sentiments are the sentiments of the people of New York, or the people of Maine, or of all the other northern States, and are so expressed by formal resolutions of their several Legislatures, it is due to the safety of the southern States that they know it, and know it, too, in the very language in which they are spoken. I think, sir, it is absolutely necessary to the preservation of our rights that we should have this knowledge.

So far as my judgment goes, or my knowledge of the opinions of the people I represent here extends, if the measure here alluded to—of interdicting slavery in the Territories, which are the common property of the several States of the Union—is persisted in, there will be no other alternative but submission or resistance. And, sir, I refer to the history of that portion of the country which I represent, to know whether the people there will pass willingly under the yoke. Sir, let the resolutions be printed; let them go abroad; let them be widely distributed among the people of the slaveholding States of the Union, in the language in which they are uttered, under the high sanction of the constituted authorities of the State from which they emanate.

I am sorry to have trespassed upon the time of the Senate, but I confess I cannot but feel deep regret, mortification, and distress, that here, where we all convene as equals, a sister State should address itself to her confederates in language like that presented in the resolutions of the State of New York. I have no right to question their power thus to speak; I do not oppose it in the slightest degree. I say, let them go forth; let them be published as they have come to us, and let the people of the Union understand their purport and design.

Mr. RUSK. I shall certainly vote for the printing of these resolutions, as I desire them to be read in both sections of the Union—in the North as well as in the South. I cannot shut my eyes to the improper character of these resolutions. I will not say that the State of New York has not a right to say what she pleases upon this subject, but I feel bound to express my honest conviction that the opinions here expressed are improper in their character, and that she has undertaken, in these resolutions, to interfere with matters that do not come rightfully under her jurisdiction. And I regret to see one of her representatives lending his aid, as he has done to some extent in a state of excited feeling, to carry out a plan invented first by fanatics, and afterwards taken up by disappointed politicians, which in its effects is calculated, if it does not shake this Union to its centre, at least to produce a state of estrangement between one section of the Republic and the other These useless and unnecessary agitations, which are continually arising from the intermeddling of individuals and communities with affairs which do not properly come under their control, are calculated, in the opinion of many wiser men than I am, to impair the bonds of the Union. It is, to say the least, calculated to produce an estrangement of feeling between the different sections of the Union, and can result in no good, none upon earth. What jurisdiction, let me ask, has the Legislature of New York over the existence of slavery? None whatever. And if she had been disposed to act with moderation and in a proper spirit, and in conformity with the spirit of the Constitution—if she had refrained from calumniating and insulting a portion of the American people with whom she is bound by the ties of common interest and social affection—she would have adhered with faithful tenacity to the spirit and letter of the Constitution, and desisted from taking to herself any jurisdiction of the subject of slavery in the new Territories.

Upon the isolated principle of the interest which, as one of the States of the Union, she possesses in these new territories, she claims the right to deprive fifteen other States of this Union of the equal enjoyment and possession of such territory. Sir, did New York alone fight the battles or achieve the victories that conduced to the conquest of this territory? I desire to make no invidious distinctions, sir. I would be glad, could I so discharge my duty, to refrain from the utterance of one word that would offend the sensibilities of any individual, however remote might be the section of the Union in which he lives; but, sir, when individuals will thus interfere, it must be expected that that interference will meet with opposition, and that it will create and engender discussion.

Sir, did New York send her armies and conquer these Territories alone? No, sir. The little State of Texas, but recently admitted into the Union, and whose entire sovereignty she seeks by these resolutions to swallow up, furnished more men in the battle-fields of Mexico, and in the acquisition of these Territories, than did the sovereign State of New York. The records of the War Department will show this, sir. Upon this subject she had no discretion. As one of the thirty States of this Union, she took part in the conquest of these Territories. She did her duty, and no one objects to it. She furnished, perhaps, all the men called for by the President of the United States. We have acquired them in common; and therefore, when she comes to the Congress of the United States and utters language calculated to shake the Union from one end to the other—when she comes here and gives expression to sentiments calculated to exclude fifteen of these States of the Union from a joint and rightful possession of property acquired by the common blood and treasure of all,—it is not to be expected that propositions so insulting are to be passed over in silence. And yet, sir, this is just the position the State of New York has assumed in these resolutions. And what is her assumption or declaration in reference to the settlement of the boundary of Texas, but the assumption of the right of State sovereignty? What is it but a direct interference with concerns that do not come under her jurisdiction?

And, sir, upon what does she base her interference in this matter? Why, upon a certain potent petition said to emanate from the citizens of New Mexico. A most potent petition, sir, of the citizens of New Mexico! And who are they? From the information that has come to my knowledge, I am satisfied that this petition emanates from a few individuals of not very immaculate reputation, who have come together and concocted its contents from political and sinister motives. Sir, in my opinion, when the authenticity and responsibility of the signers of this petition come to be investigated, they will be found to comprise certain followers and hangers-on to the army, who got it up, with its restriction in relation to slavery, for political and selfish purposes. It was to further their political schemes that they got it up. And, sir, they have done more. They have established a newspaper, in which they ridicule and deride the institution of slavery, in old and hackneyed terms, as the evil of the age. I remember to have seen one of the numbers of the paper, in which the authorities of the State of Texas are threatened with Lynch law if they dare to come there and assert jurisdiction.

This petition bears to my mind no conclusive evidence of its being a spontaneous emanation of the feelings and desires of the citizens of New Mexico. It is surrounded by circumstances that warrant the conclusion that it is not an express declaration put forth by the citizens of New Mexico in general assembly represented. The language, sir, therein contained is not the language of the people of New Mexico, in my humble opinion. It bears to my mind the marks of a much more intelligent paternity. It is, to my mind, manufactured domestic thunder, calculated not to agitate so much the people of Texas as to operate upon the different sections of the Union, and to get the signers ingratiated into the favor of the northern section of the Union, and the agitators and movers in the matter into office.

There is another motive which appears. It seems these individuals had been without law, save such as they made themselves, and that they were governed by an alcalde, whose position enabled him to dispense many offices and emoluments. An order was issued by this Government that he should only occupy that office for a short time, not over a year. His time had almost expired when Colonel Washington was ordered there for the purpose of taking possession, and instituting a regular government over the country. It was about that time, or perhaps a few days before Colonel Washington arrived, and when the alcalde was about to be deprived of his office, that these signers bethought themselves of this sin of domestic slavery, by action upon which they hoped to arouse the prejudices of a large portion of the people of the Union, and thus get to themselves notoriety and perhaps emolument. Mark you, sir, there were no clamors about the authority of Texas, or the great sin of slavery, prior to this proposed change in the government of New Mexico. And there is one thing in this petition to which I would call the attention of the Senate, and which goes to strengthen my opinion as to the desire of these petitioners to obtain office; and that is, that they ask for a government purely civil. To be sure, in attributing these motives and designs to these petitioners, I have judged only from those means of information upon the subject that are attainable by every Senator. The petition was presented by two highly respectable members of the Senate; but these members are of course not responsible for the correctness of the document. We all know, however, that the remarks presented by those gentlemen could not have been the basis of the action of the New York Legislature. It is the petition itself,

this manufactured domestic thunder, that the Legislature of New York takes up and forms an opinion upon; and therefore it is she becomes an advocate of an injured people, and talks of their being about to pass under the yoke of slavery. Yes, sir, after digesting the contents of this petition, she now throws herself in the breach to save the oppressed people of New Mexico from the Heaven-daring sin of slavery, and from the ravenous claws of Texas! She now becomes the champion of these persecuted individuals, to save them from these direful calamities! I would, sir, that these much-distressed citizens of New York, official and unofficial, would come to New Mexico in a body, and mark this boundary line!

But I will not now enter into the facts which constitute the claim and title of Texas to that territory. I know that it has such a title, and when the question comes before the Senate I shall be much mistaken if I do not convince every unprejudiced mind of her clear, unqualified, and just claim to the territory. I know I can do this, sir, if I can separate its merits from connection with other matters, and from the opposition which political schemers and sectional prejudices will array against it.

But, sir, in the abstract, the Legislature of the State of New York ask us to do—what? Why, sir, nothing more nor less than to take jurisdiction by legislative enactment of the sovereign authority of a State of this Union. Has Congress any power to alter the boundaries of a State that are recognized by the people of that State? Has Congress any power to alter the boundaries of the State of New York? Would the people of that State submit to such an exercise of assumed authority? I think not, sir. They would resist such exercise to the furthest limit.

I regret that I have felt it my duty thus to consume the time of the Senate. I had no sort of desire to evince any discourtesy towards the Senator from New York, in making the motion I did. I did not know that these resolutions were to come before the Senate to-day; their presentation took me by surprise; and that the sentiments therein contained had been promulgated and passed by the Legislature of the State of New York, was to me a matter of profound astonishment as well as deep regret.

Mr. YULEE. My own judgment, and in such a case as this, my own feelings, must govern my course upon the subject here presented for our action. Other gentlemen may take the course which their own judgment and feelings may dictate; but I know of but one course, sir, for the American Senate to adopt, and that is, to repel all insult offered to individual States of the Confederacy by another portion of that Confederacy. And when, sir, a gratuitous and wanton insult is presented here in the shape of resolutions from one of the States of this Union, I, as the representative of another State, to which these insulting declarations extend, sitting here and voting as a representative of a sovereign State, will mark my sense of the indignity offered by refusing all respect to the paper containing them. Sir, I have made no objection, I make no objection, to the annunciation here, by resolutions or otherwise, by the State of New York, of doctrines that may relate to the disputed boundary between Texas and the territory acquired by the United States from Mexico. Although the South furnished in the acquisition of that territory a quota of troops in numbers as five to one in comparison with those furnished by the North, and although the North is sending as three to one in the South, their gold diggers to possess the mines that have come into our possession by that acquisition——

Mr. DICKINSON. I desire to interrupt the Senator from Florida but for a moment. He, with other Senators, talks much of the larger number of troops furnished by the South, when I conceive that New York in proportion furnished as many, if not more, than any other State. It was a matter of favor to the South that a larger number were draughted from that portion of the country to serve in the war, most probably because of their near location to the seat of war. There were several regiments in New York that had been organized and were ready to serve, but were not allowed to participate in the war for good and sufficient reasons.

Mr. YULEE. The statement of the Senator does not alter the fact that the South contributed largely beyond her true quota in the acquisition of these territories, or the truth of the declaration that the North is contributing more than her due quota to dig the gold contained in the acquired territory. And, sir, after thus obtaining the benefit and reaping the rewards accruing from possession of this territory, I do mean to object, when she comes here with resolutions declaring that the territory acquired by the common blood and treasure of the Union should be so organized as to inure to her particular benefit, to the reception of these resolutions, or a respectful hearing of the propositions therein contained by the Senate—yes, sir, when the State of New York, as one of the confederated States of this Union, comes here uttering gratuitous and insulting language towards a certain portion of her sister States, I, as one of the representatives of one of the States thus assailed, deem it my duty to mark my sense of the indignity offered to one of the institutions of the South, by refusing to receive or consider the communication in which it is contained. It is, sir, to the use of language which would be regarded as insulting between man and man that I object. While the South and the State which I represent think proper to continue and foster the institution of slavery, and regard it as consistent with the spirit of the age to permit within their boundaries an institution which has contributed largely to the growth, prosperity, and wealth of this Union—a growth, and prosperity, and wealth of which our northern brethren have had more than their due share—they will not allow the other States of the North, while they continue to be connected with them, to come here in this body, where all the States of this Union are represented in their confederated capacity, and take advantage of the permission which it is the custom ordinarily to give to place State resolutions on record, to present and record a wanton insult to the South. There is another reason for the course which I deemed it my duty to take on this point, although it is the first time that any objection has been made to the printing of resolutions coming from Legislatures of any of the States of this Union. Let it be remembered also, sir, that it is the first time the attempt has been made to introduce language of insult in resolutions by any of the State Legislatures into this body. Another reason, I say, is presented in favor of the course I have taken, when the present condition of the Union is taken into consideration, and when it must be obvious to every intelligent observer and statesman that the Union is tottering on its base. At this eventful period, sir, New York comes here and uses language calculated to irritate and promote the feelings of alienation which are now contributing to the dissolution of the Union; and it is due, sir, to that Union, it is due to the dignity of the several States whose institutions are assailed, that this insulting language should be met at the threshold, and marked with our determined reprobation. Any attempt to introduce language of insult, of reproach, and of indignity into the communications which may be made by sovereign States, should be met and repulsed at once, and that, too, because it may lead to equally recriminative missives in return from the assaulted States. A prompt denial, sir, of admission to such language is the only means of diverting consequences which can only precipitate the crisis to which all men must fear we are but too rapidly approaching. If this language be permitted to be recorded here, I ask whether other States may not pursue the same course? whether southern States may not come here and present resolutions retorting upon the resolutions presented by the State of New York? whether they may not come here and introduce to the people of the States the use of language contumelious, reproachful, irritating, undignified, and inconsistent with the preservation of the Union? New York furnishes the first example of any attempt thus to introduce personalities and insult into our public proceedings and her intercourse with her confederated States; and I have deemed it my duty, as one of the representatives of one of the States aggrieved, to meet this new aggression at the threshold, and to mark it with the reprobation which it should receive. I shall vote against it, sir, if my vote is the only one that is thus recorded. I care not whether I am sustained by any gentleman on this floor. My own judgment marks out my course in this matter, and I shall vote in accordance with that judgment, in fulfillment of the duty which I owe to myself as one of the representatives of one of the States of this Confederacy assailed in her institutions by these resolutions.

Mr. DICKINSON called for the yeas and nays, which were ordered.

Mr. KING. Mr. President, no man can regret more than I do what has taken place in this Chamber to-day on the presentation of the resolutions of a sovereign State of this Union. The honorable gentleman from Florida is entirely mistaken when he supposes that resolutions of this character from sovereign States have never been marked by language exceedingly improper. Such have been presented. A sovereign State has the right to represent whatever she may think proper to the Congress of the United States, the common servant of all the States; and it is right and proper that we should treat their representations with the respect due to a sovereign State. While I regret exceedingly that States of this Union in representing to the Congress of the United States what they consider to be grievances, which they desire to have modified or done away with altogether, have not in all cases used language more conciliatory and better calculated to effect their objects, and preserve those amicable and kindly feelings which ought to exist throughout the whole country, I am perfectly satisfied that they shall make known to the whole country their views upon all questions and subjects whatsoever. I shall throw no obstacles in their way whenever they shall seek to make known their views, but would rather give them facilities that their views may be known throughout the North and the South, the East and the West. I think, upon the whole, that so far from producing the evils which the gentleman from Florida apprehends, it will in the end have a salutary influence. I shall, therefore, most assuredly vote for the printing of these resolutions. Let them go to the country and exert their legitimate influence, and I trust and hope that we shall reserve ourselves for some other occasion, when it will be more appropriate to discuss questions connected with the rights of the South and the guarantees of the Constitution, than on the presentation of resolutions passed by the Legislature of a sovereign State.

Mr. BUTLER. Mr. President, I wish to say a few words only upon this subject. I voted the other day for the printing of the petition from the people of New Mexico, or rather the petition that purported to come from that people. I thought then, as I think now, that a refusal to print petitions and resolutions of such a nature would be a very feeble and futile impediment in the way of this spirit of encroachment and aggression, which is continuing to be manifested more and more strongly on the part of the North. If we refuse to print these resolutions now, they would be printed in the public newspapers. These resolutions of the Legislature of New York should be printed. If I were to present the resolutions of the State of South Carolina, I should ask that they might be printed also. This mode of opposition is utterly ineffectual. The time is past, long past, Mr. President, when the publication of the proceedings of this body has been made the vehicle of communication to the South that the nation was sympathizing with them; and let those who say there is no danger now, learn from the resolutions just offered whether there is or not. Let the people of the South be advertised in the fullest possible manner of the desires and designs of the North. Let them be made aware of the full extent of the threatened danger, that they may be prepared to meet it.

Mr. BERRIEN. Mr. President, the yeas and nays having been called on this motion, I desire simply to say that I shall vote for the printing of these resolutions, for the reasons assigned by the Senator from Alabama. The uniform practice of the Senate has been to treat respectfully the resolutions of a sovereign State. I desire additionally to manifest, on the part of those whom I represent, the utter and entire repugnance they entertain to withholding the expression of any views or feelings that the inhabitants of any portion of this Union may entertain and desire to make known. My desire is, that on a subject so vital to the interests of the people of sundry States of this Union, we should perfectly understand each other. Far from having any disposition to repress the expression of opinions which I deem hostile to the interests of those whom I represent, I rather desire that they should be apprised of them; and I have risen to express the hope that the Senator from Florida will not persevere in the resistance which he has

made to the printing of these resolutions. I should desire, for myself, that the South should concur in giving them that publicity which will enable the South to understand what are the feelings and probable determination of the people of the North in respect to this vital question.

Mr. YULEE. Mr. President, I did not call for the yeas and nays, nor did I feel any desire to have them ordered. I am perfectly satisfied that it should be understood that I am the only person who will vote against the printing of the resolutions. The call for the yeas and nays may be withdrawn as far as I am concerned, and it may be the general understanding that I will be the only person voting in the negative. I will not consent to give my vote for the printing of any document which contains, upon its face, an insult to the State which I represent.

Mr. DAVIS, of Mississippi. Mr. President, I am always disposed to treat with the most marked respect anything that comes from a sovereign State of this Union; yes, even when that State ceases to respect herself; and I think that respect is fully shown when we receive the resolutions of the State of New York and enter them upon our Journal. But if the Senate is to become a vehicle for the circulation of abolition documents, for the circulation of revolutionary opinions, I shall oppose it by every means within my power. I think the Senator from Florida has justly characterized these resolutions as offering an indignity to the sovereign States of this Union where slavery exists. Still more, sir, these resolutions contain assertions which those who passed them did not know to be true, and which I believe to be false. For one, I will never aid in putting them forth. They proclaim to the world that the Senate of the United States knows and conceals the fact that within the District of Columbia there are prisons in which negroes are unjustly and illegally immured, and marts where slaves are bought and sold. Who knows this to be true? Who believes it to be true? And if it be true, are these public prisons and public marts under the control of the Congress of the United States? I believe the whole assertion to be a falsehood, and I will not vote for printing and circulating it.

Mr. FITZPATRICK. Mr. President, I do not rise to argue the merits or demerits of the questions that have been presented for the consideration of the Senate, but I rise simply to state why I cannot vote for the printing of these resolutions. It is with great pain that I differ from the established custom and uniform practice of the Senate in relation to resolutions from the sovereign States of this Union, but I fully concur with the honorable gentleman from Mississippi. I stand committed upon no such rules, and while I have the honor to stand upon this floor I will never yield my aid to disseminate the slanders and assaults made upon my section of the Union and the institutions of the country in which I live. I am disposed to respect a sovereign State when she respects herself; but when she comes here assailing the institutions of the country in which I live, and calls upon me to disseminate her doctrines, revolutionary in their character, and calculated to dissolve this glorious Union, I for one must withhold my assent. The gentleman from New York [Mr. DIX] has drawn a parallel between the resolutions of the Legislature of that State and a petition from the people of the District of Columbia for the abolition of the slave trade in this District. There is a difference between the citizens of this District petitioning for a redress of their own grievances and the Legislature of the State of New York interfering in a matter in which they have no interest, and over which they have no control.

It is with the most profound regret that I act in opposition to the established custom, as suggested by my honorable colleague. It would give me great pleasure to be able to act in accordance with that custom, and in conjunction with my honorable colleague; but my duty, or at least what I consider my duty, forbids me that pleasure at this time. When I voted to receive these resolutions I considered my obligations to the law of courtesy discharged; I considered that I had done all that could be reasonably expected from me, and I am prepared to go no further. I cannot vote for disseminating abolition documents throughout the length and breadth of this land. I do not wish to create excitement or alarm in any portion of the country, nor do I wish to array one portion of the Union against the other. I voted against the printing of the document or petition from New Mexico, and I shall vote against the printing of these resolutions.

Mr. NILES. Mr. President, my honorable friend from Florida [Mr. YULEE] observed, in the course of his remarks, a few moments since, that he entertained the apprehension that the stability of this Union is seriously threatened—that it is tottering to its base. Well, now, Mr. President, whenever any structure is tottering to its base, it is very likely to fall; and if this Union is tottering to its base, the presumption is, that it cannot stand much longer—that it must soon go down. Our danger, therefore, is imminent, if the apprehensions of my honorable friend are well founded; and I would ask him, in order that we may know whether his apprehensions are well-founded or not, whether his remarks were based upon a knowledge of the existence of any combination here or elsewhere hostile to the perpetuity of this Union, or whether they had their rise in feelings and ideas originating in his own heart and mind?

Mr. YULEE. Mr. President, I will answer the question of the honorable Senator from Connecticut. The opinion which I expressed was based upon a knowledge of events known to be transpiring, and the existence of combinations hostile to the permanence of this Union. Yes, sir, it is my opinion that the Union is tottering to its base, and tottering under the blows of northern fanaticism, and northern injustice and aggression. Sir, when the North comes here and attempts to exert the power which circumstances have given it, to control the legislation of the Union, and to reduce a large portion of the States of this Union to degradation, and to the condition of provinces and subjects, they cannot but know, none who duly appreciate the honor and dignity of a freeman can do otherwise than know, that the Union is in danger. And when the fact is as stated by the Senator from New York this morning, that fifteen of the sovereign States of this Union have passed almost unanimously by their Legislatures resolutions to be presented here, as instructions to their delegates, requiring an act which, in the opinion of the South, must produce inequality and injustice, which is fraught with aggression and injury, there cannot be otherwise than fear in the minds of every right-thinking man that there is danger for the continuance and harmony of this Union. Does the Senator from Connecticut believe that this Union can exist outside of the compromises of the Constitution, when the principles of equality have been departed from in the legislation and enactments of this confederate body? If he does believe it, he does very great injustice to his New England descent, and to those principles of liberty and of the dignity of man which have been inculcated in a great measure through the instrumentality of the ancestors of that gentleman, who first landed upon this continent. Yes, sir, it was because these fifteen confederate States of this Union are in opposition to the just rights of the South that I believed this Union to be in danger. It is because, weak in their political strength, that minority of the South have ever struggled against the encroachments of their allies—allies no longer—when the power of the Constitution shall be exerted to the injustice and degradation of those who were originally associated in good faith and brotherly feeling. Sir, no one more anxiously trusts that the cloud, which we have seen hovering over this nation, will pass away. No one more deeply than myself will deprecate measures beyond this Constitution for the restraints of injury. But, for one, I am prepared to say, that I place liberty before union; and I value union, and the Constitution under which it exists, only so far as it sustains the liberties of the people with whom I am associated, and in carrying forward in its progress the distinct right of mankind. I do believe the Union to be in danger, and its danger is increased by every blow such as this which the State of New York has struck. I believe, when there is added to the attempt to wrest away the just rights to which we are entitled, personal insult and invective, language of opprobrium and contumely, that there is danger, and that this danger is tenfold increased. But pained am I that circumstances have reached that crisis in the history of the country which lead any one to consider the question of the Union as involved in the result of measures now pending.

Mr. DICKINSON. Mr. President, I have undertaken to prove myself the friend of the Union. Now, sir, if I thought this vote would be the means of dissolving this Union, I certainly would not give it my countenance.

Mr. DOUGLAS. Mr. President, since this discussion has gone so far, I feel bound to say a word upon it. For the last six years I have been in the habit of seeing memorials on this slavery question, expressing opinions on each side, and every shadow of opinion on each side, from the North and from the South, received in the two Houses of Congress, and ordered to be printed without opposition. I cannot recollect an instance in which the printing of such a memorial or resolution of a State Legislature was ever refused, or even objected to. I have seen many that did not accord in the slightest degree with my own opinions from the North and from the South. I remember some that I thought breathed a threat of a dissolution of this Union, which were received and printed. And if we reject this memorial to-day on the ground that the State of New York has transcended its rights, and violated the laws of courtesy, by passing the resolution contained in that paper, we may be placed in an awkward predicament to-morrow by having presented to us a resolution of another kind from another quarter of this Union.

Mr. YULEE. There is no objection to the reception of the resolutions. They have been received and put upon the Journal. What I object to is, the printing of the resolutions, and the dissemination by the Senate of the doctrines contained in them throughout the whole country, and especially inasmuch as the resolutions are upon their face most insulting to the South.

Mr. DOUGLAS. Mr. President, I wish to know the distinction between this resolution and those from Massachusetts, from New Hampshire, from Rhode Island, Connecticut, and New York, for the last four or five or six years.

Mr. YULEE. I have endeavored to show that this resolution contains language of the most insulting character, such as has never before been introduced into resolutions presented here.

Mr. DOUGLAS. Upon that point I will say that I see no material difference between the spirit and phraseology of this resolution and that of those resolutions which I have seen received, read, and printed, for years past, by this body or the other branch of Congress. Then, again, I see in a southern State that a resolution was adopted a day or two ago taking the other side of this question, and expressing opinions in favor of the Missouri compromise—a measure which I once had the honor to introduce to this body, and a measure by which I would be willing to settle this question. We may be called upon to-morrow to vote against receiving or printing resolutions in favor of the Missouri compromise, a resolution denounced and stigmatized by the abolition resolutions of the North. I think if the North have a right to pass these resolutions against the South, the South have the right to pass them against the North. The right is reciprocal. I think it is foolish and mischievous for the North and the South to be quarreling about a question which has no practical results. But this is a question upon which each side has a right to judge for itself. I believe this question has no practical results. I do not believe it endangers this Union. I believe this Union is too strong to be endangered by the mere expression of an opinion, rash and violent though it may be, either from the North or from the South. I say it is not a practical question, because every man believes that, so far as New Mexico and California are concerned, the people have made up their minds which way they will settle this question, and that is, that no action here will either restrain or extend the institution of slavery one foot. I believe there is a fundamental error in the resolutions from the Legislature of New York. They express a resolution against the extension of slavery over a country now free. I know of no man who advocates the extension of slavery over a country now free. If there is such a man on this floor, I am not aware of the fact. All I understand them to advocate is, to allow the people of these Territories to decide on this institution for themselves, just as they decide every other domestic institution for themselves. No man advocates the extension of slavery over a territory now free. On the other hand, they deny the propriety of Congress interfering to restrain, upon the great fundamental principle that the people are the

source of all power; that from the people must emanate all government; that the people have the same right in these Territories to establish a government for themselves that we have to overthrow our present Government and establish another if we please, or that any other government has to establish one for itself. And it is this great principle that lies at the foundation of my action here in resisting encroachments from the North or from the South; of resisting on the one side, if it should be proposed, the extension of slavery in a country now free, and of resisting, on the other side, any restraint upon the people to establish such institutions as they may see fit to establish.

I think there is a fundamental error existing in the minds of the people of the North, which leads them to pass resolutions like the one presented by the Senator from New York—an error arising from a false impression. It is not the first resolution that has contained errors—not the first resolution of a sovereign State founded on a misapprehension of facts—not the first resolution that I have voted to print, from which I dissented in toto. I see nothing in these resolutions, much as I differ from the opinions which they express, to fix a stigma upon the State of New York. No, sir: she is only following in the wake of other States from time immemorial. Sir, I shall vote to print this resolution; and if a southern State brings forward resolutions instructing their Senators to vote for the Missouri compromise, or any other mode of settlement, I shall vote for this also. If a southern State should introduce a resolution here authorizing the calling together of her Legislature upon the passage of an act of Congress, to take ulterior measures, without knowing to what point these measures may lead, I shall feel it my duty to pay respect to that Legislature, so far as to print it. I believe the good old principle of receiving resolutions of the Legislatures of the sovereign States, upon this and all other questions, is the best mode that can be conceived; and I am not willing now, in this instance, to depart from the usual practice, unless stronger causes exist than any I have met here; for I think this resolution is only in accordance with the general tenor of resolutions from different parts of the Union.

Mr. DOWNS. Mr. President, I am very sorry that I cannot concur with the old and more experienced members of this Senate in voting for the printing of these resolutions. I do not object to that on the ground of any opinion which the Legislature of any State may think proper to suggest; but I object to the printing of these resolutions on ground similar to that taken by other members of this body, viz: that there are assertions in them, stated as facts, which are absolutely false, but which, if printed by the Senate, will soon become woven into the history of the country, and received and stated as authentic in every particular.

We have been told, and I have no doubt correctly told, by the honorable Senator from Texas, [Mr. RUSK,] that the pretended expression of the wishes of the people of New Mexico, which was presented here a few weeks ago, was, in all probability, a thing "got up" for the occasion, "manufactured to order, sent out and returned." That memorial was received here. The gentleman who presented it did not seem to have very clear and satisfactory information as to the authority from which it emanated. It bore on its face only fourteen names, and but two of them were American names; but we received it and ordered it to be printed, and we see already that the State of New York has adopted it as a "fixed fact" that the people of New Mexico have sent a memorial here asking the exclusion of slavery from their Territory. I, for one, Mr. President, do not wish to endorse the fact, because I do not believe it to be a fact, that the people of New Mexico did send such a memorial to this Congress. If we print these resolutions now, they will go out as sanctioned by the Senate of the United States, and be considered as a part of the history of the country. It may be true, but I have not before heard of the horrors of the slave trade and the slave prisons in the District of Columbia which these resolutions advert to. That sapient Legislature, some three or four hundred miles off, may be better informed upon this subject than we who are here on the spot. I do not pretend to say whether their statements are correct or not, but I have some doubts of their accuracy, and I do not wish to endorse them. I cannot vote for the printing of these resolutions, because I think they contain these radical errors in the expression of the opinions and facts to which I have referred.

Mr. President, since this debate has commenced, and since the gentleman from Connecticut has asked the question concerning the dangers with which this Union is threatened, and whether the Senator from Florida knows of any facts on which he bases his opinion that the Union is tottering to its base, I, as a southern member, take upon myself to reply, in part, to that gentleman. Yes, Mr. President, I regret to say that there are causes, strong causes, that are increasing and multiplying every day, which unhappily lead the watchful and reflecting mind to the conclusion that this glorious Union cannot last long. If the gentleman from Connecticut asks me where are these indications, I will tell him. The story is a long one. The first and most prominent one I will tell that gentleman and all others from the North—and they may take it home with them and sleep and reflect upon it—is that of the action of the people of the North for some years past on one particular subject—that of reclaiming fugitive slaves. It is admitted by all now—I suppose no man here denies it—that that clause of the Constitution which refers to the reclamation of fugitive slaves, without which Judge Story and Judge Baldwin say, and without which even Judge McLean himself says, the Constitution could never have been adopted, is now totally evaded by the North, set at defiance, and rendered a mere nullity. I know it is not erased from the Constitution. I know that it is not expressly abrogated by all the northern States—though it is by many—but in practice it is really no longer a provision of the Constitution. It has ceased practically to exist. No enactments have been passed, to be sure, suspending its operation, but the dangers to which persons in pursuit of their property are exposed from infuriated mobs and the obstacles from legislation, the obstacles from fanaticism, the dangers to limb and even life to which gentlemen are exposed, have literally abrogated it. It is admitted on all hands that the Constitution could never have been formed without that provision, and yet it is now practically abrogated, as I have said, in most of the northern States. And I would ask the gentleman from Connecticut if he does not think this a very serious blow to the permanency of this Union, and one which is calculated to make it totter to its foundation?

But, unfortunately, this is not all. These blows, which were formerly few and far between, have thickened and thickened lately; and when the misfortunes, if they ever should come, (and Heaven grant they may never reach us,) which these events are calculated to lead to, are transpiring around us—when this Union is about to be severed—then, when the gentleman from Connecticut and the gentleman from New York, who presented these resolutions, and other gentlemen shall, in their calmer hours, come to lament over the misfortunes of the country, and sigh over the blows that have been leveled at the duration of this Union, I am very much mistaken if these gentlemen will not then perceive that some of the most fatal blows ever struck at the permanency of our Union, and the blows which will have proved the most effective in its demolition, were struck upon this floor. If those moments should ever come—but I hope they never will—I believe the gentleman from New York [Mr. DIX] will then perceive that the very speech he delivered upon this floor this morning is the heaviest blow that has ever been aimed at this Union. I know that it has been customary, Mr. President, for gentlemen to throw out the idea that all the blows that have been struck against the perpetuity of our Union have come from another quarter of the country. Not at all. Sir, I know of more that have come from that section. Not one blow has come from the South. Where has anything destructive of the spirit of the Constitution, on this or any other subject, come from the South? We have acted, we now act, and we shall act when the awful crisis comes, on the defensive, and on the defensive alone. Have we ever claimed any extraordinary privilege on this subject of slavery? Have we ever asked this or the other House to extend slavery? Never, as these resolutions erroneously state. Has it not been admitted here by members from the free States that they know none who claim to extend slavery one foot? We are constantly upbraided for entertaining the wish and intention to extend slavery. This is constantly thrown up to us on every opportunity and in every form, and the cry is raised that the Union is endangered by our course upon this very subject, and the argument is thrown out on every possible occasion that it is we who make these assaults and endanger the permanency of our institutions. It is not so. All these assertions are without the slightest foundation. They are all false.

I did not intend to debate this question. I only wished to state that there is danger of this Union; that its foundations are shaken; and that they may probably fall, and I believe they certainly will fall, if the people who have been dealing these blows so fast and so heavily do not cease the agitation of this subject. We ask nothing on our part. Let us go on and do as we have done heretofore. Let us deal with the Territories and the District of Columbia as we have heretofore dealt with them. We ask no more. But if, when you have already practically abrogated one provision of the Constitution, you go on and make a similar enactment for the District of Columbia, and then extend that enactment to the navy-yards, forts, and other places under the control and supervision of the United States, until your course brings every man in the South conscientiously to believe that you intend to abolish slavery and trample upon their rights; if all these things are allowed to go on uninterruptedly and unchecked, you must not be surprised if you at the North endanger the Union. But do not attribute it to us. Look to your own conduct. In that you will find the germ of dissolution. You cannot say we did it. Can you point to an act of the South which has any tendency to dissolution? Have we abrogated any provision of the Constitution? Have we ever interfered with your domestic institutions? Have we ever sent you resolutions upbraiding you in bitter and insulting terms? Why, sir, if South Carolina and Louisiana have shut their ports to New York and Massachusetts, and absolutely excluded them, it was not a greater evil than that which had been already inflicted upon the whole South by the practical abrogation of the principle of the Constitution which provides for the recapture of fugitive slaves.

There is another reason why I consider these resolutions, and all others of a similar character presented to us, to be heavy blows aimed at the permanency of this Union. Why are they so? Because they imply most clearly, that that spirit of harmony and union upon which alone the Constitution was founded, has ceased to exist. Do you believe, Mr. President—is there any man that can believe for one moment, that if at the formation of the Constitution one-half of the States had been denouncing the other for carrying on an unjust, improper, and sinful traffic, the Constitution would have ever been formed? Such denunciations indicate the spirit of hostility. It is the appropriate work of enemies, not friends. This may be said not only of the resolutions now before us, but of all the others sent here by the Legislatures of northern States. What is the spirit of all the resolutions presented here at almost every session of Congress? Instead of settling quietly their own domestic affairs, too many of these northern Legislatures, I regret to say, have taken up this subject of slavery, although it has no particular connection with their own local institutions, and denounced the institutions of the South, and reprobated our course in regard to it, although we have kept within the limits of the Constitution, and minded merely our own business.

All these events might be multiplied indefinitely to show that the spirit of conciliation and harmony which existed at the time the Constitution was formed, and without which its formation could never have been effected, has ceased to exist, and not only ceased to exist, but a spirit of bitter hostility between the North and the South has been raised up in its place. And once let that spirit reign; let it be once settled that we must look upon the people of the North as enemies in war; once excite that feeling of hatred and animosity which has existed between ourselves and the mother country since we rebelled against her authority, and which exists to this day; once, I say, let all this be excited into full play, and go on for a few years increasing in strength on both sides, and all the chains of the Constitution, even though they were ten times stronger than steel or adamant, would be but as ropes of sand in opposition to these fierce and unextinguishable flames of hatred and

animosity. It is only by the feelings of good fellowship, brotherly love, the sense of a common glory in the achievement of our national independence, and common brotherhood, that this Union can be bound together; for it was upon these sentiments that it was first founded. But go on, until by continued and increasing aggression on one part, and opposition and retaliation on the other, you change that feeling into enmity and bitter hate, and you need not then talk about a dissolution of the Union, for all that is desirable and lovely in the Union will have been already dissolved. Let them go on and take the sixteen sets of resolutions to which the gentleman from New York has alluded and put them down upon your table, and then take fourteen sets of resolutions from the other side, equally denunciatory with the first, and place them side by side, and you need never more talk of the dissolution of the Union, for the vital union will have been in effect already dissolved.

If, then, the progress of this feeling is to be stopped, have we not a right to expect of our friends from the North that they will desist from this course? Have we not a right to expect them to pause and reflect upon the difficulties to which we are tending, if possibly they be may be shunned? I hope they will, and that all these evils will be yet averted. I hope that that good sense which has thus far characterized the history of this Government will prevail over all adverse influences, and that the country will be saved from the fearful consequences of the dangers which have threatened its peace and prosperity.

The people of the South are as much attached to the Union as any. They have shown their devotion to it in every form. They feel as great love for it at this time as they have ever felt. They love the Union. All their associations are connected with it. All their wishes are connected with it. They know no other feeling towards it. They contributed as much as any other section to the acquisition of independence, and they have as much to be proud of in its glory and in its prosperity as any other and every other section of the Union. If they destroy it, they will love it still, and deeply lament the necessity for its destruction. And if the North, while they express their love for it, will do nothing to show their disregard for it, it will be in no danger of destruction. But, sir, dear as the Union is to the South, if it is to be preserved only as a name, and a means of inequality and extortion, and not as a means for promoting the harmony and common good of the country, if dissolution must be submitted to rather than suffer continued wrong, we shall repent as long and deeply as any other section, and we shall take care that the facts go down to history that the blows which destroyed it came not from us.

We shall wait long and patiently, as long as there is any hope that reason and remonstrance and patient trust and appeals to the sympathies of the brethren of our common country can prevail; but when, at length, all hope dies out, and our last effort to preserve the integrity of this Union has been refused, with still further aggression and insult, and the dire necessity for dissolution has come, we will write it down upon the page of history, and the world shall read it, that it was not by the action of the South that this Union was dissolved; that it was not by their unfaithfulness to the spirit of that Constitution which their revolutionary sires framed for the common good of all, and their aggressions, that this fair tree of liberty was blasted; but from the gradual, constant, and determined purpose of the North to deprive them of some of their great constitutional privileges.

I hope, Mr. President, that those in the other quarter of the Union will pause and reflect upon this matter. I hope that they will conclude with me that all these assaults come from themselves, and that this matter is not in our hands but in theirs. I hope they will bear in mind that the course of proceedings which they have gone on with for the last few years cannot be otherwise than dangerous to the perpetuity of the Union. If it is a fact that slavery is so odious that the people of the North cannot longer remain with us, as true men, as men of honor, let them say so at once, and separate peaceably, and pursue their ways quietly and unmolested, and not remain with us, reaping nearly all the advantages of the institution, and bestowing upon us all the blame.

We should suffer greatly, no doubt, by the separation, but we should go on as well as we could. What I object to is, giving all the benefits of this glorious Union to one quarter of the country, and not reaping any of them ourselves. I came here to act in a spirit of conciliation. I have always acted, and shall always act in relation to this subject, in a spirit of conciliation.

There was a bill connected with this subject, which was made the special order for to-day, that I hoped would throw oil upon the troubled waters. I hoped that the bill offered by the Senator from Illinois, which was made the special order for to-day, would have been taken up, and that some plan would be adopted by which this vexed question would have been forever put to rest.

How unpropitious! How unfortunate! At the very moment when that bill should have been taken up as the order of the day, this debate has thrown obstacles in its way, and has called up this firebrand, which, I fear, will kindle a flame that it will take long to quench. This question at this hour is no longer what it was at twelve o'clock this morning. I think that all impartial men must perceive that there must be a pause in the conduct of the people on one side of this question, or that it will be impossible to compromise it; that we can come to no suitable and safe conclusion while the spirit of hostility and aggression is proceeded with.

I conclude, then, by saying that I know that it is just and proper that the utmost latitude should be given to a State Legislature in passing resolutions. I suppose that scarcely any gentleman will vote against the printing of these resolutions; but I cannot vote for printing them, because I believe they contain assertions put forth as undoubted facts, which I do not consider to be true, and to which we would give authority by printing them. For this reason I must vote against the motion to print.

Mr. BADGER. I move that this subject be passed by for the present.

Mr. FOOTE. I hope the Senator will allow me, before he makes that motion, to say a few words in explanation of what I said in the earlier part of this debate.

Mr. BADGER. There are some other memorials, I believe, to be presented, and this debate seems likely to be prolonged to the exclusion of all other business.

Mr. FOOTE. I had the honor of expressing my views upon this question at an early period of the debate; and I should not have said anything in addition to what has already fallen from me but for the fact that several very worthy gentlemen, representing, like myself, southern members of this Confederacy, have felt bound to state their dissent from the opinions advanced by me relative to the propriety of printing these resolutions. Sir, if I regarded the question before us as one at all involving the merits of the New York resolutions, I should certainly vote against printing them. But I do not understand that by printing them we at all make ourselves responsible either for the doctrinal views asserted in them, or for the statement of facts which they contain. To both the doctrine and the narrative of facts I am as decidedly opposed as any one in this body. And I am sure that the unsoundness of the one and the entire falsehood of the other have been both made sufficiently manifest in the progress of this discussion.

Sir, though I deem the debate somewhat unseasonable, and lament that it has given rise to what I must regard as uncalled-for excitement, yet am I far, very far, from undertaking to criticise gentlemen who have conscientiously differed with me on the subject. If I differ with any of my southern friends who have spoken in opposition to the printing, I hope they will recognize it as a difference among friends and brethren. Sir, I know that in regard to the positions asserted in these resolutions, there is no difference in opinion among those who represent southern States on this floor; and whenever a suitable occasion shall arise—whenever it shall become necessary to defend the institutions of the South from unjust, illiberal, and unprincipled assailment—I hope I shall not be behind any one, here or elsewhere, in rushing to the rescue. I hope I may say, without any immodesty or egotism, that I have on some occasions shown a just and proper indignation at the employment of language here and the assertion of doctrines which I deem both insulting to the South and dangerous to the Union. Perhaps I might add that, on one or two occasions, I have been even provoked into language of retaliatory denunciation, which, though richly deserved by those who called it forth, was of a nature somewhat violative of the laws of good taste and Senatorial comity; language which, though fully justified by the offensive conduct to which it was applied, I might some time since, from feelings of self-respect and a sentiment of profound regard for the dignity of this body, have sought occasion to dulcify and ameliorate, but for the unintermitted assaults of a corrupt and Vandalic press, whose organs I knew stood ready to accuse me of cowering before their violence, if I ventured upon a formal apology. However temperate I may be inclined to be on this occasion, and however averse to entering upon the discussion of questions which are, in my judgment, not legitimately before us, I trust that no one here or elsewhere, who is at all conversant with my character and attributes, will doubt my doing all that my energies may at any time enable me to accomplish in defence and in vindication of southern institutions, whenever I may have reason to regard them as involved in danger or threatened with the smallest injury.

Mr. NILES. I have a few words to say in reference to some remarks made by my honorable friend from Florida and my honorable friend from Louisiana, who seem to be agitated with the utmost fear of a speedy dissolution of this Union. I am happy to inform my friends that their apprehension is entirely unfounded; that it is entirely a mistake to suppose that there is any such combination in existence in the northern States for the destruction of this Union, as the Senator from Florida seems to suppose.

Mr. YULEE. What I referred to was the existence of combinations against the South and against southern interests.

Mr. NILES. There are no such combinations, or at least, if there are any, they are so inconsiderable as to be unworthy of serious attention here or elsewhere. The Senator from Louisiana also discovers great danger in the North to the existence of southern institutions; and he cited a fact in proof of hostility on the part of the North where a claim to fugitive slaves had been preferred, and the master had failed to recover his property, being opposed by the authorities of the State. I believe he is mistaken on this point. I recently saw a communication in a newspaper stating that very heavy damages were recovered against some half dozen persons for aiding the escape of fugitive slaves—the very slaves to which the Senator has referred. The Senator contends that the clause in the Constitution which provides for the restoration of fugitive slaves must have been virtually abrogated. There is no such state of the law, or of public opinion, as the gentleman has stated. For one, I have always been disposed to give full and free effect to that provision in the Constitution. I know it has not been abrogated, and never can be.

Mr. DOWNS. I will ask the Senator whether the rights of the South have not been trampled under foot by the northern States?

Mr. NILES. I do not know whether the rights of the South have been violated. I know that this provision in the Constitution has not been abrogated, nor can it be. The gentleman supposes that this Union is in great danger, and that that danger proceeds from the North. I had thought that there never was a time when public sentiment at the North was sounder than it is at this moment; that there never was a time when the people were more cautious to respect the rights of all the States. The mere fact that a question has been raised which is considered by some as an interference with a similar matter in some of the States, is not to be taken as a test decisive of an intention on the part of the North to destroy southern interests. Though gentlemen may confound this question with the question of slavery in the United States, nothing can be more distinct. We believe it to be our duty to discountenance in every form any idea of the right or propriety of interfering with this question. This is the position that I have occupied here. But the Senator says that the people of the North are preparing the flame which is to destroy the Union. Sir, what I have done or said has been done or said from the most deliberate consideration, and although I am not involved in any way with this question, yet I have maintained doctrines directly opposite to those which the Senator attribute to us of the North. I have believed that we might, by extending

slavery as the Union was extended, endanger the safety of the Union. I have, therefore, for one, believed that the true conservative principle was that laid down by the Constitution itself, from which we have unwisely departed in suffering the Union to depart from the position in which it was placed according to the original platform. The territory of the United States was then all free territory; but we have since, upon admitting territory, departed from the rule with which we set out, and have made it slave territory. But the gentleman says we have no right to prohibit slavery in the Territories. How so? Have we not a right to legislate for the Territories? Are they not to be disposed of according to the will of a majority of the whole people of the Union? And whether we act wisely or not in our legislation in reference to the Territories, no State can say that we interfere with her rights when we so legislate. This is a question which has no interference with State rights. It is a power entirely different from that possessed by the States—the power of acting as the local legislature for the Territories. Congress is to act primarily for all the Territories belonging to this Government. That action should be just; but, whether just or not, whether wise or not, it cannot be characterized as an invasion of the rights of any State, because there is no invasion of State rights in it.

Sir, I believe this basis is the only basis upon which this question can be settled. I wish to settle it; but I ask on what other basis can it be settled except that which the Constitution has provided? Dispose of the question in such a way as will be best for the interests of the whole country. There can be no aggression then, for if there be aggression in that, I do not know how we can act at all. If we decide the question one way, one portion of the citizens of the Union may consider it aggression; and if we decide it another way, another portion may consider it aggression upon them. It is not for one State to say how it shall be settled, or that any particular mode of disposing of the question is an aggression. In governing the Territories, the voice of the whole people must prevail.

I have acted in reference to this subject not only as I believed the interests of our particular section required, but as in my judgment the interests of the whole Union demanded. I believe that the time will come, and that that time is not distant, when the whole South, as well as the North, will be satisfied with this disposition of the question. I believe that this Union is not in danger. With great deference to the judgment of my honorable friends, I venture to oppose my opinion to that of both the gentlemen, that this Union was never safer nor stronger than it is at this moment. And yet I do not wish that the nations of Europe, who are looking to us at this time as furnishing to them an example worthy of imitation, should suppose that in establishing governments for our territories, this Union has become so feeble as to be brought in peril. No, sir; we are becoming more and more attached to the Union. We are becoming more and more convinced of its importance and of the utter futility of any attempt to break it up. Sir, I know of one attempt, of one movement that was made to effect that object in the proceedings of a celebrated convention. I need not remind my Southern friends of that convention. All similar movements will share the same fate; they will be met by public opinion whenever such movements are organized; and that opinion, though for a time it may be in a minority, yet it is a minority strong in the principles of eternal truth, and must prevail against the factions of the majority. Should any similar movement be made, it will be put down promptly at home; it will not be necessary to call upon the South for aid; it will be met where it originated. So it has been, and so it will be again. I wish most distinctly to deny the correctness of those opinions that have been stated here that this Union is in peril.

Mr. BUTLER. I happened to be somewhat connected with the transaction in Michigan to which the Senator from Connecticut has alluded, and I think that he has not been quite correct in his statement of the leading facts. He has said, that so far as regards the provisions of the Constitution which give to slaveholders the right to pursue, to apprehend, and claim their property, it is still in force throughout the northern States. Sir, I regard it, having viewed the subject carefully, as effectually annulled, as perfectly out of existence, as if no provision of the kind had ever been inserted in the Constitution. The transaction to which the Senator alludes was something of this kind: A gentleman of Kentucky, in pursuit of his own slaves, who had escaped into Michigan, was surrounded by a mob of white men, mingled with negroes, who heaped upon him the most opprobrious terms and epithets, and by force detained him, taking his slaves from him and sending them into Canada. An action was brought for the trespass upon his person, and for the loss of his property, and damages were recovered, as well for the invasion of his personal liberty as for his property. And I will tell the honorable Senator from Connecticut that in his own State it is a penal offence for any municipal officer to aid a master in the recovery of his slaves. It is made an offence by State legislation. It is so, I think, in Connecticut. I know it is so in Massachusetts, Rhode Island, New York, Pennsylvania, Michigan, and some other States. Sir, all the provisions of our Constitution relating to this subject have been trampled under foot.

Mr. DICKINSON. There is no such legislative enactment in New York.

Mr. BUTLER. It is my impression that there is such a law, and that it was passed at the last session of the Legislature.

Mr. DIX. The Senator is entirely mistaken. There is no such law in the State of New York.

Mr. CAMERON. The Senator is mistaken also in regard to Pennsylvania. There is no such law there.

Mr. BUTLER. I have heard it stated that there is such a law in Pennsylvania. I know that in all the States to which I have alluded, the authorities have so far deprived slave-owners of the benefit of the Constitution, as to make it tantamount to the most penal enactment. They hold their offices upon the terms and upon the condition that they will offer all the opposition in their power to the restitution of slave property. And many of those States have penal laws upon the subject, making it an offence for any peace officer or any citizen to aid in the recovery of fugitive slaves. I may be wrong in regard to New York.

Mr. DICKINSON. It is not two weeks since a fugitive slave was brought before a court in New York upon the requisition of his owner; and, although he was dismissed, it was owing to an informality in the mode of his arrest.

Mr. BUTLER. He was brought before a Federal judge.

Mr. DICKINSON. Not a Federal judge, but a State judge; and dismissed because not legally brought before the judge.

Mr. FITZGERALD. I believe the Senator from South Carolina included Michigan in his annunciation of States having penal enactments against aiding in the recovery of fugitive slaves. I beg to say to the Senator that there is no such enactment in Michigan.

Mr. BUTLER. I do not know how it is with Michigan, but I will tell the honorable Senator from Connecticut now, that a bill has been introduced here making it the duty of all State officers to give aid in the arrest and delivery of fugitive slaves under a penalty. And when that bill comes up many of those gentlemen who speak so loudly of the careful observance of the provisions of the Constitution now, I fear will not come to my aid in the support of that bill. I know there is as much, or more effected by the aid of the pocket, and expressed sympathy throughout the North, as could possibly be accomplished by direct legislation. Is it not notorious, I ask Senators, that the slaves in the slaveholding States have become dissatisfied in consequence of your inflammatory publications and harangues, made even here within the walls of Congress? I believe, sir, that if we had had no session of Congress for the last ten years, it would have been better for this country. Yes, sir, it is here, within this very Senate, that we are to be taunted and maligned; and when we rise to defend ourselves, in an admitted minority as we are, when we rise to resist the hand of oppression, we are to be branded as violators of the Constitution and as putting in jeopardy this Union.

Do we not hear it declared that we must set free the slaves in this District, and that the institution must not be permitted to exist in the Territories belonging to this Government? And has it come to this, that when we of the South have been set in the foremost rank in battle, and have been swept down by the fire of the enemy, our widows and orphans are not to be entitled to claim any consideration in the disposal of the acquisitions that were purchased by our blood? Sir, why need I point out the indignities that have been heaped upon us? Have you not abolished slave labor in your dockyards and arsenals, and are you not proposing its abolition wherever there is a groundwork upon which you can fasten such a proposition? Are you not laboring to establish the doctrine that there is no propriety in the existence of the institution? All this having been done—and it is notorious that it has been done—submission to it, I affirm, is a degradation. When the work shall have been consummated, our degradation will be complete. Nay, to yield ground to the doctrine now is nothing more nor less than yielding up every right that we possess. We may go to war and sacrifice our lives, and our posterity is to be told, the fruits of victory are not yours; you shall not participate in them. It is an odious, a revolting doctrine, and if we yield to it, I say, unhesitatingly, that we shall deserve the degradation we will incur.

I have not said what my State will do in such an event; I do not know what other States will do; but, if I mistake not, you will have resolutions piled upon your table, rebuking the timid, and you will find resolutions of instructions, too, showered upon you; you will have indications, unmistakable evidences of what will be the ultimate consequence of persevering in this system of opposition. The gentleman from Connecticut says that northern men will not invade the rights of the South. Sir, I thank him not, that he will not invade our dwellings, whilst he heaps combustibles about our enclosures and about our dwellings, ready for the torch which will hurl destruction upon us. Sir, to tell me that the institution of slavery has never been invaded, and has nothing of the kind to fear, is to tell me what is palpably false. I know that it has been invaded, and that my life and the lives of my children have been put in jeopardy by it. It has been invaded by the action of this very body. And yet the gentleman tells me we will spare your house, your homes, and firesides. I ask for no such forbearance; I ask for the observance of good faith; I ask for the fulfillment of the provisions of the Constitution made by our forefathers. Sir, so long as the altar of the Constitution is preserved to us, I will hold fast by the horns of the altar; but if they make it a Moloch to which we are to be made burning victims, I, for one, will never submit to it. I am not to be deceived by their miserable pretexts.

Sir, I have gone further than I intended; but I had heard taunts thrown out, and I could not refrain from making the few remarks that I have made. And is it to be held as treason in those who are oppressed if they venture to remonstrate? Because you are strong, are we therefore not to be allowed to declare the truth? Sir, we have assumed to do nothing more than to declare the plain, unvarnished truth. Has it come to this, that we who are under the lash are not to be permitted to give utterance to our feelings? I know it is impossible for a minority to resist successfully the will of the majority, unless there is some mode of resisting by the aid of combination, or by the forbearance of those who, having the power, may nevertheless possibly be actuated by a sense of good faith and justice. Mr. President, I have occupied your time longer than I intended.

Mr. DICKINSON. In what little I have said, I have not departed, I believe, from the question that is before the Senate, for printing the resolutions of the State of New York. I do not intend to depart from it. I rise to correct more fully than I was able to do at the time, a statement of fact made by the honorable Senator from the State of South Carolina, in regard to penal enactments for the prevention of the recovery of runaway slaves. There is no such law in the State of New York. There was such a question before the Legislature, but the proposition was rejected, and the law remains as it was. It is not many weeks since a fugitive slave was brought before the court in New York, not before a Federal judge, but a State judge—Judge Edwards—and he entertained the case, and decided it, as I have a right to presume, correctly. I do not know all the reasons for his decision; but, as far as I understand the facts of the case, they were these: The slave was seized without process of law, and the judge decided that they

should have taken out process in the first instance, in order to bring him before the tribunal. Whether the judge decided right or otherwise, perhaps it is hardly becoming me or the Senate to discuss. Sufficient for my purpose, however, is the fact, that the law in the State of New York is not as the Senator supposes, and the tribunals execute the law as it exists, and have interposed no obstacle in the way of the recovery of the just rights of any individual.

Mr. DOWNS. I am very glad to hear the Senator from Connecticut so confidently assert that he considers the Union in no danger. I am glad to hear it, because I believe that Senator to be sincere in what he states. I believe that whatever that Senator tells us he believes in all sincerity. The Union is in no danger, and will be in no danger, if aggression be abstained from, if the current of aggression ceases. And when I hear it so emphatically stated that there is no danger, I hail the declaration as a good omen that the waters will become pacified, that the agitation will not be continued. If this should be the case, then I have no doubt the Union will be preserved. But I rose chiefly to state why I think the reply of the gentleman to that part of my argument which went to prove that the provision of the Constitution about reclaiming fugitive slaves has virtually been abrogated, has failed of its purpose. It is true, that in the case alluded to in Michigan, an action was maintained for damages in money; but whether the question of damages applied to the individual or to the property he had lost, was not clearly stated: if I mistake not, the property was entirely lost to him. And what does the trial for damages amount to? I would like to be informed by the Senator from Kentucky whether it is within his knowledge that the gentleman has ever realized anything from the verdict?

Mr. UNDERWOOD. I have no information that the money has been recovered.

Mr. FELCH. I understand the gentleman to inquire whether any compensation has been obtained for the slaves. I will state one thing in regard to this matter. It was the subject of remark here at the last session, and in some instances remarks were made that I thought were uncalled for, tending to throw opprobrium upon citizens and upon the tribunals before which the case was brought. As I understand the case, it is not as has been stated by the Senator from South Carolina. It was not a case involving a question of personal abuse or injury.

Mr. BUTLER. It was simply an action for trespass.

Mr. FELCH. It was an action of trespass on the case, in which certain gentlemen from Kentucky claimed that they were entitled to compensation for the loss of slaves. They alleged that their slaves had escaped into Michigan, and that having pursued them there, a mob assembled and rescued the slaves, and carried them away, and that the parties against whom the action was brought were present aiding and abetting in the abduction of the slaves, and upon that principle they claimed compensation. The first trial was had before Justice McLean, and upon that trial a verdict would have been rendered in accordance with the provisions of the Constitution in reference to fugitive slaves if any verdict had been rendered at all; but at that time the jury did not agree upon a verdict. Eleven of the jurors were in favor of finding for the plaintiffs the value of the slaves, and one was opposed. At a subsequent trial, a verdict was rendered for the value of the slaves. In both instances the charge of the judge was in accordance with the constitutional provision, Justice McLean presiding upon the former trial, but not upon the latter; and I will remark further, that no hesitancy or doubt was entertained by the jury, no difficulty arose, so far as I know of, upon the abstract question of the right to recover; but it was a case of complicated facts, a case in which intelligent jurymen might disagree in relation to the facts; but in regard to the question of law, as to whether the provision of the Constitution should be recognized, there never was a doubt, so far as I know, in the minds of the jury, or in the mind of the judge.

In reference to the inquiry of the Senator, whether the judgment has been paid or not, I do not know; but this I will say, I know the persons who were defendants, and I know a verdict against them, whether for two thousand or twenty thousand dollars, can be collected at any time. Whether the parties are satisfied with the decision or not—whether there is to be a review of the case, I cannot say; but whatever the verdict may be finally, that verdict can be enforced. Now, if the Senator will allow me a single word, I will say that I am not aware that I myself, or any other Senator from the North to whom the Senator from South Carolina has referred, nor any northern man, has shown any such sensitiveness on the subject as would prevent a careful examination of this question of the recovery of fugitive slaves; and I believe that this case is one of the strongest evidences of it that can be given, and that southern men may rest assured that not only are the courts opened to them and ready to take cognizance of their complaint; but, in point of fact, there is no place where a freer investigation can be had, and a more entire willingness is at all times manifested that the principles of justice and law should be maintained. And I would remark further, that this is the first case that has been tried in any of the courts of the northern States in which this principle has been involved; and if anything were wanting to show the existence of a right feeling on the subject, I would point to this case as conclusive proof that in the North justice is open to every citizen of the South, and as accessible as in his own State.

Mr. BUTLER. I have before me the express provision of the law in regard to this subject, as it exists in some of the States, and I will take the liberty of reading it. I cannot speak particularly as to the laws of all the States, and I shall appeal to the Senator from Pennsylvania presently, for they have some laws in that State that are quite as strong as those in Massachusetts, I have no doubt. [Mr. BUTLER read the provision he referred to from the act of the Legislature of Massachusetts.]

Now, in reference to the other States——

Mr. BALDWIN, (interposing.) If the Senator will allow me, I will be glad to set him right in regard to the law in Connecticut.

Mr. BUTLER. Certainly, sir. Whatever the Senator states to be the law there, I have no doubt will be entirely correct.

Mr. BALDWIN. The Senate must be aware that a few years ago, anterior to the decision of the Supreme Court of the United States in the case of ——— against the Commonwealth of Pennsylvania, it was the prevailing opinion in the northern States that the Constitution imposed it as a duty upon the several States to make provision for the surrender of fugitives from servitude in the slave States, and that laws were made in several of the States according to their own views of propriety and justice, as well in reference to the security of those in whose behalf the duty was imposed, as in regard to the security of their own citizens, who might be endangered in the execution of the law. The State of Connecticut passed a law for the purpose of carrying into effect her obligations, as she understood them, under the Constitution of the United States, containing provisions which were deemed just, as well in reference to the interests of the people of the slaveholding States as to those of the citizens of the State of Connecticut. After the passage of that law, sir, the question arose in the Supreme Court of the United States, and it was then decided, contrary to the prevailing impression at the North, that the duty imposed by the Constitution was a duty imposed not on the State Governments, but on the Government of the United States—that it was the duty of Congress, and the exclusive duty of Congress, to make all needful regulations for the purpose of carrying into effect that clause of the Constitution of the United States. Yielding to this opinion of the Supreme Court of the United States, that State legislation was wrong upon this subject, that it was interfering with a duty pertaining exclusively to the Government of the United States, the Legislature of Connecticut repealed the law which had before subsisted on her statute book for the performance of this State duty. And she went further: feeling that the act of Congress, which confers upon the magistrates of the State having exclusive jurisdiction in the State of Connecticut only to the amount of seven dollars, the power of deciding definitively upon the great question of personal liberty—feeling, I say, this to be an improper delegation of power, one for which the magistrates of the State of Connecticut were not selected, that State deemed it her duty not only to repeal the law by which she had provided adequate and proper tribunals for the purpose of fulfilling what she had before supposed to be her duty in that behalf, but she also passed a law prohibiting those magistrates, appointed by State authority for a totally different duty, from exercising the power conferred by Congress. They felt, sir, that individuals ought not to be exposed to have their liberty taken away from them at the will of a magistrate, by the mere certificate of a magistrate to whom the law of the State of Connecticut permitted exclusive jurisdiction in ordinary transactions between man and man, to the amount only of seven dollars. They felt, sir, that the magistrates of the State, who were clothed with authority for such a purpose, and who received their appointments from the State Governments, ought not to be permitted to continue the performance of this duty thus conferred upon them by act of Congress; a duty for which they were not appointed by the State, a duty for the due performance of which they owed no responsibility to the Government of the State.

Mr. DOWNS. If the gentleman will pardon me, I yielded the floor only for an explanation.

Mr. BALDWIN. I have stated all that I desired to state in regard to the history of the legislation of Connecticut upon this subject. I think the Senator from South Carolina is mistaken in one respect, in supposing that there is any penalty attached to the exercise of jurisdiction by these magistrates. It is simply forbidden, but I think there is no penalty in the law which forbids the exercise of jurisdiction.

Mr. BUTLER. It is precisely as I stated. The enactments of the State Legislatures are not all alike, but they are all based upon the same principle; the purport and tenor of all of them are the same; they all contain a prohibition. I do not undertake to state precisely what those laws are; but all the States at the North, having once laws expressly providing for the apprehension of slaves, have repealed those laws, and, in many instances, have imposed penalties upon their State officers for doing the very thing which they were once commanded to do.

PRESIDING OFFICER. The Senator from Louisiana has not yielded the floor.

Mr. BUTLER. The Senator will excuse me; I will no longer interrupt him.

Mr. DOWNS. I do not undertake to argue that the law of that State literally went to the point of rendering null the provision of the Constitution, but I maintain that its practical effect amounted to that, and several Senators of the free States have changed their opinions materially in regard to it. I am glad to hear the explanation that has been given by the Senator from Michigan, showing that the provocation was not so great as some of us suppose it was. I am very glad to hear all that. I hope I shall hear similar things from other quarters; but I will ask the Senator if it is not well known that, at Detroit and other places along the border, there are persons, whites and blacks, who make it their business to assist slaves in passing over into Canada? This is what I understand, and this, of itself, if nothing else, is, I consider, making a nullity of the provision of the Constitution. But now the Senator from New York says that the court in New York entertained an application of this kind. That case, if I mistake not, was dismissed without being acted upon; and, had I anticipated this debate, I should have been prepared to show under what circumstances it was dismissed. But I thought there was something more offensive in the proceedings of the court than is represented to have taken place by the gentleman. He suggests, as the reason why the court did not entertain the case, that the arrest had been made without authority from the proper tribunal. I was under the impression that the provision of the Constitution gave to the owner of the slave a right to exercise the power of arresting his slave, but I am reminded that it has been decided by the Supreme Court recently that it is not in the power of the owner to arrest his own slave.

The gentleman has mentioned some instances where courts have entertained suits against parties assisting slaves to escape; but I ask if the gentleman knows any case in which the action has been based exclusively upon the instrumentality of the party in aiding the slave to escape? I know of none, and I know that the feeling in the South is so strong, the conviction is so strong of the interference within the free States of individuals aiding

the escape of slaves, that when a slave makes his escape beyond the bounds of the slave States he is given up, because if the master pursues him he risks his life—he risks more than the slave is worth. I will mention an instance in point: A gentleman arrived at Buffalo with his body servant, a slave, who, as a matter of choice, desired to remain with his master, but he was not permitted to do so. Immediately upon his arrival he was surrounded by a crowd of persons, by whom he was taken away, and kept away from his master. So strong was his desire to return, that he wrote to his master stating that he wanted to get back. The master appealed to the civil authorities. They told him, Oh yes, the law authorizes you to get possession of your slave; but we would advise you to take no steps in the matter, because if you get the decision of the court, the mob will not permit your slave to be restored to you, or if he is, they will again deprive you of him. Does this not show, as I have said, that the feeling on the part of the North is altogether changed from what it was, and which almost amounts of itself to a dissolution of the Union? There is one other point to which the gentleman alluded to which I wish to advert. The gentleman insinuates that this question of slavery between the North and the South is not so difficult of adjustment; that there are those in the South who will rise up and sustain the acts of the North. Does the gentleman pretend to hold out the idea that any man in the South will justify the outrages which have been committed upon their rights? He certainly knows but little of the South if he supposes it. Does he mean to assume that there is a man in the South who would sanction the proposition that slavery shall be prohibited in the Territories? If he relies upon that hope as the only means of getting out of our difficulties, I tell him again that he is reckoning without his host. I think that the proposition has been clearly made out that the provision of the Constitution is in effect annulled.

Mr. METCALFE. The debate which we have had here to-day upon this subject, sir, reminded me of certain questions that have been made and propounded to myself. The question has been, Tell us, do tell us, where Kentucky will go when this Union is dissolved? Will she unite with the South, or will she unite with the North? Where, oh, where will Kentucky be found? I confess that on this subject I have had some difficulty in my own mind; but I have settled down fixedly upon this conclusion, that Kentucky will neither unite with the South nor with the North, as southern and northern divisions. I had the honor, on a former occasion, to tell you somewhat of what I believe to be the views, the feelings, and the wishes of Kentucky as it regards this great question. There are, sir, too many ties; the ligaments are too strong; her interests themselves would be too strong, were it not for the other numerous ties which band the whole of us together. Kentucky, in one sense, will unite, it is true, with the North, with an indissoluble grasp, never, never to be sundered; while, on the other hand, occupying the central position she does, she will unite, with an equal tenacity of grasp, when she can take hold of the hand of her southern brethren.

Mr. President, I regret to say—for I concur entirely with the Senator from Connecticut upon this subject, that this Union was never stronger than it is now; the great interests are, perhaps, stronger now than they have ever been before; besides, oh! the generation thus instrumental in dissolving this Union will occupy the darkest page in the history of future generations—I confess that I often regret to hear even an intimation of anything like a dissolution of the Union on the floor of the Senate of this country. At a time like this, when the thrones are tottering and falling from beneath the monarchs of the whole civilized world—at a moment when they are looking to this Confederacy as the bright resplendent polar star of human liberty, and the different nations of Europe are endeavoring to shape their governments so as to imitate our own, let it not go forth to Europe, nor to any part of the civilized race of mankind, that this Union is in any danger. In danger! Wherefore in danger? Because we will print, or we will not print, such a resolution as that upon your table?

But, Mr. President, it is late, and I did not rise to detain you, and but for the fact that I happened at present to occupy a peculiar position in this country, I should not now have uttered a word. Disunion! Of all the periods in the history of this country, this is the last that ought to be talked of for such a thing. Why was such a thought entertained?. Let our motto ever be, Union now, and union forever. I confess that I have felt some apprehension when I saw so much territory about to be added to this Union. I thought there might be danger then; that we were stretching out our arms too far beyond the proper reach; but when we take into consideration that, at the very same time we are doing this thing, the world is in such a state of progress as to her travel and transportation that the most distant bounds are thereby brought, as it were, near together; when we take all these things into consideration, we, I think, need not fear the consequences. At least, for one, no matter what have been my sentiments, I think I shall represent fairly the condition of my State and the feeling of her people when I say that she will be found among the last to falter, and among the first to endeavor to hold the Union together, no matter where its limits may extend.

The question being taken on the motion to print, it was decided—yeas 45, nays 6—as follows:

YEAS—Messrs. Allen, Atchison, Atherton, Badger, Baldwin, Bell, Benton, Berrien, Bradbury, Breese, Butler, Cameron, Clarke, Clayton, Corwin, Davis of Massachusetts, Dayton, Dickinson, Dix, Dodge of Iowa, Douglas, Felch, Fitzgerald, Foote, Greene, Hamlin, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Johnson of Georgia, Jones, King, Mason, Metcalfe, Miller, Niles, Pearce, Phelps, Rusk, Sebastian, Spruance, Turney, Underwood, and Upham—45.

NAYS—Messrs. Borland, Davis of Mississippi, Downs, Fitzpatrick, Hannegan, and Yulee—6.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, announcing that the said House had passed the Senate bill authorizing the payment of interest upon the advances made by the State of Alabama, for the use of the United States Government, in the suppression of the Creek Indian hostilities of 1836-'37 in Alabama, with an amendment.

On motion of Mr. KING, the Senate proceeded to the consideration of the said bill, when the amendment by the House was concurred in.

ADMISSION OF CALIFORNIA.

Mr. FOOTE gave notice of his intention to offer the following amendment when Mr. DOUGLAS's bill for the admission of California into the Union came up:

SEC. 4. *And be it further enacted*, That all the remaining territory acquired by the United States under the said treaty of peace with the Republic of Mexico, not contained within the limits of the State of California, as delineated herein, (hereinafter known as the province of New Mexico,) shall be, and the same, with the inhabitants thereof, is hereby, (provided the consent of the State of Texas can be hereafter obtained to this arrangement,) placed under the control and jurisdiction of the Government and laws of the said State of Texas, as an integral part thereof, subject in all respects to the terms contained in the joint resolution whereby said State of Texas was admitted into the Union, reserving to the United States all rights of property in the public domain, and other property ceded to the United States in the said treaty of peace with the Republic of Mexico, in all that portion of the said Territory hereby made part of the State of Texas, which may be ascertained hereafter, by actual survey or otherwise, not to be included within the present boundaries of the said State of Texas, free from taxes, assessments of every kind by the State of Texas, together with the right of disposing of the same, and the right to adjust all claims and titles to lands derived from foreign Governments, in such manner as Congress shall hereafter prescribe.

Mr. TURNEY also gave notice, that when the bill came up, he should likewise move to amend the bill by striking out all after the words "United States," in the third line of the first section, to the word "shall," in the twelfth line, and insert the following:

Acquired from the Republic of Mexico by the treaty concluded February 2, 1848, which lies west of the summit of the Sierra Nevada and Rocky Mountains.

SPANISH BRIG RESTAURADOR.

On motion of Mr. JOHNSON, of Louisiana, the Senate proceeded to consider, as in Committee of the Whole, House bill for the relief of the owners of the Spanish brig Restaurador; and, the bill having been explained by Mr. J., and no amendment having been proposed, it was ordered to be read a third time, and was subsequently read a third time and passed.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 22, 1849.

The Journal of Saturday was read and approved.

The SPEAKER presented the petition of John Pierce, jr., late professor of mathematics in the navy of the United States; which was referred to the Committee on Naval Affairs.

On motion of Mr. PRESTON, (the rules having been suspended for the purpose,) it was

Resolved, That House bill No. 685, "to establish a territorial government of Upper California," and House bill No. 711, "to establish the territorial government of New Mexico," be made the special order for Tuesday, the 30th inst., and that they be continued from day to day the special order, Fridays and Saturdays excepted, until they are disposed of.

On motion of Mr. HARMANSON, (the rules having been suspended for that purpose,) it was

Resolved, That House bill No. 635, "to aid the State of Louisiana in reclaiming the swamp lands," be made the special order for to-morrow, and continue from day to day until disposed of.

CALIFORNIA AND NEW MEXICO.

Mr. HILLIARD asked the general consent of the House to allow him to introduce two bills, of which he had given notice, in order, he said, to refer them to a committee. He would move that they be referred to a select committee of nine members.

The bills were read by their titles, as follows:

A bill to authorize the people of that portion of the territory of the United States which was acquired by the treaty of peace, friendship, limits, and settlement with the Republic of Mexico, concluded February 2, 1848, known as California, to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; and,

A bill respecting the limits of the State of Texas, and that portion of the territory of the United States which was acquired by the late treaty with Mexico, known as New Mexico.

Mr. PETTIT objected to the reception of the bills.

Mr. HILLIARD moved that the rules be suspended for their reception; and on that motion he demanded the yeas and nays.

Mr. McCLERNAND asked that the bills be read.

The SPEAKER said, the question being on the motion to suspend the rules, the bills could not be read, except by general consent, or by a vote of the House.

Mr. HILLIARD withdrew the demand for the yeas and nays.

Mr. PETTIT and several other gentlemen renewed it, and the yeas and nays were ordered.

Mr. ASHMUN asked that the question be stated, and the titles of the bills again be read.

The question was again stated to be on the suspension of the rules for the reception of the bills, and their titles were again read.

Mr. ROCKWELL, of Connecticut, said he understood that the gentleman from Alabama proposed that the bills be referred to a committee. That was all.

Mr. McCLERNAND inquired whether the gentleman from Alabama had given notice of his intention to introduce these bills?

The SPEAKER replied that notice was given on Monday last.

The question (the Chair further stated) was on suspending the rules, to allow the gentleman from Alabama to introduce these bills. A separate question might be had, if any gentleman demanded.

Mr. McCLERNAND. I demand it.

Mr. VINTON. Will it be in order to ask that the bill respecting New Mexico be read?

The SPEAKER. It can be read by order of the House.

Mr. VINTON. I make that motion.

The SPEAKER, (addressing Mr. HILLIARD.) The gentleman from Alabama will designate the bill upon which he wishes the question first to be taken.

Mr. HILLIARD replied, the bill respecting the boundary of Texas—the bill which the gentleman from Ohio wishes to have read.

The question was taken, and the House ordered the bill to be read.

It was read accordingly, as follows:

A BILL respecting the limits of the State of Texas and that portion of the territory of the United States which was acquired by the late treaty with Mexico, known as New Mexico.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States in Congress assembled*, That the northern boundary of the State of Texas shall commence at the point where the eastern boundary of said State is intersected by the parallel of 36° 30′ north latitude; thence west along that parallel of latitude to the summit of the

range known as the Sierra Nevada or California mountains; thence south along the summit of that range to the parallel of 34° 30′ north latitude; thence along that parallel of latitude to the Pacific Ocean: and that portion of the territory of the United States which was acquired by the treaty of peace, friendship, limits, and settlement with the Republic of Mexico, concluded February 2d, 1848, lying south of said northern boundary, shall be and constitute a portion of the State of Texas, and the same is hereby ceded to the said State: *Provided*, The said State of Texas shall ratify the boundary aforesaid; *and provided, also*, That the said territory by this act included within the limits of the State of Texas shall be subject to the conditions and the guarantees named in the joint resolution for annexing Texas to the United States, approved by the President of the United States on the 1st day of March, 1845; and that the United States reserve unto themselves all right of property in the public domain and other property ceded by said treaty with Mexico, free from taxes and assessments of any kind by said State; also the power of disposing of the same, including the right of adjusting all claims and titles to land derived from foreign governments, in such manner as Congress shall prescribe.

Mr. EDWARDS inquired if it was in order to move to amend the motion of the gentleman from Alabama. He would prefer to have the bill referred to the Committee on Territories.

The SPEAKER replied that the motion to suspend the rules could not be amended.

Mr. HILLIARD said he was willing to leave to the House to decide upon the question of reference after the bills should have been received.

He wished to make a single remark to the House, by way of explanation.

The SPEAKER said the gentleman could only proceed by general consent.

Objections were made.

The question was then taken on the first division of the question, viz: on the introduction of the bill relative to New Mexico; and the vote stood—yeas 60, nays 120—as follows:

YEAS—Messrs. Atkinson, Barringer, Barrow, Beale, Bedinger, Bocock, Bowlin, Boyd, Boyden, Burt, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crozier, Daniel, Donnell, Featherston, Ficklin, Flournoy, French, Fulton, Gaines, Gentry, Goggin, Harris, Haskell, Hill, Hilliard, George S. Houston, Inge, Iverson, Andrew Johnson, Robert W. Johnson, John W. Jones, Kaufman, La Sère, Ligon, Lumpkin, McDowell, McLane, Meade, Morehead, Morse, Outlaw, Pendleton, Peyton, Pilsbury, Preston, Rhett, Stanton, Thibodeaux, Thomas, Jacob Thompson, Richard W. Thompson, John B. Thompson, Toombs, Wick, Williams, and Woodward—60.

NAYS—Messrs. Abbott, Ashmun, Bingham, Blackmar, Blanchard, Brady, Bridges, Brodhead, Charles Brown, Canby, Cathcart, Collamer, Collins, Conger, Cranston, Crisfield, Crowell, Cummins, Darling, Dickey, Dickinson, Dixon, Eckert, Edsall, Edwards, Embree, Nathan Evans, Faran, Farrelly, Fisher, Freedley, Fries, Giddings, Gott, Greeley Gregory, Grinnell, Nathan K. Hall, Hammons, James G. Hampton, Henley, Henry, Hubbard, Hudson, Hunt, Irvin, Jenkins, James H. Johnson, Kennon, Daniel P. King, Lahm, Sidney Lawrence, Leffler, Levin, Lincoln, Maclay, McClelland, McClernand, McIlvaine, McKay, Job Mann, Horace Mann, Marsh, Marvin, Miller, Morris, Murphy, Nelson, Newell, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pettit, Phelps, Pollock, Putnam, Reynolds, Richardson, Richey, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Sawyer, Schenck, Slingerland, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Starkweather, Charles E. Stuart, Strohm, Strong, Tallmadge, Taylor, James Thompson, William Thompson, Thurston, Tuck, Turner, Van Dyke, Venable, Vinton, Warren, Wentworth, White, Wilmot, and Wilson—129.

So two-thirds not voting therefor, the rules were not suspended, and leave was not granted for the introduction of the bill.

The SPEAKER inquired whether the gentleman from Alabama [Mr. HILLIARD] desired a separate question on suspending the rules, for the purpose of receiving the other bill? (*i. e.* the bill to authorize the people of California to form a State government.)

Mr. HILLIARD answered in the affirmative.

The following is a synopsis of the bill:

The bill proposes to authorize the people of that portion of California west of the Sierra Nevada range of mountains, lying between the parallels of 34° 30′ and 41° 30′ north latitude, to form a constitution, and apply for admission as a State, reserving to the United States all rights of property ceded by the late treaty with Mexico free from taxation by said State, together with the power of disposing of the same, and of adjusting all claims and titles to land, derived from foreign governments, in such manner as Congress may prescribe. It is also provided, that until the next general census shall be taken, the State of California shall be entitled to one representative in Congress. The bill also proposes to organize the remaining portion of the territory lately acquired from Mexico (except that given to Texas) into a territory, bearing the name of Utah—the principal name already there—to be governed in such manner as Congress may prescribe.

The question was then declared to be on suspending the rules, for the purpose of receiving the said bill.

The yeas and nays were asked and ordered.

Mr. WENTWORTH called for the reading of the bill.

The question was put to the House, and decided in the affirmative.

So the bill was read.

Mr. HILLIARD. I desire to say that as the House has, by a vote——

Mr. PETTIT inquired of the SPEAKER if the motion was debatable?

The SPEAKER said it was not.

Mr. HILLIARD. I am not going to debate it.

Mr. PETTIT. I call the gentleman to order.

Mr. HILLIARD. I ask the gentleman to take his seat. I am about to make a motion which is perfectly in order. Can I not have the floor for a moment? I beg the gentleman not to interrupt me.

Mr. PETTIT. If the gentleman undertakes to debate, I will interrupt him.

The SPEAKER interposed to order.

Mr. HILLIARD. I am not going to debate. I merely wish to say that I shall withdraw the bill, and offer this and another bill as a substitute for the territorial bills which have been made the special order of the day for the 30th instant.

So Mr. H. withdrew the bill.

Mr. WILSON (by leave) presented resolutions of the Legislature of the State of New Hampshire, approving of the vote of the Representatives of that State in Congress, at the present session, upon the subject of the slave trade in the District of Columbia.

Also, resolutions of the Legislature of said State in favor of the passage of a law by Congress prohibiting slavery in New Mexico and California, and instructing their Senators, and requesting their Representatives to vote in favor of such a law.

Also, resolutions of the Legislature of said State, expressing a desire that the lustre of the glorious events of the Mexican war may never be tarnished by the introduction of slavery in the territories acquired as the result of that war; which several resolutions were laid on the table, and ordered to be printed.

STATE OF ALABAMA.

Mr. COBB, of Alabama, moved to suspend the rules, to enable him to offer the following resolution:

Resolved, That the Committee of the Whole House be discharged from the further consideration of the Senate bill entitled "An act authorizing the payment of interest upon the advances made by the State of Alabama for the use of the United States Government in the suppression of the Creek Indian hostilities in 1836 and 1837, in Alabama," and that it be now taken up and considered in the House until disposed of.

The motion to suspend the rules prevailed, and the resolution was received and agreed to.

The House proceeded to the consideration of the said bill; and it having been read—

Mr. COBB desired to call the attention of the House particularly to an amendment which had been reported to the bill. It is as follows:

And be it further enacted, That in ascertaining the amount of interest as aforesaid due to the State of Alabama, the following rule shall govern:

1st. That interest shall not be computed on any sum which Alabama has not expended for the use and benefit of the United States as evidenced by the amount refunded or repaid to the State of Alabama by the United States.

2d. That no interest shall be paid on any sum on which the said State of Alabama did not either pay or lose interest as aforesaid.

The amendment having been read—

Mr. VINTON rose to make an inquiry. There were, he said, several acts of Congress to settle the claims of Virginia in which certain principles by which the settlements were to be governed were laid down. He wished to know whether this amendment was a copy of the Virginia and other acts? If so, the principles of these acts having been settled by this House, after great consideration, he saw no objection. If a new principle was introduced, it should be considered.

Mr. COBB said it afforded him much pleasure to state that the amendment was precisely such an one as the gentleman (the chairman of the Committee of Ways and Means) had reported at the last session.

Mr. VINTON said, if so, it was in accordance with the Virginia amendment.

Mr. COBB (amidst much merriment) said that he was satisfied it was unnecessary to consume the time of the House in any lucid discussion on this bill. Every intelligent gentleman (and he presumed every member of this House was such) would embrace it at once. It was unnecessary for him to debate it. The question was before them. He was satisfied, from the indications he had already witnessed, that the House was anxiously awaiting an opportunity to show its good feeling towards him, if he asked them for anything which was proper. He was satisfied that they were willing to give him so much as ten minutes of their time to dispose of this bill. He moved the previous question.

And there was a second.

And the main question was ordered to be now taken, (which main question was first on the amendment.)

And the question having been taken, the amendment was agreed to.

And the question then being on the third reading of the bill—

Mr. CRISFIELD inquired of the Speaker if the bill was amendable?

The SPEAKER said, No; the previous question was not exhausted. The question was on the third reading of the bill.

Mr. CRISFIELD moved that the bill be laid upon the table.

And the question having been taken, the House decided that the bill should not be laid on the table.

Mr. CRISFIELD inquired of the Speaker if it was in order to move the recommitment of the bill?

The SPEAKER answered in the negative.

Mr. SCHENCK inquired if it was in order for any one but the gentleman from Alabama [Mr. COBB] to know anything about the bill?

Calls to order.

The question was then taken on the third reading of the bill; and having been read a third time by its title, and the question being on the passage of the bill—

Mr. INGE moved the previous question, which was seconded; and the main question was ordered to be now taken.

After a conversation between Mr. ASHMUN and the SPEAKER on a point of order—

The main question was taken, and the bill was passed.

RETROCESSION OF THE DISTRICT.

Mr. FLOURNOY moved a suspension of the rules, to enable him to introduce a bill (of which previous notice had been given) for the retrocession of the District of Columbia.

CLAIMS OF ALABAMA.

Mr. HARRIS moved a reconsideration of the vote by which the bill had been passed, and moved that that motion be laid on the table.

Mr. ROOT asked the yeas and nays, which were ordered; and being taken, were yeas 114, nays 66.

YEAS—Messrs. Adams, Atkinson, Barringer, Barrow Beale, Bedinger, Bocock, Boyd, Bridges, Albert G. Brown, Buckner, Burt, Cabell, Canby, Franklin Clark, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Cocke, Collins, Daniel, Darling, Dickey, Dickinson, Dunn, Edsall, Featherston, Ficklin, Fisher, Flournoy, French, Fulton, Gaines, Giddings, Greeley, Grinnell, Moses Hampton, Harralson, Harris, Haskell, Hill, George S. Houston, Hunt, Inge, Iverson, Jenkins, Robert W. Johnson, John W. Jones, Kaufman, Kennon, Thomas Butler King, Lahm, La Sère, Wm. T. Lawrence, Sidney Lawrence, Leffler, Levin, Lincoln, Lumpkin, Lynde, McClelland, McClernand, McIlvaine, McKay, Job Mann, Meade, Miller, Morris, Morse, Newell, Nicoll, Pendleton, Petrie, Pettit, Peyton, Phelps, Pilsbury, Pollock, Preston, Richardson, Richey, Robinson, Rockhill, John A. Rockwell, Rose, Sawyer, Shepperd, Simpson, Slingerland, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Stanton, Starkweather, Stephens, Charles E. Stuart, Tallmadge, Taylor, Thibodeaux, Thomas, Jacob Thompson, Robert A. Thompson, William Thompson, Thurston, Tompkins, Toombs, Turner, Venable, Wentworth, Wiley, Williams, Wilmot, and Woodward—114.

NAYS—Messrs. Abbott, Ashmun, Bingham, Blackmar, Blanchard, Bowlin, Boyden, Brady, Brodhead, Chapman, Clingman, Collamer, Conger, Cranston, Crisfield, Crowell, Crozier, Dixon, Garnett Duncan, Edwards, Embree, Nathan Evans, Farrelly, Freedley, Fries, Goggin, Gott, Nathan K. Hall, James G. Hampton, Henry, Hilliard, Elias B. Holmes, Hubbard, Hudson, Irvin, James H. Johnson, Kellogg, Daniel P. King, Ligon, McDowell, McLane, Horace Mann, Marsh, Marvin, Mullin, Murphy, Nelson, Nes, Outlaw, Peaslee, Peck, Reynolds, Julius Rockwell, Roman, Root, Rumsey, St. John, Schenck, Strohm, Strong, John B. Thompson, Tuck, Warren, White, Wick, and Wilson—66.

So the motion to reconsider was laid on the table.

RETROCESSION AGAIN.

The question recurring on the motion of Mr.

THE CONGRESSIONAL GLOBE.

PRINTED AND PUBLISHED AT THE CITY OF WASHINGTON, BY BLAIR & RIVES.

30TH CONGRESS, 2D SESSION. WEDNESDAY, JANUARY 24, 1849. NEW SERIES.....No. 21.

FLOURNOY, was taken and the vote stood: Yeas 77, nays 114, as follows:

YEAS—Messrs. Atkinson, Barringer, Barrow, Beale, Bedinger, Belcher, Bingham, Bocock, Bowdon, Bowlin, Boyd, Charles Brown, Albert G. Brown, Buckner, Burt, Cabell, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crozier, Cummins, Daniel, Dickinson, Donnell, Duer, Garnett Duncan, Dunn, Ficklin, Flournoy, Fulton, Gaines, Gentry, Goggin, Haralson, Harris, Haskell, Hill, Hilliard, George S. Houston, Ingo, Iverson, Andrew Johnson, Robert W. Johnson, John W. Jones, Kaufman, Kennon, Thomas Butler King, Daniel P. King, La Sere, Leffler, Lumpkin, McClernand, McDowell, Meade, Morehead, Morse, Murphy, Outlaw, Pendleton, Peyton, Phelps, Preston, Rhett, Richardson, Sawyer, Shepperd, Simpson, Thibodeaux, Thomas, Richard W. Thompson, Robert A. Thompson, Tompkins, Toombs, Turner, Venable, and Wentworth—77.

NAYS—Messrs. Ashmun, Blackmar, Blanchard, Brady, Bridges, Brodhead, Canby, Cathcart, Chapman, Franklin Clark, B. L. Clarke, Collamer, Collins, Conger, Cranston, Crisfield, Crowell, Darling, Dickey, Dixon, Eckert, Edsall, Edwards, Embree, Nathan Evans, Faran, Farrelly, Featherston, Fisher, Freedley, French, Fries, Giddings, Gott, Greeley, Grinnell, Nathan K. Hall, Hammons, Henley, Henry, Elias B. Holmes, John W. Houston, Hubbard, Hudson, Jenkins, James H. Johnson, Kellogg, Lahm, William T. Lawrence, Sidney Lawrence, Ligon, Lynde, Mackay, McClelland, McIlvaine, McKay, McLane, Job Mann, Horace Mann, Marsh, Marvin, Miller, Morris, Mullin, Nelson, Nes, Newell, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pettit, Pollock, Putnam, Reynolds, Richey, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Roman, Rose, Root, Rumsey, St. John, Schenck, Slingerland, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Stanton, Starkweather, Charles E. Stuart, Strohm, Tallmadge, Taylor, James Thompson, Jacob Thompson, John B. Thompson, William Thompson, Thurston, Tuck, Van Dyke, Vinton, Warren, White, Wick, Wiley, Williams, Wilmot, Wilson, and Woodward—114.

So two-thirds not voting therefor, the bill was not received.

On motion by Mr. MOREHEAD, (by leave,)

Ordered, That leave be granted to the following named persons to withdraw their petitions and accompanying papers from the files of the House, viz: William Bowie, Jeremiah Adams, Solomon Jarvis, Elizabeth Nutter, Margaret Penn, Lydia Rogers, Rhoda Polk, Jane Johnson, Margaret McCow, Martha Lemon, Margaret Hamilton, Jeanette McClure, Mary Millbank, Mary Briggs, Susan Catlett, Elizabeth Adkins, and Mrs. —— Alvis.

CAPTAIN DAN DRAKE HENRIE.

Mr. GAINES appealed to the indulgence of the House to take up the bill for the relief of Captain Dan Drake Henrie. He moved to suspend the rules, to take the bill from the Committee of the Whole House, in order to put it on its immediate passage. He made this motion to reward an individual who had performed the achievement which was perhaps unequaled in boldness, daring, and gallantry, by any individual act during the Mexican war; and which had been highly valuable, as contributing to the success of our arms at Buena Vista. Certainly, by this exploit the outpost of Agua Nueva had been saved, and what effect it had had upon the fate of the battle of Buena Vista it was for this House and the country to judge. It was the first certain information which General Taylor had of the approach of Santa Anna.

Mr. DANIEL rose to a point of order, and inquired of the Speaker if it was competent for the House to take the bill out of the Committee of the Whole?

The SPEAKER replied that it was by a suspension of the rules.

The question was then taken and agreed to.

So the rules were suspended, and the bill was laid before the House.

The bill and report were read.

At the suggestion of Mr. BOWLIN, (after a word of conversation between Messrs. BOWLIN, GAINES, and DUNN,) the bill was so amended as to provide that the land hereby donated should be located out of the public lands "subject to private entry."

On motion of Mr. THOMPSON, of Indiana, the previous question was seconded—ayes 78, noes not counted—and the main question was ordered, being first on the engrossment.

The question was taken, and the bill was ordered to be engrossed and read a third time.

And the question being on the passage of the bill—

The previous question was asked by Mr. THOMPSON, of Indiana, and seconded; and the main question was ordered.

Mr. DICKEY asked the yeas and nays, which were ordered.

The question, "Shall this bill pass?" was then taken, and decided in the affirmative—yeas 122, nays 55.

So the bill was passed.

Mr. THOMPSON, of Indiana, moved a reconsideration of the vote, and moved that that motion be laid on the table.

The question having been taken and decided in the affirmative, the motion to reconsider was laid on the table.

A message in writing was received from the President of the United States, by the hands of J. K. WALKER, Esq., his private Secretary.

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of the Union; but waived the motion at the suggestion of

The SPEAKER, who said that by general consent he would lay before the House Executive communications, &c., on the Speaker's table.

No objection was made.

MESSAGE FROM THE PRESIDENT.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives of the United States:

I transmit, herewith, the annual report of the Director of the Mint at Philadelphia, showing the operations of the mint and branch mints for the year 1848. JAMES K. POLK.

WASHINGTON, *January* 22, 1849.

The message was laid upon the table, and ordered to be printed.

The SPEAKER laid before the House sundry communications, viz:

I. A letter from the Secretary of the Treasury transmitting a report from the Register of the Treasury, containing the statements of the commerce and navigation of the United States for the last fiscal year, prepared as required by the act of the 10th of February, 1820; which letter and report were laid upon the table, and ordered to be printed.

Mr. NICOLL moved that the rules be suspended, to enable him to move that 10,000 extra copies of the report on the commerce and navigation of the United States for the last fiscal year be printed; which motion was agreed to, two-thirds voting in favor thereof.

Mr. N. then moved that 10,000 extra copies of the said report on the commerce and navigation of the United States be printed for the use of the members of the House; which motion was agreed to.

II. A letter from the Secretary of the Treasury, transmitting a communication from the Commissioner of the General Land Office, under date of the 17th instant, inclosing a synopsis of the report of Dr. G. T. Jackson on the geological survey made by him of the mineral lands in Michigan; which letter, &c., were laid on the table, and ordered to be printed, as a part of the annual report of the Commissioner of the General Land Office.

The bill from the Senate entitled An act for the relief of P. Chouteau, Jr., & Co., was read twice, and referred to the Committee on Indian Affairs.

GENERAL APPROPRIATION BILL.

The question recurred on the motion of Mr. VINTON, and having been decided in the affirmative——

The House resolved itself into Committee of the Whole on the state of the Union, (Mr. SMITH, of Indiana, in the chair,) and resumed the consideration of the bill making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1850, and for other purposes.

Mr. VINTON, under instructions from the Committee of Ways and Means, asked leave to offer the following amendments, to provide for omissions which had been made in the bill:

For six additional clerks in said office, (Third Auditor's,) authorized by the act of the 12th August, 1848, $6,400.

For the Chief of the Bureau of Construction, Equipment, and Repairs, for the current fiscal year, to supply a deficiency in the appropriation of the last session, $500.

The amendments were agreed to.

Mr. VINTON, from the Committee of Ways and Means, also offered the following amendments; which were agreed to:

For payment by the Secretary of State to Wm. C. Riddall and William C. Zantzinger, equally to be divided between them, the sum of $771 43, which has already been appropriated for clerk-hire in the State Department, but not drawn from the treasury.

For payment to Ezra Williams, a clerk in the bounty land division of the General Land Office, for extra services rendered out of office hours, $500.

The following item of the bill being under consideration:

For compensation and contingent expenses of the Auxiliary Guard, $6,775—

Mr. SAWYER moved to strike it out.

After a brief explanation between Mr. VINTON and Mr. SAWYER, the question was taken; and, by ayes 40, noes 78, the amendment was rejected.

Mr. STANTON moved an amendment, to insert between lines 297 and 298 an appropriation of $100,000 for the completion of the Treasury buildings, according to the original plan.

He remarked that he had no idea that this appropriation would pass; he did not believe the amount would be sufficient. But he was satisfied that this or some other provision ought to be made for this purpose, and he wished to call the attention to this subject of those to whom it properly belonged. He would inquire of the chairman of the Committee of Ways and Means if that committee had paid any attention to the recommendation of the Secretary of the Treasury upon this point? He read an extract from the report of that officer, in which he recommends an appropriation for the completion of the Treasury buildings, to provide all the offices with fire-proof rooms, &c.

Mr. VINTON replied, that the Committee of Ways and Means had not considered this subject, as in their opinion it belonged to the Committee on Public Buildings.

Mr. FICKLIN (on a *pro forma* amendment to the amendment) said, from an investigation which he had had occasion not long since to make, he had ascertained that the appropriations which had been made for the Treasury Department, General Post Office, and other public buildings in the city of Washington, had been double and treble the amount of the estimates.

Mr. STANTON inquired if the gentleman desired to see the Treasury building left in its present unfinished condition?

Mr. FICKLIN replied, that he was opposed to any further expenditure for the public buildings in the District of Columbia. He called the attention of the gentleman from Tennessee to the fact, that instead of $100,000, if the Treasury Department were completed according to its original plan, it would involve an expenditure of half a million of dollars.

Mr. STANTON replied, that he did not think it a matter of very great consequence, even if it should cost half a million of dollars to complete this building properly. The plan had been adopted under the administration of General Jackson; it had been partly completed during his administration; but had subsequently been stopped on account of the condition of the treasury. Even if its entire completion should cost half a million of dollars, he thought it would be no very serious loss to the United States. He added a remark in reference to the California gold mines, (which the reporter did not distinctly hear.)

Mr. FICKLIN said the California gold mines were not doing much towards paying the public debt. We had already a public debt of sufficient amount, and until that was paid, we had no money to expend upon public buildings.

Mr. BROWN, of Pennsylvania, (upon a *pro forma* amendment) complained of the present arrangements of the rooms in the public departments, and expressed the opinion that each bureau should have one general room, and have all its clerks together there, under the inspection of the head of the bureau.

The amendment of Mr. STANTON was rejected.

Mr. GREELEY moved an amendment to repeal the act providing for the auxiliary guard of Washington.

The amendment was ruled out of order.

CUSTOM-HOUSE AT PORTLAND.

Mr. GRINNELL, under the direction of the Committee on Commerce, moved an amendment to appropriate, for the purchase of a building, to be used for a post office, United States courts, and custom-house, at Portland, Maine, a sum not exceeding $150,000.

He stated that the appropriation was recommended by the Secretary of the Treasury, who stated that sufficient accommodations were not now had for the custom-house at that port. There was no doubt but it was for the interest of the United States; the building had cost $180,000, and could now be purchased for $150,000. The revenue collected at that port was over $200,000 per annum. The appropriation was unanimously recommended by the Committee on Commerce.

Mr. COBB, of Georgia, raised the point that the amendment was not in order under the 81st rule.

The rule is as follows:

"No appropriation should be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for contingencies for carrying on the several departments of the Government."

The CHAIR overruled the objection, and decided that the amendment was in order.

Mr. COBB appealed from the decision.

The question, "Shall the decision of the Chair stand as the judgment of the committee?" was taken and decided in the affirmative—ayes 91, noes 34.

So the decision was sustained, and the question was stated to be on the amendment.

CUSTOM-HOUSE AT ST. LOUIS.

Mr. BOWLIN moved an amendment to the amendment to appropriate $75,000 for the purchase of a site and the erection of a custom-house at St. Louis, to be so constructed as to contain all the public offices of the United States at that place.

It was not necessary, he said, for him to invite the attention of the committee to the importance of the city of St. Louis, and of its vast commerce. It was a port of delivery; and besides a custom-house, he enumerated a land office, an office of the receiver and register of lands, a recorder's office, a United States court-house, post office, a superintendency of Indian affairs, and a branch of the independent treasury, for all of which offices, he said, the Government of the United States was now paying an enormous rent. His proposition was, to erect a custom-house of suitable capacity and arrangement to hold all these public offices, and relieve the Government from the payment of these rents. It was absolutely necessary for the increasing commerce of that port. Notwithstanding it was twelve hundred miles from the ocean, the amount of customs there received was almost equal to that received at Portland, for which place an appropriation of $150,000 was recommended.

[SEVERAL VOICES: "What is the amount of the duties there collected?"]

Last year (Mr. B. replied) upwards of $75,000; the year before last $50,000, and the amount was increasing yearly.

Mr. GRINNELL inquired what was the amount of rents paid by the Government for the public offices in that city?

Mr. BOWLIN replied that he was not certain as to the exact amount, but he believed it was not less than $5,000 annually; all of which would be saved by the erection of a single building.

Mr. WHITE inquired whether this amendment had been recommended by the Committee on Commerce, or been before that committee?

Mr. BOWLIN replied, that without the investigation of any committee, every gentleman knew the importance of the city of St. Louis, and of its vast and increasing commerce——

The hammer fell.

Mr. BOWLIN asked for tellers, who were ordered. (Messrs. FULTON and CLARKE of Kentucky.)

The question on the amendment to the amendment was then taken, and decided in the negative—ayes 64, noes 52.

So the amendment to the amendment was agreed to.

Mr. FARAN moved to amend the amendment, by adding an appropriation of seventy-five thousand dollars for the purchase of a site for a custom-house at Cincinnati.

Mr. FARAN, in explanation, said there were more goods bonded at Cincinnati, and imported directly from Europe, than at any other city in the western country, except New Orleans. If gentlemen would look to the receipts of customs, they would see that the western merchants had for years been importing their own goods direct from Europe, and that Cincinnati was the great point where they bonded them. If there was any necessity at all for building these custom-houses in the western country, outside of the city of New Orleans, Cincinnati should not be overlooked.

The question was taken, and the amendment to the amendment was agreed to.

Some conversation followed between Mr. GRINNELL and the CHAIRMAN, on a point of order.

The question recurring on the amendment as amended—

Mr. WENTWORTH said he had not intended to offer any amendment at this time, because the committee had generally been indisposed to adopt any measure of this kind. But he would now move to add the city of Chicago. He need not tell gentlemen where Chicago was, or what was its commerce——

The CHAIRMAN interposed, and requested the gentleman to send his amendment in writing to the Chair.

Mr. WENTWORTH put his amendment in the form of an additional appropriation of $75,000 for a custom-house at Chicago.

This, Mr. W. said, was all they would ask. If he was correctly informed, St. Louis was not a full collection district. It was merely a port of delivery. Chicago was a full port of entry. Vessels went from that port directly down the St. Lawrence to the ocean and back again. Revenue was collected there. There was a register's and receiver's office, and a post office, and the last term of the United States courts had been held there.

He hoped, if the House sustained one of these appropriations, it would sustain the whole.

Mr. BRODHEAD inquired of Mr. WENTWORTH, what was the amount of the tonnage and of the duties collected at Chicago?

Mr. WENTWORTH said the gentleman from Pennsylvania [Mr. BRODHEAD] was as well prepared to answer that question as he (Mr. W.) was. He had not the statistics near him. But Chicago was infinitely ahead of St. Louis. There was no comparison.

The question was then taken on the amendment to the amendment, and decided in the negative—ayes 49, noes 70.

So the amendment to the amendment was rejected.

The question then recurring on agreeing to the amendment as amended—

Mr. RUMSEY moved so to amend it, as to add at the end thereof the proviso, "if the Secretary of the Treasury should deem such purchase expedient," &c.

And the question being taken, the vote stood—ayes 72, noes 32; no quorum voting.

[Cries of "Call the roll."]

Mr. KAUFMAN inquired if it was in order to move that the committee rise?

The CHAIRMAN said, the motion was not now in order.

Mr. VINTON said that if the committee should now rise for want of a quorum, he hoped that the call of the House would be carried out to the end.

Mr. HUNT, Mr. ASHMUN, and others, called for a new count.

The question was again taken, and the vote stood—ayes 74, noes 50.

So the amendment to the amendment was adopted.

The question then recurred on the amendment as amended.

Mr. COBB, of Georgia. I move that the committee rise.

Mr. VINTON. I hope not.

Mr. COBB. I hope so. Hope against hope.

Mr. VINTON. The committee has not passed a single item of this bill to-day. I hope the motion to rise will not be agreed to.

And the question was taken, and by ayes 47, noes 72, was decided in the negative.

So the committee refused to rise.

The question recurring on the amendment of Mr. GRINNELL as amended, was taken, and the amendment was rejected.

Mr. CHAPMAN moved the following amendment:

To reimburse the Corporation of Washington one-half the cost of the City Hall building, one-half thereof being occupied by the circuit, district, and criminal courts of the United States, twenty-nine thousand three hundred and seventy-seven dollars and thirty-four cents, ($29,377 34,) the same to be expended in finishing the exterior of the said City Hall building by the Corporation of Washington, under the direction of the President of the United States.

Mr. COBB, of Georgia, raised the point that the amendment was out of order, under the 81st rule (above given).

The CHAIRMAN overruled the objection, and decided the amendment in order.

Mr. CHAPMAN briefly explained. He said he presumed that gentlemen did not know the importance of the amendment. It was for the purpose of completing the City Hall in this city. It was true, it was a building belonging to the Corporation of Washington; but it was equally true that the Corporation had appropriated one-half of the building to the use of the Government, and it was used by the Government for its circuit, district, and criminal courts, and for offices of record and other offices attached to those courts. The act of March 3d, 1823, provided that a building should be obtained for holding the courts of the United States; and the Corporation of this city, in pursuance of that act, had set apart one-half of this building for these purposes. The Corporation had expended over $58,000 towards the completion of the building, so far as it had gone. It was now asked that the Government appropriate one-half of what the Corporation had appropriated. Were gentlemen willing that this building should remain in its present unfinished condition? It was a disgrace to this metropolis; a disgrace to the Government that it should remain so. In his judgment, it was the duty of the Government to appropriate every dollar that was necessary to finish this building, and put it in proper condition. The Corporation now asked that the Government reimburse them for one-half of what they had paid, and proposed to apply that sum, not to their own purposes, but to complete the building under the direction of the President of the United States.

Mr. FICKLIN (on a *pro forma* amendment) said he understood that there had already been made by Congress an appropriation of upwards of eleven thousand dollars towards the erection of this building, in addition to the donation of the lot, and that it now belonged to the Corporation, and that the Government had no control over it. He was willing that the Government should pay a reasonable rent annually or in gross, but he thought that the amount proposed was too large. He would like to have a proviso attached, that before any of the appropriation was expended, the city authorities should first execute a conveyence to the Government of one-half of the said building to the United States; said conveyance to be approved of by the Secretary of the Treasury. As the matter now stood, they might appropriate $29,000 to complete the building, and it would be entirely within the control of the city authorities, and the Government would be liable to be required to vacate it at any moment.

The amendment of Mr. CHAPMAN was rejected.

Mr. HOUSTON, of Delaware, offered an amendment to provide for the execution, by an American artist, of portraits of each of the Presidents of the United States, to be placed in the President's House.

Mr. HALL, of Missouri, raised the objection that the amendment was not in order under the 81st rule.

The CHAIRMAN sustained the objection, and ruled the amendment out of order.

Mr. DICKINSON moved that the committee rise. Rejected.

COAST SURVEY.

Mr. SAWYER moved to reduce the item for the survey of the coast of the United States from $186,000 to $165,000.

He stated that he did not wish to do away with the coast survey, but he read from the report of the superintendent of the survey, to show that the officers had transcended the sphere of their appropriate duties, and instead of confining themselves to the survey of the coast of the United States, had been engaged in the survey of roads, ponds, hills,

&c.; and that its surveys extended twenty-five miles back into the country from the coast. They had also surveyed every little creek to which they had come; among others, the creek which gentlemen crossed in going to their boarding-houses, (the Tiber,) to its source. The appropriation for the last year was $165,000; and he thought if their operations were confined within the legitimate sphere, that sum would be sufficient for the present year.

The amendment was rejected.

Mr. VINTON moved the following amendment, to come in between lines 500 and 501:

For printing 2,000 charts of the bay of San Francisco and river Sacramento, under resolution of the House of Representatives of the 15th January, 1849, $260.

This amendment was agreed to.

PENNSYLVANIA AVENUE.

Mr. SAWYER moved an amendment to strike out the item "for completing the centre strip of Pennsylvania avenue to 15th street west, $1,200."

He said they had appropriated $4,000 last year for this work, and none of the money had been expended as directed in the appropriation. He wished to know by whom the appropriation was asked, and what was the necessity for it.

Mr. VINTON replied that the work was under the supervision of the War Department, and he read the estimate from that department of the sum proposed in the bill.

The amendment was rejected.

Mr. VINTON moved the following amendment, to come in between lines 503 and 504:

For publishing an atlas of charts of the surveys of the northern and northwestern lakes, made under various appropriations under the direction of the Secretary of War, $5,000.

For continuing the survey of the northern and northwestern lakes, $10,000.

The amendment was agreed to.

Mr. PETTIT moved that the committee rise. Rejected.

ADULTERATED DRUGS AND MEDICINES.

The following item being under consideration:

For salaries of special examiners of drugs, medicines, and chemicals, $6,600—

Mr. EDWARDS moved an amendment to increase the sum to $8,000, provided that hereafter the salary of the examiner of drugs, medicines, and chemicals, at the city of New York, should be $2,000, and that he be allowed a clerk at $1,000.

He said it was well known to the committee, that during the last session of Congress a law had been passed to prohibit the importation of adulterated drugs and medicines. It was known by gentlemen, or might be, from the report on their tables, that a very large amount of such importations had been detected at various ports, more particularly at New York, into which port four-fifths of these importations were made. The gentleman who was the examiner there was a man of skill, integrity, and science, and now received $1,600, a sum less than the ordinary appraisers of that port. He labored all day in his office, and a large part of the night in his laboratory, and he (Mr. E.) learned from his report that he had already passed $2,000,000 of coarser chemicals, in addition to the duties which were enjoined upon him, and he performed this immense labor at this low salary. He proposed that the salary should be increased to $2,000, which was the salary of ordinary appraisers.

Mr. FICKLIN inquired of the gentleman from Ohio if this examiner was now allowed a clerk?

Mr. EDWARDS replied he was not.

Mr. FICKLIN made the point of order, then, that the amendment was not in order, as the appropriation was not authorized by law.

The CHAIRMAN was understood to overrule the objection.

Tellers having been asked by Mr. JONES, of Tennessee, and refused—

The question was taken, and the amendment was agreed to.

The following item being under consideration:

For support, clothing, and medicinal treatment of insane paupers of the District of Columbia, six thousand four hundred dollars—

Mr. HALL, of Missouri, moved to strike out the item.

Mr. HALL, in explanation, said that he saw no reason why the Government should support the poor of the District of Columbia any more than the poor of any other part of the Union.

The amendment, by ayes 21, noes not counted, was rejected.

A motion was made (by whom the reporter could not learn) that the committee rise; which motion was rejected.

The following item being under consideration:

For the warden, clerk, physician, chaplain, three assistant keepers, five guards, and messenger of the Penitentiary of the District of Columbia, eight thousand five hundred and fifty dollars—

Mr. SAWYER moved to strike out $8,550, and insert $6,283.

This amendment, Mr. S. said, would bring the appropriation back to the point at which it stood last year, and at which it had been for a number of years. He saw no good reason why it should be increased.

Mr. S. asked for tellers, who were ordered, (Messrs. VENABLE and POLLOCK.)

And the the question was taken, and decided in the negative—ayes 49, noes 73.

So the amendment was rejected.

Mr. HALL, of Missouri, moved that the Committee rise.

The motion having prevailed, the Committee rose and reported progress.

Mr. McKAY gave notice of a motion for leave to introduce a bill to authorize the coinage of one dollar gold pieces at the mint of the United States and its branches.

THE SLAVE TRADE.

Mr. GAINES asked leave at this time to present the petition of Silas H. Hill and other members of the City Council of Washington, praying the abolition of the slave trade in the District of Columbia, or that Congress would empower the authorities of Washington and Georgetown to pass a law to that effect.

Objections were made to the reception of the petition.

Mr. GAINES moved that the rules of the House be suspended to enable him to present it.

Mr. STEPHENS moved that the House adjourn.

And the question having been taken, the House refused to adjourn.

Mr. VENABLE was understood to ask the yeas and nays on the motion to suspend the rules.

Mr. BARRINGER desired to inquire of the Chair whether the gentleman from Kentucky [Mr. GAINES] could not present his petition, under the rule, at the Clerk's table.

The SPEAKER. Clearly so.

Mr. WENTWORTH. Is not this petition from the Common Council of the District? and is this treating the petition respectfully? It is not usual to put such petitions in under the rule. I ask that it may be read.

Mr. GAINES. If I have the privilege to withdraw the petition I will do so, giving notice that I shall present it under the rule.

The SPEAKER. The petition is not in possession of the House; the gentleman can withdraw his motion to suspend the rules.

Mr. GAINES. I withdraw the motion.

The SPEAKER. Then there is no question before the House.

And thereupon, the House adjourned.

PETITIONS, ETC.

The following petitions, memorials, &c., were presented under the rule, and referred:

By Mr. PALFREY: The petition of Mary A. Davis and 154 others, of Ashburnham, Massachusetts; also, of Catharine Gorton and 522 others, of Unadilla Forks, New York,—severally praying Congress to prevent the extension of slavery, to withdraw the protection of Government from the American slave trade, and to suppress slavery wherever Congress has competent jurisdiction.

By Mr. FARAN: The petition and accompanying papers of Joseph C. Linn, for damages done the furniture of his steamboat in the transportation of volunteers to their homes from New Orleans.

By Mr. HOLMES, of New York: The petition of 100 citizens of Pembroke, New York, in relation to the freedom of the public lands.

By Mr. ST. JOHN: The petition of citizens of Warwick, Orange county, New York, praying Congiess that a grant of lands be made to the State of Illinois, to aid in the construction of a railroad from the upper and lower Mississippi to Chicago.

By Mr. SMITH, of Illinois: The petition of Wilson Holt and 50 other citizens of Perry county, Illinois, praying a grant of land to aid in constructing the central railroad, connecting the upper and lower Mississippi river with the chain of northern lakes at Chicago.

By Mr. BLANCHARD: The petition of sundry inhabitants of East Barre township, Huntingdon county, Pennsylvania, that a grant of lands be made to the State of Illinois, to aid in building a railroad from upper and lower Mississippi to Chicago, on the same conditions of the bill that passed the Senate last session.

By Mr. CLARK, of Maine: The remonstrance of Benjamin Given and 79 others, citizens of Noblesboro', against the division of Waldoboro' collection district.

By Mr. FARRELLY: The petition of Daniel Gibson and many other citizens of Mercer county, Pennsylvania, for a restoration of the tariff of 1842. Also, the petition of citizens of Crawford county, Pennsylvania, for a post route from Meadville to Titusville.

By Mr. CUMMINS: The petition of G. W. Dingman and 330 other citizens of Tuscarawas and Coshocton counties, in the State of Ohio, praying for the establishment of a mail route from Chili, in Coshocton county, via Bakersville, Buckhorn, Port Washington, and Gilmore, to Cadwalader, in Tuscarawas county.

By Mr. GREELEY: The memorial of citizens of St. Clairsville, Ohio, in favor of directing the employment of our national vessels in transporting American citizens to California. Also, the memorial of John Green and other citizens of New York, in favor of cheap postage, and no franking. Also, the memorial of John M. Kennedy and other citizens of Philadelphia, for a reform in the mode of computing Congressional mileage.

By Mr. HUNT: The memorial of Henry O'Rielly, concerning the impeachment of Judge Monroe, and for correcting certain fraudulent schemes for influencing legislative and judicial action, and the operations of the Patent Office.

By Mr. FREEDLEY: Five petitions, numerously signed by the workingmen of Montgomery county, Pennsylvania, for an immediate modification of the revenue laws, so as to protect our agricultural and manufacturing interests against depressions caused by having the surplus from foreign workshops thrown upon our markets.

By Mr. WILLIAMS: The petition of citizens of Amherst and Aurora, in the county of Hancock, and State of Maine, for a change of post route.

By Mr. STUART, of Michigan: The petition of Charity Chatfield, of Michigan, widow of Joel Chatfield, a soldier of the Revolution, for a pension.

By Mr. SIDNEY LAWRENCE: A resolution providing that the "memorial of Jonathan Elliot, Henry Burdock, B. Thurston, W. Cranch, Thos. L. Thruston, Samuel Bacon, John P. Van Ness, and 1,056 other citizens of the District of Columbia, praying for the gradual abolition of slavery in the District of Columbia," now on the files of the House, be withdrawn therefrom, and referred to the Committee on the District of Columbia.

By Mr. GAINES: The petition of Silas H. Hill and other members of the City Councils of Washington, in the District of Columbia, praying Congress to abrogate the slave trade in said District, or to empower the authorities of Washington and Georgetown to make laws to that effect.

By Mr. THOMPSON, of Iowa: The preamble and resolutions of the General Assembly of the State of Iowa, on the subject of procuring from Congress a compensation to the citizens of the United States, residing in Iowa, for their services and expenses in defending the southern boundary of the Territory of Iowa. Also, the joint resolution of the General Assembly of the State of Iowa, for a mail route from Fort Des Moines to the East or Boon Fork of the Des Moines river.

By Mr. CROWELL: The petition of Phineas Stevens, Frederick A. Nash, and others, citizens of Middlebury, Summit county, Ohio, praying Congress to grant lands to the State of Illinois, to aid in building a railroad from the Upper and Lower Mississippi to Chicago.

By Mr. PILSBURY: The memorial of merchants, mariners, and citizens of Galveston, for a light-boat to be placed off Galveston bar. Also, memorial of James K. McCreary, of Texas, for payment of a slave employed by a quartermaster of the United States army, in Mexico.

By Mr. SLINGERLAND: The petition of L. Benedict, Jun., and 91 citizens of Albany, New York, praying for the passage of a law establishing a cheap and uniform rate of postage.

By Mr. HOUSTON, of Delaware: The petition of citizens of that State, praying for cheap postage.

IN SENATE.

TUESDAY, *January* 23, 1849.

The VICE PRESIDENT laid before the Senate a report from the Secretary of War, enclosing a list of contracts made by that department during the last year; which, on motion of Mr. JOHNSON, of Louisiana, was ordered to be printed.

Also, a communication from the Secretary of the Treasury, transmitting a report of Dr. Edwards on the practical operation of the law for the prevention of the importation of spurious and adulterated drugs and medicines; which was ordered to be printed.

Also, a letter from Mr. BREESE, Senator from Illinois, resigning his situation as a regent of the Smithsonian Institution.

On motion of Mr. PEARCE, it was ordered that the vacancy be filled by the Vice President.

RESOLUTIONS FROM THE STATE OF IOWA.

Mr. DODGE, of Iowa, presented a resolution of the Legislature of Ohio, in favor of the establishment of a mail route from Iowa city to Keosauqua, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. D. also presented a resolution of the Legislature of Iowa, praying the establishment of a mail route from Fort Des Moines to the East or Boon Fork of the Des Moines river; which was referred to the Committee on the Post Office and Post Roads.

Mr. D. also presented a preamble and resolutions of the Legislature of Iowa, in favor of compensating the citizens of that State who were called out by the marshal of the United States for the Territory of Iowa to repress an outbreak on the southern boundary of that State; which was referred to the Committee on Military Affairs.

MEMORIALS AND PETITIONS.

Mr. CORWIN presented a petition from Timothy Cavan, asking to be allowed a pension, in consequence of an injury received by him while in the military service of the United States; which was referred to the Committee on Pensions.

Mr. DICKINSON presented a petition from Hartwell Carver and his associates, for a grant of land, and a charter for constructing a railroad from Lake Michigan to the Pacific Ocean; which was referred to the Committee on Roads and Canals.

Mr. D. also presented a remonstrance from H. O'Reilly and others, against the passage of the bill to promote the progress of the useful arts; which was referred to the Committee on Patents.

Mr. FITZPATRICK presented a petition from George Whitman, asking compensation for goods taken and used by troops of the United States; which was referred to the Committee on Military Affairs.

Mr. DIX presented a petition from merchants and ship masters of New York, asking that two small vessels be placed at the disposition of Lieutenant Maury, for the purpose of enabling him to test the accuracy of his wind and current charts; which was referred to the Committee on Naval Affairs.

Mr. D. also presented a petition from the New York State Agricultural Society, praying that certain statistics be included in the census, and the establishment of an agricultural bureau; which was referred to the Select Committee on the Census.

Mr. D. also presented a petition from Catharine Oliphant, asking for a pension; which was referred to the Committee on Pensions.

Mr. CLARKE presented a petition from citizens of Providence, Rhode Island, asking for a reduction of the rates of postage; which was referred to the Committee on the Post Office and Post Roads.

Mr. METCALFE presented a petition from M. H. Campbell, a volunteer in the war with Mexico, asking to be allowed bounty land and extra pay; which was referred to the Committee on Military Affairs.

Mr. BREESE presented resolutions of the Legislature of Illinois, instructing their Senators and requesting their Representatives to use their exertions to produce a reduction of the rates of postage; which were ordered to be printed.

Mr. FELCH presented a petition from Charity Chatfield, praying for a pension; which was referred to the Committee on Pensions.

Mr. F. also presented a petition from receivers and registers of land offices in Michigan, asking to be allowed a commission on entries of bounty land warrants; which was laid on the table.

Mr. HAMLIN presented a petition from Joseph Wyer and one hundred and eighty citizens of the United States, asking that the public lands may be granted in farms and lots to actual settlers free of cost; which was referred to the Committee on Public Lands.

Mr. DICKINSON presented a memorial from William Henry Bush, asking redress for illegal arrest and imprisonment by the Spanish authorities in the island of Cuba; which was read and referred to the Committee on Foreign Relations.

Mr. FITZGERALD presented a petition from Daniel V. Quenaudon, praying for a grant of land in the Territory of Oregon, for the purpose of establishing a colony there; which was referred to the Committee on Territories.

Mr. BELL presented a petition from George Whitman, praying that certain duties paid by him in importing goods into Vera Cruz, as a suttler in the army, may be refunded; which was referred to the Committee on Finance.

Mr. B. also presented a memorial from certain friendly Seminole Indians who served in the army of the United States during the Florida war, praying remuneration for their services; which was referred to the Committee on Military Affairs.

Mr. JOHNSON, of Maryland, presented a petition from citizens of Rockville, Maryland, praying for the enactment of a law to prevent the issue and circulation of small notes by private individuals in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. PEARCE presented a petition from citizens of Maryland, praying the establishment of territorial governments in California and New Mexico; which was laid on the table.

[The memorial sets forth that the institution of slavery has ever been interwoven with society in some way or other, and results from the nature of things, and must continue an accompaniment (by necessity) of whatever partakes of human ordinances and human institutions. It is of divine origin, recognized and sustained by the precepts of the Bible, and rules laid down for its regulation clearly and explicitly. One-half the States of this Union recognize the institution of slavery, and guaranty the right of property in slaves. To pass laws forbidding the extension of the institution to the Territories of the Union would in process of time abrogate the institution where it now exists, and thereby partake of the nature of an ex post facto law, in violation of the express terms of the Constitution.]

Mr. BRADBURY presented a petition from merchants and others, citizens of St. George, in the State of Maine, praying for the establishment of a new collection district at East Thomaston, in that State; which was referred to the Committee on Commerce.

Mr. B. also presented a remonstrance from citizens of St. George, in the State of Maine, against the establishment of a new collection district at East Thomaston, in that State; which was referred to the Committee on Commerce.

Mr. YULEE presented documents in relation to the claim of Captain George McClelland, for the services of his company of Florida volunteers in the Seminole war; which were referred to the Committee on Military Affairs.

Mr. UPHAM presented a petition from citizens of Washington, District of Columbia, praying that the slave trade may be abolished in this District; which was referred to the Committee on the District of Columbia.

On motion of Mr. PEARCE, the petition of Sarah Mackay was taken from the files of the Senate, and referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. MASON, from the Committee on Claims, reported a bill for the relief of the legal representatives of Gilbert Stalker; which was read a first time.

Mr. M. also, from the same committee, reported House bill for the relief of Jeremiah Moors, without amendment.

Mr. M. also, from the same committee, made an adverse report on the petition of Thomas Linard; and the report was ordered to be printed.

Mr. BADGER, from the Committee on Private Land Claims, reported a bill for the relief of Moses Levy; which was read a first time.

BILLS ON LEAVE.

Mr. BREESE, pursuant to notice, asked and obtained leave to introduce a bill to define the period of disability imposed upon certain bidders for mail contracts; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. KING, pursuant to notice, asked and obtained leave to introduce a bill to grant a right of way to the Mobile and Ohio Railroad Company; which was read a first and second time.

Mr. KING moved that the bill be now taken up for consideration; but objection was made, and the bill lies over.

The objection was subsequently withdrawn, and the bill passed.

RESOLUTIONS.

Mr. UPHAM submitted the following resolution, which was considered and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Brattleboro' or Townshend, in the State of Vermont, through Jamaica, Winhall, Manchester, and thence to Whitehall, in the State of New York.

Mr. FELCH submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on Indian Affairs be instructed to inquire into the expediency of allowing for pay of the clerk and messenger of the Superintendent of Indian Affairs at Detroit, the sum of six hundred dollars per annum, as heretofore allowed.

Mr. JOHNSON, of Louisiana, submitted the following resolution; which lies over under the rule:

Resolved, That the Committee on Pensions be instructed to inquire into the expediency of passing an act allowing to all officers, non-commissioned officers, musicians, and privates in the army of the United States, who are disabled, or who may hereafter become disabled, by the loss of a limb or limbs, an eye or eyes, while in the line of their duty in the public service, a pension, at a rate to be fixed according to their disability.

Mr. DICKINSON submitted the following resolution; which was considered and agreed to:

Resolved, That the President of the United States be requested to transmit to the Senate, so far as is consistent with the public interest, any correspondence between the Department of State and the Spanish authorities in the island of Cuba relating to the imprisonment in said island of Mr. Henry J. Burk, a citizen of the United States.

Mr. BELL submitted the following resolution, which was agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate, if within his knowledge, what sums of money were advanced to the party of the Creeks known as the Old Settlers, or Western Cherokees, or to their delegates, signers of the treaty of 1846, immediately after the ratification of the same, by whom and under what circumstances such advances of money were made, and how, when, and by whom, the amounts so advanced have been refunded or repaid.

Mr. DODGE, of Iowa, submitted the following resolution, which lies over under the rule:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Belleview via Anchen, Canton, Edinburg and Anamosa, to Independence, the county seat of Buchanan county. That the same committee also inquire into the expediency of establishing a mail route from Bloomington via Tipton, Rome, Anamosa, Delhi, and Garnevillo, to Prairie du Chien.

Mr. YULEE submitted the following resolution, which lies over under the rule:

Resolved, That the Secretary of War be requested to furnish to the Senate any documents or information in his department relative to the claim of Captain George E. McClelland's company of Florida volunteers, for military services in the year 1840.

Mr. YULEE also submitted the following resolution, which lies over:

Resolved, That the Committee on Public Lands inquire into the expediency of reducing the present minimum price of the pine lands in Florida.

CREDENTIALS OF MR. BUTLER.

Mr. MASON presented the credentials of ANDREW P. BUTLER, elected a Senator of the United States from the State of South Carolina, for the term of six years from the 4th of March, 1849.

DR. JACKSON'S REPORT.

On motion of Mr. FELCH, the report presented yesterday from the Secretary of the Treasury, enclosing a copy of Dr. G. T. Jackson's geological survey in the State of Michigan, was ordered to be printed.

PERSONAL EXPLANATION.

Mr. FOOTE. I feel it to be due to myself as a member of this body, and to the Senate itself, that I should offer a short explanation in response to a card which I find to have appeared on yesterday morning in the National Intelligencer, over the signature of his honor Justice McLean, which contains denials of statements made by me in debate here a few days ago, and assertions of fact touching matters discussed by me on the occasion referred to, which, appearing in one of he respectable papers in which we publish an official account of our proceedings, seems to be specially entitled to the kind of notice which it is my design to bestow. The Judge commences his card as follows:

"Respect for the Senate, where remarks were made abusive of myself on the 18th instant, induces me to make the following statements."

He then goes on to observe that—

"The first accusation (alluding to myself) was, that I have said that 'our institutions will never be well and wisely and 'successfully maintained and administered until what he is 'pleased to call moral influence can be brought to bear upon 'the Government—who dares to denounce the selected can-'didates of the great political parties of the country as mere 'prize-fighters.' The term 'prize-fighters' was never used by me in reference to any individuals; the thought of making the application to the late candidates for the Presidency never entered into my mind."

I wish it were in my power to withdraw the accusation which has been so positively denied; which I would certainly do were I satisfied that I had done injustice to the learned Judge. But as, upon a reëxamination of a certain letter of his quoted the other day from memory, I find that I did not at all misunderstand or misrepresent its contents, instead of withdrawing the accusation, I

have decided upon maintaining it by evidence—and evidence of the most conclusive character. I hold in my hand a number of the National Intelligencer, dated in November last, which contains a letter signed "John McLean;" which letter is dated October 26, whilst the Presidential conflict was in fierce and fiery progress; which letter seems to be written in response to one urging him to take an active part in the Presidential contest; in which letter the learned Judge expresses himself as follows:

"My dear Sir: Your favor of the 16th instant was received a day or two ago, and in answer I have to say, that under the peculiar circumstances in which I am placed, I have deemed it prudent to refrain from any active effort, or the expression of any opinion, in regard to the present contest for the Presidency. My views are well known to be in opposition to the extension of slavery."

Then, after a long sentence, setting forth the importance of "rousing the moral energies of the people, and bringing them to bear upon the political action of the country," he adds:

"An experience of more than thirty years enables me to say that no reform can be hoped for under the lead of political prize-fighters."

When we consider that in this letter the Judge is formally announcing his own *neutrality* in the Presidential contest, endeavoring to assign satisfactory reasons to his correspondent for taking no part in the pending strife, it is difficult to avoid the conclusion that in declining to follow "the lead of political prize-fighters," he did intend to allude to General Taylor, General Cass, &c. If he did not intend to be thus understood, he was exceedingly unfortunate in the selection of language; and I am sure he would himself find it quite difficult to affix a different interpretation to his words than I have felt authorized to adopt.

The next paragraph of the Judge's card is as follows:

"The second accusation was, that I 'urged upon Congress 'that no more pecuniary supplies should be voted for the 'maintenance of this war, in order that the Government might 'be forced, for want of the sinews of war, to withdraw our 'victorious armies from the enemy's country in disgrace,' &c. I never uttered such a sentiment to any one," &c.

Let us see. In January last, when bills were pending in Congress, whose object was to supply to the Government the means, in men and money, of prosecuting the war in Mexico with vigor and effect, to the glorious consummation since realized, Judge McLean wrote a letter, under date of the 7th of January, which was apparently prepared for publication in the newspapers, a copy of which is now before me, in the colums of Niles's National Register, from which I read as follows:

"To all human appearances the termination of this miserable war with Mexico is more remote than when the first blow was struck. In my judgment, it was unnecessarily and unconstitutionally commenced by marching our army into disputed territory in the possession of Mexico; and I think that Congress, who unquestionably have the power, should put an end to the war on just and honorable principles."

What the Judge considers "just and honorable principles" will presently appear. He proceeds thus:

"After agreeing upon the terms on which a treaty shall be made, they should call upon the Executive by resolution to offer a peace to Mexico upon that basis; and, during the negotiation, hostilities should be suspended. If the President shall refuse to do this, in the military appropriation bills the army should be required to take such position as shall carry out the views of Congress. These bills the President could not veto, and he would be bound by their requirements. This may be done by the House."

After discussing very boldly the issuing of treasury notes, and deciding against such a measure, the Judge thus expresses himself:

"To meet any deficiency of the revenue to pay the current expenses of the war, I would authorize loans at par, paying not more than six per cent. interest; and if loans cannot be made at this rate, *let the Administration resort to a system of taxation* [observe what follows] *which shall cause the people to feel the expense of the war. All wars should be accompanied by a system of direct and internal taxation. Nothing short of this can show, in addition to the sacrifice of life, what we pay for military glory,*" &c.

In conclusion, he says:

"I risk nothing in saying that an attempt to adopt such a system would wind up the Mexican war in sixty days. And this shows that the war should be put an end to. This may be done by Congress in ninety days, and I pray God that they may do it."

Well, sir, in my judgment, such a prayer was as unpatriotic as any I ever heard of. Had it been answered, as no doubt it was fervently desired to be—in other words, had the war been brought to an end by such means as those mentioned by Judge McLean, to wit: by a grinding and merciless system of direct taxation, so as to "make the people feel the expense" of prosecuting it further, and thus, by disgusting them with it, the war should have been made to terminate in sixty days from the 7th of January, 1848, it is too evident for denial that our "Government would have been forced, for the want of the sinews of war, to withdraw our victorious armies from the enemy's country in disgrace."

Judge McLean desired all this; he devoutly prayed for it; and yet he now declares that he never "uttered such a sentiment to any one." The Judge's memory, it seems to me, is as unsound as his political morals, and I wish him a speedy reformation of *both*.

The last allegation made by me against the learned Judge he explicitly admits to be deserved. He goes further, and, to my profound surprise, and doubtless to the surprise of the whole country, he dares to justify his conduct; even threatens to repeat the offence complained of whenever he may feel inclined to do so. And that, perhaps, was the most serious accusation preferred against him. What was it? Why, that "he undertook to adjudicate a question before it had yet been submitted to him for decision, and which he well knew was more than likely to be presented for decision in the court where he sits with others for the discharge of high judicial duties." The Judge, after confessing the writing of the letter in question, concludes his card thus:

"This is the first letter, so far as I now remember, that I have written for publication within the last two years. As a citizen, I claim the right, and shall exercise it, of forming and expressing my opinion on public measures."

In other words, he claims the right, under such circumstances as existed when he wrote the letter under consideration, to write such a letter as the following:

"Columbus, *July* 28, 1848.

"Gentlemen: I have delayed an answer to your communication of the 11th instant, that I might have time for mature reflection. This was due to you, to myself, to the object, and perhaps to my country. I have endeavored to consider the matter in all its aspects and consequences."

After declining to permit his name to be submitted to the Buffalo convention for a Presidential nomination, he thus concludes:

"Resting upon the principles of the Constitution, as they have been judicially settled, the free States, by moderation, vigilance, and firmness, may prevent the extension of slavery to the free territory lately annexed. *Without the sanction of law, slavery can no more exist in a Territory than a man can breathe without air. Slaves are not property where they are not made so by the municipal law. The Legislature of a Territory can exercise no power which is not conferred on it by act of Congress.*"

Such was the gratuitous dictum of Justice McLean upon the grave questions alluded to by him; all of which, I maintain, he well knew to be open questions at the date of his letter, *non res adjudicata;* or, if not absolutely so, at any rate questions concerning which the ablest legal minds of the Republic were at issue—questions which, about the date of his letters, or a little while before, underwent a discussion in this Chamber not soon to be forgotten, and to the result of which the whole nation looked for weeks with breathless and intense solicitude; questions difficult, exciting, and of the utmost magnitude, for the regular adjudication of which by the Supreme Court of the United States a plan had been most wisely and patriotically devised, and which, it was hoped by good men and sound patriots everywhere, might yet obtain Congressional sanction, and be instrumental in rescuing the Republic from imminent peril—re-establishing the old relations of fraternal kindness between the northern and southern sections of the Union.

These questions yet remain unadjusted. Justice McLean has disqualified himself for all participation in their future settlement. He has furnished a most unfortunate example of judicial indiscretion by the promulgation of his opinions through the medium of the newspapers, which, if not properly rebuked, may be hereafter imitated to an extent both mischievous and disgraceful. He has declared his determination to perpetrate a similar outrage hereafter, whensoever he may choose. He has mingled fiercely and ungraciously in the strife of political warfare. He has openly, in the midst of war with an obstinate foreign foe, taken sides with that foe, and against his own country. And now, when it is proposed to extend to him a high privilege, and a Senator who is called upon to vote in favor of extending to him the privilege in question, in his place refuses to do so, and assigns his reasons for such refusal, he is accused of uttering the language of unjust "abuse," and his statements of fact most insultingly and arrogantly contradicted. Not wishing again to incur the charge of using abusive epithets, I shall content myself, after declaring again most deliberately my opinion that Justice McLean, for the reasons made apparent in this debate, is wholly *unfit* to hold and exercise the high office once occupied by men whose fame is as enduring as the eternal mountains, and the light of whose minds will irradiate the pathway of justice so long as civilization and law shall dwell among the children of men. What I mean by *unfitness*, I beg leave to signify by reading the following short sentence from the pages of one who, as an orator and writer, statesman and philosopher, had no equal in Rome or Greece. I cite from the second book of Cicero de Oratore, page 953:

"Quem enim nos 'ineptum' vocamus, is mihi videtur ab hoc nomen habere ductum, quod 'non' sit 'aptus;' idque in sermonis nostri consuetudine perlate patet. Nam qui aut, tempus quid postulet, non videt, aut plura loquitur, aut se ostentat, aut eorum, quibuscum est, vel dignitatis, vel commodi rationem non habet, aut denique in aliquo genere aut inconcinnus, aut multus est, is ineptus dicitur."

Mr. KING. I hope my friend from Mississippi will postpone his remarks, as there is public business which needs attention, and I do not perceive that the debate now proceeding is in order.

Mr. FOOTE. I hope my friend from Alabama will not be impatient, as I am about bringing my remarks to a close. I am sure that he would not thus have interrupted me at all, had he heard my opening remarks and known the facts which have imposed upon me the necessity of addressing the Senate at the present time. Mr. President, I was about to conclude, when interrupted, with a short extract from the *Counsels, civil and moral, of Sir Francis Bacon*, which I beg leave to commend to the special respect of his honor, Justice McLean, who will find in what I am about to read several valuable hints from which he will be able to profit materially, I hope, in that part of his public career which he is yet to run:

"Judges ought to remember that their office is *jus dicere*, and not *jus dare;* to interpret law, and not to make law, or give law. Else will it be like the authority claimed by the Church of Rome, which, under pretext of exposition of Scripture, doth not stick to add and alter, and to pronounce that which they do not find; and, by show of antiquity, to introduce novelty.

"Judges ought to be more learned than witty, more reverend than plausible, and more advised than confident. Above all things, integrity is their portion and proper virtue. *Cursed* (saith the law) *is he that removeth the land-mark.* The mislayer of a mere stone is to blame; but it is the unjust judge that is the capital remover of land-marks, when he defineth amiss of lands and property. One foul sentence doth more hurt than many foul examples; for these do but corrupt the stream, the other corrupteth the fountain. So saith Solomon. *Fons turbatus, et vena corrupta, est justus cadens in causa sua coram adversario.*"

Mr. CORWIN. I do not rise, Mr. President, to further interrupt the ordinary course of business by the prolongation of this interlude, at all, but only to acquit myself from a sort of imputation which the Senator from Mississippi has pleased to cast upon me.

Mr. FOOTE, (in his seat.) Not at all, sir. I did not intend to cast any imputation upon the gentleman.

Mr. CORWIN. Mr. President, I dare say, from the apparent personal address which the Senator from Mississippi made to me, as one who did not choose to rise here in defence of Judge McLean upon the accusation presented by that gentleman the other day, that he would have it inferred—at least others might infer—that I, by my silence, was yielding my acquiescence or agreement to the views taken by him of those two fugitive letters, out of which this grave charge has been manufactured.

I did not think it worth while, the other day, when the Senator from Mississippi, on a motion to amend a post office bill, took this view of the conduct of my friend, Judge McLean, to say one word in his defence; for, with the utmost deference in the world to the opinions then and now expressed by the Senator from Mississippi, I did not perceive that, with the facts before the public, it was possible for his remarks to cast in any mind, other than one very much like his own on particular subjects, the slightest imputation whatever on the purity of character or the judicial rectitude of Judge McLean. All that I could perceive in the matter brought forth by the Senator from Mississippi, was the expression of an opinion upon two subjects about which everybody knows there has been a very great contrariety of

opinion in this country. Judge McLean, in a letter to some friend, who had evidently written to him on the subject, wishing to know his opinions on that great political question—the origin and conduct of the Mexican war—had expressed his views in relation to the matter upon which he was interrogated. It may be possible he may be mistaken. In the minds of that class of politicians who agree with the Senator from Mississippi upon that subject, Judge McLean may have been considered in error in regard to the origin of the Mexican war, and the means which in his judgment should be applied to bring it to a speedy and honorable termination. But is it possible that the Senate of the United States is to be a court of error upon the preferment of a charge by any one, either in a newspaper or here, to correct the political opinions of a Judge of the Supreme Court, who, on being interrogated by one of his fellow-citizens in a letter, ventures to express his views upon one of these much-agitated topics? I could not conceive that the Senate of the United States, or the people of the United States, could expect that a man, because he happens to hold the highly respectable and responsible station of a judge of the Supreme Court of the United States, can have no opinion in common with his fellow-men upon a subject that has called forth the expression of feeling and opinions from almost every citizen of the Republic. I did not conceive that, because the ermine, to which the Senator has so emphatically alluded, is upon his shoulder, his tongue is therefore ever to be silent. He is entitled to a vote, in common with every man in the Republic, for a President, for a member of Congress, and of course he must exercise his own judgment upon such subjects with other men; and I had supposed that such exercise of his judgment, and expression of it too, would be tolerated by his fellow-citizens.

Mr. President, Judge McLean has said in a letter to somebody (and really I do not know to whom that letter was addressed, nor did I apprehend exactly its purport when alluded to the other day by the Senator from Mississippi) that he supposes slavery was not considered as having an existence in any country until its existence was established by a law. For that, I understand the Senator from Mississippi thinks that Judge McLean is in some degree culpable. Well, now, it seems that the Supreme Court of the United States have, in effect, so decided, and Judge McLean has referred to the decision of the Supreme Court, which in his judgment establishes this question of law. He has commented upon the decision of the court which has thus adjudicated the question; and I ask if it can be possibly manufactured into judicial impropriety for a judge of the Supreme Court to repeat what are the acknowledged decisions of that court? I ask if it is likely that the people of this country, who have very long and very properly reposed great confidence in Judge McLean in various positions, political as well as judicial, can be brought to believe him guilty of moral turpitude for such an act?

Mr. FOOTE. If the Senator will allow me to interpose a suggestion here, I beg leave to say, that the main question upon which Judge McLean has expressed his opinion in the letter complained of, is yet an open question, and undecided, in the aspect of late given to it, by any court in this country. I challenge the learned gentleman from Ohio, or any other legal gentleman in the Republic, to cite a single adjudication by the Supreme Court of this Union upon this serious question. The accomplished jurists here who coöperated in the provision of the compromise bill of the last session, all gravely and perseveringly insisted, in the debate which, when that bill was before us, occurred in this Chamber, that this question had never been adjudicated, and might, therefore, be properly and wisely submitted to the Supreme Court for decision. So urged the Senator from Georgia [Mr. BERRIEN] and others. So most triumphantly argued, in our hearing, the distinguished Senator from Georgia, who, in my judgment, successfully urged that the treaty of peace with Mexico, *proposed before*, had so operated as to extend to all territories acquired by that treaty the Constitution of the United States, with all its fundamental guarantees, in such manner as to enable the citizens of the South to migrate to that region, carrying with them their slave property, and being entitled to its recognition as property, independent of all legislation on the part of Congress, whose authority to legislate at all on the subject was most formally and solemnly denied. The learned Senator from Vermont [Mr. PHELPS] made an argument of great power and learning to the contrary; but I have no recollection that the latter gentleman ever contended that the question discussed by him at such length had already been finally adjudicated by the Supreme Court of the Union. It was upon this question, thus mooted here and elsewhere, that Judge McLean thought proper to pronounce his opinion, and in the face of the fact that it was more than likely to come before him for examination and adjudication. Let the Senator from Ohio deny this, or vindicate it, if he can.

Mr. CORWIN. I thought that question was settled before the date at which this letter was written.

Mr. FOOTE. I stated the other day that the bill, although defeated at the last session, would probably be revived during this session and passed.

Mr. CORWIN. I do not remember whether that bill, to which the gentleman from Mississippi has alluded, called the compromise bill, had gone to its grave before this letter was written by Judge McLean or not, nor do I think it material.

Judge McLean has only ventured to express, in relation to the subject of slavery, what is the prevailing professional opinion in that circuit in which he resides. I am sure I am not mistaken in this; and I dare say the Senator from Mississippi knows it also. I do not intend, Mr. President, to enter into a controversy here in relation to the correctness of that opinion. I will only add to the high authority of Judge McLean upon that subject, one other—that is my own. I dare say the Senator from Mississippi will consider that as settling the question. [Laughter.] That will be respected, I hope. It is my opinion, and I have not been able to gather from Blackstone's Commentaries anything to the contrary. I know that there are few, very few high authorities differing from Judge McLean and myself on that point. But if that be the fact, does it necessarily follow, Mr. President, when Judge McLean is merely so unfortunate as to differ from the Senator from Mississippi, and other gentlemen of the highest professional respectability in the country, that he is therefore unfit to preside in the circuit northwest of the Ohio river, or sit upon the bench of the Supreme Court of the United States? I ask the Senator from Mississippi, in all candor, if it would, under such circumstances, be quite fair to arraign in some sort as criminal the conduct of a man for the mere expression of his opinion upon a mooted question of law? Why, sir, if this were to be the rule by which we would try the judges of the Supreme Court, we should have to expel two or three of them from the bench at every term. They have their books of reports full of dissenting opinions.

I know the Senator from Mississippi feels much upon this subject. I dare say he is anxious to preserve the judicial purity of the bench. But while he is guarding us on this vital point—and all must give high commendation to the motive which governs him in this—would it not be well for the grave Senators who sit here and listen to these accusations, which can result in nothing but recrimination, to remember that we, too, under certain circumstances, should be enrobed in this sacred and inviolable purple, and that it would be well for us not to prejudge any question which may possibly come before us. If Judge McLean has done anything unworthy of his judicial character, and worthy our notice at all, then I think he has done that which ought to bring him before us on an impeachment. How, then, would the Senator from Mississippi, with his judicial gravity, backed by Bacon and Cicero, appear? I am afraid that some here did not quite understand the gentleman's Latin, and I beg the Senator to translate it for the benefit of country gentlemen like myself. How should we look with the ermine on our shoulders, if Judge McLean were here on trial? We should doubtless strut through the scene with Senatorial dignity, having prejudged the cause at the instance of the Senator from Mississippi. I dare say the Senator from Mississippi would sit and adjudicate too upon this very question which he had himself already prejudged! I do not mention this because I suppose it is possible for any one to conceive for a moment of the existence of an impeachment against this excellent gentleman, for anything contained in his letters declining to become a candidate for the Presidency, unless, indeed, you impeach a man for the rarest of all qualities, modesty. I do not know but the exhibition, or even possession of that quality may be by some gentlemen considered a crime, but I do not think there is anything in Bacon or Cicero that would warrant us in taking off the head of the judge for his exhibition of this amiable frailty.

I do not know, and I will not venture to state, further than on the authority of Judge McLean himself—and I read his letter very hastily—that the Supreme Court have decided this very question; but I think a fair interpretation of the judgment of the Supreme Court in the case of Rhodes and Slaughter, referred to by Judge McLean, would warrant him in saying that they had decided a proposition from which it is deducible that slavery is a matter of municipal legislation, and could not exist without it. But he is not infallible—he may be mistaken. I wish he was infallible. I wish others, Mr. President, that I will not name, were so too. [Laughter.]

But I must say to the Senator from Mississippi, what I dare say he may have known or heard of, that if it is supposed that the production of these letters, or any possible inference that can be drawn from them, will shake the confidence of those who have known Judge McLean personally during his whole political and judicial life, that all who indulge in this belief will find themselves (as mortal men often are) sadly mistaken. It will not be believed that a man who has passed through the stations which he has filled, with so little exception ever taken to his public conduct, has, at this period of his life, gone so far astray as to forfeit the good opinion of his fellow-citizens in that place which he has occupied with so much honor to himself, and, I will venture to say, with so much usefulness to the country, which he has so faithfully served for twenty years.

Mr. President, let me again state that I do not rise to present the slightest objection to the expression of the views the Senator from Mississippi takes, knowing that they are honestly his own peculiar views. Nor do I object in the slightest degree to his promulgating his opinions of Judge McLean or any other judge, at all times, and on all occasions, anywhere and everywhere; but I felt myself compelled, representing, as I do in part, the State in which Judge McLean has resided during the whole of his mature life, to say this much, lest my friends might suppose (as the Senator from Mississippi, I suppose, did) that I had silently acquiesced in the justness of his remarks on this and a former occasion.

Mr. KING. I was not present when this discussion first arose, and after coming to my seat I inquired whether any charge had been made against the Senator from Mississippi, from which he thought it necessary to vindicate himself, which had given occasion for the remarks which he was addressing to the Senate; and being informed that there was no such charge, I considered that the practice of the Senate, which has been heretofore uniformly observed, rendered it proper that I should interpose an objection to the further progress of a discussion which had no practical bearing upon the business before the Senate. I understand now, however, that the Senator from Mississippi has been arraigned in the official paper, in consequence of some remarks that he made on a previous day. In such case I conceive it is proper for the Senator to enter into such exposition as he may conceive necessary for the purpose of setting himself right in regard to the matter. There have been many instances in which Senators have exercised the right of justifying themselves upon the floor of the Senate, when they have been assailed in the public newspapers. I shall say nothing in regard to the charge or the imputation that is spoken of; that is a matter for the country to decide upon; I only rose to say that when I interposed, it was with no intention of depriving the Senator from Mississippi of the opportunity of making any necessary explanation, but it was only to guard the Senate against what I at the moment apprehended to be a violation of the usages of the body.

Mr. FOOTE. I am highly gratified at receiving the kind explanation of my friend from Alabama; it does not surprise me though; he has only exhibited his characteristic courtesy and liberality. I was sure that he would not have presented any objection to my being allowed to vindicate myself had he known of the necessity which demanded it.

Mr. President, I have but a short reply to make to the honorable Senator from Ohio, who, after several days, as I should conjecture, of anxious preparation, and of consultation too, has at last been able to make himself ready for the meditated encounter of arms, and who has but just now, in our sight and in our hearing, most strikingly signalized both his valor and his wit by charging, with all the boldness of a true cavalier, and with all the weapons of an exhaustless facetiousness, upon the individual who has dared to accuse his illustrious judicial friend and *Magnus Apollo* of grave official delinquencies as a high public functionary.

The Senator from Ohio will permit me to say that had our brave troops in Mexico been always as tardy in preparing to meet the enemies of the country as the honorable Senator from Ohio has exhibited himself on this occasion, it may at least be seriously doubted whether they would have been able to acquire a tithe of the glory which envelops them, and has claimed for them the eternal respect and gratitude of the nation. If there was anything in the character of my remarks the other day, upon the conduct of that official personage for whose defence the Senator from Ohio has thought proper at last to buckle on his armor, at all demanding a regular reply, it is most wonderful that a gentleman so fertile in resources as the Senator from Ohio is known to be, and so potent withal as the advocate and defender of persecuted innocence, did not at once, without a moment's delay, when champions too were loudly challenged to appear, announce his willingness to become the defender of that personage whom he now seems to hold in such high veneration, and whose fame he professes to regard as absolutely beyond the reach of injury from any assaults which the envious and the malignant of this world may presume to make upon it.

After all this tremendous clashing of arms and thundering of artillery, what has the honorable Senator from Ohio accomplished? He has succeeded in arraigning me; but has he accomplished the vindication of his friend? Why, sir, the Senator has not even *approached* the merits of the controversy between the learned Judge of the Supreme Court of the Union, whose defence he has undertaken, and myself. He has not even alluded to the material point in question, which is, Did he (Judge McLean) or did he not express an opinion in the newspapers upon a question which he had reason to believe he would shortly be called upon to aid in settling judicially? The honorable Senator accuses me of becoming dissatisfied with Justice McLean, and with denouncing him, simply because he does not concur with myself and others in opinion upon a certain legal question. I should feel myself disgraced, could I not at once and positively deny this strange allegation.

Why, sir, I have not objected to Judge McLean's having *formed* the opinion which he has considered it decent to avow; I have scarcely attacked the soundness of that opinion, as erroneous as I hold it to be; I have always been willing to recognize the possibility of such an opinion being adopted by a thoroughly conscientious and patriotic man; and I have thought I knew some members of this Senate, in all respects entitled to regard and confidence, who have notwithstanding arrived at conclusions similar to those announced by Judge McLean. But, I repeat, it is the *public expression* of an opinion by Judge McLean upon a question likely to be referred to the Supreme Court of this Union, in advance of its regular presentation before that tribunal, of which I have complained, and of which I have insisted the country had a right to complain. Has this view of the subject been met by the Senator from Ohio? Does he feel authorized to deny any of the *facts* stated by me, and *now established* by irrefutable testimony? Does he undertake to justify such acts as Judge McLean has thus been proved to have perpetrated? No, sir, no; nothing of all this has been done; nor will the Senator from Ohio risk himself before the country by attempting any of these things. And yet the Senator seems really to suppose that he has so defended his friend of the Supreme Bench that no one will be able hereafter in the least degree to call him in question.

Why, really, if the Senator from Ohio could not reconcile it to his conscience to take higher and bolder ground in vindication of the personage complained of, than that which he has assumed in his behalf, I must regard it as unfortunate for Judge McLean that he has uttered a single word in his defence. At any rate, I cannot perceive that the Judge occupies a position at all more creditable to his character as a public functionary than that which he occupied before the Senator from Ohio so generously rushed to the rescue. If jests were arguments, and histrionic action could supply the want of justificatory evidence, the Senator from Ohio might possibly be able to felicitate himself upon having established the most lasting claims to the gratitude of Judge McLean and his friends; but, as the case actually stands, I am decidedly inclined to think the honorable Senator from Ohio would have best consulted discretion by letting his friend, the Judge, go wholly without eulogy or defence.

But the Senator from Ohio seems to feel a little apprehensive that I may myself run into the error that his friend the Judge has committed, by expressing my opinion of his acts in such language as would commit me upon a question of impeachment, should such a proceeding be resorted to. The Senator may relieve his mind of all solicitude on this point, inasmuch as I have myself never hinted at impeachment, or at all indicated how I should act were such a proceeding to be instituted. Judge McLean may be guilty of all that I have charged, and yet not be impeachable before this body. Did I choose to do so, I could easily name a Senator who is in close political alliance with the Senator from Ohio, to whom his admonition on this head would be applicable, and upon whom it might by possibility prove more or less profitable. I allude to a Senator who, not many months ago, declared that, in his judgment, the President of the United States had been guilty of an *impeachable* offence. If the Senator from Ohio shall be able to conjecture to whom I allude, he will be also able to turn his powers as a lecturer on senatorial decency to a good account.

To conclude, Mr. President, I am not at all disposed to complain that the honorable Senator from Ohio has come forward as the defender of Justice McLean; nor am I at all surprised at his having done so. Independent of local neighborship there are certain grounds of sympathy between Judge McLean and his advocate here, the well-known existence of which might well beget surprise that the distinguished Senator from Ohio did not earlier take upon himself the charge of vindication under the weight of which he is now visibly staggering; or that, having undertaken the defence of so illustrious a culprit at all, he has not been able to do more in his behalf than to enact the part of a mere lukewarm champion or mirth-moving breaker of pleasant jests.

Mr. President, I cannot take leave of this subject without solemnly admonishing the Senator from Ohio that, highly as he may admire the character and public course of the personage upon whom he has lavished such extravagant commendations in our hearing to-day, the period is not far distant when the fact of his taking part with a foreign foe, and against his own country, when war was raging between them; the fact that he did all he could to obstruct supplies to our army in Mexico, when supplies were known to be imperiously needed; the fact that his influence, such as it is, was employed throughout that war in a mode calculated to bring dishonor upon our army, and disappoint the patriotic hopes of the nation; these facts, as sure as a Divine Providence reigneth in Heaven, and Justice hath her habitation upon earth, will sooner or later consign him and his allies to profound infamy, and overwhelm his eulogists with contempt. Let such men as feel my present words to be at all applicable to them and to their acts, content themselves with the reception of congenial honors such as rumor declares to have been a few months since bestowed on certain prominent civic chieftains in this country by a Mexican Congress, as the meet reward of domestic perfidy; but let not such as these expect to receive veneration or respect from twenty millions of enlightened freemen, who well know how, in an appropriate and imposing manner, to recompense high public virtue, according to its deserts, and to punish and degrade those who are found to act unworthily in high place.

The conversation here dropped.

RECIPROCITY DUTIES.

The Senate then resumed the consideration of the bill to admit certain articles of the growth or production of Canada into the United States free of duty, upon the condition that the like articles of the growth or production of the United States are admitted into Canada free of duty; the question pending being upon an amendment heretofore submitted by Mr. PHELPS.

Mr. DIX. Mr. President, since this bill was taken up for discussion, I have been unable, from indisposition and other causes, to bestow upon it the attention which is due to the importance of the subject. But I will proceed, nevertheless, with such preparation as I have been able to make, to explain the objects of the measure and its probable effects; and I will endeavor, at the same time, to answer some of the leading objections which have been made to it.

If I entertained the belief that the operation of the bill would be prejudicial to the interest of any portion of the Union, I should not be its advocate. The first object of all public legislation is to advance the general welfare of the country; but this object ought certainly not to be sought for at the expense of any particular section, or indeed of any single interest. I believe this bill is entirely free from objection in this respect; that it will be eminently advantageous both to the United States and Canada, and do no wrong or injury in any quarter.

Before I proceed to examine the practical operation of the measure upon the commercial interests of the two countries, I wish to notice a preliminary objection which has been raised.

It is supposed that the privileges conferred by this bill upon Canada will be extended, by virtue of certain reciprocity treaties into which we have entered, to the foreign States with which those engagements have been contracted. I take a totally different view of the subject. I believe Senators have put an erroneous construction upon the obligations of the compacts to which they refer.

We have reciprocity treaties with Russia, Denmark, Hanover, Prussia, Mecklenburg-Schwerin, the Hanse-Towns, and several other foreign countries. They are treaties with sovereign States, and, by every fair rule of construction, their stipulations, so far as they guaranty reciprocity, must be deemed to relate to engagements with other Powers equally independent. The commercial arrangement proposed by this bill is with a European colony adjoining us—one of those dependencies which the States of the Eastern hemisphere are accustomed to except in their compacts with us for reciprocity of commerce and navigation. If any of the States with which we have treaties stipulating for the same privileges which we confer on others, had dependencies situated like Canada in respect to us, those States might perhaps acquire in respect to such dependencies the same privileges we shall confer on Canada if the bill passes; but I do not admit that they would acquire those privileges for their metropolitan possessions, and for the reason that colonies have always been made practical exceptions to the general rule of international intercourse. Possibly a special reservation may be necessary in every compact, from the provisions of which it is designed to exclude them; but I do not, as I shall show, consider it a matter of any consequence in this case. This we know in respect to Canada, that it is not only expressly excluded from the terms of our commercial intercourse with Great Britain, but it is the subject of distinct stipulations; and yet the British Legation, in accordance with the wishes of the Canadians, has urged this measure upon us, under instructions from home, without the least idea that they would gain for Great Britain under our reciprocity treaty the privileges they desire us to confer on Canada.

The honorable Senator from Maryland [Mr. PEARCE] said that we had "given a construction to these reciprocal provisions worthy of notice," and he alluded to our treaty with Portugal in 1840, by which it was expressly agreed that the stipulation in our treaty with France in 1831, in regard to French wines, should not be interfered with. This construction is perfectly consistent with the view of the subject I take. These two treaties were with independent Powers; they were with continental Powers in Europe almost bordering on each other; and a general stipulation in respect to equality of duties necessarily required an express reservation to authorize us to make the duties on any of their products unequal. This, however, is a totally different thing from a commercial arrangement between us and a European colony adjoining us.

But in coming to the conclusion that our commercial relations with Russia, Prussia, and other Powers, under the reciprocity treaties we have formed with them, will not be affected by this bill, I put it on other grounds.

These treaties relate to commerce and navigation, and are intended to regulate the commercial intercourse carried on by those countries with the United States on the ocean. They have certainly not been understood as referring to inland trade and exchange between countries bordering on each other. The right to regulate their interior intercourse with adjoining States has not been supposed to be at all impaired by these commercial engagements. If it were otherwise, if these treaties restrained the States which are parties to them from admitting articles free of duty from a neighboring country, except upon condition of extending the same privilege to the other contracting parties, we should at this very moment be entitled, in our intercourse with Prussia, to all the benefits of the custom-house exemptions of the Zoll-Verein, of which that kingdom is a leading member. Prussia borders on a number of the Zoll-Verein States. These States interchange with her their common products free of duty under the Zoll-Verein compact, or Customs Union. They have stood to each other in the same relation in which we stand to Canada. They had duties on their respective products as we have. They have abolished them, as we propose to do in respect to Canada on a part of ours.

Now, will it be contended that we are entitled to the same freedom of intercourse with Prussia which she shares with those States, because she has stipulated to impose no higher duties on our products than on those of other countries? Surely not; and for the very reason that the stipulations of our treaty with her are intended to apply to external intercourse by sea, and not to inland arrangements between bordering States. The intention of our treaties of reciprocity is stamped upon them in characters not to be misunderstood. The first stipulation (for those of latter years are much of the same import) limits the reciprocal liberty of commerce and navigation which the treaties were formed to secure to "the ports, places, waters, and rivers of the territories of each party, wherein foreign commerce is permitted." The second stipulation regulates the duties to be imposed on the vessels of the contracting parties engaged in that commerce. The third regulates the duties to be paid on the importation or exportation of their respective products. I admit that, by the letter of these treaties, this bill might affect our commercial relations under them. But I insist that all compacts are to be construed according to their manifest intention, not by one stipulation alone, but by all which relate to the same subject-matter; and I might apply these observations with great force to my first position, and say that those treaties did not contemplate commercial relations with colonial dependencies like Canada. But the whole tenor of their stipulations shows them to have been designed to regulate commerce on the sea, and not the interior traffic carried on by the inhabitants of countries separated from each other by a mere statistical boundary or an astronomical line. They are treaties of commerce and navigation—not of one alone, but of both combined.

When this measure was first proposed, I inquired of the State and Treasury Departments whether it would affect our commercial relations with foreign States under reciprocity treaties, and a decided answer was given by both in the negative. My own examination of the subject has brought me to the same conclusion, whether upon the same grounds I do not know.

If this construction be erroneous, if the privileges proposed to be conferred on Canada will be extended to the foreign States referred to, then, I repeat, we shall, on the same principle, become entitled to the privileges of the Zoll-Verein, in Prussia, and perhaps gain access for our products, through her, to all the other States of that political association, comprehending, I believe, twenty-eight out of the thirty-seven States of the Germanic Confederation. This would, *prima facie*, be an immense advantage, though it is not clear that it would be of any practical benefit. But no one dreamt, when our reciprocity treaties were formed, that they conferred any such privileges on us; and I venture to say it will never occur to any of the States which are parties to those treaties, that the proposed arrangement with Canada will confer any new privileges on them.

But if it were otherwise, the privileges the bill confers are reciprocal. We concede nothing which we do not gain in return. If Hanover, Prussia, and Mecklenburg-Schwerin should acquire the privileges conferred on Canada by this bill, we should acquire in respect to them the privileges the bill confers on us. There would be entire reciprocity. Our chances of profiting by the arrangement would be as good as theirs. The Hanse-Towns might send us a few more hams; but there is scarcely an article enumerated in the bill which can be brought to us with advantage from the States on the German Ocean and the Baltic. We are too distant for agricultural exchanges. Besides, we are essentially as agricultural as they. Wheat is the only article likely, under any circumstances, to come here, except in the most inconsiderable quantities. In 1837, when flour was ten, eleven, and twelve dollars a barrel, we received over a million of bushels of wheat from Germany, not half the quantity we sent in 1847 into Canada, Nova Scotia, and New Brunswick; but in the former year, under the influence of these enormous prices, England herself sent us over seven hundred thousand bushels—nearly as much as Germany; and yet she imported in 1847 over eighty-six millions of bushels of grain. But such occasions very rarely occur; and when they do occur, the tendency of importation is decidedly beneficial. Its influence is to check prices when they reach the high point of extravagance.

Senators have expressed the apprehension that, if this bill passes, we shall, under the construction they give to it, be deluged with wheat from the Baltic. Let us see how much ground there is for this apprehension. On the 1st of February wheat will pay but one shilling sterling a quarter in Great Britain—about three cents a bushel. She imports from us: we export to her. The price of wheat there must, therefore, always be as much higher than the price here, when she has a deficiency and we a surplus, as the cost of carrying wheat to her from the United States, and this cost, I am told, is about twenty cents the bushel. When it is a dollar here, it must be $1 20 there. Now, let us see what a vessel laden with wheat from the Baltic would be likely to do in such a case. She must, to come here, sail directly by the ports of Great Britain, where she can get a dollar and twenty cents a bushel, deducting the three cents duty which she must pay. She gets, then, a dollar and seventeen cents. Suppose she continues her voyage to the United States, how will the account stand? Admitting, for the sake of the argument, that the wheat she brings will come in free of duty under our reciprocity treaties, she will get one dollar a bushel; but from this amount she must deduct twenty cents for cost of transportation from Great Britain here. She will get eighty cents here instead of one dollar and seventeen cents in England—thirty-seven cents a bushel less; and this, on a cargo of several thousand bushels, will amount to no inconsiderable sum. The Northern Germans have the reputation of being rather heavy, but they are, so far as I have had the opportunity of observing them, the Yankees of the Continent in bargaining; and I think they will be found altogether too astute to engage in any such enterprises as honorable Senators apprehend. They will carry on a severe competition with us in supplying England with wheat; but they are just as unlikely to compete with us in our markets as we are to compete with Newcastle in supplying London with coal.

Under the construction, therefore, which Senators give to the bill, I am satisfied its operation would be as beneficial to us as to the States with which we have reciprocity treaties. But I contend that these treaties will not be affected by this arrangement. If I am not mistaken, the privileges we confer will also be acquired by us, and we cannot, in any event, be losers.

Let me now turn to considerations which directly concern the commercial intercourse of Canada and the United States.

In order to understand the subject in all its bearings, it will be necessary to see what Canada is, and what she has done for us in the removal of restrictions upon our commerce with her.

The population of Canada (I use a general term, as the two provinces are now united) is 1,527,757 souls, or, in round numbers, a million and a half. With less variety and fertility of soil than the United States, a more rigorous climate, and with colonial restrictions calculated, under the most favorable view of the subject, to impede the development of her resources, to shackle the operations of industry, and to abridge the freedom of individual enterprise, which is always the most powerful stimulous to exertion, it is not to be expected that her progress will keep pace with our own in population or in social and physical improvement. The policy of Great Britain has, within a few years, undergone some important changes, favorable to her in a commercial and political view. Canada, it is true, has lost some exclusive privileges by a relaxation of the colonial system of the mother country, but the latter has extended to her some new facilities, by surrendering the control of the custom-house, so far as respects the imposition of duties; and she has also conceded the principle of the responsibility of ministers which exists at home, so that when the Governor is not sustained in his policy by the Provincial Parliament, he is bound to change his advisers, or, in other words, his Executive Council, which may be considered as the ministry of the colony. The Canadian Government is thus assimilated to that of Great Britain in the essential feature of its responsibility to the popular voice—a concession which has been gained after a long and patient struggle on the part of a few able and patriotic men in Canada.

Almost cotemporaneous with this fundamental change in the political administration of the affairs of Canada was another of equal importance in respect to her commercial independence. In 1846, an act of Parliament was passed giving the legislative authority of the British colonies the right to regulate their own duties of customs, in respect to British as well as foreign products. At that time there were no duties imposed by British acts on British goods imported into Canada, although there were duties imposed by such acts on foreign goods; but there were acts of the Canadian Legislature, made for revenue, imposing additional or cumulative duties on foreign goods, and a duty of five per cent. on British goods. There was also an act of Parliament declaring that no goods should, "upon importation into any of the British possessions in America, be deemed to be of the growth, production, or manufacture of the United Kingdom, unless imported from the United Kingdom."

The effect of this condition of the law was to prevent the importation of British goods into Canada through the United States, and to impose on the productions of the United States and other countries duties which were protective as to those of Great Britain and Canada.

As early as 1843 the duty on the importation of wheat and flour, of the growth of the United States, going through Canada to the United Kingdom, was reduced to three shillings provincial duty, the quarter of eight bushels, and one shilling British duty, without reference to the sliding-scale, by which the importation of breadstuffs from other countries was regulated. The consequence was, a large importation of wheat and flour from the United States into England through Canada.

The corn laws being repealed, Canada loses this advantage—the advantage of being a carrier for us—and it is now as beneficial to export Canadian wheat to England through the United States (the expense being equal) as direct from Canada. In other words, the wheat of Canada and the United States has equal advantages in the British market.

In 1847, the Parliament of Canada, acting under the authority granted by the Imperial Government, repealed the differential duties, and the new table or tariff of duties then enacted applies equally to goods of all kinds, whether coming from England or the United States. We are, in this respect, placed on the footing of the mother country.

This equality was effected by a double operation of law: first, by reducing the rate of duty on goods of the United States; and secondly, by increasing the rate on British goods, thus bringing both to the same standard or scale. There can be no better evidence of the liberality of the Canadians, and of their earnest desire to put their commercial intercourse with us on the most friendly footing.

The consequence of this change of the law has been to create a considerable importation of British and foreign goods into Canada through the United States, and also to cause a large importation of the productions of the United States into Canada for

consumption. The cotton fabrics of Lowell are received on the same terms as those of Manchester. The same remark is true of many other products of our industry, of which we carry large quantities into Canada for consumption. The value of our productions annually introduced into Canada, under these new provisions of law, is stated, on high authority, to amount to more than two millions of dollars. It is natural that the Canadians should desire to send their produce to New York and Boston, to meet the trade which has thus been opened to us—that they, having put this trade upon the most liberal footing in respect to us, should wish to export, on equal terms, such means of payment as they possess in the products of their own labor.

Will the terms of exchange—perfect equality—proposed by the bill be disadvantageous to us? I propose to consider this question somewhat in detail, although it would seem but fair that the liberality which has been manifested by Canada towards us—a liberality by which we have greatly profited—a liberality voluntarily extended to us, without equivalent—should be reciprocated, without stopping to weigh, with over-scrupulous exactness, the precise balance of advantages and benefits.

In the first place, I believe it will be apparent, by looking at the list of enumerated articles which are proposed to be mutually received free of duty, that ashes, flour, and lumber are the only ones ever likely to be brought into the markets of the United States in considerable quantities. Ashes we want, and at the cheapest price. In respect to lumber, there is nothing to be apprehended. We shall unquestionably receive some lumber in New York, but I believe our timber districts do not fear the competition. Besides, it will come to us chiefly in the form of saw-logs for manufacture. New York is almost the only State this competition can affect; and if there is any risk, we are willing to take it, in consideration of the general advantage and convenience the measure promises to confer. It was apprehended by our friends in Maine, that their interests might be injuriously affected in this respect. But the bill is so shaped as to avoid all interference with them. It applies only to the direct trade with Canada. Articles coming through New Brunswick or the other British provinces will continue on the old footing. The lumber interest in Maine, therefore, will not be touched by the bill; and in all other respects that State will in all probability be as much benefited by it as any other. When the railway between Portland and Montreal is completed, the free commerce secured by the bill must be of the greatest advantage.

Flour, in fact, is the only Canadian product likely to come into competition with our own. Of all the others—animals, hides, cheese, meats, &c.—we shall export more largely into Canada than she will export into the United States. The same remark is applicable to corn, and indeed to most if not all the breadstuffs, except wheat.

It is possible that in certain years—years of scanty production in the United States, provided they are years of abundance in Canada—we may receive some wheat from her. But I do not believe that the amount will even in those years (which are very unlikely to occur) be sufficient to influence prices in the United States in a perceptible degree. If the importation, however, shall in such extraordinary cases prevent the price of grain from becoming extravagantly high, it will be a public benefit, by relieving the poor from the necessity of eating dear bread. In years of ordinary abundance I do not believe prices in the United States will be at all affected by the importation of wheat from Canada. The production of wheat in the United States yields a surplus. Whenever prices abroad are sufficient to sustain exportation, our wheat finds its way to foreign markets; and in these cases it is the price in those markets which fixes the price at home. I believe it may be stated as a principle that the price of a product, which is exported in any considerable quantity, is regulated in the markets of the exporting country by the price in the markets of the country to which the export is made. Our own experience proves the truth of this proposition. In 1847, when we were exporting breadstuffs, the price of flour in New York, the chief port of exportation, rose and fell with the fluctuations of price in the British market with as much certainty as the mercurial column in the thermometer rises and falls with the variations of external temperature. This fact should relieve us from all apprehension as to the influence of this bill on competition with Canada in the production of wheat. She may send her flour to foreign markets now, either by the St. Lawrence, or through the United States in bond under the act of 1846, allowing a drawback of duties in certain cases. It enters into competition with ours in those markets now. The bill gives no new facility or advantage in this respect, except to relieve her from custom-house formalities. I hold, then, that the wheat of Canada can only have an influence on the price in the United States in very extraordinary years not likely to occur and in years of exportation, by competition with us in the foreign market, and that, in the latter respect, this influence is as sensibly felt now as it would be under the provisions of this bill. These considerations become the more significant if it be true, as I suppose, that wheat is henceforth to be one of our regular exports.

What, then, are the advantages to be expected from the proposed free interchange of products? The first is, to relieve the inhabitants of both countries, and specially those on the frontier, from the inconvenience of the custom-house in respect to necessaries of common production and daily use. The next is, to enable the Canadians to export their produce through the United States to foreign markets without paying duty at the frontier, and with a deduction of two and a half per cent. on the drawback at the place of exportation. The custom-house formalities seem to have been a great obstacle to the use of our canals and internal channels of communication by the Canadians. From December 1, 1846, to July 1, 1847, we received from all the British North American Provinces 929 bushels of grain of all kinds, and no flour, while we sent them more than two millions of bushels of wheat during the year. During the previous five months we received from all the rest of the world 309 bushels of wheat and 54 cwt. of flour—equal to 27 barrels. The last year the Canadians have used our canals more extensively. The returns are not yet printed, but I understand that at least 70,000 barrels of flour have been exported through the United States. Whether the experiment will succeed remains to be seen.

Mr. CLARKE. Will the Senator from New York state where he obtained this information?

Mr. DIX. I have ascertained the fact from some statistical statements published in a newspaper at Oswego, containing the transactions at the collector's office. This information is given in an official form in the annual report on commerce and navigation received yesterday; but I have not been able to examine it. From the source I have before referred to, I learn that 50,000 barrels of flour were received at Oswego. At Buffalo the amount was probably less.

The bill will undoubtedly lead to a free interchange of products among the frontier inhabitants. If, in the course of these exchanges, we receive any Canada wheat for consumption, it must be in the few individual cases in which the sellers of our products to the Canadians are able to consume it more freely. To a very limited extent it may possibly reach a new class of consumers, who will become exporters on a small scale, under this bill. For instance, one of our frontier inhabitants who, under the proposed arrangement, can carry half a dozen sheep into Canada without paying the duty of forty cents a head, now exacted by the Canadian tariff, and bring back as many bushels of wheat without paying the twenty per cent. duty imposed by our tariff, will save between three and four dollars in an exchange of products of the value of twelve or thirteen dollars—a monstrous tax! —and he may thus be enabled to eat wheat bread for a while, instead of living exclusively on the coarser breadstuffs. This must be the only effect in ordinary years, when we produce more wheat than we require for our own consumption. We can take none from other countries, unless we consume it more freely; and our increased consumption under this bill must not only be extremely limited, but of such a nature as not to interfere with our own production. But these are very small matters, hardly worthy to be taken into the account in an estimate of large transactions.

Let me now test the truth of my position—that we have nothing to fear from competition with Canada in wheat-growing—by a resort to arithmetical demonstrations. The population of Canada is about half the population of New York. That part of the province which was once politically known as Upper Canada, and which, for distinction, I shall still call so, is the wheat-growing region. The Lower portion does not produce enough for its own consumption. It always draws largely upon the Upper. The least failure of the crops in the Lower would be sure to absorb the whole surplus of the Upper. If there were any just ground of apprehension in respect to our wheat-growing districts, looking to general considerations, it would be removed by the custom-house statistics of Canada for the year 1847—the great year of exportation for American breadstuffs by reason of the famine in Europe. I take for illustration the most unfavorable year for my purpose—the year in which, from unusual causes, the export of wheat by Canada was greatest. I do so that those from whom I differ may have every advantage they can ask in the argument. The quantity of flour imported in that year into Canada was about 84,000 barrels, and the quantity exported about 676,000: the quantity of wheat imported 562,000 bushels, and the quantity exported 668,000 bushels. The imports, of course, were from the United States. The excess of exports over imports was 592,000 barrels of flour, and 106,000 bushels of wheat. This entire export was probably to Great Britain, her American islands, and her Atlantic provinces, Nova Scotia and New Brunswick. Notwithstanding this export of flour from Canada, New Brunswick received from us, in the same year, over 100,000 barrels of flour, and Nova Scotia nearly as much more.

The result of my inquiries is, that in ordinary years the upper portion of Canada produces a surplus of about 2,000,000 bushels of wheat, and that a considerable part of this surplus is consumed by the lower portion, including Quebec and Montreal, and the demands for their shipping. In 1847 Canada produced 4,560,967 bushels of wheat, and imported 982,468 bushels, (including flour, and estimating one barrel of flour to be equal to five bushels of wheat,) making an aggregate of 5,543,435 bushels produced and imported. In the same year she exported 4,047,366 bushels, making a balance of 1,496,069 bushels consumed at home. This is less than a bushel for each inhabitant—probably not more than half her consumption in ordinary years. But the price of wheat being extravagantly high, the consumption must have been greatly diminished, for the purpose of exportation, by resorting to the coarser grains for domestic use. The statistical tables of earlier years prove the export of 1847 to have been extraordinarily large. From 1838 to 1843 the annual export varied from 50,000 to 350,000 barrels; but in this last amount was included a large import from the United States. It is not probable that her export is essentially different when there are no unusual causes to stimulate exportation. Taking one year with another, and deducting from the entire export of wheat from Canada an amount equal to that which we send to her, to Nova Scotia and to New Brunswick, and I doubt whether there will be much of a balance left. In 1847, which was an extraordinary year, while Canada only exported 3,064,898 bushels of wheat over her imports, we carried into the British North American Provinces alone, in the same year, 2,279,068 bushels. While Canada produces less than three bushels of wheat for each inhabitant, we produce more than five and a half bushels for each inhabitant; while she consumed in 1847 less than one bushel of wheat for each inhabitant, we consumed nearly four bushels and a half for each inhabitant, notwithstanding the temptation of high prices to export and to consume cheaper breadstuffs; while her entire product of wheat in 1847 was four millions and a half of bushels, ours was over one hundred and fourteen millions of bushels.

Against an export of less than six hundred thousand barrels of flour from Canada in 1847, (her excess over imports,) we exported nearly four and a half millions of barrels; and against an export of one hundred thousand bushels of wheat from Canada, (excess over imports,) we exported nearly four millions four hundred thousand bushels. In the same year we exported twenty million bushels of Indian corn and meal, while she exported none. The idea that a million and a half of people, about half the population of New York, with a soil far less favorable to the growth of wheat than our own, can successfully compete with us either in the foreign or the domestic market, and injuriously

affect production with us, with twenty millions of people, seems to me a very idle apprehension. It has been stated, on high authority, that the entire trade of the British North American colonies, with three millions of people, does not equal that of Connecticut, with only three hundred thousand inhabitants. The more numerous, active, and enterprising must always have the advantage in exchanging on equal terms. The very fact that we send into New Brunswick every year at least one hundred thousand barrels of flour, and probably as large an amount into Nova Scotia, seems to indicate that we might enter into successful competition with Upper in supplying Lower Canada, if all duties were to be removed. At least our surpluses will, to some extent, meet there.

Looking to the wheat culture alone, therefore, I should have no fears. But if we consider the subject in connection with the export of cattle, corn, salted meats, and other articles, there can be no reasonable ground to apprehend that we shall be losers. We must be gainers. Large quantities of cattle and corn are now exported to Canada, with a specific duty, equal to about twenty per cent. against them. We sent into Canada in 1844 thirteen thousand barrels of pork, and in 1847 about the same quantity, with a specific duty of one dollar and twenty cents the cwt. against us. The removal of these duties cannot but have a most decided influence in increasing the traffic of the northwestern States with Canada.

It has been suggested that the proposed measure, by removing the duties on the enumerated products, will destroy the protection which those duties secure to our agricultural industry. The answer to this suggestion is, that the proposed arrrangement is founded upon a mutual abolition of duties, and that the protection extended to like articles of the production of Canada will also be removed. There can be no necessity of protecting our products against Canada, when she ceases to protect her products against us. But the measure will, in truth, be of infinite advantage to our agriculture. Canada sends few products to us; we send many to her. We produce corn, which she needs, and which she cannot raise. Her winters are longer than ours; and, as the expense of keeping cattle from autumn to spring is greater, she will always rely on us for her supplies, both for the slaughter-house and for farming purposes. There is now a duty of $4 40 a head on cows, and seven dollars a head on oxen, on importation into Canada. The removal of these duties will be a great advantage to us. In short, under all its aspects, this measure will, on examination, be admitted to be of infinite benefit to our agriculture. It will, in most cases, remove duties on our products, which operate as a direct discouragement to their exportation, while the removal of the duties on the like articles of the production of Canada cannot affect us, as those duties are chiefly on products which will not come into competition with ours, and are therefore not protective. In a word, I can fancy no measure more likely to be beneficial to our agriculture than this. The highest species of protection to industry is that which opens new markets for its products. In this point of view this measure is eminently protective; it is just, legitimate, effective protection; and if gentlemen desire (as I have no doubt they do) to advance the agricultural interests of the country, they ought to sustain it.

Let me now state a few further statistical facts to the Senate, for the purpose of showing how little influence any increased interchange of products with Canada under this bill is likely to have on our aggregate exchanges with foreign countries.

The duties on merchandise collected in all the inland frontier districts, commencing at Burlington, on Lake Champlain, and terminating at Chicago, on Lake Michigan, are as follows:

For 1845	$57,818 55
For 1846	66,828 80
For 1847	66,019 80

Making an average of $63,555 71 per annum for the three years.

Estimating the rate of duty at 33⅓ per cent., the whole value of the articles imported from Canada into the United States, and paying duty at the custom-houses, averages $190,667 13 per annum. A portion of the duties was, in all probability, refunded under the law allowing a drawback on re-exportation of the articles on which the duties were paid. I learn that the amount of goods entered at Buffalo and Oswego for the benefit of drawback was greatly increased during the last year, as the returns, when we receive them, will undoubtedly show; but the amount refunded will be proportionably increased, so that the treasury will not be affected by the augmented collections from this cause.

Our entire imports from the British North American colonies in 1845 were of the value of about two millions of dollars. Of this amount more than nine hundred thousand dollars consisted of gold and silver, and more than eleven hundred thousand, including specie, were free of duty. The remaining nine hundred thousand dollars are to be divided between Canada, Nova Scotia, and New Brunswick; and from the nature of the articles it is manifest that the quantity received from Canada was but a small portion of the amount. For instance, fish constituted about four hundred thousand dollars of the nine hundred thousand; and this came from the Atlantic provinces. The year 1847 gives nearly the same aggegate result. Our entire imports from all the British North American colonies constitute a very inconsiderable part of our commercial transactions with foreign States; and no change we can make in our intercourse with Canada can have any material influence upon them.

Notwithstanding this small import from the British North American colonies, our commercial intercourse with them, including Canada, is as beneficial for its extent as that with any portion of the world. We sent into them in 1847, products of the value of seven millions and a quarter of dollars—about five million eight hundred thousand domestic, and about fourteen hundred thousand foreign. The foreign exports were probably, to a great extent, sent through the United States on foreign account. Our imports directly from those colonies, the same year, were of the value of about two millions and a quarter. The remaining five millions and a quarter (deducting some hundred thousand on foreign account) must have been paid by bills on England. A large portion of our exports into Canada is probably paid for in this way. She sends lumber to England, and with the proceeds pays us the excess of her imports from us over her exports to us.

But it is only a small portion even of these exchanges which this bill can affect. It is only that portion which embraces the enumerated articles. Now, I have ascertained that in 1847 we did not import of those articles from all the British North American colonies an amount equal in value to one hundred thousand dollars. From Canada it must have been quite inconsiderable. The intercourse this bill is destined to affect is, therefore, not only limited in its extent, but it is essentially local in its character. No apprehension is expressed in any quarter as to its practical operation, excepting as respects competition in the production of wheat. I trust I have shown that even this apprehension is without foundation. But if it were not so, the States on the frontier are those most likely to feel the influence of the competition. Ohio is the largest wheat-growing State in the Union. She produces a little less than seventeen millions of bushels—nearly four times as much as Canada. Next in order is New York, with a product of fourteen millions and a half of bushels—more than three times as much as Canada. Michigan, in 1847, with a population not one-fourth of that of Canada, produced nearly twice as many bushels of wheat. These are the States which should object to the free exchange proposed by the bill, if objection could reasonably be made in any quarter; and yet they are the very States in which the measure is most earnestly desired. It is, in truth, a measure which exclusively concerns the inhabitants of the frontier; and I earnestly hope Senators representing States which are far removed from it, and which cannot be affected by the proposed measure, will consent that the wishes of the parties immediately interested shall furnish the rule of their intercourse with each other.

I have endeavored to show, Mr. President, that the Canadian Government has acted with great liberality towards us; and that by reciprocally removing the duties on the agricultural productions of both countries enumerated in this bill, we do no injury to any interest, but create a mutual benefit.

I was very much surprised to hear the Senator from Maryland [Mr. PEARCE] say that there was no reciprocity in the proposed arrangement; that "the bill is delusive. If it pass, not a dollar's worth of any of these products will be exported from the United States to Canada." The Senator could not have examined this subject with his accustomed care. Let me convince him that he has not done so. In 1847 we exported to Canada 83,983 barrels of flour, and 562,553 bushels of wheat, with a duty of about seven and a half cents a bushel on the importation; we also send her 64,378 bushels of other grains.

Mr. PEARCE. I will thank the Senator to state whence he derives his information. I do not find it in the public documents.

Mr. DIX. I have obtained the information from the custom-house statistics of Canada, to which I have referred, furnished at my request by the officers of the Canadian Government.

We also sent into Canada 943,280 pounds of tallow, with a duty of one per cent., (the very large export probably resulting from the very low duty;) 28,000 pounds of butter, with a duty of $1 50 per cwt.; 1,458 oxen, with a duty of $7 a head; 14,701 bushels of potatoes, with a duty of ten per cent.; 49,099 bushels of apples, with a duty of ten cents per bushel; 16,809 barrels of salted meats, chiefly pork, with a duty of $1 20 the cwt.

The duty on sheep is nearly prohibitory. It is, at ordinary prices, forty per cent. Nearly the same may be said of the duty on most other animals. Now, I do not hesitate to say, that the export of most of the enumerated products may be very greatly increased by the removal of the duties upon them; and I am satisfied that the Senator from Maryland will find, on a more careful examination of the subject, that he has entirely misapprehended the operation of the bill upon the agricultural interest of the country.

And now I wish to notice, in the briefest manner, the amendment proposed by the Senator from Vermont, [Mr. PHELPS.] The effect of the amendment, if adopted, must be to defeat the measure. It cannot be accepted by Canada. The articles the amendment proposes to make reciprocally free are hats, boots, shoes, and other manufactures of leather; cotton and woollen fabrics. These are all manufactured articles. The bill contemplates a free exchange of certain agricultural products. The amendment changes the whole character of the bill. It extends to a class of imports on which Canada must rely for revenue. It would be just as unreasonable in her to ask us to receive her furs free of duty.

But the duties on these articles, though revenue duties, are exceedingly moderate. They come within the range of those proposed by General Hamilton in his celebrated report on manufactures made shortly after the organization of the Federal Government. The duty on hats is 7½ per cent.; on boots, shoes, and manufactures of leather of all kinds, an average duty, I think, not exceeding 10 per cent.; and on manufactures of cotton and wool 7½ per cent. These duties are not only moderate, but low; and without reference to the departure of the amendment from the general policy of the bill, it is unreasonable to ask their abolition.

Besides, the same duties are imposed on like products of British manufacture. The mother country has no advantage over us in this respect in Canada, and we ought not to ask an advantage over her.

It is quite manifest that the amendment must defeat the bill; and I entreat Senators not to give it their support. If the bill is not acceptable to them, I trust they will, at least, consent to manifest their opposition to it by a direct vote.

I now come to an objection to the bill which I consider it proper to notice, though I regret to be under the necessity of making any reference to it. The Senator from Virginia [Mr. HUNTER] terms this bill a measure "of *quasi* annexation, because the advantages which are urged as arising from it seem to relate to some such project in the future." Mr. President, if this measure had any such object, we might reasonably count upon the support of the Senator from Virginia, if there were no other ground of objection. It is but four years since every Democratic vote in this body from the northern, northeastern, and northwestern States was cast for the annexation of Texas. If Canada should desire to unite herself to us, are we not to expect the same unanimity among our Democratic friends in another quarter? or are we to understand that annexation is only to be countenanced when it can be made at one extremity of the Union, and

be opposed at the other?—that even freedom of intercourse is to be discouraged and repelled, because it may by possibility lead to such a result in the future? I hope the intimation of the Senator from Virginia is not to be so understood. If it is, it is well that we know now in what manner our coöperation in the annexation of Texas and the acquisition of Florida is likely to be reciprocated.

Mr. HUNTER. The gentleman from New York is mistaken if he supposes I urged this view of the bill as an objection to it. I stated the fact without comment on it, or intimating either an approval or condemnation of it. I said that such must be its purpose, for that the best arguments urged in its favor seemed to be based upon some such prospect in the future.

Mr. DIX. I am aware that the Senator did not comment upon the intimation he made, though I understood him to make it by way of objection to the bill. But I am happy that he does not wish it to be so received. While on this subject, I desire to say, that so far as I am concerned, so far as concerns those with whom this measure originated, no such design was ever imagined until it was suggested by those to whom it seems to be unacceptable. I believe (though I am not sure) this proposition came originally from Canada—from the liberal party in Canada—though it was cordially acquiesced in on our side by those who supposed they had a direct interest in it. Among the first by whom it was publicly suggested, if I remember right, was the Secretary of the Treasury. He has twice recommended it; and undoubtedly because he regarded it as a commercial arrangement which would be beneficial to both parties.

I know personally many of the prominent men in Canada. I know they are strongly opposed to a separation from the mother country. They desire union with England first, independence next, annexation to the United States last of all. They desire a free exchange of products with us, because they believe the existing restrictions upon our commerce are prejudicial to both countries; and they desire nothing more. What the feeling is with the great body of people in Canada, I have no means of knowing. That they desire free intercourse with us, there is no doubt. Beyond that, I know nothing of their opinions or wishes.

For myself, I have heretofore spoken freely on this subject. I would neither be forward in courting the annexation of adjacent States, nor backward in acceding to it. I would neither make overtures nor repel them, without good cause. I believe we are large enough for all the purposes of security and strength; but I do not fear further extension, nor would I decline it when circumstances render it convenient to ourselves or others.

Mr. President, this consideration has been urged, and urged directly, as an objection to commercial freedom between the United States and Canada. I have recently heard it from the anti-liberal party in Canada, who are for new restrictions on our commerce. They are in favor of existing restrictions as well as new ones, upon the ground that free intercouse may lead to a political union between Canada and the United States. The Board of Trade in Montreal, in a petition to the Queen, on the 18th December last, prayed for a renewal of the discriminating duty on American grain in favor of colonial grain; and one of the reasons assigned was, that the recent changes in the commercial relations of Canada had led to "a growing 'commercial intercourse with the United States, 'giving rise to an opinion, which is daily gaining 'ground on both sides of the boundary line, that 'the interests of the two countries, under the 'changed policy of the Imperial Government, are 'germane to each other, and under that system 'must sooner or later be politically interwoven."

Whether this view be just or not, I do not believe the result is to be defeated in either of the modes proposed—by a continuation of existing restrictions, or by the imposition of new ones. I believe the tendency of such measures will be to hasten and to consummate the very end they are intended to defeat. Let us see if it be not so. A man at Champlain, New York, or Swanton, Vermont, wishes to sell an ox to his neighbor in Canada, living in sight of him, and take wheat in exchange. On making his entry at the Canadian custom-house, he is taxed $7 on the importation of his ox. He brings say thirty-five bushels of wheat, at $1 a bushel, and, on entering them at our custom-house, he is taxed 20 per cent. *ad valorem*, ($7 more,)—fourteen dollars tax to the two Governments for the privilege of exchanging his commodity with his neighbor, separated from him in one case by a narrow sheet of water, and in the other by an astronomical line. Now, I venture to assert that these impositions will not long be submitted to on either side; and if they are not removed by the two Governments, the inhabitants of both countries will look to annexation as the only practicable measure of relief. Sir, a liberal policy is always the most wise as well as the most just; and, I say again, that the people of the two countries will not submit to such a system as I have described—a system executed by an army of custom-house officers on each side of the boundary line, placed there to enforce exactions which absolutely prohibit commercial intercourse, or to fill their bags of plunder out of the hard earnings of the frontier inhabitants. And I cannot believe that those who advocate the doctrines of free trade will sustain a state of things so utterly at variance with their own principles; that they will be found acting in unison with the anti-liberal party in Canada, upholding commercial restrictions, which do no good, against commercial freedom, which works no injury; throwing impediments in the paths of those who are marked out by the great features of the districts they inhabit for friendly intercourse, and creating these embarrassments for the avowed purpose of making them alien to each other.

Notwithstanding the opinion of the Senator from Maryland, there is another consideration in favor of this bill which I consider of vital importance to us. We have earnestly desired, since the American Revolution, the free navigation of the St. Lawrence. In 1826 it became the subject of diplomatic correspondence between the two countries. The discussion exhibits the high value we have attached to this privilege. Indeed, we claimed it as a right; and it was asserted as such by Mr. Clay in a letter of great power and eloquence. The right was not admitted by Great Britain, and the matter was dropped. But there has been no period when we would not have been willing to grant an equivalent for a privilege in which, according to Mr. Clay, nine States have an interest. Canada is now desirous of granting it without equivalent. She stands ready to pass a bill opening the free navigation of the St. Lawrence to our vessels. Her Parliament is in session. The liberal party, which is now in power, is about to bring the measure forward; and I am happy to say that Lord Elgin, the Governor—a gentleman distinguished for an enlightened and liberal statesmanship—is in favor of the measure. Its success is certain, if we do not decline the reciprocity asked for by this bill.

When the Senator from Maryland said that the navigation of the St. Lawrence was useless to us, he could hardly have been aware that ship canals have been constructed around the falls of Niagara, and other points below, to connect the great lakes with the Atlantic Ocean by way of the St. Lawrence, and that vessels of three hundred and fifty tons pass freely through these internal channels of communication. During the last summer, two of our revenue vessels passed from Lake Erie and to Lake Ontario, through the St. Lawrence, to the Atlantic. When our ships can go to Quebec by sea and meet vessels from our northwestern States, there can be no doubt that large quantities of the products of those States will be carried, in summer, spring, and autumn, in this direction by our own vessels to Europe. If this bill becomes a law, I have no hesitation in predicting that vessels at no distant day will be laden with wheat in Chicago, Green Bay, Detroit, and Cleveland, and unlade in Liverpool. Ship-owners, producers, all will be greatly benefited by this free commerce, which will have an advantage in avoiding transhipment between the point of embarkation and the sea, or the foreign market. If the result is to affect in any way producers in the Middle States, as Kentucky in the West, and Maryland and Virginia on the Atlantic, it will be to relieve them from competition in our own markets with the wheat-growers of Ohio, Illinois, Michigan, and Wisconsin; and I greatly err if gentlemen from the wheat-growing States do not find themselves acting in direct contravention of the interests of their constituents in opposing this measure. In any point of view under which the subject can be considered, the opening of the St. Lawrence will be of incalculable benefit. It is, indeed, the only outlet of the Northwest to the sea for vessels of any magnitude—the only outlet of this kind they can ever have; for with all the facilities for internal communication New York possesses, a ship-canal through her territory is opposed by physical obstacles too serious to be overcome.

I believe the adoption of this great measure—the free navigation of the St. Lawrence—depends on the passage of this bill. If the reciprocity it provides for is refused, we cannot expect that Canada will grant us what she considers as a boon, what we claim as a right, and what all must concede to be a privilege of inestimable value. On the contrary, if the liberal course she has pursued is met by an illiberal spirit in us, I fear she will be compelled, in self-defence, to resort to her old system of differential duties, and to continue the restriction on navigation. There is a strong party in Canada in favor of this course. I have already alluded to the anti-liberal party. I have quoted their recent petition to the Queen in favor of discriminating duties on our products. And, sir, I greatly fear, if this bill is defeated, that we shall put a weapon into their hands to be wielded to our serious annoyance and injury. To withhold, therefore, a just measure of reciprocity, as I verily believe, of mutual advantage to both parties, would not only be exceedingly narrow in policy on our part, but, like all selfishness, it would defeat itself, and result in a loss of benefits we already enjoy. These benefits, as I have already shown, are—first, equal duties in Canada on American and British goods; and second, a market for at least three millions of dollars in value of the products of our industry.

Mr. DAYTON. Will the Senator allow me to interrupt him? The statement of facts he makes is important; and I desire to know on what authority he says that our manufactured articles are received in Canada on the same terms as those of Great Britain.

Mr. DIX. I state it on the authority of the Canadian tariff, which I shall be happy to show the Senator from New Jersey; and I will add, that large quantities of our manufactures are carried into Canada for consumption—iron castings, coarse cottons, and a variety of articles sent from the New England States, New Jersey, and Pennsylvania. To these States the increased intercourse proposed by this bill will be of great importance. The prospective benefit (which we should reject by a narrow policy) is the free navigation of the St. Lawrence—one of the highest prizes offered to the commercial enterprise of the country for many years. It will also carry with it the application, which we have always contended for, of a principle of the greatest value in international intercourse—a principle generally conceded in Europe, since the report of Baron Humboldt—the right of riparian States to an outlet to the sea by the water-courses on which they border. These seem to me to be advantages which far outweigh in importance any considerations of pecuniary profit to be drawn from a close computation of the number of bushels of wheat which may be reciprocally received and exported; though, even on this narrow ground, I trust I have shown that we are not likely to be losers by the competition.

There is another view of the subject which, I confess, weighs greatly with me. The liberal party in Canada has been struggling for years to obtain the measure of political and commercial freedom to which they believe every community of men to be fairly entitled. Commercial freedom they have secured—not fully, but so far as to give them the regulation of the impost: political freedom, so far as to give the popular voice a control over all cardinal subjects of internal administration and external intercourse. The first use they have made of this partial independence of the mother country is to tender to us the most liberal terms of commercial exchange. They have extended to us these benefits without equivalent. We have enjoyed them for nearly two years with great advantage. They now ask equality in exchanging a few agricultural productions common to both countries. Sir, I should deeply regret that the United States, powerful and populous as they are, should withhold from a comparatively weak and dependent neighbor a privilege claimed on grounds so fair in themselves, and so entirely in accordance with the liberal principles by which we profess to be governed. It would be but a poor encouragement to a country adopting our political maxims to some extent, and carrying them into the admin-

istration of her own commercial affairs, to be driven from the liberal policy she has espoused into the old system of exclusion; to be thus checked at the very outset in her attempts to cast off the shackles which she has regarded as the greatest impediment to her prosperity; to be driven to this alternative, too, by us—the country, above all others, most interested in the establishment and maintenance of an enlightened policy in government and in commerce.

Mr. PEARCE said that this was the first argument made in support of the bill, and signified his desire to look into it. He would therefore move that the further consideration of the bill be postponed until to-morrow; which motion was agreed to.

INDIAN APPROPRIATION BILL.

On motion of Mr. ATHERTON, the Senate proceeded to the consideration of the House amendment to the amendment of the Senate to the bill making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30, 1850; which was concurred in.

CAPTAIN DAN DRAKE HENRIE.

A bill from the House for the relief of Captain Dan Drake Henrie, was read a first and second time.

Mr. BORLAND requested that the Senate would now consider the bill.

The bill was then considered, read a third time, and passed.

SLAVE TRADE.

Mr. UPHAM moved that the Committee on the District of Columbia be discharged from the consideration of the petition presented by him this morning, on the subject of the slave trade; explaining, that the petition had been already handed to a member of the House, who had presented it in that branch, and had been, by some person, put in his (Mr. UPHAM's) hat. He had therefore supposed that it was a petition intrusted to him for presentation.

The committee was then discharged from its further consideration.

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 23, 1849.

The Journal of yesterday having been read—

Mr. HILLIARD rose to a correction. He said that in the vote on the motion of his colleague [Mr. HARRIS] made yesterday, to lay on the table the motion to reconsider the vote by which the bill in relation to the payment of interest on advances to the State of Alabama had been passed, he (Mr. H.) was recorded as having voted against the motion to lay the motion to reconsider on the table. This was an error; he had voted in the affirmative, and he desired that his vote might be so recorded.

The SPEAKER said the Journal would be amended accordingly.

And then the Journal was approved.

TROPHIES OF THE LATE WAR.

Mr. SAWYER asked leave at this time to introduce a joint resolution requesting the President of the United States to deposite in the National Institute within the city of Washington, the flags and other trophies taken by the American armies in the late war with Mexico, there to remain for the inspection of all, to commemorate the gallant deeds of our army and navy.

The SPEAKER said, the resolution could only be introduced by unanimous consent.

Objection having been made, the resolution was not received.

Mr. KING, of Georgia, hoped, he said, that the resolution would be referred to the Committee on Naval Affairs.

The SPEAKER explained that it had not been received.

PRIVATE BILL.

The SPEAKER announced the business first in order to be the bill for the relief of Robert Roberts, heretofore reported from the Committee on Claims.

DAILY HOUR OF MEETING.

Mr. HAMPTON, of Pennsylvania, asked leave to offer a resolution, changing the daily hour of meeting of the House to eleven o'clock a. m., until otherwise ordered.

Objection having been made, the resolution was not received.

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of the Union; but waived the motion at the request of—

Mr. DUNN, who asked leave to offer certain joint resolutions from the Legislature of Indiana; first, on the subject of postage; and secondly, on the subject of the Miami lands.

No objection having been made, the resolutions were received.

The first series was referred to the Committee on the Post Office and Post Roads, and the second to the Committee on Public Lands.

NOTICES OF BILLS.

Mr. DARLING gave notice of a motion for leave to introduce a bill supplementary to "An act for the relief of J. P. B. Gratiot and the legal representatives of Henry Gratiot."

Mr. SIDNEY LAWRENCE gave notice of a motion for leave to introduce a bill to prohibit the vending of lottery tickets in the District of Columbia.

Mr. BRIDGES asked leave to offer the following resolution; which was objected to:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the 9th section of an act entitled "An act to raise for a limited time an additional military force, and for other purposes," be construed so as to embrace the mothers of soldiers of illegitimate origin who served in the army of the United States in the recent war with Mexico, and who died before warrants for their "bounty land" were issued; and that the provisions of said section relating to bounty land be, and the same are hereby, extended to the mothers of such deceased soldiers.

On motion of Mr. DARLING, (by leave,) it was

Ordered, That leave be granted to withdraw from the files of the House the petition of Messrs. Meeker and others.

Mr. VINTON said that he was anxious, if possible, to get through with the civil and diplomatic appropriation bill to-day. He therefore renewed his motion that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. FICKLIN asked Mr. VINTON to waive his motion, in order to allow him (Mr. F.) to present certain resolutions, (he was understood to say.)

Mr. VINTON declined, remarking, that the gentleman could present his resolutions another day.

Mr. HUNT desired that the committees might be called for reports.

Mr. VINTON adhered to his motion.

And the question was taken thereon, and decided in the affirmative.

GENERAL APPROPRIATION BILL.

So the House resolved itself into Committee of the Whole on the state of the Union, (Mr. SMITH, of Indiana, in the chair.)

The committee resumed the consideration of the bill making appropriations for the civil and diplomatic expenses of the Government for the fiscal year ending the 30th day of June, 1850, and for other purposes.

Mr. VINTON said, he hoped the committee would allow him to say, that he wished the committee would remain in session to-day, with a view, if possible, to finish this bill.

THE PATENT OFFICE.

Mr. FARRELLY inquired if any amendments had been offered for the Patent Office?

The CHAIRMAN said that portion of the bill had not yet been read.

A suggestion was made, that the head "Miscellaneous" was the proper place for these amendments, and that that portion of the bill had already been gone through with.

The CHAIRMAN said an amendment having reference to the Patent Office would now be in order.

Mr. FARRELLY thereupon moved the following amendment:

Towards the erection of the wings of the Patent Office building, according to the original plan, $50,000, to be paid out of the Patent Fund.

Mr. FARRELLY, in explanation, said, the necessity of an enlargement of the Patent Office building has been urged by the Commissioner of Patents, in the reports, for the last three years. The amendment is similar to one offered at the last session. The law requires a classification of the models; but, in consequence of want of room, no classification can be made. The models are piled upon each other, so as to be useless to persons wishing to examine them, and a cause of delay to the examiners, who are obliged to have access to them. There is not sufficient room for the convenient accommodation of the officers. The upper hall is occupied by the collections and curiosities of the Exploring Expedition and National Institute. It is understood that these can be removed to the Smithsonian buildings in two or three years; but if the number of applications for patents increase in the same ratio as they do now, there will not be room for a proper arrangement of the models within the hall. The models should be so arranged as to give an observer a distinct view of each model in the case. There are a sufficient number of patented model to fill the hall, if arranged in this manner, and it would take at least four times as much space to exhibit them properly as is now occupied in the room appropriated to them. In three years, five thousand additional models will probably be collected, which would require more room than the present building could furnish.

The Patent Office fund, according to the report of the Commissioner, amounted on the 1st of January, 1848, to upwards of $207,000. The surplus of the present year, over all expenses, exceeds $8,000, which gives upwards of $215,000 now in the treasury to the credit of the Patent Office fund. The estimate of the architect of the cost of erecting the two wings, according to the original plan, is $150,000. The Patent Office fund is set apart by law for the use of the office. No more appropriate expenditure can be made of this fund than providing necessary buildings for the transaction of the business of the office, and the proper classification and arrangement of models.

The question was then taken, and the amendment was agreed to.

Mr. HENLEY offered the following amendment:

For the purchase of such scientific works as are necessary for the use of the Patent Office, $1,500.

For compensation of Librarian, $500.

For the collection of agricultural statistics, and other purposes, $3,500.

For defraying the expenses of chemical analyses of vegetable substances produced and used for the food of man and animals in the United States, to be expended under the direction of the Commissioner of Patents, $1,000; which several sums, amounting in the whole to $6,500, shall be paid out of the Patent fund.

This amendment was agreed to.

CUSTOM-HOUSE AT PORTLAND.

Mr. GRINNELL moved the following amendment:

For the purchase of a building to be used for holding the courts of the United States, post office, and custom-house at Portland, in the State of Maine, a sum not exceeding $149,000: *Provided*, That the Secretary of the Treasury shall after full examination, deem such purchase expedient and for the interest of the United States.

Mr. FICKLIN was understood (as a point of order) to suggest that this was the same proposition which had been voted down yesterday.

Mr. GRINNELL was understood to say, it was carried in amendment.

The amendment was ruled to be in order.

Mr. G., in explanation, said that he had again offered the amendment, because he believed that the building should be purchased, and that it was economy to make the purchase at this time. The United States were now paying for the use of it. The purchase was recommended by the collector of the port, by the postmaster, and by the judges of the United States courts. They said that the building was admirably adapted for the purpose.

Mr. G. sent to the Clerk's table a letter on the subject from the Secretary of the Treasury, which was read.

The question was then taken, and the amendment was agreed to.

NEW YORK CUSTOM-HOUSE CLERKS.

Mr. TALLMADGE offered the following amendment:

To certain clerks who performed extra service in the custom-house of New York, in the year eighteen hundred and forty-one, the sum of fourteen hundred and seventy-four dollars, according to the estimate of the Auditor, made the fourteenth of October, eighteen hundred and forty-one.

Mr. T. stated that he held in his hand a report which had been made by the gentleman from New Jersey, [Mr. GREGORY,] in which the facts of the case were succinctly stated almost in a single sentence.

Mr. T. explained the character of the extra

labor which had been performed. It appeared to him, he said, that the appropriation was reasonable and right. It was so regarded by the Government, to which great service had been rendered by the extra services which these clerks had performed.

Mr. SAWYER raised the point that this amendment was not in order, there being no law providing for the appropriation. He added, that this claim, if a good one, should be passed in the form of a private bill, like other private claims.

The CHAIRMAN ruled the amendment in order.

Mr. POLLOCK (on a *pro forma* amendment to the amendment) opposed the amendment of Mr. TALLMADGE, and said the claim had come before the Committee on Claims of the twenty-ninth Congress, and had been reported upon adversely by them. He had no doubt but these clerks at that time had done more than the clerks in the public employ usually did, but no more than they ought to do.

Mr. HARALSON stated that there was now a bill upon the private calendar for the payment of this claim; and he raised the point, that this being the fact, the amendment was not in order.

The CHAIRMAN sustained the objection, and ruled the amendment out of order.

Mr. VINTON offered the following amendments:

To enable the Clerk of the House of Representatives to pay for twelve copies of the Congressional Globe and twelve copies of the Appendix, for each member of the House of Representatives, under the resolution of the 1st of March, 1847, $8,280.

To enable the Clerk of the House of Representatives to pay for 536 copies of the seventh volume of the Documentary History of the American Revolution, being the first volume of the fifth series of that work, $8,747 52.

The amendments were agreed to.

Mr. VINTON offered the following amendment, to come in between lines 549 and 550, (printed bill):

For the reappropriation of this sum, (carried to the surplus fund,) for payment to the widow of James McDonald, deceased, said McDonald's share of the sum granted by Congress for distribution as prize-money among the captors of the British brig Detroit, during the last war with Great Britain, $37 50.

This amendment was agreed to.

Mr. VINTON offered the following amendment, to come in between lines 552 and 553, (printed bill):

For the erection of a custom-house at Eastport, in the State of Maine, in addition to the amount heretofore appropriated for that object, $13,000.

This amendment was agreed to.

Mr. VINTON offered the following, to come in between lines 551 and 552, (printed bill:)

For the redemption of the treasury scrip heretofore issued for the satisfaction of the bounties promised to the non-commissioned officers, musicians, and privates, by the 9th section of the act of the 11th of February, 1847, to raise for a limited time an additional military force, and for other purposes, and for the satisfaction in money of such bounties due under said section of said act as those to whom they are due may elect to receive in money instead of land, $300,000.

And the Secretary of the Treasury is hereby directed, immediately after the passage of this act, to give notice, by publication for sixty days in at least one of the principal papers in Washington City, Baltimore, Philadelphia, New York, and Boston, and in such other papers as he may deem expedient, that the principal and interest of such scrip as has been issued prior to the 1st of July, A. D., 1849, will be paid on that day on presentation at the Treasury of the United States, and that the interest on such scrip will cease on that day. And the said Secretary is further directed not to issue scrip for said bounties after that day, but to pay the same in money out of this appropriation in all cases where the person entitled to the bounty in land shall elect to receive money in lieu thereof.

He explained that this amendment was offered in pusuance of the recommendation of the Secretary of the Treasury. The committee were no doubt aware that this bounty land scrip was a six per cent. stock, redeemable at the pleasure of the Government; but there was no law authorizing the Secretary of the Treasury to redeem it. The Secretary of the Treasury recommended that he be authorized to redeem this scrip; the Committee of Ways and Means were of the opinion that it was for the interest of the Government to redeem it whenever there was money in the treasury to enable it to be done.

The amendment was agreed to.

Mr. HALL, of New York, moved an amendment for the purchase of a site for a marine hospital at Buffalo, New York; provided that the Secretary of the Treasury was of the opinion that a marine hospital was demanded at that place by the public interest.

The CHAIRMAN ruled the amendment out of order.

Mr. VINTON moved to strike out the words "without compensation," in lines 594 and 595, (of the printed bill.) Agreed to.

Mr. VINTON moved to insert the following, between lines 595 and 596, (printed bill:)

For completing the light-house on Brandywine shoals, Delaware Bay, $29,802 61.

For completing the light-house on Carysfort reef, coast of Florida, $31,590 76.

Mr. HUNT, of New York, moved the following amendment:

To pay the balance due to Ebenezer Warner, for constructing the light-house at White Fish Point, on Lake Superior, $3,298.

He briefly explained the amendment.

Mr. COBB, of Georgia, raised the objection that the claim was a private claim, and stood upon the same footing with all others, and therefore was not in order in a general appropriation bill.

The CHAIRMAN overruled the objection.

Mr. COBB appealed.

The CHAIRMAN stated the grounds of his decision. If it was a new question, he said he might perhaps decide otherwise; but it had been the practice of the House, ever since he had had a seat on this floor, to embrace appropriations of this kind in general appropriation bills. It was not for the Chair to decide that the House had acted improperly, and in violation of its own rules, in embracing these appropriations. The Chair, therefore, decided that the amendment was in order.

The question, "Shall the decision of the Chair stand as the judgment of the committee?" was taken, and agreed to: Ayes 70, noes 56.

The amendment having been decided in order, the question was taken upon it, and it was agreed to: Ayes 84, noes 43.

MARINE HOSPITAL AT NAPOLEON.

Mr. VINTON, under instructions, he said, from the Committee of Ways and Means, offered an amendment appropriating $20,000 for the completion of the Marine Hospital at Napoleon, Arkansas.

The amendment was agreed to.

MARINE HOSPITAL AT ST. LOUIS.

Mr. BOWLIN moved the following amendment:

For the purpose of erecting a marine hospital at or near St. Louis, Missouri, in addition to the $10,000 heretofore appropriated by the act approved August 3d, 1848, for the same object, $20,000, to be expended only when the Government shall have obtained a *bona fide* title to the site; and for the purchase of the said site, the $10,000 heretofore appropriated by the act aforesaid, or so much thereof as is necessary, shall be applied.

Mr. BOWLIN, in explanation, said that in the year 1842, the Government of the United States contracted for a site for a marine hospital at St. Louis, for the sum of seven thousand four hundred dollars. The appropriation, however, was not made until late in the session, and not within the time limited for the payment of the money. The man with whom the contract was made backed out, and the money was returned into the treasury. This was the first step in the transaction.

At the last session of Congress, this appropriation was put in with appropriations for Paducah, and other hospitals. The appropriation for ten thousand dollars was made; but an amendment was made putting the appropriation in the form of an appropriation for building the hospital, though as yet no site had been purchased. There was a mistake in the idea that a title had been acquired to the site at St. Louis.

Mr. HUNT, made a remark, of which nothing was heard by the reporter.

Mr. VINTON desired to inquire of the gentleman from Missouri [Mr. BOWLIN] whether the Secretary of the Treasury had recommended this appropriation?

Mr. BOWLIN said he did not know. The appropriation stood precisely on the same footing as that for Paducah, Napoleon, Natchez, and all the places which were put in the appropriation bill of last year. But in consequence of the fact that the money had been appropriated for the erection of the building at St. Louis, and not for the purchase of the site, appropriations were now inserted in the present bill for completing the other buildings, whilst St. Louis was left out altogether, notwithstanding its greater commerce and population. It was the place of resort in the sickly season for all the navigators of the western waters. It was a point at which there was more tonnage, more boats, more commerce than in any city of the West, except the city of New Orleans; and where, at the sickly season, more boatmen congregated than at any other point.

There was already one hospital of the finest description in St. Louis; there was a second belonging to the church, and a third belonging to private individuals; yet they could not accommodate one half of those who came in there.

This place had been recommended as a proper location for a marine hospital, from time immemorial. In consequence of the fact that the title to the site had not been procured, the appropriation might not have been included in the estimates of the present session. But this was a difficulty which could be remedied.

Mr. VINTON moved to amend the amendment by striking out "ten thousand dollars," and inserting "eight thousand."

He had made this motion, he said, merely for the purpose of saying a few words in explanation. The Secretary of the Treasury had recommended appropriations for all those hospitals heretofore provided for, where the sites had been purchased. Since the bill now under consideration had been reported, the Secretary of the Treasury had made a communication to the Committee of Ways and Means, informing them that the title of the United States was perfected to the site for a hospital at Napoleon, Arkansas, and recommending that an appropriation for it be made. But the Secretary of the Treasury had recommended no appropriation for the hospital at St. Louis, because the title to the land was not perfected.

Mr. BOWLIN. We never can have a title, unless the appropriation contemplated by my amendment is made.

Mr. VINTON. It may be proper that the appropriation should be made. I know the importance of St. Louis; but we cannot permit amendments to come in upon the mere opinions of individual members of the House. These appropriations are under the charge of the proper officers of the Government, and when we make an appropriation, we look to the estimates of the officers having charge of the works. This is the objection which I have to the amendment of the gentleman from Missouri. If it is a proper appropriation, it should be made; and if the state of facts is such as to justify it, let the gentleman go to the Secretary of the Treasury and get the proper recommendation.

Mr. BOWLIN said that the Secretary of the Treasury could make no recommendation in consequence of the title not having been procured to the site; and he (Mr. B.) repeated, that unless his amendment was adopted, the title never could be procured. He wanted to change the form of the appropriation.

Mr. VINTON. Then the gentleman wants to leave the old law, and offer an amendment for something else. If that is so, that is a subject upon which we should have a recommendation from the department. I do not object to the appropriation: I say it may be proper. But it comes here in such an irregular way, that we cannot properly vote for it. It may be, for anything I know to the contrary, that forty thousand dollars would be a proper appropriation, instead of ten. Of that, the proper officers must judge. Some of these appropriations are for twenty thousand dollars, and some for other sums. They are in accordance with the recommendations of the officers who had charge of the works.

Mr. V. withdrew his motion.

Mr. JOHNSON, of Arkansas, (*pro forma,*) renewed it. He had taken some pains, he said, to examine into the state of facts connected with these various hospitals. The fund which was originally appropriated for the purchase of a site for the hospital at St. Louis, had been replaced, or had gone to a sinking fund, or something of that kind. The appropriation was made for the purchase of the site. The title was not perfected in time to take the benefit of the appropriation. There the matter stood now. Upon the books of the treasury, there was no appropriation for the purchase of a site at St. Louis.

Mr. VINTON. If that is the state of facts, the Committee of Ways and Means, in all such cases, get from the Secretary of the Treasury a state-

ment that such is the fact, and that the money is required; and the Secretary recommends an appropriation, and the committee report upon it. The trouble in the present case is, that the Secretary of the Treasury has not been applied to to recommend it. The gentleman from Arkansas, [Mr. JOHNSON,] by his diligence, secured the appropriation for Napoleon which has just gone into the bill.

Some conversation followed between Mr. BOWLIN and Mr. VINTON, of which nothing was heard by the reporter.

Mr. JOHNSON continued. It was, he thought, nothing more than just that the appropriations should be made, inasmuch as it had been fully contemplated that this hospital should be built. St. Louis was a very important point. The intention was, that a hospital should have been established there at the same time that it had been established at the other places; and the money ought to be in the treasury, to secure the completion of the title to the site. He hoped the appropriation would be made.

Mr. HUNT (*pro forma*) renewed the amendment. If, he said, this were a new proposition, he should concur in the views which had been expressed by the gentleman from Ohio, [Mr. VINTON.] But Congress had, some years ago, directed that a hospital should be built at St. Louis. In the year 1842 an appropriation had been made for the purchase of a site. The same bill contained appropriations for similar objects at Napoleon, Louisville, and other places. At the last session it was understood that all these sites, except Napoleon, (Mr. H. was understood to say,) had been secured; and a bill was reported from the Committee on Commerce making appropriations for them. These appropriations were passed as amendments to the appropriation bill. The present Congress, as well as the Congress of 1842, had decided that an appropriation should be made for St. Louis. But it now seemed that the title to the site had not been perfected, and the appropriation went for nothing.

Mr. VINTON inquired why the title to the land had not been perfected?

Mr. BOWLIN explained, that the person who had contracted for the sale of the land backed out before Congress appropriated the money.

A brief conversation followed between Mr. BOWLIN and Mr. VINTON.

Mr. HUNT was understood to say that the report of the War Department at the last session of Congress went to show that the titles had been perfected to all the sites except that of Napoleon. He thought that, inasmuch as Congress had determined that a hospital should be built at St. Louis, (which was a very important point in the country,) the appropriation ought not to be defeated on a mere formality. He thought the appropriation was just and necessary.

Mr. BOWLIN demanded tellers on his amendment, which were ordered, (Messrs. EDWARDS and JOHNSON, of New Hampshire.)

And the question was taken, and decided in the affirmative—ayes 79, noes 45.

So the amendment was agreed to.

Mr. SMITH, of Illinois, moved the following amendment:

For purchasing a site and building a hospital at or near Cairo, in the State of Illinois, twenty thousand dollars.

Mr. S., in explanation, proceeded to remark, that he was in favor of all appropriations desirable for sailors and boatmen.

The CHAIRMAN interposed, and decided the amendment to be out of order.

HOSPITAL FUND.

Mr. KING, of Massachusetts, moved the following amendment:

To enable the Secretary of the Treasury to collect facts and information in relation to marine hospitals and the marine hospital fund, and to report to Congress what alterations and improvements are necessary and practicable in the administration of the same, $1,000.

Mr. K., in explanation, said that there had been no general legislation on the subject of marine hospitals since 1802. Until within a few years, the marine hospitals had been confined to the Atlantic board. Appropriations had now been made for ten hospitals on the inland waters. Under the law of 1798, there were collected, for the support of all the marine hospitals, about one hundred thousand dollars. This sum had been expended upon hospitals already in operation, and appropriations had been required from year to year to supply deficiencies. During the present year, with only six hospitals in operation, an appropriation of fifteen thousand dollars was required to supply the deficiency.

There was no general law establishing the salaries of physician, or steward, or other officers. If ten more hospitals were to be put in operation, something must be done to raise the requisite funds, and to a sufficient amount. A hospital tax of one dollar and twenty cents was now levied upon sailors. Congress was the guardian of this fund, and unless it imposed some general regulations, it was certain that the purposes for which the money was raised would be lost sight of.

There were, he had said, six hospitals now in operation on the Atlantic board: at New Orleans, at Key West, at Mobile, at Charleston, at Norfolk, and at Chelsea. Ten more had been authorized. Where was the money to come from by which beds were to be purchased? The money already raised was entirely used up. He wished to bring the matter to the consideration of Congress, in order that the utmost possible good might be effected by this marine hospital fund. The Secretary of the Treasury had been consulted, and was also anxious that the subject should be laid before Congress. He believed, that by authorizing the Secretary of the Treasury to apply this small sum to obtain information, and to submit to Congress some regular system which might be put into practical operation, a measure would be adopted calculated to promote the best interests of the sailors and the boatmen. If the Secretary of the Treasury did not deem the matter important, he would not authorize the expenditure of the money.

The question was then taken, and the amendment was agreed to.

CALIFORNIA.

Mr. DICKINSON moved the following amendment:

For the purpose of defraying the expense of a geological and mineralogical examination of that portion of California and New Mexico adjoining the boundary line to be established between the United States and the Republic of Mexico, five thousand dollars, out of the fifty thousand heretofore appropriated for the expense of running said boundary line, is hereby appropriated. And such examination shall be under the charge of the commissioner of the United States employed in running said line, but not to prejudice the running of said boundary line.

Mr. DICKINSON, in explanation, said that he considered it a good opportunity and a proper time for a geological and mineralogical examination to be made, because it could be carried on under the protection of the escort that would attend the surveying party and the commissioners to run the boundary line. He submitted the proposition now, because hereafter the undertaking, in the absence of the opportunity that now offered, would be an expensive one. He had not, it would be seen, asked for any additional appropriation. He merely proposed that five thousand dollars should be applied to the purpose out of the fifty thousand dollars appropriated last year to run the boundary line between the Government of the United States and the Republic of Mexico.

Mr. SMITH, of Connecticut, called for the reading of the amendment; which having been again read—

Mr. ASHMUN said that he understood the amendment of the gentleman from Ohio [Mr. DICKINSON] authorized a geological and mineralogical examination to be made in connection with a commission that was supposed to be established.

For the purpose alone of making the remarks he (Mr. A.) desired to make, he would move to strike out the last line of the amendment.

Now, he wished to inquire what law there was in the United States which authorized the establishment of any commission—any geological survey—or anything else—a commission even to survey a boundary line between us and Mexico. Last year Congress did appropriate money for the purpose, but they had passed no law, they had established no office, and they had fixed no salary; yet he understood that a commissioner had been nominated by the President and confirmed by the Senate; and the President of his own will, power, and discretion, had fixed the salary of that commissioner, as he (Mr. A.) was informed. He had not risen to discuss the question, but to call attention to the fact, that without a law, without a salary having been fixed, without a law creating the office, there had been an officer appointed on the part of the United States, and that the President of his own discretion had fixed the salary of that officer at five thousand dollars.

Mr. DICKINSON interposed, and inquired if a treaty had not been made and ratified between Mexico and the United States, authorizing the running of this boundary line?

The CHAIRMAN reminded the gentleman that the rule required that debate on these amendments should be confined within very narrow limits.

Mr. ASHMUN stated, however, (in reply to Mr. DICKINSON,) that there was a treaty, and that treaty required the Government to establish the office of a commissioner, and fix his salary; but it did not authorize the President to do it.

The amendment of Mr. DICKINSON was rejected.

FOREIGN MINISTERS.

The following item being under consideration, which provides—

For the salaries of ministers of the United States to Great Britain, France, Russia, Prussia, Spain, and Brazil—

Mr. GREELEY moved an amendment to strike out Russia, Prussia, Spain, and Brazil, with the view (he said) of moving to make them ministers resident.

He said that these officers, styled in the bill "ministers," were usually known under the title of ministers plenipotentiary and envoys extraordinary. They received a salary of $9,000, an outfit of $9,000, and an infit of $4,500. It seemed to him, that in the present state of our foreign relations, there was no necessity for our retaining ministers plenipotentiary at these courts. The grade of ministers resident would be abundantly sufficient; they received a salary of $6,000, and, he believed, no outfit. It was well known the pay and emoluments of envoys extraordinary being such as he had stated, that a gentleman was appointed—say as minister to Russia, because he had some claims upon the President of the United States, or upon the party in power. He took this post of minister to Russia, staid three or four months, and often less time than that, and returned, pocketing this $22,500. He would like to have a minister who would remain, who would become known, and acquire influence and respect there.

Mr. WENTWORTH, (interposing.) Our officers (*i. e.* those of Democratic appointment) will all stay there; they don't wish to come home.

Mr. GREELEY (continuing) referred to the present convulsed state of Europe, and said there would doubtless be in a few months a German Empire; to that German Empire he would send a minister of the highest grade. But if that was done, we certainly did not need a minister plenipotentiary to Prussia.

The amendment of Mr. GREELEY was rejected.

THE INCOMING ADMINISTRATION.

Mr. SMITH, of Connecticut, moved an amendment, to add at the end line 642—

And for outfits of said ministers $63,000, or so much thereof as may be necessary.

He explained that he was instructed by the Committee on Foreign Affairs to move this amendment, for the purpose of investing the new Administration with the power of making such changes in the diplomatic corps as they might deem, under the circumstances of the case, expedient and proper. He could not, of course, know what might be the views of the new Administration upon the subject, but he found a precedent for this amendment in the appropriation bill passed at the session immediately preceding the commencement of the present Administration, *i. e.* at the last session of the twenty-eighth Congress. [He read the item which provided for outfits of ministers $63,000, "or so much thereof as might be necessary."]

The amendment was agreed to.

Mr. SMITH, of Connecticut, moved to insert the following at the end of line 653 (printed bill:)

And for outfits of said chargés des affaires, $76,500, or so much thereof as may be necessary.

Agreed to.

Mr. SCHENCK moved to strike out in the item providing for chargés des affaires, the words Naples and the Papal States, with the view, he said, of moving, at a subsequent part of the bill, to insert a provision for salary and outfit of a minister in lieu of the two chargés.

The amendment was rejected.

Mr. MARSH moved to insert the following, between lines 670 and 671, (printed bill:)

For compensation to Peter Parker, Secretary of Legation and Chinese Interpreter, at Canton, for his services as Charge d'Affaires of the United States at said place, from the 28th day of June, 1847, to the 21st day of August, 1848, being the interval between the death of Alexander Everett, late Commissioner at Canton, and the actual arrival of John W. Davis, the present Commissioner, after the rate of $4,500 per annum, (deducting his salary as such secretary, and $2,000 already paid him towards said service,) the sum of $295 92.

Agreed to.

Mr. SCHENCK moved to insert the following:

For the salary and outfit of a minister to Naples and the Papal States, $18,000 in lieu of salaries of charges des affairs to those countries.

The amendment was rejected—ayes 58, noes 63.

Mr. EMBREE moved an amendment, which, having briefly explained, he withdrew at the suggestion of Mr. VINTON, to offer it at a subsequent part of the bill.

Mr. VINTON moved to insert the following after line 683, (printed bill,) which was agreed to:

For office rent of the consul at Basle, in Switzerland, $100.

Mr. VINTON moved the following, as an additional section:.

Be it further enacted, That the proviso to the 19th section of the act of the 28th of January, 1847, entitled "An act authorizing the issue of treasury notes, a loan, and for other purposes," be, and the same is hereby, repealed.

Mr. V. stated, in explanation, that the loan act of March, 1847, set apart the proceeds of the public lands for the payment of the interest and principal of the debt thereby created. It directed, that out of the proceeds of the public lands the interest should first be paid, and that the residue should be applied to the purchase of the stock, provided that it should not be purchased above par. The consequence of this proviso was, that while the stock remained above par, the surplus of the proceeds of the sales of the public lands, after paying the interest, must lie as a dead fund in the treasury, while the Government was paying interest on the debt for the period of twenty years, at the expiration of which the stock became redeemable by its own limitation. The Committee of Ways and Means had had this subject under consideration, and directed him (Mr. V.) to have an interview with the Secretary of the Treasury upon the subject, who said, that in his opinion, this would be a very wise regulation, and that it would have the effect of enlarging the margin which the Secretary of the Treasury would have whenever it was in his power to purchase any portion of the public debt. He mentioned the instance which occurred during the last autumn, when the Secretary of the Treasury went into the market for the purpose of purchasing half a million of stock; under this law, as the stock was above par, he could purchase none of this description of stock; as a matter of course, the number of sellers was comparatively restricted, as all those who would have been sellers under the act of 1847 were not open to him. The effect of this amendment would be to authorize the Secretary of the Treasury, whenever he had the money to do it, to go into the market and purchase the stock at the market price.

Mr. ROCKWELL, of Connecticut, (on a *pro forma* amendment,) said he perceived, from the report of the Secretary of the Treasury, laid before Congress at the present session, that he had, as he (Mr. R.) thought, in violation of law, or of a fair construction of the act, gone into market with the view of purchasing some of the treasury notes or stock which had been previously issued. For his own part, he was unwilling to increase the power of the Secretary of the Treasury, as was here proposed, thus to go into the market and make these purchases. The effect of it would be, to enable the Secretary, any time he saw fit, to give an undue inflation to the stocks of the United States, which might be in the hands of individuals. If he had the power, because there happened to be a little money in the treasury, of going into the market immediately, and paying whatever he had a mind to, he would be enabled to raise or to depress the prices of the stocks at his pleasure. He (Mr. R.) was not willing to give that power.

What had been the course of the Secretary of the Treasury during the last year? Because there had happened to be a little amount of money in the treasury, he had gone into the market and bought up half a million of our stocks, and that, too, within a very few months after Congress had authorized a loan to raise the money: so that we were borrowing money to be used in going into the market and raising the prices of our own stocks. He had no hesitation in saying that this investment of power might lead to the most outrageous abuses in the hands of a Secretary who was so disposed.

Mr. VINTON explained that this amendment would only authorize the Secretary of the Treasury to use the money which was received from the sales of the public lands; and as he (Mr. V.) had before said, if it was not used in that way, it would remain a dead fund in the treasury, while the Government was paying six per cent. interest on its stocks.

Mr. ROCKWELL said he understood perfectly that this amendment would apply *only* to the moneys received from the sales of the public lands, but those moneys amounted of themselves to about $3,000,000 per annum; and if this was used by the Government in buying in its stocks, after the interest was paid, the effect would be enormously to inflate the value of the stocks in market, for the holders would, of course, hold on to the stock, and demand higher prices when they knew the Secretary of the Treasury was in the market prepared to buy at the market prices.

With regard to this fund remaining in the treasury, it never had been held as a dead fund, but had always been used like any other fund. It was not set apart; it was not placed by itself and so kept as money that could not be used; but it was used like the ordinary funds of the Government, and should be used after paying the interest of the public debt for which payment it was pledged. The amount was large, and if placed in the hands of the Secretary of the Treasury to purchase our stocks at the market price, the effect would be most deleterious to the public interests.

He was proceeding to speak of the fact, that the Secretary of the Treasury had, during the last year, loaned some $800,000 in the city of New York, in his (Mr. R.'s) judgment, in violation of law, when—

The hammer fell.

Mr. NICOLL (on a *pro forma* amendment) said the gentleman from Connecticut seemed to overlook the fact, that the Secretary of the Treasury now had the power to buy in the loan of last winter at the current market rates. He (Mr. N.) could see no objection to extending that power so as to embrace the loan of 1847; instead of proving injurious, it would give a larger field, and therefore enable the Government to buy in the loan at better terms than it otherwise could. As the chairman of the Committee of Ways and Means had stated, this fund from the sales of the public lands (after paying the interest) must be idle, unless this power were given to the Secretary of the Treasury.

The amendment of Mr. VINTON was agreed to.

PAY OF MEMBERS.

Mr. GREELEY offered the following amendment:

SEC. 4. *And be it further enacted*, That from the compensation of each Senator and Representative in Congress, as fixed by the first section of this act, there shall be deducted, on settlement, an amount proportional, as compared with the whole number of days during which the House of which he is a member shall have been actually in session, to the number of days of said session during which he shall have been absent from his seat, except for such portion of said absence as shall have been caused by his own sickness or by his devotion to official duties elsewhere, under the written order of the presiding officer of said House; and such Senator or member, in presenting his account for payment, shall state in writing the full number of days during which he shall have been absent from his seat at said session, and what portion of said absence was rendered necessary by his own sickness or by the order of the presiding officer as aforesaid, which statement shall be filed and printed with the accounts of Congress.

Mr. GREELEY explained. This amendment, he said, was based upon remarks which had been made by the gentleman from North Carolina, [Mr. VENABLE,] and the gentleman from Mississippi, [Mr. BROWN,] who had very forcibly explained the abuses caused by the absence of members from their seats, and by the consequent neglect of the public business. It was a wrong to the constituent, it was a wrong to the country, it was a wrong to those members who remained at their posts. Under the compensation law, which was provided for in the first section of the bill, by which members were to receive a salary of two thousand dollars a year, much more abuse would exist than existed at present. A member now received eight dollars per day. He had some conscience about being absent any long time, on account of the pay he received. But with a fixed salary, he would go off for any indefinite period, and practice law at Boston, Cincinnati, Richmond, and other parts, to the detriment of the public business, and to the injury of those who remained here to attend to it.

The amendment was rather wordy, but he could not very well make it less so. Every member who had spoken on this subject had acknowledged the evil, and deplored its existence. And it was the object of the present amendment to apply the remedy. He hoped it would be adopted.

Mr. MURPHY called for the reading of the amendment; which having been again read—

Mr. M. moved to amend it by adding thereto the following:

And there shall also be deducted for such time, from the compensation of members who shall attend the sittings of the House, as they shall be employed in writing for newspapers.

The amendment to the amendment was agreed to.

And the amendment as amended was rejected.

Mr. VINTON moved that the committee rise and report the bill.

Mr. GREELEY moved the following amendment:

SEC. 4. *And be it further enacted*, That it shall not hereafter be lawful for either House of Congress to appropriate and pay from its contingent fund any gratuity or extra pay to any person whatever; but every appropriation of public money for gratuities shall be lawful only when expressly approved and passed by both Houses of Congress.

The amendment was rejected.

PORTRAITS OF THE PRESIDENTS.

Mr. HOUSTON, of Delaware, offered the following amendment:

And be it further enacted, That for furnishing the President's House, in addition to the sum herein appropriated, with the portrait of each of the Presidents of the United States, who have been elected to the office since General Washington, (whose portrait is already there,) to be painted by American artists, under the direction of the Committee on Public Buildings and Grounds, a sum not exceeding ten thousand dollars.

Mr. SAWYER inquired of the Chair whether this amendment had not been declared out of order yesterday?

The CHAIRMAN was understood to answer in the affirmative.

Mr. SAWYER objected to the amendment on the ground that it was not in order.

Mr. HOUSTON submitted that the amendment was in order. There had been already appropriations made——

The CHAIRMAN interposed, and was understood to explain, that inasmuch as this appropriation was put on the ground of furniture for the President's House, the Chair was not prepared to say that it was out of order.

And the amendment being before the committee—

Mr. HOUSTON proceeded to remark, that it would be seen that this appropriation was not to exceed the sum of ten thousand dollars. The portrait of General Washington had for many years been in the President's House. It was the only one in that building. Congress had, from time to time, appropriated sums of money for the purpose of decorating the Capitol in a similar way. Every stranger who visited the White House was struck with the fact that there were no such decorations to be seen there. The walls, with the exception of the hangings which adorned them, were bare.

He thought gentlemen would concur with him in the opinion that it was proper to preserve, in some portion of the metropolis, the portraits of the distinguished men who had occupied the Executive chair. No place could be more appropriate than the President's House. The appropriation was a small one. It was not designed merely to furnish the house for a temporary period, but to provide portraits which should remain there so long as they could be preserved.

Mr. JOHNSON, of Tennessee, moved to amend the amendment, by striking out "ten thousand," and inserting "five."

Mr. JOHNSON, in explanation, said that if he were not afraid of the terrible denunciation of the gentleman from North Carolina, [Mr. VENABLE,] —of being denounced as a demagogue—he might, perhaps, desire to say some few things on this amendment. But a man who was bold enough to stand up in his place here, in the face of the denunciation of the gentleman from North Carolina, must be a man of more than ordinary boldness.

He felt some desire, before he proceeded further,

to hear the term "demagogue" defined. Some gentlemen seemed to think that it conveyed the idea of something that was very low. If he understood what these gentlemen meant by the word, it had a direct application to what he was now about to say.

The CHAIRMAN interposed, and intimated that the gentleman was traveling beyond the "explanation" laid down by the rule.

Mr. JOHNSON said he would make the application of his remarks bear directly upon his motion. If he understood what gentlemen meant by the word "demagogue," it was this: that when moves were made here which the people, if they knew them, would condemn—when propositions were made to expend money unnecessarily and improperly, as the people themselves would say if they knew how it was to be applied—the man who set himself up, or whose position enabled him to expose these propositions, and to give to the people the information which they ought to possess, that man was a demagogue.

What, then, was a demagogue? He was a man who dared to come forward here and oppose appropriations of money for objects which the people themselves, if they understood them, would put down as being against their notions of right, of economy, and of justice. This was a demagogue; and there was in the minds of some gentlemen something associated with the term that was exceedingly low and vulgar. If it was low, if it was vulgar, if it was contemptible, to refer to what existed in the public mind—to things which the people, if they could see, would condemn—how much more low, and vulgar, and contemptible must be the thing condescended to! What, then, did this word demagogue mean? That the people were low; that the people were vulgar; and when gentlemen pronounced such a man a demagogue, it was, in effect, saying that the people——

The CHAIRMAN interposed with the remark that the gentleman's observations were not in order, because irrelevant.

Mr. JOHNSON asked what the point of order was?

The CHAIRMAN explained.

Mr. JOHNSON said he did not wish to be disorderly or irrelevant; and that, if the Chair would have a little patience, he (Mr. J.) would show that his remarks were pertinent.

The CHAIRMAN decided that the remarks were not in order. The gentleman could appeal from the decision if he thought proper.

Mr. JOHNSON said it was quite a draw upon his patience to submit to the irrelevancy of the Chair.

The CHAIRMAN said the gentleman could explain his amendment, and must confine himself to that.

Mr. JOHNSON said that when he was interrupted, he had been about to say that he wished to exonerate himself in respect to this appropriation of ten thousand dollars for the purchase of portraits, against the charge of demagogism; and to show that when gentleman denounced those who opposed such appropriations as demagogues, they were in fact denouncing the people, and not the individuals. If the people themselves were here, would they submit to these appropriations? What was the appropriation when narrowed down to the true point? Ten thousand dollars to buy portraits, to be hung upon the walls of the President's House. Would the honest yeomanry of the country submit to such appropriations?

The five minutes expired.

The CHAIRMAN. Does the gentleman insist on his amendment?

Mr. JOHNSON. I insist upon it. But I should prefer to change its form. I withdraw my original amendment, and I move to amend the amendment by striking out nine thousand nine hundred and ninety-nine dollars of the appropriation.

[SEVERAL VOICES: That leaves just a dollar for the purchase of the portraits.]

The question was then taken on the amendment of Mr. JOHNSON, and by ayes 79, noes 53, it was agreed to.

The question then recurred on the amendment, as thus amended.

Mr. SCHENCK inquired whether the amendment as amended did not leave one dollar.

The CHAIRMAN having replied in the affirmative—

Mr. SCHENCK moved to amend the amendment by directing the appropriation to be applied to the portrait of Mr. Polk.

But Mr. S. withdrew his amendment.

The question was then taken, and the amendment as amended was rejected.

CLERKS IN THE DEPARTMENTS.

Mr. EMBREE offered the following as an additional section to the bill:

SEC. 3. *Be it further enacted*, That no clerk or other officer shall receive the salary of any secretary or head of bureau for acting or having acted in his place or office, while such secretary or head of bureau receives such salary.

Mr. E., in explanation, said that he understood that a new practice had been commenced in the departments of the Government, by the appointment of inferior officers or clerks to discharge the duties of heads of bureaus, or secretaries of departments, and that the inferior clerks in such cases received the full compensation of the Secretary or the head of the bureau. If this principle was to be adopted, and former accounts were to be settled in accordance with it, it would cost the Government some hundreds of thousands of dollars. The object of the amendment was to check this practice in the different bureaus and offices.

The amendment was agreed to.

Mr. HOUSTON, of Delaware, offered the following amendment, which was agreed to:

For annual repairs of the Capitol, attendance on furnaces in the crypt, attendance on water-closets, for public gardener and laborers and cartage on the Capitol grounds; tools, wire, leather, nails, stakes, boxes, straw for grounds, and whitewashing; graveling the walks in the Capitol grounds, manure and trees for grounds; repairs of public stables; flagging, enclosures, &c.; keeping in order the iron pipes that convey water to the Capitol and public offices, and repairing damage by freshets; brooms, brushes, wooden spades, shoveling snow, repairing abutments at Tiber creek, and building protecting walls, enclosing and improving the public grounds at the north, south, and west of the Capitol, and the open triangular spaces on Pennsylvania avenue, $17,000.

For annual repairs of President's House, gardener, and laborers, graveling the walks in President's square, manure, leather, nails, tools, &c., and repairs of fence at Lafayette square, fountain square, and President's garden, cartage, &c., $3,500.

For lighting Pennsylvania avenue from Capitol square to the Treasury Department, and compensation for one lamplighter for the same, and for lighting the Capitol and Capitol grounds and President's House, $6,000, to be expended under the direction of the Commissioner of Public Buildings.

PUBLIC LANDS IN CALIFORNIA.

Mr. HENLEY moved the following amendment:

Be it further enacted, That the sum of fifty thousand dollars be, and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, for surveying the public lands in California, to be expended under the direction of the President of the United States, until otherwise provided for by law: *And provided, further*, That the President shall be authorized, if in his opinion it shall be deemed advisable, to institute a geological and mineralogical examination of California to be made, and that the expenses for the same shall be defrayed out of said sum of fifty thousand dollars.

Mr. HENLEY, in explanation, said he was satisfied that no proposition for the survey of the public lands in California would be passed in any general law. For that reason, and as he believed that there was no necessity for passing a law authorizing the survey, he proposed to make the appropriation here.

Mr. VINTON desired to be informed whether this appropriation had been recommended by the Committee on Public Lands, or whether any other committee had had the subject in charge? It certainly had not been before the Committee of Ways and Means.

Mr. HENLEY. It has not, I believe, been recommended by the Committee on Public Lands. I make the proposition now, because I believe that it is too late to pass any general law on the subject. The importance of the subject made the appropriation necessary.

Mr. COLLAMER raised the point of order on the amendment.

The CHAIRMAN ruled the amendment in order.

And the question having been taken, the amendment was rejected.

Mr. VINTON moved that the committee rise and report the bill and amendments to the House.

BOOKS TO MEMBERS

Mr. EDWARDS offered the following amendment:

Be it further enacted, That the sums of money appropriated in this bill for books be deducted from the pay of those members who voted for the appropriation.

Mr. EDWARDS, in explanation, said that he had voted in favor of the appropriation, and was of course willing that the amendment should operate upon himself precisely as it would upon any other member. He had no apology to make for the vote he had given. He would send to the Clerk's table the New York "Tribune" of January 18, and would request the Clerk to read the paragraph which he (Mr. E.) had marked.

The Clerk read the following:

"And yet, Mr. Speaker, it has been hinted if not asserted on this floor, that I voted for these Congressional books! I certainly voted *against* them at every opportunity, when I understood the question. I voted against agreeing to that item of the report of the Committee of the Whole in favor of the deficiency bill, and, the item prevailing, I voted against the whole bill. I tried to be against them at every opportunity. But it seems that on some stand-up vote in Committee of the Whole, when I utterly misunderstood what was the question before the committee, I voted for this item. Gentlemen say I did, and I must presume they are right. I certainly never meant to do so, and I did all in my power in the House to defeat this appropriation. But it is common with me in incidental and hasty divisions, when I do not clearly understand the point to be decided, to vote with the chairman of the Committee of Ways and Means, [Mr. VINTON,] who is so generally right, and who has special charge of appropriation bills, and of expediting business generally. Thus only can I have voted for these books, as on all other occasions I certainly voted against them."

The paragraph having been read—

Mr. EDWARDS (addressing Mr. GREELEY) said, I wish to inquire of the gentleman from New York, if I am in order, whether that is his editorial?

Mr. GREELEY rose——

The CHAIRMAN interposed, and said that this was not the subject-matter of debate, not being properly an explanation as prescribed by the rule. The discussion was wholly irrelevant.

Mr. EDWARDS. I have offered my amendment as an additional section to the bill.

Mr. GREELEY. I certainly think I am entitled to say a word in explanation.

[Cries of "Hear him—Hear GREELEY"—with objections.]

Mr. EDWARDS. You are, then, the author of that article?

Mr. GREELEY. I think I am entitled——

The CHAIRMAN. The gentleman can proceed only by unanimous consent. Gentlemen must see where this will lead to, if irrelevant matters of this kind are allowed to be discussed.

Mr. EDWARDS. I want to know the decision of the Chair upon my motion.

Mr. GREELEY. I think I am entitled to answer the gentleman's interrogatory.

The CHAIRMAN. Every gentleman must see where this will lead, if the discussion is to go on. The Chair thinks it is his duty to restrain discussion within proper limits; and, under the rule, it is clearly improper to go into a discussion in relation to an editorial in any paper, or the personal conduct of a member, or into any matter of that kind.

Mr. EDWARDS. The Chair has misunderstood my motion.

Mr. DUER. Cannot the gentleman be heard by unanimous consent.

Mr. EDWARDS appealed from the decision of the Chair.

The question, "Shall the decision of the Chair stand as the judgment of the Committee?" was taken, and decided in the negative.

So the decision of the Chair was reversed.

Mr. GREELEY said, every gentleman here must remember that that was but the substance of what he had spoken on this floor.

His colleague next him [Mr. RUMSEY] had told him, that upon one occasion he (Mr. G.) had voted for the appropriation for books when he did not understand the vote. He (Mr. G.) had voted for tellers when a motion was made to pass the item; but by mistake the chairman passed over the motion for tellers, and counted him in favor of the item.

Mr. EDWARDS. I understand, then, that the gentleman voted without understanding what he was voting upon, and that he would have voted against taking the books had he not been mistaken.

Mr. GREELEY assented.

Mr. EDWARDS. I assert that that declaration is unfounded in fact. I have the proof that the gentleman justified his vote both before and after the voting.

Mr. GREELEY called for the proof.

Mr. EDWARDS said he held himself responsible, not elsewhere, but here, to prove that the gentleman from New York [Mr. GREELEY] had justified his vote in favor of the books both before and

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after he gave that vote, upon the ground on which they all justified it, and that this editorial was an afterthought, written because he [Mr. G.] had been twitted by certain newspapers with having voted for the books. He held himself ready to name the persons by whom he could prove it.

[Loud cries of "Name them; name them."]

Mr. EDWARDS (responding to the repeated invitations which were addressed to him) said, CHARLES HUDSON, Dr. DARLING, and Mr. PUTNAM.

[The excitement was very great, and there was much confusion in all parts of the Hall—many members standing in the aisles, or crowding forward to the area and the vicinity of Mr. GREELEY.]

Mr. GREELEY, (addressing Mr. EDWARDS.) I say, neither of these gentlemen will say so.

Mr. EDWARDS. I hold myself responsible for the proof. (Addressing Mr. HUDSON,) Mr. HUDSON will come to the stand. [General laughter.]

The CHAIRMAN called the committee to order.

Mr. EDWARDS. I have named the gentlemen.

The CHAIRMAN again called the committee to order, and requested gentlemen to take their seats. No motion could be entertained (he said) until order was restored.

Mr. VINTON rose, and addressed the Chair.

Mr. GREELEY. I hope the committee will not rise until the witnesses have come forward.

Mr. VINTON wished to make one word of explanation; and having moved a *pro forma* amendment for the purpose, he proceeded to make a statement with reference to the action of the House at the last session and the present, to the action of the Committee of Ways and Means and of himself, in reference to the purchase of books. He spoke of the item of about $76,000 which had been included in the deficiency bill for payment for the copies of the Documentary History ordered at the last session. He said he was one of those who, in the last Congress, had very much doubted the expediency of purchasing those books. He referred to the resolution which at this session had been brought up to rescind the resolution of the last session by which the books had been ordered, and said he was one of those who had voted to rescind that resolution, the effect of which would have been to have relieved Congress from making the appropriation of some $70,000 or $80,000, which the Clerk of the House estimated to be necessary to carry that resolution into execution. A large majority of the House, however, had thought otherwise, and by their vote had directed the appropriation to be made. He had then, the same day in which this resolution to rescind the previous resolution had been voted down, called upon the Clerk (as he deemed it his duty to do) to give him an estimate of the appropriation that would be necessary to carry the resolution into effect. He did not consider that he had the right to set up his private opinion against what the House had directed, when they had said, by resolution, that the appropriation should be made. The Clerk had furnished him with the estimate; he had laid it before the Committee of Ways and Means, and had reported it under the direction of the committee, who deemed that, as the organ of the House, they had no right to withhold bills for any appropriations which were demanded by the House, whatever their private opinions might be as to their expediency. In this manner, as the organ of the House, he very often reported appropriations which, if he could exercise his judgment as to the expediency of them, he should not report.

Mr. GREELEY renewed the *pro forma* amendment, he said, because an attempt had been made to call gentlemen out in opposition to him, who would not come before this House and say that he had said one word to them in conversation, which was inconsistent with what he had before stated on this floor, or with this article. He presumed the proceeding was irregular, but other gentlemen had been allowed to attack him, and he wished the same opportunity of defence. Now, these gentlemen who had been named as witnesses to contradict what he had said in this article, he required, he demanded that they should come forward and say whether there was one word said there which he had contradicted in private conversation.

Mr. EDWARDS. The gentlemen are on hand.

Mr. GREELEY. No doubt the House is bound to make the appropriation, but I knew what kind of opposition would be made to me, and I tried to vote against it. Now, if there is any gentleman who will say that he has understood me to say that I voted for it understandingly, I call upon him to come forward——

Mr. EDWARDS. The gentleman calls for the testimony. Mr. HUDSON is the man—Dr. DARLING is the man.

[Members had again flocked into the area. There were cries of "HUDSON, HUDSON," "down in front," and great disorder throughout the House.]

The CHAIRMAN again earnestly called to order; and all proceedings were arrested for the moment, in order to obtain order.

The House having become partially stilled—

Mr. HUDSON rose and said, I suppose it is not in order for me to address the committee; but, as I have been called upon, if there is no objection, I have no objection on my part to state what I have heard the gentleman from New York [Mr. GREELEY] say.

[Cries from all quarters, "Hear him, hear him."]

The CHAIRMAN. If there is no objection, the gentleman can proceed.

No objection being made—

Mr. HUDSON said, I can say, then, that on a particular day, when this book resolution had been before the House—as it was before the House several times—I cannot designate the day, but one day when we had been passing upon the question of books, in walking from the Capitol, I fell in with my friend from New York, [Mr. GREELEY;] that we conversed from the Capitol down on to the avenue in relation to these books; that he stated—as I understood him (and I think I could not have been mistaken)—that he was in favor of the purchase of the books; that he either had or should vote for the books, and he stated two reasons: the one was, that some of these publications were of such a character that they would never be published unless there was some public patronage held out to the publishers; and the other reason was, that the other class of these books at least contained important elements of history, which would be lost unless gathered up and published soon, and as the distribution of these books was to diffuse the information over the community, he was in favor of the purchase of the books; and that he himself had suffered from not having access to works of this character. That was the substance of the conversation.

Mr. HUDSON having concluded—

[There were cries of "DARLING, DARLING."]

Mr. DARLING rose and (no objection being made) proceeded to say: On one of the days on which we voted for the books now in question—the day that the appropriation passed the House—I was on my way from the Capitol, and passing down the steps I accidentally came alongside the gentleman from New York, [Mr. GREELEY,] who was in conversation with another gentleman—a member of the House—whose name I do not recollect. I heard him [Mr. G.] say he justified the appropriation for the books to the members, on the ground of their diffusing general information. He said, that in the city of New York he knew of no place where he could go to obtain the information contained in these books; that although it was supposed that in that place the sources of information were much greater than in almost any other portion of the country, he would hardly know where to go in that city to find this information; and upon this ground that he would support the resolution in favor of the books. This conversation, the gentleman will recollect, took place going down from the west door of the Capitol and before we got to the avenue. I do not now recollect the gentleman who was with the gentleman from New York.

Mr. PUTNAM rose amid loud cries of invitation, and no objection being made, said: As my name has been referred to in relation to this question, it is due perhaps to the gentleman from New York, [Mr. GREELEY,] that I should state this: That some few days since the gentleman from Ohio [Mr. EDWARDS] called upon me here, and inquired of me whether I had heard my colleague [Mr. GREELEY] say anything in relation to his vote as to the books. I that morning had received the paper, and I referred him to the editorial contained therein which has been read by the Clerk; but I have no recollection of stating to the gentleman from Ohio that I heard my colleague say he justified the vote which he gave; nor have I any recollection whatever that I ever heard my colleague say anything upon the subject after the vote given by him.

The gentleman from Ohio must have misunderstood me, and it is due to my colleague that this explanation should be made.

[SEVERAL VOICES: "What did he say *before* the vote?"]

I have no recollection (said Mr. P.) that I ever heard him say anything.

Mr. EDWARDS rose, and wished to know if any of his five minutes was left?

No reply was heard; but, after some conversation, (being allowed to proceed,) he said, I have stated that I have no apologies to make for giving this vote. I voted for these books for the very reasons which the gentleman from New York [Mr. GREELEY] gave to these witnesses. I stated that I could prove by witnesses that the gentleman has given reasons of this kind, and that that editorial was an afterthought. If the House requires any more testimony, it can be had; but out of the mouths of two witnesses he is condemned. That is scriptural as well as legal.

I have not risen to retaliate for anything this editor has said in reference to this subject of mileage. I have been classed among those who have received excessive mileage. I traveled in coming to Washington forty-three miles further than the committee paid me; but I stated before the committee the reasons why I made the change of route. I had been capsized once——

The CHAIRMAN interposed, and said he felt bound to arrest this debate.

[Cries of "GREELEY! GREELEY!"]

Mr. GREELEY rose——

The CHAIRMAN stated that it would not be in order for the gentleman to address the House while there was no question pending.

[Cries of "Suspend the rules; hear him."]

Mr. TALLMADGE rose and inquired if his colleague could not proceed by general consent?

The CHAIRMAN replied in the affirmative.

No objection was made, and

Mr. GREELEY proceeded. The gentleman from Massachusetts [Mr. HUDSON] simply misunderstood only one thing. He states me to have urged the considerations which he urged to me. He urged these considerations—and I think forcibly. I say now, as I did the other day on the floor of this House, I approve of the appropriation for the books, provided they are honestly disposed of according to the intent of the appropriation.

Mr. EDWARDS. Why, then, did you make the denial in the Tribune, and say that you voted against it?

Mr. GREELEY. I did vote against it. I did not vote for it, because I did not choose to have some sort of gentlemen on this floor hawk at me. The gentleman from Massachusetts [Mr. HUDSON] submitted considerations to me, of which I admitted the force. I admit them now; I admit that the House was justifiable in voting for this appropriation, for the reason ably stated by the chairman of the Committee of Ways and Means; and I think I was justifiable, as this Hall will show, in not voting for it. In no particular was there collision between what I said on this floor, the editorial, and what I said in conversation. The conversation to which the gentleman from Wisconsin [Mr. DARLING] refers is doubtless the same of which the gentleman from Massachusetts [Mr. HUDSON] has spoken.

Mr. G. having concluded—

On motion of Mr. VINTON, the committee

rose and reported the bill to the House, with sundry amendments.

The House proceeded to the consideration of the said bill and amendments, when—

Mr. VINTON moved the previous question, which was seconded, and the main question ordered, viz: Will the House agree to the said amendments?

The first amendment was read as follows: insert at the end of the item for the pay and mileage of members of Congress the following:

Provided, That hereafter the allowance for mileage for coming to and returning from the Seat of Government shall be ten cents per mile, the distance to be computed by the usual post-route from the residence of the Senator, Representative, or Delegate; and in lieu of pay per diem, and all other compensation or allowances, each Senator, Representative, or Delegate from a Territory shall be allowed and paid for his services two thousand dollars per annum.

And the question being put, Will the House agree to said amendment?" it was decided in the negative.

The yeas and nays having been called for and ordered, were taken, and resulted—yeas 36, nays 150—as follows:

YEAS—Messrs. Abbott, Ashmun, Bedinger, Belcher, Burt, Franklin Clark, Cranston, Daer, Dunn, Featherston, Giddings, Gregory, Irvin, Iverson, James H. Johnson, John W. Jones, Daniel P. King, La Sere, Mackay, Morse, Murphy, Nicoll, Outlaw, Palfrey, Peaslee, Pendleton, Petrie, Reynolds, Schenck, Sherrill, Caleb B. Smith, Thurston, Toombs, Tuck, Vinton, and Woodward—36.

NAYS—Messrs. Adams, Atkinson, Barringer, Barrow, Beale, Bingham, Blackmar, Bocock, Bowdon, Bowlin, Boyden, Brady, Bridges, Brodhead, Albert G. Brown, Butler, Canby, Cathcart, Chapman, Clapp, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Collamer, Collins, Conger, Crowell, Crozier, Daniel, Darling, Dickey, Dickinson, Dixon, Donnell, Garnett Duncan, Eckert, Edsall, Edwards, Embree, Alexander Evans, Nathan Evans, Faran, Farrelly, Ficklin, Fisher, Flournoy, Freedley, French, Fries, Fulton, Gaines, Gayle, Goggin, Gott, Green, Greeley, Grinnell, Willard P. Hall, Nathan K. Hall, Hammons, James G. Hampton, Moses Hampton, Haraison, Harris, Henley, Henry, Hill, Hilliard, George S. Houston, Hubbard, Hudson, Hunt, Ingc, Joseph R. Ingersoll, Jenkins, Andrew Johnson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, Thomas Butler King, Lahm, William T. Lawrence, Sidney Lawrence, Lefiler, Ligon, Lincoln, Lord, Lumpkin, Lynde, McClelland, McDowell, McIlvaine, McKay, Job Mann, Horace Mann, Marsh, Marvin, Meade, Miller, Morehead, Morris, Mullin, Nelson, Newell, Peck, Pettit, Peyton, Phelps, Pollock, Preston, Putnam, Richey, Julius Rockwell, John A. Rockwell, Roman, Root, Rumsey, St. John, Sawyer, Sheppard, Slingerland, Smart, Robert Smith, Truman Smith, Staunton, Starkweather, Charles E. Stuart, Strohm, Strong, Tallmadge, Taylor, Thomas, James Thompson, John B. Thompson, Robert A. Thompson, William Thompson, Turner, Van Dyke, Venable, Wallace, Warren, Wentworth, White, Wick, Wiley, Williams, Wilmot, and Wilson—150.

Mr. EVANS, of Maryland, moved that the vote by which the House refused to agree to the said amendment be reconsidered, and that the motion to reconsider be laid upon the table; which latter motion was agreed to.

The other amendments were then severally read and agreed to, (some of which have been heretofore and some this day published in this paper in the proceedings of the Committee of the Whole on the civil and diplomatic appropriation bill,) and the question was stated, Shall the bill be engrossed and read a third time? and, being put, was decided in the affirmative.

Mr. VINTON moved that the vote by which the bill was ordered to be engrossed and read a third time be reconsidered, and also moved that the motion to reconsider be laid upon the table; which latter motion was agreed to.

The bill being engrossed, was read a third time.

And the question was stated on the passage of the bill.

Mr. VINTON moved the previous question, which was seconded, and the main question was ordered, viz: Shall the bill pass?

And being put,

It was decided in the affirmative.

Mr. VINTON moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid upon the table; which latter motion was agreed to.

Mr. ROBINSON made a report from the Committee on Enrolled Bills; after which,

The House, at a quarter to four o'clock, adjourned.

PETITIONS, &c.

The following petitions and memorials were presented, under the rule, and referred:

By Mr. TALLMADGE: The petition of the publishers of periodicals on the subject of postage. Also, a memorial of John F. Ropes and others, for cheap postage.

By Mr. HUNT: The petition of Hartwell Carter, asking a charter and a grant of land for the construction of a railroad from the Mississippi river, or Lake Michigan, to the Pacific Ocean.

By Mr. PILSBURY: The memorial of the citizens of the State of Texas for the "*right of way*" for a railroad from the Rio Grande, the western boundary of Texas, through the territory or territories of the United States to the Pacific, in any line south of thirty-six degrees thirty minutes north latitude.

By Mr. WENTWORTH: The petition of merchants of Chicago for a light-ship and buoys on the Niagara river.

By Mr. PUTNAM: The petition of Aaron Tuffts and 207 others, citizens of the 33d Congressional district of New York, praying Congress to pass a law organizing territorial governments for New Mexico and California; and prohibiting the introduction of slavery in said territories. Also, resolutions of the New York Legislature relating to the same subject, and to the abolition of the slave trade in the District of Columbia.

By Mr. SILVESTER: The petition of sundry inhabitants of Greene county, New York, praying for a reduction of postage and the entire abolition of the franking privilege. Also, the petition of sundry inhabitants of Columbia county, New York, for a mail route from Dover, in Dutchess county, to Chatham Four Corners, in Columbia county, in said State.

By Mr. ROOT: The petition of 150 ladies of Clarksfield, Ohio, for the restriction of slavery, &c. Also, the petition of 130 citizens of Clarksfield, Ohio, for the prohibition of the slave trade in the District of Columbia.

IN SENATE.

WEDNESDAY, *January* 24, 1849.

Mr. BRIGHT presented a resolution passed by the Legislature of the State of Indiana, in favor of the reduction of postage on newspapers, pamphlets, and periodicals, and the repeal of so much of the post office laws as requires the prepayment of the postage on newspapers.

Mr. BRIGHT. It is proper I should state, in connection with the presentation of this joint resolution, that previous to its reception my attention had been called to the subject it embraces by the report of a bill from the Committee on the Post Office and Post Roads, conflicting directly with the instructions I have received. I am glad to find, sir, that my own views, previously expressed, and practically carried out, as far as the progress of the bill thus far would permit it, agree entirely with those who have spoken to me on the subject, and whose voice it affords me pleasure to obey. I shall, when the bill comes up again, give my views more at length in reference to the great injustice done to the local press of this country by the law as it now stands, and the still greater injustice and injury that will result from the passage of the bill reported from the Committee on the Post Office and Post Roads. I ask for the printing of the joint resolution.

The motion to print was agreed to.

PETITIONS.

Mr. HOUSTON presented a petition from Ebenezer Allen, and other citizens of Texas, praying for a right of way for a railroad from the Rio Grande to the Pacific Ocean; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

On motion of Mr. RUSK, the papers in the case of the heirs of Sour John, a Cherokee Indian, were ordered to be withdrawn from the files of the Senate.

REPORTS OF COMMITTEES.

Mr. DIX, from the Committee on Commerce, moved that the committee be discharged from the further consideration of the petition of citizens of St. George, Maine, in relation to the establishment of a new collection district at East Thomaston, in that State; which was agreed to, and the petitioners had leave to withdraw their petitions.

Mr. BUTLER, from the Committee on the Judiciary, reported House bill to amend an act regulating the district courts of the United States for the State of Alabama, without amendment.

Mr. BUTLER. Mr. President, I hold in my hand a memorial of a somewhat peculiar character; a memorial of Henry O'Reilly, who claims to be interested in telegraph lines. The memorial contains many grave allegations against one of the Federal judges, Judge Monroe. The memorialist alleges, that owing to the unjust exercise by Judge Monroe of his legal functions, he (the memorialist) has been exposed to serious loss and detriment, his telegraphic wires having been broken down, and sundry other grave injuries inflicted upon him. Some of his allegations will be the foundation of an impeachment of Judge Monroe, and of course they are matters over which the Judiciary Committee can have no jurisdiction. The only part of the memorial of which the committee have taken cognizance related to an act passed at the last session of Congress, by which the interests of the memorialist and others were taken from the jurisdiction of the circuit judge and placed under the entire control and jurisdiction of the district judge, very much to their prejudice. This is the only allegation that the committee could take cognizance of, and as Mr. O'Reilly has not made true his allegations by any evidence, and as the subject is under consideration in the other House, the committee ask to be discharged from the further consideration of the memorial.

The committee were accordingly discharged.

Mr. WESTCOTT, from the Committee on the Judiciary, reported House bill for the relief of William Fuller, with an amendment.

Mr. W. made an effort to have this bill taken up for immediate consideration; but an objection being interposed, it takes its place on the calendar.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, made an adverse report on the petition of Nathan Weston, jr., late a paymaster in the army, asking the extra pay granted by Congres for service in the Mexican war; which was ordered to be printed.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, made an adverse report on the petition of Benjamin Miller, a soldier in Wayne's army, asking a pension.

Mr. J. also, from the same committee, reported House bill to authorize the payment of invalid pensions in certain cases, without amendment.

Mr. DIX, from the Committee on Commerce, reported, without amendment, a bill to authorize an appropriation for removing the rocks at Hurlgate and the reefs in New York harbor.

Mr. DIX, from the Committee on Commerce, made an unfavorable report on the petition of Arnold Naudain; which was laid on the table.

On motion of Mr. DIX, the Committee on Commerce was discharged from the further consideration of the petition of David L. White, of Florida; and the report was laid on the table.

Mr. CAMERON, from the Committee on Printing, reported that 10,000 extra copies of the Patent Office report be printed; which report was concurred in.

RESOLUTION.

Mr. HAMLIN submitted the following resolution, which lies over one day:

Resolved, That the Sergeant-at-arms of the Senate be, and he hereby is, directed to place the name of Noah Hanson on the roll of messengers, and pay him the same as received by other messengers.

BILL ON LEAVE.

Mr. BORLAND, pursuant to notice, asked and obtained leave to introduce a bill for the relief of Cincinnatus Trousdale and others; which was read a first and second time.

PINE LANDS IN FLORIDA.

The following resolution, submitted yesterday by Mr. YULEE, was taken up for consideration, viz:

Resolved, That the Committee on the Public Lands inquire into the expediency of reducing the present minimum price of the pine lands in Florida.

Mr. YULEE. Mr. President, I would request the particular attention of the Committee on the Public Lands to this subject. This resolution has reference to a class of lands which may be regarded as unique in their character, and should be classified separately from the other lands of the Union, as to the price at which they are to be sold. At the minimum price of one dollar and a quarter per acre, it will be utterly impossible ever to sell them. They are lands which are confined altogether to the southern Atlantic and southwestern States bordering on the Gulf of Mexico. I believe they are found only in North Carolina, South Carolina, Georgia, Florida, Mississippi, and Louisiana. They are not suited to agriculture, and can never be rendered profitable for agricultural purposes. They can only be made useful at all, as an element of wealth to the country, for the purpose stock-feeding, constituting wild ranges for the rearing of stock, and in some instances, and to some extent, for the production of naval stores. It is believed, that if the minimum price be reduced to a rate at which purchasers may be induced to convert them to these uses, the southern and southwestern States may be relieved from a large amount of unproductive lands, the public treasury greatly

benefited, and the general elements of the country's wealth largely increased. It is probable, that at the rate of fifty cents per acre, a considerable amount of these lands may be sold. I would recommend that the trial be made at that rate, and if it should still be found too much, the price should be yet further reduced. I hope the Committee on the Public Lands will give the subject their special attention.

Mr. JOHNSON, of Louisiana. Mr. President, I think the inquiry proposed to be made by this resolution a very proper one, but it appears to me that its operation should be extended to lands in other States situated similarly to these Florida lands.

Mr. YULEE, (in his seat.) I have no objection to embodying the suggestion of the Senator from Louisiana in the resolution.

Mr. JOHNSON. We have lands similarly situated to these in Louisiana. We have also other lands, which have been in market for forty years and which can never be sold at a dollar and twenty-five cents per acre. I move to extend the inquiry contained in this resolution to the lands in Louisiana that are situated similarly to these Florida lands.

Mr. BREESE. Mr. President, for the information of the Senator from Florida, I would state, that, at the last session, the Committee on the Public Lands reported a general bill, applying to the whole public domain, reducing and graduating the prices of the public lands, under the operations of which bill the lands situated in Florida will be embraced. I do not suppose that any one desires the committee to resort to partial legislation in regard to the public lands, nor can it be expected that we will be able to frame any law that will meet the wants of every particular case. I might say, that in the State of Illinois there are large tracts of public land that can never be sold for a dollar and a quarter per acre. They are not fertile, grow but little timber, and are, in short, unsaleable, except at a very reduced price. In fact, in every State of the Union where there are public lands owned by the Government of the United States there are large tracts of comparatively valueless lands.

The bill reported at the last session from the Committee on the Public Lands was made, at this session, the special order for a day which has since elapsed; I believe it was made the special order for the 8th of January, but was not called up, doubtless for some sufficient reason. If I can obtain the assistance of the gentleman from Florida, and the assistance of other gentlemen interested in the reduction and graduation of the price of public lands, I think we shall be able to pass a bill through the Senate which will embrace all cases, and give satisfaction to every portion of the country.

Mr. WESTCOTT. The remarks of the honorable Senator from Illinois, [Mr. BREESE,] with respect to the inexpediency of special legislation on the subject for particular sections, and of the sufficiency of general laws, induces me to make a few observations. In my judgment, the great fault and error of our land system has been and is the adherence to a general system of law inapplicable to some of the sections of the Union where there are public lands. Even as to the survey and sale of the lands, the same rules do not work alike in Iowa and Wisconsin and in Louisiana and Florida. Nor will these laws apply to California or New Mexico. Why, sir, the necessity of special legislation adapted to the country has been admitted by the repeated special laws you have passed of such character. Your laws with respect to the mineral lands on Lake Superior, your lead-mine laws, show this. You have now on your table special bills for California different from your general system. And, sir, you have departed from your general system with respect to the Gulf States in which there are public lands, by special laws operating on those States alone, and of most injurious effect upon those States. Under the pretence of securing live oak and other hard timber for the United States navy, you have purchased a live-oak plantation, and you have located several scattered tracts all over the State, many townships of the very best lands in the State, which you keep out of market and prohibit being settled upon. Sir, I venture to say the United States will never get from their plantation and from the live-oak reservations, enough live oak to pay the expenses of keeping up the numerous agents employed at high salaries to take care of them and the other public timber in the State for one year. The annual expenses of this live-oak system is several thousand dollars, and it is all in the control of the Secretary of the Navy. The agents get a higher salary than the Governor of my State, and the same salary as your Federal judges there, and as the State judges of the highest court. They are of no use to the public; I mean their offices are not. A more worthless and useless law never passed Congress than the live-oak law.

The Senator from Missouri, [Mr. BENTON,] not now in his seat, has again and again denounced it as a humbug. He told the Senate more than once that every cubic foot of live oak got in this way would cost the United States a cubic foot of silver. I have, since I have been in Congress, tried to get this live-oak system abolished, and have taken occasion to state before that its only effect was the giving the Secretary of the Navy some patronage for a few persons. The law should be repealed, and the live-oak plantation, and the reserves sold and turned into cotton, or sugar, or rice plantations, or corn-fields, and settled. One citizen, with a market, is worth ten thousand acres of live-oak land in defence of the country. Besides, all these timber laws are nuisances in a new country. The settlers do not understand them, and will not understand them. These laws are made to nullify your preëmption laws, especially when, as some of the live-oak and timber agents have, in past times, took it upon themselves to prosecute the settlers for cutting timber for fences and for his log cabin and stables, and for firewood, though the law professes to exempt the settlers from such annoyances. I am told the expenses paid at the treasury within the last fifteen years, on account of prosecutions of this character, for costs and so forth, exceed *fifty thousand dollars!* I have procured some statements of the expenses of this live-oak system, and so far as I know, (and I think I do know something of the subject,) a more useless and unnecessary expense is not made in this Government; and besides, the allowances are in some cases very extravagant. So, too, your general laws respecting the reservation of the sixteenth section in each township of public lands for common schools, and donating it to the inhabitants of the townships, is of no benefit to us in the South in one-half of the townships. It is not so in the northwestern and western States, where the lands are more equable in quality and value than our lands are. In the South the best lands are detached spots, or tracts on the margins of rivers or lakes, and if the sixteenth section happens to fall in the pine barren region, it is of no value; and if it falls on the good lands, and the settlements on the pine barrens, it prevents settlement, and the general result is, in many cases, in a township where there is a good sixteenth section, there are few inhabitants, and where there are settlements thickly populated, the sixteenth section is worthless. With these special laws staring us in the face, enacted to our prejudice, it is hardly just to denounce special legislation made necessary by the peculiar character of the pine lands in the southern States. I do not agree with those who regard these lands in my State as utterly worthless except for stock ranges. I believe another generation will see nine-tenths of it in profitable cultivation, and the profit increased by artificial improvements of the soil. But they cannot now be sold for anything. Most of them will not bring ten cents an acre for many years. They are not worth the expense of survey; and as to all that can be sold, the price should be reduced by special law. No general act can reach the case.

Mr. YULEE. Mr. President, I think the object of this resolution is not exactly understood by my friend from Illinois. The measure which I propose does not connect itself with the general graduation system. I wish to withdraw it from the policy proposed with respect to the public lands generally, because these pine lands in Florida are of an entirely different description from other lands to which the general policy of the country applies. They are not agricultural lands. They are as distinct from the general body of the public domain, and should be made as distinct in respect to the measures adopted for their disposition, as the mining lands. You separate the mining lands from the general body of the public domain, and fix their minimum price at $2 50 instead of the usual minimum of $1 25 per acre, which is the minimum price affixed to agricultural lands. These pine lands deserve to be treated with the same distinction, because they are not agricultural lands. The difference in their value and price is not to be measured by the greater or less degree of their fertility, to be ascertained by the greater or less duration of time they may remain in the market as candidates for purchasers. These lands can never be used for agricultural purposes; being fit only for grazing and the limited production of naval stores. They have been reported to the Land Office as pine lands, they have been entered in the land books as pine lands, and a distinction has been made in the department between the whole body of lands the price of which is proposed to be reduced by this resolution. Some of them are so utterly barren and valueless, although very high lands, that the department has not considered them worth the expense of surveying. Township lines only have been run over a large portion of the public lands of Florida, on the ground that the area of country included within the township lines is not worth the expense of surveying.

It is because these lands are utterly valueless for agricultural purposes (although they would be valuable for the raising of stock and the production of naval stores) that I wish to separate them from the general graduation policy which may or may not be adopted, according as the general policy of Congress may enjoin. These lands call for as distinct measures of legislation as the mining lands, or any lands not suited to agricultural purposes.

The resolution as amended was read.

Mr. YULEE. I would suggest that it be amended further, by saying, "And other States where such land shall be found."

Mr. DAVIS, of Mississippi. The Senator from Florida has anticipated me. I would have the resolution embrace pine lands generally. I hope such a law will pass. It is for the interest of the country at large, and especially for the interest of the treasury, that such a law should pass. It has been demonstrated that by a graduation of the price of the public lands more money would be brought into the treasury and the settlement of the country more rapidly advanced. We should thus accomplish a two-fold object, whereas at present a great quantity of the public land is lying utterly worthless. The pine lands have been correctly characterized by the Senator from Florida as a distinct class. The pine is useful for ship timber and for the production of turpentine and tar, but the land is scarcely fit for cultivation. It should be separated, therefore, from the other public lands, and should be treated as a distinct class. But, as this bill will take its place upon the calendar behind the bill introduced by the Senator from Illinois for the graduation of the price of the public lands, if that general law should pass, of course this bill will fall; but if it should not pass, then this bill ought to be passed. I will merely say, in addition, that the process of graduation has been tried in Mississippi, under a provision in the treaty with the Chickasaws, and the fact has been established that no lands of the United States have ever yielded so much as those very lands thus graduated to their minimum price; and no portion of the country with which I am acquainted has been so rapidly settled as this. I consider that this constitutes satisfactory proof of the propriety of adopting the policy generally. And upon this subject I propose to offer some extended remarks when the general bill comes up.

The resolution was adopted.

MAP OF TEXAS.

Mr. HOUSTON submitted the following resolution:

Resolved, That the Secretary of the Senate be authorized and required to procure for the use of the Senate —— copies of the map of the State of Texas, compiled and published by J. D. Cordova.

PRESIDING OFFICER. There is a blank in the resolution which it is necessary to fill.

Mr. HOUSTON proposed that the blank be filled with the number "five hundred." This motion was agreed to.

The question being on the adoption of the resolution—

Mr. MASON said he desired to inquire of the Senator from Texas whether he had any knowledge as to the correctness of this map, upon which he based his recommendation for its purchase by the Senate.

Mr. HOUSTON. I have, sir, or I would not

have offered the resolution. I know it to be a most accurate map of that country, giving all the divisions and localities with greater correctness than any other map now extant. It has been completed within the last two months, and will furnish the best information that can be obtained in regard to a subject that is of some interest at this time—that is, the boundary between Texas and New Mexico. It is for this reason that I wish the map procured for the use of Senators and gentlemen of the House of Representatives. Great labor has been bestowed upon it in order to make it perfectly accurate. I hope the resolution will be adopted.

Mr. DAVIS, of Mississippi. By whom was the map compiled or made?

Mr. HOUSTON. It was made by J. T. Cordova, a member of the Legislature of Texas.

Mr. DAVIS. Is it a compilation, or was it made from actual survey?

Mr. HOUSTON. It was made from actual survey as reported at the land offices of the State.

Mr. DAVIS. All the maps that I have seen of that country contain gross errors in regard to latitude and longitude. Unless this is a map made from actual survey and by competent persons, I think we are liable to be led into error by it. I ask, therefore, that the resolution lie over for a day, in order that we may make some examination into the matter.

Mr. HOUSTON. I do not know upon what standard, sir, we will arrive at a knowledge of the correctness of this map. So far as I have been able to give my attention to the subject, (and I believe I may speak for my colleague also,) and from a familiar acquaintance with the country, I should pronounce this a correct map—certainly much more correct than any map of that country heretofore published. And for that reason, sir, as there is no prospect of getting a better, or one so good as this is, I think we ought not to hesitate to procure this one. The resolution proposes to refer the matter to the Secretary of the Senate for his consideration and action. If I did not believe that it would be serviceable to us I should not have offered the resolution. I have no private end to subserve by its procurement; but I hope the resolution will be adopted and the map obtained, in order that justice may be done to that section of the country which has furnished more and received less from this Government than any other portion of this Union.

Mr. DAVIS. I am sorry that the Senator has misunderstood the tenor of my remarks. I did not attribute to him any private motive in proposing this resolution; but the Senator is mistaken in supposing that we are not likely to have a more correct map. By a resolution which I had the honor to introduce last session, the topographical corps are now employed in compiling a map which will comprise the whole country. When that map is completed, it will fix the latitude and longitude of all places with correctness. We have heretofore been many times led into fatal error. The very map that was incorporated in our treaty with Mexico contains flagrant errors, and every map that I have seen is imperfect. They appear, all of them, to be but poor copies of Humboldt's. I am not disposed to multiply maps. When we can get a correct one, I shall be ready to vote for its purchase, but I think that, having already so many that are spurious and not to be relied upon, we had better pause and ascertain whether this map has any greater merit to recommend it than those we already possess.

Mr. PEARCE. It will be recollected, sir, that when the question of Texas annexation was before the Senate we had a map compiled by the Topographical Bureau from the sources that were then accessible, and a large number of extra copies were furnished for distribution; many of which, at least those which I have, are undistributed. I do not know any necessity for the purchase of this map; and I think the reason which the Senator from Mississippi has mentioned, that a map is about to be prepared by the Topographical Bureau, is quite sufficient to induce Senators to withhold their assent from this proposition. If our object is to secure accuracy, I think we had better get the map which the Senator from Mississippi speaks of, because we have reason to believe that it will be more accurate than any other possibly can be. As for anything else, I do not know what necessity there is for purchasing this map. I do not think I have any necessity for it myself. I do not know to what purpose we can apply it, unless it be to give it away; and I hope, instead of multiplying maps and books for that purpose, we will henceforward diminish the number.

Mr. HOUSTON. I have no objection that the resolution should be postponed for a day. I have no particular desire to precipitate its adoption; but, at the same time, the reason why it ought to be published is, that it is the most correct and authentic map of Texas that is extant; and I have no doubt that an examination of it will convince Senators that such is the case. I was not apprised of the resolution presented by the Senator from Mississippi last session in regard to a map, nor was I aware that any topographical reconnoissance was being made of that country; and unless such topographical reconnoissance is being made by gentlemen traversing the country, I should doubt whether the map to be made will be comparable to this. This map has been compiled from surveys of the country. Every county of the State, every land title, has been laid down, the distances ascertained, the surveys corrected, and from these corrected surveys the map has been compiled. Years have been employed in the compilation of the map, and for that reason and on account of the character of the individual who has been engaged in preparing it, and the immense labor bestowed upon it, I have reason to believe that it is the best and most accurate map that can be procured. I doubt whether the topographical corps, after having made their reconnoissances of the country, will be able to produce a better map. But I am perfectly willing that the resolution should lie over for one day.

The further consideration of the resolution was then postponed until to-morrow.

The following resolution, submitted yesterday by Mr. YULEE, was taken up, considered, and agreed to:

Resolved, That the Secretary of War be requested to furnish to the Senate any documents or information in his department relative to the claim of Captain George E. McClelland's company of Florida volunteers, for military services in the year 1840.

GENERAL APPROPRIATION BILL.

The bill from the House making appropriations for the civil and diplomatic expenditures of the United States for the year ending June 30, 1850, was read a first and second time, and referred to the Committee on Finance.

COLLECTION DISTRICT IN TEXAS.

On motion of Mr. RUSK, the bill to establish an additional collection district in the State of Texas was taken up and made the special order for Friday next.

ROCKVILLE PETITION.

On motion of Mr. JOHNSON, of Maryland, a petition presented by him yesterday from citizens of Rockville, Maryland, praying that Congress would pass a law prohibiting the issue and circulation of small notes by private individuals in the District of Columbia, was ordered to be printed.

ADMISSION OF CALIFORNIA.

Mr. DOUGLAS moved to postpone the previous orders, and to take up the bill for the admission of California into the Union as a State.

Mr. NILES. If we take up this bill we must necessarily postpone the bill that was up the other day relating to the reduction of postage, and which was made the special order prior to this bill. And we all know that if we take up this bill and enter upon the debate, it will probably consume the whole of the session, and will preclude the opportunity of acting upon the bill to which I have referred. I feel it my duty, therefore, to take the sense of the Senate upon the motion to take up the bill.

Mr. DOUGLAS. I trust that the honorable Senator will allow the bill to be taken up at this time. It has been before the Senate since the first week of the session, and has been postponed from time to time, with the general understanding that it should be acted upon at an early day. I do not think that it is going to occupy so much time as the Senator imagines. I do not think it is going to take up a great deal of time. I hope at least that the Senator will allow it to be taken up, that we may ascertain whether it is likely that much time will be required for its discussion, and if that be the case it can from time to time give place to other business, and among the rest to the bill which the Senator has named. I hope that my motion to take up the bill will prevail.

The question being put, a division was called for; and no quorum voting—

Mr. NILES demanded the yeas and nays.

They were not ordered.

The question was again put, and, upon a division, it was decided in the affirmative: Ayes 25, noes 11.

The bill was accordingly taken up for consideration as in Committee of the Whole.

Mr. DOUGLAS. I laid upon the Secretary's table the other day a substitute which I proposed to offer for the original bill. I now ask that the substitute be read, and that the vote be taken upon making the substitution of the one for the other, with the understanding that the substitute will be open for amendment as an original bill.

The bill proposed to be substituted was read by the Secretary.

The question being taken, the substitute was agreed to.

Mr. BUTLER. The only difficulty that I have upon the subject is this: I am willing to take up the bill as an original bill, but it seems to me that it would be highly proper that it should go to a committee to be reported upon in the same manner as all original bills. If there was a reason for sending the original bill to a committee, I think the same reason exists why this should be referred either to the Committee on Territories or to the Judiciary Committee.

The PRESIDING OFFICER. To which committee does the Senator propose that the bill shall be referred?

Mr. BUTLER. It seems to me it ought to go to the Judiciary Committee, the bill being for the admission of a new State into the Union.

Mr. TURNEY. Before making that motion, I hope the Senator will allow me to offer an amendment to the bill. If the bill is to be referred, I desire that my amendment should also be referred.

Mr. BUTLER. I certainly will withdraw my motion, in order to permit the Senator to offer his amendment.

Mr. TURNEY sent the amendment to the Secretary's table, and it was read, as follows:

Strike out all after the words "United States," in the third line of the first section, to the word "shall," in the twelfth line, and insert the following: Acquired from the Republic of Mexico by the treaty concluded February 2, 1848, which lies west of the summit of the Sierra Nevada and Rocky Mountains.

Mr. TURNEY. I will state the object of the amendment. The bill as now drawn includes only a portion of California, embracing, as I understand, some ten or fifteen thousand inhabitants, leaving the remainder in a territorial condition, thereby opening the question, and making it the duty of Congress, by separate legislation, to organize a territorial government. This, sir, I seek to avoid, by including the whole of the Territory of California in the State. That is the object of my amendment.

Mr. KING. I would inquire whether an amendment has not been offered by the Senator from Mississippi? I was under the impression that he had offered an amendment.

Mr. FOOTE. I was about to offer it, but have not yet done so.

Mr. BERRIEN. I will answer the inquiry of the Senator from Alabama by saying, that the proposition of the Senator from Mississippi was not offered as an amendment, but laid upon the table with notice that it would be offered as an amendment when the bill came up. Now, if this is a subject of reference to a committee, I should hope that all the amendments intended to be offered would also be referred. It is the desire of the Senate of course that the subject in all its details should be considered when referred; consequently, I should hope that the Senator from Mississippi would have his amendment in a form suitable for reference to the Judiciary Committee. The Senate will perceive that they have been already embarrassed by the course pursued in this matter. There was a bill introduced. That bill was referred to the Judiciary Committee; and a report was made, which has in fact been acquiesced in by the substitution of another bill, by which it is supposed that the objections entertained against the bill will be surmounted. It is now proposed to refer the substitute to a committee. And I desire that all the amendments may be referred, in order that the committee may consider the whole subject.

Mr. FOOTE. If the Senator from Georgia will suggest the mode which he thinks most suitable, I will adopt the suggestion.

Mr. BERRIEN. I will say, then, offer it as an amendment now. If I am right, sir, the substitute which has been presented by the Senator from Illinois is now before the Senate as an original bill, and open to amendment; consequently, the Senator from Mississippi can move his amendment, and if a reference of the bill is made, the amendment will go with it.

PRESIDING OFFICER. There is an amendment now pending that was offered by the Senator from Tennessee.

Mr. KING. I am exceedingly anxious that this subject shall be examined in all its bearings, to whatever committee it may be referred; and, that the views of different gentlemen shall be made known, that the committee shall have the whole subject before them, and be able to form a correct estimate of what can be done, or of what should be done. Now, I should propose waiving the strict rule in reference to amendments, in order that gentlemen may be permitted to offer all the amendments they may have to offer, and when this has been done, the whole matter may be referred. If this suggestion is acquiesced in generally, the Chair will be relieved from precluding other amendments except the one pending, and they may all be offered with a view to reference. I hope that course will be taken.

Mr. BUTLER. When I gave way to the Senator from Tennessee, it was with the view that gentlemen who have amendments to offer should bring them forward, and that the bill, together with such amendments, should then be referred to a committee. I do not, perhaps, understand the correct parliamentary usage, but that was the idea upon which I gave way to the Senator from Tennessee.

Mr. CLAYTON. I concur in the proposition to refer all the amendments to the committee, but I will suggest, that as this is a matter of great importance, it ought to go to a committee that is known to be favorable to the proposition. Courtesy towards the Senator from Illinois, who has proposed this substitute for the original bill, would dictate such a course, and I believe it is conformable to parliamentary practice. I do not think it would be fair to refer a proposition to any committee whose members are decidedly hostile to it. I do not mean by this remark to imply that the Committee on the Judiciary is hostile to the bill which has now been substituted for the original bill; but it does seem to me that it ought to go to a select committee, together with all the amendments that may be offered. The Senate, by committing the bill to a committee whose members, or a majority of them, are favorable to the proposition, do not commit themselves to vote for the bill when reported; it is only in order that the subject may receive a fair consideration. I shall not make the motion myself. I trust, however, that the Senator from Illinois, in accordance with the views which I have now presented, will vote to send his proposition, together with all the amendments that may be offered, to a select committee.

Mr. DAYTON. It seems to me, with all respect to the Senator from Delaware, that he assumes a fact which does not distinctly appear, and of which there is no evidence. I understand that the bill which is offered by the Senator from Illinois assumes at least to be free from the constitutional difficulties suggested by the Committee on the Judiciary in their last report. But I think, sir, that that committee has no special disposition to take charge of this business; and if it be agreeable to the Senate that it should go to the Committee on the Territories or to a select committee, I think there will be no difficulty on the subject, and no obstacle thrown in the way by the members of that committee. For myself, I am at all times desirous that propositions of this kind should go to the regularly organized committees. There is a regularly organized committee of this body, and I suppose one that is favorable to the proposition submitted by the Senator from Illinois, to which this subject may properly be referred—I mean the Committee on the Territories—a committee which is presided over by the Senator from Illinois himself. Then why create a special committee for the purpose of considering a given case, when we have a regularly organized committee which is favorable to the proposition? It seems to me that, as between a special committee and the Territorial Committee, we shall best dispose of this matter by referring it to the Territorial Committee. As far as the Judiciary Committee is concerned, I do not suppose that they have any particular feeling upon the subject.

Mr. CLAYTON. If the Senator from New Jersey had listened to what I said, he would not have considered that I had assumed that the Judiciary Committee was hostile to the bill. I did not make any assertion of the sort; but I say this, that it is due, as in other cases proposed to the Senate, it is due to the subject, it is according to parliamentary usage, and it is but a matter of common courtesy, to send a bill to a committee which has been known to be favorable to the proposition. I do not know, and I presume that the Senator from New Jersey does not know, that the majority of the committee are favorable to the proposition in this case; and for that very reason I am for sending it to a committee which is, or a majority of the members of which are, favorable to the proposition. I desire, therefore, that it should go to a special committee. On a former occasion, when a proposition similar to this in some respects was presented, there was a division of opinion as to whether it should go to a special committee or to the Committee on Territories. I now desire to present that question again. I only make the suggestion, however; if the Senator from Illinois does not make the motion, I shall not.

Mr. DICKINSON. I will say to my honorable friend from Delaware, in regard to referring this matter to a select committee, that we have had the experience of one select committee, and the bill reported by that committee has not been acted upon, although it still has vitality, for it is still in existence upon the table of the other House. I will not say that we have no right, according to strict parliamentary law, to originate any measure connected with this subject here, but, in the ordinary course of proceedings, these bills in relation to the organization of governments in New Mexico and California, if the other branch of Congress purposed to pass them at all, it would have been done long before this. It is unnecessary for me to remind the Senate that the bill to which I have referred is still in existence in the other House, and may be acted upon if they feel so disposed. It has an enacting clause, and is subject to amendment. If they choose to organize these territorial governments, they can act upon that bill. Had I been left to my own action, anxious as I am for the organization of these Territories, I should never have introduced a bill of any kind until we had learned officially what had been the fate of that bill. The bill which emanated from the select committee passed the Senate after a protracted debate. I will not say whether it was right or wrong. Sufficient for me, it has passed; it has existence; the House can act upon it, and if it does not suit them, they can put it in such a shape as will suit them.

In regard to this question, I voted before to refer the bill to the Territorial Committee, although it was not referred in accordance with my vote. I expressed an opinion then, but I shall express none now, except that it is due to that committee, and to its distinguished chairman, that they should have charge of this matter, which they originated, or rather which was brought before the Senate by the chairman of that committee, and which occupies so much of public attention. I shall, therefore, vote for the reference to the Territorial Committee. I will not vote for putting the bill of any committee, or of any individual member of the Senate, to dry nurse; nor for sending it to a committee who will be unfriendly to it. That might be the case either with the Judiciary Committee or a select committee. But it should go to a committee that will take an especial interest in the subject, and put forth their best energies to put it in a shape that will render it acceptable to the Senate. It has been proposed to be amended by the chairman himself, and other amendments have been proposed by different Senators. I hope it will be referred to the Territorial Committee, and that that committee will bring in a bill that we can pass; for it is very desirable that governments should be organized for the Territories, and, to attain that end, I am disposed to waive parliamentary rules, particularly as another bill is in existence.

Mr. BERRIEN. In the suggestion made by the Senator from Delaware I am willing to concur; but I suppose the same purpose would be accomplished by a reference to the Territorial Committee. The Judiciary Committee have performed their duty in relation to another bill; that has now passed from the hands of the Senate; and every member of that committee will, I have no doubt, most cheerfully assent to the reference of the subject to the Territorial Committee. I hope, therefore, that reference will be made.

Mr. BUTLER. I desire to make one remark. I am not only willing that this bill should go to the Committee on the Territories, but I should be very unwilling that it should go to the Committee on the Judiciary. I am satisfied of one thing: if that committee should proceed to consider the subject, it would be perfectly impracticable for them to arrive at any legal results; and I must beg leave, as I have in some measure passed judgment upon this matter, as one of the members of the Judiciary Committee, to be excused from serving on the Committee on the Territories, and ask that another member be substituted. I make that motion.

Mr. DOWNS. I hope that, to whatever committee this subject may be referred, all amendments that have been suggested, or which have heretofore been printed by order of the Senate, will also be referred. I will ask a question, therefore, in relation to a point of order, whether it will be in order to move that all the amendments that have been submitted and printed by order of the Senate, be referred to the committee to which the bill shall be referred? Will that be in order?

PRESIDING OFFICER. With the unanimous consent of the Senate all such amendments may be referred.

Mr. DOUGLAS. Mr. President——

Mr. DOWNS. I have not yet finished.

Mr. DOUGLAS. I was going to make a motion that will, I think, be appropriate at this time.

Mr. DOWNS. If that motion be in order, I hope the amendments will all go to whatever committee the bill may be referred to. I think, however, with another member of the Judiciary Committee, that it by no means follows as a matter of course, that because a majority of the committee was opposed to the first bill, they will also be opposed to this. This is a very different bill. I cannot concur with the suggestion of the gentleman from New York, that this measure is still pending before Congress. I know there is a bill pending, or at least was laid upon the table of the other House at the last session; that embraced a subject similar to this, with others; but the Senator will recollect that it embraced also a measure which has since been acted upon by Congress: I mean the law in relation to the territorial government of Oregon. That bill was of a different character; and this bill, as well as the substitute now offered——

Mr. DICKINSON, (interposing.) It was upon the same general subject, and designed to attain the same end.

Mr. DOWNS. I wish to remark while up, that I do not consider, as far as it goes, the amendment offered by the Senator from Illinois as a substitute; for the bill differs materially in fact and in principle from the amendment which was reported by the committee. I therefore made no objection to it. It will be found, when an examination takes place, that the report that I made will embrace the same thing. I have, therefore, no objection to that portion of the bill. There are, however, some details, some additional provisions, which I think are worthy of consideration, and should be referred to whatever committee the bill may be submitted to. I therefore ask that those amendments may be referred along with the bill.

Mr. DOUGLAS. It has been suggested, first, that this bill, with its proposed amendments, shall go to the Territorial Committee; and, secondly, that it be referred to a select committee. In order to give the Senate an opportunity to decide between the two references, I will accede to the suggestion of the honorable Senator from Delaware, and would now make a motion that the bill and proposed amendments be referred to a select committee of seven. As to my own views about the matter, I am entirely indifferent whether it goes to the Territorial Committee or to a select committee.

Mr. KING. I am very well satisfied, sir, that this reference to a select committee should be adopted. The Territorial Committee brought the subject forward; it was then referred to the Com-

mittee on the Judiciary, by whom a report was made and certain provisions suggested that conflicted with the former action of the Territorial Committee and with certain modifications made to the bill by the Senator from Illinois [Mr. DOUGLAS] himself; and now, with new modifications and new additional suggestive propositions, the whole subject comes up anew for reference, which reference, as I think, very justly is proposed to be made to a select committee. I agree with the Senator from Delaware as to the object of standing committees. Subjects of a general nature should of course be referred to the appropriate committees; but when the matter involved is of a grave and serious import, and about which there is much disagreement, it should be referred to another and a special committee. When that is the case, it becomes the Presiding Officer to appoint such a select committee, the majority of whom should be in favor of the principle involved, though not of the details. I trust that a select committee will be appointed, composed in part of gentlemen connected with the Judiciary Committee, of high legal attainments, and that some plan may be agreed upon by which this unfortunate question may be settled. I am prepared, for one, to go as far as I can, conscientiously, to put an end to this unceasing agitation.

Mr. DOUGLAS. I renew my motion to refer the bill and proposed amendments to a select committee.

PRESIDING OFFICER. The first motion properly before the Senate is the one made by the Senator from South Carolina, [Mr. BUTLER,] to refer the bill to the Committee on the Judiciary.

Mr. BUTLER. I am opposed to the reference of this bill to a select committee; however, if gentlemen insist upon putting that motion, I will withdraw mine and give place to it.

PRESIDING OFFICER. The question before the Senate is upon the reference of this bill and proposed amendments to a select committee.

The motion was then put and carried.

Mr. FOOTE. I wish simply to ask the unanimous consent of the Senate, if it is not entirely out of order, to be allowed to refer an amendment to this California bill, which I shall prepare, to the select committee to whose charge the bill and proposed amendments have been given.

Leave was granted accordingly.

The VICE PRESIDENT appointed the following gentlemen as the special committee: Messrs. DOUGLAS, JOHNSON of Maryland, JONES of Iowa, CLAYTON of Delaware, DAVIS of Mississippi, BADGER of North Carolina, and NILES of Connecticut.

REDUCTION OF POSTAGE.

The Senate then proceeded, as in Committee of the Whole, to the consideration of the bill providing for a reduction of postage.

Mr. DICKINSON. I would ask the Presiding Officer if it is in order to move an amendment to the original bill?

PRESIDING OFFICER. A motion is now pending.

Mr. DICKINSON. Well, then, upon that motion I can say what I desire. I understand that, under the old law, one of the rules operating in cities affects materially the interests of newspaper publishers. They were in the habit of publishing a newspaper in one place, while it appeared from the name upon it that it was issued at another place; and the postmasters, taking the printed name to be the place from whence the papers were issued, established it as the office of publication, although it might be situated hundreds of miles from the place where the papers were originally printed.

Mr. NILES. I suppose the bill requires alteration in this particular, and, when near its final passage, it can be so amended. Prior, Mr. President, to making a few remarks upon the motion now pending, I would just state that the bill is printed wrong, and should be half a cent postage on newspapers circulating *under* a hundred miles. The proposition of the Senator from Pennsylvania, now before us for consideration, is to strike out the words "fifty miles" and "allow papers published within these limits to go for half a cent," and insert "thirty miles" and allow "papers published within these limits to go free of postage." It is introducing the privilege of "free matter," or "free circulation," which has never yet been a provision in our laws. Down to 1845 we had no such provision in the post office laws; it was introduced at that time, but has since been repealed. I do not desire to reiterate the remarks I made the other day upon this subject, but would simply say that the operation of this proposed amendment, if carried into effect, will be much more important in its character than Senators probably suppose. In certain portions of the country it will preclude a very large portion of the newspaper circulation, and place a very great and burdensome task upon postmasters. A large number of newspapers will be sent to them, and that without any remuneration for their trouble. The postage on newspapers goes to their benefit, or at least one-half of it. It is of great importance, then, to the smaller postmasters that they have their commission on newspapers; but by this amendment they will be almost entirely deprived of it, besides having additional labor apportioned to them. The whole revenue on newspapers last year was seven hundred and fifty thousand dollars, and this system of free circulation, if adopted, will reduce the amount of the revenue some one or two hundred thousand dollars. Now, in a bill that professes to carry out to the extreme the principle of low postage rates, it is, in my judgment, absolutely necessary that provision should be made therein for the taxation of everything that goes through the mail. Sir, we cannot carry out the principle of low postage rates unless we abandon the proposition of free circulation; and it was to carry out the former principle that I introduced the amendment abolishing the franking privilege. The rates proposed in this bill are fixed at the minimum—the lowest practicable point; and unless everything carried by the mail is taxed, we shall not be able to carry out our plan of reduced rates.

Mr. WESTCOTT. I would inquire of the Presiding Officer whether the amendment I proposed to offer the other day will be precluded by this amendment?

PRESIDING OFFICER. The amendment offered by the Senator from Florida the other day was then, and is of course now, out of order.

Mr. ALLEN. I am in favor of this proposition; and I shall very briefly, and with all the simplicity of language which I can employ, explain to the Senate the reasons by which I am governed in this vote. By the Constitution of the United States the power to establish post offices and post roads is conferred exclusively upon the Congress of the United States. The very fact of that power being conferred exclusively upon the Federal Government imposes upon this Government the duty of establishing post offices and post roads; and therefore it is that Congress has established post offices and post roads throughout the Republic. And, sir, Congress would have been under the same necessity of establishing post offices and post roads if there were not printed within the whole Republic a solitary newspaper. I say, then, that the expenses of the post office establishment of this country—organized to accommodate the nation in the transmission of their private correspondence—have been precisely as great, as to the number of routes, of post offices, of mail-bags, of mail agents, and of all the other necessary items of expense, as if there were not one newspaper printed in the United States. It is true, sir, that the transportation of printed matter, to the extent of its weight, through the mail, augments the burden of such mail, and creates an addition to the expenses of the Government equal to the amount of power necessary to transport the accumulated burden; and that is all the expense incurred in consequence of newspaper circulation. I wish, sir, to call the attention of the Senate to the fact—and it is one of fundamental importance in this discussion—that the post office establishment throughout the Republic would necessarily have to be just as great if not a newspaper had been printed in the country. That being the case, sir, Congress has proceeded upon the ground that the larger portion of the revenue necessary to the support of the post office establishment should be levied upon the private correspondence of the people of the nation, because private correspondence properly related to private business, and had no connection whatever with the political organization of the country. Well, sir, the mail being under the necessity of running between the various points at which post offices are established—under the necessity of running whether newspapers are printed at those points or not—the request here is, that inasmuch as your mail coaches have to travel between two given points, you will take along and leave at given points the newspapers printed at one point—the point from which the mail starts. We ask this, sir, not as a favor to the publishers of newspapers merely, but as a favor to the immense number of persons who take and read the local press.

I shall come now to the question, what will be the loss to the public treasury by the grant of this right, and what proportion does the loss bear to the anticipated benefit? And first as to the loss.

The postage on all printed matter during the last year was seven hundred and sixty-seven thousand dollars. I desire to say here, sir, that I shall disregard and throw off fractions in all the references I shall make to figures, for the sake of a more easy and simple computation in my statements. On printed matter—including newspapers, pamphlets, and circulars of all kinds and descriptions—the postage of last year was seven hundred and sixty-seven thousand dollars. In order to ascertain what will be the loss to the public revenue by the proposition now before the Senate, it becomes necessary to inquire what proportion of this postage was paid on other printed matter than public newspapers. We have not, sir, in the Post Office Department, nor in the archives, any data upon which to predicate a positive conclusion on that point. But, in a conversation with one perhaps more competent than any other living man to solve such a question, I learned that he thought it would be a fair computation to say that one-fourth of the whole of the printed matter that passed through the mail might be comprehended under the name of pamphlets; leaving, therefore, three-fourths of all the revenue we derive from the transmission of printed matter to be derived from newspaper circulation, and three-fourths of the whole amount of revenue would be five hundred and seventy-five thousand dollars. That, sir, includes the entire postage upon newspapers of every kind and description circulated through the Republic.

Another question here arises, to wit, what proportion of the revenue, as the law now stands, is calculated for the transportation within and what proportion without the thirty miles? and that is a question upon which we have no data to calculate. I have, however, from my knowledge of the general state of affairs in the interior of the country; from my acquaintance with newspapers, and the description of persons who are subscribers to newspapers, formed what I conceive a very reasonable conclusion upon this subject. I suppose, sir, that three-fourths of the whole revenue now paid for the transmission of newspapers is paid within the circle of thirty miles, within which it is the proposition now that these papers shall circulate free; and this amount of three-fourths will come to four hundred and thirty-one thousand dollars. I am giving the adversaries of this proposition all the advantages of the largest computation. I am giving those figures, from which they readily may show the largest imaginable loss to the public treasury; and, sir, I feel assured, with all these advantages, they cannot carry it beyond four hundred and thirty-one thousand dollars per annum.

Now, sir, let us assume that this is to be the loss to the public treasury and the saving to the people; for it should be borne in mind that that which is a loss to the public treasury in this respect is a saving to the people—not in expenditure, but barely an omission to collect that much taxes, which we now collect from the people. That is it, sir. It is the diminution of the tax on the privilege of reading in this country to the extent of four hundred and thirty-one thousand dollars.

Now, let us see what is the benefit likely to be dispensed to the people from the diminution of their taxes to the extent and in the way in which this proposition seeks to reduce them. The newspapers of the United States are perhaps in number about two thousand four hundred. I have some data upon which I think I may fairly draw the conclusion that they are about in number two thousand four hundred; but, in order to keep within probability, or, rather, to keep within positive fact in my estimate, I put the number at two thousand. Now, sir, these two thousand newspapers have a various circulation as to number and as to time. The large city papers publish an immense edition daily; the small country papers publish a limited edition weekly. The papers of the intermediate towns—those between villages and cities—publish a larger circulation than the village presses, and publish

them two or three times a week. There is, therefore, no possibility of doing more than striking in the mind a fair average as to the extent and number of the papers circulated. I have attempted to do that. Assuming the number of the papers to be two thousand, I assume the circulation of the whole to be once a week—none of them are less, and many of them are daily—and I assume the number of the copies issued by each to be one thousand on an average. There are, then, circulated in the United States two thousand newspapers, each circulating weekly one thousand copies, making in all a weekly average of two millions of newspapers circulated in the United States. But all of these papers do not circulate through the mails; many of them are distributed in the towns and cities where they are published.

I have made a calculation as to the probable proportion of those that do go through the mail and those that do not. I have supposed that three-fourths of the whole number do go through the mails, and are transported to some point from the point of publication—that is to say 1,500,000 newspapers—and I have also supposed what would be the proportion between the number circulated within and the number circulated without this circle of sixty miles.

I have supposed that about half of the whole of the printed newspapers—about two-thirds of all that go in the mails—are circulated within this circle of sixty miles; that is to say, 1,000,000 of newspapers. The proposition before us is, therefore, to cease levying this tax upon 1,000,000 of newspapers circulated weekly within a circle of sixty miles from the central point of publication. That, sir, is the proposition.

And now, sir, let me see who it is that would derive benefit from this privilege—who it is that would be exempt from this taxation now imposed, and how many there are. All the newspapers that pass through the mails, but go within the circle of sixty miles, are 1,000,000 in number. They are taken by one million of men; and it may fairly be supposed that each newspaper thus taken, entering a family, is read, and dispenses its benefits to three members of that family, which will show an aggregate of three millions of people who will be benefited by this motion.

Now, sir, I do not look upon the repeal of this tax on the privilege of reading—for that is all it is—as an unrequited favor at the expense of the Government. In the first place, I have shown you that your mail has to travel between all these points whether you take newspapers along or not. Your mail has to go, and as this proposition is confined to a circle of sixty miles from the central point of publication, the larger part of this matter goes in the otherwise empty mail-bags that travel on the cross-roads. Your mails will have to travel, as I have shown, even with empty mail-bags, whether there be a newspaper or no newspaper published in the country. The mail must go. You have incurred the obligation by the Constitution of sending a mail and keeping up the post office establishment for the accommodation of the people, and you are bound to do it whether there are newspapers transmitted or not.

But I have said that I do not look on this as a boon to be extended by the Government. You will observe, from the nature of this proposition, that it applies in such a manner as to affect distant localities in the interior of the country, and that it is exactly within these localities that the mails of the United States are transported on public roads not made by the Federal Government—often not by the State—but by the local population of the neighborhoods. The people of each neighborhood make their roads, and from year to year they repair them. The people of the counties bridge their streams, and from year to year repair them, and your mail goes over them free of charge. Your mail pays no toll to keep them in repair. The local population of each vicinity, who are to be benefited by this poor little reduction of the tax on the privilege of reading, therefore, have a right to claim it as an equivalent for the right which you have of passing free over roads which they have to make and keep in repair, and on the making and repairing of which you spend not a farthing.

Mr. President, almost all of the public men of this country know something about the public press; and as we are more apt to remember wrongs than favors, almost all public men remember that the press has been the vehicle of malice and of injustice toward them; and without looking to the other side of the question, and contemplating the amount of benefits that they have derived from the press, they are very apt to say in their souls, especially when they read a scorching article on themselves, "better would it be if there were no newspapers in the country." But, sir, I am far from entertaining this opinion. And I say now, sir, upon my responsibility to reason and to truth, that so far from considering the public press of this country as an evil, I do not believe it would be possible to maintain public liberty without it. I mean to maintain the public liberty as we have it secured by a written constitution, under a representative system, extending far and wide over our immense country. In such a state of things, without this medium of communication between the people themselves, and between the people and the Government, and between the people and the functionaries of the Government, it would be utterly impossible for the people to exercise that supervision and control over public measures and public men which is necessary for the support of public freedom.

Sir, it has been the custom of our youth, in our school-houses, to hear much said about the liberties and republics of Greece and Rome; and, therefore, any reference to those matters becomes stale and common-place. It is not my habit to indulge in them; but, on the present occasion, I shall do so for the sake of illustration, and to sustain the proposition I have just laid down, that without the public press, and a free one too, public liberty in a large country could not by human possibility be maintained. In order to illustrate that proposition I shall refer to those old countries whose institutions have been called barbarous. I will take that one which has given its name and ideas to all posterity. I will take that little republic which illustrated the genius of that Government where existed an absolute unrestricted democracy: I mean Greece. We hear nothing, sir, about the free yeomanry of Greece—not a word. No historian has used those words, or any words in Greek of which they would be a true translation. No historian has told us about the farming population of Greece. No historian has told us about the country population of Greece coming into their cities to vote. And why, sir? Because, for the want of a medium of communication between the Government and the extremes of the country, it was impossible, in the nature of things, for there to exist anything like a free and independent yeomanry. To enjoy the privilege of a citizen of Greece, you had to remove to a capital city; you must settle in Athens; you must cultivate your lands by a description of labor that was not free, placing it under the control of men who were not free voting citizens. In order to be a citizen, it was necessary to be a resident. In order to enjoy the immunities and rights of a citizen of Athens, it was necessary to become a citizen in fact, by settling within the city. And so of all the other cities of Greece. It was that fact, more than all others put together, that removed the very description of population upon whose integrity, whose habits, and whose employments freedom and free institutions can best depend—the cultivators of the soil. Hence it was, sir, that a Grecian republic was but a Grecian city; and hence it was that all the attempts to form a confederation among the Greek States resulted in nothing more than a confederation of so many cities, great and small. Political power was annexed to the cities, and excluded from the country. So it was in Italy. And hence it was that the utter extermination of the ancient cultivators of the soil took place. To be a citizen of Rome, politically, with the means of exercising the right of a citizen, you had to go from your farm and reside in the ancient city of the world, or some other capital city. It was for that reason alone the towns became the source of all legislation, the sole source of all political power, the country population being reduced to nothing.

What historian has told us about the yeomanry of Italy or Greece, or any State in Greece, participating in any political question or political act? No, sir; such was the inevitable necessity of things, because there was no sufficient medium of communication between the Government and the people abroad, or the people abroad themselves, by which they could be possibly informed of what was going on. They had to repair to the cities themselves, and that concentrated the sole power of the republic in the cities alone; and that led to another conclusion. It was impossible, in that state of things, that the representative system could ever be applied; and the consequence was, that the masses in cities legislated themselves, the Governments became small, confined to the circle of cities, and took the form of absolute democracy. When a law was passed, Demosthenes was seen upon the arena, and the ten thousand voting people were seen sitting in a circle in front of the orator, who explained the nature and effect of each proposition, and each proposition was then submitted to the judgment of the assembled mass, and that mass constituted the legislature of Greece. There was no other, the Senate only having power of submitting propositions and forms of law. And we know how it was in Rome: that after the Roman Senate had passed an act, it was competent for the tribune of the people to hold it up to the people for approval or rejection, and their decision was final. Now, they could have no representative system under that state of things. The sole reason of which was—for they were as wise as we are—that there was no sufficient medium of communication between the citizens themselves, and between the citizens and the Government. Therefore, the idea of having people at a distance, represented a thousand miles off, with no means of communication, would have proved an utter and absolute abortion. The Government would have rotted down in five years; and this Government would in ten years, if there were no newspapers published in the United States.

This proposition, then, while it proposes absolutely to diminish to the extent of four hundred thousand dollars this tax, or privilege, as it is called, has this further consequence in it: it will tend to establish and build up, by indirect encouragement, local presses at points where there are no presses now; and every local press that is established diminishes the danger that now exists in France, of putting the whole mass of the public mind under the direction and control of a great central press, as in Paris. It localizes the power of the mind in every locality in the Republic. It enables the people in every locality, even to the remotest parts of our wilderness territories, to participate in the action of the Government as directly and effectually as if they lived in any one of the great cities of the Republic. I know, as I have before said, that those who have been wounded by the press very naturally complain; those who have been benefited by the press are less apprehensive. I know that there is a common saying that the newspaper press may be, or perhaps has been, to some extent corrupted; that it is the vehicle of falsehood and injustice; that it is an instrumentality through which bad men can gratify their private or public malignity upon other men. Be it so. In the West there is a great river known as the Mississippi. Sometimes this river breaks over its banks and overflows the adjacent country, sweeping away fences and crops, and even houses in its course. Upon it floats steamboats which sometimes get snagged and wrecked with a great sacrifice of human life, and hundreds of thousands of dollars worth of property. But, sir, will you offset these unavoidable evils against the mighty advantages of that stream, and say that, because of these incidental evils the stream is of no account, and that it would be well if it were dried up? So precisely may it be said, except with more force and effect, in regard to this great medium through which flow the ideas of this country and the public. There may be ills and injustice arising from a free press. There may be falsehood promulgated through it. There may be malignity gratified through it. There may be cases where innocence has been made to suffer through its instrumentality. But what are all these evils compared to the immense benefit of keeping an open communication between four millions of voters; for these presses are not only the means of communication between the Government and the people, but between all the people, one with another. It is the press which enables them to pour forth ideas upon political questions. It is in this great book for the people, unfolded in every man's house, open to every man's inspection, that the people read the facts as to what the Government is about.

I say nothing, sir, (because it is not my prerogative to speak of other great subjects than that of politics, which are commended to the reason of our people,) of another branch of the public press,

which, by-the-by, is embraced in this proposition. But I speak of the political effect, and I am the more in favor of this proposition, because it chimes in most harmoniously with every proposition I have ever laid down touching this subject of open communication with the people. Year after year, I have stood up here and demanded, in the behalf and in the name of the American people, that these doors should be open, and that the whole of our transactions, in the name of our constituents, should be performed in the view of our constituents. So, too, I have stood up here, when it was thought unpopular to do so, in support of the franking privilege for the same reason. In every instance where I have acted or voted, I have sought to do it in such a manner that it would open the doors wider to the inspection of the people, and pour a stronger light upon their representatives. I have done this because I have believed that in this thing consists our only security, because I am not one of those who suppose that this Government consists in a written Constitution. No, sir, I am not child enough for that. I know what this Government consists in. If it consisted but in a written Constitution, where would it have been now, when that Constitution has, confessedly, so often been infracted? No; this Government is to be found at the firesides of the people of this country. It is to be found in the sentiments, in the judgments, in the predilections, in the hopes, in the sympathies of a great people, who make known their sympathies by indoctrinating and circulating resolutions through the public press, and through their representatives on the floors of the two Houses of Congress. There, then, is the seat of our Government—in the hearts of the people, and it is a mistake to call this Capitol the seat of our government. Far from it, sir; the seat of our Government is in the hearts of our people. It is in their breath. They breathed it into existence, and they may, and have a right to maintain it in the form which they have prescribed—free, without restraint.

It does not behoove us then, who are the representatives of the States and the people, to do anything which shall veil our conduct in the slightest degree from the open inspection of our constituents. It does not become us, upon whose conduct, let me tell you, sir, public liberty depends, to attempt to shut out the people from the watchful observation of the actions and deliberations of those whom they have selected to do their bidding; for the right of suffrage in the people would not be worth a farthing to them if, after they had exercised that right, they lost all control over the agent whom they had appointed. In that case, the choice of their representatives would amount to the delegation of absolute authority. As it is, although the form of power passes out of the constituent to the representative, through the action of the ballot-box, yet, by having open communication between the two, by bringing the actor, who is the representative, directly in front of the men in whose name he acts, and holding him there while he acts, the constituents secure the just exposition of their wishes. That is the constitution which insures the purity of legislation and the stability of our Government.

I am, then, in favor, not only of giving to the public press this privilege, if privilege it can be called; or, in other words, of repealing a tax of four hundred and thirty-one thousand dollars, which is now imposed upon the privilege of reading; I am not only in favor of that, but in favor of any other proposition that any man will make that will bring the people more directly home to this Government. Sir, with all the light we now have, we are not at home. Why, sir, with all these vast means of communication between the people and their representatives, what do we behold here from year to year? I will tell what we behold. We see schemes put through the two Houses of Congress, year in and year out, solely owing to the importunities, solicitations, and felicitations of a few thousand men in this capital, who can obtain an act of legislation that the whole farming population of this Republic cannot obtain. I will give you an illustration, for I am now dealing in facts, and I shall use it in connection with this subject, because it connects itself with it. This is not only the case in regard to this class of subjects, but in regard to every subject involved in the money actions of this Government, whether in collecting money or in disbursing it.

The measure which I am now advocating has been opposed upon the ground of expense. Now, sir, I wish to go into this matter of expense in connection with this subject, and I shall introduce my illustration here. I have said that because we had the exclusive power, it was made our duty to establish post offices and post roads, and we have acted upon that construction. The United States never would have established one post office or one mail route, had it not been the duty of the United States to do it; because the argument would have arisen immediately, why should the United States carry the letters of men, and not carry their bacon, pork, and flour? Why should the Government become the common carriers of the letters of the people, and not the common carriers of their flour and pork? That would have been the argument. But the Constitution now cuts that argument through. The Constitution has made it the duty of the Government to carry these letters, to establish post offices and post routes. But there is one thing that the Constitution has not made it our duty to do, and that is to establish mail routes beyond the United States, and therefore beyond its Constitution. That they have not authorized us to do. We are under no more constitutional obligation to carry the letters of the merchants of New York to Havre, in France, than we are to carry their corn, pork, bacon, and articles of manufacture. Not a bit; and yet what have we done? We not only had no constitutional obligation upon us to establish ocean mail routes and put up post offices in the limit of far-off and independent countries, but we had no right to do. I hold each one of those acts by which mail routes were established between the United States and any foreign Power as being a direct violation of the Constitution of the Republic and the spirit of this Government. There are many arguments in support of that proposition which it will not be in my way to notice at present; another time will be more propitious. But, sir, I will notice the fact, that notwithstanding the absence of all constitutional obligation, and, as I maintain, all constitutional right, to carry the merchants' letters to Liverpool any more than to carry their flour, yet, notwithstanding all this, sir, in a time of heavy taxes—aye, sir, in a time of war, in a time of money-borrowing, at a time when we were withholding appropriations for objects which we believed required them, because we thought that there were other objects that required them more—at that very time, what were we doing? Why, sir, we were paying out large sums for these ocean mail steamers. We commenced this system of carrying merchants' letters in 1845. It is now 1849. It is four years, then, since we commenced.

Mr. NILES, (in his seat.) It is not yet four years since that system went into operation.

Mr. ALLEN. Perhaps it is not full four years, but it is over three, at all events. It is four years since the act was passed.

Well, sir, we have now one contract for carrying the mail between New York and Bremen, with a discretion on the part of the carrier to stop at Havre, where there is nothing between heaven and earth to carry but letters, and probably a few leading city newspapers. On this route, between its points of termination, there is no intervening population of a million strong—nothing but a barren waste of intervening waters. What do we pay for carrying these few letters? We are to pay four hundred thousand dollars per annum for this contract—an amount equal in itself to all the diminution of the revenue which will be effected by the proposition now upon the table of the Senate. I said the other day that I could demonstrate, if demonstration is a word applicable to moral reasoning, that we could extend this privilege, that I have shown would reach three millions of people, without losing more money than we pay for carrying a single mail twelve times a year between New York, Havre, and Bremen. That is what I said. But, sir, there was no economy then. There are other contracts of this kind which I will name. As I told you when this question was up before the Senate a few days ago, I intend to bring the local interests of this country in competition with its foreign interests. I will bring the value and importance of the local home post office system in competition with this foreign system. I have shown you that this one mail line, running between two points, costs as much money as this measure will take from the public revenue. The mail running from here to St. Louis scatters its benefits over a thousand points. The mail running between this city and Augusta, in Maine, or Savannah, in Georgia, scatters its benefits all along the road, through a populous country, and to a thousand points, diffusing its blessings as it goes along to millions of people; but here is one mail running across a trackless waste of waters, touching only at one point, except that from which it starts, and we pay for that mail for carrying merchants' letters twelve times a year as much money as we shall lose by diminishing this tax upon reading proposed by the amendment now submitted to the Senate.

But there is more, sir, a great deal more. We have another of these mail lines between New York and Liverpool. Mark you, the other was between New York and Bremen, with the discretion to take in Havre, and this line was to be paid four hundred thousand dollars per annum. The actual expenditure last year was but one hundred thousand dollars, in consequence of the company not having complied with the contract, and not having put on all the steamers agreed upon. Well, sir, this four hundred thousand dollar contract has illustrated, during the past year, and the year before, the force of that great argument which was urged in favor of its passage. When the bill proposing to establish this line was under discussion in the Senate, it was argued that the British steamers were getting all the profits on the transportation of the letters of American citizens between the two countries. It was then stated that the profits on this mail route were enormous, and that if we did not establish this line of steamers, and thus come in for a share of these profits, the British Government would soon realize enough, from the transportation of our letters, to pay off the national debt. Why, sir, gentlemen then talked about the profits expected to arise from the transportation of these letters as many, in the phrensy of their imaginations, now talk about the exhaustless wealth of California. Just give us, said they, this line of steamers, just bring us in competition with the British, and your will see such an amount of revenue as would make the very mouths of Senators water. [Laughter.]

Well, sir, we have had the experience. We have laid out four hundred thousand dollars of our money, and what is the result? The Postmaster General tells us, very modestly, in one little corner of his report—he has put it in a manner which would seem to say, this is intended merely as a parenthesis, and may be omitted without spoiling the sense. That great income has yielded up all its ore, and disgorged all its treasures, and it is all summed up in a very few figures. Sir, when I heard those flaming accounts of anticipated profits that were to be reaped from this enterprise, I thought that we might be able, from this immense overplus of wealth, to construct a canopy over your head, something like that described as shading the head of the great Mogul, which, according to the description, was constructed of solid diamonds. Four pillars supported the canopy, and they were composed of the same material, and and on each corner was perched a large-sized peacock, and they also were made of diamonds. Yet, sir, notwithstanding all these brilliant expectations, the sum total of the immense revenue that we were to derive from carrying these letters comes down to the waistcoat-pocket sum of twenty-nine thousand dollars. Four hundred thousand dollars has been spent, or is to be spent, under this contract, in order to compete with the English, in order to break down the English monopoly in carrying letters, and, by withholding from them that enormous source of revenue, further to embarrass our great ocean enemy. [Laughter.] We have expended four hundred thousand dollars in order to do this—to gratify our love of money and hatred of the British; and in the latter I most cordially participate, so far as the Government is concerned; I do not speak of the people. In order to do this we have made this expenditure; and here are our profits. The profit on four hundred thousand dollars (for, although only one hundred thousand dollars have been paid, the remainder must be paid) is twenty-nine thousand dollars and a fraction. Every person opposed to the bill at the time predicted that this would be the case. We said it would be a bankrupt system, yet the Senate voted for it; and now here we are paying this enormous sum to maintain this line of ocean mail-steamers, although our post office system was

started upon the principle that the department should pay for itself; for, notwithstanding the fact that the Constitution imposes upon the Government the duty to establish post offices and post routes, still we said, with our usual spirit of parsimony, that the department must pay for itself, and we acted upon that idea until the jobbers came about. As long, sir, as we were serving the people and acting according to the behests of the people, we acted upon that idea; but when we went beyond our constitutional obligations and entered into a business on which we had no right to enter, when we entered upon this business of establishing ocean mail routes, then we abandoned the idea of making the Post Office Department pay its own expenses. If we had not abandoned this idea, what would have been our condition in relation to this ocean mail route? Here is a line that runs over nothing but a wilderness of waters; carries no mail to any intervening points, merely carries the letters of a few merchants from one point to another, and we pay this line four hundred thousand dollars, and in return we receive from the line the paltry sum of twenty-nine thousand dollars.

But, sir, in the very same year that we established this line, we knocked down two hundred and ninety post offices from among the people. We knocked them down, and for what, sir? Because the revenue arising from these two hundred and ninety post offices did not pay for keeping them up, therefore down they went. They were not in England, nor in Bremen, nor in Havre, but they were among the people, and, while we were putting up these European post offices and establishing our ocean mail routes, where the expense quadruples five times over the income, we were knocking down the post offices where we were constitutionally bound to keep them up, because they did not pay for themselves. Because the people of Iowa and Wisconsin, where the country was not thickly settled, did not write letters enough and take a sufficient number of newspapers to keep up post offices within a distance of ten miles from them, therefore the inhabitants of those parts of the country must travel thirty miles to deposite a letter in the post office; and, if these people complain, they are told, your post offices do not pay for themselves, and, therefore, we must down with them. But it is not so, sir, when the polished and moneyed gentlemen, who visit this city about the opening of a session of Congress, and take quarters at the magnificent hotels, and get jobs from the servants of the people—these gentlemen, who spend the vacations of Congress in planning and plotting, and in employing all the resources of finesse and mathematics to determine the shortest means and most infallible manner by which they can enrich themselves out of the public treasury, and that in a single session—when these gentlemen swarm about the Capitol, and take up their abodes, as I have said before, in the magnificent hotels, and have their papers sent in proposing to carry the mail between New York and Liverpool and have spent three or four months in billing and cooing with the members; in flattering this man and that—"if I can only get your support, such is your influence with the Senate and the country, my bill will be sure to go;" and telling another man, "such is your influence, my dear sir, that if you oppose my bill, your very name will crush it, for your name stands as a natural antagonist to corruption of every kind," and end with a gentle request "that if he cannot vote for it, just to step out of the way whenever it comes up, and so not throw his influence against it;" after all this billing and cooing, and flattering, in which a dozen or twenty accomplished gentlemen are engaged around our lobbies, from the commencement to the termination of every session; after all these appliances, that are visible, have exerted their influence, the bill, whatever it may be, is passed; and we have found that it is far more easy to pass a bill under that kind of influence than to pass it under the influence of the whole public mind of the country besides. Yes, sir, these lobby-men, these undertakers, these jobbers, these polished financiers, whose ardent patriotism prompts them to come here and suggest these gigantic schemes every year—they, I say, and I dare say it, exert more influence upon the money actions of this Government than a million of farmers at home, at work upon their farms. An influence can be obtained in that way which all the petitions and all the memorials of all the farmers in America could not stir in the two Houses of Congress. Such is the great difference between a remote request and present personal importunity.

Hence it is, that though we started out upon the principle that we were bound to keep up post offices and post roads, and make the people in their vicinity pay the expense, yet, when we come to giving out jobs for contracts for ocean postage, we abandon the idea of making the system pay for itself, and prefer here, as we have done within the last three years, to make contracts to the amount of one million three hundred and thirty-four thousand dollars. Why, sir, as I will show from another document, the whole of the contracts for the transportation of the mails of the United States between sixteen thousand post offices, over forty-one thousand miles per annum, in steamboats, railroads, coaches, and on horseback, amount to about two millions and a third; but here is this external transportation got up, like a fungus growing upon a sound body, got up within four years, given out in jobs to individuals for whom we had no right to legislate, and quite alien to our people; this external transportation has run up in four years to more than half the expense of the internal transportation. Yet, when we ask, in behalf of three millions of people, that you would diminish your taxes to the extent of four hundred thousand dollars per annum on the privilege of reading, that you would encourage the intelligence of the country, and open the channels of communication still wider between the people with each other, and between the people and the Government, the money idea instantly starts: "We cannot do it," you answer. Why can you not do it? Because there is somebody behind the bar who wants just that sum to carry the mail to Liverpool. Yes, sir, so anxious were we to give out this job to the New York and Liverpool mail man for three hundred and ninety-five thousand dollars per annum, that we gave to the Secretary of the Navy, who, of course, is well skilled in these matters—for he has grown pale in ciphering up and calculating the financial aspect of these contracts; he has grown ghastly pale in studying over these matters—the power to enter into this contract for that sum, for carrying the mail between New York and Liverpool.

A contract was also entered into by the same officer with certain individuals to carry the mail from New York to New Orleans, in mail steamers, for which $290,000 *per annum* was to be given. After the Secretary of the Navy has committed the Government to the extent of $290,000 *per annum*, the Postmaster General comes forward and tells us that that will not do; that the mail can be carried much more expeditiously, safely, and surely in the old way, by railroad across the country. But we never stop to examine matters very carefully when a job is wanted by any of these lobby men to whom I have referred. A job was wanted when this contract was entered into, and the matter could not be delayed. It was not a question between us and the people, which we could argue a twelvemonth about, but it was between us and the gentleman behind the bar; and he informed us that he could not wait, and so we told him to take the money, and after he had got the money, the Postmaster General comes out and says that it is all a mistake; that we do not want that line; that he can carry the mail much quicker, and much more safely, in the old way. But the job is out, and I believe it is one that has been assigned. Why, sir, some of these jobs were rendered negotiable, and the probability is that they will before long attain the character of a circulating medium. An individual may get a contract to carry the mail, worth four or five hundred thousand dollars, and then go into the great money streets in New York and hawk it about for sale. Here have been five contracts entered into for carrying our mails in steamships, and I believe that two or three contracts out of the five have been assigned. One was obtained by a gentleman living in Cincinnati, I believe, whose name is Sloo, who has assigned his contract. Another was obtained by a gentleman of the name of Harris, to carry the mail to Panama, I believe, and he, too, has assigned his contract.

Mr. NILES, (in his seat.) All the contracts have been assigned to Mr. Collins.

Mr. ALLEN. They have all been assigned, so that it is a mere matter of speculation to get these negotiable contracts through Congress, and contracts have been entered into in four years to the amount of $1,334,000 *per annum*.

Mr. President, in this state of things, I think I have said enough to make the local presses of this country, and the city presses likewise, if they mean to assert the rights of the people as well as their own, put their members of Congress upon the alert, and make them curtail and retrench these external expenses, in order to enable us to curtail the internal expenses. If they want a free circulation, they must take hold of the subject. Two thousand newspapers, lifting up their voices to three millions of men in this country, will make themselves heard; if not so soon as those polished gentlemen behind our bars, they will still make themselves heard, and heard to some purpose too; for to every day there is a hereafter, and the member of Congress who will vote against the proposition I now make, and then turn round and vote to keep up these contracts, that member, whoever he may be, will have to answer for his conduct at the great tribunal of the people. You vote to keep this heavy tax upon intelligence and upon the privilege of reading, and then you vote to squander our money to carry a few letters for the richest of our citizens—the great moneyed men of New York—who are better able to pay for any services required than any other portion of the community, and who, if this system of jobbing had not been entered into, would have cheerfully paid for the ransportation of their letters.

I will say, as an act of justice to that body of wealthy, patriotic, and public-spirited men, the merchants of New York, and I might include the merchants of our other Atlantic cities, that I never heard any complaint from them because they had to pay for the transportation of their letters across the Atlantic. They would as soon have thought of calling upon the Government to contribute to defray the expenses attendant upon the transportation of their merchandise as the postage upon their letters. The merchants of New York would have scorned the baseness of such a job. It was incepted, matured, and accomplished by the jobbers. It was found that the Government and the jobbers had a mutual interest in connecting the Post Office and Naval Departments. Either the Government wanted an excuse to augment the navy in a time of peace, in order to find cradles for the newborn nobility, or the jobbers wanted to connect the mail system with the defensive system, in order to get enormous jobs, and to make fortunes out of them. This is the corrupting feature of that Government which I consider by far the most odious in the world. The high aristocracy who wield the political power have also an interest coincident with the stock-jobbers, and therefore these two classes, the high aristocratic and the stock-jobbing money power, have always united.

Very well. A contract was wanted in New York, but the jobbers knew that it would not do to ask Mr. Mason to recommend that our navy should be increased; because our naval expenditures have already run up within the last fourteen years from four millions to nine millions of dollars *per annum*, and that without ever firing a gun, except where there was the least occasion to fire one—at the battle of Vera Cruz. We have doubled our expenditures in that department, and they knew that it would not do to ask for anything more in that quarter. It would have required too much brass, too much hardihood of feature, to come here and request the Government of the United States to make any additions to that branch of the service. Under such circumstances, they applied first to the Postmaster General, who favored their scheme to a certain extent. A law was passed, and he made one contract, and there stopped. The idea of the Postmaster General was, to hold some little communication with the populous countries of the Old World, from which many of our citizens had derived their origin. He established one line, and then said, "I am done." At the next session Congress repealed the act; but, sir, it was like the original sin. The first fall had left its bruise, which continued to spread, although Congress repealed the act, and by the repeal denounced the system, and determined to put an end to it. I opposed the system when it was first started, and it met with opposition from other quarters; and Congress repealed the first law for the express purpose of preventing it from growing into a system. But what signified the intention of Congress? What signified the

opposition of the Postmaster General? Nothing whatever. When the Postmaster General declared himself in opposition to the scheme, the job was thrown out of the Post Office Department by its originators. They simply changed the venue. They went to the Navy Department, and they made the Secretary of the Navy believe that the post office system and the navy might be united upon the English plan. We have no newborn nobles here, sir; but we have a great many newborn millionaires, a great many young gentlemen who wish to live without labor; and it would be for them the most convenient thing in the world if they could create a partnership between the Government and the stock-jobbers, by getting an act passed authorizing the Secretary of the Navy to contract for carrying the mail, and leave the Postmaster General to stand off and look on. Well, sir, it took that chute, and then the whole flood opened, and then this thing which we struck at to prevent its becoming a system, starts up into a system in another place in the public service, and the nation is made to believe that their salvation depended upon the agency of the stock-jobbers in New York.

Before that, we had heard that the navy was the great arm of the public defence. But all at once it was found out, that unless the Government employed these men to build vessels of a certain kind to carry the mails, and entered into arrangements with them, by which these vessels could be converted, in case of emergency, into ships of war, we could not expect to cope with our enemies at sea. It was necessary to enter into some arrangement with these jobbers, by which these vessels, after carrying cargoes of flour and merchandise of all kinds for twenty years, until they had gone into decay, could be brought into the service of the navy; so that when, some fifteen or twenty years hence, it may be convenient for us to stretch our little arm over to Canada, and her Majesty Victoria the First shall send her fleet around here to protect her possessions, in such an event we may be able to drive our enemies from our waters; and we have gone to the expense of $1,334,000 per annum for fear such a contingency may arise. We have gone to this expense to do that which we have no constitutional power to do—to establish mail routes the world over, making discriminations between the ports of the United States, in express opposition to the Constitution. But what is the Constitution, when jobs are wanted? That will do as a barrier when appropriations are wanted for the benefit of the people, but not when jobs are wanted as a matter of gentility between officers of the Government and gentlemen behind the bar. Then, sir, no Constitution is known. Some time or other, this thing will be changed. [Several Senators here intimated to Mr. ALLEN that it was time to adjourn.] But, Mr. President, I fear I have detained the Senate too long already. I had no idea that I had been speaking for such a length of time. Though I have something more to say, I will not detain the Senate longer at this time, but I will reserve what further I have to say for one of these jobs that are behind the bar. [See Appendix.]

Mr. NILES. Mr. President, I will detain the Senate but for a few moments, as it is so late, but I think it better that this matter should be closed up now.

Mr. DAYTON. If the Senator from Connecticut will give way, I will move an adjournment.

Mr. NILES. I have but a few words to say, and I think they had better be said now. I have listened with great interest to the remarks of my friend from Ohio. I must say, however, that his arguments reminded me of an anecdote told of a certain lawyer, who was in the habit of making very long and very able arguments, like those of my friend. On a certain occasion the judge told him that, inasmuch as the time was precious, he hoped he would condense his arguments and be as brief as possible in his remarks. The lawyer said certainly he would be very brief. He then began to address the court as follows: "May it please your honor, before the foundation of the world there was a chaos, and I propose to trace down events from that time till now, to illustrate my case, and then I shall begin it."

My friend did not go so far back as that, but he went back to ancient Greece and Rome, and pursued the thread of human events from that time to the formation of our Government to illustrate his case, and then started out on the platform of the Constitution to adduce arguments from that high platform to establish the propriety of circulating newspapers within thirty miles of the office of publication free of postage. His arguments have been pretty strong and pretty direct, and probably have carried conviction to the minds of Senators. If they have not, it is no fault of my friend. I am not going to follow his arguments in detail, but will reply to him in very few words.

In the first place, he says we are spending a great deal of money for private individuals, and therefore ought to carry the newspapers within certain distances free of postage. I do not think that includes the matter at issue. I am greatly surprised that my friend should object to these lines of mail steamers, for I think that I can demonstrate, that of all men in the Senate he is preëminently responsible for this whole legislation. It has all originated from his views and arguments in this body. The gentleman views them as a part of the mail service. They are intended to compose a part of the naval force of the country. They were established with that view. They belong to the Navy Department. They were built in pursuance of a policy dictated by the war feeling. And who, I ask, has done most to get up this spirit of war in this country? Who has talked loudest about humbling the pride of our old enemy—England—and on her own element, too? Why, sir, a few years ago my friend made a speech two days in length, and it was an able speech too, and I listened to it with much attention, as I have to his speech to-day. It was upon the Oregon resolutions, and the great weight and object of his speech were to prove that we could crush England as easily as my friend could crush General Tom Thumb; that nothing could be easier; and that England would not dare to enter into a controversy with the United States single-handed. The gentleman undoubtedly produced a deep impression at that time upon the Senate and upon the country, and he told us that it was our first and highest duty to prepare the hearts of the people for war; and out of that preparation have come these lines of mail steamers. We have been following up the doctrine and views of my friend, [laughter,] and have established these lines for mail and naval purposes. And now, he says that this is the business of jobbers. Jobbers! I hope there are no jobbers in the Senate. [Renewed laughter.] I hope there was no jobbing in this thing of preparing the hearts of the people for war. Jobs will grow out of wars, as they will out of all the operations of Government.

But it was a great and glorious and patriotic purpose to carry out and fulfill the high destiny of this Republic, to annoy England, and to crush her upon her own element, [laughter]; and to do this, we have established these lines of steamers: fifteen, I believe, in all, have been built, but more are necessary for the great work marked out by the Senator from Ohio. More lines must be established in order to prepare the hearts of the people for war. But we have made a very handsome beginning, and now my friend turns round and says that this is the work of jobbers. I think my friend is not well posted up on this matter. Jobbers had nothing to do with the passage of this law. The law was passed here in 1845, authorizing this mode of increasing our navy. My friend was here, and had he been opposed to the bill then, as he is now, we ought to have heard from him in opposition to it.

Mr. ALLEN. You did hear from me. The records will show that I struck this thing in its very inception, and denounced it as a violation of the Constitution in two respects. I will not go into this matter now. My speech, on that occasion, is recorded, and if Senators will take the trouble to examine the record they will see that my voice was then raised against this scheme.

Mr. NILES. I think my friend alludes to another act—the act subsequent to that of 1845. I think the act of 1845 met with no opposition.

Mr. ALLEN. I referred to the job-act. I opposed the job.

Mr. NILES. When the job came, my friend opposed it; but when the bill was before the Senate, it received no opposition from any quarter. There were no jobbers here. The Postmaster General asked for propositions. He received several, and submitted the contracts to us for our concurrence.

Mr. ALLEN, (in his seat.) I opposed every one of them from beginning to end.

Mr. NILES. These contracts have been introduced into appropriation bills, and received the sanction of both Houses of Congress. They have been considered as connected with the interests of the Government in many respects; especially with the naval and commercial interests. I will not go further into this subject now, but I must say that I shall hold my friend from Ohio responsible for the establishment of the lines of mail steamers. He has thought proper to sneer at the small amount of revenue derived from these steamers. I admit that it has been very inconsiderable. But I would ask how much revenue has been derived from the four public steamers that the gentleman from Ohio proposed to have built, and which were built? I think the revenue yielded by them has been rather meagre too.

In respect to the argument of my friend, that this Government is bound to provide post offices and post roads to carry letters for the people, and that, inasmuch as we must send the mails over the roads, we may just as well carry newspapers along as not, I will say, in the first place, that I do not know that the Government is under any obligation to maintain the postage system at all unless the public interests require it. Because a power is conferred, is it necessary to exercise it? The bankrupt power is conferred, but it is seldom necessary to exercise it. We are not obliged to incur any expense unless the public interest demands it. If, as the Senator says, we may carry papers free of charge, we may, on the same grounds, carry letters also free. Indeed, the argument in favor of carrying letters free is stronger than that in favor of the newspapers; for the letters transported in the mails constitute only ten per cent. of their whole weight If there is any obligation in the case it must go to the benefit of the public generally, and if there is any exercise of power it must be independent of the citizens benefited by it, or else upon the principle that those who contribute to defray the expense attendant upon its exercise are entitled to the benefits resulting from it; and in either case the principle applies to letters as well as newspapers.

The gentleman is mistaken altogether in his conclusions, if he is right in his premises. He says that we must keep up these mail lines for carrying letters, and that, inasmuch as the mails must be sent over the routes, it will cost nothing to send the papers. This is not true. The newspapers constitute the great bulk of the mail; and although the same post offices and post routes would be kept up, and the same contractors retained, still it is quite probable that one-half of the expense would be saved if we should cease to carry the newspapers.

Some years ago it was found by actual experiment, our large post offices having weighed all the matter passing through them for a given time, that the printed matter amounted to ninety per cent. of the whole mail. Does it cost nothing to carry ninety per cent. of the whole mail? I would like to have the gentleman from Ohio tell me, if it costs nothing to carry ninety per cent. of the whole mail on the printed matter, how much it will cost to carry ten per cent. of the whole mail on the letters? The Assistant Postmaster General has told us, in his late report, that the department sustains a loss in the carriage of newspapers—that the expense exceeds the revenue thirty-three and a third per cent. I think his estimate is low. It is my opinion that we get less than two-thirds of the expense on newspapers.

My friend has another argument. He says four hundred thousand dollars will be about the amount lost to the Post Office Department, by allowing these papers to circulate free of charge. I think that is too high an estimate. It may be two hundred thousand dollars—it may be more; for a line covering a circuit of sixty miles from every newspaper office would cover the whole United States several times over. The Senator says that, by suffering these papers to go free, and giving up this portion of the revenue, we render a great service to the public without injuring or taxing anybody; and that this advantage is gained by the community, although it is not lost by the Government. If this argument is a good one, it might be made applicable to the whole post office system, and we might carry all the newspapers and letters without any charge whatever, and thus render a still greater service to the country, although it

would involve a loss of four millions of revenue to the Government! But the Senator says, what is lost to the Government is gained by the people. Let me ask him, how is the department to sustain itself on this principle? Does not the Senator see that if the department cannot sustain itself, it must be sustained by the Government, and sustained by taxing the people in some other form? If this four hundred thousand dollars be taken from the treasury, it must be met, and who is to pay it? We all contribute to pay it, according to our principle of taxation, and without reference at all to any benefit we may have received from it individually; and according to this principle you will, in the event of taking this four hundred thousand dollars from the treasury, supply one man with a newspaper at the expense of another. I think this is sufficient to show the injustice of this proposition. I will not go further into the discussion of this subject.

I will say, however, that the expenses of the Post Office Department must be defrayed, and if they are not defrayed from its own revenue, they must be defrayed from the treasury; and if you take off three or four hundred thousand dollars from its revenue, it will, of course, throw that amount on the treasury, to be paid by the whole people of the United States, and that without any reference to the consideration whether the people have received any benefit from it or not.

Mr. NILES here gave way without finishing, at the suggestion of Mr. DICKINSON, to a motion for adjournment.

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 24, 1849.

The Journal of yesterday was read and approved.

Mr. NICOLL asked the unanimous consent of the House to allow him to offer the following resolution; which, being objected to, was not received:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be, and he is hereby, authorized to deliver to the Free Academy of the city of New York copies of all such public documents as are now authorized by law to be distributed among the universities and colleges of the United States.

At the suggestion of Mr. THOMPSON, of Pennsylvania, by general consent, the House proceeded to take up and refer the business, &c., on the Speaker's table.

The SPEAKER laid before the House sundry communications, viz:

I. A letter from the Secretary of the Treasury, transmitting a report made by the Hon. Thomas O. Edwards, (who was appointed for the service by the Secretary of the Treasury,) of the results of an examination, extending through a period of five weeks, made by him at the ports of Boston, New York, Philadelphia, and Baltimore, into the practical operation and effect of the act passed at the last session of Congress for the prevention of the importation of spurious and adulterated drugs and medicines; which letter and report were laid upon the table, and ordered to be printed.

On motion of Mr. KING, of Massachusetts,

Ordered, That the Committee on Printing be directed to inquire into the expediency of printing an extra number of copies of said report, &c.

II. A letter from the Secretary of War, transmitting, in compliance with the acts of April 21st, 1808, and March 3d, 1809, statements showing what contracts have been made by the War Department during the year 1848; which letter and statements were laid upon the table, and ordered to be printed.

The SPEAKER presented a communication from the Mayor of the city of Brooklyn, in the State of New York, inclosing a preamble and resolution of the Common Council of said city, in relation to the establishment of a branch mint at that place; which communication and preamble and resolution were laid upon the table, and ordered to be printed.

Mr. FEATHERSTON asked leave to introduce a bill to provide for reclaiming the swamp lands of Mississippi.

Mr. GRINNELL objected, and called for the regular order of business—the reception of reports. The committees, he said, had not been called in several days. He, however, waived his objection, at the request of

Mr. FICKLIN, who, by general consent, presented concurrent resolutions of the Legislature of the State of Illinois, instructing their Senators and requesting their Representatives to use their exertions to procure the passage of such laws for the government of the Territories acquired by the United States from Mexico, as shall prohibit "slavery or involuntary servitude in said Territories, otherwise than in the punishment of crimes whereof the party shall have been duly convicted;" which resolutions were laid upon the table, and ordered to be printed.

Mr. EVANS, of Maryland, asked leave to introduce a bill, of which previous notice had been given.

Mr. GRINNELL renewed his objection, and his call for the regular order of business.

The SPEAKER announced, as the business first in order, the motion made on the 17th instant by Mr. STUART, of Michigan, to commit to the Committee of the Whole the bill for the relief of Robert Roberts, and the amendment reported thereto by the Committee on Claims, under instructions of the House of January 23, 1848.

The question was stated on the said motion, and being put, it was agreed to.

Mr. ROCKWELL, of Connecticut, from the Committee on Claims, to whom was referred the petition of S. T. Nicoll & Co., of New York, reported a bill for the relief of Solomon T. Nicoll and James Clinch, of the city of New York, accompanied by a report in writing; which bill was read twice, committed to the Committee of the Whole House, made the order of the day for to-morrow, and the bill and report ordered to be printed.

On motion of Mr. ROCKWELL, of Connecticut, from the Committee on Claims, to which was referred the memorial of citizens of Crawford county, Illinois, in behalf of Delilah Pearson, the said committee were discharged from the consideration thereof, and the said memorial laid upon the table.

Mr. THOMAS, from the same committee, to which was referred the petition of Polly Carver, executrix of Nathan Carver, made a report thereon, accompanied by a bill for her relief; which was committed to a committee of the Whole House, and made the order of the day for to-morrow, and the said bill and report were ordered to be printed.

On motion of Mr. THOMAS, from the same committee, to which was referred the petition of Edward L. Poor and Richards & Van Wart, the said committee were discharged from the consideration thereof, and the said petitions were laid upon the table.

Mr. DANIEL, from the Committee on Claims, to which was referred the petition of Peter A. Carnes, made an adverse report thereon; which was laid upon the table, and ordered to be printed.

Mr. NELSON, from the same committee, to which was referred the petitions of Sayles J. Bowen and Washington S. Beber, made reports thereon, accompanied by a bill for the relief of Sayles J. Bowen, and a bill for the relief of the legal representatives of Washington S. Beber; which said bills were committed to a Committee of the Whole House, and made the order of the day for to-morrow, and the bills and reports ordered to be printed.

Mr. FLOURNOY, from the same committee, to whom was referred the petition of William B. Crews, made a report thereon, accompanied by a bill for his relief; which was read twice, committed to a Committee of the Whole House, made the order of the day for to-morrow, and the bill and report ordered to be printed.

Mr. FLOURNOY also, from the same committee, to whom was referred the petition of Major E. H. Fitzgerald, United States army, made a report thereon, accompanied by a bill for his relief; which was read twice, committed to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

On motion of Mr. CROWELL, it was

Ordered, That the Committee on Claims be discharged from the further consideration of the petition of Samuel Reed; and that said petition be referred to the Committee on Private Land Claims.

Mr. CROWELL, from the same committee, to whom was referred the petitions of Lieutenant Colonel R. E. De Russy and J. R. Callahan and others, made adverse reports thereon; which were laid on the table, and ordered to be printed.

On motion of Mr. HUNT, it was

Ordered, That the Committee on Commerce be discharged from the further consideration of the petition of citizens of Eastport, Maine, for additional appropriations for building a custom-house at that place; and that the said petition be laid upon the table.

REVENUE LAWS OF CALIFORNIA.

Mr. HUNT, from the Committee on Commerce, reported a bill to extend the revenue laws of the United States over the Territory and waters of Upper California, and to create a collection district therein; which bill was read twice.

Mr. HUNT said he was instructed by the Committee on Commerce to move that the bill be engrossed and put upon its passage at this time. A brief reference to the present condition of our commercial interests in California would, he thought, convince the House of the importance of extending our revenue laws over that country at the present session. Till within a recent period, duties on foreign imports have been collected by our officers there, under the military orders issued by the President during the progress of the war. The system of military collections had been continued for some months after the ratification of the treaty of peace. This course of proceeding was so obviously unauthorized, the Secretary of the Treasury thought it his duty to issue a circular letter to officers of the customs, on the 24th of October last, stating that California "is not brought by law within the limits of any collection district, nor has Congress authorized the appointment of any officers to collect the revenue," &c. Under these circumstances, the Secretary states that "the department is unable to collect the duties accruing on importations from foreign countries into California." This treasury circular has been sent by the War Department to our officers in California, with instructions to discontinue the collection of duties. It is presumed that the new orders have been received there before the present time, and that all foreign imports are now admitted free of duty. As the case stands, no revenue can be collected until Congress shall have legislated on the subject. Duties cannot, and ought not to be exacted without some legal authority. But the present state of things ought not to be continued. It will be recollected that so much of the President's message as relates to the extension of our revenue laws over California was referred to the Committee on Commerce. After considering the subject, the committee are of opinion that the public interests demand prompt legislation to protect our commerce in that quarter. They had instructed him to report the present bill to extend our revenue laws over California, and provide for the appointment of officers for that purpose.

It was believed that Congress might legislate to this extent without raising any of the questions which embarrass and may defeat the passage of a bill to organize a territorial government. It was not necessary for him to express an opinion of the probability of passing a territorial bill at the present session. All will admit that it is very doubtful, if not improbable. It is enough that there may be a delay of one or two years or more in the settlement of that question. While this question is in suspense, strong considerations may be urged in favor of enforcing the revenue laws. The interests of the treasury require it. The protection of our commercial interests require it. Justice to our own merchants demands at least that they should be placed on as favorable a footing as the foreign importer. The American merchant who makes a shipment from New York or other Atlantic ports is subject to the payment of duty on that portion of his cargo consisting of foreign goods. A most unjust advantage will be given to the British or other foreign importer so long as he is permitted to enter his goods duty free. Justice to our own citizens, the protection of our commercial interests, the protection of the revenue, call for prompt action. From this view of the subject, the committee had adopted the present bill, and instructed him to ask that it may receive early and favorable consideration. It will be perceived, that the bill is confined to the single subject of revenue, and leaves all other questions untouched. It extends the revenue laws over California, erects the Territory into a collection district, creates a port of entry at San Francisco, and authorizes the appointment of a collector there. It declares Monterey, San Diego, and the head of the California Gulf, ports of delivery, and provides for deputy

collectors to enforce the law at those points. The Secretary of the Treasury had recommended a division of the territory into three collection districts, but the committee deemed it preferable, until more perfect information shall be obtained, to create a single port of entry, with ports of delivery at convenient points. The bill was intended as a temporay measure, to guard the revenue and protect the American merchant until a more perfect system shall be devised. After a territorial government shall have been established, further and more complete legislation will be required, adapted to the progress and condition of the country.

Mr. PETTIT inquired by what means the revenue law will be enforced in case of controversy?

Mr. HUNT replied. The fourth section of the bill provides that the district court of Louisiana and the supreme court of Oregon, shall have jurisdiction of all cases arising under the revenue law in California, until further provision is made by law. It may be said this is a difficult and inconvenient remedy. He admitted it. But it is necessary that jurisdiction should exist somewhere, and, until courts are created in California, the courts of Louisiana and Oregon seem to present the only alternative. It is a sufficient answer to all objections on the ground of inconvenience, that the present bill is intended as a temporary measure, to continue till the subject can be regulated by final legislation. We propose only to protect our public interests for the time being.

It will be observed, that the last section provides that the bill shall take effect on the 10th of March next. This section had been added by the unanimous direction of the committee. They have taken it for granted that it will be more satisfactory to the House, if not more agreeable to the present Executive, to commit the new Territories, and all questions affecting their regulation, to the in-coming Administration. It is impossible that the present Administration shall carry any territorial measure into effect during the short remainder of its term. Congress may legislate, but it will be impossible to appoint officers and introduce a system of laws into California before the 4th of March. The whole subject of territorial regulation and policy must pass over to the next Administration. Such were the views of the committee, and it was for the House to exercise its pleasure. He hoped the bill might, by general consent, be taken up and acted on without delay. Our commerce with California has assumed a new and unexpected degree of importance. The discovery of mineral treasures has given a new impetus to trade and emigration, and interests are arising in that quarter which deserve the favorable care and attention of the Government.

Mr. H. moved that the bill be engrossed, and ordered to a third reading.

Mr. PETTIT said he had not risen to discuss this bill to any extent, but only to suggest that if the operation of this bill were to be put off until the 10th March next, there could certainly be no great necessity for hurrying it through the House without reference or printing.

He moved the reference of the bill to the Committee of the Whole on the state of the Union, and that it be printed.

Mr. McCLELLAND suggested to the gentleman from New York [Mr. HUNT] the propriety of letting this bill lie over on the Speaker's table, and be printed. It was a bill of great importance, as the gentleman from New York had remarked; but it struck him that it contained some objectionable features. It was a bill of very great importance, and a bill connected with other subjects which were before the House for consideration. It struck him that the bill ought not to be passed hastily by the House; and that it would be well to consider this in connection with all other bills which have relation to the Territory of California. He was not for acting upon one of these bills without reference to the other bills that ought to be passed in regard to that Territory. He thought they ought to pass them all at this session; but to pass one and not others—and such a bill as this, without consideration of its merits—he was entirely opposed to it. He therefore suggested to the gentleman from New York to defer action upon the bill; to let it lie over upon the Speaker's table, and let it be printed, so as to give every gentleman the opportunity to examine it for himself. Otherwise, he (Mr. McC.) should vote for the motion of the gentleman from Indiana to refer it to the Committee of the Whole on the state of the Union.

Mr. VINTON inquired whether, if the House were now to resolve itself into Committee of the Whole on the state of the Union, this bill would not be the first subject up when the committees should be again called for reports?

The SPEAKER said, that the bill in that case would go on the Speaker's table, to be taken up in the order of bills on their third reading.

Mr. McCLELLAND suggested to Mr. VINTON to move that the bill be printed.

The SPEAKER said that a motion was pending that the bill be referred to the Commitee of the Whole on the state of the Union, and that it be printed. The suggestion of the gentleman from Michigan [Mr. McCLELLAND] might be carried out by a motion that the further consideration of the bill be postponed until to-morrow.

Mr. HUNT said, that if it was desired to examine the provisions of the bill further, he was willing that it should be passed over on the question of engrossment, and that in the mean time it should be printed, with the understanding that it should be taken up and passed on at an early day.

Mr. PETTIT objected to any such understanding.

Mr. HALL, of Missouri, said it appeared to him that the proposition to pass this bill at this time was one of the most extraordinary that had ever been submitted to the consideration of Congress. Congress had refused to give to the people of California the protection of a government; it had refused to give to them the benefit of our laws. Whilst they had left that people unprotected, unprovided for, uncared for, a proposition was introduced here to tax them, in order to bring money into our treasury, whilst they remained without the protection of a government. Was such a proposition ever presented to the American Congress? He had never heard of such a one. He presumed that no gentleman had ever dreamed of extending our revenue laws over Oregon, until a government had been provided for that Territory. No; these people were left to enjoy the benefits of free trade, or of such other laws as they chose to impose, until Congress extended to them the benefits of a territorial government. But now, forsooth, because some of the merchants, some of the manufacturers, some gentlemen from New York or Boston found that probably they might speculate a little in California, if foreign goods were subjected to a high duty, they came in here, and, in violation of all principle, of all right, and of all justice, asked Congress to tax these people, before securing to them those benefits and that protection which it was the duty of Congress to extend to them.

He considered the remark made by the gentleman from New York, [Mr. HUNT,] that the present Administration probably desired that these matters should go over to the next Administration, as exceedingly gratuitous, and exceedingly unfounded in fact. It had been the constant effort of the present Administration to establish a territorial government, not only over California, but over all other territories which required the protection of this Government. At the last session of Congress, a bill for this purpose was introduced and passed the Senate, and would doubtless have passed this House, if gentlemen on the other side had been as eager then to settle the matter as they appeared to be now.

For his own part, he was willing to extend the revenue laws over California, just as he was willing that they should be extended over any other portion of the country. But he was unwilling to do it until a government had been given to the people of that Territory. This was a matter in which not a part only of the people were interested. All were interested in it. Gentlemen, probably, from the commercial parts of the country were interested in having a tariff of duties established in the ports of California. The people from the western country were now pouring forth their tens of thousands of emigrants into that Territory, and were interested in having a territorial government. He represented a portion of the Confederacy from which these people went; and he was unwilling that they should be taxed for the benefit of a portion of the citizens of the Union, whilst the people were left without the protection of those laws which ought to be passed. He was not willing to take away any inducements from the people of the North and East to pass a territorial bill by giving them, for their own benefit, a measure such as that now proposed, and thus, as he feared would be the case, make them indifferent to the establishment of a territorial government. He wished to hold them in their present situation, so that he might have their votes in favor of a territorial bill. He hoped, therefore, that the motion of the gentleman from Indiana [Mr. PETTIT] would prevail, and that the bill would be referred to the Committee of the Whole on the state of the Union.

Mr. BROWN, of Mississippi, said that he hoped the proposition of the gentleman from New York [Mr. HUNT] would be adopted. He concurred in the opinion which had been expressed, that territorial governments should be established over New Mexico and California. He participated to the fullest extent in the opinion which other gentlemen entertained on that point. He felt the necessity of legislation of that kind; but that man must be blind to the signs of the times here who thought that anything of the sort was to be accomplished during the remnant of the present session. He did not think that there were a dozen members on this floor who calculated that any territorial bill could be passed which would become a law in relation to either of these territories.

If this could not be done, what was the next duty of this House? Certainly, in his opinion, it was to protect the revenue of the Government. Was Congress to adjourn, and permit the people from all parts of the world to introduce merchandize into the territories of the United States without paying anything into the national treasury? Was Congress to give to foreigners advantages over our own citizens in our own territories? Was a cargo from the port of New York, which had once paid duties, to go to the ports of California, and compete at a disadvantage with a cargo from Liverpool, or any foreign port, which had not paid duty? Was this what gentlemen called justice either to our own citizens or to the Government of the United States? Let not gentlemen tell us that the Government was in debt, and yet refuse to legislate on a subject of this sort, whereby the revenue of the Government might be increased.

The reason which the gentleman from Missouri [Mr. HALL] had assigned for his opposition to this bill, that he would not destroy some of the inducements to pass the territorial bill, might have plausibility, but it had no force in it. Weigh the advantages and the disadvantages of the argument. Let this measure of revenue be postponed for two or three sessions. During that time we were to receive no revenue. In the mean time, the population of the country would be increasing with great rapidity, thereby increasing the necessity for importation. How much revenue would thus be lost to the Government? And what disadvantages would result to the people of the United States? It seemed to him that if the advantages and the disadvantages of this course were weighed against each other, gentlemen could not be long in deciding on which side the preponderance would be. He was in favor of legislating to-day. The bill might not be perfect: he did not think that it was. There yet remained only something over thirty days of the session. Let the bill go on the calendar, according to the suggestion of the gentleman from Indiana, [Mr. PETTIT,] and that would be the last of it. Refer it to a committee, do anything with it other than what the gentleman from New York [Mr HUNT] suggested, and it would be equivalent to the destruction of the bill.

The remark with which the gentleman from Indiana prefaced his motion showed that he thought that Congress should adjourn without legislation. He (Mr. B.) was not of that opinion. He was in favor of legislating; he was in favor of giving to our own citizens an equal chance with the citizens of foreign countries.

Mr. STEPHENS said, for himself, he was not so anxious, as gentlemen on the other side of the House might suppose, to have territorial governments established in California and New Mexico. One gentleman had said, that gentlemen on this side appeared very anxious for the establishment of these territorial governments. Such was not his feeling. He spoke for himself only. He did not care if there were no territorial governments established there this year, next year, or ever. He did not believe that it ever entered into the brains of the framers of the Constitution of the United

States to authorize Congress to establish such territorial provisional governments at all. For himself, he said he had never yet given a vote recognizing it as the business of this country to establish such governments; and as for these countries, which were not yet paid for, he should not vote one single dollar for such an object. He spoke for himself only.

Before the late treaty with Mexico, Mr. Polk had assumed to establish governments for these Territories, which, by some sort of doctrine of *de facto*, we are told are still in existence. Whether these governments were good ones or not, he did not know; but of one thing he was satisfied: they were made without proper and constitutional authority. The President, however, and his friends, ought not to complain of them. If they are not good ones, he alone is to blame for it; for he had his own way in making them. Nevertheless, if the people of those countries chose to acquiesce in the government thus furnished them, or to make a better it was a matter of their own concern, and not his.

He considered it a matter of very little importance whether the revenue laws of the United States be extended over that country or not. At the same time, he could not see why the free-trade gentlemen should be anxious for the extension of revenue laws. But he did not intend to argue the question at this time. He barely desired to say to the House and the country, that he, for one, felt no anxiety at all about the erection of territorial governments in either of those countries. The President of the United States had told us that he had set up governments there, under the "laws of nations and the rights of war;" and he, for one, was willing to allow them to go on, "under the laws of nations and the rights of war," till they were tired of it, or of themselves should make another more compatible with their liking.

He had considered the whole policy of these conquests not only at war with the principles of our own Constitution, but calculated to endanger the harmony and peace of the union of these States. And he now gave notice that he should not vote for this bill, or any bill countenancing or confirming these conquests, until the vexed question growing out of them should be satisfactorily settled. He should not vote for a dollar to pay for them until such adjustment should be made.

Mr. MORSE next obtained the floor, but gave way for

Mr. HUNT, to say, that as there seemed to be a general desire further to examine the provisions of the bill before it should be acted on, he was willing to propose that it be passed over, upon the question of engrossment, and remain in the order of business on the Speaker's table; and, in the mean time, that the bill be printed.

Mr. MORSE then proceeded. He considered this a novel question, involving a matter of some importance, and that it was right and proper that every bill involving such a novel question should be submitted to the Committee of the Whole on the state of the Union and printed, in order that every member might have opportunity to examine it.

If he recollected aright, one of the questions out of which arose the revolutionary contest of this country was the assumption of the power, on the part of the English Government, to tax the colonies. The English Government paid all the expenses of her own establishments; but, because she refused to these colonies the right of representation, they rebelled. But here, from what he could gather from the reading of the bill, it was proposed, not only not to allow to these Territories the right of representation, but to compel them to bear a part in the support of the Government of this country by taxing their imports.

He desired, however, to express no hostility to the bill, for it evidently involved a question of grave importance. He desired to make one remark in reply to the gentleman from Georgia, [Mr. STEPHENS,] who seemed to think that the Executive had transcended his authority in the administration of affairs in the new Territories. If the gentleman alluded to the special message of the President, he desired now to say a single word, which he was prevented from saying when that subject was before the House. The right of the Chief Magistrate to levy contributions for the support of the army was a right——

Mr. STEPHENS interrupted, to say to the gentleman from Louisiana that he did not prefer against the Executive the charge to which he now alluded. His remarks were confined strictly to the matter before the House. He had alluded to but one of the many and enormous abuses of power. The gentleman from Louisiana was now discussing another.

Mr. MORSE continued. He understood the gentleman. Although he did not refer to the exaction of military contributions, he did refer to the establishment of a temporary military government, and characterized it as a usurpation. All the action of the House which had been taken in relation to this matter of the establishment of military government in these territories, and all the importance which had been given to it by the appointment of a committee to consider and report upon it, he (Mr. M.) considered to be one of the most miserable humbugs that had ever occupied the attention of the National Legislature of this country. The Congress of the United States declared war against Mexico, without one single stipulation as to the manner in which the Executive should proceed, or the means by which the war should be conducted. But they put sixteen millions of dollars at his disposal for the purpose, and, in addition to this sum, as much as he might be able to collect. The President proceeded, however, to take possession of important ports on the Mexican seaboard, and finding there the means of paying his men, he took possession of the money just as rightfully as though he had found it in the hands of the enemy, and taken possession of so much hay or corn. But the idea seemed to be entertained by some gentlemen, that wherever the arms of this country triumphed over the powers of Mexico, they carried all the laws of this country along with them, and that whatever the Executive might not do there by virtue of his right *de jure*, he might not do by virtue of his right *de facto*, but that he must suspend action, and suffer a suspension of operations till the things proposed to be done there might be discussed and decided by Congress. He hoped the committee charged with this subject would make their report to the House. He wanted to have its whole merits properly discussed; for he did think the principle contended for by gentlemen on the opposite side could not be sustained unless the laws of nations were abrogated or wholly disregarded in the case. If gentlemen wanted opinions upon this subject, all the writers upon constitutional law, where they treat of the rights of military men, would tell them that the right of a conquering military commander to harass the enemy by destroying or taking possession of his money, provisions, and everything belonging to the enemy which he could lay his hands upon, was never questioned by any civilized power. If gentlemen thought the President had put this money into his own pocket, perhaps some inquiry of the kind which the House had determined upon would be very proper. But the President had done what every military commander was bound to do in such a case, and no more——

The SPEAKER interrupted here, to remind the gentleman from Louisiana that the rules required him to confine his remarks to the subject of the bill—the extension of the revenue laws.

Mr. MORSE replied, that, as an humble supporter of the Administration now about to expire, as well as of the Mexican war—so just in its inception, and so honorable and glorious in its termination—he could not permit an attack to be made upon that war, or the manner of conducting it, without some feeling which impelled him to reply. But as the gentleman took good care not to particularize any of the monstrous usurpations to which he alluded, he could not insist upon being heard any farther.

Mr. ROOT now addressed the Speaker, and desired to know what was the question before the House?

The SPEAKER directed the Clerk to read the bill.

And the bill having been read through—

Mr. ROOT desired to know whether there was not a motion pending to refer the bill to the Committee of the Whole, and to print?

The SPEAKER. To the Committee of the Whole on the state of the Union, by the gentleman from Indiana, [Mr. PETTIT.]

Mr. HUNT interposed, to say that he desired to make a motion to dispense with the further consideration of the bill till Monday, and to print.

Mr. ROOT preferred to say what he had to say on the motion of the gentleman from Indiana. He was surprised that the gentleman from New York [Mr. HUNT] should think of bringing in a bill of this character, and expect to succeed in this House with it, or indeed with any subject of legislation in relation to California, without another proposition which seemed to have been forgotten. He did not mean to underrate the revenue laws at all. He supposed that no people could feel that they were governed, unless they were taxed. Taxation was one of the first blessings of government. But he believed that there was no more important matter in relation to our legislation for the territories at the present than that to which he had alluded. He trusted that no bill having relation to this subject could pass the House without a provision something like this: that in all these territories "there shall be neither slavery nor involuntary servitude, except for the punishment of crime." He cared not whether the bill had respect to the custom-houses or anything else—his range of indifference was quite as wide as that of the gentleman from Georgia. He could not see how the gentleman from New York ever got it into his head that he could get such a bill through without the Wilmot proviso. He did not believe the gentleman would gain any time by getting his bill upon the Speaker's table; for we were now within sight of the Territorial bill, which would have to be discussed first, and would supersede the necessity of this bill altogether. He had no desire merely to cut off discussion; but in order to test at once the sense of the House upon the question of reference, he called for the previous question; but gave way for a word of explanation from

Mr. HILLIARD, who said his mind upon this subject was entirely made up; the conclusion to which he had come was strong, clear, and unchangeable. There was a very wide difference between our present relations to those newly-acquired Territories and those which existed before the late treaty with Mexico was ratified. In full view of the old republican doctrine of the right of the House of Representatives to participate with the other branches of the Government in the negotiation of treaties, at least in their ratification, by granting or withholding the appropriations essential to their perfection, and with his habitual respect for the opinions of the gentleman from Georgia, [Mr. STEPHENS,] he did not hesitate to express his readiness to carry out the terms of the treaty lately concluded with Mexico, by voting for the appropriation necessary to meet its provisions, and to do whatever else might be proper to secure this vast acquisition of territory to our country, if it could be done upon terms alike honorable to the North and the South—terms not dictated by fanaticism, with a view to the aggrandizement of one section of the Union at the expense of another. If this interest could be secured without any compromise of right, of principle, or of honor, the desire which he felt for the advancement of the prosperity and the glory of the country decided him at once to favor the acquisition of this vast region, abounding in mineral wealth, fronting Asia, and inviting, with its fine harbors, a large and profitable commerce. Opposed as he had been to the acquisition of territory as a condition of peace while we were making war upon a feeble people, it was necessary now to view this question under its new aspect, and to treat it as a great national question. He considered this territory, torn as it was forever from Mexico, as a treasure not to be thrown away lightly.

He proceeded to say, that even if injustice were contemplated against the South, he would not indulge in any threatening language, but would still invoke the generous feeling of the whole country against the pernicious influence of a legislation for the benefit of one portion of the Union at the expense of another.

When the southern States came into the Union, they came in with certain rights which were fully guarantied by the Constitution; and speaking as a single southern man acquainted with the spirit of the people from whom he came, he gave it as his judgment, that they would be unwilling to suffer any infraction of those rights. He believed they would stand by all the institutions of the country, but they would insist that no change should be made in their relation to this Confederacy. Alabama could never consent to hold any other than an equal rank as a sovereign member

of this glorious Confederacy; and her people must enjoy all their rights in their fullest extent. In this way the good feeling which brought these States into a Federal Union might be preserved. It should be cultivated on all sides; it was the strongest bond of the Union. But when this feeling could become so much a matter of jest as it was made by the gentleman from Ohio in the remarks just submitted—when he, with unflagging zeal, persisted in his purpose of rallying every other section against the South—when he even taunted the country with the declaration that no government of any description whatever would be organized for the protection of our new Territories without containing in it the unjust and odious feature known as the "Wilmot proviso,"—he felt it to be his duty, as a member of this House, to say, that such legislation could result in nothing else than the disturbance of the tranquillity of the country, and the destruction of that fraternal feeling which now existed and ought forever to exist. If the South were not to be permitted to enter this territory acquired by the joint valor and treasure of the whole country, without relinquishing the rights with which they came into the Confederacy, this must ensue.

Mr. GRINNELL now rose to order. He asked what relation this discussion could have to the matter before the House?

Mr. HILLIARD. Why not interrupt the gentleman from Ohio?

Mr. GRINNELL. I wish to get forward with business. I must insist upon the rules.

Mr. HILLIARD. But questions may arise sometimes which are above all ordinary rules.

The SPEAKER was understood to say that a strict conformity to the rules would not allow of the latitude which had been taken in this debate.

Mr. ROOT resumed. He would not himself have interrupted the remarks by the gentleman from Alabama, though he did not complain of the course of the gentleman from Massachusetts. The gentleman from Alabama had said he certainly did not intend anything menacing; and such a thing, he considered, would befit that gentleman about as little as it would become him (Mr. R.) to be affected by it. With all respect to that gentleman, he desired to say, that if there was anything in connection with this subject more ridiculous than the threats themselves, it was the alarm which might be raised on account of them. He insisted, besides this, that he had said nothing to provoke threats. He had merely said, that he was in favor of the motion of the gentleman from Indiana; that the bill was imperfect, in his judgment, and if we were to pass any law with reference to California, he had a more essential provision to propose than any which it now contained. That was about the substance of what he had said.

After a few further remarks, (not clearly understood,) he asked for the previous question.

Mr. STANTON. Will the gentleman withdraw the call?

Mr. ROOT. The gentleman from Tennessee will excuse me, when I tell him I have already extended that courtesy about as far as is consistent.

Mr. HUNT asked the Chair if a motion to postpone till Monday would be in order?

The SPEAKER replied, if the previous question should not be sustained, that would be in order.

But the previous question was sustained, and the main question ordered.

Mr. PETTIT demanded the yeas and nays; but immediately withdrew it.

Mr. CUMMINS asked for a division of the question; first, on the motion to commit, and secondly, on the motion to print.

And it was ordered.

The question was then taken on the first branch of the motion, and decided in the affirmative.

And the question was taken on the second branch, and decided in the affirmative.

So the bill was referred to the Committee of the Whole on the state of the Union, and was ordered to be printed.

Mr. DUER moved a reconsideration of the vote by which the bill had been referred to the Committee of the Whole on the state of the Union.

He would not, he said, occupy the attention of the House more than three or four minutes. He wished to say for himself, that in the general spirit of the remarks of the gentleman from Georgia, [Mr. STEPHENS,] he (Mr. D.) heartily concurred. He did not mean to go so far as to say that he would not vote for an appropriation of money to Mexico according to the terms of the treaty, because he thought that that did not necessarily involve the recognition of the treaty, and certainly not any recognition of that part of it by which territory was acquired. The appropriation might be necessary on other grounds—as of justice to Mexico.

But he was not prepared to vote for any bill to recognize this territory as a part of the territory of the United States. He would not vote for it—first, because he was not under any constitutional obligation to do so, and second, because he did not believe that the President of the United States and Senate alone could bring territory into this Union. Congress only could do it. And he believed that Congress had a discretion on that point, notwithstanding the conclusion of the treaty.

Like the gentleman from Alabama, [Mr. HILLIARD,] he would be willing and glad to have this territory; but if he believed that its acquisition was to endanger the Union, he was opposed to it. He believed that even if there were a constitutional obligation upon Congress to recognize this treaty, he would, in the face of the Constitution, refuse to recognize it, if he thought that the result would be to dissolve the Union, and thereby destroy the whole Constitution. He should hold himself justified, under the oath he had taken, to preserve the Union as it now existed, rather than dissolve the Union by voting to bring in this territory.

Hitherto, the Whig party had united on the ground of opposition to the acquisition of this territory; they had united on that ground as friends of the Union, notwithstanding the differences of opinion upon the question of slavery existing among them. It might be necessary, by and by, that the friends of the Union, in whatever section found, or to whatever party belonging, should unite upon this ground. He said it *might* be. No man would say that it was not possible that things might not be brought to that crisis. Should they close this door to the settlement of the question? No; let them retain the ground upon which they had stood. Therefore, till a law was passed for the government of the Territories, by which the question of slavery should be settled, or until they should be admitted as States into the Union, he would do nothing to recognize them as part of the Union.

Mr. STUART, of Michigan, inquired whether the gentleman from New York [Mr. DUER] had not voted in favor of instructing the Committee on Territories to bring in a bill organizing these territorial governments, and embracing the principles of the Wilmot proviso?

Mr. DUER inquired, What has that to do with it?

Mr. STUART said that would be doing something towards recognizing that country as belonging to this Union.

Mr. DUER said, that what he was opposed to was the recognition of the territory as part of the Union, until territorial governments were established, and this controverted question of slavery was settled.

Mr. BROWN, of Mississippi, interposed and said, that the gentleman had stated that the Whig party had united in not recognizing this territory as belonging to the United States.

Mr. DUER. I understand that hitherto the Whig party were opposed to the acquisition of the territory, when such acquisition might be dangerous to the Union.

Mr. BROWN. That is not as I understood the gentleman. I understood him to say, that the Whig party all over the Union, independent of the question of slavery, had been opposed to the acquisition of this territory.

Mr. DUER. I simply meant to say this—defining my own position and the position which had been taken by the Whig party, and which I hope they will not rashly abandon—that I would rather preserve the Union as it is, than that the Union should be dissolved and this Territory be acquired.

Mr. JONES, of Tennessee, rose to a point of order. He submitted whether, on a motion to reconsider, this debate about the Union, and everything else, was in order? It seemed to him that it was fully as irrelevant as the remarks of the gentleman from Alabama, [Mr. HILLIARD.]

The SPEAKER said the Chair had not called the gentleman from Alabama to order for irrelevancy; that question had not been raised. [The residue of the Speaker's remarks was lost.]

Mr. DUER moved that the motion to reconsider be laid on the table.

Mr. STANTON appealed to Mr. DUER to waive the motion.

Mr. DUER. Not to make a speech. But if the gentleman wishes merely to indicate his position, I—having done that myself—am disposed to hear him or other gentlemen who may desire to do so.

Mr. STANTON. That is precisely what I want to do.

Mr. DUER said it seemed to be the general wish of the House that he should adhere to his motion.

The SPEAKER inquired whether the gentleman had moved to reconsider the vote upon the printing or upon the reference?

Mr. DUER said, on the reference; and he had now moved to lay that motion on the table.

And the question having been taken and decided in the affirmative, the motion to reconsider the vote by which the bill had been referred to the Committee of the Whole on the state of the Union, was laid on the table.

Mr. ASHMUN moved to reconsider the vote on the printing; and that that motion be laid on the table.

The question having been taken and decided in the affirmative, the motion was laid on the table.

Mr. GRINNELL, from the Committee on Commerce, to whom was referred the bill from the Senate entitled "An act to authorize the issuing of a register or enrolment to the ship Annie Tift," reported the same back to the House without amendment; when

The said bill was read the third time and passed, and returned to the Senate.

Mr. GRINNELL, from the same committee, reported the following resolution; which was read:

Resolved, That the Secretary of the Navy be requested to employ one or more of the smaller vessels of the navy in testing the practicability of the tracks recommended by Lieutenant Maury, whenever he may be of opinion that such vessels can be spared from other public duty.

Mr. GRINNELL sent to the Clerk's table a letter from the Secretary of the Navy on the subject; which was read.

Mr. G. explained, that the resolution provided that one or more vessels should be used only at such times as their services might not be needed for other purposes.

Mr. COBB, of Georgia, called for the reading of the resolution; which was again read.

Mr. C. said, he understood it was a simple resolution to be adopted by this House, and not a joint resolution to be adopted by the two Houses. It was to his mind a very singular proceeding, that the House was to be passing a resolution requesting the Secretary of the Navy to make certain experiments. He confessed he did not understand it. If it required the authority of law for the Secretary to make experiments, a joint resolution ought to be passed. If it did not require the authority of law, it was a singular proceeding on the part of this House to request the Secretary of the Navy to make experiments in obedience to the request of certain individuals.

He moved that the resolution be laid on the table.

The question was taken, and decided in the affirmative: Ayes 63, noes 58.

So the resolution was laid on the table.

ARMY APPROPRIATION BILL.

Mr. STEPHENS said, that the morning hour having expired, he would, in the absence of the chairman of the Committee of Ways and Means, [Mr. VINTON,] move that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of taking up the army bill.

And the motion having been agreed to, the House resolved itself into Committee of the Whole on the state of the Union, (Mr. TOOMBS, of Georgia, in the chair,) and proceeded to the consideration of the bill making appropriations for the support of the army for the year ending the 30th of June, 1849.

The bill was read through, and was then taken up by items.

Mr. SMART moved to strike out the first section.

And on this motion he proceeded to address the committee during the allotted hour.

He said: At the first session of the present Con-

gress, I presented my views to this House, upon the subject of introducing slavery into our Territories. I have seen no reason to change my position then taken upon this question.

Since then, the Legislature of Maine has instructed the Senators and requested the Representatives of the State to vote to exclude slavery from all Territories now free. Being fully aware of the feeling of my district, and the State I have the honor in part to represent, upon the question of slavery or freedom in the Territories, it is my duty to represent that feeling in this House; and there are no considerations which occur to my mind that will prevent me from doing so. The subject is invested with peculiar interest to the people of the North at this time.

Thousands of the most respectable and intelligent young men of the North are now on their way to California. They have gallantly gone forth, and it is our duty to establish a free government to protect them.

In the remarks I am about to make, I shall waste no time to prove the *power* of Congress to prohibit the extension of slavery. Many members of this House have made elaborate speeches to prove the prohibition of slavery in our Territories unconstitutional; but, sir, there is one decisive answer to all these gentlemen. Before the close of the last session, they all voted, with the oath of God upon them, to exclude slavery from a large portion of our Territories. They voted that slavery should not exist north of 36° 30'.

They cannot reply to this allegation, that they voted for what was generally regarded as a compromise. They did no such thing; for the line of 36° 30', as a line between slavery and freedom, was strenuously opposed by almost every member from the free States, and was looked upon as anything but a "compromise." In addition to this vote, the present Chief Magistrate of the nation gave his solemn sanction to the prohibition of slavery, by putting his signature to the Oregon Territorial bill. After this vote of southern gentlemen, and the approval of the Oregon bill by the President, I should regard any attempt to argue that we had a right to exclude slavery in the Territories as a work of supererogation.

On the authority of the members representing the slave States, and of the President, I assert with great confidence, that the right of Congress to exclude slavery must hereafter remain undisputed. Indeed, the records show that nearly every member of both Houses of Congress attempted, during the last session, to exclude slavery from some portion of our Territories; and from this fact it would seem to be the unanimous opinion of Congress that such power can be constitutionally exercised.

As I do not intend to go into the question of *power*, under the Constitution, to legislate upon slavery in the Territories, I purpose to consider the expediency and justice of doing so. I mean to show to the satisfaction of all fair-minded men, that the extension of the ordinance of 1787 over California and New Mexico, is just to all sections of the Union.

The present Executive of the nation, in speaking of those who were engaged in the late war with Mexico, uses the following language:

"They were men from slaveholding and non-slaveholding States, from the North and the South, from the East and the West. They were all companions-in-arms and fellow-citizens of the same common country, engaged in the same common cause. When prosecuting that war, they were brethren and friends, and shared alike with each other common toils, dangers, and sufferings. Now, when their work is ended, when peace is restored, and they return again to their homes, put off the habiliments of war, take their places in society, and resume their pursuits in civil life, surely a spirit of harmony and concession, and of *equal regard for the rights of all and of all sections* of the Union, ought to prevail."

I am happy, sir, in saying that I fully concur in these remarks of our worthy President. I concur with him that the men who shed their blood in Mexico were from the North as well as from the South; and I concur with him that an "equal regard for the rights of all, and of all sections of the Union, ought to prevail." I am prepared to show that if equal regard for the rights of all sections *does* prevail, California and New Mexico will be preserved as an asylum for the free laborers of the nation.

It has, perhaps, never been seriously disputed that the free States have furnished their full share of *money*, in proportion to their population, to carry on the war with Mexico. At all events, this fact is so apparent that I do not design to go into any statistics to prove it. But an error has very generally prevailed that the free States have not furnished their share of the *men*.

Assertions have been constantly made by southern statesmen and presses in favor of extending slavery, that the South have furnished the largest number of men by a great deal. Upon this point I ask gentlemen to look at this extraordinary language, lately made use of by a gentleman in the United States Senate, [Mr. YULEE.] He says:

"The North may dispute for the proprietorship of dirty acres in Mexico, if she pleases, when the South has given five to one of soldiers for fighting the battles that won the territories.

"The fact is known, that the South contributed more than her quota to the acquisition of the territory."

These assertions are entirely incorrect. I shall be able to show, that the free States have contributed their full share of *personal* service in the late war; that the blood and treasure of the free States have flowed as freely to secure all the results of the war as that of the slave States.

I am aware that the general belief is against this statement, but I will demonstrate conclusively that that belief is entirely at fault.

I take the liberty to present some facts obtained from a report of the Secretary of War, in compliance with a resolution introduced into the House by myself on the 20th of December last.

The regular army in the war with Mexico, enlisted since January 1st, 1846, is as follows:

From Free States.		*From Slave States.*	
Maine	672	Delaware	148
New Hampshire	299	Maryland	2,151
Vermont	391	District of Columbia	184
Massachusetts	1,499	Virginia	1,162
Rhode Island	183	North Carolina	518
Connecticut	231	Georgia	759
New York	8,650	Florida	80
New Jersey	440	Alabama	716
Pennsylvania	4,336	Mississippi	46
Ohio	2,321	Louisiana	1,260
Indiana	1,478	Texas	222
Illinois	1,405	Arkansas	251
Iowa	293	Tennessee	1,002
Wisconsin	517	Kentucky	1,928
Michigan	821	Missouri	1,133
Total	23,569	South Carolina	310
		Total	11,860

The strength of the army in service January 1, 1846, was 7,481. Documents from the War Department show that three-fourths of this number were from the free States. The whole strength of the regular army from the free and slave States was, therefore, as follows:

Enlisted since January 1, 1846, from—Free States	23,569
In service January 1, 1846	5,610
Total	29,179
Enlisted since January 1, 1846, from—Slave States	11,860
In service January 1, 1846	1,871
Total	13,731

The strength of the volunteer force I have obtained from a report made to the Senate, April 8, 1848, by the Secretary of War. Here it is:

Volunteers for the war from free States	178	companies.
Twelve months' men from free States	121	do.
Total	299	do.
Volunteers for the war from slave States	166	do.
Twelve months' men from slave States	167	do.
Total	333	do.

In addition to this force, there were 12,540 "three and six-months' men" from the slave States. Now, let us suppose the volunteer companies to average ninety men each: this would give, from the free States 26,910 volunteers, and from the slave States 42,510 volunteers, including 12,540 "three and six-months' men" in the number from the slave States.

But, sir, this is not the whole force employed in the war. The naval service on the Gulf and Pacific coasts, during the war with Mexico, has been a laborious and hazardous one, and I think not sufficiently appreciated. The accomplished and able Secretary of the Navy, Mr. Mason, in speaking of the services of the navy in the late war with Mexico, uses the following language:

"In the Pacific our squadron, with means not fitted for inland operations, acting independently, and in coöperation with a small force of our gallant army, effected the conquest of California. * * * * *

"In the Gulf of Mexico, from the beginning of the war, by coöperation at the Brazos, while the battle of Palo Alto was raging, by the capture of Tampico, by protecting the transportation and the landing of the troops at Vera Cruz, by its gallant coöperation in the siege, bombardment, and capture of that city and its defences, by its successful operations against Tabasco, Tuspan, Laguna, and other points in the interior and on the coast, but especially by holding a constant command of the sea, and by its vigilance and activity, excluding contraband trade and supplies of munitions of war from the enemy, the squadrons rendered the most important services to their common country. These services were rendered in a most inhospitable climate, and in the midst of suffering and death, not caused by the enemy in the honorable conflict of arms, but by the silent ravages of disease."

A naval commander, who served in the Gulf during the war, also bears honorable testimony in relation to the services of the seamen who participated in the war. In a letter said to have been written to a member of Congress, he says:

"They served on shore at the navy battery which did so much towards the reduction of Vera Cruz. They landed and captured Tuxpan. At Tabasco, they marched into the interior, and, while acting as artillery and infantry, were frequently engaged with the enemy. On the Pacific coast, acting as soldiers, they performed long and fatiguing marches—frequently encountering, and always defeating, the enemy."

* * * "Those who served in the Gulf of Mexico suffered horribly by disease, and endured every discomfort incident to a hot and pestilential climate." * * *

"On all these occasions, lives were lost, and great suffering, privation, and fatigue endured."

To what section of the Union did a great majority of these men belong, whose services are thus eloquently spoken of? I ask attention, sir, to facts, obtained from a report of Secretary Mason, in answer to my resolution, which embraced a call upon him, as well as upon the Secretary of War. According to that report, the naval strength from the free and slaveholding sections of the Union, which took part in the war, was as I shall now state:

Naval officers from the free States	489
Naval officers from the slave States	373
Marines from the free States	1297
Marines from the slave States	155

The number of seamen who served on the Gulf and Pacific coasts during the war amounted to 7,000. Calculating upon data suggested by the Secretary of the Navy, there were of these—

From the free States	5,833
From the slave States	1,167
Total officers, seamen, and marines—	
From the free State	7,619
From the slave States	1,695

This statement must be received with one qualification. There are about one thousand persons (officers and men) of foreign birth included in the number from the free States. But I have been informed that they are generally citizens of the North. At all events, they are generally from non-slaveholding countries.

Permit me, sir, to devote one moment to a recapitulation. The whole force in the war with Mexico was as follows:

Regular army from the free States	29,179
Volunteers from the free States	26,910
Naval force from the free States	7,619
Total	63,708
Regular army from the slave States	13,731
Volunteers, including "three and six months' men" from the slave States	42,510
Naval force from the slave States	1,695
Total	57,936

In this exhibit of the number of men furnished by each section of the Union for this war with Mexico, I have included 12,540 "three and six months' men," none of whom served over three months. These were all from the slaveholding States, being nearest the seat of war. Deduct these, whose services were in a great measure *nominal*, and the *excess* of men furnished by the free States would amount to 18,312. A portion of the "three and six months' men" undoubtedly did some good service. Their number of killed and died of wounds amounted to 117.

I mean no disparagement of these troops; I only intend to say that their brief term of service rendered it impossible for them to perform a great deal towards the results of the war.

Mr. MORSE interrupted, and (Mr. SMART having yielded for explanation) said he wished to state, that but for the action of General Taylor, the probability was that there would have been no three months' men at all. General Taylor called upon the Governor of Louisiana for men for six months, thinking that this would be sufficient; and in the course of six weeks, one-fourth of the fighting population of Louisiana were in Mexico, making 6,000 men, for six months' men. When they got there, and had served three months, these men, who were only prepared for six months' men, were told that they must go home or enlist for a year.

Mr. SMART. In answer to the gentleman let me say, that there were about one thousand men in Maine who came forward as volunteers, and held themselves ready as a regiment to march to the seat of war at a moment's warning; and this was for a service of a similar character; and you find that this was a fact all over the Union.

Mr. FLOURNOY interposed, and desired to ask the gentleman from Maine whether, in his estimate of fighting men furnished by the North and by the South, he had taken into consideration the comparative population of the two sections of the country?

Mr. SMART. I am coming to that.

I am not attempting any invidious comparison. My object is to show that the free States have done their whole duty in the late war. If, in addition to the facts I have presented, the *terms* of service of those from the free and slaveholding States are taken into the account, I think all will come to the conclusion that the North is not to be reproached that they have not furnished their quota of men, in proportion to their population, for a war that was commenced to defend the territory of Texas, *and to complete its annexation*. This is my answer to the gentleman from Virginia. The South furnished more twelve months' men, and more three months' men; but the North furnished more regulars, more volunteers for the war, and more seamen and marines.

It may be true, that soldiers from the free States had less opportunity to distinguish themselves in battle. But in many of the most noted battles I see that the volunteers, from all sections, suffered in nearly equal proportions.

The volunteers killed and wounded in several battles were as follows:

	From the free States.	*From the slave States.*
Buena Vista	309	322
Vera Cruz	16	11
Cerro Gordo	97	79
Contreras & Churubusco	102	137
Chapultepec	173	100
Total	697	649

But I have no disposition to enter into these details. I have only entered into them in defence of the North, and for the purposes of my argument. I dislike any sectional view of the services of our brave men in battle. They have all nobly defended the honor and interests of their country; but in *self-defence* I must say, that the free States have furnished their full share of men and money for all the purposes of the war; and I think the statement I have presented must forever silence the reproaches that they have not done so. By this joint effort of our arms we have secured to the use of the nation 923,078 square miles of land, embraced in the Territory of Texas, New Mexico, and California. I regard the Territories of Texas, New Mexico, and California, as *one* acquisition—and all equally the results of the war. Texas consented to be annexed to the United States in 1845 by "joint resolutions," in consideration that our Government would *defend* her from an impending and menacing foe.

Immediately after the act of annexation, the frontier of Texas was infested with murderous bands of guerrilleros.

The families and firesides of the Texans were in constant danger of outrage and violation by herds of hostile Mexicans. Texas, therefore, when annexed in 1845 was of no value, because of its insecurity. It was immediately invaded, and nothing was left to us but to abandon Texas, or to obtain for it security by waging war with Mexico. We took the latter alternative. We had annexed Texas by *paper* resolutions; but annexation, in fact, was not accomplished in 1845. It became necessary to do that "with force of arms."

We did it, and acquired in addition two provinces—California and New Mexico. These three tracts of country stand substantially on the same ground. We took the deed of Texas, of the Texan Government *before* fighting for it, and the deed of the additional Mexican territory, of the Mexican Government after fighting for it; but our army fought for the whole. It is true that the Texan authorities made a very respectable deed of the territory of Texas to our Government, but they did not covenant with us to warrant and defend. On the contrary, we undertook to obtain, at the expense of a war, a quit-claim from Mexico. These acquisitions, I repeat, stand upon the same ground, with this difference: we *commenced* the fight in defence of Texas, and to secure it to our use. Now, if the positions I have taken are correct, and I think they cannot be overthrown, are not the citizens of the free States entitled to their share of this territory, unincumbered by an institution that would exclude them? This question admits of a plain answer. In the language of the President, "equal regard for the rights of all and all sections ought to prevail."

All must agree, as free laborers will not settle upon slave territory, that the free States, having contributed their share of men and money towards the acquisition of Texas, New Mexico, and California, are entitled to their share of this acquisition, as free territory, according to their population. How then, Mr. Chairman, does the account now stand? Texas embraces a superficies of 397,000 square miles, assuming the boundary fixed by the laws of Texas. California and New Mexico amount to 526,078 square miles. The aggregate of these several tracts is, as I have already stated, 923,078 square miles. Now, the population of the free States amounts to about 12,193,000, and that of the slave States to 8,553,000. Provided the soil of Texas, New Mexico, and California is of equal value, and that the whole people of the South are interested in slavery, a division according to population would require that 554,513 square miles should be free, and that 380,565 square miles should be slave territory. Give Texas the line she has assumed, and extend slavery no further, and the slaveholding population will have much more than their proportion of the whole territory. You give for purposes of entire freedom 526,078 square miles, and leave for slavery within the limits of Texas 397,000 square miles.

But suppose you do not establish the line Texas has assumed, (and I do not intend to express any opinion as to that line in this discussion,) with *any line* Congress is likely to adopt—if you consider the poor character of much of the soil in California and New Mexico when compared with Texas—in my judgment, the South will retain fully their share of our late acquisitions should they relinquish the attempt to propagate slavery west of Texas. I think, therefore, our southern friends should be satisfied with a settlement of the boundary of Texas as a settlement of the line of slavery.

Some have estimated the area of Texas less than the government of Texas estimates it. But suppose it is so: it must be remembered that I have assumed that the eight millions of people in the South are all interested in slavery, while it is a fact that not over three hundred thousand have any pecuniary interest in slaves. Besides, sir, the non-slaveholders of the South have the benefit of all free territory, and constantly emigrate from choice to such territory in great numbers. In connection with this fact, I am justified in saying that a great majority of those who fought for this territory prefer it should be free.

In corroboration of this statement, I ask attention to the location of land warrants by the soldiers who served in the Mexican war, agreeably to a report of the War Department.

	Warrants for 160 *acres.*	*Warrants for* 40 *acres.*	*Total No. of acres.*
FREE STATES.			
Ohio	201	8	32,480
Indiana	808	26	130,320
Illinois	2,980	284	408,160
Michigan	87	–	13,930
Wisconsin	3,534	597	589,310
Iowa	1,602	32	257,600
	9,212	947	1,511,800
	947		
Total in free States	10,159		
SLAVEHOLDING STATES.			
Missouri	937	26	150,960
Alabama	40	78	9,520
Mississippi	62	5	10,120
Louisiana	256	151	47,000
Arkansas	286	9	46,120
Florida	....	....	.....
	1,581	169	263,720
	169	....	1,511,800
Total in slave States	1,750	....	.....
Total acres located			1,775,520

Here is the whole number of warrants taken, up to the time of the commencement of the present session of Congress. Here are nearly 12,000 soldiers who have practically declared for free soil, *six to one!* Only about 1,700 soldiers have taken land in slave States. More than 1,700 of these 12,000 men must have belonged to the South.

Thousands of southern men must have taken lands in free States.

Upon a careful examination of the facts I have stated, I believe all will agree, that upon the principle of an equitable division between the free and the slave States, slavery should be excluded from California and New Mexico.

But what division do southern gentlemen propose? Why, they offer the line of 36° 30′ as an ultimatum. And how would the account stand with this line? They would retain, for slaveholding purposes, Texas, embracing 397,000 square miles, and California and New Mexico *south of* 36° 30′, amounting to 262,000 square miles, the aggregate of which is 659,000 square miles! And they propose to give, for all the non-slaveholders of this great Union, only 264,000 square miles! The North and the South, as joint partners since 1845, have been engaged in the business of annexing territory; and when the question of *partition* comes up, the South say we will take 659,000 square miles of the territory we have acquired, and you must not take more than 262,000 square miles! The North answer with a demand for an equitable division according to the population of each section of the Union of all the territory acquired since 1845. But southern gentlemen tell us that the demand degrades them. It would seem that, unless they can have six hundred thousand to our two hundred thousand square miles of this territory, they are degraded, and a dissolution of the Union will be the consequence. I cannot say what the North, as a section of country, may do; but I can say that individuals of the North are not generally in the habit of going into partnerships which yield such dividends. But, sir, southern gentlemen cannot be serious. It must be on their part a sportive attempt to test the credulity of northern men.

But there are strong reasons for prohibiting slavery in California and New Mexico, besides those founded upon an equitable division of the Territories we have acquired. The settlement of the question of extending slavery in these Territories may involve the future peace of the whole nation. The discreet portion of all parties in this country prefer to see a cultivation of the arts of peace, and no necessity for attention to the art of war. Peace hath her victories that are much more noble than those of war. Shall we not, then, avoid all cause, immediate or remote, of future war, when we can do so without dishonor? But I fear there are some who think it justifiable to run the hazard of war, when the further propagation of slavery will be the result. Such men, I doubt not, are intensely anxious upon the subject of propagating slavery in our newly acquired Territories. If, sir, you extend slavery to the Pacific, the inducement to undertake enterprises against Mexico is constantly held out to them. These men, though few in number, might involve our country in war. A small portion of the people might possess the power to do so under some circumstances. It is the duty, then, of all lovers of peace, to labor to remove such inducements, by excluding slavery from our late acquisitions. If slavery be excluded from these Territories, while slavery propagandists might be willing to provoke a war to add to the Union more slave territory, they would understand that enterprises against our Mexican neighbors would only end in additional free territory, and consequently such enterprises would not be undertaken. I say, then, to moderate men of all parties, both North and South, if you are opposed to wars for conquest, pronounce, by a Congressional act, that there shall be no further propogation of slavery. Let me be understood, Mr. Chairman. I am not opposed to further acquisitions of territory; but I am opposed to wars for conquest, and am opposed to the acquisition of free territory to be cursed with a condition of slavery.

There are those who appear to think that there are no reasons for the prohibition of slavery in our territories, except those growing out of abolition feeling. This is a very great error. The extension of slavery is wrong in itself, but independent of any idea of abolition, there are conclusive reasons against the propagation of slavery in California and New Mexico. There is *one* reason that addresses itself to every non-slaveholder in the country: The prohibition of slavery is a question of pure interest to the non-slaveholders of the North and South. The Territories of California and New Mexico, if preserved free, will furnish a place of refuge for the industrious and enterprising poor

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of the old States of the Union. When they find themselves fettered by their unequal conditions, and the oppression of wealth, (a state of things that will exist and does exist in some localities,) they will gladly flee to that far-off land.

The Far West must be the destination of many of those that are to come after us. The immediate descendants of the present generation will go there from necessity. I ask, then, what statesman will not feel that he is discharging an imperious duty, when he assists in making provisions for the posterity of our country who will be compelled to *labor?*

But the preservation of free territory is an act of philanthropy, and looks to the welfare of the down-trodden people of Europe. When they, with a sad resignation to the cruel fate that expatriates them, look to America as the spot where they are to find hospitable homes, who will not rejoice that he has done something to make room for them? There are those who, to seek an honorable fortune, tear themselves away from home and country and kindred, never again perhaps to return. Such, upon landing on our shores, feel that—

"A home and a country remain not for them."

What a consolation to such emigrants, when you can point to the lands of the West that you have preserved free for them to enjoy. The preservation of freedom in these Territories, I repeat, is a question of interest, vital interest, to the free laborers who emigrate here from Europe, and to the free laborers of this whole country and their posterity.

But, sir, some may say that slavery would not exclude these people; yet facts show that they do not go to any great extent where slavery exists.

I know, too, it may be denied that slavery is a blight upon the country in which it is established. Upon this point I will present a brief comparison of the free and slaveholding States.

The population of Rhode Island is less than 110,000; that of South Carolina, over 550,000. Notwithstanding the great disparity in population of the two, the manufactures, commerce, mines, forests, and fisheries of Rhode Island amount to $10,801,914; while the manufactures, commerce, mines, forests, fisheries, rice, and cotton of South Carolina amount to $11,762,986.

According to the estimates from which I copy, the *manufactures* of Rhode Island are more valuable than the *manufactures and cotton* of South Carolina. They are put down thus:

Rhode Island manufactures	$8,640,626
South Carolina manufactures	2,248,915
South Carolina cotton	4,628,270

The State of Virginia contains about 64,000 square miles, or about 1,000 square miles more than the whole of the New England States, whose area is as follows:

	Square miles.
Maine	30,000
New Hampshire	9,280
Vermont	10,212
Massachusetts	7,500
Rhode Island	1,360
Connecticut	4,674
Total	63,025

The comparative population of Virginia and New England, white and colored, in 1790, 1810, and 1840, was as follows:

	Virginia.	*New England.*
1790.—White	442,115	992,781
Colored	306,193	17,042
Total	748,308	1,009,823
1810.—White	551,534	1,451,985
Colored	423,088	19,906
Total	974,622	1,471,892
1840.—White	746,968	2,212,165
Colored	498,829	22,657
Total	1,239,797	2,234,822

The estimated annual product of Virginia and New England, according to the census of 1840, by Professor Tucker, a native of Virginia, was as follows:

	Virginia.	*New England.*
Agriculture	$50,085,821	$74,749,889
Manufactures	8,349,211	82,784,185
Commerce	5,299,451	13,528,740
Mining	3,321,629	3,803,638
Forests	617,700	3,361,987
Fisheries	95,173	9,424,555
	$67,669,045	$187,652,294

All are aware, Mr. Chairman, that the soil of New England is cold and sterile, and that of Virginia and South Carolina fertile and productive. These facts need no explanation. They will be easily comprehended by all.

I will now proceed to notice the objections urged against restricting slavery by a very few northern politicians. It is said that a prohibition of slavery in California and New Mexico would be a mere "abstraction," and entirely useless, because the climate and productions of these Territories are all opposed to slavery. Now, I ask to present a few extracts describing these Territories; and, while I I do not pretend that they apply to all portions of California and New Mexico, I think all will be satisfied that the climate and productions of these Territories are not quite as much opposed to slavery as they have been represented.

I proceed to give some extracts in relation to Upper California:

"The soil is as remarkable for its fertility and abundance as is that of Old California for its arid sterility. The climate of the Pacific coast of North America being milder than that of the Atlantic, the inhabitants of Upper California experience more temperate seasons than do those of the United States, from the Carolinas to Connecticut."—*Brooke's Gaz.*

"The land possesses great fertility; farinaceous roots and seeds of all kinds abundantly prosper here. The crops of maize, barley-corn, and peas, cannot be equaled but by those of Chili. European cultivators can have no conception of a similar fertility."—*Worcester's Gazetteer.*

"Upper California possesses several good harbors. San Francisco, in 38°, is one of the largest and best on the west coast of America. The country immediately behind the first range of mountains is said to be superior to that near the shore, and to consist of plains, lakes, and hills, beautifully diversified, very fertile, and abounding in timber. * * The sea contains excellent stores of fish."—*McCulloch's Geographical Dictionary.*

"There is [in Upper California] a profusion of forest trees, including oak, elm, ash, beach, birch, and many varieties of pine, which grow to a large size, and are often spread out into extensive forests. Its abundance of timber and the goodness of its shores afford great facilities for shipbuilding and the acquisition of maritime power. California has analogous latitudes with the finest wine countries in the world, and will, probably, at a future period, become celebrated for its wines."—*McCulloch's Gazetteer, by Harper & Brothers,* 1846.

"New Mexico is, however, with all its defects, a delightful residence. The purity of the air, and the rich scenery of the fertile banks of its rivers, have a fine effect. European grains and fruits grow luxuriantly where the soil is fertile. The dryness of the season is favorable to the grape, which is peculiarly delicious in that country.—*Brooke's Gazetteer.*

In conclusion, I will present an extract from the Memoir of Colonel J. C. Frémont, in relation to the maritime region of California, embracing an area of one hundred thousand square miles.

"Stretched along the mild coast of the Pacific, with a general elevation in its plains and valleys of only a few hundred feet above the level of the sea, and backed by the long and lofty wall of the Sierra, mildness and geniality may be assumed as the characteristic of its climate. The inhabitant of corresponding latitudes on the Atlantic side of this continent can with difficulty conceive of the soft air and southern productions under the same latitudes in the maritime region of Upper California. The singular beauty and purity of the sky in the south of this region is characterized by Humboldt as a rare phenomenon, and all travelers realize the truth of his description.

"The present condition of the country affords but slight data for forming correct opinions of the agricultural capacity and fertility of the soil. Vancouver found, at the mission of San Buenaventura, in 1792, latitude 34° 16', apples, pears, plums, figs, oranges, grapes, peaches, and pomegranates, growing together with the plantain, banana, cocoa nut, sugar cane, and indigo, all yielding fruit in abundance and of excellent quality. Humboldt mentions the olive oil of California as equal to that of Andalusia, and the wine like that of the Canary Islands.

"At San Buenaventura we found the olive trees, in January, bending under the weight of neglected fruit; and the mission of San Luis Obispo (latitude 35 degrees) is still distinguished for the excellence of its olives, considered finer and larger than those of the Mediterranean.

"The productions of the south differ from those of the north and of the middle. Grapes, olives, Indian corn, have been its staples, with many assimilated fruits and grains. Tobacco has been recently introduced; and the uniform summer heat which follows the wet season, and is uninterrupted by rain, would make the southern country well adapted to cotton. Wheat is the first product of the north, where it always constituted the principal cultivation of the missions. This promises to be the grain-growing region of California. The moisture of the coast seems particularly suited to the potato, and to the vegetables common to the United States, which grow to an extraordinary size.

"Perhaps few parts of the world can produce in such perfection so great a variety of fruits and grains as the large and various region enclosing the bay of San Francisco, and drained by its waters."

But enough. I will only add, if slavery can exist in Virginia for hundreds of years, why can it not exist upon such a soil as these extracts describe? Sir, the man who relies upon soil and climate to keep slavery out of these Territories, in my opinion, has not informed himself in relation to them, or is willing that it should go in. But suppose I am incorrect: suppose the soil is inadequate to sustain slaves, and that they cannot exist upon it to any great extent: it is the determination of some gentlemen to obtain a direct or indirect legal recognition of slavery in the whole of California and New Mexico, or south of 36° 30', across to the Pacific. Should this be accomplished, it matters not so much as to the capability of the soil to sustain slavery to a very great extent. A richer soil is found further south, within the borders of a neighboring republic, and slavery existing *in law* across to the Pacific could be finally diffused over the whole of Mexico. If, Mr. Chairman, you recognize a belt of slave territory across to the Pacific, though few slaves may actually reside there, it would be preposterous to think of going south of this *belt* to make free States from future acquisitions. Such a recognition would be a perpetual charter of a highway for the propagation of slavery to the Isthmus of Panama.

The Missouri compromise line, and all the "compromise bills" that have been introduced, are urged upon Congress by some at least, I think, with a view to future acquisitions, where the soil is indisputably rich enough to sustain the rude and uninformed culture of slaves. In any view, therefore, the argument that no opposition to the introduction of slavery in California and New Mexico should be made, because the soil is not adapted to slave labor, is a fraud upon the people of the North.

But it is said that the people of California and New Mexico are opposed to the introduction of slavery among them, and for this reason a prohibition of slavery by Congress is useless. It is correct that they are opposed to slavery, but the deduction drawn from the fact is not correct. Mr. Commissioner Trist has furnished some information as to the feelings of the Mexican population generslly upon the subject of chattel slavery. In a letter addressed to the Secretary of State, dated September 4, 1847, giving an account of his conference with the Mexican Commissioners, Mr. Trist says:

"Among the points which came under discussion, was the exclusion of slavery from all territory which should pass from Mexico. In the course of these remarks upon the subject, I was told, that if it were proposed to the people of the United States to part with a portion of their territory, in order that the Inquisition should be therein established, the proposal could not excite stronger feelings of abhorrence than these awakened in Mexico, by the prospect of the introduction of slavery in any territory parted with by her."

A convention of the people of New Mexico, in a petition lately presented to the United States Senate, also say:

"We do not desire to have domestic slavery within our borders, and until the time shall arrive for our admission into the Union as a State, we desire to be protected by Congress against their introduction among us."

But it has been said that these petitioners are a "conquered people," and that their request is "insolent." Now, I do not believe they thought they were perpetrating an act of "insolence" towards this Government when they respectfully informed the American Congress that they did not desire to have slavery introduced among them. Our authorities addressed language "to the people of Mexico" during the war which, if seen by these petitioners, might cause them to feel justified in exercising the right of petition at least. I will read:

"It will be your policy to encourage the separate departments or States, and especially those which you invade and occupy, to declare their independence of the Central Government of Mexico, and either to become our allies, or to assume, as it is understood Yucatan has done, a negative attitude in the war existing between the United States and Mexico. In such of the departments or States as may take

this course, you will give the inhabitants assurances of the protection of your army until the return of peace, so far as may be consistent with your plan of operation. WHEN PEACE IS MADE, THEY MAY DECIDE FOR THEMSELVES THEIR OWN FORM OF GOVERNMENT."—*Letter of the Secretary of War to General Taylor, July* 9, 1846.

"We come to make no war upon the people of Mexico, NOR UPON ANY FORM OF FREE GOVERNMENT THEY MAY CHOOSE TO SELECT FOR THEMSELVES."—*Proclamation furnished to General Taylor by the American Cabinet, through the Secretary of War.*

The proclamation from which I have quoted was addressed "to the people of Mexico," and sent to General Taylor with orders to circulate it to any extent he might think proper.

It was circulated in the Spanish language agreeably to the orders of the American Government. Sir, we said to the Mexican people that they might decide for themselves their own form of government. We solemnly declared that we did not go to Mexico to make war upon the people, or upon any form of free government they might choose to select for themselves. What, sir, was the orders given to General Kearny?

"You may assure the people of those provinces (California and New Mexico) that it is the wish and design of the United States to provide for them a FREE Government *similar to that which exists in our Territories*. They will then be called on to exercise the rights of FREEMEN, in electing their own representatives to the Territorial Legislature."—*Letter of Secretary of War to Gen. Kearny, June* 3*d*, 1846.

They were to exercise the rights of "freemen." They were to have a "free government." A partially civilized Mexican might, with unaffected simplicity, think the promise of a free government was not a government establishing human slavery! The enlightenment of our own statesmen, who have ascertained that human slavery is a necessary element of free governments, has not yet dawned upon these unfortunate Mexicans! They were promised a government similar to that existing in *our* Territories, and the only government existing in our Territories at that time was an entirely free government, for it excluded slavery. Shall we, sir, then,

"Keep the word of promise to the ear,
And break it to the hope?"

When these people lift up their hands and pray to you for a "similar government to that existing in our Territories," you tell them that they are a "conquered people," and that their prayer is "insolent." But are you not pledged to give them such a government as they select, or a "free government," similar to that existing in the Territory of Wisconsin in 1846? Shall we present ourselves to the world in the attitude of disregarding our pledges to the weak and defenceless people we have conquered? Will the first Republic in the world disown the pledges of its Cabinet, and subject itself to the charge of bad morals and bad faith towards a people who are too weak to do more than implore protection? I trust in God it will not.

But last, though not least, as an additional evidence of the feeling in California, of AMERICANS, I will read an extract from the California Star, a paper published at San Francisco, of the date of March 25th last:

"The simple recognition of slavery here would be looked upon as a greater misfortune to the Territory than though California had remained in its former state, or were at the present crisis abandoned to its fate. We have both the power and the will to maintain California independent of Mexico; but we believe, though slavery could not be *generally* introduced, THAT ITS RECOGNITION WOULD BLAST THE PROSPECTS of the country. It would make it disreputable for the white man to labor for his bread, and it would thus drive off to other homes the only class of emigrants California wishes to see—the sober and industrious middle class of society. We would, therefore, on the part of ninety-nine hundredths of the population of this country, most solemnly protest against the introduction of this blight upon the prosperity of the home of our adoption. We should look upon it as an unnecessary moral, intellectual, and social curse, upon ourselves and posterity."

"Our contemporary, the *Californian*, in treating upon this subject, says: 'It would be the greatest calamity the power of the United States could inflict upon California,' and such a calamity Congress has no right to bequeath to us, contrary to the wishes of the people of this country."

The "Californian" also, published at San Francisco, in a number dated October 11, 1848, makes use of the following language:

"We believe we echo the sense of the country when we assert that slavery is neither needed nor desired here, and that if their voice could be heard in the halls of our National Legislature, it would be, as the voice of one man, 'rather than put this blighting curse upon us, let us remain as we are, unacknowledged, unaided.'"

Is it not remarkable, sir, that any one should wish to force slavery upon these people, who have so strong an aversion to it?

In California they most solemnly protest against its introduction. In New Mexico, they say they desire to be protected by Congress against the introduction of slaves among them. But it is said by a few northern politicians, that the people of these Territories, being hostile to the institution of slavery, can prevent its introduction. The people of these Territories, however, think differently, and desire to be protected.

How, sir, are they to prevent the introduction of slavery? If you establish the line of 36° 30', you recognize slavery south of that line, and, in the language of the Californian, "blast the prospects of the country." If you pass the Senate bill of last session, the people of the Territories have no rights of government, and no power to exclude the "institution." Slaves might be taken into the Territory with impunity. If you pass bills that are silent upon the subject of slavery, your territorial judges will decide against the inhabitants, that, Congress not having prohibited slavery in these Territories, it can exist there. As an evidence of this, I call attention to the following decisions of the supreme court of the State of Missouri:

"Supreme Court of Missouri in the case of Charlotte (of color) *vs.* Chouteau—appeal from circuit court:

"1. Slavery may exist without any positive law authorizing it.

"2. The existence of slavery in fact is presumptive evidence of its legality.

"3. It is not necessary to show any general custom in a country of holding negroes in slavery to prove its legality. If it be found to exist in fact, even to a limited extent, and no positive law prohibiting it be shown, it will be decided legal."

"Supreme Court of Missouri in the case of Chouteau *vs.* Reese (of color)—appeal from circuit court:

"It is not necessary to show any positive enactment of law in order to establish the existence of slavery.

"The existence of slavery in fact being established, it devolves on the plaintiff, he being a negro, to show the law forbidding it."—*Missouri Reports, vol.* 9.

Southern gentlemen generally hold, I believe, that the people under Territorial governments would have no right to interfere with slavery; and in the absence of an inhibition of slavery by Congress, most of them believe that they could take their slaves into any Territory of the United States.

We are asked to form territorial governments, and leave the question of slavery open till these Territories become States. And how long will this be?

It is said their admission will be during the next Congress. But, sir, who seriously believes this? Judging by analogy, this will not happen. The Territorial governments in the United States have existed, on an average, fifteen years prior to their admission into the Union. Now, is there any gentleman in or out of this House, who will pretend that the inhabitants of New Mexico and California are better qualified to come into the Union than those who have lived under former Territorial governments? Besides, sir, it is due to the new settled portions of the country, that the nation should furnish governments for them during their infancy, and be answerable for their governmental expenses.

Should there be too many people in California for one territorial government, others could be formed from portions of the territory.

But suppose you form governments, and neglect to enact the ordinance of 1787, what will be the consequence? I answer, you will protect the *colonization of slavery* for a period of more than fifteen years. Should this course be pursued, what will finally be the result? A brief allusion to the State of Missouri will disclose. That State remained under a territorial government seventeen years, during which time slavery was slowly colonized; and after a desperate struggle, it came into the Union a slaveholding State, regretted, I am inclined to believe, by a majority of its intelligent population at the present moment. The white population of Missouri, I know, is equal to any in the Union; and if they were rid of their blacks, immigration would pour in, the mighty resources of the State would be developed, and Missouri would be the New York of the West. But she has just enough of a *troublesome population* to cripple her progress; and such I, for one, solemnly believe will be the fate of California and New Mexico, unless Congress shall extend over these Territories the ordinance of 1787.

The numerous bills that have been framed, containing some little "loop-hole" through which slavery might creep into those Territories, are quite amusing. The last project for a settlement of the slavery question was introduced by the gentleman from Alabama, [Mr. HILLIARD,] forming a State in California, with a southern limit of 34° 30', and leaving a strip of land belonging to the Union, south of this State, across to the Pacific, to be annexed to Texas—with no disrespect for that gentleman, I will say, as a sort of parade ground "for slavery," preliminary to its march over the whole of Mexico. Once more as to these various "compromise bills." It is sometimes said that northern men are more expert in figures—better mathematicians than southern men.

This may or may not be true; but, sir, there is one rule of arithmetic which I was compelled to commit to memory when a boy, that is best understood by gentlemen who have presented "these compromise bills." I allude, sir, to the rule which is defined by Nicholas Pike to be "the showing how many different ways any given number of things may be changed." Under this rule, one question is put, to ascertain how many changes can be rung on eight bells in a certain church in Boston; and another, to ascertain in how many different positions a given number of men can sit at table. Supposing there to have been one *black man* among these persons, would it not be amusing to see them changing places at table every day, to convince the landlord that the black man had gone?

Change as they might, still the black man would be there. So of these bills. The negro changes position in each one of them; but still the negro may be seen in them all.

I trust I shall be pardoned a few remarks as to the policy of advocating free territory by northern Democrats. We are told that we are adding strength to the "third party;" but, sir, in my judgment, to undertake to make the Democratic party responsible for slavery propagandism, would add strength to the "third party."

In most of the free States where the ordinance of 1787 was disavowed by the leading Democrats, we failed in the late election of President; but in Maine, where it was upheld, we succeeded. Let me for a moment show how we prevented defection from our own ranks. The whole Democratic press of the State, with one or two exceptions, took ground against the extension of slavery. The Democratic papers, generally, expressed an honest opinion that General Cass, if elected, would not veto a territorial bill. On the 2d day of October last the leading Democratic paper of the State made the following announcement:

We are satisfied that the Free-soil party in Maine will accomplish nothing. The Democracy of the State took their stand upon this subject long since, believing that all proper measures are attainable within the limits of their old organization. The following resolutions, passed by both branches of our Legislature at the last session, are fully expressive of the popular sentiment:

Resolves relating to the extension of slavery in newly acquired territory.

"*Resolved*, That Maine duly appreciates the concessions and compromises which led to the adoption and establishment of the Constitution of the United States; and she will cheerfully and honestly abide by the letter and spirit of them. At the same time she will firmly resist all demands for their enlargement and extension.

"*Resolved*, That the sentiment of this State is profound, sincere, and almost universal, that the influence of slavery upon productive energy is like the blight of mildew; that it is debasing and degrading in its influence upon free labor; that it is a moral and social evil; that it does violence to the rights of man as a rational, thinking, and accountable being; influenced by these and other important considerations, this State will firmly oppose the introduction of slavery into any territory acquired as an indemnity for claims upon Mexico.

"*Resolved*, That it is the duty of Congress to prevent, by the exercise of all constitutional power, the extension of slavery into territory of the United States now free.

"*Resolved*, That our Senators in Congress are hereby instructed, and our representatives requested, to support and carry out the principles of the foregoing resolutions."—*Passed August* 2, 1848.

The noble-hearted Democracy of the Pine Tree State heartily detest slavery, and, in the language of Cass, "pray for its abolition everywhere." They are opposed to the extension of the institution to places where it does not now exist.

Such was the language of the leading organ of the Democratic party. What was the result? The day of election came, and the Democrats carried the State, believing that freedom in the Territories would be secured by "their old organization."

Had the leaders and press of the Democratic party in Maine repudiated the ordinance, they would have added strength to the "third party," and the banner of the Democracy of the State would have trailed in the dust.

But it is said that to oppose the extension of slavery will lead to a dissolution of the Union. It then comes to this: if certain gentlemen cannot extend slavery, they will go in for a dissolution. I do not wonder that these gentlemen hold up the idea of a dissolution. They have an object to accomplish, and they might be willing to accomplish it through the fears of northern men. But the northern man who will catch up the cry and ring it through all its changes, endeavoring to alarm the people of the north who love the Union, into an acquiescence in the propagation of slavery, is scarcely worthy to be free himself. Dissolution of the Union for what? For the purpose of extending slavery? Sir, revolts and popular outbreaks have been common in all countries. History is full of rude and terrible efforts of even semi-barbarians for liberty. But who ever heard of the dissolution of a government, by an intelligent people, for the purpose of colonizing slavery—for the enslavement of an empire?

The American Revolution was a desperate effort for liberty, and Jefferson regarded the extension of slavery to the American colonies by England, as an emphatic reason for a dissolution of our connection with that Power. What, sir, is going on at the present time? France, Italy, Germany, Ireland, and in fact the principal nations of Europe, have sought to dissolve their existing Governments, to secure the blessings of freedom.

The inspiriting cry of liberty has been heard all over the civilized world, while in America the hoarse and discordant notes of dissolution are sounded, and we are warned that our Republic is to be dissolved, unless we give our votes to fasten slavery, directly or indirectly, upon the empire of the Pacific. But, sir, there is no need of alarm. The Union will not be dissolved; and I have an abiding confidence that slavery will not be permitted to enter our Territories.

The hour expired.

Mr. ROCKWELL, of Connecticut, then obtained the floor. He said: It is my design to confine myself to a subject quite relevant to the bill now under discussion. I mean, sir, the present condition of the finances, and the report of the Secretary of the Treasury in relation to them, delivered at the present session of Congress.

It is due to the Secretary to say, that the report is in far better taste than the former productions of that officer. It is of a more elevated character. Its principles, which are exceedingly unsound as I think, are sustained with much ability and adroitness, and with lawyer-like skill. There is less of the low appeal to the prejudices of classes, and of the arts of the demagogue, than sometimes has appeared in productions of a similar character. There are also some recommendations which are worthy of being adopted, and will, I hope, find favor during the present session with the two Houses of Congress. The recommendation of a "Department of the Interior" is of this character, and, as must be apparent to all who are conversant with the business of the different departments, it is quite essential that some such department should be organized. The Treasury Department is now so loaded down with numerous burdensome duties, that it is quite impossible for any Secretary to attend faithfully to discharge them.

There are many points in this report to which I would gladly call the attention of the House and the country, and I may do so at another time. My present purpose, however, is to confine myself to a few points which appear to me to be of the utmost importance; and to avail myself of the statements of the Secretary himself mainly on these subjects.

The balance in the treasury on the 30th June next is estimated in the report to be $2,853,694 84. The probability is that there will be no such balance, nor any balance at all, in the treasury at that time, as shown by his own report.

The expenditures for the residue of the year, I think, are under-estimated, and the receipts over-rated.

The actual expenditures for the first quarter of the present fiscal year, ending 30th September, 1848, as shown by the report, are $17,866,104 91. The estimated expenditures for the remaining three quarters are only $36,339,170 15—being a little more than double for three quarters of the actual known expenditures of the first quarter. I have not examined in detail these estimated expenditures, but it seems quite improbable that any such serious difference should exist between different portions of the year. It may be said, indeed, that the expenses of the army, and other expenses arising out of the war with Mexico, are greater during the first quarter than they will be during the residue of the year. This may be, to some extent, true; but it should be borne in mind that these expenses, the debts thus contracted, are, to a very great extent, yet unpaid. Claims to a very large amount are yet unsettled, arising, in part, from the necessity of the case, and in part from the want of clerical force or inefficiency in the departments. The amounts to be paid, during this year and the next, from this cause, will be very great; and although they may diminish from year to year, the experience of former years has shown us, that for twenty or thirty years, or even a much longer time, these claims will be constantly presented, and operate as a serious draught on the treasury.

It *may* be very reasonable to estimate the expenses of the navy for the last three quarters of this year at $6,089,032 56, when the actual expenses are shown by the report to have been for the first quarter, $2,979,032 17; that is, that the expenses of the three quarters will only be about double of the expenses for the one quarter. But such an estimate appears quite unsatisfactory, unless sufficient explanation can be given for this great discrepancy.

It is, however, well known that Congress always makes appropriations not contemplated by or estimated for by the departments, and numerous and large items of expenditure are always added, and always will be added, to those for which estimates are made.

But if the Secretary of the Treasury has made only a true estimate of the expenditures for the residue of the present year, he has so far over-estimated the receipts that instead of there being a surplus at the end of the year, there will be a deficiency.

The receipts from the customs during the last year were $31,757,070 96. The estimate for the present year is $32,000,000 from the same source.

The actual returns, however, show, that during the first quarter, instead of being an increase over the receipts for the same period of the last year, there has been a serious diminution. The receipts for the quarter ending September 30, 1847, were $11,106,257 41. For the quarter ending September 30, 1848, the receipts were $8,991,935 07; being a falling off in one quarter, from this source alone, of $2,114,322 34.

The receipts from the public lands, last year, were $3,328,642 56. The estimated receipts from the same source during this year are $3,000,000. During the first quarter, however, there has been a more serious falling off than even in relation to the receipts from the customs. During the quarter ending September 30, 1847, the actual receipts from the public lands were $896,883 47; and for the quarter ending September 30, 1848, the actual receipts were $482,709 40: being a diminution in this one quarter of $414,174 07.

It thus appears, that the falling off in the receipts from the customs and public lands in one quarter was $2,528,496 41. The deficiency in this quarter alone, is thus very nearly equal to the entire balance estimated to be on hand on the 30th June, 1849—that amount being $2,853,694 41.

But, sir, there is an item of receipts embraced in these estimates which, according to the construction given to the act of 28th January, 1847, is not available at all for the general expenses of the Government. I refer to the receipts from the public lands. The Secretary, in his report, says:

"Under these circumstances, I recommend that the Treasury Department be authorized to purchase at the market rate, at any time when its means will allow, after the first of July next, any portion of the debt of twenty-eight millions authorized by the act of the twenty-eighth of January, 1847, including treasury notes, if any should remain unfunded. This is the more necessary, as the sales of the public lands have been set apart by this department, as directed by that act, for the payment of the interest and purchase of the principal of this stock, which is impossible at present, the right of purchase being limited to par. Unless, then, authority should be given to purchase this stock at the market rate, a considerable sum must remain in the treasury on the first of July next of the sales, which can be used for no purpose whatever."

I find, from the amendment yesterday added, moved by direction of the Committee of Ways and Means, to the civil and diplomatic appropriation bill, that that committee entertain a similar view of the construction of the law, which has thus been confirmed by the decision of a majority of the House of Representatives. I have not supposed that this was a just construction of this statute, and shall, before I sit down, give a few reasons for that opinion. On the supposition, however, that this view of the subject is correct, some important questions arise.

The section of the act referred to is as follows:

"SEC. 19. *And be it further enacted*, That for the payment of the stock which may be created under the provisions of this act, the sales of the public lands are hereby pledged; and it is hereby made the duty of the Secretary of the Treasury to use and apply all moneys which may be received into the treasury for the sales of the public lands after the 1st of January, 1848: first, to pay the interest on all stocks issued by virtue of this act; and, secondly, to use the balance of said receipts, after paying the interest aforesaid, in the purchase of said stocks at their market value, provided no more than par shall be paid for said stocks."

The ground assumed by the Secretary is, that "the receipts for the public lands having been pledged as security for this loan, they can be applied to no other purpose, but must either be set apart and remain idle and unused in the treasury, after paying the interest upon it, to await the maturity of the loan, or be applied in the purchase of the stock itself."

In either event the result is the same; for if used to buy up the stock, it only so far diminishes the amount of this debt, and the available means of the Government precisely to that extent, and in the same manner, as if placed in a strong box and kept unused until the maturity of the loan.

Why, then, is it, sir, that the Secretary places this as a part of the *available* means of the Government? Why is it, that with one breath he informs Congress that this money can be only used for the payment of the interest and principal of this loan, and yet declares to his successor in office that this is a part of the available means in the hands of his successor to be used for the ordinary expenses of Government? And tells Congress that, including this amount, he will have some three millions of available balance in the treasury on the 30th June, 1849?

So far as the interest on this loan is concerned, he places that with the other expenditures for which provision is to be made, and to that extent the receipts for the public lands are first applicable.

In the first place, sir, this fund is pledged only for the payment of interest, or *stock* issued under this act, according, as I think, to a fair construction of the act itself, and not to the treasury notes until the same shall be funded, and stock substituted for them.

Suppose, however, that it is applicable to the entire amount authorized to be issued—whether stock or treasury notes—the result would only be a difference of amount.

In that view of the subject, the amount of the loan authorized by the act was $23,000,000. As, however, the act authorized the issue of stock for treasury notes previously issued, a fair construction of the statute extends the pledge to all such stock.

The entire amount of stock issued—as shown by table O, accompanying the Secretary's report—is something more than $28,000,000.

The interest on this sum is about $1,700,000, which, deducted from the receipts for the public lands for a portion of last fiscal year, and in the same manner for the estimated receipts of this year, would leave, after paying the interest, about $2,000,000, which, according to the views of the Secretary, and this House also, would be in no manner available to the ordinary expenses of the Government. This amount is not far short of the whole estimated balance in the treasury at the end of the year.

It is thus, sir, quite apparent, as I think, that in any view of this subject, so far from there being any balance on hand at the end of the present fiscal year, the Administration may find themselves most seriously embarrassed by the deficiency of funds; and four months after coming into office may find, instead of any balance on hand, that the whole receipts into the treasury will be insufficient to meet the demands upon it created before coming into office.

If I am correct in these views, it is the obvious duty of Congress to anticipate and provide for such a result, and not to wait until these evils shall arise.

In relation, however, to the authority given in the appropriation bill to the Secretary of the Treasury to purchase this stock at his discretion above

par, I shall regret exceedingly to see any such authority finally given by any law, and still hope that in this particular that act may be amended elsewhere.

It does not appear to me that a fair construction of that act requires that the alternative should be resorted to either of hoarding the money in the treasury, or authorizing the purchase of the stock. I have always supposed that the only value of this pledge, and all that the act proposed to give to the holders of the stock, was, the punctual payment of the interest, and by an authority to purchase the stock at par, to prevent it ever falling below the par value. It was never designed to be held as a sinking fund, and to accumulate in the treasury for that purpose. It was well known that the stock would probably not, or very rarely, sink below par, at which price alone the original act authorized that it should be purchased. The fund, if suffered to accumulate, might, and probably would, amount to more than the original loan upon its maturity.

Such a construction would not be given of a pledge even between individuals by the strict rules of law. It is well known that in many States the Legislatures have made large loans to railroad companies, to aid them in the construction of their roads. These loans have been on long time, and have been secured by the pledge of "the railroad, its franchise and income." In the State of Massachusetts a loan of this character was made of a number of millions of dollars to one corporation, and other States have followed the example. It has been in some of these cases judicially decided, that although the *income* of the road was pledged for the payment of the loan, the company would not be restrained from applying that income, after paying the interest on the loan, to the payment of dividends on the stock. The claim was, that income should be allowed to accumulate as security for the principal, and should be held for that purpose. But this claim was denied, and the universal opinion, so far as I know, is, that only on a breach of the conditions of the loan, and a failure to meet the interest or principal when due, could any application be made of the income for that purpose.

The objections to allowing any such authority to the Secretary are very obvious. The annual purchase by the Treasury of one or two millions dollars of this stock would at once greatly inflate it in market, and the price which would be required to be paid would of course be very extravagant, if purchased at all. Nor do I think that any Secretary of the Treasury should have intrusted to him any such dangerous discretion.

There is another item which is very strangely placed among the available means of the treasury; but as it is only for the very trifling sum of about $166,000, I will not occupy long the attention of the committee in considering it.

Table C of the report contains a "statement of the funds available to the treasury October 1, 1848, from loans and treasury notes." In this statement of available means is included the sum of $300,034 75, "under the 14th section of the act of January 28, 1847," being the amount of treasury notes issued prior to 1846, and by that section authorized to be funded. The 14th section here referred to is as follows:

"That it shall and may be lawful for the holders of any treasury notes issued, or authorized to be issued, under this act, or any laws heretofore passed, to convert the same into certificates of funded stock, upon the same terms and in the same manner hereinbefore provided in relation to the treasury notes authorized by the first section of this act."

It is difficult to see how this authority to exchange treasury notes for stock can in any way be considered as available means. In plain language, the Government having issued notes on short time, authorize the holder to return them, and receive in exchange their notes payable twenty years ahead. A debtor leaves it at the option of a creditor to take a new note for an old one, which may be a convenient arrangement enough for all parties; but how this arrangement gives the debtor any money, or available means of any kind, is not very apparent. From this sum of $300,034 75, there is deducted in this statement $133,728, which leaves, as a part of the available means from this source, $166,206 75, if my subtraction is correct. It is true that, under the head of "treasury notes outstanding and payable when presented," the sum of $161,989 31 is included as a part of the estimated expenditures for the year on the second page of the Secretary's report. If this is designed to correspond with this entry under the head of available means, it is quite obvious that if these notes are presented and paid, it comes very properly under the head of expenses for the year; but this in no way authorizes the Secretary to issue to any person any stock by virtue of this section, or any other section or act; and in no sense is this entry properly placed under the head of "available means."

This is, however, a matter of small importance, and I hasten to consider two acts of the Secretary of the Treasury of a far more grave and important character, and to which I call the attention of the House.

It appears from the statement of the Secretary of the Treasury, in his report, that he has purchased in market $500,000 of stock, as claimed by him under the authority of the 5th section of the act of 31st March, 1848, but, as I conceive, in clear violation of law.

It struck me, sir, as exceedingly strange, that any such authority should, under the circumstances, be exercised by the Secretary, if conferred by law. The loan was authorized by that act for $16,000,000. Advertisements were issued inviting bids for the loan. About the middle of June, I think, the bids were opened, and the stock was distributed; a part of the amount was paid in from time to time during the summer and fall; and a portion of the amount (some three millions, as the chairman of the Ways and Means informs me) is still unpaid. During this time, while thus borrowing money and issuing the stock for it, the Secretary of the Treasury takes a portion of the very money received from the avails of the loan, and goes into market and purchases up a part of this very stock at an advanced premium. Before any particular examination of the act, the transaction appeared to me to be a most extraordinary one.

A careful examination of the act shows it to be not only most extraordinary, but illegal. The 5th section of the act is as follows:

"That the Secretary of the Treasury be, and he is hereby, authorized to purchase, at any time before the period herein limited for the redemption of the stock hereby created, such portion thereof, at the market price, not below par, as the funds of the Government may admit of, after meeting all the demands on the treasury; and any surplus that hereafter may be in the treasury is hereby appropriated to that object."

In the first place, *the funds of the Government* did not, in the language of the act, *admit* of the purchase of this stock. At the very time when this purchase was made, the expenditures far exceeded the receipts of the Government, except so far as those arose from money borrowed by the Government. During the quarter ending the 30th September, 1848, the actual receipts from customs, public lands, and all other sources, except the avails of loans and treasury notes, was, as appears by the report of the Secretary, $9,607,914 82; and the actual expenditures during the same time were more than $15,000,000—the expenditures thus exceeding the receipts some five or six millions of dollars during this quarter. Precisely when this purchase was made I do not know, but about this period of time; and the funds used were collected from this very loan itself, or some other loan. The Secretary raises money by the issue of stock, and takes that very money to purchase, at an advanced price, the very stock so issued—a clear violation of the spirit and express provisions of the law.

But the act also provides, that "any *surplus* that may be hereafter in the treasury is appropriated to that object."

There was no such surplus in the treasury. The obvious meaning of the act is, that if, at any future time, the annual receipts should, from any cause, so far exceed the expenditures as to place in the treasury a clear surplus, that, instead of allowing such surplus to increase, or resorting to the measure of distribution, as on a former occasion, the Government should buy up its own stock. But, at this time, the only money in the treasury was that which was placed there by payments on the loan which was at the time called for and paid by the holders of the stock. We have seen that the expenditures far exceeded the receipts from all other sources.

The apology given by the Secretary for his proceedings is, that there was a large amount of specie in the several depositories, and that by *his estimate* there *would be* a balance of $2,853,694 84 in the treasury on the 1st July, 1849, and a balance of $5,040,542 11 on the 1st July, 1850. It is of course quite unimportant that there was in the several depositories a considerable amount of specie, when a larger amount was received during the same period from the loans. By calling in the loan more rapidly, it was entirely in his power to cause a still greater accumulation in those depositories for the time being.

The other ground is not only untenable, but absurd—relying upon estimates which are, of course, necessarily a mere matter of conjecture, and which at the very time he knew were not sustained by the actual returns, as showing that a *surplus* would be in the treasury six or nine months, or even eighteen months ahead, and taking that as the apology for a purchase of what is wholly unauthorized and inexcusable. We have seen also, that so far from there being probably any surplus at the time named, there will be a serious deficiency in the treasury.

But, sir, there is a still more serious violation of law, on the part of the Secretary of the Treasury, in loaning from the sub-treasury in New York, about the first of October last, the sum of $800,000. The provisions of "An act to provide for the better organization of the treasury, and for the collection, safekeeping, transfer, and disbursement of the public revenue," commonly called the sub-treasury act, in the sixteenth section, is as follows:

"That all officers and other persons, charged by this act, or any other act, with the safekeeping, transfer, and disbursement of the public moneys, other than those connected with the Post Office Department, are hereby required to keep an accurate entry of each sum received, and of each payment or transfer; and that if any one of the said officers, or of those connected with the Post Office Department, shall convert to his own use, in any way whatever, or shall use, by way of investment in any kind of property or merchandise, or shall *loan*, with or without interest, or shall deposite in any bank, or shall exchange for other funds, except as allowed by this act, any portion of the public moneys intrusted to him for safekeeping, disbursement, transfer, or for any other purpose, every such act shall be deemed and adjudged to be an embezzlement of so much of the said moneys as shall be thus taken, converted, invested, used, *loaned*, deposited, or exchanged, which is hereby declared to be a felony."

The punishment provided by the act for this offence is "imprisonment for a term not less than six months nor more than ten years, and a fine equal to the amount embezzled."

I have spoken of the transaction as a loan, because such I suppose it to be, and that the attempt at evasion resorted to was of a kind in no way to alter the character of the transaction.

I may be wrong in my information as to the facts, but, relying upon the statement of those who at the time undertook to apologize for, or defend the act of the Secretary, I suppose it to have been as follows:

By the 8th section of the act of 28th January, 1847, the Secretary is authorized to purchase treasury notes at par; and by the 12th section of the same act he is authorized to reissue notes which have been redeemed. As at the time the market value of the stock was above the par value, he could not, of course, make the purchase in the ordinary mode. The course adopted, as it is stated, was to enter into a stipulation with certain persons to purchase of them their stock at par, with the agreement that, at the expiration of a limited time, the same amount should be issued and returned to them at its par value; and in the mean time, as it is understood, that no interest should be charged.

I need not say, sir, that this transaction was by the public invariably considered to be a loan, and no intelligent merchant viewed it in any other light. It was, indeed, by some considered a very clever device to evade the sub-treasury law, but no one supposed that there was in either instance a *bona fide* sale of any stock.

Every lawyer is familiar with various devices, through fictitious sales, to evade the usury laws, and how perfectly unsuccessful such attempts always are. I cannot conceive, sir, that before any respectable tribunal in the country any such evasion would for a moment shield any violator of this act.

I am aware, sir, that the Secretary was urged to this unauthorized proceeding by many gentlemen of great respectability, connected extensively in business, as well as by those dealing largely in stocks, with the view of relieving the pressure upon the money market in New York, and indirectly other parts of the country. A large amount of specie had accumulated in the sub-treasury in

New York, which was producing the injurious results arising from a sudden withdrawal of the precious metals. It was a natural and legitimate consequence of this act which Mr. Walker, in his report, praises so highly. The act is constantly evaded or violated. If it was enforced in its strictness, the country would not endure the scheme. This act of Mr. Walker, however, is of quite too prominent and serious a character to be overlooked or passed by without the severest reprehension.

There are, sir, many other parts of this report of the Secretary of the Treasury which are, I think, unsound in principle and erroneous in statement. I spent, however, during the last session, so many hours in exposing the errors in the figures of the Secretary, that I cannot now pursue that branch of the subject; nor am I inclined, by enlarging on other subjects which press on my attention contained in this report, to draw off the attention of the House from the subjects to which I have adverted, some of which are, I think, of the utmost importance.

Before, however, taking my seat, I must for a moment ask the attention of the House to that part of his report in which he recommends an additional appropriation of public land in support of schools—a subject which I think is not particularly appropriate for a report on the finances.

He states that, in pursuance of his recommendation, Congress, at the last session, granted two sections of land in each township in the Territory of Oregon. It is not very important whether this laudable act was done on the suggestion of the Secretary, or some other person.

But as I happened myself to have introduced, by way of amendment into the Oregon Territorial bill, this very provision, during the twenty-ninth Congress, which was adopted by the House, and was embraced in the bill which was lost in the Senate, I was greatly amused when I saw that the learned Secretary, in the midst of the self-glorification which abounds in his report, should have appropriated this piece of property, which was peculiarly my own.

Mr. THOMPSON, of Iowa, obtained the floor, and yielded to

Mr. POLLOCK, upon whose motion the committee rose and reported.

Mr. WENTWORTH asked leave to present certain resolutions of the Legislature of Illinois.

Mr. THOMPSON, of Pennsylvania, objected.

Mr. ROBINSON made a report from the Committee on Enrolled Bills; after which,

On motion, the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. TALLMADGE: Memorials from New York, Utica, and Albany, for a law prohibiting the introduction of intoxicating liquors on board of vessels in the United States navy except for medical purposes, and also to abolish corporal punishment in the military and naval service.

By Mr. PALFREY: The petition of Charles K. True and 34 others, of Charlestown, Massachusetts, praying for a reduction of the rates of postage, free delivery of letters and newspapers, and the abolition of the franking privilege.

By Mr. CRANSTON: The petition of George W. Hathaway and 71 others, of the town of Warren, Rhode Island, for a uniform rate of two cents postage on letters, &c.

By Mr. BUTLER: The petition of citizens of Luzerne county, Pennsylvania, asking Congress to make such alterations in our revenue laws as will give fair protection to American industry. Also, petitions of two citizens of Luzerne county, Pennsylvania, asking for an immediate modification of the tariff.

By Mr. WENTWORTH: The petition of merchants of Chicago for a light-ship and for buoys in the Niagara river.

By Mr. NELSON: The memorial of Abraham Brown, Ebert Osborn, and others, citizens of Westchester county, New York, praying for a uniform and reduced rate of postage, &c.

By Mr. KAUFMAN: The petition of William Lockridge, D. H. Edens, and others, praying for the establishment of a mail route from Leona, via Navano and Magnolia, to Palestine.

By Mr. FARRELLY: The petition of Levi Jenning, and many other citizens of Mercer county, Pennsylvania, for an immediate restoration of the act of 1842.

By Mr. PECK: The petition of J. Harrington and others, of St. Johnsbury and vicinity, Vermont, for cheap postage.

By Mr. TAYLOR: The petition of J. L. Watkins and fifty-one others, citizens of Portsmouth, in the State of Ohio, praying for a uniform rate of postage, and for cheap postage.

By Mr. SMART: The petition of Eli Ayle and others, of Palermo, Maine, for reduction of postage. Also, remonstrance of fifty-two fishermen against division of the Waldoboro' collection district, as petitioned for at East Thomaston, Maine. Also, remonstrances of ninety-eight persons of Waldoboro' and sixty persons of Bristol, against division of said Waldoboro' district.

By Mr. BLACKMAR: The petition of Henry Fatsinger and many other citizens of Waterloo, New York, asking a reduction and uniform rate of postage, and the abolition of the franking privilege.

By Mr. CLARK, of Maine: The petition of Nathaniel Groton, and 312 others, citizens of Bath, Maine, in favor of cheap postage.

By Mr. ROSE: The petition of Augustus T. Hopkins, R. P. Gillett, and 94 other citizens of Victor, Ontario county, New York, praying for the freedom of the public lands.

By Mr. EMBREE: The petition of Nelson G. Nettleton and 400 other citizens of Posey county, Indiana, praying a grant of bounty lands for the soldiers of the Indian wars and the late war with Great Britain. Also, the petition of James Lockhart and others, citizens of Vanderburg county, Indiana, for the reduction of postage.

By Mr. PILSBURY: The petition of citizens of Corpus Christi and neighborhood, in the State of Texas, praying that a law may be passed allowing drawback on dutiable goods exported into the interior of Mexico.

By Mr. SIBLEY: The memorial of half and quarter breeds of the Sioux Indians, praying that certain moneys paid under the treaty of 1837 be refunded. Also, a memorial of the sufferers by acts of the military of Fort Snelling, on lands south of the reserve.

By Mr. McCLELLAND: Petitions of registers and receivers of land offices in Michigan, for compensation for services relative to military land warrants.

IN SENATE.

THURSDAY, *January* 25, 1849.

The VICE PRESIDENT presented a resolution of the Legislature of Iowa, in favor of an appropriation to complete the harbor of Dubuque, in that State;

Also, a resolution in favor of a grant of land for a railroad from Dubuque to Keokuk;

Which resolutions were referred to the Committee on Public Lands.

The VICE PRESIDENT presented the proceedings at a public meeting at Point Isabel, in the State of Texas, relative to the establishment of a port of entry at Point Isabel; which was referred to the Committee on Commerce.

Mr. MILLER presented a memorial of the Corporation of the City of Washington, asking an appropriation for the completion of the City Hall, and the cleansing out of the city canal; which was referred to the Committee on the District of Columbia.

Mr. TURNEY presented additional documents in relation to a claim of William Carter, for a horse lost in the military service of the United States; which was referred to the Committee on Claims.

Mr. BORLAND presented the memorial of two hundred citizens of Arkansas, praying for the construction of a railroad from Memphis, on the Mississippi river, to the Pacific Ocean; which was referred to the Committee on Public Lands.

Mr. BORLAND presented a memorial from the Legislature of Arkansas, in favor of a law allowing compensation for horses lost in the war with Mexico; which was referred to the Committee on Military Affairs.

Mr. DAVIS, of Massachusetts, presented a petition from Daniel Doland, a discharged soldier of Colonel Stephenson's regiment, asking for pay and bounty land; which was referred to the Committee on Military Affairs.

Mr. DOWNS presented a memorial of A G. Blanchard, and others, officers and soldiers, who served in the war with Mexico, asking for extra pay.

Mr. DOWNS. The grounds on which the petitioners ask the action of Congress are very fully and ably stated. I shall not recapitulate them, but will revert to only one of the grounds. They allege that bounty land warrants were allowed for every new engagement, either as a volunteer or regular soldier or officer; that this right was announced by a circular from the Adjutant General. The law, they allege, (and so the fact is, I think,) allowing three months' extra pay, is in the like general terms, and therefore a double allowance ought to be made for them in like manner. This pay, too, was allowed as some indemnity for patriotic services rendered in the service of the country. It was allowed for those who made it once; why should it not, then, be allowed to those who did it twice, especially when all know that reënlisted soldiers or volunteers are better than new ones? The new men, if engaged in their places, would have been entitled to it, and why should not they? I therefore recommend the petition to the most favorable consideration of the Committee on Military Affairs.

While up, sir, I desire to make a personal explanation with reference to errata in my remarks, which are to be found in the report of the brief speech I made the other day on the reference of the bill organizing California into a State, as published in the "Union," one of the papers that prints our proceedings officially. The statement of the few remarks I then made is so erroneous that I deem it an imperative duty to rise in my place and correct it.

After giving a paragraph correctly, stating that I was indifferent as to which committee the bill should be referred, the report goes on to state a palpable contradiction, and what was altogether different from what I did say. It says: "I think, however, it should be referred to the Judiciary Committee." Sir, I used no such language. I expressed my entire indifference as to which committee the bill should be referred; and that, if I concurred in anything, it was in the suggestion of the Senator from Illinois, that it should go to a select committee.

There is another error, still greater and more glaring and absurd. It occurs in the last clause of the speech. It is:

"The amendment offered by the Senator from Illinois as a *substitute* bill, which differs very materially from the one which I reported here."

My principal object in rising on that occasion was to state, and I did state, directly the opposite of what I am here reported to have said. What I did remark was, that I acquiesced in the substitute proposed by the Senator from Illinois, because of its being almost precisely the same in character as the plan that I had suggested in my minority report. I have spoken of this matter, sir, because it is one of so much importance, and because I am made to say on this important subject exactly the contrary to that which I really did say.

While upon this subject, I wish to remark that I have advocated in my place heretofore the publication of our debates in the principal papers of this city; and I do hope that while the system is continued, the editors of the papers which report and publish our proceedings, will faithfully and correctly fulfill the duty which they owe to the Senate, to themselves, and to the country, by engaging and employing accurate and competent reporters to furnish the discussions here entered into in accordance with the contract made with the Senate at the last session. It is a duty they owe alike to all. These papers have a large circulation. They were selected to perform this duty because of that circulation, and I, and many other of the members, have contributed to that circulation for the purpose of sending abroad speedily and correctly a transcript of everything said and done here. I consider it a part of the contract made with these papers that they employ faithful and correct reporters.

I do not wish to draw any invidious distinction between the accuracy of the reports in the two papers; nevertheless, I feel it my duty to say that on comparing the reports of the few remarks I make in the two papers—and upon any subject my remarks are always brief, and it is not often that I speak at all—I found that the mistakes in one were much more glaring and of greater consequence and more frequent than in the other. I would not draw any distinction here, were it not that the paper, whose reports of my speeches have been most erroneous, (the Union,) circulates more extensively among my constituents and friends than does the other, the National Intelligencer. I regret to say, sir, that its reports of my speeches, at any rate, have not been as correct or faithful as those made by the other paper. I do hope, sir, that proper measures will be taken by these editors to secure competent reporters. I do not know the reporters of the paper I have alluded to as misrepresenting my statements, nor who they are. I have no personal allusion, therefore, in what I say to them; what I wish is, that its editors will obtain more accurate and competent reporters. I would here bear testimony to the correctness and fidelity, in the main, of the reports published in the other paper, so far as I have observed them. I would add, sir, in reference to the report of which I now complain, that some portion of it is given in very bad English. The words "substitute bill" are used, and in a very ungrammatical form, as any one will perceive on examination. I do trust that the reporters who made this draught of my speech, if they cannot write good English, and if they will not bring their reports to me for revision, will take the trouble to obtain slips of my remarks in future from the other paper. I know we cannot expect that every word said in debate shall be published with perfect accuracy; but, by the terms of the contract, and the general understanding of Senators at the

time it was made, we do expect ordinary accuracy and fidelity in the reports; we do expect that the language we utter will not be grossly and entirely perverted. I do hope that this thing will be corrected, and that the contract made in relation to this matter will be fully and satisfactorily carried out, as Congress has to disburse large sums of money in the fulfillment of their portion of it.

The petition presented by Mr. DOWNS was then referred to the Committee on Military Affairs.

Mr. BRIGHT presented a preamble and joint resolutions of the Legislature of Indiana, in favor of a valuation of the public lands in the Great Miami reserve.

Mr. JOHNSON, of Maryland, presented a petition from William Caton, of Anne Arundel county, Maryland, for remuneration for services rendered during the late war with Great Britain; which was referred to the Committee on Claims.

Mr. JONES presented joint resolutions of the Legislature of Iowa, instructing their Senators in reference to a post route; which was referred to the Committee on the Post Office and Post Roads.

Mr. JONES presented joint resolutions of the Legislature of Iowa, instructing their Senators to obtain an appropriation to complete the Great Harbor of Dubuque; which was referred to the Committee on Commerce.

Mr. JONES presented joint resolutions of the Legislature of Iowa, in favor of a grant of 10,000 acres of land to aid the State in making a levee on Muscatine Island, to prevent the inundation of the same; which was referred to the Committee on Public Lands.

Mr. DODGE, of Iowa, presented a petition from John Medlam, a soldier in the late war with Great Britain, asking a grant of land; which was referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. BREESE, from the Committee on Public Lands, reported, without amendment, House bill granting to the State of Mississippi the right of way and a donation of public lands, for the purpose of locating and constructing a railroad from Brandon to the eastern border of said State, in the direction of Montgomery, Alabama.

Also, from the same committee, to which was referred House bill in addition to an act entitled "An act in relation to military land warrants," approved 14th August, 1848, reported back the same with an amendment providing that no assignee shall locate such warrant on any legal subdivision less than a quarter section.

Mr. BORLAND, from the Committee on Public Lands, reported the bill to amend the act approved June 17, 1844, entitled "An act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana," in those parts of the States of Mississippi and Alabama south of the twenty-first degree of north latitude, and between the Mississippi and the Perdido rivers, and asked that the committee be discharged from the further consideration of the bill, and that it be referred to the Committee on the Judiciary; which was agreed to.

Mr. RUSK, from the Committee on Public Lands, reported a bill for the relief of Marvin W. Fisher; which was read a first time.

CHARLES WILSON.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported, without amendment, House bill for the relief of Charles Wilson, and, in pursuance of instructions from the committee, moved that the Senate now proceed to the consideration of the bill; which motion was agreed to.

Mr. BADGER. Mr. President, the peculiar circumstances which characterize the case just presented by my friend, the chairman of the Committee on Pensions, are of such a description as to appeal strongly, I think, to the justice and magnanimity of the Senate; and I desire to move an amendment to the bill by striking out the word "ten," and inserting the word "twenty" before the word "dollars."

Mr. BORLAND. Mr. President, I would suggest to the Senator from North Carolina this only objection to his amendment—for which, nevertheless, I shall most cheerfully vote—that I think there is a probability that, if we add his amendment to the bill, there will be some difficulty in getting it through the other House this session.

Mr. BADGER, (in his seat.) Then we will recede.

Mr. BORLAND. This is a case of great merit, and should be acted upon speedily. I hope, therefore, that nothing will be done to embarrass the bill in the other House.

Mr. ATCHISON was understood to say that he would remark, by way of explanation, that he believed eight dollars per month was the highest amount of pension ever given under the general law.

Mr. BRIGHT. Mr. President, I would like to hear some good reason for giving this individual twenty dollars per month, as the amendment of the Senator from North Carolina proposes. It is true, as suggested by the Senator from Missouri, that eight dollars per month is the highest amount ever allowed to a pensioner under the general law. The chairman of the Committee on Pensions is very liberal in his allowances, and generally reports as large an amount to be given to the applicant as the circumstances of the case will allow us to bestow. If there be any good reason for giving this individual twenty dollars per month I would like to hear it.

The question on Mr. BADGER's amendment was put, when—

Mr. KING called for the reading of the report; but, at the request of several Senators, the reading was dispensed with.

Mr. ALLEN suggested that the sum proposed by the amendment should be changed from twenty dollars to fifteen dollars.

Mr. KING remarked that he would vote for fifteen dollars.

Mr. BADGER said that he did not desire to press his amendment if there was any objection to it; in fact, he would withdraw it altogether.

Mr. FOOTE moved that the bill be amended by changing the word "ten," before the word "dollars," to "sixteen."

This amendment was agreed to.

The bill was then reported to the Senate, and by unanimous consent, was read a third time and passed.

SALSY DARBY.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported a bill for the relief of Salsy Darby.

Mr. JOHNSON, of Maryland, asked to have the bill read, and it was read accordingly.

Mr. JOHNSON, of Louisiana. Mr. President, this pension is allowed under the act passed last year granting pensions to the widows of revolutionary officers and soldiers who were married prior to the year 1800. This old lady was married in 1794, and, according to that law, is entitled to a pension. The Pension Office requires all such marriages to be proved by the record; or, in other words, they require written testimony recorded at the time the marriage took place, and fully authenticated and attested. Such proof the party has not been able to furnish; but a respectable witness has testified to the marriage. This witness, who was present when she was married, is well known by gentlemen from Georgia who are members of the other House, and he is said to be a person that can be depended upon implicitly. The honorable Senator from Georgia, [Mr. JOHNSON,] who is not now in his seat, particularly requested that, when I reported this bill, I should move to have it passed immediately, inasmuch as this is a very meritorious case, and one which demands instant attention. This old lady is now one hundred and one or one hundred and two years of age, and in great need, and this sum of eight dollars per month will be of great assistance to her. Under these circumstances, I hardly think any person can object to the instant passage of the bill.

Mr. BERRIEN. In the absence of my colleague, I beg to express the desire he has that this bill should receive the favorable consideration of the Senate. The person who is the object of enactment is, as has been stated by the Senator from Louisiana, extremely old, being now one hundred and two years of age. The marriage took place, I understand, in 1794. The facts are attested to by witnesses in whom the committee have entire confidence, although written testimony cannot be obtained. Under these circumstances, I trust the bill will receive the favorable and immediate consideration of the Senate.

The bill was then reported to the Senate and ordered to be read a third time. It was subsequently read a third time and passed.

Mr. BRADBURY, from the Committee on Claims, made an adverse report on the petition of Charles Coleman; which was ordered to be printed.

Mr. ATCHISON, from the Committee on Indian Affairs, made a report on the memorial of the Governor and members of the Legislature of the State of Florida, asking that Toney Proctor, a free colored man, may be compensated for services as Seminole interpreter; which was ordered to be printed.

On motion of Mr. DOWNS, the Committee on Private Land Claims was discharged from the further consideration of the petition of John Robertson.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported a bill for the relief of George Martin; which was read a first time.

Mr. METCALFE, from the Committee on Military Affairs, made an adverse report on the petition of Hugh W. Dobbin.

BILL ON LEAVE.

Mr. BRIGHT asked and obtained leave to introduce a bill to reduce the price of the public lands lying within the Miami reservation, in the State of Indiana; which was read a first and second time, and referred to the Committee on Public Lands.

RESOLUTIONS.

The following resolution, submitted by Mr. HAMLIN on the 23d instant, was taken up for consideration:

Resolved, That the Sergeant-at-arms of the Senate be, and he hereby is, directed to place the name of Noah Hanson on the roll of messengers, and pay him the same as received by other messengers.

The resolution having been read—

Mr. FOOTE moved to amend the same by inserting the name of Joseph Hedrick.

The amendment was agreed to.

Mr. TURNEY. I should like to have some explanation as to the necessity for the appointment of messengers by name, under a special resolution for that purpose. I believe that the Senate has rescinded some appointments that have been made in that way, and now it is proposed to appoint two others.

Mr. HAMLIN. I do not know precisely what may be the situation of the messenger whose name is proposed to be inserted by the Senator from Mississippi, but I understand that he is placed upon the same footing with the one whose name is contained in the original resolution. I believe I am justified in saying that this resolution proposes no increase of the number of messengers. Under the present practice these persons are required to present their accounts monthly, while all others present theirs at the end of the session. I do not know any good reason why there should be a difference. The resolution proposes to place these two precisely upon the same footing as the other messengers.

Mr. WESTCOTT. The sole object is to place the subordinate officers on the same footing, and to make the settlement of their accounts more convenient. The two officers named were now appointed by the Chair, and had to get, monthly, the approval of their accounts. Being asked to offer the resolution, I intended to name the proposition to the Chair before the resolution was offered; but I learn the Chair approves of it.

Mr. YULEE. I move that the resolution be referred to the Committee on the Contingent Expenses of the Senate.

The motion was agreed to.

The following resolution, submitted by Mr HOUSTON, on the 23d, was taken up for consideration:

Resolved, That the Secretary of the Senate be authorized and required to procure for the use of the Senate —— copies of the map of the State of Texas, compiled and published by J. D. Cordova.

At the suggestion of Mr. BRIGHT, the resolution was then passed by.

The following resolution, submitted by Mr. DODGE, of Iowa, on the 23d instant, was considered and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Belleview via Anchen, Canton, Edinburg and Anamosa, to Independence, the county seat of Buchanan county. That the same committee also inquire into the expediency of establishing a mail route from Bloomington via Tipton, Rome, Anamosa, Delhi, and Garnevillo, to Prairie du Chien.

The following resolution, submitted by Mr. JOHNSON, of Louisiana, on the 23d instant, was considered and agreed to:

Resolved, That the Committee on Pensions be instructed to inquire into the expediency of passing an act allowing to all officers, non-commissioned officers, musicians, and pri-

vates in the army of the United States, who are disabled, or who may hereafter become disabled, by the loss of a limb or limbs, an eye or eyes, while in the line of their duty in the public service, a pension, at a rate to be fixed according to their disability.

OFFICIAL REPORTS.

Mr. BADGER submitted the following resolution:

Resolved, That the Committee on Printing inquire into the expediency of discontinuing the contract made at the last session for publishing the reports of the debates and proceedings of Congress.

VENTILATION.

Mr. WALKER submitted the following resolution, which lies over under the rule:

Resolved, That until otherwise ordered, the Secretary of the Senate pay to John Skirving, for his services in ventilating the Senate Chamber during its sessions, an allowance not exceeding the pay of a messenger, together with one dollar a day for an assistant.

The resolution having been read—

Mr. BRIGHT said he would prefer that the resolution should lie over.

Mr. WALKER. I will remark that the apparatus for ventilating the Capitol is now ready. An appropriation has been made for the expense of constructing, but no appropriation has been provided for putting it in operation. The committee are desirous that there should be an explicit understanding regarding the matter. If there is no necessity for ventilation, there need be no appropriation made. I hope the Senator from Indiana will permit the resolution to be acted on at once.

Mr. BRIGHT. I would be glad to accommodate the gentleman by withdrawing my objection, but my reason for making it is that we may look into the subject, for it is thought by many that it will be entirely useless.

NATURALIST TO A NAVAL EXPEDITION.

The Senate then proceeded to consider the motion made by the Senator from Iowa for the reconsideration of the vote of the Senate upon the passage of the bill for the relief of Captain John Percival.

Mr. ALLEN. I have a few remarks to make in relation to this bill; but first I will send to the Chair certain documents which I have received from Mr. Dayton, the Fourth Auditor, in relation to this subject, that will explain more briefly and precisely than I can the facts in the case.

The Secretary read the communication, as follows:

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE, *Jan.* 22, 1849.

SIR: As I observe, by the report of the proceedings of the Senate on Friday last, that you have moved a reconsideration of the case of Captain John Percival, and as I am led to believe, from the publication of the debate which occurred previously to the passage of the bill for his relief, that the grounds upon which this officer acted in the matter are not correctly understood, I beg leave to submit to you a brief statement of the circumstances and of the views under which the charge in question was made against Captain Percival, and to ask that you will be pleased to make them known to the Senate. There can be no doubt, I presume, that it is the duty of an accounting officer of the Government, in the settlement of an account of a disbursing agent, to disallow any payment which has been made without authority of law. If he could knowingly admit such a charge, under any circumstances, he would be unworthy of his trust. Upon the settlement of the account of Thomas M. Taylor, as purser of the United States frigate Constitution, it appeared that he had charged the Government with the sum $544 06, paid to John Chandler for his services as naturalist and astronomer from the 29th of March to the 31st of August, 1844, and with the further sum of $1578 82, paid to J. C. Reinhart for his services as naturalist from the 1st of September, 1844, to the 4th of August, 1846, the former being credited at the rate of $1,200 per annum, and the latter at the rate of $750. As it was not known to this office that any law had been passed authorizing the appointment of an astronomer or a naturalist to the Constitution during her cruise under the command of Captain Percival, the purser was called upon for his authority to make the payment just mentioned. He referred to no law, but, instead thereof, he produced an order of Captain Percival, and, in support of that order, a letter from Commodore Warrington, as Secretary of the Navy *ad interim*, dated on the 13th of March, 1844, marked "private but official," addressed to Captain Percival, in which he acknowledged the receipt of a letter from him, *asking authority* to take on board of the Constitution a naturalist, to be allowed the pay of a chaplain, and proceeded to state that *there was some difficulty in the matter*, as the law limited the number of officers to be employed; but said, that at the suggestion of the President of the United States, he (Captain Percival) might take Mr. Chandler on board of the Constitution, and, when he should get to sea, direct him to perform such duties as might be deemed proper for the good of the service, for which he might allow him the same pay as the law allowed to a chaplain. The question, then, was, whether the Secretary of the Navy, at the suggestion of the President, could lawfully send out in a public vessel any number of citizens not belonging to the navy, (for the number does not affect the principle,) and give to the commander of the ship a *carte blanche* to make of them, after he should have gotten out of sight of the shores of the United States, whatever he might think proper—astronomers, botanists, naturalists, historiographers, or anything else—provided only that he should consider it conducive to the good of the service, and direct that they should be paid out of the appropriations made by Congress for the compensation of officers of the navy. Such an idea could not be entertained for a moment, and it was consequently necessary that the payments made to Messrs. Chandler and Reinhardt should be disallowed. It will be observed, that although, according to the letter of the Secretary of the Navy *ad interim*, the pay of Mr. Chandler was to be measured by that of a chaplain, he was not necessarily to be appointed, nor was he in fact appointed, to that office, nor, so far as appears, did he perform any of the duties incident to such a situation. He was entered on the rolls as a naturalist and astronomer, and Mr. Reinhardt who succeeded him, and who was appointed without even the semblance of authority, (for the letter of the Secretary of the Navy *ad interim* was confined to Mr. Chandler,) appears on the rolls as a naturalist merely, and did not so much as receive the *pay* of a chaplain, but a different rate of compensation fixed by Captain Percival. As it was clear that sums thus paid could not be allowed as lawful disbursements, the only question that remained for this office to determine was, to whom the amount should be charged, whether to the purser who paid it, or to his commanding officer who had ordered it to be paid. It will be remarked that the payments were not made by *order* of the President or of the Secretary of the Navy, although that in the case of Chandler was made by their permission, granted at the request of Captain Percival. It was *he*, and he alone, who gave the order, and the purser must obey it or subject himself to be placed under arrest for the whole cruise, and then to be tried by a court-martial for disobedience of the orders of his commander. In the determination of the question upon whom the responsibility should fall, whether upon the operator or the instrument, the regulations of the Navy Department afforded material assistance. One of those regulations, of long standing, and contained in a published volume, is in the following words: "Where the 'disbursing officer doubts the propriety of a claim, he must 'state the objections to the commander in writing, when, if 'he is directed to pay it, the amount will be passed to his 'credit, and the commander under whose orders the pay-'ment was made will be responsible for the amount, if dis-'allowed." It appears that in this case, Purser Taylor did doubt the propriety of the claims of these naturalists, and that he stated his objections in writing to Captain Percival, and that Captain Percival reiterated his order to pay them. He was bound to know the regulation, and it must be presumed that he did know it, and he gave his orders subject to the condition which it imposed. The amount thus paid by his absolute and repeated direction was accordingly charged to him; and whatever doubts I may have had of the legality, *as respects the United States*, of a rule which transfers the liability of an officer who has given security to one who has not, I never had the least misgiving as to the justice of its application when used, as in this case, to fix the consequences of an unlawful act upon the original and principal actor.

I have the honor to be, sir, very respectfully, your obedient servant, A. O. DAYTON.

To the Hon. WILLIAM ALLEN, *U. S. Senate.*

Mr. ALLEN. Mr. President, I have, I believe, the original order which Captain Percival gave to the purser. I will read a word or two from it.

[Mr. A. read the extract alluded to, which was dated "At sea, off Sandy Hook," and stated that, with permission from the Executive of the United States, Mr. John Chandler went in the ship as naturalist and astronomer, and to perform such other duties as might be deemed proper for the good of the service, and directing the purser to rate him on his books accordingly, and to give him the pay which the law allows to a chaplain, for which this order was authority and justification.]

The purser objected to that, and to giving him the pay of chaplain, and the purser stated his objection in writing; and then there was a reiteration of Captain Percival's order in writing, which brings it under the 4th section, chapter 33, of the Rules of the Navy Department:

SEC. 4. When the disbursing officer doubts the propriety of a claim, he must state the objections to the commander in writing; when, if he is directed to pay it, the amount will be passed to his credit, and the commander under whose orders the payment was made will be responsible for the amount, if disallowed.

That is one of the regulations of the Navy Department of long standing, and it is the law for the officers of the ship, in the absence of any statutory regulation to reach the case. Now, it will be observed that Captain Percival, in his written order to the purser to place this gentleman upon the pay roll as naturalist and astronomer, not as chaplain, says that he does it under an authority from, and by permission of, the President of the United States. Now, the Senate has but a single question to decide, and that is an important one. The Senate must determine whether the officers of the navy can be increased in number and their salaries to any amount paid by the President of the United States, or by the Secretary of the Navy, or by the commander of a ship, without the intervention of Congress by the passage of a law. That is the only question we have to decide. The documents in this case show nothing to justify the arguments that were urged the other day in support of this bill. What were those arguments? Why, that this man had been appointed, and that the captain of the vessel would commit mutiny in disobeying the orders of the Executive if he was not admitted on board the ship and put on the pay roll; and, sir, the dangers of naval insubordination were pleaded here as justification of Captain Percival; when the fact shows that he applied to the Executive, and that the President told him he had no authority to make the appointment, but if the Secretary of the Navy chose to act without law, he (the President) did not care.

Well, sir, he applied to the Secretary of the Navy, and the Secretary of the Navy states, that upon the suggestion of the President, though there was no law for it, yet, on the suggestion of the President, the law might be evaded by putting the man on board the ship, putting the ship to sea, and, after she had got afloat, consider her as an outlaw, and let the captain make such laws as that locality of the ocean might require. That is the case, sir. And here, then, we find not an office filled which had been created by law, but an office made without law, and unknown to law—yes, two of them, sir. This gentleman—Mr. Chandler—wanted to go to Rio, and probably when he applied he had no idea of having any greater favor than a passage free on board of a national vessel. The facts justify that conclusion. Well, sir, he got that boon; and, having got from the captain permission doubtless to go as a mere passenger free, the next matter was to pay him for going; and in order to pay him, and to smuggle him into the ship in the character of an officer, and in order to sugar over this thing and make it lie palatable on the tongue of the nation, he was called by the name of chaplain. Chaplain! That was *the* name. Chaplain, sir! But when they got to sea; when they got within that jurisdiction which it seems the Navy Department and the President consider as lying beyond our jurisdiction; when they got on the domain of Neptune, then it was they had no more occasion to use this popular term of "chaplain;" and this gentleman thought proper to take a scientific rather than a religious character. Then it was, sir, that he became naturalist and astronomer.

Now, a ship beating about on the troubled waves cannot be a very convenient place for taking celestial observations. The great difficulty in such a case, I believe, has been to employ machinery so fixed that they can grasp the object and make the observation with precision; but here is a naturalist on board a rolling, tossing mass of wood at sea, to observe the celestial movements. But it does not seem that he was employed in that or any other vocation. He never uttered a prayer for the dying seamen; and as for his performances as a naturalist, I take it that the bosom of the ocean was a barren place. But the gentleman got his passage free, and then he thought that it would be quite as well to be paid for going. He thought this when he got to Rio; and then this captain, without permission from the President or the Secretary of the Navy, with the earth's diameter between him and home, exercises the authority to appoint a new man as astronomer and naturalist.

Well, now, sir, is it not perfectly obvious that this precedent will justify the filling up of the navy with men who are not officers by law, and naval officers who do not choose to go can be left at home as supernumeraries, their duties being performed by a new group appointed without law by the Secretary of the Navy or the captain of a ship? Sir, I believe the Constitution says that all officers of the United States shall be appointed by the President, with certain exceptions, where Congress shall provide particularly by legislation for their appointment by the heads of departments or the judges of courts. That is the provision of the Constitution. But here is a new appointing power started up, and started up in that branch of the public service which is least under the dominion of law, because most remote from the inspection of law. The captain takes any man on board, and orders the purser to pay him; and yet gentlemen say, that if anybody ought to lose the amount, it is the purser. I have shown you that the purser did all that he did do according to law. The argument is in favor of the purser, and there was no mutiny at all, either on the part of the purser or of Captain Percival, who says he had permission to take a man on board; but it was permission from a man who had no authority to give it, and he knew it. Captain Percival knew it,

the President knew it, Commodore Warrington knew it, they all knew it, and you know that the law was violated; and the only question is, whether you will sanction its violation. I want to have this precedent fixed now; we ought to have a solemn decision of the Senate now; and, if the Senate shall decide to pay this demand of Captain Percival, I undertake to say that every commander at sea will fill his ship with persons who are unauthorized to be there; and he will not only invite his friends on board, but pay them out of the public treasury for going. And who can blame him? It is a matter of pure and downright favoritism. The captain, having the sole command, can crowd his vessel with his friends, which the second lieutenant or other officers cannot do. He has a monopoly of this boon. But, sir, it is so plain and palpable an infraction of the Constitution of the country—such a flagrant abuse in that arm of the public service, which in the distance in which it acts from home, is least under the supervision of law—that I will not believe, until I see it upon the decision by yeas and nays, that the Senate will sanction it.

Mr. MILLER. Mr. President, when the Senator from Ohio moved to reconsider this matter, I understood from him that he had some additional facts which he wished to lay before the Senate, in order to change the opinion of the majority of the Senate on this subject. But, sir, I am not able to gather from the papers submitted, or the remarks of the Senator himself, any additional argument which goes to show that this claim ought not to be allowed. The communication from the Fourth Auditor, I think, is written to justify himself, or rather it seems to have been written to defend himself, as if an attack on him had been made. Now, as regards the Auditor, I had no idea of censuring that officer; I believe that no Senator intended to cast censure on the accounting officer. If he believed that there was no authority in law for this payment, it was his duty to reject the claim. The ground we took before was this: We doubted the propriety of charging this matter on Captain Percival, inasmuch as it appears, by a letter from the Secretary of the Navy, that this gentleman, called a naturalist, was taken on board the ship by his authority, with the sanction of the President of the United States; and that he was not only taken there, but the amount of his pay was fixed by that order.

Now, if there be no authority, and I suppose there was no law at the time to make this payment, and if it is not to be charged against the purser, why should it not go to the person who gave the original authority? I do not see why it should stop at Captain Percival; because he acted in this case with great prudence and propriety. He supposed a person of this character, on board a ship which was about to perform a voyage around the world, might be of service to the country. But, whatever might have been his private opinions, he did not act upon them. He did not, as the Senator from Ohio supposes, select a friend without authority, and give him a place on board his ship. No; he applied to the President, and the President informed him that he approved of the matter, and had no objection if the Secretary of the Navy would consent to it. But Captain Percival was not satisfied with this, and he wrote a letter to the Secretary of the Navy, stating the views of the President. The Secretary answered his letter, and in a formal manner ordered him to take this man on board his ship, and fixed the nature of his service, and the rate of his compensation. Why, then, fix the blame on Captain Percival? He acted discreetly, taking no responsibility on himself, but taking permission from his superiors.

Mr. President, the Senator from Ohio has not furnished any additional facts. I think it will be of service to this case, however, that there has been a motion for reconsideration; for in the hurry of debate the other day, all the facts as they appear in the papers were not presented. I undertake to say, that if the Senators will attend to the facts of this case, they will see that, instead of being a case of private advantage—an attempt to get round the law—an attempt to smuggle a man on board a ship—the person appointed was appointed by authority, and that he performed public services of which the country has had the benefit. A particular report of these services has been presented, and is now on file. It is evidently the production of an intelligent mind, and shows the results of his enterprise for the good of the country, which has had the benefit of it; and it has met with the approbation of the Government itself. In addition to this, all these services have been performed without costing the country one cent of money, and, in fact, there has been a saving to the country. In the first place, it appears that Mr. Chandler was appointed by the Secretary of the Navy on the application of Captain Percival, with the consent of the President. He was put on board, not as an officer, but under the name of a naturalist. There was no creation of a new office, but he was appointed in lieu of a chaplain, to which the ship had a right; for the service had a right under the law to a chaplain, and the pay of a chaplain. I do not know whether Mr. Chandler was a clergyman or not, but I am informed that he was, and that he took the place of a chaplain, so that no additional expense was thrown on the treasury.

Upon the arrival of the ship at Rio, Mr. Chandler was so sick as not to be able to prosecute the voyage. That appears from the papers. Captain Percival, believing that his authority was not given for the personal advantage of Mr. Chandler, but was given for the service of his country, was anxious therefore to continue the office, and carry on some person to perform those duties. But, doubting whether he had authority to substitute another person, he wrote a letter to our minister at Rio, Mr. Wise, setting forth the facts in relation to the appointment of Mr. Chandler, and stating reasons for his inability to perform the service, and asking his advice whether he had authority to substitute another gentleman. I have here the letter of Mr. Wise, in which he states that, from authority given by the Secretary of the Navy, it is evident that the Government had objects independent of considerations relating to Mr. Chandler personally, and that it was the duty of Captain Percival to carry out these objects of Government, and that he had authority to do so. A Mr. Reinhardt, an American citizen, was then at Rio; he had been engaged in some scientific explorations in South America, and had been recommended to Captain Percival, and under the advice of our minister, Mr. Wise, he was substituted in place of Mr. Chandler. But, though Captain Percival substituted Mr. Reinhardt in place of Mr. Chandler, it was not as a chaplain, but as a naturalist and astronomer; and he, therefore, did not receive the pay of a chaplain at $1,200 per year, but he gave him the pay of a passed midshipman, ($750,) thereby saving the difference between $750 and $1,200. Under these circumstances Mr. Reinhardt was taken on board the ship; the voyage was prosperous; he went around the world, and visited many countries; and on his return Mr. Reinhardt made a report of his observations and discoveries, and sent to the Department of the Navy various boxes, containing seeds, animals, and all the curiosities he could collect that he considered might be valuable to natural science, communicating them through Captain Percival to that department. Here is a letter of the Secretary of the Navy in relation to these things, which I request the Secretary to read for the information of the Senate.

The Secretary read the letter accordingly, as follows:

NAVY DEPARTMENT, *October* 14, 1846.

SIR: During the recent cruise of the United States frigate Constitution, Captain Percival, along the east coast of Africa, and in the Indian and China seas, she was accompanied by Dr. J. C. Reinhardt, who gave much time and attention in making observations, and collecting specimens in natural history, for the benefit of the National Institute. I have now the pleasure to inclose to you his report.

In communicating this report to the department, Captain Percival testifies in the strongest language to the devoted interest which was manifested by its author, throughout the voyage, in his favorite pursuit, and earnestly recommends him as a most suitable person to procure any seeds and specimens of natural history which may be desired from Brazil.

Dr. Reinhardt joined the Constitution at Rio Janeiro, where he was compelled, by circumstances of a private nature, to leave her on her return, and he will, therefore, have no opportunity at present to confer personally with any officer of the Institute in reference to the collections which he was enabled to make during his cruise. These collections are contained in eleven boxes, which are now in Boston. They will be transported at an early day to this city, and placed in charge of the National Institute.

I am, sir, respectfully, your obedient servant,

J. Y. MASON.

FRANCIS MARKOE, Jun., Esq.,

Corresponding Secretary of the National Institute for the promotion of Science and the Useful Arts, Washington.

Mr. MILLER. The Senate will perceive that this naturalist was appointed and directed to go on board the ship by authority of the Government regulating these things, and that he has faithfully discharged the duties he was called on to perform. The Government throughout, as far as the Executive was concerned, approved of the expedition, and the nation, in various ways, has been benefited by the labors of the person employed. The only question, then, for the Senate now to determine is, whether they will put their hands into the pocket of Captain Percival and compel him to pay this gentleman for services performed for the country under the authority of the Navy Department.

Now, the gentleman from Ohio talks about the breaking of the Constitution on a subject like this. He says it is contrary to law; that there was no authority to make this appointment. I do not see what the Constitution has to do with a question of this kind. I would only remark, that if the Constitution never receives harder blows than this, I do not think there is much danger of its being broken up for years to come. The Senator says there is no law. Well, we admit there was no law authorizing the appointment by name of a naturalist and astronomer; and that is the very difficulty in the case. If there had been a law, if there had been authority to appoint and pay this naturalist, the Fourth Auditor would not have objected to the account. But it comes to us like a thousand other cases where services have been performed, for the payment of which there was no law at the time the service was rendered. And is it for the Senate of the United States to say that where a man honestly performs services for the country, with no personal or selfish interest, that he shall not be paid for those services, because at the time there was no authority by law to make the appointment? The question is this: Shall we visit on a third person, and an inferior officer too, the payment of this money, when he was acting under the authority of the President of the United States and the Secretary of the Navy, and acting in good faith—not from selfish motives, but to promote the cause of science, and the honor of his country? I think not.

Mr. YULEE. Mr. President, I desire to say a few words upon this bill. I shall be very brief.

I voted in favor of this bill the other day, and shall do so again, and I wish to state the reasons that will govern my vote. The bill has met the approval of the Committee on Naval Affairs, and, although I was not present at the time the committee had the subject under consideration, yet, on a review of the case, I am of opinion that the bill ought to pass.

I concur entirely with the Senator from Ohio, [Mr. ALLEN,] that the Executive officers should be held to a strict conformity to the laws; that no countenance should be given by us to any departure on their part from the laws; but in this case it seems to me that, if we hold Captain Percival responsible, we shall be doing great injustice to him, and allow the officer on whom all the blame should rest to escape. The present incumbent of the office of Secretary of the Navy had no participation whatever in this transaction. His predecessor, the present head of the bureau of Topography and Ordnance, acted doubtless in good faith. There may have been a departure from the strict authority of the laws, but I understand there was a reason for it, which it was necessary, in order to secure the accomplishment of the purpose for which this appointment was made, to keep secret at the time. It is no longer necessary, however, to keep this reason a secret; and, in order to prevent an act of injustice to this gentleman, and to give the Senate the reason for the vote which I intend to give on this question, I will state the true reasons which induced this expedition and the appointment of this officer; and I am sure that these reasons are such as will satisfy the Senator from Ohio that it would be a very hard case, when this appointment was made and authorized for motives of general public policy, for the consequences of a wrong deed—if there was a wrong deed—to fall upon a subordinate officer, who acted under the commands of his superior.

The fact is this: The true object of the expedition, although ostensibly to sail around the globe, was to secure to the United States the benefit of the coal mines in the island of Borneo, situated in the Asiatic seas. It was deemed highly important to secure these mines for the benefit of the United States, in view of the ultimate designs of this Gov-

ernment in reference to the Pacific trade. The island of Borneo alone, of all the islands convenient in those seas, contained large deposites of coal, suitable for the purposes of steam navigation. It was known, I believe, that the British Government were at that time striving to secure for themselves that prize. The object of the expedition under the command of Captain Percival was to obtain to the United States the great advantages which would arise from the purchase and entire control of these coal mines. This gentleman, who was authorized to be taken in this ship, was in fact a geologist, and it was intended that he should perform the duties of a geologist, in the examination of these mines for the purpose of ascertaining their value and extent. It happened, however, when the ship arrived there, that the British had been more nimble than our Government, and had secured the benefit of these mines to themselves some two or three weeks in advance. The objects of the expedition, therefore, failed to that extent. That, I understand, was the object of Mr. Henshaw in determining upon this expedition, and the authority which Commodore Warrington gave to Captain Percival to take this individual on board his ship was in accordance with the public policy by which the expedition was set on foot. Now, sir, this being the case, a point of public policy only being in view in the employment of this gentleman, and Captain Percival being no further responsible than as commanding officer of the vessel, and being desirous of facilitating and promoting the object for which the expedition was undertaken, it seems to me to be very hard that we should impose upon him the whole loss and burden of a departure, perhaps, from the strict authority of the law, when it was from the Secretary of the Navy that the authority by which this officer was employed emanated.

I think, as has been stated by my friend and associate on the Naval Committee, [Mr. MILLER,] that the money should not be taken from the pocket of Captain Percival, but that he should be relieved from the burden so unjustly imposed upon him. If it be the purpose of the Senator from Ohio, by some example, to prevent any further latitude in the employment of officers, let him move that the officer who gave the authority to employ this naturalist should be obliged to refund the amount that has been paid to him. I think that equity would better consist with a strict obligation of the Executive officers to observe the law, by imposing this loss upon the officer from whom the authority emanated, than by imposing it upon the officer who was acting under his command. I shall, therefore, vote for this bill.

Mr. NILES. The Senator from Florida assumes that Captain Percival had an order from the head of the Navy Department to take this man on board. There is no such provision here. It was merely a permission, granted upon the request of Captain Percival. Now, if the transaction was different, as my friend seems to suppose, and if this scheme, whatever it was, was originated by the head of the Navy Department, it should have been so presented on the face of the transaction, and Captain Percival should never have taken such responsibility, but thrown it, where it properly belonged, on the head of the Navy Department.

A high officer of Government may take a responsibility above the law, but of course he assumes it at his own risk, and must submit the course he has taken to the judgment of the President or to Congress, to whom he is accountable.

All matters of this kind should be referred to Congress. If Congress should be satisfied that an officer considered himself justified, under the exigencies and from a regard to public interest, in adopting such a course of policy, why, Congress would as in duty bound justify him; this, sir, has been done in many cases. It was done by the Postmaster General under a law of 1845, making allowances to postmasters. He submitted the course he had taken to Congress, action was had upon it, and he received no censure for the course he had adopted. Captain Percival does not claim that he had any order. When he gave his order to the purser, he says it was in pursuance of a commission from the Secretary of the Navy and President of the United States to take this man on board. But there should have been something more than this to justify the course of Captain Percival; he should not have moved in this matter without a positive order. We could then have called upon the Secretary of the Navy to give a satisfactory explanation, and if he could not give such an explanation, he should have been impeached, for our laws are not to be violated in this or any other manner.

But, from the facts which appear in this case, no such order was given to Captain Percival to take this man on board. This appointment of Captain Percival, without any law justifying it, without any authority save a supposed assent from higher officers in authority, was palpably a violation of the law. An appointment of a man was made in the first place by this captain without law, and then, upon that man resigning his office, another one was substituted, so that there were two appointments made without any law to justify them by this captain, and made according to his own sense of propriety. I think, sir, the question before us is, Will we sustain our own accounting officer in the decision which he has made? He has given a decision in accordance with the spirit and letter of the law, and Captain Percival now calls upon us to reverse the decision. If we allow the claim of the captain, we overrule a decision of the Auditor. It was stated the other day that the purser was in part responsible for the execution of this order, or that the money was charged upon the captain instead of the purser. That was a new point in the case, but settled satisfactorily by the report of the Auditor. There was a standing rule in the Navy Department, as was observed by the Senator from Ohio, which was to be the guide of the officer where no statute intervened; so that when the captain gave this order he gave it upon his own responsibility, and this money therefore was charged to him. In violation of the laws of the country, we are called upon to reverse the decision of our accounting officer, and to justify a transaction having no law whatever in support of it. The establishment of this measure would be to create a precedent for all similar cases hereafter brought before us. I understand that there is a maxim in the navy that laws were not made for post captains, and this is a practical application of that maxim.

Well, sir, I wish to reverse the maxim. I contend that the laws made for this Government should not only apply to subordinate officers, but also to post captains. In transactions of this kind, there should be something more to govern post captains in the course they take than the laws which they make themselves. The captain's permission here spoken of meant nothing more than to give the man his passage, as supposed by the Senator from Ohio. Of course, this man was supplied from the stores of the ship, which was going beyond the law; but that is a small matter. But to put him on the list of officers, and pay him a salary, in violation of all law, is so great a stretch of authority, that I hope the Senate will, with great unanimity, express their decided disapprobation of such conduct.

Mr. BADGER. The honorable Senator who has just taken his seat does not seem to have been willing to consider this case upon its intrinsic merits, but would seem to have been influenced, judging from the tone of his remarks, though I am sure, in point of fact, not intentionally, by certain prejudices in his arguments against the allowance. He tells us it is a saying in the navy that laws are not made for post captains. Well, sir, if there be any such maxim in the navy, I for one do not recollect ever to have heard of such a sentiment having been expressed. Sir, I believe the question presented for the consideration of the Senate now is a very simple one. It is one that does not concern the stability of the Constitution, nor the maintenance of the laws existing under it. This case comes under the consideration of the Senate, because there is no law which provides for it, or by which it can be adjudged.

I wish to say, in the beginning, that there is nothing to disapprove of in the conduct of any of the public officers, from the highest to the lowest, who are concerned in this transaction. I think the President and the Secretary of the Navy acted from high and proper consideration, in permitting this officer to be attached to this expedition. The case was that of an expedition which was to be gone for some three years, and to undertake the circumnavigation of the globe. It was deemed important to the interests and honor of the country, and from a just regard for the advancement and diffusion of knowledge—which is allowed to be a just and appropriate motive of action in a great people like ourselves—that this opportunity should not be lost of aiding, by our instrumentality, the increase of scientific knowledge; and, when the expedition sailed, upon the suggestion of the commanding officer, it was resolved that a person should be taken on board who, from his scientific knowledge, would be able to decide upon and investigate matters which were thought highly important in promoting the object of the expedition. I think the course adopted by the Secretary and President was highly honorable and just. The only oversight was on the part of the President, in not sending in, at the next ensuing session of Congress, a special message, calling the attention of Congress to what he had done, and asking the requisite appropriation. It is true, there was no law authorizing the appointment of such an officer; but the expedition was about to sail, and the opportunity would have been lost of extending scientific researches, under the favor of our Government, if the captain had not applied to the authorities to which he was responsible, for permission to select an individual of the requisite scientific abilities to accompany the expedition. Upon its return, the Auditor refused to allow the payment to the purser of the salary of this officer, until he had made it manifest that he made the payment of the salary upon a reiterated order of the captain. Then he allowed the bill, and charged it to the account of the captain. Now, the object of this bill is not to overrule the decision of the accounting officer, as has been contended. What might be very proper for the Auditor to do in carrying out the laws which he is bound to execute, as far as he has the power, may be very proper for the Senate to undo, upon a just consideration of the case.

But there is one thing charged to the captain of manifest injustice, to which I wish to call the attention of the Senate. The regulation of the Navy Department directs that disbursements made by the purser will be allowed if his objections are stated to the captain; and if, after these objections are made the order is renewed, the captain will be responsible if disallowed. But in the construction given at the Auditor's office of this rule of the Navy Department, it is subject to this qualification: that if the case is a doubtful one, and the captain renews the order, the purser who pays it may allow the payment to the individual to whom he is directed to pay it, and the captain be held responsible. When, therefore, this amount paid is charged against the captain, it is upon the decision made in the Auditor's office that this was a doubtful case; otherwise it is clear, from the established practice of the office, that this sum would have been charged to the purser and disallowed. If this be, according to the opinion of the accounting officer, a case of doubtful exercise of authority, and the allowance of the money to the purser upon the ground that it was doubtful, and charging it to the captain because of that fact, the question arises whether the Senate will permit this money to be paid by Captain Percival or not. The Senator from Ohio states that the allowance of this money to this officer would be creating a precedent for post captains to take their friends on board their ships upon long voyages, and all at the public expense. Sir, I think he made use of an extravagant figure, and one that was not justified by anything in the case. It is not warranted by anything that has appeared in the past operations of the Government, and it is an unjust allegation upon the highly meritorious course of officers belonging to the navy.

This is the case of an officer taken on board of a United States ship with the approbation of the President and Secretary of the Navy. He was taken on board for purposes that were regarded as legitimate to the objects of the expedition. What was the result? I learn from my honorable friend from New Jersey, when this expedition returned, that this naturalist gave in charge of our Government eleven large boxes of specimens in natural history, which were received and disposed of by the Government. And now the question arises, shall we make Captain Percival pay the salary of this individual, who collected these useful specimens in natural history for the benefit of this Government? It seems to me a precisely similar case to that in which the servant of any gentleman on this floor is directed by him to go to Buist's and order a bouquet to be sent to his residence. The bouquet comes and is taken possession of by the gentleman who orders it, or some member of his

family, and when called upon by the unfortunate florist, the gentleman informs him that the purchase was made without his authority, and calls upon the servant to pay for it out of his wages. In that case, if the gentleman refused payment for the bouquet, it is clear to every one that it would be a violation of personal honor; and if such would be our judgment upon such a case, surely the proposed adverse decision to the case before us of so similar a character would not be very creditable to the Government. In this case we would, by refusing to pay the money allowed to this gentleman, repudiate the whole transaction, while at the same time we have received and are enjoying the benefits of the specimens acquired by him in his connection with the expedition as a naturalist.

Mr. DAVIS, of Massachusetts. There seems to be some little confusion in relation to the authority which Captain Percival had in carrying out this gentleman with the expedition. I would ask the attention of the Senate to the view taken by the Senator from Connecticut, in which he seems to think this was only a permission which was given to the captain. It is very clear, sir, to me that it was an order. I will read here a letter from Captain Percival to Commodore Warrington, acting Secretary of the Navy:

WASHINGTON, *March* 7, 1844.

SIR: In a conversation with the President this morning, I took the liberty of representing to him the great importance of having a naturalist on such a cruise as the United States frigate Constitution is about to make. After a moment's consideration, the President replied that he had no objection if Commodore Warrington had none, and authorized me to say that you might make such an appointment if you think proper.

I have the honor to be, very respectfully, sir, your obedient servant, J. PERCIVAL, *Captain U. S. N.*

Com. LEWIS WARRINGTON,
Secretary of the Navy ad interim.

This is the letter addressed to Commodore Warrington, who had authority from the President to make such an appointment if he thought proper. Here is the letter of Commodore Warrington in reply:

NAVY DEPARTMENT, *March* 15, 1844.

[Private but official.]

SIR: I have received your letter of the 7th instant, asking authority to take on board the *Constitution*, during your intended cruise, a naturalist, to be allowed the pay of chaplain. I find that there is some difficulty in this matter, as the law limits the number of officers to be employed; but, at the suggestion of the President of the United States, you may take Mr. Chandler on board the *Constitution*, and when you get to sea, direct him to perform such duties as may be deemed proper for the good of the service, for which he may receive the same pay as the law allows to a chaplain.

I am, very respectfully, yours,
L. WARRINGTON,
Secretary of the Navy ad interim.

Captain PERCIVAL,
Commanding U. S. Frigate Constitution, Norfolk.

Here was an order stating that the captain might receive this man on board and pay him the same amount of salary paid to a chaplain. Now, sir, it seems to me there can be no misapprehension as to the purport and intention of this paper. It gave the authority of the department—and not only the authority but its direct sanction—to the taking of this person along with the expedition, and specifying the amount he was to be paid out of the public fund for the services that were to be rendered. Though this letter is not couched in the peremptory language generally ascribed in an order, yet in spirit and intent it is the same thing. This is a direction to the captain to engage the officer, a direction given in consequence of a suggestive communication to that effect from the Executive of the United States. I think the matter is entirely free from all difficulty. The Senator from Florida is fully justified in characterizing the order as a peremptory one.

Now, one word in regard to the paper which has been communicated from the Fourth Auditor in justification of the course of that officer, and which was read here this morning. I do not know how that communication came into this Chamber.

Mr. ALLEN. I brought it here.

Mr. DAVIS, of Massachusetts. I take it for granted it was a reply made in answer to a request of the honorable Senator from Ohio. I do not intend to complain of it at all; but what, I ask, are the general contents of the paper? What can that public officer have to offer for the consideration of the Senate under the circumstances of the case? Why, he decided this question against Captain Percival, and therefore this paper imbodies a defence of that decision. And now, Mr. President, I desire that the Senate shall direct its attention to the exact point upon which he places this decision. What does he state, sir? If I heard the specifications of the communication, and understood them correctly, this officer places himself in the following position as a justification of his conduct, viz: that inasmuch as the purser, after making objections, had been directed by the captain to pay this gentleman, therefore he was not responsible. He justifies the purser in the course he pursues, and fastens backwards the consequences upon the captain. And upon what ground does he justify the purser? Why, upon the ground that the purser was bound to obey the orders of the captain—they were peremptory. Now, sir, pursue that doctrine a step further, and see how it applies.

I ask you, sir, and I ask the members of this body, if the purser was bound to obey the orders of the captain, whether the captain was not bound in like manner to obey the orders of the Secretary of the Navy; and whether the reasons in support of the one proposition are not equally as sound and appropriate in their application to the other? Here was an order, emanating from the proper authority, to take this man to sea, and directing the amount of salary he should receive. The order is unqualified and positive in its terms. Well, then, sir, if the order of the captain justifies the purser in the step taken by him, I apprehend that it is equally clear that the order of the Secretary of the Navy would have justified the Fourth Auditor in allowing the claim, if he had seen fit to consider it any justification. On the very ground assumed by him, if you are to visit the consequences of what is admitted and proved to be a legal order given by the captain to the purser upon the captain, you are bound to visit these consequences back upon the head of the department who gave the order, and to whom the consequences properly belong.

One word more. This individual went out with the expedition, and performed his duty satisfactorily to everybody. He made a large collection of seeds and natural curiosities, and gave some eleven boxes of those articles into the charge and possession of this Government. I have no doubt that a large portion of the seeds collected by him were distributed through the medium of this Senate. You have the property, or a portion of it, now in your possession; and now you propose, upon a doubtful question, to visit what some gentlemen seem to esteem a violation of law upon this post captain of the navy, and take the amount in dispute out of his pocket. Sir, I am not disposed to do this. I am not disposed to pursue a course of reasoning which leads to results of this description. If there be fault anywhere, it is not in Captain Percival. If he had pursued this course at his own option, without permission of the department, then there would be some propriety in taking the course proposed; but here the captain pursues this course under high authority. He thought it expedient to take the course which he did, and made it known to the department. The head of the Navy Department took it into consideration, and, after consulting with the Chief Magistrate of the Union, determined to adopt it. I cannot see the justness or the fairness in the application of any rule by which this captain shall be compelled to pay out of his pocket the amount of this claim, when he was directed by the authorities to which he was responsible to pursue the course by which it became due.

Mr. METCALFE, (in his seat.) Is there any positive law affecting this case?

Mr. ALLEN. New features——

Mr. DAVIS, of Massachusetts. Will the Senator from Ohio allow me to reply to the query just propounded?

Mr. ALLEN. Of course.

Mr. DAVIS. The question is asked, is there any positive law upon this subject? I answer that there is none; if there were, the case would not be before us for consideration. The exact ground taken by the Fourth Auditor is, that Captain Percival was chiefly instrumental in taking out the naturalist, which was an appointment made without authority of law, and that, in his judgment, was a sufficient reason for making him responsible, and deducting the amount paid by the purser from the pay of the captain. I have shown that the Auditor justifies the purser for making the payment because he acted under orders. Percival acted also under orders, having been directed to allow the amount paid to a chaplain. The course of reasoning, therefore, of the Auditor, if followed out, as it must be, exonerates Captain P. from all responsibility, and lodges the objections made in the Navy Department.

But fears have been expressed that the passage of this act will be a pernicious precedent, as it will be an invitation to violate law hereafter. The history of this case will prove that the precedent will offer very little stimulus to act from such a motive. Captain Percival has been deprived of the use of his money for several years, and has been subjected to the expense and inconvenience of prosecuting his claim here. This is sufficient to deter any individual from following an example which will lead to the detention of his pay. I think there is no danger from this source, even if Captain Percival had violated the law; but he has done no such thing. If it has been done at all, his superiors are answerable for it.

Mr. ALLEN. As new features have been introduced into this case, it becomes necessary for me to make some further remarks in addition to those I have already submitted upon the question. When, sir, there appeared to be no earthly prospect of the allowance of this case whatever; when the infraction of the law was perfectly palpable to every one, then it was that the great State secret was introduced for the appointment of this officer. I do not doubt that the statement made by the Senator from Florida is believed by him to be true, and by him truly stated; but I think I can show, from the facts in this case, that the peculiar secret of this cruise was not divulged until after the cruise was over. Now, sir, how stands the case? The Government stands still—does not know its own secrets. A naval captain conceives a particular idea, plans a cruise to carry it out, and then comes and gets the Government to adopt his secret. He then makes the President and Secretary of the Navy acquainted with this secret—a secret of so much importance as to justify the Administration in predicating a naval expedition upon it. I was not aware, sir, that State secrets commenced with post captains. So far from that, sir, I thought that State secrets were confined within very narrow circles. We are in the habit sometimes of alluding to English practices and customs for precedents. I will give you one, sir: It was the custom of the great Chatham, when he conceived a great secret connected with the planning of a naval expedition, to send sealed orders to his admirals—orders not to be opened until they had arrived in a particular latitude. And that, sir, is the custom of all Europe. But it was the custom of the great Chatham to take greater security than that against the divulgement of State secrets. He would write the order, lay a blank paper over what he had written, and make the chief of the Board of Admirals sign it, without knowing anything of the contents; and that, too, though the chief was a member of the cabinet. But we, in this country, it seems, know nothing about the secrets of State policy in regard to naval affairs until a naval captain originates them, decides the particular question which it is the business of the Government to decide, and then goes and obtains permission of the Government to execute such State secrets—and that thing answers itself. The fact is, this gentleman, Captain Percival, is the first mover in this business, and the first object which presents itself to our view is not a State secret, but a man, and that man is a friend of Captain Percival, whom the captain desires to take on board of his ship.

Mr. YULEE. This person to whom the gentleman from Ohio alludes was taken on board of the ship of Captain Percival in pursuance of an order given to that effect. It was considered necessary that he should proceed with the expedition, in order that its object might be more fully carried out.

Mr. ALLEN. I appeal to the reason of the Senate in reference to this course of argument, whether the Government would plan an expedition across the globe to obtain a particular object and certain scientific knowledge, without having provided itself with scientific men necessary to the attainment of those objects? But, sir, the Government is not the moving agent here. It is the captain. Why, sir, you might just as well suppose that when the Government proposed to send Captain Wilkes around the world, they would have ordered him to proceed upon that expedition without having taken care to place on board men possessed of the scientific knowledge which was necessary to reap the advantages of such an expedition. The thing is preposterous, utterly absurd.

If it were the object of this expedition, with which this gentleman was connected, to make a geological examination of coal mines, I take it for granted that the very first idea that would occur to the Government would have been to obtain a geologist. Instead of being the last idea, as in this case, it would have been the first. After the whole matter is determined upon, the frigate ordered to sail, all the cost incurred, then it is pretended, for the first time—the thought occurred to the captain, not to the Government—that it was necessary to send somebody along with the expedition that could ascertain and describe the different qualities of coal. Thus, it appears, all of a sudden it flashed upon the mind of the captain that it was necessary to send some one along with the expedition who knew something of this article of coal; and, after the thought was thus conceived, he communicates it to the Government. Why, sir, the thing is perfectly absurd on its face. But here is an answer to all this. This gentleman brought back seeds—certain boxes of seeds that have been described here. I would inquire of my scientific friend from Florida, what manner of connection there is between the duties of an astronomer and a naturalist, or why an astronomer—whose business it is to look above—should be employed in scratching the bosom of mother earth to get seeds? No, sir, it is all a humbug. It is a made-up thing—wholly made up. Captain Percival was the original contriver and the only acting mover in the whole matter; and this thing called an order originated with him.

Captain Percival calls the permission of the President of the United States to take this man on board and pay him a salary, an order. Now, to test the question of its being an order or not an order, I ask the Senator from Massachusetts to answer this question: Suppose this captain had not taken this gentleman on board, could he have been tried for mutiny or insubordination? Suppose that Captain Percival, after this permission or order was given him, had changed his mind, and refused to take this man on board, would he have violated any public order? Assuredly no man would say that. That is the way to test the question between the order and the permission. Gentlemen say that he had the permission, which amounted to an order. I say he had no such thing, because the Government could predicate an order on nothing but law, and there was no law upon which such predication could be made. Captain Percival knew they had no law; the Secretary of the Navy told him in his order or permission there was no such law. He told him that he and the President had consulted together about the matter, and that, in consequence of the difficulty resulting from having no law applicable to the subject, they would have to get around it by smuggling this man on board after the vessel had got out to sea.

The Senator from Massachusetts argues this case as though it was a question of construction of law between the Auditor and Captain Percival. No such thing, sir. In the utter absence of all law, the Auditor unquestionably was bound to act in accordance with the regulation of the Navy Department applicable to the question. I will read it: "When the disbursing officer doubts the propriety of a claim, he shall state his objections to 'the commander, in writing." This man did so. "Then, if he is directed to pay it, the amount will 'be passed to his credit," that is, the purser's credit, "and the commander under whose orders 'the payment was made will be responsible for the 'amount if disallowed." The President was acquainted with this order; the Secretary of the Navy and Captain Percival were also acquainted with it. I refer to the regulation which I have just read of the Navy Department.

But it is not pretended that there was any authority for this permission of the President to appoint this officer. There were in reality two of these appointments. A gentleman by the name of Chandler was first appointed. He stopped at Rio, and had no more connection with the ship. The captain then appointed another man in his place. We are now required to confirm the appointment of these officers; and the gentlemen on the other side argue this case as though it was that of an officer appointed regularly by law, who had done extra duty, and that this claim was for extra pay, the consequence of that extra duty. No such thing, sir. There is nothing connected with the public service which required that this man should gather seeds, as it is stated was his employment for a portion of the time. It is not pretended that this ship was sent around the world to gather seeds. Nobody pretends that such was the design of the expedition. It was despatched to particular quarters of the globe to inqure as to the location of certain beds of coal, somewhere or other. But there were no samples of coal brought back; several boxes of certain kinds of seeds and natural curiosities were the result of the labors of this man. The plain English of the matter is this: (there is no getting round it, and I intend there shall be no getting round it. I want the facts of the case to appear as they stand:) A gentleman commanding a national vessel wishes to take a friend (a scientific man) free of passage to a particular point; he applies to the President and Secretary of the Navy, and they give him authority to take his friend with him, and put him on the pay-roll against law. Yes, sir, against law—that is the whole amount of it. It is nothing in the world but transporting a private friend in a public vessel, paying his expenses, and giving him a salary for going. And we are asked to confirm this transaction—that is what we are asked to do, sir. As regards the question raised in relation to the purser—throwing the blame and consequences of the payment of the salary upon him—it is perfectly clear and manifest that the purser had his authority for what he did in the positive regulation of the Navy Department. I ask, Mr. President, for the yeas and nays upon this question.

Mr. JOHNSON, of Maryland. I confess I am somewhat at a loss to know upon what ground the payment of this money could possibly have been resisted. It is perfectly clear that there is no absence of proof showing that this post captain—even if there were no existing authority by law for the appointment—derived his authority through the Secretary of the Navy from the President of the United States himself. The captain received the first gentleman who went on board in the capacity of naturalist under an express promise by the President of the United States that he should be paid. He received this gentleman on board with the assurance beforehand that the expense would be paid by the Government. The gentleman so employed was taken ill at Rio and was obliged to leave the ship, and it appears that the individual subsequently received on board in the character of naturalist, was selected under the advice of the minister of the United States at that place. The voyage was performed, and the services were rendered. He collected a large quantity of rare seeds, and eleven boxes of minerals which were presumed to be valuable, and upon returning to the United States these things were accepted and disposed of by the Government. They were placed in the Patent Office, and the seeds have been distributed by the Commissioner of Patents to every member of the Senate and House of Representatives, who have in their turn forwarded them to their friends throughout the country. Through this instrumentality of ours, then, the labors of this man have thus been devoted to the benefit of the community. And we still hold all the minerals as the property of the United States. Now, I put it to the Senator from Ohio whether, if the facts were not exactly as they have turned out to be, he would hesitate to pay this officer? Suppose that Captain Percival had no money in the Treasury Department upon which the Fourth Auditor could lay his hands to make good the expenses incurred for the services rendered by this gentleman; and suppose that Captain Percival had refused to pay him, and that the Secretary of the Navy had refused, and that the President of the United States had directed that he should not have his pay: would it be just—would it be honorable—I say it with all respect—would it be honest that we should hold on to the earnings of his labor and distribute them for the benefit of our constituents, and retain the minerals as the property of the United States, and refuse to pay the naturalist, if he were here in person, the amount promised him when he went on board? Why, it appears to me that it would not be very creditable to us to do so.

One word more. The Senator from Ohio, and the Senator from Connecticut, have more than once indulged in what appeared to me most unjust aspersions in regard to this post captain; a man who, I understand, has worked his way up from the lowest grade to the very highest that he could reach; and, in every grade which he has filled, he has adorned the service by his skill and integrity. The honorable Senator from Ohio thinks proper to impute to this officer that, for the purpose of gratifying personal friendship, knowing the law to be against him, he applied to the President of the United States for authority to carry this man free of expense around the world. There is not a particle of evidence that such is the fact. There is no evidence to show that Captain Percival was connected with him at all, except in the way of his professional duty. There was a friendship existing between Captain Percival and Mr. Chandler, the first naturalist, but there is not a particle of evidence to show that such was the case in respect to Mr. Reinhardt. The first named gentleman being obliged to leave the ship in consequence of ill health, at the instance of our minister at Rio Mr. Reinhardt was chosen to be his successor, in order to complete the service which the President desired should be performed. Now, suppose there is no law upon our statute book for the appointment of such an officer, and consequently no legal authority for the payment of his salary: there is always one law which should render it obligatory upon us to provide the means of payment for services that have been actually rendered: that is, the law of common honesty—a law which obtains, or should do so, in all the relations of private life—not to hold in our own hands the earnings of another's labor, and refuse to pay him for it. That is precisely this case. Let the Senator from Ohio bring in a resolution, if he will, for restoring these minerals, after the lapse of four or five years since they were received; but, in the name of all that is right and honorable, do not retain this property and refuse to pay for it.

The question being taken on the motion to reconsider the vote by which the bill had been passed on a previous day, it was decided in the negative, as follows:

YEAS—Messrs. Allen, Atchison, Atherton, Breese, Bright, Dickinson, Dodge of Iowa, Felch, Hamlin, Metcalfe, Niles, and Turney—12.

NAYS—Messrs. Badger, Baldwin, Bell, Berrien, Bradbury, Butler, Clarke, Corwin, Davis of Massachusetts, Dayton, Dix, Downs, Foote, Greene, Houston, Johnson of Maryland, Johnson of Louisiana, Jones, Mason, Miller, Pearce, Phelps, Rusk, Spruance, Sturgeon, Underwood, Upham, Walker, Westcott, and Yulee—30.

Mr. JOHNSON, of Maryland, moved that the Senate proceed to the consideration of the bill for the relief of Frederick Dawson, James Schott, and Elisha Dana Whitney, for the purpose of making it a special order for to-morrow.

The motion to take up the bill was agreed to; and the question being upon making it the special order for to-morrow—

Mr. ATHERTON said he hoped that this bill would not be made the special order, to take precedence of all other business. It was a subject that would give rise to a long debate, and it was necessary that the appropriation bills should be acted on. It would be recollected that it was upon the suggestion of the Senator from Maryland that the Indian appropriation bill had been postponed, and now the civil and diplomatic appropriation bill had come from the House of Representatives. He hoped that to-morrow would be devoted to the consideration of the Indian appropriation bill. There were some things contained in it which, when the bill came up, might give rise to considerable debate. He hoped that there would be no special order assigned for to-morrow, which would interfere with the consideration of that bill.

Mr. JOHNSON, of Maryland. I apprehend there will be no difficulty in taking up the appropriation bill to-morrow, for I have no idea that this subject shall occupy much time. I desire, however, that it be taken up to-morrow, in order to give the Senator from Vermont an opportunity to continue his remarks, which he commenced on Thursday last, as it is possible he may be called away within a few days. He will not occupy more than half an hour, I presume, and it is not my purpose to detain the Senate for more than half that time. It is a mere matter of personal accommodation to the Senator from Vermont; and the bill can be taken up, and its consideration proceeded with, without in the least degree embarrassing or impeding the progress of the appropriation bills. If the debate should be prolonged, I will consent that it be passed by.

Mr. ATHERTON. I hope, then, it will not be made the special order, but that it will merely stand on the calendar for consideration to-morrow.

Mr. JOHNSON. I have no objection to that.

The further consideration of the bill was then postponed until to-morrow.

ATLANTIC AND GULF RAILROAD.

Mr. YULEE, agreeably to notice, asked and obtained leave to bring in a bill to grant to the Atlantic and Gulf Railroad Company the right of way through the public lands of the United States; which was read a first and second time by its title, and referred to the Committee on the Public Lands.

Mr. BUTLER moved that the Senate proceed to the consideration of Executive business.

Mr. BADGER. I hope the Senator will withdraw that motion, for the present at least. This is the day that has been set apart for private bills.

Mr. BUTLER. Three o'clock has arrived, and there are some important matters to be considered in Executive session.

Mr. DOUGLAS. I would ask the Senator to allow me to make a motion.

Mr. BUTLER. Certainly.

Mr. DOUGLAS. I desire to offer a substitute for the bill making "compensation for the transportation of troops, for a limited time, and supplies across the Isthmus of Panama," in order that it may be printed, that it may be in readiness to be considered when that bill is taken up for consideration. The substitute contains important restrictions.

The motion to print was agreed to.

Mr. BUTLER. I now renew my motion to go into Executive session.

Mr. BADGER. It was my purpose to ask the Senate to take up a bill which was before the Senate at the last session, and which I think ought to be disposed of in some way. The bill to which I allude is the bill for the relief of David Myerle.

The VICE PRESIDENT. The Presiding Officer will observe that the first business in order is the bill mentioned by the Senator from North Carolina. This day has been set apart exclusively for the consideration of private business. In the opinion of the Chair, therefore, that resolution would not be complied with by postponing such business for the purpose of going into Executive session.

Mr. BUTLER. In the decision of the Chair I of course acquiesce; but I understand the resolution to have been complied with when we have devoted the usual length of time for one day's sitting to the consideration of business specified in it. If there is any hesitation, however, I will withdraw the motion.

Mr. METCALFE. I would be glad, sir, if the Senate would indulge me so far as to take up a bill for the relief of A. C. Bryan and others. It will not occupy many minutes, I think. It is to make compensation for horses that were taken by the Mexicans from Major Gaines, Major Borland, and others. The bill has passed the other House, and I apprehend that it will not occupy many minutes of the time of the Senate.

Mr. BADGER. The bill which I moved to take up is the bill for the relief of David Myerle.

PRESIDING OFFICER. That is the first business in order. The Senator from Kentucky moves to postpone that bill in order to take up the bill he has named.

Mr. BRADBURY. Is the question on the motion of the Senator from North Carolina?

PRESIDING OFFICER. The question is now on the motion of the Senator from Kentucky to postpone the prior orders, and to take up a particular bill.

Mr. BRADBURY. I hope that we will proceed with the business as it stands upon the calendar, as Senators are advised that that is the order in which the business ought to be proceeded with, and are probably prepared to proceed to act upon the bills as they stand.

The question being taken upon the motion of the Senator from Kentucky, it was not agreed to.

CLAIM OF DAVID MYERLE.

PRESIDING OFFICER. The first subject for the consideration of the Senate is an act for the relief of David Myerle. It has been reported from the committee without amendment, and is now before the Senate as in Committee of the Whole, and open to amendment.

Mr. ATCHISON. I trust that this bill will be passed over. It is a bill in which my colleague feels an interest, and I desire that he should be present when it is considered. I know he has opposed the bill for the last four or five sessions, and I know that he has many reasons to assign why the bill should not pass.

Mr. BADGER. I hope the bill will not be passed over for anything of the kind. We have one day in the week set apart for the consideration of private bills, and this bill has been before the Senate for a long period. The session is drawing rapidly to a close, and if this bill be not soon acted upon we may not have an opportunity of acting upon it at all. It has been a special order for about six months past.

Mr. ATCHISON. I move that the bill be postponed until to-morrow.

Mr. BRIGHT. I should dislike very much to press action upon this bill, if I thought anything could be said in addition to what has already been urged in opposition to the bill by the Senator from Missouri. I apprehend that the matter is fully understood by every Senator. It comes up now in its regular order, and if passed over, the presumption is that it will not regain its position, and that we shall not again reach the subject. It is a case that has much merit, and I hope the Senator from North Carolina will persevere in his motion to proceed with its consideration now.

The question being put on the motion to postpone the bill, a division was called for. No quorum voting—

Mr. BADGER moved an adjournment.

PRESIDING OFFICER. The question will be repeated, if the Senator from North Carolina desires it.

Mr. BADGER. I will withdraw the motion for adjournment.

Mr. ATCHISON. I renew that motion.

The question being put on the motion to adjourn, it was not agreed to.

The question upon the postponement of the bill was again put, and upon a division there were ayes 9, noes 21—no quorum voting.

Mr. BADGER asked for the yeas and nays, and they were ordered; and being taken, were as follows:

YEAS—Messrs. Atchison, Atherton, Borland, Bradbury, Dix, Felch, Metcalfe, Sturgeon, Turney, Underwood, and Upham—10.

NAYS—Messrs. Allen, Badger, Baldwin, Bell, Berrien, Breese, Bright, Clarke, Corwin, Davis of Massachusetts, Dayton, Dickinson, Dodge of Iowa, Douglas, Downs, Fitzpatrick, Foote, Houston, Johnson of Maryland, Johnson of Louisiana, Jones, King, Mason, Miller, Niles, Pearce, Rusk, Spruance, Walker, Westcott, and Yulee—31.

The pending question was stated to be the amendment proposed by the Senator from Kentucky, to add a proviso to the bill, (which has been heretofore published, and which is explained by what follows.)

Mr. UNDERWOOD. Since this bill, sir, was up for consideration, the members of this body have changed to some extent. There are now four Senators here who were not at that time members of this body. I feel it to be my duty, therefore, to explain to them the nature of the bill, and also of the amendment; and I will endeavor to do this with as much brevity as possible.

Mr. Myerle made a contract with the Government to supply the Navy Department with water-rotted hemp. The Government was to pay Myerle for this water-rotted hemp, I think, three hundred dollars per ton. After Myerle had made this contract with the Government he went to Kentucky and formed an association with two gentlemen of the name of Cornwell and Montmoulin, who were capitalists. It appears from the papers in the case that Myerle had no money. He entered into this arrangement, therefore, by which these gentlemen were to furnish the money necessary to procure the material and to carry on the process of preparing it for the use of the Government. The vouchers are here, showing that Montmoulin and Cornwell advanced to Myerlie, in order to carry on his contract, something like thirty thousand dollars.

Messrs. Montmoulin & Cornwell stipulated with Myerle to this effect: We will not advance this money unless you give us a lien upon the hemp, and allow us to receive from the Government the money that is to be paid for the hemp, out of which we may indemnify ourselves for our advances. This will appear on the face of the contract between the parties. After this agreement was made, there was something like two ship-loads of this hemp, according to the testimony in the case, sent round to Boston. When the hemp arrived at Boston, it was rejected by the Government. They refused to receive it, and consequently refused to pay for it. They condemned it, and upon that condemnation it was thrown upon the hands of Montmoulin & Cornwell, who, under the contract, had a right to the possession of it, who had a right to deliver it to the Government and to receive from the Government the amount to be paid for it. Upon the condemnation of the hemp, it was left upon their hands, and they having advanced their money in the expectation that out of the proceeds of the sale of the hemp to the Government they would be repaid, the hemp being condemned, instead of getting three hundred dollars a ton, they had to sell it to be used as common hemp in the manufacture of bale-rope. They had to make the best disposition they could of it. It did not, then, by any means indemnify them for the advance they had made. Under these circumstances, Mr. Myerle presented his petition to the Government, stating, in substance, that from his experiments in water-rotting hemp, he had been of great service to the Government, by showing what could be done in preparing an article of that sort for consumption in the country, and for the supply of the navy; and he asked to be allowed twenty thousand dollars, inasmuch as the hemp that had been furnished had been perhaps improperly rejected, and in consideration of the benefit bestowed upon the Government by his aforesaid experiments, by way of compensating him for these experiments, and for the failure to take the hemp. And there is certainly some evidence to show that the Government ought to have received it, and ought to have paid him for it. In this state of the case, Montmoulin & Cornwell come forward and say now to Congress, Myerle is hopelessly insolvent; he has never paid us for these great advances which we made to enable him to make these experiments and prepare this hemp for the Government. If Myerle obtain the twenty thousand dollars from the Government, there is no guarantee whatever that we shall ever receive one cent of the money, and therefore we pray you so to amend the bill as to allow us to receive such portion of the money as will compensate us for making these advances.

The amendment under consideration proposes to allow to Montmoulin & Cornwell a portion of this money, by way of indemnifying them for the advances they have made, and not to allow it to pass into the hands of Myerle, who is admitted on all hands to be hopelessly insolvent, whereby they may lose the whole amount which they advanced to him. The amendment contains two provisions: the first section of the amendment states, that if Myerle wishes to obtain the whole of the money, and if he will give bond and security to pay it over in the discharge of the debts which he owes for the hemp and for the money advanced for him, by giving bonds of this sort to indemnify his creditors for the materials furnished and the money advanced, he may receive the whole amount from the treasury forthwith. But it was objected, when the bill was up before, that Myerle, in consequence of his insolvency, could not give a bond of this description, and that we were asking an insolvent man to do an act which he was incapable of performing; and it seemed to me to be a hard case to require of a man admitted to be insolvent, to give a bond of that sort to pay this money, when it might be impossible for him to do it. Seeing that to be the effect, I added to the amendment another section, stating that if he does not give such bond within a short time—three months, I think—the Secretary of the Treasury shall be allowed to advertise, and allow to the claimants who furnished the money by means of which the operation was carried on, and those who have claims against Myerle for advances made to enable him to carry on his operations, to come forward and file their bills, and to suspend the payment until the litigation upon these bills should be determined. Thus you see, that according to the amendment, in the first place, if Myerle wishes to handle the whole twenty thousand dollars, he can do so by giving bond and security. If he is incapable of doing that, then the Secretary of the Treasury is to be allowed to withhold the money for a limited time, in order to see whether the claimants would file their bills within that time. If they failed to do so, the whole amount was to be handed over to Myerle.

Now, when this amendment of mine was first presented to the Senate, we were told that there

was no precedent of this kind; that there was no case in which the Government had taken this course. I silenced that objection by hunting out some half dozen cases, and reading those cases to the Senate, to show that there were precedents. I showed that in the case of Harriss and others, in relation to a fortification upon the Gulf, this very principle was adopted that the Government would not allow the contractors to handle the money, but made provision for the payment for the materials furnished, and for the work done. I also brought forward other cases to show that the course which I proposed was not without the sanction of legislation in this country, and I hope no objection will be made to that course being adopted in this case.

Now, it is perfectly manifest that if Senators will look at the report, and examine the documents showing the insolvency of Myerle, they will have reason to believe that, if he obtains this money, Montmoulin and Cornwell can never get one cent of it by any process of law, by any suit that can be entered; and, on a former occasion, I showed conclusively that Montmoulin and Cornwell could not, by filing a bill, enjoin the Government from the payment of this money over to Myerle. It was suggested that they might file their bill, make the Government a party, and restrain the Government from paying the money over to Myerle. I brought forward authorities to show that the thing could not be done. You cannot sue the Government; you cannot make the Government a party to a suit; nor can you tie the hands of the Government and prevent the payment of money.

Mr. DICKINSON. Will my friend answer me this question: whether the Government would not decline to pay over the money when an injunction had been obtained?

Mr. UNDERWOOD. I believe this objection came from my friend over the way on a former occasion, and that he went into an elaborate discussion of it. I produced all the evidence in regard to the state of the law on the subject. It is this, sir: the Government has occasionally, as stated by the late Attorney General for the District, regarded injunctions against individuals, but merely as a matter of courtesy. They have sometimes, when a bill has been filed, on the filing of the bill, refused to settle with or pay the party until the bill was disposed of; but the courts have expressly decided that it is a mere matter of courtesy, and does not carry with it any legal obligation. And if gentlemen will consider for a moment, they will see that this doctrine, which has been suggested, cannot be sustained. Suppose that A makes a contract with the Post Office Department to carry the mail. The performance of that service may depend upon the punctuality with which he receives his pay from the Government. Can B come in and say, I will enjoin the Government from paying to A the money due upon his contract? This illustrates the whole subject from beginning to end; and if you can, in the case I have put, enjoin a debt due to a Government contractor, you may do so in every other case; and in this way the whole operations of the Government may be restrained by injunctions upon individuals.

But this is not the only objection, sir. The objection is to the unconstitutionality of proceedings of this sort; that is, by proceeding against the Government, to tie the hands of the Government. Where is the authority by which an individual can sue the Government and tie its hands? There is no such authority. No such case can be shown. It cannot be contended, then, that the Government can be restrained from paying over this twenty thousand dollars to Myerle. Sir, a thing of this kind cannot be done. It would be a violation of the law to make the attempt. I produced the authority—I know it was only Kentucky authority—of the case where an act of the Kentucky Legislature was passed allowing to Roger Divine so much money, and an attempt was made to interpose an injunction and prevent the payment of the money, and it was decided by the Supreme Court of that State that it could not be done. You have no constitutional provision on the subject, and therefore it cannot be done in the case of money to be paid by the General Government. And so far as the reason of the case is concerned, it does not admit of the shadow of a doubt. The thing cannot be done. You must, then, interpose a provision such as is contained in the amendment that I have offered to this bill. Otherwise, if you pay the twenty thousand dollars, it goes into the hands of an insolvent man, and the very persons who have advanced the money go unpaid. This will be the result, unless you adopt this amendment.

Now, Mr. President, the last speech which we have heard in the Senate upon this subject came from the Senator from Georgia who sits near me; and the way in which he attempted to evade the propriety, the morality, and justice of the amendment which I proposed, if I understood that speech, was this: He denied that Montmoulin and Cornwell were entitled to any part of this money under any circumstances, but contended that the money was to be allowed to Myerle, in consequence of the services which Myerle had rendered to the Government, in the experiments which he had made in water-rotting hemp, and by these experiments giving valuable information to the Government. Now, according to this argument, as you are to pay Myerle for the information which he has thus bestowed upon the country, and disseminated by his experiments through the hemp-growing States, you disconnected by such payment the right and lien which Montmoulin and Cornwell had upon the hemp for the money advanced, and by this disconnection you made it proper that the money should go exclusively to Myerle, and cut off Montmoulin and Cornwell from receiving it.

Now, a word or two by way of obviating this argument. Here is a contract expressing, by the very terms of the contract itself, that these gentlemen should hold the hemp, should deliver it to the Government, and receive from the Government the money that was to be paid for it. Here is a lien upon the hemp by express contract. Now, if you pay damages, if you take this to be an express contract on the part of the Government, and if you pay damages for violating the contract, it will be upon the ground that this hemp was of the character it should be, and that you improperly failed to receive a good article. If you pay the money, in consequence of avowing the contract in this way, in the light of damages, then by the express terms of the contract it seems to me that Montmoulin and Cornwell are entitled to receive the money.

Mr. President, I repudiate the other ground upon which the Senator from Georgia places the payment of this money. If gentlemen will take the trouble to examine the whole of this report, and the proceedings in this case from beginning to end, I am totally mistaken if they can put their finger upon one solitary sentence, from the beginning to the end of the whole report and proceedings, that shows where one particle of valuable information on the subject of water-rotting hemp has been given to the country by Mr. Myerle through his experiments. Now, I call upon gentlemen who advocate the payment of this claim upon that ground, to turn to the report and read if they please, to the Senate of the United States, anything which shows that we have received information upon this subject to the value of twenty thousand dollars, the amount proposed to be paid to this individual. If you put this claim upon the ground that this man made hemp of such a quality that the Government should have received it, and paid three hundred dollars per ton for it, according to the contract, and that they improperly rejected the hemp, I can see the foundation upon which the claim rests. You have violated your contract with him, and all that he now asks is, that you should pay him the amount which he lost by that violation. You contracted to give him three hundred dollars per ton for his hemp, and when he had got it ready for market you rejected it, and this rejection caused it to fall in price from three hundred dollars to one hundred and twenty dollars per ton, and thus he lost one hundred and eighty dollars per ton on these two ship-loads; and it is the payment of this loss which he now claims, and which this bill proposes to pay. If you place the claim upon that ground, every man can see the grounds upon which you act; but if you place it upon the ground taken by the Senator from Georgia, as I understood him in his argument, namely, that the money ought to be paid for the valuable information which this man rendered to the country by enlightening the Government and people upon the subject of water-rotting hemp through his experiments, then I call for the reading of that part of the report which shows the nature of this valuable information for which we are to pay twenty thousand dollars.

Sir, we of Kentucky, who have been familiar with this business of water-rotting hemp, and the gentlemen from Missouri, who I presume are also somewhat familiar with this subject, know that the process of water-rotting hemp had been examined, looked into, and thoroughly studied long before Mr. Myerle ever made this contract with the Government. We know that in Russia, from which we obtain the great bulk of our hemp, the whole process of water-rotting hemp has long been well understood. I do not know that we have ever made any improvements upon the Russian process, even since these very valuable experiments of Mr. Myerle, for which it is proposed to pay twenty thousand dollars on account of their great utility. If Mr. Myerle has made any valuable discoveries upon this subject—for which he ought to obtain a patent right—let him show them to the Senate before we pay him this claim upon that ground. I know of no such discoveries or information, and therefore cannot recognize this claim upon such ground. If there be any obligation for the Government to pay this claim, it must arise from their refusal to pay him three hundred dollars per ton for his hemp, according to the contract, and thus reducing the price to one hundred and twenty dollars per ton. By this violation of the contract they deprived him of one hundred and eighty dollars per ton upon the hemp that was sent to Boston, and which, had it been paid, would have passed, by the express provisions of the contract, into the hands of Montmoulin & Cornwell. And shall you, by your legislation now, when Montmoulin & Cornwell have furnished all the capital by which this money has been earned, take every dollar of it from them, and pass it into the hands of an insolvent, who will whistle when he gets it, and never pay them a cent, because they have fallen out since the contract was made? That, sir, will be the effect of your legislation, if this bill be passed without the amendment I have proposed.

Again: these papers show that executions were obtained against this man Myerle shortly after he commenced his operations in Kentucky; and that this very hemp, a portion of which was paid for by the money of Montmoulin & Cornwell, was seized by the officers of the law and sold to pay his individual debts. Here is the evidence in these papers to sustain all this. It was presented to the Senate on a former occasion, and can be produced again if desired. In this way, unless my amendment prevails, you will take the money of Montmoulin & Cornwell to make experiments, which you say are very beneficial to the country at large—although it has not been shown wherein they are beneficial—deprive them of a lien, which, by contract, they obtained on the hemp, and give the money to an insolvent, from whom they can never hope to obtain one cent. Can the Senate of the United States do this? It remains to be seen whether they can or not.

There is one thing more to which I will call the attention of the Senate. There are blanks left in this amendment. Why did I leave those blanks? I will tell you why I left them, and then the whole subject may be disposed of. When I first moved to amend the bill, it was said that this man Myerle had been here, waiting upon Congress for many years, trying to get this claim acknowledged and paid. It was also said that he had spent a great deal of money and time in making out his case before the committee. I have, therefore, in consideration of these things, (in which I see a great deal of justice and reason,) said, in the amendment, that —— dollars shall be paid over to Mr. Myerle. I left the amount to be determined by the Senate. They may fill the blank with "two thousand," or, if that is not enough, "four thousand," or, if that is still too little, "six thousand." The Senate may give Mr. Myerle whatever they may think proper in consideration of the expense he has incurred in coming hither so many times, and waiting so long upon the committee for the purpose of making out his claim. I do not intend to be particular as to the amount; I am willing to be liberal towards him. You may say two, three, four, or five thousand dollars. If you say five thousand—and I think that sum would amply remunerate Mr. Myerle for all the expenses he has incurred—it would leave fifteen thousand which he could not touch until he gave bond and security to pay his creditors; or, if he did not give bond and

security, until opportunity would be allowed his creditors to file their bills and bring in their claims.

I think that justice requires that, if the amendment prevails, the blank should be filled by a liberal sum. I wish to have the question taken first on the amendment; and if the Senate shall reject it, there will be no necessity for filling the blank at all; but if, on the contrary, the Senate adopts the amendment, as I hope they will, the question will then arise, what sum will you allow Mr. Myerle as an indemnification for the expenses he has incurred in his attendance upon this case? I would say five thousand dollars, which I think would be a very liberal allowance, and I wish to be liberal.

Mr. BRIGHT. Mr. President, I do not understand the honorable Senator from Kentucky as objecting to this bill because it is without merits. On the contrary, I understand that he admits that the bill has merits—that the claim is just, and ought to be paid. The gentleman is in doubt, however, as to whom the claim should be paid. The amendment that is now before us seeks to give the money that we may appropriate a direction that will give third parties the power to control it. The contract of the Government of the United States in this case was with Myerle alone. He is the only person known in the contract. There is no privity of contract whatever between the Government of the United States and these third parties that the gentleman has named. They are unknown. Now, if Myerle be entitled to this money at all, under the contract, the object of this amendment is to create in this Senate a chancery court, if you please. By virtue of his amendment, the gentleman seeks to make it appear that these third parties that associated themselves with Myerle for the purpose of enabling him to execute the contract are entitled to the money. How are we to decide that question? Is there any precedent that the gentleman can cite? Is there any similar case where, ever before, the Senate of the United States have been called upon to exercise chancery powers? I apprehend not. It would lead to a wilderness of troubles, a labyrinth through which Senators, I think, would be unwilling to pass.

If these parties have rights growing out of their contract with Myerle, the courts of the country are open to them. There is their remedy, and not here. It does not appear thus far that they have made any attempt to establish their claim either in a court of law or equity. If they came here with their records showing that after a full and fair examination Myerle was their debtor, and that his indebtedness grew out of the contract, it would be a stronger case; but, even then, I should deny the right of the Senate to inquire into the legal contract existing between these parties. The contract was made with Myerle. We either owe him, or we do not owe him. If we do owe him, we ought to pay him independent of any subsequent arrangements he may have made with third parties. Shall it be said that the Senate of the United States have granted an injunction in a case of this kind? For that would be the effect of the gentleman's amendment. It is nothing more nor less than to enjoin the payment of the money we owe to Mr. Myerle, until he and these gentleman can pass through a long lawsuit. Now, I apprehend that no precedent can be found. There would be no equity nor justice in a course of that kind.

I have looked at this case, but I know nothing of the facts except as they are disclosed from the papers, and I think it is one of the few cases that I have found on your files that has merit. I think, from the face of the papers, it is apparent that the United States is the debtor of this person in the amount named in the bill; and I think that the amendment offered by the Senator from Kentucky, if adopted, would effectually defeat the object of the bill, and work injustice to the petitioner.

Mr. BRADBURY. Mr. President, the Senator from Indiana has stated that he understood it was taken for granted that this claim was a just one against the Government. I did not understand that such was the conclusion at which the Senator from Kentucky has arrived. It may or it may not be so. But I have not seen sufficient evidence to satisfy me that the United States ought to pay anybody the twenty thousand dollars which this bill proposes to pay to Myerle. I am aware that when this subject was up for consideration before, the discussion was principally upon the amendment, and that the great inquiry whether the Government ought to pay anybody the sum named did not receive so much attention.

Mr. BERRIEN. Will the Senator permit me to interrupt him? I desire to save time. The question now pending is upon the amendment of the Senator from Kentucky. The merits of the claim are not involved in the amendment; therefore it is not in order to discuss them at this time. When the question upon the amendment shall be decided, then it will be in order to discuss the merits of the claim.

Mr. BRADBURY. I thought that I was in order in answering the allusion of the Senator from Indiana; but as it seems that I was not, I will confine my remarks to the amendment. The Senator from Indiana declares that he knows no precedent of the kind proposed to be established by the amendment. At the last session of Congress numerous cases were cited precisely in point; numerous cases were then brought forward in which the Senate did the very thing that is sought to be accomplished by this amendment. Now, will we do any injustice to this individual by adopting this amendment? What are the facts? The claimant asks that he shall be paid a certain amount of money in consequence of the Government, or the country, being benefited by certain experiments which he made in introducing improvements in the process of water-rotting hemp. It was admitted, at the last examination of this case, that this individual, after making the contract, went into that section of the country, where he undertook to try the experiments without funds; that he applied to the individuals named in the amendment, Montmoulin and Cornwell, for funds with which to try these experiments; that they furnished the funds. Thus, it appears that these experiments, which it is contended that the Government should pay for, were tried at the expense of these men. It was their capital that furnished the means with which to try these experiments. Now, if this is an equitable claim, who shall have the money? The men who lost it? Certainly. Shall the man who tried the experiments without losing a farthing, pocket this twenty thousand dollars, and bid defiance to those whose capital he expended in carrying on his operations? I think that that would be doing rank injustice. I think that this is a legal claim made upon the equity of the Government.

At the request of Mr. ATCHISON, Mr. BRADBURY here gave way, without finishing his remarks, to a motion for adjournment.

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 25, 1849.

The Journal of yesterday was read and approved.

Mr. LEFFLER, by leave, presented sundry joint resolutions of the General Assembly of the State of Iowa, viz:

A joint resolution asking a grant of land to aid in the construction of a railroad from Davenport, via Bloomington, Iowa City, and Fort Des Moines, to Council Bluffs, on the Missouri river;

A joint resolution in relation to the inundated lands on Muscatine Island, in the State of Iowa;

A joint resolution relative to the establishment of a land office at Fort Des Moines;

Which joint resolutions were referred to the Committee on Public Lands.

A joint resolution relative to the completion of the harbor at Dubuque; which was referred to the Committee on Commerce; and

A joint resolution in relation to the establishment of a post route from Prairie du Chien to Fort Atkinson; which was referred to the Committee on the Post Office and Post Roads.

On motion of Mr. LEFFLER, it was

Ordered, That the said joint resolutions of the General Assembly of the State of Iowa be printed.

BILLS INTRODUCED.

Mr. EVANS, of Maryland, by unanimous consent, in pursuance to previous notice, obtained leave and introduced a bill for the relief of Uri Emmons; which was read twice, and referred to the Committee on Patents.

Mr. BINGHAM, by unanimous consent, in pursuance to previous notice, obtained leave and introduced a bill granting the Detroit, Romeo, and Port Huron Railroad Company public lands on certain conditions; which was read twice, and referred to the Committee on Public Lands.

Mr. McKAY, by unanimous consent, in pursuance to previous notice, obtained leave and introduced bills of the following titles, viz:

A bill to regulate the mileage of members and delegates in Congress, and for other purposes;

A bill to authorize the coinage of one dollar gold pieces at the mint of the United States and its branches;

A bill to provide for the settlement of the accounts of public officers and others who may have received moneys arising from military contributions or otherwise in Mexico;

Which were severally read twice and referred; the first two to the Committee of Ways and Means, and the last to the Select Committee on the President's Message in relation to the levying duties on goods imported into Mexico during the late war between the United States and Mexico.

Mr. GOGGIN inquired of the Speaker what was the regular order of business.

The SPEAKER said the call of the committees for reports.

Mr. GOGGIN called for the regular order.

The SPEAKER proceeded to call the committees for

REPORTS.

Mr. GRINNELL, from the Committee on Commerce, to whom was referred the petitions of shipowners and others of Boston and of New Bedford and Fairhaven, asking an amendment of the laws regulating the registry and enrolment of vessels, reported a bill to provide for the recording the conveyance of vessels, and for other purposes; which was read twice, and postponed until to-morrow, and left upon the Speaker's table, and ordered to be printed.

Mr. GRINNELL, from the same committee, reported bills of the following titles:

A bill to extend the provisions of all laws now in force relating to the carriage of passengers in merchant vessels, and the regulation thereof; and

A bill to abolish imprisonment for debt, in certain cases.

Which bills were read twice, postponed until to-morrow, left upon the Speaker's table, and ordered to be printed.

Mr. GRINNELL also, from the same committee, to whom was referred the memorial of Henry Luff and John McKee, of the city of Baltimore, reported a bill to provide for the settlement of the claim of Henry Luff and John McKee, accompanied by a report in writing; which bill was read twice and committed.

On motion of Mr. BINGHAM,

Ordered, That the Committee on Commerce be discharged from the further consideration of the resolution of the House of the 11th of December last, in relation to the establishment of a collection district in that part of Tennessee bordering on the Mississippi river, with a port of entry at Memphis, and that it be laid upon the table.

Mr. ATKINSON, from the Committee on Commerce, to whom was referred the memorial of Ferguson & Milhado, of Norfolk, Virginia, reported a joint resolution authorizing the Secretary of the Treasury to cancel certain bonds for duties on goods destroyed by fire while in public store at Norfolk; which was read twice, and ordered to be engrossed and read a third time; and being engrossed, was accordingly read a third time and passed.

SITES FOR HOSPITALS.

Mr. HUNT, from the Committee on Commerce, reported the following resolution, which was read:

Resolved, That the Secretary of the Treasury be, and is hereby, directed to inquire and ascertain the most favorable terms on which suitable sites can be obtained for marine hospitals at Buffalo, Oswego, and Apalachicola; and that he report the same, with his opinion upon the expediency of erecting hospitals at those places, to Congress, at the next session.

Mr. HUNT said he hoped the resolution would be adopted. It merely proposed an inquiry into the expediency of purchasing these sites, and into the expense. From the information which had been laid before them, the Committee on Commerce were satisfied that it was very necessary that an appropriation should be made for these purposes; but the information before them was not so definite as to justify appropriations at this time.

Mr. KAUFMAN moved to amend the amendment by inserting "Galveston." The resolution was simply a resolution of inquiry; and an inquiry might as well be made in relation to the point he had designated as to any other. There had been

no hospital (he was understood to say) or anything of the kind erected by the Government in any part of the State of Texas.

Mr. HUNT said he was not authorized to accept the amendment as a modification of the resolution which he had reported under instructions from the Committee on Commerce. He would, however, vote in favor of it.

The question was taken, and the amendment of Mr. KAUFMAN was agreed to.

And the question recurring on the resolution as amended—

Mr. McCLELLAND moved further to amend it, by inserting "Detroit."

There was, Mr. McC. said, more tonnage, and there were more sailors making their homes there, than at any point on the lake.

Mr. McKAY (with a remark not heard at the reporter's desk) moved to amend the amendment, by adding "Wilmington, North Carolina."

The question was taken on Mr. McCLELLAND's amendment, and it was agreed to.

And the amendment of Mr. McKAY was agreed to.

Mr. CRANSTON moved to insert "Newport, Rhode Island."

The amendment was agreed to.

Mr. THOMPSON, of Pennsylvania, moved to amend, by inserting "Erie, on Lake Erie"—a place (he said) very well known.

Mr. HUNT said it might be very proper that inquiries as to all these places should be made. But he hoped that the propositions respecting them would be presented in some other form than as amendments to the resolution he had reported. Three points had been specially brought to the notice of the Committee on Commerce, and the committee were satisfied that something ought to be done in respect to them. He had personally no objection to these other places, but he feared the original proposition would be lost sight of altogether. He therefore moved the previous question.

There was a second. And the main question was ordered to be taken.

And the main question (being first on the amendment of Mr. THOMPSON) was taken, and decided in the affirmative.

So the amendment (inserting Erie) was agreed to.

And, as thus amended, the resolution was adopted.

THE CUMBERLAND DAM.

Mr. GRINNELL, from the Committee on Commerce, reported the following resolution, which was read:

Resolved, That Senate bill to provide for the repairs and improvement of the dam at the head of Cumberland Island in the Ohio river, be made the special order of the day for Wednesday, February 7, and until it is disposed of.

Mr. ROCKWELL, of Connecticut, suggested to Mr. GRINNELL so to modify the resolution as to except Fridays and Saturdays.

The SPEAKER said, the resolution being the report of a committee, could not be modified by the gentleman.

Mr. ROCKWELL said, that with such modification he would vote for the resolution, otherwise not.

Mr. GRINNELL moved to amend the resolution, by excepting Fridays and Saturdays.

The amendment was agreed to.

The question being on the adoption of the resolution as amended—

Mr. THOMPSON, of Pennsylvania, asked for its reading. And it was again read.

Mr. GRINNELL was proceeding to make an explanation—

When the SPEAKER said, that the resolution, having reference to the priority of business, was not debatable.

Mr. GRINNELL called for tellers on the resolution.

Mr. BOYD asked for the yeas and nays, which were ordered, and resulted—yeas 105, nays 61.

So two-thirds not voting in the affirmative, the resolution was not adopted.

On motion of Mr. HUNT, it was

Ordered, That the Committee on Commerce be discharged from the further consideration of the petition of Atkins Dyer, of Truro, Massachusetts, for the return of tonnage duty, and that it be laid upon the table.

Mr. COLLAMER, from the Committee on Public Lands, reported the following resolution; which was read:

Resolved, That House bill to create the office of surveyor general of the public lands in the Territory of Oregon, and to grant donation rights to settlers thereon, be made the special order of the day for the first Tuesday in February next.

Mr. ROCKWELL, of Connecticut, moved to amend this resolution by inserting at the end thereof, "Fridays and Saturdays excepted;" which was agreed to.

The question was then stated, viz: Will the House agree to said resolution, and being put,

It was decided in the affirmative, two-thirds voting in favor thereof.

Mr. COLLAMER, from the same committee, reported tabular statements, prepared by direction of the Commissioner of the General Land Office, showing the grants of land made to sundry States and Territories for various purposes, and the per centage on the proceeds of the public lands to which each State was entitled upon admission into the Union, &c.

On motion of Mr. COLLAMER, it was

Ordered, That said statements be laid upon the table, and printed.

Mr. SMITH, of Illinois, wished to inquire of the chairman of the Committee on Public Lands what had become of the bills which he (Mr. S.) had introduced early in the session, and had referred to that committee, donating lands to aid in the construction of the Central railroad, connecting the upper and lower Mississippi with the northern lakes at Chicago, and for the northern cross railroad, with a branch to Alton; and to the States of Illinois and Indiana, to aid in constructing a railroad from New Albany, in Indiana, by way of Mount Carmel, on the Wabash river, to Alton, on the Mississippi river? Would they be acted upon by the committee, and reported back to the House?

The inquiry was objected to.

Mr. GREELEY, from the same committee, reported a bill to reduce the minimum price of the mineral lands in the Lake Superior district in Michigan, and in the Chippewa district in Wisconsin; which was read twice, postponed until tomorrow, and left on the Speaker's table, and ordered to be printed.

On motion of Mr. COLLAMER,

Ordered, That the Committee on Public Lands be discharged from the further consideration of the resolution of the House of the 13th of December last, in relation to the signing of the land patents by the President, and that it be laid on the table.

On motion of Mr. COLLAMER,

Ordered, That the Committee on Public Lands be discharged from the further consideration of the memorial of A. L. Frazer, proposing to construct a railroad from St. Louis to San Francisco, and that it be laid on the table.

On motion of Mr. GOGGIN,

Ordered, That the Committee on the Post Office and Post Roads be discharged from the further consideration of the letter of Burer Simmons, relative to the transportation of a mail from San Francisco to the Sandwich Islands, and that it be laid on the table.

On motion of Mr. GOGGIN,

Ordered, That the Committee on the Post Office and Post Roads be discharged from the further consideration of the memorial of John J. Raley and others, and that it be laid on the table.

Mr. GOGGIN, from the Committee on the Post Office and Post Roads, made an adverse report upon the petition of Guion & McLaughlin; which was laid upon the table, and ordered to be printed.

Mr. ROOT, from the same committee, to which was referred the bill from the Senate entitled "An act for the relief of Thomas Rhodes," reported the same back without amendment; when, on motion of Mr. ROOT—

Ordered, That the said bill be laid upon the table.

Mr. ST. JOHN, from the same committee, reported the following resolution; which was considered and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be discharged from the further consideration of the petition of C. K. Leland and others, and that the petitioners have leave to withdraw their petition.

OAK HILL CEMETERY, D. C.

Mr. CHAPMAN, from the Committee on the District of Columbia, reported a bill to incorporate the Oak Hill Cemetery in the District of Columbia; which bill was read twice.

Mr. CHAPMAN, in explanation, said, it seemed that a very benevolent gentleman of this city, a native of Georgetown, had purchased a grove on the heights of Georgetown, and had given it to the Corporation of Georgetown for a public cemetery. This bill provided for the improvement of that grove—it was a grove of fifteen acres. It was desirable that this property should be used for the purposes for which it was intended as soon as was practicable. The bill incorporated certain gentlemen who were interested in the improvement of this property, and gave them the power to protect and improve it for these purposes. The Committee on the District of Columbia unanimously instructed him to ask that the bill be read three times and be put upon its passage, which he now did.

The Clerk commenced the reading of the bill in full; but was soon interrupted by—

Mr. KAUFMAN, who suggested to the gentleman from Maryland, that the bill be printed and allowed to lie on the Speaker's table for examination. He did not know that he should object to it.

Mr. CHAPMAN replied that the committee did not deem it necessary to print it, as no gentleman, they supposed, could object to the passage of the bill if it was understood. The committee, he would state, had examined the bill very carefully; it had been drawn with great care, and he was satisfied that no objection could be made to putting it now on its passage.

The Clerk resumed and concluded the reading.

The bill was then ordered to be engrossed and read a third time; and the bill being engrossed, was accordingly read the third time and passed, and sent to the Senate for concurrence.

Mr. CHAPMAN, from the Committee on the District of Columbia, also reported a bill to incorporate the Columbia Manufacturing Company in the District of Columbia; which bill was read twice and committed.

Mr. KAUFMAN, from the Committee on the Post Office and Post Roads, reported a bill to repeal a certain provision of an act to establish certain post routes, approved August 14, 1844; which was read twice; and, after some remarks by Messrs. WALLACE and KAUFMAN, the bill was ordered to be engrossed and read a third time; and the said bill being engrossed, was accordingly read a third time and passed, and sent to the Senate for concurrence.

Mr. VINTON offered the following resolution; which was agreed to:

Resolved, That debate on House bill making appropriations for the support of the army for the year ending 30th June, 1850, shall cease in Committee of the Whole House on the State of the Union this day at 3 o'clock, p. m.; and the said committee shall then proceed, under the rules of the House, to vote on such amendments as may be offered to said bill.

NOTICE OF A BILL.

Mr. SIDNEY LAWRENCE gave notice of a motion for leave to introduce a bill making Fort Covington, New York, a port of delivery.

THE ARMY BILL.

On motion of Mr. VINTON, the House resolved itself into Committee of the Whole on the state of the Union, (Mr. TOOMBS, of Georgia, in the chair,) and resumed the consideration of the bill making appropriations for the support of the army for the year ending June 30, 1849.

Mr. THOMPSON, of Indiana, was entitled to the floor, and addressed the committee during the hour.

He said he proposed to spend the brief hour allotted to him in the consideration of matters connected with the question of slavery; and he did this, he could assure the committee, with no little reluctance, for it was the first time in his life when he had entered upon such a discussion. He did it, however, from the promptings of a conviction that he represented on this floor a class of people who required at his hands that upon all and every suitable occasion he should endeavor, with whatever ability he might possess, to bring to bear upon this great question which now agitated the Union all the conservatism and conciliation which he knew and believed that they felt. It needed not now, he said, (for everybody knew it,) that to indulge in censure and denunciation of one section of the Union against another, was not only calculated to do no good, but to do serious harm; to disturb the harmony of that Union which had so long been our security and our strength.

The institution of slavery was one which found its existence in this country against the consent of our forefathers, in despite of the urgent remonstrances, the urgent appeals of every single one of the American colonies. It was found here at the commencement of that glorious Revolution which resulted in the establishment of our Federal Con-

stitution; and, at the date of our Declaration of American Independence, which on its face declared "that all men are created equal," every single one of the American colonies held, by virtue of existing laws, a right in slaves as property, fixed and recognized by the municipal legislation of each one of the colonies.

The institution of slavery existed, therefore, before the formation of the Articles of Confederation, and before the formation of our Federal Constitution. But difficulties grew out of its existence even in the Congress of the Confederation: in the apportionment between the Colonies of the amounts to be paid by the several Colonies towards defraying the public debt, the institution of slavery was a very serious and alarming impediment in the way of the adjustment of the question; and then, for the first time in the history of American legislation, in the old Congress of the Confederation, was adopted that principle of compromise by which, in the enumeration of the inhabitants to be taxed, two-thirds of the slaves in each of the Colonies were deducted. That compromise was held by the men of that day to be necessary and essential to the harmony of the Confederacy. It did restore peace and quiet. But the Confederated Government, for reasons which were manifest to our fathers at the time, was not sufficiently strong to enforce upon the Colonies the legislation of the Confederated Congress, and hence the Convention was called which resulted in the formation of our present Federal Constitution. And in fixing, in that Convention, the ratio of representation in the Congress of the United States, this same difficulty arose, and this same difficulty was compromised in precisely the same way as it had been done by the Congress of the Confederation.

Very soon after the formation of the Constitution of the United States, and before a fixed construction had been given to that instrument by the several departments of the Government, and by the people themselves, efforts were made by appeals to Federal legislation to interfere with the rights which had been guarantied and secured under that glorious charter of our rights, and at a very early time an appeal was made to the Federal arm to interfere with the institution of slavery in the several States of the Union. Congress, composed of wise, of grave, of deliberate men—of patriots—calmly, earnestly implored the men from whom these appeals came to let this exciting and agitating question alone, and stand by the compromises of the Constitution. The moderation, the forbearance, the conciliation, the compromises of that day, triumphed over faction; faction became still.

The country was not again excited with the question of slavery, until the application from the State of Missouri for admission as a State into the Union. He needed not refer to the agitating scenes which grew out of that interesting and important question. The discussion of the Missouri compromise, and the admission of that State into the Union, shook this Union to its very centre; the spirit of fanaticism and of faction well nigh worked the dissolution of that glorious Union, under whose preservation our rights had been so long guarantied and maintained. But conciliation, compromise, and concession, again prevailed, and the Union and its integrity were safe.

We heard nothing more of the agitating question of the abolition of slavery until the formation of the present political Abolition party. An effort was made, it was true, at the session of Congress of 1835–'36, akin to and precisely like the one which was made immediately after the formation of the Constitution, to interfere with slavery and the slave trade in the District of Columbia. A memorial was presented to this House, from the State of Pennsylvania, in 1835–'36, praying Congress to abolish the slave trade and slavery in the District of Columbia. The question which arose at that time was on the reception of the memorial: a motion was made to lay it on the table, and a very large majority of the House of Representatives did lay that memorial on the table, by voting to lay the question of its reception on that table; and at the head of those who voted in the majority upon that occasion, stood the venerable and distinguished gentleman from Massachusetts, who but the other day fell in this Hall, covered all over with national glory and renown. Men had not learned in that day to disregard the Constitution and the law; men had not learned at that day to be continually attempting encroachments upon the rights of the States of this Union, as fixed and guarantied under our Federal Constitution.

This attempt was frowned down by the House of Representatives. But still the country was agitated; and that agitation continued until about 1840, when these petitions were continually presenting themselves to the consideration of Congress; and when to get rid of them, southern gentlemen on this floor adopted the celebrated "twenty-first rule," which denied to the people of the North the right to petition Congress on the question of slavery. Here, two extremes were about to meet. Immediately upon the adoption of the "twenty-first rule," the question of the abolition of slavery in the District of Columbia became a suspended question, and there was substituted in lieu of it, in the northern States, the question of the right of petition. The consideration of that question appealed so strongly to the feelings of the North, that a large proportion of northern citizens became accustomed to act with the party which was urging upon Congress the recognition of the right of petition, and continued to act with them in defence of this great right, so that they became, almost insensibly, political abolitionists; and thus, he verily believed, the adoption of the "21st rule" had a tendency to strengthen and increase the number of political fanatical abolitionists at the North. This right of petition was a sacred right. The North was addressed in this behalf; and there (pointing to the seat formerly occupied by Mr. Adams) stood the distinguished gentleman from Massachusetts to whom he had just alluded, day after day, month after month, and year after year, continually clamorous in this Hall for the preservation of that high constitutional right, until the excitement became so great that a portion of the northern people, living in the State of Massachusetts, through that same distinguished Representative, presented a memorial upon this floor praying that Congress would take steps for the immediate dissolution of the Union. Those gentlemen who were present recollected the exciting scenes which took place upon this floor on that occasion, and recollected with what ability, with what earnestness and power, that "old man eloquent" defended himself against the assaults of those who attacked him, claiming only this—that while he did not, either in sentiment or feeling, accord in one jot or tittle with the sentiments of the memorial, he stood prepared to maintain the right of petition, as guarantied to the American citizen. Upon that occasion, Mr. Adams—as it were, almost pressed to the wall by his adversaries—was compelled to declare and did declare what his own feelings were upon this very question on which the House had been compelled to vote within the last two or three weeks. He then said, in order to stop this agitation, in order to arouse the conciliatory spirit of his countrymen, Within the District of Columbia, you men of the North have nothing to do with the right of the master to his slave; and he said, if he were called upon to vote upon a bill to abolish slavery in the District of Columbia, he would vote against it. He (Mr. T.) well recollected the remark; he recollected the sensation which it produced in this Hall. (He had the report of the remarks by him; but he would not consume the time of the House by reading it.) The influence which Mr. Adams was enabled to exercise upon this important question was very great throughout the whole circumference of this land. But he passed away; he died; and his remains had scarcely been carried home to the burial-place of his fathers at Quincy, before one who bore his own name—a name ever revered and honored—had become associated with a political hack, through the instrumentality of a political organization, to carry into execution the very doctrines against which his illustrious father had labored throughout his whole long and useful life.

The result of the late Presidential election had seemed to produce one conviction upon the minds of certain gentlemen, and that was, that there was in some of the States of this Union, lodged in the hands of this party, the balance of political power; and if they could keep up, by the agitation of this question, their political organization, they could compel either the Whig or the Democratic party to come to them, and thus enable them to accomplish their purpose. They were mistaken in the Whig party of the North and the Democratic party of the North, neither of whom sympathized in any degree whatever with the objects, purposes, or ultimate designs of the political, fanatical abolitionists.

The Presidential election over, this session of Congress commenced. What did we see? First, a proposition made upon the floor of the House of Representatives directly, unqualifiedly to abolish slavery in the District of Columbia, without the consent of Maryland, without the consent of Virginia, without the consent of the slaveholders of the District. A direct attempt to exercise the Federal power of this Government to do that which all good men of all parties had declared that Congress had neither the legal power to do, nor that it was right that it should be done. That resolution had been voted down by this House, but he was astonished to see that it commanded so large a vote as it did.

Next, they saw a proposition to submit to the people of the District of Columbia the question as to whether slavery should or should not exist here, and placing the negro man—even the slave of the District—upon a par with the white man in determining the question whether the slave's bonds should be broken. A proposition thus to legislate needed but to be stated to any portion of the American people to be repudiated, condemned, and spurned by that people.

Next, they had before them a proposition to abolish the slave trade within the District of Columbia. He would remark, with reference to this, that he had thought there was a class of gentlemen on this floor who had always denied to Congress jurisdiction of the question of slavery within the District of Columbia, or within the States; yet he was astonished, when that resolution came into this Hall, to find these same gentlemen forcing the House to take jurisdiction of this bill, and that against the earnest remonstrances of this side of the Hall. When that resolution proposing to abolish the slave trade in the District of Columbia was submitted to the consideration of this House, the previous question was called upon it; and it would be recollected that the distinguished gentleman from Ohio, the chairman of the Committee of Ways and Means, [Mr. VINTON,] got up in his place and implored the House to pass by that resolution, by voting down the proposition to put the main question. But the records of the House showed that twenty-six gentlemen of the Democratic party from the slave States, representing slave constituencies, voted to order the main question, and force the House to a direct vote upon the question, against the earnest remonstrances and direct vote of twenty-eight Whigs and ten Democrats from the slave States.

Mr. MEADE, (in his seat.) What of it?

What of it? is asked by the gentleman from Virginia, (continued Mr. T.) This: you have always denied that Congress has any jurisdiction over the question, of which you forced us to take jurisdiction by your own vote, when we wanted to stave it off and not vote at all unless the proposition was modified.

Mr. MEADE rose to say a word, but——

Mr. THOMPSON declined to yield, and begged that gentlemen would not interrupt him.

When the cause (he said) is once in court, and you have taken jurisdiction of it, you may decide either for the claimant or against him; but when you have no jurisdiction, you have no power to decide either way. By pressing this question upon us, you have admitted the jurisdiction of Congress over slavery within the District of Columbia.

Mr. VINTON (the floor being yielded, at his request, for a word of explanation) said he had asked the House not to sustain the previous question on the proposition because he wanted to amend it before voting. It was not his purpose to stave off voting upon it, but to strike out the preamble.

Mr. THOMPSON continued. He concurred with the gentleman from Ohio that there was a desire on his side of the House to strike out the preamble, and that there was no disposition to stave off the question of the resolution. For himself, he (Mr. T.) was not afraid to meet it. Coming into this House from a free constituency, he had not voted for it, but directly against it.

Before he proceeded to notice particularly what the resolution was, he wished to remark that there was one feature of this transaction which struck his mind as rather curious: that was, that ultra-slavery men on that side of the House and ultra-anti-slavery men on this side coalesced; that they

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got together in pressing this question upon the action of the House. *How* they got together, he did not understand. Perhaps before this session of Congress expired, they would get together again. "*Nous verrons.*"

He proposed now to speak of the resolution of the gentleman from New York, [Mr. GOTT.] It was in the following words:

"Whereas the traffic now prosecuted in this metropolis of the Republic in human beings as chattels, is contrary to natural justice and the fundamental principles of our political system, and is notoriously a reproach to our country throughout Christendom, and a serious hinderance to the progress of republican liberty among the nations of the earth: therefore,

"*Resolved*, That the Committee on the District of Columbia be instructed to report a bill, as soon as practicable, prohibiting the slave trade in said District."

He had voted against this resolution of the gentleman from New York, for the reason, first, that it assumed that "traffic now prosecuted in this metropolis of the Republic in human beings as chattels, is contrary to natural justice and the fundamental principles of our political system." He did not recognize that as being true; and this led him to the consideration of the question—whether, under our Federal Constitution and the compact between the States, we were compelled to recognize property as existing in the slaves of the South? He knew but one mode, under the Constitution and the law of this country, to determine upon a question of law arising upon a conflict between the States, or between the States and the Federal Government. In determining whether slaves were property, he was compelled to look at the decisions of the Supreme Court of the United States, and nowhere else; and he must express his surprise to have heard, upon this floor, the doctrine asserted, that under the Constitution of the United States there was no recognition of the right of the slaveholder to his slave as property. He did not intend to detain the committee by reading at any length, but he had before him the interpretation of the clause of the Constitution—"No person held to service or labor in one State," &c.—bearing upon this subject, given by Judge Story.

Story says, in the case of Prigg *vs.* the Commonwealth of Pennsylvania, 16 Peters, 611:

"The last clause is that, the true interpretation whereof is directly in judgment before us. Historically, it is well known that the object of this clause was to secure to the citizens of the slaveholding States the complete right and title of ownership in their slaves as property, in every State in the Union into which they might escape from the State where they were held in servitude. The full recognition of this right and title was indispensable to the security of this species of property in all the slaveholding States; and, indeed, was so vital to the preservation of their domestic interests and institutions, that it cannot be doubted that it constituted a fundamental article, without the adoption of which the Union could not have been formed. Its true design was to guard against the doctrines and principles prevalent in the non-slaveholding States, by preventing them from intermeddling with, or obstructing or abolishing the rights of the owners of slaves."

Now, (said Mr. T.,) there was a solemn, deliberate opinion of the Supreme Court of the United States, given by Judge Story, a northern judge, of the highest attainments, which settled the question as between the North and the South of the right of the master to his slave, and that the slave, by the Federal Constitution, was recognized as property. He held that the man who attempted to array popular opinion against this settled law of the land, as expounded by our highest judicial tribunal, and thus forever fixed and settled, was an enemy to the public welfare and the public peace—he cared not whether he was upon this floor or elsewhere. Look at the effect of it upon the institutions of our country. There was a time in our history when the "slow, unmoving finger of scorn," would be "pointed" with fixed purpose upon the man who dared attempt to break down or in the least degree impair those checks and balances which the Constitution and law had thrown around the rights of the citizen; but we had seen the Constitution and the law trodden down beneath the foot of party occasionally, and Dorrism and other *isms* springing up upon the shattered fragments of the broken Constitution and law, except when the power of the States and of the Federal Government was enabled to hold these factions in check.

He repeated the sentiment, and he wished it fixed upon the minds of every man who heard him and of the country, that under our form of Government, when our highest judicial tribunal, the supreme expounder of the Constitution and law, had fixed what that Constitution and law was, he held that man to be an enemy to the public welfare who sought to array the popular opinion against that Constitution and law. There slaves were property; they were so made by the municipal laws of the States, and were so recognized under our Federal Constitution.

He read the next clause of the resolution: "and is notoriously a reproach to our country throughout Christendom," and said, if he wanted to do anything else than agitate the question of slavery for political purposes, he would seek to do it by earnest appeal to his brethren of the South. He would employ no terms of denunciation or rebuke. The men of the South (said Mr. T.) are not responsible for slavery; it was theirs, but they could not help it. It was fixed upon them, evil as it was, against the earnest remonstrance, against the earnest entreaty of our fathers. It was there; let them get rid of it according to the promptings of their own judgment, in the best way they could. But when they here, in this Hall dedicated to national legislation, talked about an institution which existed in one part of this Union under the law of the sovereign States, they had no right to denounce it as against the spirit of the age, and against the liberalizing influences of Christianity. This was the Hall of national legislation—a Hall consecrated to the Union of the States; and though one gentleman came from a slave constituency, and another came from a free constituency, they were each bone of the other's bone and flesh of his flesh; we were all American citizens, protected and shielded by the same Constitution, guarded by the same laws; we had a common fame, a common ancestry, and a common revolutionary renown. He held that the Congress of the United States had no right to employ terms of denunciation against the South or against the North. They stood here, he repeated it, upon ground consecrated by the labors and wisdom of our fathers, and secured by that Constitution which was framed by the conservatism of that day; the checks and balances of which guarded against inroads from abroad and from faction at home, by the wisdom, virtue, and moderation which characterized that era.

This resolution asserted that slavery, as it existed in the United States, was "a serious hinderance to the progress of republican liberty throughout the earth." Well, he could not, for the life of him, imagine what sort of an abstraction that was; but it was not true. He did not believe—evil though he agreed the institution of slavery was—that the slavery of the African race had ever kept the Anglo-Saxon, or any other white race from freedom in any degree whatever. He did not believe it. Historically, it was not true. The fact of the institution of slavery existing in the colonies of the United States did not impede the progress of our fathers in their establishment of a republican government. But it was true that those countries where vice and immorality and superstition and ignorance prevailed to the greatest extent—as for example, Mexico, and he believed a number of the South American republics—recognized no such thing as the institution of slavery. The question of slavery was not one to be viewed in this light; it was a question between the immediate personal interest of the slaveholder and the slave; and he did not now expect to discuss the question, as to whether slavery might or might not have been an evil to the black race. If the colonization scheme, or any other scheme which might be devised by the ingenuity and benevolence of man for planting the African race on its native shores, should be instrumental in building up a republican form of government there, and establishing the freedom of that race, he would leave it for the moralist of after days to determine, whether slavery had or had not been an evil to the black man.

This resolution proposed to abolish the slave trade in the District of Columbia. What was the "slave trade?" He could not understand this resolution as meaning anything more or less than that they proposed to interfere with the relation of the slaveholder and the slave in the District of Columbia. He had shown that Congress had at no time before hesitated for a single instant in declaring that this ought not to be done. He held that, under the law by which the District of Columbia was ceded to the United States for the purposes of a seat of the Federal Government, Congress had no legal right to interfere with the relations between slave and master here. What was the "slave trade" here? He heard a great deal said about "slave pens;" about slaves sold at auction; about stripping the mother from the child, &c. These things might exist here, but he did not know of them. Since he had first come to the District of Columbia, he had never seen a negro sold; he had never seen a band of negroes taken off by the slave-trader; he had never seen the slave-trader. He did not know where your "slave pen" was. It might be here, however, and these things might happen every day before the eyes of those gentlemen who chose to hunt them up; for himself, he had no taste for such things.

What was the "slave trade," as referred to in this resolution? It was the right of the master to sell his slave. Congress had no right to say to him that he should not. If gentlemen wanted to abolish the slave trade, in the ordinary general acceptation of that term, it was very easy to do it. When the States of Maryland and Virginia ceded this ten miles square to the United States for the purpose of a seat of Government, provision was made by the Maryland and Virginia law, that the laws of those respective States should prevail in the District of Columbia until Congress should by legislation provide other laws. Congress in 1801 did provide that the laws of Maryland and Virginia should prevail in the District of Columbia, and immediately afterwards declared by law, that nothing in the act of 1801 should be so construed as to prevent the right of the master to take his slave from one county into the other, and to bring him from Maryland within the District; so that now, while a gentleman living in Virginia could not bring his slave into the District of Columbia, unless he came with the *bona fide* intention of becoming a citizen, or as a temporary sojourner, yet a citizen of Maryland might do so, because of the compact between the General Government and Maryland. Now, all they had got to do was this: just repeal the law of Congress of 1801, which made provision for the right of the master to go with his slave to and fro, and they revived the operation of the Maryland law of 1776; and then if a man brought his slave here, the moment he came within the limits of the District of Columbia for the purpose of carrying on the illegal traffic of buying and selling slaves, that moment his slaves were free; but if he came with the *bona fide* intention of becoming a resident of the District, or as a necessary sojourner, he held his slaves. He ventured to affirm, that there was not a gentleman from the extreme South who would not vote to revive this law to-day. Here, then, was common ground on which gentlemen from all sections of the country might stand. Let such a bill be introduced—and if no other gentleman did, he was ready to introduce it, for he had a bill drawn up for the purpose—and be passed to do this very thing, to restore the law of 1796, and then the old law of Maryland would be in force, and slaves could not be brought in here for sale.

It might be well doubted, however, how far they could now complain of the fact that the slave trade continued to exist in that part of the District east of the Potomac river, when it was recollected that only two or three years had elapsed since the retrocession of the county of Alexandria to Virginia. He could not imagine how it was that gentlemen who advocated the retrocession of that county to Virginia, fixing slavery forever upon

the county of Alexandria, unless the Legislature of Virginia chose to abolish it, now complained of the existence of that institution on this side of the line. If Congress had jurisdiction (as they thought) of this question, they had given it up as far as related to the county of Alexandria, and surrendered the power of ever disturbing the relation of master and slave there.

But suppose they passed this resolution—suppose they passed a bill in this general form abolishing slavery in the District of Columbia—what next? The next proposition which would come from the political Abolitionists of the North would be to abolish the slave trade between the States. He was no alarmist; he abominated these continual threats of dissolution; he had no respect for the man who eternally talked about breaking asunder the ties of concord and fraternal affection which had so long held us together; he had no sympathy with such movements; but he told them that just so sure as the sun of heaven shone, just so sure as we were now a union of States, just so certainly must that union become dissevered and broken, if the municipal rights of the States were thus interfered with. The South should not trample upon the rights of the North, so far as he represented the rights of the North; nor would he—so help him God he would not—attempt to trample upon the rights of the South. He had spent the first one-half of his life south of Mason and Dixon's line, and the other half north of Mason and Dixon's line: he thought he knew the people of the North, and he thought he knew the people of the South; and he told those gentlemen here, both from the South and from the North, who talked about disunion, that they did not represent the feelings of the American people on this great question. No; they did not represent the heart of the American people. That heart was essentially conservative on this and all other questions.

But suppose Congress attempted to interfere with the slave trade between the States: the inevitable, positive, direct result must be the dissolution of the Union. He did not complain of the severe terms of denunciation which southern gentlemen were in the habit of sometimes employing towards the North. Northern man though he was, he was compelled to admit that some of the people of the North deserved a good deal of what was said of them by southern men. He could not imagine, for instance, what was better calculated to arouse the feelings of the South—their indignation, if gentlemen pleased—than an attempt on the part of the northern States of this Union to interfere with and check that Congressional legislation which had been devised, under the Constitution, for the securing of the rights of the master when his slave escaped from him into another State. He believed there were some of the States of this Union who had repealed their legislation on this subject, and there were others who inflicted a penalty upon their officers for aiding the master in arresting his slave. He thanked God he did not come from such a constituency. The people whom he represented, the State from which he came, was essentially, emphatically, conservative upon this question of slavery. He represented a constituency among whom the master would be just as secure under the law of the land, in attempting to recover his fugitive slave, as he would be in any county in Virginia or North Carolina. He did not know of a judge or a justice of the peace within his State who would not give to the master every possible aid in his power to arrest his fugitive slave. They neither sympathized with the fanatical Abolitionists nor with the ultra pro-slavery men of the South; all they said was, Take care of the institution of slavery as it was left you by your fathers; it is none of ours; we will have nothing to do with it; manage it as you please.

He was inclined to think that a very large proportion, if not a very large majority of the negroes of the South were quite as well off, if not better off in bondage, as far as physical comforts were concerned, than they would be if they were free. Take, for instance, the legislation of his State with reference to free negroes; their law required that when they came into that State they should give security never to become a town or county charge; and if a person hired, harbored, or concealed negroes, who had come into the State without giving such security, they were liable to indictment; he himself, since he had been a member of Congress, had defended four or five of his constituents upon actions of this nature brought against them. In his State, and he believed in the bordering State of Illinois, this thing of political abolitionism had never found a foothold, and he did not believe it ever would in either of these States of the Northwest. If the feeling which there existed should prevail all over the Union, we should have no more agitation about the settlement of the question of slavery; but Congress would come up and settle it like men.

As respected the institution of slavery in the Territories which we had acquired by our war with Mexico, he did not propose to discuss this question, any more than to say, that if it had not been for that same violation of law to which he had referred—if it had not been for this disregard of constitutional checks and balances to which the Abolition party owed its political existence, we should have had no Mexican war and no Mexican territory. But we had got it; and before he would endanger the union of these States by the determination of any question which might arise in the settlement of the controversy between the North and the South, in reference to New Mexico and California, he would vote deliberately in his place to give it all back, gold mines and all. Yes; although the gold mines were ten times richer than they were, they should not weigh a feather in the scale compared with the integrity of the union of these States. But if we would not give back these Territories, for one, he was in no very great hurry to organize a government for them. He believed gentlemen from all sections had better get cool upon this question before they undertook to do a great deal about it; they were too excited now; there was not sufficient conservatism either in the South or the North. A portion of the North said they would dissolve the Union, unless Congress inhibited slavery in these Territories; a portion of the South said they would dissolve the Union if Congress did inhibit slavery there. Which of these two extremes should yield? Should moderate counsels prevail? He believed that the calm, deliberate, moderate, conservative spirit of the people of this Union would prevail in the settlement of all these questions, and that in it it would be found that deep, earnest, fixed devotion to this Union was the strong impulse of the American heart.

He wished it were true—he wished he could say it was true, that this Hall of legislation had as much of that calm, deliberate conservatism as existed in the minds of the great body of the American people. But there was often to be found a difference between the representative and his constituent: while the constituent, at home, was steadily, calmly, coolly, and earnestly looking and praying for the preservation of the welfare of the Government, they in this Hall, too often prompted by considerations of faction and party, were disturbing the peace and repose of the Union, and were agitating and exciting for their own sinister ends and selfish purposes. There was coming a time, he believed—and he thanked God it was so—when there should come out from the Federal Executive of this Union this spirit of popular conservatism, and it should be poured like oil upon the waters of party; when, in the settlement of great national questions, they should neither know the name of Whig nor Democrat, but should be prompted by those high, holy, elevated considerations which alone existed in the heart of the true American patriot, whose every pulsation beats for the integrity of the union of these States. The question of the integrity and the safety of this Union was higher than that of the perpetuity and success of any party. He held that that man was an enemy to the peace of this Republic who, upon this floor, dedicated to national legislation, should seek to array the North against the South. He (Mr. T.) was a northern man in sympathy and in feeling; but he loved the South. The South was the home of his earliest and dearest recollections; there were yet left the playmates of his early boyhood; but his home was at the North; his interests were there; his affections were there; his sympathies were there. But should he like the North more than the South? or the East more than the West? Should his patriotism be circumscribed by the little spot of earth where he happened to have been born or to live? No, no; he trusted in God that the time should never come when he should not feel an equal devotion for the sterile hills of New England and the sunny plains of the South. It was all his country. And though he represented a constituency who had confided important trusts to him, he declared here, in the Hall of this National Legislature, that he would give no vote which should not look to the rights, the interests, and the prosperity of the whole Union—the North as well as the South, the East as well as the West.

Mr. T. having concluded—

Mr. NICOLL then took the floor, in reply to the speech made yesterday by Mr. ROCKWELL, of Connecticut.

Mr. N. vindicated the accuracy of the estimates of the Secretary of the Treasury, and argued that they were not so assailable as the gentleman from Connecticut had contended. The speech was mainly of a statistical character—of which a correct report cannot be given to-day.

Mr. ROCKWELL, of Connecticut, followed in a brief explanation and statement of figures, in support of his previous allegations with respect to the state of the finances of the Government, and the report of the Secretary of the Treasury, until the hour of three o'clock—

When, according to previous order, the debate was closed, and the committee proceeded to the vote.

The CHAIRMAN then stated the question to be on striking out the first section of the bill.

Mr. SMART withdrew the motion (having made it in the first instance merely *pro forma*, that he might submit his remarks.)

The following item of the bill being under consideration:

For expenses of recruiting, thirty-eight thousand and fifty-two dollars.

Mr. GREELEY moved to strike it out.

Mr. G. (in explanation) said he did not believe Government should pay these thirty-eight thousand dollars for the recruiting service of the army of the United States. Nothing like that amount of labor was required for this service. He believed, indeed, that an abundant supply of men for the army could be obtained without the expense of hiring men for the purpose, by merely putting up the flag, as was often done for hiring laborers on the railroads and other public works. In this case the Government was to pay thirty-eight thousand dollars for persuading men to serve them. This was done for one of two reasons: either the service itself was improper for men to engage in, or the pay was not what it ought to be. If the service was wrong, it ought to be discontinued; and if the pay was inadequate, it ought to be increased. There was no service on earth—certainly no branch of the public service in this country, in which so much robbery and wrong was perpetrated as in this matter of recruiting. Recourse was had to intoxication, to fraud—to bribing men outside to bring in recruits for the United States army, by continually robbing wives of their husbands, and widows of their sons, under circumstances which would ordinarily render the individual liable to indictment for fraud.

He wished to inquire a little into this branch of the public expenditures. He had before him a statement of the total cost of war and warlike preparations by this Government for the last sixty years—from 1789 to 1849—and it amounted to the large sum of $685,930,802 27. He did not believe there was any necessity for this large expenditure.

The bill proposed to appropriate $5,425,867 for the military service of the United States for the present year; and in the naval appropriation bill it was proposed to set apart for the naval service $9,650,012. Total for warlike preparations, $15,079,878.

Now, he desired to compare this with the cost of the military and naval service of the whole period of the eight years of Washington's administration. For the military service it was $9,244,027; for the naval service, $10,078,102; total, $19,322,129. From this it appeared that there was now expended for warlike preparations in a single year almost as much as was expended during the whole period of the eight years of Washington's administration. During the four years of the administration of Thomas Jefferson—from 1802 to 1806—upon a retrenchment of the expenditures of his predecessor, the elder Adams, the expenditures for the naval and military service amounted to only $7,956,108, or less than the cost of the naval service alone for the current or ensuing year. During Washington's administration there was an army

to be organized and a navy to construct—to create; and during the period referred to in Jefferson's administration the country was threatened with foreign wars. Wars were raging everywhere, and the whole world was rocking and tumbling.

He considered one of the items of this expenditure. The country was having Indian wars every few years, which were very expensive. But how came it to pass, that Great Britain, on the north of us, with more Indians than we have upon their frontier, expended nothing for Indian wars? He knew not that they had had any disturbance on account of the Indians since 1815. Why was it, then, that we were continually having these wars, whilst our northern neighbors, who were never remarkable for their peaceable temper, had none? He contended, that if one-half of the sum which was now expended by the Government in these Indian wars, were expended in keeping them quiet, instead of driving them out of the country, it would operate as an immense saving to the treasury.

The war with Mexico furnished a good reason in support of the policy for which he contended. The history of that war showed that our people, taken from the plough and submitted to drill, soon made good soldiers, adequate for any service, whatever. Whenever their country called them, right or wrong, they were ready, and they became good soldiers, ready for service within sixty days after they were mustered in. Then why should we go on with this useless system? Why not rather reduce this vast expenditure for the naval and military service, so that the country may be enabled to appropriate more money, and engage on a more liberal scale in the new fields of commercial enterprise now opening before us? He hoped the Government would stop recruiting for the army, except for volunteer service; and otherwise reduce the expenses of the military and naval establishments.

The President had told us that the present Indian war in Oregon was created by injustice on our part; and it would have cost but a small part of the expenses now to be incurred on account of this war, to have effectually provided against it before it was begun. And besides, if we had no army, we should not get into these wars at all, except at a few exposed points. Our people would not be so ready to encroach upon the Indians; they would not act with the same impunity that they now do, if we had no army to back them. He moved to strike out the section.

The question was then taken, and the motion to strike out was rejected.

The following item being under consideration:

For three months' extra pay to non-commissioned officers, musicians, and privates, on reënlistment, ten thousand dollars.

Mr. SAWYER moved to amend it, by adding the following:

To pay mileage to paymasters' clerks, at the rate of ten cents a mile, for travel performed in the discharge of their official duties during the late war with Mexico, five thousand dollars.

The CHAIRMAN ruled that the amendment was not in order. The bill provided for the support of the army for the year ending June, 1850. The amendment seemed to contemplate payment for past services.

Mr. KAUFMAN moved the following proviso:

Provided, That the same extra pay shall be given to the regiment of Texas volunteers called out by Colonel Curtis as to other regiments legally called into the service.

The amendment, for the same reason as that assigned with reference to the amendment of Mr. SAWYER, was ruled out of order.

Mr. GREELEY offered the following amendment:

Provided, That no mileage shall be allowed or paid from the treasury of the United States, or from any fund thence appropriated, to any military officer or other person whatsoever, for any constructive journey, or for any journey whatever not actually made by him at the time and for the purpose designated in the account upon which such allowance and payment shall be made.

Mr. G. said he hoped there would be no objection to this amendment. It related merely to constructive mileage.

The amendment was agreed to.

Mr. GREELEY offered the following amendment.

Provided, also, That in every case of allowance and payment of mileage under this Government to military officers or any other persons whatsoever, the distance traveled shall be computed upon the shortest mail route between the points traveled from and to, respectively; and all acts and parts of acts inconsistent with this proviso are hereby repealed.

Mr. GREELEY said, while we were making appropriations for the mileage of military officers, he thought it a proper time to propose some general plan for charging mileage by all the functionaries of the Government entitled to that allowance; and his plan was that it be estimated, in all cases, upon the nearest post route. This was just and equal. If officers and gentlemen preferred to travel the circuitous route, because it might be more pleasant or more convenient, he would not thereby entail any additional expense upon the Government. It was by the shortest route that men usually traveled. The shortest mail route from New Orleans was 1,172 miles, while the Congress mileage distance was 2,357 miles; and this distance, by the nearest post route, at 10 cents a mile, (he believed that was the rate allowed,) would give $117 for travelling expenses, whether the officer take the shortest route, or the longer and more convenient.

Further, for illustration, he said the estimated distance from this city to the town of Freeport, Illinois, (the place of the gentleman who assailed him so very freely the other day in connection with this subject,) as derived from the files of the Post Office, was 830 miles—two miles less than he had stated in the article complained of. By the usual post route, the distance was 1,091 miles, which would give $109 for traveling. But the distance to the same place by the usual post route, in the summer season, was 1,469, which was 610 miles less than the distance charged by the gentleman from Illinois; and there was another summer route round by New York and Lake Erie, which would give a much higher charge for mileage. The circuitous routes were often very convenient and pleasant, and preferred for travel. He stated this diversity of routes to show the unfairness of charging mileage for the greatest distance. He would make the rate of charge uniform, and he knew of no other plan upon which that could be done, except upon the air-line or the nearest post route, as he now proposed.

He added, that the distance to the residence of the gentleman from Mississippi, [Mr. BROWN,] by the nearest post route, was 1,053 miles; by the usual post route it was 1,407 miles; whilst, by the Congressional route, it was 2,330 miles; and he asked, in view of this fact, whether there ought not to be established some uniform rate of charge in this matter? The nearest route to the residence of the gentleman from Ohio, [Mr. SAWYER,] was 508 miles, whilst the usual post route was 591 miles, and the mileage route 850 miles. He mentioned these facts to show the justice and necessity of establishing some general standard upon which all mileage should be computed. The system he proposed was not intended to apply to one class of functionaries merely, but to every officer of the Government entitled to mileage. He proposed the shortest post route, and hoped the committee would adopt it.

Mr. VINTON inquired whether any part of the amendment could be in order, except that which respects the mileage of military officers?

The CHAIRMAN replied, Clearly not. He did not consider that portion of the amendment which refers to the mileage of other officers of the Government to be in order.

Mr. GREELEY said, he supposed, if such a proposition had been applied to the general appropriation bill, it would have embraced the mileage of military officers——

The CHAIRMAN said the question was not debatable.

Mr. WENTWORTH called for a division.

The CHAIRMAN decided that all such parts of the amendment as did not relate to mileage in respect to the army, was out of order.

Mr. GREELEY appealed from the decision; and the question being taken, the decision of the Chair was sustained.

Mr. HALL, of Missouri, on a *pro forma* amendment, desired to inquire of the gentleman from New York, [Mr. GREELEY,] whether the present law did not require army officers to charge by the usual mail route. Such he (Mr. H.) understood to be the law. He knew that our officers were not allowed to charge at the rate at which members of Congress charged. If the law was as he understood it, the amendment of the gentleman was unnecessary.

Mr. McKAY said there was no law upon the subject; but there was a regulation made by the Executive in pursuance of law.

Mr. McK. read the regulation. It authorizes the officers to be paid by the shortest mail route.

Mr. HALL. Therefore, the amendment is unnecessary.

Mr. WENTWORTH said the effect of the amendment would be to increase the mileage. He hoped the gentleman from New York [Mr. GREELEY] understood his own proposition.

Mr. GREELEY. My amendment is by the shortest mail route.

Mr. WENTWORTH asked that the amendment might be read, in order that it might be compared with the regulation which the gentleman from North Carolina [Mr. McKAY] had read.

The amendment was again read; and, the question having been then taken thereon, it was rejected.

On motion of Mr. VINTON, the committee then rose and reported the bill and amendment to the House.

Mr. VINTON demanded the previous question; which was seconded.

And the main question (being first on the amendment of Mr. GREELEY, in relation to constructive mileage) was ordered to be now taken.

Mr. GREELEY asked for the yeas and nays; which were refused.

Mr. G. asked for tellers; which were also refused.

And the question being taken, the amendment was rejected.

And then the bill, having been ordered to a third reading at this time, was read, and, under the operation of the previous question, was passed.

Mr. VINTON moved a reconsideration of the vote; and, on his motion, the motion to reconsider was laid on the table.

Mr. EMBREE, by leave, presented a joint resolution of the General Assembly of the State of Indiana, in relation to the transmission through the United States mail, free of postage, of all newspapers ordered for distribution, and all public documents printed by authority of the States; which was laid on the table, and ordered to be printed.

Mr. ROBINSON, from the Committee on Enrolled Bills, made a report.

And then the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. CRANSTON: The petition of Wm. H. Mosher and others, of Bristol, Rhode Island, praying for a uniform rate of two cents postage on letters, &c.

By Mr. ROCKWELL, of Massachusetts: The petition of 27 citizens of Chesterfield, Massachusetts, praying for the reduction of the rates of postage, the abolition of the franking privilege, &c.

By Mr. TUCK: The petition of Jonathan Wood and 88 others, mostly mechanics of the city of Manchester, New Hampshire, praying Congress to pass laws securing the public lands to the free use of actual settlers. Also, the petition of H. L. Cowes and 74 others, ladies of Portsmouth, New Hampshire, praying Congress to prevent the extension of slavery, to withdraw the countenance of the Government from the slave trade, and to suppress slavery where Congress has the constitutional power to do so.

By Mr. HOUSTON, of Delaware: Sundry memorials from the citizens of the State of Delaware, requesting Congress to reduce the present rates of postage.

By Mr. PALFREY: The petition of Rebecca Seward and 156 others, of Guilford, Connecticut, praying Congress to prevent the extension of slavery, to withdraw the protection of Government from the American slave trade, and to suppress slavery wherever Congress has competent jurisdiction.

By Mr. TURNER: The petition of Z. W. Harding and a great many others, praying for a mail route from Beloit to Shullsburg, Wisconsin. Also, the petition of Wm. Cox and many others, praying for the same route. Also, a statement from J. W. Killdon in relation to a post route from Rock Grove, Illinois, to Monroe, Wisconsin. Also, the petition of J. W. Davidson and many others, praying compensation for horses lost in Captain Stafi's company of mounted men.

By Mr. HUNT: The petition of Charles M. Reed and others, for an appropriation to construct a light-house, &c., at the entrance of Niagara river.

IN SENATE.

FRIDAY, *January* 26, 1849.

Mr. ATHERTON presented a resolution passed by the Legislature of the State of New Hampshire, approving the vote of their Representatives in Congress at the present session upon the subject of the slave trade in the District of Columbia, and requesting their concurrence in all such just and constitutional legislation as may be necessary to prevent all traffic in slaves therein; which, on motion of Mr. ATHERTON, was read and ordered to be printed.

Also, from the Legislature of the same State, in favor of prohibiting slavery in New Mexico and California, and in all other territory now or hereafter to be acquired by the United States; which, on motion of Mr. ATHERTON, was read and ordered to be printed.

Mr. ATHERTON. I wish also to say that I have received resolutions of the Legislature of the State of New Hampshire on the subject of the Mexican war, the extension of our territories, and some other incidental topics; but, as the resolutions contain no request that they be presented here; as they contain no directions that they should be sent to the Senators and Representatives of the State of New Hampshire in Congress; as they contain no instructions to their Senators or Representatives in Congress, and no request that they vote in any particular manner upon any of these subjects; as they contain no approbation or disapprobation of their votes upon any of these subjects, I suppose they do not come within the practice of the Senate in relation to the presentation of resolutions. I have instituted an inquiry on the subject, in consequence of a suggestion which was made at the last session when I presented certain resolutions, and I am informed that it is not the practice to present general resolutions upon general subjects, unless they contain some instruction or request that they be laid before this body, or approbation of the votes of Senators. I merely state this that I may set myself right with my constituents in regard to this matter.

Mr. RUSK presented a memorial of the members of the bar at Galveston, in the State of Texas, asking an increase of the salary of the district judge; which was laid on the table.

Mr. SEBASTIAN presented a resolution from the Legislature of Arkansas in favor of granting an additional salt spring, with six sections of land, in lieu of one unconfirmed; which was referred to the Committee on Public Lands.

Mr. BREESE presented a petition from citizens of Illinois, asking a grant of land to the State, to aid in the construction of a railroad from the Upper and Lower Mississippi to Chicago; which was referred to the Committee on Public Lands.

Mr. STURGEON presented a petition from citizens of Chester county, Pennsylvania, praying for a modification of the tariff; which was referred to the Committee on Finance.

Mr. BUTLER presented a petition from citizens of Edgefield District, South Carolina, praying the establishment of a post office at the residence of J. F. Smyly, in that district; which was referred to the Committee on the Post Office and Post Roads.

Mr. NILES presented petitions from the citizens of Winchester, Connecticut, and of Windham, Vermont, praying for a reduction of the rates of postage; which were laid on the table.

Mr. BALDWIN presented a petition from several inhabitants of Middletown, Connecticut, praying the adoption of measures to prevent the further extension of American slavery, and for the suppression of the slave trade in the territories under the jurisdiction of Congress.

Mr. TURNEY raised the question of reception, and moved that it be laid on the table.

Mr. BALDWIN asked for the yeas and nays, but the call was not sustained.

The motion to receive was then laid on the table.

Mr. DIX presented a petition from Abraham L. Knickerbocker, praying compensation for injuries received at the United States arsenal at Watervliet; which was referred to the Committee on Pensions.

Mr. HOUSTON presented a petition from Robert Rhea, a revolutionary soldier, praying for a pension; which was referred to the Committee on Pensions.

Mr. DIX presented a petition from the Nautical Institution and Ship-owners' Society of New York, praying that facilities may be granted to Lieutenant Maury, of the United States navy, for the completion of his Wind and Current Charts; which was referred to the Committee on Naval Affairs.

On motion of Mr. DAVIS, of Mississippi, the papers in the case of Joseph Vidal were withdrawn from the files of the Senate.

On motion of Mr. BELL, the papers in the case of John Stealy were withdrawn from the files of the Senate.

On motion of Mr. STURGEON, the papers in the case of James Harley were withdrawn from the files of the Senate.

RIGHT OF WAY TO THE ATLANTIC AND GULF RAILROAD.

Mr. BREESE, from the Committee on Public Lands, reported, without amendment, a bill to grant to the Atlantic and Gulf Railroad Company a right of way through the public lands of the United States; when

Mr. YULEE asked for the immediate consideration of this bill; which was agreed to.

The bill was then considered, and explained by Mr. BREESE, and was then ordered to be engrossed and read a third time. It was then read a third time, and passsd.

REPORTS OF COMMITTEES.

Mr. BREESE, from the Committee on Public Lands, reported the bill to establish an additional land office in Iowa, with amendments.

Mr. BORLAND, from the Committee on Military Affairs, reported a bill for the relief of Cincinnatus Trowsdale and John D. Connolly, without amendment.

Mr. FITZPATRICK, from the Committee on Claims, reported the bill for the relief of David Shepherd, without amendment.

Mr. BALDWIN, from the Committee on Claims, made an adverse report on the petition of Asa Andrews; which was ordered to be printed.

Mr. BRADBURY, from the Committee on Claims, made an adverse report on the petition of E. F. Gilbert; and the report was ordered to be printed.

Mr. PHELPS, from the Committee on Pensions, reported a bill for the relief of Timothy Cavan; which was read a first time.

Mr. CORWIN. I hope that this bill will be considered by the Senate as one which ought to be acted upon immediately. The committee have unanimously reported in favor of giving to this old soldier an invalid pension, commencing as far back as 1834. He has come here from Ohio to attend to his claim in person, and is in destitute circumstances. It seems that he made application for his pension as early as 1835; but, in consequence of some informality in the testimony that was produced, the pension could not be granted by the department. His papers remained in the Pension Office for some time, and he was at length informed that they were not in proper form, and consequenly could not be acted on. He is not one who is able to look very closely after such things, although a most respectable man, as I understand from those who are well acquainted with his character and reputation in the neighborhood where he resides. He is now about forty-five years of age, and has been an invalid ever since the time of his discharge, in consequence of an injury which he received while in the service on the Canadian frontier. Unless this bill shall be passed now, he will be reduced to beggary. I hope, therefore, as the committee were unanimous in recommending the bill, the Senate will find no difficulty in passing it.

Mr. KING. I would inquire of the chairman of the Committee on Pensions, why this case was not disposed of under the general operation of the invalid pension law? There is a law providing for such claims, and I do not perceive that it is requisite for action on our part to place him on the regular pension list.

Mr. JOHNSON, of Louisiana. As the Senator from Ohio has stated, this case is a peculiar, and at the same time a very deserving one. This old soldier has produced all the evidence he could to establish his claim, yet, owing to a deficiency in witnesses, the regulations of the department have not been strictly complied with; it is necessary, therefore, that we should act upon it. This old veteran made his application in 1835 for a pension, as appears from records at the Pension Office; but the testimony not being entirely satisfactory, he was not then placed on the pension roll. It is a well-founded and just claim, and the committee have been unanimous in reporting its allowance.

Mr. KING. I am perfectly satisfied.

The bill was then considered as in Committee of the Whole, and no amendment being offered, it was reported to the Senate, was ordered to be engrossed for a third reading, and was subsequently read a third time and passed.

Mr. METCALFE, from the Committee on Military Affairs, reported a bill for the relief of William R. Campbell, George Myers, and John Kincart; which was read a first time.

On motion of Mr. METCALFE, the Senate proceeded to the consideration of this bill, as in Committee of the Whole.

Mr. METCALFE. Mr. President, the three individual claimants in this bill are three very old men; not one of them, I am confident, is less than sixty years of age. One of them enlisted as a fifer, the other two as privates; they are all poor and deserving men. Great encouragements of reward were held out to them when they enlisted. One of them had a son, who went with him and died in Mexico. These soldiers were discharged on account of the feelings of respect and esteem that the officers had towards them. They were excellent men, and brave and chivalrous soldiers. One had been in service during the war with Great Britain. He was engaged in the service during almost the entire period of that war, and was called by the familiar name of "Old Black Hawk," for his noted valor while engaged in the battles fought with that distinguished Indian chief. The occasion of their discharge was an apprehension on the part of the officers commanding them that they would fall victims to disease and the hardships of the service before the war was over. Just before the peace, when every one was confident that there was no further fighting to be done, they were honorably discharged and sent home. Inasmuch as the law provides for all cases where soldiers are discharged from sickness or from wounds of any description, I trust that this case may be allowed to come under the operation of the law. It is imagined that no one can object to the allowance of the same quantity of land to these men that is granted to those soldiers who served up to the close of the war. The law as it stands at present makes no provision for such cases. If I am understood correctly, I hope there will be no opposition to the passage of this bill.

No amendment being offered, the bill was reported to the Senate, and was ordered to be engrossed for a third reading.

Mr. NILES. The bill involves a somewhat important principle; and, if passed, may be used as a precedent. In order to give time for further examination of the subject, I move that the further consideration of the bill be postponed until to-morrow.

The bill was postponed accordingly.

Mr. BRADBURY, from the Committee on Claims, reported a bill for the investigation of claims against the United States; which was read, and ordered to a second reading.

BILL ON LEAVE.

Mr. JONES, pursuant to notice, asked and obtained leave to introduce a bill to lay off a town at Trader's Point, on the Missouri river, in the State of Iowa, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

RESOLUTIONS.

Mr. NILES submitted the following resolution; which was considered and agreed to:

Resolved, That the Postmaster General be directed to communicate to the Senate the particulars of the postal arrangement made with Bremen for the reception and distribution of mails from the United States; the reduction of postage, if any, in Bremen and other neighboring States on letters from this country; and the services performed by the post office at Bremen in relation to our mails; and his opinion of the effects of such arrangement on the intercourse and commercial interests of the United States in connection with the mail line to Bremen.

OFFICERS OF THE SENATE.

Mr. KING. In consequence of the enormous expenses of the contingent fund of the Senate, which are evident to any one who is acquainted with their amount, I offer the following resolution, for the purpose of enabling us to appoint, ourselves, all the officers necessary to the discharge of the business of the Senate, fixing the rate of compensation, and reducing, if necessary, the number employed, and the amount of compensation allotted to them, so that, if possible, the great amount of the expenses of the contingent fund may be diminished.

Resolved, That the Committee to Audit and Control the Contingent Expenses of the Senate be instructed to inquire into the expediency of regulating by law the number of officers, clerks, messengers, and other persons to be employed in the service of the Senate, either in the Capitol or the public grounds, and to fix the compensation each shall receive.

The resolution was agreed to.

CREDENTIALS.

Mr. UNDERWOOD presented the credentials

of THOMAS METCALFE, elected a Senator of the United States to fill the vacancy occasioned by the resignation of Mr. CRITTENDEN, until the 4th of March next; which were read.

JUDICIAL DISTRICT IN TEXAS.

On motion of Mr. RUSK, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill to establish an additional district court of the United States in the State of Texas.

Mr. RUSK. Mr. President, I will detain the Senate but a few moments. I wish merely to submit a few facts why this bill should pass, and I apprehend the bill will meet with no opposition from any quarter.

The State of Texas, as everybody knows, came into the Union in a different manner from any other State in the Confederacy. Texas had remained in a separate state of existence for some ten years before her annexation to the Confederacy, and the result of that was, that many cases where jurisdiction attached to the United States courts originated, or at least there was no jurisdiction to take cognizance of them. Upon the admission of Texas into the Union, the jurisdiction of the United States attached, and all these cases were immediately brought before their courts. There was also a great deal of trading in land titles between citizens of the United States and citizens of Texas, and a much larger amount of jurisdiction attached to that court than to any other State in the Union. The result of this brings about precisely this state of things: that those suits now brought and pending there are likely to continue some eight or ten years, or four or five years at least. And if the population should continue to increase with the rapidity with which it has heretofore, these cases will fill up the court in such a manner that it will have to sit from the beginning to the end of the year, and even then not dispose of the business. These delays are ruinous to both parties, defendants and plaintiffs.

There is another reason why it is necessary that this bill should pass: that is, that the population of Texas is scattered over such a large extent of territory, that it is enormously expensive to all parties who may have cases at this court to attend upon its sittings. From the northeastern to the southwestern portion of the State—and both sections are filling up rapidly—the distance is upwards of seven hundred miles; so that it is almost impossible for persons living at the extreme points to attend to their causes in a proper manner; and in no case can they do so except at great expense and inconvenience. We have also a large extent of seacoast, and this gives a large amount of maritime jurisdiction. Under these circumstances, it is a matter of impossibility for the judge to discharge the duties of his office. He cannot possibly determine all the cases presented for his decision.

It will be perceived, I think, by all, that many cases must therefore lie over from year to year, and that, in consequence of the vast expense attendant upon the deferring of these cases, on account of the parties residing at such a great distance from the place where the court is held, this delaying of justice from year to year will, in very many instances, amount to a denial of it.

In consideration of these facts, I hope there will be no objection made to the immediate passage of the bill. It is brought forward as a matter of absolute necessity. There is no desire for office or anything of that kind in connection with it.

In relation to this matter, I would submit a memorial from the members of the Galveston bar, which I will ask may be read.

SEVERAL SENATORS. No, no; it is not necessary.

Mr. RUSK. Very well, then; I will withdraw the memorial.

Mr. BUTLER. Mr. President, I am very well satisfied that the Judiciary Committee may be held responsible for this bill, but I believe that none of us who are now present have any recollection of its details. I am sure that I was not present at the committee at the time the bill was framed. Whether the other members of the committee now present had anything to do with the framing of the bill, I cannot say; and whether they are willing to answer for it or not, I cannot say. I see that the bill was reported at the last session by my lamented friend, Mr. ASHLEY, and it may be all right. All that I have to say is, that I do not wish to be held responsible for the bill; yet, notwithstanding, I may give it my sanction when the vote is taken upon its passage.

Mr. DAYTON. Mr. President, I would much prefer, without intimating any wish to oppose this bill ultimately, that the Senator from Texas would consent that it should lie over until to-morrow or Monday. It might be better to refer the bill to the committee again, but probably it would be more agreeable to the Senator from Texas to allow it to remain on the calendar.

It so happens, that in consequence of this bill having been acted upon at an early period of the last session, none of the members of the Judiciary Committee have any recollection at all of its details. It established a judicial district, and what is embraced within that district we do not know. It provides for the appointment of a judge, and, as incident to that, the other officers I suppose necessary, in connection with a district judge. It is certainly desirable, therefore, that the matter should be looked into with a little more care than we will be able to bestow upon it if the bill be pressed to its passage now.

Mr. RUSK. Mr. President, I have no objection to postpone further action upon the bill, if it can be made the special order for Monday next. It is a matter of great importance. The attendance upon the court, as matters now are, is enormously expensive, both for plaintiffs and defendants. I must insist, therefore, upon having the Senate act in relation to this matter as soon as possible.

I would move, Mr. President, that the bill as amended be printed for the use of the Senate.

This motion was agreed to.

Mr. DAYTON. I would ask the Senator from Texas if he has any objection to making the bill the special order of the day for Tuesday next?

Mr. RUSK. None at all.

Mr. DAYTON. I would move, then, Mr. President, that the further consideration of the bill be postponed until Tuesday next, and that it be made the special order for that day.

This motion was agreed to.

FRIGATE PHILADELPHIA.

Mr. YULEE. Mr. President, the bill for the relief of the captors of the frigate Philadelphia was postponed the other day in order to give the Senator from Alabama [Mr. KING] an opportunity to examine some points in connection with it, in order to satisfy himself in relation to its merits. I presume that the gentleman has been able by this time to give the subject such examination as has enabled him to arrive at satisfactory conclusions in relation to the merits of the bill. I would ask the Senate, therefore, to take up the bill for consideration now.

Mr. JOHNSON, of Maryland. Mr. President, I would prefer that the gentleman from Florida should not call up that bill for consideration at this time. It is a bill which will lead to a great deal of discussion, and if it comes up to-day, we shall not be able to transact any other business. I have understood from the chairman of the Committee on Finance that he wishes the Senate to proceed to the consideration of the Indian appropriation bill at the latter part of the day, but if the bill referred to by the Senator from Florida be called up now, it will consume the whole day, to the exclusion of all other business. I hope, therefore, that he will consent to defer the consideration of the bill to some other time.

Mr. YULEE then withdrew his motion.

LIABILITY OF THE GENERAL GOVERNMENT FOR THE DEBTS OF TEXAS.

On motion of Mr. JOHNSON, of Maryland, the Senate proceeded to the consideration of the bill for the relief of Frederick Dawson, James Schott, and Elisha Dana Whitney.

Mr. PHELPS. Mr. President, as I said the other day, I will not trouble the Senate with any extended argument upon this subject, nor would I trouble the Senate at all were it not that I regard this proposition as an entering wedge to the assumption by the United States of the debts of the State of Texas.

This bill itself contemplates an expenditure or an appropriation of something between half a million and a million of dollars. Behind this bill is another claim, founded upon a different species of securities issued by the State of Texas, which have been called to our attention by a memorial which, I believe, is now pending in one or the other House, upon a claim of Mr. Coombs, of Kentucky. This bill, in my judgment, involves the question whether we are responsible for the whole of the debts of that State, or, if a distinction can be made, how far we are responsible?

Sir, it will be recollected by those who participated in the deliberations of this body at the time of the annexation of Texas to this Confederacy, that the opinion was expressed at that time, in some quarters, that the result of that annexation would be to cast upon the United States all the debts of that republic. Sir, I never entertained that opinion, but it was entertained by lawyers of the highest standing in this body, and I conceive it to be my duty now to call the attention of the Senate to a measure which is evidently intended as an experiment upon this great question.

The ground upon which our responsibility, or rather our supposed responsibility, for the debts of Texas was then placed, was the ground to which I alluded in the course of my remarks the other day, viz: that this Government succeeding the Government of Texas, or, to express myself differently, that the republic of Texas having been absorbed by the United States, all the debts of that republic would, of course, fall upon us, their successors. In relation to this point, I submitted the other day my views in a very concise manner, and I will now submit them again in as brief a form as possible. My views are, that the principle upon which the opinions rested that we should become responsible for the debts of the republic of Texas, by reason of her annexation to the United States, was applicable only to a case where the sovereignty of a debtor State was extinguished. I then remarked, that the annexation of Texas was nothing more than bringing into this republic a new member, with all the powers of a sovereign State, except so far as that sovereignty was limited by the restrictions of the Constitution of the United States. I regarded Texas as still competent to contract debts, as still competent to provide a revenue, and as still retaining to herself the means and sources of revenue necessary to discharge her liabilities, with the single exception of a revenue from imposts. I said that the restrictions upon her sovereignty, with respect to treaties with foreign Powers, had no bearing upon this subject; that the States exercising this power previous to their admission into the Union, had been left in the full enjoyment of their sovereignty in this particular, (the contracting of debts, providing a revenue, &c.,) from the formation of the Constitution until the present day. I also remarked on that occasion, that Vermont came into the Union as an independent State, having asserted her independence, and maintained it, in fact, for some twenty years previous to her admission. This was all that I thought it necessary to say upon this point.

The honorable Senator from Maryland, [Mr. JOHNSON,] however, in the remarks upon this subject which he submitted to the Senate at the last session, put this liability of the United States for the payment of these debts of Texas upon another ground, viz: that Texas had pledged her revenue as security for their payment; and, consequently, a lien was created upon her income; and that, inasmuch as by her annexation to this country her revenues have been, to a certain extent, transferred to the United States, the United States have obtained from Texas what she had pledged in payment of these debts, and have of course taken it, subject to the claims for which it was pledged.

I was proceeding to remark the other day, when I yielded the floor, that, in my judgment, this transaction bears no sort of analogy to a legal pledge. The principles applicable to an ordinary legal pledge are not, in my humble opinion, at all applicable to the present case. I proceeded to remark then, and I repeat now, that the principles applicable to legal pledges can apply nowhere except where there is a subject-matter to which the principle can apply, and upon which the lien can attach. It must be such a subject as is susceptible of possession. It is a well-established rule in relation to a legal pledge, that possession is indispensable to its validity. It is an established rule that a voluntary surrender of the possession of the pledge is a surrender of the lien also. Well, sir, the next inquiry is, if this be a legal pledge, what is the subject-matter to which the lien can attach? Is it susceptible of possession? Is it susceptible of delivery? Does it admit of the application of any legal rules of this character to it? Why, sir, when I come to look upon the security given by that re-

public upon which this claim is founded, I find that Texas pledges *her "honor and her revenue."* Her honor, I trust, we have not taken from her; her revenues we have not taken.

What is the character of this security given by Texas for the payment of this debt? Why, sir, it is a mere pledge of the honor of Texas to apply her revenues to the extinguishment of this debt. It can go no further. It is no pledge of the power of raising revenue. It is no pledge of the proceeds of her imposts, because the proceeds of her imposts were not in existence at the time. What, then, is it? Nothing but a pledge of the integrity of that republic. Nothing else, sir. What was the effect of this pledge upon Texas? Did it limit the sovereign power of that State in respect to the regulation of its revenues—to the ordinary legislative power of modifying her financial system? Did it tie that State down to any system of revenue which happened to be in existence at the moment this contract was entered into? No, sir, it left Texas to the exercise of her own discretion as to the manner in which her revenue should be collected and the manner in which she was to provide for her State obligations. Now, what was the effect of her annexation to this Confederacy? By coming into the Union, Texas yielded her power of raising revenue in a particular manner. If you please, one source of revenue was dried up, as the gentleman from Maryland said, in the course of his remarks, during the last session. What then? What was the result of this? Texas was left in the condition of every member of this Union, to resort to other sources of revenue in lieu of that she had voluntarily surrendered. She retained to herself the power, she retained to herself the sources of revenue, *with a single exception.* Well, sir, if Texas had entered into an obligation with the United States not to raise a revenue in a particular manner, does it follow that she is not bound to resort to other modes of raising revenue for the discharge of her obligations? And does it follow, that in consequence of the treaty by which she becomes a member of this Union, and relinquishes the power of imposing imposts, that the United States becomes responsible for the debts of that republic, simply because she has compelled herself to provide in some other manner for the payment of her debts?

We certainly have taken from Texas the power of raising revenue by imposts. This is true; but it is not true that that power has been transferred from Texas to this Government. The power now exercised by this Government of raising a revenue by imposts is a different thing from the power that was exercised by Texas. That power, when exercised by Texas, was exercised for the benefit of that State alone. The power exercised by this Government is for the benefit of the whole Union, and cannot be made to bear unequally for the benefit or to the injury of any State.

The result of the whole argument, Mr. President, is this: Texas pledges her faith to apply her revenues, *bona fide*, to the extinguishment of this debt, reserving to herself the control of her own financial system, and reserving to herself the right to levy that revenue in any way or manner which to her wisdom might seem fit. If, therefore, she has made a contract, on the one hand, for the satisfaction of these debts by the appropriation of her revenue generally, and made a contract, on the other hand, not to satisfy them in a particular manner, there is no ground for the argument that we have taken from her or her creditors anything pledged to them. She is left to her public domain, her internal taxation, her internal imposts, and to every source of revenue to which the other States of this Union now resort.

There is another view of this subject. It may be urged—indeed such an idea is suggested by the report of the committee—that, by the arrangement by the force of which the power of Texas to levy imposts is surrendered, her resources are diminished. Let us look at this subject for a moment. All these pledges of revenue must be regarded as subject to the necessities of national existence and of national defence. No State, by pledging its revenue, can be regarded as having surrendered the means of sustaining its civil institutions, or of protecting itself in its foreign relations. The pledge, then, from the nature of the case, must be nothing more than to apply such of her revenue as would not be required for the necessary existence and protection of Texas to the satisfaction of the debt. Well, sir, what have we done? This pledge, evidenced by the security given to these petitioners, was subject to the qualification that the revenue of Texas should be applied, in the first instance, to maintain her national existence. She was then engaged in a war, prosecuted by her under the greatest disadvantages. She was engaged in a contest which, if not hopeless, was at least doubtful. Under these circumstances, the pledge must have been understood as going no further than I have described. It was a pledge, in reality, of the surplus of her revenue, after meeting the necessities and the exigencies of the State.

By placing herself in this Union, and by transferring to us the duty of protection, Texas relieved herself of all her diplomatic, her military, and her naval expenditures; and, as a consideration for having thus relieved herself from these expenditures, she yielded the power of raising a revenue by foreign imposts. But is her ability to pay her debts diminished by her annexation to this Confederacy? On the contrary, is not her solvency fortified? Is not the security of her creditors made better? Is not, in short, her credit, her stock, higher than if she had been left to prosecute the war single-handed? Why, sir, it seems to me that the arrangement by which she became a member of this Confederacy placed her and her creditors in an infinitely better position than they would have been in if no such arrangement had been made. Upon what ground, then, can it be insisted that we have taken from that republic either her capacity or her means? Upon what ground can it be said that we have disabled her from the performance of her obligations, and should, therefore, assume that performance upon ourselves? Upon what ground can it be urged that, by that arrangement, we have diminished her capacity, or, to speak more appropriately, her ability to satisfy these debts? I do not intend to detain the Senate with a long argument, and therefore shall dismiss that point.

Another ground suggested by the committee in their report is, that inducement to annexation was held out to Texas by an assurance that we would provide for her honor—by which, it seems to be understood, is meant her debts—by the instructions given to the commissioners who negotiated the treaty of annexation. But, sir, it is to be remarked, that these instructions were never carried out. They were never acted upon. No stipulation or agreement grew out of them; and, what is more, Mr. President, we all know that if this question of annexation had been left to rest upon the negotiation of the treaty, we never should have been troubled with the question of the payment of these debts, and some other questions of far greater importance.

Texas came into the Union with no qualification or restriction, except, if I remember right, it was provided by the resolution of annexation, that she should be still held responsible for her debts, and retain her own public domain, putting herself, by the act of annexation, upon precisely the footing which I have endeavored to describe. These instructions of the commissioners were never carried out. The contract was never consummated. The treaty was rejected, and the annexation effected at last, not by the treaty-making power, but by a simple act of legislation, which made that State a member of the Confederacy, imposing upon her no qualification or restriction, no modification of her sovereignty, except so far as that sovereignty was limited and qualified by the provisions of the Constitution of the United States. The question, therefore, is simply this: What is the necessary legal consequence of her annexation? I dismiss, therefore, the argument derived from the instructions given to the commissioners who were charged with the duty of negotiating the treaty.

Again, it is said that, in consequence of the annexation, Texas transferred to the United States the very property for which this debt was contracted. Well, sir, she did so upon the simple ground that, having come into the Union, she was incapacitated from maintaining a naval force. Was there any lien upon these vessels? Did these claimants secure themselves in the outset by a lien on this property? No, sir; they were indeed the creditors of Texas, and their claim originated in the building of these vessels; but did that impose any obligation upon us to pay them? If so, I have yet to learn upon what principle of law or of equitable law the claim of these petitioners against the United States rests. These, I believe, are all the grounds adverted to by the committee in their report upon this bill. I believe I have alluded to every ground which is considered a ground of liability.

This brings the matter upon the mere ground of expediency. I am not now going to argue the expediency of the assumption of State debts. I recollect very well that when I first came into this body the question of the assumption of State debts was much agitated, and agitated in this form. It was charged upon me and my political friends that we designed the assumption of State debts, and we repelled the imputation. The question was, whether we were chargeable with the imputation or not? No man, I believe, advocated the measure; no man proposed their assumption. I am not now about to argue the expediency of such a measure; but, sir, I cannot help inquiring whether Texas herself has ever asked for this assumption? Is it a measure which she proposes? or, on the other hand, are we called upon now to volunteer to satisfy her debts, and become her voluntary creditor? This seems to me to be the position in the bill as it now stands. Sir, in common life I think I should hesitate long before I would place myself in this position, and I think, as a matter of expediency, this Government should hesitate before placing itself in that position in relation to Texas or any other country.

Sir, if we open the door, if a precedent of this kind is established, the question whether we shall proceed to assume all the debts of any or all the several States of this Confederacy becomes a mere question of expediency. If the principle be yielded, if the precedent be set, I repeat that the question whether we shall assume the debts of Pennsylvania, New York, Mississippi, or Arkansas, becomes at once a mere question of expediency, involving no principle.

Mr. President, I promised to be concise, and I am under the necessity of being so, as everybody doubtless perceives. [The honorable Senator was evidently laboring under a severe attack of the influenza.] I am not disposed to delay action upon this bill. I am not disposed to weary the Senate with a fine-spun, diluted argument. My purpose was simply to present, as concisely as was in my power, an outline of the view which I have taken of this subject, and I submit it to the careful consideration and sound judgment of the Senate.

Mr. JOHNSON, of Maryland. Mr. President, if no other Senator proposes to speak on this bill at this time, I rise to make a brief reply to the arguments of the honorable Senator from Vermont. The committee by whom this bill was originally recommended to the Senate were of the opinion that it was due to the honor of the United States that these claims should be paid. And the facts on which the opinion was founded are briefly these: These claims arise from citizens of the United States having entered into a contract, at the instance of the Government of Texas, to build two brigs and three schooners, and to furnish them with all the necessary equipments of war. The contract under which they were built provided, if I recollect right, that it was optional with the Government of Texas to pay for the vessels on delivery $300,000, or bonds in their currency, payable in Texas, $560,000.

The Government of Texas decided on giving their bonds for $560,000. The contract thus made was authorized by a law of Texas, and the law on its face authorized the Executive to offer, as an inducement to the contractors, a pledge on the current revenue of the State, embracing every variety of revenue; that which Texas was then receiving or might receive from imposts or taxes—that which she might receive from a direct or indirect mode of internal taxation. On the faith of this pledge these vessels were built, and were delivered, and the bonds received. From that day to this not one dollar of principal or interest has ever been paid. Those who are acquainted with the history of Texas, I am sure, will not controvert the fact which I state, that perhaps there was no one thing which contributed more to the recognition of that State by the other Governments of the world, and to satisfy them that Texas was able to maintain her independence, than the erection of this fleet; for, directly after this, several of the European Governments recognized the independence of Texas, which the United States had done before. Now, sir, the United States, when Texas was, in fact, an independent nation; when

no hostile foot, either of the Mexican or any other nation, had been treading on her soil for years; when, on the assumption that that independence was as fixed a result as that of the United States themselves, the United States thought proper to take Texas into this Union, in the articles of this annexation this very navy became the property of the United States, a portion of it at least, and the authority with which Texas was vested before, as a sovereignty, to levy duties, divested and became exclusively vested in the United States. These vessels went to sea in our service, or a portion of them, and the rest were sold, and the proceeds have gone into our treasury.

Another fact is to be recollected. The treaty which was negotiated through the instrumentality of the honorable Senator from South Carolina, who was then at the head of the State Department, provided that a certain amount of money should be paid to Texas, and out of that amount some three or four hundred thousand dollars should be paid to these claimants in part. The fate of that treaty we all know. And the manner and history of the resolutions, under which Texas was subsequently annexed, we all know. And we also know that, if the United States had not insisted upon receiving Texas into the Union under one of the resolutions which were adopted, and had resorted to the other alternative, that of negotiation, looking to violated honor to her creditors, she would have resorted to some other means of payment of her creditors generally, and these in particular. The difficulty thus made to press upon her by being called into the Union without provision for the payment of her creditors, was brought to the attention of the Executive department of the Government of the United States; and, as we all know, the Secretary of State carried on a correspondence with our agent in Texas, in which correspondence terms were employed which could not be misapprehended, because incapable of being misunderstood; and, for the very purpose of inducing Texas to come in under the alternative that was finally adopted, the Secretary stated, almost in so many words, that it would be a reflection upon the United States to suppose that, in some way or other, these debts would not, sooner or later, be paid. She came in. Now, sir, the honorable Senator from Vermont tells us—and he will pardon me for saying that I was a little surprised at that, although not so much surprised as at one or two other statements that he made—that the true ground on which the United States are placed in respect to these debts is, that she, as a Government, is not bound to provide for their payment, because these debts were contracted by Texas, while an independent State.

A word or two in respect to that. The first is because Texas is supposed by the committee not to possess the authority which she did possess at the time these debts were contracted. And he answers the committee by saying that she is a sovereign State now. Why, it is true in one sense. She is a sovereign now, but not the sovereign that she was when these debts were contracted. She, by coming into this Union, has stripped herself of that very attribute of sovereignty, upon the faith and honest exercise of which we agree to enter into this contract. What is that? The attribute of laying imposts. And, looking to the condition of the country at that time, I am sure I cannot be contradicted when I say, that if she had thought proper to adhere to her independence, and to stand out among the nations of the world as a nation of herself, for all purposes, by this time she would have been in the receipt of revenues amply sufficient to have paid the entire interest of this debt. I brought to the attention of the Senate heretofore the statistics which prove this, as I thought to a demonstration. And it was from a conviction which these contractors entertained that this debt would be paid, and speedily paid, out of this particular attribute of the sovereignty of Texas, that they entered into this contract. She is in one sense a sovereign, as the honorable Senator says—a sovereign, but not the sovereign she was. She is a crippled sovereign, with reference to the powers which she originally possessed; just as much crippled and weakened as the United States would be if they were to annex themselves to another Government.

So much for his first answer to the committee. Now, the other surprised me a little more, because, if I understood the Senator aright, he was prepared to concede that if there is to be found in this contract any legal pledge, it would be incumbent on the United States to pay the debt, unless other reasons of expediency would be sufficient to restrain them. But he tells us there is not to be found in this case a single attribute of a legal pledge. Why not? Because the thing supposed to be pledged was not in existence; because, in order to constitute a legal pledge, there must be the possession of the thing about to be pledged. Why, this is a great mistake. Mr. President, I put it to the honorable Senator from Vermont, if a farmer cannot mortgage his crops for any number of years; if railroad companies cannot mortgage their receipts for any period of time? Why, there is not a State where these companies exist, where there are no pledges of that description. We have them in Maryland. Our Legislature granted a charter on condition that the company would agree to pay one-fourth of all fees for passage to the State. Does anybody doubt that they are obliged to pay? And then the State, acting on the unquestioned right, as she supposed, and that that pledge was good and binding on the company, has from time to time borrowed for her own wants, and secured the lenders by pledging as sufficient security to the lender, those receipts which, from year to year, were expected to come into the treasury from this source. Is there any doubt about that? The argument of the honorable Senator from Vermont, if sound, will show that no contract can be made binding on the parties contracting in reference to any subject of property thereafter to come into existence. I am sure that the honorable Senator will see that this proposition cannot be maintained.

Mr. PHELPS. It is good, as between the parties.

Mr. JOHNSON. Now, I understand the honorable Senator as conceding that such a contract, as between the parties, would be a valid pledge. Well, that is all that I want. Then the question is, whether the United States, by a contract between themselves and the mortgager, taking into their own possession, and for their own use, the thing pledged, without the consent of the mortgagee, are not bound to pay the amount thus secured? Let me illustrate by the case already supposed. A man pledges his growing crop, and my friend from Vermont, with the knowledge that the crop has been pledged, himself, by making a contract with the mortgager, gets possession of the crop the moment it is grown: would not he be liable in law?

Mr. PHELPS. Suppose a man borrows money, pledging his growing crops, and then disposes of his farm: would the purchaser be held liable for the repayment of the money borrowed upon such pledge?

Mr. JOHNSON. I should say that he would be bound, unquestionably, if it were the crop of that farm.

The honorable Senator from Vermont concedes that, as between Texas and her creditors, if there could be any legal means of enforcing payment, it is still out of her power to do it. We are therefore bound to believe, that but for the interposition of the United States, Texas, as an independent nation, might have had the ability to redeem the pledge, and must have had the honesty to redeem it, or be a reproach among her sister nations of the world. Now, says the honorable Senator, that may all be true; but there is nothing to prevent Texas from changing her financial system which she had at the time that she made the contract. I admit that. But if she substituted a better one, or one that she thinks is better, or if she believed that she could accomplish it better by abandoning the impost system altogether, and honestly carries it out, and redeems her faith by paying her creditors out of this new system of taxation, that is enough. But that is not the case. It is not changing a financial system, but a surrendering up of the power of finance—a giving up the very attribute on which the faith of the creditors were supposed to rely, and without which they never would have been involved in ruin; which, in point of fact, has been the result, by relying on the faith of this contract, because the United States has thought proper, without their consent, to swallow Texas, if I may use an expression that has been made almost classical by being used by a late Senator on this floor.

The honorable Senator says, "it is not at all clear that the ability of Texas to meet these claims is not greater now than it was antecedent to her annexation." Now, in the first place, Mr. President, you have no right to change the contract, on the ground that it would be better for the creditor. If he has relied on another species of security, you have no right to take it from him without his consent and substitute another. At the time this debt was contracted Texas was in a state of war, the result of which nobody could foresee; and yet the honorable Senator would have us believe that at the period of annexation she was in the same state. What was her condition at the time of annexation? The struggle was over, terminated in part by the use of this very navy; and when the struggle was over and independence was fixed on a firm basis, and Texas stood out among the nations independent, with every attribute of unquestioned sovereignty, and with a growing prosperity, and having power to pay this debt, then it was that we took her into the United States, and deprived her of this, perhaps the only means, of cancelling it.

The honorable Senator says that it is like assuming State debts; that it involves the United States in a liability to pay all the debts of Texas. It is not so. What debts were these? They were debts contracted, not by one of the United States as a State, but before she became a State, and which the United States have stripped her of the means of paying. Debts contracted by one of the United States, as a State, cannot be paid out of the treasury of the United States; but Texas, by giving up her sovereignty as a nation, and by being merged in this Union as a State, has lost the means which she possessed, at the time the debt was contracted, for its payment. Well, I put it to the honorable Senator whether, if one of the States of this Union, owing ten millions of dollars, could be brought back into a territorial condition, divested of State sovereignty, deprived of all means of raising a revenue, if it would not be very clear that in such a case the United States would be bound to pay the debt? And yet this is the case here; not in fact, but in principle. And why bound? Because you have taken away the means with which only she can pay; because you have appropriated these means to yourself. You have assumed the government and the management of those very means on which she relied for payment, and, therefore, you have taken away the means to pay all debts outstanding at the time the change was made.

Another word. My friend from Vermont says "the public lands are all there, and the right of taxation is all there, and that is abundantly sufficient to pay the debts." Now, we know the fact is not so. The public lands are there, it is true; but what are they worth to these creditors? They may be worth ten times the amount of all the debts due them. But worth this how? Worth it, only in prospect. Hereafter they may become a rich mine of wealth; but now they are comparatively valueless.

Here, then, are these creditors, who honestly entered into contract, and were promised, on the expiration of the bonds, their payment, and promised the interest at every annual return of the interest day. But the United States have taken away the means of making the payment, either of principal or interest. And we are told that we must look to the lands for payment some hundred years hence. Is it right? Would it have been right for Texas herself to have passed an act pledging in payment of a contract the internal and external revenues existing at the time the contract was made, and then to take away this source of revenue, and look to the proceeds from the sale of public lands alone? Everybody would have said that, had she done this, it would have been a violation of good faith. This is a legal claim, in the most enlarged acceptation of the term, which the honor of the country demands should be paid, in order to preserve its character untarnished. Such I consider the nature of this claim.

Mr. NILES moved to amend the bill by inserting a clause that interest shall not be allowed upon the claim.

The question being taken upon the amendment, it was not agreed to.

Mr. BALDWIN. The Senator from Rhode Island [Mr. CLARKE] having expressed himself to me the other day as desiring to make some remarks on this bill, and he not now being in his seat, I move that the further consideration of the bill be informally postponed.

Mr. FOOTE. I am desirous of voting for this

bill, yet there are some serious difficulties existing in my mind yet to be overcome before I can do so. I am exceedingly anxious to have time to investigate the matter more fully than I have yet been able to do, and I desire also to be heard very briefly upon the subject. Not being fully prepared, as I have stated, or able, physically, to enter into an examination of the question to-day, I trust that the motion to postpone the further consideration of the bill until to-morrow will prevail.

The motion to postpone prevailed.

INDIAN APPROPRIATION BILL.

Mr. ATHERTON. I move that the Senate now proceed to the consideration of the Indian appropriation bill.

Mr. DOWNS. As we have not had an Executive session for some time, and as there is some pressing business requiring speedy action, I move that the Senate now go into Executive session.

Mr. ATHERTON. We can proceed with the consideration of the Indian appropriation bill and have an Executive session afterwards. The consideration of this bill has been delayed for more than a week, and to-day, at the special request of the Senators from Vermont and Maryland, I refrained from calling it up the first thing. I hope that this bill will be taken up, so as to give an opportunity for the offering of amendments—as I understand there are several very important ones to be proposed—and of ascertaining their particular importance and merits.

Mr. HANNEGAN. It is well known to every Senator here that there has been absolute, or to say the least a strong necessity for the holding of an Executive session the whole week past. We have as yet been unable to have one; and if my motion will supersede that of the Senator from New Hampshire—reluctant as I am to make it—I must move that the Senate now proceed to the consideration of Executive business.

PRESIDING OFFICER. The question now before the Senate is the motion of the Senator from New Hampshire to proceed to the consideration of the Indian appropriation bill.

The question being then taken upon the motion of Mr. ATHERTON, it was decided in the negative.

ADJOURNING OVER.

Mr. HANNEGAN. I now move that the Senate, when it adjourns, adjourn to meet on Monday next.

Mr. BREESE. I hope the Senate will not agree to that motion. We have a very large calendar of bills that have been reported upon—upwards of three hundred on it—that require our consideration as soon as possible. We need all the time that we can give during the week for the transaction of the business of the Senate.

The motion was agreed to.

On motion by Mr. HANNEGAN, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 26, 1849.

The Journal of yesterday was read and approved.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole on the private calendar. Pending which—

The SPEAKER laid before the House communications, as follows, viz:

I. A letter from the Secretary of the Treasury, transmitting, in compliance with the twentieth section of the act of 26th of August, 1842, statements showing the expenditures from the contingent fund of the Treasury Department and of the several bureaus of the said department during the year ending 30th September, 1848; which letter and statement were laid upon the table, and ordered to be printed.

II. A letter from the Secretary of the Treasury, transmitting a statement of the names of the clerks and other persons employed in the Treasury Department, and the compensation paid to each during the past year, in compliance with the eleventh section of the act of August 26, 1842; which letter and statement were laid on the table, and ordered to be printed.

Mr. LORD asked leave to offer the following resolution:

Resolved, That the President be requested to communicate to this House any information now in possession of either of the departments of this Government in relation to the various processes used in gold or silver mines in Russia or elsewhere, in testing and extracting the metals.

The resolution being objected to, was not received.

The House proceeded to the consideration of the bill entitled "An act for the relief of Charles Wilson, and the amendments of the Senate thereto."

The amendment was read as follows:

In line 7 strike out the word "ten" and insert "sixteen."

The question was put, and the amendment was agreed to.

Ordered, That the Clerk acquaint the Senate therewith.

Mr. JOSEPH R. INGERSOLL, from the Committee on the Judiciary, reported the following resolution:

Resolved, That the Committee on the Judiciary, to whom was referred the memorial and accompanying papers of Anson Little, complaining of the official conduct of Alfred Conkling, district judge for the northern district of New York, be authorized to send for persons and papers.

Mr. INGERSOLL stated that a memorial had been presented to the House and referred to the Committee on the Judiciary, containing charges of a grave character against a high judicial officer. It was equally due to the Judge and to the community at large, that a preliminary inquiry be made at the earliest possible day. Judge Conkling himself, no doubt, desired it as much as the party who presented the charges, or as much as the Congress of the United States, who were interested in the due and pure administration of justice.

Mr. CONGER inquired whether Judge Conkling had been informed of these charges against him?

Mr. INGERSOLL replied that the inquiry of the gentleman from New York was a perfectly just and reasonable one. He would reply that he had deemed it his duty immediately upon the reference of the petition to the Committee on the Judiciary, to give distinct and unequivocal information of the fact to Judge Conkling. He had received the Judge's reply, which had been laid before the Committee on the Judiciary, and to him and to the country it was due that this preliminary step should be taken. Upon looking at the precedents, he found that this was the course which had been taken in similar cases. It was possible that an impeachment might grow out of this transaction; he did not know whether it was matter of probability or of doubtful uncertainty. Before taking a measure so grave as that, it had been usual for the committee who had jurisdiction of cases of this kind, to look into them as fully as could be done by a preliminary inquiry, and that could only be done by sending for persons and papers. It was with a view, therefore, to a preliminary inquiry, alike for the benefit of the party charged with grievance and the country at large, who were equally interested in having him relieved from the charges—if relieved he ought to be—that this resolution was reported from the committee.

Mr. ASHMUN said, as a member of the committee to whom this memorial had been referred, and from whom the resolution had been reported, he wished to say that no inference ought to be drawn by this House, by the judicial officer against whom the charges were made, or by anybody, that the committee had formed an opinion adverse to the high judicial character who was the subject of the charge. A charge had been made by a citizen of New York, who was said to be a respectable man, involving the official character of Judge Conkling. That charge was sustained by the oath of the memorialist, and the committee had deemed it due, not merely to the person who made these charges, not merely to the people at large, but to Judge Conkling himself, that they should have the means of getting at the truth in relation to this matter, and that could only be done by the resolution. It was due to Judge Conkling to say, that he promptly met the charge by an indignant denial. He (Mr. A.) desired it to go forth to the country, that at the same time that they adopted this resolution, the committee and the House did not intend to adopt any opinion adverse to Judge Conkling.

Mr. CONGER said he did not know that he should oppose this resolution; indeed, he was induced to think he could not do so, inasmuch (as had been remarked by the gentleman from Massachusetts) as it was due alike to Judge Conkling and the high office he held, that an investigation should be had. But, before he voted for the resolution, he desired that the correspondence which had taken place between the Committee on the Judiciary, the individual who made these charges, and Judge Conkling, should be read.

He disliked to interpose an objection to the passage of this resolution, nevertheless he should be compelled to do so until he could have the opportunity of seeing the correspondence. He supposed that it would present a general view of the case, and that it was brief, and he would like to have the opportunity to read it, as it would take him but a moment to satisfy himself in relation to some matters which he supposed were therein contained. He hoped the gentleman from Pennsylvania would allow this matter to be passed over for a short time till he could have the opportunity of examining the correspondence.

Mr. INGERSOLL said, when the papers were referred to the Committee on the Judiciary, he had deemed it his duty, with the sanction of his fellow-members of the committee who were present, to make a communication to Judge Conkling, which he did in brief, setting forth the charges which had been made, referring generally to their character, and saying that copies would be furnished, and that anybody who desired to examine them might see them freely. That gentleman wrote him an answer, in which he referred to an honorable gentleman, a member of this House, [Mr. DUER,] and to the gentleman who had just now spoken, saying at the same time with reference to the latter gentleman, that he had no personal acquaintance whatever with him. He (Mr. I.) had placed the papers in the hands of the first named gentleman some days ago, who had returned them to him yesterday, when the committee had met and instructed him to report this resolution. He concurred entirely in the propriety of the suggestion made by the gentleman, that the papers should be read, and here they were offered for the purpose.

After some conversation, by general consent the resolution was informally laid over until to-morrow morning.

On motion of Mr. ROCKWELL, of Connecticut, the House then resolved itself into Committee of the Whole on the private calendar, (Mr. BRODHEAD in the chair.)

This being what is generally known as objection day, all bills to which an objection was made were laid aside, and no debate on any bill was in order.

The committee proceeded to take up the bills on the calendar

The first subject called was an adverse report upon the petition of Jonathan Tipton; when—

Mr. COBB, of Alabama, rose and said that the petitioner whose case had just been called had, by an act of Providence, been removed beyond the reach of any relief that Congress could grant. Mr. C. was confident that the petitioner was far better provided for now than he ever would have been by the Government.

The report was then laid aside.

Bills were then taken up in their order on the calendar.

Many bills were objected to.

A large number were acted on, and ordered to be reported to the House—some with and others without amendment, as will be seen below.

The committee (after having been in session nearly three hours) rose and reported the following bills, with the recommendation that they do not pass:

A bill for the relief of Joshua Dodge;

A bill for the relief of Peter Parker, secretary of legation and Chinese interpreter at Canton, and Jacob L. Martin, late secretary of legation in France;

A bill for the relief of Eunice Crossman.

Subsequently, on motion of Mr. BRODHEAD, the said bills were laid on the table.

The committee also reported:

A bill for the relief of the legal owners of the ship James Mitchell;

A bill for the relief of John Wilson;

A bill for the relief of Robert Whittel;

Severally with an amendment.

Subsequently, the amendment to each was agreed to, and the bills were ordered to be engrossed; and the bills, being engrossed, were read the third time and passed, and sent to the Senate for concurrence.

The committee also reported, without amendment:

A bill for the relief of A. Baudonin and A. D. Roberts;

A bill for the relief of the legal representatives of Oliver Lee, deceased;
A bill for the relief of Israel Johnson, of Cass county, Indiana;
A bill for the relief of Edward Myers;
A bill for the relief of William Gove;
A bill for the relief of Elizabeth Williamson;
A bill for the relief of Sarah White;
A bill for the relief of Polly Aldrich;
A bill for the relief of Amos Armstrong;
A bill for the relief of Edward Taylor;
A bill for the relief of Warren Raymond;
A bill for the relief of Philip Miller;
A bill for the relief of William P. Yonge;
A bill for the relief of the heirs of Lieutenant Bartlett Hinds;
A bill for the relief of the heirs of Nehemiah Stokely;
A bill for the relief of E. B. Cogswell;
A bill for the relief of Jesse Sutton;
A bill for the relief of Henry Miller;
A bill for the relief of Lowry Williams;
A bill for the relief of the legal representatives of Darius Garrison;
A bill for the relief of Staunton W. Gaar;
A bill for the relief of William Snavely;
A bill to confirm the title to section sixteen and the west half of section twelve, in township three north, range sixteen east, in Seneca county, Ohio;
A bill for the relief of Ira T. Horton;
A bill for the relief of Augustus Ford;
A bill for the relief of James Y. Smith;
A bill for the relief of James Morehead;
A bill for the relief of the heirs and legal representatives of Presley Thornton;
A bill to provide for the payment of seven years' half pay due to Sarah Ann Dye, who was the widow of Lieutenant Jonathan Dye, an officer in the army of the United States, and who was killed in the battle of Brandywine;
A bill for the relief of Abigail Stafford;
A bill for the relief of Robert B. Mitchell;
A bill for the relief of Josiah P. Pilcher;
A bill for the relief of Polly Damron, widow of Charles Damron, deceased;
A bill for the relief of Elizabeth Kinney;
A bill for the relief of Mary G. Leverett;
A bill for the relief of Mary Buck;
A bill for the relief of William Whicher;
A bill for the relief of Francis Tribon;
A bill for the relief of Edward Cole;
A bill to increase the pension of Henry Click, of Cocke county, Tennessee;
A bill for the relief of George S. Claflin;
A bill for the relief of David Towle;
A bill for the relief of Henry Childs;
A bill for the relief of Isaac Downs;
A bill for the relief of Joseph D. Ward;
A bill for the relief of Giles London;
A bill for the relief of Gardner Herring;
A bill for the relief of David Murphy;
A bill for the relief of Samuel Graves;
A bill for the relief of John Fohl;
A bill for the relief of Thomas L. Judge;
A bill for the relief of Satterlee Clark;
A bill for the relief of the president and directors of the Union Bank of Florida;
A bill for the relief of Lewis H. Bates and William Lacon;
A bill for the relief of William Milford;
A bill for the relief of Thomas H. Noble;
A bill for the relief of John Howe;
A bill for the relief of the legal representatives of Abraham Hogebroom, deceased.

Subsequently, the foregoing bills were ordered to be engrossed; and being engrossed, the said bills were read the third time and passed, and sent to the Senate for concurrence.

The Committee also reported, without amendment, Senate bills of the following titles, viz:

An act to compensate John M. Moore;
An act for the relief of Creed Taylor;
An act for the relief of the forward officers of the late Exploring Expedition;
An act for the relief of Joseph F. Caldwell;
An act for the relief of Thomas Douglass, late United States attorney for East Florida.

Subsequently, the said Senate bills were read the third time and passed, and returned to the Senate.

The committee likewise reported—

A bill from the Senate entitled "An act to provide for the settlement of the claim of Henry Washington, late a deputy surveyor of the public lands in Florida," with an amendment; which was agreed to, and the bill as amended was read the third time and passed, and returned to the Senate.

The House proceeded to the consideration of the bill for the relief of the legal representatives of Nimrod Farrow and Richard Harris, reported from the Committee of the whole House, on the 15th ultimo, with a recommendation that it do not pass; when—

On motion of Mr. FLOURNOY, it was

Ordered, That the said bill be laid on the table.

Subsequently, Mr. FLOURNOY moved that the vote by which the bill was laid on the table be reconsidered; which motion was postponed for the present.

The House proceeded to the consideration of the bill for the relief of William Blake, reported from the Committee of the Whole on the 22d ultimo, with an amendment, viz: strike out the words "fourth day of July, 1817, the date of the discharge from the service, up to the 14th day of March, 1845, the day on which his pension was allowed to commence," and insert the words "time of the completion of his evidence of disability."

The question on agreeing to the amendment was put, and decided in the negative.

Mr. FULTON moved to amend the bill by striking out all after the enacting clause, and inserting—

That the Secretary of War be, and he is hereby, directed to pay to William Blake, an invalid pensioner, the sum of twelve dollars per month, from the 1st of January, 1846, to the 4th day of September, 1848, and at the rate of twenty dollars per month, from the latter period, during his natural life.

Which amendment was agreed to, and said bill, as amended, was ordered to be engrossed; and being engrossed, was read a third time and passed.

Ordered, That the Clerk request the concurrence of the Senate in the said bill.

On motion of Mr. HOLMES, of New York,

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of Mrs. Lydia Lockwood.

The papers were thereupon delivered to Mr. HOLMES.

And then the House adjourned.

The following are the bills objected to in Committee of the Whole:

A bill for the relief of James Dixon—objected to by Mr. FICKLIN.

A bill for the relief of the widow and children of Captain Robert Gray, the discoverer of the Columbia river—objected to by Mr. ATKINSON.

A bill for the relief of H. M. Salomon—objected to by Mr. DANIEL.

A bill for the relief of Captain Lewis Warrington and others—objected to by Mr. DANIEL.

A bill for the relief of Edmund L. Du Barry—objected to by Mr. ATKINSON.

A bill for the relief of Benjamin Cressy—objected to by Mr. DANIEL.

A bill granting pensions to the surviving petty officers, seamen, and marines, who, under the command of Captain Stephen Decatur, junior, captured and destroyed the frigate Philadelphia, in the harbor of Tripoli, on the night of the 16th February, 1804—objected to by Mr. HAMMONS.

A bill for the relief of Hubert H. Booly—objected to by Mr. HALL, of Missouri.

A bill for the relief of John Goulding—objected to by Mr. SAWYER.

A bill for the relief of Oliver C. Harris—objected to by Mr. SAWYER.

A bill for the relief of J. W. Nye, assignee of P. Bargy and H. Stewart—objected to by Mr. ROCKWELL, of Connecticut.

A bill for the relief of S. B. Elliot, of the United States navy—objected to by Mr. LYNDE.

A bill for the relief of William J. Turner—objected to by Mr. KAUFMAN.

An act for the relief of Nathaniel Kuykendall—objected to by Mr. STRONG.

A bill for the relief of the heirs of Larkin Smith—objected to by Mr. DANIEL.

A bill for the relief of the legal representatives of John Manderville—objected to by Mr. DANIEL.

A bill for the relief of the legal representatives of James C. Watson, of George—objected to by Mr. ASHMUN.

A bill for the relief of Orange H. Dibble—objected to by Mr. DANIEL.

An act for the relief of James F. Sothoron—objected to by Mr. COCKE.

An act for the relief of Commodore Foxall A. Parker, of the United States navy—objected to by Mr. SAWYER.

PETITIONS, ETC.

The following petitions, &c. were presented under the rule, and referred:

By Mr. GREELEY: Twenty-one several petitions of citizens of the State of New York, praying Congress to prohibit the introduction of intoxicating liquors into vessels of the United States navy, except for medical purposes; of citizens of Livingston county, New York, for cheap postage; of a large number of women of America, praying Congress to oppose and abolish slavery wherever it has power.

By Mr. MANN, of Massachusetts: The petition of Esther Scolley for a pension, on account of the revolutionary services of her husband. Also, of Mrs. Corinna Leavitt and 82 others, ladies belonging to the town of Wrentham, in the State of Massachusetts, praying for the non-extension of slavery, and for its abolition wherever Congress has constitutional power to abolish it. Also, of George William Boyd and 38 others, praying that Congress will establish the mileage of its members by the nearest post route.

By Mr CLARK, of Maine: The remonstrance of James Winchenhauch and 40 others, citizens of Friendship, against the division of the Waldoboro' collection district.

By Mr. BLANCHARD: The petition of Henry M. Williams and sundry other citizens of Centre county, in the State of Pennsylvania, stating that the mining and manufacturing interests of the State are greatly depressed, and threatened with entire prostration under the low duties on foreign goods under the present tariff, and praying for an immediate modification of the present tariff, so as to restore a home market to the farmers, and to relieve the manufacturing interests from their present suffering condition.

By Mr. GRINNELL: The petition of R. B. Forbes and other merchants and ship-masters of Boston, asking that buoys may be placed on the shoals off Nantucket, and a screw-pile beacon upon the dangerous shoal off that island, lately discovered by the United States coast survey. Also, of John Reed, of Yarmouth, Massachusetts, and other citizens of that town, asking for reduced rates of postage and the abolition of the franking privilege.

By Mr. MURPHY: The petition of Frederick A. Farley and others, of Brooklyn, New York, asking for a reduction of postage and the abolition of the franking privilege.

By Mr. BIRDSALL: The petition of 86 inhabitants of Norwich, Chenango county, New York, in favor of cheap postage. Also, of Richard Reynolds, asking further consideration of his pension claim.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 27, 1849.

The journal of yesterday was read and approved.

THE LATE EXPLORING EXPEDITION.

Mr. STANTON rose and moved a reconsideration of the vote by which the bill for the relief of the forward officers of the Exploring Expedition had yesterday been passed.

Mr. S. desired to explain the object of this motion, and the reasons which had governed him in submitting it, and which he hoped would meet with the favor of the House.

His object was to propose an amendment which he had been directed by the Committee on Naval Affairs to offer, but which he had omitted to offer, not supposing that the bill would have been passed yesterday without objection. There was but one commissioned officer of the Exploring Expedition who had not been paid either by this bill or one of the former bills which had been passed for similar purposes. That officer was Lieutenant Cadwalader Ringgold. It was for the purpose of ingrafting this amendment upon the bill to which it belonged, and thus of disposing of the whole matter in relation to the Exploring Expedition, that he desired that the several votes by which the bill had been passed should be reconsidered. He presumed that very little time would be occupied in the matter, and that there would be no serious objection to it.

The question was then taken on the motion to reconsider the vote by which the bill had been passed, and was decided in the affirmative without a division.

So the vote was reconsidered.

And the question was then taken on the motion to reconsider the vote by which the bill had been ordered to a third reading, and was decided in the affirmative without a division.

So the vote was reconsidered.

And the question then recurring on ordering the bill to a third reading—

Mr. STANTON offered the following amendment:

SEC. 2. *And be it further enacted*, That the accounting officers of the treasury be, and they are hereby, authorized and directed, in the settlement of the accounts of Lieutenant Cadwalader Ringgold, late commanding the United

States brig Porpoise, attached to the Exploring Expedition, to allow and credit him in the extra pay for scientific duties, at the rate of one thousand dollars per annum, and upon the principle applied to the accounts of Lieutenant W. L. Hudson, then commanding the United States sloop Peacock, attached to said expedition.

Mr. ATKINSON moved that the bill and amendment be laid on the table.

Mr. STANTON hoped the gentleman would waive the motion, to allow him (Mr. S.) to say a single word.

Mr. ATKINSON adhered to his motion, and asked the yeas and nays; which were ordered.

Mr. KING, of Georgia, inquired of the Speaker whether the question was debatable?

The SPEAKER said debate was not in order on a motion to lay on the table.

Mr. STANTON. I hope it will not be considered out of order for me to say that this amendment makes precisely the same provision which has been allowed to every other officer of the Exploring Expedition, and that this officer is the only one who has been left out.

Mr. ATKINSON. And permit me to say, that I will not vote for extras to any officer of the Government.

The question, Shall the bill be laid upon the table? was then taken, and decided in the negative: Yeas 57, nays 91.

So the bill was not laid upon the table.

Mr. KING, of Georgia, after a few words in explanation and defence of the bill as amended, moved the previous question.

Mr. ATKINSON earnestly appealed to the gentleman to withdraw the previous question.

But Mr. KING declined.

The previous question was seconded—ayes 78, noes 57; and under its operation, the bill was again passed.

Mr. ATKINSON moved to reconsider the vote. He wished opportunity to ferret out the abuses which were practised in the granting of extra pay. It was the way to break down the navy.

The SPEAKER stated that the question on the passage of the bill had once been reconsidered, and the motion to reconsider was not again in order.

Mr. ATKINSON, after a word of conversation in dissent from the Speaker's ruling, moved then to reconsider the vote on the adoption of the amendment; but

The SPEAKER decided this motion out of order.

Mr. ATKINSON thereupon resumed his seat, remarking that he was very sorry he could not expose this bill, as it ought to be exposed, to the American people.

A QUESTION OF PRIVILEGE.

Mr. J. R. INGERSOLL called up the following resolution, reported yesterday by him from the Committee on the Judiciary:

Resolved, That the Committee on the Judiciary, to whom was referred the memorial and accompanying papers of Anson Little, complaining of the official conduct of Alfred Conkling, district judge for the northern district of New York, be authorized to send for persons and papers.

He said he did not know whether any further explanation was necessary, in addition to what he had said yesterday. It was always with regret that the Judiciary Committee, and especially its organ upon this occasion, presented to the consideration of this House anything like a charge (however imperfect it might be in its nature, and however it might end) of irregularity upon a high judicial officer. Such was the case here. A charge having been made and certified by the oath of a person who was said to be a respectable citizen, the committee deemed it to be their duty to report a resolution to provide for a preliminary examination, to enable them to report whether further proceedings should be taken, or to express the opinion that this judicial officer, high in his character, wise in his judgment, irreproachable in his life, as he had hitherto been, should so continue to stand in the eyes of this whole community. He had no choice now but to ask that this resolution be passed, in order to give to the committee the necessary power to examine the case, which power they would not have in the absence of the investment of authority which this resolution contemplated.

Mr. CONGER said it was at his instance that this resolution had been passed over yesterday. It was not his design then, nor was it now, to oppose the passage of this resolution. He had only desired to have an opportunity—as the case was for the first time presented to his mind in this form, and as he was not apprised of the facts—to examine the petition of the individual who made the charge, the letter of the Committee on the Judiciary, and the reply of Judge Conkling. Being now informed of the charges, and of the extent to which they were made—although he might differ with the Committee on the Judiciary as to the importance of the matter, as to the propriety of their asking of the House the power to send for persons and papers—he was, nevertheless, not disposed to oppose the passage of the resolution; but, on the contrary, with Judge Conkling, in the letter addressed by him to the Committee on the Judiciary, he courted inquiry for him. It was due, as he had yesterday remarked, alike to Judge Conkling and to the high situation which he held, that an investigation should be made. He therefore most cheerfully assented to the passage of the resolution, and would go for inquiry, both by the committee and the House, to the fullest extent.

Mr. KAUFMAN moved the previous question, which was seconded, and under its operation, the resolution was adopted.

Mr. FULTON moved that the vote be reconsidered by which the House yesterday passed the "bill for the relief of Robert Whittet;" which motion was agreed to.

Mr. FULTON moved to reconsider the vote by which the said bill was ordered to be engrossed; which was agreed to.

Mr. FULTON moved that the vote be reconsidered by which the House yesterday agreed to the amendment reported from the Committee of the Whole House to the said bill; which motion was agreed to.

The question was then stated on agreeing to the said amendment reported from the Committee of the Whole House, to wit: strike out the word "six" and insert "eight;" so that it would read, "at the rate of eight dollars per month."

And being put, it was not agreed to.

Mr. FULTON moved to amend the bill by striking out the words "twenty-fifth day of September, eighteen hundred and fourteen, to the thirty-first day of July, eighteen hundred and forty, at the rate of six dollars per month; and from that time, for and during his natural life, at eight dollars per month, deducting therefrom the amount he has already received," and inserting in lieu thereof the following: "fourth of September, eighteen hundred and forty-seven, at the rate of eight dollars per month during his natural life;" which was agreed to.

And the said bill was ordered to be engrossed and read a third time; and being engrossed, was accordingly read a third time and passed.

And the Clerk was ordered to request the concurrence of the Senate in said bill.

POSTAGE.

Mr. THOMPSON, of Pennsylvania, moved that the House resolve itself into Committee of the Whole on the state of the Union, to take up the bill for the reduction of postage.

Mr. ROCKWELL, of Connecticut, inquired whether the first business in committee would not be the bill to establish a board to settle private claims, which was a special order?

The SPEAKER said the Chair was under the impression that Fridays and Saturdays were excepted from the operation of the special order.

Mr. ROCKWELL said they were not.

The SPEAKER. Then unquestionably the committee must proceed with the order of business.

The motion of Mr. THOMPSON having been agreed to—

The House resolved itself into Committee of the Whole on the state of the Union, (Mr. BURT, of South Carolina, in the chair.)

Mr. THOMPSON moved to take up the postage bill.

Mr. ROCKWELL, of Connecticut, raised the point, that the bill relative to private claims was first in order.

The point having been sustained by the Chair—

BOARD TO SETTLE PRIVATE CLAIMS.

The committee resumed the consideration of the bill to provide for the settlement of claims against the United States, at its second section.

Mr. THOMPSON, of Pennsylvania, withdrew the amendment which he had offered on a previous day.

A verbal amendment of Mr. MEADE to the section was agreed to.

Mr. KAUFMAN moved an amendment to add at the end of the second section the following:

Provided, That in all claims presented to the board hereby constituted the claimant shall present a petition to said board stating all the grounds on which said claim is founded, which said petition shall be sworn to be true by petitioner; and in the submission of the evidence the said claimant shall be confined to the allegations therein contained; but the said petition may be amended in the discretion of said board, provided said amendment be also sworn to; and any individual swearing falsely in any matter authorized by this act shall be subject to all the pains and penalties of perjury, on conviction before the United States district court having competent jurisdiction.

He remarked, that as it seemed to be the intention of the committee and of the House to pass the bill, he knew of no more salutary restriction than that proposed by this amendment. This board was to have unlimited jurisdiction within the scope of law and equity, and without it, over all claims which might be made against the Government of the United States; it seemed reasonable that the individual should state his claim in writing, and make affidavit to it. The fear of the penalties of perjury would operate in some degree to prevent unfounded claims being presented from those who wished to amass wealth at the expense of the Government, and would make claimants more cautious. He hoped the friends of the bill would consent to this restriction; it was no more than was required in a court of chancery.

Mr. PETTIT inquired when it would be in order for him to move his substitute for the bill?

The CHAIRMAN replied, after the bill had been gone through by sections and perfected.

After a word or two of conversation between Mr. PECK and Mr. KAUFMAN—

Mr. PECK moved to amend Mr. KAUFMAN's amendment by adding the following:

Provided, also, That such verification by the claimant shall not be considered by said board as evidence in support of the claim.

Mr. PECK's amendment to the amendment was agreed to.

Mr. MEADE (on a *pro forma* amendment to the amendment) expressed the hope that the amendment would not be adopted. It would be unfair to the petitioner; and the provision was unusual in courts of chancery, to which this board would be assimilated.

Mr. ROOT (on a *pro forma* amendment to the amendment) said he remembered to have read, in a very old English law book, the saying of the Parliament of Great Britain, that "they sowed plentifully of oaths, and reaped bountifully of perjury." He was opposed to legislation requiring so frequent oaths, as tending to perjury, and doing no good; and he hoped the amendment would be rejected.

Mr. BOWLIN (*pro forma*) renewed the amendment. Mr. B. said that the gentleman from Virginia [Mr. MEADE] had assimilated this to the practice of a court of chancery. These commissioners proposed to be appointed by this bill were not chancellors, nor were they to decide the questions submitted to them upon any known judicial principles or precedents, but upon their own notions of justice. There was no analogy between the two cases. Congress, if this bill passed, was about to establish a court to decide upon the loosest sort of principles—abolishing law, and abolishing everything else for some vague and indefinite notions of justice. By requiring the oath of the party we should not otherwise possess, that the party claimant, we should at least have a guarantee, which knew he was in court; that if the decision was in his favor, he might draw the money, and that a claim could not be run through in utter ignorance on the part of the claimant. He was decidedly in favor of the oath, and in any event it could do no harm.

A brief conversation followed between Messrs. BOWLIN, MEADE, and ROOT.

Mr. MURPHY (*pro forma*) renewed the amendment. He trusted that the amendment of the gentleman from Texas [Mr. KAUFMAN] would be adopted. It might be, as the gentleman from Ohio [Mr. ROOT] had suggested, that oaths were too cheap. It might be, as was alleged by some, that this system of having oaths at all was wrong. But so long as it was a part of our system of jurisprudence to administer oaths, so long as we acknowledged them of binding efficacy, and the pains and penalties attached to perjury as a pre-

ventive against false swearing and false claims; we ought to adopt them in all proper cases; and this, it seemed to him, was one of them.

Mr. MEADE rose to a question of order. He inquired if it was in order for a gentleman to move an amendment, and then to speak *against* his own amendment?

The CHAIR intimated that the gentleman must confine himself to an explanation of the amendment.

Mr. MURPHY. I am indebted to the gentleman. He has had his say. He is unwilling now that gentlemen on the other side should have theirs.

Mr. MEADE. But I spoke in *favor* of my amendment.

Mr. MURPHY said, he saw that good was to result from the amendment before the committee. The matter was an important one. Congress was about to establish a tribunal to adjust claims.

They were going to some expense for that purpose; and they did not desire to have a tribunal overwhelmed with petitions and fraudulent claims; they must adopt some such precaution as this. In the State which he in part represented, in every suit of every kind, oaths were administered. So far as his experience went, it had had the effect of preventing litigation. Let the party himself make oath, and we should have the double guarantee of the personal attendance of the party himself, and of the pains and penalties of perjury, if he should present a false claim.

He was in favor of this bill, or of some bill which would carry out the policy to which it looked. But he desired that in passing such a law, Congress should throw every guard around it, to protect the public and the treasury.

Mr. ATKINSON moved to amend the amendment of Mr. KAUFMAN, by providing that the oath should be taken in a court of record.

No man (he said) was more anxious than he was to provide for every just claim which an individual might have against the Government. But he was satisfied that if this bill was to pass without the amendment of the gentleman from Texas, [Mr. KAUFMAN,] it would be better to pass no bill at all, and to continue to depend upon the loose mode in which the business had heretofore been done. He was in favor of the oath. He did not believe that in this land of Christendom, men were so depraved as that oaths would have no influence upon them. He was for guarding not only the treasury of the United States, but he was also for guarding individuals who had just claims here against the screws which might be put upon them by speculators and agents. The city was thronged with them at this time. He believed that from twenty to fifty per cent. of the amounts awarded to private claimants by this Government went into the pockets of the agents. He was in favor of making some provision against this. The bill would not do it; at any rate it would not do it until all the guards which the intelligence and the circumspection of his House could suggest had been thrown around it.

A new court was about to be created, into which any individual could come without money and without price. Every man could come into it, and if he was nonsuited, he had no costs to pay. Would Congress, by refusing to adopt this oath, make the way more easy to fraudulent and false claims? Although gentlemen saw every day that money was expended in a manner which, if known to the people, would not be approved by them, yet let the House, whilst it attempted to do justice to individuals, do all that it could to guard the rights of the people of the United States.

Mr. A. withdrew his amendment.

Mr. DICKINSON renewed it.

Mr. D. said that the object which gentlemen had in view was to put the bill in such a form as that it should do justice not only to the Government but to the claimants. That was his object, and he intended to vote for the bill. He thought, however, that the whole amendment was unnecessary. There were two sections which clothed the commissioners with sufficient powers to obtain all the information that was necessary; and he thought the safest plan would be to leave to them to decide what was the best means of obtaining evidence in the cases before them.

He withdrew the amendment.

The question was then taken on the amendment of Mr. KAUFMAN, which—by ayes 72, noes 60—was agreed to.

Mr. FRENCH moved the following amendment: Add to second section—

And the decisions of the board, in all cases where the principal sum claimed or awarded by the board shall not exceed five thousand dollars, shall be final.

Mr. F., in explanation, said, that unless some amount was fixed which, when passed by the board, should be final, considerable expense would be incurred without any good being realized. The amendment would not contravene the right of petition, because, in the last resort, the unsuccessful party might exercise that right. Whether he could be relieved or not, was a matter which Congress was to decide.

Whether the sum of five thousand dollars was too large to be left to the final decision of the board, the committee could determine. If it was so, it could be reduced; but that there should be some definite sum to the extent of which the decision of the board should be final, he had no doubt. The compensation allowed to the commissioners was such as would command the highest order of talent and experience which the country could furnish; and he was of opinion, that if his amendment should be adopted, two-thirds of all the claims presented to Congress would be settled—leaving the larger ones to be decided by Congress after they should first have been passed upon by the board.

He hoped that, in order to give to the bill a beneficial operation, and to relieve Congress of a great portion of these claims, which consumed so much of its time, the amendment would be adopted.

Mr. MEADE suggested whether the amendment would not come in more appropriately in some other clause of the bill, or whether it should not be offered as a separate and independent section.

Mr. FRENCH said he had no particular choice as to the place. His only desire was, that the amendment should be incorporated somewhere in the bill. He thought the incongruity suggested by the gentleman from Virginia was not such as to make its insertion here exceptionable.

The question was then taken, and the amendment of Mr. FRENCH was rejected.

Mr. DUER moved an amendment, to add at the end of the section, three sections, as the 3d, 4th, and 5th, as follows:

SEC. 3. *And be it further enacted*, That it shall be the duty of the said commissioners to allow claims in the following cases, and in none others whatsoever:

1. Where it shall appear that the claimant is entitled to the relief sought, according to the established rules of law or equity, so far as such rules are applicable to, and ought to be binding upon, governments.

2. Where, from the nature of the facts, the rules of law and equity, as established between individuals, are inapplicable, but where the claimant is entitled to the relief sought, in justice and sound policy, and according to the general practice of this and other civilized governments.

SEC. 4. *And be it further enacted*, That where the claim established shall be for a sum of money, and shall be of the character described in the first clause of the last preceding section, and shall not exceed the sum of five thousand dollars, the commissioners shall enter a judgment that the claimant is justly entitled to such sum; and in such case they shall report to Congress briefly the nature of the claim, and the judgment given, but shall not report the grounds of their decision nor the testimony taken, unless expressly required to do so: *Provided*, That nothing herein contained shall be construed to prohibit the publication by the commissioners, or by any other person, of such decisions and testimony.

SEC. 5. *And be it further enacted*, That in all other cases than those specified in the last preceding section, where the commissioners shall come to a decision favorable to a claim, they shall give no judgment, but shall report to Congress their opinion and reasons, together with the testimony taken, and copies of all papers filed.

He briefly stated the several provisions which he proposed, and some of the reasons (which were more fully stated by him when the bill was previously under consideration) which, in his opinion, recommended the amendment to the favor of the committee.

Mr. HALL, of Missouri, called for a division of the question, so as to vote first upon the first proposed section, and the first branch thereof.

The CHAIRMAN stated the question would be divided accordingly.

Mr. MEADE (on a *pro forma* amendment) opposed the amendment of Mr. DUER on the ground that under it a large class of claims which were now before Congress would not go before the board. One of the great merits of the plan establishing the board was, that it would elicit facts and testimony upon claims presented to them, and report them to Congress, so arranged that the members of both Houses could vote understandingly upon them. Under this amendment, however, a large class of cases would still have to be acted upon by Congress, without reference to the board, and the evil which now existed would continue, of passing claims, without any knowledge of their merits, upon the part of the House generally.

Mr. ROCKWELL, of Connecticut, (on a *pro forma* amendment to the amendment,) opposed the amendment of Mr. DUER, and repeated the expression of the opinion heretofore advanced by him, that there were a very large class of cases which did not come within the rules of justice and equity as applied by an ordinary court of justice, which, nevertheless should come before this board. As had been very justly remarked by the gentleman from Virginia, he saw no reason why there should still be devolved upon Congress the entire examination of such cases as there would be under this amendment.

Mr. DUER (Mr. ROCKWELL yielding) said it seemed that there should be some rule—the question was, what one? Would the gentleman have claims for pensions, for grants of land—for anything which men might ask from this Government—go before this board? Clearly not, he (Mr. D.) thought; and he proposed to limit the claims which should go before it to those founded in law and equity, or in justice, and which it had been the practice of this and other civilized governments to allow.

Mr. ROCKWELL replied that he would have claims for pensions brought before the board, and the facts examined and reported to Congress, in order to save the time of the two Houses, and enable them to act more promptly and more justly upon the claims presented to them.

The question being taken, the first branch of the first proposed section was agreed to.

The question being on the second branch of the said section, (given above)—

Mr. GREELEY moved to amend the amendment, by striking out the words "and other civilized."

He stated (in explanation) that he was exceedingly desirous that this bill should pass, and he wished the amendment, if it were adopted, amended as he proposed, as the provision as it stood was so loose as to obviate, in a great degree, the benefits which might otherwise be expected from the bill. There were many civilized Governments which paid pensions for a variety of services which were not recognized by this Government at all. He thought that the rule was broad enough that these claims which it had been the usual practice of *this* Government to allow, should alone be preferred to the board. He thought the adoption of the amendment to the amendment would tend to obviate objections, and render the bill more acceptable, even to its opposers.

The amendment of Mr. GREELEY to the amendment was agreed to.

Mr. MURPHY moved to amend the pending branch of the amendment by striking out the words "according to the general practice of this Government."

He said he was in favor of the principle of this bill, but he knew of no other sound principle by which they could legislate than to proceed on the basis of waiving our nationality and sovereignty, and allowing the claimant to prosecute his claim against the Government before this tribunal on the same principles that one citizen would prosecute another before an ordinary tribunal. To that extent he was willing to go, but he could not consent to open the door and allow the board to take cognizance of claims founded upon the abstract principles of justice and sound policy, but not recognized by law or equity. He was unwilling that this board should be made the almoner or the purveyor of the alms of this Government. If any claims founded upon abstract justice or benevolence were to be allowed, let them come directly to Congress.

He withdrew the amendment.

Mr. SCHENCK moved to amend the amendment, by striking out all of the second branch of the proposed third section, and inserting in lieu thereof the following:

And be it further enacted, That said board shall have jurisdiction over all claims against the Government of the United States, arising under any contract, express or implied, with the Government, or with any department or officer thereof; or under any existing law of the United States, in cases where the subject-matter of the claim is now cogniza-

ble by any of the officers of the Treasury Department, or other officers of the Government; or in any case where damages to individual property have been sustained by reason of the act or order of any officer or person employed by the Government, while such officer or person was in the discharge of a lawful duty; and the decision of said board shall be final. But any such claim, when cognizable by any accounting officer of the Government, shall be first presented to and settled by the proper accounting officer; and if upon such settlement the claimant be dissatisfied with the decision, he may appeal to the board herein constituted, and the proper officer shall lay before the board all papers and facts on which he acted, with his decision in the case.

He said, let the jurisdiction of the board be confined to cases of law and equity, and let it in these be final, but let all other claims come to Congress.

Mr. S. briefly recapitulated the points of the amendment, and remarked, that with some such provision, he would cheerfully vote for the bill.

After some conversation on a point of order—

Mr. STEPHENS moved that the committee rise and report the bill to the House, with a recommendation that it do not pass.

Mr. ROCKWELL, of Connecticut, inquired of the Chair if such a motion was in order whilst amendments were pending?

The CHAIRMAN overruled that portion of the motion which contemplated that the bill should be reported with a recommendation that it do not pass.

Mr. STEPHENS then moved that the committee rise.

And the motion having, by ayes 63, noes 55, been agreed to—

The committee rose and reported progress.

And the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. PECK: The petition of Dorothea L. French and 46 others, of Hardwick, Vermont, against the extension of slavery.

By Mr. PALFREY: The petition of Mary B. Whitmore and 98 others, of Great Barrington, Massachusetts; also, of P. B. Fessenden and 35 others, of South Bridgeton, Maine, severally praying Congress to prevent the further extension of slavery, to withdraw the protection of Government from the American slave trade, and to suppress slavery wherever Congress has competent jurisdiction.

By Mr. CONGER: The petition of 250 citizens of the city of Auburn, New York, for cheap postage.

By Mr. GOGGIN: The petition of 272 citizens of Alexandria, in Virginia, in favor of a reduction of postage. Also, the petition of O. H. Platt and numerous other citizens of Windham county, in Vermont, in favor of the same object.

By Mr. CRANSTON: The petition of Thomas R. Hazard and others, of the county of Newport, Rhode Island, praying for the abolition of capital punishment.

By Mr. BINGHAM: The petition of thirty-seven women of the State of Michigan, in behalf of a million and a half of their sex held in slavery, that Congress would adopt measures to prevent the future extension of slavery, and that they would suppress its existence over such portions of the country as they have entire control. Also, the petition of Rev. W. F. Coriolet and 138 others, citizens of the State of Michigan, that a portion of the public lands be set apart for the education of the colored race.

By Mr. TUCK: The petition of Elizabeth White and 223 others, ladies, praying Congress to prevent the extension of slavery, to withdraw all countenance of the General Government from the slave trade, and to abolish slavery whenever Congress has power to do so.

By Mr. SLINGERLAND: The petition of Amasa J. Parker and 258 citizens of Albany county, New York, and the taxable inhabitants residing upon or near the proposed mail route, praying Congress to establish a mail route from Albany to Greenville and Durham.

By Mr. MURPHY: The petition of Joshua R. Sands, United States Navy, praying relief for expenses incurred by him in carrying Hon. Wilson Shannon as minister to Mexico.

By Mr. POLLOCK: The petition of William McCarty and 30 others, citizens of Northumberland county, Pennsylvania, asking for a modification of existing revenue laws, &c.

By Mr. WENTWORTH: The petition of citizens of Naperville, for a donation of land, to connect the Upper and Lower Mississippi with Chicago.

By Mr. McILVAINE: The petition of William Whitson and 102 others, citizens of Pennsylvania, praying Congress to take immediate measures for the abolition of slavery and the slave trade in the District of Columbia, and to prohibit the extension of slavery into any territory now belonging to the United States.

By Mr. WILLIAMS: The petition of citizens of East Machias, Washington county, Maine, for cheap postage.

By Mr. KAUFMAN: The petition of James H. Rogers, of Texas, praying compensation for military services.

By Mr. EVANS, of Ohio: The petition of citizens of Guernsey county, Ohio, in favor of cheap postage.

IN SENATE.

MONDAY, *January* 29, 1849.

A message was received from the President of the United States, with a report of the Secretary of State, in relation to the conduct of Commodore Storer, of the United States naval service, off the coast of Brazil, in compliance with a resolution of the Senate calling for such information; which was referred to the Committee on Naval Affairs.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, enclosing a further report from Lieutenants Smith and Hardcastle, and a map of the valley of Mexico; which was laid on the table, and ordered to be printed.

MEMORIALS AND PETITIONS.

The VICE PRESIDENT presented a memorial from Horatio Hubbell and J. H. Sherburne, asking aid in the construction of a telegraph communication across the Atlantic Ocean; which was referred.

Mr. BUTLER presented a document from the Chamber of Commerce of Charleston, South Carolina, containing resolutions expressing their gratification at the progress made in the coast survey under Professor Bache; which was referred to the Committee on Commerce.

Mr. CLARKE presented a petition from citizens of Rhode Island in favor of a reduction of the rates of postage, and the abolition of the franking privilege; which was referred to the Committee on the Post Office and Post Roads.

Mr. DIX presented a petition from citizens of Moravia, New York, praying a uniform rate of postage of three cents, the abolition of the franking privilege, &c.; which was laid on the table.

Mr. CAMERON presented a petition from 1,060 citizens of Pennsylvania, asking the passage of a law for the immediate abolition of slavery and the slave-trade in the District of Columbia.

Mr. CAMERON presented a petition from Charles Hallowell and 970 others, asking for such a change in the Constitution as would lead to the abolition of slavery throughout the Union, so as to be consistent with the rights of every section thereof.

The motion to receive these petitions was laid on the table.

Mr. BRADBURY presented a petition from the citizens of Maine, asking for a reduction in the rates of postage, and the abolition of the franking privilege; which was laid on the table.

REPORTS OF COMMITTEES.

Mr. ATCHISON, from the Committee on Indian Affairs, made an adverse report on the petition of Margaretta Reneau, a half breed Osage; which was ordered to be printed.

On motion of Mr. BRIGHT, the Committee on Revolutionary Claims was discharged from the further consideration of the petition of John B. White, Samuel D. Davis, and Mary Connelly, and it was referred to the Committee on Pensions.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, to which was referred the communication of the War Department relative to the survey of the Valley of Mexico, by Lieutenants Smith and Hardcastle, with a map, reported the following resolution; which lies over under the rule:

Resolved, That the Secretary of the Senate be authorized to contract for lithographing and printing 10,000 copies, for the use of the Senate, of the map of the Valley of Mexico, from surveys by Lieutenants Smith and Hardcastle, of the United States Topographical Engineers, reduced from the original, according to the projection to be furnished under the direction of the Secretary of War, by the said Smith and Hardcastle.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, made an adverse report on the resolution of the Senate relating to the loan to the State of Vermont of two field-pieces; which was ordered to be printed.

Mr. UNDERWOOD, from the Committee on Claims, reported a bill for the relief of the legal representatives of Joseph Watson; which was read a first time, and ordered to a second reading.

Mr. DIX, from the Committee on Military Affairs, reported a joint resolution allowing additional compensation to military storekeepers; which was read and ordered to be printed.

Mr. NILES, from the Committee on the Post Office and Post Roads, made an adverse report on the House bill for the relief of William De Buys, late postmaster at New Orleans.

On motion of Mr. YULEE, the Committee on Naval Affairs was discharged from the further consideration of the petition of Priscilla Decatur Twiggs, niece of Stephen Decatur.

Mr. RUSK, from the Committee on Revolutionary Claims, reported House bill for the relief of the heirs or representatives of Joshua Eddy, with an amendment, and asked for its immediate consideration; which was agreed to.

Mr. RUSK. One word of explanation in regard to the facts of this case, as they have been conclusively proved before the committee. Mr. Eddy was a captain in the revolutionary war. After having served some time he became insane, and was sent home on furlough. By a resolution of Congress, which passed in 1778, officers in the condition in which Mr. Eddy was placed were entitled to bounty land and twelve months' extra pay. Mr. Eddy remained insane. He disposed, however, by direction of his family, of his bounty land, and never became aware that he was entitled to extra pay. He made application for commutation pay, but that application was refused, and he never received anything more than the bounty land. This bill is for the purpose of giving to his heirs the extra pay to which he was entitled under the act of Congress, and which he never received.

The amendment was agreed to, and the bill was reported to the Senate.

The question being on ordering it to a third reading—

Mr. PHELPS. I have had so much to do with cases of this kind that I feel bound to make an inquiry of the committee, and that is, what evidence there was before the committee to satisfy them that the claim ought to be allowed?

Mr. RUSK. The evidence is this: There is upon the records of the department no evidence whatever that he ever received his twelve months' extra pay. He became deranged while in service, and went home, where he remained. Two of his sons, who are men of high respectability, made affidavit of the facts. It appears, that shortly after his return home, a man of the name of Emory called and made a purchase of his bounty land, and something was said by Emory at the time about his being entitled to receive commutation pay, as they understood it, and under that impression application was made for commutation pay, but it was refused. He was entitled to receive twelve months' extra pay, but not commutation, and he did not obtain it, because his friends made the wrong application.

Mr. PHELPS. This is but a small matter certainly, but it seems to me, sir, that it involves a principle which we ought not to sanction, that of relying upon the absence of evidence in the public archives in respect to such claims as this. It is now something like seventy years since this man left the service, and we all know that within that period the Treasury Department has been burnt twice and the War Department once, and consequently the vouchers respecting the settlement of soldiers' claims are necessarily very imperfect. I think there is no reliance to be placed upon a simple certificate of the Auditor that the voucher does not appear upon the record, which will justify us in determining that the claim has never been paid. While I had the honor of being at the head of the committee which was charged with the duty of looking into these claims, we had repeated applications for arrearages. But the committee did not think it safe to establish a precedent of this kind, and they have uniformly, so far as I know anything about it, refused to make the allowance upon the mere want of evidence of payment heretofore made existing in the public archives. There are a great variety of cases in which applications of this kind have been made, but the rule has always been observed by this body of disallowing such claims, and I know of no reason why the Senate should depart from it now. Indeed, all such claims are barred by the statute of limitations, which passed as early as the year 1797. In 1797 and 1798 an attempt was made to open the way for an enlargement of the time in which such cases should be permitted to be brought forward; but it did not prevail. If we were to pass this bill, it would, I think, be a very bad precedent.

Mr. RUSK. No reliance was placed by the committee upon the absence of any proof in the department that this claim had been paid; none whatever. So far from that, there is in the department evidence showing that seven hundred and eighty-eight dollars of pay is still due to this man. The records in the Treasury Department, in the Third Auditor's office, show this fact. So little reliance did the committee place on the want of evidence of any payment having been made, that they directed that fact to be stricken out from the report. The evidence that they relied upon was,

in the first place, that he was insane. The evidence upon that point is conclusive; that he went home and remained with his family, and continued insane. The witnesses have a distinct recollection of Emory purchasing from him his bounty land, and that he also never received any extra pay. And there is other evidence also showing that he did not receive it, because, in 1818, there was an application made on his behalf for commutation, under the supposition that he was entitled to commutation pay, and the application was unsuccessful. This evidence is sufficient to satisfy my mind that he is entitled to receive the sum that is now claimed. The reason for his receiving a part of what was allowed him under the resolution of Congress, and not receiving the other, has been satisfactorily shown. Under a mistaken view of what he was entitled to, he made application for commutation, which was refused, and the twelve months' extra pay to which he was entitled he never received.

On motion of Mr. NILES, the further consideration of the bill was postponed until Thursday next.

Mr. SEBASTIAN submitted the following resolution, which was considered and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of extending the Napoleon and Rocksoo mail line by steamers to Batesville, on White river, in the State of Arkansas.

The joint resolution from the House of Representatives authorizing the Secretary of the Treasury to cancel certain bonds for duties on goods destroyed by fire while in public store at Norfolk, Virginia, was taken up, read a first and second time by its title, and referred to the Committee on Commerce.

INDIAN APPROPRIATION BILL.

Mr. ATHERTON. I understand from the Senator from Connecticut that he is very desirous of going on with his post office bill, in the hope that it may be finished to-day; I therefore move to take up the Indian appropriation bill, for the sake of making it the special order, and that it may come up for consideration as soon as the post office bill has been considered.

Mr. BRIGHT. The Senator from Ohio [Mr. ALLEN] has informed me that he is desirous of being heard on the amendment that is pending, and others that he has to offer, but as he is detained to-day from his seat by sickness, at his request I ask that the bill may be postponed.

Mr. ATHERTON. After the business of the morning hour is through, then, I shall move to take up the Indian appropriation bill for consideration.

ADMISSION OF CALIFORNIA AS A STATE.

Mr. DOUGLAS, from the Select Committee to which was referred the bill for the admission of California into the Union as a State, reported the following amendment thereto, viz:

Strike out all after the enacting clause, and insert the following:

That Congress doth consent that the portion of the territory of the United States which is included within the following limits, to wit: beginning in the Pacific Ocean on the parallel of forty-two degrees of north latitude; thence east on said parallel to the dividing ridge which separates the waters flowing into the Colorado river from those which flow into the Great Basin; thence along said dividing ridge to the point where it was crossed by Lieutenant Colonel John C. Frémont, in eighteen hundred and forty-four, as shown on the map of his exploration; thence southwestwardly along the line of said exploration, as shown on the map of said Frémont's surveys, published by order of the Senate in eighteen hundred and forty-eight, to its intersection with the one hundred and seventeenth meridian of west longitude; thence in a direct line to the intersection of the Sierra Nevada Mountains with those of the west range; thence due west to the Pacific Ocean; thence along the coast, including the adjacent islands, to the place of beginning, shall be set apart as the territory of one State, and, upon the fulfillment of the conditions hereinafter contained, the same is hereby declared to be one of the States of this Union, by the name and style of the State of California, upon an equal footing with the original States in all respects whatsoever, with the unconditional reservation to the United States of all right of property in the public domain, and other property ceded to the United States by the treaty of peace concluded with the Republic of Mexico, February second, eighteen hundred and forty-eight, free from taxes or assessments of any kind by said State, and also the power of disposing of the same, including the right of adjusting all claims and titles to lands derived from foreign Governments, in such manner as Congress shall prescribe.

SEC. 2. *And be it further enacted*, That the acting governor of the Territory of California, so soon as he shall be furnished with a copy of this act, to the end that the people may have an opportunity of establishing for themselves a constitution and republican form of government for said State, shall immediately proceed to lay off the country embraced within the limits of the proposed State into convenient districts for the election of delegates to a convention for the purpose of forming a State constitution, and shall designate the time and place of holding the election in each district; appoint the officers to conduct the same, and prescribe the mode of making the returns thereof; and shall apportion the delegates, fifty in all, among the several districts, as near as may be, according to the number of legal voters in each; and he shall also designate the time and place for the assembling of said convention. Every white male citizen of the United States, including those who shall have become such under the provisions of the said treaty with Mexico, being actual residents of the proposed State, and having attained the age of twenty-one years, shall be entitled to vote at said election.

SEC. 3. *And be it further enacted*, That so soon as said constitution and State government shall have been established, and the President of the United States officially notified thereof, he shall issue his proclamation declaring the said State of California to be one of the States of this Union, upon an equal footing with the original States in all respects whatever.

SEC. 4. *And be it further enacted*, That the laws of the United States, so far as they are not locally inapplicable, are hereby extended to and declared to be in force in said State, and until the next general census the said State shall be entitled to one representative in the Congress of the United States.

SEC. 5. *And be it further enacted*, That Congress doth consent that the portion of the territory of the United States which is bounded as follows, to wit: on the north by the forty-second parallel of north latitude, on the east by the summit of the Rocky Mountains and the State of Texas, on the south by the Republic of Mexico, and on the west by the proposed State of California and the Pacific Ocean, including the islands adjacent to the shore, shall become one of the States of this Union, by the name and style of the State of New Mexico, or such other name as the people thereof shall, in their constitution, adopt, upon an equal footing with the original States in all respects whatsoever, so soon as it shall contain the proper number of inhabitants, and they shall establish for themselves a constitution and republican form of State government, the United States reserving to themselves all rights of property in the public domain and other property ceded to the United States by the treaty concluded with the Republic of Mexico, on the second day of February, eighteen hundred and forty-eight, free from taxes and assessment of any kind by said State, and also the power of disposing of the same, including the right of adjudicating all claims and titles to lands derived from any foreign Government, in such manner as Congress shall prescribe.

SEC. 6. *And be it further enacted*, That the laws of the United States, so far as they are not locally inapplicable, are hereby extended to and declared to be in force in the country embraced within the limits of the said State of New Mexico.

SEC. 7. *And be it further enacted*, That the sum of one hundred thousand dollars, of any moneys in the treasury not otherwise appropriated, be and the same is hereby appropriated for the purpose of carrying into effect the provisions of this act.

POSTAGE.

The bill to reduce the rates of postage was, on motion of Mr. BRIGHT, postponed until to-morrow, in consequence of the absence of a Senator who desired to take part in the debate on the bill.

RAILROAD TO THE PACIFIC.

Mr. NILES. As a matter that is of importance to the whole Union, I move to take up the bill to set apart and sell to Asa Whitney, of New York, a portion of the public lands, to enable him to construct a railroad from Lake Michigan to the Pacific Ocean, for the purpose of taking the sense of the Senate, and ascertaining whether they are disposed to do anything upon the subject at the present time. I am not disposed to enter into any argument upon the question, further than to say, that it is a question which is interesting to the whole country; and I believe that the people are very much surprised that Congress has not before this in some way moved in relation to it. If this bill should be taken up, there will be several propositions presented to amend it in regard to the course of the route, which, of necessity, will bring up the whole subject. The question for the Senate to decide is, whether they are disposed to enter upon its discussion or not. Our peculiar interests in California, it seems to me, demand something from us in order to sustain and keep up our connection with that distant portion of our territory; and, in in the judgment of many, this question involves the continued connection of that country with this Union. For, if it is suffered to remain as it now is, separated by an immense natural barrier, it would appear, judging from the order of nature—from its thus being a separate country—that it is hardly to be expected that it will continue a part of the Union. It is evident that, in any plan or arrangement affecting her government, she must be made a part of our Union. Her interest and ours must be connected; and if they are not, it can hardly be expected that, with no communication between us, save through a circuitous one by sea, or through foreign countries, it can, for any great length of time, form a part of the Confederacy. I wish Senators to vote upon the question, so that it may be determined as to whether they are disposed to look into it or not.

Mr. BORLAND. I would simply remark to the Senate that I am directed by the Committee on Public Lands, in lieu of any report upon a memorial of a similar character, to urge the passage of a joint resolution reported from the committee at the last session, adverse to the bill and memorial of Mr. Whitney, and simply authorizing the Secretary of War to cause surveys to be made from the Mississippi valley to the Pacific Ocean as to the best route. The committee, after examining the subject carefully during the last and the present session, have come to the conclusion that it is inexpedient for the Government to undertake, either by itself or by means of companies of individuals organized for that purpose, the construction of any road, until the best and shortest route has been ascertained, considered in all its bearings and relations. To simplify the matter, then, as it comes before the Senate, the committee would urge the taking up and passing of this joint resolution, deeming it impossible for the Government or its agents, or any one, to determine upon any route as the best one until the several routes that have been suggested are examined and compared. The only mode, therefore, of obtaining this information, indispensable to a proper view of the matter, is to have made a regular survey and exploration of that country. I hope that, instead of taking up the bill of Mr. Whitney, this joint resolution will be taken up and acted upon.

Mr. FOOTE. Mr. President, I regret that my friend from Arkansas should have expressed himself in relation to this subject in the manner he has done. I did not suppose that there could be any opposition to the motion made by the honorable Senator from Connecticut.

This particular measure has been under the consideration of the country for a long while; it has been favorably pronounced upon by nineteen or twenty of the State Legislatures of this Union, and it has attracted favorable attention from every part of the Confederacy. At the last session of Congress, owing, I suppose, more to the fact that we were wholly occupied with very important business than to anything else, this bill was laid upon the table. The motion offered by the Senator from Connecticut is simply for the purpose of calling up the bill and fixing a day for its consideration. It is surely worthy of respectful consideration at our hands, and I desire particularly that it may be taken up at the present time for the purpose of enabling me to offer an amendment, which I hold in my hand, and that an early day may be fixed for its consideration.

I think it is due to the measure itself, due to the State Legislatures that have favorably considered and pronounced upon it, due to the enterprising individual whose name is connected with the scheme, and who has devoted so much of his life to the development of the important facts connected with it, that the bill should be taken from the table and a respectful consideration awarded to its propositions. I hope, therefore, that Senators will make no further opposition to the measure being taken up at this time, especially as I hold an amendment in my hand which I am exceedingly anxious to have printed and considered.

Mr. BORLAND. Mr. President, I certainly am as much disposed as the honorable Senator from Mississippi, or anybody else, to treat with respect the action of State Legislatures. I am also as much disposed as any one, to treat with respect the opinions of Senators. But I certainly do not feel called upon to treat with any peculiar mark of respect—certainly with no more than we have already extended to the propositions of other individuals—the proposition of an individual who comes before the Congress of the United States and asks the action of Congress for his especial benefit, and to enable him to carry out a gigantic speculation.

With respect to the action of State Legislatures, to which the Senator from Mississippi has referred, and the views of Senators upon this floor, I am disposed to treat them with the highest degree of respect; and the joint resolution to which I have alluded has for its very object the showing of this respect. That resolution was reported, and it is now urged, for the purpose of enabling the Government to get the very information which will enable them to respond to the resolutions of the State Legislatures, and to the views of Senators

It is to enable the Government to get the very information without which they cannot act in this matter at all. Who will undertake to say, here or elsewhere, that he knows this route of Mr. Whitney's to be the best and the shortest route? Who will undertake to say that he knows anything about the route at all? Has it ever been surveyed? Has Mr. Whitney ever traveled over it, or explored it in any way whatever? No, sir; he knows nothing about it. He knows, as we all know, that there is a vast tract of country, according to his own showing, some twelve hundred miles in extent, destitute of wood and water, and a large portion of it covered with snow of great depth, if not during the whole year, at least for nearly one-half or two-thirds of it. The only explorations of the route which have ever been made are those of Colonel Frémont and Major Gillespie; and I understand that it is their opinion, based upon actual observation, that the route is utterly and wholly impracticable.

Mr. FOOTE. Will my friend allow me to state that one object proposed by my amendment is to change the route.

Mr. BORLAND. That certainly is a very good object; but the joint resolution of which I have spoken obviates all the difficulties which now surround this project. It directs the Secretary of War to have all the necessary survey and explorations made for placing the Government in possession of such information as will enable them to decide upon the best route, and to take into consideration the propriety of ordering or providing in any way whatever for the construction of a road. It does not propose to reject Mr. Whitney's route, or the route proposed by Bayard & Co., or any other certain route. It proposes simply to put the Government and Congress in possession of the information which is indispensable to the formation of a correct judgment upon the matter. As for myself, without this information, I cannot form a correct opinion upon the subject, and I cannot conceive how it would be possible for any Senator to form a correct opinion without it.

Mr. FOOTE. Mr. President, I regret very much the continuation of this unseasonable debate. The only proposition before the Senate is, whether we will take up the bill from the table for consideration. Has any one here proposed to close the eyes of Senators to the real character of the measure? Is there any attempt to mystify or conceal the real objects of this project? Is there any proposition here presented save the motion of the honorable Senator from Connecticut, which is offered merely to bring the subject before the Senate for consideration at some early day? None at all, sir.

Why should not the ordinary course of legislation be adopted in regard to this bill? I know that my friend from Arkansas, who has just denounced this project, has done so very honestly, and very patriotically, but I beg leave to say to him that there are others who have examined the subject also, who decidedly differ with him in opinion. I beg leave to remind him that in the House of Representatives a very able report was made several years ago, after a full examination of all the facts of the case, in favor of the project; and a very favorable report was made at a still earlier period in this very body by the honorable Senator from Illinois, (who, I regret to see, is not now in his seat,) after he had given the whole subject a most profound and laborious scrutiny.

Mr. BORLAND. Will my friend allow me to interrupt him for a moment? I wish simply to say, that, so far as the Senator from Illinois is concerned, he has, upon further examination of the subject, changed his opinion, and now believes the scheme of Asa Whitney to be utterly impracticable.

Mr. FOOTE. The Senator from Illinois is of age, and can answer for himself. If that Senator chooses to abandon those views of his, so ably, and I may say, so eloquently expressed—marked, as I conceived they were, with high intellectual power, extraordinary labor, and remarkable public spirit, and which, if he never accomplishes anything else to cause him to be favorably regarded hereafter, will, I doubt not, secure to him the esteem and gratitude of posterity—I say, if the Senator from Illinois chooses to abandon his report, he must do so; but the report will still stand the test of "scrutiny, of talent, and of time." The facts of the case are there powerfully and irresistibly presented. The report shows plainly that, even at the time of its presentation, able men, who had explored this subject and investigated it in all its bearings, had arrived at a favorable conclusion in regard to this scheme of improvement.

And, sir, when a measure has been most respectfully and favorably reported upon in both Houses of Congress, when some nineteen or twenty State Legislatures, after thorough consideration of the matter, have declared themselves in favor of the project, I ask what reason can there be cogent enough so to influence the minds of Senators here as to induce them to refuse to take the bill from the table for respectful consideration, at some future day, when we may have leisure to look into it; especially when a Senator urges in his place a request that the motion shall be received, in order to enable him to offer an amendment which, in his opinion, obviates all the difficulties heretofore presented?

My friend says he has not sanctioned the scheme, because he looks upon it as a very extravagant one. It may be so; but those who have examined the subject like myself, and have come to a different conclusion, are very anxious to meet that Senator and others in courteous and fair discussion of this measure. We wish to seize upon no advantage. We only claim justice at the hands of this body. We profess, after examining the subject, to be prepared to declare our opinions in favor of the general plan proposed, with certain modifications. We shall not be able, perchance, to exhibit all the logical energy of which others may rightfully boast in support of such views as we have adopted, but we claim the privilege of being heard in the enunciation of those views, and in the maintenance of such opinions as we have formed. Why a spirit of proscription should penetrate this Chamber in regard to this particular measure, I cannot divine. There is no intention to do injustice to any individual in pressing this measure to consummation. There is no scheme of midnight conspirators against the public peace and welfare which is to be combated. Why it is that this particular measure should be hunted down in this Chamber, I cannot understand. I am sure that the Senate will sustain the motion of the Senator from Connecticut.

The motion of the Senator from Connecticut was then agreed to, and the bill was taken up accordingly.

Mr. FOOTE then moved to amend the bill in the following manner:

Provided, That, after crossing the Missouri river, said road shall be constructed on a line running southwesterly, as nearly straight as the face of the country will admit, and where all the streams can be bridged, to a "pass" through the Rocky Mountains, south of that called the "South Pass," and thence to the Bay of San Francisco or Monterey, on the Pacific, provided such practicable pass and route can be found; but if no such practicable route can be had north of, then said road shall run as direct as may be feasible to the "Paso del Norte," and thence to San Diego, on the Pacific, always within the territory of the United States.

And after said road shall have been completed, as above specified, or before, if Congress may so permit or direct, without hinderance to the advancement of the main road, the said Whitney or his assigns shall have power to continue a branch from said main road to a suitable place on the Pacific for a great commercial harbor, at or north of the Columbia river, always within the territory of the United States.

And the same amount of land (thirty miles wide on each side of the said road, with an equivalent number of acres for any and all of which may have been sold) is hereby set apart and sold to the said Whitney, his heirs and assigns, on the same terms and conditions as specified in this bill, for the main and principal road.

On motion of Mr. FOOTE, the amendment was ordered to be printed.

Mr. BORLAND moved to amend as follows:

Strike out all after the enacting clause, and insert:

That the Secretary of War be, and he is hereby, directed to employ such portion of the Topographical Corps as may be necessary to accomplish the object, in exploring such routes as he may deem proper, with a view to test the practicability of constructing a railroad from the northern lakes, or from any one or more points on the Mississippi river, below the Falls of St. Anthony, to the Pacific Ocean, and that said Secretary report to Congress, as early as practicable, the result of the explorations, and the comparative advantages and disadvantages of the different routes which may be explored.

On motion of Mr. BORLAND, the amendment was ordered to be printed.

The further consideration of the bill was then postponed to Monday next.

RAILROAD ACROSS ISTHMUS OF PANAMA.

Mr. BENTON said he had been waiting some time for an opportunity to move to take up a bill in which the Senate had heretofore made some progress—he referred to the bill making compensation for the transportation of naval and military stores across the Isthmus of Panama. He now moved to postpone the prior orders of the day for the purpose of taking up that bill.

The motion was agreed to, and the bill was taken up for consideration as in Committee of the the Whole.

Mr. DOUGLAS submitted an amendment as a substitute for the entire bill, which he briefly explained. He said he proposed to reduce the sum to be paid to $250,000. He proposed also that the contract should be made with liberty to the Government of the United States to discontinue the contract at the end of ten years, instead of making its continuance imperative for twenty years. But, while he proposed thus to give power to the United States to discontinue the contract at the end of ten years, he did not contemplate relieving the company, if they should desire it, at the end of that time. The contract was to be binding on the company for the whole period, but not on the Government if it should desire its discontinuance. His substitute also proposed certain restrictions on the charges to be made in the transportation of American citizens and American freight; in short, all persons and things that shall go there in American vessels. There were, likewise, certain other restrictions upon the power of the company, which will be binding upon them provided the Government shall make the contract. He then submitted his amendment, which is as follows:

Strike out all after the enacting clause, and insert the following:

That the Secretary of the Navy be, and he hereby is, authorized and directed to enter into a contract, on behalf of the United States, with William H. Aspinwall, John L. Stephens, and Henry Chauncey, their associates and assigns, for the transportation, by steam, of naval and army supplies, including troops, munitions of war, army, naval, and public stores, the mails of the United States, and all persons in their employment, to and fro over a railroad to be constructed by them and their associates across the Isthmus of Panama, from the Atlantic to the Pacific Ocean: *Provided*, That the annual sum to be paid for such transportation shall not exceed the sum of two hundred and fifty thousand dollars per annum: *And Provided*, That no payment under such contract shall be made until said railroad shall be so far advanced as to permit said transportation across the Isthmus of Panama wholly by steam power: *And provided further*, That the contract to be made in pursuance to this act shall require the said railroad to be commenced within three months and be completed within three years from the date of the contract.

Sec. 2. *And be it further enacted*, That the said contract shall contain a provision establishing a tariff of rates for the transportation over the said road of all citizens of the United States, and of all persons who may arrive in the harbors or at the depôts of said road in registered or enrolled vessels of the United States; and for all goods, wares, and merchandise which may be conveyed to said harbors and depôts of said road in registered or enrolled vessels of the United States, as follows, viz: For and during the first five years after the completion of said road, at a rate not exceeding eight dollars per head for passengers, and eight dollars per ton for freight. From and after five years from the completion of said road, at a rate not exceeding five dollars per head for passengers, and five dollars per ton for freight; from and after ten years from the completion of said road, at a rate not exceeding four dollars per head for passengers, and four dollars per ton for freight; and from and after fifteen years from the completion of said road, at a rate not exceeding three dollars per head for passengers, and three dollars per ton for freight: *Provided*, That Congress may, at any time after the said railroad shall have been completed and in operation ten years, rescind the said contract by joint resolution; in which case the tariff hereby established shall be annulled. That during the existence of the said contract all citizens of the United States, and all other persons who may arrive at the harbors and depôts of the said road in registered or enrolled vessels of the United States, and all freight which may arrive in such vessels, shall be transported over said road in the order and according to the time of arrival. At least three-fourths of the stock of the said road shall at all times be owned by citizens of the United States.

Mr. WEBSTER. I do not know that I have any particular objection to make to the course of proceeding proposed by the honorable Senator; but I fear that the course he recommends the Senate to adopt may lead to some embarrassment. I understand the Senator to move this as a substitute for the bill originally reported. I am not aware that there has been heretofore any such practice. It appears to me that the substitute proposed by the honorable Senator must be considered as an amendment to the original bill, so as not to preclude any other subordinate proposition.

Mr. DOUGLAS. I intended to add a distinct reservation—that it should be left open to amendment.

Mr. WEBSTER. I think that the Senator had better proceed with his amendments *seriatim*.

Mr. DOUGLAS. I have no objection to that course; but my purpose was to make the substitution of what I now offer for the bill as it originally stood, and to subject that substitute to such amendment as may be deemed necessary.

Mr. KING. There will be no difficulty, I apprehend, in regard to receiving any amendments after the substitution is made, precisely as they might have been received and incorporated in the original bill. The bill which is proposed to be stricken out is still open to amendment, as is the proposition that has been made by the Senator from Illinois. But the subjects are now in the possession of the Senate, and both are open to amendment before taking the final question. I cannot see that any difficulty can arise.

Mr. WEBSTER. I do not think it is very important, but I understand that the question before the Senate is to adopt the amendment now proposed as an original bill, and that when this amendment is inserted no modification of the original bill can be made. I think it would be better to take the question on the propositions to amend separately.

Mr. BENTON. I concur with the Senator from Illinois in regard to the mode of proceeding. The Senator showed me his amendment, and we talked the matter over. I prefer his substitute to the bill originally reported by the committee. It was thought that the proceedings would be expedited by moving to substitute one bill for the other, instead of making specific amendments to different parts of the original bill. It was thought that it would be presenting the subject more intelligibly, to draw up a new bill, that should be complete from the enacting clause, than to offer amendments to the various sections of the bill. It was not our expectation that a vote would be taken upon it as it is, but that the amendments which may be offered by those who have charge of the original bill would become the subject upon which the Senate would act in going on to perfect the amendment. My idea is, that this amendment, being offered as a substitute for the whole bill, discussion may be had upon it, and, if adopted by the Senate, it will foreshadow the inclination of the Senate, and the details may be afterwards arranged. The object is to bring the subject before the Senate, that the attention of Senators might be turned to it, and final action had at an early day. We are now ready to go on and endeavor to perfect the bill; but if the Senator from New Hampshire is anxious to proceed with the appropriation bill of which he gave notice, I will not object to going on with that bill in preference to this, retaining the right of proceeding with this bill as soon as the appropriation bill has been disposed of, it being now printed and laid upon our tables.

Mr. WEBSTER. It is a mode of proceeding that has never before prevailed, I think, in the Senate; and it occurred to me that, if the substitute were adopted bodily, it could not afterwards be modified.

Mr. ATHERTON. I move that the subject be passed by until to-morrow.

Mr. CAMERON. I desire to say, that, in regard to the question of amending this substitute, if it be taken as standing in the place of the original bill, it may be amended in the same manner as the original bill.

The further consideration of the bill was then postponed until to-morrow.

INDIAN APPROPRIATION BILL.

On motion of Mr. ATHERTON, the Senate proceeded to consider, as in Committee of the Whole, the bill making appropriations for the current and contingent expenses of the Indian Department, and to fulfill certain treaty stipulations with Indian tribes for the year ending the 30th June, 1850.

Mr. ATHERTON said, in consequence of the recent ratification of a treaty with an Indian tribe, an amendment to this bill became necessary; he therefore moved to amend by adding the following items, which were agreed to:

For fulfilling treaty with the Menomonies ratified at the present session of Congress, to wit:

For payment of the chiefs, to enable them to settle and arrange the affairs of their tribe preparatory to their removal to their new country, (per first clause of 4th article of treaty of 18th October, 1848,) $30,000.

For payment of the mixed blood, and in proportions to each as the chiefs in council and a commissioner to be appointed by the President shall designate, (per 2d clause of 4th article of same treaty,) $40,000.

For payment of expenses of removal, (per 3d clause, same article and treaty,) $20,000.

For payment for subsistence for one year after removal, (per 4th clause of same article and treaty,) $20,000.

For the establishment of a manual-labor school, the erection of a grist and saw-mill, and other necessary improvements, (per 5th clause of same article and treaty,) $15,000.

For the payment of improvements on the lands ceded, (per 8th clause of same article and treaty,) $5,000.

For the services and expenses of a commissioner to distribute the half-bred fund, (per 2d clause of same article and treaty,) $2,000.

For expenses of a delegation of Indians to explore their new country, (per 6th article of same treaty,) $4,000.

The amendment was agreed to.

Mr. ATHERTON moved further to amend the bill by inserting the following amendment, which was agreed to:

For payment to the emigrant New York Indians who went west in the year 1846, their proportion of the annuities due the Senecas and the Six Nations of New York for that year, to be reimbursed to the United States when recovered from Samuel H. Burch, late Indian agent, and his sureties, $478 65.

Mr. ATHERTON moved further to amend the bill by inserting the following; which was agreed to:

For compensation to an agent and two interpreters for the Indian tribes of Texas, in addition to former appropriations for this object, $3,000.

Mr. BELL said he was instructed by the Committee on Indian Affairs to report the following amendment to the bill:

For carrying into effect the treaty of the 6th of August, 1846, with the Cherokees, in addition to the sums heretofore appropriated, the further sum of one million two hundred and thirty-one thousand four hundred and twenty-four dollars and seventy-five cents. That is to say, the sum of $586,398 46, to carry into effect the provisions of the 4th and 5th articles of the treaty of the 6th of August, 1846, with the Cherokees; and the sum of $645,525 29 to carry into effect the 9th article of the said treaty with the Cherokees.

Mr. ATHERTON. I hope the Senator will explain the reasons for his amendment. If I heard it correctly, it proposes to increase the appropriations embraced by the bill more than a million of dollars. The bill, as it came from the House of Representatives, contains the appropriations recommended by the department for the fulfillment of the stipulations for various tribes. It contains, so far as I am aware, no alteration of the existing law, but merely appropriations recommended by the department for fulfilling stipulations contained in treaties which are the law of the land. The amendment proposed by the Senator from Tennessee contains an appropriation, or proposes an appropriation, to the amount, in one instance, of five hundred thousand dollars, and in the second clause, of over six hundred thousand, making a total amount of over a million of dollars; whilst the whole amount contained in the bill, as it came from the House, was only about eight hundred thousand. I hope the Senate are not prepared to vote this large amount of money, in addition to the other items contained in this appropriation bill, without some explanation of the reason why such amendment should be adopted, and the object which it proposes to fulfill. I trust the gentleman from Tennessee will explain the ground upon which the amendment is offered.

Mr. BELL. The honorable Senator from New Hampshire has called the attention of the Senate to the fact that the amount proposed to be appropriated by this amendment is over a million of dollars. The different items contained in the amendment amount, I believe, together, to one million two hundred and thirty-one thousand some odd dollars. These items, the honorable Senator stated, were not included in the estimates of the proper departments, reported to Congress as necessary for carrying into effect treaties with the Indian tribes. That, I believe, is probably true. No estimate has been made by the Secretary of the Treasury or of the War Department, so far as I am advised on the subject; and I suppose the reasons for the omission are to be found in the difficulty which has been felt heretofore in adjusting the amount which ought to be appropriated to carry into effect the treaty of 1846. The amount proposed by the officer of the Government, the Commissioner of Indian Affairs, at the last session, and transmitted to Congress for their guidance in making appropriations at that time, fell very far short of what the parties interested—the Indian tribes concerned in the treaty of 1846—supposed was fairly due them, according to the stipulations of their treaty. The whole subject was submitted to Congress, and it was referred to the Committee on Indian Affairs of the Senate, and I presume of the House also. The necessity for investigation that was thrown upon the committee at the last session, from the general terms in which the subject was committed, involved such a latitude of inquiry that the committee found it would be impossible, during the remainder of the session—and, indeed, during the entire session, if they had had the whole session to devote to it—to have investigated all the accounts minutely, even if they had no other business confided to their care. The committee, therefore, came to the conclusion that there would be greater safety, not only to the treasury of the United States, but to the Indians themselves, that these accounts be referred to the general accounting officers of the treasury who have judicial functions conferred upon them by Congress for the adjudication of such claims, as well as a large amount of clerical force to enable them to investigate the details of all those accounts. They accordingly reported to the Senate a resolution for the purpose of carrying that conclusion into effect, and the Senate ordered the Comptroller and the Second Auditor of the Treasury to examine the accounts which had been first presented to the Commissioner of Indian Affairs, and reported against by him. Under that resolution of the Senate, the Auditor and Comptroller found themselves unable to complete their report before the adjournment, and with the acquiescence of the Senate they were allowed the vacation in which to make the investigation and to prepare the report. They had not finished the investigation into all the items of expenditure in all their classes at the commencement of the present session, and, in obedience to the request of the parties concerned, the subject being referred to them again at the present session, the Committee on Indian Affairs reported to the Senate a resolution calling on those officers to make their report on the basis upon which it had been reported upon on a former occasion by the Committee on Indian Affairs, taking his classification of the different items of expenditure as stated in his report, although it was believed by the parties concerned not to be so favorable to their interest as it should be, but, in consideration of avoiding further delay, they consented to take that basis. The Auditor and Comptroller have, under this resolution, reported what is due, taking as the basis of their report the amount reported by the Commissioner on Indian Affairs under the various heads of expenditure, enumerated by him as being comprised in the treaty of 1835. And the proposition that is now submitted, under the direction of the Committee on Indian Affairs, is the balance found to be due to the various portions of the Cherokee nation; that is, the sum of five or six hundred thousand dollars due to the old settlers, as they are called, and six hundred thousand and odd dollars due to the Eastern Cherokees, who emigrated under the treaty of 1835. Now, these are appropriations which are as proper to be appended to this bill, as any other items that are for the purpose of carrying into effect an Indian treaty, signed, ratified, unimpeached, and which has now been an existing treaty between the United States and the Cherokees since 1846. I do not pretend to say it is any fault of the Government for not having made the calculation, because I am aware of the difficulties attending the adjustment of this matter; but they have had now two years and six months. We have had an elaborate report from the Commissioner of Indian Affairs, and the Indians, by their delegates, have finally agreed to the report of the commissioner in regard to the expenditure he has allowed under the treaty of 1835, as he believed them to be applicable. We have had the judgment of the Comptroller of the Treasury and of the Second Auditor, proceeding on this basis as to the amount, but differing with the Commissioner of Indian Affairs as to the interpretation of the treaty; and it is a question, therefore, not so much of figures as it is a question of purely legal inquiry as to the interpretation of the treaty of 1846.

I understand that there is not one hundred dollars difference between the Comptroller and Auditor and the Commissioner of Indian Affairs as to the amount expended. The only difference between these classes of officers—between the Commissioner and the Auditor and Comptroller—arises upon the question of legal construction of one of the articles of the treaty of 1846; and I ask the attention of the Senate to the treaty, to see if there possibly be any real difference of opinion here. I will state, at the outset, in justice to the Commissioner of Indian Affairs, that he has based his judgment of the proper interpretation of the third article of the treaty of 1846 more upon the construction given carelessly by Congress upon a small appropriation to pay a claim allowed to one of the commissioners who were employed to negotiate the

treaty, than upon his own judgment in regard to the treaty. The Committee on Indian Affairs have given the subject their serious attention, and I find only about one hundred dollars difference in the result, except in regard to the purely legal question as to the interpretation of the third article of the treaty; and I shall, by referring to that article, with some explanatory remarks, submit to the Senate whether it is a question which ought to give rise to serious debate, particularly when you come to understand, by a review of the report of the Commissioner of Indian Affairs, that it is not so much his individual judgment as it was some supposed construction carelessly given to this treaty by act of Congress, without looking into this question at all.

I have only further to say, as a preliminary remark, that, in regard to this treaty of 1846, it was intended, on the part of the Government of the United States and the delegates representing these different factions of Indians, to close up the wounds and to reconcile the differences which existed between the parties from the time of making the treaty of 1835 up to 1846, a period of eleven years from the time these disputes arose, which gave occasion, in some instances, for heartburnings, and even led to bloodshed between the various portions of this tribe, and which prevented them, until the treaty of 1846 was made, from acting in harmony or in concert in carrying forward their various measures for their own advancement and improvement. The treaty of 1846 was made for the purpose of putting an end not only to the difficulties which arose among the Indians themselves, but to the annoyance which the Government experienced in consequence of these difficulties. I believe we have seen sometimes three sets of delegates from this tribe knocking at your doors and claiming redress, one party against another, and complaining against this Government for not doing full justice to all of them. The treaty of 1846 was mainly entered into with the view of giving satisfaction to what is called the Old Settlers. Some three thousand of the Cherokees had removed west of the Mississippi, and in 1835 the Government entered into a treaty with the Indians remaining east of the Mississippi, by which they provided, as they understood it, for the whole interest of the Cherokees remaining east of the Mississippi by a grant amounting to about eight millions of acres of land, with the privilege of emigrating to the West, arranging with their friends the Old Settlers, and taking and enjoying their full portion of the eight millions of acres. This continued from 1835 to 1846; the treaty of 1835 assigned to the Cherokees their whole interest in the eight millions of acres without trenching upon the interest which the Old Settlers claimed. They complained further that the Eastern Indians had been permitted to share with them in the seven millions which had been given them in the West, which they held in their own right, as they supposed, by treaties entered into prior to 1835. Well, it was to content these Old Settlers chiefly, and to close up all debatable points, that this treaty of 1846 was entered into.

I will now call the attention of the Senate particularly to the article which forms the ground of difference between the Auditor and Comptroller and Commissioner of Indian Affairs in relation to the treaty of 1846. The third article of the treaty is in these words:

"Whereas certain claims have been allowed by the several boards of commissioners heretofore appointed under the treaty of 1835, for rents, under the names of improvements and spoliation, and for property of which the Indians were dispossessed, provided for under the 16th article of the treaty of 1835; and whereas the said claims have been paid out of the five million fund; and whereas said claims were not justly chargeable to that fund, but were to be paid by the United States; the said United States agree to reimburse the said fund the amount thus charged to said fund, and the same shall form a part of the aggregate amount to be distributed to the Cherokee people, as provided in the 9th article of this treaty."

I will remark here, that the Commissioner of Indian Affairs, in his report as to the amount due to the Old Settler party, has admitted fourteen thousand dollars to be due; but in making up his balance he has excluded what I have just read, and which it was contended by this party ought to be reimbursed out of this fund.

"And whereas a further amount has been allowed for reservations, under the provisions of the 13th article of the treaty of 1835, by said commissioners, and has been paid out of the said fund, and which said sums were properly chargeable to, and should have been paid by the United States, the said United States further agree to reimburse the amounts thus paid for reservations to said fund."

The Commissioner of Indian Affairs refused to allow this stipulation, thus assuming that some mistake had been made in the treaty with reference to the reimbursement of this fund, under all the circumstances of the case.

"And whereas the expenses of making the treaty of New Echota were also paid out of said fund, when they should have been borne by the United States, the United States agree to reimburse the same, and also to reimburse all other sums paid to any agent of the Government, and improperly charged to said fund; and the same also shall form a part of the aggregate amount to be distributed to the Cherokee people, as provided in the 9th article of this treaty."

I will remark upon this clause of the treaty that the Commissioner of Indian Affairs failed to make the allowance of the amount to be reimbursed under it; and the Comptroller and Auditor, it seems to me, have gone very far in shielding the treasury of the United States in saying that upon the ground of their knowledge of the circumstances which transpired at the time this treaty was formed and signed, it was not meant that all the money expended in removing the Indians should be reimbursed, but only about fifteen thousand dollars, which the delegates of the Indians said was an erroneous sum, and they reported no more than fifteen thousand dollars, whereas the actual amount expended, as reported by the Commissioner of Indian Affairs, was about one hundred and fifty thousand. This appears from the report of Governor Parris, who was a commissioner on the part of the Government, and to his report due weight ought to be given, for he was a party not only to what was actually agreed upon, but to all the conversations and discussions of both parties.

The Committee on Indian Affairs have not thought proper to recommend exceeding that allowed by the commission upon the report of one of the commissioners who reported the treaty. Therefore, as far as this appropriation goes, they are clearly entitled to it.

A further ground of difficulty in the report of the Commissioner of Indian Affairs arises from the construction given to this five million fund mentioned in the third article:

"And whereas the said claims have been paid out of the five million fund; and whereas said claims were not justly chargeable to that fund, but were to be paid by the United States, the said United States agree to reimburse the said fund," &c.

The Comptroller and Second Auditor think that this section must be taken in connection with the ninth section, and with the fourth section, in both of which this fund is referred to, but indicating different amounts. The fourth section indicates it as the five million six hundred thousand dollar fund, and the ninth section refers to it by calling it the six million six hundred and forty-seven thousand and sixty-seven dollar fund. If there could be any doubt as to the construction, it seems to me that the concluding clause of the third section would be sufficient to remove that doubt. After stating that these four different expenditures had been improperly charged to that fund, it concludes in these words:

"The United States agree to reimburse the same, and also to reimburse all other sums paid to any agent of the Government, and improperly charged to said fund; and the same also shall form a part of the aggregate amount to be distributed to the Cherokee people as provided in the 9th article of this treaty."

Well, what is to be distributed, according to the ninth article of the treaty of 1846? I beg leave now to refer to that article to show what is to be distributed:

"The United States agree to make a fair and just settlement of moneys due to the Cherokees, and subject to the per capita division, under the treaty of 29th December, 1835; which said settlement shall exhibit all money properly expended under said treaty, and shall embrace all sums paid for improvements, fences, spoliations, removal, and subsistence, and commutation therefor, debts, and claims upon the Cherokee nation of Indians, for the additional quantity of land ceded to said nation; and the several sums provided in the several articles of the treaty to be invested as the general funds of the nation; and also all sums which may be hereafter properly allowed and paid under the provisions of the treaty of 1835; the aggregate of which said several sums shall be deducted from the sum of six millions six hundred and forty-seven thousand and sixty-seven dollars, and the balance thus found to be due shall be paid over per capita in equal amounts to all those individual heads of families, or their legal representatives entitled to receive the same under the treaty of 1835, and the supplement of 1836, being all those Cherokees residing east at the date of said treaty and the supplement thereto."

Now, under the ninth article, which has just been read, in ascertaining the residuum which was due to the Cherokee nation, I desire to refer to the report of the Commissioner of Indian Affairs, which specifies some charges against this fund, which he arrays in his report, and then to show the difference between the report of the Commissioner and that of the Second Auditor.

[Mr. BELL read extracts from the reports above referred to, and pointed out the disagreement between them in relation to the various items enumerated therein.]

In their respective reports, the Comptroller and Auditor have followed the provisions of the third article of the treaty of 1846, and the Commissioner of Indian Affairs has rejected them. The aggregate difference between the two reports amounts to four hundred and ninety-nine thousand nine hundred and three dollars. I wish to call the attention of the Senate to one fact, which is, that this sum of five hundred and eighty-six thousand dollars embraced in my amendment, is not in addition to the money appropriated under the treaty of 1835; it is a distinct stipulation on the part of the Government of the United States for the benefit of the Old Settlers, on the ground that their claims were overlooked or materially disregarded in the treaty of 1835. It is an additional provision subsequently made in that treaty to a large portion of the tribe residing west of the Mississippi. The sum embraced in the second section of the amendment is the balance due to the Cherokee nation proper, under the treaty of 1835, and the various amendments made to it.

I believe I have gone through all the grounds for a difference of opinion, whatever they may be, that can exist, and I will reaffirm that any Senator who will take the pains to read or listen to the reading of the third article and the fourth and ninth articles of the treaty, will find it impossible, in my opinion, to come to any other conclusion than that arrived at by the Comptroller and Auditor—that the Commissioner, in making his report, disregarded the third article of the treaty; the main provision in that article is altogether set aside. As to the amount of money expended, it is not a matter of doubt at all; and I repeat that it is a mere question of legal interpretation whether the Commissioner of Indian Affairs has not done wrong in setting aside the provisions of the third article and charging to this same five million fund the very items which the third article of the treaty of 1846 stipulates shall be reimbursed. It is purely a legal question, and not a question of figures or computation at all, and any gentleman who will take the pains to examine the matter will be able clearly to understand it, without spending more than ten minutes in making the examination.

Mr. ATHERTON. This is a question of a great deal of importance, as the Senate must have already perceived; and not only so, but it is involved in much doubt and perplexity. There are a great many details which must be gone into, and many articles of several treaties must be examined and weighed before any satisfactory decision can be arrived at. And, sir, I think there could be no better illustration of the almost fatal facility with which money is voted in large appropriations when asked for by Indian tribes, than the inattention which seemed to prevail here during the very able speech of the honorable Senator from Tennessee upon this grave and important subject. Here is an Indian appropriation bill involving the amount of about eight hundred thousand dollars, as it came from the House; an amendment is offered which proposes to add to this appropriation the sum of twelve hundred thousand dollars, and it seems almost to be passed by with inattention; it seems scarcely to claim the slightest notice on the part of the Senate.

It cannot be expected, sir, that I should go into all the different details which have been alluded to by the Senator from Tennessee; but I think that the Senate will see enough, by taking a cursory view of the matter, to convince them that we are not able to decide with definitiveness on the subject. This ought to be made the subject of a separate bill, and undergo an elaborate and careful examination. I think the whole subject should be referred back to the Commissioner of Indian Affairs, and that he should make a final and definite report for the guidance of Congress.

When the treaty of New Echota was made, it was supposed that the sum of five millions of dollars, with some slight additions thereto, would cover the whole expense of the removal of the Cherokees. But some questions arose. The Indians were dissatisfied, and a supplementary treaty was made, which added six hundred thousand dol-

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lars to the fund originally set apart, and it was expressly stipulated that this should be in full of all the claims of the Cherokees. But they were still dissatisfied. They again applied to Congress, and in consequence of a report made by Judge White, who was then chairman of the Committee on Indian Affairs in the Senate, in 1838, an additional appropriation, a voluntary grant, was made of over a million of dollars: thus making our expenditures nearly seven millions of dollars, instead of the five millions originally appropriated.

It is well known what obstacles a certain party among the Cherokees threw in the way of the emigration of the nation, and, taking the expenditures which the Government have already incurred, together with what they will yet have to pay on account of the removal of the Indians, they cannot amount to less than ten millions of dollars. Still the Indians are not satisfied; and I can see no reason why they should be, so long as they see the facilities which they have for obtaining money whenever they make their complaints, and the facilities in obtaining agents to follow up their claims before Congress. Concerning some of the articles of the treaty made with the Cherokee nation in 1846, which treaty gives rise to the question now before us, there is a doubt whether they were not ill advised, and whether the Senate ought to have ratified them. But, be that as it may, we are bound by the provisions of that treaty; and if it can be clearly established that the sums embraced in the amendment of the Senator from Tennessee are due to the Cherokees under it, I shall be as ready as any man to vote for the proposition. But, before proceeding any further, I would ask the Senator from Tennessee whether, in his amendment, there is embraced a sum on account of the claims of the Cherokees in North Carolina, or any other claims incidentally alluded to in the report of the Comptroller and Auditor?

Mr. BELL was understood to say, in reply, that it was necessary to ascertain the amount of appropriations made at the last session of Congress for the benefit of the Indians of North Carolina, and that the claims of the Indians of North Carolina who applied at the last Congress for a settlement were specified in the written answer returned; and he asked that the statement might be read by the Secretary.

[The paper was read accordingly.]

Mr. ATHERTON. The officers may not see any difficulty in making appropriations of the whole amount; but I ask why not, when there is a large amount to be deducted in order to make the account correct? That amount is not deducted.

But, on the subject involved in the treaty of 1846, the Commissioner of Indian Affairs, at the last session, made a report to the Secretary of War, and that was submitted for the guidance of Congress. The matter was taken into consideration by the department having cognizance of the subject, and best able to come to a correct and satisfactory conclusion. This result is contained in a message of the President of the United States [Executive Doc. No. 65, H. R.] transmitting a report from the Secretary of War and the Commissioner of Indian Affairs.

[The document was read for the information of the Senate.]

Well, sir, the Cherokees or some of their agents profess to be dissatisfied with this report. A joint resolution, having the effect of a law, if passed, was brought here at the close of the last session—and this is another evidence of the facility with which appropriations are made—and, although it was introduced late in the session, it was passed and became a law. That law required that the Second Comptroller and Second Auditor should go into an examination of the various claims of the Indians arising under the treaty of 1846; and those Senators who were then present will remember that the reason then given for the passage of this resolution was, that the subject involved so many matters of detail, so many vouchers were required, that it was impossible for any committee to go into an examination thoroughly, and that the settlement of these amounts belonged to the Executive officers rather than to Congress; but that Congress were to settle the principle after the amounts had been settled. It was also stated that there were great errors in the report of the Commissioner of Indian Affairs, in respect to the sums to be appropriated. The main arguments for referring this matter to the Auditor and Comptroller were, that there were errors in the sums returned by the Commissioner of Indian Affairs, and that there was no time to go into an examination, and to settle definitely the amounts which should be allowed. In consequence of this suggestion these joint resolutions become a law. And what next? I think it my duty to trace the progress of this affair as far as I recollect the details of it. At this session a joint resolution was brought in requiring the Comptroller and Auditor to report what was the amount of balance due the Cherokees, taking the sums reported by the Commissioner of Indian Affairs, thus shifting the whole nature of the investigation. The joint resolution referring this matter to the Comptroller and Auditor was on the ground that they might examine the vouchers, because no committee of Congress could do it. And the resolution passed by the Senate alone gave another aspect to the matter. The resolution requires the Comptroller and Auditor to report the result of their investigations, but to take in the sums in which it was said there were so great errors. Now, I object to taking this as the basis of action, because the Senate had no right to alter a law of Congress. They stepped aside from their authority. This duty, if it devolved upon the Comptroller and Auditor at all, was devolved by the joint resolution of both Houses of Congress, and the Senate alone could not alter the law relating to this matter, and order them to report, taking the sums given by the Commissioner of Indian Affairs as a basis. And what is it, taking their report as a whole? It is a mere amount of figures. Are they to settle principle for us? The ground on which it was referred to those officers was, that we are to settle the principles. Well, here is a report, not taking examination of any sums but those given by the Commissioner of Indian Affairs. And these sums we are asked to be bound by. There is no argument, no reasoning why they take this article of this or any other treaty. Are we to take this for our rule of action? It seems not, sir. The report of the Commissioner of Indian Affairs is elaborate and able. He gives reasons in his report for the conclusions at which he arrives. But he may be mistaken. It is not for a report, giving no reasons, no figures, to be taken as law, when the report, made by the very officers of the Government appointed by us, going into elaborate reasoning, is to be set aside. I ask again, why should a resolution of the Senate change the object and intention of a joint resolution of both Houses of Congress, which has the force and effect of a law? In regard to one portion of this amendment, the report of the Comptroller and Auditor is silent altogether; it keeps it out of view altogether. In fact, I am informed it was their decision that they had no right to consider any claims of any of the Old Settlers among the Cherokees. But the resolution required them to report the claims of the Cherokee nation, and considered the Ross party as the nation so referred to. But the Senate will see how important it is that we should not blindly adopt their figures without reasons, when they come to perceive that the very ground on which the report stands, and that the report in favor of the Ross party, involves also an addition to the amount allowed by the Commissioner of Indian Affairs to be paid to the Old Settler party, of two hundred thousand dollars. The amendment of the honorable Senator from Tennessee seems to proceed on this principle; that is, to allow five hundred and eighty-six thousand three hundred and ninety-eight dollars and forty-six cents to the Cherokee nation; this sum is to be allowed in place of the sum allowed by the Commissioner of Indian Affairs, $184,071 21, and with no reason given, or any argument. It is a mere statement of figures, and that altering a provision and resolution of the last session of Congress—altering altogether the object of reference.

The Commissioner of Indian Affairs conceives that there is due to the Old Settler party more than four hundred thousand dollars, and that sum is to be increased by an addition of two hundred thousand dollars. I would ask the Senator from Tennessee if I am right?

Mr. BELL. One hundred and sixty-six thousand.

Mr. ATHERTON. I think I have said enough to draw the attention of the Senate to this matter; and I do hope that it will not be acted on without a full investigation. It seems to me that we cannot take the figures of the Comptroller and Auditor without reason and argument; that it would be unsafe to set aside the report of the Commissioner of Indian Affairs; and that this is of sufficient importance to be made a subject of separate consideration, both for the Senate and the House of Representatives. This matter contains so many difficult questions to decide, so many perplexing considerations, that we should be doing injustice to the treasury and to ourselves, if we undertake to decide in this hasty manner on this important question. I hope this whole subject may be referred to the Commissioner of Indian Affairs, and that the whole may be settled in a manner satisfactory to Congress and to the Indians themselves.

Mr. BELL. As I have before stated, I believe there is not a shadow of difficulty in the whole question, except the difficulty of drawing the attention of the Senate to its consideration. I differ wholly from the honorable Senator from New Hampshire, when he states that the subject involves many nice and complex questions. It is a question merely of interpretation as to the third, fourth, and ninth articles of the treaty, and no difficulty can arise in the construction of those articles, if Senators will give them their attention. There are one or two remarks of the Senator from New Hampshire that I desire briefly to refer to.

The Senator from New Hampshire seems to assume that the ground upon which this question was formerly based has been changed. He alludes to the debate on the adoption of the resolution at the last session, referring this whole question to the Auditor and Comptroller. As far as the Senator went, he stated the argument correctly, showing, that among other things done, the report of the Commissioner of Indian Affairs, which had been prepared after a very careful investigation, and having perhaps ten thousand items in the various accounts, was regarded by the Indian delegations concerned as incorrect and erroneous in many of the statements made. It was said by the Senator also at that time, that the Committee on Indian Affairs could not undertake to investigate the accuracy of these items, and the best way of settling the matter was to refer it to the examination of the Comptroller and Auditor. The Senator might have added, but omitted to say, that the committee regarded the interpretation by the Commissioner of the stipulations of the treaty of 1846, in many respects, as grossly erroneous in the conclusions. But the committee, taking the whole report together, and because the duty seemed to have devolved upon that committee of pointing out the errors in the account which the Commissioner should have investigated, desired that it be referred to the Comptroller and Auditor; and, in addition, that they might have their judgment upon the legal interpretation of the treaty, the Comptroller being one of the commissioners who made the treaty.

The honorable Senator has charged that we agree to take the report of the Commissioner of Indian Affairs now when we would not at the last session, and that thus we have changed the ground on which we based our application formerly. The fact is, that the report he made at the last session was protested against by the parties interested, as containing various items that were not correct. But, sir, what is the case now? Why, we waive all that; we voluntarily lose all the benefit which might have resulted from that investigation; we surrender all our doubts in regard to those items, and will take the report of the very officer whom

the Senator states was the correct one to examine the matter as to those facts.

Mr. ATHERTON. You will not take it.

Mr. BELL. We do take it. We waive any objection to this account. We pocket the loss, and do not insist upon any investigation either by Congress or by the officers of the Government.

What more do you obtain by this report, then, the gentleman now inquires, than you received when it was presented at the last session? I answer, that we obtain the judgment of the Comptroller and the Auditor as to the proper interpretation of the treaty. The gentleman from New Hampshire says that the Commissioner is the proper officer to be trusted. Well, sir, as I have before said, we submit to his rendition of the accounts, and ask no further investigation. The agents of these Indian tribes have also agreed to let his statement stand, in order that the settlement of their other just demands upon the Government may not further be postponed.

The question then at issue is reduced down to one as to the legal interpretation of the treaty of 1846. Every gentleman must readily perceive, upon examination, that the matter in this respect is perfectly clear.

The Senator further says that a difficulty occurs in the difference in judgment of the two officers in regard to the stipulations of the treaty of 1846. He says, also, that the Auditor and the Comptroller give no reasons for their particular judgment in the matter. Now, I would ask the honorable Senator if he has given any reason for his difference in opinion with them? Has he read that important article of the treaty of 1846—the third article? Has he perceived that it acknowledged, in express terms, that the Indian fund under the treaty of 1835 has been improperly charged with these items, and that they should be reimbursed? I have already alluded to what is regarded to have been the grounds of a difference of opinion between the two officers.

The ninth article of the treaty enumerates the various heads of charges that should be allowed; and the third article excludes those items which have been considered as improper allowances, and which the Government stipulated in the treaty of 1846 should be reimbursed. Now, where is the ground upon which the honorable Senator will say that this question shall not be adjusted at once? The subject of the inaccuracy of these items is not now before us. That is waived.

[Mr. B. here read extracts from the report of Mr. Medill, showing, by a comparison of its statements with others before him, that the committee had adopted the items as correct; and then continued:]

It will not do to question, either, the terms of the treaty, upon the ground that there was a mistake made by the Commissioner in fixing its terms, as it has been suggested by the Commissioner of Indian Affairs. It is a lawful treaty, and, whether improperly or gratuitously entered into, it is binding upon our Government.

Again: the Senator remarks that this report of the Second Auditor does not say one word about the claims of the Old Settlers. I would state, that after the balance due under the ninth article was ascertained by the Comptroller and Auditor, the amount due to the Old Settlers was provided for in the treaty in such a manner that its settlement would follow as a necessary corollary. The simple rules of addition and subtraction are all that is necessary to be employed in ascertaining the amount due to the Old Settlers; the treaty provided for it in terms not to be mistaken. It says that they shall be entitled to one-third of the old balance due the Cherokee nation proper under the ninth article of the treaty, after deducting from the whole amount of indebtedness, under the head of subsistence and removal, every charge exceeding the rate of fifty-three dollars and odd cents *per capita*. I appeal to the honorable Senator if there can be any doubt about this matter? At the last session of Congress a claim was inserted in the Indian appropriation bill, to be paid to the North Carolina Indians yet residing east, and it was resolved that it should be paid out of this fund appropriated under the treaty of 1835. I advocated the proposition that it should not be paid out of that fund; for I contended that the Government had no right to pay it from this fund, because there was no provision in the treaty of 1835 authorizing the payment out of that fund. This amendment came from the House, and was sent back; a committee of conference was appointed by the two Houses, and the amendment of the House was adopted. I was opposed to the principle myself, because I considered that Congress had no right to make such an appropriation out of this fund, if they meant to do justice to these Indians, in accordance with the stipulations of the treaty of 1835. It should have been taken from the treasury of the United States, and not from the money due another tribe. Congress in that case assumed a discretion of the fund which they had no right to assume; and if the matter ever comes up again for investigation, Senators will be obliged to come to that conclusion.

The only difficulty, if any can be presented, in the way of making this appropriation is, that there is an outstanding claim, the amount of which is not defined, and we do not know when it can be ascertained. We know it probably cannot exceed a certain amount, say one hundred and fifty thousand dollars—it may not be more than forty thousand dollars—it will probably amount to only one hundred thousand dollars. The extent of the amount depends upon the energy of the officers of the Government in adjusting the claims under the act passed at the last session. They may be able to make a complete settlement at this session, perhaps not until the next. But, in the mean time, a portion of the amount of six hundred and eighty-three thousand and odd dollars will be sufficient to meet the demand that now arises. Upon having some doubts as to how that matter should be managed, we addressed a letter to the Comptroller of the Treasury, and he replied that the balance of this fund could not be paid to the Cherokees until the North Carolina claims were adjusted. There can be no objection to this amount remaining in the treasury until the account with the North Carolina Indians is settled, and in the mean time we can be disposing of the four or five hundred thousand dollars for the Cherokee Indians.

The Senator complains that there is not a full Senate; but, I ask, when will it probably be more inclined to listen to the discussion on this question than at the present time? The session is already drawing to a close; pressing and important bills are yet to be considered, and the advent of an incoming Administration always claims the attention of members, if not of all, at least of a large portion of them. If we do not make this appropriation in this bill, there will be none made at this session. The committee of the other House can have no difficulty in examining it. An examination of the third, fourth, and ninth articles of the treaty, by any gentleman capable of making such examination, cannot fail to convince of the correctness of the case. There is no necessity for making a separate bill of the subject. My opinion is, that it will require very little attention by the Committee of Ways and Means in the House. The bill for carrying into effect the various treaties and stipulations made with the Indian tribes, is the proper one in which this appropriation should be inserted. I think also that some little credit must be given to the investigations of the standing committees. I do not claim for the Committee on Indian Affairs any preëminence in this matter, or that anything they shall report here shall pass without receiving the most rigid scrutiny; but when the question has been before Congress and fully and elaborately considered, I do think it should receive our attention, now that opportunity is offered. It properly belongs to the bill now under consideration.

Mr. ATCHISON was understood to say that he did not intend to advance anything further in support of the bill. The committee, he said, was very full when the subject was under consideration, there being four members present. He said the committee had adopted the same interpretation of the treaty that was adopted by the Comptroller and Auditor, and had arrived at the same conclusions at which those two officers had arrived. He had nothing more to say in relation to the subject.

Mr. BUTLER. Mr. President, I shall detain the Senate but a moment. I merely wish to say that I entertained some general views in relation to this matter just before examining this bill, which had passed from my mind; and since the Senator from Tennessee has brought them to my recollection, I remember that they were similar to those which he has expressed. I am perfectly satisfied that the Senator from Tennessee is entirely correct in his interpretations of the treaty. I shall vote for his amendment.

Mr. DICKINSON. Mr. President, as it is not probable that we shall get a vote upon this amendment to-day, I would move to postpone the further consideration of the subject until to-morrow, as I desire to move an Executive session.

SEVERAL SENATORS. No, no; let us dispose of this question now.

Mr. DICKINSON withdrew his motion.

Mr. NILES was understood to say that he wished to make an inquiry in relation to this matter. He thought that the officers of the treasury, who had this subject under their supervision, were generally very careful and accurate in their recommendations. If their recommendation in this case was correct, he thought the question a very simple one. He wanted to know whether the grant now asked for was the precise sum which the Auditor and the Comptroller were satisfied, by their investigations of this matter, should be granted? He wanted to know, also, whether the report of the Committee on Indian Affairs was founded upon the report of the Auditor and Comptroller; and he wished to know further whether the act referred to as having been passed at the last session, was submitted to the Auditor and Comptroller for their investigation? If that act had not been submitted to those officers, it would seem that their report could not be conclusive. It seems that there was some difference of opinion in relation to the interpretation of some of the sections, and if these officers had misconstrued the treaty, and thus fallen into an error, he thought it worth while to examine into that point; but, if the proper officers had investigated this subject, and had decided upon the interpretation of the treaty, and had made a report upon their precise understanding of it, he would vote for it.

Mr. BELL said he would state, in reply to the Senator from Connecticut, that the committee had adopted the precise report of the officers referred to, and that they had also adopted their interpretation of the treaty. He would ask the honorable Senator from Vermont [Mr. PHELPS] to add his testimony to what had already been said.

Mr. PHELPS said he did not feel disposed to debate the subject further. He said he entered into the investigation of the subject in order to get rid, if possible, of this very large claim, but he had been compelled, on an examination of the treaty, and a comparison of it with the report of the Commissioner of Indian Affairs, and the report of the Auditor, to admit its justness. He would further state that, if he was not mistaken, he ought, perhaps, to add that the Commissioner of Indian Affairs had made a very elaborate report, in which he placed the sum due to the Indians much below the amount proposed in the amendment, and that report, if he mistook not, was before the Auditor and Comptroller at the time they were investigating the subject. The committee, he said, after a full investigation of all the facts of the case, were forced to the conclusion that a fair interpretation of the treaty demanded the payment of the amount proposed in the amendment.

Mr. ATHERTON said, that, in reply to the question of the Senator from Connecticut, [Mr. NILES,] he would merely remark that the Senator from Tennessee, [Mr. BELL,] who introduced the joint resolution referring this matter to the Auditor and Comptroller, had since altered his resolution. He believed that the resolution at first referred this matter generally to those officers, but it was objected by several Senators, and among others, by the Senator from Maine, [Mr. BRADBURY,] who sat before him, that the Commissioner of Indian Affairs had made an elaborate report upon the subject to Congress, and that it should not, therefore, be referred back to be definitely settled by the Auditor and Comptroller. To obviate that objection, the Senator from Tennessee had modified his resolution so as to require the Auditor and Comptroller to make their report to Congress; and the argument, as he had said before, in favor of allowing the Auditor and Comptroller to settle the amount of the grant was, that it would be impossible for the committee to go into an investigation of all these sums and examine all the vouchers, and that the settlement of the amount to be paid belonged rather to the Executive than to Congress. That, he said, was the argument then urged in favor of the settlement of the amount by the Auditor and Comptroller, and now this report urges the Senate to take the report of

the Auditor and Comptroller as the basis of their action. But, he said, no argument, no reason is given why that report should be adopted by the Senate as the basis of their action; it contains merely a barren, dry statement of figures. The resolution passed at the last session referred the whole subject to these officers, but the joint resolution of the Senator from Tennessee (continued Mr. A.) undertook to alter the whole scope of the law. It provided that the Auditor and Comptroller should present a report of the sums due to the Cherokee nation, thus setting aside the main duties of the Committee on Indians Affairs. Now, sir, it seems, under these circumstances, that we are not called upon to take as our guide, and as the basis of our action, this mere statement of figures by the Auditor and Comptroller. The statement is worth just as much as the reasons upon which it is founded are worth. We do not know what the reasons are, as they are not given. The report of the Commissioner, however, goes into an argument on the whole subject. That, Mr. President, is my objection to taking the report of the Auditor and Comptroller as the basis of our action.

Mr. BRADBURY. Mr. President, I have before me the joint resolution adopted by Congress at the last session, and I desire to call the attention of the Senate to its provisions. The resolution adopted August 7, 1848, provides:

"That the proper accounting officers of the Treasury be, and they are hereby, required to make a just and fair statement of the claims of the Cherokee nation of Indians, according to the principles established by the treaty of August, 1846."

"To make a just and fair statement of the claims of the Cherokee nation of Indians." The Second Comptroller and the Second Auditor, who are the proper accounting officers of the Treasury, have not yet responded to that resolution, and herein, I apprehend, is the mistake. The inquiry was made whether we are now called upon to carry out the decision of these officers to whom the question was referred, and an answer which seemed to imply the affirmative was given. I do not so understand it. I find here before us a report of the Second Comptroller and the Second Auditor, in compliance with the resolution of the Senate, adopted on the 10th of January instant; but these officers have not yet reported in compliance with the joint resolution.

The honorable Senator who had this matter in charge at the last session selected a mode for the investigation of this subject, and that mode of investigation was adopted by Congress, not merely by the Senate, but by both Houses of Congress, and now I want a report from these officers in compliance with that act of Congress. I do not wish them to state, or the resolution to say, "see what your award will be if you take a certain basis which was not in the original resolution as your guide." We asked them to make an investigation of these claims, to examine this whole subject thoroughly, and when their statements come in, they must be accompanied by reasons, and then we shall be prepared to act.

In this private statement, in response to the resolution of the present month, I find another matter which may claim attention in our appropriation of millions. They say, "what sums may be properly 'allowed and paid under the treaty of 1835, and 'what sums are justly chargeable and to be de-'ducted, cannot now be ascertained." Thus the Comptroller and Auditor who are to investigate this matter even after the resolution of the present month, inform the Senate "that they cannot ascertain what sums are chargeable, and to be deducted." And, further, in the letter from the Comptroller, it is stated "on this very day a claim was presented and allowed which was properly chargeable to this fund." I would admonish the Senate that it should be careful how these appropriations are made; when at the last session an appropriation was made embracing forty thousand dollars which had been paid once before to the very Indians to whom it was then paid. I allude to these matters to show that at the last session a large sum was appropriated to discharge a debt which had been previously paid.

Mr. YULEE was understood to say that he thought the Senator from Maine was mistaken in regard to the payment of forty thousand dollars twice. He did not believe that such a mistake had been made.

Mr. BRADBURY. The honorable Senator from Tennessee stated, if I mistake not, that a mistake of forty thousand dollars had been made, and that *that sum had been* twice paid to the same Indians.

Mr. BELL was understood to say that he did, at one time, suppose that the mistake alluded to by the Senator from Maine had been made; but, upon a further examination, he found that he had been led into error himself—that no such mistake had been made.

Mr. BRADBURY. Mr. President, I have but a few more words to add to what I have said. I am very happy to find that the report in relation to this money having been twice paid was a mistake; but I wish to say that I think that where such large sums are to be appropriated, we should examine the matter with great care. I hope that this subject will be allowed to lie over until to-morrow, in order that we may have an opportunity of giving it further examination.

Mr. ATHERTON. Mr. President, there was one point which I forgot to mention in my reply to the Senator from Connecticut, which is this: One of the items ($600,000) embraced in the amendment of the Senator from Tennessee has not been reported upon at all by the Auditor and Comptroller, as I understand the matter. They say nothing of it whatever. They interpreted the resolution under which they acted as authorizing them merely to inquire into the claims of the Cherokee nation; and they considered the Ross party as the Cherokee nation, and refused to take into consideration the claims of the party known as the Old Settler party: therefore the larger part of the amendment of the Senator from Tennessee has not been reported upon at all by the Comptroller and Auditor.

Mr. BRIGHT. Mr. President, as the Senator from Maine has adverted to the injury that results from hasty legislation on subjects of this kind, and has at the same time referred to an error that is said to have occurred in a settlement made with reference to Indian claims heretofore, I beg leave to make one remark.

At the last session of Congress we were called upon to appropriate something like two hundred thousand dollars—a little more than that amount, I think—for the benefit of the Creek Indians. It was alleged at the time, I believe, that the amount had been previously paid to the State of Georgia, but in fraud of the law, and hence the United States were bound to pay it for the benefit of the Indians. Now, I undertake to say, relying upon information which I have received, that there was an error of forty thousand dollars made in the settlement, and that this forty thousand dollars has been paid three times on account of errors growing out of that very transaction.

Mr. BERRIEN, (interposing.) The Senator's expression is too strong. He says that this money was paid to the State of Georgia "in fraud of the law." This is not so. No money has been paid to the State of Georgia in fraud of any law. The money was paid to citizens of Georgia upon the recommendation of commissioners, who were appointed to examine and adjudicate the claims.

Mr. BRIGHT. The facts of this case, as I understand them, are as follows: The United States, in a treaty with the Creek Indians, undertook to pay so much for their lands. It was further stipulated that a certain amount should be retained to pay for spoliations perpetrated upon the citizens of Georgia.

Mr. BERRIEN. Not the State of Georgia.

Mr. BRIGHT. Citizens of Georgia.

Mr. BERRIEN. Yes; citizens of Georgia.

Mr. BRIGHT. Upon an investigation of the amount of the claims, it turned out to be less than was anticipated at the time the treaty was made. Georgia claimed the benefit of the amount remaining in the treasury of the United States, and under an order made by President Jackson it was paid. These I understand to be the facts in relation to the matter.

Mr. JOHNSON, of Georgia, was understood to say that this money was paid to the State of Georgia under an order from the Attorney General, and that the State was not responsible for the amount paid her. It was paid in pursuance of an act of Congress, and under the instructions of the then Attorney General. As for the forty thousand dollars which, it is averred, was paid by mistake to the Creek Indians at the last session, but which payment, he thought, was made *bona fide*, he considered now, as he did then, that the amount thus appropriated at the last session was a donation to the Indians to the full amount. He considered that the amount paid to the State of Georgia by virtue of the act of 1834, was a full discharge of all the claims which the Indians had against the State by virtue of the treaty out of which the claim grew. These, he said, were the circumstances under which the appropriation was made during the administration of General Jackson, and the appropriation made at the last session was made with a full knowledge of all these facts.

Mr. BRIGHT. Mr. President, it is not important to the purpose which I have in view to decide whether the State of Georgia or the Indians were entitled to the amount paid. I rose merely to say, what is admitted, that the State of Georgia has received the amount, and that the Creek Indians subsequently claimed it. Congress decided that the payment to Georgia was in violation of the treaty, and good faith required that it should be paid to the Indians; consequently, a bill was passed at the last session authorizing the payment of the sum of forty thousand dollars to the Indians. Thus it is clear that the amount has been twice paid. Now, what I wish to say is this: I have learned from one of the officers of the department that between the time of the payment made to the State of Georgia and the passage of the bill at the last session authorizing the payment of this sum to the Indians, a forty thousand dollar item had been paid to the Indians, which would be a payment of the sum of forty thousand dollars three times on the part of the United States, growing out of that transaction.

I refer to this merely for the purpose of showing the evil and injury that results from the appropriation of half a million out of the treasury without a thorough understanding of what the appropriation is made for on the part of every gentleman who votes.

Mr. BELL. Mr. President, for fear that the remarks of the gentleman from Indiana should make an impression upon honorable Senators, I beg leave to make an explanation. I admit that no Senator should vote for any amount of appropriation, whether it be five hundred dollars or five hundred millions of dollars, without understanding what he is doing.

But with regard to the statement of the honorable Senator over the way, I believe that he was present at a conversation between myself and the Secretary of War upon this subject. I had learned that the forty thousand dollars that had been voted to the Creek Indians at the last session was not a part of that which was in dispute between Georgia and the Indians, but a distinct item. The Committee on Indian Affairs, in both Houses of Congress, had sanctioned the appropriation, and both Houses of Congress had sanctioned it, and that after the Committee on Indian Affairs had called on the department to enlighten them upon the subject, and to show them whether the money had been paid or not. After every investigation had been made, with all the care which the committee could bestow on the subject, I yet learned that we had made a mistake, and had agreed to pay the Creek Indians forty thousand dollars which they had long since received. The discovery was made subsequent to the passage of the act of the last session, by the vigilance of the accounting officers, who found some error made prior to the appropriation, and it was further reported to me that the delegates of that tribe who came here and made application for that appropriation must have been aware, from personal knowledge, that the sum had been previously paid.

Sir, I felt indignant at the idea that we should be imposed upon for any amount under such circumstances; and, having occasion to visit the department upon other business, I expressed my indignation at the imposition, and my strong sense of the necessity, if we had any means of doing so, of punishing such frauds upon Congress. But I have subsequently pursued this investigation, and have learned that no evidence has yet been found which proves that this money was previously paid to the Indians. Therefore, the honorable Senator from Indiana was mistaken, as well as myself; and I will say, that although I have since assiduously pursued the inquiry, there is no reason yet, so far as I have been able to ascertain, for supposing that we have been imposed upon in this matter.

Mr. HOUSTON. Mr. President, I desire to make but a very few remarks upon the subject now under consideration. Having been a member of the committee which investigated this subject, I deem it my duty to say that my mind is perfectly satisfied that the claim is a just one, and ought to be paid. I have not been in the habit of urging claims upon the consideration of this body, nor have I any disposition to vindicate the rights of the Indians beyond what I think is proper and just.

It is very remarkable that extraneous matters should be introduced into this case for the purpose of producing difficulty or hinderance in the adjustment of a lawful claim existing against this Government. It is a very easy matter for officers at the head of departments to throw impediments, by suggestions, unwarranted and untrue in themselves, in the way of the adjudication and passage of just claims by this body. For instance, in relation to this sum that has been paid to the Creek Indians, improperly and fraudulently paid, or paid as you please, or not paid at all, a rumor is circulated by some one in the department, charging upon the delegation of Indians that came here to have the claim adjusted, that they applied for the money and obtained it with the full knowledge that it had been already paid; and, further, it is stated by this same rumor—and it is an instance of remarkable and most extraordinary sagacity—that the head of the Indian Bureau detected this error, but unfortunately this sagacious and vigilant gentleman did not detect the mistake until it was too late to rectify it.

Well, now, if this be true, these Indians must have been very sagacious indeed to have believed that the records would be falsified, and that they would be successful in getting their claim allowed, although it had been once paid already, before the discerning and sagacious head of the department would be able to detect the fraud. If these Indians accomplished all this, they certainly deserve a great deal of credit for their smartness. But, sir, this happens not to be a case of that kind. It is manifest that these Indians have a just claim arising under the treaty with that tribe, and the treaty provides the manner in which it shall be disposed of and paid to the different classes of the population, because there was the "Old Settler" party and the "Emigrant" party, and this happens to be the "Old Settler" party, or the party of Old Settlers.

Now, sir, how are we ever to ascertain the justness of this claim and the propriety of its present adjustment? Is it to be done by every Senator looking over a file of vouchers and documents? Will any Senator take the trouble to do this? Will the honorable gentleman at the head of the Committee on Finance take that trouble upon him to arrive at the conclusion as to the justness or unlawfulness of this claim? It seems that this business has been accumulating for years, in order to give every Senator sufficient time to look over every voucher, so as to enable him to arrive at an accurate conclusion as to the precise amount due in every case. I consider the resolution referring this whole matter to the proper accounting officers of the Government as not only wise, but efficient, if due credit be attached to the action of the officers or the attention of the committee.

It appears that the settlement was made by two highly respectable accounting officers—one of whom, the Comptroller, was concerned in the negotiation of this treaty—and they had reported their views of the construction of the treaty, which accompanied it on its presentation to the President, after it had been negotiated. The other officer, the Auditor, is a man who thoroughly understands his business, and who accorded with the Comptroller in his opinion upon this treaty; and the opinion of Mr. Burke, the other commissioner, also corroborates this very construction, which is the same as that placed upon it by Mr. Parris, who originally made a report upon this subject to the President, and which construction was confirmed by Attorney General Clifford when it was referred to him. An opinion had also been given on the treaty of 1835 by Mr. Butler, Attorney General; and all these opinions are concurring testimony in favor of the appropriation asked for. There is no discrepancy in the opinions of all these men, but this claim is sustained by them; and that evidence, as well as the treaty, was before the committee when they came to this resolution. They all agreed to its passage. There was not a dissentient voice in the committee. It is unnecessary, as the time is far spent, to make any further remarks upon this subject. I am satisfied that there was never a more just claim before the Senate.

The question is, whether these Indians are to be harassed by delay, and put to the expense of sending delegations here from year to year, and employing individuals to bring their claims before Congress, or whether the Senate will, in good faith, pay their just demands against this Government?

The question being on the amendment—

Mr. ATHERTON called for the yeas and nays, which were ordered; and, being taken, resulted as follows:

YEAS—Messrs. Atchison, Badger, Baldwin, Bell, Benton, Berrien, Butler, Corwin, Davis of Massachusetts, Dayton, Dodge of Iowa, Fitzgerald, Greene, Hannegan, Houston, Jones, Metcalfe, Miller, Niles, Phelps, Rusk, Sebastian, Spruance, Underwood, and Upham—25.

NAYS—Messrs. Atherton, Borland, Bradbury, Bright, Davis of Mississippi, Dickinson, Dix, Fitzpatrick, Johnson of Georgia, King, Mason, Sturgeon, and Westcott—13.

So the amendment was agreed to.

The bill was then ordered to its third reading, and, by unanimous consent, was read a third time and passed.

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 29, 1849.

The Journal of Saturday was read and approved.

RAILROAD TO THE PACIFIC.

Mr. POLLOCK asked the general consent of the House at this time to take up and consider the following resolution heretofore offered by him, and which being objected to, had gone over by the rule:

Resolved, That House bill entitled "A bill to set apart and sell to Asa Whitney, of New York, a portion of the public lands, to enable him to construct a railroad from Lake Michigan to the Pacific Ocean," be made the special order for the 1st Tuesday in February next, and continue from day to day until disposed of.

Several objections having been made—

Mr. POLLOCK moved that the rules of the House be suspended, for the purpose of considering the resolution at this time.

Mr. KAUFMAN inquired of the Speaker, whether this was not the day set apart by the rules for the call of the States for resolutions?

The SPEAKER said, the gentleman from Pennsylvania [Mr. POLLOCK] had a right to move a suspension of the rules.

Mr. POLLOCK gave notice that if the rules were suspended, he designed to offer an amendment to the resolution.

Mr. KAUFMAN inquired of the Speaker whether the resolution was debatable?

The SPEAKER said the resolution was not yet before the House.

Mr. KAUFMAN made a remark which was not heard at the reporter's desk.

The question, "Shall the rules be suspended?" was then taken, and decided in the negative without a division.

So the rules were not suspended, and the resolution was not received.

POSTAGE.

Mr. EMBREE asked leave to offer the following resolution:

Resolved, That the House will to-day at one o'clock resolve itself into Committee of the Whole House on the state of the Union, for the purpose of taking up and considering House bill to reduce the rates of postage on letters and newspapers, to establish uniform postal charges, and to correct abuses of the franking privilege.

Objection having been made—

Mr. E. moved a suspension of the rules for the purpose of enabling him to offer the resolution.

Mr. GOGGIN moved the previous question, (not now in order.)

Mr. G. asked for the yeas and nays, which were ordered.

Mr. COLLAMER desired to inquire of the Speaker what would be the effect of the resolution (if adopted) upon orders already made, and upon the appropriation bills?

The SPEAKER said, that would depend upon the chairman of the Committee of the Whole on the state of the Union, which would decide its own points of order.

Mr. COLLAMER said, he did not desire to create any trouble about the resolution. He merely wished to know its effect.

Mr. GOGGIN supposed, he said, that the effect of the adoption of the resolution would be to suspend all the orders of the House.

Mr. COBB, of Georgia, called for the reading of the resolution, which was again read.

And the question, "Shall the rules be suspended" was then taken, and decided in the affirmative—yeas 120, nays 47—as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Barringer, Barrow, Belcher, Bingham, Birdsall, Blackmar, Bowdon, Boyden, Brady, Charles Brown, Butler, Canby, Clapp, Franklin Clark, Beverly L. Clarke, Williamson R. W. Cobb, Collamer, Collins, Conger, Cranston, Crisfield, Crowell, Crozier, Darling, Dickey, Eckert, Embree, Nathan Evans, Faran, Farrelly, Fisher, Flournoy, French, Fulton, Gaines, Gentry, Giddings, Goggin, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, Hammons, Harmanson, Henley, Henry, Hilliard, Isaac E. Holmes, Hubbard, Hudson, Hunt, Jenkins, James H. Johnson, Kennon, Daniel P. King, La Sère, Sidney Lawrence, Leffler, Levin, Ligon, Lincoln, Lord, Lynde, Maclay, McClelland, McIlvaine, McLane, Job Mann, Horace Mann, Marsh, Marvin, Morris, Mullin, Murphy, Nelson, Palfrey, Peaslee, Peck, Pendleton, Petrie, Pollock, Preston, Putnam, Reynolds, Richardson, Richey, Robinson, Julius Rockwell, Root, St. John, Sawyer, Shepperd, Sherrill, Silvester, Smart, Truman Smith, Stanton, Starkweather, Charles E. Stuart, Strohm, Tallmadge, Taylor, Thibodeaux, Jacob Thompson, Richard W. Thompson, Thurston, Tompkins, Tuck, Warren, Wentworth, Wick, Wiley, Williams, Wilmot, and Wilson—120.

NAYS—Messrs. Atkinson, Bayly, Beale, Bedinger, Botts, Boyd, Brodhead, William G. Brown, Albert G. Brown, Burt, Cabell, Clingman, Howell Cobb, Daniel, Dickinson, Featherston, Freedley, Fries, Green, Willard P. Hall, Haralson, Harris, George S. Houston, Ingc, Joseph R. Ingersoll, Andrew Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Thomas Butler King, Lahm, Lumpkin, McClernand, McKay, Morse, Newell, Rhett, John A. Rockwell, Stephens, Strong, Robert A. Thompson, William Thompson, Toombs, Venable, Vinton, Wallace, and Woodward—47.

So two-thirds voting in the affirmative, the rules were suspended.

And the resolution being thus before the House—

Mr. COBB, of Georgia, rose to a point of order. The resolution, he supposed, was now before the House, under the suspension of the rules. He submitted that the resolution could not be entertained, because the special orders which had heretofore been made by the House could not be set aside by a resolution of this character.

The SPEAKER. The House has settled that question, by suspending all the rules.

Mr. COBB submitted that a suspension of all the rules could not suspend special orders which had been made by previous resolutions. The very object of making a special order was to put down a particular subject for a particular time. And (he was understood to say) these special orders could only be set aside in a certain way—by a process well known to the rules. This resolution did not propose to postpone these special orders, but to put them aside by a course unknown to the rules or to parliamentary law. He submitted that the Speaker should rule that the resolution was out of order. If the Chair decided to entertain resolutions of this kind, it was manifest that the whole business of the House would be thrown into confusion—

Mr. GOGGIN rose to a point of order. He desired to inquire whether it was in order to discuss the consequences of the resolution?

Mr. COBB. Well, if the gentleman is unwilling to hear my reasons for the point of order, I submit the point of order itself to the Chair. Does the Chair overrule it?

The SPEAKER. The Chair does overrule it.

Mr. COBB. Then I appeal from the decision of the Chair, in order that the House itself may decide whether this mode of setting special orders aside can be allowed.

Mr. VINTON called for the reading of the resolution; which having been again read—

Mr. V. was understood to inquire of the Speaker, whether the resolution did not set aside former special orders?

The SPEAKER said, the Chair could only repeat what had been stated some time since, that the chairman of the Committee of the Whole on the state of the Union must decide that question, and that his decision could be voted on by the committee. The House, by a vote of two-thirds, had set aside all orders to allow the resolution to be introduced. The Chair could not overrule that decision. A vote of two-thirds had been required to allow the resolution to be introduced, and a vote of two-thirds would be required for its adoption.

Mr. COBB suggested, that after the resolution had been presented, it was for the Chair to decide whether such a resolution could be entertained, and for the House to decide whether it should or ought

to be passed. The resolution having been introduced by a vote of two-thirds, he submitted to the Chair whether it was in order?

The SPEAKER said that the resolution had been presented by the gentleman from Indiana, [Mr. EMBREE,] had been read for information, and had been decided out of order. The gentleman who offered it had then moved a suspension of the rules. The rules had been suspended by a vote of two-thirds, thus making that in order which before was out of order. The Chair felt inclined to rule, therefore, that the point of order of the gentleman from Georgia [Mr. COBB] came too late, and was itself out of order.

Mr. JOHNSON, of Arkansas, suggested that any further debate would be unprofitable, and would not, in all probability, change the decision. He hoped the gentleman from Georgia [Mr. COBB] would not debate it any longer, but that he would take his appeal, if he thought an appeal was necessary.

Mr. COBB. The very object of an appeal is to consider the propriety of the decision, and to have it overruled if it is wrong. But I do not desire to trespass further on the time of the House.

The question "Shall the decision of the Chair stand as the judgment of the House?" was then taken, and, by ayes 115, noes not counted, was decided in the affirmative.

So the decision of the Chair was affirmed.

The SPEAKER announced the question now to be on the adoption of the resolution, which (he stated) would require a vote of two-thirds.

Mr. GOGGIN rose and moved the previous question. [It subsequently appeared that the motion was not heard or entertained at this time.]

Mr. STRONG, of Pennsylvania, desired to submit a question to the Chair. He supposed, the rules of the House having been suspended, they were still subject to parliamentary law. He desired to inquire whether, under the parliamentary law, it was in the power of the House to order that the House should, at some future time, resolve itself into Committee of the Whole on the state of the Union?

The SPEAKER. The Chair would decide what is the effect of the resolution after it is adopted. The question is on the adoption of the resolution.

Mr. COBB, of Georgia, inquired if it was in order to move to amend the resolution?

The SPEAKER replied that the resolution was open to amendment.

Mr. COBB moved, then, to strike out all the resolution after the word "*Resolved*," and insert "That the bill"——

The SPEAKER interposed, and said he understood that the previous question had been called by the gentleman from Virginia, [Mr. GOGGIN.]

Mr. COBB. The previous question was called at what time? I understood I was recognized by the Chair.

The SPEAKER. The Chair must decide that the gentleman who introduced the resolution is entitled to the floor, if he rises and claims it.

Mr. GOGGIN reminded the Chair that he had not introduced the resolution, but stated that he had risen and moved the previous question before the gentleman from Georgia had moved his amendment.

Mr. COBB. The gentleman from Virginia did not introduce the resolution; and the gentleman who did, not having claimed the floor, I contend that I am entitled to it, and I move the amendment.

The SPEAKER said, the gentleman who introduced the resolution not having claimed the floor, the gentleman from Georgia was entitled to it.

Mr. EMBREE rose and claimed the floor, (in virtue of having introduced the resolution,) and moved the previous question.

The SPEAKER. Did the gentleman from Indiana claim the floor before the gentleman from Georgia made his motion?

Mr. EMBREE replied that he did not?

The SPEAKER said the gentleman from Georgia, [Mr. COBB,] then, was entitled to the floor.

Mr. COBB moved to amend the resolution so as to strike out all that part which made the bill the special order for this day at one o'clock, and insert, "be made the special order of the day for to-morrow."

Mr. GOGGIN moved the previous question; which was seconded.

The main question was ordered, being first on the amendment of Mr. COBB.

The yeas and nays were asked and ordered, and having been taken, resulted—yeas 70, nays 116, as follows:

YEAS—Messrs. Bayly, Beale, Bedinger, Bocock, Botts, Bowlin, Boyd, Brodhead, William G. Brown, Albert G. Brown, Burt, Cathcart, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Daniel, Darling, Dickinson, Duer, Dunn, Featherston, Freedley, Fries, Green, Willard P. Hall, Haralson, Harmanson, Harris, Henley, Hill, George S. Houston, Inge, Iverson, Jenkins, Andrew Johnson, James H. Johnson, Robert W. Johnson, George W. Jones, La Sère, Lumpkin, McKay, Job Mann, Meade, Morehead, Newell, Outlaw, Peck, Preston, Rhett, Richardson, Rockhill, John A. Rockwell, Sawyer, Simpson, Robert Smith, Stanton, Stephens, Charles E. Stuart, Strong, Taylor, Richard W. Thompson, Robert A. Thompson, William Thompson, Toombs, Turner, Venable, Vinton, Wallace, and Woodward—70.

NAYS—Messrs. Abbott, Adams, Ashmun, Barringer, Barrow, Belcher, Bingham, Birdsall, Boyden, Brady, Butler, Cabell, Canby, Clapp, Franklin Clark, Collamer, Collins, Conger, Crisfield, Crowell, Crozier, Dickey, Dixon, Donnell, Edwards, Embree, Nathan Evans, Faran, Farrelly, Fisher, French, Fulton, Gaines, Gayle, Gentry, Giddings, Goggin, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, Hammons, James G. Hampton, Henry, Hilliard, Isaac E. Holmes, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, Kaufman, Kennon, Thomas Butler King, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Leffler, Levin, Ligon, Lincoln, Lord, Lynde, Maclay, McClernand, McIlvaine, McLane, Horace Mann, Marsh, Marvin, Miller, Morris, Mullin, Murphy, Nelson Palfrey, Peaslee, Pendleton, Petrie, Peyton, Pilsbury, Pollock, Putnam, Reynolds, Richey, Robinson, Julius Rockwell, Root, St. John, Schenck, Shepperd, Sherrill, Silvester, Slingerland, Smart, Truman Smith, Starkweather, Andrew Stewart, Strohm, Tallmadge, Thibodeaux, James Thompson, John B. Thompson, Thurston, Tuck, Van Dyke, Warren, Wentworth, White, Wick, Wiley, Williams, Wilmot, and Wilson—116.

So the amendment was rejected.

The question recurring on the adoption of the resolution—

Mr. JONES, of Tennessee, asked the yeas and nays; which were not ordered.

Mr. COBB, of Georgia, called for tellers; who were ordered—Messrs. VENABLE and FULTON—and the question being taken, they reported ayes 96, noes 61.

So two-thirds not voting in the affirmative, the resolution was not adopted.

BRANCH MINT AT NEW YORK.

Mr. TALLMADGE appealed to the House to allow him to introduce a resolution, which, he said, being the only thing which had been asked for our commercial metropolis at the present session, he trusted would receive the unanimous sanction of the House.

The resolution was read, as follows:

Resolved, That the bill to establish a branch mint in the city of New York be made the special order for the first Tuesday in February next, and continued from day to day until finally disposed of, Fridays and Saturdays excepted.

Objections being made—

Mr. TALLMADGE moved to suspend the rules for the reception of the resolution.

The yeas and nays were asked and ordered, and being taken resulted—yeas 141, nays 48—as follows:

YEAS—Messrs. Abbott, Ashmun, Barrow, Bayly, Bedinger, Bingham, Birdsall, Blackmar, Blanchard, Bocock, Botts, Bowdon, Bowlin, Boyd, Bridges, William G. Brown, Albert G. Brown, Burt, Butler, Canby, Cathcart, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Collins, Conger, Crisfield, Crowell, Daniel, Darling, Dickey, Dixon, Duer, Dunn, Embree, Nathan Evans, Faran, Featherston, Fisher, French, Fries, Fulton, Gaines, Gayle, Gentry, Gott, Green, Greeley, Gregory, Grinnell, Hale, Willard P. Hall, Nathan K. Hall, Hammons, James G. Hampton, Haralson, Harmanson, Harris, Henley, Henry, Hilliard, Isaac E. Holmes, Elias B. Holmes, Hubbard, Hunt, Inge, Iverson, Jenkins, James H. Johnson, Kaufman, Kellogg, Lahm, La Sère, William T. Lawrence, Sidney Lawrence, Leffler, Ligon, Lord, Lumpkin, Lynde, Maclay, McClelland, McClernand, McKay, McLane, Marsh, Marvin, Meade, Miller, Morris, Mullin, Murphy, Nelson, Newell, Peaslee, Peck, Pendleton, Petrie, Pilsbury, Putnam, Reynolds, Rhett, Richardson, Richey, Robinson, Rockhill, John A. Rockwell, St. John, Sherrill, Silvester, Simpson, Slingerland, Smart, Robert Smith, Truman Smith, Stanton, Starkweather, Charles E. Stuart, Strohm, Tallmadge, Taylor, Jacob Thompson, Robert A. Thompson, William Thompson, Thurston, Tuck, Turner, Van Dyke, Venable, Wallace, Warren, Wentworth, White, Wick, Wiley, Williams, Wilmot, and Wilson—141.

NAYS—Messrs. Adams, Atkinson, Barringer, Boyden, Brady, Charles Brown, Collamer, Cranston, Crozier, Dickinson, Eckert, Farrelly, Flournoy, Freedley, Goggin, Hill, George S. Houston, Joseph R. Ingersoll, Andrew Johnson, George W. Jones, John W. Jones, Kennon, Daniel P. King, Levin, Lincoln, McIlvaine, Job Mann, Horace Mann, Outlaw, Palfrey, Peyton, Pollock, Preston, Julius Rockwell, Roman, Sawyer, Schenck, Shepperd, Stephens, Strong, Thibodeaux, James Thompson, John B. Thompson, Tompkins, Toombs, and Woodward—46.

So two-thirds voting in the affirmative, the rules were suspended, and the resolution was received.

The question then being on the adoption of the resolution—

Mr. TALLMADGE moved the previous question.

And there was a second; and the main question was ordered to be now taken, and, having been taken, the resolution was adopted.

BUSINESS OF THE HOUSE.

Mr. JOHNSON, of Arkansas, asked leave to offer the following resolution:

Resolved, That on each Thursday during the present session, after the present week, the calendar of bills in Committee of the Whole on the state of the Union shall be called over, and the bills to which no objection shall then be made shall be first considered, and then disposed of.

No objection having been made, the resolution was received, and, without a division, was adopted.

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of the Union, but waived the motion for a moment, at the request of

Mr. BOTTS, on whose motion it was

Ordered, That leave be granted for the withdrawal from the files of the House of the petition and papers of Sarah Davis.

The papers were thereupon delivered to Mr. BOTTS.

NOTICE OF A BILL.

Mr. HOUSTON, of Alabama, gave notice of a motion for leave to introduce a bill to authorize the issue of treasury scrip for one hundred dollars to Eliza Johnson, widow of Francis Johnson, late a soldier in the army of the United States in Mexico.

The question was then taken on the motion of Mr. VINTON, and, by ayes 89, noes 40, was agreed to.

THE MILITARY ACADEMY.

So the House resolved itself into Committee of the Whole on the state of the Union, (Mr. ASHMUN, of Massachusetts, in the chair.)

Mr. VINTON said that the next special order was the Military Academy bill. He moved that the committee proceed to its consideration. And, by the permission of the committee, he would express the hope that it would sit to-day until near four o'clock, in order to get through with this bill, and also, if possible, with the pension bill to-day.

The committee thereupon proceeded to the consideration of the bill making appropriations for the support of the Military Academy.

The bill was read through, and was then taken up by sections.

[The Chairman rose informally, and the Speaker resumed the chair, for the purpose of receiving a message in writing from the President of the United States, by the hands of J. K. WALKER, Esq., his Private Secretary.]

Mr. BEALE obtained the floor, and proceeded to address the committee at length.

He said that he should offer no apology for attempting on this occasion to allude to subjects which had no immediate reference to the bill now under the consideration of the committee. He had thus far, during the entire session of this Congress, been content to leave, as the only record of the opinions he had entertained on the various subjects which had engaged its deliberations, his silent votes. And he would have preferred to have adopted that course until the close of his term but for the necessity which was imposed upon him of departing from it, or of silently acquiescing in constructions and interpretations of these votes, the justice of which he could not acknowledge. There had been a time when he would have been happy to have offered some few remarks in reply to the proud defiance which had been thrown out in a speech delivered in this House during the last session of Congress by the gentleman from Georgia, [Mr. STEPHENS,] in defence of the course which his sense of duty compelled him to pursue in relation to the bill commonly known as the compromise bill. The time had been also when he (Mr. B.) would have been happy to have noticed some of the remarks of an honorable gentleman from Massachusetts, [Mr. HUDSON,] in which odious comparisons were instituted, and dogmatical anathemas pronounced against the State which he (Mr. B.) had the honor in part to represent on this floor. These things, however, had passed. The consideration of the arguments of these gentlemen would require the entire limits of the hour which the rules of the House allotted to him, and he had risen upon this occasion for a different purpose.

He should now merely refer to his own opinions in respect to the constitutional power of Congress over the subject of legislation for the Territories and the subject of slavery, so far as was necessary to his present purposes. He should not enter into an argument on these questions, but should simply state the position he had occupied.

Looking to the Constitution alone, he was disposed to deny *in toto* the rightful exercise of any jurisdiction by the General Government for the purpose of establishing local governments for the people of a Territory. He was willing to concede to Congress the right to extend over all the Territories belonging to the people of the United States that jurisdiction which it could rightfully exercise within the States themselves. He did not concede to the people of a Territory sovereignty; but he believed that it was most consonant with the theory of our system of government to permit them to establish governments and regulate their municipal concerns—the laws which might be passed by these governments to be in subjection to the compromises of the Constitution, and to the rights of the people of the several States of which the Confederacy was composed.

During the progress of the able debate which took place on this floor, and also at the other end of the Capitol during the last session of Congress, this opinion with reference to the power of Congress to establish territorial governments was reluctantly yielded. He maintained, however, that in the exercise of that power, whether it was derived from the clause of the Constitution giving to Congress the right to enact all needful rules and regulations in respect to the territories or other property of the United States, or whether it was derived as an incident to the treaty-making power, or as resulting from the right of conquest, it was still to be exercised in obedience to all the limitations of the Constitution and with reference to all its compromises. To no gentleman, either in or out of his own delegation, had he supposed that the opinions he entertained were better known than to the honorable gentleman from Maine, [Mr. SMART,] who had recently taken occasion to address the committee; yet, in addressing this committee, that gentleman had taken occasion to express himself in the language which he would now read:

"In the remarks I am about to make, I shall waste no time to prove the *power* of Congress to prohibit the extension of slavery. Many members of this House have made elaborate speeches to prove the prohibition of slavery in our Territories unconstitutional; but, sir, there is one decisive answer to all these gentlemen. Before the close of the last session, they all voted, with the oath of God upon them, to exclude slavery from a large portion of our Territories. They voted that slavery should not exist north of 36° 30'.

"They cannot reply to this allegation, that they voted for what was generally regarded as a compromise. They did no such thing; for the line of 36° 30', as a line between slavery and freedom, was strenuously opposed by almost every member from the free States, and was looked upon as anything but a 'compromise.'"

Now (continued Mr. B.) I propose very briefly to advert to the history of this proposition, for which the entire delegation from the South on this floor recorded its vote. It would be borne in mind that the Oregon bill embodying the distinct provisions of the Wilmot proviso had passed this body. It went to the Senate. In that body the bill was amended by the committee to whom it had been referred, so as to ingraft upon it the provisions of the Missouri compromise. The bill was sent back to this House, and the amendments which had been proposed to it were voted on here under the operation of the previous question. The amendment containing the Missouri compromise embodied emphatically the distinct assertion, that it was offered as an amendment to the bill as a compromise. The language of the proposition itself showed conclusively the fact, that it was a compromise. The history of its passage through this House showed the additional fact, that gentlemen here were reduced to the alternative of voting for the compromise, or of voting, in effect, directly for the Wilmot proviso. The amendment was in the following words:

"That the line of thirty-six degrees and thirty minutes of north latitude, known as the Missouri compromise line, as defined by the eighth section of an act entitled 'An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain Territories,' approved March 6th, 1820, be and the same is hereby declared to extend to the Pacific Ocean; and the said eighth section, together with the compromise therein effected, is hereby revived, and declared to be in full force, and binding, for the future organization of the Territories of the United States, in the same sense, and with the same understanding, with which it was originally adopted."

And yet (Mr. B. continued) in the face of these facts—in the face of the additional and positive assertion of a Senator, in reply to a direct question which had been addressed to him, that it *was* a compromise, it was stated here that gentlemen from the South had voted that Congress might rightfully exclude slavery from the Territories, and that they could not, "with the oath of God upon their lips," say that they had voted for the proposition as a compromise.

Mr. SMART asked leave to explain.

Mr. BEALE having yielded the floor for the purpose—

Mr. SMART said his position was this: that the proposition was not generally regarded as a compromise, and therefore those gentlemen who voted for it were committed to the power to exclude slavery. Almost every gentleman of the North had voted during the last session for the ordinance of 1787, prior to that proposition having been submitted. Whatever his language might have been, he intended to say that southern gentlemen were committed to the power to restrict slavery. There were four northern men who voted in favor of that compromise; if twenty additional northern members had voted for it, it would have become a law, and in that event would not gentlemen have been committed to the power of excluding slavery? Or, put it in this form: the South lacked twenty votes of excluding slavery north of 36° 30'. It was, however, of little importance. He considered the question settled long ago. One word more: He would say, in order to make a compromise, there must be a concession; both parties must concede something. There was no such concession. He did not see how a man could vote for an exclusion of slavery without committing himself to the power, unless, perhaps, by an express or implied waiver of the constitutional question by both parties. There had been no such waiver. This was the answer he made to the gentleman from Virginia.

Mr. BEALE continued. It was, he said, sufficient for him to know that the record showed, that upon the occasion referred to, the vote of the southern delegation here was given for the proposition, not as a distinct and independent proposition, but as an alternate proposition, and as a compromise. He was willing to leave the matter to the record.

But again: The gentleman from Maine [Mr. SMART] had proceeded to say:

"All must agree, as free laborers will not settle upon slave territory, that the free States, having contributed their share of men and money towards the acquisition of Texas, New Mexico, and California, are entitled to their share of this acquisition, as free territory, according to their population. How, then, Mr. Chairman, does the account now stand? Texas embraces a superficies of 397,000 square miles, assuming the boundary fixed by the laws of Texas. California and New Mexico amount to 526,078 square miles. The aggregate of these several tracts is, as I have already stated, 923,078 square miles. Now, the population of the free States amounts to about 12,193,000, and that of the slave States to 8,553,000. Provided the soil of Texas, New Mexico, and California, is of equal value, and that the whole people of the South are interested in slavery, a division according to population would require that 554,513 square miles should be free, and that 380,565 square miles should be slave territory. Give Texas the line she has assumed, and extend slavery no further, and the slaveholding population will have much more than their proportion of the whole territory. You give for purposes of entire freedom 526,078 square miles, and leave for slavery within the limits of Texas 397,000 square miles."

In reply to this part of the gentleman's speech, (Mr. B. continued,) he must say that he was somewhat pleased to find that the member from the North was willing, or that he indicated a disposition to rest the adjustment of the question upon principles of equality and right between the different sections of the Confederacy. And if such were the disposition, he (Mr. B.) felt satisfied that, by a brief review of the acquisitions which had been made at different periods of our history, it would appear that the South, in demanding thirty-six degrees thirty minutes as the line of division in recent acquisitions, was demanding less than she was entitled to, even upon the basis of the gentleman's own statements. These acquisitions consisted of Florida, Louisiana, Oregon, and Texas. The total number of square miles, from a statement before him, attached to the most recent map he had seen, excluding from the estimate fractions of thousands, he found to be one million seven hundred and fifty-one thousand. Of this, the North had received Nebraska, and Minesota, the Indian or Missouri Territory, and Oregon—the four containing a superficies of one million three hundred and thirty-four thousand square miles.

The South, in Texas, Florida, Louisiana, Missouri, and Arkansas, had received only four hundred and seventeen thousand square miles.

According to the gentleman's estimate of the population of the free, and slave States, (excluding fractions of a million, which, if included, would operate in favor of this statement,) the North would be entitled to six-tenths; the South to four-tenths. Now, add the area of California and New Mexico, containing six hundred and fifty thousand square miles, and it would appear, to make good her share of four-tenths, the South must receive five hundred and forty-three thousand four hundred square miles, whilst the North could only claim one hundred and six thousand six hundred square miles. Thus the South would receive considerably less, under the Missouri compromise extended to the Pacific, than she was entitled to claim, according to such division as the gentleman had indicated. It would be observed, that in this statement he had made no estimate of that magnificent domain, which at the request of this Government Virginia had voluntarily surrendered with the proviso, that it should be reserved for free labor.

He would now advert very briefly to some remarks which had been made a few days ago by the gentleman from Indiana, [Mr. THOMPSON.] But before he did so, he (Mr. B.) must be permitted to say that the noble, manly, and patriotic spirit which had been manifested by that gentleman in the discussion of the questions to which he referred, met his hearty approbation. And dissenting as he (Mr. B.) did from many of the positions assumed by that gentleman, he could not withhold his expression of the approbation which he felt for the spirit which characterized the entire speech.

The gentleman remarked:

"But the records of the House showed that twenty-six gentlemen of the Democratic party from the slave States, representing slave constituencies, voted to order the main question, and force the House to a direct vote upon the question, against the earnest remonstrances and direct vote of twenty-eight Whigs and ten Democrats from the slave States."

And (continued Mr. B.) in reply to an interrogatory put to him by a colleague of mine, [Mr. MEADE,] the gentleman said:

"What of it? is asked by the gentleman from Virginia, (continued Mr. T.) This: you have always denied that Congress has any jurisdiction over the question, of which you forced us to take jurisdiction by your own vote, when we wanted to stave it off and not vote at all unless the proposition was modified.

"Mr. MEADE rose to say a word, but——

"Mr. THOMPSON declined to yield, and begged that gentlemen would not interrupt him.

"When the cause (he said) is once in court, and you have taken jurisdiction of it, you may decide either for the claimant or against him; but when you have no jurisdiction, you have no power to decide either way. By pressing this question upon us, you have admitted the jurisdiction of Congress over slavery within the District of Columbia."

This (Mr. B. continued) appeared to him to be very extraordinary language; and the illustration to which the gentleman had alluded was exceedingly unfortunate. He (Mr. B.) was familiar with no plea in the practice of the common law which could bear the slightest analogy to the previous question here. But he knew that a plea to the jurisdiction at law found its type in a motion here to lay on the table. When this resolution, upon which the gentleman from Indiana was commenting, was offered, the South was advised by her counsel on this floor, in the motion of the gentleman from Georgia, [Mr. HARALSON,] to file that plea to the jurisdiction of Congress. A motion was made to lay on the table that resolution, and it failed by the vote of the North.

When that plea had been overruled, and the House had decided that it would take jurisdiction, probably he might say that the South resorted to one other plea which might, in its effects, bear some slight analogy to the previous question. They filed a plea of *nul tiel record*. Under that plea, the House came to a direct vote upon the question. The South was willing to let it rest upon the constitutional power which Congress had to legislate over slavery in the District of Columbia, and the expediency of so doing. So far from giving jurisdiction to this House, the South opposed it. So far from obtaining or desiring to do anything improper or inconsistent with the in-

tercsts or rights of the North, all the South asked was, that this House, North and South, would vote upon the question of the constitutional power of this Government over slavery in the District of Columbia.

The gentleman from Indiana then proceeded to say:

"Before he proceeded to notice particularly what the resolution was, he wished to remark that there was one feature of this transaction which struck his mind as rather curious: that was, that ultra-slavery men on that side of the House, and ultra-anti-slavery men on this side coalesced; that they got together in pressing this question upon the action of the House. *How* they got together, he did not understand. Perhaps before this session of Congress expired, they would get together again. *'Nous verrons.'*"

Mr. B. continued. Looking to the whole tenor of the speech, the inference was irresistible that he was charged as an ultra pro-slavery man of the South, coalescing with the ultra-abolition feeling of the North; that to the extent of the humble instrumentality with which he was clothed, he was a confederate in forcing Congressional action, the tendency of which was to loosen the ligaments by which the Union was bound together, and to widen the breach in whose dark abyss the Constitution itself, with all its limitations, was threatened to be entombed.

He might perhaps be pardoned for adverting for a few moments to the history of the question of slavery. Its origin was anterior to the formation of our Constitution. A feeling of opposition to slavery originated, he believed, in the pure and undefiled philanthropy of those who thought that the requirements of their religion imposed upon them the necessity of advocating its abolition. This feeling, upon the adoption of the Federal Constitution prohibiting the importation of slaves, and thus removing from its pathway the great obstacle of pecuniary interest, in connection with the fact that the climate of the northern States rendered slave labor unprofitable, speedily effected the emancipation of slaves throughout the North. The triumph thus won naturally led to a desire, on the part of those entertaining these opinions, to extend the sphere of their humane operations beyond the jurisdiction of these States; and this Government was sought to be made the agent by which to accomplish their object. Consequently, in the earlier periods of our history, straggling petitions from the northern and eastern States, signed by isolated individuals, reached the table of this House praying for the abolition of slavery in the District of Columbia. But so universal, so wide-spread was the determination then in every section of the Confederacy to abide by the written guarantees and compromises of our compact, that these petitions were "quietly inurned" there, whence they never came. They seemed to have excited so little interest as not for a moment to have ruffled the smooth current of our political action.

In the year 1819, when Missouri applied to be admitted into the Confederacy as a State, the sagacity of political leaders, discovering the tremendous fever which the agitation of this question placed within their control, courted its then unholy alliance; for this feeling, like all other human passions, however pure in its origin, assumed in its progress the features of a dark and damning fanaticism. The first great battle for political ascendency in this Confederacy was fought by political interests banded under the specious garb of this mistaken philanthropy. The contest came. The boldest heart trembled beneath the rockings of the storm. The throes of the mighty struggle, like the waves of ocean, were felt throughout the circumference of our land. The spirit of our fathers fled forever. There was not found on the floor of the American Congress patriotism or firmness sufficient to defend the integrity of the Constitution against the assault of this factious combination of interests. In the vain hope that the power of the giant might be stayed—in the idle expectation that in the timid councils of concession safety from future aggression would be found, 36° 30′ was tendered as a compromise, in whose rich soil of peace the olive of reunion might flourish in lasting beauty. How well this expectation has been justified, let the history of the present Congress tell.

Satisfied? No; far from it. The spirit of fanaticism just felt its power; the concession became only a stepping-stone from which it leaped onward in its career with a velocity unequaled before. Again the tocsin sounded. The warrior clans again assembled. Like the Vandal chief, this spirit of aggression pointing with the one hand to the sterile province conquered on the *steppes* of the Alps, with the other pointed her followers to the rich Italian plains—the scene of future victories. Then commenced the flood-tide of petitions, not from isolated individuals, but from organized societies. The mails were sought to be made the medium for transmission of incendiary publications. The public mind was excited by constant discussions. The household altar of the Virginia master was stained by the blood of his children. The South, stung to madness by these incessant attacks, but clinging even in the retchings of her despair to the plighted faith of her contract, asked in mercy from the Government some protection from these insidious assaults.

The celebrated 21st rule was adopted, and from that period a new ally was folded to the bosom of political abolitionism.

The second great battle was to be fought under the name of the high, the sacred, the American right of petition. The contest came; the 21st rule was repealed. And here he must be permitted to say, that the glare of its triumph, or the brightness of its armor, seems to have blinded some of the sentinels upon guard in this Chamber, for in the shout of victory the voice of southern men was heard.

The acquisitions made from Mexico again banded together in unity of political action all the elements of opposition to slavery. The contest of 1848 for the Presidency was fought by all parties with reference to this question. If Mr. Van Buren, the peculiar representative of free soil doctrines, obtained but an inconsiderable vote, the gentleman from Maine [Mr. SMART] informed us that he was defeated in his State because the regular Democratic party succeeded in convincing the people that they were more consistent advocates than he of these same doctrines. Was there a gentleman on this floor who would deny that the success of the Chief Magistrate elect was owing to the belief entertained throughout the free States, that he would not interpose his *veto* upon the action of this House in carrying out the Wilmot proviso?

With these facts before us, Congress had scarcely assembled, before the gentleman from Ohio [Mr. GIDDINGS] introduced his propositions to abolish slavery in the District of Columbia. It was true, they were laid upon the table; but the fact stared him in the face, that there were on this floor seventy-nine members who were willing to go even to the extent of his propositions.

Mr. HENLEY interposed, and asked leave to put a question.

Mr. BEALE having yielded for the purpose—

Mr. HENLEY inquired whether the gentleman understood those who voted with the gentleman from Ohio as being willing to go the whole extent of that gentleman's propositions?

Mr. BEALE. I did.

Mr. HENLEY. I cannot make any explanation now. I will do so at some other time.

Mr. BEALE continued. He now came to the resolution of the gentleman from New York, [Mr. GOTT.] After endeavoring in vain to lay that proposition on the table, after presenting every plea upon which the South could rely for protection, aware of the spirit which was abroad in our land, aware of the influences under which party organizations had been formed, he (Mr. B.) for one was willing and anxious that gentlemen should show upon the record here, how far they were prepared to go upon this question. If gentlemen preferred the nomenclature, he wished to see what was the extent of pro-slavery men here; he wished to see the measure of political abolition here. He knew that a partisan press had already raised the raven cry of disunion. He knew that its tones were now being reverberated from every hill and through every vale of this vast Confederacy. They were seeking to fix upon his brow the brand of disunionist.

Let them rail on. He hoped ever to have the firmness to pursue, undeterred by assaults from every quarter, the course which the dictates of his judgment pointed out to him as right. He professed to be catholic in his feelings in reference to all the great interests, to all the just rights of every section of the Union. He had from earliest infancy nourished and cherished sentiments of deep veneration for this noblest work of the noblest men. But he repudiated the idea that the vitality of union was to be found in the written charter. It lived, it moved, it breathed in the spirit of the American people. The ark of its safety, alike with the hope of its preservation, was found in the bosom of the American citizen. Remove thence its altar, and its divinity was gone. Probably the lifeless idol might be worshipped for a time under the accustomed forms of devotion, but its spirit would be powerless to control the action, impotent to direct the energies of this great people. Even now a false bigotry was bending over its shrine, with professions of profound devotion to the high mandates of its law, which, in the language of the gentleman from Indiana, [Mr. THOMPSON,] was an enemy to its public welfare and public peace.

Sensibly alive to the crowded list of glories which, like constellations of light, had illumined our path thus far—looking, with anxiety and solicitude most intent, to the nobler achievements and higher triumphs in all that pertained to the progress of civil liberty and the promotion of social happiness destined to be accomplished in the future by its continuance,—he had hailed, with feelings of grateful sensibility, every proposition to adjust these difficulties upon some basis satisfactory to the public mind, and which the States might accept without a sacrifice of principle and of honor.

He could refer confidently to every proposition for adjustment made here to sustain him in the assertion. Although he had always held, as a part of his political faith, that the people of the States, and not the supreme judicial tribunal of the Union, were to be the final arbiters in all political differences, yet upon this subject he was willing to sacrifice this opinion, and to leave the question to be decided by the Supreme Court—willing to bow, in cheerful submission, to that decision. He would still hail with delight all propositions looking to its adjustment on a satisfactory basis, come from what quarter they might. And in this connection, he would appeal to the gentleman from Indiana [Mr. THOMPSON] to say whether he could point to a single occasion in which, upon the merits of this question, he had ever found the pro-slavery men voting with the extreme abolitionists? He (Mr. B.) believed there was no such instance. And he claimed for the South at least the credit of attempting to tender to the North the olive branch of peace. But when all propositions had failed, when the alternative was presented of direct submission to what he regarded as wrong, he would stand to his colors undeterred by the desertion of friends, unterrified by the hostility of those who were opposed to him, and would leave the future to write his epitaph.

The committee proceeded to consider the bill by items for amendment.

Mr. J. R. INGERSOLL moved an amendment after the 10th line, to insert an item of $1,500 for the salary of a professor of mines.

He said there was now no such professorship; and he spoke of the important advantages that would result from such an establishment in the increase of knowledge relative to mining, and in the foundation of a museum, which would be the result.

The amendment was rejected.

Mr. JONES, of Tennessee, moved to add, after the item for forage for officers' horses $2,496, a proviso that the forage shall not be allowed unless the horses are actually kept.

He said the bill would have the effect to pay to the officers at the Military Academy commutation for forage for horses for which they had no use, and which they did not keep. If their salaries were not sufficiently large, let them be increased by direct provision.

The amendment was rejected.

Mr. POLLOCK renewed the proposition of Mr. INGERSOLL for the establishment of a professorship of mines, with a salary of $1,400.

Mr. JONES, of Tennessee, raised the point that the proposition having been made and *rejected*, it was not in order to renew it.

The CHAIRMAN ruled the amendment in order.

Mr. POLLOCK briefly advocated the amendment. The professorship (he said) would not only embrace mineralogy, geology, and many branches of science, but the science of mining, which had become one of the most important, not only in relation to California, but to every State of the Union.

Mr. STANTON said he believed that the pro-

fessorships of chemistry and engineering already existing in that institution, were sufficient to impart all the necessary information upon the subject of mining. He was friendly to the institution, and desirous of seeing its interests fostered and promoted by the Government; and he would say to the advocates of this proposition, that if they desire to see the interests of the Military Academy protected and promoted, it was not good policy to load down the bill making appropriations for its support with amendments of such a character. He would submit it to the candor of any gentleman—though there might never be established in that institution a distinct professorship of mining—whether any young man who might be educated there, after the regular course of instruction in chemistry and engineering, might not readily make himself acquainted with everything necessary to become a safe miner.

Mr. HOLMES, of South Carolina, said the very fact of the amendment being suggested, ought to impress every one of its necessity at the present time. Geology, engineering, chemistry, had nothing to do with practical mining. The science of chemistry was applicable to the ore, after being brought up from the mines. He desired the committee to look for a moment at the necessity for the establishment, in the only Military Academy of the country, of a practical professorship of this character. The Government sent annually into the public service some forty or fifty young men from this national seminary; and if there were created there a professorship of mining—which would necessarily include mineralogy, geology, and chemistry—who did not perceive the advantage which it would give to those young engineers by enabling them, as they might pass over the country in the capacity of surveyors and explorers, to detect at a glance the presence of the precious metals, and to say, Gold is here, and silver is here. Thus, the rich mineral treasures of the whole country would be opened to the management and control of the Government. In view of the recent developments of the vastness of the mineral possession of the country, he insisted that there never was a moment more propitious than the present for the establishment of such a professorship. Such a course of policy would give those rich mines to the Government before they could be grasped by speculators.

Mr. BROWN, of Pennsylvania, said he did not know that he should vote for this amendment now, but he rose to give his assent to the justice of the motion. He supposed gentlemen did not very well know what it was. He would remark that it was not a new idea. One of the best scientific institutions in the world was the School of Mines in Paris. It was to this institution that one of our countrymen—a relative of one of the Senators from South Carolina—had to repair before he felt himself competent to go into an examination of the gold mines of Virginia. Thus it was, that, before we could work successfully the mines of our own country, we were obliged first to go to Europe to learn how—to get information relative to practical operations in mines. He had had some practical knowledge of mining for years; and he had often been made to feel and acknowledge, that a more thorough knowledge of the subject would do them good, even in Pennsylvania, where there was carried on, perhaps, the most extensive mining business in the country. He had no doubt that our possessions in California and New Mexico contained not only much gold, but other of the most valuable mineral deposites in the world; and he considered it very proper that the Government, in order to secure the benefit of these mines, should impart the knowledge of working them to its agents.

Mr. STANTON interrupted to inquire whether at West Point, a course of instruction in geology, mineralogy, chemistry, and engineering, did not necessarily include mining?

Mr. BROWN replied, the student might be thoroughly instructed in all these branches, and yet not begin to touch the subject of practical mining. He might be thorough in all these, and yet not know how to lay out a mine, or even how to expel the gas. He might know how to assay minerals of all kinds, and be able to classify them, without any good knowledge of practical mining. Mines were often ruined for want of proper knowledge in their working. It was the object of the School of Mines in Paris to impart this knowledge, and he apprehended that such was the object in the establishment of the proposed professorship at West Point.

Mr. HALL, of Missouri, desired to ask the gentleman from Pennsylvania, whether he would be understood to advise the establishment of a school of miners for the purpose of raising up surveyors of private property?

Mr. BROWN spoke only of mines belonging to the Government.

Mr. HALL proceeded. He understood, then, the object of the establishment of the professorship to be that of raising up competent surveyors and explorers, for the purpose of examining into the mineral wealth of the public lands. He believed that geological surveys by the Government were very proper. He had no doubt that large benefits had been realized on account of their prosecution. But he appealed to the committee whether the subject should not go the Committee on Public Lands—a committee organized by the House, and charged with the special duty of looking into every subject connected with the public lands—before being submitted for the action of the House? It did appear to him that a subject of so much importance should be examined and reported upon by the proper committee. But if it were proposed to establish the professorship for the purpose of raising up examiners of mines belonging to private individuals, it might be just as reasonably proposed to establish professorships of agriculture, manufactures, steam, and of all the great branches of industry, which lay at the foundation of the wealth and welfare of the country.

Mr. VENABLE said he should vote for the amendment, because he was a warm friend and advocate of the West Point Academy. The effects of that school had been altogether of the most happy and gratifying character. From that institution the Government had derived a large number of educated men—men profoundly versed in science and philosophy—whose influence had been brought to bear upon all the interests of the country, with the happiest results. He had supposed that the former opposition to that institution had ceased since the war, which chronicled the deeds of gallant daring by so many young men whom it had sent out. He knew that it had been objected to this institution, that young men, favorites of members of Congress, would get their education there, and retire to private life; but he never yet heard of any trouble about hunting up those young men, at any time when the Government needed their services. No man ever supposed that there was any less silver and gold in the country, because some of it was manufactured into jewelry and plate. Should the necessities of the country demand it, the jewelry and plate would be changed into coin for circulation. Even amongst those who had retired, there were not wanting numerous examples where they had stepped forward to achievements on the battle-fields of their country, which constituted many a proud monument of her glory and renown. They furnished the country with the best and only safe substitute for a standing army. Whilst danger was to be apprehended from the power of an army kept up in time of peace as a lever by which the officers might combine and assail the rights of the people, the country could always look for efficient aid from well-instructed men in military service, who were thoroughly incorporated in civil society. Whilst he would in no way detract from the renown of our gallant volunteers, led by volunteer officers who had no previous military education, it was equally true that much of their success was due to the scientific and elaborate preparation made by thoroughly trained officers. The wreath which was won by valor was not the less brilliant because the gems of science glittered amidst the leaves which composed it. In order to make an accomplished officer, it was necessary first to make him a scholar. He should be educated—instructed in all the learning of the schools—in order to render suitable public service. It was all-important that our engineer corps should be men of this class. They should be practical men in all the sciences, especially in mining. They should be able to trace and tell us where all our mineral deposites lie. He never believed in any half-way education. Knowledge was power; and the man having the most information upon all subjects was the most powerful man and the most worthy man, if his heart was right. The literary, scientific, and utilitarian world had been most eminently benefited by the researches of highly educated men belonging to the military and naval establishments of Europe and America. Since the cultivation of the military art had been associated with liberal and practical science, some of the richest contributions which have been made to the knowledge of the world have been the result of the peculiar advantages of military men for making observations, and extending the area of scientific observation. But the institution at West Point was a military academy. It was no manual labor school, no place to teach polemics, but a school of military science—for instruction in all that pertains to military operations, engineering, the mathematics, chemistry, and whatsoever relates to the qualifications of young men who go forth with the commission of the Government, and who, were they sent out as surveyors, would be able to detect at once the presence of rich minerals over which they might pass. Science should thus be made tributary to the Government, and then the mines on the public lands would not be so liable to fall into the hands of speculators. For these reasons, he should vote for the amendment.

Mr. McLANE was understood to inquire of the gentleman who first proposed the professorship, whether the officers of the academy had been consulted in reference to the matter?

Mr. JOSEPH R. INGERSOLL replied, that having conversed freely with several gentlemen who were entirely familiar with the School of Miners in France, he was so impressed with the importance of the subject as to be induced, on the instant, to throw in the amendment, with the view of testing the sense of the committee upon it. He knew nothing further of the matter; but he believed, had the suggestion been made in time to the officers of the institution, that it would have been cordially concurred in by them, and that the chairman of the Committee of Ways and Means would have been written to in relation to the matter.

Mr. McLANE then said he could not vote for the amendment, unless it could be put upon grounds consistent with the wishes of the officers and professors of the institution. He understood the West Point Academy to be exclusively a military institution; and he believed that all opposition to it would either be removed or rendered insignificant, if Congress would take care to confine its sphere of operations to that fundamental idea, and treat it exclusively as a military institution. Since the country had acquired the new Territory of California, he freely admitted that the young men in the academy should be instructed in mining; but he submitted to the gentleman from Pennsylvania, [Mr. BROWN,] whether, so far as military mining was concerned, the academy at West Point had not now a professorship by which it was covered? and whether mineralogy and geology were not entirely covered by the professorship of chemistry? As to the matter of instruction in mining in that institution, so far as the subterranean operations were concerned, they came under the supervision of a gentleman who had devoted his whole life to the subject. There could be no more thorough instruction in military mining than that which was now imparted at West Point. As a friend to that institution, he could not discharge his duty by voting against the amendment, without declaring, at the same time, his belief, that practical mining was already taught there as thoroughly as was necessary for military science. No gentleman could desire to carry the science of mining beyond what was now actually taught there. These professorships in the schools of Europe were connected with military science; and wherever they were found in civil institutions, they looked to the science of assaying metals exclusively. Now, if this proposition to establish a professorship of military mining were to be adopted, it would be equivalent to saying, that the professorship of engineering was too much occupied with other duties. He could not vote for it, (although he freely admitted its importance,) so long as he knew that military mining was now thoroughly taught, nor so long as instruction in geology and mineralogy were embraced in the professorship of chemistry.

Mr. HOUSTON, of Delaware, desired to ask a question of the honorable member from Maryland, whose views always had great weight with him. He desired to know, in connection with the proposition to establish an additional professorship in

the West Point Academy, whether it would not be desirable at this time to establish also a professorship of the Spanish language? He believed that language was not now taught in the institution.

Mr. McLANE replied that the French language was taught there as a distinct course; and the committee would understand why that language was selected in preference to the German or Spanish, when they reflected that the most approved mathematical and other scientific works were in the French language, and that the military studies in these sciences were directed by the French books. He thought the gentleman from Delaware would perceive, at once, that the selection of the French language for this purpose was strictly consistent with the military character of the school.

Mr. HOUSTON understood the gentleman; but there were other well known reasons which seemed to require that the Spanish language should be taught there at the present time.

Mr. McLANE was understood to make the closing remark, that there was no necessity in the Academy for further instruction in mining, so long as the studies were so thorough in the department of engineering.

Mr. SAWYER warned the committee, if they continued to multiply professorships in the West Point Academy, they would perhaps find out very shortly that there was no need for any other institution in the country. The gentleman from Pennsylvania, who first addressed the committee in favor of the amendment, had stated the fact, when he said that the young men educated at West Point were called to fill all the prominent positions in the Government. It was a fact, that no man could now apply for any scientific position for his friend without being told that the West Point students occupy all these positions. If we looked to the army, all the glory of its achievements was universally ascribed to the officers emanating from West Point; while the brave volunteer officers, of whom he saw and could name several now around him, upon both sides of the House, and who really contributed most to the glory of our arms, were wholly forgotten in the account. He could, and he would, mention among those brave and efficient volunteers now in his mind, the names of Campbell, Thomas, Haskell, Chetam Waterhouse, McClelland, Trousdale, P. F. Smith, Butler of South Carolina, Jack Hays, Richardson, Gaines, and Mitchell. He could extend the list much further, and would venture to say that those who contributed most to our successes in the Mexican war, were those who left their work-shops and their ploughs in the furrow, whose education had not been a charge upon the Government, and who returned from the war not to be pensioned upon the Government, but to repair to their own honest and peaceful avocations. It was the remark of one of our generals, that volunteers "fought by the job, while the regulars fought by the year." The fact was, that the men who had been most prominent in all our wars were never sent to be educated at West Point; and he entered now his solemn protest against the modern rule of ascribing all the glory of the army to the West Point students. He had then in his mind such men as Worth, Pillow, Scott, Taylor, Wool, Kearny, Price, Twiggs, Patterson, Pearce, Cushing, Cadwalader, Hamer, Lane, Shields, Quitman, W. O. Butler, Hardin, Yell, and Weller, who were never sent to West Point to be educated; and he could mention the names of hundreds more. The glory of the field of Buena Vista was ascribable to the valor of the volunteers, of whom it was said that they did not know when they were whipped. But the West Point men got all the thanks of the Government. It was only the other day that he saw published in the *Union* a certain correspondence between the officers of the West Point Academy and the Secretary of War, in which the latter had bestowed all the credit of our successes in the war upon the officers educated at that institution; and, what was still more preposterous, all the flags taken from the enemy were presented to that institution, as trophies of the valor of her students. All this was done without saying one word of the volunteer valor displayed at Buena Vista and elsewhere, on every field of battle, while the flags stained with their life-blood were sent and deposited as trophies of the valor of West Point men! Such was his feeling of indignation, upon reading these proceedings, that he had draughted a resolution, now in his pocket, to take these flags—which cost the common blood of the country—away from that institution, and place them in the rotundo of this Capitol. He gave notice that it was still his purpose to introduce that resolution. He had attempted to get the floor that morning for the purpose; and he should persist in the effort till he succeeded, or till the end of the session. He represented, in part, the interests and honor of a State which furnished as gallant volunteers as ever shed blood upon any field; and he was determined that the remembrance of their deeds of valor should not be separated from them and placed to the credit of the Military Academy; and he would-call upon gentlemen representing volunteers from other States to stand up with him, and see that this stigma of the Secretary of War should not rest upon them.

The Military Academy had grown too large. Its students were fast becoming the occupants of every prominent station in the gift of the President; so that a civilian stood no more chance to get one of them than a man in Africa. It would soon become the first object of inquiry, upon the examination of a man's claims for office, Was he educated at West Point? and he would tell his constituents, that if this state of things were to be tolerated, they need not look to the General Government for any office whatever.

He would like to say more upon this subject, but he would not consume time. He would like, also, to go into some examination of the coast survey report, but he should seek another opportunity for that. He had nothing to say against the principle upon which the coast survey had been established, but his remarks would be directed against the abuse of it. He would now merely beg leave to suggest to the chairman of the Committee of Ways and Means, that the actual expense of that service could not be made out from the report made from that office. He would also tell why that expense could not be thus made out. There was an annual appropriation made by Congress for the support of what was called "revenue marines," which was taken and applied to the coast survey.

He referred to his former objection to the scale of minuteness upon which these surveys had been prosecuted. That creek over yonder, commonly called the Eastern Branch, (he said,) had been surveyed as high up as Harpers' Ferry; and even the minutest fibre of the stream had been laid down on the map. He could even point out the location of Soper's hill from the map. There was a great deal of *soaping* about all this, [laughter,] to which he would call the attention of gentlemen at some proper time. He would now merely call the attention of the chairman of the Committee of Ways and Means to the fact to which he had just adverted, namely, that the sum of forty-nine thousand dollars annually appropriated for the revenue marines went over for the benefit of the coast survey, showing the actual cost for that service last year to have been one hundred and ninety-four thousand dollars.

He repeated that it was the abuses growing out of this service of which he complained, and they were increasing every year. This increase, moreover, was attributable mainly to the prolific inventions of West Point men. There were too many of them without either employment or homes, who were constantly racking their brains to get up such objects of appropriation as might give them all comfortable places for life.

In conclusion, he said a friend [Mr. STANTON] had put into his hand an amendment which he liked very well, and which he would offer. It was read, and proposed to strike out the amendment of Mr. POLLOCK, and insert a provision that the duties of the proposed professor on mines should be performed by existing professors.

The amendment was ruled out of order.

On motion of Mr. VINTON, the committee rose and reported progress.

Mr. VINTON moved a resolution to terminate debate on the bill in five minutes after the House should again have resolved itself into Committee of the Whole on the state of the Union.

Mr. HARALSON moved to amend by extending the time for debate to one hour.

The amendment was rejected, and the resolution was agreed to.

Mr. VINTON moved that the House resolve itself again into Committee of the Whole on the state of the Union.

Mr. TURNER moved that the House adjourn. Rejected.

The motion of Mr. VINTON being agreed to, the House again resolved itself into Committee of the Whole on the state of the Union, and resumed the consideration of the bill providing for the support of the Military Academy.

Mr. HARALSON obtained the floor, and occupied the remaining five minutes allotted to debate.

He said, however the policy of establishing the Military Academy might originally have been doubted, he wished it to be understood that he was a decided friend of the institution, and he was only apprehensive that it might be made offensive to the public mind by encumbering it with matters which did not belong to it. For all that related to military knowledge, he doubted very much whether the present condition of that institution could be very much improved. We had abundant proof of its benefits in the attainments of those young gentlemen who were educated there, and sent out to the world; and in many of the occurrences of the war which had just terminated he could give examples of the beneficial results of that institution, which he apprehended would tell upon the public mind, and perhaps on this committee. But he wished to make no invidious distinctions between the achievements of the cadets of that institution and of the volunteer force who had served in Mexico in the defence of their country; they had all performed their parts well.

As regarded the amendment of the gentleman from Pennsylvania, however valuable might be the attainment of the knowledge of mining, he thought it had no particular connection with military knowledge. It would be difficult to tell how a professorship of mines, in its general scope, could connect itself with military science, to the extent to which it was so connected; this branch of science could be taught by the professor of engineering, or other professors, who were already there. The remarks of the gentleman from Maryland [Mr. McLANE] on this subject bore with much weight on his mind; if they went without the range of military science and provided other professorships, in his humble opinion, they directed the institution to objects which were not originally designed by its founders, and it would have a tendency ultimately to overthrow the institution itself. They had had the intimation already given in the debate by a gentleman who was hostile to the institution, that he should like to see this amendment adopted, as it would render the institution more objectionable. But let us maintain the institution in its present condition, modifying or adding to it only where it was certain it would be improved—and having witnessed one of its examinations, he hought it would be very difficult to make any substantial improvement in it. He thought the science taught there had been of essential service to the army itself, and that it had done great good in disseminating military knowledge throughout the country.

In friendship to the institution, he wished the amendment would not be urged or adopted, and he thought the best direction they could give to their legislation respecting it would be to maintain it purely as a military school, and by so doing it would be saved from the attacks which had heretofore been made upon it from various quarters of the country. He was glad to know, that since the war with Mexico these attacks had now become feeble and "few and far between;" and if it was maintained in its present military character, he trusted the day would come when there would be scarcely any one so bold as to rise up and say that it was not an institution which was doing a great good to the country.

The hour for debate having expired, the committee proceeded to vote.

Mr. BOWLIN raised the points that the amendment was irrelevant, and that it was in violation of the 81st rule, and therefore not in order.

The CHAIRMAN ruled the amendment in order.

And the question being taken upon it, it was rejected.

The bill was then laid aside to be reported to the House.

REVOLUTIONARY PENSIONS.

On motion of Mr. VINTON, the committee proceeded to the consideration of the bill making

appropriations for the payment of revolutionary and other pensions of the United States, for the year ending 30th June, 1850.

Mr. BROWN moved the following as an additional section, the provisions of which he briefly explained, and remarked that it was intended solely to benefit the old soldier, viz:

And be it further enacted, That whenever any agent for paying pensions shall have a deputy or clerk authorized by law, said deputy or clerk shall have like power to administer oaths or affirmations as said agent may have, and all oaths or affirmations taken before said clerk or deputy shall be of like obligation, and subject to like penalties for false swearing or affirmation, as if taken before the pension agent.

The amendment was agreed to.

Mr. HALL, of Missouri, moved an additional section providing that the pension act of 1848 should not be so construed as to exclude from the benefits of the act those officers and soldiers who served in the Indian territories belonging to the United States. He glanced at the history of the pension laws, and of their successive extensions and modifications, stating that by the law of 1836, the widows of all officers and soldiers who had been engaged in service anywhere were entitled to pensions; but that the act of 1848 excluded from the benefit of pensions those soldiers who during the late war had been engaged in our territory. There were many such, and they had done important duty. One thousand volunteers from the State of Missouri had been engaged in the wars with the Camanches, the Menomonies, and other Indian tribes; they had performed active service, and were equally entitled to pensions with those who had gone to Mexico. Wherever officers and soldiers had been retained in our own country and been engaged in merely peace duties, he would not grant pensions to them.

Mr. VINTON raised the point that this amendment was not in order. It proposed to create pensioners of the United States; the bill to pay those already existing.

The CHAIRMAN sustained the point, and decided the amendment out of order.

Mr. HALL, after a word of conversation, appealed from the decision.

The question, "Shall the decision of the Chair stand as the judgment of the committee?" was taken and decided in the affirmative.

So the amendment was ruled out of order.

Mr. VINTON moved that the bill be laid aside to be reported, and that the navy pension bill be taken up.

Mr. KAUFMAN moved that the committee rise and report the bills already acted on to the House.

Tellers were asked and ordered, and the vote being taken, they reported not a quorum voting.

Mr. VINTON said there was evidently a quorum present, but gentlemen could not be got to vote. He hoped there would be a call of the House, and that the House would go through with it to the end.

[Cries of "Agreed."]

The tellers (who had retained their places) now reported ayes 33, noes 100—a quorum.

So the committee refused to rise.

The bill was then laid aside to be reported.

NAVY PENSIONS.

The bill making appropriations for the payment of navy pensions for the year ending 30th June, 1850, was taken up; and having been read through, no amendment being offered—

On motion of Mr. VINTON, the committee rose and reported their action to the House, when it was concurred in, and the three several bills—viz: the bills providing for the support of the Military Academy, for revolutionary pensions, and for naval pensions—severally, under the operation of the previous question moved by Mr. VINTON, ordered to be engrossed, read a third time, and passed.

Motions were made by Mr. VINTON, to reconsider the respective votes upon the passage, and to lay those motions on the table; which latter motions were agreed too.

Mr. VINTON moved that the House adjourn, but withdrew at the request of—

Mr. DUER, who wished to make some propositions to the House.

The SPEAKER stated, that by general consent, he would lay before the House a message from he President of the United States.

Pending these proceedings—

On motion of Mr. STEPHENS, the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. EVANS, of Ohio: The petition of citizens of Muskingum county, Ohio, in favor of cheap postage and the abolition of the franking privilege.

By Mr. HALE: The petitions of Morrill Allen and others; of Childs Luther and others; of J. A. Hathaway and others, and of Edmund K. Fuller and others, praying for a system of cheap postage and the abolition of the franking privilege.

By Mr. THOMPSON, of Iowa: The petition of sundry citizens of Lee county, Iowa, praying for a construction of the act of June 30, 1834, and a settlement of the fee simple to the Sac and Fox half-breed reservation.

By Mr. GREELEY: Eleven several memorials from citizens of New York, asking Congress to exclude intoxicating liquors from the vessels composing the United States navy; of S. C. Boteman and others, for the freedom of the public lands; and of citizens of Madison county, New York, for the same.

By Mr. CONGER: The petition of 125 citizens of Virgil, Cortland county, New York, for cheap postage.

By Mr. SHERRILL: The petition of citizens of Kingston, Ulster county, New York, praying for a reduction of the rates of postage, the entire abolition of the franking privilege, &c.

By Mr. BINGHAM: The petition of the citizens of St. Clair county, Michigan, for the removal of the land office from Detroit to Port Huron.

By Mr. ECKERT: Ten petitions signed by 228 citizens of Schuylkill county, Pennsylvania, praying for an immediate modification of the tariff laws.

By Mr. PALFREY: The petition of Rachel N. Blackman and 73 others, of Charlton, Massachusetts; also, of Arvilla Sperry and 86 others, of Seneca county, New York, severally praying Congress to prevent the extension of slavery, to withdraw the protection of Government from the American slave trade, and suppress slavery wherever Congress has competent jurisdiction. Also, the petition of James T. Woodbury and 45 others, of Acton, Massachusetts, praying for the suppression of the slave trade in the District of Columbia. Also, the petition of Joseph Sewall and 48 others; also, of Abner Houghton and 61 others; also, of Horace G. Tucker and 24 others; also, of William B. Howes and 83 others; also, of T. R. Marvin and 18 others; also, of Samuel Foster and 85 others, citizens of Massachusetts, severally praying for a reduction and uniform rate of postage.

By Mr. STUART, of Michigan: The petition of Lydia Meacham, widow of Lucien Meacham, deceased, for a pension.

By Mr. STRONG: The petition of sundry citizens of Berks county, Pennsylvania, praying for the establishment of a post route from Kutztown to Dale, in said county.

By Mr. DANIEL: The petition of John McLeod and others, praying a further reduction of postage.

By Mr. CRANSTON: The petition of John Gardner, and one hundred other citizens of Bristol, Rhode Island, praying for a uniform rate of two cents postage on letters, &c.

By Mr. NEWELL: The petition of Isaac W. Lanning, and one hundred and four others, praying for a reduction of postage.

By Mr. NELSON: The petition of A. H. Wells, W. P. Smith, and others, citizens of Mount Pleasant, Westchester county, New York, praying for a uniform and reduced rate of postage, &c.

By Mr. HAMMONS: The petition of Charles G. Bellamy, and seventy three others, inhabitants of Kittery, Maine; also, of Caleb Mugford, and forty-eight others, inhabitants of Maine; also, of Jeremiah Brooks, and forty-four others, inhabitants of York, in the State of Maine, all in favor of a reduction of the present rates of postage.

By Mr. MANN, of Massachusetts: The petition of Christopher Marsh, and seventy others, citizens of Massachusetts, in behalf of cheap postage; also, the petition of Luther Metcalf, and thirty others, citizens of Massachusetts, for the same object; also, the petition of George H. Holbrook, and forty others, citizens of Massachusetts, for the same object; also, the petition of J. Leonard Scott & Co., and forty-four others, individuals and firms, in the city of New York, who are publishers of periodicals, praying Congress to abolish the distinction between the rates of postage on newspapers and on periodicals.

IN SENATE.

TUESDAY, *January* 30, 1849.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, in reply to a resolution of the Senate in relation to contracts for water-rotted hemp, stating that no contracts had as yet been made; which was referred to the Committee on Naval Affairs, and ordered to be printed.

The VICE PRESIDENT laid before the Senate a communication from the Solicitor of the Treasury, in relation to the claim of the Catholic Church at St. Augustine to certain property held by the United States in that place; which, after a few words from Mr. WESTCOTT and Mr. DAYTON, was referred to the Committee on the Judiciary, and ordered to be printed.

On motion of Mr. WESTCOTT, one hundred extra copies of this document were ordered to be printed.

RESOLUTIONS OF STATE LEGISLATURES.

Mr. DOUGLAS presented a resolution passed by the Legislature of the State of Illinois, instructing their Senators and requesting the Representatives of that State to use all honorable means in their power to procure the enactment of such laws for the government of the territories acquired by the United States under the treaty with Mexico as shall expressly declare that there shall neither be slavery nor involuntary servitude in those territories, unless for the punishment of crimes.

On motion of Mr. D., it was ordered that it lie on the table and be printed.

Also, a resolution of the Legislature of Illinois, in favor of securing to the States of Illinois and Indiana a liberal donation of land contiguous to the waters of the Mount Carmel and Alton, and Alton and Mount Carmel and New Albany Railroads; which was ordered to lie on the table and be printed.

Also, a resolution passed by the Legislature of Illinois, in favor of a grant of public land to that State to aid in the construction of the Central and Northern Cross Railroad; which was ordered to lie on the table and be printed.

MEMORIALS AND PETITIONS.

Mr. CALHOUN presented resolutions adopted by the Chamber of Commerce of Charleston, South Carolina, in favor of the coast survey; which were referred to the Committee on Commerce.

Mr. BUTLER presented a document relating to the bill to continue in force the acts for the payment of property lost in the military service of the United States; which was referred to the Committee on Military Affairs.

Mr. ALLEN presented the memorial of E. S. Haines, asking to be released from liability as surety for Robert T. Lytle, surveyor general of the district of Ohio; which was referred to the Committee on Public Lands.

Mr. DAVIS, of Massachusetts, presented the memorial of Little & Brown, stating that they had come into possession of the papers of the late President J. Q. Adams, asking Congress to subscribe for copies of the same; which was referred to the Committee on the Library.

Mr. DICKINSON presented documents relating to the claim of George Jamieson and George Fox, and other Seneca Indians, for the loss of rations and other property in their emigration to the Southwest; which was referred to the Committee on Indian Affairs.

Mr. RUSK presented the petition of Emma C. P. Thompson, asking compensation for diplomatic services rendered by her late husband, Commodore Thompson; which was referred to the Committee on Naval Affairs.

Mr. BUTLER presented the petition of Peter Brown, asking compensation for attending the United States court in Philadelphia as a witness; which was referred to the Committee on Claims.

Mr. METCALFE presented documents relating to the claim of Joseph M. Farrow, a soldier in the late war with Great Britain; which were referred to the Committee on Pensions.

Mr. CAMERON presented several petitions from citizens of the State of Pennsylvania; which was referred to the Committee on Finance.

Mr. CAMERON presented a memorial from citizens of Philadelphia, praying Congress to purchase Mount Vernon, for the purpose of converting it into an agricultural school; which was referred to the Committee on Military Affairs.

Mr. BREESE presented petitions from citizens of Illinois, asking for a grant of land for the purpose of constructing a railroad; which was laid on the table.

On motion of Mr. NILES, the petition of Ezra Chapman was ordered to be taken from the files, and referred to the Committee on Revolutionary Claims.

REPORTS OF COMMITTEES.

On motion of Mr. ATCHISON, the Committee on Indian Affairs was discharged from the consideration of a memorial from citizens of Philadelphia for the concentration and civilization of the Indians.

On motion of Mr. ATCHISON, the Committee on Indian Affairs was discharged from the consideration of the memorial of chiefs and heads of families of the Pottawatomies, asking to be permitted to remain on their lands.

On motion of Mr. ATCHISON, the Committee on Indian Affairs was discharged from the consid-

eration of the memorial of the Legislature of Wisconsin on the subject of a treaty with the Menominee Indians north of Fox river; and it was referred to the Committee on Pensions.

On motion of Mr. ATCHISON, the Committee on Indian Affairs was discharged from the consideration of the second resolution of the Legislature of Texas, in favor of establishing a line of posts between the Red river and the Rio Grande; and it was referred to the Committee on Military Affairs.

Mr. BREESE, from the Committee on Public Lands, reported a bill to change the location of the Land Office in the Chippewa land district to Stillwater, and asked its immediate consideration; which was objected to.

The bill was read and ordered to a second reading.

Mr. BREESE submitted the following resolution; which was considered and agreed to:

Resolved, That the Secretary of the Senate be directed to furnish to the Commissioner of the General Land Office five hundred copies of the map which accompanied the Commissioner's report of 22d November, 1848, as printed with the President's annual message.

THE REPORTS OF DEBATE.

The following resolution, submitted by Mr. BADGER on the 25th instant, was taken up for consideration:

Resolved, That the Committee on Printing inquire into the expediency of discontinuing the contract made at the last session for publishing the reports of the debates and proceedings of Congress.

Mr. BADGER. Mr. President, I desire to say one word before the question is taken upon that resolution. Two or three gentlemen have, at different times, in the course of the session, called the attention of the Senate to gross mistakes in the publication of the observations made by them on this floor. I have had occasion to notice, in my own instance, several cases of that kind, but I have not thought proper to mention them, nor would I now do so if other gentlemen had not, on more than one occasion, called the attention of the Senate to this subject.

I think that, after the experience which we have had, it is high time that an inquiry should be instituted by some committee, which will involve an investigation into the expediency of continuing this plan of reporting; and which will necessarily lead to some investigation as to whether it will not be possible to present, in substance at least, what gentlemen say in this Chamber. And, if that cannot be accomplished, it follows as a matter of course that the Senate owe it to themselves to discontinue this course of proceeding.

The honorable Senator from Louisiana, [Mr. DOWNS,] who made some remarks the other day in relation to the inaccuracy with which he had been reported, may perhaps consider his case a very hard one; but I assure him—whatever view he may have upon that subject—that it is cygnet's down compared to my own. I was reported, sir, some time ago as gravely stating this proposition to the Senate:

"That it was a rule in the Navy Department, whenever a pension was granted for disability, to reduce the pension if the disability continued."

The Senator from Louisiana will perceive that my case is much harder than his own in this respect; inasmuch as I am represented as casting a direct reproach, as uttering a slanderous imputation upon the highly respectable and intelligent gentleman who is now at the head of the Navy Department, by saying, in substance, that his rule of action is, that the cause of granting a pension continuing in full force furnishes a reason with him for reducing the amount of the pension granted for that purpose.

I take the opportunity of adding, because I think it is just and right that I should do so, that I found myself so reported in the Intelligencer, and upon looking at the report of my remarks, made on the same occasion, in the Union, I found that justice had there been done me—that the substance of what I had stated was there reported.

Without expressing any opinion in regard to the propriety of discontinuing the present system of reporting, I think it is due to ourselves at least that some inquiry, some investigation, some process of scrutiny should be instituted, to see whether the remarks made by gentlemen upon this floor cannot be represented correctly. If this cannot be done, I, for one, am clearly of opinion that we should no longer put the country to the expense of reporting our proceedings in a manner which does injustice to ourselves, and does not give the country any satisfactory account of what is done in the Senate.

Mr. CAMERON. Mr. President, I should prefer to have this resolution referred to the Committee to Audit and Control the Contingent Expenses of the Senate, as I think it is a question entirely of expense.

In regard to the reports of our proceedings made under the present system, I think that they are as accurate as they could be made. I think all the reporting is done as well as reporting can be done under the circumstances. The error, it seems to me, is in reporting everything that is said or done here, thus making the newspapers that publish our debates a sort of advertising sheet. All the remarks made upon every little bill, every unimportant word spoken in relation to affairs of no public importance, is published in these papers, and for which we pay a large sum of money. Herein, I think, lies the error. I move that the resolution, instead of being referred to the Committee on Printing, be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. BRIGHT. I am opposed to the repeal of the law authorizing a full report of the proceedings of this body by the two papers of this city. I make no objection, however, to a reference of the resolution offered by the Senator from North Carolina to the appropriate committee, hoping the committee may be able to offer such suggestions for our adoption as will serve to remedy many of the errors and inconveniences that I admit exist under the present system, and will continue, unless obviated by the action of this body. It is not so much the fault of the reporters as the peculiar condition of things in this Chamber. There is, perhaps, not a Senator here, who takes part in our discussions, that has not, since the adoption of this system, found himself often misreported, and frequently had language imputed to him which he never uttered, and placed thereby in a false position on important questions before the country; but this is incidental to the construction of our Chamber, the inconvenient positions assigned our reporters, the low tone of voice used by many of us, and the still more formidable obstacle resulting from the noise and confusion in the lobbies, aided sometimes (inadvertently, doubtless) by Senators themselves.

Let the resolution go to the committee; and I respectfully suggest for their consideration, as a remedy for the evils complained of, that a more central position on the floor be assigned each reporter. But whether a remedy can be provided or not, the benefits resulting from the present system, to my mind, infinitely outweigh all the injury complained of. As the law now stands, the substance of all that Senators say here, upon private as well as public rights, goes to the country. Those we represent are put in possession of our opinions and votes; thus keeping up those intimate relations between constituent and representative so essential to a sound and healthy administration of political affairs. As the honorable Senator from North Carolina has laid before the Senate a history of his grievances growing out of frequent misreports of what he has said, I trust I will be indulged with a correction of a misreport of what I had the honor of saying a few days since, when offering some remarks in opposition to the passage of a bill for the relief of Captain Percival.

I was reported as asserting that Captain Percival had, in violation of law and the general police of the naval service, taken an individual on board his vessel under the assumed name of a naturalist, whose only business was that of "possum hunting," when I, in fact, said "fossil hunting." This is an excusable error on the part of the reporter, for doubtless he is something of a naturalist himself, and knowing who and what were the primitive products of the western forest, he understood me as talking about my neighbors, never dreaming that fossils entered into the vocabulary of a representative of the Northwestern Territory. I do not know that I should have referred to this error of the reporter, if he had substituted the word *coon*, for that is an animal that myself and friends have established some reputation in the way of being able to destroy. But to be serious, Mr. President, I am unwilling to see a change in our present system of reporting; I believe it is more accurate than any we have had, and by giving to the gentlemen who undertake this service for us an eligible position, say in front of the Secretary's desk, we will be relieved from much of the mortification that we often feel on reading a misreport of what we have said.

Mr. DICKINSON. Mr. President, I concur with my friend from Indiana in regard to obviating errors in the reports, and I think another remedy would be to give a little more force to the reporters. It is evident that they have not force enough for an extended debate. I did not rise to speak in regard to that matter particularly, but to call the attention of the country more especially to the erroneous character of the telegraphic reports, which go forth from this city to all parts of the land, in relation to the proceedings of Congress. I will not say whose fault it is, whether it is the fault of the system, or the operators, or both, or whether it is the fault of those who furnish the information; but I wish simply to advise the country that there is no reliance whatever to be placed upon any portion of the telegraphic despatches in relation to the proceedings of Congress sent from this city.

As a sample and illustration of the inaccuracy of the telegraphic reports, I will mention, that when the post-office bill was under consideration, a few days since, I stated, in a tone of voice probably as clear as that in which I am now speaking, that I favored the system of free postage to newspapers circulating within thirty or fifty miles of the office of publication, but, if I could not get that, I would move to amend the bill reported by the honorable chairman of the Post Office Committee so as to reduce the postage upon such papers from half a cent to a quarter of a cent. But I find myself reported through the telegraph as having moved to strike out the free rates, and substitute half a cent postage upon that class of papers. This misrepresentation of my position upon that subject was sent forth to the country by the telegraph; and I find that it has been copied and commented upon by many of the country papers. I have always been in favor of allowing papers circulating within thirty or fifty miles of the offices of publication to go free through the mails, and I profess to hold no other position upon that subject.

Every day erroneous statements in relation to the proceedings of Congress and the position of members upon important questions are sent forth to the country through the medium of the telegraphic reports. The country press and the weekly press never report the extended debates of the Senate. They rely almost entirely upon the telegraphic despatches for information in relation to what takes place here, and the great mass of the people see nothing else. These dispatches, therefore, should be correct, but they are entirely erroneous. They do not convey a fair and just idea of what is done here; they cannot go beyond that; I know that they must be very brief, and therefore can give but partial accounts of our proceedings; but, as far as they go, they should be correct. I rise not to censure the operators, but to state a fact, that the country may wait until they get some further information before they give full credit to these telegraphic dispatches.

Mr. WESTCOTT. When the resolution authorizing the present system of reporting at public expense was adopted, I voted against it. I was opposed to it out and out. I have changed my opinion. The experience of this session has convinced me it is the best that at this time can be adopted; and that it is eminently useful, and well worth to the public all the money paid for it. One reason, simply, and of itself, has influenced my opinion in favor of the system. I have seen its effect upon the press in this city. There has always been in this city two leading political presses, attached to the two great political parties of the Confederacy. Parties may change and shift, but such will always be the case. The Intelligencer is the Whig organ at this time, and the Union is the present organ of the Democratic party. The system of reporting the debates here takes away from these two papers their exclusive party character, at least so far as it respects these debates. Under peril of being dismissed, and of losing the profitable compensation for these reports, neither of them will suppress or garble any speech made by a Senator of the political party opposed to such paper. Both of the papers are compelled to publish all the speeches on both sides. The people see all that

is said on both sides. A Senator can force both papers to become the medium of making the truth public, and any necessary explanations, which will go to their readers by a speech here. Sir, I regard this as a most important consideration. I hold it to be a step towards the reformation of the public press, or rather a preventive against its becoming unjustly and unfairly the means of partisan misrepresentation, which is of immense consequence. I do not say the papers here would, without this system, certainly garble unfairly or misrepresent speakers, or the conduct or course of Senators here; though we have had, in former times, complaints of papers similarly situated having been guilty of abuses in this respect; and we all know that the papers have suppressed generally, before this system, (I mean not published,) the speeches of members of the opposite party to them. If high party times should spring up, the temptation, under excited political feelings, to adopt such unfair and illiberal means would be strong. Sir, I am satisfied the intelligent people of this country will appreciate the benefits that result now, and will hereafter in a greater degree, as the system is improved by experience, from this effect alone, as worth ten times the amount it now costs; and, though I shall soon cease to be a member of this body, I shall, as a citizen, deeply regret its abrogation.

As to errors and mistakes that occur in the reports, in my judgment the reports are as good, and a great deal better than, under the circumstances, and on the introduction of the system, could be expected. They are much better than those of last session. We all know that half the time Senators on one side of the Chamber do not hear distinctly all that is said on the other side, unless the Senator speaking raises his voice, and the places provided for the two reporters are in the very worst position to hear; they are perched up there (pointing to the reporters' seats) in back corners, and most inconveniently for them, and but one reporter can report for each paper, and no room is furnished them in the Capitol in which to write out their remarks for the papers, so as to submit them at once to Senators for revision. I have generally, when I cared about what I have said here being reported at all, procured their notes and written them out fully and revised and corrected them. Still I have not prevented errors and mistakes in such revised remarks, for which I do not blame them. I know it is impossible in any case or under any system to avoid them. A ludicrous instance of this I will state. The other day, in alluding to the folly of keeping up the live-oak plantation and reservations in Florida at an enormous expense, I said "one citizen with a *musket* was worth a million of live-oak trees in the defence of the country," &c., and it is printed in both papers "one citizen with a market," &c. This was my fault, all owing to my illegible scribbling in the correction of the notes, which the typographer, I suppose, thought read pretty well as "market," and so he put it in. As I had a severe cold when I spoke, I was not astonished that the reporters did not hear me distinctly. Doubtless the system may be improved. Increase the compensation, provide good seats for the reporters, and enable them to be increased in number by the editors of the papers, give them a room near the Chamber in which to make up their reports at once, and where Senators can revise them at once, and it is the best system, in my judgment, that can be devised. When I came here I was in favor of abrogating the system of contracting for public printing, and preferred the establishment of a *public* printing office to the plan of electing Congressional printers. I have changed my mind on this subject also, and am now in favor of electing printers. If pursued and judiciously carried out, it is, I am satisfied, the best. It is a bond from the publishers of papers in this city for their good behaviour and for giving correct information to the public, and weakens the power of the press here by increasing its responsibility to the just and liberal of both parties in Congress. Abolish it, and the press here, being necessarily the chief medium of Congressional information to which the people look, will have no restraint on party partiality and party prejudice, and will be unfair, and partial, and unjust to those out of their party; and, if entirely uncontrolled, they will become a nuisance to their own party.

Mr. NILES was understood to say that he supposed this was an occasion on which all the Senators were expected to come forward and tell their experience. [Laughter.] He had almost always been misrepresented by reporters as to matters of fact, matters of substance, forms of expression, and choice of language; and, after what had taken place in the Senate in regard to reporting within the last two years, he did not hesitate to say that no system which could be adopted would be entitled to reliance, unless reports of the remarks made were submitted to the Senators who made them for their revision and correction. The reporters (continued Mr. N.) very often do not hear what the speaker says, and, as they think they must report something—must give him a few words, they put such a speech in his mouth as in their judgment they think proper and right, relying upon their knowledge of the subject, and their sagacity for getting at the gist of what the speaker utters. It must be obvious to all that such a system of reporting must be attended with much uncertainty, and give rise to many and pernicious errors. If the papers had a sufficient number of reporters, so that they could get out their reports and hand them round to Senators for supervision during the session, all errors might be avoided. Unless this can be done, or at least unless some means can be devised by which Senators will be enabled to examine and correct the reports of their remarks before they are published, no system of reporting which we may adopt will be good for anything whatever. Without this, no dependence can be placed upon any system.

In regard to this resolution, I would say that I shall vote for the inquiry. Perhaps the Senator from Pennsylvania is right in saying that it should be referred to the Committee to Audit and Control the Contingent Expenses of the Senate, inasmuch as the money paid for these reports is drawn from that fund. As one of that committee, however, I wish to have nothing to do with this matter. That committee now have under consideration a resolution in regard to the scope and construction of the resolution adopted at the last session, under the authority of which these reports are now made.

I apprehend that these publishers have gone much too far in their construction of that resolution. They have embodied every document and paper read here in their reports, and I suppose expect to be paid for them as a part of the reports. This, I think, is not in accordance with the views entertained by the Senate when that resolution was adopted.

In regard to the remarks of my honorable friend from Florida, I must say that his arguments in favor of continuing the present system of reporting were of a most extraordinary character. He says that the country will be greatly benefited by connecting the interests of the publishers of the two leading presses of this city with the proceedings of Congress, by giving them the publication of the debates, inasmuch as we shall be able to hold them in check and discipline them, and make them both act like decent men. He says that the "Intelligencer" will become less of a party paper than heretofore, and so will the "Union." I do not quite concur with my friend from Florida. I think the "Intelligencer" is much what it has been for the last forty years, conducting itself with energy, dignity, and propriety, as the organ of the great Whig party, what it ought to be. I think that the "Union" has changed some, and I am sorry to say, it has changed for the worse. Instead of being, as it assumes to be, the organ of a great party, it has become merely the organ of a section of a party, the fragment of a party, a sort of one-sided party, favoring organized combinations in opposition to the action of Congress and the perpetuity of this Union. Now, if the honorable Senator from Florida thinks this is an improvement in the character of that paper, I wish him to have the full benefit of that fact. I do not consider it an improvement.

The remainder of the honorable Senator's remarks was not distinctly heard. He was understood to say, that if the leading papers of this city were to be regarded as the organs of a great party, they should not rely upon the patronage of a section. The beneficial results spoken of by the Senator from Florida might possibly arise, but, for his part, he could not see any great good that would result to the country from taking these two presses under the especial guardianship of the Senate. On the contrary, he thought the influence exercised over them would be bad, and in that respect he was opposed to the whole system. Still, he thought it was very important that some means should be devised by which accurate reports of the proceedings of the Senate could be furnished to the country.

Mr. BADGER. Mr. President, there is no difference of opinion between myself and the honorable Senator from Indiana in relation to this subject of reporting. I agree entirely with him that it is extremely desirable that the country should be put in possession immediately of the general force of the sayings and doings of this body. I was decidedly in favor of the adoption of this system at the last session of the Senate. My resolution does not propose to discontinue the present contract. It is simply a resolution of inquiry.

Now, if it be important that the country should be put in possession of what is said and done here, it follows, with irresistible and conclusive force, that what is presented to the country as having been done and said here should be that thing which it purports to be. Undoubtedly the Senate did not contemplate, when this contract was entered into, that the whole purpose was satisfied, provided something was presented as having been said by the members of this body. They intended that, in substance, that should be published which had been said. Well now, sir, we have the evidence all around us that this has not been done; and the only purpose of this resolution is, that some committee shall institute an inquiry into the subject. If this can be remedied, the Senator from Indiana is not a bit more in favor of the system than I am. I am decidedly in favor, earnestly in favor of it; but I think it is but reasonable, it is the lowest degree of performance which we can expect to receive in return for the money paid for publishing our debates, that gentleman shall not be represented here as saying things which they have never said—things absurd, contradictory, and foolish. I have specified one instance wherein I have been misreported, but not because I thought it of especial importance. Why, sir, I could specify like instances in almost every one of the few cases upon which I have submitted remarks during this session. I should have supposed, from seeing these misreports in the "Intelligencer," that it was owing to some want of clearness of enunciation on my part, that my language was not such as could be correctly understood, that my sentences were not constructed in due order and with logical precision, and that I had a hesitating, agitated, confused mode of speaking, so that I could not be understood; but when I have seen these cases of misrepresentation in the "Intelligencer," I have turned to the "Union," and have almost uniformly found that, by some accident or other, what I have said has been reported in that paper substantially as I said it.

I do not complain because the phraseology of gentlemen who speak here is regularly translated into the version of the reporter, though every man has some preference for his own mode of expressing his ideas; but what I complain of is, that statements are published as having been made by gentlemen here which never were made, in form or substance, and sometimes directly contradictory to statements heard and understood by every member of this body. Now, sir, under these circumstances, I ask, is it not important that some inquiry should be made whether these things cannot be corrected, and, if they cannot, whether we shall maintain an expensive system for the purpose of procuring misreports of what passes in this body?

I entertain no hostility to the present system of reporting. I do not propose to discontinue it. I would not vote to discontinue it. But I think it is due to ourselves, under such circumstances, after the frequent complaints heard here during the present session, that at least some inquiry should be instituted in relation to this subject. After all that has been said, shall we continue to have ourselves reported as we have been heretofore? Are we content to have these misrepresentations go forth to the country? I, for one, am not. I would waive all objection to it freely and willingly, and ask these gentlemen not to notice anything that I say. Generally, what I speak I speak to the Senate; and if I should ever make a speech, as it is called, to Buncombe, I would put myself to the trouble of having it reported, or I would write it out myself. But the contract is to report everybody; and I must confess that, not having the high and established reputation which some gentlemen have, to

induce the public to believe that nonsense and absurdity came not from them, but from the reporters, I do not like to be represented before the country as speaking nonsense and absurdity upon this floor.

Mr. HANNEGAN. Mr. President, I consider this an appropriate occasion to correct an error which the reporters made some three or four weeks since in relation to myself. About that far back I presented a petition from a portion of my constituents, citizens of my own town, as highly respectable a body of men (some three or four hundred in number) as can be found anywhere, in favor of the colonization of free negroes. By some accident or other, the reporters in one or both of the daily papers—the "Intelligencer" and the "Union"—represented me as presenting that petition from free colored persons. I deem it due to my fellow-townsmen to make this correction. I had intended to do so from time to time; but, not deeming it of sufficient consequence to bring it before the Senate until a proper occasion was presented, I have not done so; but I take this occasion to make the correction.

I will take this opportunity to state, that so far as the reports generally are concerned, I feel bound to bear my testimony to their fidelity. I think that the proceedings and debates of the Senate have been reported with unusual correctness. Errors cannot always be avoided. The intonations of the voice do not always reach the ear of the reporter. Something is lost, something is misunderstood. If Senators who are desirous of being fully and accurately reported, would take the trouble to look over the reports before they are published, as a number do, all cause of complaint would be removed. I consider the system which we have established as vital, as essential to the Senate itself, and as good and just to the country.

Mr. BUTLER. Mr. President, the petition referred to by my friend from Indiana was referred to the Committee on the Judiciary, and I am sure that the endorsement of the petition was of the import stated by the reporters. Hence, the fault should not be attributed to the reporters, but to those who made the endorsement.

Mr. HANNEGAN. Then the mistake must have occurred at the desk of the Secretary.

Mr. BUTLER. I take it for granted that the mistake must have happened at the Secretary's desk. While I am up, I would say, that if there is any fault in this system of reporting, it must be owing to the noise which generally prevails in the Chamber, and the unfavorable position of the reporters for hearing many Senators. That is my opinion. I do not wonder that the reporters are frequently unable to understand the remarks of Senators, for we are sometimes unable to understand each other, and they are much more unfavorably situated for hearing than we are. Sometimes a speaker appears to have been distinctly understood by the reporters on one side of the Chamber, and misunderstood by those on the other side, according to his position. This may perhaps be said of my friend from North Carolina.

I will take this occasion to refer to an error of an important character, which occurred the other day in a report of my remarks in one of the papers. The report, although generally accurate throughout, represented me as having said that it would not be long before petitions would come from many of the slaveholding States insisting upon a disunion of this Confederacy. Of course, sir, that was not my language; yet it has gone forth as language which I have used, and has been made the subject of grave comment in many of the northern papers. I was also reported—not by the reporters for the two papers in which our proceedings are published, but by the telegraphic reporters—as having voted against the printing of the resolutions presented from the New York Legislature. This is not true. I voted in favor of printing those resolutions.

There are errors which cannot be very well avoided. They are incident to the proceedings of deliberative bodies, such as ours. I am inclined to think that the system by which our proceedings are at present reported is a very good one. I consider the reason assigned for its continuance by the honorable Senator from Florida as a very important one. It gives the minority a fair opportunity to place their views before the public. If it was not for this vehicle of communication, I believe that many remarks made upon this floor, especially those made by gentlemen representing the minority section of this Union, would never reach the people of the North. For that reason, if there were no other in favor of its continuance, I should be very loth to discontinue the present system of reporting.

Mr. BORLAND. I rise, Mr. President, not to comment upon the present plan of reporting the debates, nor to complain of particular injustice at the hands of the reporters, but to correct an impression which seems to have been made not only upon the reporters, but upon my honorable friend from Mississippi, [Mr. FOOTE,] in my remarks yesterday upon Mr. Whitney's proposed railroad. When the Senator from Mississippi cited several distinguished individuals, and among them my honorable friend from Illinois, [Mr. BREESE,] in favor of that road, I am reported, and was understood by the Senator from Mississippi, to have said:

"So far as the Senator from Illinois is concerned, he has, upon further examination of the subject, wholly changed his opinion, and now believes the scheme to be utterly impracticable."

In justice to all parties, and particularly to the Senator from Illinois, who was not in his seat at the time, I take this opportunity to say, that I undertook to indicate the opinions of that Senator in reference *only to the proposed road and route of Asa Whitney*. And I really think, that if my remarks be read in connection with the other portions of the debate, such will be found to be the true purport, as it was certainly the intention, of my words. It will be observed, that the Senator from Mississippi cited the opinion of the Senator from Illinois, in favor of this particular route and road of Whitney. It was to meet such citation of authority I stated that, upon further examination, and with the advantages of new lights upon the subject, the same Senator had changed his former opinion, and now "believes the scheme" (Whitney's scheme, including his *route* of course) "to be utterly impracticable."

To the great scheme, or general idea of connecting the Mississippi river by means of railroad with the Pacific Ocean, I am not aware that any one has objected. I understand the Senator from Illinois to hold now, as he has held from the first, that this great scheme is not only most desirable, but entirely practicable. I understand this to be the opinion of almost every one, in as well as out of the Senate. Such is my own opinion, without doubt or hesitation. Whitney's route, however, I hold to be utterly impracticable. To this point only were my remarks directed, as intended to express my own views, and indicate those of the Senator from Illinois.

Mr. BREESE. Mr. President, I dislike to consume the time of the Senate for one moment, but as I did not happen to be present yesterday when the discussion took place upon Mr. Whitney's plan for a railroad to the Pacific, I must beg the indulgence of the Senate while I state my position in relation to that matter.

It was my fortune, some two or three years ago, to present this subject to the Senate in a report which cost me much labor, and in which I endeavored to embody, in a condensed form, all the facts and arguments that could be brought to bear in favor of the establishment of a railroad connecting the Mississippi valley and the Pacific Ocean. Every one knows that the project was then new. It was scarcely spoken of by the people or the public press, and the only route then before the Committee on the Public Lands was the route extending from the Northern lakes, across the Mississippi and Missouri rivers, to the South Pass, and thence to the mouth of the Columbia river, in Oregon. That was the only route then talked of. Since that time, however, other routes have been explored, which it is thought are some five or six hundred miles shorter than that proposed by Whitney, and which are equally as acceptable, or perhaps more acceptable, than his route. Under these circumstances, I did not wish to commit myself, at the last session of Congress, in favor of Mr. Whitney's plan, but I have never believed the general scheme of establishing a railroad communication between the two sides of this continent impracticable; on the contrary, I have always considered it practicable if we could only agree as to the best route; and I consented that my friend from Arkansas should present his resolution, on yesterday, authorizing the Secretary of War to make the necessary surveys and explorations, for the purpose of ascertaining the best route for such a road. As soon as the route shall be determined, I think that all difficulties as to the construction of this railroad will vanish.

Mr. BERRIEN. Mr. President, I do not rise to prolong this already extended debate in regard to the accuracy of the reports of our proceedings published in the two leading papers of this city, in conformity with the resolution adopted at the last session. I would state that I feel some hesitation in refusing to vote for a mere resolution of inquiry, but I think, since that inquiry seems to be desirable to several Senators, that the resolution will be relieved from all objection if the Senator from North Carolina will consent to a slight amendment which I wish to make. It is this: Insert after the word "discontinuing" the words "or modifying." The resolution would then direct an inquiry as to the expediency of discontinuing or modifying the contract, and in that shape, I think, no person will make any objection to it.

Mr. BADGER. I accept the amendment of the Senator from Georgia with great readiness.

Mr. FOOTE. Mr. President, I think this system of reporting has advantages, and I think the reports, for the most part, are very accurate. I must say, further, that I have, on all occasions, found the reporters of both papers exceedingly accommodating. They have always allowed me to revise their reports of my speeches whenever I chose to call on them for that purpose. I feel authorized to say that if Senators will take the trouble to step into one of the rooms of this Capitol before the Senate adjourns, or immediately thereafter, or if they will call at the office of the reporters for either paper, they will find the utmost accommodation manifested, and every facility will be given them to revise their speeches.

I do not rise, sir, for the purpose of denying that many erroneous reports have been heretofore made. I think mistakes are unavoidable under the circumstances of the case; but I think we have adopted a most admirable plan for making ourselves heard, not only by the North and the South, but by both the great parties of the country.

While I am up, I wish to state that my friend from Arkansas probably meant to express himself yesterday in the same language which he used this morning, but he will find from the report of my remarks yesterday, as published in both papers this morning, that I understood him precisely as he stands reported. I presume, that owing to the rapidity of the honorable Senator's enunciation, and the consequent inability of Senators and the reporters to catch his precise words, he may have conveyed a meaning which he did not intend to convey. The honorable Senator will find, on reference to the two papers of this morning, that he is reported precisely the same in both, as declaring that the Senator from Illinois had undergone an entire change of opinion in regard to the whole scheme of establishing a railroad communication between the Mississippi valley and the Pacific Ocean. I so understood him; and so understanding him, I felt bound to express my deep regret that my friend from Illinois had calmly and deliberately surrendered those high claims to the admiration of the present generation and of posterity, to which I conceive his report upon that subject would have entitled him.

Mr. BRADBURY. Mr. President, I rise for the purpose of making a suggestion, which I hope will receive the attention of the committee to whom this resolution shall go, and which, I think, will obviate some of the difficulties which have been referred to. It is this: That the committee inquire into the propriety of providing a room in which the reporters may have an opportunity to write out the remarks of Senators immediately after they have been delivered. I understand that one of the papers—and I do not know but both of them may have done so—has provided a corps of reporters, so that each person, after having written a few moments, retires, and his place is filled by another. If a suitable room was provided, each reporter could write out the remarks of Senators while they were fresh in his mind, and while the ideas that were advanced by Senators were in the memory. This would give the reporters an opportunity of retaining the thread of the arguments; and it would do more: it would enable the reporters to present the remarks to the Senators who delivered them, and thus give them an opportunity

of making corrections. Every one must be aware that it is exceedingly difficult to be heard in this hall, especially at times when there is not perfect silence. I think that, by making some provision of the nature which I have suggested, many of the difficulties that have been presented would be obviated. I rise, therefore, for the purpose of making that suggestion, and I hope it will receive the attention of the committee to whom this resolution shall be referred.

Mr. CAMERON. Mr. President, I disapprove of the system of reporting which we have adopted, and for that reason I desire that this resolution may be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

I think that this reporting could be done much better by individual enterprise. I think, that if we would encourage the whole press of the country to come here as competitors in this business, instead of confining it to two papers as we now do, we should get much better reports. I would remark, however, that such a thing as reporting accurately the whole of the debates and proceedings of this body never has been done, and, in my opinion, it never will be done.

I do not believe there is a better set of men in the world, in their profession, than those who are now engaged in reporting our debates. They are highly educated, talented, and accomplished, and they devote more time to their profession here than any class of men engaged in any other profession in the world devote to labor. Yet, with all their industry, with all their talents, with all their devotion to the duties of their profession, it is impossible for them to give the whole debates of this body with unerring accuracy, particularly if you compel them to report every word that is said upon every subject, no matter how unimportant that subject may be.

Sir, I believe that the reporting of the debates upon some bills costs more money than the whole amount involved in the controversy, and it would be better for us to pay the whole sum asked for at once than to pay for reporting the speeches made upon the claim. I believe it very proper to pursue this system to some extent. It may be proper to pay for publishing debates upon public bills involving matters of great importance to the country, but I think it is neither necessary nor proper that we should pay for publishing debates upon private and unimportant subjects.

I desire also that this matter should go to the committee, in order to let the Senate and the country know what we have already paid for publishing our proceedings, and what probably we shall further pay if we continue this system. The system now in operation acts as an inducement for Senators to occupy the time of the Senate by making speeches which they would not make were it not for the fact that they are sent home to their constituents.

There is another feature in this system still worse than any that I have mentioned, which is this: It authorizes Senators to rewrite and compile speeches during the recess of Congress which were never made here, and publish them at the expense of the Government. Oftentimes these speeches, or the original speeches delivered here upon which these compilations are founded, have been published and paid for before. Certainly, if we are to pay for the publication of speeches, we should not be compelled to pay for them more than once. If a Senator is not satisfied with the report of his speech he should correct it before it is published, but not publish it twice at the public expense.

The question on the amendment offered by Mr. CAMERON was taken, and the amendment was agreed to.

Mr. WALKER. Mr. President, I do not think that there is any necessity for the adoption of this resolution, as the committee have now under consideration the following resolution:

Resolved, That the Committee to Audit and Control the Contingent Expenses of the Senate be instructed to inquire as to the construction put upon the resolution adopted by the Senate at the last session in relation to reporting and publishing the debates of the Senate, and whether any modification thereof is required; and that said committee also ascertain the expense which has been incurred under the said resolution since its adoption.

I think the resolution now proposed wholly unnecessary, as the same object is embraced in the resolution now before the committee.

The resolution as amended was then agreed to.

UNITED STATES CONSTITUTION.

On motion of Mr. BUTLER, the Senate proceeded to consider the bill to provide for the more effectual execution of the third clause of the second section of the fourth article of the Constitution of the United States.

The further consideration of the bill was then postponed until Monday next, and was made the special order for that day.

HOUSE BILLS.

The bills which passed the House of Representatives on Friday were then read a first and second time, and referred. [For a list of the bills see the House proceedings of Friday.]

The amendment made by the House of Representatives to the bill for the relief of Henry Washington was concurred in.

The amendment made by the House of Representatives to the bill for the relief of the forward officers of the Exploring Expedition was concurred in.

PANAMA RAILROAD.

The Senate resumed the consideration of the bill to make compensation for the transportation of troops and supplies across the Isthmus of Panama.

Mr. FOOTE moved to refer this bill, or rather the substitute for it, (reported yesterday by Mr. DOUGLAS, and which now occupies the place of the original bill,) to the Committee on Military Affairs, that they might inquire into the relative merits of the route by way of Panama and that by way of Tehuantepec.

Mr. BENTON. I apprehend, Mr. President, that an arrangement of this kind is equivalent to a rejection of the bill, and I apprehend that the Committee on Military Affairs, or any other committee of this body, called upon in this extemporaneous manner to bring in any kind of report upon the subject, at this session of Congress, will be directed to report upon a subject with which every member of the Senate is as well acquainted as the committee will be. It will be directing them to enter into an inquiry that will involve a great many points requisite to be examined, and which can result in no material advantage. And the committee would have no opportunity of sending anywhere for information, or of sending to Mexico to obtain the legal or political information necessary; or, in fact, have the time requisite for prosecuting inquiries upon the result of which they could report anything worthy of the attention of the Senate at this session. The committee would return in about the condition that it went out. It is more suitable to discuss this question in this Senate than in any other place. If discussed here, we shall all have the contributions of the knowledge of every Senator.

I totally object, Mr. President, to having this bill sent to the committee suggested, or to any other committee. It is now ready for the decision of the Senate. It was brought in at the commencement of the session, and is one of the earliest bills discussed. It has been laid over from time to time, and all the papers that relate to it, politically or legally, have been called for in the Senate, been printed by its order, and no doubt fully examined. We are therefore ready to go on with this bill, the advantages of which have been secured to us by a treaty. If any motion is to be made to substitute the Isthmus of Tehuantepec, we are ready to discuss it. As for sending the bill to a committee, it is tantamount to a rejection of it. There is no time at present, nor means at hand necessary to a full exhibition of the claims of this suggested proposition.

Mr. FOOTE. The motion before the Senate has been preferred by me most reluctantly, but with much deliberation also, after a calm examination of the facts connected with the measure proposed for our adoption, at least so far as it has been in my power to explore them. It is in no spirit of hostility or mere captious opposition to the scheme of improvement recommended to our respectful consideration, and to our favorable action by one of the committees of this body, nor yet of ill-will or even illiberality to the worthy gentlemen whose names are connected with it, that I have thought proper to move the reference sought. But, sir, from the first, I have looked upon this matter as one of much complexity—of much importance, concerning which it was presumable that few of us were fully informed; and I have, thought, therefore, that we were bound to give to it a calm, unprejudiced, and scrutinizing examination in all its important bearings, territorial, commercial, military, political, and even moral, if need be. I look upon the question which we shall be called upon to decide in connection with the bill before us as of great magnitude, of much difficulty, of no little dignity in some of its aspects, and in the decision of which, if we should chance to err, our error may be attended with consequences in the highest degree mischievous and discreditable; but the decision of which, if we shall decide wisely, may result in the production of all these beneficial consequences so glowingly depicted in our hearing a few days since by the honorable Senator from Missouri, [Mr. BENTON.] I have judged it prudent, therefore, to refer the whole subject anew to the committee with which it originated, with such instructions as might secure at its hands the development of information deemed by me indispensable to discreet and successful action. I have chosen to move a reference of the bill, or rather the amendment to it, which has been introduced by the Senator from Illinois, [Mr. DOUGLAS,] and which now occupies the position of the original bill, to the Committee on Military Affairs, from the unaffected respect which I feel for that committee, and because I deemed it but courteous to its individual members that this confidence in their capacity and other high qualities should be manifested. I wish to be understood, though, as by no means desiring to burden that committee with labors which may prove at all inconvenient, or which may be even decidedly disrelished. If the Committee on Military Affairs are disposed to recoil from the execution of the task which my motion has marked out for them, I am sure that I have not the least objection to the reference being made to some other committee of the Senate—either the Committee on Roads and Canals, or a special committee, if gentlemen deem it best.

Now, I altogether dissent from the opinion expressed by the honorable Senator from Missouri, that no additional investigation can by possibility result in the ascertainment of additional material facts. I am sure of one fact, that I am at present not extensively or perhaps very accurately informed upon many points deemed by me at least material to be ascertained previously to our taking anything like definite action. I wish I were better informed on the subject; for, if I were, I should most gladly impart my information to the Senate, instead of being compelled, as I am in some degree, to humiliate myself before it by a formal confession of ignorance. It would be insincere in me to do otherwise than to confess my want of such knowledge as I desire to possess upon the measure before us, ere I shall be constrained to give my vote either for or against it. Sir, I am painfully involved in *darkness*, and I demand light. I am constrained to acknowledge, that after much investigation, and not a little thought, my mind is yet in a state of serious doubt and perplexity in relation to the course to be adopted in disposing of this bill. I have been assured that there are materials of information to be found and laid hold of conveniently now in this city; that a committee will have it in their power to elicit facts new to us and important to the country, by the devotion of a little time to the further exploration of a subject which I must think has been but yet very superficially examined by us, or any of us.

It is unnecessary to particularize names, but I feel authorized to declare that there is now among us a gentleman of high public standing, a scholar, and a man of very remarkable accomplishments, of most polished and dignified bearing, a native of the Republic of Mexico, but well and favorably known to both sides of the Atlantic, who possesses a large fund of information on the subject of our present deliberation, which he would be quite willing, I doubt not, to lay before us, in the form of maps, books, official reports, opinions of distinguished persons, both in Europe and this country, touching the advantages of the route across the Isthmus of Tehuantepec—opinions of such men as Humboldt, Arago, and others, the mention of whose names is sufficient with all lovers of science to awaken veneration and to command homage. This gentleman, though not at all inclined to intrude himself upon our notice, is polite enough to confer with those who may choose to visit him, and to impart such information as he may

have at his command. I know that there is also in this city a large mass of documentary information of American origin, with which we, perhaps, are not all yet familiar, which might greatly aid the inquiries of any committee which we may raise at this time, and enable us to determine in a manner satisfactory to ourselves and the country whether we shall act more wisely in selecting a railroad across the Isthmus of Panama, instead of seeking transit across the Isthmus of Tehuantepec; or whether we would not act more wisely still in declining any such contract as that urged upon us with any association of individuals whatsoever.

I do know, Mr. President, that the state of public sentiment in various parts of the Confederacy in relation to the measure now so earnestly recommended to us is such as imperiously to require a more thorough investigation of this whole subject than it is possible it should have yet received. This is equally evident from publications in leading newspapers, and from statements in letters received by members of this body from gentlemen of the highest intelligence in every State of the Union. Why, then, should we precipitate our action? Why should we "prefer darkness rather than light?" Why should we rush upon the adoption of a measure which may, for aught we know to the contrary, produce consequences infinitely more serious than any mere pecuniary loss? Can we not delay a day or two more? Are we apprehensive that we shall be in more danger of acting unwisely should we decide to act with perfect circumspection? Do any of us fear additional developments of fact? For my part, though committed to no scheme or plan whatsoever, having no project of my own to bring forward, nor under promise to advocate here or elsewhere the project of any other individual or association of individuals, I am willing, yea, resolved, to look into the whole subject calmly, patiently, astutely if possible, in order to understand what may be the true policy of the country, and having ascertained it, to assist in carrying it into execution.

Mr. BENTON. There is a fundamental objection to any inquiry in relation to this suggested project, as to its advantages or disadvantages, on the part of the Congress of the United States; and that is, that they have lawfully nothing at all to do with it. The political and legal question precedes all questions of a geographical character. We all know that we have entered into no treaty stipulations with Mexico for the enjoyment of the right of way across the Isthmus of Tehuantepec. We all know something beyond that; and that is, that Mexico has peremptorily refused to grant us even a particle of a privilege upon the subject. We all know that, at the time Mr. Trist had the negotiation of the treaty in hand, and at the time it was concluded, Mexico peremptorily refused to grant one inch of the right of way across the isthmus. In consequence of this fact, we undertook to negotiate with New Granada for the right of way across the Isthmus of Panama. This negotiation was successful. She signed a treaty conferring that right; the United States signed it also; and it was unanimously confirmed by this body. The question now before us is, shall we exercise the privilege which we gained under that treaty, thus negotiated and confirmed? The obstacle now presented to action under that treaty, in reference to the right of way, is, that there may be a better way obtained possibly through the Republic of Mexico, and across the Isthmus of Tehuantepec. Better or worse, Mr. President, what is that to us? I do not enter into the question of better or worse. We have no right, no treaty stipulation. That is enough for us. Mexico has refused to grant us the privilege, and we shall be intruders and trespassers to go there without a treaty stipulation, and may be ordered off. I believe, sir, that I have read about as much as has been written upon the subject of the Isthmus of Tehuantepec, from the time that Cortez had his first interview with the Emperor Montezuma; and when, full of that idea upon which Columbus had sailed west with all his followers, he proceeded himself to follow out the idea of getting to the east by proceeding west—when he asked him whether there was any communication through his dominions to the sea, the Emperor informed him of the nearest mode of passage, and brought out for Cortez's inspection the geography of his domains, showing him the boundaries of the isthmus, and the approaches by water on both sides, in nearly the same manner in which it is exhibited in modern geographies. So well was the isthmus then known, that when Cortez discovered the Gulf, which bore his name, and which should properly bear it now, the ships that made the voyage were carried across the isthmus in pieces. More than that: when the Castle of San Juan of Ulua was furnished with guns, part of them were brought from the Philipine Islands across this isthmus.

But, sir, we all know that this Government offered an immense sum of money to Mexico for this right of way, and that all applications upon the subject have been peremptorily rejected. Now, after this refusal on the part of Mexico, if she finds this Government employed in doing the very thing she has refused us permission to do, will she not resist the usurpation on our part with all the means in her power? I state this as the preliminary objection—an objection more impossible to overcome than the barrier which divides the Atlantic and Pacific Oceans from each other. In what I have said, Mr. President, I speak for myself. I say that I have read everything, from the time of Cortez's first interview with the Emperor Montezuma and his first letter to Charles the Fifth on the subject, to the present day. I know the isthmus, and I know that we have no right to go there. We are politically and legally interdicted from going there. Because, then, of the political and legal views of the question which I have briefly stated, I feel myself interdicted from making any inquiry upon the subject whatsoever; wholly so.

Now, Mr. President, with respect to the nature of this route. The bill which is before the Senate is to supply an immediate and temporary want. We now have possessions on the Pacific coast of our continent, and we desire to have communication with those possessions. We wish communication now for immediate use, and besides that, we desire another for future permanent use. The bill which is before the Senate is to provide us with that communication—a communication necessary to be used immediately, and which, with respect to us, will be a temporary measure.

It is now about thirty years since I first took up the idea of a communication between the Pacific and Atlantic for commercial purposes. It had been brought forward by Mr. Jefferson, after La Salle. It is about thirty years since I took up the idea where Mr. Jefferson left it off; since which time my mind has been occupied with the project of an American road to India by a route which shall go through our own dominion, and, although totally eclipsed by the modern projectors of such roads, I have been very laboriously occupied for about thirty years in collecting information necessary to establish such a road—as to what is necessary for the establishment of an American road—one which I happened to say, and wrote it down full thirty years ago, might be established immediately with the aid of the Federal Government; and, even without that aid, would be eventually established by the progress of events and the force of circumstances. I wrote down those words, sir, and had them printed full thirty years ago. I have therefore paid some attention to this subject; and, in all that I have done upon this bill, I have had my eyes steadily fixed upon two great branches of the question—an immediate road for instant use, and a permanent road for the use of ourselves and of our posterity, for all time to come, through the heart of our country, and which shall be an American road. In undertaking, and in entering, as I have done, cheerfully and cordially, into the spirit of a bill which promises the quickest accomplishment of a passage over the Isthmus of Panama, across the continent at its narrowest point, I have considered it only as a part of a great system—only as a step, a preliminary step—only as a something to be used temporarily until we can accomplish our own great work. As the bill first came into the Senate, it provided for the continuance of the contract for twenty years; as the amendment now stands, the time is reduced to ten years, and may be put an end to after that period by joint resolution of the two Houses of Congress. Well, sir, I like the amendment better than the original. We can use this projected road for ten years, and if at the end of that time we have an American road ready, we can put an end to the contract and use our own road; if we have not, we may let it stand until the next year, and the next, and so on until we have our own road ready.

Sir, I consider this temporary road—for us it is temporary, for other nations it may be permanent—across the Isthmus of Panama as a step towards the accomplishment of the great design which Mr. Jefferson conceived after La Salle, and for the accomplishment of which I have been collecting information and studying the details for thirty years. I intend to bring in a bill for commencing the construction of such a road. My view is not changed. I regard this route across the Isthmus of Panama as a temporary way, to be used only until we get our own. I am for no permanent road outside of my own country. I am for no permanent foreign road over America, either across the Isthmus of Darien or Tehuantepec, or anywhere else. I am only for temporary measures with respect to any of them, and I am for taking the one which can be got first. If we undertake to institute a comparison between different routes, even if we have a legal and political right to do so, the very object for which I want a road outside of our own country is lost. I want no permanent road outside of our own country. I have no idea of doing anything permanent outside of our own country. I have no idea of going into any expenditure or bargain or arrangement for such a road, which is to continue for a moment after we are in a condition to use our own. I am in the situation, in regard to this road, of a man who has no house: he goes into shelter until he has time to build a house. I am in the situation of a man who has to cross a creek on a log; he uses the log until he has time to build a bridge. The whole plan and conception of the bill which I support turns on the idea of prompt use and possession while we are without a road of our own. Sir, should we not present a pretty figure in undertaking to make a road through the dominions of any Power, for the transportation of persons, or for the transportation of military and naval supplies, without the permission of that Government? What would become of it, sir, if we should enter into this examination and determine to invest some millions of dollars, no matter how many, in making a road across the Isthmus of Tehuantepec, and when done the Mexican Government should say, In expending your money here you have made a mistake; you applied for permission to make this road, and were refused; you nevertheless went on and made the road; we will enjoy the benefit of it; we are much obliged to you for the money which you have laid out for our benefit? Mr. President, I do not go back to the topography of this isthmus. I believe I know it pretty well. I believe I have studied it in the letters of Cortez to the Emperor Charles the Fifth, and in the luminous work of Humboldt, and in something since. But I have no use for that knowledge now. A preliminary question shuts it out—the political and legal question. We have no right to do it, and that shuts it out from all consideration with me.

Mr. DOWNS. I was in hopes that the reference of this bill would be made, for we are certainly too much in the dark to act promptly upon so grave a matter. Doubtless, the Senator from Missouri, upon this subject as upon many others, is better informed than some other Senators, but I must suppose, Mr. President, that as he has not yet given to the Senate information which is satisfactory to my mind at least on this subject, his information is not so full as it ought to be before the Senate decide upon this matter. The honorable Senator from Missouri wants to act immediately; he wants the work done quickly. I am in in favor of prompt action myself. I would like prompt action in relation to other important questions, but there is such a thing as going too fast, and we very often go too fast here, sir. We vote millions of dollars without seeming to know what we are doing. This bill, as I understand, embraces two millions and a half of dollars, to be expended upon a contract which is to continue for ten years. I have serious doubts whether it will be advisable or practicable for the Government, even if it were done, to use this road. I have still greater doubts whether a better communication could not be obtained elsewhere, and I, for one, am not prepared to vote for this measure until I am satisfied that it is the best route that can be obtained.

Now, the gentleman from Missouri suggests as an insuperable political difficulty that we have not got the legal consent of Mexico to the Tehuantepec route. I do not apprehend any difficulty in that respect. I have endeavored to inform myself,

so far as I was able, in regard to this matter, and I do not find, so far as the facts are open, that any man is authorized to say that a proper arrangement on this subject may not be made with Mexico. True, it has been rejected once, as has been stated, but if rejected when application was first made, it may not be again. Everything is changed with Mexico since that time. Then the vast commerce of the Pacific Ocean was not considered of so much consequence as it is now by the whole civilized world; it was not considered of so much consequence as it is now, when the eyes of the whole civilized world are turned to the subject. The policy of Mexico has changed. They may take a very different view of the subject from that which was taken eight months ago. I think we have had some slight warning lately not to go into this matter very hastily.

I had no expectation that the subject would come up to-day, or I should have been better prepared with facts in relation to the subject, but I refer particularly to the accounts recently brought by the steamer Crescent City from this great line of communication with the Pacific through Chagres and Panama. I allude to the difficulty of constructing a road through that route; not the temporary but the natural difficulties; the obstacles which nature herself interposes; the pestilence that exists there, the unhealthiness of the climate, the almost interminable sickness that prevails, as well as the very great difficulty of maintaining possession. All these difficulties come fresh upon my own mind, and I conceive that the objections to the establishment of a passage over that route, I do not say that they are conclusive, but they are sufficient at least to induce us to pause, to look around us and see whether we shall not be throwing away the money in attempting to make this road. At any rate, if the bill be not referred, I do hope that the Senator from Missouri, or some other Senator, may be able to give us satisfactory information upon certain points connected with the subject.

There are, Mr. President, political questions of another character connected with this subject; there are reasons why, if a better one can be obtained, I do not think this route ought to be selected. We must have a channel of communication somewhere leading to the Pacific. In selecting that channel of communication, we ought to fix it in a place that will best promote the interests of commerce and the interests of our country in every respect. Now, there is one very serious difficulty; we see it illustrated in the very news that comes up from that quarter—the proposed route passes directly under the guns of an English fortress. There it stands in the route of every steamer that goes to Chagres. I am not one of those who dread the power of England, but I must confess that, in a great thoroughfare of this kind—calculating the possibility that we may have a difficulty with that great nation—I must confess that this is, to my mind, objectionable, particularly upon a route over which we must send our army. It seems to me that we ought not to place ourselves in this position in regard to that nation. Even supposing it to be unimportant in a military point of view, in a commercial view it is very important. Establish this route, and, in my opinion, from the indications before alluded to, you will have made the British ports in Jamaica the great depôt of the communication between the two oceans. They have good harbors, and they are in a healthy position. This will be the place where goods will be reshipped, instead of that unhealthy place, Chagres, where strangers are subject to that loathsome disease which prevails there for a great part of the year. And, in consequence of the situation of that route, England will enjoy the principal part of the advantages derived from it. These are some of the reasons why I thought we ought not to proceed hastily, why I wanted to obtain further information before being called upon to act on the subject. Again, sir, I should like to know the situation, the capacity, and safety of the harbors of Chagres and Panama. Are they suitable; can they be made suitable or practicable? In some of the information which has come to my knowledge on this subject, it appears, unless I am much misinformed from the report of an able engineer, that the present harbor of Chagres is altogether unsuitable for such a purpose. There are many difficulties in the way. There are dangerous rocks at the entrance of the harbor, and the winds and current prevailing there render it unsafe for navigation. I understand that a celebrated French engineer has surveyed the line of coast with a view of pointing out the most favorable position for the landing of vessels. These are matters upon which I admit I have not so much knowledge as I ought to have, before being called upon to act.

Again, how is it on the Pacific side? Is there any harbor there? Is there any harbor that can be made? Is it not a fact that vessels cannot ride there, but have to lie out seven miles from the shore, in consequence of shoal water? Another fact that I am informed of, and which I believe to be correct, is, that vessels experience great difficulty in leaving port when the wind is northwest, which generally prevails there. I understand that vessels are detained sometimes for weeks before they can leave port; but to this detention steam vessels would not be subject; but the principal part of the commerce will, for a great length of time, be carried on in sailing vessels. What will be the result, then, if vessels may be detained for weeks together? This is a very important consideration.

Again, Mr. President, I find it suggested in a report which I have seen made upon this subject elsewhere, that it is very important to have a communication across some part of the isthmus, in consequence of the injury which some classes of goods undergo by crossing the equator, in their passage round from one ocean to the other. Now, it seems to me that the objection applies with equal force to a voyage within the tropics. The isthmus at Chagres is near the equator, and it is a damp and sickly climate, a journey through which is much more likely to produce sickness than a sea voyage. I think this ought to be one of the strongest arguments against it. If we can obtain a route where it is not so sickly, which would be safer, and which would be in other respects superior to this, I think we ought to procure it. I concur in all the arguments that have been advanced here in favor of obtaining a speedy communication. I know very well it is desirable that it should be accomplished as soon as possible; but that is not the question now. The question is, whether we shall go on and adopt the proposition which is presented to us without a full consideration of all the subjects connected with it. I think we ought to pause and examine those subjects. Why should we be in such a hurry? The gentleman says we want a passage to the Pacific, and we want it speedily, because we have vast possessions upon that coast, and it is necessary to transport supplies and military forces. As to supplies, perhaps you may need some; but I venture to say, that if you get this communication, and the United States ever carry a barrel of pork or flour there, it will cost more than they would have to pay for those articles there on the spot. There will soon be supplies in abundance on that coast without carrying them across the isthmus. Besides, this road cannot be made in a day; it requires time; and, when the necessary time does elapse, the demand for necessaries there, on the part of the Government, at any rate, will not be so great as gentlemen seem to suppose.

There is another consideration connected with this subject which I think is worthy of attention. The policy of our Government has become averse to internal improvement. Now, whatever opinion may be entertained upon this subject in relation to our affairs at home, I certainly think there should be great caution used when it is proposed to embark in a new scheme of improvement abroad. Shall it be said that we will refuse to make a small appropriation to improve the navigation of a river at home, in which boats are lost every day, and yet that we shall give two and a half millions at once for an improvement abroad; and not only this, but we must take it hastily, we must go right on, we must swallow it down, just as it is, right or wrong? I should like to see how gentlemen who vote for a measure of this kind, granting two millions and a half of dollars at once, cannot vote for some little petty improvement at home, such as removing a snag or the improvement of a harbor where our own people suffer for the want of such improvement every day. I do not know, sir, that we have got such an abundance of money, that we are so free from debt, that we are so perfectly rich, that we have got so little use for our money at home, that we must go abroad and make a railroad for the whole world—for this is a route for the whole world to cross the isthmus. I do hope, sir, that this matter will not be carried through so hastily as the Senator seems to desire. I think it requires serious reflection. Why should we do it at this moment, when, by the next session of Congress, we can have all the necessary information on the subject? If this be the best route, there is no danger that it will not be selected then; if it be not, we shall have time to find it out. But, once go into it, once sign the bond, and there is no departing from it. Having embarked in the work, we must proceed, whether it be advisable or not. All I ask is, that we shall obtain the necessary information; and, if we cannot obtain it at this session, that we shall delay the matter until the next session of Congress, until that information is obtained.

Mr. FOOTE. Mr. President, I regret exceedingly that this poor motion of mine, brought forward with the best intentions, and surely most respectful, both in form and substance, should have found so little favor in the eyes of the honorable Senator from Missouri, and, have provoked him to so decided an exhibition of fierce and vehement opposition. That Senator is much more fortunate than it is customary for even Senators to be: his stock of knowledge is already so large that he stands in need of no additional information from any quarter. He has, it seems, read everything that has been published upon Mexico and Mexican people, their institutions and their manners, their soil and their climate, their broad expanse of solid *terra firma*, and their watery domain of gulfs and rivers and streamlets—from the period when Cortez and his adventurous band first stepped upon the shores of this romantic region down to the dull period of the world's history, in which we are enacting our humble part in the grand drama of human life.

Yes, sir, everything containing instruction worthy of acquisition, whether book, pamphlet, or newspaper, seeking to give the world a single new idea about Mexico and her people, which has ever yet seen the light—all, all have been devoured by the honorable Senator from Missouri, yea, and thoroughly digested too. He stands in need of no additional information upon any point involved in the measure under consideration. He has been specially exploring the mysteries connected with the two isthmuses named in my motion, for some thirty years or more; and he feels it to be impossible that he could receive additional edification thereupon from any quarter whatever. Well, sir, I will not call in question the honorable Senator's information upon the subject before us, or upon any other subject; his reputation for all useful learning, and all valuable knowledge, places him entirely out of the reach either of my commendation or my criticism; but I beg leave to suggest to him, that if he is so thoroughly enlightened himself, (which I confess I had in part suspected before,) it is nothing less than his duty, out of the abundance of his treasured wisdom, a little to illuminate the darkness of his less fortunate fellow-mortals; and that, being a prominent member of the Committee on Military Affairs, to which I have proposed to apply for instruction, in the shape of a *report*, at the present time, he cannot possibly, with an unoffending conscience, do less than beam forth a few rays of mild illumination upon minds less gifted than his own.

Sir, the honorable Senator from Missouri, according to his own account of himself, is the very man of all others from whom we are authorized to expect sound counsel upon the respective advantages of the two routes across the continent. Why is it that he refuses to instruct us as a member of the Military Committee? I do not know how it may be with others, but as for myself, I freely declare, that in my judgment, the man who, having more of such knowledge as may be useful to his kind than his fellows, secretes his intellectual treasures from the view of his brother mortals, and "hiding his light under a bushel," with more than stoical rigidity refuses to impart wholesome instruction to those whom he perceives to be wandering in darkness and in gloom, is less excusable than is he who unfeelingly spurns the starving beggar from his door. It has always seemed to me that there is something quite peculiar in what we call *knowledge*, which brilliantly distinguishes it from all other things deemed estimable among men. It is this: of all our earthly possessions it is the only one which derives its chief dignity from *participation*. Wisdom, for all purposes of philanthropic enjoy-

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ment, is scarcely to be called wisdom until communicated. Why, oh why, is it that the Senator from Missouri, who tells us that he has devoted some thirty years of an eventful and somewhat stormy life to the study of matters appertaining to the question before us, refuses to allow us successfully to seek instruction from his eloquent lips? Why is it that this our chosen *Gamaliel*, at whose feet we have humbly prostrated ourselves, indignantly declines the sublime task of teaching the ignorant, who seek only to be enlightened under his grave monitions? Has he forgotten, or does he hold in contempt that familiar couplet which runs thus:

"Delightful task to rear the tender thought,
And teach the young idea how to shoot?"

To be serious, is not the honorable Senator a little inconsistent when he urges that the Committee on Military Affairs will not have leisure to examine into this subject should it be referred to them, whilst, at the same moment, he so magnificently boasts of the fullness of his own knowledge upon every point which can be regarded as having a remote connection with the matter now under consideration?

Mr. President, the honorable Senator from Missouri alleges that we have recently, through our diplomatic agent in Mexico, (Mr. Trist,) made an effort to obtain the right of way across the Isthmus of Tehuantepec, and that we failed to do so; and then he asks, "What will Mexico think if we attempt to gain this privilege again?" Well, sir, the answer to this is most easy. In the *first* place, I have reason to believe, and will state the grounds for my opinion when necessary, that nothing but certain accidental circumstances prevented our minister from obtaining all that he sought on that head; and, in the second place, I should care very little what Mexico, or all the civilized nations of earth, may think of our conduct, provided we only enlist in projects *legitimate and practicable*. Now, that we may successfully prosecute this cherished scheme of our Government, under circumstances highly auspicious, too, will be evident to all who will confer with a certain Mexican statesman now in this vicinity, and who is prepared, as I believe, to state and to establish facts which will leave no reasonable doubt upon the minds of any who are not resolved to wander in error.

Mr. WESTCOTT, (interposing.) If the Senator from Mississippi will allow me, I will state, for the information of the Senate, a fact within my knowledge. All these persons who pretend to have a claim to Tehuantepec have forfeited all their claims. None of them have a shadow of right. There is in this city, in the possession of a gentleman here—and I can produce it, if it is desired, in twelve hours—an authentic copy in Spanish, and a translation in English, procured from Mexico, of a law of Mexico that will prove this fact. The route is entirely free at this time, and subject to the action of the Republic of Mexico and the States in which it lies.

Mr. FOOTE. But the Senator from Missouri suggests that the scheme to which we are now invited to vouchsafe our sanction is only a temporary one; and assures us that he will, in due season, bring forward a project for connecting the two oceans, and building a railway across our own *terra firma*, which is at once to supplant all other schemes heretofore projected for this purpose, and to render valueless this grand Panama railway itself, which he has kindly taken under his special charge. When, sir, he shall make a formal presentation of his own doubtless well-digested project, it will be time enough to decide upon its merits; though some of its *peculiar features*, I am inclined to think, it would be quite easy to prophesy in advance. But I beg leave respectfully to suggest that the bill before us, either in its original or amended form, is anything but a temporary arrangement—the original bill proposing a twenty years' contract with Messrs. Aspinwall & Co., without the privilege of immediate rescission, and the amendment only allowing a rescission on the part of the Government, if it shall deem it wise to put an end to the contract at the end of ten years.

This, I repeat, really seems to me to be anything but temporary; and, as we have to pay three millions upon this *soi-distant temporary* contract, I do not see why we should not ascertain beforehand, if we can, that these three millions will not be absolutely thrown away. One thing is certain: the opposition of one or two of my friends now around me (including the honorable Senator from Illinois and the honorable Senator from Louisiana) and myself, to the original bill—which opposition seemed to give quite as much offence to the honorable Senator from Missouri as he has on this occasion manifested—has succeeded in reducing the amount to be paid to Messrs. Aspinwall & Co. just *one half;* that is to say, it is now reduced to a ten years' contract, from having been brought forward as a twenty years' contract, and, instead of six millions of dollars to be certainly paid by the Government, the amended bill only secures to the contractors three millions. Yet the honorable Senator from Missouri avers that he is now better satisfied with the amended bill than he was with the original one. Well, sir, such being the fact, I see no reason whatever for doubting, that, should the present motion prevail, and the amended bill be so modified as to provide no pecuniary appropriation at all, and that Panama be abandoned altogether in favor of Tehuantepec, the honorable Senator might be still better satisfied than he is at present. At any rate, I hold the experiment to be worth trying.

Mr. President, the honorable Senator from Missouri has indulged in one allusion which I do not perfectly comprehend; though I have inferred from his aspect and certain significant indications, that he designed possibly to refer to me; he says, that he has projected a scheme for a real *American road*, but complains that he is in danger of being eclipsed by "modern projectors." If the honorable Senator is at all uneasy at the prospect of being eclipsed by me in the struggle for distinction in which he seems to have engaged as the projector of grand internal improvement schemes, I will relieve him at once, by declaring that I have no capacity for the origination of schemes of this kind; that I have no ambition for that species of renown of which he seems at this moment to be so intensely desirous; and that I will be content with the honor of aiding in the counteraction of the visionary projects of others, and the support of those which may seem to me to be worthy of governmental favor.

If the honorable Senator's allusion was designed to apply to the worthy gentleman, to whose bill for a railway across the continent I offered an amendment the other day, and which does in truth seem somewhat to challenge *rivalry* with that grand scheme for an "American road" which he announced to us to-day would be shortly forthcoming, then I have yet some consolation to offer to the honorable Senator from Missouri—*the Republic is quite large enough for both himself and Mr. Whitney to live in, and successfully to claim renown* and veneration as the honored originators of schemes of internal improvement which are to glorify and enrich this nation of freemen for countless generations to come.

Mr. President, I deeply regret being drawn into this discussion; I did not expect it; I did not desire it; but I could not decently avoid it. I have been constrained to present apparent hostility to a measure to which I have really no unkindness, and for which, in some shape or other, I may feel yet compelled to vote, should it turn out upon full investigation to be really worthy of approval. I feel that it would be acting a part somewhat impolitic, did I not, since such strenuous opposition has been presented to my motion, state several facts which I am assured are true, and which are sufficiently material to demand, as I think, the notice of this body.

I am informed that the gentleman from Mexico to whom I have referred, has the entire control at this time of the route across the Isthmus of Tehuantepec; that, though it is true that at the period of Mr. Trist's negotiations, a formal transfer was executed to Mr. McIntosh, (so well known in connection with Mexican concerns,) yet a retransfer was, some time since, executed to himself; that he seeks no contract with the Government of the kind proposed to be given to Messrs. Aspinwall & Co. by this bill; and that he only asks that, whilst he is aiming to organize an *American Company*, which may hereafter be able to realize, in coöperation with himself, his long-cherished hopes of providing a safe, cheap, and commodious railway communication from the Pacific to the Atlantic, the power and influence of this Government may not be *thrown against him;* that free competition may be allowed between himself and others, who have more recently than himself enlisted in this project of connecting the two oceans by a railroad across the continent. I am further assured, that when the Government shall choose, (if ever it should,) at any future period, to arrange with this person, and those who may hereafter become associated with him, for the transportation of munitions of war, the mails, or individuals, the most liberal arrangement will be made, both with the Government and private persons. I am assured still further, that the Mexican Government and people are all desirous that our Government and people should take control of the whole scheme of improvement; and that the Government of the two Mexican States—the one on the Pacific coast and the other on the Atlantic—across which the Tehuantepec railroad would pass, are both exceedingly desirous that citizens of the United States should have the control and execution of this grand scheme. I am further assured as follows: from New York to Chagres and the mouth of Guasaculco river, the distance will be about the same for steam vessels; but for sail vessels, the route to Chagres is much the longest; as a vessel might have to go outside of Cuba, St. Domingo, and Jamaica, in order to get into the current, controlled by the trade-winds; that the Panama route strikes the Pacific Ocean some twelve hundred miles (more or less) more distant from California than the Tehuantepec route; that the Tehuantepec route passes through a healthy country, whilst the Panama route traverses a region confessedly more sickly than any in North America beside; that, from New Orleans, it is six hundred and fifty miles further to Chagres than to Guasaculco; that the marine route to the eastern terminus of the Tehuantepec route is altogether in all the Gulf of Mexico, whereas the Chagres route is outside of the West India Islands—a highly important consideration in time of war; that the soundings on the bar at Guasaculco are, according to the highest authority, at most seasons of the year, from eighteen to twenty feet, and never lower than twelve feet three inches, with a tide of two feet; that distinguished English engineers have reported that three millions of dollars will be necessary to make a safe and convenient port at Limon Bay; that at Panama vessels cannot approach nearer than three miles, and a pier will have to be constructed about that distance, whereas at Boca Barra, where the Tehuantepec route is to terminate on the Pacific, there is a fine port; and, finally, that the following table (which I request to have read) may be fully relied on in all respects:

Voyage.	Distance in nautical miles.	Distance via the Isthmus of Tehuantepec.	Diff'ce saved.
New York to Boca Barra, round Cape Horn, crossing the line in longitude 26 W., Rio Janeiro, Valparaiso, Callao, and Boca Barra	12,390	3,330	9,060
New York to Canton, by the Atlantic and Indian Oceans, crossing the line in longitude 26 W., going to latitude 41 S. and eastward to longitude of St. Paul's, and thence by the Straits of Sunda	15,540	11,950	3,590
New Orleans to Boca Barra, round Cape Horn, to St. Thomas, Rio Janeiro, Valparaiso, Callao, and Boca Barra	12,510	900	11,610
New Orleans to Columbia river, round Cape Horn	14,830	3,220	11,610
New Orleans to Columbia river, inland journey, up the Mississippi, up the Missouri, and across the Rocky Mountains	3,400	3,220	180
[Note.—This has a land journey of 900 miles, full of difficulties.]			
New York to the Columbia river	-	5,650	

Mr. DOUGLAS. Had this motion to recommit with instructions to investigate the propriety of acquiring a right of way across the Isthmus of Tehuantepec been made at an earlier day, I should not have been inclined to oppose it. On the contrary, I should cheerfully and readily have supported it. This measure has been before the Senate now for nearly two months; it has been before us since the first week of the session. It was desired by the friends of the measure, at the time it was introduced, to have early action upon it, in order that the proposed contractors might know what they could rely upon, and whether they were to go on with the contract or not. I apprehend that time is a matter of vast importance, and I, for one, as having presented the measure, should have urged immediate action then, but for the fact that Senators here were desirous that there should be delay, and stated as a reason that a rival proposition was expected to be presented. We have heard a good deal about this rival proposition, and we have waited long for it to be submitted. And, after this long delay, in order that they might be able to prepare and present their memorial setting forth the claims of this rival proposition, we have not yet been favored with it. I, for one, have been anxious to see it. I should like to see it now, to see whether they will offer a better proposition. But we are now told by the Senator from Mississippi that the Mexican gentleman to whom he refers does not stand in the position of a rival contractor. Sir, I wish him to stand in that position or not stand here at all. When he comes here to attack this measure, to enlighten the Senate as to our action, when he comes here to protest against our adopting a measure for our purposes because it is going to interfere with his project, I wish him to stand forward as a competitor, and I wish him to state what plan he has, what project he has. I wish to know whether the statement of the Senator from Mississippi, that he has no intention of becoming a competitor, be true, or the denial of the Senator from Florida be true. He is here, I am told, and he can state what his intentions are.

Mr. FOOTE. My honorable friend certainly misapprehended me, if he understood me as stating any fact positively. I took particular pains to say that I had no positive information. I merely stated what I believed to be the case, and I added that I would endeavor to procure within a short time the best information I could obtain. And, as a fact going to show the importance of this committee having the subject referred to them now, I stated the circumstance alluded to by the Senator from Illinois, that the committee might have an opportunity of conferring with the individual and ascertaining all the facts in his possession. If my friend understood me as stating that this individual came here to dictate to us, or even to make suggestions to us in relation to our action, I certainly was grossly misunderstood. I was informed of his being here, and I sought him out. I found him to be a modest and frank gentleman, ready to furnish all necessary information; not presenting himself as a competitor, but only desirous that this Government should not enlist in the field against him.

Mr. WESTCOTT. I did not understand the Senator from Mississippi [Mr. FOOTE] to deny the existence of the law that I referred to.

Mr. FOOTE. Certainly not. I only said I knew nothing about it.

Mr. WESTCOTT. I do not wish to be misunderstood as to the effect of what I stated as to my course on this bill. I am, as at present advised, opposed to this bill, and to all similar projects put forth here by individuals, asking of the United States money or contracts to carry out their schemes in any foreign country. I am opposed to all this system, in toto. I hope to see one or more railroads from the Mississippi to the Pacific, to bind the people there to us, and I will not encourage any route that will tend to interfere with or postpone them. But if it is determined to adopt some one as a temporary measure, I prefer Tehuantepec first, Nicaragua the second, and Panama the last, and will advance the reasons at the proper time. I am inclined to vote for the Senator's [Mr. FOOTE's] motion, if he will amend it so as to include the railroad routes across the continent and the Nicaragua route. The fact I stated obviates one difficulty as to Tehuantepec. By proper arrangement with Mexico we can obtain it. It is now free and unincumbered, and I learn from good authority Mexico is disposed to arrange with us for it. If the individuals supposed to have had control over it have such control, and if we are to arrange with them, I would not have anything to do with it.

Mr. DOUGLAS. I know this gentleman to whom reference has so frequently been made. He is an intelligent and worthy man, and I think he understands his business; but I desire, when his name and his intentions are introduced upon this floor as an argument to control our legislation, that the matter should come before us in a tangible shape. When he comes here to defeat an act of the American Congress that is deemed necessary to the interests of the American people, I desire that he should bring his memorial forward, stating the facts that he has to present, and let us examine whether those facts are reliable or not.

Mr. FOOTE. Will the Senator allow me to interrupt him for a moment? My object is to obtain information, and this is the purpose of the motion that I have made. There should be a memorial certainly; but there being none, the facts might be ascertained by the committee.

Mr. DOUGLAS. We have heard of this memorial from the first week of the session. It has been heralded on this floor, but it has not come to us. I believe firmly that the sole object is to defeat the action of Congress, or to prevent any action at all; and if that be the object, I think the question should be argued on the merits of the Panama proposition entirely, instead of dragging that in as if a rival route were to be proposed, and a comparison of the merits of the two propositions to be made, when the entire object is to defeat action altogether. Why has not the memorial been presented? Has not this subject been postponed for several weeks? Has not the gentleman been for some time in this city? Have not his plans been open to the inspection of gentlemen? Have we not all examined them over and over again? All have had the opportunity of examining them, and it was due to us, if he through his friends is going to endeavor to defeat our legislation, that he should have come forward before, when he knew the subject was pending. If we now, in the last month of the session, send the matter again to the committee, it will be too late for action at this session, and our legislation will be defeated by this indirect means. If we are to act at this session, it is necessary we should do so without delay. If we do not act upon the subject at this session, we may as well not act at all. We only want the road across the isthmus as a temporary measure until we get a direct road. I believe at the next session we will get a direct road, and I would not be willing to make a contract that would last a day beyond the time when that is accomplished, but I should be unwilling to have our action defeated now, not on the merits of the case, but simply by procrastination.

Mr. FOOTE. I rise to say, that in view of the desire of the gentlemen that the debate should proceed on the merits of the bill, lest it should not be practicable to arrive at a vote upon it, I am willing to withdraw my motion, and allow the discussion to be proceeded with. That will accomplish the great object that I have in view; and in the mean while, if Senators will endeavor to obtain information from other quarters, it may turn out that there will be no necessity for a recommitment at all.

Mr. DICKINSON. Will the Senator give way, as it is near the hour of adjournment, for a motion to go into Executive session?

Mr. FOOTE. I am perfectly willing.

Mr. DOUGLAS. If the respective merits of the rival routes of Panama and Tehuantepec are to be investigated, I think they should be brought forward by memorial, or in some authentic shape, and not in a desultory mode of debate; but I did not suppose that the Senate would deem it necessary to go into an examination of a route that is not before us, when we have no right of way, and when we have no reason to believe that we can get a right of way; when we have attempted to get it and have failed, and when we do not know that it would be practicable if we did obtain it. I cannot believe, that in this desultory way, the Senate will enter upon its consideration; but if they do, I see no better way than that which the Senator from Mississippi has suggested.

I would like to see the question taken to-night, if possible. I do not wish this question left in the way of immediate action on the bill to admit California as a State into this Union, which I shall call up to-morrow morning.

Mr. FOOTE. I beg to assure the Senator that I and my friends will present no impediment to obstruct his course. All we ask is for two or three days, that we may have an opportunity to give this matter a thorough examination.

Mr. BERRIEN. I beg to suggest to the Senator from Mississippi that the course which he proposes to pursue is not exactly regular. Here is a question which has been referred to the Committee on Military Affairs, by which a bill has been reported, and some debate has already been had upon it. That debate, however, has hitherto been but partial, and therefore the Senator will see that his motion to recommit the bill is premature, especially as several Senators have not been heard at all who feel an interest in this subject. It may be, that after those Senators shall have been heard, there may be no necessity to recommit the bill. I hope, therefore, that the discussion will be continued, that we may obtain the information which Senators are prepared to communicate. If the Senate should now adjourn, this bill will come up as unfinished business to-morrow, and it may then be examined to the Senator's satisfaction.

Mr. FOOTE. To that I have no objection, if the bill will not be pressed to a decision to-morrow. I only want two or three days, that I and my friends may investigate the subject. I am willing to withdraw my motion to recommit, for my only object in making it was to prevent a decision to-day, which, I apprehended, would be forced upon us.

Mr. DICKINSON. I hope Senators will allow us to have an Executive session, which is much needed.

Mr. DAVIS, of Mississippi. I beg simply to state that when this subject was before the Military Committee, they had not sufficient information to enable them to decide on its merits; this bill was therefore hastily prepared and thrown before the Senate to elicit information, and unless more information than they now possess can be given to the committee, it will be unnecessary to recommit this bill.

Mr. DOUGLAS. As I believe the committee can better collect information than the Senate, I renew the motion to recommit the bill to the Committee on Military Affairs.

Mr. DICKINSON. I hope the question will be postponed, that we may have an Executive session.

Mr. DOUGLAS. I hope not. Let the question now be taken.

Mr. METCALFE. I move that the Senate do now adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 30, 1849.

The Journal of yesterday was read and approved.

On motion of Mr. THOMPSON, of Kentucky, it was

Ordered, That the Committee on Printing be discharged from the further consideration of the accounts of the Treasurer of the United States with the Post Office Department, for receipts and disbursements for the fiscal year ending June 30, 1848, and that they be referred to the Committee on Expenditures in the Post Office Department.

Mr. THOMPSON, of Kentucky, from the Committee on Printing, to whom was referred the motion to print 10,000 extra copies of the report of the Committee on Naval Affairs on the subject of a "railroad across the Isthmus of Panama," reported that the cost of printing the said report would amount to seventy-four dollars and fifty cents; and also reported the following resolution:

Resolved, That 10,000 extra copies of the report of the Committee on Naval Affairs on the subject of a "railroad across the Isthmus of Panama" be printed.

Mr. THOMPSON moved the previous question; which was seconded.

Mr. BURT moved that the resolution be laid upon the table.

And the question being put—

It was decided by yeas and nays, as follows:

YEAS—Messrs. Atkinson, Bayly, Beale, Bocock, Bowlin, Boyden, Brodhead, William G. Brown, Albert G. Brown, Burt, Cathcart, Clapp, Franklin Clark, Howell Cobb, Cocke, Crisfield, Crozier, Daniel, Darling, Dickinson, Embree, Faran, Featherston, Ficklin, Flournoy, Freedley, Fulton, Giddings, Gott, Green, Willard P. Hall, Hammons, James G. Hampton, Haralson, Harmanson, Harris, Hill, George S. Houston, Inge, Iverson, Andrew Johnson, James H. John-

son, Robert W. Johnson, George W. Jones, Kaufman, Kenyon, La Sère, Lord, Lynde, McClelland, McClernand, McDowell, Job Mann, Meade, Miller, Morris, Morse, Mullin, Peck, Petrie, Peyton, Pilsbury, Pollock, Preston, Reynolds, Rhett, Richardson, Richey, Robinson, Root, Sawyer, Smart, Charles E. Stuart, Strong, Thibodeaux, Jacob Thompson, Thurston, Toombs, Turner, Van Dyke, Venable, Wallace, Wick, Wiley, Williams, Wilmot, Wilson, and Woodward —88.

NAYS—Messrs. Abbott, Ashmun, Barringer, Belcher, Bingham, Blackmar, Boyd, Brady, Charles Brown, Butler, Cabell, Canby, Clingman, Williamson R. W. Cobb, Conger, Cranston, Crowell, Dickey, Dixon, Donnell, Dunn, Eckert, Edsall, Edwards, Nathan Evans, Farrelly, Fisher, French, Fries, Gayle, Goggin, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, Henley, Henry, Hilliard, Elias B. Holmes, Hubbard, Hudson, Hunt, John W. Jones, Kellogg, Thomas Butler King, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Leffler, Ligon, Lincoln, Maclay, McIlvaine, Horace Mann, Marsh, Marvin, Nelson, Newell, Outlaw, Palfrey, Pendleton, Putnam, Julius Rockwell, John A. Rockwell, Roman, Ramsey, Schenck, Sherrill, Silvester, Slingerland, Robert Smith, Truman Smith, Stanton, Starkweather, Stephens, Strohm, Taylor, James Thompson, Richard W. Thompson, John B. Thompson, Tompkins, Tuck, Vinton, Warren, Wentworth, and White—88.

The SPEAKER voted in the negative.

So the resolution was not laid on the table.

The question then recurring on ordering the main question, it was taken and decided in the affirmative without a division.

So the main question (which was on the adoption of the resolution) was ordered to be now taken.

Mr. TOOMBS asked the yeas and nays, which were ordered.

And the question, "Shall the resolution be adopted?" was then taken and decided in the affirmative—yeas 96, nays 86—as follows:

YEAS—Messrs. Abbott, Ashmun, Barringer, Belcher, Blackmar, Blanchard, Botts, Brady, Butler, Cabell, Canby, Clingman, Williamson R. W. Cobb, Collamer, Conger, Cranston, Crisfield, Crowell, Dickey, Dixon, Donnell, Dunn, Eckert, Edsall, Edwards, Nathan Evans, Farrelly, Fisher, French, Gaines, Gayle, Gentry, Goggin, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, Henley, Henry, Hilliard, Elias B. Holmes, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, James H. Johnson, John W. Jones, Kellogg, Thomas Butler King, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Leffler, Levin, Lincoln, Maclay, McIlvaine, Horace Mann, Marsh, Marvin, Mullin, Murphy, Nelson, Newell, Outlaw, Palfrey, Pendleton, Putnam, Julius Rockwell, John A. Rockwell, Roman, Ramsey, Schenck, Shepperd, Sherrill, Silvester, Slingerland, Truman Smith, Stanton, Starkweather, Stephens, Andrew Stewart, Strohm, Taylor, James Thompson, Richard W. Thompson, John B. Thompson, Tompkins, Tuck, Vinton, Warren, Wentworth, White, and Wilson—96.

NAYS—Messrs. Atkinson, Bayly, Beale, Bedinger, Bocock, Bowdon, Bowlin, Boyden, Brodhead, William G. Brown, Albert G. Brown, Burt, Cathcart, Clapp, Franklin Clark, Howell Cobb, Cocke, Collins, Crozier, Daniel, Darling, Dickinson, Faran, Featherston, Ficklin, Flournoy, Freedley, Fries, Fulton, Giddings, Gott, Willard P. Hall, Hammons, James G. Hampton, Haralson, Harmanson, Harris, Hill, George S. Houston, Inge, Iverson, Jenkins, Andrew Johnson, Robert W. Johnson, George W. Jones, Kennon, La Sère, Ligon, Lynde, McClelland, McClernand, McDowell, McKay, Job Mann, Meade, Miller, Morris, Morse, Peaslee, Peck, Petrie, Peyton, Pilsbury, Pollock, Preston, Reynolds, Richardson, Richey, Robinson, Root, Sawyer, Smart, Charles E. Stuart, Strong, Thibodeaux, Jacob Thompson, Thurston, Toombs, Turner, Venable, Wallace, Wick, Wiley, Williams, Wilmot, and Woodward—86.

So the resolution was adopted.

EMIGRATION TO CALIFORNIA.

Mr. GRINNELL (very imperfectly heard) rose and was understood to say that he desired to make an appeal to the House in behalf of those citizens of the United States who were about emigrating to California. Vessels were now about to take their departure for that Territory, and a great number of emigrants were going out in them as passengers. Several vessels had sailed with large numbers, and it was feared that great suffering might result from the crowded state of the ships.

He had been informed by several gentlemen from Boston and New York, that the ship fever would undoubtedly be engendered unless a law was passed which would subject the ships to the same regulations as those which now existed in relation to vessels between the United States and Europe. He had, a few days ago, introduced a bill having relation to this subject. It was now on the SPEAKER's table. It could be passed in a few minutes, and he hoped the House would consent to take it up at this time.

Mr. BURT said he objected, and insisted upon the regular order of business. With the greatest respect for the gentleman from Massachusetts, [Mr. GRINNELL,] he (Mr. B.) was willing that those who desired to go to California should crowd the ships as much as they pleased. He demanded the regular order of business.

The SPEAKER said the regular order of business would be the call of the committees for reports, commencing (where the call was last suspended) with the Committee on the District of Columbia.

Mr. FEATHERSTON asked Mr. BURT to waive his motion for the present, to allow him (Mr. F.) to introduce a bill.

Mr. BURT did so.

Mr. FEATHERSTON asked leave to introduce a bill.

Mr. GRINNELL objected.

Mr. PRESTON moved that the House resolve itself into Committee of the Whole on the state of the Union.

Tellers (Messrs. VENABLE and WILSON) were appointed; and the question having been taken, the vote stood: Ayes 99, noes 35.

NAVAL APPROPRIATION BILL.

So the House resolved itself into Committee of the Whole on the state of the Union, (Mr. J. R. INGERSOLL, of Pennsylvania, in the chair.)

Mr. VINTON said, that the next special order was the naval appropriation bill. He moved that it be taken up.

Mr. FICKLIN inquired whether the bills relating to the Territorial Governments of California and New Mexico were not first in order.

The CHAIRMAN was understood to say, that if there was no special order, the appropriation bills were entitled to preference.

Mr. VINTON said, that the naval appropriation bill had been made a special order. Not only by the general rule were the appropriation bills, in the discretion of the committee, to supersede special orders, but this bill was a prior special order to the Territorial bill. The rule was, that special orders should be acted upon in the order in which they were made so by the House.

The CHAIRMAN said, he understood from the Clerk that such was the actual state of the case.

The committee therefore proceeded to the consideration of the bill making appropriations for the naval service for the year ending June 30, 1849.

The bill having been read through—

Mr. BROWN, of Pennsylvania, obtained the floor, and addressed the committee during the allotted hour.

At the outset of his remarks, Mr. B. said that, as he did not wish to be out of order, he would inquire of the Chairman whether it was in order to discuss general matters relating to the Union, without having moved to strike out the first section of the bill?

The CHAIRMAN was understood to say, that he thought not.

Mr. BROWN. Then I move to strike out the first section of the bill, for the purpose of enabling me to speak on the general subject of the state of the Union.

The motion having been announced accordingly—

Mr. B. proceeded in his remarks. Ever since I have had the honor of a seat in this House, (he said,) I have given silent votes against every proposition that has been brought into this Hall looking to the agitation of the question of the abolition of slavery in any part of this Union. I have not only given such votes upon all occasions here, in every shape in which the question has been presented, but I did so before I had the honor of a seat in this House, for a period beginning nearly twenty years back, in my own State, in her halls of legislation, and in the convention which was called to amend her constitution, I have given the same votes and pursued the same course—with this only difference, that there I spoke against all movements in relation to the abolition of slavery in any shape, by the free States or in the halls of Congress. And I would have pursued the same quiet course for the brief space of time that I have yet to remain here—looking to the future to approve my course, as my constituents have heretofore approved all that I have said and done upon the subject—but for the remarkable speech of the gentleman from Indiana [Mr. THOMPSON]—a speech which struck me, as I think it must have struck this House, with surprise and astonishment.

The gentleman told us, that upon this subject he belonged to the great conservative party of the Union—the party opposed to the abolition of slavery in the District of Columbia, or in the States, or its agitation in any place where it might have the tendency to disturb the peace and harmony of the country, or endanger the perpetuity of our Union. The gentleman not only asserted his own conservatism, but vouched for the conservatism of the people of the State which he in part represents. And he went still further; he vouched for, and boasted of, the conservatism of the late venerable gentleman from Massachusetts, [Mr. ADAMS,] who, but a few months since, fell among us. Now, I ask, were not these startling assertions? To me they were so. I remember well when I met that gentleman [Mr. THOMPSON] on this floor some six years ago that he was then conservative on this question. When I first had the honor of a seat here, I had doubts then as to the propriety of the twenty-first rule, of which the gentleman has spoken so much in all its bearings; and my colleague [Mr. C. J. INGERSOLL] and myself attempted for days to have the rule modified, so that whatever was objectionable in its features might be struck out, and all its conservative character be retained. After two or three weeks' trial, we failed to attain our end. We could not amend it, and we voted for it, and from that time to this, I have sustained that rule, and opposed the introduction of the subject. Then the gentleman was with us, in laying upon the table all abolition agitation. Then he was a conservative, and rebuked the agitating spirit of abolitionism here. But when I again met him on this floor at the commencement of the present Congress, how stood the matter? There is the record. Upon every question of the introduction of petitions, during the last session of Congress, looking to the abolition of slavery in the District of Columbia, the gentleman who, in his speech, so sternly rebukes these movements as calculated to dismember the Union, and to disturb its harmony, voted upon the yeas and nays to bring these petitions into this Hall, voted against their suppression, and against laying them on the table.

Nay more. When the gentleman from Ohio, [Mr. GIDDINGS,] at the last session, introduced resolutions concerning a slave who had been maltreated at some hotel in this city—a subject well calculated to agitate and irritate the feelings of southern gentlemen here and elsewhere—did not the gentleman from Indiana again vote against laying the resolutions on the table, desiring to have them agitated by the House? How changed was the gentleman during the last session from the time when he stood beside me, six years ago, voting to censure the gentleman from Ohio [Mr. GIDDINGS] for introducing resolutions here calculated to excite the country, and to create unhappy feelings. That gentleman, I say, one of those who stood with me to censure and expel from this Hall the gentleman from Ohio, is now found voting with him on that subject. I regret that the gentleman is not here.

Mr. THOMPSON indicated that he was present.

Mr. BROWN continued. I am happy to see his face, for it is the face of a friend, and I speak to the gentleman as a friend. Now, I take occasion to say that I heard his eloquent speech (for he always is eloquent) with pleasure, and that I only regret that his acts have not corresponded with his words. I regret that he gave to the harmony of the Union, to the friends of his childhood in the South, his speech only; that he gave them not his votes and his acts.

The history of the gentleman's course here six years ago, and the history of it at the last session, are adverse to each other. And how stands it with his eulogy of the gentleman from Massachusetts [Mr. ADAMS]? Will any man in this House believe that he [Mr. ADAMS] stood as a bulwark against the encroachments of abolition feeling in this country? I ask the gentleman—I ask the friends of that departed man among us—if the gentleman from Indiana does honor to his name or fame, in making him one who rolled back what he considered the spirit of liberty and justice, and kept it from accomplishing its end to the day of his death? Such was his language. When that gentleman departed, he [Mr. THOMPSON] said, the spirit of fanatical abolitionism again took its onward course. I know that the gentleman from Massachusetts did say what the gentleman asserts, that he was opposed to the abolition of slavery in the District of Columbia then; but I appeal to the memory of that man, if, while he said this, he did not on every occasion, and under all circumstances, give his powerful aid to roll on, no matter who might be crushed by it, the ball of abolition agitation.

And how stands the matter with the gentleman's

own constituents, for whom he has vouched here? I have before me the proceedings of a late Whig convention in Indiana—but just gone by—scarcely cold. The paper that conveys the intelligence to the country of the conservatism of Indiana is scarcely dry. The resolutions of the convention, like the speech of the gentleman from Indiana, are full of high-sounding phrases of fraternal regard to the South, eloquent in their tone, but containing poison within them; like Joab with Amasa, putting one arm around them, drawing to them the South to kiss them, and saying, "Is it well with you, my brethren," whilst in the other hand they hold the daggers with which they stab them to the heart. I will read these resolutions—though I have not time to read much—but I will read them, because they may be new to many men in this House who heard the speech of my friend the other day.

The eighth resolution is in the following words:

"*Resolved*, That the Whig party of Indiana, here represented in convention, would calmly but firmly express the conviction that the extension of slavery over the newly acquired Territories of New Mexico and California ought to be prohibited by law; that it is our settled opinion that Congress, as the guardian of our infant Territories, possesses that right; that its exercise would be promotive of lasting good to the people who shall inhabit the country included in the late treaty with Mexico; and further, that it is the opinion of this convention that it is expedient to exercise the power at the present session of Congress."

Now (continued Mr. B.) comes another. The resolution introduced by the gentleman from New York [Mr. GOTT] a few days ago met the special censure of my friend from Indiana, because it spoke of slavery interfering with the progress of human liberty throughout the world. We all know how eloquently the gentleman disclaimed any such imputation upon slavery. I will read his words:

"This resolution asserted that slavery, as it existed in the United States, was 'a serious hindrance to the progress of republican liberty throughout the earth.' Well, he could not, for the life of him, imagine what sort of an abstraction that was; but it was not true."

Here is the response from the Whigs of Indiana:

"12. *Resolved*, That the spirit of the age, and the liberal and enlightened philanthropy which distinguishes its progress, require sacrifices of individual opinion to the great cause of human freedom; that this spirit should be shared by the government and the governed; that MAN, in every condition, should be reinvested with his rights of life, liberty, and the pursuit of happiness; and that it is the anxious desire of the people here represented, that all constitutional and proper means should be employed to free our National Capital from the last vestige of human bondage."

This (continued Mr. B.) is but the echo of the resolution which the gentleman from Indiana condemned, and which he assured us would not be vouched for nor responded to by the people of that State. And the gentleman took occasion in the same connection to say, that not only in Indiana, but in other States, there was no sympathy between the party to which he belonged or the other (the free soil) party, and this abolition agitation. In praising the father he took occasion to condemn the son, who so lately was upon the ticket for Vice President in connection with another distinguished person, which was the result of this Free-soil movement; and he condemned that as the embodiment of abolition agitation—as the spirit which he rebuked, and the spirit to which he said the conservatism of Indiana was opposed, and which it would put down. Now, what was said by the editor of a paper in Indiana who was one of the late Taylor electors there, who, I suppose, speaks with as much knowledge of the subject as the gentleman, and who probably is to be regarded as a much better exponent of the opinions of the people there. He says, in speaking of the Free-soil convention which had just assembled there:

"We learn, also, that a good deal of difference of opinion existed as to the propriety of attempting to keep up a separate organization, now that the Whigs have put in nomination as good free-soil men as can be found in the State. A resolution confirming the nominations of Messrs. Embree and Stanfield was offered by John H. Bradley, Esq.

"The propriety of its passage was enforced by that gentleman in a speech of much eloquence and power, but it was voted down. He contended that the candidates presented by the Whig party were all that could be asked on the slavery question, and by the proper effort and union they could be elected, whilst there was no possibility of electing the nominees of a third party organization."

And (continued Mr. B.) he thus concludes:

"The effect of such a course would most probably enable *James H. Lane to give the casting vote against the passage of proper instructions to our Senators on the slavery question, and would elect Mr. Wright, whose whole past action proved him to be opposed to any interference on the part of Congress in relation to slavery in our Territories.*"

Thus (continued Mr. B.) this editor connects the Whig party, its candidates and measures, with the Free-soil party and its measures, and says, that unless the latter should adopt the Whig candidates, the only effect would be to cause the election of Democratic candidates who are opposed to the interference of Congress on the subject of slavery. Is that the conservatism of Indiana? Is that the conservatism of the gentleman himself, to aid in the election of men who are known to be in favor of free soil, and of the agitation of the subject of abolition, and to defeat men who would carry out the objects which the gentleman asserted on this floor that he and the people of Indiana would sustain?

But I rejoice at one thing in the gentleman's speech. It will be found in the following passage:

"He wished it were true—he wished he could say it was true, that this Hall of legislation had as much of that calm, deliberate conservatism as existed in the minds of the great body of the American people. But there was often to be found a difference between the representative and his constituent; while the constituent, at home, was steadily, calmly, coolly, and earnestly looking and praying for the preservation of the welfare of the Government, *they in this Hall, too often prompted by considerations of faction and party, were disturbing the peace and repose of the Union, and were agitating and exciting for their own sinister ends and selfish purposes.* There was coming a time, he believed—and he thanked God it was so—when there should come out from the Federal Executive of this Union this spirit of popular conservatism, and it should be poured like oil upon the waters of party; when, in the settlement of great national questions, they should neither know the name of Whig nor Democrat, but should be prompted by those high, holy, elevated considerations which alone existed in the heart of the true American patriot, whose every pulsation beats for the integrity of the union of these States."

Now, (resumed Mr. B.,) I do not attribute any improper motive to the gentleman from Indiana. I have no doubt that he is honestly acting out his own sentiments. I know that he is a gentleman of discernment, and that, in looking ahead, he can see as far as any other man—perhaps a little further than some of his associates. And but for this change that has come over the spirit of his dream, (for certainly there has been a change since the last session,) he could not have felt what he so eloquently expressed the other day upon this floor, and given all these votes during the last session when this question was agitated, and when the bitter-waters of that agitation were spreading themselves far and wide, and were reaching the very hearts of every portion of our people—certainly he could not have felt then what he feels now, or he would have expressed his feelings in the eloquent language which he uttered here the other day. I say a change has come over the spirit of his dream; and he sees in the incoming Executive what he depicts as a spirit that is to suppress this agitation—a man who not only spent half his life in the South, but who was born in the South, and has spent his whole life in the South; and looking to that Executive, (the sun that shines upon many a man's action in this country,) I attribute this change of feeling to its benign influence, and I think he sees an indication that it will be favorable to the country and to the party with which he acts, and perhaps to his own future prospects that he should now fall back upon his old and first love. If so, if favors are to be won in this country by the conservative principles so eloquently expressed by him, I, for one, shall regret to the last day of my life that I ever opposed the election of an Executive who would exercise so great and glorious an influence over the destinies of this country. I would fain hope that the omen is true, and that those who fear that the advent of the new Executive will not be conservative upon this question will be found to be in error. I would fain hope that we shall have peace and harmony again; that we shall be as a band of brothers; that we shall meet in this Hall, and everywhere throughout the country, as our fathers met in the days of the Revolution, or as they did meet but a few years ago, and crushed everything that interfered with the peace and harmony and integrity of the Union.

"Men (says the gentleman) had not learned in that day to disregard the Constitution and the law; men had not learned at that day to be continually attempting encroachments upon the rights of the States of this Union, as fixed and guaranteed under our Federal Constitution."

I would hope (continued Mr. B.) that we shall unlearn, when a new Executive comes into power, what the gentleman assumes we have so recently acted upon. And I congratulate the gentleman upon his change of opinion. I congratulate the country upon the bright prospect that awaits us under the new Administration.

For myself, I have opposed this agitation from the first to this time, and I think it behooves us all to look where we stand, and where we are going. As the gentleman from Indiana has justly said, we do not stand where we did. This agitation is leading us onwards and downwards, and no man can predict where it will end. A few years ago, who thought that speeches, such as were now delivered here, from time to time, would ever be heard in this Hall? What would have been thought, in the early days of the Republic, if speeches, such as had been delivered by the gentleman from Massachusetts, [Mr. MANN,] had been heard? Where was the noble son of the South who would have sat and listened to such a speech, or who would not have rebuked it in the face of the country, or left the Hall in a moment? A speech traducing the South—characterizing its citizens as among the most degraded in the civilized world—charging them with being semi-barbarians, and knowing only a bowie-knife civilization! These things must not be. We must not speak of each other in such terms.

What would the gentleman from Massachusetts, who was himself at the head of the school-system of that State, and who recently received the thanks of the State for his services, think, if a southern man should rise in his place here, with a long array of crimes committed, day after day, and week after week, and characterize them as evidences of the civilization of New England, or of the effects of the school-system in his own State? What would he think, if a southern gentleman had risen here, and pointed to a recent event—a trial then just completed—of a son of New England for the quadruple crime of seduction, adultery, murder, and arson? I allude to the case of Tirrell. True, though he was guilty of all these crimes, and if they had been perpetrated in the South, a southern jury would have brought him in guilty of all, and he would have expiated his offence on the gallows, yet a Massachusetts judge and jury, through the eloquence of a Massachusetts lawyer, pronounced all these crimes—what? Seduction—adultery—murder—arson? No—*Sommambulism.* [Laughter.] New England finds honeyed terms for crimes committed there. But if done in the South—if the evil passions which everywhere exhibit themselves, from the pulpit to the lowest alley in the largest city, should have been thus manifested by a master towards his slave, or the crime committed upon a negro, it would have been blazoned to the day in pictures and eloquent language, and would have been sent throughout the world as the effect of slavery. But I have no taste for these criminations and recriminations: they should never be heard in this Hall.

Again, what do we see? I am sorry my colleague from the northern district is not here, for I have a word to say to him. Another resolution has been introduced at this session to allow every person in this District to vote—black and white, all colors, bond and free—and against laying it on the table there were seventy-seven votes: among them were the votes of men from Connecticut—a State which, I believe, only three years ago, proposed to allow negroes to vote, and by about three to one, I think, the privilege was refused. These gentlemen come here, and, in the District of Columbia, in the midst of a slaveholding population and slaveholding States, place upon record their votes that they desire to consider the propriety of placing the negro on an equality with the white man. And our friends from Pennsylvania——

Mr. HENLEY interposed, and asked leave to explain.

Mr. BROWN did not yield the floor. He expected, he said, when he had closed on this branch of the question, to take another hour on another branch. Gentlemen saw that he had forborne to speak, and that he had not troubled the House during the present Congress——

Mr. HENLEY asked again for an opportunity to explain. He did not, he said, like longer to sit still under this charge.

Mr. BROWN. I have not said a word about the gentleman, and therefore I cannot yield the floor for explanation. The rules of this House have become very lax of late, allowing gentlemen to make speeches in the way of explanation. If a gentleman has made a speech and placed any gentleman in the wrong, the floor should be yielded for explanation, but no further. I know the gentleman from Indiana [Mr. HENLEY] and other

Democrats deny having had any intention by their votes to allow *negroes* to vote, yet such has been the inference drawn both North and South.

That is one State. There are others. The people of Illinois have voted that no negro shall come upon her soil; not only that the negro shall not have equal political privileges, but that he shall not live there; yet there are some of the Representatives of that State upon this floor who voted to agitate here whether he shall be a freeman and equal with the white citizen of the District. In Pennsylvania—my friend from the Beaver district [Mr. DICKEY] knows how warmly I urged in the convention the exclusion of blacks while he was strongly in favor of the negroes—in Pennsylvania, we have excluded negroes from voting, after a full examination and a solemn adjudication of the subject. Yet I find from Pennsylvania men, whose districts gave an almost unanimous vote in favor of the exclusion of negroes from the right of suffrage, coming into this Hall, and voting to consider whether they shall have equal political privileges with the whites in this District. I will say to my friend from the northern district, [Mr. WILMOT,] that when, in this Hall, he first offered his proviso to the territorial bill, he repudiated all connection with the Abolitionists; and I know, in a speech which he did me the honor to send me, delivered elsewhere, he said he had no sympathy with the negroes; that all he did was for the white man, for the free laborer of the North. Then (here is the record) he voted to suppress all petitions for the abolition of slavery in the District of Columbia. His vote is not found then to aid this abolition agitation; yet how do we find him voting this session? Why, against laying on the table a bill to allow the negroes, both slave and free, to vote in this District, and for all questions which have arisen for the agitation of the subject of the abolition of slavery. It shows (for I mean nothing unkind to my colleague; I have no unkind feelings towards him) where we are going: like little children, we begin by creeping, then we walk, and then we run. As my friend from Indiana eloquently said the other day, in olden times we put this whole agitation down. Now, agitating questions are brought up from time to time; and when we look to the records, we see that my friend from Indiana, and other gentlemen who act with him, while they say they don't want to agitate the subject of slavery; that they do not want to create insurrections at the South; that they do not want to interfere with the institutions of the South; that they do not want to touch the institution of slavery in the States; that they oppose its abolition here,—yet, when you bring them to vote, they are found with the agitators. If we of the North are honest, and do not believe slavery ought to be agitated here, and that the domestic slave trade, or slavery within the States, ought not to be interfered with, why, let us rise as one man, and honestly vote to exclude all these agitating questions, and tell our constituents so, as I have done for the last twenty years. In every speech which I have made, in the halls of legislation or elsewhere, I have rebuked this spirit; and I have not lost an election before my people for the last eighteen or twenty years. I stand here now from a district, my Democratic predecessor from which voted for the reception of abolition petitions, yet had lost his election by eleven hundred votes; and I, who was known to be against their reception, at the next election, was elected by a majority of four or five hundred. So I speak the sentiments of my people, which they knew I entertained before I went before them.

I could go on upon this subject of allowing the negroes to vote in other States. Many, and nearly all of them, have refused to allow the negro to vote at home, but their Representatives come here and vote to confer upon him that privilege in this district. This is insulting to the South and unjust to their own constituents. "First cast the beam out of thine own eye, and then shalt thou see clearly to cast out the mote which is in thy brother's eye," is a good rule, applicable to this case

And then, out of this House, I know something of this subject. I was not born in the South, as the gentleman from Indiana was, though I lived there—in old Virginia—the greater part of six or seven years. I have no ties of feeling or of interest which bind me to the South; all the associates of my childhood and my riper years, all I possess in property or reputation, belong to the North. It is my own native place; but I speak here the sentiments of duty, the dictates of my own heart, what I believe is due to the whole people of the United States, live where they may. It is a feeling which I imbibed from reading the early history of our country—the history of the scenes of the Revolution—the patriotism, the eloquence of the sons of the South and of the North pleading and battling for a common cause, and pouring out their blood on the common fields of the South and of the North, for a common country. And the last pulse of my heart shall cease to beat before I can know anything else than that they are all my brethren—bone of my bone, and flesh of my flesh; and if the North shall continue these aggressions, and attempt to make war upon the South, northern man as I am, I cannot now tell on which side I would be found. I fear I would be on the side—I do not fear, but I know, I would be on the side of justice and right; and I mean by that, that I would be with the South; for I believe that justice and right is with them, and I prefer to be right with them to being wrong with any others.

But out of this House, how is it in my own State and in other States? Why, we have, in my estimation, violated the Constitution of the United States; or, if we have not violated its strict letter, we have violated every principle of fraternal feeling, and of the spirit of that instrument, in passing laws that interfere with the right of the southern people to reclaim their fugitive slaves when they come into the northern States. The Constitution says they shall be given up; and I hold it here to be the duty of every northern State through all its functionaries of Government, to exercise all its powers to deliver up every fugitive slave that should be found harbored within its borders; it is the spirit, it is the word of the Constitution; it is the bond of the Constitution. Is not this irritating to the South, and calculated to lessen their respect for the Union, thus to see the provisions of the Constitution set aside and the bond of brotherly love disregarded, all for the purpose of robbing them of that which the law and the Constitution guaranties to them?

Mr. BRADY. Will the gentleman permit me to put to him a question?

Mr. BROWN. No; if I have said anything about what any gentleman has said or done which requires explanation, I am willing to yield; otherwise I cannot.

Outside of this House, I repeat, I know something of this question. I was in Virginia at the time, or shortly after the time of the insurrection at Southampton, and I listened to the eloquent speeches there of gentlemen who looked then to see if something could not be done for the abolition of slavery. This question was considered there for several years. Emboldened by the attempt of Virginia to do something on the subject, I know that the Abolitionists of the North immediately began to pour their emissaries into Virginia, and to distribute their books with all the pictured horrors of slavery, to induce the people there, I presume, to go on with the subject of abolition. But what was the consequence? These publications were not guardedly sent to the owners; they thought to do a double work: while they enlightened the owners as to their duty, they sought to enlighten the slaves as to theirs; and they told them, as the gentleman from Ohio [Mr. GIDDINGS] told them a few years since, when he was censured in this Hall, that they were right in breaking their bonds, even though it were at the price of the blood of those who owned them——

Mr. GIDDINGS. The gentleman is mistaken. Shall I correct him?

Mr. BROWN. I referred to the Creole case.

Mr. GIDDINGS. Yes; I say the gentleman is wrong.

Mr. BROWN. No matter; every one can read what the gentleman said for himself.

Mr. GIDDINGS. The gentleman is mistaken. I wish the opportunity to correct him. I insist that the gentleman shall not misrepresent me.

Mr. BROWN. No matter; I take back, so far as the gentleman is concerned, what I have said, and refer to the record for the facts.

Mr. BAYLY, (in his seat.) He said it two or three times in this Hall.

Mr. BROWN, (continuing.) I speak now of what was done in the South. All these means were resorted to to excite the slave to insurrection, to stir within his heart the spirit of rebellion. Nay, what do we see now all over the country? Read the papers, and you will see that these very abolition agents are now there stealing negroes—not only stirring them up to run away, but it is well known that they are everywhere ready to receive them, and that they have their emissaries in the slave States, inducing the slaves to run away. Now, you who have never lived among the slaveholders, what do you think it is to know that these machinations are at work to stir up a savage feeling of discontent, of rebellion, and of revenge in the breasts of those who surround you? It may be all sport to you. It may be you believe you are doing God service in endeavoring by these means to emancipate the negroes. But have you no feeling for the whites? Are the blacks only your brothers? Is there no other race on this earth or in this country but the negro? How many whites would you sacrifice in the South to abolish slavery? I fear, if some were to answer from their hearts, they must say all, *all*, ALL, and the victims would be too few, they would say, to expiate the cruelties that have been inflicted upon the slave. This is the feeling I want to have rebuked. Why, I know that women and weak men live in terror. They do not doubt that if let alone, all would go on well; the harmony between the races would not be disturbed; but it is this continual effort at abolition agitation, it is these emissaries, of the northern fanatics, secretly among them, whom they dread—perhaps not dread, but whom they have most to fear.

And what (I ask) is the justification for all this? "Southern encroachments!" Our friends from the North, whenever they attempt to justify any attack upon the South, say, Oh! it is the southern encroachments. Now, I ask them here, in all sincerity, to tell me wherein the southern encroachments consist? I have misread the history of this country if they can point me to a single instance where the South has attempted to trample upon the rights of the North, or to interfere with their domestic institutions in any way. When the people of the northern States thought proper to abolish slavery, did their brothers of the South interfere? Did they attempt in any way to say, We entered into this Union all as slave States, and you cannot do away with slavery? No. When the North agreed to abolish slavery and send their slaves to the South, did the South shut their doors and say, You shall not come here? When the North attempted to stop the foreign slave trade, did the South say, No? Did the South say, You are characterizing this trade as piracy, and making us odious, and bringing upon us discredit in the face of the world, and we cannot join with you? I never heard of it. I have always understood that the South went with the North to prohibit the foreign slave trade, with all its odious characteristics. I have yet to learn that anything has been done in the North on the subject of the abolition of slavery anywhere, abroad or at home, that the South has ever attempted to interfere or encroach upon our rights.

But we are told—and that is the strong argument of our northern friends—that the institution of slavery produces a political inequality against the North. Why, that is very strange. In any light in which I can view it, I think the political inequality is against the South. What is political inequality? It is placing representation upon numbers that do not participate in the Government. Now, look to Rhode Island. I see the sunny face of my friend from Rhode Island [Mr. CRANSTON] before me: every man knows, that until the adoption of the new constitution there, every poor man was not counted as a citizen; that the poor man was not entitled to vote.

Mr. CRANSTON. The gentleman is mistaken.

Mr. BROWN. I know the fact. I say, until the adoption of the new constitution, no poor man could vote in that State. Why, we know, that at the time of the formation of the Constitution of the Union, a large number of the States required a property qualification for voters, and all those who had no property, and all free negroes, were counted in their full numbers, to give Representatives here, while the slaves of the South were only counted three for every five. I may be wrong; but it strikes me the political inequality is against the South, and in favor of the North. Abolish slavery to-morrow, and every negro of the half million in Virginia, and the three millions in the south-

ern States, would be entitled to be counted one in making up the basis of representation in this House, and this political inequality under which the South now labors, would be done away.

I intend now to postpone the consideration of the whole question of slavery in the territories, for I trust to the indulgence of the chairman and of the committee to have another opportunity to express my views on this branch of the subject; and I refer to it now only to show where the encroachments have been. When we formed our Union, or about that time, we owned the Northwest Territory, all of which belonged to Virginia. Her right to it may have been doubted, but we conceded it when we took the gift from her. What did she do? With all her slaves, she said, Take it. You may prohibit slavery there. Instead of encroaching upon us, Virginia, a southern State, made us the donation of this magnificent domain to the free laborers of the North. This is one instance.

Next, we acquired Louisiana. Gentlemen now say, We only ask that there shall be no slavery in New Mexico and California, because those Territories are now free, and it would be encroachments on the rights of the northern man to let the slaveholder go there; but if it was slave territory it would be another thing; we would not ask you to abolish slavery there. But when we got Louisiana, and when Missouri presented herself here for admission into the Union, how was the question? My friend from Indiana eulogized the men who fixed the line of 36° 30' as patriots deserving the lasting honor of the country; but, then, my friend did not vote the other day for 36° 30'; he did not follow in the footsteps of those men whom he eulogized—he voted against it. What then? The South did not encroach upon our rights in taking in Missouri and Arkansas; but we encroached upon their rights; we took from them; it was slave territory, and we made one-half of it free.

Then came Texas; and I was for Texas. I made the first speech for Texas in the State of Pennsylvania; I did all I could to waken up enthusiasm—for I love the lone star, and I take occasion to say that there is not in the records of history, our own included, anything that exhibits the idea of so noble, so patriotic, so great a revolution, and so complete. They were true American scions, and they deserved to belong to the American family. But what then? Texas was all slave territory; but did we say as we say now of California and New Mexico? We do not ask to change her institutions; all we want is to have them continue as they now are. Did we not take from the South one-half of Texas? Did the South encroach upon us, then? Why, it looks very much to me as if we had been encroaching upon the South, and not the South upon us. I appeal to the House and the country if this is not true. And now, after having received as a gift from a slave State the magaificent domain of the Northwest, and taken one-half of Louisiana and Texas, we propose to take all of California and New Mexico.

I am not speaking from the White House, nor for any particular district, but to you, the Representatives of the American people, and through you to the American people themselves. I hope that the speech of my friend from Indiana will be bound up with mine, and that they will go out hand in hand together. [Laughter.] But I trust that his votes will not be appended. [Renewed laughter.]

What do we of the North want? Do we want emancipation? Are we aiming at the emancipation of the negro race? My colleague from the Beaver district [Mr. DICKEY] will say yes; the gentleman from the mileage district of New York [Mr. GREELEY] will say yes; the gentleman from Ohio [Mr. GIDDINGS] and the other gentleman from Ohio [Mr. ROOT] will say yes.

Mr. ROOT, (in his seat.) What is it?

Mr. BROWN. That you are aiming at universal emancipation.

Mr. ROOT. Do you give way for explanation?

Mr. BROWN. No, I cannot, for my time is brief.

What next? The vote given the other day by my friend from the northern district [Mr. WILMOT] indicates that he desires the negro to be placed on a footing of political and social equality——

Mr. WILMOT. My vote indicates no such thing.

Mr. BROWN. I am sorry it is on the record. Now, what do gentlemen from the North want? Let us have some definite object. Is it the emancipation of the negro race in all the States? I wish I had time to show to this House what would be the effects of such emancipation. I hope gentlemen have pondered upon this thing, and looked at it in all its aspects. To me such emancipation is fearful, now or any time which I can see in the future; for I can see but a short way. It is fearful to the white race, and still more fearful to the black race. What do we see? All the men of the negro race that distinguish themselves at the present day, of whom I know or have heard, were born and raised in slavery. Will any gentlemen make the comparison? Look over the whole African race, and show me two-and-a-half or three millions of free negroes in the United States, the West Indies, or in Africa, and then compare them with the two-and-a-half or three millions of slaves in the United States, and say if the former are equal in physical, mental, or moral cultivation to the latter. Slavery may be an evil—an evil to produce good—for it has pleased God in his wisdom frequently to place nations as well as individuals in servitude and bondage that they may ultimately be redeemed with a better salvation.

I do not know what may be the ultimate destiny of the negro race; but I know that now, wherever free negroes establish themselves in bodies they become deteriorated, instead of being elevated. Some eighteen or twenty years ago, we established public schools for the negroes in Philadelphia, with which you, Mr. Chairman, are well acquainted, and the free negro population is no better now than it was then. Where have the free negroes who have been educated even with the son of the gentleman from Massachusetts, [Mr. PALFREY,] and gone out into the world, exhibited talents? Roberts, who is now the Governor of Liberia, and Frederick Douglas, the sun of the Abolitionists, were they not born and raised as slaves? Who is that eloquent divine, who is now thrilling the hearts of negroes in Liberia, and who spoke to one of the most enlightened audiences in Alabama?—Ellis, who was born and raised a slave, and who was a slave when he was received into the ministry, and when he was a proficient in the Greek, Hebrew, and Latin languages. Slavery, if it be an evil, is not so great an evil to the negro race, so far as we can judge from results, as to the white race, and to the country in which it exists; and if any one deserves our sympathy, it is the whites. Why cannot we leave it to the people of the States? One half——

Here the hammer fell.

Mr. BROWN. I beg to say, that I propose, on the first opportunity that may present itself, to finish my speech.

The CHAIRMAN gave the floor (from among many competitors) to

Mr. STRONG, who said that he had not risen for the purpose of adverting at all to the subject of the remarks of the gentleman [Mr. BROWN] who had just taken his seat. He (Mr. S.) proposed to avail himself of some other occasion more suitable than the present to be heard on that subject. He entertained some views upon it which had influenced his conduct, and which he desired to present to the House before he was called upon to take any definite step that might be productive of practical results. His intention was to speak to the bill before the committee, or at least in reference to the policy of one of the appropriations which was contained in it. He referred to that provision which made appropriations for the transportation of the United States mail between New York and Liverpool, between New York and New Orleans, Havana, and Chagres, and between Panama and some point in the Territory of Oregon, to the amount of $874,600.

This subject had been pressed upon the attention of the House at the last session of Congress, in an elaborate report by the chairman of the Committee on Naval Affairs. And when the report was presented, accompanied by a bill or joint resolution, they were made the special order; and the chairman of the committee, in an elaborate speech, presented his views on the subject of ocean mail steam packet communication.

At that time he (Mr. S.) strove for an opportunity to reply to some of the views expressed by that gentleman; but he strove in vain. Subsequently, on one of the general appropriation bills, in which there was a clause ratifying the contract for the transportation of the mails from Charleston to Havana, he endeavored to obtain the floor for the purpose of expressing his views in relation to these contracts, but he was again unsuccessful. Having at length succeeded in obtaining that opportunity, he desired at some length to examine into the whole policy, and to see whether it was worthy of the favor it had received at the hands of this Congress, and of those Congresses which had preceded it.

This ocean mail steam packet communication was a novel thing. It was new to the world. If he was not mistaken, it was less than three years since it found a place in our legislation; yet, with all its novelty, it had proved so fascinating that the most able and ardent advocates had been found here, and had succeeded in leading this and the other House to measures which, in his opinion, would, if persisted in, produce the largest results of evil. Congress had entered upon a course of legislation and embarked in a system of expenditures which, if not arrested, threatened to beggar our treasury, and to sacrifice many interests which were near and dear to our people.

Whilst Congress had been paying but little regard to the consequences which this system was calculated to produce, it had already abstracted from our treasury a sum of money of which neither the House nor the country were aware. The policy had been adopted without discussion, had been pursued without investigation; and, although yet only in its infancy, it had begun where other enterprises usually ended.

It was only two years and a half since the first definite step in the system was taken. He believed that in June, 1846, the first contract was made by the Post Office Department for a line between New York and Bremen, at an annual cost of four hundred thousand dollars. In March, 1847, three other lines were authorized: one from New York to Liverpool; one from New York to New Orleans, by way of Havana, with a branch to Chagres; and one from Panama to Oregon. And still another line had been authorized from Charleston, by way of Savannah, to Havana.

Five contracts had been entered into within two years and a half; and the Government had assumed to pay to the owners of these lines the extraordinary sum of one million three hundred and twenty-nine thousand six hundred dollars. For the support and maintenance of these lines, Congress had assumed to pay more than thirteen hundred thousand dollars annually for a period of ten years.

Nor was this all. This was but the growth of two and a half years. So easy had it been to obtain the aid of the Government, that other lines had been proposed, and still other lines had been recommended by the Committee on Naval Affairs at the last session. They recommended a line from New York to Havre, and another from New York to the mouth of the Elbe, a place distant only about two hundred miles from Bremen, the *terminus* of the first line established. These lines would add to the expenditure a sum of not less than eight hundred thousand dollars annually.

Nor was this all. The same committee had proposed a line from a port in California to Shanghad or Canton, which could not be maintained at a much less cost than a million of dollars annually. They also proposed a line from the mouth of the Elbe to St. Petersburg. And the chairman of the committee, in his able and interesting, but, as it seemed to him, (Mr. S.,) fallacious speech, intimated that no doubt other lines might be proposed which had not yet been suggested.

This, the chairman said, was the American system of steam mail packet communication. It was true, it was a splendid scheme; but he (Mr. S.) feared that it would be found to contain more blanks than prizes. He could not escape the conviction that it was time for Congress to pause and consider whether this policy was to be further pursued. The steps which had already been taken could not be retraced. The Government could not escape from its contract. The money must be paid; but it might refuse to assume new responsibilities. At all events, the subject appeared to him to be sufficiently large to attract the attention of Congress and of the country. And he desired to have the attention of the committee, whilst he presented some of those views which operated on his mind, and which led him to oppose any further extension of the policy.

The advocates of the system had supported it mainly on three grounds. And he must be permitted to say, that the reasons they had assigned why it should be sustained had not always been the same, nor in fact, consistent at all times with each other.

The adoption of the system had been urged as a means of enlarging the conveniences of the mails; and, accordingly, the first contract was made with the Post Office Department, and was placed before the community as a means of enlarging these conveniences. In this form it was presented to the approbation of the country. He thought it could not be difficult to show, that instead of enlarging the conveniences of the mail, it was, and must continue to be the most formidable existing obstacle in the way of that uniform system of postage which the country demanded.

The harmonious voice of the people came up from every section of the country, and asked the utmost reduction of postage which was consistent with the established principle that the revenues of the department were to be equivalent to its expenditures. From the earliest history of our Government to the present day, there had been no departure, except in a single instance, from the principle, that the mail conveniences were to be extended by the Post Office Department as widely as possible, provided they were defrayed out of its revenues. This exception occurred during the late war with Great Britain, when for a short period an additional postage of 50 per cent. was laid upon letters, with a view to raising revenue for the support of the Government. That was soon abandoned, and the principle had become settled that the expenditures of the department were to be proportioned to its revenue. He knew of very few persons who would be willing to depart from that principle now.

Now, he asked how it happened that during the past year the Post Office Department had not paid all its expenditures, and laid up in our treasury a large sum of money? One reason was, because so large a sum of money had been appropriated to support these lines of ocean mail steamers. Had it not been for these contracts there would have been a large surplus of the revenues of the department, and no misgivings could be felt as to the feasibility and the propriety of a reduction of postage to a uniform rate of five cents, or perhaps three cents.

The entire expenses of the transportation of the mail upon all the roads in the country, during the year ending 30th June, 1847, was $2,495,000. It was nearly the same last year; but he took the previous year, because the statistics were more full. The number of letters transported during that year, according to the report of the Postmaster General, was fifty-two millions; the number of papers was fifty-five millions. The sum which had been contracted to be paid annually for the transportation of the mail by these ocean steam mail lines, was $1,329,600—more than half the amount which was paid for the transportation of all our mails over all the post roads of the country.

Now, it required but the statement of these facts to show the utter baselessness of the argument that the conveniences of the mail were enlarged by the establishment of these lines of ocean mail steamers. He was aware that but a part of this $1,329,000 was charged to the Post Office Department, but it was all properly a subject of examination when they were inquiring how far the conveniences of the mail were enlarged by the establishment of these lines.

What, then, was the return received from this expenditure of $1,329,000 annually? From the report of the Postmaster General, it appeared that during the same year (ending 30th June, 1847) the number of foreign letters coming into the United States by the mail was 850,980. It must be recollected, too, that these letters came by the English as well as the American steamers, by the packet-ships, by the ships from every foreign port. The entire number of all these letters coming through the mails of the United States was 850,980—less than one-sixtieth of the domestic letters; and yet we paid more than one-half as much for the transportation of this one-sixtieth as we did for the transportation of all our domestic mails. If there were added to this 850,980 letters all the ship and steamboat letters, it would make an aggregate of less than 1,300,000. It appeared then, from this statement, that the Government of the United States had already by these contracts engaged to pay more than one dollar for every letter which came to our shores from foreign lands.

There were no other data from which the revenues actually received in consequence of the establishment of these lines of foreign mail steamers could be computed. They seemed to be too small to be separately noticed. The Postmaster General stated that the amount received on the Bremen line was $29,082 83.

Now, this one dollar for every foreign letter, this $1,300,000 annually, was paid by this Government at the expense of the intelligence, the business, and the social affections of the country. Our mechanics, our farmers, our tradesmen, were all taxed to support these foreign mail lines, and thus were prevented from that unfettered intercourse, that free interchange of feelings and affections which, but for these lines, they would be permitted to enjoy.

In regard to one of these lines established in March, 1847, viz: the line between New York and New Orleans, the Postmaster General told us that it was utterly useless for the transportation of the mails; yet for this line we pay $290,000 annually.

If the object were really to extend and enlarge the mail conveniences of the country, it seemed to him that it could very easily be done by employing, as far as necessary, every ship that left our ports to carry letters for foreign countries, giving them, say one-half of the postage. In this way the foreign mail transportation, instead of being an enormous tax, might be a source of revenue to the Government, and in this way the mail conveniences would be enlarged. He regarded, therefore, the argument that these conveniences were enlarged by the establishment of these lines of ocean mail steamers, as having no foundation in reason or in fact.

But equally unsatisfactory was the argument which the chairman of the Committee on Naval Affairs [Mr. KING, of Georgia] had urged at the last session of Congress, when he had advocated the establishment of these lines of mail steamers as the means of enlarging the navy. He had then recommended this as the least expensive and the least offensive mode of increasing our naval establishment. It might well be doubted whether the circumstances and necessities of the country required any large increase of our naval establishment. But without entering into the consideration of that question, he confessed himself unable to comprehend the advantages which this system presented to us in that respect; and yet it was the argument upon which the gentleman from Georgia most relied, and which he urged with the greatest ability. The gentleman referred to Great Britain and France as having derived great benefits from this system of establishing lines of mail steamers as a mode of increasing their navies, but he had seemed to overlook the difference of our position and that of those two countries. England and France were two great maritime Powers in near neighborhood with each other and with other maritime nations. To them, as a means of attack or of defence, doubtless a large naval establishment was necessary; and the fact that one of these nations was engaged in building up a steam marine, imposed a similar necessity upon the other. But how different was the situation of the United States. To us, for purposes of attack or even of defence, a steam marine was of little consequence. Far removed from other nations, having no colonies accessible by steam navigation, all the steamships in the world would be comparatively worthless. The distance, also, between this country and other large maritime Powers, employing steam-ships, would prevent their being used effectually against us; and the same reasons which would prevent their being used with success against us, would also render them inefficient for the purposes of offensive operations in European seas. So, also, for the purposes of the protection of trade, they must be of extremely little value. It was only for defensive operations that they could be used at all successfully; and for that purpose he admitted that they might be valuable, if it were not that those now being constructed were too large to be used efficiently on our own coast. Some of the ocean steamers recently built in New York measured two thousand eight hundred tons burden; and there was scarcely a harbor on all the coast of the Atlantic into which a vessel of such a capacity could enter. They were of course built for the purposes of trade and commerce upon the larger waters; and were only adapted to such carrying, while the more important trade of the coast seemed to be left out of view.

He protested against the system as a most expensive plan for the increase of the navy. We had contracts by which it was stipulated that the Government should pay out for this purpose the sum of $1,329,600 annually—a sum almost sufficient to build three steamships. This contract was to continue ten years. At the end of that time what were we to gain? Were we to have thirty war steamers, fitted for all the uses to which the Government might require them to be applied in a state of war? So far from this, we were only to have the chance of purchasing them at their value, upon the condition that we shall still adhere to the system.

He affirmed, that if these contracts were to go on, to be carried into a permanent system, the Government would have to appropriate a sum not less than twenty-two millions of dollars for the complete establishment of these lines. Still, we were asked to prosecute the system: and he asked in return, for what purpose it should be continued? What was to be gained by this annuity, or by the total amount of one million three hundred and thirty thousand dollars? We were to get for it not even the shadow of moonshine—not one warship. We were only to get the privilege of taking fifteen ocean steamers off the hands of the contractors by paying for them their full value—a right which the Government now held in virtue of its own sovereignty, without contract. Yet, the chairman of the Committee on Naval Affairs still urges the importance of additional appropriations for similar objects. The system proposed an enormous sacrifice for the procurement of a privilege which the Government enjoyed already.

He was persuaded that if this system had been fairly presented and fully discussed, it would never have met with favor. It was rarely the case that good came out of any public measure adopted with so little discussion as this system received when it was fixed upon us. We had been content merely to imitate Great Britain and France in this respect, forgetting that the same thing which might be wisdom in them might be folly in us.

But it had been urged, that by enlarging this system of ocean steam navigation, we furnished additional protection and encouragement to the commerce of the country. He yielded to no man in his attachment to the great interests of commerce. He would go as far as any man to encourage the interests of commerce; that was to say, as far as encouragement could be extended consistently with the other great interests of the country. The interests of commerce were not the only interests to be regarded in legislation. He admitted, of course, the possibility of aiding one class of interests by the legislation of the country, without prejudicing others; but he did not see how this object could be carried out without positive injury; and it certainly presented no hope of any corresponding benefit. There were gentlemen who had voted for this system, and who were, at the same time, opposed to the doctrine of the protection of domestic labor and capital; but this was protection in its most odious form. The friends of protective duties had never said less in support of their system, than that it was for the benefit of all classes of the community, and they proceeded generally upon that plea. But here was a system fixed upon the country which selected no class of interests upon which to confer the slightest advantage; no great branch of national industry was the object of its encouragement; but upon one mercantile firm—one merchant—was bestowed all its encouragements and advantages. Such a course of legislation should never be persisted in with his approbation and support. He could not consent to see our commercial interests thus taken into the charge of the Government. He repeated, that he was by no means unfriendly to the commerce of the country, but rejoiced in its growth. If there was any branch of all our great national interests which less than others needed the aid of Government, it was our commerce with foreign nations. No fostering hand of Government had led our youth up to the second place in the commerce of the world. It was the energy of our merchants that had supported our foreign commerce and made it what it was. Our merchants were the owners of every line of packet ships passing out from our shores. Relying upon their own efforts, they had succeeded in monopolizing nearly all the carrying trade of the country.

They never came here for protection; they had not asked for Government aid beyond what they found most readily in their own right arm.

He was aware that this ocean steam navigation was a new idea, and he had no doubt that it was designed to extend the carrying trade with foreign nations. But he was satisfied that the enterprise which had originated and sustained this trade so far, would not fail us for the future. But it was an utter mistake to suppose, that by enlarging and extending these lines we were contributing any aid to the commerce of the country. So far from this, he confidently believed that it would inflict an immense injury upon our commerce. Who did not know that competition was the life of progress in every department of business? These lines would establish a perfect monopoly in the carrying trade, against which it would be vain to come into competition. If Government granted to a New York merchant the sum of four hundred thousand dollars, to enable him to run a line of steamers between New York and Liverpool, he would ask, how could any other merchant think of establishing a similar line between the same ports without such Government patronage? He could not do it, because he could not stand upon the same platform with his competitor. He could only live, in such an enterprise, by the sufferance of the governmental line. The same might be said with reference to the lines between New York and Bremen, and between New York and Havre, should the latter ever be established.

As a consequence growing out of this policy, he mentioned the fact, that now, at every session of Congress, as had been the case during the last session and the present, there would flock into the lobbies numerous applicants for the aid of Government in the establishment of lines of ocean steamers. Encouraged by our former liberality, such applications would come from every important commercial port in the country, modestly asking us to grant them a similar annuity; and it was reasonable that they should do so, because the Government had set aside all competition in the case, by conferring superior advantages upon individual enterprises. He did verily believe that this system would, in the end, do more to retard the progress of ocean steam navigation in this country than all other causes combined, because it palsied the hand of competition, by extending the aid of the Government to a favored few, and saying to all others, Stand off.

Gentlemen seemed to have assumed high protective ground in support of this policy. If, then, it were their object to foster commerce, he would ask why it was that the merchants and people of New York were favored, whilst those of Boston and Philadelphia were passed by? Why were Charleston and Savannah aided by the Government, whilst Baltimore and Norfolk were neglected? Did the Government mean to say that no foreign trade should be carried on, except from the ports of New York, Charleston, Savannah, and New Orleans? Was an embargo to be laid upon all the other ports of the United States? Why should this discrimination be made to operate against Boston, and Baltimore, and Philadelphia, and Mobile? If Congress adopted these lines, no foreign carrying trade could be maintained at any of these places; and thus it was that the Government was about to lay a most effectual embargo on more than half the ports of the country, so that no farmer would be able to export his produce from any other than these favored ports. He trusted that the Government would not pursue such a course of favoritism and discrimination between ports and individuals. Let the same course be pursued by the Government, in reference to this matter, which he had recommended with regard to the transportation of the mails, which was to give an equal chance to all, and he was willing to abide the result.

Thus far, he had examined the arguments presented by gentlemen advocating the establishment of these lines; and he considered that every one of them contained the materials for their own refutation. But there were arguments against the establishment of these lines which had weight with him, and which he desired now briefly to present.

He doubted the constitutionality of all these appropriations. He did not doubt the power of Congress to regulate commerce, to provide for the transportation of the mails, nor to provide for the increase of the navy. But, to establish a line of ocean steamers was quite another thing, and distinct from anything embraced by these powers of Congress. No man had ever pretended that the establishment of these lines pertained to the power of Congress to regulate commerce. Every gentleman who had appeared in support of the system had derived his arguments in support of the appropriation from the powers of Congress to increase the navy, and to provide for the transportation of the mails. But they all regarded the increase of the navy, and the transportation of the mails, as but the incidental, not the primary, object of the establishment of these lines. Now, it was plain that the constitutional power over the incident could not include the principal. The power to provide for the transportation of the mails could have no respect to the thing in which the mails were carried, the transportation being merely the incident. For illustration, (he said,) we were empowered by the Constitution to provide munitions of war. He would ask whether, under this constitutional power, Congress was authorized to make to any private individual a grant of the means necessary for the establishment of a foundry for the manufacture of cannon for the Government? Here Congress had power over the incident—the procurement of the cannon; but they could not therefore make a grant of money to a private citizen to enable him to establish a foundry for this purpose. This case, however, was entirely different from the question of the power of Congress to establish a foundry of its own. Again: the Government made use of a large amount of cotton cloth, but no man supposed that on this account Congress was authorized to grant money to any citizen to enable him to erect a cotton factory from which the Government might be supplied. Neither could any man pretend that the use of leather for the mail-bags authorized the appropriation of money to set up a private citizen with a tannery to supply the Government with leather; yet he apprehended that it would be exceedingly difficult to show wherein these cases differed from that under consideration. Congress had power over the incident in the present case, but not over the principal—the control of the transportation of the mails, but not the power to grant money to enable a private citizen to build a ship.

He apprehended, that if this doctrine were admitted, there would be no limit to the interference of the Government with every branch of trade. If this principle was to obtain, no one could dispute the power of Congress to make appropriations of money to any individual engaged in any branch of trade. It was certainly the safest policy to keep within the line of acknowledged constitutional authority, and for this reason he was unwilling to support a proposition for the appropriation of money to provide for objects never contemplated by the framers of the Constitution.

But he objected, further, both to the establishment and the further prosecution of these lines, because, by the proposed system, the Government was to become a partner in the individual, private enterprises of the country. In all these unnatural alliances both parties would be sufferers. Experience had fully shown that the affairs of Government thrive best when they are kept distinct from other interests. The good policy of separating her interests from all banking institutions, was an important lesson which this Government had learned. If the Government succeeded in any enterprise of the sort, it would be at the expense of those who might enter into competition with the Government, and which would inevitably engender feelings of estrangement and bitterness on the part of the citizens.

To his mind, it seemed that there was a constant tendency on the part of the Government to interfere with the operations of the citizen; whereas, true wisdom seemed only to require of the Government to defend the citizen from foreign interference. The crowning excellence of Government was, that with unseen hand it should scatter its common blessings over all, and suffer the arm of its power to be felt only to protect, not to destroy. The other course might give to a Government more prominence; it might make a Government more splendid; but the history of the world taught that the splendor of Governments were always built up at the expense of the masses. He objected, therefore, to every attempt to bring the Government into partnership with citizens in the private enterprises of the country.

He had yet other reasons to urge against these appropriations, but he perceived that he should not have time to enlarge upon them. He objected to these lines because they would give an undue prominence to our foreign trade. He considered that we were bound to give an even chance to every branch of trade. While we were establishing these ocean lines, he desired to know what was doing for the great interests connected with the internal trade of the country? It was refused to appropriate a single dollar to remove the snags from the Mississippi, to improve the harbors on the lakes, or remove the rocks which obstruct their navigation. The fact was, that the domestic trade of the country was far heavier and more extended than the foreign trade; in it the people generally were far more deeply interested; and upon it the wealth and welfare of the country were far more dependant. Yet this system of ocean steam navigation had so far been prosecuted at the expense of the vast internal trade, and to its entire neglect. We had been giving prominence to a single port and a few individuals of the country, to the utter neglect of the great internal interests.

He objected, also, to the proposition for these lines, because it involved an effort to conceal the real design of legislation. If the object were to facilitate commerce, or to increase the navy, why not avow the principle openly, and let us have a bill with a corresponding title, and let it go forth to the country. Thus the people would be informed of the objects of legislation, and say to us whether they were willing to pay these large annuities for the increase of the naval establishment, or for the benefit of the foreign carrying trade. Let us call things by their right names, and not, under the modest style of ocean mail steamers, prosecute another object of legislation.

But he found that he would be unable to complete his argument. He had summarily referred to some of the conclusions by which his course was directed upon this question, which he had laid before the committee in a hurried and ill-digested manner, with the purpose of writing out and publishing more at large hereafter. He hoped thus to succeed in calling the attention of the committee to this subject; for he did think that it had not yet received the discussion which it demanded. He hoped that other gentlemen, better acquainted with its details, would so unveil the subject before the committee and the House, that hereafter we might vote understandingly whenever we might be called upon to act upon the question of the establishment of these lines.

Here the Chairman's hammer fell.

Mr. VINTON moved that the committee rise, in order that he might in the House introduce a resolution to close debate on this bill. There were a number of amendments which would be offered, and which, under the five minutes' rule, could be explained. He was anxious, if possible, to get rid of this and the other appropriation bills.

The question having been taken and decided in the affirmative, the committee rose and reported progress.

TERMINATION OF THE DEBATE.

Mr. VINTON offered the following resolution:

Resolved, That debate in Committee of the Whole on the state of the Union, on House bill No. 699, making appropriations for the naval service for the year ending the 30th of June, 1850, shall cease in ten minutes after the House shall again resolve itself into Committee of the Whole on the state of the Union on the said bill, and the committee shall then proceed to vote on such amendments as may be offered.

The resolution having been read—

Mr. VINTON demanded the previous question upon its adoption.

Mr. MILLER moved that the House adjourn.

And the question having been taken, the House refused to adjourn.

The question recurring on seconding the demand for the previous question—

Some conversation took place between Mr. BROWN of Mississippi, and the SPEAKER, concerning the right to the floor.

After which, the demand for the previous question was seconded; and the main question (being on the adoption of the resolution) was ordered to be now taken.

The yeas and nays on the main question were asked and ordered.

Mr. KAUFMAN moved that the House adjourn.

The question was then taken and decided in the negative—ayes 57, noes 80.

So the House refused to adjourn.

And the question recurred and was taken on the adoption of the resolution, and was decided in the affirmative—yeas 94, nays 68.

So the resolution was adopted.

Mr. VINTON moved a reconsideration of the vote, and moved that that motion be laid on the table.

And the question having been taken and decided in the affirmative, the motion to reconsider the vote by which the resolution had been adopted was laid on the table

NOTICE OF A BILL.

Mr. HENLEY, by general consent, gave notice that he would hereafter ask leave to introduce a bill entitled "A bill to provide for an expression of the opinions of the free white male inhabitants of the District of Columbia who are entitled to vote at elections in said District in regard to the abolition of slavery and the slave trade in the District."

Mr. JOHNSON, of Tennessee, inquired of the Chair if it was in order to move a reconsideration of the vote by which the motion to reconsider the vote on the adoption of the resolution terminating debate on the naval appropriation bill, had been laid on the table?

The SPEAKER decided that such a motion would be in order, but was not debatable.

Mr. BROWN, of Mississippi, moved that the House adjourn.

And the question having been taken and decided in the negative, the House refused to adjourn.

The question then recurred and was taken on the motion of Mr. JOHNSON, and decided in the negative.

So the House refused to reconsider the vote by which the motion to reconsider the vote on the adoption of the resolution had been laid on the table.

POST OFFICE DEPARTMENT.

Mr. VINTON, from the Committee of Ways and Means, asked leave to report a bill making appropriations for this department.

Objections were made.

Whereupon, on motion of Mr. STEPHENS, The House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented, under the rule, and referred:

By Mr. STARKWEATHER: The petition of sundry inhabitants of the county of Schoharie, New York, asking for the reduction of postage, and also that the franking privilege be abolished.

By Mr. TUCK: The petition of M. Antoinette Friselle, and 54 others, ladies of Onondaga Hollow, New York, praying Congress to prevent the extension of slavery, to withdraw all countenance to the slave trade, and abolish slavery wherever Congress has competent jurisdiction. Also, the petition of Elizabeth Lafford and 44 others, praying for the same object.

By Mr. HARALSON: The claim of Richard H. Barrett.

By Mr. HUNT: The petition of thirty citizens of Niagara county, New York, asking that members of Congress shall not be allowed to receive compensation except for actual attendence.

By Mr. DARLING: A communication from the Commissioner of the General Land Office, in relation to the land entries made upon the Fox and Wisconsin river reservation, in the State of Wisconsin, subsequent to the passage of the act of the 8th of September, 1846, entitled "An act to grant a certain quantity of land to aid in the improvement of the Fox and Wisconsin rivers, and to connect the same by canal, in the Territory of Wisconsin."

By Mr. TURNER: The petition of Jason Judd and many others, citizens of Illinois, praying for a grant of land to aid in the construction of a certain railroad within said State. Also, of Charles R. David, and other citizens of Illinois, upon the same subject. Also, the petition of William F. Goodhue and others, citizens of Stevenson county, Illinois, praying a reduction in the rates of postage.

By Mr. WENTWORTH: The petition of citizens of Bloomington, McLean county, Illinois, for a mail route from that place, via. Cheney's Grove, Sugar Grove, North Fork, and Attica, to Lafayette, Indiana.

By Mr. ECKERT: The petition of William Davis and 153 citizens of Schuylkill county, Pennsylvania, praying for an immediate change in the tariff laws, to save the mining, manufactnring, and agricultural interests from utter prostration and ruin; another of like import, signed by Samuel Heilner and 138 other citizens of Schuylkill county, Pennsylvania; another of like import, signed by Joseph Griffiths and 42 other citizens of Schuylkill county; another of like import, signed by Joseph Denning and 49 other citizens of Schuylkill county; another of like import, signed by 50 citizens of said county; another of like import, signed by Mayor Hoffman and 115 other citizens of Llewellyn, of said county; another of like import, signed by 30 citizens of Berks county, Pennsylvania. Also, a petition signed by 72 citizens of Schuylkill county, praying for a reduction of letter postage, and that newspapers may be free of postage within a circuit of thirty miles, or the limits of the county in which they are published.

By Mr. BLANCHARD: The petition of sundry citizens of Reedsville, Mifflin county, Pennsylvania, stating that the mining and manufacturing interests of the State are suffering great depression and threatened with entire prostration, in consequence of the low duties on articles of foreign manufacture; and respectfully ask the immediate modification of the present tariff, so as to afford our farmers a home market, and relieve our manufacturers from their present suffering condition,

By Mr. STEWART, of Pennsylvania: The proceedings of a public meeting at Point Isabel in Texas, with letters from the American consul, and the vice-consuls of England, France, and Spain, at Matamoros, in favor of the establishment of a port of entry at Point Isabel.

By Mr. HARALSON: The papers relating to the claim of Richard H. Barrett.

By Mr. WILSON: The petition of Silence G. Griffin, of Nelson, New Hampshire, and 180 others, who sign as "Women of America," praying Congress to prevent the extension of slavery, to withdraw the protection of Government from the American slave trade, and to suppress slavery wherever Congress has competent jurisdiction. Also, the petition of Levin Leach, of Dubuque county, Iowa, for the payment of back pension.

By Mr. GOGGIN: The petition of the administrator of Churchill Gibbs, deceased, of Virginia, for half pay.

By Mr. FARAN: The memorial of James B. Moore & Co., praying the aid of the Government in the establishment of a regular line of mail steamers from California to China and the East Indies.

IN SENATE.

WEDNESDAY, *January* 31, 1849.

Mr. DOUGLAS presented resolutions of the Legislature of Illinois, instructing their Senators, &c., in relation to the enactment of a law to protect the preëmption rights of settlers on public lands granted to that State for purposes of internal improvement; which were laid on the table, and ordered to be printed.

Mr. D. also presented resolutions of the Legislature of Illinois, instructing their Senators, &c., in relation to the enactment of a law for the improvement of the navigation of the Mississippi and Illinois rivers, and the improvement and protection of the harbors in the northern lakes; which was laid on the table, and ordered to be printed.

Mr. WESTCOTT presented a preamble and resolutions of the Legislature of Florida, in favor of the adoption of measures for confining the Indian tribes in that State within prescribed limits &c.; which was ordered to be printed, and referred to the Committee on Military Affairs.

Mr. DODGE, of Iowa, presented a resolution of the Legislature of Iowa, in favor of the establishment of a land office at Fort Des Moines; which was ordered to lie on the table.

MEMORIALS AND PETITIONS.

Mr. CLAYTON presented a memorial from W. H. Topping, asking compensation for services as secretary to the commissioners appointed to investigate the affairs of the New York custom-house in 1841; which was referred to the Committee on Claims.

Mr. C. also presented a petition from Samuel S. Rind, asking compensation for services rendered in the office of the Third Auditor; which was referred to the Committee on Claims.

Mr. C. also presented a petition from W. C. Anderson, praying to be relieved from a judgment obtained against him by the Post Office Department, as a surety; which was referred to the Committee on the Post Office and Post Roads.

Mr. C. also presented a petition of a number of citizens of Schuylkill county, Pennsylvania, praying for a change in the tariff; which was referred to the Committee on Finance.

Mr. C. also presented a petition of citizens of Philadelphia, praying for a change of the tariff; which was referred to the Committee on Finance.

Mr. CORWIN presented a petition from James B. Moore & Co., asking the aid of Government in the establishment of a regular line of mail steamers from California to China and the East Indies; which was referred to the Committee on Naval Affairs.

Mr. DIX presented a number of petitions, praying the adoption of measures for preventing the use of intoxicating liquors, except for medical purposes, on board United States vessels; which were referred to the Committee on Naval Affairs.

Mr. D. also presented a number of petitions, praying for the abolition of corporal punishment in the army and navy; which was referred to the Committee on Naval Affairs,

Mr. D. also presented a petition from 193 resident voters of Buffalo, praying for a reduction of the rates of postage, and the abolition of the franking privilege; which was laid on the table.

Mr. DOUGLAS also presented a memorial from citizens of Illinois, asking for a donation of public lands for the construction of a railroad from the Upper and Lower Mississippi to Chicago; which was laid on the table.

Mr. UPHAM presented a petition from John Mitchell, asking for an increase of pension; which was referred to the Committtee on Pensions.

Mr. STURGEON presented a petition from citizens of Mifflin county, in the State of Pennsylvania, praying for a change in the tariff; which was referred to the Committee on Finance.

Mr. S. also submitted a document, showing the names of officers and soldiers of the Pennsylvania line of the revolutionary army entitled to donation lands; which was referred to the Committee on Revolutionary Claims.

Mr. BRIGHT presented a petition from Ann Eston, a widow of a volunteer in the Mexican war, asking for a pension; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, made an adverse report on the petition of Joseph Spencer; and the report was ordered to be printed.

Mr. J. also, from the same committee, made an adverse report on the petition of James H. Duffer; and the report was ordered to be printed.

Mr. J. also, from the same committee, made an adverse report on the petition of Nathaniel Webb; and the report was ordered to be printed.

On motion of Mr. JOHNSON, of Louisiana, the Committee on Pensions was discharged from the further consideration of the petition of John W. Skiles.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, reported a joint resolution to provide for topographical surveys and reports of routes from the valley of the Mississippi to the Pacific Ocean, accompanied by a report; which was ordered to be printed.

The resolution was read a first time, and made the special order for Wednesday next.

Mr. BRIGHT, from the Committee on Naval Affairs, made an adverse report on the joint resolution for the relief of Samuel T. Anderson.

BILL ON LEAVE.

Mr. JONES asked and obtained leave to introduce a bill making an appropriation for the construction of a road from the Fall of Saint Louis river, on Lake Superior, to Point Douglas, on the Mississippi river; which was read a first and second time, and referred to the Committee on Public Lands.

RESOLUTIONS.

Mr. CLAYTON submitted the following resolution, which was considered and agreed to:

Resolved, That a committee be appointed to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice President of the United States, and of notifying the persons elected of their election.

On motion of Mr. CLAYTON, the committee was ordered to consist of three Senators, to be appointed by the Presiding Officer, and the following were announced as the names of the Select Committee:

Mr. CLAYTON, Mr. DAVIS of Mississippi, and Mr. DAVIS of Massachusetts.

Mr. METCALFE presented the following resolution, which was considered and agreed to:

Resolved, That the Committee on Pensions be instructed to inquire into the expediency of allowing a pension to Joseph M. Farrow.

GRANT OF RIGHT OF WAY.

Mr. BREESE moved that the prior orders be postponed, for the purpose of taking up the bill to grant to the State of Illinois the right of way through the public lands, and for other purposes; which was agreed to.

The Senate accordingly, as in Committee of the Whole; proceeded to the consideration of said bill, which was read.

Mr. BREESE submitted sundry amendments to the bill, which were agreed to.

Mr. UPHAM expressed the hope that the amendments would be printed, that the Senate might see and understand the bill as amended.

Mr. BREESE. I would prefer that the printing be dispensed with, and that the Senate proceed

to act upon the bill as amended. And I think that a very brief statement in regard to the objects of the bill and the amendments will obviate the necessity for printing, and I hope my friend from Vermont [Mr. UPHAM] will not urge the printing, and thus delay the passage of this bill. The bill does not propose to grant a foot of land to the State of Illinois as a donation, although at the last session a liberal and absolute grant was made by the Senate of land which, in their judgment, was deemed sufficient, if not to complete the roads, at least to aid materially in their completion. That bill failed, however, in the House of Representatives by four votes. And lest we may not be able to obtain the passage of another bill granting to the State of Illinois a donation such as Ohio and Indiana have received, we have chosen to be content with the mere preëmption right to the lands remaining unsold on the line of the road, with the right of way. We are to pay the Government price for these lands, which have been in the market, some of them, for thirty years. That is the privilege accorded by this bill, and nothing more. And I do not see how there can possibly be any objection to it. It is not granting a donation, but a mere preëmption right to the land. We propose to make your lands valuable by railroads, and then pay you your price for the lands. And this is the only privilege that we claim, and do not doubt Congress will unhesitatingly grant it to the State.

Mr. DODGE, of Iowa, begged to suggest a further amendment, so as to provide for terminating the road at Dubuque, on the Mississippi river.

Mr. BREESE moved to amend the bill by striking out the word "to" and inserting "by," and inserting after the word "Galena," the words "to the Mississippi river, opposite Dubuque;" which was agreed to.

No further amendments being submitted, the bill was reported to the Senate, when the several amendments were concurred in.

The bill was then ordered to be engrossed and read a third time, and was subsequently read a third time, by unanimous consent, and passed.

IOWA EDUCATIONAL FUND.

Mr. JONES asked and obtained leave to introduce a bill declaratory of the act for the admission of the State of Iowa into the Union; which was read a first and second time.

Mr. DODGE, of Iowa. Mr. President, I ask the indulgence of the Senate to take up and pass at this time the bill which has just been introduced by my colleague. When the State of Iowa was admitted into this Union, her constitution provided that the proceeds of the five per cent. fund accruing from the net proceeds of the sales of the public lands within her limits, and the donation of 500,000 acres of land given for the purpose of making roads and internal improvements, should be applied to educational purposes. That was the understanding in both Houses of Congress at the time, and it was considered that the change would be both proper and praiseworthy; but the First Comptroller of the Treasury has decided that he cannot pay over the funds to our Superintendent of Public Instruction without the passage of such a bill as this. The chairman of the Committee on the Public Lands, [Mr. BREESE,] and every Senator present who was here when Iowa was admitted, will remember that Congress approved of the application of this fund to the support of common schools throughout the State of Iowa, and the action of our convention in thus diverting these funds and lands was greatly lauded. The Senator from Florida furthest from me [Mr. WESTCOTT] will well remember the truth of what I say.

Mr. WESTCOTT. When the bill of 1846, respecting the admission of Iowa into the Union, was before Congress, it was referred to the Judiciary Committee, and distinct action was taken as to the right and propriety of that State having, by a provision of her constitution, diverted the fund arising from the five hundred thousand acres of land given to her by the United States for *internal improvement* purposes, to purposes of education. Well, sir, the committee unanimously approved of the change, and so reported. The bill came up the day before Christmas in 1846, and a debate ensued on this very point. An amendment was offered, which can be found in the report in the Congressional Globe of that date, providing that nothing in the act should be construed as authorizing the diversion of the fund. It was fully debated, and the vote, by ayes and noes, was ayes 2, noes 40. I am astonished at the construction of the Comptroller of the Treasury referred to by the Senators from Iowa; in my judgment, it is a very improper one. A similar course was had in the other House. The Senators from Iowa and the Senator from Illinois [Mr. DOUGLAS] can state if there was not an amendment of like purport offered in the other House and voted down.

Mr. DOUGLAS. There was, I believe.

Mr. WESTCOTT. The present bill but reiterates the decision of Congress in 1846, and I think should pass.

Mr. BREESE. Mr. President, I recollect distinctly, that when the act for the admission of Iowa into the Union came into the Senate, this change came directly under the notice of the Senate; and the object to which the land was applied by the constitution of that State was highly approved. It was thought better for the interests of that growing State, instead of appropriating the grant of five hundred thousand acres for the purposes of internal improvement, to divert the grant so as to apply it to purposes of education. In this I heartily concurred, and I believe there was but one or two dissenting voices in the Senate.

The bill was then, by unanimous consent, considered as in Committee of the Whole.

Mr. KING. I do not intend to throw any obstacles in the way of getting a bill passed most in accordance with what they suppose beneficial to the State of Iowa, and with what they supposed her interest at the time it was passed. The only difficulty with me, as this bill now stands, is, that we declare that the assent of Congress was given to that particular provision. Now, I have been here when many States were admitted, and I believe the assent of Congress was only given so far as the constitution was republican in its character. Further than that, it has never entered into the deliberations of Congress to interfere with any local regulation which a State may make for her own interests. But, if a change has been made, and the assent of Congress is now asked to what was supposed to be originally given, I am prepared to vote for it with great pleasure. I have no doubt that the original giving of the five per cent. for purposes of internal improvement has been attended with injury to the States themselves, and certainly of no benefit to the country. I hope the gentleman will agree to change the phraseology of the bill, so that we shall now give our assent to the change provided for by the constitution of Iowa, by which the fund is applied for the purposes of education.

Mr. JONES. Mr. President, the reason why we desire this bill to be passed is, because sales have already taken place under that law by the School Fund Commissioners, under the direction of the Superintendent of Public Instruction in Iowa, and the funds have been diverted under the direction of the Commissioner of the General Land Office; but the Comptroller will not allow those funds to be applied in that way, and hence the difficulty and necessity for this law. A similar bill precisely was passed last year in relation to the State of Alabama. A similar discussion arose at the time of the admission of Iowa upon this question, in the House of Representatives, and similar action to that taken in the Senate, as adverted to by the chairman of the Committee on Public Lands, [Mr. BREESE,] was the result there.

I hope, therefore, that no further opposition to this reasonable bill will be made, and that it will be allowed to pass at this time.

Mr. DODGE. I beg to say to the Senator from Alabama that I cannot consent to any change in the phraseology of the bill, which would concede that Congress did not, at the time of our admission, consent to the appropriation of the five per cent. fund, and the five hundred thousand acres of land, to and for the purposes named in the second clause of the tenth article of the constitution of Iowa.

Mr. DOUGLAS. It may not be improper to remark that the matter was duly considered in the House of Representatives at the time the State of Iowa was admitted into the Union. The Committee on the Territories examined the subject, and reported a bill unanimously approving the change which had been made. The subject was fully discussed in the House of Representatives, and the law was passed, which, it was understood, would give authority to the State to make this disposition of her fund. If there was any doubt on the subject, that doubt was entirely removed.

No amendment having been submitted, the bill was reported to the Senate, was ordered to be engrossed and read a third time, and was read a third time by unanimous consent, and passed.

U. S. DISTRICT COURT IN TEXAS.

On motion of Mr. RUSK, the previous orders were postponed, and the Senate proceeded to the consideration of a bill to establish an additional district court of the United States in the State of Texas.

Mr. UPHAM. I desire to inquire, if the Senator will inform me, whether or not the territory in dispute between Texas and New Mexico, or any part of it, is comprised within the judicial district contemplated by this bill.

Mr. RUSK. Not at all. That point has been carefully avoided.

Mr. DAYTON. The Senator from Texas appears to take a great interest in the passage of this bill; but I cannot but think it will lead to the introduction of bills of a similar character, and of some perhaps that will have a stronger claim upon the attention and favorable action of the Government. Although I am desirous of not making any serious difficulty to its passage, yet I feel it my duty to state, that as one of the members of the committee, I did not acquiesce in the favorable opinions entertained in regard to this bill, and do not, therefore, propose to vote for it. That Texas, with its sparse population of a hundred or a hundred and fifty thousand people, should have as many district courts and district judges, and all the paraphernalia connected with them, as the State of New York, including the city, with its immense commerce and extended business branching off into various sections of the country, appears to me unreasonable. Although there may be some present claim for assistance in the discharge of his duties on the part of the district judge of Galveston, I cannot but think it as a claim temporary only in its character. In the course of a few years, the mass of business now requiring judicial action will have been completed, and then, should this bill pass, there will be two district courts in Texas for her sparse population, and a large amount of business will go to them which otherwise would pass through the State courts, and which should properly go through the State courts. I do not think there is any pressing necessity that requires us to grant the objects of this bill to the citizens of Texas more than to those of any other State. For these reasons, without being disposed further to multiply words on the subject, I shall be compelled to vote against the bill.

Mr. RUSK. I brought forward this bill as a matter of necessity, and with no intention to uselessly multiply the number of district courts and judges in our State. It is known to every one that there was no jurisdiction of courts of the United States existing in Texas until within the last two or three years. Her citizens are composed mainly of emigrants from all parts of the United States, and of course many claims requiring legal adjustment arose during that period, previous to her annexation. The result was, that at the time of the annexation of Texas, mors cases came under the jurisdiction of the district court of the United States located in Texas than in any other State in the Union. As a matter of course, there being no authority before this time for the adjudication of these cases, they were all brought forward to this court as soon as it was established. Besides this, the Territory of Texas is of immense size, vastly larger than the State of New York, and individuals who go to court have not the facilities for traveling that the citizens of New York enjoy. There have been many transactions with citizens of other parts of the United States in regard to land titles, which have given rise to a large number of suits, which have had to come before this single court, so constituted as to be unable to adjudicate with the promptness absolutely necessary. There is a memorial in my possession—I will not trouble the Senate with reading it—from the bar at Galveston, stating, that though the court has sat for nine months during the last year, there is yet a large number of suits before it, and that they are contantly increasing. One result arising from having only this single court is, that a defendant is brought some four or five hundred miles to attend the dis-

trict court, and has perhaps to wait in attendance upon the court during the whole nine months, not knowing at what period his case will be taken up for consideration. This evil, it should be remembered, instead of diminishing, will increase; for, since the annexation of Texas, her population has more than doubled, and, consequently, the business of the court has doubled. During the next three years the population will most probably double again. An immense emigration is now setting in, and settling from the Rio Grande to the Sabine, and this emigration carries with it causes which will bring jurisdiction to this court. The result will be, that this court will be unable to transact all the business that comes before it, causing great delay and pecuniary detriment to individual suitors. I feel warranted in saying, from my own knowledge, which I have acquired, not by attendance upon the court as a member of the bar at Galveston, but from suitors and individuals, that, if no arrangement is made to supply Texas with additional courts, this district court, sitting from the first day of January to the last day of December, cannot get through with the business before it. It is for these reasons, sir, that the passage of this bill is asked, and not for the establishment of any more offices; for I am decidedly against the increase of patronage or the augmentation of offices unnecessarily. It is for the benefit of litigants that we ask for the establishment of these offices.

Mr. WESTCOTT. I was in favor of this bill before the committee, and with reference to the interests of the United States exclusively. I think those interests require the establishment of this separate court. My honorable friend from New Jersey [Mr. DAYTON] errs, I think, in looking to population as the chief rule that should control in establishing such courts. The character of the country—its condition, extent, and nature of its trade, and its past history and probable causes for increased litigation, all should be considered. Now, sir, looking at the State of Texas, you find she has a western border of upwards of a thousand miles adjoining Mexico. Does not everybody know, that unless you have vigilant revenue officers to prevent smuggling, and, if committed, to detect and prosecute it, the whole line, from the mouth of the Rio Grande to Santa Fé, will be lined with smugglers? You should have a separate court there, a separate marshal and attorney, and if you do not, and leave things as they now are, with the court and its officers not within hundreds of miles of the place where the causes of suit arise, facilities will be afforded for the evasion of the laws. It is important that the revenue suits should be speedily settled. The State courts cannot have jurisdiction of any such causes.

Again, there are tribes of Indians in Texas, numerous, warlike, and dangerous, unless delicately treated. At the last session we passed a law, by assent of the Legislature of Texas, extending all the laws regulating the trade and intercourse with the Indians to that State. All the cases arising under these laws must be decided by the Federal courts in the State, and with despatch. The United States should have, for the preservation of peace with the Indians, exclusive jurisdiction of all these cases. There can be no doubt there will be numerous cases of this character.

Further, Texas has a seacoast of several hundred miles, and several commercial harbors, and there will be no little admiralty and maritime business there; and then there are the old Spanish and Mexican grants, some the subject of treaty stipulation in the late treaty with Mexico, all of which must be decided in the Federal courts. In no case should those who reside out of Texas be obliged to encounter in her State courts the prejudices arising from local interests and influences of her citizens, but should have an impartial tribunal afforded them. This is the great object of establishing Federal courts.

But the expense is objected to. I have no patience with this kind of objection. We constantly have applications from other sections of the Confederacy for money and contracts by the hundreds of thousands and even millions of dollars; some for one thing and some for another, most of them under pretence of protecting commerce, extending commerce, expanding commerce, enlarging commerce, and so forth, and we have granted them immense sums to start various speculations and projects, and yet it is objected to pay four or five thousand dollars a year for this court on your southwestern frontier. This is the usual justice and liberality dispensed to the States at the extremities. I have no doubt that for twenty years to come Texas will have thrice the business in her Federal courts that New York has. One court cannot despatch the business, and I doubt if even two are found sufficient. I regard the passage of this bill as highly important.

I had intended to offer some amendments to the bill which the Judiciary Committee have approved of, but they can be offered in the House, and at the request of my friend from Texas I refrain from submitting them here, as they might occasion delay and embarrass the passage of the bill this morning.

The bill was then reported to the Senate, the various amendments made in Committee of the Whole concurred in, and the bill was read a third time by unanimous consent, and passed.

CAMPBELL, MYERS, AND CLARKE.

On motion of Mr. METCALFE, the previous orders were postponed, and the Senate proceeded to consider a bill for the relief of W. R. Campbell, George Myers, and J. B. Clarke.

The bill was considered, and read a third time and passed.

RAILROAD ACROSS ISTHMUS OF PANAMA.

The Senate resumed, as in Committee of the Whole, the consideration of the bill making compensation for the transportation of the naval and military stores across the Isthmus of Panama.

Mr. DOUGLAS withdrew his motion, made on the previous day, to refer the bill to the Committee on Military Affairs.

The question then recurred upon the amendment submitted by Mr. DOUGLAS on the 30th ultimo, and printed in this paper of the 31st.

Mr. DOWNS moved to amend the amendment, by striking out the word "directed," in the fourth line, so that it will read "the Secretary of the Navy be, and he is hereby, authorized to enter into a contract with William H. Aspinwall, John L. Stephens, and Henry Chauncey," &c.

Mr. BENTON. There will be no objection, I think, to that amendment.

Mr. DOUGLAS. I would like to be informed why the Senator from Louisiana desires this amendment to be made?

Mr. DOWNS. I desire that it should be made so as to leave it discretionary with the Secretary of the Navy whether or not he will enter into the proposed contract.

Mr. DOUGLAS. I have no objection to the amendment.

The amendment to the amendment was then agreed to.

Mr. UNDERWOOD. I wish to ask my honorable friend from Illinois whether the provision contained in the ninth and tenth lines of his amendment, providing for the transportation of the mails of the United States, conforms to the decree of the Government of New Granada under which this charter has been granted? If it does not, I think it should be made to conform thereto. The article of the decree to which my attention has been called, on looking over the documents, reads as follows. It is the 22d article:

"The whole correspondence coming from the Territories of the Republic, or from foreign countries, to be transported over this railroad, whatsoever may be its destination, shall be indispensably delivered first to the administration of the mails of the place at which it arrives for payment of the postage. The company solemnly engages to receive no other packages of correspondence than those delivered to it by the administration of the mails, for transportation on the railroad to the port at which they are shipped, or the port of the isthmus to which they may be directed, lying on the line of the said road, in conformity with the provisions which the Executive power may make on the subject, and also with those which may be made for the transit and carriage of the correspondence of foreign nations on the railroad, in virtue of conventions concluded, or which may be concluded, between the Government of the Republic and the said nations. A special agreement shall be made between the Government and the company regulating the payments to be made to the company for the transportation of the correspondence which may be carried over the railroad; it being henceforward understood that the company is bound to transport, without delay, any correspondence which may be delivered to it, and that the price of such transportation over the whole length of the said road shall not exceed eight reals per quintal."

I understand that a real is worth about twelve and a half cents and that a quintal is one hundred and twelve pounds.

I think, from that provision of the law, that the whole matter of the transportation of the mails across the road is a subject of regulation and treaty between that Government and the company, and that this Government cannot contract with the company upon that subject, but we must first make our contract with that Government, and then allow that Government, under this regulation with the railroad company, to manage the entire business of the transportation of the mails across the isthmus.

Mr. DOUGLAS. Mr. President, I would state to the Senate, in relation to the suggestion of the Senator from Kentucky, that if it had not been provided that the mails of the United States should be carried over this road as *property of the United States*, the Senator would be right in supposing that that part of the bill to which he has alluded would not be in conformity with the decree of the Government of New Granada. But the proposition here is for carrying the *mails*, army and naval supplies, munitions of war, troops, and all property of every description belonging to the United States, provided that the annual sum to be paid for such transportation shall not exceed a gross amount. This, therefore, includes the mails, and, in that point of view, I apprehend that the provision is perfectly correct. We should have to make a special contract for carrying the mails, were they not included in the gross amount to be transported; but, being so included, I apprehend that the objection of my friend from Kentucky is entirely obviated.

Mr. UNDERWOOD. Mr. President, in order to test the sense of the Senate upon the subject, I move to strike out the words "mails of the United States" in the ninth and tenth lines of the first section of the amendment; and I would state to the Senator from Illinois that retaining the words which I propose to strike out can have no good effect whatever, and may lead to mischief.

Mr. DOUGLAS. I will state to the Senate that my idea upon that point is this: If these words be stricken out, we shall have to pay for carrying the mails in addition to the sum now proposed; whereas, if they be left in, we shall not have to pay anything in addition to the sum proposed in my amendment for carrying the mails. The only difference, therefore, is that, if this motion prevails, we shall have to pay more money than we would if the amendment proposed by the Senator from Kentucky should be rejected.

Mr. UNDERWOOD. The effect of my amendment, if it prevails, will be this: According to the principle of the law which I have just read, this entire subject of the transportation of the mails of the United States is to be regulated by the Governments of the two countries, and not by the company. We must make an arrangement with the Government of New Granada in regard to this matter. If we do not do it, then, sir, the company which constructs the railroad will be compelled to do it; and if you retain the provision which I propose to strike out, you will impose upon them the obligation to make an arrangement for carrying our mails, when the Government of New Granada says it shall be regulated by treaties with foreign nations. By retaining this provision, you will throw the duty of making this arrangement upon the company, when the very face of the charter itself shows that the Government of New Granada have retained the right to make the arrangement with our Government. I think it best to leave this point, where the charter places it, to be settled by the two Governments, and, therefore, to test the sense of the Senate, I move to strike out that provision.

Mr. BENTON. Mr. President, I understand that the mails of the United States are to be carried across the isthmus over this road by a special agent, without the intervention of any post office whatsoever—taken across like any other freight. That is the manner in which the mails are now carried across, and it is expected that all freight will go exactly in the same way. It is for our own security that we have inserted the word "mails," to prevent the company from exacting anything from us for carrying them in addition to the sum mentioned in the bill. We are perfectly satisfied if they go across in the same way in which the British mails go across the isthmus. The Government of New Granada is satisfied with the same, and it is therefore my opinion that there is no necessity for striking out the words which the Senator from Kentucky has read. And his conclusion is precisely the reverse of the conclusion at which I would arrive. He thinks that the striking out would do no harm, if it does no good;

my conclusion is, that the staying in would do no harm. So that we have come to directly contradictory conclusions. I think that our best course is to leave the words where they are. It will be time enough to settle this question with New Granada when it arises with that Government. But there is no expectation that the question will ever be raised. It is for our own security that we have inserted the word "mails," as they do not come under the head of munitions of war or the other articles specified in the bill.

The question on the amendment proposed by Mr. UNDERWOOD was then taken, and the amendment was rejected.

Mr. NILES. Mr. President, I have a very few words to say in regard to this bill. I move to amend it by striking out the word "two" and inserting the word "one," so that, instead of "two hundred and fifty thousand," it will read "one hundred and fifty thousand."

Mr. DAVIS, of Mississippi. Mr. President, I move to amend the amendment of the Senator from Connecticut, by striking out all after the word "provided," in the thirteenth line, to the word "that," in the twentieth line.

The effect of this amendment would be to strike out all that is said in relation to the amount of compensation to be paid annually for the transportation of men, munitions of war, military and naval stores, and mails of the United States. As a tariff of rates is fixed in the next section, that will be a sufficient guide to the Secretary of the Navy in making the contract. It is expected that a high officer will be able to make a contract for the transportation of all these articles for less than the sum named in the bill.

PRESIDING OFFICER. Does the Senator from Connecticut adopt the amendment of the Senator from Mississippi?

Mr. NILES. I do not know that I understand what will be the effect of the amendment offered by the Senator from Mississippi. If the amendment which I have submitted prevails, which would reduce the amount of compensation from two hundred and fifty thousand to one hundred and fifty thousand, it would not, I suppose, change the real character of the bill, but would be a saving of one hundred thousand dollars to the Government. It is my habit, sir, to look at the substance of things rather than the forms that they may be made to assume.

This is in form a contract for transporting supplies across the isthmus, but is in substance a measure for aiding, by the appropriation of five millions from the treasury, the construction of a railroad across the isthmus. As a mere contract, no one, I think, could favor it, as the service to be performed is trifling compared with the sum to be paid. Some weeks ago I offered a resolution calling on the Secretary of the Navy for the amount expended the past year for transporting men and supplies for the navy to the western coast. Why there has been no response to that call, I know not; but the information must be in the bureaus, and might have been furnished on short notice. Failing in this, I have sought information from sources which I thought entitled to reliance, and learned that the sum paid the last year was about ten thousand dollars per quarter, or forty thousand for the year. This was, part of it, a period of war, and ordinarily the expenditure would probably be much less. But there is no occasion of spending anything for this service, as men and naval stores and supplies can be conveyed to the Pacific in the public ships, which may as well be employed in that service as any other, or as to remain unemployed. And storeships are, I learn, often sent to Brazil, and thence to the Pacific, with supplies for the navy on those stations.

By this proposition we are to pay two hundred and fifty thousand dollars for a service which last year cost forty thousand. But this is not for transporting supplies from New York to the Pacific coast, but across the isthmus only; so that the expense of transportation from New York to Chagres on this side, and from Panama to California on the other, will have to be added to the two hundred and fifty thousand; and probably the expense by this route will be about the same as by Cape Horn, aside from what we propose to pay for crossing the isthmus. No consideration, or a mere nominal one, could be received for the money which is to be paid.

I cannot, therefore, regard this as a contract for supplying the navy. Divested of its form, it is a measure to appropriate five millions of dollars in aid of the construction of a railroad across the isthmus. In this view of it, it is a very important question, deserving of great consideration, and attended with very serious objections.

There is, in the first place, a question of power. Under what grant of power in the Constitution is this appropriation to be made? Is it the war power, which is perhaps the most ample, as well as the most undefined? This, I suppose, will not be claimed, as it is not pretended this is to be a military road, or any way essential to the operations of our military or naval forces. It must fall, then, if there is any power to justify it, under the power to regulate commerce with foreign countries and between the States. So far as this work may facilitate our commerce with the Pacific, it connects itself both with our foreign and domestic trade. But have we power to construct or open artificial channels of trade in foreign countries? Such a power has never been exercised nor claimed before, so far as I know. The power to do this within the territory of the Union is doubted and denied by many, and admitted by few, except within very circumscribed limits. And is there power to do that in a foreign country which we cannot do in our own? The difficulty of State jurisdiction may be avoided; but that is not the principal objection to the mere expenditure of money for works of internal improvement in the States. The great objection is as to the power to apply the revenues of the Union to objects not specified in the Constitution. Does the regulation of foreign commerce carry with it a power to open or assist in opening artificial channels of trade? If it does, it is a power unlimited, and of the most dangerous character. Our trade is with all parts of the world, and, if we can construct a railroad across the Isthmus of Panama, we can construct a railroad or canal across the Isthmus of Suez to unite the Mediterranean and the Red Sea, or anywhere else which it may be supposed will give additional facilities to our foreign commerce.

But, Mr. President, if this objection can be got over, the next question is, what are the inducements to make this large expenditure? What are the advantages to be acquired in aid of either our foreign or domestic commerce? The advantages of a railroad across the Isthmus of Panama, in a commercial point of view, are greatly over-estimated. This can never be the route of the trade of the United States or of Europe to China, or the countries of the East. The distance is greater than by the way of the Cape of Good Hope. If the fact was otherwise, and several thousand miles were saved in the distance, the trade to the East would not take this route, because, with the railroad, the isthmus cuts the voyage in two; it renders two voyages necessary, one on the Atlantic, and the other on the Pacific, with an uncertainty as to a return cargo for either.

What would vessels coming from Liverpool or New York to Chagres have for a return cargo? To carry on the trade with China through this route would require a large commercial town on the Atlantic, at the terminus of the railroad, where the products of the East might be brought, and from which return cargoes could be obtained. But there is and can be no such town there, and it is doubtful whether there is any harbor suitable for commerce. The same difficulty will be experienced at Panama. And if, by turning our trade into this channel, a commercial city could be built up, it would be in a foreign country, and must share a large part of the advantages of the trade which would be lost to us.

Sir, the advantages of this railroad would be confined to our trade with California and Oregon, and the Spanish American countries on the Pacific, to which may be added our whale fisheries in the Pacific. Our trade with the Russian possessions on the northwest coast is unimportant. And what is our trade with the South American States on the Pacific? It is very small; we have the most with Chili, and that only amounts to one or two millions. And whether that would take this route is very doubtful. According to tables which I have consulted, the distance to Valparaiso by way of the Cape is only four hundred and fifty miles further than by the Isthmus of Panama. The railroad, therefore, would hardly be expected to change the course of that trade. With Peru and the other States on that coast our commerce is still more inconsiderable. As to the whale fisheries, this road might be of some convenience to that interest, yet could not essentially change the course of that trade until we have commercial towns on the Pacific coast suitable for refitting the vessels engaged in that business. These vessels cannot go out nor return by way of the isthmus, and of course must make the voyage, as at present, around Cape Horn. Our settlements on the Pacific coast may be convenient to them, but this will not depend on the isthmus road.

The principal benefit to our commerce which we can hope to derive from this road will be in the intercourse with our own possessions on the Pacific. And how important is this likely to be within the ten years for which this bill provides? There has recently sprung up, as if by enchantment, a trade with California assuming an important aspect. But this, as every one knows, has arisen entirely from one cause—the discovery of the gold mines in that country. The present state of things is novel and extraordinary. Nobody can suppose that it can last long. There is a sudden collection of people there from the countries on the Pacific and from the States, in pursuit of gold. The country was destitute of supplies of food and of everything else for a population so suddenly thrown upon it. Hence it is supposed that at present there is a large demand there for food and merchandise. But this state of things cannot last long. A new and fertile country cannot long be dependent for food upon a distant part of the Union, and be subject to the expense of transportation eight or nine thousand miles. It will be a very expensive mode of supply, and gold must be gathered up like dirt to justify it. Oregon and many parts of California are good grain countries, and both have abundance of cattle, so that they must soon, probably another season, supply the demand for food. What then will they want from us? Why, they may want some of our manufactures and some of the goods we bring from Europe. And what have they to give us in exchange? Little, I believe, except their gold dust. When a more settled state of society exists there, what will be the probable extent of this trade? Population is the first and main element of the trade of any country; and what will that be within this limited period? If we suppose two or three hundred thousand, the demand for manufactures and goods cannot be very great—not great certainly in respect to freight, and the return in gold will be still less. Still, I do not deny that this road might be very convenient to the intercourse which is likely to exist between our Atlantic seaports and California and Oregon. It will be the most important for the transportation of persons. There may be also some political considerations connected with this subject. Something may be due from us to those distant infant settlements. It is desirable, no doubt, to afford them every reasonable facility of intercourse, not only with the Atlantic States, but with the great valley of the Mississippi. This would tend to conciliate their good will and attach them to the Union. But will this distant route through a foreign country answer this purpose? Must we not have something better—something which will more intimately and effectually connect their interests with ours? This seems to be admitted; for the Senator from Missouri [Mr. BENTON] tells us that he considers this as only a temporary measure. But shall we not be paying too dear for a temporary convenience? May not the sum which we are to pay out of the treasury be equal to a considerable part of the profit of the entire trade to that coast? As a permanent route for the trade and intercourse between the Atlantic and Western States and our possessions on the Pacific, it is subject to the most serious objections, and is hardly deserving of consideration. A circuitous and expensive route through a foreign country, requiring a transhipment, is not such a channel of trade and intercourse as ought to connect the two parts of a common country.

There are numerous objections to this route to which I have not alluded: the want of harbors both on the Atlantic and Pacific side; the deadly climate of the former, and the dangers to navigation from the northers; the exposed situation of Chagres, from its proximity to the Island of Jamaica, where the British have an important naval station. In case of a war with that Power, it would require our whole navy to defend it. In time of war, it could not be relied upon.

With so many objections and difficulties staring us in the face, is it worth our while to engage the Government in a doubtful enterprise of this kind? Is it worth while to expend five millions in a railroad in a foreign country? Sir, I do not like the aspect of it. It looks too much like a revival of that policy, that exploded policy, which we once entered upon, of carrying on works of internal improvements in connection with private companies or corporations. This was the form in which this Government first lent its aid to objects of this kind. It subscribed to stock for works of improvement, and invested something like ten millions in that way, which resulted in very little benefit to the public, and was a total loss to the Government. With the exception of the works at the Falls of the Ohio, near Louisville, I believe we have never received a dollar into the treasury from those heavy expenditures. I will not say more on this subject. I do not know that I can vote for this bill in any form; but as it is now, I shall certainly have to vote against it.

Mr. ALLEN. It is very obvious, sir, that if it be the will of the Senate to pass this bill, embracing, as it does, an object of such magnitude, and promising to bring with it so many consequences, the Senate ought to go into a critical examination not only of the general principle upon which it stands, but of the measure itself, in all of its details. This, sir, will be a matter of some labor, and will consume much of the time of the Senate, because many questions, relating to the details of this thing, must be made in the various propositions to amend. We are now, sir, past the middle of this short session, and, although I am not aware that we have any very extraordinary business demanding, for any extraordinary reasons, our prompt attention, still I think it would be a useless waste of time to enter into the discussion of all the questions arising upon the details of this measure, until we know something about the temper of the Senate towards the measure itself. Undoubtedly the proposition submitted by the Senator from Mississippi is founded in solid reason. If I comprehend the proposition, it is this: that the Government of the United States shall pay no more for the transportation of its men and property across the isthmus than other people pay for the transportation of their bodies and their property. The defect in the proposition is, that it anticipates the use of this road, and engages the Government to employ the road to transport its men and arms and munitions of war, when it would be quite time to do so after the road is completed. But, sir, I go not now into this matter—I will not enter into the details of this discussion. I will not, for instance, go into a discussion of that part of the bill in which the rate of transportation is fixed at eight dollars per ton over a road to be some thirty-odd miles long, whilst at the same time vessels are freighted at Boston for Canton, to run over a line of eighteen thousand miles for fifteen dollars a ton. I do not choose to go into these details; but, in order to try the temper of the Senate in regard to this measure, and to let us see whether it is worth our while to spend day in and day out in debating its details, I move, sir, that the bill be indefinitely postponed, and I ask for the yeas and nays on that motion

The yeas and nays were ordered.

Mr. WEBSTER. I should regret, sir, that a measure which I regard as exceedingly important, should be disposed of by indefinite postponement. I had hoped that the measure might be allowed to proceed until its details were arranged so that they might be satisfactory to the Senate, and I rise merely to express my opinion in favor of the measure, generally, concurring in it especially for the reasons assigned by the honorable Senator from Missouri. I think the circumstances of the country call for the adoption of this particular measure. I do not mean to say, sir, that there may not be several modes of establishing a communication with the Pacific coast that are equally desirable. I am willing to say, on the other hand, that I have regarded the subject of a communication across from the Atlantic to the Pacific, by way of Tehuantepec, as preferable, on account of its being nearer to our ports on the Gulf; and I will add, that if the proposition for a railroad were now before us, connecting the two oceans by that route, and the proposition had advanced so far that we could pronounce it to be practicable, I should give it my most hearty support. I do not think the view which has been adopted by the Senator from Connecticut is entirely correct, that the present exigency for a channel of communication will be a very short one. I do not apprehend that there will cease to be an occasion for a great deal of intercourse between the Atlantic and Pacific, and between our own Territories on either side of the continent. I think the progress of things is onward; and, let the speculations and operations in the gold mines go forward more or less rapidly, I think an intercourse is now to be opened for general purposes of trade and commerce between the Atlantic and Pacific. I have not devoted my attention to the particular provisions or details of this measure. I am not in possession of such estimates as enable me to say whether the limitations so called in the bill now on your table, or the limitation which will be in the same bill if the motion of the Senator from Connecticut prevail, is the best limitation. The bill proposes to authorize the Secretary of the Navy to contract for the transportation of these goods and merchandise, munitions of war, and troops across the isthmus, and to pay for this transportation an annual sum. The bill limits that sum at two hundred and fifty thousand dollars. The Senator from Connecticut moves to substitute one hundred and fifty thousand. Without more information than I have upon this point, I cannot say which would be the proper sum. I understand that the parties who have undertaken the construction of the road estimate the cost of its construction at four or five millions of dollars; and they have founded their opinion upon the cost commonly attending the construction of roads in the United States, economically conducted, making, of course, proper allowance for the necessarily augmented cost of a work to be done so far from the resources which are to supply the means. It is known, too, sir, that a very great reduction for wear and tear is made from the receipts of all railroads, so that the general estimates of income, by reference to any ordinary rule of computation, not allowing for the wear of the road, would be very inadequate to represent the actual state of things that will arise when the road has been completed.

Now, it is evident, sir, that this proposed road will shorten the distance between the ports of the United States on the Atlantic and the ports of the United States on the Pacific. It is a nearer route by not less than ten thousand miles of sailing—I believe certainly not less than nine thousand. It will shorten the communication in point of time more than one-half, and whatever shortens the time diminishes the cost. If troops are to be conveyed, they are under pay while at sea; if munitions of war or merchandise are to be transported, they ought to reach their destination within as short a time as possible; and in every point of view in which we can make an estimate of this matter, we must all, I think, see that a great, a very great, I am not prepared to say how great, saving will inure to the United States by adopting the shortest route.

I will state, sir, that with respect to other modes of conveyance, I have no doubt that we shall ere long have them across the continent from our own frontier territory on one side to that on the other. I entertain as little doubt that there will be a communication established over the other route through Tehuantepec. I entertain no doubt at all about this; but I do think that there is an exigency, a present want of conveyance, and that this is the readiest and the only ready mode of obtaining it. I think there is a prospect, if this project be favored by the Government of the United States, from the known enterprise of the respectable gentlemen who have undertaken it, that it will be as sure to be accomplished as any work can possibly be. My honorable friend from Ohio says that it will be time enough to make this contract when the work is done. In ordinary cases this would be very true; but it must be remembered that this is a very great work, requiring an expenditure of four or five millions of dollars, and it is but reasonable that those who embark their fortunes in it should have some assurance that they will receive the patronage of the Government.

Now, in respect to the amount of money to be paid, no man knows less what would be the proper sum to be paid than I do. If it be the pleasure of the Senate and the other branch of Congress, that matter may be left more in the discretion and within the control of Congress hereafter. I do not look upon this as a matter by which a speculation is to be made on the part of the contractors out of the treasury of the United States. Upon the whole, I think the work ought to be commenced as early as practicable, and that it ought to be speedily completed, for the reasons stated by the Senator from Missouri. This plan appears practicable; I think the object is attainable, and I think it is attainable at a reasonable expense, and, therefore, I am decidedly in favor of the amendment. At the same time, I shall concur in any amendment or alteration, either with the view of reducing the expense or limiting still further the Navy Department with respect to the extent to which it will pledge the credit of the United States. I think, as I said before, that the circumstances of the country call for the road, and there is nothing in these circumstances that is likely to make it so short-lived or temporary as some Senators seem to imagine; that there is no probability that this work will not be necessary for a number of years. And I repeat again, if there were a proposition now before us for the other route, and if that proposition were in as advanced a state as this, and if we were to have but one, I would give the preference to the route over Tehuantepec; but I still think that as this work is practicable, and as a channel of communication is necessary for us, we ought not to hesitate to adopt the one proposed, in order that we may avail ourselves of the advantages which it will furnish, until we shall be able to construct a road through our own territory.

Mr. BUTLER. This is one of the various projects, and it is but one, for opening a communication with our Pacific possessions; and, however great that object may be, which I approve of thus far, the question really involved is, how this Government can, within its constitutional power, contribute its money to aid a project of this kind? Now, the bill puts it upon the narrow ground of an executory ground, of a common carrier, a carrier who has obtained a right of way from New Granada. Well, put it upon the ground of a contract: I have a right to ask the question, why have you, on your part, agreed upon this arbitrary sum of two millions and a half of dollars? Why have you agreed to give this particular sum?

Mr. WEBSTER. It is an authority to the Secretary, and not a direction.

Mr. BUTLER. But the language of the bill originally was "directed." "Authorized" is the term employed in the substitute. And I should regard those terms as synonymous in the sense in which they are employed. I have been utterly at a loss to know why this sum is specified beforehand as a sum to be paid for services the amount of which cannot now be ascertained. As common carriers, the interest of the proprietors of the road will lead them to take all the freight that will be offered to them; and if they are willing to carry for a reasonable price, I have no doubt they will receive the patronage of the Government. It is a work, undoubtedly, of great magnitude, and I should be unwilling to interpose anything which would tend to defeat their purpose; but I must say now that I do not know by what power Congress is authorized to pass such an act as this, except we refer it to the power given to Congress for the regulation of commerce. I have no doubt the honorable Senator from Massachusetts will readily refer it to that; it is a very broad power, and perhaps the only one to which the right to pass such an act as this is referable. I must be permitted to say that when this practice shall spring up, if it should find countenance now, I shall have very great difficulty, under such a broad power as that, in giving it my sanction. I am willing to say, that if the Constitution of the United States should be so altered as to confer the power upon Congress under some limitation of this kind, I should be willing to acquiesce; but without this, I know of no limitation by which money may be expended under the direction of the Government for such a purpose. It is a project or pretext for the grant of two millions and a half of dollars to be devoted to an enterprise which this Government is prohibited from undertaking.

I will not pretend to discuss the relative merits of the different routes across the isthmus. As far as I have examined the subject, my preference is for the higher route, believing it will be safer.

I did not rise, however, to discuss this matter, but merely to say that in regard to all these projects I shall take the liberty, whenever they are presented, of examining them very closely before I

give my vote in favor of them. I shall always hesitate to give my sanction to any project for the expenditure of money under the color of a contract, when there is a constitutional objection to the expenditure of the money under legislative authority. The principle is not changed by covering the transaction and giving to it the color of a legislative bargain. If it be a bargain, it is a bad one. Such a practice should not be established.

Mr. CLAYTON. I have long had this object of establishing a passage, either by railroad or canal, across the isthmus in view. In 1835 I had the honor to offer to the Senate of the United States a resolution for instituting a mission to the Governments of Central America and New Granada, for the purpose of paving the way for cutting a canal across the isthmus. The resolution was adopted, after considerable discussion, by the Senate, I believe without a dissenting vote, at least so it would appear from the Journal. The resolution was to this effect:

"*Resolved*, That the President of the United States be respectfully requested to consider the expediency of opening negotiations with the Governments of other nations, and particularly the Governments of Central America and New Granada, for the purpose of effectually protecting, by suitable treaty stipulations with them, such individuals or companies as may undertake to open a communication between the Atlantic and Pacific Oceans, by the construction of a ship canal across the isthmus which connects North and South America, and of securing forever, by such stipulations, the free and equal right of navigating such canal to all such nations, on the payment of such reasonable tolls as may be established, to compensate the capitalists who may engage in such undertaking, and complete the work."

In pursuance of the suggestion herein contained, the President of the United States sent a chargé d'affaires to the Republics of Central America and New Granada, but the enterprise fell through, as I think, on account of the incompetency of the minister sent, and nothing was done in furtherance of my proposition, or for the accomplishment of the different projects which were suggested at the time for making either canal or railroad across the isthmus.

We are now in the middle of the nineteenth century, and I think, with deference to those gentlemen who have expressed their views in regard to this subject, that it is a disgrace to the age in which we live, and to the country in which we live, that as yet no passage, by either railroad or canal, has been obtained from ocean to ocean, either by Tehuantepec or Panama. Here is a proposition now before us for expending some two or three millions of dollars to save us nine thousand miles of ship navigation, and the most dangerous navigation in the world. The question is, whether these two or three millions of dollars shall be expended for such a purpose? And on this occasion, as well as on former occasions on which this subject has been presented, we have been met with the objection that there are other and better routes; one of which is by railroad from the Mississippi to the Pacific, the other at Tehuantepec. On this subject I think and feel disposed to act very much like the Senator from Massachusetts. If I could obtain a railroad or canal across the Isthmus of Tehuantepec, I would prefer it, and for reasons which I think will readily suggest themselves to any one who will look at the map. It is a vastly better route for our own country; but I cannot disguise from myself the fact that either of these routes is calculated to throw the control of the commerce that is conducted through those channels into the lap of the United States, for I hold that no other country can compete with the United States successfully upon either of these routes.

I am not prepared to say that the sum stated in the bill is precisely the proper sum; I have not sufficient information to enable me to judge accurately of that. I must rely on the judgment of others, whose peculiar business it is to make estimates of the necessary expenditures. I must take the estimates of engineers, and from them it appears that it will cost three millions of dollars to make the road. We know that very important expenses must be encountered on this route other than those which are ordinarily incurred in the construction of roads of this description of the same length. It is stated that it will be necessary to construct a pier on the Pacific as well as on the Atlantic side. Now, whenever a proposition shall be offered to me for making a railroad, or for assisting in making a road across the Isthmus of Tehuantepec, I shall give it a favorable consideration. I have already stated that I prefer that route. I do not know but a road may be made there; I earnestly hope that it may; but I am not insensible to many of the difficulties which will present themselves there. It is stated on most respectable authority that a railroad across that isthmus must necessarily be a hundred and fifty miles in length, and that there is a bar at the entrance to the harbor which will not admit vessels drawing more than twelve feet; another statement says fourteen, and even eighteen feet; and I have received information from very respectable sources verifying both these opposing statements. I do not undertake to decide between them. It is stated also that in Tehuantepec the northers blow during a portion of the year with great violence, and that violent storms prevail also on the Pacific side. Senators are aware that the Indian name Tehuantepec is said to be literally, however coarsely, translated by the English words, "a hell of a blow." Now, whether the winds are more violent on either side of the Isthmus of Tehuantepec than elsewhere, I do not know. We shall probably be informed upon that point. But it is feared that these northers, with bad harbors, may present formidable obstacles on that route. The route across the Isthmus of Panama is undoubtedly practicable, whatever objections may be urged against it, and I shall vote for the proposition to assist the contractors to make a railroad there, desiring at the same time to guard the country against any imposition.

Let something practicable be now done. Let us have a route across either the Isthmus of Tehuantepec or Panama. There is no proposition before us for a route across Tehuantepec, but we have a proposition in favor of the other route. We know that the individuals applying to us have purchased the right of way at Panama, and we know that they will make some kind of a road there within eight years. But I think it desirable (if it be practicable) to have the road made in two years; and I understand that if we give the assistance which is asked for by the petitioners, they can and will make the road in two years. Sir, it is only a question of time. I repeat that, from what I can learn, it is a matter of certainty that the road will be made within eight years; for the contractors have bound themselves to do the work within that time, or else to forfeit one hundred and twenty-five thousand dollars, paid by them into the treasury of New Granada. It is merely a question, then, whether the road shall be made within eight years or within two years.

This is to be an American road. It will have that character abroad, do what you may. American citizens are intrusted with the construction of it. Well, if this work is to be, and be called an American work, I desire that it should be a road worthy of the American name; and in my opinion the American Government should, within its constitutional sphere, aid as far as it can individual enterprise in making a road worthy of the American character. I do not want a road attempted there by individuals and carried on by piecemeal, commencing with a railroad of a few miles, and perhaps ending for some years to come with a plank or a mule road. I desire that the improvement should go on continuously and in the shortest practicable time. And now allow me one general remark in regard to the sum to be expended. I would aid, as far as the constitutional power of the Government will enable us to do it, in making a road from the Mississippi river to the Pacific, or a road across the Isthmus of Tehuantepec, as I design to aid in the construction of the road proposed by this bill, and whatever the cost of a passage by canal or railroad across to the Pacific on either isthmus may be, whether two millions, two and a half millions, six millions, twenty millions, or even fifty millions. I say, sir, that the wit of man cannot find any other mode of expending the same amount of money as much for the benefit of this country and of the whole human family. And I repeat that I do think, that in the middle of the nineteenth century, it is a disgrace to the Government that nothing has yet been attempted with success to save our commerce the dangerous navigation of nine thousand miles around the cape. I take the proposition now before us because it is practicable. I would not delay the work from year to year and from day to day. If we can, by expending the sum of two and a half millions of dollars or less, accomplish so great an object, I say, for one, that I am willing to authorize the expenditure.

Mr. DAVIS, of Mississippi. I agree with the Senator from Delaware in a part of what he has said, and differ very widely with him in relation to other portions of his remarks. I think, if there is any ground for mortification in regard to this matter, it is that this Republic, the mother of the republics of the American continent, does not contemplate the transportation of the property of the Government and of the citizens of the Republic within her own limits; that she does not construct for herself, if she have the constitutional power to undertake such work at all, a road from the valley of the Mississippi to the western limit of the territorial possessions of the United States. If I were to contemplate the idea of constructing a road, either through the instrumentality of the Government exclusively, or by advances of money made to contractors for that purpose, I should make the line of road pass through the territory of the United States. Such a road I would regard as more advantageous to the interests of this country and its citizens. I would consider it preferable in a commercial point of view, and still more so upon political considerations, that our citizens and their property, instead of being separated from the country in their transit from one portion of the United States to the other, should be kept within our own limits; and that the connection with our remote possessions should be as direct as possible. It is not that I have any want of confidence in the attachment of any American citizen to the Government of the United States; for I have an abiding confidence in that attachment. I believe that it is not to be broken off, however widely they may be separated from the Government. But, if anything is calculated to invite or lead to a forgetfulness of that attachment, it would be for our citizens to find themselves on the shores of the Pacific a powerful people, having an extensive commerce with Asia, without any communication with the United States, and with the legislature sitting here to fix the laws governing their intercourse, both domestic and foreign. If that people are to be bound permanently to this Union, if it is to be made their interest in all time to come to remain a portion of the United States, then I say it is necessary that a ready and accessible means of communication should be afforded them; and the links of communication must be continuous; towns, villages, and hamlets, must extend along the line of communication, from the seat of the General Government until we stand upon the shores of the Pacific. This must be our ulterior object, and all other measures in reference to this subject must be considered as temporary expedients only.

I am not willing to see this Government permanently coupled with any work outside of the United States, and if we are to have any connection whatever with this proposed Panama road, let it be temporary, and let it be in dollars paid for heads and tons conveyed, and let them bear the charge of making the road. I am not willing to pay any stipulated sum to this company in prospect, or when they have perfected the work, other than that which they may receive upon a contract for carrying public stores or for carrying persons, when they are in readiness to perform such work. It is with this view that I have presented the amendment. And, adopting the bill in that form, we shall be equally ready to avail ourselves of the road across Tehuantepec, if one be constructed there. I believe that the route proposed will be subject to interruptions from foreign countries, especially in time of war. I believe with the Senator from Delaware, that the Tehuantepec route would connect itself more intimately with the interests of the United States; but there are other considerations which should not be lost sight of. We have no right of way, and the time must be remote when a road will be constructed there, unless the Government of the United States expend a large sum of money in the construction of a road through the Republic of Mexico. Notwithstanding the amusing definition which the honorable gentleman gave of the name of Tehuantepec—and which, I suppose, was given by him more in jest than seriously—I will tell him that, although there are northwest winds sometimes prevailing along that coast, such as he has described, rendering the approach of vessels extremely hazardous, yet there are deep indentations in the coast where vessels may safely enter, the force of the waves being broken by the jetting head-lands which extend for a considerable distance into the

sea. So far, then, as those two routes are concerned, the advantage is decidedly in favor of Tehuantepec. But it is not my purpose to enter into this question at all. We have nothing to do with one or the other of them; they are foreign routes; we neither propose to determine the route nor to build the roads; but if they are built, and their services are afforded to us at reasonable rates, then let us avail ourselves of them, whether the road be through Tehuantepec or Panama. I therefore say again, that I am opposed to any proposition to expend even the hundredth part of the sum stated by the Senator from Delaware in the construction of a road. I wish to confine the expenditure of any money for the establishment of a communication with the Pacific within our own country, taking such a course as will lead in a direct line through the valley of the Mississippi to the Pacific. Wherever the passage of the mountains may be most advantageously made, let the road be there constructed, and let us look finally to the accomplishment of a direct passage across the continent, within the limits of the United States, from one sea to the other. If I succeed in the proposition which I have made to amend the bill, by striking out all that relates to the rates of compensation, in the form of annual payments to be made to the company, and all limitations, it shall then be followed by an amendment which shall stipulate that the Government of the United States shall pay for transportation a rate which shall not exceed that fixed in the second section of the bill upon the persons and property of American citizens. The Government certainly will be able to make contracts with the company for the transportation of persons and goods upon more favorable terms than the tariff we would be authorized to fix. And I have no reason to believe, from any computation that I have been able to make, that the sum thus annually to be paid by the Government would reach the amount which is contemplated by this bill. But, whatever the amount, be it more or less, it should be compensation for services rendered. As the bill stands, if it should come to pass that we should wish to abandon that road, having another communication open to us, we must still continue our payments in the same manner as though we received services. This is a distinction which I would give to no road in our own country, and certainly not to a road without the limits of our own country. Opposed to internal improvements by the Government, I cannot become the advocate of external improvements. They rest upon the same principle, and, so far as that principle is to be extended to give advantage to any one, it should be to those who seek to open internal communication, and to give commercial advantages to the United States. I have never myself, in any examination of the bill as amended, believed that the language bore the construction which has been placed upon it; but, such being the construction, I wish to get rid of the difficulty, and it is for that purpose that I have offered the amendment.

Mr. DICKINSON. Mr. President, I ask that this matter may be laid over so that we may have an Executive session. The consideration of Executive business necessary to be acted upon immediately has been postponed from day to day during the last week or two. I move that the further consideration of this bill be postponed until to-morrow.

The motion was carried.

The Senate then proceeded to the consideration of Executive business, and, after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 31, 1849.

The Journal of yesterday was read and approved.

Mr. CABELL, by unanimous consent, presented sundry joint resolutions of the Legislature of Florida, viz:

A resolution asking Congress to take some action to keep the Indians of Florida within their prescribed boundaries. Referred to the Committee on Indian Affairs.

A resolution asking Congress to allow the claim of Michael Ledwith. Referred to the Committee on Claims.

A resolution relative to the establishment of a port of entry and delivery at Cedar Keys, on the Gulf of Mexico. Referred to the Committee on Commerce.

A resolution asking a grant of a quarter section of land to each of the counties of Calhoun and Benton, for the location of a county site in each county; and

A resolution asking for a grant of a quarter section of land to each of the counties of Washington and Holmes, in the State of Florida, for the location of a county site; which resolutions were referred to the Committee on Public Lands.

A resolution asking the establishment of mail routes in the counties of Orange, St. Lucie, and Dade, in the State of Florida;

A resolution relative to the establishment of certain mail routes;

A resolution asking Congress to establish a certain mail route therein named; which resolutions were referred to the Committee on the Post Office and Post Roads.

A resolution asking Congress to pass the claim of the Rev. John Tucker, as chaplain for Garrison's battalion, Florida militia;

A resolution asking Congress for the payment of the claim of Captain Thomas Langford and his men, for certain services as volunteers in the Seminole war;

A resolution remonstrating against the removal of the military munitions, ordnance, &c., from the garrison at St. Augustine, and asking for further protection of the eastern frontier of Florida;

A resolution asking the passage of a law granting land to the officers and soldiers who served in the Florida war;

A resolution urging upon Congress the payment of certain companies of Florida volunteers; which resolutions were referred to the Committee on Military Affairs.

On motion of Mr. CABELL, it was

Ordered, That said resolutions of the General Assembly of the State of Florida be printed.

Mr. C. remarked that he had been for some time endeavoring to obtain the floor to present these resolutions. He merely desired that they might be referred as they were endorsed.

Mr. TURNER, by leave, presented the petition of Thomas Drummond and other citizens of Galena, praying for a reduction in the rates of postage and the abolition of the franking privilege; which was referred to the Committee on the Post Office and Post Roads.

Mr. BURT called for the regular orders of the day.

The SPEAKER stated that the regular order of business was the call of the committees for reports. And the Speaker accordingly proceeded to call for them, commencing where the call was last suspended.

REPORTS OF COMMITTEES.

Mr. J. R. INGERSOLL, from the Committee on the Judiciary, reported a bill for the relief of John E. Bispham, of the United States navy; which was read twice, and committed to the Committee of the Whole.

Mr. I., from the same committee, reported a bill for the relief of Francis Moreno; which was read twice, and committed to the Committee of the Whole.

Mr. I., from the same committee, to whom was referred the bill from the Senate entitled "An act concerning testimony," reported the same back to the House, with amendments; which were read and concurred in by the House.

Mr. INGERSOLL explained. He said it would be seen that the bill from the Senate consisted of two parts. The Solicitor of the Treasury was very anxious to have the power to give, from the different departments of the Government, authentic copies of the records there in the same way in which authority was given to furnish authenticated copies of records from the Department of State. In the propriety of this course the Committee on the Judiciary entirely concurred. And the second section of the bill gave that authority, to which there was no objection.

The second section proposed, that in all cases relating to land titles, and so forth, *ex parte* depositions might be taken under the direction of the minister, consul, or other officer abroad, (of course, being *ex parte*, without any knowledge or notice given to the parties that they were interested in it.) The Committee on the Judiciary thought that this was a matter worthy of very grave consideration, and they were not prepared to recommend its passage. Upon conferring with the Solicitor of the Treasury, he concurred in the amendment reported by the Committee on the Judiciary, to strike out that portion of the bill. There were other amendments also, the object of which was, to make the other parts of the bill conform to this amendment, after the first section should have been stricken out.

Mr. I. moved that the amendment be passed.

The amendments were severally concurred in.

And the bill (having been ordered to a third reading at this time) was read a third time and passed, and the title amended so as to read "An act for authenticating certain records."

RELIEF OF WILLIAM PLUMMER.

Mr. J. R. INGERSOLL, from the Committee on the Judiciary, to whom was referred Senate bill entitled "An act for the relief of William Plummer, executor of Starkey Armistead, deceased," reported the same back to the House, without amendment.

Mr. I. said that there was peculiar hardship in the case, and it presented circumstances of strong appeal for the action of the House, although it was a private bill.

Mr. I. briefly explained the circumstances of the case, and asked that the bill might be put upon its passage.

The bill was then read in full.

The SPEAKER said, the question would then be on the third reading of the bill.

Mr. FICKLIN moved that it be committed to the Committee of the Whole. The bill, he believed, had been here two or three sessions.

The SPEAKER. To what committee does the gentleman move that the bill be committed?

Mr. FICKLIN. I suppose, being a private bill, that it goes upon the private calendar. I move its reference to the Committee of the Whole.

The SPEAKER stated the question.

And the question having been taken, it was decided in the negative.

So the bill was not committed.

And then the bill was read a third time and passed.

On motion of Mr. J. R. INGERSOLL, the Committee on the Judiciary was discharged from the further consideration of so much of the memorial of Henry O'Reilly as relates to the impeachment of Judge Munroe. And also from the further consideration of the bill regulating evidence in the circuit and district courts of the United States; and said bill was laid on the table.

On motion of Mr. J. R. INGERSOLL,

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the resolution of the House of the 21st December last, instructing said committee to inquire into the expediency of so amending the laws providing for the naturalization of foreigners as to authorize the clerks of the proper courts to administer the oath, and issue the final certificate of naturalization, under the seal of said courts, during the vacation of the same; and that the resolution be laid on the table.

SLAVERY IN THE DISTRICT.

Mr. EDWARDS, from the Committee on the District of Columbia, reported a bill to prohibit the introduction of slaves into the District of Columbia as merchandise, or for sale or hire; which bill was read twice.

Mr. WENTWORTH called for the reading of the bill.

And the bill having been read through—as follows:

A BILL to prohibit the introduction of slaves into the District of Columbia as merchandise, or for sale or hire.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the business of introducing or importing slaves into the District of Columbia as merchandise, or for sale or hire, be and the same is hereby prohibited.

SEC. 2. *And be it further enacted*, If any person shall hereafter bring or import any slave or slaves into the District aforesaid as merchandise, or for the purpose of selling or hiring such slave or slaves, or shall be accessory thereto, the person or persons so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in the sum of five hundred dollars, and be imprisoned a term not less than one, nor more than six months, at the discretion of the court, for each and every slave by him brought into the District aforesaid as merchandise, or for sale or hire.

SEC. 3. *And be it further enacted*, That all contracts or bargains made or entered into, and all agreements, whether verbal or in writing, when the consideration or any part thereof has been for a slave or slaves introduced or imported into the District aforesaid as merchandise, or for sale or hire, shall be absolutely null and void.

SEC. 4. *And be it further enacted*, Whenever any citizen

of the District aforesaid, or other person, shall bring any slave or slaves into the District aforesaid, he, she, or they shall, within forty-eight hours next after his or their entry into the District, go before the Clerk of the Circuit Court of the county of Washington, in the District of Columbia, and take an oath that said slave or slaves have not been brought into this District as merchandise, or for sale or hire, but that they were brought for his or their own proper use, and for no other purpose whatever; and it shall be the duty of the clerk of said court to give the person making oath a certificate, under his official seal, that said oath has been taken and duly recorded in his office; and it is thereby made the duty of said clerk to administer said oath, and to keep a true and perfect record thereof in his office; and any person failing to take such oath and certificate thereof, and shall be found to have entered this District with a slave or slaves, or to have received such slave or slaves from any other person who has entered with them, shall be arrested by the Marshal of the District, or any of his deputies, or any constable in said District, to whom a knowledge of the facts may come; and the person so arrested shall be immediately taken before some judge or justice of the District, whose duty it shall be to recognize said person for his appearance at the next regular term of the Criminal Court of the county of Washington, in the District of Columbia, in the sum of five hundred dollars for each slave so found in his possession; and on failure of such person to enter into such recognizance, it shall be the duty of such judge or justice to commit him to jail, unless he is then willing to take she oath above prescribed, in which case it shall be administered according to the provisions of this act: *Provided, always*, That nothing in this section shall apply to any person or persons visiting or passing through this District with his, her, or their carriage drivers, waiters, or other body-servants, male or female: *Provided, further*, That nothing in this act shall be so construed as to prevent any person or persons, in removing to said District, from bringing with them their slave or slaves: *And provided, further*, That nothing in this act be so construed as to prevent persons residing within this District from introducing any slave or slaves obtained by marriage, bequest, or other circumstance: *And provided, also*, That nothing in this act shall prevent bringing slaves into the District, as now authorized, for hire for a term not exceeding twelve months.

SEC. 5. *And be it further enacted*, That any person or persons bringing within this District, under any of the provisions of this act, any slave or slaves, shall, within thirty days of their introduction, file in the clerk's office of the county of Washington a record of the names, sex, and age of said slaves; and an omission to do so shall be construed into an intention to have introduced such slave or slaves for sale.

SEC. 6. *And be it further enacted*, That it shall be the duty of the Secretary of State of the United States, immediately after the passage of this act, to cause its publication in at least four newspapers in each slave State of the Union, and in at least three of the newspapers of this District, for two successive months, and this act shall not take effect until the first day of August, 1849—

Mr. WENTWORTH inquired of the Speaker whether it was in order to have the bill engrossed for a third reading to-day.

The SPEAKER. The question is on committing the bill to the Committee of the Whole on the state of the Union, and on ordering it to be printed.

Mr. WENTWORTH. I ask the Speaker this question: If we vote——

Mr. LINCOLN rose to inquire if he could ask a question.

The SPEAKER said, the colleague of the gentleman [Mr. WENTWORTH] was asking a question of the Chair.

Mr. WENTWORTH. I want gentlemen to vote understandingly on this question. Therefore I ask whether, in case we vote down the question of commitment, it will not be in our power to order that the bill be engrossed for a third reading to-day?

The SPEAKER said the bill might be ordered to be engrossed for a third reading.

Mr. WENTWORTH. I wish to state to this House the results of the little experience which I have had in this House for two or three years past in relation to bills of this description. Since I first became a member of this House, bills of this character have from time to time been introduced. Gentlemen who introduced them had the credit of so doing. It went forth to the country that propositions were pending before this House for the abolition of slavery in the District of Columbia. The country thinks that we are making great progress in them, but it does not know, that when they are referred to the Committee of the Whole on the state of the Union, there was the end of them, just the same as if they had never been introduced. Now, I hope——

Mr. SAWYER. Will the gentleman permit me to say a word——

Mr. WENTWORTH. One moment. I do not, as gentlemen know, often trouble this House, and I do not speak long when I do rise. I want to explain the nature of these things, that is all. Now, I sincerely hope that the gentleman who introduced the bill (for it is a good bill, perhaps as good a bill as we shall be able to pass at the present session) will go with me——

SEVERAL VOICES: What do you say about the bill?

Mr. WENTWORTH. I say that it is a good bill; or that, if it has defects, it is as good a bill as we shall be able to pass during the present session. Therefore, I hope that the gentleman who introduced the bill, and all who are in favor of its object, will manifest it by voting down the motion to refer to the Committee of the Whole on the state of the Union, so that the bill may be ordered to a third reading to-day, and that we may pass it if we can.

Mr. CHAPMAN (chairman of the Committee on the District of Columbia) said that he had risen merely for the purpose of giving notice to the House, that he was opposed to the bill which had been reported from that committee. As a member of it, he must say that this bill, however correct it might be in the principles which it sought to carry out, did not meet his sanction or approbation. He had risen merely for the purpose of giving this notice, and of saying that when the bill should come up for consideration, (as was agreed in committee that it should,) he designed to move a substitute for it. That substitute had not yet been prepared. It would place this question entirely where, in his humble judgment, it ought to be placed—within the power of the proper authorities of this District. As a member of the Committee on the District of Columbia, he repeated, he could not vote for the bill, because it contained provisions which, in his opinion, Congress had no power to pass. He did not intend at this time to enter into any discussion either upon the principles of the bill, or as to the constitutional difficulties which, to his mind, were involved in the inquiry what it was right and proper to do. Without, therefore, entering upon any argument as to the purposes of the bill, or as to the constitutional difficulties which surrounded this question, he merely wished to say that he was opposed to the provisions of the bill, and that he should at the proper time, when it came up for consideration, give his views upon it, and also upon the constitutional power of the Government over the question involved in it—at the same time stating the mode by which he thought the constitutional difficulty could be alone overcome.

As he had said before, he did not want now to discuss the bill. A majority of the committee had authorized his honorable friend from Ohio to report this bill, and that the motion should be made to commit it. When it came up for consideration, he should desire to present his views and to offer a substitute.

The bill contained a good many amendments, which were adopted in committee this morning. These amendments might, some of them, be defective in their language. The committee was hurried, as every member of this House must be aware the committees were always hurried in their action upon the details of important questions. It was not, therefore, in the power of the committee, in their sitting of this morning, to perfect the language of various sections and of various amendments which had been agreed to, and the principles of which had been adopted. The committee, therefore, proposed that the bill be referred and printed, so that they and the whole House might have an opportunity thoroughly to examine the amendments reported by the sub-committee and adopted; so that, when the bill should come up, they would be prepared to decide whether they would carry out its principles. He himself should then submit a different proposition.

Mr. HARALSON said, judging from the intimation given by the gentleman from Illinois, [Mr. WENTWORTH,] he apprehended that any action which they might take at this time was not to be the final action of the Congress of the United States. The gentleman had told them distinctly that it was about as good a bill as they could pass at this session, evidently intimating that it was to be followed up by further action on this subject. Where it was ultimately to terminate, no man could foresee; but they had certain intimations that it was not to stop here. It was, therefore, the entering wedge for further action on the subject; and in that view of the subject, he moved, without further argument, to lay the bill on the table.

Mr. SMITH, of Illinois, rose to make an appeal to the gentleman from Georgia to allow him the floor a moment for explanation.

Mr. HARALSON insisted upon his motion.

Mr. WENTWORTH asked the yeas and nays; which were ordered.

Mr. SMITH renewed his appeal to be allowed an opportunity for explanation.

Mr. HARALSON. I would yield with great pleasure were it not for the fact that I have the same application from all quarters by gentlemen who say that they will renew the motion.

Mr. SMITH. I was misrepresented yesterday by the gentleman from Pennsylvania, [Mr. BROWN,] and I wish to set myself right.

The SPEAKER announced the question on laying on the table.

Mr. BRODHEAD said, before the vote was taken, he desired to propound a question to the Chair: If the gentleman from Georgia withdrew the motion to lay on the table, and the previous question should be demanded and seconded, he asked the Chair if it would not bring the House to vote first upon the motion to refer?

The SPEAKER. The motion to commit would be first in order, not being cut off by the previous question.

Mr. BRODHEAD. Then I hope the motion to lay the bill on the table will be withdrawn. The motion to commit is the proper question.

The question was taken, and the vote stood—yeas 72, nays 117—as follows:

YEAS—Messrs. Atkinson, Barringer, Barrow, Bayly, Beale, Bedinger, Bocock, Botts, Bowdon, Bowlin, William G. Brown, Charles Brown, Albert G. Brown, Burt, Cabell, Chapman, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Williamson R. W. Cobb, Cocke, Crozier, Donnell, Alexander Evans, Featherston, Flournoy, French, Fulton, Gayle, Goggin, Green, Willard P. Hall, Haralson, Harmanson, Harris, Hill, Isaac E. Holmes, George S. Houston, Inge, Andrew Johnson, George W. Jones, Kaufman, Thomas Butler King, La Sère, Ligon, Lumpkin, McDowell, McKay, McLane, Morse, Outlaw, Pendleton, Peyton, Phelps, Pilsbury, Preston, Rhett, Roman, Shepperd, Simpson, Stanton, Thibodeaux, Jacob Thompson, R. A. Thompson, Tompkins, Toombs, Venable, Wallace, Wiley, Williams, and Woodward—72.

NAYS—Messrs. Abbott, Adams, Ashmun, Belcher, Bingham, Blackmar, Brady, Brodhead, Butler, Canby, Cathcart, Collamer, Collins, Conger, Cranston, Crowell, Darling, Dickey, Dickinson, Duer, Dunn, Eckert, Edsall, Edwards, Embree, Nathan Evans, Faran, Farrelly, Ficklin, Fisher, Freedley, Gaines, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, N. K. Hall, Hammons, J. G. Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, Jenkins, James H. Johnson, Kennon, Daniel P. King, Lahm, Wm. T. Lawrence, Sidney Lawrence, Leffler, Lincoln, Lord, Lynde, Maclay, McClelland, McIlvaine, Job Mann, Horace Mann, Marvin, Miller, Morris, Mullin, Murphy, Nelson, Newell, Palfrey, Peaslee, Peck, Petrie, Pettit, Pollock, Putnam, Reynolds, Richardson, Richey, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Sawyer, Schenck, Sherrill, Silvester, Slingerland, Smart, Robert Smith, Truman Smith, Starkweather, Andrew Stewart, Charles E. Stuart, Strohm, Strong, Tallmadge, Taylor, James Thompson, Richard W. Thompson, William Thompson, Thurston, Tuck, Turner, Van Dyke, Vinton, Warren, Wentworth, White, Wick, Wilmot, and Wilson—117.

So the House refused to lay the bill on the table.

The question recurring on the motion to commit the bill to the Committee of the Whole on the state of the Union—

Mr. SMITH said he was glad that the bill introduced by the gentleman from Ohio, from the Committee on the District of Columbia, was not laid on the table. He was in favor of having it printed and referred to the Committee of the Whole on the state of the Union, that it might go through a thorough investigation, and that the House might act advisedly on this question. He did not approve of the course which had been pursued in the House, when questions touching the institutions of slavery in this District had been introduced. He had been compelled to give his vote where he could not vote his *wishes*, but was forced to take a "choice of evils." The honorable gentleman from Pennsylvania [Mr. BROWN] had yesterday placed him (Mr. S.) in a category in which he did not belong, and, in so doing, had done him injustice.

The SPEAKER interposed and said, the gentleman would take notice that it was not in order in the House to reply to remarks made in Committee of the Whole on the state of the Union.

Mr. SMITH said that his object in alluding to the speech of the gentleman in committee, and other action of the House on this question, was to show the importance of the reference of this bill to the Committee of the Whole, and he trusted no objections would be made to his proceeding with his remarks.

The honorable gentleman from Pennsylvania, in his speech of yesterday, said:

"What do we see? I am sorry my colleague from the northern district is not here, for I have a word to say to him. Another resolution has been introduced at this session to allow every person in this District to vote—black and white, all colors, bond and free—and that proposition

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received seventy-seven votes: among them were the votes of men from Connecticut—a State which, I believe, only three years ago, proposed to allow negroes to vote, and by about three to one, I think, the privilege was refused. These gentlemen come here, and, in the District of Columbia, with a slaveholding population, place upon record their votes that they desire that the negro shall be placed on an equality with the white man."

"That is one State. There are others. The people of Illinois have voted that no negro shall come upon her soil; not only that the negro shall not have equal political privileges, but that he shall not live there; yet there are some of the Representatives of that State upon this floor who voted that here he is to be a freeman and equal with a white citizen of the District."

He (Mr. S.) denied that the gentleman from Pennsylvania could draw any such conclusions from the vote of Illinois members who had voted against laying Mr. GIDDINGS's bill on the table. There was probably no member in the House more opposed than he was to allowing slaves or free negroes to vote. Upon what ground does the gentleman make this declaration? Why, because certain members voted against laying on the table a bill introduced by a member from Ohio, [Mr. GIDDINGS,] of which the following is the title:

"A bill to authorize the people of the District of Columbia to express their desire as to the existence of slavery therein."

This bill, he said, had been introduced, and read a first and second time, without objections being made. Mr. GIDDINGS then wished to have the bill engrossed, and put upon its passage. Mr. THOMPSON, of Mississippi, moved to lay it on the table. Mr. CHAPMAN, of Maryland, rose to move that the bill be referred to the Committee on the District of Columbia. He supposed, he said, that the motion to lay the bill on the table took precedence. The bill was laid upon the table by a vote of 106 for, to 79 against.

He (Mr. S.) said, the vote against laying on the table was no committal in favor of the bill, and was not so considered by parliamentary usage. The bill contained clauses that he never could vote for; but as it was stated by the gentleman introducing it, that he did so at the instance of many highly respectable citizens of the District, he voted against laying on the table, with the view of sustaining the motion of the honorable member from Maryland, [Mr. CHAPMAN,] chairman of the Committee on the District of Columbia, which motion was to refer it to that committee. It was the proper and appropriate place for such a bill. The location of the gentleman, and his thorough knowledge of the wants and wishes of the people of the District, would enable him to frame such a bill as would be acceptable to the people of the District, and meet the views of a majority of the House. If the voting against laying on the table was to be taken as being in favor of a bill, he might show that a number of southern members were in favor of the resolution of the gentleman from New York, [Mr. GOTT;] for, upon the motion for sustaining the previous question and ordering the main question, twenty-seven southern gentlemen voted in the affirmative, when, if they had voted in the negative, the main question would not have been sustained. They were found voting with the honorable gentleman from Ohio, [Mr. GIDDINGS,] and the honorable gentleman from Massachusetts, [Mr. PALFREY,] and others who, he believed, gloried in being Abolitionists. He did not think, however, that *parliamentary* usage would set them down as committed in favor of Mr. GOTT's resolutions because they voted for ordering the main question, any more than his voting against laying on the table the bill introduced by Mr. GIDDINGS would commit him in favor of that bill.

Mr. S. said, that from the time he became a member of this House up to the agitation of the question of the extension of slavery into the territory acquired by our late treaty with Mexico, he had uniformly voted with his southern friends upon all questions involving their property in slaves, and he would always be found sustaining the rights guarantied to them by the compromises of the Constitution. He was as much opposed to the agitation of the slavery question as any gentleman in the House; and but for the fanatics (he did not wish to use the term in an offensive sense) of the North and South, there would have been little difficulty in the settlement of this question. He had felt that it was ungenerous in his southern friends to force gentlemen who had stood by them on so many occasions to vote on propositions where they must necessarily be subject to have their views misrepresented. There were many gentlemen on the Democratic side of the House who occupied a similar position with himself in relation to the bill introduced by Mr. GIDDINGS—gentlemen as little likely to give blacks the privilege of voting as any member from any slave State in the Union. This question, however, (said Mr. S.,) must be met, and it should be met openly and manfully; and every member should have an opportunity to place himself right before the House and the country. He felt justified in saying that he would guard the interests of the South in all her legal and constitutional rights as sacredly as would his honorable friend from Pennsylvania [Mr. BROWN;] but while he would do this, he could not refrain from saying, that he considered slavery a moral and pecuniary evil, and that it should never, by his countenance or vote, be extended into any territory belonging to the United States where it does not now exist.

Mr. VENABLE obtained the floor, and yielded, for purposes of explanation, to

Mr. BROWN, of Pennsylvania, who said he had no intention of placing any gentleman in a false position; but instead of getting out of temper with him, they had better put themselves right on the record. It was the interpretation given to it everywhere with which they should quarrel, not with him. He would also say that he was in favor, either by Congress or through the people of the District of Columbia, of suppressing in the District—what was represented to be carried on within it—a *traffic* in slaves. This he was ready and desirous to do in such manner as that the rights of the people who hold slaves should not be violated. The traffic complained of was that of bringing slaves from the State of Maryland merely to be sold to the South. This kind of traffic, which was prohibited by several of the slave States, ought not to be allowed in the District; and if the people desired to prevent it, he thought they ought to be enabled to do it. When he voted to lay the bill on the table, he did not know it was proposed to recommit it to a committee and take deliberate action upon it, or he would not have voted as he did. He looked upon it as merely another question for agitation, and in the present temper of the House and the country, he did not think any right action could take place on the subject. If a bill could be made and considered in the right spirit, he had no doubt both South and North would agree to it.

Mr. VENABLE resumed the floor, and remarked that he had no purpose to occupy much of the time of the House. He would not have said one word but for the remarks of the gentleman from Illinois, [Mr. SMITH,] who had alluded to the vote sustaining the previous question on the resolutions offered by the gentleman from New York, [Mr. GOTT.] He had voted on that occasion for sustaining the previous question; but it was after the House, by a decided vote, had refused to lay the resolutions on the table, on the motion of the gentleman from Georgia,] Mr. HARALSON.] The House assumed jurisdiction on these resolutions; and he (Mr. V.) was one of those who thought it due to the South that the extent of the spirit which had thus refused to lay on the table resolutions containing in their preamble a gross insult to the South, should be known. The conduct of southern gentlemen had been frequently arraigned for sustaining the previous question. The people had a right to know the full extent of the evil. For himself, he voted to lay on the table; and thus, with other southern gentlemen, did everything but supplicate the forbearance of the majority in the agitation of this exciting subject. When that failed, he voted for the previous question. It was due to the South that the enemy should come out with all his armor, to contend in a fair field. He always preferred an enemy with weapon in hand, to one whose attitude was equivocal, but in whose sleeve the stiletto was concealed. If they fell by the powers of the one, it was after a fair struggle, and when they had had an opportunity to quit themselves like men. But there could be neither defence against danger, nor glory in the result, where the first intimation of the approach of the assassin was the deadly wound.

The gentleman from Illinois [Mr. SMITH] speaks of the union of southern and northern fanatics on the subject of slavery; and I suppose he means those who voted to sustain the previous question on those resolutions——

Mr. SMITH. Will the gentleman from North Carolina permit me to explain?

Mr. VENABLE gave way.

Mr. SMITH. I meant no allusion to the gentlemen who gave that vote. I spoke generally of fanaticism North and South.

Mr. VENABLE. The gentleman's explanation is received.

Mr. BROWN, of Pennsylvania, wished to say one word in explanation, now that the gentleman from Illinois was on the floor.

Mr. VENABLE giving way—

Mr. B. said, that the gentleman from Illinois, he (Mr. B.) was satisfied, did not mean what he said. The gentleman had said that he (Mr. B.) out-Heroded Herod in the advocacy of southern rights. He certainly could not have meant this, because he would defend southern rights as he (Mr. S.) would——

Mr. SMITH. I said so.

Mr. BROWN. Then how could I out-Herod Herod in defending southern *rights?*

Mr. VENABLE resumed. He said it was singular that the term fanaticism should be applied to gentlemen who only assert their rights and claim the guaranties of the Constitution. He asked when or where did the South ever encroach upon the institutions of the North, or intermeddle with their policy or their rights? He was deeply concerned when he declared that the vote on the resolutions of the gentleman from New York [Mr. GOTT] convinced him that the spirit of hostility to the institutions of the South was irresistible in the free States. Strong indeed must be the current which drove grave and experienced statesmen, by its impulse, and compelled them to vote for such a preamble as that which introduced those resolutions. The influence of that spirit among their constituents must be overwhelming indeed, when they could not vote down a proposition containing an insult to the South. Who would vote for a bill for the relief of any gentleman in this House which contained a preamble denouncing him as an unprincipled wretch? When the spirit is so rabid at home as not to admit of such an explanation, this fact was a subject of grave apprehension. It demonstrated that the bonds which unite us were in great danger. He wished to be understood: he loved the Union, as it was organized and adopted by those patriotic and noble spirits who had given us this compact; he loved the Union, that holy marriage-contract of the States, honored and honorable. But he feared that there were those who only loved the connection, and not the Union. He desired the marriage relation with its sacred charters, and its holy securities, when each sustained the rights, the interests, and the reputation of the other; not meretricious connection, which promoted the happiness of one party and secured the disgrace and ruin of the other. While a sense of justice produces its legitimate results in action, this sound relation of union amongst these States must continue.

He had voted for the previous question on the resolutions of the gentleman from New York, [Mr. GOTT,] to show that an evil spirit was abroad. That which was at first agitated for mere popularity at home has spread like the devouring flame which imprudent children had kindled in the forest, merely to admire its brightness. The devouring element has escaped control, unless those who kindled it come honestly to the rescue. Let them come to this patriotic work, and alarm will cease, and kind relations be restored.

Mr. HUDSON said that when he came to the House this morning, he had not the least intention of troubling it with any remarks; and he had not risen now for the purpose of making a speech upon this subject. But after having had this morning another specimen of defiance and of challenge from gentlemen on the other side of the House—after hearing the old stereotyped accusation that gentlemen on his side of the House were afraid of their constituents at home, he had been induced to rise with a view to say a very few words in reply to these imputations. And, in the first place, he would ask from what source they came? They came from gentlemen whose course on this floor——

Mr. VENABLE, (interposing.) I hope the gentleman will allow me to say a single word. I except the gentleman's district.

Mr. HUDSON. I ask no exception in my behalf. I will receive none in behalf of my district.

The gentleman who had just resumed his seat (Mr. H. proceeded to say) had repeated the statement which had been made several times, that gentlemen on this side of the House were afraid of their constituents, and that they were compelled to vote in opposition to their own convictions.

Now, he would ask, what was there in the course of that gentleman which authorized him to hurl imputations of this character upon him (Mr. H.) or upon other gentlemen on that side of the House? Had not the gentleman told us over and over again, that the laws of his own State on this subject were wise and proper? Had he not intimated that he was willing to apply the same provisions to the District of Columbia that existed in his own State? And had not the gentleman within a few moments voted to reject utterly a bill applicable to this District, containing no other provisions, he (Mr. H.) believed, than those which were contained the laws of most of the southern States?

Mr. VENABLE, (interposing.) The State of North Carolina has no such provision as that contained in the bill before the House.

Mr. HUDSON, (continuing.) He was aware that the State of North Carolina was so situated that she had not thought it necessary to pass laws such as the States of Mississippi, Maryland, Virginia, and several other slaveholding States had passed. Now, he understood that the bill which had been read here, and which his friend from North Carolina [Mr. VENABLE] had voted to lay on the table—which he was willing to strangle without debate—was only applying to the District of Columbia those wise and wholesome provisions which gentlemen from the slaveholding States had been pleased to adopt within their own jurisdiction.

Mr. BAYLY (interposing) desired to ask a question.

Mr. HUDSON having yielded the floor—

Mr. BAYLY said, to what law of Virginia does the gentleman from Massachusetts refer as being similar to this bill? I know of no such law.

Mr. HUDSON. I understand that there is a law in Virginia prohibiting slaves from being brought into that State for sale there.

Mr. BAYLY. There is no such law.

Mr. HUDSON. There has been such a law; and if the State has been on the retrograde, the gentleman is welcome to all the honor to be derived from such a course.

Another remark which the gentleman from North Carolina made, and which had on several occasions been made on that side of the House, was, that the North was perpetually encroaching on the South, and that no instance can be presented in which the South has in any degree encroached upon the rights of the North. Now, he would ask the attention of the gentleman from Virginia, [Mr. BAYLY,] and of other gentleman to the laws which their States had passed imprisoning the free colored citizens of the United States who came into their waters. Was not this an encroachment on the rights of the North? In the State of Massachusetts the black man was as much a citizen as the white man. He was made a citizen before the adoption of the Constitution of the United States, and when Massachusetts came into the Union, every colored citizen of that State was as much a citizen of that State, and, of course, of the United States, as any white man whatsoever. And the laws of Virginia, the laws of South Carolina, and the laws of several other States authorized the imprisonment of these individuals whenever they might come into the waters of these States, not because they had been guilty of the commission of a crime, but because of the color of their skin. They have gone further——

Mr. BAYLY, (again interposing.) The gentleman is mistaken about the laws of Virginia. I assure the gentleman that he does not understand them.

Mr. HUDSON. I know very well that the laws of Louisiana and South Carolina are similar to the description I have given; and I have understood that the State of Virginia had laws of the same character; if not, so be it. I say that those States have not only passed laws by which the free citizens of Massachusetts and of New England are imprisoned, but they have gone further: they have arrogated to themselves the right of passing a law which should not be annulled by the supreme judicial tribunal of the United States. They will not suffer an appeal to be taken. I know they have contended that their laws are constitutional; but, on the other side, it is contended that they are not constitutional; and, in such a contest, all that the citizens of Massachusetts ask is, that one of these cases may be brought before the Supreme Court of the United States. If the Supreme Court should sustain the law, the State of Massachusetts will bow with due submission to the decision. If the Supreme Court annul the law, Massachusetts would expect that the State of South Carolina would conform her legislation to that decision.

But no; our friends of the South are not willing to submit a question of this kind to the tribunal which the Constitution of the United States has provided for the adjustment of such difficulties. And if a northern citizen, if any individual of high character should go to one of these States—an individual whose character would, in every respect, raise him beyond suspicion—he is not permitted to take the necessary steps to bring one of the cases before the Supreme Court; but is informed that unless he leaves the city forthwith, his person, and perhaps his life, may be in danger.

Now, with such laws upon their statute books, with such a course adopted, sustained, countenanced, and justified by public sentiment, gentlemen from the South come here and challenge the production of a single instance in which the South has in any degree interfered with the rights of the North.

Mr. HARALSON interposed and said, that, with the permission of the gentleman, he desired to put a question.

Mr. HUDSON yielded for the purpose.

Mr. HARALSON. The question I want to ask is this: Did not these laws of the South, of which the gentleman speaks, grow out of the interference with southern institutions by the North itself, and were they not enacted by the South as a means of preventing the evils of which they complained?

Mr. HUDSON. The laws of the South, as I understand, go to this extent: If the vessels of New England anchor in the harbor of Charleston, South Carolina, and have a colored cook (for example) on board, who does not set his foot on shore, the officers of South Carolina go on board that vessel, take the cook on shore, imprison him, and keep him until the vessel is ready to depart; and then the master of the vessel must pay the charges.

Nor has the State confined——

Mr. RHETT interposed, and asked leave to say a word in explanation.

Mr. HUDSON having yielded the floor—

Mr. RHETT said that he thought the gentleman from Massachusetts [Mr. HUDSON] was mistaken. He (Mr. R.) understood the gentleman to say that the law was aggressive peculiarly upon the people of the North—that it was leveled against the people of the northern States. In this, the gentleman was in error. The law was made applicable to the people of Great Britain, and to the people of all other portions of the world, as well as to the North—to all States whatever.

One word more, and he would resume his seat. Whilst the gentleman was asserting that this policy on the part of the South was an aggressive policy upon the people of the North, did he not know that the very law itself sprung from an insurrectionary movement in the city of Charleston, got up in the North against the property and the lives of the people of the South? Such was the fact. Had the South, then, acted on the aggressive, or on the defensive?

Mr. HUDSON (continuing.) The gentleman from South Carolina [Mr. RHETT] asks me if I did not know that the law to which I refer applies not only to citizens of the North, but to the subjects of Great Britain and of all foreign nations. I am acquainted with that portion of the history of this law which has reference to subjects of Great Britain. I know that the city of Charleston, in the State of South Carolina, attempted to enforce her laws in that respect. I know that the British authorities at once demanded satisfaction. Application was made here at the city of Washington, and I know that this question was brought before a judge of the United States court, himself a citizen of the State of South Carolina, and that he, a southern judge, pronounced the law unconstitutional and void. And I venture to say now, that whatever laws may exist in South Carolina, South Carolina knows too well the character with whom she is dealing to attempt to enforce her laws against the subjects of Great Britain.

Mr. RHETT, (again interposing.) The gentleman is utterly mistaken. The law is enforced, and has been enforced in every instance down to this hour against the subjects of Great Britain—equally against them as against the people of the North.

SEVERAL VOICES. And of the South, too.

Mr. RHETT, (continuing.) I say this with a knowledge of the truth of what I say. South Carolina has held an equal hand to all, and has flinched from none.

A word more. I am anxious that we should get at the truth of this matter. The gentleman from Massachusetts is entirely in error. Subjects of Great Britain do come under this law. It is not two years since an application was made to the Legislature of South Carolina, chiefly owing to British influence, to have the law modified as to the mode in which these parties should be put into custody. The complaint was, that they were not put into the kind of keeping which was proper for them, but that they were imprisoned in common with persons who had been guilty of crimes; and this, it was said, was not proper. Upon that ground the matter was brought up before the Legislature of South Carolina, chiefly by means of British influence, as I have said, through the British consul in the city of Charleston. I repeat, that we have held an even and an impartial hand. We have not flinched. And we have shown no deference to the Lion of Great Britain, which we would not pay to the people of the North.

Mr. HUDSON, (continuing.) I know the chivalrous character of the people of the South. I suppose that they are willing to meet the world in arms. I know that they will not bow before the British Lion or any other Power. I know they have not bowed to the authority of the United States; for I know that United States vessels have gone into the city of Charleston, and that they have suffered a police officer to go on board and take their colored hands and imprison them, and that on their departure they had to pay the jail fees.

Mr. HOLMES, of South Carolina, rose to explain.

Mr. HUDSON yielded the floor.

Mr. HOLMES said that the gentleman was entirely mistaken in the position that he had stated. In the case to which he had referred, (that of *Elkenson*,) a colored cook was taken from on board a British merchantman, carried to jail, and brought up upon a *habeas corpus* before Judge Johnson. It was decided by Judge Johnson, that the taking of the cook and his imprisonment were unconstitutional. Upon that decision being made, the British minister at the seat of Government represented to the then Secretary of State the hardship of the case. The Secretary of State referred the constitutional question to the then Attorney General, Mr. Berrien, now a Senator of the United States, and requested him to give to it a calm and deliberate investigation. Upon that investigation, the Secretary of State became convinced that the law was not unconstitutional as being a police regulation, and he so informed the British minister. And the British minister from that time to this has acquiesced in the confinement of colored seamen coming to Charleston.

The whole thing was done with a view to self-protection after the experience of the year 1823, in consequence of Denmark Vesey and other blacks coming from the North for the purpose of creating an insurrection, which was prevented only by timely discovery from bursting, with all its horrors, upon the city of Charleston.

Mr. HUDSON. I say, as the gentleman himself admits, that the only adjudication that there has been of this question has been against the constitutionality of the law. It has been declared to be unconstitutional and void. The gentleman refers to the opinion of one Attorney General as in favor of the constitutionality of the law. I know there are opinions in its favor. I know also that another Attorney General, (Mr. Wirt,) and other men as much distinguished for talent and legal learning, have given opinions against the law.

Mr. ASHMUN asked his colleague to yield the floor for a moment.

Mr. HUDSON having done so—

Mr. ASHMUN proceeded to remark, that he thought both gentlemen had overlooked the true point at issue, if any issue there was, between the North and the South. The question was not as to the constitutionality of the State law of South Carolina, or of any other State, with reference to its external operation on foreign nations. He might differ from the opinion of Judge Johnson, or of others; but (he was understood to say) his own humble opinion was, that towards all persons not citizens of the United States, South Carolina might have the right to pass such a law. But the law provided for the imprisonment of our own citizens. And South Carolina, in defiance of the express provision of the Constitution, made her State police laws operate upon the citizens of Massachusetts. This they had no right to do. He desired to read the clause of the Constitution to which he referred. It was in these words:

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

That (Mr. A. continued) was the constitutional provision. The State of Massachusetts, ever since she became a State, had always recognized every man as a citizen, and he was as much entitled to protection, if he was black, as any white man on this floor could be.

Mr. HUDSON resumed the floor.

Mr. THOMPSON, of Pennsylvania, rose to a question of order. He submitted whether this debate in relation to the laws of South Carolina was in order?

The SPEAKER. The debate has taken a very wide range.

Mr. THOMPSON. The question I ask of the Chair is, whether the debate is in order?

The SPEAKER. The Chair attempted to restrain it at the outset; but there was a general cry of "Go on," and the debate was allowed to proceed.

Mr. THOMPSON said, he objected now to further debate that was out of order.

Mr. FICKLIN. I move that the gentleman from Massachusetts [Mr. HUDSON] have leave to proceed.

Mr. HUDSON. I ask no such motion in my behalf. I have the floor now, and I have the right to proceed.

Mr. FICKLIN. I alluded to the other gentleman from Massachusetts [Mr. ASHMUN.]

Mr. HUDSON, (proceeding in his remarks.) The point first made by my colleague [Mr. ASHMUN] is a point which I made when I rose. I said that by the constitution of the State of Massachusetts——

Mr. THOMPSON. I insist upon the point of order.

The SPEAKER. The Chair has already decided that details in debate in reference to the law of South Carolina are not in order. It may be referred to.

Mr. HUDSON. I am not going into details. I wish to refer to the law, and to reply to imputations which have been made—intending that the whole shall bear upon the question before the House. And the gentleman from Pennsylvania, [Mr. THOMPSON,] acute as he usually is, is not able, perhaps, to see what use I shall make of these remarks.

Mr. THOMPSON. I do not think any one else can.

Mr. HUDSON. Then I hope no one else will interfere. I stated when I first rose that I had no disposition to make a speech—that is to say, that I was not going to debate this subject. But as I and other gentlemen on this side of the House have been alluded to with reference to the very subject-matter now before the House, I embraced this opportunity to repel all imputations of the character which had been made. And I have gone no further in my remarks than other gentlemen have gone in theirs.

Mr. THOMPSON. I do not suppose that the gentleman has gone further in his remarks than other gentlemen have gone in theirs. I thought that the whole debate had taken an unwarrantable and an unreasonable range, and that it would never be brought to an end unless some gentleman should call the attention of the Chair to it.

Mr. BURT. I desire to throw myself for a moment upon the courtesy of the gentleman from Massachusetts, [Mr. HUDSON.]

Mr. HUDSON yielded the floor.

Mr. BURT. I know, as you, Mr. Speaker, know, that this law of South Carolina, to which the gentleman refers, has been an old topic of complaint on the part of the State of Massachusetts. I assure the gentleman from Massachusetts, [Mr. HUDSON,] as my two colleagues have assured him, that the law was passed in no spirit of hostility to Massachusetts or any other State, but that it was believed to be indispensable to the preservation of the peace of the community of South Carolina. What I wish to say to the gentleman is this: While he complains so vehemently of the law of South Carolina—whilst for five years all Massachusetts has complained of that law—how is it that not one single note of complaint has been uttered by that State against Ohio, Indiana, or Illinois—every one of which States excludes from its borders these colored citizens of Massachusetts? Why is it that complaint is directed against South Carolina? South Carolina, I beg to say, has great respect for Massachusetts——

Mr. THOMPSON, of Pennsylvania, rose to order.

Mr. BURT. If the gentleman from Pennsylvania [Mr. THOMPSON] is the custodier of the order and decorum of this House, I am glad to hear that he has assumed a new character, and I bow to him with submission.

Mr. THOMPSON (with good nature) disclaimed the appointment to that office; but (he was proceeding to say) he had——

Mr. HUDSON. I call the gentleman from Pennsylvania to order.

Mr. THOMPSON. I call the gentleman from Massachusetts to order.

A brief colloquy followed.

Mr. DUER asked to be permitted to say one word.

Mr. HUDSON. I cannot consent to yield the floor again. I only wish to retain it for two minutes more, and during that short period I shall not give way.

I will now state distinctly the point I was making. I say that citizens of Massachusetts, made citizens by her constitution, existing before the establishment of the Constitution of the United States, have been imprisoned, and are now imprisoned, by the laws of some of the southern States. Gentlemen from those States say that these laws are necessary for self-protection, and that they are constitutional. We contend that they are not constitutional; and in this conflict of opinion, all we ask is that the question shall be settled by the Supreme Court of the United States. But the State of South Carolina interposes to prevent an appeal being taken to that Court in order that the question may be fairly tested. That is the ground of our complaint. If South Carolina will permit the case to be brought up before the Supreme Court, and if the Court should decide against the State of Massachusetts, I pledge myself for her that she will bow in deference to the decision. But until South Carolina does manifest a disposition to permit the question to be settled by the constitutional tribunal of the country, I say that we have cause of complaint—serious cause of complaint—and such as the South never has had in respect to Massachusetts or any other State of the North. If anything occurs in Massachusetts to which South Carolina objects—if any of our laws are thought by her to be unconstitutional, and she should send a duly-appointed agent to that State to take an appeal from the decision of our courts, I venture to say that he will be treated with respect, and that every opportunity and facility would be afforded to him to bring the question before the tribunal here in Washington. I venture to assert that he will not be treated as a venerable citizen of Massachusetts was treated in the city of Charleston itself.

I say, in conclusion, that I did not rise to debate this question; but I do say, that while gentlemen from the South will not accord to the people of this District rights and privileges which they enjoy in their own States; while they vote down the application of this principle to the District of Columbia, it is not very consistent or becoming to turn to this side of the House and accuse us of voting from intimidation—of being afraid of our constituents. I believe, if the truth were known—and judging from your experience, I venture to predict, that if the real sentiments of southern members on this floor could be known, and could be compared with their votes, we should see as much of that influence which is behind the throne controlling their votes here, as exists in reference to members from the northern section of the country. And so long as they insist that they will not apply to this District laws which they have in their own States, I ask, for the sake of consistency—for the sake of decency even—not to make imputations of this character upon me or upon other gentlemen on this side of the House.

Mr. BURT said he did not rise to take any part in the discussion which had been irregularly introduced upon this bill. He desired to say a word merely upon the question before the House, upon the bill reported by the gentleman from Ohio, a member of the Committee on the District of Columbia, this morning. It was asked by the gentleman who reported it, coming from a non-slaveholding State of the Union, that it should be referred to the Committee of the Whole on the state of the Union, and be printed. The chairman of that committee had risen in his place and stated to the House that the committee were divided in regard to this bill; that he himself entertained insurmountable objections to the bill; that he entertained constitutional objections to the bill, and he asked that it should go to the Committee of the Whole on the state of the Union, and the bill be printed. The division of this House, taken this morning, showed that southern members, with (he believed) two exceptions, were opposed to the bill, and voted to lay it on the table. It was an important bill, a bill of a very different character, he begged to assure gentlemen, from the State laws which prohibited the introduction of slaves as an article of merchandise within their jurisdiction. It involved a totally different question, a very high question, and took for the first time by the hand of Congress a new topic, a most interesting topic connected with the subject of slavery. It involved the question whether Congress had the power to interfere with the sale of slaves as a commodity, as an article of merchandise. He trusted, with such a question as that involved in this bill, that those who might be in favor of the general principle of passing some law upon the subject for the District of Columbia, that those who might entertain no doubts of the constitutionality of such a law, would permit this bill to take the direction asked both by the chairman of the committee from which it came, and by the honorable gentleman who reported it.

He hoped that the ill-omened counsels of the gentleman from Illinois [Mr. WENTWORTH] would not be heeded by this House. He knew not what right that gentleman had to speak to this House upon a question of that kind. He said to gentlemen from all sections of the Union with the greatest respect—with all the respect which was due to them as members of this House, and from him as a member of this House—that he trusted they would not, for the considerations he had briefly indicated, force the bill through at this moment and in this way. He doubted if there was a single southern man on this floor who was disposed for one moment to delay or hinder action upon this bill, or upon any other proposition connected with slavery. For one, he was ready to meet them. But he desired to see this bill. He thought it was due to the House and to the country that the bill should be printed, that they all might have the opportunity of seeing it, and determining whether it was unconstitutional in its character, or whether it might be acceptable to the members of this House.

Mr. TAYLOR said he did not propose to occupy much of the time of the House; but he had risen principally to make an explanation of his own position on this question, having been very much misrepresented here and elsewhere in regard to the resolution which had been introduced some weeks ago by the gentleman from New York, [Mr. GOTT.]

He would first say, he hoped that the motion made by his friend and colleague, [Mr. EDWARDS,] who had introduced this bill, would be carried by the House; and that the bill would be referred to the Committee of the Whole on the state of the Union and printed, that all might see it, and be enabled to act understandingly and deliberately upon the subject. He here distinctly avowed himself in favor of the principles of the bill. He wished to see it, to examine it, to ascertain whether there was anything unconstitutional in it or not; and if there was, he told his friends from the South he shrunk from no responsibility here, and he was ready to vote according to the dictates of his best judgment upon this and upon any other question which might arise out of the subject of slavery.

Now, in reference to the resolution introduced several weeks ago by the gentleman from New York: It had been represented in various parts of the country by Democratic papers, and by papers falsely calling themselves "Free-soil" papers, but which were political nuisances in the country, that he (Mr. T.) had shrunk from voting on this resolution. He was not present in this House when the resolution was introduced; he was absent on business, as was frequently the case with gentlemen. If he had been here, he should have looked into the resolution, and then voted according to the dictates of his best judgment.

[A VOICE: "How would you have voted?"]

He would tell gentlemen, if they would hear him. While he was willing to vote for a law prohibiting the slaveholding States from sending their negroes into the District of Columbia for sale, he was not disposed to vote for any insulting preamble prefaced to such a resolution or bill. He was ready now to vote for the amendment proposed by the gentleman from Indiana, [Mr. SMITH,] upon the reconsideration of the resolution. He had voted to reconsider it, for the purpose of voting for the substitute proposed by that gentleman.

And now, while he was on the floor, he had a word to say with regard to the struggle which seemed to be going on in this Hall between two disappointed portions of this Confederacy. There was a manifestation of disappointment by a great party on the one hand, and by a small party on the other, who were doubly, trebly disappointed in the result of the recent Presidential contest. Those who favored the election of General Cass had failed most signally to effect their object. It was natural that they should feel mortified, wounded, disappointed; and so far as they presented the question of slavery here by the introduction of resolutions or by speeches calculated to alienate one portion of the Confederacy from the other, it was only an involuntary manifestation of the regret, the despair and sadness that pervaded that party at their overwhelming defeat. There was another party, doubly, trebly disappointed, who were known by the euphonious name of *Barnburners*, who had set their trap at Buffalo to catch all such as chose to come into their organization. They had succeeded in entrapping the political abolitionists of the State which he in part represented, as though they were taken in a steel trap of a hundred horse-power, and they were unable to extricate themselves. Hence they came up here, a few men on this floor, manifesting these feelings, and were introducing systematically, frequently, and unnecessarily, propositions which were calculated to disturb the peace of the country, without giving the House an opportunity maturely to consider them. They were asked and forced by the previous question to vote upon them without reflection and without fully understanding their nature and objects. He sympathized not with these Barnburning movements.

If (said Mr. T.) these gentlemen represented the "anti-slavery" society which met on the 12th of May, 1848, in the city of New York, where William Lloyd Garrison presided as President, and whose proceedings he found published in the New York Tribune, (but with which the great body of the citizens of that city, he believed, did not sympathize or concur,) then he believed they had no sympathy and would find no response from any part of the people of the State of Ohio, which he had the honor in part to represent. That society threatened to dissolve the Union of these States, and break down the American churches, to carry out their purposes. He had no sympathy with them. He looked upon them as disorganizers and disunionists, who ought to be scouted by every good man in the country. He had no sympathy with disorganizers and disunionists from any section of the country, from the North or the South. He had before him the resolutions passed by that meeting, and he would read one, that the spirit which they manifested might be seen and understood by the country:

"*Resolved*, That slaveholders, as such, can have no rights; that they have no rightful existence on earth; that they were never created by God, and constitute no part of the human race; they are of monstrous and diabolical origin; and no law, no constitution, no compact, no religion, that endorses their humanity, is to be obeyed or tolerated."

This was the spirit of these fanatical abolitionists who composed this anti-slavery society.

Now, he said to his southern friends here, that while they dealt in wholesale denunciations of the North, they did great injustice to the moderate, intelligent, and conservative men of all parties in the North. Who were the men in the North who composed this miserable faction, and who were instigating trouble in the country? Many of them came from the South. That the House might know, and that the attention of the country might be called to the facts, he would name a few of these leading spirits who had come among them at the North, and who were exciting this spirit of faction and political abolitionism.

In the first place, there was Mr. Birney, formerly of Kentucky or of Alabama, once a slaveholder, who either sold his slaves himself, or had them wrested from him by the strong arm of the law, and afterwards removed to Michigan and became a Democratic Abolition candidate for the Legislature. Afterwards he was the candidate of the political Abolitionists for the Presidency of the United States. A very small number of people in the State of Ohio, and some in New York, sustained him for that high office; but the great body of the people of Ohio, let him tell gentlemen, were as sound as the people of any portion of the Union upon all constitutional questions in reference to slavery in the southern States, and they had no desire to interfere with it, so far as it was guarantied by the Constitution of the United States.

They had in Ohio a highly-educated, accomplished, plausible, and eloquent gentleman from South Carolina, Mr. John C. Vaughn—a gentleman whom he personally knew—who, he understood, was engaged in the laudable business of editing an Abolition paper in the city of Cincinnati, to enlighten the people of that State with reference to slavery in the southern States.

They had also in Ohio Mr. Stanley Matthews, (now clerk of the House of Representatives in that State,) formerly of Tennessee, where he edited a Democratic paper, in favor of Polk and Dallas for the Presidency and Vice Presidency—now editing what was called a "Free-soil" paper, and cultivating the spirit of factions to break down the beautiful institutions which our forefathers reared for us.

Now, what did we see in the city of Washington? A Mr. Bayly, who, he understood, was from the State of Virginia, conducting an Abolition paper called the "National Era." If he was wrong, he hoped some gentleman would correct him. He did not know the gentleman, but he understood he was from the State of Virginia, located in this metropolis, propagating his political Abolition doctrines, that our friends in the South might charge upon the North that they were instigating this spirit of faction and political Abolition.

Then, again, during the excitement at the last session of Congress, when the negroes were stolen from this District by three kidnappers, and when the excitement reigned at its intensest height, he had seen, in a Baltimore paper, the card of another gentleman, (a Mr. Snodgrass, he believed,) who edited a similar paper in the city of Baltimore, who hailed from Virginia, and who endorsed the publications of the editor of the National Era.

Now, he trusted his friends from the South, when they spoke of northern fanatics who would destroy this glorious Union of ours, would recollect, if there were any such there, that they were not confined to the North; the South had abolitionists, fanatics, disorganizers, who, if they could not live at home, came among them at the North, throwing in their firebrands to excite a popular indignation against the institutions of the southern States.

He had said much more than he anticipated when he rose; but he would embrace this occasion to say, that he saw all the delicacy which surrounded this great question touching the abolition of slavery in the District of Columbia. He looked to those who had gone before us for information upon the subject. He was not disposed to legislate hastily upon it; and while he was ready to prohibit the importation of negroes into this District for sale, he looked for information to the wise men who had gone before him, and he found that the venerable patriot who, honored and beloved, sunk in this chair (pointing to the seat formerly occupied by Mr. J. Q. ADAMS) at the last session of Congress, expressed himself, as late as the year 1843, in the city of Pittsburg, against abolishing slavery in the District of Columbia without the consent of the inhabitants. He had a copy of the speech of that gentleman before him, and he would read an extract from it.

"Mr. Adams was waited on by a committee of the political Abolitionists, urging him to meet and address them. This he declined; answering that he was as much opposed to slavery as any of them, and especially to the representation of slaves in Congress, but expressing his opposition to the abolition measure of the day, as follows:

"'On the subject of abolition, abolition societies, anti-slavery societies, or the Liberty party, I have never been a member of any of them.

"'As to the abolition of slavery in the District of Columbia, I have said that I was opposed to it—not because I have any doubts as to the power of Congress to abolish slavery in the District—for I have none—*but I regard it as a violation of republican principles, to enact laws at the petition of one people which are to operate upon another people against their consent. As the law now stands, the people of this District have property in their slaves.*

"'I do not admit these laws are in accordance with justice, for it can never be true that one man can rightfully have property in another man. Still, these laws have had an existence since before that part of the country became the District of Columbia, and was brought under the power of Congress, and I think they should not be altered without the consent of the people of the District.'"

He would state that he could see no reasonable objection, and he had heard no reasonable objection urged upon any side of the House, against the adoption of the resolution of the gentleman from Indiana, offered as a substitute for the resolution of the gentleman from New York—the simple effect of which substitute was to instruct the Committee on the District of Columbia to inquire into the propriety of preventing the importation of negroes into the District of Columbia for sale. The State of Maryland prevented the importation of slaves within her borders for the purpose of sale. Such a law, he understood, existed in that State; and he understood that the bill reported this morning by his colleague, [Mr. EDWARDS,] and now under consideration, was merely a transcript of the law of Maryland upon this subject. But, he repeated, when such a proposition was introduced here, instead of voting upon it without understanding it, under the pressure of the previous question immediately after it was brought before them, let them have it printed and referred to the Committee of the Whole on the state of the Union, that they might legislate without haste, without violence, and with a proper understanding of the whole subject.

He would avail himself of this opportunity to say one word with regard to the recent distinguished sectional southern convention which was held in another part of this Capitol. He regretted to see any sectional meetings held in any part of the United States. He had read the two addresses presented in that convention, and it was needless to say that he disapproved of them both.

Mr. BROWN, of Mississippi, rose to a point of order.

The SPEAKER. The Chair rules out of order remarks upon that convention, if the point of order is made.

Mr. TAYLOR said he would not speak of the proceedings of that convention, then, but would refer to the allegations which were constantly urged against the North in this House by southern men, that their slaves escaping into the free States could not be reclaimed, and that there were organized bodies to prevent the master recovering his slave, and to help him on in his transit to Canada. So far as that part of Ohio which he had the honor to represent was concerned, the declaration was perfectly unfounded. No master ever came within his district without having all the benefits which the Constitution of the United States and the law gave to him. There were various instances in which these laws had been carried out to the letter, and the master had taken home his slave.

Another thing: he had resided in the State of Ohio for twenty years, and he had never known or heard there of any such secret organizations as were alleged by some of their southern friends to

exist, to aid the fugitive slaves from the slaveholding States in their transit to Canada.

They did not want the free negroes of the slaveholding States in the State of Ohio; and he feared the time was rapidly arriving when they would be compelled to adopt the policy of Illinois, and close the door to the admission of any free negroes from the slave States, or they might be overrun by such a population as those States should choose to send them. The Governor of Virginia had recently reported to the Legislature of that State that there were about fifty thousand free negroes in Virginia, and recommended that they should be expelled that State. Ohio wanted none of that population; the greater portion of it was a pauper population. They did not want any more of it.

He was opposed also to placing this black race, free or slave, upon a platform of equality with the whites, because he thought they were unworthy to stand upon that platform, and that they were incapable of exercising the rights of citizenship. He should give his consent to no such proposition as to allow the free negroes and the slaves to vote upon any political questions. The Constitution of the United States contemplated that the white citizens of the country should do the legislation of the country, and not the negroes. He dissented from the views of his colleague, [Mr. GIDDINGS,] who, some weeks since, desired that a vote of the free negroes and the slaves of this District should be taken upon the question of altering the relation of master and slave here. Such views and opinions found no countenance among the great body of the people of Ohio; and he wished his friends from the North and the South to understand it.

He had said a good deal more than he had intended when he arose. He wished to say, in conclusion, that he looked upon every effort from every quarter of the Union that looked to a dissolution of the union of these States, as proceeding from an ill-judged quickness of action, from a disorganizing spirit, and from a feeling utterly at variance with the peace and tranquillity of the country. He stood by the Union. He stood by it as Washington recommended we should stand by it; and he "looked indignantly" upon any man, North or South, who would deliberately do any act in this Hall or in the country calculated to violate the integrity of the Union, or break down the Constitution under which we all lived and had prospered, and under which, he trusted, the country might prosper and be united forever.

Mr. BROWN, of Mississippi, said he did not design, upon taking the floor at the present time, to enter into a discussion of the various questions which had engaged the attention of the House this morning; but as a member of the Committee on the District of Columbia, he desired to say a word with reference to his own position with regard to the introduction of this bill. The bill was almost a literal transcript of what was the law of the State of Mississippi from the year 1837 down to a period within some three or four years past, with one material alteration, namely, a prohibition against any citizen going beyond the boundaries of the District and buying a slave for his own use within the District. The law of the State of Mississippi, to which he referred, was founded upon a provision of the constitution of that State which grew out of apprehensions (whether well-founded or not) of servile insurrections in the minds of the framers of that constitution. The provision was at all events incorporated into the constitution, and the act in pursuance thereof, to which he had referred, was drawn by his own hand as a member of the Mississippi Legislature. In his capacity as a member of the Committee on the District of Columbia, he had pointed to that law as containing suitable provisions to be incorporated into the bill which they were to report. The law was acceptable to the committee; and, with the material alteration to which he had referred, it was copied and reported to the House.

A VOICE. The gentleman is mistaken about the restriction.

Mr. BROWN (continuing) said he was not mistaken. He had said that, by the restriction to which he objected, citizens of the District were not to go beyond the boundaries of the District, and purchase slaves for their own use within the District. There was indeed a provision, that they might, by inheritance, marriage, or bequest, obtain a title to slaves without the District, and so bring them in; but there was no other provision of the bill by which a citizen of the District could acquire title to slaves in any of the States. He had opposed and objected to this restriction, in the committee, upon the ground that it was never petitioned for by the people. The immediate occasion and basis of the bill was the petition of the Mayor and Council of the city of Washington. And if he could be induced to vote for a bill of this kind at all, it would be on account of such petition. He did not know that, under any circumstances, it could command his vote; certainly it never could with this restriction.

A word in regard to his own position. He had always believed that, in his representative character upon that floor, he was called upon to represent the expressed will and wishes of the people of the District of Columbia, having, at the same time, due regard to the rights of the people of the several States, and to the restrictions of the Constitution of the United States. If the people of the District of Columbia petitioned for any object which might be granted without violation of the Constitution, or infringment of the rights of other citizens of the United States, he was bound to support their petition; and it ought to be granted. He felt that he should no more claim for himself the right to represent the people of the District of Columbia, in accordance with the wishes of the people of the Fourth Congressional District of Mississippi, than that the gentleman from Ohio [Mr. GIDDINGS] should claim to represent them in accordance with the wishes of his constituents. He was willing to meet gentlemen here on common ground, and claim no more for his particular section than he was willing to accord to every other section of the country. The District of Columbia was no gladiatorial region, where opposing parties were to meet in conflict. This was neutral ground, where the wishes of the people should be fairly represented, having respect always to the rights of others and to the Constitution. He did not believe that the strong party in Congress had any right to pass any law for the District, without respect to the wishes of the people of the District, and without reference to the Constitution and rights of the people outside of the District; but that in all this branch of their public charge, they should have an eye strictly to the Constitution, and to the rights of the whole people. Such was his policy, and would continue to be so long as he remained a representative on that floor. He should never look to the State of Mississippi for the sole rule of his conduct in this department of his duty. For, if gentlemen were to look to the wishes of their constituents in these cases, it would not be long before we should have laws for the District of Columbia framed in obedience to the wishes of the people of New England, or the great West, and having no regard to the wishes of the people here. He wanted no such thing.

In acting upon a petition from the people of this District, his first object was to inquire how far he might go, and still remain within the limits of the Constitution? and then how far he might go without infringing upon the deed of cession by which the District was acquired from the States of Maryland and Virginia? These limits being ascertained, he should be prepared to go for any law desired by the people of the District, which did not require these fixed limits to be transcended. If gentlemen from New England, New York, and elsewhere were prepared to act upon this rule, he was prepared to go with them. He was glad that the gentleman from Ohio [Mr. TAYLOR] had introduced the authority of a late venerable representative from Massachusetts, [Mr. John Quincy Adams,] in support of the principle, that the people of the District of Columbia were not to be represented according to the views and wishes of the people residing elsewhere in the United States. If his own views did not happen to accord exactly with those of the people here petitioning, it was his duty to conform his views to theirs; and this was manifestly the only right rule upon which these people could be represented. He appealed, therefore, to his friends, the southern delegation, to do what was right upon this question, while he asked only the same thing of gentlemen from the North. He thought gentlemen on all sides might shape their conduct according to the rule he had laid down, doing no injustice to the District, and giving no just ground of complaint to the States north or south.

Mr. McLANE interposed to ask a question; and (Mr. B. giving way for the purpose) he said he would ask the gentleman whether he went so far with his doctrine as to recognize the right on the part of the people of the District of Columbia to ask of Congress the enactment of a law abolishing slavery in the District?—whether he did not believe that such an act would be unconstitutional?—in other words, whether the gentleman's rule went further than to admit of petitions for objects within the Federal power to grant, while he would exclude all others, as petitions which should neither be demanded on their part nor granted on ours, for the reason that they were incompatible with the Federal powers of Congress?

Mr. BROWN replied, that he hardly thought the gentleman could have misunderstood him. He would say again, that the people of this District, like every other people, had the right to be represented (if they were represented at all) according to their own views and wishes, and not according to the views of people residing elsewhere in the United States. They had no right to ask, nor had Congress the right to grant, laws for their benefit which would outrage the rights of others, whether citizens of the State of Virginia, Maryland, or any other State. He should always expect every gentleman who desired to protect the rights of the people, whether citizens of Maryland, Virginia, or the District of Columbia, to vote against the abolition of slavery here; for such a policy would make of the District nothing but a receptacle for all the free negroes in the country. He could not go into the question of the constitutional power of Congress to abolish slavery here: it was in no way involved in the bill. But he would take occasion to say, he had never conceded the power; and if he had, there were abundant reasons without the Constitution to determine his vote against such a measure.

One word with reference to the complaint made as to gentlemen voting here contrary to their own convictions of right, because of the fear of their constituents. He knew not how it was with the gentleman from New York, but when such a charge was made against him, his reply was, that he was not afraid to give any vote which his judgment might approve. The apprehension of responsibility at home did not swerve him. He was sent here to take responsibility, and he would account himself unfaithful and unworthy of his trust, if he did not take responsibility on all proper occasions. Upon all questions involving the rights of the South and the southern institution of slavery, he should vote with the South. And if he had any fears on this subject, they were not for himself or his constituents, but rather for the North. If gentlemen desired it of him, he would now tell them, that he felt the necessity, on the part of the South, of standing together upon every question involving the right of property in slaves, the slave trade, and abolition in all its forms. He knew that they must stand together for defence: therefore, as the South voted so he should vote, till the pressure from without should be withdrawn. The South acted together upon the principle of self-protection and self-preservation. They stood for protection against destruction and annihilation. He knew not the motive which prompted this outward pressure; he felt its existence, and he knew that the South acted purely on the defensive; they merely warded off the blow directed against their peace, their safety, their lives. Such were his motives for voting with the South. And he now said to all who were opposed to him or his country, Withdraw your pressure; cease to agitate this question; let us alone; do whatsoever you think to be right without endangering us, and you will find that we, too, are ready to do right.

Mr. FICKLIN desired to inquire of the gentleman from Mississippi, before he took his seat, whether he had stated that the bill before the House was a transcript of a law of the State of Mississippi?

Mr. BROWN replied that he had so stated the fact. The law, however, had been repealed by the Legislature of Mississippi some two or three years ago. The reason why it had been repealed, he supposed, was of no consequence there.

While upon this subject, he might say, that, although he had voted for the motion of the gentleman from Georgia, to lay the bill on the table, he did not fully approve of it. He was perfectly willing now, as he should be at any time hereafter, to see the motion of the gentleman from Ohio [Mr.

EDWARDS] prevail. He was perfectly willing that the bill should be printed, examined, and discussed fully. He was not so much opposed to the motion of the gentleman from Georgia as he was opposed to the motion of the gentleman from Illinois. [Mr. WENTWORTH.] The disposition thus manifested to force a bill of this character through the House upon three minutes consideration, was most extraordinary. As to the question raised by the gentleman from South Carolina, [Mr. BURT,] he admitted there was force in it. How far Congress had the right to legislate upon any question, in any way involving the right of property in slaves, even in this District, was worthy of the gravest consideration. The question presented by the bill is not, whether Congress may destroy property in slaves, (that would be abolition, and on such a proposition no southern man could hesitate,) but the question is simply, whether Congress may do in this District, what almost all the slave States have done within their respective limits—prohibit the introduction of slaves as merchandise or for sale. And even this was not without its difficulties and embarrassments. He was not on that account for shrinking from it. The question was before us, and we must consider it. For himself he was ready to meet it, to act upon it as upon every other respectful application coming from those who had a right to make such application. The people of the District had the right to make this application. It was our duty to consider it; and he would go further, and say it was our duty to grant it, if we could do so without prejudice to the rights of others, and without transcending our constitutional powers. Whether in the end we vote for or against the bill, let us refer it, print it, and give it proper and respectful consideration.

Mr. B. trusted he had not been misunderstood; for it was known, that to a southern member, this was a delicate question. He had expressed his honest views—views which he desired to carry out in good faith. He did very well know, that if the South were let alone—if they were not positively ill-treated, the North might be assured they would come up and do what was right. They stood together now for their own preservation, and nothing less than unity in their councils could be expected of them in the present crisis. If individual members did not always vote exactly according to their views of right upon these questions, it was because of this known, and now universally acknowledged, necessity of unity and concert among ourselves. When a sleepless and dangerous enemy stood at our doors, we felt the necessity of acting together. Let that enemy withdraw—let us out into the open sunshine, where we could look upon the same sun that you look upon—where the air, the land, the water, everything could be seen in common and enjoyed in common—and we should be ready to meet you as brethren, and legislate with you as brethren. But so long as you keep up this pressure, these endless, ceaseless, ruthless, assaults upon us, we must stand together for defence. In this position we must regard you as our enemies, and we are yours.

Mr. STEPHENS said he had not seen this bill, nor had he heard it read, as he had come in the House since it had been under consideration. But with the general tenor of the remarks of the gentleman from Mississippi [Mr. BROWN] he fully concurred. He thought our legislation for the District ought, as far as it was constitutional and proper, to conform to the wishes of the citizens here. But he understood the gentleman (who was on the committee that reported this bill) to say that it contained a provision which had not been asked for in the petition of the City Council, at the instance of whose memorial it had been presented. Now, for himself, he wished simply and briefly to say, that he had no objection to the passage of any law upon this subject, upon the request and petition of the constituted authorities of this District, of similar character and import of the existing law in the State of Maryland, as well as his own State, upon the same subject. He understood that the laws of Maryland prohibited the introduction of slaves within the limits of that State for sale or merchandise. Such a law existed in Georgia. It did not prohibit a person from bringing slaves into the State for their own use, but from bringing them for sale and traffic. And he had no objection to the passage of such a law for this District if the proper authorities desire it.

Mr. BROWN (interrupting, and Mr. S. yielding) said the bill, as it was originally presented to the committee, authorized any person residing in the District to bring in, for his own use, any number of slaves he might think proper. But that clause was stricken out by the committee, and the restriction inserted that no slave should be brought in, except obtained by marriage, inheritance, or bequest. There was no doubt that this clause of the bill did prohibit any citizen from going beyond the limits of the District to purchase a slave for his own use.

Mr. STEPHENS continued, and said, if the bill upon the table contained a clause, as stated by the gentleman from Mississippi, not allowing a resident of the District to purchase a slave elsewhere for his own *bona fide* use, to bring such slave within the District and hold him as such, he should certainly vote against it. In his vote he should be governed solely by considerations of what he thought to be the right of the case, irrespective of any and all other influences. He cared neither for the pressure within or without, from the North or the South. Before voting, however, he wished to see the bill printed, and know exactly what it contained; and that they might have an opportunity for that, he would move that the House now resolve itself into Committee of the Whole on the state of the Union, on the navy bill; and this subject will hereafter come up, when they would know more about it.

SEVERAL MEMBERS seemed now to insist upon the previous question.

The SPEAKER said, if the previous question were sustained, the first question would be on the reference to the Committee of the Whole on the state of the Union.

Mr. ASHMUN said, if the bill were referred to the Committee of the Whole on the state of the Union, it would never be reached. He desired to know if the friends of the bill had not a right to ask that it lie over and be printed? He would greatly prefer such a disposition of the bill for the present. If the further consideration were postponed till to-morrow, or next day, it would then stand at the head of business on the SPEAKER's table.

Mr. STEPHENS said his motion would answer the same purpose which was sought to be attained, by leaving the bill on the SPEAKER's table.

The SPEAKER. If the gentleman will waive his motion for a few moments, the Speaker, by general consent, will lay before the House a message which was received some days since from the President of the United States.

Mr. STEPHENS having waived his motion accordingly—

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives of the United States:

I communicate, herewith, reports from the Secretary of War and the Secretary of the Navy, together with the accompanying documents, in answer to a resolution of the House of Representatives of December 20, 1848, requesting the President "to communicate to the House the amount of 'moneys and property received during the late war with the 'Republic of Mexico at the different ports of entry, or in any 'other way, within her limits, and in what manner the same 'has been expended or appropriated."

JAMES K. POLK.

WASHINGTON, *January* 29, 1849.

Ordered, That said message and accompanying documents be referred to the Select Committee appointed on the message of the President in relation to military contributions levied in Mexico, and that said message and accompanying documents be printed.

The SPEAKER then proceeded (still under consent) to lay before the House certain bills from the Senate on the Speaker's table.

The joint resolution in respect to the counting the votes of President and Vice President coming up—

Mr. HENLEY said he believed that the business before the House was the bill which had been under discussion relating to slavery in the District of Columbia.

The SPEAKER said, that by general consent, the Chair was proceeding to lay before the House, bills, &c., from the Senate, on the Speaker's table.

Mr. HENLEY objected.

The SPEAKER said, the question would then be on the motion made by the gentleman from Georgia, [Mr. STEPHENS,] that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. SMITH, of Indiana, inquired of the Speaker what was the position of the bill which had been under debate?

The SPEAKER said it would go on the Speaker's table, with other bills upon their engrossment.

Mr. ASHMUN. Will it not be the first subject for consideration when the committee shall be again called for reports?

The SPEAKER. It will take its place on the file of bills on their engrossment.

Mr. ASHMUN. Then I ask the gentleman [Mr. STEPHENS] to move to postpone the consideration of the bill to a day certain.

Mr. A. then said he would ask for information from the Chair, if a motion was made to postpone the bill in relation to the District of Columbia until to-morrow, and if it was placed at the head of orders on the Speaker's table, and ordered to be printed, would it not be the first up for consideration at any moment when the House should proceed to business upon the Speaker's table? Could not a majority effect this?

The SPEAKER. Not unless the bill be made a special order for to-morrow. The Chair thinks the bill would be first on the file in case the House should now go into Committee of the Whole on the state of the Union. So that, if the House at any time after the hour devoted to reports of committees should vote to go to business on the Speaker's table, after bills on their first reading from the Senate, and perhaps some other bills on the calendar had been disposed of, this bill, as the unfinished business of to-day, would be the first bill up on the question of engrossment.

Mr. HENLEY withdrew his objection, (heretofore noticed.)

The SPEAKER said, that by unanimous consent, the bill might be made the special order for to-morrow.

Objections were made.

The SPEAKER. The question is on going into Committee of the Whole on the state of the Union.

Mr. GREELEY proposed, that by unanimous consent the bill should be printed.

Mr. McCLELLAND said he had understood the chairman of the Committee on the District of Columbia, [Mr. CHAPMAN,] in the few remarks he had submitted to the House this morning, to indicate, if he (Mr. McC.) correctly understood him, that he intended to propose an amendment or substitute to the bill. If so, he would suggest the propriety of having that also printed, so that the House might have the whole subject before it.

By general consent the printing of the bill and Mr. CHAPMAN's substitute were ordered.

PRESIDENT AND VICE PRESIDENT.

The House, by general consent, proceeded to the consideration of the joint resolution from the Senate, for the appointment of a joint committee "to ascertain and report a mode of examining the votes for President and Vice President of the United States, and of notifying the persons elected of their election".

The resolution was read, considered, and agreed to.

RELIEF OF TIMOTHY CAVAN.

The bill from the Senate for the relief of Timothy Cavan coming up, and having been read a first and second time by its title—

Mr. SCHENCK asked that the bill might be put upon its passage at this time.

The SPEAKER said it could be done only by unanimous consent.

Mr. SCHENCK asked it. He hoped (he said) that the House would allow him to state the facts. Or, if the House preferred, he would call in an old fellow, in a red hunting-shirt, and let him make his statement himself. He was in the lobby, somewhere about.

[Cries of "Bring him in—show him."]

Mr. SCHENCK (continuing.) He was an old soldier of the last war with Great Britain, though he did not serve in the war recently terminated. He has been disabled ever since.

By general consent, the bill was read a third time and passed.

On motion of Mr. HUDSON, the bill making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with the various Indian tribes for the year ending June 30, 1850, and the amendments of the Senate thereto, were referred to the Committee of Ways and Means.

Senate bills entitled "An act to grant to the Atlantic and Gulf Railroad Company the right of way through the public lands of the United States;" and

"An act declaratory of the 'Act for the admission of the State of Iowa into the Union.'"

Read a first and second time, and referred—the first to the Committee on Public Lands, and the second to the Committee on Territories.

RIGHT OF WAY.

The bill granting the right of way to the Mobile and Ohio Railroad Company coming up on its first and second reading—

Mr. GAYLE (scarcely heard) asked the House to consider it at this time. He was understood to say, that the Ohio and Mobile Railroad Company were ready to commence operations; they had entered upon the survey; more than a million of stock had been subscribed, and the company could not commence until the right of way had been granted.

Mr. DICKEY moved that the bill be referred to the Committee on Public Lands.

Mr. STEPHENS renewed his motion that the House resolve itself into Committee of the Whole on the state of the Union.

NAVAL APPROPRIATION BILL.

And the question having been taken and decided in the affirmative, the House again resolved itself into Committee of the Whole on the state of the Union, (Mr. JOSEPH R. INGERSOLL, of Pennsylvania, in the chair,) and resumed the consideration of the bill making appropriations for the naval service for the year ending 30th June, 1850.

The bill was ordered to be read by sections.

Under the resolution adopted yesterday, ten minutes remained for debate.

The first section of the bill being under consideration in the words following:

For pay of commission, warrant, and petty officers and seamen, including the engineer corps of the navy, $2,432,500—

Mr. GREELEY moved to amend it by adding at the end thereof the following proviso:

Provided, That no further appointments of warrant officers be made until Congress shall expressly direct a resumption of such appointments.

Mr. GREELEY (in explanation) said the item just read proposed to appropriate $2,432,500 for the pay of officers and seamen of the navy of the United States. He had carefully examined and brought up the items of expenditure for this part of the service, and he found the salaries of the officers to amount to $1,735,813, or nearly three-fourths of the entire sum; leaving only about $700,000 for the pay of the seamen. It appeared also, from the examinations he had made, that there was a larger number of these officers out of employment, and waiting orders, than there were in actual service. Yet, in the face of these facts, at the last session of Congress, for some reason which he did not pretend to understand, Congress voted to add four hundred and sixty-four to the number of midshipmen, when, at the same time, not more than one-half of them were needed for the service. Now, it struck him that it was not wise thus to go on increasing the number of officers for whom the Government had no employment. He therefore proposed so to modify the act of the last session as to provide against the appointment of any more midshipmen till the Secretary of the Navy might report that an additional number was requisite.

The gentleman from Pennsylvania [Mr. STRONG] who last addressed the committee upon this bill, had spoken with great pertinency and force of the necessity of retrenching these expenses of the navy. He (Mr. G.) desired also to retrench, but for another object. He desired to prepare for larger investments in that new field of expenditure recently proposed by the establishment of several new lines of ocean mail steamers.

Mr. KING, of Georgia, interposed now to say, it was impossible to hear what the gentleman was talking about from the part of the Hall where he was.

Mr. PECK rose to a question of order. He submitted that the amendment of the gentleman from New York [Mr. GREELEY] was not in order. The bill proposed to appropriate money for the support of the navy for the year ending June 30, 1850. The amendment proposed to regulate the appointment of officers, and it was not germane to the subject-matter of the bill.

The CHAIRMAN overruled the point of order.

Mr. KING, of Georgia, asked that order might be restored, and that the gentleman from New York [Mr. GREELEY] would change his position, as not a word that he had said could be heard in the part of the Hall in which he (Mr. K.) was seated.

Mr. GREELEY recapitulated the points of his explanation.

Mr. KING said, there was no such increase of officers as the gentlemen had referred to. No increase had taken place in the appointment of officers of the navy since the act of 1842, except to fill vacancies.

Mr. GREELEY. Why, then, was this item increased to $2,600,000?

Mr. KING replied, that he had not inquired into that; but he knew that the act of 1842 had never been repealed.

Mr. GREELEY continued, reiterating, that for some reason or other, here was an increase in the item of pay of $270,000 over the same item of last year.

He proceeded to submit, whether it would not be better to retrench instead of increasing these expenditures, which went to the pay of men not needed for the service, in order that the new field of national enterprise to which he had adverted, might be entered upon with more liberality. He regarded the construction of those ocean mail steamers, (if they were properly built,) to be one of the best possible forms in which the public money could be invested. The Government would thus raise up a marine armament which would constitute one of the strongest defences of the country in time of war. For this reason he urged retrenchment in the old forms of naval expenditures, which he regarded as a system which ought to be considered obsolete and wearing out. He desired, at least, to put a stop to this appointment of additional midshipmen. He considered it full time that the whole subject of naval expenditures was submitted to careful revision and amendment.

Mr. SCHENCK asked that the amendment be read.

And it was read by the Clerk.

Mr. S. then, (under the privilege of a *pro forma* amendment,) was understood, amidst the noise of conversation, in which sometimes the speaker's voice would be lost, to say that there might have been an increase of seamen; but certainly there had been no increase of officers requiring the additional amount of appropriation which the gentleman from New York had pointed out. He did not pretend to explain the reason or necessity for the increase of appropriation—nor did he feel disposed at all to question the correctness of what had come from the Committee of Ways and Means—that was their business. But he desired to correct an error into which the gentleman had fallen. So far from the increase of officers to the number indicated (four hundred and sixty-four) by the law of last session, the actual number of the increase of midshipmen was only thirteen. Of the remainder of the number contemplated in the act referred to, it was provided that, whenever they should come to be appointed hereafter, they should be selected from the several Congressional districts of the United States, which would give about two warrant officers to each district. That was part of the law of the last session; and there had been no such increase as the gentleman had spoken of.

He proceeded to show that the effect of the amendment by the gentleman from New York would be to prevent the coming forward of young midshipmen to fill the vacancies occurring by the advancing age of the older officers, and it would put a stop to the equalization of appointments amongst the several Congressional districts. The amendment did not propose an adequate remedy for the evil complained of. He invited the gentleman from New York to assist him in bringing up the bill upon the calendar for the benefit of the retired list of naval officers, which provided for the retirement of worn-out officers upon half-pay; and in that way the evil would be cured. That was the remedy which the service needed, instead of putting a stop to future appointments, which would also stop the plan of distribution amongst the districts, and permit all the old and worn-out officers to continue to grow older and more useless, instead of putting them off at half-pay.

The question was then taken on the amendment of Mr. GREELEY, and it was rejected.

Mr. GREELEY offered the following amendment, to come in at the end of the item:

Provided, That no officer of the navy shall henceforth be promoted or appointed to a higher grade, so as to be entitled to the pay and allowances thereof, until there are already officers of that higher grade employed or waiting orders.

Mr. KING, of Georgia, said, that that was now the law. The officers were constantly applying to the Committee on Naval Affairs for allowances of the pay of the grade in which they had been ordered to serve. He had just been applied to to have that part of the law repealed.

Mr. GREELEY withdrew the amendment.

The following item being under consideration:

For provisions for commission, warrant, and petty officers and seamen, including engineers and marines, attached to vessels for sea service, six hundred and eighty-six thousand two hundred dollars—

Mr. ROCKWELL, of Connecticut, moved the following amendment, to come in at the end of the item:

Provided, That ardent spirits shall not hereafter constitute any part of the navy rations.

Mr. ROCKWELL said a few words in explanation.

Mr. FULTON moved to amend the amendment by allowing five cents per day in lieu of the spirit ration.

Mr. ROCKWELL accepted the modification.

Various *pro forma* amendments were moved, for purposes of opinion, as follows:

Mr. VENABLE. To make the ration seven cents. (Withdrawn.)

Mr. GREEN. To strike out five cents and insert one.

This amendment was rejected.

Mr. POLLOCK. To strike out five cents, and insert four. Agreed to.

Mr. MURPHY moved the following amendment:

Provided also, That neither ardent spirits nor liquor of any kind whatever shall be introduced or kept aboard any national vessel, or other vessel in the service of the United States, except as a part of the medicinal stores.

Mr. M. explained.

The amendment by ayes 89, noes 44, was agreed to.

Mr. MORSE wished to move to double the ration.

That motion being pronounced out of order—

Mr. M. moved a *pro forma* amendment, to enable him to express his views against the whole proposition.

Mr. BURT moved that the committee rise.

Mr. VINTON hoped that the committee would not rise until four o'clock.

The question was taken by tellers, (Mr. THOMPSON of Mississippi and Mr. POLLOCK,) and the vote stood—ayes 84, noes 60.

So the committee rose and reported progress.

On motion of Mr. FULTON,

Resolved, That Charles Taylor have leave to withdraw his petition and papers from the files of the House.

And then the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. CROWELL: The petition of A. D. Jacobs, Henry Heasley, and others, citizens of Mahoning county, Ohio, representing that in their opinion the system of land traffic, imported from Europe, is wrong in principle, and is fast debasing us to the condition of dependent tenants, resulting in a rapid increase of inequality, misery, pauperism, vice, and crime; and that therefore effectual measures ought to be taken to eradicate the evil, and establish a principle more in accordance with our republican theory as laid down in the Declaration of Independence; and proposing that the General Government shall no longer traffic, nor permit traffic in the public lands yet in its possession, and that they shall be laid out in farms and lots for the free use of such landless citizens as will occupy them, &c.

By Mr. TALLMADGE: The memorial of C. Edwards Lester and others, of the city of New York, for cheap postage.

By Mr. PEYTON: The petition of N. E. Gray and others, of Christian county, Kentucky, in favor of cheap postage, and for the abolition of the franking privilege.

By Mr. TUCK: The petition of H. W. Wilkinson and 187 others, ladies of Syracuse, in the State of New York, praying Congress to prevent the extension of slavery, to withdraw all countenance of the Government to the slave trade, and to abolish slavery wherever Congress have competent jurisdiction.

By Mr. GREELEY: Twenty-three memorials from citizens of New York, asking Congress to abolish corporal punishment in the navy of the United States; three petitions from citizens of New York, for cheap postage; one from citizens of Defiance, Ohio, for the same.

By Mr. STEWART, of Pennsylvania: The petition of a number of the citizens of Cumberland county, Pennsylvania, representing the depressed state of the mining and manufacturing interest of that State, and praying for such a modification of the present tariff as will afford adequate protection and encouragement to these great interests, and thereby restore and secure the home market to our farmers, and employment to our labor.

IN SENATE.

THURSDAY, *February* 1, 1849.

The VICE PRESIDENT presented a memorial from citizens of Philadelphia, praying for the enactment of a law for the better regulating the mileage of members of Congress; which was referred to the Committee on the Judiciary.

Mr. BREESE presented a petition from citizens of Illinois, asking a grant of public land to that State, in aid of the construction of a railroad from the Upper and Lower Mississippi to Chicago; which was laid on the table.

Mr. DIX presented a petition from Edward C. Delavan and others, citizens of Ballston and Saratoga, praying for the prohibition of the use of intoxicating liquors on board of United States vessels; which was referred to the Committee on Naval Affairs.

Mr. DIX also presented a memorial from the merchants of New York, praying that a shoal outside of Nantucket may be marked by buoys; which was referred to the Committee on Commerce.

Mr. DAYTON presented a petition from citizens of Trenton and vicinity, praying for a reduction of the rates of postage; which was laid on the table.

Mr. BORLAND presented a petition from S. Waldrun, David P. Wells, and N. H. Wyse, commissioned officers of a company of mounted rangers, under the command of Captain Gates, at Tampico, asking compensation for their services; which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. BREESE, from the Committee on Public Lands, reported House bill to confirm the title to section 16, and the west half of section 12, in township 3 north, range 16 east, in Seneca county, Ohio, without amendment.

Mr. BREESE, from the Committee on Public Lands, reported a bill to grant a right of way across the public lands, and to dispose of said lands in aid of the several States in the construction of railroads and canals; which was read a first time, and ordered to a second reading.

Mr. JOHNSON, of Louisiana, moved that the Committee on Pensions be discharged from the consideration of the petition of Mary Connelly, on the ground that the case of the petitioner is provided for by the existing law; and the committee was discharged accordingly.

Mr. CORWIN, from the Committee on Public Lands, reported House bill to authorize new selections of lands in lieu of worthless school sections or sections of inferior quality, and for other purposes, without amendment.

Mr. CORWIN, from the Committee on Public Lands, reported the bill granting to the State of Louisiana land for internal improvement, without amendment.

GOLD DOLLARS AND DOUBLE EAGLES.

Mr. ATHERTON, from the Committee on Finance, reported a bill to authorize the coinage of gold dollars and double eagles; which was read, and ordered to a second reading.

PRINTING CONTRACT.

Mr. PEARCE asked and obtained leave to introduce the following joint resolution extending the time for receiving proposals for the printing of Congress:

Resolved, &c., That the time for receiving proposals for supplying the Senate and House of Representatives, respectively, of the next ensuing Congress with the necessary printing thereof, be extended until the first day of March next.

Mr. President, I ask for the consideration of this resolution now, and if the Senate will allow me I will explain the reason why I think it necessary that it should be acted upon at this time. I think there is no doubt that the public printing has been less expensive under the arrangement of this and that last session than before. But there is still great objection to the manner in which it is executed. Some of the officers of the Senate have been directed to make an examination, and they have ascertained that the paper is of an inferior quality, and not according to contract. Likewise that the quantity of matter on each page is less than that for which we stipulated, by at least ten per cent. In addition to this, there has been great delay in furnishing the Senate with documents which have been ordered to be printed. At this late period of the session Senators have received but three or four copies of the President's message and accompanying documents; while many documents ordered at the last session have not yet been furnished, so that the reports and documents are likely to become stale before they are received. It is, therefore, desirable that some modification should be made in the joint resolution under which the printing is done. Some Senators think that it should be abolished altogether; others, that it should be so modified as to afford some security for the prompt performance of the public printing. The resolution under which the printing is now done requires the publication of an advertisement for four weeks by the Secretary of the Senate and Clerk of the House of Representatives for bids, and at a time appointed by them the bids are to be opened. The time which they have fixed is the third day of February, and if we are to effect any modification of the rules and regulations under which the printing is done, so as to secure dispatch and a conformity with the contract, it is necessary that the time at which the proposals shall be received shall be extended. My object is to extend the time till the first of March, which will give opportunity to make some modification in the contracts. If this shall be agreed to, I propose to submit a resolution to-morrow instructing the Committee on Printing on this subject.

The joint resolution was then taken up as in Committee of the Whole, and no amendment being made therein, it was reported to the Senate, was ordered to be engrossed for a third reading, and was read a third time and passed.

WILLIAM DE BUYS.

Mr. DOWNS moved that the previous orders be postponed, and that the Senate proceed to the consideration of the bill for the relief of William De Buys, late postmaster at New Orleans.

After a few remarks from Mr. BADGER, Mr. YULEE, Mr. DOWNS, Mr. RUSK, Mr. JOHNSON of Louisiana, and Mr. KING, the motion was agreed to.

The bill was then taken up for consideration as in Committee of the Whole, and reported without amendment.

The question being on its third reading, some remarks were made by Mr. NILES, Mr. RUSK, Mr. BRIGHT, and Mr. JOHNSON of Louisiana; when the question was taken, and decided in the negative—ayes 14, noes 19.

So the bill was rejected.

CAPTORS OF THE FRIGATE PHILADELPHIA.

The Senate then proceeded, on the motion of Mr. YULEE, to the consideration of the bill for the relief of the captors of the frigate Philadelphia.

Mr. DIX. In connection with the consideration of this bill, I intended to call the attention of the Senate to certain papers; but, inasmuch as these papers are now in possession of a member of the other House, I shall not at present be able to do more than explain a motion to amend this bill which is based upon the facts set forth in those papers. I desire to insert a provision in this bill—which is in part for the relief of the heirs of Commodore Decatur—providing that his nieces or adopted children who were living with him at the time of his death—two of whom are now married, and one of whom is the widow of Major Twiggs, who died in Mexico—shall, for the purposes of this bill, be deemed as his children, and, as such, be entitled to a share of this prize money. The papers showing the propriety of this amendment, as I have said, are not now in my possession.

As there appears to be no particular necessity for the exhibition of these papers, I will offer the following amendment, embracing in substance what I have already stated to the Senate.

Provided, That the nieces of Commodore Stephen Decatur shall, for the purposes of this bill, be deemed his children, and share as such in the distribution of the prize money to be made.

Mr. KING. I understand that these adopted children of Commodore Decatur were not living with him at the time of his death. If such be the fact, it appears to me that the object of the amendment offered by the Senator from New York would be more clearly set forth by naming these individuals, and constituting them as joint heirs, so far as regards the distribution of this fund.

Mr. YULEE. I would suggest a course in relation to this matter which may be satisfactory, perhaps, and that is, that this amendment be agreed to by the Senate in the form in which it now stands, and the bill reported; and then, before the final engrossment and passage of the bill, if the Senate perceive any defect in the operation of this amendment, it can be remedied.

Mr. CAMERON. I think the difficulty in the matter would be obviated by inserting the names of these individuals, as suggested by the Senator from Alabama.

Mr. DIX. I have no objection to that plan at all. I move that the amendment be altered so as to read that "Mrs. Priscilla Twiggs and her two sisters be considered as joint heirs in the distribution of this prize money." I would also ask that the words "living with him at the time of his death" be stricken out. I suppose I was laboring under a misapprehension in regard to this fact.

The amendment was modified accordingly.

Mr. UNDERWOOD. I desire to ask the Senator from New York for some information. I would inquire, if the law disposes of this money after the death of Commodore Decatur, how can the Senator deprive those who are entitled to that money under the law of its enjoyment by any amendment he may offer? Coming from the interior of the country, as I do, I know very little about the maritime regulations of prize cases, they not having come under my notice or supervision. What I want to be informed about upon this question is this: If acts of Congress declare, that upon the death of an officer, his heirs shall be entitled to prize-money that may be due to him, and if those acts of Congress regulate the disposition of prize-money accruing after his death, how can we prevent its falling into the channel thus pointed out by law? I presume we cannot; yet Senators around me state that there is no law or arrangement affecting this particular case which directs what course this money shall take. I had supposed, as I have said, that there was some rule for the regulation of the distribution of this prize-money; but, from the remarks I have heard, I suppose that it is in the power of Congress, with reference to this particular case, to make what arrangements they please as to the distribution.

Mr. YULEE. I can satisfy the mind of the Senator from Kentucky upon this point, perhaps, when I state that this bounty money proposed to be granted by this bill does not enter into the assets of a deceased officer. Had Commodore Decatur brought this ship out of the harbor of Tripoli, he and those assisting him in the enterprise would have been entitled, under the existing prize act, to a distribution among them of a sum of money equivalent to the value of the vessel; but, as this vessel was destroyed in the harbor, they were entitled to nothing under the existing law. It has been usual, however, in the practice of the Government, with reference to cases of this character, to make remuneration in the way of bounty, or the donation of an amount commensurate to the services rendered, and also as a tribute of gratitude. The prize-money involved in this case is bounty that has thus been granted to the captors of this vessel. The distribution of such bounty is not only regulated in respect to the heirs of an officer who may have died, but is absolutely prohibited in some cases. For instance, this bill provides that the distribution of these shares shall be made to officers now living, and in case of their death the shares are to be distributed equally among their widows and children; but, in default of any widows or children, the money shall remain in the treasury, and cannot go to his credit, nor to the credit of any of his collateral issues. This is, therefore, a case of bounty, to be distributed under certain limitations, as Congress pleases. In this case it appears that Mrs. Twiggs and sisters, provided for in this amendment, were adopted by Commodore Decatur as his children, and were regarded as such by him at the time of his death. This fact coming under the notice of Congress, it seems proper, in making arrangement for the allowance of the share of prize-money due Commodore Decatur's widow, that these joint heirs, his adopted children, should be recognized as such by us in this bill.

Mr. KING. This bill was up for consideration some weeks past, but laid aside in consequence of my desire to examine it more particularly, and ascertain whether some provision had not already been made to the widow of Commodore Decatur since the time of his death, in the form of certain

gratuities. I found upon examination, however, that the widow of Commodore Decatur has received nothing—not one cent. The Senator from Florida was perfectly correct in his statement, when the bill was up before, as to this fact. The resolution that passed Congress authorizing her to receive a certain pension as the widow of a deceased officer of the United States service, gave her the option to receive the pension allowed under the general law, or to take the advantage of a special act passed for her benefit. Unfortunately for herself, she chose to take the benefit of the general law; and that law having expired by its own limitation, she is now in the receipt of nothing at all from the Government. Although there appears to be some propriety in giving to the nieces of Commodore Decatur—for whom he entertained the strongest affection—a portion of the amount to be allowed as a gratuity to the widow and heirs of those who participated in that brilliant action, yet it appears to me it is going too far to grant the allowance to these nieces, as contemplated by this amendment. His widow, I think, should have at least one-half of the amount of this gratuity, while the other half might be distributed to these nieces, if you choose. Unless she receives the larger portion of this money she will be placed in possession of but a mere pittance, and that, too, when she is now almost in a destitute condition. I wish the Senate would turn their attention to this matter. For one, I have had my feelings strongly enlisted in behalf of Commodore Decatur's widow; for I know Commodore Decatur was a proud man, and he would have given his whole estate to her rather than she should be placed in a condition almost of destitution. The estate left her—possibly through some extravagance; I will not say that was the case, however—was, at the time of the Commodore's death, subject to heavy mortgages, to meet which the larger portion was exhausted. I throw out the suggestion, that if the Senate is disposed to include in this distribution these nieces of Commodore Decatur, not more than one-half of the whole amount be allowed to be divided among them.

Mr. DIX. I am perfectly willing to assent to the suggestion of the Senator from Alabama, if the amendment, thus modified, will be satisfactory to him—the widow of Commodore Decatur to receive one-half of his share of the money, and the other half to be distributed among his three nieces, they receiving one-sixth each.

Mr. KING. Do I understand the Senator from New-York as accepting my proposition of a modification of his amendment?

Mr. DIX. If I understood the proposition as stating that the widow should receive one-half of the money, and the three neices the other half, I will accept it.

Mr. BERRIEN. Mr. President, I would prefer that the question should be taken upon the amendment in its original form. I understand this to be a bounty proposed by Congress to the officers and crew that burnt the frigate Philadelphia. It is intended as a bounty, so far as Commodore Decatur is concerned, to those persons to whom, if alive, he would have distributed it. I really cannot perceive any reason why one moiety of the sum should be given exclusively to the widow, and the other three heirs permitted to share only in the residue. I think they should all stand on an equal footing. My information on this subject is, that Commodore Decatur designed to have made these ladies his heirs, and that he abstained from making a will under the impression that the feeling of his own bosom was shared, in the same degree in which it was entertained by him, by his wife. If, unfortunately, differences of opinion have since occurred in the regulation and distribution of this bounty, we ought to look to the time when harmony existed among all parties. I think the wishes of Commodore Decatur would be best fulfilled by placing each of these ladies upon an equal footing, and I would prefer the amendment in its original form. I would suggest, therefore, to the Senator from New York, that instead of accepting the suggestion offered by the Senator from Alabama as a modification of his [Mr. DIX's] amendment, it should be moved as an amendment to the original amendment, and take the sense of the Senate upon it in that form.

Mr. DIX said he would act in accordance with the suggestion of the Senator from Georgia. He would not accept of the suggestion previously made by the Senator from Alabama as a part of his amendment, but would prefer that the Senator from Alabama should move it as an amendment to the original amendment, and that the sense of the Senate should be taken upon it in that form.

Mr. KING. The Senator from Georgia has not adverted, I presume, in the remarks he has made, to the provisions of the general bill. If he had done so, he would have perceived that my amendment is in accordance with its provisions. In the general provisions of the bill, we do not interfere with any collaterals, however many there may be, and in the cases of some of these officers and crew there were collateral relatives equally dear to them as were these nieces to their deceased uncle. Why, then, should we suffer the widow of one officer or one man who partook in this achievement, to receive the whole amount of her deceased husband's share of this money, and deprive another, who is the widow of the most gallant, or certainly one of the most gallant officers this country has ever produced, of the whole of her share, except a bare participation with many others, who are merely the collateral relatives of her deceased husband. True, these nieces were, in some degree, considered by Commodore Decatur as his children. They were thus considered, so far as his affections led him to furnish what was necessary for their subsistence and comfort. But, sir, you draw a distinction here, if the original amendment prevails, between the widow of Commodore Decatur and the widows of other officers, certainly not entirely just towards her. I ask the honorable Senator from Georgia, whether the widow of Captain Lawrence, provided his brothers or sisters, had had daughters, should have received the whole of her share of this money, or whether it should have been divided among the nieces of Captain Lawrence and herself? This is an invidious distinction, and against the widow of the principal officer who performed a most gallant act—an act more distinguished, perhaps, for gallantry, for heroism, and for self-devotion to the interests of the nation, than any other act that has ever been performed during our country's existence; and yet you draw that distinction against his widow. If he had lived, however anxious he might be to provide for his relatives, rather than see her reduced to comparative beggary, he would have given her the whole, without a moment's hesitation, because she is more dependent than they are. She is growing old, and has no resources, while they have many. I have every disposition to do what is right and just upon this question. I am disposed to be as liberal towards the nieces of Commodore Decatur as I can be without doing an act of injustice towards his widow, by assigning to her a mere child's part of that which is wholly her own.

Mr. ALLEN. Mr. President, it strikes me, that in matters of this sort, the condition of the parties is a matter to be considered. If the nieces of Commodore Decatur are wealthy persons, and are not so much in need of this money as the wife of Commodore Decatur is, it strikes me that the widow should have the larger part, at least, because the object of the bill is to do an act of justice, on the part of the Government, to the memory and services of a deceased and highly meritorious officer; and in doing that act of justice, we should look at the effect it is likely to have upon the happiness and comfort of those objects left behind him, and who were dear to him. In order to do that, we must look at the condition of those objects, this widow's wants, and the wants of these nieces of Commodore Decatur. I should be governed, then, entirely, in parceling out the whole amount of this little pittance among these four ladies, by the consideration of the neediness of their condition.

Mr. BUTLER. Mr. President, I understand that these ladies were the adopted children of Commodore Decatur. At any rate, it is now the disposition of Congress to make them his adopted children. If we give them, therefore, that relation, we ought to give it fully and without qualification. If we say they are his children, and that they have rights as his children, they ought to come in and claim their rights without any qualification. I understand that it has been conceded that they are his heirs; and if so, we ought not to impair, by our legislation, any of the rights incident to that relationship. On the contrary, Mr. President, as this prize-money has been won by the gallantry of Commodore Decatur, it is rather agreeable to me that it should go to his blood.

Mr. BERRIEN. Mr. President, the honorable Senator from Alabama is under a misapprehension when he supposes that I have not read the original bill. I am perfectly aware of its provisions. It puts the widow and children on the same footing. If there be any children, it provides for the equal distribution of the money among them and the widow. If there be no children, inasmuch as collateral relatives are not recognized, it gives the whole amount to the widow.

Well now, if I am asked why I adopt the course which I have suggested—why I distinguish these collateral nieces of Commodore Decatur from other collateral kindred, I answer, the distinction is made upon the ground on which Commodore Decatur himself, in his life, made it. By the adoption of these persons as his children, he changed their character from collaterals to that of issue children. And it is that determination of his that I wish to see carried out.

Now, sir, in relation to the suggestion of the Senator from Ohio, that the condition of these relatives should enter into our consideration in determining this distribution, I agree perfectly with that view of the subject; and I am therefore authorized to state that the motive which has induced me to interfere in this matter is, that one of these nieces (who is the widow of a gallant officer, and whose family resides in the State from which I come) is herself living in indigent circumstances, and unprotected, in consequence of the death of her gallant husband. A suggestion is made by a Senator near me that the lady of whom I speak has not only lost her husband, but her son also, in the late war with Mexico. She has children, and is in needy circumstances, and, if any distinction were to be made, her situation would seem to appeal to the Senate to make a distinction in her favor. I presume the other sisters, though not having the same charges upon them, are in circumstances equally necessitous. Therefore, concurring in the suggestion of the Senator from Ohio as to the ground upon which this distribution should be made, namely, the necessities of the parties, I ask that these collateral relatives of Commodore Decatur, whose character was changed by his adoption of them as his children, shall be placed upon an equal footing with the widow in the participation of this act of public bounty.

Mr. DIX. Mr. President, I wish to make one remark in relation to the view taken of this matter by the Senator from Ohio. The amendment, as it was originally offered, was precisely in accordance with the provisions of the bill, so far as the distribution is concerned. It assumes that these persons were the children of Commodore Decatur, adopted by him, and would, had he lived, have been provided for by him as his children.

With regard to the situation of these parties, I will state, in reply to the suggestion of the Senator from Ohio, that one of these nieces is the wife of a purser in the navy. Another is Mrs. Twiggs, who lost her husband and a son in Mexico; both of them lost their lives upon the field of battle. She has several children, and I understand is without means, except that she has a pension, I believe, of about three hundred and sixty dollars a year. I think she has three or four children. The other sister is unmarried and has no means. She lives with her brother-in-law, and is also assisted by her brother.

Mr. ALLEN. What distribution will the bill in its present form make?

Mr. DIX. It will give each person one-fourth of the money.

The question was then taken on the adoption of the amendment offered by Mr. KING, and it was rejected.

The question on the amendment submitted by Mr. DIX was then taken, and the amendment was agreed to.

The bill was then ordered to its engrossment for a third reading, and was read a third time, by unanimous consent, and passed.

FULLER AND SAVAGE.

On motion of Mr. KING, the previous orders were postponed, and the Senate proceeded to consider the bill for the relief of William Fuller and Charles Savage.

The bill being under consideration, the amendment of the committee was agreed to, and the bill was then read a third time and passed.

FULLER AND SALTMARSH.

On motion of Mr. NILES, the previous orders were postponed, and the Senate proceeded to consider the House bill for the relief of William Fuller and Orlando Saltmarsh.

The bill being under consideration as in Committee of the Whole, and no amendment being offered, it was reported to the Senate, and read a third time and passed.

DAVID MYERLE.

The Senate proceeded to consider the bill for the relief of David Myerle, as in Committee of the Whole.

The question being on the amendment moved by Mr. UNDERWOOD—

Mr. BRADBURY made a few remarks, and was followed by Mr. ATCHISON, Mr. BADGER, Mr. NILES, Mr. TURNEY, and Mr. METCALFE.

Mr. ATHERTON moved that the bill be indefinitely postponed.

Mr. BORLAND indicated an amendment, which he proposed to offer in case the motion for indefinite postponement be decided in the negative.

The bill was further discussed by Mr. BENTON, Mr. YULEE, Mr. BERRIEN, and Mr. HANNEGAN.

Mr. HANNEGAN moved to lay the bill on the table, and asked for the yeas and nays; which were ordered.

The question was then taken, and decided as follows:

YEAS—Messrs. Atchison, Benton, Borland, Bradbury, Dix, Downs, Felch, Fitzgerald, Hamlin, Hannegan, Hunter, Johnson of Georgia, Jones, Mason, Metcalfe, Sturgeon, Turney, Underwood, and Upham—19.

NAYS—Messrs. Atherton, Badger, Baldwin, Bell, Berrien, Bright, Butler, Clarke, Davis of Mississippi, Dayton, Dickinson, Dodge of Iowa, Douglas, Fitzpatrick, Foote, Greene, Houston, Johnson of Louisiana, King, Miller, Niles, Pearce, Rusk, Spruance, Walker, Webster, and Yulee—27.

So the motion was negatived.

Mr. HANNEGAN moved that the Senate now adjourn; which was decided in the negative—ayes 19, noes 23.

Mr. BENTON addressed the Senate in explanation, and was again followed by Mr. BERRIEN.

Additional documents were read, at the request of Mr. BADGER, explanatory of the facts and circumstances of the case.

Mr. BRADBURY. Mr. President, I believe a motion to recommit takes precedence of a motion to postpone.

Mr. ATCHISON. If the Senator desires to make such a motion, I will withdraw the motion that I made to postpone.

Mr. BRADBURY. I desire to make a motion to recommit the petition and papers to the Committee on Naval Affairs, with instructions to refer the same to the Naval Department, for the purpose of obtaining any information which can there be furnished concerning this claim.

Before the question is taken on this motion I wish to say one word, and it is this: We have nowhere any information which seems to be direct and authentic as to the ground of the rejection of this hemp by the commissioners, and it may be that the department is in possession of such information as will throw material light on the subject. I hope therefore that the bill will be recommitted.

I wish to remark further, that, in making this contract, the department conferred its bounty by giving to Mr. Myerle a sum greatly larger than the market price, and that it was in this way that he was to derive his benefit; and when the commissioners made the report which has been read by the Senator from Georgia, recommending an advance of $25,000, it is worthy of notice that Congress did not adopt it, but went forward and made a new contract, which has also been read, and he was to seek his benefit from that contract. Now, whether they were liberal to him or not, we have no information except that which seems to have been derived from others. As to the certificates from gentlemen respecting the benefits derived from the introduction of his process of water-rotting hemp, what knowledge have we of those from whom they come? We know not whether those individuals had furnished hemp to him, and whether, therefore, he was not indebted to them. On this and other points we need information, and hence I move the recommittal of this bill.

The question was taken on the motion to recommit, and on a division, 14 voted in the affirmative and 16 in the negative—no quorum voting.

Mr. ATCHISON moved an adjournment, which was agreed to on a division—18 voting in the affirmative and 15 in the negative.

The Senate thereupon adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 1, 1849.

The Journal of yesterday was read and approved.

Mr. DIXON asked the unanimous consent to introduce a resolution of inquiry.

Mr. HOUSTON, of Alabama, inquired what was the regular order of business?

The SPEAKER. Reports from committees, commencing at the Committee on the Judiciary.

Mr. CABELL asked leave to withdraw certain papers.

The SPEAKER. The resolution of the gentleman from Connecticut will be read, unless it is objected to.

Mr. BURT insisted on the regular order of business.

The SPEAKER said, the Chair was of opinion that the gentleman from Connecticut [Mr. DIXON] having first obtained the floor, had a right to have his resolution read, and then objection, if made, would be entertained.

The resolution was read, as follows:

Resolved, That the Committee on Manufactures be instructed to inquire whether a system of bounties has been established by any foreign countries, upon goods manufactured in such countries, and imported into the United States, and whether any counteracting measures ought to be adopted by Congress.

The objection of Mr. BURT being entertained, the resolution was not received; and the regular order of business, viz: the reception of reports from the committees, was announced by the Chair.

Mr. HOUSTON, of Alabama, inquired if the unfinished business of yesterday, at the time the House resolved itself into Committee of the Whole on the state of the Union, did not come up as the first business in order?

The SPEAKER. The Chair would state to the gentleman from Alabama, that the bill introduced from the Committee on the District of Columbia, (viz: the bill relative to the slave trade in the District of Columbia,) having had its first and second reading, and not having been referred or disposed of, remains upon the file of bills on their engrossment on the Speaker's table.

Mr. HOUSTON said he did not allude to that bill, but to the bill which his colleague [Mr. GAYLE] yesterday proposed to put on its passage granting the right of way to the Mobile and Ohio Railroad Company.

The SPEAKER stated that this bill was in the same situation upon the Speaker's table.

SALARIES OF JUDGES.

Mr. MEADE, from the Committee on the Judiciary, reported a bill to change the times of holding the district courts of the United States in the western district of Virginia, and for other purposes; which was read twice.

Mr. VINTON moved to amend the bill by inserting, in lieu of the section, the following:

Be it further enacted, That when the salaries now allowed by law to any district judge of the United States is less than two thousand dollars per annum, the sum shall be raised to the sum of two thousand dollars from and after the first day of January, in the year 1849.

Mr. VINTON said, the bill now before the House proposed to raise the salary of the judge of the western district of Virginia to $2,000. In his (Mr. V.'s) opinion, it was no more than he or any other judge ought to receive. There was a very great inequality in the salaries of the judges of the different courts of the United States. Some of them were, he believed, as high as $3,500, and some of them as low as $1,000. Now, according to his notion of the qualifications requisite for the office, any man who was fit to be a judge of a district court of the United States was entitled to receive a salary, at least, of $2,000. And it made no difference whether you gave him full employment or not. When he received his appointment he was—if he might use the expression—sequestered from other business, and was bound to discharge the duties of his office. If he did not receive full employment, it was not his fault; it was his good fortune, if he (Mr. V.) might say so.

Now, as to the salary of this district judge of the western district of Virginia, he received at this time, he (Mr. V.) believed, a salary of some $1,600. The district judge of Ohio received $1,500, the judges of Illinois, Indiana, and Missouri $1,500 each. Now, the United States district judge of Ohio had more business to do in one of his courts than the business which was done in all the districts of Virginia put together. But, as he had already said, this judge was obliged to perform the duty of traveling from county to county to hold his courts, though he had but little business.

In his opinion, any judge that merited a seat upon the bench, was entitled to receive $2,000. These inequalities ought not to exist. They arose from the kind of legislation which was now before the House. They created the office of a judge, and fixed his salary in that particular case; sometimes they raised it to $3,000 or $4,000, sometimes it was only $1,000. He thought there should be an equality, and he had offered this amendment (with the consent of the gentleman who reported the bill) for the purpose of fixing a minimum salary, the effect of which would be to put the salaries of all the judges of the district courts of the United States, which were now below $2,000, on a footing of equality at $2,000. He hoped the amendment would be adopted.

Mr. KAUFMAN said he was glad that the amendment of the gentleman from Ohio [Mr. VINTON] was offered with the consent of the gentleman from Virginia, [Mr. MEADE,] who reported the bill under consideration from the Judiciary Committee. He said he disliked the great inequality of the salaries of judges and other officers. The same compensation should be meted out to all for the same services. Some district judges were now receiving $3,500, and others only $1,000 per annum. He (Mr. K.) said he would vote to reduce the salaries of those who received more than $2,000 per annum, were it not for the positive prohibition of the Constitution. That was a fair salary. The United States district judge of Texas receives a salary of $2,000 per annum, and he was willing to accord to others similar compensation to that received by the same officers in Texas. The law fixing the salary of the district judge in Texas, he said, was passed before he had taken his seat here. The best lawyers in the country should be selected to fill these places; and although some judges had more business to transact than others, yet the sacrifice of a good lawyer in accepting the office of district judge was the same in all cases. He sacrificed all his business at the bar, and was prevented altogether from practising. You give your Auditors and heads of bureaus, $3,000 per annum. Will not an able and competent judge, sacrificing his practice, earn as much as $1,000 less than an Auditor here? I shall vote for the amendment because it breathes the spirit of equality. If it is right as recommended by the committee in the case of the Virginia judge, and as fixed by law in many other States, it is right in others not yet so favored; and I prefer general to special and partial legislation.

Mr. COBB, of Georgia, raised the point that it was not in order, on this bill, which related to the salary of a particular judge, and was a bill local in its character, to regulate the salaries of all the district judges of the United States whose salaries were now less than $2,000.

Before the SPEAKER announced his decision on the point of order—

Mr. COBB proceeded to state his objection to the amendment. He said that the salaries not only of the district judges, but of the district attorneys, and of the marshals, were unequal. He had endeavored to procure the action of this House, through the Judiciary Committee, to equalize all these salaries, and he believed a bill for this purpose was now before the House.

Mr. J. R. INGERSOLL, (in his seat.) It is, sir.

Mr. COBB said he was extremely anxious that this bill (which he was informed by the chairman of the Judiciary Committee he was right in saying was before the House) should be passed, so as to remove the evils of all those inequalities. If they attempted to regulate the salaries of the district judges in a bill of this character, they took away the influence of those gentlemen who were in favor of this especial proposition from the support of the general provision for reduction. The inequalities in the salaries of all these officers should be reduced in one bill. The district attorneys in some States of the Union received compensations

amounting almost to fortunes in a few years; while in other States, where the labors were equally great, they amounted to comparatively nothing.

Mr. ASHMUN called the gentleman to order.

After a brief conversation on the point of order—

The SPEAKER said the Chair had uniformly decided that a provision of a general character was not in order as an amendment to a bill of local character like the present. He therefore ruled the amendment out of order.

Mr. WHITE moved that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. VINTON appealed from the decision of the Chair, and supposed (he said) that the appeal was debatable.

The SPEAKER said the gentleman could state the grounds of his appeal.

Mr. VINTON did so.

The SPEAKER stated the grounds of his decision.

Mr. TAYLOR rose to inquire whether the amendment of his colleague [Mr. VINTON] proposed to equalize all the salaries of all the district judges of the United States, or whether it proposed simply to raise those salaries which were less than two thousand dollars?

The amendment was explained.

Mr. VINTON made a few remarks in explanation of what he considered the erroneous decision of the Chair.

The SPEAKER was understood to suggest that the gentleman from Ohio [Mr. VINTON] might accomplish his object by moving to recommit the bill to the Committee on the Judiciary, with instructions to inquire into the expediency of reporting a provision such as that contemplated in the amendment.

Mr. VINTON expressed his willingness to make that motion.

Mr. TOOMBS briefly sustained the decision of the Chair.

Mr. ASHMUN (in a few words) opposed it.

Mr. J. R. INGERSOLL sustained it.

Mr. KAUFMAN invited the gentleman from Ohio [Mr. VINTON] to withdraw his appeal from the decision of the Chair. He (Mr. K.) thought that that decision was correct. The object of the gentleman could be obtained by accepting the suggestion which the Speaker had made to recommit the bill to the Committee on the Judiciary with instructions to inquire into the expediency of adopting such a provision. Let that committee report upon it.

Mr. VINTON said he had no objection to that course. He did not desire to take any question upon the appeal, unless it was necessary to accomplish the object he had in view. If the House was content to recommit the bill to the Committee on the Judiciary with the instructions embraced in his amendment, his purpose would be answered; and he would now make that motion, with the understanding that if it should not prevail, he would renew his proposition to amend.

Mr. TOOMBS said, he objected. The gentleman had no right to make his proposition with any such understanding.

Mr. VINTON supposed, he said, that he could renew his proposition.

The SPEAKER. The Chair understands the gentleman to withdraw his appeal.

Mr. VINTON said, he withdrew the appeal; and he moved that the bill be recommitted, with instructions.

Mr. FICKLIN suggested to Mr. VINTON so to amend his instructions as to provide that the appointments made hereafter should be reduced to the sum of two thousand dollars. The salary of these judges who were in office could not be reduced, but they might be reduced as to all judges hereafter to be appointed.

Mr. VINTON was understood not to accept the suggestion.

The SPEAKER said the question before the House was on the recommitment of the bill to the Committee on the Judiciary with instructions.

Mr. JONES, of Tennessee, obtained the floor.

Mr. COBB, of Georgia, said that he moved to amend the resolutions so as to provide for an inquiry into the expediency.

Mr. JONES claimed the floor.

Mr. COBB. I beg the gentleman's pardon. I thought I had the floor. I will not trespass on the rights of my worthy friend if I know it.

Mr. JONES said it would be recollected by the House, that at the last session of Congress, a bill similar in character to that now under consideration was before this House. A motion was at that time made and sustained here, to strike out the third section of the bill, (he believed it was the third,) which provided for the salary of the judge in Virginia. That motion prevailed, and the bill was then passed, having reference merely to the alteration of the time of holding the courts there.

In that form the bill went to the Senate. In that body, the provision in relation to the increase of the salary was reinstated, and was sent back to this House. The House non-concurred in the amendment. The bill was again returned to the Senate. A committee of conference on the part of the two Houses was appointed, and upon the last night of the session that committee reported a provision fixing the salary at two thousand dollars. When the report was made, it was, on the motion of the gentleman from Ohio, [Mr. VINTON,] laid upon the table by a vote, he (Mr. J.) believed, of some two-thirds or three-fourths of the members of this House.

Mr. VINTON asked leave to explain; and (the floor having been yielded for the purpose) he proceeded to say, that the motion he then made was based upon the very proposition which he had now suggested. He stated at that time what he had stated to-day, that he had no objection to raise the salary of this judge, if all the other judges were placed on the same footing. But his objection was against this partial and unequal legislation.

Mr. JONES resumed. He did not know (he said) that there was any district judge in the United States who asked that his salary might be increased except this judge from Virginia. But let gentlemen look at other States and see how the judges were situated there. In the State of Tennessee there was one district judge in a population, he (Mr. J.) supposed, of over one million. The judge held the court in the three grand divisions of the State. His salary was fifteen hundred dollars, being the same amount which the State of Tennessee paid to her circuit judges; and he thought that the office of a judge of a State was as important in view of the adjudication of questions that might come before them as that of a district judge of the United States. In his judgment, in fixing the salaries of judges and other officers, located in the different States, some regard should be paid to the salaries paid by these States to similar officers within the States. It was by giving salaries to similar officers much larger than those which were given by the States that the anxiety of persons who thought themselves competent for these offices was increased to procure appointments to those created by the General Government rather than to those created by the States. When the House was trying to create equality by fixing the salaries at two thousand dollars, it was producing the very inequality which it was the professed object of the bill to prevent, by giving to the judges of the State of Ohio and of other States a salary of two thousand dollars, when here were some twelve or fifteen circuit judges who were receiving only fifteen hundred dollars. As he had said before, the circuit judges of Tennessee and the district judges of the United States courts receive the same salaries.

Believing that the House was not prepared at this time to make any increase in these salaries, and believing that the opinions which had been expressed upon the subject at the last session of Congress, and as the period of the session was now late, he would move that the bill be laid on the table.

Mr. JOHNSON, of Arkansas, desired to say a single word.

The SPEAKER said the motion to lay on the table was not debatable.

Mr. WHITE inquired whether his motion to refer the bill to the Committee of the Whole on the state of the Union would not take precedence of the motion to lay on the table?

The SPEAKER said that the motion to lay the bill on the table was the first question in order.

After an inquiry by Mr. MEADE—

Mr. JONES asked the yeas and nays on his motion; which were ordered.

And the question, "Shall the bill be laid on the table?" was then taken, and decided in the affirmative—yeas 91, nays 88—as follows:

YEAS—Messrs. Atkinson, Bingham, Birdsall, Blackmar, Bowdon, Bowlin, Brady, Wm. G. Brown, Albert G. Brown, Canby, Franklin Clark, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Cocke, Collins, Conger, Cranston, Crozier, Cummins, Daniel, Dickey, Dickinson, Dixon, Embree, Nathan Evans, Farrelly, Ficklin, Gott, Green, Greeley, Hale, Willard P. Hall, Hammons, James G. Hampton, Henry, Hill, Hilliard, Elias B. Holmes, George S. Houston, Hubbard, Hudson, Inge, Jenkins, Andrew Johnson, George W. Jones, Kellogg, Kennon, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Ligon, Lord, Maclay, McClernand, McIlvaine, McKay, McLane, Job Mann, Miller, Morris, Mullin, Peck, Phelps, Pollock, Putnam, Reynolds, Richardson, Richey, Robinson, Rockhill, Julius Rockwell, Rumsey, St. John, Sawyer, Shepperd, Sherrill, Slingerland, Smart, Truman Smith, Starkweather, Charles E. Stuart, Strohm, Turner, Wallace, Wentworth, White, Wick, Wiley, and Williams—91.

NAYS—Messrs. Abbott, Ashmun, Bedinger, Belcher, Boyd, Boyden, Brodhead, Burt, Butler, Cabell, Cathcart, Chapman, Clingman, Crisfield, Crowell, Darling, Dunn, Edsall, Edwards, Faran, Featherston, Fisher, Flournoy, Freedley, French, Fulton, Gaines, Gayle, Giddings, Goggin, Gregory, Grinnell, Nathan K. Hall, Harmanson, Harris, Henley, John W. Houston, Hunt, Joseph R. Ingersoll, Iverson, James H. Johnson, Robert W. Johnson, John W. Jones, Kaufman, Thomas Butler King, Leffler, Levin, Lincoln, Lynde, McDowell, Horace Mann, Marvin, Meade, Morse, Murphy, Nelson, Newell, Outlaw, Palfrey, Peaslee, Pendleton, Peyton, Preston, Rhett, John A. Rockwell, Root, Schenck, Silvester, Caleb B. Smith, Robert Smith, Stanton, Andrew Stewart, Strong, Tallmadge, Taylor, Thibodeaux, Jacob Thompson, Thurston, Tompkins, Toombs, Tuck, Van Dyke, Venable, Vinton, Warren, Wilson, and Woodward—88.

So the bill was laid on the table.

On motion of Mr. CABELL, it was

Ordered, That Joseph Sierra have leave to withdraw his petition and papers from the files of the House.

The petition and papers were thereupon delivered to Mr. CABELL.

Mr. FRENCH, from the Committee on the Judiciary, reported a bill for the relief of Stoughton A. Fletcher; which was read twice.

The question was stated, Shall this bill be engrossed and read a third time?

Mr. WICK hoped there would be no objection to the passage of this bill. He said it only afforded relief to the extent of three bounty land warrants. He pointed out the restrictions of the bill, and said they were such as secured the Government against the possibility of loss. He hoped the bill would be passed now, and not referred to the Committee of the Whole on the state of the Union, which would occasion such delay and vexation, as to defeat the object of the bill by the postponement of justice.

Pending the question on this bill—

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. THOMPSON, of Indiana, appealed to the gentleman from Ohio to withdraw the motion, in order that the joint resolution just received from the Senate proposing to extend the time for receiving proposals for the public printing—to the passage of which he presumed there would be no objection—might be taken up and concurred in. It would not take five minutes.

The motion of Mr. VINTON not being withdrawn, and having been agreed to—

NAVAL APPROPRIATIONS.

The House resolved itself into Committee of the Whole on the state of the Union, (Mr. J. R. INGERSOLL, of Pennsylvania, in the chair,) and resumed the consideration of the bill making appropriations for the naval service for the year ending 30th June, 1850.

The question pending when the committee rose yesterday, was on agreeing to the following amendment of Mr. ROCKWELL, of Connecticut, as amended, viz:

Provided, That ardent spirits shall not hereafter constitute any part of the navy ration; but in lieu thereof there shall be allowed four cents per day.

Provided also, That neither ardent spirits nor liquor of any kind whatever shall be introduced or kept aboard any national vessel, or other vessel in the service of the United States, except as a part of the medicinal stores.

Mr. SCHENCK moved to amend the amendment, by adding the following: "As prescribed by the surgeon of the ship." After some remarks, Mr. SCHENCK withdrew the amendment.

Mr. KING, of Georgia, moved the following amendment, which was disagreed to:

Strike out all after the word "provided," and insert—

That the Secretary of the Navy be, and he hereby is, authorized to limit the use of ardent spirits in the navy as far as he may deem it expedient to promote the efficiency of the service. The commutation to remain as now provided by law.

The question was then put on Mr. ROCKWELL's amendment as amended, and it was agreed to.

Mr. STANTON offered the following amendment:

Provided, That the first section of "An act making appropriations for the naval service for the year 1842," approved on the 4th day of August, 1842, so far as it restrains promotions in the naval service, be, and the same is hereby, repealed.

Mr. S. said (in explanation) that the proposition he had just offered was precisely contrary to that offered by the gentleman from New York yesterday, and which had been withdrawn. The amendment, probably, might belong more appropriately to a former part of the bill; but he supposed that it was not inappropriate here or elsewhere. He would remark that the provision in the act of 1842——

Mr. VINTON raised the question of order on the amendment.

The CHAIRMAN inquired to what section the gentleman proposed that his proposition should be added as an amendment?

Mr. STANTON said he offered it as an amendment to the first section.

The CHAIRMAN thought that it was not in order. It might be in order as an additional section, if the whole bill had been gone through with.

The amendment being again read, was declared out of order.

Mr. KING, of Georgia, inquired whether it was in order to go back to the first section?

The CHAIRMAN thought not. After the bill had been gone through with, the gentleman would then have an opportunity of offering an amendment to any part of the bill, if the amendment should not be incongruous.

The following item being under consideration:

For ordnance and ordnance stores, and small arms, including incidental expenses, two hundred and fifty-seven thousand dollars—

Mr. VINTON offered the following amendment:

For the construction at the National Observatory of a magnetic clock, under the superintendence of Dr. Locke, and to pay him for the free use by the United States of his invention of said clock, and of all improvements he may make thereto, $10.000.

Mr. VINTON, in explanation, said that he had in his hand a letter from the Secretary of the Navy and from the Superintendent of the National Observatory, stating that this was an improvement of great importance to that institution; a great saving would be effected by it.

Mr. STANTON moved to amend the amendment, by striking out "ten" and inserting "eleven" thousand.

Mr. S., in explanation said, that he had offered this amendment for the purpose of saying that he presumed every member was familiar with the instrument which it was proposed now to purchase and to furnish to the Observatory. At all events, he presumed if gentlemen were not familiar with the instrument, they knew the fact that it was of the highest importance in the science of astronomy.

Mr. S. proceeded to explain the importance and utility of the instrument.

Mr. BOWLIN inquired whether this instrument had been adopted in any Observatory?

Mr. STANTON replied, that he was not prepared to say positively whether it had been adopted or not. But he presumed that it had been adopted at the Observatory at Cincinnati, where it had been discovered.

Mr. S. withdrew his amendment.

The question was then taken on the amendment of Mr. VINTON, and the vote stood—ayes 64, noes, 41—[no quorum voting.]

Tellers were appointed, and the vote having been again taken, stood—ayes 86, noes 36.

So the amendment was agreed to.

NAUTICAL ALMANAC.

Mr. STANTON, under instructions (he said) from the Committee on Naval Affairs, offered the following amendment:

For the preparation and publication of the American Nautical Almanac, to be conducted by the Superintendent of the Observatory, five thousand dollars.

Mr. S., in explanation, said that this proposition was an old acquaintance of this House, and he supposed that it would be unnecessary for him to say much on the subject. It had been discussed in this House three years ago, two years ago, and twelve months ago. It had been recommended heretofore, if not at the present session, by the Secretary of the Navy; and he believed it had been admitted on all hands, where the proposition was understood, to be of great importance.

Now, he would say to those gentlemen in this House, whose laudable object seemed to be on all occasions to promote economy in the expenditures of the Government, that there would not in reality be a loss of one dollar to the Government by the adoption of this proposition. The publication of the Almanac from data which were now in the possession of the Observatory, and which were accumulating every day, would relieve the Government from the necessity of purchasing the same work prepared under other Governments. It was important to the character of the Government that our national vessels should be guided by such a work, published in our own country. There was no question that such a work could be prepared here as well as under any other Government. There was no question that the work at our Observatory was done as well as the work at any Observatory in the world. There was no question that our Government could put forth a more complete and accurate work of this description than any other country in the world. It was important to the character of the country, it was important to our national pride, it was important to the national honor and independence, that this work which had been so often recommended by the Secretary of the Navy, and which now recommended itself to the favorable consideration of every liberal mind, should be adopted. He hoped it would be agreed to.

Mr. SAWYER called for the reading of the amendment; which was again read.

Mr. VINTON suggested that an appropriation for the purpose contemplated in the amendment was included in that item of the bill for nautical books, maps, charts, instruments, and all other expenses of the Hydrographical Office.

And, (Mr. V. said,) that in looking to the estimates, he found that one of the items was for calculating and publishing a nautical almanac.

Mr. STANTON said he was not aware that the appropriation was included in that item.

And thereupon he withdrew his amendment.

Mr. SCHENCK moved the following amendment, to come in at the end of the same item, (*i. e.* that for nautical books, &c.:)

For paying the unsatisfied demands upon the fund for continuing the survey of the coast in the Gulf of Mexico, from Apalachicola Bay to the Mississippi, $4,070, to be taken out of the balance of the fund appropriated for that purpose by the act of the 3d of March, 1841, which has been carried to the credit of the surplus fund.

Mr. SCHENCK, in explanation, said that he held in his hand a letter from the Fourth Auditor, showing the necessity of the appropriation, and a recommendation from the Secretary of the Navy that a reappropriation should be made to pay these unsatisfied demands.

He would not ask that the letter might be read. If gentlemen desired it they could say so.

The reading of the letter was not pressed, and Mr. SCHENCK having made a brief explanation—

The question was taken, and the amendment was agreed to.

The following item being under consideration—

For contingent expenses that may accrue for the following purposes, viz: Freight and transportation; printing and stationery; advertising in newspapers; books, maps, models and drawings; purchase and repair of fire engines and machinery; repair of, and attending on, steam-engines in yards; purchase and maintenance of horses and oxen, and driving teams; carts, timber-wheels, and the purchase and repair of workmen's tools; postage of public letters; furniture for Government houses; fuel, oil, and candles for navy-yards and shore stations; cleaning and clearing up yards; watchmen and incidental labor not chargeable to any other appropriation; labor attending the delivery of stores and supplies on foreign stations; wharfage, dockage, and rent; traveling expenses of officers; funeral expenses; store and office rent; stationery and fuel to navy agents and storekeepers; flags, awnings, and packing-boxes; premiums and other expenses of recruiting; apprehending deserters; per diem pay to persons attending courts-martial, and courts of inquiry, or other service authorized by law; pay to judge advocates; pilotage and towage of vessels, and assistance rendered to vessels in distress, five hundred and eight thousand dollars—

Mr. KING, of Georgia, moved to amend it by adding at the end thereof the following:

For the trial of useful inventions and the purchase of the right to use patented inventions in the naval service, fifty thousand dollars.

Mr. KING, in explanation, said that some years ago an appropriation similar to this had been made by Congress, authorizing the Secretary of the Navy to purchase useful inventions for the use of the naval service. That fund had been exhausted. Every year applications were made to the department, not only that trials might be made in inventions, but that the inventions themselves might be purchased. He had several letters from the Secretary of the Navy in his desk, asking appropriations for inventions of which he proposed to make use. The Secretary had no doubt of his authority to purchase the machines themselves, but he had no right, as he thought, to purchase the patents. That was a distinct right. The Secretary of the Navy thought that the sum of one hundred thousand dollars would be a proper appropriation; but the Committee on Naval Affairs, taking into view all circumstances, were of opinion that it would be better to ask an appropriation of fifty thousand dollars only.

The question was then taken on the amendment, and was decided in the negative—ayes 32, noes not counted.

So the amendment was rejected.

MAIL STEAMERS.

The following item being under consideration:

For transportation of the United States mail between New York and Liverpool, between New York and New Orleans, Havana, and Chagres, and between Panama and some point in the Territory of Oregon, $874,600—

Mr. SAWYER moved to strike out the words, "New Orleans, Havana," so as to make it read "between New York and Chagres," &c. Rejected.

Mr. KING, of Georgia, under the direction of the Committee on Naval Affairs, moved the following amendment, to be added at the end of the item, viz:

And all contracts made by the Postmaster General for the conveyance of the United States mails by sea be, and they are hereby, transferred to the Navy Department, and placed under the direction and supervision of the Secretary of the Navy, who is hereby invested with all the authority now conferred by law on the Postmaster General authorizing him to make or carry into effect such contracts.

He said he had not time, nor did he propose to enter largely into any remarks, to show the propriety of transferring these contracts to the Navy Department. This mail packet service was designed to be, and would be made to be, a great branch of the naval service. By mistake, rather than by design, the Postmaster General had been authorized to make several contracts for the transportation of the mail by steamers. The Post Office Department was not at all prepared to examine the construction of ships to know whether they were in a fit condition, or whether they had been constructed suitably for mail purposes. The Navy Department had all the necessary means of ascertaining whether the ships were suitable for this purpose. And as they were designed to be a branch of the naval service, he hoped that the contracts which had been made by the Post Office Department would be transferred to the Navy Department. When Great Britain adopted this system of mail steamers as a branch of her own navy, in 1840, she transferred all her post office contracts to the Board of Admiralty, by act of Parliament. The amendment which he proposed simply designed to take the same course with reference to the contracts made by the Post Office Department. We had seen that the ships constructed under the direction of the Post Office Department did not answer the purpose for which they were designed. He designed, however, to make no illiberal remarks in reference to the Postmaster General. He believed the intentions of that officer were good; he believed that he designed to do right; but he had not the necessary means; he had no connection with the Navy Department whatever; he had no bureau of construction, no engineers, no naval constructors, no persons connected with his department to enable him to see that the ships authorized were properly constructed; and there had been some very lamentable mistakes. He had failed to place naval officers on board these ships, which was one part of the design; the nation, therefore, had been deprived of the benefits of the instruction which the naval officers would have received if they had been placed on board these vessels.

It was not the design of the committee, by the amendment he had reported, to vary, or in any degree to interfere with the contracts which had been made by the Post Office Department, but to transfer them to the Navy Department where they properly belonged, and to place them under the charge of the Secretary of the Navy, that hereafter he might see to it that these ships should be rendered suitable for naval purposes when they should be desired by the Government.

It was not the design of the committee to take the mails out of the charge of the Postmaster General, but simply to transfer the care and supervision of the ships and of the contracts to the Navy Department, by which they should originally have been made, and to which they properly belonged. These contracts might be, and he trusted would be, properly extended as the circumstances of the country required.

He should endeavor, on the proper occasion, to answer the gentleman from Pennsylvania, [Mr. STRONG,] who in his argument the other day expressed his opposition to the transmission of the mail by these lines of steamers, and to show to this House that unless the Government adopted this mode of creating a steam navy we should be behind the great maritime Powers of the earth, and that those Powers would not only command the carrying trade of the world, but would carry guns to command all the navies of the world.

Mr. FICKLIN raised a point of order against the amendment.

The CHAIRMAN ruled the amendment in order.

The question was taken, and the amendment was rejected.

Mr. STRONG moved to amend, by reducing the amount of the item from $874,600 to $574,600.

He said he moved the amendment more with the hope of eliciting facts upon the subject than of effecting any considerable change in the bill. The contracts for which this proposed appropriation was to be made, were with the lines of mail steamers between New York and Liverpool, between New York and New Orleans via Havana, and from Panama to Oregon; the other contracts were under the charge of the Post Office Department. He had not recently seen these contracts, but he understood them to be contracts for service —real or nominal—to be performed by those lines when the steamships should have been constructed; and he supposed that the Government was under no obligation to pay these annuities to any one of these lines until the steamships should be put afloat and have commenced their trips. With respect to the line between New York and Liverpool, it was a fact known to this House that the steamships were not completed, and yet by the law of the last session an appropriation had been made for the year ending 30th June 1849, of the entire sum which would be necessary for the service if every one of these steamers were afloat, and the same amount was asked to be appropriated now. Now, as the appropriation could not be made until the steamships were afloat, and as some of them had not been launched until very recently, and others were not yet launched, it could not be necessary to appropriate $874,000 for the year ending 30th June, 1850.

He was unable to say how much of the appropriation of the last year was unexpended; and it was to elicit information with respect to this matter, more than for anything else, that he had offered the amendment. There must be some of the appropriations unexpended for the payment of these annuities, which, as we had contracted to pay, he admitted we were bound to pay, when the steamships were constructed and the lines put into operation.

Mr. VINTON (on a *pro forma* amendment to the amendment) said he took it for granted, that at the end of the year, there would be nothing remaining of the appropriation for the current year. It was true, these ships were not all in service; a part of them were; all of the Panama line were. It would be recollected, however, that at the last session the Government authorized an advance to be made to these contractors, an amount equal to the current year's appropriation, in monthly instalments.

Mr. STRONG (interposing) said this was true with reference to one line, but he believed that with reference to the others, no payments were authorized to be made until the ships were launched.

Mr. VINTON replied, that although he had not recently looked into the law, he was confident that the advances were authorized to be made to all the lines. The whole amount of the previous appropriation would therefore be used during the current year.

The question was taken, and the amendment of Mr. STRONG was rejected—ayes 37, noes 85.

Mr. DICKINSON moved to strike out the item (given above) for $874,000. He said he desired to elicit some information from the chairman of the Committee of Ways and Means, or from other gentlemen who had charge of this subject. Here was what proposed to appropriate $10,000000 to, one branch of the public service; he would like to know how long, at the rate we were now going on, it would take this one branch of the service to swallow up all the revenues of the country. Some few years ago, the expenses of the Navy Department, prior to the Mexican war, were $6,000,000; now, in a time of peace, this bill reported from the Committee of Ways and Means of this House, proposed to appropriate $10,000,000, and before it passed the Senate and finally became a law, it might be presumed that it would amount to $12,000,000.

Here was one item which he proposed to strike out, ($874,000,) for the payment of contracts which had been entered into for carrying our mails abroad. What returns had we received from this expenditure during the last year? But $29,000; though, by this appropriation, and the appropriation in the post office bill, we had appropriated $1,300,000 for this foreign mail service. There was further a proposition before the House and before the country, to appropriate $4,000,000—that was, $200,000 a year for twenty years—to another company for carrying the mails.

There had been no opportunity given for the discussion of this bill: a bill appropriating ten millions of dollars had been in Committee of the Whole on the state of the Union but two hours and fifteen minutes, when the general debate upon it was closed, and it was now being pressed through without any explanations being given as to the necessity of the great increase in the various items. He protested against this mode of doing business. It was making the House nothing but a bed of justice to register the edicts of the committees who recommended the appropriations. There was no opportunity given for discussion, for examination, and the great body of the members knew nothing more about the necessity for this alarming increase of expenditure for this branch of the public service than individuals at home who only read their proceedings. He called upon the Committee of Ways and Means to enlighten the committee upon the subject, and to give the reasons why these appropriations should be made. He would like to know how long it would be, if the increase was continued at the same rate, before the expenditures for the Navy Department alone would swallow up all the revenues which it was possible for this Government to collect?

He withdrew the amendment.

The item of $95,000 for navy-yard at New York, being under consideration—

Mr. GREELEY moved an amendment to strike out the words "for two officers' houses," among the enumerated objects of the appropriation.

He occupied the time allowed to explanation in reading a letter which contained detailed charges of abuses in the administration of this navy-yard, especially of the funds which had previously been appropriated for the erection of officers' houses.

Mr. MURPHY (*pro forma*) moved to insert one house instead of two houses. He had not, he said, heard the whole of the letter which his colleague [Mr. GREELEY] had read; but from such portion of it as he had heard, he was satisfied that the information was not such as this House should rely upon. He asked his colleague for the name of the author.

Mr. GREELEY said he was responsible for the veracity and worth of the gentleman who wrote the letter.

Mr. MURPHY proceeded to vindicate the appropriation, and to show the necessity of having responsible persons resident at the naval stations to protect the property, &c.

Some explanation passed between Mr. MURPHY and Mr. GREELEY.

Mr. MURPHY withdrew his amendment.

Mr. TOMPKINS (on a *pro forma* amendment) denounced the anonymous letter which had been read in severe terms, and as furnishing no information upon which this House could or ought to act.

The question was then taken on the amendment of Mr. GREELEY, and it was rejected.

DRY DOCK AT NEW YORK.

The following item being under consideration:

For completing the stone dry dock building at New York, four hundred and ninety thousand dollars—

Mr. WHITE moved to amend it by adding at the end thereof the following:

And the Secretary of the Navy is hereby authorized and empowered to enter into contract with suitable and competent person or persons for the gates, machinery, buildings, culverts, masonry, and such other parts or portions of said dry dock as in his judgment may promote the public interest.

Mr. WHITE (in explanation) said he would merely remark that pretty much if not all the work of this stone dry dock was now under contract, with the exception of the mechanical part. He had no doubt that a great saving would be made to the public by having the whole work put under contract.

Mr. VINTON desired to inquire of the gentleman from New York [Mr. WHITE] whether this amendment had been recommended by the Navy Department or by the bureaus?

Mr. WHITE (in reply) said that it had not. He had had no communication with them upon that subject.

The question was then taken, and the amendment was rejected.

THE MARINE CORPS

The following item being under consideration:

For pay of officers, non-commissioned officers, musicians, privates, and servants, serving on shore, subsistence of officers, and pay for undrawn clothing, two hundred and nine thousand and twelve dollars—

Mr. KING, of Georgia, moved to amend it by adding at the end thereof the following:

Provided, That the President of the United States may substitute marines for landsmen in the navy, as far as he may deem it expedient to promote the efficiency of the service; and he is hereby authorized, by and with the advice and consent of the Senate, to appoint a suitable number of officers for such increase.

Mr. KING, in explanation, said that the want of marines in the naval service of the United States had long been felt as a great grievance. There had not for many years been any increase of the marine corps, except for purposes of temporary employment in the recent war with Mexico. There had been no permanent increase of it. Whilst all the other naval services of the great maritime powers of the world had been increasing their marine force, that of the United States had remained stationary.

The proposition which the Committee on Naval Affairs had directed him to submit did not contemplate any increase in the expenses of the navy; but, on the contrary, it would cause a diminution, inasmuch as *landsmen* (as they were termed) in the naval service received higher wages than marines.

There was on board our ships-of-war about one-third of the crew who were landsmen, and who received twelve dollars (he believed) a month. The marines received about seven, (Mr. K. was understood to say.) Therefore, the change which this amendment proposed to make would promote economy as well as efficiency in the naval service. This was the course adopted in the British navy. In that service they had almost entirely dispensed with landsmen, and had substituted marines. These marines were worked a portion of the time as landsmen, and at the same time they were drilled as marines, and thus rendered more efficient than landsmen in time of war.

The authority which was proposed to be given to the Executive to appoint the requisite number of officers would not be the means of increasing the expenditure very much, because no great number would be required. He had not made any particular estimate of the expense, and he could not therefore speak with certainty; but he thought that the reduced wages of the marines would more than cover the increased expenses attending the appointment of such additional officers as might be required.

This proposition had been recommended by the Secretary of the Navy. It was designed to promote the efficiency of the naval service, and at the same time to promote its practical economy also.

Mr. McCLELLAND moved to amend the amendment, by striking out the latter clause of the amendment—(that was to say, all that related to the appointment of officers.)

Mr. McC., in explanation, said that he believed this subject had undergone a discussion during the last session of Congress; and that Congress had then reduced the number of marine officers. The object of the amendment of the gentleman was, it seemed, to bring them back again to the point from which they then started.

Mr. KING (interposing) said, not at all. The

increase of the officers of the marine corps proposed by the act of 1846, was merely a temporary measure, looking to the increase of the marine corps during the continuance of the war with Mexico.

Mr. McCLELLAND. That is as I understand it; and after a full discussion at the last session of Congress, we determined that a reduction in the marine corps should take place; and it has taken place. If I am correctly informed, the object of the amendment is, to bring back these very men into the service. To be sure, the object is not apparent on the face of the amendment; and perhaps the gentleman himself does not contemplate it. But that such is the real object to be attained by this proposition, I have no doubt. I have some reasons for entertaining this opinion. It is just like marching up the hill one day, and down the hill the next. We retrench one day, and on the next we place on our statute books the very same laws which we had repealed.

Mr. KING. The gentleman is in error.

Mr. McCLELLAND. I generally understand pretty well the subject upon which I am talking; I understand this.

Mr. KING. The amendment proposes a mere substitution of marines for landsmen.

Mr. McCLELLAND. I wish to ask the gentleman one question: If this is a mere substitution, and if this substitution is necessary, why cannot naval officers, of whom we have an abundance in the service, command as well as marine officers?

Mr. KING. The reason is obvious. The one is essentially a military service, the other is a naval service. The organization of the marine corps is very similar to the organization of the same number of men acting in the army on shore.

Mr. McCLELLAND. We can have them as well commanded by officers of the navy as by marine officers. These naval officers, I presume, know something beyond the routine of their mere duties on shipboard. We have them employed in the coast surveys; we have them employed in the Observatory; we have them employed in divers services, where they do not perform duties coming strictly within the line of the duties of naval officers. Some of the most accomplished officers we have are men whose duties are not confined to those of naval officers alone.

Mr. KING. The gentleman pays only a just tribute to the men of whom he speaks. But as well might we detail a naval officer to the command of the army, or send him on shore to lead a regiment of dragoons, as put him to command marines. I——

Mr. McCLELLAND. That is enough. My time is nearly up. I have but a word more to say. It is well known to us that at the siege of Vera Cruz one of the land batteries was commanded by a naval officer, who discharged his responsible duties as well as any officer of the army could have discharged them. He discharged the duties of commander on land, and yet the duties were well discharged. This marine service is an anomalous kind of service; and, in my judgment, its duties can be discharged as well by naval officers as by marine officers. I speak from the knowledge which I possess, and which is derived from naval officers themselves. But here on one day we make the Postmaster General a naval officer, and on the next we make the Secretary of the Navy the Postmaster General. And so we go on making improvements as we call them, and retracing at every subsequent session the steps we had taken at the previous session.

Mr. KING (interposing.) And the gentleman himself now proposes to do the very thing of which he complains, by making a naval officer command a marine corps.

Mr. McCLELLAND was about to reply, when the hammer fell.

The question was then taken on the amendment of Mr. McCLELLAND to the amendment of Mr. KING, and it was agreed to.

The question then recurred, and was taken on the amendment of Mr. KING, as thus amended, and it was rejected.

The following item of the bill being under consideration, to wit:

For provisions for marines, serving on shore, thirty thousand six hundred and seventy-four dollars and eighty cents—

Mr. BROWN, of Pennsylvania, proposed an amendment, extending the allowance of bounty land to the marines who served in the Mexican war.

Mr. VINTON objected to the amendment as out of order, because not germane to the matter of the bill to which it was proposed to be applied. The amendment proposed a remuneration for past services, while the bill was for the pay of services for the next fiscal year.

The CHAIRMAN ruled the amendment to be out of order.

The CLERK then proceeded with the reading by items.

The bill having been read through—

Mr. STANTON moved the following proviso to the end of the bill:

Provided, That the first section of "An act making appropriations for the naval service for the year 1842," approved on the 4th day of August, 1842, so far as it restrains *promotions* in the naval service, be, and the same is hereby, repealed.

Mr. STANTON (by way of explanation) was proceeding to read the provision of the act of 1842 now proposed to be repealed, when

Mr. POLLOCK raised a question of order against the amendment.

But after a few words of conversation between Mr. POLLOCK and Mr. STANTON—

The CHAIRMAN overruled the point.

Mr. STANTON proceeded. The proviso of the act of 1842, now proposed to be repealed, was as follows:

"*Provided*, That till otherwise ordered by Congress, the officers of the navy shall not be increased beyond the number in the respective grades that were in the service on the first day of January, eighteen hundred and forty-two, nor shall there be any further appointment of midshipmen until the number in the service be reduced to the number that were in service on the first day of January, eighteen hundred and forty-one, beyond which they shall not be increased until the further order of Congress."

He said that the attention of the Naval Committee had been called to this subject by the Secretary of the Navy, in a communication to the chairman of the committee, which he would read, because it would show that the amendment he had offered was authorized by the recommendation of the Secretary. Mr. S. read the letter of the Secretary.

The proposition was simply to carry out the opinion of the Secretary, as expressed in the letter, and give to the Executive the power of making those promotions, with the advice and consent of the Senate of the United States. Such a proviso as that of the act of 1842 (proposed now to be repealed) had no existence with reference to the army. It was wholly an unusual, and was now proved to be an unnecessary restriction, upon the constitutional mode of appointment. If Congress had confidence in the Executive, the interests of the service would be promoted by enabling him to give to it such officers as it might require. It was well known that the number of the present officers of the higher grades in the navy were entirely insufficient, and for that reason it was now proposed to give to the President the power of making the necessary promotions—the same power which the President already possessed with reference to the army.

Mr. JONES, of Tennessee, inquired whether there was any limit to this power of appointment?

Mr. STANTON replied, that it proposed the same limit and extent which was recognized by the law for the appointment of officers for the army.

Mr. S. having concluded—

Mr. KING, of Georgia, desired to say one word upon the subject.

The CHAIRMAN stated that the time allotted to the gentleman from Tennessee was not out, and the gentleman could proceed.

Mr. KING then proceeded to say, that the restriction now proposed to be repealed was made about seven years ago; and that, since that time, notwithstanding the war with Mexico, and the extent to which the naval officers had suffered from sickness, there had been no promotions in the navy, except in cases of death and resignation; while in the army promotions had been made very liberally, as well to meet the exigencies of the service as for the reward of gallant deeds. The restraining proviso of 1842 had had this effect upon the naval service: it had prevented the promotion of officers at that period of life when they were the most capable of receiving instruction in the higher walks of their profession.

Here the five minutes expired.

Mr. GREELEY proposed to amend the amendment, by substituting the same amendment which he offered yesterday and withdrew upon a mistaken assurance by the gentleman from Georgia, [Mr. KING,] which he read as follows:

Provided, That no officer of the navy shall henceforth be promoted or appointed to a higher grade, so as to be entitled to the pay and allowances thereof, while there are already officers of that higher grade unemployed or waiting orders.

On proposing this amendment, he desired to state a few facts. We had now an enormous number of the higher grades of officers of the navy who were entirely without employment. Where, then, could be the demand for lieutenants?

Mr. KING, of Georgia, interposed, and called for the reading of the amendment

And it was then read by the Clerk.

Mr. GREELEY contended that while there were as many as fifteen, twenty, or thirty of the senior officers of the navy and post captains standing still, doing nothing, there should not be any promotions made to those higher grades: and that was the purport of his amendment.

Mr. STANTON interrupted to inquire whether the effect of the amendment of the gentleman from New York would not be to require all the officers of the navy to be all the time at sea?

Mr. GREELEY. No, sir. Whenever there was a demand for more officers, promotions would be made.

Mr. STANTON. So long as a single officer remained on shore, there could not be a single promotion made.

Mr. GREELEY, (continuing.) Not while he remained doing nothing; and he considered that no more than just and fair. A large number of the senior captains were now doing nothing but receiving their pay, which was forty-five hundred dollars a year when in service, and thirty-five hundred dollars a year when out of service; and he went into a statement of figures to show what large amounts of compensation were received by officers of the navy who, from some cause or other, were entirely without anything to do. He concluded his statement, by saying that his amendment would have a tendency to diminish the number of this higher grade of officers of the navy who were nothing but an expense to the Government. His amendment was exactly the opposite to that of the gentleman from Tennessee, [Mr. STANTON]—the latter proposing to increase the number of officers. He trusted that the committee would give to his amendment their favorable consideration, and that it would be adopted.

The CHAIRMAN now stated the question on Mr. GREELEY's amendment.

And the question being taken by tellers, (Mr. PECK and Mr. TOOMBS,) the count was reported—affirmative 56, negative 77.

So the amendment to the amendment was negatived.

Mr. KAUFMAN offered an amendment, (*pro forma*,) to enable him to express his opposition to the amendment of the gentleman from Tennessee. The naval bill now upon the table contained an appropriation of nine and a half millions of dollars; and yet it was proposed to increase that immense expenditure by authorizing an increase of the number of naval officers to an unlimited extent. It was not merely a proposition to increase the number of midshipmen by four hundred, but to repeal the proviso of 1842, which would be to leave the matter of appointments without restriction.

Mr. STANTON interrupted to correct the gentleman. Should the amendment prevail, there would remain the same restrictions as now obtained with regard to the army, which certainly did not admit of appointments to an unlimited extent. The amendment did not increase the number of midshipmen.

Mr. KAUFMAN called for the reading of the amendment.

And it having been read by the Clerk—

Mr. K. proceeded to affirm that the amendment went further than the recommendation of the Secretary of the Navy; and he could show, from the language of the Secretary's letter to the chairman of the Committee on Naval Affairs, that "the measure" was represented as being merely "of great importance to themselves, (the passed midshipmen,) and, in their judgment, to the public service."

Mr. STANTON interrupted to reaffirm that the amendment went no further than the recommendation of the Secretary.

Mr. KAUFMAN objected, then, to the Secretary of the Navy, or any other officer of Government, coming here and demanding an increase of official patronage. As much as he respected the Secretary, he could not support, upon his recommendation, any proposition having a tendency to increase the already too exorbitant expenditures for the naval service.

He withdrew his amendment.

Mr. TOOMBS renewed it, to enable him to express his opposition. The amendment did not go as far as the petitioning gentlemen would have it. Their object was to increase the necessity of new appointments by increasing the promotions. But had any gentlemen yet pointed out the necessity of increasing the officers of the navy of any grade? Where was the evidence of any such necessity? Were there not officers at every post more than sufficient for all the purposes of commanding? He had been told that there were lieutenants in the service of twelve, and he did not know how many more years standing.

Mr. STANTON interposed to remind the gentleman of the statement of the Secretary, that it was "often extremely difficult to procure officers of that grade (lieutenants) for sea-going vessels."

Mr. TOOMBS continuing. You want to make post captains of them, and so by getting rid of them, make room for others. He knew and would state one thing, and that was, that the expenses of the navy had gone on increasing at a most extraordinary rate—having been nearly doubled within a few years—without any corresponding increase in its efficiency. He added, that the fact that promotions came too slow, was conclusive evidence to his mind, that there were too many officers—that there were at least more than the service required. For these reasons he had supported the amendment of the gentleman from New York, [Mr. GREELEY.]

He withdrew the amendment.

Mr. ATKINSON renewed it. He thought he also had a right to five minutes upon the subject before the committee. Although he had not the honor of being a member of the Naval Committee, he professed to have about as much knowledge of the subject as membership of that committee could confer. He believed in the remark by the distinguished orator of Roanoke: "Save me from my friends, and I will take care of my enemies." When he saw gentlemen going on increasing the number of the items of these appropriations for the naval service, minute after minute, he was ready to say, they were enemies of the navy. He could not regard any man as a friend to the navy who would continue to heap upon it such unnecessary burdens; and he believed that the people would take care to disburden the country of such members. What did the gentleman from Tennessee propose? In 1842, Congress had attempted to correct one of the abuses of the appointment power in the hands of the President; and now the gentleman was seeking to repeal that restriction, and restore the former discretion to the Secretary and the President.

Mr. STANTON reminded the gentleman from Virginia that the amendment was recommended by the Secretary of the Navy.

Mr. ATKINSON (continuing) said he had as much respect for the Secretary of the Navy as for any other man; he was one of his constituents. But he could not support any opinion of the Secretary which he knew was not supported by the people at large. He could wish that the Secretary of the Navy had a little more of that good moral quality for a public man, which the committee (he believed) would give him credit for possessing in a good degree—the power of saying, No. He considered no man entitled to high commendation as a public functionary, if he were destitute of the moral courage to say, No.

He could not see any necessity for increasing the naval force; nor could he say to what extent the Secretary might go in this project; but he supposed there were to be promotions of the lieutenants and midshipmen; and then would come the applicants to supply their vacancies. He should not be in Congress then; but he could not do less than feel sorry for those who might be; for they would be overwhelmed with the applications to secure places in the navy which would come up from every hamlet in the country. He said, give to the service active, efficient officers, with good pay; but no loafers. If such a provision was to be ingrafted upon the naval bill as was now proposed, he pledged himself to the committee that he would not vote for the bill upon its final passage.

Here the five minutes expired, and he withdrew his amendment.

Mr. HOLMES, of South Carolina, (on a *pro forma* amendment to the amendment,) advocated the proposition of Mr. STANTON, and said it was a fact not only testified by the Secretary of the Navy, but which he knew from communication a few days since with that department, that there were not lieutenants sufficient in the navy. But even if there were barely a sufficient number to discharge the duties required, something was due to the spirit of the navy, and to the character of the service. He proceeded to speak of the distinguished bravery and gallantry displayed, and of the highly valuable services rendered by our navy in the late war with Mexico, mentioning the important aid rendered to Commodore Stockton on the Pacific coast, the superintendence of the batteries at Vera Cruz, and other instances of distinguished service; and to complain of the injustice which had been done by the Government in not affording a single evidence of gratitude to the navy, while it had bestowed honors and promotions upon the army. He warmly advocated the proposed grant of authority to the Secretary of the Navy.

Mr. McLANE moved the following amendment to the amendment of Mr. STANTON:

That from and after the passage of this act, any navy officer who shall have been on active duty in the navy for a period of thirty years and upwards, may, at his own request, and with the consent of the President of the United States, be permitted honorably to retire from active service in the navy, on full pay, in consideration of his long and faithful service to the country: *Provided*, That, in the event of war, all officers so retiring may, at the discretion of the President of the United States, be recalled into active service.

And provided further, That it shall be the duty of the President to appoint a board of commissioned officers of the navy, to consist of three post captains, the surgeon general of the navy, and the Secretary of the Navy, who shall be ex-officio a member of the board and president thereof; who shall assemble in the city of Washington within one year after the passage of this act, and once a year thereafter, whose duty it shall be to designate to the President of the United States such officers as, in their judgment, the good of the naval service requires to be placed out of the line of promotion; and it shall be the duty of the Secretary of the Navy, with the consent of the President of the United States, to place all such officers on the furlough list, at half the leave of absence pay of their respective grades.

And provided, further, That it shall be the duty of said board to designate to the President of the United States such officers as in their judgment the good of the naval service requires to be stricken from the rolls of the naval service; and it shall be the duty of the President of the United States, by and with the advice and consent of the Senate, to strike the name of such officer from the rolls of the naval service.

Mr. MEADE raised a point of order against the amendment.

The CHAIRMAN ruled the amendment out of order, on the ground of irrelevancy.

Mr. McLANE appealed from the decision.

After some conversation upon points of order—

Mr. BURT moved that the committee rise.

Mr. McLANE withdrew the appeal.

The motion of Mr. BURT being agreed to, the committee rose and reported progress.

THE PUBLIC PRINTING.

Mr. THOMPSON, of Indiana, rose and said that the law which provided for the execution by contract of the public printing, required that the Secretary of the Senate and the Clerk of the House of Representatives should advertise for proposals for having the printing done by contract. That law had been complied with, so far as the advertising was concerned, and Saturday was the day fixed for opening the bids.

The Senate had this day passed a joint resolution suspending the time for opening the bids for thirty days. The object he had in rising, was to ask the House to take up and act upon that resolution, so that a longer time might be allowed for determining by what mode the public printing should be done.

Many and strong objections were made.

Mr. THOMPSON. I then move that the House proceed to take up and dispose of the business on the Speaker's table. We can pass the resolution in three minutes.

Mr. EMBREE demanded the regular order of business; and (addressing the Chair) he inquired whether the motion was in order?

The SPEAKER. The motion is in order.

Mr. GIDDINGS moved that the House adjourn.

Mr. THOMPSON, (to the Speaker.) If the House should now adjourn, what will be the regular order of business to-morrow?

The SPEAKER said that after an hour had been given to the reception of reports from committees, the same motion that the gentleman had now made, would be in order.

Mr. ROCKWELL, of Connecticut. To-morrow is private bill day.

The SPEAKER, (continuing.) But as to-morrow is private bill day, if the House should refuse to go into private business, any motion, except a motion to suspend the rules, will be in order.

Mr. ROCKWELL. To-morrow is also *objection* day.

The question was then taken on the motion of Mr. GIDDINGS, and was decided in the negative: Ayes 66, noes 67.

So the House refused to adjourn.

The question then recurring on the motion of Mr. THOMPSON, that the House proceed to the consideration of business on the Speaker's table—

Mr. TURNER moved that there be a call of the House, and on the motion demanded the yeas and nays; which were ordered.

Mr. ATKINSON moved that the House adjourn.

The SPEAKER. No motion has yet intervened since the motion to adjourn was decided. The motion, therefore, is not now in order. The question is on the motion of the gentleman from Illinois, [Mr. TURNER,] that there be a call of the House.

[Cries of "Withdraw it—hold on to it," &c.]

Mr. TURNER persisted in his motion.

And the question thereon was taken, and decided in the negative—yeas 29, nays 129.

So a call of the House was refused.

Mr. HALL, of Missouri, moved that the House adjourn.

The question was taken by tellers, and the vote stood—ayes 89, noes not counted.

So the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. TUCK: The petition of Amanda M. B. Holmes and 65 others, ladies of Auburn, in the State of New Hampshire, praying Congress to prevent the extension of slavery, to withdraw all countenance given by the flag of the United States to the slave trade, and to abolish slavery wherever Congress has competent jurisdiction. Also, the petition of Hannah W. Linds and 49 others, ladies of Victoria, Illinois, on the same subject.

By Mr. BELCHER: The petition of S. C. Whittier and others, on the subject of postage, &c.

By Mr. PALFREY: The petition of H. N. Beers and 151 others, of Westborough, Massachusetts, praying for reduction and uniform rates of postage.

By Mr. WENTWORTH: The petition of the citizens of Lockport, Illinois, for a donation of land for a railroad from the Mississippi to the Lakes; also, the petition of the citizens of Plainfield, Will county, and of Livingston county, Illinois, in favor of a donation of land for the same purpose; also, a petition from one hundred and twenty-one ladies of Chicago, against the extension of slavery, and for the abolition of it where Congress has the power to do so.

By Mr. BROWN, of Mississippi: The petition of James H. Thompson and others, praying a grant of land for the purpose of assisting a seminary of learning known as the Salem High School, in the county of Green, in the State of Mississippi.

By Mr. JENKINS: Memorial of the Albany and Rensselaer Horticultural Society in favor of a law to authorize the transmission of seeds, &c., by mail, free of postage.

By Mr. WILEY: The petition of William G. Clarke and one hundred others, citizens of the counties of Penobscot and Piscataquis, Maine, praying for the establishment of a post route from Exeter Corner, in the county of Penobscot, via West Garland, Northport, Dexter, &c., to Abbot, in the county of Piscataquis.

By Mr. FARRELLY: The petition of James F. Scott and numerous other citizens of Mercer county, Pennsylvania, for the immediate repeal of the existing revenue laws, and the restoration of the tariff act of 1842. Also, the petition of W. W. Pearson and other citizens of Mercer county, Pennsylvania, of like import.

By Mr. TALLMADGE: The memorial of Grinnell, Minturn, & Co., and other merchants of New York, for the establishment of buoys on Nantucket Shoals.

By Mr. WHITE: The petition of Seth Whalin, and forty-six other citizens of the county of Saratoga, State of New York, praying for a reduction of postage, and graduation on letters and newspapers, and the entire abolition of the franking privilege.

By Mr. BIRDSALL: The petition of sundry inhabitants of Tioga and Tompkins counties, New York, for the extension of the mail route from Ithaca to Speedsville, to the village of Oswego.

By Mr. STUART, of Michigan: The petition of A. C. Van Raalte, and six hundred others, Hollanders and residents on North Black river, in the State of Michigan, asking an appropriation for the erection of a light-house and the improvement of the harbor at the mouth of said river.

IN SENATE.

FRIDAY, *February* 2, 1849.

Mr. MANGUM appeared in his seat this day.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting communications from the Secretaries of State, the Treasury, War, and Navy, in reply to a resolution of the Senate calling for information relative to the use made by the Government of the patent of John B. Emerson; which was referred to the Committee on Patents.

The VICE PRESIDENT laid before the Senate a report from the Secretary of War, showing the sums of money advanced to the delegates of the Old Settlers, or Western Cherokees, immediately after the treaty of 1846; which was referred to the Committee on Indian Affairs.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, in relation to the claims of Captain George E. McClelland's company of Florida volunteers for military services in the year 1840.

The VICE PRESIDENT laid before the Senate a communication from the Treasury Department, made in compliance with a resolution of the 7th December, in relation to the expediency of establishing a transfer office in the city of New York; which was referred to the Committee on Finance.

RESOLUTIONS OF MICHIGAN.

Mr. FITZGERALD presented joint resolutions of the Legislature of Michigan against the introduction of slavery into the new Territories; which was read, ordered to be printed, and laid on the table.

MEMORIALS AND PETITIONS.

Mr. DIX presented a petition from citizens of South Oyster Bay, in New York, praying for the reduction of the rates of postage to two cents; which was laid on the table.

PENNSYLVANIA AND THE TARIFF.

Mr. CAMERON. Mr. President, I have a number of petitions from citizens of Pennsylvania in reference to the tariff, all of which represent the distress which exists in Pennsylvania, in the mining and manufacturing districts. Those distresses I know myself to exist, and I am exceedingly desirous that some early measure of relief should be adopted.

On this subject I have received a variety of letters from gentlemen residing in my State. One gentleman writes to me that he is surprised that the present Senate has not already done something for the relief of this distress. Another gentleman writes to me and charges me with not having presented a sufficient number of petitions; and another "fears that I have not exerted myself sufficiently to procure the desired relief." To these and all other gentlemen who have written to me on this subject, I beg to say that all bills which contemplate a change of the revenue laws must, by the Constitution, originate in the House of Representatives; and that the moment a bill comes here which shall give us the much needed relief, or that shall only partially relieve our manufacturers and miners, it shall have my cordial and active support. On the necessity of protection to the great interests of Pennsylvania my mind has undergone no change. The development of our manufactures and our mines, with the market their products have furnished to our farmers, has given our great State the high position it holds in the Union. They have filled our mountains and our valleys with an industrious and happy people, and they will, if properly encouraged, every year add to our wealth and our happiness. We were told last fall that when the election was over, if the Whig party should succeed, a change would take place, and we should get back the tariff of 1842. Well, there is a majority in the other House—where a tariff bill only can originate—of that party; and, although the session has two of the three months allotted to it already consumed, no bill has come here which hints at a change in the system. I desire to make no charges of neglect, but to say that I shall be most happy to coöperate with them in modifying the tariff of 1846 as soon as they give me the opportunity. I shall go with them as far as any gentleman here to give proper protection to all the great interests of the country, but I cannot do so until a bill comes from the House of Representatives.

Mr. CAMERON then presented 132 petitions of citizens of Philadelphia county, 9 from Schuylkill, 6 from Luzerne, 5 from Montgomery, 5 from Clarion, 6 from Lehigh, 1 from Columbia, 1 from Blair, and 1 from Lycoming counties, in the State of Pennsylvania, asking such an increase of the tariff as will afford protection to the domestic industry of the country; which was referred to the Committee on Finance.

Mr. HAMLIN presented a petition from a number of ship-owners of Machias, in the State of Maine, praying the erection of a fog-bell at Lebby's Island; which was referred to the Committee on Commerce.

Mr. CORWIN presented a petition from citizens of Mercer county, Pennsylvania, praying for a restoration of the tariff of 1842; which was referred to the Committee on Finance.

Mr. BUTLER presented the petition of William B. Page, asking compensation for services in the Treasurer's office; which was referred to the Committee on Claims.

Mr. CAMERON presented a memorial from merchants and officers of insurance companies in Philadelphia, asking for an enlargement of the bounds of the navy-yard; which was referred to the Committee on Naval Affairs.

Mr. BENTON presented a memorial of Thomas H. Holt and the officers of a regiment of Missouri volunteers, asking to be allowed extra pay for their services; which was referred to the Committee on Military Affairs.

Mr. BENTON presented a petition from a company of the same regiment, to the same effect; which was referred to the Committee on Military Affairs.

Mr. BREESE presented a petition from citizens of Franklin county, Illinois, asking a reduction of postage on newspapers; which was laid on the table.

Mr. BORLAND moved that Adam D. Steuart have leave to withdraw his petition praying the reimbursement of a sum of money paid by him for the recovery of money stolen, and that it be referred to the Committee on Claims.

On motion of Mr. RUSK, the papers in the case of the members of the bar at Galveston, praying for an increase in the salary of the judge, were ordered to be withdrawn from the files of the Senate.

EXTRA COMPENSATION TO A POSTMASTER.

Mr. HAMLIN moved to reconsider the vote of yesterday on ordering the bill for the relief of William De Buys to a third reading. He had voted against ordering the bill to its third reading, and saw no reason to change his opinion, but he made the motion to reconsider at the request of, and as a matter of courtesy to, the Senator from Louisiana.

The further consideration of the motion was then postponed until to-morrow.

PRINTING FOR CONGRESS.

Mr. CAMERON rose to ask some gentleman, who was present yesterday and voted in favor of the joint resolution relating to the contracts for the printing of Congress, to move the reconsideration of the vote by which it passed. He was absent at the time the vote was taken in consequence of indisposition, and he desired the reconsideration with a view to the reading of a communication from the public printers, and of submitting some remarks upon the subject of the contract system.

Mr. HAMLIN moved the reconsideration.

The VICE PRESIDENT. The resolution has been sent to the House of Representatives. It will be in order to move that the Secretary be directed to request the return of the resolution to the Senate.

Mr. CAMERON. There have been some defects in the present contract for printing, but they are not so great as some gentlemen appear to imagine. At the commencement of the system, when these parties had not completed their arrangements necessary to the execution of the duty devolved upon them, the printing of the first document was executed in a defective manner. When gentlemen talk about the inferiority of the paper furnished by these parties, they do not look at the terms of the contract to see whether they have not been complied with, but at the style of printing as exhibited in the various books sent here from New York and Philadelphia by the best publishers in the country. These gentlemen furnish an article of the same quality as the sample given them in the contract. They have done more printing, too, than has been done for the Government in the same period of time since the Government first had its existence. The printing has also been executed at a much cheaper rate than that at which it was formerly furnished. The printing done by these parties at the last session of Congress was paid for by a sum not exceeding one hundred and one thousand dollars. Taking the prices paid to Ritchie & Heiss formerly for the same work, the cost of the same printing would have amounted to three hundred and seven thousand dollars, making a difference of two hundred and six thousand dollars saved to the Government in the printing of last session. There has been great saving in this system; and the object of this resolution now is to change the system. There are combinations of individuals around this town who would like well to obtain the printing of the Government at increased rates. When this system commenced I opposed it, considering that the gentlemen of the party press should have our printing.

Mr. PEARCE. Does the gentleman from Pennsylvania charge upon me that my object in offering this resolution was to restore the system established by the resolution of 1819?

Mr. CAMERON. I did not wish to be so understood.

Mr. PEARCE. I understood the Senator as alleging that the object of the resolution I offered to the Senate was, to restore the old condition of things, and give the contract for printing either to Gales & Seaton or Ritchie & Heiss, so that they might make a large sum of money from it.

Mr. CAMERON. I desired to be understood in the remark to which the Senator from Maryland alludes, as stating that the effect of the resolution would be such as to cause a change in the law relating to this contract.

Mr. PEARCE. The gentleman from Pennsylvania, to my apprehension, said distinctly it was the object. My *object*, sir, in offering that resolution was to enable Congress to make some further provision for the more effectual performance of the duties arising under the contract. The gentleman from Pennsylvania has no right to say that I had any other object.

Mr. CAMERON. I have charged the gentleman from Maryland with no object unworthy of a gentleman; but that the effect of this resolution would be to change the system of printing wholly. As I have stated, I have no doubt there are persons about this House who have been and now are trying to get this system done away with; and I know that since the commencement of this printing, efforts have been made to destroy the contract system, and restore the printing to the old system of rewards to the press of the party now coming into power. I know nothing in particular of these gentlemen who have this contract; all I am anxious about is, that the system now under their supervision shall have a fair trial, and that the money of the Government shall not be squandered. An objection made to this system is, that the paper furnished is of inferior quality; it is the character of paper, however, demanded in the contract. That objection to the present system has been obviated. The appropriate officers under whose charge the proposals for printing are issued have made the terms in reference to the quality of paper and style of printing so precise and accurate, that none reading can fail to understand what is expected to be furnished in the future contracts. My object in making these remarks was mainly to get the resolution back, so that it may be discussed here upon its merits.

Mr. PEARCE. The object of the resolution I offered, it will be remembered, was merely to postpone the period when these contracts should be made. I stated yesterday, and fairly, that there were some gentlemen who thought that the system should be rescinded altogether, and that others thought it should be modified; and that such an arrangement should be effected, if possible, as that Congress might have the control of its own printing, which we do not have now. Because, if the printers do not choose to furnish us with documents within a reasonable time, we cannot help ourselves—we cannot take the contract from them—at least, the Printing Committee have no authority, I presume, to order the printing to be done elsewhere, if there are any defects in the work issuing from the regular printing establishment.

THE CONGRESSIONAL GLOBE.

PRINTED AND PUBLISHED AT THE CITY OF WASHINGTON, BY BLAIR & RIVES.

30TH CONGRESS, 2D SESSION. TUESDAY, FEBRUARY 6, 1849. NEW SERIES....No. 28.

A number of gentlemen who are in favor of this proposition of mine desire to see a change made in the contract, so that we may have our work done faithfully and at the proper time. That was the sole object of my offering the resolution yesterday. The whole effect of that resolution will be to postpone the time of making the contract. There must be further action by both House and Senate in order to effect a change in the present system. It will be time enough then for gentlemen to bring forward their charges of hostility to the present system. I see no good reason why this resolution should be returned to us from the House.

Mr. CAMERON. If the gentleman from Maryland had been governed by the courtesy which usually characterizes him, he would have postponed the bringing forward of his resolution until the chairman of the Committee on Printing was in his seat. That gentleman was ill, and had left his seat, and there was no sudden necessity for passing this resolution with such hot haste in his absence. Nor is the Senator correct, when he states that the printing under this system has been longer in the progress of its execution than it was formerly. The printing of last session is all completed; and the reason why the documents accompanying the President's message have not been presented here is, because the engravings which are to be inserted therein are not ready. The printer has no control over the engraving, and although the documents have been printed, they cannot be furnished because of this want. When this resolution comes back, I shall be entirely willing to fix some day when the subject can come up for consideration. An early day should be fixed, because, if postponed until the close of the session, it will come up at a time when every one will be occupied with receiving their good friends from all quarters of the country. I hope the resolution will be brought back.

Mr. KING. Mr. President, I have an inquiry to make of the Senator from Pennsylvania, if he will give me his attention for a moment. I understand that the contract is to be entered into to-morrow. What I wish to ask is, will there, if we now call back this resolution, be time enough to return it to the House of Representatives, so that they may act upon it in season to carry out the object of the Senator from Maryland?

Mr. CAMERON was understood to reply in the affirmative.

Mr. KING. I have but one more remark to make. I would not be willing to lend my aid to defeat the object of the Senator from Maryland. It is a subject which ought to be examined into, and the time should be postponed, so as to give an opportunity for that examination. That is all. Now, if the motion of the Senator from Pennsylvania will have the effect of defeating that object, and causing the contract to be made before the action of Congress can be had in relation to it, I shall oppose his motion. If it will not have that effect, I will vote for it.

Mr. BORLAND was understood to repeat the inquiry propounded by Mr. KING.

Mr. CAMERON was understood to say that there would be plenty of time to act upon the resolution if now recalled. Its consideration would consume but a very little time.

Mr. DIX. It will not take five minutes to dispose of the resolution.

Mr. CAMERON called for the yeas and nays; but, at the request of several Senators, withdrew the call.

Mr. HALE renewed the call for the yeas and nays, and they were ordered.

YEAS—Messrs. Allen, Atchison, Atherton, Benton, Borland, Bradbury, Breese, Bright, Butler, Cameron, Clarke, Davis of Mississippi, Dickinson, Dix, Dodge of Iowa, Douglas, Felch, Fitzpatrick, Foote, Hale, Hamlin, Houston, Hunter, Johnson of Georgia, Jones, King, Niles, Sturgeon, Turney, Walker, and Westcott—31.

NAYS—Messrs. Badger, Baldwin, Bell, Barrien, Clayton, Corwin, Davis of Massachusetts, Dayton, Fitzgerald, Greene, Johnson of Louisiana, Mangum, Mason, Metcalfe, Miller, Pearce, Phelps, Spruance, Underwood, and Upham—20.

A message was accordingly sent to the House, and the joint resolution was returned to the Senate.

PRINTING OF THE PENSION LAWS.

Mr. BRIGHT submitted the following resolution:

Resolved, That there be printed for the use of the Senate five thousand copies of the pension laws now in force.

Mr. B. asked for the consideration of the resolution at this time.

Mr. KING. I ask if the resolution is absolute that such number be printed? I should like to hear some reason given for printing so large a number.

Mr. BRIGHT. With the permission of the Senator I will explain. The document which I propose to print is one which contains the pension laws now in force, for which I find there is a great demand, as will be seen from the fact that every Senator doubtless gets letters for copies of them. The edition is exhausted, and it is important that we should have a new one to meet the demands made upon us.

Mr. CAMERON. I would suggest that there are two sets of these laws, and would inquire if the honorable Senator from Indiana intends to include the whole?

Mr. BRIGHT. I beg leave to say to the honorable Senator that it embraces the entire pension laws now in force, with which it is necessary that we should be supplied. I beg leave also to state that I offer the resolution on the suggestion of the Commissioner of Pensions, who informs me that the entire edition in his office is exhausted.

Mr. JOHNSON, of Louisiana. Mr. President, I beg to remark, that each Senator has received but one copy of this work, and I concur with the Senator from Indiana in saying that it is important that it should be reprinted. It is a work which is very much in demand, and it is difficult to procure even a single copy. During the last session I was instructed by the Committee on Pensions to introduce a resolution into this body for the printing of an additional number of these laws for the use of the Senate, but in consequence of the amount of business then before the Senate that resolution was not acted upon. I hope the Senate will now adopt the resolution of the gentleman from Indiana, and thereby order this book to be printed. It contains all the laws and forms of application for pensions, and therefore its publication will give much information to those people who have claims for pensions on this Government. I would suggest, however, to the honorable Senator from Indiana, that there were several laws passed at the last session which I think it important to incorporate with those which the book now contains.

Mr. BRIGHT. They are included in the resolution, which distinctly specifies "the laws now in force."

Mr. YULEE. The printing of this book will be costly, and yet of no value, as I apprehend. It contains all the laws that have been passed on the subject of pensions since the origin of the Government, of which nearly all are obsolete. Why, then, should we publish a book which will be of no value to the people? It would be a republication of a book which it will be vexatious to distribute, and a trouble to the people to understand. If you want to give information to the people, give them the sheet which contains the forms of application for pensions, and not a compilation of obsolete laws. If we publish the sheet containing the forms of application, we shall render a greater service than by publishing this book. We may, to be sure, publish some three or four laws relating to naval and military pensions, and the bounties and pensions to volunteers who served in the Mexican war, and these comprehend all that are wanted.

Mr. JOHNSON, of Louisiana. Mr. President, I think the honorable Senator from Florida is mistaken in saying that the book contains all the laws passed since the origin of the Government. It does not contain half of them. It does not contain many of the laws passed at the last session. We had occasion yesterday to refer to two laws which are not included in this compilation. We have every day occasion to refer to some of these laws, and the only laws which we wish to have printed are those which are now in use.

Mr. BRIGHT. Mr. President, I am quite sure that the honorable Senator from Florida does not understand the object of this resolution. I offered it, as I have already stated, at the suggestion of the Commissioner of Pensions, who informs me that the number of copies supplied to his office have been exhausted, and it therefore becomes necessary that this pamphlet should be reprinted. The Senator from Florida speaks of it as a document which will cost a great deal of money. On this subject, too, I think the Senator is mistaken; for the cost, I believe, will not exceed four cents a piece. If, however, five thousand will be too large a number, I have no objection to its reduction. But, as this resolution seems to be consuming the time which should be devoted to other legitimate business, I have no objection that it should lie over until to-morrow.

Mr. RUSK. I hope not. These books are wanted all over the country. We have all numerous applications for them, and this publication will save us much trouble in letter-writing. It is calculated to be of great service, nay, it is indispensable to that class of our citizens to whom we are indebted for valuable services, and to whom, of all others, we should do justice.

Mr. BRIGHT. Mr. President, if it is the pleasure of the Senate to consider the resolution at this time, I will further remark that every State that has furnished men in the late war is more or less interested in the adoption of this resolution, because every soldier that has fallen has friends who are interested in knowing what the law is in relation to the forms of application required, that they may derive the benefit of those services to which they are entitled. They can get the necessary information only from these laws, which many new States have not in their libraries, and there is no way of printing them so cheap, and sending them to those who apply for them, as that which is now proposed.

Mr. DIX. I am generally not much in favor of printing documents, but am decidedly in favor of this resolution. It provides for the printing of the pension laws now in force, and those only. I will merely say that I have constant applications for these laws, with which I have not been able to supply myself. If this resolution should be adopted, according to the rate of distribution, we shall receive but eighty copies each, which we can very readily dispose of; for that number will not be more than sufficient to supply the pressing demand. I hope the Senate will adopt the resolution; and as we are ready to vote for it, I hope it will not be postponed till to-morrow.

Mr. DAVIS, of Massachusetts. Mr. President, everybody knows that the statutes of the United States are numerous, and are not very generally diffused through the community. There are many professional gentlemen who have but little business in connection with these subjects, who are not able to possess themselves of the statutes of the United States. Well, here are laws which provide for pensioners of the different classes who are entitled to the benefit of these acts, and it is extremely convenient to have these laws in the neighborhood where these people reside, that they may have the benefit of them—where they can apply to a magistrate for assistance or forms of application when they want the aid of these laws. It has been customary to print them, and I think it a most useful document. The Senate can scarcely do a greater service than by spreading through the country an additional number of these laws. While I am up, I will make another suggestion to the Senator who has made this motion. There are certain laws, which are not usually incorporated in this volume, relating to land scrip and bounty lands granted to soldiers in the late war with Mexico, for which I am constantly written to, and which I hope the Senator from Indiana will consent to have incorporated with these pension laws, that they may all go out to the people together.

Mr. BRIGHT. If the honorable Senator from Massachusetts offers that as an amendment I will accept it.

Mr. DAVIS, of Massachusetts. If the Chair will add the amendment, it will express what I wish.

Mr. HAMLIN. Mr. President, I desire to offer an amendment to the resolution as originally introduced.

Mr. YULEE. Mr. President, I suggest that amendments are not in order at this time.

PRESIDING OFFICER. The resolution is now before the Senate for consideration.

Mr. YULEE. It is not with my consent.

Mr. HAMLIN. I am not quite certain of the necessity of these laws. If, however, they are published, they should embrace the forms adopted by the department in connection with these laws. They will, it is true, relieve us from the responsibility and duty of getting information from the Pension Office; but, in order to make it perfect, the laws which have received the construction of the department should accompany the forms. When the proper time arrives, I shall offer an amendment to accomplish that object.

Mr. WESTCOTT. Mr. President, I am in favor of printing this book, for a reason of my own, and that no other Senator has adverted to as influencing him. I want it published, and with it a full statement of the pensions granted and annually paid out of the people's money. If I am not mistaken, it would shock them. We are fast falling into the practices of the Governments of Europe, and getting a list of pensioners very much like that of Great Britain. Pretty nearly every man who ever has been in a battle, or in sight of one, and many who have never been in one, nor in sight of one, and their kin to the third and fourth generation, some who have the argument of indigence in their favor, and some who have not, apply, either under these laws or to Congress, for pensions. We pay now, under special laws and under the general laws giving army, navy, private, revolutionary and invalid pensions, and gratuities of different kinds on different pretences of all sorts, and expenses of different kinds incident thereto, millions of dollars annually for them. For the last twenty years we have paid out an enormous sum, and its annual amount will increase. I accord to the Commissioner of Pensions fidelity and ability; he is an excellent officer; but the fault is here, in our legislation, and I hope the book will be published, and the people fully awakened to this subject, and command reforms in relation to it. Pensions are asked for by petitioners here when refused by the Pension Office, and the grounds on which they are asked, nine times out of ten, are the most trifling patches of pretences. I am satisfied, in the cases where they are allowed, nine out of ten should be rejected; and the really meritorious cases are now as likely to be rejected as any others. The whole system is uncongenial to and inconsistent with the principles of the Government. The whole system is, in my judgment, the most—[a Senator, "corrupt"]—no; I will not use that word—[another Senator, "flagitious"]—not that either, but I will say injudicious; a system that encourages false pretences; and I think if the people see it exposed, they will have it abrogated, or at least reformed. Hence I, am in favor of the printing and circulating of this book.

Mr. KING. I do not intend to throw any obstacle in the way of printing all the information which may be useful, and which may enable them to prosecute successfully any claims to pensions which they may have against the United States. It seems to me, however, that this pamphlet contains a great deal more than it is necessary to print, or than will be useful to the country—certainly not useful to those who have pensions to prosecute—and I would propose that such disposition may be made of this resolution that a selection of such laws only may be printed as will be useful. There may be a selection of such laws as relate to naval pensions and to bounty lands, which have been adverted to by the Senator from Massachusetts. If such a selection be made, and such only printed as are absolutely necessary, we shall then have a useful document, but if we print all these laws we shall only burden the mails with that which will not be beneficial to any one. I am aware that, to some extent, the remarks of the Senator from Florida [Mr. WESTCOTT] are correct. There has been a very loose mode of conducting this business of granting pensions. Members of Congress have exerted themselves to get pensions through—and it is to be regretted that it is so—but it is in the nature of things, and cannot be entirely avoided. I will not now detain the Senate with further remarks, for there is an indisposition to hear, so anxious are Senators to publish books. But I hope the resolution will be referred to a committee, that a selection may be made of the laws under which pensions are granted.

Mr. DAVIS, of Massachusetts. I will ask the Senator from Alabama if he will not permit the Commissioner of Pensions to make up this book out of such materials as are in his possession. He will do it better than any committee.

Mr. KING. I am satisfied any way, so that the selection be made.

Mr. DAVIS. The Commissioner of Pensions is thoroughly acquainted with all these laws, and knows what is necessary and what is not.

Mr. JOHNSON, of Louisiana. I think we need all the laws which the book contains, and the forms likewise. We need also the opinions of the Attorney General as to the construction of these laws, to which Senators have alluded. They have been selected by the Commissioner of Pensions, and I think it is important to retain them. I think there is not a single page which it is not necessary to retain.

Mr. BRIGHT. I prefer that it should go to the Committee on Pensions, and they will confer with the Commissioner, and, together, they will compile the laws and report them to us.

Mr. YULEE. I object to its being referred at all; but if it is referred, after the committee shall have reported, I shall object to the printing. I ask Senators to give me their attention for a moment. The book which it is proposed to publish contains 182 pages, and the amendments of the Senators from Massachusetts and from Maine [Mr. DAVIS and Mr. HAMLIN] will add about as many more, making a book of probably 400 pages to be distributed—and containing what? Let me read the captions of some of these laws.

[The honorable Senator read the titles to several laws of the date of 1790 and 1792, granting pensions to invalids, and then proceeded:]

Now, Mr. President, what can we possibly want to distribute such laws amongst the people for? And what is the demand that seems to instigate gentlemen to urge the publication of them now? It is the forms of application which are interesting and useful to the volunteers who served the country in Mexico that we should publish, and such forms alone. What do they want? They want their pensions, and, to aid them in obtaining them, they need nothing but a copy of these forms, which will enable them to apply for the pensions to which they are entitled under the laws which you have passed. Now, the Commissioner of Pensions has printed, on a single sheet, all the necessary forms, which he furnishes on demand. And what more do we want? Is it not evident that another book is to be made—another book to be added to those which we now have to distribute, and which I cannot find time to dispose of—and another job to be made for the printers, which will take $10,000 or more out of our contingent fund? Now, with all due deference to my friend from Indiana, [Mr. BRIGHT,] he must permit me to say that I think he knows but little of this matter. Nay, I may say that I am sure he knows nothing of the printing of books, when he urges the publication of such a work, which I warrant will cost little short of $10,000, if it does not exceed $20,000, for the five thousand copies. As I can see no necessity for such a publication as this, I cannot consent to vote for the printing, and therefore I shall oppose its reference.

Mr. DICKINSON. I am glad to see the opposition to the printing of this book; for it is evident that we should not go into competition with publishing houses in the printing of books and maps. We have already exhausted our contingent fund by publishing worthless maps and books, under pretence that they will be wanted by the country. But do not Senators know that if we publish anything for distribution under our franks, it will be sought for and received? If it is necessary to give information to those who have suffered in the service of the country, let us furnish them with that only which is necessary; and hence I am in favor of referring this subject to the Committee on Pensions, that they may confer with the Commissioner of Pensions, and thus ascertain what is most necessary for those who are interested to know. I am opposed to this book-making policy, as I have been heretofore; though I am not opposed to furnishing necessary information to that class of persons who have broken down in the public service, and need information which they cannot get through the ordinary channels.

Mr. BRIGHT. I am unwilling that the remarks of the Senator from Florida [Mr. YULEE] should go unanswered. He says that I do not know anything about printing. It is true, sir, that I am not a practical printer, nor do I pretend to know much about it; and, as a general rule, I have been opposed to printing vast numbers of maps and explorations since I have had a seat here. As a general rule, I think it is a waste of the public money; but this is a peculiar case, and I understood what I was about when I offered the resolution. It is true that the laws which the Senator read are somewhat ancient; but the subject of pensions grew out of the war of the Revolution; and the war of 1812 and the late war, with the war of the Revolution, identify themselves together. It is all part of one and the same system; and to make it perfect, these laws should all be printed together. If the committee to which this resolution may be referred believe that the early legislation is unnecessary, they will exclude it, of course. On the contrary, if they believe it useful, they will print it. But suppose the book should be swelled to the size stated by the Senator from Florida, [Mr. YULEE,] what would be the cost of one thousand copies? Will the chairman of the Committee on Printing give me the information?

Mr. CAMERON. I should think it would cost about twenty cents a copy.

Mr. BRIGHT. Well, at twenty cents a copy, it will fall far below the sum of ten thousand dollars; and hence I think the Senator from Florida is talking about that of which he knows nothing.

Mr. YULEE. I know that the book for the Patent Office cost from sixty thousand to seventy thousand dollars; and, judging from the comparative size of this work, I gave my estimate of its cost.

Mr. BRIGHT. I repeat, that as a general rule, I have voted against printing large quantities of public documents, and I am glad to see that the Senator from Florida objects, and that we are to have a different rule set. As a general rule, I reiterate, it is a waste of the contingent fund, but in this particular instance I believe it will be a faithful application of this fund. I am willing to pay $10,000 for the purpose of putting such a document into the hands of those who need it, and those who have rights resulting under these laws. I hope it will go to the Committee on Pensions, and that they will condense them as far as possible, and that we shall then print the laws on this subject.

Mr. JOHNSON. One single word. Sir, we have special acts here almost every day on cases as they arise, and it may be necessary to publish these as well as the other laws.

Mr. CAMERON. I desire to say that the Senator from Florida, in making his calculations for printing, has gone back to the old law. The Patent Office Report which was ordered to be printed at the last session cost but 25 cents a copy; but yesterday I perceive a resolution was passed here to change our present system, perhaps that we may return to the old system.

But, sir, I rose merely to say that this is a valuable document, which is needed all over the country. There is scarcely a county in which there is not a person interested in these laws. I have communications by almost every mail relating to this subject; and I hope it will be referred to the Committee on Pensions, which, with the aid of the Commissioner of Pensions, will digest these laws, and that without any further discussion we shall have them printed.

Mr. BRADBURY. I should not have made a single remark but for the remarks of others. The honorable Senator from Louisiana [Mr. JOHNSON] says he sees nothing in this book which should not be published. Now, I find that the laws are in the first thirty-eight pages, and that from sixty to one hundred pages are occupied with the opinions of the Attorney General; but I apprehend that what the country wants is the laws, regulations, and forms; and we do not need the reasons upon which the regulations were founded and the constructions given; but we do need the construction given to the laws and regulations which have been adopted. I hope, therefore, that instead of a book of three or four hundred pages, the commit-

tee will content themselves with a book embracing the laws, regulations, and forms, which can be printed in a book of little more than one hundred pages.

The resolution was then referred to the Committee on Pensions.

RESOLUTION.

Mr. MASON submitted the following resolution, which was referred to the Committee on Military Affairs:

Resolved, That the Secretary of War be, and is hereby, authorized, at his discretion, and having due regard to the necessities of the public service, to furnish to such persons as may apply for the same, and who design to emigrate to the Territories either of Oregon, California, or New Mexico, such arms and ammunition from the army stores as they may require to arm themselves for such expedition. *Provided*, That the arms and ammunition so furnished shall not exceed a supply sufficient to arm and equip each person of such expedition. *And provided further*, That before the same are delivered, the actual cost to the Government of such arms and ammunition shall first be paid to the United States, and that the Secretary of War shall be satisfied that the persons so applying really and *bona fide* design them for the use aforesaid.

REPORTS FROM COMMITTEES.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported a bill to regulate the pensions of officers and soldiers who may have been, or may be hereafter, disabled while in the service of the United States; which was read, and ordered to be printed.

Mr. MASON, from the Committee on Claims, reported House bill for the relief of Manuel X. Harmony, without amendment.

Mr. FITZPATRICK, from the Committee on Claims, reported House bill for the relief of Isaac Shepherd, without amendment.

VIRGINIA REVOLUTIONARY CLAIMS.

On motion of Mr. UNDERWOOD, the previous orders were postponed, and the Senate proceeded to consider the bill to provide for the unpaid claims of the officers and soldiers of the Virginia State and Continental lines of the revolutionary army; and the bill was then postponed, and made the order of the day for to-morrow.

RIGHT OF WAY.

On motion of Mr. BENTON, the previous orders were postponed, and the Senate proceeded to consider a bill to grant a right of way through the public lands in Indiana and Illinois, to the Ohio and Mississippi Railroad Company, for the purpose of enabling him to lay on the table an amendment which he proposed to offer to the bill.

The amendment was ordered to be printed, and the further consideration of the bill was postponed until to-morrow.

Mr. BENTON gave notice that he should to-morrow, or at some subsequent day, ask leave to introduce a bill.

ADMISSION OF CALIFORNIA.

Mr. DOUGLAS moved that the prior orders be postponed, and that the Senate proceed to the consideration of the bill for the admission of California as a State into the Union.

Mr. NILES thought that if the bill was called up now, it would be debated at length, and consume much time. He said there was a bill, of which he had the care—the postage reform bill—which he was very desirous to have acted upon as speedily as possible. The postage bill, he said, had been twice up for consideration, and he would like to have it taken up and disposed of to-day. He would therefore move to take up the postage bill, if the Senator from Illinois would withdraw his motion.

The question was taken on Mr. DOUGLAS's motion, and negatived, on a division—18 voting in the affirmative, and 23 in the negative.

The question being taken on the motion of Mr. NILES, it was agreed to.

REDUCTION OF THE RATES OF POSTAGE.

The Senate accordingly proceeded, as in Committee of the Whole, to the consideration of the bill to reduce the rates of postage and for other purposes; the question pending being upon a motion by Mr. CAMERON to strike out the clause providing that papers not weighing more than an ounce and a half shall be circulated within the distance of fifty miles from the place of publication at half a cent postage, and substitute therefor a clause providing that such papers may be sent through the mail any distance not exceeding thirty miles from the place of publication free of postage.

Mr. CAMERON modified his amendment, at the suggestion of Mr. ALLEN, by striking out the words "an ounce and a half," so that any paper might go free through the mails within thirty miles of the office of publication.

Mr. NILES proceeded to address the committee on the subject-matter of the bill generally, and particularly in reply to the speech delivered by Mr. ALLEN on the same measure some days since.

[For Mr. N.'s speech see Appendix.]

Mr. ALLEN next obtained the floor.

Mr. PEARCE. I hope the Senator will not attempt to proceed to-day. I desire that this subject may be passed by until to-morrow; in order that I may make a statement to the Senate, which I omitted to do this morning, in relation to the printing for Congress.

Mr. ALLEN assented to the proposition.

Mr. PEARCE then moved that the further consideration of the bill be postponed until to-morrow; which motion was agreed to.

PRINTING FOR CONGRESS, AGAIN.

The joint resolution on the subject of the Congressional printing having been returned to the Senate, in accordance with its request, by the House of Representatives, and this fact having been announced by the PRESIDING OFFICER—

Mr. PEARCE. It will be necessary to reconsider the vote by which the resolution was adopted.

PRESIDING OFFICER. It is moved to proceed to the consideration of the resolution referred to by the Senator from Pennsylvania.

The motion was agreed to.

The motion to reconsider the vote of the Senate on passing the resolution was also agreed to, as well as the vote ordering it to a third reading.

The resolution being then before the Senate as in Committee of the Whole—

Mr. PEARCE. Messrs. Wendell & Van Benthuysen have sent to the Senate a paper, which was laid upon the Secretary's table this morning, which paper, I understand—for I have not read it—contradicts some of the statements which I made yesterday in regard to the public printing. My purpose now is to reaffirm the statements that I have made, and to offer some proof in support of them. I stated yesterday that Wendell & Van Benthuysen had not complied with their contract, inasmuch as they had not furnished paper such as they had contracted to furnish—paper of the same quality as the sample which they produced; that they had not executed the printing in a proper manner; that they had not used the proper type; and that they had so managed the work as to run the printed matter over a larger space than has ever heretofore been done in the printing for Congress, for which work, as they are paid by the page, of course they received a larger amount than they would be entitled to if the work had been done as it has heretofore been done.

Now, as to the first charge, I have samples of the paper which they have used, and of that which has been used heretofore, and anybody can see at a glance that the former is very inferior to the latter; that the paper, in fact, is so bad that in a few years the printing will be almost obliterated, and very difficult to read. I understand that this paper costs but three dollars and a half a ream, whilst paper of the quality that has heretofore been used cannot be bought for less than five dollars a ream. They also use a different type from that specified in the contract. I understand that the type they use is a pica body, with a small pica face, whereas they ought to have used small pica. The effect of this change is, that although we have the same number of lines in a page, we have not the same number of letters in a line; the body of the type being thicker, the letters are further apart. The consequence is, that an equal amount of matter occupies more pages by the use of their type than it would if they had used the proper type.

I have been furnished also with samples of Congressional printing, done in the proper manner, by two gentlemen who are skillful printers—Mr. Haliday, of the Globe office, and Mr. Trenholm, of the Union office. They took sixteen pages of the printed matter, as executed by the present contractors, and set it up in the manner in which the Congressional printing was formerly done, and it makes thirteen pages and eight lines; so that the loss is about thirteen per cent. Had the proper type been used, the matter that is spread over sixteen pages would have been embraced in thirteen pages and a trifle over, and it would have been much more creditable to the printers themselves. Everybody who looks at their printing can see the impression of the types on the opposite side of the paper, which is not the case with the other.

Well, this is not all. In the rule-and-figure work, I am told by those upon whom I can rely—I received my information in regard to this point from a gentleman who has long been a member of the other House, so long that he may be styled the father of the House, and who is well acquainted with the subject—I was told by him that the rule-and-figure work was badly done. I called the attention of those two gentlemen whom I have named to the rule-and-figure work, and they have given me a sample of such work as it was formerly done by the printers to Congress. From these samples it appears that the old rule-and-figure work contains about three times as much matter on a page as that which is done by the contractors. They have, therefore, received about three times as much pay for that kind of work as they would have received if they had done the work as it has formerly been done.

Now, in regard to the delay in furnishing the documents ordered to be printed, I am informed that the Senate have sent orders to the printing office to have a bill or some other paper printed and sent up by the following day; and in such cases it has been customary with the old printers to have the work done and sent up the next morning; but these gentlemen, not having their hands at work at night, have sometimes delayed sending the paper for two or three days. This information I obtained from the office of the Secretary of the Senate. In regard to furnishing printed copies of the President's message, I observe that it is stated in the paper that has been laid on the Secretary's table this morning, that they have sent up eighteen copies of the message for delivery to each Senator. I stated yesterday that I believed that three or four copies only had been furnished. The fact is, six copies had been furnished, and it was not until last night that the remaining number, making eighteen copies for each Senator, was sent up. Now, I think that the mode of executing the public printing requires some regulation—some inquiry, at all events, in order to see if it may not be better conducted. That was the purpose which I had in view in proposing the resolution; and although I think that the time which the Senator from Pennsylvania proposes is rather short, I have no objection that his amendment should prevail.

Mr. CAMERON. I am very sorry that the Senator from Maryland had not listened to what I said. I stated more than once that there were defects in the printing, but that they could be readily accounted for.

Mr. PEARCE. I will remind the Senator that it was necessary for me to reply to the statements contained in the paper that has been laid upon the Secretary's table this morning, and to show that what I stated yesterday was correct.

Mr. CAMERON. But the Senator is in error in some of the statements he has made. The Senator must bear in mind that more printing was done at the last session of Congress than has ever before been done at any one session—much more than the gentlemen who undertook the public printing supposed would be required. In regard to working at night, the Senator is mistaken, for they have been at work every night, and sometimes even on Sundays. In respect to the type that is used by these gentlemen, it is not small pica type with a pica body, as the gentleman observes, but it is small pica type, which the law calls for. In their selection of type, however, they would have done better for themselves if they had procured small pica of a different number. But, as I have said, all the difficulties that have arisen will be guarded against by the proposals which the Secretary is now authorized to issue, because they contain particular specifications as to the size of the type, the number of lines to be contained in a page, the weight of the paper, &c. I have no doubt, therefore, that all the objections heretofore existing will be obviated under the contract which will be made.

The Senator has stated that there is a large difference between the work as now executed and that which has formerly been done for Congress; but he must also remember that there is a large difference in the amount paid for the work.

Mr. PEARCE. I stated further that I had no doubt that these gentlemen had made a hard bar-

gain; and I suppose that the fact of their having made such hard bargain is the reason why they have done the work so badly.

Mr. CAMERON. I am sorry that they made such a hard bargain, and that the work has not been done as it ought to have been done. I believe that the imperfections of the work, however, will be guarded against in future. I propose to insert in the resolution next Wednesday week.

Mr. DICKINSON. I take very little interest in this matter beyond that which I feel for the continuance of the system. I regret that they have not used better material, and that the printing has not been better done; but, in the first place, we have had more printing done than has ever been done for any former Congress; and, not satisfied with printing merely, we have had a great many engravings executed, and much of the delay that has occurred has been occasioned by the engraving of maps of almost every part of the country lying between the two oceans. These gentlemen undoubtedly did not anticipate the quantity of printing that would be required, and they took the contract at a lower rate than they should have done. They did not consider the difference in the cost of labor between this place and the place where they had been accustomed to have their work done—between printing for the National Legislature and a State Legislature. The system, it is true, has not worked entirely as its friends expected. It is very convenient, doubtless, for gentlemen to build up fortunes in a single year by printing for Congress, such as it would take a merchant a long lifetime to accumulate; and so long as such things exist there will be a great many expedients resorted to to accomplish the object. I am, nevertheless, in favor of the present system of procuring the public printing to be done by contract. I will adhere to the system, come what will, for it is a just and equal one, and I am not to be told that the contractor cannot procure as good paper and type as one upon whom especial patronage is lavished. I am told that about six hundred thousand dollars have been saved to the Government by having our printing done by contract.

Mr. CAMERON. Four hundred and forty thousand.

Mr. DICKINSON. I thank the Senator for giving me the precise amount. The system affords room for competition, and it is for this reason that I desire to see it continued; and I desire to see the contract taken by those who will execute the work in such a manner as to give entire satisfaction to Congress. But whatever we do, I do most decidedly object to returning to the old rotten system of favoritism. I hope Congress will not return to it, although I think I see in the distance a disposition manifested to do so.

Mr. WESTCOTT. I have, on two or three former occasions, expressed views directly adverse to those expressed by the Senator from New York, [Mr. DICKINSON.] He speaks of the old system under which the printing of Congress was executed as being rotten and corrupt. Sir, I consider the present system of huckstering and peddling out the printing of the two Houses as decidedly the meanest and most degrading that can be devised by Congress. It is offering a premium for having the work of Congress executed in the worst style. The issuing public advertisements inviting proposals, and giving the work to the lowest bidder, is a practice founded on the rule of discarding expedition, neatness, and superiority of execution, or sacrificing them all to the half cent principle. Nothing else can be expected than that the cheapest material will be provided that can be under the contract palmed off upon Congress, and that the work will be done in the most slovenly manner, and nothing but saving to the contractor will be considered. Delays will take place, and if the work is slouched over, you have no remedy but a lawsuit. Sir, I am not a very ardent advocate of the doctrine which was once maintained in this Chamber, that "to the victors belong the spoils," though it is good in its place; but I am the advocate for the rule that the majority in both Houses of Congress, and in either House, have a right—a right that is founded in justice—to have all their officers subject to their own supervision and control, no matter what party that majority may be. If the party opposed to me have the majority, I would yield to them as an act of justice. The election of the printer to this body in justice belongs to the party in the majority here. That party is responsible for his performance of his duty, and they should have the election of such officer. Sir, by the introduction of this system of peddling and huckstering out the public work to the lowest bidder, you may be sure of having the work done in an inefficient manner. You offer a bounty, a premium for mean work, if they will only do it *cheap*. You offer an inducement for irresponsible adventurers to offer to underbid the regular mechanic, and, if he does not cheat you in the work, he will have to cheat his workmen, &c. I am in favor of the old system in preference to this. I was, when I first came here, in favor of the establishment of a public printing office, for the purpose of dissolving all connection between Congress and the partisan newspaper press here. But, as I have avowed on a former occasion, upon this subject I have changed my opinion. Experience has convinced me that the connection is a salutary one, as it has influence in keeping the newspapers right as well as in keeping Congress right. It is a salutary check upon both. Congress hold a rod over the press if it behaved improperly, and then the press is a monitor to Congress.

Now, in respect to our public printers. I have paid some attention to the matter, and I believe that Messrs. Wendell & Van Benthuysen have performed their work as faithfully as any men in the United States could have done, under the terms upon which they undertook it, and under the circumstances that have existed in relation to it. I learn that they contracted for paper according to the sample which they furnished to the Secretary of the Senate, and which they agreed to print upon, but the persons with whom they contracted failed to furnish them paper of the same quality, and the paper contractors are the persons who are to blame in the matter. The public printers had this alternative: either to take no paper at all from them, and run the risk of getting their supply in small parcels from different sources, or to stop their work altogether, with ruin staring them in the face by a suit on their bond by the United States; or to take such paper as they could get. I, for one, approve of the course which they pursued. And I will say further, that, even as it is, I am satisfied they will be losers to perhaps fifteen or twenty thousand dollars. And I hope that, if they make their appeal to Congress to save them from this loss, it will not be unheard. I do not hesitate to say that I will most cheerfully vote them a sum sufficient to cover all their losses, and allow them for their labor, and I have no doubt there is not a Senator on this floor that will not be equally just and liberal.

Mr. KING. I do not understand what necessity there is——

Mr. PEARCE. Will the Senator from Alabama, before he goes on, allow me to state a fact in reply to the Senator from Pennsylvania. The type which is used by our public printers, the Senator will find, is such as I have stated. I am told, also, that typographical errors abound in their work, and the reason of it is, that they have not a sufficient number of proof-readers. According to the old system, the proof was always read over twice, but that has not been the case under the new system.

Mr. CAMERON. Will the Senator from Alabama allow me to add a single word?

Mr. KING. Certainly.

Mr. CAMERON. The public printers always keep their hands at work at night when necessary. And I will state another fact to show the great difference there is between the cost of our printing under the present system and under the former system. The printing of the Patent Office report cost us twenty cents a page. Under the old system, the cost would have been a little over a dollar.

Mr. KING. I really cannot understand the necessity for entering into a discussion, at this time, as to the comparative advantages of the old system and the new. It seems to me the simple question for the Senate to decide is, whether we will postpone the period for making the contract until the matter has been examined into and a report made. We shall then be better enabled to determine whether we will continue the system or change it. I myself am ready to vote for suspending the contract which, under the present law, is to be made to-morrow, until the matter has been reported upon, for I have not sufficient information at present to enable me to vote for one or the other; and I desire that those who are acquainted with the business shall prepare a report upon it. I hope, therefore, instead of continuing the discussion upon the merits of the system, we will reconsider the vote by which the resolution was agreed to, and adopt the amendment of the Senator from Pennsylvania extending the time sufficiently long to make the investigation.

The question being then taken on the motion to reconsider, it was agreed to.

The Senate proceeded to the consideration of said resolution; when—

Mr. CAMERON moved that the resolution be amended so as to provide for the extension of the time for receiving proposals for the execution of the printing to the 14th of February instead of the 1st of March; which was agreed to.

The joint resolution was then ordered to be engrossed and read a third time, and was read a third time and passed.

On motion, it was ordered that when the Senate adjourns, it be to meet on Monday next.

LEVI H. COLTON.

On motion of Mr. DIX, the Senate proceeded to consider the bill for the relief of Levi H. Colton; which was read a third time, and passed.

BILL INTRODUCED ON LEAVE.

Mr. BORLAND asked and obtained leave to introduce a bill for the relief of John Hutchins; which was read a first and second time, and referred to the Committee on Military Affairs.

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 2, 1849.

The Journal of yesterday was read and approved.

THE PRIVATE CALENDAR.

Mr. ROCKWELL, of Connecticut, rose, and was understood to say, that as this was what was known to the rules as "objection" day, (when bills to which no objection was made could be acted upon without debate,) he would move that the House resolve itself into Committee of the Whole, for the purpose of taking up the private calendar.

Mr. CUMMINS asked the gentleman from Connecticut to waive his motion for a moment, to enable him (Mr. C.) to move to withdraw certain papers from the files of the House.

Mr. ROCKWELL waived his motion for the purpose.

On motion of Mr. CUMMINS, leave was granted to withdraw from the files of the House the petition and papers in the case of Colonel George Brent, deceased.

Mr. ROCKWELL then renewed his motion.

DISTRICT COURTS OF VIRGINIA.

Mr. BROWN, of Virginia, rose, he said, to a privileged question. It would be recollected, that yesterday the House had laid on the table the bill changing the time of holding the district courts of the western district of Virginia, and for other purposes.

On that motion, he (Mr. B.) had (under misapprehension) voted in the affirmative. He now moved, therefore, to reconsider the vote. He hoped that it would be the pleasure of the House to do so, and that even those who were opposed to the increase of the salary would vote in favor of the other provisions of the bill.

Mr. WENTWORTH rose to a point of order. He desired to be informed by the Speaker whether this motion could come up to-day, except by a vote of two-thirds. He hoped that the gentleman would let the motion go over.

The SPEAKER said the gentleman had a right to make the motion, and to have it entered on the Journal.

Mr. WENTWORTH said he had no objection to that. He was willing that the gentleman should call the motion up at his pleasure, provided it did not interfere with the consideration of private bills.

The SPEAKER said the motion to reconsider, if any gentleman wished to debate it, would go over.

Mr. WENTWORTH. Then I wish to debate it.

Mr. ROCKWELL insisted on his motion.

The motion to reconsider was entered on the Journal.

Mr. STARKWEATHER asked the gentleman

from Connecticut [Mr. ROCKWELL] to waive his motion for a moment, to allow him (Mr. S.) to report a bill for the relief of an old soldier, who had lost both legs and one arm.

Mr. ROCKWELL said he would cheerfully do so, but that there were so many applications made to him for a similar purpose. He must, therefore, insist on his motion.

The question was then taken, and decided in the affirmative.

THE PRIVATE CALENDAR.

So the House resolved itself into Committee of the Whole, (Mr. ROOT, of Ohio, in the chair,) and proceeded to the consideration of the private calendar, under the restrictions imposed by the 30th rule of the House, which is as follows:

"On the first and fourth Fridays of each month the calendar of private bills shall be called over, and the bills to the passage of which no objection shall then be made, shall be first considered and disposed of."

The committee proceeded to take up bills on the calendar, in their order.

Many bills were objected to.

A large number were acted on, and ordered to be reported to the House, some with and others without amendment, as will be seen below.

The committee, after remaining in session about three hours, rose and reported the following bills, without amendment:

A bill for the relief of Thomas T. Gammage;

A bill for the relief of Jacob Boston;

A bill for the relief of Eve Boggs, widow of John Boggs;

A bill for the relief of Hannah Kinney, widow of Amos Kinney, late of the State of New York;

A bill for the relief of Joseph Dana.

A bill for the relief of Martha Cameron, widow of Christopher Tompkins;

A bill for the relief of Susannah Prentiss;

A bill for the relief of Thomas R. Saunders;

A bill for the relief of Sylvanus Blodget;

A bill for the relief of Aaron Stafford;

A bill for the relief of Hector Perkins;

A bill for the relief of Peter Myers;

A bill for the relief of Capt. Alexander McEwen;

A bill for the relief of Mary Ann Pollard;

A bill for the relief of Camfield Averill;

A bill for the relief of John Gawney;

A bill for the relief of Horatio Fitch;

A bill for the relief of William Lynch;

A bill for the relief of Rebecca Freeman;

A bill for the relief of William Kingsbury;

A bill for the relief of Sidney Flower, of Louisiana, and for other purposes;

A bill for the relief of Amelia Covillon, of Louisiana;

A bill for the relief of John McIntosh;

A bill for the relief of Levi M. Roberts;

A bill for the relief of Samuel Perry;

A bill for the relief of James Frame.

Subsequently, the foregoing bills were ordered to be engrossed and read the third time, and being engrossed, were accordingly read the third time and passed, and sent to the Senate for concurrence.

The committee also reported, without amendment:

The bill for the relief of Elizabeth S. Cobbs; and

Subsequently, when the bill came up for engrossment—

Mr. TUCK moved to amend it, by increasing the amount of the pension from $15 per month to $25 per month.

Which amendment giving rise to debate, the bill was laid over, under the rule.

The committee also reported the following bills, severally with an amendment:

Senate bill for the relief of the personal representative of William A. Slacum, deceased;

Senate bill granting a pension to Bethiah Healy, widow of George Healy, deceased;

House bill for the relief of B. O. Payne.

Subsequently, the amendment to each bill was agreed to.

They were read the third time and passed, and sent to the Senate.

The committee also reported the bill of the House granting the right of preëmption to Joshua Holden, with an amendment.

Subsequently, the amendment was disagreed to by the House, and the bill was ordered to be engrossed and read the third time, and being engrossed, was accordingly read the third time and passed, and sent to the Senate for concurrence.

A message was received from the Senate requesting the return of the joint resolution of the Senate "extending the time for receiving proposals for the printing of Congress:" when,

On motion of Mr. KAUFMAN, the request of the Senate was agreed to; and

The said resolution was accordingly returned to the Senate.

Mr. HOUSTON, of Delaware, (by unanimous consent,) in pursuance to previous notice, obtained leave and introduced a bill to authorize the issue of treasury scrip for one hundred dollars to Eliza Johnson, widow of Francis Johnson, late a soldier in the army of Mexico; which was read twice.

Pending the question on ordering the bill to be engrossed and read a third time—

Mr. HAMPTON, of New Jersey, from the Committee on Enrolled Bills, made a report; after which,

The House adjourned.

The following are the bills objected to in Committee of the Whole, and by whom objection was made:

An act for the relief of J. W. Nye, assignee of P. Barry and H. Stewart—objected to by Mr. J. A. ROCKWELL.

A bill for the relief of John P. Converse—by Mr. DANIEL.

A bill for the relief of the legal representatives of John H. Piatt—by Mr. BINGHAM.

A bill for the relief of B. M. Bouton—by Mr. GREEN.

A bill for the relief of A. H. Patterson—by Mr. FICKLIN.

A bill to compensate and reimburse the owners and crew of the whaling ship Chandler Price, the losses and expenses incurred in ransoming the crew of the ship Columbia—by Mr. DANIEL.

A bill for the relief of Charles B. Clusky—by Mr. DANIEL.

A bill for the relief of Henry Gardner and others, directors of an association called the New England Mississippi Land Company—by Mr. TOOMBS.

A bill for the relief of Mary M. Telfair, heir and legal representative of Israel Pearce—by Mr. DICKINSON.

A bill for the relief of the legal representative or representatives of Captain Charles Smith—by Mr. BOWLIN.

A bill for the relief of the legal representatives or heirs of Captain John Mountjoy—by Mr. BOWLIN.

A bill for the relief of the legal representatives of the late William Armstrong—by Mr. GREELEY.

A bill for the relief of William Kennedy—by Mr. FICKLIN.

A bill for the relief of the heirs of Daniel Pettibone—by Mr. DICKINSON.

A bill for the relief of Elliot Smith, and Nathan Farnsworth—by Mr. BOWLIN.

A bill for the relief of William J. Price—by Mr. FICKLIN.

A bill for the relief of the heirs of John Jackson—by Mr. BOWLIN.

A bill for the relief of the legal representatives of Colonel John H. Stone, an officer of the revolutionary war—by Mr. DICKINSON.

A bill for the relief of the heirs of Willis Riddick—by Mr. FICKLIN.

A bill for the relief of the heirs of Captain Samuel Ransom, an officer of the revolutionary war, killed at the battle of Wyoming—by Mr. BOWLIN.

A bill for the relief of Moses Van Campen—by Mr. DICKINSON.

A bill for the relief of the inhabitants of the village of Carondelet, in the State of Missouri—by Mr. HALL, of Missouri.

A bill for the relief of the representatives of John M. Baker—by Mr. FICKLIN.

A bill for the relief of Ross Winans—by Mr. FICKLIN.

A bill for the relief of Elisha Hampton, and others, of the State of Iowa—by Mr. GREEN.

An act for the relief of William H. Prentiss—by Mr. BOWLIN.

An act for the relief of Columbus Alexander and Theodore Barnard—by Mr. DANIEL.

An act for the relief of George Centre—by Mr. BOWLIN.

An act for the relief of the heirs of John Wall, deceased—by Mr. LYNDE.

A bill for the relief of John Poe, of Louisville, Kentucky—by Mr. FICKLIN,

A bill for the relief of James Harley—by Mr. SAWYER.

An act to provide compensation to William Woodbridge and Henry Chipman, for services in adjusting titles to land in Michigan, and for other purposes—by Mr. LYNDE.

A bill to provide for the payment of the passage of General Lafayette from France to the United States in the year 1824—by Mr. ATKINSON.

A bill for the settlement of the accounts of Captain M. M. Clarke—by Mr. HALL, of Missouri.

A bill for the relief of Frederick Dawson, James Schott and Elisha Dana Whitney—by Mr. GREELEY.

A bill for the relief the heirs of Wadlugh Noyes, deceased—by Mr. DICKINSON.

A bill to satisfy the claim of the legal representatives of Joseph Reynes—by Mr. DICKINSON.

A bill for the relief of the executors, devisees, and the heirs-at-law of Thomas Fletcher, deceased, late of the State of Kentucky—by Mr. DANIEL.

An act to authorize the Secretary of War to make reparation for the killing of a Caddo boy by volunteer troops in Texas—by Mr. CROWELL.

A bill for the relief of the heirs of Semoice, a friendly Creek Indian—by Mr. HALL, of Missouri.

A bill for the relief of Daniel Sampson—by Mr. HALL, of Missouri.

A bill for the relief of Begbie, Wiseman & Co., of Glasgow, in Scotland—by Mr. RIGHEY.

A bill for the relief of Robert Roberts—by Mr. RUMSEY.

A bill for the relief of Solomon T. Nicoll and James Clinch, of the city of New York—by Mr. GREEN.

A bill for the relief of Polly Carver, executrix of Nathan Carver—by Mr. MORRIS.

A bill for the relief of Sayles J. Bowen—by Mr. FICKLIN.

A bill for the relief of the legal representatives of Washington S. Bebee—by Mr. HALL, of Missouri.

A bill for the relief of Major E. H. Fitzgerald, of the United States army—by Mr. HALL, of Missouri.

A bill to provide for the settlement of the claim of Henry Luf and John McKee—by Mr. GREEN.

A bill to incorporate the Columbian Manufacturing Company in the District of Columbia—by Mr. HALL, of Missouri.

A bill for the relief of Lieut. John E. Bispham, of the United States navy—by Mr. DICKINSON.

A bill for the relief of Francis Moreno—by Mr. PUTNAM.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. HALE: Petitions of Jonathan Crane and 68 others, inhabitants of Attleboro', Massachusetts, and of S. Hopkins Emery and 63 others, inhabitants of Taunton, Massachusetts, for a system of cheap postage, and the abolition of the franking privilege.

By Mr. POLLOCK: The petition of Jacob Mackey and 49 others, citizens of Lycoming county, Pennsylvania, asking a modification of the tariff act of 1846.

By Mr. STROHM: The petition of William A. Spangler, and fifty others, citizens of Pennsylvania, praying for the re-enactment of the tariff of 1842, with such modifications as may be deemed necessary.

By Mr. EDWARDS: The petition of John W. Jones, asking for relief. Also, the petition of William Ellis, asking for a pension.

By Mr. WILEY: The petition of Nathan D. George and 171 others, citizens of Maine, praying for the reduction of postage on letters and newspapers, &c., and for the abolition of the franking privilege of members of Congress.

By Mr. BUTLER: Three petitions of citizens of Luzerne county, Pennsylvania, asking for an immediate modification of the existing revenue laws. Also, one of like import from citizens of Columbia county, Pennsylvania.

By Mr. KELLOGG: The petition of R. W. Livingston and others, citizens of Essex county, New York, praying for a uniform rate of postage on letters; for a reduction of postage on letters and newspapers carried by mail steamers and packets; and that the franking privilege be abolished.

By Mr. THOMPSON, of Pennsylvania: A petition of inhabitants of Erie county, Pennsylvania, in favor of cheap postage. Also, ten petitions for a mail route from Luthersburg, Clearfield county, to Kittanning, Armstrong county, Pennsylvania, via Smicksburg and Rural Village.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 3, 1849.

The Journal of yesterday was read and approved

THE TREATY WITH MEXICO.

Mr. STEPHENS rose and asked the unanimous consent of the House to introduce a resolution calling (he said) for important information. He asked that it be read.

It was read, as follows:

Resolved, That the President of the United States be requested to furnish this House with a correct copy of the original treaty of Guadalupe Hidalgo, entered into on the 2d day of February, 1848, by Nicholas P. Trist on the part of the United States, and Luis G. Cuevas, Barnado Conto, and Miguel Atristain, on the part of the Republic of Mexico; and particularly those articles in said original treaty which were stricken out or amended by the Senate of the United States.

Resolved, further, That the President be requested to inform this House whether there is any evidence in the Department of State of an agreement and assurance made by our commissioners with the Mexican Government, before the ratification by said Government of said amendments, substantially in the following words, to wit:

"PROTOCOL

Of the conference previous to the ratification and change of the treaty of peace between Ambrose H. Sevier and Nathan Clifford, commissioned as Ministers Plenipotentiary on the part of the United States of America, and Don Luis de la Rosa, Minister of Foreign and Internal Affairs of the Mexican Republic.

"In the city of Queretaro, on the 26th of the month of May, 1848, at a conference between their Excellencies Nathan Clifford and Ambrose H. Sevier, Commissioners of the United States of America, with full powers from their Government to make to the Mexican Republic suitable explanations in regard to the amendments which the Senate and Government of the said United States have made in the treaty of peace, friendship, limits, and definitive settlement between the two Republics, signed in the city of Guadalupe Hidalgo, on the 2d day of February of the present year, and his Excellency Don Luis de la Rosa, Minister of Foreign Affairs of the Republic of Mexico, it was agreed, after adequate conversation respecting the changes alluded to, to record in the present protocol the following explanations, which their aforesaid Excellencies the Commissioners gave in the name of their Government, and in fulfillment of the commission conferred upon them near the Mexican Republic:

"1st. The American Government, by suppressing the ninth article of the treaty of Guadalupe, and substituting the third article of the treaty of Louisiana, did not intend to diminish in any way what was agreed upon by the aforesaid article ninth in favor of the inhabitants of the territories ceded by Mexico. Its understanding is, that all of that agreement is contained in the third article of the treaty of Louisiana. In consequence, all the privileges and guarantees, civil, political, and religious, which would have been possessed by the inhabitants of the ceded territories, if the ninth article of the treaty had been retained, will be enjoyed by them, without any difference, under the article which has been substituted.

"2d. The American Government, by suppressing the tenth article of the treaty of Guadalupe, did not, in any way, intend to annul the grants of lands made by Mexico in the ceded territories. These grants, notwithstanding the suppression of this article of the treaty, preserve the legal value which they may possess, and the grantees may cause their legitimate titles to be *acknowledged* before the American tribunals.

"Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories, are those which were legitimate titles under the Mexican law in California and New Mexico, up to the 13th of May, 1846, and in Texas up to the 2d of March, 1836.

"3d. The Government of the United States, by suppressing the concluding paragraph of article twelfth of the treaty, did not intend to deprive the Mexican Republic of the free and unrestrained faculty of ceding, conveying, or transferring at any time (as it may judge best) the sum of twelve millions of dollars, which the same Government of the United States is to deliver in the places designated by the amended article.

"And these explanations having been accepted by the Minister of Foreign Affairs of the Mexican Republic, he declared in the name of his Government that with the understanding conveyed by them, the same Government would proceed to ratify the treaty of Guadalupe, as modified by the Senate and Government of the United States. In testimony of which, their Excellencies, the aforesaid Commissioners, and the Minister, have signed and sealed, in quintuplicate, the present protocol.

"NATHAN CLIFFORD. [L. S.]
"AMBROSE H. SEVIER. [L. S.]
"LUIS DE LA ROSA." [L. S.]

And be it further resolved, That if such paper is in the Department of State, the President be requested to inform this House whether said Commissioners, or Plenipotentiaries, were empowered to make said explanations and give said guarantees, and by what authority they were so empowered; and whether the said protocol has been submitted to the consideration of the Senate of the United States, and been sanctioned by a constitutional majority of that body

And be it further resolved, That the President be requested to inform this House whether he was aware of the existence of such protocol at the time of his proclamation of the final exchange of ratifications of said treaty on the 4th day of July, 1848.

Mr. HOUSTON, of Alabama, rose and said it was rather a lengthy resolution. He thought the House had better have the opportunity of looking at it; therefore, he objected to its passage this morning.

Mr. STEPHENS said it was simply a resolution of inquiry. It was a very important matter. He trusted the gentleman would not object. He did not propose to discuss it. It simply called for information. He hoped the gentleman would not object to its passage.

Mr. HOUSTON. I prefer it should not pass to-day. It is too long entirely. I want to have the opportunity to examine it.

Mr. STEPHENS. I don't understand the gentleman from Alabama to object to its reception?

Mr. HOUSTON. Yes, sir, I do.

On motion of Mr. HARALSON, the House proceeded to the consideration of the amendments from the Senate to the bill of the House entitled "An act for the relief of William Fuller."

After some conversation between Mr. HARALSON, Mr. HALL of New York, and others, the amendments were agreed to, and the title amended, so as to read "An act for the relief of William Fuller and Charles Savage."

Ordered, That the Clerk acquaint the Senate therewith.

On motion of Mr. KAUFMAN, by leave,

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of granting alternate sections of the public domain lying along the routes for the construction of a railroad from the mouth of Red river, via Cheneyville, in the parish of Rapides, Louisiana, to the most eligible point on Sabine river; also, from Shreeveport to Texas line, on the most direct and eligible route to Marshall; and also, from Little Rock, in the State of Arkansas, to the Texas line, in the most direct and eligible route from said town, to Clarksville, in the State of Texas.

Mr. VINTON, by leave, from the Committee of Ways and Means, reported a bill making appropriations for the service of the Post Office Department, for the year ending June 30, 1850; which was read twice.

Mr. VINTON moved that the bill be committed to the Committee of the Whole House, and be made the special order of the day for Monday next.

Mr. GOGGIN moved that the said bill be committed to the Committee of the Whole on the state of the Union, with instructions to said committee, first, to consider and dispose of House bill "to reduce the rates of postage on letters and newspapers, to establish uniform postal charges, and to correct the abuse of the franking privilege," so as to ascertain, as near as practicable, what amount, if any, of additional appropriations will be necessary, to supply deficiencies growing out of such reduction.

Mr. VINTON inquired whether it was in order, upon the question of committing a bill, to move instructions as to some other bill?

The SPEAKER. The Chair knows no limit to the power of the House to instruct the committee.

Mr. VINTON called for a division of the question, so as to vote first upon the commitment.

The SPEAKER. The gentleman from Virginia [Mr. GOGGIN] is entitled to the floor.

Mr. GOGGIN. If the motion to instruct the committee brings up the whole subject of postage, I desire to be heard at length upon it. I have made various attempts to get the floor to discuss the subject. I ask the Chair if it will be in order for me now to proceed?

The SPEAKER stated, that this being a private bill day, public business could not be debated, except by general consent. If the bill went over, it took its place on the file of unfinished business on the Speaker's table, and might not be reached in some length of time.

Mr. VINTON. Does the Speaker decide that the question may not be taken on the commitment of the bill?

The SPEAKER replied that the question to commit could be taken if the previous question were moved and seconded. But the gentleman from Virginia having obtained the floor, and given notice of his intention to discuss the subject, and debate upon public bills not being in order to-day, the bill would lie over upon the Speaker's table.

Mr. VINTON. I hope the gentleman from Virginia will withdraw his motion. If the bill goes upon the table, it may never be reached at all, and appropriations for the Post Office Department may not be made by the House at this session.

Mr. GOGGIN said it was a subject of complaint on the part of the country that the bill which has already been reported for the reduction of postage contained no appropriation. They could not pass the bill making appropriations for the Post Office Department, until the question of the adjustment of the rates of postage was settled. There was a general desire on the part of the House to reduce the rates of postage. There was no more appropriate place for its consideration than upon the very bill before the House.

The bill accordingly lies upon the Speaker's table.

THE PUBLIC PRINTING.

A message was received from the Senate, stating that it had passed a joint resolution extending the time for receiving the proposals for the printing of Congress, in which it asked the concurrence of the House.

The SPEAKER laid before the House the following communication:

To the Senate and House of Representatives:

At a meeting of the officers of the Senate and House of Representatives, under the resolution of Congress directing the manner of procuring the printing of the two Houses of Congress, the Secretary of the Senate notified the board that the Senate had yesterday adopted a joint resolution extending the time for receiving the proposals for the printing of Congress; whereupon, the Secretary of the Senate and Clerk of the House decided, that in consideration of the adoption by the Senate of the aforesaid resolution, they would not open the proposals until it was ascertained what would be the decision of the House of Representatives upon the Senate's resolution. And thereupon it was ordered, that a meeting of the board should take place on Wednesday next, the 7th instant, and that in the mean time no further proposals shall be received.

ASBURY DICKINS,
Secretary of the Senate.
THOS. J. CAMPBELL,
Clerk of the House of Representatives.

February 3, 1849.

Mr. WENTWORTH. Is that matter before the House to-day?

The SPEAKER. The communication is made to the House.

Mr. COBB, of Georgia, rose to a point of order. He did not consider this subject fairly before the House. It did not come up as the regular order of business. It was a communication which the SPEAKER had laid before the House for information; but if it was objected to, he contended it would not be in order to receive it at all. He therefore objected to its consideration.

The SPEAKER said, if objection was made, the communication must go over.

Mr. COBB insisted upon his objection, and added, let the officers of the two Houses execute the law of the land.

RESOLUTIONS OF THE LEGISLATURE OF MICHIGAN.

Mr. COBB, of Alabama, asked leave to introduce a bill to reduce and graduate the prices of the public lands, and for other purposes.

Objections were made.

Mr. STUART, of Michigan, by leave, presented joint resolutions of the Legislature of the State of Michigan, in favor of the ordinance of 1787, and in opposition to the introduction of slavery within any of the territories of the United States now, or hereafter to be acquired; which was read, and,

On motion of Mr. STUART, of Mich., it was

Ordered, That said resolutions be laid upon the table and printed.

ORDER OF BUSINESS.

Mr. ASHMUN inquired what was the regular order of business for the morning?

The SPEAKER replied that private business was in order to-day; if the House did not proceed to it, almost any subject might be taken up.

Mr. ASHMUN. I move—no motion having been made to proceed to private business—that the House proceed to the consideration of the business on the Speaker's table, in order that we may reach the bill relative to the slave trade in the District of Columbia.

Mr. TURNER called for the regular order of business.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole House.

Mr. ASHMUN. I hope not. We will spend all day upon one bill.

He called for tellers on the motion of Mr. ROCKWELL, who were ordered, viz: Messrs. ASHMUN and TURNER, and the question having been taken, they reported ayes 80, noes 51.

So the House resolved itself into Committee of the Whole, (Mr. HOUSTON, of Alabama, in the Chair,) and proceeded to the consideration of bills on the private calendar.

The CHAIRMAN stated that the bill first in order was the bill for the relief of Lyon & Howard.

The committee proceeded to the consideration of the said bill.

The bill (which has been heretofore particularly noticed in this paper) authorizes the Solicitor of the Treasury to ascertain the value of certain dredging machines, and to pay the balance, if

any, which might be found to be due over and above the sums already paid.

Mr. McCLELLAND said, that when this bill was under consideration in 1845-'46, he took an interest in it, because then, as now, he was a friend to the system of river and harbor improvements; and the strongest arguments which had been made against the system were based upon the principle involved in this very bill: that was to say, the principle of extra compensation beyond the estimates of the Topographical Bureau.

Mr. McC. then proceeded to examine the provisions of the bill, to show that the claim was different and more extensive in its character than a similar one which had been voted down in 1845-'46 by (he believed) a unanimous vote; and that, if there had ever been an instance of an attempt to swindle the Government of the United States, this was one.

Mr. McC. sent to the Clerk's table a letter from Colonel Abert, Chief of the Bureau of Topographical Engineers; which was read.

Mr. BIRDSALL replied to Mr. McCLELLAND, and advocated the bill. He said he knew nothing of the case, except from the facts reported by the committee, on which he supposed the House were bound to act. It appeared from the report, that the claimants built four dredges under contract with the Government, that if they raised a certain number of tons per hour, they were to receive a certain compensation. The dredges were tested, and the amount was certified by two Government officers. The Government was bound, therefore, to pay the stipulated compensation, which, it appeared, was some $6,000 more than had been received.

The hour allotted to debate expired.

On motion of Mr. ROCKWELL, of Connecticut, the bill was laid aside to be reported, with a recommendation that it be recommitted to the Committee on Claims.

The committee next proceeded to the consideration of the bill for the relief of the widow and heirs-at-law of Silas Duncan, late commandant in the United States navy.

No amendment being offered to this bill, it was laid aside to be reported to the House.

The bill for the relief of Noah A. Phelps being under consideration—

Mr. DANIEL opposed it, on the ground that the facts of the case had not been investigated by the committee, but that they had reported the bill upon the certificate of a jury.

He moved that the bill be reported, with a recommendation that it do not pass.

Mr. ROCKWELL, of Connecticut, explained that the principle by which the Committee on Claims were governed was not to rely alone upon the certificate of a jury, of a balance due from the Government; but in case of decision by a court of a point of law, the verdict of a jury under such decision against the Government they considered should be binding against the Government, as it would be against an individual.

Some further conversation and explanation followed between Mr. DANIEL and Mr. ROCKWELL; and some conversation passed between Mr. KAUFMAN and Mr. ROCKWELL.

The CHAIRMAN stated the question to be on the motion of the gentleman from North Carolina, [Mr. DANIEL,] that the bill be reported to the House with a recommendation that it do not pass.

Mr. KAUFMAN moved so to amend the motion as to provide that the bill be recommitted to the Committee on Claims, with instructions to report the facts of the case to the House.

Mr. DANIEL accepted the amendment of Mr. KAUFMAN as a modification of his own proposition.

Mr. POLLOCK contended that no committee of this House could possibly give to the case the same full examination which it had already received; and that the bill ought to be passed without further opposition.

Mr. CROWELL opposed the modified motion of the gentleman from North Carolina, [Mr. DANIEL.] There was, he said, no dispute about the facts of the case. The record disclosed what the facts were. The only matter in controversy between Mr. Phelps and the accounting officers of the treasury was as to a question of law, whether certain accounts should be allowed or not. That question of law had been decided in favor of Mr. Phelps, and the sum which this bill proposed to appropriate was justly due. There was no necessity to refer the case to a committee to ascertain that which was already apparent on the record.

Some conversation followed between Mr. FICKLIN, Mr. CROWELL, and Mr. ROCKWELL.

The question was then taken on the modified motion of Mr. DANIEL, and was decided in the negative.

And the bill was then laid aside to be reported to the House.

The next bill on the calendar was a bill for the relief of the legal representatives of Colonel Francis Vigo; which, without debate, was laid aside to be reported to the House.

The committee next proceeded to the consideration of a bill for the relief of Mathews, Wood, and Hall; which, after debate by Messrs. DANIEL, ROCKWELL, and NELSON, was, on motion of Mr. DANIEL, amended by striking out the amount in the bill of $13,953 22, and inserting $9,000; which amendment was agreed to, and the bill was laid aside to be reported to the House.

The next bill considered was Senate bill entitled an act for the relief of Jeannette C. Huntington, widow and sole executrix of William D. Cheever; which bill, after debate by Messrs. DANIEL, ROCKWELL, and MURPHY, was laid aside to be reported to the House.

On motion of Mr. FULTON,

The committee rose and reported their action on the above several bills to the House.

Mr. GOGGIN moved that the House resolve itself into Committee of the Whole on the state of the Union, with the view of taking up the bill for the reduction of the rates of postage; which motion was not agreed to.

On motion of Mr. NEWELL, by leave,

Resolved, That the Clerk of the House be directed to procure, for the use of Henry H. Sibley, Delegate from Wisconsin, such books as were ordered to be furnished to the new members of this Congress by a resolution of the 12th of August, 1848.

On motion of Mr. COCKE, it was

Ordered, That the papers in the case of George Hix be withdrawn from the files of the House and referred to the Committee on Indian Affairs.

Mr. TOMPKINS, by leave, presented the remonstrance of Colonel Peter Pytchlyn, Choctaw delegate, against the passage of the bill to unite under one government the several Indian tribes west of the Mississippi; which remonstrance was referred to the Committee on Indian Affairs.

The House proceeded to the consideration of the bill for the relief of Elizabeth S. Cobbs, yesterday reported from the Committee of the Whole, and the amendment pending thereto moved by Mr. TUCK, viz: strike out the word "fifteen," and insert in lieu thereof "twenty-five," so that it would read "be placed on the roll of invalid pensions at the rate of twenty-five dollars a month," &c.

And the question being put on agreeing to said amendment, it was decided in the affirmative.

The said bill was then ordered to be engrossed and read a third time, and being engrossed, was accordingly read a third time and passed, and sent to the Senate for concurrence.

The House then proceeded to the consideration of the bill from the Senate, entitled "An act for the relief of Jeannette C. Huntington, widow and sole executrix of William D. Cheever," this day reported from the Committee of the Whole, without amendment; when the said bill was read the third time and passed, and returned to the Senate.

The House proceeded to the consideration of the "bill for the relief of Lyon and Howard," this day reported from the Committee of the Whole, with a recommendation that it be recommitted to the Committee on Claims; when, on motion of Mr. McCLELLAND, the said bill was laid on the table.

The House then proceeded to the consideration of the bills for the relief of the widow and heirs-at-law of Silas Duncan, late commandant in the United States navy, for the relief of Noah A. Phelps, and for the relief of the legal representatives of Colonel Francis Vigo, reported this day from the Committee of the Whole without amendment; when the same were severally ordered to be engrossed, and being engrossed, were read a third time, and sent to the Senate for concurrence.

The House next proceeded to consider the bill for the relief of Mathews, Wood, and Hall, this day reported from the Committee of the Whole with an amendment, viz: strike out $13,953 22, and insert $9,000.

After debate by Messrs. DANIEL and ROCKWELL—

Mr. ROCKWELL moved the previous question, which was seconded, and, under the operation thereof, the amendment was disagreed to, and the bill ordered to be engrossed and read a third time; and being engrossed, the said bill was accordingly read the third time and passed, and sent to the Senate for concurrence.

Mr. CATHCART gave notice of a motion for leave to introduce a bill granting the right of way to such railroad and other companies for making roads as have been or may be chartered in the State of Indiana.

Mr. HAMPTON, from the Committee on Enrolled bills, made a report.

The House then proceeded to the consideration of a bill for the relief of Stoughton A. Fletcher, reported from the Committee on the Judiciary on the 1st instant.

The question being, "Shall this bill be engrossed and read a third time?"

Pending which, on motion of Mr. BURT,

The House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. BROWN, of Pennsylvania: The petition of 970 men, women, and children, inhabitants of Pennsylvania, respectfully asking Congress to take measures for effecting such change in the Constitution and laws as shall abolish slavery throughout the Union, in the manner that may be most consistent with justice and the rights and interests of every section of the country.

By Mr. STUART, of Michigan: The petition of citizens of Kent county, Michigan, that a mail route be established from Grand Rapids, in said county of Kent, via Alpine and Summerville post offices, in said county, to Muskegon Mills post office, in the county of Newago; thence, via Newago post office, in Newago county, and Muskegon Dam, (so called,) to Muskegon post office, in Ottawa county.

By Mr. KENNON: The petition of R. G. Wright and 344 other citizens of Belmont county, Ohio, praying freedom from traffic in the public lands, and a grant of 160 acres of land to actual settlers. Also, the petition of Harlow Williams and 37 other citizens of Harrison county, Ohio, praying for the free transmission of newspapers by mail for a distance of thirty miles.

By Mr. KELLOGG: The petition of William Aymer and others, citizens of Essex, New York, praying for the abolition of the franking privilege, and that uniform rates of postage be established, and that the postage on letters and newspapers carried by mail packets and steamers be reduced, and that there be a free delivery of newspapers and letters in large cities and towns.

By Mr. THOMPSON, of Pennsylvania: A memorial, signed by 300 inhabitants of Pennsylvania, for a mail route from Luthersburg, Clearfield county, to Kittaning, in Armstrong county, via Smicksburg, Punxutawney, and Rural Valley.

By Mr. MANN, of Massachusetts: The petition of James W. Ward and 340 others, inhabitants of Abington, in the State of Massachusetts, praying for cheap postage. Also, the petition of Robert Cook and 19 others, inhabitants of New Salem, in the same State, praying for the same object.

By Mr. STROHM: The petition of Joseph Brinton and 56 others, of the State of Pennsylvania, praying for the abolition of slavery in the District of Columbia, and all other places over which Congress has exclusive jurisdiction, and that no new State shall be admitted without an express condition that slavery shall be excluded.

By Mr. TAYLOR: The petition of E. H. Field and 150 others, citizens of Adams and Scioto counties, in the State of Ohio, praying for cheap postage.

By Mr. MILLER: The petition of William Dunbar and other citizens of Knox county, Ohio, asking relief for the reënactment of so much of the post office law of 1845 as allows the free transmission of newspapers by mail for the distance of thirty miles from the place where they are printed.

By Mr. GREELEY: The petition of M. H. Plumley and 116 other citizens of Madison county, New York, for the freedom of the public lands to actual settlers only. Also, of 86 women of Meredith, Delaware county, New York, asking Congress to abolish slavery wherever it has the power to do so. Also, thirteen petitions from citizens of New York, asking Congress to exclude intoxicating drinks from the navy. Also, ten memorials asking the abolition of flogging in the navy.

By Mr. MURPHY: The petitions of Samuel W. Haskins and 43 other citizens, principally of Williamsburg, New York, and also of E. A. Youngs and 12 other citizens of Brooklyn and New York, asking a reduction of the rates of postage, and abolition of the franking privilege. Also of Hon. Jeremiah Johnson and 34 other citizens of Brooklyn, praying that ten per cent. may be secured to the treasury of the United States on all gold obtained in California.

By Mr. HENRY: The petition of J. C. Foster and one hundred and one others, of Brattleboro', Vermont, for reducing the rates of letter and newspaper postage, and for abolishing the franking privilege.

By Mr. McILVAINE: The petition of Joseph Preston and one hundred and thirty-two others, citizens of Chester county, Pennsylvania, praying Congress to take immediate measures for the prohibition of slavery in the Territories of New Mexico and California, and also to exercise all constitutional power to abolish slavery in the District of Columbia.

IN SENATE.

MONDAY, *February* 5, 1849.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, made in compliance with a resolution of the Senate, showing the construction given to the act of 1846, in relation to duties accruing and collected on importations, and which is paid by any country at the place of exportation; which was laid on the table.

The VICE PRESIDENT laid before the Senate a report from the Secretary of the Senate and the Clerk of the House of Representatives, similar to that presented in the House of Representatives on Saturday, stating that they had postponed the examination of the contracts for the printing of Congress, until Wednesday. to allow time for the two Houses to act finally on the subject of the joint resolution extending the time for receiving proposals.

The VICE PRESIDENT laid before the Senate the memorial of William S. Crodey and John Drew, representatives of that portion of the Cherokee nation known as the "Old Settlers," asking that provision may be made for paying out, of the moneys appropriated for their benefit, all debts which, on examination, may be found due by them; which was referred to the Committee on Indian Affairs.

VIRGINIA RESOLUTIONS RESPECTING SLAVERY.

Mr. HUNTER presented the following resolutions, passed by the Legislature of Virginia:

Whereas the institution of slavery was fully discussed in the Convention which formed the Constitution of the United States, and the rights of slaveholders recognized and protected by the provisions of that instrument, and without the compromises then solemnly entered into, the union of the States never could have been formed; and whereas the General Assembly of Virginia, regarding what is known as the "Wilmot proviso" as in palpable disregard of the compromises of the Constitution, did on the 8th day of March, 1847, adopt a series of resolutions, distinctly indicating the course which the State of Virginia would pursue in the event of its passage by the Congress of the United States, as applicable to territory to be acquired from Mexico; and whereas the present General Assembly have seen with deep concern a disposition manifested by the House of Representatives of the United States to violate the principles embodied in said resolutions, and to make still further aggressions upon the rights of the southern States: under these circumstances, this General Assembly deem the occasion fit to reaffirm said resolutions, and most respectfully, but most earnestly, to call the attention of all those who are attached to the union of the States to the serious and inevitable consequences which must follow such action upon the part of the General Government: Be it therefore,

1. *Resolved by the General Assembly of Virginia*, That, after the fullest reëxamination and reconsideration of the resolutions adopted on the 8th of March, 1847, by this body, we do consider said resolutions as founded in truth, consonant with the Constitution, and conducive to its preservation, and therefore we feel it to be our indispensable duty to adhere to and reaffirm them, as follows:

"*Resolutions relative to the prohibition by the Congress of the United States of slavery in any territory to be acquired by conquest or treaty.*—[Adopted March 8, 1847.]

"1. *Be it resolved, unanimously, by the General Assembly of Virginia*, That the Government of the United States has no control, directly or indirectly, mediately or immediately, over the institution of slavery, so as to impair the rights of the slaveholder; and that, in taking any such control, it transcends the limits of its legitimate functions, by destroying the internal organization of the sovereignties who created it.

"2. *Resolved, unanimously*, That all territory which may be acquired by the arms of the United States, or yielded by treaty with any foreign Power, belongs to the several States of this Union, as their joint and common property, in which each and all have equal rights; and that the enactment, by the Federal Government, of any law which should directly, or by its effects, prevent the citizens of any State from emigrating, with their property, of whatever description, into such territory, would make a discrimination unwarranted by and in violation of the compromises of the Constitution and the rights of the States from which such citizens emigrated, and in derogation of that perfect equality that belongs to the several States as members of this Union, and would tend directly to subvert the Union itself.

"3. *Resolved*, That if, in disregard alike of the spirit and principles of the act of Congress on the admission of the State of Missouri into the Union, generally known as the Missouri compromise, and of every consideration of justice, of constitutional right, and of fraternal feeling, the fearful issue shall be forced upon the country which must result from the adoption and attempted enforcement of the Wilmot proviso as an act of the General Government, the people of Virginia can have no difficulty in choosing between the only alternatives that will then remain—of abject submission o aggression and outrage on the one hand, or determined resistance on the other, at all hazards and to the last extremity.

"4. *Resolved, unanimously*, That the General Assembly holds it to be the duty of every man, in every section of this Confederacy, (if the Union is dear to him,) to oppose the passage of any law, for whatever purpose, by which territory to be acquired may be subject to such a restriction.

"5. *Resolved, unanimously*, That the passage of the above mentioned proviso makes it the duty of every slaveholding State, and of all the citizens thereof, as they value their dearest privileges, their sovereignty, their independence, their rights of property, to take firm, united, and concerted action in this emergency."

II. *Resolved*, That we regard the passage of a law by the Congress of the United States, abolishing slavery or the slave trade in the District of Columbia as a direct attack upon the institutions of the southern States, to be resisted at every hazard.

III. *Resolved*, That in the event of the passage by Congress of the "Wilmot Proviso," or any law abolishing slavery or the slave trade in the District of Columbia, the Governor of this Commonwealth is requested immediately to convene the Legislature of this State (if it shall have adjourned) to consider of the mode and measure of redress.

IV. *Resolved*, That the Governor of this Commonwealth be requested to send a copy of these resolutions to each of the States of this Union, and also to our Senators and Representatives in Congress.

Mr. HUNTER, in presenting the above resolutions, said, I present to you a series of resolutions recently passed by the General Assembly of Virginia in relation to the subject of slavery. Some two years since, that State felt it to be her duty, under the circumstances which surrounded her, to declare her opinions as to the right of Congress to prohibit slavery in territory to be acquired either by conquest or treaty. These resolutions denied the power of Congress "to control, directly or indirectly," the institution of slavery, so as to impair the rights of the slaveholder; they declared that the territory to be acquired by the United States from any foreign Power would be the common property of the States, and that any Federal legislation which directly or indirectly prevented the citizens of any of the States from emigrating to it with their property, of whatever description, would violate the Constitution and the rights of the States, would derogate from that perfect equality which belongs to the States of this Confederacy, and tend to subvert the Union itself; they proclaimed that if the Wilmot Proviso should be adopted, in disregard of the spirit and principles of the Missouri compromise, and of every consideration of right, justice, and fraternal feeling, the people of Virginia could have no difficulty in choosing between the only alternatives that would then remain—of abject submission to aggression and outrage on the one hand, or determined resistance on the other, at all hazards and to the last extremity. They declared it to be the duty of every man from every section of this Confederacy, if he loves the Union, to oppose the passage of such a law; and, in the event of its enactment, they warned the slaveholding States, and every citizen thereof, that it would be their duty, as they valued their dearest privileges, their sovereignty, their independence, and their rights of property, to take firm, united, and concerted action in that emergency. Such were the resolutions unanimously adopted by the General Assembly of Virginia in 1847. Since that period, there have been two general elections by the people; and again, at the present session of the Legislature, these resolutions have been solemnly reaffirmed, with the addition of another, made necessary by the progress of events. That resolution declares it to be the opinion of the General Assembly, that any "law abolishing slavery or the slave trade in the 'District of Columbia would be a direct attack 'upon the institutions of the southern States, to 'be resisted at every hazard."

The adoption of these resolutions, Mr. President, was perhaps due from the State, not only to the rights of her own citizens, but to the Union, which she has ever sought to cherish and preserve. If she entertained these opinions, it was her duty to warn her sister States of her feelings and intentions in the most solemn form known to her proceedings.

To manifest the sincerity of her desire to promote concord, she approaches her confederates not only in the spirit, but in the very language of compromise, and submits to their consideration the fearful alternatives between which she must choose if she cannot be permitted to retain her position of equality in this Union, even by the sacrifice of a portion of her rights and interests. It was once—it may be, perhaps, still—within the range of possibility that such a course on the part of all the southern States might induce a pause in the progress of what we feel to be aggression and insult, however differently it may have been intended. At any rate, it is due from Virginia to make every effort to save both the Union and the indispensable rights of her people. It is due from her, because no State has contributed more than she did to make and maintain the Union as it now exists. In almost every battle of the Revolution—from the Heights of Abraham to the plains of Georgia—from what was then the remote northwest—from Kaskaskia and Vincennes to Jersey and the Carolinas—her blood was poured; and, to the extent of her means, her treasure was as freely expended.

She not only sacrificed to make, but also to maintain, the union of the States. To secure harmony and promote fraternal feelings, she ceded away her northwestern territory, and submitted to conditions which gave, forever, the preponderance of political power to the non-slaveholding States—so little was she jealous of their progress, or doubtful of their disposition at all times to do her justice. Under all circumstances, and at all times, she has manifested her attachment to the Union. She has reared her sons to cherish and revere it as, originally, it was formed. It has ever been as a household word with us—sacred for its domestic associations, and which never passed the lips that it did not stir the heart.

Sir, we have been taught to believe that our Constitution, if administered truly, and in a spirit of justice and fraternal feeling, contained more securities for human happiness and the liberty of the citizen than any other instrument ever devised by the art of man. But the Union which we love is a confederacy of equals. The Constitution which we cherish makes no invidious distinction between States or citizens, but distributes equally its blessings and its burdens. Such is the Union and such is the Constitution which the blood of our fathers was shed to procure; and shall their sons so far fail in reverence to it as to agree to the subversion of the very principle which lies at the foundation of the structure? Sir, this cannot, ought not to be. The South cannot consent to be made the Jamaica or even the Ireland of this Confederacy, without an effort to prevent it. It would not be for the glory or even for the interest of the non-slaveholding States to force us to such extremities if they could. Sir, they can have no interest in forcing us to extremities; and I believe that they would pause in that progress which is inevitably leading to such a result, if they understood fully how we think and feel on this subject. Alas! sir, that it should be so; but we have ceased to study and consider the feelings and opinions of each other in the true spirit of fraternal affection.

Mr. President, I know not what effect these resolutions may produce in other States—very little, I fear; but they at least contain food for reflection. Sir, it is a grave occasion when one of the States of this Union feels bound to speak out in such language as that of these resolutions. It was in March, 1773, that the messengers of Virginia and Massachusetts crossed each other as they bore mutual propositions for the establishment of committees of correspondence for the maintenance and preservation of their rights. Such were the feelings which passed between Virginia and Massachusetts at that day. It was in March, 1847, that the General Assembly of Virginia warned its sister slaveholding States that, in a certain emergency—we all know how near it may be—it would be their duty, as they valued their dearest privileges, to take firm, united, and concerted action. Mr. President, where are we? Whither are we tending? I think I know where we are; but who can tell whither we are going? I have neither the will nor the power to draw the curtain which veils the future. I shall endeavor to discharge the duties of to-day, and to look for consequences to-morrow, well knowing that "there is a destiny which shapes our ends, rough-hew them how we may." It is enough for me to know that I am pursuing the path marked out for me by my State. Where she leads I will follow, wherever it may carry me. One thing I know and gratefully acknowledge: I know it to be her purpose to protect the rights of her sons by all the means in her power. She has said it, and shall she not do it? There is no true son of hers who would not bow his head in shame if he believed that she would not make good her word to the full extent of her ability. It is neither for individuals nor States to command success; but it depends upon themselves to pursue the path of honor, wheresoever it may lead. Some things they will thus certainly secure. They will secure their self-respect and reputation: these are the priceless possessions which I understand my native State to promise to defend at all hazards,

and to the last extremities. I move that these resolutions be read and printed.

The motion of Mr. HUNTER was agreed to.

RESOLUTIONS OF STATE LEGISLATURES.

Mr. JOHNSON, of Louisiana, presented resolutions adopted by the Legislature of the State of Louisiana, instructing their Senators and requesting their Representatives to use all reasonable exertions to have a foundry and armory established in the town of Algiers, in that State; which was read and ordered to be printed, and referred to the Committee on Military Affairs.

Mr. J. also presented resolutions of the same, instructing their Senators and requesting their Representatives to use their best exertions to procure the passage of a law to refund to the State of Louisiana the amount expended in the completion of the *raccourci* cut off in the Mississippi river; which were read, ordered to be printed, and referred to the Committee on Commerce.

Mr. J. also presented resolutions adopted by the Legislature of the State of Louisiana, in favor of the passage of a law making the practice of the law in the circuit and district courts of the United States in all civil cases, whether in the common law or the equity side of said court, conform to that of the district courts of the said State; which were referred to the Committee on the Judiciary.

Mr. DOUGLAS presented resolutions, passed by the Legislature of the State of Illinois, instructing their Senators, and requesting their Representatives, to procure the passage of an act to direct the Secretary of War to select a suitable tract of land upon Rock Island, in the State of Illinois, for the site of the necessary buildings for a marine hospital, with the necessary appurtenant grounds, and directing the sale of the remainder of the lands upon said island, in small quantities, at public sale, the proceeds to be appropriated to the establishment and support of said hospital; which was ordered to be printed, and referred to the Committee on Commerce.

Mr. BREESE. I have a similar communication to that presented by the Senator from Illinois to offer, in connection with which I beg leave to submit the following resolution, and ask its immediate consideration:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of establishing a marine hospital on Rock Island, in the State of Illinois, and appropriating the buildings thereon and the lands of the United States there situate for that purpose.

Rock Island was the site of Fort Armstrong, and has been abandoned in consequence of statements submitted at the last session of Congress to the Secretary of War. There are many good buildings within the fort that might be converted into a marine hospital; and, as the land surrounding the buildings is valuable, it could be divided into lots and sold, and a fund thereby obtained for the support of such an hospital.

The resolution was then considered and agreed to.

Mr. BORLAND presented resolutions adopted by the General Assembly of the State of Arkansas, asking for the establishment of a mail route from Rock Roe, in that State, to Boonville, in Missouri, and from St. Louis, Missouri, via Batesville, to Little Rock, Arkansas; which were read and referred to the Committee on the Post Office and Post Roads.

Mr. B. also presented resolutions adopted by the same, asking for a donation to the States in which they lie, one-tenth of the public lands, for the purposes of education, internal improvements, &c.; which were read and referred to the Committee on Public Lands.

Mr. B. also presented resolutions adopted by the same, asking for the passage of an act to continue the surveyor's office in that State; which were read and referred to the Committee on Public Lands.

MEMORIALS AND PETITIONS.

Mr. BALDWIN presented a petition from Peter H. Morgan and George G. Bishop, administrators of John Arnold, asking the extension of a patent for an improvement in the mode of manufacturing cloths; which was referred to the Committee on Patents.

Mr. DAYTON presented a petition from citizens of Princeton, New Jersey, praying for a reduction of the rates of postage, and the abolition of the franking privilege; which was laid on the table.

Mr. RUSK presented a petition from Nathaniel Lewis, asking compensation for forage and subsistence furnished to a company of Texas rangers; which was referred to the Committee on Claims.

Mr. DICKINSON presented a petition from citizens of West Turin, New York, praying for the establishment of a post route from Constableville to the store of S. C. Thompson, in that place; which was referred to the Committee on the Post Office and Post Roads.

Mr. BREESE presented a memorial from nine members of the Legislature of Illinois, asking for a right of way through the public lands to aid in the construction of a railroad from the east border of the State; which was referred to the Committee on Public Lands.

Mr. DIX presented a petition from inventors and others, citizens of New York, praying for a modification of the patent laws; which was referred to the Committee on Patents.

CLAIMS ON TEXAS.

Mr. UNDERWOOD submitted additional documents in favor of the claim of George W. Norton and E. P. Norton, claimants on the late Republic of Texas; and in doing so, he said: I have received from G. W. Norton and E. P. Norton some papers in support of a petition heretofore presented in their behalf. The petition asks that Congress will pay a bond which they held against the late Government of Texas; and this additional petition is accompanied with a statement of some facts to which I wish to call the particular attention of the Senators from Texas and the Senate also.

The petitioners submit a bond, sir, or a copy of it, for thirty-seven hundred dollars; and exhibit also a receipt given for this bond by Mr. J. M. Swisher, Auditor of the now State of Texas. In this receipt, given by Mr. Swisher, it is set forth that this money was available to Texas at the rate of twenty cents in the dollar only; so that it would seem, according to this receipt, that the Government of Texas only intend to pay the holders of the bond twenty cents in the dollar. The bond on its face asserts to have been issued in favor of a Mr. Charles Demorse, or order, a stock commissioner. It is for so much money, payable with interest, at the pleasure of the Government, from and after 1846.

As this matter has been before the Senate in various ways, it becomes a question of great importance whether, according to the laws of Texas at the time this money was furnished, there was any law in force which required that it should be *scaled* according to the receipt the officer of the Government of Texas now furnished to the holder of the bond? During the last session of Congress, in reference to the claim of Leslie Combs, a petition was presented and referred upon this identical subject. A resolution was then adopted requiring that information should be obtained with regard to the character of these claims—one of which is now presented—against this Government, growing out of the contracts made by the late Republic of Texas. That resolution was laid before the Secretary of the Treasury on the 18th of April last, but no response has been made to it; so that as yet no information upon this interesting subject has been obtained from any source whatever. I mention these facts, sir, in the hope that my friend who sits near me from Texas [Mr. HOUSTON]—if he is pleased to communicate anything on the subject—may state whether these bonds are to be scaled according to the receipt given by Mr. Swisher? I will read this receipt for the benefit of the Senate:

No. 43.] *Public debt of the late Republic of Texas.* [1st class.

This is to certify that George W. Norton has, under the provisions of the act of the Legislature of the State of Texas, entitled "An act to provide for ascertaining the debt of the late Republic of Texas," approved March 20, 1848, filed with the Auditor and Comptroller eight per cent. treasury bonds created by act of 5th February, 1840, with interest unpaid from 1st January, 1841, amounting to three thousand and seven hundred dollars: the interest on which, at eight per cent. to the 1st day of July, 1849, amounts to two thousand five hundred and sixteen dollars. Said claim, according to the date before us, was issued by the late Government of Texas at twenty cents on the dollar, or was at that rate so available, making the principal equal to seven hundred and forty dollars, and the interest at the same rates equal to five hundred and three dollars twenty cents, in par funds.

In testimony whereof, we have hereto set our hands and affixed our seals of office at Austin this 28th of November, 1848. JOHN SWISHER, *Auditor.*

JAMES B. SHAW, *Comptroller.*

The last clause is the part I do not understand, and about which I desire to obtain information.

It would appear, according to the receipt, that the debt of thirty-seven hundred dollars, although payable to the order of Mr. Demorse, the stock commissioner, was to be discharged, in the hands of the *bona fide* holder, by the payment to the assignee of seven hundred and forty dollars, being a discount of four-fifths of the debt.

I should like to know whether there was any law of Texas in force at the time the debt was contracted which contemplated the reduction of the debts of that republic to sums less than those expressed upon the face of her bonds, upon any contingency. If there be any such law, I wish to be informed of its provisions, and the contemplated contingencies upon which it was to operate, so as to reduce the claims of creditors to one-fifth part of their original amounts.

Mr. U. concluded by moving the reference of the papers to the Committee on the Judiciary.

Mr. WESTCOTT. Mr. President, I move to lay the papers presented by the honorable Senator from Kentucky on the table; inasmuch as the Committee on the Judiciary have already asked to be discharged from the further consideration of the subject to which these papers refer. I also make this motion for the purpose of disposing of this matter immediately, in order that we may proceed to the consideration of the bill reducing the rates of postage.

Mr. UNDERWOOD. Mr. President, I was not aware that the Committee on the Judiciary had asked to be discharged from the consideration of this subject.

The question on Mr. WESTCOTT's motion to lay the papers on the table was taken, and the motion was agreed to.

Mr. HOUSTON. Mr. President, I would say, in reply to the Senator from Kentucky, that when the liabilities referred to by the Senator were originally incurred, Texas notes and bonds were depreciated to twenty cents on the dollar. The depreciation of Texas funds commenced in 1838, and it continued to depreciate until, in 1841, issues were made at the rate of ten cents on the dollar, when the liabilities of the Government were postponed on their payment, and a new currency created, which existed, and was at par when Texas was annexed to the Union as a State. These issues of five for one, as it was called, were made according to the will of the Executive, and without any authority of law that I am apprised of. I presume it is the intention of the Government of Texas to redeem her liabilities agreeably to principles of equity, and to make her payments according to the considerations for which all her obligations were incurred.

PRESIDING OFFICER. The documents presented by the Senator from Kentucky have been laid upon the table, and there is no motion now before the Senate.

Mr. HOUSTON. I merely make this explanation for the purpose of enabling the Senator from Kentucky to understand how it is that these claims have been thus graduated.

Mr. UNDERWOOD. Mr. President, the Committee on the Judiciary having asked to be discharged from the further consideration of this subject, I would ask leave to withdraw the original papers from the files of the Senate, as well as to withdraw the papers which have just been laid on the table.

The leave asked for was granted by unanimous consent, and the papers were withdrawn by Mr. UNDERWOOD.

PRESIDENT AND VICE PRESIDENT.

Mr. CLAYTON, from the Select Committee of the two Houses of Congress to make arrangements as to the manner of counting the votes of President and Vice President, reported the following resolution:

Resolved, That the two Houses will assemble in the Chamber of the House of Representatives on Wednesday, the 14th instant, at 12 o'clock, and the President of the Senate shall be the presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice President of the United States, and, together with a list of votes, be entered on the Journals of the two Houses.

On motion of Mr. CLAYTON, the resolution was considered and agreed to.

On motion of Mr. CLAYTON, the Vice Presi-

dent was authorized to appoint a teller on the part of the Senate; whereupon

The VICE PRESIDENT appointed Mr. CLAYTON.

REPORTS FROM COMMITTEES.

Mr. ATHERTON, from the Committee on Finance, reported the bill making appropriations for the civil and diplomatic expenditures of the Government for the year ending June 30, 1850, with amendments.

Mr. ATHERTON gave notice that he would at the earliest opportunity, probably to-morrow, ask the Senate to proceed to the consideration of this bill.

Mr. DIX, from the Committee on Military Affairs, reported a bill for the relief of the heirs of Truman Cross; which was read, and ordered to a second reading.

Mr. NILES, from the Committee on the Post Office and Post Roads, reported the bill to define the period of disability imposed upon certain bidders for mail contracts, without amendment.

On motion of Mr. NILES, the Senate proceeded to consider the bill; which was considered, read a third time and passed.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, reported the bill for the relief of Antonio Pacheco, without amendment, with a recommendation that the bill do pass.

Mr. BORLAND, from the Committee on Public Lands, asked that the committee be discharged from the further consideration of the bill to revive and extend the provisions of an act entitled "An act to settle the title to certain tracts of land in the State of Arkansas," and that it be referred to the Committee on the Judiciary; which was agreed to.

RESOLUTIONS.

Mr. RUSK presented the following resolution; which was considered and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of an appropriation to be made by Congress for the purpose of enabling the President to make compensation for secret services rendered during the war with Mexico.

DIPLOMATIC PLEDGES TO MEXICO.

Mr. MANGUM. Mr. President, I have a resolution which I desire to offer, if it be in order to submit it at this time. It is a resolution simply of inquiry, on the subject matter of which I do not intend now to make any remarks, except to express a hope that the Senate will adopt it.

The Secretary read the resolution sent up by the honorable Senator, of which, as it was then offered, we could not obtain a copy, but which was subsequently modified as follows:

Resolved, That the President be requested to have laid before the Senate, in Executive or open session, in his discretion, any instruction given to Ambrose H. Sevier and Nathan Clifford, commissioned as ministers plenipotentiary on the part of the United States to the Government of Mexico, or to either of said ministers, prior to the ratification by the Government of Mexico of the treaty of peace between the United States and that Republic. Also, the correspondence and explanations, if any, which said ministers had with or gave to the Republic of Mexico, or any ministers thereof, touching the effect or meaning of amendments made by the Senate of the United States to the original treaty as concluded at Guadalupe Hidalgo on the 2d February, 1848, whether such correspondence or explanations were before the ratification thereof by the Mexican Government or after such ratification, and before or contemporaneous with the exchange of ratifications, and particularly as respects amendment affecting the ninth, tenth, and twelfth articles. Also, any protocol or other paper signed by said Sevier and Clifford and any minister of the Mexican Republic, if any such there be, explaining or affecting, or attempting to explain or affect, the treaty as ratified by the Senate of the United States; and also all communications had with the Mexican Government, or any minister or ministers thereof, on the part of our ministers, as well as all communications between our ministers and the Government of the United States touching the effect of the amendments made by the Senate of the United States in the aforesaid original treaty.

Mr. HANNEGAN. If the resolution can be passed without any debate whatever, I shall have no objection to its passage at once; but if it is to give rise to debate, I shall ask that it may be laid over under the rule.

Mr. MANGUM. I remarked when I offered the resolution that I did not desire at this time to make any observations upon it. It may be a matter of but little moment, or it may be a matter of great delicacy; but, in the absence of the information for which the resolution calls, I repeat that I have no desire now to go into any discussion upon it.

Mr. ALLEN. It is usual in matters of this sort to let measures take their ordinary course, by which this resolution has to lie on the table one day for consideration. I trust, sir, that that course will be taken.

Mr. TURNEY. I hope the honorable Senator from Ohio will withdraw his opposition, and let the resolution pass at once. This subject has already been made a matter of discussion in the newspapers, and it is right that a correct history of it should be made known to the public. I am in favor of the passage of the resolution, and think it is unnecessary that it should lie over; and therefore I again express the hope that the Senator will withdraw his opposition to its immediate passage.

Mr. ALLEN. I spoke, sir, purely in reference to the importance of conforming our action to our rules, not as having any particular objection to the resolution, because I really only heard about one-third of it read, the other two-thirds having been read before my attention was called to it. I will be governed altogether in this matter by the chairman of the Committee on Foreign Relations. If he has no objection, of course I will withdraw the objection which I made.

Mr. MANGUM, in a conversational tone to Mr. HANNEGAN, made some explanation, which did not reach the reporter's desk.

Mr. HANNEGAN. I presume there will be no difficulty at all in obtaining the information called for by this resolution, but I would simply suggest to the honorable Senator from North Carolina the propriety of submitting his resolution in Executive instead of in public session; otherwise he will be placing it at the discretion of the Executive, or throwing, as it were, the responsibility on him to select either the Executive or open session to which to communicate his answer. I hope my friend from North Carolina will act upon my suggestion, and reserve his resolution for an Executive session.

Mr. MANGUM. I have no purpose that cannot be answered by the selection of either an open or an Executive session. I supposed that no question of propriety could here arise; for I regard all matters connected with this treaty as now consummated. The injunction of secrecy is now removed, and therefore it is wholly immaterial whether the subject is acted upon in Executive or in open session. I can conceive no responsibility that can arise from its consideration at the present time. There is no covert purpose in this matter—no purpose whatever, except simply to get the information which the resolution calls for.

Mr. HANNEGAN. I ask that the resolution may take the usual course, and lie over until to-morrow. I am satisfied that that will be the best course.

Mr. MANGUM. As some importance seems to be attached to the mode of introducing the resolution, which I am entirely unable to understand, I will withdraw it for the present, and I will renew it when the Senate shall go into Executive session.

Mr. TURNEY. I hope the Senator will not withdraw it. There is no necessity for an Executive session.

Mr. HANNEGAN. The objection does not come from this side of the Chamber to its consideration in legislative session. I feel it due to the Administration, and I feel it due to myself, to say that the objection to its consideration in open session, and in favor of an Executive session, was made on the suggestion of gentlemen on the opposite side of the Chamber, and it was in compliance with the principle of courtesy to them that I desired the Senator to withdraw it and present it in Executive session.

Mr. MANGUM. I find, sir, that many of my friends on this side of the Chamber desire that this resolution shall lie over until we shall go into Executive session, when we may adopt it. I will therefore consent to its being laid over.

The resolution was laid over accordingly.

REDUCTION OF THE RATES OF POSTAGE.

Mr. BENTON. Mr. President, there is a bill which was introduced at the beginning of the session—a bill of considerable importance—which I would like to have called up to-day. It is the bill making compensation for carrying the mails across the Isthmus of Panama. I would like to have that bill voted upon now, so as to accomplish something. I would move to have that bill taken up now.

Mr. ALLEN. Mr. President, it will be remembered that the post office bill was under consideration at the last day we were in session, and that it was not disposed of by any formal motion. It comes up, therefore, of its own right and of itself, for it was passed by informally, not at my request, but at the request of others. I hope, therefore, that we will proceed to the consideration of that bill.

Mr. FOOTE. Mr. President, I would remark that if it be the intention of my friend from Ohio to respond this morning to the speech delivered the other day by the Senator from Connecticut, I feel bound to give him that opportunity. I would like to know if that be his intention.

Mr. ALLEN signified that such was his intention.

Mr. FOOTE. That being the case, I feel bound to give my friend from Ohio an opportunity to reply to the remarks of the honorable Senator from Connecticut; and I hope, therefore, that the Senate will proceed to the consideration of the Post Office bill.

The question was then taken on the motion of Mr. ALLEN, and it was agreed to.

So the Senate proceeded to the consideration of the bill reducing the rates of postage.

The question recurred on the amendment of Mr. CAMERON, to strike out the words "half a cent," and the words "ounce and a half," so that the bill would read "newspapers circulating within thirty miles of the office of publication shall be sent free of postage."

Mr. ALLEN. Mr. President, I regret that the prevailing epidemic, the influenza, renders me at this time incapable of speaking to the Senate in a manner I should desire to do. I will, nevertheless, proceed, feeling fully assured that the business I have in hand is of a character so easy, that it may be performed even by an unwell man.

At the commencement of this discussion, I announced to the Senate that it was my intention to bring the internal post office establishments of this country in contrast with the external mail route establishments of the country. I said, sir, that I thought it a monstrous policy in this Government, in the very year when they were discontinuing, and did discontinue, two hundred and ninety-six post offices previously established among the people, upon the sole ground that these post offices did not yield a revenue equal to their expenses—I say that I thought it a monstrous policy that the Government, when it was doing this, should spend one million and a third per annum to carry five mails from two ports in the United States to four ports in foreign countries. I said that, Mr. President; and it now appears that this system is so monstrous that its friends dare not stand forth and defend it without resorting to a pretext utterly false—false in its totality, and false in its every particular—that this system of ocean mail routes sprang into being out of the apprehension we entertained of a war with England. The friends of this system feel it to be such an outrage upon this country, now that it has grown up to its present monstrous size, that in order to justify themselves for its creation and its perpetuity, they have to resort to national defence, and falsely resort to national defence, as a reason for the establishment and continuance of this system of ocean mail routes. And I shall show, sir, not by words but by acts, not by my acts, but by legislative acts, that this pretence is false; and, furthermore, that it is impossible it could be anything but false.

Sir, it is said that the system of ocean mail routes arose out of the apprehension of a war with England, and that I had much to do with exciting that apprehension by a speech which I delivered in this Hall. Now, sir, how stands the indisputable fact? How stands the unlying record upon this subject? What was the date of the discussion upon the Oregon bill? And what was the date of the first act passed by Congress originating this system of ocean mail routes? The first act establishing these routes bears date on the third day of March, 1845, one day before the present Administration came into power. The discussion upon the Oregon question took place one year after, being in 1846. Up to that time—up to the time of that discussion—no man believed that there was the remotest probability of a war with Great Britain; and pending that discussion, no man who knew the state of things in this body had the slightest apprehension of any war with Great Britain; but, above all, the Senator from Connecticut could not have been influenced by such a consideration, because he happens to be one of those who con-

tributed to the yielding up of the cause of quarrel out of which this anticipated war was expected to arise. But I have shown you that this system originated one year before any apprehension of a war with England was entertained even by children. This system originated before the present Administration was installed in power; one year before that speech was made to which the Senator from Connecticut ascribes the power of producing an apprehension of a war with England. But, sir, as I have said, this system is so monstrous, and has become so appalling even in the eyes of its projectors, that they are willing to violate the undeviating laws of time, and resort to a reason which is junior to the cause for which that reason is given.

What was that first act upon which this system has been built? It was an act which authorized the Postmaster General to contract for the transportation of the mail between the ports of the United States and the ports of foreign countries. That act left the Postmaster General at liberty to contract with sailing vessels, making it only incumbent upon him to give the preference to steam vessels where steam vessels bid for the contract. But so cautious were Congress upon this subject that they required, in the express language of that act, that the Postmaster General should send the contracts to Congress at the next session, in order that Congress might revise the contracts before they should become obligatory upon the Government.

Now, sir, mark that this first act did not require positively that the mails should be carried in steamers. It only gave steamers a preference over sailing vessels, when steamers, all other circumstances being equal, bid for the contract. And mark again, sir, that, so far from this having been designed as a war measure, twelve months before any cause of war existed, it did not even provide that these steamers should be constructed with a view to war. The only thing in the act that has the slightest reference to a case of possible hostilities is one clause, which says that "the United States shall be at liberty to appropriate these steamers to its own use in the event of war." That power was utter surplusage, utterly unnecessary, because without it the Government would have had the power to appropriate every steamer and every sailing vessel upon the ocean that belonged to the people of the United States for that purpose, without any law upon the subject, other than that great law of national necessity recognized in the Constitution of the United States.

I say, then, sir, that this system did not originate in any apprehension of war. The Senator from Connecticut said that I had not opposed this system. The second act passed on the subject bears date on the 19th day of June, 1846, and the act relates—for it is a general appropriation bill for the Post Office Department—the act relates to the contract made by the Postmaster General for a line running from New York to Bremen under the act of the year before, by which he was required to submit the contract to the succeeding Congress. Now mark, sir, this second act of 1846 barely proposes to appropriate twenty-five thousand dollars for the purpose of executing the contract made for the Bremen line by the Postmaster General under the preceding act. That is all that it has reference to. Now, let us see what occurred when the question was considered before the Senate. There was an appropriation bill pending for the expenses of the Post Office Department, and there was an amendment made requiring the Postmaster General to appropriate twenty-five thousand dollars out of the aggregate appropriation to make this Bremen contract. Very well, sir. The Senator from Connecticut, in support of the proposition to appropriate the first twenty-five thousand dollars that ever were appropriated for this purpose, puts it upon the express ground, as his speech will show, that the appropriation was asked for in order to ratify the contract made by the Postmaster General—the Postmaster General deeming it necessary to obtain the ratification of Congress before he bound the Government in the contract. This, then, was the commencement of the system. And when was this? In 1846 the act passed; the amendment was voted for on the 15th June, 1846, the very day that the Oregon treaty bears the date of ratification: so that the cause of quarrel with England was concluded by the treaty on the very first day that the first dollar was appropriated to sustain, or rather to begin this system. And yet, sir, the Senator from Connecticut says that it was out of apprehension of a war with England that this gigantic scheme sprung into existence. He likewise said, sir, that I did not oppose it. Here is the vote upon the question of putting in an amendment to appropriate twenty-five thousand dollars, the first money ever appropriated to the support of this system. Here are the yeas and nays, sir; twenty-seven yeas and twenty-four nays. And now, sir, in order to see whether or not I opposed the system I will read my own speech, made on that day, in opposition to this very proposition, and in answer to the first speech made on this subject by the Senator from Connecticut. I will get my friend from Indiana to read my poor remarks on that subject.

Mr. ALLEN's remarks were read by Mr. BRIGHT as follows, from the Congressional Globe:

"Mr. ALLEN then rose and said, that, sensible of the importance of this subject, he had turned it over in his mind with some care. As they were now at the starting point of a system, the end of which no one could foresee, he thought that it was very proper that they should examine the ground with no little caution.

"It was proposed to carry the United States mail between New York and Liverpool. He had yet to learn that there was any United States mail between New York and Liverpool to be carried. He knew of no such thing in existence as a United States mail between Liverpool and New York, New York and Liverpool, or between any other ports. The foundation upon which this new system was based, was that of creating, quietly, and under the general power to regulate the post office, a steam navy, with a view to the defence of the country, by patronizing particular companies of men in the construction and navigation of steamboats. Let them look at this project a little more closely. In order to be profitable, it would be necessary to remove competition. Was it likely to effect that? Our inland mail transportation is a monopoly. Yet we are likely soon to have the post office expenditure saddled on the general treasury. It was, then, absurd to suppose that, on the ocean, they could carry on the business profitably. The honorable gentleman then went on to argue against the injustice of endowing a line from New York to the exclusion of other ports. Boston, Philadelphia, Charleston, New Orleans, and all the chief cities on the coast, would be petitioning for the establishment of mail lines to Europe. And then, again, looking at the other end of the line, Liverpool would not satisfy the merchants. They would demand a line to the East Indies, to Buenos Ayres, and so on. It was unjust to those of our citizens in the interior to turn a deaf ear to their calls for additional post offices, and bestow this immense patronage on lines to Europe. The farmer had often fifteen or twenty miles to travel to the nearest post office, thus losing a day's work. Why not establish post offices for the accommodation of the people in the interior? Besides, he was opposed to the Government engaging in joint stock concerns, which had already inflicted such evil on the country. He wished to keep this Government clear of all manner of connection with human combinations, especially moneyed combinations. The example of Great Britain had been pointed to. That was one reason why he should avoid the project. Mr. A. proceeded at some length, and with much vehemence, to oppose the whole project of establishing the proposed steam communication with Great Britain for the conveyance of the mails."

And yet the Senator tried to make the country believe, the other day, that I had, in the first instance, advocated a system which I now oppose. There was the commencement of the system itself. It commenced in that appropriation which was made on the very day that the Oregon treaty bears date, and by which treaty all our relations of friendship and good will were renewed toward Great Britain. The gentleman then labors under this dilemma, of either providing for a war, by the act of 1845, before any war was anticipated, or of providing for a war after the peace had been amicably arranged. Here, then, is the first act, and I intend, so far as my voice can do it, to clinch this matter in the public mind. I warred upon it at the commencement, and I predicted the very evils the existence of which every Senator will now acknowledge. There, sir, is the evidence of it, (pointing to the speech from which an extract had just been read,) uttered, sir, when the first dollar was sought to be obtained from the public treasury, for it is this appropriation of twenty-five thousand dollars that constitutes the first leak into the public treasury, which was the breach through which the jobbers have entered; and they have widened it, and widened it, so that within four years—yes, sir, in less than three years—they have made that breach, which commenced with twenty-five thousand dollars per annum, so large by their mercenary activity that one million three hundred thousand dollars flowed out of it last year. It was in this act where the prime first sin was committed, by which the Post Office establishment was, for the first time, thrown on the national treasury. By the last section but one of this act, it is provided that, in case the income from the Post Office establishment shall not meet the appropriations therein made, the balance shall be made up from the treasury. It will be observed, sir, that the commencement of this system changed the old system of making the establishment pay for itself, throwing the whole weight on the general treasury of the country. It will be understood, too, by a reference to dates, that this was done at that exact session—that this appropriation was made at the exact session—this system was thrown upon the public treasury at the exact session that the Senator from Connecticut performed that somerset in politics which brought him in favor of a high protective tariff. The tariff was pending at the very time that this first leak was made in the public treasury, and every man who wished to exhaust the treasury in order to have a cause for a high tariff to replenish it, was induced to go for this system. It was not a war with England; it was a war on the pockets of the people of this country, for which this system was devised and carried on. It was a war on the tax-paying millions of the interior, for the benefit of the large capitalists of the East. That was the kind of war that this system was got up to minister to. Let us see how it progressed. The first contract was ratified by that appropriation. I wish to take up these laws in their order to see how it progressed. The next act on the subject bears date on the second day of March, 1847, one year later, and that act appropriates $258,600 to execute further this Bremen contract. Mark you, sir, there had been but one of these contracts up to 1847, when the war with England had passed off more than twelve months. What is the next act? I take them in their order, sir. The next act bears date in the same year, on the third day of March, 1847. There was no war with England then, sir, nor any apprehension of a war, but a reduced tariff, and an apprehension that if that tariff could be made to fail in supplying the expenditures of the Government, it would be necessary to have a higher tariff. When that apprehension existed, and it became necessary to exhaust the treasury in order to show that the tariff of 1846 was not sufficient to supply the wants of the Government, then this leak in the treasury was made still larger. It was then that an act was passed directing—not authorizing, but directing—the Secretary of the Navy immediately to enter into contracts for three distinct ocean mail routes; and it was then, and not till then, that this system was smuggled in, under the pretext of affording additional means of defence to the country. Previous to that it had been connected with the Post Office establishment; but the Postmaster General had contented himself with one contract, and manifested a disinclination to favor a further contract. Besides that, the plea for this immense expenditure was not strong enough under the Post Office arrangement. It was necessary that the projectors of this scheme, who were not members of Congress—who were not members of the Cabinet—but jobbers, for they were the projectors of it—it was necessary, I say, that they should put it under some more broad and popular pretence, and therefore it was so arranged as to put it under the head of naval defences. That arose long after the cause of quarrel with Great Britain had passed away. By this act, sir, the Secretary of the Navy is required to enter into these contracts, and that immediately, for fear, perhaps, that he would change his mind; and he is required to contract with particular men for a particular job, so afraid were they that if discretion were left the Secretary of the Navy, they should lose the bait. Sir, something which I uttered the other day, and which unfortunately was not correctly reported, may seem to cast some imputation on the Secretary of the Navy and the Postmaster General, which was certainly not designed by me. I knew then, as I now know, that the Secretary of the Navy was not responsible for this system, but that he was forced into it by the express phraseology of the act of Congress.

It was, then, sir, in 1847 that this idea originated of putting this system on the general treasury, where it had not been thrown before; and, having got it on the general treasury, the next thing was to give it a broad foundation in the popular affections by calling it a measure of national defence. The jobbers understood it, sir. They calculate like men of sense, as they are. I will show you, sir, how these jobbers effected their purpose; and I give notice that I intend to make clean work of this system, and if it is not got rid of, it shall not be because it has not been sufficiently exposed.

The next act, sir—for there are seven of them in all—bears date the 27th day of June, 1848. But it relates to this subject only in this particular, that it prevents these contracts being assigned. It takes away the negotiable character of the paper of these contractors.

The next act bears date July the 10th, 1848, and it appropriates $450,000 to the first two lines. A few days after that the general appropriation bill was passed, appropriating $874,600 to the other lines, making the aggregate sum of $1,324,600 for the last year. And this act, which appropriates one and a third million dollars per annum to five ocean mail routes, has this extraordinary clause in it, that it advances the money to the parties to build the vessels. The jobbers commenced this work, sir, for the purpose of carrying the mail between New York and Bremen, upon the assumption that they could do it for $25,000. That was the beginning, three years ago, but they have worked the system into a shape by which they got last year one and a third million of dollars dealt out to them from the public treasury; and I understand, sir, that the appropriation of $874,600, authorized by this act to be advanced to the parties, in the ratio of $25,000 a month for every ship, has actually been advanced, every dollar of it; so that the very year that we pulled down two hundred and ninety-six post offices because they did not defray the expense of maintaining them, we appropriated one and a third million of dollars out of the general treasury to an object which has not yielded one dollar, and is not likely to yield a dollar. And thus, then, the predictions of mine, made in 1845, when I struck this system in its very origin, have been realized and borne out in every particular.

Now, sir, I opposed this system at the very beginning, as I have shown, not only as a thing which would lead to unnumbered abuses, but I opposed it on the ground that this Government ought not to go into partnership with stock-jobbers, or lend its aid to build up monopolies. Under this system, these men who have got these immense jobs out of the public treasury have gone to work and obtained, or at least some have, and the balance are applying for, acts of incorporation. They are forming themselves into companies, one with a capital of $500,000, another with $2,000,000, and another of $4,000,000. These corporations, these gigantic monopolies for ocean navigation, taking their rise in our pet legislation—for it is pet legislation—legislating jobs out to favorites—have not only obtained acts of incorporation, predicated upon our legislation, but they are going on to obtain a monopoly of the coasting trade of this country. I shall show that, sir, directly.

I further state, as an objection to this system, that I hold it to be unconstitutional, because it infracts that part of the Constitution which declares that Congress shall give no preference to one port over another in any commercial arrangement it may make. The words of the Constitution are: "No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another."

Under this clause of the Constitution, or rather in defiance of this clause of the Constitution, we do establish by law a commercial communication between one of our ports and foreign countries, which we do not hold with other of our ports. There are two ports of the United States from which these lines of communication are established. One is New York, the other Charleston. That from New York has three branches—one to Havre and Bremen, one to Liverpool, and the other to New Orleans and Havana. The one which starts from Charleston passes only to Havana, amounting to nothing; so that discrimination is made in favor of New York in three particulars—one, the line to Bremen, terminating at New York; one, the line to Liverpool, terminating at New York; and the other to New Orleans, terminating at New York; thus making a discrimination by our legislation in favor of one port, to the prejudice of others.

But, sir, when I say that the discrimination is in favor of the port of New York, I should add that it is so nominally only, for it is in point of fact a discrimination in favor of individuals. It is giving to these people a monopoly which they have no right to under the Constitution of the United States. And now, sir, I will proceed to show the effect of that monopoly on the trade of New Orleans. I will take the line from New York to New Orleans. That line is run at a rate of $290,000 per annum. I will throw off the vessel which is required to run from Havana to Chagres, and confine my argument, for the sake of more easy illustration, to the three vessels which ply between New York and New Orleans. If we allow $40,000 out of the $290,000 for the Chagres branch of the line, which would be a fair allowance, then these men get for running the three steamships between New York and New Orleans $250,000 per annum. Now mark, that these ships are three in number, and may be increased to four—that they are of 2,800 tons burden—and that they are required to make twenty-six trips each during the year. Let us see, then, what amount of tonnage passes between New York and New Orleans under the patronage of our legislation. There are three steamers between New York and New Orleans, each of 2,800 tons burden, and each twenty-six trips, making in all, during the year, a tonnage of transportation of 218,400. Take off one-third for weight of machinery, or 72,800 tons, and there will remain 145,600 tons unoccupied. Now, allow for each of these ships 200 tons—an immense allowance—for fuel and other unemployed parts of the vessel, and there will then remain, with an allowance of 15,600 tons for other purposes, the amount of one hundred and thirty thousand tons for freight per annum. One hundred and thirty thousand tons per annum! Equal to forty, nay, equal to fifty, vessels of the size ordinarily engaged in the coasting trade. Well now, sir, what is the transportation of cotton between New Orleans and New York—for that is the great article of commerce between these ports? Upon an estimation which I have been able to make, I find that the cotton passing between the mouth of the Mississippi and the harbor of New York, in the course of a year, is about 23,000 tons. So that, after carrying the whole cotton, these men still have 107,000 tons for other freight during the year. Now, let us see what prospect there is of competition. I will show the effect of our patronage on this trade. I say that this is an absolute and total monopoly of the trade between these points. I say that it drives out of the trade every other man engaged in it but these steamboat companies. I say it will be impossible to prevent their having a total and absolute monopoly, and I shall proceed to prove it. What is the case of these people compared with other navigators? Their vessels are three in number. I have caused an estimate to be made by one of the most intelligent men in this country on the point of the expense of sailing one of these steamers each trip and during the year, and I have ascertained that the whole expense of sailing these steamers twenty-six trips during the year amounts to $62,000. The expense of sailing the whole, then, paying the captains, mates, and every hand, and paying for coal, together with the insurance, is $186,000. The consequence is, sir, that the $186,000 deducted from what they receive for carrying the mail, leaves a clear gain of $62,000 per annum, over and above all the expense of navigating the ships throughout the entire year. So, then, these men that have a freight, as I have shown, sufficient to carry all the cotton between New Orleans and New York, and then an additional freight of 107,000 tons more, sustain this freight by an appropriation from our treasury, and without carrying one dollar of freight, or a solitary passenger, making $62,000 per annum out of our treasury. They can, therefore, afford to carry freight and passengers for nothing until they drive out of the trade all private persons, and then put up the freight and passage as high as they please. Sir, this does not look like encouraging navigation.

There is a company incorporated in New York, it comes to Washington and gets acts passed which give to it a job by which the whole expense of navigating three steamers of twenty-eight hundred tons burden is paid out of the public treasury, and they go into competition with men who build their own ships, pay their own sailors, pay for their own coal, and pay all other expenses. Sir, it is the difference between a man armed and a man unarmed. We pay all the expenses of these vessels, and then we expect that the enterprising and intelligent merchant of New York can compete with our lines. We pay the whole expense out of our treasury, and they pay the whole out of their pockets. But what effect has this on navigation? It strikes me that it has a direct tendency to discourage navigation, to say nothing of the monstrosity of establishing corporations by the means of the General Government to compete with the enterprising people of this country—to say nothing of the vast power which it gives to such a company over the people of this country—and to say nothing of the destruction of the shipping interests of the East which it involves. There are other and deeper reasons why the Government should abandon this instantly. Sir, our commerce has grown up without navigation acts, and our commercial marine has also grown up without navigation acts, with a rapidity of increase and to a magnitude that astonishes the world. What has been the cause of the immense augmentation of our shipping interest? The cause has been double. The first and prime of these causes is the energy and enterprise and intelligence that belongs to the character of the American people. The other is, that navigation was left free to shift for itself—left free to obey the behests of private intelligence, sharpened by private interests.

Why, sir, how stands the fact with regard to our navigation before our Revolution, and whilst the matter of our Revolution was under discussion in the House of Commons? The maritime genius and enterprise of our people was celebrated by the ablest English orators and statesmen. It was in the great debate with regard to American affairs that Mr. Burke pointed with admiration and wonder to the mighty enterprise and great skill displayed by the North American navigators. He it was that could go deeper into the arctic circle than any other. He it was that could stand longer under the burning equator than any other. He it was who could do these things, and for doing them be celebrated by a foreigner. I say, then, that it was the genius and character of our people for navigation that was celebrated when we were green; when we had not as a nation budded into life; when our navigation was freer than English navigation; and the same characteristics of daring, enterprise, and of high intelligence which made our mariners then carry their barques, before their barques had a flag, further into the dangers of the sea than England's best seamen dared go—the same feeling and the same attributes and characteristics have enabled our Atlantic friends to build up a shipping interest now almost equal to that of England herself, although England started with all the benefits of ocean monopoly, which she obtained through the instrumentality of her navigation acts.

Well, after all this—after the enterprise and genius of our people have so magnified the shipping interests of this country—after all this, which has been accomplished, without the aid of this Government, by the independent and unrestricted genius and energies of our people,—in comes Congress and legislates about navigation—in comes Congress and the Legislature of New York to form companies by acts of incorporation, to be fostered and fed out of the public treasury—companies to take our bread and meat, our flour and beef and cotton, between New York and New Orleans. We come now, when our navigation is thus grown up without our aid, and drive away those enterprising merchants from the coasting trade by establishing monopolies which we pay out of the public treasury. We are using the taxes of the people to establish monopolies in favor of individuals, against the enterprise of our people themselves, who are engaged in commerce and navigation. That, sir, is what we are doing. Now, the quicker we can get out of this business the better. Our whole mail throughout the United States, in all its ramifications, is carried between sixteen thousand post offices for about two and one-third millions of dollars, and we last year applied more than half that sum to carry five mails between two points in our country and four points in foreign countries; and that very year we struck down two hundred and ninety-six post offices among the people, in those very regions where the post offices are of the greatest importance; for there the proximity of a post office sometimes saves a day's labor.

Why, then, sir, have we these ocean mail routes? The idea of national defence is absurd and preposterous. That this Government would intrust the defence of this country to four New York incorporated companies, consisting of some twelve or fifteen men, is not to be believed; and what is more, I am told that some of these ships, when put to the test, reeled under the weight of

an 18-pounder. They are required by their contract to be capable of being converted into steamers of war of the first class—and steamers of war of the first class which will carry a gun, and several guns which will emit a ball of 100 lbs. in weight; yes, sir, 100 lbs. in weight. Yet these steamers, some of them, I am given to understand, reeled and staggered under an 18-pounder, and had to send word to the Government that they could not carry anything bigger than a 12-pounder. Now, how could it have borne the jar of a 48-pounder discharged on its deck? The contract, sir, is violated, but where is your remedy? You have none. The Postmaster General, in his report, informs you that the contract of the Bremen line, I believe, has been violated, and he advises you to ratify the violation.

So much, then, for these ocean steamers for the present. I am in search of some other information, which I shall introduce to the public some day hence, when another subject shall be up for our consideration.

Something was said the other day, sir, in regard to the newspaper press. The Senator from Connecticut seemed to labor to convey the impression that I wanted to take the public press of the country under the care and keeping of the Government. When I asked him, sir, if he charged me with having said so, he said No, but that he had a right to infer it. Perhaps a man may have a right to infer something from a proposition; but he has no right to infer an absurdity—none whatever. The Senator who has voted to foster this ocean mail-route system, likewise votes to foster New England manufactures. He votes to waste the public money on ocean mail-routes, and then he votes to collect it through the instrumentality of a high and exceedingly oppressive tariff.

Now, these are facts which he cannot deny, for he not only voted for them, but ferociously assailed the Democratic party in the debate of 1846. Yes, sir, he ferociously assailed the Democratic party, and tried to bring it into disrepute. He assailed every public man associated with that party, and he spoke, sir, with a bitterness and a venom that I never heard any man who calls himself a Whig, on that side of the Chamber, employ against the Democratic party. No, sir, under the pretext of differing with the party on that one ground, he lets loose, in a full flood of his overburdened heart, his displeasure, not to call it malignity, towards the whole Democratic party. No wonder, then, that I should come in for a part of his displeasure. No wonder! No, sir; and it is with no regret that I do. I shall always be proud of the malice of a man who is the enemy of the Democratic party. I shall triumph in knowing that I am the object of assault by the enemies of my party; and no matter from whom that assault comes, whether from a man who acts under the influence of a public motive or a private one—whether he be a Senator prompted by high considerations, or a hireling in the service of a job-making corporation, it makes no difference to me, sir; I shall be proud of his malignity.

I look upon the newspapers of this country as the great book of the people. I look upon them as the great medium of communication, without which public liberty itself could not subsist, and I hold it to be ill-becoming in us, who stand in a representative character, to withhold any means that shall increase the opportunities of the people to look upon and investigate our conduct. It is for these high political reasons that I stand up here and claim, not that the Government shall take under its care a particular body of men, but that it shall seek, by every reasonable means in its power, to diffuse intelligence among the masses. I said before, and I repeat it, I do not like to see a burden placed upon newspaper publishers or readers. Nearly all the mails which come within the influence of this amendment pass across roads made by the local population of the neighborhood, and are kept in order by them, while the Government use them without making any remuneration whatever. I say, then, that this is a full equivalent—an ample equivalent—for this little exemption from taxes of the all important article of popular intelligence.

Sir, with reference to these mail steamers, I know full well, and at the time of their inception I was convinced that, get this Government once engaged in carrying on this system of ocean mail routes, it will be next to an impossibility to disengage her. When the system was first started I knew it would run into these extremes; and we have at this very Congress petitions presented for enough more of these mail routes to consume five millions of dollars per annum. They have assumed an organized form; jobbing has become systematic. There are two Legislatures in session in this Capitol—a Congress within and a Congress without. There is in this city an outside Congress, where these jobs are legislated into shape, and we do very little more than to write approved, and pass them. I knew it would come to this, sir. It is inherent in the very nature of the thing. The fact is, sir, the public treasury is regarded as a vast fund of money open to peculation—a regular gold mine. Let it be known that there is an immense fund of money collected anywhere—as, for instance, in the case of the Girard will—and see how men will go to work and plan and scheme to appropriate a portion of it to themselves. The public treasury is a great fund that is known by everybody to exist; and it is known also, that there are certain ways of getting into it, and men go to work to find out those ways. They go hard to work, sir. Sharp-sighted men—intelligent men—men of fine address—men who can invent very plausible reasons for seeking this private benefit—go to work and plan to get possession of the public money.

And thus it is, sir, they got up originally, and have fostered it ever since, this tremendous system of mail steamers, which, if not checked in its progress, will cost more money to carry it on, in twenty years from this day, than all the other expenses of the Government put together. I know, sir, that in opposing incorporated establishments of this kind, a single individual will be prostrated if their assaults, or the assaults of their hirelings, can prostrate him. They will have him attacked, and he will be prostrated if he do not stand upon some broad and ever-enduring foundation. I know too, sir, what I am about, when I plant myself upon the internal post office establishment in order to break up this system. Sir, I will arouse the public attention to this subject. I will show the country by whom and in what manner these leaks were sprung in the public treasury; and how these incorporated gentlemen, under the pretext of carrying the mail out of our country, have contrived to get thirteen hundred thousand dollars per annum paid to them for nothing, absolutely nothing. I will arouse the country to a knowledge of the facts which are too plainly evidenced around us everywhere. I will point them to the fact of post offices being discontinued because there is not a sufficient compensation awarded to support them. I will point them to the fact, that mail routes have been reduced in their regular transits from three times to once per week, because they do not make enough to keep them. And all this at a period when we are paying more than one-half of what it would cost to keep up the whole internal transportation of our mails to five incorporated companies to carry five mails between two ports in the United States and four foreign ports. I have got a foundation, sir, that none of these monopolies can shake from under me; and whether or not my political life be long or short, I shall bear with me a consciousness that I have cast a new element into the public mind that will work out its beneficial effects long after I have retired from these legislative halls. I am standing upon the broad foundation, sir, of the rights and interests of the many, against the declarations of the cormorant incorporated few; and it is standing upon this broad foundation, sir, that I feel myself strong enough to defy all jobbers, and all the hirelings of jobbers.

Mr. NILES. I do not know that it is necessary that I should say anything in reply to what has just been stated by the Senator from Ohio; nevertheless, I feel it incumbent on me to offer a few remarks in reply. The Senator from Ohio appears, from what has fallen from his lips, to have a great mission, and that mission is to infuse new elements into the public mind. That is just what I stated the other day in reference to his speech in 1846; and I now renew that statement by saying that these mail lines, in part, were the fruits of that element he had infused into the public mind. What may be the fruits of these new elements which he proposes to incorporate into the public mind, time alone can disclose; but, when they come forth, the honorable Senator from Ohio, I hope, will not exhibit himself in the attitude he has upon this occasion, in respect to a former project; that is, I hope he will not be found backing out from or disclaiming the results proceeding from elements of his own creation. I hope he will stand up to the line of fifty-four-forty, and say to the country, right or wrong, I am the man who is responsible.

In regard to this assault upon the policy of establishing these lines, I do not intend at present to occupy time in repelling it. The Senator is mistaken in assuming that I have undertaken the defence of this policy in my speech the other day; I did not consider it the occasion for that. My speech was a mere *argumentum ad hominem*—an argument addressed to the Senator, and deriving its force from his course. I did not undertake a defence of the policy, though I have supported it to a certain extent on another occasion, and when it properly comes up, shall do so again. But I submit whether it is not extremely becoming and extremely modest in the Senator from Ohio to bring forward a sort of bill of indictment, not only against the present Congress, but against the two preceding Congresses? Whether the bill be wise or not in its purposes, it has had the sanction of three Congresses. It is five years since the subject came before Congress. These Congresses have sanctioned the bills after a full consideration of their merits. I would say, in reference to the act of 1845, that I was responsible in no degree for its passage. I was on the committee as a member, but knew nothing about that bill. It was not discussed by the committee. The chairman had my consent, with others of the committee, to report the bill, and I supposed it would be debated in the Senate. But no debate upon its merits took place, and it passed without much consideration. The subject was discussed in 1846, but only in reference to the particular routes for which the bill contained appropriations, and I supported it. I hold myself responsible only so far as those two lines are concerned. This policy, which has received the sanction of three different Congresses, is now denounced by the Senator from Ohio as monstrous—as the work of jobbers—and as a mere excuse for squandering a million and a half of the public money, without a dollar in return coming into the treasury—without any benefits to the country whatever. My argument, in which I was not very serious, went no further than this: that it was not for the Senator to denounce this policy. The Senator has treated it as a serious matter, and I am willing to meet him on that ground. I find there is more in the positions I took than I then suspected there was.

But the Senator is not to escape by referring to dates, as I must remind him of a certain other speech he made with reference to the policy of a war with England. The war spirit created in the country did not originate with his resolution in respect to the Oregon controversy. The Senator knows very well that in offering that resolution he was but following up what was begun more than a year before. Oregon and Texas was the great issue that brought this Administration into power. At that very session (that of 1845) Oregon and Texas were the great issues before Congress and the country, and the policy of this Administration prior to its advent was settled in reference to all these great questions. And in 1845, although the present President had not yet taken his seat, yet his friends had a majority here, and the measures were matured for the action of the incoming Administration. Texas was a leading measure at that time, and was not the policy of England involved in that question? That question was carried through Congress, and was accomplished, in some degree, by the allegations of the grasping designs and aggressive policy of the British Government. And upon that question the Senator from Ohio, instead of discussing any particular point involved in the question of annexation, spoke for upwards of an hour in pointing out and enlarging on the aggressive policy of England; tracing her aggressions from an early period in her history to that time, and coming to the conclusion that the United States would not be safe in her commercial or navigating interests until England was checked in her aggressive career.

Then I think we had a speech from the honorable Senator tending to the same result as that at the next session—to prepare the minds of the whole country for a war with England, for the purpose of checking her career of conquest and aggression, which had disturbed the peace of the world and extended her trade and commerce, by violence,

usurpation, and wrong. I did not say that this war spirit, or the advice of the honorable Senator to embark in this particular mode of warfare, was confined exclusively to this controversy about Oregon. That was not my position at all. That question was still pending; but the views presented by the Senator were broader and more extended in their bearings. The speech was intended to exhibit to the Senate and the country the importance and the necessity of checking her career; and in his speech of 1846 we were told how to do it. The main part of that speech was occupied in pointing out the weaknesses of England, and in an attempt to show that the people of this country and the whole world had been greatly mistaken in supposing her supremacy to be what it was arrogantly contended it was. If the gentleman's statement amounts to anything, it is, that in his speeches of 1845 and 1846 he advocated a hostile policy towards England, because he thought that the safety, the interest, the greatness of this country demanded it—that this was our destiny, and he looked forward to the time when we should humble that proud mistress of the ocean.

Now, sir, he has said that he has shown that his speech in 1846 was made after the act of 1845 establishing this policy, and that the vote on the appropriation for the Bremen line was on the very day the treaty in relation to Oregon was ratified. Mr. President, that appropriation occurred long after the contract was made. The policy had been determined on, and the contract was entered into, and the appropriation was nothing more than a form of gaining the sanction of Congress to the measure. The Senator is mistaken in saying that the act of 1845 required that the contract should be sent to Congress for their approval. Considering this a new policy, the Postmaster General probably thought it prudent to submit the matter to Congress for their approval, although he had the power under the act.

Now, the gentleman says that we commenced this policy with voting an appropriation of twenty-five thousand dollars, and that it has since run up to several hundred thousand, which he regards as an evidence of the abuse into which the system has run. But that twenty-five thousand dollars was appropriated only to give an approval by Congress of the contract. The money was not expected to be wanted that year; but the contract was for four hundred thousand dollars, and not twenty-five thousand, and the whole amount of the four hundred thousand dollars was not to be advanced until the services had been rendered.

I do not wish to go into this matter, nor do I think it necessary to enter into an examination or defence of this policy at this time. I am only attempting to show that the Senator has not excused himself of his share of the responsibility by reference to dates. It has become the policy of the country to increase our steam marine power in this way, and the Senator must take his share of the responsibility with respect to this establishment, whether he is willing or not.

The Senator is not satisfied with bringing into this debate these mail lines and other extraneous subjects, but he must actually draw into it the subject of the tariff. I suppose it is done for the convenient purpose of assailing my course with reference to that measure. The Senator has just discovered that this policy originated in a design to keep up the duties for protection. This is new to me, and, I believe, to every one; it was at that time a small matter, for then no general policy was determined upon. For myself, I can say that the tariff never entered into my mind in the support I gave to that measure. The Senator from Massachusetts near me, who was one of the ablest advocates of the measure, can say whether his support of this policy was influenced in any manner by its supposed bearing on the protective policy; and I appeal to him, as a strong tariff man, whether that ever entered into the question at all.

Speaking for myself, and in vindication of my course, whatever may be my views in regard to the tariff policy, it never entered my mind that these steam lines could have any bearing on that policy. And in respect to expenditures generally, I am willing to have my votes and course here compared with those of the Senator or any other; and that is the best test whether I have favored large expenditures to help the tariff.

But the gentleman says that it was about the time of my somerset upon the tariff question. Somerset! What sort of a somerset? If there was any somerset, I apprehend it was directly the other way. It was the honorable gentleman from Ohio who made the somerset, and made it at the bidding of Executive power. I do not know that I stated this at that time; but when a somerset is charged upon me, I must state the truth—I must say that the somerset was made by my accuser. I maintained on that occasion the views which I have ever maintained on that great question, and which the Senator himself must have maintained, if he went with the party, during the whole Jackson dynasty—one quite as illustrious and useful as some that have since been in power.

The Senator further states that I then denounced the Democratic party with great malignity. This is news to me, sir. I have no remembrance of having then denounced that party. I denounced the policy of the measure, more from a consideration of the views of the Secretary in relation to it, than from the character of the measure itself, although I thought it objectionable: but it has proved to be less so than was then supposed. It was no free-trade measure; and all this talk about free trade in reference to the act of 1846 is mere humbug. It was no more a free-trade measure than the act of 1842; and if we are to rely upon the report of the Secretary at the commencement of this session, the general average of the duties under this act differs very little from that of 1842. He tells us that the revenue last year, amounting to nearly thirty-two millions, accrued on an amount of importations consumed in the country of about one hundred and twenty-eight millions only. This would make the average rate of duties about twenty-eight per cent., and they were thirty only the last year under the act of 1842.

I believed it to have been a different measure, as it was represented by the chairman of the Finance Committee that the average of the duties would be twenty-two and a half per cent. only. I regarded the bill as intended to carry out the free-trade views of the Secretary's report. But it did not prove to have been such a bill, but still a very defective bill. This idea of free trade, of favoring commerce by an ingenious contrivance of increasing the burdens upon commerce, is an operation which I neither understand nor believe in. I deny the statement of the Senator, and appeal to those Senators who were present at that time as to the truth of the declaration that he has made here, that I then assaulted the Democratic party. The position I then maintained was, that the character of that act was an uncalled-for and unwarrantable departure from the policy, long maintained and persevered in, of the Democratic party; originating, as it did, with the fathers and founders of that great political church. I was not then prepared to change my opinions at the bidding of any one, nor do I think I ever shall be. I believe it to be an unwise measure; and I am satisfied that, but for the extraordinary circumstances favorable to it, and which no one foresaw, all the evils which I anticipated would have followed—evils materially affecting the finances of the country, as well as many of its great interests. I asserted this, sir, with as much ability as I possessed, and perhaps with some zeal and earnestness; and this is what the Senator terms a malignant assault upon the Democratic party.

I hold no malice in my heart toward the honorable Senator. He states that he glories in being the object of assault from those who assail the Democratic party. What is the Senator's idea of the Democratic party? Does he consider that principle has anything to do with it? What is his idea of Democracy, of which he has so much to say? Is his idea of Democracy and party the same? Well, sir, it was said by Madame Roland, when she approached the scaffold, "O Liberty, what crimes are perpetrated in thy name!" And it may be said at the present time, "O Democracy, what evils, what acts of injustice, oppression, and folly are perpetrated in thy name!"

Sir, I have always stood by the principles of that party. I stand by them now as they were understood and proclaimed by the fathers of that great political church, and as they have been transmitted down to the present day. There have been, from time to time, innovations made upon these principles. I have called attention to these innovations; and particularly with reference to the great question of protection to the rights of the free laborers of this country. Their interests never have and never will be deserted by me. But where was the Senator from Ohio found upon recent grave questions which materially involved the glorious idea of personal liberty? Does Democracy embrace the idea of private right and personal liberty? Does it, I ask, or does it not? What is Democracy, according to his understanding of the subject? I think he did not say that he went for principle, but for the party. If a party gives up its principles, I desire to have nought to do with it. With respect to myself, it is the principles of the party to which I have avowed allegiance, and those principles I will stand by here and elsewhere; but a party without principle, or with principles changing from day to day, I do not desire to countenance. Such a party may do with those who have high political aspirations; but not being one of that class, I have never carried my allegiance to party further than adhesion to its principles. That allegiance I will at all times endeavor to fulfill. I can assure the honorable Senator that if he wishes the high honor of being assaulted and denounced by me, upon the ground that I have abandoned the Democratic party, he will be mistaken. I have not assailed him, and shall not assail him. He will, therefore, fail of this honor. Nor have I any malignity or unfriendly feeling towards him. I have never entertained such feelings towards the Senator. I have much respect for him, but I am not insensible to his errors and faults. We are soon to separate, perhaps never to meet again; and he may nourish in his heart what feelings he pleases towards me, but if they are what might be inferred from what he has uttered to-day, I can assure him that they will produce no similar feelings in mine. I shall not leave this Hall with unkind feelings against any member of this body. I have endeavored to discharge my duty here according to the dictates of my own judgment, going forward in the path of duty marked out by that judgment, not troubling myself about the consequences that may result to myself—not fearing to do that duty from apprehensions of displeasing any one, here or elsewhere. This has been my course up to the present day, and I do not now intend to step aside from that course for the purpose of engaging in controversy with the Senator; nor do I think it will be in his power to instil malignity into my heart towards himself by any allusions to my course, however unjust I may deem them. And, although he pressed us rather hard last session in regard to consolidating liberty, I had at the time a little feeling upon that subject, and wanted the resolution put in a different form, but the Senator would not consent to any modification, and consequently I had to take it as it was, or vote against it. I thought I would just remind him of it, though I had no present feeling about it. All these matters, however, make no serious impression upon my mind. If the Senator is ambitious of leaving this Hall with the high honor and glory of having being assailed by me, and to tell the country that I am a deserter from the Democratic party, so be it. I shall care very little about it. I intend to do justice to that Senator now, and I hope I always shall. I cannot say what I may do, but I feel anxious that a Senator who has infused new elements into the public mind, who has done so much to create public sentiment, shall have justice done him for his efforts, here and elsewhere! [Laughter.]

The Senator from Mississippi observed the other day that I had occupied a portion of my early life in compiling history. Now, if I have time, I may probably renew my labors in that line, and if nobody should write the history of the country during the period the Senator has acted so conspicuous a part, and especially in creating new elements in the public mind, I may attempt to do justice to the Senator by becoming the chronicler of his deeds. [Laughter.] Why, history should look after a man who is able to create and infuse new elements into the public mind; and although not very ambitious, still I know I have a little of that weakness, and who is there who would not be proud, even in the humble capacity of an historian, of distinguishing his name by chronicling the illustrious deeds of that Senator? [Laughter.] It would be immortality, sir. I think his deeds in the Senate as well as in other places are worthy of commemoration, and should be perpetuated by the historian's pen. Should I feel it to be my duty, in default of other and abler writers, to undertake the task of handing down the illustrious deeds of my illustrious friend to the study and admiration

of generations yet to come, I certainly shall not shrink from the task.

There is my friend from Ohio on the other side of the Chamber who has also performed memorable feats upon the battle-fields of his State. Why, sir, Ohio has been the Flanders of this country in the wars which have been carried on for the last twenty years. Many and desperate have been the battle-fields there, and many and desperate have been the battles fought upon those fields. [Laughter.] And I believe both of the honorable Senators who now represent that State in this body have been field marshals in those wars. [Renewed laughter.] Those were terrible wars, and, of course, the glory accruing to those who bore a conspicuous part in them, whose genius and valor carried them and their party triumphant through those fearful contests, is proportionately enhanced. Those were terrible wars, where men marched deliberately forth, and with a self-devotion scarcely paralleled in the world's history, exposed themselves to all the dangers, fearful as they were, of those conflicts, where man met man front to front, assaulting and assaulted with that terrible instrument, the sword of the tongue. [Laughter.] These campaigns were greater than those of Hannibal, the Duke of Marlborough, Prince Eugene, Bonaparte, or Marshal Villiers, because they relate to the conquest of mind over mind. What more sublime contests, can there be than these? The history of these campaigns should be written. They enter largely into the history of the country in which these honorable Senators have acted so distinguished a part, and justice to them, as well as justice to the country and the world, demands that a faithful account of the heroic deeds enacted by my honorable friends during those terrible wars shall be recorded for the benefit of posterity.

Again, Mr. President, I might find something worthy of my pen in the more recent events which have transpired around us, and in which my honorable friend [Mr. ALLEN] has acted a prominent part. I might, if I should feel so disposed, give a graphic account of what might be called the "Hegira of 1848," or the "Flight of the prophet and his friends," who fled to Mecca, stopped on their way thither at Gotham, and proclaimed a new creed of political faith put forth in a celebrated decree known as the "Nicholson letter." That narration, I think, would be of interest to the country. My friend, who was the mouthpiece of the mission, proclaimed this new doctrine to the Gothamites, who are great heretics and Barnburners; and he declared not exactly "Great is Allah, and Mahomet is his prophet," but he proclaimed, "Great is Democracy and General"—no matter what General—"is his prophet."

And what did the people say in response to this? Why, sir, they listened, but, as I have been informed, the result was pretty much the same as when Richard III. sent out Buckingham to proclaim him king, except that Buckingham managed the affair a little better than did my friend from Ohio. Buckingham took out some of his own retainers, and scattered them around among the crowd, and when he proclaimed Richard king, these retainers hurrahed and cried out at the top of their voices "God save King Richard!" and that made a very respectable showing, but the people said nothing. When Buckingham made his report to Richard, the latter wanted to know what the people said. Buckingham replied that the men he took out with him shouted "God save King Richard!" But impatiently demanded Richard, "What did the people say?" "Not a word," answered Buckingham; "the citizens are mum." There was no response in that case except from the hired retainers, and I believe on the occasion in which my friend from Ohio acted the part of Buchingham there was no response at all, he not having taken the precaution which his great prototype did, to mix in among the crowd some of the faithful Hunkers to raise a shout of applause.

But, not discouraged by their poor success at Gotham, they went on to headquarters, and undertook to make the same proclamation there. They got up an immense concourse at Medina, or Albany, or some point near the termination of this flight, where again the honorable Senator from Ohio was the mouthpiece to proclaim this new creed, put forth in that new decree called the Nicholson letter. On that occasion the honorable Senator, I believe, went back a great ways, and entered into a profonnd historical argument, in which he attempted to explain to the people the origin of the two great parties of this country. He went back, I believe, as far as the time of the formation of the Constitution, and commenced tracing the course of events down to the present day, raking up, describing, and analyzing all the old party schemes and measures, and showing the positions of all parties on all subjects, from the time that the political elements of the country first began to take on the form and name of parties down to the very moment at which he was then speaking. The people listened to the honorable gentleman's arguments and historical reminiscences with admirable patience for some time, but at last they became wearied, and several voices were heard crying out, "These are old subjects; we have heard them discussed many times; we do not care about them; what have you got to say about the proviso?" There was no response to that question. The honorable gentleman, with the most stoical indifference, proceeded, and, without seeming to heed the "expressed will of the people," continued to trace matters along down, showing what had been the position of such a party at such a time, and what had been the position of such and such individuals at such and such times; overhauling the United States Bank question, rearguing the subtreasury scheme, extolling the Mexican war and the acts of the Administration, till, at last, the people would stand it no longer, and they cried out again, "These are stale matters; what have you to say on the question of the proviso?" [Laughter.] Still there was no response to this very reasonable inquiry. Then there was a remark made by some one, "Jackson we know, and Van Buren we know; but who are ye?" [Renewed laughter.] This occasioned a general shout and brought matters pretty much to a close, and the affair was terminated in this lame and impotent manner. The people did not recognize the mission or the doctrines of my honorable friend. They were heretics, and had not become indoctrinated into the faith of this new creed, which had been set up by this new prophet, and therefore did they bring matters to this sudden and shameful termination.

Mr. President, these matters will come out among us, and they should be recorded. They enter into the history of our country, and I hope somebody will pay attention to them. Although I do not pledge myself to attend to these matters, yet, if no one else appears who will do justice to them, and to the honorable Senator from Ohio, I rise to declare that I think it will be done, because I think justice should be done to every one. I think that was a great move on the part of the Senator from Ohio, although, unfortunately for him, it proved a complete failure. All great men fail in some things. All their objects may not be accomplished, but doubtless they have important consequences in some way; and I think there have been and will be important consequences to the whole country from that and other movements of the Senator from Ohio. I am induced to believe this, because I think they have most unquestionably proved that there are some things that cannot be carried out and crammed down the throats of the people, no matter by whom they may have been originated, nor by whom they may be advocated. These movements have proved that there are portions of all parties that look to something more than the mere name of party, and who, when they are called upon to give their support to doctrines that come directly in conflict with their long-established tenets and opinions, will resist, and that, no matter what influences may be brought to bear upon them. And I think this spirit of resistance should be encouraged. It is a conservative influence for the maintenance of principles in all parties.

It is not necessary to go further into this matter. I did not intend to go into it at any length, but just to prepare the public mind for the reception of the important documents which will be given to the country when the history of all these movements of my honorable friend shall be written. When that history is written, and all the consequences which have resulted from the movements of my friend are pointed out, I trust that the position that I have taken will be triumphantly sustained, and particularly that from these consequences have originated these mail lines of steamers.

Mr. PEARCE. The pending amendment, I believe, is that offered by the Senator from Florida.

PRESIDING OFFICER. By the Senator from Pennsylvania.

Mr. PEARCE. I am opposed to the bill, and still more opposed to the amendment. I think the proviso, as it stands, is a departure from the general principle of the bill, and that the bill would be more consistent with itself if the proviso were stricken out. The object of the bill is to secure cheap postage and uniform rates. It lightens the labor of the post office, and reduces the charge on newspapers as well as on letters; and I think that allowing newspapers to go free for thirty miles from the place of publication is unjust, although it be, as has been urged, an encouragement to the local press, or rather an inducement to those who live within thirty miles to subscribe for the paper. It is an advantage, undoubtedly, to the people who reside within thirty miles of the place of publication of the newspaper, and it will be more especially advantageous to those who reside within thirty miles of populous cities, but it can be of no advantage to any department of this Government. It is a benefit conferred upon a certain portion of the people, and upon a portion who have no claim to especial benefit. I do not think it is necessary to sustain the local press of the country in this way. I believe that press was sustained quite as well before any legislation took place upon the subject, which did not occur, I believe, until 1845; and the press flourished previous to any legislative bounty of this sort being conferred upon it as well as it has ever done since. I think, too, that we extend benefits enough to the press when we authorize their exchange papers to be delivered free of postage. That is no small benefit, and it is a considerable loss to the Government. I see no good reason for extending the gratuity, for it is manifestly partial in its operation, and therefore unjust. I had hoped that the amendment would not prevail; and, if no one else makes the motion, I will move that the proviso be stricken out, for I think it is decidedly better that we should have uniform rates of postage, applying as well to newspapers as to letters, otherwise its operation must be unequal and unjust.

Mr. DICKINSON. In answer to the suggestion of the Senator from Maryland [Mr. PEARCE] that the proposed amendment, allowing a free circulation of papers throughout the county where published, or for thirty miles, would be partial and unequal, I should be glad to be informed what portion of the whole post office system does not, to some extent, operate partially and unequally. I am one of those who regard the exercise of this function by Government as arbitrary and officious, and withal unnecessary; and I believe there are now full-grown men within the hearing of my voice who will live to see the whole post office system, as at present conducted by Government, superseded by one more cheap, safe, and efficient, regulated by free competition, and conducted by private enterprise. And when the new sections of the country are more fully settled, it will certainly be adopted. The amendment under consideration is, to be sure, partial in one sense, but it in fact is an approach to impartiality and justice, as nearly as may be, in a system where, from the very nature of the case, perfect equality is impossible. There is good reason for the discrimination which the amendment seeks. The small country sheet ought not to pay the same postage as the heavy commercial sheet of the large cities. One is taken by merchants and others in cities and villages; the other by those in humble circumstances beyond the hills and the mountains. One is sought for its commercial news—to learn the rates of the stock exchange and the state of the markets; the other mainly for its fund of miscellaneous intelligence and instructing reading matter, and serves as a school for children and a circulating library for the neighborhood. Besides, since the country has been checkered with railroads and traversed by steam conveyances, and the improvements in machinery introduced into the large printing establishments, the local press, unaided by large circulation and commercial advertisements, cannot compete with that of the cities. It brings steam and sinews in competition, and the first must triumph. The daily papers of the cities, at the close of the week, throw together selected articles from their daily editions, and print a weekly issue, which they sow broadcast throughout the country at a price lower by half than a local paper can possibly be afforded. But this issue is much

of it made up of stale items of city news, of comparatively little interest in a family—too often of police reports, and kindred intelligence, which furnish an unhealthy aliment, both profitless and injurious; while the country press usually contains much valuable miscellany, useful to all, and especially to the young. That one class of papers may not have an undue advantage over another at least equally useful and discerning, and that the reading public, separated from commercial pursuits, may not be deprived of their favorite means of amusement and instruction, I favor the proposed amendment permitting country journals to circulate, with the proposed limitation, free. If I cannot obtain this, I shall then move that this class of papers pay one-quarter of a cent, and I urge this view to make the advantages extended to public journals by Government, as far as may be under the circumstances, *equal*. I repeat, I know that it will, after all, be partial, but the whole system is founded on partiality; it is artificial at the best, and legislation cannot make it otherwise; but it will remain so until Government surrenders the usurpation of this function, and the conveyance of letters and newspapers shall be left, as it ultimately will be, to free competition.

Mr. WESTCOTT. I am not certain that I am in order in proposing an amendment, which I stated on a former day, when this bill was under consideration, I should offer at the proper time. I have not since that day interfered in the debate on this bill, as my sentiments have been better expressed by the honorable Senator from Ohio [Mr. ALLEN] than I could express them myself. I desire to put the doctrines he has advocated in practical operation, to some extent at least. To this end I will, when I am informed of the most appropriate time, offer the following amendment to the bill.

I shall move to strike out the first clause of the proviso, and to substitute in lieu of it, instead of the amendments offered by the Senator from Pennsylvania, [Mr. CAMERON,] and that of the Senator from New York, [Mr. DICKINSON,] the following:

Provided, That newspapers shall not be charged with postage for transportation by mail within the Congressional district in which the office of publication thereof is situate.

[A SENATOR. Offer it now.]

Well, sir, I will offer it now, and will say a few words in explanation of it.

I agree with the Senator from Maryland [Mr. PEARCE] that the proposition to lessen the postage on papers for thirty or fifty miles from the place where they are published is unequal, unjust, and impolitic. Sir, I do not hesitate to denounce it as sectional, and the most flagrant injustice to the newspaper editors and people of the frontier States. It will operate to let off the editors and people of the thickly-settled New England States and Pennsylvania from the postage tax on their country and city papers, and the expense of carrying them will have to be borne by the people of the other sections. All I ask is fair play, equal justice. Why make the arbitrary fifty miles or thirty miles' rate? It does not apply equally in all the States. A bill at last session proposed, or an amendment to it proposed, *counties* instead of this rate. This was voted down at once, and properly. To show how unequal it was, I then stated that we had one county in my State larger than Connecticut, Delaware, and Rhode Island all put together. Sir, by this bill, as reported by the committee, or as proposed to be amended by the Senator from Pennsylvania, or the Senator from New York, the people of the States of Connecticut, Delaware, and Rhode Island will pay little postage, for the longest distance across either does not exceed one hundred miles.

I am sorry that my friend from New York, [Mr. DICKINSON,] who is most generally so liberal in his course towards the outside States——

[A SENATOR. Why say *most generally*?]

I say most generally, because *this case* is an exception from his usual just and liberal course; he does not expand his views a little, so as to include the people of the frontier and thinly settled States. We are not "outside barbarians." We want to see the newspapers, and to read the news. I may say, that besides what he has so eloquently and appropriately described as the superior excellence of the local country newspapers to the farmer and other people residing in the country and in small villages; besides the valuable miscellaneous reading such papers contain in the frontier States, the people look to their local newspapers for their local laws. In them all the official notices, all legal notices and advertisements are published, and such paper is absolutely indispensable to a man who has any business to transact, or who has any interest in what is going on in society.

In my State we have some dozen newspapers, and the circulation of all of them extends in the State at the seat of Government go upwards of two hundred or three hundred miles. The papers published dred miles to the West, and six hundred to the East and South. These papers contain the laws of the State and Executive proclamations, and, sir, your notices of land sales, and the Federal laws. And yet, sir, by this bill you would make the people of my State pay—you would wring the cost from the pocket of the frontier settler, and exempt those who live in the villages in the Middle and Eastern States. If you will exempt any, do let it be equal, fair, and just, not partial and sectional. I intend to press the amendment I propose, and hope the yeas and nays will be taken on it; and if rejected, and if the bill as reported, or as proposed to be amended by the Senators from New York and Pennsylvania be adopted, I desire to see the votes by which it is done on record.

A Congressional district is fixed on in my amendment, because the population of each is nearly equal, and the rule is a just and reasonable one in every respect. It is not an arbitrary rule, but there is an appropriateness and fitness in it, because it is a division connected with the Federal Government.

I desire the Senators from the frontier and sparsely-settled States to attend to this matter, and not to let the amendment now offered be lost.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 5, 1849.

The Journal of Saturday was read and approved.

On motion of Mr. SIBLEY, by leave,

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post-route from Fort Snelling to Fort Gaines, on the Upper Mississippi, and to report by bill or otherwise.

On motion of Mr. SIBLEY, by leave,

Resolved, That the Committee on Indian Affairs be instructed to inquire into the expediency of affording to the northwestern tribes of Indians the benefit of a legal jurisdiction by the extension of the laws of the United States over them, and that the said committee report thereon by bill or otherwise.

CONGRESS OF NATIONS.

Mr. TUCK asked the unanimous consent of the House to offer the following resolution:

Whereas the evils of war, in its consequences upon individuals, and upon the virtue, happiness, and prosperity of nations, have long been acknowledged, and are now attracting the attention of many humane and enlightened citizens of this and other countries: and whereas it is the wish of the people of the United States that our Government should evince a readiness to encourage all well-directed efforts to preclude the occurrence of war and to coöperate with other nations in all judicious exertions intended to promote perpetual and universal peace; therefore,

Resolved, That it be recommended to the Executive to propose to all Governments with whom we maintain diplomatic relations, and with whom we have not such stipulations already, the formation of new treaties providing in a safe and honorable manner for the settlement, by arbitration and peaceable award, of all disagreements and difficulties that may hereafter arise.

Mr. BRODHEAD objected.

Mr. TUCK moved a suspension of the rules to enable him to offer the resolution; and on that motion he called the yeas and nays.

The yeas and nays were not ordered; and the question being taken, the House refused to suspend the rules, and the resolution was not received.

THE TREATY WITH MEXICO.

Mr. HOUSTON, of Alabama, rose and said, as he had objected on Saturday morning to the resolution proposed by the honorable gentleman from Georgia, [Mr. STEPHENS,] he desired now to say to the House, that as far as he was concerned, he had no objection at all to the resolution which the gentleman desired to introduce. He wished to withdraw his objection; and if the gentleman proposed his resolution he should offer a slight modification.

Mr. STEPHENS rose and was recognized by the Chair.

Mr. TURNER. I inquire if it is in order at this late day to withdraw the objection.

The SPEAKER. The gentleman from Georgia [Mr. STEPHENS] has the floor.

Mr. STEPHENS moved to suspend the rules to offer the resolutions, published in this paper of Saturday, concerning the treaty with Mexico.

The resolutions having been read——

Mr. WENTWORTH called for the yeas and nays.

Mr. HOUSTON, of Alabama, (in his seat.) I hope there will be no objection.

The yeas and nays were ordered, and having been taken, were yeas 181, nays 3.

So the rules were suspended, and the resolution was received.

And the resolution being thus before the House—

Mr. STEPHENS rose and said that the subject was one of great importance. He did not intend now to go into the discussion of it. He would barely state that he had good reason to believe that such a paper or protocol was in existence, and that it was signed by the American commissioners in Mexico, previous to the ratification and exchange of the treaty. He desired this morning merely to call the attention of the House to a few points which, to his mind, rendered the subject of inquiry one of importance to this House and to the country.

Mr. KAUFMAN rose to a point of order. He desired to submit to the Speaker whether this resolution was debatable to-day?

The SPEAKER said the resolution was debatable. This was petition day, not resolution day. The House had suspended the rules for the introduction of the resolution. The gentleman from Georgia [Mr. STEPHENS] would proceed with his remarks.

Mr. STEPHENS proceeded. It would be observed by the House that in this resolution he had made an unconditional call upon the Executive, and that it was not accompanied with the usual reservation. And he would state the reasons which had influenced him in so drawing the resolution.

At the last session of Congress, after the ratification of this treaty and the proclamation of the President of the United States, a call was made upon the Executive for a copy of the instructions which had been given to the American commissioners. He held in his hand the reply to that call, which he would now beg leave to read to the House. The President says:

To the House of Representatives of the United States:

In answer to the resolution of the House of Representatives of the 17th instant, requesting the President "to communicate (if not inconsistent with the public interests) copies of all instructions given to the Hon. Ambrose H. Sevier and Nathan Clifford, commissioners appointed to conduct negotiations for the ratification of the treaty lately concluded between the United States and the Republic of Mexico," I have to state, that in my opinion it would be "inconsistent with the public interests" to give publicity to these instructions at the present time.

I avail myself of this occasion to observe, that, as a general rule, applicable to all our important negotiations with foreign powers, it could not fail to be prejudicial to the public interest to publish the instructions to our ministers until some time had elapsed after the conclusion of such negotiations.

In the present case the object of the mission of our commissioners to Mexico has been accomplished. The treaty, as amended by the Senate of the United States, has been ratified. The ratifications have been exchanged, and the treaty has been proclaimed as the supreme law of the land. No contingency occurred which made it either necessary or proper for our commissioners to enter upon any negotiations with the Mexican Government, further than to urge upon that Government the ratification of the treaty in its amended form. JAMES K. POLK.

WASHINGTON, *July* 28, 1848.

Mr. ASHMUN asked the date of the message.

Mr. STEPHENS continued. It is dated July 28, 1848.

It would thus be seen that the Executive, upon this call, had refused to give to the House the instructions which had been given to these commissioners when they went upon their mission. He (Mr. S.) had not therefore accompanied the resolutions with the usual conditions. It was, as he had stated, unconditional. And if gentlemen desired to know the reason, it was this: if, when this call was made upon the Executive, it should not be responded to, it was his (Mr. S.'s) intention to move for a committee of inquiry, with power to send for persons and papers.

The materiality of the information which was called for might be inferred from looking into a paper which he had now before him, and which purported to be a copy of the original treaty of Gaudalupe Hidalgo, and by contrasting that with the treaty as it passed the Senate, and the guarantees and explanations made in the papers which had been read with the protocol. Whether this, or the paper which purported to be the original treaty was authentic or not, he would not undertake to

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say. His resolution called for a correct copy of the treaty. He had good reason to believe that the paper he had before him was a copy of the original treaty.

The first guarantee in the protocol referred to an amendment of the Senate to the ninth article of the original treaty. He begged leave to call the attention of gentlemen to the words of the ninth article of the original treaty, as he had it before him:

"The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights of citizens of the United States. In the mean time, they shall be maintained and protected in the enjoyment of their liberty, their property, and the civil rights now vested in them according to the Mexican laws. With respect to political rights, their condition shall be on an equality with that of the inhabitants of the other Territories of the United States, and at least equally good as that of the inhabitants of Louisiana and the Floridas, when these provinces, by transfer from the French Republic and the Crown of Spain, became territories of the United States.

"The same most ample guarantee shall be enjoyed by all ecclesiastics and religious corporations or communities, as well in the discharge of the offices of their ministry as in the enjoyment of their property of every kind, whether individual or corporate. This guarantee shall embrace all temples, houses, and edifices dedicated to the Roman Catholic worship, as well as all property destined to its support, or to that of schools, hospitals, and other foundations for charitable or beneficent purposes. No property of this nature shall be considered as having become the property of the American Government, or as subject to be by it disposed of, or diverted to other uses.

"Finally, the relations and communication between the Catholics living in the territories aforesaid, and their respective ecclesiastical authorities, shall be open, free, and exempt from all hindrance whatever, even although such authorities should reside within the limits of the Mexican Republic, as defined by this treaty; and this freedom shall continue, so long as a new demarcation of ecclesiastical districts shall not have been made, conformably with the laws of the Roman Catholic church."

That article (Mr. S. continued) was stricken out by the Senate, and in lieu of it the following was inserted:

"The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted, at the proper time, (to be judged of by the Congress of the United States,) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion, without restriction."

He did not (he proceeded to remark) intend to say whether this, as a matter of fact, was or was not true; whether this ninth article of the treaty, as ratified by the Senate, was substantially the same as the original article agreed upon by the Mexicans: but he did intend to say that the Chief Executive of the Union, under the Constitution of this country, had no right—no power—no authority—either by himself or by his agent, to say to another Government what the American Senate intended. The language of the protocol is:

"That the American Government, by suppressing the ninth article of the treaty of Gaudalupe, and substituting the third article of the treaty of Louisiana, did not intend to diminish in any way what was agreed upon by the aforesaid article ninth in favor of the inhabitants of the territories ceded by Mexico. Its understanding is, that all of that agreement is contained in the third article of the treaty of Louisiana. In consequence, all the privileges and guarantees, civil, political, and religious, which would have been possessed by the inhabitants of the ceded territories, if the ninth article of the treaty had been retained, will be enjoyed by them, without any difference, under the article which has been substituted."

How could these commissioners, unless the Senate empowered them to do so, say what they intended? It was immaterial to him on this point whether the Senate did barely mean a matter of form, and not a matter of substance, as to the guarantees given to the Mexican Government. The President had not the right to send a special agent to declare that what the Senate did was intentionally a matter of form, and not a matter of substance.

He had before him the votes of the Senate on this very question. On striking out the latter clause of the ninth article of the original treaty, on the question, "Shall these words stand as a part of the ninth article?" the vote stood: Yeas 18, nays 29. He found the name of one these commissioners—of whom he did not intend to speak with any disrespect—recorded in favor of retaining these words. He was one of the eighteen. He (Mr. S.) found twenty-nine other Senators voting that these words should not stand. How could the Executive or his agent undertake to say, that these Senators who voted that the words should not stand, did not intend to diminish in any way the rights guarantied to the inhabitants of the Territory? It might be that they did not. But the American Senate, under the Constitution of the country, could alone declare to the world what they intended by striking out these words.

Again: upon a vote to strike out the other words of the same article, he found the vote in favor of the original words standing sixteen, to thirty-one against them; that was to say, the first words of the article he had just read. And he found the name of the same Senator who was subsequently one of those commissioners recorded in favor of these words, remaining as part and parcel of the treaty, against thirty-one who voted against the words so remaining. He repeated, that the Executive had no right to say what the Senate of the United States intended—whether they thought that the article substituted was equivalent to the one stricken out.

Again: the second amendment was in the tenth section of the treaty. What that section was in the original treaty he was led to infer from the same source—that was to say, the paper purporting to be a copy of the treaty which was before him. It was in these words:

"All grants of land made by the Mexican Government, or by the competent authorities, in territories previously appertaining to Mexico, and remaining for the future within the limits of the United States, shall be respected as valid, to the same extent that the same grants would be valid if the said territories had remained within the limits of Mexico. But the grantees of lands in Texas, put in possession thereof, who, by reason of the circumstances of the country, since the beginning of the troubles between Texas and the Mexican Government, may have been prevented from fulfilling all the conditions of their grants, shall be under the obligation to fulfill the said conditions within the periods limited in the same, respectively; such periods to be now counted from the date of the exchange of ratifications of this treaty: in default of which, the said grants shall not be obligatory upon the State of Texas, in virtue of the stipulations contained in this article.

"The foregoing stipulation in regard to grantees of land in Texas is extended to all grantees of land in the territories aforesaid, elsewhere than in Texas, put in possession under such grants; and, in default of the fulfillment of the conditions of any such grant, within the new period, which, as is above stipulated, begins with the day of the exchange of ratifications of this treaty, the same shall be null and void.

"The Mexican Government declares that no grant whatever of lands in Texas has been made since the second day of March, one thousand eight hundred and thirty-six; and that no grant whatever of lands, in any of the territories aforesaid, has been made since the thirteenth day of May, one thousand eight hundred and forty-six."

This article of the treaty, (Mr. S. proceeded to remark,) as finally ratified by the Senate, was entirely stricken out. He found in this protocol a guarantee relating to it, which was in the following words:

"Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories, are those which were legitimate titles under the Mexican law in California and New Mexico, up to the 13th of May, 1846, and in Texas up to the 2d of March, 1836."

If (continued Mr. S.) I understand this guarantee, it amounts to this, and to this only—that the honor and faith of this nation are pledged to make good all these titles to land in Texas that were good according to Mexican laws before the 2d of March, 1836. I do not know much of the character of these grants, but I know what the President of the United States said about them in his message communicating the treaty to the Senate. I will read that portion of the message to the House, and I will read what Mr. Buchanan said on the same point.

The President held this language:

"To the tenth article of the treaty there are serious objections, and no instructions given to Mr. Trist contemplated or authorized its insertion. The public lands within the limits of Texas belong to that State, and this Government has no power to dispose of them, or to change the conditions of grants already made. All valid titles to land within the other territories ceded to the United States will remain unaffected by the change of sovereignty; and I therefore submit that this article should not be ratified as a part of the treaty."

And (said Mr. S.) I think this is the correct principle. If Texas had confiscated these lands, and had granted them to her own citizens, the Government of the United States had no right, by treaty or otherwise, to render the titles to them valid.

Mr. Buchanan used the following language:

"To resuscitate such grants, and to allow the grantees the same period after the exchange of the ratifications of this treaty, to which they were originally entitled, for the purpose of performing the conditions on which these grants had been made, even if this could be accomplished by the power of the Government of the United States, would work manifold injustice.

"These Mexican grants, it is understood, cover nearly the whole seacoast and a large portion of the interior of Texas. They embrace thriving villages and a great number of cultivated farms, the proprietors of which have acquired them honestly by purchase from the State of Texas. These proprietors are now dwelling in peace and security. To revive dead titles, and suffer the inhabitants of Texas to be ejected under them from their possessions, would be an act of flagrant injustice, if not wanton cruelty. Fortunately, this Government possesses no power to adopt such a proceeding."

The protocol (continued Mr. S.) purports to give an assurance to the Mexican Government that all the grants of land in Texas which were good on the 2d of March, 1836, should be good, and would be acknowledged by the American Government, notwithstanding such appropriation, or confiscation, or sequestration by Texas.

Now, (continued Mr. S.,) what I mean to assert is, that the President has not the power thus to bind us by treaty, although he himself might secrete, and hide, and keep dark his instructions, so as to keep them from Congress, and then proclaim a treaty, thus obtained by fraud, as the supreme law of the land, which we are bound to obey. I say he had no power to do it, and I shall never recognize it. Hence the House will see the importance of this inquiry, and will see how far the honor of this nation may be implicated by this nefarious transaction.

The last material point to which I will call the attention of the House, is the third guarantee given in this protocol. It is in the following words:

"3d. The Government of the United States, by suppressing the concluding paragraph of article twelfth of the treaty, did not intend to deprive the Mexican Republic of the free and unrestrained faculty of ceding, conveying, or transferring, at any time, (as it may judge best,) the sum of twelve millions of dollars, which the same Government of the United States is to deliver in the places designated by the amended article."

Now, I call the attention of the House to the concluding words of the twelfth article of the treaty, which are as follows:

"Certificates in proper form for the said instalments respectively, in such sums as shall be desired by the Mexican Government, and transferable by it, shall be delivered to the said Government by that of the United States."

It will thus be seen, (continued Mr. S.,) that under the twelfth article of the original treaty, it was stipulated that certificates for instalments of the twelve millions of dollars should be given, and should be made transferable. The Senate of the United States had struck it out. The American commissioners, in this protocol, had undertaken to say, that by so doing, the Government of the United States did not intend to deprive Mexico of the power of transferring, conveying, or assigning the debt of the United States.

Now, I raise the same question on this point that I raise upon all others. The American Senate, after full investigation, did solemnly strike out that clause of the twelfth article; and, to my mind, there was abundantly good reason for doing so. By issuing stock transferable, the Mexican Government could throw it into market, and thus raise money to carry on the war. I believe that the American Senate did strike out the clause for that very reason. They intended, by striking out, to hold the Mexicans in bonds to keep the peace. But the American commissioners have stated that this amendment did not thus intend to deprive the Mexican Government of the power of transferring the claim.

From what I have said, the House will judge of

the importance of procuring the information I have called for. How far this protocol, if it is in existence, (as I believe it is, although suppressed as it has been)—how far it may invalidate this treaty, I do not now intend to express an opinion. I might detain the House with other comments upon the treaty and the many singularities attending it. But I shall abstain. I shall express my opinion on the proper occasion. But whether this protocol invalidates the treaty or not, I am prepared to state here that the President has assumed a power which he does not possess by the Constitution of the United States, in empowering any man to speak for the Senate; and I consider it as nothing short of a downright insult to the Senate. He had no right to send any secret or public agent except such as was authorized by the Senate; and I take this opportunity to renew the opinion which I expressed the other day upon this subject, and which I shall upon all proper occasions repeat, that I do not recognize this treaty as binding upon me "as the supreme law of the land," to use the language employed by the President last summer. I do not recognize the principle that the President and Senate conjointly have a right to make any treaty which imposes an obligation on the part of the representatives of the people to appropriate money to carry out that treaty. If the President and Senate thought it conducive to the best interests of the country to have such a treaty, it was his duty to ask the representatives of the people—those who hold the purse-strings of the nation—to make the appropriation first. But I shall abstain from further remark on the subject to-day. I trust I have said enough to show the importance of the information which the resolution calls for.

Mr. HOUSTON, of Alabama, said he had not expected to make any remarks; he had not anticipated that a debate would spring up at this stage of the proceedings, and he thought by the time the gentleman from Georgia should have made an examination of the papers which might be received under his call, if he should agree to extend it—as he (Mr. H.) wished he would—he would be satisfied that his speech was entirely premature, and did great injustice to the President of the United States.

It was a little singular that the gentleman from Georgia should not have thought proper, in his examination of the documents which he had read to the House this morning, to recur to the message of the President of the United States, and to the documents that accompanied that message, when the treaty was returned after its ratification by the Government of Mexico, as proclaimed to the country. If he had referred to the message, and to the documents which accompanied that message, he would have found there that the letter of Mr. Buchanan, our Secretary of State, to the Minister of Foreign Affairs of Mexico, was published, and contained precisely what the Government of the United States based its action upon—that it contained the precise instructions, the guide that had been given to the commissioners, Messrs. Sevier and Clifford, to control their action in this matter. And if it were true that the wording of that protocol did not precisely conform to the letter of Mr. Buchanan, or to the instructions of this Government to these commissioners—which instructions he hoped would be called for by this House—he was sure that it could not be charged as a fault upon the Administration.

But by a proper examination of this protocol and its provisions, and by properly comparing its provisions with the treaty itself, as presented to the Senate of the United States, and with the letter of Mr. Buchanan, our Secretary of State, to the Mexican Minister of Foreign Affairs, and with the instructions—which of course must have accompanied the treaty—gentlemen would find that there was no material difference in any essential particular.

Mr. STEPHENS (the floor being yielded for explanation) said he would state to the gentleman from Alabama that he had read the letter of Mr. Buchanan to the Minister of Foreign Affairs of Mexico.

As to what the instructions to these commissioners were, he did not know. This House had called for them last year; the President had refused to give them. He wished to say, then, in reply to the gentleman, that so far as Mr. Buchanan's letter to the Mexican Minister of Foreign Affairs was concerned, that Mr. Buchanan assumed and made an argument to convince the Mexican Government that the amendment was a matter of form and not of substance. He (Mr. S.) granted that was legitimate if he could convince them of it. But it was one thing to make an argument to convince the Government of Mexico of a thing, and quite another thing to pledge the honor of our Government that it was so. The Mexican Government, it seemed, was not convinced by the argument of Mr. Buchanan. They said, If it be so, sign this protocol. He had no doubt but the President gave the commissioners instructions to sign it, if it was necessary. That was the power which he deemed that the President possessed. The Mexican Government would not receive the argument of Mr. Buchanan, and required the ministers of this country to pledge the faith of the country that it was a matter of form, not of substance, and that the Senate intended it as such, and nothing else.

Mr. HOUSTON resumed. The gentleman from Georgia said he had examined the letter of the Secretary of State, and all he (Mr. H.) regretted now was, that the gentleman had not so read that letter as to have seen its perfect conformity to, and consistency with, the treaty as amended by the Senate of the United States.

He was remarking, when he had been interrupted by the gentleman, that by comparing the treaty as originally presented to the Senate of the United States, with the treaty as amended by the Senate of the United States, and with the provisions of this procotol, there was in no important or essential particular one iota of difference.

Now, if they pleased, let him take up these objections as they had been presented. Let him first refer to the article of the procotol which related to the *empressario* grants. Had there been any assurance, he asked, given to the Government of Mexico by the commissioners that the terms of the treaty contained, either latent or otherwise, any other provisions than were expressed upon its face? If the gentleman and the House would refer to the provisions, they would find that the procotol contained a statement of law, and nothing more. He would read it:

"2d. The American Government, by suppressing the tenth article of the treaty of Guadalupe, did not, in any way, intend to annul the grants of lands made by Mexico in the ceded territories. These grants, notwithstanding the suppression of this article of the treaty, preserve the legal value which they may possess, and the grantees may cause their legitimate titles to be *acknowledged* before the American tribunals."

He would also read an extract from Mr. Buchanan's letter, to show that there could be no mistake on the part of the Mexican Government as to a proper understanding of the treaty and of the protocol, viz:

"The third amendment of the Senate strikes from the treaty the tenth article.

"It is truly unaccountable how this article should have found a place in the treaty. That portion of it in regard to lands in Texas did not receive a single vote in the Senate. If it were adopted, it would be a mere nullity on the face of the treaty, and the judges of our courts would be compelled to disregard it. It is our glory that no human power exists in this country which can deprive one individual of his property, without his consent, and transfer it to another. If grantees of lands in Texas, under the Mexican Government, possess valid titles, they can maintain their claims before our courts of justice. If they have forfeited their grants by not complying with the conditions on which they were made, it is beyond the power of this Government, in any mode of action, to render these titles valid, either against Texas or any individual proprietor. To resuscitate such grants, and to allow the grantees the same period after the exchange of the ratifications of this treaty, to which they were originally entitled, for the purpose of performing the conditions on which these grants had been made, even if this could be accomplished by the power of the Government of the United States, would work manifold injustice.

"These Mexican grants, it is understood, cover nearly the whole seacoast and a large portion of the interior of Texas. They embrace thriving villages and a great number of cultivated farms, the proprietors of which have acquired them honestly by purchase from the State of Texas. These proprietors are now dwelling in peace and security. To revive dead titles, and suffer the inhabitants of Texas to be ejected under them from their possessions, would be an act of flagrant injustice, if not wanton cruelty. Fortunately, this Government possesses no power to adopt such a proceeding.

"The same observations equally apply to such grantees in New Mexico and Upper California.

"The present treaty provides amply and specifically in its 8th and 9th articles for the security of property of every kind belonging to Mexicans, whether held under Mexican grants or otherwise, in the acquired territory. The property of foreigners, under our Constitution and laws, will be equally secure without any treaty stipulation. The tenth article could have no effect upon such grantees as had forfeited their claims, but that of involving them in endless litigation, under the vain hope that a treaty might cure the defects in their titles against honest purchasers and owners of the soil.

"And here it may be worthy of observation, that if no stipulations whatever were contained in the treaty to secure to the Mexican inhabitants and all others protection in the free enjoyment of their liberty, property, and the religion which they profess, these would be amply guarantied by the Constitution and laws of the United States. These invaluable blessings, under our forms of government, do not result from treaty stipulations, but from the very nature and character of our institutions."

Now, (asked Mr. H.,) was there a lawyer in this House who would controvert any part of that statement? Was there any gentleman here who would stake his legal reputation upon the inaccuracy of the principle of that provision of the protocol? Would any gentleman here pretend to deny that vested rights which had accrued to individuals in the Territory ceded to the United States by Mexico remained as they were when the country was acquired by us?

Mr. STEPHENS interposed, and requested to be allowed to make an inquiry of the gentleman.

Mr. HOUSTON having yielded—

Mr. STEPHENS said, he would state to the gentleman, that anterior to the war of the Revolution certain British subjects held under the British law good titles to lands in Georgia; they took sides against the Government in the war; their lands were confiscated and granted by the State to other persons, to citizens.

Mr. HOUSTON. The gentleman is well aware that that is a totally different case. That case has no reference or analogy at all to the one under consideration.

Mr. STEPHENS.. The cases are precisely similar in principle.

Mr. HOUSTON resumed. The cases were not the same. In the case mentioned by the gentleman, property was confiscated by law because the owners joined the enemy and were against the country in the struggle for independence which was then going on. There was no analogy to this in the case now under consideration. In this instance, we were negotiating for a purchase of property from Mexico; we acquired territory from her by purchase, and what incumbrances did we find upon it? Why, we found that before our purchase legal titles had been obtained by individuals in that country, titles which were good under the laws of Mexico; and unless we made some provision by which we confiscated that property, as a matter of course the titles to it, as the protocol stated, could come before the courts of the United States, and if legal before the treaty was made they would be sustained. Now, he said that, according to his judgment, there was no plainer principle of law than that; and that was all the protocol stated, viz: that the legal titles acquired from Mexico previous to May, 1846, existed precisely on the same foundation under the treaty as they did before, because the Government of the United States and the laws of the United States could not divest the legal title acquired before the title of the United States was acquired to that territory.

The other part of that provision of the protocol he would read also:

"Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories, are those which were legitimate titles under the Mexican law in California and New Mexico, up to the 13th of May, 1846, and in Texas up to the 2d of March, 1836."

Mr. TOOMBS interposed, and (the floor being yielded) inquired of the gentleman whether it was competent for the Government of the United States, by treaty or in any other way, to restore the rights of Mexican citizens, or of anybody, to grants in Texas which had been abrogated by the Government of Texas?

Mr. HOUSTON said he would reply to the interrogatory of the gentleman from Georgia in the negative. But that point was in no way presented under this treaty; neither the treaty, nor the protocol, nor the Government of the United States, as he understood, pretended to restore any abrogated rights in the State of Texas or anywhere else; but they threw back the individual claimants—those persons who claimed large grants—upon their rights as they existed before the treaty, to derive neither advantage nor disadvantage from the treaty. He understood that the treaty neither attempted to confirm nor to disaffirm the rights of individuals to land, for the reason, as set forth in Mr. Buchanan's letter, (which he had before him,) that the Government of the United States had no control over the lands of Texas. That point seemed to be perfectly clear. He did not see what incongruity there was between the protocol and the treaty as

ratified by the Mexican Government. There was none at all.

Let him proceed, then, to another point. The first article of the protocol was in regard to the property of the church. Now, he presumed, as was stated in Mr. Buchanan's letter, they would all agree that the property of the churches of the country, acquired, of every denomination, whether Catholic or Protestant, should be held as sacred as that of individuals; and it was folly, it was nonsense—if he might be allowed to use so strong terms, which he did without intending any disrespect—to attempt to make the country believe, that by a treaty between the United States and Mexico the United States had attempted to abrogate or annul any of the rights of property of the churches, or of any individual of that country. That provision of the treaty was amended, as Mr. Buchanan stated in his letter to the Mexican Minister of Foreign Affairs, with a view to avoid the prolixify of the original article of the treaty, and with a view to bring it under the plain precedent of the treaty by which we acquired Louisiana and Florida; yet the Government here believed, as he (Mr. H.) believed, and as he thought every member of this House must believe, as soon as he examined the papers, that there was a substantial conformity throughout this entire article of the treaty with the protocol.

Mr. CRISFIELD (the floor having been yielded for explanation) said the gentleman from Alabama seemed to be endeavoring to show that the protocol conformed to the treaty. The point in issue was, whether the commissioners, either with or without the authority of the President, attempted to give a construction to the treaty which ingrafted new conditions upon it, after it had been ratified on our part. Was the protocol genuine or substantially so? Was there any such paper as it purported to be? Will the gentleman inform the House?

Mr. HOUSTON resumed. He would read an extract from the letter of Mr. Buchanan, on the point on which he was speaking when he was interrupted by the gentleman from Maryland:

"Under these treaties with France and Spain, the free and flourishing States of Louisiana, Missouri, Arkansas, Iowa, and Florida, have been admitted into the Union; and no complaint has ever been made by the original or other inhabitants that their civil or religious rights have not been amply protected. The property belonging to the different churches in the United States is held as sacred by our Constitution and laws as the property of individuals; and every individual enjoys the inalienable right of worshipping his God according to the dictates of his own conscience. The Catholic church in this country would not, if they could, change their position in this particular."

There was what Mr. Buchanan said to the Mexican Government; there was the information; there were the data which that Government had before them, upon which they were either to ratify or to reject the provisions of this treaty.

Now, as to the last point stated in the protocol, he believed he could answer the objections which were made to it, by reading a paragraph from the same letter:

"It is not apprehended that the Mexican Government will have any difficulty in agreeing to this amendment. It is true, that in case they should find it convenient to anticipate the receipt of the whole or any part of the $12,000,000, they might do this more readily were a stock to be created, and transferable certificates issued for small and convenient sums; but yet no doubt is entertained that capitalists may be found who will be wiling to advance any amount that might be desired, upon the faith of a treaty obligation solemnly entered into by the Government of the United States."

Now the protocol, although a little variant in its phraseology from the letter of Mr. Buchanan, contained precisely the substance of what the treaty contained, and of what they knew to be the law of the case arising under that provision of the treaty. Was it possible that gentlemen could gravely contend for the doctrine, that this Government intended to say to Mexico that she should not raise money upon the obligation that arose in her favor and against us under the treaty? Was not the money due her under the treaty—$3,000,000 to be paid upon the ratification of the treaty, and the balance in instalments of $3,000,000 annually? and could not the Mexican Government take that obligation and hypothecate it, regardless of any provision, of any restriction by which the treaty might have attempted to prevent the transfer of the obligation? It would not do to advocate a doctrine so untenable as that an individual, who held a claim upon another, might not pledge, or hypothecate it in order to raise funds to be used as he might see fit. He concurred with the gentleman that the action of the Senate was intended to throw as much restriction around the transfer of that debt as they could; but it was not possible to deprive the Mexican Government of that right, which could not be detached from an obligation of this character, viz: to hypothecate it at any time.

Mr. STEPHENS interrupted, and (the floor being yielded) inquired of the gentleman whether, if an instrument, negotiable, such as a promissory note, should be altered so as to restrict its negotiability, he would consider such alteration matter of form or of substance?

Mr. HOUSTON replied, that that question had nothing in the world to do with the case before them—in no particular. There were no certificates issued in this case, no bonds, no obligations—there was nothing on the face of this treaty which gave the character of negotiability to the obligation, or which authorized its transfer. The Government of the United States was indebted, after the ratification of the treaty and the payment of the $3,000,000 at that time, to the amount of $12,000,000; and all the Mexican Government had to do was to take the treaty, which showed that indebtedness, and hypothecate the debt shown by it to be due, in order to raise its funds, if it desired. He knew, if a negotiable instrument was altered after it was put in circulation, the alteration destroyed the validity of the instrument. It was an alteration which went to the substance of the instrument, and therefore destroyed it. But this was not the case here. There were no certificates or bonds issued by the Government; there was nothing but the treaty which showed the indebtedness of our Government; and the commissioners of the United States said nothing in this protocol—if it was the fact that such a protocol had been made—which conflicted with the legal rights of Mexico arising under the treaty. The Government of the United States could not expect to be able to prevent the Government of Mexico from hypothecating that indebtedness, and raising such funds as they might upon it, although the American Senate intended, as far as possible, to restrict its negotiability, by refusing to issue certificates of indebtedness transferable according to the ordinary legal rules of transfer. That was what the American Senate intended to do; and the protocol of the commissioners did not at all contravene the spirit, or the very letter, of the article of the treaty as inserted by the Senate of the United States.

But there was another thing relative to this treaty, and to this protocol. The country was informed by the documents (which he had before him) which accompanied the treaty, when the two Houses of Congress were notified of its ratification as amended, that the treaty, as amended, was ratified before this protocol was entered into, or even before the conversations took place which were reduced to writing in the form of a protocol. He wished to repeat, and he wished the gentleman from Georgia particularly to notice the point, and he desired to know why the gentleman, in all the fairness which he would seek to make the country believe actuated him in this matter, did not state to the House that this protocol was entered into after the treaty was ratified by the Mexican Congress?

Here was an extract of the letter of Messrs. Sevier and Clifford to Mr. Buchanan, dated

"CITY OF QUERETARO, }
May 25, 1848—9 *o'clock p. m.* }

"SIR: We have the satisfaction to inform you that we reached this city this afternoon at about five o'clock, and that the treaty, as amended by the Senate of the United States, passed the Mexican Senate about the hour of our arrival; by a vote of thirty-three to five. It having previously passed the House of Deputies, nothing now remains but to exchange the ratifications of the treaty."

This letter (said Mr. H.) was dated 25th May, 1848, and the protocol was dated 26th May, 1848. How was it, then, that this alleged fraud had been practised upon the Government of Mexico? How had anything been done which was in the least exceptionable towards Mexico? Here was the treaty, which was formed by the two Goverments, amended by the American Senate, and sent back, and these amendments concurred in by the Mexican Congress, before any conversation ever took place between the commissioners of this country and the Mexican minister.

Mr. STEPHENS wished to explain.

Mr. HOUSTON said he had been interrupted pretty often, but he would yield.

Mr. STEPHENS said he was very familiar with the letter to which the gentleman now alluded. It was true, the treaty had passed both Houses of the Mexican Congress before the date of the procotol, but the Executive, he apprehended, was a part of the Government of Mexico, and an important part; and if the Executive, through his minister, refused to sanction the treaty, it was no treaty, it was not ratified. The House and the Senate might have agreed to the amendments, but if the President did not give his consent until assurance was given him by this procotol, it was in vain for the gentleman to say that the procotol was dated after the amendments of the treaty were agreed to by the Mexican Congress.

Mr. ASHMUN. Will the gentleman from Alabama allow me to say one word?

Mr. HOUSTON, after a word of conversation, yielded.

Mr. ASHMUN said, the letter of Messrs. Sevier and Clifford, announcing the exchange of ratifications of the treaty, was dated 30th May, 1848; the protocol was dated 26th May, four days before Messrs. Sevier and Clifford wrote to Mr. Buchanan, saying:

"We have now the satisfaction to announce that the exchange of ratifications was effected to-day. Some delay occurred after the conferences, in the preparation of the Mexican copy of the treaty. That was finally accomplished within the last hour, when the exchange of ratifications was duly made by Mr. Rosa, in behalf of the Mexican Government, and ourselves on the part of the United States."

So (said Mr. A.) it seems that this protocol, or whatever it was called, was four days before the final ratification and exchange of treaty.

Mr. HOUSTON continued. That was an unimportant point, but he would refer to it before he closed his remarks.

The gentleman from Georgia [Mr. STEPHENS] said the Congress of Mexico was not the Government of that country. He was aware that it was not exclusively so. But everybody knew who was at all familiar with the constitution of Mexico that it was very similar to our own. While the Senate of the United States, acting upon a treaty, expressed the sense of the country, yet the President of the United States had the formal exchange of the ratifications. So it was under the Mexican constitution. The two houses of the Mexican Congress were essentially the Government of that country. They expressed the sense of the people, the feelings of the constituent body whom they represented, as our Congress did here; and when they passed in favor of a treaty or of any measure, especially by so overwelming a majority, everybody knew that no such thing would be likely to occur as that the President of that Republic—any more than would our President under similar circumstances—would attempt to set aside the action of the Congress and defeat the measure.

The letter to which he had called the attention of the House—and which was dated May 25th—said that it had passed the Senate on that day, and that it had previously passed the House of Deputies, before our commissioners had arrived at Queretaro, and of course before any conversation could have been had with any of the members of either House of the Mexican Congress.

Mr. STEPHENS interposed, and said that he was very familiar with that letter. But as he understood the constitution of Mexico, the treaty had to be ratified by the Executive as well as by the two Houses of Congress; and the assurances in the protocol were given to the minister of the Executive before his consent to its ratification could be obtained.

Mr. HOUSTON proceeded. It was true, he said, that the Mexican constitution assimilated itself to the Constitution of the United States in respect to treaties—the difference being that with us the action of the President and the Senate was necessary to the ratification of a treaty, while with Mexico the action of the President and of both Houses was required. And he would ask the gentleman from Georgia, [Mr. STEPHENS,] and would ask this House, whether this protocol was submitted to the Congress of Mexico? If it were a material part of the treaty, why did not the President of Mexico submit it to the Mexican Congress—a body that must ratify all treaties, and provisions of treaties, before they were carried into effect? So that this fact showed that Mexico herself did not consider it a part of the treaty; it showed beyond question or cavil that the President of Mexico considered it no part of the treaty;

because, if he had done so, he would, under the laws and constitution of his Government, have been bound to submit it to Congress for its ratification; and as he had not done so, as he had not even made an effort to do so, it was conclusive evidence that he considered it as no part of the treaty itself—and it was no part.

The remarks he had made had been rather of a desultory character. He had not anticipated addressing the House upon the subject to-day. He thought that the debate was not altogether in the best taste, for the very best of reasons—that was to say, that the House certainly had not before it the information which it was desirable it should possess before entering upon criminations and recriminations on a matter of this kind.

Mr. STEPHENS interposed with a remark or suggestion not heard by the reporter.

Mr. HOUSTON continued. He would, he said, again read the passage from the letter of the 25th of May. [This extract is given in a former part of the speech.]

That (Mr. H. continued) was explanatory—fully so. That was the last act which the Mexican Congress had done in respect to this treaty. It had never been submitted to them after that time. They had done all that they were authorized to do under the Constitution. They had given life and vitality to the treaty. And, in the language of the commissioners, nothing remained to be done beyond the mere exchange of ratifications. And all this took place the day before the protocol bore date. He desired particularly to fix the attention of gentlemen on this fact, and therefore he repeated it. It all took place before the commissioners of this Government had reached the seat of the Mexican Congress. This ratification took place with almost entire unanimity by the two Houses, before one word of conversation passed between our commissioners and any officer of the Mexican Government, or any of its legitimate agents or representatives.

He believed he had said about all that he intended to say upon the main points of this case. He now desired to propose an amendment to the resolution of the gentleman from Georgia, [Mr. STEPHENS.] He regretted to hear that gentleman, whose fairness in debate, and whose decorum in legislative proceedings were well known on this floor, say that he intended to insist upon an absolute call upon the Executive for this information. He (Mr. H.) submitted that it was not only a violation of the usual action of Congress in such cases, but that there was no necessity for it—none at all. He hoped that the gentleman would reconsider his decision, and would submit his resolution in the usual terms—that was to say, calling for the information "if not incompatible with the public interests."

Mr. STEPHENS. I state distinctly that I cannot accept the modification which the gentleman proposes, for the reason which I stated when I was addressing the House—that in July of last year, the instructions given to these commissioners were refused. The Senate, as I am informed, knew nothing at all of this protocol.

Mr. HOUSTON. What was the date of the call?

Mr. STEPHENS. The 17th of July, 1848, after the President had issued his proclamation. The President then refused to furnish the information. I am not going to ask him again; but I tell him, and his friends here, and the country, that if he does now refuse, I shall move for the appointment of a committee of inquiry, with power to send for persons and papers——

Mr. HOUSTON, (interposing before the termination of the sentence.) I have no doubt that the President would be exceedingly uneasy if he saw that in print. Therefore, to save his feelings, I desire to interrupt the gentleman. I do not like these fulminations to go forth. The Administration is going out of power. I desire that they should go out quietly. But my friend from Georgia must know, as well perhaps as he knows anything else, that if he attempts that course, he will only have his pains for his trouble.

Mr. STEPHENS. We will try it.

Mr. HOUSTON. I do not intend, now or at any time, to speak for the President. But I say, that so far as the character of the resolution is concerned, it is almost unprecedented in parliamentary proceedings, and wherever found, it is an exception to the ordinary rules of courtesy which always should mark legislative proceedings. The President of the United States has been assailed here a little too often by the Whig party, and especially by the gentleman from Georgia, [Mr. STEPHENS,] in terms that certainly do that gentleman more injury, in point of reputation, than they can inflict upon the President. I say that the President has been assailed by the gentleman, and that language has been used here by him towards the President which certainly has never injured the President, but which, for aught I know, may have affected the gentleman from Georgia. I know that if it has not affected him among his own constituents, it has done so in other places. I know that such language should not be used here by a member of this House towards any executive officer, or towards any individual of this House or this Government. Well, the President has withstood all that, and he is alive yet. I say he is alive yet, and prepared to discharge his duty as a man and a statesman, as the President of the United States, and as the President of the Democratic party [loud laughter] on this particular question. Yes, I repeat it. If gentlemen desire to laugh, let them do so. He is prepared to discharge his duty as a man and a statesman, as the President of the United States, and as the President of the Democratic party. And he regards these threats, which come with such bad taste, I was going to say—but I will not say what I was about to say. If these threats have any effect upon him, it will be of a character opposite to that which the gentleman from Georgia designs.

But the gentleman makes a threat of sending for persons and papers. Ay, sir, persons and papers. We have heard of this before, when the instructions to Mr. Slidell were called for. The President, sir, did not send them. What did you do? You submitted. You cowered under it, and you submitted. And you will do so again. You dare not bring forth any such proposition. If you had really wanted to do it, why did you not do it when he gave you the opportunity? You had an opportunity just as good as is presented in this very resolution. Where is all your valiancy? Where is all your courage? Where is all the chivalrous bearing of our friend from Georgia? Why did he not bring forth his proposition to send for persons and papers? No; he did not do it; he will not do it now. I have no fear that the President will refuse to send this information forth. And it ought to have occurred to the gentleman from Georgia and to others, that reasons might have existed at the time these instructions were withheld which do not exist now. At that time our relations with Mexico were delicate and tender. Only some few days had elapsed after the ratified treaty had reached this city; the call was made at a time when the relations of peace and friendship between the two Governments had not been established on a permanent basis; and there might have been something in the instructions requiring that they should be withheld at that time, which may now have passed away, thus enabling the President to lay them before the country. All I desire is, that I may have an opportunity to offer the following amendment, (which was then read:)

Resolved further, That the President also communicate to this House, if not incompatible with the public interest, a copy of the instructions of this Government to Commissioners A. H. Sevier and Nathan Clifford, together with such other correspondence as appertains to said treaty; and that the information called for in the foregoing resolutions be not communicated if in his judgment it be incompatible with the public interest.

Mr. H. continued. I desire so to modify your resolution as to provide that the foregoing information be communicated if not incompatible with the public interest. And I hope that the gentleman from Georgia [Mr. STEPHENS] and others will at least give the President a trial. If he refuses, make your resolution absolute. You can then commence your proceedings on a proper basis. But until you make the effort in the customary form, it seems to me that it would be improper to attempt to force the information when we do not know that it will be refused.

I do not know that it is desirable, or that other gentlemen desire, to discuss this question further. The gentleman from Georgia made a speech, as he was prepared to do. I have attempted to answer him. Gentlemen all about me desire me to move the previous question.

[Cries over the House, "No, no."]

Mr. HOUSTON. Then I shall not move it.

Mr. SCHENCK said, he should not be deterred by either the lectures or the threats of the gentleman from Alabama, [Mr. HOUSTON,] from submitting a very few remarks in relation to the matter before the House. That "the king could do no wrong" was not an article in his political creed; and, therefore, whenever he thought wrong had been done, or an usurpation of power assumed on the part of the Executive, he should not be prevented from alluding to it freely and fully, as it was his right to do as one of the representatives of the people.

It seemed to his mind, that a very little need be added to what had been said by the gentleman from Georgia, [Mr. STEPHENS,] to compress the whole matter before the House into very narrow limits. In order to do this, it was necessary to understand properly the relation subsisting between the Government of the United States and the Government of Mexico—a relation which, if the charges were true, had been brought about by the unauthorized action of the Executive of the United States; and that relation might be understood by reference merely to the character of the two Governments. By the organization of both Republics, it would be observed, that the treaty-making power was vested in two coördinate branches—in the President and Congress by the Mexican Government, and in the President and Senate (a part of Congress) by the Government of the United States.

Now, what had been done (he inquired) with regard to the treaty under discussion? He would not go into any extended inquiry as to the origin of the treaty. He would not talk about the Government blundering into the war, and blundering out of it again. He would not reiterate the fact that it was commenced without any regular appeal to the war-making power, and concluded by the manufacture of a treaty, (or whatever it was,) by an agent acting without the advice of the President. It was enough for his purpose to say, that a treaty was presented for the action of the two Republics, signed by Mr. Trist on the part of the United States, and the Mexican commissioners on the part of their Government. That treaty came up here for consideration, and was communicated to the Senate—that branch of the legislative department of the Government which, together with the Executive, constitute the treaty-making power. When the President first presented the treaty to the Senate, he gave no opinion as to the question whether it should be ratified or not, but referred the matter entirely to the wisdom and discretion of the Senate. Well, what did the Senate? They discussed the treaty from the 23d of March till the 10th of the following month; and then declared their opinion, that they were agreed to the ratification, with certain modifications and amendments which they proposed in form. They then referred the treaty back to the President, the other branch of the treaty-making power. The President held no further conference upon the matter, but acting as though he supposed the Senate would concur in whatever he might do, he sent off the treaty, with his commissioners, to Mexico: and thus ended for the time, the action upon the treaty on the part of the Government of the United States—the Senate having made several amendments to the treaty, and the President having concurred therein and sent it off.

Well, (Mr. S. continued,) what took place in Mexico? Upon the arrival of the United States commissioners at Queretaro, they ascertained that the Congress of Mexico had agreed to ratify the treaty, as it stood in accordance with the modifications and amendments proposed by the Senate of the United States. He admitted that; but the work of Mexico in the matter of the ratification of the treaty was not done yet: for it was in the Executive as well as the Congress, that the Mexican Government had made her treaty-making and treaty-ratifying power to consist. Only one portion of that power had acted, then—that portion being the Congress, which had agreed to the treaty without exception, protocol, or anything of the kind. For the next step in the proceedings, he looked into the treaty correspondence and found, in the letter of Messrs. Sevier and Clifford to Mr. Buchanan, the following statement:

"We have the satisfaction to inform you that we reached this city this afternoon at about five o'clock, and that the treaty, as amended by the Senate of the United States, passed the Mexican Senate about the hour of our arrival, by a vote of thirty-three to five. It having previously passed the House of Deputies, nothing now remains but to exchange the ratifications of the treaty."

The House of Deputies and Senate of Mexico both had a voice in the matter: whereas, in the the United States the Senate only could exercise that power. But did the ratification then take place? Did the President of Mexico then agree to it, without further exception, conference, consideration, or determination on his part? It seemed that he did not. The communication from which he had read was dated on the 25th of May, 1848, at nine o'clock, p. m. On the 30th of May, he found another letter from these commissioners, which contained the following information:

"We enclose a copy of our address to the President, and also a copy of his reply. Several conferences afterwards took place between Messrs. Rosa, Cuevas, and Couto, and ourselves, which it is not thought necessary to recapitulate, as we enclose a copy of the protocol, which contains the substance of the conversations. We have now the satisfaction to announce that the exchange of ratifications was effected to-day."

It seemed, that though there might not have been any difficulty about the ratification, with the Congress of Mexico, yet when these commissioners came to hold their conferences with the Mexican Executive, they found that he had difficulties upon the subject. They found, also, that he did not treat the action of the Mexican Congress as by any means conclusive in the matter: and after several conferences with him, they found him to be unwilling to permit his commissioners to give legality and validity to the treaty, until there should be obtained from the Government of the United States some more definite understanding as to what was meant by the modifications which they had made in it. That understanding being obtained, he permitted the exchange of ratification. But, until these articles were exchanged; until the Executive as well as the Congress of Mexico had acted; until that concurrent action and agreement had fully taken place, there was, and there could be, no treaty.

Mr. BOYD interrupted at this point; but his words could not be heard at the reporter's desk. They were understood to embrace the question, whether the approval of the treaty by the Mexican Executive was not implied in his sending it up for the action of the Mexican Congress?

Mr. SCHENCK reiterated, that the Mexican Executive was found to be unwilling to ratify the treaty without the protocol. He supposed he wanted the protocol to go before his people. It was not at all unlikely that he would feel concerned as to what would be the judgment of the Mexican people upon the matter: and seeing in it himself something which might not be altogether right, he determined never to submit that it should be made a law of the land, till it should be either modified or explained to his satisfaction. It could not follow, because the Mexican Executive sent up the treaty for the examination of the Mexican Congress, that therefore he approved of it. When the President of the United States sent Mr. Trist's treaty, his consent to its ratification was not thereby implied, as was shown by the amendments afterwards suggested. He cited also the case of the treaty of Oregon, by which the President was compelled to come down from the high ground which he had taken, to the forty-ninth parallel. He sent that treaty to the Senate, but withheld the expression of his own opinion until after he obtained the opinion of the Senate.

He would inquire of the gentleman from Alabama whether, in his opinion, this treaty of peace, friendship, limits, and settlement between the United States and Mexico, could have any legal or binding force whatever, until its ratification was confirmed by the Executive of Mexico? The gentleman from Alabama could not take the opposite position. No matter what the Mexican Congress had done, the Mexican Executive required further assurances by the United States commissioners in relation to the modifications of the treaty, before his ministers were to be permitted to sign it. Such assurances he obtained: and it was only upon obtaining them that he permitted his ministers to sign.

He did not intend to go into any statement, in detail, of the modifications of the treaty; but he desired to look into the terms and conditions upon which Mexico at last agreed to the ratification. It seemed in this procotol to be set forth, that the commissioners of the United States were sent to Mexico with full power to make explanations with reference to the modifications and amendments which the Senate of the United States had made to the treaty. It was explained to the Mexican Executive, that "by suppressing the ninth 'article of the treaty of Guadalupe, and substituting the third article of the treaty of Louisiana, 'the American Government did not intend to diminish in any way what was agreed upon by the 'aforesaid article ninth in favor of the inhabitants 'of the territories ceded by Mexico;" and that by suppressing the tenth article, "it was not in 'any way intended to annul the grants of land 'made by Mexico in the ceded territories." Thus it was explained to the Mexican Executive, that the Mexican people were to be assured and protected in all their rights and land titles, just as those rights and titles had been claimed and set forth in detail in the rejected articles of the treaty; and thus it was that the United States commissioners prevailed upon the Mexican Executive to cause the treaty to be ratified and signed, as was manifest by the following closing declaration of the protocol, to wit:

"And these explanations having been accepted by the Minister of Foreign Affairs of the Mexican Republic, he declared, in the name of his Government, that with the understanding conveyed by them, the same Government would proceed to ratify the treaty of Guadalupe, as modified by the Senate and Government of the United States."

He came now to what was really the only question before the House. The Senate and President of the United States were the treaty-making power of this Government. The Senate declined to ratify the treaty, except it should be modified in certain particulars, which they indicated by their action upon it. The President of the United States, concurring, sent off the treaty to Mexico in its amended form; to which the Mexican Congress made no dissent. But the President of Mexico refused to concur in the modifications suggested by the Government of the United States, unless he were furnished with certain explanations and assurances as to what was meant by these variations in the original treaty, and what would be claimed under them; and thereupon the President of the United States gave the required explanations and assurances. It now became a question, what right the President had to give these assurances on the part of the Senate, who, equally with himself, constitute the treaty-making power of this Government? This, it seemed to his mind, was the point to be settled. What right had the President to make explanations which were to have the effect to stultify the action of the Senate of the United States? It was equivalent to saying to the Mexican Executive, "It is true that the Senate of the United States (which body in my Government is a coordinate branch of the treaty-making power) kept this treaty under discussion some three weeks or more, and after bestowing upon it some labor and a great deal of inquiry and consideration, have consented to its ratification upon certain conditions; but I assure you they amount to nothing. I assure you, that by these conditions nothing more is intended than though their space were left a mere blank in the treaty. You and I will settle the whole matter between ourselves, notwithstanding what those impertinent legislators have undertaken to do."

He then went into an exhibition of some of the material reasons which must have induced the changes in the treaty insisted upon by the Senate. The gentleman from Alabama had said there was nothing in the protocol which was not authorized by the letter of our Secretary of State, Mr. Buchanan, dated March 18, 1848, and directed to the Mexican Minister of Foreign Relations. The gentleman from Georgia had made a very proper reply to that statement, namely: that if that letter to the Mexican minister were examined, it would be found to contain arguments by which the Secretary endeavored to persuade the Mexican Government that these amendments ought not to be considered objectionable. The Secretary did not say they were to be set aside or disregarded; but merely that they did not constitute such objections as should prevent a ratification of the treaty by the Mexican Republic.

There was a provision in the tenth article of the original treaty, by which the Mexican Government insisted that their old grants of land in the State of Texas should be revived, and considered as paramount to those titles afterwards given by the Republic of Texas. The Senate of the United States would not agree to this provision, and accordingly they struck it out, and required that it should form no part of the treaty, if it were to be ratified by them. But what said Mr. Buchanan to that? He asked attention to the argument of the Secretary, which he read as follows:

"The third amendment of the Senate strikes from the treaty the tenth article.

"It is truly unaccountable how this article should have found a place in the treaty. That portion of it in regard to lands in Texas did not receive a single vote in the Senate. If it were adopted it would be a mere nullity on the face of the treaty, and the judges of our courts would be compelled to disregard it. It is our glory that no human power exists in this country which can deprive one individual of his property, without his consent, and transfer it to another. If grantees of lands in Texas, under the Mexican Government, possess valid titles, they can maintain their claims before our courts of justice. If they have forfeited their grants by not complying with the conditions on which they were made, it is beyond the power of this Government, in any mode of action, to render these titles valid, either against Texas or any individual proprietor. To resuscitate such grants, and to allow the grantees the same period after the exchange of the ratifications of this treaty, to which they were originally entitled, for the purpose of performing the conditions on which these grants had been made, even if this could be accomplished by the power of the Government of the United States, would work manifold injustice."

He referred particularly to the language of this extract, to show the argument. The wonder with the Secretary was, how the tenth article ever found a place in the treaty at all; and his argument was, that if it had been retained, it would have either proved a nullity, or wrought manifold injustice. Mr. Buchanan was endeavoring to satisfy the Government of Mexico that the treaty ought not to be rejected by them on account of the omission of the tenth article. The reason suggested by Mr. Buchanan might have had weight with the Senate, and induced the striking out from the treaty a provision which, if retained, could only lead to mischievous lawsuits and vexed questions about vested rights and land titles. They probably foresaw this evil, and wished to avoid any shadow of agreement on the part of this Government to protect Mexican land titles in the State of Texas.

After some conversation between Mr. MEADE, Mr. HOUSTON of Ala., and Mr. SCHENCK, he proceeded to recapitulate and justify the language which he had ascribed to the President, as holding to the Executive of Mexico.

Mr. MEADE interrupted here, and was understood to ask the gentleman from Ohio whether, if the American commissioners were requested to give their construction of the conduct of our Government, and the reasons which induced them to make the alterations which they did make in the treaty, they were to stand still and say nothing?

Mr. SCHENCK continued. He had great respect for the ability of the gentleman from Virginia [Mr. MEADE] upon all questions involving special pleadings, and with the utmost respect towards that gentleman, he stated his belief that, by his present interruption he had only intended to give the House nothing more than specimens of his astuteness in such matters. Were our commissioners asked, it was certainly right and proper, and pertinent for them to give their constructions of the treaty; but they should be given as their constructions. They had no right to declare that nothing was intended but their constructions; and the ratification should not have been obtained upon that understanding. But they had gone much further than to give a mere explanation of the treaty. Here was a declaration, on the part of our commissioners, put into the solemn form of a protocol, to the effect, that their Government at home could not nor would not have intended, nor really did not intend, by their modifications of the treaty, anything except what was embraced in their constructions; and when the Mexican Government ratified the treaty, it was done with this understanding, modifying and explaining the treaty put into writing and solemnly subscribed.

After attending to matter in the way of interruptions offered by Mr. PETTIT and Mr. JONES, of Tennessee, he proceeded to close this branch of the subject with the remark, that when this protocol was given to the Mexican Government, it either meant something or nothing. If it meant anything, it was, that the action of the Senate of the United States amounted to nothing. But if the protocol meant nothing, then the Mexican Government had been deceived: for, could any man doubt, that by the language of the protocol, it was designed that the Mexicans should understand that the Government of the United States intended to make the Mexican land titles good?

He proceeded now to consider the third point in the protocol, which he read as follows:

"3d. The Government of the United States, by suppressing the concluding paragraph of article twelfth of the treaty, did

not intend to deprive the Mexican Republic of the free and unrestrained faculty of ceding, conveying, or transferring at any time (as it may judge best) the sum of twelve millions of dollars, which the same Government of the United States is to deliver in the places designated by the amended article."

He understood, that by a provision in the twelfth article of the original treaty, the United States were to issue certificates of indebtedness to Mexico for twelve millions of dollars, which would become in their hands liks so much negotiable United States stock. But the Government of the United States, deeming itself only bound to pay the instalments from year to year, stipulated in the treaty, refused to issue transferable certificates of stock, and, as he thought, for very good reasons. One was, that Mexico might have readily sold such stock in every market, and thus supplied herself with the means of keeping up the war. Another reason for this course was, that upon the faith of the payment of these instalments of three millions a year by the United States, under the solemn guarantee of the treaty, it was just as good as stock at par; it was just worth so much, and no more. But if the stock had been made negotiable, it would have commanded a premium—an advantage which the Senate, with good reason, refused. Still, what did the President of the United States say in this protocol? He had said, in effect, to the Mexican Government, "Notwithstanding the Senate have refused to pay you in the manner you have preferred, by refusing to issue certificates of stock, yet the Senate do not mean by that, in the slightest degree, to affect your full right to sell and dispose of your claim against the United States in any way you please." Who did not see a substantial difference made in the terms of the treaty by the suppression of the twelfth article? Gentlemen upon the other side of the House could not be blind to it. Yet this the President of the United States had solemnly denied in the protocol from which he had read, and by such means obtained the ratification of the treaty, which otherwise, there was good reason to believe, he could not have obtained.

He considered, if these things were true, that they furnished very good reasons, at least, for making the inquiries proposed, and that the present was the time to make them.

He proceeded to offer some reasons in reply to the objection of the gentleman from Alabama against making the demand for information absolute, and to point out sundry precedents for such a course.

The President (he said) might refuse the information called for, notwithstanding the demand was made absolute. The President had shown his power to refuse on former occasions. But, after the House should have thus called twice for the same information, and failed to obtain it, it would then remain for the House to measure strength with the Executive; and then would come up the question about which the apprehensions of the gentleman from Alabama seemed to have been awakened. He (Mr. S.) was not sure but that time had already come; nor, but that it had transpired long before this time. But here was now a most glaring instance in which the Executive of the United States had undertaken to procure a treaty by fraud, and to present to the country a ratified treaty which did nottell the whole tale. This was one glaring instance; but there had been others equally so. We had had the case of the Executive waging war, while Congress was in session, without referring the question to them. We had had the case of the President of the United States swearing in a whole country at once, and making them citizens without the constitutional forms; erecting an independent civil government within the acknowledged limits of the sovereign State of Texas; and then taking some of these citizens and hanging them for treason. We had had the case of his establishing revenue laws over the ports of Mexico, and collecting and disbursing money which never came into the treasury of the United States. We had witnessed all these unauthorized acts of the Executive; and if the country had forborne so long, it did not follow that the time would not come at all when forbearance would cease to be a virtue. The time had now come, as he considered, when the question should be settled, whether the President might regularly assume to be the whole Government, or whether he should remain willing merely to consider himself only an integral part of it, and it was because the present inquiry involved these considerations that he was in favor of it.

Mr. BURT said, I think I am in the category of a very large number of the members of this House, who stand quite at disadvantage in this debate. My friends on the other side of the House have access to sources of information that I very strongly suspect, and some gentlemen near me have certainly obtained information from a source which we all may very well conjecture. I have had none. And in order that we may get the information which they have on the one side and on the other, I move the previous question.

And there was a second.

And the main question (being first on the amendment of Mr. HOUSTON) was ordered to be now taken.

Mr. STEPHENS asked the yeas and nays on the amendment, which were ordered.

Mr. WENTWORTH inquired if the question on the resolution could be divided?

The SPEAKER answered in the negative.

The question, "Shall the amendmeat be adopted?" was then taken and decided in the negative—yeas 84, nays 96—as follows:

YEAS—Messrs. Atkinson, Bayly, Beale, Bedinger, Bocock, Botts, Bowdon, Bowlin, Boyd, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Burt, Chase, Clapp, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Daniel, Darling, Dickinson, Faran, Featherston, Ficklin, Fries, Green, Willard P. Hall, Hammons, Haralson, Harmanson, Harris, Henley, Hill, George S. Houston, Inge, Iverson, Andrew Johnson, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, La Sère, Sidney Lawrence, Leffler, Ligon, Lynde, McClelland, McClernand, McDowell, McKay, McLane, Job Mann, Horace Mann, Meade, Miller, Morris, Murphy, Nicoll, Peaslee, Peck, Petrie, Pettit, Peyton, Phelps, Rhett, Richey, Robinson, Rockhill, Sawyer, Smart, Stanton, Starkweather, Charles E. Stuart, Strong, Jacob Thompson, Robert A. Thompson, Thurston, Venable, Wick, Wiley, Williams, and Wilmot—84.

NAYS—Messrs. Abbott, Adams, Ashmun, Barringer, Barrow, Belcher, Blackmar, Boyden, Brady, Buckner, Butler, Chapman, Clingman, Collamer, Conger, Cranston, Crisfield, Crowell, Crozier, Dickey, Dixon, Donnell, Duer, Dunn, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Freedley, French, Fulton, Gaines, Gayle, Gentry, Giddings, Goggin, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, Henry, Hilliard, Elias B. Holmes, John W. Houston, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, John W. Jones, Thomas Butler King, Daniel P. King, William T. Lawrence, Lincoln, Marvin, Morehead, Mullin, Nelson, Newell, Outlaw, Palfrey, Pendleton, Pollock, Preston, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Schenck, Shepperd, Sherrill, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Stephens, Andrew Stewart, Strohm, Taylor, Thibodeaux, Richard W. Thompson, John B. Thompson, Toombs, Tuck, Van Dyke, Vinton, Warren, Wentworth, White, Wilson, and Woodward—96.

So the amendment was rejected.

The question recurred on the adoption of the original resolution.

Mr. WENTWORTH rose to a privileged question, and moved to reconsider the vote by which the amendment had been rejected.

The SPEAKER. Did the gentleman vote with the majority?

Mr. WENTWORTH replied that he did, and he would be saved the necessity of making the motion to reconsider, if the gentleman from Georgia [Mr. STEPHENS] would modify his resolution so as to embrace the inquiry of the gentleman from Alabama, leaving out the conditions. He (Mr. W.) had voted with the gentleman against the amendment of the gentleman from Alabama, because he wished to exclude that part which made it optional with the President whether to answer it.

Mr. STEPHENS. I told the honorable gentleman from Alabama that I would modify my resolution so as to embrace his inquiry, though I think it is unnecessary, as it is included in the resolution.

After some further conversation—

Mr. WENTWORTH sent up to the Clerk, by whom it was read, the following amendment:

And that the President be requested also to communicate to this House a copy of the instructions of this Government to Commissioners A. H. Sevier and N. Clifford; together with such other correspondence as appertains to said treaty.

Mr. STEPHENS accepted the amendment, and modified his resolution accordingly.

Mr. WENTWORTH moved, then, to lay on the table the motion to reconsider the vote on the amendment. Agreed to.

The question then recurring on the adoption of the resolution as modified—

Mr. ASHMUN called the yeas and nays; which were ordered.

Mr. MURPHY raised the point of order that it was not competent for the gentleman from Georgia to modify his proposition.

The SPEAKER overruled the point of order.

The question was taken, and the vote stood—yeas 147, nays 33—as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Atkinson, Barringer, Barrow, Bayly, Beale, Bedinger, Belcher, Bingham, Birdsall, Blackmar, Bocock, Botts, Bowdon, Bowlin, Boyden, Brady, William G. Brown, Albert G. Brown, Buckner, Burt, Butler, Canby, Cathcart, Chapman, Clingman, Williamson R. W. Cobb, Collamer, Collins, Conger, Cranston, Crisfield, Crowell, Crozier, Darling, Dickey, Dixon, Donnell, Duer, Dunn, Edwards, Embree, Alexander Evans, Nathan Evans, Faran, Farrelly, Featherston, Fisher, Freedley, French, Fries, Fulton, Gaines, Gayle, Giddings, Goggin, Gott, Green, Greeley, Gregory, Grinnell, Hale, Willard P. Hall, Nathan K. Hall, James G. Hampton, Haralson, Harris, Henley, Henry, Hilliard, Elias B. Holmes, John W. Houston, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, Andrew Johnson, James H. Johnson, John W. Jones, Kellogg, Thomas Butler King, Daniel P. King, William T. Lawrence, Sidney Lawrence, Ligon, Lincoln, Lynde, McClelland, McDowell, Horace Mann, Marvin, Morehead, Morris, Mullin, Nelson, Newell, Nicoll, Outlaw, Palfrey, Peaslee, Peck, Pendleton, Peyton, Phelps, Pollock, Preston, Reynolds, Rockhill, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Schenck, Shepperd, Sherrill, Silvester, Slingerland, Smart, Caleb B. Smith, Truman Smith, Stanton, Stephens, Andrew Stewart, Charles E. Stuart, Strohm, Strong, Tallmadge, Taylor, Thibodeaux, R. W. Thompson, J. B. Thompson, Robert A. Thompson, Thurston, Toombs, Tuck, Van Dyke, Venable, Vinton, Warren, Wentworth, White, Wilmot, Wilson, and Woodward—147.

NAYS—Messrs. Boyd, Brodhead, Chase, Beverly L. Clarke, Howell Cobb, Dickinson, Ficklin, Hammons, Hill, George S. Houston, Inge, Iverson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, Leffler, McClernand, McKay, McLane, Job Mann, Meade, Miller, Murphy, Petrie, Pilsbury, Richey, Sawyer, James Thompson, Turner, Wick, Wiley, and Williams—33.

So the resolution as modified was agreed to.

Mr. STEPHENS moved to reconsider the vote and to lay that motion on the table; which latter motion was agreed to.

STATUE OF WASHINGTON

Mr. MEADE asked the general consent to offer the following resolution:

Resolved, That the Committee on Public Expenditures inquire into the expediency of causing a copy of the Washington statue in the Capitol of Virginia, to be taken in American marble, by an American artist, and be placed in the rotundo of the Capitol, and the said committee report by bill or otherwise.

No objection being made, the resolution was received, and the question being on its adoption—

Mr. MEADE said, if the House would indulge him, he would give a brief history of this statue.

In 1785 the Legislature of Virginia ordered this statue to be made. Houdon, a distinguished Parisian artist, was employed for the purpose. In the fall of that year he spent several weeks at Mount Vernon, and took a cast of Washington in plaster, which served as the model. He is thus taken from life, in the uniform of a general officer. The likeness was pronounced by Chief Justice Marshall, I learn, as the best that was ever taken of Washington. If this statue should by any accident be destroyed, we should lose the most faithful representation of that greatest of men that now exists. (Exhibiting a block of marble) Mr. M. said, here is a specimen of marble taken from a quarry in the county of Rockbridge, Virginia, admirably suited for statuary, and gentlemen inform him that in Georgia and Alabama are extensive quarries of beautiful marble. He wished to see a copy of this statue—a copy purely American—standing in the rotundo of this Capitol, for the sublime moral effect it would not fail to produce throughout the Union.

The resolution was then agreed to unanimously.

PUBLIC LANDS.

Mr. EMBREE moved that the rules be suspended to enable him to offer the following preamble and resolution:

Whereas it is desirable that as many cultivators of the soil as possible should be the owners of the land they occupy, improve, and cultivate: therefore,

Resolved, That the Committee on Public Lands inquire into the expediency of granting one half-quarter section of land to all persons owning no real estate, who will settle and continue to occupy and improve the same for five years, or such other period of time as said committee may deem expedient; and that they report by bill or otherwise.

Pending the question, Shall the rules be suspended for the purpose aforesaid?

On motion of Mr. KAUFMAN, the House adjourned at thirty minutes past three o'clock.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred:

By Mr. SILVESTER: The petition of inhabitants of Chatham, Columbia county, New York, for the reduction of postage, and for the abolition of the franking privilege.

By Mr. NEWELL: The petition of A. M. Carpenter and 129 others, petitioning for a reduction of postage rates, and the entire abolition of the franking privilege.

By Mr. FICKLIN: The petition of L. C. Churchill, Uri Manly, J. B. King, and many others, asking for cheap postage.

By Mr. GOTT: The petition of Richard Tollcat and other citizens of the county of Onondaga, New York, praying for cheap postage.

By Mr. MANN, of Massachusetts: The petition of James Whittier and 52 others, inhabitants of Massachusetts, in behalf of cheap postage. Also, the petition of William Allen and 93 others, inhabitants of Quincy, Massachusetts, for the same object.

By Mr. CUMMINS: The petition of James M. Brown and 88 other citizens of Coshocton county, Ohio, praying for the reënactment of so much of the post office law of 1845 as allowed the free transmission by mail of newspapers for thirty miles from the place where the same are printed.

By Mr. WILSON: The petition of Levi W. Leonard and 42 other citizens of Dublin, New Hampshire, for cheap postage. Also, the petition of H. B. Maynard and 32 others, of Drewsville, Cheshire county, New Hampshire, for cheap postage.

By Mr. JENKINS: The petition of sundry inhabitants of of Oneida county, New York, for the reduction of postage and to abolish the franking privilege.

By Mr. CATHCART: The petition of Hortense Bailly, of Indiana.

By Mr. POLLOCK: The petition of William Walker and forty-nine others, citizens of Columbia county, Pennsylvania, against the extension of slavery, &c. Also, the petition of Peter B. Musser, and twenty-three other citizens of Northumberland county, Pennsylvania, asking a reduction of postage and the abolition of the franking privilege.

By Mr. RUMSEY: The petition of A. G. Prior and others, of Burns, Allegany county, New York, in favor of a grant of land for a railroad from Chicago to the Mississippi river. Also, the petition of Rev. E. G. Spalding and others, of Urbana, Steuben county, New York, in favor of cheap postage.

By Mr. ROCKHILL: A joint resolution of the General Assembly of the State of Indiana, instructing their Senators, and requesting their Representatives in Congress to use their influence to obtain the passage of a law, to sell certain wet lands in the counties of Adams and Jay, in said State, to the highest bidder, &c.

By Mr. GOGGIN: The petition of F. G. Peters and others, of Virginia, asking a reduction of postage and the abolition of the franking privilege.

By Mr. BLACKMAR: A petition of 125 citizens of Clyde, New York, asking the reduction of postage and the abolition of the franking privilege.

By Mr. SLINGERLAND: The petition of Leonard Mosher and 72 citizens of the town of Coeymans, New Scotland, and Westerlo, Albany county, New York, praying for a mail route from Albany to Greenville.

By Mr. CONGER: The petition of 70 citizens of Cayuga county, New York, asking the passage of a law to prohibit the introduction of intoxicating liquors on board vessels in the service of the United States.

IN SENATE.

TUESDAY, *February* 6, 1849.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a report of the Adjutant General, containing returns of the militia of the several States, with their arms, accoutrements, ammunition, &c.; which was ordered to be printed.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Navy, transmitting a report of the number and character of punishments inflicted in the navy during the years 1846 and 1847; which was referred to the Committee on Naval Affairs, and ordered to be printed.

The VICE PRESIDENT laid before the Senate a communication from the Post Office Department, in compliance with a resolution of the Senate, in relation to the postal arrangement with Bremen, the reduction of postages on letters, and the services performed by the Bremen post office; which was read, and ordered to be printed.

MEMORIALS AND PETITIONS.

Mr. TURNEY presented additional documents in relation to the claim of P. A. Hail for compensation for medical services to a company of Tennessee volunteers, during the late war with Mexico; which was referred to the Committee on Military Affairs.

Mr. FELCH presented a petition from citizens of Ann Arbor, Michigan, asking for a reduction of postage, and the repeal of the franking privilege; which was laid on the table.

Mr. F. also presented a petition from certain chiefs of the Chippewa tribe of Indians, praying that certain lands may be receded to them for purposes of cultivation; that they may be permitted to become citizens of the United States, and an appropriation to pay the expenses of their journey to Washington; which was referred to the Committee on Indian Affairs.

Mr. HUNTER presented a petition from Chas. Taylor, asking a pension on account of wounds received in the late war with Great Britain; which was referred to the Committee on Pensions.

Mr. H. also presented a petition of Alexander Y. P. Garnett, asking compensation for extra services; which was referred to the Committee on Claims.

Mr. CORWIN presented a petition from citizens of Butlerville, Warren county, Ohio, asking for a new mail route from Liberty Hall to Butlerville; which was referred to the Committee on the Post Office and Post Roads.

Mr. C. also presented petitions from citizens of Circleville, Highland and other counties of Ohio, asking for a reduction of the rates of postage, &c.; which was laid on the table.

Mr DIX presented a petition from citizens of New Hartford, Oneida county, New York, praying that the rates of postage may be reduced, and the franking privilege abolished; which was laid on the table.

Mr WALKER presented a petition from citizens of La Point county, Michigan, asking the establishment of a mail route from the county seat of said county, to the Falls of St. Croix river; which was referred to the Committee on the Post Office and Post Roads.

Mr. BRIGHT presented resolutions from the Legislature of Indiana in favor of transmitting free of postage all documents printed by order of State Legislatures, and newspapers ordered by them for members; which were laid on the table.

Mr. DAVIS, of Mississippi, presented a petition from Alexander Montgomery, captain and assistant quartermaster in the army, asking to be allowed a commission on disbursements made during the operations of the army in Mexico; which was referred to the Committee on Military Affairs.

Mr. DAVIS also presented a petition from Robert M. Martin, a corporal of volunteers in the Mexican war, asking for bounty lands; which was referred to the Committee on Pensions.

Mr. YULEE presented a petition from Allen G. Johnson, a volunteer officer in the Seminole war, asking payment of a balance due him on the settlement of his accounts; which was referred to the Committee on Military Affairs.

Mr. RUSK presented a petition from Christian Sharps, asking that an improvement made by him in the construction of rifles may be adopted in the military service; which was referred to the Committee on Military Affairs.

Mr. FOOTE presented the petition of P. H. Hargous, setting forth the advantages of a communication with the Pacific by means of a railroad across the Isthmus of Tehuantepec, for the construction of which he has the authority of the Mexican Government, and asking that Congress will act finally.

Mr. DODGE presented resolutions from the Legislature of the State of Iowa, asking that an appropriation be made for improving the Skunk river, in the State of Iowa; which was referred to the Committee on Public Lands.

Mr. D. also presented resolutions from the Legislature of the State of Iowa, in favor of the establishment of a mail route from Bloomington, Iowa, to Prairie du Chien, Wisconsin; which were referred to the Committee on the Post Office and Post Roads.

Mr. D. also presented resolutions from the Legislature of the State of Iowa, in favor of an appropriation for the improvement of the Des Moines and Rocky River rapids, in the Mississippi river; which were referred to the Committee on Commerce.

Mr. D. also presented similar resolutions in favor of a mail route from Tipton, in Cedar county, to the county seat of Bester county, Iowa; which were referred to the Committee on the Post Office and Post Roads.

Mr. D. also presented similar resolutions in favor of the establishment of a mail route from Ottunsite in Wapello county, to Chariton Point in Lucas county, in the State of Iowa; which were referred to the Committee on the Post Office and Post Roads.

Mr. D. also presented similar resolutions in favor of the establishment of a mail route from New London, Henry county, directly to Crawfordsville, Washington county, and thence to Iowa City; which were referred to the Committee on the Post Office and Post Roads.

ABSENCE OF MEMBERS.

Mr. HALE presented a petition from citizens of Niagara county, New York, asking Congress to establish a rule by which members shall only receive pay for such time as they may have been actually present.

Mr. H. said: I have received a petition from citizens of Niagara county, New York, who state that they have understood and believe that it is no uncommon thing for some members of Congress to absent themselves unnecessarily from their places in Congress, to the neglect of the business intrusted to their care, and they pray that your honorable body, in conjunction with the other House, will establish a rule of law by which Senators and Members shall be credited with the time that they are in actual attendance and no more, and that at the close of the session they shall receive their per diem allowance for such time as they shall have been in actual attendance. In presenting this petition, I will say that I know of no fact which justifies the allegation which it contains, and I have some doubt as to whether the petition need be referred to a special committee, or to any committee, and in the mean time I will merely move that it lie upon the table.

Mr. BRIGHT. I desire to inquire of the Senator from New Hampshire whether he brought that petition along with him when he returned lately from the North? [Laughter.] If the petition is to be referred to a select committee, the Senator himself would constitute the proper committee. He, having been absent from his seat in this body, must necessarily understand the merits of the subject.

Mr. HALE. I can state, for the information of the Senator from Indiana, who asks whether I brought it with me, that the petition is from the western part of the State of New York, and that in the tour which I made to New Hampshire I did not go by that route.

The petition was laid upon the table.

POST ROUTE TO THE PACIFIC.

Mr. BELL presented a memorial of Wm. A. Bradley and others, asking the aid of Government in the construction of a road and the establishment of communications by mail between the city of St. Louis and the Pacific Ocean; and in doing so—

Mr. B. said: I have been requested to present to the Senate the petition of William A. Bradley and others, for permission to establish a mail route from the Mississippi to the Pacific coast. It is possible that numerous projects may be submitted relating to the intercourse with our possessions on that coast; but the proposition which is submitted in this memorial I consider as being a very striking one, and one which must have very important consequences if carried out. The proposition is to carry the mail weekly from some point on the Mississippi river to the Pacific, and to establish on the line of the route, at ten or twelve miles distance from each other, relays of men and horses for the speedy conveyance of the mail, which they propose to carry in stage coaches, and after a sufficient time to carry passengers also. They have an opinion that they can carry the mail in a shorter time than it can be carried over land by any other of the proposed routes. They state that they will have in their employment upon the whole line, about a thousand men, and they think that within six months they will be able to put this project in execution. I do not undertake to say that it is practicable by the projectors unassisted, but it appears to me that by the expenditure of a reasonable sum on the part of the Government it may be put in operation; at all events, this is a proposition which I think deserves the notice of the Senate, and should receive its serious consideration. And with that view, sir, I will inquire of the chairman of the Committee on the Post Office and Post Roads whether it will be possible for that committee to give an immediate examination to the subject, in order that, if it be reported upon favorably, there may be time for the action of the Senate to be had upon it; if not, I will move its reference to a select committee, believing as I do that it is a matter which should receive the attention of Congress. I have further to state, sir, that the persons concerned in this enterprise, in making the proposition, gave some references of high character, from which I have reason to place reliance upon their entire competency to execute such a project; and they impose upon themselves the further condition that they will require no remuneration until they are ready to execute the work.

Mr. NILES. The Committee on the Post Office and Post Roads have, I believe, not so much busi-

ness before them as will prevent them from giving their attention to this subject.

Mr. BELL. I will then move the reference of the petition to that committee.

It was so referred.

SOUTH CAROLINA RESOLUTIONS.

Mr. BUTLER presented resolutions passed by the Legislature of South Carolina, declaring the readiness of that State to coöperate with her sister States in resisting the application of the principles of the Wilmot proviso to the territory recently acquired by the United States, which he desired to have read; and the resolutions were accordingly read, as follows:

The Joint Committee of the Senate and House of Representatives upon Federal Relations, to which were referred so much of the Governor's message as relates to the agitation of slavery, and sundry resolutions upon the same subject, beg leave to report the following resolution, as expressing the undivided opinion of this Legislature upon the Wilmot proviso, and all similar violations of the great principle of equality which South Carolina has so long and so ardently maintained should govern the action of the States and the laws of Congress upon all matters affecting the rights and interests of any member of this Union:

Resolved, unanimously, That the time for discussion by the slaveholding States as to their exclusion from the territory recently acquired from Mexico has passed, and that this General Assembly, representing the feelings of the State of South Carolina, is prepared to coöperate with her sister States in resisting the application of the principles of the Wilmot proviso to such territory, at any and every hazard.

Resolved, unanimously, That the Governor be requested to transmit a copy of this report to the Governors of each of the States of this Union, and to our Senators and Representatives in the Congress of the United States.

Mr. B. said: Mr. President, when a sovereign State presents such a resolution as the one read from your table, it is a significant omen of the times. Its very brevity is a commentary upon its import and intent. It purports to have been passed by both branches of the Legislature, and in the name of the people of South Carolina, and comes here under the seal of the State. It is my duty to say that it is not the expression of transient popular excitement, but it evinces the deep conviction of a people who think that their rights are dangerously threatened, and will be put in peril by the action of Congress, which is the common agent, and should be the common guardian of all the parties to the Federal compact.

South Carolina will not seek or desire an occasion for the application of her resolution. She will do no offensive act to bring about such a painful emergency. But should she be forced to meet the threatened issue, and required to take an attitude of resistance to the unjust and aggressive policy of a blind and self-sustaining majority, it would be treason in me as her representative to suppose that she would not make her words good, or subject herself to all the hazards of a trial. And in this she will not be alone. Virginia has already spoken a language too solemn and deliberate to be mistaken, and which was made the more impressive by the language of my friend who sits near me, [Mr. HUNTER.] When States make such pledges, through their representatives, they impose upon themselves an obligation to maintain them. The people of South Carolina entertain a profound respect for Virginia, and many of her people cherish hereditary attachment to her soil, history, and institutions. South Carolina will stand by her to the last, and sustain her in whatever position she may think proper to assume; and will do so in the motto of my own State, which language cannot be more appropriately used than on this occasion—"*Animis opibusque semper parati.*" Well has it become that illustrious Commonwealth to be the first in proclaiming her own and the rights of her southern confederates. Well has she been called a mother of States. Look at those that have sprung from her bounty. With the uncalculating generosity of a parent, she submitted to conditions, as to some of these territories ceded by her, peculiarly favorable at that time to her non-slaveholding brethren. Can it be that, like a cockatrice, any portion of these States, or the people of these States, would avail themselves of these conditions, and the power acquired under them, to sting the bosom that gave them life? Virginia may have to submit to ingratitude, and may not be able to avoid wanton insult, but she cannot submit to deliberate wrong and willful aggression. Her history would rebuke and her resolutions would reproach her. No, sir, that illustrious Commonwealth has been, like Judah, the lion's whelp in this Confederacy; and she cannot crouch, like Issachar, and become the ass between burdens.

Mr. President, Virginia and South Carolina are not the only States that will speak on this momentous subject. All the southern States similarly situated will use language of the same deliberate import; and if, in the face of such warning, our northern brethren—for I will call them so—shall turn a deaf ear to it, and shall go on to consummate their acts of injustice and disfranchisement by odious and discriminating legislation, assailing the equality of the States, and violating sacred contracts, the blame will be on their heads. Such an act will evince a criminal temerity hardly to find a parallel in the history of any people. They may assume to act upon the supposition of our division, and because they know we cherish an attachment to the Union, by so many consecrated associations of a common history. They calculate upon success by sporting with our affection. I once saw a youth struck by his neighbor and relative; and when he was reproached for not resenting it, he replied that he had always learned through his parents that they were bound together by the ties of friendship and consanguinity, and that he did not wish to be the first to disturb them. Well, sir, the submission only provoked additional assault. Our non-slaveholding countrymen may think that we will submit like the amiable youth, instead of consulting the impulses and wise suggestions of self-respect. And, sir, there is no substitute for such a sentiment. Once banish it from a people or an individual, and degradation and degeneracy must follow. These States have been bound together by the ties of patriotism and fraternal consanguinity. The Federal Constitution was the work of wise, practical, and patriotic statesmen, and the guarantee they relied upon for its maintenance and perpetuity was the good faith in which it originated. Those from the non-slaveholding States were then the guardians of southern rights and the respecters of southern feeling. They were such men as Hancock, Adams, Roger Sherman, and Dr. Franklin. Little could they have thought that a people who have become strong and powerful under the operation of the Federal compact would ever use it as an engine of oppression. But, sir, I fear that their generous calculations are destined to be disappointed. And, sir, I will not draw a contrast between themselves and those who are now, under the name of free soil and deceitful philanthropy, conducting the dangerous agitations upon the slave question. I will not draw the parallel. The *contrast* between the two will be obvious to all, and it is not necessary to write their names on the picture. All the fears of disunion may be banished, and harmony restored by the North consulting and acting upon the great maxims of moderation and justice. Let them stay the hand of aggressive violence; let them stay the spirit of injustice; let them no longer encourage the wild fanaticism of an irresponsible multitude. The South will act in defensive coöperation, but will not intentionally agitate, for the purposes of faction and discord, with a view to profit by them. The northern people say that slavery cannot go into California and New Mexico, unless the laws left in force by Mexico shall be repealed; and yet they insist upon superadding to any act that may be brought forward for the government of these Territories, a provision for the exclusion of slavery; not, as they say, that it is necessary, but because they wish now to establish the doctrine to exclude southern slaveholders from an equal participation in the fruits of future conquest. This doctrine, Mr. President, addresses itself to, and is revolting to, natural sensibility, and in violation of the compacts and compromises of the Constitution. It is nothing more nor less than saying that the South may be compelled, under its obligations to the Federal compact, to make its contributions of men and money to carry on the war, but shall be denied the rights of equals in the enjoyment of the conquest.

It is not a restriction, sir, as some have said, and as some of our Georgia friends have said, sir; but it is a proscriptive policy, to prevent which the South should be prepared at this time to make every sacrifice. If we submit to it now, it is a submission which will reduce us from a position of equality to what we believe to be one of degradation. I have made no threat—I shall make no threat. I have no such disposition; but if South Carolina shall be placed in such a situation, there can be no doubt but that she will enforce that resolution. I am bound to say, sir, that if this position is forced upon her, she will stand by Virginia; she will stand by herself, sir. This may be avoided; and God grant, Mr. President, that statesmen and patriots may be raised up from the non-slaveholding States who may have the courage to do justice, and who will consult the dictates of wisdom and prudence.

The resolutions, on the motion of Mr. BUTLER, were ordered to be printed.

REPORTS OF COMMITTEES.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, reported a bill to repeal a portion of the third section of the act of February 19, 1848, in relation to the medical staff of the army of the United States, and for other purposes, with amendments.

Mr. DAVIS moved that the bill be now considered; and the motion being agreed to—

The bill was considered, the amendments were concurred in, and the bill was read a third time and passed.

On motion of Mr. DAVIS, the title of the bill was so amended as to read as follows: "A bill to provide for the increase of the medical staff, and for other purposes."

Mr. ATHERTON, from the Committee on Finance, reported a bill for the payment of revolutionary pensions and other pensions of the United States, for the year ending June 30, 1850, without amendment.

Mr. ATHERTON moved the consideration of this bill, but, after a suggestion from Mr. WEBSTER, he withdrew his motion.

Mr. ATHERTON, from the Committee on Finance, reported the bill making appropriations for the support of the Military Academy at West Point, for the year ending June 30, 1850, without amendment.

Mr. UNDERWOOD, from the Committee on Claims, reported a bill for the relief of John A. Rodgers; which was read, and ordered to a second reading.

Mr. BREESE, from the Committee on Public Lands, reported the bill reducing the price of public lands lying within the Miami Reservation, in the State of Indiana, without amendment.

Mr. MILLER, from the Committee on the District of Columbia, reported the bill to incorporate the Oak Hill Cemetery, in the District of Columbia, without amendment.

Mr. BRADBURY, from the Committee on Claims, reported House bill for the relief of James McAvoy, without amendment.

CREDENTIALS.

Mr. SEBASTIAN presented the credentials of SOLON BORLAND, elected a Senator of the United States from the State of Arkansas; which were read, and laid on the table.

NOTICE.

Mr. JOHNSON, of Georgia, gave notice that he would to-morrow, or on some early day, ask leave to introduce a bill to authorize the payment to the State of Georgia of the unexpended balance of the sum of $175,000, which was appropriated to settle the claims of said State for the services of her militia, by the act of August 11, 1842, entitled "An act to provide for the settlement of the claims of the State of Georgia for the services of her militia."

Mr. WALKER asked and obtained leave to introduce a bill to authorize a change of venue in certain cases; which was read a first and second time, and referred to the Committee on the Judiciary.

DIPLOMATIC PLEDGES TO MEXICO.

Mr. MANGUM. I move that the Senate now proceed to the consideration of the resolution I offered yesterday, asking for certain information from the President of the United States.

The resolution was taken up accordingly, and read as follows:

Resolved, That the President be requested to have laid before the Senate, in Executive or open session, in his discretion, any instruction given to Ambrose H. Sevier and Nathan Clifford, commissioned as Ministers Plenipotentiary on the part of the United States to the Government of Mexico, or to either of said ministers, prior to the ratification by the Government of Mexico of the treaty of peace between the United States and that Republic. Also, the correspondence and explanations, if any, which said ministers had with or gave to the Republic of Mexico, or any ministers thereof, touching the effect or meaning of amendments made by the Senate of the United States to the original treaty, as concluded at Guadalupe Hidalgo, on the 2d February, 1848; whether such correspondence or explanations were before

the ratification thereof by the Mexican Government or after such ratification, and before or contemporaneous with the exchange of ratifications, and particularly as respects amendments affecting the 9th, 10th, and 12th articles. Also, any protocol or other paper signed by said Sevier and Clifford and any minister of the Mexican Republic, if any such there be, explaining or affecting, or attempting to explain or affect the treaty as ratified by the Senate of the United States; and also all communications had with the Mexican Government or any minister or ministers thereof, on the part of our ministers, as well as all communications between our ministers and the Government of the United States touching the effect of the amendments made by the Senate of the United States in the aforesaid original treaty.

Mr. KING. This resolution was offered yesterday, at a time when I was necessarily absent from the Senate. I saw the statement of its introduction, for the first time, in this morning's newspaper; and I can only say, that had I been present, I should have advocated its immediate adoption. Sir, I think it proper that the information proposed to be received under it should be furnished, not that it is necessary to the action of Congress, but to remove erroneous impressions.

I hope this information will be furnished as soon as practicable, because there are various rumors afloat in the country that there has been a violation on the part of the Executive of his constitutional duty, in not acting in accordance with the amendments made by the Senate to the treaty with Mexico. I have no apprehension that anything will be found in the conduct of the Executive in this matter, that was not in strict accordance with his duty, and with what was understood to be the object of the Senate in making the amendments it adopted. For our satisfaction and the satisfaction of the country, however, I should hope that no further objection will be made to the adoption of the resolution, but that it will be acted on immediately.

The resolution was then agreed to.

BILLS REFERRED.

The following bills from the House of Representatives were read a first and second time, and referred to the Committee on Pensions, viz:

Acts for the relief of B. O. Payne, Mary Nye, James France, Lewis M. Roberts, John McIntosh, Rebecca Freeman, William Lynch, Horatio Fitch, John Gawney, Camfield Averill, Mary Ann Pollard, Elizabeth S. Cobbs, Captain Alexander McEwen, Peter Myers, Hector Perkins, Aaron Stafford, Sylvanus Blodget, Thomas R. Sanders, Susannah Prentiss, Joseph Dana, Eve Boggs, Hannah Kenney, widow of Amos Kenney, late of the State of New York, Martha Dameson, widow of Christopher Tompkins.

The following bills from the House of Representatives were read a first and second time, and referred to the Committee on Private Land Claims:

An act granting the right of preëmption to Joshua Holden.

An act for the relief of Amelia Carrillion, of Louisiana.

An act for the relief of Sydney Flower, of Louisiana, and for other purposes.

The following bills from the House of Representatives were read a first and second time, and referred to the Committee on Claims:

An act for the relief of Samuel Perry.

An act for the relief of Thomas T. Gamage.

An act for the relief of Matthews, Wood, and Hall.

An act for the relief of Noah A. Phelps.

The following bills were read a first and second time, and referred to the Committee on Naval Affairs:

An act for the relief of the widow and heirs of Silas Duncan, late commandant in the U. S. navy.

An act for the relief of Jacob Beebee.

The bill for the relief of William Kingsbury was read a first and second time, and referred to the Committee on Public Lands.

THE PANAMA RAILROAD.

The Senate then, as in Committee of the Whole, resumed the consideration of the bill making compensation for the transportation of troops and supplies of the United States across the Isthmus of Panama.

Mr. BADGER. I should hope that the Senator who has charge of this bill would explain the purport and bearing of the pending amendment, so that we may be able to judge of its propriety before we proceed to act upon it.

Mr. UNDERWOOD. I will endeavor to give the Senator from North Carolina, who has asked this question, some information with respect to it. I wish to make a few remarks in regard to the principle involved in this bill as well as in its details. The principle involved in it, I conceive, is one of very great consequence to the interests of the country; and it appears to me very appropriate and necessary for us to become acquainted with it, inasmuch as its passage will act as a precedent to future action on similar subjects. In looking at the history of the past, Mr. President, it seems to me that our Government has oscillated very much upon the subject of internal improvements; and it occurs to me that this bill is a new phase in the many changes which have taken place on this great subject. We had a system of internal improvements at one time by which the Government invested money in stocks, and by such investment aided associated joint stock companies in making roads and canals. When that system was in force, sir, the Government took stock in the Louisville canal in the State of Kentucky. That work has been completed, owing to this subscription on the part of the Government, in conjunction with the subscriptions made by individuals. Since the completion of that work it has succeeded most admirably in accommodating the country and in making a large profit for the Government and the other stockholders. There were further efforts to carry out this system, made with reference to a canal proposed connecting this place with the Ohio by way of the Potomac river. Something like a million of dollars was subscribed by the Government to the stock of this canal, and subsequently the Government assisted this city, Alexandria, and I believe Georgetown also, in the matter, by assuming the payment of the debts which these cities had contracted to enable them to subscribe to the stock of this canal. But, sir, before the work was completed, after the manner of the Louisville canal, a change came over the spirit of the Government, growing out of an appropriation to make a road in the State of Kentucky—the extension of the road from Maysville to Lexington; and, although the Government had appropriated money to take stock in this road, the appropriation was arrested, and since that time I believe no appropriation has been made by the Government in aid of the construction of roads or canals. This Government has, in its past history, also undertaken to make roads for itself. The Cumberland road is an instance of this kind, and of Government action of this character independent of association with joint stock companies.

Now, sir, this bill which we have under consideration is neither a payment like those to which I have adverted, by which the Government proposes to take so much stock in aid of the construction of certain roads or canals, nor is it a bill similar in character to the one relating to the Cumberland road—a bill proposing to make a road through the instrumentality and means of the Government alone.

Perhaps it may be foreign to the question at issue, but I will remark here that it does appear to me, that if Government ever engages in works of this description, the most economical manner in which they can be constructed is for Government to buy up a portion of the stock, thus uniting their efforts with the efforts of individual enterprise, and thereby securing that economy and harmony of interests that influence private individuals in matters of this sort. Because, sir, the principle of selfishness, which must operate, and does operate, on the human heart, and which influences the movements of private associations of individuals, will always eventuate in more economy in the administration of affairs by which those associations are connected with the Government, than can ever be expected to obtain in the administration of such matters by the Government alone. But I will not remark further upon that point.

The bill under consideration, as regards the principle involved, is not like any of the bills in which the Government has heretofore assisted private associations of individuals by taking a portion of their stock. Nor is it, sir, a bill like the Cumberland road bill, whereby the Government undertakes with its own means and through its own agents to construct a road. It does, therefore, seem to me to be the introduction of something like a new principle in the making of roads. What is the principle here, sir? It appears to me that the principle involved is covered up under the guise of a contract; for, according to the terms of the bill, it would appear that we are only to contract to pay as much money as will be an equivalent to the benefits which we are to receive. The money which we are to pay out is to be no more in amount than the value of the services which this company, to whom the money is to be paid, renders to the Government. Well now, sir, if it be a mere contract, and nothing more than a contract, I see no sort of objection to it on the score of principle. Viewed in that light, it is no more than if the Government were to pay for the transportation of men and munitions of war from the eastern part of the Mediterranean Sea over to the Persian Gulf, or by land, if you please, to any portion of the East Indies. Viewed as a mere contract, by which you are only to pay a fair equivalent for the services to be rendered, I admit the propriety of the Government's entering into such a contract for any services it may require in any part of the world. But, sir, is this bill a mere contract of that character? I think, when we come to the details of this bill, it will appear manifest to the Senate that it is not a bill by which you appropriate money for an equivalent, but that it is a bill in which a donation is to be made by way of encouraging the undertakers of this scheme to construct their road, and by way of furnishing them with the funds necessary to its construction. Now, sir, let us look at it in this light; and I desire, in connection, to present some figures, which, if duly considered, will, I think, furnish a complete answer to the inquiry propounded by the Senator from North Carolina.

This bill proposes to pay these individuals two hundred and fifty thousand dollars per annum. And for how many years is this allowance to continue? Why, if the contract is made, it is to be in force for a period not less than ten years in duration; and the time may be extended. The hands of the Government, however, are tied for the period of ten years after the contract is made. The contract may continue much beyond the period at which the Government has the option of terminating it; for unless it is so terminated, the sum of two hundred and fifty thousand dollars per annum, to be appropriated for ten years, shall be continued for twenty years. But, sir, when is the first of these annual amounts of two hundred and fifty thousand dollars to be paid? There is nothing upon the face of the bill which specifies that it shall not be paid until the road is ready to perform the service required. If my reading of the bill be correct, the contract stipulates to pay two hundred and fifty thousand dollars annually from the commencement of the contract; and I apprehend that is the design of the bill.

Under this view, then, that I have taken, that by this bill it is intended to furnish money to enable the undertakers of this scheme to construct the road, it would be very right for them to receive their annual instalments of two hundred and fifty thousand dollars from the time the contract commences. And, sir, there is nothing, as far as I can perceive, in the bill limiting the payment of these annual sums in this manner, or providing that their payment shall not commence until the road is ready for service. The road, sir, according to the stipulations of the bill, is to be ready to perform the service required within three years' time; and, after it has been thus completed, you are compelled to pay the two hundred and fifty thousand dollars per year for ten years more, before you can rescind the contract. If my view of the design of this bill be correct, then, sir, you are to pay the two hundred and fifty thousand dollars per annum during the three years the road is in progress of construction; and, in addition, the same sum per annum for the succeeding ten years. If I am correct in my understanding of the matter, the lowest sum which you are bound to pay under the contract is two million five hundred thousand dollars; and, if in the manner I have stated, the time of these annual payments can be extended to thirteen years instead of ten—why then, sir, the whole amount you will be required to pay will be three million two hundred and fifty thousand dollars.

How much, let me ask, will it take to construct this road, judging from the data that we have received? And what data have we received, sir? It does appear to me that whenever a public measure commends itself to the favorable consideration of the legislative department of this Government, we are ready to take hold of it at once, and endeavor to push it through without regard to consequences,

and without seeking to obtain the information which is necessary to right action upon the question, and which should always be before us when we commence a large and important work of this character. Have we had any official exhibition of the aspect or situation of the country over which this road is proposed to be constructed presented to us? Has any engineer of the Government laid surveys of that country before us? None. Sir, as far as I know anything about the subject, we have had to gather our information upon this subject from private sources, no official communications having been presented.

I have understood that the altitude of this particular road is three hundred feet. It may be more or less, but take it at that. Colonel Abert, who is at the head of the Engineer department, has been applied to, according to a report made by the Naval Committee of the other House, for information on this subject, and that information has found its way into the papers here; and that is the most reliable information we have on the subject. If there be other more specific information, going more into detail, I have not found time to examine it. I have, therefore, taken the statement as I find it. And what does Colonel Abert say? He estimates according to the expense of constructing roads in Massachusetts, and the amount expended there, which has been $48,920 per mile. It will be perceived that Colonel Abert does not pretend to contrast the expense of building any particular road in Massachusetts with the proposed road across the Isthmus of Panama. He does not say he has the facts or information upon which that comparison can be made. On the contrary, it is manifest that he does not possess the facts on which such a comparison could be made. He simply estimates that the roads in Massachusetts on an average have cost $48,920 per mile; and then, not estimating what he supposes it will cost to build this road, he adds half of that for climate, for greater price of labor, for the difficulty of obtaining supplies, and for all other difficulties which this company has to encounter, in constructing a road near the line of the equator, compared with what they would have cost in Massachusetts; which will make the expense $73,380 per mile for this road.

Well, how many miles will there be, is the next question? After having the number of miles, we may multiply that number by the estimated expense of one mile, and we shall have the aggregate of the expense of the entire road. Here, sir, we are without a survey to fix the distance; we are without a survey locating the point of departure on one ocean to the point of terminus on the other ocean, and in the absence of this information Colonel Abert says he supposes the distance may be fifty-two miles. Well, sir, fifty-two miles at $72,380 per mile makes an aggregate of $3,815,760 as the entire cost of the road for the whole fifty-two miles from ocean to ocean. And now, sir, what does that $3,815,760 include? Why, according to Colonel Abert's information, given to the Senate, to be found in this document, it includes not only the construction of the road, the grading, the supply of all the wood and iron, and the laying of rails, and getting ready for the locomotive and the cars, but it includes the cars, the locomotive, and all the apparatus necessary for putting the road in complete operation. Now, how much could be saved in the construction of such a road, if the estimate had been made, independent of the price of the cars, locomotives, and other fixtures, I am not prepared to say. The documents do not afford the data. But it must be known that the price of locomotives and cars constitute a very considerable item in the construction of a railroad. Sir, if they amounted to a million of dollars, you would reduce the expenditure necessary to construct this road, independent of the locomotive and the cars, to less than the sum which you are about to give by this bill to this company for making it. The road without cars is nothing; it is a ship without sails. But I mention it in this point of view to show that the sum proposed to be given to this company out of the Government money is sufficient to make the road, and when the road is made out of the Government money, they have nothing to do but to go to Boston or to Baltimore, and purchase their cars, ship them by sea, and put them on the road, and then, without any additional cost, except to pay the engineers, they are ready to make their profit.

That is the view I take of it. I do not really know what reduction is to be made for this apparatus. I have no means of telling. You may deduct much less than a million for that purpose; but still, according to the calculations of Colonel Abert, you will have enough left to make this road; and then the company have nothing to do but to purchase their locomotives and cars, and they have the means to commence operations. Well, sir, it does seem to me that this is a new principle—making a road under the guise of a contract, furnishing the money to make the road, and throwing only the burden of procuring the cars on the company. I am not willing to do that, sir. Would it not be better to adopt the old plan of taking the stock ourselves, and owning it after the road is built? But, sir, we have become wise enough, in the progress of the system of internal improvements, to give away the road, and let the company have the whole of it. Instead of furnishing the means, and then holding it in common with the contractors, we propose now to give the money to this company, and lose our interest in it. It is time for the country to begin to look into these things. Sir, this system of internal improvements, in some way or other, must go on. It cannot be arrested; the interest of the country will not allow it to be arrested. And I am happy to see, that in the recent canvass for the election of Chief Magistrate, the gentlemen who hoisted the Free-soil flag, and addressed the people on that subject, had to yield and come over to the doctrine of internal improvement. Sir, it must be done in some shape or other. And these projects of making roads to California are but the bursting over of this feeling in the hearts of the people, and they must have some way of manifesting it. But I look on this bill, in the new aspect in which it now presents itself, as a mere evasion of those old principles which were once recognized; it is an attempt to get around them, and to get that done indirectly which they are unwilling to march right up to in the face of day. I do not charge the friends of this bill with such an object; I make no imputation on their motives. I have no doubt they are as conscientious as I think I am myself in the view I take of this matter; but I think the facts are just what I say.

Well, sir, only consider for a moment, if you please, how much capital these gentlemen could get by an assurance on the part of the Government that they should receive two hundred and fifty thousand dollars per annum. What are the Government stocks selling for at this moment? They are nine or ten per cent. above par. How much money, then, will your two hundred and fifty thousand dollars obtain? Why, at six per cent., one million for every sixty thousand dollars, and four millions for two hundred and forty thousand dollars, leaving ten thousand dollars for contingencies, after paying all the expenses of the road. Four millions, according to the highest estimate, more than pays for the road, with all its fixtures, and leaves a surplus besides.

What, then, sir, are you doing by this bill? You are giving money enough per annum to a private company to pay interest on a capital of four millions of dollars, for which sum the road can be constructed, the apparatus supplied, and a surplus left; and that you do under the idea that it is a mere contract where you pay money for an equivalent. Sir, it must be manifest that the idea of paying equivalents is altogether preposterous. That is not the principle or the character of this bill. What, then, is the character of it? It is a gratuity or donation to these men of so much money to enable them to make a road which they imagine, and which I concur with them in believing, the interest of the country requires. We ought to have roads both there and elsewhere, and I hope to live to see the day when that road will be finished, and not only that, but other avenues to the Pacific. What, then, I repeat, is this bill? It is a gratuity—a donation—to individuals, to enable them to construct a road which it is supposed the public interest requires to be done. Now, where that state of things exists, I, for one, am for marching boldly up and saying, I will take stock, and thus furnish the means by which it may be done. I certainly am not the father of the idea of making this road across the Isthmus of Panama. I have no doubt that the learned gentleman from Missouri [Mr. BENTON] thought of it long before I entered into public life or had anything to do with the politics of the country. But although this is true, sir, some ten or twelve years ago I submitted in the other branch of Congress these resolutions, and in them you will see the plan of operations of which I am in favor, and which I think ought to have been adopted in connection with this important subject. Here are the resolutions, which I read from the Journal of the House of Representatives of the date of December 31, 1838, pages 170–'1:

"*Resolved, &c.*, That the President of the United States be requested to open a correspondence with the Government of the Confederacy of Central America on the subject of connecting the commerce of the Gulf of Mexico with that of the Pacific Ocean, by means of a railroad or canal, or both, and the propriety of authorizing the construction of a railroad or canal by the united capital of the citizens of the two countries.

"*Resolved*, That the President be requested to enter into treaty stipulations with said Government, providing suitable guarantees for the protection of the interests of our citizens who may invest capital in the construction of such railroad or canal.

"*Resolved*, That the President be requested to depute some one or more officers of the Engineer corps to survey any route or routes for a railroad or canal connecting the Gulf and Pacific, provided said Government consent thereto."

Here is the plan, sir, which I suggested many years ago, and to which the Government has attended to some extent. We have a treaty, sir, but I will not detain the Senate by calling its attention to the terms of it. I may, however, say one thing has been wholly omitted, so far as the suggestions of these resolutions are concerned—that is, having the route surveyed for a canal or railroad, in order that both the Government and our citizens might act discreetly and knowingly. There is no information on that important branch of the subject.

The remarks which I have already made extend to the whole fifty-two miles of road, and I now come to that branch of the bill to which the Senator behind me called my attention when he made a suggestion——

Mr. BERRIEN. An inquiry.

Mr. UNDERWOOD. Well, an inquiry. Look, sir, at this bill. It does not state that you are to pay $250,000 a year when the road shall be constructed from ocean to ocean, so that the services shall be performed upon it all the way by steam; not at all. It says that the payment is to be made when by steam power you can make your transportation from ocean to ocean. Now, look at the difference. By steam power you can carry, according to the information which I possess, munitions of war and men from Chagres to Cruces; and from Cruces to Panama it is only twenty-four miles, I believe, according to my present information. How far by railroad it may be from Cruces to Panama, I do not know; nor do I know if the railroad will pass by Cruces. That, sir, is another matter, that we know nothing about.

Now, sir, look at this bill, and you will see that it provides for the payment of the money when you can use steam power all the way. Sir, you can use steam power by water, and with a railroad from Cruces to Panama, the residue can be done by land. Now, is it the intention to construct this railroad from Panama to Cruces, and there take steamboat down the Cruces river? I do not know, sir; and who can tell me? I know not what the design is; but this I know, that under the provisions of the bill, they may make the railroad from Panama to Cruces, and there stop; and what is the result? Why, you give them $2,500,000 at least, if not $3,250,000, for making twenty-five or twenty-six miles of railroad. In this way, you give them double the amount which, according to the estimates of Colonel Abert, is necessary to make the railroad all the way. Now, do Senators intend to do that? Where is the guarantee that it will not be done? It is not in this bill. I will read the amendment, or that part of it, which will show that I cannot be mistaken in my construction of it. It is as follows:

Provided, That the annual sum to be paid for such transportation shall not exceed the sum of $250,000 per annum: *And provided*, That no payment under such contract shall be made until said railroad shall be so far advanced as to permit said transportation across the Isthmus of Panama wholly by steam power.

Mark, sir, it is not wholly by steam power, or a railroad from ocean to ocean. That is not the provision; but that the transportation shall be by steam power, allowing them to carry by steamboat to Cruces.

Mr. WEBSTER. But there is another proviso which requires the railroad to be commenced

within three months, and be completed within three years from the date of the contract.

Mr. DAYTON. And the whole shows that it must go from Panama to the other side by land.

Mr. UNDERWOOD. That latter proviso does say that the road is to be constructed within three years; and that should mean, as the section should be construed, from ocean to ocean; but have you given it that construction? If a railroad should be made to Cruces, you are then enabled to do it by steam power; and does not every gentleman perceive that the argument which I make is legitimate and unanswerable? Can it be denied? You commence payment, according to this bill, whenever you can use steam power all the way, without requiring it to be by railroad all the way. You are to finish it in three years, but you finish it twenty-six miles one year, and you get $250,000 for carrying it part of the way by water and part of the way by land. If gentlemen will look into the figures, they will deceive nobody, for everybody can comprehend them. They will see that this sum of $250,000 per annum may be drawn for two years when part of the route is performed by the river. If you can finish it in one year you can use steam power all the way; and then your payments commence at $250,000 a year; so that, for two years, using the river to Cruces, and the railroad thence to Panama, you pay $500,000. Nobody can mistake that. The latter proviso, therefore, to which my attention has been called, does not touch the objection I make. I know that it does not continue through the whole ten years, but it continues from the time the road is made from Panama to Cruces to the end of the three years during which the entire road is to be finished, and the effect will be just what I have stated.

Well, sir, now to prove still further that it is a mere gratuity, I have some figures to present, and then I have done. You have a tariff, sir, that you propose shall be enforced by the provisions of this bill. That tariff of rates begins with eight dollars for passengers and ends with three dollars. At the time the ten years expire, when you have the privilege of ceasing to pay the $250,000 per annum, you leave the tariff at four dollars per passenger and four dollars per ton for the transportation of freight. Now, for the purpose of the calculation, I have taken your tariff at the time you have the privilege of putting an end to the contract. I might have taken the three-dollar tariff, and even that would have shown a great enormity; or I might have taken the eight-dollar tariff, and that would have shown striking results also. But I have chosen to take the four-dollar tariff as an intermediate sum. Well now, sir, how many men do you expect the Government will want to transport across that isthmus? The whole army? Why, there is less than ten thousand men on the peace establishment—some eight or nine thousand, I think. But perhaps you want to transport some sailors and marines, in addition: if so, you will increase the number but to some ten thousand men, and what will that amount to? Why, at four dollars a head, the amount will be $40,000 for sending your whole army and some sailors and marines across. And how many tons of munitions of war, how much food, how much raiment, how much of everything is needed to be transported across this isthmus? Will it be ten thousand tons? That would be an immense amount. I presume it will not be a fourth of that amount—certainly it will not be half; but take it at ten thousand tons, and how much will that amount to? Only $40,000, according to this tariff of rates. Well, add the whole ten thousand men, and you have $40,000 more, making the aggregate of $80,000; and yet when, according to the tariff that you recognize on the face of this bill, you can have the whole army transported and ten thousand tons of munitions of war for $80,000, you give $250,000 per annum to this company. It is a gratuity, sir, of $170,000 per annum, if the four dollars is a fair compensation to the company for this service. Now, does not this prove to be the introduction of a new principle into this bill? Does it not show that, under this guise of a contract, the real object is not to pay an equivalent in money for an equivalent of service; but, under this guise of an equivalent, you are to pay as a gratuity to this company, for their individual profit, at the rate of $170,000 per year. Sir, if these are not the figures on this bill, I should like to see some gentleman who advocates this measure give us the figures. I should like to have them state how many men they calculate to transport, and how many tons, and let us see what we are paying, and what it is we are to receive.

Well now, Mr. President, one other point to be suggested, with some remarks, and that is all I have to say. All the remarks which I have heretofore made are based on the service which this company is to render to the Government alone. I have not yet included any service to be rendered to individuals. I have not noticed any compensation which they are to receive for the transportation of the thousands of emigrants wending their way to the El Dorado of California. I have not looked to their baggage, sir. True, I have contemplated that of the soldiers and sailors, so far as the Government supplies it, but these thousands and tens of thousands going to the Pacific and to California to make their individual fortunes I have not brought into the estimate. But now let us look at them. There will be thousands of them, sir, if the present information that we have from the newspaper press is to be relied upon. We see shipment after shipment making to the western coast of America. We see emigrant after emigrant, company after company forming, and going there, and these numbers, we have reason to believe, will be doubled, thus doubling the revenues of this company for transit across that line, for that is the nearest and most direct route across the isthmus.

But that is not all, sir. We have a learned estimate presented to us by the Naval Committee of the other branch of Congress, and I have taken the trouble to look into it, and I feel a little exultation in my heart at seeing the speculations in which my friends were indulging, respecting the great glory which was in prospect. We see in that report how the distance to Asia has been shortened by this route, and how we are to have all the advantage of the route for our trade to the Asiatic islands and Australasia; and we see golden dreams in the minds of the people, transporting them to California.

But, sir, what is the annual saving of all these calculations? Eighty-five millions is the estimate for twenty years, according to these calculations. Whether these schemes are to be realized or not, is a different thing; but it seems to be based on the best information that we have. Their annual profit, then, will exceed four millions of dollars, and, wonderful to tell, this is to be derived from commercial profits alone, wholly independent of what the Government gives. Well, sir, if more than four millions be saved, wholly unconnected with what the Government has to pay, how much would it be right for that company to charge on the business of the country for their profits? I should suppose, if they charged one-fourth, it would be as little as could be expected. To a man who saves me $1,000 a year I would readily give $250, for he would then save me $750. So, if there is anything in these calculations, the commerce and business of the country are sure to be benefited at the rate of more than four millions a year; they could therefore at least allow one million out of the four to this company.

Mr. CLARKE made some remark in an under tone from his seat, which was not audible at the reporter's desk.

Mr. UNDERWOOD. I know that. They begin at eight dollars. Here is the report by which they suppose the whole commerce of Asia is to pass across this isthmus; and how many tons will it be; how many men will be employed in the management of it? Here, sir, is their report. They say in that report that twenty years will give the nation a profit of $85,000,000, which will afford an average of four millions a year. Well, if it saves the country four millions a year, I suppose one-fourth of that might reasonably be charged as profit to the company, and thus you have the whole amount of expenditure in making this road in four years. But suppose they should not charge a million a year profit—take it that it would be wrong to do so—will you charge one-eighth? That will be $500,000 a year, and then you pay for this investment in eight years. But suppose, again, that even that is wrong; suppose you bring it down to a sixteenth, and then add to that amount that which the Government pays, and how will the thing stand? According to this report the profits would be $250,000 on individual commerce and passengers, and $250,000 more paid to them by the Government, making an aggregate of $500,000, while, according to the data before us, the whole road will not cost more than four millions of dollars; so that the whole investment is to be paid for in eight years, according to that calculation.

Well, now, if gentlemen are not satisfied with that, instead of taking one-sixteenth, they may come down to one-thirty-second part of it, and, adding to that what the Government pays, it makes $375,000, I believe, or something like it.

Now, sir, I have given you these speculations and these data, and if there be anything in them at all, it is very manifest that it is to be the most profitable route for the investment of capital on the face of the earth. There is to be nothing like it. It is to transcend every other railroad that has been constructed. And what, then, are you doing? It is a contribution on the part of the Government—a departure from all the principles of the Constitution—to make millionaires of the members of this company. That, sir, is your bill. I believe it was suggested that it was an extra-territorial improvement. So much the worse for me; so much the better for my argument, but worse for my feelings. I want to improve my own country. I want to make a railroad—one or two, if you please—across the valley of the Mississippi to the Pacific; but I want it in our own country, if I can get it. I will not object to this, if you will place it on a basis by which I can see that we get an equivalent for the money which we pay; but I will not give a cent—I am too democratic for that—by way of exclusive privileges to a favored few. With the views I have taken of this matter, based on the figures which I have read, and looking at what the Government will give under this act, and what individuals must pay, it must be the most profitable investment on the face of the earth. To this bill, then, sir, I am altogether opposed. I am further opposed to it, because we have not the data upon which to act, and because I believe that this thing has taken a step which it should not have taken.

Sir, if you had obtained, through the instrumentality of the Government, as I believe you could have done, a charter to incorporate a company, permitting individuals of this country to have taken that stock, giving all a fair chance of making business investments, the Government need not to have been called upon for a cent. The great advantages to be derived from it would have been inducement enough to take the stock and make the road. That was the plan that should have been pursued; but instead of pursuing that plan, or doing anything like it, what has been done? A French company obtain a charter, and within a month or two they undertake to transfer it to an American company; but, sir, so far as I have examined that charter, I see not one particle of authority for making this transfer. It may be there; but if so, I have altogether overlooked it. And what is this charter? The French company was to commence the work within twenty-two months from the 1st June, 1847, which time I believe will expire in April next; so that there are but few days left before the work has to be commenced or the charter forfeited.

Several Senators, in an under tone, made observations to the honorable Senator, which were not audible in other parts of the Chamber.

Mr. UNDERWOOD. Perhaps I ought not to have broached this branch of the subject, because I have not the charter before me, and I have not examined it very particularly; but, according to my recollection, the work has to be commenced in twenty-two months from the 1st June, 1847, and if that is the case, there is but a fraction of time left, and it seems impossible to save the charter, even if you pass the bill at once. There may, to be sure, be an extension beyond the time which I have named; but if so, it has escaped me.

Sir, I have given my views on this subject, and having done so, I will surrender the floor.

Mr. DAYTON obtained the floor, but gave way to Mr. Foote, at the request of the latter gentleman, who stated that he wished to offer an amendment to the amendment.

Mr. FOOTE. Mr. President, I wish to offer an amendment based upon a memorial which I hold in my hand. This memorial, I beg leave to say, would never have found its way into this hall, were it not for the fact that the Senator from Illinois [Mr. Douglas] expressed a strong desire, the other day, that such an instrument should be drawn up and presented here.

Mr. DOUGLAS. Mr. President, the honorable Senator from Mississippi is entirely mistaken. I

expressed no such desire, but merely referred to the fact that early in the session such a memorial had been promised, but had not been presented, and was then only shadowed forth for the purpose of defeating this bill.

Mr. FOOTE. Mr. President, I certainly misunderstood the Senator from Illinois, on that occasion, if he did not express a desire for the production of this memorial; and I have forgotten my own remarks in reply to the Senator at that time, if I did not say that the memorial should be forthcoming, and that I would take it upon myself to produce it. I certainly understood the Senator from Illinois to express a strong desire that this memorial should be produced, but his statement on the present occasion of what he intended to say, or what he actually said at that time, I of course shall not gainsay; but inasmuch as I so understood him, my excuse for the production of this instrument is complete.

I will take this opportunity to state that I concur in the main with the views so ably expressed by the honorable gentleman from Kentucky, [Mr. UNDERWOOD;] and I especially concur in the view that we are not yet prepared to act definitely upon this subject, but that we should examine this matter further, and investigate it most thoroughly before we take any decisive step in relation to it. In connection with this, I feel bound to say that there is some valuable information upon this subject now in the course of preparation by myself and my friends, which will be ready for presentation to the Senate to-morrow morning. This information is derived from distinguished officers of the American navy, who are familiar with the coast around Tehuantepec and Panama. Their opinion upon this important subject will be of great value; and, in addition to the information which I have had the pleasure of seeing expressed by Lieutenant Maury in a letter to the honorable Senator from New Jersey, [Mr. DAYTON]—which letter I hope that Senator will read to the Senate—will, perhaps, give us sufficient information to enable us to act upon this important matter with discretion and advantage. This memorial I beg leave to have read before I offer my amendment.

I trust the Senator from New Jersey will bear with me, while I make a single remark in relation to the signification of the word "Tehuantepec." The Senator from Delaware [Mr. CLAYTON] informed the Senate the other day that the term "Tehuantepec" means a "hell of a blow;" but I have learned from gentlemen who are fully informed upon this subject, that the word "pec" means "a mountain," and that the term "Tehuantepec" signifies "a town between two mountains." As a proof that this is the meaning of the word, I would refer the honorable Senator from Delaware, and all other gentlemen interested, to the names of some eight or ten towns all ending with the word "pec," and all situated between mountains. I believe that all Mexican towns situated between mountains end with the syllable "pec."

Mr. DAYTON. Do I understand that the Senator from Mississippi offers an amendment to the bill?

PRESIDING OFFICER. There is an amendment now pending, and no other amendment can be offered until that is disposed of.

Mr. FOOTE. I believe I can offer it as an amendment to the amendment.

PRESIDING OFFICER. Yes, sir.

Mr. FOOTE. I would like to have the memorial read.

The Secretary proceeded to read the memorial of Peter A. Hargous, of the city of New York, for himself and in behalf of others interested with him, respectfully representing that they are invested with full authority from the Mexican Republic, under the most solemn guarantees from that Government, to open a communication between the Gulf of Mexico and the Pacific Ocean, across the Isthmus of Tehuantepec.

Mr. FOOTE. Without having my amendment read, I would state that it gives the Secretary of the Navy option to contract with either one company or the other, if the contract should be made; and I move to have both the memorial and amendment printed for the use of the Senate.

The amendment is as follows:

Insert in 5th line of the 1st section, after the words "United States," the word "either;" and insert after the word "ocean," in the 13th line, in the same section, as follows:

"Or with such persons as he may hereafter, at any time within three months from the 10th February, 1849, ascertain to be possessed of a complete legal right to establish a railway across the Isthmus of Tehuantepec, and prepared in all respects to afford a reasonable assurance of faithful and advantageous execution of said contract: *And provided, further*, That said contract may be rescinded by the Secretary of the Navy, whenever it shall be ascertained not to be in a course of successful execution; or whenever any other companies than the one actually contracted with shall be found willing to enter into a more advantageous and satisfactory contract than the one allowed by this act."

Mr. FOOTE's motion to print was agreed to.

Mr. DAYTON. Mr. President, I do not purpose to consume much time in the discussion of this bill; and had the vote been taken without argument this morning, I would most cheerfully have deferred any expression of my sentiments upon the subject. But the views which have fallen from my friend from Kentucky seem to afford a favorable opportunity, and, indeed, seem to call for the expression of some sentiments in opposition to the suggestions he has made.

Mr. President, I am most happy to find that the Senator from Kentucky concurs in the general propriety of this measure. I am most happy to find also that he concurs even in the locality, the Isthmus of Panama, and that with him the question is a mere question of dollars and cents, and the *modus operandi* by which the Government shall be instrumental in bringing this measure about. Under these circumstances there is, perhaps, not so much difference of opinion between that Senator and the rest of us as there might otherwise be. It has been well said, that the age and country demand that this communication be established across the isthmus somewhere, and this feeling upon the part of the country has induced this Government to take the initiative. And if we are now to look for another locality, a thousand miles away from the Isthmus of Panama, all I can say is, that we are taking the back track, and abandoning what we have already begun.

On the 15th of February, 1847, a treaty with New Granada was presented to this body—the injunction of secrecy has been removed from that treaty, and the papers connected with it—for ratification; and in that treaty, and as one of the operative reasons for which the Executive called upon this Government to confirm it, was the grant to this Government of the right of way across the Isthmus of Panama. And we were then told that this was the best and the only practicable route, upon present information, connecting this country with that, and the shortest and speediest route between our Atlantic cities and our possessions on the Pacific; and for these reasons, and others of the highest importance, the Executive called upon us to ratify that treaty. Under those circumstances we ratified the treaty. We departed from that course of policy which has always characterized our relations with foreign countries, and entered into a treaty, offensive and defensive, with the Republic of New Granada, guarantying the neutrality of the isthmus; not, mind you, sir, the neutrality of a single line of fifty miles one way by fifty feet another, but guarantying the neutrality of the entire isthmus—the entire province of Panama. That is the position in which we stand in connection with the Republic of New Granada; these are the relations we bear to her; these are our obligations to that Government.

Again, with a view of connecting our country with the western coasts of this continent and with the waters of the Pacific, we have stipulated to pay, and do now pay, four hundred and ninety thousand dollars per annum for keeping up a mail route from the North and East to the Isthmus of Panama, and from the other side of the isthmus up to the Oregon coast. That stipulation is permanent, obligatory, binding. We have agreed to guaranty the neutrality of the isthmus, and have agreed to pay four hundred and ninety thousand dollars annually, for the purpose of keeping up a communication from our northern and eastern States to the one side of the isthmus, and from the other side to our northwestern coast, and now we desire to fill up the intermediate gap; and the question is, whether we will fill up that gap, or whether we shall travel a thousand miles away to the Isthmus of Tehuantepec for the purpose of embarking in a speculation about which no man knows anything. If we do enter upon this speculation, I can only say that we will be doubling upon our track, we will be forsaking what we have already done. We are resting under obligations, of which we cannot relieve ourselves, and we fail to get the benefit of these obligations because we fail to fill up this intermediate gap from one side of the isthmus to the other. Under these circumstances, I apprehend that there can really be little difficulty upon this question in any of its aspects, except its price.

It has been said by my friend from Kentucky that we know very little of this route; that it has not been surveyed; that we know little of the distance, and less, perhaps, of the elevation. With great deference to my friend, I must say that he is mistaken in regard to this matter. The route has not been surveyed, and it never will be surveyed, by the official engineers of this Government; but it has been surveyed by the official engineers of another Government, and by private engineers equally competent as our own, and as worthy of reliance. It was surveyed by Mr. Guerilla, a French engineer, in the year 1844. It was also surveyed by Captain Falmarck, of the New Granada engineers, some three or four years ago; and it was surveyed a year or two since by Mr. Baldwin, an eminent American engineer. All these gentlemen concur in the same general expression of opinion both as to the distance and as to the elevation to be overcome—about three hundred and thirty-six feet of elevation, and about fifty miles of distance; and they suppose that this elevation might be reduced to about three hundred feet. We have, then, a practicable route, clearly settled by competent engineers upon recent explorations.

Well, then, to follow my friend from Kentucky, this question becomes a mere question of dollars and cents. We are told that this appropriation of two hundred and fifty thousand dollars is a mere gratuity for the purpose of enabling this company to build the road; and that, in point of fact, it is money enough to enable the company to build the road. Now, sir, in reference to the cost of this road in the first place, acting upon the best data before us, the judgment and estimate of our ablest engineers, we are told that the cost of the road, including the expense of piers, and perhaps breakwaters upon both sides of the isthmus, and other incidental and necessary expenses, will amount to about five millions of dollars. We are told how the estimate was made, and we may fairly infer that the cost will not fall short of the estimate. If it does fall short, it will be the first road that was ever built for a less sum than the original estimate of its cost. It is much more likely to overrun than to fall short, especially as this is an experiment, tried in a sickly climate. The cost of transporting thither the materials for the road, the high price of labor, the sickness that must prevail among the laborers, with the many other difficulties and expenses of which we can know nothing, with perhaps an occasional earthquake to interfere with their plans, both before and after the completion of the road—taking all these things into consideration, it is highly improbable that the cost of the road will fall short of the estimate—five millions of dollars,

The Senator from Kentucky says, in regard to this two hundred and fifty thousand dollars per annum which we are to pay the company, "Why, this is five per cent.; and, in the course of ten years you will supply nearly money enough to build the road out and out." That has been the mistake in the whole argument, from beginning to end, of those who have opposed this measure. They have taken it for granted that we are to pay up the whole amount of five per cent. for ten years at the beginning, and that that was to be a capital with which to construct the road. It is perfectly clear, that, by the terms of this bill, we are not to pay a cent until the road is completed; and if my friend from Kentucky thinks it important, he may make it still more certain by adding the amendment to the bill. He may, if he chooses, relieve himself from further difficulties still, by adding an amendment providing that no money shall be paid until the road is completed from ocean to ocean. The bill says in relation to this point, "provided that no payment under such contract shall be made until such railroad shall be so far advanced as to permit said transportation across the Isthmus of Panama wholly by steam power." And it is further provided that the road shall be completed within three years, and what shall be the price of transportation of men and freight across the isthmus. All the difficulties suggested by the honorable Senator from Kentucky—if they are difficul-

ties—may be obviated by the slightest modification or amendment of the bill.

But, sir, I will leave this part of the subject, and proceed to the consideration of the amount to be paid to this company annually. It is five per cent. upon the cost of the projected road.

Mr. UNDERWOOD, (interposing.) I would ask the honorable Senator how he makes that out? Colonel Abert estimates the cost of the road at only four millions of dollars.

Mr. DAYTON. His estimate, including every arrangement in connection with the road, makes the cost five millions, and two hundred and fifty thousand dollars paid yearly upon that makes five per cent., and this is to be paid annually after the road shall be completed. Then we must take into consideration the wear of the road. What will it cost to keep the road in repair? In New England, or say Massachusetts, it costs eight per cent. to keep a railroad in repair. And twelve per cent. would certainly be a very moderate calculation for keeping this road and matters connected with it in repair; so that the proprietors will have to make seventeen per cent. before the invested capital can realize a farthing. The great mistake, I repeat, is in supposing that all this money is to be paid at once. It is to be paid annually, and amounts to only five per cent. At the end of ten years this payment ceases altogether, and then those who have invested capital hazard the whole.

"But," says the Senator from Kentucky, "this is a mere gratuity. Upon what data do you calculate these two hundred and fifty thousand dollars?" Well now, sir, it is perfectly obvious that no data can be obtained which will enable you to ascertain, in so many dollars and in so many cents, how much this Government should pay this company for services which they may render, because estimates of such a character as these, from the very nature of things, are not susceptible of that species of dollar and cent calculation. But let us see, according to the Senator's own estimate, whether this appropriation be a mere gratuity, as he imagines it.

In the first place, he says that the number of men in the employment of the Government, who may be sent over that road, may reach ten thousand, and that the cost of their transportation will amount to forty thousand dollars. He also calculates that ten thousand tons of freight may be sent across the road by the Government, which will amount to forty thousand dollars more, making in all eighty thousand dollars per annum. But my friend has made some mistakes in his calculations. His first mistake is in not making any estimate for the return of passengers and freight. He merely provides for the carrying of persons and freight in one direction, making no estimate for their transportation back again. In the second place, he estimates the price of transportation at four dollars per head for passengers, and four dollars per ton for freight, when by the tariff of rates established in the bill the price of transportation is fixed at eight dollars per head and eight dollars per ton for the first five years; not a high charge for transportation, considering the cost of the road and the expenses incident to its management, and for keeping it in order. It will be seen by this, that estimating the cost of transportation according to the tariff of rates found in the bill, you have, simply for the transportation of your men and stores, one hundred and sixty thousand dollars a year.

But, sir, what is to become of our mails? Are we to allow nothing for them? Let me call the attention of my friend from Kentucky and the Senate to one fact in reference to this question of data, and we shall see whether this is a very unusual or heavy allowance to this company, as compared with the allowances which the Government has been in the habit of making for the transportation of the mails to other countries. We have a mail route to Chagres, and from Panama to Oregon. There are five ships employed on the route to Chagres that cost about two millions of dollars, and we pay two hundred and ninety thousand dollars annually for the transportation of our mails alone upon this route; in other words, upon a capital of two millions invested in these five ships we pay for the transportation of our mails alone two hundred and ninety thousand dollars. Now, take the other side, from Panama to Oregon. Three ships, of a smaller size than those employed upon the other route, costing in the aggregate about eight hundred thousand dollars, are employed upon this route, and we pay them two hundred thousand dollars annually for carrying the mail alone; in other words, upon a capital of about two and two-thirds millions of dollars invested in the transportation of the mails alone over these two routes, you pay four hundred and ninety thousand dollars per annum; and now, upon a capital of five millions to be invested in this railroad, we are only called upon to pay two hundred and fifty thousand dollars a year for the transportation of the army, navy, naval stores, munitions of war, and the mails besides. But let us leave this line for a short time, and look at another, that route between New York and Liverpool. There are five ships employed in that line, with a capital of about two millions of dollars, the cost of the ships amounting to about that sum. To that company we pay for the transportation of the mail alone three hundred and eighty-five thousand dollars per annum. Five millions is the estimated cost of the construction of the Panama road, and this Government stipulates to pay no more than the interest upon that sum. The Government now pays, I believe, upon all roads running South to New Orleans at the rate of two or three per cent. on the cost of the road. Now, I appeal to my friend from Kentucky, I appeal to the Senate, whether, compared with the present rates, which the Government has been in the habit of paying for transporting the mails, the amount proposed to be paid to this company, who design to carry out this great enterprise, which will reflect so much credit upon our country, is not exceedingly moderate, and far below the average which has been allowed for similar services in time past? While upon this subject, the Senate will pardon me for saying that these contracts into which we have entered for carrying the mail to foreign countries, for which we pay a sum far beyond the amount of postage likely to accrue from them, are not only precedents in reference to the amount to be paid for similar services, but they are precedents in reference to the principle, to wit: that the Government will, for any legitimate and fair purpose, encourage a company, by engaging to advance an amount annually which will induce them to enter into the business.

I submit, therefore, that this is no gratuity. I submit, that in every aspect in which this question can be considered, it is fair and right that this Government, determined as it is to keep the great highway between the two oceans open, and to keep our communication between our eastern and western coasts free, should encourage a company which is about to hazard so heavy an amount as this company will hazard. And in this connection I will say that I differ most widely from the Senator from Kentucky in relation to the heavy receipts and heavy profits which that Senator supposes will be realized by this company. I have not the slightest idea that the commerce of Asia is ever going to cross the Isthmus of Panama. That idea, I think, and I speak it with great deference to the Senator from Kentucky, is one of those wild speculations which the future will not justify.

Mr. UNDERWOOD, (interposing.) I did not give that as my opinion, but merely as an idea extensively entertained by the public.

Mr. DAYTON. If it is only the honorable Senator's speculation, based upon the speculations of others more extravagant in their anticipations than himself, there is no argument to be fairly predicated upon the subject. It is enough to say that the measurement of the sailing distance from New York, or any other port in this part of the country, around Cape Horn, and the measurement of the same distance across the isthmus, will not show a difference large enough in favor of the isthmus to justify the idea that there will be a general disembarcation and reembarcation of goods either on this or the other side of the isthmus. To some extent, it may be so. I do not mean to deny, that to some extent it will be so; but I mean to say, that in my poor judgment, the principal trade between us and Asia will never be diverted across that isthmus. But we will get our own trade and the European trade with our western coast, and with the South American coast, and with the whole trade in the Pacific across this isthmus.

One word, Mr. President, in reference to these routes, about which so much has been said, and it shall be but a word. As I said before, it seems to me that this Tehuantepec route is not an open question. It is not before us. Why, sir, who is to build—and I ask it with great respect for the advocates of that route—this Tehuantepec road, about two hundred miles long, and with an elevation of some seven hundred feet? Sir, I have a letter written by Colonel Abert, than whom there is no one more competent to furnish information upon this subject. I will read Colonel Abert's communication.

[Mr. D. read the communication, dated "Bureau of Topographical Engineers, Washington, February 1, 1849."]

From that letter it will be seen that a road across the Isthmus of Tehuantepec, supposing it to cost as much per mile as the Panama road, will cost about thirteen millions of dollars. Now, who is to build this road for a mere temporary purpose? for, mind you, we all concur that this route, across whatever isthmus it may be, is to be but a mere temporary affair, so far as the interests of this country are concerned, and that ultimately we are to have a grand route from our own rivers to our Pacific coast. Who, then, is to build this Tehuantepec road, costing, at the very lowest calculation, thirteen millions of dollars? In what time is it to be built, if built at all? Why, sir, the engagement now proposed to be made is to last only for ten years, and it will take a longer time than that to complete the Tehuantepec road. It seems to me that that route is an obsolete idea; and I suspect that the honorable Senator from Massachusetts, [Mr. WEBSTER,] and the honorable Senator from Delaware, [Mr. CLAYTON,] had not looked into the statements made by our engineers and others who have examined this matter, or they would never have expressed a preference for that route. They could not have examined the views of Colonel Abert, Lieutenant Maury, Commodore Perry, and many American engineers, or they would have known that the Tehuantepec route is utterly impracticable. There is not sufficient water, either on this or the other side of the isthmus, to enable us to get into and upon the road. In the memorial read to the Senate this morning, it is estimated by a Spanish engineer that the depth of water is twenty feet, but the explorations made by officers of our navy during the Mexican war, show that there is not more than twelve and a half feet of water in the channel. They were greatly surprised when the result was first ascertained, and they tried it over and over again, and found it would not go over that depth.

Mr. FOOTE (interposing.) I would inform the honorable Senator that the memorial which I presented this morning only claims twelve feet.

Mr. DAYTON. Mr. President, if but twelve feet are claimed, how can ships get in upon that route. But now as to the other side, how much is claimed there?

Mr. FOOTE. I think about seven feet.

Mr. DAYTON. That ends the question as to the practicability of the Tehuantepec route altogether. It is totally impracticable.

I would now ask what will be saved by the Tehuantepec route? It is said that it is something nearer to our country than the Panama route. I suspect there is a great mistake in respect to that point also, as the facts will justify. The Senator from Massachusetts [Mr. WEBSTER] is right in supposing that it is no nearer to the ports of the Atlantic than the Panama route. On the contrary, if you judge of distance by the time required to sail thither, it is further from the eastern ports to the mouth of the Huascoalcos river than to Chagres. From New York to Navy Bay, which is the point of the Panama route, is 1,920 miles. From New York to Tehuantepec, if you go through the Florida pass, it is only 1,800 miles, being a difference in favor of the latter route of 120 miles. But, owing to the Gulf stream and the eddies and currents in that part of the ocean, a large portion of the trade goes east and south of Cuba by the outer route, as it is called, a distance of 2,370 miles, being 450 miles, in point of distance, in favor of the route to Panama.

Now, sir, how is it in regard to the time consumed in sailing to these points from any of our ports? Take either one or the other route to Tehuantepec, and a vessel can sail to Chagres, from any of our eastern ports, quicker than to that isthmus; and when they get there, the advantages of the Isthmus of Panama are at least equal to those of Tehuantepec.

Mr. DOWNS, (interposing.) I would ask the honorable Senator if the contract for carrying the mails from New York to Chagres does not require

the mail steamers to stop at New Orleans; and if so, if that does not render the route to Panama longer than that to Tehuantepec?

Mr. DAYTON. The Senator from Louisiana will not, of course, suppose that in speaking of these routes and the course of trade, I refer exclusively to these few ships employed in carrying the mail. I am speaking of the general course of trade. If you confine yourself to these few ships only, then I admit that the distance is somewhat increased—some five or six hundred miles perhaps. But, even in that event, the disadvantage is more than made when they arrive at the Isthmus of Panama, where there is a harbor in which the vessels of the world may ride in safety; while at the Isthmus of Tehuantepec there is scarcely any harbor at all, and where for four months in the year—during the season of "northers"—vessels do not ordinarily approach within miles of the coast, because they dare not do it.

Now let us look at the state of affairs on the other side of the continent. Tehuantepec is some eight hundred or a thousand miles nearer to the Oregon coast, but it is also that distance further off from the trade of the South American coast, which is much greater than the trade of Oregon. Tehuantepec is also further off, and more inconveniently situated in reference to the great whale trade of the Pacific. The whale ships do not come near Tehuantepec. They have nothing whatever to do with that part of the coast on which Tehuantepec is situated, and this trade is one of very great importance. In every aspect the Panama route is to be preferred. It is practicable, but the Tehuantepec route is not; and, as for advantages, the Panama route has a hundred where the latter has but one.

I submit, therefore, Mr. President, that, looking at this matter either as to the amount to be paid, or as to the advantages to the Government, or as to the future interests of the country, true policy requires that the Government should now encourage this company to keep open this line of communication between this and the other side of the continent. It is a legitimate, a fair, and righteous appropriation of the funds of the Government, for the purpose of increasing, enlarging, and facilitating our commercial intercourse with all the nations of the earth.

Mr. WEBSTER. Mr. President, in my opinion, unless this bill shall pass, we shall find ourselves a year hence in exactly the same condition with regard to communication with the western shore of this continent that we now are. And whether we should adopt this bill or not, depends upon the general view which we entertain of the necessity or high utility or expediency of proceeding as soon as may be to open a communication across the continent somewhere, from the Atlantic to the Pacific Ocean. I have no idea, that, without the assistance in advance, so far as anything is pledged in advance by this bill, this communication will ever be made. I am sure it will not. It requires a very great sum of money. It requires heavy capital and much credit to raise it. It has to be expended a good way from home, under agencies, some of them sent from this country, some of them found, as well as they may be found, there.

Now, let us look at the general aspect of the case, and see whether it be necessary or expedient on the part of the Government to encourage and set forward the making of this communication; and then, in the next place, whether the terms proposed in the memorial upon which this bill is founded, or in the amendment proposed, are reasonable. The basis of the whole, sir, is our treaty with New Granada, which was ratified by this body, and proclaimed in June, 1848. Looking to the security of a mode of communication across the continent at this isthmus, this Government took great pains to obtain the right from the Government of New Granada, and by the treaty it is stipulated that whatsoever communication should be made across the isthmus, should be open to the Government of the United States and citizens of the United States upon as good terms as to the citizens of New Granada itself. This Government, looking upon that as a benefit obtained, a boon conceded by the Government of New Granada, on its part, as an equivalent for this consideration, entered into an engagement to protect, and guaranty, and defend the neutrality of this whole isthmus. This will be seen by reference to the thirty-fifth article of the treaty, which will be found in the volume of the laws of the last session. It is there very distinctly stated. There is no question about it. We are under treaty obligations to maintain the neutrality of this isthmus, and the authority of the Government of New Granada over it.

Now, it so happens, that some time before—two or three years previous—the Government of New Granada had made a grant to certain citizens of France and England, enabling them to make this railroad and hold an exclusive property. One of the terms and conditions of that grant was, that something should be done, or a certain deposite should be made, within a certain period. I believe six hundred thousand francs, or some such large sum was to be deposited within a certain period. Progress was not made by that company in getting ready the deposite in money, but, as it so happened, the charter of the French company had not quite run out when this Government ratified the treaty with New Granada. It ran out soon afterwards, however; so that no embarrassment arose from that act. The time ran out, and the charter reverted to the Government of New Granada, because the French company had not made good their deposite. Under these circumstances, sir, a new contract was entered into by the persons whose names are attached to this memorial. They are not assignees of any French company, as the Senator from Kentucky suggested, but stand in the place of original grantees from the Government of New Granada, and by the terms contained in the grant they have now the privilege of making this railroad across the isthmus, having eight years to do it in.

The honorable Senator from Kentucky thinks that it would have been better if the Government of the United States had appeared earlier and taken upon itself to make this railroad, according to our old-fashioned ways of internal improvements. Well, suppose that were so: how does it bear upon the question now before us? We have not the grant. We cannot obtain the grant. It is in the hands of others, and, in my opinion, much better for our purpose than in the possession of the Government. At any rate, the only question now before us is the propriety or the expediency, or the impropriety or the inexpediency, of assisting forward the making of this road under the grant, the purport of which is exhibited in the memorial now before us. That is the whole question. It was put upon that ground by the honorable Senator from Missouri, [Mr. BENTON,] and the only practical question is, is it worth our while, at this expense, and for this purpose, to encourage the making of this road? Now, sir, there are two considerations which present themselves. One of them is properly stated in the bill itself. One inducement to Government is to provide for the transportation of its own troops, munitions of war, naval stores, mails, &c. But it is obvious at once that that is not the only object. Does the Government look to nothing but the transportation of its own materials, mails, and troops? Does it not look, as in other instances of large extent, to a general public accommodation—an accommodation of the people, and convenience to the commerce of the country, not likely to be obtained without this aid? That larger and more general consideration, that consideration of general utility to the trade and commerce of the country, is certainly, if not the greatest, equally great, in my judgment, with any that results from the mere saving of expense in the transportation of troops, munitions of war, and the mails. Well, then, if we have guarantied the neutrality of the isthmus; if we maintain a communication by steamships from the Atlantic ports to this end of the road, at a great expense; if we maintain a communication in like manner from the ports of the Pacific to the other end of the road at Panama, at a great expense, the question is a question of practical good sense and expediency, whether we shall connect these two lines of water communication by land communication, or whether the terms of the contract now before us are reasonable.

Certainly, it must strike everybody, it seems to me, that it is desirable that there should be this passage across the isthmus, since we have expended so much money to get to the isthmus, both on the one side and on the other.

Well, then, what are the terms of the contract? Are they reasonable or unreasonable? I do not intend to say more in this respect than to present to the Senate some few general estimates and statements, which every man's experience will authorize him to judge of, and I think with regard to the correctness of which there can be but very little doubt. The estimated cost of the road, according to Colonel Abert, is five millions of dollars, or thereabouts; that is to say, Colonel Abert begins by stating the average cost of railroads in the New England States at forty-nine or fifty thousand dollars per mile. He allows fifty per cent. additional cost for the nature of the country, the distance of the place, and other causes naturally augmenting the cost of constructing the road. Taking the distance to be fifty-two miles, the result is a cost for one track of $3,815,000; another track is half a million more; so that, together, they make $4,315,000. Well, then, it is certainly a very low estimate to suppose that the difference between that sum and five millions may be necessary for breakwaters, piers, and improvements in harbors, to render both sides accessible and safe. Then, again, there is the expense for warehouses, a very important item, to be included within this residuum. Taking, then, the aggregate to be not less than five millions of dollars, the question is, whether it is not reasonable to expect this Government to contribute such a sum towards the opening of this communication between the two oceans as the proposed substitute contemplates.

Now, sir, I do not see, I confess, any foundation for such supposed large profits as the honorable member from Kentucky thinks likely to accrue. Here are certain rates of passage and certain rates of freight fixed in this bill. The rates of passage are eight dollars per man or passenger for the first five years; afterwards a low rate is stipulated. Now, upon any estimate we may make of that, what will be the amount of income from passengers a year? As far as we can now judge, how many people per day would be likely to travel over this road? Why, I can well imagine that, at some seasons of the year, there would be a great many passengers; but I suppose that at other seasons, although necessary for the company to keep up the same equipment, and to incur the same expense, there would be very few passengers.

But does any one suppose that, for the next ten years, it will not be a high estimate to calculate that a hundred passengers a day will pass over that road? That would be to suppose that vessels would arrive there with a hundred passengers a day. I have no idea that that number would be conveyed. And as to goods, or freights, the Senator from Kentucky supposes that the amount to be conveyed will be about ten thousand tons a year. But suppose the passengers to be a hundred a day, there is eight hundred dollars a day. Suppose the goods will amount to one hundred tons a day, (three times as much in a year as the Senator estimates,) that makes another eight hundred dollars, and in the aggregate, sixteen hundred dollars a day. Then, if you allow three hundred working days for the year, the amount of the gross receipts will be four hundred and eighty thousand dollars. Well, if this were all clear income, it would be very well; but that is subject to a very great reduction for the expenses of keeping the road in operation, as in the case of all other railroads. It will be necessary to make the proper reduction for the expense to be necessarily incurred. Now, Col. Abert's estimates make the expenses and repairs equal to one-half of the gross receipts; consequently, equal to two hundred and forty thousand dollars a year. This will be found to be stated in Colonel Abert's letter. The whole amount of clear receipts, then—two hundred and forty thousand dollars—will be less than five per cent. on the capital to be invested.

To take another view of it. Suppose that seventy-five persons a day, and seventy-five tons of goods—which is quite as much, perhaps, as may be expected—pass over the road; upon a like estimate, allowing three hundred working days to the year, the result will be an income amounting to a little over three per cent. on the capital. Of course, if you suppose that the passengers will not exceed fifty, it reduces the sum still more, and renders the dividend on the capital not quite two and a half per cent. Now, we must consider the practical operation of this road to be the same as that of others. We have built roads over the United States, North and South, at various degrees of cost. The Harlem railroad, I believe, cost four millions of dollars, being fifty thousand dollars a mile for eighty miles. The Hudson river railroad, it is said, has cost about fifty thousand dollars a

mile. And now, when we look at the income of this proposed road, we are to take with us one very important consideration. Here is one terminus of the road on the Atlantic, the other on the Pacific; the distance between the two extremities is fifty-two miles, and there is no intermediate trade or traffic.

Well, I do not know any road in the country that could sustain itself without some intermediate traffic. It is generally supposed that no railroad in New England could now be sustained upon the through travel alone. It is stated on good authority that on the road from Worcester to Albany, for the years 1841, '42 and '43, the receipts from way-passengers, for one of those years, was greater than the entire receipts from *through*-passengers for the whole three years. And it is those receipts from way-passengers, this intermediate travel and traffic, which enables the road to maintain itself and make a dividend. Now, no one supposes that, for a great length of time, there can be anything like any way-travel upon this road. There is no town of any importance at the ends, and no adjacent inhabitants. Those who disembark at one extremity of the road will pass over it and embark at the other extremity of it, and this is all the travel the road will obtain. This is a very important consideration attached to all railroads and canals every where. It is a remark that is true of the Erie canal, in its early history, that the receipts for the business between Albany and Buffalo, both ways, for three years, amounted only to two and a half per cent. of the entire receipts for tolls. There is no dispute about this, and its enlarged receipts have been created, in a great degree, by the growth of the country, and the extension of traffic along the line. The traffic on the Panama route is yet to be created. It is to be produced by the growth and extension of commerce on the coast, and between the Atlantic and Pacific Oceans. Its business is to spring up, if it ever becomes profitable at all, by the course of trade taking that direction in consequence of the creation of the railroad itself.

Now, sir, I agree entirely with what has been suggested, that many of these expectations in regard to changing the course of trade, by the establishment of this road, will not be realized. I agree entirely that for the present there will be much less use for the road than many men of ardent imaginations suppose. I know it is the opinion of gentlemen engaged in the whale fishery, that their cargoes will not bear the expense of transhipment; that it will be found cheaper for them to follow the old track around the Cape. Not only is this so, but while they are at sea they are always looking out for the object of their voyage. I remember to have perused, some years ago, an extract from the journal of Commodore Biddle. He was returning from a cruise in the Pacific, and, after having passed the Capes of Delaware, he met a "whaler" from Nantucket, outward bound, on a three years' voyage. The man at the masthead of the "whaler" hailed the Commodore to know *if he had seen any fish?* From the time of their leaving port until they return to it, they keep constantly looking out for their prey; and I am told that it is especially the case on the coast of Brazil, where they meet with the species of the whale called the black whale, and after turning the Cape they look out for sperm whales. So that, besides the expense of transhipment, there is the other consideration, that during all the while they are at sea they are continually in pursuit of the object of their enterprise.

We may reasonably conclude, then, that this railroad will not be used for the transit of the cargoes of whale ships. Experienced merchants do not credit the suggestion that the China trade will ever use the projected railroad. So that, on the whole, it is by no means clear that it is prudent to undertake the making of this road, as a mere object of cupidity. But is there not a higher object, in which the interests of this country is deeply concerned, for which the work should be undertaken and completed? Senators may answer this question on general grounds. For my own part, I have no hesitation, from the consideration of what has already been done, and what may be done. I think it a great object to connect the two oceans, and I think myself the price to be paid is little enough. I think it is by no means too high, and my fears will be whether, after all, they will be able to make the road without still further encouragement; but, considering the character of the petitioners, we have reason to believe, that, with the assurance that this sum will be paid, they may be able to obtain so much more credit and so much greater facility in conducting their operations that they will be able to complete the work.

And there is one other thing to be remembered, that this will be the only way of crossing the isthmus for many years to come. Public attention has been very strongly drawn to this subject. We have now extensive territories on the other side of the continent, and although we do not know whether the immediate object of those who invest their capital in the undertaking will be attained, although we do not know whether they will, for ten years to come, be remunerated for their outlay, still the advantage to the country which must accrue from the direction given to the business of the country which must necessarily be carried through that channel, will be of so decided a character that it ought to be undertaken. Whether the hopes and expectations of those who visit the gold region shall or shall not be realized, the commerce of the country will, nevertheless, be benefited, by having a ready communication between the Atlantic and Pacific coast. I believe, therefore, that the public generally are decidedly in favor of some immediate measure, to be begun *now*, to open a communication which shall so much shorten the distance between the United States on this side of the mountains and the territory of the United States on the other side. And it is in this point of view that I think that this is precisely the measure that is called for by the judgment of the whole country, and the only practicable measure that has been suggested; and it is for these reasons that I sustain it.

Mr. UNDERWOOD. I rise not to detain the Senate, but to correct an error which the honorable Senator from Massachusetts fell into, or a misapprehension of what I undertook to say. I did not intend to express the idea that I would be in favor of the Government having secured to itself the privilege of making this road, and of its undertaking to do the work wholly at the expense of the Government. I intended to express the idea that the proper way of having it done was, to secure the having it done by a company, and for the Government to take stock or not as they please. This would be my plan of operation, and I hope I will be so understood by the reporters. While up, I will remark, that if I am correctly informed, several railroads in France have been built out of American timber that was obtained in the valley of the Mississippi. I had a conversation with a gentleman last summer, in which information of this fact was communicated to me. If, then, these railroads are constructed, as I believe, from American timber, so far as relates to the timber for the road across the isthmus, it may be obtained from the same quarter. Any objection, then, on the score of excessive expense of procuring timber must fall. In reference to the work itself, it is one to be done for the benefit of those having business on the western coasts. I am in favor of aiding them as far as practicable, but I am not willing to pay a large sum, as I conceive, for the benefit of particular individuals. Indeed, if I were to engage in a work of this kind, I would much rather take stock in the Baltimore and Ohio railroad, and have the work extended by the Government. I would much sooner do this than that the Government should engage in this work for the benefit of those who have commercial views. However, I do not object on that ground alone. My objections rest upon other grounds.

The subject was then passed by, and the Senate proceeded to the consideration of Executive business.

After which the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 6, 1849.

The Journal of yesterday was read and approved.

Mr. FEATHERSTON rose and asked leave at this time to introduce a bill, of which previous notice had been given.

Mr. FULTON called for the regular order of business.

Mr. COBB, of Georgia, inquired of the gentleman from Virginia [Mr. FULTON] whether he would not waive his motion for a moment, to allow him (Mr. C.) to withdraw from the files of the House certain papers which were required for the use of the Senate upon a bill pending before that body.

Mr. FULTON having assented—

On motion of Mr. COBB, it was

Ordered, That leave be granted to withdraw from the files of this House the petition and papers of H. W. Jernagan & Co.

DISTRICT COURTS OF VIRGINIA.

Mr. BROWN, of Virginia, rose, he said, to a privileged question. He desired this morning to call up the motion, which he had made on a former day, to reconsider the vote by which the bill to regulate the district courts of the western district of the State of Virginia had been laid on the table a few days ago. He hoped that it would be the pleasure of the House to reconsider the vote at once, and to refer the bill back again to the committee.

The SPEAKER stated the question. The motion, he said, was not debatable. The question was on the motion to reconsider the vote by which the bill had been laid on the table.

Mr. WENTWORTH moved to lay the motion to reconsider on the table, in order, he said, that the House might proceed to the consideration of other business. It was too late in the session to be raising salaries.

Mr. BROWN inquired of the Chair whether the motion to reconsider was debatable?

The SPEAKER said it was not.

Mr. BROWN said he had not yet yielded the floor; and before doing so, he desired to say to the gentleman from Illinois, [Mr. WENTWORTH,] that his (Mr. B.'s) object was merely that the bill might be referred back to the committee, with a view to the regulation of the courts.

Mr. WENTWORTH. Let it go over to the next session of Congress.

Mr. BURT rose, he said, to a question of order. He desired to inquire of the Chair, whether the consideration of a motion to reconsider was a privileged question? It was a motion of privilege to make the motion, but he submitted that the motion having been made, the consideration of the motion would come up when the bill itself should come up in the regular course of the business amongst which it had taken its place.

The SPEAKER. The rules of the House expressly state that the motion to reconsider is a privileged motion; and any gentleman may call up a motion to reconsider after it has once been made. And such a motion took precedence of all other subjects, except a motion to adjourn.

A brief conversation followed between Mr. BURT and the SPEAKER.

The SPEAKER then stated the question to be on the motion to lay on the table the motion to reconsider.

Mr. BROWN said he did not understand that he had yet yielded the floor.

The SPEAKER. The motion to lay on the table is not debatable.

Mr. BROWN said he was aware of it. But he did not know how the gentleman from Illinois [Mr. WENTWORTH] could get the floor to make that motion, whilst he (Mr. B.) occupied it. He had never yielded the floor, except for the question of order.

The SPEAKER. Upon what grounds does the gentleman occupy the floor on his own motion, when the motion itself is not debatable? The motion to reconsider is not debatable, the motion to lay on the table not being itself debatable.

Mr. BROWN hoped that the gentleman from Illinois [Mr. WENTWORTH] would consent to withdraw his motion to lay on the table.

Mr. WENTWORTH. We had a test vote on it the other day, and were beaten.

[Cries to order.]

Mr. BROWN appealed to the gentleman from Illinois to allow the vote to be taken on the simple proposition to reconsider; and the bill could then be referred immediately, so that little or no time would be occupied.

The question on the motion of Mr. WENTWORTH to lay on the table the motion to reconsider, was then taken and the vote stood—ayes 55, noes 59, (no quorum voting.)

Tellers were appointed, (Messrs. KAUFMAN and FULTON,) and the question having been again taken, the vote stood—ayes 52, noes 71.

So the House decided that the motion to reconsider should not be laid on the table.

The question then recurred on the motion of Mr.

BROWN to reconsider the vote by which the bill had been laid on the table.

Mr. WENTWORTH asked the yeas and nays, which were ordered.

After a brief conversation, the question was taken, and decided in the affirmative—yeas 101, nays 70.

So the vote by which the bill had been laid on the table was reconsidered.

The question recurring on the motion to lay on the table, was taken and rejected.

The question then recurred on the motion to recommit the bill to the Committee on the Judiciary, with the following instructions, moved by Mr. VINTON when the bill was previously under consideration, viz:

To inquire into the expediency of providing that where the salary now allowed by law to any district judge of the United States is less than two thousand dollars, the same shall be raised to the sum of two thousand from and after the 1st day of January, 1849.

Mr. COBB, of Georgia, moved the following amendment to the instructions:

And that the committee be also instructed to inquire into the expediency of equalizing the salaries of the marshals and district attorneys of the United States.

After some conversation—

Mr. VINTON accepted the amendment of Mr. COBB, and modified his instructions accordingly.

Mr. HILLIARD called for a division of the question, so as to vote first upon the original proposition of Mr. VINTON.

The SPEAKER said the question would be divided accordingly.

Mr. POLLOCK addressed the Chair and claimed the floor.

The SPEAKER stated that he had some doubt whether the proposition of instructions relative to the salaries of district judges, attorneys, and marshals was in order.

Mr. TOOMBS raised the point of order. He said the Chair had already ruled that it was incompetent to amend this bill by incorporating such a provision; which seemed to involve the question of the same instructions to the committee.

He also objected to the instructions of the gentleman from Ohio, [Mr. VINTON,] on the ground that they were out of order. Upon the reference of this particular matter with instructions, those instructions, it seemed to him, ought to be of a character which would be subject-matter of amendment to the bill.

The SPEAKER decided that it was now too late to raise the point of order as to the original instructions, as they had been received without objection when the bill was before under consideration, and they had become a part of the Journal of the House. The original instructions, the Chair further stated, though not relating strictly to the particular provisions of the bill, were pertinent to its general subject.

The question now raised was upon the point of order relative to the amendment to the instructions. The Chair ruled that amendment out of order, on the ground of irrelevancy, and stated the reasons therefor.

Mr. COBB appealed from the decision, and briefly argued the point, contending that his amendment was equally in order with the original instructions.

After some conversation and explanations—

Mr. ASHMUN said this question of order was likely to lead to a debate, which he had anticipated when it was made. He therefore proposed to lay the appeal on the table. He hoped the House would not hear any further debate either on the appeal or upon the merits of the question, and that the bill would be laid on the table.

The question was taken, and the appeal was laid on the table.

The question recurring on the motion to commit, with the original instructions of Mr. VINTON—

Mr. POLLOCK said he was opposed to the proposition of the gentleman from Ohio [Mr. VINTON] to raise the salaries of district judges whose salaries were now less than two thousand dollars. He was now, and always had been, in favor of a just and fair compensation being given to the judges of our courts. In this particular case, if it were manifest that a higher salary was required, he would vote for it. But upon a bill of this character he was opposed to making a general important alteration in the judicial system by so extensive an increase of salaries. They were continually equalizing the salaries of judges and other officers; but it was a singular fact, that in this age of reform every reform was upward and did not reduce the expenses of the Government. Here was a proposition to equalize by elevating all salaries now less than two thousand dollars; those that were higher were to remain as they were. Now, there were many district judges of the United States who had nothing to do. Some of them received but one thousand dollars; they did not ask an increase of salary, though with great cheerfulness they would undoubtedly receive the $2,000.

He hoped that the instructions would be voted down, and that the bill would be recommitted without instructions, so that this particular subject might be examined; and if it was made to appear that the salary of the judge of the western district of Virginia should be raised, let a bill be brought in, and he would vote for it. If the committee saw fit to report a general bill for the regulation of the salaries of judges, marshals, district attorneys, and clerks, let them bring it forward, and let it be considered independently of this bill.

Pending this question—

Mr. VINTON moved that the House resolve itself into Commltee of the Whole on the state of the Union, to resume the consideration of the naval appropriation bill.

Mr. J. R. INGERSOLL rose (he said) to a privileged question, and reported from the Committee on the Judiciary the following resolution; which was considered and agreed to:

Resolved, That the Committee on the Judiciary be authorized, if they deem it expedient, to employ a clerk in the investigation which they are authorized to make concerning a complaint against the judge of the western district of New York.

PATENT MEDICINES.

Mr. EDWARDS, by leave, from the select committee on the subject of adulterated medicines and drugs, reported a bill to prevent the patenting of medicines, accompanied by a report in writing; which bill was read twice.

The bill (said Mr. E.) contained but one section. It would not take the House five minutes to act upon it. He asked that it be read.

The bill was read, as follows:

A BILL to prevent the patenting of medicines.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the passage of this act, letters patent shall not be granted for any article or preparation whatever as a medicine; and that the use, as a medicine, of any article or preparation, for which letters patent may hereafter be granted, shall not be held to be an infringement of such patent: *Provided*, That no patent granted prior to the passage of this act shall, by reason thereof, be held to be void; and this act shall not be so construed as to deprive an inventor or discoverer of the right to letters patent for a new and improved process for preparing or manufacturing any medicinal article, whether simple or compound: *And provided, also*, That the prohibition contained in this act shall not apply to machines, instruments, or apparatus pertaining either to surgery or medicine.

He said Congress had, at the last session, passed a bill to prevent the importation of adulterated drugs and medicines. That act had worked well. This was another step in continuation of the same system for the protection of the public health. He moved that the bill be put upon its passage.

At the suggestion of Mr. NICOLL, however, who stated that he desired an opportunity to look into the bill before it was passed, by general consent the bill passed to the SPEAKER's table, and was ordered to be printed.

Mr. VINTON renewed his motion to go into Committee of the Whole on the state of the Union.

Mr. BROWN, of Virginia, rose, he said, to a privileged question, and inquired if the bill relative to the salary of the district judge of the western district of Virginia was not before the House as a privileged question?

The SPEAKER stated that the motion to reconsider having been disposed of, it ceased to be a privileged question.

A message was received from the Senate, stating that the Senate had passed sundry bills, and also the following resolution:

Resolved, That the two Houses will assemble in the Chamber of the House of Representatives on Wednesday the 14th instant, at 12 o'clock, and the President of the Senate shall be the presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled as aforesaid; which shall be deemed a declaration of the persons elected President and Vice President of the United States, and, together with a list of votes, be entered on the Journals of the two Houses.

Ordered, That Mr. DAVIS, of Mississippi, be the teller on the part of the Senate.

The CHAIR announced the question on the motion of Mr. VINTON.

Mr. THOMPSON, of Indiana, inquired, in case the House refused to go into Committee of the Whole on the state of the Union, whether it would be in order to move to proceed to the business on the Speaker's table?

The SPEAKER stated that it would be in ten minutes.

Mr. GRINNELL inquired if the call of the committees for reports would not be first in order?

The SPEAKER stated that he was mistaken in his reply to Mr. THOMPSON, and that it would not be in order to proceed to business on the Speaker's table, until one hour had been devoted to the reception of reports.

The question having been taken on the motion of Mr. VINTON, and agreed to—

NAVAL APPROPRIATIONS.

The House resolved itself into Committee of the Whole on the state of the Union, (Mr. J. R. INGERSOLL, of Pennsylvania, in the chair,) and resumed the consideration of the bill making appropriations for the naval service for the year ending the 30th June, 1850.

When the bill was last under consideration, the following amendment, offered by Mr. STANTON, was pending:

Provided, That the first section of "An act making appropriations for the naval service for the year eighteen hundred and forty-two," approved on the 4th day of August, 1842, so far as it restrains *promotions* in the naval service, be, and the same is hereby, repealed.

Mr. McLANE now moved to amend the amendment, as follows:

Provided, That the whole number of lieutenants shall not exceed four hundred.

Mr. VINTON asked the gentleman from Maryland [Mr. McLANE] to waive his amendment for a few moments, to allow him (Mr. V.) to offer an amendment which the Committee of Ways and Means had instructed him to present as an additional section, to come in at the end of the bill.

Mr. McLANE waived his amendment.

METEOROLOGICAL OBSERVATIONS.

Mr. VINTON then offered the following amendment:

For meteorological observations, to be conducted under the direction of the Secretary of the Navy, $2,000.

Mr. VINTON, in explanation, said he would merely state that this appropriation had been recommended by a letter from the Secretary of the Navy. It was the same appropriation which was contained in the bill of last year.

The question on the amendment was taken, but, the Chair not being able to decide, tellers (Messrs. POLLOCK and NICOLL) were appointed.

Mr. VINTON desired that the letter of the Secretary of the Navy might be read.

Objection was made.

The question was then taken, and by ayes 86, noes not heard, the amendment was agreed to.

WINDS AND CURRENTS.

Mr. VINTON, under instructions, he said, from the Committee of Ways and Means, moved the following amendment, to come in as an additional section at the end of the bill:

SEC. — *And be it further enacted*, That the Secretary of the Navy be directed to detail three suitable vessels of the navy in testing new routes and perfecting the discoveries made by Lieutenant Maury in the course of his investigations of the winds and currents of the ocean, and to cause the vessels of the navy to coöperate in procuring materials for such investigations, in so far as said coöperation may not be incompatible with the public interest. *Provided*, That the same can be accomplished without any additional expense.

Mr. VINTON said he would simply state that Lieutenant Maury had been before the Committee of Ways and Means, and had exhibited to them the various charts and maps already made. He (Mr. V.) also held in his hand a letter fully explaining the scope and ultimate purpose intended to be effected by these investigations. The Committee of Ways and Means was satisfied, therefore, that they should be prosecuted. The amendment, it would be seen, was subject to the condition, that it should occasion no increased expenditure.

Mr. FICKLIN asked that the amendment might be again read. He did not, he said, understand those innovations by which no additional expenditures were created.

The amendment having been again read, the question was taken, and the amendment was agreed to.

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NAVAL AGENCY IN CALIFORNIA.

Mr. VINTON, under instructions, he said, from the Committee of Ways and Means, offered the following as an additional section, to come in at the end of the bill:

SEC. 3. *And be it further enacted*, That in lieu of the pay now allowed by law, a purser, when by order of the Secretary of the Navy, attached to and doing duty at the naval station of California, shall receive the same pay as if attached to a frigate in commission for sea-service: *Provided*, That not more than one purser shall at the same time be attached to the said station, on general or special duty: *And provided further*, That this section shall continue in force for the period of two years and no longer.

Mr. VINTON said that he had before him a letter from the Secretary of the Navy recommending that this provision should be made. The Secretary of the Navy had also called upon him and had stated that when this agent was sent out to California (being detached there on special duty) the sum of fifteen hundred dollars only would be allowed him. The Secretary had also stated that the salary of the purser, when on service in a seagoing frigate, would be three thousand dollars per annum. By a construction which had been put upon the law (and which was probably the correct construction) at the department, the sum of fifteen hundred dollars only was allowed under the circumstances of the case; and taking into view the existing state of things in California, it had been thought expedient to concur in this recommendation made by the Secretary of the Navy, but to confine the operation of the provision to the period of two years.

Mr. BRODHEAD called for the reading of the amendment, which was again read.

Mr. SCHENCK was understood to inquire where the naval station in California was? There was a Pacific squadron.

Mr. VINTON sent to the Clerk's table the letter of the Secretary of the Navy; which was read.

Mr. V. also sent to the table the instructions given by the Navy Department to the purser; which were also read.

Mr. BOWLIN inquired of the Chairman if the amendment was open to amendment?

The CHAIRMAN having answered affirmatively—

Mr. BOWLIN proposed an amendment, to double the present pay of the officers, seamen, and marines on the California station.

Mr. BOWLIN (in explanation) said that if the reason was good for the increase of the pay of the purser, it was equally good in respect to every sailor and officer on that station. He was opposed to this special legislation. He knew not how this particular proposition had come here, or who it was that was to be the beneficiary under it. But he insisted that if the reasons which had been assigned in the letter of the Secretary of the Navy were not good for the regulation of the salary of all, it was demonstrable that this proposition was for the benefit of some particular individual. Were not the officers and seamen of our navy who were on service on that station as much affected by the state of things in California as the purser? If the salary of one was to be raised, he thought that the salaries of all should be raised, upon the ground that provisions had become so dear, that the increase in the salary was necessary to enable them to support themselves. He was opposed to all special legislation of this kind. The objection which he entertained towards the amendment was based upon grounds of sheer justice. If the salary of one was to be raised, all ought to be put upon the same footing, because the reason which was applicable in one case was applicable in all. He could not see how the proposition should be made applicable to a purser alone, and to none others. He should insist upon his amendment, so that all might be put on the same footing.

Mr. KING, of Georgia, took the floor.

Mr. BOWLIN withdrew his amendment, to enable Mr. KING to explain.

Mr. KING renewed the amendment.

Mr. K., in explanation of the amendment of the Committee of Ways and Means, proceeded to remark, that up to this time, we had had on the Pacific station one naval agency. That agency had been stationed at Lima, for which the Government had paid the sum of four thousand dollars per annum. The duties of that agency had been discharged by a mercantile house there. It was now supposed by the Secretary of the Navy, that, inasmuch as there was no agency authorized by law in California, it would be proper to place there a purser in the naval service, and to charge him with the duties which had been heretofore performed by the naval agency at Lima, inasmuch as a large portion of our naval force would be employed all the time on the coast of California.

But this purser would be required to perform other and very responsible duties besides those necessarily appertaining to the office of purser. He was required by the Secretary of the Navy to remain on shore, and to act as navy agent. His expenses would necessarily be much greater on shore than on shipboard. He would have to hire lodgings, to pay his board, and to incur various expenses, besides having to bear great responsibilities by the purchase of all articles necessary to furnish the fleet on the California station. Although the Secretary of the Navy, in relation to this matter, had rather passed over the Committee on Naval Affairs, yet he (Mr. K.) had had occasion to look into it, and he thought that the request of the Secretary was reasonable and proper.

If the proposition was carried out, instead of increasing the expenses of the Navy Department, it was intended to reduce them—the expenses of the agency at Lima being now, as he had said, about four thousand dollars annually. The amendment was designed as a measure of necessity and of economy.

Mr. NICOLL rose to ask a question, the purport of which may be understood by the answer of—

Mr. KING, who said that he did not understand that the agency at Lima had yet been discontinued. It was, however, in the power of the department to discontinue it.

Mr. VINTON said the Secretary of the Navy did not think it proper that the agency should be discontinued until the present experiment had been tried. The intention was to follow this up by abolishing the agency. This amendment proposed to give three thousand dollars to this agent, in the place of the one at Lima.

Mr. KING. In other words, the amendment gives the sum of fifteen hundred dollars in addition to the authorized salary of the purser.

Mr. GRINNELL put an inquiry to Mr. KING, of which nothing was heard.

Mr. KING said (in reply) that it was customary upon all stations, and especially upon foreign stations, (though this happened to be a home station,) for pursers to draw funds for the use of the squadrons on those stations. It was evident that our squadrons in the Pacific must have funds. He supposed that the purser or navy agent might as well be authorized to draw upon the department at home as upon the house of Barings in London. The object was ultimately to reduce the expenses of the naval service in the Pacific about two thousand five hundred dollars.

Mr. K. withdrew the amendment.

Mr. SCHENCK renewed it. It was, he said, a little remarkable, perhaps millennial, that the gentleman from Missouri [Mr. BOWLIN] and himself should meet upon the question of reform. There was a good deal in what the gentleman had said. Here was an entering wedge towards raising the salaries of officers in California on account of the gold mines which had been discovered there. Perhaps, in another view, he (Mr. S.) was a little more extreme than that gentleman. He (Mr. S.) had been disposed to regard the discovery of these mines as a measure of retributive justice to this country for having stolen the whole of the country. He regarded it as one of the greatest curses that could have befallen the nation, by reason of the feverish excitement and the gambling disposition which it had spread over the whole country. But let that pass.

Mr. S. then adverted to the suggestions which had been thrown out that the Government must give extraordinarily high salaries to those in its employ, or that they would all go to digging gold. And here was a proposition to increase the salary of the purser. He doubted much the propriety of shifting this naval station until it was known what the course of this Government was to be in relation to California; and what government we were to have there, if we were to have any. He doubted very much whether Congress should act upon the supposition that no naval station was to be kept up at Lima, or at Valparaiso. His word for it, it would be found that the agency at Lima would not be discontinued. Why not have a naval storekeeper at once? Why should Congress depart from the ordinary modes concerning these appointments, unless for the reason suggested by the gentleman from Missouri. There was not a single reason which could be given for the increase of this salary which would not apply with equal force to all others on that station.

Mr. HOLMES, of South Carolina, (*pro forma*) renewed the amendment to the amendment. He remarked that there was not a better friend of the navy in this House than his friend who had just spoken [Mr. SCHENCK]; there was also not a more bitter enemy to California, and to the interests of that country, than his friend, who suffered his enmity to the Mexican war and the results thereof to neutralize his good feelings to the navy.

The whole question was, first, one of economy; and secondly, a question of justice.

As to economy: no person who had read the letter of the Secretary of the Navy could doubt that a saving of money, and a saving of exactly $2,500, would be effected.

Mr. SCHENCK wished to inquire of the gentleman from South Carolina, if he believed that the naval station at Lima would be, or should be, discontinued?

Mr. HOLMES replied, that his answer was a very plain one. It so happened that we had but one naval station on the Pacific, and that at Lima; that station possessed all the requisites of the Pacific naval service. Now, would we have the station at Lima or San Francisco?

This amendment would effect a saving of $1,500; he thought, therefore, his friend from Missouri, [Mr. BOWLIN,] who was so great an advocate for economy, and the House, should sustain this proposition.

The other question was one of justice. Now, it was a most curious mode of reasoning, which he could not understand, when he showed that an act of justice should be done to a particular individual, that gentlemen should refuse to do it, because, peradventure, they had not the opportunity of doing justice in all other cases. The principle was the same as that a man who owed a debt of fifty dollars to one individual, and who was able to pay it, should not do so until he got ten thousand dollars to pay all his creditors. In this case, gross injustice would be done to an officer, who received on board a vessel of the first class $4,000, by transferring him to a position on shore, where he would receive but $1,500 for the discharge of highly important duties; where every clerk, who could write his name and keep accounts, received in that country $2,500; where flour was selling at $50 per barrel; where the chief cook of the chief hotel received $1,500—a compensation about equal to that of members of Congress.

After some conversation—

Mr. HOLMES withdrew the amendment to the amendment.

Mr. MURPHY (on a *pro forma* amendment to the amendment) said it appeared that this case narrowed itself down to two points, first, was it necessary that there should be an agency within our own borders on the Pacific? It was said by the Secretary of the Navy, in the instructions which had been read, that heretofore the disbursements in the navy had been either by sending out the specie to the Pacific, or by drawing bills there upon London; but that, in consequence of the production of precious metals in California, about which there could be no doubt in this House or in the country,

it was quite likely that all the expense (and a great expense it had been) of transmitting precious metals for coin and the payment of exchange upon London, would be obviated by drawing bills upon the department here by pursers in California. The Secretary, therefore, directed Purser Price, if he could dispose of these bills upon the department here above par, to do so. Now, if it could be done, the saving that would be made to the Government of the United States was so obvious that it appeared to him there could be no two opinions in this House upon the subject; and when they took into consideration the great facilities which were to be extended to our commerce in those seas by the establishment of an agency of that kind—an agency which would absorb the means there in Government bills—it was apparent that by it they would be doing immense advantage to the commercial interests of the country, as well as facilitating the operation of the Government.

Now, should we not have an agency in California rather than in South America? Should we not, from every reason of interest, of patriotism, have that agency within our borders instead of at Lima? It was true, it was not proposed to dispense now with the agency at Lima; but the Secretary said—what was perfectly obvious to every man—that that agency must ultimately be dispensed with—an agency which now cost the Government some four thousand dollars a year. It must be obvious that the vessels which we would have in the Pacific and the expenses which we would incur in the Pacific, would be much larger in the northern part than in the southern part of that ocean; that much larger disbursements must be made within the borders of the United States upon the Pacific than upon the South American coast. If, therefore, it were necessary or proper to have an agency at Lima, it was certainly much more so to have one within our own borders.

Mr. WHITE renewed the amendment offered by Mr. BOWLIN. He said he desired to inquire of the chairman of the Committee of Ways and Means [Mr. VINTON] whether he had compared the instructions given to this purser with the sub-treasury law? whether they were drawn up in conformity to that law? For one, he (Mr. W.) was unwilling to sanction, by the adoption of this amendment by this House, the violation of that law. If the chairman, who was an astute lawyer, and who was perfectly acquainted with all these questions, said that these instructions were drawn up in conformity to the law, he should perhaps feel bound to vote for it.

Mr. VINTON replied that he would simply say that this amendment had nothing to do with these instructions. The amendment simply proposed to give to the agent at this naval station the same pay as though he were serving on board a frigate. That was all. There was nothing in it about the instructions of the Secretary of the Navy to pursers. The Secretary of the Navy would do his duty. If he violated any law, he would be responsible. Of course the amendment did not involve the House in responsibility for any violation of the sub-treasury law, if there had been any.

Mr. WHITE. I think it does.

Mr. FICKLIN said he would renew the amendment to the amendment. He stated that there were one or two preliminary questions which he wished answered before he voted upon the amendment of the chairman of the Committee of Ways and Means. He wished to learn either from that gentleman or from any member of the Naval Committee——

Mr. STUART, of Michigan, interposed with a point of order. He said, if he understood the provision of this five minutes rule, it was to allow any gentleman to explain his amendment. Now, he submitted whether it was in order for gentlemen successively to offer amendments in order to propound inquiries to the chairman of the Committee of Ways and Means, or for any other purpose than the explanation provided for in the language of the rule?

The CHAIRMAN was understood to say, that he must conform his decision to a very bad precedent. If the point now made were an original one, he should have no hesitation at all in ruling all this discussion out of order. But for a long time, for a large portion of the last session and the whole of this, he believed the uniform practice of the committee had been the other way—to allow gentlemen, upon *pro forma* amendments, to propound inquiries, and to enter into the discussion of questions which were not involved in the amendments. He therefore overruled the point, and decided that the inquiry of the gentleman from Illinois was in order.

Mr. TOOMBS appealed from the decision of the Chair, and remarked that the usage to which the Chairman alluded was a very bad one, and ought to be done away with.

Some conversation followed upon the appeal, in the course of which—

Mr. BURT said he thought the Chairman was mistaken as to the precedents in this committee. The practice, according to his recollection, had not been uniform to allow these general discussions; but whenever the point of order had been made which was now raised by the gentleman from Michigan, it had been sustained by the committee, if not by the Chair.

Some further conversation ensued, in the course of which it appeared—the point being raised by Mr. ASHMUN—that Mr. WHITE had not withdrawn the amendment offered by him to the amendment, and therefore that the amendment of Mr. FICKLIN to the amendment was not in order.

The question of order, therefore, together with the appeal, was superseded at this time.

The question was then taken on the amendment of Mr. WHITE to the amendment, and it was rejected.

The question recurring on the amendment of Mr. VINTON—

Mr. FICKLIN moved to amend the amendment, by fixing the salary at $2,000, instead of $3,000.

Before voting upon this question, he said, he wished an answer to one or two preliminary questions. He would first ask the chairman of the Committee of Ways and Means what was the amount of the bond given by the purser at the California station?

Mr. VINTON replied that he was not able to aswer. He had not inquired of the Secretary of the Navy what the amount of the bond was. He presumed such a bond was required as would correspond with the duties which were discharged.

Mr. FICKLIN said, as he understood the instructions which had been read, that purser had the right to draw for any amount of money called for in California, and it required a very heavy bond to cover the whole amount of money which would be received by the purser at that station.

Mr. MURPHY, in reply to the gentleman's inquiry, said that the power of the purser to draw, it was stated in the instructions, was expressly limited to such amount as the commander of the squadron should certify to be necessary for the purposes of the squadron.

Mr. FICKLIN. How much is necessary for the purposes of the squadron?

Mr. MURPHY's reply to the interrogatory was not heard.

Mr. FICKLIN said he understood the gentleman from New York, then, to say, that the purser could draw to the full amount of the necessary expenses of the squadron. Now, he wanted to know whether the bond which he gave was sufficient to cover those expenses?

Mr. VINTON stated that the law directed the Secretary of the Navy to take such bonds as he thought necessary, and he had the right to require additional bonds. He had not made the inquiry of the Secretary. He took it for granted that the Secretary had required such a bond as was appropriate to the discharge of the duties.

Mr. FICKLIN expressed the opinion that the duties of this purser should be defined and regulated by law. They were new and irregular.

He withdrew the amendment.

Mr. SCHENCK offered an amendment to the amendment, to provide for a similar increase of salary to the inspector of timber at the same station. Rejected.

The question was then taken on the amendment of Mr. VINTON, and it was rejected.

The question now recurred upon the amendment offered by Mr. STANTON, providing for the repeal of that section of the act of 1842, which restrains promotions in the navy.

Mr. McLANE had moved to amend the amendment as follows:

Provided, That the whole number of lieutenants shall not exceed four hundred.

And Mr. McLANE was entitled to the floor upon his amendment.

After some conversation on a point of order—

Mr. TOOMBS raised the point that neither the amendment nor the amendment to the amendment was in order. The bill (he said) appropriated for the naval service for the year 1850; it was not competent to increase or decrease the officers of the navy under it. The proposition was to repeal the act which limited the power of the President in reference to the appointment of officers in the navy.

Mr. McLANE suggested that the point of order came too late to apply to the original amendment, as that had been offered on a previous day and received and ruled in order.

Mr. TOOMBS. Not at all. It now comes up for consideration, and this is the time to make the point of order.

Mr. McLANE repeated, that the amendment had been ruled in order on a previous day, and that being in order, he claimed that the proviso which he offered was necessarily in order also.

The CHAIRMAN said he would turn to the act of 1842, which was the subject of the amendment of the gentleman from Tennessee, [Mr. STANTON.]

Mr. TOOMBS submitted that no appropriation of money was in order in an appropriation bill without there was an antecedent law authorizing it.

Mr. COBB, of Georgia, called for the reading of that section of the law which was proposed to be repealed.

The CHAIRMAN said, (in reply to the suggestion of Mr. TOOMBS,) that when the gentleman from Tennessee [Mr. STANTON] had originally offered his amendment, no objection was made to it on a point of order.

The CHAIRMAN thought that the amendment was not congruous to the appropriation before the House, and therefore ruled that it, and also the amendment of the gentleman from Maryland, [Mr. McLANE,] was not in order.

Some conversation between Mr. SCHENCK and the CHAIRMAN followed.

Mr. McLANE appealed from the decision of the Chair.

The CHAIRMAN stated the grounds of his decision.

The question "Shall the decision of the Chair stand as the judgment of the committee?" was then taken, and decided in the affirmative without a division.

So the decision of the Chair was affirmed.

TRANSFER OF VESSELS.

Mr. HOLMES, of South Carolina, offered the following amendment:

Be it further enacted, That the Secretary of War be, and he is hereby authorized and directed, in conformity with the recommendation contained in his annual report, to transfer to the Navy Department such vessels now belonging to the War Department as in his judgment will promote the public interests.

Mr. H., in explanation, said, that the whole matter lay simply in this: Certain vessels had been purchased by the Government during the late war, among which were some valuable transports. After the termination of the war, a number of these transports were sold by order of the War Department. But there were certain vessels still necessary to transport munitions, &c., for the support of our army in California, and these vessels were now under the regulation of the War Department. The consequence was, that a large additional expense was incurred by the Government. The Secretary of War, therefore, recommended to the committee to sanction the transfer of these vessels to the Navy Department, so that officers of the navy on shore could be employed, and the expenses of the Government be thus economized.

Mr. KAUFMAN rose to a question of order. The amendment of the gentleman did not apply (Mr. K. said) to the appropriation in this bill, which was a bill making appropriations for the naval service for the year ending 30th June, 1849.

Mr. HOLMES suggested whether the amendment would be in order if he were to show that it diminished the appropriations.

The CHAIRMAN was inclined strongly (he said) to think that the amendment was in order.

Some conversation followed, in which Messrs. HOLMES, SCHENCK, and TOOMBS, participaied.

Mr. KING, of Georgia, explained that these vessels were already in the service of the navy, to

which they had been transferred. He hoped the amendment would be agreed to.

The question was then taken, and the amendment was agreed to.

PRIZE AGENTS.

Mr. KING, of Georgia, under instructions, he said, from the Committee on Naval Affairs, offered the following amendment:

And be it further enacted, That from and after the passage of this act, all prize-money arising from captures made by the vessels of the navy of the United States, received by the marshal, who shall make sale of such prizes, shall, within sixty days after such sale, deposit the net proceeds, after paying all charges as now provided by law, into the treasury of the United States; and all money now in the hands of the prize agents shall also be deposited in the treasury, to be distributed as now provided by law; such part thereof as may belong to the officers and crews of the vessels of the navy shall be paid to them under the direction of the Secretary of the Navy; and the law authorizing the appointment of prize agents is hereby repealed.

Mr. K., in explanation, said, that this provision simply abolished the prize agents of the United States, and required their duties to be performed by the Secretary of the Treasury. The amendment was in accordance with a recommendation of the department, and he hoped there would be no objection to its adoption.

The question was taken, and the amendment was agreed to.

NAVAL SCHOOL AT ANNAPOLIS.

Mr. KING, of Georgia, under instructions, he said, from the Committee on Naval Affairs, offered an amendment, as an additional section to the bill, providing that the pay of midshipmen of the Naval School at Annapolis shall be equal to the pay allowed the cadets at West Point.

Mr. STANTON rose to a point of order. He submitted whether this was not an alteration or repeal of a law?

The CHAIRMAN decided the amendment to be out of order.

Mr. KING. It proposes to reduce the expenses of the navy.

The CHAIRMAN. The gentleman, if he pleases, can take an appeal from the decision of the Chair.

No appeal was taken.

DOCKS.

Mr. BAYLY, under instructions, he said, from the Committee on Naval Affairs, offered the following amendment:

Be it enacted, That for enabling the Secretary of the Navy to purchase, if, after full investigation, he shall think such purchase necessary and proper, the use of Francis Grice's "bilge and keel supporters" for the Government, a sum not exceeding twenty thousand dollars, be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated.

Mr. B., in explanation, said that this scheme had been examined by the engineers of the navy, and had been recommended in the very highest terms. In fact, it was recommended as indispensable. But what might perhaps be more satisfactory to the House than these recommendations, was the fact that individual proprietors of docks in New York had purchased it for the use of their own docks. He would read what Messrs. Gilbert and Secor said on this subject.

Mr. B. read an extract from their communication.

Mr. B. then continued. This scheme of docking ships was not only sanctioned in unqualified terms by the engineers who had examined it on the part of the Government, but there was the most conclusive evidence of its value in the fact that private owners of docks had purchased it for their own use, and testified to it as being a most valuable and indispensable invention.

Mr. BOWLIN moved to amend the amendment, by reducing the sum from $20,000 to $10,000.

Mr. COBB, of Georgia, rose to a question of order. He submitted that, under the decision heretofore made by the Chair, this amendment was not in order.

The CHAIRMAN instructed the Clerk to read the amendment; which having been done—

The CHAIRMAN said he thought the amendment was in order.

Mr. BOWLIN proceeded with his remarks. This individual, he said, was Chief Naval Constructor in the service of the United States, at a high salary—somewhere about four thousand dollars a year, he believed. As such, the Government not only bought his manual or physical labor, but his mental labor also. His physical labor might not be worth more than fifty cents a day. These improvements, however they might have originated—and he (Mr. B.) knew nothing about them——

Mr. EVANS, of Maryland, interposed to a question of order—another and a different one, he said, from that which had been decided. He submitted that the amendment was not in order under the 81st rule, which he read as follows:

"No expenditure shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law."

Some conversation followed, in which Messrs. HOLMES and COBB participated; when the CHAIRMAN ruled that the amendment was in order under another branch of the same rule, which is as follows:

"Unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

Mr. EVANS appealed from the decision.

The question "Shall the decision of the Chair stand as the judgment of the committee?" was taken, and decided in the affirmative, without a division.

So the decision of the Chair was affirmed.

Mr. BOWLIN proceeded with his remarks. His opposition (he said) lay against the principle involved in the amendment, because the person who came here to sell his right to the Government was already in its service, at a high salary, selling his skill to that very Government. He protested against the idea of officers of the Government, at the head of its naval service, bringing here his inventions to sell. If one of these officers knew any better method of laying up a ship than that already in existence, he was bound to use it for the benefit of that Government which paid him, and not to come here to sell it; and although he might patent it against all the world beside, he could not patent it against his employer. He could not take the time and the money of his employer, and then ask him to pay for the use of his improvements. It was not only wrong in principle, but, according to his judgment, it was wrong in law. The Government paid this officer well for all his faculties, and had a right to their best exercise. He (Mr. B.) hoped the amendment would not be adopted.

And Mr. B. withdrew his own amendment.

The question was then taken, and the amendment of Mr. BAYLY was rejected.

Mr. KING, of Georgia, moved the following, as an additional section:

And be it further enacted, That for increase of pay of the engineers in the naval service, the sum of seven thousand four hundred dollars be, and the same is hereby, appropriated out of any money in the treasury not otherwise appropriated.

Mr. KAUFMAN inquired if there was any law providing for the increase of the pay of engineers? If there was not, the amendment was clearly out of order. He made that a point of order.

Mr. ATKINSON inquired of the gentleman from Georgia, what was the present compensation of engineers, as provided for by law?

The CHAIRMAN overruled the objection, and decided the amendment in order.

Mr. ATKINSON appealed from the decision.

The question "Shall the decision of the Chair stand as the judgment of the committee?" was taken, and decided in the affirmative—ayes 72, noes 50.

So the amendment was decided to be in order; and the question being on its adoption—

Mr. KING stated that the amendment was in accordance with the recommendation of the Secretary of the Navy; and he had before him various certificates going to show that unless the pay of the engineers was increased, a great many of them would leave the public service, as they could command larger salaries upon other vessels than they now received. It was a measure of safety to the Government to enable them to retain competent engineers in the naval service.

He would state that the proposed increase for the whole engineer corps would be a little over $7,000; that the original increase in the compensation of any one engineer was $300, and in some it was not more than $150.

If the present engineers should leave the service in consequence of this failure to increase their salary, the Secretary of the Navy would be left without engineers, or he would be compelled to employ those of inferior qualifications.

The amendment of Mr. KING was rejected.

Mr. BROWN, of Pennsylvania, moved the following amendment:

That the marines who were employed in army service in California, or who were engaged in any of the battles with the enemy on the Gulf, during the late war with Mexico, shall be entitled to land bounty the same as those who served with the army in that country, and who were provided for at the last session of Congress; such land to be in lieu of all prize money.

Mr. FICKLIN raised the point that the amendment was not in order.

The CHAIR ruled it out of order.

Mr. BROWN appealed from the decision.

The question having been taken, the decision of the Chair was sustained, and the amendment decided out of order.

Mr. McLANE moved an amendment, to add a section to the bill, as follows:

Be it further enacted, That for the pay of such officers in the navy who shall, by the necessities of service, be detailed, under the direction of the President of the United States, for duty in a grade higher than that in which they are commissioned, the sum of forty thousand dollars be, and the same is hereby, appropriated out of any money in the treasury not otherwise appropriated, provided the whole number of officers so detailed shall not exceed two hundred.

He stated, in explanation, that the object of the amendment was to reach, under the rules of this committee, the recommendation of the Government imbodied in the amendment which had been reported by the gentleman from Tennessee, under the direction of the Naval Committee. Since the passage of the act of 1842, the proviso of which limited the power of the President to make promotions from one grade to another in the navy, the number of frigates, sloops, and ships of war, had been increased almost one-third, and there were now actually in the service two or three officers upon every ship acting in grades higher than those for which they held their commissions. Now, if this question could come before the committee in order, under the rules, no gentleman disposed to give a cordial and efficient support to the navy could make a rational objection to it.

Mr. FICKLIN raised a point of order against the amendment.

The CHAIRMAN overruled the objection, and decided the amendment in order.

Mr. McLANE further stated, in explanation, that there was an absolute necessity for this appropriation, to pay officers who were doing service the compensation which was attached by law to that grade of service.

Mr. BROWN, of Pennsylvania, moved to amend the amendment, by reducing the sum from $40,000 to $20,000.

He said the committee had no information that there was now a want of officers in the service. We had established many institutions by which many valuable officers had been withdrawn from the navy proper. Lieutenants, for instance, had been detained for years in this District, and had not gone to sea at all. He apprehended that there was no want of officers in the navy.

But if officers had been required to perform higher duties than the duties of the grade for which they held their commissions, it was because there were officers of that grade at home not performing their duty, or doing services that could be performed by officers of inferior grade. Before they attempted to change the rule which had been adopted some years ago, after long and anxious inquiry, he thought they should thoroughly examine into the whole matter, and ascertain whether there were not officers enough in the various grades, and whether there was a necessity for assigning to those of one grade the duties of a superior grade. Where this was done, he repeated, he would venture the assertion that it was because the officers of the inferior grade had urged upon the department to allow them to perform these duties, while the officers to whom the duties properly belonged, and by whom they would be as well discharged, were at home not employed, or were engaged with duties which might be discharged by inferior officers.

He withdrew the amendment.

Mr. BOWLIN raised the point that the law prohibited the allowing of extra pay to officers of the navy, and therefore that the amendment was out of order.

Some conversation followed upon the point of order, which was participated in by Messrs. BROWN of Pennsylvania, McLANE, STANTON, TOOMBS, SCHENCK, and other gentlemen.

Mr. McKAY read (by mistake) the section of a law, not the one applicable; and whilst the Clerk was searching for that which Mr. McK. desired to read—

Some conversation took place between Messrs. McLANE, McKAY, and TOOMBS.

Mr. TOOMBS then rose to a question or order. He submitted that it was not in order to send for a law, and to dispense with the business of the committee till it could be ascertained what the law was. The committee wanted the decision of the Chairman; that was all.

The CHAIRMAN said he was sorry to differ from the gentleman from Georgia, [Mr. TOOMBS.] But in all cases where a bill, or any law explaining a bill or motion was wanted, the delay of a few moments had been acquiesced in by the House. The Chairman knew a hundred instances in which this had been done. Before he undertook to give his decision, he wished to be right; and then if he was wrong, he would be happy to be overruled by the committee.

Some conversation between Mr. SCHENCK and the CHAIRMAN followed.

Mr. BURT said, that in order to give an opportunity to hunt up the law, he would move that the committee rise.

Mr. VINTON said he hoped not.

The question was taken, and the vote stood: Ayes 45, noes 75.

So the committee refused to rise.

Mr. VINTON begged to say, that the Committee of Ways and Means had got through with all the amendments which they proposed to offer.

The CHAIRMAN. The Chair decides that the amendment of the gentleman from Maryland [Mr. McLANE] is out of order.

Mr. McLANE appealed from the decision. He was not disposed, he said, by any act of his, to contribute to the disorder of the committee; but he did not mean to surrender the point, except after fair consideration.

Mr. DICKEY inquired if the appeal was debatable?

The CHAIRMAN answered in the negative.

Mr. McLANE called for the reading of the amendment; which was read.

The CHAIRMAN said that the effect of the amendment, as understood by the Chair, was to go directly against the law which said that no such appropriations should be entertained.

The question "Shall the decision of the Chair stand as the judgment of the committee?" was taken, and decided in the affirmative without a division.

So the decision of the Chair was affirmed.

Mr. DICKINSON inquired of the Chair, if it was in order to move that the committee rise, with instructions or a recommendation?

The CHAIRMAN said with a recommendation.

Mr. DICKINSON said he proposed that the committee should rise and report the bill to the House with a recommendation that the appropriation contained in it be reduced to seven and a half millions. Was that in order?

The CHAIRMAN thought it was not in order.

Mr. DICKINSON then moved that the committee rise and report the bill to the House.

Mr. HOLMES, of South Carolina, said he had an amendment to offer.

Mr. DICKINSON insisted on his motion that the committee rise and report the bill to the House.

Mr. HOLMES. I say I have an amendment to offer—you cannot rise.

The CHAIRMAN. So long as any amendments are offered, the committee cannot rise and report the bill.

Mr. POLLOCK submitted that the motion of the gentleman from Ohio [Mr. DICKINSON] to rise and report the bill was not in order.

The CHAIRMAN said it was not.

Mr. DICKINSON then moved that the committee rise.

The CHAIRMAN said he so understood the gentleman.

Mr. HOLMES claimed to submit his amendment.

The question on the motion that the committee rise was then taken, and decided in the negative: Yeas 44, noes 79.

So the committee refused to rise.

Mr. HOLMES now offered an amendment providing for the building of a floating dry dock, to be stationed at some point on the Pacific coast, for the use of the United States navy.

He would, he said, make only this remark: the interests of the country required the adoption of the amendment; and if gentlemen did not choose to look to the interests of the country, he did not care.

He then inquired whether there was any objection to the amendment on the point of order?

The CHAIRMAN. The Chair has heard none. But the Chair rules the amendment out of order.

Mr. VINTON moved that the committee rise and report the bill.

Mr. SCHENCK inquired of the Chair whether that motion was in order while an amendment was pending?

The CHAIRMAN said there was no amendment pending.

Mr. SCHENCK said he believed it was due to courtesy that when a member rose to offer an amendment, he should be permitted to do so, and that a motion that the committee rise and report the bill should not in that event be made.

The CHAIRMAN said that the motion to rise and report the bill opened the whole question. Therefore it was in order to offer an amendment.

Mr. SCHENCK said that was as he understood it. He therefore moved the following amendment:

Be it enacted, That for paying the salaries of an additional number of lieutenants in the navy, the sum of fifteen thousand dollars be, and the same is hereby, appropriated out of any money in the treasury not otherwise appropriated: *Provided*, That the promotions which may be made shall not increase the whole number of lieutenants beyond four hundred.

Mr. FICKLIN said that the same amendment had been offered once or twice before.

The CHAIRMAN ruled the amendment out of order.

Mr. SCHENCK said, it was nothing like the amendment which had been offered.

The CHAIRMAN said, very possibly; he did not say that it was like anything in the world; but it was out of order.

Mr. SCHENCK said he understood the whole bill was now open to amendment.

The CHAIRMAN said any amendments that were in order might be received.

Mr. SCHENCK inquired upon what ground the Chair had ruled the amendment out of order? He asked, as a matter of courtesy, to be informed by the Chair.

The CHAIRMAN said the gentleman was out of order.

Mr. SCHENCK said he proposed to appeal from the decision. He had courteously inquired upon what ground the amendment was ruled out of order. If he was wrong, he would not press the interrogatory. He supposed that was correct.

The CHAIRMAN. The gentleman takes an appeal?

Mr. SCHENCK said he did, and he asked that the amendment might be read.

The amendment having been read—

The CHAIRMAN said he decided it to be out of order, because not congruous to the purposes of the bill, which were merely purposes of appropriation. The amendment provided for an additional number of officers not contemplated by, and therefore contrary to, law.

Mr. SCHENCK asked to be allowed to inquire——

[Loud cries to order!]

The question, "Shall the decision of the Chair stand as the judgment of the committee?" was then taken, and decided in the affirmative without a division.

So the decision of the Chair was affirmed.

Mr. SCHENCK moved to amend the bill by increasing the pay of each lieutenant one hundred dollars; and inquired if that amendment was in order?

The CHAIRMAN said, he conceived it was not.

Mr. SCHENCK inquired, if he could move to increase the amount appropriated in the bill one hundred dollars for the pay of officers and men? He believed the whole bill was open to amendment.

The CHAIRMAN said, that so long as an amendment was pending, the committee would sit, unless it should rise and ask leave to sit again.

Mr. SCHENCK said, it was competent, he believed, to go back?

The CHAIRMAN answered in the negative.

Mr. COBB, of Georgia, said, that as there was no amendment pending, the question was on rising and reporting the bill and amendment to the House.

Mr. SCHENCK desired to move to instruct the committee to report the bill to the House, with a recommendation to amend it.

The CHAIRMAN ruled the motion out of order.

Mr. SCHENCK (continuing) said, with a recommendation to recommit the bill with instructions to alter the amount provided for the pay of the officers of the navy.

The CHAIRMAN said the motion was out of order.

Mr. TOOMBS said, as there was no amendment pending, he would move that the committee rise and report the bill and amendments to the House.

Mr. SCHENCK said he did not wish to detain the committee unnecessarily or improperly, but he would move to strike out the last four lines of the bill.

The CHAIRMAN said the motion was out of order.

Mr. TOOMBS insisted on his motion.

Mr. SCHENCK moved to amend the bill, by adding an additional appropriation of $10,000.

The CHAIRMAN ruled the motion out of order.

Mr. SCHENCK said, then he was satisfied that the ingenuity of man could not devise anything that was in order.

The question was then taken on the motion of Mr. TOOMBS, and decided in the affirmative.

So the committee rose and reported the bill and amendments to the House.

Mr. VINTON demanded the previous question; which was seconded.

Mr. BURT moved that the House adjourn.

The SPEAKER said the motion was not in order until the question was settled whether the main question should now be taken, (the previous question having already been seconded.)

And the question having been taken, the House decided that the main question should now be put, (which main question was first on the amendments reported from the Committee of the Whole on the state of the Union, and then on ordering the bill to be engrossed for a third reading.)

Mr. BURT now moved that the House adjourn.

And the question having been taken, the House refused to adjourn.

The first amendment was then read, as follows:

At the end of the 19th line of the bill (printed) insert: *Provided*, That ardent spirits shall not hereafter constitute any part of the navy rations, but in lieu thereof there shall be allowed four cents per day: *Provided, also*, That neither ardent spirits nor liquor of any kind whatever shall be introduced or kept aboard any national vessel in the service of the United States, except as a part of the medical stores.

And the question being stated on agreeing thereto—

Mr. JONES, of Tennessee, asked the yeas and nays; which were ordered.

Mr. MEADE, at 3½ o'clock, moved that the House adjourn; which motion was not agreed to.

Mr. COLLINS called for tellers on the amendment, which were ordered, and the vote being taken, resulted—ayes 63, noes 71.

So the amendment was rejected.

The other amendments reported by the Committee of the Whole (part of which have been heretofore, and a part are this day, published in this paper) were then read and agreed to.

The said bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question recurred on the passage of the bill.

Mr. VINTON moved the previous question, which was seconded; and the main question ordered, viz: "Shall the bill pass?" And being put, it was decided in the affirmative.

Mr. VINTON moved that the vote be reconsidered by which the said bill was passed, and also moved that the motion to reconsider be laid upon the table; which latter motion was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the title of the bill was agreed to.

The SPEAKER mentioned, with regret, that it was the duty of the Chair to remind the gentleman from Ohio, that the rules of the House required his

remarks upon the motion to be confined within very narrow limits.

Mr. SCHENCK was aware that the rules did restrain him, and would restrain the House generally; and upon both accounts he expressed his regrets, for he would be glad of more latitude of debate than could now be allowed to him. But after the extraordinary difficulties under which he had labored with regard to the amendment which he had proposed to the bill, at a former stage of its progress, when it was in Committee of the Whole on the state of the Union, it was in justice to himself that he made the motion which he now submitted. [Several voices: "Adjourn," "adjourn."] Just as gentlemen pleased. It would not require a great deal of time for all he had to say, and one time would answer for that as well as another. He was content to proceed or not, any way that might be agreeable.

[The cries of "Go on," "go on," prevailing at this point, Mr. S. proceeded:]

This bill (he said) was called a bill making appropriations for the naval service. Now, he thought the bill did not provide sufficiently for the naval service; and he desired attention to a few remarks going to show particularly the reasons why he considered the title to be erroneous, and deserving to be corrected, so as to correspond with the partial character of the bill. The title, as he thought, should run thus: A bill making partial appropriations for the naval service. The bill did not provide the number of lieutenants which were necessary to the service; and because of its partial and insufficient provisions, he contended that a title ought to be adopted to suit the facts disclosed in the body of the bill. He had desired to have some provision made for a certain class of the officers of the navy, and to increase the number and efficiency of the naval commanders generally. In order to be understood with reference to this purpose of his, it would be necessary to correct some misunderstandings which seemed to have existed in the minds of gentlemen who had addressed the committee upon the subject—misunderstandings which he supposed to have arisen from want of proper attention to the subjects embraced in the bill. For instance, he found the gentleman from New York, in speaking of the salaries of certain officers of the navy——

Mr. TOOMBS rose to order. The gentleman was answering a speech—correcting a misapprehension of the gentleman from New York—and he submitted whether that portion of his remarks could have any relation to the title of the bill?

The SPEAKER was understood to say, that the Chair was about to remark to the gentleman from Ohio, that the rules confined him to such very narrow limits as to preclude such matter as would be presented in a general speech.

Mr. SCHENCK, (addressing the Chair.) Would it not be in order to refer to the partial character of the bill?

The SPEAKER. The gentleman might allude to the defects of the bill, stating briefly such as might prevent its being denominated a general bill for the support of the navy.

Mr. SCHENCK. I do not wish either unnecessarily or improperly to detain the House; but I do wish to say something about this naval bill, with reference to certain points which I have not had the opportunity to present; and I desire this the more particularly, because of certain misunderstandings of gentlemen which have now gone out before the country. Has there been any motion made to reconsider the passage of the bill?

The SPEAKER. Yes, sir.

Mr. STRONG was understood to inquire of the Chair, why it was that the gentleman from Ohio was out of order?

The SPEAKER replied, that the rules limited the range of debate.

Mr. STRONG. Being out of order, then, the gentleman cannot proceed without leave?

The SPEAKER. Not if the gentleman from Pennsylvania objects.

Mr. STRONG. Then I object.

Mr. HILLIARD moved that the gentleman from Ohio have leave to proceed.

And the count being demanded upon this question, the Speaker announced the vote—ayes 52, noes 32: no quorum.

Mr. PENDLETON moved that the House adjourn; which was agreed to.

And then the House adjourned.

IN SENATE.

WEDNESDAY, *February* 7, 1849.

Mr. FOOTE presented the credentials of ISAAC P. WALKER, elected a Senator of the United States from the State of Wisconsin, for the term of six years from the 4th March, 1849; which were read, and laid on the table.

Mr. HUNTER presented a petition from the President and Directors of the Tredegar Company, of Richmond, Virginia, asking compensation for cannon made for the Navy Department, and expressing a belief that the guns rejected by the examiner were as good as had been previously received from the Tredegar Company, &c.; which was referred to the Committee on Naval Affairs.

Mr. UNDERWOOD presented a petition from Alexander R. McKee, for himself and John Rice, asking Congress to refund certain moneys paid by the petitioners for lands purchased of S. Swartwout, late collector of the port of New York, and sold by order of Mr. Gillet, Solicitor of the Treasury; which was referred to the Committee on Claims.

Mr. BRIGHT presented a petition from John Spencer, late receiver of public moneys at Fort Wayne, asking compensation for injuries resulting from an improper suit brought against him by the United States; which was referred to the Committee on Public Lands.

Mr. DICKINSON presented a petition from James Crandal Lane, civil engineer, asking that the practice of detailing officers of the corps of Topographical Engineers for the performance of duties not connected with military science be discontinued; which was referred to the Committee on Roads and Canals.

Mr. DOWNS presented documents relating to the claim of John Millikin and others; which was referred to the Committee on Public Lands.

Mr. JONES presented joint resolutions of the Legislature of the State of Iowa, in favor of a grant of lands for the benefit of the Fairfield University; which were referred to the Committee on Public Lands.

Also, joint resolutions from the Legislature of the State of Iowa, in favor of an appropriation for the improvement of the Magnoketa river in that State; which were referred to the Committee on Public Lands.

Mr. MANGUM presented a memorial from A. Rencher, late chargé d'affaires to Portugal, asking compensation for loss and detention abroad, in consequence of the failure of the Government to relieve him at the time he solicited his recall; which was referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES.

Mr. DOWNS, from the Committee on the Judiciary, reported a bill to amend an act entitled "An act to regulate the mode of practice in the courts of the United States for the district of Louisiana," approved May 20, 1824; which was read, and ordered to a second reading.

Mr. MASON, from the Joint Committee on the Library, reported a joint resolution authorizing the Secretary of the Treasury to purchase certain copies of a work on the Treasury Department, compiled by Robert Mayo; which was read, and ordered to a second reading.

Mr. DIX, from the Committee on Commerce, reported the bill from the House making appropriations for the preservation and repair of the public works upon certain harbors and rivers, and for the survey of certain harbors, with amendments.

Mr. D. also presented and read a written report on the subject of the amendments.

The amendments and report were ordered to be printed.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, made adverse reports on the petitions of Samuel D. Davis, Mary Hassell, and Charity Chatfield; which were ordered to be printed.

Mr. J. also, from the same committee, reported the following House bills without amendment:

An act for the relief of Isaac Downs;

An act for the relief of Francis Tribou;

An act for the relief of Robert Whittet;

An act for the relief of Polly Aldrich; and

An act to increase the pension of Henry Click, of Cocke county, Tennessee.

PENSION LAWS.

Mr. JOHNSON, of Louisiana, from the same committee, to which was referred the resolution in relation to the printing of the pension laws, reported the following resolution, which lies over for consideration:

Resolved, That such of the acts of Congress relative to pensions and the Executive regulations touching the subject as have been deemed necessary by the Committee on Pensions to be published, as well as the laws relating to bounty land, containing about ninety-four pages, be printed under the direction of the Commissioner of Pensions, and that five thousand additional copies be printed for the use of the Senate, and one thousand for the use of the Commissioner of Pensions.

Mr. BALDWIN, from the Committee on Pensions, reported a bill for the relief of William Miller; which was read and ordered to a second reading.

Mr. ATCHISON, from the Committee on Indian Affairs, reported a bill for the relief of E. B. Cogswell; which was considered and passed.

On motion of Mr. BUTLER, the Committee on the Judiciary was discharged from the further consideration of the petition of citizens of Philadelphia in relation to the mileage of members; and,

On motion of Mr. WALKER, the petition was laid on the table.

PUBLIC WORKS.

Mr. DIX, from the Committee on Commerce, to which was referred the bill from the House making appropriations for the preservation and repairs of the public works upon certain harbors and rivers, and for the survey of certain harbors, reported back the same with sundry amendments, accompanied by a report, which he read for the information of the Senate.

Bills bearing the following titles were reported by Mr. DIX. They were read a first time, and ordered to a second reading:

A bill making appropriation to open a communication between Albemarle Sound and the Atlantic Ocean, and the improvement of a harbor at or near old Roanoke Inlet, in the State of North Carolina.

A bill making an appropriation of money to improve the St. Clair Flats, in the State of Michigan.

A bill making appropriation for the improvement of a harbor at the mouth of Grand river, in the State of Michigan.

A bill for the improvement of the harbor at the mouth of the Kalamazoo river, in the State of Michigan.

A bill making an appropriation of money for the improvement of the harbor at Newark, in the State of New Jersey.

A bill making an appropriation of money for the removal of obstructions in Great Egg Harbor river, in the State of New Jersey.

A bill making an appropriation of money for the improvement of the harbor at Brock Island, in the State of Rhode Island.

A bill making an appropriation of money for the improvement of the harbor of Providence, in the State of Rhode Island.

A bill making an appropriation of money for the improvement of the harbor at Havre de Grace, in the State of Maryland.

A bill making an appropriation of money for the improvement of Hog Island channel, at Charleston, in the State of South Carolina.

A bill making an appropriation of money for surveying and examining ports and harbors in the State of Texas.

A bill making an appropriation of money for the improvement of Little Sodus bay, in Lake Ontario.

A bill making an appropriation of money for the improvement of the harbor at Eighteen Mile creek, on Lake Ontario.

A bill making an appropriation of money for the improvement of the navigation of James river, in the State of Virginia.

A bill making an appropriation of money for a survey and examination of the Allegany river.

A bill making an appropriation of money for a survey and examination of the Sabine river.

A bill making an appropriation of money for a survey and examination of the harbor at the mouth of Black river, on Lake Michigan.

A bill making an appropriation of money for a survey and examination of the harbor at New Buffalo, on Lake Michigan.

A bill making an appropriation of money for a survey and examination of the Little Egg Harbor, in the State of New Jersey.

A bill making an appropriation of money for

a survey and examination of the Perriwig Shoals, in the Delaware river.

A bill making an appropriation of money for the improvement of the harbor at Little Fort, on Lake Michigan.

A bill making an appropriation of money for the improvement of the harbor of Newcastle, Delaware.

A bill making an appropriation of money for the improvement of Great Woodhole Harbor, in the State of Massachusetts.

A bill making an appropriation of money for the construction of an ice harbor at Delaware City, in the State of Delaware.

A bill making an appropriation of money for the construction of a breakwater at Nantucket, in the State of Massachusetts.

A bill making an appropriation of money for the improvement of Ocracoke Iniet, in the State of North Carolina.

A bill making an appropriation of money for the improvement of the harbor at Sheboygan, on Lake Michigan.

A bill making an appropriation of money for the improvement of the harbor at the mouth of Big Sandy creek, on Lake Ontario.

RECOVERY OF FUGITIVE SLAVES.

Mr. MASON inquired of the chairman of the Committee on the Judiciary, what had become of the bill to provide for the more effectual execution of the third clause of the second section of the fourth article of Constitution of the United States? It was reported at the last session, and he was desirous to see it brought up for consideration.

Mr. BUTLER replied that he had been anxious to call up the bill, which was made the special order for Monday last. But other measures were entitled to precedence as unfinished business. He intended to take the earliest opportunity to ask the Senate to consider this bill.

RESOLUTIONS.

Mr. BENTON submitted the following resolution; which lies over, under the rule:

Resolved, That the 49th rule, which provides for choosing the Secretary of the Senate, Sergeant-at-arms, and Doorkeeper, on the second Monday of the first session of every Congress, be repealed.

Mr. WALKER submitted the following resolution; which lies over, under the rule:

Resolved, That the public lands of the United States ought to be ceded to the States respectively in which such lands are situated—under the express restriction, however, that such lands shall be disposed of in limited quantities, by the respective States, to actual occupants only, and such as are not possessed of other lands, and for cost of transfer merely.

Mr. DOWNS submitted the following order; which lies over, under the rule:

Ordered, That after the present week, the hour of meeting of the Senate shall be eleven o'clock, a. m.

NAVAL APPROPRIATIONS.

The bill from the House, making appropriations for the naval service of the United States for the year ending 30th June, 1850, was read a first and second time, and referred to the Committee on Finance.

CHANGE OF VENUE.

On motion of Mr. WALKER, the Senate proceeded to the consideration of a bill to authorize a change of venue in certain cases.

On motion of Mr. WALKER, the further consideration of the bill was postponed until Monday next. Mr. W. moved to make it the special order for that day.

Mr. ATHERTON objected to any new special orders which would interfere with the appropriation bills, which he would call up on Monday.

Mr. WALKER said, if this bill should be found in the way of the appropriation bills, he would not press its consideration.

The motion was then agreed to, and the bill was made the special order for Monday.

On motion of Mr. JOHNSON, of Louisiana, the following bills, laid on the table at the last session, were taken up for the purpose of returning them to their place on the calendar:

An act for the relief of George Newton;

An act for the relief of the legal representatives of William Grayson;

An act for the relief of William W. Blackford, late charge d'affaires at New Granada.

The further consideration of the bills was then postponed until to-morrow.

NATIONAL CENTRAL HIGHWAY FROM THE MISSISSIPPI RIVER TO THE PACIFIC OCEAN.

Mr. BENTON. Mr. President, the bill which I propose to introduce provides for the location and construction of a national central highway from the Mississippi river to the Pacific Ocean.

The idea of a communication across our part of North America is no new idea. It has belonged to every power that has ever been dominant over this part of the continent.

In the year 1680, when La Salle took leave of his friends at Montreal to go upon his discoveries west, the last word he uttered at parting from them was China—La Chine—and the spot has retained the name ever since.

When the Spaniards were afterwards masters of Louisiana, the Baron de Carondelet, Governor General of that province, with the approbation and sanction of Charles IV., undertook this great project—the discovery of a practicable route across the continent by the way of the Missouri river. He employed an enterprising man (Don Jaques Clamorgan) to undertake the discovery—a great reward in land being offered to Clamorgan, and a gratuity of three thousand dollars was promised to the first man who should see the Pacific Ocean. It miscarried, although an hundred men sat out upon the expedition.

The British, owning large possessions in North America, having in vain endeavored to find a northwest passage to Asia, turned their eyes inland in the hope that they would be able to discover some route across the continent, and Mr. Alexander McKenzie, who was afterwards knighted for the energy and faithfulness with which he conducted an enterprise for that purpose, was the successful undertaker. He traversed the continent over that portion of it belonging to Great Britain lying in high latitudes, reached the sea, but pointed to the Columbia river as the only desirable route on the other side of the mountains; and that was the cause of all the long efforts made by the British Government, first to make the Columbia a boundary between us, open to the navigation of each, and afterwards to obtain its free navigation. An inland commercial route across the continent was what she wanted.

When we acquired Louisiana, Mr. Jefferson revived this idea of establishing an inland communication between the two sides of the continent, and for that purpose the well-known expedition of Lewis and Clark was sent out by him. Practical utility in the business of life, as well as science, was his object. To find a route to answer the purposes of a commercial communication, as well as enlarging the boundaries of geographical science, was the object; and so the instructions declared. That expedition was successful in finding a communication; Mr. Jefferson did not remain in power to carry out the practical design; and no President since his day has taken it up.

About thirty years ago, I myself began to turn my attention to this subject, and conceived a plan for the establishment of a route extending up the Missouri river, and down the Columbia. I followed the idea of Mr. Jefferson, La Salle, and others, and I endeavored to revive attention to their plans. The steam car was then unknown, and California was not ours; but I believed that Asiatic commerce might be brought into the valley of the Mississippi on that line, and wrote essays to support that idea. The scope of these essays was to show that Asiatic commerce had been the pursuit of all western nations, from the time of the Phœnicians down to the present day—a space of three thousand years; that during all this time this commerce had been shifting its channel, and that wealth and power followed it, and disappeared upon its loss; that one more channel was to be found—a last one, and our America its seat; and I then expressed the confident belief that this route would certainly be established—immediately, with the aid of the American Government, and eventually, even without that aid, by the progress of events and the force of circumstances. Occupied with that idea, I sought to impress it upon others. Looking to a practical issue, I sought information of the country and the mountains, from all that could give it—from the adventurous hunters and traders of the great West. Knowledge was the first object. The nature of the country—whether inhabitable or not—between the Mississippi and the Pacific—the passes in the mountains—were the great points of inquiry, and the results were most satisfactory. Inhabitable country and practicable passes were vouched for; but it was not until the year 1842 that the information took the definite form which would become the basis of legislation. In the year 1842 Mr. Frémont solicited and obtained leave to extend his explorations to the South Pass of the Rocky Mountains: not for the purpose of discovering that pass, for it was discovered precisely forty years ago by the hunters, but for the purpose of fixing its locality and character. At that time it was not known whether that pass was within our territory or in Mexican territory. Mr. Frémont, therefore, wished to extend his explorations to that pass for the purpose of ascertaining its locality and character, with a view to a road to Oregon, and the increase of geographical knowledge. He was then employed on topographical duty, having just returned from two years of great labor on the Upper Mississippi, assistant to the distinguished astronomer, Mr. Nicollet, who, by his great exertions during the five years that he was engaged there, brought on a prostration which ended in his death. Mr. Frémont solicited and obtained from Colonel Abert the privilege of going to the South Pass, and he made his examinations there in a way to satisfy every inquiry. His description of it was satisfactory to all minds: and the reading of that description now will show the ease with which the mountain can be passed at that place:

"*August* 7, 1842.—We left our encampment with the rising sun. As we rose from the bed of the creek, the snow line of the mountain stretched grandly before us, the white peaks glittering in the sun. They had been hidden in the dark weather of the last few days, and it had been snowing on them while it rained on us. We crossed a ridge, and again struck the Sweet Water—here a beautiful, swift stream, with a more open valley, timbered with beech and cottonwood. It now began to lose itself in the many small forks which make its head; and we continued up the main stream until near noon, when we left it a few miles, to make our noon halt on a small creek among the hills, from which the stream issues by a small opening. Within was a beautiful grassy spot, covered with an open grove of large beech trees, among which I found several plants that I had not previously seen. The afternoon was cloudy, with squalls of rain; but the weather became fine at sunset, when we again encamped on the Sweet Water, within a few miles of the South Pass. The country over which we have passed to-day consists principally of the compact mica slate, which crops out on all the ridges, making the uplands very rocky and slaty. In the escarpements which border the creeks, it is seen alternating with a light-colored granite, at an inclination of 45°. About six miles from the encampment brought us to the summit. The ascent had been so gradual, that with the intimate knowledge possessed by Carson, who had made this country his home for seventeen years, we were obliged to watch very closely to find the place at which we had reached the culminating point. From the impressions on my mind, at this time, (and subsequently on our return,) I should compare the elevation which we surmounted at the Pass to the ascent from the avenue to the Capitol hill at Washington. The width of the Pass, or rather the width of the depression in the mountains which makes this gap in its chain, is about twenty miles, and in that width are many crossing-places. Latitude, (where crossed,) 42° 24′ 32″; longitude, 109° 26′. Elevation above the sea, 7,490 feet. Distance from the mouth of the Kanzas, by the common traveling route, 962 miles; distance from the mouth of the Great Platte, 862 miles."

The whole distance over which Mr. Frémont passed is laid down upon his topographical map of the road, and a profile map of the traveling route illustrates this description, and shows that the elevation to be surmounted is distributed over so long a distance that the ascent is in reality felt in no part.

Having returned from that expedition, Mr. Frémont was prompted to engage in a larger one. He sought and obtained permission to go from the South Pass to the tide-water region of the Columbia river, for the purpose of surveying the country and ascertaining the practicability of opening a communication to what was then our principal point of possession on the Pacific coast. He made that examination, and reported it in his journals, and in maps, both in profile and topographically. The whole route has been laid down by him in both ways, and were printed by order of the Senate. To save useless inquiries, I will add that these maps are not on hand for distribution—only a few copies for use.

Returning from that expedition, he went to California, seeking a new route by which to return home, unwilling to lose any time by going over ground over which he had ever traveled before. Believing in the practicability of a route further south than the South Pass, he undertook to explore a new route, which threw him upon California, and for the first time made known to the country, with any accuracy, the great features of the Pacific slope of our continent. I pass by all his great discoveries in California during that

romantic expedition, to come to the immediate object of my inquiry—new passes in the Rocky Mountains—and show no less than three of them, all south of the South Pass—then traversed and described by him. I say traversed and described, for they were known before—known to the children of the mountains—the thirty brave and faithful men who were his companions in all his expeditions. Approaching the Rocky Mountains from the west, as he returned from that second expedition, and coming through a pass in north latitude 41° 20′, about 1° south of the South Pass, he says:

"Yesterday and to-day (June 11 and 12, 1844) we have had before our eyes the high mountains which divide the Pacific from the Mississippi waters; and entering here among the lower spurs or foot hills of the range, the face of the country began to improve with magical rapidity. Not only the river bottoms, but the hills, were covered with grass; and, among the usual varied *flora* of the mountain region, these were occasionally blue with the showy bloom of a *lupinus*. In the course of the morning we had the first glad view of buffalo, and welcomed the appearance of two old bulls with as much joy as if they had been messengers from home. A band of elk broke out of a neighboring grove; antelopes were running over the hills; and on the opposite river plains herds of buffalo were raising clouds of dust. The country here appeared more variously stocked with game than any part of the Rocky Mountains we had visited; and its abundance is owing to its excellent pasturage, and its dangerous passage as a war-ground.

"*June* 13.—There was snow near our mountain camp, but the morning was beautifully clear. Leaving St. Vrain's fork, (a water of the Upper Colorado,) we took our way directly towards the *summit* of the dividing ridge. The bottoms of the streams and level plains were wooded with aspens; and as we neared the crest of the mountain we entered again the piney region. We had a delightful morning's ride, the ground affording us an excellent bridle-path, and reached the *summit* towards midday, at an elevation of eight thousand feet above the level of the sea. With joy and exultation we saw ourselves once more on the top of the Rocky Mountains, and beheld a little stream taking its course towards the rising sun. It was an affluent of the north fork of the Great Platte, called *Pullam's* fork, from the name of a trader killed there some years ago by the *Gros Ventre* Indians—a pretty stream—and we descended to noon upon it."

That pass, I said, is about one degree south of the South Pass; and although at an elevation of eight thousand feet, yet that elevation, as in the case of all the passes, is distributed over a long line, and presents no character of abruptness. The abundance of game was an index to the character of the country. They only frequent countries rich in pasturage; and where there is pasturage there is fertile soil, and a home for man, and domestic cattle and horses, as well as for wild animals.

From this pass he went to the river Platte, which is there a handsome stream. That river was found always to present large and broad bottoms, about seven thousand feet above the level of the sea, and good for cultivation. His description of this river will show what kind of country was found in these mountains at so great an elevation:

"Our route this morning (June 14) lay along the foot of the mountains, over the long low spurs which sloped gradually down to the river, forming the broad valley of the Platte, (about seven thousand feet above the level of the sea.) The country is beautifully watered. In almost every hollow ran a clear cool mountain stream; and in the course of the morning we crossed seventeen—several of them being large creeks, forty or fifty feet wide, with a swift current, and tolerably deep. These were variously wooded with groves of aspen and cottonwood, with willow, cherry, and other shrubby trees. Buffalo, antelope, and elk were frequent during the day; and, in their abundance, the latter sometimes reminded us slightly of the Sacramento valley. The next day we continued our progress up the valley, the country presenting much the same appearance, except that the grass was more scanty on the ridges, over which was spread a shrubby growth of sage; but still the bottoms of the creeks were broad, and afforded good pasture grounds. Our course in the afternoon brought us to the main Platte river, (north fork,) here a handsome stream, with a uniform breadth of seventy yards, except where widened by frequent islands. It was apparently deep, with a moderate current, and wooded with groves of large willow."

Such is the character of the north fork of the Great Platte, in the bosom of the mountains—a handsome stream—a broad valley—an attractive home to many that will love the wild mountain life. I read it to show that there is good country in the mountains; but I have more beautiful yet to show—the Three Parks—unsurpassed by anything in Switzerland—replete with all the beauty of the most picturesque parts of Switzerland—and without glaciers. Mr. Frémont did not discover these parks: they were discovered long before by the hunters and traders. There is nothing to be *discovered* in the whole chain of the Rocky Mountains within the broad expanse of our domain—nothing from the British line in 49° to the Mexican in 32°. All is known to the hunters and traders; description alone was wanting, and that Mr. Frémont supplied. In this way he makes us acquainted with these beautiful parks, and the passes from them through the mountains. Instead of coming down the Platte home, after his long absence, with the ardor of a true lover of science, he turned back to traverse the mountain backwards and forwards, and along its crest, to examine all the country south to the head of the Arkansas. He says:

"We were now about two degrees south of the South Pass, and our course home would have been eastwardly; but that would have taken us over ground already examined, and therefore without the utility and interest which the nature of the expedition required. Southwardly there were objects worthy to be explored, to wit: the approximation of the head waters of three different rivers—the Platte, the Arkansas, and the Grand River fork of the *Rio Colorado* of the Gulf of California; the *passes* at the heads of these rivers; and the three remarkable mountain coves, called *parks*, in which they took their rise. One of these *parks* was, of course, on the western side of the dividing ridge, and a visit to it would require us once more to cross the summit of the Rocky Mountains to the west, and then to recross to the east; making, in all, with the transit we had just accomplished, three crossings of that mountain in this section of its course. But, no matter. The coves, the heads of the rivers, the approximation of their waters, the practicability of the mountain *passes*, and the locality of the *three parks*, were all objects of interest, and, although well known to hunters and trappers, were unknown to science and to history. We therefore changed our course, and turned up the valley of the Platte, instead of going down it."

I now read the description which he gives of these parks—a name translated from the Indian, which signifies buffalo lodge:

North Park.

"The valley (of the Platte) narrowed as we ascended, and presently degenerated into a gorge, through which the river passed as through a gate. We entered it, and found ourselves in the North Park—a beautiful circular valley of thirty miles diameter, walled in all round with snowy mountains, rich in grass and water, fringed with pine on the mountain sides below the snow-line, and a paradise to all grazing animals. We halted for the night just within the gate, and expected, as usual, to see herds of buffalo; but an Arapahoe village had been before us, and not one was to be seen. Latitude of the encampment, 40° 52′ 44″; elevation, by the boiling point, 7,720 feet. It is from this elevated cove, and from the inside gorges of the mountains which form its rim, and some lakes in their bosoms, that the Great Platte river collects its first waters, and assumes its first form; and certainly no river could ask a more beautiful origin.

"*June* 16.—We pursued our way in the morning through the park, following a principal branch of the Platte; and crossing, among many smaller ones, a bold stream, scarcely fordable, which issues from a lake in the mountains on the right, ten miles long. Encamped in the evening near the upper end of the park, latitude 40° 33′ 22″, on a small stream."

North Park and Pass.

"*June* 17.—We continued our way among the waters of the park, over the foot hills of the bordering mountains, where we found good pasturage, and surprised and killed some buffalo. We fell into a broad and excellent trail, made by buffalo, where a wagon would pass with ease; and, in the course of the morning, we crossed the SUMMIT of the Rocky Mountains through a PASS which was one of the most beautiful that we had ever seen. The trail led among aspens, through open grounds, richly covered with grass, and carried us over an elevation of about nine thousand feet above the level of the sea. The country appeared to great advantage in the delightful summer weather of the mountains, which we still continued to enjoy. Descending from the *pass*, we found ourselves again on the western waters, and halted to noon on the edge of another mountain valley, or cove, called the Middle Park, in which is formed Grand river, one of the principal branches of the Colorado of California."

How contrary to all our ideas this beautiful description of the North Park, and its pass from the head-waters of the Great Platte to the head-waters of the Grand river fork of the Colorado of the West. A delightful habitation that cove, instead of the desert, savage, and dreary desolation which we had been taught to look for in the Rocky Mountains. But let us follow the explorer in the Middle Park. He says:

Middle Park.

"The appearance of the country in the Middle Park is interesting, though of a different character from the North Park: instead of being a comparative plain, it is more or less broken into hills, and surrounded by high mountains, timbered on the lower parts with quaking aspen and pines. The next morning (June 19) we descended the river about eight miles, and halted a short distance above the *cañon*, (gap or gate in the mountain,) through which Grand river issues from the Park. Here it was smooth and deep, one hundred and fifty yards in breadth, and at an elevation of six thousand seven hundred feet above the level of the sea. Three principal streams, draining the whole circumference of the Park—which is more than double the size of the North Park—come together here; a stream from the north, which we had traveled down, and found to grow into a volume of one hundred yards wide; one from the east, and still larger; a third from the south, nearly as large as the northern stream, and up which our route lay to the South Park, seeking a *pass* from the Pacific to the Mississippi waters in that part of the mountain; for in the South Park, (called by the hunters *Bayou Salade*,) it was known the waters went to the rising sun, and collected either into the Arkansas or the south fork of the Great Platte. On the 20th we traveled up the left bank (of the south stream, eighty or ninety yards wide) with the prospect of a bad road, the trail here taking the opposite side; but the stream was up and nowhere fordable. A piney ridge of mountains, with bare rocky peaks, were on our right all the day, and a snowy mountain appeared ahead. (June 21.) We had a delightful ride along a good trail among the fragrant pines, and the appearance of buffalo in great numbers indicated that there were Indians in the South Park, by whom they were driven out. We halted to noon under the shade of some pines, and the weather was most delightful. The country was literally alive with buffalo, and the continued echo of the hunters' rifles on the other side of the river for a moment made me uneasy, thinking perhaps that they were engaged with Indians. The trail was good and the country interesting, and at night-fall we encamped in an open place among the pines, where we built a strong fort. The mountains exhibit their usual varied growth of flowers; and at this place I noticed, among others, *thermopsis montana*, whose bright yellow color makes it a showy plant. This has been a characteristic in many parts of the country since reaching the *U-in-tah* waters. With fields of *iris* were *aquilegia cærulia*, violets, esparcette, and strawberries. By the temperature of the boiling water the elevation here was 10,430 feet, and still the pine forest continued and grass was good. (Diameter of the Middle Park 60 miles.")

And thence into the—

South Park.

"On the next day we descended the stream by an excellent buffalo trail, along the open grassy bottom of the river. On our right the *bayou* (as called by the early French hunters) was bordered by a mountainous range, crested with rocky and naked peaks; and below it had a beautiful park-like character of pretty level prairies, interspersed among low spurs, wooded, openly, with pine and quaking asp, contrasting well with the denser pines which swept round on the mountain sides. During the afternoon Pike's Peak had been plainly in view before us; and, from our encampment, bore north 87° east by compass. The next day we left the river, which continued its course towards Pike's Peak; and taking a southeastly direction, in about ten miles we crossed a gentle ridge, and issuing from the SOUTH PARK, found ourselves involved among the broken spurs of the mountains which border the great plains. Although broken and extremely rugged, the country was very interesting, being watered by numerous affluents of the Arkansas river, and covered with grass and a variety of trees. In the deep seclusion of these little streams we found always an abundant pasturage, and a wild luxuriance of plants and trees. (Diameter of the South Park, like that of the North Park, thirty miles.")

Another pass remains to be described in this section of the mountain—one at the head of the *south* fork of the Great Platte, and which, like the others, though at a great elevation, was practicable and easy, and abounding with grass—that sure index to a country of fertility. It is thus described:

Pass at the head of South Fork of Platte.

"In the afternoon (June 22) we continued our road—occasionally through open pines, with a very gradual ascent. We surprised a herd of buffalo, enjoying the shade at a small distance among the pines; and they made the dry branches crack as they broke through the woods. In a ride of about three quarters of an hour, and having ascended perhaps 800 feet, we reached the SUMMIT of the dividing ridge, which would thus have an estimated height of 11,200 feet. Here the river spreads itself into small branches and springs, heading nearly in the summit of the ridge, which is here very narrow. Immediately below us was a green valley, through which ran a stream; and at a short distance opposite rose many mountains whose summits were formed into peaks of naked rock. We soon after satisfied ourselves that immediately beyond these mountains was the main branch of the Arkansas river—most probably heading directly with the little stream below us, which gathered its waters in the snowy mountains near by. In about a quarter of an hour we descended into the creek below, our road having been very much controlled and interrupted by the pines and springs on the mountain side; and, turning up the stream, encamped in a bottom of good grass near its head, under the dividing crest of the Rocky Mountains. By the observations of the evening, the latitude of our encampment was 39° 20′ 24″, and south of which, therefore, is the head of the Arkansas river. (The next year's expedition found the head of the Arkansas exactly where supposed, in 39° 20′ 38″, longitude 106° 27′ 15″, and at an elevation of 9,480 feet."

Thus there are no less than three different passes in about two degrees and a half, from about 41°20′ down to 39°, traversed and described by Mr. Frémont in his return from his second expedition; and these not only easily accessible, but run through a country suitable for the habitations of civilized man.

A third expedition took place. Still pursuing the idea of finding a route further south, Mr. Frémont went out upon the line of the Arkansas river, and found a remarkably straight course quite to the bay of San Francisco. In his map that route is laid down, and the barometer elevations given. In his memoir there is, at page 56, a table of latitudes and longitudes, without more than a variation of a degree or so on each side through seventeen degrees of longitude. At all the great points from St. Louis to the head of the Arkansas, thence to the pass in the Sierra Nevada, and to the bay of San Francisco, 39° is nearly the line throughout; and, in point of directness, nothing better could be asked; but it will require a comparative view of all the routes to be able to judge between them. The head of the Arkansas was found at an elevation of 9,840 feet; but it was the head of the river, and not a pass, which was then the object.

The whole upper half of the Arkansas lies on the right line for a road to the bay of San Fran-

cisco. A few degrees west of the Missouri frontier the river bends north to latitude 38°; and the parallels of 38° or 39° cut the rivers from thence to its head.

Returning from his third expedition, and being no longer in the public service, Mr. Frémont has undertaken a fourth one, at his own expense. Attended by the devoted men who had been with him so long, and unwilling to leave incomplete a work in which he had been engaged for seven years, he has now gone as far south as the head of the Rio Grande del Norte, to explore the passes at the head of that river, and the approximation of the waters of the Colorado of the West. Though without Government assistance, yet, with the aid of his old comrades, he will complete the examination of the mountain passes, and of all the country between the Mississippi and Pacific, and thus fulfill the original purpose for which he sought and obtained this distant and perilous work, in preference to being employed about the cities and frontiers.

It is appropriate to say, Mr. President, that it seems to have been a Providence that a man with a head and a heart for this work should, upon his own application, have undertaken it seven years ago; that he should have attached to his person thirty men, the children of the mountains, who were able to show him everything, and who did show him everything; who still adhere to him; and, by their joint exertions, we have, at the very moment of need, at the very instant when the public mind has ripened up to the point of commencing the work, all the information upon our hands which the occasion requires.

Without disparagement to any one, I may be allowed to say that a young man who solicits this work; who takes these hardships and dangers in preference to the work of the frontier or the city; who goes into it as a matter of love, of choice, and not of duty and obligation; who carried with him a spirit of exploration much greater than could be found in the mere execution of an order, with thirty such men with him, would give to his explorations a thoroughness of examination which is not to be expected from any detailed officer with his detail of soldiers.

The great point upon which I now rest, Mr. President, is, that there is nothing more to be learned or known; that, by a kind of Providence, there has been brought to our knowledge everything that is necessary to be known to enable us to act, and that the great idea which has possessed every Power which has ever been dominant in North America, that of an inland communication across the continent, is now ripe to be realized. It is in view of the fact that we are now ripe for action, that I ask leave to bring in a bill for action.

The leading idea of the bill, Mr. President, is a national, central road, a highway, not merely for ourselves, but for our posterity, for all time to come.

The road which I propose will be national in its character—in all its features and parts; national, because no private resources are equivalent to such a work, nor fit for it. Nothing but the authority of a nation is equal to the opening of a road through some 1,600 miles of country, occupied by savages, with a right of domain over it, which it requires national authority to extinguish. No private means would be equal to the construction of such a road, or fit to be trusted with it. No private authority is equal to the question resulting from the obligation of procuring the title from the Indians, and of protecting the road after it was made.

I look upon it, Mr. President, that all propositions to have this road made as a private road by individuals or companies are utterly condemned by the magnitude of the undertaking, by the question of Indian title and possession, and by the impolicy and illegality of sending individuals to treat with Indians. All these things require national means, national authority, and no individuals could be competent to undertake it, even if there was a propriety in putting such a road into the hands of individuals, to become their private property. I entirely, sir, as from the beginning, repudiate all schemes of private projectors with respect to this road. Nor have I seen any scheme presented which did not bear upon its face the evidence of total incompetence on the part of the applicants to carry out the enterprise, and a design to make it a great stock-jobbing business, to be sold in the markets of Europe and America.

Mr. FOOTE. I rise to a point of order.

The VICE PRESIDENT. The Senator will state his point of order.

Mr. FOOTE. I rise to this point of order: that the Senator from Missouri is proceeding to discuss other matters before the body, in which, when opportunity is given, we are ready to meet him and others. I ask if it is not out of order to discuss other measures now pending in this body at the present moment and in the present mode?

The VICE PRESIDENT. The Senator is understood by the Chair to be prefacing his motion to have leave to introduce a bill by remarks upon that bill. It is impossible for the Presiding Officer to say to what extent he may go in his remarks, for he cannot know the character of the bill to be introduced until it is submitted to the Senate.

Mr. FOOTE. I should like to know if it is legitimate to discuss other measures before the body and now in progress in such preliminary remarks as may be submitted to the Senate in introducing a bill. I would suggest that my view of the matter is this: that the rights which secure fairness of debate, it does seem to me, would preclude such remarks at the present moment and in the present mode, or would allow the privilege of reply to others not concurring in these remarks upon other measures pending before the body, with a view to the immediate counteraction of any prejudicial effect which might be produced by those remarks. If the Chair doubts upon the subject, however, I shall not urge the matter, though I must confess that it does seem to me to be out of order, and that it is disagreeable to me to hear measures discussed and attacked here without being allowed the least opportunity to defend them. It does seem to me that it is not consistent with the principles of parliamentary order.

The VICE PRESIDENT. The Chair does not perceive any violation of order, and the Senator from Missouri may continue his remarks.

Mr. BENTON resumed. Mr. President, I go for a national highway from the Mississippi to the Pacific, and I go against all schemes of individuals or of companies, and especially those who come here and ask of the Congress of the United States to give themselves, and their assigns, the means of making a road and taxing the people for the use of it. Make a great national work of this kind a matter of stockjobbing, a matter of sale upon the exchanges of Europe and America in shares, the issuing in fact of a circulating medium in the shape of shares! Sir, I go against it in toto. I have done it from the beginning, and shall ever do it. Not only are individuals utterly unable to undertake any work of this kind, unable to carry it on, unable to protect it when it is done, but, sir, I have no idea of letting any individuals levy a tax upon the American people to an amount which they beg from us for the building of the road. I look upon all such applicants as jobbers, and repudiate them. We are ourselves to furnish the investment—the American people are themselves to furnish the investment, and then these individuals are to levy a toll equal to the amount invested by the American people who are to furnish the capital. I repudiate the whole idea, sir. I go for a national highway, no stockjobbing. I am, Mr. President, for a central highway—central, because it is the one that is most national, and accommodates the greatest number of persons—central because the road admits of branches to the right and left, and the bill which I propose to bring in provides for one of these branches to Oregon, and another may be added for New Mexico.

I go, then, for a central national road from the Pacific Ocean to the Mississippi river; and, fortunately, we find all the localities of the country precisely such as a national central road would require.

The bay of San Francisco, the finest in the world, is in the center of the western coast of North America: It is central, and without a rival. It will accommodate the commerce of that coast, both north and south, up to the frozen regions and down to the torrid zone. It is central in that respect. The commerce of the broad Pacific Ocean will center there. The commerce of Asia will center there. Follow the same latitude across the country, and it strikes the center of the valley of the Mississippi. It strikes the Mississippi near the confluence of all the great waters which concentrate in the valley of the Mississippi. It comes to the center of the valley. Follow the prolongation of that central line and you find it cutting the heart of the great States between the Mississippi river and the Atlantic Ocean. Illinois, Indiana, Ohio, a part of Virginia, Kentucky, and Pennsylvania—they are all traversed or touched by that great central line. I have, therefore, a central road, as well as a national road. A central road is the most national in its character, because it accommodates the greatest number, and because it admits of branches to the right and left with the greatest ease and convenience.

The bill which I ask leave to bring in, Mr. President, fixes the *termini* of this road—the beginning and the ending. After what I have said, it is hardly necessary for me to add that the starting point is the bay of San Francisco, and the ending point is the city of St. Louis. The road is to connect the ocean navigation at the bay of San Francisco with the Mississippi, near the confluence of the Missouri. From St. Louis it is in communication with all the States and cities of this Union. It there goes into communication with all the transportation of the great valley of the West, in cars or steamboats, all of which finds its great center in St. Louis. When the road has arrived there, it is in communication with every great point in the great West, and in communication with every great point upon the Atlantic. It is finished when it is there; for private enterprise is doing, or will do, the remainder. When this great national highway shall be opened by the United States from the bay of San Francisco to St. Louis, it may be said to be finished to the Atlantic Ocean. For routes enough are opened, or in the process of being opened, to make not only a direct line across the continent to the Atlantic Ocean, but branches to the right and left in every direction in which roads shall be required. Here is a great road, then, crossing the entire continent from ocean to ocean, nearly half of it already done, and only a gap to be filled up. It may be assumed that half way across the continent is now nearly done. Now is the proper time, Mr. President, to locate this road. At present no questions can arise. The whole country, from the frontier upon the Mississippi to the Pacific Ocean, is territorial. It belongs to the United States. There are neither State rights nor private rights to rise up and oppose impediments. We can at once take our own course without stopping to make terms or inquiry of any one.

The only thing to be done is to conciliate the Indians—to get their consent; and for that purpose the bill proposes to appropriate a sum of money to be expended by the President in procuring the assent of the Indians, and to the extinguishment of such titles as may be necessary for the purposes of the road, for the stations and settlements to protect and support it. We have now all the information that is necessary to fix the *termini* of the road; the rest is matter of detail. The most direct and best route between the terminating points, of course, is to be taken; and for that we have, and shall have, when the present expedition of Mr. Frémont is finished, all the information which is necessary to fix upon the details of the intermediate distance. His work is public; his journals are public property; his maps are public property. He took no copyright for anything which he did while in the service of the United States; and we now have all the information wanted for the purpose of locating this great road. It may be assumed that no information was ever more varied, more minute, more accurate, than that which he has furnished. The topographical map of two thousand miles which he has made is replete with information; his whole explorations of twenty thousand miles can be laid down in the same manner.

The means of the United States for this construction are ample. The length of the road appals some persons. Sir, it is a case in which the length in reference to the means makes no difference. It is not a case in which money is to be raised from another source in order to defray the expenses of the road. It makes itself. The whole country belongs to the United States, saving the mere extinction of the Indian title. It is all public land—a great belt of public land, equal to the whole length of the Mississippi river, covering seventeen degrees on the Pacific coast, and as much in the valley of the Mississippi. Out of that the bill proposes that a per centum shall be taken from all the sales, and that per centum shall be applied to the construction of the road. Now, sir, in this point of view, the whole country being public

land, from the frontier of Missouri to the Pacific Ocean, every mile provides for itself. The distance of five or six hundred miles, right and left, is public land, and this is put into contribution for the construction of the road. All the sales are to contribute. It is, therefore, no more to make a long road than a short one.

I propose, Mr. President, in view of the magnitude of this work; in view of our dominion over the public land throughout its whole extent; in view of the uses to which this road may be applied, not only in our day, but by our children, and for unnumbered centuries to come—to have it projected at once, and upon a scale commensurate to its future destiny, be that as great as it may.

The proposition in the bill is, that there be reserved a breadth of one mile from the frontier of Missouri to the Pacific Ocean—a breadth of one entire mile—for the purpose of laying down, at once, one track, one road, reserving enough for as many tracks, and independent of each other, as shall be necessary, in all time, for all the varieties of roads that are now in use, or which may come into use in the unnumbered generations which that road is to benefit. I begin with railway, as far as practicable and advantageous, leaving it to practical men to say where it is not. The difficulty which presents itself to my mind is the deep snow which continues for so many months in the year, and lies so deep among the Rocky Mountains. It is for practical men to say whether the railroad can go there, or whether it will be necessary to find some other conveyance—the sleigh, for example—for that region, in the time of the snows.

I propose to reserve ground for all sorts of roads—railway, plank, macadamized; more than that—room for a track by magnetic power—according to the idea started, I believe, by Professor Henry, and, to me, plausibly pursued by Professor Page, of the Patent Office, if that idea ripens into practicability—and who can undertake to say that any idea will not become practicable in the present age? But, Mr. President, the bill contains another provision, that there shall be a margin reserved out of this breadth of a mile for a plain old English road, such as we have been accustomed to all our lives—a road in which the farmer in his wagon or carriage, on horse or on foot, may travel without fear, and without tax—with none to run over him, or make him jump out of the way. I look forward to the time when this whole continent is to be settled from one end to the other—when there are to be towns and villages upon it—when neighbors will want a convenient road. They may there find a space for them in which they shall not give way to the cars or anything else—a road not to be interfered with.

The leading idea, then, is, that we reserve a breadth of land upon which we may lay down different tracks of road, independent of each other; to be kept unconnected with each other; to be adapted to the different means of conveyance; and to be reserved for all time to come. It is a wonderful circumstance in the history of the world that there should be a nation whose domain is so extensive that she is able to lay down as she chooses, by law, a road across a continent, the whole distance under one flag and one law. It is a wonderful contingency happened to us, and one which we should avail ourselves of. A part of the plan, Mr. President, is, that there shall be military stations along the road for its protection and support. It would be in vain to have a road without it. We want protection and we want support. Settlers will immediately establish themselves about every one of these stations, and will soon furnish the means of support to them all. Then, Mr. President, the wires can be stretched. As soon as this route is established and this protection given, the wires can be stretched upon the whole route. Then, standing upon the shores of the Atlantic, you shall hold converse with him who stands upon the shores of the Pacific Ocean. You shall talk to one another three thousand miles distant.

Nothing, Mr. President, is more essential than roads. It is an old theme, sir; but it will bear the suggestion that no civilized people can live without roads, and that it is the indispensable duty of every nation which has acquired any new possessions to open communication with it. We know that the Romans—from whom we borrow so many of our ideas, useful or grand—never considered a conquered territory added to the republic or the empire until it was perforated by a road. There was no annexation in their idea until there was communication. The idea was well founded, sir, and one which we can practically carry out. Large and grand as our project of roads seems, from the Mississippi to the Pacific, and a mile in width reserved for many tracks—it is almost insignificant compared to the roads of the Roman empire. Her territory was not greater than ours—not so compact—her population not so homogeneous as ours, nor at the greatest as great as ours will be in the lifetime of the child now born; and yet her roads far transcended in length and number anything that we now propose. Here is what Gibbon says. After enumerating the four thousand cities belonging to the Roman empire in Europe, Asia, and Africa, he goes on to say:

"All these cities were connected with each other, and with the capital, by the public highways, which, issuing from the forum of Rome, traversed Italy, pervaded the provinces, and were terminated only by the frontiers of the empire. If we carefully trace the distance from the wall of Antoninus to Rome, and from thence to Jerusalem, it will be found that the great chain of communication, from the northwest to the southeast point of the empire, was drawn out to the length of four thousand and eighty Roman miles. The public roads were accurately divided by mile-stones, and ran in a direct line from one city to another, with very little respect for the obstacles either of nature or private property. Mountains were perforated, and bold arches thrown over the broadest and most rapid streams. The middle part of the road was raised into a terrace which commanded the adjacent country, consisted of several strata of sand, gravel, and cement, and was paved with large stones, or in some places, near the capital, with granite. Such was the solid construction of the Roman highways, whose firmness has not entirely yielded to the effort of fifteen centuries. They united the subjects of the most distant provinces by an easy and familiar intercourse; but their primary object had been to facilitate the marches of the legions; nor was any country considered as subdued, till it had been rendered, in all its parts, pervious to the arms and authority of the conquerer. The advantage of receiving the earliest intelligence, and of conveying their orders with celerity, induced the Emperors to establish throughout their extensive dominions the regular institution of posts. Houses were everywhere erected at the distance only of five or six miles; each of them was constantly provided with forty horses, and by the help of these relays, it was easy to travel an hundred miles in a day along the Roman roads. The use of the posts was allowed to those who claimed it by an imperial mandate; but, though originally intended for the public service, it was sometimes indulged to the business or convenience of private citizens."

Such was the extent and solidity of the Roman roads—a single line of road above 4,000 Roman, and equal to 3,740 English miles—and the 4,000 cities of the empire all connected with roads of equal solidity besides. The road which we propose is only half the length of one chain of theirs. I mention them for their magnificence—their grandeur—and as presenting an example worthy of our imitation. The road I propose is necessary to us, and now. We want it now. The state of our possessions on the Pacific demands it. The time to begin has arrived. All the necessary information is on hand. The means are ready. The title to Oregon is settled, and a government established there, and population is growing up. California is acquired: people are there: and a government must follow. We have a fleet on that coast—troops there, and going. Streams of population are concentrating there. Since the discovery of the New World by Columbus there has not been such an unsettling of the foundations of society. Not merely individuals and companies, but communities and nations are in commotion, all bound to the setting sun—to the gilded horizon of Western America. For want of an American road, they seek foreign routes, far round, by sea and land, to reach by an immense circuit what is a part of their own land. Until we can get a road of our own, we must use and support a foreign route; but that is a temporary resource, demanded by the exigency of the times, and until we can get our own ready. Never did so great an object present itself to the acceptance of a nation. We own the country from sea to sea—from the Atlantic to the Pacific—and upon a breadth equal to the length of the Mississippi—and embracing the whole temperate zone. Three thousand miles across, and half that breadth, is the magnificent parallelogram of our domain. We can run a national central road through and through, the whole distance, under our flag and under our laws. Military reasons require us to make it: for troops and munitions must go there. Political reasons require us to make it: it will be a chain of union between the Atlantic and Pacific States. Commercial reasons demand it from us: and here I touch a boundless field, dazzling and bewildering the imagination from its vastness and importance. The trade of the Pacific Ocean, of the western coast of North America, and of Eastern Asia, will all take its track; and not only for ourselves, but for posterity. That trade of India which has been shifting its channels from the time of the Phœnicians to the present, is destined to shift once more, and to realize the grand idea of Columbus. The American road to India will also become the European track to that region. The European merchant, as well as the American, will fly across our continent on a straight line to China. The rich commerce of Asia will flow through our centre. And where has that commerce ever flowed without carrying wealth and dominion with it? Look at its ancient channels, and the cities which it raised into kingdoms, and the populations which upon its treasures became resplendent in science, learning, and the arts. Tyre, Sidon, Balbec, Palmyra, Alexandria, among its ancient emporiums, attest the power of this commerce to enrich, to aggrandize, and to enlighten nations. Constantinople, in the middle ages, and in the time of the crusades, was the wonder of Western Europe; and all, because she was then a thoroughfare of Asiatic commerce. Genoa and Venice, mere cities, in later time, became the match of kingdoms, and the envy of kings, from the mere divided streams of this trade of which they became the thoroughfare. Lisbon had her great day, and Portugal her preëminence during the little while that the discovery of the Cape of Good Hope put her in communication with the East. Amsterdam, the city of a little territory rescued from the sea, and the Seven United Provinces, not equal in extent to one of our lesser States, became great in arms, in letters, in wealth, and in power; and all upon the East India trade. And London, what makes her the commercial mistress of the world—what makes an island no larger than one of our first class States—the mistress of possessions in the four quarters of the globe—a match for half of Europe—and dominant in Asia? What makes all this, or contributes most to make it, but this same Asiatic trade? In no instance has it failed to carry the nation, or the people which possessed it, to the highest pinnacle of wealth and power, and with it the highest attainments of letters, arts, and sciences. And so will it continue to be. An American road to India, through the heart of our country, will revive upon its line all the wonders of which we have read—and eclipse them. The western wilderness, from the Pacific to the Mississippi, will start into life under its touch. A long line of cities will grow up. Existing cities will take a new start. The state of the world calls for a new road to India, and it is our destiny to give it—the last and greatest. Let us act up to the greatness of the occasion, and show ourselves worthy of the extraordinary circumstances in which we are placed, by securing while we can an American road to India—central and national—for ourselves and our posterity—now, and hereafter, for thousands of years to come.

I now ask leave to introduce the bill.

Leave having been granted, Mr. B. introduced his bill, which was read twice, and referred to the Committee on Military Affairs. It is as follows:

A BILL to provide for the location and construction of a central national road from the Pacific Ocean to the Mississippi river, with a branch of said road to the Columbia river.

Be it enacted, &c., That seventy-five per centum of the proceeds of the public lands in Oregon and California, and fifty per centum of the amount of the sales of all other public lands in the United States, shall be, and the same hereby are, set apart and pledged to defray the expenses of locating and constructing a central national road from the Pacific Ocean to the Mississippi river, with a branch of said road to the Columbia river.

SEC. 2. *And be it further enacted*, That the said central national road shall commence on the bay of San Francisco, at a suitable point to connect with the ocean navigation of the Pacific, and terminate at St. Louis, in the State of Missouri. And the said branch road shall commence on the tide-water region of the Columbia river, to connect with ocean navigation at that point, and shall intersect the central national road at some suitable point west of the Rocky Mountains.

SEC. 3. *And be it further enacted*, That the said central and branch roads shall be iron railways, where practicable and advantageous, and shall be macadamized, or otherwise constructed, where not so practicable and advantageous; and a breadth of one mile wide from the frontier of the State of Missouri to the bay of San Francisco, shall be, and the same hereby is, reserved and appropriated forever for the track of said central road, and for the tracks of such other roads (railways or others) as may hereafter be authorized by act of Congress; and a breadth of one thousand feet shall be, and the same hereby is, reserved for the branch road to the tide-water region of the Columbia.

SEC. 4. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized and

requested to cause all the information in the possession or power of the Government, necessary to show the comparative advantages and disadvantages of different routes for said central and branch routes, to be laid before Congress for its decision, with topographical and profile maps to illustrate the same; and to cause further explorations to be made, if necessary; and the sum of thirty thousand dollars, out of any moneys in the treasury not otherwise appropriated, be, and the same hereby is, appropriated to enable the President to carry the objects of this section into effect.

SEC. 5. *And be it further enacted*, That as soon as the routes for said central and branch road, or either of them, shall be selected, the location and construction thereof shall be commenced under the direction of the President of the United States, and continued till finished, by virtue of appropriations to be made by Congress out of the fund created and set apart for that purpose.

SEC. 6. *And be it further enacted*, That military stations shall be established on the line of the said central and branch roads, for their protection and support; and settlements shall be encouraged at such stations by making donations of land to actual settlers.

SEC. 7. *And be it further enacted*, That so soon as said railway, or any sufficient part thereof, shall be completed and fit for use, the use thereof shall be granted for a limited time to such individuals or companies as shall, by contract with the Government of the United States, agree to transport persons, mails, munitions of war, and freight of all kinds, public and private, in vehicles furnished by themselves, over the same at such reasonable rates as shall be agreed upon: *Provided*, That if other roads shall hereafter be constructed on the ground reserved for roads by this act, the same company or person shall not be allowed to have the contract for transportation, or any interest in more than one road at the same time: *And provided, further*, That a margin of said reserved ground, both over the said central and branch road, of at least one hundred feet wide, shall be forever reserved for a common road for wheel carriages, horse and foot travellers, free from toll or charge.

SEC. 8. *And be it further enacted*, That the sum of $100,000 be, and the same is hereby, appropriated to enable the President to treat with the Indian tribes along the line of said road, when the route thereof shall be resolved upon, for so much territory as shall be necessary for the purposes of this act.

REVOLUTIONARY PENSIONS.

Mr. ATHERTON moved that the Senate suspend its previous orders, and proceed to the consideration of the House bill for the payment of revolutionary and other pensions, for the year ending 30th June, 1850.

The motion was agreed to, and the bill being under consideration as in Committee of the Whole, was reported without amendment.

The bill was then read a third time and passed.

MILITARY ACADEMY.

On motion of Mr. ATHERTON, the previous orders were postponed, and the Senate proceeded to consider the bill from the House making appropriations for the support of the Military Academy, for the year ending June 30, 1850.

The bill was considered as in Committee of the Whole, and was then reported, and read a third time and passed.

HOUSE AMENDMENTS.

The bill concerning testimony was received from the House of Representatives, with amendments, and the bill and amendments were referred to the Committee on the Judiciary.

The bill granting a pension to Bethiah Healy, widow of George Healy, deceased, was received from the House, with an amendment, and referred to the Committee on Pensions.

The bill for the relief of the legal representatives of William A. Slacum, was received from the House of Representatives, with amendments; which were concurred in.

On motion of Mr. BUTLER, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 7, 1849.

The Journal of yesterday was read and approved.

Mr. BINGHAM, by unanimous consent, presented the petition of the head chiefs of the Chippewa tribe of Indians, on Lake Superior, for a grant of land, &c.; which was laid on the table, and ordered to be printed.

On motion of Mr. HUNT, the House proceeded to the consideration of the following resolution from the Senate; it was read as follows:

Resolved, That the two Houses will assemble in the Chamber of the House of Representatives on Wednesday the 14th instant, at 12 o'clock, and the President of the Senate shall be the presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled as aforesaid; which shall be deemed a declaration of the persons elected President and Vice President of the United States, and, together with a list of votes, be entered on the Journals of the two Houses.

The said resolution was agreed to.

On motion of Mr. WILEY,

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post road from Exelin Corner, in the county of Penobscot, via West Garland, north part of Dexter, west part of Sawyerville, to Abbot, in the county of Piscataquis, Maine.

On motion of Mr. HOUSTON, of Alabama, leave was granted to withdraw the petition and papers of Farley D. Thompson from the files of the House.

Mr. BURT called for the regular order of business.

The SPEAKER said, that the first business was the motion to reconsider the vote by which the title of the navy appropriation bill had been adopted. There was a subsequent question pending, which had arisen out of a point of order: the gentleman from Ohio [Mr. SCHENCK] having exceeded the limits of debate allowed upon the motion to reconsider, the gentleman from Pennsylvania [Mr. STRONG] had objected to his proceeding further without the leave of the House. The question was upon granting leave. Upon the vote being taken no quorum was present, and pending the proceedings the House had adjourned.

The question now was, "Shall leave be given to the gentleman from Ohio [Mr. SCHENCK] to proceed in order with his remarks?"

Mr. STRONG, of Pennsylvania, rose and said, he desired, if it was in order, to withdraw the objection which he had made.

The SPEAKER stated that if there were no objection, the gentleman from Ohio could proceed with his remarks.

Mr. DICKINSON objected.

The SPEAKER said the question would be, then, upon granting leave to the gentleman to proceed in order upon the motion which had been made by him, viz: to reconsider the vote by which the title to the navy bill had been agreed to.

The question was taken and agreed to.

So Mr. SCHENCK was allowed to proceed with his remarks in order.

Mr. SCHENCK said he had had some thoughts, inasmuch as this question was confined within very narrow limits, to talk something about titles and titular dignity, such as that of chairman of the Committee of the Whole on the state of the Union, and other matters in which the question of title was concerned; but as he did not feel disposed to pursue the course of remark which it had occurred to him it would be proper to make last evening, and as he wanted to speak in relation to some other things in which he thought there had been a great misapprehension and misunderstanding, in reference to the condition of the navy, he should reserve what he would have said till some other occasion when greater latitude of debate would be allowed; and when he would be permitted to correct some of the misstatements, or rather misunderstandings, into which gentlemen had fallen in speaking upon this subject. It was entirely unnecessary for him now, with any hope of good being accomplished, to detain the House upon the question of the mere title of a bill, the bill itself having passed through its various stages without having received those amendments which he thought at the time were perfectly in order, and which, if they had been offered one day earlier, would have been in order, on the ground that everything, or almost everything, offered the day before yesterday was in order, when yesterday the chairman had ruled it out of order, although propositions of precisely the same character as had the day before been received.

He should therefore decline to occupy the time of the House. He was not disposed to express some particular views in regard to titles and titled gentlemen; and he would therefore yield the floor, so that the question might be taken upon the title of the bill. Or perhaps he ought to move to lay the motion to reconsider on the table, so as to put an end to this whole proceeding. He made that motion.

The motion was agreed to.

So the title of the bill stands as adopted, and the bill is passed.

Mr. BARRINGER called for the regular order of business.

REPORTS OF COMMITTEES.

Mr. HALL, of New York, from the Committee on the Judiciary, to whom was referred the bill from the Senate entitled "An act for the better organization of the district court of the United States within the State of Louisiana," reported the same back to the House, with an amendment, as follows:

SEC. 3. So much of this act as authorizes the appointment of a judge and other officers by the President, by and with the advice and consent of the Senate, shall take effect and be in force on and after the 15th day of March, 1849; and the residue of this act shall not take effect, nor shall such officers enter upon the discharge of their duties, or be entitled to any salary or compensation, until the 1st day of June thereafter.

Mr. FICKLIN said he very much questioned the propriety of passing this bill. It seemed to him if the State of Louisiana required two judges of the district court of the United States, Ohio would also require two. It might be said that the maritime questions which came before the court at New Orleans occupied a great portion of the year, and constituted a great portion of the business of that court. But there was also a great deal of litigation in Ohio, and but one district judge there.

He had an objection to the amendment proposed by the committee. That amendment provided that the bill for one purpose should go into operation at one time, and for another purpose at another time, so as to secure to the incoming Administration the appointment of officers under it. He could not see why this discrimination should be made against the present Executive. He moved that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. MORSE spoke in substance as follows:

I hope the people of Western Louisiana will not be deprived of the contemplated advantages proposed to be given them by the bill, on account of the amendment of the committee postponing the appointment of the judge until the new Administration shall come into power. I need not say that my support, feeble though it may be, has been as warmly and freely given to this Administration as any member on this side of the House; but, sir, I for one am unwilling to prolong for a longer period the doubt and uncertainty which hangs over the titles of the property of a very considerable portion of my constituents, as well as those of my friend and colleague who sits before me, [Mr. HARMANSON.] This bill will enable the people of Louisiana to test the validity of those immense grants known as the Bastrop and Maison Rouge grants, and a decision in favor or against the assignees of those grants, is better than the doubt and uncertainty that hangs over them. The value of many successions is greatly diminished from the uncertainty of the tenure by which the lands are held. The question is not whether the judge shall be appointed by Mr. Polk or General Taylor, but whether the people shall have the court or not.

The gentleman from Illinois [Mr. FICKLIN] says that Ohio has but one district court, and why should Louisiana have two? The time of the district court in New Orleans is occupied with the maritime cases of that commercial city, the first in exports in the Union, not even excepting the great empire city of New York.

When Congress passed an act enabling the claimants of land to sue the United States, it was thought by a number of people in the West, that instead of having a short term for the western district to be held once a year by the judge of the eastern district, that by removing the terms of the court to New Orleans, where the court was almost all the time in session, that business could be expedited. That has been tried and failed, and the people now ask a separate court for themselves; and it is no answer to me that Ohio has but one district court. If one court is not sufficient for the business in Ohio, no man will more cheerfully vote for another district court than myself.

If I satisfy the House (as I hope I shall be able to do, if they will but give me a few minutes' attention) that the necessities of the people require this additional court, I know the justice of this body will accord it.

[Here Mr. MORSE was asked by Mr. HOUSTON, of Alabama, if the salary of the district judge of Louisiana was not increased to enable him to discharge the additional duties imposed upon him.]

Mr. Speaker, (continued Mr. M.,) I would frankly answer the gentleman if I knew. My recollection is, that an increase of salary was endeavored

to be inserted in the bill, and that it failed; but be that as it may, it is not at present too large, or even large enough for the onerous duties imposed upon him——

[Here Mr. BOYD asked Mr. MORSE if he would sanction the principle contained in the amendment, postponing the appointment of the judge until after the incoming of the new Administration, thereby sanctioning the principle of legislating for the patronage of the Government.]

Mr. MORSE said, I will answer the interrogatory of my friend from Kentucky, in the Yankee fashion, by asking another: If a bill depended on your vote, and your constituents were deeply and greatly interested in its passage, would you defeat it, because, forsooth, the party in power took away the appointment from an Administration on the eve of its going out, to give it to the Administration about to come in? That is the concern of the gentleman moving the amendment. My constituents want the bill; I will not lose the substance by looking after the shadow. It is a little matter who may be the appointing power, but the creation of the court is a matter of vital importance to the people of Western Louisiana.

Mr. STRONG, of Pennsylvania, inquired if the court was necessary for the trial of these great grants, why not limit its duration to two or three years?

Mr. MORSE continued: Mr. Speaker, the district embraced in the provisions of this bill, I venture to assert, will be as large as any other in the United States. And long before these important land suits can be all decided, a sufficient amount of new business to warrant the establishment of a court for other matters will be created. I trust my friend will not press this objection.

I conjure the House not to suffer this—a local matter, deeply affecting the rights of a large number of my constituents—to be mixed up with party feeling. The gentlemen on the Whig side of the House will see my sincerity for the passage of the bill; in fact, that I am willing to take the bill, though the appointment may be made by General Taylor.

I trust my friends on this side of the House will not interpose any obstacles to its passage *now*. Whether it passes to-day, or four years hence, General Taylor will still have the appointing power; and I hope the bill will meet the favorable consideration of all sides of this House.

Mr. BOYD said, what he objected to was the principle, and he hoped this body would not present the spectacle of deliberately legislating on the principle of providing patronage for any particular Executive officer of the Government; and surely our friends on the other side who professed such holy horror of everything that smacks of Executive patronage, would not insist upon such a provision.

Mr. KAUFMAN said he had no question that it was very important to the people of Louisiana that this bill should be passed. He knew that it was a matter of deep interest to the people of the western district of Louisiana that their land claims should be decided. He had some knowledge of these land claims; and he believed it was important to the settlers that this court should be immediately established.

But there was one amendment to which he could not consent to give his sanction. It was an amendment proposed by the Committee on the Judiciary. It proposed to legislate with a special view to the disposition of the offices contemplated by the bill, so as to give the appointments to the incoming Administration. He, for one, could never sanction any such proposition, nor did he think that the majority of the Whig party would sanction a measure plainly depriving the Executive of the patronage which legitimately belonged to him, and to confer it upon the incoming Administration of the country. The amendment provided, that the judge whose appointment was contemplated by the bill should not be appointed until the 15th of March next. Did not this amendment clearly say, in effect, that this House would not give to the present President the appointment of a district judge of Louisiana, but would reserve the privilege for General Taylor? He (Mr. K.) repeated, he did not think that the majority of the Whig party would consent to this amendment. But the gentleman from Louisiana [Mr. MORSE] said, that although the amendment was reported by the Committee on the Judiciary, yet he did not believe that the Whig party in this House would pass the bill without that amendment.

Mr. K. proceeded to remark, that the statutes of the country, from its organization to the present time, contained no precedent of this character. A single instance could not be adduced in which the patronage of the Government was in this manner taken away from one Executive and given to another—thus throwing a slur, an imputation upon one President in order to give a little paltry patronage to an incoming Executive. There was a larger majority of Democrats in the Senate, than of Whigs in this House; and if the Whigs of this House were willing to sacrifice the interests of the people of Louisiana for the mere purpose of giving this patronage to the next Executive, the Democrats of the Senate would never consent that it should be done. The adoption of the amendment, merely for the purpose of legislating for party purposes, was unworthy of the great Whig party of the country which had recently succeeded in electing a President, and he did not believe that such a course of legislation would be sanctioned by them.

There was upon the Speaker's table another bill which had been sent from the Senate, the object of which was to create a district court in Texas—a State five or six times as large as any other in the Union. There was a great and imperious necessity for the establishment of such a court; yet, notwithstanding that, he should vote against it, if an amendment of this kind should be introduced into it, because that amendment violates every principle of right and propriety——

Mr. LEVIN here interposed, and made a remark which (so far as its tenor could be caught by the reporter) was as follows: He had not, he was understood to say, made up his mind how he should vote on this amendment; but he would call the attention of the gentleman from Texas [Mr. KAUFMAN] to the fact, that so soon as it had been ascertained that General Jackson had been elected President of the United States, the Democratic majority then in the Senate refused to confirm a single nomination made by Mr. Adams. That was a precedent established by a Democratic majority of the Senate.

Mr. KAUFMAN proceeded. The fact, he said, might be so. Whatever a Democratic majority of the Senate might have done at that time, did not make the principle right. He had no doubt that every Whig orator and every Whig press throughout the country denounced the action of the Senate at that time. But the action of the Senate was confined to matters coming before them in secret session, and properly cognizable by the Senate as constitutional advisors of the President in regard to nominations. This was the first time that the principle had been applied to a law of this kind. In the case to which the gentleman from Pennsylvania [Mr. LEVIN] had referred, he repeated, the proceedings were confined to secret session; and there was known to be a state of political excitement throughout the country which had not existed since. But, in any event, the precedent was a bad one, and he trusted that it would not find any favor here.

If the amendment was not incorporated in the bill it was his intention to vote in favor of its passage, because he believed, as he had stated, that the interests of the people of Louisiana demanded it. If the amendment should be incorporated, he should vote against the bill. And if a similar amendment should be introduced into the bill to provide a district court for the State of Texas, he should now and forever hereafter vote against it, because it seemed to him that it would be a reproach on the legislation of the country, such as he was unwilling to believe that a majority of this House would by its suffrages sanction.

Mr. SMITH, of Indiana, said, he had not risen with the view of detaining the House by a speech.

Mr. HALL, of New York, (who had reported the bill from the Committee on the Judiciary,) asked the gentleman from Indiana [Mr. SMITH] to yield the floor for a few moments to him, that he might make an explanation.

Mr. SMITH having done so—

Mr. HALL said, if the gentleman from Texas [Mr. KAUFMAN] had yielded to his request, and given way for an explanation in regard to the provisions of the Senate bill and the amendment reported by him (Mr. H.) from the Judiciary Committee, the holy horror that gentleman had manifested might have been somewhat mitigated by a better knowledge of the facts of the case as they actually existed.

The bill provided for the organization of a district court in the western district of Louisiana, and as it came from the Senate, was to take effect immediately on its passage, so as to allow an immediate appointment of a judge and other officers, with salaries to commence at once, although the first term of the court provided for in the Senate bill was not to be held until the first Monday in August next. There appeared to be no propriety in appointing these officers at this time, and paying them their salaries from the time of their appointment, when they would not be called upon to act (except in the unimportant preliminary arrangements preparatory to holding a term) until the first Monday in August next. Until that time they could not be called upon to render any important service, and it was therefore proper to postpone the time when the act should take effect, for the purpose of saving to the United States the salaries to which these officers would be entitled under the provisions of the bill as it passed the Senate, independent of any considerations growing out of the patronage which the bill, if passed, must give to the President whenever the bill should go into effect.

It would, therefore, have been proper so to amend the bill as to postpone, until the next summer, the period at which it should take effect, were it not that if this were done in regard to the whole bill, it would not take effect until after the final adjournment of the Senate, and the consequence would therefore be that no judge could be appointed until the next session. The committee had therefore reported this amendment, which declares in substance that so much of the act as authorized the appointment of officers should go into effect on the fifteenth day of March next, and the residue on the first day of June next—allowing, by these provisions, the appointment of the necessary officers by the President and Senate in March, but not allowing them to enter upon the discharge of their duties, or to become entitled to compensation, until the near approach of a necessity for the discharge of the duties of their respective offices.

Again, it was desirable that the bill should not immediately go into effect for another reason: A term of the circuit court was required to be held in Louisiana under the existing laws, on the fourth Monday in April next, and it was desirable not to interfere with the existing state of things until after that term was held.

Under the provisions of the amendment, the existing arrangement and jurisdiction of the United States courts in Louisiana would continue until the first of June next; and until that time the present judge would exercise out of court all the jurisdiction which he is now entitled to exercise in relation to the judicial business of the whole State. No injury or inconvenience could result from postponing the period when the law should take effect to the time proposed by this amendment; for the present district judge could easily discharge all the chamber duties for the present district, which comprises the whole State.

The gentleman from Texas [Mr. KAUFMAN] seemed to fear exceedingly that the rights of the people of the western district of Louisiana were to be sacrificed by the amendment introduced, as he alleges, on political grounds, to secure the patronage of this bill to the incoming Administration; but the representatives of the people immediately interested, and in whose behalf the sympathies of the gentleman from Texas had been so much excited, did not seem to be alarmed, but had, on the contrary, assented to the provisions of this amendment, as had been stated by the gentleman from Louisiana, [Mr. MORSE.] The gentleman from Texas [Mr. KAUFMAN] might therefore relieve his mind from all anxiety on their account.

But the gentleman had also objected that the amendment proposed to legislate with reference to the change that was soon to occur in the Executive department of the Government; but the bill as it came from the Senate, still more than the amendment, was liable to that objection. The Senate bill admitted, by the provisions to which he had alluded, that it was not desirable or expedient that any term of the district court should be held under its provisions until August next; and yet, to give the patronage created by the bill to the retiring Administration, they had proposed that the bill should take effect immediately on its passage; thus

authorizing the appointment of officers to receive salaries, without service, for several months before they were to be called upon to discharge any important duties. But to this the gentleman from Texas would of course take no exception, for this course—although it was legislating in reference to a change at the White House; although it required a considerable expenditure of the people's money, without the slightest necessity; although it was to give to President Polk the appointment of officers who could not enter upon their duties until long after he went out of power—was altogether agreeable to the gentleman, because it secured comfortable places for three or four more gentlemen of the political party to which the gentleman from Texas belonged.

He would not trespass further upon the time of his friend from Indiana, having, as he believed, said enough to justify the action of the Judiciary Committee in reporting the amendment under consideration.

Mr. SMITH then proceeded with his remarks. He said that one would suppose, from the excitement which had been manifested on this question, that the Constitution and the rights of the people of Louisiana were about to be ruthlessly sacrificed by the amendment which had been reported from the Committee on the Judiciary. For his own part, he could see no reason for this excitement. He saw no attempt to invade the rights of the people of Louisiana, and he was not able to see any possible aspect of the case in which those rights could in any way be injured by the adoption of the amendment. The gentleman from Texas had said that legislation of this kind was without precedent in the history of this country, and that we might in vain search the records for a similar instance.

Upon looking to previous acts of Congress, he (Mr. S.) found that it had been common to fix a day upon which a bill should go into operation. He would, for example, mention the bill organizing the Territorial Government of Wisconsin, and the bill organizing the Territorial Government of Iowa—and numerous other bills to which reference might be made—in which it was expressly declared in the law itself, that it should not go into effect until a day subsequent to the time of its passage, and subsequent to the adjournment of the Congress by which it was passed.

Mr. KAUFMAN desired to ask a question.

Mr. SMITH having yielded the floor—

Mr. KAUFMAN inquired whether it could be found where a law had been passed, with a view to take away the patronage of the Government from an outgoing Chief Magistrate and to give it to an incoming Administration? The gentleman from Louisiana [Mr. MORSE] had expresed his belief that the Whig majority in this House would not support the bill unless the amendment was agreed to.

Mr. SMITH continued. He could not, he said, undertake to say what had been the intention of the Committee on the Judiciary in reporting the amendment. The House was not authorized to assume, by anything which the committee had done, or by anything which appeared on the face of the bill itself, or of the amendment, that it was the intention of the committee, or of the Whig side of the House, to deprive the Administration of the patronage which belonged to it. There was nothing in the case which warranted such an assumption. He had stated that in other cases it had been a common practice to fix a time subsequent to the passage of the bill, and subsequent to the adjournment of the Congress that passed it, for the bill itself to go into effect. Now, whether the intention was to take away the patronage and confer it upon another, he could not undertake to decide. But there was an obvious propriety in fixing the time for this bill to go into effect subsequent to the adjournment of Congress. It might be true that the President would be deprived of the opportunity of making these appointments. Suppose it was so: was that wrong? The court could not be organized until after the present Administration had gone out of power.

Mr. S. made a remark which led to some explanation between him and Mr. PETTIT, the purport of which was not caught, but which may be inferred from the remarks which follow.

Of course, (Mr. S. continued,) gentlemen could not imagine that he meant to say that the President was personally responsible for the conduct of the judges whom he might appoint. But gentlemen knew that if an officer in any department of the Government was guilty of improper conduct, or was unpopular, the odium in public opinion fell, in some measure, upon the Executive who had appointed him. This was all he intended to say. But he would ask why gentlemen should desire that the existing Administration should have the appointment, when it was known that before the officers provided for in this bill could enter on the discharge of their duties this Administration would be defunct—its power would have ceased?

It has been stated that this proposition was without precedent. He was glad that his friend from Pennsylvania [Mr. LEVIN] had reminded the gentleman from Texas [Mr. KAUFMAN] of one precedent, which not only covered this case, but was much more comprehensive in its character. It was matter of recollection to all who were familiar with the political history of the country, that shortly after the election of General Jackson, the Senate, consisting of a majority of his friends, refused to confirm a single appointment made by the then Administration. They set it down as a principle, that an Administration which had been turned out of power by the people, whose functions and whose powers were to cease on the ensuing 4th of March, should not embarrass the incoming Administration by filling up the offices which were vacant or were about to become vacant; and on that principle the Senate, at that time, laid on the table the nomination of a distinguished gentleman from Kentucky [Mr. Crittenden] for the supreme bench, whose appointment would have been hailed with universal satisfaction by the people throughout every section of the Union; and who, if he had been permitted to occupy that high place, would have shed a lustre upon the supreme judicial department of the Government. But he was prevented from occupying that place to which his universal popularity called him, merely because the party then in power in the Senate decided to sanction none of the appointments of the outgoing Administration.

Mr. KAUFMAN interposed, and (the floor having been yielded) said, although it may have been a bad precedent to which the gentleman from Indiana referred, yet the Senate acted within the sphere of their constitutional power. They were the constitutional advisers of the President. But he asked, what provision of the Constitution it was that authorized this House to legislate especially with reference to the appointing power of the Government, when it had nothing to do with the appointment?

Mr. SMITH continued. The gentleman from Texas had informed them that the Senate in that instance acted in the sphere of its constitutional power. He trusted the gentleman would not say that Congress had not the constitutional power to pass this law, to take effect at some future day. If he (Mr. S.) thought so, he would not advocate it.

He knew that the Senate made that decision, and under that decision the appointment of the distinguished citizen of Kentucky was laid on the table; and when the newly-elected Executive came into power, that nomination was withdrawn, and another sent in in its stead.

He could also point the gentleman to a pure, upright, distinguished citizen of Ohio—a gentleman who occupied a seat upon this floor for ten years, with honor to himself and credit to his constituents—who was nominated to the office of district judge of the State of Ohio. Not one word of objection was made to that appointment——

Mr. McLANE interposed, and (with Mr. S.'s permission) inquired, if he was to understand the gentleman from Indiana to say that the Democratic party of the Senate of the United States, at the time of which the gentleman spoke, decided broadly that they would not confirm the appointments made by the outgoing Administration?

Mr. SMITH replied, he understood by their action that they decided so. He did not know that they adopted a resolution announcing that decision.

Mr. McLANE stated, that at the very session when the nominstion of the distinguished citizen of Kentucky, to whom the gentleman had alluded, was laid on the table, the nomination of the judge of the Pennsylvania district was confirmed. The distinction was taken, that whenever the public service required, the nominations were acted on; and those cases only were laid on the table which the public service did not require to be acted on.

Mr. SMITH (continuing) said, he was not apprised of the true state of the case, whether such a resolution was adopted or not. We all knew this to be the fact, however, that no such appointments, with the exception, perhaps, of that of the district judge, were confirmed. He knew many instances in which these appointments were laid on the table.

There was no objection from any quarter to the gentleman from Ohio, to whose nomination he had referred, on the ground of fitness; but the only ground why the Senate refused to act on his nomination was, that, having a party majority, and friends to the incoming Administration, they would not ratify the appointments of the Administration then going out of power.

A case from this very State—the State of Louisiana—occurred to his mind: a Mr. Gurley, of whom he had heard spoken in very high terms, was nominated the same session for a judgeship there; and the Senate refused to confirm his nomination on the same ground.

The gentleman from Maryland had told them that the Senate confirmed the nominations where public necessity required they should be appointed at the time. He would ask that gentleman if there was any public necessity which demanded the appointment of this district judge before the 4th of March? In the case of the nomination for district judge of Ohio, the office had become vacant by the death of the incumbent. Surely a great public necessity existed there for the appointment.

Mr. KAUFMAN again wished to explain. But—

Mr. SMITH declined, stating that he had yielded to the gentleman from Texas several times. He had not designed to speak so long as he had. He desired the gentleman to allow him to close the few remarks which he had to make.

If gentlemen placed it on the ground of public necessity, (he continued,) he was willing to admit that no party considerations, no desire to sustain the incoming or the outgoing Administration, should induce the Senate to withhold their assent, or Congress to refuse to authorize appointments, where the public necessity required them to be immediately made; and if gentlemen would show him that there was any public necessity which required the appointment of a district judge for the western district of Louisiana before the 4th of March, he was willing to give the President the authority to make the appointment before that time. This court could not possibly be organized before the present Administration went out of power; where, then, was the necessity for allowing the present Executive to anticipate the necessity, and appoint a judge who would not commence the functions of his office until the new Administration came into power? There was no necessity for it; and gentlemen could place their objections to the proposition only on mere party grounds, for the purpose of enabling the Administration which had been ejected from power by the people to fill up an appointment which could not be vacated by removal, with a partisan friend of their own. They desired to deprive the incoming Administration of the exercise of that power, which, on every principle of justice and propriety, belonged to it. He asked these gentlemen if it was not reasonable to suppose that the people of Louisiana—who by a large majority of the votes of that State had contributed to the election of one of her distinguished and illustrious citizens to the office of President of the United States—would much prefer that that citizen whom they had thus elevated, should select the man to fill this office? Was it any injustice towards the people of Louisiana to take this course? The gentleman from Texas [Mr. KAUFMAN] had arraigned them here upon the charge that they were endeavoring to trample to the earth the rights of the people of Louisiana. He (Mr. S.) appealed from the gentleman from Texas to the people of Louisiana. He asked every candid, every liberal and generous mind here, what would be the response of the people of Louisiana when that appeal was made to them? They had decided that question already. They had decided that their own distinguished citizen, who was to occupy the Executive office of this nation for the ensuing four years, was the man of their choice; and in the face of that majority which they had given him, would gentlemen contend that they desired Congress now to anticipate the necessity, and strip him of the power with which the Constitution clothed him, and place

in the hands of the expiring Administration the power of selecting a man who would be obnoxious to a large majority of the people of that State?

He intended no injustice to the present President. If he knew his own heart, he would not advocate any measure upon mere party grounds for the purpose of giving patronage to the incoming Administration, when the measure itself was wrong. He did not desire to embarrass the outgoing Administration, by crippling its power, by depriving it of appointments for which a present necessity existed. He was disposed to deal fairly, candidly, kindly with it, in the few remaining days of its official existence. But he could not consent to give to the present Executive the power of those appointments which were not necessary until the new Administration came into pewer, and whose functions would not commence until after that time. If there was one day between this and the 4th of March when the services of this judge would be required by the public good, he would give the appointment to the present President. The case was this: it was proposed to create a new office; that office was to commence *in futuro;* every man admitted that the judge could not commence his official duties until after this Administration went out of power. Now, he appealed to gentlemen as men, as having the feelings of propriety which men and gentlemen should have, he asked them, was it right that this Administration should insist upon forcing the appointment of a man obnoxious to the people of Louisiana, and to a large majority of the American people? He did not argue this question on mere party grounds, but upon the higher and more elevated ground of principle. It was right, it was just, that, in creating an office for which there was not an immediate necessity, they should conform to the will of the country, and give to the Administration whom the country had just elected, the power to fill that office.

Mr. STANTON said it must be plain to the House that the amendment proposed by the Committee on the Judiciary was not one of very great importance, and was rather matter of taste than principle. He did not exactly agree with the gentleman who had just taken his seat, that this officer would not enter upon the exercise of his judicial functions until after the expiration of this Congress. On the contrary, he thought there were some functions which he might perform, and which he probably would be called to perform, if appointed previous to that time.

If this was the only case of the postponement of appointments, it would be a matter of comparatively little consequence. But in all the bills which had been reported from the other side of the House —in the bills for the Territorial Government of California, New Mexico, and other bills, the same provision was made; and even to the bill for the creation of a board to examine private claims, an amendment had been moved to postpone the appointment of the commissioners until the new President was inaugurated. Now what did this indicate? It indicated that these gentleman were determined to sweep up every crumb of patronage which fell from the table of this Congress, for the purposes of the incoming Administration.

He had said that this was a matter of taste rather than a matter of substance; and it would be a matter of taste in the President of the United States, if, in the last hours of his administration, the opportunity should occur to him to appoint a judicial or other officer, whether he would exercise that power or leave it to the incoming Executive. Now, he objected to this clause, which gentlemen proposed to insert in this bill, because it did not impute to the present President of the United States that courtesy, that propriety of action, which was to be expected from a man of any liberality of spirit in that station; and he thought—without knowing anything of the disposition of the President in this matter—that they might rely upon his courtesy and his liberality of conduct with at least as much certainty of not being disappointed as they might upon those qualities of gentlemen in this House.

There was something very remarkable in the present condition of the country. Ever since the election of General Taylor, and during the last session of Congress, there seemed to have been a perfect interregnum in the exercise of the whole legitimate powers of the Government—a suspension of everything necessary for the efficient conduct of the affairs of Government. This Congress, or at least the majority of this House, seemed disposed to postpone action upon all measures. If this was to be a precedent for future action, he thought the French system might better be adopted, of having the President inaugurated as soon as his election was ascertained, so that the functions of the Government might go on.

Now, if the appointment of this judge was to be deferred for a time, however short, in order to give the patronage to the incoming Executive, it was a precedent which would enable another Congress to suspend their action for any length of time, in order to secure the same patronage. So that the effect would be, when the Administration had been changed, or might be expected to be changed, all the measures of Congress would be shaped in anticipation of that change. No doubt, during the last session of Congress, gentlemen on the other side had anticipated this change, and had shaped their action as they had at the present session, to secure to themselves all the patronage and all the spoils about which they talked so much as being enjoyed by their opponents.

Now, he objected not so much to this particular instance as to the principle, which would be disastrous, ruinous, if carried out to its legitimate results—a principle which was to be condemned as injurious in every sense and in every part of its operation. They ought to legislate with reference to the wants of the country, and not to the appointment of the judge by this or by the succeeding Administration.

The action of the Senate of the United States had been referred to as a precedent to justify the course which gentlemen proposed here. As had been well said, if the Senate acted wrongly in that instance, it was no reason why they now should suspend the operation, and even the passage of laws, for the reason which gentlemen on the other side had a thousand times condemned, to secure to themselves the spoils. But, upon the principle on which they sought to justify themselves, they acknowledged that they had already begun to sweep up the crumbs of patronage to satisfy the hungry cormorants who hung around them now, and were already ravenous in their demands for office.

He repeated, it was not of so much consequence whether this judge was appointed to-day or to-morrow, or the third or the fifth of March. But, for the character of those gentlemen, for taste, for modesty—whether feigned or real—which ought to be exhibited by them at the moment of their victory, and at the very hour of entering upon its enjoyment—for this consideration, if for no other, gentlemen on the other side, it seemed to him, ought not to press this amendment.

Pending further action on this subject—

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of the Union. Agreed to—ayes 79, noes 41.

So the House resolved itself into Committee of the Whole on the state of the Union, (Mr. MOREHEAD, of Kentucky, in the chair.)

On motion of Mr. VINTON, the committee proceeded to the consideration of the bill making appropriations for certain fortifications of the United States for the year ending the 30th June, 1850.

Mr. PRESTON moved to strike out the first section of the bill. He understood, he said, that, under the rule of the House, on a bill of this character, he would be at liberty to express his opinions upon any such topics connected with the general welfare of the country, as his taste or his inclination might suggest to him. For that reason he would ask the Clerk to read a paper which he held in his hand, as introductory to the speech which he proposed to make to the House on this occasion.

The Clerk thereupon read the following bill:

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress doth consent that a new State may be erected out of and including all that territory ceded to the United States by the treaty of peace, friendship, limits, and settlement with the Republic of Mexico, concluded 2d February, 1848, with a republican form of government, to be adopted by the inhabitants of said territory, assembled by delegates in convention, as hereinafter provided for that purpose, in order that the said State may be admitted into this Union.

SEC. 2. *And be it further enacted,* That the foregoing consent of Congress is given upon the following reservations and conditions: First, That the United States hereby unconditionally reserves to the Federal Government all right of property in the public domain, and other property ceded to the United States by the treaty of peace aforesaid, free from all taxes or assessments of any kind by the said State; and also, the power of disposing of the same, including the right of adjusting all claim and title to land derived from foreign Governments, in such manner as Congress shall prescribe. Second, That the new State shall be formed and its government adopted prior to the first day of October, in the year of our Lord 1849.

SEC. 3. *And be it further enacted,* That on the said first day of October, 1849, the said new State having been thus formed by the name and style of the State of California, and with the consent of the people thereof, shall be received and admitted into the Union as a new and entire member of the United States of America.

SEC. 4. *And be it further enacted,* That the acting Governor of California, so soon as he shall be provided with a copy of this act, to the end that the people may have an opportunity of establishing for themselves a constitution and republican form of government for said State prior to the first day of October next, shall immediately proceed to lay off the country embraced within the limits of the proposed State, into convenient districts for the election of delegates to a convention for the purpose of forming a State constitution, and shall designate the time and place of holding the election in each district, appoint the officers to conduct the same, and prescribe the mode of making the returns thereof, and shall apportion the delegates, fifty in all, among the several districts as near as may be, according to the number of legal voters in each; and he shall also designate the time and place for the assembling of said Convention. Every white male inhabitant of said Territory being an actual resident of the proposed State, and having attained the age of twenty-one years, shall be entitled to vote at said election.

SEC. 5. *And be it further enacted,* That the State of California, when admitted into this Union, in conformity with the provisions of this act, shall be entitled and continue to be entitled, until the next general census, to two Representatives in the House of Representatives of the United States; and in all other respects, as far as they may be applicable, the laws of the United States shall extend to, and have force in, the State of California.

Mr. PRESTON then proceeded to address the committee as follows:

Mr. CHAIRMAN: Those who have listened to the reading of the bill will unquestionably concur with me in the fact, that the proposition which I propose to discuss is one of great gravity and of vast interest to this whole nation. Some two weeks ago I moved to make the Territorial bills the special order of the day for Tuesday week last. Other bills, however, had priority over them. I began to be apprehensive that I might not have the opportunity I desired to offer the bill just read as a substitute for the Territorial bills; and I felt that it was proper that I should avail myself of this, the first opportunity I have had to present the views I entertain on this great and momentous question.

I suppose I need not offer any apology for appearing before this House to-day. I have rarely troubled them in the short period during which I have been honored with a seat here. I have listened attentively and patiently to the discussion of this slave question—a question which deeply involves the interest and feelings of the country which I represent, and of the whole country which I love. I have listened day after day, calmly and carefully. I have not in anywise attempted to foment or increase those feelings which parties, and sections, and personal aspiration and ambition, have thrown around it. I have not heretofore, and shall not, upon this occasion, go into the consideration of the question which gentlemen have discussed here so long, so ably, so patiently, as to the merits or demerits of our peculiar system in the South, or the merits of those principles which gentlemen of the North propose to lead in by Congressional legislation here upon us. I shall not go into the question as to who have produced the evils, and who are responsible for the difficulties which surround us: I shall address myself to the remedies which suggest themselves to my mind, for difficulties and dangers acknowledged by all. It has been called the great question of the age: I will attempt to try it by the great principle of the age. Having taken my stand deliberately and determinedly on this question, on this day and this hour, I stake myself upon the principles of this bill. I stake myself upon the principle which I propose now to explain and illustrate; and I hope and believe that the good men and the calm men and the wise men of all parties, will forget the sectional and party questions which divide them, and come forward upon a remedy that commends itself by every principle which lies at the foundation of that Government which we have made, or which, I should rather say, our fathers have made for us, and that we should apply that very rule to the Government of that country which fortune, arms, and conquest, have brought within our control.

I might make another remark. In the great calamity, and in the great embarrassment which

have overclouded the land, I feel what all men feel in adversity and distress—that the very emergency, the very exigency which is upon the country takes from us the general responsibility which attaches to all, and fixes upon each and all of us an individual responsibility that makes me, humble as I am, feel that I have the burdens of all.

The proposition which I offer, I offer as a substitute for the territorial bills now on your table. Let us for one moment examine the principles upon which the territorial bill rests. What, sir, is this territorial government, and what the true character of that issue upon which we are dividing this empire, and producing this great distraction in the land? Is it one of the original objects and ends of this Government to hold and to retain territorial dominion? Is it anything but a trust power, which is declared in the Constitution, in a single clause which I will not stop to read?—not as the basis upon which we should in the hereafter and in the thereafter legislate for the creation, for the maintenance, for the advancement of proconsular Territorial governments abroad. That is not the Constitution under which we live. The territorial power construed either as gentlemen from the North or as gentlemen from the South construe it, is but a secondary power or trust in this Government. What is the primary trust? What is this power which was given to admit new States? What is this power in the Constitution, in which it is declared that we shall make such rules and regulations as are necessary for the government of the Territories, made for? Was it that this House should be converted into a municipal legislature? Was it that we should spend days, weeks, months, and years in legislating upon distant and small territorial questions? strictly municipal questions? No, sir. The great trust—the great power—the great reason why that clause in the Constitution was introduced was upon this principle, and this alone. Sir, territorial dominion was given to us, not that we might place slavery there or freedom there; not that we might go into municipal legislation in detail for these provinces; but it was that we should rear up there sovereign and independent States. That is the primary trust in the Constitution. The territorial trust is limited in its duration. In the first resolution, in relation to the cession of territory by the States, under the old Confederation, before we had entered upon the form of Government under which we have so happily lived, in that resolution (which I have before me, but which I will not occupy the time of the House by reading) it was declared that we shall create sovereign States. And we were invited—Virginia was invited—to cede her lands to create sovereign States—when? As soon—at the very first moment—at the very first period of time that the imperative law of necessity ceased to exist, by which they were kept in territorial subjection. Whenever the period had arrived that there was a population there large enough in numbers, the great primary object of the trust arose instantly, and on the spot; and he who keeps these people in territorial bondage keeps them in oppression, for the first great primary trust is that they shall become sovereign States.

How was it again in the ordinance of 1787? In that very ordinance it is declared in terms, that as soon as sixty thousand people are found in the Territory, and sooner if possible, they shall be admitted as a State. What does all this look to? Sir, it looks to the great proposition that our forefathers intended, at the first moment of time, to bring every citizen in this nation upon the broad, elevated American platform of popular sovereignty, resting with the people and with no Government whatsoever.

Sir, in the treaty of Louisiana, out of which we have made territories, the phrase there is, that they shall be brought in "as soon as possible"—at the earliest moment of time. In this Mexican treaty it is declared, that they shall be brought in at the discretion of Congress. Ay—but it is a discretion to be exercised upon the principle of the trust. It is a judicial discretion—it is a legal discretion. It is a discretion in accordance with the principles of our Government. It is no arbitrary power—it is no arbitrary discretion which authorizes you to withhold from them that right while you plant slavery there—while you plant a tariff there, or while you plant your "no slavery" doctrines there; or, indeed, while you plant any particular system of policy there. That is not the principle. The principle is, that the trust must be resigned at the first moment of time at which you can possibly discharge yourself of it.

Sir, look for one moment at this question in another aspect; and what is it? In any form, it is but a transient and temporary question. Gentlemen are arraying themselves against each other, declaring that they will have, or will not have, Wilmot provisoism. Gentlemen say, "resistance or submission." No, sir; no, sir: that is not the true issue in this question. The mere lapse of time—the mere operation of nature—the progress of our population,—removes that issue, and shows how futile and how erroneous it is. That is not the question. The question passes from under gentlemen who take that ground. Then what is it? We talk here about dissolving this Union—we talk about destroying our institutions—we talk about abandoning all the past, and all the glorious prospects of the future, because, forsooth, we will squabble over the distribution of a trust subject and a trust fund. We, the mere trustee, holding it but for an hour or a day, quarrel and destroy all our institutions, while there are the people of California—the *cestui que trust*—they to whom it belongs—they who are primarily entitled to it, ask and demand of you that you should not quarrel over the distribution of the trust fund, but that you should come up and surrender that trust subject itself into the hands of those who are its legitimate owners, that a sovereign State may be created out of it.

Sir, the bill which I advocate takes other grounds. I have shown the demerits of these Territorial bills. I have shown that you are staking yourselves upon a temporary issue. I have shown that you are staking yourselves upon an issue and upon the division of a fund, and upon the division of a spoil, that does not belong to us but for the fulfillment of the primary object of that trust; and the day and the hour when it belonged to us is past, and it belongs to them, for they are in condition to assume it for themselves and exercise it according to the principles of our Government.

Again, sir, I offer this bill because, in the first clause, it declares that the people of California shall be at liberty to make a government for themselves. Look at the principle there. You have, as I am informed, one hundred and fifty thousand of your citizens there now. You will have, before this bill can go into operation, two hundred thousand there, which is twice or thrice as large a population as most of the States ever had when they were admitted into the Union. I ask you, who is there here who can stand back and refuse the surrender of the trust upon any grounds personal, individual, sectional, or partisan? I ask you who, sir? None. None of you can; none of you ought.

The bill which I propose, in the first section, simply gives the consent of Congress to the people of California and New Mexico to create a government for themselves. The bills of the committee make governments in these Halls, and send them in imperial power and strength to a reluctant people. The bill which I advocate invites the people of California, and affords them the facilities for the creation of a government founded upon their own will. It renounces the exercise of your territorial authority and jurisdiction. It recognizes the great principle of popular supremacy and popular government. Sir, in that it but acknowledges the truth which is seen and felt at this moment all over the earth—the great truth that popular constitutional government is the great self-sustaining machine of this age—possessing within itself all the virtue, all the strength, all the wisdom necessary for its creation, its preservation, its perpetuation. It requires no masters to direct its actions. It submits to no kings and rulers to control its councils. It requires no armies to maintain its existence. It is omnipotent here to-day. It will be omnipresent in Europe to-morrow. The next day it will be omnipresent and omnipotent everywhere. Who can resist it? I am a Virginian, and come here representing a community intimately connected and deeply interested in the "peculiar institutions" of the South; but upon what do they rest? Shall I keep this territorial question here, that, under the exercise of this arbitrary and tyrannical power—this power of making governments here for a people abroad—I may carry my institutions there? Why, if there is anything great and venerable in the past, and in the recollections of us Virginians, it is that a foreign government, not further from us on that shore than our friends in California are on the other, could not and ought not, upon every principle upon which our Constitution and Government are formed, control and direct our legislation. Our slave institutions is based upon it. It is the right of the people in Virginia and Georgia to judge for themselves. Their protection and safety is in giving to the people of the States, and to the States themselves in their sovereign capacity, control over this subject; that there is no power here or anywhere but with the people of the States deciding for themselves as to their institutions and form of government. That is the principle upon which I place this whole question.

But again: the difficulty with gentlemen peculiarly sensitive upon points of honor is, that the South, while the President tells us, while the Cabinet tells us—while orators tell us that slavery can never go there—while we hear that and believe it—while Virginia is told that the climate, soil, and position of this territory do not and will not permit us to carry our slaves there, we are told that there is some great, abiding, solemn question of honor that every southern man, who does not stand up to, is recreant to himself and forgetful of his ancestors. Now, I yield to no man on these points. I have yet yielded to no man on these points. Let us see how it is. The great merit of the bill which I present is, that it is a bill under which neither party is victorious, and neither party overcomes. *It is no compromise at all*, and therefore it recommends itself to me above any other proposition that has as yet been suggested. In all other suggestions or propositions which have been offered for disposing of it, there is a question of compromise, and the goodness or badness of the bargain, the extent of the demand you make on the one side, the spirit with which you stand up to it, and the courage or sagacity with which you maintain it, are all questions to be weighed, considered, and decided. How is it in this bill? Here are a people numbering two hundred thousand asking you to surrender the trust, to give them the rights guaranteed to them, and for which this acquisition of territory was made; and I ask you, does the point of honor forbid your giving it up to them? I do not ask my friends of the North to surrender anything to us. I do not, as a southern man, surrender anything to them. The spirit of republicanism, the spirit of popular supremacy comes at this "fourth watch of the night" over this tumultuous and tempestuous ocean, walking upon the waters, and saying, in the language of old, "Be of good cheer: it is I, be not afraid." It is but the spirit of the Revolution—it is but the spirit of our institutions that calls upon us. I shall not resist it. If there is dishonor in not resisting it, I submit to the impeachment. If there is principle in submission to it, I claim for it, when the bill comes up, the votes of all gentlemen who feel that it is a privilege and an honor to bow down to that before which our fathers of old made tyrants and Governments bow down. That is my second reason. IT IS NO COMPROMISE. I prefer it above the Missouri compromise. I am going to hold nothing back. Here is my proposition, gentlemen of the North and gentlemen of the South. I prefer it above the Missouri compromise for this reason. Carry the line to the Pacific. Let it be decided that we have the right to the south and you to the north of that line, still—the territorial question being, as in the beginning I attempted to show, but a limited and temporary one—the great solemn question as to the prohibition of slavery comes back upon us again in the creation of a State. If our citizens have gone there under the guarantee of the Missouri compromise—if there are more citizens for our institution than against it there, three or four or five years hence there is to be a new struggle, a new convulsion, new mischief, and new calamities. Presidential aspirants take hold of it. Ambitious gentlemen take hold of it. Partisan presses and leaders take hold of it. *I want repose, and the bill now offered gives finality to the question. I want the question ended.* I want it ended under this great principle that I have so feebly attempted to enforce.

I prefer it again to the compromise bill of last year. It is a better measure for the South, and a better measure for the North. Look for one moment at that compromise. It proposed to submit to the judiciary of the United States this question, to be by them decided—whether we could, while that government is in a territorial condition, carry

our slaves there? Suppose they decided for the South—suppose they decided for the North—what is the effect of the decision? Three or four years—no, not one year—would elapse even before the case could be made—before the decision could be pronounced by the Supreme Court, the people of California would come here and say, We want no such decision; we are going to form a State government. Your law with regard to slavery in the Territory is a matter of no importance to us. We are about to become sovereign. We have now reached that period when, like men, we can walk; and we will not ask your hand to sustain or uphold us. We come as Americans; we say we have rights; we do not beg them as favors, we demand them as rights appertaining to us as American citizens. Before the question could be settled by the court, the State is admitted as a sovereign and independent State. During this period we are exposed to all the evils which result from the agitation and disturbance of this most pernicious question, both in these halls and throughout the whole land.

What, then, is the great desideratum? I am not one of those who look most gloomily at the results of this slave question. I cannot believe there is the danger which many suppose; but I know there is, nevertheless, great danger. The bill which I propose has a merit which no other measure possesses. It is not wholly my measure; it would be in bad taste for me to speak of it in so strong terms of commendation if it were. The great principle of introducing these Territories as States belongs to others. I have only adopted and applied that principle to the exigencies of the present period.

But, to go on with the argument: I want finality to this question. How can it be attained? How can this question be relieved from perpetual agitation, but by the enactment of a law assenting to the surrender of this territorial power to those to whom it belongs, and taking it from us, to whom it does not belong, except in one event—in that necessity alone which would compel us to retain them as territories; and that has wholly passed and gone by in these now under consideration.

I offer you another reason. I deal in no declamation. I am attempting to put this question on its true, important, fundamental principle. I do not depart from it. The bill which I propose differs from that of the very distinguished—and, I take this occasion to say, the very patriotic and determined—Senator in the other end of this Capitol, in this: it proposes to embrace all the territory ceded by Mexico to the United States. And why? Why is the word "all" inserted in the bill? This is the view which I take of this subject: In the joint resolutions for the annexation of Texas to the United States, among other conditions, it was stipulated that "said State was to be formed subject to the adjustment by this Government of all questions of boundary that may arise with other Governments." By this provision, the power was delegated by the State of Texas to the Government of the United States to settle and adjust her boundary with Mexico, which at that time was an open and undecided question. The United States assumed the trust and duty of adjusting that question with foreign nations. The right was a right under the resolutions of annexation, to settle it *for her*. Texas and the United States both looked to its adjustment by *treaty* with Mexico. Both looked to its adjustment by *negotiation* with Mexico. The President and Senate, as the treaty-making power, was that to which it was submitted and through which it was to be effected. They have not fulfilled the trust; they have not "adjusted all questions of boundary which arose with other Governments." They are now unable to do so. The agent has, without discharging his functions or duty, appropriated to himself all the trust subject—all the lands in controversy, and others beside. It is all mingled and blended under one grant. There is no line of division. What were the rights of Texas, or what were the undisputed lands of Mexico ceded to the United States, have not been settled by *negotiation*, have not been adjusted between this Government and other Governments. There is no line of division; there is no line of separation. And the question now is, who is to decide? The trustee? He who claims it *for himself*, when he was commissioned and intrusted to settle it for another? He who was sent abroad to adjust the title with another, acquires the other's title and sets that up for himself against his principal and in violation of his trust. He who was sent abroad to treat for another, comes back with the treaty, conveying all to himself. He who assumed as guardian and defender, to protect and maintain the rights of his ward, and the cause of the feeble, comes back in his power and demands the whole. Nay, more, sir; comes back and assumes that it is not only his, but that he is the sole and supreme *judge* of the question? Did Congress declare, or do the joint resolutions declare, that in the failure to adjust the question of boundary with Mexico, they thereby appropriated the territory in controversy to themselves and became the masters of the subject? Oh no, sir! We are, all of us, too good lawyers to maintain such a proposition. We are too just, as men, to insist on such terms. Who, then, is to settle this question as to the boundary of Texas? Shall Congress do it? Certainly not; she is a party to the controversy. The question is one between her and Texas, and she cannot decide in her own case. I repeat the interrogatory: who, then, is to settle the question? and how is it to be settled? Sir, the bill I have presented provides a mode and manner of its settlement, in accordance with the Constitution and in accordance with the wishes and rights of all. It declares "that a new State may be created out 'of and including all that territory ceded to the 'United States by the treaty of peace, friendship, 'limits and settlement made with the Republic of 'Mexico, concluded the 2d February, 1848." It does not define, by metes and bounds, the lines of division between the new State thus created and the State of Texas. It grants all that is ours to the new State; and the new State takes it upon these terms in her grant. And then the question arises between Texas and the new State proposed to be created as to the *true boundary* between them. Here, then, are two coterminous States, with a simple question of boundary existing between them; California holding all we had to give; Texas holding all she was entitled to as against Mexico, when she created us her trustee to adjust it. The Constitution, on its very face, in express terms, has provided and declared that "the judicial power shall extend to controversies between two or more States." And thus the whole question is submitted to the judicial tribunals for their decision and their adjudication.

See how beautifully the system works. Behold how harmoniously and beautifully and wisely those who framed it made it to work! These agitating questions, upon which we have voted and combatted and declaimed, one party affirming and the other disaffirming the boundary of the Rio Grande, upon which we have gone into war, and which have entered into our Presidential contests, and engrossed all our party feelings and exertions, are all hushed and made silent by this bill; and the question is taken from this stormy tribunal, and from the popular agitations of the day, to that which has been provided by the Constitution—into the lower story of the Capitol, where judgment will be pronounced, with all the justice and all the equity which do not belong to us, and with all the acquiescence which does belong to all American communities, under the solemn decisions of her supreme judicial tribunals. This furnishes another reason why I have presented and now urge this bill.

I will now proceed a moment with the details of this bill. Gentlemen honor me most signally with their attention. I suppose it proceeds from nothing but the mere fact of my appearing so seldom before you. Let us look for one moment into the provisions of the bill. It consents to the creation of a State by the people of California and New Mexico, to take effect hereafter, on a day fixed in the bill. I am not going into the constitutional question. I have prepared, and have before me, a constitutional argument on that subject. I have not time, under the one-hour rule, to present it now. When the bill is brought forward, if the proviso is offered, I shall attempt to show that the question of the right of prescribing the Wilmot proviso is a very different one when applicable to a State, in the creation of a government and constitution for herself, from the question when applicable to a territorial government, such as is provided by the bills now on your table, in which that proviso is inserted.

I will merely state the points on which I rest the question. I have not time to elucidate them by argument. If the bill I advocate should find favor with the House; if the Territorial bills should be superseded; if investigation and examination shall induce gentlemen to come to the conclusion, that the condition of our country, both here and in California, requires that a State government should be created for the Territories—that the people there are entitled to such form of government—gentlemen of the North may insist on inserting this anti-slavery provision into this bill, as the condition on which the Territories will be permitted to create a State government.

The clause of the Constitution which guaranties to every State a republican form of government, does not authorize Congress to interfere in the formation of a constitution. To say that we have the power to prescribe, is to declare that the people shall not create a constitution themselves. The very fact that you prescribe terms in its formation takes from it all its virtues—all its power—and subverts every principle on which its rests.

But again: The idea that there is a right in this Government to control a State in the formation of any clause of its constitution, assumes the power that you have a right to alter, to amend, or to change that constitution. I will not enlarge on this proposition. I merely announce it.

But again: The idea that this guarantee subjects the constitution of a State to the action of Congress, is in precise subversion and opposition to the principle on which it was made. That was a guarantee to each State against all the States. It was a guarantee that the State which had a republican form of government should not, by coming into this Union, be under the control of other States to abrogate or alter the constitution which they themselves have formed.

My fourth point is, that this clause of the Constitution is not that Congress shall have the right to enforce this guarantee. The clause does not confer a power upon Congress. It simply imposes a duty upon the States to make good the rights and republican forms of government created by the people of the States for themselves.

But there is another position: Those who made this Constitution did no work of supererogation or folly. The guarantee operates upon the State when admitted, and requires you to preserve a republican form of government, and that is the whole extent of the guarantee. I stated that the framers of the Constitution did no work of supererogation. They guarantied to Virginia a republican form of government. Suppose that her constitution was such as at this day, according to our ideas, was bad in its character, and opposed to your views and opinions, have you the power to cite us here to try our constitution, and see whether it suits you of the North, or you of the West? Why, the power is one which was intended for substantial purposes—for real purposes of self-government. Suppose a State was admitted with a constitution prohibiting slavery, and the next day she turned round and repealed the provision: where is the power on earth to alter it?

Will you, gentlemen of the South, vote against the passage of this bill? Do you come forward and say, we will have a territorial government *nolens volens*—that slavery shall go there, or this Union shall be severed? Will gentlemen from the North say that this Government shall be dissolved if you take it there? Will neither party agree to surrender this territorial power? Do you say that we do not call for a rally of our friends merely in legislative halls; but you call for that rally which presents itself "in battle's magnificently stern array?" Do you call me to that array? Do you ask me to stand there, and stand there by my vote and by my own will resist this great principle of constitutional liberty and popular supremacy in the State governments? If you do, I will not stand with you. The people will not stand with you. Justice is not with you. You war against the fundamental principles upon which our Government rests; upon which our institutions in the South can alone repose in safety.

Again: Gentlemen of the North, will you insist that the Wilmot proviso shall pass *nolens volens*? Why, your orators demonstrate day after day that there can be no slavery there. A gentleman the other day demonstrated to his satisfaction that the people who were there when we took the country do not desire the institution, and he demonstrated further, that those who are going there do not desire it. He showed to you—and it may be true, I make the passing remark—that in this effort, this

career to reduce the country to our possession, the North had the advantage over us—that those in favor of free institutions had the advantage over us, which no power could check. Look for a moment at Virginia and the South. If a slaveholder wants to emigrate and to take his slaves with him, it is a work of time. His business affairs must be arranged. He is a man of substance and property. He has to collect the last year's hire; he has to collect the proceeds of the sale of his farm, and that is not the work of a moment. But that is not the case with those emigrating there from the North. Many of them are bold, intrepid young men, living on the Atlantic borders, who take ship and, on the wings of the wind or with the velocity of steam, go there before a slaveholder can turn round. Who from the West go there? The hardy hunter, who has no home except that bounded by the heavens and the ocean. He throws his rifle on his shoulder and, in the spirit of freedom, reaches it through boundless forests and trackless prairies. It is his country and his home; and he will arrive there and appropriate it while the slaveholders are lingering about Virginia and South Carolina, attempting to get rid of their stock, and their lands, and the thousand cares which surround us. Why, then, do gentlemen say, we will have the Wilmot provio, *nolens volens*? Is it in the mere consciousness of strength and of power? Is it merely because, in the wantonness of power, you choose, like Perditus, to despoil the lioness of her young? You cannot do it, you will not do it. I offer this remark in no taunt. I say to gentlemen of the North, if you want this thing, leave it to a great principle—leave it to natural causes—leave it to the principles upon which the Government is formed. I tell you, if you do not, the reproach and responsibility will belong to you and attach to you, in this wantonness of power, of forcing upon us issues which are unnecessary to your ends, and intended for our degradation. I beg gentlemen to remember, it would be of all things the greatest fatuity and the greatest folly. That strong man of old who pulled down the building and perished amid its ruins, "was blind as well as strong."

What is the argument with which our northern friends meet us? They say New Mexico is not prepared for a State government. She must undergo territorial tutelage. Territorial tutelage! Why, look at it! In the beginning, when Kentucky, Tennessee, and Vermont were the objects upon which the minds of the framers of the Constitution rested, did they think that they needed territorial tutelage? Was it to teach them principles of freedom? No; the reason was, that they were so few in number that they could not constitute a government. Tutelage! You, in the great day and the great hour of this question—are you to stop, like a mere pedagogue, to teach New Mexico and California the A B C of political liberty, while the destruction of an empire and a government might learn you the last lesson of its overthrow? Who, then, wants this delay? The demagogue may want it. He who wants to agitate a Presidential question—who wants a sectional advantage; he who, because he believes he is with the stronger, is willing to keep the question to oppress the weaker—he may defeat it; and when it is defeated, it is a defeat by the union of the pedagogue and the demagogue, neither of whom recognizes the principles on which this Government is founded.

Sir, the territory is said to be too large. It is said that the population is sparsely, thinly scattered over it. Let it be so—what of it? Take the State which the Senator from Illinois [Mr. Douglas] wants: it includes almost all the good land in that country. The residue is a barren and desolate region, where the population will be forever sparse. But what if it be? Cannot they, under their State government, govern it as well as we? Are we, through all time, to convert this hall from a hall of legislation upon grave questions, pertaining to the sovereignty of States, into one of municipal legislation for distant and remote provinces? No; it cannot and it ought not to be.

Mr. Chairman, in adopting the course of policy which I have this day advocated, and in offering this bill, my opinions have been supposed to be adverse to those of the Commonwealth which I in part represent. It may be so. If it is, I do not know it. I say this is a question which we are bound here to settle before this Congress adjourns. The acquisition of California has already cost us much of feeling, of treasure, and of life. But frugality, industry, and enterprise may restore the lost treasure and replenish our exhausted exchequer. New generations will rise up and supply the places of those whom battle and disease have removed from among us. But still it will cost greatly beyond its value, unless by our wisdom and moderation, in these halls, we hold fast to those things which were given us, and which still remain to us. It will cost too much, though all her high mountains were mountains of gold; though her broad ocean may repose on reefs of coral and on heaps of pearl, unless her pacific wave shall flow tranquilly, harmoniously, calmly to our shore, in submission and homage to that standard of freedom and of *union* you have planted upon it.

The task is *ours* to arrest the evil—the *duty* is upon *us* to confront the danger. The glory will be ours if we are true to ourselves to meet and overcome it. Sir, some may suppose that there is individual hazard and danger in the struggle—that some of us may be lost and overthrown in the conflict. I do not believe it. But let it be; it is but the attendant and incident to all actions that are enobling and elevating. Sooner or later, it will come to all of us, never on a field more worthy of the patriot. Let us attempt it *now*. Let us attempt it in that sentiment more to be cherished by the stateman than the soldier:

> "Since all must life resign,
> Those sweet rewards which decorate the brave
> 'Tis folly to decline,
> And steal inglorious to the silent grave."

In the proposition which I have submitted, and in the views which I have expressed to-day, I may not, in the opinion of some gentlemen, have met the views and opinions of Virginia. I tell you, Mr. Chairman, I have had my eyes full upon her. I have looked and dwelt and thought calmly and patiently upon this whole question. I have this day devoted myself to what I regard as her true honor, her present safety, her future glory and welfare. I have anxiously sought to serve her in the brief hour which is allotted me. I believe all her interests are indissolubly connected with the Constitution and *the Union*, and in their maintenance I feel, humble as I am, I do her service. Sir, I may be mistaken, but I cannot be regardless or unmindful of her interest: how could I be? "She was and she is a mother to me." I owe her a sacrifice if her interest or honor demands it. And I am only worthy of *her* when I am wholly regardless of *myself*.

The principles which I this day advocate are wide and universal—great principles that belong exclusively neither to the North, the South, the East, nor West. I ask gentlemen to come forward and submit to that controling principle that will settle this question. I ask them to forget their party relations for a moment. I ask them to look around this broad empire, and see the feverish, the painful, the unreasonable excitement that pervades all classes and all ranks. I ask them to witness the speeches which year after year are delivered—the feverish, the morbid and sickly excitement that pervades this Hall. Recognize this principle—adopt the remedy imbodied in this bill, and it will come over this House and over this nation like the sweet breath of spring to the chamber of disease—healing, strengthening, renovating all of us, so that we shall take up our beds, like the man of old, and run the great and glorious republican career which lays so full before us. Come up, all of you, and settle this question. There may be an extreme party at the North, there may be an extreme party at the South. I say to you in confidence, (I am no prophet, and pretend to be none,) this is the only door through which these Territories can be safely incorporated into our system—the only just, patriotic, and harmonious manner in which this question *ever can* be settled. You may defer it now; but the men who defer it, who put it aside, saying that they are not ready now, and that they will attend to it at a "more convenient season," will be regarded as unwilling guests. There is a great conservative party in the country, to be found north and south, in every portion of the Union, who see, feel, and appreciate the principles on which this bill rests, and the propriety and necessity of sustaining them: a broad clear highway is before them; they will tread it in security and confidence. I do not mean the Whig or the Democratic party; it may be and will be constituted of both. But upon it will be found that great republican national party who can and will maintain the Constitution and the Union. There are extremes to be found both north and south on this question. They who suppose this Union can be or will be dissolved on the issue of the Wilmot proviso, must and will be signally disappointed. I trust and believe the whole country will sustain the principle, and heartily and sincerely submit to the principle of popular and State sovereignty on which the proposed measure rests.

The hammer fell.

Mr. BROWN, of Pennsylvania, followed in a speech (in continuation of that delivered on a former day) on the general subject of slavery. [This speech will be found in the Appendix.]

On motion of Mr. HILLIARD, the committee rose and reported.

Mr. THOMPSON, of Iowa, presented resolutions from the Legislature of the State of Iowa, asking that an appropriation be made for improving the Skunk river, in the State of Iowa; which was referred to the Committee on Public Lands.

Also, resolutions from the Legislature of the State of Iowa, in favor of an appropriation for the improvement of the Des Moines and Rocky River rapids, in the Mississippi river; which were referred to the Committee on Commerce.

Also, resolutions from the Legislature of the State of Iowa, in favor of the establishment of a mail route from Bloomington, Iowa, to Prairie du Chien, Wisconsin; which were referred to the Committee on the Post Office and Post Roads.

Also, similar resolutions in favor of a mail route from Tipton, in Cedar county, to the county seat of Benton county, Iowa; which were referred to the Committee on the Post Office and Post Roads.

Also, similar resolutions in favor of the establishment of a mail route from Ottumwa, in Wapello county, to Charton Point, in Lucas county, in the State of Iowa; which were referred to the Committee on the Post Office and Post Roads.

Also, similar resolutions in favor of the establishment of a mail route from New London, Henry county, directly to Crawfordsville, Washington county, and thence to Iowa City; which were referred to the Committee on the Post Office and Post Roads.

Also, similar resolutions asking a donation of land to aid in the construction of buildings for a branch of the State University at Fairfield.

Also, similar resolutions asking for an appropriation in money or land for the improvement of the Magnoketa river.

The House then adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. NICOLL: The memorial of the Nautical Institution and Shipmasters' Society of New York, asking that adequate facilities be placed at the disposal of Lieutenant Maury, to perfect his wind and current charts. Also, the memorial of the Atlantic Mutual Insurance Company, Goodhue & Co., Howland & Aspinwall, Hargous & Co., and others, underwriters and merchants of the city of New York, asking for an increase of the salary of the judge of the United States district court at Key West, Florida. Also, the memorial of the General Mutual Insurance Company, Grinnell, Minturn, & Co., D. A. Kingsland & Co., Hicks & Co., and others, underwriters and merchants of the city of New York, asking for an appropriation and for the necessary measures to establish a beacon on the southeast point of the Romer shoals; also, to fix, at proper places, three buoys in Buttermilk channel, and other buoys where they may be needed, in the lower bay of New York harbor; a number of those heretofore placed there having been recently carried away by the ice.

By Mr. CRISFIELD: The petition of M. D. Hurtz and 18 others, citizens of Dorchester county, in the State of Maryland, praying for a reduction of the rates of postage, and the abolition of the franking privilege.

By Mr. CATHCART: The petition of E. M. Chamberlain and 132 other citizens of Indiana, praying the reduction of postage and abolition of the franking privilege.

By Mr. DICKINSON: The petition of masters of steamboats and vessels on the Lakes, praying Congress to regulate, by law, the carrying and showing of lights by vessels and steamboats during night, to indicate their course and situation.

By Mr. BROWN, of Virginia: The petition of R. McKee and others, asking a change in the laws concerning the mineral lands of Lake Superior.

By Mr. PALFREY: Petitions from E. A. Wetmore and 779 others, of Utica, New York; from Anna S. Gates and 292 others, of Loomington, Massachusetts; and from Maria P. Sabin and 214 others, of Templeton and Phillipston, Massachusetts, praying Congress to prevent the extension of slavery, to withdraw the protection of Government from the American slave trade, and to suppress slavery wherever Congress has competent jurisdiction. Also, the petition of William H. Sanford and 43 others, of Boyleston, Massachusetts, praying for uniform and reduced rates of postage.

By Mr. CUMMINS: The petition of Atwood Wash, executor of Susanna S. Wash, for arrearages of pension.

THE CONGRESSIONAL GLOBE.

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30TH CONGRESS, 2D SESSION. MONDAY, FEBRUARY 12, 1849. NEW SERIES.....No. 31.

By Mr. KAUFMAN: The petition of George Lendrum, of Sabine parish, Louisiana, praying compensation for beef furnished the United States army at Fort Jesup, Louisiana.

By Mr. DARLING: A petition from sundry citizens of Wisconsin, praying for the establishment of a mail route from Grafton in the county of Washington, to Waukesha in the county of Waukesha. Also, the petition of Rhoda Huson, of Wisconsin, for a pension on account of the services rendered, and an injury received by her late husband, while employed in the service of his country, in the late war with Great Britain.

By Mr. GIDDINGS: A large number of petitions of ladies, praying Congress to abolish slavery and the slave trade wherever it exists by act of Congress, and to lend the protection of law, so far as constitutional, to one million five hundred thousand females in the United States, who are now subjected to the barbarous passions of savage owners, and that the further extension of slavery may be prohibited.

Julia W. McLean and...	51	other ladies of	Highland co., O.
Ann Goodall and.....	113	do	Onondaga co., N. Y.
Hannah W. Day and....	112	do	Columbiana co. Ohio.
Fidelia H. Cud and.....	108	do	America.
Francis D. Tally and....	120	do	do
Jemima Lovejoy and....	136	do	do
E. L. Pierce and.....	111	do	do
Abby A. A. Harford and..	38	do	do
Rosana Marks and.....	937	do	do
Eunice Richardson and..	83	do	do
Matilda Burke and.....	314	do	do
L. G. Williston and.....	71	do	do
Harriet A. Lombard and.	203	do	Elbridge, N. Y.
Polly Lewis and.....	135	do	Augusta, Maine.
Eliza S. Allen and.....	138	do	Oswego, N. Y.
Clarissa G. Olds and.....	314	do	Madison, Ohio.
Sally G. Broughton and..	98	do	Rensselaer co., N. Y.
Fanny J. Church and....	185	do	America.
P. A. Zimmerman and...	105	do	do
Sally Fellows and.....	68	do	do
D. G. Williston and.....	71	do	do
Matilda Baker and.....	314	do	do
Susan A. Dixon and.....	181	do	do
Sophia Fay and.....	121	do	do
Lucretia S. Campbell....	85	do	do
Dorcas Espy and.....	63	do	do
Harriet A. Weed.....	202	do	Hartford, Conn.
Eleanor Finny and.....	73	do	America.
Famar W. Strong and...	63	do	do
Keziah Pope and.....	47	do	do
A. C. B. Seymour and...	31	do	do
Eliza F. Henders and....	73	do	Mahoning co., Ohio.
Catharine L. Richard....			
M. J. Frisbee and.....	135	do	Lorain co., Ohio.
Anna Foot and.....	137	do	America.
E. F. Admar and.....	97	do	do
Mary Knowles and.....	168	do	do
Julia Thurston and.....	83	do	Licking co., Ohio.
Elizabeth King and.....	41	do	Portage co., Ohio.
Nancy Henry and.....	110	do	Mahoning co., Ohio.
Cornelia Bixley and.....	27	do	Ontario co., N. Y.
May A. Wheeler and....	135	do	Oswego co., N. Y.
Sarah Ann Streeter and..	103	do	Hamilton, N. Y.
Phebe R. Cook and.....	107	do	Maine.
Jane McGowen and.....	31	do	America.
Charlotte W. Billings and	180	do	Hampshire county.
Dea Parker and.....	39	do	Nassau, N. Y.
Clarissa Curtiss and.....	237	do	Portage co., Ohio.
Charity Wadsworth and.	89	do	America.
Sarah Forbes and.....	187	do	Ashtabula co., Ohio.
Elizabeth Dills and.....	120	do	America.
Amanda Murar and.....	47	do	do
Matilda G. S. Bates and..	75	do	do
Phebe McGeah and.....	805	do	New York city.
Eliza W. Richardson and	73	do	Ashtabula co., Ohio.
J. S. Smith and.....	52	do	America.
Lucy B. Wright and.....	365	do	Springfield, Illinois.
Elizabeth C. Plumb and.	175	do	Hartford, Ohio.
Ann E. Bliss and.....	66	do	State of New York.
M. F. Kingsbury and....	76	do	Putnam, Ohio.
Esther Ward and.....	124	do	Bergen, N. Y.
Elizabeth Wann and....	102	do	America.
Sarah S. Sherman and...	113	do	Cassapolis, Michigan.
Jane Crawford and.....	73	do	Jefferson co., Ohio.
Laura Sequins and.....	96	do	Vermont.
Julia Webb and.....	157	do	America.
B. P. Hillyer and.....	272	do	do
A. A. Evans and.....	68	do	do
	8773		

By Mr. HOLMES, of New York: The petition of sundry citizens of Buffalo, New York, and other places, for abolishing corporal punishment in the navy. Also, the petition of citizens of Buffalo, New York, Rochester, &c., asking Congress to prohibit the introduction of liquor into any United States vessel except for medicinal purposes.

By Mr. WENTWORTH: The petition of citizens of Oswego, Kendall county, Illinois, for a donation of land, to make a railroad to connect the Lakes and the Mississippi river. Also, the petition of citizens of De Kalb county, for a mail route from St. Charles, Kane county, via Fairfield, at Henry Warner's Line post office, De Kalb, Centre, Broadus Grove, and Paine's Point, to Grand Detour.

By Mr. ROCKHILL: The petition of William G. Ewing and 51 other citizens of Fort Wayne, Indiana, praying Congress to pass a law to reduce the postage on all letters and newspapers, also to abolish the franking privilege entirely; postage of members of Congress to be paid as their other expenses, and postmasters to be remunerated for the loss of the franking privilege by an increase of their commissions.

By Mr. COCKE: The petition of Robert M. Anderson and 96 others, citizens of Jefferson county, Tennessee, praying Congress to establish a uniform rate of cheap postage.

IN SENATE.

THURSDAY, *February* 8, 1849.

The VICE PRESIDENT laid before the Senate a report from the Secretary of the Treasury, in relation to the expenditures for the coast survey; which was referred to the Committee on Finance, and ordered to be printed.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Navy, in compliance with a resolution of the Senate, showing the amount of expenditures for the freight of provisions, clothing, small stores, and other supplies for the squadron in the Pacific; also, for transporting seamen, for one year; which was referred to the Committee on Naval Affairs.

MEMORIALS AND PETITIONS.

Mr. DIX presented a petition from Austin Packard and other inventors, praying for an amendment of the patent laws; which was referred to the Committee on Patents.

Mr. UPHAM presented a petition from citizens of Washington county, Vermont, praying for a uniform rate of postage, and the total abolition of the franking privilege; which was laid on the table.

Mr. BUTLER presented a petition from the merchants of Charleston, South Carolina, asking for legislation on the tonnage duties now levied upon vessels coming from Old Spain to the United States via the West Indies; which was referred to the Committee on Commerce.

Mr. BORLAND, from the Committee on Military Affairs, made an adverse report on the petition of James Foy and others; and the report, with a letter from the Quartermaster General, was ordered to be printed.

Mr. BELL, from the Committee on Indian Affairs, reported House bill for the relief of Robert B. Mitchell, without amendment.

Mr. BELL, from the same committee, reported House bill for the relief of Lowry Williams, with a recommendation that it be rejected.

Mr. BELL also, from the same committee, reported House bill for the relief of Jesse Sutton, without amendment.

Mr. ATHERTON, from the Committee on Finance, reported House bill making appropriations for the support of the army of the United States, for the year ending 30th June, 1850, without amendment.

Mr. ATHERTON, from the same committee, reported House bill for the payment of navy pensions, for the year ending 30th June, 1850, without amendment

Mr. BREESE, from the Committee on Commerce, reported a bill giving the assent of Congress to the State of Illinois to improve the navigation of the Des Moines Rapids of the Mississippi river, in the State of Illinois; which was read, and ordered to a second reading.

THE TRANSPORTATION SERVICE.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, to which was referred so much of the President's message as relates to the transfer of vessels from the War to the Navy Department, reported a joint resolution; which was read as follows:

Resolved, &c., That the Secretary of War be and is hereby authorized and directed, in conformity with the recommendation contained in his annual report, to transfer to the Navy Department such transport vessels now belonging to the War Department as in his judgment will promote the public service.

Mr. D., in explanation of the proposed transfer, asked the attention of the Senate to the following extract from the report of the Quartermaster General made to the Secretary of War, which is to be found in the documents accompanying the President's message:

"The vast increase of our territories, with the long sea voyages necessary to reach a portion of them, would seem to suggest the necessity of a change in the transport service.

"We are now in precisely the condition of the great maritime nations of Europe who have distant colonies. Those nations, I understand, and particularly Great Britain and France, confide the sea transportation of the army to the Admiralty, or directors of the marine. With those nations vessels of war are often converted into army transports, and are used as far as they can be made available; and it is only where there are no public vessels disposable, or not a sufficient number for the immediate occasion, that private vessels are chartered. Economy, which all nations with large establishments are obliged to regard, as well as the efficiency of the naval service, is promoted by the arrangement. Besides, the head or director of the navy only can judge when a convoy is necessary, or combine the movements of the transports with the convoy."

Mr. D. briefly commented on this report, and asked that the joint resolution might now have a second reading; and it was read a second time accordingly by unanimous consent.

Mr. BRADBURY objected to its passage at this time, and it was therefore laid over.

PORT OF ENTRY IN TEXAS.

Mr. DIX, from the Committee on Commerce, to which was referred the bill to establish a port of entry at the Brazos de Santiago, in the State of Texas, reported the same with an amendment.

On motion of Mr. DIX, the Senate proceeded to the consideration of the bill as in Committee of the Whole.

Mr. DAVIS, of Mississippi, inquired why Point Isabel had been selected?

Mr. DIX replied, that from the information which was before the committee, it was supposed to be the proper point. He, however, knew nothing about the locality, nor had he any information on the subject, except what he had received from the description given him by the citizens who had presented this memorial. From them he understood that there was more water at this passage than at the passage below, and therefore it was supposed to be a proper place for a custom-house and a port of delivery. He had understood that there were objections to Brazos Island, which render it an unfit place for this purpose, as it was subject to be overflowed.

Mr. FOOTE inquired if there were not memorials setting forth the facts respecting these points?

Mr. DIX said there were.

Mr. DAVIS, of Mississippi, stated that he had received the memorial to which the Senator from New York referred, but it was evident the Senator from New York did not understand the geography of the country, which Mr. DAVIS proceeded to explain.

Mr. RUSK remarked that several memorials had been sent to him, one in favor of Point Isabel, one in favor of the Brazos, and one in favor of the mouth of the Rio Grande; and he had taken much pains to ascertain the proper locality. He thought there was a difficulty at Brazos Island, from the fact that it was considered unsafe; that in the exposure to northers it overflows, and this was a frequent occurrence; in consequence of which, although the Mexican custom-house had been established there, they had been compelled to remove it to Point Isabel, which is on the main land. A majority of the people had sent memorials, and had determined on Point Isabel as the proper place. A considerable town had grown up there; and another thing that seemed to indicate this as the proper place was the fact that many goods will be landed there for the purpose of carrying them to the Mexican ports. He stated that he had received information from the Secretary of the Treasury that his opinion led him to conclude that Point Isabel was the best place.

Mr. WESTCOTT inquired if there was steamboat navigation at that point?

Mr. RUSK replied that there was; and proceeded to say that the difficulty at the mouth of the river, on account of the depth of water, was greater than at Brazos Island; that at the island there was nine feet of water, and not so much at the mouth of the river. Sometimes it is impossible to enter at the mouth of the river. The only necessity for anything at the mouth of the river arose from the fact that goods are smuggled in there, and carried thence up the Rio Grande, without paying any duty. The greater portion of trade was at Point Isabel. He suggested that it was a matter of little consequence, since, if this place were not found to be the proper one, it could be removed. But it was a matter of consequence that this bill pass, since commerce is now going on there, and those engaged in it need protection. Millions of dollars

in value will pass there, and it was proper that the United States should protect this commerce and guard against smuggling, which will take place unless a custom-house is established there.

Mr. DAVIS, of Mississippi, remarked that he was in favor of establishing a custom-house at one of these places, but he thought Point Isabel out of the way. The difference in amount of water at the two places was only one or two feet. Only the smallest vessels could go in at either place; large transports being compelled to anchor off at a distance, and send in their cargoes by lighters; and this must always be the case. When the river was high, the difficulty was not wholly avoided. He never knew a port where so many wrecks occurred as here. He scarcely knew a vessel to touch here without being wrecked or broken; so that every vessel above the smallest class must anchor above the bar and use lighters. The question to be settled, then, would be, where shall the custom-house be established, so that large vessels can be employed?

Mr. RUSK stated that he did not pretend to make any statement on this subject from his own knowledge, having no information except that which he had received from citizens there, and from the memorials which he had received. But the result to which he had come was, that this was the only place at which it could be proper to locate a custom-house. The Mexican Government had established their custom-house at Brazos Island, which had been swept away several times. The whole island had been repeatedly swept by the flood occasioned by the northers. With respect to the mouth of the Rio Grande, he had learned that it frequently changed its depths. On the whole, he considered it a mere temporary matter, and, when the best place is ascertained, it would be easy to remove to that place.

Mr. DIX repeated that the only information he had received was from citizens and from memorials, of which there had been several sent to the Senate. On this point he asked permission to read an extract from a document which he had received. He then read the following from a series of resolutions adopted at a meeting held at Point Isabel on the 15th December, 1848:

"Whereas experience has designated Point Isabel as the only available position on our coast for a port of entry and the establishment of custom-house stores, the Mexican Government having repeatedly attempted to establish theirs on Brazos Island, at which place they were successively destroyed by floods, until the year 1844, when every improvement existing on the island was swept away, not leaving a vestige of its ever having been inhabited, great destruction of life and property taking place; at the same time the settlements at the mouth of the Rio Grande sharing the same fate, the inundation extending to, and destroying life and property as high as Burrita, nine miles in a straight line above its mouth; after which year the Government of Mexico established their only coast custom-house section at Point Isabel, where it remained until the occupation by our troops: Therefore—

"*Be it resolved*, That Point Isabel, from its natural position, is and must continue to be the concentrating point upon the coast for the commerce of the valley of the Rio Grande and the country tributary to it, it being the position best suited to meet the demands of trade, and to advance the commercial interests of the United States, being the only high land immediately on our coast—the only available position not subject to devastating inundations.

"*Resolved*, That the citizens on the left bank of the Rio Grande look to the Government of the United States for the enjoyment of at least the same commercial privileges as they enjoyed under the Mexican Government; and as Point Isabel, under that Government, was a port of entry, we ask that it may be allowed to remain so under the Government of the United States."

The amendment was agreed to, and the bill as amended was reported to the Senate, and ordered to be engrossed and read a third time, and was subsequently read a third time by unanimous consent, and passed.

BILLS ON LEAVE.

Mr. JOHNSON, of Georgia, pursuant to notice, asked and obtained leave to introduce a bill to authorize the payment to the State of Georgia of the unexpended balance of the sum of $175,000, which was appropriated to settle the claims of said State for the services of her militia, by the act of August 11, 1842, entitled "An act to provide for the settlement of the claims of the State of Georgia for the services of her militia;" which was read a first and second time, and referred to the Committee on Indian Affairs.

Mr. BERRIEN asked and obtained leave to introduce a bill making further provision for the widows and orphans of officers, non-commissioned officers, musicians and privates, whether of the regular army or of volunteers, who have died or may die of diseases contracted while in the service of the United States, and in the course of their duty in the prosecution of the war with Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

RESOLUTIONS.

Mr. WEBSTER submitted the following resolution, which lies over, under the rule:

Resolved, That the Committee on Commerce inquire into the expediency of providing by law for the taking of proper security on the arrival of alien passengers in the United States who are diseased, or impotent, or paupers, or likely to become paupers, that such alien passengers shall not become a public charge for support and maintenance, either in the ports and places at which they may arrive, or in any other part of the United States to which they may proceed.

Mr. PHELPS submitted the following resolution, which was considered and agreed to:

Resolved, That the Secretary of the Senate be directed to cause the list of claims prepared by him under the resolution of the Senate of the 9th April, 1840, and brought down to the close of the 26th Congress, by resolution of the 27th February, 1841, to be reprinted for the use of the Senate, and that he cause the list to be brought down to the present session, incorporating such continuation in the list thus to be printed.

Mr. WESTCOTT submitted the following resolution; which, after a brief explanation by Mr. WESTCOTT, was considered and agreed to:

Resolved, That the Secretary of the Navy do communicate to the Senate the despatch of the 5th February, 1847, to Commodore Robert F. Stockton, commanding the forces of the United States in California; and, also, such other despatches of Commodore Stockton relating to the naval and military operations of that country as have not heretofore been communicated to Congress and published.

Mr. WESTCOTT submitted the following resolution; which was considered and agreed to:

Resolved, That the Secretary of the Navy communicate to the Senate the report to his department recently made by Lieutenant William F. Lynch, of the United States navy, of the examination by himself and other officers of the United States navy, of the Dead Sea, or such portions of said report as said Secretary may deem proper to be made public.

Mr. METCALFE submitted the following resolution; which lies over under the rule:

Resolved, That the President be requested to communicate to the Senate the proceedings under the act of Congress of the last session, to compensate R. M. Johnson for the erection of certain buildings for the use of the Choctaw Academy; also, the evidence of the cost of said buildings.

EXTRA COMPENSATION TO A POSTMASTER.

On motion of Mr. DOWNS, the previous orders were postponed, and the Senate proceeded to consider the motion lying on the table, to reconsider the vote by which the bill for the relief of William de Buys, late postmaster of New Orleans, was rejected.

Mr. DOWNS explained the case; and, after some remarks by Mr. HAMLIN, Mr. TURNEY, Mr. BRADBURY, Mr. NILES, Mr. RUSK, Mr. BERRIEN, and Mr. WALKER—

Mr. ATHERTON asked for the yeas and nays on the motion to reconsider, which were ordered; and the question being taken, it was decided as follows:

YEAS—Messrs. Allen, Atchison, Badger, Baldwin, Bell, Benton, Berrien, Borland, Breese, Clarke, Davis of Mississippi, Dayton, Dodge of Iowa, Downs, Foote, Greene, Hannegan, Hunter, Johnson of Louisiana, Jones, Mangum, Mason, Miller, Phelps, Rusk, Sebastian, Sturgeon, Upham, Walker, and Westcott—30.

NAYS—Messrs. Atherton, Bradbury, Bright, Corwin, Dickinson, Dix, Felch, Hale, Hamlin, King, Metcalfe, Niles, Spruance, Turney, Underwood, and Yulee—16.

So the motion to reconsider was agreed to.

The question recurring upon ordering the bill to a third reading—

Mr. WALKER moved to amend the bill, by adding the following section:

And be it further enacted, That the Secretary of the Treasury be, and he is hereby, directed to ascertain the amount of lands which have been located by military land warrants issued for military services in the late war with Mexico, by persons other than the persons to whom such warrants were issued, their widows or heirs, and that he pay to the several registers and receivers of the several land offices an amount equal to that which they would have been entitled to had such lands been sold for money, deducting therefrom any sums which such officers may have received according to law as fees for the location of land warrants, such payment to be made out of any moneys in the treasury not otherwise appropriated.

Mr. BADGER desired to know if the amendment was in order, having no relevancy to the bill.

PRESIDING OFFICER. It appears to the Chair to be a very good ground of objection that the amendment relates to a different subject; but there is no express rule which requires the Presiding Officer to decide that the amendment is not in order.

Mr. WALKER explained his amendment.

Mr. DOWNS replied.

Mr. JOHNSON explained that this was a House bill; whereupon—

Mr. WALKER withdrew his amendment.

The bill was then opposed by Mr. BRIGHT, who renewed the amendment withdrawn by Mr. WALKER.

Mr. UNDERWOOD moved to amend the amendment by adding as follows:

And be it further enacted, That the Postmaster General cause to be paid to those postmasters, whose box rents do not amount to $3,000, the deficiency, provided such deficiency can be paid out of the commissions they receive, where such commissions at the rate allowed them would exceed $2,000.

Mr. DOWNS opposed the amendments, and after some remarks from Mr. NILES, Mr. BERRIEN, Mr. UNDERWOOD, Mr. DICKINSON, and Mr. BRADBURY—

Mr. HALE moved to lay the bill and amendments on the table.

Mr. BADGER asked for the yeas and nays; which were ordered.

The question was then taken and decided as follows:

YEAS—Messrs. Baldwin, Bradbury, Bright, Corwin, Dickinson, Dix, Felch, Hale, Hamlin, King, Mason, Metcalfe, Niles, Spruance, Turney, and Underwood—16.

NAYS—Messrs. Atchison, Badger, Bell, Berrien, Borland, Breese, Clarke, Clayton, Davis of Mississippi, Dayton, Dodge of Iowa, Douglas, Downs, Fitzpatrick, Greene, Hannegan, Houston, Hunter, Johnson of Louisiana, Jones, Mangum, Miller, Phelps, Rusk, Sturgeon, Walker, Webster, Westcott, and Yulee—29.

So the motion to lay on the table was not agreed to.

The question being then taken on the amendment to the amendment, it was rejected.

The question recurring upon the amendment, it also was rejected.

The question being stated upon ordering the bill to a third reading, the yeas and nays were demanded and ordered, and, being taken, resulted as follows:

YEAS—Messrs. Atchison, Badger, Bell, Berrien, Borland, Butler, Clarke, Clayton, Davis of Mississippi, Dodge of Iowa, Downs, Foote, Greene, Hannegan, Houston, Johnson of Louisiana, Jones, Mangum, Miller, Phelps, Rusk, Sturgeon, Walker, Webster, and Westcott—25.

NAYS—Messrs. Allen, Baldwin, Bradbury, Bright, Corwin, Dickinson, Dix, Felch, Fitzgerald, Fitzpatrick, Hale, Hamlin, King, Metcalfe, Niles, Spruance, Turney, Underwood, and Yulee—19.

The bill was then read a third time and passed.

WILLIAM A. SLACUM.

Mr. CLARKE moved a reconsideration of the vote by which the Senate concurred in the House amendments to the bill for the relief of William A. Slacum.

Mr. HANNEGAN. The amendment made by the House was concurred in, I believe, without any attention being directed to it. The bill has passed the Senate repeatedly, and has failed in the House for the want of time to act upon it. The fact is this: Mr. Slacum, who was a purser in the navy in the time of Gen. Jackson, proceeded to Oregon and collected all the information, all the statistics he possibly could, in relation to that country. In the course of that expedition he was subjected, as a matter of course, to many privations. He performed his duty ably and satisfactorily. It is not proposed to pay his expenses, but the proposition, which was stricken from the bill by the House, was this. The Committee on Foreign Relations here gave him, while on this service, in lieu of his purser's pay, six dollars a day, being simply the compensation allowed to a bearer of despatches. The House disagreed to this, and simply continued his pay as purser. Certainly, under no rule that I have ever heard of, could he be called upon to perform this duty as purser in the navy.

The question on reconsideration was decided in the affirmative; and, the question being put upon concurring in the amendment of the House, the amendment was not concurred in.

DAVID MYERLE.

The Senate then resumed the consideration of the bill for the relief of David Myerle, the question pending being upon an amendment submitted by Mr. UNDERWOOD, directing that the money appropriated by the bill should go to the benefit of Messrs. Montmoulin & Cornwell, the assignees of the hemp rejected by the officers of the United States.

Some discussion then took place, in which Mr. JOHNSON of Louisiana, Mr. BRIGHT, Mr. UNDERWOOD, and Mr. WEBSTER, participated.

The amendment was then rejected.

The question being on the third reading of the bill—

Mr. BRADBURY moved to amend the bill by striking out "thirty" and inserting "ten;" which was agreed to—ayes 22, noes 20.

The bill was then reported as amended, and the question being on concurrence with the committee in the amendments—

Mr. HALE, Mr. BRADBURY, Mr. BADGER, Mr. ATCHISON, Mr. NILES, Mr. BENTON, and Mr. FOOTE, made some remarks.

The yeas and nays were ordered on this question, and the question being taken, it was decided as follows:

YEAS—Messrs. Allen, Atchison, Atherton, Bell, Benton, Borland, Bradbury, Breese, Calhoun, Corwin, Davis of Mississippi, Dix, Dodge of Iowa, Downs, Felch, Fitzgerald, Hamlin, Hannegan, Johnson of Georgia, Jones, Metcalfe, Sebastian, Spruance, Sturgeon, Turney, Underwood, and Upham—27.

NAYS—Messrs. Badger, Berrien, Bright, Butler, Clarke, Dayton, Dickinson, Douglas, Foote, Hale, Houston, Hunter, Johnson of Louisiana, King, Mangum, Miller, Niles, Phelps, Rusk, Walker, Webster, Westcott, and Yulee—23.

So the amendments were concurred in.

Mr. ATCHISON proposed that the bill should be passed over until to-morrow. In the mean time, he would propose an amendment to refer the subject to the Secretary of the Navy, and if the hemp was improperly rejected, he would vote to give the claimant full compensation.

Mr. BERRIEN declined.

Mr. UNDERWOOD asked for the yeas and nays on the third reading of the bill.

Mr. ALLEN. Mr. President, with the view to give an opportunity to the Senator from Missouri [Mr. ATCHISON] to prepare his amendment, I move that the Senate do now adjourn.

Mr. BADGER. If we adjourn now, the bill will not come up again for a week.

The motion to adjourn was not agreed to.

The question was then taken on the third reading, and decided as follows:

YEAS—Messrs. Badger, Baldwin, Bell, Berrien, Bright, Butler, Clarke, Dayton, Dickinson, Douglas, Foote, Hale, Houston, Johnson of Louisiana, King, Mangum, Miller, Niles, Phelps, Rusk, Walker, Webster, Westcott, and Yulee—24.

NAYS—Messrs. Allen, Atchison, Atherton, Benton, Borland, Bradbury, Calhoun, Corwin, Dix, Dodge of Iowa, Downs, Felch, Fitzgerald, Hamlin, Hannegan, Hunter, Johnson of Georgia, Jones, Metcalfe, Spruance, Sturgeon, Turney, Underwood, and Upham—24.

PRESIDING OFFICER. The Chair votes in the affirmative. If there is no objection, the bill will now have its third reading.

Mr. BENTON. Objection, sir; objection.

Mr. BERRIEN. Mr. President, it does not require unanimous consent.

PRESIDING OFFICER. Shall the bill now have its third reading?

The question was taken and decided in the affirmative.

Mr. TURNEY. Mr. President, I move that the Senate do now adjourn.

On a division the motion was not agreed to—21 voting in the affirmative, and 24 in the negative.

The bill was then read a third time and passed.

And, on motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 8, 1849.

The Journal of yesterday was read and approved.

ALIEN PASSENGERS.

Mr. ASHMUN asked leave to offer the following resolution; which was read for information:

Resolved, That the Committee on the Judiciary inquire into the expediency of providing by law for taking of proper security, on the arrival of alien passengers in the United States, who are diseased, impotent, or paupers, or likely to become paupers, that such alien passengers shall not become a public charge for their support and maintenance, either in the ports or places in which they may arrive, or in any other part of the United States to which they may proceed.

Mr. PETTIT objecting, the resolution was not received.

Mr. JOHNSON, of Arkansas, asked leave to present a memorial.

Mr. ASHMUN objected.

Mr. GRINNELL called for the regular order of business.

Mr. KAUFMAN said there were a number of bills from the Senate on the Speaker's table, which he would ask should now be taken up, and referred to the appropriate committees.

Several members insisted on the regular order of business.

The SPEAKER said he would call the attention of the House to a new rule or regulation which had been adopted by the House about a week ago, and which was in the following words:

Resolved That on each Thursday during the present session, after the present week, the calendar of bills in Committee of the Whole on the state of the Union shall be called over, and the bills to the passage of which no objection shall then be made, shall be first considered and then disposed of.

This was the first day, the SPEAKER said, on which this rule became absolute.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of executing the said order of the House.

Mr. GIDDINGS asked leave to withdraw certain papers from the files of the House.

Mr. ROCKWELL insisted on his motion.

Mr. FULTON was understood to request the gentleman from Connecticut [Mr. ROCKWELL] to waive that motion for one hour, so that the committees might be called for reports.

Mr. BARRINGER made the same suggestion.

Mr. ROCKWELL waived his motion for the purpose indicated.

Mr. SMITH, of Illinois, asked leave to present certain joint resolutions of the Legislature of Illinois.

Objection having been made, the resolutions were not received.

Mr. HALL, of New York, inquired of the Speaker whether the business first in order would not be the bill reported by him yesterday, from the Committee on the Judiciary, in relation to the organization of a district court in the western district of Louisiana?

The SPEAKER said that that bill had taken its place on the file of bills on their engrossment.

The committees were then called for reports; when,

On motion of Mr. TAYLOR,

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the joint resolution of the General Assembly of the State of Iowa, asking an appropriation to defray the expenses of running the northern and western boundary lines of the State of Iowa, and that the same be referred to the Committee on Public Lands.

LAWS OF CONGRESS.

Mr. HALL, of New York, from the Committee on the Judiciary, reported a joint resolution, authorizing the Secretary of State to increase the number of copies of the laws of Congress annually distributed to the several States and Territories.

Mr. HALL asked that it might be put upon its passage. He said that there had been no increase by law of the copies to be distributed among the several States and Territories since the year 1818. A correspondence had taken place between the Secretary of State of the State of New York and the Secretary of State of the United States, upon the subject; and the Committee on the Judiciary, in consequence of the increase of the Territories, had instructed him (Mr. H.) to report the resolution, which authorized an addition of two thousand copies to the number of eleven thousand provided for distribution since the year 1818.

The resolution, by general consent, was read a third time and passed.

PENNSYLVANIA UNITED STATES COURTS.

Mr. J. R. INGERSOLL, from the Committee on the Judiciary, reported a bill supplementary to an act approved March 19, 1842, entitled "An act supplementary to an act entitled 'An act to amend the act approved May 13, 1800, entitled An act to amend An act entitled An act to establish the judicial courts of the United States;'" which was read twice.

The bill having been read twice by its title—

Mr. INGERSOLL asked that it be put upon its passage.

Mr. JONES called for the reading of the bill; which was read through.

Mr. INGERSOLL briefly explained the provisions of the bill, and the necessity, with reference to the business before the courts in Pennsylvania, of its immediate passage.

Some conversational explanation in respect to the objects and application of the bill passed between Messrs. GRINNELL, J. R. INGERSOLL, BOWLIN, NICOLL, LYNDE, and JONES of Tennessee.

Mr. CROWELL said, that as there were several other committees yet to make reports, and as this was the fourth day during which the attention of the House had been occupied by the Committee on the Judiciary, he would move the previous question.

[SEVERAL VOICES: Move that the bill be referred to the Committee of the Whole on the state of the Union.]

Mr. HOUSTON, of Alabama, thought (he said) that the bill should take that direction, and that it should not be thus hastily disposed of. He thought there was evidence in the bill itself that there would be inequality in the operation of the law in the various judicial districts of the United States.

The SPEAKER inquired if the gentleman from Ohio [Mr. CROWELL] gave way for a motion to commit?

Mr. CROWELL adhered to his motion.

The SPEAKER said the motion to commit had not been made; but if it had, the previous question would not cut it off.

Mr. HOUSTON said he had not made the motion to commit, and supposed that he could not, as the previous question was pending. If the motion to commit were in order, he would make it now.

Mr. CROWELL withdrew his demand for the previous question, moved to commit the bill to the Committee of the Whole on the state of the Union, and then renewed the demand for the previous question.

There was a second. The main question was ordered to be now taken; and, having been taken, the bill—by ayes 82, noes 38—was referred to the Committee of the Whole on the state of the Union.

On motion of Mr. J. R. INGERSOLL,

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the petition of sundry persons of Rhode Island for the abolition of capital punishment, and that the same be laid upon the table.

Mr. J. R. INGERSOLL, from the Committee on the Judiciary, reported the following resolution; which was read and agreed to:

Resolved, That the Clerk of this House be directed to purchase of Little & Brown the same number of copies of their annual continuation of the Statutes at Large and Treaties of the United States already published, and including the present Congress, as was furnished by them of their edition of the Statutes at Large in eight volumes; and that the same be distributed by him as the Statutes at Large to which they are supplementary, were distributed: *Provided*, Such continuation can be purchased at a price not exceeding sixty cents for the laws of each session, and the treaties published therewith.

Mr. FRENCH, from the same committee, to whom was referred the petition of J. W. Nye, praying for the payment of services rendered under a contract with the postmaster of the House of Representatives, reported the following resolution:

Resolved, That the Clerk of this House pay out of the contingent fund to J. W. Nye, the sum of five hundred and twenty-five dollars, on his executing a release, under his hand and seal, to the United States, in such form as shall be approved by said Clerk, of all claims against the United States, or the postmaster of the House of Representatives, in respect to the several matters set forth in his petition and papers, referred to the Committee on the Judiciary of the House, or referred to in the papers, or by the witnesses whose testimony was before the committee; which release shall, by the said Clerk, be preserved amongst the files of his office.

After some remarks, by way of explanation and inquiry, by Messrs. FRENCH, STUART of Michigan, JONES of Tennessee, WENTWORTH, KENNON, and ROCKWELL of Connecticut—

On motion Mr. JONES, of Tennessee, the resolution was laid on the table.

On motion of Mr. KING, of Mass., it was

Ordered, That the Committee on Revolutionary Claims be discharged from the further consideration of the petition of Cornelius Bates, and that it be referred to the Committee on Revolutionary Pensions.

On motion of Mr. KING, of Mass., it was

Ordered, That the Committee on Revolutionary Claims be discharged from the further consideration of the petition of Dempsey Nash, and that leave be granted to withdraw the said petition and papers from the files of the House.

Mr. NEWELL, from the Committee on Revolutionary Claims, reported a bill for the relief of John Moore White, accompanied by a report in writing; which was read twice, and committed to the Committee of the Whole House, and the bill and report ordered to be printed.

Mr. BUTLER, from the same committee, reported a bill for the relief of the legal representatives of James Bell, deceased, accompanied by a report in writing; which bill was read twice and

committed, and the bill and report ordered to be printed.

Mr. WICK, from the Committee on Private Land Claims, reported a bill for the relief of Charles McLane, of Missouri, accompanied by a report in writing; which bill was read twice.

Ordered, That the said bill be engrossed and read a third time to-day.

And being engrossed, was accordingly read a third time and passed, and sent to the Senate for concurrence.

Mr. TOMPKINS, from the same committee, reported a joint resolution for the relief of John B. Nevitt, of Adams county, Mississippi, accompanied by a report in writing; which joint resolution was read twice, and ordered to be engrossed and read a third time to-day.

And being engrossed, was accordingly read a third time and passed, and sent to the Senate for concurrence.

On motion of Mr. GAYLE,

Ordered, That the Committee on Private Land Claims be discharged from the consideration of the petition of William G. Ross, and that it be referred to the Committee on Public Lands.

Mr. G., from the same committee, made an adverse report upon the petition of John T. Faris; which was laid upon the table, and ordered to be printed.

On motion of Mr. HOLMES, of South Carolina, by leave,

Ordered, That the heirs of Guetano Carusi have leave to withdraw from the files of the House the petition and papers of said Carusi.

Mr. GAYLE, from the Committee on Private Land Claims, to whom was referred the amendments of the Senate to House bill entitled "An act for the relief of Sarah P. Caldwell, wife of James H. Brigham," reported the same back without amendment.

The said amendments were then read and agreed to, and the Clerk ordered to acquaint the Senate therewith.

Mr. G., from the same committee, to whom was referred the bill from the Senate entitled "An act to relinquish the reversionary interest of the United States in a certain Indian reservation in the State of Alabama," reported the same back to the House without amendment. The said bill was then read a third time and passed, and returned to the Senate.

Mr. BRADY, from the same committee, to whom was referred the petition of Thomas B. Clark, reported a bill to provide for the issuing a land patent to Thomas B. Clark, accompanied by a report in writing; which bill was read twice and committed, and the bill and report ordered to be printed.

Mr. DARLING, from the same committee, to whom was referred the petition of Richard H. Barrett, made a report, accompanied by a bill to authorize the confirmation of the claim of Richard H. Barrett to a quarter section of land in East Florida, under the act of the 4th of August, 1842, to provide for the armed occupation and settlement of the peninsula of East Florida; which was read twice and committed, and the bill and report ordered to be printed.

Mr. DARLING, from the same committee, to whom were referred the amendments of the Senate to the bill of the House entitled "An act for the relief of James P. Sexton," reported the same back without amendment.

The said amendments were then read and agreed to, and the Clerk ordered to acquaint the Senate therewith.

Mr. RUMSEY, from the same committee, to whom was referred the bill of the Senate entitled "An act for the relief of Shadrach Gillett and others," reported the same back without amendment, accompanied by a report in writing.

On motion of Mr. RUMSEY,

Ordered, That the said bill be laid upon the table, and that the report be printed.

Mr. JOHNSON, of Arkansas, stated that this day was set apart for the purpose of calling the calendar of the Committee of the Whole on the state of the Union. Since this Congress met in December last, that calendar had never been called. He moved that the House resolve itself into Committee of the Whole on the state of the Union, for that purpose.

He waived the motion for the present, at the request of Mr. BARRINGER and others, giving notice that he should soon renew it.

Mr. BARRINGER, from the Committee on Indian Affairs, made adverse reports upon the memorial of the half and quarter-breeds of the Sioux Indians and Marcy Egnew; which were laid upon the table, and ordered to be printed.

Mr. BARRINGER, from the same committee, to whom was referred the bill from the Senate entitled "An act to provide for the sale of lands purchased by the United States from the Saginaw tribe of Chippewa Indians, in the State of Michigan," reported the same back without amendment.

Ordered, That the said bill be committed to a Committee of the Whole House on the state of the Union.

Mr. BARRINGER, from the same committee, to whom was referred the bill from the Senate, entitled "An act for the relief of Henry D. Garrison," reported the same back without amendment.

The said bill was committed, and made the order of the day for to-morrow.

Mr. McILVAINE, from the same committee, to whom was referred the bill from the Senate, entitled "An act for the relief of P. Choteau, jun., & Co.," reported the same back without amendment.

The said bill was committed, and made the order of the day for to-morrow.

Mr. HARALSON, from the Committee on Military Affairs, to whom was referred the petition of Giles N. Ellis, made a report thereon, accompanied by a bill for his relief; which bill was read twice and committed, and made the order of the day for to-morrow; and the bill and report ordered to be printed.

Mr. HARALSON, from the same committee, who was instructed to inquire into the condition of the fund for the relief of sick and disabled soldiers, and of using the hospital at New Orleans as an asylum for the same, made a report thereon; which was laid upon the table, and ordered to be printed.

Mr. BARRINGER presented joint resolutions of the Legislature of North Carolina, concerning the improvement of the Indian tribes; which resolutions were laid upon the table, and ordered to be printed.

Mr. BOTTS, from the Committee on Military Affairs, to whom was referred the joint resolution from the Senate, entitled "A resolution for the relief of Major R. L. Baker, of the Ordnance Corps;" reported the same back to the House, without amendment.

Ordered, That the said resolution be committed to the Committee of the Whole House.

On motion of Mr. BOTTS,

Ordered, That the Committee on Military Affairs be discharged from the further consideration of the petition of Passed Assistant Surgeon Richard McSherry, of the United States Navy, and that it be referred to the Committee on Naval Affairs.

Mr. WILSON, from the Committee on Military Affairs, who were instructed by a resolution of the House of the 15th ultimo "to inquire into the expediency of loaning to the Norwich University, in Vermont, the use of two field-pieces," &c., made an adverse report thereon; which was laid upon the table, and ordered to be printed.

Mr. WILSON, from the same committee, to whom was referred the petition of Marvin W. Fisher, reported a bill for his relief, accompanied by a report in writing; which was read twice and committed, and, with the report, ordered to be printed.

Mr. BURT, from the same committee, to whom was referred the bill from the Senate entitled "An act to grant to the State of Wisconsin the military reservation at Fort Winnebago," reported the same back to the House without amendment.

On motion of Mr. BURT,

Ordered, That the said bill be laid upon the table.

Mr. DARLING moved the reconsideration of the vote by which the said bill was laid on the table; which motion was postponed for the present.

On motion of Mr. BURT,

Ordered, That the Committee on Military Affairs be discharged from the further consideration of the petition of A. G. Blanchard, C. S. Hunt, Theodore Lewis, and others; of the petition of Joseph C. Linn; of the petition of Michael D. Ferrals; and of the petition of P. P. Frame, and that they severally be laid upon the table.

Mr. BURT, from the Committee on Military Affairs, to whom was referred the bill of the House giving to the clerks and paymasters in the army mileage for travel performed in the discharge of their official duties during the late war with Mexico, reported the same back to the House without amendment.

On motion of Mr. BURT,

Ordered, That the said bill be laid upon the table.

Mr. FISHER, from the Committee on Military Affairs, made an adverse report upon the petition of Augustus Moore; which report was laid upon the table, and ordered to be printed.

KILLING AN INDIAN BOY.

Mr. BOTTS rose and asked that, by general consent, the Committee of the Whole should be discharged from the consideration of the bill from the Senate entitled "An act to authorize the Secretary of War to make reparation for the killing of a Caddo boy, by volunteer troops in Texas;" and that the bill might be put upon its passage.

He would briefly explain its object. He was very imperfectly heard by the reporter, but was understood to say, that the bill made an appropriation of $500 to the Caddo Indian tribe, as compensation for a boy, one of their tribe, who, without the slightest provocation, was wantonly and cruelly killed by the Texan volunteers. The law of retaliation with savage tribes was blood for blood; and that law this tribe would have put into execution, but for the energy and extraordinary exertion of the agent of the United States in that territory, by whom they were induced to consent to receive the sum of five hundred dollars as reparation. It was a solemn contract between the Government and the tribe. The appropriation was recommended by the War Department. The bill had been passed by the Senate, and its passage had been recommended by the Committee on Military Affairs of this House. The sum was to have been paid within three months; that time had elapsed; and there was danger every hour that the tribe would break out into hostilities against the people on our borders. The contract was made with the Indian agent.

No objection having been made, the bill was taken up, considered, and, without debate or division, read a third time and passed.

PURSERS' EXPENDITURES.

Mr. STANTON, from the Committee on Naval Affairs, reported a joint resolution for the relief of pursers in the navy, as to expenditures made in pursuance of orders during the war with Mexico.

The resolution having been read twice—

Mr. STANTON asked that it be put upon its passage. He presumed that there would be no objection to it.

He explained briefly the nature of the expenditures referred to in the resolution. There was, he said, no law under which these expenditures could be allowed at the Treasury Department, and this resolution simply authorized the officers to settle their accounts.

No objection having been made, the resolution was read a third time and passed.

Mr. JOHNSON, of Arkansas, renewed the motion heretofore made that the House resolve itself into Committee of the Whole on the state of the Union. He had, he said, been requested by many members to make this motion. He hoped it might prevail. There were many members of the House interested in it.

The question was taken, and the motion was rejected.

SCHOOL LANDS IN IOWA.

Mr. SMITH, of Indiana, from the Committee on Territories, to whom was referred the bill from the Senate entitled "An act declaratory of the act for the admission of the State of Iowa into the Union," reported the same back to the House, with an amendment, viz: Strike out the word "forty," in the last line, and insert, in lieu thereof, "three hundred and twenty;" so that it would read, "said land to be selected in legal subdivisions of not less than 320 acres."

Mr. LEFFLER proceeded briefly to oppose the amendment, when

Mr. ROCKWELL, of Connecticut, interposed, and moved that the House proceed to the consideration of business on the Speaker's table.

Mr. HARALSON rose to a question of order. He desired to know how the gentleman from Connecticut [Mr. ROCKWELL] could make his motion, whilst the gentleman from Iowa [Mr. LEFFLER] was on the floor?

The SPEAKER said, that after one hour devoted to the reception of reports from committees, such a motion was in order.

Mr. HARALSON did not understand how the gentleman could get the floor to make it.

The SPEAKER said, the question was on proceeding to the consideration of business on the Speaker's table.

Mr. WENTWORTH rose to a question of order. He understood that the gentleman from Iowa [Mr. LEFFLER] had been recognized by the Chair—that he was on the floor—that he was addressing the House—and that in the middle of a sentence the gentleman from Connecticut [Mr. ROCKWELL] had risen and moved that the House proceed to the orders of the day.

The SPEAKER said, that under the rules of the House, the Chair had always entertained such a motion after one hour had been devoted to reports. If the motion was not entertained, the effect would be that the rules of the House would be superseded, and that two hours, or more, would be devoted to reports of committees, instead of one. When the hour expired, whoever was upon the floor, the motion to proceed to the consideration of business on the Speaker's table was in order.

Mr. WENTWORTH desired to know how one gentleman could take the floor from another?

The SPEAKER. Precisely as under the rules of the House, a gentleman who has spoken one hour may be stopped in his remarks.

The question "Will the House proceed to the consideration of business on the Speaker's table?" was taken, and decided in the negative.

So the motion was rejected.

Mr. LEFFLER then made a few remarks in opposition to the amendment reported by the Committee on Territories. He also stated the importance of the bill to Iowa, and asked that it might be finally disposed of to-day.

Mr. SMITH briefly explained, and vindicated the amendment; and moved the previous question.

Mr. THOMPSON, of Iowa, asked him to withdraw the motion.

Mr. SMITH declined to withdraw.

The question was then taken on the demand for the previous question, but there was not a second.

Mr. THOMPSON, of Iowa, said: This is a bill of vast importance to the State of Iowa, and I sincerely hope the House will consider it at the present time, and pass it without the proposed amendment.

The question of diverting these lands from the construction of internal improvements, as originally contemplated, to the more desirable object of popular education, was thoroughly canvassed previously to the passage of the act admitting the State of Iowa into the Union; and it was then understood that further legislation was unnecessary in order to pass these lands to the State for the purposes contemplated by the constitution of that State. The State so understood it, and immediately took measures to appropriate the lands accordingly. With the consent and coöperation of the Commissioner of the General Land Office, the State proceeded to sell many of these lands; but before the proceeds were diverted in accordance with the constitution of the State and the intention of Congress, the Comptroller interposed his negative, on the ground that, from the act itself, the intention of Congress did not sufficiently appear. This rendered everything which had been done by the State virtually nugatory, at the same time that it arrested all further action. To obviate this difficulty mainly, this bill had its origin in the other end of the Capitol; and so far, must commend itself to the early and favorable consideration of every member of this House.

But, by the original act, the State was prohibited from selecting these lands in smaller quantities than legal subdivisions of three hundred and twenty acres. This was found to be embarrassing; and finding a precedent in one of the southern States created by act of August 11, 1848, a provision was incorporated into the bill, allowing the selections to be made in legal subdivisions of not less than forty acres.

The committee have reported the bill back to the House, with a proposition to amend it by striking out this provision; and out of this proposition has grown the only impediment to the passage of the bill.

The gentleman on the other side of the House who reported this bill, is opposed to its passage without amendment, on the ground that the provision he proposes to strike out is unprecedented, unnecessary, and unjust to the other States that have received similar donations. I am forced to differ with the gentleman on all these points. I am far from conceding that this provision is without precedent, as it is in my recollection that this provision was extended to one of the southern States—I think Florida—but a year ago. I may be mistaken in the State, as the law is not before me; but I appeal to the gentleman from Florida, whether this provision has not been extended to his State? I am confident, from high authority, that this provision has been extended to one of the southern States—either Florida or Alabama—perhaps the latter.

Mr. COLLAMER here obtained permission, and stated that no such provision had been made in favor of any State in the Union.

Mr. THOMPSON. I maintain that I cannot be mistaken. But all will admit that this donation has been diverted, by our constitution and the act admitting us into the Union, to a most benevolent, patriotic, and praiseworthy object. Then why will not gentlemen permit it to be selected in such a manner as to best subserve that object? Why will they not accord to the State in this philanthropic enterprise, the privilege granted to individuals? You permit persons who purchase from the General Government to select in smaller subdivisions; then, why change the rule in this case? Our State is peculiarly situated—consisting of prairie land and timber—the former occupying much the larger portion. In order to render these lands valuable or even saleable, their selections must be made in such a manner as to accommodate the prairie intended for cultivation with enough timber for fuel and fencing. Forty acres of timber will frequently supply a whole section of prairie; hence, by forcing the State to select in large tracts, you will greatly deteriorate the value of the lands selected.

Surely, the Government did not intend it to be understood, that in making this donation to be applied to such a desirable object, the disposition was less beneficial and laudable than any other it has ever made; yet gentlemen appear to act as if this were the case: else why this restriction? If her liberality has heretofore been cramped, she may have had the excuse that she was not asked; that she was not importuned; but now she is robbed of this excuse, is it right, is it generous to say we have no precedent for it?

By granting this provision, you commit no injustice to other States. Other States may have no need for it; and should they have, they can still ask, and the Government ought, in my humble judgment, to concede it. It is never too late to commence to do right, and having commenced, its continuance is truly commendable.

I earnestly hope the House will reject the amendment, and pass the bill as it came from the Senate.

After a brief explanation by Mr. COLLAMER—

Mr. VINTON, expressing a hope that the amendment would be adopted, demanded the previous question.

There was a second. And the main question (being first on the adoption of the amendment) was taken; and by ayes 77, noes 58, it was agreed to.

The bill was then read a third time, and passed.

TERRITORY OF MINESOTA.

Mr. SMITH, of Indiana, from the Committee on Territories, to whom was referred the bill from the Senate entitled "An act to establish the Territorial Government of Minesota," reported the same back to the House, with an amendment.

Mr. SMITH said, that the Committee on Territories, desirous of early action on this bill, had instructed him to report an amendment to strike out the appropriation, in order to obviate the necessity of a reference to the Committe of the Whole on the state of the Union. The bill contained nothing with which the House was not familiar. It was drawn in accordance with the other Territorial bills. The bill itself had been printed. He hoped the House would consent to put it now upon its passage.

He was proceeding to recapitulate the provisions of the several amendments reported from the Committee on Territories, when—

The SPEAKER interposed, and inquired of the gentleman from Indiana if the bill contained an appropriation?

Mr. SMITH replied that the committee had stricken out the appropriation.

The SPEAKER said he was of opinion, if the bill contained an appropriation as it came from the Senate, that the mere recommendation of the Committee on Territories to strike it out would not take the bill out of the rule which required bills proposing to appropriate money to go to the Committee of the Whole on the state of the Union. The question before the House would be, whether the appropriatfon should be made or not.

Mr. ROCKWELL, of Massachusetts, in behalf of the minority of the Committee on Territories, also reported an amendment.

The SPEAKER stated that the bill would go to the Committee of the Whole on the state of the Union, under the rule; and the bill and amendments were accordingly referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. McLANE inquired if it would be in order to move to make the bill a special order for the same day as that for which the bill relative to California had been made a special order?

The SPEAKER replied that the motion was not in order, except by general consent.

Mr. PETTIT. What is the condition of the bill? Is it referred to the Committee of the Whole on the state of the Union?

The SPEAKER. Only by the rule of the House. The rule requires that the bill shall receive its first consideration in the Committee of the Whole on the state of the Union.

CALENDAR OF COMMITTEE.

On motion of Mr. JOHNSON, of Arkansas, the House resolved itself into Committee of the Whole on the state of the Union, (Mr. COBB, of Georgia, in the chair,) to execute the order which requires the calendar of the committee to be called over, that such bills may be acted on as are not objected to.

Numerous bills were called and objected to; and the committee, after remaining in session some time, rose and reported the following bill without an amendment, viz:

A bill for the settlement of the claims of New Hampshire against the United States.

Subsequently, the said bill was ordered to be engrossed and read a third time, and being engrossed, was accordingly read the third time and passed, and sent to the Senate for concurrence.

The committee also reported the following bills, with a recommendation that they do not pass, viz:

A bill making an appropriation for the dry-dock in the harbor of New York;

A bill to amend an act entitled "An act to raise, for a limited time, an additional military force, and for other purposes," approved February 11, 1847.

The House then proceeded to the consideration of the said bills; when,

On motion of Mr. COBB, of Georgia, they were laid on the table.

Mr. HOUSTON, of Alabama, called for the reading of the message which had been received from the President of the United States.

The SPEAKER said the gentleman might attain his object by moving that the House proceed to the consideration of business on the Speaker's table.

Mr. HOUSTON made that motion.

The SPEAKER stated the question.

Mr. HOUSTON inquired what preceded the message in the order of business on the Speaker's table.

The SPEAKER said, Nothing in the world. The President's messages were always first in order on the Speaker's table.

THE TREATY WITH MEXICO.

The question was then put on the motion of Mr. HOUSTON, of Alabama, that the House proceed to the consideration of business on the Speaker's table.

And the motion having been agreed to—

The SPEAKER laid before the House the following message, in writing, from the President of the United States:

To the House of Representatives of the United States:

In reply to the resolutions of the House of Representatives of the fifth instant, I communicate herewith a report from the Secretary of State, ac-

companied with all the documents and correspondence relating to the treaty of peace concluded between the United States and Mexico at Guadalupe Hidalgo, on the second of February, 1848, and to the amendments of the Senate thereto, as requested by the House in the said resolutions.

Amongst the documents transmitted will be found a copy of the instructions given to the commissioners of the United States who took to Mexico the treaty as amended by the Senate, and ratified by the President of the United States. In my message to the House of Representatives of the twenty-ninth of July, 1848, I gave as my reason for declining to furnish these instructions, in compliance with a resolution of the House, that "in my opinion it would be inconsistent with the public interests to give publicity to them at the present time." Although it may still be doubted, whether giving them publicity in our own country, and, as a necessary consequence, in Mexico, may not have a prejudicial influence on our public interests, yet, as they have been again called for by the House, and called for in connection with other documents, to the correct understanding of which they are indispensable, I have deemed it my duty to transmit them.

I still entertain the opinion, expressed in the message referred to, "that, as a general rule, applicable to all our important negotiations with foreign 'Powers, it could not fail to be prejudicial to the 'public interests to publish the instructions to our 'ministers, until some time had elapsed after the 'conclusion of such negotiations."

In these instructions of the 18th of March, 1848, it will be perceived "that the task was assigned 'to the commissioners of the United States of con-'summating the treaty of peace, which was signed 'at Gaudalupe Hidalgo, on the second day of 'February last, between the United States and 'the Mexican Republic; and which, on the tenth 'of March last, was ratified by the Senate, with 'amendments."

They were informed "that this brief statement 'will indicate to you clearly the line of your duty. 'You are not sent to Mexico for the purpose of 'negotiating any new treaty, or of changing in any 'particular the ratified treaty which you will bear 'with you. None of the amendments adopted by 'the Senate can be rejected or modified, except by 'the authority of that body. Your whole duty 'will, then, consist in using every honorable effort 'to obtain from the Mexican Government a ratifi-'cation of the treaty in the form in which it has 'been ratified by the Senate, and this with the least 'practicable delay." "For this purpose, it may, 'and most probably will, become necessary that 'you should explain to the Mexican Minister for 'Foreign Affairs, or to the authorized agents of 'the Mexican Government, the reasons which 'have influenced the Senate in adopting these sev-'eral amendments to the treaty. This duty you 'will perform, as much as possible, by personal 'conferences. Diplomatic notes are to be avoided, 'unless in case of necessity. These might lead to 'endless discussions and indefinite delay. Besides, 'they could not have any practical result, as your 'mission is confined to procuring a ratification from 'the Mexican Government of the treaty as it came 'from the Senate, and does not extend to the 'slightest modification in any of its provisions."

The commissioners were sent to Mexico to procure the ratification of the treaty as *amended* by the *Senate*. Their instructions confined them to this point. It was proper that the amendments to the treaty adopted by the United States should be explained to the Mexican Government, and explanations were made by the Secretary of State, in his letter of the 18th of March, 1848, to the Mexican Minister of Foreign Affairs, under my direction. This despatch was communicated to Congress with my message of the 6th of July last, communicating the treaty of peace, and published by their order. This despatch was transmitted by our commissioners from the city of Mexico to the Mexican Government, then at Queretaro, on the 17th of April, 1848, and its receipt acknowledged on the 19th of the same month. During the whole time that the treaty, as amended, was before the Congress of Mexico, these explanations of the Secretary of State, and these alone, were before them.

The President of Mexico, on these explanations, on the 8th day of May, 1848, submitted the amended treaty to the Mexican Congress, and on the 25th of May that Congress approved the treaty as amended without modification or alteration. The final action of the Mexican Congress had taken place before the commissioners of the United States had been officially received by the Mexican authorities, or held any conference with them, or had any other communication on the subject of the treaty, except to transmit the letter of the Secretary of State.

In their despatch transmitted to Congress with my message of the 6th of July last, communicating the treaty of peace, dated "City of Queretaro, May 25, 1848, nine o'clock, p. m." the commissioners say: "We have the satisfaction to 'inform you that we reached this city this after-'noon at about five o'clock, and that the treaty, as 'amended by the Senate of the United States, 'passed the Mexican Senate about the hour of our 'arrival by a vote of 33 to 5. It having previously 'passed the House of Deputies, nothing now re-'mains but to exchange the ratifications of the 'treaty."

On the next day, (the 26th of May,) the commissioners were for the first time presented to the President of the Republic, and their credentials placed in his hands. On this occasion the commissioners delivered an address to the President of Mexico, and he replied. In their despatch of the 30th of May, the commissioners say: "We 'enclose a copy of our address to the President, 'and also a copy of his reply. Several conferences 'afterwards took place between Messrs. Rosa, 'Cuevas, Couto, and ourselves, which it is not 'thought necessary to recapitulate, as we enclose 'a copy of the protocol, which contains the sub-'stance of the conversations. We have now the 'satisfaction to announce that the exchange of 'ratifications was effected to-day." This despatch was communicated with my message of the 6th of July last, and published by order of Congress.

The treaty, as amended by the Senate of the United States, with the accompanying papers, and the evidence that in that form it had been ratified by Mexico, was received at Washington on the 4th day of July, 1848, and immediately proclaimed as the supreme law of the land. On the 6th of July I communicated to Congress the ratified treaty, with such accompanying documents as were deemed material to a full understanding of the subject, to the end that Congress might adopt the legislation necessary and proper to carry the treaty into effect. Neither the address of the Commissioners, nor the reply of the President of Mexico on the occasion of their presentation, nor the memorandum of conversations embraced in a paper called the Protocol, nor the correspondence now sent, were communicated, because they were not regarded as in any way material; and in this I conformed to the practice of our Government. It rarely, if ever, happens that all the correspondence, and especially the instructions to our ministers, is communicated. Copies of these papers are now transmitted as being within the resolutions of the House, calling for all such "correspondence as appertains to said treaty."

When these papers were received at Washington, peace had been restored, the first instalment of three millions paid to Mexico, the blockades were raised, the city of Mexico evacuated, and our troops on their return home. The war was at an end, and the treaty as ratified by the United States was binding on both parties, and already executed in a great degree. In this condition of things, it was not competent for the President alone, or for the President and Senate, or for the President, Senate, and House of Representatives combined, to abrogate the treaty, to annul the peace, and restore a state of war, except by a solemn declaration of war.

Had the protocol varied the treaty as amended by the Senate of the United States, it would have had no binding effect.

It was obvious that the commissioners of the United States did not regard the protocol as in any degree a part of the treaty, nor as modifying or altering the treaty as amended by the Senate. They communicated it as the substance of conversations held after the Mexican Congress had ratified the treaty, and they knew that the approval of the Mexican Congress was as essential to the validity of a treaty in all its parts, as the advice and consent of the Senate of the United States. They knew, too, that they had no authority to alter or modify the treaty in the form in which it had been ratified by the United States, but that if failing to procure the ratification of the Mexican Government, otherwise than with amendments, their duty, imposed by express instructions, was to ask of Mexico to send without delay a commissioner to Washington to exchange ratifications here, if the amendments of the treaty proposed by Mexico, on being submitted, should be adopted by the Senate of the United States.

I was equally well satisfied that the Government of Mexico had agreed to the treaty as amended by the Senate of the United States, and did not regard the protocol as modifying, enlarging, or diminishing its terms or effect.

The President of that Republic, in submitting the amended treaty to the Mexican Congress, in his message on the 8th day of May, 1848, said: "If the treaty could have been submitted to your 'deliberation precisely as it came from the hands 'of the plenipotentiaries, my satisfaction at seeing 'the war at last brought to an end would not have 'been lessened, as it this day is, in consequence of 'the modifications introduced into it by the Senate 'of the United States, and which have received the 'sanction of the President." "At present it is 'sufficient for us to say to you, that if, in the opin-'ion of the Government, justice had not been 'evinced on the part of the Senate and Govern-'ment of the United States, in introducing such 'modifications, it is presumed, on the other hand, 'that they are not of such importance that they 'should set aside the treaty. I believe, on the 'contrary, that it ought to be ratified upon the same 'terms in which it has already received the sanc-'tion of the American Government. My opinion 'is also greatly strengthened by the fact that a new 'negotiation is neither expected nor considered 'possible; much less could another be brought 'forward upon a basis more favorable for the Re-'public"

The deliberations of the Mexican Congress, with no explanation before that body from the United States except the letter of the Secretary of State, resulted in the ratification of the treaty as recommended by the President of that Republic, in the form in which it had been amended and ratified by the United States. The conversations imbodied in the paper called a protocol took place after the action of the Mexican Congress was complete; and there is no reason to suppose that the Government of Mexico ever submitted the protocol to the Congress, or ever treated it or regarded it as in any sense a new negotiation, or as operating any modification or change of the amended treaty. If such had been its effect, it was a nullity until approved by the Mexican Congress; and such approval was never made or intimated to the United States. In the final consummation of the ratification of the treaty by the President of Mexico, no reference is made to it. On the contrary, this ratification, which was delivered to the commissioners of the United States, and is now in the State Department, contains a full and explicit recognition of the amendments of the Senate just as they had been communicated to that Government by the Secretary of State, and been afterwards approved by the Mexican Congress. It declares, that "having seen and examined the 'said treaty, and the modifications made by the 'Senate of the United States of America, and 'having given an account thereof to the general 'Congress, conformably to the requirement in the '14th paragraph of the 110th article of the Federal 'Constitution of these United States, that body 'has thought proper to approve of the said treaty 'with the modifications thereto, in all their parts; 'and in consequence thereof, exerting the power 'granted to me by the Constitution, I accept, rat-'ify, and confirm the said treaty with its modifica-'tions, and promise, in the name of the Mexican 'Republic, to fulfill and observe it, and cause it to 'be fulfilled and observed."

Upon an examination of this protocol, when it was received with the ratified treaty, I did not regard it as material, or as in any way attempting to modify or change the treaty, as it had been amended by the Senate of the United States.

The first explanation which it contains is, "that 'the American Government, by suppressing the 'ninth article of the treaty of Guadalupe, and sub-'stituting the third article of the treaty of Louisi-'ana, did not intend to diminish, in any way, 'what was agreed upon by the aforesaid article '(ninth) in favor of the inhabitants of the terri-

'tories ceded by Mexico. Its understanding is, 'that all of that agreement is contained in the 'third article of the treaty of Louisiana. In conse- 'quence, all the privileges and guarantees, civil, 'political, and religious, which would have been 'possessed by the inhabitants of the ceded terri- 'tories, if the ninth article of the treaty had been 'retained, will be enjoyed by them without any 'difference under the article which has been sub- 'stituted."

The ninth article of the original treaty stipulated for the incorporation of the Mexican inhabitants of the ceded territories, and their admission into the Union, "as soon as possible, according to the 'principles of the Federal Constitution, to the en- 'joyment of all the rights of citizens of the United 'States." It provided, also, that in the mean time they should be maintained, "in the enjoyment of 'their liberty, their property, and the civil rights 'now vested in them, according to the Mexican 'laws." It secured to them similar political rights with the inhabitants of the other Territories of the United States, and at least equal to the inhabitants of Louisiana and Florida, when they were in a territorial condition. It then proceeded to guaranty that ecclesiastics and religious corporations should be protected in the discharge of the offices of their ministry, and the enjoyment of their property of every kind, whether individual or corporate; and finally, that there should be a free communication between the Catholics of the ceded territories and their ecclesiastical authorities, "even although 'such authorities should reside within the limits 'of the Mexican Republic, as defined by this 'treaty."

The ninth article of the treaty as adopted by the Senate is much more comprehensive in its terms, and explicit in its meaning, and it clearly embraces, in comparatively few words, all the guarantees inserted in the original article. It is as follows: "Mexicans who, in the territories aforesaid, shall 'not preserve the character of citizens of the Mex- 'ican Republic, conformably with what is stipula- 'ted in the preceding article, shall be incorporated 'into the Union of the United States, and be ad- 'mitted, at the proper time, (to be judged of by 'the Congress of the United States,) to the enjoy- 'ment of all the rights of citizens of the United 'States, according to the principles of the Consti- 'tution, and in the mean time shall be maintained 'and protected in the free enjoyment of their lib- 'erty and property, and secured in the free exer- 'cise of their religion without restriction." This article, which was substantially copied from the Louisiana treaty, provides equally with the original article for the admission of these inhabitants into the Union; and, in the mean time, whilst they shall remain in a territorial state, by one sweeping provision declares that they "shall be maintained 'and protected in the free enjoyment of their lib- 'erty and property, and secured in the free exer- 'cise of their religion without restriction."

This guarantee embraces every kind of property, whether held by ecclesiastics or laymen, whether belonging to corporations or individuals. It secures to these inhabitants the free exercise of their religion without restriction, whether they choose to place themselves under the spiritual authority of pastors resident within the Mexican Republic or the ceded territories. It was, it is presumed, to place this construction beyond all question, that the Senate superadded the words, "without restriction" to the religious guarantee contained in the corresponding article of the Louisiana treaty. Congress itself does not possess the power, under the Constitution, to make any law prohibiting the free exercise of religion. If the ninth article of the treaty, whether in its original or amended form, had been entirely omitted in the treaty, all the rights and privileges which either of them confers would have been secured to the inhabitants of the ceded territories by the Constitution and laws of the United States.

The protocol asserts that "the American Gov- 'ernment, by suppressing the tenth article of the 'treaty of Gaudalupe, did not, in any way, intend 'to annul the grants of land made by Mexico in 'the ceded territories;" that "these grants, not- 'withstanding the suppression of the article of 'the treaty, preserve the legal value which they 'may possess; and the grantees may cause their 'legitimate titles to be acknowledged before the 'American tribunals;" and then proceeds to state, that "conformably to the law of the United States, 'legitimate titles to every description of property, 'personal and real, existing in the ceded territo- 'ries, are those which were legitimate titles under 'the Mexican law in California and New Mexico 'up to the thirteenth of May, 1846; and in Texas, 'up to the second of March, 1836." The former was the date of the declaration of war against Mexico, and the latter that of the declaration of independence by Texas.

The objection to the tenth article of the original treaty was, not that it protected legitimate titles which our laws would have equally protected without it, but that it most unjustly attempted to resuscitate grants which had become a mere nullity, by allowing the grantees the same period after the exchange of the ratifications of the treaty to which they had been originally entitled after the date of their grants, for the purpose of performing the conditions on which they had been made. In submitting the treaty to the Senate, I had recommended the rejection of this article. That portion of it in regard to lands in Texas did not receive a single vote in the Senate. This information was communicated by the letter of the Secretary of State to the Minister for Foreign Affairs of Mexico, and was in possession of the Mexican Government during the whole period the treaty was before the Mexican Congress, and the article itself was reprobated in that letter in the strongest terms. Besides, our commissioners to Mexico had been instructed that "neither the President nor the Sen- 'ate of the United States can ever consent to ratify 'any treaty containing the 10th article of the treaty 'of Guadalupe Hidalgo in favor of grantees of land 'in Texas or elsewhere." And again: "Should 'the Mexican Government persist in retaining this 'article, then all prospect of immediate peace is 'ended; and of this you may give them an abso- 'lute assurance."

On this point the language of the protocol is free from ambiguity; but if it were otherwise, is there any individual, American or Mexican, who would place such a construction upon it as to convert it into a vain attempt to revive this article which had been so often and so solemnly condemned? Surely no person could for one moment suppose that either the commissioners of the United States, or the Mexican Minister for Foreign Affairs, ever entertained the purpose of thus setting at naught the deliberate decision of the President and Senate, which had been communicated to the Mexican Government with the assurance that their abandonment of this obnoxious article was essential to the restoration of peace.

But the meaning of the protocol is plain. It is simply that the nullification of this article was not intended to destroy valid legitimate titles to land which existed and were in full force independently of the provisions and without the aid of this article. Notwithstanding it has been expunged from the treaty, these grants were to "preserve the legal value which they may possess." The refusal to revive grants which had become extinct was not to invalidate those which were in full force and vigor. That such was the clear understanding of the Senate of the United States, and this in perfect accordance with the protocol, is manifest from the fact, that whilst they struck from the treaty this unjust article, they at the same time sanctioned and ratified the last paragraph of the eighth article of the treaty, which declares that, "In the said ter- 'ritories property of every kind, now belonging to 'Mexicans not established there, shall be inviola- 'bly respected. The present owners, the heirs of 'these, and all Mexicans who may hereafter ac- 'quire said property by contract, shall enjoy with 'respect to it guarantees equally ample as if the 'same belonged to citizens of the United States."

Without any stipulation in the treaty to this effect, all such valid titles under the Mexican Government would have been protected under the Constitution and laws of the United States.

The third and last explanation contained in the protocol is, that "the Government of the United 'States, by suppressing the concluding paragraph 'of article twelfth of the treaty, did not intend to 'deprive the Mexican Republic of the free and 'unrestrained faculty of ceding, conveying, or 'transferring, at any time, (as it may judge best,) 'the sum of twelve millions of dollars, which the 'same Government of the United States is to de- 'liver in the places designated by the amended 'article."

The concluding paragraph, or rather sentence, of the original twelfth article thus suppressed by the Senate, is in the following language: "Certifi- 'cates, in proper form, for the said instalments 'respectively, in such sums as shall be desired by 'the Mexican Government, and transferable by it, 'shall be delivered to the said Government by that 'of the United States."

From this bare statement of facts, the meaning of the protocol is obvious. Although the Senate had declined to create a Government stock for the twelve millions of dollars, and issue transferable certificates for the amount, in such sums as the Mexican Government might desire, yet they could not have intended thereby to deprive that Government of the faculty which every creditor possesses of transferring for his own benefit the obligation of his debtor, whatever this may be worth, according to his will and pleasure.

It cannot be doubted that the twelfth article of the treaty, as it now stands, contains a positive obligation, "in consideration of the extension acquired by the boundaries of the United States," to pay to the Mexican Republic twelve millions of dollars, in four equal annual instalments of three millions each. This obligation may be assigned by the Mexican Government to any person whatever; but the assignee, in such case, would stand in no better condition than that Government. The amendment of the Senate, prohibiting the issue of a government transferable stock for the amount, produces this effect, and no more.

The protocol contains nothing from which it can be inferred that the assignee could rightfully demand the payment of the money in case the consideration should fail which is stated on the face of he obligation.

With this view of the whole protocol, and considering that the explanations which it contained, were in accordance with the treaty, I did not deem it necessary to take any action upon the subject. Had it varied from the terms of the treaty as amended by the Senate, although it would even then have been a nullity in itself, yet duty might have required that I should make this fact known to the Mexican Government. This not being the case, I treated it in the same manner I would have done had these explanations been made verbally by the commissioners to the Mexican Minister for Foreign Affairs, and communicated in a despatch to the State Department.

JAMES K. POLK.

WASHINGTON, *February* 8, 1849.

The message having been read—

Mr. JOHNSON, of Arkansas, said that he had no doubt the whole House would desire an opportunity to look into this message. He would therefore move that it be laid on the table and printed. He would also move that ten thousand extra copies be printed. And on that motion he demanded the previous question.

The SPEAKER said that the motion to print extra copies could only be entertained by general consent.

Objections were made.

Mr. STANTON inquired if the motion of the gentleman from Arkansas [Mr. JOHNSON] was debatable?

The SPEAKER said the motion to print the usual number would be debatable if the previous question had not been called.

After a brief conversation, the question was taken on the first branch of the motion, and having been decided in the affirmative—

The message was laid on the table.

The question then recurred on seconding the demand for the previous question on the motion to print the usual number.

There was a second. The main question was ordered, and having been taken, the usual number of the message were ordered to be printed.

Mr. JOHNSON, of Arkansas, moved to reconsider the vote, and moved that that motion be laid on the table.

Mr. HENLEY inquired if the motion to print 10,000 extra copies was entertained?

The SPEAKER said, that by the rule that motion must lie over one day.

The question was then taken on the motion of Mr. JOHNSON, and having been decided in the affirmative, the motion to reconsider was laid on the table.

Mr. HENLEY moved a resolution that the motion to print 10,000 extra copies be referred to the Committee on Printing.

The SPEAKER said that the motion might be referred by general consent, otherwise it must, under the rule, lie over one day.

Objection was made.

Mr. HENLEY inquired if the motion was not debatable.

The SPEAKER repeated, that the rule of the House required that the motion to print should lie over one day.

The SPEAKER then laid before the House the following Executive communications:

I. A letter from the Secretary of War, transmitting, in obedience to the act of the 2d March, 1803, a report of the Adjutants General, with an abstract of the returns of the militia of all the States and Territories, with their arms, accoutrements, and ammunition, taken from the latest returns that have been received by that department; which letter and report were laid upon the table, and ordered to be printed.

II. A letter from the Postmaster General, transmitting, in obedience to the eleventh section of the act of 26th August, 1842, a list of clerks, and other persons employed in that department during the year ending December 31, 1848, with a statement that their services are necessary in that department, and that they have been usefully employed during the year aforesaid; which letter and statement were laid upon the table, and ordered to be printed.

III. A letter from the Secretary of the Navy, transmitting, in obedience to the act of June, 1848, a report of punishments in the naval service for the years 1846 and 1847; which letter and report were laid on the table, and ordered to be printed.

IV. A letter from the Clerk of the House of Representatives, transmitting a statement of the clerks and other persons employed in his office during the year 1848; which letter and statement were laid upon the table, and ordered to be printed.

Bills from the Senate of the following titles, viz:

An act to grant to the State of Illinois a right of way through the public lands of the United States, and for other purposes;

An act to define the period of disability imposed upon certain bidders for mail contracts;

An act for the benefit of William R. Campbell, George Myers, and John Kincart;

An act to establish an additional district court of the United States in the State of Texas; were severally read a first and second time, and appropriately referred.

CONGRESSIONAL PRINTING.

The joint resolution from the Senate, entitled "A resolution for extending the time for receiving proposals for the printing of Congress," was read a first and second time.

Mr. HENLEY stated that a contract for the public printing had been made, but at prices notoriously so low, that no bond would be given.

The SPEAKER said he would state—as under the parliamentary law he was authorized, being one of the officers concerned—that no contract had been entered into. The proposals had been opened, but no decision had yet been made in regard to them.

Mr. HALL, of Missouri, moved that the said resolution be laid upon the table; and the question being put, it was decided in the affirmative—yeas 90, nays 86—as follows:

YEAS—Messrs. Bayly, Beale, Bingham, Bocock, Bowlin, Boyd, Bridges, Albert G. Brown, Burt, Cathcart, Chase, Clapp, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Conger, Daniel, Darling, Dickey, Embree, Faran, Ficklin, Fries, Giddings, Goggin, Gott, Green, Greeley, W. P. Hall, Harmanson, Hill, Geo. S. Houston, Inge, Andrew Johnson, J. H. Johnson, R. W. Johnson, George W. Jones, Kaufman, Kennon, La Sere, Sidney Lawrence, Ligon, Lincoln, Lynde, McClernand, McIlvaine, McKay, McLane, Job Mann, Horace Mann, Miller, Morris, Mullin, Murphy, Nicoll, Outlaw, Palfrey, Peaslee, Petrie, Pettit, Peyton, Pheips, Pilsbury, Reynolds, Rhett, Richardson, Richey, Robinson, Rockhill, Roman, Root, Sawyer, Shepperd, Sherrill, Silvester, Smart, Starkweather, Charles E. Stuart, Strohm, James Thompson, William Thompson, Thurston, Turner, Venable, Wallace, Wentworth, Wick, Wiley, Williams, and Woodward—90.

NAYS—Messrs. Abbott, Ashmun, Barringer, Barrow, Belcher, Blackmar, Botts, Boyden, Brady, Brodhead, W. G. Brown, Cabell, Chapman, Cocke, Collamer, Cranston, Crisfield, Crowell, Crozier, Cummins, Dixon, Garnett Duncan, Edwards, Alexander Evans, Nathan Evans, Farrelly, Featherston, Fisher, Flournoy, Freedley, French, Fulton, Gaines, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Harris, Henley, Henry, Hilliard, Isaac E. Holmes, John W. Houston, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, John W. Jones, Kellogg, Thos. Butler King, Daniel P. King, William T. Lawrence, Leffler, Levin, Maclay, Marsh, Marvin, Morehead, Nelson, Pendleton, Pollock, Preston, Putnam, Julius Rockwell, John A. Rockwell, Rumsey, St. John, Slingerland, Caleb B. Smith, Truman Smith, Stanton, Stephens, Andrew Stewart, Strong, Taylor, Thibodeaux, Tompkins, Toombs, Van Dyke, Vinton, Warren, and White—84.

Mr. STANTON moved to reconsider the vote by which the President's message, received to-day, was laid on the table.

His object in making this motion, he said, was not to discuss the subject at this time. But he presumed gentlemen who had thrown down the gauntlet so broadly the other day were not disposed to escape from the discussion. If the motion to reconsider were not made to-day or to-morrow, the time would pass away when the reconsideration could be moved. He made the motion to reconsider with the expectation that it would pass over.

The SPEAKER interposed, and stated that the motion was not debatable.

Mr. STANTON. I am aware of that. But it will be after it is reconsidered.

Mr. ASHMUN. I wish to inquire if it was not on the motion of a gentleman on that side of the House, that it was laid on the table, and discussion cut off?

Mr. STANTON. Very true; but not with that object, as I understand from the gentleman who made the motion. It was with the expectation that it might be brought up by general consent.

Some conversation arose as to the state of the question; in the course of which—

Mr. STEPHENS said, that those who had thrown down the gauntlet were not disposed to escape the discussion. They were ready and anxious to meet it.

The motion to reconsider lay over on the SPEAKER's table.

Mr. HALL, of Missouri, moved to reconsider the vote by which the resolution from the Senate relative to the public printing was laid on the table, and moved to lay that motion on the table.

A motion to adjourn was made and rejected.

The question then recurred on the motion to lay on the table the motion to reconsider the vote by which the said joint resolution had been laid on the table; and, having been taken, and decided in the affirmative, the motion was laid on the table.

Mr. JOHNSON, of Arkansas, moved that the House resolve itself into Committee of the Whole on the state of the Union; which motion was rejected.

On motion of Mr. BOCOCK,

Resolved, That leave be given to withdraw the papers of Sarah Teas and Sally Demasters, heretofore presented to this House, and referred with their respective memorials.

Mr. HALL, of New York, (under the rule,) gave notice of a motion for leave to introduce bills of the following titles:

A bill making a donation of public lands to the several States and Territories, to be by them appropriated to the encouragement and improvement of such States and Territories;

A bill granting a portion of the public lands to the States and Territories, for the purposes of internal improvement.

On motion of Mr. HILLIARD,

The House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. PALFREY: The petition of B. B. Mussey and 67 others, citizens of Massachusetts, praying for the immediate abolition of slavery and the slave trade in the District of Columbia.

By Mr. HARALSON: The petition of John P. Warwick, praying for relief as contractor on the mail route from West Point, Georgia, to Wetumpkee, Alabama.

By Mr. ROCKWELL, of Massachusetts: The petition of Austin Pashawl and 52 others, of the city of New York, for revision and modification of the patent laws.

By Mr. WENTWORTH: A petition of citizens of Chicago in favor of prohibiting the sale of public lands, and of laying them out into lots for public use.

By Mr. STUART, of Michigan: A petition of citizens of Ionia county, Michigan, praying that a mail route be established, commencing at Lyons in said county, and running thence to North Plains post office, thence through the town of Ronald westerly, to Wheatland, in the township of Orleans, in the same county.

By Mr. McILVAINE: The petitions of James Fulton and 165 others, and Robert Fairlamb and 20 others, inhabitants of Chester county, Pennsylvania, praying for the prohibition of slavery in the territory acquired from Mexico, for the abolition of slavery in the District of Columbia, and all other places over which Congress has exclusive jurisdiction; and that no State shall hereafter be admitted into the Union unless slavery be excluded therefrom.

By Mr. HENRY: The petition of F. W. Hopkins, and one hundred and fifteen other citizens of Rutland, Vermont, asking a reduction in the rate of letter and newspaper postage, and the abolition of the franking privilege.

IN SENATE.

FRIDAY, *February* 9, 1849.

Mr. JONES presented the credentials of AUGUSTUS C. DODGE, elected a Senator of the United States from the State of Iowa, for the term of six years from the 4th of March next; which were read and laid on the table.

Mr. BENTON presented the credentials of DAVID R. ATCHISON, elected a Senator of the United States from the State of Missouri, for the term of six years from the 4th of March next; which were read and laid on the table.

RESOLUTIONS OF STATE LEGISLATURES.

Mr. STURGEON presented a resolution of the Legislature of the State of Pennsylvania in favor of the establishment of the Indians in a permanent home, and holding out proper inducements to them to go thither; which was laid on the table, and ordered to be printed.

Mr. BADGER presented resolutions of the Legislature of the State of North Carolina in favor of procuring a permanent home for the Indian tribes; which was referred to the Committee on Indian Affairs, and ordered to be printed.

MEMORIALS AND PETITIONS.

Mr. DICKINSON presented a petition from citizens of Troy, New York, on the subject of a railroad from the Mississippi to the Pacific, and in favor of Dr. Hartwell Carter's project; which was referred to the Committee on Roads and Canals.

Mr. ATCHISON presented a petition from citizens of the valley of the Mississippi, asking for the establishment of a safe commercial communication between the valley of the Mississippi and California, to be guarded by troops; which was referred to the Committee on Military Affairs.

Mr. BALDWIN presented a petition from citizens of Derby, Connecticut, praying for a revision of the patent laws, and greater security to inventors; which was referred to the Committee on Patents.

Mr. STURGEON presented a petition from sundry citizens of Clarion county, Pennsylvania, praying for a change in the tariff laws; which was referred to the Committee on Finance.

Mr. BORLAND presented a petition from O. B. Hill, late receiver of public moneys at New Orleans, asking to be allowed for office rent; which was referred to the Committee on Public Lands.

On motion of Mr. BRIGHT, the petition of the heirs of Robert Libby was ordered to be taken from the files of the Senate and referred to the Committee on Pensions.

FLOGGING IN THE NAVY.

Mr. HALE. Mr. President, I have received, and been requested to present to the Senate, the proceedings of a public meeting of citizens of Syracuse, in the State of New York; also, the proceedings of a public meeting of the citizens of Troy, New York; also, proceedings and resolutions of the Mayor and Common Council of the city of Buffalo, in the State of New York; also, resolutions and proceedings of the Mayor and Common Council of the city of Rochester, in the State of New York; and, in addition thereto, a large number of petitions, numerously signed, from Buffalo, Rochester, Syracuse, and a great many other places in the State of New York, all praying that Congress would abolish the spirit rations and flogging in the navy of the United States. I ask that they may be received and referred to the Committee on Naval Affairs.

And, in presenting these petitions, I take occasion to say a word or two on the character of them, and in respect to the history of this matter. It will be recollected by the Senate—and I wish the chairman of the Committee on Naval Affairs to give me his attention for a moment—that, as long ago as five years, and how much longer than that I do not know, for that was the first time I had the honor of a seat in the other House, a provision of this character was introduced there, and they determined that this system of flogging ought to be abolished; but, unfortunately, when it came to this body, they non-concurred in that, to my mind, very wise, salutary, and humane measure of legislation of the House. The American Senate interposed to preserve the cat-o'-nine tails in the navy, and that has, therefore, been continued up to the present time. The bill from the House which has now been referred to the Committee on Naval Affairs contains that same provision, abol-

ishing this barbarous custom, which we were not able to effect at the last session. But, sir, though we did not then succeed in abolishing this barbarous custom, on my motion we obtained from the Secretary of the Navy a report which shows cases in which this arbitrary custom had been practised, and in how many instances, during a period of three months; and I have taken an abstract of it, which presents these curious facts, that, from the first of April to the thirtieth of June, 1847, they could get along with fifty-seven lashes on board the United States ship Cyane—for that is the statement of this report—while others could not get along with less than nine hundred and three lashes for the same time; so that this system is not very equally administered—some receiving only one-eighteenth part of as many lashes as are required in the same time in other vessels. The administration of this system, it will be seen, varies from fifty-sven lashes up to nine hundred and three.

Now, Mr. President, there is a very intelligent sailor in this city, who, if he could have a hearing before a committee, either here or of the House of Representatives, is prepared to show that the statement, as set forth in this report, does not come up to one-third of the actual floggings given; that not only nine hundred and three, but that cases can be found where the floggings have come up to twenty-three hundred within the period of three months. To this I desire to call the attention of the chairman of the Committee on Naval Affairs.

Mr. President, I have not recently attended the United States court in this District, where a case has been tried——

Mr. YULEE. Mr. President, I would suggest whether the remarks of the honorable Senator from New Hampshire are in order. Is it in order to discuss this matter on the presentation of a petition? I think not, sir.

Mr. HALE. I believe I am not trespassing on the usual courtesy nor on the time of the Senate. I have occupied but little of the time of the Senate during the session thus far.

Mr. YULEE. If the Senator from New Hampshire proposes to discuss this matter at any considerable length, a reply may be necessary, and I think that it would be better that the time of the Senate should not be occupied with the discussion of this subject at the present time. I must, therefore, make it a question of order if the Senator persists in his remarks.

Mr. WEBSTER. Mr. President, it is quite in order on the presentation of a petition to speak of its merits. It is not an original motion, and nothing is more orderly than the course of the honorable Senator from New Hampshire.

Mr. KING. Mr. President, I differ from the honorable Senator as to its being in order to proceed with such remarks on the presentation of a petition. The rule is express and positive that he can only state the substance of the petition which he presents.

Mr. WEBSTER, (in his seat.) It is not so.

Mr. KING. Such is the rule, and I hope we shall adhere to it.

Mr. WEBSTER. Mr. President, it is not so. The rule is that he shall state the substance. But does not the Senator know that debates by the hour have sprung up here on the presentation of petitions? And he will also remember when the rule was adopted in relation to petitions, which requires Senators to state their substance, and there has been no rule since. What is required is, that a Senator shall state the substance of a petition that he presents, and that it shall be couched in respectful language; but there is no rule that prevents him from speaking upon the subject embraced in the petition. None at all, sir.

Mr. KING. So far from that, Mr. President, no Senator has a right to make any speech on a paper that he presents until it is received; and the question to be put is, Shall the paper be received? To save time, it is often that silence gives consent; but when it is in the knowledge of the Presiding Officer that there will be objection, he is bound to put the question on the reception of the paper. On the presentation of a petition the rule is positive that he shall state the substance of it; and, until it is received, no discussion is in order according to parliamentary law.

Mr. WEBSTER. Mr. President, I will only say further that these petitions have been presented. No question about their reception was raised, and the simple question is on the reference, unless the Senator from Alabama has made some new rule of which we know nothing.

Mr. YULEE. Mr. President, I will state that ordinarily I would not have interrupted a Senator on this floor in the course he might think proper to pursue in presenting a petition; but as I knew that the Senator from New Hampshire did at the last session, in an elaborate speech, present this subject to the Senate, and inferring, from the course of his remarks, that he was about to proceed at considerable length to a further discussion of this matter, and inasmuch as a number of petitions have been presented, and there is a probability that in the discussion of appropriation bills, hereafter to come before the Senate, he will have an opportunity to speak on this subject, and to deliver the opinions which he entertains, I think it will be an unnecessary expenditure of the time of the Senate to continue the discussion now. If, however, the remarks of the Senator are not to be extended, it may be better that he should proceed.

The PRESIDING OFFICER stated that he was not aware of any positive rule which prohibited the remarks; and as it had been the practice since he had been the Presiding Officer to permit such prefatory remarks, the opinion of the Chair was that the Senator from New Hampshire was not out of order, and might proceed.

Mr. HALE. Mr. President, if I had been allowed to proceed I should not have taken half the time that the Senator from Florida [Mr. YULEE] has consumed in commenting on my course; but I must give the Senator credit for great sagacity in knowing precisely what I was going to say before I had spoken. Sir, I was not going to elaborate my speech of the last session, nor should I have trespassed greatly on the time of the Senate if I had; for that was a short speech, and nobody heard it, the Senate then being very thin. [Laughter.] But, sir, I was going to call the attention of the chairman of the Committee on Naval Affairs to some facts, from a report sent in to us at the last session, and to say that I had not attended the trial of a case in the United States Court of this District, in which it appeared how a recent regulation has been construed respecting the infliction of lashes.

Mr. President, under a law of Congress sailors enlisting for a given time, if it expires before they return to the United States, may be detained for a longer time, when, in the judgment of the officer, the emergency requires their services, on account of distance from home, or for other reasons. Well, a man's time may expire on a foreign coast, and the officer commands this man to perform the ordinary duties of the ship. The man says, "No, by law I am not required to do duty;" whereupon he ties him and gives him twelve lashes. "Well, will you now do duty?" No. Well, then, take twelve more; and now will you do it? No. Then take twelve more. And in this way, for no offence, this process is repeated, until the man is flogged almost to death. That matter appears on the judicial records of the court in this District. Such is the construction of the law by the officers. And by this report it is shown, and such is the ground taken by these petitioners, that drunkenness creates the necessity for the cat-o'-nine tails; and that when you do away with that, you will do away with the necessity of flogging. I find that on board the United States ship Marion, from the 1st of December, 1847, to the 8th of January, 1848, only thirty-eight days, four hundred and thirty-nine lashes were given with the cat; and of the number thus punished by twelve lashes each, twenty-three sailors were flogged for drunkenness and desertion, and so on through a long list of ditto, ditto, ditto. Thus you degrade and brutalize the sailor by law, and then by law flog him for being just what you have made him. But that is not all. I have looked over the list of crimes for which men are thus subjected to discipline, and one I find to be bad cooking. The captain's stomach is not in order, and therefore, because the cook could not suit the captain's palate, he receives twelve lashes. Another case, on board the United States ship Germantown, is recorded, where a poor sailor received seven lashes, and another five, for not being properly dressed at quarters. He had not the proper naval tie to his cravat, I suppose, and thereupon up he goes, and takes seven lashes.

Mr. President, it is said that the character of the American sailor is proverbially generous, and I do ask that the Senate of the United States will no longer interpose thus to prolong this relic of feudalism and barbarity. These men are our brethren; they are not the descendants of the curly-headed African, on whose behalf it is so unpopular and offensive to speak a word of sympathy. No, sir; these are the fair-haired rosy-cheeked sons of New England and the West, [Mr. WESTCOTT: Anglo-Saxons,] who are subjected to degradation and cruelty, compared with which the servitude of the South is freedom, and Algerine cruelty is Christian kindness. I repeat, sir, I do ask that the Senate of the United States shall not interpose, and stand up between humanity and the House, and set itself as a bulwark for the defence of this punishment. Sir, I have done.

Mr. YULEE. I rise simply to propose to the Senator from New Hampshire a subject for the exercise of his own ingenuity in relation to the matter which he has brought before the Senate, and I hope he will, at the proper time, take it into his consideration, and give to the Senate and the country the benefit of his cogitations thereon. I will ask him to discover, if he can, a substitute for flogging on board the ships of the United States. If the Senator will do the country the kindness to turn his attention to the subject, I have no doubt that they will be much gratified with the result.

Mr. WESTCOTT. Sir, I would make a suggestion to my colleague, which I think will meet the views of the honorable Senator from New Hampshire, [Mr. HALE.] It is, that Congress shall forthwith, by special act, regulate the cooking of beefsteaks, and the mode of tying cravats in the navy, (faults in respect to which it seems that poor sailors and cooks are whipped,) to prevent any further outrages on that score.

The petitions were then referred to the Committee on Naval Affairs.

REPORTS FROM COMMITTEES.

On motion of Mr. ATCHISON, the Committee on Indian Affairs were discharged from the further consideration of a bill to authorize the payment to the State of Georgia of the unexpended balance of the sum of $175,000, which was appropriated to settle the claims of said State for the services of her militia, by the act of August 11, 1842, entitled "An act to provide for the settlement of the claims of the State of Georgia for the services of her militia;" and it was referred to the Committee on Military Affairs.

Mr. BREESE, from the Committee on Public Lands, reported a bill to authorize the laying off a town at Trader's Point, on the Missouri river, without amendment.

Also, a bill to grant a certain quantity of land to the State of Iowa, for the purpose of aiding said State in constructing a railroad from Dubuque to Keokuk, with amendments; which were ordered to be printed.

Mr. UPHAM, from the Committee on Revolutionary Claims, made an adverse report on the petition of the heirs of Benjamin Harrison; and the report was ordered to be printed.

Also, an adverse report on the bill for the relief of Charles A. Barnitz, husband of Margaret Barnitz, only surviving heir of Lieutenant Colonel David Greer; which was ordered to be printed.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, reported a bill to provide for the payment for horses and other property lost or destroyed in the military service of the United States; which was read, and ordered to a second reading.

Mr. BORLAND asked for the immediate consideration of the bill.

Mr. WESTCOTT objected.

Mr. DAVIS, of Mississippi, from the same committee, reported, without amendment, a bill to make further provision for the widows and orphans of officers, non-commissioned officers, musicians, and privates, whether of the regular army or volunteers, who have died or may die of diseases contracted while in the service of the United States, and in the line of their duty in the prosecution of the war with Mexico.

Mr. DAVIS. I will say, in relation to this bill, that it provides for the widows and orphans of such officers, non-commissioned officers, and privates, as have died since their return from Mexico of disease contracted there, and from which they have never recovered. The existing law merely provides for those who died on their way home.

The purpose of this is to extend the provisions of the existing law so as to cover the case of those who died after their return of disease contracted in Mexico. It is a simple proposition, and I believe it will lead to no debate. If it be the pleasure of the Senate, I ask that it may be considered now.

Mr. WESTCOTT. I object.

Mr. BORLAND, from the Committee on Military Affairs, reported a bill for the relief of Lewis Morris and others; which was read, and ordered to a second reading.

Mr. WESTCOTT, from the Committee on Patents, to whom was referred the memorial of John B. Emmerson, praying compensation for the use of his patent right for improvements in the steam engine by the Government, reported a resolution postponing the subject till next session, and referring it, in the mean time, to the Navy Department; which, with the documents, was ordered to be printed.

The resolution was agreed to.

Mr. BRADBURY, from the Committee on Claims, reported a bill for the relief of Augustus Ford, without amendment.

Mr. BRADBURY, from the same committee, made an adverse report on the petition of John J. Simpson; and the report was ordered to be printed.

Mr. DAVIS, of Mississippi, pursuant to notice, asked and obtained leave to introduce a bill for the relief of Mary D. Dix; which was read a first and second time, and referred to the Committee on Pensions.

ORDER OF BUSINESS.

Mr. DIX. I rise, sir, to ask the Senate to take up for consideration a bill that is of general interest, and which, I trust, will occupy but a very short time, although it is a bill of a good deal of importance. It is the bill that was introduced by a select committee at the last session of Congress, making a grant of public land to the several States of this Union for certain purposes. The object of this grant is to provide for the support and maintenance of insane hospitals. I am not aware, sir—for the bill has not been up at all—that there will be any debate upon it; and I suppose it may be disposed of in a very few minutes.

Mr. WEBSTER. I hope the honorable Senator will allow me to call up a resolution in order that it may be passed; I believe it will not occasion any debate.

Mr. DIX. Certainly.

Mr. BADGER. I hope the honorable Senator from Massachusetts will allow me to present certain resolutions of the Legislature of North Carolina.

The question being on the motion of the Senator from New York to take up the bill referred to by him—

Mr. NILES. There is a bill which has been the special order for some time, and which has been up for consideration on several different days, and is still undisposed of—I mean the bill relating to the railway across the Isthmus of Panama. That bill, I believe, has precedence over all others. If the Senator from Missouri will move to take up that bill, I shall have no objection; but I do object to any other bill being taken up—that is, if it will occupy any considerable time—until that bill has been disposed of. We cannot get along in this way. I think we had better dispose of one subject before we commence with another.

Mr. BUTLER. I am willing to abide by the rules of the Senate as far as the disposition of business is concerned; but, as chairman of the Committee on the Judiciary, I can no longer consent to yield my right to have the bills that have been reported by that committee acted upon by the Senate. There are some ten or twelve bills, and some of them of great importance, that have been reported by the Judiciary Committee, and are ready to be acted upon by the Senate. I gave notice the other day that I desired to set apart Monday last for the consideration of one of them—a very important bill, indeed—but it was not taken up. I do not propose to debate it, or to make any remarks on the subject. I say again, I am willing to yield to the rules of the Senate; but, further than that, I cannot go in giving precedence to other measures.

Mr. ATHERTON. I feel it my duty to say that I have yielded on several occasions to the suggestions of Senators that bills before the Senate should be finished before taking up any new business. These suggestions were made especially with reference to the bill for the railroad between Chagres and Panama, and the Post Office bill. I think it my duty now to say, sir, that I shall request the Senate on Monday next, to take up the civil and diplomatic appropriation bill, and the other appropriation bills; and I think they will not occupy the Senate very long, but that in a day or two they may all be disposed of. And it is important that the Senate should act at an early day upon the civil and diplomatic appropriation bill, because one of its sections provides for the payment of the money that will be due to Mexico within the current year; and I shall therefore move, on Monday next, that the Senate take up that bill.

Mr. HANNEGAN. I would be glad if the Senator from New York will withdraw his motion, in order that I may move that the Senate proceed to the consideration of Executive business.

Mr. DIX. I am not quite sure, sir, as the Senator from Connecticut suggests, that the bill which I have moved to take up will excite debate. I am not sure that there is any objection to it. As I said before, it is a bill of a great deal of importance, and one in which every State of this Union has an interest. I should hope, then, that the Senate would take up the bill, let it be considered, and if there should be debate, it can go over to another day.

I am very unwilling to interfere with the wishes of my honorable friend, the Senator from Indiana. He was a member of the select committee to which I have referred; and I am also aware that his motion for a special order last week was defeated by an adjournment over the day for which it was fixed. I will give way to him if the Senate will agree to take up this bill, and make it the special order to-morrow.

Mr. HALE. Take it up now.

Mr. DIX. I will move to take it up now.

Mr. WEBSTER. I supposed that it would be the first business in order to take up the resolutions that have been laid upon the table; and if it should be found that any one of them was likely to excite any considerable debate, it would be quite proper to move its postponement. I do not think that there is so good a way to get through the business of the Senate as to follow the established rules of practice; and I hope that, reports having been now made, the resolutions which are upon the table, and which are not of a nature to excite debate, may be taken up.

Mr. BERRIEN. I would suggest to the Senator from New York to withdraw his motion until the resolutions which are upon the table shall have been disposed of.

Mr. DIX. I will do so with great pleasure. I gave way before for that purpose, but the moment I gave way a great many other subjects were proposed.

OFFICERS OF THE SENATE.

The following resolution, submitted by Mr. BENTON, was taken up:

Resolved, That the 49th rule, which provides for choosing the Secretary of the Senate, Sergeant-at-arms, and Doorkeeper, on the second Monday of the first session of every Congress, be repealed.

Mr. BREESE. Mr. President, before the question is taken on the adoption of the resolution, I would like to have some explanation of it.

Mr. BENTON. Experience has satisfied me and many other Senators that it would be advantageous to us to have no periodical elections for our higher officers. The workings of the system have satisfactorily proved this to my own mind and the minds of other Senators. These officers are always in our hands, and we can at any time discharge them for the non-performance or unfaithful discharge of their duties. They are always in our hands, sir, and we can discharge them at once for any delinquency of duty; therefore there is no need of these changes at every session. And being called upon for reasons for the introduction of this resolution, I will go further and say, that I have come to the stern determination to discountenance everybody who comes in to apply for any of these offices, and seeks to undermine the incumbents; and that I believe it is now a matter of fact, that there are persons who have such an immensity of leisure upon their hands as to be actually working at this time—a year in advance—for these offices. Now, it is not right that officers engaged in the performance of their duties should be harassed by knowing that persons are attempting to undermine them, and trying to get away their places during their whole term of office. While this rule continues in force, all the officers of the Senate who are affected by it, from the highest to the lowest, are continually subject to these annoyances; for, sir, among those who have violent inclinations for office, there are many who will begin at the top, at the highest office, and come all the way down until they get to the last one, like a wounded squirrel falling from the top of a tree, catching and struggling at every limb, till at length his last support fails him, and he rolls upon the ground. Thus we have seen it for a long time, and Senators have been overwhelmed by the importunities of these office-seekers, who will take no denial, but return again and again with their application. Under the old rule Senators were not troubled with these applications, but from the moment we adopted the rule now in force we found that there was a concentration of all the rejected applicants—and, God knows, their name was Legion—upon the Senate for places. Now, sir, I hope the Senate of the United States will be kept free from applications for office, and from these periodical changes in its officers. I have been against it from the beginning, and I brought in the resolution from seeing the evils of the system, and with the hope that the Senate, by abolishing the rule, will free its members from the importunities of these applicants, and its officers from the anxieties occasioned by the consciousness that there are legions of office-seekers endeavoring to undermine them; and that we will retain in our own hands, as we have the full right to do, the power of discharging an incompetent officer on any occasion.

The question was then taken on the passage of the resolution, and it was agreed to.

PRINTING OF PENSION LAWS.

The following resolution, reported on the 7th instant by Mr. JOHNSON, of Louisiana, from the Committee on Pensions, was taken up for consideration:

Resolved, That such of the acts of Congress relative to pensions and the Executive regulations touching the subject as have been deemed necessary by the Committee on Pensions to be published, as well as the laws relating to bounty land, containing about ninety-four pages, be printed under the direction of the Commissioner of Pensions, and that five thousand additional copies be printed for the use of the Senate, and one thousand for the use of the Commissioner of Pensions.

Mr. JOHNSON moved to amend the resolution by striking out the words "under the direction of the Commissioner of Pensions."

Mr. ATCHISON. Mr. President, I can see no good reason why that amendment should prevail. It seems to me that the Commissioner of Pensions is the very man to superintend the printing of these laws.

Mr. JOHNSON. Mr. President, it will be remembered by the Senate, that when this resolution was under consideration the other day, one of the objections made to its passage was, that the Commissioner of Pensions was not an officer of this body. The committee were of the opinion that the Commissioner would be the proper officer to superintend the publication, if he would consent to undertake the work, inasmuch as he is better acquainted with the subject than any one else, and consequently better able to judge of the wants of all parties interested in the publication of these laws; but, as objection was made the other day by a Senator to the work being placed under the superintendence of the Commissioner of Pensions, I have thought it best to offer the amendment.

Mr. WESTCOTT. Mr. President, I objected the other day to this resolution, because I did not think the Commissioner of Pensions was the appropriate officer to take the supervision of this publication—not that I was opposed to the publication itself, for I then stated that I was in favor of it, and gave my reasons for desiring that the book should be printed; namely, that, by its publication, together with a full statement of the pensions granted and annually paid out of the people's money, the people might have their eyes opened to the enormous abuses that have grown up under the protection of this system. As a member of the Committee of Claims, I have seen repeated applications made to Congress for remuneration for services alleged to have been performed for the country years after the services had been rendered, and I have seen these claims allowed upon no better authority than the practice of Congress in similar cases.

I object to putting anything of this kind under the direction of an executive officer. This belongs to the contingent printing of the Senate, and does not come within the scope of an executive officer's duties, and cannot, therefore, rightfully be imposed upon such an officer. Almost every session we have applications made here for allowances for extra services performed by some of the officers of the Government; and if we commence this practice of placing the contingent printing of the Senate under the direction of executive officers, or if we impose any other labor upon them not appertaining to the duties of their offices, we shall have applications here by-and-by for payment for extra services. I do not suppose that these remarks will apply to Mr. Edwards at all, but I am opposed to the principle, and hope, therefore, that the amendment will prevail.

Mr. BADGER. Mr. President, I would like to understand the effect of the amendment.

PRESIDING OFFICER. The effect of the amendment will be simply to strike out the words "under the direction of the Commissioner of Pensions."

Mr. BADGER. I am in favor of that.

The question was then taken on the amendment, and it was rejected.

Mr. YULEE. Mr. President, I move to amend the resolution by inserting the word "three" in the place of "five," so that it will read "three thousand copies."

Mr. JOHNSON, of Louisiana. Mr. President, I would remark that I hope that amendment will not prevail. There has been no document printed by Congress that is in so great a demand as this.

Mr. ATHERTON. I will merely remark, for the information of the chairman of the Committee on Pensions, though I do not know that my statement will make any difference of opinion in the minds of Senators in relation to this resolution, that the civil and diplomatic appropriation bill which came from the House contains the following clause:

"For the purpose of printing, under the direction of the Commissioner of Pensions, an additional number of House document number ninety-five of the first session of the twenty-ninth Congress, and all laws relating to pensions, which have been passed since the twenty-seventh day of January, eighteen hundred and forty-six, and are still in force, together with the constructions placed upon such laws by the War Department or Attorney General, and the forms necessary to be followed by applicants for pensions under the several laws, and the bounty land laws, together with the necessary forms for application therefor, for the use of the Pension Office, the sum of eight hundred dollars."

Mr. JOHNSON. Mr. President, that does not refer to the same document. It has no reference to the document now under consideration. It refers to the House document, number ninety-five, which was printed by the House two years ago; and although a large number of copies of that document was then printed, but one copy only was given to each Senator. Now, the object of this resolution is to print a reasonable number of copies of the document under consideration to be distributed among the several States by Senators. The clause read by the honorable Senator from New Hampshire does not meet the requirements of this case at all.

Mr. ATHERTON. Mr. President, this is a provision of law contained in the civil and diplomatic appropriation bill. I would merely remark that I prefer that such things should be done by a provision of law instead of paying for them out of the contingent fund of the Senate. If the Senate desire to have an additional number of this document printed, an amendment can be made in an additional clause to the civil and diplomatic appropriation bill, making an appropriation for that purpose.

Mr. JOHNSON. This resolution was reported by the Committee on Pensions after a full and careful examination of all the laws relating to pensions, and after consulting the Commissioner of Pensions. It was believed by the Commissioner of Pensions that all the old laws relating to this subject, constituting about one-half of the whole number, might be dispensed with, because, though yet in force, there are very few cases arising under them. The Commissioner believed also, and the committee concurred with him, that the constructions placed upon these laws by the Attorney General, which constitute a very considerable portion of the book, although useful to committees and members of Congress, would be utterly useless to the people at large, and, therefore, that they might be dispensed with. By striking out these old laws and the constructions of the Attorney General, the size of the book is reduced more than one-half, brought down to about ninety-four pages, and contains only what is of value to the people at large—laws in relation to bounty lands, and some additional regulations relating to them.

Mr. BRIGHT. Mr. President, I had the honor of offering, the other day, the resolution proposing to print five thousand copies of the pension laws now in force. At the time I offered it, I knew nothing about the provision contained in the civil and diplomatic appropriation bill, covering that proposition. I then said that my object in offering the resolution was, that, as every individual engaged in the service of the United States in the late war with Mexico is more or less interested in having information in regard to the law relating to his pay, it was right that something should be done by Congress which would enable him to obtain that information in the most convenient and accurate form. Many of these individuals, either personally or by attorney, are continually writing to Senators for information concerning the laws and forms it is necessary to observe in procuring pensions, extra pay, and any other rights arising under the law. I have received repeated applications for such information, and, on making inquiry at the Pension Office, I have learned that the number of copies containing the laws upon that subject now in force was nearly exhausted, and it seemed to me quite essential that more should be printed.

The book of pension laws originally printed embraced the laws relating to pensions granted for services in the revolutionary war and the war of 1812, which alone made some ninety-odd pages. The object of my resolution was to print the pension laws now in force. The Senate determined, after some debate, to refer the entire subject to the Committee on Pensions. That committee reported back this resolution. They say that so much of the law as relates to pensions arising from revolutionary services, and for services in the war of 1812, is unnecessary, and recommend that all the laws and forms applicable to the late war with Mexico should be printed and placed in the possession of Senators for distribution. This resolution provides for the printing of five thousand copies, which will give Senators only about eighty copies each, not more than they need, and nothing like as many as I need. I hope the Senate will act upon the report of the committee, and order the printing of the late pension laws without reference to the old laws relating to that subject. If the House desire the printing of the old laws, we can pass the amendment which they have incorporated in the appropriation bill, whenever that bill comes up. That is a matter in which the Senate has nothing at all to do. The object of the House in putting that appropriation in the bill is to make it a law, and place these documents in the War Department, and we shall have no control over them at all.

Mr. ALLEN. I hope the amendment offered by the Senator from Florida will not prevail. If there be any reason for printing this document at all, there is reason for printing a large number; and as I believe there is reason for printing the document, and very strong reason, I think that we ought rather to increase than diminish the number named in the original resolution. Why, sir, one of the very greatest difficulties experienced by that large class of people for whose benefit these laws were framed, is their not knowing the manner in which they should proceed in order to obtain that to which by law they are entitled; and it is particularly the case with regard to those who are entitled to receive bounty land warrants. It is, sir, the absence of information from these men, with regard to these land warrants, that has brought so many land warrants into the hands of speculators. It is because those who had the right were uninformed of the manner in which they should proceed to reach its enjoyment. I think, therefore, that this resolution is one of prime necessity, and thinking that, I would rather vote for printing ten thousand instead of five thousand copies.

SEVERAL SENATORS. Move it, then. Make a motion to that effect.

Mr. ALLEN. Well, then, Mr. President, I will move to amend the amendment offered by the honorable Senator from Florida by striking out the word "three" and inserting the word "ten," so that the resolution will read "ten thousand copies."

The question being taken on the amendment offered by Mr. ALLEN, the vote stood, on a division, for the amendment to the amendment, 20, against it 25. So the amendment was rejected.

Mr. BORLAND moved to amend the amendment, by inserting "eight thousand" instead of "three thousand."

The question being taken on this amendment, the vote stood, on a division, for the amendment 21, against it 23. So Mr. BORLAND's amendment was rejected.

The question being taken on the amendment of Mr. YULEE, it was not agreed to.

Mr. JONES. Mr. President, I now move to amend the resolution, by inserting "six thousand" instead of "five thousand." That will give only a hundred copies to each Senator. I am certain that two hundred will not supply my State.

The question being taken on the amendment of Mr. JONES, the vote stood, on a division, for the amendment 21, against it 20. So the amendment was agreed to.

The resolution as amended was then agreed to.

Mr. HANNEGAN moved that the Senate proceed to the consideration of Executive business; but gave way to

Mr. DIX, upon whose motion the bill making a grant of land to the several States for certain purposes was taken up and made the special order for to-morrow.

On motion of Mr. YULEE, the Senate took up the bill to promote the efficiency of the military and naval establishment; which was then postponed till Tuesday, and made the special order for that day.

Mr. BRADBURY moved that the Senate take up the bill to provide for the investigation of claims against the United States.

And the motion being agreed to, the bill was taken up and its further consideration was postponed until to-morrow, and made a special order for that day.

Mr. HALE moved that when the Senate adjourns, it adjourn to meet on Monday.

Mr. DOWNS asked for the yeas and nays; which were ordered.

The question was then taken, and decided as follows:

YEAS—Messrs. Allen, Atchison, Badger, Berrien, Bright, Butler, Calhoun, Dayton, Hale, King, Mangum, Miller, Phelps, Sebastian, Turney, Upham, and Yulee—17.

NAYS—Messrs. Atherton, Baldwin, Bell, Benton, Borland, Bradbury, Breese, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dickinson, Dix, Dodge of Iowa, Douglas, Downs, Felch, Fitzpatrick, Foote, Greene, Hamlin, Hannegan, Houston, Hunter, Johnson of Louisiana, Johnson of Georgia, Jones, Mason, Metcalfe, Niles, Rusk, Spruance, Sturgeon, Underwood, Walker, Webster, and Westcott—37.

On motion of Mr. HANNEGAN, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 9, 1849.

The Journal of yesterday was read and approved; on which was announced the tellers on the part of the House to count the votes of President and Vice President as follows: Mr. HUNT and Mr. MCCLELLAND.

Mr. HUNT, at his request, was excused from acting as a teller on the part of the House to make a list of votes for President and Vice President of United States, and thereupon—

Mr. BARROW was appointed in his place.

Mr. MCLANE gave notice of a motion for leave to introduce a bill to extend to all widows of the officers and soldiers of the Revolution the same rights and privileges as are now enjoyed by those married previous to the year 1800.

Mr. NICOLL gave notice of a motion for leave to introduce a joint resolution to allow drawback on all merchandise landed in California from the United States until the revenue laws are extended over that country.

THE INDIAN TRIBES.

Mr. STRONG asked leave to present certain resolutions of the Legislature of Pennsylvania.

Mr. GOGGIN said, before the resolutions were received, he wished to ask what was the order of business this morning?

The SPEAKER replied that it was private bill day.

Mr. GOGGIN inquired of the Chair whether, although it was private bill day, they had not one hour for the reception of reports?

The SPEAKER replied that they had not, unless by special order, after refusing to go into private business.

The resolutions presented by Mr. STRONG were then read, as follows:

RESOLUTIONS relative to the providing of a permanent home for the Indian tribes.

Whereas, sympathy for the various tribes of Indians now scattered in the West and southwestern States has induced a public expression of feeling in several of our sister States:

And whereas the citizens of Pennsylvania yield to none in an honest and patriotic desire for the civilization and social improvement of this unfortunate race:

And whereas the efforts of philanthropists for the amelioration of their condition have been rendered ineffectual on account of their scattered condition and wandering habits: Therefore—

Resolved by the Senate and House of Representatives in general assembly met, That our Senators and Representatives in Congress be requested to aid in establishing for them a permanent home, by granting to them a portion of the Northwestern Territory, and holding out to them proper inducements to move thither.

Resolved, That the Governor be requested to cause a copy of the above preamble and resolutions to be forwarded to our Senators and Representatives in Congress.

WILLIAM F. PACKER,
Speaker of the House of Representatives.
GEORGE DARSIE,
Speaker of the Senate.

Approved, January 31, 1849.

WM. F. JOHNSTON.

On motion of Mr. STRONG, the resolutions were laid on the table, and ordered to be printed.

DAVID MYERLE.

Mr. MOREHEAD moved that the bill just received from the Senate, for the relief of David Myerle, be referred to the Committee on Claims.

Mr. HALL, of Missouri, objected.

The SPEAKER said the Chair understood that this was a private bill which had passed the House, been sent to the Senate, and returned with amendment. It was clearly in order to proceed to private business on the Speaker's table, and bills returned from the Senate with amendments were first in order.

Mr. GOGGIN inquired if it was in order to move to lay the bill on the table?

The SPEAKER. It is.

Mr. GOGGIN. I make that motion.

Mr. GRINNELL called for the yeas and nays.

Mr. HALL, of Missouri. Is it in order to move that the House proceed to the call of committees for reports?

The SPEAKER replied: Not while the motion to lie on the table is pending.

The SPEAKER announced the bill for the relief of David Myerle before the House, and stated that a motion had been made by the gentleman from Kentucky to refer it to the Committee on Claims, and by the gentleman from Virginia to lay the bill on the table. The motion to lay on the table was first in order.

Mr. CATHCART rose to a point of order, and inquired if it was in order to move to refer the bill at this time?

The SPEAKER replied that it was clearly in order. It was private bill day, and on these days private bills returned from the Senate with amendments were first in order upon the Speaker's table.

Mr. COBB, of Georgia. Is it now in order to move that the House resolve itself into Committee of the Whole on the state of the Union?

The SPEAKER replied that it was.

Mr. COBB. I make that motion, in order that we may proceed to the consideration of the fortification bill.

Mr. ROCKWELL, of Connecticut, inquired whether, in case the House went into committee, the bill No. 412, to establish a board for the examination of private claims, which was a special order, would not be first in order?

Mr. SPEAKER replied, that would be a point for the committee to decide.

The question was taken on the motion of Mr. COBB and agreed to.

So the House resolved itself into Committee of the Whole on the state of the Union, (Mr. BURT, of South Carolina, in the chair.)

Mr. COBB, of Georgia, moved that the committee resume the consideration of the fortification bill.

Mr. ROCKWELL, of Connecticut, moved the bill relative to private claims.

Mr. COBB, of Georgia. I trust the gentleman from Connecticut will abandon that bill. There is no hope of passing it.

The CHAIRMAN called to order, and stated that the question was first on the motion of Mr. COBB.

Tellers were asked and ordered; and the question having been taken, they reported ayes 70, noes 70—

But before they resumed their seats, other gentlemen passed between them, and they reported ayes 70, noes 72.

Mr. COBB, of Georgia, objected to the second report; and raised the point of order, that having made a report, they could receive no more votes.

The CHAIRMAN sustained the point of order, and received the first report as final, viz: ayes 70, noes 70—a tie.

The CHAIR voted in the negative, making ayes 70, noes 71.

So the committee refused to take up the fortification bill.

BOARD TO SETTLE PRIVATE CLAIMS.

Mr. ROCKWELL, of Connecticut, moved that the committee proceed to the consideration of bill No. 412, being a bill to provide for the settlement of claims against the United States.

Mr. GOGGIN moved that the committee proceed to the consideration of the bill to reduce the rates of postage.

Mr. KAUFMAN indicated his intention, if the motion of the gentleman from Connecticut, [Mr. ROCKWELL,] and of the gentleman from Virginia, [Mr. GOGGIN,] failed, to move to take up the bill making appropriations for the Post Office Department.

The CHAIRMAN said such a motion would be in order in the event of the other motions failing.

The question was then taken on the motion of Mr. ROCKWELL, and the Chairman announced that the "Noes appeared to have it."

Mr. ROCKWELL rose to a question of order. He submitted to the Chair whether it was in the power of a majority of the House or of the committee, to set aside a special order?

The CHAIRMAN was of opinion, he said, that it was not in the power of the House to set aside a special order.

Mr. ROCKWELL submitted whether, when the House went into committee on a special order, the committee could take up any bill but a special order, unless it was a general appropriation bill?

Mr. GOGGIN suggested that the bill in relation to the reduction of the rates of postage had also been made a special order.

Mr. ROCKWELL was understood to say, that he was aware of it; but that the bill to provide for the establishment of a board of claims had precedence over it.

Mr. COBB, of Georgia, said it would be better to reconsider the vote refusing to take up the fortification bill.

Mr. ROCKWELL said that the only reason, as he supposed, why the appropriation bill, moved by the gentleman from Georgia, [Mr. COBB,] was in order, was because a rule which had been adopted at the present session of Congress made it always in order to go into committee upon appropriation bills. But he presumed it to be settled, that where there was a special order, the committee could not by a majority set it aside.

Mr. VINTON said that as the committee had voted down the motion to take up the fortification bill, and also a motion to take up the bill to establish a board of private claims, he would move to take up the Mexican treaty bill.

Mr. ROCKWELL said that the gentleman was mistaken in one particular. The committee had not voted down the motion to take up the bill to establish a board of claims. The decision had not been declared upon that motion.

Mr. VINTON gave notice, that if that motion did not prevail, he should move to take up the Mexican treaty bill.

Mr. ROCKWELL asked for the decision of the Chair upon the point whether it was in order to take up any other bill, (the bill in relation to private claims being a special order,) except a general appropriation bill.

The CHAIRMAN said that it would be in order for the committee to take up any general appropriation bill. But the bill reported by the gentleman from Connecticut [Mr. ROCKWELL] having been made a special order, no other bill, except a general appropriation bill, could be taken up.

Some conversation followed on the part of Mr. HOUSTON of Alabama, and Mr. ROCKWELL.

Mr. ROCKWELL called for the consideration of the special order.

Mr. VINTON renewed his motion in respect to the Mexican treaty bill.

[SEVERAL VOICES: Let us take up that bill.]

The CHAIRMAN said that the Mexican treaty bill was not a general appropriation bill, as he thought, coming within the rule of the House.

Mr. GOGGIN inquired if the gentleman from Connecticut [Mr. ROCKWELL] had made his motion?

Mr. ROCKWELL said he withdrew it. It was not necessary he should make it.

Mr. GOGGIN said, he then moved to take up the bill to reduce the rates of postage.

Mr. ROCKWELL said, that the bill being the special order, it was not competent to take up any other bill except a general appropriation bill. The bill to reduce the rates of postage and the fortification bill were not bills of that character.

The CHAIRMAN then announced the special order, being the consideration of the bill to provide for the settlement of claims against the United States.

Mr. GOGGIN inquired if it was in order to move that the committee rise and report the bill to the House, with a recommendation that it be rejected?

The CHAIRMAN said he thought the motion was not in order.

Mr. ROCKWELL rose to a point of order. He understood (he said) that no such motion was in order while an amendment was pending. It was, he submitted, clearly out of order.

The CHAIRMAN said, that as there was a pending amendment, the committee having taken up the bill, it was not competent to make such a motion until the pending amendment was disposed of. As soon as the amendment was disposed of, the Chairman thought the motion would be in order.

Mr. KAUFMAN said he understood that there was before the committee a general appropriation bill, being the bill making appropriations for the service of the Post Office Department. That was a general appropriation bill, which had been reported from the Committee of Ways and Means.

The CHAIRMAN said he had been informed that there was no such bill before the committee.

The CHAIRMAN then directed the Clerk to read the pending amendment.

And the question was stated as follows:

When the committee were last in session on this bill, the amendment offered by Mr. DUER to the 3d section was pending, viz: at end of last amendment add—

Where, from the nature of the facts, the rules of law and equity as established between individuals are inapplicable, but where the claimant is entitled to the relief sought in justice and sound policy, and according to the general practice of this Government.

To which amendment Mr. SCHENCK had moved to add the following:

And this shall include all claims against the Government of the United States arising under any contract, express or implied, with the Government, or with any department or officer thereof; or under any existing law of the United States, in cases where the subject-matter of the claim is now cognizable by any of the officers of the Treasury Department, or other officers of the Government; or in any cases where damages to individual property have been sustained by reason of the act or order of any officer or person employed by the Government, while such officer or person was in the discharge of a lawful duty; and the decision of said board shall be final.

Mr. STEPHENS was understood to say, it was evident that it could not be perfected during the present session; and he thought, therefore, that there was no use in spending another day upon it, when there were so few days of the session yet remaining. He thought that the motion which he now made that the committee rise would be agreed to.

The CHAIRMAN said the gentleman must confine his remarks to the amendment which he offered.

Mr. STEPHENS intimated that he had not offered any amendment. He moved that the committee rise and report progress upon the bill, and that they had come to no conclusion thereon. He made the motion, with a view to enable the House to proceed to the consideration of other business.

Mr. ROCKWELL said he believed it had been

decided several times by the gentleman who now occupied the Chair, that a motion that the committee rise and report the bill to the House, with or without a recommendation, was not in order.

The CHAIRMAN said he understood the motion of the gentleman from Georgia [Mr. STEPHENS] to be simply that the committee rise.

Some conversation followed between Mr. KAUFMAN and the Chair.

The question was then taken, and decided in the negative: Ayes 50, noes 69.

So the committee refused to rise.

Mr. KAUFMAN then moved that the committee rise and report the bill to the House, with a request to be discharged from the further consideration thereof.

The CHAIRMAN decided the motion to be out of order. The committee, at this state of the bill, could not rise and make such a report.

Mr. KAUFMAN. Can we report a recommendation that the bill be laid on the table?

The CHAIRMAN said not.

Mr. JONES, of Tennessee, inquired if it was in order to move that the committee rise and recommend to the House that the committee be discharged from the further consideration of the bill?

The CHAIRMAN said he was of opinion that the committee must act upon the bill. The committee could not act upon the bill until it had considered all the clauses of the bill and the amendments which were offered. The committee might rise at any time.

Mr. JONES said his proposition did not contemplate reporting the bill, but merely that the chairman of the committee be instructed to report to the House that the committee be discharged from the further consideration of this bill.

The CHAIRMAN said that motion was preliminary to the rejection of the bill, and was not in order.

The question was then again stated to be on the amendment of Mr. SCHENCK.

Mr. DUER asked Mr. SCHENCK to withdraw his amendment.

Mr. SCHENCK did so.

After some conversation on a point of order between Mr. STUART of Michigan and the CHAIRMAN—

Mr. DUER renewed the amendment of Mr. SCHENCK.

The question was put on agreeing to Mr. SCHENCK's amendment, and it was rejected.

Mr. DUER then modified his amendment, by striking out the words "justice and sound policy," and inserting "as a matter of right, and not as a gratuity."

The question was put, and Mr. DUER's amendment was rejected.

The fourth section was then read.

Mr. MEADE moved to amend the same in the second line, by inserting after the word "shall," the words "keep a record of their proceedings." Agreed to.

Mr. KAUFMAN moved to add at the end of the fourth section the following:

Provided, That no member of the present Congress shall be appointed to any office created by this act.

Mr. KAUFMAN said he had offered this amendment with a view to strict fairness and impartiality. By section 6, article 1, of the Constitution of the United States, it is provided that "no Senator or 'Representative shall, *during the time for which he* 'was elected, be appointed to any civil office under 'the authority of the United States, *which shall* 'have been created, or the emoluments whereof shall 'have been increased, *during such time*." This provision of the Constitution does not affect the members of this House longer than the 4th of March next. My friends on this side of the House cannot possibly be appointed to any offices under this bill; for the moment that "the time for which they were elected" expires, President Polk goes out of office. Now, (said Mr. K.,) he did not wish to see our Whig friends on the other side of the House enjoy advantages from our common legislation which the Democrats could not under any possible contingency be put in possession of. And therefore he hoped the amendment he had just offered would receive the sanction of the committee. [Laughter.]

The amendment was agreed to.

Various other amendments were offered and debated, under the five minutes rule, by Messrs. DUER, WOODWARD, GOGGIN, MEADE, ROCKWELL of Connecticut, KAUFMAN, HALL of Missouri, FICKLIN, HAMMONS, DANIEL, JOHNSON of Tennessee, and TURNER, many of which were agreed to.

After the bill had been amended in nearly every section, and in various ways—

Mr. FICKLIN offered the following as a substitute for the entire bill, as amended:

That from and after the passage of this act, the several judges of the district courts of the United States shall be, and they are hereby, constituted commissioners for their respective districts, for the settlement of claims against the United States. The said commissioners shall severally take an oath before some officer of the State in which they reside, authorized by law to administer oaths, faithfully and impartially to execute the duties imposed on him as such commissioner, to the best of his judgment and ability; and each of said commissioners shall receive a compensation of ——— per annum, in addition to his salary as district judge, to be paid annualy from the treasury of the United States.

SEC. 2. *And be it further enacted*, That any person or persons having a claim against the United States, (the settlement of which is not provided for by law before any of the departments of the Government, or of the accounting officers,) shall file his or their petition with the clerk of the district court of the United States for the State or district in which one or more of the claimants shall reside, which petition shall, in a clear and succinct form, state the nature and amount of the claim presented, the name of the person or persons to whom it first accrued, and the date of such accrual, together with the name and residence of the claimants, and in what right each one claims. Which said petition, when received by the clerk, shall be by him marked, filed, and a memorandum of the filing entered upon a docket to be by him provided for that purpose, and which docket shall be kept in his office.

SEC. 3. *And be it further enacted*, That so soon as a petition is filed, as aforesaid, it shall be the duty of the clerk of the district court in which it is filed to make out and forward a certified copy of the same to the Secretary of the Treasury of the United States; and it shall be the duty of the Secretary aforesaid to cause an investigation to be made, and ascertain whether said claim, or any part thereof, has been presented for settlement and liquidation to any of the accounting officers or departments of the Government, and what action, if any, has been had in regard to it; and it shall be the further duty of said Secretary, so soon as said examination has been made, to forward to the clerk aforesaid a brief statement of the result of such examination, and no proceedings shall be had on said claim until after such statement shall have been received and filed in the office of said clerk.

SEC. 4. *And be it further enacted*, That if, on examination, the Secretary of the Treasury shall be satisfied that the subject-matter of the claim is by law cognizable by any of the officers of the Treasury Department, or other officers of the United States, or shall have been presented to and settled by the proper accounting officers, then it shall be the duty of said Secretary to notify the clerk aforesaid, by a statement in writing, of the fact so ascertained, and thereupon no further proceedings shall be had on the petition filed with the clerk as aforesaid.

SEC. 5. *And be it further enacted*, That if, on examination, the Secretary of the Treasury shall become satisfied that said claim is not cognizable by law, before any of the officers of the Treasury Department, or any other officers of the United States, and that the same shall not have been presented to and settled by any of the proper accounting officers of the Government, it shall be his duty to notify the clerk with whom said petition has been filed of said fact, whereupon it shall be the duty of said clerk, on receipt of said notice, to mark said petition for hearing, and to notify in writing the District Attorney of the United States for the district in which said petition is filed of the filing of such petition, whereupon it shall be the duty of said district attorney to take charge of said case, on behalf of the Government, and bestow upon it the same attention that he is required by law to do in all cases in which the United States is a party; and all judicial notices of the claimants shall be served on the district attorney, and said district attorney shall be paid the sum of ——— dollars for each case to which he shall attend in person.

SEC. 6. *And be it further enacted*, That so soon as convenient after a petition shall have been marked for hearing by the clerk as aforesaid, it shall be the duty of the commissioner to fix upon a time at which he will hear and decide upon said case; and it shall be the duty of the clerk forthwith to notify the district attorney and the claimants of such time, in order that they may take depositions, and make other preparations for the trial. Depositions may be taken by either party, in the same manner and under the same rules that are applicable to the taking and certifying of depositions to be used as evidence in the district court of the United States.

SEC. 7. *And be it further enacted*, That, when all the testimony desired by either of the parties shall have been taken and filed, it shall be the duty of the judge sitting in the capacity of commissioner for the adjudication of claims, to proceed to the investigation of the facts in said cause; and each party shall have the privilege of being heard by another, but not by oral argument, before said commissioner, at the time fixed for said investigation: *Provided*, That in all cases where a written argument is filed by the claimant, there shall also be one filed by the district attorney, before said claim shall be decided upon.

SEC. 8. *And be it further enacted*, That it shall be the duty of said commissioner, after the investigation of each case, to decide the same upon the known and settled rules of law and equity, and to state briefly, in writing, the amount awarded to the claimants, together with the reasons and grounds upon which his decision is founded, as also the name or names of the person or persons whom the evidence shows entitled to the same; and when his decision is adverse to the allowance of said claim, he shall also briefly state in writing the reasons upon which such decision is founded, and thereupon all the papers, in any way connected with the case, shall be forwarded to the Secretary of the Treasury of the United States, to be filed away in that department for perpetual reference.

SEC. 9. *And be it further enacted*, That within a reasonable time after the papers in any case are returned to the Secretary of the Treasury, it shall be the duty of said Secretary, together with the Attorney General of the United States, to investigate the papers in said case fully and thoroughly, as also the decision of the commissioner, together with the reasons upon which it is based; and if said Secretary and Attorney shall conclude that said decision is correct, they shall so state in writing, and that shall be final against the Government, or the claimants, respectively; but should said Secretary or Attorney decide against the decision of said commissioner, then they shall state fully in writing the reasons upon which such difference shall be founded, and transmit all the papers in the case, together with the written opinions, to Congress at its next session, and Congress shall decide upon the same, which decision shall be final.

Mr. FICKLIN's substitute was agreed to. (The other amendments made by the committee to the bill were therefore superseded.)

On motion of Mr. ROCKWELL, of Connecticut, the committee then rose and reported the bill to the House as amended.

The question being upon agreeing to the amendment reported by the Committee of the Whole, (Mr. FICKLIN's)—

Mr. ROCKWELL moved the previous question.

Mr. KAUFMAN moved that the bill, as amended, be laid on the table.

Mr. BOYD asked the yeas and nays on that motion, which were ordered, and, being taken, resulted—yeas 64, nays 108.

So the bill was not laid on the table.

The question then recurred on seconding the demand for the previous question.

And there was a second. And the main question (being first on the substitute bill reported from the Committee of the Whole on the state of the Union) was ordered to be now taken.

Mr. BOWLIN inquired if it would be in order to move that there be a call of the House?

The SPEAKER replied that it would not be in order.

The reading of the bill, as amended by the committee, was called for, and it was read.

Mr. STANTON desired to ask a question of the Chair: If this amendment were voted down, would there be an opportunity to vote upon the amendments of the Committee of the Whole on the state of the Union to the original bill?

The SPEAKER. No; the question will then be upon the engrossment of the bill as it stands. The question is now on the adoption of the amendment.

The yeas and nays were asked and refused; and the question having been taken, was decided in the negative—ayes 47, noes not counted.

So the substitute was rejected.

The SPEAKER announced that the question was now on the engrossment of the bill.

Mr. BOWLIN asked the yeas and nays, which were not ordered.

The question was taken, and the bill was ordered to be engrossed—ayes 86, noes 64.

The SPEAKER next announced the question on the third reading of the bill.

Mr. COBB, of Georgia, objected to the third reading to-day.

The SPEAKER. The bill is not engrossed.

Mr. GREEN rose to a point of order. He wished to make an inquiry. The bill had been referred to the Committee of the Whole on the state of the Union; the committee had made some amendments, and then had adopted the substitute of the gentleman from Illinois, [Mr. FICKLIN.] That substitute had been rejected by the House. He wished to know whether it was the original bill or the bill as amended that was now before the House?

The SPEAKER. It is the bill reported from the committee.

Mr. GREEN. I do not know whether it is the original bill, or the bill as amended, that was reported from the committee.

Mr. ASHMUN moved to reconsider the vote by which the bill had been ordered to be engrossed, and moved to lay that motion on the table.

Mr. COBB, of Georgia, moved that the House adjourn.

Mr. HALL, of New York, appealed to the gentleman from Georgia to withdraw the motion to adjourn, until he could make a motion to reconsider a vote taken yesterday; which motion he

desired to have entered on the Journal, and that it lie over.

The SPEAKER stated that a motion to reconsider was pending, and that until that was disposed of it would not be in order to receive another.

Mr. WENTWORTH. I want to know, if the House sit here till the bill be engrossed, if we cannot pass it?

The SPEAKER. The Chair will decide that point when it arises.

Mr. WENTWORTH. I hope we will sit here and pass the bill to-day.

The question was then taken on the motion to adjourn, and it was rejected—ayes 71, noes 77.

The question recurring on Mr. ASHMUN's motion to lay on the table the motion to reconsider the vote by which the bill had been ordered to be engrossed, was taken and agreed to.

Mr. HOUSTON, of Delaware, moved, if it was in order, to proceed to the business on the Speaker's table.

Mr. HALL, of New York, rose to a privileged question.

Mr. COBB, of Georgia, rose to a point of order.

The SPEAKER. The gentleman from New York rises to a privileged question, and is entitled to the floor.

Mr. HALL, therefore, moved to reconsider the vote by which the resolution yesterday reported from the Committee on the Judiciary, directing the Clerk of the House to pay J. W. Nye for services under a contract with the Postmaster of the House, was laid on the table.

The motion was entered upon the Journal, and lies over.

Mr. COBB, of Georgia, rose and desired to know if the bill which had just been ordered to be engrossed had passed from before the House? He wished to know what was the position of that bill now?

The SPEAKER. If the bill were now before the House, the Chair would put the question upon it.

Mr. COBB. Then I understand the Chair to decide that it is upon the Speaker's table?

The SPEAKER. The Chair makes no decision upon it.

Mr. COBB. In what condition does the Chair consider the bill?

The SPEAKER. The House has ordered it to be engrossed.

Mr. ROCKWELL, of Connecticut. Is it in order to have it read a third time to-day?

The SPEAKER. The bill cannot be read, except by unanimous consent, until it has been engrossed.

Mr. WENTWORTH. Is it not being engrossed now?

Mr. COBB, of Georgia, moved that the House adjourn.

Tellers were asked and ordered, viz: Messrs. BOYD and FULTON, who reported ayes 97. The question was given up by the negative without a count.

So the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. GREELEY: The petition of Joseph Curtis and other inventors of New York, for certain amendments to the patent laws. Also, of B. F. Rogers and other citizens of Pennsylvania, for action of Congress to meliorate generally the condition of our colored population. Also, four memorials from the State of New York, for the exclusion of intoxicating liquors from the United States Navy.

By Mr. CONGER: The petition of Messrs. Wendell & Van Benthuysen, Congressional printers, asking Congress for extra compensation to remunerate them for losses incurred in the execution of their contract.

By Mr. HAMPTON, of Pennsylvania: The petition of S. S. Waterman, and thirty-eight others, citizens of the Commonwealth of Pennsylvania, praying for an alteration in the laws relating to the mineral lands along the southern shore of Lake Superior.

By Mr. MCILVAINE: The petition of Caleb Seal, and forty-six others, citizens of Chester county, Pennsylvania, praying Congress to prohibit the introduction of slavery into the Territories of New Mexico and California, and to exercise its constitutional authority to abolish slavery in the District of Columbia.

By Mr. SAWYER: The petition of citizens of Middletown, Maryland, for the discontinuance of the Military Academy at West Point.

By Mr. STEWART, of Pennsylvania: Resolutions of the Legislature of Pennsylvania, relative to providing a permanent home for the Indian tribes.

By Mr. BUTLER: The petition of William Reddy and others, citizens of Kingston, Luzerne county, Pennsylvania, asking for the establishment of a uniform system of postage, and for certain other alterations in the postage laws.

By Mr. DARLING: Petitions of sundry inhabitants of Wisconsin, for the establishment of a mail route from Christiana, in Dane county, by way of Cambridge and Waterloo, to Columbus, in Columbia county.

By Mr. PILSBURY: The memorial of R. G. Crozier, of Galveston, in the State of Texas, for payment of goods taken by the soldiers of the United States army, in Mexico.

By Mr. MORSE: The petition of Devince Bienvenue Charles Gautier, and ninety-five others, praying that the wood on a tract of land known as Cypress Island, should be reserved for the use of the inhabitants for fire-wood, according to the usages of the Spanish Government with regard to woodland on the prairies of Attackapa and Zelousas.

By Mr. BARROW: The petition of James R. Graves and others, citizens of Tennessee, relative to reduction of postage, &c.

By Mr. SMITH, of Illinois: The petition of A. Huffman and others, citizens of Illinois, praying a donation of land to aid in the construction of a railroad connecting the Upper and Lower Mississippi river with the Northern Lakes, at Chicago. Also, the petition of a large number of citizens of Jersey and Macoupin counties, Illinois, upon the same subject.

IN SENATE.

SATURDAY, *February* 10, 1849.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, communicating, in compliance with a resolution of the Senate, instructions given to Ambrose H. Sevier and Nathan Clifford, United States Ministers to Mexico, prior to the ratification of the treaty with Mexico, and certain other correspondence and papers:

WASHINGTON, *February* 9, 1849.

To the Senate of the United States:

In compliance with the resolution of the Senate of the 6th instant, requesting the President to cause to be laid before that body, "in Executive or open session, in his discretion, any instructions given to Ambrose H. Sevier and Nathan Clifford, commissioned as Ministers Plenipotentiary on the part of the United States to the Government of Mexico, or to either of said Ministers, prior to the ratification by the Government of Mexico of the treaty of peace between the United States and that Republic," and certain correspondence and other papers specified in the said resolution, I communicate herewith a report from the Secretary of State, together with copies of the documents called for.

Having on the 8th instant, in compliance with a resolution of the House of Representatives, in its terms more comprehensive than that of the Senate, communicated these and all other papers appertaining to the same subject, with a message to that House, this communication is made to the Senate in "open," and not in "Executive session." JAMES K. POLK.

The documents referred to in the above message are the following:

DEPARTMENT OF STATE,
Washington, February 9, 1849.

The Secretary of State, to whom was referred the resolution of the Senate of the 6th instant, requesting the President to communicate to that body certain documents relative to the ratification by the Mexican Government of the treaty of Guadalupe Hidalgo, as amended by the Senate, has the honor to lay before the President the papers mentioned in the subjoined list, which embrace all in this department called for by the resolution.

Respectfully submitted.

JAMES BUCHANAN.

To the PRESIDENT *of the United States.*

Mr. Buchanan to the Minister of Foreign Relations of the Mexican Republic.

DEPARTMENT OF STATE,
Washington, March 18, 1848.

SIR: Two years have nearly passed away since our Republics have been engaged in war. Causes which it would now be vain, if not hurtful, to recapitulate, have produced this calamity. Under the blessing of a kind Providence, this war, I trust, is about to terminate; and hereafter, instead of the two nations doing each other all the harm they can, their mutual energies will be devoted to promote each other's welfare by the pursuits of peace and of commerce. I most cordially congratulate you on the cheering prospect. This will become a reality as soon as the Mexican Government shall approve the treaty of peace between the two nations concluded at Guadalupe Hidalgo on the 2d February last, with the amendments thereto which have been adopted by the Senate of the United States.

The President, in the exercise of his constitutional discretion, a few days after this treaty was received, submitted it to the Senate for their consideration and advice as to its ratification.

Your Excellency is doubtless aware that, under the Constitution of the United States, "the advice and consent of the Senate" is necessary to the validity of all treaties, and that this must be given by a majority of two-thirds of the Senators present. Every treaty must receive the sanction of this august executive council, in the manner prescribed by the Constitution, before it can be binding on the United States.

The Senate commenced their deliberations on this treaty on the 23d of February last, and continued to discuss its provisions until the 10th instant, (March,) when they finally advised and consented to its ratification, by a majority of thirty-eight to fourteen. Your Excellency will perceive that a change of four votes, taken from the majority and added to the minority, would have defeated the treaty.

I have now the honor to transmit you a printed copy of the treaty, with a copy in manuscript of the amendments and final proceedings of the Senate upon it. This is done to hasten, with as little delay as practicable, the blessed consummation of peace, by placing in the possession of the Mexican Government, at as early a period as possible, all the information which they may require to guide their deliberations.

In recurring to the amendments adopted by the Senate, it affords me sincere satisfaction to observe that none of the leading features of the treaty have been changed. Neither the delineation of the boundaries between the two republics, nor the consideration to be paid to Mexico for the extension of the boundaries of the United States, nor the obligations of the latter to restrain the Indians within their limits from committing hostilities on the territories of Mexico, nor indeed any other stipulation of national importance to either of the parties, has been stricken from the treaty by the Senate. In all these important features it remains substantially as it was when it came from the hands of the negotiators.

The first amendment adopted by the Senate is to insert in article 3, after the words "Mexican Republic," where they first occur, the words "*and the ratifications exchanged.*"

Under this article, as it originally stood, the blockades were to cease, and the troops of the United States were to commence the evacuation of the Mexican territory immediately upon the ratification of the treaty by both Governments. The amendment requires, in addition, that these ratifications shall have been first exchanged.

The object of this amendment, doubtless, was to provide against the possibility that the American Senate and the Mexican Congress might ratify the treaty, the first in its amended, and the latter in its original form; in which event, peace would not thereby be concluded. Besides, it was known that this amendment could produce no delay, as under the amendment of the Senate to the 23d article, the ratifications of the treaty may be exchanged at the seat of Government of Mexico, the moment after the Mexican Government and Congress shall have accepted the treaty as amended by the Senate of the United States.

The second amendment of the Senate is to strike out the 9th article, and insert the following in lieu thereof:

"ART. 9. The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted, at the proper time, (to be judged of by the Congress of the United States,) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion, without restriction."

This article is substantially the same with the original 9th article; but it avoids unnecessary prolixity, and accords with the former safe precedents of this Government in the treaties by which we acquired Louisiana from France and Florida from Spain. The Louisiana treaty of the 30th April, 1803, contains the following article:

"ART. 3. The inhabitants of the ceded territory shall be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

Again, in the Florida treaty of February 22, 1819, the following articles are contained:

"ART. 5. *The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction;* and all those who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects at any time whatever, without being subject in either case to duties.

"ART. 6. The inhabitants of the territories which his Catholic Majesty cedes to the United States by this treaty shall be incorporated into the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities, of the citizens of the United States."

Under these treaties with France and Spain, the free and flourishing States of Louisiana, Missouri, Arkansas, Iowa, and Florida, have been admitted into the Union; and no complaint has ever been made by the original or other inhabitants that their civil or religious rights have not been amply protected. The property belonging to the different churches in the United States is held as sacred by our Constitution and laws as the property of individuals; and every individual enjoys the inalienable right of worshipping his God according to the dictates of his own conscience. The Catholic church in this country would not, if they could, change their position in this particular.

After the successful experience of nearly half a century, the Senate did not deem it advisable to adopt any new form for the ninth article of the treaty; and surely the Mexican Government ought to be content with an article similar to those which have proved satisfactory to the Governments of France and Spain, and to all the inhabitants of Louisiana and Florida, both of which were Catholic provinces.

I ought, perhaps, here to note a modification in the ninth article, as adopted by the Senate, of the analogous articles of the Louisiana and Florida treaties. Under this modification, the inhabitants of the ceded territories are to be admitted into the Union "at the proper time, (to be judged of by the Congress of the United States,)" &c.

Congress, under all circumstances, and under all treaties, are the sole judges of this proper time; because they, and they alone, under the Federal Constitution, have power to admit new States into the Union. That they will always exercise this power as soon as the condition of the inhabitants of any acquired territory may render it proper, cannot be doubted. By this means the Federal treasury can alone be relieved from the expense of supporting Territorial governments. Besides, Congress will never lend a deaf ear to a people anxious to enjoy the privilege of self-government. Their application to become a State or States of the Union will be granted the moment this can be done with safety.

The third amendment of the Senate strikes from the treaty the tenth article.

It is truly unaccountable how this article should have found a place in the treaty. That portion of it in regard to lands in Texas did not receive a single vote in the Senate. If it were adopted, it would be a mere nullity on the face of the treaty, and the judges of our courts would be compelled to disregard it. It is our glory that no human power exists in this country which can deprive one individual of his property without his consent, and transfer it to another. If grantees of lands in Texas, under the Mexican Government, possess valid titles, they can maintain their claims before our courts of justice. If they have forfeited their grants by not complying with the conditions on which they were made, it is beyond the power of this Government, in any mode of action, to render these titles valid, either against Texas or any individual proprietor. To resuscitate such grants, and to allow the grantees the same period after the exchange of the ratifications of this treaty to which they were originally entitled, for the purpose of performing the conditions on which these grants had been made, even if this could be accomplished by the power of the Government of the United States, would work manifold injustice. These Mexican grants, it is understood, cover nearly the whole seacoast and a large portion of the interior of Texas. They embrace thriving villages and a great number of cultivated farms, the proprietors of which have acquired them honestly by purchase from the State of Texas. These proprietors are now dwelling in peace and security. To revive dead titles, and suffer the inhabitants of Texas to be ejected, under them, from their possessions, would be an act of flagrant injustice, if not wanton cruelty. Fortunately, this Government possesses no power to adopt such a proceeding.

The same observations equally apply to such grantees in New Mexico and California.

The present treaty provides amply and specifically in its 8th and 9th articles for the security of property of every kind belonging to Mexicans, whether held under Mexican grants or otherwise, in the acquired territory. The property of foreigners, under our Constitution and laws, will be equally secure without any treaty stipulation. The 10th article could have no effect upon such grantees as had forfeited their claims, but that of involving them in endless litigation, under the vain hope that a treaty might cure the defects in their titles against honest purchasers and owners of the soil.

And here it may be worthy of observation, that if no stipulations whatever were contained in the treaty to secure to the Mexican inhabitants, and all others, protection in the free enjoyment of their liberty, property, and the religion which they profess, these would be amply guarantied by the Constitution and laws of the United States. These invaluable blessings, under our forms of Government, do not result from treaty stipulations, but from the very nature and character of our institutions.

The fourth amendment of the Senate is, to strike from the 11th article the following words: "Nor 'to provide such Indians with fire-arms or ammu-'nition, by sale or otherwise." This amendment was adopted on a principle of humanity. These Indians must live by the chase; and without fire-arms they cannot secure the means of subsistence. Indeed, for the want of such arms the extremity of hunger and suffering might drive them to commit the very depredations which the treaty seeks to avoid, and to make incursions for food either upon the Mexican or American settlements. This Government possesses both the ability and the will to restrain the Indians within the extended limits of the United States from making incursions into the Mexican territories, as well as to execute all the other stipulations of the 11th article. We believe, however, that whilst to deprive them of fire-arms and ammunition would be cruel, it might, at the same time, have a tendency to increase rather than to diminish their disposition to make hostile incursions.

The fifth amendment of the Senate to the 12th article adopts the second mode of payment of the remaining $12,000,000, after the payment of the first $3,000,000, in exclusion of the first mode pointed out by the treaty. The amended article, as it stands, is as follows:

"ARTICLE XII. In consideration of the extension acquired by the boundaries of the United States, as defined in the fifth article of the present treaty, the Government of the United States engages to pay to that of the Mexican Republic the sum of fifteen millions of dollars. Immediately after this treaty shall have been duly ratified by the Government of the Mexican Republic, the sum of three millions of dollars shall be paid to the said Government, by that of the United States, at the city of Mexico, in the gold or silver coin of Mexico. The remaining twelve millions of dollars shall be paid at the same place, and in the same coin, in annual instalments of three millions of dollars each, together with interest on the same at the rate of six per centum per annum. This interest shall begin to run upon the whole sum of twelve millions from the day of the ratification of the present treaty by the Mexican Government; and the first of these instalments shall be paid at the expiration of one year from the same day. Together with each annual instalment, as it falls due, the whole interest accruing on such instalment from the beginning shall also be paid."

It is not apprehended that the Mexican Government will have any difficulty in agreeing to this amendment. It is true that, in case they should find it convenient to anticipate the receipt of the whole or any part of the $12,000,000, they might do this more readily were a stock to be created, and transferable cerificates issued for small and convenient sums; but yet no doubt is entertained that capitalists may be found who will be willing to advance any amount that might be desired, upon the faith of a treaty obligation solemnly entered into by the Government of the United States.

The sixth amendment of the Senate is to insert in the twenty-third article, after the word "Washington," the words "or at the seat of Government of Mexico." The object of this amendment is to hasten the final conclusion of peace between the two Republics. Under it, should the President and Congress of Mexico agree to the treaty as it has been amended by the Senate of the United States, the ratifications may be immediately thereafter exchanged at Queretaro, and the happy consummation be at once accomplished.

The seventh and last amendment of the Senate is to strike out the additional article. This was done from the conviction that the period of four months from the date of the treaty, the time allowed by the 23d article for the exchange of ratifications, would be abundantly sufficient for this purpose; and this more especially as the ratifications may now, under the amendment of the Senate, be exchanged in Mexico. Besides, the idea of postponing the final conclusion of peace, and keeping the present treaty pending between the two Governments until the 2d October next, could not be entertained by the Senate.

The President, by and with the advice and consent of the Senate, has appointed the Hon. Ambrose H. Sevier, of the State of Arkansas, and the Hon. Nathan Clifford, of the State of Maine, commissioners to Mexico, with the rank of Envoy Extraordinary and Minister Plenipotentiary. Mr. Sevier has for many years been a distinguished Senator of the United States, and for a considerable period has occupied the highly responsible station of chairman of the Committee on Foreign Relations; and Mr. Clifford is an eminent citizen of the State of Maine, is Attorney General of the United States, and a member of the President's cabinet. They will bear with them to Mexico a copy of the treaty, with the amendments of the Senate, duly ratified by the President of the United States, and have been invested, either jointly or severally, with full powers to exchange ratifications with the proper Mexican authorities. That this final act may be speedily accomplished, and that the result may be a sincere and lasting peace and friendship between the two Republics, is the ardent desire of the President and people of the United States.

I avail myself of this occasion to offer to your Excellency the assurance of my most distinguished consideration. JAMES BUCHANAN.

To his Excellency the MINISTER OF FOREIGN RELATIONS of the Mexican Republic.

P. S. I regret to inform your Excellency that Mr. Sevier has been seized with a sudden illness, which renders him unable to depart immediately upon his mission. The two commissioners, however, have been invested with full and equal powers to execute their instructions severally, as well as jointly, and the acts of the one will be of equal validity with the acts of both. No delay can, therefore, be experienced on this account. It is expected that Mr. Sevier will be able to leave for Mexico in a week or ten days.

Mr. Buchanan to Mr. Sevier.

[No. 1.] DEPARTMENT OF STATE,
Washington, March 18, 1848.

SIR: You have been appointed by the President, by and with the advice and consent of the Senate, to a most important and responsible mission. The task has thus been assigned to you of consummating the treaty of peace which was signed at Guadalupe Hidalgo, on the second day of February last, between the United States and the Mexican Republic, and which, on the 10th instant, was ratified by the Senate with amendments.

This brief statement will indicate to you clearly the line of your duty. You are not sent to Mexico for the purpose of negotiating any new treaty, or of changing in any particular the ratified treaty which you will bear with you. None of the amendments adopted by the Senate can be rejected or modified, except by the authority of that body. Your whole duty will then consist in using every honorable effort to obtain from the Mexican Government a ratification of the treaty in the form in which is has been ratified by the Senate; and this with the least practicable delay.

For this purpose it may, and most probably will, become necessary that you should explain to the Mexican Minister for Foreign Affairs, or to other authorized agents of the Mexican Government, the reasons which have influenced the Senate in adopting their several amendments to the treaty. This duty you will perform as much as possible by personal conferences. Diplomatic notes are to be avoided, unless in case of necessity. These might lead to endless discussions and indefinite delay. Besides, they could not have any practical result, as your mission is confined to procuring a ratification from the Mexican Government of the treaty as it

came from the Senate, and does not extend to the slightest modification in any of its provisions.

One of the principal reasons which induced me to address a note to the Mexican Minister for Foreign Affairs, in explanation of the amendments of the Senate, was to avoid delay and prevent unnecessary discussion. This note, dated on the 18th instant, (with a copy of which you have been furnished, together with your own intimate and personal knowledge of all the proceedings of the Senate upon the treaty,) will enable you promptly to furnish every explanation which may be required.

Should you find it impossible, after exhausting every honorable effort for this purpose, to obtain a ratification from the President and Congress of Mexico of the treaty, as it has been amended by the Senate, it may then become necessary for you, in conversation with the proper Mexican authorities, to express an opinion as to what portion of the Senate's amendments they might probably be willing to yield for the sake of restoring peace between the two Republics. This will be a very delicate duty; but upon one point at least you will be relieved from all embarrassment. Neither the President nor the Senate of the United States can ever consent to ratify any treaty containing the tenth article of the treaty of Guadalupe Hidalgo, in favor of grantees of land in Texas or elsewhere. The Government of the United States do not possess the power to carry such an article into execution; and, if they did, it would be highly unjust and inexpedient. Should the Mexican Government persist in retaining this article, then all prospect of immediate peace is ended; and of this you may give them an absolute assurance.

In regard to the amendments made by the Senate to the 12th article of the treaty, in relation to the mode of payment of the $12,000,000, it is believed that the case might be different. That enlightened body would probably not insist on these amendments, if it should appear that they involved the question of peace or war. That they may involve this question is not improbable; but of this you can better judge upon the spot than the President can at this distance.

It is well known that the present Mexican Government are sorely straitened for want of the pecuniary means of support. Their revenues have been rightfully seized by the commanding general for the support of the United States army in Mexico; and they are thus left, comparatively, without resources. The Mexican Government is pledged to peace. They have staked their existence upon peace. Without peace they must be destroyed. It may be, however, that they cannot sustain themselves in making peace, and executing the treaty without anticipating the receipt of the whole or a part of the twelve millions of dollars. Should this appear to you to be clearly the case, and that they cannot obtain the means necessary to prolong their existence under the amendments of the Senate to the 12th article, it is not supposed you would incur any risk by assuring them that the Senate would recede from these amendments.

It cannot be denied that the twelfth article, as amended by the Senate, contains a positive and unconditional obligation on the part of the United States to pay to the Mexican Republic the sum of $12,000,000, in four annual instalments of three millions each, commencing one year after the ratification of the treaty by the Mexican Government. Negotiable or transferable certificates cannot, however, be issued for that amount. All that this Government could, possibly do, under the treaty as it now stands, would be to furnish the Mexican Government with evidences of the debt in exact conformity with the terms of the article as amended. Upon such evidences it is believed that the Mexican Government might raise the means necessary for their immediate support. In this belief the President may be mistaken, because capitalists are a timid race. Should it appear to the Senate that such would probably prove to be the fact, it is confidently believed that they would not risk a defeat of the treaty by adhering to their amendments to the twelfth article.

The remaining amendments, although doubtless highly proper, are comparatively unimportant. According to the President's understanding of that portion of the 9th article, as it originally stood, which relates to the Catholic Church, it contains nothing more than an amplification of the clauses contained in the Louisiana and Florida treaties, and in the amendment of the Senate to the present treaty, providing for the security of the Catholic inhabitants in the free exercise of their religion without restriction. In this view of the subject, the amendment could not finally jeopard the fate of the present treaty.

It is not deemed necessary to remark particularly upon the remaining amendments.

Still, I repeat, that until you find this to be unattainable, you are to insist strenuously upon the ratification of the treaty by the Mexican Government just as it has been ratified by the Senate. You might, for this purpose, urge upon them the following considerations, together with others which will suggest themselves to your own mind:

1. If this be done, the war will be promptly ended, and the blessings of peace will be immediately restored. On the other hand, should the treaty be sent back to the President to be again submitted to the Senate, this must occasion considerable delay, and may altogether defeat the object.

2. Should the war be renewed, the Mexican Government can never again expect to make peace on terms so favorable as those contained in the present treaty. In the opinion of a very large and increasing number of our fellow-citizens, these terms are far less favorable to the United States than we had a right to expect. The present treaty was negotiated substantially in conformity with the ultimatum of my instructions, dated on the 15th April last, at a period when we had only just learned the capture of Vera Cruz and the castle of San Juan de Ulua. Between that period and the date of the treaty circumstances had entirely changed, and a vast amount of precious blood and of treasure had been expended in reaching and capturing the city of Mexico. Whilst for that reason the President might have justly exacted far more rigorous terms, yet such was his desire to conclude peace that he promptly assented to all the material provisions of the present treaty and submitted it to the Senate. Should the war be renewed, instead of purchasing at a fair price a portion of the territories which we have been obliged to conquer, and which are now in our undisturbed possession, and restoring the remainder to Mexico, we shall be compelled to appropriate, without pecuniary compensation, a just and ample indemnity in Mexican territory for all the expenses of the war.

Although the President has the most entire confidence in your sagacity, ability, and discretion, yet it is deemed proper to make some suggestions to you in regard to the conduct which you ought to pursue in accomplishing the objects of your mission.

The Mexicans are a sensitive and suspicious people. They are now humbled in their own estimation by our brilliant and repeated victories. Their jealousy ought to be allayed by treating them, in all your intercourse, with marked respect. All the external forms of civility to which the Spanish race attach such peculiar importance ought to be strictly observed by you. This will not only promote the success of your mission, but may lay the foundation of a lasting peace and sincere friendship between the two Republics.

Whilst in Mexico you will communicate freely and unreservedly with the commanding general of the American forces, who will be instructed to render you all the aid in his power in accomplishing the object of your mission.

You will bear with you a copy of the treaty with the amendments of the Senate, ratified in due form by the President of the United States, together with a full power to exchange the ratifications with any Mexican authority clothed with a like full power from his Government to perform this duty. After the exchange of ratifications you will return to the United States with the copy of the treaty, ratified by the Mexican Government, which you shall have received.

Should the Mexican Government ratify the treaty with the amendment of the Senate striking out its tenth article, and should refuse to ratify all or any of the remaining amendments, you will then, notwithstanding, urge them to send without delay a commissioner or other diplomatic agent to the United States, clothed with full power to exchange ratifications in the city of Washington, in case the Senate should advise and consent to the ratification of the treaty in the form in which it shall have been ratified by Mexico.

Upon reaching the city of Mexico, you will immediately address a note to the Mexican Minister for Foreign Affairs, apprising him of your arrival, and of your readiness to confer, without delay, on the subject of your mission, either with himself or with any authorized agent of the Mexican Government, at any place which may be designated.

In regard to the first three millions of the fifteen millions of dollars secured to the Mexican Government by the twelfth article of the treaty as amended, provision has already been made for its payment under the authority which has been given to Major General William O. Butler, by the Secretary of the Treasury, to draw on the treasury of the United States for that amount. General Butler's draft, which will be promptly honored on presentation, you may deliver to the appropriate Mexican authorities immediately after the treaty, with the amendments of the Senate, shall have been duly ratified by the Mexican Government. As the disbursement of so large a sum is a matter of great importance, you should use every precaution to be certain that the draft shall be drawn in favor of the proper Mexican functionary, and that the whole business shall be transacted in such a manner that no difficulty can hereafter arise on the subject. You will take receipts in triplicate for such draft; which ought, if possible, to be signed by the President of Mexico, and countersigned by the Minister of Finance.

You are also furnished with four evidences of debt from the Secretary of the Treasury, dated on the 16th instant, for three millions of dollars each, corresponding with the four instalments to be paid to Mexico under the 12th article of the treaty as amended by the Senate. These evidences are in exact conformity with the treaty. Should you discover that for the want of them serious impediments might exist to the ratification of the treaty on the part of Mexico, you are then authorized to make known to the Mexican Government that they are in your possession, and that you will deliver them over immediately after the exchange of ratifications. Still, the President would prefer that the Mexican Government should be satisfied with the obligation as it stands, contained in the 12th article. In that event, you will cancel these evidences, and return them to this department.* Should you deliver them over, you will use all the precautions which I have suggested in relation to the draft for three millions of dollars.

The naval forces of the United States in the Pacific have captured Mazatlan and other places on the west coast of Mexico. These, by the terms of the treaty, must be surrendered. To avoid unnecessary delay in its execution, the Secretary of the Navy, by direction of the President, has issued orders to the commander of these forces to evacuate all the ports and places in the Mexican territory on the Pacific which may be in his military possession south of the line of boundary established by the treaty as soon as he shall receive notice of the exchange of ratifications. You will, therefore, communicate to him a knowledge of this event as speedily as possible, and at the same time transmit him a copy of the treaty.

Yours, very respectfully,

JAMES BUCHANAN.

To Ambrose H. Sevier, Esq.,
Commissioner to Mexico, &c.

Mr. Buchanan to Mr. Clifford.

[No. 1.] Department of State,
Washington, March 18, 1848.

Sir: The sudden illness of the honorable Ambrose H. Sevier, lately appointed commissioner to Mexico, having prevented him from proceeding immediately upon his mission, the President, by and with the advice and consent of the Senate, has appointed you an associate commissioner to that Republic, with the rank of envoy extraordinary and minister plenipotentiary. Mr. Sevier and yourself are each invested with full and equal powers, jointly or severally, as circumstances may require, to exchange the ratifications of the treaty of peace concluded at Guadalupe Hidalgo on the 2d February last, between the United States and the Mexican Republic, with the amendments of the Senate, and to perform all other acts in conformity with your instructions.

You will bear with you to Mexico all the instructions which had been prepared for Mr. Sevier,

*These evidences were never used, but were cancelled and returned to the department.

THE CONGRESSIONAL GLOBE.

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together with a copy of the treaty as it has been ratified by the President of the United States; and you will act in all particulars as though these instructions had been formally addressed to Mr. Sevier and yourself as joint and several commissioners. It is hoped that in the course of a week or ten days Mr. Sevier's health may be sufficiently restored to enable him to follow you; but you are expressly enjoined not to delay to act upon your instructions, awaiting his arrival.

The President has manifested his high confidence in your integrity, discretion, and ability, by intrusting to you this important and responsible mission; and I entertain no doubt that in your conduct you will abundantly justify his selection.

Yours, very respectfully,
JAMES BUCHANAN.

Hon. NATHAN CLIFFORD,
Commissioner to Mexico, &c.

Mr. Buchanan to Messrs. Sevier and Clifford.

[No. 2.] DEPARTMENT OF STATE,
Washington, March 22, 1848.

GENTLEMEN: Referring to my instructions of the 18th instant, relative to the amendments made by the Senate of the 12th article of the treaty, in regard to the mode of payment of the $12,000,000, the President has deemed it proper to give you additional instructions upon this subject.

The Mexican Government may, notwithstanding all your efforts, refuse to ratify the treaty because of these amendments to the 12th article. In that event you are authorized to conclude a new treaty with the Mexican Government, adopting either the first or the second mode of payment of the $12,000,000 prescribed by the 12th article, as it stood originally, *provided that Government shall have first ratified the original treaty, with all the amendments adopted by the Senate.* In case you should conclude such a treaty, it ought immediately to be ratified by Mexico, and a ratified copy be brought to Washington at the same time with the ratified copy of the treaty which you shall have received in exchange from the Mexican Government for the copy ratified by the President. It is not doubted by the President that the Senate would immediately advise and consent to the ratification of the new treaty which may be concluded by you. By this expedient, in case it should become necessary to resort to it, a delay of six weeks or two months in the final conclusion of peace might be avoided.

A full power to you, or either of you, to conclude such a treaty, is herewith furnished.

According to my instructions of the 18th instant, Mr. Sevier, after the exchange of ratifications, is directed to return to the United States with the copy of the treaty ratified by the Mexican Government. In that event, Mr. Clifford will not accompany him, but will remain in Mexico until he shall receive further instructions.

Yours, very respectfully,
JAMES BUCHANAN.

To AMBROSE H. SEVIER and NATHAN CLIFFORD, Esqs., *Commissioners to Mexico.*

Messrs. Sevier and Clifford to Mr. Buchanan.

CITY OF QUERETARO,
May 25, 1848—9 *o'clock, p. m.*

SIR: We have the satisfaction to inform you that we reached this city this afternoon, at about 5 o'clock, and that the treaty, as amended by the Senate of the United States, passed the Mexican Senate about the hour of our arrival, by a vote of thirty-three to five. It having previously passed the House of Deputies, nothing now remains but to exchange the ratifications of the treaty.

At about four leagues from this city we were met by a Mexican escort, under the command of Colonel Herrera, and were escorted to a house prepared by the Government for our reception. The Minister of Foreign Relations and the Governor of the city called upon us and accompanied us to dinner, which they had previously ordered. So far as the Government is concerned, every facility and honor have been offered us; and Señor Rosa, the Minister of Foreign Relations, desires us to state that he feels great satisfaction in meeting the ministers of peace from the United States.

We will write you again shortly, and more at length, as the courier is on the point of departure. The city appears to be in a great state of exultation, fire-works going off, and bands of music parading in every direction.

We have the honor to be, your obedient servants,
A. H. SEVIER,
NATHAN CLIFFORD.

HON. JAMES BUCHANAN, *Secretary of State.*

Messrs. Sevier and Clifford to Mr. Buchanan.

[No. 11.] CITY OF QUERETARO, *May* 30, 1848.

SIR: In our last we had the honor to inform you of our arrival in this city on the 25th instant. On the following day, at twelve o'clock meridian, in pursuance of a previous arrangement, Mr. Clifford was presented to the President of the Republic by Mr. Rosa, the Secretary of Foreign Relations, in presence of the cabinet and a large number of the civil and military officers of the Government, and placed our credentials in the hands of his Excellency. Mr. Sevier was prevented by indisposition from being present on the occasion. We enclose a copy of our address to the President, and also a copy of his reply. Several conferences afterwards took place between Messrs. Rosa, Cuevas, and Couto, and ourselves, which it is not thought necessary to recapitulate, as we enclose a copy of the protocol, which contains the substance of the conversations. We have now the satisfaction to announce that the exchange of ratifications was effected to-day. Some delay occurred after the conferences in the preparation of the Mexican copy of the treaty. That was finally accomplished within the last hour, when the exchange of ratifications was duly made by Mr. Rosa in behalf of the Mexican Government and ourselves on the part of the United States.

Having accomplished our duties here, we shall return immediately to the city of Mexico, for the purpose of paying over the three millions, according to the stipulations of the treaty. It is expected that the Mexican Government will appoint a commissioner to repair to the city, in company with us, to receive the payment. No circumstances are foreseen by us to render it necessary to use the papers furnished by the Treasury Department, in regard to the remaining twelve millions.

In one of the conferences, Mr. Rosa urged, with much force, the dangers of disorder in the city of Mexico in case our army should retire before the Mexican authorities had taken the necessary precautions. He also expressed some fear that their authorities might be interfered with by our army, should they find it necessary to arrest and try certain individuals who, it is said, are plotting the overthrow of the Government; and to quiet these apprehensions as far as possible, we addressed a communication to General Butler, of which the enclosed is a copy. We also transmit a copy of a letter received from Commodore Jones, with the enclosures, and a copy of our reply. Also, a copy of a letter from General Butler to us, with the enclosures, and a copy of our communications to Colonel Mason, in compliance with Gen. Butler's request. Also, a copy of our despatch to Commodore Perry.

We have the honor to remain, sir, with great respect, your obedient servants,
A. H. SEVIER.
NATHAN CLIFFORD.

HON. JAMES BUCHANAN, *Secretary of State.*

P. S. At the suggestion of the Mexican Government, we have written to General Wool a despatch, of which we also enclose a copy.

PROTOCOL.

In the city of Queretaro, on the 26th of the month of May, 1848, at a conference between their Excellencies Nathan Clifford and Ambrose H. Sevier, commissioners of the United States of America, with full powers from their Government to make to the Mexican Republic suitable explanations in regard to the amendments which the Senate and Government of the said United States have made in the treaty of peace, friendship, limits, and definitive settlement between the two Republics, signed in Guadalupe Hidalgo on the second day of February of the present year, and his Excellency Don Luis de la Rosa, Minister of Foreign Affairs of the Republic of Mexico, it was agreed, after adequate conversation respecting the changes alluded to, to record in the present protocol the following explanations, which their aforesaid Excellencies the Commissioners gave in the name of their Government, and in the fulfillment of the commission conferred upon them near the Mexican Republic:

1st. That the American Government, by suppressing the ninth article of the treaty of Guadalupe Hidalgo and substituting the third article of the treaty of Louisiana, did not intend to diminish in any way what was agreed upon by the aforesaid article ninth in favor of the inhabitants of the territories ceded by Mexico. Its understanding is, that all of that agreement is contained in the third article of the treaty of Louisiana. In consequence, all the privileges and guarantees, civil, political, and religious, which would have been possessed by the inhabitants of the ceded territories if the ninth article of the treaty had been retained, will be enjoyed by them, without any difference, under the article which has been substituted.

2d. The American Government, by suppressing the tenth article of the treaty of Guadalupe, did not, in any way, intend to annul the grants of lands made by Mexico in the ceded territories. These grants, notwithstanding the suppression of this article of the treaty, preserve the legal value which they may possess, and the grantees may cause their legitimate titles to be *acknowledged* before the American tribunals.

Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories, are those which were legitimate titles under the Mexican law in California and New Mexico, up to the 13th of May, 1846, and in Texas up to the 2d of March, 1836.

3d. The Government of the United States, by suppressing the concluding paragraph of article twelfth of the treaty, did not intend to deprive the Mexican Republic of the free and unrestrained facility of ceding, conveying, or transferring at any time (as it may judge best) the sum of twelve millions of dollars, which the same Government of the United States is to deliver in the places [at the periods] designated by the amended article.

And these explanations having been accepted by the Minister of Foreign Affairs of the Mexican Republic, he declared in the name of his Government, that with the understanding conveyed by them, the same Government would proceed to ratify the treaty of Guadalupe, as modified by the Senate and Government of the United States.

In testimony of which, their Excellencies, the aforesaid Commissioners, and the Minister, have signed and sealed, in quintuplicate, the present protocol.

NATHAN CLIFFORD. [L. S.]
AMBROSE H. SEVIER. [L. S.]
LUIS DE LA ROSA. [L. S.]

Mr. MANGUM. Mr. President, I move that the message do lie on the table and be printed.

Mr. FOOTE. I move as an amendment that twenty thousand extra copies thereof be printed.

Mr. MANGUM. I do not know what the document contains, sir; I have not read it, as it came to the Senate but yesterday. I will vary my motion. I am opposed to the printing of any extra numbers at the present time, and especially in the absence of all information upon the subject. I have read over in a very hasty manner, but certainly with great interest, the communication made to the House of Representatives, as published in the Union. I suppose this is very much to the same effect as that communication. I will vary my motion by moving its reference to the Committee on Foreign Relations; and I should like to have it printed in the mean time.

Mr. FOOTE. I do not understand in what respect the gentleman's motion is varied.

Mr. MANGUM. It is varied in this: I desired in the first instance to have the document printed and laid upon the table.

Mr. FOOTE. I suppose the honorable Senator could hardly vary his motion in any vital respect, as I have moved an amendment, without the consent of the Senate.

The VICE PRESIDENT stated the question to be upon the amendment to print twenty thousand extra copies.

Mr. MANGUM. I submit to the honorable Senator if it would not be better to postpone action upon that motion until we can have an opportunity to look into the document; after which there will be no difficulty, so far as my vote upon the matter is concerned, as to printing any number of the document the Senator may desire; none whatever, sir.

Mr. FOOTE. I am rather surprised at this opposition on the part of the Senator from North Carolina. I consider it of more importance to print an extra number of this document than of any which has ever been presented in this Senate upon any occasion whatsoever.

Mr. MANGUM. I shall make no difficulty about it, sir. I will remark to the honorable Senator from Mississippi, that I think there is no disposition to interpose any sort of objection to the printing of the document.

Mr. FOOTE. During the short period which has elapsed since I had first the honor of occupying a seat upon the floor of the Senate, no occasion, in my judgment, has arisen demanding so imperiously as the present one the printing and circulation of a number unusually large of a Presidential message addressed to us. The topics discussed by the President in the message before us are of the highest dignity, involving most deeply the honor of the Government, both at home and abroad. The interests implicated are of inestimable value, embracing nothing less than our title to all our Californian and New Mexican possessions. The *accusations* which have been preferred against the Executive and his cabinet advisers, not in certain leading newspapers alone, but in grave deliberative bodies also—yes, sir, in one of the branches of the most exalted legislative body known to the Republic—are of the gravest character. These accusations have been promptly, fearlessly, triumphantly met by the Executive. A full disclosure of facts has been made, which I doubt not will satisfy every intelligent freeman in the nation of the gross, the outrageous injustice done to the Administration by those who have presumed to censure it, or who, *with a more politic malignity*, have taken it upon themselves *secretly* to instigate others to the performance of this work of decrial, in which they did not deem it quite safe, for certain reasons, to be generally known to have participated—a decrial which has been indulged in by some, and insidiously instigated by others, (as appears to be the fact,) with a view to the getting up of an impeachment in the House of Representatives, by means of which the President and his cabinet counsellors were to be expelled from the high places which they now so honorably occupy, and involved in signal, unprecedented, and ineffaceable disgrace. The Democratic party were to be subject to the foulest and most lasting dishonor, and the sacred principles of our revered Democratic fathers to be obscured, degraded, and plunged into never-ending contempt, both in this nation and throughout the habitable globe. Yes, sir, I repeat it—such a vindicatory message is now before us, in all its statements of fact so irrefutable, in its arguments so unanswerable, that I venture to assert that no attempt will ever be made on the Whig side of this Chamber to refute or to respond to it. And when we propose to print twenty thousand copies of such a message for dissemination among the good citizens of the Republic everywhere—north, south, east, and west—objections are interposed, and obstacles of various kinds are thrown in the way of such printing and dissemination.

Mr. President, if no debate had taken place elsewhere, if *bad faith, corruption, usurpation, violation of his official oath* had not been alleged against the President of the United States, by heated partisans, elsewhere than in the Senate, the circumstance that we have ourselves adopted a resolution demanding an explanation from the President as to all the facts connected with this wondrous document, called a protocol, which was signed by our commissioners in Mexico, was sufficient of itself to afford more or less of sanction to the slanders which have been hurled at the Administration, both in Congress and the newspapers, and to render it a sheer act *of justice* on our part to afford the widest promulgation to the President's answer. But when we consider that a leading newspaper, published in this city, (the recognized organ, for the present at least, of a great political party shortly to come into power,) whose circulation is coextensive with the Republic itself, whose editorials upon the prominent questions agitated in the two Houses of Congress are well known to be, to a very great extent at least, the result of mature counsels among distinguished party leaders, has recently undertaken to assert, that in consequence of the execution of this protocol, "neither California, nor New Mexico, nor the boundary of the Rio Grande, now belongs to the United States," and that similar language has been employed elsewhere, in grave and deliberate discussion, our surprise must be greatly deepened at any opposition being now presented here among honorable Senators on the Whig side of the Chamber to the printing of such a number of the President's message and attendant documents as may serve to illuminate the public mind thoroughly upon this momentous subject, allay the general solicitude which has been so unseasonably and so indiscreetly awakened, and put an everlasting quietus upon the most unfounded, ungenerous, and malignant accusations which have ever been given circulation in this Republic in relation to high civil functionaries. I must confess that I had confidently expected a very different course from honorable gentlemen; I had expected that they would themselves, so soon as the President's message should reach this Chamber, have moved for printing a large number of copies, and have also moved, without hesitation, a resolution clearly declaring their own perfect satisfaction with the conduct of the President and others in connection with this whole matter of the *protocol*, as well here as in Mexico. Honorable gentlemen over the way will permit me to say—and I do so with the greatest personal respect, and with the most perfect regard for their sensibilities—that, in my judgment, they owed it to themselves and to their party promptly and zealously to unite in this act of justice proposed to them. I feel that I can thus speak without giving offence; I know that for several days past no debate has been expected among gentlemen on the other side of the Chamber upon the topics discussed in the message; that it has been deemed expedient, as far as is now possible, to give the go-by to this whole affair; that other than Democratic Senators have not hesitated to declare their regret that any such proceedings should have occurred in relation to this protocol as have been put in progress; and I had, therefore, as I conceive, good reason to calculate that upon a motion to print simply twenty thousand copies of the message for general diffusion, a cordial and unanimous concurrence would have been displayed without regard to the lines which divide party among us.

Mr. President, I hope I may be allowed at least to express the high satisfaction which I felt the other day on hearing from the lips of the honorable Senator from Massachusetts, [Mr. WEBSTER] —whom I am glad to observe in his seat on this occasion—in the progress of the debate on the bill for encouraging the establishment of a railway across the Isthmus of Panama, views and sentiments wholly at war with all that has been said in the shape of oral or printed revilement in regard to the conduct of the President and our diplomatic commissioners in Mexico. The honorable Senator from Massachusetts, at a period several days subsequent to the first movement of inquiry, and after a divulgence of all the main facts of the case had occurred, with that loftiness of character which belongs to him, with that magnanimity which so nobly distinguishes the genuine statesman from the mere time-serving demagogue, did not hesitate to *declare* in his place—I use the wrong word—the honorable Senator made it his business, in a grave, formal, and deliberate manner, with every appearance of composure and consideration, (and we know that the honorable Senator from Massachusetts does nothing hastily and without due thought,) to announce to the Senate, and through the Senate to the country—and placed himself, if I may use language thus strong, *upon the record* to that effect —the opinion that our territorial possessions in California and New Mexico do yet belong to us; that the treaty was absolutely binding on both parties; that nothing has been done to impair its validity in any way, or to weaken our title in the least degree to the territory thus acquired by treaty; that, accordingly, it is our duty now, as soon as possible, to provide governmental protection for our fellow-citizens in those remote regions, and to facilitate, as far as lies in our power, the speedy development of all the wonderful resources which are conjectured to belong to these recently-acquired territories. These are the views of the honorable Senator from Massachusetts—views upon which he announces his willingness to *act*, notwithstanding it was judged by that gentleman, at the period of the consideration of the Mexican treaty in this Chamber, not altogether expedient to ratify it. I think it hardly possible, that after this expression of opinion by the honorable Senator from Massachusetts, we shall hear much more in certain quarters about our having forfeited all title both to California and New Mexico by reason of the execution of this same protocol.

Sir, it is my design at present, after thus urging upon the Senate the propriety of printing the twenty thousand copies of the message proposed by me, to do an act of justice to certain members of the Whig party now in my hearing, and who, I have reason to believe, have been most egregiously imposed on by some one in regard to this whole affair of the protocol. I hold in my hand a number of the Democratic organ in this city, (the Union,) a paper whose general course has commanded my hearty approval, and for whose venerable editor I cherish sentiments of the most exalted esteem and kindness. In this number of the Union, after some general remarks upon the charges preferred against the President in connection with the protocol, the editor proceeds to express himself thus:

"It is difficult to suppose that this wanton attack upon the peace and interests of the country arises from honest conviction. When the Mexican Congress had approved the treaty, upon the explanations contained in the letter of Mr. Buchanan, heretofore communicated to Congress; when the Mexican Executive had no authority to alter the treaty, or to exchange ratifications with any new modifications, or in any new sense; when the Mexican Executive knew that the American commissioners had no authority to modify or change the treaty, or vary the explanations given by their own Government, and did not intend to do so; when the agents who exchanged the ratifications on both sides knew perfectly that the treaty, as sanctioned by the American Senate and the American Congress, was the precise treaty ratified, without any power to add aught to or diminish aught from it, it is too great a tax on human credulity to suppose that the present assault upon the peace and interests of the country is anything but a legitimate result of unprincipled party opposition, breaking out afresh after the war is over."

Now, sir, I must insist that, had the patriotic editor of the Union known as much as to the circumstances connected with the origin of these proceedings touching the protocol as I have for some time past known, he would have modified a little his language of censure as applied to the Whig party in general, and, making more or less allowance for the fact that the leaders of the Whig party who commenced the proceedings complained of have been most egregiously duped and misled by somebody or other, he might have been inclined to visit more or less of condemnation upon persons who have at least a nominal connection with the Democratic party itself. I know, sir, that I shall awaken some surprise, but I hope to escape all censure or suspicion in the premises, by assuming thus voluntarily the vindication of the Whig leaders in Congress. But, sir, "*fiat justitia, ruat cœlum,*" is my favorite maxim; and believing certain grounds of extenuation to exist in favor at least of several gentlemen now in my eye, and perhaps in favor of others also, not known to me so well, I do not feel at liberty to remain silent whilst they are *exclusively* subjected to reproaches, which, though they may in part deserve them, are yet at least equally merited by others, who claim no ostensible alliance with the Whig party at all, and who, whatever *secret intentions* may be entertained, evidently deem it decidedly unsafe for them to make open war upon the Democratic party and its interests for the present. Yes, sir, I proclaim it here in full Senate, calmly and deliberately—with no malign feelings towards any human being in the world, with no disposition to do injustice to any man on earth—with no unchaste ambition for the acquisition of mere notoriety, with no indecent desire to awaken high

popular excitement—before Heaven and my fellowmen, I solemnly proclaim that this hostile movement against the Administration, grounded upon the protocol, originated not with Whigs, but with Democrats, (if I may indeed speak in the *plural* number, the propriety of which I am inclined exceedingly to doubt.) This declaration may astound some, and will no doubt be received with a feeling of keen distress and mortification by the whole Democratic party of the country; but as the fact is indubitably true, in manner and form as I have stated it to be—as it is a fact not possible to be denied, or even seriously questioned—as it is a fact *provable*, and without an atom of evidence to the contrary, I have not felt at liberty to conceal it. Indeed, had I attempted to conceal it, it would not have been possible for me to rest quietly in my bed at night, or be capable hereafter of enjoying the cheerful intercourse of social life at all. Had I concealed *such a fact*, I should have felt myself guilty of treachery to my party and the country, and deserving of punishment accordingly. Now, sir, I expect to be denounced in certain vicinages for my conduct on this occasion; I expect to be reviled, ridiculed, and caricatured; I expect to make men my enemies who are not much prone to forgive, and whose capacities for mischief are by no means limited; I expect to be thanked but by few, and commended by yet fewer; but the path of duty is before me; and though stormy and cheerless it may be, and beset, perchance, with manifold perils too, I shall yet tread it firmly, and as regardless of consequences as it is in my power to be.

I will presently go further and enter more distinctly into particulars. But I beg that Senators will first take a view of some leading circumstances connected with this affair, quite well known to the country. This Administration is now drawing to a close; in a few days the President and his cabinet will have disappeared from public view as occupants of the high seats of executive power. Four years have these personages devoted of hard, persevering, and, I dare to say, of patriotic toil, to their country and their countrymen. They have been successful—aye, eminently successful—in all that they have undertaken. They have surpassed their own promises, exceeded the public expectation, and established for themselves, jointly and severally, the highest, and strongest, and almost sacred claims to the gratitude and respect of the present generation and of all posterity. Through their agency great public principles have been vindicated and established on foundations as solid as it is possible for aught of mere human institution to be. By their skillful management of the administrative concerns of this great Republic, domestic peace has been secured, and social happiness fostered, under circumstances not a little trying and perilous. The honor of the nation has been vindicated by the most successful and glorious war ever prosecuted among civilized nations. Our territorial borders have been extended to the shores of the Pacific. Our commercial resources have been cherished and developed so bounteously and so effectually that we are on the eve of being recognised as the first commercial nation in Christendom. All this, and more, has been effected in four short years under circumstances most unpropitious, and in opposition to influences apparently most potential. The President and his Cabinet were about retiring to private life, and preparing quietly and decently to surrender the reins of authority to others who have been called by the American people to succeed them, when suddenly this protocol makes its appearance among grave legislators, and in some mysterious way becomes the basis of proceedings evidently designed to be productive of the most serious consequences to all supposed to be concerned, either remotely or nearly, in giving it existence. *A Democrat*—(if I err in this, I trust to be corrected, but I think that nothing was ever more certain)—a *Democrat* obtains, on special application, from the Mexican Minister in this city, a copy, or perhaps several copies of this protocol. He brings it into this Hall—he goes without delay to a distinguished Whig Senator—hands it to him in the Spanish tongue, and explains its contents. This Whig Senator is the honorable Senator from Delaware, who is recognized by the whole public as sustaining peculiar relations to the Administration shortly to come into power. Immediate proceedings are instituted in the House of Representatives, based upon this same protocol, at the instance of those thus supplied with the means of annoying the national Executive by the Democratic Senator before alluded to. The Whig members of this body are speedily advised as to all the particulars of this mysterious interview between the Democratic Senator referred to and the honorable Senator from Delaware; but the Democratic members of the Senate are kept wholly in the dark upon the subject, and they get their first information as to this whole affair from the other end of the Capitol.

What could this Democratic Senator intend by acting as I have described him to have done? Did he design only to perpetrate an innocent hoax upon the honorable Senator from Delaware and his political associates in this body? I wish I could be satisfied that such was the fact, as the sentiments of chagrin and resentment which I now feel, and cannot avoid feeling, would be greatly diminished by discovering such to be the fact. Or did that Democratic Senator seriously design, through the agency of the Senator from Delaware, to cause an impeachment to be set on foot in the House of Representatives, which he hoped might result in the disgrace of the President, and of all associated with him in the administration of the governmental affairs? Did that Senator aim to impose discredit upon our commissioners in Mexico, one of whom yet survives to feel properly sensitive to all that is calculated to affect his honor as a man and as a public officer; and the other of whom sleeps quietly in the grave, incapable now of warding off the arrows of malevolent calumny, or of vindicating his reputation against undeserved reproach? What *was* his object? Who can divine it? What were his motives? Who can state them? What purposes personal to himself did he hold in view at the period of this transaction? These are questions easy to propound; and if not difficult to answer, not proper to be solved by any one but the person alluded to himself. It is for him to decide whether he will remain silent, or answer in explanation of his conduct. It is for him to determine either to treat these suggestions with an assumed and *politic* contempt, or by coming forward with a manly explanation of his acts, claim to be justified before his countrymen, and to stand undiscredited before the civilized world. Who is that Senator? He is a man of experience—of accomplishments—of great weight of character—of extended influence—connected for more than thirty years past with the public history of the country—associated, in times past, with heroes and statesmen, who have imparted imperishable lustre to their age and nation, and whose deeds of high renown have won for them the eternal gratitude of their countrymen. This Senator is now stricken in years, and cannot expect, according to the course of nature, much longer to remain an active participant in the management of public affairs. He is one to whom the Democratic party owe much, but who owes much more to the Democratic party. He is a man to whom this Administration has, at one time, deferred more than to any other man in the Republic; and to conciliate and to advance whom more anxiety was at one time displayed than was quite agreeable to all, even of the truest and warmest supporters of the President in different parts of the Confederacy. He is—who is he? Where is he? What is he? How call you his name?

> Who could but laugh, if such a man there be?
> Who would not weep, if ATTICUS [pointing to Mr. BENTON] were he?

Mr. CLAYTON. Mr. President, I would inquire what is the motion before the Senate?

The PRESIDING OFFICER. The question is on the amendment of the Senator from Mississippi, to print twenty thousand copies of the message and documents.

Mr. CLAYTON. Would it now be in order for me to move, as an amendment to the amendment of the Senator from Mississippi, that the original treaty with Mexico, signed by Mr. Trist, together with the amendments made therein by the Senate of the United States, be printed with the message of the President and the documents?

The PRESIDING OFFICER. Such a motion will be in order.

Mr. CLAYTON. Then I will move that amendment. I have no objection to the printing of twenty thousand copies of the message, but I think that fairness and justice demand that all the documents connected with the subject should be printed with it, in order that the people of the country may have all the facts of the case before them.

Mr. FOOTE. I have not the slightest objection to the Senator's amendment, but will accept it with great pleasure. I also am anxious that all the material facts connected with this subject should be placed before the people; and if the honorable Senator from Delaware has any further suggestions to make that will aid in the accomplishment of that object, I shall be most happy to hear and adopt them.

Mr. CLAYTON. I have nothing further to suggest. And, Mr. President, I should not have risen to say one word in reply to the allusions made to me by the honorable Senator from Mississippi were it not for a misunderstanding on his part. However, since it appears to be incumbent on me to say something in explanation, I will remark that this protocol was communicated to me several days ago, and that it was communicated to several other Senators at the same time. There was no secrecy about it. Every member of this body had an opportunity to examine it. It was not communicated to Whigs alone, but to all the members of the Senate. It was placed in the possession of Democrats as well as of Whigs. All Senators had an opportunity to examine it.

Mr. FOOTE. The honorable Senator from Delaware may rest assured that he is in error on this point. Senators all around me disavow all knowledge of the matter till within a very recent date. I would ask the honorable Senator if he communicated to me the fact that this document was in existence?

Mr. CLAYTON. No, sir. The protocol was shown to me by another gentleman. It was shown to all the members.——

Mr. FOOTE, (interposing.) It was not shown to me. The Senator, I must insist, is mistaken on this point; and I say it with great respect. My friends all around me avow their entire want of knowledge as to this protocol until it was made the basis of hostile proceedings against the Administration.

Mr. CLAYTON. The Senator is certainly in error. There are half a dozen Senators sitting immediately behind and around him most of whom knew all about this protocol quite as soon as I did—some of them earlier. I do not intend, however, to discuss the question raised by the honorable Senator from Mississippi, nor shall I censure any one for entering upon that discussion, by any means; but, for my own part, I feel that it would be improper for me now to enter into any discussion as to whether this protocol differs from or has invalidated the amendments made to the late treaty with Mexico by the Senate of the United States, or whether the conduct of the President in relation to this matter is justifiable or not. These are questions, I say, which I do not intend now to discuss, because I do not feel at liberty to do so. As a member of the Senate of the United States, whose words—though one of the humblest members here—may be hereafter quoted by the party with whom the treaty was contracted; as one of the humblest members of this body, forming a component part of the treaty-making power, I do not propose to say one word that can be borne from this Chamber. If I had anything to say, I should offer to my brother Senators in Executive session only. My only object in rising was to make the explanation which I have given, and to move the amendment that I have offered. I am perfectly willing that twenty thousand copies of the document should be printed. I am not particular as to the number, except that I desire the whole subject to be fairly laid before the country.

Mr. FOOTE. Mr. President, I regret that the honorable Senator from Delaware seems so unwilling to yield the impression that the protocol was submitted to this side of the Chamber. As a member of this body, and at the instance of honorable Senators around me, I have felt it to be my duty to assert, in language of grief and lamentation, not of denunciation, that it was not so submitted. I can assure gentlemen that, so far as I am informed, it was not submitted to members on this side of the Chamber.

SEVERAL SENATORS. It was! it was!

Mr. FOOTE. Then it has been submitted to more than I had supposed. I understood that it was submitted to Whig Senators, but I knew not that it had been submitted to a single Democrat on this floor. If it was so generally communicated, it

is not at all surprising that I obtained the information which I have laid before the Senate, and I deserve no great credit for obtaining that which was so easily obtained by all. The only effect that this revelation on the part of the Senator from Delaware will have, will be to diminish my reputation as a man of sagacity, inasmuch as, according to his statement, I have discovered nothing but what was ascertained by others as well as myself. It may be that gentlemen on this side of the Chamber have been consulted upon this matter. It may be that they have known all about it from the beginning, but I cannot believe it; and I am satisfied that they concur with me in supposing that they could neither have instigated nor connived at the movements under consideration—movements so hostile to the Administration—without an entire loss of their own self-respect, and an absolute forfeiture of all claims to Democratic support and confidence hereafter. If, however, there are Democrats who have been consulted in relation to this movement, I would like to know who they are. I would like to have them come forward and avow it. They can speak for themselves, and until they do avow it, I, for one, shall not believe it.

Mr. HALE. Mr. President, twenty thousand copies of the treaty with Mexico, with the amendments of the Senate, have already been printed.

Several Senators. They have all been distributed.

Mr. HALE. I have enough left to supply the Senate. I think it would be a useless expenditure to print twenty thousand copies at this time. I think two thousand would be plenty. Our printing, instead of diminishing, goes on steadily and constantly increasing, and I think we should be careful not to add unnecessarily to it. The treaty and amendments made by the Senate have been printed by all the newspapers in the country, and this protocol, and the President's message in relation to it, will also be widely, and I may say, universally disseminated through the medium of the public press. There is no necessity, therefore, for printing the extravagant number of copies proposed. If the motion to print twenty thousand copies is adhered to, I shall call for the yeas and nays.

Mr. BERRIEN. I would say, with respect to the Senator from Mississippi, that he is entirely mistaken in supposing that this document was exhibited only to Senators on this side of the Chamber. My earliest information in regard to it was derived from two Senators on the other side of the Chamber, to neither of whom has the Senator from Mississippi referred in his remarks, and from one of whom I obtained a copy.

Mr. FOOTE. That was after the original movement, I suppose.

Mr. BERRIEN. I know nothing of the original movement. I was not a participant in any such movement, and have derived all my knowledge of it from the remarks of the Senator from Mississippi.

Mr. FOOTE. If it be true that this matter was generally known to the Democratic members of this body at an early period, I would like to have some of them come forward and say so. Until they do say so, I shall not believe it. I had hoped that the honorable gentleman to whom I alluded as having originated this movement would come forward and attempt at least to vindicate himself or explain the motives of his conduct, but he has not done so. In reply to the Senator from New Hampshire, I would say that twenty thousand copies of the message and documents will be few enough to supply the country. They will be in great demand, and nothing short of twenty thousand copies will, in my judgment, suffice.

Mr. MASON. Mr. President, it may perhaps suit the occasion, as I understand the Senator from Mississippi is under the impression that this document was not communicated to Senators on this side of the Chamber——

Mr. FOOTE, (interposing.) Until after the movement on the other side of the House.

Mr. MASON. I am unaware of any such movement having been going on, or at least of the time when it commenced. However, I think it proper for me to state, inasmuch as the honorable Senator from Delaware has been referred to in such a peculiar manner, that a few days since—I cannot say exactly how long, but it was some three, four, or five days ago—the honorable Senator from Delaware told me that there was such a paper, and proposed to show it; and, at his suggestion, I went with him to look at it, and I did look at it. I did not inquire, according to my recollection, where the document came from, but learned from the honorable Senator from Delaware, and from the appearance of the paper itself, that it was a document printed in Mexico. That was all the information that I obtained from the Senator from Delaware; and according to my recollection, no further remark was made by him, except that the document seemed to have a very strange appearance. I have made these remarks because I thought it material that I should say something to correct the misapprehension that might possibly arise from the statements of the honorable Senator from Mississippi in regard to the document not having been shown to Senators on this side of the Chamber.

Mr. FOOTE. Will the Senator allow me to explain? I did not say that the Senator from Delaware did not communicate this paper to other Senators. On the contrary, I said that the whole course of that Senator in connection with this matter had been marked by the courtesy and magnanimity which so eminently characterize all his actions. Nor do I charge any Senator upon this side of the Chamber with having kept this matter secret. What I have said, and what I now say, is this: that that document was communicated to certain gentlemen as early as Friday of last week, and it is only within the last four or five days, it appears, that the honorable Senator from Virginia has ascertained anything concerning it. I repeat it, sir, that this document was obtained from the Mexican Minister by a Democratic member of this body, and by him communicated to the honorable Senator from Delaware, some time before the Senator from Virginia heard of its existence. I believe the document was obtained from the Mexican Minister, and communicated to the Senator from Delaware on Friday of last week; at any rate, so early as to be preliminary to the movements in the other wing of this Capitol.

Mr. WESTCOTT. It is, perhaps, proper that I should state, in addition to what has been said, and in justice to the Senator from Delaware, that several days since, on going to that Senator's seat to converse with him respecting a bill, he showed me a pamphlet, in English and Spanish, printed in Mexico, and purporting to be official, containing what is called the "protocol" appended to the treaty. It was not communicated confidentially or in secret, but, on the contrary, several others were present, and it was the subject of conversation. I understood it had been given to the Senator a short time previously, though, as the pamphlet was manifestly authentic, I did not ask how or from whom it was obtained, not regarding it as of any consequence. I have heard about it, but nothing that I regard as censurable in any way whatever on the part of anybody. I then expressed the opinion, which I still entertain, of the very singular character of the paper, and that it should have been laid before the Senate in July last; and I asked the Senator for a copy, which he allowed me to take without restraint as to its use. That copy I gave to the Senator from Indiana, the honorable chairman of the Committee on Foreign Relations, and I learn he gave it to the Senator from Georgia, [Mr. Berrien.]

Mr. BERRIEN. Probably a copy of that copy.

Mr. WESTCOTT. I allowed gentlemen connected with the press to take copies of that copy, and I did so on my own responsibility, and because I regarded it as a matter the public should know all about at once. There were several other copies in circulation, and a day or two afterwards the protocol was recited in resolutions in the other House. I found no fault with anybody, Senator or not, for bringing the thing out, but the contrary. It was right and proper that the country should know all about it.

Mr. CLAYTON. I was not the first person that saw this protocol. Many other Senators on this side of the Chamber had seen it before it was shown to me; and I think the honorable Senator from Mississippi will find that many Senators on the other side knew all about the whole affair before I ever read the protocol. When I first saw the document, it was the subject of conversation through the House. Everybody had had a sight of it. However, enough of this. I hope the question will now be taken on the printing, and the whole matter laid before the country.

Mr. FOOTE. With all due respect to the honorable Senator who has just taken his seat, I beg leave to say that there has not been quite enough of this. The honorable Senator's last remark has made it important that I should reply to him; that I should tell him, and with great respect, that he is entirely mistaken when he says that this paper was communicated to many Senators on this side of the Chamber before he read it or saw it himself. I say it before the Senate, and I say it before the country, that in point of fact, it is not true that this matter was divulged on this side of the Chamber prior to its communication to the honorable Senator from Delaware. One or two Senators perchance may have been consulted in regard to it. It is very likely they were, for there seems to be a sort of *potentia remotissima* connected with this business; but to say that this document was communicated to many persons on this side of the Chamber anterior to its communication to the Senator from Delaware is not true in point of fact. If Senators on this side of the Chamber were informed of it at such an early date, they can say so, and then I will believe it. But I know my Democratic brethren in this body too well to believe that such is the fact. Among other great advantages which I have derived from my association with them is this one, and it gratifies me exceedingly: I have learned that whatever measure or movement is calculated to affect in any degree the welfare of the Democratic party is made known to all its members in this Chamber. It is never kept back from a part while it is discussed by another part. It is made known to all, that all may share in the discussion of it. And I vindicate my Democratic brethren in this body, as I am authorized to do, against the unintentional aspersions of the Senator from Delaware in saying that this matter was discussed by a portion of them anterior to his having read the protocol. It is impossible that this could have been the subject of conference among the Democrats in this Chamber without my finding it out. Such concealment would involve high moral considerations which gentlemen around me could never be tempted to disregard. Such concealment, therefore, would be as impossible as it would be for a man of ordinary nerves to stand, with these nerves unshaken, upon the top of a mountain shaken to its centre by an earthquake. I cannot believe that a Democrat, true to the faith, devoted to the great cause of Democracy, faithful to the principles of our Democratic fathers, could know of any such movement as this, and not endeavor to expose it to all his political brethren.

Mr. RUSK. Mr. President, as there has been a good deal of conversation upon this subject, I think it is proper for me to say that I presume that about the same time the honorable Senator from Delaware was shown the treaty and protocol, they were shown to me also. The pamphlet which I saw contained the treaty with Mexico, with the protocol attached to it, in Spanish and English. Whether I understood then, or have been informed since, I do not know; but the impression on my mind is, that there were several copies of this pamphlet, obtained, as I understood, of the Mexican Minister. I did nor understand that it was a matter of secrecy at all. It was shown to me by an honorable Senator on this side of the Chamber, because it affected to a very considerable extent, if there be any force in the protocol, a question in which the State that I have the honor in part to represent was very much interested. I conversed on the subject with the Senator from Delaware, and asked his opinion as to the legality and force of the protocol. The pamphlet that I saw contained the treaty in Spanish and English, and the protocol in Spanish and English immediately after the treaty. This, as a matter of course, left the impression on my mind that it was intended to be a part and parcel of the treaty, or an explanation intimately connected with it.

The Senate will well remember that the tenth article of the original treaty was opposed by me here at the time it was under discussion. They will also recollect the statements which I made in relation to that article: that my impression was, that that article (the tenth) was inserted through the influence and for the interests of the British bondholders, in order to secure a stupendous grant of land, made in fraud by Santa Anna, about the time of the Texas revolution, in order to embarrass her in case she should become independent of Mexico, an event then positively certain. I looked upon that article of the treaty as intended to cover this grant, made by Santa Anna in fraud of the

rights of Texas, as well as of the rights of the Government of Mexico at the time it was made. I looked upon that tenth article of the treaty which we struck out here as covering also another stupendous attempt at fraud and speculation, with which the name of a certain Padre Macnamara was connected, intended to cover nearly all the valuable vacant domain in California.

This protocol, bearing directly upon this question, created considerable interest in my mind; for, if it invalidated the tenth article of the treaty, as amended by the Senate, and gave the Macnamara grant any validity, it deprived us of nearly all the valuable land in California. And if there was any validity given to this fraudulent transaction between the Mexican Government, or rather between Santa Anna and the British bondholders, it very seriously embarrassed the State of Texas, and, if carried out, would be in fact assuming, on the part of this Government, the regulation of the rights of Texas, which, under the provisions of the act of annexation, this Government has no right to do. As soon as I read this treaty and protocol, as a matter of course I instituted inquiries concerning it. It was a matter of great interest to me, and of vital importance to the State of Texas. I went to the President of the United States—perhaps I ought not to say that; I do not know how these conversations are regulated here—I went to the President and examined the documents with which he politely furnished me, and conversed with him upon the subject. I found that the commissioners were instructed not to negotiate at all. I saw, upon an examination of the papers, that they stopped at Mexico and sent the treaty on to Queretaro—not being able, for some cause or other, to go there themselves—where the Mexican Congress was then in session, and that the President of Mexico, in a message which he addressed to Congress, transmitted the treaty as amended by the Senate of the United States, and urged upon the Congress its prompt ratification. One House took up the treaty and passed it immediately, and on the very day that the commissioners arrived in the city of Queretaro the other House completed its ratification. This is evident, because the act of ratification describes the treaty as ratified as it was amended by the Senate of the United States, and goes on to notice these amendments. As soon as I arrived at that point, I was satisfied that the protocol was of no consequence.

Again, the correspondence shows that this protocol is simply a protocol of the conversations which took place after the ratification of the treaty by the Mexican Congress, between the commissioners on the part of the United States and the Mexican Minister. That explains the whole matter to my mind. But, as a matter of course, any person in the world looking at the treaty as published in connection with this protocol in the pamphlet to which I have referred, would entertain a suspicion that the protocol was intended to have an important bearing upon the provisions of the treaty. It is no wonder, therefore, that it should have excited deep feeling in the public mind, and particularly in that portion of the public mind located in this city, which is more excitable, especially on such matters, perhaps, than any other portion. It was a day or two before this protocol was published in the newspapers that I was consulted in relation to it, for the reason, as I have already stated, that I was deeply interested in the tenth article of the original treaty, which was stricken out by the Senate. Upon the whole, I do not see that the protocol is a matter of importance. I shall sustain the motion to print twenty thousand copies of this message. It has gone abroad that the treaty has been invalidated. I do not believe anything of that kind, but there is a great excitement in regard to this matter. The people are anxious to learn all about it, and I think it is due to them, as well as to the President and Senate of the United States, that all these documents should be published and placed before the country.

Mr. FOOTE. Mr. President, I reiterate, most emphatically, that the document in question was not shown to Senators generally on this side of the Chamber prior to or contemporaneous with the time at which it was communicated to the Senator from Delaware. It may have been shown to one or two Senators, who seem to have been peculiarly circumstanced. It was not at all wonderful that it was shown to the Senator from Texas, as it may have been judged possible, by means of its agency, to distemper his feelings toward the Administration. But the fact that it was thus exhibited to him is not at all calculated to exonerate from blame the persons who seem to have been disposed to use this protocol for purposes of mischief. I do not know, nor do I care, when this matter was communicated to my friend from Texas. I can readily understand how that might have been done, and yet been generally kept secret from the members on this of the Chamber. But I said at first, and I say now, that this movement was commenced by a prominent Democratic member of this body, in the manner in which I have described; that conferences were had with the Senator from Delaware, [Mr. CLAYTON,] and that certain consequences resulted, both here and elsewhere, from those conferences. And I say, furthermore, that I think the honorable Senator from Texas is mistaken in supposing that the Mexican Minister voluntarily placed these documents in the hands of Senators. He would not take such a step as that, and instigate proceedings of this kind, which might result in the interruption of the harmonious relations now existing between the two Governments. I do not suppose that my friend from Texas intended to say that he knew that the Mexican Minister presented these documents to Senators voluntarily and unsolicited, but he expressed his belief that such was the fact, or that he had been so informed. Now, I believe that I am tolerably well informed on this subject, and I know it to be true, and it is provable, that this document was obtained from the Mexican Minister at his own house, and upon special application. The Mexican Minister, therefore, has had nothing to do with bringing this matter before the country. I feel certain that this statement will not be positively denied in any quarter.

Mr. RUSK. I simply said, in reference to this matter, that I had received the impression somewhere, and my belief was that the document had been obtained from the Mexican Minister, because it was published in this city immediately after his arrival.

Mr. DAYTON. I do not know that it is of much importance that I should state a fact, but I do so at the instance of my honorable friend from Delaware. And it is, perhaps, but justice to him that I should say, there was no such thing as a confidential communication with the Senator from Delaware. There could have been none intended. I was present at the time the document was handed to the Senator, and my attention was called to the subject. It was brought to the notice of two or three other Senators at the same time. It was done in open Senate, with no disposition to secrecy.

Mr. FOOTE. Do I understand the Senator from New Jersey to say that his attention was expressly called to the subject in my presence at that time?

Mr. DAYTON. No, I do not say in the Senator's presence. Certainly not. I said I was in my seat when the document was handed to the Senator from Delaware, and there could have been no special confidence intended, for immediately after it had been handed to him, the gentleman who had handed him the document made the same request to me that he had done to the Senator from Delaware, that I would, after the Senator from Delaware had perused it, take the document and look over it, and see how the views therein expressed coincided with those entertained by the Senate at the time of the ratification of the treaty. There could not have been any intention of secrecy. It was generally spoken of on this side of the Chamber; and, if I mistake not, immediately thereafter gentlemen on the other side of the Chamber were conversed with on the subject; and in this conviction I am borne out by what has been stated in the debate this morning.

Mr. FOOTE. I beg leave to say, so far as I am concerned, I never took part in any conference in relation to this matter, although perhaps I saw as much of what was going on, at the period alluded to by the Senator from New Jersey, between a certain personage and the honorable Senator from Delaware, in connection with this protocol, as did the Senator from New Jersey himself. There was no public disclosure of particulars, made at that time by the parties concerned, but the whole proceeding went on as quietly and privately as was possible for a transaction of that nature to proceed. As far as I am concerned, I never was conversed with in relation to this matter by Senators on the other side of the Chamber.

Mr. DAYTON. I did not say that the Senator from Mississippi had been conversed with in relation to it.

Mr. FOOTE. I will say further that I have not asserted that the communication was made in perfect confidence to the Senator from Delaware. The communication, I have no doubt, was made as extensively as possible on the other side of the Chamber; but I say again, that on this side, so far as I know, gentlemen have not been conversed with in relation to it. Now, if this be what the gentleman from New Jersey would call giving publicity to the matter, I have nothing further to say; but I can assure him still that the fact is, that, for forty-eight hours at least, no one on this side of the Chamber did know anything about the history of this little affair, so private was it kept. I am not charged with any delinquency, and have no defence to make. I have merely stated facts—facts which the American people are entitled to know—facts about which the public mind is naturally curious.

Mr. BRADBURY. Much greater importance appears to be attached to this protocol, Mr. President, than it is, in my judgment entitled to, and much more also to the fact of its being brought to the notice of the public.

Mr. FOOTE. If the Senator from Maine will allow me, I wish to ask him if he justifies the manner in which this protocol was made public?

Mr. BRADBURY. If the honorable Senator had waited until I had made the few remarks I was about to make, his inquiry would have been unnecessary. I was about to say that I regard this protocol as a paper proper to see the light, and one that will bear examination. I knew nothing in regard to it until the resolutions were offered in the House upon the subject. I then examined the treaty, the amendments made to it, and the protocol, and I could see nothing in the paper which it was not proper for the country to know—nothing which seemed to me to justify the conclusions that have been drawn and the charges that have been made. It was known to the Senate, when the treaty was under consideration, that the amendments made here might not be understood by the Mexican Government—that the striking out of some of the articles would be liable to misapprehension by that Government, unless the reasons for the amendments, and the ground upon which they were made, should be explained. I recollect that it was then suggested in conversation that the resolution of ratification should be prefaced by a preamble explanatory of the reasons for the amendments made. Another course was adopted. A commissioner was selected from this body, who was acquainted with the feelings of the Senate upon the subject, and would be able to make a full and clear explanation of the views that were entertained in regard to the articles of the treaty in which a change had been made. He was unable to proceed on his mission on account of sudden indisposition, and then a selection was made of a distinguished member of the Cabinet, whose situation enabled him to understand the views of our Government. For what purpose were these selections made? Was it merely to bear the treaty to Mexico, and present it there for ratification by that Government? Would such a selection have been necessary, if that were the only purpose? It was expected that the commissioners would explain to the Mexican Government the changes that had been made in the treaty by the amendments, and the reasons for those amendments. The great and leading change made in the treaty was in striking out the 10th article. That article, in the original treaty, related not only to lands in the ceded Territories, but to lands in the State of Texas, in regard to which the Government of the United States had nothing to do, and could exercise no control over. It provided not only for grants that were valid, but extended to those conditional grants which had become forfeited by the non-performance of the conditions, and proposed to allow the grantees to come in after the ratification of the treaty, and revive these grants by fulfilling the conditions. In cases where the terms of the grants required settlement and occupation of the land for a period of years, the 10th article stipulated that the grantees might revive the title by occupation for a like period after the exchange of ratification of the treaty. By striking out this article, the Mexican Government might have feared that the intention was to invalidate all grants whatever

made by that Government. It was highly proper that the commissioners should explain what was intended, and how far our laws would sustain the titles to land in the Territories that had been given. The protocol undertakes to do this. It lays down the principles of law which govern such cases. If the language of the protocol on this point were inserted in the treaty, and made a part of it, it would not, I contend, make the slightest difference in regard to the grants made by Mexico. We take our title by treaty, not by conquest; and our courts would sustain *valid grants*, whether the treaty alluded to the subject or not. I will read merely this portion of the protocol:

"2d. The American Government, by suppressing the tenth article of the treaty of Guadalupe, did not, in any way, intend to annul the grants of lands made by Mexico in the ceded territories. These grants, notwithstanding the suppression of this article of the treaty, preserve the legal value which they may possess, and the grantees may cause their legitimate titles to be *acknowledged* before the American tribunals.

"Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories, are those which were legitimate titles under the Mexican law in California and New Mexico, up to the 13th of May, 1846, and in Texas up to the 2d of March, 1836."

Mr. CLAYTON. Does the honorable Senator propose to go into a discussion of the whole subject, whether the protocol is in accordance with the treaty or not, upon a mere motion to print these papers?

Mr. BRADBURY. I do not propose to go into a general discussion of this subject; not at all. I adverted to it for a moment for the purpose of showing the character of this protocol; that it seems to have been misapprehended, and that it is a paper which ought to be spread before the public. It will be seen that it does not nullify the amendments made by the Senate.

Mr. BADGER. Will the Senator from Maine allow me to make a suggestion? Unless it is the wish of the Senate, at this particular stage of the question, to go into the debate of the whole subject, I should consider any discussion upon the treaty or any part of it as entirely out of order. I would suggest to the Senator that the proper time for debate will come after this shall have been referred to a committee and reported upon to the Senate.

Mr. CLAYTON. I merely desire to make another suggestion, which is, that any public discussion upon this matter may perhaps seriously embarrass us hereafter. I make this suggestion in a friendly spirit. I think that the Senator himself will see upon reflection that it is very improper for us, a part of the treaty-making power of this Government, to publish to the whole world in advance what we think upon this matter. I hope the Senator will forbear any discussion upon the main question upon the mere motion to print.

Mr. FOOTE. Will the Senator from Maine allow me a moment? Several Senators on the other side of the Chamber seem to understand me as having been inclined to cast censure upon them in connection with this proceeding; and in justice to them, therefore, I feel bound in frankness to confess that, receiving the information upon which they have acted in so imposing a manner and from a high Democratic source, it would have been almost impossible for them to have done less than they have done in the prosecution of this inquiry.

Mr. BRADBURY. I do not propose to go fully into this question. I am merely speaking of——

Mr. MANGUM. I rise to a question of order, and I desire to have the opinion of the Chair as to whether it is right to go into the merits of the question at all upon a mere motion to print—whether it is right to discuss any question other than that presented by the motion to print.

VICE PRESIDENT. The Presiding Officer understands the remarks of the Senator from Maine as being intended to show the expediency of publishing twenty thousand copies of the document. If the Chair is right in this, the Senator is in order.

Mr. MANGUM. I shall, though with great reluctance, if the Senator persists, be compelled to appeal from the decision of the Chair. I will inquire, does the Senator intend to persist in discussing the question?

Mr. BRADBURY. It was my purpose to make only a very few remarks. Inasmuch as the honorable Senator from North Carolina has thought proper to present to me the alternative that, unless I will stop now, he will appeal from the decision of the Chair that I was proceeding in order, I will respectfully submit that the Senator take his appeal.

Mr. MANGUM. I appeal, then, from the decision of the Chair.

Mr. BADGER. I ask for the yeas and nays on the appeal.

Mr. HALE. Will the Chair state what the point of order is?

PRESIDING OFFICER. The Senator from Maine has been called to order for irrelevancy.

Mr. BUTLER. How am I to vote upon the appeal, seeing that I have not heard the speech which is said to be irrelevant?

Mr. HALE. I believe that debate upon the appeal will be in order.

PRESIDING OFFICER. Debate is not in order.

Mr. HALE. I understand that the practice of the Senate has been the other way.

PRESIDING OFFICER. The Chair will be very much inclined to pursue what has heretofore been the practice, but he understands the rule of the Senate to be that debate is not admissible.

Mr. BERRIEN. The practice has been followed in this Chamber very frequently. And not only here, but in both branches of the National Legislature, a question of appeal is always open for debate. It would be requiring too much from Senators that they should answer affirmatively or negatively upon the question without an opportunity of hearing discussion. Many Senators, it may be, are in the situation of the Senator from South Carolina, of not having heard the speech.

Mr. BUTLER. Of course, I am not able to tell whether it was relevant or not.

Mr. BERRIEN. Certainly not.

Mr. WESTCOTT. I will call the attention of the Chair to the fact, that it was the practice during the last session to debate an appeal.

The PRESIDING OFFICER read the rule relating to the subject.

Mr. BERRIEN. That is it. The decision of the President must be given without debate, but it does not appear that the appeal shall not be debated.

Mr. MANGUM. I took the appeal with very great reluctance.

Mr. HALE. I have not yielded the floor.

Mr. MANGUM, (continuing.) In what condition are we exhibiting ourselves before the public?

Mr. BUTLER. I move that the Senate now adjourn.

PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. BUTLER. I hope the Senator will give way for an adjournment.

Mr. MANGUM. In what condition, I say, are we exhibiting ourselves? A message is received from the President of the United States, in pursuance of a resolution adopted by the Senate. It comes here, and before it has been read to the body, and, as I suppose, before a single Senator has read the document, we are to take it up and debate all the important propositions that it contains; and this upon a motion to print a certain number of copies. Sir, if such be the sense of the Senate, I am willing to acquiesce, and beg leave to withdraw the appeal.

Mr. HALE. As I have the floor, I believe the Senator has no right to withdraw the appeal without leave of the Senate.

PRESIDING OFFICER. Shall the Senator from North Carolina have leave to withdraw the appeal?

Leave was granted.

PRESIDING OFFICER. The Senator from Maine has the floor.

Mr. HALE. I understood the Senator from North Carolina as renewing, not withdrawing the appeal.

Mr. YULEE. Will the Senator give way for a motion to adjourn?

Mr. HALE. I cannot consent to give way; but I will myself move an adjournment.

The question being put, it was, upon a division, decided in the affirmative: Ayes 25, noes 23.

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 10, 1849.

The Journal of yesterday was read and approved.

Mr. STANTON rose (he said) to a privileged question.

THE CHEROKEES.

Mr. JOHNSON, of Arkansas, asked leave, at this time, to present the memorial of the Cherokee nation.

No objection having been made, the memorial was received, and, on motion of Mr. JOHNSON, was laid on the table, and ordered to be printed.

THE MEXICAN TREATY.

Mr. STANTON rose, and said that he would now call up the motion which he had made on a former day, to reconsider the vote by which the message of the President of the United States, in answer to a resolution of this House concerning the treaty with Mexico, had been laid upon the table.

Mr. VENABLE asked the gentleman from Tennessee [Mr. STANTON] to suspend his motion so as to permit the committees to be called for reports. There were, he was understood to say, a number of reports which the committees desired to make.

The SPEAKER said he would state, for the information of both gentlemen, [Messrs. VENABLE and STANTON,] that this was private bill day, and that, strictly speaking, neither of the motions was now in order. The motion made by the gentleman from Tennessee [Mr. STANTON] to reconsider the vote by which the President's message had been laid on the table, would go over regularly until public business was in order. But if no motion was made to go into Committee of the Whole on the private calendar, nor to proceed to the consideration of private business on the SPEAKER's table, the motion to reconsider would be entertained.

Mr. WICK moved that the House proceed to the consideration of private business on the SPEAKER's table.

And the House proceeded thereto.

DAVID MYERLE.

The SPEAKER stated that the bill first in order was the bill for the relief of David Myerle.

The pending question was on the motion heretofore made, that the bill be laid upon the table.

Mr. DANIEL asked the yeas and nays; which were ordered.

Mr. KAUFMAN called for the reading of the bill; which was accordingly read.

And the question, "Shall the bill be laid upon the table?" was then taken, and decided in the affirmative—yeas 95, nays 71.

So the bill was laid on the table.

Mr. GOGGIN moved a reconsideration of the vote, and also moved that the motion to reconsider be laid upon the table.

Which latter motion having prevailed, it was ordered accordingly.

REPRESENTATIVES OF W. A. SLACUM.

The bill next in order was the Senate bill for the relief of the personal representatives of William A. Slacum, which had been passed by the House, with an amendment, and which came from the Senate with the amendment nonconcurred in.

RATES OF POSTAGE.

Mr. GOGGIN rose to a point of order. It would be recollected, he said, that the bill to reduce the rates of postage, which had been made the special order of the day for the first Wednesday in January, did not except Fridays and Saturdays, but that it was made the special order for the day specified and for every subsequent day until it should be finally disposed of. He submitted to the Chair whether it was in order to take up these private bills until the postage bill had been disposed of.

The SPEAKER said that the bill to which the gentleman referred was in Committee of the Whole on the state of the Union, with which the Speaker had nothing to do.

Mr. GOGGIN desired, he said, to move that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of proceeding to the consideration of the said bill.

The SPEAKER said, that motion was in order.

Mr. GOGGIN said he had a substitute he intended to offer to the original bill, which he held in his hand. If the bill was not taken up, he would place it in the hands of the reporter, that the House might see the measure he proposed as a substitute.

Strike out the whole of bill 653, as originally reported, and substitute this:

A BILL to reduce the rates of postage on letters and newspapers, to establish uniform postal charges, and to restrain the use of the franking privilege.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of July next, on all letters deposited in

any post office to be carried in the United States mails, not exceeding half an ounce in weight, there shall be charged and prepaid the uniform postage of three cents, for all distances within the United States or the Territories thereof, and for any additional weight or excess, there shall be charged an additional postage of three cents for each half ounce, or for any fraction less than half an ounce; and, when not prepaid, there shall be charged five cents instead of three for each half ounce or fraction less than a half ounce; and that so much of the first section of the act "to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the Post Office Department," approved the third of March, eighteen hundred and forty-five, and all other acts or parts of acts in conflict with the provisions of this act, be, and the same are hereby, repealed.

SEC. 2. *And be it further enacted*, That from and after the period aforesaid, there shall be charged and paid on all newspapers sent through the mails of a greater size or superficies than nineteen hundred square inches, the uniform rate of one cent on each paper, for all distances; on all newspapers of any size over five hundred and less than nineteen hundred square inches, there shall be charged and paid the uniform rate of one half cent, for all distances; and on all newspapers of a less size than five hundred square inches, there shall be charged and paid the uniform rate of one-fourth of a cent, for all distances, within the United States or the Territories thereof.

SEC. 3. *And be it further enacted*, That all printed or lithographed circulars and hand bills, or advertisements printed, or lithographed on quarto post, or single cap paper, or paper not larger than single cap, folded, directed, and unsealed, sent from the office or place of publication, shall be charged with postage at the rate of one cent for each sheet and no more, whatever be the distance the same may be sent, and double the said rate when the paper shall be larger than the size aforesaid, and in all cases to be prepaid when deposited in the office to be forwarded by mail.

SEC. 4. *And be it further enacted*, That all newspapers, commonly called transient newspapers, not sent from the office or place of publication, and all printed or lithographed circulars and hand bills, or advertisements, printed or lithographed, as mentioned in the preceding section, and not sent from the office or place or publication, shall be charged with postage at the rate of two cents for each sheet, whatever be the distance the same may be sent, to be prepaid in all cases when deposited in any post office, to be conveyed by mail; and all such postages as are embraced in this and the preceding section, shall be received and accounted for by postmasters in the settlement of their accounts, as newspaper and not as letter postage.

SEC. 5. *And be it further enacted*, That all pamphlets, magazines, periodicals, or reviews, and every other kind and description of printed or other matter, except hereinbefore provided for, which shall be unconnected with any manuscript letter or writing, except the direction thereon, and which it is now or may be lawful, by future enactments or regulations, to transmit by mail, shall be charged with postage at the rate of one cent for each copy sent to subscribers, or for each parcel, of no greater weight than one ounce; and one half cent additional shall be charged for each additional ounce after the first, of the weight of any such pamphlet, magazine, periodical, review, matter or thing which may be rightfully transmitted through the mail, whatever may be the distance the same may be sent; and any fractional excess, less than half an ounce, shall be charged as if said excess amounted to a full half once.

SEC. 6. *And be it further enacted*, That the subscribers to newspapers, magazines, periodicals, and reviews, shall pay in advance for each quarter of the year, the postage on all such publications, at the office to which the same shall be sent, as is now provided by law in regard to the postage on newspapers only: *Provided*, however, that publishers may furnish postmasters at the office nearest the place of publication, quarterly lists of the names of all subscribers to whom their publications are intended to be sent by mail from such office, verifying the correctness thereof by affidavit made on oath and to be filed with such postmaster, when it shall be lawful for such publishers to prepay to him the postage for each quarter, on all such publications sent through the mail for the subscribers on said lists, accounting at each quarterly payment for all new subscribers in the quarter preceding; and such postmaster shall thereupon be required to discount thirty per cent. of the postage otherwise chargeable by the provisions of this act in favor of such publishers; but before they shall be entitled to make such prepayment as to have the benefit of such discount, they shall cause to be inserted in some conspicuous place in such publication, with the sanction of such postmaster a notice of such prepayment, and where such papers are not sent from the office nearest the place of publication, they shall in all cases be charged with the regular rates of postage on transient newspapers, the same to be prepaid. And the commissions to postmasters shall be computed on the sums actually paid them without regard to the discount authorized by this section in favor of prepayment by publishers.

SEC. 7. *And be it further enacted*, That the publishers of all pamphlets, magazines, periodicals, or reviews, may send copies in exchange to other publishers of works, either of the same class or of newspapers within the United States or the Territories thereof, free of postage, as is now provided by law in regard to exchanges between the publishers of newspapers, under such regulations as the Postmaster General may adopt.

SEC. 8. *And be it further enacted*, That the Postmaster General may allow to all postmasters in the settlement of their quarterly accounts a sum, as compensation, including commissions, not less in amount than the compensation received by them for the last quarter of the year ending the 30th of June, 1849.

SEC. 9. *And be it further enacted*, That it shall be the duty of the Postmaster General, at all offices where the receipts for postage now amount to ten thousand dollars annually, to provide for conveying letters to the post office intended to be mailed, by establishing suitable and convenient places of deposit, under proper regulations, for such letters; to employ carriers to receive them when so deposited from such places, to carry them to the post office free of charge; and at all such offices it shall also be his duty to cause letters to be delivered by the same carriers to the persons to whom addressed, if their places of abode be known, unless otherwise directed, for which such carrier shall receive not less than two cents for each letter, but for all advertised letters there shall be an additional charge not exceeding two cents for the publication thereof in one paper only having the largest circulation, and published in the city or town where such post office is situated.

SEC. 10. *And be further enacted*, That the Postmaster General, under the provisions of the eleventh section of the act approved March 3d, 1847, entitled "An act to establish certain post routes, and for other purposes," shall cause to be prepared postage stamps corresponding with the rates of postage established by this act, of the denomination of ten cents, five, three, two, one-half and one-fourth of a cent. And if any person shall counterfeit or imitate by any device any such stamp or stamps, or use any such false or counterfeit stamp, in either case, with the view to evade the payment of postage, he or she so offending shall forfeit and pay the sum of three hundred dollars, or be imprisoned, not exceeding six months, or be subject to both fine and imprisonment according to the circumstances and aggravations of the offence.

SEC. 11. *And be it further enacted*, That the sea postage charged by the United States on foreign mail matter and on mails sent in whole or in part by sea to the Territories of the United States on the Pacific coast, shall be of the uniform rates now established by a postal arrangement with Great Britain; and that the Postmaster General, under the direction of the President of the United States, shall have power to raise or lower the rates of postage on all foreign mail matter, whenever the postal arrangements of other countries, with which the United States have no postal treaty, may seem to render it proper to do so immediately, only, however, when the two Houses of Congress shall not be in session, and then it shall be the duty of the President, so soon as Congress shall assemble, to communicate to the two Houses all the facts and the reasons for such change.

SEC. 12. *And be it further enacted*, That the Postmaster General shall cause to be kept at each post office a register of money-letters, showing the date of mailing, by whom deposited, to whom addressed, to what office sent, and the postage charged or paid, of all letters or packages containing money, drafts or checks, scrip or certificates of stock or treasury notes, sent from such office, or as letters deposited to be sent of the character aforesaid, on which there shall be charged and prepaid double the rates of letter postage as heretofore directed; and such postmaster, if required to do so, shall, at the time, give to the person depositing such letter a certificate stating the facts of the case: *Provided, however*, That nothing herein contained shall be so construed as to prevent persons from sending all such letters at the usual charges for letter postage, when not deposited as such, or stated to be letters containing money or other things herein enumerated; and publishers are hereby authorized to send their bills to subscribers, folded in their newspapers or other publications, free of any additional charge for postage.

SEC. 13. *And be it further enacted*, That the franking privilege, as it exists under any law, or usage, or custom, or as exercised by any person, or any officer of the United States in any department of the Government, is hereby abolished, and shall cease after the thirtieth day of June, one thousand eight hundred and forty-nine; and that all laws in conflict with the provisions of this section be, and the same are hereby, repealed.

Mr. HILLIARD rose and gave notice, that if the motion should be agreed to, he should move that the committee proceed to the consideration of the bill making appropriations for certain fortifications.

Mr. GOGGIN asked the yeas and nays on his motion.

The SPEAKER suggested that there were two or three bills from the Senate on their first reading, and a few bills of a not very important character, which might be disposed of in half an hour.

Mr. GOGGIN said he would waive his motion for the purpose of disposing of those bills, provided they did not give rise to debate.

So the motion was withdrawn for the present.

The House next proceeded to the consideration of the amendments of the House to the bill from the Senate entitled "An act for the relief of the personal representatives of William A. Slacum, deceased," which were disagreed to by the Senate; when—

Mr. ASHMUN moved that the House recede from its said amendment.

The first amendment was read, viz: strike out the words "charges for," and insert the word "actual." And the question being put: "Will the House recede from its first said amendment?" it was decided in the negative.

The second amendment was read, viz: In line 17 strike out all after the word "cents," to the end of the line.

And the question being put, Will the House recede from its said amendment?

It was decided in the negative.

The question was then put, Does the House insist upon its said amendments?

And decided in the affirmative.

So it was resolved that the House do insist on its amendments to the bill from the Senate entitled "An act for the relief of the personal representatives of William A. Slacum, deceased."

And it was ordered that the Clerk inform the Senate thereof.

The bill from the Senate entitled "An act for the relief of the captors of the frigate Philadelphia," was read twice, and referred to the Committee on Naval Affairs.

WASHINGTON, ALEXANDRIA, AND GEORGETOWN STEAM PACKET COMPANY.

The House proceeded to the consideration of the bill from the Senate entitled "An act in addition to an act entitled 'An act to incorporate the Washington, Alexandria, and Georgetown Steam Packet Company,'" ordered on the 4th of January last to be read a third time, when—

The said bill was accordingly read the third time, and—

The question was then stated, Shall the bill pass?

Mr. EDWARDS said he had the honor to report this bill, a few days since, from the Committee on the District of Columbia. The bill had been objected to by the gentleman from Tennessee, [Mr. JONES,] who endeavored to incorporate into it the principle of individual liability of the stockholders. He (Mr. E.) did not design to discuss that question.

It was a corporation, which had been in existence for twenty years until the 1st of January last, when that existence expired. This bill proposed to renew it. He referred to the amendment made by the Senate, which gave the right to Congress to alter, modify, or repeal the charter. That amendment, he thought, would cover all the objections which the gentleman from Tennessee had made to this bill. Neither principle nor policy required that there should be incorporated into this bill a clause providing for the individual liability of the stockholders.

He desired that the bill be put now at once upon its passage.

Mr. JONES, of Tennessee. What is the immediate question before the House?

The SPEAKER. Upon the passage of the bill.

Mr. JONES said he had not heard all the remarks of the gentleman from Ohio. But, for one, he (Mr. J.) could say to him and to the House, that he was opposed to the creation of corporations. He could not conceive from what source this Government derived the power to create corporations, at any rate to exercise that power outside of the District of Columbia. If he believed in the utmost extent of the power to establish corporations, still he would never consent to authorize any corporations in which the stockholders were exempt from the liability of the debts which might be created by such corporations. He thought if a corporation could be established, that all the powers that could be conferred by the Government was to give it a corporate name, to permit it to sue and to be sued, and to have a succession.

He stated, in conclusion, that to decide the question, whether the House was in favor of the bill or not, he moved to lay the bill on the table, and he asked the yeas and nays on that motion.

Mr. CHAPMAN appealed to the gentleman from Tennessee to withdraw his motion for a few moments. He would renew it, he said, after making a very few remarks.

Mr. JONES withdrew the motion upon that condition.

Mr. CHAPMAN said it seemed that the whole ground of objection which the gentleman from Tennessee made to the passage of this bill, and he supposed the whole ground of objection which any gentleman could make to it, was, that he was opposed to all corporations, and particularly to corporations wherein there was not an individual liability on the part of the corporators.

Now, it seemed to him (Mr. C.) that this question had been settled, not only by this House, but by the policy of this Government, and by the policy of every State in the Union. The Government of the United States, and the different State governments, had decided it to be necessary and convenient for the protection and advancement of the citizens of this great Republic, that corporations should be created—that corporations of this character should be created, and created without the feature which the gentleman from Tennessee said should be ingrafted upon every charter of a corporation, viz: the feature of individual liability. It was a settled question, no longer to be mooted here or elsewhere. It was settled, that in charters

of this character, it did not tend to advance the great interests of the country, or the individual interests of the citizen, that the stockholders should be held individually responsible for the debts of the corporation.

What did the bill seek to do? To continue in existence a company which had existed for twenty years, for the mere purpose of combining together a small amount of capital, to enable them to transport freight and passengers between this city and the city of Baltimore, landing at the intermediate points on the waters of the Chesapeake bay and the Potomac.

Mr. EVANS, of Maryland, made some remark to Mr. JONES, which was lost to the reporter.

Mr. JONES asked the gentleman from Maryland, as a lawyer, whether, when an execution was issued against a copartnership of mechanics, merchants, or other individuals, in the steamboat business, who were not incorporated, that execution would not reach the individual property of all the partners?

Mr. EVANS nodded assent.

Mr. JONES would ask the gentleman why it was necessary to incorporate a company to run a steamboat between the city of Washington and Baltimore? If he was correctly informed, of the immense number of boats which run upon the western lakes and rivers, all were left to individual enterprise, and the owners of none of them were incorporated. He asked why gentlemen would incorporate this company, and screen the partners from liability for the debts of the corporation, when they made butchers, merchants, mechanics, individually liable to the full extent of the debts of their copartnerships?

Mr. CHAPMAN resumed. It seemed to him that it was unnecessary to consume the time of the House in discussing the provisions of this bill. He believed every gentleman understood the principles involved. He should leave the question to the decision of the House, merely premising, in answer to the suggestions and interrogatories which he had indistinctly heard from the gentleman from Tennessee, that he could conceive, as he had before remarked, of no other objection which could be offered to this bill than an objection against corporations generally. The question of the policy of the creation of corporations without the feature advocated by the gentleman from Tennessee, he repeated, he considered settled by this Government, by the States, and by the whole country.

In accordance with his pledge to Mr. JONES, he renewed the motion to lay on the table, stating, at the same time, that it was not his own motion; and that, were he at liberty, he should move the previous question on the passage of the bill.

The yeas and nays were asked and ordered on the motion to lay on the table.

Pending this question—

FORTIFICATIONS.

On motion of Mr. VINTON, the House resolved itself into Committee of the Whole on the state of the Union, (Mr. MOREHEAD, of Kentucky, in the chair,) and, after an ineffectual effort on the part of Mr. GOGGIN to take up the postage bill, proceeded, at the instance of Mr. VINTON, to the further consideration of the bill appropriating for fortifications and for other purposes, for the year ending 30th June, 1850.

Mr. HILLIARD, who was entitled to the floor, proceeded to address the committee at length on the subject of providing governments for the new Territories, and in respect to slavery therein. [Mr. H.'s Speech will be found in the Appendix.]

Mr. HILLIARD having concluded his remarks,

Mr. BROWN, of Mississippi, obtained the floor.

Mr. VINTON said, that, with the permission of the gentleman from Mississippi, [Mr. BROWN,] he would state that the next bill which would come up for consideration, after the fortification bill had been disposed of, was the Mexican treaty bill, which, it appeared to him, would very appropriately open for debate the whole subject of California and New Mexico. There did not appear to be any difficulty, so far as concerned the bill now before the committee. The debate which was proceeding had no reference to the subject of that bill. He proposed, therefore, under the permission of the gentleman from Mississippi, to move that the committee rise, with a view to offer in the House a resolution providing that all debate shall terminate in one hour after the consideration of the bill shall again have been resumed.

When that bill should have been disposed of, he would move to take up the Mexican treaty bill, which was, he thought, a measure of that character which rendered it proper that opportunity should be given to debate it.

Mr. BROWN acquiescing in Mr. VINTON's suggestion—

The question was taken, and having been decided in the affirmative, the committee rose and reported.

TERMINATION OF THE DEBATE.

Mr. VINTON offered the following resolution:

Resolved, That debate on House bill making appropriations for certain fortifications for the year ending 30th June, 1850, shall cease in one hour after the consideration thereof shall be resumed in the Committee of the Whole House on the state of the Union; when the said committee shall proceed, under the rules of the House, to vote on such amendments as may be offered to said bill.

Mr. VINTON demanded the previous question, which was seconded; and the main question was ordered, and having been taken, the resolution was adopted.

Mr. HAMPTON, from the Committee on Enrolled Bills, made a report.

On motion of Mr. VINTON, the House then again resolved itself into Committee of the Whole on the state of the Union, (Mr. MOREHEAD, of Kentucky, in the chair,) and resumed the consideration of the fortification bill.

Mr. BROWN, of Mississippi, then addressed the committee, mainly in reply to a speech of a general character delivered some weeks ago by Mr. HUNT, of New York.

Mr. HUNT, during the few minutes yet remaining for debate, rejoined.

[The Speech of Mr. BROWN, and the remarks of Mr. HUNT, will be found in the Appendix.]

The time allotted for debate having now expired—

The hour allotted to debate having expired, the committee proceeded to vote.

The bill was read by sections, for amendment; and no amendment having been offered—

On motion of Mr. STANTON, the committee rose and reported the bill to the House.

The question being on the engrossment—

Mr. VINTON moved the previous question, which was seconded; and, under the operation thereof, the bill was ordered to be engrossed and read a third time.

Mr. KAUFMAN objected to the third reading to-day.

The SPEAKER. The bill has already been engrossed: therefore, it is in the power of the House to say when they will order it to a third reading.

Mr. VINTON moved that the bill be put on its passage at this time; and on that motion moved the previous question.

Mr. KAUFMAN. Have I not a right to object to its third reading to-day?

The SPEAKER. No; not if the bill is engrossed. The rule of the House provides, that the bill must be engrossed; and then it is for the House to determine when it shall be put upon its passage.

The previous question was seconded, the main question ordered, and the bill was read a third time and passed.

On motion of Mr. VINTON, a motion made by him to reconsider the vote on the passage of the bill was laid on the table.

Mr. WHITE asked leave to report, from the Committee on Agriculture, a bill to establish a Home Department.

Objections were made, and the bill was not received.

Mr. BROWN, of Pennsylvania, asked leave to introduce a joint resolution for the distribution of the Official Register.

Objection was made, and,

On motion, the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. POLLOCK: The petition of Joseph R. Priestley and 41 others, citizens of Northumberland county, Pennsylvania, asking a reduction of postage and the abolition of the franking privilege.

By Mr. SMITH, of Illinois: The petition of J. M. Woodside and other citizens of Perry county, Illinois, praying for a donation of land to aid in the construction of a railroad connecting the upper and lower Mississippi river with the northern lakes at Chicago. Also, the petition of R. F. Wilson and other citizens of New York, praying that a donation of land may be made by Congress to aid in constructing a railroad connecting the upper and lower Mississippi river with the northern lakes at Chicago.

By Mr. BRIDGES: The petition of divers citizens of Bucks county, Pennsylvania, praying for a more judicious system of the patent laws.

By Mr. BLACKMAR: The petition of 74 citizens of Seneca county, New York, asking the reduction of postage and the abolition of the franking privilege.

By Mr. HALE: The petition of Stetson Raymond and 33 others, inhabitants of Bridgewater, for cheap postage and the abolition of the franking privilege.

IN SENATE.

MONDAY, *February* 12, 1849.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, in reply to a resolution of the Senate of December 28, 1848, transmitting a report of the Secretary of the Treasury in relation to the number and cost of vessels, and number of persons employed in the survey of the coast of the United States.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, in compliance with a resolution of the Senate of the 18th January, with a report from the Commissioner of Indian Affairs in reference to claims made against the Cherokees, who were parties to the treaty of the 6th of August, 1846; which was referred to the Committee on Indian Affairs, and ordered to be printed.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting copies of the official Army Register, for the use of members of the Senate.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a list of contracts entered into by the department during the years 1847 and 1848; which was read, and ordered to lie on the table.

The VICE PRESIDENT laid before the Senate reports from the Auditor of the Post Office Department, and of the First Auditor, in the case of Jennings, Roddey, and Carter, in reply to a resolution of the Senate of 11th of August last.

MEMORIALS AND PETITIONS.

Mr. JOHNSON, of Louisiana, presented a petition from a number of citizens of New Orleans, praying for a modification of the laws relating to postage; which was read, and referred to the Committee on the Post Office and Post Roads.

Mr. BALDWIN presented a memorial from President Woolsey, Professor Silliman, and other gentlemen engaged in scientific pursuits, asking a republication, in liberal editions, of the elaborate and instructive reports of the various branches of science of the late Exploring Expedition, and of those yet to appear, to be placed in the public libraries and colleges; which was referred to the Commitee on the Library.

Mr. DIX presented a memorial from citizens of Leonardsville, New York, praying that certain defects in the law for the improvement of the useful arts may be remedied; which was referred to the Committee on Patents.

Mr. FITZGERALD presented a petition from John McDuell, asking compensation for the use by Government of his mode of scaffolding in painting the Capitol; which was referred to the Committee on Claims.

Mr. CAMERON presented a petition from citizens of Schuylkill county, Pennsylvania, asking for a change in the tariff laws; which was referred to the Committee on Finance.

Mr. CLARKE presented a petition from citizens of Providence, Rhode Island, asking for a reduction of the rates of postage, and the abolition of the franking privilege; which was laid on the table.

Mr. SEBASTIAN presented a petition from Wm. Pelham and others, asking the adoption of measures for constructing a railroad from Memphis, or some other point on the Mississippi river, to the Pacific Ocean; which was laid on the table.

Mr. RUSK presented a petition from Robert P. Kingsbury, asking compensation for loss occasioned by the refusal of the Mexican authorities to allow him to dispose of tobacco imported into Matamoros while in possession of the United States; which was referred to the Committee on Foreign Relations.

Mr. BENTON presented a memorial from citizens of the United States residing in the valley of the Mississippi, asking for the establishment of military convoys to California; which was referred

to the Committee on Military Affairs, and ordered to be printed.

Mr. DAYTON presented a petition from Mary Saunders, widow of a revolutionary soldier, asking an increase of pension; which was referred to the Committee on Pensions.

Mr. DIX presented a petition from Ann F. Perrine, widow of Dr. H. Perrine, asking an extension of time in the occupation of a township of land granted to Dr. Perrine for the cultivation of tropical plants; which was referred to the Committee on Public Lands.

Mr. WESTCOTT presented some documents relative to the same claim; which were referred to the same committee.

Mr. DAVIS, of Massachusetts, presented a letter from A. J. Marsh, a soldier in the Mexican war, complaining of injustice done to the class of soldiers to which he belongs, by not extending to them the privilege of bounty lands; which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. MASON, from the Committee on Claims, reported, without amendment—

House bill for the relief of William Snavely, of Indiana;

House bill for the relief of the legal representatives of Oliver Lee, deceased.

Mr. BORLAND, from the Committee on Public Lands, reported a bill granting to the States of Alabama and Florida the right of way and a donation of public lands to aid in the construction of a railroad from Montgomery, in the State of Alabama, to Pensacola, in the State of Florida, and from thence to the waters of the Tensaw river, Mobile bay, in the State of Alabama, without amendment.

On motion of Mr. DOWNS, the Committee on Private Land Claims were discharged from the further consideration of the bill granting a right of preëmption to Joshua Holden.

Mr. DOWNS, from the Committee on Private Land Claims, reported House bill for the relief of Amelia Couvillion, without amendment.

Mr. DOWNS, from the same committee, reported House bill for the relief of Sydney Flurer, of Louisiana, and for other purposes, without amendment.

Mr. DOWNS moved that these bills be now considered; but objection being made, the motion was not received.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, made an adverse report on the memorial of the General Assembly of the State of Alabama, in favor of granting bounty lands to all soldiers engaged in all the past wars of the United States; and the report was concurred in.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, reported a bill to provide for the classification of the clerks in the military bureaus, and for other purposes; which was read, and ordered to a second reading.

Mr. RUSK, from the Committee on Military Affairs, made an elaborate report on the memorial of Samuel Colt; which was ordered to be printed.

Mr. METCALFE, from the Committee on Military Affairs, reported House bill for the relief of Josiah B. Pilcher, without amendment.

Mr. BRIGHT, from the Committee on Territories, reported a bill for the relief of John P. Duvall; which was read, and ordered to a second reading.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported House bill for the relief of Mary B. Dix, without amendment.

Mr. JOHNSON moved that the Senate now proceed to the consideration of this bill; but objection being made, the motion was not received.

JOHN B. NEVITT.

A bill was received from the House for the relief of J. B. Nevitt, of Adams county, Mississippi; which was read a first and second time.

Mr. FOOTE moved that the bill be now considered, and read a letter explaining the facts in the case.

The motion was then agreed to, and the bill was considered, and read a third time and passed.

BILLS FROM THE HOUSE.

A bill from the House for the relief of Charles McLane, of Missouri, was read a first and second time, and referred to the Committee on Private Land Claims.

A bill from the House, for the settlement of the claims of New Hampshire, was read a first and second time, and referred to the Committee on Military Affairs.

A joint resolution from the House, authorizing the Secretary of State to increase the number of copies of the Laws of Congress annually distributed to the several States and Territories, was read a first and second time, and referred to the Committee on the Judiciary.

A joint resolution from the House, for the relief of pursers in the navy, as to expenditures made in pursuance of orders, during the war with Mexico, was read a first and second time, and referred to the Committee on Naval Affairs.

RESOLUTIONS.

Mr. DAVIS, of Massachusetts, submitted the following resolution, which was considered and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire whether the laws granting bounty lands require amendment, in order to do justice to all persons engaged in the service.

The following resolution, submitted by Mr. METCALFE on Thursday, was taken up and agreed to:

Resolved, That the President be requested to communicate to the Senate the proceedings under the act of Congress of the last session, to compensate R. M. Johnson for the erection of certan buildings for the use of the Choctaw Academy; also, the evidence of the cost of said buildings.

COURTS IN IOWA.

On motion of Mr. BUTLER, the Senate postponed the previous orders, and proceeded to consider the bill to amend an act in addition to an act for the admission of Iowa into the Union. The bill was then considered as in Committee of the Whole.

On motion of Mr. BUTLER, the bill was amended by striking out all after the enacting words, and inserting a substitute, which he sent to the Chair, and which was read and agreed to.

The bill was then reported as amended, the amendment was concurred in, and the bill was then read a third time and passed.

CIVIL AND DIPLOMATIC APPROPRIATIONS.

The Senate, on motion of Mr. ATHERTON, proceeded to the consideration of the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending 30th June, 1850.

The amendments reported from the Committee on Finance were read.

Mr. BADGER. I would suggest to the honorable chairman of the Finance Committee that it was impossible for Senators to hear distinctly the reading of the amendments and to understand their scope and import. I shall be greatly obliged to the honorable Senator, therefore, if he will explain them seriatim.

Mr. ATHERTON. The first amendment is to strike out "$6,400" and insert "$5,600" in the item for compensation of clerks and messenger in the office of the Chief Engineer; and to strike out the words which specify the amount of increase of each salary, to the end of the item. It will be perceived that here is an increase of the salaries of the chief clerk in the office of the Chief Engineer, as recommended by the Secretary of War. The amendment proposes to reduce the amount of the whole appropriation to the amount of the original estimates, and not to concur in the increase of the salaries of the clerks mentioned here, as proposed by the House. The reasons which induced the committee to come to this conclusion are these: It will be recollected that, at the last session of Congress, there were various clauses introduced into the civil and diplomatic appropriation bill reducing the salaries of various officers of the Government, the Auditors and Comptrollers, and other officers, who for some time previous had been doing more work than at any former period. The committee came to the conclusion that it was not proper to reduce the salaries of public officers in an appropriation bill, and they amended the bill accordingly. Here it is proposed to increase the salaries of the officers in a certain bureau, and the committee consider it equally objectionable. If we make the increase in these cases, there will be many other applications of the same kind; indeed, we have already applications from many of the bureaus for an increase of salaries for the clerks, some assigning one reason and some another. The committee, therefore, thought it would be a safe rule to say that we will not increase nor diminish the salaries of the clerks as now established by law. If there is a necessity for an increase of salary, let it be done by a separate bill; because, as I said before, it would lead to great injustice to take up particular cases and act upon them, and lay aside all others in which, perhaps, as good reasons might exist for an increase of salary as in those acted upon.

Mr. BADGER. Allow me to ask whether the increase of salary has been recommended by the head of the bureau, or of the department?

Mr. ATHERTON. It was recommended by the Secretary of War.

The second amendment is to strike out the proviso to the first item, under the head of "Navy Department," which is in these words:

Provided, That it shall be, and hereby is, made the duty of the Secretary of the Navy forthwith to publish an order to abolish the practice of whipping in the navy.

Now, in the judgment of the Committee on Finance, they did not suppose that this was a fit subject for legislation in an appropriation bill, introduced as it was in an item of appropriation for the salary of the Secretary of the Navy and the clerks and messengers in his office. They had no means of coming to a conclusion satisfactory to themselves upon the subject, and they submit whether, if the rule is to be established, it does not more appropriately come under the consideration of the Naval Committee? The provision involves a material change in the discipline of the navy, and the committee are of opinion that it ought not to be adopted in this indirect and hasty manner, but that it ought to be the subject of careful and special legislation. They desired me to move that the proviso be stricken out.

As to the next amendment—being a miscellaneous item in these words: "For sewer under 15th street, $2,160, to be expended under the direction of the Topographical Bureau"—I refer the Senate for an explanation to my friend from Virginia, [Mr. HUNTER,] who was its author.

Mr. HUNTER. The amendment alluded to by the honorable Senator from New Hampshire is found necessary in order to the completion of a sewer in 15th street, in this city.

Mr. ATHERTON. The next amendment of the committee is to strike out the following words: "For payment to Ezra Williams, a clerk in the bounty land division of the General Land Office, for extra service rendered out of office hours, five hundred dollars."

The committee supposed that it would be a dangerous precedent to insert in the civil and diplomatic bill a clause providing compensation to a clerk for extra services out of office hours. There may be some applications made by clerks to their friends—if they happen to have friends in either House—based upon what appear to be very good reasons for extra compensation; but if we allow the compensation asked for in the manner proposed in this bill, it seems to me that we are in danger of doing great injustice to clerks who have similar claims, but, owing to a want of friends or other necessary reasons, have not presented them. I understand there are many clerks who have, or think they have, as good reasons for payment for extra service as this individual.

The next amendment proposed by the committee is to insert, after the item for the support of insane paupers of the District of Columbia, the following:

For the support, care, and medical treatment of twelve transient paupers, medical or surgical patients, in the Washington Infirmary, $2,000, to be expended under the direction of the Commissioner of Public Buildings: *Provided*, The physicians and surgeons of the aforesaid Infirmary give bonds for the maintenance of twelve pauper transient patients during one year, if application be made for their reception; or bind themselves to keep rooms for the accommodation of twelve pauper patients weekly, on an average, during the year.

This, sir, is a provision similar to one introduced in the appropriation bill of last year, which I considered important to be continued, because these persons—in pursuance of the clause in the bill of last year—were under treatment in the hospital, and unless some provision is made for their continued relief, will be thrown at large for medical assistance upon the public, as they could not be retained without an injury to those who sustain the hospital. The supporters of this hospital would scarcely be justified in turning these patients out upon the public; and if they are obliged to keep them, it will be at their own expense, and of course to their detriment. It seems but just that the provision, having been inserted last year, should be continued in force in the bill making appropriations for the present year.

The committee next propose to strike out from the item for the purchase of a building to be used for holding the courts of the United States, post office, and custom-house at Portland, in the State of Maine, the words, "to be used for holding the courts of the United States, post office," and insert "for a."

The committee do not desire to set up the precedent of building post offices and court-houses at the expense of the General Government. It never has been done by this Government before. If this building is larger than is required for a custom-house, an arrangement can be made with the proper department for the use of a portion of the building for a court-house and post office.

A further amendment proposed by the committee is to insert the words, "for continuing the construction of the custom-house in the city of New Orleans, $150,000."

The next amendment is to strike out the proviso to the item for the payment of the commissions of superintendents of light-houses, which is in these words:

Provided, That no part of the sum hereby appropriated shall be paid to any person who receives a salary as an officer of the customs exceeding $1,500 per annum; and from and after the 1st day of July, 1849, the said disbursement shall be made by the collectors of the customs, who shall also discharge the duty of superintendents;

And insert as follows:

And the proviso contained in the act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th day of June, 1849, and for other purposes, approved August 12th, 1848, which proviso is in the following words: *Provided*, That no part of the sum hereby appropriated shall be paid to any person who receives a salary as an officer of the customs; and from and after the 1st day of July, 1849, the said disbursement shall be made by the collectors of the customs without compensation, is hereby repealed.

The amendment of the committee, as I have said, is to strike out that proviso, and also to repeal a similar provision which was inserted in the appropriation bill of last year. The reasons that governed the committee in making this recommendation arose from a letter from the Auditor who has charge of the light-houses, which letter I will send to the Clerk to be read.

The letter was read by the Secretary accordingly.

Mr. ATHERTON. The next amendment is to insert a provision for the payment to be made to Mexico, according to the stipulations of our treaty with that Republic, as follows:

For payment to be made to Mexico, within the current fiscal year, under the twelfth article of the treaty of the 2d February, 1848, including interest, $3,720,000."

This amendment explains itself.

The next amendment is to strike out "three' and insert "five" in the item for compensation to the consuls at the five Chinese ports.

This was a mere clerical mistake; the sum having been originally intended to be "five thousand," instead of "three thousand."

The next amendment is in these words: "And for office-rent from June 30, 1845, to the close of the current fiscal year, $400." To be added to the item of $100 for office-rent of the consul at Basle, in Switzerland.

This case, as made out before the committee, was one of great hardship on the part of the consul. He had received no allowance for office-rent for three years preceding this, and the committee thought him entitled to a remuneration for what he has paid during that time.

The question was then stated to be on the adoption of the various amendments proposed by the committee.

Mr. HALE. Mr. President, I wish that the question on the second amendment may be taken by itself. I have no objection to all the other amendments being adopted together.

Mr. DOWNS. Mr. President, I presume that if these amendments be adopted now, they will not be subject to amendment afterwards.

PRESIDING OFFICER. The Senator is correct.

Mr. DOWNS. There is one amendment which I wish to amend. It is the amendment appropriating one hundred and fifty thousand dollars for the construction of a custom-house at New Orleans. The Secretary of the Treasury thinks it will require a larger amount, and this calculation is based upon estimates furnished to him, from reliable sources. My amendment, therefore, will be to increase the amount proposed in the appropriation. There is a communication, I believe, on the subject, from the Secretary of the Treasury, which I will ask to have read.

[The letter of the Secretary was read accordingly. It contained an estimate of the probable expenses of the construction of the custom-house, furnished by an engineer detailed for that purpose. The expense, it appeared, would amount to two hundred and twenty-nine thousand eight hundred and thirty-eight dollars and fifty-six cents.]

Mr. DOWNS. Mr. President, this is a very important work. The lot on which the custom-house is to be erected was given to the United States by the city of New Orleans for that purpose. It is a large lot, embracing a whole square, three hundred and sixty feet in extent. The building was commenced on a very extensive scale, and materials obtained for carrying it on. So important has the work been considered, that a distinguished engineer was detailed for the purpose of superintending it. The work is now in progress, and these estimates are based on what is absolutely necessary for its prosecution. It is evident that it is important that so great a work should not be delayed; and it is equally evident that, without the necessary funds, delay must ensue. There is not a very great difference between the estimates made by the engineer and the Secretary of the Treasury and those made by the Committee on Finance. I hope therefore that, as this is a very important matter, the full amount required, according to the estimate of the engineer and the Secretary of the Treasury, will be appropriated.

I will state to the Senate that the reason why no provision for the construction of this custom-house at New Orleans was embraced in the bill passed by the House of Representatives, was because the engineer did not arrive here in time to furnish the Secretary of the Treasury with the proper estimates, so as to enable the Secretary to lay the matter before the committee of the House. The amendment proposed by the Committee on Finance is "for continuing the construction of the custom-house at New Orleans, one hundred and fifty thousand dollars." I propose to amend that amendment by inserting, in the place of "one hundred and fifty thousand dollars," the amount recommended by the Secretary of the Treasury, viz: two hundred and twenty-nine thousand eight hundred and thirty-eight dollars and ninety-six cents.

The amendment was not agreed to.

The question recurring on all the amendments proposed by the Committee on Finance, except the one referred to by Mr. HALE, they were adopted.

FLOGGING IN THE NAVY.

The question then recurred on the second amendment, to strike out the proviso abolishing flogging in the navy.

Mr. HALE. Mr. President, I wish to call the attention of the chairman of the committee, [Mr. ATHERTON,] who reported this amendment, to the history of our legislation upon this subject at the last session. I understand the argument of my honorable colleague does not go to the merits of this question, but merely to the place in which it appears; that it is not germane to an appropriation bill. I find, sir, by reference to chapter 131 of the laws making appropriations for the naval service for the year ending June 30, 1849, that, at the last session, Congress did take this matter into consideration in that appropriation bill, and enacted, in the eighth section of that bill, that the Secretary of the Navy shall report at the commencement of this present session "the number of persons flogged in each of the years 1846 and 1847, specifying the name of the ship, offence, sentence, and the number of lashes inflicted, and it shall be his duty to make a similar report every year thereafter;" so that, so far as the matter being appropriate to this bill is concerned, we have the precedent of the last session showing that it is appropriate to be inserted in an appropriation bill. It was done last year, and passed both Houses of Congress, and Mr. Polk, who exercises a great deal of scrutiny over our legislation here, and interposes a veto whenever he conceives that anything improper has been done by us, gave it his sanction. So that the highest authority has decided that this is a proper place to insert provisions of this sort. I do not want to find any fault with the present Secretary of the Navy, but I mention it as a misfortune that, although the regulation to which I have referred required him to submit his report in relation to flogging in our navy at the commencement of this session, it was not submitted till after two-thirds of the session had rolled away. By application at the office of the Secretary of the Senate, I learn that this report was received a few days ago, and had been sent to the public printers, and I presume that in the common course of business it will not be received here till some few days after the adjournment. That will be all the information we shall get under the act of the last session.

The House of Representatives have acted upon this subject—I do not know how long ago, but certainly as long as six sessions since. During the first session of the twenty-eighth Congress, the House of Representatives, by a very decided vote, inserted a provision of this character in one of the appropriation bills. It came up in the Senate, and the Senate non-concurred. The House insisted, and it was not until after a conference between the two Houses that the House consented to recede from their position. I do not know how many times since this matter has been acted upon by the House. It failed to be inserted in the appropriation bill at the last session, and I moved it here myself without its coming from the House. The honorable Senator from Florida [Mr. YULEE] was pleased to say, the other day, that I made a very elaborate speech on that occasion; but the fact was, the subject came up at the very close of the session, when members were necessarily impatient at any delay in legislation, and more impatient at anybody who undertook to make any suggestions at that stage of the bill. My remarks were, therefore, necessarily brief on that occasion; but, had I felt disposed to entertain the Senate with a speech at that time, I know of no subject on which my poor abilities could have been better employed.

For myself, I look upon this as one of the most important questions that can possibly come before Congress. I look upon it as one vital to our character for humanity and civilization, and I hope that the Senate will not, on the mere point that this is not the appropriate place for the introduction of the question, further oppose the legislation of the House upon this important matter.

But, sir, I do not propose to go into the discussion of the merits of this question at all. I simply wish to vindicate the propriety of inserting it in this bill. If the Senate will give me the yeas and nays on the question, I will be content with getting the subject intelligibly before the Senate, and relieve the chairman of the Committee on Naval Affairs [Mr. YULEE] from an elaborate speech upon it at this time.

Mr. BADGER. Mr. President, I concur entirely in what fell from the honorable Senator at the head of the Committee on Finance, [Mr. ATHERTON,] as to the impropriety of the introduction of this provision into this bill, and the special impropriety of the particular manner in which it is introduced, and the particular effect which must result from it if it be retained. In the first place, however, I would remark that I do not concur in the views taken by the honorable Senator from New Hampshire, [Mr. HALE,] that this particular species of punishment ought to be abolished. I am one of those who very strongly doubt whether this species of punishment can be discontinued in the service without destroying all means of keeping up a wholesome discipline there, unless the gentleman will rewrite the laws regulating the Navy Department in blood, and inflict the penalty of death for minor offences. I look upon the movement as the result of a mistaken philanthropy, and believe that not only every officer in the service will give a decided disapprobation to the proposed measure, but I have reason to believe that a very large proportion of the seamen—and that proportion embracing all the good men in the service—would feel that a wrong was done to them if this species of control were withheld from the commanding officers of the navy. They know, what the honorable Senator from New Hampshire [Mr. HALE] has not had an opportunity of knowing, that if this power were to be abolished, there are many men in the naval service who would feel perfectly willing, some who would be gratified at the idea of passing the larger portion of a cruise in confinement, if thereby they could be saved from performing the labor which is required, and discharging the duties which are imposed on others.

But I do not propose to go into that subject. Admit, for the purpose of this discussion, that the

Senator from New Hampshire is right; admit that every law which authorizes the infliction of corporal punishment upon the sailor or person in the naval service of the United States ought to be repealed; assume that, and how can this amendment be supported? Laying aside the question of place; laying aside the violation of common order in proceeding, in virtue of which this question is to be decided, without any examination by an appropriate committee of this body; laying aside the difficulty that no opportunity has been had by the Senate, through their committee or otherwise, to acquire information from the proper department, to learn what is to be the actual and practical effect of this change of discipline, of abolishing this species of punishment which has been in the naval service ever since it was established; laying aside all these objections, what does this amendment propose? Does it repeal any law authorizing the infliction of this punishment? No, sir. Does it propose to repeal any? Not at all. It leaves every law in full force; so that, supposing the bill to pass with this clause in it, an officer would have lawful authority to inflict this punishment; and, according to the existing law, he would not be liable in an action as a person who had assumed jurisdiction not conferred upon him.

As the law stands, the punishment of flogging may be lawfully inflicted. And what is to be the effect of retaining this proviso in the bill? That if the Secretary of the Navy does not issue an order to prevent this law from being carried into effect during the time covered by this appropriation bill, he shall lose his salary. But that is not all the admirable justice and propriety of this proviso. Every clerk in the office of the Secretary of the Navy is to lose his compensation, if the Secretary does not issue an order to prohibit the punishment of whipping in the navy.

Mr. HALE,(interposing.) I would ask the honorable Senator where he finds that?

Mr. BADGER. In the proviso at the end of the clause making an appropriation for the compensation of the Secretary of the Navy and the clerks and officers in his department; it reads:

"*Provided*, That it shall be, and hereby is, made the duty of the Secretary of the Navy forthwith to publish an order to abolish the practice of whipping in the navy."

It is an appropriation, then, to pay all those officers upon a certain condition, and if the condition is not performed, none of them are to be paid at all. Well now, sir, what a spectacle would be presented if such a provision should meet the approbation of the American Congress? What would be the result of its adoption? Why, sir, the very moment this appropriation bill expires, there is not even a condition which requires that the Secretary of the Navy shall prohibit the execution of the law. As it now stands, the law declares that this power shall be possessed, and, therefore, declares that there may be cases in which it is right and just to exercise this power. But what is this proviso? That, if the Secretary of the Navy, the law remaining in full force, will issue an order to prevent the execution of the law, he shall receive his pay; otherwise he shall not; and if he does not do it, all the subordinates in his office shall forfeit their pay also, although they have no more power over the subject than the sailors who are flogged, and for whom sympathy is sought to be excited.

Why, sir, in my judgment, we might just as well put in a proviso that, if the Secretary of the Navy sent no ship to the Mediterranean until the expiration of the appropriation bill, he should receive his pay; otherwise, he should not, and all the clerks in his office should forfeit their pay. For aught I know, it may be worthy of grave consideration whether this punishment in the navy ought to be abolished. But this I know: it is making a most important chance in the discipline of that service; it is a change which no man should make without the most careful examination; it is a subject of such deep importance that it admits of no hasty or inconsiderate legislation. We had better inconsiderately appropriate twenty millions of dollars to purposes of wild extravagance; we had better misapply twenty millions of dollars in any way than hastily and inconsiderately set aside the practice and experience of the Government, go against the views of all those who have had the best opportunity of forming a correct judgment, and thereby, perhaps, find that we have destroyed the power of this right arm of the national defence. At all events, surely, it cannot, I think, be a grave question that this amendment is out of place; that it is inconsistent and absurd, because it leaves laws in force, and then offers a premium to the Secretary of the Navy to prevent their execution; and because it is grossly unjust; because it visits upon the subordinates in his office the forfeiture of their compensation if he does not do what the proviso calls upon him to do.

Mr. HALE. Mr. President, in order to obviate the matter of form suggested by the honorable Senator from North Carolina, I propose to amend the amendment by striking out the proviso, and amend by adding the following: "And all laws and parts of laws heretofore passed authorizing the execution of corporal punishment in the naval service of the United States be, and the same are hereby repealed."

Mr. BADGER. The first question arises on the striking out.

Mr. YULEE. Mr. President, I presume the first question will be on the motion to strike out.

PRESIDING OFFICER. The first question will be on the amendment to the amendment.

Mr. YULEE. The amendment proposed by the honorable Senator from New Hampshire is to strike out. It does not propose to add anything, because there is nothing which can be added if the proviso be stricken out.

PRESIDING OFFICER. The motion of the Senator from New Hampshire is to strike out, and then to amend that amendment by inserting the following:

And all laws and parts of laws heretofore passed authorizing the infliction of corporal punishment in the naval service of the United States be, and the same are hereby, repealed.

Mr. YULEE. Then I have a right to claim a division of the question.

PRESIDING OFFICER. Not according to the rules of the Senate.

Mr. BADGER. Do I understand the Chair to say that a motion being made to——

Mr. HALE. Mr. President, I have not yielded the floor.

PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. BADGER. I wish only to suggest a point of order.

PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. HALE. Mr. President, I suppose there can be no question, according to our rules, as to the point of order. I move to amend by striking out, and adding. Now, according to the rules of the Senate, a motion to strike out and insert cannot be divided, so that the first question will be on the amendment proposed by me, and that is, to repeal all laws authorizing the infliction of corporal punishment in the naval service of the United States.

And now let me say one word to my honorable friend from North Carolina, who comes up on this occasion with an argument with which every reform that has ever been suggested since the fall of Adam has always been met; that is, "that the abuse proposed to be remedied is an old one, sanctioned by time, hoary-headed, covered with the cobwebs of age." Why, sir, that is an argument that would have defended every abuse that ever has been reformed, or ever can be reformed; and if the argument is good in this case, it will be good in resisting every improvement that the race may make, in its future progress, to the end of time. I confess, for one, that I have so little reverence in my nature for anything human, that when a thing, a custom, an institution, or especially an abuse, comes forward with nothing but age to recommend it, I do not feel deterred at all from inquiring into its merits.

Now, sir, one word as to the merits of this matter. I do not want to go into the details, into the operation of this practice, but an expression fell from the honorable Senator from North Carolina in this connection which demands a passing notice. He says, that unless we wish to rewrite our naval laws, and write them in letters of blood, we must preserve this relic of barbarism and barbarity upon our statute-book. Sir, if the reports which have been made to us officially, upon the very slight information which we have obtained by the inquiries that have heretofore been made, be true, and if the punishments inflicted according to these reports be true, and be an average of the punishment thus inflicted on board of naval vessels of the United States, our history is written in blood, and there is a stream of living blood running from the back of the American sailor from the first day of January to the last day of December; and if that is not writing in blood, I do not know what the Senator will ask.

Sir, the exercise of this power has been carried further. Under the exercise of this power, this discretion, or, as I should deem it, indiscretion, it is a matter of history that the world knows, that within a very short time this punishment has been exercised even to the taking of life—the life of American sailors—without even the naked form of a trial. That, sir, is a matter of history; and more than one, two, or three lives have been sacrificed by it. I confess, that proud as I am of the glory which attaches to the American navy, if the history of what has been perpetrated under this arbitrary power could be blotted out of existence—if the waves of oblivion could cover it all, so that no human memory could ever recollect the abuses of it—I would be glad to exchange all the glory that our gallant tars have ever won; yes, sir, I would give it all up, proud of it as I am, if we could only begin anew and blot out that bloody record of legalized brutality from the past. These are the feelings which I entertain on this subject. I suppose that when the founder of the great State of Pennsylvania—and I hope that I shall have the votes of the Senators from that State on this occasion—first made the experiment of going armed with nothing but the panoply of brotherly love to deal with the aborigines of this country; I suppose when that was first proposed to the mother Power, and to those accustomed to the ancient usages of the British realm, they laughed to scorn the idea that even savages could be approached in any mode or manner except with weapons of war and instruments of destruction.

But, sir, the experiment was tried, and it succeeded—succeeded, probably, beyond the most sanguine hopes of its friends, or at least beyond the most sanguine expectations of him who made the experiment. Yes, sir, that experiment succeeded, and even the uncivilized savage of the wilderness, it was found, possessed not a nature so wild, so obdurate, so savage as to be unimpressible when approached and treated as a man, treated with kindness and with justice. Thus it has ever been. Such has been the result of all like experiments. Why is it, then, that this class, who have done so much to bring glory on the American name and on the American flag; why should they, poetically termed "the sons of the battle and the breeze," who have carried the fame of our prowess to the remotest shores of the ocean, and protected the pursuits of honest commerce on every sea; why is it that this class of citizens, proverbially generous, and generous to a fault, should be the only class, even of convicts, that are subjected to this humiliating, debasing, and degrading punishment? Why is it that when, in most of the States of our Union, the meanest felons that are to be found in the catalogue of crime, are not subject to this degrading punishment; why is it, I say, that when humanity interposes and prevents them from being subjected to the degradation of the lash; why is it that when this brutal and brutalizing punishment has been abolished in the army, when it has been abolished almost all over the land; why is it, I say, that this class of citizens, so eminently connected with all that is rich in the fame of our country should be left exposed to this remnant of barbarity?

Sir, let us try the experiment. We have tried what the lash will do; we have tried what brutalizing the sailor will do; we have tried what degradation will do; and now let us, in the name of a common humanity, appeal to these generous tars and see if there be any human nature in their hearts; let us see if they do not possess some of the elements of a high, generous, and noble character, that we may enlist in our behalf and call to our aid for the establishment of a wholesome discipline in what the Senator from North Carolina has so well termed the right arm of our national defence. Why is it, sir, that, while humanity is lifting up her voice, and that successfully, too, for every other class of the unfortunate and oppressed, the sailor alone shall be left to have the finger of scorn pointed at him forever, as the only man, as the only creature that walks erect with the image of God upon his countenance, that is still subjected to this degradation?

Sir, I do ask the honorable Senator from North Carolina and the honorable Senate to look at this subject in its broad aspects of humanity. I deny, utterly deny, the assertion which has been put forth that the sailors, as a class, desire this degradation. It has been my fortune to have known some sailors. It has been my fortune to have heard recitations from some of them of what they have seen and felt, and my heart has recoiled with horror from the very mention of the infliction of such punishment. I know how they feel. They are men, and, knowing that they are men, they cannot but have the common feelings of humanity.

One word more, sir. It may be said, that in making these statements, urging this measure, and making these suggestions, I am bringing a railing accusation against the officers of the American navy. Sir, I would do no such thing. It has been my good fortune to know many of them, and I take this occasion, in this place, to say, humble as I am, that a more humane, a more generous, and a more kind-hearted set of men, I am not acquainted with. But, sir, as long as you retain this law upon your statute-book, it will be abused. You might just as well undertake to regulate the passions of the human heart by law, as to undertake to regulate the exercise of an arbitrary power; and just so long as this power is left upon the statute-book there will be unworthy men that will abuse it. As long as there are unworthy men that will abuse it, so long the worthy men must suffer for it. It is because I would redeem the position of those men that are not deserving of this censure from the indiscriminate reproach to which the whole navy is liable for this abuse, that I would urge this amendment.

Sir, so long as this power remains it will be abused, it has been abused, and I understand that there is now, or there has been—I may be mistaken about it, but I have been informed, from authority upon which I can rely, that very lately a subordinate officer of the navy has been tried for a violation of this power, the exercise of which it has been attempted to regulate by law. And what was the result? Why, the court-martial recommended that he be dismissed from the service; but of such utter insignificance is an offence of that sort considered, that the same pen that approves the sentence remits the penalty, and the officer is again invited to go on and repeat this exercise of his discretion, or indiscretion, as it may be. I believe that the interests of the navy demand, imperiously demand, the abrogation of this law.

We all know, sir, that it has been, in some instances, carried to such excess in the British navy as to produce mutiny, and the only wonder is, that it has not produced mutiny in our navy. As long as sailors are men, and have the feelings of men, it must produce mutiny, and it ought to produce mutiny. Whenever you undertake, by law, to degrade a man, and to debase him, to reduce him to a position which God never intended he should occupy, it is calculated to produce mutiny, it ought to produce mutiny, and it will produce mutiny; and whenever the question comes, the sympathies of this people will be with the mutineers, with those who undertake to resist the infliction of this barbarous punishment.

Having said thus much, I leave the subject, hoping that it will commend itself to the favorable consideration of the Senate.

Mr. ATHERTON. Will the Senator from North Carolina permit me to say a single word in relation to this point of order? I think, that according to the parliamentary rule, a motion to strike out and insert, and a motion to strike out, are two distinct motions, and that you cannot by amending one of them give it precedence so as to exclude the other.

[Mr. A. read the rule that is applicable to the point in question.]

Now, the rejection of this motion to strike out the clause will not prevent the Senator from New Hampshire from moving to strike out and insert, and that motion cannot be divided, because the rule expressly declares that the motion to strike out and insert is indivisible; and, on the other hand, the motion to strike out cannot be added to by an amendment to strike out and insert.

PRESIDING OFFICER. Does the Senator make that point of order?

Mr. ATHERTON. I raise the question of order, whether the motion to strike out can be amended by a motion to strike out and insert?

PRESIDING OFFICER. In the opinion of the Presiding Officer, this is merely an amendment to an amendment. The only question before the Senate is whether the Senate will amend the amendment by inserting certain words. If the Senate adopt the amendment to the amendment, then necessarily the question comes up on the amendment as amended.

Mr. CALHOUN. I would suggest that, in order to amend the amendment which proposes to strike out, the proposition must relate to striking out only, and that no amendment which proposes the insertion of a new proposition will be in order. The amendment to the amendment must confine itself to the nature of the original amendment.

Mr. DICKINSON. The proposition is to strike out. Now, there is in this proposition, both in legislative and in legal parlance, nothing to amend by. It is a clear, distinct, palpable proposition of itself. The Senator from New Hampshire can attain his object by moving, if the original amendment does not prevail, to strike out and insert, and if it does prevail, his object will be attained by simply moving to insert. So that he is not prejudiced by the motion to strike out, or precluded from offering the amendment which he proposes.

Mr. HALE. Is there an appeal taken?

Mr. YULEE. I will take an appeal for the purpose of settling the question.

The question on the appeal being about to be put—

Mr. MANGUM. This point is somewhat embarrassing to me, sir. I am not prepared to vote for reversing the decision of the Chair, and I will appeal to the Senator from New Hampshire whether he will not attain his entire object by allowing the question first to be taken simply upon the motion to strike out; he can then move to strike out and insert, or to insert merely. I am unwilling to vote upon a question of doubt, for the reversal of the decision of the Chair especially, as the object of the Senator may be attained as well in the one case as in the other.

Mr. CALHOUN. According to my conception of the rule, there is no amendment in order, except it pertain to the words of the proviso. You cannot move to amend by inserting something entirely new. I hold the parliamentary rule to be clear that, upon a motion to strike out, no amendment can be moved for the insertion of new matter.

Mr. HALE. The provision which I move to insert, it appears to me, does relate expressly to the substance of the original proviso, which authorizes the Secretary of the Navy to issue orders for the abolishment of flogging in the navy, and I only propose to add, "and that all laws and parts of laws now existing on the subject shall be repealed."

Mr. DICKINSON. To strike out the proviso is an amendment proposed by the committee, and the other is the amendment of the Senator from New Hampshire. That is the difference; and they should be taken in the order of precedence in which they have been made. The Senator can make his motion when the proper time arrives.

Mr. ATHERTON. The amendment proposed by the committee is to strike out the proviso. The Senator from New Hampshire moves to amend that motion, in addition to striking out the proviso, by inserting some other words instead of the proviso. Now, I contend that a motion to strike out, and a motion to strike out and insert, are different motions, and you cannot alter the motion to strike out by making it a motion to strike out and insert. Neither can you alter the latter motion so as to make it a motion to strike out, because the rule says that the motion to strike out and insert is indivisible.

Mr. HALE. If my colleague will give way, I will relieve the Senate from further embarrassment in regard to this matter. I will consent, with the leave of the Senate, to let the question first be taken on the motion to strike out, and after that I will renew my motion to insert.

PRESIDING OFFICER. Does the Senator withdraw his motion?

Mr. HALE. Certainly.

Mr. BADGER. I said, sir, when up before, that I considered this proposal as the result of a mistaken philanthropy, and I urged, as being entitled to some weight in the consideration of the proposition, that it was designed to subvert a system of discipline that had prevailed in the navy from the commencement of the Government.

Well, now, sir, if I had wanted any evidence to satisfy me that the plan proposed by the Senator from New Hampshire was the result of a mistaken philanthropy, he has furnished it to me in the answer which he has given to what I have said. He says, in the first place, that he has very little respect for anything human. Well, is the Senator's amendment divine? Does the Senator claim that his plan is anything above human? Is he personally above the condition of a human being, better qualified to establish a government and provide regulations for the discipline of the navy than those who established the system, which we have executed from the commencement of the Government down to the present time? Surely the Senator does not mean that. Well, then, there are here two human things which have been adopted and have been in force more than half a century. Under the operation of the regulations as already established, the Senator confesses our navy has acquired the most signal glory; and has shown itself at all times not only capable of defending the country, but of adding the highest renown to its reputation. It is an undoubted fact that, in no naval service on earth, is there such prompt obedience; and, among those who compose the great body of sailors in the navy, of the world generally, there is no more ready obedience than is to be found in our own navy. Well, then, sir, we have two human things; one originating to-day, the effect of it unknown and untried; and that, according to the honorable Senator's views, gives it a preference over the past system, because it has existed for more than half a century—because it has been tried and found to be most beneficial. Now, the honorable Senator says that I am opposed to measures of reform; that I am for supporting antiquated usages and old abuses. Has the Senator shown this to be an abuse? Has he offered an argument to show it? Has he stated a fact to show it? I have said nothing about maintaining abuses because they are old. I say, and I call upon the Senator to disprove it if he can, that it is admitted by every one that it is some recommendation of a practice that it has prevailed for more than half a century, and has been found productive of the most beneficial results.

But the Senator talks about abuses. What are abuses? Does everything become an abuse because it has been long continued? The Senator calls this an abuse. An abuse of what? Why, sir, it can only be an abuse of power, on the supposition of being unnecessary. No regulation for the government of the naval service, however stringent; no punishment, however severe, if it be necessary to enable the naval service to discharge the duty it owes to the country, can be called an abuse. If it be the exercise of a necessary power by the Government to accomplish the great end of national defence, it is nothing less than an absurdity to call it an abuse. Further, in order that the Senator should show that this is an abuse, he must, in the first place, show us that the exercise of this power is unnecessary; that the object to be accomplished by it can be successfully accomplished by other means. Has he attempted to show it? Has he offered an argument to show it? Has he stated a fact to show it? No, sir; no, sir. What has he done? Why, he has given us declamatory statements about the rights of humanity. Well, what more has he done? Why, he has indulged in rhetorical exaggerations calculated to do more injury to the character of the American navy, to the character of the American Government, and all officers connected with it, than the bitterest of our enemies beyond the ocean could have circulated against us. He has stated here that, according to the returns laid before us, and to the information to be derived from records in the department, it appears that, from January to December, the blood of our seamen is continually flowing. Now, is it so? The honorable Senator, in stating this, I presume, does not state it from his own knowledge, not being connected with that branch of the service. It is a grave and serious charge; and, if true, it is a reflection upon the character of this Government, that our seamen should be turned over to the control of officers who, in the indulgence of their hellish propensities, cause their blood to flow without cessation. And yet the Senator says, in the same breath, that he bears willing testimony to the humanity of the officers of our navy. How is it, then? Is it that the Secretary of the Navy, or that the President of the United States, is so deeply imbued with this love of bloodshed, thus desirous of wit-

nessing human suffering, that they carefully abstain from interposing any humane regulation? I am sure, sir, that on reflection the Senator from New Hampshire, who I am satisfied can have no intention of doing injustice to those gallant officers or to the service, will perceive, that in using the expressions he has used in the haste of debate, he has done injustice, and that it is due to himself to modify and reduce these expressions. Well, what else has the Senator offered for the purpose of showing the existence of these abuses? Why, it is said by him that as long as officers are mere men, and power is conferred upon them, that power will be abused. That is a proposition that will not be disputed. But the case of the officers of the navy furnishes no greater example of this than is to be found elsewhere. All power will be occasionally abused as long as it is vested in the hands of beings with like passions as ourselves, but no more abused by them than it will be abused by us. Why should it be so? They are men of as high principle, of as honorable feelings, and a very large proportion of them are men of as high intelligence as we are. Why, then, should we suppose that this power in their hands would oftener be abused than power in the hands of any other class of men? Sir, there is no reason to suppose it; and hence the argument that this power must be abolished, must be annihilated, because it is subject to occasional abuse, would be equally valid and forcible for the abolition of all laws. But society cannot exist without the possession of power in some quarter or other, to be exercised for the general welfare; and we are obliged to submit to the occasional abuse of power in order to avoid the greater evil of anarchy. That is the ground upon which all power is vested in the hands of men over their fellow-men.

But I was very sorry to hear the Senator from New Hampshire make one statement that he did make. I hope he will see reason to qualify that statement. I hope he will retract it. The Senator has said that the possession of this power is calculated to produce mutiny, and that it ought to produce mutiny. He has given his Senatorial sanction, in his place on this floor, to encourage the sailors in our navy to mutiny against their officers; and when, hereafter, on some distant cruise, it shall be found necessary to exercise this power for the control and discipline of the ship's crew, and unfortunate and misguided men, misled into a mistaken resistance of that authority, shall be called to pay the forfeit of their lives for it, as they certainly would be, I pray the honorable Senator to reflect how remotely or immediately, though undesignedly, this very speech of his may have made him a participant in shedding the blood of those unfortunate men; and that they will be able to say before the tribunal that tries them, "We did but resist an authority which, in the Senate of the United States, on the high authority of a distinguished member of that body, speaking in his place and before the country, we were told we ought to resist; and shall we be dragged to death, humble, ignorant, and unenlightened as we are as to our rights, and incapable of defining them for ourselves, and understanding to what extent we should be subjected to authority, when we have done nothing except what we were told by an honorable Senator, on the floor of the Senate, that we had a right to do and ought to do?" I hope the honorable Senator from New Hampshire is, and I doubt not that he is, sincerely anxious to preserve to the country our glorious navy, and sincerely anxious to keep it a useful portion of the great machinery by which this Government is carried on. But it cannot be otherwise useful than by enforcing obedience, from the highest officer to the lowest in the service, absolute obedience. Upon the same argument which I hear urged by the Senator, the inferior officers might be called on to mutiny; for what, it might be asked, is more degrading than that one man should move and act and speak and live and do, under the control and bidding of another man no better than himself? It is degrading, it might be said, to a young midshipman to submit to the absolute control of a lieutenant in the service; and it might be asked why he is thus degraded? But is it so? Is it believed to be so by those having understanding minds, who have been trained up in the service? No, sir. They realize the necessity for submission to authority; they believe that nothing that is necessary to the service of the country should be considered degrading to a citizen of the country, and therefore willingly and cheerfully do they submit. Sir, I know the readiness of their spirits; I know the promptness with which their once free wills are subordinated to what they consider just authority; and so far from submission being discountenanced by them, they would feel it to be a foul blot on their escutcheon if their brother officers could say to them, You have been disobedient to authority. And should that disobedience occur, permit me to tell the honorable Senator that there is no corporal punishment that would inflict so great a pang on the heart of an officer whose resource is his profession, and whose character is his wealth, as the charge of insubordination; it would inflict pain upon his heart, compared with which the corporal suffering of the idle or the vicious sailor, and upon such only does punishment fall, is no more to be regarded than the idle winds. Sir, there is obliged to be this subordination in the service. For more than half a century this punishment has existed, and during that time, sir, never has there been known in the world a navy so free from rebellious opposition, whose character and the conduct of whose seamen have been so generally commendable, almost universally marked as it has been by a ready and cheerful obedience, and consequently so capable of performing the service of the country with success, as the navy of the United States.

Now, for aught I know, it may be true that this punishment ought to be abolished; but the Senator from New Hampshire has not stated a single reason for it. He says the punishment is degrading. So it is. It is necessary to inflict a punishment of degradation often. They deserve punishment who willfully violate the law, and the nature and character of punishment must always carry degradation with it when the offence itself is degrading; and, after all that has been said—though no doubt this power, like every other, has been abused—as a general rule, the honorable Senator will find this to be the case, that a sailor who has once served as a man-of-war's-man, whose term has expired, and who has an opportunity of reëntering, in ninety-nine cases out of a hundred gives it a decided preference over the merchant service. They know what it is; and if, as a body, they have so suffered as to be placed in a condition to feel that they ought to mutiny, they would not voluntarily return into the service and submit themselves to its exactions. I think you will find, or that it might have been found, if the matter had been brought before a committee for investigation, as the importance of the subject demands, that there are but few men in the naval service, in comparison with the large number belonging to the navy, who ever fall under the necessity of being punished, and the example which is witnessed is not for the good and faithful, but for the unruly and vicious. The example thus set, when the subordinates are found and brought sometimes to punishment, is absolutely necessary for the government of the ship, and it is also proper as putting a mark of distinction between them and those worthy and gallant tars who faithfully and honestly submit to the hardships of their condition, and discharge the duties they owe to the country in whose service they have voluntarily enlisted.

Mr. HALE. I shall not trespass on the attention of the Senate long; but the Senator from North Carolina, with that ability by which he is distinguished, has undertaken to wield against me the weapons of ridicule, because I say that I have no reverence for anything human. The remark was made in connection with this other remark, that I thought the Senator paid undue reverence to things that were old, to customs that had been long continued. But I might make the remark absolute, and yet not touch the practice which the Senator from North Carolina defends—that is, the practice of flogging in the navy. The remark, if taken in its widest sense, would have left that untouched. So much for that, sir. I think that, if the honorable Senator had attended to the report that we have received from the Secretary of the Navy, and to what I said in relation to it, he would have perceived the truth of what I stated in regard to the severity of punishment which prevails in the navy. I say, if this report be true, and the statement there given is to be taken as a true average, there is a stream of human blood flowing from January until December. I ask the attention of the Senate to it. It appears, from the return herein contained, that on board one ship, in a cruise of three months, a period not exceeding ninety days, nine hundred lashes were administered, which makes about ten lashes a day. Well, I do not know precisely how many ships there are in commission; I suppose thirty or forty. Let it be thirty. Then you will have three hundred lashes of the cat-o'-nine-tails for every day in the year on the backs of American seamen; and I think that will yield a stream large enough to illustrate my argument in blood. Now, that is what I did say. If the report is not true, I am not responsible for it; if that is not a fair average, I am not responsible. But if it be true, and if the average be a fair one, then I say I am correct. Now, how much humanity is there about that? The Senator says that I have not brought facts to substantiate my position, but that I have indulged in declamation, that I have used rhetorical figures. Well, sir, I should be perfectly willing to hold my tongue, and let the cat-o'-nine-tails, clotted with the blood of American seamen, speak for me.

Well, there is another suggestion that I made, which seems to horrify the honorable Senator, which is, that this practice of flogging is calculated to produce mutiny, and that it ought to produce mutiny; and the Senator calls on me to reconsider and to reëxamine this assertion, and to retract it. Sir, if there is any one lesson which I have been taught more than another, and which I will retain longer than another, and be most anxious to transmit to those who come after me, it is, that "resistance to tyranny is obedience to God," let it come whence it may, let it come from whom it may. Instead of retracting that, I wish I had a voice that would reach the hold of every ship in which an American seaman suffers, and I would pronounce in his ears the words, "resistance to tyranny is obedience to God;" and when the turn comes to you, whether it come with law or without law, remember your origin, your birthright, remember the history of your country, and remember your free institutions, that give value to the inheritance which you possess. Those institutions are the production of the sentiment that resistance to tyranny is obedience to God. And, sir, if those men have human hearts, they will learn the lesson, and they will practice upon it.

Well, now, something is said about the necessity for it. Why is it not administered to midshipmen as well as sailors? Ah! that would not do at all. If I have read history aright, it is not many years since midshipmen in the English navy were subjected to punishment by the rope's-end in common with sailors; and it was during that time that Great Britain attained eminence as the mistress of the sea.

Mr. BUTLER. I would ask the honorable Senator if there is not at this time a law which allows sailors in the merchant service to be punished with the rope's end?

Mr. HALE. There is; and I propose, after getting through with the navy, to take hold of that. But I want to do one thing at a time. I want to wipe away this reproach from our navy first. The Senator from North Carolina said that I had not brought forward facts. I have stated that I would not go into detail, and I do not intend to do so; all that I intend to do I have already done. The matter is now before the American Senate and the country. The House has abolished, as far as it can do so, the use of the cat-o'-nine-tails, and it now shelters itself behind us. It has now the American Senate, with our live bodies and our immortal souls, as a bulwark for its protection. This is the position we are now occupying, and which we will occupy, unless we do justice to this human misery at home. It will make but little difference, however, ultimately, how this Senate may decide the question to-day, because the question has gone out to the American public; it has been mooted, it has been agitated, and it cannot stand. It cannot stand against the vehemence of public scorn and indignation. It has been already disapproved of by the popular voice.

One word more, sir. The Senator from North Carolina complains that this subject has not had the attention of a committee. Why, have we not had a multitude of petitions on the subject? When I had the honor of presenting some the other day, I asked to state what they were, and the chairman of the Committee on Naval Affairs called me to order, and checked me for endeavoring to throw light on the subject, because they had already so

great a number of memorials before them relating to the same subject. Yes, sir, memorials may be piled up in heaps before them without avail, for I know what their feelings are upon the subject. They are averse to taking any steps to remedy the evil. But I will not trespass on the indulgence of the Senate. I believe that the question, now that it has come fully before the American Senate and the American people, will be decided, and that soon, by the unanimous voice of the nation; and, however you may decide it now, the great question of humanity will be argued by this community before the tribunal of the people; it will be argued by the hearts of the people in tones sweet as the song of angels, soft as the memory of buried love, and in words before which the eloquence even of the Senator from North Carolina will be entirely useless.

Mr. YULEE. I shall trouble the Senate with very few words on this subject, sir, for I feel that all must be satisfied with respect to the impropriety of this mode of legislation in regard to it. It may be proper, however, that I should make one or two remarks. The change contemplated by the proviso that is now under discussion is a radical one. It is a radical change in the discipline of the navy, and one which must be very material in its consequences. It seems to me, therefore, that legislation of this description ought not to be permitted to be made the subject of accidental amendment to an appropriation bill, without reference to a committee and without investigation. Petitions have been presented upon this subject at this session, but they were presented at a very late period, and no meeting of the Naval Committee has occurred since those petitions were referred. The committee will, when they have an opportunity, take up the subject and examine it deliberately, and they will report deliberately to this body; and if it should be considered desirable that any specific legislation should take place upon it, they will report a bill, in order that the Senate may act upon the subject intelligently and determinately.

But I would ask what occasion there is for any action now, or, at all events, for any action outside of the usual process of legislation in this matter? Do we find any difficulty in filling the lists of the navy? No, sir. On the contrary, our ships are always supplied, abundantly supplied, with all the sailors that are necessary for the service. Do we find any complaints from sailors themselves? So far from it, sir, when this subject was before Congress at the last session, there was not a ship which was near enough to reach Congress with its voice which did not protest against the abolishment of this punishment. Petitions were forwarded to the House, signed by every seaman on board those ships, protesting against the abolishment of the punishment. And why did they do so? Because it is the only means by which the worthy sailor who performs his duty willingly can be saved from the burdens which are thrown upon him by the ill conduct of the culprits, of those who sculk from their duty, and avoid the hardship and labor of the service. But I will ask the Senator from New Hampshire by what means he proposes to maintain discipline on board the ships of the navy? How would he govern them? Would he do it by the votes of a majority? Perhaps the Senator would propose that the commanding officer should be elected, and that the government on board the ship should be a republican government; that it should emanate from the will of a majority of those on board. He would have the officers and crew to constitute a democracy. In what way would you maintain the government? The safety of the ship requires that government should be maintained. There must be discipline; there must be arbitrary power; there must be some discretion in the commander of ship, as in the master of a school or the father of a family, and he must be at liberty to use such punishment as is necessary for the service. Now, what punishment is that? Can we safely dispense with corporal punishment? What other punishment can we substitute? You have diminished the sailor's spirit ration; that of itself was a serious punishment to him; but you now propose to stop the grog altogether.

Sir, a ship goes to sea upon a long cruise—three years, for instance—with her complement of men; that is, the number that is necessary to work the ship. She cannot take more because the limits of the ship will not permit, nor can she take less without affecting the safety of the ship. She must have that complement; she cannot have more, and cannot do with less. Now, the only punishment that can be substituted is confinement. Well, suppose one sailor knocks down another, he will be put in confinement. Another sailor commits a theft, he will be put in confinement. Another neglects his duty, he will be put in confinement; and so on. And in six months you will have half your men in confinement, and the ship exposed to danger for the want of the necessary number of men to work her. We must proportion our means to the end we would attain, and if the punishment of confinement will not answer, you must adopt either corporal or some other effective punishment, that will preserve discipline, and that will at the same time not reduce the necessary complement of working men on board the ship. But I will ask the Senator from New Hampshire whether he is aware of the limitation that is placed upon the infliction of corporal punishment? He speaks of it as a crying evil. It might be so if it were permitted without restriction. But that is not the case. No officer on board the ship is permitted to inflict the punishment of flogging but the commander himself, and he does it upon his responsibility. He cannot exceed his duty in that respect without being subject to dismissal from the service. Sir, it is restricted by a navy regulation and by law, and restricted not only to prescribed offences, but to the number of lashes to be inflicted. The commander is not permitted to inflict more than twelve lashes, and that must be done upon his personal order and upon his personal responsibility. And he is obliged to keep a record of every punishment that he inflicts, and present that record upon his return home, at the conclusion of the voyage, to the department. Sir, this is a control, and it is the only control which you can adopt consistently with the interest of the service and the maintenance of order on board the ship. Authority must be given to the commander, and, when you make him thus responsible, you have a guarantee that he will keep within the limits of his duty and within the limits of humanity. Punishment may also be inflicted by stripes, by the sentence of a court martial; and I venture to say, sir, that, in any report that may be presented of punishment inflicted on board a ship of war of the United States, the probability is, that the number of stripes inflicted will not be more than will be found to be inflicted within the same period upon the same number of culprits brought before the courts in some of the States of this Union. But there is a great mistake in regard to the severity of the punishment that is inflicted on shipboard. A great deal of it is with what is called the colt, and not with the cat-o'-nine-tails, and the colt is laid on over the back without being denuded, and it is not much more painful than the ferrule is to scholars who are corrected by their master at school.

Now, if the Senator proposes to proceed with his reform, he should extend it to schools and families, and to the merchant service. Let him present the whole subject, embracing punishment on shore as well as on shipboard. But I protest against so radical a change as this being attempted upon a cursory examination and discussion, and pressed into an appropriation bill, especially in one not relating to the naval service. I hope the proviso may be stricken out. Before I conclude, it may be interesting to the Senate to hear read a brief letter from the Secretary of the Navy, in answer to a resolution of the House passed last session, asking the opinion of the Secretary as to whether corporal punishment might be dispensed with without injury to the service.

The letter was read by the Secretary.

Mr. NILES. I have only a single word to remark, Mr. President, after what has been uttered. We have had a very animated debate, and I have been somewhat at a loss to account for the warmth that has characterized it. There seems to have been greater feeling manifested than was necessary; in fact, the remarks of certain Senators have been made as if to repel an attack on some one of the valuable institutions of the United States; I do not say the peculiar institution. I believe the valuable institution prevails in most of the countries in Europe, and it has come down very legitimately to us, as most other valuable institutions of this kind have come. My honorable friend from North Carolina, who furnished a very able speech—a pretty warm one for him, he being rather a cool man ordinarily—appears to think that if this institution of whipping should be abolished, the liberties of the country, and perhaps the Union, would be endangered. Now, sir, it was said by Charles Wilkes that the very worst use a man could be put to was to hang him; the next worse use, in my opinion, is to flog him. My friend from North Carolina, and others who defend this valuable institution, call upon those who favor its abolishment to give their reasons for such a course. Sir, I call upon that Senator, and every other Senator who favors this law, for their reasons in support of it. Why, sir, the law itself presents the reasons for its abolition, and it is for the Senator to show that this law is absolutely necessary to the discipline of the navy; and in the absence of any such reason, why should we be called upon to give our reasons in favor of the abolition of the law?

Now, sir, it is said we get along very well under this law. The officers have got along very well—those who have the power of using the whip have got along smoothly; but the question is, whether we could not have got along without practising the barbarous custom recognized under the law. And this, Mr. President, is not a question of abuse, although I hold that such a law necessarily tends to abuse. The question is as to the necessity of the law, not as to whether the law is abused or not. Let those who defend this law show, by conclusive reasoning, that there is a necessity for it; and this result can only be shown by experiments, by facts. It is not a question to be settled by argument here; not at all. I desire, for one, to try this question; and if it shall be found, on fair trial, that we cannot get along without using the whip, then we have the alternative presented to us to abandon the whole naval service, or to keep it up with a barbarous law of this character. Sir, I want to make the experiment. We are asked why this question is brought up here? why interfere and make this radical change? And the Senator from Florida cites the established usages which have long prevailed in this country and in others. I will give the Senator a reason for making this change, and it is this: that the laws regulating the army and the navy should keep pace with the progress of reform in society, and the progress of reform in criminal law. And I ask, at what period of the world, and at what stage in the progress of criminal law, did this barbarous law obtain its authority? Why, it was at an early age, at an age when similar punishments prevailed in this country and in Europe for various other offences—punishments barbarous in their character, the result of criminal law. But the progress of civilization was not such as to countenance the continuance of those laws, and made it apparent that they were not indispensable to the good order and well-being of society. Experiments have been tried having for their object the amelioration of punishment for crime during the last few centuries. Learned and unlearned men have taken up and investigated the question, and legislators have proceeded cautiously in their investigation and action upon theories presented by men who had concocted them in their closets, and who were not practical men of the world. But I think I may say that the progress which has been made in dispensing with all barbarous punishments in all countries has everywhere been eminently successful, and that the true object of punishment, the making of the condition of society more secure, has, since this reformation in the criminal law, been most effectually accomplished. I would inquire if this punishment is not often made at the mere will and arbitrary pleasure of a commanding officer, although perhaps not higher in rank than a lieutenant, and that he may flog *ad libitum*, by merely giving his order? My friend says there is a regulation in reference to this matter, a restraint as to the extent of the punishment. What is it? Nothing in the world but to keep a record of the crime and punishment awarded; the amount of punishment is at his own option. The punishment is not the result of a regular trial or court martial, but it is an arbitrary and often capricious exercise of power—capricious because navy officers are like other men, influenced by the passions of anger and hatred.

What is the danger to result by the abolition of this practice? It may be said that a ship is at sea, far away from any relief or assistance, or from the regulation of any other police than the officers on

board ship to preserve order. This statement will apply equally to merchant vessels; for in time of peace I can see no difference between a public ship of war and a private vessel. It is necessary, no doubt, to have order and subordination; but this practice of whipping is not the punishment prescribed in cases of insubordination; it is not the punishment prescribed in cases of mutiny. No, sir; other punishments, of a higher authority and greater consequence, are necessary in cases of that description. In cases of mutiny and general insubordination, as I have said, this is not the punishment meted out. This is a punishment for petty individual offences. What necessity is there for an arbitrary and barbarous punishment of this character in such cases? I see none, sir; and I believe there might be punishment of another character more effectually substituted—such as confinement upon bread and water, and close confinement in a dark cell; such punishments as are administered to convicts under our civil law. And I beg to inquire why a sailor who has been guilty of some petty act is to be punished in a manner unknown to individuals convicted solemnly under the criminal law of the land? We have abolished this punishment, sir, to convicts, I believe, in all the States of the Union, and we have found salutary and beneficial results therefrom. We have abolished it in our schools, and in our criminal jurisdiction. In all the States which had laws enacting the punishments of flogging, cropping, branding, and putting in the stocks, and a great variety of other barbarous punishments of this kind, those laws have been done away with, and we are daily witnessing the good effects that have resulted from their abolition.

Now, the idea thrown out by the Senator from New Hampshire is not without force, that this practice of flogging tends to increase disorder instead of producing order. In my opinion it tends to produce mutiny and combination among the crews of our ships. Suppose half a dozen men should suffer this punishment—a punishment not so much affecting the body as it is a disgrace to the character of the individual suffering it: with rankling feelings of hatred in their breasts may they not combine to obtain revenge? Suffering under feelings of mortification and a consciousness of degradation, which far exceeds all external injury which they may have received, what acts of cruel and fearful retribution may they not visit upon the heads of their superiors who occasioned their punishment?

But, Mr. President, I do not wish to go any further into this matter. I believe we should endeavor to keep our navy and army, as respects their condition and discipline, in conformity with the progress of society and the civil administration of criminal justice. And, sir, when we have before us exhibited so many good and salutary results flowing from the abolition of all corporal punishment in the administration of justice, there is good reason for believing that a similar reformation in the laws of the army and navy would be attended with like beneficial results. If it is found that any difficulty results from the abolition of the practice, we can easily resort to it again. We can go back and restore this law as well as any other law. But I am much inclined to believe, that if the experiment is made—and I apprehend that the fear of its being made, in part, will explain the extreme tenacity with which some gentlemen adhere to this principle—no man will be found, in this Hall or elsewhere, raising his voice in favor of return to a practice so revolting to the better feelings of humanity, so totally inconsistent with the spirit of the age. I shall vote, then, to make this experiment of the abolition of flogging in every form and way in which I can get an opportunity so to vote. I think with the Senator from New Hampshire, that there can be but little doubt that as soon as public attention is called to this matter, we shall have to carry out the expression of public opinion upon this subject as upon others, at least so far as to make a fair trial of a more liberal, humane, and reasonable mode of promoting discipline in our navy.

Mr. BUTLER. I consider the proposed abolition of flogging in the navy as a very dangerous experiment. Is it nothing that the navy officers of the whole world—of England, of Russia, of France, and of America—are all in favor of this system of punishment. Are we, in the face of all this experience—in the face of all that is known to us on this subject—to venture upon an experiment of this character, under the influence, if I may be permitted so to call it, of a sickly sentimentality, which appeals to the prejudices of the multitude for coöperation and support? It is said of the Roman people that they became sentimental in their poetry, and in their oratory and legislation, in proportion as they became corrupt. I do not make the application here, but I will say one thing, that the practice of our hardy ancestors, those who founded this Government originally, will at least compare with the humanity of gentlemen who are endeavoring, under a false philanthropy, to carry out a measure of this character.

Mr. President, I do not believe—and I have conversed with many officers on the subject—that the discipline of the navy can be maintained without some punishment similar in kind to this. The gentlemen of the navy all think alike on the subject, and yet we are now about to interfere with their rules and mode of discipline, in accordance with the dictates of a morality so sublime and a philanthropy so pure as to be far above the common concerns of earth. It is a matter worthy of reflection that we are now agitating public sentiment on a subject deeply affecting the lives and interests of a numerous class of the community. I refer to our sailors. The sailor enters into the service of the United States with a full understanding of the nature of his contract, and that this practice is one of the modes of enforcing discipline. He enlists as voluntarily in a man of-war as in a merchantman. He is not pressed like the English sailor into the service; he enlists voluntarily. Lord Mansfield wisely observed, when application was made to him for the pardon of Dr. Dod, that what would be mercy to the individual would be cruelty to the many; and I believe it would be cruelty to a large portion of the better class of sailors to abolish this system of flogging. This punishment is not for the protection of the officer alone, but for the protection of the steady and honest sailor against the vile practices of the vicious and wicked. I say that for infamous conduct infamous punishment should be administered, or at least a punishment awarded, discriminating in its extent, and of a character that will afford protection to the honest and virtuous sailor. The sailors themselves, if they could assemble in convention, I believe would vote to a man for this mode of punishment, as better adapted than any other mode to give them protection against the evil practices of the depraved among them. But that this bill comes from the other House, I should have been utterly astonished that we could venture, in the name of reform, to suggest or advocate the passage of such a provision as is here suggested. I rose to protest against any such experiment being made, under the influence of the feeling that has been elicited, without further inquiry into the subject. We had better consult the practical administrators of our navy affairs, rather than the theoretical notions of reformers or declamatory orators upon the progress of the sentiment of the age. I venture to say that we are no better than our forefathers; in fact, I do not believe that we are as good. Our discipline in the navy must, it seems, become a mere matter of admonition—a sort of pulpit declamation upon right and wrong. It is stated as matter of history that, at the battle of Lexington, one of the citizens of that or a neighboring village was shot down. A meeting of the villagers was called, and a clergyman addressed the meeting. He stated that he was for decided and speedy action in the matter, and hoped that a committee would be appointed to wait on the British officers to talk to them concerning the wickedness of the deed they had perpetrated, and that *strongly*. I suppose that is the mode to be adopted with respect to unruly and vicious sailors; our officers are to talk to them concerning their evil doings, and that *strongly*.

Mr. BREESE. Before the question is taken on this amendment, I propose to amend the amendment. I would move to insert after the word "navy," in place of the words now there, the words "yards and shore stations within the United States." In support of the amendment which I have offered, I beg leave to say a single word. I can very well see how the discipline of the service can be preserved while ships are in our ports and at our navy-yards, and, therefore, corporal punishment by whipping can well be abolished at them; but I cannot perceive how it can be, in a ship at sea, thousands of miles from home, and with no adequate substitute even suggested by those who advocate the proposition to abolish stripes. If they will propose such a substitute, I will go with them with pleasure. As to the supposed degradation suffered by the sailor in consequence of being whipped, it is not so. He does not feel it, nor do his associates. It is the suggestion of a false philanthropy; for the truth is, the sailor prefers whipping to other punishments subjecting him to ridicule, and which he considers really degrading, and far more uncongenial to his feelings.

Mr. CLAYTON. After a long debate that has been in progress upon this subject, I would not trouble the Senate did I not think it necessary to correct what I think to be an erroneous impression, arising out of some remarks made by the Senator from New Hampshire in regard to the number of lashes inflicted upon sailors. In the document from which he read to the Senate concerning the number of lashes inflicted on board of our ships, he recited one instance of a sloop-of-war whose crew while at sea, during a period of three months, received altogether some nine hundred lashes. I do not know anything about the particular circumstances of the case, further than that the crew was remarkable for insubordination, and that in many instances the punishment was for desertion, for drawing a knife upon the officer, and for fighting and quarreling among themselves.

But in regard to the other cases presented, with but one single exception, in this document, it appears that no such number of lashes were inflicted. It is not true, and I suppose the Senator from New Hampshire does not intend to have it understood, that the ships of our navy generally will exhibit such a record as that of nine hundred lashes administered in a sloop-of-war in the course of three months.

Mr. President, I desire to say that this punishment is inflicted under the authority of an act of Congress passed the 23d of April, 1800. It has continued from that day to this. It is not true that this punishment is inflicted capriciously or at the pleasure of commanding officers—they have no such authority delegated to them. By the law the crime must be designated, and by the law the punishment meted out, for that crime must be recorded in a log-book, and that log-book sent here to the proper department. You can ascertain, by looking at those documents, whether in a single instance a cruel and unnecessary punishment has been inflicted on any sailor. You may assert that streams of blood flow from the back of the American sailor in consequence of this punishment; but, sir, the punishment inflicted is always for crime, and not because of anger or arbitrary exercise of power on the part of commanding officers. As it has been forcibly put to the Senate, how can you possibly regulate and govern the conduct of seamen in a ship hundreds of miles from the shores of this country without this punishment? Can you put a penitentiary on board of a man-of-war, or carry into effect any other mode of preserving order and regularity of conduct on board of such a vessel? In the British Parliament this practice has been the subject of extended consideration. The English people have had as much experience on this subject as any other nation upon earth. Various suggestions have been made, and plans offered as substitutes for this mode of punishment. Perhaps as cruel punishment has been administered on board of English ships-of-war as in the ships of any other nation in the world. Great efforts have been made among the philanthropists of that country to ameliorate this mode of punishment, but they have not succeeded—the punishment has not been mitigated or the system changed. The English Board of Admiralty tell us that this mode of punishment cannot be dispensed with; all our naval officers tell us the same thing; and this is the opinion also of all our Secretaries of the Navy. And now, sir, we are called upon to disregard the experience of those men who are best acquainted with the workings of this system, and suddenly to abolish the only means of preserving and promoting order in one of the most important branches of the public service.

I do not desire, Mr. President, to protract discussion; but it must be really manifest to the mind of every Senator here, that the condition of things on board ships of war at a distance from this country—and isolated as they must be—is altogether different from the condition of criminals at home who are under the just condemnation of law;

which criminals can be ordered to the penitentiary, or punished in any other way the law may require, without injury to the public interests. An argument, then, in favor of this mode of punishment is, that no other punishment can satisfactorily be substituted in its place.

After what has been said by the Senator from Connecticut, [Mr. NILES,] and the Senator from New Hampshire, [Mr. HALE,] and after the suggestions that have been thrown out by the Senator from New Hampshire that the sailors in our navy ought to mutiny if compelled to suffer punishment of this description, I do hope for a strong vote from the American Senate to show that the sentiment of this body is in direct opposition to the statements made; and, in order that the vote of the Senate shall be distinctly known, I demand the yeas and nays upon the motion now pending.

Mr. HALE. Mr. President, the facts to which I have adverted, as drawn from the data that I presented, have been called in question by the honorable Senator from Delaware, [Mr. CLAYTON,] and I want to say a word or two on the subject. But permit me to say that I have never seen that honorable Senator sit down with so formal a call for the yeas and nays. It seems to me that he thought it was to frighten the Senate, inasmuch as the object of the information is to make known the opinions of this body. I called for them long ago. And he asks also for a strong vote. I do not ask for a strong vote. What I ask is, if there is a human heart in this Senate—if there is a man that dare stand up and speak for the rights of humanity—I will tell him that "now is the day and now is the hour"—that humanity calls for her friends to stand up and let their voice be heard; and let them stand up, if they have to stand alone. I have stood alone here, and would not be afraid to stand alone again on this question.

But I tell you, you may rally your strong hosts; I will rally a stronger one among the American people. Sir, they will not permit this relic of barbarism to remain; they cannot permit it. The age of the cat-o'-nine-tails is past. In the year 1849 you may erect your monument, and inscribe upon it "Here lies the cat-o'-nine-tails." The funeral procession will soon be marshaled, and all the arguments drawn from the views of England cannot shelter it from the execrations of outraged humanity. This is rhetorical declamation, I suppose. Well, they have got many other things in England that they cannot get rid of. They have Lords of the Admiralty, and I suppose we shall be obliged to have them; and, if we keep the cat-o'-nine-tails, I think we ought to have them. We ought to have Admirals of the Red and Admirals of the Blue—I do not know whether they have any Admirals of the White. But I am sick to death of going back to the dusty and dead past, digging among the monuments of the Government from which we sprung, to find and bring up causes and apologies for trying to keep up these remnants of barbarity still longer. One would think that these men were not our sons and our brothers who are doing this work on board ship, but the incarnate fiends of hell, marshaled, forced, pressed into our service; and that there was no other avenue to their hearts, no way of approaching their understandings, no process of appeal to them but with the cat-o'-nine-tails to their backs. Have not these men ears? Have they not hearts? And have they not friends? I wonder if they ever had mothers; if they have sisters or children? I wonder if that circle of human sympathies that surrounds every human heart, binding it by a thousand ties to thousands of other human hearts, has anything to do with these sailors; or have they, in place of human hearts, something that can only be reached by the rope's end?

But, sir, the honorable Senator from South Carolina [Mr. BUTLER] speaks as if it was the unanimous recommendation of every officer in the navy that this abuse should be retained. I know that he speaks from impressions, and not from actual knowledge, because I do know one officer at least, with whom I had the honor to be associated in the settlement of a complaint under this law, in a naval court-martial, who, when the sentence was about to be pronounced, uttered this sentiment, for which I honored and loved him: "Never, while 'I have command on board a vessel of war, will 'I give my consent to strike with a lash a single 'man under my command." Sir, if I were to give his name, it is a name that stands high in the American naval service, and I rejoice to do the American navy the justice to say that I do not believe that he stands alone. The only——

Mr. YULEE, (interposing.) Will the Senator inform me whether the person to whom he refers has ever commanded a ship?

Mr. HALE. Yes, sir.

Mr. YULEE. I will venture to say that he has never commanded a ship, and I desire to know his name.

Mr. HALE. The honorable Senator must be aware that he puts me in an awkward position by his question, for he must know that we are not at liberty to disclose the name. I am bound by oath not to do it.

Mr. YULEE. The honorable Senator says he could give the name, and I desire to know who it is, and whether he has ever had the command of a ship?

Mr. HALE. I trust the honorable Senator knows the reason why I cannot do it. I may give only his opinion, as I have done. But, sir, it has been said that sailors do not feel degraded by this punishment. I believe the honorable Senator from Illinois [Mr. BREESE] says it is false philanthropy. Well, in the name of God, then, what is true philanthropy? That is an easy way to get rid of everything of this sort. What is true philanthropy? I suppose, that in the opinion of that gentleman, everything that is for the amelioration of this class of persons is false philanthropy, and that the enforcement of discipline by laws of this character is the only true philanthropy. I do not wish to repeat what I have stated, but I speak from public documents. I wish, however, to vindicate myself; and as the inference has been questioned, I will state another fact, and give the name. The sailor who brought me a number of memorials the other day, and gave them to me, though I think they should have gone into the hands of the honorable Senator from New York, [Mr. DICKINSON,] spoke of this report, where it is stated that nine hundred lashes were given on board of one ship within three months, and he said to me, that if he could have the right to be heard, he could produce sailors, who are now in this city, supported at his own expense for the purpose, by whom he could prove that not only nine hundred lashes had been inflicted in that time, but twenty-three hundred.

Mr. YULEE. Will the honorable Senator allow me to inquire what confidence we can have in——

Mr. HALE. After I get through. I don't know what confidence may be placed in him or his statements; but he brought me many letters from individuals of respectability. I told him, however, that he could not be heard before the Senate; that the Senate had too much important business before them to attend to any considerations of this kind.

But, sir, it is said that this power is not abused. I will only refer you to the records among the archives of the Government. It is said, too, that the offence is a capital one for an officer to inflict more than one hundred lashes. Well, I went down to the navy-yard to inquire if there were any cases of illegal punishments. They looked on me much as one is looked upon who asks to see a herring. And, indeed, I found there a man by the name of Herring, who was sentenced to receive five hundred lashes, and actually did receive four hundred. I tried then to call the attention of the Senate to the subject, but was told this was not the proper place.

Mr. CLAYTON. Who was the officer?

Mr. HALE. It was under authority of a naval court martial. I understand that the case is, that the man is brought up, as in the case supposed the other day by myself, and receives twelve lashes; and then is commanded to perform the required service; while he, supposing himself not bound to any further service, refuses to obey, and thereupon the twelve lashes are repeated, and so on the offence is repeated, and the punishment follows as long as life lasts.

Now, these are not fictions, and no imaginations. I have confined myself here to the record. We have not the record required by the act of the last session, and I know not how the case will appear when we receive it.

Mr. YULEE. I stated, when up before, that the only occasion in which a sailor had come before us in respect to this matter, had been in connection with petitions remonstrating against the punishment of whipping. The Senator from New Hampshire just now referred to another instance in which a sailor of the navy—as he has styled him—asks to be heard upon this question; and when I desired that Senator to give way for a moment, in order that I might show to what degree the person who comes here represented as a sailor of the navy is entitled to our confidence, he declined to do so. I rise simply for the purpose of showing how much the Senator permits himself to be abused, and how much he would have the Senate to abuse itself, by adopting legislation on vague and unsatisfactory information, and derived from sources not reliable, so far as I have the authority of officers of the navy for saying.

This individual has gone through the State of New York, and has procured all the petitions that have been presented here on this subject. The officers inform me that this individual has never been a sailor, nor even a seafaring man; that he was, for a month or so during the past summer, on board of one of the surveying vessels, and that, in consequence of neglect of duty, because of drunkenness, was discharged from that vessel. This is the character of the man who obtained these petitions; and with this brief explanation, in compliance with the request I made of the Senator from New Hampshire, I will not trouble the Senate further.

Mr. HALE. Who makes that statement?

Mr. YULEE. An officer who knew him well.

Mr. PHELPS. As a member of the Committee on Finance, I agreed to this proposition to strike out this proviso. I did so, sir, because I thought that it was wholly inappropriate to attempt to alter radically the discipline of the navy in a mere appropriation bill. Sir, if there be anything wrong in the discipline of the navy, let the attention of the Committee on Naval Affairs be called to the wrong; and if it be necessary to abolish or modify this mode of punishment, let that committee provide a remedy. It appears to me unquestionably that it is in the power of that committee to originate a measure which shall alter, change, or modify the discipline of the navy. My objection to this proviso is, that it comes here attached to the appropriation for the salary of the Secretary of the Navy—proposes a radical change in the discipline of the navy in a mere appropriation bill—and suggests no substitute to the present mode of punishment. Well, sir, if this species of punishment is calculated to degrade, and if the sentiment of the age requires its abolishment, why, let the Committee on Naval Affairs take the matter in hand and provide, as I have before remarked, a remedy.

This proviso strikes at the foundation of everything like subordination in the navy, in thus doing away with punishment by flogging; and what substitute does it present in place of long-continued practice? You cannot carry a penitentiary abroad in a ship, as has been remarked by the Senator from Delaware; and how can you maintain order and discipline on board of your ships without some system of punishment? Why, sir, this is a subject which, in my humble opinion, does not admit of argument. The remarks of the Senator from New Hampshire, with reference to the nature and the extent of this punishment, are of course worthy of consideration; and, as I before stated, if there is anything in the discipline of the navy that requires correction, the proper committee should take the subject under consideration; and when they present something as a satisfactory substitute, I shall be ready to listen with favor to their modifications.

Mr. DODGE, of Iowa. I would inquire of the Senator from South Carolina whether, for several years, the practice of whipping has not been abolished in the army of the United States?

Mr. CALHOUN replied, but in so low a tone that his remarks were not heard at the reporter's desk.

Mr. BREESE, at the suggestion of several Senators, withdrew his amendment to the amendment.

The amendment proposed by the committee was then agreed to, striking out the proviso.

Mr. HALE now renewed his amendment as follows, and asked for the yeas and nays thereon:

And all laws and parts of laws heretofore passed authorizing the infliction of whipping in the naval service of the United States be, and the same are hereby, repealed.

Mr. DICKINSON. Mr. President, I am one of the Committee on Finance who concurred in the propriety of recommending to the Senate to strike out this proviso, as it has just done, and, therefore, I desire to say one or two words on that

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subject. We believed, sir, that the proviso had no business there, and that such important legislation should not be accomplished in that shape. On this point I concur in much that was said by the Senator from North Carolina, [Mr. BADGER.] I have no ambition, sir, to be classed amongst many who are called philanthropists; and yet, sir, I should regret to be behind a proper public sentiment; and, lest my opinions on the subject of flogging in the navy should be mistaken by the vote I shall give on this amendment, permit me to say that I am opposed to this mode of legislation, either to enact or to repeal laws. The amendment of the Senator from New Hampshire involves a great and a radical reform; but whatever its merits may be, this is not the way to attain the gentleman's object. It may be that my disinclination to sanction this irregularity may expose me to the accusation that I am opposed to reforms which involve questions of humanity; but, sir, I have been too long in public life to be induced to shrink from my duty because by some my motives may be mistaken. Here is a proposition—to do what? To repeal a specific section of a law? No, sir; but at one fell swoop, to repeal all acts and parts of acts that authorize corporal punishment in the navy. I do not know, sir, the precise effect of such a provision. I am not sufficiently informed to enable me to determine the consequence of such sweeping legislation. I am, perhaps, in the position of many other Senators, who do not exactly know what punishments are tolerated in the navy that are designated as corporal punishments. I presume, sir, that imprisonment on a fare of bread and water might not inappropriately be called corporal punishment. Will you, then, sir, adopt this amendment hastily—will you legislate on such an important matter by an amendment to an item of an appropriation bill—and send your ships to sea without any power to inflict punishment of any kind whatever?

But, sir, it is said that the power to inflict corporal punishment is arbitrary and despotic. To this I reply, that such power is necessary, to some extent, in both the army and navy. All power in both those arms of the national defence is necessarily based on despotism; and it is worthy of the consideration of the best philanthropist how this power can be exercised so as to combine humanity to the seamen with the discipline of the navy. I need not be told, sir—if I am I shall not believe it—that Congress will not keep pace with a correct public sentiment on such a subject. The public will is a tribunal from which there is no appeal. When the public will is clearly expressed, not one of us will be tardy in obeying its stern behests; and when public opinion decrees this change, it will be done, sir. I know that the public mind is moving: I do not know that it is matured. I cannot, therefore, concur with the Senator from New Hampshire in the end which he seeks to attain, at the close of a session, and without examination by individual Senators, that we may ascertain where it will lead us. He proposes to repeal all acts and parts of acts that permit corporal punishment, and I fear his amendment would effect much that he does not intend it should embrace; and hence I shall vote against it in its present shape. As an amendment to this appropriation bill, it is out of place. Let the subject go to a committee for examination—a select committee, if you please—let authentic information be obtained, and let this public opinion which is moving be gratified if it be possible; but let us do it understandingly, and not on a momentary impulse of philanthropy, whether real or spurious. When we act, let us act according to knowledge.

Mr. BENTON. When I first came here, sir, and long afterwards, nothing was put into an appropriation bill but what was authorized by law. It was then usual for the Committee on Finance to bring the bill into the Senate and ask the Senate to take it up and pass it, and the Senate only required an assurance that there was nothing in it but what was authorized by law, and then in fifteen or twenty minutes of a morning we passed the bill to supply the necessities of the Government. I wish, sir, to see our practice come back to what it was at the time I came here, when nothing was introduced into an appropriation bill but what was founded on law; and it is for this reason that I shall vote on this occasion contrary to my feelings. I am not in favor of scourging American citizens. A Roman citizen could not be scourged, and I believe an American citizen is of as high an order of men as were Roman citizens. Roman citizens were employed both by sea and land, in the army and in the navy, and there was no scourging; that was reserved for slaves, for barbarians, for those below the dignity of a Roman. It may be that some persons are bad enough to be whipped, but I question if whipping will effect a reform. I also question if it is worth while to make the officers of the navy the instruments or agents to correct the incorrigible part of mankind. It is better, sir, to get them out of the navy and have nothing to do with them. I feel a deep mortification, sir, in seeing a man—one who is brave—one who will die in defence of his country either in the army or navy—tied up and flogged. I feel humiliated, sir, by such a spectacle; and I should like to have the subject properly examined. But we cannot legislate upon it by an amendment to an appropriation bill. That is the wrong place, sir, and I shall vote against the amendment on account of the place in which it is put.

The question was then taken on the amendment, and rejected, as follows:

YEAS—Messrs. Allen, Baldwin, Borland, Bradbury, Cameron, Clarke, Davis of Massachusetts, Dix, Dodge of Iowa, Hale, Hamlin, Jones, Metcalfe, Niles, Underwood, Upham, and Walker—17.

NAYS—Messrs. Atchison, Atherton, Badger, Bell, Berrien, Butler, Calhoun, Clayton, Davis of Mississippi, Dayton, Dickinson, Downs, Fitzgerald, Fitzpatrick, Foote, Greene, Hannegan, Houston, Hunter, Johnson of Louisiana, Johnson of Georgia, Mangum, Mason, Miller, Phelps, Rusk, Sebastian, Spruance, Sturgeon, Turney, Westcott, and Yulee—32.

Mr. ATHERTON then submitted an amendment appropriating $1,500 for a survey and examination of the Potomac river, as recommended by the Secretary of War; pending which—

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 12, 1849.

The Journal of Saturday was read and approved.

Mr. WALLACE, of South Carolina, introduced to the House Mr. MCQUEEN, representative from that State, *vice* ALEXANDER D. SIMS, deceased; who was qualified, and took his seat.

TERRITORY OF MINESOTA.

Mr. SIBLEY, of Wisconsin Territory, rose and addressed the Chair for a moment or two.

The SPEAKER indicated that he could not hear the motion which the gentleman was making.

Mr. SIBLEY, leaving his seat, came down in front of the Chair, and restated his motion—that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill to provide for the organization of the Territory of Minesota, and that the rules be suspended, in order that the House might proceed to the consideration of the said bill, with a view to put it on its passage.

Mr. BURT said he should feel constrained to object to this motion. If the motion were merely to discharge the Committee of the Whole on the state of the Union from the consideration of the bill, he would yield. But he believed that this was the last day, during the present session, on which resolutions would be called for.

The SPEAKER said he understood the gentleman [Mr. SIBLEY] to move a suspension of the rules. That motion was not debatable.

Mr. BURT supposed, he said, that the motion to suspend the rules took precedence of a motion for the regular order of business.

The SPEAKER replied in the affirmative.

Mr. SIBLEY (scarcely heard) was understood to express the opinion that the bill was not likely to lead to any debate.

The question was then taken, and (two-thirds not voting in favor thereof) was decided in the negative.

So the House refused to suspend the rules.

DEPARTMENT OF THE INTERIOR.

Mr. VINTON rose and said that a long time had elapsed since the Committee of Ways and Means had been called for reports. He moved that the rules of the House be suspended to enable him to make a report from that committee.

The question was taken, and the vote stood ayes 80, noes 40.

So two-thirds voting in the affirmative, the rules were suspended.

Mr. VINTON thereupon, from the Committee of Ways and Means, reported a bill to establish the Department of the Interior, and for other purposes.

The bill having been read twice by its title—

Mr. VINTON said that it did not propose to make any appropriation, and it was not therefore necessary that the bill should go to the Committee of the Whole on the state of the Union. He moved that it be made the special order for Friday next.

The SPEAKER. A vote of two-thirds will be required.

Mr. KAUFMAN moved that the bill be laid on the table.

Mr. VINTON asked the yeas and nays on that motion.

Several members suggested to Mr. KAUFMAN to withdraw his motion.

Mr. KAUFMAN said he was perfectly willing to do so, if the bill might go to the Committee of the Whole on the state of the Union.

Mr. COBB, of Georgia, said he trusted the gentleman from Texas [Mr. KAUFMAN] would withdraw his motion. He (Mr. C.) was unwilling to vote on that motion until he could know something of the character of the bill. If the gentleman would withdraw the motion, he (Mr. C.) would move that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. KAUFMAN had no objection, he said, to the commitment of the bill; but he understood that the object of the gentleman from Ohio [Mr. VINTON] was, that the bill should at once be put upon its passage.

Several members explained.

Mr. KAUFMAN thereupon withdrew his motion to lay on the table.

The SPEAKER said that the motion to make the bill the special order would take precedence over the motion to commit to the Committee of the Whole on the state of the Union. The motion to commit would be in order after the other motion had been disposed of.

Mr. VINTON simply desired to state, that the bill was recommended by the Secretary of the Treasury, in his annual report on the state of the finances.

Mr. COBB said he knew nothing of the merits of the bill; but he knew that it was now too late in the session to act upon it.

Mr. VINTON said that every gentleman knew that if the bill was committed to the Committee of the Whole on the state of the Union, there was an end of it for the present session. He asked, therefore, that it be made the special order for Friday next, for which day, he believed, there was no other special order.

Mr. JOHNSON, of Arkansas, made a remark or suggestion, of which nothing was heard by the reporter.

Mr. COBB said that the very reason which had been assigned by the gentleman from Ohio [Mr. VINTON] why this bill should be made the special order, was the very best reason why it should not be made so. The bill ought not to be called up at this late period of the session, and to be acted upon without that investigation which could not be given to it at this time. He hoped it would be referred to the Committee of the Whole on the state of the Union, and that it would take its place on the calendar.

The SPEAKER stated the question to be on the motion to postpone the consideration of the bill

until Friday next, and that the bill be made the special order for that day.

Mr. FICKLIN asked the yeas and nays on that motion; which were ordered.

TREATY WITH MEXICO.

Mr. STANTON rose, he said, to a privileged question. He hoped that the House would this morning take up the motion, heretofore made by him, to reconsider the vote by which the message of the President of the United States, in answer to a resolution of this House calling for certain information in regard to the Mexican treaty, had been laid on the table. He believed he had the right to call up the consideration of his motion; and the decision of the House would determine what disposition should be made upon the subject.

The SPEAKER stated the question to be on the motion of the gentleman from Tennessee, [Mr. STANTON,] to reconsider the vote by which the message of the President had been laid on the table. That question was not debatable.

The question was then taken, and the Chair said that the motion appeared to be rejected.

Mr. STANTON called for a division.

Mr. STEPHENS inquired of the Chair whether he understood that this motion to reconsider had reference to the protocol?

The SPEAKER having answered the question affirmatively—

Mr. STEPHENS expressed the hope that the vote would be reconsidered; and he asked the yeas and nays on the motion, which were refused.

The question was then taken on the motion of Mr. STANTON, and was decided in the negative.

So the House refused to reconsider the vote by which the said message had been laid on the table.

DEPARTMENT OF THE INTERIOR.

The question then recurred on the motion of Mr. VINTON, that the bill reported by him from the Committee of Ways and Means be made the special order of the day for Friday next.

Mr. WENTWORTH called for the reading of the bill. And it was read.

Mr. WHITE said it would be remembered that on Saturday last he desired the indulgence of the House to allow him to present a report and bill on this subject. The House refused its assent. He now asked the general consent of the House to introduce a bill and report on the same subject, and that it might take the same direction as should be given to the bill before the House.

The SPEAKER said a motion to amend would be in order after the motion to postpone had been decided.

Mr. WHITE said he was aware of that. But he asked the privilege of the House to receive his bill, and to let it take the same direction which might be given to the other.

No objections appeared to be made.

The SPEAKER said it was impossible that two bills should receive their reading at one time. The question now was on making the bill reported by the gentleman from Ohio [Mr. VINTON] the special order of the day for Friday next. And on that motion the yeas and nays had been ordered.

The question was then taken, and decided in the negative—yeas 105, nays 82—as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Barringer, Barrow, Blackmar, John M. Botts, Boyden, Brady, Brodhead, Butler, Cabell, Canby, Chapman, Clapp, Clingman, Cocke, Collamer, Conger, Cranston, Crisfield, Crowell, Crozier, Daniel, Dickey, Dixon, Dier, Eckert, Edwards, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, Fulton, Gaines, Gayle, Gentry, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Henry, Hilliard, Elias B. Holmes, John W. Houston, Hubbard, Hudson, Hunt, Charles J. Ingersoll, Robert W. Johnson, Kellogg, Thomas Butler King, Daniel P. King, William T. Lawrence, Levin, Lincoln, Maclay, McIlvaine, Horace Mann, Marsh, Marvin, Morehead, Mullin, Nelson, Newell, Nicoll, Outlaw, Palfrey, Pendleton, Petrie, Pollock, Preston, Reynolds, Julius Rockwell, John A. Rockwell, Roman, Rumsey, St. John, Sherrill, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Stanton, Andrew Stewart, Strohm, Strong, Tallmadge, Taylor, Richard W. Thompson, Thurston, Tompkins, Toombs, Van Dyke, Vinton, Warren, White, and Wilson—105.

NAYS—Messrs. Atkinson, Bayly, Beale, Bedinger, Bingham, Birdsall, Bowdon, Bowlin, Boyd, Bridges, William G. Brown, Burt, Catheart, Chase, Franklin Clark, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Collins, Cummins, Darling, Donnell, Embree, Faran, Featherston, Ficklin, French, Fries, Goggin, Willard P. Hall, Hammons, Haralson, Harmanson, Harris, Henley, Hill, George S. Houston, Iverson, Jenkins, James H. Johnson, G. W. Jones, Kaufman, Kennon, Lahm, La Sere, Sidney Lawrence, Leffler, Lumpkin, McClelland, McLane, McQueen, Job Mann, Meade, Miller, Morris, Morse, Murphy, Peaslee, Peck, Pettit, Peyton, Phelps, Pilsbury, Richardson, Richey, Rockhill, Sawyer, Shepperd, Smart, Starkweather, Stephens, Charles E. Stuart, Thibodeaux, James Thompson, Robert A. Thompson, Turner, Venable, Wallace, Wentworth, Wick, Wiley, Williams, and Woodward—83.

So two-thirds not voting in the affirmative, the bill was not made the special order of the day for Friday next.

The question recurring on the motion of Mr. COBB, of Georgia, to refer the bill to the Committee of the Whole on the state of the Union—

Mr. COBB said, he would not detain the House by offering any remarks. He hoped the bill would be referred.

Mr. VINTON said it was very clear, from the vote which had just been taken, that the only possible chance for the passage of this bill, at the present session, was, that it be ordered to be engrossed this day. Every gentleman acquainted with the state of the business of the House knew, that if the motion of the gentleman from Georgia prevailed, the bill was as effectually buried as if it were in the bottom of the ocean. And the same thing might be said of the postponement of this bill or the laying it on the table, or making any other disposition of it than the ordering it to be engrossed at the present time.

He desired, therefore, in a few words to explain the purposes of this bill, that the House might understand what was its character and what the objects it proposed to effect.

The bill, as it was now presented to the House, was a bill that had been reported in pursuance of the recommendation of the Secretary of the Treasury, contained in his annual report upon the state of the finances, communicated to Congress at the commencement of the present session. It would be recollected by the whole House that the Secretary of the Treasury recommended the organization of a new department of the Government. The primary purpose of this recommendation, as explained by the Secretary himself, was not with the view to create a new department, but it was to give additional efficiency to the departments that were now in existence. He said in his report that the duties of the Secretary of the Treasury were so onerous that it was impossible to discharge the duties of that great and vital department of the Government in the way that the public exigencies required. As a means of relieving the Treasury Department from the business with which it was loaded down, he proposed to take from it a portion of the duties now discharged by it which did not properly belong to the fiscal department of the Government, and also to take from other departments of the Government upon which, from time to time, had been devolved duties inappropriate to their sphere, and aggregate them and put them under the charge of a new department, which he proposed should be called the Department of the Interior.

The report of the Secretary of the Treasury was referred to the Committee of Ways and Means. Under the instructions of that committee, he (Mr. V.) had called upon the Secretary of the Treasury, and among other things he had asked that officer to put his plan upon paper in the shape of a bill. He had done so; and here he (Mr. V.) took occasion to make an acknowledgment which he thought was due to the Secretary of the Treasury, and to say that that officer had afforded him every facility in his power for the purpose of carrying out the objects of his recommendation. The bill, with one or two unimportant alterations made by the Committee of Ways and Means—and to which he would advert before he sat down—was the bill as it came from the hands of the Secretary of the Treasury. It was in truth the treasury plan; it was the bill of the Secretary of the Treasury; and after a thorough and careful examination of the bill, he (Mr. V.) was satisfied that no better plan could be devised.

He would now state in general terms what this bill proposed to do. It proposed to take from the Treasury Department the supervisory power over the General Land Office. The Secretary of the Treasury, it would be remarked, ought strictly to be the head of the fiscal department of the Government, and his duties ought only to be those which pertained to the fiscal department. Instead of that, the supervisory power over the Commissioner of the General Land Office and over the surveys of the public lands had been devolved upon the Secretary of the Treasury, which carried along with it the necessity of deciding upon thousands of conflicting claims which arose under various treaties made by the United States; so much so, that in his report the Secretary of the Treasury stated that many hours of his time every day were necessarily devoted to the duties belonging to the General Land Office; and that in the two-and-a half years preceding the date of that report he had decided upwards of five thousand claims, all of which were of the nature of judicial decisions—cases of conflicting rights between the Government and individuals—many of which involved property of a very large amount, and all of which were cases of the greatest complication, and required the most laborious investigation to come to a proper decision. Now, all of these were duties which did not properly belong to the Secretary of the Treasury, and from which he ought to be released.

It would be seen, from the report of the Secretary, that the number of cases brought from the Commissioner of the General Land Office to the Secretary of the Treasury, amounted every day to more than five. If any judge or jury were to decide five disputed cases daily, they would be considered to have full employment. It would be recollected that no case came up to the Secretary of the Treasury unless it was a disputed case—unless the party against whom the decision was made was dissatisfied with the decision of the Commissioner of the General Land Office. If the party was dissatisfied he appealed, and the appeal went up to the Secretary of the Treasury, who was obliged to revise the whole case, and make a final decision. The Secretary of the Treasury informed him (Mr. V.) that this duty alone occupied him four hours every day; and gentlemen on this floor considered it pretty good work when they sat here four hours a day; and that, too, a duty which had nothing to do with the great, the higher, and more important duties that belonged to the Secretary of the Treasury as the head of the fiscal department of the Government.

The Secretary of the Treasury proposed, then, in this bill, in the first instance, to transfer the General Land Office, with all its clerks, messengers, and machinery, to the head of this new department.

In the next place, he proposed to relieve the Treasury Department from the supervisory power which it now had over the marshals, clerks, and other officers of the various ports of the United States, which gave rise also to a great deal of correspondence and labor, and which duties did not properly belong to the Secretary of the Treasury as the fiscal agent of the Government.

In the next place, the bill and the recommendation of the Secretary of the Treasury proposed to take from the Secretary of War the supervisory power and control which he now had over the vast and complicated department of the Indian affairs of this Government. That department was originally put under the charge of the Secretary of War, because there was no Department of the Interior or Home Department to which it appropriately belonged. The power of this Government over our Indian affairs was derived, exclusively derived from that clause of the Constitution which gave Congress the power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes;" and though this was strictly a commercial power, and nothing else, yet for want of some other appropriate place where to deposit it, it had been put under the charge of the Secretary of War, where all appeals from the decisions—and most important decisions—which were constantly made by the Commissioner of Indian Affairs lay, and which necessarily devolved upon the Secretary of War an immense amount of labor which was altogether foreign from the appropriate duties of that department as a branch of the national defences.

There was a peculiar fitness, as was explained by the Secretary of the Treasury, that the Indian Bureau and the Land Office should be placed under the same head, as the business of the one was intimately interwoven with that of the other.

In the next place, the bill proposed, and the Secretary of the Treasury recommended, that the Pension Office, which had grown up into a great department, employing a large number of clerks, and from whose decisions appeals were constantly taken to the Secretary of the Treasury, in both its parts, viz: that part under the supervisory power of the Secretary of War and that under the Secretary of the Navy, should be transferred to the head of this new department.

The Secretary of the Treasury recommended,

and in pursuance of that recommendation the bill proposed to take from the Secretary of State the supervisory power over the Patent Office, which of itself had become a great department, and which was destined to become still more important. Every gentleman who would reflect for a single moment would, as a matter of course, perceive that the duties that were discharged by the Patent Office—the control over the inventions and the intellect of the country—were just as foreign from the duties of the Secretary of State—which appropriately concerned the foreign relations of the country—as from those of any department which could possibly be imagined. They had been put under the charge of the Secretary of State, and had been performed by him, because under this Government there was no appropriate depositary, no appropriate supervisory power of that great department of the Government.

These were the leading provisions of the bill. The bill embraced the provisions of the bill recommended by the Secretary of the Treasury; and, in addition to these, as he had before stated, the Committee of Ways and Means had added two or three unimportant provisions.

The first put under the charge of the head of the Department of the Interior the control over the lead and other mines of the United States. By looking at the law which had passed during the last session of Congress, he believed the Committee of Ways and Means were in doubt whether, under the bill as framed by the Secretary of the Treasury, the control over these mines would be carried to this department. The Secretary undoubtedly intended that it should be. This section had been added by the Committee of Ways and Means out of abundant caution, believing it would not change what was intended to have been the effect of the bill without it.

Upon inquiry they had found that the Commissioner of Public Buildings and Grounds, instead of being under the charge of any department, was under the direction of the President of the United States; and, upon an interview with the Commissioner, he found that even the common laborers, whenever there was any trouble or dissatisfaction on their part, were in the habit of running off to the President of the United States, besieging him day after day about the little affairs of the streets, grounds, and roads of this city, in that way converting the President of the United States into a sort of supervisor of roads. It was thought best to put that officer under the charge of this new department.

In addition to that, upon further inquiry, it was found that there really was no supervisory power or control over the officers of the Penitentiary, and probably that was the reason why this institution had been so badly managed. The bill, therefore, at the recommendation of the Secretary of the Treasury, contained another section, putting the control of the Penitentiary under the charge of the new Secretary, and this made up the entire bill so far as it related to the organization of this department.

And here every gentleman would naturally ask—it was the first question usually asked—what was to be the cost of this new organization? Upon that point he had to say, that upon the plan proposed by the Secretary of the Treasury, only two new officers were created for this entire department—a secretary and a clerk; and the result was effected in this way:

The General Land Office, with all its heads, clerks, and machinery—the Pension Office—the Indian Department—the Patent Office, with all their heads, clerks, and machinery, were transferred to this new department, without creating any new clerks; so that the entire expense of this department to the Government would be the salary of the Secretary of the Department and of his chief clerk; that was all. So much for the proposed new department.

The Secretary of the Treasury, in his annual report, in order to give efficiency to the Treasury Department, (the great object contemplated by these changes,) proposed the creation of two new bureaus, or rather offices, in his office; and this bill provided for them also. But that was a matter entirely distinct and independent of the organization of the new department. The bill, in fact, consisted of two distinct branches, both of which were intended to effect the same purpose, but either of which might be passed upon without impairing the other. They both had for their object to give additional efficiency to the existing departments of the Government, and especially to the Department of the Treasury.

The Secretary of the Treasury recommended that an assistant secretary should be provided for that department, whose general duty should be to supervise all letters, all contracts, all warrants, and all other papers that were prepared by the subordinates of the Treasury Department before they were presented to the Secretary of the Treasury for his signature. Now, when the law required the Secretary of the Treasury to put his signature to these papers, it was, as a matter of course, intended that he should exercise a supervisory power over all contracts, warrants, and so forth. From the vast and complicated duties of the Secretary of the Treasury, every gentleman having any business or intercourse with the Treasury Department knew that it was utterly impossible for the Secretary to revise and examine the innumerable papers, contracts, warrants, and other papers of a thousand descriptions presented to him before they were signed by him. It was, therefore, highly proper for the public protection, as well as on account of the unavoidable difficulties experienced in the discharge of these duties, that there should be some officer intervening between the Secretary of the Treasury and the subordinates who prepared these important papers.

This bill proposed the appointment of an assistant secretary, whose special and entire duty it should be to examine all letters, contracts, warrants, and other papers prepared by the subordinates, to supervise them, and to see that they were correct and proper before they were presented to the Secretary of the Treasury for his signature. This assistant secretary, as the Secretary of the Treasury remarked in his report, should be a man possessing the highest talent as well as the best business capacity. And it must be apparent that such an officer would be of vast aid and importance, not only to the Secretary of the Treasury, but to the public. The salary proposed to be given to the assistant secretary was the same as that which was allowed to the auditors of the treasury.

The Secretary of the Treasury further recommended the appointment of an additional bureau of the Treasury Department, which was also provided for by this bill; that was to say, he recommended that the supervisory power over the receipts from the customs, and over the accounts of collectors and other officers of the Government connected with the customs, should be taken from the First Comptroller, and that it should be put under the charge of a new officer, to be called the Commissioner of the Customs.

In looking to the duties of the First Comptroller, as explained in Mayo's Fiscal Department, it would be found that there were not less than twenty-six distinct bureaus; and that if a Commissioner of Customs should be appointed, there would still remain more than twenty bureaus over which the First Comptroller would have charge. Now, when it was recollected that at least nine parts out of ten of all the revenues of the nation were derived from the customs—and probably even more—it must be apparent that a commissioner, whose duty it should be to superintend that vast and complicated machinery, was indispensably necessary to a Government having a commerce so expanded and so expanding as that of the United States.

Already the First Comptroller of the Treasury, as that department of the Government was now organized, independent of these three or four and twenty bureaus, was obliged to have charge over our extended system of custom-houses and custom-house officers connected with the Treasury Department; which, of themselves, were so complicated, that it would require the time and the care of the most efficient officer to discharge the numerous and important duties. It was a fact, probably well known to the members of this House, that the very expenditures of the revenue department, which never appeared on the face of the appropriation bills, were equal to three-fourths of the expenditures of all the civil departments of the Government; that the expenditures of the Treasury Department were in the neighborhood of three millions of dollars, all of which was under the control of the First Comptroller of the Treasury. Innumerable questions arose as to whether goods were to be charged this, that, or the other rate of duty. And he had been informed that often, when merchants made application here, the consequence was, the First Comptroller being overloaded with business, that months passed by before it was possible to get a decision upon questions that ought to be decided in an hour.

The bill proposed to give to the commissioner the same salary as was given to the auditors of the department; and it took away from the First Comptroller the duties connected with the customs, and with the collectors, and all officers connected with the customs; and it transferred all the clerks that belonged to that department, and who were engaged in these duties, to the Commissioner of Customs. The bill proposed to give to the Commissioner of Customs a clerk, so that if it should go into operation, according to the estimates presented by the Secretary of the Treasury, the whole additional expense of creating this department, and of providing these additional officers, would be seventeen thousand five hundred dollars annually. In his annual report, the Secretary said the additional expense would not exceed the sum of twenty thousand dollars; and any gentleman, who knew the vast importance of giving efficiency to these various departments, would consider that sum a matter of no importance.

He believed, that with the explanation he had made, the character of the bill would be understood by everybody. And whoever would read the report of the Secretary of the Treasury would understand its character, its objects, and purposes, without any explanation from himself (Mr. V.) or from any other quarter.

Before he took his seat, he desired to say to the friends of the bill, that if it should not be ordered to be engrossed this day, it was gone for this session, and gone for ever. And the only mode by which the sense of the House could be tested, was for the friends of the bill to refuse to adjourn—to vote against its commitment—to vote against laying it on the table—to refuse to postpone it—and to vote against every motion other than that which would bring the House to a direct vote upon the engrossment. Every other motion would be but an attempt to kill the bill by a side-blow. He made these remarks, so that when such motions were made, if they should be made, the friends of the bill would understand what was their scope, and what would be their effect.

Mr. COBB, of Georgia, said that he had not looked into the merits of this bill. It was impossible that he should have done so. It was impossible for any member, unless he was one of the Committee of Ways and Means who had had an opportunity to see the bill before it had been reported, to give any opinion whatever upon its merits. He apprehended that it was the first time in the history of the legislation of this House where members had been called upon to pass a bill of this character—completely changing, as it did, an important department of the Government—without one single moment having been given for deliberation.

The gentleman from Ohio, [Mr. VINTON,] in his concluding remarks, had said that, with the explanation of the bill which he had given, gentlemen on all sides of the House would be enabled to pass upon its merits. Now, even if he (Mr. C.) had had the pleasure of hearing the argument of the gentleman, he (Mr. C.) denied utterly that members could with any propriety be called upon to vote for a bill of this description upon explanations given even by the distinguished chairman of the Committee of Ways and Means. But it was known that such was the state of confusion existing in the Hall whilst the gentleman was making his remarks, that, with a few exceptions, the members were utterly precluded even from understanding the tenor of his argument. What were the reasons presented by the gentleman in favor of the passage of this bill? He (Mr. C.) asked gentlemen on that side of the House, whose cordial support and coöperation towards the passage of the bill upon that gentleman's statement——

Mr. VINTON interposed, and was understood to remark that he had spoken of the friends of the bill generally, and that he trusted it had friends on all sides of the House.

Mr. COBB continued. He was (he said) about to remark that the gentleman from Ohio seemed to think, from his remarks, that gentlemen on that side of the House should rally to the support of

the bill because it had met his [Mr. VINTON's] favor, and because it had been reported by him, as the head of the Committee of Ways and Means; whilst gentlemen on his (Mr. C.'s) side were to approve and support it because it met the approbation of the Secretary of the Treasury. He (Mr. C.) was not disposed to support any measure of this sort on the recommendation of the one or the approval of the other. He desired to examine it for himself. And he would say to the gentleman from Ohio, and to the friends of the bill, that if, when the motion had been made to suspend the rules, notice had been given that it was their intention to endeavor to force it to a vote, they never could have obtained a vote of two-thirds for its introduction. The House, out of courtesy to the chairman of the Committee of Ways and Means, who, by his position, was known to have charge of the important measures of Congress, was induced to suspend the rules. The nature of the bill was not even mentioned. The House, in the kindest courtesy towards the gentleman from Ohio, and to his position, allowed the bill to come in—a bill, probably, the most important of its kind that had been presented to the consideration of Congress; and gentlemen were called upon to vote upon the question of its engrossment, without having known or heard anything of its merits or details, except from the reading it had had by the Clerk.

The gentleman had called upon its friends not to adjourn until it had been engrossed. Why did he not call upon them to pass it, also? The gentleman well knew, that after the bill had been ordered to be engrossed by a blindfold vote on the part of the House, it was beyond the reach of amendment.

Mr. VINTON interposed with a remark, of which nothing could be heard by the reporter except that he had moved to make the bill the special order of the day for Friday next, and that he believed the gentleman from Georgia [Mr. COBB] had voted against that motion.

Mr. COBB continued. He had, he said, voted against that motion, and he would repeat the vote if the question were again presented; and the vote upon that motion showed the gentleman from Ohio that two-thirds of the members could not have intended that the bill should be put on its passage to-day, since two-thirds were not even willing to make it the special order for Friday next. He (Mr. C.) thanked the gentleman for the suggestion he had thrown out. It confirmed him (Mr. C.) in the correctness of the point he had made. If two-thirds of the members of this House had been willing to place themselves in a position to force the bill to its passage, then they would have gone in favor of making the bill the special order for Friday next. But because the bill had been introduced, and the House was not willing to make it the special order because they desired further time for consideration, and because they were not willing to lay aside all other business for the purpose of taking it up, was that the only justification which the gentleman had for attempting to force it to a vote to-day?

But, at the time he was interrupted by the gentleman from Ohio, he (Mr. C.) was going on to remark that they were called upon to put the bill in a situation where it could not be amended—to put it beyond the power of the House to ingraft any amendment upon it—to place it in a condition to be passed in the form in which it had been presented to the House, or to be defeated, and that, too, without the House understanding its details.

The gentleman from New York, [Mr. WHITE,] at the head of another committee, (on Agriculture,) had asked leave to report a bill of the same kind. The gentleman desired that it might be placed on the same footing with the bill now before the House; that both might be considered, and the merits of each be fairly canvassed. It was due to that gentleman, and to the committee, who were prepared to report the bill which the gentleman said he was ready to report, that it, with this, should go to the Committee of the Whole on the state of the Union, and be printed—in order that the House might act understandingly and advisedly. Why was it that, at this late period of the session, this measure was thus to be hurried through? If it was a measure of such vast importance, if it was necessary to have another Cabinet officer just at this particular period of our history, why was it that the gentleman from Ohio, and the Committee of Ways and Means, who had charge of the subject, and who had had under consideration, from the commencement of the session, the report of the Secretary of the Treasury, had not, until this late hour, reported the bill? Why was it not brought forward at an earlier day? If it was so vastly important, if its principles were so plain and its importance so paramount, that it was to be put upon its passage without consideration or debate, or even without being printed, the gentleman at the head of the Committee of Ways and Means would find it difficult to justify himself for so long delaying to bring the matter to the consideration of the House. He (Mr. C.) would appeal to members on all sides of the House—whether in favor of the general principles of the bill or not—he would appeal to them to put their feet on this movement. It was due to gentlemen on the one, as well as on the other side of the House, that they should not be dragooned into the passage of a bill about which they knew nothing beyond the remarks which had been made by the gentleman who reported it. No report had accompanied the bill. Beyond the explanations which had been given by the chairman of the Committee of Ways and Means, and these explanations heard only by one-third of the members, nothing was known of the bill; and upon these explanations gentlemen were to be called upon to vote; and that, too, whilst another measure covering the same ground, designed for the same purpose, prepared by another committee, was also to be submitted, when an opportunity would be afforded of comparing the relative merits of both—taking what was good from one and the other—and framing from both such a bill as, upon due consideration, might receive the approbation of the House.

He said that the mere fact of adding another Cabinet officer to the Government was not a sufficient justification of this hasty proceeding. From the explanations of the gentleman from Ohio, and which, as he (Mr. C.) had said, were so imperfectly heard, and from the reading of the bill, he understood the whole purport of the measure to be, to add a Cabinet officer to the Government. It changed the Department of the Treasury as well as the Department of State. He did not say that such a measure, when duly considered, and at a proper time, ought not to be passed. But he said that this mode of changing the departments, this hasty mode of carrying on legislation upon questions of such importance, should not receive the sanction of this House, as he knew it could not receive the approbation of the people.

The gentleman had said to the friends of the bill, that unless it was engrossed it would be defeated. If this were so, other measures of equal importance would also be defeated. Let the bill take the fate of all bills which were brought in at the close of a short session of Congress. Let the gentleman from Ohio learn, that if the measure was so important, he who had been at the head of the Committee of Ways and Means during the last session of Congress, when there could have been no reason to inquire into the motive for the introduction of such a bill, could have brought it forward then. But it seemed that, during the last session, the chairman had slept over this important matter, and that he did not then see that the great interests of the country required the creation of another Cabinet officer. The gentleman had slept over it until this late period. He had waked up at the eleventh hour, and desired to wake up this House; or rather, he (Mr. C.) believed the gentleman desired the House to vote upon it whilst still sleeping and dreaming; for it was not to be enlightened as to the merits of the bill. If the country suffered for the want of such a measure, the responsibility rested upon the gentleman from Ohio. It had been recommended to Congress time and again during many Administrations. It had not yet received the favorable action of former Congresses, though the most ample time had been given for investigation. And he could not sanction it at a time when nothing was known of its merits, and when the House was ignorant of the details of the bill.

He pronounced this the strangest proceeding that he had witnessed since he became a member of this body. It was an unparalleled thing that an effort should be made to create so radical a change in one of the most important branches of the Government on the very day on which the measure was introduced. The friends of the bill, the friends of a new Cabinet officer, were rallied by the gentleman from Ohio to vote against adjournment, to vote against all kinds of motions. Let nothing be done, said the gentleman, till we get a new Cabinet officer fairly fixed upon the Government. This fairly and legitimately translated, was the English of his appeal. Against every such movement he (Mr. C.) would go. He condemned it. He trusted the House would condemn it. It deserved to be condemned. He did not wish to be understood as avowing himself against the principles of the bill. At a proper time, when he had had an opportunity to examine into details, he might be in favor of the reorganization of the departments. There might be good reasons for such a proceeding. Good reasons had been urged heretofore. They had had their full influence. And he desired to understand the details of the measure, and the extent to which they were to go, before he could give his vote for a bill of this importance.

Mr. BRODHEAD. What is the motion pending? To refer the bill to the Committee of the Whole on the state of the Union?

The SPEAKER. To refer to the Committee of the Whole on the state of the Union.

Mr. BRODHEAD said he could not concur in all that had been said by the gentleman from Georgia, who had just taken his seat. He could not think that his complaints against the Committee of Ways and Means were very well founded. The gentleman complained that this measure had not been brought before this House at the last session of the present Congress by the chairman of the Committee of Ways and Means. The answer to that was, that the Secretary of the Treasury, and those having charge of the public interests at the executive department had not then recommended it. He considered that a very good answer. If any complaint was to be made, it should be against those at the other end of the avenue. He believed this was a good measure—at any rate in its principles; but he did not wish to vote upon it to-day. The gentleman from Georgia said he did not know that he was opposed to the principles of this bill. He (Mr. B.) was in favor of it. It had been pending before this House since the opening of the session. Gentlemen had therefore considered it, at any rate they ought to have considered it, because the Secretary of the Treasury had brought it to the attention of the House at the opening of the session. The chairman of the Committee of Ways and Means informed this House, upon the introduction of the bill this morning, that shortly after the meeting of Congress, in December last, he called upon the Secretary of the Treasury to give to this House his plan in the shape of a bill. That bill had not come from the Treasury Department until a few days since. It therefore could not have been presented to this House until this time.

Mr. VINTON interposed, and (the floor having been yielded) explained that he had not stated whether he called upon the Secretary of the Treasury immediately after the meeting of Congress or not. The facts were these: the Committee of Ways and Means, in the first place, had felt it to be their duty to prepare the necessary appropriation bills. He spoke of the great amount of labor and time which the committee had devoted to them, and said, as soon as the appropriation bills had been prepared this subject had been taken up, and not before; and when it was taken up under the direction of the Committee of Ways and Means, he had called upon the Secretary of the Treasury. A month or more of the session had passed before he had called upon that officer, because during that time he had been engaged, and the committee had been engaged, in business more indispensable. Every gentleman knew the rule of the House required the Committee of Ways and Means to report the general appropriation bills in thirty days after the commencement of the session, and at this short session they should have been reported as early as that at all events.

Mr. BRODHEAD resumed. This bill came from the proper place—from the Secretary of the Treasury, who had had this measure under consideration for some time past. It came from an officer peculiarly qualified to prepare it. He (Mr. B.) did not pretend to say it was perfect in all its details. He did not care if it did at this juncture create an additional Cabinet officer, if the interests of the country required it. He believed the Government had outgrown the offices, as they were organized some time since.

Mr. COBB, of Georgia, (in his seat.) It has not outgrown the applications for office.

Mr. BRODHEAD, (continuing.) Although it had not outgrown the applications, those at the head of the departments could not discharge their duties as they ought to be discharged. Although the bill might create an additional Cabinet officer, if the interests of the country required it at this time, he was willing to go for it; and he believed, if the Democratic party came into power—as they certainly would—they would be willing to avail themselves of it.

He did not wish to vote upon the bill to-day. He thought the motion of the chairman of the Committee of Ways and Means to postpone the bill to Friday was the proper one; and gentlemen on this side of the House had no right to complain, if they refused to set apart a day for its consideration, if they were called to vote upon it to-day.

He would inquire of the Speaker if it would be in order to move to postpone the further consideration of the bill till Thursday, and that it be printed?

The SPEAKER replied, that the motion would be in order, and would have priority over the motion to refer.

Mr. VINTON. I suggest to the gentleman that he so modify his motion as to continue the special order from day to day until disposed of.

Mr. BRODHEAD. I make that motion, and I demand the previous question.

The SPEAKER. The previous question, if seconded, would cut off the motion to postpone, and bring the House to vote first upon the reference of the bill.

Mr. BRODHEAD. I withdraw the demand for the previous question, then.

The question being on the motion to postpone and print—

Mr. WENTWORTH inquired if the motion was divisible?

The SPEAKER replied that it was, and that the motion to postpone would only require a majority to pass it.

Mr. WENTWORTH was understood to call for such division.

Mr. JOHNSON, of Arkansas, suggested that if the bill were postponed until Thursday, it would come in conflict with the business provided for in the rule recently adopted on his motion, which required the calendar of the Committee of the Whole on the state of the Union to be called over every Thursday, that the committee might act upon such bills as were not objected to. He hoped gentlemen would not change the order of busines for that day. It would be doing injustice to gentlemen on all sides of the House.

The SPEAKER suggested to Mr. BRODHEAD that if he wished again to try the question of postponing the bill to Friday, it might be done by moving to reconsider the vote by which that motion had been rejected.

Mr. BRODHEAD thereupon withdrew the motion to postpone until Thursday, and moved to reconsider the vote by which the motion of Mr. VINTON to postpone it till Friday, and make it a special order, had been rejected.

Mr. JONES, of Tennessee, inquired if the gentleman from Pennsylvania voted with the prevailing side upon that question?

Mr. BRODHEAD replied that he did not. Of course, he could not therefore make the motion.

Mr. PECK (who had voted with the prevailing side) moved to reconsider the vote.

Mr. STANTON said he desired to say, in a very few words, that he was among those who had voted for making this bill a special order——

Mr. WENTWORTH. Is the motion to reconsider debatable?

The SPEAKER replied that it was debatable only within very narrow limits; that debate must apply to the question of postponement, and not to the merits of the bill.

Mr. STANTON (resuming) said he was going to remark, that he was among those who had voted for making the bill the order of the day for Friday next, and he thought upon the argument presented by the gentleman from Georgia himself, that this bill ought to be made the order of the day for some particular time. He understood the gentleman in his argument to admit that the subject was an important one, and that some action was necessary upon it. He would agree with the gentleman in voting against this bill, if it should be passed to a conclusion at this time, for he was not at all familiar with its provisions, he did not know their extent and character, and he would be voting in the dark. He should rather vote against it than for it, under these circumstances. But he did not see how any gentleman who admitted it to be important, and that he was not against the principles of the bill, could refuse to take it up at some reasonable time and consider it.

Mr. COBB (interposing) said there might be many good reasons. One was, that there were other important measures sufficient to occupy the attention of the House during the remainder of the session, and which had precedence over this bill, not only in the order of business, but in the importance of their provisions.

Mr. STANTON admitted that there were other very important measures, but he doubted whether the most important measure of this session would be acted upon. If it should be acted upon efficiently, it could be disposed of in a very short time. If this bill ought to be passed, if the necessity of the case was such as to require the establishment of this new department, he apprehended it would require but a short time. But gentlemen should give them time to look into the bill and examine its provisions. It might be true that it would give to gentlemen on the other side of the House another office or more to dispose of, but they would be in need of them and a great deal more before they could satisfy the numerous aplicants for office, who he supposed were already pressing their claims.

Mr. HAMMONS interrupted, with a point of order, contending that the gentleman was transcending the limits of debate allowed under the rule.

The SPEAKER reminded the gentleman that upon this motion remarks were not in order upon the merits of the bill, but that they must be confined to the question of postponing to a particular day.

Mr. STANTON (resuming) desired to say in a few words, in conclusion, that the question whether this bill would give to the incoming Administration the appointment of a few additional offices or not, was not the question which operated upon his mind. It was, whether the necessities of the Government required the creation of these officers. If, upon the consideration of the bill, it appeared that they were required, he should vote for it, whoever might have the appointment of the officers.

Mr. VINTON desired to say one word. The House had already expressed its opinion against making this a special order. If they reconsidered the vote, the question returned, and the probability was, that they would have a motion to divide the question, so as to vote first on the postponement, and then on the special order. Now, if a majority of the House voted for the postponement, and then two-thirds did not vote to make it a special order, there was an end of the bill.

On the other hand, if a majority of the House voted against postponing, the special order fell as a matter of course. He was very sure, under these circumstances, that to reconsider the vote would be to involve themselves in difficulty under which the bill would fall. He thought, therefore, that they should hold on to the bill, and take the question upon its engrossment to-day.

Mr. PECK said he had made the motion to reconsider, in perfect good faith. He had voted against the motion to make it a special order on Friday, for the reason that he did not believe that there was time during the remainder of this short session, properly to consider so important a measure. But he had become satisfied, by the vote of the House upon the motion, that the majority of the House were probably ready to force the bill through this day, even without allowing gentlemen an opportunity to become acquainted with the details of the bill. He had therefore changed his opinion, and now thought it was better to have even the short time between this and Friday, and have the bill printed, that gentlemen might be enabled to examine it. He hoped, therefore, that gentlemen on this side of the House, who desired time to examine the bill, if that was the true reason which governed their vote, would vote in favor of the reconsideration of the bill, and then vote with gentlemen on the other side to make it a special order for Friday next, as he should do himself.

Mr. VINTON suggested to the gentleman that he would better accomplish his purpose by allowing the bill to be engrossed to-day. If that vote was taken, he would move to reconsider it, and let the motion lie over, so that the gentleman and the House would have the opportunity to examine the bill, and vote upon the reconsideration after full time had been given to look into all its details.

Mr. PECK said he understood that the bill would not then be open to amendment.

Mr. VINTON replied that it would be. If the House reconsidered the engrossment, the bill would then stand precisely where it was now.

The House would understand that he proposed that the bill should be ordered to be engrossed, and then to move to reconsider that vote, and allow that motion to lie over upon the Speaker's table for the future action of the House.

In the mean time the gentleman could examine the bill in all its details, and if the House were dissatisfied with it, they could vote to reconsider the engrossment, and amend it or dispose of it at their pleasure.

Mr. PECK said that the gentleman could give no assurance, if it was engrossed, that the vote would be reconsidered.

Mr. HARALSON, remarking that he saw no necessity for further discussion upon the question of reconsideration, moved the previous question.

The previous question was seconded, and the main question was ordered.

Mr. CLINGMAN inquired if a motion to lay the motion to reconsider on the table was in order?

The SPEAKER replied that it was.

Mr. CLINGMAN made that motion.

Mr. ROCKWELL, of Connecticut, inquired what would be the effect of the motion?

The SPEAKER replied that it would be simply to lay the motion to reconsider upon the table, leaving the bill before the House.

The question was taken, and the motion to reconsider was laid on the table.

The question recurring on the motion of Mr. COBB to commit the bill—

Mr. WHITE inquired whether the bill was now before the House?

The SPEAKER. It is.

Mr. WHITE. And open to amendment?

The SPEAKER. Not while the motion to commit is pending.

Mr. WHITE. I desire, when the bill comes up for consideration, to move, as an amendment, the bill which I reported from the Committee on Agriculture.

Mr. WENTWORTH rose and said he would move the previous question, and demanded the yeas and nays. He was not, however, recognized by the Chair, but the floor was given to—

Mr. ASHMUN, who inquired what would be the effect of the previous question?

The SPEAKER. To bring the House to vote first upon the motion to commit, and then, if that motion is rejected, upon the engrossment of the bill.

Mr. ASHMUN moved the previous question.

Mr. WENTWORTH moved a call of the House.

Mr. McLANE. Do I understand that the effect of the previous question would be to cut off all amendments?

The SPEAKER again stated that the previous question, if sustained, would bring the House to vote first on the motion to commit, and that failing, upon the engrossment of the bill.

Mr. WENTWORTH asked the yeas and nays on his motion for a call of the House.

The yeas and nays were not ordered, and the motion was rejected.

The previous question was seconded, and the main question was ordered, (being first on the motion of Mr. COBB to refer the bill to the Committee of the Whole on the state of the Union.)

Mr. COBB asked the yeas and nays; which were ordered.

The question was taken, and the vote stood—yeas 77, nays 109—as follows:

YEAS—Messrs. Atkinson, Bayly, Beale, Bedinger, Bingham, Birdsall, Bocock, Bowlin, Boyd, Bridges, William G. Brown, Burt, Chase, Franklin Clark, Howell Cobb, Williamson R. W. Cobb, Collins, Cummins, Daniel, Darling, Faran, Featherston, Ficklin, French, Frick, Goggin, W. P. Hall, Hammons, Haralson, Harmanson, Harris, Henley, Hill, G. S. Houston, Iverson, Jenkins, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Latum, La Sere, Sidney Lawrence, Leffler, Lumpkin, McClelland, McClernand, McLane, McQueen, Job Mann, Meade, Miller, Morris, Morse, Peaslee, Peck, Pettit, Peyton, Phelps, Pilsbury, Rich-

ardson, Richey, Rockhill, Sawyer, Shepperd, Robert Smith, Starkweather, Charles E. Stuart, R. A. Thompson, Turner, Venable, Wallace, Wentworth, Wick, Wiley, Williams, and Woodward—77.

NAYS—Messrs. Abbott, Adams, Ashmun, Barringer, Barrow, Belcher, Blackmar, Botts, Boyden, Brady, Brodhead, Buckner, Butler, Cabell, Canby, Chapman, Clapp, Clingman, Cocke, Cranston, Crisfield, Crowell, Crozier, Dickey, Dixon, Donnell, Duer, Garnett Duncan, Dunn, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, Fulton, Gaines, Gayle, Gentry, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Haskell, Henry, Elias B. Holmes, J. W. Houston, Hubbard, Hudson, Hunt, Charles J. Ingersoll, Kellogg, Thomas Butler King, Daniel P. King, William T. Lawrence, Levin, Lincoln, Maclay, McIlvaine, Horace Mann, Marsh, Marvin, Morehead, Mullin, Murphy, Nelson, Newell, Nicoll, Outlaw, Palfrey, Pendleton, Petrie, Pollock, Preston, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Roman, Rumsey, St. John, Schenck, Sherrill, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Stanton, Andrew Stewart, Strohm, Strong, Tallmadge, Taylor, Richard W. Thompson, Thurston, Tompkins, Toombs, Van Dyke, Vinton, Warren, White, and Wilson—109.

So the House refused to commit the bill.

The question then recurred on ordering the bill to be engrossed for a third reading, (the previous question being still in operation.)

Mr. McLANE appealed to the gentleman from Massachusetts [Mr. ASHMUN] to withdraw the demand for the previous question, in order to admit of amendments being offered.

The SPEAKER said, it was not in the power of any gentleman now to withdraw the demand for the previous question. The question was on ordering the bill to be engrossed.

Mr. COBB, of Georgia, asked the yeas nays on that question, which were ordered, and being taken, resulted—yeas 111, nays 76—as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Barringer, Barrow, Belcher, Blackmar, Blanchard, Boyden, Brady, Brodhead, Buckner, Butler, Cabell, Canby, Chapman, Clapp, Clingman, Cocke, Collamer, Cranston, Crisfield, Crowell, Crozier, Dickey, Dixon, Duer, Garnett Duncan, Dunn, Eckert, Edwards, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, Fulton, Gaines, Gayle, Gentry, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Haskell, Henry, Hilliard, Elias B. Holmes, John W. Houston, Hubbard, Hudson, Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, Kellogg, Thomas Butler King, Daniel P. King, William T. Lawrence, Lincoln, Maclay, McIlvaine, McLane, Horace Mann, Marsh, Morehead, Mullin, Murphy, Nelson, Newell, Nicoll, Outlaw, Palfrey, Pendleton, Petrie, Pollock, Preston, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Roman, Rumsey, St. John, Schenck, Sherrill, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Stanton, Andrew Stewart, Strohm, Strong, Tallmadge, Taylor, Thibodeaux, R. W. Thompson, Thurston, Tompkins, Toombs, Van Dyke, Vinton, Warren, White, and Wilson—111.

NAYS—Messrs. Atkinson, Bayly, Beale, Bedinger, Bingham, Birdsall, Bocock, Boyd, Bridges, W. G. Brown, Burt, Cathcart, Chase, Franklin Clark, Howell Cobb, W. R. W. Cobb, Cummins, Daniel, Darling, Donnell, Faran, Featherston, Ficklin, French, Fries, Goggin, W. P. Hall, Hammons, Haralson, Harmanson, Harris, Henley, Hill, George S. Houston, Iverson, Jenkins, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Lahm, La Sere, Sidney Lawrence, Leffler, Lumpkin, McClelland, McClernand, McQueen, Job Mann, Meade, Miller, Morris, Morse, Peaslee, Peck, Pettit, Peyton, Phelps, Pilsbury, Richey, Rockhill, Sawyer, Shepperd, Smart, Robert Smith, Starkweather, Charles E. Stuart, Robert A. Thompson, Turner, Venable, Wallace, Wentworth, Wick, Wiley, Williams, and Woodward—76.

So the bill was ordered to be engrossed.

Mr. VINTON said, that in order to give the members of the House an opportunity to examine the bill, he would move to reconsider the vote by which it had been ordered to be engrossed, and he would also move that the bill be printed.

Mr. WENTWORTH suggested that the bill should stand as it now was, and that it should be printed.

Mr. VINTON said he preferred that the motion to reconsider should lie over by general consent.

Mr. WENTWORTH. But the Chair was about putting the question.

The SPEAKER. No, sir.

Mr. STANTON said that his object in voting as he had done, in favor of the engrossment of the bill, was that he might move a reconsideration of the vote, with the expectation of having an opportunity to examine the provisions of the bill.

By general consent, the motion to reconsider went over, and the bill was ordered to be printed.

Mr. WHITE inquired, whether the bill and report which he had presented would go with the other bill?

The SPEAKER. The gentleman proposed a bill, accompanied by a report from the Committee on Agriculture. There seemed to be no objection to the bill and report being received; and they would take the same direction with this bill so far as might be without taking a vote. In that event, it would be understood that the printing of that bill also would be ordered.

No objection was made.

SWAMP LANDS IN MISSISSIPPI.

Mr. FEATHERSTON asked unanimous consent (or, that being refused, moved that the rules of the House be suspended to enable him) to introduce a bill of which previous notice had been given.

No objection having been made—

Mr. FEATHERSTON introduced a bill to aid the State of Mississippi in reclaiming the swamp lands therein.

The bill having been read twice by its title —

Mr. FEATHERSTON said, that as it was one in which all the States were interested, he would move its reference to the Committee of the Whole on the state of the Union, and that it be made the special order for the 20th instant.

The SPEAKER said, that if there was no objection, the reference would be made. The motion for a special order would require a vote of two-thirds.

By general consent, the bill was referred to the Committee of the Whole on the state of the Union.

The question then recurring on making the bill the special order—

Objection was made.

And the question was taken, and (two-thirds not voting in the affirmative) it was decided in the negative.

So the bill was not made the special order.

Mr. FEATHERSTON then, by general consent, changed the reference from the Committee of the Whole on the state of the Union to the Committee on Public Lands.

MEXICAN CLAIMS.

Mr. SMITH, of Connecticut, under instructions, he said, from the Committee on Foreign Affairs, moved that Senate bill No. 313, being an act to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico, of the 2d of February, 1848, be made the special order of the day.

Mr. S. said that this was a bill raising a commission to decide upon Mexican claims; and it was of high importance that it should be passed upon during the present session. He would, therefore, under the instructions which he had mentioned, designate Wednesday next for its consideration.

The SPEAKER. The motion will require a vote of two-thirds.

Mr. HALL of Missouri, asked for the reading of the bill. He wished, he said, to vote understandingly.

The SPEAKER. The title of the bill will be read.

Mr. CUMMINS rose to a question of order. Under the rule of the House, this day was set apart for the call of the States for resolutions.

The SPEAKER. And motions to suspend the rules are also in order on this day.

A brief conversation followed between Mr. CUMMINS and the SPEAKER.

Mr. SMITH said he would so modify his motion as to designate Tuesday of next week instead of the day he had mentioned.

The SPEAKER. The motion involves a suspension of the rules; and two motions will be requisite, (except by common consent,) one to suspend the rules to allow the motion to be made, and the other on the motion itself.

Objection was made.

Mr. HALL again asked for the reading of the bill; and it was read by its title.

Mr. H. inquired if he had not a right to call for the reading of the bill itself?

The SPEAKER said, the title only could be read, except by order of the House.

Mr. SMITH was understood to say, it might answer the purpose which the gentleman from Missouri [Mr. HALL] had in view, by the reading of the bill, to state that it proposed to create a commission to adjust Mexican claims.

Mr. HALL said, that gentlemen on the other side of the House seemed to be determined that no bill should be passed unless its provisions were so shaped as to benefit themselves especially, and to get the offices. [Laughter.] Gentlemen might laugh. They could not laugh him out of his position. If a proposition was made in the bill to defer its operation until after the 4th of March, he would not vote for it.

Mr. HOUSTON, of Alabama. Well, let us make it a special order, at all events.

The SPEAKER then stated the question.

The rules of the House were suspended to enable Mr. SMITH to make his motion; and that motion having been made and agreed to—

The bill was made the special order of the day for Tuesday week.

PENSIONS TO OFFICERS AND SOLDIERS OF THE MEXICAN WAR.

Mr. HARALSON asked leave to offer the following joint resolution:

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That in all applications for pensions by the widows of deceased soldiers under the act of July 21st, 1848, the returns on the rolls of the disease of which the soldier died, and the official opinion of the Surgeon General founded thereon, that from the nature of the disease it was contracted while the soldier was in the line of his duty, shall be considered satisfactory evidence thereof, without the proof now required at the Pension Office; and that it shall be the duty of the Commissioner of Pensions, in all cases of application for pensions under said act, to apply to the proper officers for said evidence, without requiring the applicants to furnish the same.

Mr. COCKE objected.

Mr. HARALSON, by leave, briefly explained the object of the resolution, and said he thought, when it was understood, the objection would be withdrawn. Under the act of 21st July, 1848, which gave pensions to the widows of deceased officers and soldiers of the Mexican war, a regulation had been adopted at the Pension Office which made it necessary for the applicants to prove that the deceased officers and soldiers died of diseases contracted in the line of their duty. Now, it was an extremely difficult matter for the applicant, in many cases, to get hold of this evidence, although the evidence was in the possession of the War Department. The object of the resolution was, to require the Commissioner of Pensions to refer those applications to the Adjutant General's office, where was the evidence how the deceased officers and soldiers died, and then to the Surgeon General, for his opinion as to whether the death was occasioned by disease contracted in the line of their duty. This was the highest evidence that could be adduced, and would save the widows the necessity of sending off to remote sections of the Union, to obtain from officers (who in many cases knew nothing of the nature of the disease) that evidence which was in the possession of the department, and which justice to the widow and orphan required should be brought to light, and made use of. He trusted the objection would be withdrawn.

The question having been taken, the rules were suspended and the resolution was received, and read a first and second time.

Mr. HARALSON moved the previous question.

Mr. CUMMINS inquired if the previous question would cut off the motion to refer?

The SPEAKER replied that it would not if that motion had been made.

Mr. CUMMINS inquired if it could be made before the previous question was seconded?

The SPEAKER replied that it could not while the motion for the previous question was pending.

The previous question was seconded, the main question ordered, and the joint resolution was ordered to be engrossed.

On motion of Mr. HARALSON, a motion to reconsider the engrossment was laid on the table.

No objection being made, the resolution was read a third time, and,

On motion of Mr. HARALSON, under the operation of the previous question, it was passed.

On motion of Mr. HARALSON, a motion to reconsider the vote was laid on the table.

Mr. COCKE asked and obtained leave to report from the Committee on Revolutionary Pensions, a bill granting five years half-pay to certain widows and orphans of officers, non-commissioned officers, musicians, and privates, both regulars and volunteers; which was read twice.

He said that some time since the Committee on Revolutionary Pensions, by resolution of the House, had been instructed to inquire into the expediency of making further provision for the widows of deceased officers and soldiers. They had had the subject under consideration, and had directed him to report this bill. He would briefly explain it, and he was sure there could be no objections to its passage. The act of 21st July,

1848, limited pensions to the widows of all such officers and soldiers as were killed in battle in Mexico or died of the wounds received, or of diseases contracted in the line of their duty, provided they died before their arrival home. In many instances, officers and soldiers had died a day, or a few days after their return, and under the operation of the law their widows were cut off from pensions; while, if they had died a day or two before, the pension would have been granted. The bill merely extended the benefit of the act of 21st July, 1848, to the widows of all such officers and soldiers as died after their return to the United States, in consequence of diseases contracted in the line of their duty. He trusted that no objection would be made to the bill.

Mr. KAUFMAN inquired whether the bill had undergone the examination of the Committee on Pensions.

Mr. COCKE replied, that he had reported it under the direction of that committee, under whose instructions he now moved the previous question.

Mr. HALL, of Missouri, appealed to the gentleman to withdraw the previous question, to enable him to offer an amendment to include the widows of those officers and soldiers who had served in the Indian territory, and who (he said) were equally entitled to pensions.

Mr. COCKE said, with every disposition in the world to accommodate the gentleman from Missouri, he did not feel authorized to comply with the gentleman's request, as the committee had not had under consideration that subject, but had directed him to report this bill, with the simple object of remedying a defect in the law of 1848.

The bill having been read—

The previous question was seconded, and under its operation, the bill was ordered to be engrossed, read a third time, and passed.

On motion of Mr. COCKE, a motion to reconsider the vote just taken was laid on the table.

PAY DEPARTMENT OF THE ARMY.

Mr. BURT moved that the Committee of the Whole on the state of the Union be discharged from the consideration of the bill which had been reported from the Committee on Military Affairs, to reorganize the Pay department of the army. The House, he said, would remember that, at the last session of Congress, a law had passed suspending the laws which had been enacted during the existence of the war with Mexico, in relation to the Pay department of the army. He was authorized by the Committee on Military Affairs to assure the House that legislation on the subject of that department was absolutely indispensable during this session of Congress.

He had risen to ask the House, inasmuch as the bill contained no appropriation, that the committee be discharged from its further consideration, and that it lie upon the Speaker's table. He did not ask that the bill be now put upon its passage.

No objection being made, the Committee of the Whole on the state of the Union were discharged from the further consideration of the bill, and it took its place upon the Speaker's table.

MILEAGE AND PER DIEM TO MR. BOTTS.

Mr. SCHENCK moved a suspension of the rules, to enable him to offer the following resolution:

Resolved, That the Clerk be directed to pay to John M. Botts, out of the contingent fund of this House, per diem and mileage from the fourth day of December, 1843, to the sixth day of June, 1844, inclusive, during which time said Botts was attending on the House, and before the Committee of Elections, contesting the seat of John W. Jones, a Representative from Virginia in the 28th Congress.

Mr. JONES, of Tennessee, asked the yeas and nays; which were not ordered.

The question having been taken, the rules were suspended, and the resolution was received.

Mr. SCHENCK said he did not wish to detain the House with any remarks. He would, however, state that he was the only surviving member on this floor of the Committee on Elections, who originally had this case under consideration; that it was the opinion of that committee that the claim ought to be allowed in the same manner as the claim of Mr. Goggin had been allowed at the same session. He (Mr. S.) had attempted to get in a resolution for that purpose at the close of the session, which had been overrode by other matters. He had also made the effort to attach it as an amendment to the general appropriation bill. The chairman of the Committee of the Whole on the state of the Union, at that time—as other chairmen sometimes did—had ruled it out of order, overlooking the fact that the claim of Mr. Goggin had been passed in that way. He knew the claim to be just. He demanded the previous question.

Mr. BRODHEAD suggested to the gentleman to modify his resolution, so as to include similar compensation to his colleague, [Mr. C. J. INGERSOLL,] who contested, and successfully contested the seat of Mr. Naylor, in the 27th Congress.

After a word of conversation between Mr. FARAN and Mr. SCHENCK, in which the former was understood to refer to opposition which had been made by him to the allowance of this claim at a former session, and to say that upon subsequent examination he had changed his mind, and now considered that it should be allowed.

The previous question was seconded, and the main question ordered.

Mr. MURPHY asked the yeas and nays on the adoption of the resolution, which, by tellers, were ordered, and being taken, were—yeas 106, nays 56.

So the resolution was adopted.

Mr. SCHENCK moved to reconsider the vote, and that that motion be laid on the table.

No objection having been made, it was ordered accordingly.

THE WILMOT PROVISO, ETC.

Mr. WALLACE rose, and asked the general consent of the House, at this time, to present certain joint resolutions of the Legislature of South Carolina.

No objection being made, Mr. WALLACE presented the joint resolutions, as follows:

The Joint Committee of the Senate and House of Representatives upon Federal Relations, to which were referred so much of the Governor's message as relates to the agitation of slavery, and sundry resolutions upon the same subject, beg leave to report the following resolution, as expressing the undivided opinion of this Legislature upon the Wilmot proviso, and all similar violations of the great principle of equality which South Carolina has so long and so ardently maintained should govern the action of the States and the laws of Congress upon all matters affecting the rights and interests of any member of this Union:

Resolved, unanimously, That the time for discussion by the slaveholding States as to their exclusion from the territory recently acquired from Mexico has passed, and that this General Assembly, representing the feelings of the State of South Carolina, is prepared to coöperate with her sister States in resisting the application of the principles of the Wilmot proviso to such territory, at any and every hazard.

Resolved, unanimously, That the Governor be requested to transmit a copy of this report to the Governors of each of the States of this Union, and to our Senators and Representatives in the Congress of the United States.

Mr. W. said he was aware that debate was not allowed on an occasion of this kind. Gentlemen on this floor would do him the justice to admit that during the brief period he had had the honor of a seat here, he had trespassed very little on the time of the House. He asked the indulgence of the House whilst he made a few remarks in explanation of these resolutions.

The SPEAKER said if there was no objection, the gentleman would proceed.

No objection was made.

The reading of the resolutions was called for, and they were read.

Mr. WALLACE was about to proceed with his remarks.

Mr. CUMMINS asked leave to offer a resolution of inquiry.

Mr. WALLACE said he would not detain the House many minutes.

The SPEAKER said the House by unanimous consent had read the resolutions of the Legislature of South Carolina, and the gentleman from South Carolina was entitled to the floor.

A brief conversation followed on a point of form, touching the resolution, between Mr. COLLAMER and the SPEAKER.

Mr. WALLACE being about to proceed—

Mr. GIDDINGS rose to a question of order. Did he (he inquired) understand that the subject was debatable?

The SPEAKER said, Clearly not, without unanimous consent.

Mr. GIDDINGS. As a member of the House, I cannot——

[Cries of "Too late, too late."]

The SPEAKER. The Chair distinctly announced that the gentleman from South Carolina [Mr. WALLACE] could go on by unanimous consent. That consent was given.

Mr. GIDDINGS. I did not know it.

The SPEAKER. The gentleman from South Carolina will proceed with his remarks.

Mr. WALLACE then addressed the House as follows:

Mr. SPEAKER: I rise, sir, as I have stated, to present to this House certain resolutions, which were unanimously passed by the General Assembly of the State of South Carolina, in December last, in reference to the introduction of slavery into the territorial districts of the United States; and I avail myself of the opportunity thus afforded me to express my cordial concurrence in the principles they assert and the sentiments they express.

I claim, sir, to know something of the people whose representatives have passed these resolutians, and sent them here. They need no eulogy of mine. That eulogy which is their due is written upon the page of our country's history, in every trying scene through which that country has passed; and I feel, sir, that I can stand upon this floor, in presence of the assembled representatives of this Federal Union, and point with patriotic pride to the records of that history to prove the fact, that in every period of their political existence, they have, both at home and abroad, in peace and in war, in the cabinet and the field, given the very highest evidence which patriots can give of their devotion to the Constitution, and for the preservation of which they are at all times ready to lay down their lives. And I hesitate not to declare, that it is this very devotion of the people of South Carolina to the Constitution, and to the fundamental principles of political and civil liberty, which it guaranties alike to all, that has prompted their representatives to pass the resolutions which I now have the honor to present.

It would, Mr. Speaker, be a very great error to suppose that these resolutions were passed without due consideration, in a moment of excitement; that they are merely the result of a hasty ebullition of feeling without sufficient cause, and that the grave and important resolve therein embodied will be abandoned the moment this feeling of excitement shall have passed away.

Knowing as I do the cause which led to their enactment, it is due alike to truth and to candor, that I should assert, as my deliberate opinion, that the people of South Carolina will never abandon the position assumed by these resolutions, and that they will never submit to the enforcement of what is called the Wilmot proviso.

It is due, sir, to myself and to this House, that I should disavow, as I do, all intention of uttering a sentence or a word, with the view to intimidate or to threaten. To do either the one or the other, would not only be incompatible with that respect which is due to this House, but would be equally unsuited to the dignity and spirit of the people I represent.

It is my desire "to speak the words of truth and soberness" only, upon a subject the most grave and momentous which has ever been agitated within this Hall. The truth can be no longer disguised that we are approaching a most fearful conjuncture—a conjuncture which involves the very existence of the institutions under which we live; and he who attempts to disguise this truth is an enemy to his country, and to the best interests of mankind.

The greatest political wisdom, the most exalted public virtue, are now demanded, and their most active energies invoked, to avert, if it be possible, the impending dangers which hang, dark and ominous like a funeral pall, over our future history.

The history, sir, of every age of the world teaches us, that power unchecked and uncontrolled is incompatible with the existence of human liberty; it goes on from one step of misrule to another, until the liberties of the people are swallowed up in the vortex of despotism. In absolute governments, revolution is the only mode by which the tyrant can be overthrown. In limited monarchies like that of England, the House of Commons—the taxing power—can compel reform by withholding the supplies which are necessary to the administration of the affairs of government. But the Government under which we live differs widely from both of these. Our Government is twofold. *It is a government of the whole, and also a government of integral parts; and the great end for which the government of the whole was formed, is to protect and defend the parts, and not to subjugate and destroy them;* and when the Government of the whole fails to accomplish the end for which it was created, and threatens to destroy that which it was formed to save, it becomes a most important subject of

inquiry. What conservative principle must be resorted to, in such an emergency to interpose an effectual check to the tyranny of an absolute majority, which overrides the Constitution, and puts in peril the liberties of the people, by converting a Federal Republic of sovereign and equal States into a consolidated despotism, against whose acts of aggression upon the most sacred rights of the minority of co-States the Constitution no longer affords even a feeble barrier? In such a case, when the ends for which the Government was formed are no longer regarded with respect; when the Constitution is virtually repealed; when the sovereign and equal parties who created it are threatened, as they now are, with subjugation and overthrow, there is but one way to bring back the Government to the principles upon which it was formed, and thereby to restore the Constitution to its position of paramount law, and to save the Union from anarchy and revolution.

The States themselves—the sovereign parties to the compact of Union, whose rights are assailed, and whose very existence is threatened—are bound to throw themselves into the breach, in their sovereign character; *not to destroy, but to save.* If the effort be successful, the Government will be reformed; revolution averted; and the Constitution and the Union saved. If the effort fails, the minority of States will be thrown back upon the law of self-preservation, and the *duty to save themselves becomes paramount to all other considerations.*

Sir, there are those, myself among the number, who believe that the hour is rapidly approaching when the minority of sovereign parties to the compact of Union must act—upon the principles, and to attain the great ends, to which I have referred; not by their representatives in this Hall, for that security has already most signally failed, but in their sovereign character out of this Hall, to arrest the progress of aggressions that have already been borne until forbearance has ceased to be a virtue. And the friends of the Constitution and the Union are called upon, by every consideration of that duty which a patriot owes to his country, to come to the rescue, and to save from desecration and violation the fairest fabric of human freedom ever erected by fallen man.

These, Mr. Speaker, are the high considerations which, in my judgment, impelled the Legislature of South Carolina to pass the resolutions now presented to the consideration of this honorable body; and if it be true, as many wiser heads than mine believe, that this struggle, so important in its principles and results, must come, I take this occasion, once for all, to declare that I am not in favor of throwing upon the rising generation the continually increasing responsibility and peril of the conflict. To do this would be to evade the highest obligations of duty, and to act the part of a coward. *It is our cause and our duty now,* and we have no right to leave to our children and to posterity an inheritance so fraught with ills and so full of danger.

Our duty is plain. There is nothing so terrible to the independent mind as a tame and cowardly submission to insult and wrong. A people who understand and appreciate the obligations of truth, of justice, and of duty, will act in conformity to the high sanctions of them all, without looking to consequences.

Mr. W. having concluded—

The SPEAKER inquired what disposition the gentleman proposed to make of the resolutions?

On motion of Mr. WALLACE, the said resolutions were laid on the table, and ordered to be printed.

Mr. HUDSON asked leave to offer a resolution.

Mr. ASHMUN addressed the Speaker, and said he rose upon the other motion made by the gentleman from South Carolina, [Mr. WALLACE.]

The SPEAKER. Does the gentleman propose to debate that question?

Mr. ASHMUN was understood to say that he did.

The SPEAKER stated that the gentleman must have special liberty to proceed.

Mr. ASHMUN. The motion, I understand, is to print the resolutions.

The SPEAKER. The motion is not debatable to-day, as memorials and resolutions of State Legislatures cannot be discussed except by general consent, or by suspension of the rules the day on which they are offered.

Mr. ASHMUN. I do not intend to debate it. I merely ask that the first line of the first resolution be read.

Mr. McLANE objected.

Mr. WENTWORTH rose (he said) to a point of order. The gentleman from South Carolina [Mr. WALLACE] had asked the indulgence of the House to make a speech upon these resolutions; the House had indulged him; and he understood now that a southern man objected when a northern man rose to have a part of the resolutions read. He hoped that the same courtesy would be extended. He hoped that the gentleman from Massachusetts would be allowed to go on.

The SPEAKER stated that the resolutions were disposed of.

So the conversation ended.

BOOKS.

Mr. HUDSON asked leave to offer the following resolution:

Resolved, That the Clerk of this House be authorized and required to receive from W. M. Morrison, from time to time, such books as he may deliver under the contract made by him by virtue of the resolution of the present session; and that he pay for the same as they may be delivered, deducting out of the value thereof ten per cent., which he shall retain as security for the performance of the contract.

Objection was made.

Mr. STEPHENS moved that the House adjourn; but waived the motion at the suggestion of the Speaker; and

By general consent, the following Senate bills were read twice and referred:

An act to establish the collection district of Brazos de Santiago, in the State of Texas.

An act to provide for an increase in the medical staff, and for an additional number of chaplains in the army of the United States.

The question recurring on the motion to adjourn—

Mr. HAMPTON, of Pennsylvania, rose to offer a resolution.

Mr. STEPHENS withdrew the motion to adjourn.

The rules were then suspended to receive the resolution of Mr. HUDSON, and it was agreed to.

A motion to reconsider this vote was, on motion of Mr. HUDSON, laid on the table.

Mr. GENTRY (who had unsuccessfully attempted to obtain the floor before the resolution of Mr. HUDSON was adopted) said he had desired to make a simple statement relative to it, and he hoped the House would indulge him by hearing it to-morrow morning.

A PROPOSITION TO EXPUNGE.

Mr. THOMPSON, of Pennsylvania, (objection being made,) moved to suspend the rules to enable him to offer the following resolution:

Whereas, on the third day of January, A. D. 1848, a "joint resolution of thanks to Major General Taylor, and through him to the officers and soldiers of the regular army and the volunteers under his command, for their indomitable valor, skill, and good conduct, conspicuously displayed on the 22d and 23d days of February last, in the battle of Buena Vista, in defeating a numerous Mexican army consisting of more than four times their number, and composed of chosen troops under their favorite commander, General Santa Anna, and thereby attaining a victory over the enemy which for its signal and brilliant character is unsurpassed in the military annals of the world," being introduced into the House of Representatives of the United States, a motion was made to refer the same to the Committee on Military Affairs, and while said motion was pending, Mr. HENLEY, of Indiana, moved to amend the same by adding thereto "with instructions to insert in the said resolution the following: '*engaged as they were in defending the rights and honor of the country:*'" whereupon a motion was made by Mr. ASHMUN, of Massachusetts, to amend said instructions by adding thereto the following: "*in a war unnecessarily and unconstitutionally begun by the President of the United States,*" which said last mentioned amendment was adopted by a vote of said House —82 votes in the affirmative and 81 in the negative—as appears by the Journal of the 3d of January aforesaid:

And whereas said amendment, so adopted, is an unjust charge against the President of the United States of disregarding the Constitution, and of usurping powers not conferred by it or the laws of the land, and of aggression on the part of the United States on the rights of Mexico, without justification or adequate cause, which said charges are not only without evidence to sustain them, but are disproved by the act of Congress of the 13th May, 1846, by which war was declared against Mexico, by a vote in the House of Representatives of 174 in favor of it and 14 against it, and in the Senate by a vote of forty in favor and two against it, and which said act avers in the preamble thereto that said war "exists by the act of the Republic of Mexico," and is further disproved by the notorious invasion of one of the States of the Union by Mexico, before said declaration or any act of war committed on the part of the United States.

And whereas said charges contained in said amendment are highly derogatory to the honor of the country, unjust to the President, and calculated to tarnish the glory of the brave army who have so signally borne in triumph the flag of the Union, and may be cited through all time as an official confession, by a coördinate branch of the Government, that we have prosecuted a war "unnecessarily and unconstitutionally" begun: Therefore,

Resolved, as a remedy therefor, That the said amendment, adopted as aforesaid, in the words following, viz: "in a war 'unnecessarily and unconstitutionally begun by the Presi-'dent of the United States," be expunged from the Journal, and that the Speaker of the House, on the passage of this preamble and resolution, shall, in the presence of the House, direct the Clerk to write across the face of said amendment, on the Journal of the 3d of January, A. D. 1848, in distinct letters and words, "EXPUNGED BY ORDER OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES," adding thereto the date of the same, and attesting it with his signature.

The resolution having been read—

Mr. THOMPSON called for the yeas and nays on the suspension of the rules.

Pending the question,

On motion of Mr. BURT, the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. SIDNEY LAWRENCE: The memorial of George Wright, master armorer of the Ordnance Department, against the passage of the bill for the relief of Marvin W. Fisher, who claims to be the inventor of a machine for manufacturing percussion caps, now in use at the United States arsenal.

By Mr. McILVAINE: The petition of Levi Coates and 73 others, inhabitants of Chester county, Pennsylvania, praying Congress to prohibit the introduction of slavery into the Territories of New Mexico and California, to abolish slavery in the District of Columbia and all other places over which it has exclusive jurisdiction, and to prevent the admission of any State into the Union unless slavery be excluded therefrom.

By Mr. HALL, of Missouri: The petition of James M. Hughes and others, praying for the stationing of troops on the land route from Missouri to California.

By Mr. TALLMADGE: The memorial of Rufus McLellan, J. Arlington Bennett, and many others, citizens of New York, praying that the memorialists be organized into a regiment for the protection of our possessions in California, &c.

By Mr. STROHM: A petition signed by citizens of the townships of Bart and Sadsbury, in the county of Lancaster, in the State of Pennsylvania, praying for a new post route from the Gap post office, to Georgetown, in said county. Also, a memorial of the Monthly Meeting of the Religious Society of Friends, in the county of Lancaster, in the State of Pennsylvania, praying Congress to repeal all laws sanctioning slavery in the District of Columbia, and remonstrating against the further extension of slavery in the Territories of the United States. Also, a petition signed by citizens of Lancaster county, Pennsylvania, praying that a grant of land may be made to the State of Illinois, to aid in constructing a railroad from the upper and lower Mississippi to Chicago. Also, a petition signed by citizens of the State of New Jersey, praying for a general reduction of postage, and for abolishing the franking privilege.

By Mr. WENTWORTH: The petition of citizens of Bachelor's Grove, Cook county, Illinois, for a donation of land for a railroad from the Mississippi river to the lakes. Also, a petition of citizens of Prophetstown, Whitesides county, for a donation of land for a railroad from the lower Mississippi to the lakes. Also, a petition of the citizens of Littlefort, in favor of a grant of land for a railroad from the lakes to the rivers. Also, a petition for a mail route from Belvidere, via Genoa and Sycamore, to Ottawa.

By Mr. KING, of Massachusetts: The petition of Nahum Jordan and 108 other citizens of the United States, against the Government trafficking in the public lands, and for giving to actual settlers not now possessing lands a farm. Also, several petitions, numerously signed, for the abolition of the franking privilege, and for a cheap rate of postage. Also, the several petitions of William Cook and Charles Colburn.

By Mr. PALFREY: The petition of E. Davis and 136 others, of Ashburnham, Massachusetts, praying for reduced and uniform rates of postage.

By Mr. GREELEY: The petition of A. W. Newell and many other citizens of Orleans county, New York, for cheaper and straighter Congressional mileage. Also, of John W. Hawkins and other citizens of Stark county, Ohio, for the stoppage of the traffic in public lands. Also, of N. W. Fisher and many other citizens of Richland, Oswego county, New York, for the same.

By Mr. KAUFMAN: The petition of G. W. Torrents, asking pay for military services rendered in the late war with Mexico.

By Mr. SILVESTER: The petition of inhabitants of New Concord and Chatham, Columbia county, New York, for the reduction of postage, and the abolition of the franking privilege.

IN SENATE,

TUESDAY, *February* 13, 1849.

The VICE PRESIDENT laid before the Senate the proceedings of the Chamber of Commerce of the city of New York, in favor of appropriations for the continuance of the coast survey.

On motion of Mr. DAVIS, of Mississippi, it was ordered that they be printed for the use of the Senate.

MEMORIALS AND PETITIONS.

Mr. CORWIN presented a memorial from citizens of Toledo, in the State of Ohio, asking the establishment of a reciprocal free trade in certain articles of agricultural production between the United States and Canada; which was ordered to lie on the table.

Mr. GREENE presented the memorial of Samuel S. Bartlet, asking that bounty land and extra pay may be allowed to that portion of the marine

corps which served in California during the Mexican war; which was referred to the Committee on Naval Affairs.

Mr. HAMLIN presented a petition from citizens of Lincoln county, in the State of Maine, asking a reduction of the rates of postage, and that the franking privilege may be abolished; which was ordered to lie on the table.

Mr. DAVIS, of Massachusetts, presented a memorial signed by a large number of presidents of marine insurance companies, stating that notice had been given in the Senate of an intention to ask for the revival of the law of 1818 in relation to the coast survey, by which the employment of citizens on the work is prohibited. The memorialists express the opinion that the real effect of that law would be now, as it was in 1818, to destroy the organization and arrest the progress of this important work, and earnestly remonstrate against any movement that would cause any interruption of its useful labors, and express the hope that it will be continued as it is; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. BALDWIN, from the Committee on Claims, to which was referred the petition of Samuel F. Reed, asking payment for a horse surrendered to the United States during the Florida war, reported a bill for his relief, accompanied by a report; which were ordered to be printed.

Also, from the same committee, to which was referred the petition of the heirs of James Maglenan, asking compensation for a horse lost in the service of the United States during the late war, made an adverse report on the same; which was ordered to be printed.

Also, from the same committee, to which was referred House bill for the relief of Jas. Y. Smith, reported back the same without amendment, and recommended that the bill do not pass.

Also, from the same committee, to which was referred the petition of Samuel Simonton, asking payment of $800 allowed Isaac P. Simonton, deceased, in a treaty between the United States and the Saginaw tribe of Chippewa Indians in the year 1837, asked to be discharged from the further consideration of the same, and that it be referred to the Committee on Public Lands.

Mr. CORWIN, from the Committee on Public Lands, reported a joint resolution to authorize the Secretary of the Treasury to make an equitable settlement with the sureties of Robert T. Lytle, late surveyor general of the district of Ohio.

Mr. C. briefly explained the resolution, and urged its immediate passage. He said it simply provides that the proper accounting officer shall make an equitable settlement with the sureties of Robert T. Lytle, late surveyor general of the district of Ohio, and the Committee on Public Lands were unanimous in recommending its passage. The ground upon which relief was asked was simply this: At the time when the office of the surveyor general was in default, General Haynes, being one of the securities, advanced money, which is amply proved by testimony, to pay the contracts of the surveyor general's office, supposing at the time, that as the surveyor general had proved a defaulter, it would be credited on his liabilities. All he asks is, that the Government will give him credit on his bond for the money which he has paid. These payments, however, which were prior to the removal of the surveyor general, were passed by the office by a general title, and were credited to another bond; and now they were simply asked to provide for an equitable settlement with him, which it was understood the Commissioner of the General Land Office, while believing that relief should be given, had said could not be afforded without the authority of an act of Congress. It was desirable, therefore, that this joint resolution should be passed, and passed speedily, more especially as the business in which Mr. Haynes is now engaged requires this settlement, if it can be effected, to prevent further applications to Congress.

The resolution was then read a second time by unanimous consent of the Senate.

Mr. KING inquired if there was any communication from the department showing precisely the ground on which this claim rests, and the reasons why it has not been granted?

Mr. CORWIN replied that there was, and that it was among the papers.

Mr. KING said he was perfectly satisfied with the explanation of the Senator from Ohio.

Mr. CORWIN added a few words of further explanation.

The joint resolution was then considered in Committee of the Whole; and no amendment having been offered, it was ordered to be engrossed for a third reading, and was subsequently read a third time, by unanimous consent, and passed.

Mr. JOHNSON of Louisiana, from the Committee on Pensions, to which was referred the petition of Rosanna Maury, widow of John B. Maury, asking a pension, made an adverse report on the same; which was ordered to be printed.

Also, from the same committee, to which was referred the petition of Ruth Kerr, asking a pension, made an adverse report on the same; which was ordered to be printed.

Also, from the same committee, to which was referred House bill for the relief of B. O. Payne, reported the same without amendment.

Mr. BRADBURY, from the Committee on Claims, to which was referred House bill for the relief of Noah A. Phelps, reported back the same without amendment, recommending that the bill do not pass; which report was ordered to lie on the table.

Mr. MASON, from the same committee, to which was referred House bill for the relief of John F. Ohl, reported back the same without amendment.

Mr. FITZPATRICK, from the Committee on Claims, to which was referred the following House bills: An act for the relief of Thomas H. Noble and an act for the relief of Richard Young, reported back the same without amendment, and recommended their passage.

Mr. ATCHISON, from the Committee on Indian Affairs, to which was referred the bill to authorize the payment to the State of Georgia of certain sums therein specified, reported the same without amendment, accompanied by a report recommending its passage.

Mr. RUSK submitted the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the propriety of authorizing the Commissioner of the General Land Office to purchase 500 copies of "White's New Recopilacion."

Mr. R. took occasion to call the attention of the committee to the subject, as one on which it was very desirable to have speedy action, inasmuch as it was important to be in possession of the Spanish land laws in relation to California.

After a suggestion from Mr. WESTCOTT, the resolution was agreed to.

Mr. BREESE asked the Senate to indulge him by taking up bill No. 415, as it would lead to no debate and could be disposed of in a few minutes. It was simply a bill to grant the right of way across the public lands and to dispose of said land in aid of the several States in the construction of railroads and canals.

The motion having been agreed to, the bill was considered as in Committee of the Whole; and no amendment having been offered, it was ordered to be engrossed, and was subsequently read a third time, by unanimous consent, and passed.

Mr. WESTCOTT asked and obtained the unanimous consent of the Senate to introduce a bill to extend an act therein specified; which was read a first and second time by its title, and referred to the Committee on Public Lands.

The joint resolution from the House relative to evidence in applications for pensions by widows of deceased soldiers under the act of 21st July, 1848, was read a first and second time by its title, and referred to the Committee on Pensions.

The House bill making appropriations for certain fortifications of the United States for the year ending 30th June, 1850, was read twice by its title, and referred to the Committee on Finance.

PENSIONS TO WIDOWS.

Mr. DAVIS, of Mississippi, said that some time since he reported from the Military Committee a bill for the relief of the widows and orphans of deceased officers and soldiers who have died since their return to the United States from the Republic of Mexico, and that bill now lay on the table. The House of Representatives had this morning sent to the Senate a bill which was almost identical with the bill of the Senate to which he had referred; he therefore now asked the Senate to take up the bill from the House, that it might be acted upon.

The motion was agreed to, and the House bill granting five years' half-pay to certain widows of officers, non-commissioned officers, musicians, and privates, was taken up and read a first and second time by its title, and it was then considered as in Committee of the Whole.

Mr. DAVIS said there was one omission in the bill, which he wished to supply. The bill made provision for the widows of the officers and soldiers of the regular army who had died since their return to the United States, but it made no provision for those who remained in the service, and who have since died without being discharged. This omission he desired to amend, and hence he moved to insert the words "or who remained to the time of their death in the military service of the United States."

The amendment was agreed to; and, there being no further amendment, the bill was reported to the Senate, the amendment was concurred in, and the question recurred on the third reading.

Mr. UNDERWOOD desired that the act should be read to which this bill refers, and which by its passage they were to adopt, or that some explanations should be given of its provisions.

Mr. DAVIS said he could not readily find the act, but he would state that it provides half-pay for the widows and orphans of soldiers who have been killed in the war with Mexico, or died of diseases contracted whilst in Mexico after their return to the United States. Of that fact the bill was explanatory. It also extends the operation of the act of 1848 so as to cover the case of widows and orphans of officers and soldiers who died after their return to the United States of wounds received or disease contracted while in the war with Mexico, in the line of their duty, after their return. The sole difference between the two acts is, that, by this act, if the officer or soldier died in the United States, after returning from Mexico, while in the public service, his widow and orphans would be entitled to the relief afforded by the act of 1848 to the widows and orphans of officers and soldiers who died in Mexico.

Mr. BORLAND said, if it were in order he desired to submit an amendment to the bill.

The PRESIDING OFFICER replied that it was then too late to submit any amendment.

Mr. BORLAND said that he should have been glad to have offered an amendment; and, that he might obtain an opportunity to do so, he would move a reconsideration of the vote by which the bill had been ordered to a third reading. The amendment which he desired to offer proposed to extend the benefit of this act to the widows and orphans of those officers and soldiers who volunteered in the war with Mexico, but did not go to Mexico, having served on the frontier and in the Indian country. It was obviously just that some provision should be made for them, and therefore he moved a reconsideration.

Mr. DAVIS, of Mississippi, hoped the honorable Senator from Arkansas would not press his amendment. This bill was merely explanatory of what was believed to be the true meaning of the original act, and it was not intended thereby to extend legislation further; but the amendment of the Senator from Arkansas enlarged it beyond the spirit of the original act, and he (Mr. D.) would prefer that the amendment should be made the subject of a separate bill, inasmuch as at this time it would embarrass the action of the Senate, and delay the passage of the bill.

Mr. BORLAND said he believed his amendment would not be any new legislation. It would be remembered, that in the act granting bounty lands for soldiers who served in the Mexican war, it became a question whether it extended to those who served on the frontier, and it gave rise to considerable trouble. After some consideration in the department, it was decided that it was designed for both. The same question would come up on this bill; it could not, therefore, embarrass the bill at all. If it were the intention to extend the bounty lands to those who served on the frontier and in the Indian country, it surely must be the design to extend the benefits of the pension laws to their widows and orphans. It did not, therefore, extend legislation, but was explanatory, so as to enable the department to extend the act without difficulty and embarrassment. He expressed the hope, therefore, that as his amendment would not change the character of the bill, the reconsid-

eration would be agreed to, and the bill amended as he had suggested.

The motion to reconsider was not agreed to.

The bill was then read a third time and passed.

CIVIL AND DIPLOMATIC BILL.

On motion of Mr. ATHERTON, the Senate resumed the consideration of the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1850.

Mr. ATHERTON, by direction of the Committee on Finance, submitted an amendment appropriating $1,500 to enable the Secretary of War to execute a survey and examination of the Potomac river, pursuant to a resolution of the House of Representatives of the 8th August, 1848.

The amendment was agreed to.

Mr. ATHERTON then submitted, and the Senate adopted, several other amendments, of which we were unable to obtain copies. One of these amendments was simply the addition of the words "under the direction of the Secretary of State," after the word "plan," in the following item:

"Towards the erection of the wings of the Patent Office building, according to the original plan, $50,000, to be paid out of the patent fund."

A further amendment, as an addition to this item, was understood to provide for the manner in which the work should be executed.

Another amendment was an appropriation of $2,500 to procure medals for Indians.

Another amendment, not offered by direction of the committee, but in consequence of the receipt of a letter from the Secretary of State since the meeting of the committee upon this bill, was to appropriate as much as was necessary of the sum of $1,500 for the payment of the salary of the Commissioner to the Sandwich Islands.

Mr. CAMERON desired some information as to the necessity and propriety of making this unusual appropriation.

Mr. ATHERTON replied that he had a letter on this subject, which he had received from the Secretary of State, which he would desire the Secretary to read for the information of the Senator from Pennsylvania and of the Senate.

The letter was read accordingly, and the amendment was then agreed to.

Another amendment appropriated $35,000 for the continuation of the erection of a custom-house at Savannah, Georgia, and for the erection of a custom-house at Charleston, S. C., $50,000.

Respecting these appropriations several explanatory letters were read from the Secretary of the Treasury; and, after a few words of explanation between Mr. DAVIS of Massachusetts, Mr. ATHERTON, and Mr. BUTLER, respecting the removal of some difficulties which lately existed, affecting the title to the lot of ground upon which the Charleston custom-house was to be built, the amendment was agreed to.

Another amendment proposed to add the words "and assistant messenger," in the item making compensation to the Second Auditor and the clerks and messenger in his office; and to add $500 for the salary of such assistant messenger, increasing the item to $51,057; which was agreed to.

Mr. BERRIEN moved to amend the following item: "For compensation of the chief of the Bu-'reau of Medicine and Surgery, and of the assist-'ant surgeon and clerks and messenger in his 'office," by striking out the words $6,800, and inserting $7,300. The object was to place the chief of the Bureau of Medicine and Surgery on the same footing with the chiefs of other bureaus. This matter had been submitted to the Committee on Finance individually, and had received their approbation, but they desired that this motion should be made in open Senate.

At the request of Mr. BERRIEN, the Secretary read a letter from the Secretary of the Navy, recommending the increase of the annual compensation of the head of this bureau from $2,500 to $3,000.

Mr. BREESE. I believe I have never voted to increase the pay of any officer of this Government; on the contrary, I would with great pleasure vote to reduce the compensation to the heads of the bureaus to $2,500; but when I see that the chief of this bureau has so many onerous duties to perform, I shall vote, contrary to my usual course, in favor of the amendment of the honorable Senator from Georgia, as an act of sheer justice.

Mr. ATHERTON. I hope the amendment will not prevail. It is an amendment to increase a salary which is fixed by law, and it is certainly a poor rule that will not work both ways. The Senate at the last session to save these officers from reduction, adopted a rule that they would neither increase nor diminish salaries, but make appropriations according to existing laws.

Mr. BADGER. I wish to correct the honorable Senator from New Hampshire as to a matter of fact, as it appears he has fallen into a mistake respecting the rule of the last session. The Senate adopted a rule not to diminish salaries by the appropriation bill, but they did not stop there; they made an increase of the salary of one officer of the Government from $2,500 to $3,000, for the reason assigned here; that is, to put him on an equality with the heads of other bureaus. [The honorable gentleman was understood to say the Commissioner of Pensions.]

Mr. ATHERTON. Mr. President, that was an exception to a general rule, and was submitted in the light of an exception. The general rule was, that we would not interfere with salaries which were fixed by law. But this will place this gentleman on this ground, because opportunities for increasing the salaries of the chief head of a bureau will occur frequently, but I never hear any argument arise for diminishing their compensation. Now, if this amendment should be adopted, what will follow? Others will come forward and say that they have a right to a salary as allowed in this instance, and will claim that all the bureaus ought to be increased in the same way. Now, this argument, which seems to operate well for increasing a salary, never does so for diminishing one. It never seems to suggest itself that because one salary has been raised, another should be reduced. I do not know where we shall end if we begin this system of increasing the salaries of the heads of bureaus and of clerks, because there are many applications of the same sort. There has been an application from a gentleman, who has been the acting head of the Ordnance department, to make his salary, while acting as head of the bureau, equal to that of the real head, besides a large claim for arrears. This, on the principle which was adopted, was rejected by the committee, and various other applications of the same sort; but I scarcely see how we can avoid making invidious comparisons, except we reject the whole.

Mr. BERRIEN. Mr. President, it gratifies me to believe that the chairman of the Committee on Finance does not make any objection, on his doubts of the merits, or on his doubts of the propriety of the application in itself; his objection results from a technical rule which he supposes the committee have prescribed for themselves under the sanction of the Senate. But according to the statement which has been made by the honorable Senator from North Carolina, it appears that the chairman of the committee is at fault in his recollection of that rule. Sir, I add to the statement of that Senator, that in the motion made by me these technical objections do not occur. But now the answer given to me is, that it was an exception to the rule. Well, sir, this is an exception to the rule, and running on all fours with the reasons that induced the Senate to make that exception. The chairman of the Committee on Finance suggests that there are a variety of applications; but, sir, they have no sort of analogy. This is a proposition to increase the compensation of the head of one of the bureaus, and place him on a footing with the others. I apprehend that no one doubts that as much of science and talent, and as much of all that fits and qualifies a man for the station, is necessary for the chief of the Medical Bureau as any other. The Senate has already admitted the propriety of establishing the principle in the case of the Commissioner of Pensions; and in this case, the Secretary of the Navy, sensible of its importance, has recommended it.

I submit this motion to the consideration of the Senate upon its merits, with the remark that it is not objected to by the chairman of the committee, and that his technical objection is answered by the honorable Senator from North Carolina.

The amendment was then agreed to.

Mr. CAMERON. Mr. President, I move to amend this bill by inserting the following amendment:

For the purchase of a building erected by the President and Directors of the Bank of the United States, to be used as a custom-house; and the Secretary is hereby directed to make said purchase, provided that the same can be obtained for a sum not exceeding $29,000.

The amendment I submit, Mr. President, with the approbation of the Treasury Department, for the purpose of purchasing a house admirably situated in the town of Erie, in the State of Pennsylvania, a place of importance in every point of view, and becoming more so every year. The building cost some $150,000, and it is a counterpart of that in Philadelphia, and is well adapted for a custom-house. The Government is now paying a large sum for the rent of a building there, and this building can be had for this small sum. This amendment is made, I believe, sir, with the approbation of the chairman of the Committee on Finance.

Mr. ATHERTON. I have nothing to say on the subject, sir, except that there has been a communication to me in regard to it, which I furnished to the Senator from Pennsylvania.

Mr. CAMERON. Will the chairman be good enough to allow the letter of the Secretary of the Treasury to be read?

The communication referred to was read accordingly.

The amendment was then agreed to.

Mr. HALE. Mr. President, I have an amendment to be inserted in the item making appropriations for defraying the expenses of the supreme, circuit, and district courts, &c., as follows:

Provided, That the clerks of the several circuit courts of the United States be, and the same are hereby, authorized and allowed to retain to their own use, of the fees and emoluments of their office, a sum equal to that allowed to the clerks of the district courts of the United States by the act making appropriations for the civil and diplomatic expenses of the Government for the year 1842, approved May 18, 1842.

I want to explain that amendment, and I pray the attention of the Committee on the Judiciary especially to the matter. By the act making appropriations for the civil and diplomatic expenses of the Government for the year 1842, approved May 18, 1842, Congress enacted, that where the office of circuit and district clerk were both performed by the same person, he might retain for his own use, out of the emoluments of his office, a sum not exceeding six thousand dollars; and that where the office was divided, so that the services were performed by different individuals, that the clerk of the circuit court might retain a sum not exceeding two thousand five hundred dollars, and the clerk of the district court a sum not exceeding three thousand five hundred dollars.

Now, it will be perfectly manifest to every lawyer in the Senate, that the clerk of the circuit court is an officer of vastly more extensive jurisdiction, of more business, of more responsibility, and that it will require more than twice the amount of labor to perform the duties of the office, than is necessary in the office of the clerk of the district court, particularly since the passage of the bankrupt act. But the law is such as to give to the officer who does the least work the sum of three thousand five hundred dollars, and to the other who does the most, the sum of two thousand five hundred dollars. Now, this amendment puts them on an equality in fact, and makes them equal. It does not propose to appropriate a single dollar out of the public treasury; but simply, that, if the fees of the office of the clerk of the circuit court amount to this sum, he may have the same as the clerk of the district court. This, I am sure, must approve itself to the favorable consideration of every lawyer in the Senate, and that is about ninety-nine hundredths of the number.

Mr. WESTCOTT. The Judiciary Committee of the Senate have had under consideration for some time—indeed, at the last session, as well as this—under resolutions of instruction from the Senate, a bill equalizing and regulating the fees of all the Federal judicial officers, clerks, district attorneys, and marshals. A bill will probably be reported at this session; but it cannot be acted on till next. The committee have obtained a large amount of valuable and useful information on the subject, which will be submitted. The absurdity which the Senator from New Hampshire [Mr. HALE] adverts to can but be rectified in such general law. I am opposed to patching up general laws by clauses in an appropriation bill. Besides, in some of the district and circuit courts the case is not that presented by the Senator. In some of the States the district courts have the most business.

Mr. BERRIEN. Will the Senator from Florida state in what district courts?

Mr. WESTCOTT. The district courts that have jurisdiction of land claims—Spanish, French, and English grants—in the new southern and

southwestern States. The clerks of both courts get poorly paid. I doubt if either reach the *maximum* allowed by law. Justice cannot be done to all the Federal judicial officers by the insertion of this provision, and, in my judgment, only by a general law applying to all the cases.

Mr. BERRIEN. It does not appear to me that the Senator meets the question presented by the motion. It is very certain that there are many defects in the act regulating the office of the ministerial officers of the judicial department of the Government, and it may be very proper that the subject should be deliberately considered; but it will require, I think, a good deal more deliberation than can be brought to bear upon it at this session. But the amendment of the Senator from New Hampshire does not apply to that; it applies to the existing state of things, leaving the officers as they are. It merely provides, that in the distribution of the sum fixed for the salaries of these officers by law, they shall be equalized. Now, as a general proposition, it is unquestionably true that the clerk of the circuit court has as many duties and as important duties to discharge as the clerk of the district court. In consequence of the business thrown upon the circuit court by the bankrupt act, the clerk of that court has more business than the clerk of the district court, it is true; but the Senator must consider that this provision has no application to that. It is merely this, that when the fees shall exceed six thousand dollars, the clerk shall receive thirty-five hundred. The circuit court has extra duties and extra compensation. The clerk has extra fees; but in no case, I apprehend, do these fees amount to the sum which will make it fall under the operation of the amendment of the Senator from New Hampshire. The result is, that where the fees amount to six thousand dollars, so as to bring it under the operation of the law in the distribution of that sum, the salaries of the clerks of the two courts, which are now unequal, shall be equalized.

Mr. DOWNS. This policy of limiting the fees of certain officers commenced, I believe, in 1841, and the act of 1841 was amended in 1842. I had some experience in this matter, and I believe that, to a great extent, the object of the law entirely failed. It was supposed that there would be a large balance of fees coming to the Government beyond the amount which the officers of the Government were entitled to receive. But this money was rarely realized or paid over. I believe that scarcely a dollar has been realized by the Government from this provision of law. A similar policy was adopted in my own State in regard to some public offices where a surplus of fees was required to be paid over to the treasury. But it will always turn out, I apprehend, that where public officers are instructed to collect fees which they are not entitled to retain, the Government never makes much out of it. But, let this be as it may, it is true that the clerk of the circuit court ought to receive a sum equal to that received by the clerk of the district court. In some States the business of the circuit court is exceedingly heavy, especially since the passage of the bankrupt act. I think, therefore, it is perfectly fair that the clerk should be entitled to retain a reasonable amount out of the fees that he has earned, and I can see no reason why he should not receive as much as is received by the clerk of the district court.

Mr. KING. It appears to me that the argument as to policy in this case will show the propriety of leaving this subject to be legislated upon separately. We find that the clerk of the circuit court wishes to be placed upon the same footing with the clerk of the district court in point of emolument; because, in consequence of the bankrupt law, the duties of that officer are greater than those of the clerk of the district court. Well, I am not prepared to say whether the clerk of the circuit court receives sufficient compensation or not. That is a matter which should be regulated by Congress; and if the district court clerk receives too much, and the other too little, it should be regulated; but it is the strangest reason I ever heard urged, that these officers are dishonest and will not pay over the money.

Mr. DOWNS. The Senator will pardon me. I do not blame the officers at all. Under the law they are to transfer to the Government the balance that there may be over and above the sum which they are allowed to retain as their salaries. But when they have received, in the shape of fees, the amount which they are entitled to retain, it is no part of their business to collect fees for the Government; and when they come to a settlement, they say to the Government, Here are our accounts—we have received the amount to which we are entitled. It is done with the approbation of the Government. There is no imputation of dishonesty or dereliction of duty. It is an ordinary construction of law, and a proper one. I only mention it to show that the law does not attain the object designed. There is no law to compel the officers to collect all the fees that may be collected; it is only provided that they shall account to the Government for the surplus which they shall receive over and above the amount which they are entitled to retain.

Mr. KING. Really, I cannot understand the honorable Senator. It is the duty, I suppose, of the clerk to collect the fees, and if he fails to do so he fails to perform his duty. If I had the authority I would turn every such officer out.

Mr. DOWNS. These clerks are not of Executive appointment.

Mr. KING. I know they are not, but the same principle applies to every receiver of public money. They are obliged to confine themselves to a certain amount, which is limited by law, and to pay over the balance, which, in some instances, amounts to ten times the sum which they are permitted to retain for their services; and yet I never heard of any complaint, unless where the receiver was a defaulter. I think this is a matter which should stand upon its own footing, and that it should be regulated so as to do justice to all. I shall vote against the amendment, therefore, for no other reason than that it does not properly belong to this bill.

Mr. WALKER. It seems to me the Senator from Alabama does not quite understand the proposition. He seems to be of the impression that the maximum amount allowed by law is still received by the clerk of the district court; but that is not the case. If the amount of fee falls below that sum, he gets no more than the fees amount to. But suppose an increase of business should carry the fees beyond the maximum allowance, he would not in that case be entitled to receive more than the maximum. But, whatever the amount of business required to be transacted now by the clerk of the circuit court, and whatever amount of fees he may receive, he cannot retain an equal amount to that which is given to the clerk of the district court; and all that this amendment proposes is, that in case the fees exceed that amount, he may retain the same sum that is allowed to the clerk of the district court. It is not increasing the expenses of the Government at all; it is simply saying, that provided he does as much work, and the fees of his office amount to as much, he shall be permitted to receive the same amount which is received by the clerk of the district court.

Mr. JOHNSON, of Louisiana. I do not know that I understand what the effect of this amendment will be; but I am informed, in the discussion here, that the clerk of the district court and of the circuit court are to account to the Government for all fees over a particular amount received by them. Now, I want to know what that amount is.

Mr. HALE. It is six thousand dollars; and it is divided in this way: The clerk of the district court, when the fees amount to so much, may retain thirty-five hundred dollars, and the clerk of the circuit court twenty-five hundred. My amendment proposes to equalize them.

The amendment was adopted.

Mr. JOHNSON, of Georgia, moved to insert the following item amongst those making appropriations for public works in the city of Washington:

To reimburse the Corporation of Washington the cost of erecting the half of the City Hall building, granted to and occupied by the Government for the Circuit, District, and Criminal Courts of the United States, $50,000; the same to be expended by the said Corporation in finishing the exterior of said building, under the direction of the Secretary of the Treasury: *Provided*, That rooms enough be set apart for the use of the United States Courts in the District of Columbia; the Secretary of the Treasury to be judge as to the sufficiency of the rooms so provided.

Mr. J. (in explanation) said: The attention of the Committee for the District of Columbia was drawn to this subject by a memorial presented to Congress by the honorable Mayor and others in behalf of the City Corporation. The facts disclosed by this memorial are these: The building was erected by the Corporation at the cost of $78,750. In 1823, in pursuance of an act of Congress "providing for the accommodation of the circuit court of the United States for Washington county, in the District of Columbia, and for the preservation of the records of said court," and in consideration of the sum of ten thousand dollars therein appropriated, the Corporation conveyed to the United States the apartments in the east wing of said building, comprising one-half the entire edifice.

Since that time, a period of more than twenty-five years, the Government has had the use of this portion of the building without rent or compensation. Now, a very short calculation will show the justice of this appropriation. Deduct the ten thousand dollars appropriated by the act of 1823 from the original cost of the building, and it leaves the sum of $68,750 expended by the Corporation, for which no interest has been paid by the Government. The half of this sum, say $34,375, is what the Government ought to appropriate, and what the memorial asks. But, from considerations of economy, the committee have thought proper not to ask for more than $30,000.

Now, the Government has had the use of one-half this building for twenty-five years. Suppose a reasonable rent to be charged, say even four per cent. per annum on one-half the amount actually expended by the Corporation, does not the Senate perceive that it would swell to an amount much larger than is asked by the amendment now offered to this bill?

In addition to this, after the burning of the General Post Office, in 1836, the City Hall building was occupied as a Patent Office until the present Patent Office building was completed, for which the Government has paid no compensation whatever.

These considerations induced the committee to ask for this appropriation, and in the estimation of the committee they ought to appeal strongly to the liberality of Congress. This city is the capital of this great Republic, and it ought to be a matter of pride to every Senator to see its public buildings beautiful to the eye of the spectator.

Mr. ATHERTON. This is a recommendation for an expenditure of a considerable amount of money for the completion of a building for the District of Columbia. And in the remarks of my honorable friend from Georgia, he seems to put forward a claim on the part of the District because for a certain time the United States have had some use of this building as a depository for the records of the Patent Office. Now, sir, if we go into the debtor and creditor account between the District and the Government of the United States, I do not apprehend the District will have much reason to claim a great deal from the Government. And it seems to me, under all the circumstances, that this appropriation, if it is ever to be granted by the United States, ought not to be called for now. It will be remembered that at the last session of Congress the appropriations for the District of Columbia were exceedingly liberal. There are many appropriations in the present bill which go very much to benefit the District, and I think I may say to my friends on the other side of the Chamber, that something is due to the general consideration in relation to the state of the treasury, and that we should not go on increasing our pecuniary liabilities without having any regard to the point to which it may lead us. Now, some of the appropriation bills which have come to us from the House have come here in a perfectly unexceptionable shape. I may mention, for one, the army bill, which, I believe, contains not one single appropriation which is not authorized by existing law. There were a few alterations of the existing law in this bill as it came from the House. That is usual. But there were very few amendments, I believe, introduced into the bill by the House which were not sanctioned by the Committee of Ways and Means of the House. The amendments which the committee of the Senate have introduced into the bill in pursuance of the recommendation of the departments, amount to a considerable sum—one item for the custom-house at Charleston being $50,000, and one for the custom-house at Savannah $34,000, which were not in the bill originally. There is an amendment which has been introduced by the Senate, appropriating $150,000 for continuing the erection of the custom-house at New Orleans. There are several other amendments, also, which have been

introduced by the Senate, and which have materially increased the aggregate appropriation contained in the bill as it came from the House, and making a considerable increase upon the estimates of the departments of the expenses for the next fiscal year. It will be remembered, that by one item which has been introduced—I mean that relating to the Indian department—the amount to be expended during the next fiscal year will be increased to the extent of twelve hundred thousand dollars.

Mr. KING. I can but admire the course pursued by the honorable chairman of the Committee on Finance. He discharges his duty with zeal and ability, and endeavors to guard all these appropriation bills against amendments that are not legitimately or properly to be applied to them. Now, sir, if there was any mode by which we could get at this appropriation other than the bill now under consideration, I would myself agree with him that it would be very improper to insert it here. But the principle has already been departed from in several instances; those which have been mentioned by the Senator from New Hampshire, as well as in others which he has not adverted to. With regard to the District of Columbia, I am one of those who believe that it is the duty of Congress to exercise great liberality. The situation of the people of the District is such, that unless Congress is liberal in regard to the streets, public buildings, &c., it is utterly impossible that this city can be as convenient as it ought to be for the purposes for which it was designed. And it is important to us that it should be made as convenient as possible for those purposes. I have, therefore, uniformly departed as far as I could from the rigid rule in regard to making appropriations so far as this District is concerned. Now, in regard to the debtor and creditor sides of the account which the gentleman speaks of, I think he will find that he is entirely mistaken if he will enter into a calculation of the amount which has been received by the Government, and the amount that has been appropriated out of the public money for the District. With respect to this particular building, Congress having occasion for the building for the purpose of holding the criminal and other courts of the United States, agreed to appropriate $10,000 to fit up rooms for that purpose. The city liberally offered a portion of the building, and the Government has continued to use the rooms thus fitted up for some twenty-five years without pay or remuneration, without the payment of a single dollar in the shape of rent, the appropriation having been exhausted in fitting up the rooms necessary for holding the courts. Well, now, is it not proper, taking it into consideration that this city has gone to the expense of erecting the building, not yet completed, but to a certain point completed, and the United States having enjoyed the use of it for such a length of time, is there not a propriety, I say, independently of other considerations, in making an appropriation in order to complete the building? It appears that the sum which is asked for by the memorial for the purpose of completing the building, does not amount to more than would be a fair compensation for its use—that it does not amount to more than the Government would have paid in the shape of rent. I shall vote for it, and I shall do so with great pleasure, as I shall do on every occasion whenever an appropriation may be considered necessary for the purpose of rendering this place comfortable and convenient for the sitting of Congress. And I do it upon high national grounds. I want to see the seat of Government remain here; and I want to see the District in such a condition that every one who comes here to discharge a public duty may find all the conveniences that appropriately belong to the seat of the National Legislature. I want the seat of the Federal Government to be at the city of Washington. There are associations connected with the name itself which are calculated to bind us together. We should be liberal, therefore, in making it conformable to what the seat of the National Legislature ought to be, and in removing everything which has the appearance of inattention to this great object.

Mr. WESTCOTT. I shall vote for this appropriation, and another that I learn will be offered after it. I will vote for it, and twice the amount, for this city, and without any restriction as to its mode of expenditure, leaving that to the City Councils. And I will do this as an act of sheer justice. There is no favor about it, sir; none at all. I would do so every session, if I were to stay here my whole life. And now, sir, I will state the principle on which I would do so. I have seen the injustice and oppression of the United States as a landed proprietor. In my State she owns nineteen-twentieths of all the lands as proprietor. She pays no taxes—not a cent. She builds no roads; makes no bridges. No, sir; the pioneer-settler does all for her, and the United States hucksters and peddles out the public lands made saleable by the labor of the pioneer at one dollar and twenty-five cents per acre, cash. All frontier people think this is a mean system. So is it in this city. In the first place, the proprietors of Washington gave the United States one-half of all the lands. She has sold one-half of her moiety for nearly a million of dollars, and has, besides, all the public lots. She owns about one-half of the real estate in the city. With the improvements, it is worth seven or eight or perhaps ten millions of dollars. She does not pay one farthing of taxes for this. The citizens pay all the taxes, amounting to $120,000 or $130,000 a year. This is unjust. I would vote for the payment to the City Councils, annually, of fair taxes on the public property here, and the United States should pay taxes also in the States for their lands. This $30,000 is not one-quarter as much as we should pay yearly as taxes; and we should, besides the taxes, pay, for the city property used by us, fair rents. If I am not mistaken, the new States before long will establish juster rules on this subject than have heretofore been followed.

Mr. ALLEN. I do not know exactly the effect of this amendment, and I inquire therefore of the mover whether it is designed as a purchase by the Government of the United States of half of this building? If that be the case, the amendment ought to say so. As it is, it does not say so, and the ownership of the building will remain in the Corporation after the passage of this amendment precisely as it is at present. There have been some observations made, sir, in the propriety of which I cannot agree. One by my honorable friend from Alabama. He wishes to give an eternity of location to the capital of the United States in the District of Columbia. I am of opinion, sir, that the capital of the United States should follow the nation, should follow the people of the United States. And as the nation has spread out over a surface the center of which is far remote from the District of Columbia, I hope the day will arrive when this capital will be situated nearer to the center of the people who are interested in the transactions carried on in it in their name. In regard to the great donations which have been made by the city to the Federal Government, I have heard much since I have been here. Why, sir, when those donations were made, many of the lands surrounding this capital were not worth one dollar an acre. It is the presence of the capital here which has imparted value to this very property, which was ceded at a time when it was utterly valueless, and ceded with a view, on the part of the citizens at least, of imparting value to the property which they retained. Therefore there is no force in that argument. But I rise to say, further, that Congress is not censurable for a want of liberality to this District. On the contrary, I think that the Government has been liberal in the extreme to this city. I think, sir, that a close examination of our appropriations will show that we have spent far more money in this District, for the exclusive benefit of the District, than we have spent in many of the States whose population is equal to ten times the population of the District of Columbia. Well, now, sir, in reference to the city taxes: I had occasion to look into that matter a few years ago. I remember that some measures were pending here, and this old argument that never had one solitary iota of reason in it, about the great donations made by this city to the Federal Government, was then urged, and it was pleaded on the part of the people of the District that they were burdened with taxes for municipal purposes to an extent which rendered it impossible for them to defray the expense of making any necessary improvements. I made some inquiries upon the subject. I wrote to the Auditor of our State and obtained from him the amount of taxes paid by the people of Columbus, the capital of Ohio, upon their property. I got an exact statement of it, and it was well-nigh three times as much as is paid by the people of the District of Columbia upon their property. I obtained, also, the amount of taxes, the ad valorem taxes paid by the citizens of Cincinnati, and they were more than double the property tax paid by the people of the District of Columbia. So that the argument about the onerousness of the taxes here is not a sound one. The other cities of this country pay a far higher tax. I know it is the case with the capital of Ohio, with Cincinnati, and all the larger cities. It is therefore altogether a mistake to talk of the great donations made by the city to the Federal Government. I must say, however, making all due allowance for the propensities of our nature, that I cannot blame the people of the District of Columbia for trying to obtain their corporate expenses out of the public treasury. They are not worse than any other people. I do not rise, therefore, to condemn them for indulging a very natural and excusable propensity; but, while I do not censure them, I say that we, whose business it is to guard the rights of the country at large, and see that there is not more money taken from the public treasury than there can be good reason given for, should be disposed to oppose appropriations of this kind. I do not think they are founded in reason or justice. With regard to this particular matter, however, I do not know that there is any great objection to it, if we are to have something for our money; but if it is to be a donation, call it a donation; if it is to be a purchase, call it a purchase; and if is a purchase, let the title to the thing purchased come with the purchase. I hope there will be an amendment, therefore, for this appropriation, so that the part of the building designated in the resolution shall be the property of the United States forever in fee simple. Or let the amendment be so shaped as to authorize the Secretary of the Treasury, or some other public officer, to give that much money for this part of the building, and provide that the money shall be devoted to finishing the whole building. That would probably be a better amendment.

Mr. HUNTER. In rising to say a word or two in relation to the amendment which is proposed, I must be permitted to remark that I do not regard the appropriation as a donation. It will be recollected that we have had the use of this building ever since it was erected, and it is proposed now that we should pay for half of it. I had supposed that the appropriation as it stands would have sufficiently expressed the intention of Congress. The Senator from Ohio seems to think otherwise. I am willing that it should be couched in any terms that may be considered proper. Make it a purchase, if you like. I believe the people of the District will be glad that it should be sold. Their sole object is to obtain the means of finishing the building, and in such a style as may be suitable to the capital of the United States. I do not pretend to say that if we were to account with the District as suggested we should be found largely indebted to them; but this I do say, that it is our duty, as it has been the taste and disposition of every people, great or small, to adorn and ornament to a reasonable extent the seat of the Federal Government, while we do not carry it to extravagance, while our expenditures are not unnecessarily large.

In my opinion, the expenditure of this money by the Government will be a saving, because, unless we contribute to finish the building according to the original plan, we shall be obliged to build a court-house for the accommodation of the Judiciary of the United States within this District, and that will probably cost more than the completion of this building. The object of this appropriation is to secure accommodations for the courts of the United States; and I will say to the Senator from Ohio that, originally, I was not a friend to the proposition, but when I ascertained that the courts of the United States had had the use of the building for a series of years, and that now there is not room enough for the Corporation and the courts, and that unless we made this appropriation we should have to erect another building, it seemed to me to be a discreet and proper expenditure of money. And I will say, before taking my seat, that I do not know if we were to account, we should find that we stood so renowned for liberality to this District. Sir, it must be remembered that it stands in a particular relation to us. The District does not own the streets of this city, the widest I believe to be found in any city in the world. The Corporation cannot alter a street or shut up a street with-

out an act of Congress authorizing them to do so. Until recently a great portion of the population consisted of employés and attachés of this Government, and anything that we gave towards defraying the expenses of the city only formed a part of the compensation which we afforded them. Why, when we brought the offices of the various departments together to carry on the Government here, was it possible that they could have sustained the expense of a municipal government without aid from Congress? It is true, the city is now growing, and it has increased means; but it must be remembered that the appropriation now asked for is not asked from the liberality of Congress, but as a measure of economy on the part of the Government. We have either to do this or erect a new building, and I believe this will be the cheapest; and if the gentleman from Ohio, or any other Senator, objects that the terms of the amendment are not sufficiently explicit, I will go for any amendment that he may propose to make it more so. But I suppose it will be sufficient. Does any man believe that after this appropriation is made they will attempt to oust us from the rooms? If any one is jealous on that score, I will vote with him to shape the amendment as it ought to be.

Mr. MILLER. As one of the committee which recommended this amendment, I desire to say a few words in reference to it. I regret that the honorable chairman of the Committee on Finance should have thought it necessary, in connection with this amendment, to comment upon the extravagance of appropriations by Congress, or that he should have endeavored to throw the least prejudice upon this claim by reason of the fact that the treasury would be called on for large disbursements during the approaching fiscal year. I hope that we shall consider this amendment upon its own merits; and I am satisfied that if the facts of the case are examined, there will be no hesitation in the mind of any Senator to grant the appropriation. It will not be found, as stated by the Senator from Ohio, to be in the nature of a donation to the city. I consider that the facts in this case justify me in saying, that instead of its being a donation, or in the nature of a donation, there are claims and obligations which make it, I think, what may be called a debt. The Corporation does not come here and ask this appropriation merely for the purpose of benefiting the city, but they place it on the ground that the United States, in equity and in all fair dealing, should pay for the use of this property, which they have occupied and enjoyed for the last twenty-five years. Before this building was erected, the courts of the United States were compelled to rent the buildings they occupied; they had to rent buildings for the purpose of a court room, a jury room, a marshal's office, and a clerk's office. I do not know the amount of rent they paid at that time. I am not informed as to the precise amount, but I understand it was not less than one thousand or twelve hundred dollars. This building has been erected by the city, and paid for from the taxes imposed upon the people of the city of Washington. It cost the city about eighty thousand dollars. After it was erected, the Government, for the purpose of a court room and a clerk's office and record office, took possession of about half the building, and has occupied it from that day to this without having paid one cent of rent for it. It is true that there was an appropriation made a few years ago by Congress of ten thousand dollars, but not one cent of that money ever went into the city treasury. It was all expended in fitting up the rooms for the courts and for the accommodation of their records. And so, sir, this Government, if I may use the expression, has been living upon the city of Washington for the last twenty-five years, for the rents they would have been obliged to pay, had it not been for the accommodation thus afforded by the city, would have amounted to about forty thousand dollars. From these facts, it is evident that the appropriation of this thirty thousand dollars is nothing more than paying for the accommodation which we have already had at the expense of the city. But all the city asks is an amount of money sufficient to finish the building, to be expended under the direction of the Secretary of the Treasury, and not one cent of it to go into the treasury of the city of Washington. And for what purpose, after all, is this expenditure to be made? Why, in order that half, and more than half, of the building may be used and disposed of by the Government for the accommodation of the courts of the United States. I, therefore, submit to the Senate that this is not asking from the Government a donation; it is not trying, as the Senator from Ohio suggests, to account and to strike a balance between what the Government has received and what it has granted; it is merely asking that the Government should pay for the use and enjoyment of property belonging to the city, and that the money should be appropriated in such a manner that the Government may be enabled to continue in the enjoyment of that property. I have no objection, as stated by the Senator from Virginia, that there should be such modification of the amendment as may be deemed necessary to secure to the Government the use and enjoyment of the building as heretofore. I believe that there will be no objection on the part of the city. There will be no difficulty about that at all. The city will grant it cheerfully.

One word, sir, with regard to the claims of the Government upon the city. It has been stated here, and I think without any facts to support the statement, that this city is largely indebted to the Government for appropriations heretofore made. Sir, I think that if the account is ever taken and the balance struck, it will be found to be largely in favor of the city. But I do not go into that question now. It is not necessary. But I beg leave merely to remark, that I look upon this city as the city of the Government, created by the nation; laid out, in the first instance, under the authority of the General Government; every street in its whole extent under the control of the General Government; one-fourth of the whole property within it now belonging to the General Government, and every department of the Government interested in keeping up the municipal accommodations of the city. Every officer of the Government is interested in the use of the streets, and in seeing them kept in proper order and repair. Every public building which you erect here is benefited by the improvement of the streets leading to it. Every department of the Government is interested in the condition of the streets, in having them properly paved, and in having the city properly lighted. In regard to all these matters, the Government is as much interested as the people of the city, inasmuch as the officers of the Government have as much the use and enjoyment of these accommodations as the people themselves. This being the case, it is just and proper that the Government should bear its full share in the expenses of the city. I believe there was no difference of opinion in the committee upon this subject.

Mr. HAMLIN. I have always been inclined to the opinion that the appropriations made to this District have, to say the least, been very generous on the part of the General Government; and, as I acquiesce in sentiment with what fell from the Senator from Ohio, [Mr. ALLEN,] I have thought proper to prepare an amendment which I think will meet the views of the Senator from Virginia, and will so qualify the appropriation as to meet the views of other Senators. I propose to strike out that portion of the proviso which says that "certain rooms shall be used for the benefit of the courts of the United States," &c., and insert "and conveying to the United States a portion of the building," &c.

Mr RUSK. I hope the amendment will not be adopted. All it should be desirable to secure for the judiciary of the District is the use of these rooms, after the improvements have been made upon the building. The judiciary have had the use of this building now for twenty-five years, without any interruption; nor can it be apprehended for a moment that the Corporation of the city will turn out the judiciary, after having occupied this place for so long a time. It is useless, in my opinion, to have two owners of the property, or to increase the liability of the Government as to expense in relation to the use of the rooms. Who would be the most economical owners of this building, and keep it in the best order, the Congress of the United States or the Corporation of the city, who have always had charge of it? It cannot be doubted that, under the control of Congress, the expense attending the repairing and keeping in order the building would be much greater than if the Corporation of the city were to have charge of it. In the charge of Congress the making of appropriations for the benefit of the building would doubtless be in accordance with the designs, and accrue to the benefit of contractors, who would be constantly coming forward with some new scheme of improvement, and making application to members of Congress for aid in obtaining such contracts as they might desire.

Mr. DAVIS, of Masssachusetts. I trust this amendment will not be adopted. I have, for one, no desire that the Government shall go into partnership in relation to this building. It is better, I think, that one of the parties using the building should own it. I shall vote for the original proposition to amend the bill, and make this appropriation with the greatest cheerfulness, believing not only that it is the duty of the United States to do so, but that there is an obligation resting upon the Government, after the use they have had of the building, to make such appropriation for repairs as will prevent its going further to decay, and remove what has been an unsightly object during the entire period that I have been in the habit of residing here.

Mr. NILES. I do not rise to oppose this amendment; I suppose such opposition on my part would be unavailing. I desire simply to say a word or two in reference to it. This matter stands precisely where my friend from Alabama, [Mr. KING,] a man of taste, has placed it; and, as the Senator from Virginia [Mr. HUNTER] concurred with him in this matter of taste, the question is submitted to the judgment of the Senate of the United States whether we will or will not appropriate some thirty thousand dollars to embellish this miserable old shell of a building, and place it in a condition conforming to the taste of the Senator from Alabama, who has been all over Europe, and had the most perfect models of architecture presented to his view. I am altogether at issue with my friend from Alabama; for I believe there are some things too bad in the world to be mended. It has been an eyesore to every citizen of the United States who has visited this city. Now, if this was an appropriation to pull down and remove the building, I would vote for it gladly; anything to get rid of this poor, miserable monument of the folly of an age of speculation, for it was erected under the influence of the high-pressure excitement of 1835 and 1836. The fact of its erection at such a period is some excuse for the Corporation of this city, I admit. The building is three times the size necessary for the purposes for which it was originally intended, and has been put up in a style unknown in ancient or modern times. What plan this building was modeled after, I cannot, for my part, discover; at least it would not be idolatry to worship it, for it is not in the shape or form of anything on the earth, or under the earth, or in the sea. The building is a mere shell, and the inside is in harmony with the outside. I have been filled with amazement, upon visiting the building, at its decrepit and worn-out appearance; and I consider that it is fit for nothing, and never can be fit for anything. This money thus proposed to be appropriated I consider as completely thrown away. The sum is quite sufficient to build a new edifice, ample and comfortable for the use of courts of the District; and if such a building is wanted, I am willing to appropriate it to that purpose.

Sir, let this old shell moulder away; let it stand where it now is until it can stand no longer, as a monument of that period of speculation and folly which swept over the whole country, spreading desolation and ruin in its track. We are told that a wise man, before he undertakes to build a house, counts the cost; but, in this case, the wise men of this capital did not count the cost of this building, and found that they could not complete it. In fact, I think that so much of the building as is now erected was built upon credit, in an age of credit; and when the credit of the Corporation failed, the completion of the building was necessarily postponed. Let it stand, then, sir, as a monument of the excellency of the credit system, unless the city authorities choose to remove it. I would not expend thirty thousand dollars on a thing that can never be beneficial, or useful, or ornamental, even if embellished in accordance with modern and fashionable taste.

The City Councils ought to have the credit of it, and I would leave it to them, either to suffer it to stand as a monument of their folly, or to remove its unsightly aspect from the view of all visiters to this city. If accommodations for the courts are required, let us provide them in a reasonable way, as reasonable men should do. Let us not, in the

erection of such a building, either, go upon a scale so large as that we cannot complete it. Let a building be erected of requisite and fitting dimensions, and upon a reasonable and proportionate scale. For one, I will have no participation in extravagant schemes that can never be brought to completion.

I do not think, sir, as some Senators appear to think, that we are under such great obligations to this city for the accommodations it has afforded the courts. We have paid altogether for the use of the building some ten thousand dollars. Six hundred dollars a year more than is paid in my State for the use of all the court-houses, jails, and other buildings necessary to the public service by the General Government. The Government is extremely penurious in its payment of the States for the use of buildings for public purposes. They depend almost wholly on the States themselves for the carrying on and administration of the laws of the Federal Government! In my State, the rent they pay for the buildings they use is trivial, as I have remarked, in the extreme.

I have to say one word in answer to what I am sorry to say has fallen from the Senator from Virginia, [Mr. HUNTER;] but as it has been uttered by him, I feel called upon to meet it. I refer to his statement that if the account was struck between this Government and the District, there would be a fearful balance due the District.

Mr. HUNTER. I did not say so, sir.

Mr. NILES. I am happy to hear that my friend from Virginia did not so express himself; for he does not often talk at random. The Senator from New Jersey intimited something of the kind, however. I do not desire to go into this matter; it is an unpleasant task to perform; but knowing, as I do, that this District has been bought by Congress —yes, sir, every portion of it purchased, and that it belongs to us, private property and all, as can be proved in any court of equity, I cannot refrain from adding a word or two more on the subject. If a fair statement was made of the debtor and creditor side of this question, it would be found that the whole amount of the value of the property of this District is not equal to the amount of money appropriated by this Government for the benefit of the District. And, sir, we saved this whole District from being sold to the Dutch, at auction, under the hammer. The whole property of the District would, in all probability, have been thus sold, if this Government had not assumed and paid off the debts of the District. Property here at one time was considered as little better than nominal in value. A friend of mine told me that a house, valued at several hundred dollars, was, at the time I refer to, worth but a nominal, trivial sum, inasmuch as the taxes absorbed nearly the whole of its value. Here was a mortgage upon the whole property of the District, and we took it off. We are the owners, then, of the entire District; everything belongs to the United States. We paid half a million of dollars on its account, and now we are told that it is unjust to apply to the authorities of this city for accommodation for our courts. Indebted to them, sir! Why, all the buildings and peoperty here, if the subject was to come before a court of equity, would be recognized as belonging to us. But, sir, it is not worth while to allude further to this matter; it has all gone by. For one, I am in favor—if accommodations are needed for the courts of the District—of erecting a building suitable to that purpose.

Mr. HALE. It is with great regret that I differ with my honorable friend from Connecticut, inasmuch as we belong to a party that is so small that we ought to be united, in order to make any impression, and when we differ I do not know how we shall fare. Still, I am compelled to differ with him totally and entirely. It never occurred to me, sir, until so informed by the Senator from Connecticut, that I, as one of the representatives of one of the States of this Union, owned a part of this city; but, sir, if I do, I disclaim the ownership of any of the peculiar institution. [Laughter.] I did not know, sir, that I was an owner of any of it! But, sir, to the matter in hand, this court-room and this hall. The honorable Senator from Connecticut did not, if I correctly understood him, tell us whether he had ever been inside of this building or not; and I very much doubt whether he has ever been in it. I cannot but think that his judgment of the character of this building is about as just as it would be if he should judge of its appearance from the looks of the bricks that composed it as they were formed in the brick-kiln. I am told, sir, that it is a very fine model of a building, and that it is one of the most conveniently arranged and appropriately adapted to the purposes for which it was designed, and that its equal in that respect is scarcely to be found in this city or anywhere else. That is what has been stated to me by those competent to speak upon the subject. I have not been inside of the building myself, and therefore do not know anything about its internal arrangements or appearance, but I have heard repeated testimony, as I before said, as to the convenience and superiority of this building. The outside of it is not as handsome and comely as might be; and this unsightliness we propose to remedy by this bill.

Sir, I do not know much about the debit and credit account of the city with this Government; but, inasmuch as the Senator from Connecticut alluded to the subject, and made some statements with respect to it, I hope to be permitted to state what I understand with reference to the matter. I understand, sir, that the Dutch got a mortgage upon the property here; which has, it seems, by some process, got transferred to us, so that we stand in the Dutchman's place. The Dutch claim originated in something like the following manner: Under the improvident legislation of Congress, who encouraged the city in its wild and visionary speculations, by a special act—which they never ought to have passed—this Corporation of the city of Washington were induced to subscribe for a million of dollars' worth of stock in the Chesapeake and Ohio Canal. I believe that was the name of the stock. This child of our adoption, sir, looking to us for guidance and wisdom—the last place that I would recommend anybody to go for that article—subscribed, in accordance with the judgment of the House, the Senate, and the President, to this stock; and, instead of realizing its golden visions to such a glorious extent as they expected, were brought almost to the brink of ruin. They were led on by us, sir, until they had expended some four hundred thousand dollars in paying annual interest on this extravagant loan, which was the result of our wild and visionary legislation. The loan being negotiated in Holland, they did, as was stated by the Senator from Connecticut, come very near being sold out by the Dutch; but Congress, thinking they had suffered enough from the evil into which they had led them, stepped in, and, after the city had paid some four hundred thousand dollars interest on this loan, relieved them from the consequences of the evil. Now, sir, if there is any just claim in equity to all the property, personal or relative, and chattels of every description, in the District, resulting, as the fruit of that transaction, to us, I do not see it. I think, if we had adhered to equity in settling this matter, that we should have relieved them from the interest of this claim as well as the principal. I would remark, in addition, that I understand that one-half of all the lands of this city—and if I make a misstatement I trust those who are better informed on the subject will correct me—were conveyed in fee simple to the Government of the United States by the original proprietors. From the sale of these lands, thus conveyed in fee simple, a sum has accrued to the national treasury a little short of eight hundred thousand dollars. That is the way the matter stands.

I confess, Mr. President, that I sympathize entirely with the views so well expressed by the Senator from Alabama, [Mr. KING,] that this is *our* city, and that this is the place where the hopes and affections of the whole nation center. Here is where they have been wont to center, and I trust will for some time longer; and that they will not start off on a southern or western expedition, to find a location different from that selected by the Father of his Country. I think, sir, that our conquering eagles will never plume their wings for a flight so adventurous as to seek for a spot in any other portion of the country whereon to locate our capital, where an American citizen can rest and find his heart untrammeled, and not return to this city as the first seat of his affections.

Another word in regard to this matter of paying rent for the accommodation of our courts: It is said to have been an extravagant sum in appropriating ten thousand dollars at the time we took this building for a court-house; but, sir, it was all expended in making the necessary repairs to the rooms which the courts were to occupy. The courts have occupied these rooms for twenty-five years for nothing. Now, I know that it is the custom of the United States to pay rents for the buildings they use, and very liberal rents too. In the city of Portland, by a proviso you propose in this civil and diplomatic bill, the fact is presented that the Government of the United States have been in the habit of paying two thousand dollars a year for the occupancy of the rooms which their courts had used; and I venture to say that we have not occupied the rooms in Portland one quarter of the time that we have used this building here. Sir, we do not deal as liberally with the city of Washington as with the more remote cities of the Union. And I desire to remark here, in accordance with a suggestion made by the Senator from New Jersey, teat this building—that has met the ridicule of the Senator from Connecticut—instead of originating in the time of mad speculation and folly, was commenced in the year 1820—that sober and steady period, under that sober and steady President, James Monroe. That was the time the building was originated, and we took possession of it in 1825, long before this mad scheme had made any progress in the public mind. Sir, let us have this appropriation, every dollar of which will be faithfully disbursed in the furtherance of the object designed. I hope it will be made. For one, I am prepared to act liberally and generously with the city of Washington. I think much is due to her. A more efficient and vigilant system of police—one that answers its purpose better—is not to be found in any city in the United States, not even in the cities of New England, where we imagine we do things a little better than can be done anywhere else. I believe that the city, in everything that has devolved upon it, from its connection with the Government, has faithfully and liberally performed the required duties. I trust, sir, that she will meet with a corresponding liberality on the part of Congress.

Mr. BRIGHT. Mr. President, if the city has any such police regulations as the Senator from New Hampshire has described, I must say that I know nothing about them. Indeed, if it has any at all, it has never been my good fortune to meet with them. That is not the point, however. I desire to make one remark with reference to the main question. This I understand to be a proposition to appropriate thirty thousand dollars for the purpose of putting in suitable repair the City Hall, as it is called, that the United States may hold their district court there. I endorse every word that has been said, in reference to the building, by the honorable Senator from Connecticut, [Mr. NILES.] It is wholly unfit; no improvements, no repairs that can be put upon it, according to my mechanical judgment, can make it a suitable building for that purpose. It was begun wrong and ended wrong. I have been through it, and profess to know something about it, and it has often excited wonder in my mind that the Government should be associated with a building of that kind.

Here is a proposition to appropriate thirty thousand dollars to repair an old shell, as it has been properly called by the Senator from Connecticut, much more suitable for the nests of owls and bats than for a court-house. Even its geographical position is wrong.

Mr. President, it is a conceded point that we need more room in this Chamber; that the Chamber is not sufficient to accommodate the public; and that, as a matter of course, we shall soon have to enlarge its capacity. Now, this sum of thirty thousand dollars would go far, very far, towards erecting an addition to this building, that would give room to the public, and comfort and convenience to Senators. And here is the place where the United States courts should be held. Here is the public library, and here are other conveniences that identify themselves with the public service. Now, I ask honorable Senators who propose to vote upon this proposition, if they had thirty thousand dollars to expend in a building for themselves, immaterial as to whether they intended it for private family use or for public use, if they would seek to expend it upon a foundation such as is proposed in this instance, or whether they would not go to work and select a good site, employ a mechanic that understood his business, and construct a building from the ground up, that would be an ornament to the nation? If that is what gentlemen desire, now I say that, looking at this thing abstractly, looking

at this question as we would look at it if it were our own money we were expending, I apprehend there is not a Senator here who would vote for the proposition, not one. I think if we have thirty thousand dollars to expend we ought to expend it upon a building suitable for the public service. Money appropriated for this building, in my judgment, is money thrown away.

The amendment to the amendment was rejected.

The question recurring on the amendment to the bill—

Mr. ALLEN called for the yeas and nays, which were ordered, and resulted as follows:

YEAS—Messrs. Badger, Baldwin, Bell, Benton, Berrien, Butler, Clarke, Corwin, Davis of Massachusetts, Dayton, Dix, Downs, Fitzgerald, Foote, Greene, Hale, Hannegan, Houston, Hunter, Johnson of Louisiana, Johnson of Georgia, Jones, King, Mangum, Mason, Metcalfe, Miller, Pearce, Rusk, Spruance, Underwood, Upham, Webster, Westcott, and Yulee—35.

NAYS—Messrs. Allen, Atchison, Atherton, Borland, Bradbury, Breese, Bright, Cameron, Davis of Mississippi, Dickinson, Dodge of Iowa, Fitzpatrick, Hamlin, Niles, Sebastian, Turney, and Walker—17.

So the amendment was agreed to.

Mr. DAVIS, of Massachusetts, offered an amendment, the nature of which is partially disclosed in his explanation of its object, (as reported below.)

[In relation to this amendment, and in other cases where amendments are not given, the reporters explain that it is impossible for them to attempt to give such items correctly, as they cannot distinctly hear them read, and as they have not at all times access to the record to obtain them.]

Mr. DAVIS. Mr. President, I will just state that I am instructed by the Committee on Commerce to offer that amendment. This is a small light-boat, which has been maintained at a place which lies in the track of commerce passing from New York to the Stonington terminus of the Providence and Stonington railroad, and thence to Boston. This is a track of commerce through which a large number of vessels pass, and, among others, there are two steamers of the first class passing every night, which carry a very great number of passengers, who are transported over this route to and from Boston and New York; a route over which, it is probable, a greater number of passengers travel than almost any other in the Union. The necessity for this light-boat is such, that, during the period of time specified in the amendment, these two companies have kept it up at their own expense, finding it indispensably necessary to have a light-boat upon that spot. In 1838, Congress was so satisfied of the necessity of having some light there, that they made provision in a bill for that purpose; but that bill failed to become a law. Last year Congress renewed the appropriation, and directed a light-boat to be made and maintained there at the expense of the Government. Congress has, in one other instance besides these, expressed its opinion of the necessity of some improvement of this sort as a facility for navigation. They passed a law making provision—I do not recollect the exact date—for the erection of a light-house or light-boat there, but, owing to some disagreement among the officers of the Government, in regard to the selection of the spot where it should be placed, that appropriation run out. Congress has, therefore, expressed its opinion three times, at least, that something of this sort is necessary.

Well, sir, this light has been kept up for the public accommodation during this time by those two companies, at the expense named in the amendment—something like ten thousand dollars. A similar case was presented here some few years ago—in 1846, I think—for keeping up a light by the insurance offices of Philadelphia, upon the breakwater at the mouth of the Delaware. It was thought to be reasonable, and Congress passed a law making provision for that purpose, and they were paid for this service. This being, as I have already indicated, a matter very material in its character, lying upon a great highway, where not only these steamboats, but other vessels, in great numbers, pass, and Congress having decided, again and again, that there ought to be a light there, it was thought reasonable by the Committee on Commerce that provision for that purpose should be made. With this explanation, I leave the subject to the Senate.

The amendment was agreed to.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 13, 1849.

The Journal of yesterday was read. A portion of it, which was subsequently called in question, is as follows:

"Mr. WALLACE moved that the rules be suspended for the purpose of enabling him to present joint resolutions of the Legislature of the State of South Carolina, in opposition to the principles of the Wilmot proviso.

"And the question being put, Shall the rules be suspended? it was decided in the affirmative—two-thirds voting in favor thereof.

"Mr. WALLACE accordingly presented the said resolutions, and having obtained special leave for that purpose, proceeded to address the House in regard to them.

"After which, the said resolutions were laid on the table, and ordered to be printed."

Mr. HAMPTON rose to ask the consent of the House to offer a resolution.

Mr. ASHMUN rose to a correction of the Journal. He noticed that the Journal in giving an account of the presentation of certain resolutions from the State of South Carolina, went on to recite that the gentleman from South Carolina, [Mr. WALLACE,] by "special leave" was permitted to address the House. He wished to have the Journal corrected in this respect: it should state that the gentleman asked the indulgence and courtesy of the House to address the House, and no objection was made.

He wished to have another fact appear upon the Journal: that subsequently, and before the resolutions were disposed of, he (Mr. A.) attempted to address the House upon the same resolutions, and it was objected to by the gentleman from Maryland, Mr. McLANE.

He moved to amend the Journal accordingly.

The SPEAKER. If the gentleman will reduce his motion to writing, the Chair will put it to the House.

Mr. ASHMUN. I have had no opportunity to reduce it to writing. I have just heard the Journal read.

The SPEAKER. The Chair understands that when a motion is made, it is always entered upon the Journal. The Chair did not understand the gentleman from Massachusetts to make any motion.

Mr. ASHMUN. Precisely as much as the gentleman from South Carolina. The gentleman from South Carolina asked the indulgence of the House to address the House; it was granted without objection. There was no special leave. He wanted it understood that it was without objection; but he did not wish it to be understood that objection was made to the gentleman from South Carolina addressing the House, but that he proceeded by general consent.

Mr. HOUSTON, of Alabama, desired to know of the gentleman from Massachusetts who objected to his (Mr. ASHMUN's) proceeding?

Mr. ASHMUN. The gentleman from Maryland, [Mr. McLANE.] He is so reported in the "Globe."

Mr. HOUSTON (continuing) said, as to the first correction of the Journal to which the gentleman from Massachusetts alluded, the Journal certainly stood correct as to the facts as he (Mr. H.) understood them yesterday. No member of this House could discuss the merits of petitions or of resolutions he may introduce without the special leave of the House; and if the House by its acquiescence gives special leave, as it did to the gentleman from South Carolina, why, certainly the Journal spoke the truth. If that special leave was given by an affirmative act, by a unanimous vote of the House, or if it was given by universal consent, by general acquiescence, it was the same thing, and special leave was given. Special leave was necessary under the rules of the House, and it was given. The Journal, therefore, correctly stated the point as he understood it.

As to the point of objection being made to the gentleman from Massachusetts proceeding to address the House, he (Mr. H.) was totally unaware of that. He did not know that any objection had been raised. He knew that the gentleman from Illinois, [Mr. WENTWORTH,] who frequently got "ahead of the music," alluded to the fact that objection had been made on this side of the House.

Mr. WENTWORTH, (in his seat.) No; behind it.

Mr. HOUSTON. Well, it is quite immaterial whether the gentleman is behind or before it. He certainly is very seldom in the right place.

Mr. WENTWORTH, (in his seat.) In your opinion.

Mr. HOUSTON, (continuing.) He is certainly very seldom where he ought to be.

But as I understood, there was no objection to the gentleman from Massachusetts proceeding. I do not know what the gentleman from Maryland [Mr. McLANE] might have done; but certainly there was no objection in this quarter of the House to the gentleman's proceeding.

Mr. FULTON. The Speaker, I understand, has decided that the Journal shall be corrected, as far as it relates to the gentleman from Massachusetts——.

The SPEAKER, (interposing.) No. The Chair has not so decided. It is for the House to make the correction. The Chair will put the question to the vote of the House.

Mr. KAUFMAN insisted that the proposed amendment of the gentleman from Massachusetts be reduced to writing.

Mr. ASHMUN. If it is insisted upon, I will reduce it to writing.

The SPEAKER. No business can be done until the Journal is corrected.

Mr. WENTWORTH. I understand the state of things to have been as the gentleman from Massachusetts has stated. I supposed that the gentleman was going to make a reply to the gentleman from South Carolina. I wanted to hear him, and I was very sorry to hear the gentleman from Maryland object. Under these circumstances I said what I did yesterday, in the hope that the gentleman would withdraw his objection. He did not do so. As to my being out of my place, as the gentleman from Alabama [Mr. HOUSTON] says, why, it is well known that the gentleman and myself are seldom together.

Mr. STANTON. The gentleman from Massachusetts simply said he wanted the first line of the first resolution read. I ask whether that does not conform to the recollection of the Chair?

No reply was heard from the Speaker.

During this time, Mr. ASHMUN was engaged in reducing his amendment to writing; and, after a short pause, having completed it, he said he had reduced his motion to writing; the Clerk would read it.

The SPEAKER. It is moved by the gentleman from Massachusetts that the Journal be corrected as follows:

"Mr. WALLACE accordingly presented the resolutions of the Legislature of South Carolina, and asked the general consent of the House to address it upon the subject of the said resolutions. No objection being made, he proceeded to address the House in regard to them; and after he concluded—

"Mr. ASHMUN rose to address the House, when

"The SPEAKER interposed, and said that the gentleman from Massachusetts [Mr. ASHMUN] could not proceed to make any remarks if objection was made.

"And objection was then made."

Mr. HOUSTON, of Alabama, called for the reading of that portion of the Journal which related to this matter. It was read (as given above.)

Mr. COBB, of Georgia. I cannot consent to the amendment of the Journal as proposed by the gentleman from Massachusetts, [Mr. ASHMUN,] for two reasons: the first is, I think it would be a very bad precedent to encumber the Journal of the House with matter of this character; the second is, I do not consider that the amendment of the gentleman from Massachusetts correctly states what took place. I witnessed the proceedings, and if I am not very much at fault in my recollection, I think that the reporters of the Globe state it with perfect accuracy; and I propose to read their account of these proceedings:

"Mr. ASHMUN addressed the Speaker, and said he rose upon the other motion made by the gentleman from South Carolina, [Mr. WALLACE.]

"The SPEAKER. Does the gentleman propose to debate that question?

"Mr. ASHMUN was understood to say that he did.

"The SPEAKER stated that the gentleman must have special liberty to proceed.

"Mr. ASHMUN. The motion, I understand, is to print the resolutions.

"The SPEAKER. The motion is not debatable to-day, as memorials and resolutions of State Legislatures cannot be discussed except by general consent, or by suspension of the rules the day on which they are offered.

"Mr. ASHMUN. I do not intend to debate it. I merely ask that the first line of the first resolution be read.

"Mr. McLANE objected."

That, (said Mr. C.,) I think, is a faithful account of what transpired yesterday. The gentleman from Massachusetts asked that the first line of the first resolution be read, and the gentleman

from Maryland [Mr. McLANE] objected to it at that time. The objection, therefore, did not apply to the remarks of the gentleman from Massachusetts, for he had previously declared to the House, in express terms, his intention not to debate these resolutions, and it was to the reading that the objections of the gentleman from Maryland applied.

But I think it would be a bad precedent to encumber the Journal with this kind of wrangling—if I may be allowed to use the term—upon matters so unimportant, as I conceive this to be. For these reasons, I think the Journal should not be amended.

Mr. ASHMUN. In relation to the accuracy of the report of the Globe, I concur with the gentleman from Georgia, as to its general accuracy; as usual, it is substantially correct. But the gentleman omitted entirely to read a previous portion of that report, which relates to the manner in which the gentleman from South Carolina was permitted to address the House. The report in the Globe says, what is true:

"He [Mr. WALLACE] asked the indulgence of the House whilst he made a few remarks in explanation of these resolutions.

"The SPEAKER said, if there was no objection, the gentleman would proceed.

"No objection was made."

That (said Mr. A.) shows that it was by general consent. The report, in a subsequent part, states:

"Mr. WALLACE being about to proceed—

"Mr. GIDDINGS rose to a question of order. Did he (he inquired) understand that the subject was debatable?

"The SPEAKER said, Clearly not, without unanimous consent.

"Mr. GIDDINGS. As a member of the House, I cannot——

"[Cries of 'Too late, too late.']

"The SPEAKER. The Chair distinctly announced that the gentleman from South Carolina [Mr. WALLACE] could go on by unanimous consent. That consent was given.

"Mr. GIDDINGS. I did not know it."

I want it to appear historically, as it was, that no gentleman objected to the gentleman from South Carolina proceeding; but that he went on by general consent, until afterwards, when it was too late, a question of order was raised by the gentleman from Ohio, [Mr. GIDDINGS;] that, too, is entirely omitted from the Journal.

But when I rose, I did rise in the first place for the purpose of saying a few words upon the resolutions which were introduced, and but a few words. I did not rise in the ordinary sense of the phrase to address the House. I wanted merely to call the attention of the House to the fact, that the resolutions presented by the gentleman from South Carolina declare that the time for discussion upon this question is passed; and yet the gentleman asked the courtesy of the House. That was all I intended to say; and so, subsequently, when I was called upon by the Speaker to know if I meant to debate the subject, I replied that I did not, meaning that I did not wish to debate it in the ordinary acceptation of the term. But I wished to call the attention of the House to the fact, that in the face of these resolutions of the Legislature of South Carolina, the gentleman from South Carolina proceeded, by the courtesy of the House, to discuss the question. Now, I want it to appear, as in fact it took place, that the gentleman proceeded by the general consent of the House; and that when I wanted to say a single word on the subject, to have a single line of the resolutions read, it was objected to.

Mr. HENLEY said the amendment of the gentleman from Massachusetts would be proper if the Journal itself did not contain matter that ought not to be there. There ought not to be anything said upon the Journal as to who made speeches. He had sometimes addressed the House, but he believed the Journal did not show it. [A laugh.] Therefore, the Speaker ought to direct that part of the Journal to be stricken out. Then, he presumed, the amendment of the gentleman from Massachusetts would not be insisted upon.

He moved, before the vote was taken on the amendment of the gentleman, to strike out that part of the Journal which spoke of the gentleman from South Carolina addressing the House.

Mr. WALLACE. In reply to the remarks of the gentleman from Massachusetts, [Mr. ASHMUN,] I beg leave to say to him and to this House, that I did not discuss the Wilmot próviso in the remarks which I made. There is no inconsistency between the declaration made in the resolutions that I had the honor to present from the Legislature of South Carolina and the remarks that I made. If the gentleman will look to them, he will see that this is the fact.

Mr. BURT rose and addressed the Chair, but the floor was given to

Mr. JOHNSON, of Arkansas, who said he believed that this matter had consumed now about half an hour. It was a very remarkable occurrence, that one gentleman should have been permitted to address the House by favor, and that that favor had been refused to another gentleman. The whole of the facts were now laid before the country. If there was any very great benefit to be derived from them in any way, gentlemen could now avail themselves of it, and therefore he would make the motion to lay the amendment on the table, unless the gentleman from South Carolina [Mr. BURT] was very anxious to address the House.

Mr. BURT said he certainly did not want to tax too heavily the courtesy of the gentleman from Arkansas.

Mr. JOHNSON. I withdraw the motion for the gentleman.

The SPEAKER stated to the gentleman from Arkansas that the motion to lay an amendment on the table was not in order.

Mr. BURT asked that the suggested amendment of the Journal be read.

It was read accordingly.

Mr. BURT remarked, that the Journal stated that his colleague [Mr. WALLACE] was allowed to address the House by special leave. He desired simply to say that the fact was that his colleague was permitted to address the House by the unanimous consent of the House. Well; he should regard that as special leave. He did not know what could be a more special permission of the House to address it than the unanimous consent of the House, when the objection of a single member could have prevented it.

He desired to say, that he thought there was no precedent whatever, in the history of parliamentary bodies, for the latter part of the amendment proposed by the gentleman from Massachusetts. He certainly did not desire to place that gentleman in a false position; and if he might ask of the House at this moment, when he knew they were so anxious to proceed to other business, he would ask and he would vote that this House now give to the gentleman from Massachusetts leave to say whatever he chose to say in reply to his (Mr. B.'s) colleague, [Mr. WALLACE.] He did not know, when his colleague rose yesterday, that he rose to offer the resolutions of the Legislature of South Carolina; nor did he know that his colleague contemplated making any remarks whatever. But he begged to say to the gentleman from Massachusetts, that he (Mr. B.) would not then have interposed any objection to the gentleman's proceeding with his remarks; and if it pleased the House, by unanimous consent, that the gentleman from Massachusetts should address it in reply to his (Mr. B.'s) colleague, and upon the subject of these resolutions, he should be most happy to hear the gentleman.

Mr. TURNER said that before the question was put to the House on the amendment which had been offered by the gentleman from Massachusetts he (Mr. T.) desired to say that, in itself, he considered it a matter of no very great importance; but that, taken in connection with the subject that had excited so much feeling in the House, he wished to make one remark before he gave his vote.

The first line of the first resolution presented yesterday by the gentleman from South Carolina, [Mr. WALLACE,] declared "that the time for discussion by the slaveholding States as to their exclusion from the territory recently acquired from Mexico, has passed," and so forth. Now, in his (Mr. T.'s) opinion, the time had also passed when any special pleading should appear on the Journals of the House in relation to this subject. The Journal said that by special leave the gentleman from South Carolina was allowed to make his remarks. It was contended that general consent meant special leave. If so, special leave meant general consent; and would it not be as well for the fact to appear on the record, that objection was not made, as that it should appear on the record that special leave was granted? No other construction could be put upon it. It was leave granted positively. But if a man did a thing because it was not objected to, that was not special leave. It was said that silence gave consent. If it gave consent, it did not give special leave. He, for one, was opposed to this system of special pleading appearing on the face of the Journal.

He had examined the Journal in relation to many motions of this kind, and the invariable language used was, "objection not being made," such and such a thing was allowed to be done. Why should not the fact appear in this case in the same way? There certainly could be no objection to that. He was therefore in favor of the correction moved by the gentleman from Massachusetts, so far as that fact was concerned.

He considered, further, that this subject had reached a point where it became the duty of every individual having a seat in this House to stand up even to the technicalities of the Journal. There had been a doubt in his mind whether there had not been a deep-seated revolutionary plot carried on, if not within the walls of this Capitol——

Mr. STANTON interposed, and said that he rose to a question of order.

[Cries—"Let him go on"—"Do not interrupt him."]

Mr. STANTON submitted his point of order. He desired to be informed whether the remarks of the gentleman from Illinois [Mr. TURNER] were in order?

The SPEAKER'S reply was scarcely heard, but he was understood to say that he could not know what the gentleman was going to say, or what application he was about to make of his remarks. Clearly, however, no debate was in order except as to the subject-matter of the amendment proposed to the Journal.

Mr. TURNER. That is what I am discussing, and I am endeavoring to show the importance of keeping the Journals pure. It is but a few days since, that a very imposing meeting was held in this Capitol. That meeting framed an address, ostensibly for the purpose of placing a portion of this community, as they said, right before the world. Now, as to the importance of——

The SPEAKER interposed, and said that the remarks of the gentleman were clearly out of order.

[Cries, "Let him go on."]

Mr. TURNER. I certainly can apply these remarks——

[Cries to order, and "No, you cannot!"]

The SPEAKER said the gentleman would have some other more appropriate occasion to discuss the subject to which he was alluding.

Mr. TURNER. I was not going to discuss it. I was going to say that it was just as important——

Mr. WALLACE moved that the gentleman have leave to proceed with his remarks.

Mr. TURNER, (continuing.) I was going to say that we should place ourselves right on our Journals. Therefore I am in favor of having the proceedings appear upon the record in the manner in which it was presented here yesterday; and I shall resist anything that does not point exactly to that end. I shall vote in favor of the amendment of the Journal.

Mr. STANTON, in reference to that portion of the remarks of the gentleman from Illinois, [Mr. TURNER,] to which he (Mr. S.) had objected, desired, he said, to state, that he had no objection to the discussion of that question, if the House were disposed to enter upon it. He had not objected to the remarks of the gentleman from any disposition to shrink from the discussion of that subject.

But, in respect to the matter now under the consideration of the House, he desired to submit the point to the gentleman from Massachusetts, [Mr. ASHMUN,] and to the Presiding Officer of this House, that the gentleman from Massachusetts did not ask permission to debate the question referred to by the gentleman from South Carolina, [Mr. WALLACE,] and that the House did not refuse to let him do so. On the contrary, the gentleman did not ask the consent of the House to debate it. He said it was not his intention to debate it. He merely asked that the first line of the resolution be read.

Mr. ASHMUN was understood to say that he did not wish to debate, as he had explained, and his amendment did not contain any assertion of that kind. He simply rose to address the House, and objection was made.

Mr. STANTON. I understand that the gentleman does not deny the fact that he stated he did

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not desire to debate. The gentleman did distinctly state that he did not desire to debate.

Mr. ASHMUN. Does the gentleman mean to say, that when I first rose, I said I did not wish to address the House?

Mr. McLANE desired the attention of the gentleman from Massachusetts [Mr. ASHMUN] for a moment.

Mr. STANTON said he did not understand that he would loose the floor.

The SPEAKER said the gentleman could yield the floor for the purpose of explanation only.

Mr. McLANE. I desire to ask the gentleman from Massachusetts [Mr. ASHMUN] whether he understands that I objected, in a serious and parliamentary sense, to his making any remarks?

Mr. ASHMUN replied that he did not know who made the objection. He heard objections made by half a dozen voices in the neighborhood in which the gentleman was now standing; and finding it so reported in the Globe, he presumed the gentleman had made the objection. In the motion which he had made to amend the Journal, he had not stated that the gentleman from Maryland [Mr. McLANE] had made the objection. He (Mr. A.) only inferred that that gentleman had made it, from the fact that he had heard audible and distinct objections made from that quarter of the House, and finding it stated in the Globe (as he had said) that the gentleman had made the objection, he presumed that he had done so.

Mr. McLANE understood, he said, that some explanations had already been made as to the grounds of the objection. He found, in the Globe, that he was reported as having objected. He had now interrupted the gentleman from Tennessee, [Mr. STANTON,] for the purpose of saying that it had been represented that he had objected to the gentleman from Massachusetts making remarks or replying to the gentleman from South Carolina, [Mr. WALLACE.] He (Mr. McL.) wished to state distinctly, what he almost felt persuaded the gentleman from Massachusetts well understood, that it was distinctly to the re-reading of the resolution that he objected. And more than that—he objected, and would have objected, to the reading of the resolution at all. The point submitted by the gentleman from Massachusetts was, that the resolutions themselves precluded debate; and it was to that point that he (Mr. McL.) made his objection—that the resolutions should not be read, on the ground that they had already been disposed of. And he did not choose that the question, so far as his will was concerned, should be again opened. He never did object, and never would have objected, to any gentleman—the gentleman from Massachusetts or the gentleman from Illinois—making remarks in reply to the gentleman from South Carolina. He distinctly stated that he made no such objection. And he was happy to see that the report in the Globe did not represent him as making such an objection. So far as the matter was understood here, if any gentleman supposed that he made that objection, he wished now to set him right. The objection was directed to the re-reading of the resolution, and to nothing else.

Mr. STANTON resumed the floor. He desired, he said, to call the attention of the House to this simple fact, that when the Speaker decided that it was not in order to debate the question, the gentleman from Massachusetts acquiesced in the decision; and that he did not ask permission to debate. He said expressly that he did not desire to debate, but that the first line of the resolution should be read. And if any correction at all was to be made, he (Mr. S.) should insist that it should be made in conformity with these facts, which he did not understand the gentleman from Massachusetts to deny.

Mr. EVANS, of Maryland, said there was a good deal of important business before the House. For his own part, in respect to the matter now under consideration, he thought that the House was unnecessarily consuming much valuable time that should be devoted to other matters. He therefore demanded the previous question.

Mr. ASHMUN asked the gentleman to withdraw the motion to allow him to say a few words.

Mr. EVANS expressed his willingness to do so, if the gentleman would pledge himself to renew the demand.

Mr. ASHMUN having assented—

The demand for the previous question was withdrawn.

Mr. ASHMUN proceeded: He wished to say, in the first place, that he rejoiced to find that no objection was made on the other side of the House to his proceeding. It gave him great satisfaction to hear gentlemen say so this morning. He was sure that gentlemen who sat on his side of the House did not so understand it. But now it seemed to be the unanimous opinion that no objection was made. He would state that he heard a shower of objections—but he was glad that they were all forgotten. He never should have moved this amendment if the Journal had not partially stated the history of the case. He agreed with the gentleman from Indiana, [Mr. HENLEY,] that the Journal ought not ordinarily to show who spoke and who did not.

The SPEAKER said that the precedents were all the other way; and that whenever a gentleman had leave to make a personal explanation, by unanimous consent, it was always so recorded. If a gentleman proposed to do a thing, and did nothing, no record was made. The fact that he asked leave to do so did not go upon the record. But when a gentleman obtained unanimous consent to do any thing, or did it under a suspension of the rules, the fact was always mentioned.

Mr. McCLERNAND said, that by the permission of the gentleman from Massachusetts [Mr. ASHMUN]——

The SPEAKER inquired if the gentleman from Massachusetts gave way?

Mr. EVANS insisted on the demand for the previous question.

Mr. McCLERNAND said he wished to ask the Speaker one question.

The SPEAKER again asked the gentleman from Massachusetts [Mr. ASHMUN] if he gave way?

Mr. ASHMUN said, he could not yield the floor. He intended in good faith to fulfill the pledge he had given to the gentleman from Maryland, [Mr. EVANS.] He would not, as he had stated, have made the motion to amend the Journal, but that he thought it gave a partial and inaccurate statement of what had occurred. If it had omitted entirely any reference to the fact that the gentleman from South Carolina [Mr. WALLACE] addressed the House by permission, he (Mr. A.) would probably have made no motion on the subject. But the truth of history required that it should appear that it was by general consent of the House that the gentleman addressed it. It ought also to appear, that when he (Mr. A.) proposed to say a few words on the same subject, an objection was interposed.

One word in reply to the gentleman from South Carolina, [Mr. BURT,] who was always courteous towards other gentlemen however firmly he maintained his own opinions. The gentleman had said he would be willing to move even now that he (Mr. A.) should have leave to proceed. He knew the courtesy of that gentleman, but he would assure him that when he wanted leave to speak, he would ask it for himself, and maintain his own rights, without any appeal from him or any other gentleman.

Mr. BURT said, he trusted the gentleman did not understand him as making the remark in any discourtesy.

Mr. ASHMUN. By no means.

Mr. BURT said, he merely intended to express his willingness that the subject should be debated whenever the House was disposed to debate it. And he would as gladly hear the gentleman from Massachusetts as any other gentleman.

Mr. ASHMUN said that the courtesy of the gentleman from South Carolina was too well known to admit of any imputation upon it. He (Mr. A.) did not mean any such thing. He merely meant to disclaim from friends and foes any assistance—any desire that they should ask leave for him. He would only say, that he intended to maintain his rights.

Having said this much, he would now redeem the pledge he had given to the gentleman from Maryland, and renew the demand for the previous question.

Mr. STANTON asked the gentleman to withdraw the motion, to allow him (Mr. S.) to suggest an amendment.

Mr. ASHMUN did not withdraw.

The question was then taken on the demand for the previous question, and there was a second; and the main question (being on the motion to amend the Journal) was ordered to be now taken.

A brief conversation followed between Mr. HENLEY and the SPEAKER.

Mr. McCLERNAND (addressing the Chair) inquired whether he had understood the Chair to say, that a distinct motion had yesterday been submitted to grant leave to the gentleman from South Carolina [Mr. WALLACE] to make his speech.

The SPEAKER said, the Chair had distinctly understood the gentleman from South Carolina to ask leave to make a speech?

Mr. McCLERNAND inquired whether he understood the Chair to say, that a distinct motion was submitted to grant leave?

The SPEAKER said that he had always understood general consent to be precisely equivalent to a unanimous vote.

Mr. McCLERNAND said that was a matter of construction.

The SPEAKER said, Exactly so. But the Chair had always ruled that when no objection was made, it was equivalent to a unanimous vote.

Some conversation occurred between Mr. PALFREY and the SPEAKER on a point of construction.

After which, the question was taken on the motion of Mr. ASHMUN, and the vote stood—ayes 71, noes 49.

Mr. JONES, of Tennessee, demanded the yeas and nays, which were ordered.

Mr. COBB, of Georgia, asked that the amendment of the gentleman from Massachusetts might be again read.

Mr. WENTWORTH called for the reading of the Journal as it now stood.

The amendment and that portion of the Journal to which it related were again read.

Mr. COBB submitted whether the House was willing to put this amendment on the Journal, when the gentleman from Massachusetts [Mr. ASHMUN] admitted that the report of the "Globe," which stated that the objection applied to the reading of the resolution, and not to the remarks, was correct?

Mr. McLANE, (to Mr. ASHMUN.) Does the gentleman from Massachusetts understand that I objected to his making his remarks?

Mr. ASHMUN. I do not believe that the gentleman did object.

Mr. McCLERNAND suggested to the gentleman from Massachusetts to strike out the latter clause of the amendment.

Mr. ASHMUN did not acquiesce in the suggestion.

Mr. HENLEY suggested that there was so much noise that nothing could be heard in the part of the Hall in which he was.

Mr. H. desired to inquire of the Speaker, whether he decided that it was proper to place upon the Journal the fact that the gentleman from South Carolina [Mr. WALLACE] did or did not make a speech?

The SPEAKER said that the precedents in favor of that decision were unanimous.

Mr. HENLEY. Then I shall vote to put the other on.

The Clerk proceeded to call the roll.

Mr. BARROW (his name having been called) rose to ask to be excused from voting, not having been in his seat (he was understood to say) when the transaction took place.

Mr. McCLERNAND made a similar request, for a reason not heard by the reporter, if any was stated.

The SPEAKER stated to both gentlemen that the motion came too late. It should have been made before the call of the roll had been commenced.

The question, on the motion of Mr. ASHMUN, was then taken, and decided in the negative—yeas 81, nays 82—as follows:

YEAS—Messrs. Abbott, Ashmun, Belcher, Bingham, Blackmar, Blanchard, Brady, Buckner, Canby, Collamer, Conger, Cranston, Crowell, Darling, Dickey, Dixon, Eckert, Edwards, Embree, Nathan Evans, Farrelly, Fisher, Gaines, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Hammons, James G. Hampton, Moses Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, Jenkins, Lahm, William T. Lawrence, Sidney Lawrence, Levin, Lincoln, Maclay, McIlvaine, Horace Mann, Marsh, Marvin, Morris, Mullin, Nelson, Palfrey, Peaslee, Peck, Pettit, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Schenck, Sherrill, Smart, Caleb B. Smith, Robert Smith, Starkweather, Charles E. Stuart, Strohm, Taylor, John B. Thompson, William Thompson, Thurston, Turner, Van Dyke, Vinton, Warren, Wentworth, and Wilson—81.

NAYS—Messrs. Barringer, Beale, Bedinger, Bocock, Botts, Bowlin, Boyden, Bridges, Brodhead, Wm. G. Brown, Burt, Cabell, Chase, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Collins, Crozier, Cummins, Daniel, Alexander Evans, Faran, Featherston, Flournoy, French, Fries, Gayle, Gentry, Goggin, Willard P. Hall, Haralson, Harmanson, Hill, Hilliard, Isaac E. Holmes, George S. Houston, John W. Houston, Inge, Iverson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, La Sere, Lumpkin, Lynde, McDowell, McKay, McLane, McQueen, Job Mann, Miller, Morse, Murphy, Nicoll, Petrie, Peyton, Phelps, Pilsbury, Pollock, Preston, Richardson, Richey, Robinson, Rockhill, Roman, Sawyer, Sheppard, Simpson, Stanton, Strong, Thibodeaux, Robert A. Thompson, Tompkins, Toombs, Venable, Wallace, Wick, Wiley, Williams, and Woodward—82.

So the House decided that the Journal should not be so amended.

After a few preliminary remarks, Mr. J. R. INGERSOLL, from the Committee on the Judiciary, to whom was referred the memorial of Anson Little, complaining of the official conduct of Alfred Conklin, district judge for the northern district of New York, made a report thereon, in writing, which concluded by asking that the committee be discharged from the further consideration of the same.

The said committee were accordingly discharged, and the subject was laid upon the table.

Mr. GOGGIN called for the regular order of business.

The SPEAKER announced that reports from committees were in order, commencing with the Committee on the Judiciary.

Mr. BARRINGER, from the Committee on Indian Affairs, reported to the House certain correspondence with the Secretary of War relative to estimates of appropriation necessary for carrying into effect the treaty of August, 1846, with the Cherokee nation of Indians; which was laid upon the table, and ordered to be printed.

Mr. CUMMINS, from the Committee on Revolutionary Pensions, to whom was referred the petition of Mary Ward, widow of Charles Ward, made a report thereon, accompanied by a bill for her relief; which bill was read twice and committed, and the bill and report ordered to be printed.

Mr. STRONG, from the same committee, made adverse reports upon the petitions of the heirs of Noah Wiseman, Catharine O'Neal, Matilda W. Beard, and Valentine Miller; which were laid upon the table, and ordered to be printed.

On motion of Mr. STRONG

Ordered, That the Committee on Revolutionary Pensions be discharged from the further consideration of the petitions of Benjamin Goodson, Richard Patterson, and Polly Thomas, widow of Caleb Thomas, and that they be laid upon the table.

Mr. STRONG, from the same committee, to whom was referred the petition of Eady Tuck, made a report thereon, accompanied by a bill for her relief; which bill was read twice, and committed, and the bill and report ordered to be printed.

Mr. SIDNEY LAWRENCE, from the same committee, to whom was referred the petition of Jacob Waresch, made an adverse report thereon; which was laid upon the table, and ordered to be printed.

On motion of Mr. SIDNEY LAWRENCE,

Ordered, That the Committee on Revolutionary Pensions be discharged from the further consideration of the petitions of Edward Evans, and James Davis, administrator of Levi Davis, and that they be laid upon the table.

On motion of Mr. FULTON,

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the petitions of Jacob Sagathy, Peter Frost, Washington Denham, Elizabeth Haughery, Jesse W. Hollister, Abijah Ring, John Morrison, James L. Loyd, Levin Leach, Charles Lynam, James Wright, Jr., John Worle, Amos Knapp, and Daniel Guerrant, and that they be laid upon the table.

Mr. FULTON, from the Committee on Invalid Pensions, to whom was referred the petition of Joseph Breck, made an adverse report thereon; which was laid upon the table, and ordered to be printed.

On motion of Mr. COCKE,

Ordered, That the Committee on Revolutionary Pensions be discharged from the further consideration of the petition of Martha Martin, widow of James Martin, and that it be laid upon the table.

Mr. COCKE, from the Committee on Revolutionary Pensions, to whom was referred the joint resolution to construe the several acts of Congress heretofore passed for the relief of revolutionary soldiers, reported the same back, without amendment.

On motion of Mr. COCKE, the said resolution was laid upon the table.

Mr. FULTON, from the Committee on Invalid Pensions, reported a joint resolution, "authorizing a settlement of the accounts of Thomas M. Howe, late pension agent at Pittsburg, upon equitable principles;" which resolution was read twice, and ordered to be engrossed and read a third time to-day.

The said resolution being engrossed, was accordingly read the third time and passed, and sent to the Senate for concurrence.

Mr. FULTON, from the same committee, to whom was referred the bill from the Senate entitled "An act for continuing the pension granted to Patrick Walker," reported the same back without amendment.

Ordered, That the said bill be read a third time to-day.

The bill was accordingly read the third time and passed, and returned to the Senate.

Mr. FULTON, from the same committee, to whom was referred the petition of Sutherland Mayfield, made a report thereon, accompanied by a bill for his relief; which was read twice and committed, and ordered to be printed.

Mr. FULTON, from the same committee, to whom was referred the petition of Jonathan Naif, made a report thereon, accompanied by a bill for his relief; which was read twice and committed, and ordered to be printed.

Mr. FULTON, from the same committee, to whom was referred the bill from the Senate entitled "An act for the relief of Nehemiah Brush," reported the same back to the House without an amendment.

Thereupon, the said bill was read the third time and passed, and returned to the Senate.

Mr. FULTON, from the same committee, to whom was referred the petition of John Kerbaugh, made a report thereon, accompanied by a bill for his relief; which was read twice, committed, and ordered to be printed.

Mr. FULTON, from the same committee, to whom was referred the petition of Jacob Zimmerman, made a report thereon, accompanied by a bill for his relief; which was read twice.

The question being upon the engrossment and third reading of the bill—

Mr. CONGER moved that it be committed to a committee of the Whole House.

Mr. HOUSTON, of Delaware, moved the previous question, which was seconded; under the operation thereof, it was decided in the negative.

The question, "Shall the bill be engrossed and read a third time?" being put, it was decided in the affirmative.

Mr. FULTON, from the same committee, to whom was referred the petition of Major Charles Larabee, made a report, accompanied by a bill for his relief; which was read twice.

The question being upon the engrossment and third reading of the bill—

Mr. HALL, of Missouri, moved that it be referred to a Committee of the Whole House.

Mr. HALL moved the previous question, which was seconded; and, under the operation thereof, it was decided in the negative.

The question recurred, Shall the bill be engrossed and read a third time? and, being put, it was decided in the affirmative.

On motion of Mr. FULTON, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the petition of Francis Ritman, and that the said petition be laid upon the table.

Mr. WILLIAM T. LAWRENCE, from the Committee on Invalid Pensions, to whom was referred the petitions of A. Ausman, James Cochran, Israel Griffin, Henry Sliver, Richard Reynolds, John Hartley, Samuel Spalding, Rhoda Huson, and Sarah Jane West, made adverse reports thereon; which were laid upon the table, and ordered to be printed.

Mr. LAWRENCE, from the same committee, to whom was referred the petitions of John Stewart, Richard D. Jones, John Gordon, Benjamin T. Smith, and William Ellis, reported bills for their relief, accompanied by reports in writing in each case; which bills were severally read twice and committed, and the bills and reports ordered to be printed.

Mr. WILEY, from the same committee, to whom was referred the petition of James Norris, made a report thereon, accompanied by a bill for his relief; which bill was read twice and committed, and the bill and report ordered to be printed.

Mr. WILEY, from the same committee, reported bills of the following titles, viz:

A bill for the relief of Daniel Wilson;

A bill for the relief of Palmer Branch, accompanied by reports in writing in each case; which bills were severally read twice, committed, and the bills and reports ordered to be printed.

Mr. WILEY, from the same committee, to whom was referred the petition of Samuel Page, made an adverse report thereon; which was laid upon the table, and ordered to printed.

On motion of Mr. WILEY, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the petition of Henry R. Wendell, and that it be laid upon the table.

POSTAGE.

Mr. PUTNAM moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of taking up the bill to reduce the rates of postage. This (he proceeded to say) was an extremely important bill, (cries of "order,") and there was no bill which interested the whole country more deeply, (renewed cries of "order.")

The SPEAKER stated that the motion was not debatable.

Mr. PUTNAM asked the yeas and nays on the motion.

The SPEAKER stated that if the House went into Committee of the Whole on the state of the Union, it would be for the committee to decide what bill they would take up. A motion to go into committee for a particular purpose was not in order.

After a word of conversation upon a point of order between Mr. FULTON and the SPEAKER—

The yeas and nays having been refused, the question was taken, and the House refused to go into Committee of the Whole on the state of the Union.

Mr. VENABLE, from the Committee on Invalid Pensions, made adverse reports upon the petitions of Abijah T. Bolton, Paul De Garno, and Robert Rose; which were laid upon the table and ordered to be printed.

Mr. VENABLE, from the same committee, reported bills of the following titles, viz:

A bill for the relief of Cornelius Hughes; and

A bill for the relief of Samuel Butler—accompanied by reports in writing in each case; which bills were severally read twice and committed, and the bills and reports ordered to be printed.

Mr. FARRELLY, from the Committee on Patents, to whom was referred the resolution of the House of December 21, 1848, directing said committee to inquire into the causes of delay in examining applications for patents, made a report thereon, which was laid upon the table and ordered to be printed.

Mr. FARRELLY, from the same committee, to whom was referred the petition of Peter W. Morgan, administrator of John Arnold and George G. Bishop, made a report thereon, accompanied by a bill for their relief; which bill was read twice and committed, and the bill and report ordered to be printed.

Mr. FARRELLY, from the same committee, to whom was referred the petition of William Green, Jun., made a report thereon, accompanied by a bill authorizing a patent to be issued to William Green, Jun.; which bill was read twice, and

the further consideration of said bill postponed for the present.

Mr. FARRELLY, from the same committee, made an adverse report upon the petition of the citizens of the town of Hardwick, in the State of New York, for the renewal of a patent granted to Thomas Pierce, March 3d, 1825; which was laid upon the table and ordered to be printed.

Mr. HOUSTON, of Delaware, from the Committee on Public Buildings and Grounds, made a report relative to the improvements necessary in the mode of heating and ventilating the public buildings, for the health and comfort of the persons employed therein; which was laid upon the table and ordered to be printed.

WILKES'S NARRATIVE.

Mr. PRESTON, from the Joint Committee on the Library, reported the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Librarian of Congress be, and he is hereby, directed to procure and deliver to the Secretary of State two copies of volumes six and seven of the Narrative of the Exploring Expedition under Captain Wilkes; and the Secretary of State is hereby directed to deliver them to the Government of Russia, in lieu of those heretofore delivered, which were lost at sea on their passage to Russia; and that the cost of the same be paid out of the funds heretofore appropriated to the publication of the works of the Exploring Expedition.

Which was read twice and ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time and passed, and sent to the Senate for concurrence.

AMERICAN ARCHIVES.

Mr. PALFREY, from the Joint Committee on the Library, reported the following resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That two hundred and forty copies of the "American Archives" be placed at the disposal of the Joint Committee on the Library of Congress, to be distributed from time to time under their direction to literary institutions in the several States and Territories in the proportion of one copy for every Representative and Delegate in Congress from said States and Territories.

Mr. PALFREY moved that the joint resolution be put upon its passage, and said that the subject had been brought before the committee by a memorial, asking a donation of a copy of this work, from the Massachusetts Historical Society—a society not rich in its treasury, though very rich in the intellectual endowments of its members. It was founded in the last century, and he knew of no similar association which had contributed more to the literary wealth of the country in an important department. It had stored in its library an invaluable mass of records of the past, in print and in manuscript, which otherwise would long ago have been lost to the knowledge of later times; and the thirty volumes of Transactions, in which it had given many of its treasures to the public, were models in their kind for judicious selection and learned illustration. Most of the States had now similar institutions, which had rendered similar good service; he had some acquaintance with several—as the Historical Societies of Maine, of New Hampshire, of Rhode Island, of Connecticut, of New York, of Pennsylvania, of Ohio, of Kentucky, of Georgia, of Louisiana. And there were numerous other learned bodies, besides the historical societies and the colleges, (which latter were already provided for by law,) possessing libraries, in which this valuable collection of historical materials ought to be deposited, so as to be accessible to students, and by their means be made beneficial and honorable to the country. The publication had been made at a heavy expense—no greater, however, than its character fully justified—but to what end, unless means were taken to place it in the hands of readers? On inquiry at the Department of State, he had learned that there were between three hundred and fifty and four hundred copies in that department, subject to the disposal of Congress, lying there without the slightest benefit to any human being, till Congress should take some action in relation to them.

In these authentic original documents for history, Mr. P. said, you have a mass of solid bullion, of the sterling ore, as yet only smelted. There are skillful coiners waiting, if you will only allow them, to convert it into the circulating medium of the world of letters, rolled out by the power of their thought, moulded and stamped with the impress of their genius. Irving, Sparks, Prescott, Bancroft,—this is the kind of raw material that such minds work up; and others, who cannot work it up in quite such a style, ought to have a chance to try their hand upon it. Why not let those have it who can use it? Why huddle away this treasure into a garret for the moth and rust? Why bury it in the ground? Why decree that it shall be useless to the world? The committee proposed to withdraw two hundred and forty copies, which would leave a sufficient number for the future occasions of the Government in the way of presents to foreign countries, and the small excess over the present number of Representatives and Delegates in Congress was intended to obviate the necessity of further legislation for some time to come, as new Territories should be constituted. The principle of distribution proposed was that, as evidence should from time to time be presented to the committee of the existence of libraries in the present States and Territories, in which the work would be carefully preserved, and would be of use, such institutions should receive a copy—the number of copies to each State not to exceed the present number of its Representatives in this Hall. It was not provided that the copies furnished to a State should go into each of its districts, because it was presumed that more than one of the libraries having the best claims in the respective States would often be found in a single district; and the object of giving to the work the most useful distribution for the benefit of each and every State was accordingly thought to require the arrangement proposed by the committee.

The question being upon the engrossment and third reading of the joint resolution—

Mr. HARALSON moved that the said resolution be laid upon the table; which motion was not agreed to.

The question recurring on the engrossment and third reading of the said joint resolution—

Mr. McLANE moved to amend the same by adding at the end thereof the following:

And each Representative in Congress shall present the committee the name of the institution to which a copy of said work shall be distributed

A long conversation took place between Mr. PALFREY, Mr. HARALSON, Mr. HOUSTON of Delaware, Mr. McLANE, Mr. CUMMINS, Mr. J. R. INGERSOLL, Mr. COLLAMER, and others, and then—

The question being upon agreeing to the amendment—

Mr. ROCKWELL, of Connecticut, moved the previous question, which was seconded, and the main question ordered, viz: "Will the House agree to said amendment?" and being put, it was decided in the affirmative.

Mr. KAUFMAN moved that the resolution be laid upon the table; which motion was not agreed to.

The said resolution was then ordered to be engrossed, and read a third time.

MESSAGE FROM THE SENATE.

A message was received from the Senate, stating that they had passed sundry bills and joint resolutions, and requesting the concurrence of the House therein.

REPORT FROM COMMITTEE ON RULES, ETC.

Mr. COBB, of Georgia, from the Select Committee on Rules, reported the following as an amendment to the rules and orders of the House, viz:

It shall not be in order to consider or act upon any order, resolution, or motion, whereby it is proposed to create a charge upon the contingent fund of the House, or dispose of any portion of the same, except in cases of printing, until the same has been considered and reported on by the Committee on Accounts; and all such propositions shall, on their introduction, be referred, by virtue of this rule, to said committee; nor shall a motion to suspend this rule be entertained except by unanimous consent.

Pending the consideration thereof—

BUSINESS ON SPEAKER'S TABLE.

Mr. ASHMUN inquired of the Speaker, if it would be in order to move that the House proceed to the consideration of business on the Speaker's table.

The SPEAKER answered in the affirmative.

Mr. ASHMUN made the motion, with a view, he said, to get at the bill in relation to the slave trade in the District of Columbia.

Mr. COBB said, he trusted the House would not entertain the motion, until the proposition he had submitted should have been acted upon. It would not require many moments. It had met the universal approval of the Committee on Rules, and he believed it would meet the approval of this House.

Mr. ASHMUN said, it might be so; but he wished to examine it. He adhered to his motion.

Mr. COBB expressed the hope that the House would not pass to other business until it had adopted this rule.

The SPEAKER. The rule will be the first question in order to-morrow.

Mr. COBB. In the morning hour?

The SPEAKER. Yes; or rather the day after to-morrow. To-morrow is specially assigned for counting the votes for President and Vice President.

The question is on the motion of the gentleman from Massachusetts, that the House proceed to the consideration of business on the Speaker's table.

The question was taken, and decided in the affirmative—ayes 72, noes 55.

So the House proceeded to the consideration of business on the Speaker's table.

The SPEAKER laid before the House sundry communications, viz:

I. A letter from the Secretary of War, transmitting copies of the Army Register for the year 1849, for the use of the members of the House; which letter was laid upon the table, and ordered to be printed.

II. A letter from the Secretary of the Treasury, transmitting the annual report of the officers in charge of the revenue marine service of the vessels employed in that service during the past year and those under construction; which was laid on the table, and ordered to be printed.

III. A letter from the Secretary of the Treasury, transmitting, in obedience to the act concerning public contracts, passed April 21, 1808, and the act of March 2, 1809, a statement of contracts made by the Treasury Department during the years 1847 and 1848; which letter and statement were laid upon the table, and ordered to be printed.

IV. A letter from the Postmaster General, transmitting, in compliance with the act of July, 1836—

1st. A copy of the abstracts of the offers for carrying the mails within the year preceding the 1st of July, 1848.

2d. A report of all contracts made for the transportation of the mail within the year aforesaid.

3d. A statement of all such lands and water mails as have been established or ordered within said year.

4th. A report of all additional allowances made to mail contractors within said year.

5th. A report of curtailments of mail service and pay ordered within said year.

6th. A report of fines imposed and deductions made from the pay of contractors within the same time.

Ordered, That the said communications and accompanying documents be referred to the Committee on Printing.

Mr. COBB, of Georgia, moved that the House adjourn.

The SPEAKER said there were a number of bills from the Senate on their first and second reading.

Mr. COBB insisted on his motion.

And the question thereon having been taken and decided in the negative, the House refused to adjourn.

SENATE BILLS.

The House then proceeded to the consideration of the amendment of the Senate to the bill of the House entitled "An act to amend the act entitled 'An act supplementary to the act for the admission of the States of Iowa and Florida into the Union;'" when,

On motion of Mr. WHITE, it was

Ordered, That the said bill and amendment be referred to the Committee on the Judiciary.

The House proceeded to the consideration of the amendment of the Senate to the bill of the House entitled "An act granting five years' half-pay to certain widows and orphans of officers, non-commissioned officers, musicians, and privates, both regulars and volunteers;" when the said amendment was read and agreed to.

Ordered, That the Clerk acquaint the Senate therewith.

Joint resolution of the Senate entitled "A resolution to authorize the Secretary of the Treasury to make an equitable settlement with the sureties of Robert T. Lytle, late surveyor general of the district of Ohio," was read twice, and referred to the Committee on Public Lands.

The bill from the Senate entitled "An act to

grant the right of way across the public lands, and to dispose of said land in aid of the several States in the construction of railroads and canals," was read twice.

Mr. COLLAMER desired the attention of the House to a few words in explanation of the provisions of the bill. It was a bill from the Senate, and did not require to be sent to the Committee on Public Lands, because it was precisely a copy of the bill reported unanimously from that committee some four to six weeks since, and put upon the calendar of the Committee of the Whole on the state of the Union, where it still was, and, as he supposed, for all practical purposes, was consigned to the tomb of the Capulets. He called the attention of the House to a few considerations by which he proposed to urge the passage of the bill. Whether gentlemen thought proper to give him their attention or not, at all events he should endeavor to discharge his duty to the country; and if gentlemen chose to turn a deaf ear to him, it was not his concern. He could tell them that the bill contained very little which might commend it to the attention of politicians of any sort; it created no office; it proposed no appropriation of money; it made no grant of land; and yet it was a bill, as he considered, of very great importance to the country.

There was before the House and in the hands of the Committee on Public Lands, a large number of bills, founded upon petitions to Congress for rights of way and grants of the public lands to assist the new States in the construction of their railroads, proposing to grant the alternate sections of the unsold public lands along the several lines of these roads, and raising the price of the remaining sections. These bills proceeded upon the ground, that, when a railroad is constructed through the public lands, it adds one-half to their value; and hence the reason of the claim for the alternate sections, and for doubling the price of the remaining sections along the line of such road. The number of these bills before the committee at this time, he could not tell precisely; but at the time he made the exhibit which he now presented, the number was fifteen, to wit: three for Michigan, three for Iowa, three for Illinois and Indiana, two for Illinois alone, two for Missouri, one for Mississippi, and one for Alabama. Two petitions, he believed, had been presented since the time he made this estimate. The amount of public lands thus proposed to be granted by alternate sections, was nine millions seven hundred and sixty-six thousand six hundred and forty-one acres. The committee had not the necessary time to go into an examination separately and carefully of the relative merits of all their claims; but probably they all had merits, more or less. The number of these applications had so greatly increased, that the committee despaired of coming to just conclusions in all cases upon any other principle than that proposed in the bill before the House; and, besides, they had seen cases where grants of this kind had been made, and the price of the alternate sections raised by Congress, and where, upon the application of the grantees, the price of the alternate sections had afterwards been reduced again to the price of other public lands; and thus the *quid pro quo* contemplated in the grant had utterly failed.

Another consideration which decided the committee in favor of the bill was, that applications for similar grants of the public lands might come up from the old States, in which no public lands were situated. He referred particularly to an application of this sort from the State of Pennsylvania, and another from the State of Connecticut; and to the difficulties involved in making such grants on account of taxation, as well as to the difficulties involved in the principle of making these grants to the new States exclusively. The committee, therefore, concluded, upon the principle that the construction of a railroad over the public lands increased their value, to report a general bill upon the subject. They proposed, as in the first section of the Senate bill, that any new State which might authorize and lay out a railroad over any portion of the public lands, and report the same to the proper department of the General Government, that thereupon such State should be entitled to the right of way through such public lands. (There were several bills before Congress, proposing to grant nothing but the right of way. The gentleman from Alabama had one of this character, which had remained a long time upon the calendar without the action of the House.) The grant of the right of way was all there was of the first section of the bill.

The second section embraced the grand idea of the bill, taking hold of the general principle he had stated, and enacting, that when the survey of such railroad route shall have been reported by the proper authorities of such new State, they shall have the right of way; and, if they so request, there shall be reserved from public sale so much of the public lands on each side of said railroad route——

Mr. STARKWEATHER interposed to ask the gentleman whether the bill did not propose to give to the new States what was equivalent to a preëmption right to the nine millions of acres of which he had spoken?

Mr. COLLAMER. Yes, and more too. The bill was nothing more nor less than a proposition saying to these new States, if they choose to lay out a railroad through the public lands, they shall have the right of way to begin with: and then, in the next section, it is enacted, that upon their request there shall be reserved from public sale all or any part of the public lands which they may select on each side of said railroad route, and within ten miles thereof; and that the State or States so applying, shall have the exclusive right to purchase such lands, at a price not exceeding one dollar and twenty-five cents per acre, for the term of ten years; and at the end of ten years, if they neglect to take the land and pay for it, the right of sale passes again to the General Government.

Before he concluded his remarks upon the bill, he desired to have the second section read again: for it required the States to pay for the land before they could possess it, or it was not the bill reported from the Committee on Public Lands.

The second section was then read, and it is as follows:

SEC. 2. *And be it further enacted*, That when the survey of said route shall have been returned to the Secretary of the Treasury, he shall, at the request of the Governor of said State, reserve from public sale all, or so much of the public lands, within ten miles of said route, as said Governor, by direction of the Legislature of said State, shall request, and the same shall be retained for said State, and shall be sold and conveyed to said State, or to whoever said State shall direct, at and for the minimum price per acre, in such quantities, and at such times, as said State shall desire, in aid of said construction: *Provided, nevertheless*, That said route shall be so surveyed and returned, and said land so reserved, within three years from the passing of this law; and all of said land not actually so purchased and paid for by said State, within ten years from the passing of this act, shall be subject to sale and private entry, in the same manner as if the same had not been reserved: *And provided, further*, That this shall not extend to any land but such as is subject to private sale at one dollar and twenty-five cents per acre; and nothing in this act contained shall be so construed as to grant to any State such right of preëmption to any land heretofore set apart or reserved for schools, nor to any public land which may have been reserved by the United States for military or other purposes, nor to any mineral lands, nor to any to which a right of preëmption may previously have been acquired by any person or persons.

Mr. C. proceeded to reiterate the provisions of the section, that the land was not only to be reserved to the States at a dollar and a quarter an acre, but that they should have only such as they paid for. The gentleman from New York [Mr. STARKWEATHER] had asked whether that was not equivalent to a preëmption. He replied that it certainly was, and he referred again to the principle which justified it. A State proposes to make a railroad through the public lands which will increase their value, and asks for the aid of the General Government. Now, we say in this bill to such a State, Take our lands and pay for them, at our regular price, and whatever you can add to their value by your improvement, you are welcome to. That was all there was of the bill—the beginning, the end, and the whole of it.

To say that bad legislation might grow out of such a system of grants, was no objection to his mind. He did not know but it might be, when the western States should get the power, that they would control all the public lands they could lay their hands on; but the new States certainly could have no wish, at any time, to put a stop to settlements, and they would not therefore ask to have any more land reserved from sale than they would actually need. The bill provided that they should only have what they might ask for within ten miles of their road; and to encourage their improvement, the General Government proposed to give them a preëmption claim. But these States must lay out their roads and make their selections of lands within two years from the passage of this act, and then they would have eight years to pay for them; and no title was to pass to the States, in any case, till the lands were paid for.

Mr. VINTON said this was a new proposition to him. He did not know that the bill was in the House till it came up for consideration. He had great confidence in the opinions of the gentleman from Vermont [Mr. COLLAMER] on all questions concerning the public lands; but his first impression, if the bill became a law, was, that it would have a most injurious effect upon the sales of the public lands. If the bill was to become a law, he would undertake to mark a prediction concerning it, which gentlemen might make, if they thought it worth while, and see whether it would not be verified. It would work in this way: If such a right of preëmption were to be given for ten miles on each side of a railroad, the States would become a preëmptive purchaser to large quantities of land, and so become debtors to the United States in very heavy amounts, of the payment of which debts they might, in their own time, combine and rid themselves.

In the first place, it was proposed to arrest those ten mile strips of land from sale—and the road might be three hundred miles long—the States taking such lands as they might find to be good bargains, and letting the rest go, as a matter of course. Then would commence the work of speculators. There were always the largest proportion of speculators in all new countries. Just as soon as this bill should pass, these speculators would begin to combine together, to form companies, and lay out railroads in all the new States, and they would continue to project their roads until they got possession of all the public lands in the new States. The public lands in Illinois, Wisconsin, Iowa, and Missouri, would be all crowded out of the market, upon this credit system. The country had tried the credit system before, and they were obliged to abandon it; and the result of the present experiment would be to give to such corporations as might run their railroads through the public lands in the States of Missouri, Illinois, Mississippi, Iowa, Wisconsin, Indiana, and Ohio, such a hold upon them all, that he ventured to say, in the end, every foot of them would go to the benefit of speculators. Land would thus be taken immediately out of the market to aid in the construction of roads not needed, and which would never be completed. The State Legislatures would be very ready to grant their charters, and in less than three years the great body of the most valuable of the public lands would be taken out of the market, and that branch of the public revenue would be wholly dried up. And then there would come up from the new States a delegation to Congress so strong that these lands would be all surrendered to them. The lands would never be sold to them; but they would get such a grip upon them, that they would never be reclaimed by Congress; for the interests of the new States would be represented by a force that would be strong enough to carry all their measures here. If in no other way, the object might be carried upon the occasion of a Presidential election.

As to giving to all railroads the right of way over the public lands, he had no objection to that; but as to the second section of the bill, he thought no provision of law could be more dangerous and detrimental to the interests of the country. This was the first impression of his mind upon hearing the bill read; for, as he had before said, he did not know the bill was in the House till just now. He was for striking out the second section, or committing the bill, when it might receive more consideration than would be given to it if it were to be passed now. He moved to strike out the second section.

Several gentlemen now called for an adjournment.

Mr. TOMPKINS inquired of the Chair what would be the effect upon the bill of an adjournment now?

The SPEAKER replied, that an adjournment would leave the bill upon the Speaker's table.

After further explanations from the Chair touching the order of business on the Speaker's table—

Mr. TOMPKINS proceeded to address the House in favor of the bill. He desired to present one or two general views in addition to those presented by the chairman of the Committee on Public Lands, [Mr. COLLAMER;] but he would first answer one or two objections which had been urged by the chairman of the Committee of Ways and

Means, [Mr. VINTON.] The gentleman from Ohio had declared that the passage of the bill would take immediately out of the market a large amount of the public domain; and that it would arrest the progress of settlements in the new States, at least during the period of ten years. But now, was there really any gentleman belonging to the new States, who could possibly desire to arrest the progress of their settlement? Or was it at all to be expected that the new States would ever pursue a policy so suicidal as that? He thought the position of the gentleman was so palpably absurd, that it needed only to be looked at to be refuted and discarded.

He would take another view of the subject. What were the new States? Were they not all integral portions of this Union? Did any desire to see their prosperity arrested. Did not their prosperity and the increase of their productiveness contribute to the prosperity and greatness of the whole country? This public domain was perfectly useless until it came under the hand of cultivation: and it was the production of the soil and labor of the country above what was necessary to supply the home consumption that constituted a nation's wealth. The profitable direction of industry, and the cultivation of the soil, were the only permanent sources of wealth; and he was therefore in favor of any policy which would increase the facilities of settlement and the cultivation of the soil in the new States, and such he considered would be the tendency of the bill before the House. In proportion to the increase of railroads in any country was the increase of the facilities of emigration and the transportation to market of the produce of the interior.

But there was another consideration. These railroads traversing every portion of the country, passing through the productive regions and leading to central points, contributed not only to the commercial advancement of the country, but they became, by the facilities which they afforded for the transportation of troops and munitions of war, a most important means of national defence.

This public domain was not now taken up for the purposes of settlement and cultivation, on account of the expense of getting the produce of the interior into market. But let these railroads be constructed, and it would be seen that these new country lands would forthwith become productive and valuable. Instead of the dense and unbroken forests which were now beheld in all the new States, these vast rich regions would soon become dotted all over with productive fields; and this change would be wrought as well by the facilities which these roads would give to commerce as by their power to carry military defences upon the shortest notice to all points assailable by an enemy. With such improvements, there would be seen in every direction a widely-diffused and well-rewarded industry. Such a growth in national wealth might be attained almost at once by these means, if these—he did not call them donations—if these grants of justice were not withheld.

The gentleman from Ohio had further objected to the bill, because it would afford to incorporated companies the means of getting such a fast grip upon the public lands, as to enable them to snatch every acre from sale by the General Government; and that having once got their grip upon them, demagogues would spring up and come into Congress from the new States, or the question might be made to turn upon a Presidential election, so as to make fast and eternal that grip. In this the gentleman had made the charge of fraud against the new States, with a design to grasp and clutch unfairly the whole body of the public domain. The fact was, that the bill did not propose to allow much more land to the new States, by their paying the regular price for it, than the gentleman's own State had received from the General Government *gratis*. It was not an uncommon thing for the older son in a family to be found grasping at the largest portion of the estate, to the exclusion of the younger children.

He declared himself ready and willing, wherever any great national work was needed, in New York or Pennsylvania, or any other State, which would either afford facilities to commerce, or insure a more efficient public defence in time of war, to vote liberal appropriations of the public domain for carrying on such works.

Mr. LINCOLN said he had not risen for the purpose of making a speech, but only for the purpose of meeting some of the objections to the bill. If he understood those objections, the first was, that if the bill were to become a law, it would be used to lock large portions of the public lands from sale, without at last effecting the ostensible object of the bill—the construction of railroads in the new States; and secondly, that Congress would be forced to the abandonment of large portions of the public lands to the States for which they might be reserved, without their paying for them. This he understood to be the substance of the objections of the gentleman from Ohio to the passage of the bill.

If he could get the attention of the House for a few minutes, he would ask gentlemen to tell us what motive could induce any State Legislature, or individual, or company of individuals, of the new States to expend money in surveying roads which they might know they could not make?

[A VOICE: They are not required to make the road.]

Mr. LINCOLN, (continuing.) That was not the case he was making. What motive would tempt any set of men to go into an expensive survey of a railroad, which they did not intend to make? What good would it do? Did men act without motive? Did business men commonly go into an expenditure of money, which could be of no account to them? He generally found that men who have money were disposed to hold on to it, unless they could see something to be made by its investment. He could not see what motive of advantage to the new States could be subserved by merely keeping the public lands out of market, and preventing their settlement. As far as he could see, the new States were wholly without any motive to do such a thing. This, then, he took to be a good answer to the first objection.

In relation to the fact assumed, that, after a while, the new States having got hold of the public lands to a certain extent, they would turn round and compel Congress to relinquish all claim to them, he had a word to say, by way of recurring to the history of the past. When was the time to come (he asked) when the States in which the public lands were situated would compose a majority of the representation in Congress, or anything like it? A majority of Representatives would very soon reside west of the mountains, he admitted; but would they all come from States in which the public lands were situated? They certainly would not; for, as these western States grew strong in Congress, the public lands passed away from them, and they got on the other side of the question: and the gentleman from Ohio [Mr. VINTON] was an example attesting that fact.

Mr. VINTON interrupted here to say, that he had stood upon this question just where he was now, for five-and-twenty years.

Mr. LINCOLN was not making an argument for the purpose of convicting the gentleman of any impropriety at all. He was speaking of a fact in history, of which his State was an example. He was referring to a plain principle in the nature of things. The State of Ohio had now grown to be a giant. She had a large delegation on that floor; but was she now in favor of granting lands to the new States, as she used to be? The New England States, New York, and the Old Thirteen, were all rather quiet upon the subject; and it was seen just now that a member from one of the new States was the first man to rise up in opposition. And so it would be with the history of this question for the future. There never would come a time when the people residing in the States embracing the public lands would have the entire control of this subject; and so it was a matter of certainty that Congress would never do more in this respect than what would be dictated by a just liberality. The apprehension, therefore, that the public lands were in danger of being wrested from the General Government by the strength of the delegation in Congress from the new States, was utterly futile. There never could be such a thing. If we take these lands (said he) it will not be without your consent. We can never outnumber you. The result is, that all fear of the new States turning against the right of Congress to the public domain must be effectually quelled, as those who are opposed to that interest must always hold a vast majority here, and they will never surrender the whole or any part of the public lands unless they themselves choose so to do. This was all he desired to say.

Mr. BRODHEAD then obtained the floor; but gave way for

Mr. SCHENCK'S motion to adjourn; which was agreed to.

And then the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred:

By Mr. LEFFLER: The petition of sundry citizens of the county of Muscatine, in the State of Iowa, praying the passage of a law for the reduction and uniformity of postage. Also, the petition of sundry citizens of Johnson county, Iowa, on the same subject. Also, a joint resolution of the General Assembly of the State of Iowa, in relation to a mail route from Belleview, in Jackson county, Iowa, to Independence, in Buchanan county. Also, a joint resolution of the General Assembly of Iowa, relative to an increase of mail service on route 4,551. Also, a joint resolution of the General Assembly of Iowa, asking an appropriation in land to improve the navigation of the Maquoketa river.

By Mr. SILVESTER: The petition of inhabitants of Green county, New York, for the reduction of postage.

By Mr. GIDDINGS: The petition of the Quarterly Meeting of Friends in the city of Philadelphia; the petition of 813 citizens of Winnebago county, Illinois; and the petition of Isaac Richardson and 114 other citizens of Ohio; severally praying for the abolition of slavery in the District of Columbia. Also, the petition of H. A. Pease and 23 others, T. B. Hudson and 45 others, John E. Burke and 37 others, Charles Hill and 76 others, and W. H. Plumb and 57 others, all citizens of Lorain county, Ohio, praying for the reduction of postage. Also, the petition of T. B. Hudson and 67 others, Charles Hill and 76 others, and W. H. Plumb and 37 others, all citizens of Lorain county, Ohio, praying for the establishment of courts of arbitration for the settlement of national difficulties.

IN SENATE.

WEDNESDAY, *February* 14, 1849.

The Journal having been read—

A message was received from the House of Representatives by Mr. CAMPBELL, their Clerk, as follows:

Mr. PRESIDENT: I am directed to inform the Senate that the House of Representatives is now ready to receive the Senate, to count the votes for President and Vice President.

Mr. BADGER, at the request of the Senator from Ohio, [Mr. ALLEN,] moved the reconsideration of the vote by which the Senate bill, granting a right of way across the public lands, and to dispose of said land in aid of the several States, for the construction of railroads and canals, was yesterday passed.

The bill having been sent to the House of Representatives—

Mr. BADGER moved that the Secretary be directed to request the return of the bill from the House.

The motion, after some remarks from Mr. BADGER, Mr. ALLEN, Mr. KING, Mr. BREESE, and Mr. BERRIEN, was agreed to.

COUNTING THE VOTES.

In compliance with the invitation from the House, the Senate then proceeded to the House of Representatives.

On the return of the Senate—

Mr. DAVIS, of Mississippi, from the committee appointed on the part of the Senate, jointly with the committee appointed on the part of the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice President of the United States, and of notifying the persons elected of their election, reported that the committee had performed that duty, and had instructed him to submit the following resolution:

Resolved, That a committee of one member of the Senate be appointed by that body to join a committee of two members of the House of Representatives, to be appointed by that body, to wait on General Zachary Taylor, of Louisiana, and inform him that he has been duly elected President of the United States for four years, commencing with the fourth day of March, 1849; and also to wait on Millard Fillmore, of New York, and inform him that he has been duly elected Vice President of the United States for four years, commencing with the fourth day of March, 1849.

The resolution having been concurred in—

REPORTS OF COMMITTEES.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported the following bills from the House of Representatives, without amendment:

An act for the relief of Elizabeth Williamson;
An act for the relief of John Campbell;
An act for the relief of Henry Miller;
An act for the relief of Edward Taylor;
An act for the relief of John Wilson;
An act for the relief of Amos Armstrong;
An act for the relief of Edward Cole;
An act for the relief of Elizabeth Kenney;

An act for the relief of Polly Dameron, widow of Charles Dameron, deceased;

An act for the relief of David Towle;

An act for the relief of George S. Claflin.

Mr. JOHNSON, of Louisiana, from the same committee, reported House bill for the relief of Joseph D. Ward, with an amendment.

On motion of Mr. JOHNSON, of Louisiana, the Committee on Pensions were discharged from the further consideration of House bill for the relief of Martha Dameron, wife of Christopher Tompkins; and it was referred to the Committee on Naval Affairs.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, in reply to a resolution of the Senate of the 12th instant, transmitting the proceedings which had taken place under the act of Congress in relation to the claims of Colonel Richard M. Johnson.

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 14, 1849.

The Journal of yesterday was read and approved.

COUNTING THE VOTES OF ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

Mr. BARROW rose and said, that he had a motion which he had reduced to writing, and which he desired to offer. It was read for information, as follows.

Resolved, That the Clerk inform the Senate that the House is now ready to receive that body, for the purpose of proceeding to open and count the votes of the electors for President and Vice President of the United States.

The resolution was adopted.

DONATIONS OF LAND.

Mr. JONES, of Tennessee, rose and said, that his colleague, [Mr. JOHNSON,] who had been detained from his seat in the House several days in consequence of indisposition, had some time since given notice of his intention to ask leave to introduce a bill, which he had requested him (Mr. J.) this morning to ask leave to introduce in his behalf. He (Mr. J.) desired that the bill should be received, referred, and printed.

The SPEAKER said, if there was no objection the bill would be received.

The title thereof having been read for information—

Objection to the introduction of the bill was made by Mr. COLLAMER.

Mr. JONES hoped it might be received and referred.

The objection having been persisted in, the bill was not introduced.

OFFICERS OF THE UNITED STATES.

Mr. MEADE asked leave to offer a resolution; which was read for information.

[It requested that the President of the United States cause to be prepared and transmitted to the next Congress an alphabetical list of all the officers of the Federal Government—the places of birth of each officer—the State and county of which a resident at the time of appointment to office—and the salary or pay allowed to each.]

Objection was made, but withdrawn.

Mr. WENTWORTH called for the orders of the day.

The SPEAKER made a reply, of which nothing was heard at the reporter's desk.

The SPEAKER said, if there was no objection to the introduction of the resolution of the gentleman from Virginia, [Mr. MEADE,] the question would be taken upon it.

The objection having been renewed, the resolution was not entertained.

Mr. LEVIN, by leave, from the Committee on Naval Affairs, to whom was referred the petition of Priscilla Decatur Twiggs, a niece and one of the adopted daughters of the late Commodore Stephen Decatur, made a report thereon in writing, recommending the passage of the bill from the Senate entitled "An act for the relief of the captors of the frigate Philadelphia;" which report was laid upon the table, and ordered to be printed.

Mr. GREELEY asked leave to offer the following resolution, which was read for information:

Resolved, That the Committee on the Judiciary be instructed to inquire whether there be anything in our laws or authoritative judicial decisions which countenances the British doctrine of "once a subject, always a subject," and to report what action of Congress, if any, be necessary to conform the laws and decisions aforesaid consistently and thoroughly to the American doctrine affirming the right of every man to migrate from his native land to some other, and, in becoming a citizen of the latter, to renounce all allegiance and responsibility to the former.

Objection was made.

Mr. JONES, of Tennessee, asked leave to move to discharge the committee to whom it had been referred from a certain petition, and that it be laid on the table.

Objection was made.

TROPHIES OF THE LATE WAR.

Mr. SAWYER asked leave at this time to introduce a joint resolution requesting the President of the United States to deposite in the National Institute, within the city of Washington, the flags and other trophies taken by the American armies in the late war with Mexico, there to remain for the inspection of all, to commemorate the gallant deeds of our army and navy, to which he supposed there would be no objection.

Objection was made.

Mr. BOWLIN asked leave to present the memorial of the Legislature of Missouri, in relation to the public lands, and asked that it might be laid on the table and printed.

Objection was made.

Mr. BOWLIN rose to a question of order. He insisted that any gentleman who objected should rise in his place and do so.

The SPEAKER said, if there was no objection, the memorial would be laid on the table and printed.

Mr. PRESTON rose and objected.

So the memorial was not received.

Mr. CLINGMAN asked the general consent of the House to present certain resolutions of the Legislature of North Carolina.

Objection was made.

PRESIDENT AND VICE PRESIDENT.

A pause (one of several which had taken place since the reading of the Journal) followed, which was at length broken by—

Mr. SAWYER, who rose and said, that as it appeared there was no business on hand, he would suggest that the House should dispense some way or other with the resolution which had been passed and sent to the Senate.

Now, (continued Mr. S.,) on this side of the House we give up this matter. [Laughter.] We do not want to contest it further. [Renewed laughter.] We believe we are beaten, [roars of laughter,] and we are perfectly satisfied that the thing should stand as it now is without a formal count. I would, if in order, move a reconsideration of the vote.

SEVERAL VOICES. Do you mean a reconsideration of the Presidential election?

Mr. SAWYER. No: a reconsideration of the vote on this resolution. We decline this business; and I believe the result will be about the same without a count as with it.

Mr. S. spoke without interruption by the Chair, but his motion was not entertained.

Mr. MORSE asked leave to offer a resolution affecting, he said, the members of this body particularly and intimately. He asked that it might be read. It was read.

[It directed that the Committee on Public Buildings and Grounds inquire into the expediency of providing a new Hall for the Representatives in Congress, properly adapted to the transaction of business.]

Objection was made.

ADMISSION OF LADIES.

Mr. COCKE asked leave to offer the following resolution, which was read for information:

Resolved, That the ladies in the gallery be admitted on the floor of the House.

Mr. ATKINSON rose and objected. If (said he) it is necessary to state why I object, I should say, that I do not think this House is the place for ladies. They would be in very bad company.

The resolution was not received.

The Clerk having delivered the message to the Senate, informing them that the House was in waiting for the purpose of counting the votes for President and Vice President—

The Senate attended in the Hall of the House.

The Senate, preceded by the Hon. GEORGE M. DALLAS, Vice President of the United States, and its officers, entered the Hall.

The Senators took the seats prepared for them in the circle in front of the Speaker's chair.

The Vice President took the seat of Presiding Officer, the Speaker of the House of Representatives being seated at his left hand.

The Sergeants-at-Arms of the two Houses were on the lower platform, at the right and left.

The Hon. JEFFERSON DAVIS, the Teller on the part of the Senate, took a seat at the Clerk's desk, supported by the Hon. WASHINGTON BARROW and ROBERT MCCLELLAND, Tellers on the part of the House of Representatives, who were assisted by the Secretary of the Senate and the Clerk of the House.

When thus organized, the two branches of Congress in joint assembly, and the aisles and galleries densely crowded with ladies and citizens, the Hall presented an imposing appearance.

The VICE PRESIDENT then rose and said: In obedience to law, the Senate and House of Representatives have assembled, on the present occasion, so that I may fulfill the duty enjoined upon me by the Constitution, by opening, in their presence, the sealed certificates of the lists of persons voted for, by the Electors in the respective States, as President and Vice President, cause the votes to be counted, and have the persons to fill those offices ascertained and declared, agreeably to the Constitution.

The VICE PRESIDENT then opened the certificate of the electors of the State of Maine, and said: I now open and present to the Tellers chosen by the two Houses the certificate transmitted by the Electors of the State of Maine, that the votes therein recorded may be counted.

Mr. JEFFERSON DAVIS proceeded to read the certificate, and the vote reported was registered by the tellers in duplicate lists.

The same form was observed with the certificates from the States of New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, New York, New Jersey, Pennsylvania, and Delaware.

The certificates from the States of Maryland, Virginia, North Carolina, South Carolina, Georgia, Kentucky, Tennessee, Ohio, Louisiana, and Mississippi, were severally presented in succession in like manner, and read by Mr. BARROW.

Those from Indiana, Illinois, Alabama, Missouri, Arkansas, Michigan, Florida, Texas, Iowa, and Wisconsin, were read by Mr. MCCLELLAND.

The Tellers having read, counted, and registered the votes of the Electors of the thirty States, and compared their duplicate lists, delivered the same to the Vice President.

The VICE PRESIDENT then rose and read the report of the Tellers. The result was as follows:

List of Votes for President and Vice President of the United States for four years, commencing March 4, 1849.

STATES.	FOR PRESIDENT.		FOR VICE PRESIDENT.	
	Taylor.	*Cass.*	*Fillmore.*	*Butler.*
1. Maine*	.....	9	.....	9
2. New Hampshire	.....	6	.....	6
3. Massachusetts	12	.....	12	–
4. Rhode Island	4	.....	4	–
5. Connecticut	6	.....	6	–
6. Vermont	6	.....	6	–
7. New York	36	.....	36	–
8. New Jersey	7	.....	7	–
9. Pennsylvania	26	.....	26	–
10. Delaware	3	.....	3	–
11. Maryland	8	.....	8	–
12. Virginia	.....	17	.....	17
13. North Carolina	11	.....	11	–
14. South Carolina	.....	9	.....	9
15. Georgia	10	.....	10	–
16. Kentucky	12	.....	12	–
17. Tennessee	13	.....	13	–
18. Ohio	.....	23	.....	23
19. Louisiana	6	.....	6	–
20. Mississippi	.....	6	.....	6
21. Indiana	.....	12	.....	12
22. Illinois	.....	9	.....	9
23. Alabama	.....	9	.....	9
24. Missouri	.....	7	.....	7
25. Arkansas	.....	3	.....	3
26. Michigan	.....	5	.....	5
27. Florida	3	.....	3	–
28. Texas	.....	4	.....	4
29. Iowa	.....	4	.....	4
30. Wisconsin	.....	4	.....	4
	163	127	163	127

* After the returns from the State of Maine had been read, Mr. STEPHENS rose and suggested that the reading at length of the returns from each State in detail be dispensed with.

The VICE PRESIDENT stated that no motion was in order, and no other mode of proceeding could be adopted but that pointed out by the Constitution of the United States, but that the tellers might abridge the reports so far as to give merely the results of the electoral ballotings of each State.

The VICE PRESIDENT of the United States then, in pursuance of the resolution adopted by the Senate and House of Representatives on the 7th instant, announced the state of the votes to the Houses of Congress in joint meeting, as follows:

That the whole number of electors appointed to vote for President and Vice President of the United States is 290; of which number 146 make a majority.

The State of the vote for President of the United States, as delivered by the tellers, is—

For ZACHARY TAYLOR, of Louisiana.....163
For LEWIS CASS, of Michigan.....127

And the state of the vote for Vice President of the United States, as delivered by the tellers, is—

For MILLARD FILLMORE, of New York.....163
For WILLIAM O. BUTLER, of Kentucky.....127

That ZACHARY TAYLOR, of Louisiana, had received a majority of the whole number of votes of the electors chosen in the several States to vote for President of the United States; and that MILLARD FILLMORE, of New York, had received a majority of the whole number of the votes of the electors chosen in the several States to vote for Vice President of the United States.

And thereupon,

The VICE PRESIDENT of the United States declared that ZACHARY TAYLOR, of the State of Louisiana, is duly elected President of the United States for the term of four years, to commence on the fourth day of March, 1849; and that MILLARD FILLMORE, of the State of New York, is duly elected Vice President of the United States for the term of four years, to commence on the fourth day of March, 1849.

The joint meeting of the two Houses of Congress was then dissolved, and the Senate returned to its Chamber.

Mr. BARROW, from the Joint Committee appointed on the part of the House of Representatives to ascertain and report a mode of examining the votes for President and Vice President of the United States, and of notifying the persons elected of their election, reported the following resolution; which was read, and unanimously agreed to:

Resolved, That a committee of two members be appointed on the part of the House of Representatives, to join a committee of one member on the part of the Senate, to wait upon ZACHARY TAYLOR, of Louisiana, and inform him that he has been duly elected President of the United States for four years, to commence on the 4th day of March, 1849; and also to wait on MILLARD FILLMORE, of New York, and inform him that he has been duly elected Vice President of the United States for four years, to commence on the 4th day of March, 1849.

And then the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. SMART: The petition of T. Hill and 96 others, citizens of Maine, asking for cheap postage. Also, the petition of C. C. Cone and others, of Skowhegan, Maine, asking for the same.

By Mr. EMBREE: The following resolutions of the Legislature of Indiana—A joint resolution in relation to the soldiers of the war with Great Britain; a joint resolution relative to the harbor at Michigan City; a joint resolution in relation to the improvement of the navigation of the Kankakee and Iroquois rivers, in the States of Indiana and Illinois; a joint resolution in relation to certain official documents connected with the conduct of the second Indiana regiment; a joint resolution in relation to a grant of lands for the use of the Indiana University.

By Mr. THOMPSON, of Iowa: The petition of sundry citizens of Iowa, praying for the establishment of a mail route from Agency City, Wapello county, via Sand Prairie Floris, to intersect a mail route from Iowaville to Bloomfield.

By Mr. ECKERT: Four petitions, signed by Henry Myer and 84 other citizens of Schuylkill county, Pennsylvania, praying for the enactment of a tariff of specific duties to save the specie of the country from being exported, and to prevent the prostration of the farming, manufacturing, laboring, and commercial interests. Also, one of like import, signed by J. W. Coban and 32 other citizens of Lebanon county, Pennsylvania. Also, another of like import, signed by Thomas Baird and 16 other cttizens of Berks county, Pennsylvania.

By Mr. PALFREY: The petition of Charles W. Packard and 41 others of Lancaster, Massachusetts, praying for uniform and reduced rates of postage.

By Mr. WENTWORTH: The petition of citizens of Somonauk, De Kalb county, for a mail route from Chicago to Cairo.

By Mr. SMITH, of Illinois: The memorial of Leonard Loveland and 117 other citizens of Macoupin, Jersey, and Madison counties, praying a donation of land to aid said State in constructing a railroad, connecting the upper and lower Mississippi with the northern lakes at Chicago. Also, the memorial of R. G. Shannon and 75 others, citizens of Randolph county, Illinois, upon the same subject.

By Mr. CONGER: The petition of 54 citizens of Preble, Cortland county, New York, for cheap postage.

By Mr. WENTWORTH: A petition for a mail route from Belvidere, via De Kalb Center, to Ottawa. Also, a petition from citizens of Chicago, for a donation of land for a railroad from the Mississippi to the lakes.

By Mr. RICHEY: The petition of Henry Greer and 70 other citizens of Morgan and Perry counties, Ohio, praying for a mail route from Malta, in Morgan county, via Chapel Hill, Sunday Creek Cross Roads, and Straitsville, in Perry county, Ohio, to Logan, Hocking county, Ohio. Also, the petition of Henry Greer and 71 others, citizens of the same counties, praying for a mail route from Deaver, Morgan county, Ohio, via Chapel Hill, Perry county, and Oxford, Athens county, to Athens, Athens county.

IN SENATE.

THURSDAY, *February* 15, 1849.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, in relation to the amount expended for pay and rations of officers and men of the naval establishment detailed for coast survey services; which was laid on the table, and ordered to be printed.

The VICE PRESIDENT laid before the Senate the annual report of the Commissioner of Patents; which, on motion of Mr. DAYTON, was referred to the Committee on Patents.

PETITIONS AND MEMORIALS.

Mr. DIX presented a petition from a large number of persons of Ontario county, New York, praying for a reduction of postage and the abolition of the franking privilege; which was laid on the table.

Mr. DIX presented a memorial from citizens of New York, praying for a modification of the patent laws; which was referred to the Committee on Patents.

Mr. FELCH presented a petition from Martin Dubois, a revolutionary pensioner, asking an increase of pension; which was referred to the Committee on Pensions.

Mr. STURGEON presented a petition from citizens of Pennsylvania, pointing out defects in the existing patent laws, and praying for a remedy; which was referred to the Committee on Patents.

Mr. WALKER presented two memorials from citizens of the United States, asking that the public domain may be granted in suitable lots to actual settlers not possessed of other land; which was referred to the Committee on Public Lands.

On motion of Mr. FELCH, the papers in relation to the memorial of the American Board for Foreign Missions were taken from the files of the Senate, and referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. UNDERWOOD, from the Committee on Public Lands, made an adverse report on House bill for the relief of William Kingsbury; which was ordered to be printed.

Mr. HAMLIN, from the Committee on Commerce, reported House bill for the relief of William Mitford, without amendment.

Mr. FELCH, from the Committee on Public Lands, made an adverse report on the petition of John Milliken and others; which was laid upon the table.

On motion of Mr. FELCH, the Committee on Public Lands were discharged from the further consideration of the petition of Samuel Simonton, and it was referred to the Committee on Indian Affairs.

Mr. BALDWIN, from the Committee on Claims, reported a bill for the relief of the securities of J. S. Devlin, administrator of E. J. Weed; which was read, and ordered to a second reading.

Mr. BALDWIN, from the Committee on Claims, made an adverse report on the petition of William Caton, of Anne Arundel county, Maryland; which was ordered to be printed.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, reported the joint resolution authorizing the Secretary of War to furnish arms and ammunition to persons emigrating to the Territories of Oregon, California, and New Mexico.

Mr. MASON, from the Committee on the Library, reported, without amendment, the following resolution introduced last session:

Resolved, That the Secretary be directed to furnish each member of the present Senate, who has not already received them, the same number of copies of the Constitution, and other books ordered to be furnished to the Senators by the resolution of February 8, 1847.

Mr. MASON. It is proper, perhaps, Mr. President, that Senators should have their attention called to the subject of this resolution. It proposes to purchase for such Senators as have not heretofore had them, as well those books which are ordinarily furnished to members, as copies of the Constitution and other books of like character. I understand it has been the practice, both of the Senate and of the House of Representatives, whether right or wrong, to purchase for the individual use of Senators books of great general public interest, compilations of statistics, State papers, and other papers in the archives of the Government. At the last session, an order was made directing the Secretary to purchase certain books, not for the use of Senators particularly, but for distribution among our constituents, and a certain number of copies were purchased. This resolution embraces both those designed for the use of Senators and those designed for distribution amongst our constituents. That is the character of this resolution, and I state these facts because I think it due to the Senate that they should be made known. I shall feel constrained, as I have done heretofore, to vote against this resolution.

Mr. BENTON. I object to it. Let it take its place on the calendar.

PRESIDING OFFICER. The question is, Will the Senate proceed to its consideration?

The motion was put and lost.

Mr. BUTLER, from the Committee on the Judiciary, reported a recommendation that the Senate concur in the amendment of the House of Representatives to the bill to authenticate testimony; and the question being taken, the report was agreed to, and the amendment was concurred in.

The bill was reported to the Senate without amendment, and was ordered to be engrossed for a third reading.

GRANT OF PUBLIC LANDS.

A message was received from the House of Representatives, by Mr. CAMPBELL, their Clerk, returning the bill granting a right of way across the public lands, and to dispose of said land in aid of the several States for the construction of railroads and canals.

Mr. BADGER moved to reconsider the vote by which that bill had passed the Senate.

The motion lies over.

THE PRESIDENT ELECT.

The VICE PRESIDENT informed the Senate that no order had been made yesterday as to the appointment of a committee on the part of the Senate to wait on the President elect, and notify him of his election.

It was then ordered that the appointment be made by the VICE PRESIDENT.

BILLS ON LEAVE.

Mr. WALKER asked and obtained leave to introduce a bill concerning lands lying between the meander line and the middle of the meandered streams; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. DODGE, of Iowa, asked and obtained leave to introduce a bill for the relief of Moses Meeker and David G. Bates; which was read a first and second time, and referred to the Committee on Claims.

RESOLUTION.

Mr. KING submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of authorizing a grant of land to the surviving officers of the army who served to the termination of the war with Great Britain, commenced in 1812, and were then discharged from the service under the provisions of an act of Congress for reducing the army; and also to the widows and children of those who have died since the close of that war.

PROTOCOL.

Mr. FOOTE moved to take up the subject pending at the adjournment of the Senate on Saturday, being the question of printing the message of the President of the United States, on the subject of the protocol, it being his object to withdraw his amendment to print 20,000.

The motion was withdrawn by the mover, in consequence of the absence of the Senator from North Carolina, [Mr. MANGUM,] who made the motion to print the document.

DELEGATION OF CHIPPEWA INDIANS.

Mr. ATCHISON, from the Committee on Indian Affairs, to which was referred the petition of certain Chippewa Indians, reported a joint resolu-

tion to defray the expenses of them and their interpreter.

In explanation of its object—

Mr. A. said: Mr. President, I am instructed to report this joint resolution, and I ask its immediate consideration. It is a resolution to pay the sum of $3,000 to a party of Chippewa Indians now in this city, for the purpose of defraying their expenses, and the expenses of their interpreter in coming to Washington, for purposes of business connected with their tribe, and that an agent be appointed to conduct them back as far as Detroit, and that the agent have his compensation for such service from this appropriation.

Mr. KING. Mr. President, I rise to inquire whether the agent who accompanies these Indians is not an agent of the United States?

Mr. ATCHISON. He is not. As to the propriety of making this appropriation, I presume, when the facts are made known, there will be no difference of opinion. The Committee on Indian Affairs were unanimous as to the propriety of the appropriation in this particular case; but there was some difference of opinion as to the amount to be appropriated. All concurred in the opinion that $3,000 was little enough. My own opinion was that the full amount which they asked for should be allowed; that is, the sum of $6,000. The opinion of the majority of the committee was based on the estimates of the Commissioner of Indian Affairs, as to what would cover their reasonable expenses. I was of the opinion that the sum of $3,000 would cover all expenses if they were made with strict economy. But they ask for something further to enable them to pay some debts which they contracted, in order to enable them to leave their homes and to get here, and they ask the Government to pay the necessary expense of their families while they are on this expedition to Washington. This was the only question before the committee—as to the higher or lower sum. The sum of $3,000 was based on the estimates of the Commissioner of Indian Affairs; and I will move an amendment for the purpose of testing this question, and showing the liberality of the Senate, for this is the first delegation of Chippewa Indians that has visited Washington for many years, and the reason they allege for doing so is satisfactory, they coming on business of great importance to their tribes, or at least it was deemed so by them. They alleged, in conversation with the committee, that the representation of the grievances of which they complain had been made to their agents year after year, and they say that their words were wasted on the wind and had never reached the President nor the Congress of the United States. And of this opinion were the committee, that their complaints and grievances had never yet reached the department of Congress. Hence, they concluded to come in person and make their case known. Now, the only question to be determined is, whether, on any principle of justice, without saying anything of liberality, we will allow the full amount which they ask? And, for the purpose of testing that question, I move to strike out the sum of $3,000 and insert the sum of $6,000, the sum which some of the committee were willing to allow.

Mr. YULEE. Mr. President, I desire to inquire whether this delegation of Indians had authority from the department to come here before they started?

Mr. ATCHISON. They had not.

Mr. YULEE. Had they the assent of the body of their tribes? If this is sanctioned, I do not see what is to prevent this delegation coming again to Washington and giving some plausible excuse as a reason why they should come, if it is to be done at our expense. This I think will be calculated to confuse our relations with the Indians; and I think it better that they should be required to make their communications through some proper channel to the department. If you encourage appeals in person to the department from Indians against agents, the probability is, that it will be encouraging confusion between the Indians and their agents, and increase their discontents. If you always pay their expenses when they come, you, of course, encourage them to come. I think the precedent a bad one. I shall be opposed to it because I think it not necessary.

Mr. DODGE, of Iowa. Mr. President, these Indians come not here to make any complaint, as I understand. They live some two thousand miles beyond where I live. They come here, sir, to ask a small boon from this Government; to ask of this and the other branch of Congress that the resting-places where the bones of their ancestors repose may be continued to them; that the Government of the United States would grant them a small portion of its vast domain among the fastnesses and marshes of Lake Superior, where their villages are situated, and where they have been enabled to obtain a precarious subsistence by gathering the wild rice, cranberries, and other productions of that distant country. It is true, sir, that they have come on this mission to make their wants known to their Great Father without an invitation from the Secretary of War. But, sir, these men were entirely ignorant of the regulation of the department, of which the honorable Senator from Florida speaks. They had, to them, most important business to transact, and they did not doubt their right, as an independent people, to come here to make their grievances known. They selected a gentleman related to them by the ties of consanguinity, an intelligent, and, as I understand, a respectable man, to act as their guide and interpreter. Amidst difficulties of every sort, and without means, they have worked their way here. They have visited the President, Secretary of War, and Commissioner of Indian Affairs; have made known their wants to them, and also to the Committees of Indian Affairs in both Houses of Congress. They are now, sir, overwhelmed with debt, and I know, from their piteous appeals to my colleague and self, in the utmost distress. If this appropriation is not made for their relief, I do not myself see what is to become of them.

Everywhere their mission was approved by all who became acquainted with them, and everywhere they excited the best sympathies of the human heart. They are a portion of the fast fading aborigines of the West; they belong to that widely-extended and still numerous tribe of Indians—the Chippewas. The occasion is one, as it seems to me, in which every one who has a particle of feeling should consent to grant to these children of the forest this small pittance, and send them home satisfied. Their petition for land and to become citizens has been presented by my friend from Michigan, [Mr. FELCH,] but at too late a day to be acted on at the present session. I hope it will be favorably considered at the next.

Mr. HANNEGAN. I would ask the Senator from Iowa if these Indians have not complained that they were deceived by the Commissioner who treated with them last, and if they understood that they should be compelled to move from their present places of abode?

Mr. DODGE, of Iowa. I cannot answer that question, as they have never done so to me; but they do complain that some eight hundred half-breeds are allowed to participate in their small yearly annuity. But that and other like matters, I have no doubt, will be promptly and properly corrected by the present able and trustworthy Commissioner of Indian Affairs. But, sir, if you were to go into a calculation as to the millions of acres of land, the valuable lead and copper mines that you have acquired from these very tribes, specimens of which are to be seen at the War Department, and calculate the cost of these, as compared with their value, there would be a fearful balance against us. These Indians are now many thousand miles from their homes. Philanthropic gentlemen in Pittsburg, Philadelphia, and elsewhere, have loaned them sums of money to enable them to reach here. These debts they wish to pay, and to have money enough to pay their way home. Senators can form some idea of the difficulties and hardships of the homeward journey of these Indians, when they are informed, as I learn is the fact, that it will take thirty days' travel from Green Bay in Wisconsin, on snow shoes, for them to reach their villages.

Mr. YULEE. Mr. President, I know nothing of the merits of this case; but, as I understand it, a delegation of Indian tribes is not permitted to come here for a purpose of this kind without an express permission from the War Department, and I understand they have come in violation of that rule.

Mr. DODGE, (in his seat.) They were ignorant of it.

Mr. YULEE. That may be an excuse for them. I would ask if the department has recommended this appropriation?

Mr. ATCHISON. The department has recommended it; and the Commissioner of Indian Affairs has made the estimate of expense.

Mr. DAYTON. I wish to inquire whether the estimate made by the Commissioner will cover the expenses? It is proposed to increase the sum to $6,000, and I desire to be informed on what ground this addition is recommended. Upon what is it predicated?

Mr. ATCHISON. It is on the representation made by the head chiefs themselves, with whom I had a conversation this morning. I have a paper from them on this point, which I will ask the Secretary to read.

The Secretary read the communication, as follows:

A last appeal to our Fathers in Committee Council.

FATHERS: We have already said to you that we came here on behalf of our bands, to obtain a grant of land as a permanent home for them at their present villages. This was our first great object, and we hope it will some day be done.

We have also told you that we have been and are now at great expense, and have incurred heavy debts. We have estimated these debts, and the sum necessary to take us home decently and pay the debts of our families, at $6,000.

We now hear that our father, the Commissioner, has not estimated so much as the above sum as being necessary to our wants. We fear he has not calculated for the travel from Green Bay, and the additional expenses at this season of the year. We reside, many of us, thirty days' march from Green Bay, beyond that point, in an interior now covered with snow, and which will remain thus frozen and covered for two or three months yet. We shall need many things, costing much money, to take us home comfortably from that place. The closest estimate which we can make brings the whole amount of debts and expenses for going home at $6,000. This will allow us about $50 each for clothing, and $100 each to pay the debts of our families at home, after paying what we already owe, and the expenses of the trip. This is certainly a small allowance; and we therefore pray our fathers to give us $6,000, so that we may have enough, and we assure them this would allow us but little to spare.

Of the amount which may be appropriated, a certain portion should be paid immediately to our friend, relative, and interpreter, Major Martell, to whom we owe $500 for money advanced and goods furnished, and who is also responsible, in his individual capacity, for the debts contracted by us along the route. His property in our country, worth $4,000, all that he has in the world, is or may be made responsible on our account, and we wish to prevent such a loss to him.

He came with us at our own solicitation. He has acted faithfully toward us, and proved that the confidence we have for years placed in him has been well deserved. We hope that he may be sent home with us. The appointment of any other agent would be a disgrace to our relative, and we should deserve death at the hands of our people if we did not at least speak a word in his defence. We have already said that we hold him by the right hand, and do not mean to let him go. We do not ask, and he does not desire, that the money be placed in his hands. We all ask, however, that he may not be utterly discredited, and a shame brought upon him and all of us through a belief in evil reports against him, which we know are not true. He freely trusted us the $500; he freely assumed our debts—can we desert him? We hope our fathers will listen to us.

Mr. BUTLER. Mr. President, I know nothing of Major Martell, and I would ask if there is any guarantee that the Indians will receive the money? I do not know the man; and with many of the agents who come on friendly missions for the Indians I apprehend it may be said of them, as of another class of persons, they are "like unto the thorn-bush, whereunto, when the sheep flee for shelter, they leave not the same without leaving a part of the fleece." I should like to have some guarantee that these Indians will receive the amount appropriated to them.

Mr. ATCHISON. If I understand the honorable Senator from South Carolina, he is opposed to placing this money in the hands of the agent now accompanying these chiefs. According to the provisions of the resolution, the Secretary of War can place the money in the hands of an agent, to take charge of it for them on their way to Detroit.

Mr. JONES. Mr. President, my colleague and myself have received letters recommendatory of Major Martell from gentlemen known to be of the highest respectability, and upon whose declarations the most implicit reliance can be placed. Among those who have introduced him to us by letter I refer with pleasure to Captain James May, of Pittsburg, Pennsylvania, well known also to yourself, sir, as a gentleman of veracity and of exalted character. Major Martell was recommended to Captain May by the Rt. Rev. Bishop of Cincinnati, to whom he was avouched for by his parish priest at the Sault St. Marie, Michigan, and by others in whom he could and did place entire confidence. But, sir, whether this important charge against Major Martell be true or not, and whether coming highly recommended or not, he is the man in whom these Chippewas repose confidence; and, as *they* desire that he should be continued to act

with and for them as their special agent or conductor, I think that he should not be superseded, but that he should be permitted to return with them in the same capacity; that the money should be placed in his or their own hands, that they may use it, as they have occasion, to pay off debts already contracted by them in coming here, and to defray their expenses on their return homewards. I hope the resolution will pass.

Mr. ATCHISON. As to the money being placed in the hands of the proper person, the Commissioner of Indian Affairs can appoint a safe agent to go part of the way home with them.

A Chippewa Indian, of the name of Chumway, belonging to a Canada band, was in the city, and wrote a letter to the Commissioner of Indian Affairs, which produced some doubt as to the propriety of giving this money to Major Martell. So far as the testimony of that Chippewa chief goes, it amounts to this. This is the tale they tell: Whilst in Baltimore, Martell was treated by some gentlemen there with champagne and other rich wine, and as he was not used to any drink stronger than whiskey, [laughter,] the consequence was, that the next day he had the headache, and was indisposed to receive visits. But, in addition to that, they say that they have learned that your great chiefs and councillors take this beverage freely, and nothing is said about it. [Laughter.] At any rate, they have great confidence in Major Martell. They say that he is no drunkard; that this thing happened for the first and only time at Baltimore. But, lest there may be some cause of complaint, we propose that some discreet person shall see to the disbursement of this sum.

Mr. KING. Is there an Indian agent residing at this station?

Mr. ATCHISON. There is a sub-agent.

Mr. KING. It is proper to say, that Congress has acted on the principle of discountenancing the practice of Indians coming to Washington for purposes of this kind, except through the agents; otherwise, we would be liable to have Indians coming here and asking for what they are not entitled to. In this case they may be entitled to what they ask from Government; but, sir, if you give this money, it is all important that you give it to the people themselves. I know nothing about this man, but I know how these things are sometimes brought about; how the Indians are deceived; and that in many instances these white men who come here, and make such a show of friendship for the Indians, pocket two-thirds of the money, and the Indians get none. All I ask is, that these Indians be provided for, and that all over and above what is necessary to defray their expenses be distributed to the Indians by the agent residing there, and that you will not allow this man to have it, to put it in his own pocket, provided he comes here, as many do, for this purpose. I trust the joint resolution may be so amended as to guard against the possibility of this individual's pocketing the money.

Mr. ATCHISON. I agree to the propriety of guarding this money, and hope it will be so arranged that, if there is anything over and above what is necessary to pay expenses, the agent should pay the rest to the chiefs themselves.

Mr. FELCH. Mr. President, I desire to say a word in reference to the agent spoken of by the honorable Senator from Alabama. The Chippewa tribes once owned most of the territory embraced in Michigan, and a large portion of Wisconsin. There is no agent residing with the bands who are now represented here. The Chippewas are residing in several different bands, some in the country on the borders of Lake Superior, and some on the banks of the Mississippi, and in the intermediate region, the northwest, in a country extending over a vast territory. There is a sub-agent residing at La Point, on Lake Superior. These tribes whom these chiefs represent are scattered over a wide region, and have little communication with the agent at Detroit or the sub-agent at the Point. As regards these Indians, they have complained many years of a want of attention to some matters of importance to them, that they desired to have represented to the Government. One was, for instance, that in the distribution of the amount of their annuities, the half-breeds were allowed to participate, to the injury of the Indians themselves. That is one; and then they have asked that they may have lands and own them for cultivation, and become citizens. Another complaint was, a bad selection of goods, with which they were furnished under the treaty. Several of these matters have been subjects of complaint for years, and not understanding well the usages of the Government, they thought it best to come to make their appeal in person. Now, as to the agent who comes with them, whom they call a brother, I know little of him personally. I have heard of him, and know something of him by reputation. I know enough of his reputation at home to satisfy me that he is not in the habit of intoxication, and moreover, that he has not got up this expedition for the sake of the money, and that the chief Indians have come, not at their solicitation or his, but by the desire of their tribes assembled in council. They first requested this man, who is connected with the tribe, to come alone, and prepared for him credentials as their agent. He refused to come, and finally they concluded to come themselves, and solicited him to accompany them. That is the position in which he stands here, and in reference to these chiefs. The resolution under discussion fully guards against a wrong use of the money by him or others. It leaves it to the Commissioner of Indian Affairs to decide whether it shall be put into his hands or into the hands of another agent. This gives a full guarantee that whatever money shall be given, it will be used for the purpose for which it was appropriated. I hope the amendment will be adopted. If I understand it, the Commissioner of Indian Affairs, in making his estimate of $3,000, has allowed only sufficient to pay their necessary expenses already incurred, and for their return towards home as far as Detroit, where they will be left thirty days' journey from their residences. Now, the amendment proposed by the honorable Senator from Missouri, making up the sum to $6,000, I think will cover only what will be necessary to pay all the expenses of the journey.

The head chiefs are now come here in the season of hunting, relinquishing, at the request of their bands, the pursuit of game necessary for the support of their families, whom they have left without support, and under the necessity of obtaining credit for their necessary subsistance from the Indian traders. It seems to me that it is no more than right that this compensation should be made now. They were under the necessity to obtain an outfit to come here. I am for checking all these Indian appropriations, so far as can be done with propriety. I look with suspicion on many proposals which are made here for appropriations of money to Indian tribes, and to individuals claiming rights growing out of their transactions with them. But, in this instance, it seems to me, that having come here in perfect good faith, and only asking what is necessary to meet their expenses, it is but due to them and this Government to carry out the same liberal and just policy which has hitherto marked the course of this Government. Why, sir, to send these Indians home without granting this sum, although they may have been mistaken as to their interest in coming, to send them home in bad humor, and disaffected with our Government, and feeling that there was a want of liberality towards them, would be bad policy on our part, and a wrong and injustice to them.

The question being put upon the amendment, upon a division it was agreed to: Ayes 26, noes not counted.

The joint resolution was then reported to the Senate.

Mr. KING. I was under the impression that the resolution was to be further amended. As it now stands, the six thousand dollars will go into the hands of the individual who accompanied the Indians to this place.

Mr. ATCHISON. Yes, it will go into the hands of this agent to the extent that may be necessary to defray their expenses; and if there should be any surplus, I suppose it will go to the Indians themselves. But I am quite willing that the resolution should be further amended, as the Senator from Alabama proposes, so that the money shall be paid over to the Indians themselves by the Superintendent of Indian Affairs.

Mr. BUTLER. I would suggest that there ought to be some mode of compelling this agent to account for the money.

Mr. ATCHISON. That I suppose may readily be done.

The question was then taken upon the engrossment; and the joint resolution was ordered to be engrossed and read a third time.

The bill was then, by unanimous consent, read a third time and passed.

PRIVATE BILLS—MRS. DIX.

Mr. JOHNSON, of Louisiana, moved to take up for consideration the bill granting a pension to Mrs. Dix, widow of the late Colonel Dix of the United States army.

Mr. MASON. I understand that this day is set apart by a resolution for the consideration of bills on the private calendar. I hope that order will be adhered to.

Mr. JOHNSON. This is a private bill.

The PRESIDING OFFICER. In the opinion of the Chair, this is such a bill as comes within the meaning of the resolution, and it is competent for the Senator from Louisiana to move to take it up.

Mr. HALE. I hope it will not be taken up. There are other cases as meritorious, and there is no reason why this should be taken up out of its order. If the honorable chairman does not make the motion, I shall myself, that in proceeding with the bills on the private calendar, we consider those only which will give rise to no debate.

Mr. JOHNSON. Most of the bills on the private calendar are House bills, and they can be acted upon at any time. The one I refer to is a Senate bill, and, unless we act upon it soon, there may not be time for its passage through the House. I presume that it will give rise to no debate.

Mr. DAVIS, of Mississippi. I hope the motion of the Senator from Louisiana will be agreed to, and that we will pass the bill without another word of debate.

The motion was, on a division, agreed to—ayes 30, noes not counted.

And the Senate proceeded to the consideration of the bill as in Committee of the Whole.

Mr. UNDERWOOD. I wish the chairman of the Committee on Pensions to inform me, the Senate, and the country, whether this is not the entering wedge for a new system of pensions. I wish to know, sir, whether widows of all the officers in the army who may die, not in the service, or rather not of wounds received in the service, or of disease contracted in the service, but who die from disease contracted like the ordinary citizens of the country, are to be pensioned or not? I see no reason, sir, why Mrs. Harney, Mrs. Jesup, and all the other widows of officers of the army should not receive pensions as well as Mrs. Dix, when their husbands died under similar circumstances. There are cases in which officers have died heretofore in the same way—that is, when not in service, and from disease not contracted during service—and, if this bill passes, I should be disposed to give pensions in those cases also, if they are equally meritorious in other respects. This mode of selecting special cases, instead of passing a general law, is a course of legislation that I am opposed to.

Mr. JOHNSON. Mr. President, I had hoped that this bill would pass without the slightest objection. Colonel Dix was one of those gallant officers who were educated at West Point, and who contributed so much to the success of our arms in Mexico. The whole of those gallant officers who were educated at that institution, and who served in Mexico, were highly distinguished for their skill and bravery. In the battle at Buena Vista, two of them, Colonels McKee and Clay, fell gloriously in the discharge of their duty, covered with imperishable renown. Another, after a high display of military skill and bravery, fell dangerously wounded, but still lives, and is now an ornament to this Senate. Colonel Dix, then a major, was in the thickest of the fight, and displayed great bravery. He was greatly exposed, and almost miraculously escaped uninjured. In the reports of the Commanding Generals, Major Dix is noticed in terms of high commendation, and is represented as having rendered very valuable aid by his gallantry in rallying the troops which had been thrown into confusion, and were retreating, in consequence of a violent charge by a large force of the enemy. He received a brevet for his gallant conduct on that occasion. In fact, no officer was more distinguished for his bravery.

Colonel Dix died not on the field of battle, but he died on his return home from Mexico, in the public service, in the line of his duty, by a disease contracted by exposure while in the service; and his wife and children, who are in indigent circumstances, are justly entitled to a pension, and I feel

persuaded that the Senate will not reject the bill for her relief. A pension was not allowed by the Commissioner of Pensions, on the ground that the case did not strictly come within the letter of the law; but if the claim does not come within the letter, it certainly comes within the spirit and intention of the law. A number of cases, not as strong, and of less merit, have been provided for by special acts of Congress. The committee were unanimously in favor of the bill.

Mr. UNDERWOOD. It is a matter, sir, in which, if I were to consult the feelings of my heart, I would vote in favor of this bill, and in favor of every other bill that proposed pensions to widows. Sir, I would not discriminate; but I want some principle upon which I can base my vote, that will stand the test of the scrutiny of my constituents. If I am correctly informed, this gentleman died of cholera. That is the disease that carried him off; and dying in that way, upon what principle is it that you are to pension his widow? I only say, that if the example is set, it will amount to this: that the widow of any meritorious officer who has served gallantly, as the Senator from Louisiana has very properly said of Major Dix, will claim the same privilege. Now, if this is to be the result, we ought to have a general bill upon the subject at once. Sir, I shall not detain the Senate to argue against the feelings which animate the bosoms of us all upon a question of mere policy, because I know how hopeless the task is. All I ask is, that the yeas and nays may be taken on the question.

Mr. DAVIS, of Mississippi. The statement put forth by the Senator from Kentucky [Mr. UNDERWOOD] perhaps needs some reply; and in that reply I would not appeal simply to the Senator's heart, or assert that Justice should fall in order that Charity might rise. It is a case which comes so nearly within the provisions of the law, that my opinion was that it ought to be allowed at the auditing department. This officer, after long service in the Mexican war, returned to the United States, where he was immediately put on duty, and remained on duty in connection with the troops then being disbanded in the service. Just after having closed the payment of the troops, and while on his way to Washington to make his last return, when he would have been released from all further duty in connection with the Mexican war, he was seized by a fatal disease, contracted from exposure while thus performing his last duty as an officer of the army, and died. The case comes plainly within the law allowing pensions to the widows and orphans of those who die on their way to the United States, and who by that law are entitled to the benefit of the general pension fund. This officer had not yet returned to his home, and it was while he was in the performance of duties growing out of the war with Mexico that he contracted the disease that terminated his life. It is because the case does not come within the strict letter of the law that it has been made an exception, and comes before the Senate as a special bill. In my estimation, however, it comes fully within the scope and spirit of the general law. It is too plain a case to be made a precedent of in the way the Senator from Kentucky suggests.

The bill was then reported to the Senate, was ordered to be engrossed for a third reading, and was read a third time.

The question being on its passage—

Mr. UNDERWOOD called for the yeas and nays.

Mr. KING. My friend from Mississippi [Mr. DAVIS] appears to take issue with the general sentiment expressed by the Senator from Kentucky, [Mr. UNDERWOOD.] But I agree with the Senator from Kentucky that we should certainly stop short at some period—and no time is more appropriate than the present—of pensioning the widows of all persons who shall die a natural death, however gallant may have been their services. If that will be the consequence of the passage of this bill, it is certainly setting the precedent for expenditures to which there will be scarcely any limit. I have studied from its commencement the operation of the pension law. We commenced with granting pensions to the widows of particular individuals whose lives were sacrificed while rendering meritorious and gallant service to the country. We went on step by step, until we began to pension the widows of those officers and soldiers who had served in the revolutionary war; the reason assigned was that, whilst their husbands were fighting the battles of their country, they were left at home to take care of the family, and subjected to many difficulties and hardships; to this I did not object. Then came a law pensioning all the widows of officers and soldiers who had married many years after the war. Thus the pension list has continued to swell year after year, without any cessation or stop to it, and without coming to any point beyond which we can see a limit to the system of pensions. If this is a case which will open a door to the pensioning of all widows of officers who die a natural death in the service of the country, there will be no end to pensions so long as the Government lasts. It involves a principle which has never heretofore been established, and which I think never ought to be. I very much question whether the statement of the Senator from Mississippi would take this case out of the general provision that would apply to all cases of officers dying a natural death while in the service. It is true, this individual, on returning to this country, was assigned to the discharge of duties in the line of his profession at New Orleans, but other officers have died while engaged in the performance of duties at other points of the country; and they will die, as we must all die. I ask my honorable friend from Mississippi if the widow of an officer who has performed duty regularly at points to which he has been assigned, should die a year after its performance, and before he shall have reached his place of residence, is not equally entitled to a pension?

Mr. DAVIS, of Mississippi. With the permission of the Senator from Alabama, I will state the point of distinction; it is this: If the officer should be continued on duty without an opportunity to go home to rejoin his family and arrange his domestic affairs, by making such provision for his family as has been rendered necessary by his absence during the war with Mexico—if he should not have been at a post or elsewhere in a condition to put his house in order before starting on that journey from which no traveler returns, but, on the contrary, been kept, by the order of his superiors, constantly on duty connected with events growing out of the war with Mexico, and whilst so employed had contracted a disease of which he died, his case differs very little from that of an officer dying on the voyage home, and is very dissimilar to that of one who had returned to his post or permanent station, and comes clearly within the spirit of the provision for those who died whilst returning to their homes.

Mr. KING. Does not the honorable Senator perceive that there are numerous officers who have returned from Mexico, who have not had an opportunity of returning to their families and putting their affairs in order, but have been placed on duty in various portions of the United States? And if you put it upon the principle that where they have once returned and been placed on duty—and the officer is transferred from point to point wherever military service requires—if you put it upon the principle that where an officer is placed upon duty and is thereby prevented from returning home, and dies while thus in service, his widow is entitled to receive a pension, I ask my honorable friend how he can distinguish the present from a case happening two or three years hence, should an application be made for a pension, because the officer had not had an opportunity of returning to his family? Sir, it is not a principle that will bear investigation. It is coming to this: Are you prepared to pension the widow of every officer who returns from Mexico and dies a natural death? That is the end of it. There are many officers who have neither wives nor children; and suppose they should get married while on their way home, and die shortly after their marriage, before reaching what they might call home: would you deprive their young wives of a pension, or would you give it them? I see very great difficulties that may arise from the establishment of this precedent. Colonel Dix was, doubtless, a gallant and meritorious officer; and discharged all his duties with fidelity, and in a manner to confer distinction upon himself and honor upon his country; and if I consulted my own feelings upon this occasion, I would say, with the honorable Senator from Kentucky, [Mr. UNDERWOOD,] give to his representatives a pension, and give them liberally; give liberally to the wives and children of all those who have served their country—give them as much as we can spare from the treasury. But, sir, it would exhaust the treasury of almost any country in the world if we should go on adopting system after system, or rather without any system at all, exercising our liberal feelings without establishing any principle. I cannot see how we can vote for this case, and refuse hereafter to vote for all cases that may be presented, even though the officers may die years hence.

Mr. DAVIS of Mississippi. Mr. President, I fear that my explanation to the honorable Senator from Alabama was very imperfectly given, because he argues from premises I certainly never laid down. I never argued that a soldier is not at home when at his post; yet, so far as arranging the affairs of his family in the event of his death is concerned, some fixed residence, some point of rest, such as a permanent post, constitutes the home of the soldier. The Senator, therefore, argues from the position of a soldier reaching a permanent home and being at home. In answer to this, I say that Colonel Dix was never at a permanent home; that he was ever wandering like Noah's dove, in search of a point on which to rest; that he was literally in a state of transit, as much so as if he had died at sea on board a transport vessel. My own construction of the law would have included this case; I would have considered Colonel Dix as returning from Mexico. Such, I was informed, however, by the honorable Senator who first took charge of this case, was not the construction put upon it by the department. They held that, after he had returned to the United States, the law was satisfied. It strikes me, however, that this officer never having been relieved from duty, being kept constantly on duty, without any chance of reaching a fixed point for making provision for his family, the case comes clearly within the spirit of the law, if not exactly within its letter; and that the case is not such as the honorable Senator from Alabama considers, when he raises the question of every officer, when he gets to a fixed post, which is the home of the soldier, so much so, indeed, that it is even——

Mr. BUTLER, (interposing.) What would be the law if officers died on board of a vessel before they reached the United States?

Mr. DAVIS. In such an event, their case would be included within the law. If an officer dies on his way home, according to the construction put upon the law by the Commissioner of Pensions, no application to Congress would be necessary. The whole merit of this case rests simply upon the question, whether this officer was so far prevented from returning to his home as to come within the spirit of the law, so as to give his widow and children a pension, as it would have done had he died on board a transport vessel before reaching the United States?

Mr. CAMERON. I desire to know whether Colonel Dix had not been in the United States some time after the war, previous to his death? It strikes me that he had been in Washington during the past year; sent here, I think, on special business.

Mr. DAVIS. I will answer the Senator that Colonel Dix was in Washington during the war and after the war. He was a paymaster, and came here for funds, came here for orders, passing backwards and forwards, in the field, and in the United States, receiving funds, having devolved on him the most arduous duties of any paymaster in the service. But the whole merit of the case rests upon the fact, that after the war with Mexico terminated, he never had an opportunity to arrange his private affairs.

Mr. CAMERON. Mr. President, as I understand the case, the answer of the honorable Senator from Mississippi has certainly destroyed all claim to a pension on the part of the representatives of Colonel Dix. It seems that that officer had been in the country nearly a year after the termination of the war, was here backwards and forwards upon such duty as the Government assigned him. He certainly did not die while returning from the seat of war. He had left the seat of war, had returned here, spent months here, and went to other places——

Mr. DAVIS, (in his seat.) That was during the war.

Mr. CAMERON. He came here after the war also, and went back again——

Mr. DAVIS, (interposing.) That was during the war. He did not return to Mexico after the war.

Mr. CAMERON. He came here, went back, and came again, and then went to Tennessee, or some other State in the West, to pay off some volunteers. He had actually been months, perhaps a year, in the country, after leaving the seat of war, before his death took place.

Mr. PEARCE. Mr. President, this case, it appears to me, does not come within the provisions and principles either of the general law, or of any special law. In the general pension law there was no provision giving pensions to the widows of army officers who died of disease contracted while in the service, though there was a provision granting pensions, under similar circumstances, to the widows of naval officers. In July, 1848, we made a special law, and to the provisions of this law I call the attention of the Senate. That law gives "pensions to the widows of officers who 'had died since the first day of April, 1846, or 'who may die during the war with Mexico, from 'wounds received, or from disease contracted, while 'in the line of duty." That was not the case with Colonel Dix. He did not die during the war with Mexico, either of wounds received or of disease contracted. But there was a *proviso*, which says:

"*Provided*, Said death has occurred, or may hereafter occur, while said officers, &c., were in the service of the United States, in the line of duty, or while returning to their usual places of residence in the United States, after having received a discharge upon a surgeon's certificate for disability incurred from wounds received or disease contracted while in the line of duty, or while on their march to join the army in Mexico."

The intention of the act seems to have been to grant pensions to the widows of those who died during the war with Mexico, or even after the war with Mexico, if they were returning to their usual places of residence in the United States, under the peculiar circumstances mentioned in the proviso; that is to say, returning under a discharge, upon a surgeon's certificate, for disability. Now, this does not appear to be the case in this instance. I think, therefore, that the bill does not come either within the letter or the spirit of any general or special law. I know but one case similar to this. It is the case of Mrs. McCrea, which is precisely like the present case. The Senate, a year ago, granted a pension to Mrs. McCrea. The act by which it was granted was passed, as the Senator from North Carolina said, by an appeal to our hearts and not to our heads. This seems to be the case in the present instance, as the claim for a pension is not based upon any general or special law.

Mr. WALKER. Mr. President, I have no doubt many other Senators feel much disposed to vote for this bill, and were I to consult my own feelings I should most undoubtedly do so. I do not intend, however, to be guided by them, but rather to look upon this question as to its bearings upon the treasury and upon the institutions of the country. Before the honorable Senator from Maryland made his remarks I was reflecting and trying to make up my mind as to what kind of a case this was, and I must confess that I was somewhat puzzled. It appears, however, from what that Senator has said, that the law provides pensions for the widows of those who have died, or who shall die, in the service of the country in the war with Mexico, from wounds received, or from diseases contracted while they are returning home. Now, there is a single question to be put in this case, and I will put it: Was Colonel Dix, when he took the disease of which he died, and when he died, returning home from the war with Mexico? That is one question. Did he die while returning from the war with Mexico to his home? and if so, did he die of a disease contracted during the war, or while yet in the service of the country connected with that war? For myself, sir, I cannot see how he could have died of a disease thus contracted within the spirit of the law—within the meaning of the law itself. So far as we have had any reports of this matter—and I know of no report by the committee to the contrary—Colonel Dix died of the cholera. He had been stationed on duty at New Orleans, and, as the Senator from Mississippi tells us, in coming from New Orleans to this place to settle his accounts, he took the disease, or the disease developed itself upon him, of which he died. Well, now, let me ask the Senator from Mississippi this question: Does he know whether Colonel Dix, after he had discharged the duty for which he was coming to Washington, after he had settled his accounts, would have departed from this city to his home, or would he not, on the contrary, have returned, as he often had done before, to his previous post of duty, New Orleans?

Mr. DAVIS. In answering the Senator's question, I would say that I had no personal knowledge of the deceased. I understand, however, that he had children in Boston, whom he had not seen for a considerable period. This being the case, I have no doubt but that, as an affectionate father, he would, as soon as relieved from duty, have gone to see his children.

Mr. WALKER. I think the Senator's presumption a fair one. It is highly probable that Colonel Dix would, as soon as his duty would have permitted, have gone on to see his family. But, sir, was the point at which death arrested him a point in his progress from the seat of war in Mexico to that home? Was he arrested by death while passing from the seat of war to his home, and while traveling for the purpose of returning home? Not at all. The answer amounts but to this at the most: that Colonel Dix, having settled his accounts, or whatever business he had here being completed, would have paid a visit to his family. That is all that it amounts to, sir, and it is all that it can be made to amount to.

Well, sir, knowing the merits of that officer, knowing the manner in which he served his country in the war with Mexico, knowing his reputation for being one who in every place discharged his duty faithfully and ably, I feel it in my heart to go as far as any one can go, consistently with his duty to the whole country, in voting a pension to his widow. And I do most sincerely wish that I could feel it within the scope of my duty to vote for this pension. I would not be one to regret to see this made a general rule. I would like to see the widow of every meritorious officer, and the widow of every meritorious soldier, that has fallen under similar circumstances, receive a measure of their support from the treasury of the United States. Were I to consult only my own feelings, I would not regret to see this done; for if there is anything under Heaven that excites my commiseration, it is the widow or the orphan children in suffering and distress, exposed to want, indigence, and penury, whose husband and whose father has fallen in the defence of his country, or in a minor post of duty connected with that defence. Sir, appealing to my feelings alone, I say that every one of them should receive something to smooth the path of life, and remove them from the sufferings attendant upon poverty. But it is a solemn question presented to us now: Shall we take this step in relation to Mrs. Dix? It is a case that strongly appeals to us; perhaps a stronger case can never be presented; and if the precedent is to be set, if we are to take this step, if are to vote pensions under these circumstances, now is the moment for us to decide upon our policy in regard to this matter. If this precedent is now to be set, by which the pension laws are to be extended beyond their present scope, let them be extended to the extent to which I said I would not regret to see them extended. And if it be the feeling of Senators that they will settle this question, and go thus far in extending the pension laws of the country, let it be now done; let this pension be granted. But, sir, if this be done, when others come up here, who have no less nervous sensibilities, who have experienced no less suffering, who have lost husbands and fathers no less dear, let gentlemen not turn a deaf ear to their supplications, and say they cannot vote to grant their requests and alleviate their distresses; but when the poor and humble wife of the brave and deserving soldier, and the wife of the gallant and meritorious officer, shall come before us, let us bear in mind the precedent we set, and vote that which is to contribute to the alleviation of their wants as liberally and with as much feeling as we now vote this pension.

Sir, I can hardly take my seat without expressing a wish that this bill may pass, so strongly are my feelings enlisted in its favor; and it is only from a sense of duty, in view of the magnitude of the precedent now about to be set, that I have opened my lips in opposition to it. It is a great precedent, and one for us now to reflect upon. We should bear in mind that we ought not to depart from it when similar cases come up before us, although the recipients of our favor may not be so distinguished, nor occupy so high a position in society, as the individual whose case we now have under consideration.

Mr. HALE. Mr. President, when this bill was called up by the chairman of the committee, I thought that I should vote for it. I then meant to do so, but I shall now vote against it. It is admitted that there is no law authorizing the pension we are now called upon to grant. It is a special case; and, sir, I must allude to some circumstances which I would gladly refrain from mentioning. If we are going to make a gratuity, we had better be careful and discriminate the objects who are to receive the gratuity. I understand that Colonel Dix left children as well as a widow; and, if this bill is to pass, I should very much prefer that the pension should be granted for the benefit of his children. I heard, sir—I do not know the truth of it, but I am compelled to say it, though with great regret——

Mr. BUTLER, (interposing.) Don't say it, then.

Mr. HALE. Well, I will not say it, but I will move that this bill may be laid aside for the present, in order that I may find out whether I had not better say it. I will move, therefore, to postpone the further consideration of this bill until to-morrow, and take up the private calendar; and, on that motion, I ask the yeas and nays.

The yeas and nays were ordered.

Mr. BENTON. Mr. President, is the motion to postpone the further consideration of this bill until to-morrow?

PRESIDING OFFICER. It is.

Mr. BENTON. The question to postpone until to-morrow is hardly a debatable question. But the yeas and nays have been called on that motion, and the question is thus rendered, in effect, final, so far as the bill is concerned. I do not wish to do that which is disorderly, but a call for the yeas and nays on a short term of postponement is equivalent to a final disposition of the bill. Such a call has a meaning, and it means a final settlement of the question.

Mr. HALE. If the Senator will allow me I will explain my motion. I moved to postpone the further consideration of the bill until to-morrow, and proceed to take up the private calendar; and, on that motion, I called for the yeas and nays.

Mr. BENTON. Mr. President, what I have to say to the Senate is, that this is no new bill; that I have been in favor of the principle of this bill, and in favor of the application of that principle both in mass to the widows of American officers, and in detail; that I have often expressed myself to that effect upon this floor; that I have called upon the Senate a great many times to give me a reason why the widow of the naval officer should receive pensions during life—for that is the effect of our laws—and the widow of the land officer receive nothing. In the beginning there was some reason for the difference; in the beginning there was a naval pension fund made up out of prize captures, from which widows of naval officers received their pensions. But we all know that that fund was exhausted many years ago, and the widows of naval officers were put upon the treasury from five years to five years. They were first put upon the treasury for five years, and at the end of the first five years they were put on for five years more, as a matter of course. I do not know whether it has gone to three terms of five years or not; but whether or not it has gone to three terms of five years, you might just as well consider that it has, for it will be sure to be renewed from time to time.

Now, sir, I come back to the point. I say life is life, and the land officer who dies is just as much entitled to have provision made for the support of his family as has the naval officer. I admit there was some difference while we had a naval pension fund, out of which they got their pensions; but for a dozen years at least we have had no such fund, and the widows of naval officers now receive their pensions out of the treasury. And, Mr. President, if it should happen that the youngest officer in the navy was to marry to-day and die to-morrow, and never see service, his widow takes a pension, while the oldest land officer, who has worn out his whole life in the service of his country, leaving a widow and children, and perhaps grandchildren, when he dies their bread is stopped as the breath goes out of his body. Sir, there is no reason or foundation for this difference; and I have voted in detail, and in the gross, for putting the widows of land officers on the same footing with the widows of naval officers. I shall continue to stand upon that principle.

Mr. METCALFE. Mr. President, however worthy of our serious and sober consideration the

great question may be whether we should not pass a general law embracing every case like this, it seems to me that this partial method of legislation is exceedingly exceptionable, and ought to be so, to the people of this country. What is the difference, I ask, between the widow of this distinguished, and no doubt excellent and gallant officer, and the widow of Colonel Croghan? If I rightly understand, he recently died of the cholera at New Orleans, where he was in the service of his country. And how many, can we tell how many representatives of individual soldiers, who have died in like manner, will press forward and insist upon it that a law embracing their cases shall be passed? If, then, it shall be the opinion of this Senate, or of the Congress, that we cannot with propriety pass a general law embracing all similar cases, why should we attempt to pass a law embracing an individual case, that of the widow of a distinguished and gallant officer, to be sure, who died almost within sight of this Capitol, as I may say, and with whose family every heart must sympathize. For my own part, I do not know, however, whether this pension ought to be given entirely and exclusively to the widow, or in part to the children.

Mr. President, I have conducted my mind to the conclusion that the greatest danger of this Republic is to result from its extravagance in expenditures. Year after year we advance a little and a little further in our extravagances, forgetful that every appropriation we make, no matter for what purpose, is to increase the taxes upon the people in some form or other. I do think that we are moving on in this way, taking up here an individual case because it excites our sympathies without much regard to principle, until at last we shall overstride all the powers that were originally intended to be conferred upon us by the Constitution of our country. Who is it that we shall not saddle as pensioners upon our country, in some shape or form, if we go on in this way? If we continue in this course, it will soon be here as in Europe—one-half of our countrymen will be reduced to a state of absolute starvation in order to support the residue.

To what else it is owing now that in Europe we see such a state of things at present? It results from the corruptions of the past, from the manner in which favoritism has been extended to particular families, and from the advantages which have been given to capital over labor in a thousand instances in those countries.

But I do not wish to detain the Senate upon such a subject. I know it is a question in which a man must be considered exceedingly hardened if he does not, at once, consent to allow money to be taken out of the public treasury for the purpose of relieving the necessities of the applicant. But the Senate should seriously reflect upon the steps we are so rapidly taking. I do believe, in the sincerity of my heart, that if this Republic is destined to go to ruin—and I hope it will be long before that event shall take place—if ever so great a misfortune is to be experienced by the world, it is to be more in consequence of the manner in which the public funds are used than any other cause. I believe, in the sincerity of my heart, that all the agitation now alive in this country upon the subject of slavery, all the divisions and excitements that have been created between the northern and southern sections of the country, will never be half as dangerous to the perpetuity of this Republic as this practice that we are getting into. Indeed, this seems to be the practice of all Governments; as they grow older they grow more loose in regard to these matters. I repeat that I cannot see any difference between the case of the distinguished Colonel Croghan and that of Colonel Dix, and I would ask the Senate if there may not be hundreds, perhaps thousands of cases of equal merit with this? If not, then I am greatly mistaken; and, if I am right in this opinion, let us pass a general law that will embrace all similar cases, or else pass no law at all.

Mr. CAMERON. Mr. President, I am so much in the practice of following the judgment of the Senator from Missouri, [Mr. BENTON,] that it is with great reluctance I differ with him on the present occasion. But, sir, his whole argument, to my mind, seemed to be, that because we did wrong in the beginning, and were still doing wrong to naval officers, we should extend that wrong to the army. It seems, that in the early history of our country, a naval pension fund was established by our navy, from a portion of the pay of the officers and men, which was yearly set aside for the purpose, and from which fund the officers and sailors received their pensions. By some means or other, that fund was lost, and the Government commenced paying these naval pensions out of the treasury; and because that has been, the Senator from Missouri would pension the whole army, or the family of every officer who happens to die.

Now, sir, in this case, it seems to me there is not a shadow of a claim. This gentleman, distinguished as he was—and he was very distinguished for his private virtues, and for his gallantry in the hour of danger—who had been in the country, passing from one place to another, for months, perhaps for a year, in the ordinary discharge of his duty, died, like any other citizen might have died, by the way-side, by a disease contracted on his journey. For that reason, the Senator from Missouri would give to his family a pension. Sir, I would have no objection to pension everybody, or the descendants of everybody who have fought and bled for their country, if we had money enough to do so. But, sir, all the money in our treasury—all the sweat and toil of our laboring men, tax them as you might—could not get money enough to give pensions to everybody that would ask for them. By pursuing this system, we shall, by-and-by, have everybody knocking at our doors for pensions. This brings to my mind a case much stronger than that of Colonel Dix.

A poor man in my neighborhood, John Bowyer by name, entered the army as a private soldier, a volunteer. He fought in every battle from Vera Cruz to the city of Mexico. He was discharged at the close of the war, but on his way home he became sick from a disease which he had contracted during the war, and lingered in the hospital at New Orleans, and every other place in which he could obtain shelter; and in wandering here to obtain his bounty land, he fell down exhausted from disease and fatigue upon the track of a railway, and was killed by a locomotive. He left a widow and children to mourn his untimely fate, but no man would think of giving a pension to John Bowyer's widow. He had no rich and powerful connections, and he was a poor private soldier.

The case before us addresses itself to our feelings because this distinguished officer was a relative of a distinguished statesman, for whom no man in the world can have higher regard than I have; but if it did not come so near to us, no one here would think of granting a pension to the widow and children of Colonel Dix.

The law would have given a pension to his widow if he had died in battle, or if he had died on his way home, from disease contracted in the service, but there is no substantial claim of this kind here. If you grant this pension, you will soon be called upon to pension the family of every officer who may die in the army, for all time to come. And why shall they be pensioned rather than the families of men in other branches of the Government in time of peace? Much better would it be to pension the widows of the private soldiers who have died in battle, or the mothers of the gallant young volunteers, the only support of their aged mothers, who fell gallantly fighting the battles of their country. The private soldier's scanty pay was often divided with the wife or mother at home, and at his death, for want of it, the meal-tub was empty, and the pot ceased to boil; but no one here would think of pensioning any of these humble individuals, for the law prohibits it; and if we are to be governed by the law, let it be a strict and impartial law, that will reach the high and the low, the weak and the strong.

But I am sorry to occupy so much time on this subject, and particularly sorry, because there are many other cases of great importance to those interested in them, but which as they grow older are prevented from being forwarded. I therefore move to lay the bill on the table.

Mr. HOUSTON. Will the Senator withdraw his motion for a moment? I wish to say a few words upon this matter.

Mr. CAMERON. If the gentleman will renew the motion to lay on the table, I will withdraw it.

Mr. HOUSTON. Mr. President, I dislike to occupy any portion of the time of this body, but it seems to me that I would be doing injustice, not to my feelings, but to my sense of honesty and propriety, if I were to pass by the present bill without saying a few words. I do not impugn the motives of gentlemen who are opposed to it, because there is no middle ground between opposition and support. I have no position to take but one in support of the bill, and I take that position from a sense of justice to the descendants or to the representatives of Colonel Dix. I need say nothing in commendation of that gallant officer. Sir, his services were his highest eulogium. He was a soldier, an officer, and a gentleman. His death arose from the circumstance of his rendering service to his country, and that service connected immediately with the Mexican war. I think no question as to the justice of the claim of his widow to a pension should have arisen. He had not returned to his home. He was detained upon duty. In the discharge of that duty, connected with and inseparable from the Mexican war, he deceased. If he had fallen in battle, or on his way to the United States, no one, I presume, would dispute the just and equitable claim of his representatives to a pension. The compact made by the United States with its soldiers did not cease till they had returned to their homes. If a soldier deceased on the way to the United States, or to his home, the Government had not dissolved the connection, because they were to be marched to their homes and discharged.

Now, Colonel Dix had not been discharged previous to his death; he was in the service of the country at the time of his decease; he had not reached home, because he had been detained by his duties, growing out of and connected with the Mexican war; he was engaged in the discharge of those duties when he was, unfortunately for his family and his country, struck down by the shaft of death. Consequently, the compact between him and his Government was not dissolved; and, therefore, it is clear that his representatives are entitled, according to a just interpretation of the law, leaving all idea of liberality and generosity out of the question, to a pension. It seems to me that there cannot be any difference of opinion in relation to this point, when gentlemen come calmly to consider and weigh all the circumstances of the case.

Sir, it is not because of his rank, or the circumstance that he has left an illustrious name behind him, that I would support the claim of his heirs in preference to the heirs of the humblest soldier that had a place in the ranks of our gallant army. The honorable gentleman from Wisconsin [Mr. WALKER] said that he could not consent to the extension of our pension laws; that he thought it would be deleterious in influence and wrong in principle to extend their benefits to the exalted unless the humble should also be permitted to share in their blessings. Sir, if every one of the forty thousand men who served so faithfully and fought so gallantly in Mexico had perished on their way home, I would have voted a pension to every widow or every orphan left as a representative of any of those soldiers, even though it should have involved this nation for ten years, and been a draught upon our revenue for many years to come. It is not the condition or station of the individual that will regulate my action, but simply the question as to the justice or injustice of granting this pension. I would grant it; and why? Because the person in whose behalf this claim was made, or upon whose merits the claim is based, died in service immediately connected with the war, and no question as to the justness of the claim could have arisen had he fallen in the field of battle.

It is impossible to separate these two phases of the question. Colonel Dix died in the service of his country, in the war with Mexico, just as clearly as if he had been struck down by disease contracted within the boundaries of that country, or slain upon the battle-field. This is not a special case. But if it were to extend a general principle to analogous cases, I would at once support it, and I would not hesitate. If we are to look for precedents, we shall find some of days gone by that would not be very worthy of imitation; but if it be necessary to create a precedent, I would do it when justice and right demand it, without reference to any precedents before it. This being guided by precedents will do very well in courts of judicature. It is very well that judges should be regulated in their decisions in relation to matters that have been ascertained and fixed by precedents.

But I understand that the object of legislation is to remedy evils to which the law does not extend, and where equity and justice appeal to the judgment of legislators.

Under these circumstances, I shall support this bill, and I shall do so from a sense of justice to the representatives of this individual, because it was in the discharge of his duties connected with the Mexican war that he deceased; and I cannot for one moment believe that it will work injustice to the nation to do justice to the representatives of this individual, who perished in the service of his country.

Mr. President, I would go further. If now, in time of peace, an officer were ordered upon extraordinary service, and in the performance of that service were to die, I would vote to pension his family, equally as if he had fallen upon the field of battle. I would mete out justice according to right. There is no danger of bankruptcy to the treasury from the granting of this pension; for perhaps a case similar to this does not exist in the history of the army of the present day. For these reasons I shall vote for this bill, and I shall vote for every similar claim that can ever be presented to this body; and then I shall have only acquitted myself of a conviction of duty that rests upon my mind, that we should do justice under all circumstances, both to the exalted and the humble. I will now renew the motion to lay the bill upon the table, which the Senator from Pennsylvania so courteously withdrew at my request.

The motion to lay on the table was then agreed to by the following vote:

YEAS—Messrs. Atchison, Bell, Berrien, Bradbury, Bright, Butler, Calhoun, Cameron, Corwin, Davis of Massachusetts, Dayton, Fitzpatrick, Hale, Hunter, King, Mason, Metcalfe, Pearce, Spruance, Turney, Underwood, Upham, Walker, and Yulee—24.

NAYS—Messrs. Badger, Baldwin, Benton, Borland, Davis of Mississippi, Dickinson, Dodge of Iowa, Downs, Felch, Foote, Greene, Hannegan, Houston, Johnson of Louisiana, Jones, Miller, Phelps, Sturgeon, Webster, and Westcott—22.

WILLIAM A. SLACUM.

The Senate took up the bill for the relief of the personal representatives of William A. Slacum, deceased.

The House having nonconcurred in the amendment of the Senate to this bill—

Mr. HANNEGAN moved that the Senate insist on their amendment, and the motion having been agreed to, it was

Ordered, That a Committee of Conference be appointed, the appointment to be made by the Chair.

A. C. BRYAN AND OTHERS.

Mr. METCALFE moved to postpone the prior orders, and to take up the bill for the relief of A. C. Bryan and others; which was decided in the negative.

JOHN P. BALDWIN.

The Senate proceeded to consider the bill for the relief of J. P. Baldwin.

On motion of Mr. BRADBURY, the bill was laid on the table.

COLONEL WILLIAM GRAYSON.

The Senate proceeded to consider the bill for the relief of the legal representatives of Colonel William Grayson.

On motion of Mr. PHELPS, the bill was laid on the table.

HOUSE BILLS.

The Senate then proceeded to consider the following bills and resolutions; which were read a third time and passed:

A bill for the relief of George Newton;

A bill for the relief of Jesse Young;

A bill for the relief of Nancy Tompkins, mother of John Chase;

A bill for the relief of James Glynn and others;

A joint resolution concerning the settlement of the accounts of William Speiden, purser in the navy of the United States;

A joint resolution for the relief of H. M. Barney.

TIMOTHY P. ANDERSON.

The Senate then proceeded to consider a bill authorizing the renewal of a patent for the benefit of the widow and heirs-at-law of Timothy P. Anderson, deceased.

The bill being under consideration as in Committee of the Whole—

Mr. BALDWIN moved to amend the bill by inserting the words "or assigns."

A discussion took place, in which Mr. WESTCOTT, Mr. UNDERWOOD, Mr. DAVIS of Mass., Mr. DICKINSON, Mr. PHELPS, and Mr. BALDWIN participated.

Mr. BADGER moved to lay the bill on the table, which was agreed to—ayes 20, noes 18.

JOHN A. BRYAN.

The joint resolution for the relief of John A. Bryan was considered and laid on the table—ayes 23, noes 18.

Mr. ATCHISON subsequently moved to take up this bill, in order to make it the order of the day for Thursday next; but the motion was decided in the negative.

J. M. GILLIS.

The Senate then proceeded to consider the joint resolution for the relief of J. M. Gillis and others.

Mr. NILES moved to lay the joint resolution on the table; which was decided in the negative—ayes 11, noes 25.

The question being on ordering the resolution to be read a third time—

Mr. UNDERWOOD. As the gentleman from Connecticut has moved to lay this resolution upon the table, I would be very glad if he would favor us with his reasons for making that motion.

A SENATOR. That motion has been decided.

Mr. UNDERWOOD. I understand that motion has been decided, but it was decided without our being furnished with the information which I desire. My object is to obtain that information now. The Senator from Connecticut has doubtless reasons that are satisfactory to his own mind why this joint resolution should not pass. When I have heard those reasons, if I approve of them, I shall vote with the Senator; consequently, I desire to hear them.

Mr. NILES. I can give my reasons in few words. I am opposed to the passing of any law that I cannot understand. Another reason is, that we are carrying out, step by step, a policy which has drawn a very large sum of money from the treasury, in the shape of extra allowances, on account of this Exploring Expedition. Now, this was never a part of the expedition, but it is dragged in because it is presumed that it may seem to have some connection with it. It was in reality no part of the expedition. This officer performed his service voluntarily, I suppose. It was a service which he could not have been obliged to perform against his will, but he voluntarily performed it. It was an honorary service, and probably sought for; and now, ten years afterwards, because we have been liberal beyond all measure to others in any way connected with the expedition, or who have attempted to connect themselves with it, he comes in and expects to be paid according to the same liberal rule.

Mr. MILLER. With regard to the extra allowance, I believe it is two dollars a day. The report states that he acted under orders of the Navy Department, in a service that was considered as having connection with the Exploring Expedition, and it is highly proper, I think, that an officer on service ashore, under the direction of the Navy Department, should be paid as well as those who performed services at sea. It appears that he performed extra services, and for those services he is clearly entitled to compensation.

The bill was reported to the Senate without amendment, was ordered to a third reading, and read a third time.

The question being upon its passage, the yeas and nays were asked and refused, and then the joint resolution was passed without a division.

On motion, the Senate then adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 15, 1849.

The Journal of yesterday was read and approved.

On motion of Mr. FRENCH, it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of John Young.

Mr. DARLING asked leave to introduce a bill of which previous notice had been given, entitled "An act supplementary to an act for the relief of J. P. B. Gratiot, and the legal representatives of Henry Gratiot: objected to.

On motion of Mr. BROWN, of Penn., it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of Catharine Abel.

On motion of Mr. JONES, of Georgia, it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of Wesley Leake.

A message was received from the Senate, informing the House that the Senate had passed the following resolution, in which the Senate requested the concurrence of the House, viz:

Resolved, That a committee of one member be appointed on the part of the Senate to join a committee of two members on the part of the House of Representatives, to wait upon Zachary Taylor, of Louisiana, and inform him that he has been duly elected President of the United States for four years, to commence on the fourth day of March, 1849; and also, to wait upon Millard Fillmore, of New York, and inform him that he has been duly elected Vice President of the United States for four years, to commence on the fourth day of March, 1849.

And also, requesting of the House of Representatives the return of the bill from the Senate "to grant the right of way across the public lands, and to dispose of said land in aid of the several States in the construction of railroads and canals."

Mr. ASHMUN inquired what was the regular order of business?

Mr. J. R. INGERSOLL rose (he said) to a privileged question.

The SPEAKER, (in reply to Mr. ASHMUN.) The call of committees for reports until the House go into Committee of the Whole on the state of the Union. This day being Thursday, is set apart by the rule for calling over the calendar of the Committee of the Whole on the state of the Union—that bills to which no objection is made may be acted upon.

Mr. ASHMUN. I call for the regular order of business.

The SPEAKER. The gentleman from Pennsylvania [Mr. J. R. INGERSOLL] rises to a privileged question.

Mr. INGERSOLL offered the following resolution; which was considered and agreed to:

Resolved, That the Clerk, under the supervision of the Committee on Accounts, pay to the witnesses who appeared before the Committee on the Judiciary, in the matter concerning Judge Conkling, of New York, out of the contingent fund of this House, such *per diem* and mileage compensation as they may be legally and justly entitled to; and that he also pay to the clerk to said committee the *per diem* compensation usually allowed for similar services.

Mr. WHITE asked leave to move that the Committee of the Whole House be discharged from the further consideration of the bill to release George R. Ward, of the city of New York, from his responsibility as surety to the Government. It was an exceedingly hard case, (he said,) and one which the House would not probably be able to reach upon the private calendar. He therefore asked that the committee be discharged from the further consideration of the bill, that it might now be put upon its passage.

Mr. ASHMUN said he called for the regular order of business, because he knew that if one proposition of this kind were entertained, there would be applications for a dozen others. The gentleman could not, in this way, accomplish any purpose he desired. The House would not select one bill from the private calendar in preference to all the others. He would yield anything to the gentleman from New York that he would to anybody else. He therefore insisted upon his motion, but would modify it, so as to provide that the Speaker should proceed to call the committees for reports for one hour.

The SPEAKER. The House may insist on the regular order of business, which will be the reception of reports. The first business in order is the report made from the Committee on Rules and Orders by the gentleman from Georgia, [Mr. COBB.]

Mr. COBB. I hope the House will dispose of it now.

Mr. GOGGIN rose (he said) to a privileged question; and on his motion, by general consent, the letter of the Postmaster General, transmitting copies of abstracts of offers for carrying the mails, of contracts made for the transportation of the mails, of statements of such land and water mails established or ordered, a report of additional allowances made to the contractors, and a report of curtailments of mail service, and report of fines imposed and deductions made from the pay of the contractors, within the fiscal year ending 30th June, 1848, was referred to the Committee on the Post Office and Post Roads.

CONTINGENT APPROPRIATIONS.

The proposed new rule reported by Mr. COBB was then read, as follows:

"It shall not be in order to consider or act upon any order, resolution, or motion, whereby it is proposed to create a charge upon the contingent fund of the House, or dispose of

any portion of the same, except in cases of printing, until the same has been considered and reported on by the Committee on Accounts; and all such propositions shall, on their introduction, be referred, by virtue of this rule, to said committee; nor shall a motion to suspend this rule be entertained except by unanimous consent."

Mr. KAUFMAN, observing that this rule had been discussed at some length at a previous stage of the session, that he believed it to be a very important one, and that it had been unanimously reported by the Committee on Rules, moved the previous question.

Mr. FICKLIN asked for the reading of the rule, which was again read, no objection being made.

Mr. KAUFMAN called for tellers on seconding the previous question, who were ordered, viz: Mr. KAUFMAN and Mr. EVANS, of Maryland, who (the question having been taken) reported ayes 72, noes 53—a second.

The main question was ordered.

Mr. HUDSON and Mr. ASHMUN rose simultaneously, and moved that the resolution be laid on the table, the latter gentleman remarking, that the rule, if adopted, would put the House under the control of any one member.

The yeas and nays were asked and ordered; and being taken, were—yeas 88, nays 79.

So the proposed rule was laid on the table.

Mr. JOHNSON, of Arkansas, inquired of the Chair whether it would now be in order to move that the House resolve itself into Committee of the Whole on the state of the Union?

The SPEAKER answered in the affirmative.

DEPARTMENT OF THE INTERIOR.

Mr. VINTON rose, he said, to a privileged question. He moved that the House proceed to the consideration of the motion heretofore made by him to reconsider the vote by which the bill providing for the organization of a new department of the Government, to be called the Department of the Interior, had been ordered to be engrossed.

The SPEAKER said that motion would take precedence over the motion to go into Committee of the Whole on the state of the Union.

Mr. COBB, of Georgia, said he believed that the motion which he was about to make would have precedence over either of the other motions. A message had been received from the Senate requesting the House to return to that body the bill heretofore sent to this House, granting the right of way across the public lands, &c. It was usual to respond promptly to a message of that kind. He trusted that it would be acted upon at once, and that the House, in conformity to the universal practice of both bodies, would return the bill. He understood that a message, such as he spoke of, had been received from the Senate this morning.

Mr. VINTON said he would give notice, that when the motion to reconsider had been disposed of, he should move that the House proceed to the consideration of business on the Speaker's table, which would bring up the message referred to by the gentleman from Georgia, [Mr. COBB.] It could then be acted upon.

Mr. COBB. It would not be reached in time. There certainly could be no objection to comply with the request made by the Senate. It would be a violation of the universal practice on the part of both Houses to do so. And he believed, that according to parliamentary usage, this question had precedence.

The SPEAKER said that the motion to reconsider would take precedence over all other motions, except a motion to adjourn. According to parliamentary courtesy, however, this message should be acted upon first. If no objection was made, the House would therefore proceed to the consideration of that message.

No objection having been made—

The message from the Senate requesting that the said bill might be returned to that body, was read.

Mr. COBB moved that the bill be returned to the Senate.

Mr. BRODHEAD rose to a question of order. Courtesy, he said, required that this bill should be returned; but the particular time when that courtesy should be exercised, was another question. When this bill was under consideration the other day, he had obtained the floor, and the hour being late, he had yielded to a motion to adjourn. He took it, therefore, that the bill was now before the House.

The SPEAKER. No, sir; the bill is not before the House.

Mr. BRODHEAD. I should like to give it a black eye before it goes.

The SPEAKER. The question is on returning the bill to the Senate.

And the House having ordered that the bill should be returned, it was ordered accordingly.

The question then recurred on the motion of Mr. VINTON, to reconsider the vote by which the bill to provide for the organization of an Interior Department had been ordered to be engrossed.

Mr. HUNT urged Mr. VINTON to waive his motion for half an hour, so that the committees might be called for reports.

Mr. VINTON said he had not made the motion because he was himself desirous to reconsider the vote, but for the purpose of giving to gentlemen who had doubts about the bill time to examine it, and see if there were any defects in the details. He did not propose to go into debate. And he hoped, now that gentlemen had had an opportunity to examine the bill, that they were satisfied that it was as perfect as it could be.

Mr. STEPHENS, remarking (as the reporter understood) that he supposed every gentleman had made up his mind, moved to lay the motion to reconsider on the table.

The yeas and nays were asked and ordered; and being taken, were—yeas 103, nays 79.

So the motion to reconsider was laid on the table.

The question recurred on the motion of Mr. JOHNSON, of Arkansas. Pending which,

At the suggestion of Mr. FARRELLY, by general consent,

The SPEAKER laid before the House the following communications:

I. A letter from the Secretary of War, transmitting, in compliance with the resolution of the House of the 20th December last, "An estimate of the value of the public property, including the soil on Governor's island, in the harbor of New York;" and also reports from the headquarters of the army, the Engineer's office, and Ordnance bureau, on the subject of "ceding the said island, and so much of the public property as cannot be moved, to the city of New York;" which letters and reports were laid upon the table, and ordered to be printed.

II. A letter from the Commissioner of Patents, transmitting, in compliance with the act of Congress of March 3, 1837, his annual report; which letter and report were laid on the table, and ordered to be printed.

The SPEAKER again announced the motion of Mr. JOHNSON.

Mr. VINTON inquired if it would be in order to move to proceed to business on the Speaker's table?

The SPEAKER replied that it could only be done by unanimous consent.

Mr. WENTWORTH called for the orders of the day, and objected to all other business.

The SPEAKER stated that the question was now on going into Committee of the Whole on the state of the Union, for the purpose of calling the general calendar. If that motion did not prevail, after thirty-five minutes more it would be in order to proceed to business on the Speaker's table.

The question was then taken, and the motion to go into Committee of the Whole on the state of the Union was rejected.

On motion of Mr. SMITH, of Connecticut, it was

Ordered, That the Committee on Rules be discharged from the further consideration of the proposition to amend the 25th rule of the House, introduced on the 15th January last, and referred to that committee by Mr. PALFREY; and that said proposed amendment be laid on the table.

Mr. SMITH, of Connecticut, from the Committee on Rules, reported the following resolution:

Resolved, That so much of the 34th rule as provides that "when debate is closed by order of the House, any member shall be allowed in committee five minutes to explain any amendment he may offer," be, from and after the 25th day of February instant, suspended during the residue of the session.

Mr. SMITH said it would be recollected by the House that, at the last session, a resolution of this character was passed, suspending the "five minutes rule," as it was called, during the few last days of the session. He thought there were remaining eight days of the session at the time the order was passed suspending the rule. This resolution proposed to suspend the rule during the last week of the session: it would remain in force during the residue of the present week and the whole of the next week, and would be suspended only during the last week of the session. In his judgment, the suspension of this rule was absolutely necessary in order to enable the House to consummate in any degree the business before it. He did not suppose that any discussion of the question was necessary upon this occasion; he therefore demanded the previous question.

Mr. McCLELLAND said he hoped the gentleman from Connecticut would extend the time. He thought the resolution cut off the opportunity for five minutes' discussion too soon.

Mr. SMITH. It only cuts it off for the last week of the session.

Mr. McCLELLAND. All the general appropriation bills have to come in from the Senate yet.

Mr. SCHENCK appealed to Mr. SMITH to withdraw the demand for the previous question, remarking that he wished to say ten words, after which he would renew it.

Mr. SMITH accordingly withdrew the motion for the previous question.

Mr. SCHENCK said he regretted to be obliged to differ from the gentleman from Connecticut, who reported this resolution; he desired, therefore, to say that he was opposed to this five minutes rule altogether when it was first proposed. Since that time, watching its operation, he had come to the conclusion that it was the only sensible rule which they had. It was the only rule which thus far had secured any debate upon subjects legitimately before the House. They took up, for instance, the general appropriation bill; they had two or three speeches about slavery or something else, and then a resolution was passed to terminate the debate which of necessity cut off all debate upon the bill, (because there had been no debate upon the bill,) and then, under the five minutes rule, they got a little debate upon the subject before the committee. This had been the regular, continual operation of the rule, which, although there might have been some abuses of it, he nevertheless thought was the only rule that had secured legitimate debate in this House.

At the close of the last session, this rule had been suspended—and why? Because a state of facts existed then which did not now exist. The appropriation bills had not then been passed, and it was thought necessary, in order to secure their passage, that the rule should be suspended. He doubted the propriety of suspending it then, even on that account; but now he saw no necessity whatever for it, inasmuch as no such exigency existed, and because it was the only rule which helped the good and prevented mischief by enabling the House to understand what it had before it. Now, just at the close of the session, as no man better knew than the gentleman from Connecticut, all the deviltry that was done was accomplished, and they wanted this five minutes rule more during the last week of the session than at any other time. This was just the time when gentlemen should be on the watch to expose the various propositions which came in at the last hour, and were forced through because no one was permitted to rise in his place and direct the attention of the House to their character, unless this five minutes rule was in operation. He did not know any particular bill which required this rule to be suspended now. He knew there were a great many important subjects still to be acted upon, and unless there was opportunity given not only for amendments, but for explanation of the amendments—unless gentlemen were permitted to direct the attention of the House to what was sought to be done under the cover of these important measures, a great deal of mischief would be done, and a great deal of good would be omitted. He would, therefore, rather suspend this five minutes rule during the previous part, than during the last week of the session.

In accordance with his pledge, he renewed the motion for the previous question.

Mr. JENKINS moved to lay the resolution on the table, and demanded the yeas and nays.

The yeas and nays were ordered, and having been taken, were—yeas 105, nays 76.

So the resolution was laid on the table.

Mr. JOHNSON, of Arkansas, said he wished to call the attention of the House to the fact that this was the day set apart for calling the calendar of the Committee of the Whole on the state of the Union, for such bills as were not objected to. If

it was not done now, it could not be, and would not be done this session.

He moved that the House resolve itself into Committee of the Whole on the state of the Union for that purpose.

The motion was rejected.

CALL OF THE PREVIOUS QUESTION.

Mr. SMITH, of Indiana, from the Committee on Rules, reported the following as an amendment to the 26th rule, viz:

After the word "established," in the sixth line thereof, insert "and it shall not be in order to move the previous question on the same day when offered."

Mr. JENKINS moved to amend the amendment by striking out all after the word "and," and inserting—

It shall be in order to move the previous question when offered; and if sustained, the resolution shall lie over to the next day, when it shall have preference over all other business after reading the Journal; and shall then be disposed of by reference or otherwise.

Mr. JENKINS said he was opposed to the proposed rule. There was no way in which resolutions could be acted upon without a two-thirds vote, unless the previous question was moved and seconded when they were introduced. They all knew that the difficulties of introducing resolutions were sufficiently numerous now, without adding any new ones to those which already existed. When a resolution was introduced, what would be the course of proceedure if this rule were adopted? It would be immediately objected to, when it must lie over under the rules, and could not ever thereafter be brought up, unless two-thirds of the House should come forward to sustain it.

Now, was it the design of this House—was it the design of any gentleman of the House—that every member should be excluded from introducing resolutions, unless there was a majority of two-thirds to rise in favor of them? He insisted that this was not the case—that it would be the object of the House to facilitate the means of addressing the House by resolutions, in order that gentlemen might be enabled to bring to the action of the House measures which were demanded by their constituents, and by the public good. No occasion could be found when there would not be some one gentleman who would object to any resolution which might be proposed, and the very moment the objection was made a majority of two-thirds must be obtained, or the resolution could never be brought up again. He asserted that this rule of requiring for everything a two-thirds vote was not serviceable to legislation; that they ought to have a free opportunity to bring forward measures for the action of the House, when a majority of the House were in favor of them.

The only substantial objection which had been offered to the rule of the House as it was now in force was, that when the previous question was called immediately upon the introduction of resolutions, gentlemen were compelled to vote without understanding the subject on which they were acting. His amendment obviated that objection, by simply providing that when resolutions were introduced, and the previous question was called and sustained, the resolutions should lie over until the next morning, in order to afford members an opportunity to see what they contained, and to vote intelligently upon them, at which time they should be the first business in order.

And he averred that not a single member could rise and make any objection, except that which he (Mr. J.) had suggested, namely, that the House was often compelled to vote upon resolutions without sufficient consideration and knowledge of their contents. By allowing the resolutions to lie over to the next day, if the previous question was called, an opportunity was given to members to examine them in all their parts, and see whether they should be adopted or not; and by this means they could vote intelligently. He submitted that this rule in relation to a two-thirds vote did not facilitate legislation. Sufficient time was taken up every Monday in disposing of motions to suspend the rules by two-thirds votes, on some propositions, to enable the propositions themselves to be disposed of. He declared, that for the last four years, as much time had been consumed in motions to suspend the rules as would have been required to dispose of the subjects themselves. And he insisted that the amendment he had proposed to the amendment of the Committee on Rules should be adopted.

Mr. EVANS, of Maryland, briefly opposed the amendment and the amendment to the amendment, and moved that the whole subject be laid on the table.

But Mr. E. withdrew the motion at the request of—

Mr. SMITH, of Indiana, and on his pledge of renewal.

Mr. S. briefly explained, and vindicated the amendment proposed by the Committee on Rules. He had never (he said) seen an instance in which the House had been forced to a vote on a resolution under the previous question where any beneficial result had been answered. He believed that the adoption of the amendment would obviate the difficulty which every gentleman had experienced, and that no injury could result from it.

In accordance with his promise, he renewed the motion to lay the subject on the table.

And the question was taken thereon, and decided in the negative—ayes 30, noes not counted.

So the subject was not laid on the table.

And the question recurring on the amendment—

Mr. ROOT spoke briefly in opposition to the amendment proposed by the Committee on Rules. He argued that the House never could be brought to pass any proposition under the previous question, unless a majority willed it. He therefore saw no hardship in the case. He hoped that so long as the House professed to act openly, and to vote by yeas and nays, so that the country might see what was done, and how they acted upon any proposition, the power of a majority to vote upon it would be retained. That right would be abandoned by the adoption of this proposition.

Mr. VINTON rose (he said) to a privileged question. For the purpose of bringing the House to a vote on the bill ordered to be engrossed the other day, (*i. e.* the bill to organize an Interior Department,) he moved that the House proceed to the consideration of the business on the Speaker's table.

Mr. WENTWORTH called for the orders of the day, (which *was* the business on the Speaker's table.)

The question was taken on the motion of Mr. VINTON, and (by ayes 83, noes not counted) was agreed to.

So the House proceeded to the consideration of business on the Speaker's table.

When the resolution received this morning from the Senate, (given above,) to appoint a joint committee of the two Houses of Congress, to wait on the President and Vice President elect and inform them of their election to said offices, was read and concurred in—

Mr. JOHNSON, of Arkansas, moved that the House resolve itself into Committee of the Whole on the state of the Union; which motion was not agreed to.

The House then proceeded to the consideration of the bill to establish certain post routes; when it was

Ordered, That the said bill be laid on the table.

STEAM PACKET COMPANY.

The House proceeded to the consideration of the bill from the Senate, entitled "An act to incorporate the Washington, Alexandria, and Georgetown Steam Packet Company.

The question pending being on the motion that the said bill be laid upon the table, (made by Mr. JONES, of Tennessee, on the 10th instant)—

It was put, and decided in the negative—yeas 70, nays 106—as follows:

YEAS—Messrs. Atkinson, Bayly, Beale, Bingham, Birdsall, Bowlin, Boyd, Bridges, Brodhead, William G. Brown, Charles Brown, Cathcart, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Collins, Faran, Ficklin, Flournoy, French, Willard P. Hall, Hammons, Haralson, Harmanson, Harris, Henley, Hill, George S. Houston, Inge, Jenkins, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Lahm, La Sere, Sidney Lawrence, Leffler, Ligon, Lumpkin, Lynde, Maclay, McClelland, McClernand, McKay, Meade, Miller, Morris, Morse, Peck, Petrie, Peyton, Phelps, Reynolds, Richardson, Richey, Rockhill, Sawyer, Sibart, Robert Smith, Stanton, Starkweather, Charles E. Stuart, Thibodeaux, Robert A. Thompson, Venable, Wentworth, Wick, Wiley, and Wilmot—70.

NAYS—Messrs. Abbott, Ashmun, Barringer, Barrow, Belcher, Blackmar, Blanchard, Botts, Boyden, Brady, Albert G. Brown, Burt, Butler, Cabell, Canby, Chapman, Cocke, Collamer, Conger, Cranston, Crisfield, Crowell, Crozier, Dickey, Dixon, Donnell, Garnett Duncan, Dunn, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Freedley, Fulton, Giddings, Goggin, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Hilliard, Isaac E. Holmes, Elias B. Holmes, John W. Houston, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, Kellogg, Thomas Butler King, Daniel P. King, William T. Lawrence, Lincoln, McIlvaine, McQueen, Horace Mann, Marsh, Marvin, Morehead, Mullin, Murphy, Nelson, Newell, Outlaw, Palfrey, Pendleton, Pilsbury, Pollock, Preston, Putnam, Julius Rockwell, John A. Rockwell, Roman, Root, Rumsey, St. John, Schenck, Shepperd, Sherrill, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Stephens, Andrew Stewart, Strohm, Tallmadge, Taylor, Richard W. Thompson, John B. Thompson, Tompkins, Toombs, Van Dyke, Vinton, Wallace, Warren, White, Wilson, and Woodward—106.

The question recurred on the passage of the bill.

Mr. EDWARDS moved the previous question, which was seconded, and, under the operation thereof, the bill was passed, and returned to the Senate.

GENERAL NAVY REGISTER.

The joint resolution for the purchase of copies of the General Navy Register, (which was, on the 16th of January last, ordered to be read a third time,) was read the third time.

The question was stated on the passage of the said resolution.

Mr. KING, of Georgia, moved the previous question, which was seconded, and the main question ordered.

Mr. ATKINSON moved that the joint resolution be laid upon the table.

And being put, it was decided in the negative: Ayes 69, noes 100.

So the House refused to lay the joint resolution on the table.

The joint resolution was then passed.

Mr. SCHENCK moved that the vote by which the said resolution was passed be reconsidered, and also that the motion to reconsider be laid upon the table, which latter motion was agreed to.

Ordered, That the Clerk request the concurrence of the Senate in the said resolution.

BOARD TO SETTLE CLAIMS.

The bill to provide for the settlement of claims against the United States, (ordered on the 9th inst. to be read a third time,) was read the third time.

The question being upon the passage of the bill—

Mr. ROCKWELL, of Connecticut, moved the previous question; which was seconded, and under the operation thereof, the bill was rejected, as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Barringer, Belcher, Birdsall, Blackmar, Blanchard, Boyden, Charles Brown, Burt, Cabell, Canby, Cathcart, Chapman, Clapp, Franklin Clark, Collamer, Conger, Cranston, Crisfield, Dixon, Garnett Duncan, Dunn, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Fulton, Gayle, Gott, Greeley, Gregory, Grinnell, Hale, Harris, Henley, Henry, Elias B. Holmes, John W. Houston, Hunt, Charles J. Ingersoll, Robert W. Johnson, Thomas B. King, Daniel P. King, William T. Lawrence, Lincoln, Lord, Lynde, McIlvaine, McQueen, Horace Mann, Marsh, Marvin, Meade, Morehead, Morse, Murphy, Nicoll, Palfrey, Petrie, Reynolds, Julius Rockwell, John A. Rockwell, Roman, Rumsey, St. John, Schenck, Sherrill, Slingerland, Caleb B. Smith, Truman Smith, Tallmadge, Taylor, Thibodeaux, Richard W. Thompson, Thurston, Tompkins, Vinton, Wentworth, White, Williams, and Woodward—85.

NAYS—Messrs. Atkinson, Barrow, Bayly, Beale, Bingham, Bocock, Bowlin, Boyd, Brady, Bridges, Brodhead, Butler, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Cocke, Collins, Crozier, Cummins, Darling, Dickey, Donnell, Eckert, Ellsall, Faran, Featherston, Ficklin, Flournoy, French, Fries, Goggin, Willard P. Hall, Nathan K. Hall, Hammons, James G. Hampton, Moses Hampton, Haralson, Hill, Hilliard, George S. Houston, Hubbard, Hudson, Inge, Joseph R. Ingersoll, Iverson, Jenkins, George W. Jones, John W. Jones, Kaufman, Lahm, Leffler, Lumpkin, McClelland, McClernand, McKay, Job Mann, Miller, Morris, Mullin, Nelson, Newell, Outlaw, Peaslee, Peck, Pendleton, Pettit, Peyton, Phelps, Pilsbury, Pollock, Preston, Putnam, Rhett, Richardson, Rockhill, Root, Sawyer, Shepperd, Silvester, Smart, Stanton, Starkweather, Stephens, Andrew Stewart, Charles E. Stuart, Strohm, James Thompson, John B. Thompson, Robert A. Thompson, William Thompson, Toombs, Van Dyke, Venable, Wallace, Warren, Wick, Wiley, and Wilson—98.

Mr. HALL, of Missouri, moved that the vote by which the bill was rejected be reconsidered, and also moved that the motion to reconsider be laid upon the table, which latter motion was agreed to.

HOME DEPARTMENT.

The bill to establish the Department of the Interior, and for other purposes, (ordered on the 12th instant to be read a third time,) was read a third time.

And the question being on the passage of the bill—

Mr. VINTON moved the previous question; which was seconded, and under the operation thereof, the bill was passed by yeas 112, nays 78, as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Barringer, Barrow, Belcher, Blackmar, Blanchard, Botts, Boyden, Brady, Albert G. Brown, Butler, Canby, Chapman, Clapp, Cocke, Collamer, Conger, Cranston, Crisfield, Crowell, Crozier,

Dickey, Dixon, Garnett Duncan, Dunn, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, Fulton, Gayle, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Harmanson, Haskell, Henry, Hilliard, Elias B. Holmes, J. W. Houston, Hubbard, Hudson, Hunt, Charles J. Ingersoll, John W. Jones, Kellogg, Thomas B. King, Daniel P. King, La Sere, William T. Lawrence, Lincoln, Maclay, McIlvaine, Horace Mann, Marsh, Marvin, Morehead, Mullin, Murphy, Nelson, Newell, Nicoll, Outlaw, Palfrey, Pendleton, Petrie, Pollock, Preston, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Roman, Root, Rumsey, St. John, Schenck, Sherrill, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Stanton, Stephens, Andrew Stewart, Strohm, Tallmadge, Taylor, Thibodeaux, Richard W. Thompson, Robert A. Thompson, Thurston, Tompkins, Toombs, Van Dyke, Vinton, Warren, White, and Wilson—112.

NAYS—Messrs. Atkinson, Bayly, Beale, Bingham, Birdsall, Bocock, Bowlin, Boyd, Bridges, Butt, Catheart, Chase, Franklin Clark, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Collins, Cummins, Darling, Donnell, Edsall, Faran, Featherston, Ficklin, French, Fries, Goggin, Willard P. Hall, Hammons, Haralson, Harris, Henley, Hill, George S. Houston, Inge, Iverson, Jenkins, Robert W. Johnson, George W. Jones, Kaufman, Lahm, Sidney Lawrence, Leffler, Ligon, Lumpkin, Lynde, McClelland, McClernand, McKay, McQueen, Job Mann, Miller, Morris, Peaslee, Pettit, Peyton, Phelps, Pilsbury, Rhett, Richardson, Richey, Robinson, Rockhill, Sawyer, Shepperd, Smart, Starkweather, Chas. E. Stuart, James Thompson, John B. Thompson, William Thompson, Wallace, Wentworth, Wick, Wiley, Williams, Wilmot, and Woodward—78.

Mr. VINTON moved to reconsider the vote by which the said bill was passed, and also moved that that motion be laid on the table; which latter motion was agreed to.

Mr. PALFREY moved to amend the title of the bill by striking out the words "Department of the Interior," and inserting in lieu thereof "Home Department."

Mr. VINTON moved to amend the title of the bill by striking out the words "and for other purposes," and insert "*to provide for the Treasury Department an Assistant Secretary of the Treasury, and a Commissioner of the Customs;*" which amendment was agreed to.

The question recurred on the amendment moved by Mr. PALFREY, and being put, it was agreed to.

So the bill now reads—

"An act to establish the Home Department, and to provide for the Treasury Department an Assistant Secretary of the Treasury, and a Commissioner of the Customs."

And then, at a quarter past three o'clock, the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. GIDDINGS: The following petitions of ladies, praying Congress to abolish slavery in all places where they possess constitutional power to do so, and to lend the protection of law to fifteen hundred thousand females who are now subjected to the lawless passions of barbarous owners: Ann W. Williams and 71 other ladies of America; M. H. Mahan and 180 other ladies of Ohio; Lydia Ann Mills and 47 other ladies of Pennsylvania; Harriet S. Pusey and 211 other ladies of Elyria, Ohio; Eleanor Dicky and 73 other ladies of America; Mary Canfield and 87 other ladies of Milford, Connecticut; E. E. A. Staunton and 121 other ladies of America; Lucy H. Spellman and 111 other ladies of Akron, Ohio; Elizabeth Perkins and 113 other ladies of Lorain county, Ohio; Laura M. Case and 81 other ladies of Ashtabula county, Ohio; Mary Connell and 37 other ladies of the United States; E. R. H. Parker and 52 other ladies of Dupage county, Illinois; Alice Coleman and 376 other ladies of Illinois; Rhoda W. Barbour and 81 other ladies of Illinois; Abnier Noble and 51 other ladies of Cattaraugus, Ohio; Comfort Sprague and 90 other ladies of Townsend, Maine.

By Mr. TAYLOR: The petition of Jacob S. Atwood and 69 others, citizens of Ross county, in the State of Ohio, praying for cheap postage.

By Mr. CONGER: The petition of 33 citizens of Cayuga county, New York, asking such alteration of the patent laws as shall better secure the rights and interests of inventors.

By Mr. WARREN: The petition of 25 citizens of Gienham, Dutchess county, New York, for cheap postage.

By Mr. SIBLEY: The petition of Scott Campbell, praying that Congress would restore to him a certain annuity and grant of land from the Sioux Indians by treaty of 1847, which were stricken out by the Senate on ratification of the treaty.

By Mr. PEYTON: The petition of Jared Tichenor and others, of Ohio county, Kentucky, to abolish the franking privilege, and in favor of cheap postage.

By Mr. KAUFMAN: Two petitions of citizens of Rusk and Smith counties, praying for the establishment of a post route from Walling's Ferry via Bellevieu, Dr. William C. Lee's, and Walter's, to Tyler county, site of Smith, in the State of Texas.

By Mr. LYNDE: Sundry petitions from citizens of Rock and Walworth counties, Wisconsin, for the establishment of a post route from Geneva, in Walworth county, to Beloit, in Rock county.

By Mr. HOLMES, of New York: The petition of H. N. Curtis and 150 other citizens of Monroe county, New York, complaining of the *free* use of valuable labor-saving machines in the adjoining provinces, which have been patented in the United States; and praying for the passage of a law that will effectually check or suppress the product of such machines of American invention as are not patented in the provinces.

By Mr. WENTWORTH: The petition of Richard Stadden, of La Salle county, Illinois, for additional compensation to the volunteers in the late Mexican war.

IN SENATE.

FRIDAY, *February* 16, 1849.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Navy, in compliance with a resolution of the Senate, of the 8th instant, containing copies of despatches relating to the naval and military operations in California; which was laid on the table, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. BREESE presented a petition from citizens of Westchester county, Illinois, praying for the establishment of military convoys to California; which was referred to the Committee on Military Affairs.

Mr. DOUGLAS presented a memorial from some hundred citizens of Illinois, praying for the establishment of a marine hospital at Rock Island, in the Mississippi river, and for the sale of the public lands on the island, and their appropriation to that object; which was referred to the Committee on Commerce.

Mr. DOUGLAS presented two memorials from citizens of Illinois of similar import; which was referred to the Committee on Military Affairs.

Mr. MILLER presented a petition from citizens of New Jersey, praying for the abolition of slavery and the slave trade in the District of Columbia, the question of reception of which was raised, and the motion was laid on the table.

Mr. NILES presented a petition signed by some thousand citizens of New York, praying for a reduction of the rates of postage, &c.; which was laid on the table.

Mr. DAVIS, of Massachusetts, presented a communication from the American Acadlemy of Arts and Sciences, at Boston, in relation to the coast survey; which was laid on the table.

Mr. ATCHISON presented a memorial from the Legislature of the State of Missouri, asking that the inundated lands in the southeast portion of that State, and the northwest portion of Arkansas, be ceded to the State of Missouri, on condition that they be reclaimed by that State; which was laid on the table, and ordered to be printed.

Mr. JOHNSON, of Georgia, presented a memorial from J. N. Rogers, praying for an investigation of the wrongs some of the Cherokees have suffered from others, through the agency of the United States.

On motion of Mr. JOHNSON, the memorial was referred to a select committee, to consist of five Senators, and to be appointed by the Chair.

And Messrs. JOHNSON of Georgia, BELL, BREESE, PHELPS, and ATCHISON were appointed the committee.

On motion of Mr. HUNTER, leave was given to the executor to withdraw the papers in the case of George Evans, deceased, from the files of the Senate.

REPORTS OF COMMITTEES.

Mr. BALDWIN, from the Committee on Claims, made an adverse report on the petition of Joseph M. Farrow for a pension; and the report was ordered to be printed.

Mr. MASON, from the Committee on Claims, reported a bill for the relief of Guier & McLaughlin; which was read, and ordered to a second reading

Mr. BORLAND, from the Committee on Public Lands, reported a bill; which was read, and ordered to a second reading; and the report was ordered to be printed.

BILL ON LEAVE.

Mr. WALKER asked and obtained leave to introduce a bill making an appropriation in money for the improvement of the harbor of Port Washington, on Lake Michigan; which was read a first and second time, and referred to the Committee on Commerce.

BURIAL GROUND FOR SOLDIERS.

Mr. UNDERWOOD asked and obtained leave to introduce a joint resolution; which was read a first time, as follows:

Resolved, &c., That the President be requested, by negotiation with the Government of Mexico, to secure a suitable burying-ground in the vicinity of the cities of Mexico, in which those citizens of the United States who have heretofore died, or may hereafter die in Mexico, may be permanently interred.

Resolved, That the President be, and he is hereby, authorized to use, out of any money in the treasury not otherwise appropriated, the sum of ten thousand dollars in purchasing and improving any ground which may be ceded or conveyed to the Government of the United States for the purpose mentioned in the preceding resolution.

RESOLUTIONS.

Mr. FELCH submitted the following resolution, which was considered and agreed to:

Resolved, That the Committee on Indian Affairs be instructed to inquire into the expediency of increasing the amount appropriated annually for the civilization of Indians, by an act of Congress approved 3d March, 1819, to $50,000, instead of $10,000, as provided by said act.

Mr. HALE submitted the following resolutions, which lies over under the rule:

Resolved, That on Thursday next, when the Senate take up the calendar of private bills, those bills to the passage of which no objection shall then be made, shall be first considered and disposed of."

PRINTING A DOCUMENT.

Mr. ATCHISON called the attention of the Senate to an order made some days since, to print a communication from the Secretary of War, relative to the Cherokee Indians. He now moved to modify that order so as to exclude a portion of that communication, which had already been printed in a pamphlet of three hundred pages.

The motion was agreed to.

A bill from the House for the relief of the heirs of Francis Vigo was read a first and second time, and referred to the Committee on Revolutionary Claims.

HOUR OF MEETING.

Mr. DOWNS moved to postpone the prior orders, and to take up the following order moved by him some days since:

Ordered, That after the present week, the daily hour of meeting shall be eleven o'clock.

Mr. DOWNS asked for the yeas and nays; which were ordered.

After some remarks from Mr. BRADBURY and Mr. DOWNS, the question was taken, and decided as follows:

YEAS—Messrs. Atherton, Bell, Breese, Clarke, Davis of Massachusetts, Dodge of Iowa, Douglas, Downs, Felch, Fitzgerald, Fitzpatrick, Foote, Greene, Hannegan, Houston, Johnson of Louisiana, Jones, King, Metcalfe, Niles, Rusk, Sebastian, Spruance, Sturgeon, Underwood, Walker, and Westcott—27.

NAYS—Messrs. Alfen, Atchison, Badger, Baldwin, Berrien, Borland, Bradbury, Bright, Butler, Calhoun, Corwin, Davis of Mississippi, Dickinson, Hale, Hamlin, Hunter, Johnson of Georgia, Mangum, Mason, Miller, Phelps, Turney, Upham, and Yulee—24.

Mr. BADGER moved to amend the order, by striking out the word "present," and inserting in lieu thereof the word "next," so as to read "after the next week."

After some discussion, in which Mr. BADGER, Mr. JOHNSON of Louisiana, Mr. BERRIEN, Mr. DOUGLAS, Mr. DOWNS, and Mr. NILES took part, the amendment was agreed to—ayes 25, noes 23.

Mr. HALE moved to lay the resolution and amendment on the table; which was decided in the negative—ayes 20, noes 24.

Mr. FOOTE moved to amend the order by striking out the word "after" and the word "week," and making it read "after Monday next."

Mr. BADGER moved to amend the amendment, by inserting after the word "Monday" the word "week."

Mr. DICKINSON moved to lay the order on the table.

Mr. FOOTE asked for the yeas and nays on this motion, and they were ordered.

The question was then taken, and decided as follows:

YEAS—Messrs. Allen, Atchison, Badger, Baldwin, Berrien, Borland, Bright, Butler, Calhoun, Cameron, Corwin, Dayton, Dickinson, Hale, Hamlin, Hunter, Johnson of Georgia, Mangum, Mason, Metcalfe, Miller, Pearce, Phelps, Turney, Upham, and Walker—26.

NAYS—Messrs. Atherton, Bell, Bradbury, Breese, Clarke, Davis of Massachusetts, Davis of Mississippi, Dix, Dodge of Iowa, Douglas, Downs, Felch, Fitzgerald, Fitzpatrick, Foote, Greene, Houston, Johnson of Louisiana, Jones, King, Niles, Rusk, Sebastian, Spruance, Sturgeon, Underwood, and Westcott—27.

So the motion was rejected.

Mr. HALE made a question of order, contending that it was not competent for any Senator to move to strike out words which the Senate had just decided to insert.

The CHAIR decided that the amendment of the Senator from Mississippi did not strike out any

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words which the Senate had inserted, and that it was in order.

Mr. WALKER and Mr. DOUGLAS then contended that the amendment of the Senator from North Carolina to the amendment of the Senator from Mississippi was out of order.

The CHAIR decided that it was out of order.

Mr. DAYTON moved to strike out the word "Monday," and insert the word "Saturday."

Mr. HALE moved to lay the whole subject on the table, and asked for the yeas and nays; which were not ordered.

The question was then taken, and decided in the affirmative: Ayes 26, noes 21.

So the order was laid on the table.

CIVIL AND DIPLOMATIC BILL.

On motion of Mr. ATHERTON, the Senate postponed the prior orders, and proceeded to the consideration of the bill making appropriations for the civil and diplomatic expenditures of the United States for the year ending 30th June, 1850.

The bill being under consideration as in Committee of the Whole—

Mr. BELL offered the following amendment, as an addition to the item providing compensation for the officers and clerks of both Houses of Congress:

For additional compensation to the messenger in the Clerk's office of the House of Representatives, under the act approved September 11, 1841, including arrearages from the 1st of July, 1847, $547 50.

In offering this amendment, Mr. B. said, I will explain to the Senate that this additional compensation is made under the act of 1841, which provides that the messenger of the Clerk of the House of Representatives shall receive the same compensation that any other permanent messenger of either House of Congress receives. At that time the compensation was $1,095 per annum, but by a resolution of the House passed in 1842, or some subsequent date, it was resolved that no messenger employed by the House of Representatives, whether employed by the Clerk, Doorkeeper, Sergeant-at-arms, Postmaster, or any other officer, shall receive compensation at a higher rate than $2 50 per diem. The compensation at the time the act of 1841, to which I have alluded, was passed, was at the rate of $3 per diem. Now, there are two very worthy persons who have been employed as messengers in the office of the Clerk of the House of Representatives since July, 1847, who have received only $2 50 per diem, the estimates having been based upon the resolution of the House passed in 1842, and not in conformity with the act of Congress which settled the compensation of the messengers employed in the office of the Clerk of the House of Representatives at the same rate as that of the messenger employed in the office of the Secretary of the Senate.

The estimates, since the time of the passage of the resolution by the House, seem to have been based upon the assumption that the resolution of the House repealed the act of Congress. Now, sir, I presume that gentlemen will readily perceive, by looking at that resolution, that it was intended to regulate the pay of a great number of messengers employed by the House, and not the regular messenger employed in the Clerk's office, whose salary was fixed by the act of 1841. That messenger is, by law, made as permanent an officer, though in an inferior situation, as the Clerk of the House or the Secretary of the Senate. There is matter enough for the resolution of the House of Representatives passed in 1842 to act upon, without being supposed to be intended to repeal the act of Congress.

I will show, if it be desired, that up to a late day the estimates and appropriations have been made in accordance with the act of 1841, stipulating that this officer should have this permanent and fixed salary; that is, that he should have the same salary as the messenger of the Secretary of the Senate.

I find by the estimates sent in from the department in the year 1842, in conformity with the act of 1841, that the compensation of the messenger of the Clerk of the House of Representatives is provided for specifically. It is not left to be paid out of the contingent fund, as the numerous other messengers, pages, and assistants in the House of Representatives are paid, and as the same class of officers in the Senate are paid. In that year the estimate of the Treasurer was for clerks in the office of the Clerk of the House of Representatives, $16,000. For messenger in the office of the Clerk of the House of Representatives, $1,095. That was in conformity with the law as it then stood. At the present session we find that the pay of the messenger in that office is only estimated at $912 50.

Now, the simple question is, (and I think it one which a judicial tribunal would find no difficulty in deciding,) whether the resolution of the House could repeal the act of Congress? The act of 1841 placed the messenger in the office of the Clerk of the House of Representatives in the same rank, as to salary, with the messenger in the office of the Secretary of the Senate. The salary of each of these messengers, at that time, was $1,095 per annum. By a separate resolution of the House, passed in 1842, the year following, the salaries of their messengers were reduced to $2 50 per diem; but there are a number of other messengers beside this employed in the House, and the question is, did not that resolution apply to them, and not to the messenger of the Clerk of the House? But whether it did so apply or not, did that resolution repeal the act of Congress? That is the question for us to decide. If it did, then this amendment ought not to be adopted; but if it did not, then the amendment should be adopted. This additional compensation has been accruing since 1847, and I have therefore increased the sum five hundred and odd dollars.

Mr. ATHERTON. Mr. President, I understand the object of this amendment is to give to certain messengers in the office of the Clerk of the House of Representatives an additional sum—that is, arrears for three years of pay supposed to be due to them; and this supposition is founded on some law supposed to give them a larger compensation than that fixed by a resolution of the House of Representatives under which these officers are elected, and under which they have been paid up to this time. Now, I suppose, sir, that these officers were elected expecting the salaries which they have received, and that the House employed these officers expecting that they would be paid these salaries. I have no doubt that the law, if there was a law fixing the salaries of these officers, would operate as a limitation, and that the House would not be authorized by resolution to increase the salaries of these officers beyond the law. But if the House chose to elect an officer under a resolution, and fix his compensation, thus making a contract with an officer or messenger, I see no difficulty. But I do not see why these persons should be paid an amount they did not expect when they made the contract, and which the House did not expect to pay them. And, certainly, I think if the Clerk had expected to make this additional compensation, he would have made an estimate for it.

The amendment was rejected.

Mr. KING offered the following amendment: Add after the word "Government" the words "and for other purposes," in the item "For clerks in the office of the Surveyor General, to be apportioned to them according to the exigencies of the public service, and if necessary, to be employed in transcribing field notes of surveys, for the purpose of preserving them at the seat of Government, $22,500."

The amendment was agreed to.

Mr. BELL offered the following amendment:

To pay watchmen employed in and about the Executive offices, from the 1st day of January, 1837, to the end of the second session of the 24th Congress, the same increase of compensation as was provided for the messengers and assistant messengers employed in said offices by the third section of the act making appropriations for the civil and diplomatic expenses of the Government for the year 1837, the sum of $3,150.

In explanation, Mr. B. said: I hope I shall be able to get the assent of the Senate to this amendment. The proposition to pay this extra compensation to the watchmen employed about the Executive buildings is founded upon the third section of the act making appropriation for the civil and diplomatic expenses of the Government for the year 1837. That section is in these words:

"*And be it further enacted*, That the clerks of the Departments of State, Treasury, Navy, and War, and of the two Houses of Congress, and of the Librarian of Congress, whose salaries are less than two thousand dollars per annum, shall receive, in addition thereto, the following increase of annual compensation from the first day of January last to the end of the next session of Congress; that is to say, that said clerks, whose annual salary does not exceed one thousand dollars, an addition of twenty per cent. thereto; such of said clerks whose annual salary exceeds one thousand dollars shall receive an addition thereto of ten per cent." "An addition of twenty per cent. is allowed to the messengers and assistant messengers employed in the respective Executive offices, and in the Library of Congress."

It was my fortune to be a member of Congress at that time, and I may say that I am personally acquainted with the fact that the watchmen employed about these buildings have complained, not annually, but periodically, at different periods since the passage of that act, that they were not included in it. I have a memorial before me which was presented to the Senate many years ago by these watchmen, and which I found on the files of the Senate. This memorial was thought to be too inconsiderable to attract the attention of members of Congress, or of any committee, and it has been lying unheeded from that time to this, but I have thought the claims of these persons worthy of attention. We thought the claims of the clerks employed in these various offices, at that time, worthy of such attention as to induce Congress to add twenty per cent. to the salaries of those clerks whose annual salaries were less than a thousand dollars, and to add ten per cent. to the salaries of those whose annual compensation was over one thousand and less than two thousand dollars. That law provides that twenty per cent. in addition to their standing salaries, for a limited period of time, should be allowed to the messengers and assistant messengers, subordinate to the clerks, employed in and about the various departments. When I came to inquire why these watchmen were not included in the benefits of that act, I was answered, that their being omitted was entirely owing to a mistake; that there was no intention on the part of the gentleman who brought the bill forward in the other branch of Congress—a gentleman distinguished for his adherence to principles of economy in all appropriations of the public money—to exclude these watchmen from a participation in its benefits. Yet, notwithstanding the mistake was made, the parties have not been able subsequently to get the attention of Congress upon this matter, which they consider a great grievance.

Now, sir, let me state, on behalf of these persons, that their service is burdensome and onerous to a degree beyond that of most officers of the Government, so far as personal attention is required. The principal part of the service they perform is during the night. The very nature of the office which they fill requires and presupposes that they be persons of great probity, fidelity, soberness, and vigilance. The public buildings and the public property could not be intrusted to any other class of men. They have been in the service many years. Most of those who were in the service at the time the appropriation to which I have referred was made, are still in the service, and they are men of approved fidelity and vigilance. Sir, notwithstanding the arduous nature of their duties—notwithstanding that fidelity and vigilance are requisite in the character of persons to whose trust the safety of the public property and the public buildings is confided—notwithstanding all this, their salaries have never exceeded three hundred and fifty dollars per annum, a small salary for any grade of officials employed by this Government, at least in the city of Washington. I suppose that it is the very smallest salary paid by Government; and yet these watchmen should be worthy, faithful, and vigilant men, such men as should command a respectable remuneration for their services. And they have felt it a grievance, that notwithstanding the arduous nature of their duties, and their character for fidelity and vigilance, most or all of them are left in a con-

dition to be dependent for support upon this small salary—a salary which, in Washington at least, may be considered but a mere pittance. They have thought it a hardship that they have not been embraced within the provisions of the act of 1837.

The whole amount of extra compensation I now propose to give to this worthy but neglected class of men, is only one hundred and fifty dollars each. This is in accordance with the third section of the act of 1837, which provides for an increase of twenty per cent. upon the salaries of such clerks, messengers, &c., whose salaries did not exceed one thousand dollars, for a certain time. This compensation of one hundred and fifty dollars is only twenty per cent. increase upon the salaries of these persons for the time comprehended in that act. And I submit it to the Senate whether it is not proper, just, and equitable, that these men should receive this deserved compensation.

Mr. ATHERTON. The introduction of a claim of this kind, originating as long ago as the year 1837, in an appropriation bill, cannot fail to delay action upon the passage of the bill, and prevent the proper consideration of the just and correct items contained in it. Aside from the question whether this additional payment was originally right to certain clerks and messengers of the departments, there is no just reason why this amendment, proposing additional compensation to these watchmen, should be introduced in this appropriation bill. If they have not any just claim for this compensation, its proposed allowance here is a gratuity; if they have any just claim, it should be presented to, and go through and be examined by, the Committee of Claims, as all other claims are examined.

The Senator from Tennessee [Mr. BELL] has said that Congress thought proper, in the year 1837, to make a certain allowance to certain clerks in the executive departments of twenty per cent., and that this proposition was originated by a gentleman distinguished for his economy in the affairs of the public treasury. Sir, it will be recollected that this proposition did not include as recipients of its proposed benefits the watchmen; and also that the measure originated at a time of a general inflation of the currency of the country, bank paper. The question at that time was, not how shall we raise revenue, but what shall we do with it? Considering, then, the circumstances attending the passage of this measure allowing additional compensation to certain clerks, and that the watchmen were not then included as co-recipients of the compensation, I do not see any reason why we should now go back this long period of time and make the allowance here asked for. I think, sir, that the whole allowance was wrong and should not have been made, and I believe that the very gentleman who originated the measure regrets his ever undertaking it. The watchmen, sir, are not included within the terms of the law; and why should we go back and endeavor to divert to them the benefits of the provisions of a law originating in 1837? It appears to me, sir, that there is no satisfactory reason for such action on our part. If there is any reason justifying the payment of twenty per cent. extra allowance to these watchmen, why may not other officers come forward and claim an equal share in the benefits of the law, and even ask for an allowance down to the present moment? If this claim is allowed, there will be no end to the presentation of similar ones.

Mr. BELL. I am not satisfied that the Senator from New Hampshire has demonstrated that there is no reason in this claim. It is not a proposition to increase the salaries of these officers. Not at all. This act of 1837 expired at the time which it provided—"at the end of the next session of Congress" following the one in 1837. It is an application, sir, in behalf of certain watchmen who were at that time employed by the several departments, to have their salaries increased, not for any extended length of time, but in proportion to the additional allowance made to the officers in the same department, and which additional allowance was made in conformity with the provisions of this law of 1837. The gentleman from New Hampshire asks why the other officers in the departments do not come forward and ask for additional pay? I answer, because they have had this additional compensation already made to them. Those whose salaries exceeded one thousand dollars received ten per cent. extra allowance, and those whose salaries were less than one thousand dollars received twenty per cent. These watchmen employed around the building were not included within the list; and they only receive a salary of three hundred and fifty dollars per annum.

The Senator from New Hampshire says that it is not proper to insert propositions of this character, making increase of salaries in this bill. Sir, we had the subject discussed the other day, and the gentleman from Alabama, [Mr. KING,] who is careful to notice any improprieties in our legislation, stated there could be no longer any objection made to such a course of procedure. This, sir, is not a proposition to change the law to increase or to regulate salaries, but to place these watchmen on an equal footing with the clerks and messengers as to the benefits accruing from the passage of the law of 1837.

The bill originally was passed as a sort of equivalent—certain reductions being made in the number of officers employed by the Government in the departments—to those clerks who remained whose duties were thus increased. This, then, is not a permanent arrangement. We are not about to enact a law providing increased compensation for any class of officers, but simply to do justice to a class of officers obliged to be faithful and vigilant, and who receive the very lowest grade of salaries given in Washington. I question whether the day-laborers on the public grounds do not get better paid than those faithful watchmen. If you will look back into the records of the last session, it will be found, I think, that the compensation allowed the day-laborers exceeded the stipulated salary allowed these watchmen. I consider, of course, that the laborer is as worthy of his hire as the watchman; but these watchmen perform a peculiar service, requiring the utmost fidelity and vigilance—a service that is performed at night—and they were excluded without any good reason whatever from the benefits arising under the law of 1837. Sir, I cannot but think that their claim is well founded. I find that there were memorials presented as far back as 1841 and 1842, representing the injustice that had been done them, inasmuch as their services had not been allowed for in the same manner as the services of other persons employed in the departments. They certainly do not rank inferior to the messengers employed about the buildings. There is no view of the subject, then, in my opinion, that justifies the exclusion of these watchmen from a participation in the benefits of the law of 1837. This is simply the introduction of a provision—not a permanent law by any means—giving these watchmen the benefit of the third section of the act of 1837.

Mr. KING. For what length of time was this extra compensation given?

Mr. BELL. Only one Congress. I will read the provision:

"That the clerks in the Departments of State, Treasury, Navy, and War, and of the two Houses of Congress, and the Librarians of Congress, whose salaries are less than two thousand dollars, shall, in addition thereto, be allowed the following compensation, from the 1st day of January last to the end of the next session of Congress, viz: Such of said clerks whose annual compensation does not exceed one thousand dollars, an addition of twenty per cent. thereto; such of said clerks whose annual compensation exceeds one thousand dollars, an addition of ten per cent. thereto; and twenty per cent. in addition to the salaries of messengers and assistant messengers employed in the respective offices and the Libraries of Congress."

Mr. ATHERTON. To strip this proposition of all disguise, it is neither more nor less than to pay these watchmen who are employed in the Executive Departments, from the 1st of January, 1837, to the end of the next session, three thousand dollars more than they were entitled to by law. That is the proposition.

The question being taken on the amendment, it was, upon a division, negatived: Ayes 13, noes not counted.

Mr. HUNTER offered the following amendment:

For the purchase of a site for a new custom-house at Norfolk, Virginia, twelve thousand dollars, provided the President of the United States shall deem it proper to make the purchase.

Mr. HUNTER asked for the reading of a letter from the Secretary of the Treasury, and also a leter from the officer of customs.

They were read accordingly by the Secretary.

Mr. HUNTER. It will be perceived that the recommendation of the Secretary is conditional. He says if the President deem it advisable. I must say, however, that I cannot see why the recommendation should have been conditional, because it appears, from the report of the collector, and from the report of those who were authorized to make an examination, that the situation of the old custom-house is inconvenient; so much so, that boats cannot get up to it. The appropriation heretofore asked for, and which, it seems to me, ought to have been granted, was much larger than the one now proposed. I can see no reason for diminishing it, but I have accepted it rather than not to have the appropriation made at all. The trade of the town is very materially increased. I hope that, while the Senate have granted every other application that has been made for appropriations of this description, they will not refuse this. They have appropriated a sum of money for the purchase of a large building in Portland, in the State of Maine, and they have appropriated money for the erection of a magnificent structure for a custom-house in New Orleans. I hope they will not refuse the twelve thousand dollars that is now asked for.

The question having been taken on the amendment, it was agreed to.

Mr. JOHNSON, of Georgia, moved the following amendment:

For clearing out and deepening that portion of the Washington City canal which passes through and along the public grounds, twenty thousand dollars, to be expended under the direction of the Secretary of the Treasury, provided the Corporation of Washington shall expend a like sum in clearing out and deepening the other portions of said canal; and provided also, that all transportation on said canal for the use of the Government of the United States shall be free of toll.

Mr. JOHNSON. I will not detain the Senate with any remarks, but simply ask for the reading of the memorial of the Corporation which relates to the subject, and also the report of the engineer in reference to that portion of the canal which passes in front of the public grounds.

They were read by the Secretary.

Mr. ALLEN. I would inquire what remarkable commerce there is along this canal which renders it necessary to incur this expenditure?

Mr. BRIGHT. There is not enough to pay for keeping it in repair.

Mr. JOHNSON, of Georgia. I do not suppose there is any commerce at present, in consequence of the bad condition of the canal, which renders it unnavigable.

Mr. ALLEN. I would inquire whether there has ever been any commerce upon it so as to produce any revenue whatever?

Mr. PEARCE. I am informed by the Mayor of the city that the revenue has amounted to about four thousand dollars a year.

Mr. ALLEN. Will the Senator inform me from what that revenue arose?

Mr. PEARCE. Chiefly from the tolls collected upon coal conveyed to the Navy Yard.

Mr. WESTCOTT. If the Senator will permit me, I will state a fact. I am informed by a gentleman who is well acquainted with the subject, that the canal will be eminently useful to the Government in the course of the ensuing summer for conveying coal to the Navy Yard, the Chesapeake and Ohio canal being now about to be completed; and it will be impossible to reach the Navy Yard otherwise than by this canal.

Mr. ALLEN. If the profits arising from this canal are not sufficient to put it in repair, it would be as well that the repairs never should be made; if they are sufficient, they ought to be applied to that object. I think, sir, that we have already spent, in the form of an absolute donation to that work, nearly a million of dollars. Indeed, I believe it was something over a million, though perhaps I may be mistaken as to that. I had thought that this would have been considered sufficient. It is certainly an ungracious thing to oppose appropriations for this District, and I know likewise that it is almost useless to oppose them, because the District, having nobody to represent it on this floor, has everybody. Every Senator feels that he is in some degree bound to vote for whatever the Corporation ask for, because the Corporation have nobody here to do their voting for them; but I really think we ought to have some limit. Year in and year out, pretexts are invented for bringing forward propositions for the appropriation of large sums of money out of the public taxes of this country for the benefit of this one District. We know perfectly well how it is. If we could get this money from any other source than from the working people of this country, I should not regret the extension of the liberality of the Government to this District, or to any other body of people.

But, sir, representing, in connection with my colleague, a people who pay over three millions of dollars taxes to this Government, I feel, even in these matters, small as they appear to be, that it is our duty to be a little more attentive when these claims are advanced upon the public treasury. I must ask for the yeas and nays, for I want to see the votes recorded on this question.

Mr. MILLER. I wish to state, very briefly, the ground upon which the Corporation asks for this appropriation. The canal, running along the margin of the public grounds, and not having been very profitable heretofore, and the expense necessary to keep it in repair being considerable, is the reason, I suppose, why it has been permitted to go to ruin. In the opinion of all persons living in the neighborhood of the canal, it is highly injurious in its present condition to the health of the city. And owing to the completion of the Chesapeake and Ohio canal, the Corporation think it would be a matter of importance to open and improve this canal; for they believe that the transportation upon it will be increased by the transportation upon the Chesapeake and Ohio canal.

According to the explanations given before the committee, it is ascertained that it will cost forty or fifty thousand dollars to repair the canal so as to make it serviceable. It is necessary so to arrange it that the water may flow from one branch of the Potomac to the other at all times, so as to remove all stagnant water, and thus prevent one of the ill effects arising from the present condition of the canal. But the Corporation, as they represent, and I believe it to be so, are not able, from the taxes that are levied upon the citizens of the city and county, to raise a sufficient sum to complete the work; they therefore ask that Congress will appropriate a sum equal to that which the Corporation will provide, for the purpose of putting the canal in a proper condition. It will be recollected also that the canal passes in front of the public ground where we are now directing the Smithsonian building to be erected; and it is in contemplation undoubtedly to improve those grounds, and this cannot be done to any advantage so long as this state of things continues. In order to improve the grounds properly, it will be necessary to clear out or fill up the canal. I think, therefore, the application is a reasonable one—the Government being, in the first place, interested in having the public grounds improved, and all being interested in improving the health of the city—and that we ought to grant the twenty thousand dollars for the purpose of completing this useful work.

Mr. MANGUM. It is very rarely, sir, that I open my lips upon any question regarding appropriations of this sort—very rarely; but I am so strongly impressed with the propriety of making this allowance to the city, of granting the money which is asked for, that I cannot refrain from saying a few words in relation to the subject.

This canal, in its present condition, is not only an absolute nuisance to the city, and injurious to the health of those who live in its vicinity, but it is the depository of all the offal of the city. It mars the beauty of the city, as seen from the public grounds, and as seen from the Capitol, and at any time within the last ten years I would not only have voted for this amendment, but for double the sum, for the purpose of removing the nuisance. It is offensive to the eye and injurious to the health of those who live near it. I understand that the city authorities have made an appropriation of twenty thousand dollars to be applied to the purpose of making this improvement; and we have had various means of knowing the extent of the resources of the city; that the Corporation is straitened in pecuniary matters; but an additional appropriation on the part of Congress equal to that made by the Corporation, I understand, according to the estimates in this case, will be sufficient to complete the work so as to have always four feet of water in the canal, and all those nuisances that are thrown into the canal will at once be carried off. Besides, it will be recollected that the canal for about one-half its extent passes through the public grounds, and, as the Senator from New Jersey remarked, it is undoubtedly in the contemplation of Congress at some day to place them in a different condition from that in which they now are. This work, independently of its actual benefit to the health of the city, is of importance as improving the appearance of the city.

Again: the Chesapeake and Ohio canal, which penetrates to the coal regions, will, at some early period, be in full operation; and I understand the coal is equal to that which is obtained in any part of the United States; and it is known to every gentleman that the boats laden with coal, when they arrive at Georgetown, cannot reach the neighborhood of the Navy Yard, for they cannot navigate around Greenleaf's Point. The Navy Yard will undoubtedly require much of this coal, and this bill provides that all transportation which the Government requires through this canal shall be free; and as a mere *quid pro quo*, all other considerations thrown out of view, the Government, in my opinion, would make a good bargain, by granting the amount that is asked for, in consideration of the benefit of free transportation.

Sir, has any Senator looked out from the west front of the Capitol, from the balcony of the Library, upon that beautiful sheet of water, the Potomac, and upon the public grounds, which at some future day must be ornamented? If so, he must have seen those banks of mud which have been day by day disclosing themselves along this canal, and which are absolutely offensive to every man of taste, and an actual nuisance to that portion of the city contiguous to it, and more or less so to the more distant portions of the city. But, without going into these considerations, throwing them all out of view, I will still vote for this appropriation. This is the capital of the United States, and I hope it will be the capital perpetually. Is there a man in the country who does not desire to see the capital beautified, to see the public grounds of this city ornamented, to see the spirit of improvement advancing? I do hope, sir, that the honorable Senator from Ohio will display his usual kindness of disposition on this occasion, and withdraw his opposition. It is beyond the present means of the city to execute this work; and it is a work that is more exigent, perhaps, at this time than it has been at any former period—at all events, for the last six or seven years. If that dreadful disease which is now the scourge of some portions of this country should reach this place, does not every one perceive how important would be the removal of that which is so fruitful a source of disease in itself? I have lived for the last six or seven years on Missouri avenue, which would be the most pleasant place in the city, for many reasons, if this nuisance were removed, and the public grounds ornamented, as, before many years, the taste of the people of this country, I am sure, will dictate. I hope that the amendment will prevail.

Mr. NILES. My honorable friend from North Carolina advocates the appropriation in this case, which is a parallel case to one that we had before us a few days ago, on the ground that this improvement ought to be made as a matter of taste. It occurred to me, that in reference to the present condition of this canal, it was rather a matter of smell than of taste. We have been, by our legislation heretofore, endeavoring to ornament the city by a structure rising above the earth; we are now called on to ornament it by a ditch sinking down below the surface of the earth. As a matter of ornament, I am afraid the ditch will be a failure. But it is advocated on the ground of utility also. I should like to be informed whether this canal has not been, in point of utility, what is ordinarily called a total failure—whether it has not proved to be utterly useless—whether it has not failed to accomplish the object for which it was originally undertaken. I believe it has never been used at all, except for the convenience of some few small boats carrying wood to the city. It has never, I believe, been of service for the transportation of anything whatever to the Navy Yard. If it has been, that fact is not within my knowledge. To expend money, therefore, upon a work of this kind, it appears to me, is to waste it. We have already paid something like eight hundred thousand dollars towards that work, and now we are called upon to make an additional appropriation in order to make it useful. But I think it never will be made useful. And, let me ask, upon what principle is it that the public money is to be devoted to the construction of a work that is entirely local in its character, and not national? I would ask Senators upon what principle it is that they propose to appropriate the money of the people of the United States for an object that is entirely local? I should like to know the right we have to do it. In the proposition which we had the other day, there was some appearance at least of a connection existing between the object for which the appropriation was asked and our Federal system; but is there anything here of that kind? I do not know of any ground upon which I should be justified in voting to appropriate money derived from taxes paid by the people of Ohio, or any other State, to such a purpose as this. Each State in this Union has to make its own improvements; and how does this question differ from a proposition to construct a work of internal improvement? No matter how desirable or useful it may be, this Government has nothing to do with it? But I can see no utility that can accrue to the Government from this work. None whatever. I am utterly opposed to it.

Mr. PEARCE. It seems to me that there are reasons which make it very proper that this Government should make the appropriation for what the Senator is pleased to call a local purpose. It must be recollected that this Federal city is the offspring of this Government. When the city was founded, the Government received five thousand acres of the land for public use. That was not all. They received money; they received bounties from Virginia and Maryland; and the Government has now an immense amount of public property here. The property of the Government in this District is estimated to amount to the value of upwards of seven millions of dollars. The Government is a great proprietor, and they do not pay one dollar of taxes. They do not contribute in that way to the support of the city, which is the creation of their will. They contribute nothing in that way to the expenses of the city. The taxes paid by the citizens have made almost all of the improvements that have been made. If the Government were taxed upon the property they hold as private individuals are taxed, they would pay something like sixty thousand dollars in the shape of taxes. This Government owns stock also in the Chesapeake and Ohio canal—stock which is valueless now, it is true, but at some future time, when the canal comes into full operation, will yield a large income. The State of Maryland has invested about seven millions of dollars in that work, and she has recently authorized the expenditure of an additional sum, with a view to the completion of the work; and this Government, as a stockholder, will of course receive a portion of the dividends. This Government, as a great proprietor within this District, ought to make this appropriation, and we have a guarantee that the expenditure will not be useless; for the amendment provides that the Corporation shall first appropriate an equal amount of money for the purpose of completing this work. The Government is a very large consumer of fuel, and there are large quantities of Cumberland coal used at the navy-yard. This coal could be transported more cheaply if this canal were in a condition to be used. There would be a very considerable saving upon the transportation in the single article of coal, which has now to be conveyed from Georgetown upon trucks or carts. The Government, therefore, has a direct and immediate interest in the matter, and I think that this is a very strong reason in favor of appropriating the money that is asked for, even for what the Senator calls a local purpose.

The question was then taken, and decided, as follows:

YEAS—Messrs. Badger, Baldwin, Bell, Benton, Berrien, Clarke, Corwin, Davis of Massachusetts, Dayton, Douglas, Downs, Fitzgerald, Foote, Greene, Hunter, Johnson of Louisiana, Johnson of Georgia, Jones, Mangum, Mason, Metcalfe, Miller, Pearce, Phelps, Spruance, Upham, Webster, Westcott, and Yulee—29.

NAYS—Messrs. Allen, Atchison, Atherton, Borland, Bradbury, Bright, Calhoun, Davis of Mississippi, Dickinson, Dodge of Iowa, Felch, Fitzpatrick, Hamlin, Niles, Rusk, Sebastian, Turney, and Walker—18.

So the amendment was agreed to.

Mr. JOHNSON, of Georgia, moved to amend the bill by striking out all after the word "dollars" in line 338, page 15, and inserting the following:

And the Secretary of War is hereby authorized to lease, for a period of five years, and until Government shall have provided itself suitable buildings, the new building at the corner of F and 17th streets, now partially occupied by Government, at the terms and at the rate originally agreed upon with the War Department, or at his option to purchase the same, if it can be had for a principal sum the interest upon which, at six per cent. per annum, shall not exceed the amount now paid per annum for the rooms occupied by Government.

Mr. JOHNSON, of Georgia. The Senate will perceive, that by the bill as it now stands, there is no margin whatever left for any negotiations be-

tween the Secretary of War and the owner of this building, and I think that if the Senate understood properly the state of things precisely as it exists in reference to the present occupancy of the building, they would not hesitate to adopt the amendment which is now offered. This building was constructed originally by the proprietor under a *quasi* agreement on the part of the Secretary of War to rent the rooms of the building at a stipulated price, which was one hundred and seventy-five dollars per room. The Secretary of War did not, it is true, enter into any specific contract with the owner of the building, for the reason that he had no right to make a contract which should operate *in futuro*. He only stipulated that if the house should be completed during his term of office, he would not hesitate to rent a portion of the rooms of the building, for the use of the Government, at that price. At the last session of Congress the Secretary of War sent in his estimates accordingly. The amount thus estimated by him was reduced in the House of Representatives to the price of one hundred and fifty dollars per room. The bill came into the Senate, and the Senate amended it by restoring the price to be paid per room to the amount agreed upon by the Secretary of War. The bill was returned to the House, and the House refused to concur in the amendment; so that the bill finally passed the two Houses stipulating to pay one hundred and fifty dollars per room, and thus only appropriated a sufficient amount of money to pay for fifty-five or sixty rooms, leaving some thirty or forty rooms of the building unoccupied, which have remained unoccupied during the time that has intervened, and still continue to be unoccupied.

Now, sir, the condition of things is just this: The Government is occupying a certain portion of the rooms of this building at the price of one hundred and fifty dollars each, having refused to take all the rooms, and the proprietor of the building is thus losing the rent of some, and this bill as it now stands proposes to limit the Secretary of War to the rooms now occupied, and appropriates a sum of money sufficient to pay their rent, leaving no discretion with the Secretary to negotiate with the owner either for the balance of the rooms, or for the purchase of the building. Now, I ask, and I appeal to the Senate, if this is just and fair?

Now, what is the object of the amendment? It is to allow the Secretary of War the authority to negotiate with the owner of the building for the rent of the rooms at the price originally agreed upon for five years; or, if he should prefer it, to purchase the building at an amount the annual interest upon which shall not exceed the annual amount that is now paid for the rooms which are already occupied by the Government. If the Government will neither rent nor purchase the building, all that the owner asks is, that it shall be disencumbered of the Government records, in order that he may make other arrangements more compatible with his interest.

Mr. WALKER. I would ask how many rooms are now occupied?

Mr. JOHNSON. I do not know; but the amount appropriated for the rent is eight thousand five hundred dollars, at one hundred and fifty dollars per room. The gentleman can very soon make the estimate.

Now, the question for the Senate to determine is this: whether they will still occupy the rooms which they now have at the price of $150 per room, and compel the owner of the building to lose entirely the rent of some thirty-odd rooms that are now vacant; or whether they will take the whole building at the price originally agreed upon between the proprietor of the building and the Secretary of War; or whether they will purchase the building upon the terms proposed in the amendment? The amount proposed by the amendment for the purchase of the building is a principal sum, the interest on which annually shall not exceed the annual amount that is now paid for the rooms. That is the proposition. Well, then, Mr. President, if the Government will accept of neither of these propositions; if they will not rent the whole of the building, nor give the Secretary of War authority to enter into negotiations for the purpose of renting it, and will not purchase, then it is incumbent on the Government to look about and see whether they can do better. The presumption is, that these rooms were rented by the department during the last year in obedience to the necessities of the department. If they are necessary, then it is proper it should occupy them. If they are not necessary, then Congress should make arrangement for the vacation of the rooms, so that the owner of the building may convert it to other uses.

But it seems to me perfectly clear that the bill, as it now stands, places the proprietor of the building in a most unjust situation. For the rooms that are now occupied by the Secretary of the Treasury the term of rent expires on the 4th of March, and for those occupied by the War Department the term of rent expires on the 1st of July. This condition of things must greatly embarrass the owner of the building. The Government will not rent his property; they occupy a certain portion of the building, and they give the Secretary of War no authority to negotiate either for rent or purchase, and they will not vacate the rooms. That is the precise situation of affairs at the present moment, and it is for Congress now to determine whether they will embarrass the department and the owner of the building by the bill as it comes from the House, or accept the alternative proposition that is submitted by the amendment which I have offered. I think it is just and fair, and that the Government ought to make some arrangement that will be convenient to itself and just to the proprietor of the building.

The discussion was continued by Mr. CAMERON, Mr. PEARCE, Mr. ATHERTON, and Mr. BADGER; after which—

Mr. BADGER moved to amend by striking out the part which relates to the purchase.

Mr. ALLEN said a few words; when—

Mr. JOHNSON accepted the amendment moved by the Senator from North Carolina, as a modification of the original amendment.

Mr. DAYTON moved to strike out the authority to lease for five years, and so to amend the amendment, as to make it only an authority to rent the rooms to the end of the present fiscal year.

Some further remarks were made by Mr. MASON, Mr. BRADBURY, Mr. HALE, Mr. HAMLIN, and Mr. DICKINSON.

The motion of Mr. DAYTON was then agreed to.

Mr. BADGER moved to amend the amendment by limiting the amount of rent for each room to $150.

Mr. CAMERON suggested that the whole amount of rent should be limited to $9,000.

Mr. BADGER accepted the suggestion of the Senator from Pennsylvania, as a modification of his amendment, but subsequently modified it so as to extend it to $10,000.

Mr. WESTCOTT inquired if that part of the amendment which referred to the agreement with the War Department was stricken out?

SEVERAL SENATORS. No, no.

The amendment to the amendment was then agreed to.

The question recurring on the original amendment—

Mr. JOHNSON, of Georgia. Mr. President, I would ask what is the proposition now before the Senate?

The PRESIDING OFFICER stated the proposition.

Mr. JOHNSON. With the consent of the Senate, I will withdraw the whole proposition.

Leave was granted, and the proposition was accordingly withdrawn.

AMENDMENT.

Mr. WALKER laid before the Senate an amendment which he proposed to offer to the civil and diplomatic appropriation bill; and which was ordered to be printed.

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 16, 1849.

The Journal of yesterday was read and approved.

REPRESENTATIVES OF COL. FRANCIS VIGO.

Mr. ROCKWELL, of Connecticut, rose and called up the motion heretofore made to reconsider the vote by which the bill for the relief of the legal representatives of Colonel Francis Vigo had been passed.

Mr. HUNT hoped, that by general consent, the committees would be called, for one hour, for reports.

The SPEAKER said, the gentleman from Connecticut [Mr. ROCKWELL] had called up the motion to reconsider the vote on the passage of the bill for the relief of the legal representatives of Colonel Francis Vigo; and the question would be on the motion to reconsider.

On motion of Mr. DUNN, the motion to reconsider was laid on the table.

DONATIONS OF LAND.

Mr. JONES, of Tennessee, rose and said that he would again ask the unanimous consent of the House to introduce a bill of which his colleague [Mr. JOHNSON] had some time since given notice. His colleague was still confined by sickness, and would not probably be able to attend to his duties here for some time. He (Mr. JONES) wished that the bill might be received, and referred to the Committee of the Whole on the state of the Union.

The SPEAKER said the bill could only be introduced by unanimous consent.

The title of the bill was read. [It was the bill heretofore noticed, to give a homestead to every poor man, &c., &c.]

Mr. COLLAMER and other members objected.

Mr. HUNT inquired whether it would be in order to move that the House proceed to receive reports from committees?

The SPEAKER said the regular order of business was the reception of reports. There being no more reports from select committees, reports would be in order from the Committee on Elections.

THE PREVIOUS QUESTION.

Mr. COBB, of Georgia, inquired whether, at the time the House proceeded yesterday to the consideration of business on the Speaker's table, there was not a motion pending on the adoption of a new rule.

The Clerk (under direction of the Speaker) stated the question as follows: To amend the 26th rule of the House, as reported by Mr. SMITH, of Indiana, yesterday, from the Committee on Rules, by inserting after the word "established," in the sixth line thereof, "and it shall not be in order to move the previous question on the same day when offered."

To which was pending the following amendment, offered by Mr. JENKINS:

> Strike out all after the word "and," and insert:
> It shall be in order to move the previous question when offered; and, if sustained, the resolution shall lie over to the next day, when it shall have preference over all other business after reading the Journal; and shall then be disposed of by reference or otherwise.

Mr. WENTWORTH, (to the Speaker.) Is that question now before the House?

The SPEAKER replied in the affirmative.

Mr. WENTWORTH said he had no disposition to say anything now to interrupt the business of the House; but as this matter had come up, he had a few words to say.

Mr. GREELEY inquired of the Speaker, whether the previous question had not been demanded? He thought it had been.

The SPEAKER directed the Clerk to ascertain the fact by reference to the Journals.

It appeared that the previous question was not pending.

Mr. WENTWORTH said he would not be responsible for consuming the time of the House this morning upon this question. He did not wish to discuss the matter, and would consent to any motion that would defeat the proposition without debate. But he feared its adoption, and therefore would express his sentiments.

He would call the attention of the members—and more particularly the members of his side of the House—to the fact, the alarming fact, that at this late period of the session, when the last breath of the thirtieth Congress was being drawn, four propositions to amend the rules of the House had been made yesterday. And what for? If necessary, why were they not introduced some time during the last very long session of Congress? Why not introduced before at this session? The same Committee on Rules had been in existence during the whole time. His opinion was, that the changes were not necessary to the conduct of the business of this session, and he was so uncharitable as to think they were not intended for this session.

He would call the attention of the members to the fact, that it was very doubtful which party had a majority in the present Congress; and also to the fact, that a majority of the members of the present House would not be in the next; and that the effect of the proposed amendments to the rules

would be to throw upon this, the defunct Congress, the responsibility of the rules of the next Congress—for every one knows, that one of the first motions at a new Congress is to adopt the rules of the preceding one. Now, do the members not returned wish to force on the returned members obnoxious rules? Or do they wish to assume responsibility not legitimately belonging to them? Besides, is it fair to force upon members coming here anew rules which they themselves ought to have the privilege of weighing for themselves, and which, if once adopted, they will with difficulty get rid of?

I am a member of the next Congress, and am willing to meet all its responsibilities; and charity compels me to express the belief, that its members are not only willing, but able to make rules for themselves. A majority of the next Congress belongs to a party that had for its leader, in the late campaign, one of the bravest men living; one who conquered the enemies of this country upon every battle-field where he met them; one whose friends boast for him that he never surrenders, and never shuns responsibilities: does that majority wish to throw back upon this, a dead Congress, a Congress of a defeated dynasty, the responsibility of adopting rules for it? Is there anything, Mr. Speaker, like Buena Vista in all this? God knows this Congress has responsibility enough of its own. Let it not assume to take any legitimately belonging to its successor.

Now, a word as to the merits of the immediate proposition before the House. It is very seldom that States are called upon for resolutions; and, when they are, if they give rise to debate, they pass through a process which is called "going over under the rules," and are never heard of more. Now, unless there be the privilege of moving the previous question, there is no way to pass a resolution which any majority less than two-thirds may favor. The proposition before the House is, to do away with the right to call the previous question. And what is the reason therefor? Clearly because the party pledged, both to the North and o the South, fears that it may be compelled, by some resolution, to show its hand; because the party boasting of the hero of Buena Vista for its leader, and that it never surrenders, never shuns responsibilities, &c., &c., wishes to avoid some very delicate questions that may divide its ranks.

In the next Congress there are to be men of a great diversity of pledges, who will act with the party in power. They may wish secretly to violate those pledges, when they would not dare do it openly. Under this change of the rules, their object can be attained. You can get no test vote upon the Free-soil question, nor upon any other upon which the supporters of the Administration may divide. But there is no need of the amendment proposed, in order to enable men to dodge, but will, to be sure, furnish greater facilities, and the dodging will not be so flagrant. Under the present system, the yeas and nays are not called upon seconding the demand for the previous question. Members who are afraid to vote on one side or the other of a resolution, can vote against rescinding the previous question. This is often done. Failing in this, they can sit in their seats and not vote. If they are afraid to do this, they can run out under pretenee of being sick; or they can get the proposition in such a position upon the Speaker's table, or in the Committee of the Whole on the state of the Union, as that it never will be reached in the order of business, and can never be taken up out of order, save on Mondays, and then only by a vote of two-thirds. In this latter condition are Mr. GOTT's resolutions, which this House cannot reject, and dare not pass. They sleep the sleep of death upon your table, with a majority of this House professing to be in their favor. Alongside of them sleeps the bill for the prohibition of the slave trade in this District, with a majority professing to be for it. In the Committee of the Whole on the state of the Union also sleeps our Territorial bill, so much talked of; but it is all talk. It will not be touched unless an indignant and betrayed people awake us to our duty. But what are the people compared with a President who has the disposal of the patronage of this Government? With some politicians, the people lose all their importance after election.

Under the rules of the House, as they now are, free labor has but little to expect. The Wilmot proviso, the grant of a farm to every poor man, the election of all officers directly by the people, and other Democratic measures, stand no chance under the existing order of things. And if they are to be changed, let it be for the better, and not for the worse, as the proposition is. Entertaining these views, (Mr. W. said,) he felt constrained to make any motion that would finally dispose of the matter for this session.

Mr. W. then moved that the whole subject be laid upon the table.

The question was then taken, and, by ayes 110, noes not counted, the whole subject was laid on the table.

Mr. WENTWORTH moved a reconsideration of the vote, and moved that that motion be laid on the table; which latter motion prevailed.

POST OFFICE DEPARTMENT.

Mr. GOGGIN rose, and was understood to call the attention of the House to the fact, that some days since, when a motion was made by the chairman of the Committee of Ways and Means [Mr. VINTON] to refer the bill making appropriations for the support of the Post Office Department to the Committee of the Whole on the state of the Union, he (Mr. G.) had moved certain instructions, which were now pending, and by which the bill was at present kept among the business on the Speaker's table. He (Mr. G.) was understood now to intimate his willingness to withdraw his instructions, so that the bill might be committed.

The SPEAKER said there was so much conversation in the Hall, that it was not possible to hear the remarks of the gentleman from Virginia, [Mr. GOGGIN.]

Mr. GOGGIN again explained his purpose, and said that he withdrew his instructions, because he thought that his object might be better attained in another way.

Mr. VINTON now asked that the bill might be committed to the Committee of the Whole on the state of the Union.

The SPEAKER said it would be remembered by the House that the Committee of Ways and Means had reported the annual appropriation bill for the support of the Post Office Department. A motion had been made by that gentleman to refer the bill to the Committee of the Whole on the state of the Union. The gentleman from Virginia [Mr. GOGGIN] had moved to amend by adding certain instructions. It was now proposed that the bill should be committed to the Committee of the Whole on the state of the Union by general consent, the motion of the gentleman from Virginia having been withdrawn.

No objection having been made, the bill was referred accordingly, and was ordered to be printed.

Mr. BUTLER moved that the House resolve itself into Committee of the Whole on the state of the Union on the Post Office bill.

The SPEAKER said it was in order to move that the House resolve itself into Committee of the Whole on the state of the Union; but that the committee must decide what business it would take up.

Mr. HUNT asked the gentleman from Pennsylvania [Mr. BUTLER] to waive his motion, until the committees had been called for reports.

Mr. SMITH, of Indiana, gave notice that if the House went into Committee of the Whole on the state of the Union, he should move to take up the bill to establish a territorial government in California. He would be glad if the House would go into committee for that purpose.

Mr. ROCKWELL, of Connecticut, moved that the House go into Committee of the Whole on the private calendar.

Mr. VINTON inquired of the Speaker, whether it would be in order, if the motion to go into Committee of the Whole should not prevail, to move that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of taking up the Mexican treaty bill, or the bill making appropriations for the support of the Post Office Department.

The SPEAKER said it would be in order to move that the House go into Committee of the Whole on the state of the Union. But the committee must decide what business should be taken up.

Mr. GOGGIN suggested that the bill to reduce the rates of postage had been made the special order of the day, without excepting Fridays or Saturdays.

The SPEAKER, The first question is on going into Committee of the Whole on the private calendar. If that motion should fail, the next motion would be on going into Committee of the Whole on the state of the Union. If the latter motion should prevail, the committee would of course give preference to any special orders.

Mr. HUNT inquired of the Speaker whether it was in order to move that one hour be given to the reception of reports from committees?

The SPEAKER said, No. That was the regular order of business. The other motions had the priority And the Speaker stated the question.

A brief conversation followed between the SPEAKER and Mr. TOOMBS.

The question on the motion of Mr. ROCKWELL was then taken, and decided in the negative.

So the House refused to go into Committee of the Whole on the private calendar.

The question recurred on the motion of Mr. BUTLER, that the House resolve itself into Committee of the Whole on the state of the Union; and, being taken, the vote stood—ayes 95, noes not counted.

THE MEXICAN TREATY.

So the House resolved itself into Committee of the Whole on the state of the Union, (Mr. CABELL, of Florida, in the chair.)

Mr. VINTON moved that the House proceed to the consideration of the bill to provide for carrying into execution, in part, the twelfth article of the treaty with Mexico, concluded at Gaudalupe Hidalgo.

Mr. GOGGIN said that the bill to reduce the rates of postage had been made the special order of the day for the first Wednesday in January, and for every succeeding day until disposed of, without excepting Fridays and Saturdays. It stood upon the calendar as a special order, next to the bill reported by the gentleman from Connecticut [Mr. ROCKWELL] to provide for the establishment of a board of claims. The latter bill had been disposed of. He (Mr. G.) therefore moved that the House take up the postage bill.

Mr. TOOMBS rose to a question of order. He submitted that the motion of the gentleman from Ohio [Mr. VINTON] was not in order, because it was not in the power of the committee to take up that bill. There were two or three special orders, and the committee was bound to take up the business in the order in which it had been referred to it. This Mexican treaty bill was not a general appropriation bill; it was a bill to carry into effect the provisions of the treaty, and the rule related exclusively to general appropriation bills. It was not competent for the committee to take up any bill, except in the order in which it was referred to it. The first bill was the postage bill; the next the bill reported by the gentleman from Louisiana; and the next the territorial bills. The committee could not change this order of business, except by unanimous consent.

Mr. VINTON said he had no doubt about this bill being a general appropriation bill. The rule of House which required the Committee of Ways the and Means to draw up appropriation bills, and to report separate bills for treaties, showed that the bill was of that character. It might be in the power of the Committee of Ways and Means to report the whole appropriations all in one bill. Instead of that, the attention of the House was drawn to particular branches, the appropriation bills being divided. For instance: the committee reported a bill making appropriations for the support of the Military Academy at West Point; but that was just as much a general appropriation bill as though it were reported for objects of a dozen different descriptions.

Mr. WENTWORTH rose to a question of order. He submitted that the question before the committee, being one of priority of business, was not debatable. The Chair must make a decision, and, if an appeal was taken, the House must decide. He had never heard of a question of priority of business being debatable.

The CHAIRMAN said the question was not debatable.

And he decided that the motion of the gentleman from Ohio [Mr. VINTON] was in order; and that the bill proposed to be taken up was a general appropriation, relating to one particular branch of the public service. It was contained in the general estimates, and was as much a general appropriation bill as any other appropriation bill.

Mr. KAUFMAN called for the reading of the rule; which was read.

Mr. TOOMBS appealed from the decision of the Chair. He did not deny, he said, that this was an appropriation bill, but he denied that it was a general appropriation bill.

The rule applicable to bills making appropriations for treaties was then read.

After a brief conversation between Mr. TOOMBS and the CHAIRMAN—

The question, "Shall the decision of the Chair stand as the judgment of the House?" was taken, and decided in the affirmative: Ayes 82, noes 34.

So the decision of the Chair was *affirmed.*

Mr. GOGGIN. The question now is, whether the committee will take up the bill? That motion is pending.

The CHAIRMAN announced the question, on the motion of Mr. VINTON.

Tellers were ordered, viz: Messrs. POLLOCK and MCCLELLAND, who (the question having been taken) announced ayes 68, noes 60.

So the committee agreed to take up the bill to provide for carrying into execution, in part, the 12th article of the treaty with Mexico, concluded at Gaudalupe Hidalgo.

The bill having been read through—

Mr. STARKWEATHER obtained the floor.

Mr. ROOT appealed to the gentleman from New York to yield him the floor a moment, to enable him to propound a question to the chairman of the Committee of Ways and Means.

Mr. STARKWEATHER having yielded—

Mr. ROOT said he would be obliged to the chairman of the Committee of Ways and Means, [Mr. VINTON,] if he would indicate to the committee at what time he [Mr. V.] would move his gag resolution. He would like to know at what time the gentleman proposed to stop the debate, so that the committee could run this discussion—if it was desirable to have one—into the evening a little.

Mr. VINTON, in reply, stated that this was an appropriation which necessarily involved the whole question respecting California and New Mexico. It was not his intention to close the debate upon this bill until gentlemen had the opportunity to express their views concerning the questions involved.

It would, however, be remarked, that there was one other appropriation bill which had not yet been acted upon by the House. There was another appropriation bill which had come back from the Senate with a very large amendment. The civil and diplomatic bill had also received, he learned, large amendments in the Senate; and what amendments might be made to the naval appropriation bill, he did not know. The House would see, therefore, that the bills which had gone out of the House, when they came back would necessarily occupy considerable time of the House.

He proposed, in order to meet the views of the committee generally, to close this debate, say on Tuesday or Wednesday next; and in the mean time he would suggest that it might be as well that gentlemen should come here and have two or three evening sessions.

Mr. ROOT, (in his seat.) Say Wednesday, at two o'clock.

Mr. VINTON said he would propose, as that was suggested, that this debate be closed on Wednesday next, at two o'clock—or rather, as that motion could not be made here, he would give notice that when he had a proper opportunity to do it, he would hereafter offer a proposition to close the debate on Wednesday next, at two o'clock; and, in the mean time, he would suggest that, by general consent—if gentlemen were prepared with their speeches—they have an evening session to-day, and that the House take a recess.

[Cries of "Agreed! agreed!"]

Mr. STARKWEATHER then resumed the floor, and proceeded to address the committee at length.

Mr. WILSON next obtained the floor, and addressed the committee at length upon the general subject of slavery, as connected with the political affairs of the country.

Mr. W. having concluded—

Mr. BEDINGER obtained the floor, and addressed the committee in a speech vindicating the South and her institutions from attacks which had been made upon them, and replying to remarks of several gentlemen who had previously spoken on the subject of slavery. [These Speeches will be found in the Appendix.]

Mr. BUCKNER next obtained the floor, and yielded to a motion that the committee rise; which prevailing—

The committee rose and reported progress.

Mr. WENTWORTH moved that the House take a recess to five o'clock.

On motion, the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. BOWLIN: The petition of David Keith, and one hundred and forty-four others, citizens of Missouri, praying the establishment of military posts in California to protect emigrants, traders, and miners, in their legitimate occupations. Also, the petition of Henry C. Lynch, and forty-nine others, citizens of Missouri, with the like prayer. Also, the petition of Volney C. Musie, and sixty others, citizens of Missouri, with the like prayer, for military posts in California.

By Mr. SAWYER: The petition of Wm. Kingsbury and others, of Maumee city, Ohio, praying Congress to extend the laws and protection of the United States over California and New Mexico.

By Mr. THOMPSON, of Iowa: The memorial of the General Assembly of the State of Iowa, praying for the establishment of a line of forts on the route to Oregon, north of the Great Platte river. Also the joint resolution of the same body for a mail route from Sabula, in Jackson county, via Van Buren, Amoy, Andrew Hasan's Mills, Otter creek, Garry Owen's, Thomas McAnally's, to Cascade, in Jones county.

By Mr. SIBLEY: The petition of Orange Walker and 110 citizens of the United States, residing in Wisconsin Territory, praying the construction of a road from St. Louis river to Lake Superior, to Fort Snelling, or vicinity, and Point Douglass, via Stillwater, on the Mississippi river.

By Mr. BROWN, of Mississippi: The petition of Joseph H. Mora, W. W. Divin, and Thomas J. Napier, asking payment for horses lost by them in the Mexican war.

By Mr. BARROW: The petition of John Hill for a pension.

By Mr. ROCKWELL, of Massachusetts: The petition of 36 citizens of Cummington, Massachusetts, for cheap postage, the abolition of the franking privilege, &c.

By Mr. STROHM: A petition signed by citizens of Lehigh county, Pennsylvania, praying for a modification of the existing revenue laws.

By Mr. HAMPTON, of New Jersey: The petition of William Harelton and forty other citizens, of the county of Gloucester, New Jersey, asking Congress for a change of the Constitution or otherwise, to take such measures as will either abolish slavery throughout the United States, or relieve the people of New Jersey from the responsibility of aiding in its support. Also, the petition of Aaron Barton and forty-five other citizens, of the county of Gloucester, New Jersey, asking Congress to pass a law for the immediate abolition of slavery and the slave trade in the District of Columbia.

By Mr. HENRY: The petition of E. Gorham, jr. and 141 other citizens, of Wilmington, Vermont, for a mail route from Wilmington by West Dover and Wardsboro' to West Wardsboro', Vermont. Also, the petition of W. H. Jones and seventy other citizens, of Dover, Vermont, for a mail route. Also, the petition of Levi Fitts and fifty other citizens of Wardsboro', Vermont, for a mail route.

By Mr. DARLING: The petition of one hundred inhabitants of Fond du Lac, Wisconsin, asking for the reduction of the rates of letter postage to a uniform system of two cents each.

By Mr. GREELEY: The petition of R. F. Powell and other citizens of Towanda, Pennsylvania, for the freedom of the public lands to actual settlers, and to them only. Also, the petition of A. Elmore and other citizens of Schuylkill county, Pennsylvania, for the abolition of the penalty of death. Also, the petition of L. C. Pettengill and other citizens of Otsego county, New York, for cheap postage.

By Mr. BIRDSALL: The petition of E. P. Beecher, and fifty others, inhabitants of Plymouth, Chenango county, New York, in favor of cheap postage.

IN SENATE.

SATURDAY, *February* 17, 1849.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a report from the Superintendent of the Coast Survey, in compliance with a resolution of the Senate in relation to surveys of the coast of Florida, its reefs and shoals; which was laid on the table, and ordered to be printed.

MEMORIALS AND PETITIONS.

Mr. CAMERON presented a number of petitions, praying for the abolition of slavery, the question on the reception of which was raised and laid on the table.

Mr. C. presented a petition from citizens of Pennsylvania, asking that the price of the mineral lands of the United States may be reduced to the minimum standard of other public lands; which was referred to the Committee on Public Lands.

Mr. C. presented several petitions from citizens of Pennsylvania, praying for an alteration in the patent laws; which was referred to the Committee on Patents.

Mr. C. presented a petition from William Greer, asking the patronage of the Government to a work entitled the "Mirror of the Patent Office," of which he is the proprietor; which was referred to the Committee on Patents.

Mr. C. also presented a petition from William Chapman, a soldier in the late war with Great Britain, asking to be allowed a pension; which was referred to the Committee on Pensions.

Mr. C. also presented the memorial of Evelina Porter, widow of the late Commodore Porter, asking for a pension of five years in consequence of the death of her husband from the effects of wounds and sickness received and contracted while in the line of his duty in the naval service of the United States; which was referred to the Committee on Naval Affairs.

Mr. WESTCOTT presented the petition of Stevens & Ellison, and other citizens of the United States, praying protection against a foreign infraction of their rights in a patent for a machine for turning and cutting irregular pieces; which was referred to the Committee on Patents.

Mr. W. also presented a petition from citizens of Monroe county, New York, asking the enactment of a law for the protection of American inventors against foreign infractions of their patent rights; which was referred to the committee on Patents.

Mr. BORLAND presented a petition from citizens of Arkansas, asking for the adoption of measures for the construction of a railroad from Memphis, Tennessee, to the Pacific; which was laid on the table.

Mr. FOOTE presented a memorial from Jesse E. Dow and others, proposing to open a route to the Pacific Ocean by means of a plank road over the Isthmus of Tehuantepec, on condition that the United States will authorize them, for reasonable consideration, to transport the mails and other property of the Government over said road; which was referred to the Committee on the Post Office and Post Roads.

REPORTS OF COMMITTEES.

Mr. RUSK, from the Committee on the Post Office and Post Roads, reported a bill to establish a mail route between such point in the valley of the Mississippi, and such point in California, on the Pacific Ocean, as the President of the United States may direct; which was read, and ordered to a second reading, and the report was ordered to be printed.

Mr. JOHNSON, of Louisiana, from the Committee on Private Land Claims, reported a bill for the relief of Mrs. Maria Taylor, which was read, and ordered to a second reading.

Mr. FITZPATRICK, from the Committee on Claims, reported House bill for the relief of Thos. B. Gamage, and moved that it be now considered; which was agreed to.

The bill was then read a first and second time, was considered, and afterwards read a third time and passed.

Mr. FITZPATRICK, from the Committee on Claims, reported, without amendment—

House bill for the relief of Christopher H. Pix, of Texas; and

House bill for the relief of Staunton W. Gaar.

Mr. BREESE, from the Committee on Commerce, reported a bill to authorize a selection of a part of Rock Island, in the Mississippi river, for the site of a marine hospital and for other purposes; which was read a first time, and ordered to a second reading.

ALIEN PAUPERS.

The following resolution, submitted by Mr. WEBSTER on the 8th instant, was taken up for consideration:

Resolved, That the Committee on Commerce inquire into the expediency of providing by law for the taking of proper security on the arrival of alien passengers in the United States who are diseased, or impotent, or paupers, or likely to become paupers, that such alien passengers shall not become a public charge for support and maintenance, either in the ports and places at which they may arrive, or in any other part of the United States to which they may proceed.

Mr. WEBSTER, after a brief explanation, modified his resolution by adding the following words:

And that the Secretary of the Senate cause to be printed, as soon as may be, the opinions of the judges of the Supreme Court of the United States, in the case lately decided of Smith and Turner and Norris vs. the City of Boston, for the use of the Senate.

The resolution was then agreed to.

On motion of Mr. BREESE,

Ordered, That the report of the Commissioner of the General Land Office, under date of February 11, 1849, be printed with the annual report of said Commissioner, as an appendix to the same; and that 3,000 extra copies of his last annual

report, with this appendix, be printed for the use of the Senate—500 copies thereof for the use of the General Land Office.

ACTION ON PRIVATE BILLS.

Mr. HALE moved that the following resolution, submitted by him yesterday, be taken up for consideration, and the motion was agreed to—ayes 20, noes 14:

Resolved, That on Thursday next, when the Senate take up the calendar of private bills, those bills to the passage of which no objection shall then be made, shall be first considered and disposed of.

The question being taken on postponing the prior orders to proceed to the consideration of the resolution, it was agreed to.

Mr. UPHAM moved to amend, by striking out the words "give rise to no debate," and insert "bills of the other House." He thought it the duty of the Senate to act upon bills which had already passed the House, instead of spending the time of the Senate in acting upon bills which could not, in consequence of the short remaining time of the session, get through the other House, even if passed here.

Mr. HALE hoped that the amendment of the Senator from Vermont would not prevail; for if it did, it would in a great measure defeat the object of the resolution. A debate would be as likely to spring up on a House bill as on a Senate bill. If the amendment should pass, it would nullify the whole effect of the resolution, which was, to prevent debate. There was another thing he would mention in relation to this resolution; and that was, that it was a copy, word for word, from a resolution of the House.

Mr. JOHNSON, of Louisiana, said there were a number of private bills, to some of which there could be no objection whatever, and the new bills it would be too late to take up at all. He hoped, therefore, that the amendment would be adopted.

Mr. RUSK. I hope the amendment will not prevail. There are many bills relating to the payment of claims which are acknowledged to be due, and to which nobody can object; and then there are many House bills that will still be passed of a similar character, as well as many granting pensions, growing out of disabilities incurred in the late war with Mexico. It is extremely important that these bills should be passed, and I hope the honorable Senator from Vermont [Mr. UPHAM] will withdraw his amendment in order that I may move an amendment to the resolution, by striking out all after the word "Resolved," and inserting a provision that the Senate shall consider private bills on Thursday and Friday. And I hope, also, that we may have night sessions. There is a difficulty in the way of the pending resolution, since any gentleman who desires to defeat a bill may object to it, simply on the ground that it will cause debate, and thus have it passed over. If any bill shall come up that is likely to cause debate, I think that difficulty can be removed, for it may be passed over by general consent of the Senate, as is often done. Some very just bill may come up that will require a slight explanation, or a few amendments; and if that resolution should pass, it will be improper to take it up, because it will produce discussion. I hope, therefore, that both Thursday and Friday may be devoted to bills of this character. I am satisfied that there are many just and equitable bills in favor of individuals, and it is due to them that they should be no longer deprived of their just rights. Some of these bills have been long on the calendar; and if we go on in the manner that we have, since we commenced the consideration of these private bills, we shall not reach these cases during the present session of Congress; and, besides, many of those men who have been disabled in the late war, who are actually in a starving condition, will have no relief.

Mr. UPHAM. I moved this amendment because I did not suppose that any new bill from the Senate would receive the action of the House; they will stand so low on the calendar that they will not be reached during the present session. But if the Senator prefers it, I am willing to adopt the other course, and accept of his amendment to set apart Thursday and Friday of next week for the consideration of private bills. I will, therefore, withdraw my amendment.

Mr. BENTON. I wish to remind the Senate that we have a joint rule, the object of which is to prevent the sending of any new bill to either House during the last three days of the session. The object of that rule was to procure the proper consideration of all bills passed by each House, and if the small bills of the character that has been named were called up on those days they could not be passed then. And here I would say, that in the thirty years that I have been a member of the Senate, I have never known private bills get on so badly as they have this session, while we are trying to pass rules to regulate our action in relation to them.

Mr. RUSK. Mr. President, I move to amend the resolution by inserting Thursday and Friday. I agree that we have not made much progress with private bills, and that there are very many bills relating to those engaged in the late war that we ought to attend to, and which I hope will receive early consideration. In regard to the joint rule which has been alluded to, it should be borne in mind that we have a week after Thursday and Friday next; and I think we shall but conform to the usual practice by suspending that rule.

Mr. DOUGLAS. Mr. President, I hope the amendment will not prevail. There are not only several individuals, but a whole community suffering for want of relief. I trust, sir, that the consideration of the Senate is not to be given to a few individuals, while we do nothing for the relief of large communities.

In the new Territory of California, there are thousands, perhaps a hundred thousand, now suffering for the want of our action here. They are without a government, and the consequence is, that we find murder, arson, and every species of crime that can be inflicted upon a community, committed with impunity, and we are making no attempt to afford them relief. And now we find the proposition to give away two days of the coming week, when the effect may be to deny any action for the good of the people of the Territories. I hope we shall first get through with public business, and especially that which appeals not only to justice, but to humanity; for our brethren are being murdered, and that, too, for the want of law. The inhabitants of California are given up to every sort of crime and outrage, in consequence of the neglect of our duty. I hope we shall postpone the prior orders of the day, to attend to providing a government for California. I submit that motion, and ask upon it the yeas and nays.

Mr. ATCHISON. I do not understand that there is a bill of that kind before the Senate.

Mr. DOUGLAS. If my motion prevails, the bill can be taken up, and we can move any amendment that is desired. I care not in what shape the bill comes up, whether on the question of Territorial or State government; all I ask is, that we give the people there some safe government; all I ask is action, and I will cheerfully vote for any bill approved by a majority of the Senate.

Mr. ATHERTON. Mr. President, I entirely concur, so far as my experience goes, in the remarks of the honorable Senator from Missouri, [Mr. BENTON,] that never has so little been done in the way of disposing of private bills as since we set apart a day expressly for their consideration; and I think the worst thing we could do would be to fix two days for this purpose.

I think we should take up the bill which we have commenced, the civil and diplomatic appropriation bill, and that the best thing we can do is to proceed sedulously to its conclusion; and I believe that after the consideration of that bill, every other appropriation bill could be taken up and finished in one single day. Now, if we cannot finish the civil and diplomatic appropriation bill to-day, let us determine to finish it on Monday, or, if necessary, continue the consideration of it till it is finished, and then take up private bills. We shall then have some time which we can devote to bills both of a public and private nature.

We are taking up measures too far in advance, and wasting time upon them. Why should we pass this resolution now? The state of things may be such next week that we shall not deem it expedient to adopt it. If we go on with private bills before we shall finish the civil and diplomatic appropriation bill, what will be the result? The bills passed in the last days of the session by the House must be excluded by the appropriation bills; and we shall leave those private bills that come from the House untouched, because the appropriation bill must receive the attention of the Senate. I hope the resolution will not be adopted; and that we may proceed to business, I move that it lie on the table.

The question being taken upon the motion to lay the resolution upon the table, it was agreed to.

BILLS ON LEAVE.

Mr. KING, pursuant to notice, asked and obtained leave to introduce a bill to extend the provisions of the act approved the 3d of March, 1847, for carrying into effect the existing compacts with the States of Alabama and Mississippi with regard to the five per cent. fund and school reservations; which was read a first and second time.

Mr. K. asked the unanimous consent of the Senate to the consideration of the bill at this time.

Objection being made, the bill was referred to the Committee on Public lands.

Mr. BORLAND, pursuant to notice, asked and obtained leave to introduce a bill for the further relief of the widows and orphans of the officers and soldiers engaged in the late war with Mexico; which was read a first and second time, and referred to the Committee on Pensions.

Mr. HOUSTON, pursuant to notice, asked and obtained leave to introduce a bill authorizing the Galveston and Red River Railroad Company to construct and extend a railway to the coast of the Pacific Ocean, in California; which was read a first and second time, and referred to the Committee on Territories.

BILLS AND RESOLUTIONS FROM THE HOUSE.

A joint resolution from the House, authorizing a settlement of the accounts of Thomas M. Howe, late pension agent at Pittsburg, upon equitable principles, was read a first and second time.

Mr. STURGEON moved the consideration of the joint resolution at this time; and the motion being agreed to—

The bill was considered, read a third time, and passed.

A joint resolution for the purchase of copies of the General Navy Register; which was read a first and second time, and referred to the Committee on Naval Affairs.

A bill for the relief of the legal representatives of Colonel Francis Vigo; which was read a first and second time, and referred to the Committee on Claims.

A bill to establish a Home Department, and to provide for the Treasury Department an Assistant Secretary of the Treasury and a Commissioner of Customs, was read a first and second time, and referred to the Committee on Finance.

EXCUSED FROM COMMITTEE.

Mr. JOHNSON, of Georgia, asked to be excused from serving on the select committee appointed yesterday, on his motion, on the subject of the petition of J. N. Rogers.

The motion was agreed to, and Mr. JOHNSON was excused, and Mr. FITZPATRICK was appointed to fill the vacancy.

BURIAL GROUND IN MEXICO.

Mr. UNDERWOOD moved the consideration of the following joint resolution introduced by him yesterday:

Resolved, &c., That the President be requested, by negotiation with the Government of Mexico, to secure a suitable burying-ground in the vicinity of the city of Mexico, in which those citizens of the United States who have heretofore died, or may hereafter die in Mexico, may be permanently interred.

Resolved, That the President be, and he is hereby, authorized to use, out of any money in the treasury not otherwise appropriated, the sum of ten thousand dollars in purchasing and improving any ground which may be ceded or conveyed to the Government of the United States for the purpose mentioned in the preceding resolution.

Mr. ATHERTON said that the chairman of the Military Committee was not in his place, and he hoped that the resolution would not be then taken up. He would have no objection to taking it up for the purpose of referring it to the Military Committee.

Mr. DAVIS, of Mississippi, (coming in at this point,) said he would object to its reference to the Military Committee. He could see no connection between the subject and the Military Committee It seemed to him rather to have reference to the Committee on Foreign Affairs. There were others of their dead lying unburied on Mexican ground besides at the city of Mexico, and he did not see why they should designate one battle-field to the exclusion of others. He thought that the reference of the subject should be made to the Committee on Foreign Relations. The subject had been brought to his notice some time ago, and he had opposed its reference to the Military Committee.

Mr. UNDERWOOD had no objection to that reference, but thought it might be the most proper reference to be made. He had no objection to extending the resolution so as to embrace other battle-fields in Mexico besides that at the city.

Mr. DAVIS said that the object of the resolution could only be attained by a negotiation through the United States minister in Mexico.

Mr. UNDERWOOD. The resolution was to that effect, and negotiations could be commenced for other places besides that at the city of Mexico. He would move the reference of the subject to the Committee on Foreign Relations.

The joint resolution was then referred to the Committee on Foreign Relations.

CALIFORNIA.

Mr. DOUGLAS gave notice that he should, on Monday and every succeeding day, move the Senate to proceed to the consideration of the bill for the admission of California into the Union.

CIVIL AND DIPLOMATIC BILL.

The Senate resumed the consideration of the bill making appropriations for the civil and diplomatic service of the United States for the year ending 30th June, 1850.

Mr. BENTON moved to amend the bill by striking out the appropriation of $182,000 for the coast survey, and inserting "the sum of $30,000; and from and after the 30th day of June, 1849, the said survey shall be carried on exclusively by the Navy Department, under the direction of the President of the United States."

Mr. BENTON spoke at length in support of his amendment.

Mr. PEARCE opposed it, and vindicated the existing system. [These Speeches of Mr. BENTON and Mr. PEARCE will be found in the Appendix.]

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 17, 1849.

The Journal of yesterday was read and approved.

On motion of Mr. NICOLL, it was

Ordered, That Samuel A. Lawrence have leave to withdraw from the files of the House the papers relating to the application of Major James Green, of the revolutionary army, for a pension.

On motion of Mr. BROWN, of Va., it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of F. Coberly.

Thereupon the petition and papers were delivered to Mr. BROWN.

Mr. WENTWORTH called for the regular order of business—the call of committees for reports.

The SPEAKER said, that was not the business in order this morning. The Chair would, however, proceed to call the committees by general consent.

CHARGES AGAINST THE COMMISSIONER OF INDIAN AFFAIRS.

Mr. FRIES, from the select committee appointed to inquire into and fully investigate the course pursued by the Commissioner of Indian Affairs, in the administration of his official duties, and especially in the charges made and preferred in debate by the Hon. T. L. CLINGMAN, made a report thereon in writing; which was laid upon the table, and ordered to be printed.

CHIPPEWA INDIANS.

The joint resolution from the Senate to provide for the payment of the expenses of the delegation of the Chippewa Indians to the seat of Government and home again, was read twice, when—

On motion of Mr. BINGHAM, it was referred to the Committee on Indian Affairs.

GALLERIES OF THE HOUSE.

Mr. TURNER asked leave to offer the following resolution:

Resolved, That the Sergeant-at-arms be authorized and empowered to employ an experienced police officer to attend the galleries of this House during the remainder of the session.

Mr. BRODHEAD objected.

Mr. TURNER. I hope it will not be objected to until I have made an explanation.

Mr. BRODHEAD. I object to it. I object to the gentleman's explaining. We do not want such an officer.

So the resolution was not received.

DEBATE ON THE TREATY BILL.

Mr. VINTON moved the following resolution:

Resolved, That all debate on House bill No. 648 shall cease in Committee of the Whole on the state of the Union on Wednesday next, at two o'clock, p. m.; and said committee shall then proceed to such amendments as may be offered to said bill.

Mr. V. said he did not propose to call the previous question upon the passage of the resolution. He would simply say, that he did not think the business of the House would justify the continuance of the debate beyond the time named in that resolution. He would leave it to the House to decide.

Mr. TOOMBS moved to strike out "Wednesday," and insert "Monday."

He said there were a large number of bills pressing the House—there were now three or four special orders; and if they continued the debate upon this bill until Wednesday, it would be impossible for the House to do the necessary business before it. Let this debate be closed on Monday, and let the other measures be debated as they come up, which was the more appropriate way. He hoped the House would agree to strike out "Wednesday," and insert "Monday."

Mr. T. asked for tellers on the amendment, who were ordered, viz: Mr. TOOMBS and Mr. NICOLL, who reported—ayes 68, noes 48; but

Mr. ROOT demanded the yeas and nays; which were ordered, and being taken, resulted—yeas 82, nays 73.

So the amendment was agreed to.

The question then recurred and was taken on the adoption of the resolution as amended, and it was adopted.

So the House decided that all debate on the said bill should terminate on Monday next, at 2 o'clock.

Mr. TOOMBS moved a reconsideration of the vote, and that that motion be laid on the table.

And it was ordered accordingly.

OTHER BUSINESS.

Mr. DUNN, by leave, presented joint resolutions of the Legislature of the State of Indiana in relation to postage on newspapers and public documents; which were laid upon the table, and ordered to be printed.

By unanimous consent, the House proceeded to the consideration of the message from the Senate, insisting upon their disagreement to the amendments of the House to the bill of the Senate entitled "An act for the relief of the personal representatives of William A. Slacum, deceased," and asking a conference on the disagreeing votes of the two Houses: Thereupon, it was

Resolved, That the House do agree to the conference asked by the Senate.

Mr. KAUFMAN, under the rule, gave notice of a motion for leave to introduce a bill to require the heads of bureaus and other officers at the seat of Government, in examining and deciding upon claims arising out of the late war with Mexico, to give preference and priority in such examination to those belonging to and preferred by widows and orphans, or their agents.

Mr. BRODHEAD moved that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. ROCKWELL, of Connecticut, moved that the House resolve itself into Committee of the Whole, for the purpose of proceeding to the consideration of the private calendar.

HOUR OF MEETING.

Mr. ASHMUN inquired of the Speaker whether it would be in order to move that, after to-day, the regular hour of the meeting of this House should be eleven o'clock?

The SPEAKER said the motion could only be received by general consent. But the gentleman might move, that when the House adjourns, it adjourn to meet on Monday next, at eleven o'clock; and on Monday it would be in order to make such a motion as the gentleman had indicated.

Mr. ASHMUN. And that that be the regular hour of meeting?

The SPEAKER. The gentleman can make that motion on Monday. The gentleman can move the other motion for one day, and no more.

The question then recurred and was taken on the motion of Mr. ROCKWELL, and being decided in the negative, the House refused to go into committee on the private calendar.

The question then recurred and was taken on the motion of Mr. BRODHEAD, and was decided in the affirmative.

THE TREATY WITH MEXICO.

So the House resolved itself into Committee of the Whole on the state of the Union, (Mr. CABELL, of Florida, in the chair,) and resumed the consideration of the bill to provide for carrying into execution, in part, the twelfth article of the Treaty with Mexico, concluded at Guadalupe Hidalgo.

The debate was continued by Messrs. BUCKNER, STEPHENS, LAHM, WILMOT, McCLELLAND, THOMPSON of Kentucky, JENKINS, ROCKWELL of Connecticut, FICKLIN, CRISFIELD, GIDDINGS, BRIDGES, and NEWELL. [These Speeches will be found in the Appendix.]

Mr. DONNELL obtained the floor, and yielded—

And, on motion, the committee rose, and at 25 minutes past 10 o'clock—

The House adjourned.

PETITIONS, ETC.

The following petitions and memorial were presented under the rule, and referred:

By Mr. PALFREY: The petition of J. M. McKim and 156 others, citizens of Philadelphia and its vicinity, praying Congress to take measures to abolish slavery throughout the United States, or to relieve the people of Pennsylvania from responsibility therefor.

By Mr. FREEDLEY: The petition of Joseph Tomlinson and 257 other men and women, inhabitants of the State of Pennsylvania, asking Congress to pass a law for the immediate abolition of slavery and the slave trade in the District of Columbia.

By Mr. KENNON: The petition of Gideon Seymour and 81 other citizens of Harrison county, Ohio, praying Congress to establish a cheap rate of postage, and to abolish the franking privilege.

By Mr. KELLOGG: The petition of Noah Fowler and fifty others, citizens of Cambridge and White Creek, Washington county, New York, praying for a uniform rate of postage, and reduction to two cents per half ounce, and for the entire repeal of the franking privilege, &c.

By Mr. GOTT: The petition of citizens of Onondaga county, New York, praying for an increase of the pension of David Montgomery.

By Mr. COLLINS: The memorial of J. T. Alden and one hundred and five other citizens of St. Lawrence county, New York, for the reduction of the rates of postage, and the abolition of the franking privilege.

By Mr. McILVAINE: The petition of Nathan Evans and one hundred and seventy-eight other men and women of Pennsylvania, praying for the abolition of slavery and the slave trade in the District of Columbia, and the prohibition of slavery in all the Territories of the United States.

By Mr. STUART, of Michigan: The petition of citizens of Kent and Ionia counties, Michigan, for a mail route from Grand Rapids, in the county of Kent, to Lyons, in the county of Ionia, by the way of Plainfield, Cannonsburg, and Grattan, in the county of Kent, and Otisco, Wheatland, and North Plains, in the county of Ionia. Also, the petition of G. S. Isham and others, citizens of Michigan, praying that Congress will make to him certain grants of land, at certain points between Fort Independence and San Francisco, and furnish a military force at such point, upon the conditions therein stated.

IN SENATE,

MONDAY, *February* 19, 1849.

Mr. DIX presented a petition from a number of citizens, praying for the amendment of the patent laws; which was referred to the Committee on Patents.

Mr. D. also presented a petition from a number of citizens of New York, praying for a reduction and a uniform rate of postage, the abolition of the franking privilege, &c.; which was laid on the table.

Mr. D. also presented a petition from Duncan Bradford and J. Sydney Henshaw, praying for an extra allowance for services rendered to the United States as professors of mathematics in the navy; which was referred to the Committee on Naval Affairs.

Mr. D. also presented a petition from the pilots of Hurl Gate and a number of masters of vessels, praying that the light at Sands Point, Long Island, may not be discontinued; which was referred to the Committee on Commerce.

Mr. ATCHISON presented a petition from A. B. Ralph and other citizens of the United States, asking that military escorts be placed on the route from the valley of the Mississippi to California; which was referred to the Committee on Military Affairs.

Mr. DAVIS, of Massachusetts, presented a petition from citizens of Massachusetts, praying for a reduction of the rates of postage; which was laid on the table.

Mr. D. also presented a petition from the President of Amherst College, Massachusetts, praying that a new edition of the narrative of the Explor-

ing Expedition may be published and distributed among the colleges and other public institutions of the Union; which was referred to the Committee on the Library, and ordered to be printed.

Mr. BRIGHT presented a petition from citizens of Indiana, praying for the establishment of a post office at Ransom's Store, in Blackford county, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. B. also presented a petition from citizens of Indiana, asking the establishment of a mail route from Smithfield to Montpelier, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. WESTCOTT presented a petition from the legal representatives of Henry Pawling, an officer in the revolutionary army; which was referred to the Committee on Revolutionary Pensions.

Mr. KING presented a petition from John C. Riddle, D. H. Carter, and E. Simmonds, offering to construct a turnpike and to transport supplies, the mails, &c., for the use of the Government, over the Isthmus of Panama, for a sum not exceeding $12,000 per annum; which was referred to the Committee on Military Affairs.

Mr. KING presented some additional papers in relation to the claim of Thomas Snodgrass; which was referred to the Committee on Claims.

FLORIDA RESOLUTIONS ON SLAVERY.

Mr. YULEE presented certain resolutions adopted by the Legislature of the State of Florida, in relation to the question of slavery, and expressive of their determination to coöperate with her sister States of the South in the event of any action of Congress adverse to the interests of the South.

Mr. YULEE addressed the Senate in relation to these resolutions.

Mr. WESTCOTT followed in a series of remarks.

[For these speeches see Appendix.]

The resolutions were then read, and ordered to be printed.

On motion of Mr. JOHNSON, of Louisiana, the petitions of Thomas P. Harrison and A. T. H. Duvall were taken from the files of the Senate, and referred to the Committee on Private Land Claims.

REPORTS OF COMMITTEES.

Mr. NILES, from the Committee on the Post Office and Post Roads, reported the bill for the relief of Samuel T. Butterworth, without amendment.

Mr. DOWNS, from the Committee on Private Land Claims, reported the bill for the relief of Charles McLane, of Missouri, without amendment.

Mr. FELCH, from the Committee on Pensions, reported the bill for the relief of Mary G. Leverett, without amendment.

Mr. ATCHISON, from the Committee on Indian Affairs, asked that the Committee be discharged from the further consideration of the petition of Thomas Snodgrass, and that it be referred to the Committee on Claims; which motion was agreed to.

Mr. YULEE, from the Committee on Naval Affairs, moved that the committee be discharged from the further consideration of the petition of Julia Martin; and the motion was agreed to.

Mr. Y. also, from the same committee, moved that the committee be discharged from the further consideration of the petition of John Collins; and the motion was agreed to.

On motion of Mr. Y., John Collins had leave granted to withdraw his papers.

COAST SURVEY IN FLORIDA.

On motion of Mr. WESTCOTT, 1,000 additional copies of the communication of the Secretary of the Navy, transmitting a report on the subject of the operations of the Coast Survey on the coast of Florida, were ordered to be printed for the use of the Senate.

NOTICE.

Mr. DIX gave notice of his intention to bring in a bill to continue the light on Sands Point, in Long Island.

JOINT RESOLUTION FROM THE HOUSE.

The joint resolution from the House of Representatives directing that the Government of Russia be supplied with certain volumes of the Narrative of the Exploring Expedition was read a first and second time, and referred to the Committee on the Library.

RECONSIDERATION.

Mr. NILES, with the unanimous consent of the Senate, moved to reconsider the vote by which the bill for the relief of Henry Vincent, administrator of the estate of James Le Caze, was rejected on the 21st of December last. The motion lies over.

RESOLUTION.

Mr. HALE submitted the following resolution, which was considered and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire whether the laws regulating the coasting trade do not require amendment or alteration to meet the case of vessels sailing to our Pacific coast.

ADMISSION OF CALIFORNIA.

Mr. DOUGLAS moved to postpone the prior orders, and to take up the bill for the admission of California into the Union, and asked for the yeas and nays on the motion, which were ordered.

Mr. ATHERTON said he hoped the special order would be proceeded with; for if the bill mentioned by the Senator were taken up it would lead to debate and no progress would be made, whereas the appropriation bill could be finished in a very short time, and it would then be time enough to proceed with other business.

Mr. DOUGLAS. This appropriation bill has been before the Senate every day for a week past, and the whole time has been taken up with the discussion of amendments without being able to get a vote, and I firmly believe that by continuing to debate that bill more legislation will be defeated than if we allow that to remain for the present and proceed with other business; and besides, there is no danger that the appropriation bill will be lost, and there is no immediate necessity for its passage. I do hope, therefore, that we will take up the California bill, and fix upon some time at least at which we can act upon it.

Mr. WEBSTER. A single word, sir. My purpose is to vote with the chairman of the Committee on Finance until this measure shall be completed. In my judgment it is the best way to get through with one thing at a time, and I will say, that if no other Senator consumes more time than I shall in debating the bill, we shall be able to make rapid progress.

The question was then taken, and decided in the negative, as follows:

YEAS—Messrs. Bell, Breese, Bright, Dodge of Iowa, Douglas, Downs, Fitzgerald, Fitzpatrick, Foote, Hale, Houston, Johnson of Louisiana, Jones, King, Sebastian, and Walker—16.

NAYS—Messrs. Atherton, Badger, Baldwin, Benton, Berrien, Borland, Bradbury, Butler, Calhoun, Cameron, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dayton, Dickinson, Dix, Felch, Greene, Hamlin, Hunter, Johnson of Georgia, Mason, Miller, Niles, Pearce, Phelps, Spruance, Sturgeon, Turney, Underwood, Upham, Webster, Westcott, and Yulee—35.

So the motion to postpone was negatived.

CIVIL AND DIPLOMATIC BILL.

The Senate then proceeded to the consideration of the bill making appropriations for the civil and diplomatic service of the United States.

The question being on the motion of Mr. BENTON to strike out the clause appropriating $186,000 for defraying the expenses of the coast survey, including compensation to the Superintendent and his assistants, and to insert in lieu thereof the following:

For survey of the coast of the United States the sum of $30,000; and from and after the 30th day of June, 1849, the said survey shall be carried on exclusively by the Navy Department, under the direction of the President of the United States—

Mr. FOOTE, with the leave of the Senate, offered an amendment which he proposed to move, and which, without being read, was ordered to be printed.

Mr. ATHERTON then opposed the amendment of the Senator from Missouri.

Mr. DAVIS, of Mississippi, spoke in favor of the present system.

Mr. DAVIS, of Massachusetts, defended the reputation of Mr. Hassler, the late Superintendent of the Coast Survey.

Mr. BENTON replied.

Mr. PEARCE rejoined.

After a few words from Mr. DAVIS, of Mississippi—

Mr. BRADBURY asked the Senator from Missouri to withdraw his amendment, to enable him to submit one in its place, which provides that no person shall be employed hereafter who shall not belong to the army or navy, when the situation can be filled by officers in the army or navy.

Mr. BENTON withdrew his amendment.

The amendment of Mr. BRADBURY was then submitted and rejected.

At a late hour, Mr. BADGER moved that the Senate adjourn.

Mr. ATHERTON demanded the yeas and nays upon the motion; which were ordered, and being taken, the yeas were 28, the nays 17, as follows:

YEAS—Messrs. Atchison, Badger, Berrien, Bright, Butler, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dayton, Fitzpatrick, Greene, Hamlin, Hunter, Johnson of Georgia, King, Mason, Miller, Niles, Pearce, Rusk, Sebastian, Spruance, Turney, Upham, Walker, Westcott, and Yulee—28.

NAYS—Messrs. Atherton, Baldwin, Borland, Bradbury, Breese, Cameron, Dickinson, Dix, Dodge of Iowa, Douglas, Downs, Felch, Foote, Houston, Johnson of Louisiana, Jones, and Underwood—17.

[The debate on the Coast Survey Bill will be found in the Appendix.]

So the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 19, 1849.

The Journal of Saturday was read and approved.

TERRITORIAL GOVERNMENTS—CALIFORNIA AND NEW MEXICO.

Mr. SMITH, of Indiana, moved to suspend the rules, to enable him to offer the following resolution:

Resolved, That the bills reported from the Committee on Territories to organize Territorial Governments in California and New Mexico, be made the special order immediately after the bill now under consideration of the Committee of the Whole House on the state of the Union, entitled "A bill to provide for carrying into execution in part the 12th article of the treaty of Mexico" shall be disposed of, such special order to continue from day to day until said bills shall be disposed of; and all previous special orders shall be postponed until such bills shall be finally acted upon.

The question being taken, the rules were suspended—two-thirds voting in the affirmative.

The question being on the adoption of the resolution—

Mr. STANTON asked for the reading of the resolution.

Mr. BURT demanded the yeas and nays on its adoption.

Mr. VINTON said it was proper that he should inform the House that the bill making appropriations for the Post Office Department had not yet been acted upon by the House. He moved, therefore, to except this bill; as he understood it, this resolution proposed to dispose of the Mexican treaty bill before the resolution took effect.

The SPEAKER. The Chair is of opinion that the resolution as it now stands would require a vote of two-thirds for its adoption; because by the rules of the House, the general appropriation bills (as, for example, the bill providing for the Post Office Department) have priority over all other business.

Mr. VINTON repeated his motion to amend the resolution, so as to except from its operation the bill appropriating for the Post Office Department.

Mr. SMITH, of Indiana, accepted the amendment as a modification of his resolution.

Mr. KAUFMAN inquired of the gentleman from Ohio [Mr. VINTON] whether that bill (*i. e.* the post office bill) was the only general appropriation bill which had not yet been acted upon?

Mr. VINTON. All the appropriation bills have passed this House except the Mexican treaty bill and the bill providing for the Post Office Department. But the Indian appropriation bill has been returned from the Senate with large amendments. The civil and diplomatic appropriation bill will come back with amendments. It will, perhaps, be well enough to look into this resolution, and see whether it will prevent our acting upon these bills until the Territorial bills are disposed of. The probability is, the civil and diplomatic bill will come back with amendments, which will require one or two days further consideration.

Mr. KAUFMAN suggested to the gentleman from Ohio [Mr. VINTON] so to frame his amendment as to except all the general appropriation bills, whether they had passed this House or not.

Mr. WENTWORTH said he did not see the necessity of taking up the time of this House by any discussion on this subject. He had been of the opinion for the last month that it was not the intention of the House to act upon these territorial bills at this session. It was an old farce which they were playing here this morning, in order to

humbug the anti-slavery people of the North. He understood, from what the chairman of the Committee of Ways and Means had said, that it was impossible to act upon these territorial bills at this session. He thought there was a disposition on the part of the House to create an impossibility to act on them. He would stay here nights to act on them. He was not afraid of the slave question. Gentlemen might consider it necessary, in order to satisfy the people at home, to vote upon this resolution. But he informed the people now, that the territorial bills were not likely to be acted upon at this session, because there was a balance of power party among northern men on this floor, who were playing one game here, and another at home. To take up the bills, would be to expose their own course.

Mr. BURT inquired whether the resolution was debatable?

The SPEAKER. It is debatable within certain limits—upon the mere question of time.

The Chair (the Speaker further stated) will call the attention of the House to the rule which was adopted at the commencement of the present session:

"And no order of the House making a bill, report, or joint resolution, a special order of the day for any given day, shall entitle it to a preference over general appropriation bills; but, notwithstanding such special order, the House, or the Committee of the Whole, may proceed to the consideration of such appropriation bills."

The Chair is of opinion that, under this rule, the resolution, as it now stands, will require a vote of two-thirds in order to give this bill preference over the general appropriation bills, whether in the House or returned with amendments from the Senate.

Mr. STANTON inquired whether this resolution could postpone the special order for to-morrow?

The SPEAKER replied that it could, if it was adopted by a two-thirds vote.

Mr. VINTON moved further to amend the resolution by excepting all the general appropriation bills.

Mr. ROOT said he supposed that they must pass the general appropriation bills as a matter of course. He believed they would be passed, though the resolution of the gentleman from Indiana [Mr. SMITH] should prevail. He did not think the adoption of this resolution would prevent the passage of any of them. But it was due to the country that they should know whether this House was really going to act upon the Territorial bills or not; and if they were to take any vote, if they were to pretend to do anything, let them do it effectually. Let them not pass such a resolution as would seem to make these bills the special order of the day, but with such an exception as would defeat or prevent any action upon them.

The gentleman from Illinois [Mr. WENTWORTH] had said, from what he had seen, he did not believe that the Territorial bills would be passed——

Mr. WENTWORTH, (in his seat.) I do not believe it.

Mr. ROOT, (continuing.) That he [Mr. WENTWORTH] had not seen, on the part of the House, a disposition to act upon this bill. How that might be, he (Mr. R.) did not undertake to say. He did say, however, that if they passed this resolution, with the exception which his colleague [Mr. VINTON] proposed, it was in fact saying, not that they would act upon the territorial bills, but that they would not act upon them.

Mr. STANTON. Will it be in order to move that the bill which has been made the order of the day to-morrow be excluded from the operation of this resolution?

The SPEAKER. It will be in order after the exception of the gentleman from Ohio [Mr. VINTON] is disposed of. I understand the chairman of the Committee of Ways and Means has moved an exception in favor of all the general appropriation bills.

Mr. BRODHEAD moved the previous question.

After some conversation between Mr. STANTON, Mr. SMITH of Indiana, and the SPEAKER, the question was announced, first upon the amendment of Mr. STANTON to the amendment which proposed to except from the operation of the resolution the following bill, which had been made the special order for to-morrow, viz: "An act to carry into effect certain stipulations of the treaty between the United States and the Republic of Mexico of the 2d of February, 1848."

Mr. HENLEY called for the reading of the resolution.

Mr. STARKWEATHER inquired of the gentlemen from Ohio [Mr. VINTON] how many appropriation bills there were yet unacted upon, and what were their names?

Mr. VINTON replied that the Indian appropriation bill had come back from the Senate, and was now before the House; the civil and diplomatic appropriation bill would come back, with large amendments; the army appropriation bill and the navy appropriation bill were not yet acted upon by the Senate; the bill providing for the Post Office Department had not yet been acted upon by this House.

The SPEAKER. The previous question has been demanded.

Mr. STARKWEATHER. I undertake to say that all these bills can be disposed of——

[Cries of "Order, order."]

The SPEAKER reminded the gentleman that debate was not in order, the previous question having been moved.

The previous question was seconded, and the main question was ordered, (being first on the amendment of Mr. STANTON to the amendment.)

The amendment to the amendment and the amendment were respectively rejected.

The question was taken on the original resolution; and the vote stood—yeas 139, nays 39.

So the resolution was adopted.

Mr. ROOT moved a reconsideration of the vote, and that that motion be laid on the table.

By general consent, it was ordered accordingly.

SMITHSONIAN INSTITUTION.

Mr. HILLIARD, by unanimous consent, presented a report of the Board of Regents of the Smithsonian Institution, showing the operations, expenditures, and condition of that institution to the present time; which report was laid on the table, and ordered to be printed.

GALLERIES OF THE HOUSE.

Mr. TURNER asked leave to offer the following resolution:

Resolved, That the Sergeant-at-arms be authorized and empowered to employ an experienced police officer to attend the galleries of this House during the remainder of the session.

Mr. BRODHEAD objected to the resolution. There was, he said, no use in it.

Mr. TURNER moved a suspension of the rules to enable him to offer the resolution.

Mr. STEPHENS inquired if a motion to go into Committee of the Whole on the state of the Union would take precedence?

The SPEAKER said that the motion of the gentleman from Illinois, [Mr. TURNER,] being a motion to suspend the rules, would be first put.

The question was then taken, and the House refused to suspend the rules.

So the resolution was not introduced.

ANCIENT MONUMENTS OF UNITED STATES.

Mr. TAYLOR moved that the rules be suspended, for the purpose of enabling him to offer the following resolution, viz:

Resolved, That the Clerk of the House of Representatives be, and he is hereby, authorized to contract with Messrs. Bartlett and Welford, of New York, publishers on behalf of the authors of the work on the Ancient Monuments of the United States, recently issued by the Smithsonian Institution, for a sufficient number of the copies of the same, accompanied by the supplementary memoir now in course of preparation, on the ancient remains in the State of New York, as may be necessary to supply two copies to each member, one of which shall be deposited in some public library in each Congressional district, to be designated by the member representing the same; and that the cost of the above books, not to exceed eight dollars per volume, be paid out of the contingent fund of this House.

The question being put on the suspension of the rules, it was decided in the negative—two-thirds not voting in favor thereof.

HOUR OF MEETING.

Mr. MURPHY asked leave to offer the following resolution:

Resolved, That from and after this day the House will meet at eleven o'clock in the forenoon.

Objection having been made, Mr. MURPHY moved a suspension of the rules.

And two-thirds having voted therefor, the rules were suspended.

And the resolution being before the House—

Mr. TURNER moved to amend it by striking out "eleven" and inserting "ten."

The amendment was rejected.

And the original resolution was adopted.

CHIPPEWA INDIANS.

Mr. McILVAINE, by unanimous consent, from the Committee on Indian Affairs, reported back to the House, without amendment, the joint resolution of the Senate entitled "Resolution to defray the expenses of certain Chippewa Indians and their interpreter."

The bill having been read by its title—

Mr. McILVAINE said, that as it was necessary that the bill, if passed at all, should be passed immediately, he would move a suspension of the rules, so as to dispense with its reference to the Committee of the Whole on the state of the Union.

The SPEAKER said, if there was no objection, the bill would be considered in the House, without going to the Committee of the Whole on the state of the Union.

No objection was made.

Mr. McILVAINE moved the previous question.

Mr. BRODHEAD said he hoped the demand would not be sustained. The House ought to know whether this was ordered by the department.

The demand for the previous question was seconded. The main question was ordered, and (under the operation of the previous question) the bill was read a third time and passed.

Mr. McILVAINE moved a reconsideration of the vote, and that that motion be laid on the table.

No objection having been made, it was ordered accordingly.

WIDOWS AND ORPHANS.

Mr. KAUFMAN, in pursuance of previous notice, asked and obtained leave to introduce a bill of the following title:

A bill to require the heads of bureaus and other officers at the seat of Government, in examining and deciding upon claims arising out of the late war with Mexico, to give preference and priority in such examination to those belonging to and preferred by widows and orphans, or their agents.

The bill having been read twice by its title—

Mr. KAUFMAN said he should ask the immediate passage of the bill. We had just passed a bill in favor of the Chippewa Indians, and he hoped that the widows and orphans of those who fell in the service of their country would not be forgotten by the Representatives of the American people. They had lost their all—their protectors and their friends. Many of them were poor, and suffering the inflictions of poverty and want. Will you deny them *speedy* and *ample* justice? They have no influential friends to press their claims, and they may be crowded out of a consideration of their claims, *even in their regular order*, by the importunities of agents and others, pressing the demands of more fortunate and influential claimants against the Government. He demanded the previous question.

The bill was read through; and, on motion of Mr. KAUFMAN, under the operation of the previous question, was read a third time and passed.

Mr. KAUFMAN moved a reconsideration of the vote, and that that motion be laid on the table.

No objection having been made, it was ordered accordingly.

Mr. HAMPTON, of New Jersey, from the Committee on Enrolled Bills, made a report.

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of the Union, but waived the motion (on pledge of renewal) at the request of

Mr. MEADE, on whose motion leave was granted to withdraw from the files of the House the petition and papers of J. C. Eccleston.

Mr. M. then renewed the motion of Mr. VINTON, which was decided in the affirmative.

THE MEXICAN TREATY.

The House again resolved itself into Committee of the Whole on the state of the Union (Mr. CABELL, of Florida, in the chair) on the bill to provide for carrying into execution in part the twelfth article of the Treaty with Mexico, concluded at Guadalupe Hidalgo.

The debate was continued by Mr. DONNELL.

Mr. D. having concluded—

Mr. CROWELL gave notice that he should avail himself of the first opportunity he could obtain when the territorial bills were under consideration, to pay his respects to the gentleman who had just taken his seat, [Mr. DONNELL.]

Mr. GRINNELL offered the following amendment:

Insert at the end of line fifteen (printed bill) the following: *Provided*, That the payment of the instalment and interest aforesaid by the United States and the receipt of the same by the Government of Mexico shall be deemed and understood to be in compliance with the stipulations of the treaty of Guadalupe Hidalgo, as ratified by the Senate of the United States of America, and that the same shall be construed and understood by its language, without reference to the protocol signed by A. H. Sevier and Nathan Clifford, as commissioners on the part of the United States, and by Luis de la Rosas on the part of Mexico, if there be any difference between the said treaty and protocol.

Mr. G. remarked, that he thought we ought to say to Mexico that we made the appropriation with the understanding that we ought to carry out the treaty according to its terms and language, and not according to the protocol.

There were five minutes yet remaining of the time allowed for debate.

Mr. BOYDEN said he would avail himself of this brief space of time to make a few remarks in reply to an idea suggested the other day by the gentleman from Georgia, [Mr. STEPHENS,] that to vote for the appropriation contained in this bill would be to sanction all the aggressive policy of the President towards Mexico.

He (Mr. B.) would take this occasion to say, that I took a directly contrary view of the subject. He admitted that the President commenced the war; that he commenced it unnecessarily and unconstitutionally for the very object of conquest; and that, from the beginning to the end, he had prosecuted the war with that object. And although he (Mr. B.) should vote for these appropriations, he wholly dissented from the inference which the gentleman from Georgia thought proper to draw from that vote. In his judgment, he who refused to vote the appropriations not only made himself *particeps criminis* in all the tyrannical and aggressive policy which had been pursued towards Mexico, but would go still further than even the President himself had gone. He had got the country, and every one knew that the tyrannical grasp of the President upon it would never be let go. The question was, should they hold on to it, and instead of taking it as a purchase, and complying with the plighted faith of the nation, refuse to make this appropriation, and thus hold it as a conquest out and out; subjecting ourselves to the charge of violating the national faith—of repudiation—and subjecting ourselves justly, yes, justly, to the charge of Punic faith? He would vote for this appropriation, and would not be understood thereby as sanctioning the course of the President or of the Senate. The President should have come here when he was about to make a treaty involving such large pecuniary considerations, and should have asked the consent of the representatives of the people before he had made it. But should they, therefore, because the President had not done this, bring upon themselves the charge of national repudiation? He, for one, never would let that stain be fixed on our country by any vote of his. No: Mexico should have the money. If any means could be provided by which this territory could be given back to Mexico by refusing this appropriation, he would not hesitate to support it. But the question was, should we keep the territory and refuse to pay the money? He was not prepared to go that far; and any man who did so would thereby have sanctioned all Polk's iniquities, and have gone beyond them.

Mr. VINTON said, before the committee proceeded to vote upon the bill, he desired to avail himself of the opportunity afforded him, (*i. e.* as chairman of the committee reporting the bill) to say a very few words in explanation.

This bill proposed to pay two instalments of the amount which we had stipulated to pay to Mexico as the price of the territory we had purchased from that Republic. The first instalment in this bill should properly have gone into the appropriation bill of the last session. It was one of the expenditures of the Government which fell due during the present fiscal year; it came estimated for among the deficiencies for the present fiscal year. The other item properly belonged to the next fiscal year, and the two items together amounted to a sum something over $7,000,000.

Now, if this were in truth a treaty—if it were a treaty that had been ratified in such a way as to give it validity, and to pass the title of that country to the United States, then, as a matter of course, the purchase money which the United States had agreed to pay to the Republic of Mexico was a part of the national debt. The purchase money that we had agreed to pay to Mexico was, in the first place, $15,000,000. In the next place. we had stipulated to pay certain other sums, as a portion of the consideration, to the American creditors of the Republic of Mexico. These American creditors were of two classes: first, those whose claims were ascertained prior to the formation of the treaty; and, secondly, those whose claims remained to be liquidated.

We had stipulated to pay, under this latter class of claims, a sum not to exceed three and a quarter millions. There was a question now pending before this House—and a very great and grave question—about which he did not propose to express any opinion: whether by this stipulation we had not bound ourselves to pay the whole amount of these claims, exceeding three and a quarter millions of dollars.

They might, therefore, put down the indebtedness of the Government, under this class of claims, at at least three and a quarter millions. Two and a quarter millions had been paid at the last session for the first class of claims, viz: those which had been liquidated and allowed by Mexico.

Now, what he thought proper to say on this topic was this: that the President of the United States, in his message to Congress at the opening of the present session of Congress, had undertaken to do what the Executive of the country always performed, and what it was his duty to perform—had undertaken to communicate to Congress, and through Congress to the country, the state of the national debt, the extent of the national indebtedness. He stated the debt of the country to be sixty-five millions of dollars, and a fraction over. As a matter of course, the inference was, that he intended to give Congress to understand and the country to understand, that that was the extent of the national liability of this country—that that was the extent and amount of the indebtedness of the American people.

Now, by looking at the report of the Secretary of the Treasury, there would be found a detailed statement of the items which made up that debt of sixty-five and a quarter millions of dollars, as was stated by the President of the United States, from which it would be found that these four instalments of twelve millions of dollars, with the interest due upon them from the date of the treaty, made no part of that statement.

The twelfth article of the treaty with Mexico imposed upon the United States the obligation to pay in four equal instalments the sum of twelve millions of dollars, with interest from the date of the ratification of the treaty. It was the bond of the United States. It was a part of the national indebtedness. The President had omitted to include it in his statement of the national debt. An individual might as well, in stating his indebtedness, mention only the notes of hand for which he was indebted, and omit to state all the judgments or bonded debts against him, as for the President of the United States, in stating the debt of the United States to the Congress of the United States and to the people of this country, simply to state the amount of stock certificates and treasury notes that were out, omitting the great fact that there was the bond, the most solemn bond of the United States for twelve millions of dollars, drawing interest from the date of the ratification of the treaty.

That item, then, added to the sixty-five and a quarter millions of dollars, as stated by the President of the United States, enlarged the debt of the United States to seventy-seven millions of dollars, and within a fraction of seventy-eight millions of dollars, because we were indebted for principal twelve millions of dollars, and for interest from the 30th May last. And for this reason this first item of appropriation in this bill was three and three-quarters millions of dollars.

In addition to that, there was the obligation of three and a quarter millions of dollars to be paid to the American creditors of Mexico, when their claims should be liquidated and ascertained. That also was a part of the national indebtedness.

That three and a quarter millions, added to the seventy-eight millions which he had just stated, made the national debt of this country, or the engagements of the Government of this country, eighty-one millions of dollars, or something like it, instead of sixty-five millions, as stated by the President of the United States.

Whether, in the process of settling up the accounts of this Mexican war, any further items of indebtedness would be found to exist, time alone would disclose. As he did not know, he would not, as a matter of course, venture the expression of any opinion on this point; but certain it was, that instead of the indebtedness of this country, the obligations of this country, being $65,000,000, they amounted to $81,000,000, at least.

He had thought that this was the proper time and place to state this fact, as he took it for granted that gentlemen on this floor, unless they had given the subject a particular investigation, and the people of this country, had supposed, since reading the message of the President, that $65,000,000 was the amount of the public debt of the country.

He had one word to say in addition, respecting the amendment now proposed by the gentleman from Massachusetts, [Mr. GRINNELL.] He was very sorry that the gentleman had offered the amendment. He (Mr. V.) was not willing that anything should go upon the statute-book of this country respecting the protocol. He was not willing that we should become involved, by any legislative action on this protocol, in any difficulty with the Government of Mexico. As had been said—he believed by the gentleman from North Carolina, [Mr DONNELL]—if, at the time that the Mexican Government ratified the treaty, it was drawn into it by improper or undue representations made on our part—if there was any deception practised by our Executive or by the commissioners—he could not understand how that should discharge us from the payment of our indebtedness. If the Government of Mexico had practised deceit upon us—if she had drawn us into the ratification of the treaty by any false representations—it would be good ground for us to do what France did in the case of Rives's treaty—to refuse to pay the debt. That was the ground taken by France in the case of Rives's treaty. It would be remembered that a letter was written home, which came to the public eye, saying that France chose to consider that we had got a bargain of her, that we had imposed upon her, and the French Chamber refused on that ground to make appropriation to comply with the engagement to pay the debt. In this case, if we had imposed upon Mexico, it was no reason why we should not make good our engagement to pay her $20,000,000. In a court of justice, it would be considered a very remarkable defence for a man to set up to avoid the payment of a claim, that in a previous transaction he had cheated or overreached the other party. It would hardly be considered a valid defence before any court.

He thought, if they put this amendment of the gentleman from Massachusetts into the bill, we should not see the end of the trouble which would grow out of it. In the first place, the treaty had been ratified by both Governments with the article as it went from the American Senate. There was nothing else in the treaty as ratified by Mexico or by us; and that ratification was binding upon both parties. As a matter of course, if Mexico had been drawn into it by any false representation on our part, it might be good foundation for her hereafter to come to this Government and demand of us to pay the value of these empressario grants.

There was at this time much confusion in the committee.

Mr. VINTON suspended his remarks.

The CHAIRMAN called to order, and requested gentlemen to take their seats.

Mr. VINTON said he would not trouble the committee further, as gentlemen seemed indisposed to listen—and he resumed his seat.

[Cries of "Go on; go on." A pause ensued.]

Order having been restored, and a general desire having been manifested further to hear the gentleman—

Mr. VINTON resumed. He remarked that he supposed that the whole committee understood this subject; that they had made up their minds about it. But he was going to say, if this were a treaty we had no right to alter its terms by saying to Mexico, You shall receive this money upon some other condition than that contained in the treaty. You shall take it upon some other understanding than that which you had at the time it was entered into. And we would go far to say that we would either impose new terms and incorporate new conditions into the treaty on the one hand, or on the other

that we would not pay the money we had engaged to pay. The gentleman from Georgia [Mr. STEPHENS] had claimed that this House had the right to refuse appropriations to carry into execution a treaty. Now, without going into that question at all, this much he thought might be said: if this House had the power to refuse an appropriation to carry a treaty into execution, it was their duty at least to comply with all the national engagements which were fairly made. Now, then, whenever a treaty had been made by the legitimate power—and no one pretended that the President and the Senate of the United States had not the power to make this treaty, and acquire possession of the country, and engage the faith of the country to pay for it—if the Senate and the President of the United States had the power to make this treaty, and if it had been made in such form as to be valid, (and the gentleman from Georgia himself admitted it was a treaty,) then, as a matter of course, it stood on the same footing with any other obligation of this Government. The power to withhold appropriations to carry into effect a treaty, if it was ever exercised, could only be justified upon the ground that in some great national emergency its exercise was necessary for the preservation of the public liberty. It could be justified on no other ground. Neither the President of the United States nor any officer in any department of the Government could go to the public treasury and take out his salary; and though Congress held the purse-strings of the country, as it was usually said, they could not, without the authority of law, untie that purse and take out the money at their pleasure, even to pay themselves for their own precious services. Now, if this were a treaty—if it were a law of the land, and such a law as under the provisions of the Constitution was supreme and obligatory upon all State governments, and upon all the departments of the General Government, to carry it into effect—if it were a law of the land, the question stood upon precisely the same footing, when they came to ask an appropriation to carry it into effect, as the question would stand of an appropriation of money to pay the salary of the President of the United States, although he might have abused his office, as a member behind him suggested, or to pay any other obligation or debt imposed upon the Government.

That was the position of the question. It was in vain for us to say that we would not pay Mexico according to the stipulation of the treaty because we had cheated her. If she had cheated us, that would be another thing. Let him present the case in its true light: here was a treaty which had been made with Mexico, as everybody knew, with the greatest reluctance on her part. We had seized upon her ports; we had invaded her country; we were in her capital; we had that nation prostrate; the iron was in their very soul, and the Executive of the United States proclaimed aloud, Stab them to the heart. It was under these circumstances that this proud people had at last consented to make this treaty. Suppose that we now refuse to make the appropriations we had stipulated under it, what excuse could we make in the face of the civilized world? How could we stand up, in the presence of Christendom, after having wrung this treaty from them and seized upon their country, and now being in occupation of it, and traitor and robber-like, refuse to pay the price of it?

As was probably well known in this House, he was one of those who to the last were opposed to the annexation of Texas. He was one of those who had voted for the resolutions of the gentleman from Georgia, which declared that it was not the policy of this country to acquire any territory beyond the Rio Grande. He was one of those who had thought, and who still thought, that the war was unnecessary, aye, and that it was unconstitutionally begun by the President of the United States. He was one of those who had believed, and who still believed, that it was the settled design of the President to bring on a war with Mexico, without regard to the will of the Congress of the United States, and that of itself was a violation of the spirit of the Constitution. He was one of those who believed it was inexpedient to have any further acquisitions of territory. Yet these were all settled questions, and they had become matters of history. Texas was ours, and we could not give her up. The country that had been acquired by this treaty was ours, and it was in vain to think that this country was to be restored to Mexico. In legislation, in conducting the affairs of nations as in conducting the affairs of individuals, we were necessarily controlled by circumstances. It was impossible for men, either in private or in public life, at all times to do that which they would regard as the best, because they found themselves surrounded and controlled by circumstances. That was precisely the condition in which they who had opposed the war, who had opposed the acquisition of territory, who had opposed this whole thing, now found themselves. That this country would never be surrendered to Mexico, might be put down as a "fixed fact." It was just as certain as that Georgia would never be given back to the King of England. Well, were we going to keep this country, and refuse to pay for it? Who was there here who was prepared to take that stand? If we said we would not pay for this country, what was our duty as honest men, and as an honest Government? To give it back; and if we gave it back, the law of nations, as well as natural justice imposed upon us the obligation to give it back in the condition in which we received it. Could that be done? Had we not permitted our people to go there by hundred and thousands? Did anybody suppose that we could drive off the American people who were now in California? No; we might as well attempt to arrest the waters of the Mississippi in their course. It could not be done. We could not return this country to Mexico. There was no alternative but that we must pay for it.

We had already recognized the validity of the treaty. This House had already done acts which were inconsistent with the position that we would not pay the remaining instalments stipulated under the treaty. At the last session, Congress had voted two and a quarter millions of dollars to pay a part of this very purchase money. They had voted to pay those claims of American citizens against the Government of Mexico which had been liquidated and allowed by that Government prior to the formation of the treaty. This was a part of the purchase money. This was an affirmance by this House of the treaty.

In the next place, at the last session of Congress, in pursuance of the treaty, Congress had directed the boundary line to be run between these new possessions of ours and Mexico. By that act, this House had confirmed the treaty. That very commission had now gone out, and gone out on the supposition that the country was ours, to run the boundary line between it and Mexico. And were we now to stop, and say we would not pay the money? That could not be. Let gentlemen remember that when the incoming Administration took possession of the power of this country, they took it with all its responsibility.

It was incumbent on us, when we take power, that we should take it with all the responsibilities that belong to it. At the end of two short weeks, those who were now in power would surrender it into the hands of their successors. Suppose we refuse to pay this money: what then? As a matter of course, we should have a new difficulty with Mexico. If we refused to pay, did not that put an end to the treaty? If we refused to pay, and the matter was allowed to pass over to the next Administration: what next? In the first place, the Mexican minister would come to our new Secretary of State, and say to him, Here is your bond: you are in possession of this country of ours; what reason have you for refusing to pay for it? What answer could the new Secretary make? Could he say to Mexico, We have ascertained that, at the time the treaty was ratified, we cheated you by false declarations? Could the new Secretary say that to the Mexican minister? And if he could make such a reply, what would the world say of us? If we refused to pay this money, the Mexican minister would say, Give us back this country; and what reply could we make? Why, the American Secretary would say, I have no power to cede the country back, and clear out all our citizens who have gone there; and every gentlemen would say the same thing. It was a very plain case, that if we refused to pay this money we should involve the incoming Administration and the nation itself in a very great difficulty in the eyes of all honest men of all nations.

Now, his doctrine was this: He would pay this money, and say nothing about the protocol, the discussion of which could only involve the American Administration in difficulty. He would not only pay this instalment, but the next, and the one which was to come after that. He would say nothing to embarrass this matter; much less would he put anything on the statute book, which would amount to a recognition of the act of the American ministers in the matter of the protocol. He would stand up to the treaty as it was, for the present; and if, hereafter, it should turn out that we have not acted in good faith toward Mexico, it would be the duty of the country to consider and determine, as an honest people, what reparation we ought to make.

He did not think it possible to make any explanation which could justify this Government before the world in a refusal to pay this money. The gentleman from Georgia [Mr. STEPHENS] had said that he would not assent to any payment for this territory till he saw what was to be done with it. The very acts pending before Congress for the organization of Territorial and State governments in these Territories, proceeded upon the assumption that the country was ours. If we held on to this country and refused to pay for it, the case would be precisely similar to that which he would present: He supposed that the gentleman from Vermont sitting near him and himself were to purchase an estate of the gentleman from Georgia upon a credit, and subsequently, a disagreement arising between his partner and himself about the division of the property, they go to the gentleman from Georgia, when the first instalment becomes due, and say to him, We cannot agree between ourselves about the division of the estate we have purchased of you, and therefore we cannot pay you till this matter shall be settled, but in the meantime we will hold on to the estate. This was exactly the doctrine of the gentleman from Georgia, viz: because the country could not agree upon the disposition to be made of the Territory, therefore, they ought not to pay for it.

The question about the payment of this stipulated price was wholly between this Government and Mexico, and could not be affected by any disagreements among ourselves. What were our domestic troubles to the Government of Mexico? What had she to do with them? It might gratify her to witness our internal distractions, or she might regret them; he knew not, and he cared not which. He had no confidence in the validity of any excuse which might be raised for us, if we did not pay this debt to the utmost farthing.

The committee then proceeded to vote.

The pending question was on the amendment proposed by Mr. GRINNELL.

Some conversation followed on a point of order between Mr. SCHENCK and the CHAIRMAN.

The question was then taken on the amendment of Mr. GRINNELL, and it was rejected.

Mr. SCHENCK moved to amend the bill, by adding thereto the following:

Provided, That no part of the money hereby appropriated nor heretofore appropriated by any act of Congress, shall be paid for the salary of any commissioner or surveyor to designate a boundary line between Mexico and the United States, until such commissioner or surveyor shall be provided for by law.

Mr. SCHENCK said, that he would explain, from the documents, the meaning of the amendment to the satisfaction, he trusted, of every man; so as to show that it was necessary it should be adopted, if this House, and the Congress of the United States did not intend to give up everything to the President.

When, in the course of the last summer, the President sent in the treaty with Mexico, it was accompanied by a message from him from which he would read two paragraphs. They were as follows:

"The fifth article of the treaty provides that—'in order to designate the boundary line with due precision upon authoritative maps, and to establish upon the ground landmarks, which shall show the limits of both Republics, as described in the present article, the two Governments shall each appoint a commissioner and a surveyor, who, before the expiration of one year from the date of the exchange of ratifications of this treaty, shall meet at the port of San Diego, and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte.'

"*It will be necessary that provision should be made by law for the appointment of a commissioner and surveyor*, on the part of the United States, to act in conjunction with a commissioner and surveyor appointed by Mexico, in executing the stipulations of this article." [July 22, 1848.]

[NOTE.—The year stipulated in the treaty for the appointment of the commissioner and surveyor would not expire until the 30th of May, 1849.]

Mr. S. then proceeded to remark, that Congress,

then in session, incorporated in the civil list bill of that year the following item:

"For the expenses of running and marking the boundary line between the United States and Mexico, and paying the salaries of the officers of the commission, a sum not exceeding fifty thousand dollars."

But Congress neglected to establish the office of commissioner or surveyor. In the Constitution of the United States he found this general principle familiar to every one, but which, he thought, it would be well enough to refer to, as gentlemen seemed to have lost sight of late of this instrument:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, or in the heads of departments."

The President (Mr. S. continued) seemed to have had this clause of the Constitution in his mind when he called upon Congress to make provision for the establishment of these offices, so as to enable him to have the treaty carried into effect. He seemed to have lost sight of it when, as had been said, the President, together with the Senate, had appointed and confirmed a commissioner to run a boundary line of this sort, when the office had not been provided for by law. Not only had a commissioner been thus appointed, but his salary had been fixed by the President. The President did not at that time (as he had often done before, and had done since) seem to consider that *he* was the Government of the United States. His functions ceased when he had made the treaty. So the President believed; for, in specific terms, not now to be explained away, he asked Congress to pass a law establishing this office of commissioner. Had new lights dawned upon him? There was no escaping from his construction of these powers as then entertained by him.

Mr. VINTON rose to a question of order. This (he said) was a bill to pay Mexican instalments due under the treaty—the 12th article. It was a bill for the payment of that money, and nothing else—a bill in relation to our engagements with Mexico. His colleague [Mr. SCHENCK] had moved an amendment making it a condition of the payment of the money that we should pass a law concerning our own domestic affairs, and that the money should not be paid until then. This was a business of our own, with which Mexico, on this article of the treaty, had nothing to do.

Mr. SCHENCK. The title of the bill declares it to be a bill to carry into execution the treaty with Mexico.

Mr. ASHMUN said he had understood the gentleman from Ohio [Mr. VINTON] to make a point of order. He (Mr. A.) thought that the gentleman from Ohio [Mr. SCHENCK] might modify his motion so as to avoid all objections on the point of order, by saying that no part of the appropriation heretofore made for the purpose of running the boundary line should be expended, &c. The gentleman would thus avoid the point of order.

Mr. STRONG inquired whether this was debatable?

The CHAIRMAN said debate was not in order.

Mr. ASHMUN made a remark not heard by the reporter.

The CHAIRMAN, in reply to the point of order of Mr. VINTON, decided that the amendment of Mr. SCHENCK was not in order.

Mr. SCHENCK appealed from the decision.

The question on the appeal was then taken, and the decision of the Chair was *affirmed*.

So the amendment of Mr. SCHENCK was not received.

Mr. MOREHEAD offered the following amendment, to come in as an additional section to the bill. He thought it, he said, a matter of some consequence. The amendment was read:

Be it further enacted, That until provision for the temporary government of the Territories of California and New Mexico be made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing governments of the same shall be vested in such person and persons, and shall be exercised in such manner as the President of the United States shall direct, for maintaining and protecting the inhabitants of said territories in the free enjoyment of their liberty, property, and religion. And to carry into effect the provisions of this section, the sum of one hundred thousand dollars be, and the same is hereby, appropriated out of any money in the treasury not otherwise appropriated.

Mr. VINTON said he raised the same question of order and for the same reason as in the former case. The amendment had no relation to the 12th article of the treaty.

Mr. MOREHEAD. I understood this was a general appropriation bill.

Mr. SCHENCK. It was so the other day.

Mr. NICOLL inquired of the Chair if the amendment was in order?

The CHAIRMAN decided that it was not.

Mr. MOREHEAD appealed from the decision. This (he said) was, in his opinion, the only occasion that would be presented to do anything whatever in relation to the establishment of a government in California.

Mr. ROOT. I hope we shall not do it under the five minutes rule.

The question, Shall the decision of the Chair stand as the judgment of the committee? was then taken and decided in the affirmative.

So the decision of the Chair was *affirmed*.

The amendment, therefore, was not entertained.

Mr. ASHMUN said that this was a bill making an appropriation to carry into execution the 12th article of the treaty with Mexico. He would now offer an amendment to carry out another article of the same treaty. It was as follows:

SEC. 2. *Be it further enacted*, That the commissioner and surveyor to be appointed on the part of the United States, for the purpose of designating the boundary line and establishing on the ground landmarks to show the limits of the United States and the Mexican Republic, according to the fifth article of the treaty between them, concluded on the second day of February, one thousand eight hundred and forty-eight, shall be selected and appointed by the President of the United States from the corps of Topographical Engineers. And it shall be lawful for the President to cause other officers of said corps, at his discretion, to be employed to aid and assist in designating said line and establishing said landmarks. And the said commissioner may employ a secretary, who shall be allowed and paid a salary at the rate of two thousand dollars per annum: *Provided*, That said appointment shall terminate at the expiration of three years from the time said commissioner shall enter upon the performance of his duties.

SEC. 3. *And be it further enacted*, That the President of the United States is hereby authorized to make, out of any appropriation for said service, such per diem allowance to officers engaged on this duty as shall, as in his judgment, be necessary to cover extra expenses.

SEC. 4. *And be it further enacted*, That in order to expedite the survey of said boundary, it shall be lawful for the President to employ parties on different parts of the boundary at the same time, the surveys of which parties, being approved by the commissioners under the treaty, shall be received and treated as surveys of said boundary.

Mr. VINTON raised the point of order on that amendment also.

The CHAIRMAN decided the amendment to be out of order.

Mr. ASHMUN appealed from the decision.

Mr. ROOT asked for the reading of the amendment, and it was again read.

The question on the appeal was then taken, and decided in the affirmative.

So the decision of the Chair was affirmed, and the amendment was not received.

Mr. SCHENCK rose, he said, to propose a substitute for the whole bill. It was read as follows:

That the President of the United Stated be, and he is hereby, authorized and instructed to enter forthwith into negotiations with the Government of the Republic of Mexico for the surrender to said Republic of all the territories known as New Mexico and Upper California, or so much thereof as lies west of the Rio Grande, of any title thereto which was acquired by the United States under the fifth article of the treaty between the United States and Mexico, made and concluded at Guadalupe Hidalgo, on the 2d day of February, A. D. 1848, the President to require, as a consideration for such surrender on the part of the United States, a release by Mexico of all her claim or demand for the several instalments amounting to twelve millions of dollars, with the interest thereon, yet remaining to be paid to her, according to the agreement in the twelfth article in the said treaty, [and upon the further consideration that for the three millions of dollars already paid to Mexico, she shall release to the United States all claim to so much of the territory of Upper California as will embrace the bay of San Francisco and the branches and navigable waters thereof, to be of such extent as shall secure to the United States and her citizens the full ownership and use of said bay and its shores and waters.]

The CHAIRMAN ruled the amendment out of order.

Mr. SCHENCK appealed from the decision.

Mr. STARKWEATHER hoped, he said, that the committee would not sustain the decision. He hoped that the amendment might be brought into the House, so that the yeas and nays might be taken upon it.

After a brief conversation between Mr. TOOMBS and the CHAIRMAN, the question "Shall the decision of the Chair stand as the judgment of the committee?" was taken, and decided in the negative—ayes 59, noes 79.

So the decision of the Chair was reversed.

And the amendment being before the committee—

Mr. SCHENCK asked that it might be again read, so that it might be fully understood; and having been read—

Mr. S. said, that before the vote was taken on the substitute he had proposed, he wished to submit a few remarks. They must be necessarily very few, in the five minutes only that the rule allowed him for being heard. Gentlemen were very much mistaken if they supposed that what he had proposed was merely offered as clap-trap, or for effect, and not in perfect good faith. The proposal for a surrender of the countries wrested from Mexico might not meet with much favor now, but he presented it in all seriousness. He might stand alone; but he was willing to make his mark. His proposition involved a question of consistency, a vindication of principle, which he felt rose above any mere consideration of present policy or expediency.

He was sorry that he could not be permitted to develop his views upon this subject more at length. That he had desired and intended to do, and would have attempted it, if the debate under the hour rule in committee had been continued until next Wednesday, as he had supposed it was to be. He had been called out of the city when the bill came up last Friday, and did not know until this morning that there had been an order of the House to stop the debate to-day.

He had, from the beginning, been opposed to all schemes for the annexation of additional territory to these United States. He had resisted heretofore all attempts at aggrandizement by the extension of our boundaries. He did not mean to abandon that ground while there was a possibility of resistance; and if there could no longer be successful resistance, he would at least maintain his own consistency, by continuing to assert the principle of true national policy for which he had always contended.

The acquisition of these distant territories had brought with them, and were likely to entail upon our country, nothing but trouble. Without them we should have been saved from questions of difficulty, the end of which no man can see, the agitation and adjustment of which are even now threatening to destroy the harmony, or even the very existence of our Union. It is true that as a part of this acquisition there has come a region rich in mineral wealth—abounding in gold, which seems to have almost stolen away the senses of our people. But was the country any more a blessing to us on that account? He feared not. We had lessons of warning enough in the influences of mines of the precious metals upon the character and prosperity of other nations. He would repeat what he had said here on a former occasion. If it were not irreverent so to speak, he would say that, in the Providence of God, it seemed as if this abundance of gold in California had been permitted to be discovered, that it might work retributive justice upon us for having stolen the country, or wrested and forced it as conquest, under the forms of a treaty, from Mexico. He alluded to the effect this "gold fever" was having upon our people, exciting them to despise the slow and regular acquisitions of honest industry, and maddening them with a morbid desire for a sudden and irregular attainment of wealth. It threatened to convert us all into a nation of gamblers. No man now could tell how, in the present disturbed and unsettled condition of things, an efficient and proper government for that distant province was to be devised. No man could estimate the crimes and disorders likely to be committed there beyond the control of law, where cupidity and reckless passions must have sway, freed from any sufficient restraints of either civil or military rule.

He agreed in much that had been said by his colleague, [Mr. VINTON.] If we were forced to keep this country, we must at least pay for it. He wanted no breach of faith towards Mexico. We had enough to answer for without adding that. The only way now, perhaps, for getting rid of these territories was through further negotiation, and another treaty. It was therefore he had proposed his amendment. He wanted to invite Mexico to negotiations looking to that object.

The points involved and presented as the basis of a treaty were simple and obvious. There was the country lying between the Nueces and Rio Grande, comprising most of New Mexico and parts of other Mexican States, to which we had no just title, but which we had conquered in the war, and still held in possession under the provisions of the late treaty. There was also the bay of San Francisco, valuable to us for purposes of trade and navigation in the Pacific. These it was proposed to have released to us, and our title to them affirmed; but not without an equivalent in the shape of compensation already made. We had assumed to pay what was due from Mexico to our citizens for spoliations and indemnities, amounting to some five millions of dollars, more or less. That assumption would stand as part pay to her; and then the President had actually paid over to her three millions of the fifteen millions of dollars stipulated in his treaty. Now, let her release us from the remaining twelve millions and the interest, and let us restore to her the territories which we did not want, which were worse than useless to us, which to retain would work us, he did believe, and were even already threatening, untold evils and mischief.

The President and his party always denied that the war with Mexico was for conquest. By their own showing, we had obtained all that we fought for—boundary and indemnities; then why not escape, if we could, from the further consequences of this ill-starred purchase, this bad bargain?

But his colleague [Mr. VINTON] had said, that we could not restore the country to Mexico as it was before the war. It was occupied by adventurers from the United States. That was a matter for Mexico herself to consider. Let us at least make the offer upon fair terms; and let her for herself determine whether she will accept the country as it now is. He would say, however, that it was probably not in much different condition in that respect from what it would have been if we had never had a treaty for it; or even if there had been no war with Mexico at all. Before the war, California was full of adventurers from the United States, and elsewhere; and they were there in a state of insurrection against the constituted authorities of the country, mustered under what they called the "Bear Flag." These "gold diggings" would have attracted more foreigners, whether the title had remained nominally in Mexico, or been transferred nominally to the United States. We could but make the offer. We could at least try to seek this door of escape from the consequences of an extension of territory, likely to be fraught with mischief and dangers in a thousand forms, and disturbing the peace, and endangering the integrity of the nation.

Mr. ROOT moved to amend the amendment by striking out all that part which provided for retaining the bay of San Francisco, [inserted above in brackets.]

He said he should so vote in committee as to bring this question before the House. He was particularly anxious that gentlemen should have the opportunity to define their positions. Inasmuch as they did not keep a record of their proceedings in committee, it was necessary to bring this question into the House, where a record was kept, so that gentlemen could make their remarks.

The CHAIRMAN interposed, and requested the gentleman to confine his remarks to the explanation of his amendment. The Chair did not see the relevancy of the gentleman's remarks.

Mr. ROOT said they might be relevant, notwithstanding; and if the Chair would allow him to proceed a moment, it might so appear.

He did not believe (he continued) that we should gain anything, either in national character or in national faith, by mincing this matter. It was all right or all wrong. If we wished to keep clear of these Territories, let us not have anything to do with them; let us not attempt to retain the bay of San Francisco, to be the subject of difficulty hereafter. The question was, not whether we should have these Territories; the question was, whether we should pay for them after we got them. We could not restore them to Mexico. As the chairman of the Committee of Ways and Means had said, we could not drive off the American citizens who had gone there. It would be an easier matter to conquer all the rest of Mexico than to drive out of these Territories our citizens who were now there, and who were going there.

Mr. ROOT withdrew his amendment, to give Mr. GENTRY the opportunity to make some remarks.

Mr. GENTRY renewed the amendment of the gentleman from Ohio. He said he did it for the purpose of stating, that with all respect for the gentlemen who moved this amendment, [Mr. SCHENCK,] he felt himself constrained to say that he considered it the most absurd and preposterous proposition that could possibly have been presented to the consideration of this committee. He appreciated all the difficulties to which the gentleman referred, which had been brought upon this country in consequence of the war with Mexico, and of the treaty which terminated the war. Great as those difficulties might be, though they might be of a character which threatened the very existence of this Republic, it was not in this way that they were to be evaded or overcome; nor yet by refusing to make the appropriations which we had agreed to make in the treaty of peace which we had concluded with Mexico. What? Retrocede these Territories to Mexico! Did Mexico want them? If she did want them, and we were to retrocede them, she could never regain the ascendency within these Territories. Would we cede to Mexico those citizens of the United States who, under the implied guarantees of the Government, had gone there with all the assurances of protection to life, liberty, and property, which these implied guarantees gave? Would we leave them to the tender mercies of the laws of Mexico? Would we hand them over to endless war with Mexico for their independence? for they never would submit to pass under the jurisdiction of the Mexican Government. Preposterous and absurd in the extreme, and beyond description, was the proposition made by the gentleman from Ohio, [Mr. SCHENCK.] We were to grapple these difficulties, and overcome them. He would not thus escape or evade them.

Furthermore, the proposition of the gentleman from Ohio was the very wise and proper one, if we indeed intended to adopt the policy contemplated by the gentleman. It was proposed to withhold the payment of the moneys which we had agreed to pay in consideration of the property; and yet the gentleman modestly proposed that we should retain the only portion of that territory which was worth a cent—the bay of San Francisco, and all the tributary waters thereof—all that portion which contained the glittering gold to which the gentleman referred. This would be national infamy, national dishonor, national folly, such as had no parallel in the history of nations. It was an impossibility. It was an absurdity.

The question was taken, and the amendment of Mr. ROOT to the amendment was adopted.

Mr. BROWN, of Pennsylvania, offered the following amendment:

Provided, That in addition to the sums herein mentioned, the Government of Mexico shall pay, or provide for the payment of, one hundred millions of dollars to the United States, as a just compensation for the expenses of the late war.

Mr. BROWN said he did not suppose there was any serious expectation entertained by any one that Mexico would take back California, with the people who were now there, and going there, if we were to offer it to her for nothing, with the intention of governing it herself: instead of governing California, it would soon govern her. But, he said, there were around these Halls and in Washington, a number of speculating gentlemen, all anxious of making large fortunes out of the Government of the United States, by constructing great railroads, or selling large tracts of country to the United States; and it may be some of these have been whispering in the ear of the gentleman from Ohio that a splendid fortune might be made out of this retransfer of California and New Mexico to Mexico. One of those very gentlemen who deal in large schemes mentioned to him but a day or two since, in speaking of the very matter embraced in the amendment of the gentleman from Ohio, that he would take California alone from our Government, and pay, or secure the payment of, all the expenses of the late war—all we had paid and were to pay Mexico, and a handsome bonus besides.

Its *gold* was very tempting, no doubt, to all speculators and British bondholders; and if Mexico were to consent to take it back, it would only be to sell it again to some of them. Such being the case, he (Mr. B.) thought we ought not to let her have the opportunity to make so profitable a speculation out of our discoveries, unless she should pay us all that we have paid her, and expended upon the war—a war that all the people of the United States, and all the world beside, did now, or soon would, acknowledge to be just and right. Or it might be that those British bondholders—who it was said had a mortgage on California—were desirous of getting it into their hands, as the surest way of getting back the money due them by Mexico.

For himself, he said, he claimed the acquisition of too much value to the people of the United States to part with it for any consideration, and could not believe any such proposition would meet with favor anywhere, unless it would be by those speculators he had alluded to, but who, he hoped, would find few aiders and abettors in Congress.

Mr. BOTTS moved the following amendment to the amendment of Mr. SCHENCK:

Provided, however, That if such negotiation should not succeed, then the sum of three millions seven hundred and twenty thousand dollars is hereby appropriated out of any money in the treasury not otherwise appropriated, for the purpose of carrying into execution (in part) of the twelfth article of the treaty between the United States and Mexico, made and concluded at Guadalupe Hidalgo on the 2d day of February, in the year of our Lord eighteen hundred and forty-eight, and for payment of the instalment and interest which will fall due under said article on the thirtieth day of May, in the year of our Lord eighteen hundred and fifty, the sum of three millions five hundred and forty thousand dollars.

Mr. McLANE. That is out of order.

Mr. BOTTS. Why is it out of order? Is it out of order to pay the amount stipulated for by the treaty?

Mr. McLANE raised the point that the amendment was out of order.

Mr. BOTTS called upon the gentleman to reduce his point of order to writing.

Mr. McLANE. The point of order is upon the amendment, and that is in writing.

The CHAIRMAN ruled the amendment in order, under the decision of the committee, although, he said, his own opinion differed.

Mr. BOTTS said he had not intended to submit any remarks in explanation of his amendment. He would simply state to the House, that the object and the effect of the amendment was, to provide for the appropriation contained in the original bill, in the event of the negotiation not succeeding; and he only offered it to provide against that contingency.

Mr. SCHENCK said he would accept the amendment as a modification of his own amendment.

Mr. STUART, of Michigan, raised the point of order against the proposition of Mr. BOTTS, that it proposed to reinstate the very subject-matter which, if it were adopted, would be voted out, and for which other matter would be substituted.

The CHAIRMAN overruled the point of order.

Mr. SCHENCK repeated that he would modify his amendment by accepting the proposition of Mr. BOTTS.

Mr. JONES, of Tennessee, inquired, if a vote had not been taken upon the amendment to the amendment, and if it was now in the power of the gentleman from Ohio to modify his amendment?

Mr. SCHENCK inquired if it would be in order for him, after this modification of his amendment, to make a few remarks upon the words "preposterous and absurd," and other terms found in the vocabulary which had been employed by the gentleman from Tennessee?

The CHAIRMAN replied in the negative, and announced the question to be upon the amendment of Mr. SCHENCK, as modified.

Mr. COBB, of Georgia, raised the point of order, that after a vote had been taken upon the amendment to the amendment, and the committee had already adopted a modification of the amendment of the gentleman from Ohio, it was not now in the gentleman's power to modify it.

Mr. BOTTS called the gentleman from Georgia to order, and wanted to know if any gentleman on that side of the House took an appeal from the decision of the Chair?

Mr. COBB said he wanted to know what the decision of the Chair was. He had understood the Chair to say that it would be in order for the gentleman from Ohio to modify his proposition, in the event that no vote had been taken; and he had risen and refreshed the memory of the Chair by stating that a vote had been taken upon the amendment of the gentleman's colleague, and after that,

that no modification by the gentleman was in order.

The CHAIRMAN said he had been of the opinion that no vote had been taken.

Mr. SCHENCK said there had been no vote taken upon his amendment.

The CHAIRMAN. The question will be on the amendment of the gentleman from Virginia to the amendment.

Some conversation arose (amid considerable confusion) between Mr. SCHENCK and the CHAIRMAN, the former gentleman contending for the right to modify his amendment.

The CHAIRMAN decided that it was not competent for the gentleman from Ohio, after a vote had been taken, to accept the amendment of the gentleman from Virginia as a modification of his amendment.

Mr. STUART renewed his point of order, and called the attention of the Chairman to the fact that the gentleman from Ohio offered his amendment as a substitute to the whole bill, and the amendment of the gentleman from Virginia to the substitute proposed to reincorporate the old bill. This, he held, was not in order.

The CHAIRMAN overruled the point of order, deciding that it now came too late, as it had already been overruled by the Chair, and the decision acquiesced in by the committee.

The question was then taken on the amendment of Mr. BOTTS to the amendment, and it was rejected.

The question then recurring on the original amendment of Mr. SCHENCK—

Mr. BRODHEAD called for tellers, who were ordered, viz: Mr. HOLMES, of New York, and Mr. BIRDSALL, and upon the second count, (a disagreement having arisen upon the first,) reported ayes 85, noes 81.

So the substitute of Mr. SCHENCK was adopted.

Mr. COBB, of Georgia, said, that as no further amendment would now, under the rule, be in order, he would move that the committee rise and report the bill as amended to the House.

The motion having been agreed to, the committee rose and reported the bill as amended to the House.

Mr. VINTON demanded the previous question.

There was a second, and the main question (being first on the substitute amendment reported from the Committee of the Whole on the state of the Union) was ordered to be now taken.

Mr. THOMPSON, of Pennsylvania, asked the yeas and nays thereon; which were ordered.

The amendment having, on the call of many members, been again read—

The question was taken and decided in the negative—yeas 11, nays 194, as follows:

YEAS—Messrs. Ashmun, Cranston, Crowell, Fisher, Giddings, Henry, Horace Mann, Palfrey, Schenck, Stephens, and Toombs—11.

NAYS—Messrs. Adams, Atkinson, Barringer, Barrow, Bayly, Beale, Bedinger, Bingham, Birdsall, Blackmar, Blanchard, Bocock, Botts, Bowdon, Bowlin, Boyd, Boyden, Brady, Bridges, Brodhead, Burt, W. G. Brown, Charles Brown, Albert G. Brown, Cabell, Canby, Cathcart, Chapman, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Collamer, Collins, Conger, Crisfield, Crozier, Cummins, Daniel, Darling, Dickey, Dixon, Duer, Garnett Duncan, Dunn, Eckert, Edsall, Edwards, Embree, Alexander Evans, Nathan Evans, Faran, Farrelly, Featherston, Ficklin, Flournoy, Freedley, French, Fries, Fulton, Gaines, Gayle, Gentry, Goggin, Gott, Greeley, Gregory, Grinnell, Hale, Willard P. Hall, Nathan K. Hall, Hammons, James G. Hampton, Moses Hampton, Haralson, Harmanson, Harris, Henley, Hill, Hilliard, Elias B. Holmes, George S. Houston, John W. Houston, Hubbard, Inge, Joseph R. Ingersoll, Iverson, Jenkins, James H. Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Kellogg, Kennon, Thomas B. King, Daniel P. King, Lahm, La Sère, Sidney Lawrence, Leffler, Ligon, Lincoln, Lord, Lumpkin, Maclay, McClelland, McClernand, McDowell, McIlvaine, McKay, McLane, McQueen, Job Mann, Marsh, Marvin, Meade, Miller, Morehead, Morris, Morse, Mullin, Murphy, Nelson, Nes, Newell, Nicoll, Outlaw, Peaslee, Peck, Pendleton, Petrie, Petit, Peyton, Phelps, Pilsbury, Pollock, Preston, Putnam, Rhett, Richardson, Richey, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Roman, Root, Rumsey, St. John, Sawyer, Shepperd, Silvester, Simpson, Slingerland, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Stanton, Starkweather, Andrew Stewart, Charles E. Stuart, Strohm, Strong, Tallmadge, Taylor, Thomas, James Thompson, Jacob Thompson, Richard W. Thompson, John B. Thompson, Robert A. Thompson, William Thompson, Thurston, Tompkins, Turner, Van Dyke, Venable, Vinton, Wallace, Warren, Wentworth, White, Wick, Wiley, Williams, Wilmot, and Woodward—194.

So the amendment was rejected.

Mr. TURNER moved a reconsideraion of the vote by which the amendment had been rejected.

He merely desired, he said, to remark that the Whigs had charged the Democratic party with having stolen these territories of New Mexico and California. There was a rule of common law that the receivers of stolen goods were quite as guilty as the thieves; and he hoped henceforward that the Whigs, as they had refused to give back or even negotiate for the return of that which they had declared to be stolen property, would for the future time consider themselves estopped—that their mouths would be closed.

He moved to lay on the table the motion to reconsider.

And it was ordered accordingly.

The question then recurred on the third reading of the bill.

And the bill having been read a third time, and the question being on its passage—

Mr. VINTON moved the previous question, which was seconded.

And the main question was ordered to be now taken.

Mr. THOMPSON, of Pennsylvania, asked the yeas and nays on the main question; which were ordered, and being taken, resulted—yeas 187, nays 8, as follows:

YEAS—Messrs. Adams, Atkinson, Barringer, Barrow, Bayly, Beale, Bedinger, Birdsall, Blackmar, Blanchard, Bocock, Botts, Bowdon, Bowlin, Boyd, Boyden, Brady, Bridges, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Burt, Cabell, Cathcart, Chapman, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Collamer, Collins, Conger, Crisfield, Crozier, Cummins, Daniel, Darling, Dickey, Dixon, Duer, Garnett Duncan, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Featherston, Ficklin, Fisher, Flournoy, Freedley, French, Fries, Fulton, Gaines, Gayle, Gentry, Goggin, Greeley, Gregory, Grinnell, Hale, Willard P. Hall, Nathan K. Hall, Hammons, James G. Hampton, Moses Hampton, Haralson, Harmanson, Harris, Haskell, Henley, Hill, Hilliard, Elias B. Holmes, George S. Houston, John W. Houston, Hubbard, Inge, Joseph R. Ingersoll, Iverson, Jenkins, James H. Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Kellogg, Kennon, Thomas Butler King, Daniel P. King, Lahm, La Sère, Sidney Lawrence, Leffler, Ligon, Lincoln, Lord, Lumpkin, Maclay, McClelland, McDowell, McIlvaine, McKay, McLane, McQueen, Job Mann, Marsh, Marvin, Meade, Miller, Morehead, Morris, Morse, Mullin, Murphy, Nelson, Nes, Newell, Nicoll, Outlaw, Peaslee, Peck, Pendleton, Petrie, Petit, Peyton, Phelps, Pilsbury, Pollock, Preston, Reynolds, Rhett, Richardson, Richey, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Roman, Root, Rumsey, St. John, Sawyer, Shepperd, Silvester, Simpson, Slingerland, Smart, Caleb B. Smith, Robt. Smith, Truman Smith, Stanton, Starkweather, Andrew Stewart, Charles E. Stuart, Strohm, Strong, Tallmadge, Taylor, Thibodeaux, Thomas, James Thompson, Jacob Thompson, John B. Thompson, Robert A. Thompson, William Thompson, Thurston, Tompkins, Turner, Van Dyke, Venable, Vinton, Wallace, Warren, Wentworth, Wick, Wiley, Williams, and Wilmot—187.

NAYS—Messrs. Ashmun, Cranston, Crowell, Giddings, Henry, Schenck, Stephens, and Toombs—8.

So the bill was passed.

Mr. TURNER moved a reconsideration of the vote, and that that motion be laid on the table.

And it was ordered accordingly.

ILLINOIS RESOLUTIONS.

Mr. LINCOLN, on leave given, presented certain joint resolutions of the Legislature of the State of Illinois, asking a grant of lands to aid in the construction of certain railroads;

Also, in favor of a uniform rate of letter postage of five cents;

Also, in relation to the erection of a marine hospital at Rock Island, Illinois;

Also, in relation to improvements of western rivers and lakes;

Also, in relation to the preëmption on lands granted for internal improvement purposes:

Which several resolutions were laid upon the table and ordered to be printed.

FEES OF LETTER CARRIERS.

Mr. GOGGIN asked the unanimous consent of the House to offer a resolution calling on the Postmaster General for certain information, to which he hoped there would be no objection. The resolution was read, as follows:

Resolved, That the Postmaster General be requested to communicate to this House the reasons for reducing the fees of letter carriers in the cities of the United States, if the same has been done; where such reduction was made; the orders issued thereupon; how long the former rates had been paid, and the rates now paid.

Mr. KAUFMAN inquired of the Speaker, whether, by the rule, the resolution must not lie over one day?

The SPEAKER said the resolution could not be received, if objected to.

On motion of Mr. KAUFMAN, the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. GREELEY: The petition of John E. Mills and other citizens of Blair county, Pennsylvania, for the freedom of the public lands. Also, the petition of Jolly Longsleve and 88 other citizens of Bucks county, Pennsylvania, for all constitutional action by Congress looking to the ultimate abolition of slavery. Also, the petition of Lorenzo Wylie and other citizens of Covington, Wyoming county, New York, for free grants of public lands to actual settlers. Also, the remonstrance of Richard Harback and other citizens of New York city, against the employment of steam-power and machinery in the bonded warehouses of the United States. Also, the petition of Seth Cole and other citizens of Alton, Wayne county, New York, for the sale of public lands in limited quantities only to actual settlers for the bare cost of survey and location.

By Mr. PALFREY: The petition of Orrel W. Owen, and forty-one others, praying Congress to prevent the extension of slavery, to withdraw the protection of Government from the American slave trade, and to suppress slavery wherever Congress has competent jurisdiction.

By Mr. MANN, of Pennsylvania: The petition of Joseph Crisman, David Fluck, and thirty-one others, citizens of Bedford and Huntingdon counties, Pennsylvania, praying for the establisment of a post route from Hopewell post office, Bedford county, via Broadtop, Trough Creek Valley, and Cassville, to Mill Creek post office, in Huntingdon county, a distance of thirty-three miles.

By Mr. MURPHY: The memorial of the Board of Directors of the Brooklyn Institute, praying that a sufficient number of the scientific reports of the late United States Exploring Expedition be published to supply one copy to each of our public collegiate, scientific, and literary associations and libraries, and to meet the wants of men of science.

By Mr. STARKWEATHER: The petition of Elizabeth Henrietta Fenno.

By Mr. WENTWORTH: The petition of citizens of Thornton, Cook county, Illinois, for a donation of land for a railroad to connect the Mississippi river with the lakes.

By Mr. KELLOGG: The petition of P. P. Atwell and 160 others, citizens of Washington county, New York, praying for a reduction of postage, and for the entire abolition of the franking privilege, &c.

By Mr. BARRINGER: The petition of the chiefs and warriors of the Seneca tribe of Indians residing in western New York, praying an examination and allowance of their claim against the General Government, contained and discussed in the report of the Secretary of War to the Senate, dated January 18, 1848, 30th Congress, 1st session, Senate document No. 31.

By Mr. THOMPSON, of Iowa: The joint resolution of the General Assembly of the State of Iowa, for a mail route from Keokuk, in Lee county, via Sampson's and Croton, to Farmington, in Van Buren county.

By Mr. MILLER: The petition of sundry citizens of Richland county, Ohio, praying Congress to pass a law preventing the transportation of the mail and the delivery of letters, &c., on the first day of the week.

By Mr. HALL, of New York: The petition of several hundred masters and owners of steamboats and vessels navigating the great lakes, and others, praying for the passage of a law regulating the carrying of freights in the steamboats and vessels engaged in such navigation. Also, two petitions of masters and owners of steamboats and vessels, and others, praying for an appropriation for the erection of a marine hospital at Buffalo, New York.

By Mr. BOCOCK: The petition of citizens of Fluvanna county, Virginia, in favor of cheap postage.

By Mr. RICHARDSON: The petition of citizens of Chambersburg, Pike county, Illinois, praying Congress to pass a law to afford a military escort for armament from Fort Leavenworth, Mo., near to some point in California, and from California to Fort Leavenworth. Also, a petition of the citizens of Schuyler county, upon the same subject. Also, the petition of sundry citizens of Fulton county, Illinois, praying for a donation of land by Congress to aid in the construction of a railroad from the Mississippi river to Chicago. Also, the petition of sundry citizens of Schuyler county, Illinois, praying the establishment of a post route from Fredericksville, in Schuyler county, to Astoria, in Fulton county.

IN SENATE.

TUESDAY, *February* 20, 1849.

Mr. BENTON presented the memorial of Chas. G. Page, representing that he has discovered a mode of applying electro-magnetic power to the purposes of navigation and locomotion, as a substitute for steam, and asking that an examination may be made into the merits of his discovery by a special committee of the Senate.

Mr. B. said the memorial was brief and important, and therefore he would ask that it be read.

The Secretary read it accordingly, as follows:

To the honorable the Senate in Congress assembled:

This memorial humbly represents that your petitioner has discovered a mode of applying electro-magnetic power for the purposes of navigation and locomotion, and as a general substitute for the dangerous agency of steam. Your petitioner has been engaged in the investigation of this subject for more than twelve years, at a great expense and sacrifice, and is now able to demonstrate the availability of the electro-magnetic power as a mechanical agent, upon a scale of magnitude commensurate with his limited means. In view of the immense saving of human life and property to be derived from the application of this power to the exclusion of steam, your petitioner is deeply impressed with the importance of its *immediate* introduction, and respectfully invites the attention of your honorable body to this his invention, fraught with so much interest to the Government and the people at large. A few years since, upon the instance of a

limited experimental trial of telegraphing by electro-magnetism, made within the walls of the Capitol, provision was made by authority of Congress to test the merits of that invention upon an extensive scale. The stupendous achievements of the telegraph at the present day are but the first fruits of that provision.

Your petitioner respectfully asks of your honorable body the appointment of a special committee to examine his invention, and inquire into the expediency of legislation upon this subject. Your petitioner will, at his own expense, exhibit to said committee, and such scientific advisers as they may elect, the operation and capabilities of his electro-magnetic engines, abiding in their wisdom and judgment as to the propriety of further action for the development of this important invention.

Respectfully submitted. CHARLES G. PAGE.

Mr. BENTON. To save time, sir, because the experiments are in course of exhibition in this city by Dr. Page, the appointment of a select committee for the purpose of examining them is desirable, that we may have their opinion; I will therefore now ask for the appointment of such committee. And I would state, at the same time, that for three years, or nearly three years, I have myself had some knowledge of Dr. Page's experiments in the application of this great power to the useful purposes of manufacturing, and am seriously inclined to consider them of importance. I have seen others, too, who have science, which I have not, who are much impressed with them; and this morning I read a paragraph, taken from a London paper, from which it appears that sundry experiments are now going on to show that the inventor is able to apply a five-horse power to purposes of navigation or other useful purposes. I therefore ask, that as our time is running short, and as these experiments are now in the course of exhibition here, we dispense with further forms, and that we appoint a select committee of seven persons for their examination. I send my resolution to the Chair.

The resolution was then read, as follows:

Resolved, That a select committee of seven be appointed to examine the invention of Professor Page, of Washington, in relation to a mode of applying electro-magnetic power to the purposes of navigation and locomotion.

Mr. PHELPS. Mr. President, I do not know what object that resolution contemplates, nor do I know what action of the Senate is contemplated or desired. I should be very glad to be informed as to the object of this resolution; and the reason of my making the suggestion is, that, unless I am greatly mistaken, this memorialist is not entitled to the credit of having originated this invention. Some years since a very humble individual of the State which I have the honor to represent made this discovery, and various experiments were tried in the application of this power to the movements of machinery. If any action of the Senate is contemplated, it might be important to know what pretensions others have to the originality of this discovery. I have some doubts, and should be very glad to be informed on the subject. I desire an explanation.

Mr. BENTON. I expect that it is the same with this invention as with all others—new claimants to its discovery will arise and affirm that they are its original authors. I believe, sir, that the application of steam to the propulsion of boats and vessels has been thought practicable ever since water was boiled; but it was not until after an immense number of experiments had been made for the purpose of thus applying it, that the project succeeded. Attempts have been made to apply this magnetic power in the same way by various individuals in the United States, and perhaps they have been made successful to the propulsion of a few ounces of matter; but I apprehend that Professor Page is far in advance in his experiments of any others of a similar character that have been attempted. Gentlemen who may have an opportunity of attending on the lectures he is now engaged in delivering, cannot but see that he is far in advance of anything that has yet been done upon the subject. All I ask is, that gentlemen will go and see for themselves. I hope that such will be the course of the Senator from Vermont.

Mr. PHELPS. My purpose, when I before addressed the Senate, was not to throw any obstacle in the way of this resolution, but simply to suggest that we had better not have any action upon the subject until we had found out who was the original discoverer of this power. The idea of applying this agent to the movement of machinery is not original. How far Dr. Page may have transcended others in his experiments I am unable to say. I have no objection to the resolution of the honorable Senator from Missouri, and only made the remarks I did with the view of intimating to the Senate that there might be other claimants to the originality of this invention.

Mr. BENTON. I will barely state, for the honor of Dr. Page, from a statement made to me by a friend, that in his last lecture on this subject—at which I was unable to be present—he adverted to the experiments made upon the subject by the gentleman alluded to by the Senator from Vermont, and gave him full credit for all the information he had elucidated with regard to it.

The resolution was then considered, by unanimous consent, and adopted.

Mr. BENTON moved that the committee be appointed by the Chair.

The VICE PRESIDENT named the committee, as follows: Messrs. BENTON, PHELPS, WESTCOTT, BERRIEN, DIX, UNDERWOOD, and KING.

MEMORIALS AND PETITIONS.

Mr. HALE presented a petition from a number of citizens of Pennsylvania, praying that slavery may not be extended to the new territories acquired by the United States, and for the abolition of slavery in the District of Columbia.

Also, a petition from Nathan Evans and two hundred and forty-one citizens of Pennsylvania, praying that measures may be taken to effect a change in the Constitution in relation to slavery.

Also, a petition from the Pennsylvania Society for promoting the Abolition of Slavery and the Slave Trade in the District of Columbia, praying that slavery may be excluded from the territories of the United States.

Also, a petition from citizens of Pennsylvania, asking the abolition of slavery throughout the United States.

Also, the proceedings of the Kennett Monthly Meeting of the Society of Friends of Chester county, Pennsylvania, praying that slavery may be abolished wherever Congress has power to do so; but, at all events, to prevent its extension.

Also, a petition of citizens of Pennsylvania, praying the abolition of slavery in the District of Columbia, and all other places where Congress has exclusive jurisdiction, and that no State may hereafter be admitted into the Union whose constitution tolerates slavery.

The question of reception of these several petitions was raised, and then laid on the table.

Also, the petition of E. J. Lewis, and fifteen citizens of Pennsylvania, praying that a quarter section of the public lands may be given to every actual settler, free of charge; which was referred to the Committee on Public Lands.

Also, a petition from citizens of Pennsylvania, praying for the reduction of postage and the abolition of the franking privilege; was referred to the Committee on the Post Office and Post Roads.

Also, several other petitions, praying for the abolition of slavery; on which the question of reception was raised, and laid on the table.

Mr. CAMERON presented a memorial from a number of merchants of the city of Philadelphia, praying for an appropriation for the construction of an ice harbor at the city of Delaware; which was referred to the Committee on Commerce.

Mr. C. also presented several petitions from the counties of Lehigh, Luzerne, Lancaster, and Philadelphia city and county, asking for a modification of the revenue laws; which were referred to the Committee on Finance.

Mr. KING presented a memorial from Dennis Keenan, Jr., praying for a grant of land for the construction of a railroad and magnetic telegraph from Point Isabel to the Pacific Ocean; which was referred to the Committee on Military Affairs.

Mr. BALDWIN presented a petition from Oliver Tucker, a revolutionary soldier, asking to be allowed a pension; which was referred to the Committee on Pensions.

Mr. BREESE presented two petitions from citizens of Illinois, asking a grant of land to that State to aid in the construction of a railroad from the upper and lower Mississippi to Chicago; which were laid on the table.

Mr. FELCH presented a petition from citizens of Detroit, praying for a reduction of the rates of postage, the abolition of the franking privilege, &c.; which was laid on the table.

MEXICAN TREATY.

A bill from the House to provide for carrying into execution a part of the twelfth article of the treaty with Mexico, concluded at Guadalupe Hidalgo, was read a first and second time.

Mr. ATHERTON. Mr. President, I hope that bill will be now acted upon with the general consent of the Senate. It merely provides for carrying into effect the provisions of the treaty with Mexico. It provides for the payment of the instalments due to Mexico for two years, there having been no such provision made in the appropriation bill of the last session. It is important that this bill should be now passed. It is not a bill of details, and I hope the Senate will act upon it at once.

The bill was read a third time, and passed.

WIDOWS AND ORPHANS.

A bill to require the heads of bureaus and other officers at the seat of Government, in examining and deciding upon claims arising out of the late war with Mexico, to give preference and priority in such examination to those belonging to and preferred by widows and orphans, or their agents, was read a first and second time.

Mr. RUSK moved that the bill be now considered; and the motion being agreed to—

The bill was considered; and on the question of its third reading, objections being made, it lies over.

GOLD COINS.

A bill from the House to authorize the coining of twenty-dollar and one-dollar gold pieces at the Mint of the United States and its branches, was read a first and second time, and referred to the Committee on Finance.

REPORTS FROM COMMITTEES.

Mr. MASON, from the Committee on Claims, reported a bill for the relief of Andrew Y. P. Garnett; which was read, and ordered to a second reading.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported the joint resolution from the House in relation to evidence in applications for pensions by widows of deceased soldiers, under the act of February 2, 1848, with amendments.

Mr. JOHNSON moved that the Senate now consider this bill; but objection was made.

Mr. BREESE, from the Committee on Public Lands, reported, without amendment, a bill to extend the provisions of an act, approved 3d March, 1847, for carrying into effect the existing compacts with the States of Alabama and Mississippi with regard to the five per cent. fund and school reservations.

Mr. KING moved that this bill be now considered; which was agreed to.

The bill was then read a third time and passed.

Mr. BADGER, from the Committee on Naval Affairs, reported, without amendment—

House bill for the relief of Lot Davis; and

House bill for the relief of William Gore.

Mr. ATHERTON, from the Committee on Finance, reported the bill making appropriations for certain fortifications of the United States, for the year ending June 30, 1850, without amendment.

Mr. A. also, from the same committee, reported the bill making appropriations for the naval service of the United States for the year ending June 30, 1850, with amendments.

Mr. YULEE, from the Committee on Naval Affairs, reported a joint resolution from the House for the relief of pursers in the navy, as to expenditures made in pursuance of orders during the war with Mexico, without amendment.

Mr. Y. also, from the same committee, reported the bill from the House for the relief of William Butler, without amendment, with a recommendation that it do not pass.

Mr. Y. also, from the same committee, reported House bill for the relief of Samuel Graves, without amendment.

On motion of Mr. YULEE, the Committee on Naval Affairs were discharged from the further consideration of the bill for the relief of the legal owners of the ship James Mitchell; and it was referred to the Committee on Claims.

On motion of Mr. YULEE, the Committee on Naval Affairs were discharged from the further consideration of the petition of J. B. More & Co., and from the petition of George G. West, and from the petition of Charles S. Ritchie.

Mr. FITZPATRICK, from the Committee on Claims, reported the bill for the relief of James Morehead, without amendment.

THE CONGRESSIONAL GLOBE.

PRINTED AND PUBLISHED AT THE CITY OF WASHINGTON, BY BLAIR & RIVES.

30TH CONGRESS, 2D SESSION. THURSDAY, FEBRUARY 22, 1849. NEW SERIES.....No. 36.

Mr. FELCH, from the Committee on Pensions, reported a bill granting a pension to Sarah Crandall; which was read, and ordered to a second reading.

Mr. MILLER, from the Committee on Naval Affairs, reported, without amendment, House bill for the relief of John J. Young.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, reported a bill for the relief of Alexander Montgomery, Assistant Quartermaster General of the United States; which was read, and ordered to a second reading.

BILL ON LEAVE.

Mr. DIX, pursuant to notice, asked and obtained leave to introduce a bill to continue the light on Sands Point, Long Island; which was read a first and second time, and referred to the Committee on Commerce.

WM. GREER, JR.

On motion of Mr. DAYTON, the prior orders were postponed, and the Senate proceeded to consider a bill authorizing a patent to be issued to William Greer, Jr.; which was considered, and passed.

Mr. HALE then moved to reconsider this vote; which motion lies over.

SMITHSONIAN INSTITUTION.

Mr. MASON presented the annual report of the Regents of the Smithsonian Institution; and moved that one thousand copies be printed for the use of the Senate; which was agreed to.

WASHINGTON AND ALEXANDRIA STEAMBOAT COMPANY.

On motion of Mr. BENTON, the Senate proceeded to consider the amendment of the House of Representatives to the bill, and the amendment was concurred in.

MOTION TO RECONSIDER.

Mr. ALLEN rose to move the Senate to take up the motion to reconsider the vote by which the bill, which on his motion was returned from the House of Representatives to grant a right of way across the public lands, and to dispose of said lands in and for the several States, in the construction of railroads and canals, had passed the Senate.

The motion not being in order, was not received.

PRIVATE BILLS.

Mr. ATHERTON submitted the following resolution; which lies over for consideration:

Resolved, That the resolution setting apart Thursday of each week for the consideration of private bills be, and it is hereby, rescinded.

THE NEW TERRITORIES.

The Senate, as in Commitee of the Whole, resumed the consideration of the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1850; the question pending being upon the amendment submitted yesterday by Mr. WALKER, in the following words:

SEC. —. *And be it further enacted*, That all and singular the several acts of Congress respecting the registering, recording, enrolling, or licensing ships or vessels, and the entry and clearance thereof, and the foreign and coasting trade and fisheries, and all the acts respecting the imposing and collecting of duties on imports, and all acts respecting trade and intercourse with the Indian tribes, and all acts respecting the public lands, of a public and general character, and the provisions whereof can be made to apply to the territory west of the Rio del Norte, acquired from Mexico by the treaty of the second day of February, eighteen hundred and forty-eight, be, and the same are hereby, extended over and to, and made in full force and efficacy in all said territory; and the President of the United States may prescribe and adopt such rules, regulations, and measures, consistent with and in conformity to those laws, for the enforcement of the same, as may be necessary in said territory; and may prescribe and establish, temporarily, such divisions, districts, ports, offices, and all arrangements proper to enable said laws to be executed; and appoint and commission such officers as may be necessary to administer such laws in said territories; said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States, or its Territories, for like services; and to enable the same to be done, the sum of one hundred thousand dollars be appropriated, out of any money in the treasury not otherwise appropriated.

Mr. WALKER, being entitled to the floor, said: To the amendment which I offered yesterday, I shall now propose some modifications by the consent of the Senate. Before doing so, I wish to remark, that after consultation with many friends, and particularly with the Senator from Mississippi, [Mr. FOOTE,] who had given notice of his intention to offer a somewhat similar amendment, I have come to the conclusion, so far as the amendment is concerned, to extend its provisions, and to extend them in such a manner as I think will be beneficial to the objects which are sought to be obtained. The amendment, sir, as I first introduced it, it will be perceived, proposed merely to extend certain laws, which related directly or indirectly ~~to~~ the revenue system of the United States, to the territories acquired by treaty with Mexico. From the accounts, sir, which we have from that interesting section of our country, there is a great degree of disorder and distraction prevailing among the people. If, then, the members of the Congress of the United States can, upon any subject, look with an eye to their duties as statesmen, it occurs to me that they will seriously consider the propriety of endeavoring, as far as in their power lies, to amend that condition of things.

Mr. ATHERTON. If the Senator from Wisconsin will pardon me one moment—I understand the Senator to modify the amendment which he submitted. Has that modification been presented?

Mr. WALKER. I am about to present it.

Mr. ATHERTON. If the modification is similar to it, I would raise the question of order, whether the amendment be in order?

Mr. FOOTE said, if the Senator from New Hampshire would allow him, he trusted that he would not at present offer any obstacle to the amendment. The amendment was, in substance, similar to the one he had proposed to present.

Mr. ATHERTON felt it to be his duty to take the opinion of the Presiding Officer as to whether the modification was in order; it was well to have it decided before they went into the discussion of the subject.

The VICE PRESIDENT. Will the Senator from New Hampshire state the grounds of his objection?

Mr. ATHERTON said his objection was, that the amendment was not germane to the purposes of the appropriation bill. It was carrying into effect the laws of the United States in a territory where these laws at present had no existence. The object of it was, so far as he understood it, to extend the laws of the United States over the Territories of the United States, or the creating of a government for the Territories of the United States. They might just as well, it seemed to him, introduce a clause into the appropriation bill creating a State government as one creating a territorial government; and he felt it to be his duty to take exception to that course.

The VICE PRESIDENT decided that the objection was not a sufficient ground for rejecting the amendment.

Mr. WALKER (resuming the floor) said: I was remarking, sir, that from the exciting condition of things in California and New Mexico, the duty devolved upon Congress of remedying this state of things, as far as it is in their power. To that end, sir, the extension or modification of the amendment which I offered, when the bill was last up, is extended. And I will here read it, that what few remarks I propose to make may be understood. Some of the alterations are merely verbal; others are substantial.

Mr. W. read his amendment as modified, as follows:

SEC. —. *And be it further enacted*, That the [Constitution of the United States and] all and singular the several acts of Congress respecting the registering and recording, enrolling or licensing ships or vessels, and the entry and clearance thereof, and the foreign and coasting trade and fisheries, and all the acts respecting the imposing and collecting of duties on imports, and all acts respecting trade and intercourse with the Indian tribes, and all acts respecting the public lands of a public and general character, and the provisions whereof [are suitable and proper to be applied] to the territory west of the Rio del Norte, acquired from Mexico by the treaty of the 2d of February, 1848, be, and the same are hereby, extended over and [given] full force and efficacy in all said territory; and the President of the United States [be, and he is hereby, authorized to prescribe and establish all proper and useful rules and regulations (in conformity with the Constitution of the United States) for the enforcement of said laws, in said Territory, and for the preservation of order and tranquillity, and for the establishment of justice therein, and from time to time to modify or change the said rules and regulations in such manner as may seem to him discreet and proper] and may prescribe and establish temporarily such divisions, districts, ports, offices, and arrangements [for the execution of] said laws, and appoint and commission such officers as may be necessary to administer such laws in said Territory [for such term or terms as he may prescribe, whose authority shall continue until otherwise provided by Congress;] said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States, or its Territories, for like services; and to enable the same to be done, the sum of "two" hundred thousand dollars be appropriated, out of any money in the Treasury not otherwise appropriated.

The words changed or introduced in the modification are within brackets.

Mr. W. then continued: It will be seen, sir, that the provisions of this amendment do not relate merely to the extension of the revenue laws over the Territories of New Mexico and California, but, in fact, to the placing of the power somewhere by which the order and stability of these Territories may be regulated, and that the evils that now exist may be to some extent mitigated. This power, under the exigency of the case, the amendment proposes to give to the President of the United States, under the restrictions and limitations provided in the amendment. I have looked, sir, with much interest to the result of the action of Congress with regard to our newly acquired territories. Still, I could not deem it my duty to take any prominent stand with reference to the bill already reported by the Senator from Illinois, to provide for the organization of governments for those territories. That Senator has done, it seems to me, all that could have been done. He has introduced bills for the establishment of a government there; he has urged them with great zeal, eloquence, and force. He has presented them to Congress and to the country. The present Congress is drawing to a close, and the probability is, that this bill for the establishment of a government in California and New Mexico cannot be reached, or if reached, it cannot be passed. In this state of the case, sir, this civil and diplomatic bill being before us, I have felt that it would not be immodest on my part, or trespassing upon the time of the Senate, to propose this amendment. Should it be adopted, the interests of the United States would be, to a considerable extent, protected in her relations with that territory. To a great extent the power can be exercised by the properly-constituted authorities of the land to preserve the peace, good order, and interests of those territories. It will be seen—and it is but candid to admit the fact—that this amendment, going to the extent it does, will leave the people of these territories yet to take the initiative steps in such municipal government and municipal regulations as they may deem proper for their welfare and security. The amendment does not provide anything upon the subject. It is silent concerning all municipal regulations, and leaves the people of that territory to adopt such as they may deem necessary for themselves.

From the State which I have the honor to represent many intelligent and enterprising men have gone to these Territories. Many more are going. From the State whence you come, Mr. President, there are many others who are moving westward to those newly-acquired Territories. There is, perhaps, not a Senator upon this floor who does not know of many friends and neighbors who have gone, or who are about to go to settle there. We must, then, all feel interested in establishing a government of some kind; we must all feel that a government is necessary—that it is our duty, if not on their account, upon account of old associations, old friendships, and old ties, to extend some protection and some government to these people.

Taking these views, sir, I again repeat that I have looked with much solicitude to what should be the action of Congress upon this subject. There are questions which have heretofore been agitated, and there may be others which may arise in this discussion. But, sir, if my voice can have any weight—if my opinions are worthy to be heard, I would speak in terms of admonition to those who

are disposed to agitate these subjects. I would suggest to them at least to be modestly silent, and, if possible, give the amendment their support. Let us have some kind of unity upon this important matter, and extend to these Territories that degree of protection which duty to ourselves, to our neighbors, and to our nation would seem to demand. I shall feel exceedingly gratified to know that our high duty to the country has been discharged by the Congress of the United States, if not by the passage of this amendment, by adopting something of the kind by which a government, to some extent, shall be extended to that Territory.

At present I shall not make any further observations. I have offered this amendment with, I believe, good motives; such as I hope to be governed by in my future action while I have the honor to sit here. Others may misconstrue my motives; but whatever construction may be put upon them I care not, so long as I feel assured that those motives are pure, and that I have used my humble efforts in discharging the obligations I owe to my country and to that far-off Territory.

Mr. BELL. I desire to offer an amendment to that amendment. I am well aware that the circumstances under which I offer this amendment are somewhat embarrassing to the Senate as well as awkward to myself. It is a subject to which I have turned my attention, and one on which I some time ago desired to express my views at large. I think, sir, that I perceive (by the light of my experience with regard to the progress of business whenever we arrive at this period of the last session of every Congress) that indications are given by the votes of Senators in relation to a bill reported by a select committee upon this subject, that all the discussion and consideration which this measure, in any shape, shall receive at the hands of the Senate, will be upon the present bill. I shall, therefore, ask the indulgence of the Senate, even though I travel a little out of the regular course of parliamentary proceeding in offering this amendment, or in the discussion of it.

Mr. ATCHISON desired the decision of the Chair as to a question of order involved in the offering of the amendment by the Senator from Tennessee; but, at the request of the Senator, withdrew it.

Mr. BELL. I am aware that in taking this course I shall not meet the approbation of many Senators on both sides of the Chamber. It is my wish and my policy to conciliate the Senate, with reference to myself especially; but I do not often trouble the Senate. I have endeavored as much as possible to confine my sphere, with reference to this body, to that branch of business which has been consigned to me as a member of the Committee on Indian Affairs.

With these remarks I will send my amendment to the Chair, and move that all those sections or portions of sections of the amendment of the Senator from Wisconsin which are inconsistent with the provisions of the amendment which I shall offer, shall be stricken out, and the following section added. I beg leave to state that I offer it in the most simple form, and for the purpose of testing the sense of the Senate in that form, with a view to modify it, or to offer another amendment, altogether in a different form, with the same substantial views as the present, and which will give an opportunity of testing the sense of the Senate in every shape in which it can be presented.

The amendment was read, as follows:

SEC. —. *And be it further enacted*, That all that portion of the territory of the United States acquired by the treaty of peace, friendship, and limits, and settlement with the Republic of Mexico, concluded the 2d of February, 1848, which lies west of the Rio del Norte, and a line running due north from the head-waters of the said river until it strikes the 42d parallel of north latitude, shall form one State, to be known and designated by the name and title of "the State of California," and the same is hereby admitted into the Union on an equal footing in all respects with the original States.

SEC. —. *And be it further enacted*, That the United States reserve to themselves all right of property in the unappropriated lands and other property in the territory admitted into the Union as a State by the preceding section of this bill, free from all taxes and assessments of every kind by said State, and also the power of disposing of the same, and of adjusting all claims and title to lands derived under any foreign Government in such manner as Congress shall prescribe; and nothing contained in said section shall be so construed as to limit and impair the rights and powers hereby reserved to the United States in any manner whatsoever.

SEC. —. *And be it further enacted*, That there shall be established in said State two judicial districts, to be known as the eastern and western districts of California; and all that portion of said State lying west of the Rio del Norte, and the line running due north from the head-waters of the same to the 42d parallel of north latitude, and east of the —— meridian of west longitude from Washington, shall be the eastern district; and all that portion lying west of said meridian shall be the western district; and there shall be appointed a district judge for each of said districts, who shall be entitled to receive a salary of $—— each, and who shall hold three sessions of their respective courts annually, commencing in each district on the first Mondays of June, October, and February; the district judge of the eastern district, until otherwise provided by law, shall hold his —— court at ——, and the district judge of the western district at San Francisco; and said judge shall have the powers and jurisdiction given by law to the judges of the district of Kentucky, under an act entitled "An act to establish the judicial courts of the United States, and an act in addition to an act to establish the judicial courts of the United States," approved 2d March, 1793, and the act supplementary thereto; said judges shall appoint their own clerk, who shall reside and keep the records of said courts at the places of holding the same, and shall receive for services performed by him the same fees to which the clerk of the district of Kentucky is entitled for similar services.

SEC. —. *And be it further enacted*, That there shall be appointed a marshal and district attorney for each of said districts; the marshals shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees as are provided and prescribed by the marshals of other districts, and shall in addition be entitled to the sum of $200 as a compensation for all extra services; and the district attorneys, in addition to their stated fees as now prescribed by law to other district attorneys, shall be paid $200.

SEC. —. *And be it further enacted*, That the said State of California, until the next census and apportionment, shall be entitled to two representatives in the Congress of the United States.

Mr. BELL. Mr. President——

Mr. BUTLER. Is the gentleman in order? I cannot understand why the amendment offered by the honorable Senator from Wisconsin was in order; for it is a motion to ingraft upon the civil and diplomatic appropriation bill a plan for a temporary government. But, sir, who would expect, who would be prepared to meet upon an appropriation bill an amendment of this kind, to admit a State into the Union? I was not prepared for it; and how could any Senator, expecting the ordinary forms of legislation, come here prepared to act upon this, unless some notice was given—unless the ordinary notice was observed? I do not know that it is in order to debate this question; but I will ask whether the amendment is in order?

The VICE PRESIDENT. In the opinion of the Chair, the amendment is in order. If there is any doubt upon the point, the Chair would very much prefer that there should be an appeal.

Mr. HALE. I will take that appeal.

Mr. WEBSTER. I have no doubt that the Chair is right in his decision. I know that we do make all sorts of laws, and incorporate them into appropriation bills. I know but one way to take the opinion of the Senate, whether this question should now be discussed in this form. I do not know whether that is according to the rules and forms of the Senate. It is, to move to lay this proposed amendment upon the table.

The VICE PRESIDENT. The Senator from Tennessee has the floor, and cannot be interrupted to make that motion.

Mr. BELL. I should be very happy to hear the sense of the Senate upon the question.

The VICE PRESIDENT. Does the gentleman from New Hampshire take an appeal?

Mr. HALE. I do.

Mr. BELL. Is it not too late?

Mr. BUTLER. I presume I was too much in a hurry in making my suggestion. I yield, sir, and will now withdraw my point of order.

Mr. BERRIEN. Mr. President, I apprehend that the point of order cannot be withdrawn by the Senator from South Carolina, after an appeal is taken. This is a question which I hope the Senate will decide.

The VICE PRESIDENT ruled that the Senator from South Carolina had a right to withdraw his objection.

Mr. HALE. I think it is not competent for the Senator from South Carolina to withdraw his question of order, now that an appeal is taken.

The VICE PRESIDENT. Does the Senator take an appeal from this question also?

Mr. HALE. I believe I will, sir.

Mr. CALHOUN. I do not intend to argue the constitutional part of this question at this time; but surely there ought to be some principle by which to regulate the question of the congruity of an amendment with the original proposition. I think the rule is laid down by Mr. Jefferson. Although the Chair cannot decide the question of congruity, it is in the power of the body to decide it. It comes to the body to decide, now that the appeal has been taken from the decision of the Chair. I appeal to this Senate, that if there ever was a case of incongruity, this is one.

Mr. BELL. I call the Senator to order.

Mr. CALHOUN. If ever there was a case——

Mr. BELL. That is not the question, sir; the Senator is certainly out of order. He is not discussing the question of the appeal, whether the Senator from South Carolina had a right to withdraw his objection after an appeal had been taken. The question upon the appeal first made by the Senator from New Hampshire is not now pending before the Senate.

Mr. CALHOUN. I am sure that the Senator from Tennessee has not understood me. I stated, that if my memory served me, Mr. Jefferson lays it down that, although the Chair cannot decide the question of incongruity, it belongs to the body to decide it.

Mr. BELL. If the Senator will allow me, the rule is that it cannot be ruled out of order. It may be an argument for the Senate to reject the amendment, when they come to vote upon it, if they think it is incongruous, and foreign to the bill before the Senate. It is the exercise of judgment when the Senate come to vote upon the proposition. The rule of parliamentary law is clear, that you may so amend any bill or proposition that comes before you, as to present a totally different subject, or to present the same subject in a very different aspect from that presented in the original proposition, so that, in fact, the original mover would not know his own proposition. These are the valuable privileges of every legislative body in relation to amendments, in order to get rid of obnoxious and mischievous propositions.

Mr. CALHOUN. Mr. President, what I said was, that when a question of this kind is brought to the Chair, and the Chair decides that it is not out of order, and an appeal is made from that decision, it belongs to the Senate to say whether it shall waste its time in combining measures so directly opposite in their character as these; whether we shall waste our time at this late period of the session, in discussing one of the most momentous questions that can be brought before us in an appropriation bill; and especially since, when we have taken a position, the bill itself may be lost, or coercion may be applied to Senators to vote in favor of a measure which, under other circumstances, they would not vote for. Now, sir, I have no doubt that every Senator will admit the entire incongruity, and that they will vote at once upon the subject, and not waste our time, and reserve their vote until after the discussion.

Mr. PHELPS. I do not know, sir, that I understand precisely the question before the Senate.

Mr. BELL. Mr. President, I shall insist that the debate shall be confined to the question before the Senate, because every remark which is made, such as those of the Senator from South Carolina, tends to prejudice the body and the public against this motion of mine, and I shall have no opportunity to answer it.

Mr. PHELPS. I understand the first decision of the Chair to be this: that the amendment offered by the Senator from Tennessee to the amendment offered by the Senator from Wisconsin is in order. The Senator from New Hampshire [Mr. HALE] I understood to appeal from the first decision. The Senator from South Carolina [Mr. BUTLER] I understood then to offer to withdraw his question of order. The Chair decided that it was competent for the Senator from South Carolina to withdraw the point of order. On that decision of the Chair I understood the Senator from New Hampshire also to appeal. Now, sir, if I am right in this view of the subject——

Mr. BELL. That is the only question—the appeal.

Mr. PHELPS. If I am right upon this subject, the question now before the Senate is this: whether, after the question of order is raised, the Chair has decided, and an appeal is taken, it is competent for the member who first raised the question of order to withdraw it? That I understand to be the question before the Senate.

Mr. BUTLER. If the Senator from Vermont will allow me, I will explain. The former motion itself was out of order. I withdrew the question of order because I did not wish to reduce a matter of this kind to a technical point of order.

Mr. PHELPS. I merely rose, Mr. President,

to ascertain whether my view of the real question before the Senate is correct. If it be, I have no hesitation in saying that I believe the decision of the Chair to be wrong. If the question of order is raised, and decided by the Chair, that decision becomes the law of the Senate, unless an appeal is taken. If an appeal is taken, raising the question what the law of the Senate is, I hold it is not competent for the member who raised the question of order to make that decision of the Chair of no effect by withdrawing his objection. If the Chair has decided, and in the opinion of the Senate the decision of the Chair is erroneous, it is impossible for the member who happened to raise the question of order to withdraw the objection. It cannot be done.

Mr. YULEE. Mr. President, if I understand it, the Senator from South Carolina [Mr. BUTLER] renews his original appeal. I presume, therefore, sir——

Mr. BUTLER. I did not take any appeal. I merely raised a question of order.

Mr. YULEE. The gentleman, then, raised a question of order, and afterwards withdrew it; thereupon the question of order was raised, whether he had a right to withdraw it? As he has renewed it, I presume the issue now rises, whether the amendment proposed by the Senator from Tennessee is in order?

Mr. HALE. I would like to know, sir, the position of the question, that we may know how we stand with reference to this subject. I do not understand that it is competent for the Senator from South Carolina, in the shape in which this question presents itself to the Senate, to renew it. I hold that he cannot withdraw this new question of order which is presented. The question is stated. An appeal is taken. The decision of the Chair is that, with that appeal pending, the member may withdraw what is fairly and legitimately before the Senate. The rule is, that no member can withdraw a motion of his own making while it is before the Senate. By a much greater force of reasoning, it appears to me that a Senator cannot withdraw a question raised by another Senator while it is pending. Such consequences would follow as have been stated by the Senator from Vermont. It was suggested by the honorable Senator from Massachusetts [Mr. WEBSTER] that there have been a great many decisions in this Senate. I hold in my hand one which I wish to refer to, and I think it will elucidate the doctrine of parliamentary law as laid down by the distinguished President of this body, and as sustained by it. It is in the Journal of the Senate of April 24, 1848. A Senator was called to order for charging another with introducing measures into the Senate for his own amusement. It was decided that that was in order, and that a member charging another with introducing measures into this body for his own amusement was not out of order. Now, sir, I suppose that if the Senator from Tennessee [Mr. BELL] has introduced this into the body for no purpose more censurable than to amuse himself, it will be germane to the bill.

But there is a question even more important before us than that; and it is, whether it is in the power of a member, after having raised a question of order, from the decision of which an appeal has been taken, to withdraw it without leave of the body? My question is not whether the member who makes that appeal may withdraw it, but whether the member who made the objection in the first instance has a right, after an appeal is taken, to withdraw his point of order, and take the appeal with it? That is the question, sir; and I consider it a very important question. It may have a very important bearing upon the privileges of this body, as a deliberative assembly; because the power which I regard as existing in the body, would be all in your hands, sir, in conjunction with any member who chose, in such a state of the case, to withdraw his objection, and take the appeal with it. I hope the opinion of the Senate will be taken upon that question.

Mr. BELL. Mr. President, I am very sorry, sir, to find this extreme concern at the introduction of this proposition; but I will say nothing further upon that subject. I trust that, before I have done, I shall have satisfied gentlemen of the singleness of purpose with which I have brought forward this amendment.

I stated before, sir, that I was not inclined to insist upon the proposition in the present shape. If it shall be disagreeable to the Senate as it is, I am prepared to modify and change it according to the sense of the Senate, keeping the substantive object of this proposition still in view. Now, sir, I do not often interfere, as I have stated already, in the business of this body of any description, and still less do I interfere with the proceedings and rules of order. But, sir, I have read the rules of the Senate, and I have some little experience in parliamentary law applicable to these rules in other bodies, as well as in this; and I am far too old and experienced a parliamentarian to have brought forward an amendment of this description, knowing the fate of the bill of the honorable Senator from Illinois, [Mr. DOUGLAS]—I say I am too old and experienced in my business here to have brought it forward, unless I knew I was fortified by the parliamentary law of Congress and of the Senate, upon mere questions of order. The President of the Senate, upon a motion made by the Senator from New Hampshire, [Mr. HALE,] has already decided that the proposition of the Senator from Wisconsin [Mr. WALKER] was in order. There was no appeal from that; no incongruity in that proposition with the body of this bill was substantiated. That was not a matter foreign to the general objects of the bill; and there was no thought of taking objection upon the ground of inconsistency or incongruity. But the first time the proposition is made to amend that which does not satisfy the views or expectations of Senators, honorable members have raised the question of order, consistency, and congruity.

But, Mr. President, what would be incongruous to the bill now under consideration? Why, sir, you might denominate it a bill for the purpose of raising the salaries, or increasing the salaries of some of the officers of the Government. It is a bill to authorize the construction of a new wing, an additional building for the Patent Office; it is a bill authorizing the Government to dispense medals to the Indian tribes, and for how many other purposes it is unnecessary for me to say; to do so, I should have to review the bill. I merely mention these features because they occur first to my mind. Sir, this bill is not a unit with regard to its object from beginning to end. You have made about a score of appropriations, in conformity with the existing law of the land, in this bill and in the amendments that have been made to it. Pray, to what part of this bill shall this amendment be said to be incongruous? The Senate has incorporated into this bill everywhere appropriations for new objects. The amendment of the Senator from Wisconsin is in relation to these territories. That is decided to be in order, and is my amendment incongruous to that? It has the same object. And I propose to let that amendment, if adopted by the Senate, or such portion of it as may be adopted, stand incorporated in the bill. The question is to be tested as to its congruity with the bill. And when you come to examine the body of the bill, I defy Senators to say what it is, except that it is a bill for the appropriation of money according to the existing law of the land. But this question of concordance cannot be drawn into the vortex of the rules of order. This is the doctrine laid down in the Manual by Mr. Jefferson. The amendment may be amended so as totally to alter the proposition, and it is a mode that is sometimes adopted, of getting rid of a proposition, to move such an amendment that the mover of the original proposition, if the amendment prevail, cannot vote for his own proposition thus amended. Yes, sir, it is a mode that is often resorted to of getting rid of a proposition that can only be got rid of in that way. A new bill may be ingrafted upon the words "be it enacted;" all the rest of the original bill having been stricken out. Now, in relation to myself, I have stated already that I felt greatly embarrassed in offering this proposition. It is out of its usual course. I acknowledge it is out of the strictly proper course to append to this bill items of appropriation which are not authorized by laws already in existence; but the practice of the Senate has not been confined to the rigid observance of such rule; indeed, there is no rule of the Senate making such appropriations out of order. When I considered the period of the session at which we have arrived, and the indications which I saw around me, I saw, or thought I saw, that this would be the only opportunity for obtaining the action of the Senate upon the subject of this amendment; and I therefore proposed to incorporate it in this bill. I had no design, even if it were the will of a majority of this body to do so, to make the civil and diplomatic bill stand or fall in the House of Representatives by their concurrence or non-concurrence in the amendment which I have offered. I have proposed it in this place from the necessity of the case; judging from what I see going on in the Senate, I have come to the conclusion, that in order to have it acted upon at all, it was necessary to move it as an amendment to this bill. To excuse myself I have already said, that with regard to the precise form of the amendment, having the substance in view, I was ready to modify it, and if it should not be made after all agreeable to the Senate, it will be in their discretion to vote it down, when the vote shall have been arrived at, and they may place that vote upon what ground they please; that they are in favor of the measure, but that they will not incorporate it in the civil and diplomatic appropriation bill in order to coerce the House. Senators may place their votes where they please; they are not embarrassed in regard to it, for it will be perfectly parliamentary for them to do so.

I make these observations partly in reply to the honorable Senator from South Carolina, who complains—and the other Senator from South Carolina also complains—that notice has not been given of the intention to move such an amendment as this, especially in regard to a matter of so much importance, in an appropriation bill. Sir, has not the proposition been pending for two months substantially in the Senate? Notice of it was given on the first day of the session, by the Senator from Illinois. Has it not been before the Judiciary Committee, and before a select committee of this body? Yet Senators come forward and complain of surprise, and say that this is a strange method of introducing it. Sir, a word in reference to the propriety of introducing it here, and in reply, in advance, to the arguments of those Senators who may choose to place their votes upon the ground that it is incongruous. It is in order, it is parliamentary, it is according to precedent and parliamentary practice in England, whence we derive most of our precedents. Ordinarily, I should desire to confine our propositions of amendment to bills with the subject of which such propositions were congruous, having the main object of the bill in view, and it would be better to bring up this proposition separately, and have it so considered; but I beg Senators, when they come to vote upon this amendment, not to place their votes upon the ground that it is incongruous or different from the ordinary practice, or that it seems to require the House to adopt the proposition, or else to reject the civil and diplomatic appropriation bill. For I, for one, notwithstanding the importance I attach to giving a government to these Territories, consider it of far more importance that the interest of the people of this Union and of the Government here should not suffer; and I should be very far from giving my vote for such propositions if I thought that it would have the effect of compelling the House to reject the appropriation bill. I have no desire to embarrass the Senate, and I beg Senators not to differ with me as to the propriety of the mode in which I have introduced the proposition, until they have heard me in regard to it, and know the conciliatory feelings that I possess in reference to the decision of this matter. I would withdraw the proposition without asking for a vote upon it, if I could find or believe that it was the general sense of the Senate to adopt no such measure as this. I would in such case pledge myself so far as to withdraw the proposition. I trust, under these circumstances, that it will not be considered a violation of parliamentary practice, and that Senators will consent, for the sake of convenience, to dispense with the rigid forms of practice in regard to a motion of this description; for if they exclude the motion because they find it in this case unpalatable, they will have the precedent rising up against them hereafter, on other occasions, when it may be desirable that such a proposition should be entertained. It has been the parliamentary practice in England for many years, and has been found to be the best for securing the privileges of legislative bodies.

Mr. BUTLER. I beg to say a word or two in relation to the question of order that I have raised. I am satisfied that the amendment proposed by the Senator from Tennessee finds no precedent anywhere. You will recollect that the Senator from Illinois gave notice on the first day of the session

of his intention to introduce his bill, and that he introduced it in accordance with the form of proceedings of this body. The bill was referred to a committee, and a report was made upon it; and subsequently the Senator from Illinois thought proper materially to modify the bill. He offered a substitute for the original bill, and it was thought necessary, as being in accordance with the usual course of proceeding in this body, that it should be referred to a committee.

Now these bills are essentially different. The first bill proposed to organize the territory lying beyond the Sierra Nevada, and establish a government there; the other bill applied to New Mexico also. The bill introduced under the sanction of the select committee proposed to organize two other governments, with very different boundaries. Now, the Senator from Tennessee comes in with an amendment, which has not the advantage of having received the examination of any committee, to have the whole of this territory at once admitted into the Union as a State, and this he proposes shall be ingrafted upon an appropriation bill. Now, is this congruous or incongruous? I am far from imputing to that Senator improper motives; it would be highly improper for me to do so; I do not even accuse him of exercising what may be called parliamentary address, much less do I accuse him of artifice. I have no doubt but the Senator is actuated by proper motives, and that he acts under a due sense of his responsibility as a Senator, and if he is sustained by the Senate in amending an appropriation bill by a proposition of this kind, of course I will submit and acknowledge that he is in the right. I understand the Chair to determine that the amendment is proper, and if it is not ruled otherwise by the Senate, I must of course yield to a determination of a majority; but I take it upon myself to say that the amendment is improper and incongruous, and in some aspects of it a most dangerous form of proceeding. I say dangerous, because it is without precedent in the proceedings of this body. It has none of the qualifications which would render it proper to be attached to this bill; it has not had the examination of a committee. I shall vote to sustain the appeal taken by the Senator from New Hampshire.

Mr. KING. I cannot agree with the Senators in the ground they take with regard to this proposition being out of order. That it is incongruous, we all must admit. The sense of propriety which every gentleman must feel, ought to prevent him from bringing forward propositions foreign to the subject-matter under consideration. It is true, when propositions are evidently and notoriously incongruous, they rarely lead to any discussion, but are rejected at once. But the Chair has decided, and I maintain decided correctly, that, according to parliamentary law, the proposition submitted by the Senator from Tennessee is in order. The Senator from Tennessee, however, it appears to me, has taken a very erroneous view of the duty which he owes to himself and to the country. Under the existing state of circumstances, we all feel anxious—as anxious, perhaps, as the Senator from Tennessee can feel—that something should be done in order to give a government to those sections of country which we have acquired from Mexico. The Senator took some pains to show to the Senate that this is the only chance of effecting that object, and that, if this opportunity be allowed to pass by, no other will be afforded. But Senators will remember that we have a bill now before us, reported by a select committee, embracing this very object, that of establishing a government over the Territories. When that bill comes up—and it is in the power of the Senate to call it up when they choose—the Senator can offer his amendment, and propose such modifications as he may think proper to submit. All that I have to say in regard to it is, that the incongruity of the amendment does not, according to parliamentary law, prevent the Senator from submitting the proposition. I regret that he has done so, however. I think he has not consulted either the convenience of the Senate, the dispatch of its business, or the probability of settling this question by submitting the proposition at this time. I trust he will reconsider it, and will content himself with amending the bill reported by the Senator from Illinois when that bill comes up. I shall listen to the Senator then with great pleasure; and if any other mode can be devised by which a government can be extended to the people of those Territories, I, for one, will be prepared to go to the utmost limit which is practicable to accomplish that object. And I hope that my honorable friend from Tennessee will relieve us from the difficulty of acting upon the proposition in connection with this appropriation bill. Let this bill be first disposed of, confining the appropriations as much as possible to those objects for which appropriations are now authorized by law, and then take up this exciting subject, and endeavor, if possible, to bring about such an arrangement as may be most conducive to the interest of the country. I appeal, therefore, to the Senator from Tennessee to withdraw the proposition, and save us from the necessity of voting upon it in this connection, because some Senators will doubtless give their votes upon the ground of its incongruity; or if, after a protracted discussion, it should be decided to be admissible, you will thereby establish a rule of practice which may embarrass the Senate hereafter.

Mr. WALKER. Mr. President, I wish to make a few observations in reply to some of the remarks of the Senator from Tennessee. The Senator confounds the amendment to the amendment with the amendment itself, and says, if the one be out of order, the other must, of course, also be out of order. I take it that there is a wide distinction between the amendment to the amendment and the amendment which I had the honor to offer. My amendment relates to the subjects of revenue—subjects which, it occurs to me, might be very properly considered by the Committee on Finance—and it is also in regard to those laws which create sources of revenue, which regulate the modes of raising revenue; and the provisions which go to protect the order, peace, and quiet of those territories are absolutely necessary to the execution of these revenue laws which it is proposed to extend thither. In vain may you extend the land laws, in vain may you extend the laws in relation to the collection of imposts upon foreign importations, if you leave your revenue officers to be robbed with impunity. If you suffer disorganization, tumult, and crime to stalk abroad over the land, you cannot enforce these laws which my amendment proposes to extend there.

I therefore simply wish to call the attention of the Senate to this distinction: The amendment to the amendment proposes to create a government in those Territories, while my amendment proposes simply to extend to those Territories those laws which relate to our relations with them, and which, in a financial point of view, it is necessary to extend to them. I must, therefore, protest against the idea that, if the Senate decide that the amendment to the amendment be out of order, that decision shall carry my amendment with it, and declare it also out of order. As I look upon the matter, there is a very wide distinction. It would be very proper if the subject-matter of the amendment had been considered by the Committee on Finance, and been suffered to be incorporated into the bill making appropriations for the civil and diplomatic expenses of the Government, but it would not be proper for them to consider matters establishing a government in detail in either of those Territories; and I hope this distinction will be borne in mind.

Mr. BADGER. Mr. President, I would like to know the precise question of order.

PRESIDING OFFICER. There are two appeals now before the Senate. The first is an appeal from the decision of the Chair, that the Senator from South Carolina [Mr. BUTLER] has the right to withdraw a point of order pending an appeal. The other is an appeal from the decision of the Chair, declaring the amendment offered by the Senator from Tennessee [Mr. BELL] in order.

Mr. BADGER. I move to lay the last appeal upon the table.

Mr. TURNEY. Mr. President, I desire to know what will be the effect of laying the appeal upon the table?

PRESIDING OFFICER. The effect will be that the decision of the Chair stands as the judgment of the Senate.

Mr. TURNEY. Then I shall vote against it.

The question being taken on the motion to lay the appeal on the table, on division, the vote stood ayes 22, noes 14. So the motion was agreed to.

Mr. BADGER. Mr. President, I now move to lay the first appeal on the table.

The motion was agreed to.

Mr. DAYTON. Mr. President, I believe that the matter before us is now on the original proposition of the Senator from Tennessee. We now understand that the Senator from Tennessee has the legitimate parliamentary right to be heard upon this question on this bill. The question with the Senate will be, therefore, whether it be better to hear him upon this bill, or first to dispose of it, and then, with the unanimous consent of the body, agree to take up the proposition which he has offered, or take up the California bill—or I care not what. We can then, after hearing the Senator from Tennessee, dispose of the question, or go on and debate it. If the Senator from Tennessee be in favor of manufacturing a State or any number of States out of our newly-acquired territory, I shall be very happy to hear him express his views, and give his reasons for their manufacture. But I am opposed to such a measure *in toto*, and, if it should become a matter of general debate, it will give me great pleasure to state the why and the wherefore.

I must say, Mr. President, that it seems to me that a proper regard for the conduct of business, and the necessity of getting through with this civil and diplomatic bill, would dictate that it would be better, with the general assent of the Senate, to go on and dispose of that bill, with the general understanding that when it shall be disposed of we will take up the subject-matter upon which the Senator from Tennessee wishes to be heard. I think this suggestion must meet with the approbation of the Senate.

Mr. BELL. Mr. President, I am willing to meet the wishes of the Senate in almost any form except that of depriving myself and other honorable Senators of the privilege of expressing our views, or at least of voting, on some of these propositions. Sir, I consider that I would be doing the greatest injustice to myself to take any course, on any occasion, in opposition to the general wishes of the Senate.

One word by way of explanation. If the same courtesy had been yielded to me on this occasion which is usually yielded to every gentleman who thinks proper to express his views at large, even sometimes upon propositions not yet before the Senate, I could have made my speech, or submitted the few remarks which I intended to make, upon the proposition of the Senator from Wisconsin.

And what was my policy in bringing forward my amendment? It was brought forward merely as a declaration, in the simplest form, of the views which, as an individual, I entertain upon this question—and as an intimation that, in order that I might deal candidly with the Senate, I would confine myself to the specific proposition before it, and ground my remarks upon that proposition.

I know that, under the circumstances, I am liable to have imputed to me a course designed to obstruct the business of the Senate; but were half the courtesy and latitude allowed to me which are allowed to every honorable gentleman, I could say every word I desire to say without offering my amendment. Every gentleman must see that that is the case.

The honorable Senator from Alabama [Mr. KING] is a gentleman of great experience and great accuracy upon these questions of parliamentary law and parliamentary rule. He says that I have mistaken the course which should be pursued; that I have not consulted the convenience of the Senate, or the dispatch of business, or the prospect of succeeding in my proposition. Now, sir, with regard to the convenience of the Senate. What is it? Do they mean to have a discussion upon this subject at all during this session? If they do, it matters not as to the time when that discussion shall take place. It can be just as well discussed in connection with one bill as another. This is a proposition to amend the amendment of the Senator from Wisconsin, [Mr. WALKER;] and I want my friend from Mississippi [Mr. FOOTE] to listen to my reasons and arguments, and not condemn me unheard.

Mr. KING. If the Senator will allow me, I did not say that he was influenced by improper motives in bringing forward his amendment at this time.

Mr. BELL. Not at all. The honorable Senator only said that I had mistaken the true course.

And now with regard to the dispatch of public business. I have thought that honorable Senators—I may have done them injustice—would not care if this civil and diplomatic bill were to overlie

every other important measure not absolutely essential to the preservation of the Government, or to continue its machinery in motion. There are those who are obstinately opposed to the consideration of the California bill, and who are determined, if possible, to prevent its being taken up during this session, for fear, among other things, that it will consume so much time as to render it impossible for the Senate to act upon other important measures. I have expressed myself to my friends for several days past, that if the California question were only disposed of one way or the other, it would facilitate business; that if it were taken up for consideration, discussed, and voted down, or adopted and sent to the other House, we would get along with the public business much more rapidly than we do now. It is still my opinion that it is the fear of the apparition of that California bill that produces delay. No one has imputed improper motives to me in bringing forward this amendment. It is all parliamentary, and has been so declared by the Senate, and we who are in favor of it desire to be heard upon it. But it is the privilege as well as the duty of those who considered the bill reported from the Select Committee by the Senator from Illinois [Mr. DOUGLAS] to be objectionable, to oppose my amendment. I cannot object to their opposition, and shall not expect their coöperation. All I ask is, that I may be heard.

Mr. FOOTE. Mr. President, I would simply say, in reply to the allusion made by the Senator from Tennessee to myself, that so far as I am concerned, and I believe many others, there is no objection to hearing the Senator from Tennessee. We all listen to him on every occasion with respect, with delight, and with admiration. But I feared that the attempt to ingraft his proposition upon the one submitted by the Senator from Wisconsin [Mr. WALKER] might have the effect—in a manner very well known to the Senator and easy to conjecture—of defeating all action upon this subject at the present session of Congress. Knowing that the Senator was really desirous to have some action, and the most extended action upon this subject, I had hoped that whilst he would have embraced the opportunity, which he could legitimately do, of expressing his views at any length that might be agreeable to his own taste upon the proposition of the Senator from Wisconsin, he would not hazard that proposition, as I think he does, by constraining the Senate to come to a vote upon his amendment.

Mr. BELL. Mr. President, I did not suppose that the course of the honorable Senator from Mississippi was actuated by any other than those fair and magnanimous motives which always characterize his actions.

One word in reply to the Senator from New Jersey, [Mr. DAYTON.] If the proposition of the Senator from Wisconsin [Mr. WALKER] be once adopted, it cannot be amended; and if my proposition is withdrawn at this stage of the bill, and postponed till the California bill comes up, we shall have to insert a section to repeal some of the provisions of the bill now before the Senate. There are embarrassments both ways. I know my duty to myself too well not to know that I ought not to press any measure, that I ought not to take any course, decidedly against the wish of the Senate, or of a large majority of its members. But, sir, I am in this unfortunate condition on this subject, that honorable Senators have taken ground with regard to my object in offering this amendment before they have heard me. To hear and then condemn, I think, is the part of justice and liberality at least, to say nothing of courtesy. But, notwithstanding the impediment which I have named, if the Senate will, by general consent—I cannot suppose it will be unanimous—agree that when this bill is passed they will take up the California bill reported by the select committee, I will with great pleasure meet the wishes of the Senate.

Mr. ATHERTON. Mr. President, perhaps it is proper for me to say, in connection with the suggestions which have been made by the Senators from New Jersey [Mr. DAYTON] and Tennessee, [Mr. BELL,] that I thought it my duty to raise the question of order; but I must confess that I had not much confidence in it, and I did not take an appeal from the decision of the Chair declaring that the Senator from Tennessee was in order. I conceived that it was a question of consistency and not of order. Sir, we have no rules of the Senate guarding our appropriation bills. The rules of the other House do guard them with considerable strictness; and in that body it is out of order to introduce appropriations for objects not authorized by law. The Senate have usually guarded, to a considerable degree, against making any considerable changes of the laws in appropriation bills, from a regard to the rights and privileges of the other House.

It seems to me that the Senator from Tennessee is certainly mistaken in supposing that the only chance of getting his proposition considered is by offering it as an amendment to the appropriation bill. Sir, it is my opinion that he prevents many who would be friendly to his proposition from voting for it, on account of a regard for the rights and privileges of the House of Representatives. We have taken the ground here that we would not be dragooned, through appropriation bills, into any great changes of the laws as they stand, and it seems to me, from a consideration of what might take place, we ought to be deterred from loading our appropriation bills with amendments of so important a character as this. Suppose the Senate should choose to declare war, and make it a condition of the passage of an appropriation bill to carry on the Government here, that the House should agree to that amendment; and suppose the House should agree to that, although opposed to the declaration of war. I might also bring up the case of the Wilmot proviso, which has been so extensively agitated throughout the country. Suppose one House should say to the other, unless you adopt the Wilmot proviso in an appropriation bill, we will not consent to give appropriations to carry on the Government. It seems to me that we ought to be deterred, from all these considerations, from rushing into the danger of introducing so many important amendments into the appropriation bills.

I believe that if we will remain here one or two evenings we can dispose of this bill; and then I shall be happy to take up the bill introduced by the honorable Senator from Illinois. I think that the surest way of getting to a vote on that question, and of enabling gentlemen fully to express their ideas on that question, is to finish this bill. We can soon finish it. There are no difficulties in the way. I am not aware that there are any amendments, which properly belong to the bill, which it will take much time to dispose of. It only requires a few hours of an evening session devoted to the consideration of this bill to enable us to finish it. And will not that subserve the purposes of the Senator from Tennessee? No one will be more happy to listen to him than myself to the fullest declaration of all his views upon the subject.

But, sir, suppose we should even adopt this amendment, how could we, in a committee of conference with the other House, supposing they considered it improper to introduce this subject into an appropriation bill, entrenching upon their rights and privileges—how could we, under such circumstances, insist upon their adoption of that amendment as a condition of passing the appropriation bill? We would certainly be obliged to recede, and the Senator's proposition would be placed in a disadvantageous point of view, on account of having been put in an appropriation bill where it did not belong.

Mr. FOOTE. Will the Senator from Tennessee give way for a moment, that I may offer one or two remarks in reply to the Senator from New Hampshire [Mr. ATHERTON]?

Mr. BELL. Certainly.

Mr. FOOTE. I feel bound to say, sir, that so far as I am connected with the question mentioned by the Senator from New Hampshire, I am prepared to participate in defeating the civil and diplomatic bill, if that be the penalty we have to suffer for endeavoring to discharge our duty on the great subject now under consideration. Sir, I do not care what consequences may arise from such action, being perfectly persuaded it is right in itself that we should legislate in some effectual mode for the protection of the people of California and New Mexico at the present session of Congress, and for the preservation of the great national interests involved in the question before us. I am prepared, with the Senator from Tennessee, to act upon this subject at the present session of Congress; and now, to the limited extent proposed by the Senator from Wisconsin, who so pathetically painted, in our hearing just now, the sufferings of our brethren in California and New Mexico at the present time. I feel bound to say, in addition, that I shall certainly vote against the amendment of the Senator from Tennessee, if we shall be pressed to a vote upon it, merely from the apprehension that it might defeat all action at present proposed, and I therefore take the liberty of expressing a desire that he shall withdraw his amendment, and not force us to a vote upon it. When the proposition for establishing State governments shall come *seasonably* before us, the Senator will find me not only ready to act with him, but zealous in coöperating with him and others on this subject, and I shall cheerfully aid in having his proposition submitted to the Senate, or the proposition brought forward by the Senator from Illinois taken up for early consideration and immediate action. I doubt not, Mr. President, that there is a general disposition among Senators on both sides of the Chamber to give the proposition of the honorable Senator a fair and dispassionate consideration at the right time hereafter.

Mr. BELL. I am, for one, sir, entirely satisfied to meet this subject at the present time, considering that its discussion now will be as proper as at any other period of this session. I consider that in the brief time yet allotted to us for discussion, at this session, of subjects that necessarily require consideration, we may as safely and properly act upon this question now as at any later period. In introducing this amendment, I have endeavored, and shall endeavor, so to confine myself to the subject in hand as to preserve the kind and friendly feelings of Senators towards myself in all that I do and say upon this matter. But the Senate must perceive, that in addressing myself now to the subject-matter of my amendment, I am necessarily laid under great embarrassment from what has already been submitted by different Senators in relation to my course of proceeding, and that my mind has unavoidably been drawn off from the main subject before the Senate, particularly from the point introduced in the amendment. If the Senate would come to the understanding, that after the consideration of the civil and diplomatic bill is concluded, this bill shall be taken up, I of course would be willing to acquiesce in such an agreement; but I am informed by a number of gentlemen that no such understanding can be entered into.

Mr. FOOTE. I feel authorized to say, that so far as the gentlemen on this side of the Chamber are concerned, they would concur with the Senator from Tennessee in that course of procedure.

Mr. BELL. I can only say to the Senator from Mississippi that there is a pretty general feeling on this side of the Chamber adverse to such action.

Mr. YULEE. I cannot, for one, consent to take up a bill relating to California at this particular period.

Mr. BELL. I supposed that such was the feeling of many Senators. I have been too long a member of this body, and too close an observer of the course of procedure among its members, not to be aware, if there be any disinclination on the part of honorable members to take up for consideration and action some particular subject, of the existence of such a state of things. I feel, therefore, great embarrassment in my approach to the main question before us, and that, too, because of the peculiar circumstances which have occurred this morning, they having a natural tendency, as every member must readily perceive, to greatly embarrass my remarks upon the point at issue; I feel also an additional embarrassment resting upon me from an apprehension in my mind, that perhaps I have lost the good opinion and confidence of a large portion of the Senate who were my warm personal and political friends, because of the course I have seen fit to adopt.

I desire, Mr. President, before proceeding with any extended remarks, to ask that in place of the forty-ninth degree in my amendment of north latitude, that the forty-second degree be inserted. I desire this amendment to my proposition to be made. Gentlemen around me—whom I regard as warm friends—state that they are very willing to hear me upon this amendment of mine to-morrow morning; and that, if I will consent to yield the floor this afternoon, the other amendments to the bill may be acted upon to-day. In relation to this suggestion, I would simply state, that if it is the general wish of the Senate, I will proceed now; though every gentleman must perceive the embar-

rassing situation in which I am placed. I therefore await the decision of the Senate, as to whether I shall proceed at the present time or not.

Mr. DOWNS. There are some other small amendments to this bill which would probably just about consume the remaining portion of the time of the Senate to-day, and it is also very desirable that the amendment proposed by the Senator from Wisconsin, [Mr. WALKER,] as modified by the Senator from Tennessee, [Mr. BELL,] should be printed for the use of the Senate; I inquire then if it would not be an accommodation to all parties that the consideration of this particular amendment be postponed, and that we proceed with the consideration of the other amendments proposed, as we doubtless can get through with them to-day?

SEVERAL SENATORS, (addressing Mr. BELL from their seats.) Go on, go on.

Mr. BELL then resumed his remarks, and continued until near five o'clock; when—

Mr. YULEE interposed, and said, as it is now getting very late, I would ask the Senator to give way to a motion to adjourn.

Mr. BELL Certainly, sir, if the Senate desires an adjournment.*

Mr. YULEE then moved an adjournment; but withdrew it at the request of Mr. DAVIS, of Mississippi, who wished to make a personal explanation.

Mr. DAVIS, of Mississippi. Mr. President, I have a small debt which I wish to pay before the sun goes down, affecting the reputation of that distinguished scholar and gentleman, the Superintendent of the National Observatory. I am made to say, in the report of the "Intelligencer" of this day, that "the appropriation for the support of the Observatory last year was $138,000." This is a mistake of $100,000. I said $38,000, and I find myself so reported in the Union. Thirty-five thousand dollars were for the Observatory, and three thousand dollars for the superintendent.

I am also made to say that "the astronomical discoveries it (the Observatory) has made, I refrain from alluding to, for fear of having to bring forward anew to the country the ridiculous mistake made by it." What I did say in relation to that point was, "that I knew of no astronomical discovery which had been made by it;" and then added, "I forbear from alluding to a ludicrous mistake," &c. That mistake arose from the circumstance, that owing to refraction in the glass producing the prismatic division of color, they supposed that the star under observation was tripled. The refraction was mistaken for the triplicity of the star. This mistake was made by the superintendent shortly after he entered upon the duties of his office, and while he was young in the service. It was a mistake into which an old and competent observer fell also, and therefore no reflection should attach to the superintendent. And I will here state explicitly, that it is not my purpose to injure the scientific reputation of this distinguished officer. I would much rather add to than detract from the reputation of any man of science, and especially of one so justly distinguished as the Superintendent of the National Observatory.

I have been informed of, and will take this opportunity to mention two important observations which have been made at the National Observatory. One of these I had heard of before, but had forgotten. The other I shall never forget. It was an observation upon a point of the orbit of the planet Neptune. By connecting that observation with the previous observation of Lelande, in 1791, the whole orbit of the planet has been determined. I am also informed that at our National Observatory was first discovered the fact that the comet Beilas had, by a sort of volcanic eruption, separated into two parts, and constituted, subsequently, two new comets.

But my whole purpose in addressing the Senate was to correct the first great error in the report, and the reflection, which was made more pointed than I intended it should be. With the explanation which I have given, I will, at the same time, say that the present Superintendent of the Observatory was not the point of my attack—the point of attack being the Observatory as arrayed against the coast survey. I take great pleasure in seeing the progress of science in any and all branches of the Government, and in the National Observatory as well as everywhere else, and I am always ready not only to bear testimony to the high merits of its distinguished superintendent, but to give him due credit for whatever discoveries he may bring in the boundless fields of science, and for all the additions he may make to the common stock of knowledge.

On motion, the Senate adjourned.

* The Speech of Mr. BELL will be published in the Appendix.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 20, 1849.

Pursuant to the order of the House yesterday adopted, the House met this morning at eleven o'clock.

The Journal of yesterday having been read—

Mr. MANN rose, he said, to a correction. His name was omitted in the list of yeas and nays on the amendment of the gentleman from Ohio, [Mr. SCHENCK.] He (Mr. M.) voted in the affirmative on that amendment.

The Journal was ordered to be corrected accordingly.

Mr. GOGGIN also moved so to correct the Journal as to conform to the fact, that a resolution he had yesterday offered was laid over for debate—not that it had not been received.

The Journal was ordered to be corrected accordingly.

And then the Journal was approved.

Mr. BOWDEN, on leave given, presented petitions from citizens of Cherokee county, Alabama; which were referred to a select committee composed of the delegation in the House of Representatives from Alabama.

Mr. WENTWORTH called for the regular orders of the day. It had been some time, he said, since the committees had been called for reports.

CONSULS AND VICE-CONSULS.

Mr. HILLIARD asked and obtained leave to offer the following resolution, which was adopted:

Resolved, That the President of the United States be requested to cause to be communicated to this House—

1st. A list of all consuls, vice-consuls, and commercial agents, now in the service of the United States, together with the country and particular port or place at which they reside, distinguishing such as are citizens of the United States and such as are not.

2d. Whether all the consuls, vice-consuls, and commercial agents aforesaid have made regular returns of the fees and perquisites which they have received, and of the tonnage and commerce of the United States within their respective consulates or agencies, according to the instructions of the Secretary of State

3d. The amount of fees and perquisites which each consul, vice-consul, and commercial agent has received during the years 1844, 1845, 1846, 1847, and 1848, as far as returns have been received.

4th. The number of vessels and the amount of tonnage of the United States which entered and cleared within each of the consulates and agencies aforesaid, during the years 1844, 1845, 1846, 1847, and 1848, as soon as returns have been received, and also the number of seamen belonging to the United States that have been provided for and sent home from each of the said consulates during the time aforesaid.

Mr. WENTWORTH insisted on the orders of the day.

The SPEAKER thereupon proceeded to call the committees for reports.

CONNECTION OF THE ATLANTIC AND PACIFIC OCEANS.

Mr. ROCKWELL, of Connecticut, from the select committee to whom was referred the joint resolution to authorize the survey of certain routes for a canal or railroad between the Atlantic and Pacific Oceans; also, the memorial of the General Assembly of the State of Arkansas for the establishment of a national road from the western frontier of Arkansas to California; also, the petition of George Wilkes, in relation to the construction of a railroad to the Pacific Ocean, reported the said joint resolution back to the House with an amendment, together with the memorial and petition, accompanied by a report in writing.

Ordered, That the said joint resolution and amendment be committed to a Committee of the Whole House on the state of the Union, and printed.

On motion of Mr. ROCKWELL,

Ordered, That the Committee on Printing inquire into the expediency of printing an extra number of copies of said report; and that the Committee on Engraving inquire into the expediency of engraving the maps attached to the report.

GOLD COINS.

Mr. McKAY, from the Committee of Ways and Means, to whom was referred the bill to authorize the coinage of one-dollar gold pieces at the mint of the United States and its branches, reported the same back to the House, with the following amendment, viz:

Strike out all after the enacting clause of the bill, and insert: That it shall be lawful henceforward to make at the mint and its branches twenty-dollar gold coins of the weight of five hundred and sixteen grains, and gold dollar coins of the weight of twenty-five grains and eight-tenths, which coins shall be legal tenders of payment according to their nominal values.

SEC. 2. *And be it further enacted*, That the above mentioned coins shall be made, in all respects, in conformity with the existing laws regulating the coinage at the mints, except that on the reverse of the gold dollar the figure of the eagle shall be omitted.

SEC. 3. *And be it further enacted*, That in adjusting the weights of gold coins henceforward, the following deviations from the standard weight shall be not exceeded in any of the single pieces, namely, in the double eagle, the eagle, and half eagle, one-half of a grain, and in the quarter eagle and gold dollar one quarter of a grain; and that in weighing a large number of pieces together, when delivered from the chief coiner to the treasurer, and from the treasurer to the depositors, the deviations from the standard weight shall not exceed three pennyweights in one thousand double eagles, and one and a half pennyweights in one thousand half eagles, one pennyweight in one thousand quarter eagles, and one-half of a pennyweight in one thousand gold dollars.

SEC. 4. *And be it further enacted*, That so much of this act as regards the coinage of twenty-dollar and one-dollar gold pieces, shall continue in force until the fourth day of March, eighteen hundred and fifty-one, and no longer.

The amendment having been read—

Mr. ASHMUN asked for the reading of the bill; which having been read—

Mr. J. R. INGERSOLL objected to its being put on its passage at this time.

The SPEAKER said the bill was regularly in order at this time. The question was first on the amendment, and then on the engrossment of the bill.

Mr. McKAY said, that as the bill did not require commitment, he hoped it would be the pleasure of the House to order it now to be engrossed and put on its passage.

In reply to an inquiry of Mr. EVANS, of Maryland—

Mr. McKAY said that the weight of the coin had been made to correspond with the weights fixed by the act of 1837.

Mr. McK. then proceeded to remark, that the bill, as originally introduced, simply authorized the coinage of one-dollar gold pieces. The Committee of Ways and Means of this House, to whom the bill had been committed, having determined also to authorize the coinage of double eagles, or twenty-dollar pieces, it became necessary to change the form of the bill. Hence the substitute was reported. The provisions of the bill were all simple. It simply authorized the coinage of these two pieces. It fixed the weights so as to correspond with the weights of the present coin, and required that the pieces should be made in conformity to the law applicable to existing coin.

The third section had been introduced at the suggestion of the Director of the Mint. It referred to what were called "remedies" in the act of 1837. He (Mr. McK.) would read an extract from a letter of the Director on this subject.

Mr. J. R. INGERSOLL inquired of the Speaker if the bill was now before the House for debate?

The SPEAKER said, Yes; and the question was on its engrossment.

Mr. McKAY then read the following extract from the letter referred to:

"In the proposed bill which I send to you, I have introduced a provision for what are technically called the *remedies* in the standard weights of the gold coins. It differs from the provision in the 25th section of the mint act of 1837, by being extended to the proposed new coins, and also by increasing the variation allowed for the eagle and half eagle, from a quarter of a grain to half a grain. Our experience has shown that the former limit is too small for practical adjusting. As the limit now proposed is itself very small, I hope that no objection will be made to its adoption. You will see that the narrow allowance of variation from standard weight in the delivery of large numbers of coins, puts it out of the power of the officers to take advantage of the allowance on single pieces."

These (Mr. McK. proceeded to remark) were all the provisions of the bill. He would say nothing of the advantages to the country which would result from the adoption of this measure, nor would he anticipate any objection to its passage. He was aware that objections had been urged against it. It had been said that one-dollar pieces were too small; that they would be paid away in the dark for five-cent pieces. He had some of the samples in his possession. Any gentleman upon seeing them would be satisfied that there was not much weight in that objection.

Another objection which had been urged against the one-dollar piece was, that it would be easily

counterfeited; and another, that being on a large surface, larger than other coin, it would be subject to greater waste.

But there were two considerations which would have weight with the House in deciding upon the passage of the bill. By the act of 1837, the officers of the mint were required to deliver to depositors such coin as they might require; and if this one-dollar gold piece was not acceptable to the country, inasmuch as a large portion of the bullion coined at the mint was deposited there by individuals, they never would ask for that kind of coin.

Another consideration was, that by the last section of the bill the duration of the act was limited to the 4th of March, 1852—a period of two years. If the experiment was not successful, the act would expire by its own limitation. But if the country should be satisfied with the way in which it worked, it would then, of course, be the pleasure of Congress to continue it in force for a longer time. He would, if it met the pleasure of the House, call the previous question.

Mr. J. R. INGERSOLL hoped not, he said.

Mr. HUDSON appealed to Mr. McKAY to withdraw his motion.

Mr. McKAY did so.

Mr. J. R. INGERSOLL said, the project of coining gold dollars was suggested several years ago. It met with little favor then. It has been cherished and nursed long enough to acquire a growth, one would suppose, much greater than its present glittering appearance would demonstrate. It owes its present magnitude and favor to the efforts of the gentleman from North Carolina who has brooded over it so long. The opinion of the very intelligent director of the mint is probably extorted by some new-born belief engendered by the fear that in some shape or other the thing will be produced, however abortive may be its birth. Certain it is, that he was heretofore warmly opposed to the whole scheme. This fact is as well known to the advocate of it as to myself. We were joint recipients of his objections when I had the pleasure to serve on the same committee with the gentleman. To what have his objections given way? The measure is placed before us with little explanation and no argument, and the House is to guess, as well as it can, at reasons in its behalf.

Public sentiment is often properly a guide to legislative action. It forms a powerful ingredient in the estimate of motives for sustaining or opposing public measures. None has been referred to or is supposed to be in existence on the present subject. It has been left essentially to its workings in the dark, and as gold is the universal master and now occupies universal attention, it seems to be potential even in its utmost diminutiveness.

Does any precedent or example justify the introduction of it? Look over the civilized world, and while you find nothing of the sort among those nations which have preserved their influence and continued most to advance in civilization and intelligence, Spain, in her disturbed and agitated condition which has seldom experienced during the course of centuries a tranquil interval, has possessed and to a certain extent employed this toy for a coin. Even there it is believed to be tolerated rather than approved: maintained in actual existence, but only nominal use by Castilian pride, which delights in the customs of a renowned ancestry, and with them sometimes in the mistaken practices of a less heroic age. Perhaps that ancient monarchy owes its present difficulties to the multiplication and diffusion of its gold. It has been a tempter to the humble and the great. It has dazzled and blinded the eyes of the nation and the subject, the sovereign and the people. Clearer and more authentic proof is required of the benefit of multiplied denominations of coin than this single and unsatisfactory example affords.

If neither precedent nor public sentiment justifies the innovation; if experience be against it, and argument wanting in its favor, why shall we run wildly into what is admitted to be an experiment, now, for the first time, hurried into the halls of republican legislation? Since the formation of the Government, no want has been experienced of this newly-imagined coin. A system of coinage was adopted long ago without it, and it has continued to work well. All the purposes of business, of travel, of everything substantially useful in the intercourse of society, have been attained by things as they are. Let us not, from mere caprice, adopt a change.

The denomination of a dollar is not very useful in practice at the best. Between the half dollar and the quarter eagle, the interval is not so great as to require to be stopped and filled. A little piece of precious metal, scarcely perceptible to the eye or touch, may be a plaything for the idle, a counter for the card table—perhaps a light addition to a lady's purse in her morning's shopping, or a medium of fraud upon the post office laws, by lurking concealed under the seal of a letter. Beyond these fanciful purposes, it has none. Grave legislation will be strangely employed in an effort to encourage and promote them.

It is not to be learned, at this time of day, that efforts have been made, in high places, to multiply American coins, although the recommendation, thus far, has been confined to existing kinds of currency. The proposition comes with all the influence and weight of the Treasury Department, backed by the sovereign sway of the Executive himself. Let that influence prevail, if it be wise. Even in that shape, it is pernicious; and doubly so in the proposal to multiply, without end, denominations, as well as pieces of gold and silver. The precious metals find their level, wherever they are wanted, as readily as water; both are influenced by irresistible impulses, and both are governed by irrefragable rules. This year large importations may be made of specie; next year the exportations become correspondingly large. You cannot promote or prevent them by throwing streams of particular coinage into the market, any more than you can arrest water in its obedience to the laws of nature by tincturing it with saffron. Both will flow on as they ought, and as necessity requires. Bullionists prefer to keep ingots of gold ready for coinage duly assayed. These can be conveniently transported to regions where the state of exchanges requires specie in bars or masses of gold and silver. They are there coined, without any expense to the owner, at the proper mint, and come into use without loss to any one. If, on the other hand, an excess of coinage be resorted to at a particular moment, and the laws of trade call for its exportation, as in due season they inevitably must, the owner loses exactly the difference between the intrinsic value and the imaginary difference arising from supposed superiority of credit which one government possesses over another. Besides, by law foreign coins are receivable as a legal tender among ourselves. Silver and gold are the currency of the Constitution, however stamped and wherever coined. Foreign money is in great variety, and it is now introduced by numerous emigrants constantly arriving on our hospitable shores. Without any formal effort of importation, you may make your contemplated experiment by the coins spontaneously poured into your lap. If, among the numerous arrivals of heads of existing or departed sovereigns in the pockets of their fleeing subjects, seeking a refuge in this refuge land, a little piece of precious metal can, with the utmost scrutiny, be found rivaling in weight and size the gold dollar of this bill, let the experiment be made on foreign materials, and not on our own.

Have the friends of this little coin ascertained the expense that would attend the preparation for a brief experiment? It is said that the Philadelphia mint can make the machinery that may be required. It is the happy organization of that establishment, that it makes within its own walls the machinery which it employs. Its work is noiselessly and successfully performed. It does its quiet duty well, and it is able to do much more than the duty well, and it is able to do much more than the calls of the country require. But *dies* must be made, and new machines to some extent must be prepared. These expenses, though not large, will render a measure which at best is perfectly useless, pernicious too.

It seems great coins are to be issued as well as small ones. If eagles' wings are to be clipped down to a standard so small that they will fail to perform their office from their insignificence, they are, as the bill proposes, to be doubled into a ponderous and unparalleled size. Bad as the increase of metal is, it is not half so bad as its wasteful diminution. We have dollars of silver. It is idle to have dollars of gold. Is it intended to carry the experiment still further, and duplicate all the denominations of coin? Make gold half dollars, gold quarter dollars, gold dimes, and gold half dimes, and you have enough; but may it not lead to making silver quarter eagles, silver half eagles, and silver eagles? Ponderous coinage once existed among a simple and a warlike people. If it is to be introduced again, iron or tobacco will suit as well as gold.

An experiment so unnecessary surely should not be made at a moment like this. Gold is threatened with such plethora as to lose its comparative value. Should the little dollar become less valuable than the silver dollar, or even should it approach nearer than the present state of the precious metals permits, the experiment will become doubly vain. The whole plan is bad, though it may succeed here. If it should, I venture to prophesy that a business community through the country will not applaud the precipitancy of the passage of the bill, or the imperfect principles upon which it must be sustained.

Mr. HUDSON said he was not disposed to detain the House any length of time on this subject; but being one of the committee who had reported this bill, and one of the minority of the committee on the question, he wished to state to the House, in a very few words, his objections to its passage.

His first objection, then, was, that there was no demand that he was aware of for any such coins as were here proposed. On the contrary, the Director of the Mint himself declared, in a letter—a part of which only had been read—that there was no utility in the $20 gold coins; that they were not desired; that they would contribute to no interest whatever. These were the objections to the $20 coin.

What were the advantages of the dollar coin? He (Mr. H.) admitted that in the abstract there might be some advantage in the dollar coin. But there were very serious objections to such a coin. In the first place, the coin would be so small that it might very naturally and very easily be passed off in the evening for a half dime. The dollar coin, which was submitted to the committee from the mint, was just about the size of the half dime. The Director of the Mint had also furnished them with a genuine dollar coin and with a counterfeit dollar coin; and the committee were not able, themselves, to detect the difference—they were not able to distinguish the one from the other.

Mr. NICOLL inquired whether, when the committee examined the spurious and the real coin, a majority of them did not succeed in detecting the difference?

Mr. HUDSON replied, that he was about to state the result of that experiment by the committee. These pieces were put into the hands of the members of the committee, and they were told that the one was spurious coin and the other genuine. They were thus put upon their guard in advance; they weighed and measured, and examined as well as they could; and, he believed, a majority of the committee, being apprised in advance that one was spurious and the other genuine, did with some hesitancy detect the spurious. But he believed his friend from New York, however, and himself, were of the minority of the committee. [A laugh.] He believed that they were unable—that their sense of feeling was not sufficiently acute to detect by the weight (the only test to which they could subject them) the difference between the genuine and the spurious coins.

Mr. VINTON stated, in explanation, that he believed he was of the majority of the committee; but he was perfectly satisfied that if the spurious piece had been given him by itself, he could never have detected it.

Mr. HUDSON said he believed, too, that it was admitted by gentlemen who were able to detect the spurious coin, that if only one of these pieces had been put into their hands, and they had been asked whether it was spurious or genuine, they would have been unable to determine.

Mr. JONES, of Tennessee, (the floor having been yielded for explanation,) said he wished to inquire of the gentleman from Massachusetts if he, or anybody else, could tell the difference in the dark, by feeling, between a hundred dollar bill and a shinplaster of one dollar; either by size, touch, or in any other way except by sight? And he asked the gentleman further, if there were not as many persons in this House, and throughout the country, who could distinguish between the genuine gold coin and a counterfeit, as there were who could determine between a genuine bank note and a counterfeit? Every argument, it seemed to him, which had been urged to these gold coins, applied with ten-fold force to bank bills.

Mr. HUDSON interposed, and said he had

yielded the floor for explanation, but not for an argument.

The gentleman's whole argument (he said) went on the ground that the only test to which the committee had put these pieces was that of feeling. They had not shut their eyes, but they all admitted that there was nothing in the external appearance of the genuine and the spurious coins which would enable them to distinguish between them. It was only by the relative weight.

Mr. JONES inquired if the same objection did not apply with equal force to the eagle, the half-eagle, and the quarter-eagle?

Mr. HUDSON replied, if the gold dollar did not so dazzle the gentleman's eyes that he could not remain quietly in his seat without interrupting him, (Mr. H.) he should before this have come to that point. The difference in one respect between the genuine and the spurious eagle, half eagle, and quarter eagle, was little; but the difference in another respect (in the weight) was very considerable. There might be many grains difference between the weight of a spurious and a genuine coin of a large size, as a ten-dollar coin, but when they took a small coin about the size of a five-cent piece, he ventured to say that his friend would find himself in a very serious dilemma when he was asked to detect by weight the difference between the two pieces.

The dollar coins, he repeated, would be about the size of a five-cent piece; in the night this would be very likely to be passed off for a five-cent piece; they would be so small that they might be lost in the pocket much more readily than large coins; and he believed these pieces might be counterfeited much more easily than the shinplasters to which the gentleman from Tennessee alluded, and which might be common in the gentleman's section of country, but of which they had none in his (Mr. H.'s) section.

He believed that of the people of the community—those among whom the paper and the silver dollar circulated—there were ten persons who would detect a counterfeit one-dollar bill, to one who would detect the counterfeit of a gold dollar. There were more who were expert in judging of hand-writing, of signatures, than there were who were sufficiently acquainted with the properties of different metals to detect the gold from the spurious coin.

He believed that in no respect was there an advantage to be derived from this new dollar coin. On the contrary, there were many objections to it. He believed it would open the door to counterfeiting and to imposition, and that, instead of conferring any benefit upon the community, it would be an absolute injury.

Mr. NICOLL said he did not intend to take up the time of the House in discussing this question, but only to say, in reply to the argument of the gentleman from Massachusetts, as far as he heard it, that every objection which the gentleman had raised to the propriety of the coin which they now proposed would apply with equal force to paper money. No doubt that everything of this kind could be abused; no doubt that human skill would be unable to prevent the fraudulent persons of this world from counterfeiting paper money or gold coin. He believed this argument was greatly exaggerated. He believed the wants of the country required that we should have a coin like that which was now proposed.

He referred to a position taken by Mr. INGERSOLL, as maintaining the superiority of bullion, and the inutility of having coin, and said the argument would apply with equal force against all coin, and would, when carried out, go to the exclusion of coin and to the use of a paper currency based upon bullion.

Mr. J. R. INGERSOLL explained that he had not taken this position.

Mr. NICOLL accepted the correction, and (continuing) said he went for multiplying this coin. In the progress of years great changes had come over the minds of the people in regard to the currency of the country. Small notes were gradually disappearing, and in many of our States paper currency was done away with entirely. It was for these communities that this bill would operate beneficially. He was willing to suppose that there was sufficient discrimination among them to distinguish between gold and spurious coin, and that with equal or greater readiness than they could detect counterfeits of notes issued by distant corporations.

They were bound by every consideration, in his judgment, to pass this bill; and believing that the time of the House was too precious to be wasted in discussion, he moved the previous question.

[Cries of "That's right;" "hold on."]

Mr. BROWN, of Pennsylvania, appealed to the gentleman to withdraw the previous question for a few moments.

Mr. NICOLL (under a general manifestation of a contrary desire on the part of the House) adhered to his demand for the previous question.

Mr. ROCKWELL, of Connecticut, moved to lay the bill on the table.

Mr. PETTIT and several other gentlemen asked the yeas and nays on this motion.

The yeas and nays were ordered, and being taken, resulted, yeas 37, nays 127—as follows:

YEAS—Messrs. Belcher, Cabell, Collamer, Cranston, Eckert, Edwards, Nathan Evans, Gayle, Grinnell, Hale, Nathan K. Hall, Henry, Hilliard, Elias B. Holmes, Hubbard, Joseph R. Ingersoll, Daniel P. King, William T. Lawrence, Levin, Horace Mann, Marsh, Nelson, Outlaw, Putnam, Julius Rockwell, John A. Rockwell, Rumsey, Schenck, Silvester, Caleb B. Smith, Truman Smith, Stephens, Taylor, R. W. Thompson, Van Dyke, Vinton, and White—37.

NAYS—Messrs. Abbott, Ashmun, Atkinson, Barringer, Beale, Bingham, Birdsall, Blackmar, Bocock, Botts, Bowdon, Bowlin, Bridges, Brodhead, Charles Brown, Albert G. Brown, Buckner, Burt, Canby, Cathcart, Chapman, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Collins, Conger, Crozier, Darling, Dickey, Dixon, Garnett Duncan, Edsall, Alexander Evans, Faran, Farrelly, Featherston, Ficklin, Flournoy, French, Fries, Fulton, Gaines, Gentry, Giddings, Goggin, Gott, Greene, Greeley, Willard P. Hall, Hammons, Moses Hampton, Haralson, Harmanson, Harris, Henley, Hill, George S. Houston, Hudson, Inge, Irvin, George W. Jones, Kaufman, Kellogg, Kennon, Lahm, La Sère, Sidney Lawrence, Leffler, Ligon, Lincoln, Lord, Lumpkin, Lynde, McDowell, McIlvaine, McKay, McQueen, Job Mann, Miller, Morehead, Morris, Morse, Nes, Newell, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pettit, Phelps, Pilsbury, Pollock, Preston, Reynolds, Robinson, Rockhill, Root, St. John, Sawyer, Shepperd, Slingerland, Smart, Stanton, Starkweather, Strohm, Strong, Thibodeaux, Thomas, James Thompson, Jacob Thompson, John B. Thompson, William Thompson, Tompkins, Turner, Venable, Wallace, Warren, Wentworth, Wick, Wiley, and Williams—127.

So the House refused to lay the bill on the table.

The question then recurred on the demand for the previous question.

Mr. SCHENCK asked the gentleman from New York [Mr. NICOLL] to withdraw the demand to enable him (Mr. S.) to offer an amendment.

Mr. NICOLL persisted in his motion.

The question was then taken thereon, and the vote stood: Ayes 110, noes not counted.

So there was a second.

And the main question was ordered to be now taken; which main question was first on the amendment, and then on ordering the bill to be engrossed for a third reading.

Mr. SCHENCK called for the reading of the amendment; which was read.

Mr. EVANS, of Maryland, called for the reading of the bill; which also was read.

The question was then taken, and the amendment was agreed to.

Mr. WENTWORTH moved to reconsider the vote, and moved that that motion be laid on the table.

No objection having been made, it was ordered accordingly.

The bill was then ordered to a third reading.

Mr. J. R. INGERSOLL objected to the third reading until the bill had been engrossed.

The SPEAKER said the bill, as amended, had already been engrossed. It was, therefore, in the power of the House to put it on its third reading.

The bill was then read a third time; and the question being on its passage—

Mr. McKAY moved the previous question; which was seconded.

The main question was ordered, and being taken, the bill was *passed*.

Mr. COBB, of Georgia, moved a reconsideration of the vote, and that that motion be laid on the table.

No objection having been made, it was ordered accordingly.

On motion of Mr. McKAY, the title of the bill was so amended as to include twenty-dollar pieces, &c.

RESOLUTIONS OF NORTH CAROLINA.

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of the Union, but waived the motion at the request of—

Mr. CLINGMAN, and on his pledge of renewal

Mr. C., on leave given, presented certain joint resolutions of the Legislature of North Carolina on the subject of slavery; which, on his motion, were laid on the table, and ordered to be printed.

Mr. C. then renewed the motion of Mr. VINTON.

Mr. ROCKWELL, of Connecticut, inquired of the Chair whether, if that motion should not prevail, it would be in order to move that the House proceed to the consideration of business on the Speaker's table?

The SPEAKER was understood to reply in the affirmative.

Mr. ROCKWELL gave notice, that if the motion to go into Committee of the Whole on the state of the Union should not prevail, he would submit the motion he had indicated.

Mr. SCHENCK requested Mr. CLINGMAN to waive the motion, to allow him (Mr. S.) to report a bill in which four ladies, and nobody else, were concerned. He had desired to make the report for several days; and appealed to the gentleman from North Carolina, [Mr. CLINGMAN,] whose gallantry no one would question, to allow him to do so.

Mr. CLINGMAN said he could not withdraw the motion, except with the consent of the gentleman from Ohio, [Mr. VINTON.] He (Mr. C.) did not understand that gentleman as acquiescing.

The question was then taken, and by ayes 54, noes 64, was decided in the negative.

So the House refused to go into Committee of the Whole on the state of the Union.

MILEAGE OF MEMBERS.

Mr. McKAY, from the Committee of Ways and Means, to whom was referred the bill to regulate the mileage of members and delegates to Congress, and for other purposes, reported the same back to the House with an amendment.

The amendment having been read—

Mr. McKAY said the bill did not require commitment. He would ask that it might be read.

The bill having been read—

Mr. McKAY said that this subject of the mileage of members had already taken up a good deal of the time of the House during the present session. He was not disposed to waste any more time in relation to it. For the last sixteen or seventeen years it had been brought, at every Congress, to the consideration of the House, and had always produced much excitement. This matter of mileage was, however, of more importance than some gentlemen on this floor seemed to consider. There was every year paid out of the treasury, for traveling expenses of the officers of various branches of the public service, between four and five hundred thousand dollars. At this session there had been appropriated $175,000 for the mileage of members and delegates; $75,000 for the mileage of military officers; $50,000 or $60,000 was annually expended out of the contingent appropriations of the navy; and for all officers of the civil service, something like $75,000 or $100,000 more was appropriated; making, together, the aggregate he had named.

There was a difference of practice in relation to the mileage allowed to these different officers. The officers of the War Department were allowed mileage according to the shortest mail route. The milcage of officers of the navy was computed by a different rule; they had the benefit of the Congressional rule—that was to say, the usually traveled route.

Mr. ASHMUN interposed. He rose, he said, to a privileged question. He moved that the House proceed to the consideration of the business on the Speaker's table.

The SPEAKER said, that one hour having been given to reports, the motion was in order.

And the question was taken, and by ayes 80, noes 53, was decided in the affirmative.

So the House proceeded to the consideration of the business on the Speaker's table.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House the following Executive communications:

I. A letter from the Secretary of War, transmitting, in compliance with the resolutions of the House of February 16, 1843, and June 14, 1848, a transcript of the army list, showing the amounts received by each officer during the fiscal year ending June 30, 1847; which letter and accompanying

documents were laid upon the table, and ordered to be printed.

II. A letter from the Postmaster General, transmitting his decision upon the claim of Daniel Shaw and Solomon T. Corser, for carrying the mail between Portland and Augusta, in the State of Maine, referred to him for examination and settlement by the joint resolution of June 28, 1848; which letter and decision were referred to the Committee on the Post Office and Post Roads.

Mr. KAUFMAN moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose (he said) of taking up the post office bill.

Mr. WENTWORTH. Is it not the order of the House to proceed to the business on the Speaker's table?

The SPEAKER reminded the gentleman that debate was not in order, and propounded the question on the motion of Mr. KAUFMAN.

Mr. COBB, of Georgia, demanded the yeas and nays, which were ordered by tellers, and having been taken, were—ayes 88, noes 90.

So the House refused to go into Committee of the Whole on the state of the Union.

PRIVATE BILLS.

The bill for the relief of Jacob Zimmerman; and

The bill for the relief of Major Charles Larabee, ordered to be engrossed on the 13th instant, were severally read the third time and passed, and sent to the Senate for concurrence.

AMERICAN ARCHIVES.

The joint resolution authorizing the distribution of the American Archives, under the direction of the Joint Committee on the Library, to literary institutions, ordered to be engrossed on the 13th instant, was read the third time.

The question being on the passage of the resolution—

Mr. WENTWORTH moved the previous question; which was seconded, and, under the operation thereof, the resolution was passed.

Mr. WENTWORTH moved that the vote by which the joint resolution was passed be reconsidered, and also that the motion to reconsider be laid on the table; which latter motion was agreed to.

MOBILE AND OHIO RAILROAD COMPANY.

Mr. GAYLE made an inquiry of the Speaker relative to the situation of the bill granting the right of way to the Mobile and Ohio Railroad Company, pending the question upon the passage of which, he said, the House had adjourned some two weeks since.

The SPEAKER referred the gentleman to the order of business as laid down in the printed calendar, and said the bill could not be reached until prior orders were disposed of.

THANKS TO GENERAL TAYLOR.

The House proceeded to the consideration of the joint resolution of thanks to Major General Taylor, introduced on the 3d of January, 1848, by Mr. HOUSTON, of Delaware.

On motion of Mr. WENTWORTH, it was

Ordered, That the said resolution be laid on the table.

Mr. WENTWORTH moved that the vote by which the joint resolution was laid on the table be reconsidered; and also that the motion to reconsider be laid on the table; which latter motion was agreed to.

CLERKS IN THE PENSION OFFICE.

The House proceeded to the consideration of the joint resolution authorizing the Commissioner of Pensions to employ temporarily an additional number of clerks in his office, when——

On motion of Mr. VINTON, it was

Ordered, That the said resolution be laid on the table.

THANKS TO ARMY OFFICERS.

The House proceeded to the consideration of the joint resolution expressive of the thanks of Congress to Generals Twiggs, Worth, Pillow, Shields, Quitman, Patterson, Pearce, Smith, and Cadwalader, introduced by Mr. CHASE, on the 21st of February, 1848.

On motion of Mr. TOOMBS, it was

Ordered, That the said resolution be laid upon the table.

DUTY ON TIMBER.

The House proceeded to the consideration of the bill to release from duty plank and timber imported for the construction of plank roads, reported by Mr. HUNT, from the Committee on Commerce, on the 30th of March, 1848.

On motion of Mr. WENTWORTH, it was

Ordered, That the said bill be laid upon the table.

SLAVE TRADE IN THE DISTRICT.

The House proceeded to the consideration of the bill to prohibit the importation of slaves into the District of Columbia with certain exceptions, introduced by Mr. WICK on the 25th of May, 1848.

The question pending thereon being the motion of Mr. JACOB THOMPSON, that the said bill be laid upon the table—

Mr. TOOMBS moved that the House resolve itself into Committee of the Whole on the state of the Union.

The yeas and nays were asked on that motion.

Tellers were ordered, (Messrs. LIGON and TOOMBS;) and thirty-five members having voted therefor, the yeas and nays were ordered, and being taken, were: Yeas 90, nays 93.

So the House refused to go into Committee of the Whole on the state of the Union.

The question then recurred on the motion to lay the said bill on the table; which having been decided in the affirmative—

The said bill was laid on the table.

LAND OFFICE IN MISSOURI.

The House proceeded to the consideration of the bill to establish an additional land office in the State of Missouri.

The question pending being on the engrossment and third reading of the bill, it was put and decided in the affirmative.

And the said bill being engrossed, was accordingly read the third time and passed, and sent to the Senate for concurrence.

DUTIES OF CONSULS—AMERICAN SEAMEN.

The House proceeded to the consideration of the bill to repeal the fifth section and seventh clause of "An act in addition to the several acts regulating the shipment and discharge of seamen, and the duties of consuls," approved July 20, 1840; and also to amend the act entitled "An act supplementary to the act concerning consuls and vice-consuls, and for the further protection of American seamen," approved February 28, 1803, reported by Mr. MCKAY, from the Committee of Ways and Means, on the 14th of June, 1848.

The question pending being upon the engrossment of the bill—

Mr. MCKAY, under instructions from the Committee of Ways and Means, moved the following amendment, to come in after the first section, viz:

SEC. 2. *And be it further enacted*, That any officer or seaman may be discharged from any vessel of the United States in a foreign country without payment of the three months' wages prescribed in the preceding section: *Provided*, such officer or seaman shall be at the same time reshipped on board another vessel of the United States, and the consul or commercial agent of the United States shall signify his approval by endorsing the discharge of such officer or seaman upon the list of the crew of the vessel from which any officer or seaman is discharged.

SEC. 3. *And be it further enacted*, That the master and owner, or owners of the vessel which shall receive such officer or seaman, shall be bound and held for the return of such officer or seaman to the United States, being citizens thereof, under the same penalties as is now provided by law; and the bonds hereafter given for seamen shall be so amended and construed as to include all officers or seamen shipped, as provided in the preceding section, and the consul or commercial agent of the United States at the port of shipment shall enter on the list of crew the names and description of all persons thus shipped.

SEC. 4. *And be it further enacted*, That the twelfth clause or section of the act entitled "An act in addition to the several acts regulating the shipment and discharge of seamen, and the duties of consuls," approved July 20th, 1840, be so amended as that all complaints in writing to the consul as therein provided, that a vessel is unseaworthy, shall be signed by the first or the second and third officers, and a majority of the crew before the consul or commercial agent shall be authorized to notice such complaint, or proceed to appoint inspectors as therein provided.

Mr. JOHNSON, of Arkansas, moved that the bill be referred to the Committee of the Whole on the state of the Union. He made this motion, he said, in order that something like justice might be attained in the transaction of the business of the House. He found that every day bills were passed to a third reading, and were sent to the Senate for its action, or, if from the Senate, became at once the law of the land, and without delay or discussion.

Yet bills on the calendar of the Committee of the Whole on the state of the Union, prepared with great labor, involving heavy interests of both General and State governments, and whole classes of the people—bills to which no one would object, if they knew aught about them, or could or would hear them—were not touched at all.

He called the attention of the House, in the most peremptory manner, to the fact and the outrage, that bills were going through every day, whilst other bills, of equal or greater utility, and which had been pressed with far greater energy and activity, and all the zeal of men on this floor, striving and struggling faithfully to transact the business of their constituents, were entombed on the calendar of the Committee of the Whole on the state of the Union. That calendar was never called. It had never been called for the last ten years. The oldest members of this House never knew the day when it was called. That calendar stood without day. It was the grave of the business of the House, and more particularly of the business of young and inexperienced members, as he had been in this Congress.

He had attempted to remedy this evil. He had introduced a new rule; it was to set apart every Thursday to call this calendar, to resurrect the dead bills of this Congress—bills prepared for every quarter, class, and general interest existing in this Union. But the rule, though adopted at once for its justice and reason, is defeated, because the House will not respect it, now it is made.

When this Congress met, committees were appointed, their duties and labors assigned them. They went to work—labored day in and day out to mature, in the plenitude of wisdom, enactments whenever required by the public interest, and presented them for the consideration of this House. These bills are now on this calendar; they are entombed—dead; for, from the beginning to the end of the Congress of two years, this calendar is never called.

It was an outrage upon the whole country, and upon the committees required to do a useless labor, and upon all those members who diligently labored upon the business of the House and in behalf of the interests of their constituents, that this calendar should never be called.

Mr. GIDDINGS inquired of the Speaker if these remarks were in order?

Mr. J. could not help it. He wished to remark upon the gross injustice under which he, with others, had suffered from the beginning of this Congress, and he protested. It was now almost hopeless with him to get action on matters to him of the highest solicitude, and such was the fate of all young members; whilst the older and more experienced were permitted, from good nature, to smuggle through their matters silently, in violation of rules providing for the reference of all public and general bills to this calendar. He had no hope, scarcely, of his bills. His condition was the same with a large majority of the House. From eight hundred to a thousand bills were in this fix.

The SPEAKER called Mr. J. to order. The debate was irrelevant.

Mr. JOHNSON knew it would be objected to.

Mr. GRINNELL objected, and called the gentleman to order.

Mr. JOHNSON was sorry—would do anything to oblige the gentleman in the world—but must and would denounce the systematic injustice of the rules of the House and their method of enforcement, in regard to so many interests and so large a number of bills. He would not be turned aside from denouncing the practice of many members who were always objecting to the passage of bills before this House; men who were as ignorant at the very moment of objecting, of all the provisions of the bills thus strangled, as an ass. It was a shame. Gentlemen should know before they objected; but, in ignorance themselves, they wished, perhaps, to make character at home. Thus they objected—and to the country seemed, as they are always on the record objecting, as if they knew more than all others, and something if not all about everything that came up for legislation.

The SPEAKER called the gentleman to order

Mr. JOHNSON said he thought he had a righ to debate the question of reference; and he gave notice that he would oppose in every way the present system; and he would move to lay on the table, and he would object, and he would move to refer to the same miserable calendar to entomb every bill that came up, except appropriation bills—so as to put all business of this House on an equal footing, until such time as this House should consent to take up the regular calendar, and do the business in its natural order. He would persevere in this.

Mr. J. was again called to order.

He begged pardon, but would now give notice that on Thursday, by the new rule, the calendar would come up, and that he would then move to go into committee upon it, and that he now protested against the system pursued by gentlemen who objected, whilst they were wholly uninformed upon the subject-matter.

After some conversation—

Mr. GRINNELL moved the previous question; which was seconded. And the main question—being first on referring the bill to the Committee of the Whole on the state of the Union—was ordered to be now taken.

The House refused to commit the bill.

The amendment was adopted, and the bill was then ordered to be engrossed for a third reading.

Mr. JOHNSON objected to the third reading, but withdrew his objection, and the bill was then read a third time and passed.

CHANGE OF COLLECTION DISTRICT.

The House proceeded to the consideration of the bill to transfer the towns of Vinal Haven, North Haven, and Islesboro' from the collection district of Penobscot to that of Belfast, in the State of Maine, reported back from the Committee on Commerce by Mr. GRINNELL, on the 23d of June, 1848.

The question pending being on committing the said bill to the Committee of the Whole House on the state of the Union—

Mr. WENTWORTH moved the previous question; which was seconded, and the main question ordered, viz: Shall the bill be committed to a Committee of the Whole House on the state of the Union? and being put, it was not agreed to.

The question recurred, Shall the bill be engrossed and read the third time? and being put, it was decided in the affirmative.

The third reading of the bill at this time was objected to.

Mr. SMART moved that the vote be reconsidered by which the said bill was ordered to be engrossed, and also moved that the motion to reconsider be laid upon the table; which latter motion was agreed to.

PRE-EMPTION RIGHTS.

The House proceeded to the consideration of the bill to grant preëmption rights for certain islands in the Great Miami river, reported back by Mr. COLLAMER, from the Committee on Public Lands, on the 23d June, 1848.

The pending question being upon the engrossment and third reading of the bill, and after debate by Messrs. JOHNSON, FICKLIN, and COLLAMER—

Mr. JOHNSON, of Arkansas, moved that it be laid upon the table; which motion was not agreed to.

Mr. JOHNSON then moved that the said bill be committed to the Committee of the Whole House on the state of the Union; which motion was agreed to.

Mr. COLLAMER moved that the vote be reconsidered by which the said bill was committed to the Committee of the Whole House on the state of the Union.

Mr. COLLAMER moved the previous question, which was seconded, and the main question ordered, viz: "Will the House reconsider the vote by which the said bill was committed to the Committee of the Whole House on the state of the Union?"

And being put, it was decided in the affirmative.

The question recurred, "Shall the bill be engrossed and read a third time?"

And being put, it was decided in the affirmative.

The third reading of the bill at this time was objected to.

Mr. HILLIARD moved that the House resolve itself into Committee of the Whole House on the state of the Union; which motion was not agreed to.

SCHOOL LANDS IN MISSISSIPPI.

The House proceeded to the consideration of the bill granting a half section of land for the use of schools within the fractional township 19 south, of range 18 west, county of Lowndes, in the State of Mississippi, reported by Mr. EVANS, of Maryland, from the Committee on Public Lands, on the 23d of June, 1848.

The question pending being upon the engrossment and third reading of the bill—

Mr. EVANS, of Maryland, moved the previous question, which was seconded, and the main question ordered, viz: Shall this bill be engrossed, and read a third time? And being put, it was decided in the affirmative.

And being engrossed, the said bill was accordingly read the third time and passed, and sent to the Senate for concurrence.

TREATIES OF EXTRADITION.

The House proceeded to the consideration of the bill giving full effect to treaties of extradition, reported by Mr. JOSEPH R. INGERSOLL, from the Committee on the Judiciary, on the 23d of June, 1848.

The question pending being on ordering the bill to be engrossed and read a third time—

Mr. J. R. INGERSOLL moved that the said bill be laid upon the table; which motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKENS, the Secretary, stating the Senate had passed sundry bills.

Mr HILLIARD moved that the House resolve itself into Committee of the Whole on the state of the Union.

The motion, by ayes 68, noes 82, was rejected.

RETIRING LIST OF THE ARMY.

The House proceeded to the consideration of the bill of the House entitled "An act to increase the efficiency of the regiments and corps of the army, and to provide for disabled and infirm officers," which, on the 2d of July, 1848, had been referred to the Committee of the whole House on the state of the Union.

Mr. VINTON moved to lay the bill on the table; but withdrew at the request of

Mr. BURT, who said he was very desirous that the bill should be passed. It would be remembered that during the last session, when there was a very great pressure of business upon the House, the House had done him the kindness, and perhaps the bill the justice, to take the bill from the Committee of the Whole on the state of the Union, where it was not likely to be passed. He had then said, that as the House had been so civil, he would not press the passage of the bill, but would content himself with having it take its place where it now stood.

He begged to say to the House that the officers of the army, with the Secretaries of War, for the last twelve years, had deemed this a bill of very great importance to the efficiency of the army of the United States. It sought, as the House would perceive by its terms, to create a retired list of the officers of the army. He had in his hand a report of the Adjutant General of the Army, which showed that a very large proportion of the colonels, lieutenant colonels, and the majors of the army of the United States, were, some by reason of their age, and others by reason of disability arising from wounds received from the service, incapable of commanding their regiments and battalions. The bill proposed that they should be placed upon a retired list, with the pay proper belonging to their rank, and that the next officers in command should succeed to their rank, without the emoluments belonging to the rank to which they succeeded. It would be seen that the compensation thus provided for those officers who were proposed to be retired from the service of the army would afford them but a bare subsistence. He assured the House, upon a full and minute examination of this whole subject, that the charge upon the treasury of the United States would not be increased by this arrangement. The bill so arranged the allowances to these officers as to take from those who should be retired upon the list all but their pay proper. They would be cut off from very large allowances, in the form of longevity rations.

It was known that there was a very large number of these officers. He begged to refer upon this subject to information which had been communicated to the House by the Adjutant General in 1846, when the House were called upon to pass a law authorizing an additional major for each regiment of the army of the United States, which was allowed by Congress, and one additional major was added to each regiment.

He read from the report of the Adjutant General, showing that eight out of twelve of the field officers of artillery, and one-third of the field officers of infantry were in this condition, disabled from taking their commands by age, or wounds received in the service, or otherwise.

He wished this House at this moment would pass this bill. He wished at least that its merits would be considered by the House, and if it should be found not to create an unnecessary charge upon the treasury, if it should be found to contribute to the efficiency of the army of the United States, he trusted that every man who was in favor of economy and retrenchment, would come up and give his support to the bill.

He had nothing to say to this House of the gallant old officer who had been severely disabled, who had lost his limbs or the energies of his life in the service of the country. He had nothing to say to the House, that such an officer as that should not be be turned loose upon the world, unprovided for and penniless. If there was any man here who would turn him loose upon the world, let him avow it. He (Mr. B.) was not one who would do it. But if there was such a member of this House, he would say to him that he should not oppose this bill. He trusted there was no man here who was not disposed to increase the efficiency of the army of the United States—of the regiments, by taking from those regiments those who now stood in the way of the promotion of junior officers of merit, and placing at the heads of regiments or battalions, men who were capable of performing the duties of those commands. He wished this House would pass the bill which had been reported by the Committee on Military Affairs.

He begged to repeat that the bill, since the time Mr. Poinsett was Secretary of War, had received the favorable consideration of every Secretary of War. It was most earnestly urged by General Scott, than whom no man was more fitted to judge what was necessary for the efficiency of the army, as he solemnly believed no man was more fitted to lead a gallant army than that distinguished officer. The officers of the army had all borne their testimony to the indispensableness to the service of the army of such a bill as this. It was a bill prepared by the officers of the army, under the approbation of the Secretary of War, and he trusted this House would not consider it a novel measure of the committee; it had been matured by the heads of the army themselves; it had been sanctioned by them all; it had repeatedly been urged upon the consideration of Congress; and he wished at this moment—a moment when it might be done so conveniently and so usefully to the country—it would be taken up and passed.

Mr. TOOMBS asked for the reading of the bill; which was read.

Mr. TOOMBS was opposed to the bill, and desired briefly to state the reasons which brought his mind to that conclusion. The effect of the bill would be to increase the expenses of the army unnecessarily. This the gentleman from South Carolina [Mr. BURT] had admitted.

Mr. BURT interrupted, and desired to ask the gentleman whether he had seen the report of General Scott which bears directly upon this point? He knew that his friend would not be willing to shut out valuable information when he could get it. The whole amount of additional expenses authorized by the bill, according to his understanding and recollection, amounted only to the small sum of one hundred and eighty dollars.

Mr. TOOMBS proceeded. He understood that this was a bill authorizing a list of retiring officers, to be made up of those who have become incapable of the duties of the service, and these officers were to retire upon pay, but without rations. The places of these retired officers were to be filled by those who were to receive pay and rations. Those next in rank were to fill the places of the retired officers. He would state the objections which he had to the bill. Under our military system, ever since the adoption of the present peace establishment, there was a law by the operation of which all the officers were retained in the service, so that the army should at all times be completely officered, while the army itself was to be only a mere skeleton. The proportion of officers to the men was now much greater than the service required. The gentleman had said that he wanted to add greater efficiency to the field officers. But the service did not need more efficiency in the field for our small army of six thousand men. There was scarcely a single regiment of the army kept together. They were all distributed in small detachments, having charge of the various military posts

of the country; and he repeated, that there was no need for increasing the efficiency of the field service. He would let the field officers all stay where they were, and allow all the old officers to enjoy their emoluments. As to the opinion of General Scott, (he said,) it was known to be to the interest of every officer of the Government, that the particular branch of the public service to which he belongs should be extended and enlarged. He was constrained, therefore, to place very little reliance upon the judgment of even such a man as General Scott upon the question involved in this bill. At all our military posts, and upon all our Indian lines, there were needed no more men than were absolutely necessary to take care of the various stations. He would be willing to dispense with all the military force of the country not required for this purpose—opposed, as he was, and ever had been, to keeping up an expensive military establishment in time of peace. A very large number of the younger officers of the army obtained promotion in the war with Mexico. Many who went into that war as captains and lieutenants came out of it as field officers.

He admitted that there were old men in the army who were incapable of service; but they ought to be continued in the service, in order that they might be suitably taken care of. He would have the younger members of the army to wait, till, in the order of nature, the older ones might make way for their promotion.

Mr. BURT said some of them had already waited till they were fifty years of age.

Mr. TOOMBS. That was the difficulty.

Mr. BURT. Did you ever know a superannuated officer or a superannuated judge to die?

Mr. TOOMBS. I know that "it is appointed to all men once to die." I admit that the older officers of the army do not die fast enough to suit the younger officers and satisfy their desires for promotion. And in the community generally it very often happens that the old people do not get off the stage fast enough to suit the convenience of the juniors.

He went on to show that, for a few years past the number of promotions amongst the army officers had been much larger, in proportion to the time which he contemplated than ever before in the history of the Government. But there was not room enough for the ambition of the subordinate officers. That was the difficulty. The same difficulty had already shown itself in the naval service, in a demand for a retired list of naval officers. It would not be long before the same difficulty would spring up in the civil service; and he knew not why those who had spent their lives in the civil service of the country, had not equal claims upon the public munificence with those who had been worn out in the military branch of the service. The passage of this bill would establish a principle; it would make an opening in our legislation which would admit of retiring lists from every branch of the public service, and result in a system that would be very expensive.

When the army was filled up by the requisitions for the war, the field service was found to be sufficient. Where, then, was the necessity of increasing the promotions now, so soon after many of our young men had won their promotions by the sword? Why should we now, in order to form a retired list, make provision for promotions not required by the service?

Mr. BOWLIN also opposed the bill. It proceeded upon the principle of increasing the army, by increasing the strength of the officers only. The proposed retiring list was demanded by those who were interested in pushing the old officers from their stools.

This proposition to form a retiring list out of the officers of the army, was a most unnecessary extension of the pension list. It was based upon a principle borrowed from the corrupt governments of other countries and other times, and which, if it were to be sanctioned here, would become a disgrace to our institutions.

But in the attempt to ingraft this principle upon the country, why was it that it had been determined to commence with the army? The reason was, because the army had so recently won the most imperishable laurels in the Mexican war; and it was certainly a very difficult thing now for Congress to resist any application coming from the army. Nevertheless, it was their plain duty, as the representatives of the people, to resist this bill, and so take care of the public purse. For if this bill was to be passed, applications would follow for an extension of the principle, and the next Congress might pension the navy; and then their successors would pension the civil list. Gentlemen, when they came to act upon a proposition like this, should recollect that the country had not yet paid the heavy expenses of the war. He had been informed that, under the operation of this bill, as large a proportion as eight out of twelve of all the field officers of the army would be retired on full monthly pay; and this would show what large classes of promotions and new appointments such a policy would involve. It would impose upon the service an additional number of officers, corresponding exactly to the number of officers retired.

He trusted that the House was not going to pass this bill as they would pass a mere private bill, involving only the consideration of a few dollars He trusted that it would be sent to the Committee of the Whole, where gentlemen of intelligence and research might examine it, and bring to light the corruptions of the system to which it belonged. He warned the House against the adoption of that system. It was a most seductive and dangerous system—a system which, if we stepped once into it, we would be in it forever.

Mr. BURT (interposing, and the floor being yielded) would like to say to the gentleman from Missouri, and to the House, that this bill had already slept for five years in Committee of the Whole. The gentleman was wholly mistaken in supposing that it had appeared only since the war with Mexico. It was originated long before the commencement of that war; and it was during the last session of Congress that the House discharged the Committee of the Whole from its further consideration. This was done, he believed, unanimously; and at that time, when he was requested to call for the passage of the bill, he preferred not to urge its consideration. The bill had been in Committee of the Whole certainly long enough.

Mr. BOWLIN resumed. He had not intended to convey the idea that the measure was entirely new. What he intended to say was, that the merits of the bill had not been investigated—had never received any discussion. He knew that it had been lying in committee, and had been permitted to sleep there a long time; and his fear was, that like the giant of the fable, it had been refreshed and strengthened by sleeping. And this apprehension was raised because the bill was brought forward at a peculiar period of time, when the army was most popular, and when it was dangerous for men to trust themselves in legislating upon applications in its favor. The present was a time when inroads upon the treasury for the benefit of the army might be easily made. That was the idea which he had before intended to convey.

But was it not strange, that this bill, which had been so long before the House, had never yet received any discussion? Why should a bill be kept out of sight, which involved a principle leading to the expenditure of millions of the public money? This was no new matter. This principle had grown up with the corruptions of all Governments, as fast as they became old enough and corrupt enough to adopt it. He desired, before the House was called upon to adopt this policy, that it should be discussed and understood, and that examples of its operation should be laid before Congress and the country. For this purpose he would have the bill again referred to the Committee of the Whole on the state of the Union; and then, after such mature consideration, no man would submit more readily than himself to the decision which might be thus obtained. But he did insist that the bill should not be passed without any deliberation at all: for whether the principle was carried beyond the army or not, it would certainly devolve a very heavy burden upon the treasury. But who could believe that it would stop there? Was not the navy as justly popular as the army? It was only necessary to refer back to that glorious period of our national history, (the year 1814,) to see our navy crowned with the proudest laurels gained in a conflict with the first maritime Power of the world. He could tell gentlemen that the navy had as much right to a retiring list as the army, and that they would have it, if the principle should ever be adopted by Congress. And then all our old civilians, who have all their lives enjoyed the honors and emoluments of office, and who have gained more without capital than ninety-nine hundredths of our farmers ever derive from all their capital and labor—all these old civilians would come forward and claim to be pensioned by the Government as a retiring civil list.

He would resist the principle at the threshold. He would resist it now when the shape it assumed was the most seductive—when it was sought to be fixed upon us in behalf of the army, and because the army was popular. The principle could not be tolerated a moment, if it were sought to be applied to the civilians of the country: there was not a man in the House that would not raise his voice against it. He was content with submitting these considerations, and should make no motion.

Mr. DIXON moved the previous question, on which motion no quorum voted.

Mr. McKAY moved that the bill be laid on the table, and asked the yeas and nays on that motion, which were ordered, and being taken, were—yeas 127, nays 33.

So the bill was laid on the table.

Mr. McKAY moved a reconsideration of the vote, and that that motion be laid on the table.

No objection having been made, it was ordered accordingly.

INVALID PENSIONS.

The House proceeded to the consideration of the bill of the House, entitled "An act to authorize the payment of invalid pensions in certain cases," which was reported by Mr. FULTON, from the Committee on Invalid Pensions, on the 7th of August, 1848.

The question being on the engrossment of said bill—

Mr. WENTWORTH moved the previous question; which, by ayes 75, noes 38, was seconded.

And the main question was ordered to be now taken, (which main question was on ordering the bill to be engrossed for a third reading.)

Mr. JONES, of Tennessee, now raised the question of order that, on seconding the demand for the previous question, a quorum had not voted.

The SPEAKER said, if insisted on, another count would be taken.

Mr. JONES demanded another count.

And the question having been again put, the affirmative vote was 112, noes not counted.

So there was a second. The main question was ordered, and, being taken, the bill was ordered to be engrossed for a third reading.

Mr. WENTWORTH demanded the previous question on the passage of the bill.

Mr. HAMMONS objected to the third reading of the bill, (not being engrossed.)

The SPEAKER put the question to the House, and the bill was ordered to a third reading now.

Mr. COLLAMER called for the reading of the bill at length, and it was read.

And the question being on its passage—

Mr. HAMMONS stated some objections which he entertained to the provisions of the bill, as he understood their operation; and thought that it required maturer examination than gentlemen had given to it.

Mr. KAUFMAN inquired of the Speaker whether it would be in order to move a reconsideration of the vote by which the bill had been ordered to a third reading to-day.

The SPEAKER said it would not be in order. The order had been already executed.

Mr. WHITE moved that the bill be laid on the table; which motion was not now entertained.

Mr. FULTON briefly replied to Mr. HAMMONS, explaining the provisions of the bill, and contending that the gentleman had been mistaken in his understanding of their effects.

Some conversation followed between Messrs. COLLAMER and FULTON.

Mr. WENTWORTH demanded the previous question on the passage of the bill.

Mr. JONES, of Tennessee, moved that the bill be laid on the table, and asked the yeas and nays, which were refused.

And the question was taken by tellers, (Messrs. KAUFMAN and EVANS of Maryland,) and decided in the affirmative—ayes 72, noes 53.

So the bill was laid on the table.

Mr JONES moved a reconsideration of the vote, and that that motion be laid on the table.

No objection having been made, it was ordered accordingly.

THE BLUE BOOK.

The House proceeded to the consideration of the joint resolution "for the distribution of the Official Register or Blue Book among the several States," which had been introduced by Mr. CHARLES BROWN, on the 18th of December, 1848.

The question being on the amendment of Mr. HARALSON, to wit: Strike out "State libraries" in the fourth line, and insert "Secretary of State in the several States."

Mr. BROWN offered the following as an amendment to the resolution, in lieu of the amendment which had been offered by Mr. HARALSON: After "State libraries" insert: "and where there are no State libraries, to be deposited in the office of the Secretary of State," and thereupon moved the previous question.

Mr. WHITE moved to lay the said joint resolution on the table; which was not agreed to.

The previous question was then seconded, and the main question ordered, viz: Shall the said amendment to the amendment be agreed to? And being put, it was decided in the affirmative.

The resolution was then ordered to be engrossed and read a third time; and being engrossed, was accordingly read a third time and passed, and sent to the Senate for concurrence.

Mr. BROWN, of Pennsylvania, moved that the vote by which the said resolution was passed be reconsidered, and that that motion be laid on the table.

COMMITTEE REPORT.

Mr. HAMPTON, of New Jersey, from the Committee on Enrolled Bills, made a report.

Mr. STEPHENS moved, at a quarter past three o'clock, p. m., that the House adjourn; which motion was decided in the affirmative—yeas 92, nays 84.

And the House accordingly adjourned until to-morrow at eleven o'clock, a. m.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. THOMPSON, of Iowa: The memorial of sundry citizens of Jefferson county, Iowa, asking a donation of the unsold lands in that county, to aid them in the erection of buildings for the use of the branch of the State University at Fairfield.

By Mr. MILLER: The petition of Jacob Lybarger and 25 others, citizens of Richland county, Ohio, praying Congress to pass a law preventing the transportation of the mail, the delivery of letters, &c., on the first day of the week.

By Mr. MULLIN: The petition of Edward A. Sacket and others, citizens of the county of Jefferson, New York, praying the reduction of postage on letters to a uniform rate of two cents.

By Mr. BOYD: The petition of Marvill Hill.

By Mr. RICHARDSON: The petition from a portion of the citizens of Brown county, Illinois, for a military escort to and from California. Also, the petition from a portion of the people of Pike county, upon the same subject.

By Mr. CROWELL: The petition of Abell B. Berry, Clement Wright, and others, citizens of Summit county, Ohio, for reducing letter postage to two cents, and newspaper postage to one-half and one cent, and for abolishing the franking privilege.

By Mr. MANN, of Massachusetts: The petition of Horace James and 232 others, inhabitants of Wrentham, in the State of Massachusetts, in behalf of cheap postage. Also, the petition of John Storrs and 24 others, inhabitants of Hollis-ton, in the same State, for the same object. Also, the petition of O. H. A. Dall and 23 others, inhabitants of the same State, for the same object. Also, the petition of E. H. Stafter and 14 others, of the same State, for the same object. Also, the petition of Edward C. Rogers and 43 others, of the same State, for the same object. Also, the petition of B. B. Mussey and 65 others, of the same State, for the same object.

By Mr. PALFREY: The petition of Eunice R. Davis and 535 others, women of Massachusetts, praying Congress to withdraw the protection of Government from the American slave trade, to prevent the extension of slavery, and abolish it, wherever Congress has competent jurisdiction.

By Mr. PHELPS: The petition of citizens of Lafayette county, Missouri, praying for the establishment of a regular commercial communication between the valley of the Mississippi and California, and that the emigrants by the overland route be furnished with a military escort.

IN SENATE.

WEDNESDAY, *February* 21, 1849.

Mr. JOHNSON, of Georgia, presented a memorial from John Whitesides, asking the payment of a certain post office draft; which was referred to the Committee on the Post Office and Post Roads.

Mr. DAYTON presented a memorial from a number of citizens of Pennsylvania, praying for the construction of piers and harbors on the Delaware river and bay; which was laid on the table.

Mr. DAYTON presented a petition from citizens of Pennsylvania, asking for amendments in the Patent Office laws; which was referred to the Committee on Patents and the Patent Office.

Mr. HALE presented the proceedings of the New Garden Monthly Religious Meeting of Friends, in Chester county, Pennsylvania; and also the memorial of the Sadsbury Meeting of Friends of Chester county, Pennsylvania; praying for the abolition of slavery and the slave trade in the District of Columbia, and against the extension of slavery to the newly-acquired territories; the question of the reception of which was raised and laid on the table.

Mr. HALE presented the petition of a number of citizens of Massachusetts, praying that portions of the public lands may be given to actual settlers, free of charge; which was referred to the Committee on Public Lands.

Mr. YULEE presented a petition from 476 citizens of Manatee, in the State of Florida, asking for the establishment of a post office, and of a post-route from Manatee to Tampa; which was referred to the Committee on the Post Office and Post Roads.

REPORTS OF COMMITTEES.

Mr. DOWNS, from the Committee on the Judiciary, to whom was referred the resolution of the Senate, passed on the 13th instant, authorizing the Commissioner of the Land Office to purchase five hundred copies of "White's new *Recopilacion*," reported a joint resolution respecting the procurement and publication of authentic information as to the laws of the territories recently acquired from Mexico; which was read a first and second time.

Mr. DOWNS moved that the Senate now consider this joint resolution.

Mr. YULEE objected. The motion, therefore, could not be entertained under the rule.

Mr. BUTLER, from the Committee on the Judiciary, to whom was referred the joint resolution from the House of Representatives authorizing the Secretary of State to increase the number of copies of the Laws of Congress annually distributed to the several States and Territories, reported back the same without amendment, with a recommendation that it do pass.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, to whom was referred the following House bills:

An act for the relief of Sylvanus Blodget;
An act for the relief of Susannah Prentiss;
An act for the relief of Hannah Kenney, widow of Amos Kenney, late of the State of New York;
An act for the relief of David Murphy;
An act for the relief of Philip Miller;
An act for the relief of Warren Raymond;
An act for the relief of Eve Boggs;
An act for the relief of James France;
An act for the relief of Levi M. Roberts;
An act for the relief of Camfield Averill;
An act for the relief of Elizabeth S. Cobbs;
An act for the relief of Peter Myers;
An act for the relief of Hector Perkins;
An act for the relief of Aaron Stafford;

Reported back the same without amendment, and recommended their passage.

Also, from the same committee, to whom was referred the following House bills:

An act for the relief of Gardner Herring;
An act for the relief of William Blake;

Reported back the same without amendment, and with a recommendation that they do not pass.

Mr. J., from the same committee, to whom was referred the petition of Robert M. Martin, made a written report, accompanied by a bill for his relief; which was read and passed to a second reading.

Mr. UNDERWOOD, from the Committee on Claims, to whom was referred the petition of Alexander McKee and Johnson Price, made a written report, accompanied by a bill for their relief; which was read and passed to a second reading.

Also, from the same committee, to whom was referred the petition of Nathaniel Lewis, asking payment of a claim due him for supplies furnished a company of Texas rangers, made an adverse report in writing on the same; which was ordered to be printed.

Mr. DIX, from the Committee on Commerce, to whom was referred the bill to continue the light at Sands' Point, Long Island Sound, reported the same without amendment.

On motion of Mr. DIX, the Senate proceeded to the consideration of the same, as in Committee of the Whole; and no amendment having been offered, the bill was ordered to be engrossed for a third reading, and was subsequently read a third time, by unanimous consent, and passed.

RESOLUTIONS.

Mr. WESTCOTT submitted the following resolution:

Resolved, That the Secretary of State be directed to report to the Senate the circumstances within his knowledge attending the appointment of Leonard D. Gale as Examiner in the Patent Office, with copies of all papers in his office relating thereto.

In submitting the foregoing resolution, Mr. WESTCOTT said: I present this resolution in order that the gentleman named in it (Professor Gale) may be done justice. The public newspapers had contained charges and imputations against the Commissioner of Patents as to that selection. They had been referred to in a memorial or in documents laid before Congress at this session, and used on the authority of a respectable name. These papers had done Mr. Gale and the Commissioner of Patents injustice; they had occasioned prejudice and created distrust with some. It is important that full confidence should be entertained in the Patent Office and its officers. I am satisfied, from my examination of the matter, that the answer to this resolution will show that the imputations are totally unfounded, and the object is to afford such opportunity and to have the evidence on record.

The resolution was agreed to.

Mr. MASON submitted the following resolution; which was considered, and agreed to:

Resolved, That the Secretary of War be directed to furnish to the Senate a copy of the official journal of the march of Lieutenant Colonel Philip St. George Cooke from Santa Fé, in New Mexico, to San Diego, in Upper California, which was communicated to that department by Brigadier General Stephen W. Kearny, deceased.

BILLS FROM THE HOUSE.

A joint resolution from the House, authorizing the distribution of the American Archives, under the direction of the Joint Committee on the Library, to literary institutions in the several States and Territories, was read a first and second time, and referred to the Committee on the Library.

A joint resolution from the House, for the distribution of the Official Register, or Blue Book, among the several States, was read a first and second time, and referred to the Committee on the Library.

An act to establish an additional land office in the State of Missouri was read a first and second time.

On motion of Mr. BREESE, the Senate considered this bill; which was read a third time and passed.

An act to repeal the fifth, sixth, and seventh clauses of the first section of the "Act in addition to the several acts regulating the shipment and discharge of seamen, and the duty of consuls," approved July 20, 1840; and also to amend the "Act supplementary to the 'Act concerning consuls and vice consuls, and for the further protection of American seamen,'" approved February 28, 1803, was read a first and second time, and referred to the Committee on Commerce.

An act granting a half section of land for the use of schools, within fractional township nineteen south, of range eighteen west, county of Lowndes, State of Mississippi, was read a first and second time, and referred to the Committee on Public Lands.

An act for the relief of Jacob Zimmerman; and

An act for the relief of Major Charles Larrabee; were read a first and second time, and referred to the Committee on Pensions.

MINESOTA LAND OFFICE.

Mr. BREESE moved, at the request of the Delegate from Minesota, to take up the bill to change the location of the land office in the Chippewa land district.

The motion was agreed to, and the bill was considered as in Committee of the Whole.

Mr. WALKER moved to amend the bill by adding the following as additional sections:

SEC. 2. *And be it further enacted*, That, for the sale of the public lands in the Territory of Wisconsin, an additional land office and land district is hereby created, comprising all the lands not included within the districts of land subject to sale at Green Bay, Milwaukie, or Mineral Point, which shall be called the western land district.

SEC. 3. *And be it further enacted*, That the President be and is hereby authorized to appoint, by and with the advice and consent of the Senate, a register and a receiver of the public moneys for the said district, who shall respectively be required to reside at the site of said office, and who shall have

the same powers, perform the same duties, and be entitled to the same compensation as are or may be prescribed by law in relation to other land officers of the United States.

SEC. 4. *And be it further enacted*, That the President is authorized to cause the public lands in the said district, with the exception of sections numbered sixteen in each township, reserved for the use of schools, or such other lands as may be selected by law in lieu thereof, and of such other tracts as he may select for military or other purposes, to be exposed to sale in the same manner and upon the same terms and conditions as the other public lands of the United States.

SEC. 5. *And be it further enacted*, That the President is hereby authorized to designate the site at which the said office shall be established, and to remove the same to any other place within said district whenever in his opinion it may be deemed expedient.

Mr. WALKER, in support of his amendment, stated the necessity of a land office and land district in Wisconsin for the sale of the public lands, for the mutual benefit of the General and the State Governments. To the removal of the land office to Minesota, which was proposed by this bill, he was irreconcilably opposed, unless a new land district and land office should be created in Wisconsin; and this his amendment would accomplish.

Mr. BREESE did not doubt that a favorable report could be obtained from the appropriate committee during the residue of the present session, on the proposition of the Senator from Wisconsin, and he entreated him to make it an independent measure, and not thereby embarrass the bill before the Senate.

Mr. WALKER persisted in his amendment; which was then agreed to.

Mr. BUTLER said the amendment was of a very important character, and yet the Senate had adopted it without the examination of a committee. Of this he could not approve.

Mr. DODGE of Iowa, Mr. JONES, and Mr. DOUGLAS each made a few remarks, urging the passage of the bill, which, in their opinion, was required by the new Territory of Minesota.

Mr. YULEE said he had yet to learn that we had such a territory as that of Minesota; nor had he any assurance that there would be such a territory established there during the present session.

After a few words of explanation, in which Messrs. DOUGLAS and WALKER took part, the bill was reported to the Senate, the amendment was concurred in, the bill was ordered to be engrossed for a third reading, and was read a third time and passed.

TRIALS OF ISSUES.

Mr. DOWNS moved to postpone the prior orders, and that the Senate proceed to the consideration of the bill to regulate appeals from the trial of issues in the District of Columbia.

Mr. BADGER called the attention of the chairman of the Committee on Finance to this motion, with the intimation that it was a bill which would occupy some time, and therefore would obstruct the passage of the general appropriation bill. He certainly could not let it pass without the expression of his views upon its merits.

Mr. ATHERTON called for the orders of the day.

Mr. HALE thought the bill mentioned by the Senator from Louisiana was of so much importance as to be entitled to immediate consideration. It came to them with the recommendation of the Judiciary Committee, and for several months during the last session attempts were made to get it up, which were fruitless even to the end of the session. He deemed it time that it should be taken up, for the people of this District were deprived of rights in the trial of issues by jury which were enjoyed elsewhere. Suitors were now dependent on the arbitrary exercise of judicial power.

Mr. TURNEY interposed. This was a mere motion to postpone the prior orders for the purpose of taking up a bill, and therefore debate upon its merits was not in order.

Mr. HALE disclaimed any intention to discuss its merits; his sole design being to call the attention of the Senate to the fact that the suitors in this District had not the right of trial by jury in certain cases which were tried by juries elsewhere, and to express the hope that the bill would be passed, that that right might be given to them.

Mr. BUTLER was understood to say that the bill was eminently proper, and that it had been called for by the bar of the District.

Mr. DICKINSON deprecated a discussion on a motion which related merely to the priority of business. Though favorably disposed towards this bill, he thought their time could be occupied with other business of more immediate importance, and hence he moved to lay the pending motion on the table.

The motion was agreed to.

ADMISSION OF CALIFORNIA.

The Senate resumed the consideration of the bill making appropriations for the civil and diplomatic service of the United States for the year ending 30th June, 1850.

Mr. WALKER having moved to amend the bill by adding the following:

SEC. —. *And be it further enacted*, That the Constitution of the United States and all and singular the several acts of Congress respecting the registering, recording, enrolling, or licensing ships or vessels, and the entry and clearance thereof, and the foreign and coasting trade and fisheries, and all the acts respecting the imposing and collecting of duties on imports, and all acts respecting trade and intercourse with the Indian tribes, and all acts respecting the public lands, of a public and general character, and the provisions whereof are suitable and proper to be applied to the territory west of the Rio del Norte, acquired from Mexico by the treaty of the second day of February, eighteen hundred and forty-eight, be, and the same are hereby, extended over and given full force and efficacy to in all said Territory; and the President of the United States be, and he is hereby, authorized to prescribe and establish all proper and needful rules and regulations (in conformity with the Constitution of the United States) for the enforcement of said laws in said Territory, and for the preservation of order and tranquility, and the establishment of justice therein, and from time to time to modify or change the said rules and regulations in such manner as may seem to him discreet and proper, and may prescribe and establish, temporarily, such divisions, districts, ports, offices, and arrangements proper for the execution of said laws, and appoint and commission such officers as may be necessary to administer such laws in said Territory, for such term or terms as he may prescribe, whose authority shall continue until otherwise provided by Congress; said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States, or its Territories, for like services; and, to enable the same to be done, the sum of two hundred thousand dollars be appropriated, out of any money in the treasury not otherwise appropriated—

Mr. BELL moved to amend this amendment by striking out of it all those parts of the amendment of the Senator from Wisconsin which are inconsistent with the provisions of that which he was about to submit, and adding the following:

SEC. —. *And be it further enacted*, That Congress doth consent that all that portion of the territory of the United States acquired by the treaty of peace, friendship, and limits, and settlement with the Republic of Mexico, concluded the 2d of February, 1848, which lies west of the Rio del Norte, and a line running due north from the head-waters of the said river until it strikes the forty-second parallel of north latitude, shall form one State, to be known and designated by the name and style of "the State of California," and the same, on the first day of October next, shall be received and admitted into this Union as a new and entire member of the United States of America.

SEC. —. *And be it further enacted*, That the United States reserve to themselves all right of property in the unappropriated lands and other property in the territory admitted into the Union as a State by the preceding section of this bill, free from all taxes and assessments of every kind by said State, and also the power of disposing of the same, and of adjusting all claims and title to lands derived under any foreign Government in such manner as Congress shall prescribe, and nothing contained in said section shall be so construed as to limit and impair the rights and powers hereby reserved to the United States in any manner whatsoever.

SEC. —. *And be it further enacted*, That there shall be appointed a marshal and district attorney for each of said districts; the marshals shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees as are provided and prescribed by the marshals of other districts, and shall in addition be entitled to the sum of $200, as a compensation for all extra services; and the district attorneys, in addition to their stated fees as now prescribed by law to other district attorneys, shall be paid $200.

SEC. —. *And be it further enacted*, That the said State of California, until the next census and apportionment, shall be entitled to two Representatives in the Congress of the United States.

SEC. —. *And be it further enacted*, That the acting Governor of California, so soon as he shall be provided with a copy of this act, to the end that the people may have an opportunity of establishing for themselves a constitution and republican form of government for said State prior to the first of October next, shall immediately proceed to lay off the country embraced within the limits of the proposed State into convenient districts, for the election of delegates to a convention for the purpose of forming a State constitution, and shall designate the time and place for holding the election in each district, appoint the officers to conduct the same, and prescribe the mode of making the returns thereof, and shall apportion the delegates, fifty in all, among the several districts as near as may be, according to the number of legal voters in each; and he shall also designate the time and place for the assembling of said convention. Every white male inhabitant of said Territory, being an actual resident of the proposed State, and having attained the age of twenty-one years, shall be entitled to vote in said election.

Mr. BELL resumed his remarks, and continued to occupy the floor until half-past three o'clock.

Mr. BERRIEN replied; when

Mr. JOHNSON, of Georgia, asked for the yeas and nays on the amendment to the amendment, and they were ordered.

The question was then taken, and decided as follows:

YEAS—Messrs. Bell, Dodge of Iowa, Douglas, and Downs—4.

NAYS—Messrs. Atchison, Atherton, Baldwin, Benton, Berrien, Bradbury, Breese, Butler, Calhoun, Clarke, Corwin, Davis of Mississippi, Dayton, Dickinson, Dix, Felch, Fitzgerald, Fitzpatrick, Foote, Greene, Hamlin, Houston, Hunter, Johnson of Georgia, King, Mangum, Mason, Miller, Niles, Pearce, Phelps, Spruance, Sturgeon, Turney, Underwood, Upham, Walker, Westcott, and Yulee—39.

So the amendment to the amendment was rejected.

Mr. FOOTE moved to amend the amendment of Mr. WALKER by substituting the words "or the survey or sale thereof, and all and singular the other acts of Congress of a public and general character, and the provisions whereof are suitable and proper to be applied to," for the words "of a public and general character, and the provisions whereof are suitable and proper to be applied."

Mr. WALKER accepted the modification, so that his amendment now reads as follows:

SEC. —. *And be it further enacted*, That the Constitution of the United States and all and singular the several acts of Congress respecting the registering, recording, enrolling, or licensing ships or vessels, and the entry and clearance thereof, and the foreign and coasting trade and fisheries, and all the acts respecting the imposing and collecting of duties on imports, and all acts respecting trade and intercourse with the Indian tribes, and all acts respecting the public lands, or the survey or sale thereof, and all and singular the other acts of Congress of a public and general character, and the provisions whereof are suitable and proper to be applied to the territory west of the Rio del Norte, acquired from Mexico by the treaty of the second day of February, eighteen hundred and forty-eight, be, and the same are hereby, extended over and given full force and efficacy in all said territory; and the President of the United States be, and he is hereby, authorized to prescribe and establish all proper and needful rules and regulations (in conformity with the Constitution of the United States) for the enforcement of said laws in said Territory, and for the preservation of order and tranquility, and the establishment of justice therein, and from time to time to modify or change the said rules and regulations in such manner as may seem to him discreet and proper, and may prescribe and establish, temporarily, such divisions, districts, ports, offices, and arrangements proper for the execution of said laws, and appoint and commission such officers as may be necessary to administer such laws in said Territory, for such term or terms as he may prescribe, whose authority shall continue until otherwise provided by Congress; said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States or its Territories, for like services; and, to enable the same to be done, the sum of two hundred thousand dollars be appropriated out of any money in the treasury not otherwise appropriated.

Mr. YULEE moved an adjournment; but at the solicitation of Senators he withdrew his motion.

Mr. FOOTE thought the Senate had better come to a vote upon the amendment immediately.

Mr. WESTCOTT said that there were many Senators who did not like the phraseology of the amendment as it now stood, and who desired that it might be changed so as to relieve the amendment from all objections and enable them to vote for it. For himself, he would say that he entertained no objection to the amendment in its present form, but was prepared to vote for it. But, in order to give Senators an opportunity to change the phraseology of the amendment, and, as he believed to secure its passage, he would move that the Senate adjourn.

Mr. FOOTE hoped that the Senator from Florida would withdraw his motion. To-morrow was private bill day, and if the question was not now taken, the bill would have to lie over until Friday. All the Senators had considered the matter; every child of the age of twelve years had considered it; it was a plain proposition, and required no further consideration. He trusted, therefore, that the Senator would not insist upon his motion.

Mr. WESTCOTT said he was perfectly satisfied that if the amendment was pressed to a vote now, it would be rejected. He would adhere, therefore, to his motion to adjourn.

Mr. ATHERTON appealed to the Senator from Florida to withdraw his motion. To-morrow was private bill day, and if the civil and diplomatic appropriation bill was not disposed of to-night, it would be thrown over till Friday.

The question was then taken on the motion to adjourn, and it was not agreed to.

The question recurring on the amendment, the yeas and nays were called for and ordered.

Mr. DAYTON. Mr. President, if the yeas and nays are to be taken on this amendment, it is certainly proper that we should give it a more careful consideration than Senators have yet had an oppor-

tunity of bestowing upon it. It embraces, to a certain extent, my ideas of what we ought to do for California at this session of Congress. I concur in the general idea presented in this amendment, but whether it will carry out in detail the purpose for which it was designed, I may have some doubt. There was a section upon the statute book giving to the President the power to govern Florida for a limited time, and Florida was governed under a provision providing for a temporary government in this way.

Mr. WESTCOTT, (interposing.) And Louisiana, too.

Mr. DAYTON. Yes, Louisiana also. And I doubt very much, as that precedent has been set, whether it would not be better to take that, in so many words, from the statute book, and adopt it as a means for governing this territory. At all events, if we are to attach anything of this kind to this bill, I would prefer something for which we have precedent. I dislike this leap in the dark. I move, therefore, that the Senate do now adjourn.

The motion was agreed to—22 voting in the affirmative, and 19 in the negative.

The Senate thereupon adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 21, 1849.

The Journal of yesterday was read and approved.

On motion of Mr McCLELLAND, by unanimous consent:

Resolved, That the Committee on Printing be instructed to inquire into the expediency of continuing the general index to the documents of the House, from the end of the 25th Congress to the end of the present session.

Mr. TALLMADGE, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy report to this House the amount of money now due or retained by the Government, arising from unclaimed wages from seamen that have deserted from the navy, and also from seamen that have died, leaving balances of wages, money or effects, that are unclaimed, and the names, former residences, and times of death or desertion of such seamen.

Mr. COLLINS, by unanimous consent, presented concurrent resolutions of the Legislature of the State of New York, relating to the erection of a monument to the memory of General Nicholas Herkimer; which were laid on the table, and ordered to be printed.

Mr. TURNER, Mr. EVANS of Maryland, and other gentlemen, called for the orders of the day.

MILEAGE.

The SPEAKER announced the bill reported yesterday by Mr. McKAY, from the Committee of Ways and Means, to be the first business in order; being a bill to regulate the mileage of members and delegates to Congress, and for other purposes. The bill is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Senate and Clerk of the House shall, at the commencement of each session of Congress, obtain from each member and delegate the name of the post office nearest his residence, and shall then, with the aid of the presiding officer, ascertain and fix the distance of the said post office from the seat of the General Government, computed according to the shortest mail route; adding to, or subtracting from that distance, as the case may be, the distance from the said post office to the residence of the member or delegate; upon which statement the mileage of each member and delegate shall be computed and settled: *Provided*, That they shall not alter the maximum of mileage now allowed to the delegate from the Territory of Oregon.

SEC. 2. *Be it further enacted*, That hereafter no member or delegate shall be allowed mileage for attending any extra session of Congress, or of either House thereof, unless he shall have actually traveled the distance charged; it being the purpose of this section to prohibit compensation for constructive journeys.

SEC. 3. *Be it further enacted*, That on the final settlement of the account of each member or delegate, he shall subjoin, at the close of his account, a certificate that he has deducted from it all and each of the entire days on which he may have been absent from his seat, in the House of which he is a member, and when it was in session, excepting, however, those days when his absence may have been occasioned by sickness, or by the order of the House on public business, or may have been with the leave of the House; in which latter case he shall be allowed only four dollars per day during such absence.

SEC. 4. *Be it further enacted*, That hereafter it shall not be lawful for any officer of either House of Congress, or other person, by virtue of any order, resolution, or other proceeding of either of said Houses, to purchase or contract, or agree for the purchase of, any books for distribution among the members thereof, until an appropriation shall have been regularly made for that specific purpose.

SEC. 5. *Be it further enacted*, That no part of the appropriations which may be made for the contingent expenses of either House of Congress shall be applied to any other than the ordinary expenditures of the Senate and House respectively; nor shall it be lawful to expend any part of said appropriation, by virtue of any order, resolution, or other proceeding of either House, in extra compensation or allowance to any secretary, clerk, messenger, or attendant of the said two Houses, or either of them.

SEC. 6. *Be it further enacted*, That hereafter the mileage which may be allowed to officers or other persons in the military, naval, or civil service, shall be computed and settled according to the shortest mail route.

To this Mr. McKAY had reported, from the Committee of Ways and Means, the following amendment:

In the first section and sixth line, between the words "shortest" and "mail," insert the word "continuous"—so that it would read "shortest continuous mail route."

Mr. McKAY was entitled to the floor.

Mr. WENTWORTH said, he would move the previous question, if the gentleman from North Carolina would give way.

Mr. McKAY said, he was yesterday, when he was interrupted by the gentleman from Massachusetts [Mr. ASHMUN] with a motion to proceed to business on the Speaker's table, endeavoring to explain the provisions of the bill; but as it was all simple and easily understood by the reading, he would waive his right to the floor, and ask the previous question.

Mr. ROCKWELL, of Connecticut, inquired if it was in order to move that the bill be postponed for a few days, in order that it might be printed for the examination of members, and lie on the Speaker's table?

The SPEAKER. Not while the previous question is pending.

Mr. ROCKWELL. I move, then, to lay the bill on the table.

Mr. McKAY asked the yeas and nays; which having been ordered—

Mr. ROCKWELL withdrew his motion, in order (he said) to save the time of the House.

The previous question was seconded, and the main question was ordered.

Mr. KAUFMAN asked for the reading of the bill and amendments; which were read.

Mr. McKAY stated (before the vote was taken) that he was instructed by the Committee of Ways and Means to report a separate bill for the third section.

The question was then put on agreeing to the said first amendment, and it was decided in the affirmative.

The second amendment was read, viz: "Strike out the third section of the bill."

And the question being put on agreeing thereto, it was decided in the negative—yeas 51, nays 112—as follows:

YEAS—Messrs. Atkinson, Barrow, Beale, Bedinger, Boyden, Brady, Brodhead, Canby, Chapman, Howell Cobb, Cranston, Dixon, Duer, Eckert, Nathan Evans, Faran, Fisher, Flournoy, Freedley, Gayle, Hale, George S. Houston, Hubbard, Hudson, Charles J. Ingersoll, James H. Johnson, George W. Jones, Ligon, Maclay, McIlvaine, McKay, McQueen, Horace Mann, Pendleton, Pollock, Rhett, Julius Rockwell, Slingerland, Starkweather, Strohm, Strong, Tallmadge, Taylor, Thibodeaux, Richard W. Thompson, Robert A. Thompson, Thurston, Toombs, Van Dyke, Venable, and Vinton—51.

NAYS—Messrs. Abbott, Adams, Ashmun, Birdsall, Blackmar, Bowdon, Boyd, Bridges, Charles Brown, Buckner, Burt, Cathcart, Franklin Clark, Beverly L. Clarke, Clingman, Williamson R. W. Cobb, Cocke, Collamer, Collins, Conger, Crozier, Cummins, Dickey, Garnett Duncan, Dunn, Edwards, Embree, Farrelly, Featherston, Ficklin, French, Fulton, Giddings, Goggin, Gott, Greeley, Gregory, Grinnell, Willard P. Hall, Nathan K. Hall, James G. Hampton, Moses Hampton, Haralson, Harmanson, Harris, Henley, Henry, Hill, Inge, Jenkins, Robert W. Johnson, Kaufman, Kellogg, Kennon, Daniel P. King, Lahm, William T. Lawrence, Leffler, Levin, Lincoln, Lynde, McClelland, McLane, Job Mann, Marsh, Marvin, Miller, Morris, Morse, Mullin, Murphy, Nes, Newell, Nicoll, Outlaw, Palfrey, Peaslee, Peck, Petrie, Peyton, Preston, Putnam, Reynolds, Richardson, Richey, John A. Rockwell, Roman, Root, Rumsey, St. John, Sawyer, Schenck, Shepperd, Silvester, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Stanton, Andrew Stewart, Charles E. Stuart, Thomas, Jas. Thompson, Jacob Thompson, Turner, Wallace, Warren, Wentworth, White, Wick, Wiley, and Williams—112.

The said bill, as amended, was then ordered to be engrossed and read the third time; and, being engrossed, was accordingly read the third time.

The question then recurred on the passage of the bill.

Mr. McKAY moved the previous question; which was seconded, and under the operation thereof, the bill was passed—yeas 158, nays 16—as follows:

YEAS—Messrs. Abbott, Adams, Barringer, Barrow, Beale, Bedinger, Belcher, Birdsall, Blackmar, Bowdon, Boyd, Boyden, Bridges, Brodhead, Charles Brown, Albert G. Brown, Buckner, Burt, Canby, Cathcart, Chase, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Collamer, Collins, Conger, Crozier, Cummins, Dickey, Dixon, Duer, Garnett Duncan, Dunn, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Faran, Farrelly, Featherston, Ficklin, Fisher, Flournoy, Freedley, French, Fulton, Giddings, Goggin, Gott, Green, Greeley, Gregory, Grinnell, Hale, Willard P. Hall, Nathan K. Hall, James G. Hampton, Moses Hampton, Haralson, Harmanson, Harris, Henley, Henry, Hill, Hilliard, Elias B. Holmes, George S. Houston, Hubbard, Hudson, Inge, Irvin, Jenkins, James H. Johnson, George W. Jones, Kaufman, Kellogg, Kennon, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Leffler, Levin, Ligon, Lincoln, McClelland, McDowell, McIlvaine, McKay, McLane, McQueen, Job Mann, Horace Mann, Marvin, Miller, Morris, Morse, Mullin, Murphy, Nes, Newell, Nicoll, Outlaw, Palfrey, Peaslee, Peck, Pendleton, Petrie, Peyton, Pollock, Preston, Putnam, Reynolds, Richardson, Richey, Rockhill, Julius Rockwell, John A. Rockwell, Roman, Root, Rumsey, St. John, Sawyer, Schenck, Shepperd, Silvester, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Stanton, Starkweather, Andrew Stewart, Charles E. Stuart, Strohm, Strong, Tallmadge, Thomas, Richard W. Thompson, John B. Thompson, Robert A. Thompson, Thurston, Toombs, Turner, Van Dyke, Venable, Wallace, Warren, Wentworth, White, Wick, Wiley, and Williams—158.

NAYS—Messrs. Ashmun, Brady, Chapman, Cranston, Gayle, Charles J. Ingersoll, Robert W. Johnson, Lynde, Maclay, Pettit, Rhett, Slingerland, Taylor, Thibodeaux, Tompkins, and Vinton—16.

Mr. McKAY moved that the vote by which said bill was passed be reconsidered, and also that the motion to reconsider be laid on the table; which latter motion was agreed to.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

COMMITTEE REPORTS.

The mileage bill having been disposed of, the call of the committees for reports was continued; when—

Mr. ROCKWELL, of Connecticut, from the Committee on Claims, to whom was referred the bill from the Senate entitled "An act for the relief of the owners of the schooner Ticonie," reported the same back to the House without amendment. Committed to the Committee of the Whole.

Mr. ROCKWELL, from the same committee, to whom was referred the petition of George Mowry, of Pennsylvania, reported a bill for his relief, accompanied by a report in writing; which was read twice, committed to the Committee of the Whole, and the bill and report ordered to be printed.

Mr. ROCKWELL, from the same committee, to whom was referred the petition of Charles Stuart, reported a bill for his relief, accompanied by a report in writing; which bill was read twice, committed to the Committee of the Whole, and the bill and report ordered to be printed.

Mr. ROCKWELL, from the same committee, made adverse reports upon the petitions of Joseph D. Ward, John B. Cooper, Jacob Moore, Jeremiah Carpenter, and of Captain Thomas Duer; which reports were laid upon the table, and ordered to be printed.

Mr. ASHMUN inquired if it was now in order to move to proceed to the business on the Speaker's table?

The SPEAKER replied it would be in ten minutes.

COLLECTION DISTRICT IN TEXAS.

Mr. THIBODEAUX, from the Committee on Commerce, reported a bill to establish the collection district of Brazos Santiago, and for other purposes; which was read twice.

Mr. T. said he would not detain the House by any explanation of the bill. He hoped it would be put upon its engrossment.

Mr. ROOT inquired whether the bill had been printed?

The SPEAKER replied that it had just been reported.

Mr. ROOT objected to its engrossment until the House had opportunity to know what the bill was.

The SPEAKER suggested to Mr. THIBODEAUX that there was a bill of the same title upon the Speaker's table, which had come from the Senate.

Mr. THIBODEAUX replied, that that bill might not be reached in some time; and it was absolutely necessary that a bill should be passed immediately. He therefore hoped that it would now be engrossed.

Mr. ROOT said he did not wish to throw any obstacles in the way of the passage of this bill. But they had got into a good deal of difficulty at a previous session by passing a bill (without knowing what it was) establishing certain post routes in Texas. He would do nothing which should go to recognize the Rio Grande as the western

boundary of Texas, till he knew what he was about.

Mr. GRINNELL explained that there was no recognition of the Rio Grande, or anything in the bill relative to the boundary of Texas.

Mr. ROOT said, no doubt that was the understanding of the gentleman from Massachusetts. He remembered very well that they had been assured at the last session of Congress that there was nothing in the post route bill that could be objected to; but when the bill came to be examined, a majority of this House were satisfied to the contrary.

Mr. GOGGIN said a word in explanation of this bill, which was not heard by the reporter.

Mr. THIBODEAUX explained that the collection district proposed to be established was included in the collection district now existing.

Mr. ROOT (resuming) said all this did not satisfy him of the propriety of voting upon a bill which he could not understand, and which nobody could understand without examining. He did not doubt the sincerity of gentlemen who assured him what their understanding was; but his own and that of other gentlemen might be different when he came to examine the bill.

Whatever questions might arise as to the western boundary of Texas, he wished to act understandingly upon—with his eyes open. He did not wish to commit himself. He wanted to vote right when those questions came to be decided, but he wanted to know upon what he was voting.

Mr. EVANS, of Maryland, called for the reading of the bill; which was read.

Mr. EVANS was proceeding to make some remarks, when—

Mr. ASHMUN rose and said, as this bill was likely to give rise to debate, and that the bill might be printed, he moved that the House now proceed to the business on the Speaker's table.

Mr. A. asked for tellers on his motion; who were ordered, viz: Messrs. ASHMUN and BURT—who (the question having been taken) reported—ayes 83, noes 68.

So, pending the business under consideration, the House determined to proceed to the consideration of business on the Speaker's table.

BILLS ON SPEAKER'S TABLE.

The bill from the Senate entitled "An act to extend the provisions of an act approved the 3d of March, 1847, for carrying into effect the existing compact with the States of Alabama and Mississippi with regard to the five per cent. fund and school reservations," was read twice.

Mr. COLLAMER moved to amend the bill by striking out the word "five," in the 10th line, and inserting "three;" which amendment was agreed to.

The bill as amended was then read a third time and passed.

CHANGE OF A COLLECTION DISTRICT.

The bill to transfer the towns of Vinal Haven, North Haven, and Islesboro', from the collection district of Penobscot to that of Belfast, in the State of Maine, yesterday ordered to be engrossed and read the third time, was read the third time.

And the question being upon its passage—

Mr. ASHMUN moved the previous question; which was seconded, and the main question was ordered.

Mr. WILLIAMS moved that the bill be laid upon the table; which was not agreed to.

The question recurred, "Shall the bill pass?" and being put, it was decided in the affirmative.

Mr. SMART moved that the vote be reconsidered by which the said bill was passed, and also that that motion be laid on the table; which latter motion was agreed to.

Ordered, That the Clerk request the concurrence of the Senate in the said bill.

PRE-EMPTION RIGHTS.

The bill to grant preëmption rights for certain islands in the Great Miami river, yesterday ordered to be engrossed and read a third time, was read a third time; and

The question being, Shall the bill pass? it was put, and decided in the affirmative, and sent to the Senate for concurrence.

GEOLOGIST FOR CALIFORNIA.

The House proceeded to the consideration of the joint resolution to authorize the appointment of a geologist to accompany the army and navy officers who have been appointed to examine the coast of California and Oregon, introduced by Mr. THOMAS B. KING, on the 21st December last.

The question pending being upon the engrossment—

Mr. WENTWORTH moved the previous question.

Mr. JONES, of Tennessee, moved that the said resolution be laid on the table; which motion was agreed to.

Mr. JONES moved that the vote by which the said joint resolution was laid on the table be reconsidered, and also that that motion be laid on the table; which latter motion was agreed to.

THE FRANKING PRIVILEGE.

The bill next in the order of business was the bill to abolish the franking privilege, (heretofore introduced on leave by Mr. DIXON,) and the pending question was on its engrossment.

Mr. DIXON said that he would not, at this late period of the session, enter into any debate upon this bill. He wished, however, to offer a modification of it, which he presumed would be assented to by all the members.

He would first ask that the bill might be read.

And the bill having been read accordingly—

Mr. D. sent to the Clerk's table his proposed modification thereof; which having been read, Mr. D. asked if there was any objection to it.

The SPEAKER said that the bill had been twice read, and the gentleman could not therefore modify his own bill. The question would be on the amendment now proposed by him.

Mr. DIXON. Cannot the modification be made by general consent?

The SPEAKER answered affirmatively.

Objection having been made, the pending question was on the adoption of the amendment (or modification.)

Mr. DIXON demanded the previous question.

Mr. KAUFMAN moved that the bill be laid on the table; but, on the request of several gentlemen, that a vote should be taken on the demand for the previous question, he did not press his motion at this moment.

Mr. GOGGIN appealed to the gentleman from Connecticut [Mr. DIXON] to withdraw his demand for the previous question.

He would state, he said, for the information of the House, what his object in making this request was. It was to move that the bill be committed to the Committee of the Whole on the state of the Union, with instructions to report a general bill embracing the objects contemplated in the bill of the gentleman from Connecticut, [Mr. DIXON,] and also embracing the provisions of the bill heretofore reported for the reduction of the rates of postage. Also, with instructions to consider the bill heretofore reported by the chairman of the Committee of Ways and Means [Mr. VINTON,] making provision for the service of the Post Office Department, for the year ending 30th June, 1850. He presumed that these objects could only be accomplished at this stage of the bill. He would, however, inquire of the Speaker whether his object could be attained in any other way than by the motion he (Mr. G.) had indicated?

The SPEAKER. The bill is now open to amendment.

Mr. GOGGIN. Well, in either event, I ask the gentleman from Connecticut to withdraw his demand for the previous question, so that I may offer an amendment to the bill.

Mr. DIXON persisted in his motion.

Mr. GOGGIN. If the House should refuse to second the demand for the previous question, what will be the condition of the bill?

The SPEAKER. The question will then be first on the amendment proposed by the gentleman from Connecticut, [Mr. DIXON.] After that has been decided, any other amendment may be offered.

The question was then taken on the demand for the previous question, and decided in the negative.

So there was not a second.

Mr. KAUFMAN now renewed his motion that the bill be laid on the table.

Mr. GOGGIN was understood to appeal to the gentleman from Texas, [Mr. KAUFMAN,] as an associate on the Committee on the Post Office and Post Roads, not to preclude him (Mr. G.) from making this amendment. He appealed to the gentleman as one of the friends of cheap postage.

Mr. KAUFMAN inquired what the object of the gentleman was, if he (Mr. K.) should withdraw the motion to lay on the table?

Mr. GOGGIN explained, as heretofore stated.

Mr. KAUFMAN said that the gentleman had a bill before the House in relation to this very question. He (Mr. K.) was anxious to have a distinct test vote on the question involved in the bill of the gentleman from Connecticut, [Mr. DIXON,] unconnected with other matters embraced in the bill of the gentleman from Virginia, [Mr. GOGGIN.] He (Mr. K.) was in favor of some of the amendments contemplated by the gentleman from Virginia, but he was opposed to the abolition of the franking privilege.

Mr. PETTIT called the gentleman to order. There was (Mr. P. said) a motion pending to lay the bill on the table.

Mr. KAUFMAN said that he had the control of his own motion, and he had the floor.

Mr. PETTIT denied that the gentleman from Texas had the floor.

The SPEAKER said, the gentleman from Indiana [Mr. PETTIT] would state his point of order.

Mr. PETTIT said his point of order was, that there was pending a motion made by the gentleman from Texas, [Mr. KAUFMAN,] to lay the bill upon the table, and that that motion was not debatable.

The SPEAKER said that the gentleman had made the motion to lay on the table, and of course he had it in his power to withdraw it for his own purposes.

Mr. PETTIT said that the gentleman had not withdrawn the motion, and had no right, therefore, to make a speech.

Some conversation followed between Mr. PETTIT and Mr. KAUFMAN.

Mr. KAUFMAN said that he wished a distinct vote. He therefore persisted in his motion to lay the bill on the table.

Mr. JONES, of Tennessee, asked the yeas and nays on that motion, which were ordered; and being taken, resulted—yeas 81, nays 104, as follows:

YEAS—Messrs. Adams, Atkinson, Barringer, Barrow, Birdsall, Botts, Bowdon, Bowlin, Boyd, Brady, William G. Brown, Burt, Chapman, Beverly L. Clarke, Clingman, Williamson R. W. Cobb, Cocke, Dickey, Donnell, Edsall, Ficklin, Freedley, French, Gaines, Gayle, Gentry, Hale, Willard P. Hall, Moses Hampton, Haralson, Harmanson, Harris, Henry, George S. Houston, Hudson, Charles J. Ingersoll, Jenkins, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Lahm, Lumpkin, McClernand, McDowell, McIlvaine, McQueen, Job Mann, Horace Mann, Meade, Morehead, Morse, Nes, Outlaw, Petrie, Pettit, Phelps, Pilsbury, Richardson, Richey, Robinson, Sawyer, Shepperd, Slingerland, Robert Smith, Truman Smith, Stanton, Charles E. Stuart, Strong, Tallmadge, Taylor, Thibodeaux, Thomas, James Thompson, Jacob Thompson, Robert A. Thompson, William Thompson, Turner, Venable, Wallace, and Warren—81.

NAYS—Messrs. Abbott, Ashmun, Bayly, Beale, Bedinger, Belcher, Bingham, Blackmar, Bocock, Boyden, Brodhead, Albert G. Brown, Canby, Franklin Clark, Howell Cobb, Collamer, Collins, Conger, Cranston, Crisfield, Crowell, Crozier, Cummins, Darling, Dixon, Dunn, Edwards, Embree, Alexander Evans, Nathan Evans, Faran, Farrelly, Fisher, Flournoy, Fulton, Giddings, Goggin, Gott, Greeley, Gregory, Nathan K. Hall, Henley, Elias B. Holmes, Hubbard, Inge, Joseph R. Ingersoll, Irvin, James H. Johnson, Kellogg, Daniel P. King, William T. Lawrence, Sidney Lawrence, Leffler, Levin, Ligon, Lincoln, Lord, Lynde, Maclay, McClelland, McKay, McLane, Marsh, Marvin, Miller, Morris, Mullin, Murphy, Newell, Nicoll, Peaslee, Peck, Pendleton, Peyton, Pollock, Preston, Putnam, Reynolds, Rockhill, Julius Rockwell, J. A. Rockwell, Root, Rumsey, St. John, Schenck, Sherrill, Silvester, Caleb B. Smith, Stephens, Andrew Stewart, Strohm, Richard W. Thompson, Thurston, Tompkins, Toombs, Van Dyke, Vinton, Wentworth, White, Wick, Wiley, Williams, Wilmot, and Woodward—104.

So the House decided that the bill should not be laid on the table.

And the question recurring on the amendment—

Mr. DIXON again demanded the previous question.

And the question thereon having been stated, the Speaker said that there was clearly a majority opposed to it.

So there was not a second.

And the question again recurring on the amendment—

Mr. ASHMUN said that he understood the bill to be now open to amendment. He therefore proposed to amend it by adding the following section; which was read:

Be it further enacted, That from and after the first day of July next, the rate of letter postage shall be uniform throughout the United States, irrespective of distance; and all letters passing through the post offices shall be charged by weight as follows, viz: Each letter weighing not more than half an ounce, two cents; each letter weighing more than half an ounce and not more than one ounce, four cents; each letter

weighing more than one ounce and not more than two ounces, eight cents; and four cents additional for every ounce, or fraction of an ounce, additional weight. And all letters not prepaid at the time of mailing, shall be charged double postage. And the Postmaster General shall provide suitable stamps, to be used in the prepayment of postage, and cause them to be kept for sale in each post office in the United States. And the Postmaster General may make to the several postmasters a compensation equal in proportion to the labor performed to what they now receive.

Mr. COBB, of Georgia, rose to a question of order. He desired to know whether the amendment of the gentleman from Massachusetts [Mr. ASHMUN] was in order as an amendment to this bill. It was a bill to abolish the franking privilege, and the subject of the reduction of the rates of postage did not come within the compass of the provisions contemplated by it. The amendmen was out of order, as irrelevant to the objects of the bill. It was not pertinent under the decision which the Speaker had frequently made. The Speaker had gone so far as to decide (and his decision had been sustained by the House) that where a resolution was pending to pay a claim of a member contesting a seat, it was not in order to amend the resolution by providing for paying another member contesting a seat. Thus strictly had the Speaker laid down this rule, and the House had sustained him. This, he repeated, was a bill to abolish the franking privilege, and he could not see the pertinency or relevancy to it of an amendment containing provisions for the reduction of the rates of postage.

The SPEAKER was understood to say, that he considered the bill equivalent to a provision that members of Congress and others, who now sent their letters free, should pay the rates of postage established by law. It was a bill, therefore, which related to the subject of postage. The amendment provided for a reduction of the present rates of postage, and was therefore in order.

Mr. COBB appealed from the decision of the Chair, and sustained the appeal in a few remarks.

Mr. GOGGIN moved to lay the appeal on the table.

The question was taken, and decided in the affirmative—ayes 75, noes 52.

So the appeal was laid on the table.

The question recurring on the amendment of Mr. ASHMUN—

Mr. ASHMUN said he did not wish to detain the House in the discussion of the amendment. He had no desire to do it, because, in the first place, he thought the minds of the members of this House must be made up if they represented the opinions of the people.

He had moved this amendment, because he was satisfied that it was the only opportunity which they would have, at the present session, to test the sense of the House upon the question of cheap postage. He had confined it to the simple question of letter postage; leaving out all the other questions, involved and difficult as they might be, so as not to embarrass the question.

The House would see that his proposition was to establish a uniform rate of postage of two cents for all letters weighing half an ounce; for letters of one ounce, four cents, and so on, increasing the rates in proportion to the increase of weight; making, in fact, this matter of letter carriage a matter of freight, and nothing else. Without saying another word, he would leave the question to be disposed of by the House.

Mr. GOGGIN, in order (he said) to attain the object to which he wished to arrive, inquired whether it was in order to commit the bill to the Committee of the Whole on the state of the Union, with instructions?

The SPEAKER replied that it was.

Mr. GOGGIN then moved to commit the bill to the Committee of the Whole House on the state of the Union, with instructions to report a bill embracing a reduced rate of postage; and also, the same or similar provisions to those contained in said bill in regard to the franking privilege.

The SPEAKER said the latter part of the instructions was clearly out of order, as it proposed to change the order of business.

Mr. GOGGIN said he would strike out the latter part, then. The other was clearly in order, he supposed?

The SPEAKER replied in the affirmative.

Mr. HILLIARD desired (before the gentleman from Virginia proceeded with his remarks) to inquire whether it was in order, before the vote was taken on the motion to commit, to move to amend the amendment of the gentleman from Massachusetts?

The SPEAKER replied that it would not be. The motion to commit took precedence of the motion to amend.

Mr. GOGGIN resumed the floor, and proceeded to address the House during his hour, in exposition of his views upon the general question of postage, and in advocacy of cheap rates. [A report of his remarks is prepared, but we are obliged to defer its publication.]

Mr. COBB, of Georgia, said he did not propose to go into the discussion of all the questions involved in this bill, and he notified gentlemen who were desirous to obtain the floor, that he should occupy it but a few minutes.

There were only two or three points to which he proposed to direct the attention of gentlemen. The gentleman from Virginia [Mr. GOGGIN] had laid down a principle which he conceived to be wholly erroneous, and which did great injustice to his [Mr. G.'s] constituents, as well as to his own, (Mr. C.'s;) and he wished to see no such principle ingrafted upon the legislation of Congress. The gentleman had compared the expenditures of the Post Office Department, in the transportation of the mail in the several States of the Union, with the amount of revenue received in those States respectively; and he had brought each State in debt for the excess of the expenditure over the revenue received. The gentleman had taken, for instance, the State of Georgia, and showed that a given amount was annually expended in that State for the transportation of the mails, and then that a certain amount of the revenues of the department was received from the State of Georgia; and the latter sum being less than the former, he had concluded that the people of Georgia were under very great obligation to New York and other States of the Union in which there was an excess of receipts over the expenditures, for furnishing them the means by which their mails were transported.

He asked, the gentleman from Virginia to explain to his constituents and the country the source from which the city of New York was enabled to pay so large an amount of revenue to the Post Office Department. Did the gentleman intend to convey the idea to the country that the citizens of the city of New York, where this large amount of postage was received, contributed out of their own pockets, and that the people of Georgia were under obligation to them for this sacrifice of so much money to pay for the transportation of the mails in Georgia? Did the gentleman intend to palm off upon the country this gross error, which did such injustice to the gentleman's constituents as well as his own? From what was the revenue received in the city of New York derived? From letters—from letters on business written by the mercantile community, the postage on which was charged by the merchants of the city of New York to their correspondents in the country, and was ultimately paid out of the pockets of the gentleman's constituents and his own, as well as the constituents of other gentlemen in this House. Wherever there was this great excess of revenues received in the commercial cities, it could be traced to the intercourse they had with the country at large. The city of New York was the great commercial emporium of this country, and the revenues of the Post Office Department received there were paid out of the pockets of his constituents as well as of all who traded with the city of New York.

Would the gentleman from Virginia contend that the city of New York paid all the revenues which were received in that city from duties on imports? A large proportion of the revenues from imports of this Government were received in the custom-house of New York; but did the city of New York therefore support this Government? Was that the gentleman's doctrine? No; the merchants who paid the duties in the city of New York acted merely as the agents of the consuming sections of all the country; and the citizens of New York paid out of their own pockets not one dollar of customs, except so far as they were the consumers of imported goods. The same principle applied to the revenues of the Post Office Department.

Of all the people of this country, what class derived the greatest benefit from the mail transportation? The mercantile community. They lived by it; they could not exist without it. When they paid the postages, they acted as the agents of the people of the country, and as their agents alone. The people of Georgia, through the merchants of New York and the other great commercial cities, paid the money; and when they asked the appropriation of their own money, for their own mail facilities, for the accommodation of the people who sustained the burdens of the Post Office Department, it was said that they were under obligations to the city of New York for the support of the Post Office Department. He denied this doctrine entirely; it was at war with the truth; it was at war with the facts of the case.

Mr. GOGGIN interposed, and said he hoped the gentleman would excuse him for reminding him that the facts and figures which he had given were not his, (Mr. G.'s,) but were taken from the document which had been communicated to the House of Representatives by the Postmaster General, and called for by resolution of the House.

Mr. COBB said he did not object to the gentleman's facts and figures. He did not deny them. It was the argument which the gentleman derived from them of which he complained. Certainly the gentleman would not hold the Postmaster General responsible for all the arguments and inferences which he might draw from facts and figures communicated by that officer.

Mr. GOGGIN, in explanation, stated, that if they took the city of New York entirely out of the question, the same state of facts still existed.

Mr. COBB replied, that if this subject was traced through all its ramifications, it would be found that this excess of postage was received from the commercial community—from the merchants who did the business for the people, and that it was ultimately paid by the consuming portion of the country.

[Some gentleman (in his seat) was here understood to inquire of Mr. COBB what were his opinions on the question of the reduction of postage?]

He was now arguing on another point, (he replied.) He wanted to drive this heresy out of the House; he wanted to pin it to the wall; and then he would meet the question of the reduction of postage.

He should advocate, (he proceeded to say,) he should vote for the reduction of postage. When the bill for the reduction of postage was before the House two years since, he had voted against it. He was now satisfied that he had done wrong. He now believed that that reduction was not too radical; but at the time he had been of the contrary opinion.

He was not, however, wholly satisfied with the argument of those who went for the reduction of postage, that the greater the reduction the greater would be the revenue received. But he was willing to go so far as to establish one regular, uniform rate of five cents. He believed the friends of cheap postage, together with those who might be considered in opposition to it, ought, for the present, to unite upon common ground, and make a uniform rate of five cents. They ought not to be too radical in their movements, but to test the matter by degrees, and see how the rate of five cents would work. His own opinion was, that it would sustain the department.

One word about the doctrine that the Post Office Department ought to be a self-sustaining machine. It ought to be. He saw no reason why it should not be. It was very evident that this department must be sustained by taxation in some form; and why should it not be by taxation upon the correspondence of the country, (to facilitate which, was the very purpose of its establishment,) and not upon the sugar, salt, and other articles consumed in the country?

He was in favor of such a rate of postage as should enable the department, from its own revenues, to support itself. This could be done as it had been done heretofore. It had been done under the new system of postage. He was willing to go one step further, and reduce it now to five cents.

The question then arose, if the department was sustained at a rate of five cents, and could be at a less rate, whether he would be willing to reduce it below five cents? His support of the reduction below five cents—whether the revenues produced by it were sufficient to support the department or not—depended entirely upon another question, and that was upon the adoption of a silver coin to conform to the rates of postage. If it could be ascertained that a rate of postage of two and a half

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cents would yield sufficient revenue to support the department, and if Congress would authorize the coining of a silver piece of two and a half cents, he would support the reduction. But he never would support a reduction of postage which should result in bringing into circulation throughout the country the cent-pieces, the coppers. He knew that gentlemen coming from our large cities might think it strange that he should oppose the circulation of coppers. He knew gentlemen residing in cities, large towns, and their vicinities, had been in the habit, perhaps from their earliest recollections, of seeing coppers in use. He did not now recollect ever to have seen one in circulation in the district which he represented, and he hoped he never should. The fact was the same with reference to the whole State of Georgia: there were no coppers in circulation throughout the whole length and breadth of that State, with the exception of one or two points. Very similar was the fact also with reference to other sections of the country remote from large cities. Would this House, by any measure they might adopt, encourage and almost force upon the people of those sections the circulation of coppers? He should vote against all such measures.

Without entering at length into his objections to the copper circulation, he would content himself with saying that he honestly believed it had a demoralizing tendency upon the community among whom it existed. Go even to your lowest classes, to your very beggars, and you would find that the beggar of coppers was one of the lowest class—was one the most wanting in self-respect. He did not believe that a man could have much respect for himself who had his pocket full of coppers. [A laugh.] He was utterly and entirely opposed to this circulation. He believed it had a demoralizing effect. He did not want to see it introduced into those sections where they breathed the pure air of the country; it might do for our large cities, but he hoped to see it nowhere else.

If they adopted anything below the five-cent rate, the effect was, that his people and the people of those other sections of the country would be compelled to pay a larger amount of postage than those paid who lived in the large towns and cities, or they would be compelled to adopt this copper circulation. They would not do this, though they had to pay double rates.

The gentleman from Virginia [Mr. GOGGIN] suggested to him that the difficulty could be obviated by the use of stamps. But he would ask the gentleman, if he believed that the farmers of the country, who received, perhaps, a dozen or a half dozen letters only during the year, would purchase and keep on hand a stock of post office stamps?

Mr. GOGGIN explained that the difficulty to which the gentleman alluded would not arise under the system which he (Mr. G.) proposed, as he advocated the rate of five cents, except when letters were prepaid for, for which the rate was three cents, and the stamps were always kept at the offices where the letters were deposited.

Mr. COBB replied that he was not discussing this particular provision of the bill, but the general question of the reduction of postage. The contest was between the five-cents rate and the two or three cents rate. This question of prepayment might be advocated by some gentlemen as it had been by his friend from Virginia, who had advocated it with ingenuity and ability; but it was not destined, in his (Mr. C.'s) opinion, to receive much favor.

Mr. GOGGIN stated that this very system of the prepayment of postage was recommended by the Postmaster General.

Mr. COBB said he wished now to relieve his friend from another error into which he had fallen, and it was a very appropriate time, as the gentleman's party was coming into power, and we were to have new heads of departments. He cautioned the gentleman not to fall into the idea that he was compelled to do everything which they might recommend. [A laugh.]

Mr. GOGGIN said he was very sorry his friend had not *before* found out that it was not always safe to follow the recommendations of the President and heads of departments. Mr. G. particularly regretted this, as the gentleman's friends *happened to be going out* just as he had made this discovery! [A laugh.]

Mr. COBB said it might be that their heads of departments had always been right up to this time, but as he had no hope that that would be the case with the heads of the new Administration, he had thought proper to put the gentleman on his guard at this early period.

It was of no use to tell him what the department had recommended. He was governed by certain fixed principles. He believed there was but one feeling in his State, and that was a feeling of opposition, undying opposition, to the circulation of coppers. The people there would not submit to it.

Mr. STANTON (interposing) said he thought the difficulty to which the gentleman from Georgia referred, in reference to the circulation of coppers, might be obviated by the adoption of a plan which he had recently seen suggested in the newspapers—that was, of coining a seven-cents silver piece, which, with the different sized coins already in circulation, would enable us to make change, so as to pay one, two, three, or four cents, without the use of coppers.

Mr. COBB replied, fix the denominations of our circulating medium, and then he would support a law establishing rates of postage to suit it, provided it could be done within the principle to which he had before adverted—of the revenues of the department being equal to its expenditures; but he could not favor the reduction of postage below the lowest silver coin at present in circulation, until a still smaller coin was authorized.

He remarked, in conclusion, that he had other views which he would like to present in reference to postage, and to the abolition of the franking privilege; but as he had already extended his remarks further than he intended when he had arisen, he would yield the floor.

Mr. PALFREY moved to amend the instructions so as to instruct the Committee of the Whole House on the state of the Union to report the following bill:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of April next, on all letters deposited in any post office, to be carried in the United States mail, not exceeding half an ounce in weight, there shall be charged and prepaid the uniform postage of two cents for all distances within the United States and the Territories thereof, and for any additional weight there shall be charged and prepaid an additional postage of two cents for each half ounce, or for any fraction less than half an ounce.

SEC. 2. *And be it further enacted*, That from and after the first day of April next, the franking privilege shall be, and the same is hereby, abolished.

SEC. 3. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

Mr. DIXON raised the question of order on this amendment.

The SPEAKER said it seemed to the Chair that the amendment was in order.

Mr. DIXON suggested that an amendment in the third degree was not in order.

The SPEAKER said it was an amendment to instructions.

Mr. KAUFMAN (Mr. PALFREY yielding the floor) gave notice of his intention, if the amendment failed, to offer the following:

Be it enacted, &c., That from and after the first day of July, the rate of letter postage shall be uniform throughout the United States, irrespective of distance, and all letters passing through the post office shall be charged by weight as follows:

Each letter not weighing more than half an ounce, five cents.

Each letter weighing more than half an ounce, and not more than one ounce, ten cents.

Each letter weighing more than one ounce and not more than two ounces, fifteen cents.

And five cents additional for every ounce or fraction of an ounce additional weight.

Mr. PALFREY then proceeded to address the House in favor of his amendment. He had no expectation, he said, when he came to the House this morning, that he should address it on this or any other subject; and he should be obliged to do so in a manner extremely unsatisfactory to himself, in consequence of the suddenness with which he approached it. He had views upon it which he had long entertained and sufficiently considered, but he had not enjoyed the opportunity he desired to arrange his argument in support of them, and particularly to arrange, in the manner he desired, the facts with which to sustain them.

He felt more interest in presenting his views, in consequence of the expression of the opinion of the Legislature of the State of Massachusetts, at a late period in the last session of Congress. Mr. P. read the resolution.

Mr. P. then proceeded to sustain, by a general argument of facts and figures, the policy of adopting the measure which he had proposed.

Mr. VENABLE next obtained the floor, and said:

Mr. SPEAKER: I would not at this time trespass upon the patience of the House, but for the grave importance of some of the provisions of this bill, which have passed unnoticed in the previous discussion. It is of great consequence that this measure be perfected, and made acceptable to the country, who can have no deeper interest in any other. It addresses itself to every individual in all our extended country, and will be intensely felt in the most remote and rural, as well as the most populous regions. The conveniences of the post office establishment have become so completely identified with all the comforts of life, that the people will feel with instantaneous impulse any arrangement which will either enlarge or curtail the privileges heretofore enjoyed. With this view, I regard the amendment of the gentleman from Massachusetts as exceedingly objectionable in several particulars. The first I would suggest, is the discontinuance of the privilege now accorded to newspapers, to issue their publications to subscribers within thirty miles free of postage.

My friend at the head of the Post Office Commitee [Mr. GOGGIN] says that he sees no reason for such an exemption; that there is inequality, and of course injustice, in such a provision. Sir, I differ with him altogether. It is by this provision that the editors of country newspapers are enabled to maintain a competition with those edited and printed in the cities. Do gentlemen forget that the true conservatism of our country is to be found in rural life? that great cities are great and corroding ulcers on the body politic?—great generators of moral nuisance to pollute and corrupt with their foul contagion all the avenues of moral and political communication? Do they forget that newspapers are cheap in proportion to the employment of capital, the power of machinery, and the consequent numbers which can be issued in a given time? Every country press must fall before such an enactment. The city press will absorb and destroy every country newspaper, and leave the whole population to derive their current news from the cities, where dense population and corrupting influences originate all the destructive heresies in the moral and religious, as well as the political world.

Sir, I protest against a measure which is to abstract the healthful influence of a country population from the formation of public opinion. And I would here remark, that there can no evil befall us more to be deplored, than that which many gentlemen seem to desire—a dense population, and with it, the accumulation of human wants and human miseries, together with the long array of detestable vices which uniformly attend it. The agonizing cries of starving Ireland, the convulsive throes which disturb all Europe, the ominous presages of the eruption of volcanic fires over the face of all the Old World, grow from the destitution, the suffering, and the wants of a crowded population—a plethora which must either find its cure in atrophy or revolution. No, sir; I desire not to be compelled to hear the barking of the dogs or the crowing of the cocks of my neighbors. There is a sweetness and a freshness in the air which blows from the fields and forests of a country whose population is just dense enough for social intercourse, and sparse enough to prevent the

accumulation of human suffering, which is delightful and refreshing.

And when gentlemen mourn over the emigration from the plantation States, I would remind them that it is wealth which causes emigration from them, whilst it is poverty and distress which causes the population of manufacturing and commercial districts to leave the scenes of their early associations, and seek homes not invested with the horrors of want and privation. I desire to see no proud cities rear their steeples or display their palaces in the rural State which I in part represent. I desire not to see her stricken down by a heart disease—to see her pure, moral, and excellent country population subsidized and controlled by the force of concentrated wealth and population in a few overgrown cities.

There are those who emigrate from my own district either in pursuit of a more extended field for the employment of the wealth accumulated there, or others whose increasing families invite them to the enterprise and advantages of a new country. Whilst I part with many of them with regret, I bid them God speed in their journey. I see no evidence of decline, but a demonstration of energy and enterprise, in such a spirit. I am far from admitting that a dense population is the favorite scene for the showing out the high points of human character. There is a freshness and a vigor in the purity of rural life, which gives to society perpetual youth, the highest moral and social development, unsurpassed by the worthless accompaniments which grow up in artificial society.

The country newspaper press, with its limited number of subscribers, cannot stand before the cheapness of those city publications, and they must of necessity disappear under the additional advantage which the latter would acquire under this amendment. I can never consent to see the primitive and healthful purity of our rural people assailed and destroyed by the pestilential influence of a city press—a press which caters to the worst of passions, perverting a good taste, and introducing a low standard of morals and of thought. No, sir; we need our country newspapers for local news, advertisements, and, above all, for the discussion of matters relating to our State policy and our State institutions. They should be fostered and not destroyed. To the population of the country we must look for that healthy restorative which will sustain our institutions, and preserve our purity. This may be a matter of taste, but I prefer for a nosegay the bright and fragrant wild flower—the ornament of the forest or the field, which has only been shone upon by the sun, and kissed but by the dew drop—to the gaudiest bouquet which was ever gathered from a city garden.

Gentlemen tell us—and I regret to say it, a gentleman from Virginia, [Mr. GOGGIN]—that Virginia and North Carolina and the old plantation States are the beneficiaries of the Government—literally on the parish for post-office privileges; that they receive greatly more from the treasury for this accommodation than they pay. He speaks of New York, and of New Orleans, and other great commercial depôts, as the points which sustain the expenditures of the departments, and the intermediate States as the paupers who feed on the public bounty. How exceedingly unfair! Virginia, North Carolina, South Carolina, and Georgia are the great thoroughfares over which the northern and southern mails pass daily to their destination, bearing the material out of which these contributions are made. The contractors' salaries and other expenses over these States are charged to them, and the northern and southern cities are credited with the proceeds. As well might he charge the ocean with the expenses of navigation, and credit the cities on each side with the freights and the profits. Did you, sir, ever see the tolls paid on the middle of the bridge? The toll-gates are on either side of the stream. I know, sir, that the mail routes from the most remote parts of these States bring in their scattered communications to the great line of communication, and that, in going and returning, the postage and the profits are concentrated at either end of the line. A great convex mirror condenses the rays of light to a burning focus; and the superficial observer does not remember that those rays, whose heat was scarcely felt, by this process produce the fire which glows before him: so the attraction at either end of the great mail route concentrates all the scattered elements of revenue and profit, and the sources of that accumulation pass unobserved. The letters and mailable matter which leave the agricultural States pay nothing where they start, but are paid at the north and the south, charged to the writer, and return, with a profit charged upon them, in the shape of advance in price for the goods which were ordered.

The gentleman from Georgia [Mr. COBB] has most fully exposed the fallacy of this doctrine, by the simple interrogatory—Does New York pay the money into the custom-house which is collected in the shape of duties? But, sir, this is but one of many of the evidences that we have fallen upon evil times. The old plantation States have parted with their broad domain—new States have come into the family; and, with anything but delicacy, they taunt and reproach the mothers from whom they have sprung. Shall the claims of those States who do not pay into the post office an amount sufficient to defray all the expenses of the transportation of the mail within and through them be disregarded, and the actual facilities be limited to the actual receipts? Should this be the case, you would see immediately an awful falling off where now the most is received. The business and the commerce would cease with the means of communication, and the first agonizing cry would be from those who now boast that they pay all the postage. No, sir; I trust that no gentleman is willing to curtail the luxury as well as the conveniences of the most extended mail facilities to our whole people. None, I hope, will deny to the most retired of our people the pleasure of communication with their fellow-men, that intercourse of heart and feeling which makes us one family and one people. I desire to see every hamlet and cottage in our country within a few miles of a post office, where letters and papers and periodicals may prevent, by their kindly influence, a feeling of isolation and individuality; and whilst the power of steam is speeding the progress of communication, that all, from the Atlantic to the Pacific shores, may enjoy the benefits on equal terms; that the city and the country press, affording a choice according to the fancy of their readers, may each, in the line of their respective enterprises, have a free and open field for competition.

There is another portion of the amendment which I cannot approve. I allude to the abolition of the franking privilege. This, sir, is not a privilege, but a burden, to the members of Congress. I speak for my constituents and not for myself. The duties imposed on a representative by this right are extremely onerous and inconvenient, but, sir, equally important to our constituents. The means of communication between us and them should not be taxed with postage. All of them, from the most enlightened to the humblest, have a right to know what we are doing. The political history of the country is learned in a great measure from the documents and speeches sent them by the members of Congress; and if we find the duty too severe, there is usually no difficulty in finding some competent person in each district who will undertake the task. I could not, for their sakes, consent to this provision. They are the tax-payers, and are entitled to receive back a portion of what they pay. Their letters on business must be directed to their representatives, and the tax of postage for the letter or the reply is manifestly wrong.

There can be no greater mistake than that it ought to be a fundamental principle in our management of this department, that it should at all events support itself—be a self-supporting institution. As well might we require the navy to support itself by piracy, or the army by plunder, or our courts by taxation, or the claimants and parties to the suits. Neither arm of our Government is of more importance than the Post Office—the absence of neither would be more painfully felt. As well might it be demanded of us to serve without compensation. No, sir, I am not an advocate of such a proposition. I am for cheap postage—not such a rapid or radical reduction as would endanger the success of the experiment, but a prudent and gradual reduction, which would by its resources aid much in the support of the department, and let the treasury come to the aid of a system, which, like the light of the sun, should shine equally on all.

The time is rapidly coming, sir, when the lowest rate of postage will be more than sufficient to defray all the expenses; when the news from markets and tidings from absent friends shall radiate from the magnetic wires to every obscure post route and every portion of our country. From San Francisco to New York—from the Rio Grande to the St. Lawrence, the pulsations of commercial cities shall be sensibly and almost instantaneously felt in every portion of the Confederacy. The gentleman from Massachusetts was himself compelled to recommend an expedient for the franking privilege—the furnishing of stamps by the Government. This, sir, is not as economical, and is more complicated than the present mode of franking, and could in no wise add to the actual revenue of the department. I prefer the present mode. I agree with the gentleman from Georgia [Mr. COBB] in reprobating the doctrine that the receipt of revenue from the post office at certain points indicates any right to claim that the amount ought to be credited as evidence of a right to increase such facilities to those in that region, or that the smallness of amount collected in other States is any evidence that they do not contribute their full share to the money raised. The plantation States are the plundered producers, and the commercial correspondence is towards the points of commercial destination. It comes out of them, though nominally paid by the merchant or factor.

Sir, the Post Office Department is for the use of all the people of all the States—for their convenience, and not as a tax-gatherer. I will not enlarge on its benefits or its indispensable necessity, as the gentleman from Massachusetts [Mr. PALFREY] has, with peculiar felicity, illustrated both of those propositions. From it the people receive more of immediate profit and advantage than from any other disbursement of the public moneys. It does not indeed run in such a stream of public bounty as that which is poured out upon officials and favorites, but falling everywhere like the dew, it is, like the dew, always welcome and refreshing.

I have submitted these remarks, in order that my position may be understood. I am for the reduction of letter postage, and the continuation of the franking privilege. I am for the relinquishment of the postage on all newspapers for the space of thirty miles around their office of publication; and I am in favor of this regulation, because I desire that the country should be kept from being subsidized by the cities. I am for going into it by degress, and submitting the matter to the results of experience, from year to year, till we shall have reached that point which will be found to be in all respects the most practicable and equal.

Mr. ROCKWELL, of Connecticut, demanded the previous question.

There was a second. And the main question was ordered to be now taken.

The SPEAKER said the first question would be on the motion of the gentleman from Massachusetts, [Mr. PALFREY,] to amend the instructions.

Mr. ASHMUN asked the gentleman from Virginia [Mr. GOGGIN] to withdraw his motion to commit.

Mr. GOGGIN, in reply, proceeded to remark that he did not see how he could attain his object——

The SPEAKER interposed, and said that debate was not in order.

Mr. GOGGIN withdrew his motion to commit with instructions.

Mr. CLINGMAN inquired of the Speaker whether it was in order for the gentleman to withdraw the motion to commit after the previous question had been ordered?

The SPEAKER said it was in order to withdraw, but not to modify.

Mr. SAWYER moved that the House adjourn; which motion was rejected.

The SPEAKER stated the question to be on the amendment of the gentleman from Massachusetts, [Mr. ASHMUN.]

Mr. GOGGIN inquired if it was in order to move an amendment?

The SPEAKER replied in the negative.

Mr. STEPHENS moved that the House adjourn; which motion, by ayes 51, noes 67, was rejected.

Mr. GOGGIN having withdrawn his motion to commit with instructions, Mr. PALFREY's amendment fell.

Mr. SAWYER inquired whether it would be in order for him to move that there be a call of the House?

The SPEAKER said it would not, the previous question having been ordered. The amendment of the gentleman from Massachusetts [Mr. ASHMUN] to the amendment of the gentleman from Connecticut [Mr. DIXON] was first in order.

Both amendments were again read.

Mr. COLLAMER suggested a modification.

Mr. TOOMBS objected.

The yeas and nays were asked on the amendment of Mr. ASHMUN, but were refused.

Tellers (Messrs. ROCKWELL, of Connecticut, and WENTWORTH) were appointed.

And the question being taken, the vote stood—ayes 61, noes 62.

So the amendment was rejected.

The question then recurred on the amendment of Mr. DIXON.

On the call of Mr. COBB, of Georgia, it was again read.

Mr. GREELEY asked the yeas and nays thereon.

Mr. COLLAMER moved that the bill be laid upon the table.

The yeas and nays were asked and ordered on that motion.

And pending the question—

On motion of Mr. BURT, the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule, and referred:

By Mr. TURNER: Petitions of a great number of citizens of the State of Illinois, praying a donation of public lands to aid said State in the construction of railroads. Also, the petition of John Bolandes and others, praying for a mail route.

By Mr. St. JOHN: The petition of William H. Hart, and other citizens of Walden, Orange county, New York, praying for a reduction of postage, and the abolition of the franking privilege.

By Mr. MILLER: The petition of William Steel, and 81 others, citizens of Richland county, Ohio, praying the passage of a law to prevent the transportation of the mail, the delivery of letters, &c., on the first day of the week. Also, the petition of Robert Wilson and 40 others, citizens of said county, for the same object. Also, the petition of James Coe and 23 others, citizens of said county, for the same object. Also, the petition of Sarah J. White, and 36 other ladies of the said county, for the same object.

By Mr. SMITH, of Illinois: The memorial of Thomas Philp and a large number of other citizens of said State, praying a donation of land to aid in the construction of a railroad connecting the upper and lower Mississippi river with the northern lakes at Chicago.

By Mr. JENKINS: The petition of the inhabitants of Trenton, Oneida county, New York, for cheap postage, and to abolish the franking privilege.

By Mr. KELLOGG: The petition of Joseph Goulding and sixty others, citizens of Essex and Clinton counties, New York, praying for a revision of the laws relating to the encouragement of the useful arts, and for a modification of the laws, so as to secure to inventors the benefits of their discoveries, &c.

By Mr. NICOLL: The memorial of James Harper, Wm. B. Crosby, and others, of the city of New York, for the immediate removal of the very dangerous obstructions to the navigation of Hurl Gate channel, in the harbor of New York.

By Mr. PALFREY: The petition of Charles Davenport and thirty-seven others, mostly of Cambridge, Massachusetts, praying for a revisal and amendment of the patent laws.

By Mr. LEFFLER: The petition of sundry citizens of Muscatine county, Iowa, praying the passage of a law for the reduction and uniformity of postage.

IN SENATE.

THURSDAY, *February* 22, 1848.

Mr. WEBSTER presented a petition from citizens of Springfield, Massachusetts, asking for an amendment of the patent laws; which was referred to the Committee on Patents and the Patent Office.

Mr. DAVIS, of Mississippi, presented a petition from the commissioned officers of the third regiment of artillery, asking that the non-commissioned officers and privates of that regiment may be placed on the same footing as to certificates of merit with the enlisted men of the army; which was referred to the Committee on Military Affairs.

Mr. FITZPATRICK presented a petition from Perry E. Brochus in behalf of certain officers, non-commissioned officers, musicians, and privates of the marine corps, who served in the late war with Mexico, asking that they may be allowed extra pay and bounty land; which was referred to the Committee on Naval Affairs.

Mr. DICKINSON presented joint resolutions adopted by the Legislature of the State of New York, in favor of the adoption of measures for carrying out a resolution of Congress authorizing the erection of a monument to General Nicholas Herkimer, an officer in the revolutionary army; which were ordered to be printed.

On motion of Mr. STURGEON, the papers in relation to the claim of Mary D. Wade were ordered to be withdrawn from the files of the Senate.

REPORTS OF COMMITTEES.

Mr. BORLAND, from the Committee on Public Lands, reported a bill for the relief of the widow and heirs of Dr. H. Perrine.

On motion of Mr. DIX, the Senate proceeded to consider the bill.

After some discussion, in which Mr. BORLAND, Mr. YULEE, and Mr. WESTCOTT took part—

On motion of Mr. YULEE, the further consideration of the bill was postponed until to-morrow.

Mr. BREESE, from the Committee on Public Lands, reported the bill to amend an act entitled "An act to provide for the punishment of offences committed in cutting, destroying, or removing live oak, and other timber or trees, reserved for naval purposes," approved 2d March, 1831, without amendment, with a recommendation that it do not pass.

Also, from the same committee, reported the bill to cede to the State of Alabama the lands unsold in that State belonging to the United States, and remaining unsold after the 1st day of May, 1848, and for other purposes, without amendment, and with a recommendation that it do not pass.

Also, from the same committee, reported the bill for the relief of Samuel J. Bayard, late receiver of public moneys at Fairfield, Iowa, without amendment, and with a recommendation that it *do not* pass.

Also, from the same committee, made an adverse report on the petition of S. Woods, of Missouri, asking certain mining privileges in California and New Mexico.

Also, from the same committee, reported House bill granting a half section of land for the use of schools, within fractional township nineteen south, of range eighteen west, county of Lowndes, Mississippi, without amendment, and recommending its passage.

Also, from the same committee, reported House bill for the relief of Elisha Hampton and others, without amendment.

Mr. ATHERTON, from the Committee on Finance, reported House bill to authorize the coinage of twenty-dollar and one-dollar gold pieces at the Mint of the United States, with an amendment.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported House bill for the relief of Captain Alexander McEwen, without amendment, and recommended its passage.

Mr. BALDWIN, from the Committee on Pensions, reported House bill for the relief of Mary Buck, without amendment.

Mr. YULEE, from the Committee on Naval Affairs, made adverse reports on the petitions of Mary Wilkinson and of the heirs of William Flanigan and William Parsons; and also an adverse report on House bill for the relief of William Tee, of Portsmouth, Virginia.

RESOLUTIONS ADOPTED.

Mr. BREESE submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of granting to each non-commissioned officer, musician, and private, or the heirs of those who have died, who were in actual service six months or more in the army of the United States, or volunteers, or mounted rangers during the war of 1812 with Great Britain, a quantity of land as bounty, not exceeding 160 acres.

Mr. BREESE also submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of granting three months' extra pay to all the officers, warrant and petty officers, ordinary seamen, landsmen, and marines, engaged in actual service, in the war with Mexico, in the Gulf of Mexico and Pacific Ocean, and adjacent coast.

Mr. JOHNSON, of Louisiana, submitted the following resolution; which was considered and agreed to:

Resolved, That the Secretary of the Navy be instructed to communicate to the Senate a copy of the official report of Captain Mervine, of the United States navy, relative to the battle of Santa Clara, and the subsequent surrender of the insurgents to the forces under the command of Captain Ward Marston, of the United States marine corps, which resulted in the quelling of the insurrection in North California. And also a copy of the correspondence between the said Captain Mervine and Captain Ward Marston, together with a copy of the general order issued by Captain Mervine on the return of the expedition of Yerba Buena, California.

Mr. CLARKE submitted the following resolution, which was considered and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire whether the contract made with Ed. Mills by the Postmaster General, for the transportation of the mail between the United States and Bremen, under the authority of the "Act to provide for the transportation of the mail between the United States and foreign countries," approved 3d March, 1845, has been executed according to its terms by said Mills; and whether it is expedient to continue said contract beyond the period of five years, to which it is now limited by its terms.

RESOLUTIONS SUBMITTED.

Mr. PEARCE submitted the following resolution, which lies over:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate whether additional rooms are needed for the use of the Government, for the safe custody of its archives, and for the transaction of business connected with the several departments; and whether, in his opinion, the building on the corner of F and 17th streets, belonging to William H. Winder, is suitable for such purposes; and whether it is expedient to purchase said building, if the same can be had for a reasonable price.

Mr. ATHERTON submitted the following:

Resolved, That the Senate will to-day take a recess from 4 p. m. until 6, p. m.

Mr. DOUGLAS submitted the following resolution, which lies over:

Resolved, That hereafter the hour of meeting of the Senate shall be eleven o'clock.

The VICE PRESIDENT laid before the Senate a report from the Secretary of the Treasury in relation to the warehousing system.

On motion of Mr. DIX,

Ordered, That it be printed, and that 10,000 additional copies be furnished for the use of the Senate.

NEW TERRITORIES.

Mr. WEBSTER. I beg to call the attention of the Senate for five minutes to a paper which I wish to lay on the table of the Senate. The Senate has been engaged now for some days in discussing the very important question of the present state and condition of the newly-acquired territories of the United States, and of the necessity of some provision immediately being made for the government of these territories; and we have given some consideration to the kind of government it is expedient, bearing in mind the urgency of the case, and the approaching end of this session of Congress, to form for them.

I have heard, sir, with respect and attention, the speeches of honorable Senators who have addressed the Senate on this important question; and I have read carefully the propositions which have been made in the form of proposed amendments to the bill now before the Senate. To these amendments there seems to be objections, arising as well from the manner in which the subject has been introduced, in the way of amendments to this bill, as from the character of the propositions themselves.

I wish, sir, at as early a moment as may be convenient, to suggest in a precise form what appears to me to be the most expedient course to pursue at the present moment in regard to the Territories of California and New Mexico. If it be the opinion of the Senate that, considering the circumstances of the case, some provision for the government of these territories may with propriety, or from necessity, be adopted in the civil and diplomatic appropriation bill, I shall offer the paper I hold in my hand as an amendment to that bill; but if the sentiment of the Senate shall be that any bill relating to California shall be considered as a separate measure, then this paper will suggest what, in my judgment, is the most practicable and reasonable course now to be adopted. I do not propose to prolong any discussion on this bill. My purpose is to have the paper which I hold in my hand printed. I ask that it may be read and printed, by way of amendment to the bill now before the Senate, or as a substitute for it.

The Secretary read the paper as follows, and it was ordered to be printed:

That the President of the United States be, and he hereby is, authorized to hold possession of and occupy the Territories of California and New Mexico, ceded by Mexico to the United States by the treaty of the 2d of February, eighteen hundred and forty-eight; and that he be authorized for that purpose and in order to maintain the authority of the United States, and preserve peace and order in said Territories, to employ such parts of the army and navy of the United States as he may deem necessary.

SEC. 2. *And be it further enacted*, That until the expiration of the next session of Congress, unless Congress shall sooner provide for the government of said Territories, the existing laws thereof shall be maintained and observed; and that the civil and judicial authorities, heretofore exercised in said Territories, shall be vested in, and exercised by, such person or persons as the President of the United States shall appoint and direct, to the end that the inhabitants of said Territories may be protected in the full and free enjoyment of their liberty, property, and religion: *Provided, nevertheless*, That

martial law shall not be proclaimed or declared in said Territories, or either of them, nor any military court established or instituted, except ordinary courts-martial for the trial of persons belonging to the army and navy of the United States.

Sec. 3. *And be it further enacted*, That the sum of —— thousand dollars be, and the same hereby is, appropriated for the purpose of carrying these provisions into effect, to be paid out of any moneys in the treasury not otherwise appropriated.

Mr. DAYTON. As the Senator from Massachusetts has offered a bill connecting itself with the civil and diplomatic appropriation bill, and in view of the exigencies of California at the present time, and the want of a proper government for that country, I would present an amendment in like manner, with a view simply of having it printed, merely observing that it is a copy substantially of the acts which gave authority to the President of the United States to govern the Territories of Florida and Louisiana, and is in accordance with those precedents heretofore established.

The Secretary read the amendment as follows, and it was ordered to be printed:

That until the end of the first session of the next Congress, unless other provision for the government of the territories recently acquired from Mexico, under the late treaty with that Government, (dated second February, eighteen hundred and forty-eight,) be sooner made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing government of the same territories shall be vested in such person or persons, and shall be exercised in such manner as the President of the United States shall direct for the maintaining the inhabitants of said territories in the free enjoyment of their liberty, property, and religion; and the laws of the United States, relating to the revenue and its collection, shall be extended to said territories. And the President of the United States shall be, and he is hereby, authorized, within the term aforesaid, to establish such districts for the collection of the revenue, and during the recess of Congress appoint such officers, whose commissions shall expire at the end of the next session of Congress, to enforce the said laws, as to him shall seem expedient; said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States, or its territories, for like service; and to enable the same to be done, the sum of two hundred thousand dollars be appropriated, out of any money in the treasury not otherwise appropriated.

ARMS FOR EMIGRANTS TO CALIFORNIA.

Mr. MASON moved to postpone the prior orders with a view to take up the joint resolution reported some days since from the Military Committee, to authorize the Secretary of War to furnish arms and ammunition to persons emigrating to the Territories of Oregon, California, and New Mexico, on certain conditions.

In answer to a question from a Senator, Mr. MASON said, that by this joint resolution, it was proposed to authorize the Secretary of War to furnish arms to those who emigrate to California, they paying for them.

Mr. BENTON hoped the motion would not be agreed to. He should be sorry to say over again in the Senate what he had already said in committee on the resolution. This Government ought not to be peddling arms to anybody; it should either give them or not part with them at all.

Mr. RUSK said the individuals for whose use these arms would be granted, if this resolution should pass, were going to California by the invitation of the Government to settle there, and arms were necessary for their defence. They were to travel over land to that country; and, as it was important that we should have an overland route, it was important to afford facilities and means of defence to emigrants; for, as they traveled through the unsettled parts of the country, they would doubtless make valuable discoveries respecting the way thither. There was a propriety in obtaining arms from the Government of the United States, because there was a large amount on hand at the various arsenals absolutely wasting away, and portions of which, every year or two, were sold by the Government. For these and some other reasons which he gave, he hoped the resolution would be agreed to.

The question was then taken on the motion to postpone the prior orders, that the resolution might be taken up, and it was agreed to. The resolution was accordingly taken up for consideration.

At the request of Mr. MASON, the report of the committee on this subject was read.

Mr. WESTCOTT moved to strike out the proviso, which provided that the emigrants should pay for the arms they should receive. He wished them to be given absolutely, if furnished at all.

After a few words from Mr. DAVIS, of Mississippi, the amendment was rejected.

The resolution was then reported to the Senate, was ordered to be engrossed for a third reading, and was read a third time and passed.

NOTICE OF A JOINT RESOLUTION.

Mr. UNDERWOOD gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a joint resolution to amend the Constitution of the United States.

PRIVATE BILLS.

Mr. ATHERTON moved to postpone the prior orders, and to take up the following resolution, submitted by him on the 20th instant:

Resolved, That the resolution setting apart Thursday of each week for the consideration of private bills be, and it is hereby, rescinded.

The question being put, it was decided in the negative—ayes 17, noes 25.

JAMES Y. SMITH.

On motion of Mr. BALDWIN, the prior orders were postponed, and the Senate proceeded to consider a bill for the relief of James Y. Smith.

The bill was then considered as in Committee of the Whole, and was ordered to a third reading, and was subsequently read a third time and passed.

MERCHANT'S CARAVAN IN AN ENEMY'S COUNTRY.

The Senate considered, as in Committee of the Whole, the bill for the relief of Manuel X. Harmony, which had been reported from the Committee of Claims with an amendment, proposing to insert, after the word "wagons," the words "and other property."

Mr. BRADBURY desired some information respecting this claim, and suggested that the report of the committee should be read.

Mr. YULEE thought the chairman of the committee could give a succinct narrative that would be more intelligible than the voluminous report.

Mr. MASON. Mr. President, the petitioner was engaged in a trading expedition to Santa Fé and the northern provinces of Mexico, having a number of wagons, mules, and a quantity of merchandise. He was a citizen of the State of New York, and had never been engaged in an expedition of this kind before, and of course was unacquainted with the difficulties attending it. He left Missouri for Santa Fé before intelligence of the war reached there, and thus had no knowledge of the declaration of war till some time afterwards. After traveling some three hundred miles, he was overtaken by a detachment of United States troops. They ordered him to march in the rear of that detachment to Santa Fé. After being detained at Santa Fé for some time, he and others were permitted to depart for the northern provinces of New Mexico with their merchandise. They had proceeded to a point near the Rio Grande, where the whole company halted for a time, in order to learn the condition of the country, and whether it would be safe to enter Mexico, and whether they could find a market for their goods. A gentleman who came from Mexico told him that he would be allowed to enter Mexico and sell his merchandise. The traders were about to avail themselves of this news, when they were overtaken by Colonel Doniphan and his command, and the petitioner was ordered to go with him to Chihuahua. The letter which he presents shows that Colonel Doniphan wanted to avail himself of the services of these traders, in case he should meet a superior force. He wished also to have the advantage of their wagons, which would be used as fortifications on the plain, if they were attacked. He wanted also to prevent the Mexicans from having the benefit of the merchandise. The petitioner formally protested against being thus impressed and forced to accompany the troops.

It appears, however, that under this protest he was compelled to join the command of Colonel Doniphan, and that the Colonel proceeded to organize the teamsters and others under appropriate commanders, and to make them a part of his armed force. And, further, that in the action which Colonel Doniphan had, these teamsters not only fought, but that the wagons were made to furnish a mask, as it is called in military phrase, to his command. It appears, also, that a number of his mules were taken and used for purposes of the transportation of the artillery and wagons of Colonel Doniphan, and that many forced marches were made, so that when the mules arrived at Chihuahua they were broken down. On his arrival at Chihuahua the petitioner applied to Colonel Doniphan, and insisted that, as his mercantile expedition had been broken up, he should take the property, and that the Government of the United States should be held responsible for the value of it. The Mexican Government treated the property as goods brought in under the protection of an enemy, and declared that those who purchased them should suffer the penalty of the law. The letter shows also that the petitioner applied to Colonel Doniphan for a certificate, which he might employ in his application to the Government of the United States for redress. When Colonel Doniphan left Chihuahua for Saltillo, by order of General Taylor, he offered to take the petitioner and his train with him; but his mules were broken down, and so worn out by forced marches that it was impossible for him to reorganize them for a further march. He had no alternative, then, but to abandon his property altogether, or to make the best arrangement he could for its safety. He accordingly placed it in the charge of the Spanish consul, subject to the order of Colonel Doniphan. On that condition the goods were left when Colonel Doniphan's command departed for Saltillo, considered by the petitioner as public property, the value of which was to be accounted for to him. The Government of Chihuahua claimed that the property had been left there subject to the order of the United States. It was to be held as property of the enemy, and subject to compensation accordingly; and it was eventually taken by the Government of Chihuahua, and converted to its use. The committee are of opinion that the petitioner is entitled to redress for the merchandise and mules, because it was proved that not only was the property seized by the officers of the Government, but against the remonstrance of the petitioner. The amendment is one which authorizes the Secretary to ascertain the facts in the case, and the value of the mules and goods, as well as the wagons. The petitioner further claims for detention, at various times, by orders of the officers of the United States. But the committee were of the opinion that he could not claim on this ground, because it was incident to his expedition and his route. Now, the principle involved is this: It is truly and properly said that none have a right to trade with an enemy in time of war. But it is shown that in this case the petitioner had set out before he was aware that war was declared, and thus had no knowledge that hostilities had arisen. It was shown further, that after he was on his route and had advanced two or three hundred miles, and when overtaken by the troops of the United States, he was permitted to proceed to his original destination and his original purpose without any prohibition by those in command. When he arrived at Santa Fé he was treated as others who are engaged in lawful trade. The duties assessed on others were assessed on him, and the amount received was paid into the public treasury; and after that, by permission of the commanding general, who was also civil governor, he was allowed to depart without a question made to the contrary for the purpose of going into the northern province that he might there find a market. Thus permitted, he was again overtaken by a new command, then under Colonel Doniphan. His train, and all with it, were forcibly taken possession of, and used for military purposes on the march. Now, I apprehend it is clear that where private property is seized in time of war by a military officer for public purposes, the owner has a right to claim its value from the Government; and by this bill the claim has been cut down to the actual loss sustained.

After some remarks in opposition by Mr. BRADBURY, the amendment was agreed to—ayes 19, noes 13.

The bill was then reported as amended, the amendment was concurred in, and the bill was ordered to a third reading. The bill was then read a third time, and the question being on its passage—

Mr. BRADBURY asked for the yeas and nays, but the call was not sustained.

There was some further debate on the bill, in which Mr. BRADBURY, Mr. CALHOUN, Mr. DICKINSON, Mr. MASON, Mr. UNDERWOOD, Mr. NILES, Mr. WESTCOTT, Mr. WALKER, Mr. HALE, Mr. DOWNS, and Mr. UPHAM took part.

Mr. NILES moved to reconsider the vote by which the engrossment of the bill was agreed to; which was negatived by ayes 17, noes 22.

The question on the passage of the bill was then

taken and decided—yeas 25, nays 19—as follows:

YEAS—Messrs. Badger, Baldwin, Benton, Clarke, Davis of Massachusetts, Dickinson, Dix, Dodge of Iowa, Douglas, Fitzpatrick, Foote, Greene, Hale, Hamlin, Houston, Johnson of Louisiana, Jones, Mangum, Mason, Miller, Rusk, Underwood, Upham, Webster, and Westcott—25.

NAYS—Messrs. Allen, Atherton, Berrien, Bradbury, Breese, Bright, Butler, Calhoun, Davis of Mississippi, Downs, Felch, Fitzgerald, Johnson of Georgia, King, Niles, Phelps, Spruance, Walker, and Yulee—19.

So the bill was passed.

RECONSIDERATION.

Mr. HALE said, that having the other day moved to lay a bill granting a pension to the widow of the late Colonel Dix on the table, and being satisfied that that disposition was not a proper one, and that the bill ought to pass, he desired to move that the Senate take up said bill and pass it.

The question being taken upon the motion to take from the table, it was decided in the negative, on a division—ayes 14, noes 21.

TIMOTHY P. ANDERSON.

Mr. DAVIS, of Massachusetts, moved to postpone the prior orders, and that the Senate proceed to take up the bill authorizing a renewal of a patent for the benefit of the widow and heirs of Timothy P. Anderson, deceased; which was agreed to.

The bill was then considered as in Committee of the Whole, and the amendment moved by Mr. BALDWIN was agreed to.

The bill was then reported as amended, and the amendment was concurred in; and the bill was read a third time and passed.

JOHN HIBBERT.

On motion of Mr. HAMLIN, the prior orders were postponed, and the Senate proceeded to consider the bill from the House for the relief of John Hibbert; which was considered, and ordered to a third reading. The bill was subsequently read a third time and passed.

DISABLED SOLDIERS.

Mr. JONES moved that the prior orders be postponed, and that the Senate take up a bill to regulate the pensions of officers, soldiers, seamen, and marines, who have been, or may hereafter be disabled in the service of the United States.

Some discussion took place on this motion, in which Mr. JOHNSON of Louisiana, Mr. MASON, Mr. YULEE, Mr. FOOTE, Mr. DODGE of Iowa, and Mr. BREESE, participated; when—

The CHAIR decided this to be a public bill.

JOSEPH M'AFFEE.

Mr. FOOTE moved that the prior orders be postponed, and that the Senate proceed to consider the bill for the relief of the heirs and legal representatives of Joseph McAffee, deceased; which was agreed to.

The bill was then considered as in Committee of the Whole, which was reported without amendment, and ordered to be engrossed for a third reading. The bill was subsequently read a third time and passed.

POLLY DAMERON.

Mr. JOHNSON, of Georgia, moved that the prior orders be postponed, and that the Senate proceed to consider a bill for the relief of Polly Dameron.

Mr. YULEE stated that this bill had not yet been reported.

GENERAL ORDERS.

On motion of Mr. JOHNSON, of Georgia, the Senate proceeded to the general orders.

The Senate then proceeded to consider the following bills, which were severally read a third time and passed:

A bill for the relief of John M. McIntosh;

A bill for the relief of A. H. Cole;

A bill to provide for the final settlement of the accounts of Thomas C. Sheldon, late receiver of public moneys at Kalamazoo, Michigan;

A bill to provide for the final settlement of the accounts of Abraham Edwards, register of the land office at Kalamazoo, Michigan;

A bill for the relief of William Greer;

A bill for the relief of Eugene Van Ness and John M. Brush, executors of Nehemiah Brush.

The bill for the relief of Robert C. Rogers was ordered to a third reading; and, after debate,

On motion of Mr. RUSK, the further consideration of the bill was postponed until to-morrow.

The bill for the relief of William Lee was rejected—ayes 13, noes 17.

The bill for the relief of the heirs and legal representatives of Regnold alias Nick Hillary, was indefinitely postponed.

The bill for the relief of Gad Humphrey was discussed, and the further consideration of the bill was then postponed until to-morrow.

On motion of Mr. BADGER,

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 22, 1849.

The Journal of yesterday was read and approved.

TERRITORY OF MINESOTA.

The SPEAKER gave the floor to

Mr. SIBLEY, of Wisconsin Territory.

Mr. WENTWORTH called for the orders of the day.

The SPEAKER said, the floor was held by the gentleman from Wisconsin Territory.

Mr. SIBLEY moved that the rules of the House be suspended, to enable him to submit a motion, that the Committee of the Whole on the state of the Union be discharged from the consideration of the bill from the Senate to establish the Territorial Government of Minesota, so as to bring the said bill before the House.

Mr. S. was proceeding to make some remarks—

When the SPEAKER interposed and said, that debate was not in order.

Mr. SIBLEY said, he would then simply submit his motion.

The question was taken, and the affirmative vote stood 47.

The SPEAKER said, it was evident that two-thirds had not voted in the affirmative.

Tellers were asked for and appointed, (Messrs. CRANSTON and NICOLL.)

And the question having been again taken, the vote stood—ayes 85, noes 18; no quorum voting.

Mr. KAUFMAN asked the yeas and nays on the motion to suspend the rules.

Mr. SMITH, of Connecticut, moved that there be a call of the House; which motion was agreed to.

The Clerk then called the roll.

Mr. J. R. INGERSOLL said, as there was obviously a quorum now present, he would move that all further proceedings on the call be dispensed with.

The SPEAKER said the Clerk would report the number of members who had answered to their names.

The Clerk stated the number to be 145.

The question was then taken on the motion of Mr. INGERSOLL, which, having been decided in the affirmative—

All further proceedings on the call were dispensed with.

The tellers resumed their places; and the question "Shall the rules be suspended?" for the purpose aforesaid, was again taken, and decided in the affirmative—ayes 100, noes 16.

So two-thirds voting in the affirmative, the rules were suspended.

On motion of Mr. SIBLEY, the Committee of the Whole on the state of the Union was then discharged from the further consideration of the said bill.

Mr. SIBLEY said several gentlemen had appealed to him not to move the previous question. He should be very happy to accede to their request, but the bill would involve a long debate. He must, therefore, with all deference to those gentlemen, move the previous question.

Mr. ROCKWELL, of Massachusetts, inquired if there were not some amendments proposed to the bill, and what would be the effect of the previous question upon them?

[Cries of "Order;" "The previous question."]

The SPEAKER. The Chair understands the gentleman from Massachusetts to rise to a point of order.

Mr. ROCKWELL rose to a point of order. He said the Clerk had not read the amendments which he understood had been moved to the bill, and which had been reported at the same time with the bill. He understood that the amendment which had been offered by himself was received and ordered to be printed. He wished now to know the effect of the previous question—whether, if sustained, it would cut off the amendment or not?

[NOTE.—The amendment reported by Mr. ROCKWELL, from the minority of the Committee on Territories, is as follows:

Amend the bill by inserting at the commencement of the twelfth section, after the word "enacted," the words following:

"That the inhabitants of the said Territory shall be entitled to and enjoy all and singular the rights, privileges, and advantages, granted and secured to the people of the territory of the United States northwest of the river Ohio, by the articles of the compact contained in the ordinance for the government of the said territory, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, and shall be subject to all the conditions and restrictions and prohibitions in said articles of compact imposed upon the people of said territory."]

The SPEAKER. The Chair is of opinion that no amendment except those reported by the Committee on Territories is rightfully pending to the bill before the House. The bill was reported by the Committee on Territories. The gentleman from Massachusetts, from the minority of the committee, rose and asked leave to submit a proposition on behalf of the minority. If that was offered at the first reading of the bill, (which was the proper time,) as a report, no amendment was in order, because, on the first reading, the only question which can arise is, "Shall this bill be rejected?" When, however, the bill was in a proper state for consideration, by the rule of the House, it was sent immediately to the Committee of the Whole on the state of the Union, the rule being that the first consideration of bills involving appropriations shall be in Committee of the Whole on the state of the Union. No amendment could rightfully be offered to the bill until the bill was the subject of consideration.

The Chair is of the opinion that the amendment of the gentleman from Massachusetts, from the minority of the committee, was submitted as a report, received as such, and printed as a matter of information for the House; and that it must have been offered in Committee of the Whole, or in the House when the bill was under consideration. Not having been so offered, the amendment is not rightfully pending.

Mr. ROCKWELL stated that the amendments offered by the majority of the committee were reported at the same time with the bill, and with the amendment reported by himself in behalf of the minority and that they were all printed together. He inquired if the Chair ruled the amendments of the majority in order?

The SPEAKER'S reply was not heard, (but the same point was raised and decided at a subsequent stage of the proceedings.)

Mr. ROCKWELL appealed to the gentleman from Wisconsin [Mr. SIBLEY] to withdraw his motion for the purpose of allowing him (Mr. R.) to move amendments—certain amendments (he said) which had been reported by the majority and by the minority of the committee.

Mr. COBB, of Georgia. Is this question debatable?

The SPEAKER. The Chair understands the gentleman from Massachusetts to be appealing to the courtesy of the gentleman from Wisconsin.

After a word or two of further conversation between Mr. COBB and the SPEAKER on Mr. COBB's point of order—

Mr. ROCKWELL renewed his appeal to the gentleman from Wisconsin to withdraw his demand for the previous question, to enable him to offer the amendment reported from the minority of Committee on Territories. He would renew the motion for the previous question, without saying one word, after moving the amendment. Otherwise, he trusted the House would not sustain the previous question.

Mr. COBB again called the gentleman from Massachusetts to order, and insisted upon his point of order.

The SPEAKER announced the question on seconding the motion for the previous question.

Mr. BOYDEN rose to a point of order. He made the point of order that a Delegate from a Territory in this House had no right to move the previous question. He had no right to vote. Suppose a measure was passed, could he move to reconsider it? He could not vote with either side, and he certainly could not move to reconsider. He denied that the Delegate had any right to move the previous question upon this House; he had no right to sustain it. It was a vastly more important matter than the right to vote.

Mr. COBB called the gentleman from North Carolina to order.

The SPEAKER requested gentlemen to take their seats, and (he said) the Chair would decide the question of order.

Order having been restored—

The SPEAKER. By the act of March 3, 1817, it is provided—

"That in every territory of the United States in which a temporary government has been, or hereafter shall be established, and which, by virtue of the ordinance of Congress of the 13th of July, 1787, or of any subsequent act of Congress passed or to be passed, now hath, or hereafter shall have the right to send a delegate to Congress, such delegate shall be elected every second year, for the same term of two years for which members of the House of Representatives of the United States are elected; and in that House each of the said delegates shall have a seat with a right of debating, but not of voting."

It is clear (the Speaker continued) that the gentleman from Wisconsin has no right to vote. The Chair has had some doubt whether the gentleman has the right to make a motion. It has, however, been the uniform practice of the House to allow delegates to make motions. The gentleman from Wisconsin himself made the motion to suspend the rules for the purpose of bringing the question before the House. That is a motion quite as important as the previous question, as it sets aside all the rules of the House relating to the order of business. Gentlemen from the Territories are habitually called for petitions and resolutions, under an express rule of the House, and always have been allowed to move the reference of them. The Chair believes, upon the whole, that delegates from the Territories could not subserve the purposes for which they are sent here, unless they have the right to make motions; and as the law does not expressly deny them that right, the Chair is disposed to accord to them the largest liberty. He therefore decides the motion to be in order.

Mr. BOYDEN appealed from the decision.

And the question, "Shall the decision of the Chair stand as the judgment of the House?" was then taken, and decided in the affirmative.

So the decision of the Chair was affirmed.

Mr. SMITH, of Indiana, rose, he said, to ask for information. When the bill was reported from the Committee on Territories, some half dozen amendments were reported with it. The bill was referred to the Committee of the Whole on the state of the Union, and the amendments were ordered to be printed. His impression was, and such he supposed to have been the impression of the House, that these amendments were in a condition to be acted upon, and that the previous question would not cut them off.

The SPEAKER said he was decidedly of opinion that the amendments proposed by the majority of the Committee on Territories, legitimately offered to the bill, and reported to the House as amendments proposed by the committee, would not be cut off by the previous question. The Speaker had referred simply to the amendment of the minority of the committee, which was submitted, as he conceived, for information, and which it would not have been in order to move at that time.

Mr. SMITH suggested that the amendments had not been printed in full. Two of the amendments had been printed; but there were three or four others. He would inquire whether they were on file.

The SPEAKER was understood to say, that he understood from the Clerk the amendments referred to were printed in the bill in brackets.

Mr. LEVIN rose, he said, to an inquiry on a point of order. The previous question had been moved, thus cutting off debate. He asked whether the provisions of the fifth section of the bill which secured to aliens the right of suffrage as well as the right of holding office, was not a virtual repeal of the naturalization laws of the United States?

The SPEAKER. That is not a point of order. The Chair understood the demand for the previous question to be insisted on. The question would be, was there a second?

And the question being put, the affirmative vote stood 81.

Mr. ROCKWELL, of Massachusetts, called for tellers, who were appointed, (Messrs. McCLERNAND and HUBBARD.)

The question was again taken, and the vote stood—ayes 95, noes 71.

So there was a second.

The question then being, "Shall the main question be now put?"—

Mr. ROCKWELL, of Connecticut, asked the yeas and nays.

Mr. GIDDINGS rose, he said, to make an inquiry of the Chair. He desired to be informed by the Speaker whether, if the main question should now be ordered, the gentleman from Massachusetts [Mr. ROCKWELL] would have an opportunity to offer his amendment?

The SPEAKER answered in the negative.

Mr. GIDDINGS. If we reject the previous question, the bill will then be open to amendment?

The SPEAKER was understood to say, that the first question would be on the pending amendments reported from the Committee on Territories.

Mr. GIDDINGS said, he hoped, then, the call for the yeas and nays would be sustained; and they were ordered.

A conversation took place between Mr. HOUSTON of Alabama and the SPEAKER, in relation to the effect which the refusal of the House to order the main question would have on the bill; and the SPEAKER finally intimated that he would decide the question when it came up.

Mr. GENTRY (addressing the Chair) said he supposed that if the main question was not ordered, the bill would go over until to-morrow.

The SPEAKER so decided.

Mr. GOTT asked for the reading of the amendment of Mr. ROCKWELL, of Massachusetts.

The SPEAKER said it was not in order at this time.

The question, "Shall the main question be now put?" was taken, and decided in the affirmative—yeas 102, nays 99—as follows:

YEAS—Messrs. Atkinson, Barringer, Bedinger, Birdsall, Bocock, Bowdon, Bowlin, Boyd, Bridges, Brodhead, William G. Brown, Charles Brown, Burt, Cabell, Canby, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Cocke, Crozier, Cummins, Daniel, Darling, Dunn, Faran, Featherston, Ficklin, Flournoy, French, Fries, Fulton, Goggin, Green, Willard P. Hall, Haralson, Harmanson, Harris, Henley, Hill, George S. Houston, Inge, Charles J. Ingersoll, Iverson, Jameson, James H. Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, La Sère, Leffler, Ligon, Lincoln, Lord, Lumpkin, Lynde, McClernand, McDowell, McKay, McLane, McQueen, Job Mann, Meade, Miller, Morse, Murphy, Newell, Nicoll, Pendleton, Petrie, Peyton, Pilsbury, Preston, Richey, Robinson, Sawyer, Shepperd, Simpson, Smart, Robert Smith, Stanton, Stephens, Thibodeaux, Thomas, James Thompson, Richard W. Thompson, Robert A. Thompson, William Thompson, Tompkins, Toombs, Turner, Van Dyke, Venable, Wallace, Wick, Wiley, Williams, and Woodward—102.

NAYS—Messrs. Adams, Ashmun, Barrow, Belcher, Bingham, Blackmar, Botts, Boyden, Brady, Buckner, Cathcart, Clingman, Collamer, Collins, Conger, Cranston, Crisfield, Crowell, Dickey, Dixon, Duer, Garnett Duncan, Eckert, Edsall, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Gaines, Gayle, Gentry, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Henry, Hilliard, I. E. Holmes, Hubbard, Hudson, Joseph R. Ingersoll, Irvin, Jenkins, Kellogg, Thomas Butler King, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Levin, Maclay, McClelland, McIlvaine, Horace Mann, Marsh, Marvin, Morehead, Morris, Mullin, Nes, Outlaw, Palfrey, Peaslee, Peck, Pollock, Putnam, Reynolds, Rockhill, Julius Rockwell, John A. Rockwell, Roman, Root, Rumsey, St. John, Schenck, Sherrill, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Starkweather, Charles E. Stuart, Strohm, Strong, Tallmadge, Taylor, John B. Thompson, Thurston, Vinton, Warren, Wentworth, and White—99.

So the House decided that the main question should be now taken.

The SPEAKER. The question is first on the amendments proposed by the majority of the committee, which will be read.

The first amendment was read, and proposed to strike out in the first section the words, "the passage of this act," and insert "the 10th day of March, 1849," (the time at which the bill is to take effect.)

Mr. HARALSON called for the yeas and nays on the adoption of this amendment.

The yeas and nays were ordered, and being taken, were—yeas 97, nays 101—as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Barringer, Barrow, Belcher, Blackmar, Botts, Boyden, Brady, Buckner, Butler, Cabell, Cocke, Collamer, Conger, Cranston, Crisfield, Crowell, Crozier, Dickey, Dixon, Duer, Garnett Duncan, Dunn, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, Fulton, Gaines, Gayle, Gentry, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Henry, Isaac E. Holmes, Elias B. Holmes, Hubbard, Hudson, Joseph R. Ingersoll, Irvin, John W. Jones, Kellogg, Thomas Butler King, Daniel P. King, William T. Lawrence, Levin, Lincoln, McIlvaine, Horace Mann, Marsh, Marvin, Morehead, Mullin, Nes, Newell, Outlaw, Palfrey, Pollock, Preston, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Roman, Root, Rumsey, St. John, Schenck, Shepperd, Sherrill, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Stephens, Strohm, Tallmadge, Taylor, Thibodeaux, Richard W. Thompson, Van Dyke, Vinton, Warren, and White—97.

NAYS—Messrs. Atkinson, Beale, Bedinger, Bingham, Birdsall, Bocock, Bowdon, Boyd, Bridges, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Burt, Cathcart, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Collins, Cummins, Daniel, Darling, Edsall, Faran, Featherston, Ficklin, French, Fries, Giddings, Goggin, Willard P. Hall, Haralson, Harris, Henley, Hill, George S. Houston, Inge, Charles J. Ingersoll, Iverson, Jenkins, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, Lahm, La Sère, Sidney Lawrence, Leffler, Ligon, Lord, Lumpkin, Lynde, Maclay, McClelland, McClernand, McDowell, McKay, McLane, McQueen, Job Mann, Meade, Miller, Morris, Morse, Murphy, Nicoll, Peaslee, Peck, Petrie, Peyton, Pilsbury, Richey, Robinson, Rockhill, Sawyer, Smart, Robert Smith, Stanton, Starkweather, Charles E. Stuart, Strong, Thomas, James Thompson, R. A. Thompson, William Thompson, Thurston, Tompkins, Toombs, Turner, Venable, Wallace, Wentworth, Wick, Wiley, Williams, Wilmot, and Woodward—101.

So the first amendment was rejected.

Mr. SCHENCK moved to lay the bill on the table, and on that motion he demanded the yeas and nays; which were ordered.

Mr. HARALSON rose, and said he wished to obtain information upon a certain point before he voted. He would respectfully ask whether the last clause was a part of the original bill now, after the refusal of the House to insert it in the first section?

The SPEAKER. The Chair knows nothing on the subject.

[A VOICE. That is a question of legal construction!]

The question was then taken on the motion to lay the bill on the table, and the vote stood—yeas 88, nays 106—as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Barrow, Belcher, Blackmar, Botts, Boyden, Brady, Buckner, Butler, Cabell, Clingman, Williamson R. W. Cobb, Collamer, Conger, Cranston, Crisfield, Crowell, Daniel, Dickey, Dixon, Garnett Duncan, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Gaines, Gayle, Gentry, Giddings, Goggin, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Henry, Hill, Hilliard, Elias B. Holmes, Hubbard, Hudson, Joseph R. Ingersoll, Irvin, Kellogg, Thomas Butler King, Daniel P. King, William T. Lawrence, Levin, McIlvaine, Horace Mann, Marsh, Morehead, Mullin, Nes, Outlaw, Palfrey, Pollock, Putnam, Julius Rockwell, John A. Rockwell, Roman, Root, Rumsey, St. John, Schenck, Shepperd, Sherrill, Silvester, Slingerland, Truman Smith, Andrew Stewart, Strohm, Tallmadge, Taylor, R. W. Thompson, John B. Thompson, Vinton, Warren, and White—88.

NAYS—Messrs. Atkinson, Barringer, Bedinger, Birdsall, Bocock, Bowdon, Bowlin, Boyd, Bridges, Brodhead, Chas. Brown, Albert G. Brown, Burt, Cathcart, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Howell Cobb, Cocke, Collins, Crozier, Cummins, Darling, Duer, Dunn, Edsall, Faran, Featherston, Ficklin, French, Fries, Fulton, Green, Willard P. Hall, Haralson, Harmanson, Harris, Henley, Isaac E. Holmes, George S. Houston, Inge, Charles J. Ingersoll, Iverson, Jenkins, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, Lahm, La Sère, Sidney Lawrence, Leffler, Ligon, Lincoln, Lord, Lumpkin, Lynde, Maclay, McClelland, McClernand, McDowell, McKay, McLane, McQueen, Job Mann, Meade, Miller, Morris, Morse, Murphy, Penslee, Peck, Petrie, Peyton, Pilsbury, Preston, Richey, Robinson, Rockhill, Sawyer, Smart, Robert Smith, Stanton, Starkweather, Stephens, Charles E. Stuart, Strong, Thomas, James Thompson, R. A. Thompson, William Thompson, Tompkins, Toombs, Turner, Van Dyke, Venable, Wallace, Wentworth, Wick, Wiley, Williams, Wilmot, and Woodward—106.

So the House refused to lay the bill on the table.

The 3d, 4th, 5th, 6th, 7th, 8th, 9th, and 10th amendments, were then read and agreed to, *nem. con.*

The 11th amendment was read, viz: in section 13, at the end thereof, strike out the words—

[And the sum of twenty thousand dollars, out of any money in the treasury not otherwise appropriated, is hereby appropriated and granted to said Territory of Minesota, to be applied by the Governor and Legislative Assembly to the erection of suitable public buildings at the seat of Government.]

And the question being put on agreeing thereto, it was decided in the negative.

The 12th amendment was read, viz: strike out section 17, to wit:

And be it further enacted, That the sum of five thousand dollars be, and the same is hereby, appropriated, out of any moneys in the treasury not otherwise appropriated, to be expended by and under the direction of the said Governor of the Territory of Minesota, in the purchase of a library, to be kept at the seat of Government, for the use of the Governor, Legislative Assembly, Judges of the Supreme Court, Secretary, Marshal, and Attorney of said Territory, and such other persons and under such regulations as shall be prescribed by law.

And the question being put on agreeing thereto, it was decided in the negative.

The 13th and last amendment was read, viz: at the end of the bill, insert—

This act shall take effect from and after the 10th day of March, 1849.

Mr. KAUFMAN propounded a question to the Chair: he asked whether, if the amendment just

read be adopted, it would not take the appointment of the officers from President Polk, and give the same to President Taylor? and whether it does not *strike* the honorable Speaker that the amendment was offered *palpably* for that purpose?

The SPEAKER was understood to say, that the Chair had no information on the subject. The case was not provided for in the rules of the House.

Mr. KAUFMAN asked the yeas and nays on the amendment; which were ordered, and being taken, were—yeas 101, nays 95, as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Barringer, Belcher, Blackmar, Boyden, Brady, Buckner, Butler, Cabell, Canby, Clingman, Cocke, Collamer, Conger, Cranston, Crisfield, Crowell, Crozier, Dickey, Dixon, Duer, Garnett Duncan, Dunn, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, Fulton, Gaines, Gayle, Gentry, Goggin, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Henry, Hilliard, Isaac E. Holmes, E. B. Holmes, John W. Houston, Hubbard, Hudson, Joseph R. Ingersoll, Irvin, John W. Jones, Kellogg, Thomas Butler King, Daniel P. King, William T. Lawrence, Lincoln, McIlvaine, Horace Mann, Marsh, Morehead, Mullin, Nes, Newell, Outlaw, Palfrey, Pendleton, Pollock, Preston, Putnam, Julius Rockwell, J. A. Rockwell, Roman, Root, Rumsey, St. John, Schenck, Shepperd, Sherrill, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Stephens, Andrew Stewart, Strohm, Tallmadge, Taylor, Richard W. Thompson, John B. Thompson, Van Dyke, Vinton, Warren, and White—101.

NAYS—Messrs. Atkinson, Bayly, Bedinger, Birdsall, Boyd, Bridges, Brodhead, Charles Brown, A. G. Brown, Burt, Cathcart, Chase, Clapp, Franklin, Clark B. L. Clarke, Howell Cobb, Williamson R. W. Cobb, Collins, Cummins, Daniel, Darling, Edsall, Faran, Featherston, Ficklin, French, Fries, Giddings, Green, Willard P. Hall, Hammons, Harmanson, Harris, Henley, Hill, G. S. Houston, Inge, Charles J. Ingersoll, Iverson, Jenkins, James H. Johnson, R. W. Johnson, George W. Jones, Kaufman, Kennon, Lahm, La Sere, Sidney Lawrence, Leffler, Ligon, Lord, Lumpkin, Lynde, McClelland, McClernand, McDowell, McKay, McLane, McQueen, Job Mann, Meade, Miller, Morris, Morse, Murphy, Nicoll, Peaslee, Peck, Petrie, Peyton, Pilsbury, Richey, Robinson, Rockhill, Sawyer, Smart, Robert Smith, Stanton, Charles E. Stuart, Strong, Thomas, James Thompson, R. A. Thompson, William Thompson, Thurston, Tompkins, Turner, Venable, Wallace, Wentworth, Wick, Wiley, Williams, Wilmot, and Woodward—95.

So the amendment was agreed to.

Mr. EVANS, of Maryland, rose (he said) to a point of order, and stated that the business pending yesterday, when the House proceeded to the consideration of business on the Speaker's table, was the bill establishing a collection district in Texas, on which he was entitled to the floor. He asked if that was not the first business in order this morning?

The SPEAKER. It is the last business on the Speaker's table.

GENERAL CALENDAR.

Mr. JOHNSON, of Arkansas, moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of executing the rule which requires the calendar of the committee to be called on Thursdays, for the purpose of acting upon those bills to which no objection is made. He asked the yeas and nays.

The yeas and nays were ordered—the count having been taken by tellers, viz: (Messrs. KAUFMAN and THIBODEAUX,)—and (having been taken) were—yeas 82, nays 96.

So the House refused to go into committee.

Mr. GRINNELL, from the Committee on Commerce, to whom was referred the petition of Hosea Ilsley and others, citizens of Chelsea, Massachusetts, for authority to make a road over land of the United States connected with the marine hospital in Chelsea, made an adverse report thereon; which was laid on the table, and ordered to be printed.

Mr. WOODWARD, from the same committee, to whom were referred sundry petitions and remonstrances relative to the establishment of a collection district at East Thomaston, in the State of Maine, made a report thereon; which was laid on the table, and ordered to be printed.

Mr. GREGORY, from the same committee, reported a bill declaring Fort Covington, in the State of New York, to be a port of delivery, and for other purposes; which was read twice, and ordered to be engrossed and read the third time; and being engrossed, was accordingly read the third time, passed, and sent to the Senate for concurrence.

Mr. GREGORY, from the same committee, reported a joint resolution in relation to foreign officers or seamen who shall render relief to American vessels in distress; which resolution was read twice, and ordered to be engrossed; and being engrossed, was accordingly read the third time, passed, and sent to the Senate for concurrence.

Mr. GRINNELL, from the same committee, reported a bill exempting Spanish vessels from discriminating duties in certain cases; which was read twice, and ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time, passed, and sent to the Senate for concurrence.

Mr. ASHMUN moved to reconsider the last vote, and moved to lay that motion on the table.

Mr. COBB, of Georgia, asked for the yeas and nays on this motion, remarking that he considered that the fate of the bill depended upon its decision.

The yeas and nays were ordered, and having been taken, were—yeas 102, nays 94—as follows:

YEAS—Messrs. Abbott, Ashmun, Barringer, Barrow, Belcher, Blackmar, Botts, Boyden, Brady, Buckner, Butler, Cabell, Canby, Clingman, Cocke, Collamer, Conger, Cranston, Crisfield, Crowell, Crozier, Dickey, Dixon, Duer, Garnett Duncan, Dunn, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, Fulton, Gaines, Gayle, Gentry, Giddings, Goggin, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Henry, Hilliard, I. E. Holmes, Elias B. Holmes, John W. Houston, Hubbard, Hudson, Joseph R. Ingersoll, Irvin, John W. Jones, Kellogg, Thomas Butler King, Daniel P. King, William T. Lawrence, Lincoln, McIlvaine, Horace Mann, Marsh, Marvin, Mullin, Nes, Outlaw, Palfrey, Pendleton, Pollock, Preston, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Roman, Root, Rumsey, St. John, Schenck, Shepperd, Sherrill, Silvester, Slingerland, Caleb B. Smith, Truman Smith, Stephens, Andrew Stewart, Strohm, Tallmadge, Taylor, Richard W. Thompson, John B. Thompson, Toombs, Van Dyke, Vinton, Warren, and White—102.

NAYS—Messrs. Atkinson, Bayly, Beale, Bedinger, Birdsall, Bocock, Bowlin, Boyd, Bridges, Brodhead, Charles Brown, Burt, Cathcart, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Howell Cobb, Williamson R. W. Cobb, Cummins, Daniel, Darling, Edsall, Faran, Ficklin, French, Fries, Green, W. P. Hall, Hammons, Haralson, Harris, Henley, Hill, George S. Houston, Inge, Charles J. Ingersoll, Iverson, Jenkins, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, Lahm, La Sere, Sidney Lawrence, Leffler, Ligon, Lord, Lumpkin, Lynde, Maclay, McClelland, McClernand, McDowell, McKay, McLane, McQueen, Job Mann, Meade, Miller, Morris, Morse, Murphy, Nicoll, Peaslee, Peck, Petrie, Peyton, Pilsbury, Richey, Robinson, Rockhill, Sawyer, Smart, Robert Smith, Stanton, Charles E. Stuart, Strong, Thomas, James Thompson, Robert A. Thompson, William Thompson, Thurston, Turner, Venable, Wallace, Wentworth, Wick, Wiley, Williams, Wilmot, and Woodward—94.

So the motion to reconsider was laid on the table.

Mr. GOGGIN rose to a privileged question, and moved to reconsider the vote by which the first amendment (embracing, he said, substantially this amendment) was rejected by the House, and to lay that motion on the table.

Mr. COBB, of Georgia, (in his seat.) How did you vote?

Mr. GOGGIN. I voted in the negative.

Mr. COBB asked the yeas and nays, which were not ordered.

And the motion to reconsider was laid on the table.

The question recurred on the third reading of the bill, and on ordering the amendments to be engrossed, and was agreed to.

Mr. TURNER. The next question is on the passage of the bill; I move the previous question.

The SPEAKER said the motion was not in order; the bill had not been read a third time.

Mr. WENTWORTH inquired if the amendments had been engrossed?

The SPEAKER replied that they had not. The bill could not be read a third time to-day, except by unanimous consent.

The bill accordingly took its place on the Speaker's table.

Mr. JONES, of Tennessee, moved to reconsider the vote ordering the bill to a third reading, and the amendments to be engrossed; and moved to lay that motion on the table; which latter motion was agreed to.

Mr. GRINNELL, from the Committee on Commerce, reported a bill making appropriations for light-houses, light-boats, buoys, beacons, &c., and providing for the erection and establishment of the same, and for other purposes; which was read twice, committed, and ordered to be printed.

Mr. G. also, from the same committee, reported a joint resolution to authorize the employment of two or more vessels of the navy in testing the Ocean tracks recommended by Lieutenant Maury, accompanied by a report in writing; which resolution was read twice and laid on the table, and the resolution and report ordered to be printed.

REVENUE LAWS AND THE TERRITORIES.

Mr. GREGORY, from the same committee, reported the following resolution:

Resolved, That the Committee of the Whole House on the state of the Union be discharged from the further consideration of the House bill No. 734, being a bill to extend the revenue laws of the United States over the territory and waters of Upper California, and to create a collection district therein, and that said bill be now considered in the House for engrossment.

The SPEAKER said a vote of two-thirds would be required for the adoption of the resolution.

Mr. NICOLL asked the yeas and nays; which were refused.

Mr. ASHMUN called for the reading of the resolution; which was again read.

Mr. HALL, of Missouri, asked for tellers on the adoption of the resolution, and they were ordered, (Messrs. MOREHEAD and NICOLL.)

The question on the adoption of the resolution was then taken, and decided in the affirmative—ayes 107, noes 35.

So two-thirds voting in the affirmative, the resolution was adopted.

And the bill being thus before the House—

Mr. GREGORY moved the previous question on its engrossment.

Mr. TURNER moved a reconsideration of the vote by which the resolution had been adopted.

The SPEAKER inquired whether the gentleman had voted with the prevailing side?

Mr. TURNER replied that he had so voted.

Mr. T. proceeded to remark that he should not have made the motion, if it had not been for the fact that he knew the previous question would be called on the passage of the bill.

The SPEAKER interposed, and said that the question related to the priority of business, and was not, therefore, debatable.

Mr. TURNER said he supposed it would be in order to state his reasons why he was opposed——

The SPEAKER. No, sir.

The motion to reconsider was then withdrawn.

The question recurring on the demand for the previous question, there was a second; and the main question was ordered to be now taken, (which main question was on the engrossment of the bill.)

The bill was then read through.

Mr. DUER inquired of the Speaker, whether there was not an amendment pending which had been offered by a gentleman from Ohio, [Mr. ROOT,] extending the Wilmot proviso?

The SPEAKER said there was no such amendment pending.

Mr. DUER moved that the bill be laid upon the table.

The yeas and nays were asked and ordered; and, being taken, resulted—yeas 38, nays 145.

So the bill was not laid on the table.

The question recurring on ordering the bill to be engrossed, was taken and agreed to.

Mr. TURNER moved to reconsider the vote on the engrossment.

He said he wished to make a few remarks before he moved to lay the motion on the table, which he intended to do before he sat down. It seemed to him that they were presenting themselves in a very inconsistent attitude in the eyes of the world by passing such a vote as this.

Mr. COCKE rose to a point of order, and inquired whether the gentleman from Illinois had voted in the affirmative on the engrossment?

The SPEAKER stated that no division having been taken, any gentleman could move a reconsideration.

Mr. TURNER (resuming) begged gentlemen not to be uneasy, as he assured them he had no idea of making an hour's speech.

It was not (he proceeded to say) a century since the Colonies which now formed these United States, revolted from the parent Government, and the principal ground of the Revolution was, that the parent Government taxed the Colonies without allowing them representation. Now, he asked, in case they passed this bill, if they did not present themselves in precisely the position of the parent Government in taxing her colonies? If we extended our revenue laws over the Territories of California and New Mexico, and established ports of entry, and appointed officers there, of course we did it for the purpose of collecting taxes in those ports. Now, he held that the right of taxation depended upon a condition precedent, viz: that before a government could tax its people, it must afford them protection. Had we in any manner afforded that people protection? Had we given them a government? Had we given them civil officers? Had we done anything for their protection? Certainly not.

Mr. GRINNELL interposed, and asked the

gentleman if we had not, at this very time, an army and a navy protecting that territory?

Mr. McCLERNAND (the floor having been further yielded) said he wished to submit this question to his colleague, Whether, upon the principle which he had predicated, that we had no right to collect revenue in the ports of California, for the reason that that people was not represented in Congress, Congress would not be prohibited in every case of a territory, even where we had extended a government over that territory, from collecting revenue in its ports?

Mr. TURNER replied, that he thought not. He believed we had never had a territory in this Government that was not entitled to representation on this floor. He knew it might be said that the representative was not entitled to a vote; but the representative, or the delegate of the territory here had the right to bring the wants and the interests of his territory before the Congress of the United States, to present the claims of the territory, and, by his speeches and resolutions, to urge the importance of granting the territory the privileges and rights which they claimed. He maintained, therefore, that all our territories had heretofore had a representation on this floor.

In regard to the interrogatory of the gentleman from Massachusetts: the gentleman inquired if we had not an army and a navy hovering about the frontier of that territory and protecting it? It was true that we had an army and a navy that had been employed but a short time since in conquering that territory, by which conquest that territory had become annexed by treaty stipulations to the United States. The condition of war had ceased; a treaty of peace had been made; and in that treaty of peace we had stipulated to protect the people, and to allow them to come into the Union on an equal footing with the other States. These were the stipulations of the treaty: he asked, had we carried out those stipulations? Had we afforded that people any protection? Were we now affording them any protection? Did we allow them to be heard on this floor? No. We placed ourselves in precisely the attitude in which Great Britain placed herself when she undertook to tax these colonies, and did not give them the right of representation.

Mr. BROWN, of Pennsylvania, (the floor having been yielded) said, if he understood the gentleman, he was doubly in error. The people of the new territory were now taxed more than they would be under this bill. If he understood the facts, no foreign government could send any of its merchandise or produce into the ports of California. The people of California could only receive all they got of foreign merchandise through other ports of the United States—could only receive such foreign imports as were first brought into New York, New Orleans, and other ports of the United States, thus paying the duty here, and the reshipment there. If this bill passed, they could receive foreign goods directly, and instead of being doubly taxed, as they now were, they would have to pay but one rate of duty.

Mr. TURNER (resuming) said he was very much mistaken if the gentleman himself had not fallen into a very great error. He had seen notices in the papers of shipments of goods from England and from the South American States to that country, and he had never heard that they were denied entrance into those ports. He presumed that our army and navy would not undertake to prevent foreign merchandise shipped from foreign ports from entering the ports of California until they had some law or authority to do it.

Mr. BAYLY (Mr. T. having yielded at his request) desired the gentleman, in the remarks he was making, to be good enough to answer the question, whether this bill was not a *felo de se?* It was not to go into effect until the 10th of March. Under the Constitution, the President could make no appointments during the recess except to fill vacancies originating in the recess; but there would not be vacancies originating during the recess of Congress. He asked the gentleman to inform the House whether the bill, then, was not a *felo de se?*

Mr. TURNER replied, it appeared to him that it would be a *felo de se;* for, as the gentleman from Virginia had remarked, if the office was created not to commence until the 10th of March, and if the Senate were not in session, appointments could not be confirmed. He was opposed to the bill in consequence of its having this feature. That, however, had relation to a different part of the subject from that which he was now considering.

But he was more opposed to recognizing the principle by the action of this Congress, that we had the right to tax a people before extending to them a government—before allowing them to be represented. It was in violation of the great principle upon which all our institutions were based. If we overthrew this platform, we overthrew the great principle upon which our Government rested; we went back even beyond the feudal laws to absolute tyranny, to absolute monarchy, and denied to the people the right to participate in the benefits of the Government, while we taxed them to support the Government in which they had no interest.

This was the main ground of his opposition. He placed it on the broad principle of right. We had refused to grant to that people a territorial government. Congress had had before it last year a bill to afford them the protection which we had usually extended to our territories; it was defeated. But it would appear from the vote just taken, that while we denied the right of representation in Congress to that people, we were going to tax them. He was opposed to the measure from the beginning to the end.

Mr. ASHMUN moved to lay on the table the motion to reconsider; and it was ordered accordingly.

The SPEAKER. The bill is already engrossed. When shall it have its final reading?

Mr. WHITE moved *now.*

Mr. MEADE inquired of the Speaker if it would be in order to propose an amendment?

The SPEAKER said, not after the bill had been ordered to be engrossed.

The bill was then read a third time by its title; and the question being "Shall this bill pass?"—

Mr. WHITE demanded the previous question.

Mr. COBB, of Georgia, called for the reading of the bill in full.

Mr. MEADE inquired of the Speaker whether it was in order to move to recommit the bill?

The SPEAKER. Not until the previous question has been refused.

Mr. HARALSON inquired whether a vote had been taken directly on the question of engrossment?

The SPEAKER replied in the affirmative.

Mr. HARALSON inquired if it was in order to move a reconsideration of that vote?

The SPEAKER explained that the motion had already been made and disposed of.

Some conversation between the SPEAKER and Mr. HARALSON followed.

Mr. MEADE gave notice of his intention to move the recommitment of the bill, with instruction to add two sections; which he asked might be read for information.

Mr. WENTWORTH inquired if this was in order?

The SPEAKER said not, if objection was made. The sections could only be read by consent. The Speaker also stated that it was not in order, after the engrossment of a bill, to move to recommit, with instructions. The gentleman could only make a motion to recommit.

Some further conversation followed between Mr. MEADE and the SPEAKER.

The bill was then read through.

The question recurred and was taken on the demand for the previous question; and, by ayes 80, noes 40, it was decided in the affirmative.

So there was a second.

And the main question (being on the passage of the bill) was ordered to be now taken.

Mr. HALL, of Missouri, asked the yeas and nays on the main question; which were refused.

Mr. GIDDINGS desired to inquire whether, by the extension of the revenue laws, Congress did not expressly extend the coastwise slave trade, as authorized by the act of 1807?

The SPEAKER. That I cannot say.

The question "Shall this bill pass?" was then taken. The affirmative vote was not heard; the negative vote was 37.

And the bill was passed.

Mr. WHITE moved a reconsideration of the vote, and that that motion be laid on the table.

And the motion was laid on the table.

Mr. WENTWORTH moved that the House proceed to the consideration of business on the Speaker's table.

The title of the bill having been read and agreed to—

Mr. WHITE moved a reconsideration of the vote, and that that motion be laid on the table.

It was ordered accordingly.

Mr. STANTON moved that the House adjourn.

The motion, by ayes 74, noes 77, was rejected.

The question recurring on Mr. WENTWORTH's motion—

Mr. JOHNSON, of Arkansas, moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of taking up the general calendar.

And on that motion he asked the yeas and nays; which were refused.

The question again recurred on Mr. WENTWORTH's motion.

Mr. HARALSON moved that the House adjourn.

The affirmative vote was taken, and decided to be 82.

Mr. WENTWORTH asked the yeas and nays; which were ordered—and being taken, were, yeas 107, nays 80.

So the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule and referred:

By Mr. DANIEL: The memorial of Elias Baines, John Battain, Elisha Pitman, Stephen Watson, and 175 other persons, praying Congress to abolish all laws and regulations now in operation, whereby chaplains to the two Houses of Congress, for the army and navy, and other public stations, are employed by the Government, and paid out of the public treasury, and whereby religious schools are established, and religious teaching employed therein at the public expense, and that no more laws be passed by Congress relative to religion.

By Mr. DUER: The petition of Isaac Parks and others, citizens of Madison county, New York, praying for a reduction of the rates of postage. Also, the petition of G. W. Henkle and others, praying for a modification of the patent laws.

By Mr. McILVAINE: The petition of V. D. Bernard, and twenty-seven other inhabitants of Chester county, Pennsylvania, praying that slavery may be prohibited in the territories acquired from Mexico; that it be abolished in the District of Columbia, and all other places over which Congress has exclusive jurisdiction; and that no State shall hereafter be admitted into the Union unless slavery be excluded therefrom.

IN SENATE.

FRIDAY, *February* 23, 1849.

The VICE PRESIDENT laid before the Senate a message from the President of the United States transmitting a report from the Secretary of State, in reply to a resolution of the Senate, containing copies of the correspondence between the Department and the Spanish authorities in the case of William Henry Bush, a citizen of the United States, imprisoned in Cuba; which was laid on the table, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. WALKER presented a petition from citizens of Ceresco, in the State of Wisconsin, asking that the rates of postage may be reduced and the franking privilege abolished; which was laid on the table.

Mr. KING presented a memorial from William A. Campbell, surviving partner of James C. Watson, deceased, asking indemnity for loss sustained by the refusal of the officers of Government to surrender certain slaves purchased by them from the Creek Indians; which was referred to the Committee on Indian Affairs.

Mr. DICKINSON presented a petition from James Hamilton and Rufus Schuyler, asking an appropriation for the purpose of testing the merits of a machine for sawing timber into curves and levels suitable for ship-building; which was referred to the Committee on Naval Affairs.

Mr. FOOTE presented a memorial from citizens of Mississippi, asking a grant of land to aid in the construction of the Mobile and Ohio railroad; which was referred to the Committee on Military Affairs.

Mr. STURGEON presented a memorial from the Board of Trade of Philadelphia, asking that the coast survey may be continued; which was laid on the table.

Mr. ATCHISON presented a petition from citizens of the United States residing in the valley of the Mississippi, asking that military escorts may be placed on the route between the valley and California, and a permanent military post established in some convenient part of the gold region;

which was referred to the Committee on Military Affairs.

Mr. ATCHISON presented a memorial from the Legislature of Missouri, asking a grant of lands for the construction of the Hannibal and St. Joseph railroad; which was referred to the Committee on Public Lands.

On motion of Mr. FITZPATRICK, it was

Ordered, That Adam Hall have leave to withdraw his papers.

REPORTS OF COMMITTEES.

On motion of Mr. YULEE, the Committee on Naval Affairs were discharged from the further consideration of the bill from the House for the relief of Martha Dameron, widow of Christopher Tompkins, and it was referred to the Committee on Revolutionary Claims.

Mr. YULEE, from the Committee on Naval Affairs, made an adverse report on the petition of Charles Colburn; and the report was ordered to be printed.

On motion of Mr. YULEE, the Committee on Naval Affairs were discharged from the further consideration of the petition of Calvin Blythe, executor of Captain Jesse D. Elliott.

Mr. YULEE, from the Committee on Naval Affairs, reported House bill for the relief of Edward Myers, without amendment.

Mr. HUNTER, from the Committee on Finance, reported a bill to remit or refund duties upon goods, wares, and merchandise destroyed by fire; which was read and ordered to a second reading.

Mr. WALKER, from the Committee on the Contingent Expenses of the Senate, to whom was referred the resolution in relation to the appointment of Noah Hanson and Joseph Hedrick as messengers, reported the same, recommending its adoption.

Mr. BALDWIN, from the Committee on Claims, reported House bill for the relief of the President and Directors of the Union Bank of Florida, without amendment.

Mr. UPHAM, from the Committee on Revolutionary Claims, reported House bill for the relief of the grandchildren of Major General De Kalb, with an amendment.

Mr. BRADBURY, from the Committee on Claims, reported a bill for the relief of the heirs and representatives of the late Robert Sewell; which was read and ordered to a second reading.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported the joint resolution from the House respecting the bounty land and pay allowed to the substitutes of men enlisted for the Mexican war, with an amendment providing that in no case shall two warrants be granted to the substitute and to the soldier for whom he is a substitute.

On motion of Mr. JOHNSON, the Senate proceeded to consider this joint resolution, as in Committee of the Whole, when the amendment, after an explanation from Mr. DAVIS, of Mississippi, was agreed to.

Mr. DOWNS moved the following amendment:

And that a like privilege be extended to such soldiers as have been enlisted for five years, and served during the war, but were honorably discharged for special reasons before the expiration of the five years.

Which, after remarks from Mr. DOWNS, Mr. DAVIS of Mississippi, Mr. JOHNSON of Louisiana, and Mr. WEBSTER, was negatived.

The bill was then read a third time, and passed.

RESOLUTIONS ADOPTED.

Mr. CLARKE submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of repealing the 11th section of an act making provision for an additional number of general officers, and for other purposes, approved 3d March, 1847, and that the committee report by bill or otherwise.

Mr. SEBASTIAN submitted the following resolution; which was considered and agreed to:

Resolved, That the Secretary of the Senate be hereby directed to deliver to the Commissioner of Patents, for the use of the Patent Office, 500 copies of the 10,000 copies of the report of the Commissioners on the explosion of steam boilers, ordered to be printed at the present session.

The following resolution, submitted yesterday by Mr. PEARCE, was considered and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate whether additional rooms are needed for the use of the Government, for the safe custody of its archives, and for the transaction of business connected with the several departments; and whether, in his opinion, the building on the corner of F and 17th streets, belonging to William H. Winder, is suitable for such purposes; and whether it is expedient to purchase said building, if the same can be had for a reasonable price.

BILLS, ETC., ON LEAVE.

Mr. RUSK asked and obtained leave to introduce a joint resolution providing for a branch mint at San Francisco; which was read a first and second time, and referred to the Committee on Finance.

Mr. UNDERWOOD, pursuant to notice, asked and obtained leave to introduce a joint resolution providing for an amendment of the Constitution; which was laid on the table, and ordered to be printed.

RECESS.

The following resolution, submitted yesterday by Mr. ATHERTON, was taken up for consideration:

Resolved, That the Senate will to-day take a recess from four o'clock, p. m. until six o'clock, p. m.

On the question of the adoption of the resolution, the decision appearing to be adverse—

Mr. ATHERTON asked for the yeas and nays; which were ordered.

The question was then taken, and decided as follows:

YEAS—Messrs. Atherton, Bradbury, Breese, Clarke, Dickinson, Dix, Douglas, Downs, Fitzgerald, Foote, Johnson of Louisiana, Mangum, Niles, Rusk, Spruance, Sturgeon, Underwood, and Westcott—18.

NAYS—Messrs. Allen, Atchison, Baldwin, Berrien, Borland, Bright, Butler, Calhoun, Corwin, Davis of Mississippi, Dayton, Felch, Fitzpatrick, Greene, Hamlin, Houston, Hunter, Johnson of Maryland, Johnson of Georgia, King, Mason, Miller, Pearce, Sebastian, Turney, Upham, Webster, and Yulee—28.

So the resolution was rejected.

GEORGE POINDEXTER.

Mr. JOHNSON, of Louisiana, moved to postpone the prior orders, and to take up the bill for the relief of George Poindexter; which was negatived.

WIDOWS AND ORPHANS.

The bill to require heads of bureaus and other officers at the seat of Government, in examining and deciding upon claims arising out of the late war with Mexico, to give preference and priority in such examinations to those belonging to and preferred by widows and orphans or their agents, was taken up on the question of its third reading.

Mr. PEARCE. I hope the bill will not pass. It introduces a new principle in legislation, and one that is entirely out of place. It proposes to set apart and distinguish one class of cases and give them a preference over another, without reference to the urgency of the case, without reference to the character of the individuals concerned, or to the period of time during which the application has been pending; it sets all these considerations aside in favor of a certain class of cases supposed to be more meritorious. I think this is essentially wrong in itself. It is wrong in principle and wrong in its details, because if carried out it will work the grossest injustice; it will allow a claim that is presented to-day to have precedence over the application of another claimant who may be in the most extreme distress, whose claim may have been pending for years. It gives precedence to the claims of to-day, whether the claimants come before the accounting officers in person or by attorney. This is manifestly wrong in principle; and it is wrong in another point of view. It seems to me to be introducing sentimentality in legislation. I beg pardon of the gentleman who may have charge of this proposed enactment for having said so much, but I think it is entirely out of place. It is well to cultivate sentiments of gallantry; it is exceedingly beautiful in private life, but it is not becoming in the legislation of Congress. It is well enough in individual cases, but we must legislate for classes of cases; and even if we do regard this as a class of cases which deserve special attention from Congress, we shall nevertheless be obliged to confess that this law does not carry out the principle by providing for that class of cases which is entitled to the sympathy of everybody. I submit that under this law the class that is called old maids, whose cases may have been pending for years, must give way at any moment to a new claim from a widow or an orphan. Now, for my own part, I really think it is wrong that that class which is most deserted in society should be most deserted in legislation. I think we ought to get rid of this sentimentality in legislation; and, therefore, I move to lay the bill upon the table.

The motion was agreed to.

BILLS FROM THE HOUSE.

The bill to extend the provisions of an act approved March 3, 1847, for carrying into effect the existing compacts with the States of Alabama and Mississippi, with regard to the five per cent. fund and school reservations, having been returned from the House of Representatives with an amendment—

On motion of Mr. KING, the amendment of the House was concurred in.

A bill from the House of Representatives to grant preëmption rights for certain islands in the Great Miami river, was read a first and second time, and referred to the Committee on Public Lands.

A bill from the House of Representatives to transfer the towns of Vinal Haven, North Haven, and Islesboro', from the collection district of Penobscot to that of Belfast, in the State of Maine, was read a first and second time, and referred to the Committee on Commerce.

A bill from the House of Representatives to regulate the mileage of members and delegates in Congress, and for other purposes, was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

A. C. BRYAN AND OTHERS.

On motion of Mr. BORLAND, the prior orders were postponed, and the Senate proceeded to consider the bill for the relief of A. C. Bryan and others. The bill was then considered as in Committee of the Whole, and no amendment being offered, it was ordered to a third reading. The bill was subsequently read a third time, and passed.

JOHN CRAWFORD.

On motion of Mr. DAVIS, of Mississippi, the prior orders were postponed, and the Senate proceeded to consider the bill for the relief of John Crawford. The bill was then considered as in Committee of the Whole, and no amendment being offered, the bill was ordered to a third reading. The bill was subsequently read a third time, and passed.

TERRITORY OF CALIFORNIA.

The Senate resumed the consideration of the bill making appropriations for the civil and diplomatic service of the United States, for the year ending the 30th of June, 1850.

The question being on the amendment submitted by Mr. WALKER, which, as modified at the suggestion of Mr. FOOTE, is as follows; the brackets inclosing the words inserted by Mr. FOOTE.

SEC. —. *And be it further enacted*, That the Constitution of the United States, and all and singular the several acts of Congress respecting the registering, recording, enrolling, or licensing ships or vessels, and the entry and clearance thereof, and the foreign and coasting trade and fisheries, and all the acts respecting the imposing and collecting of duties on imports, and all acts respecting trade and intercourse with the Indian tribes, and all acts respecting the public lands [or the survey or sale thereof, and all and singular the other acts of Congress of a public and general character, and the provisions whereof are suitable and proper to be applied] to the territory west of the Rio del Norte, acquired from Mexico by the treaty of the second day of February, eighteen hundred and forty-eight, be, and the same are hereby, extended over and given, and made in full force and efficacy in all said territory; and the President of the United States be, and he is hereby, authorized to prescribe and establish all proper and needful rules and regulations (in conformity with the Constitution of the United States) for the enforcement of said laws in said territory, and for the preservation of order and tranquillity, and the establishment of justice therein, and from time to time to modify or change the said rules and regulations in such manner as may seem to him discreet and proper, and may prescribe and establish, temporarily, such divisions, districts, ports, offices, and arrangements proper for the execution of said laws, and appoint and commission such officers as may be necessary to administer such laws in said territory for such term or terms as he may prescribe, whose authority shall continue until otherwise provided by Congress; said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States, or its territories, for like services; and to enable the same to be done, the sum of two hundred thousand dollars be appropriated, out of any money in the treasury not otherwise appropriated.

Mr. DAYTON moved to amend the amendment by substituting the following:

That until the end of the first session of the next Congress, unless other provision for the government of the Territories recently acquired from Mexico, under the late treaty with that Government, (dated second February, eighteen hundred and forty-eight,) be sooner made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing government of the same Territories shall be vested in such person or persons, and shall be exercised in such manner as the President of the United States shall direct, for the maintaining the inhabitants of said Territories in the free enjoyment of their liberty, property, and religion; and the laws of the United States, relating to the

revenue and its collection, shall be extended to said Territories. And the President of the United States shall be, and he is hereby, authorized, within the term aforesaid, to establish such districts for the collection of the revenue, and during the recess of Congress appoint such officers, whose commissions shall expire at the end of the next session of Congress, to enforce the said laws as to him shall seem expedient; said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States or its Territories, for like services; and to enable the same to be done, the sum of two hundred thousand dollars be appropriated out of any money in the treasury not otherwise appropriated.

Mr. DAYTON addressed the Senate at length in advocating his amendment.

Mr. WEBSTER followed against all these amendments, as only tending to delay the appropriation bill, stating that he would offer his when the House bill to extend the revenue laws over California should come up.

Mr. FOOTE occupied the floor until four o'clock in reply.

Mr. WALKER expressed a wish to reply in defence of his proposition.

Mr. ATHERTON, Mr. DOUGLAS, and Mr. DIX, made some remarks, when—

Mr. HALE moved that the Senate now adjourn: ayes 17, noes 23.

After a few remarks from Mr. BREESE and Mr. DOUGLAS—

The Senate adjourned.

[A full report of this Debate will be found in the Appendix.]

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 23, 1849.

The Journal of yesterday was read and approved.

Mr. BOWDON asked the general consent of the House to introduce a proposition, (the nature of which was not ascertained by the reporter.)

Mr. ASHMUN objected, and called for the regular order of business.

REDUCTION OF POSTAGE.

Mr. KAUFMAN moved that the rules be suspended, for the purpose of enabling him to introduce a bill to reduce the rates of postage, and to make the same uniform throughout the United States, irrespective of distance.

The question being taken, the rules were not suspended.

Mr. BOWLIN moved to reconsider the vote on the joint resolution to authorize medals and other testimonials to foreigners assisting American seamen; which was laid over.

PRIVATE BILLS.

Mr. ROCKWELL, of Connecticut, remarking that this was the last day on which private bills could be acted upon which were not objected to, moved that the House proceed to their consideration. In order to facilitate the despatch of the business, he asked leave to offer the following resolution, and if objections were made, he said he should move a suspension of the rules:

Resolved, That private bills from the Senate shall be the special order for this day; and those bills to which there shall be no objection shall be first considered.

Mr. WENTWORTH and other gentlemen objected.

The question was taken on the suspension of the rules, and was decided in the negative.

Mr. ROCKWELL moved that the House resolve itself into Committee of the Whole, for the consideration of bills on the private calendar.

The question was taken by tellers—Messrs. ROCKWELL and BOYD—and was decided in the negative.

MEXICAN INDEMNITIES.

Mr. J. R. INGERSOLL asked the general consent, and, if that was refused, gave notice that he should move a suspension of the rules, to enable him to offer a resolution making the bill providing for Mexican indemnities the special order for to-morrow, (Saturday.)

Mr. COLLAMER said he thought it was a duty due to gentlemen in the House who had had reports on hand for more than a month, to insist upon the regular order of business, that the committees might be called in order.

The SPEAKER announced the question on the suspension of the rules.

Mr. SMITH, of Connecticut, inquired of the Chair whether, as the House had already made a special order in this case, which stood upon the Journal, a new special order would alter the condition of the bill at all?

Mr. J. R. INGERSOLL stated that the special order had been made for Tuesday last, and he understood that it was exhausted. If that was the case, it was perfectly in order to make a new special order.

Mr. ROCKWELL, of Connecticut, inquired whether the passage of the resolution would postpone the special orders which had already been made?

The SPEAKER replied that it was quite impossible for the Chair to decide upon the cases of inconsistency and conflict between the special orders as they were proposed. The House must pass its special orders, and when they were on the record the Chair would decide between them.

Mr. McCLELLAND inquired if it had not always been the practice of the House to allow the special orders to follow each other in their order?

The SPEAKER. Undoubtedly so, by the rules of the House; but the gentleman will remember that the proposition of the gentleman from Pennsylvania is to suspend all the rules of the House.

Mr. STARKWEATHER inquired if the resolution made the bill the special order for to-morrow?

The SPEAKER replied that it did.

The question was taken, and the motion to suspend the rules was rejected.

Mr. WENTWORTH called for the regular order of business.

PAY DEPARTMENT OF THE ARMY.

Mr. BURT asked the unanimous consent of the House, and in case that were refused, that he should be under the necessity of moving to suspend the rules, to take up the bill to reorganize the pay department of the army.

The whole House (he remarked) knew the necessity of the bill, and if it was not now acted upon it could not be at this session. He assured the House it need not take twenty-five minutes to dispose of it.

Mr. WENTWORTH asked if the bill to which the gentleman from South Carolina referred was not upon the Speaker's table? and if they proceeded in the regular order of business, and refused to adjourn as they had done for several days, it could not be reached in the regular order?

The SPEAKER. The Chair has the right to state that the bill is on the Speaker's table.

Mr. WENTWORTH. And can be reached in the regular order of business?

The SPEAKER. And can be reached in the regular order of business.

The question was taken on the motion of Mr. BURT to suspend the rules, and it was rejected.

The SPEAKER said the Chair desired to state to the House, before the business proceeded further that this day, being Friday, private business was in order, and the call of the committees was not in order. If the House allowed the business to go on in its order, private bills on their engrossment on the Speaker's table would be first in order. If the House did not then go into Committee of the Whole on the private calendar, or into Committee of the Whole on the state of the Union, it would be in order to call the committees for reports for one hour, and then to proceed to the business on the Speaker's table. The first business in order was private bills on their engrossment on the Speaker's table.

COLONEL WILLIAM R. M'KEE.

Mr. ADAMS moved to suspend the rules, to discharge the Committee of the Whole from the further consideration of the bill for the relief of the widow and children of Col. William R. McKee.

He said, that while he had been a member of the House, he had troubled the House but little, and he trusted he would be indulged by the House in making a remark or two before the motion to suspend was put.

The SPEAKER. The gentleman will proceed if there are no objections.

No objection being made—

Mr. ADAMS proceeded to say, that he wished only to state to those gentlemen on this floor who were conscientiously opposed to the payment for slaves, that by reference to this bill and the report accompanying it, it would be seen that there was no provision for the payment of slaves. He glanced for a moment at the provisions of the bill to sustain the explanation which he had made.

Mr. DUNN stated that there was no controversy in the case in reference to a slave. That question, it was perfectly clear, could not arise, for it was a case in which the Government was not bound to pay for any description of property. That question was expressly excluded from the case by the report of the committee.

Mr. HALL, of Missouri, requested the gentleman from Kentucky to state, before a vote was taken on the motion to suspend, what the bill proposed to do on behalf of the widow and children of Colonel McKee?

Mr. ADAMS replied, that it proposed to give two thousand dollars to the widow and children, and to each of the children a quarter section of land.

Mr. HALL. Well, I object.

The question was then taken, and the rules were not suspended.

A message was received from the Senate, by ASBURY DICKENS, Esq., Secretary, informing the House that the Senate had passed certain bills, &c.

CALIFORNIA.

Mr. MEADE rose, and gave notice that he would ask leave to introduce a bill, or that he would offer an amendment to some other bill which might be appropriate, for the following purposes: To establish a mint in California, and directing the President of the United States to send to the harbor of San Francisco the ship Pennsylvania, with a mint and the necessary officers and fixtures for the coinage of money, and to prevent foreigners from digging gold in California on their own account, who shall not declare their intention to become citizens, and take the oath of allegiance.

Mr. M. said that he had made this statement, in order that gentlemen might turn their attention to the subject when it should come up.

The SPEAKER said, if no objection was made, the motion would be entered on the Journal.

And it was so ordered.

Mr. BEDINGER asked the House to proceed to the consideration of a joint resolution from the Senate.

Mr. B. was proceeding to remark, that the object of the resolution was to allow persons going to California——

The SPEAKER said the motion could only be entertained by general consent.

Objection was made.

SWAMP LANDS OF LOUISIANA.

Mr. HARMANSON moved that the rules of the House be suspended, for the purpose of enabling him to move that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill to aid the State of Louisiana in reclaiming the swamp lands therein.

Tellers were asked for and ordered, (Messrs. HARMANSON and HUDSON;) and the question, Shall the rules be suspended? was taken, and decided in the negative—ayes 86, noes 94.

So two-thirds not voting in the affirmative, the rules were not suspended.

EVENING SESSION.

Mr. DUER asked the general consent of the House to offer the following resolution, which was read for information:

Resolved, That on and after Monday next the House, when it sooner adjourns, will hold an evening session, commencing at five o'clock.

Objections were made.

Mr. DUER moved a suspension of the rules, to enable him to offer the resolution.

Mr. HENLEY asked the yeas and nays, which were refused.

After a brief conversation between Mr. COLLAMER and the SPEAKER, the question, Shall the rules be suspended? was taken, and decided in the negative—ayes 18, noes not counted.

So the rules were not suspended, and the resolution was not received.

BUSINESS ON THE SPEAKER'S TABLE.

Mr. VINTON rose and said, that for the purpose of doing some business, as it was evident that otherwise nothing would be done to-day, he would move that the rules of the House be suspended, for the purpose of proceeding to the consideration of business on the Speaker's table.

Mr. COBB, of Georgia, said he hoped he might be permitted to inquire of the chairman of the Committee of Ways and Means [Mr. VINTON]

whether all the appropriation bills had passed this House?

Mr. VINTON. No, sir; there is one that has not passed.

Mr. COBB. Do you object to go into Committee of the Whole on the state of the Union, for the purpose of taking up that bill?

Mr. VINTON. I have no objection; but as I have made the motion that the House proceed to the consideration of business on the Speaker's table, I should like to try and see what will become of it.

Mr. COBB. I hope those gentlemen who are in favor of passing the general appropriation bills will vote that motion down.

The SPEAKER said he would give notice that if the House decided, by a suspension of the rules, to proceed to the consideration of business on the Speaker's table, that business must be proceeded with until the adjournment.

The question (the Speaker stated) was on the motion to suspend the rules.

Mr. WENTWORTH asked the yeas and nays thereon, which were ordered.

The question, "Shall the rules be suspended?" was then taken, and decided in the negative—yeas 101, nays 74.

So, two-thirds not voting in the affirmative, the rules were not suspended, and the House refused to proceed to the consideration of business on the Speaker's table.

Mr. WENTWORTH rose to inquire of the Speaker whether the House could, by a majority vote, proceed to call the committees for reports, for one hour?

The SPEAKER said the House might by a majority decide not to proceed to the consideration of private business. The twenty-ninth rule of the House provided that "Friday and Saturday in every week shall be set apart for the consideration of private bills and private business, in preference to any other, unless otherwise determined by a majority of the House." If the House should vote not to proceed to the consideration of private business, the Speaker was of opinion that the ordinary rules of the House would be in force, and he would proceed to call the committee for reports.

Mr. WENTWORTH. As the House has voted on that proposition——

A MEMBER. Do not debate.

Mr. WENTWORTH. I am not going to debate. Don't be alarmed. I now move that this House do *not* proceed to the consideration of private business to-day. And I give notice, if that motion shall be agreed to, that I shall follow it up with a motion that the House proceed to the regular order of business.

The SPEAKER stated the question.

Mr. VINTON inquired whether the motion of the gentleman from Illinois [Mr. WENTWORTH] would prevent or supersede a motion to suspend the rules?

The SPEAKER answered in the negative.

Mr. VINTON then moved that the House resolve itself into Committee of the Whole on the state of the Union.

The yeas and nays were asked and ordered, and, being taken, were—yeas 116, nays 66.

So the motion was agreed to.

And the House resolved itself into Committee of the Whole on the state of the Union, (Mr. WHITE, of New York, in the chair.)

POST OFFICE APPROPRIATIONS.

On motion of Mr. VINTON, the committee proceeded to the consideration of the bill making appropriations for the support of the Post Office Department for the year ending 30th June, 1850, and for other purposes.

The bill was read through.

Mr. GOGGIN moved to amend the bill by substituting therefor a bill for regulating postal charges, and making appropriations for the service of the Post Office Department, and for other purposes.

He remarked that the substitute which he proposed not only embraced the reduction of the rates of postage, but all the bill which was before the committee, and it further made an appropriation to supply the deficiencies which might arise in the revenues of the department in the event that the bill passed.

Mr. VINTON raised a question of order against the amendment. The gentleman from Virginia (he said) proposed to amend this bill by a substitute providing for the reduction of the rates of postage. The gentleman said he had incorporated the bill before the committee in his substitute. It came, then, simply to this, that he proposed to amend the bill by adding a provision regulating the rates of postage. He (Mr. V.) contended that such an amendment was not in order to an appropriation bill.

The CHAIRMAN sustained the point, giving his reasons therefor, and ruled the amendment out of order.

Mr. GOGGIN acquiesced in the decision, and proposed another amendment, to add the following section:

And that after the 30th day of June next, all letters of half an ounce in weight shall be charged with postage at the rate of three cents when prepaid, and five cents when not prepaid; that all fractional parts of half an ounce shall be charged as a full half ounce.

That the postage on newspapers, which shall be arranged into three classes, according to size, after the period aforesaid, shall, for all distances, be one cent, one-half, and one-fourth of a cent.

That after the said 30th day of June next, the postage on pamphlets, magazines, periodicals, and reviews, shall be one cent for the first ounce, and one-half cent for each additional ounce or fraction thereof; and that after the time aforesaid, the franking privilege, as now exercised, by any person or persons, officer or officers, shall cease; and that all mail matter shall thereafter be charged with postage, except memorials and petitions sent to members of either House of Congress when in session.

That in order to guard against the possibility of any embarrassment in the operations of the Post Office Department, consequent upon any deficiency of the revenues of said department which may be occasioned by the reduction of the rates of postage by this act made, there be, and is hereby, appropriated the sum of seven hundred and fifty thousand dollars, to be paid out of any money in the treasury not otherwise appropriated, to be applied under the directions of the Postmaster General, in the same manner as the revenues of said department are now by law applied; and the Postmaster General is hereby authorized to allow to all postmasters for the ensuing year, each quarter, a compensation, including commissions, so as the same shall not be less than the sum received by them for the last quarter of the year ending the 30th of June, 1849.

Mr. VINTON raised the point that the amendment was irrelevant, and out of order.

The CHAIRMAN sustained the point, and ruled the amendment out of order.

Mr. GOGGIN appealed from the decision.

The question being on the appeal—

Mr. ASHMUN remarked that this was probably the only opportunity which the friends of cheap postage would have to bring the question before the House for its action.

Mr. THOMPSON, of Pennsylvania, asked for tellers, who were appointed, viz: Messrs. POLLOCK and PENDLETON, who reported—ayes 80, noes 40.

So the decision was sustained, and the amendment was ruled out of order.

Mr. TURNER moved an amendment to strike out the first section of the bill, and proceeded to address the committee.

I shall offer no apology (said he) to this committee for following in the footsteps of a great many gentlemen who have made speeches on this floor that have had very little relation to the subject immediately before the committee. We are now upon the last days of the session; it is perhaps the last time when my voice will ever be heard in this Hall, and I propose to make a few remarks defining some of the views which I hold upon the subject of slavery, and, in connection with that subject, upon the question relative to the establishment of territorial governments for New Mexico and California.

Sir, I hold that it is the duty of the present Congress, short as is the time which remains to it, to provide a government for the Territory of California, and also a government for the Territory of New Mexico. I hold that it is our duty to provide governments for these Territories, from a variety of considerations. The first is, that by treaty stipulations we have bound ourselves to the inhabitants of those Territories to furnish them governments, or to furnish them protection until such time as they may be admitted into the Union of these States. Sir, a great many different propositions have been brought before Congress pointing to that result. We have had Territorial bills, and we have had bills proposing to admit these Territories into the union of the States. For one, I am decidedly in favor of giving these countries Territorial and not State governments; and for many reasons. It is well known to every member of this committee, that the people who are now in those Territories have emigrated thither from all parts of the Union. Many of them have gone for the purpose of taking up a permanent abode there; many for the temporary purpose of amassing a fortune; and many of them, who went with the intention of returning, will perhaps remain permanently, in consequence of the inducements which are held out to them. But would it be justice to that people—would it be justice to our friends and brethren who have gone there from the several States of this Union—to throw upon them at this time the burdens and expenses of a State government? Why, these Democrats have not yet houses to shelter themselves from the inclemencies of the elements; they have not yet fields reduced to cultivation, from which they can raise the necessaries of life; they are almost unable to subsist; and shall we, in this state of the case, throw upon them the additional burden of supporting and maintaining a State government? It would be rolling upon them a burden which has never been thrown upon any other people in similar circumstances.

Mr. TALLMADGE rose to a point of order. The bill under consideration, he said, was a bill making appropriations for the Post Office Department, and the gentleman from Illinois [Mr. TURNER] was now discussing the question of slavery. He put it to the committee, whether the public business was thus to be suspended from day to day by discussions totally irrelevant to the subject-matters before it.

The CHAIRMAN said, that according to the universal usage, when the House was in Committee of the Whole on the state of the Union, all manner of matter was debated; and the Chair therefore felt obliged to decide in favor of the gentleman from Illinois, [Mr. TURNER,] and to overrule the point of order.

Mr. TALLMADGE appealed from the decision.

Mr. STUART, of Michigan, called for tellers on the appeal; which were refused.

After some conversation, the question was taken, and the decision of the Chair was affirmed.

So Mr. TURNER proceeded with his remarks.

He said that he certainly felt under great obligations to the committee for the courtesy it had shown him. He hoped, that the question of order being now settled, he should be permitted to go on and make the few remarks which he proposed to submit. He did not expect that he should occupy the whole hour allowed by the rule. He might, however, do so. He had no promises to make on that point.

At the time he had been interrupted, he was remarking that it was unjust and unfair to throw the burdens of the State governments upon those emigrants who had gone to these Territories from the different States.

Mr. McCLERNAND interposed, and asked his colleague to yield the floor for a moment.

Mr. TURNER having done so—

Mr. McCLERNAND said he understood his colleague to admit the right of the people of California, and of every other people to, govern themselves; this was an inherent and inalienable right. Very well; if the people of California had petitioned Congress for its consent, to enable them to form a State government, would not the gentleman give it? would he not let the people judge for themselves? Besides, it would be left to the people of California to accept or reject the offer of our consent. There would be no compulsion in the case.

Mr. McC. differed from his colleague; he would vote for any proper measure designed to facilitate the formation of a State government by the people of California, and the admission of such State into the Union. He believed sound policy and public duty demanded this.

Mr. TURNER resumed. I know that a great many gentlemen in this House are in favor of erecting these Territories into States at the present time. I am not exceedingly vain of my powers to persuade or convince; but I believe that if prejudice could be laid entirely aside, and this question could be stripped of the external circumstances which invest it, I could convince every member of this House that it is not proper, at this time, to erect these Territories into State governments. But the subject was so invested with external circumstances that the minds of men were not prepared to receive even a sound argument in relation to it. I address myself, through this committee, to my constituents and to the country at

large, and leave to the test of time to decide whether the views that I present are right or wrong.

I have stated a portion of the reasons why I think these territories should not be erected into States. I say further that I am not aware that any large or respectable portion of the citizens of California or New Mexico have come in here and petitioned Congress to be admitted as States. I am not aware of the fact. But I conceive that the people in any territory have a right, when a sufficient number shall be there to organize a State government, to apply for admission into the Union. And I ask my colleague [Mr. McCLERNAND] and those gentlemen who are in favor of the State government, whether the people of New Mexico or California have met in convention and resolved to apply to Congress for admission? I know that they have not. And until they do apply, it would be an act of tyranny in us to force such a condition upon them.

The policy of our Government from its earliest history to this time, has been to afford to our colonies or territories the protection of territorial governments. We have not thrown upon them, in their infant state, the burdens and expenses of government, but we have taken them upon ourselves. We first organized the Northwestern Territory. From that territory sprung a great number of territories which have since had the benefits of territorial governments. Each new settlement, as it spread itself out into the wilderness, was protected by a territorial government. So with our acquisitions from France and Spain. Our purchases from those Governments were also allowed the protection of territorial governments. Is there anything which should make California and New Mexico an exception to the general rule? Have they committed any crime that they are not to be entitled to the same rights, privileges, and immunities which were extended to other infant settlements? The people of that country are bone of our bone, and flesh of our flesh! They are our fathers, brothers, and uncles! Who is there on this floor who has not friends or neighbors in that country? I appeal to this committee and to Congress to say, if they are willing to let the people remain there unprotected by a government.

This leads me to another branch of the subject which I regard as of rather more importance than anything I have yet spoken of. I refer to the subject of slavery as connected with the great subject of the Territories of California and New Mexico. I speak from the book—I speak from positive knowledge, when I say that a very large portion of the members of this House, who are in favor of organizing these Territories into States at the present time, are in favor of doing so for the purpose of avoiding this vexed question of slavery. When I make this declaration, I speak what I know to be the fact. Is it right that we, under existing circumstances, should evade this question of slavery? Is it right that we should skulk from it? Is it right that we should dodge it in any way? I hold that it is not. That great question is now before us. It has been brought before us in the most imposing form; and it is part of the duty of members of Congress to meet it boldly and fearlessly; to settle it, and, let the settlement cost what it may, I am in favor of settling it. And my reasons for this opinion are various.

One of them is, that so long as the subject of slavery agitates the minds of members of Congress, it will produce ill-feeling throughout the country. It tends to array the North against the South, and the South against the North, and therefore the counsels of wisdom are, that in some way or other it should be settled.

But there is another reason why I deem it of more importance that the question should be settled at this session of Congress. I allude to the fact that the ill-feeling in relation to it has already grown so high as seriously to threaten the permanence of the Union. I know that this is rather a cant phrase; and I know that it frequently creates a smile when it is used. I know the answer to it. The answer generally is: "Oh! such a thing cannot be done; the Union cannot be dissolved." I was, until a few months past, among the number of those who believed so. I believed that no agitation could endanger the stability and permanency of the Government and of the Union. But recent events have convinced my mind that there is danger that this agitation may be carried so far as even to sever the bonds of the Union. It is but a few years since that any individual who talked of a dissolution of the Union, was thought little better than a traitor. A man who would gravely stand up on this floor, or anywhere else, and seriously speak of a dissolution of the Union as a thing that *could* happen, would be regarded almost as an enemy to the country. But now such an event has become the subject of daily remark here. Since I have had the honor of a seat on this floor, there have been many members who have come out boldly and fearlessly, and declared in their places that if such and such a thing should come to pass, they were ready and prepared to dissolve the Union.

But this spirit has not stopped here. It has gone further. One of the most imposing meetings ever held in the United States—a meeting composed of the venerable, the aged, the middle-aged, and young members of Congress, from a large portion of the country, embracing half of the States of the Union, recently assembled within the halls of this Capitol for the purpose of testing the value of this Union. They met, I say, within the halls of this Capitol for the purpose of prescribing a limit beyond which they would not suffer the Congress of the United States to pass. I ask, then, is it not time that the patriot and the philanthropist should awake to the importance of this subject? Is it not time that they should weigh it in all its length and breadth, that we may see and know precisely how deeply this feeling of hatred has taken root in the breasts of members of Congress and of the people of the nation? We can judge something of the magnitude of the event to which I refer by the imposing address which has been issued by that meeting—an address prepared by no less enlightened a man than John C. Calhoun—a man as illustrious in the annals of the country as any other—a man whose intellectual acquirements are not surpassed, if equalled, by those of any other man in the country. The zeal, the talent, and the energies of such a man, were brought to bear in the formation of this address—or perhaps, more properly speaking, it should be called this declaration of independence. In it, the grievances of the South for years are portrayed in vivid colors, without any circumstance of palliation. In it are laid down all the aggressions which could be charged against the North. And it winds up by declaring that if such and such measures should be enacted by Congress—if such and such things should not be put a stop to in the United States, they must resist. The address urges resistance. Therefore, I say that it is time to take this matter seriously in hand.

What are the main features of that address? What position does the South take on the subject? And what is the relation between the people of the South and the people of the North in relation to it? How are we to act? Can we longer act in unison? Can the South act with the North, or the North with the South, upon this great question of slavery? The first charge brought against the North, in the line of aggression, is, the passage of the bill commonly called the Missouri compromise. That is marked as a starting point of aggression by the North. But a very simple answer divests it of very much of its force: the fact that a southern man—a man who had been the leader of a great party in the United States—was the author of that compromise bill. It would appear to be a sufficient answer to say, that Henry Clay, a southern man, a man owning slaves himself, was the author of the bill. But if that were not so, the answer would be found in the fact that the South itself had since, by its votes in the Senate and in the House of Representatives, adopted that line as the measure by which they were willing to abide.

Mr. KAUFMAN interrupted Mr. TURNER. He stated that if the gentleman had examined the Journals of Congress in regard to the admission of Missouri, he would have found that the Missouri compromise line, prohibiting slavery north of 36½° of north latitude, *did not originate with Mr. Clay*, but that it was *first* introduced into the United States Senate by Mr. Thomas, of Illinois, and *afterwards* into the House of Representatives by Mr. Storrs, of New York. There were two Missouri compromises—one in regard to *slaves*, and the other in regard to *free negroes*. After the Missouri compromise *line* had been established by Congress, Missouri presented her constitution to Congress, by one provision of which *free negroes* were prevented from removing to that State. This provision created tremendous excitement and opposition. Mr. Clay (who was Speaker at the time of the establishment of the Missouri compromise *line*, but on account of his absence at the commencement of the next session of Congress—his place as Speaker being supplied by John W. Taylor, of New York—resumed his place on the floor) put himself at the head of a joint committee of both Houses, and *compromised* the difficulty in regard to this *free negro* provision, by inserting a provision in the bill finally admitting Missouri, that her admission should not be complete unless she would previously insert in her State constitution the following provision of the Constitution of the United States, viz: "The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." Missouri complied, and her admission was consummated. Of this *compromise*, Mr. Clay was the author; but as far as the Journals show, he had nothing to do with the Missouri compromise line in regard to slavery.

Mr. TURNER resumed. I am aware that Mr. Thomas, of Illinois, offered that proposition. I am aware that pæans of glory have been sung to the name of the illustrious Clay in the South and in the North, as the author of that glorious compromise. Why, the name of Clay is not unknown to this Republic! The great glory of his life—that upon which his friends have placed the greatest stress—has been that he saved the Union at a critical moment. And I am told by a venerable member near me, that the bill can now be found in the handwriting of Mr. Clay, among the records of the Senate. Democrat as I am, I am unwilling to shear that illustrious man of one plume that he wears by that deed. I am unwilling to rob him of his just fame. I am unwilling now, in the decline of his life, after he has been laid on the shelf by his own party, to pluck one plume from the cap of his fame.

I was remarking, Mr. Chairman, that the South itself had endorsed the Missouri compromise no longer ago than last session. They were satisfied with it then. They were satisfied with it until the present winter, when it was put forth as a charge of aggression upon the South by the people of the North. I think this is a sufficient reply to the grave charge brought against the people of the North.

The next charge, and that one which has already produced probably more ill-feeling than all the others combined, one which addresses itself to the interests and the pockets of the people of the South, is brought forth and expatiated upon. The North is charged with a violation of the Constitution of the United States, because they have ceased to aid masters in recapturing their fugitive slaves. The charge is gravely put forth that the North is in the habit of pirating upon the South, and that the Constitution was violated in that particular. Let me state what I consider the constitutional provision to be in respect to fugitive slaves. I had some notes prepared, and some authorities also, which it was my intention to have read. But I shall be compelled to be absent from this House for a few days; and I came to the House this morning unprepared with my papers. I must, therefore, speak from memory. If I understand the clause of the Constitution in respect to fugitive slaves, it is that no person held to labor in one portion of the Union, escaping into another, shall be discharged from that labor, but shall be given up to the persons entitled to it. I quote the clause substantially, not in its terms.

Now, under this clause, what is the manifest duty of the North? When a slave comes among us, is it our duty to take him up and advertise him as we would a stray horse? Does the Constitution require us to take a slave, or a negro man, coming into our territory, and take him back to the South—to inquire who is his master, and to give him up to him? No such thing will be contended for by the most ultra pro-slavery party.

What is the ground of complaint? It is, that we have not passed efficient laws in our States to enable the owners of slaves to recapture them. Does the Constitution require us to pass such laws? Clearly not. I understand the provision to be, simply, that we are to let the slaves alone; that we are to have no part nor lot in slavery. The provision of the Constitution respecting fugitive slaves——

The SPEAKER informally resumed the chair,

for the purpose of receiving a message from the President of the United States, by the hands of J. K. WALKER, Esq., his Private Secretary, stating that the President had approved and signed certain bills.

The CHAIRMAN resumed the chair.

Mr. TURNER proceeded with his remarks. I have just been informed (he said) that the gentleman who gave me the statement a short time ago, and which I communicated to the committee, that the Missouri compromise was among the records of the Senate, in the handwriting of Mr. Clay, was mistaken. It was the tariff compromise. I think it proper to make this public explanation. But it does not alter the fact that Mr. Clay has always been regarded as the author of that great measure.

When I was interrupted, I was proceeding to show what I considered the duty of the northern States to be in respect to fugitive slaves. And I advance no new doctrine when I say, that in the early history of our Government, slavery was regarded as a local institution. And I have the authority of almost every southern State in the Union for making that assertion. I believe it to be the constitutional provision; I believe slavery to be a local institution; and I know very well, that in reply to all the abolition lectures ever delivered in the northern part of the Republic, the ground was clearly taken that slavery was a local institution, and that it belonged to the States where it existed. I know, too, that this is a doctrine of the South. If, then, it is a local institution, I inquire, what part have we to take in arresting fugitive slaves under the provision of the Constitution? The clause of that instrument which provides for the delivering up of fugitives from justice requires that application shall be made to the Executive of the State, and that through him the fugitives shall be given up. Now, an attempt is made to show that the case in respect to fugitive slaves is a parallel case. I hold that it is not. I know that this is the ground taken by the Supreme Court in the celebrated case of *Prigg*. And I feel confident that the Supreme Court erred when it held that claims in relation to fugitive slaves were parallel to claims of fugitives for crime. They held that something affirmative had to be done by the people of the North to deliver up the slaves. If slavery is a local institution, and if it depends on the clause of the Constitution, I ask, is it our duty to pass laws compelling our magistrates and courts to enter into the business of recapturing and delivering up slaves?

Now, the complaint in the Southern Address is, that we have aided the escape of fugitive slaves. I defy any gentleman on this floor, or elsewhere, to point to a single instance where a law has been passed by any of the Northern States to prevent a master from recapturing his slave. Such a law has never been passed.

The ground of complaint (if ground of complaint there be) is, that we have forbidden our officers to meddle in recapturing slaves, have denied the use of our prisons for this purpose. A gentleman near me reminds me that we have also passed laws making it penal for our citizens to aid in the recapture of slaves. I am not aware of the fact, though it may be so. If it is so, I want to know if it interferes with the constitutional provision. There is no clause of the Constitution which requires us to aid and abet the master in the pursuit of his slave. Such a law has never been passed.

Mr. MEADE interposed, and begged to remind the gentleman from Illinois that the Constitution imposed a duty, an obligation upon the States into which a slave might escape: that he was to be "delivered up" upon the claim of the owner. He would ask the gentleman if the law to which he had alluded did not interpose obstacles instead of affording assistance to the owner in the recovery of his slave?

Mr. TURNER, (continuing.) I am not aware of any law that throws any obstacles in the way of the master in the recovery of his slave against the requirements of the Constitution. If it is an obstacle that our prisons are barred against them, and our magistrates required not to arrest them, I hold that there is no provision in the Constitution which requires that we should take any such measures to aid them. I know, after the Constitution of the United States was adopted, that this subject of slavery was mixed up with the politics of the country; a great effort was made to propitiate the South, and laws were passed opening our jails for the detention of the slave, and aiding and abetting the master in his recapture. I hold that these laws, if not unconstitutional, were without the authority of the Constitution.

But the third grand charge brought by this Address against the North is, that we have been in the habit of agitating this subject of slavery; that we have established presses and made publications at the North to defend the cause of liberty; that we have made speeches on the subject, here and elsewhere; that we have attempted, by these speeches, to instigate the slaves to rebellion. I am not aware of the fact that we have sent Abolitionists into the southern States, though perhaps it has been done: but if we have, I hold that we have the constitutional right to do so; and one remark ought to silence this charge forever: it is, that if we have an institution in our country which cannot bear the light of truth, which is based upon dark ignorance, and depends upon ignorance for its support and countenance, it is time, high time that that institution should be exposed. I do not say whether slavery is right or wrong, when I make this assertion. If it is right, all the arrows of falsehood that can be hurled against it, by all the Abolitionists in Christendom, cannot affect it; it will stand immutable as the pillars of Heaven. But if it is wrong—if it is a crime—if it is against justice—if it is against right and reason—I say, also, to the South, Beware of discussion! for I tell you that the arrows of truth, pointed by the force of reason, will penetrate to the very center and foundation of every institution in this Republic that is against natural right and natural reason.

But have we offended in discussing this subject? Why, the Constitution expressly guaranties the right of speech and the liberty of the press. I understand it to be an inherent right of American citizenship to assemble together, to discuss, to argue, to publish, to do everything to disseminate truth, and even falsehood. But I think, in the language of a high southern authority, that there is little danger to be apprehended from error when truth is left free to combat it, before an intelligent people like the people of the United States. Now, is it a charge worthy of being put into this grave declaration of independence that we have discussed the subject of slavery in the North? Is it a sufficient cause why this Union should be dissolved, that we at the North have discussed the subject of slavery?

But there is another charge, viz: that we have agitated the subject in Congress—that we are constantly exciting the people of the North by bringing in bills and resolutions calculated to interfere with the constitutional rights of the South. Well, I am not prepared to say that we may not have, in some degree, overstepped the constitutional bounds in this respect. But if we have, we have done it boldly; we have brought our propositions before Congress and given you the chance to combat them; and I believe the people of the North are honest; I believe, as soon as you convince them that we have overleaped the Constitution, that they will be ready to retract; and if unconstitutional laws have been passed, I believe the northern people are ready to be convinced of it, and to instruct their representatives to correct the evil.

Mr. STARKWEATHER interposed, and inquired of the gentleman if he did not speak for himself, and not for the people of the North?

Mr. TURNER. I speak, as the gentleman says, for the people of the North. I saw a smile upon the countenances of some gentlemen when I stated that we had perhaps overleaped the Constitution. I will explain: I do not consider that the bringing in a bill to abolish the slave trade in the District of Columbia, or the passage of such a bill—if such a bill were to be passed—would be a violation of the Constitution. Although I have always considered the Wilmot proviso as calculated to agitate rather than to do good, I do not believe that its adoption by Congress would be a violation of the Constitution. But we have had bills here, if I mistake not, for the purpose of abolishing slavery at the different military posts on the southern, as well as on the northern frontier. I consider that any rights reserved by the United States within the territory of any State, are reserved for special purposes, and have nothing to do with the general sovereignty; and upon a construction of this kind, it is possible that we may have overleaped the bounds of the Constitution in proposing to abolish slavery at these military posts of the United States.

But another ground of complaint in this Address is, that we seek, by the Wilmot proviso, to exclude the South from the Territories of New Mexico and California. This charge is made the more imposing from the array of figures which appear in the Southern Address, by which it is attempted to be shown that the South not only furnished its quota of men to conduct the war, but actually furnished more than its just proportion. I deny this statement. I admit, that so far as mere numbers are concerned, not taking into consideration the term of enlistment, the South furnished the greatest number in proportion to its population; but, considering the duration of the term of service, including the regular army and the navy, the North had the preponderance.

There is another fact which I wish to state in this connection. This is brought as a charge against the North. It is put forth in this manifesto. Now, if the South furnished more men than the North, what was the cause of it? Was it because the people of the North were backward to come forward at the call of their country? or was it because a southern man had the reins of Government, and received more men into the service from the South than from the North? Why, the strife was not who should get rid of going to Mexico, but who should have the opportunity to go. No effort was required to get troops; on the contrary, many who were anxious to go could not have the opportunity. We sent something like eight regiments, including regulars as well as volunteers, from Illinois, that new and small State, and yet not one-half went from that State who were prepared to go. And because the Government did not receive us, is it to be brought as a charge against us? If we had had a President from Illinois, he would perhaps have received more of our men. I have no reason to complain of the present Executive; he did as well as he could. But if he selected more southern men than northern men—I say selected, because he had to choose; we had hundreds of thousands of men whose services were ready, and from whom a choice was made—and sent them to the war, I ask if that should be brought as a charge against the North? It seems to me unjust.

I have now noticed all the charges which are brought against us; and as the Address says nothing about the complaints which we of the North might make against the South, I propose to mention a few of them. I do not think there is much difference in the grounds of complaint which the North and the South have against each other. If we have infringed in any measure upon their rights, they have upon ours also. One would suppose, from reading this celebrated Address, that the South had never transgressed; that they had always been conciliatory; that they had never offended the North in any respect. I consider that they have. I consider that the most flagrant violation of the Constitution ever perpetrated in these United States was the law of South Carolina forbidding the colored citizens of Massachusetts from going into that State; even imprisoning them when they go there aboard their vessels. I know it may be answered that Massachusetts has no right to make the negroes citizens; but she has just the same right as South Carolina has to make them slaves; and the Supreme Court, in the celebrated case which has lately been adjudicated within this Capitol, says in effect that that law of South Carolina is unconstitutional. The law of South Carolina not only prevents the black citizen of Massachusetts from going into South Carolina, but it prevents an appeal being taken from the judgment of the courts of that State to the Supreme Court of the United States, and therefore cuts off one of the inherent rights of the American citizen—the right of appeal to the superior courts. Is not this an offence, a cause of complaint? I know it may be said that this is an old subject, and has been talked of before; but so have the charges which are put forth in this Address been talked of before. Here, then, is an offence against the Constitution, against Massachusetts, and all the States who make the blacks citizens.

But there is another offence, and in that offence I must say that the people of the North—and I am sorry to say the party to which I belong—have to some extent acquiesced, and given their aid and countenance to it. It is an outrage upon the people of this Republic, such as would scarcely be tolerated in England, or in any other country. I allude to the

"twenty-first rule," which hung like an incubue upon this House for many years. I allude to that rule, because I consider it the base, the groundwork upon which most of this slavery agitation has been built up. If that weapon had not been put into the hands of the Abolition party of the North, Abolitionism would have died before it had well been born. But a great right—one of the dearest and most sacred rights of the American citizen, was trampled upon; and the issue was changed from Abolitionism to the right of petition, and the force of truth was with the party who maintained the right of petition, and it gave them a power which they never have had under any other circumstances. The whole issue was in consequence of this state of things changed, and from being the Abolition party, it had become the Liberty party; and the Liberty party had grown from a handful until it pervaded the entire North, and had more or less strength in almost every section and Congressional district of the North. And (to make use of a quotation) have we been wanting in courtesy to our southern brethren that they should thus revolt against us? Why, has not a portion of the North stood up like a wall of fire between the Abolition party and the South? Have not a portion of the North planted themselves on the ground that the South ought to have met them upon, and which they have most signally failed to do? Our doctrine is what was originally the doctrine of the South—that slavery is a local institution, and that we have no right to interfere with it. So I regret that the South has not stood by the Democratic party upon that platform. But they themselves have deserted us; they have attempted to roll the black tide of slavery upon territories which are now free, and they call upon us to assist them in that unholy work, and many of our men have stood by them until they have been cut down by the popular resentment at home——

Here the hammer fell.

Mr. T. having concluded—

Mr. McDOWELL followed on the same subject, in a speech of surpassing power and eloquence, which riveted the attention of the committee for upwards of an hour and a half.

When the hour allotted by the rules had expired, Mr. McD., by the unanimous voice of the committee, was called upon to proceed. He did so; and when he finally closed, a space of upwards of ten minutes elapsed, during which nothing was done, and nothing *could* be done, so general did the indisposition appear to give attention to anything else, and so intent were the members in thronging upon Mr. McD. to congratulate him upon the signal success of his effort. [This speech will be published in a day or two.]

At length a motion was made that the committee rise; which having been agreed to, the committee rose and reported.

A motion was made that the House adjourn. Rejected.

Propositions for a recess, &c., were made; and the result was, that the House went back into committee, for the purpose of allowing members, who might desire to do so, to speak.

The debate was continued by Mr. PUTNAM.

Mr. MANN, of Massachusetts, next obtained the floor, and addressed the committee at length. At the outset of his remarks, he submitted reasons why the slave trade should be discontinued by law in the District of Columbia. He referred, in a spirit of condemnation, to the existence of slave marts and slave pens in this District. If, like the gentleman from Indiana, [Mr. THOMPSON,] he had no taste for these things, he could not, like that gentleman, shut out from his mind the knowledge of their existence. The fact of their existence, and of the existence of the slave trade in this District, could not be winked out of sight.

The progress of moral feeling, favorable to the emancipation of the slave, had not advanced in this country, during the last fifty or sixty years, as it had in every other part of the civilized world.

Another fact would stand out in broad relief in the history of this country, that, while even the dark, infant republic of Liberia was making praiseworthy efforts to suppress the slave trade on the coast of Africa, we were doing almost nothing in that great work of the age.

There were other reasons which operated upon his mind in favor of a repeal of the slave trade and slavery itself in this District. He appealed to gentlemen from the South to consider the impression upon the mind of the northern man, arriving here upon the business of the Government, and meeting at once the revolting spectacle of slavery. What sacrifice could it be to any gentleman from the South, to give up this small tract of five miles square to freedom? It could be no sacrifice, comparatively, while it would be a thing which the heart of every man would approve.

Some gentlemen asked him whether he would elevate the blacks to a political and social equality with the people of this Government? to which he replied, that he would elevate them as fast as their nature would rise; and when they became enlightened, it would then be time enough for the people to decide whether they would make them their associates.

In reply to the assumption of the gentleman from Pennsylvania, [Mr. BROWN,] that the three millions of Africans now in this country were happier for their slavery than were their cotemporaries or their ancestors in their native wilds, he said that if their ancestors had remained at home, according to the laws of population, not one of the number which now compose the millions of American slaves would have been in existence. So that all their sufferings here, and all the crime by which their sufferings were inflicted, were only so much added to the sufferings and the crimes of humanity. They existed here as a gratuity, and the country had less power and less happiness on account of them. But, admitting the argument of the gentleman from Pennsylvania, he would ask, was it an argument which should satisfy the mind of a Christian man? Suppose a fellow-being to be suffering a hundred calamities, should a Christian man satisfy himself with relieving only one of these calamities, while ninety-nine of them remained untouched, which might have been alleviated by him? Thus it was with the boasted improvement of the African race in this country. They had not only been left unimproved in their moral condition, in most cases, but the means of such improvement had been withheld from them, except in so far as the selfish interest of the proprietor of the slaves might have induced such improvement as would make the human chattel of more value in the shambles and under the hammer of the auctioneer.

He admitted, to some extent, that there were some grounds for the charges which the gentleman from Pennsylvania and the gentleman from Virginia [Mr. McDOWELL] had made against Massachusetts, with reference to the support of the slave trade, and regretted them; but he instanced the present state of feeling in Massachusetts upon this subject, which was a feeling of the most unanimous and unqualified condemnation, as evidence of her progress in this respect.

He referred, in this connection, to the fact, that he had repeatedly received anonymous letters, enclosing newspaper accounts of crimes committed at the North, which were intended as a disparagement of the moral influence and effect of northern institutions, as compared with the institutions of the South. But the sense of fair argumentation which he cherished upon this and upon all other subjects, would not allow him to descend to recriminations of such a character.

According to his view of the constitutionality of slavery in the District of Columbia, this institution did not exist here by positive law, but by the force of precedent and example. He proceeded to show that slavery could not exist but by positive law. When the jurisdiction over slavery and slaves had ceased to exist, it was the same as though the residence of the slaves had been changed to another jurisdiction. It was sufficient for the freedom of the slave if he pass out of a jurisdiction where slavery had been established, into a jurisdiction which never had slavery, and never could establish it. This was precisely the case with slavery in the District of Columbia. It was the same as though this District, with all its inhabitants, had been ceded to Pennsylvania or Massachusetts. He showed that, under the Constitution, Congress could not establish slavery *de novo;* for "no man (it was provided in the Constitution) shall be deprived of life, liberty, or property, without due process of law." He also applied this argument against the alleged power of Congress to establish slavery in the newly acquired territories. He referred also to that provision of the Constitution which prohibits the creation of any title of nobility. What higher title of nobility could any men desire than that which was enjoyed by the southern slaveholder? And while he was elaborating this argument, the hammer fell.

When Mr. MANN had concluded his hour—

Mr. MOREHEAD obtained the floor, and expressing his desire to be heard upon the general subject of slavery in the territories, he moved that the committee rise; which was agreed to.

So the committee rose and reported no conclusion.

Mr. EDWARDS, from the select committee on the patenting of compound medicines, to whom was referred the memorial of T. G. Morton, made a report in writing thereon; which was laid on the table, and ordered to be printed.

And then, on motion of Mr. ROCKWELL, of Massachusetts, at ten minutes past five o'clock,

The House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred:

By Mr. DARLING: The memorial of sundry masters of steamboats and other vessels navigating the great western lakes, praying for the passage of such laws as may be necessary to compel steamboats and vessels in said navigation to carry and show proper lights to indicate their course and situation.

By Mr. LEFFLER: The petition of sundry citizens of Washington county, praying the establishment of a mail route from Mount Pleasant, in Henry county, to Lancaster, in Keokuk county.

By Mr. BARRINGER: The petition of the Charlotte and South Carolina Railroad Company, praying that the iron to be used on their road from Columbia, South Carolina, to Charlotte, North Carolina, may be imported duty free.

By Mr. SAWYER: The petition of Martin Thrall and other citizens of Ohio, for a post route from Brunersburg, via Georgetown and Farmer post office, to Newville, in the State of Indiana.

By Mr. GOTT: The petition of Milo Trowbridge and other citizens of New York, praying Congress to take immediate measures for securing treaty stipulations with foreign Governments, by which all future international difficulties shall be settled by peaceful arbitration, and that the appropriations for the army and navy, for fortifications, and for munitions of war generally, be diminished.

By Mr. GREELEY: The petition of Johann Hildebrand and 417 other citizens of New York, (mostly of German birth,) for free grants of public lands to actual settlers. Also, the petition of Leonard K. Shorter and others, for the same. Also, the petition of R. A. McCabe and other citizens of Blair county, Pennsylvania, for the same.

By Mr. EVANS, of Ohio: The petition of citizens of Guernsey county, for the abolishment of the transportation and opening of mails on the Sabbath day.

IN SENATE.

SATURDAY, *February* 24, 1849.

The VICE PRESIDENT laid before the Senate the credentials of WILLIAM H. SEWARD, elected a Senator of the United States from the State of New York, for the term of six years from the 4th of March next; which were read, and laid on the table.

MEMORIALS AND PETITIONS.

Mr. JONES presented a petition from the trustees of the Branch University at Fairfield, Iowa, asking a grant of land for the use of that institution; which was referred to the Committee on Public Lands.

Mr. ATCHISON presented a petition from the chiefs of the Kickapoo and Pottawatomie tribes of Indians, asking that the annuities due the latter tribe may be paid, and that they may not be required to emigrate from their present homes; which was referred to the Committee on Indian Affairs.

Mr. ATCHISON presented a petition from Palkerson Hacker, a volunteer in the Seminole war, asking to be allowed a pension; which was referred to the Committee on Pensions.

Mr. CORWIN presented a petition from a number of citizens of Germantown, in the State of Pennsylvania, asking for the abolition of slavery and the slave trade in the District of Columbia.

Mr. C. also presented a petition, similar in its import, from citizens of Bucks county, in the State of Pennsylvania.

On these petitions the question of reception was raised, and laid on the table.

Mr. CORWIN presented a petition from citizens of the State of Iowa, asking for the establishment of a land district and a land office at Red Rock, in that State; which was referred to the Committee on Public Lands.

Mr. KING presented a petition from James C. Watson, asking compensation for losses sustained from the neglect of the officers of Government to surrender certain negroes purchased by him from the Creek Indians; which was referred to the Committee on Indian Affairs.

Mr. K. also presented a petition from John C. Riddle, D. A. Carter, and E. Simonds, in relation to a macadamized road across the Isthmus of Tehuantepec; which was referred to the Committee on Military Affairs.

Mr. KING presented a memorial from the members of the bar, and many very respectable citizens of Mobile, asking for a division of the State of Alabama into two judicial districts; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. BORLAND, from the Committee on Public Lands, to whom was referred the memorial of the Legislature of the State of Arkansas, asking for a donation of lands, for the purpose of establishing an asylum for the blind, reported a bill granting a donation of lands for the bsnefit of the Clarksville Institute for the Education of the Blind, and for other purposes of education, in the State of Arkansas; which was read, and ordered to a second reading.

Mr. PEARCE, from the Committee on the Library, reported, without amendment, the joint resolution from the House of Representatives, for the distribution of the Official Register or Blue Book among the several States.

Mr. PEARCE, from the Committee on the Library, to which was referred the joint resolution from the House for the distribution of the Official Register or Blue Book among the several States, reported back the same without amendment, and asked its immediate consideration.

The reading of the resolution having been asked for, it was read as follows:

Whereas a number of copies of the Official Register or Blue Book are now deposited in the office of the Secretary of State subject to the order of Congress: therefore,

Resolved, &c., That a full set of each, for one year, or so far as is practicable, be furnished to each of the State libraries, and, where there are no State libraries, be deposited in the office of the Secretary of State, and that the Secretary of State be requested to have the same transmitted to them.

The joint resolution was then considered in Committee of the Whole, and no amendment having been offered, was ordered to a third reading, and was subsequently read a third time and passed.

Mr. NILES, from the Committee on the Contingent Expenses of the Senate, to whom was referred the resolution of the Senate of the 19th December, and the resolution of the 30th January, relative to the contract made with the daily papers for reporting the proceedings of the Senate, reported the same back, with amendments. And the question being taken, the resolution, as amended, was agreed to, as follows:

Resolved, That the resolution of the Senate of the 11th August, 1848, directing the Secretary of the Senate to contract with the publishers of the two principal newspapers in this city for reporting and publishing the debates and proceedings of the Senate be so modified as to exclude, after the adoption of this resolution, from any contract which has or may hereafter be made in pursuance of said resolution, the publication of revised speeches, a report of which has once been published; and also to exclude from the report of the proceedings of the Senate messages and reports from Executive officers of the Government and from committees of the Senate; and that the Secretary notify the persons with whom he has entered into contracts of these limitations and modifications of said resolution.

MAJOR GENERAL SCOTT.

Mr. FITZGERALD asked and obtained leave to introduce a joint resolution, of which the following is a copy:

Resolved, &c., That the President of the United States be, and he is hereby, authorized to confer upon Major General Winfield Scott the brevet appointment of Lieutenant General of the Army of the United States, as a token of national gratitude for the services he has rendered his country, and in honor of his distinguished ability as a General.

Which was read a first time; and the question being on its second reading—

Mr. HALE objected.

HOUSE BILLS REFERRED.

A bill from the House declaring Fort Covington, in the State of New York, to be a port of delivery, and for other purposes, was read a first and second time, and referred to the Committee on Commerce.

A bill from the House, exempting Spanish vessels from discriminating duties in certain cases, was read a first and second time, and referred to the Committee on Finance.

LIEUTENANT R. C. ROGERS.

The Senate resumed the consideration of the bill for the relief of R. C. Rogers.

The question being on its passage—

Mr. RUSK defended Mr. Rogers from what seemed an attack made upon him by the Senator from Illinois, [Mr. BREESE,] and asked for the reading of the remarks made by the Senator from Delaware, on his presenting the petition of Rogers.

The remarks having been read—

Mr. BORLAND rose to submit an amendment; when—

On motion of Mr. RUSK, the further consideration of the bill was postponed until Monday.

THE NEW TERRITORIES.

The Senate resumed the consideration of the bill making appropriations for the civil and diplomatic service of the United States for the year ending 30th June, 1850.

The question being on the motion of Mr. DAYTON to amend the motion submitted by Mr. WALKER—

Mr. WALKER defended, at length, his position. During his speech, which continued about an hour and a half, there were frequent interruptions and explanations, in which Mr. DAYTON, Mr. BERRIEN, and Mr. WESTCOTT, took part.

Mr. HALE followed.

Mr. BUTLER then took the floor, and was followed by Mr. WEBSTER, Mr. CALHOUN, Mr. DAYTON, and Mr. DOUGLAS. [For the debate, see Appendix.]

And at a quarter past four o'clock, Mr. JOHNSON, of Louisiana, moved that the Senate take a recess until six o'clock; which was negatived.

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 24, 1849.

The Journal of yesterday was read and approved.

PATENT OFFICE REPORT.

Mr. FARRELLY asked leave to offer a resolution; which was read for information.

Objections were made.

Mr. WHITE desired (he said) to amend the resolution.

The SPEAKER said the resolution was not received.

Mr. WHITE moved that the rules of the House be suspended, for the purpose of receiving the said resolution.

And the question having been taken, the rules were suspended.

And the resolution being before the House—

Mr. WHITE said the amendment he had desired to offer simply put the resolution in the form of a reference to the Committee on Printing, and that they should recommend such number as, in their opinion, should be printed.

The resolution, having been modified in accordance with the suggestion, was adopted, as follows:

Resolved, That the Committee on Printing be directed to inquire into the expediency of printing such number of extra copies of the report of the Commissioner of Patents, without the list of patents granted and expired, and the claims, and such number of extra copies of the whole report as, in their judgment, may be required for the use of the Patent Office, and for distribution by the members of this House.

SWAMP LANDS IN LOUISIANA.

On motion of Mr. HARMANSON, the rules of the House were suspended, (two-thirds voting in favor thereof,) and the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill to aid the State of Louisiana in reclaiming the swamp lands therein.

And the bill being thus before the House, and the question being on its engrossment—

Mr. HARMANSON moved the previous question.

Mr. VINTON said, before that question was taken, he would like to hear the bill read.

And the bill having been read through—

Mr. VINTON expressed the hope that the demand for the previous question would not be sustained.

Mr. HARMANSON (waiving the previous question for the present) made a brief explanation, and moved to strike out the proviso from the third section of the bill.

Some conversation followed between Messrs. POLLOCK and HARMANSON.

Mr. HARMANSON then renewed the demand for the previous question.

Mr. VINTON renewed the expression of his hope that that demand would not be thus suddenly sustained on a bill of this character.

The SPEAKER said debate was not in order.

The question on the demand for the previous question was then taken, and the affirmative vote having been stated—

Tellers were called for and appointed, (Messrs. KAUFMAN and LEVIN.)

And the question having been again taken, the vote stood—ayes 77, noes 38.

So there was a second.

Mr. VINTON moved that the bill be laid on the table, and asked for the yeas and nays on that motion; which were ordered, and being taken, were—yeas 45, nays 100.

So the bill was not laid on the table.

The question recurring on ordering the main question, it was taken, and agreed to.

The amendment was rejected, and the bill was ordered to be engrossed.

Mr. VINTON moved to reconsider the vote on the engrossment.

He said he should be very glad to give his support to this bill, if he believed it could be done without setting a precedent that would involve the Government in very great difficulty in disposing of the public lands hereafter. This bill, as far as he could understand it from hearing it read, proposed to do what had never been done in any case heretofore—it proposed to give to the State of Louisiana all the swamp lands in that State which were unfit for cultivation. Now, where were the swamp lands in Louisiana which were unfit for cultivation? Who was to decide what were the swamp lands unfit for cultivation? The bill did not undertake to tell; it did not state the land district in which they were. The gentleman from Louisiana [Mr. HARMANSON] said that they were in every district. Then, what would be the consequence? It would be that the Government could not sell a foot of land in the State of Louisiana, until that question was first decided.

Mr. HALL, of Missouri, (the floor being yielded,) said he had understood the gentleman from Ohio to say that nothing of this kind had ever been done before. He merely wanted to state to the gentleman and to the House, that at the last session of Congress a bill was passed, without a division of the House, authorizing the soldiers of the war of 1812, who had located military lands in Arkansas, which turned out to be unfit for cultivation, to select other lands in lieu thereof.

Mr. VINTON said that was a matter which had no sort of relation to this subject—not the least.

That (he said) was his first objection. He could not consent to pass a bill that would have this effect. There was no guide in the bill, no defining what the swamp lands unfit for cultivation were. A controversy might arise between the United States and the State of Louisiana upon that very question, which might continue for years, and which would, during that time, arrest all the sales of the public lands in that State; and it might be continued by the State for that very purpose.

There was another reason which had weight with him against the bill. It was the difficulty about ascertaining the precise description of lands proposed to be ceded. The bill described such lands as were "unfit for cultivation." He spoke from recollection, but thought he was safe in saying, that it had been laid down in the reports of the proper officers, that more than three-fourths of all the public lands in Florida, Alabama, Arkansas, and perhaps other States, were unfit for cultivation.

Mr. BOWLIN interrupted, to state that the precise amount of swamp lands in the State was 5,429,000 acres, as reported by the surveyors.

Mr. VINTON continued. He was not speaking of swamp lands especially; he was speaking of lands unfit for cultivation, which embraced other descriptions of land besides swamp lands. If all lands of this description were now ceded to the State of Louisiana, all these other States which he had named would come in for their shares respectively, and absorb a very large proportion of all the public lands. It would establish a principle over which Congress would soon have no control. It came to the bald proposition, whether Congress should grant to the State of Louisiana all the lands within her boundaries, which may be unfit for cultivation, without knowing anything about the extent of those lands.

This was a new proposition. It was a proposition most important in itself—vastly more important in its effects upon the legislation of the country, with reference to the public lands, than any proposition which had heretofore been con-

sidered by Congress. If the principle were once established, of ceding the public lands to the States because they are unfit for cultivation, large portions of the public lands would be claimed of Congress, and members from the new States would be instructed to procure such grants. The precedent would be perfectly irresistible, and Congress could not refuse to vote these grants to all the States he had named.

He objected also to the bill, because it was brought up at too late a period of the session to receive the consideration which it should have, before it would be proper to pass upon it. He believed also that the bill had not been reported by the Committee on Public Lands.

Mr. COLLAMER was understood to say that the subject had not strictly been in charge of the Committee on Public Lands, and that he knew very little about it.

Mr. VINTON continued. These lands had cost the Government more than other public lands. Congress had, from year to year, been passing laws increasing the price of surveying these lands, because they were swamp lands. The surveying of these lands had cost the Government nearly twice as much as the surveying of other lands.

Mr. HARMANSON was understood to offer a correction of this statement by the gentleman from Ohio, and to state his personal knowledge of the fact, that immense tracts of marsh lands had been surveyed in Louisiana, which were not only not sold, but which never could be sold; and also that there were large tracts of lands which never had been even surveyed, and never would be.

Mr. VINTON understood that the bill proposed not only to grant surveyed lands, but also lands not surveyed. But the objection with reference to the extra compensation which had been allowed for surveying these swamp lands was wholly unimportant in comparison with that which he founded upon the effect of the principle which the passage of this bill would establish.

Mr. HARMANSON said, the swamp lands of Louisiana, according to the report of the Commissioner of the General Land Office, amounted to five millions of acres. He stated also, that the State of Louisiana, and the citizens of that State, had constructed about fourteen hundred miles of *levee*, to keep out the waters of the river from the lowlands. This work had been done at a cost of eight millions of dollars, as estimated by the Committee on Public Lands; but which, in fact, had cost at least twenty millions. What had been accomplished by that work? Three millions five hundred thousand acres of land which were before unfit for cultivation, had been reclaimed for the benefit of the General Government. This vast amount of rich land, so reclaimed by the Louisiana *levees*, had been sold, and the Government had pocketed their proceeds.

The report of the Commissioner of the General Land Office stated, that there were two millions two hundred thousand acres of swamp lands now in Louisiana, and he (Mr. H.) believed that one million of acres of these lands could be reclaimed. It would require five millions of dollars to accomplish this work, and the State of Louisiana was obliged to do this work, because it was required by the health of the country. All this great body of land the surveyors of the General Government had ascertained to be unfit for cultivation, and of course wholly useless, in its present state. But the State of Louisiana was compelled by the force of circumstances to reclaim these lands; and the only question was, whether the General Government would give them to the State, by way of compensation for the cost of reclaiming them. The gentleman from Ohio was afraid of the influence of such a precedent. Had the gentleman any such apprehensions when his own State received of the General Government half a million of acres of the public lands for the purpose of aiding in the construction of her works of internal improvement? Would the gentleman refuse to be just to Louisiana, for fear of receiving injustice at the hands of other States?

With reference to the gentleman's fears that the influence of the bill would be to withdraw all the public lands from sale for want of sufficient specifications as to the location and amount of the lands proposed to be ceded, he stated that the swamp lands of Louisiana were all particularly marked out upon the surveyor's maps, so that every man might know their precise location.

He urged again the consideration of the claim of his State upon the General Government, because she had already reclaimed three and a half millions of acres of the public lands; and he claimed the passage of the bill as a debt due from the General Government.

Some further conversation followed between Mr. HARMANSON and Mr. VINTON, which was not distinctly heard.

Mr. BRODHEAD said he had but a word to say in explanation of the bill. In 1829, the officers of the Government reported 5,429,260 acres as the whole amount of the great swamp lands in the State of Louisiana. On the 16th of April last, the Commissioner of the General Land Office reported that these swamp lands, at that time, had been reduced to 2,246,075 acres. It was apparent, therefore, that, since the year 1829, the State and people of Louisiana, by the *levees* which they had thrown up, had reclaimed and enabled the General Government to throw into the market very large bodies of rich and valuable land.

Mr. VINTON was understood to ask whether the gentleman's estimate embraced the unsurveyed lands?

Mr. BRODHEAD replied that the Commissioner of the General Land Office had reported all these lands as unfit for cultivation; and he repeated his figures.

Mr. VINTON repeated his objection as to the difficulty of determining precisely what lands were fit for cultivation, and what were not. He supposed that if a controversy were to arise upon this question between the United States and the State of Louisiana, who was to decide between them?

Mr. BRODHEAD resumed. This large body of Government land had been brought into market since the year 1829 at the expense of the people of Louisiana. He had heretofore generally voted with the gentleman from Ohio [Mr. VINTON] upon all questions affecting the interests of the public lands; but, in view of this report of the Commissioner of the General Land Office, it appeared to his mind but an act of justice to that State to cede to her the balance of these useless lands, especially since their cession could in nowise connect the General Government with the subject of internal improvements. Since these lands were entirely valueless, and would forever remain so, unless they should be reclaimed by the energy of the State in which they lie, and especially, since the health of the State was ascertained to depend upon their reclamation, he could not but come to the conclusion, that the bill granting these lands to aid the State in this necessary work, proposed nothing more than what was right and proper. He would therefore move to lay the motion to reconsider upon the table.

And the question having been taken and decided in the affirmative, the motion to reconsider was laid on the table.

The SPEAKER said the bill was now engrossed; and asked when it should have its third reading?

And it was ordered to a third reading at this time.

Mr. COLLAMER asked that the bill might be read through, and it was read.

The demand for the previous question was then seconded.

Mr. BOYDEN moved that the bill be laid upon the table.

The yeas and nays on that motion were asked and refused.

And the question was then taken and decided in the negative, without a division.

So the House decided that the bill should not be laid on the table.

The question recurred and was taken on ordering the main question, which having been decided in the affirmative—

The SPEAKER stated the question to be on the passage of the bill.

Mr. VINTON asked the yeas and nays, which were ordered, and being taken, were—yeas 100, nays 61—as follows:

YEAS—Messrs. Bingham, Birdsall, Bowdon, Bowlin, Brodhead, W. G. Brown, Chas. Brown, Albert G. Brown, Canby, Cathcart, Chapman, Chase, Clapp, Franklin Clark, Beverly L. Clarke, Cocke, Crowell, Crozier, Cummins, Dunn, Edsall, Edwards, Embree, Farau, Featherston, Flournoy, French, Fries, Fulton, Gayle, Gentry, Giddings, Green, Greeley, Grinnell, Willard P. Hall, Harmanson, Henley, Hubbard, Inge, Charles J. Ingersoll, Iverson, Jameson, Robert W. Johnson, George W. Jones, Kaufman, Kellogg, Kennon, Lahm, La Sère, Leffler, Levin, Ligon, Lincoln, Lynde, McClelland, McClernand, Job Mann, Meade, Miller, Morris, Morse, Murphy, Nes, Newell, Nicoll, Palfrey, Petrie, Peyton, Phelps, Pilsbury, Pollock, Preston, Richardson, Richey, Robinson, Rockhill, Sawyer, Schenck, Simpson, Slingerland, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Stanton, Tallmadge, Taylor, Thibodeaux, Jacob Thompson, William Thompson, Thurston, Tompkins, Toombs, Venable, Warren, Wentworth, Wick, Wiley, and Williams—100.

NAYS—Messrs. Abbott, Adams, Belcher, Blackmar, Bocock, Boyden, Buckner, Burt, Butler, Clingman, Conger, Cranston, Crisfield, Dickey, Dixon, Duer, Garnett Duncan, Eckert, Alexander Evans, Nathan Evans, Fisher, Freedley, Goggin, Gott, Hale, Hammons, Moses Hampton, Henry, Jenkins, Daniel P. King, William T. Lawrence, Lumpkin, McIlvaine, McKay, McQueen, Horace Mann, Marsh, Marvin, Mullin, Nelson, Outlaw, Peaslee, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Roman, Ramsey, St. John, Shepperd, Sherrill, Silvester, Starkweather, Andrew Stewart, Charles E. Stuart, Strohm, John B. Thompson, Vinton, White, Wilson, and Woodward—61.

So the bill was passed.

Mr. HARMANSON moved a reconsideration of the vote, and moved that that motion be laid on the table.

No objection having been made, it was ordered accordingly.

SUSPENSION OF THE RULES.

Mr. EVANS, of Maryland, asked the unanimous consent of the House to offer the following resolution; which was read for information:

Resolved, That during the residue of this session of Congress, it shall not be in order to move a suspension of the rules, except during the first hour of the meeting of the House, on each alternate day, beginning with Tuesday next, when said suspension shall be in order for the first time.

Objections having been made, Mr. E. moved a suspension of the rules, to enable him to offer the resolution.

And the question was taken and decided in the negative—ayes 35, noes not counted.

So the rules were not suspended, and the resolution was not received.

RATES OF POSTAGE.

Mr. THOMPSON, of Pennsylvania, asked the general consent of the House to introduce the following bill:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of July next, the rate of letter postage shall be uniform throughout the United States, irrespective of distance; and all letters passing through the post office shall be charged by weight, as follows: Each letter weighing more than half an ounce, five cents; each letter weighing more than half, and not more than an ounce, ten cents; each letter weighing more than one ounce and not more than two ounces, fifteen cents; and five cents additional for every ounce or fraction of an ounce additional weight.

Be it further enacted, That from and after the passage of this act, all newspapers that shall pass through the mails, be carried and delivered free of postage within the county in which the same shall be printed respectively.

Objection having been made—

Mr. T. moved a suspension of the rules, and asked the yeas and nays; which were refused.

Mr. THOMPSON moved that the bill be read through.

The SPEAKER said it could only be done by unanimous consent.

The question was then taken, and the House refused to suspend the rules.

So the bill was not received.

POST OFFICE BILL.

Mr. VINTON offered the following resolution; which was read and adopted:

Resolved, That debate on House bill No. 154 shall cease in Committee of the Whole on the state of the Union in two hours after the House shall again resolve itself into Committee of the Whole on the state of the Union on said bill, and the committee shall then proceed to vote on such amendments as may be offered to said bill.

On motion of Mr. VINTON, the House then again resolved itself into Committee of the Whole on the state of the Union, (Mr. WHITE, of New York, in the chair,) and resumed the consideration of the bill making appropriations for the Post Office Department.

The debate on the general question of slavery was continued by Messrs. MOREHEAD and MURPHY.

The time to which the debate was limited having expired, the committee, in pursuance of the order of the House of this morning, proceeded to vote.

Mr. ASHMUN moved to amend the bill by striking out the following item:

For clerks for offices (the offices of postmasters) two hundred and sixty thousand dollars.

Mr. A. announced his intention to withdraw this amendment and to move another. He wished to say that his object was to move to amend the bill by a proposition to reduce the rates of postage,

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and to abolish the franking privilege. He intended to do this, although he was aware that an amendment of something like a similar character which had been offered on a former day by the gentleman from Virginia [Mr. GOGGIN] had been ruled out of order. Similar amendments in relation to other subjects had been put in every appropriation bill that had been passed; and he believed it to be as much in order to regulate the rates of postage by this bill as to regulate the compensation of postmasters. This bill did regulate the compensation of postmasters, and made appropriations for that compensation.

Mr. KAUFMAN called Mr. ASHMUN to order, on the ground that he had offered one amendment, and was debating another.

Mr. ASHMUN then withdrew his amendment, and offered the following:

Be it further enacted, That from and after the first day of July next, the rate of letter postage shall be uniform throughout the United States, irrespective of distance; and all letters passing through the post office shall be charged by weight as follows, viz: Each letter weighing not more than half an ounce, two cents; each letter weighing more than half an ounce and not more than one ounce, four cents; each letter weighing more than one ounce and not more than two ounces, eight cents; and four cents additional for every ounce, or fraction of an ounce, additional weight. And all letters not prepaid at the time of mailing shall be charged double postage. And the Postmaster General shall provide suitable stamps, to be used in the prepayment of postage, and cause them to be kept for sale in each post office in the United States. And the Postmaster General may make to the several postmasters a compensation equal in proportion to the labor performed to what they now receive. And all newspapers may pass free of postage to subscribers living within thirty miles of the place of publication.

SEC. —. *Be it further enacted*, That from and after the first day of July next, all laws giving to members of Congress the right of franking, shall be deemed to be repealed.

Mr. KAUFMAN raised the point of order on the amendment, on the ground that it was inconsistent with the bill.

The CHAIRMAN ruled the amendment to be in order.

Mr. VINTON appealed from the decision.

After a brief conversation between Mr. JOHNSON of Arkansas and the SPEAKER—

The question was taken; and the House, by ayes 55, noes 64, reversed the decision of the Chair.

So the amendment was not received.

Mr. BROWN, of Mississippi, offered the following amendment:

And be it further enacted, That the Postmaster General may, at his discretion, increase the compensation above the rates now allowed by law, to all postmasters who open the mails at night, and whose compensation by the existing rates is less than two hundred dollars.

The CHAIRMAN ruled it to be out of order.

On motion of Mr. VINTON, the committee rose and reported the bill to the House.

And, under the operation of the previous question, it was read a third time and passed.

Mr. VINTON moved a reconsideration of the vote by which the bill had been passed; and moved that that motion be laid on the table.

Ordered accordingly.

Mr. POLLOCK asked the general consent of the House to offer the following resolution; which was read for information:

Resolved, That the Secretary of War be directed to cause the necessary examination and surveys to be made of the piers and harbors at Chester and Marcus Hook, on the river Delaware; and that he report what repairs and other works are necessary for the preservation of said harbors, with a plan and estimate of the cost of the same.

Objection having been made, Mr. P. moved a suspension of the rules; which motion was rejected.

Mr. WENTWORTH, having ascertained, by inquiry from the Chair, that the bill to organize a territorial government in California was the next special order in Committee of the Whole on the state of the Union, moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of taking up that bill.

After a brief conversation between Mr. JONES of Tennessee and the SPEAKER, the question was taken, and the motion, by ayes 85, noes not counted, was agreed to.

TERRITORIAL GOVERNMENT IN CALIFORNIA.

So the House resolved itself into Committee of the Whole on the state of the Union, and took up the bill to establish a territorial government in California. The bill was read through.

Mr. CHAPMAN obtained the floor, but yielded to—

Mr. PRESTON, who desired to submit a substitute.

Some conversation followed on questions of order.

The first section of the bill was then read.

Mr. CHAPMAN, for the purposes of his argument, moved to strike out the first section of the bill.

Mr. C. yielded to a motion by Mr. McLANE, that the committee rise; which motion was rejected.

Mr. C. then proceeded to address the committee at length on the subject of slavery, especially with reference to the power of the General Government over that question in the District of Columbia.

When Mr. CHAPMAN concluded—

Mr. STUART, of Michigan, obtained the floor, and gave way for a motion that the committee rise; which motion being agreed to—

The committee rose and reported.

On motion of Mr. COBB, of Georgia, it was

Ordered, That the substitute amendment to the "bill to establish the territorial government of Upper California," offered by Mr. PRESTON, be printed.

On motion of Mr. EVANS, of Maryland, the House, at four o'clock and twenty minutes, adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. CLAPP: The petition of Smith & Hersey, of Portland, Maine, praying Congress that the duties unpaid on six hundred and seven hogsheads of molasses warehoused and destroyed by fire, may be remitted to them.

By Mr. PUTNAM: The petition of James A. Balls and forty others, of Batavia, New York, praying for the reduction of the rates of postage, that postage be prepaid, and for the abolition of the franking privilege. Also, the like petition of T. R. Chipman and one hundred and fifty others, of Le Roy, New York.

By Mr. ROCKWELL, of Massachusetts: The petition of Asenath Sanford and eighty-eight other women of America, praying Congress to devise such measures as may come legitimately within their province, to prevent the further extension of American slavery, &c.

By Mr. FREEDLEY: The petition of Josiah Evans and one hundred and five others, citizens of Germantown, Pennsylvania, asking that Congress shall take immediate measures to abolish slavery and the slave traffic in the District of Columbia, and to prohibit the extension of slavery into territory belonging to the United States.

IN SENATE,

MONDAY, *February* 26, 1849.

Mr. SPRUANCE presented the credentials of the Hon. JOHN WALES, elected a Senator of the United States for the residue of the unexpired term of the Hon. JOHN M. CLAYTON, who has resigned his seat.

The credentials having been read, Mr. WALES was qualified and took his seat.

RECONSIDERATION.

Mr. BENTON requested some Senator to move a reconsideration of the vote by which the following resolution was, during his absence, agreed to on Saturday:

Resolved, That the resolution of the Senate of the 11th of August, 1848, directing the Secretary of the Senate to contract with the publishers of the two principal newspapers in this city for reporting and publishing the debates and proceedings of the Senate be so modified as to exclude, after the adoption of this resolution, from any contract which has or may hereafter be made in pursuance of said resolution, the publication of revised speeches, a report of which has once been published; and also to exclude from the report of the proceedings of the Senate messages and reports from executive officers of the Government and from committees of the Senate; and that the Secretary notify the persons with whom he has entered into contracts of these limitations and modifications of said resolution.

Mr. NILES then moved that the vote be reconsidered; and the motion lies over.

VACANCY IN COMMITTEE.

On motion of Mr. ATHERTON, it was ordered that the vacancy in the Committee on Finance, caused by the resignation of the Hon. JOHN M. CLAYTON, be filled by the Vice President.

The VICE PRESIDENT then appointed Mr. WEBSTER to fill the vacancy.

PETITIONS.

Mr. DICKINSON presented a petition from Edwin Williams, asking the patronage of the Government for a work prepared by him containing a compilation of the messages of the Presidents of the United States, and other public documents, from the formation of the General Government in 1789 to the present time; which was referred to the Committee on the Library.

Mr. DICKINSON presented a petition from William K. Ashard, asking compensation for the use by the United States of his invention of a cannon lock and primer; which was referred to the Committee on Naval Affairs.

Mr. DIX presented a petition from a number of citizens of Utica, asking for the construction of a railroad from Lake Michigan to San Francisco, on the plan of Dr. Hartwell Carver and his associates; which was referred to the Committee on Military Affairs.

Mr. DIX presented a petition from fifty citizens of Toledo, Ohio, asking for the establishment of a reciprocal free trade with Canada; which was laid on the table.

Mr. DIX presented a petition from Charles Wilkes, praying to be indemnified for expenses incurred in defending suits instituted against him on account of certain official acts while in command of the Exploring Expedition, and for the extra pay allowed to all the officers for the scientific duty performed during the expedition; which was referred to the Committee on Naval Affairs.

RESOLUTION OF THE STATE OF NEW JERSEY.

Mr. MILLER presented resolutions adopted by the Legislature of the State of New Jersey, in favor of a light-house at the mouth of Maurice river, and of beacon-lights in Newark Bay; which were laid on the table.

CLERKS' PROVIDENT ASSOCIATION.

Mr. JOHNSON, of Georgia, from the Committee on the District of Columbia, reported a bill amendatory of an act entitled "An act to incorporate the Provident Association of Clerks in the Civil Department of the Government of the United States, in the District of Columbia," approved 3d March, 1825, without amendment.

On motion of Mr. JOHNSON, of Georgia, the Senate proceeded to the consideration of this bill, and it was read a third time and passed.

SEVENTH CENSUS.

Mr. UNDERWOOD, from the Select Committee on the Census, reported a bill to provide for the taking of the seventh census, or enumeration of the inhabitants of the United States; which was read, and ordered to a second reading.

Mr. UNDERWOOD moved that the bill be now considered; but objection being made, the motion did not prevail.

On motion of Mr. WESTCOTT, the bill was ordered to be printed.

HOUSE BILLS.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, to which was referred the following House bills, viz: for the relief of John McIntosh, William Lynch, Horatio Fitch, John Gawney, and Wm. Whitaker, reported back the same without amendment, and recommended their passage.

RELIEF TO DISTRESSED VESSELS.

A joint resolution from the House in relation to foreign officers or seamen who shall render relief to American vessels in distress, was read a first and second time, and referred to the Committee on Commerce.

REGISTERS' AND RECEIVERS' COMPENSATION.

Mr. BORLAND, from the Committee on Public Lands, reported a bill to authorize the allowance of compensation to the registers and receivers of the several land offices of the United States for locating military bounty land warrants, Choctaw land scrip, and for other purposes.

On motion of Mr. WALKER, the prior orders were postponed, and the Senate proceeded to consider this bill.

The bill was then amended on motion of Mr. BORLAND, and was subsequently read a third time and passed.

RESOLUTIONS.

Mr. BRADBURY submitted the following resolution, which lies over under the rule:

Resolved, That the rules of the Senate be so far amended that for the residue of the present session a vote to lay an amendment upon the table shall not carry with it the bill or resolution proposed to be amended.

Mr. ATHERTON submitted the following resolution, which was considered and agreed to:

Resolved, That on this day, and each succeeding day during the present session, the Senate will take a recess from four o'clock p. m. until six p. m.

PAY DEPARTMENT OF THE ARMY.

On motion of Mr. DIX, the prior orders were postponed, and the Senate proceeded to consider the bill concerning the Pay department of the army.

The Committee on Military Affairs had reported the bill, with amendments, which were designed as substitutes for the several sections of the bill, the object of which, in part, was to reduce the number of paymasters from forty to twenty-five.

The amendments were agreed to.

On motion of Mr. DIX, the first section was amended by the insertion of words clearly defining the rank of the paymaster general to be that of colonel.

Mr. YULEE moved to amend the last section, which provides for retaining a paymaster general, two deputy paymasters general, now in commission, the fifteen paymasters who were in service under the acts in force at the commencement of the war with Mexico, and ten paymasters, [to be selected from the additional paymasters now in service, and the thirteen paymasters authorized by the acts of 17th June, 1846, and the 3d March, 1847,] by striking out the words placed within brackets, and to insert in lieu thereof the words "to be appointed by and with the advice and consent of the Senate." He stated that, in his opinion, the effect of the provisions of the bill would be to increase rather than reduce the number of the paymasters. As it stood, the range of selection was limited to a particular class; whereas the amendment which he offered would enlarge the sphere of choice to the extent of the Union.

Mr. DIX explained the object of the amendment which he had offered, stating that the effect was, in fact, to make a reduction of the number of paymasters; and that fifteen of those who were retained were old officers, while the remaining ten were to be selected from those who had served through the war with Mexico, and would thus enable the President, with the information he could obtain from the Paymaster General, to make a selection from those who had had experience, and had proved themselves efficient. He was opposed to the amendment offered by the Senator from Florida, as it would throw all these appointments open to general competition.

Mr. YULEE repeated that he did not consider the effect of the bill was to reduce the number of paymasters, but that it would be in fact an increase. The number of paymasters upon the permanent list authorized by existing laws was fifteen, and it was proposed to increase them to twenty-five. A portion of the temporary officers appointed to serve during the war had already gone out of office, and others would go out on the 4th of March. It was proposed to appoint the new officers from those who had been in this temporary service. He thought there was no special reason why these persons should be preferred to all other citizens of the Union. Nor did he consider it competent to the legislative department to restrict the Executive to any particular class of persons who have no existing connection with the service. It may be that it is advisable to select the new appointments from those who have had experience in the service, so far as it can be done consistently with other proper considerations, and under the amendment proposed by himself the President would be able to make selections from the class indicated in the bill, if he chose. He thought they had no power under the Constitution to limit and restrict the President in this manner. The prerogative was conferred on the President to appoint officers. While Congress might create the offices, it belonged to the President to fill them in the manner pointed out by the Constitution, and Congress could not, in his opinion, restrict his powers. If there were more officers in the service than were necessary, they might say how the reduction should be made; but some of the class mentioned in this bill being, as he understood, now out of service, it was no more proper to require a selection to be made from them than to require that they should be made from the State of New York or Virginia. The President might as well be directed to make his selection of an officer from the State of Maryland as to select one because he has been a paymaster formerly. They might as well direct him to confine himself to any particular locality, or any particular class other than military, as to restrict him in the manner here proposed. Thinking, therefore, there was no propriety in limiting or restricting the President, he proposed to give him the right to select not only from these officers, but also from all other citizens.

Mr. DIX further explained his amendment, in order to correct what he thought a misapprehension on the part of the Senator from Florida. There were fifteen paymasters at the commencement of the war, and every one from whom the selection is to be made were now in service, excepting such as have died or resigned.

The amendment was not agreed to.

The bill was then reported to the Senate as amended, ordered to be engrossed and read a third time, and was subsequently read a third time by unanimous consent and passed.

SWAMP LANDS.

The bill from the House to aid the State of Louisiana in reclaiming the swamp lands therein, was read a first and second time.

Mr. DICKINSON said the bill before the Senate was one of considerable importance, and he hoped some explanation of it would be given.

Mr. DOWNS explained. He said the Senate was in possession of a report of the committee of the House of Representatives by Mr. BRODHEAD, in which the merits of this bill were set forth. From that document Senators would see that these lands were of very little value in their present condition, but that their reclamation would benefit the general treasury, as it would bring lands into the market which were now unsalable, and benefit the general health of the people in that portion of the State where these swamp lands lie.

Mr. NILES argued that this bill required great consideration, perhaps more than could be now given to it, and that Senators should be in possession of further information before they finally disposed of it.

Mr. FOOTE read some of the provisions of the bill, and then said that they explained themselves. The object was to reclaim certain swamp lands which were now utterly worthless, and no injury could result to the United States by transferring them to the State of Louisiana for the purpose of being reclaimed and made valuable. As the lands now lay they were generative of noxious influences which were injurious to human health, and a standing nuisance to that part of the country. This was a case which did not admit of extended discussion, and he hoped that there would be no unnecessary delay. It had been thoroughly examined by the House of Representatives, whose committee had made an elaborate report, to which he begged to refer honorable Senators. Pass this bill and these lands would be not only advantageous to Louisiana, but to the whole country.

Mr. JOHNSON, of Louisiana, entered into an explanation of the position of these lands, the action of Congress heretofore on the subject, and the means taken and expense incurred by the State of Louisiana in relation to them, and expressed a hope that the Senate would promptly pass this bill.

Mr. BORLAND also urged the passage of the bill. He said these lands in their present condition were not only valueless but injurious; they were prolific of disease, and inflicted a curse on Louisiana, and to remove this prolific source of disease this bill was prepared. He repeated the argument at some length that the reclamation of these lands would make them valuable to the general treasury, and he hoped the bill would be passed.

Mr. DOWNS adduced some additional facts to show the necessity of passing the bill.

Mr. NILES objected that the lands were not defined with sufficient clearness. It was not shown that the overflowed lands only were to be taken, and hence further inquiry was necessary; he moved therefore the recommittal of the bill to the Committee on the Public Lands. The policy which this bill proposes was new, and they should well understand what they were about.

Mr. DOWNS showed, from the provisions of the bill, that there was no uncertainty about them, and therefore that they were not subject to the objection of the Senator from Connecticut.

Mr. JOHNSON, of Louisiana, spoke in opposition to the reference. He said the bill had been duly considered by Congress, and it only affected lands which were now unfit for cultivation.

Mr. BELL pointed to the great expense already incurred by the State of Louisiana in the erection of levees on the banks of the Mississippi, and then argued that this bill should pass. He admitted that its passage would greatly benefit Louisiana, but it would also result in great profit to the United States.

Mr. BORLAND, in reply to the objection that these lands were not described with sufficient exactness, proceeded to show that the terms used were not vague, but were well understood in the land office.

The question was then taken on the motion to refer, and it was rejected.

The bill was then reported to the Senate, ordered to be engrossed and read a third time, and was subsequently read a third time and passed.

CIVIL AND DIPLOMATIC BILL.

The Senate resumed the consideration of the bill making appropriations for the civil and diplomatic service of the United States, for the year ending 30th June, 1850, as in Committee of the Whole.

The question being on the motion of Mr. DAYTON to amend the amendment submitted by Mr. WALKER—

Mr. DAYTON modified his amendment.

Mr. DOUGLAS, who was entitled to the floor, declined speaking in consequence of the want of time for a proper discussion.

The question was then about to be taken, when Mr. DOWNS addressed the Senate at some length.

Mr. BELL made some explanations for the purpose of correcting some misapprehensions of his remarks on a former day.

Mr. BERRIEN replied in explanation, and in reference to the character of the amendment.

Mr. DAYTON also replied.

Mr. FOOTE said a few words.

Other explanations were made by Mr. BELL, Mr. BERRIEN, and Mr. DAYTON.

The debate was continued by Mr. UNDERWOOD and Mr. DOWNS.

The Senate then took a recess until 6 o'clock.

RECESS—SIX O'CLOCK, P. M.

Mr. DODGE, of Wisconsin, presented a resolution from the Legislature of that State, opposing the extension of slavery in the Territories of New Mexico and California; which was read, and ordered to be printed.

POST OFFICE APPROPRIATION BILL.

The bill making appropriation for the Post Office Department was read by its title, and referred to the Committee on Finance.

THE NEW TERRITORIES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1850; the question pending being upon Mr. DAYTON's amendment to the amendment heretofore submitted by Mr. WALKER.

The debate was continued by Messrs. HUNTER, and DAYTON, BERRIEN, NILES, and WESTCOTT.

The question was then taken on Mr. DAYTON's amendment to Mr. WALKER's amendment, and it was rejected, as follows:

YEAS—Messrs. Allen, Atherton, Cameron, Dayton, Dodge of Wisconsin, Dodge of Iowa, Hamlin, and Mangum—8.

NAYS—Messrs. Atchison, Badger, Baldwin, Bell, Berrien, Borland, Bradbury, Bright, Butler, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dickinson, Dix, Douglas, Downs, Felch, Fitzgerald, Fitzpatrick, Foote, Greene, Hale, Hannegan, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Johnson of Georgia, Jones, King, Mason, Miller, Niles, Phelps, Rusk, Sebastian, Spruance, Sturgeon, Turney, Underwood, Upham, Wales, Walker, Webster, Westcott, and Yulee—47.

The question then recurred on Mr. WALKER's amendment.

Mr. BERRIEN suggested a modification, which Mr. WALKER accepted, but its precise terms

could not be obtained. They will be given with the debate thereon.

Mr. BALDWIN having briefly addressed the Senate on the general question—

Mr. UNDERWOOD moved to amend the amendment by striking out the words "west of the Rio Grande," and inserting "territory" instead of "territories."

Mr. HOUSTON, Mr. RUSK, and Mr. WEBSTER, briefly addressed the Senate on this amendment.

The amendment to the amendment was not agreed to.

The question recurred on Mr. WALKER's amendment, and it was agreed to, as follows:

YEAS—Messrs. Atchison, Bell, Berrien, Borland, Butler, Davis of Mississippi, Dickinson, Dodge of Iowa, Douglas, Downs, Fitzgerald, Fitzpatrick, Foote, Hannegan, Houston, Hunter, Johnson of Louisiana, Johnson of Georgia, King, Mangum, Mason, Rusk, Sebastian, Sturgeon, Turney, Underwood, Walker, Westcott, and Yulee—29.

NAYS—Messrs. Allen, Atherton, Badger, Baldwin, Bradbury, Bright, Cameron, Clarke, Corwin, Davis of Massachusetts, Dayton, Dix, Dodge of Wisconsin, Felch, Greene, Hale, Hamlin, Johnson of Maryland, Jones, Miller, Niles, Pearce, Phelps, Spruance, Upham, Wales, and Webster—27.

And the Senate having disposed of the question so far as related to the new Territories, (a full report of which will be found in the Appendix)—

On motion of Mr. ATCHISON, the bill was amended by the insertion of an item to enable the Secretary of War to pay the balance of the estimated cost of the buildings of the Choctaw Academy to Col. R. M. Johnson, of Ky., $6,000.

Mr. YULEE offered the following amendment:

And be it further enacted, That the President be authorized, whenever it is shown that the State of Florida has provided by law for the safe-keeping of the archives lately in the custody of the keepers of archives at St. Augustine and Pensacola, if in his discretion advisable, to transfer the same to the authorized agent of said State.

The amendment was not agreed to.

Mr. MANGUM offered the following, which were agreed to:

For the outfit of a minister to the Germanic Confederation, $9,000.

For one year's salary for the said minister, $9,000.

For one year's salary for a secretary of legation to the said mission, $2,000.

Mr. MANGUM further moved to amend by inserting an item for Abraham Rencher, late chargé d'affaires to Portugal, such sum as the Secretary of State, upon adjusting his claim, shall allow for his unavoidable detention abroad from 2d of January, 1848, to the 16th of September following, provided such sum shall not exceed the rate of his official salary.

Agreed to.

Mr. MANGUM moved further to amend by the insertion of the following:

For outfit for a minister to the Government of Chili, $9,000.

For salary of said minister, $9,000.

Mr. MANGUM, in support of his amendment, said: Mr. President, it is known to the Senate that it is the established usage of this Government to send a minister of equal dignity to any foreign Government whatever. From Chili we have a minister plenipotentiary; we have provided only for a chargé d'affaires. And it seems to me that if, with the strongest Governments of Europe, we reciprocate in this spirit of equality, we ought not to withhold the same reciprocity from these republics of the southern hemisphere.

Mr. KING. We have no information before the Committee on Foreign Relations on the subject of sending a minister to Chili. I hope, therefore, that the honorable gentleman will not press this matter at present. Chili, at best, is not a very important position, and the subject can be brought forward at some other time. I cannot vote at this time for anything that will increase the expense of our diplomatic corps. I have come to the conclusion in my own mind, after some little experience and a careful consideration of the whole subject, that it is much better that we should not have ministers of the highest grade at minor courts. I think that, if we would keep up our ministers at the principal courts of Europe, and have chargés and consuls in the minor places generally, where chargés are best for the Government, we should save as much in the aggregate expense for diplomatic intercourse with the nations of the earth as would enable us to increase the salaries of our ministers at London, Paris, and St. Petersburg, who are not now receiving salaries adequate to the ordinary expenses necessarily incurred at those places, as every gentleman knows. I think the best course, therefore, is not to raise the grade of our diplomatic agents at these minor courts. Leave them as they are at present, in order that we may take up the whole subject at some future day, and fix the salaries in accordance with the expenses necessarily incurred by our diplomatic agents in the courts to which they are sent.

Mr. FOOTE. Mr. President, I have an objection to this amendment, which is rather peculiar, but very cogent indeed. It seems to me—although I am sure it cannot be so intended—that if this amendment be adopted, it will so operate as to displace the very worthy and accomplished gentleman who is now our chargé at Chili. I know, sir, that the President elect will go into office upon such pledges, solemnly given by himself and by a distinguished citizen of Kentucky, at the city of Pittsburg, and by others, as to make it impossible that he can ever recall such an individual unless some act of malconduct occurs, which is not by any means to be expected. And therefore I will not speculate upon the policy of postponing any action of this kind until he shall be recalled; but I beg leave to intimate that, in my judgment, it would be more politic for us to defer any legislation of this kind until that distinguished personage shall, if he feel inclined to do so, return to the United States, so that he may be counseled with in regard to the policy of converting this chargéship into a higher grade.

Mr. President, I think that the amendment must certainly operate proscriptively, although I believe it is not so intended—it cannot be so intended—in good faith it could not be so intended; but that it will so operate, that we shall be responsible for having so acted, especially after the unavoidable consequences are now so clearly pointed out, I feel perfectly satisfied. I must, therefore, vote against the amendment.

Mr. WESTCOTT. Mr. President, I shall vote for this amendment, because I believe that the prospect (if we can settle the exciting question of slavery) of the importance of the American interests on the Pacific; and the rapidly-increasing importance of Chili, require that we should have a minister in Chili of as high a grade as at the Court of Great Britain or Russia, or anywhere else; and I would rather give $9,000 to a minister there than such sum to a minister to the royal courts of Europe. I am in favor of encouraging these republics by giving them the highest grade of diplomatic agents. If others prefer the courts of Europe—the crowned heads of Europe—I make no objection; but, as for myself, I prefer these republics. In short, I believe we would do just as well not to send a minister to any country that had not a republican form of government.

Mr. WEBSTER. Mr. President, I think that, in arranging these matters—in which I confess I have not had the experience of other members—there is a propriety in conceding to these new Governments that degree of respect which they are inclined to concede to us. For my part, I wish to cultivate friendly relations, and relations full of respect, with all the new Governments of this continent. The Republic of Chili, at this moment, I believe, may be considered one of the best settled and most respectable, if not the very best settled and most respectable, of all those free Governments that have grown up out of the dismemberment of Spanish authority and dominion in South America.

The augmentation of expense between maintaining a chargé d'affaires and a minister in such a case in not important; and I am disposed, therefore, to support the proposition to raise the diplomatic officer from this country to Chili to the rank of minister. In saying this I look to no particular form of Executive recommendation or of Executive action on this subject, nor towards the gentleman who now represents us at that court in the character of a chargé d'affaires. Under this appropriation, if it pass, it will be in the discretion of the President to raise him to the post of minister. It is said that it will lead to his recall: I do not know that. And it is said that it is only through this, and not otherwise, that he can be recalled: I do not know that.

Mr. FOOTE. Mr. President, I did not say that the adoption of this amendment would lead to the recall of our present chargé d'affaires at the Chilian court. On the contrary, I said that his recall would be impossible, except through some failure on his part, not by any means expected by me. But if this amendment be adopted, it will amount to actual proscription. I take it for granted, that without a reappointment, he could not be a full minister, and his reappointment is not to be expected.

Mr. WEBSTER. What I meant to say was, that although a recall might be in the discretion of the President of the United States, death and resignation are not in his discretion. I did not know, until I inquired here, who was our representative at the court of Chili, nor what his politics are. All I mean to say is, that after the adoption of this amendment, it would be no more nor any less in the discretion of the President to recall this individual than it now is. But, at any rate, a recall is not the only exigency. It may be the pleasure of the gentleman to return to this country. It may be the pleasure of Providence to call him hence. I think we should view these things in a general light. We must consider, upon the whole, whether, when one of the republics of this continent sees fit to cause itself to be represented here by a minister of a certain grade, it is not a violation of courtesy and respect to meet that proposition by sending to them a minister of inferior grade.

Mr. FOOTE. Mr. President, although I am pleased to listen to the honorable Senator's reflections, whose extensive experience in such matters eminently qualify him to advise us on this occasion, yet I must beg leave to say, that it is not a fact that it has always been the case, nor even usual, with the United States, to proportion the grade of the minister sent by us to foreign courts, by the grade of the minister maintained here.

Mr. WEBSTER, (in his seat.) Not always.

Mr. FOOTE. It has not been usual nor uniform to send a minister of equal rank to the one maintained here, nor has it been made, so far as I know, a ground of complaint at foreign courts. That being the case, the reason so emphatically urged by the Senator, it seems to me, fails to be effectual for the settlement of this matter.

Mr. WEBSTER, (in his seat.) It has been frequently.

Mr. FOOTE. I may be in error upon this point. I confess that I have not examined it; and if I can be instructed, my objection would be, in some degree, if not entirely, obviated. I appeal to the honorable Senator from Massachusetts; who I knew is informed on the matter, and will give me a direct response, whether it is not the fact, as I have said, that if we legislate at the present moment in the manner proposed—if we raise the grade of this appointment—whether the effect of our legislation will not be that a new appointment will have to be made, that the present chargé there will have to be recognized in the new character of minister, before he would be entitled to act in that capacity?

Mr. WEBSTER, (still in his seat.) Yes.

Mr. FOOTE. If that be the fact, there must be a reappointment, and his reappointment is not to be expected under the present condition of things. I feel bound to be frank upon this occasion, because not only the general views which I entertain are involved, but my feelings are somewhat necessarily embarked in the matter, as the gentleman who at the present time is our chargé at Chili is a gentleman whom I have known from early boyhood, with whom I have intimately associated in the western country; a gentleman known to the nation at large as a man of extensive and extraordinary abilities—known especially in this city as an able jurist, and as a faithful public officer. It is also a notorious fact here that he is almost entirely worn out in the public service, and was sent to that distant country for the purpose of recruiting his health. Under such circumstances, the effect of such legislation as this would be to displace the individual, so as to make it necessary for the President elect to make a renomination, which I do not expect at his hands. I do not expect proscription in its ordinary forms from the incoming Administration. I cannot possibly expect or suspect it, until some such event shall occur as is now proposed. This being my view of the matter, I am unwilling to legislate in the manner proposed. I have as much respect for the republics of South America as others. I think we have no reason to suppose, at the present time, that the Government of Chili will take any offence if we do not raise the grade of our diplomatic agent at that court.

But I must say again, in the spirit of perfect

frankness, that I confidently hope that all the pledges which have been so explicitly given by the incoming Administration upon this important subject will be strictly and faithfully complied with. I am by no means willing, as one of the opposite party, to afford a plausible pretext for their not complying with the spirit of them. That this would be supplying a plausible pretext is certain, for it may be said, What was done in the case? This is not proscription, surely. The officer was not recalled. There was no displacement of a worthy man in order to make way for a successor of different politics, by any means. The President was simply called upon to determine who was most worthy of this new appointment; and he determined that the individual already there was not so well suited for it as another. This is my view of the matter. I therefore feel bound to vote against the amendment. And I am sure, if the Senate knew the very worthy gentleman who is there now, and would have been continued there, they would vote against the amendment.

The gentlemen upon the other side of the Chamber are certainly informed in regard to this matter. They have had an opportunity of conferring with a certain distinguished personage in this city, and have, perhaps, had an opportunity to learn his views upon this particular proposition—a proposition certainly expected to come under our consideration at the present time. And if honorable gentlemen have not conferred with each other and with this distinguished individual, I think they have neglected, to some extent, the interests of their party. I therefore think there has been something done; that there have been some patriotic consultations held upon this subject. If that is the case, and if honorable gentlemen, who come here at the present time fully prepared to act upon this subject, can assure me that my friend who is there now shall be continued, I will vote for the amendment.

Mr. BUTLER. Mr. President, I will take the liberty of asking the honorable gentleman who proposes this amendment if he can tell the Senate how many full missions are to be proposed? It is but fair that when I vote for this, I should know how many I am to vote for.

Mr. MANGUM. None at all. And if the honorable gentleman will permit, I will remark that it has never occurred to me who occupied the position of chargé d'affaires at Chili. And as for consultation, there has never been any. I do not know the President elect. I have never seen him in all my life.

Mr. FOOTE. Mr. President, then I will merely say this to my friend: that he is not thoroughly informed upon this matter, and if he had been, I am sure he would not have brought it forward.

Mr. MANGUM. I think I am sufficiently informed upon the subject. I only know that it is the usage of this Government, when any foreign Government sends to us a minister of a particular character, to reciprocate. It is not universal. It is sometimes inconvenient, but it is usual; and I will say to my friend from Alabama, [Mr. KING,] that it is now more than twenty years since I proposed to the chairman of the Committee of Ways and Means in the other House to pay a salary of from fifteen to twenty thousand dollars to our ministers at all the principal courts of Europe. I have not seen the day in twenty years that I would not have voted an increase of from fifty to seventy-five per cent. upon the salaries of all our ministers. I hold a great republic like this—a republic increasing in wealth, in population, in all the resources of high civilization—to be untrue to herself when she sends abroad her representatives and does not support them in a manner equal to their position and rank. I therefore perfectly concur in the suggestion of the honorable Senator from Alabama. But, sir, let us decide this question. We have a full minister from Chili, which is the most important of all the Governments upon the southern continent of America. Valparaiso is the centre of all great commercial operations on the Pacific. Chili has the best established, and, perhaps, the best regulated Government of any of the South American States. And I think that, while we reciprocate this equality with the monarchies, more are we called upon to reciprocate it towards the weaker States of our continent.

Again: it is but a few years since that we raised our representative to the Chilian Government from a chargé d'affaires to a full minister, but it sunk down again. They now send us a full minister, and I hold that we, who are at the head of the great confederacy of republics, should be the first to exhibit a just regard and respect for our sister republics, and encourage them in the career which they have marked out for themselves. But, sir, I hold, as I trust is the case everywhere throughout the United States, except in this Chamber, that the Senate of the United States can understand some things without talking about them all the time; and believing that, I leave this matter to their judgment.

Mr. ATHERTON. Mr. President, I believe there is no recommendation from the State Department, nor do I understand that this amendment has been recommended by the Committee on Foreign Relations.

Mr. MANGUM. Yes, sir; it has been recommended by a majority of the committee.

Mr. ATHERTON. I am informed by my friend from Alabama [Mr. KING] that that is not the case.

Mr. MANGUM. I will explain to the honorable Senator. There has been no formal report upon the matter, but it is the resolution and opinion of a majority of that committee; and if I am permitted to speak of committee affairs, it is the opinion of three out of five of the members of the Committee on Foreign Relations, and perhaps of four of them.

Mr. ATHERTON. What may be the individual opinions of members of the committee I know not. I do not now understand that the honorable Senator from North Carolina states that this subject has been reported upon or recommended by the committee. It is merely recommended by individuals. Now, I trust that I am not guided by any parsimonious or improper motives in regard to the incoming Administration. It seems to me that this bill provides very liberally in this respect. It goes further than any appropriation bill has ever done before when a new Administration was coming into power. It provides for outfits for all ministers abroad. It provides for the outfits for all the chargés of the Government everywhere. There has been no proposition from any Senator on this side of the Chamber to strike out any of these provisions. But I do think that it is asking too much of us to request that we should make provision that the President may be enabled to turn out of office those who are now incumbents, and vote for this amendment which would require him to make another appointment, and thus afford a plausible pretext for discontinuing the worthy gentleman who is now acting in the capacity of chargé at the court of Chili. By voting these appropriations we have given our opponents an opportunity to displace all these officers, if they choose. But, sir, it seems to me to be too much to ask us to begin the work of displacement, by voting for a bill which requires the displacement of this officer. It does not seem to be a rule that we should send a full minister to every country that sends one here. I am not willing to go any further, especially as I just now voted for the outfit and salary of a minister to the Germanic States.

Mr. FOOTE called for the yeas and nays, which were ordered, and resulted as follows:

YEAS—Messrs. Atchison, Badger, Baldwin, Berrien, Borland, Butler, Cameron, Clarke, Corwin, Davis of Massachusetts, Dayton, Downs, Greene, Hale, Hannegan, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Mangum, Miller, Pearce, Phelps, Rusk, Sebastian, Spruance, Upham, Wales, Webster, and Westcott—30.

NAYS—Messrs. Allen, Atherton, Bell, Bradbury, Bright, Davis of Mississippi, Dickinson, Dix, Dodge of Iowa, Felch, Fitzgerald, Fitzpatrick, Foote, Hamlin, Johnson of Georgia, Jones, King, Mason, Niles, Sturgeon, Turney, Underwood, Walker, and Yulee—24.

Mr. KING moved to amend by inserting the following, which was agreed to:

For compensation to Alexander Hammett, for his services as charge d'affaires at Naples, from the 20th of May, 1847, to the 21st of June, 1848, $4,875.

Mr. DOWNS offered the following, which was agreed to:

For additional compensation to the district judges of Louisiana, for the year ending the 30th of June, 1848, $600, being the deficiency of appropriation for that year, and $800 for the year ending the 30th June, 1849, under the provisions of the 1st section of the act of 17th June, 1844.

Mr. HALE offered an amendment to increase the compensation of our ministers to England, France, and Russia.

And in explanation he said: I have proposed that amendment for the purpose of following out the suggestion made by the honorable Senator from Alabama, [Mr. KING,] whose experience on the subject assures us that the salaries of the ministers to these courts are actually unequal to paying their expenses. I consider this highly discreditable to our Government, and I think it should be remedied immediately. I believe that the honorable Senator from Alabama, when he was a minister abroad, had not a very large family to take care of, [laughter,] and his expenses, therefore, must have been much less than those of ministers not so unfortunately situated as himself. [Renewed laughter.]

Mr. KING. Mr. President, the honorable Senator is not aware, perhaps, that the expenses of ministers at St. Petersburg are not so great as in London and Paris. The object I had was, that the attention of the Senate should be called to this subject, and that the salaries of our ministers to the principal courts of Europe should be graduated so as to give a fair compensation, according to the duty to be performed and the expenses of living. It is very desirable that our ministers abroad should be enabled to live in such a style as becomes the representatives of a great nation. In London the expenses are enormous; in Paris they are less, and in St. Petersburg still less. The expenses of a minister at St. Petersburg would be met, perhaps, by twelve thousand dollars; at Paris, probably at sixteen or seventeen thousand; and at London not less than twenty thousand dollars; so that, I think, at the present time, perhaps it would be as well to let the matter go over, and let it be brought up hereafter as an independent proposition, unconnected with this appropriation bill, in order that it may be examined, and the salaries of our ministers be fixed according to what is fair and just.

Mr. HALE. Mr. President, I certainly have not any great information upon this subject, but I differ, with very great deference, from the honorable Senator from Alabama. But I am willing to modify my amendment so that the salaries shall be fixed at the exact sums he has named. I will therefore modify it so as to raise the salary of the minister to Russia to twelve thousand dollars; that of the minister to France to sixteen thousand dollars; and that of the minister to England to twenty thousand dollars. That will be adding three thousand dollars to the salary of the minister to Russia, seven thousand to that of the minister to France, and eleven thousand to that of the minister to England. In one single matter I differ, although with great diffidence and great reluctance, from the honorable Senator from Alabama; that is, if this thing be confessedly wrong, to let it go wrong a little longer. I think, when you find that you are going wrong, the best thing you can do is to turn immediately around and go right.

Mr. President, I will have the question divided, and taken on the increase of the salary to the minister to France first.

The question being on adding seven thousand dollars to the salary of the minister to France—

Mr. DICKINSON called for the yeas and nays, which were ordered.

Mr. DIX. Mr. President, before the vote is taken on this amendment, I would like to ask what salary the French minister to this Government receives?

Mr. HANNEGAN, (in his seat.) I believe it is fifteen thousand.

Mr. DIX. I understand that he receives five or six thousand dollars.

Mr. DICKINSON. Mr. President, if it is necessary that these salaries should be raised at all, it seems to me that the whole question should go to the appropriate committee, and the salaries should be graduated, so that we might know precisely what we are doing, relatively as well as positively. I intend, at this time, to vote against all this increase of salaries, because I apprehend there is no more reason for raising them now than in days past, and because I think that, when it is done, it should be done correctly, and with a view to relative as well as positive justice. We are going back to the days of economy, to the early and best days of the Republic, to the days of the first Presidents—at least that was the cry a few months since—and we have started by proposing nearly to double the salaries of our foreign ministers.

Mr. WEBSTER. Mr. President, this new proposition is one that I did not think would be introduced upon this occasion. I do not know, and will not undertake to say, whether, upon the whole, it is fit to be entertained and disposed of now. But, since the subject is up, I feel constrained

to say, that this is a portion, a part, of the regulations respecting our foreign intercourse that does demand revision. We may talk of economy, and I hope we shall practise enonomy, but I am not for that species of economy that restrains representatives of this Republic, when they go abroad, from appearing in the character in which the representatives of other countries appear in this place.

Mr. President, you have been abroad. Other members of this body have been abroad in a public capacity. I never have been and never shall be; but I know enough to know that the allowances made to our ministers at foreign courts are wholly inadequate—yes, sir, wholly inadequate to the maintenance of a respectable character in public and social life. That I believe to be entirely wrong. The Senate understands that this whole matter depends upon the provisions made sixty years ago, when the expenses of living, either at home or abroad, were certainly not more than half what they now are. It stands as it stood in the time of Washington, upon the foundation of the statute which says, "The President may make such allowances as he thinks fit, not exceeding nine thousand dollars." Has not the whole world changed? The honorable Senator from New York [Mr. DIX] has asked, what is supposed to be the salary of the French minister here? Is Washington Paris? Is life and the maintenance of the respectability of life as expensive in Washington as in Paris? Sir, though never employed in foreign service, and certainly never expecting to be, I must state what I know to have occurred in one of the capitals of Europe, to a very respectable gentleman who was there representing this country—everyway honorable and worthy to carry the commission of his country; but restricted by the narrow means which his country afforded him, and not being a gentleman of fortune, he could not appear in public society, or on public occasions in the country where he was, as others appeared. He once heard this saying at some place where it was his official duty to be—when the party were retiring and the carriages were called for, and the carriage of the American minister was called for—"What carriage is that?" was asked. The reply was—no gentleman said it, no man of respectability said it, but the coachmen and hackmen all called out—"The poorest carriage here to-night."

Mr. DICKINSON, (in his seat.) So much the better.

Mr. WEBSTER. I do not think so. If that is economy and republicanism, then so far I am no economist, and I am no republican. That is not my sentiment. I do not wish to see the representative of this Republic abroad restrained from the enjoyment of that social intercourse, and the maintenance of that private respectability which becomes a gentleman. I have no sympathy for that sort of economy and that sort of republicanism which consists in merely denying money to those who represent you, and who wish to represent you respectably. That is my judgment upon these matters.

Sir, we know that this allowance, as it now stands, and as it has stood since the days of General Washington, was very much assailed and very much complained of by respectable persons, and by one very worthy gentleman in particular, who was some twenty or thirty years afterwards sent abroad in a public capacity. And it was as long ago as when I was in the House of Representatives that he asked me if I would not support a proposition to raise the salaries of our foreign ministers to fifteen thousand dollars? And it is said that this very gentleman, who was a very worthy and now a most venerable person, and who is now one of the oldest public servants of the country still alive, could not sustain himself with reputation upon the allowance of the Government at the court to which he was sent. I said, with all my heart. And I was perhaps a little malicious. I was mischievous enough to say that I would be quite obliged to that venerable gentleman—not so venerable then as now—if he would now give me sufficient facts by which I can answer his pamphlets against the expensiveness of General Washington's administration.

Mr. WESTCOTT. Mr. President, I am not going to make a speech, by any means. I merely wish to state what I once heard General Jackson say, in speaking on this very subject. I once heard that illustrious man talking about the expenses of foreign ministers, their salaries, &c., and he used these words: He said that "Old Ben 'Franklin, with his Quaker hat, shad-bellied coat, 'and blue yarn stockings, [laughter,] commanded 'more respect for himself and for the character of 'this country than all the other foreign ministers 'we have ever had." Now, sir, that was so; even all the girls in Paris were running after the old philosopher. [Renewed laughter.]

Mr. WEBSTER. What salary did Franklin receive?

Mr. WESTCOTT. A very indifferent sum, I believe; just enough to pay his expenses.

Mr. WEBSTER. I beg your pardon, sir. His expenses were allowed him by Congress. He kept his own accounts, and his expenses were paid, whatever they were.

Mr. WESTCOTT. Mr. President, I see no necessity for this increase of salaries. These men go to these courts to do business, and not to expend money in giving parties and mingling in society.

Mr. WEBSTER. Will the Senator inform me what he supposes Dr. Franklin was paid when in Europe?

Mr. WESTCOTT. I do not know, but he did not make money.

Mr. KING. I will tell the honorable Senator. Dr. Franklin received twelve thousand dollars a year with his Quaker hat. [Great laughter.]

Mr. WESTCOTT. I never heard of Dr. Franklin's making any great display among the aristocracy of Europe; nor do I now care to have our ministers vie with the aristocrats of the Eastern Continent in expenditure and extravagance. I want an American minister to go there as the lawyer of this Republic, as our agent; and I want him to show them an example of republican plainness and economy. I will vote most cheerfully to increase the salary of our minister to France, but I will not consent to its becoming a general rule. The salary proposed to be given to our minister to England is four times the amount received by the second officer of our Government, and it is five times the salary paid a judge of the Supreme Court. It is not congenial with our institutions, and I cannot vote for it. I am willing to make France an exception, and vote to increase the salary of our minister to that court, and because it is a republic, and in my opinion, therefore, outranks all the rest.

Mr. BUTLER. Mr. President, I am one of the few on this side of the House who are in favor of the proposition of the honorable Senator from New Hampshire, [Mr. HALE.] I have had the concurrent testimony, I believe, of every foreign minister with whom I have conversed on this subject. General Cass, my honorable friend in the chair, [Mr. DALLAS,] and Mr. Legare have all concurred in bearing testimony to the fact that our ministers abroad have been subjected to mortification that no representative of a country, and especially such a great and powerful country as this, should ever be subjected to. They have been subjected to this mortification on account of the inadequacy of the appropriations made for their support. Now, I do not say that every representative abroad should be in all respects a peer, and equal in dignity and wealth with the ministers of the governments of Europe; but I never would place him in a situation in which he would be subjected to reproach and to the sneers of his contemporaries, on account of his inability to maintain a respectable position in that society in which his duties placed him. Nor would I make this an office for a minister to go abroad for one year to take the outfit and the salary, and come back. I would make it such an office that we could keep a resident minister abroad for at least more than one year, without subjecting himself to mortification, not by comparison, but by contrast with those similarly situated with himself. It is not right, and I have never heard a foreign ambassador come home but who gave the same testimony. All persons who have been abroad concur in this. I am no aristocrat at all; but, however parsimonious I might be with regard to myself, when I send others abroad, making them representatives in some measure of my country, they should not be placed in a situation to be mortified on account of the want of a few dollars to enable them to live in a style comporting with the dignity of their station. I shall vote, therefore, for this amendment with great pleasure.

Mr. ALLEN. Mr. President, I shall vote against this amendment, the object of which is to increase the respectability of some of our representatives in foreign countries. I think we shall accomplish that object far more directly and with far more certainty by paying more attention to the selection of the men who are appointed to those places. I suppose it is in Europe as here, that men are expected to live in a style comporting with their known means of life; and I suppose that, inasmuch as it is universally known that American ministers represent a plain republican people, and that they are limited in their compensations to nine thousand dollars per annum, no sensible man, representing any great nation, no matter where such minister may reside, will expect an American minister, under such circumstances, to indulge in all the extravagance which is exhibited by the representative of sovereignty, who pay largely, in order to manifest in some degree their magnificence and grandeur by the style of life which their ministers lead. Now, sir, it is a universal truth, without one solitary exception anywhere, that public functionaries should always live up to the salary which they receive, and that the community in which they live expect them to live up to that salary, and not above it. Why, sir, of all the public functionaries of this Government, considering the relation which they bear to the Government, perhaps the members of this body are less paid than any other. The salaries of members of this body are about fifteen hundred dollars a year. This body is composed of the ambassadors of the States, representing sovereign States in the capital of the country, visited by their constituents, having to incur many expenses incidental to their position over and above the expense of maintenance. Senators of the sovereign States, exercising the high functions which this body is known to possess, live in the capital of this country upon $1,500 a year, and hold rank equal to the members of the Cabinet, above that of any foreign minister, while it is proposed by this amendment to give some of these foreign ministers $20,000 a year. I desire to know whether the respectability of the members of this body is less because they do not keep open house and entertain everybody on fifteen hundred dollars a year? whether it is less than that of the French Minister, or of the Russian Minister, or of the British Minister? I think not, sir; and I trust that the principle will never be established that the dignity and respectability of a public functionary depend upon the amount of money he receives and the number of entertainments he is enabled to give. Is it expected in London that the representative of a plain republican people, of a Government the object of imitation the world over, wherever a people can speak, and largely so, because its taxes are comparatively light and its administration comparatively economical—is it possible that the representative of such a Government shall be expected by any sensible corps, diplomatic or otherwise, to live in a style equal to that of a representative of "the Autocrat of all the Russias" at the Court of St. James? No, sir. Upon the principle of such reasoning, you must, if you wish to put your country upon a level with the first countries of the world, adopt the criterion of salary which the first country pays—adopt the Russian criterion. Now, sir, it is to be recollected that we have no missions of the first grade. No such thing. Our highest mission is a mission of the second grade. We have no ambassadors, because we have no sovereign in this country to be represented. An ambassador differs from a minister in this particular: that the former represents the majesty of the crown. We have no crown, and therefore no ambassadors to represent it, and our ministers are not expected anywhere to live in a style equal to the style of those representing the crowned heads of Europe. No such thing.

Sir, we have two sorts of men who are appointed to fill missions; one description of whom (there have been a few) have been wealthy men. Well, what had been the standard of their expenses? It has been very great. There was sent on the mission to France, some years ago, a gentleman of the name of Brown, a man of large wealth, who lived in a style which required some twenty-five or thirty thousand dollars a year to support him. Since that time we have had several other wealthy ministers, and they have kept up the style to the standard of twenty-five or thirty thousand dollars a year. It was that circumstance that created the necessity for their successors to live in the same extravagant style. There is another class of men appointed to fill missions, who go out and return, and bring

back all their salaries; who do not spend any. This class go out on a job to repair exhausted fortunes. They save their salaries, and when they are contrasted by their style of life with those who have gone out rich, and have spent their salaries in supporting something of style, from this comes the complaint that they lived shabbily.

Sir, this is a bad time to begin augmenting expenses. We are at the close of a war, with a war debt hanging heavily upon the pocket of the country. We are at a time when borrowed money has to be paid. I trust that this is not an indication of the opening of a new chapter, the beginning of splendor and magnificence in the operations of this Government. I trust that this is not an announcement that we are about to resort to the exploded maxims of a magnificent and splendid Government, and that, too, at a time when a national debt stares us in the face. It has been said by the Senator from Massachusetts, [Mr. WEBSTER,] that the scale of these salaries was fixed sixty years ago, when living was cheaper than it is now. Our business is now with diplomatic living, and I say that the assertion of the Senator is a mistake. Diplomatic life is not as extravagant now as it was sixty years ago, by any means. Most European governments have retrenched and reformed, within this period, their diplomatic expenses. Why, sir, there was a time in the world's history when the sending of an embassy cost more money than twenty modern embassies. I can cite cases of that sort from the history of England or any other nation. This very French Government has reformed its own expenses in this particular. The salaries of their minister here, and of their ministers to all the courts of the world, and of the public functionaries throughout France, have been greatly curtailed; and that, too, before the late revolution. They were curtailed under Louis Philippe, in consequence of the events of July, 1830; they were curtailed under a monarchy and brought down to the simplicity of the republican standard. Now, sir, at a time when the whole tone and temper of the world is changing on this subject, in private as well as in public life—when the mere magnificence of any man's residence, or the number of dinners he gives does not constitute, as it formerly did, so large a part of his importance in the world—when the individual is more looked to, when his capacity for usefulness, his intelligence, the purity of his character; in a word, when the man has become more important and the circumstances that surround him less important,—I say at a time when the sentiment of the world is undergoing such a change, it does not become us to get back that sentiment, and ascribe by our action so much importance to the adventitious circumstances that surround the man, and so little to the man himself. I never heard of any of our able men sent abroad—and I could name here a long chapter of able men—men like yourself, sir—who wanted respectability wherever they were sent, whether they were poor or rich. No, sir; I would not give a farthing for that kind of opinion of which the Senator spoke, the description of a man's carriage. Real greatness does not require these exterior ornaments. It is personal deficiency that requires to be made up by these artificial trappings. Select able men, men of weight and character, acquired by their known public virtue and their known abilities, and they will be respected wherever they are sent; if at the points of their destination there be sensible men.

Sir, the Emperor Napoleon understood all these things very well. When it was necessary to impress the Emperor Alexander with an idea of his magnificence and the grandeur of the French empire, he sent his favorite Caulincourt, giving him a general draft on the French treasury, and told him to live in a style comparing with the majesty of his Crown. So he did. At that very time, the Emperor Napoleon wore an old grey coat that had been patched on one arm, and a pair of boots that had been half-soled, utterly condemning in his own person, and treating with scorn, the idle trappings which he had directed to be employed by his minister to dazzle the imagination of the "Autocrat of all the Russias." I hope that we are not going to get into this practice. If money is to constitute respectability, then the more money you give the more respectable you will be; and if you wish to have your ministers as respectable as the representatives of any other court, you must give as much as any other court. If that is the system of reasoning, I believe that the Russian court is the most expensive. I do not mean the expense of living at St. Petersburg, but I mean that the Russian Government pays more than any other to its diplomatic agents. And it will be found, that in proportion to the despotic tendency of any Government, in that proportion does it pay its public functionaries the world over; and there are solid reasons for it. It is a bad time to commence this system. Whenever, Mr. President, the time arrives that all these missions are vacant—when nobody can be found to fill them—when no man of sense and experience can be found to fill them, it will be time enough to treat this thing as a difficulty, and look out for a remedy. But I take it that, now-a-days, these missions are filled with facility. Some distinguished men of the country go upon these missions who are not rich, and they choose between glory and opulence. They have their choice to enjoy the honor of this high dignity or stay at home and make money, and they take their choice by pursuing honor and distinction, and turning their back upon fortune. It is their own look-out. But none of these missions have been found unfilled. And I say that we are setting a bad example; we are reversing the direct tendency of the universal sentiment of mankind, in trying to attach importance to adventitious circumstances, instead of attaching it to individuals and to men. I think, therefore, that it will be wise and proper to vote down this amendment, until the President shall send us information, that in consequence of the smallness of the salary, he cannot find competent persons to fill these offices. When he shall send in that kind of a message, it will be time enough for the Senate to look round for a remedy of the evil.

Mr. BUTLER. Mr. President, I know that this is a theme for declamation. I know it affords many topics for popular prejudice. I do not say that the gentleman who has just spoken has appealed to popular prejudice. I believe that he has spoken the deliberate convictions of his own mind. I will draw the contrast to the honorable gentleman, between the jobber who takes the office to make money and save his salary, and the gentleman who, acting on high responsibility of his nation, makes a sacrifice of his own fortune. Who should be preferred? The man that would go to Europe to fill one of these offices, and live in a cold cellar or in a garret, to save his money—who would see no society, and come back as ignorant as when he went there, having had none of the opportunities of being in society, none of the ordinary channels of communication by social intercourse and by his position; or one who could assimilate himself to the society in which he lived? Since the gentleman has chosen to speak of it, I would say that I, for one, would live upon a farm, with five hundred a year, with my shoes half-soled, and my coat patched, and live respectably. But when I sent my son, or any one else, abroad, he should go as a gentleman; he should not be placed in a situation where he would be subjected to mortification by contrast; where ever man could insult him by taunts on his condition.

The gentleman says that men can be procured to fill these missions for nine thousand dollars a year, plenty of them. Why, sir, if the Executive of this Government to-morrow were to advertise for ministers at fifteen hundred dollars a year, he would find applicants enough.

Mr. WEBSTER, (in his seat.) Aye, for five hundred dollars.

Mr. BUTLER. Applicants enough could be found at five hundred dollars a year! And how would they live? They would live in oyster cellars [laughter] among the sailors, or in the lanes and alleys. With whom would they associate? They might be distinguished for the acuteness of their wit. I will not undertake to say that men of that kind might not be called into good society on account of their wit and jocularity. They might be men from the grog-shops, keen in their wit, sharp in their reply, vulgar in their deportment. You could find men, if you would try, who would go not only for fifteen, but for five hundred dollars a year. But does it become this country, with its immense resources, when we are giving out thousands and millions when application is made for a claim by stock-jobbers, when we are pouring money out of the treasury like water out of a basket, that we should call upon our representatives abroad to live differently from the condition of gentlemen similarly situated? I have no idea of doing so, especially when, as I said before, it has been the concurrent testimony of all who have gone abroad, and therefore I cannot be mistaken. The Senator says you may find men who will go abroad of equal talent with those who have made sacrifices of their fortune. I do not doubt it. But if they do not inspire that respect and do not command that position in society that would enable them to represent you properly, they ought not to go there.

The gentleman says that some go there to repair exhausted fortunes, but that they have not commanded that respect which the representatives of such a country as this should command. I respect the primitive days of the Republic, because our public functionaries held the public money that was given to them in the form of salaries, for the benefit of the public and for the benefit of the country. General Washington saved nothing of his salary, but he spent all that was given to him. So did Mr. Adams, Mr. Jefferson, Mr. Madison, Mr. Monroe; and I respect them for it. And I respect those who have so much regard for the honor and dignity of their country as to be willing to make a sacrifice for it. Such are the men who should represent our country abroad, and not your stock-jobbing gentleman who goes there to save his money. Sir, of all propositions that can be brought forward, such a one as this, that a man is to go abroad as a representative of this Republic to save money—to make money—is most revolting to my nature.

Sir, I know that these are themes on which the gentlemen from Ohio [Mr. ALLEN] has indulged in a strain of declamation which, I have no doubt, is suitable to the popular feeling upon this subject. But are we not called upon to act on higher considerations when we know that it is unjust, very unjust? John Randolph very properly remarked, when it was said that the patronage of the Government was overrated: "To be sure it was overrated: it may be overrated. I know," said he, "that we cannot give to those who apply equal to their expectations; but I know, that with one bone I can call five hundred dogs." If five hundred, a thousand, or fifteen hundred dollars were offered for one of these missions, dogs enough could be got to take them. But the very class of persons who would take a foreign mission for five hundred, a thousand, or fifteen hundred dollars, (I will not say for nine thousand, for we have had gentlemen to go for that,) would disgrace their station. As I said before, I could live on a farm with five hundred a year, but when I sent my son abroad I would never put him in a position in which he should feel the sense of degradation or inequality with anybody. It is wrong (and most of those who speak on this subject know that it is wrong) to place our ministers in such a position. On this subject, I think we should lift ourselves above popular prejudices. I believe that the people, if you appeal to their pride, would despise the man who would go abroad to represent his country in order to save money. The humblest man in the community would despise such a one. That is the popular tone on this subject. It is the popular feeling so far as I know. They expect it of you, and it ought to be so. And when you choose to make it a subject of declamation, it should be received in the same tone.

Mr. BERRIEN. Mr. President, I do not rise for the purpose of making a speech, but to suggest to the Senate that we have arrived at ten o'clock, that we have duties to perform to-morrow, that there are many seats now vacant, and although I would be quite willing to listen to the very interesting discussion on this subject by the Senator from South Carolina, [Mr. BUTLER,] yet, in the situation in which the Senate is placed, it would be improper to proceed further. I move, therefore, that the Senate adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 26, 1849.

The Journal of Saturday was read and approved.

PRISONERS OF WAR IN MEXICO.

Mr. GAINES moved that the rules of the House be suspended, for the purpose of proceeding at this time to the consideration of the bill which passed

the Senate about a year ago, to allow subsistence to certain Arkansas and other volunteers, who had been prisoners of war in Mexico.

The SPEAKER said he understood the bill was in Committee of the Whole.

Mr. GAINES thereupon moved that the committee be discharged from the further consideration of the said bill.

The motion having been agreed to, and the bill being thus before the House, on the question of its third reading—

Mr. GAINES moved the previous question.

Mr. BURT rose to inquire of the Speaker, whether there were not certain amendments which had been reported to the bill from the Committee on Military Affairs?

The SPEAKER said he had no knowledge of such amendments.

The SPEAKER then said, that the Clerk stated that there were no such amendments. The endorsement on the bill was, that it had been reported by the gentleman from New York, from the Committee on Military Affairs, without amendment.

The previous question was then seconded; the main question was ordered, and the bill having been ordered to a third reading at this time, was read a third time and passed.

ROAD FROM LAKE SUPERIOR TO THE MISSISSIPPI.

Mr. SMITH, of Illinois, asked the unanimous consent of the House to report a bill from the Committee on Roads and Canals, for the benefit (he said) of the new Territory, (presumed to be Minesota;) he trusted there would be no objection.

Objections were made.

Mr. SMITH moved a suspension of the rules, for the purpose of enabling him to report the bill.

The title of the bill was read as follows: "A bill to provide for opening a road from Lake Superior, by the way of the Falls of Saint Croix, Marine Mills, Stillwater, and Saint Paul's, to Point Douglass, on the Missisippi river."

The bill was then read through.

And the question, "Shall the rules be suspended?" was taken, and decided in the negative.

So the bill was not received.

EXTRA COMPENSATION.

Mr. TALLMADGE offered the following resolution:

Resolved, That there be paid out of the contingent fund of the House, to the Postmaster, Chaplain, Sergeant-at-arms, Doorkeeper, assistant clerks, messengers, pages, laborers, folders, persons employed in the folding-room, and police of the Capitol, with its messenger and laborer, the same amount of extra compensation as was allowed at the last session of the present Congress.

Mr. BRODHEAD objected.

Mr. TALLMADGE moved the previous question on the adoption of the resolution.

A question of order was raised as to the right of the gentleman from New York to offer it.

The SPEAKER stated that this being resolution day, and the call resting with the State of New York, the gentleman had a right to insist on the State being called.

So the resolution being regularly before the House—

Mr. COBB, of Georgia, moved that it be laid on the table, and asked the yeas and nays; which were ordered.

Mr. HALE asked for the reading of the resolution; which was again read.

Mr. HUDSON desired to inquire whether there was not an express rule of the House against the passage of any such resolution?

Mr. HOUSTON, of Alabama, said there was an express rule, and an express law against it too.

The SPEAKER'S reply to Mr. HUDSON'S inquiry was not heard.

The question, Shall the resolution be laid on the table? was then taken, and decided in the affirmative—yeas 67, nays 50.

So the resolution was laid on the table.

RESOLUTIONS OF NEW JERSEY.

Mr. HAMPTON, of New Jersey, by leave, presented joint resolutions of the Legislature of the State of New Jersey relative to a light-house at the mouth of Maurice river, and beacon-lights in Newark bay, in said State; which were referred to the Committee on Commerce, and ordered to be printed.

On motion of Mr. HAMPTON, of New Jersey, by leave,

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of erecting a light-house on the east point of the mouth of Maurice river, in the State of New Jersey, and that they report by bill or otherwise.

PAY DEPARTMENT OF THE ARMY.

Mr. BURT said he felt himself constrained to ask the House to take up the bill which was on the Speaker's table to reorganize the Pay department of the army. He was sure it would not take thirty minutes of the time of the House, and he trusted that no objection would be made to taking it up.

The SPEAKER. The Chair understands the gentleman from South Carolina to ask the unanimous consent of the House to take up the bill to reorganize the Pay department of the army.

Mr. WENTWORTH. The gentleman can accomplish his object as well, and accommodate the rest of us in the same way, by moving a suspension of the rules, to proceed to business on the Speaker's table. Let the business come up in its order. I move to suspend the rules, to proceed to business on the Speaker's table in its order.

Mr. BURT. I am afraid of nothing which is on the Speaker's table. I assure the gentleman from Illinois that I believe there is so much business there that I fear we shall not be able to reach the bill which I propose to bring before the House. I trust there will be no objection to taking up the bill.

The SPEAKER. The Chair understands that objection is made to the proposition of the gentleman from South Carolina.

Mr. BURT. Then I move to suspend the rules, to take up the bill to which I have alluded.

Mr. ASHMUN. Allow me to make a suggestion to the gentleman from South Carolina. If we had the Committee of the Whole on the state of the Union discharged from the consideration of that bill, and it were on the Speaker's table, there would be no objection to taking it up.

Mr. BURT. It is already on the Speaker's table.

The SPEAKER announced the question on the motion of Mr. BURT to suspend the rules.

Mr. ASHMUN. I wish to inquire of the Speaker where the bill stands?

Mr. BURT. It stands on the Speaker's table.

The SPEAKER. It is the eleventh bill on the Speaker's table.

Mr. ASHMUN made a remark which was inaudible to the reporter.

The question was taken on the motion to suspend the rules, and was decided in the negative.

Mr. BOWDON moved that the rules be suspended, for the purpose of enabling him, from the select committee composed of the members of the House from the State of Alabama, to report a bill for the relief of the citizens of Cedar Bluff, in the State of Alabama, and for other purposes, accompanied by a report in writing.

And the question being taken on the suspension of the rules, it was decided in the negative.

Mr. WENTWORTH objected to the reception of reports out of order, and called for their reception in order.

Mr. BOWDON moved a suspension of the rules, to allow him to make the report: rejected.

Mr. HAMPTON, of New Jersey, from the Committee on Enrolled Bills, made a report.

TERMINATION OF TERRITORIAL DEBATE.

Mr. SMITH, of Indiana, offered the following resolution:

Resolved, That all debate in Committee of the Whole House on the state of the Union on the bill to establish the Territorial Government of Upper California shall cease in two hours after the committee shall resume its consideration, (if the committee shall not sooner come to a conclusion upon the same,) and the committee shall then proceed to vote on such amendments as may be pending or offered to the same, and shall report to the House, with such amendments as may be agreed to by the committee.

Mr. ROOT wished to make an inquiry of the gentleman from Indiana.

The SPEAKER. Does the gentleman from Indiana give way?

Mr. SMITH yielded.

Mr. ROOT only wished to say this to the gentleman from Indiana: The gentleman had reported this bill; he was entitled to the full credit of it. It was known that he (Mr. R.) had offered a resolution instructing the Committee on Territories to report these territorial bills. For that reason, more than for any other, he wished to speak. He could not hope for an opportunity under this resolution. He hoped the gentleman would allow the time to be postponed until to-morrow at twelve o'clock.

Mr. BURT. Is this debate in order?

Mr. SMITH. This bill was drawn up and ordered to be reported by the committee long before the resolution of the gentleman from Ohio was adopted, so that the gentleman's resolution had no effect upon that report. I do not wish to close this debate, unless it is the disposition of the House to do so.

Mr. ROOT. We have had one speech on this bill; another hour is already appropriated, and but one hour will be left under the resolution. I will move to amend the resolution to extend the time until some hour to-morrow which shall suit the committee.

Several suggestions as to the hour were made by gentlemen in their seats; in accordance with which,

Mr. ROOT finally moved to amend the resolution by substituting for the time indicated therein, "twelve o'clock to-morrow."

Mr. SMITH declined to accept the amendment as a modification of his resolution.

Mr. GREELEY inquired if the resolution included both the territorial bills?

The SPEAKER replied that but one bill had been taken up by the committee, and one bill only could therefore be the subject of this resolution.

The questions being severally taken, the amendment of Mr. ROOT was agreed to, and the resolution as amended was adopted.

A motion to reconsider this vote was subsequently made by Mr. SMITH, of Indiana, and, on his motion, was laid on the table.

RESOLUTIONS—LEGISLATURE OF VIRGINIA.

Mr. ATKINSON asked the general consent of the House to present certain resolutions which had been adopted by the Legislature of Virginia, and which he would ask the Clerk to read.

[Cries of "Don't read them!"]

The resolutions were sent up to the table, but Mr. A., in compliance with indications in the House, did not press their reading.

These resolutions, sir, (he was proceeding to say)——

The SPEAKER interposed and said, the Chair must state to the gentleman from Virginia that the resolutions had not been received. If no objection was made, they would be received.

Objection was made, (by whom the reporter was unable to see.)

The SPEAKER. Objection is made on the left.

Mr. ATKINSON. I ask that they be read, then.

The SPEAKER. They will be read by general consent.

Mr. ATKINSON. If the gentleman will withdraw his objection to the reception of the resolutions, I will withdraw the call for the reading. I wish only to speak five minutes to the House.

It is the application (said he) of a sovereign State of this Union, entitled to be respected in this Hall and everywhere else——

[Cries of "Order," "order," and objections.]

The SPEAKER. Objection is made to the gentleman's proceeding.

Mr. ATKINSON. I presume there is no objection. [Laughter.]

The SPEAKER repeated that objection was made.

Mr. ATKINSON. Well, I move that the rules be suspended, for the purpose of presenting a series of resolutions which have been adopted by the Legislature of Virginia, and I hope the courtesy of this House will be extended to me.

The question was taken, and the rules were suspended.

So the resolutions were received.

[These resolutions are the same as those presented in the Senate on the 5th day of February, by Mr. HUNTER, and published in this paper.]

Mr. ATKINSON. The resolutions which I present, coming from the Legislature of Virginia, [cries of "Order!"] were adopted two years since——

Mr. RUMSEY. Has the gentleman from Virginia the right to debate these resolutions?

The SPEAKER. The gentleman from Virginia has not proposed any reference of these resolutions.

Mr. ATKINSON. I move to lay these resolutions on the table, and that they be printed; and I desire to say a word why that should be done.

Mr. RUMSEY. I object to the gentleman's making any speech.

The SPEAKER called the House to order, and requested gentlemen to take their seats.

Mr. ATKINSON. Am I entitled to the floor?

The SPEAKER. The presentation of these resolutions is in the nature of the presentation of petitions. No petition can be debated on the day on which it is offered. The gentleman must ask leave of the House before he can proceed.

Mr. ATKINSON. I have done all that an honorable man can do to an honorable man, and to an honorable House. I have made an appeal to this House, [cries of "Order!"] to every member of this House; and if I cannot be respected here, I will be elsewhere——

[Renewed cries of "Order!"]

The SPEAKER. The gentleman from Virginia will take his seat.

Mr. ATKINSON. Well; I take my seat.

Mr. COBB, of Georgia, remarking, that the House had already adopted a resolution to close the debate on the territorial bill, said, for the purpose of giving gentlemen an opportunity to debate that bill, he would move that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. ATKINSON. I took my seat when I was directed by the Speaker to take it. Am I entitled now to the floor?

Mr. SPEAKER. The gentleman may rise to a question of order.

Mr. ATKINSON. Yes, the question of order which I make is this: Whether the House of Representatives of the United States will deny to a sovereign State to receive her resolutions here, and to hear the truth to be spoken by one of her representatives? If, Mr. Speaker—[cries of "Order!"]—gentlemen cry "Order," and don't want to hear the truth; they are as blind as those who cannot see the beauties of the rainbow or the sunlight.

Mr. DICKEY and other gentlemen called to order.

The SPEAKER propounded the question on the motion of Mr. COBB, which, having been agreed to by ayes 98, noes 35—

CALIFORNIA TERRITORIAL GOVERNMENT.

The House resolved itself into Committee of the Whole on the state of the Union, (Mr. VINTON in the chair,) and resumed the consideration of the bill to establish a Territorial Government for Upper California.

The committee were then addressed in speeches, generally of an hour's length, and mostly on the subject of slavery, by—

Mr. STUART of Mich.,	Mr. MULLIN,
GAYLE,	VENABLE,
ROOT,	GREELEY,
EVANS of Md.,	MORSE,
LYNDE,	PALFREY,
BOCOCK,	BOYDEN.

When Mr. BOYDEN concluded—

Mr. ROMAN obtained the floor, and was proceeding in remarks on the subject of the tariff, when he yielded to—

Mr. STEPHENS, on whose motion the committee rose; and the House, at twenty-five minutes before eleven o'clock, p. m., adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. DUER: The petition of James Cooper, a revolutionary soldier, praying for a pension.

By Mr. GREELEY: The petition of George N. Johnston and others of Pittsburg, Pennsylvania, praying provision for the free transportation of women to California. Also, the petition of Edwin Williams, of New York, asking the patronage of Congress for his compilation of the Presidents' messages from 1789 to 1849.

WASHINGTON CITY, *Feb.* 25, 1849.

Messrs. BLAIR & RIVES: The following extract is taken from the report of the proceedings of the House of Representatives, as published in the Daily Globe of Saturday evening:

"Mr. HARMANSON was understood to offer a correction of this statement by the gentleman from Ohio, and to state his personal knowledge of the fact, that immense tracts of marsh lands had been surveyed in Louisiana, which were not only not sold, but which never could be sold; and also that there were large tracts of lands which never had been even surveyed, and never would be."

As Mr. HARMANSON is here made responsible for the accuracy of a statement made by me, I beg leave to say that those words should have been ascribed to me. They were in substance as follows: That if the gentleman from Ohio expected to find in these surveys a true statement of the amount of swamp lands in Louisiana, he was mistaken; that he had personal knowledge of the fact that surveyors had unnecessarily surveyed *salt-marshes*, which not only remained unsold, but which would never be sold.

Most respectfully, your obedient servant,

B. G. THIBODAUX.

IN SENATE.

TUESDAY, *February* 27, 1849.

Mr. JOHNSON, of Maryland, presented a petition from Alexander Brown and Sons, and other merchants of Baltimore, asking for the establishment of reciprocal free trade with Canada; which was laid on the table.

Mr. DAVIS, of Mississippi, presented a petition from John M. Hepburn, and the clerks in the office of the Adjutant General, praying extra compensation for additional services performed there during the war with Mexico; which was referred to the Committee on Claims.

Mr. HALE presented a great number of petitions (including 100 from females) from persons in Maine and Pennsylvania, praying for the abolition of slavery and the slave trade in the District of Columbia, and for the prohibition of slavery in the newly-acquired territories. The motion to receive these petitions was laid on the table.

Mr. H. also presented a petition from —— Norton and 17 citizens of Illinois, asking that negotiations may be opened with Great Britain for the reannexation of Canada.

A motion was made by Mr. WESTCOTT to lay this petition on the table, and decided: Ayes 24, noes 13.

Mr. HALE presented a petition from citizens of Bodenham, Maine, asking for an alteration in the post office laws; which was referred to the Committee on the Post Office and Post Roads.

Mr. H. also presented a petition from Edward Price and 246 citizens of the State of Pennsylvania; a petition of Cyrus M. Burleigh and 18 citizens of Pennsylvania; and a petition from Joseph Treater, of Ohio,—all asking Congress to adopt some mode for the peaceful dissolution of the Union.

The motion to receive these petitions was laid on the table.

Mr. BORLAND presented two petitions from citizens of Arkansas, asking for the construction of a road from the Mississippi river to the Pacific; which were laid on the table.

Mr. CAMERON presented a petition from John Dougherty, offering to transport the United States mails from the Mississippi river to San Francisco; which was referred to the Committee on the Post Office and Post Roads.

Mr. C. also presented a petition from citizens of Pennsylvania, asking for certain improvements in the Delaware river; which was referred to the Committee on Commerce.

Mr. C. also presented a petition from citizens of Pennsylvania, asking for amendments in the patent laws; which was referred to the Committee on Patents and the Patent Office.

Mr. C. also presented a petition from citizens of Pennsylvania, asking for the abolition of capital punishment; which was referred to the Committee on the Judiciary.

Mr. C. also presented resolutions of the Legislature of the State of Pennsylvania, in favor of appropriations of portions of the public domain for the purpose of enabling the Indians to make settlements thereon; which was referred to the Committee on Indian Affairs.

Mr. C. also presented several petitions from citizens of Pennsylvania, asking for the abolition of slavery and the slave trade in the District of Columbia, and for the prohibition of slavery in the newly-acquired territories; the question on the reception of which was raised, and laid on the table.

REPORTS OF COMMITTEES.

Mr. ATCHISON, from the Committee on Indian Affairs, to whom were referred the following House bills:

An act for the relief of the legal representatives of Abraham Hogeboon, deceased;

An act for the relief of Israel Johnson;

reported back the same without amendment.

Mr. BRIGHT, from the Committee on Revolutionary Claims, to whom was referred House bill for the relief of the legal representatives of Captain Samuel Jones, deceased, reported back the same without amendment, with a recommendation that it do not pass, accompanied by a report; which was ordered to be printed.

Mr. ATHERTON, from the Committee on Finance, to whom was referred House bill making appropriations for the service of the Post Office Department for the year ending 30th June, 1850, reported back the same without amendment.

Mr. FITZPATRICK, from the Committee on Claims, to whom was referred House bill for the relief of the legal representatives of Bernard Todd, deceased, reported back the same without amendment, and recommended its passage.

Mr. DAVIS, of Mississippi, made the following report:

The committee appointed on the part of the Senate, jointly with the committee on the part of the House of Representatives, to wait on Zachary Taylor and Millard Fillmore, and notify them of their election as President and Vice President of the United States, report:

That they have performed the duty assigned them; and that the President elect, in signifying his acceptance of the office to which he had been chosen by the people, evinced emotions of the profoundest gratitude, and declared his distrust of his ability to fulfill the expectations upon which their confidence was based; but gave assurances of a fixed purpose to administer the Government for the benefit and advantage of the whole country.

In alluding to the fact to which his attention had been drawn—that the chairman of the committee represented a public body a majority of whom were opposed in political opinion to the President elect, and accorded with that majority, he recognized in it the deference to the popular will constitutionally expressed, on which rest the strength and hope of the Republic; and he said that it was to have been expected of the Senate of the United States.

He expressed an ardent wish that he might be able in any degree to assuage the fierceness of party, or temper with moderation the conflicts of those who are only divided as to the means of securing the public welfare.

He said, having been reminded that he was about to occupy the chair once filled by Washington, he could hope to emulate him only in the singleness of the aims which guided the conduct of the man who had no parallel in history, and could have no rival in the hearts of his countrymen.

In conclusion, he announced his readiness to take the oath of office on the 5th March proximo, at such hour and place as might be designated.

And the committee further report, that the Vice President elect, in signifying his acceptance of the office to which he had been ehosen by the people, expressed the profound sensibility with which he received the announcement of his election, and said, that deeply impressed with the obligations which it imposed, and the distinguished honor it conferred, he should do injustice to his feelings if he failed to express his grateful thanks for this manifestation of confidence; that he should accept the office conscious of his want of experience, and distrustful of his ability to discharge its duties, but with an anxious desire to meet the expectations of those who had so generously conferred it upon him.

Mr. DAVIS then submitted the following resolution; which was considered and agreed to:

Resolved, That there be appointed a committee of the Senate to make the necessary arrangements for the reception of the President elect on the 5th of March, and to apprise him of the same.

On motion of Mr. DAVIS, of Mississippi,

Ordered, That said committee be filled by the Chair.

The VICE PRESIDENT named Mr. JOHNSON of Maryland, Mr. DAVIS of Mississippi, and Mr. DAVIS of Massachusetts.

RESOLUTIONS.

Mr. DOUGLAS submitted the following resolution; which lies over under the rule:

Resolved, That the Secretary of War be requested to transmit to the Senate a report made to Major General P. F. Smith, when civil and military governor of the city of Mexico, by Lieutenant Smith, of the Corps of Topographical Engineers, on the drainage and improvement of the valley of Mexico.

Mr. YULEE submitted the following resolution, which was considered and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the practicability and expediency of expediting the transmission of the mails between New York and New Orleans.

BILL CONCERNING RECORDS.

Mr. DICKINSON, pursuant to notice, asked and obtained leave to introduce a bill to amend an act entitled "An act to authenticate certain records," approved February 22, 1849; which was read a first and second time.

Mr. D. moved that the bill be now considered; and the motion being agreed to, the Senate proceeded to consider the bill as in Committee of the Whole.

After a few words from Mr. JOHNSON of Maryland, and from Mr. DICKINSON and Mr. BUTLER, in explanation—

The bill was ordered to be engrossed for a third reading; and was subsequently read a third time and passed.

GEORGE POINDEXTER.

Mr. JOHNSON, of Louisiana, moved that the previous orders be postponed, and that the Senate proceed to consider the bill for the relief of George Poindexter.

The question being put on this motion, it was decided in the negative.

APPLICATIONS FOR PATENTS.

Mr. BRIGHT moved that the previous orders be postponed, and that the Senate proceed to consider House bill to provide for a mode of making applications for the renewal of patent-rights in certain cases.

The motion having been agreed to, the Senate proceeded to consider the bill as in Committee of the Whole

Mr. BALDWIN inquired whether the Committee on Patents had reported favorably on that bill?

Mr. WESTCOTT entered into an explanation of the merits of the bill, and the action of Congress thereon. He said the object of this bill was to give the Commissioner of Patents the authority to renew such patents as it was his opinion should be renewed in order to do justice to the applicant.

Mr. FOOTE expressed a desire that the bill might pass.

Mr. DAVIS, of Massachusetts, stated that he was not friendly to the passage of the bill when it was before the committee. He thought it would be a great wrong to the public, and contrary to sound policy, to allow a person to renew a patent after it had become the property of the public; and it would become their property, in many cases, at the end of fourteen years.

Mr. BRIGHT suggested that many patentees might not be aware when the fourteen years for which their patent was granted had expired, and there might be circumstances which would prevent attention to the renewal at the proper time. He thought it more just to leave the matter with an officer of the Government than to Congress.

Mr. CALHOUN doubted the constitutionality of an act of this kind, because, according to the stipulations made between the patentee and the community, the patent is to expire at the end of fourteen years, unless renewed at that time.

Mr. CAMERON thought injustice might be done to those who desired to renew a patent, who might be prevented from making application at the precise time which was necessary, and referred to the case of an individual who had suffered great loss in that manner. He hoped the bill might pass.

Mr. CALHOUN moved to lay the bill upon the table; which was agreed to.

DISABLED SOLDIERS AND SEAMEN.

Mr. JONES moved to suspend the prior orders, and that the Senate proceed to consider the bill to regulate the pensions of officers, soldiers, seamen, and marines, who have been, or may hereafter be, disabled in the service of the United States.

The motion was agreed to; and after a conversation, in which Mr. KING and Mr. JOHNSON of Louisiana participated—

Mr. CAMERON moved to lay the bill on the table; which was agreed to: Ayes 24, noes 18.

LAND TO MISSISSIPPI.

Mr. FOOTE moved to suspend the prior orders, and that the Senate proceed to consider the bill granting a half section of land for the use of schools within fractional township 19 south, of range 18 west, county of Lowndes, State of Mississippi; which was agreed to.

The bill was then considered as in Committee of the Whole, and was ordered to a third reading.

Subsequently, the bill was read a third time, and passed.

CIVIL AND DIPLOMATIC BILL.

The Senate then resumed the consideration of the bill making appropriations for the civil and diplomatic service of the United States for the year ending 30th June, 1850.

The bill being under consideration as in Committee of the Whole, and the question being on the motion submitted by Mr. HALE to amend the bill in the clause specifying the amounts appropriated for the salaries of the United States ministers at France, England, and Russia, by making the clause read:

For a minister in France, $15,000; for a minister in England, $20,000; for a minister in Russia, $12,000.

Mr. KING. When I suggested to the Senate last evening that some provision ought to be made to change the mode of compensating our ministers abroad, and adverted particularly to the extraordinary expenses necessarily incurred by our diplomatic agents in foreign countries, I was under the impression that the subject should be brought forward in a separate form, rather than as an amendment to an appropriation bill. And I am led to the conclusion that some legislation ought to be had on the subject, from the fact, that while the compensation which they received in the way of salary is not adequate for the maintenance of a proper style of living, we give them an outfit which is much greater than ought to be allowed, provided we increase their salaries; and the evidence of the incorrectness of the outfit as compared with the salary, is to be found in the fact that many persons are sent abroad who receive the outfit, and remain abroad but one year and return home; and others are appointed, who in their turn receive the outfit as well as salary. In a pecuniary point of view, therefore, the Government loses rather than gains by this system, under which there is a constant succession of changes, which are not at all beneficial to the public interest; for every one must see that, remaining so short a time, they have not an opportunity of becoming well acquainted with their duties, and a new man is appointed who is wholly unacquainted with them. Hence it is, I am under the impression that we ought not to increase the salary without also diminishing the outfit. If you raise the salary so as to enable our diplomatic agent to live as becomes the representative of the country, it will be all that is necessary for him, and you should take away a portion of the outfit at least, leaving merely sufficient to convey him to his place of destination. It seems to me, then, that the honorable Senator from New Hampshire would better consult the interests of the country, and the interests of the representatives of this Government hereafter to be appointed, if he would bring the whole subject before the Senate at the next session, and let the matter be carefully examined, and a bill passed placing the subject upon a proper foundation. I agree with the Senator from Ohio in one particular, that it is very important that the selection of our foreign agents should be made from men of reasonable intelligence, at least sufficient to enable them to discharge the duties devolved upon them with credit to themselves and the country; but so long as you give this stinted compensation, you either necessarily force the President to appoint persons who have large private fortunes to expend, or you throw the appointments upon those who make a job of it, and husband the little amount that is given them, and go abroad and live in a way which is not respectable in itself—at least not becoming the representatives of a nation like this—in a way which in a great degree unfits them for the discharge of their duties as those duties should be discharged. If the Senator had had an opportunity of seeing and judging of this matter by a residence abroad himself, he would have seen the great difference resulting to the interests of the country from the discharge of the diplomatic duties of a representative of this Government as those duties should be discharged, and the way in which they are often compelled to be discharged for the want of an adequate compensation to enable the diplomatic agent to incur those expenses which are necessary to place him in a proper position for the discharge of his duties advantageously. You, sir, understand this matter—that association brings you into easy communication with those who can furnish you with reliable information, so that if there be anything amiss, it can be corrected; whereas, if you have not early information, it may be too late to repair the mischief. And I think that the want of sufficient compensation to our ministers abroad is encouraging a species of aristocracy in the land, because the appointments must be confined to those who have large fortunes, to the exclusion of persons having more merit but less wealth, simply because the latter are not able to expend the large sums of money, which are requisite to support the establishment of a foreign minister. Now, sir, with regard to the extravagance of those who go abroad. Are they extravagant? It cannot be, in the nature of things, unless they possess immense private estates, the revenue of which will enable them to expend more money, wherever they may be, than ordinarily falls to the lot of American citizens. I would be the last man to advocate such an allowance to our ministers abroad as would enable them or induce them to attempt to imitate the profuse expenditures of some of the diplomatic agents of the countries of Europe. It is not necessary; it would not be proper; it would be highly improper for any diplomatic agent of this country to attempt to vie in profuseness of expenditure with the representatives of the monarchies of Europe; it would show that he did not truly represent the genius of his Government; but he should be provided with sufficient means to enable him to maintain that standing which would place him upon a social footing with those who have it in their power to be essentially useful to him. Sir, I do not believe, whatever the Senator from Ohio may say, that the American people have so little pride of character that they would wish the representatives of this Government to live meanly, below what is customary with ministers of standing and character. If he so lives, it is impossible that he can be useful; and you might just as well send your despatches across the Atlantic in the mail steamer, to be delivered by your consul; it would have a better effect than to have a minister there who cannot live in the style in which a minister ought to live. I would be in favor of withdrawing all our foreign ministers rather than to subject the country to the degradation of having them so badly provided with the means of support that they cannot live in a becoming manner. Still, as I said last evening, I think it would be better that the honorable Senator should not press his amendment now. There are a great many chargés d'affairs that are useless. A consul general would do just as well, as it is providing for persons who can do little or no service. A nation is judged of abroad by the individuals by whom that nation is represented, and it must be confessed that there have been a great many very bad specimens sent abroad as chargés. I think it would be far better to withdraw many of them, putting the business into the hands of the consul general; and by regulating the outfit so as to cover the actual expense of travel, and regulating the salary of the minister who is necessarily involved in great expense, and is, in some cases, unable to encounter that expense, a great good will have been accomplished.

I know by experience the expenses which a residence abroad necessarily requires. When the country was young we were represented in France by one of the ablest men the world ever saw. His expenses, economical as he was, at a time, too, when everything was cheaper than at present, were twelve thousand dollars yearly. At the formation of the Government twelve thousand was the maximum allowed; and still we have gone on, although the expense of living is greatly increased, making no distinction, retaining the same amount to this day. We have made no discrimination between those that are expensive and those that are not. If you take Berlin or Madrid, the expense is not one-half so great as in France and England. The matter requires some alteration. It is a duty which we owe to the interests of the country, to the people of this country, to send proper representatives abroad, and to pay them such compensation as will enable them to represent the Government to the best advantage. I prefer, therefore, that the amendment should not be pressed now; and I shall be prepared, if I ever have anything to do with it again, to vote for regulating the salaries of our ministers abroad so as to give them that fair compensation which will command the services of men of talent, and enable them, whether they have private fortunes or not, to live respectably. It is not worthy of this Republic to pursue any other course, for it is not always that talent is found to exist where wealth is most abundant.

Mr. HALE. Mr. President, the honorable Senator from Massachusetts, in the course of his remarks last evening, stated that he had never been abroad as a foreign minister, and never should be. I do not mean to say quite so much as that, for since I came here, and have seen what foreign ministers are made of, I think we are all in danger. But I simply say that I shall not probably go for some time. I want to say a single word in reference to a single remark which fell from the honorable Senator from Ohio—without his usual caution, I presume, for he not only weighs his words well generally, but gives us weighty words. He said that if we want to raise the reputation of our diplomatic corps abroad, it must be done by looking more to the character of the men sent than to the amount of their compensation. We must have respect to the men, and not to money. But when I look around this floor and see who have been sent to Russia, and who to France, I thought it was vain to look for better, for, as far as worth of character could go, it was vain to look further. So much for that. Sir, I think it is perfectly idle, the idea is absurd, with all deference to the honorable Senator from Ohio. But, sir, the remarks of the honorable Senators from Alabama and South Carolina spoke to my mind the uniform language which I have always heard; and that is, that the amount paid is notoriously inadequate. And I trust I may state a fact which occurred in connection with one of our foreign ministers without offending any one. On one occasion of a festival of some kind in London, in those times when it was the custom to illuminate the houses of foreign ministers on such public occasions, it was observed that the house of the American minister was only half illuminated; that one-half the building was still dark. The inquiry arose, what does this mean? Why is it that on this festival this house is not illuminated like the rest? And the humiliating fact was then trumpeted through the streets of London that the pay afforded to this minister by his economical Government would not allow him to hire a whole house, and as he had the control of only half the house, he could illuminate no more of it. That fact came to me from a friend who was in London at the time. It is proposed to add six thousand dollars to the salary of our Minister to France, eight thousand to that of our Minister to Great Britain, and three thousand to that of our Minister to Russia, so as to make the whole increase $20,000; and it seems to be admitted, I do not say on all hands—but it seems to be admitted that the compensation is notoriously inadequate; but gentlemen think this is not the time to propose the remedy, and this is not the place. I will only repeat the remark, that the very time to act is when we discover the necessity of action; and if we act on it now, though the measure is lost, it will serve to bring the matter before the country. I would simply add, that I believe that whoever has noticed the course of so humble an individual as myself here, will have perceived that I have not been in favor of great and unnecessary salaries; but I believe it is the poorest kind of economy to send our representatives abroad with such a pitiful compensation as they receive, and without such a full compensation as a proper respect for our Government demands.

I have proposed this amendment believing that this is the proper time; but if we do not adopt the amendment, it is still desirable to have a vote on it, which shall go out and call attention to the facts. I prefer that a vote be taken, and if the vote be adverse on the one to France, the rest shall be withdrawn. I have proposed this addition in this case, because it only makes the whole salary equal to the ordinary expenses of those in similar stations living there.

Mr. ALLEN. Mr. President, I wish to say one word. My friend from Alabama states that the effect of low salaries hitherto has been to abridge the time of the absence of ministers abroad, and to bring them home quick. That is undoubtedly true, sir. And I do not question the fact that ministers sent abroad return far more willingly with small salaries, than they would with large salaries, and that, I hold, is one of the strongest arguments in favor of small salaries. During Gen. Washington's Administration the Cabinet made a rule that no minister should be allowed to remain abroad more than four years. The reason for the rule was, that it was thought better that our ministers representing the country abroad should not be too long abroad, where they would naturally become more or less alienated from their country, and would be moved by feelings and ideas of the community by which they were surrounded. That was the reason given; and hence on one occasion one of our ministers—Mr. Middleton, perhaps, from South Carolina—was recalled, very much to his surprise, and felt confounded till it was explained to him that the rule which the Cabinet had adopted did not allow a longer absence, and that he was recalled under the rule.

If you increase these salaries so as to enable a minister to reside in great splendor abroad, just in proportion as the facilities are given for gratifying his desires and tastes for extravagance, will he be incorporated with things abroad, and be more anxious to remain. Now, sir, my friend from Alabama has had such experience, and I have had none, and I think I shall never have any. But this argument is on the ground, that the style of living is essential to a successful transaction of public business. I know that there are circumstances which must attend a man to make him successful abroad; for instance, it is necessary that the minister have direct intercourse with the sovereign. For that reason, we send men of the grade of ministers oftentimes when chargés d'affaires would answer. It gives such importance in some courts, that the minister may be admitted to the sovereign, whereas the chargé would be admitted to the Secretary of State. I recollect how it was with Commodore Porter when in Constantinople. He had been chargé; but, in that capacity, could not be admitted to the presence of the Grand Sultan; and, in consequence, there was some embarrassment in the transaction of business. Well, it was proposed, and I think my friend from Missouri knows something about it, to give him a higher salary, and to give him a full commission, with a salary of $9,000. I recollect Commodore Porter said, No: I want to be minister resident, with a salary of $6,000, because that gives me a grade which will admit me to direct intercourse with the sovereign, and saves me from the expense and trouble of that splendid style of living which I should be obliged to adopt, if I took a commission of the first rank. His commission was put, therefore, in an intermediate rank between the first and second—that is to say, minister resident.

Now, suppose we adopt something like the rule which I referred to, that of recalling our ministers at a given period—as, for instance, once in four years. For the first year there is an outfit of $9,000 and a salary of $9,000, and also for the second and third a like salary of $9,000; for the fourth year a salary of $9,000, and an allowance for return of $2,250; making an aggregate of $47,250, being an average salary of more than $11,000 per annum. That is the state of the case, which is double, within a fraction, what we give to the Secretary of State, who not only represents the majesty of the Government at the Court of St. James, by his instructions to ministers, but in all the courts in the world, and has large duties to perform at home besides. He gets $6,000. He has to support his family out of this. I think we had better adhere to the old system. The Senator from New Hampshire spoke of my having made reference to the mode of increasing the respectability of those sent abroad. I only made a hypothetical suggestion. It was that, if our ideas of the proper character of those who were appointed were founded on a right standard, these offices would be more likely to be filled by the appointment of suitable officers. The Senator thinks I ought to have been more guarded. There was no necessity for that observation; for those two persons in this Chamber who have represented this country abroad are illustrations of the fact that there are men of the highest character in the nation who can be prevailed upon to accept these appointments with the present salary. There is, therefore, no necessity for any attempt to elevate the character of the nation by giving money or anything else. But I am sure, that if a minister of the American Government were to undertake to indulge in the expenses of wild extravagance, he would be more apt to be laughed at than admired. I think we had better try the old system a little longer; at all events, till we get clear of the national debt.

Mr. NILES. I am very sorry to see the friends of the incoming Administration commencing a system of raising the salaries of all public officers. That this is the intention, I think the people will not fail to discover; and will they not be apt to say, in the language of a distinguished Senator, "Is this the entertainment to which we have been invited?" I am not one of those who complain of the change that has taken place. I did not vote for the change, but I do not grieve at it; it may be for the benefit of the country; I trust it will be; and, with this view, I must say that I have witnessed these several motions for increasing the salaries of public officers with sincere regret—I am sincere in what I say—because I had some confidence that my friends of the Whig party would be able to do something for the country, to carry out some measures for the public good; but to begin in this way, by providing for office-holders, creating new missions, raising the salaries of the old and raising their grade—why, sir, it looks bad. I am very sorry to witness it, and I would advise my friends in this Senate to vote against all such propositions, and not to show, at the close of this Administration, so great an anxiety to increase the expenses of the Government. Sir, I commend these considerations to my friends on the other side of the Chamber. I had one day hoped that they would enter upon their high duties under circumstances which would inspire public confidence; and they are aware that, without that confidence, they will have very little chance of success. I wish them reasonable success. I hope they may secure the public confidence, but this movement does not strengthen that hope. I trust they may at least not break down within the first four years. We know they were unfortunate eight years ago; they broke down suddenly. I hope they may not be thus unfortunate on this occasion, but that they may look to the interests of the country, and seek to deserve the confidence of the people. But there is no worse way to secure that confidence than to commence their administration by an anxiety to make further provision for the officers of the Government, because the Government does not belong to the office-holders; it is for the people and of the people. They should take care that the public do not become alarmed at the outset. This is not a great revolution; it is not an overthow of the Democratic party, and the induction of a government that is hostile in principle to the previous government; it is not an overthrow of the popular party, as has sometimes been the case in other countries; it is not the Stuarts that are coming into power; the country has no occasion to be alarmed; they have a right to have confidence in the integrity of the new set of men that are coming into power; but gentlemen should not exhibit thus early too great an anxiety for an increase of the honors and rewards of office.

Mr. DAVIS, of Mississippi. I shall vote against the amendment, though I doubt not, from the concurrent testimony of those best acquainted with the subject, that the salaries of our ministers abroad are not adequate to the support of that style of living which they are compelled to adopt to enable them to take care, in the best manner, of the interests of the country which they represent. But I think that this is not the proper mode of making provision, that it is not the way in which the subject should be brought before the Senate. It should undergo a proper investigation; and, I will say beforehand, that I do not think that, after any amount of investigation, I shall be inclined to vote for an increase of the salaries of our foreign ministers. I much prefer to leave the matter as it is in regard to salaries, and adopt the custom which prevails with other nations, of supplying our ministers abroad with furnished houses. This would be a permanent investment, and our expenses would not be materially increased. The relief which is sought by this proposition would be thus attained in a mode more economical to the Government, and quite as useful to the minister.

Mr. UNDERWOOD. I thank the gentleman from Connecticut for what I really hold to be wise advice to this side of the Chamber. I believe that the members of this body could not take a more fatal step than to disregard that advice and vote for this proposition. How does it come before the Senate? It has already been remarked that it does not come before us by any report, nor by any statement of facts, nor by any recommendation from any of the departments. Where, then, have we the evidence which is to be laid before the country, on which to base our action? It does not exist. Gentlemen will have to vindicate themselves upon the statements of the Senator from Alabama. And if I understand him, he does not attempt to

justify the manner in which it has come before the Senate. There is wisdom in every word that the Senator from Connecticut has said. If the Whigs commence their administration by showing—and straws show which way the wind blows—that it is a leading object with them to increase salaries and to multiply the beneficiaries of this eleemosynary concern, as the Senator from Tennessee denominated the Government the other day—if that is to be the first step in the march of the Whig party to the head of the Government, my word for it, the people of this country will put their feet upon their necks four years hence, and denounce them before half that time shall run out. Sir, it does indicate to my mind a most lamentable ignorance of the public pulse of this country to make a movement of this kind at a time like this. But, sir, it is not a Whig movement. I do not know how to classify the gentleman who is the author of the proposition. I believe he is somewhat repudiated by all classes in this Chamber. The basis of the proposition is not Whig, is Free-soil, and we are called on to embrace it and bend our backs to it.

I hope we shall take the advice of the Senator from Connecticut. If I could only have my way—if I had the imperial power—I would say to all the employés of this Government, "Servants, be content with your wages;" and if they were not content, I would compel them to leave the employment, and give their places to better men. I would do another thing if I had the power: I would say to those who are coming from all points of the compass to this Capitol for the purpose of obtaining office, "Go home, and when you are wanted you will be sent for." I would institute an inquiry into the qualifications and character of individuals, and when I had found such as were suitable and worthy to hold office I would bring them forward. Sir, I hope we will take the advice of the Senator from Connecticut. I intend to take it for my own part; others can do as they please. But let us not, by adopting this, make it a Whig measure.

Mr. HALE. I regret that the Senator should experience any practical inconvenience in finding a Senator in this Chamber who is not colored, marked, or branded, so that he can tell what he is. And, sir, he reproaches me for the paucity of our numbers, when at the same time he declares that we are increasing at the rate of a hundred per cent. per annum. But I can tell the Senator that if we are not so numerous, we are older in point of history than another party which has just come into power, the Taylor party. And I think if he will put down their numbers and our ages, he will find that they will counterbalance each other; and by and by, if we are increasing at the rate of a hundred per cent., it will be necessary for the Senator to put a mark upon us, so as to know how many we are; but as at present we have no overseers, we can act upon our own judgment, and if it is very difficult, as the Senator says, to tell where we belong, we have at least the advantage of being in this position—we have sometimes the privilege of voting according to our own judgments. And let me tell the Senator I remember an occasion on which, when an important subject was pending in the Legislature of a State, and the vote was about to be taken, a man that was marked came up to his brother members in haste, and asked, what did the caucus determine in regard to this question? He was told that they had not taken any vote upon it. Well, he said, I am relieved; I can vote as I like for once. Now, if there be anything inconvenient to the Senator from Kentucky in the fact of having no distinctive mark, I think that inconvenience is counterbalanced by the advantage of being able to vote independent of caucus determination. If the Senator and his friends were in that condition, my word for it, they would feel all the better for it.

Mr. BUTLER. When this subject was before the Senate last night it had nothing like a party aspect. It was discussed fairly, and Senators on all sides expressed themselves without regard to considerations of a party character. This morning, gentlemen, however, on all sides seem to apprehend that it is a Whig measure. I do not believe it; but I will say, that if I were satisfied it was so, and I had the testimony of gentlemen who have been abroad in the character of diplomatic agents of this Government that the salaries paid to our foreign ministers are too small, I should not be deterred from consulting the honest convictions of my judgment because gentlemen choose to give it a party character. And I now give notice that, when it comes properly before the Senate in the shape of a bill, I shall move to reduce the salary of our minister to Chili from nine to six thousaud dollars. I am satisfied, with other Senators who have spoken, that this is not the place for the introduction of such an amendment as this for graduating the salaries of our foreign ministers; and I take occasion to say that many amendments have been incorporated into this bill which I think are entirely incongruous, but the responsibility is not mine. The very moment that amendments have been offered that were calculated to embarrass the bill, I have opposed them, but when I saw that they continued to be adopted by the Senate, I acquiesced, and I shall go on now and shall vote for the amendment of the Senator from New Hampshire. I do not know whether he introduces it by advice or not—whether it be the hands of Esau, but the voice of Jacob——

Mr. HALE. There was no Jacob, nor Esau, nor Ishmael, that said anything about it.

Mr. BUTLER. Then I understand that the Senator introduced it of his own volition, and had not the advice or coöperation of any one. I am satisfied that the salaries of our ministers in England, France, and Russia ought to be raised; and, although this is not the proper mode of doing it, I shall not hesitate to vote in favor of the proposition, for I believe that justice requires it.

Mr. FOOTE. After the information which has been laid before the Senate by the Senator from Alabama and others, I would decidedly have been inclined to increase the salaries of our foreign ministers, by some proper provision for that purpose, without requiring any further information on the subject; but, whilst I am thus willing to vote for an increase of compensation for our ministers abroad, for the reasons that have been so well stated by Senators here; and whilst I am as willing to vote for such increase at the present moment as I would be even if the Democratic party had been successful in the Presidential election, yet the enormity of this proposition is such that I cannot give it my sanction for a single instant.

Mr. RUSK. My vote upon this subject shall not be determined by any party considerations. I shall vote against the proposition, not because I do not think the salaries of many of our foreign ministers entirely too low; I believe they are too low, and whenever Congress chooses to take the subject into consideration, I shall cast my vote to increase them; for I think it is false economy to send our foreign ministers without a proper compensation. But this amendment proposes to change a system which has been pursued for forty years. I am not prepared to do this, and that in an amendment to an appropriation bill, and at the close of the session. If this matter came properly up, having been looked into by a committee, and a bill reported to put these salaries upon a proper footing, where justice would be done to the smallest as well as to the largest, I should cheerfully vote not only for an increase, but for a liberal increase.

Mr. CALHOUN. I rise to say a very few words. My impression is, that a revision of the whole of the subject is necessary. I think there ought to be a special salary for each court, because there are a great variety of circumstances that serve to increase the expenses; but this is a thing which ought to be done after a very careful examination of the subject. It ought to be examined by a special committee—a committee raised for that express purpose. Under these circumstances I cannot vote for the proposition. It has been presented without a particle of information, as far as I can learn—taken up I suppose barely upon individual assertion, at a late period of the session, when there is no time to examine it here or in the other House. I hope the proposition will not receive the sanction of the Senate.

Mr. HALE. As the expression of the sense of the Senate seems to be that this subject requires examination by a committee, and that there is not sufficient time to act upon it now, on the suggestion of the Senator from Texas, and the Senator from South Carolina, I will withdraw the amendment, and give notice that I will renew it, if I should live, at the next session.

The amendment was accordingly withdrawn.

Mr. WESTCOTT moved to amend the bill by inserting the following:

For buoys at Nassau river, on the coast of Georgia, $1,000.

The amendment was agreed to.

Mr. WESTCOTT moved to amend the bill by inserting a new section, providing for the payment of certain sums to reimburse the State of Georgia, for payment for losses caused to Mr. Jarnigan by Indian hostilities.

Mr. ATHERTON opposed the amendment, as relating to a private claim.

Mr. ATCHISON defended it.

Mr. JOHNSON, of Georgia, and Mr. BERRIEN also advocated the amendment.

Mr. PHELPS opposed it, and asked the yeas and nays; which were ordered.

The question was then taken and decided—yeas 8, nays 39—as follows:

YEAS—Messrs. Atchison, Berrien, Borland, Breese, Johnson of Louisiana, Johnson of Georgia, Mangum, and Westcott—8.

NAYS—Messrs. Atherton, Baldwin, Bradbury, Bright, Calhoun, Cameron, Clarke, Corwin, Davis of Mississippi, Dayton, Dickinson, Dix, Dodge of Iowa, Downs, Felch, Fitzpatrick, Foote, Greene, Hale, Hamlin, Houston, Hunter, Johnson of Maryland, Jones, King, Mason, Miller, Niles, Pearce, Phelps, Rusk, Spruance, Sturgeon, Turney, Underwood, Upham, Wales, Walker, and Yulee—39.

So the amendment was rejected.

Mr. FOOTE moved to amend the bill by altering the compensation to the inspectors of the penitentiary, in the District of Columbia, by increasing the amount.

Mr. CAMERON opposed the amendment, and stated that there was a necessity for retrenching the system.

The amendment was rejected.

Mr. PEARCE, from the Committee on the Library, moved to amend the bill by inserting an appropriation of $6,000 for printing a catalogue of the Library; which was agreed to.

Mr. P. also moved to amend, by inserting an appropriation of $15,000 for completing the publication of the works of the Exploring Expedition, &c.; which was agreed to—ayes 27, noes not counted.

Mr. P. also moved to amend, by inserting an appropriation of $4,000 for certain alterations in the document room and post office of the Senate, and the circular room on the upper floor of the Capitol; which was agreed to.

Mr. KING moved to reconsider the vote of last evening, on the subject of the custody of the archives in Florida; which was agreed to.

On motion of Mr. KING, the amendment was then renewed in a modified form, and agreed to.

Mr. BRIGHT moved to amend by inserting an appropriation of $20,000 for the payment of commissions to the depositaries of the public moneys; which was agreed to.

Mr. DODGE, of Iowa, moved to amend the bill by inserting an appropriation of $16,000 for completing the geological survey of the mineral lands in Wisconsin, Michigan, and Arkansas; which was agreed to.

Mr. ATHERTON moved to amend the bill by inserting an appropriation of $100,000 for compensation for mileage to Senators, &c.; which was agreed to.

Mr. ATHERTON also moved an amendment, inserting an appropriation of $3,893 60, to supply deficiencies in the appropriation for books; which was agreed to.

Mr. CAMERON moved an amendment, inserting an appropriation of $250, to pay for some work in the State Department; which was agreed to.

Mr. KING moved to amend the item relating to the salary of a commissioner to the Sandwich Islands, by striking out the words "for the salary of a commissioner, three thousand dollars," and inserting "for salary and outfit, six thousand dollars."

On this Mr. K. said, if the gentleman appointed to this office had been called a chargé d'affaires, he would have received a salary of four thousand five hundred dollars and an outfit; but, inasmuch as he has been called a commissioner, no provision has been made with reference to his outfit. It is important that we should have a commercial agent at these islands, in order to effect some treaty with their inhabitants, as they are great recruiting depôts for our whalemen. To negotiate a commercial treaty, securing us proper advantages, it is necessary that we should have a diplomatic agent there, who should be well provided for, in order to effect the purposes of such an embassy. In the character of a commissioner, he will doubtless perform the duties of a chargé d'affaires; as in the case of Mr. Niles, who was sent to Austria as tobacco

agent. He was not a chargé d'affaires, and yet he was allowed an outfit of four thousand five hundred dollars. This rate of compensation proposed by my amendment received the recommendation of the committee of which I am a member.

Mr. ATHERTON. I believe the allowance alluded to by the Senator from Alabama as made to Mr. Niles was an allowance made to him after his return, by Congress, who fixed upon the usual sum given to a chargé d'affaires as a proper compensation to him on account of his services in having negotiated a treaty. It is not to be supposed that all commissioners are to be allowed an outfit. I am not aware of any instance of a commissioner, as such, having been allowed an outfit. I am opposed to commencing a custom of allowing our commissioners outfits. Perhaps the reason why this officer was appointed as a commissioner was, to avoid the expense of an outfit, when he answers the purposes sought to be attained just as well as a chargé d'affaires.

Mr. CAMERON. This is the commencement of a new foreign mission. The gentleman who has been appointed, no doubt, is thankful for his situation. He has not yet left this country, and now you are about giving him a bonus which he never expected to receive—forcing him to receive an outfit. When we have a foreign minister in a certain place, pay him the regular salary due him; but do not pay this commissioner—who may be perfectly able to discharge the duties of an ambassador—the salary of a foreign minister.

Mr. KING. Senators should bear in mind that this individual goes out in the character of a diplomatic agent, to negotiate treaties for this Government; and I would ask what justice there is in excluding him from the allowance you give to chargé d'affaires, and which you granted in the case of Mr. Niles, merely because he has received the official name of commissioner? Mr. Niles was sent out as a commissioner to Austria and negotiated a treaty—the same as this gentleman is empowered to do—and received the outfit of a chargé d'affaires. This gentleman is your diplomatic agent, and it is necessary that you should properly prepare him, in a pecuniary way, for his residence—for the benefit of your citizens if nothing else—in these distant isles of the ocean.

Mr. CAMERON. I listened very attentively last evening to the remarks of the Senator from Alabama, although I did not agree with him upon sending a minister to the Court of France. If the remarks be made with reference to an outfit of a minister to the Court of France were true, do they not apply with equal force to the Court of Honolulu? He stated that the salary of foreign ministers should be graduated according to the expense necessary in keeping an establishment that would do justice to the character and reputation of our Government. Now, your minister will want no coaches—no liveried footmen—no splendid dresses at Honolulu; he will be put to no extraordinary expense in entertaining the best society of the "Isles." He can illuminate his house without any great expense, as oil is to be had in abundance, [laughter.] The great reason in my mind why this increase of compensation should not be allowed is, that this gentleman was very glad to get the situation—made great exertions to get it—with its present rate of salary. After he shall have gone there, if he performs extraordinary services for the Government, there will be enough of gentlemen here willing to increase his compensation.

Mr. WESTCOTT. I hope this allowance will be granted, for I happen to know that the late commissioner to the Sandwich Islands lost money by his appointment—his salary was not equal to his expenses. There is no very magnificent court at Honolulu, but if the gentleman from Pennsylvania supposes that the inhabitants of the Sandwich Isles are barbarians, he is mistaken; they are a civilized people. It is important to have a man there who will carry out our interests in every possible manner. And I ask the Senator from Pennsylvania if he would be willing to go six thousand miles to an island in the Pacific Ocean to stay only one year for three thousand dollars? I think not.

The hour of four having arrived, the Senate took a recess.

EVENING SESSION.

The Senate resumed the consideration of the civil and diplomatic appropriation bill, the pending question being on the amendment to appropriate $3,000 for an outfit to the Commissioner to the Sandwich Islands. On this, and on an amendment to the amendment to give a similar outfit to Mr. Anthony Ten Eyck, late Commissioner to these Islands, a discussion arose, in which Mr. KING, Mr. FELCH, Mr. HAMLIN, Mr. HUNTER, Mr. DIX, Mr. CAMERON, Mr. DOUGLAS, Mr. WESTCOTT, and Mr. DAVIS of Massachusetts, took part. The amendment to the amendment was rejected.

On the amendment the yeas and nays were ordered, and were—yeas 9, nays 38. So the amendment was rejected.

Mr. DIX offered an amendment to appropriate $8,100 to pay to the widow of the late Commodore De Kay the balance of the expenses incurred in fitting out the frigate Macedonian, to carry provisions to the suffering poor of Ireland: on which a debate arose, in which Mr. DIX, Mr. YULEE, Mr. BADGER, Mr. BUTLER, Mr. DAVIS of Massachusetts, Mr. MILLER, Mr. DAYTON, Mr. FOOTE, Mr. RUSK, and Mr. DICKINSON, participated.

The amendment was rejected.

Mr. PEARCE, from the Library Committee, submitted an amendment to appropriate $20,000 for the purchase of the remaining books, papers, &c., of the late General George Washington, and a like sum for the purchase of the manuscripts of the late James Monroe, that they may be deposited in the Department of State. After an explanation from Mr. P., it was agreed to.

Mr. WESTCOTT moved to insert an item of $2,500, to pay the expenses of a recent arbitration in relation to some disputed church property in Florida, to which the General Government was a party. It was agreed to.

Mr. CLARKE moved the insertion of an item of $300, to reimburse the expenses of Mr. Robert Beale, who, by direction of the Secretary of State, proceeded into Virginia to inform Mr. Tyler, Vice President of the United States, of the death of President Harrison, in 1841. Agreed to.

An amendment offered by Mr. FELCH, making an appropriation of $10,000 for correcting erroneous and defective surveys of Michigan, was agreed to.

An amendment by Mr. BORLAND, to increase the salary of the chief clerk in the Pension Office, was not agreed to.

Mr. DAVIS, of Massachusetts, moved the insertion of an item of $500 for the services of Judge Cranch, of the District of Columbia, in appeal cases from the decisions of the Commissioner of Patents.

After discussion, which was participated in by Messrs. DAVIS of Massachusetts, CAMERON, BADGER, BERRIEN, and others, the amendment was rejected.

Mr. DAYTON moved to insert an item of $5,000 for the purchase of Catlin's gallery of paintings and Indian curiosities, being one year's instalment of $50,000, to be paid in ten years.

After debate, in which Messrs. DAYTON, ATHERTON, WEBSTER, BERRIEN, HUNTER, FOOTE, BORLAND, BUTLER, UNDERWOOD, and DAVIS of Mississippi, took part—

Mr. ALLEN called for the yeas and nays, and they were ordered, and were—yeas 23, nays 25.

Mr. UNDERWOOD moved the insertion of an item of $1,500 for the employment of a person to pursue the examination of claims under the act for the armed occupation of Florida. Agreed to.

On the motion of Mr. SEBASTIAN, an amendment was made, of which we did not distinctly hear the purport.

On the motion of Mr. TURNEY, an amendment was adopted to continue for specific duties three temporary clerks in the General Land Office.

On the motion of Mr. NILES, additional compensation was allowed to messengers in the Post Office Department, to place them on the same footing with messengers in other departments.

Mr. NILES moved to insert an item of $2,250 for compensation of Mr. S. R. Hobbie, as special agent to Europe, to make arrangements for the United States mails.

After a debate, in which Messrs. NILES, JOHNSON of Louisiana, JOHNSON of Geo., ALLEN, RUSK, PHELPS, and FOOTE, took part, the amendment was rejected.

Mr. YULEE moved to amend by inserting an item of $2,000 for extra services for two years of the Surveyor General of Florida; which was rejected.

Other amendments by Mr. YULEE and Mr. PHELPS were also rejected.

The bill was then reported to the Senate; and, at 10½ o'clock, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 27, 1849.

The Journal of yesterday was read and approved.

Mr. ROCKWELL, of Connecticut, by leave, offered the following resolution; which was read and agreed to:

Resolved, That the following be added to the joint rules of the two Houses, to go into operation if approved by the Senate:

23. Private bills from the Senate, in Committee of the Whole House in the House of Representatives, and private bills from the House of Representatives, in the Senate, shall be placed first in order on the calendar of the two Houses; and those bills to which there shall be no objection shall be first considered.

Mr. HALL, of Missouri, by leave, presented a memorial of the Legislature of the State of Missouri to Congress, praying a grant of land for the construction of the Hannibal and St. Joseph railroad.

Also, a memorial of the Legislature of the State of Missouri, on the subject of a geological survey of the State of Missouri; which were laid on the table and ordered to be printed.

DUTIES IN MEXICO.

Mr. TOOMBS asked leave to report a bill from the select committee on the imposition of duties in Mexico, accompanied by a report in writing.

Mr. WENTWORTH. Is that report in order? I object to it, because I want the committees called in order. I have no objection to that particular report.

Mr. TOOMBS. I move to make the bill the special order for to-morrow.

The SPEAKER. The Chair understands that the reception of the report is objected to.

Mr. TOOMBS. Then I move a suspension of the rules, to allow me to make the report.

Mr. McCLERNAND. I hope my friend from Illinois will not persist in his objection.

Mr. WENTWORTH. I hope the gentleman [Mr. TOOMBS] will modify his motion so as to suspend the rules for the reception of reports generally.

Mr. BURT desired to make a suggestion to gentlemen on the other side, viz: that all the committees be called. There was a great deal of matter in the possession of the committees, which gentlemen might have no other opportunity to report.

Mr. TOOMBS. This is a bill unanimously reported by the select committee, and it is necessary that it should pass, or the Government cannot——

[The remainder of the sentence was inaudible to the reporter.]

The question was taken, and the motion to suspend the rules was rejected.

Mr. WENTWORTH called for the regular order of business—the reception of reports from the committees.

On motion of Mr. HALL, of Missouri, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the petition of Heinrich Lange and others, and that it be laid upon the table.

REPORTS OF COMMITTEES.

Mr. HALL, from the Committee on Public Lands, to whom was referred the petition of David A. Ely, James and Isham B. Dodson, C. W. Harden, reported a bill for the relief of David A. Ely and others, accompanied by a report in writing; which bill was read twice, committed, and the bill and report printed.

Mr. H. also, from the same committee, reported a bill to provide for the sale of certain lands in the State of Ohio, accompanied by a report in writing; which bill was read twice, committed, and the bill and report ordered to be printed.

Mr. H. also, from the same committee, to whom was referred the bill from the Senate entitled "An act for the relief of Cadwalader Wallace," reported the same back without amendment, accompanied by a report in writing; which was committed, and the report ordered to be printed.

Mr. EVANS, of Maryland, from the same committee, to whom was referred the memorial of the Board of Supervisors of the county of Monroe,

Michigan, for a grant of land, made an adverse report thereon; which was laid upon the table, and ordered to be printed.

Mr. EVANS also, from the same committee, reported a bill for the relief of Solomon Davis; which was read twice and ordered to be engrossed and read the third time; and being engrossed, was accordingly read the third time and passed, and sent to the Senate for concurrence.

Mr. COBB, of Alabama, from the same committee, to whom was referred the petition of William C. Jones, of Jefferson county, Iowa, praying for a grant of land, in consideration of the money he has expended and the services he has rendered to the Democratic party, made an adverse report thereon; which was laid on the table and ordered to be printed.

Mr. COBB also, from the same committee, to whom was referred the bill for the relief of certain settlers on the 16th section, in township 21 north, range 11 east, Ouachita land district, Louisiana, reported the same back to the House without amendment, accompanied by a report in writing; which was committed, and the bill and report ordered to be printed.

Mr. COBB also, by unanimous consent, in pursuance to previous notice, obtained leave and introduced the following bill:

A BILL to reduce and graduate the price of the public lands to actual settlers and cultivators.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all the public lands of the United States which have been offered for sale for three years or more, shall, to actual settlers and cultivators, be subject to entry at one dollar per acre, until the first day of July, one thousand eight hundred and fifty; all then remaining unsold shall be subject to entry at seventy-five cents per acre, until the first day of July, one thousand eight hundred and fifty-two; all then remaining unsold shall be subject to entry at fifty cents per acre, until the first day of July, one thousand eight hundred and fifty-four; all then remaining unsold shall be subject to entry at twenty-five cents per acre, until the first day of July, one thousand eight hundred and fifty-six; and all then remaining unsold shall thereafter be subject to entry at twelve and a half cents per acre.

SEC. 2. *And be it further enacted*, That all public lands which have been, or may hereafter be, offered for sale shall, at the expiration of three years from the date of offering, be subject to the same system of graduation, entry, and session as is prescribed in the foregoing section: *Provided*, That no one person under the provisions of this act shall be authorized to purchase more than one half section at the two lowest rates, that is to say, at twenty-five and twelve and a half cents per acre.

SEC. 3. *And be it further enacted*, That upon every reduction in price under the provisions of this act, the occupant-and settlers upon the lands shall have the right of preëmption at such graduated prices, which right shall extend to a period of one year from and after the date, when the respects ive occupants and settlers within that period shall be liable to be entered or purchased by any other person, until the next graduation or reduction shall take place; and, if not so purchased, shall again be subject to right of preëmption for twelve months as before, and so on from time to time as reductions take place: *Provided*, That nothing contained in this act shall be construed to interfere with any right which has accrued, or may accrue, by virtue of any act granting preëmption to actual settlers upon public lands.

SEC. 4. *And be it further enacted*, That any person applying to enter any of the aforesaid lands, under the provisions of this act, shall be required to make affidavit before the register or receiver of the proper land office, that he or she enters the same for his or her own use, and for the purpose of actual settlement and cultivation, or for the use of an adjoining farm or plantation owned or occupied by him or herself; and, together with said entry, he or she has not acquired from the United States, under the provisions of this act, more than three hundred and twenty acres, according to the established surveys. And if any persons taking such affidavits shall swear falsely in the premises, he or she shall be subject to all the pains and penalties of perjury.

SEC. 5. *And be it further enacted*, That where there are no settlements made upon any public lands of the United States, which have been offered for sale, for the time specified in this act, then it may be lawful for any person or persons to enter guarantees not to exceed one quarter section, under the provisions of this act.

On motion of Mr. COBB, it was ordered that the said bill be laid upon the table and printed.

Mr. COLLAMER, from the Committee on Public Lands, to whom was referred the bill from the Senate entitled "An act to grant to the Atlantic and Gulf Railroad Company the right of way through the public lands of the United States," reported the same back to the House without amendment.

Thereupon, the said bill was read the third time, and passed.

Mr BOTTS moved that the vote be reconsidered by which the said bill was passed, which motion was postponed for the present.

FREEDOM OF THE PUBLIC LANDS.

Mr. COLLAMER, from the Committee on Public Lands, to whom was referred the bill to discourage speculation in the public lands, and to secure homes thereon to actual settlers and cultivators; reported the same back to the House without amendment.

Mr. GREELEY. This is the bill which I introduced at an early day, upon notice given on the second day of the session. It is the only bill which has been before the Committee on Public Lands this winter, proposing to recognize, in any form, the principle that a man is entitled to live *somewhere*, although he has no money wherewith to buy land to live on. This bill asserts this principle in the meekest and least exceptionable manner. It respects the pledges solemnly made of the proceeds of our public lands to secure the payment of our Mexican war loans. The fee of every acre of the public lands will remain in the United States, under the provisions of this bill, until it shall have been purchased and paid for by the holder. And, while it thus guards the interests of the whole country, it secures a home to every one who will claim it, without money and without price. Such are the general characteristics of this bill. Its material provisions are as follows:

1. Every citizen or applicant for citizenship is authorized by this bill to claim and settle upon any quarter-section of the public lands subject to private entry at the minimum price, receiving a certificate of right of preëmption thereto for seven years thereafter.

2. At any time during those seven years, upon giving due proof that he has improved, cultivated, built a dwelling upon, and now actually inhabits that quarter-section, and is the owner or claimant of no other land whatsoever, he (or she) shall be entitled (if a single person) to a right of unlimited occupancy to forty acres of said tract, or (if the married head of a family) to a like right of occupancy to any legal subdivision of eighty acres thereof, to be his without payment, and to pass to his heirs or assigns, who are owners or claimants of not more than one hundred and sixty acres of land, this included.

3. The balance of the one hundred and sixty acres covered by preëmption, as aforesaid, may be purchased by the legal occupant at any time within the seven years' existence of the preëmption, at the present minimum price of one dollar and a quarter per acre, with legal interest thereon from the date of preëmption. If not so purchased, it will be open to preëmption or purchase by any other person, as aforesaid.

4. Any person may purchase, at the present legal minimum, any quantity of the public lands, making affidavit that he requires the same, and the whole of it, for his own use and improvement; but any person failing or neglecting to make and file such affidavit, shall be charged, and shall pay, for whatever land he may buy, the minimum price of five dollars per acre.

Such, in substance, is the bill submitted by me, and now before the House, which the Committee on Public Lands have reported to be summarily dismissed. I shall not tax the time of the House with any argument in its favor, for which there is now no time. I simply ask the yeas and nays on the rejection of the bill.

Mr. GOGGIN interposed a motion, that the bill be laid on the table.

Mr. GREELEY. I ask the yeas and nays on that motion.

[Only about twenty members rising to second the call for the yeas and nays, they were not ordered; and the bill, by a *viva voce* vote, was laid on the table.]

Mr. COLLAMER, from the Committee on Public Lands, reported a bill in relation to the Fox and Wisconsin river reservation in the State of Wisconsin; which was read twice, and ordered to be engrossed; and being engrossed, was accordingly read the third time and passed, and sent to the Senate for concurrence.

Mr. C. also, from the same committee, to whom was referred the bill from the Senate entitled "An act to grant to the State of Illinois a right of way through the public lands of the United States, and for other purposes," reported the same back to the House, without amendment.

The question being upon the third reading of the bill—

Mr. COLLAMER proceeded to make a few remarks in explanation of the character of the bill, and in favor of its objects.

Mr. THOMPSON, of Mississippi, interposed, and asked Mr. C. so to modify the bill as to extend its provisions to all the States.

Mr. COLLAMER said he had no authority so to do. The committee had not so instructed him.

Mr. ASHMUN moved that the House resolve itself into Committee of the Whole on the state of the Union.

The question was taken, and decided in the affirmative.

CALIFORNIA TERRITORIAL GOVERNMENT.

So the House again resolved itself into Committee of the Whole on the state of the Union, and resumed the consideration of the bill to establish the territorial government of Upper California.

Mr. ROMAN, who addressed the committee in part last night, resumed his remarks on the subject of the tariff, and had not concluded when, under the order of the House, yesterday adopted, all debate on the bill terminates.

The committee then proceeded to vote.

The pending question was on the motion heretofore made by Mr. CHAPMAN, of Maryland, to strike out the first section of the bill.

Mr. CHAPMAN now withdrew that motion.

The bill was then considered by sections.

The twelfth section of the bill being under consideration, in the words following, to wit:

SEC. 12. *And be it further enacted*, That the inhabitants of said territory shall be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio, by the articles of compact contained in the ordinance for the government of said territory, on the thirteenth day of July, seventeen hundred and eighty-seven, and shall be subject to all the conditions, restrictions, and prohibitions in said articles of compact imposed upon the people of said territory.

Mr. SAWYER moved that it be stricken out.

Mr. WENTWORTH demanded tellers on that motion.

Mr. SAWYER said, he desired to say a very few words in explanation. He had made the motion on the ground that he did not recognize the right of Congress to say what kind of laws should be passed by the people of this territory, provided they were republican, as submitted to the investigation of Congress. Congress had no right to say that the people there should or should not pass this or the other law. He believed that if Congress had power to say that slavery should not exist in the territory, it had power to say that it should exist. He insisted that Congress had no power at all, either in the Constitution or that was implied, that could give them this right. If the people of this territory, after they were organized, should see proper to pass a law prohibiting slavery, they should have his hearty assent and coöperation. If he should happen to be a member of this body at such a time, and should be called upon to sanction that law, he would do so. If, on the other hand, the people should think proper to pass a law providing that slavery should be established there, and such should appear to be the wish of the people, that law also should receive his hearty assent and coöperation. They were the most capable of judging what laws should govern them, and what was best for their benefit. He was not willing to force upon them the laws which they should or should not pass. He had therefore submitted his motion to strike out, in order to leave to the people the disposition of these matters, which belonged to them.

Mr. McCLERNAND, (to the Chair.) I believe the proposition is now to strike out the 12th section of the bill.

The CHAIRMAN having answered affirmatively—

Mr. McCLERNAND said, he believed that a motion to amend had precedence over a motion to strike out.

He would therefore move to strike out so much of the section as followed the words "eighty-seven."

Mr. McC., in explanation, said he would not go into the question of the power of Congress over the subject of slavery in the Territories; he had expressed himself upon that question, and his views were unchanged. He would limit himself to a practical view of the measure.

It would be remembered that the agitation of slavery had delayed the extension of civil government to Oregon for several years; and it was known that the aggravations of that agitation would be attended with more destructive effects in relation to New Mexico and California. At the last session

of Congress this House had passed one or more measures for the extension of civil government to those Territories, which uniformly failed in the Senate, in consequence of the incumbrance of the "Wilmot proviso." The two Houses were constituted now as they were then; and it was well known that no measure containing the "proviso" could become a law. All would concede this.

Well; the practical question arose, whether we would pass a bill without the "proviso," or do nothing? whether we would give the people of California a government stripped of the "proviso," or leave them in a state of confusion and anarchy? That was the real question. Information had reached us that our brethren in California were in a lawless and perilous state. The President had informed him that he had lately received authentic intelligence from that country advising him of the murder of a Mr. Reed, his wife, and five children, and two domestics, by lawless men. This Mr. Reed had probably emigrated from Illinois a few years ago, leaving respectable relatives in that State. Those who should defeat any government for those Territories, would be morally responsible before God and man for the violence and evils which should afflict our brethren there. Upon their heads innocent blood would rest; upon them the "damned spot" would canker. Mr. McC. would vote for any practicable measure proper to extend governments to our exposed brethren. He would vote against the "proviso;" but if a bill could not be passed without its incorporation, he would even vote for such a bill—looking steadily to the chance of some sort of government for those territories.

New Mexico and California had cost us no inconsiderable blood and treasure; those territories were the trophies of a just and brilliant war; they teemed with mineral resources, and were desirable for their climate, soil, and agricultural capabilites. They were necessary to the compactness and symmetry of our geographical position extending from ocean to ocean. The bay of San Francisco was one of the finest harbors in the world, capable of floating the navies of all the nations of the earth in safety. Upon that bay a great city was to spring up, which should become the mart of the whale fisheries of the North Pacific; of a large share of the commerce between Europe and Asia; and of course of North American commerce seeking markets in the Eastern World. There were those now living who would see a railroad communication traversing our territories from the Atlantic to the Pacific. Now, if it should happen that we should lose these invaluable acquisitions by withholding from them civil government in consequence of a willful and perverse tenacity about the Wilmot proviso, they who should be instrumental in producing this result would have a fearful responsibility to answer for—they would be answerable for clipping the wings of our soaring and culminating destiny.

Mr. McC. would have preferred some measure which would have settled definitely and forever the question of slavery. The objection that the population of California was too scanty to bear the expense of State government, was a pretence rather than an objection. The population of California before it could be formed into a State would be as great or greater than that of several of the States when they were admitted into the Union. Certainly money would be found there in the greatest abundance. Besides, no compulsion was contemplated; it would be left to the people of the territory freely to accept or reject our consent to the formation of a State government.

Mr. McC. had voted to extend our revenue laws to California. He had done this to increase and strengthen the motives for extending government, which would be likely to follow, to secure our revenues there, as well as to augment our revenues. It was a senseless clamor that we could not extend our revenue laws there, because the people of the Territory were unrepresented in Congress. This objection would have exempted New Orleans and every other port from the operation of our revenue laws during their territorial state. It would exempt the Territories entirely from the legislative jurisdiction of Congress. It would be, in effect, the alienation of our Territories. What could be more absurd? An effort has been made to distinguish California from other Territories, upon the ground that the latter were represented in Congress by delegates. Not so. They were not represented, in any constitutional sense. Their delegates sat here, not in virtue of any *constitutional* right to *demand* a seat and to *take* part in our proceedings, but through the *courtesy* of the House. And they were not allowed to take a seat in the Senate at all. They could not vote; and Congress could not confer upon them that right. The idea of territorial representation was preposterous. This was a Congress composed of the *Senators* and *Representatives* of *States*. It was among *States*, not *Territories*, that representatives were apportioned under the Constitution. [Here the hammer fell.]

Mr. SMITH, of Illinois, suggested a verbal amendment in the section.

After a conversation on a point of order between Mr. MURPHY and the CHAIR.

Mr. MURPHY moved to amend the section as follows:

But nothing in this act contained shall be held to deprive the people of the Territory of the right which was declared by the Continental Congress of 1774 to belong to the English colonies in North America by the immutable laws of nature, namely, a free and exclusive power of legislation in their territorial legislature, where their right of representation can alone be preserved, in all cases of taxation and internal polity, subject only to the approval of Congress, in such manner as heretofore used and accustomed in regard to the other Territories of the United States, and subject to the Constitution of the United States; and such acts of Congress as are either operative upon the whole of the United States, or relate to the public domain in the said Territory.

Mr. MURPHY said he trusted he should be indulged by the House with a few moments for explanation of this amendment. In his view, as heretofore expressed on this floor, the adoption or non-adoption of what was termed the Wilmot proviso was immaterial. He was prepared to go for or against it, as circumstances might require, to get a government for California; that was to say, he avowed here that he would vote for the proviso; but if it should become necessary to secure an agreement between the two Houses to strike out that proviso, he would go for striking it out.

He had repeatedly put himself on this ground: that this territory is now free. If slavery would go there by fraud and violence, as his friend from Pennsylvania [Mr. WILMOT] had said the other day, in spite of the existing municipal laws of that territory, it would go there in spite of any law which Congress might pass. If the territory were free, it must remain free; and therefore there was no necessity for passing this prohibitory law, as there was no harm in either.

But he held it to be the Republican American doctrine, that, whether as a State or Territory, this question belonged appropriately and exclusively to the people of that Territory or State. That was the doctrine laid down by the Congress of 1774, and incorporated in this amendment. He wished that the people there, who were to be affected by it, whose interests and feelings and prosperity, whose life, liberty, and property, depended upon the decision of this question, he might say, should have the decision of it, as they should of all others. He feared that if they passed this section as reported by the committee, it might be held to deprive the people of that right in regard to the question of slavery, and therefore he proposed this amendment to guard against such a result.

Mr. ASHMUN moved a *pro forma* amendment to the amendment, for the purpose (he said) of contrasting for a moment the doctrines expressed by that amendment [of Mr. MURPHY] and by the amendment of the gentleman from Ohio [Mr. SAWYER] with their conduct in relation to a different portion of the bill. The gentlemen declared that Congress had no right to control the legislation of these territories; they laid it down as a fundamental principle, and they held that Congress, therefore, had no right to pass any laws here regulating property and life in those territories.

Mr. SAWYER interposed with a question of order, and said he understood no amendment had yet been offered by the gentleman from Massachusetts.

Mr. ASHMUN said, if the gentleman would keep quiet, he would show him how he [Mr. S.] stood.

This very bill, (he continued,) in the 6th section which had been read, and which had passed by the vigilance of the gentleman from Ohio, sleeping at his post, provided for the exercise of the same power by Congress. It declared that the Legislature of the Territory should not do certain things; that it should not pass certain laws; that it should not incorporate a bank, or give any right to issue scrip, or notes of any kind for circulation, or borrow money. These hard-money gentlemen were perfectly content that Congress should exercise this power in relation to these subjects; but when the question of property in mankind was involved they denied the right of Congress altogether to legislate upon it. He held them up; let them look in that mirror; they who were so much concerned upon the question of bank notes, and were willing that Congress should exclude from this people the right to act upon that subject, turned round and said that Congress had no right to legislate upon the subject of freedom.

He withdrew his amendment.

Mr. MURPHY said he wished to say a word in reply to the gentleman from Massachusetts, and he would modify his amendment for that purpose.

The CHAIRMAN said the gentleman could not modify his amendment for the purpose of enabling him to speak again upon it.

Mr. MURPHY. Well, I wish to make the explanation, that this amendment, which I have moved, applies to the entire bill, not to this section only. [Cries of "Order."]

The question was taken, and the amendment of Mr. MURPHY was rejected.

Mr. MEADE renewed the amendment of the gentleman from Illinois, [Mr. MCCLERNAND.]

I am one of those (said he) who believe that slaves may be carried into any portion of the world where slavery has not been expressly prohibited, and that slaves have never been carried anywhere by special legislative provision. It is an international institution; it exists by the acknowledgment of international law; and the owner of the slave may travel to any portion of the world, and hold his slaves under that law, unless there is a special provision to the contrary in the country to which he goes. I believe that the local laws of Mexico, upon the acquisition of that territory, were abrogated, so far as they interfered with any of the rights of any of the citizens of the United States living north or south; and this construction has been placed upon this question by the conduct of gentlemen of the North, who are this day sending into the ports of San Francisco articles of property that are prohibited by the laws of Mexico from entering there, except by paying onerous duties, and some of which are entirely prohibited. So that, according to the practical construction which gentlemen from the North are giving to the laws of Mexico, it appears they may carry any property into that territory, except slave property. This is the construction they give. They set aside the laws of Mexico, so far as they prevent the introduction of imports of any sort, except slaves; they set it aside in their own favor, but say they are operative, so far as the South are concerned, when they desire to introduce into that country, as they do, their property.

Now, I am one of those who believe that the same rights attach to the South upon this question as would have attached had this conquest been made by the United States, if every State had been a slaveholding State. And nobody would deny, nobody would get up here and contend that were we all slaveholding States, our citizens would not have the right to carry their slaves into that Territory.

I have examined the laws of nations on the subject. I have examined the decisions of the courts of England and of the United States; and notwithstanding the position assumed at the last session of Congress by the gentleman from Georgia [Mr. STEPHENS] that the law of Mexico prohibiting slavery is still in force in that Territory, yet I find nothing in those decisions which militates against the view of the question which I have taken, that any law which interferes with the protection of the institutions of the country conquering or purchasing any territory is *ipso facto* abrogated by such conquest or purchase.

Now, the political relations of the slaves of this country to the Constitution and the Union would be essentially altered if, when they are removed into that territory, they become freemen. They are now in this country, as acknowledged by the Constitution, the slaves of the white man; and if we take them into California, that relation is changed, according to the doctrines of northern gentlemen; and, contrary to the international law laid down by Grotius and quoted by the gentleman from Georgia, they become freemen. I regard the institution of

slavery as much a political institution as if it existed all over the Union; and hence that it is protected by the Constitution of the country, and that all laws conflicting with it are *ipso facto* abrogated upon our becoming the owners of that territory.

Mr. BIRDSALL. Mr. Chairman, I desired to offer the amendment proposed by the gentleman from Virginia [Mr. MEADE] who has just taken his seat.

Mr. MEADE. I will withdraw my amendment if the gentleman from New York will renew it.

Mr. B. signifying his acquiescence, Mr. M. withdrew it.

Mr. BIRDSALL. I renew the amendment proposed by the gentleman from Virginia, which is, to strike out the following words at the end of section 12: "And shall be subject to all the conditions, restrictions, and prohibitions in said articles of compact, imposed upon the people of said territory."

I do this for the purpose of making our legislation upon the subject of organizing territorial governments consistent with itself, and with the principles of free government.

The amendment I propose will make this bill correspond with the bill which we a few days since passed in committee, and subsequently ordered to be engrossed for a third reading in the House, providing a territorial government for the Territory of Minesota. It will also make it correspond substantially with the bill passed in 1838, for the organization of a territorial government for the Territory of Iowa. Now, sir, why make any distinction in the organization of territorial governments, between the North and the South? I would pass the same laws in regard to general principles, in the same language, whether the territories to be affected by them lay in the one or the other section of the country. Besides, sir, by making this amendment, the principles of self-government, unrestrained by congressional interference, will be substantially carried out. By another section of this bill it is provided, that the legislative power of the Territory shall extend to all rightful subjects of legislation, &c. This grant of legislative power touching their own domestic affairs, should, I contend, be unrestrained and unlimited, except by the Constitution. I am unwilling to recognize any difference between the rights of an American citizen and of his power and privilege to exercise those rights of domestic legislation, whether he resides in a State or in a Territory. His residence in a Territory makes him not the less a man, nor is he the less capable of self-government. Sir, I know many of the emigrants who have gone to California to make that distant country their home. They are among the most enterprising, intelligent, and virtuous of our population; and such, sir, is the character of the great mass of American citizens who will constitute the permanent inhabitants of that Territory. They will understand well their own local interests and wants, and will be abundantly capable of making their own local and domestic laws, and I am opposed to any restraint being laid upon them by the hand of Congress. I hope the motion to strike out will prevail, for I am opposed to the restrictive system, and there is in my judgment no prospect that any bill containing this "proviso" can become a law at this session, and, for one, I am extremely anxious in some acceptable form to give our people in California governmental protection.

Mr. COLLAMER. Does not the gentleman from New York know that in the cases of Iowa and Minesota there were laws of Congress prohibiting slavery in those Territories?

Mr. BIRDSALL. What are they?

Mr. COLLAMER. The ordinance of 1787 and the Missouri compromise.

Mr. BIRDSALL. Does not the gentleman from Vermont know that there are laws in California and New Mexico prohibiting slavery there? Of what necessity, then, is this proviso? Is it not, for any purpose, worse than useless, even for those who believe restriction proper and justifiable?

The question was taken on the amendment of Mr. MEADE, (renewed by Mr. BIRDSALL,) and was rejected.

Mr. MEADE moved to amend the section by inserting after the word "territory," where it first occurs, the words "living north of the parallel of 36° 30′ of north latitude." I offer this amendment as a compromise. Gentlemen from the free States say this acquisition of territory would be lost to them if slaves were admitted. So likewise the South would be deprived of their share of the territory if slaves were excluded. The South has the perfect right, under the Constitution, to take their slaves into any Territory of the United States. Officers of the army who may own slaves can take their body servants into the forts or other places owned by the United States, if they are in the line of their duty, and engaged in public business. If General Smith has his body servants with him at this time in California, they are under the protection of the Constitution as property. Do gentlemen who contend that slavery is abolished in California by virtue of Mexican laws, also contend that the peon system of slavery exists there now, and that an American freeman can sell himself and his children to his creditor, and deprive himself and them of their constitutional rights? It is even contended (by high sources, too) that the Constitution of the United States is not in force in California—that it is no part of the United States. If the laws of Mexico had prohibited emigrants from coming into California, would it require special legislation by Congress to enable our citizens to go there? These absurdities necessarily flow from the position assumed by the North; we of the South have the same rights as we would have were we one integral nation, with slavery as an institution.

If the Emperor of Brazil had conquered or purchased this country, he and his subjects could take their slaves there without special legislation. We are thirty independent sovereignties, and have united together in conquering or purchasing California. These sovereignties hold the country jointly, and have equal rights. If one (being a slaveholding sovereign) had conquered the country, it had the perfect right to extend its institutions over the country; every citizen, being a part owner of the country, could emigrate to it with his slaves. How are his rights affected by being a joint conqueror with non-slaveholders, but upon the presumption that his rights are inferior? Can one of two joint conquerors, both being sovereign, tell the other *his* institutions shall govern the country, to the exclusion of the other? No; they have equal rights, and if the citizens of one can go into the country with his goods and chattels, in violation of the original laws of the conquered country, so can the citizens of the other. Suppose the laws of Mexico had made horses and mules common property, and had inhibited the appropriation of them: would that law be still in force, and would gentlemen from the North who have gone there with this property forfeit it? No, sir; the law is, by mere force of acquisition, abrogated; and so is the law abolishing slavery abrogated in the same way, for the benefit of those sovereigns owning slaves.

The principle of international law recognized by the courts, that the laws of the conquered country prevail until altered by the conqueror, is established for the benefit of the conquered, to avoid that anarchy and disorganization which would prevail during the transition of jurisdiction. But there are many exceptions; they exist wherever the principle would interfere with the rights and those institutions of the conqueror that are incompatible with it. Whenever the reason of the principle ceases, that is, the convenience and temporary protection of the inhabitants, the principle ceases with it. Now, sir, it is not essential to the interests and temporary protection of the inhabitants that the slaveholding conqueror should not take his slaves into the conquered country, while to take them there, is necessary to the enjoyment of his conquest. If there be two or more conquerors, with antagonistical institutions, their only mode of settling the difficulty is by dividing the country between them; until that is done, all have equal rights, and neither can say to the others, You shall not enjoy the common property.

The question was taken, and the amendment was rejected.

Mr. GREEN moved to amend the twelfth section by striking out in the second line the words "shall be," and inserting "are."

He said his object in proposing this amendment was simply to set the rights of the people of that Territory in their proper light before this House and before the country. It was asserted by gentlemen from the North and from the South, of both political parties, that the people of the Territory were entitled to the rights, privileges, and immunities of American citizens. He proposed, therefore, to strike out the words "shall be," because they implied the power on the part of Congress to confer these rights; that they emanated from this body, and were not rights existing as the peculiar inherent rights of American citizens.

Let them legislate understandingly on all these points. Let them say to the people of the Territories, You are true American citizens; you have the rights of American citizens; we pretend not to confer those rights upon you. It was asserted by some that the people of the Territories could exercise no power, except it was conferred upon them. It was asserted, on the other hand, that they had certain inherent rights. If Congress held that they had the inherent rights of self-government, the rights of American citizens, let them not pretend to confer those rights upon them; let them so word this section, that after generations could understand their legislation, and all see that they recognized the inherent right of the people to govern themselves according to the principles of universal liberty. Those principles must be established; and whatever might be the action of this House to-day, whatever might be the action of Congress for years to come, these principles were taking root, they were receiving the impress of the age, and they would grow and strengthen until their existence should be recognized and approved, not only in the States, but in the Territories; and in the furthest extremities of this Union, wherever an American citizen was found, his rights of self-government would be acknowledged. He offered this amendment, not for the purpose of producing excitement, not to stir up feeling, but because he believed it was in perfect consonance with the rights of self-government, to which we all subscribe.

The amendment of Mr. GREEN to the amendment was rejected.

The question recurring on the amendment of Mr. SAWYER, was taken, and decided in the negative—ayes 88, noes 105.

So the committee refused to strike out the twelfth section.

The Clerk proceeded with the reading of the bill by sections.

The 17th section being under consideration, as follows:

SEC. 17. *And be it further enacted*, That all the ports, harbors, shores, and waters of the mainland of the Territory aforesaid, shall constitute a collection district, to be called the district of Upper California, and a port of entry shall be established at ——, and a collector of customs shall be appointed by the President, by and with the advice and consent of the Senate, to reside at such port of entry. And the President of the United States is hereby authorized to establish such ports of delivery in the district created by this act, not exceeding —— in number, as he may deem expedient; and may appoint, by and with the advice and consent of the Senate, surveyors to reside thereat.

The CHAIRMAN suggested that there were two blanks in the section, and inquired whether there was any motion to fill them?

Mr. STRONG asked that the section might be again read; and it was accordingly read.

Mr. S. then moved that the first blank be filled with the port of "San Francisco;" and that the second blank be filled with the number "three."

The question on the first part of the motion was taken, and decided in the affirmative.

So the first blank was filled with the port of "San Francisco."

The question recurring on the second part of the motion—

Mr. HALL, of Missouri, suggested to the gentleman from Pennsylvania [Mr. STRONG] so to modify his motion as to insert "four" instead of "three."

Mr. STRONG modified his motion accordingly.

And, as thus modified, the second part of the motion was agreed to.

No further amendments were offered to this bill.

The question then came up on agreeing to the substitute heretofore proposed by the gentleman from Virginia [Mr. PRESTON] for the bill, (and which proposes to create a State.)

Mr. PRESTON, by consent, corrected certain verbal errors in the printed copy of his substitute.

Mr. ASHMUN inquired whether the substitute was not now open to amendment?

The CHAIRMAN replied in the affirmative.

Mr. ASHMUN. I suppose, if an amendment should be voted into the bill, it cannot afterwards be amended?

The CHAIRMAN said it could not.

Mr. ASHMUN then moved an amendment to the end of the second section.

Mr. THOMPSON, of Mississippi, (to the Chair.) Is that an amendment to the substitute or to the original bill?

The CHAIRMAN. It is an amendment to the substitute.

Mr. THOMPSON. If so, I insist that the substitute shall be read. It has not yet been read.

The substitute was first read through, and was then read by sections.

And the first section of the substitute being under consideration, in the words following:

Be it enacted, &c., That the Congress doth consent that a new State may be erected out of and including all that territory ceded to the United States by the treaty of peace, friendship, limits, and settlement, with the Republic of Mexico, concluded second February, eighteen hundred and forty-eight, with a republican form of government, to be adopted by the inhabitants of said territory, assembled by delegates in convention as hereinafter provided for that purpose, in order that the said State may be admitted into this Union—

Mr. JONES, of Tennessee, moved to amend it by striking out from the ninth line the words "inhabitants of," and inserting the words "citizens of the United States residing there."

Mr. PRESTON accepted the proposed amendment as a modification of his substitute.

Mr. COLLINS moved to amend the first section of the substitute, by adding thereto the following words:

"*Provided*, That there shall be neither slavery nor involuntary servitude in the said State otherwise than in the punishment of crimes whereof the party shall have been duly convicted."

Mr. COLLINS asked for tellers, who were appointed, (Messrs. COLLINS and McDOWELL.)

Mr. McLANE asked that the amendment just proposed by the gentleman from Tennessee [Mr. JONES,] might be read.

The CHAIRMAN said it had been accepted as a modification by the gentleman from Virginia, [Mr. PRESTON.]

Mr. ASHMUN called for the reading of the amendment of Mr. COLLINS, (which was again read.)

And the question on the said amendment was then taken, and decided in the affirmative—yeas 91, nays 87.

So the amendment was agreed to.

Mr. McLANE said that he desired to ask the attention of the gentleman from Virginia [Mr. PRESTON] to the amendment which had been proposed by his friend from Tennessee, [Mr. JONES,] and accepted as a modification. As that amendment now stood, providing for the suffrages of the citizens of the United States, the people of California who had elected to become citizens were disfranchised.

The CHAIRMAN said the gentleman would suspend his remarks until the committee should come to order.

Mr. McLANE (order having been restored) proceeded. He said that he desired to inquire of the Chair, inasmuch as the amendment of the gentleman from Tennessee [Mr. JONES] had been informally accepted by the gentleman from Virginia, [Mr. PRESTON,] whether it would now be in order to move an amendment to that section of the bill?

The CHAIRMAN said it would be in order by general consent.

Mr. TOOMBS. The amendment was accepted as a modification by the gentleman from Virginia, [Mr. PRESTON.]

Mr. McLANE. Yes; and I am asking his attention to what he accepted, that he may see how imperfect the section now is.

Some conversation followed between Messrs. TOOMBS, PRESTON, and McLANE, which led to no motion.

No further amendments were offered to this section.

Mr. MEADE rose to inquire of his colleague, [Mr. PRESTON,] whether the first section embraced the country between the Nueces and the Rio Grande?

Mr. PRESTON'S reply was not distinctly heard; but he was understood to say, that it was not necessary for him to go into explanation. He had addressed the committee the other day, and had said all that he supposed to be necessary in explanation.

Mr. MEADE. Then the gentleman declines to answer the question.

The substitute having been gone through with—

Mr. GREELEY moved the following as an additional section thereto:

SEC. 6. *And be it further enacted*, That the State constituted by this act shall include all the territory lying east of the Rio Grande, and embraced within the following boundaries, to wit: Commencing at the point in latitude forty-two north nearest the Arkansas river; thence following the course of the southern bank of the said river Arkansas, until it intersects the degree of longitude one hundred west from London, and twenty-three from Washington; thence running by a line due south to the south bank of Red river; thence by a direct line to the Rio Grande, at the point where the southern boundary of New Mexico intersects the same; thence westwardly along the southern boundary of New Mexico, to the southwest corner thereof; thence northwardly along the western boundary of New Mexico, to the northwest corner thereof; thence by a direct line to the place of beginning.

Mr. G., in explanation, said the amendment simply embraced the territory as described in the original bill reported from the Committee on the Territories. It embraced the territory of New Mexico. He understood it to be the object of the bill to form one State out of California and New Mexico.

Mr. KAUFMAN wished to inquire of the gentleman from New York whether, by the introduction of the amendment which he had offered, he wanted to steal from Texas land enough for his Fourierite bill to operate upon?

Mr. GREELEY. I do not think it becomes the Representative from Texas to talk about landstealing.

He proceeded to say (but in a voice scarcely audible at the reporter's desk) that it appeared to him, that without this amendment, there was a clear surrender of the people of New Mexico to the dominion of Texas. That people asked to be protected against the absurd pretensions of Texas; there was unanimity among them in making this request. It was eminently necessary, in order to prevent revolution and bloodshed and wrong there, that this territory should be included within one jurisdiction or the other; they had protested against the rule of Texas. The bill virtually surrendered them to that rule, by cutting off one portion of New Mexico and annexing it to California, and saying nothing about the rest.

By doing this, they would throw the responsibility upon the incoming Administration of saying whether it would protect the people of New Mexico or not. That responsibility properly rested upon this Congress. The friends of the new Administration ought not to consent to throw it off upon that Administration. If it should take the side of Texas, it would alienate the whole people of the northern States, and *vice versa;* and it would, in any event, cause great embarrassment and trouble, which should be avoided by the present Congress doing its duty and coming up to the decision of this question. Let them settle this question to whom the responsibility of it belonged. He asked this House to say, by a direct vote, whether it intended to surrender the people of that part of New Mexico to the domination of Texas or not? The amendment which he offered proposed to give them the protection of the State which they were constituting by this bill.

Mr. KAUFMAN asked for the reading of the amendment of Mr. GREELEY; which was read.

He said he would offer an amendment to that amendment.

The CHAIRMAN reminded the gentleman that it would be an amendment in the third degree, and therefore not in order.

The question was taken on the amendment of Mr. GREELEY to the amendment, and it was rejected—ayes 59, noes 63.

Mr. HILLIARD said he would offer an amendment to the amendment, of directly an opposite character to that of the gentleman from New York. He sent up an amendment providing that the State to be organized should embrace no territory east of the Rio Grande.

He had felt, (he said,) in common with other gentlemen, an earnest desire to settle this question, and to settle it upon terms honorable and satisfactory to the whole country. He had given notice of a substitute which he had intended to offer for this bill. But as the committee had so clearly manifested its purpose to adopt no such substitute, and no analogous measure, he should decline to offer it, and without even asking a vote upon the amendment to the amendment, he withdrew it.

The question recurring on the substitute of Mr. PRESTON, as amended, was taken by tellers—Messrs. COLLINS and TOOMBS—who reported, ayes *none*. The noes were not counted.

So the substitute was rejected.

Mr. EVANS, of Maryland, moved the substitute for the entire bill, of which he had yesterday given notice, as follows:

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, until the end of the first session of the next Congress, all and singular the acts of Congress with respect to trade and intercourse with the Indian tribes, and all acts with regard to the survey and disposition of the public lands, are hereby extended over the territory acquired from Mexico by the treaty of the second of February, eighteen hundred and forty-eight; and all and singular the military, civil, and judicial powers exercised by the officers of the existing government of the same territory shall be vested in such person or persons, and shall be exercised in such manner, as the President of the United States shall direct, for the maintaining the inhabitants of said territory in the free enjoyment of their liberty, property, and religion.

SEC. 2. *And be it further enacted*, That in order to maintain the authority of the United States, and preserve peace and order in said territory, the President of the United States be, and he is hereby, authorized to employ such parts of the land and naval forces of the United States as he may deem necessary: *Provided, nevertheless*, That martial law shall not be proclaimed or declared in said territory, nor any military court established or instituted, except ordinary courts-martial, for the trial of persons belonging to the army and navy of the United States.

SEC. 3. *And be it further enacted*, That the sum of one hundred thousand dollars be, and the same is hereby, appropriated for the purpose of carrying these provisions into effect, to be paid out of any moneys in the treasury not otherwise appropriated.

Mr. GIDDINGS raised the point of order, that the bill having been gone through and perfected, and a substitute having been offered and rejected, another substitute could not be offered.

The CHAIRMAN sustained the point of order.

Mr. EVANS appealed from the decision.

Some conversation arose on the point of order between Mr. EVANS, Mr. ROOT, and the CHAIRMAN.

The CHAIRMAN, upon more minute examination of authorities, reversed his decision, and declared the amendment to be in order.

And the question being on the substitute of Mr. EVANS—

Mr. EVANS said, he perhaps ought to say to the committee that he scarcely expected that his substitute would be adopted. Yet, if gentlemen would reflect for a single instant that there was, if they looked at the question practically, no probability of the bill under consideration becoming a law at this session of Congress, and upon our solemn duty and obligation under the treaty we had recently made with Mexico to provide for the protection of the people of these territories in some manner, they must see, it appeared to him, that the measure which he proposed should receive the support of the committee. It left the question of the Wilmot proviso open, and gentlemen might wage their conflicts upon it hereafter, if they saw fit. It provided that the laws of the United States in relation to the public lands and to intercourse with the Indian tribes, should be extended over the territory which we had recently acquired from Mexico.

Mr. THOMPSON, of Mississippi, inquired of the gentleman if this was not substantially the amendment offered by Mr. WEBSTER in the Senate, and rejected? He asked the gentleman, Why not take the amendment which had been endorsed by the Senate?

Mr. EVANS replied that it was substantially the amendment of Mr. WALKER, in the Senate.

Mr. SCHENCK called the gentlemen to order, for reference to what was done in the Senate. The House (he said) did not legislate in reference to what other branches of the Government were about, and it was out of order, under the rule, to refer to their action.

Mr. EVANS (resuming) said this was substantially the amendment, then, which gentlemen had read in the newspapers as having been adopted *elsewhere*. It was substantially the same provision for temporary government as had been extended by the act of 1803 over Louisiana. It intended only to provide some government for that people until the next session of Congress.

Mr. ASHMUN moved to amend the substitute, by adding thereto the 12th section of the bill.

Mr. EVANS withdrew the substitute.

Mr. RICHARDSON moved the following substitute for the bill; but before any question was taken withdrew it, viz:

SEC. —. That the Constitution of the United States and all and singular the several acts of Congress respecting the

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registering, recording, enrolling, or licensing ships or vessels, and the entry and clearance thereof, and the foreign and coasting trade and fisheries, and all the acts respecting the imposing and collecting of duties on imports, and all acts respecting trade and intercourse with the Indian tribes, and all acts respecting the public lands, or the survey or sale thereof, and all and singular the other acts of Congress of a public and general character, and the provisions thereof, are suitable and proper to be applied to the territory west of the Rio del Norte, acquired from Mexico by the treaty of the second day of February, eighteen hundred and forty-eight, be, and the same are hereby, extended over and given full force and efficacy in all said territory, and the President of the United States is hereby authorized to prescribe and establish all proper and needful rules and regulations (in conformity with the Constitution of the United States) for the enforcement of said laws in said territory; and for the preservation of order and tranquillity, and the establishment of justice therein, and from time to time to modify or change the said rules and regulations in such manner as may seem to him discreet and proper; and to establish, temporarily, such divisions, districts, ports, offices, and all arrangements proper for the execution of said laws, and appoint and commission such officers as may be necessary to administer such laws in said territories, for such term or terms as he may prescribe, whose authority shall continue until otherwise provided by Congress; said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States, or its territories, for like services; and to enable the same to be done, the sum of two hundred thousand dollars be appropriated, out of any money in the treasury not otherwise appropriated.

Mr. TOOMBS renewed the amendment of Mr. RICHARDSON. The object of this proposition (he said) was to provide a government for these Territories. He did not think that the project which the committee had before it would effect the object. The only measure which, in his judgment, would effect it had been passed by. When this committee determined to put the prohibitory clause upon the amendment of the gentleman from Virginia, [Mr. PRESTON,] all chance of pacification was at an end. That amendment met his hearty approbation. It would meet the approbation of the country. It stood upon a great popular principle; and all efforts to legislate upon this question, on one side or the other, must fail, would fail, and ought to fail.

He withdrew the amendment.

The question recurring on rising and reporting the bill, was taken and agreed to.

So the committee rose, and reported its action to the House.

Mr. WENTWORTH demanded the previous question, (first on concurring in the amendment made by the Committee of the Whole on the state of the Union, and then on the engrossment of the bill.)

The demand for the previous question was seconded.

And the main question was ordered to be now taken.

The amendments (which consisted simply of the filling of the blanks in the 17th section, as heretofore noticed) were concurred in.

And the bill was ordered to be engrossed.

And the bill and amendments having been engrossed *ad interim*, the House decided that the bill should have its third reading at this time.

And having been read a third time by its title, and the question being, "Shall this bill pass?"

Mr. WENTWORTH demanded the previous question.

He would first, however, he said, move to reconsider the vote just taken, and that that motion be laid on the table.

And it was ordered accordingly.

Mr. MEADE now moved that the bill be laid on the table, and (simultaneously with Mr. BURT) demanded the yeas and nays on that motion, which were ordered.

And the question, "Shall this bill be laid on the table?" was then taken, and decided in the negative—yeas 86, nays 127—as follows:

YEAS—Messrs. Atkinson, Barringer, Barrow, Bayly, Bedinger, Bocock, Botts, Bowdon, Bowlin, Boyd, Boyden, Bridges, William G. Brown, Albert G. Brown, Burt, Cabell, Chapman, Chase, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Donnell, Garnett Duncan, Alexander Evans, Featherston, Flournoy, French, Fulton, Gaines, Gayle, Gentry, Goggin, Green, Willard P. Hall, Haralson, Harmanson, Harris, Hill, Hilliard, Isaac E. Holmes, George S. Houston, Inge, Iverson, Jameson, Andrew Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, Thomas Butler King, La Sère, Ligon, Lumpkin, McDowell, McLane, McQueen, Meade, Miller, Morehead, Morse, Outlaw, Pendleton, Peyton, Phelps, Pilsbury, Preston, Rhett, Roman, Sawyer, Shepperd, Simpson, Stanton, Stephens, Thibodaux, Thomas, Jacob Thompson, John B. Thompson, Tompkins, Toombs, Venable, and Woodward—86.

NAYS—Messrs. Abbott, Adams, Ashmun, Belcher, Bingham, Birdsall, Blackmar, Brady, Brodhead, Buckner, Butler, Canby, Cathcart, Clapp, Franklin Clark, Collamer, Collins, Conger, Cranston, Crowell, Cummins, Darling, Dickey, Dixon, Duer, Dunn, Eckert, Edsall, Edwards, Embree, Nathan Evans, Faran, Farrelly, Ficklin, Fisher, Freedley, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, Hammons, Moses Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, Irvin, Jenkins, James H. Johnson, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Leffler, Levin, Lincoln, Lord, Lynde, Maclay, McClelland, McClernand, McIlvaine, Job Mann, Horace Mann, Marsh, Marvin, Morris, Mullin, Murphy, Nelson, Newell, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pettit, Pollock, Putnam, Reynolds, Richardson, Richey, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Rose, Root, Rumsey, St. John, Schenck, Sherrill, Silvester, Slingerland, Smart, Caleb B. Smith, Robt. Smith, Starkweather, Andrew Stewart, Charles E. Stuart, Strohm, Strong, Tallmadge, Taylor, James Thompson, Richard W. Thompson, William Thompson, Thurston, Tuck, Van Dyke, Vinton, Warren, Wentworth, White, Wick, Wiley, Williams, Wilmot, and Wilson—127.

So the House decided that the bill should not be laid on the table.

And the question recurring on the demand for the previous question, there was a second.

And the main question (on the passage of the bill) was ordered to be now taken.

The yeas and nays were asked and ordered thereon.

And the question "Shall this bill pass?" was then taken and decided in the affirmative—yeas 126, nays 87—as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Belcher, Bingham, Birdsall, Blackmar, Brodhead, Buckner, Butler, Canby, Cathcart, Clapp, Franklin Clark, Collamer, Collins, Conger, Cranston, Crowell, Cummins, Darling, Dickey, Dixon, Duer, Dunn, Eckert, Edsall, Edwards, Embree, Nathan Evans, Faran, Farrelly, Ficklin, Fisher, Freedley, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, Hammons, James G. Hampton, Moses Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, Irvin, Jenkins, James H. Johnson, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Leffler, Levin, Lincoln, Lord, Lynde, Maclay, McClelland, McClernand, McIlvaine, Job Mann, Horace Mann, Marsh, Marvin, Morris, Mullin, Murphy, Nelson, Newell, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pettit, Pollock, Putnam, Reynolds, Richardson, Richey, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Rose, Root, Rumsey, St. John, Schenck, Sherrill, Silvester, Slingerland, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Starkweather, Andrew Stewart, Charles E. Stuart, Strohm, Strong, Tallmadge, Taylor, James Thompson, Richard W. Thompson, William Thompson, Thurston, Tuck, Van Dyke, Vinton, Warren, Wentworth, White, Wick, Wiley, Williams, Wilmot, and Wilson—126.

NAYS—Messrs. Atkinson, Barringer, Barrow, Bayly, Bedinger, Bocock, Botts, Bowdon, Bowlin, Boyd, Boyden, Bridges, William G. Brown, Albert G. Brown, Burt, Cabell, Chapman, Chase, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Daniel, Donnell, Garnett Duncan, Alexander Evans, Featherston, Flournoy, French, Fulton, Gaines, Gayle, Gentry, Goggin, Green, Willard P. Hall, Haralson, Harmanson, Harris, Haskell, Hill, Hilliard, Isaac E. Holmes, George S. Houston, Inge, Iverson, Jameson, Andrew Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, Thomas Butler King, La Sère, Ligon, Lumpkin, McDowell, McLane, McQueen, Meade, Miller, Morehead, Morse, Outlaw, Pendleton, Peyton, Phelps, Pilsbury, Preston, Rhett, Roman, Sawyer, Shepperd, Simpson, Stanton, Stephens, Thomas, Jacob Thompson, John B. Thompson, Tompkins, Toombs, Venable, and Woodward—87.

So the bill was passed.

Mr. ROCKWELL, of Massachusetts, moved a reconsideration of the vote, and that that motion be laid on the table.

Ordered accordingly.

EXTRA COMPENSATION.

Mr. CRISFIELD rose, he said, to a privileged question. He moved a reconsideration of the vote by which the resolution of the gentleman from New York [Mr. TALLMADGE] providing for extra compensation to clerks, messengers, &c., had yesterday been laid on the table.

Mr. C. said that he was opposed to the passage of the resolution, but that, if a majority of the House desired that it should be adopted, he would not interpose an objection.

Mr. TOOMBS moved that the motion to reconsider be laid on the table.

The yeas and nays on that motion were asked and refused.

Tellers (Messrs. HAMMONS and TOOMBS) were appointed.

And the question on the motion of Mr. TOOMBS was then taken, and decided in the affirmative—ayes 77, noes 67.

So the motion to reconsider was laid on the table.

MEXICAN CLAIMS.

Mr. LEVIN moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of taking up the bill to provide for the payment of Mexican claims, and for the appointment of a commissioner, &c.

NEW MEXICO.

Mr. SMITH, of Indiana, was understood to give notice, that if the motion prevailed, he should insist on taking up the special order, being the bill to establish a territorial government in New Mexico.

BRANCH MINT IN CALIFORNIA.

Mr. MEADE asked the gentleman from Pennsylvania [Mr. LEVIN] to waive his motion for a moment, to enable him (Mr. M.) to ask leave to introduce a bill, of which he had heretofore given notice, and which, he had heretofore stated, he desired to make a special order. It was a bill in which many members had manifested particular interest. He should move to make it a special order, and thus test the sense of the House as to considering it. It was a bill to establish a branch mint in California, and for other purposes.

The SPEAKER (to Mr. LEVIN.) Does the gentleman from Pennsylvania yield the floor?

Mr. LEVIN said he would do so.

The SPEAKER then put the question on granting leave.

And leave having been granted, the bill was introduced, and received its first and second reading by the title.

Mr. MEADE moved that the bill be committed to the Committee of the Whole on the state of the Union.

SEVERAL VOICES. Put it on its passage.

Mr. MEADE said he would move that the rules of the House be suspended, so that the bill might be put upon its passage.

Some objections were heard.

Mr. MEADE said, he had stated that he intended to move to make the bill the special order, and as gentlemen had permitted him to introduce it with that understanding, he did not feel at liberty to make any other motion, unless there should be no objection to his moving that the bill be put on its passage. He would therefore move that it be made the special order for to-morrow, and that in the mean time it be printed.

The SPEAKER. Does the gentleman propose to refer the bill to the Committee of the Whole on the state of the Union?

Mr. MEADE said, Yes, and to make it the special order for to-morrow.

Mr. FICKLIN wished to inquire of the Chair, (within the hearing also of the mover of the proposition,) in case the appropriation were stricken out, if the bill could not be put upon its passage? He would suggest that that course be taken.

After some conversation—

Mr. FICKLIN moved to strike out the appropriation contained in the bill, so as to put it at once upon its passage.

The SPEAKER stated that the motion to commit was first in order. The Chair (he said) would also state to the gentleman from Illinois that the amendment would not obviate the necessity of the bill going to the Committee of the Whole on the state of the Union. It would require a suspension of the rules by a two-thirds vote to act upon the bill in the House.

Mr. MEADE stated that that portion of the bill which contemplated an appropriation was in blank, and inquired whether, this being the fact, the bill could not now be put upon its passage. He was willing (he added) that the House should make whatever disposition of the bill they saw fit.

Mr. POLLOCK demanded the previous ques-

tion, remarking that he understood, if sustained, that it would bring the House first to a vote upon the commitment.

The SPEAKER. The Chair will state to the gentleman from Pennsylvania and to the House, that if this bill contains an appropriation, its first consideration must take place in Committee of the Whole on the state of the Union; and the bill went to the committee without any vote. It would require a two-thirds vote to act upon it in the House. The Chair only entertained the motion because the gentleman from Virginia proposed to make the bill the special order for to-morrow. That motion may be entertained, but it requires a vote of two-thirds to carry it.

Mr. THOMPSON, of Pennsylvania. Will the Chair allow me to inquire whether, the section being in blank, there was an appropriation in the bill?

The SPEAKER. If there is no appropriation in the bill, the question may be taken upon ordering it to be engrossed, read a third time, and passed.

Mr. TOOMBS. I understand that the bill contemplates an appropriation.

The SPEAKER. If it does not contain an appropriation, it is not within the rule, because, if the bill is passed, no appropriation will be made.

Mr. POLLOCK insisted upon the demand for the previous question.

The SPEAKER. If the previous question is sustained, the question will be first on the motion of the gentleman from Virginia to commit the bill, and if that fail, it will then be upon the passage of the bill.

Mr. DUER. Do I understand that a two-thirds vote is not required to put the bill upon it passage?

The SPEAKER. Not if the bill contains no appropriation.

Mr. DICKEY. But it does contain an appropriation. It provides for the salary of superintendent.

The SPEAKER. The bill may provide for salaries without containing an appropriation to pay them.

Mr. ASHMUN asked for the reading of the section of the bill in question.

It was read, and it appeared that the appropriation was left in blank.

The SPEAKER stated that there was no appropriation in the bill; in the opinion of the Chair.

Mr. RUMSEY appealed from the decision.

Mr. THOMPSON, of Pennsylvania, inquired what the decision of the Chair was in regard to its being an appropriation bill?

The SPEAKER replied that there was no appropriation in the bill. It proposed to establish a salary by law; but it did not contain an appropriation. The officer could not be paid unless the blank were filled; if it were not filled, no appropriation would be made.

Mr. WILLIAM T. LAWRENCE inquired if the bill could be passed until the blank was filled?

The SPEAKER replied that the House might pass any bill it saw fit.

Pending the question—

TERRITORIAL GOVERNMENT--NEW MEXICO.

On motion of Mr. SMITH, of Indiana, the House resolved itself into Committee of the Whole on the state of the Union, (Mr. CRANSTON, of Rhode Island, in the chair,) and, after an unsuccessful effort of Mr. TALLMADGE to take up bill No. 396, proceeded to the consideration of the special order, being a bill to establish the Territorial Government of New Mexico.

On motion of Mr. SMITH, of Indiana, the general reading of the bill was dispensed with, and the bill was read by sections, for amendment.

The first section, which defines the boundaries of New Mexico, being under consideration—

Mr. VINTON moved an amendment, as follows:

That nothing in this act contained shall be construed to affect or impair the right or claim of the State of Texas to any part of the territory embraced within the above mentioned boundaries; and the consent of the United States is hereby given to the State of Texas to institute, in the Supreme Court of the United States, a suit at law or in equity against the United States, to settle and finally determine all questions of boundary between said State of Texas and said Territory of New Mexico; which suit shall be brought, conducted, tried, and decided, in the same manner as by the Constitution of the United States and the law and practice of the said court like suits are or may be brought, conducted, tried, and decided, in controversies between two or more States of the United States respecting their boundaries.

Mr. VINTON briefly addressed the committee in explanation and support of the amendment.

It was well known, he said, that Texas claimed to own the entire country bordering upon this side of the Rio Grande, from its mouth to its source. He had heretofore stated on the floor of the House, that he believed that an invalid claim. But it was sufficient that it was set up in good faith by a State to entitle it to respect. Now, this bill proposed to draw a boundary line between New Mexico and the State of Texas, in such a manner as to include in the proposed territory a very large district of country that was claimed by the State of Texas as a part of her territory, lying upon this side of the Rio Grande.

Now, when a controversy of this sort arose, every one knew that of all tribunals this House was the least fitted to decide upon it. A question of this description necessarily involved the early history of the Territory of Texas and of New Mexico, all the transactions connected with the revolution in Texas, and the annexation of Texas to the United States, as well as the act of the Government of the United States on the late treaty with the Republic of Mexico. If this question were refered for settlemnnt to that tribunal, which the Constitution of the United States had provided for the settlement of all controversies which might arise upon questions of boundary between the different States of this Union—if it were referred to the Supreme Court of the United States—it would follow, as a matter of course, that preliminary to the settlement of the question, all the necessary surveys, examinations, collections of facts and proof, must be made, in the taking of which proof, both parties would have an opportunity to be present, and to investigate and bring forward all the facts. And when the question was made, as it must be made between two sovereign States of this Union—when all the facts were put upon record, and both parties had a fair opportunity to make good the claim set up by them—as a matter of course, the question would be presented on both sides by the ablest counsel in the country, and it would receive the solemn, serious, calm deliberation which belonged to such a tribunal as the Supreme Court of the United States, instead of that casual attention which alone could be bestowed upon it in this House—to say nothing of the fact, that some portion of the House, at least, was composed of gentlemen who did not pretend to be lawyers, who did not belong to that profession at all, and were therefore unfitted to decide a question of this nature. It was, in the circumstances in which it was presented, and to which he had referred, purely a question of law, and nothing else. If Texas did in fact own the territory in dispute, then he desired that she should have it. She should have the benefit of a hearing before the Supreme Court, which would give her the highest security that her rights would be respected and carried into effect. On the other hand, if the country in controversy did not belong to Texas, then he was free to say, that he was one of those who were not willing to accord it to her. He was not willing to give a gracious gift to Texas of a Territory as large or larger than two or three States of this Union, which, if it were given to her, carried with it all the public lands, and all the public property which attached to the territory this side of the Rio Grande. We had already been involved on account of Texas—he said on account of Texas, because every gentleman here knew that if annexation had never taken place we should have had no war with Mexico—we had already been involved on account of the annexation of Texas in a war which had cost us, he thought he might say, $100,000,000, or nearly that amount; and, in addition, it was now proposed that we should surrender up to Texas all that immense portion of country bordering on this side of the Rio Grande.

He desired that Texas should have a fair hearing; that all her claims which were founded in law and equity should be established and carried into effect. If the country on this side of the Rio Grande did in law and equity belong to her, then he was the last man in this House who would endeavor to wrest it from her; and consequently he had stated in this amendment to this bill, which took in a large district of country which Texas claimed, that nothing in this act contained should be construed to impair or affect the rights of Texas, but that Texas should have the opportunity of instituting a suit in the Supreme Court of the United States, which, in all respects, should be instituted, conducted, tried, and decided, as controversies were instituted, conducted, tried, and decided, between two States of this Union.

He thought, if Texas desired only that which was fair, she would not object to this proposition. No portion of the people of the United States, he thought, could object to the proposition to bring this controversy into the Supreme Court of the United States. Everybody knew, if the question were settled by Congress, it could not be without agitation. It was precisely one of those questions which could not be settled here without agitation; and if it was settled here, by the vote of this House, he undertook to say it would give deep dissatisfaction either to the people of the northern or of the southern portion of the United States: he did not undertake to say which portion it might be; that would be according as the case was settled in favor of one side or the other. But if it was settled by the Supreme Court of the United States, according to law and equity, every portion of this whole land, of this law-loving land, should be, and ought to be, with it—a mode of settlement which would relieve us from the troubles and the dangers of this agitating question.

Mr. GREELEY regarded the amendment as a most extraordinary proposition in all respects. This question of boundary was more than a mere question of law: it was a question of liberty and of right. The people of New Mexico were known to be strongly against submitting themselves to the rule and authority of Texas. They had, at all times, and under all circumstances, resisted the jurisdiction of that State. And now it was proposed to send them before a tribunal for the decision—he could hardly say of what question, without looking at the resolutions of annexation.

He looked at the facts. The government of Texas, separated from these people by three hundred miles of desert and wilderness, peopled by Indians, was demanding jurisdiction over them; and on the other hand, the people of New Mexico, separated from Texas, as they ever had been, were demanding protection against this claim of jurisdiction. He held that no people, under such circumstances, ought to be governed by any other authority than their own, or that instituted by themselves. If the claim of Texas had any legal validity, the people of New Mexico had also rights under the treaty of peace which we were solemnly bound to maintain. The claim of Texas could hardly be maintained on the ground of possession, or that of a title acquired by conquest; for the flag of Texas never waved over the soil of New Mexico, except for a few days, when the party bearing it was defeated and captured to the last man, reaching their homes by a route more circuitous than any on which congressional mileage is computed. The claim of Texas rests on nothing but itself—a mere paper declaration.

Under such a state of facts, and with the annexation resolutions declaring the boundary of Texas to be subject to adjustment by this Government, why not meet the question here? For his part, knowing that the question of liberty or slavery was involved in the proposition, and that the decision of the Supreme Court upon it in favor of the claim of Texas would carry slavery over a territory much larger than the whole of New England, he was unwilling to commit such a question to that tribunal. He spoke of that tribunal with all respect, when he intimated that a majority of the judges were slaveholders, sustaining the right of this Government to extend slavery. He considered that the free States should never consent to give up the decision of this question to a slaveholding tribunal. Why should they not choose to have it settled here where their power is predominant?

The amendment seemed to him the most extraordinary proposition he had ever heard. It was virtually a proposition to annul the government of New Mexico, and to surrender her people to the authority of Texas, provided those slaveholding judges should say so. He objected to any action of Congress recognizing any ground of claim by Texas to a jurisdiction which she had never yet established. If she had the right, let her send in her officers and endeavor to extend her laws over that territory, thus bringing the question naturally before the Supreme Court. He protested

against any action here calculated to create any implication or presumption of the existence of that right. If the House were to adopt the amendment, it would be taken as a strong implication that Texas was entitled to the jurisdiction claimed, which he could not for a moment admit.

If the mover of the amendment would so modify his proposition as to refer the question of jurisdiction to the decision of the people of New Mexico, he would agree to it. That would be to settle the question upon a republican principle. But to throw the decision entirely upon the Supreme Court, would be to regard these people as though they were nothing more than so many mules or buffaloes; it would be making a transfer of them, under cover of the authority of the Supreme Court, and against their wishes, to the authorities of Texas.

Mr. BAYLY said: The proposition of the gentleman from Ohio, [Mr. VINTON,] which I have this moment for the first time seen, is of a most extraordinary character; and I do not hesitate to say, that if it should pass, it would be a flagrant violation of the Constitution; and I cannot but express my surprise that it should have proceeded from a gentleman of so much intelligence and authority in this Hall and the country.

It was a decided objection with me to the proposition of my colleague [Mr. PRESTON] to erect California and New Mexico into a State, that it contemplated the reference of the disputed question of boundary between Texas and New Mexico to the Supreme Court. The action of my own State, upon a memorable occasion, precluded me from making the reference of any such question to that tribunal. At one time there existed a question of disputed boundary between the States of Maryland and Virginia. Maryland expressed her determination to bring it before the Supreme Court; but Virginia, under the lead of such a statesman and jurist as Littleton W. Tazewell, made known her unalterable purpose to submit the question involving the extent of her sovereign limits, to no tribunal save one of her own selection. She thought it did not befit sovereignty to submit the question of its own existence to any judicature whatever.

My own opinion is, that the Supreme Court has no jurisdiction in any such case. It is true, the Constitution of the United States extends the jurisdiction of the Supreme Court "to controversies between two or more States;" but it seems to me that this clause cannot be construed to extend to controversies which might involve the very existence of one of the parties. If the Supreme Court could by its decree curtail the sovereign limits of Texas to the Nueces, they could also, as far as the question of power is concerned, fix the Sabine, in accordance with the pretensions of Mexico, as the true boundary of the country we acquired by the late treaty with that nation; and thus obliterate from the record one of the parties to the controversy of which it assumed jurisdiction. This must be so; for if the court has jurisdiction, you cannot limit its exercise. If they may deprive a State of a part of its territory, it may, as far as the question of power goes, despoil it of the whole, and thus lose its jurisdiction by annihilating one of the parties. To avoid this difficulty, you must confine the jurisdiction of the Supreme Court relative to controversies between States, to such as do not involve their territorial limits, and by consequence, the existence of the parties themselves. And I am confirmed in this opinion by the fact that Congress, although repeatedly urged to do so, have refused to prescribe by law the form of process and proceeding to be used in such a case.

In the absence of such a law, I beg to be informed, who is to issue the writ? Upon whom is it to be served? In a word, who is the representative of a State to sue and be sued? Is it the Governor? If so, why so? If not the Governor, is it the Legislature? If not the Legislature, is it the Attorney General of the State? Why the Attorney General? Suppose this difficulty is overcome: how is the decree to be enforced? Suppose the unsuccessful State refuses to abide by the decision: how are you to enforce it? Can you coerce a sovereign State?

In the language of Chief Justice Marshall, my opinion is, that before the Supreme Court can rightfully take jurisdiction of a cause, "there must be parties to come into court who can be reached by its process and bound by its power."

I am free to admit, however, in justice to my colleague, that the Supreme Court has held otherwise. In the New Jersey case, and subsequently in the Rhode Island case, the Supreme Court has entertained cases involving questions of boundary between States. But it must be remembered, they voluntarily submitted themselves to its jurisdiction. So it had at the time Virginia refused to submit to its jurisdiction in controversies involving the extent of her territorial limits. Virginia having taken such a stand, I could not, as one of her Representatives, mete out to others a measure of justice to which she refused to submit. This was a leading objection with me to the proposition of my colleague, which has met with such a melancholy fate.

While New Mexico is a territory, and we have control over her boundary, we ought to settle the limits between her and Texas, and not leave it open, as the proposition of my colleague contemplated, to become, as in that event it must, a source of irritation and strife between those two States, between which anything but good feeling now prevails.

But if the proposition of my colleague was objectionable for these reasons, how much more so is that of the gentleman from Ohio! He, unlike my colleague, has no decision of the Court in his favor; and there is not a color of authority in the Constitution to sustain him. The language of the Constitution is, that the judicial power shall extend "to controversies between two or more *States*"—not between a State and Territory. It would be an anomaly to array such parties against each other before a judicial tribunal. There is no equality between the parties, in dignity, in rights, or indeed in any respect. But if it would be proper to array such parties against each other in any judicial tribunal, it certainly would be improper thus to array them in the Supreme Court of the United States. That court is a department of the General Government, which is the creature of the States. The Territories are treated, whether they rightfully be so or not, as dependents—as clients, to use the term in its classic meaning—of the General Government. Can it be proper to submit a question between the dependent of the creature, or, if you will have it so, between the creature itself and one of the sovereign members of this Confederacy, to a department of the former?

But as bad as this would make the case, it is still worse. I have no great respect for the decisions of the Supreme Court in questions involving constitutional law. But the gentleman has. He is in the habit of bowing implicitly to them, and quoting their authority upon others. They may therefore be quoted even by a gentleman occupying my position against him.

The Supreme Court has decided again and again that the Territories and the District of Columbia are not included in the term States, used in the clause of the Constitution of the United States concerning the Judiciary. Yet the gentleman proposes by law to thus include them. He proposes to enlarge the jurisdiction of the Supreme Court from its confines as defined by the Constitution of the United States, by an act of Congress! The judicial is a coördinate department of the Government. If you can enlarge its powers by an act of Congress, so you may the powers of the other two departments, the executive and the legislative. Assume this authority, and what becomes of the Constitution of the United States? Would not everything like limitation of power be destroyed, and this Government become, in despite of the Constitution, one which would know no restraint but the legislative rule?

I have been admonished by my friends against speaking in this Hall in my present condition; but I could not hear such a proposition solemnly propounded in this Hall without attempting to expose, as briefly and imperfectly as I have done it, its monstrous character.

Mr. TOOMBS concurred in the latter portion of the remarks by the gentleman from Virginia, but not in the former portion, when he spoke of the jurisdiction of the Supreme Court over questions of boundary between States. The judgment of the court was not matter for us to decide upon. The courts were authoritative expounders of the Constitution, as far as this question was concerned. The Constitution did give to the Supreme Court this jurisdiction of questions between States. He never before heard an opinion expressed against this jurisdiction of the court. He agreed with the gentleman from Virginia that Congress could not give jurisdiction to the courts by legislation. The provision of the Constitution which gave jurisdiction to the Supreme Court was the supreme law of the land; and if gentlemen transgressed it, it was at their peril. But it was a good objection to the amendment that one of the parties to this controversy was not a State.

He proceeded, however, to consider a more serious objection, in which he showed that the Government of the United States, by the terms of the annexation resolutions, had taken upon itself the duty of settling all questions of boundary arising between Texas and other Governments; and now, having established the claim assumed by Texas, it was proposed to rob her of it.

He took occasion to denounce the inconsistency of the course of the gentleman from New York, [Mr. GREELEY,] in voting against the bill of the gentleman from Virginia, [Mr. PRESTON,] which recognized in these people of New Mexico the right to make a government for themselves, and now, on this occasion, coming forth as a champion of the sovereign will; because, by so doing, he might prevent the extension of a certain political institution—thus legislating with reference to but one idea.

He adverted to the consistency of his own course in opposition to the annexation of Texas, and to the war, and stated that, when the United States went into the contest with Mexico, they declared to Texas that the pending boundary dispute should be fairly adjusted; and now the gentleman from Ohio [Mr. VINTON] had proposed an adjustment, to suit himself, in which it was said to Texas, in effect—If you are not satisfied with it, why, sue me. It was proposed, also, to submit this question to the decision of a tribunal whose jurisdiction of the case was not authorized by the Constitution. It was a proposition to rob the State of Texas of rights held for her as a *cestui que trust*, and then tell her, if she should not happen to be satisfied with the arrangement, that she might go to law about it.

Some conversation followed between Messrs. TOOMBS and PETTIT, which was lost; and the former concluded his remarks by stating, that Texas claimed that her boundary extended to the Rio Grande, from its source to its mouth; that that boundary was recognized by the United States, and contested by Mexico; that, upon the conclusion of the war, that title was perfected; and now gentlemen wanted to rob her of it, just as though there was no limit to the work of aggression.

Mr. SCHENCK regarded this as another of the mischievous fruits of the war; and he did not believe that any man could tell the amount of mischief which was destined yet to arise out of that war with Mexico, and the annexation of Texas to the United States. With both hands held up, he would express his desire, if it were possible, to carry the Union back again to the condition in which it stood before the annexation of Texas took place; and he would then like to submit to the people the question, whether they would tread the same path again.

By the adoption of the annexation resolutions, the United States assumed to negotiate for the settlement of all questions of boundary between Texas and other governments, having reference to the Rio Grande boundary: that inasmuch as Texas claimed to the Rio Grande, and Mexico to the Nueces, that question should be left to a legal adjustment between the United States and Mexico. The result of the war—the acquisition by the United States of territory beyond the Rio Grande—placed the General Government in the same position towards Texas, with reference to boundary, which Mexico occupied before we crossed the Rio Grande; and this question was now to be settled between the United States and Texas, instead of between Mexico and the United States. The United States was now saying to Texas that she could not go to the Rio Grande, because that country had changed owners.

Mr. PETTIT interrupted here, desiring to know whether the agreement on the part of the United States to settle the boundary of Texas, was in the nature of a trust, or of a *cestui que trust?*

Mr. SCHENCK replied in the negative. There was no such thing as a trustee in the case, nor a *cestui que trust*. Texas set up a claim to the Rio Grande, which was false and unfounded; but the United States chose to go to war to assert it. This

trust question was all a new idea. He would now retort upon the gentleman from Indiana, with a question in his turn. Did the gentleman believe that Santa Fé was ever within the limits of Texas?

Mr. PETTIT replied that Santa Fé was within the limits prescribed by the constitution of Texas.

Mr. SCHENCK said, that was not the question. We all knew how Texas marked out her boundaries. We all knew, that up to the time of the war, she never had any possession beyond the Nueces, except at and around Corpus Christi.

Mr. DUNCAN, of Kentucky, (interposing, and the floor being yielded,) said he had examined with care the question which the gentleman was considering, and he was of the opinion that Santa Fé belonged as much to the State of Texas, as Cincinnati did to the State of Ohio.

Mr. SCHENCK continued. He had examined the question carefully, too, and he had heard opinions expressed upon it; but the opinion of the gentleman from Kentucky was the first opinion going as far as that, which he ever heard upon the question.

Mr. WOODWARD interrupted, and was understood to ask whether it was not a clear principle of law, that a judge should not decide in his own case? and to state, that from the circumstances under which Texas submitted the settlement of her boundary to the United States, it could not be inferred that she should submit to the umpirage now, when the United States was a party against her.

Mr. SCHENCK replied, that there was no such thing proposed as that the United States was to be a judge in the case. The United States might be a party; but the Supreme Court was to be the judge.

He took occasion to state his objection to the amendment, for he also had an objection to it. It was, that it might show, perhaps, by implication, that Texas had some sort of right to the claim set up by her for territory to the Rio Grande. He was unwilling to vote for a proposition which would seem even, by implication, to admit that Texas had any such right.

He then took a wide range of debate, and rehearsed his own course of opposition to annexation and the war from the beginning. He showed that he had exposed the injustice and absurdity of the claim of Texas, and that the friends of the Administration had been compelled to admit it; and he argued its want of validity from the history of the operations of General Kearny at Santa Fé, by the establishment of civil government there, the collection of revenue, and the trial and execution of eleven of his adopted citizens for treason against the United States.

He contended, also, that by the terms of the resolutions of annexation, it was not admitted that the boundary line of Texas extended to the Rio Grande. The language of these resolutions admitted her with her "rightful and proper boundaries."

Mr. KAUFMAN, interposed, and desired to ask if there was not in these resolutions a provision that Texas should govern as far north as 36° 30', and was it not so laid down on the maps?

Mr. SCHENCK admitted all; but the maps, he said, were made to order, and they had been denounced by Democratic members as a gross fraud. The provision of 36° 30' was put in on the motion of a member from Illinois, [Mr DOUGLAS,] now a Senator, and was employed only as a gull-trap to catch northern Democratic votes.

Mr. KAUFMAN inquired whether Texas was a party to that gull-trap, or whether it impaired the legal force of the resolutions? and if not, whether Texas should be made to suffer on account of it?

Mr. SCHENCK did not consider Texas in danger of suffering any loss. Being in the Union, she would be treated with all kindness; but she could not pretend to claim any more territory than she had when she came in.

He proceeded then into a review of the proceedings in connection with the adoption of the annexation resolutions, the history of "the gull-trap," and of its success. He contended that an imaginary line, like that of 36° 30', could not settle a boundary.

Mr. McCLERNAND interposed, and (the floor being yielded) said, that the original boundary of Texas, as a Spanish province, extended on the south and west from the mouth of the Rio Grande, up that stream to about 27½°, certainly not above 30° north latitude, thence by the San Saba Mountains to the Red river. Since, and at no time, had Texas, as an independent State, extended her actual possessions north of the lower Rio Grande. Albuquerque, Santa Fé, Taos, and other villages to the north, had been from the first in the possession of the Mexican authorities and people, and were wrested from them by conquest.

The gentleman from Georgia [Mr. TOOMBS] insisted that the United States were bound by the *claim* of Texas. Not so. They were bound by the *rights* of Texas. Beyond the *line* of her rights the United States had succeeded to the rights of Mexico. Still it was a question of expediency, whether Congress would concede to Texas her extended boundary.

Mr. SCHENCK (resuming) said he should not undertake an explanation like that which the gentleman from Illinois [Mr. McCLERNAND] had given. He preferred to keep to the point from which gentlemen could not escape. He then went back to the language of the annexation resolutions, reading and showing that they restricted the new State annexed to territory "properly included in, and rightfully belonging to" that State; and that, among the qualifications under which Texas came into the Union, it was specified that she was to come in, subject to the settlement by this Government of all questions of boundaries arising "between Texas and other Governments."

He insisted that the country of New Mexico never did belong to Texas, and he was unwilling to do anything that would seem to recognize any title to it on her part.

He repeated and elaborated the proposition with which he commenced, and showed that the country which originally belonged to Mexico, belonged now to the United States, and that the most ready and righteous settlement of this boundary question which could be had, was that proposed in the amendment. Was it possible that the United States established civil government and collected impost duties at Santa Fé, as a mere trustee? Was it possible that the authority of General Kearny at Santa Fé was under the authorities of Texas, an *imperium in imperio*?

He objected to the amendment only because, by implication, it seemed to admit the title of Texas to Santa Fé. If we legislate here for the establishment of territorial governments, we should establish them with all that the United States could rightfully claim for them.

Mr. ——— then obtained the floor, but gave way to—

Mr. TOOMBS, who moved that the committee rise; which was agreed to.

So the committee rose and reported.

Mr. DUNCAN, of Kentucky, from the Committee on Public Lands, submitted the views of the minority of said committee upon the bill from the Senate entitled "An act for the relief of Cadwalader Wallace," which was this day reported from the Committee on Public Lands, without amendment; which minority report was laid upon the table, and ordered to be printed.

Mr. HUDSON asked leave to present a report from the Committee of Ways and Means.

Mr. HOUSTON, of Alabama, objected.

Mr. TOOMBS asked unanimous consent to report a bill.

Mr. HUDSON objected.

And then, on motion of Mr. BAYLY, at half past four o'clock,

The House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. HUNT: The petition of citizens of Cold Spring, Long Island, in favor of a reduction of postage.

By Mr. JOHNSON, of Tennessee: The petition and sundry other papers of Isaac Alway, of Cocke county, Tennessee, praying Congress to place him on the roll of invalid pensioners.

By Mr. ROCKWELL, of Massachusetts: The petition of Isaac Blanchard and 63 others, inhabitants of Florida, Massachusetts, for reduction of postage, abolition of the franking privilege, &c.

IN SENATE.

WEDNESDAY, *February* 28, 1849.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of State, containing the information called for by a resolution of the Senate of the 3d ultimo, as to all treaties of commerce and navigation entered into with foreign nations, &c.; which was ordered to be printed.

On motion of Mr. CLARKE, two thousand additional copies of this document were ordered to be printed.

MEMORIALS, ETC.

Mr. JOHNSON, of Louisiana, presented additional documents in relation to the claim of Villeneuve Le Blanc; which were referred to the Committee on Private Land Claims.

Mr. DIX presented a memorial from Smith & Hersey, asking for a remission of the duties on a quantity of molasses destroyed by fire; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. DAVIS, of Massachusetts, from the Committee on Commerce, reported a bill making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same; which was read a first time.

Mr. D. moved that the bill be now considered; and the motion, after a brief explanation, was agreed to.

The bill was then read a second time, and considered as in Committee of the Whole.

Some brief remarks were made by Mr. KING, Mr. DAVIS of Massachusetts, Mr. RUSK, and Mr. DAVIS of Mississippi; when the bill was reported without amendment.

The bill was then ordered to be engrossed for a third reading; and was subsequently read a third time and passed.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported the following House bills:

An act for the relief of Mary Ann Pollard;

An act for the relief of Henry Childs;

without amendment, recommending that they do not pass.

Mr. J. also, from the same committee, asked that the committee be discharged from the further consideration of the petitions of William C. Sterrett and Mary Wilkinson, and of Mary Hall; which was agreed to.

Mr. J. also, from the same committee, reported House bill for the relief of Joseph Dana, with an amendment.

Mr. J. also, from the same committee, reported the following House bills without amendment, recommending their passage:

An act for the relief of Jacob Zimmerman.

An act for the relief of Rebecca Freeman.

An act for the relief of Giles Landon.

Mr. BENTON, from the Select Committee, to which was referred the memorial of Professor Page, made a report; which was laid on the table, and ordered to be printed.

[The report recommends the insertion of an appropriation of $20,000 in the naval appropriation bill, to enable Dr. Page to make an experiment on a large scale.]

RESOLUTION.

Mr. DICKINSON submitted the following resolution, which was considered and agreed to:

Resolved, That the Committee on Naval Affairs inquire into the propriety of authorizing an adjustment by the Secretary of the Navy, upon principles of justice and equity, of the claims of A. S. & A. W. Benson, arising out of contracts made with the Navy Department in the year 1841 for the transportation of naval stores to the Pacific.

BILLS FROM THE HOUSE.

A bill from the House for the relief of Solomon Davis, was read a first and second time, and referred to the Committee on Public Lands.

Mr. ATCHISON subsequently, from the Committee on Public Lands, reported this bill without amendment, and asked for its immediate consideration.

The Senate then proceeded to consider the bill, which was reported to the Senate with amendment, and was ordered to a third reading. The bill was then read a third time and passed

A bill from the House, in relation to the Fox and Wisconsin river reservation, in the State of Wisconsin, was read a first and second time, and referred to the Committee on Public Lands.

CALIFORNIA.

A bill from the House to establish the territorial government of Upper California, was read a first and second time, and referred to the Committee on the Territories.

CHANGE OF RULE.

The Senate then proceeded to consider the message from the House, transmitting a joint rule in relation to the order and mode in which private bills should be disposed of.

The joint resolution of the House was taken up and considered; and,

On motion of Mr. ATHERTON, the joint resolution was laid on the table.

JAMES MOREHEAD.

On motion of Mr. CAMERON, the prior orders were postponed, and the Senate proceeded to consider the bill for the relief of James Morehead, as in Committee of the Whole.

After debate, in which Mr. FITZPATRICK, Mr. BRIGHT, Mr. STURGEON, Mr. CAMERON, and Mr. TURNEY, took part, a motion to postpone the bill indefinitely was made, and decided as follows: Ayes 19, noes 19. The Vice President gave his vote in the negative, so that the motion was negatived.

After some further debate, in which Mr. BRADBURY, Mr. KING, Mr. MASON, and Mr. BRIGHT, took part, the bill was ordered to a third reading. The bill was then read a third time, and passed.

PURSERS.

On motion of Mr. YULEE, the prior orders were postponed, and the Senate proceeded to consider the bill for the relief of pursers in the navy, as to expenditures made in pursuance of orders during the war with Mexico, as in Committee of the Whole.

An amendment moved by Mr. BERRIEN was agreed to.

The bill was then reported as amended, the amendment was concurred in, and the bill was ordered to a third reading. The bill was then read a third time, and passed.

MESSENGERS.

On motion of Mr. WALKER, the resolution reported by the Committee on Contingent Expenditures of the Senate, to place Noah Hanson and William Hedrick on the roll of messengers, was taken up, considered, amended, and agreed to.

PRIVATE BILLS.

On motion of Mr. ATHERTON, the resolution submitted by him some days since, rescinding the resolution by which Thursday in each week was set apart for the consideration of private bills, was taken up and agreed to: Ayes 22, noes 15.

UNION BANK OF FLORIDA.

On motion of Mr. UNDERWOOD, the prior orders were postponed, and the Senate proceeded to consider a bill for the relief of the president and directors of the Union Bank of Florida, as in Committee of the Whole.

Some discussion took place, in which Mr. DAVIS of Mississippi, and Mr. UNDERWOOD took part; when,

On motion of Mr. ATHERTON, the bill was laid on the table.

BILLS FROM THE HOUSE.

A bill from the House for the relief of Peter M. Grant was read a first and second time.

On motion of Mr. UNDERWOOD, the bill was considered and ordered to a third reading, and was subsequently read a third time and passed.

A joint resolution from the House, authorizing the Secretary of the Senate and the Clerk of the House of Representatives to subscribe for certain debates and proceedings of Congress, was read a first and second time, and referred to the Committee on the Library.

An act supplementary to an act entitled "An act supplementary to An act entitled an act to encourage the cultivation of tropical plants," was read a first and second time, and referred to the Committee on Agriculture.

On motion of Mr. DODGE, of Iowa, the Senate concurred in the amendment made by the House of Representatives to the bill declaratory of the act entitled "An act for the admission of Iowa into the Union."

CIVIL AND DIPLOMATIC BILL.

The Senate then resumed the special order, being the bill making appropriations for the civil and diplomatic service of the United States for the year ending June 30, 1850.

The bill having been reported to the Senate with amendments—

The amendments were then concurred in, with the exception of the appropriation of $20,000 for the remaining MSS. of General Washington, a similar appropriation of $20,000 for the purchase of the MS. papers of the late James Monroe, the amendment of Mr. WALKER in relation to California, and another the character of which was not understood.

The amendment appropriating the amount due to Mexico was also reserved, on motion of Mr. ATHERTON, as it had been already provided for in a separate bill, which had passed both Houses.

The question was then taken on concurring in the last named amendment in relation to the Mexican payment, and decided in the negative.

So the amendment was not concurred in.

The next question being on concurring in the amendment appropriating $20,000 for the purchase of the Washington MSS., and $20,000 for the purchase of the Monroe MSS—

Mr. BERRIEN asked for a division of the amendment.

Mr. ATHERTON asked for the yeas and nays on this amendment, and they were ordered.

The question was then taken on the first branch of the amendment, viz: the appropriation of twenty thousand dollars for the residue of the Washington MSS., and decided as follows:

YEAS—Messrs. Badger, Baldwin, Bell, Berrien, Borland, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dayton, Douglas, Downs, Foote, Greene, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Jones, Mangum, Mason, Miller, Pearce, Phelps, Rusk, Spruance, Upham, and Wales—28.

NAYS—Messrs. Allen, Atchison, Atherton, Benton, Bradbury, Bright, Butler, Calhoun, Dickinson, Dix, Dodge of Iowa, Felch, Fitzgerald, Fitzpatrick, Hamlin, Johnson of Georgia, King, Metcalfe, Niles, Sebastian, Sturgeon, Turney, Underwood, Walker, and Yulee—26.

The question being then on the second branch of the amendment, appropriating $20,000 for the purchase of the Monroe MSS., Messrs. DICKINSON, BUTLER, and CALHOUN expressed their intention not to oppose this appropriation after the recent decision of the Senate.

Mr. WESTCOTT, Mr. ALLEN, and Mr. FOOTE, made some remarks, when the question was put, and decided as follows:

YEAS—Messrs. Badger, Baldwin, Berrien, Borland, Butler, Clarke, Corwin, Dayton, Dickinson, Downs, Fitzgerald, Foote, Greene, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Jones, Mangum, Mason, Miller, Pearce, Rusk, Spruance, Sturgeon, Upham, Wales, and Westcott—28.

NAYS—Messrs. Allen, Atchison, Atherton, Benton, Bradbury, Bright, Davis of Mississippi, Dix, Dodge of Iowa, Felch, Fitzpatrick, Hamlin, Johnson of Georgia, Metcalfe, Niles, Sebastian, Turney, Underwood, Walker, and Yulee—20.

The next question being on concurring in the amendment adopted in committee on motion of Mr. WALKER, relating to a government for California—

Mr. DIX rose and addressed the Senate at length in opposition to the amendment.

Mr. DICKINSON rose to address the Senate; but, as it was so near the hour for taking a recess, he declined until the Senate should resume their session.

The Senate then proceeded to the consideration of Executive business, and the doors were not reopened until after the hour appointed for a recess.

EVENING SESSION.

Mr. DICKINSON addressed the Senate at some considerable length in favor of the amendment of Mr. WALKER.

Mr. JOHNSON, of Georgia, followed on the same side.

Mr. NILES took the floor after 9 p. m., and addressed the Senate at length in reply to the supporters of the amendment of Mr. WALKER, generally, closing at 11 o'clock.

Mr. MASON next followed, chiefly in reply to Mr. NILES, and expressed his hope that the vote would be taken on the amendment as it stood.

Mr. PHELPS followed, deprecating a waste of time in the discussion of slavery on the appropriation bill, and regretting that such a subject should have been broached at all.

The question was then taken on concurring in the amendment, and decided in the affirmative—yeas 25, nays 18.

Mr. DAYTON renewed his motion for the purchase of Catlin's gallery, and the question was decided in the negative—yeas 15, nays 21.

After the presentation of some resolutions, the Senate adjourned at past twelve o'clock.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 28, 1849.

The Journal of yesterday was read and approved.

There was a great contest for the floor.

The SPEAKER (before awarding it to any member) said, if there were no more reports from the Committee on Public Lands, reports would be in order from the Committee on the Post Office and Post Roads.

Mr. GOGGIN rose and addressed the Chair.

Mr. DUNCAN, of Kentucky, rose to make a report from the Committee on Public Lands.

Mr. BRODHEAD addressed the Chair.

The SPEAKER. The gentleman from Kentucky [Mr. DUNCAN] rises to make a report from the Committee on Public Lands.

Mr. BRODHEAD. So do I.

The SPEAKER. The gentleman from Kentucky is entitled to the floor.

REPORTS OF COMMITTEES.

Mr. DUNCAN, of Kentucky, from the Committee on Public Lands, reported a bill for the relief of Peter M. Grant; which was read the third time and passed, and sent to the Senate for concurrence.

Mr. D. also, from the same committee, to whom was referred the joint resolution from the Senate entitled "A resolution to authorize the Secretary of the Treasury to make an equitable settlement with the sureties of Robert T. Lytle, late surveyor general of the district of Ohio," reported the same back to the House without amendment; which resolution was then read the third time, and passed.

Mr. D. also, from the same committee, to whom was referred the bill from the Senate entitled "An act to authorize the sale of reserved lands, and for other purposes," reported the same back to the House with an amendment, accompanied by a report in writing.

The question being upon agreeing to the said amendment—

On motion of Mr. GOGGIN, it was

Ordered, That the said bill and amendment be committed to the Committee of the Whole House on the state of the Union.

Mr. BURT rose (he said) to ask the attention of the House to a resolution, the adoption of which he believed to be indispensable to the business of the House during the residue of the session. The resolution was in the following words:

Resolved, That all reports that give rise to debate shall lie over one day.

It was very obvious, (Mr. B. remarked,) that without such a resolution, all the committees could not be called for reports. The previous question and motions to lay on the table could not cut off at least one speech. Every gentleman who made a report could make a speech upon it. The resolution would oblige a gentleman to move the previous question, or, if not, the matter which he reported must lie over until the following day. He assured the House that, in his judgment, this was the only means by which reports of committees could be made at this session.

He hoped that no objection would be made to the reception of the resolution; but if objection should be made, he would move that the rules of the House be suspended, for the purpose of enabling him to introduce it.

No objection having been made, the resolution was received and adopted.

Shortly afterwards, Mr. CONGER moved a reconsideration of the vote by which the resolution had been adopted.

Mr. C. said he had made the motion for the purpose of pointing out one of the objections which, in his judgment, existed against that resolution. It must prejudice the public business, inasmuch as it would embarrass the action of the House, in passing upon certain reports which would be made in the course of the week from the Committee on Public Printing, and which, in his opinion, it was necessary should be acted upon promptly.

Mr. McCLERNAND rose to a question of order. The effect, if not the express design, of the resolution of the gentleman from South Carolina, [Mr. BURT,] which had this morning been adopted, was to limit debate upon reports made by committees. If so, under the parliamentary rule, as he understood it, it was incompetent for any gentleman to proceed, on a motion to reconsider, to discuss the merits of the resolution.

The SPEAKER said that the question involved in the resolution was, whether debate should be stopped or not. The gentleman from New York [Mr. CONGER] had moved a reconsideration of the vote by which the resolution had been adopted.

Mr. CONGER said he did not wish to debate. He hoped that the motion to reconsider would be agreed to, and that the resolution would be amended by the gentleman from South Carolina.

Mr. BURT said he trusted the House would not reconsider the resolution to which the gentleman from New York referred. Its object was to prevent discussion, and it would not affect any report the necessity of which was apparent. The House had not time to debate; and, for one, he thought one of the most salutary effects of the resolution would be to stop reports from the Committee on Printing. If it did nothing else, he thought that of itself would commend it to the good sense and to the approbation of this House.

He moved to lay the motion to reconsider on the table. Agreed to.

Mr. PUTNAM, from the Committee on Public Lands, to whom were referred the petitions of Hannah Cole and Daniel Milliken, and the bill to amend "An act granting certain lands to the Territory of Iowa, to aid in the improvement of the navigation of the Des Moines river, in the said Territory," made adverse reports thereon; which were laid upon the table, and ordered to be printed.

On motion of Mr. BRODHEAD, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the bill to cede to the State of Ohio all the public lands remaining unsold in the Chilicothe land district, in that State, for certain purposes therein named, and that the said bill be laid upon the table.

Mr. BRODHEAD, under instructions of the Committee on Public Lands, moved that the rules be suspended, for the purpose of enabling him to move that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill supplementary to an act entitled "An act supplementary to an act entitled 'An act to encourage the introduction and promote the cultivation of tropical plants,'" approved 7th July, 1838.

And the question being put, Shall the rules be suspended? it was agreed to.

Mr. B. accordingly moved to discharge the Committee of the Whole House on the state of the Union from the said bill; which motion was agreed to.

The House proceeded to the consideration of the said bill; when

The bill was ordered to be engrossed and read a third time.

And being engrossed, was accordingly read the third time and passed, and sent to the Senate for concurrence.

Mr. COLLAMER, from the Committee on Public Lands, reported the following resolution:

Resolved, That it is inexpedient for the United States to grant her public lands to States or corporations for purposes of internal improvements; and that the committee ask to be discharged from the further consideration of all the bills submitted to them having that object in view, whether by alternate sections or otherwise.

The said resolution, giving rise to debate, was laid over one day, under the resolution this day adopted by the House.

Mr. GOGGIN, from the Committee on the Post Office and Post Roads, to whom was referred the petition of sundry citizens of Richland county, Ohio, praying the passage of a law prohibiting the transportation of the mail and the delivery of letters, &c., on the first day of the week, reported the following resolution, which was read and agreed to:

Resolved, That it is inexpedient at this time to take any action on the petition of sundry citizens of Ohio, asking Congress to pass laws to prevent the transportation of the mail on the Sabbath, and prohibiting the delivery of letters on that day.

On motion of Mr. GOGGIN,

Ordered, That the Committee on the Post Office and Post Roads be discharged from the further consideration of the petitions of Arthur E. Hall, postmaster at South Quay, Virginia; of John P. Warnock, and of Robert G. Ward & Co.; and that the said petitions be laid upon the table.

Mr. GOGGIN, from the same committee, to whom was referred the report of the Postmaster General upon the claim of David Shaw and Solomon T. Corser, reported the same back to the House.

Ordered, That the said report be laid upon the table and printed.

On motion of Mr. GOGGIN,

Ordered, That the Committee on the Post Office and Post Roads be discharged from the further consideration of the communication of the Postmaster General, and accompanying documents to the House of Representatives in relation to offers for carrying the mail for the year ending June 30, 1848; to contracts for transportation of mail; to such land and water mails established or ordered within the year ending June 30, 1848; to additional allowances to contractors; to curtailments of mail service, and of fines imposed and deductions made from pay of contractors, &c.; and that the same be laid upon the table.

Mr. GOGGIN, from the Committee on the Post Office and Post Roads, reported the following resolution; which was read and agreed to:

Resolved, That the Postmaster General be requested to communicate to this House the reason for reducing the fee of letter-carriers in the cities of the United States, if the same has been done; when and where such reduction was made; the orders issued thereupon; how long the former rates had been paid, and the rates now paid.

Mr. GOGGIN said he had also been instructed by the committee to say, that no bill establishing post routes would be reported during the present session, as one passed at the last; and it was not usual, and not necessary, as was supposed, to pass more than one route bill during a Congress.

Mr. GOGGIN, from the same committee, reported the following resolution; which was read and agreed to:

Resolved, That the Postmaster General be requested to communicate to this House a statement showing the amount of money paid or contracted to be paid, since the 30th June, 1845, out of the revenues of the Post Office Department, for the use of or on account of ocean steamers carrying mails, or intended to carry mails, between the United States and foreign countries, with the amount of postages received on such mail lines, and the rates of postage now existing between the United States, England, France, the German States, and Brazil.

Mr. LINCOLN, from the Committee on the Post Office and Post Roads, to whom was referred the Senate bill entitled "An act to define the period of disability imposed upon certain bidders for mail contracts," reported the same back to the House without amendment.

The question being upon the third reading of the bill—

Mr. LINCOLN moved the previous question, which was seconded, and, under the operation thereof, the bill was read a third time and passed, and returned to the Senate.

On motion of Mr. JONES, of Tennessee,

Ordered, That the Committee on the Post Office and Post Roads be discharged from the further consideration of the petition of citizens of East Tennessee and Western Virginia, praying for the restoration of four-horse post-coaches upon the mail route from Blountsville, Tennessee; and that it be laid on the table.

Mr. CRANSTON, by leave, presented resolutions of the General Assembly of the State of Rhode Island and Providence Plantations, in relation to the use of ardent spirits and the lash in the navy of the United States.

Also, resolutions of the said General Assembly in relation to slavery in the Territories, and slavery and the slave trade in the District of Columbia; which were laid upon the table, and ordered to be printed.

Mr. TALLMADGE, from the Committee on the District of Columbia, reported a bill to incorporate the Grand Lodge of the Independent Order of Odd-Fellows of the District of Columbia; which was read twice. And debate arising thereon, it was laid upon the table one day, under the resolution this day adopted by the House.

Mr. TAYLOR, from the Committee on the Judiciary, to whom was referred the memorial of Alexander Hunter, late marshal of the District of Columbia, made an adverse report thereon; which was laid upon the table and ordered to be printed.

Mr. J. R. INGERSOLL, from the same committee, to whom was referred the amendments of the Senate to the bill to amend the act entitled "An act supplemental to the act for the admission of the States of Iowa and Florida into the Union," reported the same back to the House, with the recommendation that the House concur in the said amendments.

Debate arising thereon, the bill and amendments were laid upon the table one day, under the resolution this day adopted by the House.

Mr. J. R. INGERSOLL, from the same committee, to whom was referred the bill from the Senate entitled "An act to authorize the Secretary of the Treasury to make an arrangement or compromise with Mangle M. Quackenboss and his coöbligors, or any of them, for claims on bonds given by them as sureties to the United States," reported the same back to the House without amendment.

Ordered, That the said bill be committed to the Committee of the Whole House on the state of the Union.

Mr. J. R. INGERSOLL, from the same committee, reported a bill concerning the selection of jurors in certain courts of the United States; which was read twice, and ordered to be engrossed and read a third time; and being engrossed, was accordingly read a third time and passed, and sent to the Senate for concurrence.

Mr. J. R. INGERSOLL, from the same committee, reported a joint resolution authorizing the purchase of copies of Joseph M. White's work on land titles; which was read twice, when

Mr. COLLAMER moved to amend the said resolution by inserting after the word "Florida," the words "if in his opinion such purchase be necessary."

The resolution giving rise to debate, was laid upon the table one day under the resolution this day adopted by the House.

On motion of Mr. J. R. INGERSOLL,

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the memorial of S. F. B. Morse, Alfred Vail, and Amos Kendall; and the memorial of Henry O'Reilly, in reference to the impeachment of Judge Monroe, and that the said memorial be laid upon the table.

Mr. MEADE moved that the rules be suspended, for the purpose of enabling him to offer the following resolution:

Resolved, That the President of the United States cause to be made out and transmitted to the next Congress an alphabetical list of all the officers under the Federal Government, arranged according to departments, and setting forth, in separate columns, the name of the office, its salary or emoluments, the birth-place of the incumbent, and the county and State in which he lived when appointed, and the date of his appointment.

And the question being put, "Shall the rules be suspended?" it was decided in the negative.

Mr. FRENCH, from the Committee on the Judiciary, reported a bill to authorize the judge of the courts of the United States of the fifth circuit, to hold the circuit court for the district of Kentucky; which was read a first and second time, and ordered to be engrossed and read a third time, and being engrossed was read the third time and passed, and sent to the Senate for concurrence.

On motion of Mr. HALL, of New York,

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the petition of R. W. Jeffreys, P. Ramy, John H. Randall, and others, praying for the reëstablishment of the United States district court for the western district of Louisiana, and that said petition be laid upon the table.

On motion of Mr. KING, of Massachusetts,

Ordered, That the Committee on Revolutionary Claims be discharged from the further consideration of the petition of Joseph Hardaway and others, and that it be referred to the Committee on Revolutionary Pensions.

Mr. KING, of Massachusetts, from the Committee on Accounts, reported the following resolution; which was read and agreed to:

Resolved, That the Speaker of the House be authorized to pay to the several members who were prevented by domestic affliction or sickness, or by accident or casualty on the route, from attendance at the commencement of the session, the amount to which they would have been entitled if they had not been so detained; and that the Speaker be authorized to pay the Delegate from Wisconsin his compensation from the day when he first appeared in the House as a delegate.

Mr. LYNDE, from the Committee on Revolutionary Claims, to whom was referred the petition of Churchill Gibbs's administrator, made a report thereon in writing, which concluded with the following resolution:

Resolved, That the committee be discharged from the further consideration of this case, and that the petitioner have leave to withdraw his papers.

Mr. BOWDON, from the same committee, reported a bill for the relief of the heirs of Captain Thomas Beall, accompanied by a report in writing; which bill was read twice and committed, and the bill and report ordered to be printed.

Mr. CATHCART, from the Committee on Indian Affairs, to whom was referred the petition of Arba Heald, made a report thereon; which was laid on the table, and ordered to be printed.

Mr. CATHCART, from the same committee, to whom was referred the petition of R. B. Mitchell, made an adverse report thereon; which was laid on the table, and ordered to be printed.

On motion of Mr. BARRINGER,

Ordered, That the Committee on Indian Affairs be discharged from the further consideration of the resolutions of the Legislature of the State of Pennsylvania, relative to the providing of a permanent home for the Indian tribes, and that they be laid on the table.

Mr. BARRINGER, from the committee on Indian Affairs, reported a bill to provide for the punishment of crimes and offences committed within the Indian country; which was read twice and committed, and ordered to be printed.

On motion of Mr. BARRINGER,

Ordered, That the Committee on Indian Affairs be discharged from the further consideration of the memorial of the Cherokee Indians of the State of North Carolina, and that it be laid on the table.

On motion of Mr. BOTTS,

Ordered, That the Committee on Military Affairs be discharged from the further consideration of the petitions of the citizens of the State of Maryland, for the discontinuance of the Military Academy, and that it be laid on the table.

Mr. BOTTS, from the Committee on Military Affairs, reported a bill to classify the clerks of the military department of the army, and to regulate their salaries; which bill was read twice, when it was,

On motion of Mr. PECK,

Ordered, That the said bill be committed to the Committee of the Whole House on the state of the Union.

Mr. BOTTS, from the same committee, to whom was referred the bill from the Senate entitled "An act to provide for an increase of the medical staff, and for an additional number of chaplains of the army of the United States," reported the same back with an amendment; when—

The question being upon agreeing to said amendment—

Mr. BOTTS moved the previous question, which was seconded; and, under the operation thereof, the amendment was agreed to.

The bill was then read the third time; and the question recurred upon the passage, when

Mr. COLLINS moved that the said bill be laid on the table; which motion was not agreed to.

The question then recurred on the passage of the bill.

Mr. WHITE moved the previous question, which was seconded; and, under the operation thereof, the bill was passed, and sent to the Senate.

Mr. BURT, from the same committee, reported a bill to grant lands to the volunteers and State troops who served in the Florida war; which was read twice and committed, and ordered to be printed.

On motion of Mr. BURT, it was

Ordered, That the Committee on Military Affairs be discharged from the further consideration of the petitions of George Lendman, R. G. Crozier, E. C. Lewis, A. Montgomery, and William H. Hubbard and others, and that they be laid upon the table.

The Committee on Naval Affairs having been called—

Mr. GAYLE inquired of the Speaker whether it would be in order for him to move that the House proceed to the consideration of business on the Speaker's table?

The SPEAKER said the motion would be in order.

Mr. GAYLE submitted it.

PRESIDENT AND VICE PRESIDENT ELECT.

Mr. BARROW requested the gentleman from Alabama [Mr. GAYLE] to withdraw his motion, to enable him to make a report from the committee appointed to wait on the President and Vice President elect, and to communicate to them official information of their election. Mr. B. said he would renew the motion.

Mr. GAYLE having withdrawn his motion—

Mr. BARROW made the report, which was laid on the table.

Mr. B. then renewed the motion that the House proceed to the consideration of business on the Speaker's table.

Mr. VINTON said that he hoped that before the House proceeded to the consideration of that business, he would be permitted to report back the Indian appropriation bill from the Committee of Ways and Means.

Mr. HUNT hoped that, by general consent, the call of the committees would be proceeded with.

The motion of Mr. GAYLE was persisted in.

And the question having been taken thereon, and decided in the negative—

The House refused to proceed to the consideration of business on the Speaker's table.

LIQUOR, ETC., IN THE NAVY.

On motion of Mr. SCHENCK, from the Committee on Naval Affairs, to whom were referred twenty-one petitions of citizens of the State of New York, praying the exclusion of intoxicating liquors from the vessels of the United States navy, except for medical purposes; and also petitions praying that corporal punishment may be abolished in the navy,—the said committee were discharged from the further consideration thereof, and the said petitions were laid upon the table.

CAPTORS OF THE FRIGATE PHILADELPHIA.

Mr. SCHENCK, from the same committee, to whom was referred Senate bill for the relief of the captors of the frigate Philadelphia, reported the same back without amendment.

Mr. SCHENCK (remarking that this was the unanimous report of the Committee on Naval Affairs, who had had charge of the subject) demanded the previous question.

Mr. HOUSTON, of Delaware, called for the reading of the bill; and it was read through.

Mr. H. desired permission to say a few words.

Objected to.

The question was then taken on the demand for the previous question, and by ayes 82, noes 31, it was seconded.

The SPEAKER said that he would call the attention of the House to the fact, which had escaped his notice, that the bill contained an appropriation, and that it must therefore (except the rules were suspended) be referred to the Committee of the Whole on the state of the Union. The previous question could only apply to the motion to commit.

Mr. SCHENCK moved a suspension of the rules.

Tellers (Messrs. SCHENCK and FEATHERSTON) were appointed, and the vote stood—ayes 68, noes 49.

So two-thirds not voting in the affirmative, the rules were not suspended.

And the SPEAKER stated that the bill would be committed to the Committee of the Whole on the state of the Union.

Mr. SCHENCK asked the yeas and nays on the motion to suspend the rules.

Mr. STANTON rose, he said, to a question of order. He submitted whether, the decision having been announced, it was not too late for the gentleman from Ohio [Mr. SCHENCK] to call for the yeas and nays?

The SPEAKER said it was a constitutional privilege of every member, upon a vote of one-fifth of the members, to have the yeas and nays.

Mr. SCHENCK said he had made the motion as soon as he could reach his seat.

Mr. STANTON inquired of the Speaker, whether the subject had not passed from before the House?

The SPEAKER. No, sir. Nothing had intervened. If anything had intervened, the Speaker would not have entertained the motion.

The yeas and nays were then refused.

On motion of Mr. DUER, the Committee on Foreign Affairs, to whom was referred the memorial of Bogert & Kneeland, and others, for relief against the Republic of Venezuela, &c., were discharged from the consideration thereof, and the said memorial laid upon the table.

Mr. STRONG, from the Committee on Revolutionary Pensions, to whom was referred the petition of Uriah Wilson, made an adverse report thereon; which was laid upon the table, and ordered to be printed.

On motion of Mr. FULTON, the Committee on Invalid Pensions was discharged from the consideration of the following petitions, viz: Mary Langley, Samuel Crapin, George Whitten, citizens, in behalf of David Montgomery, Nathaniel Harrison, William Cook, Alexander McDonald, and Alanson Pool, and the said petitions were laid upon the table.

Mr. FARRELLY, from the Committee on Patents, made a report upon the petition of J. R. Emerson; which was laid on the table and ordered to be printed.

Mr. FARAN, from the Committee on Public Buildings and Grounds, reported a joint resolution authorizing the lease of a part of a public square to Mr. J. Casparis; which was read twice.

Ordered, That the said resolution be engrossed and read a third time.

And it was accordingly read the third time; when,

On motion of Mr. BOYDEN, it was laid on the table.

Mr. SMITH, of Illinois, from the Committee on Roads and Canals, reported a bill to provide for opening a road from Lake Superior, by the way of the Falls of St. Croix, Marine Mills, Stillwater, and St. Paul's, to Point Douglass, on the Mississippi river; which was read twice, committed, and ordered to be printed.

On motion of Mr. WILSON, the Committee on Expenditures in the Post Office Department, to whom were referred the quarterly accounts of expenditures in said department for the third and fourth quarters of 1847 and the first and second quarters of 1848, were discharged from the further consideration thereof.

Mr. MURPHY, from the Joint Committee on the Library, reported a joint resolution authorizing the Secretary of the Senate and Clerk of the House to subscribe for a thousand copies of the Debates and Proceedings of Congress from the second to the fourth Congresses, inclusive; which was read a first and second time.

Mr. M. moved the previous question; which was seconded.

The said joint resolution was ordered to be engrossed and read a third time.

The resolution being engrossed, was accordingly read a third time and passed.

Mr. MURPHY moved that the vote just taken upon the passage of the said resolution be reconsidered, and that the motion to reconsider be laid upon the table; which latter motion was agreed to.

Mr. CONGER, from the Committee on Printing, to whom was referred the resolution relating to the printing of extra copies of the report of the Commissioner of Patents, made a report thereon, accompanied by the following resolution:

Resolved, That five thousand copies of the annual report of the Commissioner of Patents, with the list of patents and claims annexed, and twenty thousand copies of the same report, without the list of patents and claims, be printed for the use of members, and that five hundred copies of the former and fifteen hundred copies of the latter be delivered to the Commissioner of Patents, for the use of the Patent Office, and that the entire number of copies hereby ordered be bound.

Mr. WHITE moved to amend the resolution by striking out the word "twenty," and inserting the word "forty," so that it would read "forty thousand copies."

Mr. WHITE moved the previous question, which was seconded, and, under the operation thereof, the resolution as amended was adopted.

Mr. WHITE moved that the vote be reconsidered by which the resolution was agreed to, and also moved that the motion to reconsider be laid upon the table, which latter motion was agreed to.

On motion of Mr. CONGER, it was

Ordered, That the Committee on Printing be discharged from the further consideration of the petition of certain citizens of the United States, asking the passage of a law providing for distribution among the common schools of the Union, all public documents; and also the memorial of Edwin Williams, of New York; and that they be referred to the Committee on the Library.

Mr. BOWDON, from the select committee, composed of the members of the House from the State of Alabama, reported a bill for the relief of the citizens of Cedar Bluff, Cherokee county, Alabama, and for other purposes, accompanied by a report in writing; which bill was read twice, and ordered to be engrossed; and read a third time and being engrossed, was accordingly read a third time and passed, and sent to Senate for concurrence.

Mr. LORD, from the Select Committee on Adulterated Drugs and Medicines, submitted the views of the minority of the said committee on the memorial of W. T. G. Morton; which were laid upon the table, and ordered to be printed.

Mr. BOWLIN, from the Select Committee appointed on the subject of swamps and submerged lands in Missouri and Arkansas, reported a bill to grant to the States of Missouri and Arkansas certain swamp lands for the purpose of reclaiming them and increasing the value of the public lands in the vicinity thereof, accompanied by a report in writing; which bill was read twice and committed, and the bill and report ordered to be printed.

Mr. TOOMBS, from the Select Committee appointed on the message of the President of the United States on the subject of levying and collecting duties on goods entering the ports of Mexico during the war between the United States and the Republic of Mexico, made a report thereon in writing.

Mr. McCLERNAND, from the same committee, submitted, in writing, the views of the minority on the same subject.

Mr. STANTON, of the same committee, submitted his views in writing on the same subject.

Ordered, That the report of the said committee, together with the views of the minority thereof, as reported by Messrs. McCLERNAND and STANTON, be committed to the Committee of the Whole House on the state of the Union, and printed.

Mr. DUNCAN, of Kentucky, from the same committee, to whom was referred the bill to provide for the settlement of the accounts of public officers and others who may have received moneys arising from military contributions or otherwise in Mexico, reported the same back to the House without amendment.

Mr. DUNCAN said he was instructed by the committee to ask that the bill be put upon its passage.

Mr. McCLERNAND asked Mr. D. to move the previous question.

Mr. VINTON said he hoped such a motion would not be sustained.

The SPEAKER said, if the bill gave rise to debate, it must go over.

Mr. VINTON said he desired to debate it.

Mr. NICOLL (who held the floor) demanded the previous question.

And the question thereon having been taken, the vote stood—ayes 80, noes 49.

So there was a second.

And the main question was ordered to be now taken, (which main question was on the engrossment of the bill.)

The bill was then ordered to be engrossed for a third reading.

Mr. VINTON moved a reconsideration of the vote.

Mr. V. was proceeding to address the House, when—

The SPEAKER interposed, and said, that by a rule this day adopted, a bill or report from a committee, if it gave rise to debate, must go over until to-morrow.

Mr. VINTON. I wish to debate it.

The SPEAKER. The motion to reconsider will, however, be a privileged question to-morrow, and will therefore bring up the bill.

RECESS.

Mr. VINTON, referring to the condition in which the appropriation bills stood between the two Houses, said that it was a matter of the highest importance that the House should give as much time as possible to these bills. He moved, therefore, that the rules be suspended, to enable him to move that this day and every day hereafter, during the residue of the session, the House take a recess from half-past three until six o'clock.

Mr. THOMPSON, of Mississippi, suggested that the resolution should take effect after to-day.

Mr. GOGGIN suggested an amendment, fixing the time of the recess from four to six.

Mr. VINTON said it was immaterial to him, and he would accept the amendment as a modification.

The question was then taken; and two-thirds voting in the affirmative, the rules were suspended.

Mr. VINTON thereupon submitted his motion.

The SPEAKER said he understood the motion to be, that the House take a recess this day, and each succeeding day, during the session, from four to six o'clock.

Mr. THOMPSON, of Mississippi, moved to amend the motion, so that the recess should take effect after to-day. He assigned a reason (which was not heard by the reporter) why many members could not possibly attend here to-night.

Mr. VINTON said, if the appropriation bills were not passed through this House, he wished to clear his skirts of all responsibility.

Mr. SMITH, of Indiana, asked if it would be in order to move to amend the motion?

The SPEAKER answered in the affirmative.

Mr. SMITH moved to amend by inserting, "from half-past three to six."

The question was taken first on Mr. THOMPSON's amendment, and it was rejected.

The amendment of Mr. SMITH was then agreed to; and, as thus amended, the motion was agreed to.

So the House decided that it would take a recess, from half-past three to six o'clock.

Mr. VINTON, from the Committee of Ways and Means, to whom were referred the amendments of the Senate to the bill making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30th, 1850, reported the same back to the House, with sundry amendments.

Mr. HUDSON, from the Committee of Ways and Means, who were instructed by a resolution of the House "to inquire into the expediency of reporting a tariff bill based upon the principles of the tariff of 1842," made a report thereon in writing.

Mr. NICOLL submitted the views of the minority of the said committee on the same subject.

Ordered, That the said report, together with the views of the minority, be laid upon the table and printed.

Ordered, That the Committee on Printing be instructed to inquire into the expediency of printing an extra number of copies of the said report, together with the views of the minority.

Mr. HAMPTON, from the Committee on Enrolled Bills, made a report.

Mr. CROWELL, from the Committee on Claims, to whom was referred the petition of Captain Cassius M. Clay, made a report thereon, accompanied by a bill for his relief; which bill was read and committed, and ordered to be printed.

Mr. CROWELL, from the same committee, to whom was referred the petition of Pierson Cogswell, made a report thereon, accompanied by a bill for his relief: read and committed.

On motion of Mr. CROWELL, it was

Ordered, That the Committee on Claims be discharged from the further consideration of the petition of John T. Ball, and that it be laid upon the table.

Mr. CROWELL, from the Committee on Claims, made adverse reports upon the petitions of George W. Kidd, Alexander Watson, and Isaac Cook, and of Peletiah Shepard and Benjamin A. Napier; which were laid upon the table, and ordered to be printed.

On motion of Mr. DUNN,

Ordered, That the Committee on Claims be discharged from the further consideration of the petition of Robert Kirkham, and that it be laid upon the table.

Mr. DUNN, from the Committee on Claims, to whom was referred the petition of Samuel B. Spencer, made an adverse report thereon; which was laid upon the table, and ordered to be printed.

Mr. HUNT, from the Committee on Commerce, reported a bill to remit the duties upon certain goods destroyed by fire in the city of New York; which was read twice; and the question recurring upon the engrossment of the bill—

Mr. H. moved the previous question.

Mr. FICKLIN moved that the bill be laid upon the table; which motion was not agreed to.

The previous question was then seconded, and the main question ordered, viz: "Shall the bill be engrossed and read a third time?" And being put, it was decided in the affirmative.

The said bill being engrossed, was accordingly read the third time.

The question recurring upon the passage of the bill—

Mr. NICOLL moved the previous question, which was seconded, and the main question ordered, viz: Shall the bill pass? And being put, it was decided in the affirmative.

Mr. HUNT moved that the vote be reconsidered by which the said bill was passed, and also moved that the motion to reconsider be laid upon the table; which latter motion was agreed to, and the bill sent to the Senate for concurrence.

Mr. HUNT, from the Committee on Commerce, to whom was referred the petition of James B. Clarke, of the city of New York, praying for the passage of a law to protect importing merchants against the payment of illegal duties, made a report thereon; which was laid upon the table, and ordered to be printed.

Mr. WENTWORTH moved the previous question, which was seconded, and the main question ordered, viz: Shall the bill be engrossed and read a third time? And being put, it was decided in the affirmative.

Mr. VINTON moved that the vote be reconsidered by which was passed yesterday the bill from the Senate entitled "An act to grant to the State of Illinois a right of way through the public lands of the United States, and for other purposes;" the consideration of which motion was postponed for the present.

On motion of Mr. CABELL, it was

Ordered, That leave be granted to withdraw from the files of the House the memorial of citizens of Jackson county, for release of judgment in favor of the United States *vs.* the estate of Charles Matthews and Isaac L. Battle, deceased.

Mr. WENTWORTH moved to proceed to the business on the Speaker's table, and to continue thereupon until the House adjourn to-day.

The SPEAKER. The motion is in order; the latter part of it, however, would require a vote of two-thirds for its adoption.

Mr. WENTWORTH. I strike out the latter part, then.

LAND TITLES IN ARKANSAS.

Mr. JOHNSON, of Arkansas, appealed to Mr. WENTWORTH to waive his motion for a moment, to enable him to ask the indulgence of the House to discharge the Committee of the Whole on the state of the Union from the consideration of the bill to settle the titles to certain tracts of land in the State of Arkansas, in order to put it upon its passage.

Mr. WENTWORTH. I pledge myself to my friend from Arkansas to withdraw my motion if he will not help to adjourn the House, but would help stay and do the public business.

Mr. JOHNSON. I will help to do it according to the rules and resolutions that have been adopted by the House.

Mr. JOHNSON'S motion was received, and having been agreed to—

The rules were suspended, and the bill was brought before the House. The question being on its engrossment—

Mr. JOHNSON moved the previous question; which was seconded, and the main question ordered and agreed to.

So the bill was ordered to be engrossed for a third reading.

Mr. ASHMUN objected to its third reading at this time.

The bill accordingly took its place on the Speaker's table.

THE SPEAKER'S TABLE.

The question recurring on the motion of Mr. WENTWORTH, was taken and agreed to.

So the House proceeded to the consideration of business on the Speaker's table.

The SPEAKER laid before the House sundry communications, as follows:

I. A report from the Secretary of the Treasury on the warehousing system; which was laid on the table, and ordered to be printed.

II. A letter from the Postmaster General, transmitting the report of the disbursing agent of the Post Office Department, exhibiting in detail the receipts and expenditures of that department during the calendar year 1848; which letter and report were laid on the table, and ordered to be printed.

The House proceeded to the consideration of the joint resolution directing that the Government of Russia be supplied with certain volumes of the Narrative of the Exploring Expedition, in lieu of those lost at sea, and the amendments of the Senate thereto.

The said amendments were read and agreed to.

Ordered, That the Clerk acquaint the Senate therewith.

Bills and a joint resolution from the Senate of the following titles:

An act to continue the light at Sand's Point, on Long Island;

An act for changing the location of the land office in the Chippewa land district, and establishing an additional land district in the State of Wisconsin;

An act to amend an act entitled "An act for authenticating certain lands," approved February 22, 1849;

A resolution (No. 56) authorizing the Secretary of War to furnish arms and ammunition to persons emigrating to the Territories of Oregon, California, and New Mexico;

An act to provide for the final settlement of the accounts of Abraham Edwards, register of the land office at Kalamazoo, Michigan;

An act to provide for the final settlement of the accounts of Thomas C. Sheldon, late receiver of public moneys at Kalamazoo, Michigan;

Were severally read the third time and passed, and returned to the Senate.

Senate bills entitled—

An act for the relief of A. H. Cole;

An act for the relief of Eugene Van Ness and John M. Brush, executors of Nehemiah Brush;

An act for the relief of John Crawford;

An act for the relief of William Greer;

An act for the relief of the heirs and legal representatives of Joseph McAffee, deceased;

An act for the relief of Manuel X. Harmony;

An act for the relief of John M. McIntosh;

An act authorizing the renewal of a patent for the benefit of the widow and heirs-at-law of Timothy P. Anderson, deceased;.

An act to authorize the allowance of compensation to the registers and receivers of the several land offices of the United States for locating military land warrants, Choctaw land scrip, and for other purposes;

Also, respecting the bounty land and extra pay allowed to the "substitutes" of men enlisted for the Mexican war;

were severally read twice, and appropriately referred.

Subsequently, Mr. HALL, of Missouri, moved to reconsider the vote by which the bill from the Senate entitled "An act for the relief of Manuel X. Harmony" was referred to a Committee of the Whole House, and he further moved to lay that motion on the table; which latter motion was agreed to.

PAY DEPARTMENT OF THE ARMY.

The bill from the Senate relating to the pay department of the army coming up on its first and second reading—

Mr. BURT asked that it be put on its engrossment.

Mr. HALL, of New York, moved that it be referred to the Committee of the Whole on the state of the Union.

Mr. BURT hoped, he said, that that motion would not be agreed to. This was the identical bill to which he had so often, but so unsuccessfully, called the attention of the House. A similar bill had been reported from the Committee on Military Affairs of this House. They believed it to be indispensable to the service of the army, and it was so regarded by the Senate. He was unwilling, at this late day, to take up any of the time of the House in making remarks, and he would not do it unless some gentleman should require information or explanation as to the provisions of the bill. Otherwise, he would not say a word about it.

Mr. COLLAMER desired to inquire of the gentleman from South Carolina [Mr. BURT] whether this was the same bill which had been reported by the Committee on Military Affairs of the House?

Mr. BURT said, in reply, that he believed it to be identically the same bill in every line and word. He hoped that there would be no objection to putting it on its passage.

The SPEAKER said, a motion had been made by the gentleman from New York, [Mr. HALL,] to commit the bill to the Committee of the Whole on the state of the Union. The question now was on that motion.

Mr. BURT hoped, he said, that the House would vote it down.

And the question having been taken, and decided in the negative, the bill was not referred to the Committee of the Whole on the state of the Union.

The question then recurring on the third reading—

Mr. BURT asked the previous question.

There was a second. And the main question was ordered, and having been taken, the bill was read a third time.

And the question being on its passage—

The yeas and nays were asked, and refused.

And then the bill was passed.

Mr. BURT moved a reconsideration of the vote, and that that motion be laid on the table.

No objection having been made, it was ordered accordingly.

TERRITORY OF MINESOTA.

The bill to establish the Territorial Government of Minesota coming up in its order, and the question being on its passage—

Mr. SIBLEY expressing his sense of the importance of the bill, and his unwillingness at this late hour to detain the House with any remarks, moved the previous question.

There was a second; the main question was ordered, and the bill was passed.

Mr. SIBLEY moved a reconsideration of the vote, and that that motion be laid on the table.

No objection having been made, it was ordered accordingly.

THE FRANKING PRIVILEGE.

The bill to abolish the franking privilege came up in its order.

The pending question was on the motion heretofore made by Mr. COLLAMER, that the bill be laid on the table.

Mr. COLLAMER, on further reflection, he said, being reminded that the House at the last session, passed a bill in relation to the thirty miles, and that that bill was now pending before the Senate, withdrew his motion to lay the bill on the table.

The question then recurred on the engrossment of the bill.

Mr. WENTWORTH demanded the previous question.

Mr. HALL, of Missouri, moved that the bill be laid on the table.

Mr. DIXON asked the yeas and nays, but withdrew the motion,

The question was taken, and the House decided that the bill should not be laid on the table.

The question recurring on the engrossment—

Mr. KAUFMAN called for the reading of the bill, and it was read through.

Mr. ASHMUN suggested that there was an amendment pending, and that the question was first on that amendment, and then on the engrossment.

The SPEAKER said, there was no record to that effect.

Mr. ASHMUN. The gentleman from Connecticut [Mr. DIXON] moved an amendment to his own bill.

Mr. WHITE desired to inquire of the Chair what would become of the vested right of Mrs. Madison, Mrs. Harrison, and Mrs. J. Q. Adams, if this bill was passed?

If any reply was made to this inquiry, it was not heard by the reporter.

The SPEAKER said, he desired to understand what the precise state of the question was; and he requested the gentleman from Connecticut to state what his understanding of it was.

Mr. DIXON explained that he had offered an amendment, and that the pending question was on that amendment.

The question was so stated to the House.

And the question having been taken, the amendment was rejected.

The question recurring on the engrossment of the bill—

Mr. DIXON demanded the previous question.

The bill was again read.

Mr. VAN DYKE moved that the bill be laid on the table, and asked the yeas and nays; which were ordered, and, being taken, were—yeas 103, nays 68.

So the bill was laid on the table.

THE BOUNDARY LINE.

The Senate bill (No. 343) to provide for carrying into effect the fifth article of the treaty between the United States and the Mexican Republic for establishing a boundary line between them, next came up.

Mr. SMITH, of Connecticut, under the direction of the Committee on Foreign Affairs, moved a substitute for the bill, as follows:

Strike out all after the enacting clause, and insert the following:

That the commissioner and surveyor to be appointed on the part of the United States, for the purpose of designating the boundary line and establishing on the ground landmarks to show the limits of the United States and the Mexican Republic, according to the fifth article of the treaty between them, concluded on the second day of February, one thousand eight hundred and forty-eight, shall be selected and appointed by the President of the United States from the Corps of Topographical engineers. And it shall be lawful for the President to cause other officers of said corps, at his discretion, to be employed to aid and assist in designating said line and establishing said landmarks. And the said commissioner may employ a secretary, who shall be allowed and paid a salary at the rate of two thousand dollars per annum: *Provided*, That said appointment shall terminate at the expiration of three years from the time said commissioner shall enter upon the performance of his duties.

SEC. 2. *And be it further enacted*, That the President of the United States is hereby authorized to make, out of any appropriation for said service, such per diem allowance to officers engaged on this duty as shall, in his judgment, be necessary to cover extra expenses.

SEC. 3. *And be it further enacted*, That in order to expedite the survey of said boundary, it shall be lawful for the President to employ parties on different parts of the boundary at the same time, the surveys of which parties being approved by the commissioners under the treaty, shall be received and treated as surveys of said boundary.

He said he supposed it would be the privilege of his friend from Michigan [Mr. McCLELLAND] to move an amendment to the original bill for the purpose of perfecting it.

The SPEAKER said, that a motion to amend the bill would take precedence of the substitute.

Mr. McCLELLAND moved to add the following sections to the bill, which, he remarked, were a part of the proposed substitute, and which left the bill as it was with regard to the commissioner, surveyor, and secretary.

SEC. 3. *And be it further enacted*, That it shall be lawful for the President to cause other officers of the Corps of Topographical Engineers, at his discretion, to be employed to aid and assist in designating said line, and establishing said landmarks.

SEC. 4. *And be it further enacted*, That the President of the United States is hereby authorized to make, out of any appropriation for said service, such per diem allowance to the officers of said corps engaged on this duty as shall, in his judgment, be necessary to cover extra expenses.

SEC. 5. *And be it further enacted*, That, in order to expedite the survey of said boundary, it shall be lawful for the President to employ parties on different parts of the boundary at the same time, the surveys of which parties, being approved by the commissioners under the treaty, shall be received and treated as surveys of said boundary.

Mr. SMITH said the amendment of his friend from Michigan was, in his judgment, entirely proper, provided the original bill was to stand.

Mr. WHITE inquired what would be the effect of the previous question—whether it would cut off the substitute?

The SPEAKER replied that it would not.

Mr. WHITE. I move the previous question, then.

Mr. SMITH, Mr. SCHENCK, and others, expressed the hope that the gentleman would not insist upon the previous question, the latter saying that he hoped the gentleman from New York would not prevent an amendment from being offered.

Mr. WHITE. It does not cut off the substitute of the gentleman from Connecticut.

Mr. SMITH. I know that. I have no idea of making an argument, but I wish to say a few words.

Mr. WHITE withdrew the previous question.

Mr. SCHENCK said he would move an amendment to the original bill.

The SPEAKER. No other amendment is in order to the bill until that of the gentleman from Michigan is disposed of. The gentleman may move to amend that amendment.

Mr. McCLELLAND said, when the Committee on Foreign Affairs had this subject under consideration, they considered it necessary, even if the bill was passed in the original form in which it came from the Senate, that the provision which he had moved should be attached. When it was attached, the question would arise, whether the House would adopt the original bill, as amended, or the substitute.

The question was taken, and the amendment of Mr. McCLELLAND was agreed to.

Mr. SCHENCK moved the following amendment:

Provided, That no part of the money appropriated by this act, or by any previous act of Congress, shall be used to pay the salary of any commissioner or surveyor, or other officer or person to adjust the boundary line between the United States and Mexico, when the appointment of such commissioner or surveyor, or other officer or person, was made without authority of law.

He said he did not suppose he should be able to attract the attention of the House, at this time, to this amendment. He did not know how far the House of Representatives of the United States, or the Congress of the United States, were disposed to stand upon the rights of the legislative department; but, for one, he meant, from time to time, when occasion should arise, as it now did, to place such questions before the House as should test its disposition to do so.

The amendment which he proposed was this: that nothing in this bill should be construed to authorize, nor, if any appropriations were made, should it be used to pay a commissioner or surveyor who had been appointed at any time heretofore without a law of the land authorizing such appointment. By the late treaty with Mexico, (as he had had occasion, under the five minutes rule, to state the other day,) in one of its sections, it was provided that the Governments of the two countries should each appoint a commissioner and surveyor, who should meet to run this line. When that treaty was sent to this House, (as he had quoted in direct terms from the message,) the President of the United States had called upon Congress to pass a *law* to provide, not for the payment, but for the appointment, of a commissioner and surveyor, so that the treaty might be executed in that respect. Now, not finding Congress acting immediately upon his recommendation or request, it was

notorious that the President of the United States had assumed to himself, without any authority of law, without the creation of any such office, without any action of Congress, for the carrying out the treaty in this particular, to appoint a commissioner and a surveyor, and to send them out in the discharge of this duty, and, if report were true, (and he apprehended it was,) to go even further than this, and take upon himself the legislative function of fixing the amount of salary which this officer should receive.

If we looked into the Constitution of the United States, we found that the President might appoint such officers as were there designated, by and with the advice and consent of the Senate, with such other officers as might from time to time "be established by *law*." The other day, a gentleman on his left [Mr. STANTON] had taken occasion, when he was addressing the House upon this subject, to inquire whether the treaty between the United States and Mexico was not the supreme law of the land? and the treaty being the supreme law of the land, and providing for the appointment of a commissioner and a surveyor, whether it did not, therefore, create these offices? To this he (Mr. SCHENCK) answered, emphatically, No; and to this the Congress of the United States would reply, No, if it had any respect for its rights, for its character, for its power as the legislative department of the Government. As he had then said, he now repeated, the President himself did not so understand it. Look into the message of the President accompanying the treaty when it was sent to the House of Representatives, and what did we find? The President had made a direct appeal to Congress to pass a law—for what? For the payment of a commissioner and of a surveyor? No: to pass a law providing for the appointment of those officers, so as to carry into effect that portion of the treaty; thus recognizing, at that time, that he had no power, without the authority of the Congress of the United States, to make the appointment of these officers.

Mr. NICOLL interposed; but what he said was not heard by the reporter, except the remark that he should like to hear an argument from the gentleman to show that when these officers were appointed under the treaty, they were not appointed under the law of the land.

Mr. SCHENCK said he should speak of that.

The President (he continued) did not then understand that any such construction should be put upon the treaty. He did not then understand that by that means the President and Senate might evade the action of the legislative department of the Government in creating officers in this country.

It was claimed that the treaty was the supreme law of the land; that it was an act of *quasi* legislation, by which officers were created. What followed from that? Why, that the President and Senate might, if they would, under a treaty with a foreign Government, whether they were at all pertinent to that treaty or not, fill the whole land with officers.

But it did not end there. It must be borne in mind, that if an officer was appointed, he must be paid; and the power to create an office by virtue of a treaty must, if gentlemen were correct, involve the power to fix the salary for that officer. He was aware that gentlemen did not go so far as that; but it was the result of their doctrine when carried out.

Now, he asked whether the President and the Senate of the United States, or the ministers representing this treaty-making power abroad, could, in conjunction with the ministers of other Governments, not only appoint officers, but go further, and provide for the payment of their salaries? How was the money to be drawn from the treasury of the United States without law?

[SEVERAL VOICES: It cannot be.]

It cannot be, (said Mr. S.) How were we to know how much salary was to be given to these officers, except by law, and that law passed by the proper power—by the Congress of the United States? The President, then, had appointed a commissioner and a surveyor against his own understanding of his rights originally. He had sent them abroad, and he left to Congress the poor privilege of appropriating the money to meet his demands upon them.

But further: what was to be the tenure of these offices? If we looked into the treaty we saw nothing except that each Government should appoint a commissioner and a surveyor to carry out that treaty. Who was to say whether those officers should be appointed for life, during good behavior, or for a number of years? Who but the Government? and who but the law-making power of the Government? Yet, here the President of the United States, without any authority to do so, and against his declared original understanding, had gone on, not only to create new offices and appoint persons to fill them, but to fix their salaries and to determine, he supposed, what their tenure should be. He supposed some commission was given to these officers; he would like to see it. Could any gentleman enlighten him, and tell him what its terms were? What was the form of the certificate? for what length of time did it say they should hold their office? and in what way?

Mr. HALL, of Missouri, (in his seat.) In conformity with the treaty, which is the supreme law of the land.

Mr SCHENCK continued: Well; the treaty said nothing about it; there was not a word about the tenure or the salaries in the treaty. He should have supposed that the President would at least have let Congress come in, and if his legislation was not sufficient, allowed them to help him to carry out the law. But he did not permit that; not only had he assumed to create the offices, but this autocrat said he would go further, and fix their salary and their tenure.

There was not one word in the treaty about the salary or the tenure. How were these to be supplied? Just by taking step after step in the way of encroachment upon the prerogatives of this House and of Congress, in order to see to what degree they would carry their complaisant subserviency and bow to the behests of royalty. That was the fact. He wished he was mistaken; he wished there was something in this pretence of the treaty being the supreme law of the land which would justify the President. And he repeated, if this House was true to itself, if this Congress was not going, inch by inch, subject by subject, to put at the control of the President almost everything in the land, there must come a time when Congress should stand fast, and say to the man who attempted these encroachments, Thus far shalt thou go, and no further. Now, did not this present itself as a clear case that had arisen in the instance before them, for Congress to take this stand and do something to protect its own constitutional rights? It seemed to him that this was a case of clear, palpable, flagrant violation of the Constitution and usurpation of legislative power by the Executive, if there ever could be one. Yet gentlemen seemed to doubt it. As a representative of the people, he had no more interest in it than any other representative. What were the assumptions of one President to-day, might be, if indulged by Congress, the assumptions of another President to-morrow, or at some future time. He called upon gentlemen, if they believed that here was an assumption of power that ought not to be exercised, in proper respect for the legislative department, to take such steps and make such declarations, either in the form of the amendment which he had proposed, or in some other form, as to show the determination of the legislative department to maintain its own rights against the usurpations of any other functionary or department of the Government.

Mr. STANTON said the answer to the remarks of the gentleman from Ohio might be made in a single sentence; it was simply this: that this House, in conjunction with the other, had the right to appropriate the money necessary to pay the salaries of these officers or not, at its pleasure. But the offices were established by the treaty; and if the treaty was to have any validity whatever, it must be carried into effect by the executive officers of the Government. Now, the treaty which had been entered into between this Government and that of Mexico required this commission to be established, or at least that the commission should commence its work within a particular period.

Mr. SCHENCK (the floor having been yielded) inquired if it was not the fact, that the treaty provided that this commissioner and surveyor should at some future time be appointed by "the Government" of the country? Was not that the language?

Mr. STANTON. True.

Mr. SCHENCK. Then I desire that the gentleman should explain whether, when we speak of "the Government" of this country, by it is meant the Chief Executive? Or did the words "the Government" include the other departments also

Mr. STANTON replied that the answer to the gentleman's question was extremely easy. If the Constitution of the country required that officers should be appointed in a particular manner, nominated by the President and confirmed by the Senate, and if the Constitution knew of no other officers, when an officer was appointed in that constitutional mode, it was done by the Government of the United States, although the Executive and the Senate acted for the Government by virtue of the power delegated to them under the Constitution of the country.

Now, where was the objection in the Senate of the United States to the appointment of the distinguished gentleman who had been nominated as commissioner? He understood that that nomination was unanimously confirmed, and thus that we had the unanimous sanction of the Senate of the United States, comprising every member of the gentleman's party in that body, of the principle which he had assumed that the only control which Congress had, or which this House had, was to withhold, if it saw proper, the salaries which were to be given to these officers.

Mr. SCHENCK explained, that in whatever he had said in reference to this subject, he had had no reference to the individual who had been appointed commissioner; and for the purpose of his argument, he cared not whether he had been unanimously confirmed, or confirmed by a bare majority of the Senate. His position was, that this House was a part of the law-making power, and it was not to be rode down by the President and Senate when they were transcending their constitutional authority.

Mr. STANTON asked the gentleman, since he thought that the Government of the United States could only act through Congress, whether a treaty, ratified by the President and Senate, was made by the Government of the United States?

Mr. SCHENCK was understood to reply that the treaty-making power was expressly conferred upon the President and Senate, and therefore that they were only exercising their legitimate functions in the case presented.

Mr. STANTON (continuing) said, this commission had been appointed, ratified, and confirmed by these functionaries, who were appointed by the Constitution of the United States, and it remained for this House and the other branch of Congress either to pay, or to refuse to pay, the salaries of these officers, and that was all the power which the House had over the subject. This, he apprehended, was a complete answer to the gentleman.

Mr. SCHENCK. Will the gentleman inform us, then, who is to fix the salaries?

Mr. STANTON. This House and the other House may fix them, if they please; or they may leave the President to do it, at his own discretion.

Mr. SCHENCK made a remark which was lost to the reporter.

Mr. STANTON said he would present to the gentleman a case: Suppose Congress passed a law to authorize a ship-of-war to be built, and directed that certain agents should be employed, but made no provision by whom it should be built; he asked the gentleman whether the President of the United States, by his subordinate functionaries, had it not in his power to fix the compensation of the officers and agents who were employed? And now, in the absence of any rule regulating it by the Congress of the United States, the President was bound to pay these officers a reasonable compensation.

Mr. SCHENCK inquired if it did not belong to Congress to fix the compensation, as well as to create the office?

Mr. STANTON replied, that Congress could fix the salaries. Congress had that right; but if it did not do it, it was the duty of the President to pay a reasonable compensation for their services.

Mr. SCHENCK asked how he (*i. e.* the President) could get the money out of the treasury?

Mr. STANTON. He cannot get it out, unless we appropriate it.

Mr. SCHENCK inquired how the President was to fix the tenure of the offices?

Mr. STANTON replied, that the tenure of the offices was the running the boundary line. When that had been executed, the office ceased, necessarily. How else could it be fixed? The treaty

provided that within a certain time the running of the boundary should be commenced, and within a certain other time that the work should be completed; and there, in this supreme law of the land, in the treaty made by this Government, was the limit fixed to the tenure of these offices.

But suppose it was not, and that Congress should pass a law authorizing a commission to be appointed for the purpose of running the boundary: that office would end when the work was performed, and not before. And so it would be under the treaty. But it was useless to waste the time of the House.

Mr. SMITH, of Connecticut, said he was very sorry that his friend from Ohio [Mr. SCHENCK] should have anticipated discussion properly arising under the amendment which he (Mr. SMITH) had been instructed by the Committee on Foreign Affairs to propose to this bill. The whole question arose under that amendment. It was a question of very great importance. He had for several days been prepared to submit his views on the subject to the House, and he regretted that its consideration should have been postponed until so late a day in the session. He regretted to be constrained to intrude himself upon the House at this time, and he felt some degree of hesitation in relation to the propriety of entering into the discussion at all. He was very apprehensive that he could not get the ear of the House. But notwithstanding the late hour of the session, he felt called upon to submit a few remarks.

In the first place, he would call the attention of the House to one extraordinary fact. This bill, providing for the creation of the office of commissioner and surveyor, passed the Senate at the last session. It was sent to the House on the 11th of August last, only three days before the adjournment of Congress, and at so late a period that it was not possible it could be taken up. Of course it went to the Committee on Foreign Affairs at the commencement of the present session. On the 17th of January last, he reported the bill. In the mean time, what had been done? The President and Senate, in contempt of the rights of the House, in contempt of the Constitution and laws of the United States, had arrogated the power of appointing a commissioner and surveyor, without right and without law, but in direct violation of all law, and in contempt of the authority of this House. Had it come to this, when the President himself had declared that a law was necessary for the purpose, as appeared from a document from which he (Mr. S.) would read? [Mr. S. then read from the message of the President an extract setting forth that it would be necessary to *provide by law* for the appointment of commissioner and surveyor, &c. The reporter has none of the extracts except one read by Mr. S.]

The President and Senate (Mr. S. continued) said the same thing. They passed this bill and sent it to the House, and before the House came to act upon it, they arrogated the power of appointing a commissioner and surveyor without law, and in direct violation of all law. More than that—as appeared from an article which he held in his hand, and which he would send to the Clerk's table to be read—a great number of other officers had been appointed.

Mr. S. sent to the Clerk's table a newspaper containing the following paragraph, which was read:

"MEXICAN BOUNDARY COMMISSION.—The Cincinnati Times of last Saturday evening says:

"'Colonel J. B. Weller, the Mexican boundary line commissioner, and suite, left this city yesterday for New Orleans, on the steamer Daniel Webster, *en route* for the field of their operations. The party consists of Lieutenant Colonel Emory, topographical engineer; Mr. Gray, of Texas, surveyor; Dr. Chamberlin, of this city, surgeon; C. L. Weller, disbursing officer; Captain O'Donnell, commissary; H. A. Robinson, secretary. They are to meet the Mexican commission at San Diego, in May next, and then proceed to work.'"

Mr. SCHENCK (Mr. S. yielding the floor) expressed his desire so to modify his amendment as to provide that no money should be paid to any surveyor, engineer, or disbursing or other officer, without authority of law. These officers were not even named in the treaty. The President had made them outright.

Mr. McCLELLAND was understood to say that an engineer was provided for in one of the amendments.

Mr. SMITH continued. He was understood to say, that in relation to the corps of Topographical Engineers, he supppose there was nothing illegal in the conduct of the President. He had the right to order the officers of that corps to any part of the United States, and to direct them to perform any duty which he might see fit. But here were a number of civil officers created, as it was said. Nothing was known specifically and with certainty on the subject. It was known that it had been announced through the public prints that the President had nominated to the Senate a commissioner and surveyor; and he (Mr. S.) found, on inquiry from the officers of the Senate, that the President had not nominated to the Senate, nor appointed by the consent of the Senate, any other officers for the performance of these duties. But the article which had been read, and common rumor, declared that the President had arrogated to himself the appointment of a number of civil officers without even the knowledge or consent of the Senate.

Mr. STANTON (by leave of Mr. S.) referred to the article of the treaty which provided for the appointment of commissioner and surveyor to run the boundary line, &c., and remarked that it was not possible for the President to carry out that part of the treaty incumbent on this Government without the appointment of other officers beyond a mere commissioner and surveyor.

Mr. SMITH continued. It was a pretty extraordinary derivation of power for the President to appoint, in addition to a commissioner and surveyor, a large corps of civil officers, without the consent even of the Senate, and in the face of this House. Mr. S. replied to the argument of Mr. STANTON in regard to the necessity of these appointments. There never had been a violation of the Constitution and laws of the land which had not been based on that same plea of necessity. The bill which had passed the Senate determined what the officers should be, and how many; that there should be a commissioner and surveyor, and a secretary, who was not called for by the treaty; and that he should have a salary of $2,000.

Mr. S. proceeded to remark that other officers had been appointed, at what salary no human being knew. Rumor said that the President had made a treaty with Colonel Weller, and that his compensation was to be five thousand dollars, whereas the bill of the Senate provided that it should be $3,000; that the salary of the surveyor should be $2,000, and the salary of the secretary $2,000 per annum. He would like to know what his High Mightiness had done in relation to the salary of the secretary. How came the President to appoint that officer without the assent of the Senate? He had appointed not only a commissioner and surveyor, but half a dozen other officers.

Mr. STANTON interrupted further, and the floor being yielded, he asked the gentleman from Connecticut, [Mr. SMITH,] and those who agreed with him, what was to be done, when the treaty, which, by the Constitution, is made the supreme law of the land, and which requires a commissioner and surveyors to be appointed, when this House refuses to provide for their pay?

Mr. SMITH replied, that this and the other House of Congress had the right to break the treaty—to say whether it shall be carried out or not. But he would go a little further into this matter. Private letters had come in here, telling of another section of the treaty, another document, giving authority to the Government of the United States for the appointment of another commissioner for the adjudication of the Mexican claims. He wanted to know of the gentleman, whether the President and Senate had the power to set up this commission without a law of Congress?

Mr. STANTON. I have no doubt of it; for the treaty is the supreme law of the land, if Congress does its duty in the matter.

Mr. SMITH. And there is another provision of the treaty requiring this Government to pay twelve millions of dollars: can the President do that without the authority of law?

Mr. STANTON. No, sir. He cannot get the money without a regular appropriation.

Mr. SMITH. Without the sanction of Congress, then, all the stipulations of the treaty are not the supreme law of the land.

Mr. SCHENCK interrupted here, with a statement that, by the sixteenth article of the treaty, each of the contracting parties may build fortifications in certain situations: could the President build without law?

Mr. STANTON was about to reply; but—

Mr. SMITH continued. There was no such broad doctrine as the gentleman contended for, that every stipulation in the treaty, of every sort, is the supreme law of the land: there was no such doctrine as that. There were two sorts of stipulations embraced in every treaty—those which furnish a rule of conduct for the Government, and those which furnish a rule of conduct for individuals. Stipulations furnishing a rule of conduct for the Government were never the supreme law of the land; but those furnishing a rule of conduct for individuals, they were the supreme law of the land. Stipulations regulating the rights of property and the conduct of individuals were to be regarded as the supreme law; while that other class of stipulations, imposing obligations upon the Government, never could be so regarded till Congress should agree to carry them out. There was in this treaty a variety of stipulations; but those which merely imposed an obligation upon the Government were not the law of the land *per se*.

There was a provision of the Constitution which he would read in this place: and he read as follows: The Constitution says—

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

He desired to remark, upon this provision of the Constitution, that it was intended to establish the supreme law of the land, in the Constitution, laws, and treaties of the United States, over the constitutions and laws of the several States, respectively. "The Constitution" of the United States was here declared to be the supreme law with reference to the State constitutions and laws. The declaration that "the laws" of the United States shall be supreme, did not have reference to the several departments of the General Government; they were not supreme, so far as the Executive, the Legislative, and Judiciary departments of the Government were concerned; but they were the supreme law with reference to States and individuals. So it was with treaties with foreign governments. Therefore, this clause of the Constitution meant nothing more than that the Constitution, laws, and treaties of the United States shall be supreme with reference to the constitutions and laws of the respective States.

Mr. KAUFMAN interposed the inquiry, whether Congress, at the last session, did not place fifty thousand dollars at the disposal of the President, to carry out this provision of the treaty?

Mr. SMITH said he would come to that point before long. This provision of the Constitution, (he continued,) upon which gentlemen relied for the authority upon which the President had proceeded, only asserted the treaty to be the supreme law of the land with respect to the respective States of the Union. He admitted the authority of the treaty, as regulating the rights of individuals and the States; but so far as it imposed an obligation upon this Government, he denied that it was the supreme law till it was confirmed by Congress.

Mr. EDWARDS interrupted, to ask the gentleman from Connecticut whether the President had not appointed a secretary to accompany this expedition?

Mr. SMITH replied affirmatively.

Mr. EDWARDS then suggested a difficulty. He could not perceive how the appointment of the gentleman who was the secretary of this commission could have been sanctioned by the Senate; for he was the same individual who, three or four years ago, was excluded from the Chamber of the Senate for lying.

Mr. SMITH said that individual was appointed by the President, without the knowledge or consent of the Senate.

He had already remarked, that the President, when he communicated this treaty to the Senate and House of Representatives, took exactly the same view of the case which he now took. The President then said it was necessary that provision should be made by law for the appointment of this commissioner and a surveyor; and the Senate had declared the same thing when it passed this bill. He affirmed also, that this was the construction which had been given to every treaty of limits which had ever been entered into by the Govern-

ment of the United States. In the case of the treaty for the settlement of the northeastern boundary, there was a stipulation for the appointment of these officers, and Congress passed a law authorizing the same, and fixing the salaries of the commissioner and surveyor. He had the act then on his table, but would not refer to it more particularly. So it was with the articles in convention, entered into between the United States and the Republic of Texas, on the 25th April, 1838. Congress made a law carrying that treaty into effect. And the same was done in the case of a prior treaty with the Republic of Mexico. He had looked into the history of all our treaties, and he had observed that in every case of a treaty of limits, a law of Congress was necessary to carry it out.

And now, he asked—as the honorable gentleman from Ohio had also asked—if the President, by and with the advice of the Senate, had proceeded, under this treaty, to appoint these officers or agents, who was to fix their salaries? Common rumor had given it out that the President had been very liberal in this; that he had fixed the salary of the commissioner, Col. Weller, at $5,000 per annum, that of the surveyor at $2,000, and that of the secretary at $2,000. Where did the President get his authority for this? He denied that the President had any such authority, and called upon gentlemen to point it out.

Mr. HARALSON interrupted, and desired the gentleman from Connecticut to state what evidence there was that these salaries had been fixed as represented, either by the President or anybody else? He wanted a direct answer.

The SPEAKER here announced the hour of half-past three o'clock, and the order of the House for a recess; and, accordingly, the House took a recess till six o'clock.

EVENING SESSION.

The SPEAKER took the chair precisely at six o'clock, in execution of the order of the House this day adopted.

There were but a very few members present.

Mr. COBB, of Georgia, rose and addressed the Chair.

The SPEAKER said the gentleman from Connecticut [Mr. SMITH] was entitled to the floor.

Mr. COBB said, that if the gentleman would yield, he (Mr. C.) would move that the House adjourn.

Mr. SMITH said he was willing to conform to whatever might be the sense of the House.

After a moment's pause he proceeded.

The House had already decided that it would hold an evening session; and he thought there was no doubt that the members generally would be in attendance in a short space of time. He thought, therefore, that it would be better for him to complete the few remarks which it yet remained for him to make on the subject before the House.

Mr. S. then proceeded with his remarks.

He observed, that in every single instance in which the Government of the United States had entered into or negotiated a treaty or convention of limits stipulating for the appointment of a commissioner and surveyor—in every single instance, it had been thought necessary for Congress to pass a law creating the office, fixing the salary that was to be affixed to the office, and also declaring its tenure. He had before him an act of Congress, passed on the 3d of March, 1843, to carry into effect the treaty between the United States and the Government of Great Britain for the settlement of the Northeastern boundary question. It was to be found in the 10th volume of the Laws of Congress, page 468. There were also a variety of other treaties of limits to which he might refer, and he had upon his table the acts of Congress which related to them. He had also the messages of the Presidents of the United States, particularly one by General Jackson, transmitting the treaty between the United States and Mexico, for settling the boundary of the Sabine, and calling for legislation by Congress to enable him to carry the treaty into effect. He had also the act of Congress passed on the subject. He could refer also to the treaty between the United States and Texas to settle the same boundary, for the boundary never was run under the treaty between the United States and Mexico, but it was run by the treaty between the United States and Texas. And an act of Congress was passed, creating the offices, affixing the salaries, and prescribing the tenure of the offices. He might refer also to the treaty of Florida negotiated in 1819, transmitted to Congress by Mr. Monroe, with a short message—(much shorter than state papers of more modern times usually were)—and calling for legislation to enable him to carry that treaty into effect. And he asserted that there was and could be no such thing in this country as an office—(unless a mere honorary office where certain duties might be imposed upon some individual which were to be rendered gratuitously to the country)—except where the office was created; and whenever an office was created, before compensation was to be made to the individual in consideration of duties to be rendered to the country, it was absolutely necessary that a law should be passed declaring the tenure of the office and its salary. Without such a law he utterly denied that it was in the power of the executive department of this Government to make compensation to that officer upon the principle of a *quantum valuit*.

Mr. STANTON interposed, and said he hoped the gentleman from Connecticut did not understand him as having said that the President had the power to make compensation to an officer, or to draw money from the treasury without an appropriation made by law for the purpose.

Mr. SMITH continued. Exactly so. He would come to the question of appropriation directly, and see how that stood. The gentleman—although he asserted it to be within the power of the President to send this commissioner and the surveyor to run this line, and although he contended that it was in the power of the President, on the plea of necessity, to create a number of officers—yet, he conceded that the President could not pay him a penny. Therefore, we were to assume that Colonel Weller and his associates, who had left the country and gone to the Pacific, to San Diego, had gone without any pecuniary resources, without any provision having been made by law for the payment of their salaries, or of one dollar of their expenses; but that they volunteered to do this, and that no money was taken from the treasury. We were to assume this upon the concession of his honorable friend from Tennessee, [Mr. STANTON,] unless it could be found that these offices were either created by the treaty, or had been created by an appropriation bill, or rather by a clause in the appropriation bill of August 12th, 1848. The clause in that bill was in the following words:

"For expenses of running and marking the boundary line between the United States and Mexico, and paying the salaries of the officers of the commission, a sum not exceeding fifty thousand dollars."

Now, did honorable gentlemen contend that such a clause as this, so loose and so indefinite, inserted in an appropriation bill, created these officers, and authorized the President of the United States to take money out of the public treasury for the purpose of paying their salaries, or paying what was denominated by lawyers a *quantum valuit*? Now, he declared that this clause had been inserted in the appropriation bill in anticipation of the passage of the bill which was now under consideration, and which had been sent by the Senate of the United States to the House of Representatives. He declared that this clause had not been inserted in the appropriation bill under any idea of creating an office; that it had not been inserted under any idea of fixing any salary, or under any idea of authorizing the President to create a commissioner, a surveyor, a secretary, a disbursing agent, and he knew not how many other officers, including, if rumor might be relied upon, the commissary.

It was supposed by the Senate and House of Representatives that the bill would pass at an early day—either during the few days that remained of the residue of the last session, or, at any rate, at an early day in the present session. The bill in which the appropriation was contained, made appropriations for the present current fiscal year; and, therefore, the two Houses of Congress said, that before the fiscal year had expired, the House would undoubtedly pass the bill which had been sent from the Senate; and that, therefore, in anticipation of the passage of that bill before the fiscal year had expired, Congress would make the appropriation necessary to carry the treaty into effect. He denied—and he called upon honorable gentlemen to say—that any one of them dreamed, when they voted for this clause in the appropriation bill of last August, that they were creating these offices, or authorizing the President to pay the salaries.

But that he (Mr. S.) was right on this subject, was apparent from the language used in that clause of the President's message to which he had heretofore referred.

What was a salary? He would like honorable gentlemen to consider what was the appropriate meaning of the term salary? Did it mean an indefinite sum? Did it mean a *quantum valuit*? Had this Government employed Colonel Weller to run this boundary line for such a compensation as he might reasonably deserve? Was that a salary? No. The word *ex vi termini* imported a specific sum fixed by law, and fixed beforehand, too. He had not taken the pains to refer to any work or dictionary on this point; but we all knew that the import of the term was such as he had stated it to be.

What, then, did the Senate and House of Representatives say when they passed this appropriation? In effect they said this: there is a bill pending in the House providing for the creation of these officers, and fixing certain salaries. The House may not pass it now, but will do so at an early day in the coming session; and, in anticipation of that result, we will make an appropriation to pay these salaries. So far from furnishing an argument in favor of the ground which had been taken by his honorable friend from Tennessee, [Mr. STANTON,] it furnished an argument of a character directly the reverse. The appropriation anticipated the passage of this bill; it anticipated that the salaries of these officers would be established by law; it anticipated that the tenure of these offices would be fixed; that the bill from the Senate having these objects in view would be passed at an early day either during that or the present session. He repeated, therefore, that no ground was furnished for the argument of the gentleman from Tennessee. He (Mr. S.) cherished sentiments of high respect for that gentleman, who, it was well known, was always on the alert in this House when anything was suggested in derogation of the conduct of the Executive.

He would now come back to the proposition with which he had started. He said that the course of proceeding of the President of the United States on this subject was a rank usurpation; that it was a palpable violation of the rights of the House of Representatives; and he said also that it was a violation of the Constitution of the United States. Here we found an office created—here we found officers appointed and sent forth to discharge certain responsible and important duties without the assent of the House of Representatives. And he would take upon himself the responsibility of saying that the President of the United States had affixed a salary to this office. He made the statement here and now upon his own responsibility—he repeated, upon his own responsibility. He had not examined the archives of the Government, and could not state the fact of his own knowledge. He supposed that the President had held with Colonel Weller some such conversation as this: Why, how are you, my good friend: I want to come to an understanding with you. Uncle Sam has got a little business to do here on that beautiful river called the Gila. I want you to navigate it—to go among the hordes of savages that are there. Well, says Colonel Weller, this is rather a perilous business, Mr. President. Probably, my life may be put somewhat in jeopardy. There are deserts vast, and wilds uninhabitable to pass. This is to be my employment. There is no salary affixed, and, good Mr. President, (accompanying the words with a low bow,) have the goodness to grant me a *quantum valuit*. I am of opinion that I ought to have about five thousand dollars a year. Why, my good Colonel Weller, replies the President, the Senate passed a bill by which your salary was fixed at three thousand dollars. Is it not best—— (two or three words were lost to the reporter.) Oh! no, Mr. President, replies the Colonel. You are the supreme autocrat of the United States of America. You can make war when you please—you can make peace when you please; you can create the office; you can fix the pay. And thus these personages, sitting cheek by jowl in the White House, came to the conclusion that the honorable Colonel Weller was entitled to a compensation of five thousand dollars per annum. And for this he gave up even his claim to the governorship of Ohio. Then came the surveyor, with a salary of $2,000.

Then came the secretary. As for the commissioner, he had been ratified by the Senate without law and authority. So with the surveyor. But what should be done with the secretary? There was half a law, one leg of a law standing in Congress. The President got that Senatorial leg on, and proposed to give the secretary $2,000 a year. My good neighbors of the House of Representatives, thought the President, and certainly my friend from Tennessee, [Mr. STANTON,] will uphold me if I give you, Mr. Secretary, a salary of $2,000 a year. Then came the commissary, surgeon, and other officers of this corps thus constituted, and they went forth under the authority of the United States to discharge these duties.

Mr. STANTON interposed, and desired to suppose a case.

Mr. SMITH yielded the floor.

Mr. STANTON. Suppose that Congress should pass a bill appropriating $500,000 for a Patent Office or any other building: he desired to know whether the President had not the right to employ an architect, and give him a compensation?

[Here the solar gas lights suddenly (and for the second time during the evening) went out, and the Hall was left in thick darkness, penetrated here and there only by the uncertain light of a sperm candle.]

Mr. ASHMUN said that with the consent of the gentleman from Connecticut, [Mr. SMITH,] he (Mr. A.) would move an adjournment.

Mr. SMITH was proceeding to reply to an inquiry of Mr. STANTON.

SEVERAL MEMBERS objected to his proceeding.

Mr. SMITH gave way to a motion that the House adjourn.

The yeas and nays were taken, and the vote stood—yeas 38, nays 74.

So the House refused to adjourn.

But the SPEAKER said there was no quorum present.

A call of the House was asked, by whom the reporter could not see.

Mr. C. J. INGERSOLL suggested to the Chair that there was no necessity for the presence of a quorum on a motion to adjourn.

The SPEAKER said, no; but whenever it was detected, on a vote by the yeas and nays, that no quorum was present, the House could not proceed with its business until a quorum had been ascertained to be present.

Mr. SMITH resumed the floor.

Several members objected to his proceeding in the absence of a quorum.

A call of the House was again moved and refused.

Mr. BOWDON moved that the House adjourn.

Mr. WENTWORTH rose to a point of order. He understood that the gentleman from Connecticut [Mr. SMITH] claimed the floor, and he (Mr. W.) submitted that the floor could not be taken from him.

The SPEAKER said the Chair had decided, and now again decided, that whenever on a vote by yeas and nays a quorum was found not to be present, the House could not proceed with its business until a quorum had been ascertained to be present. The question now was on the motion of the gentleman from Alabama, [Mr. BOWDON.]

The yeas and nays were asked and ordered.

The question was then taken and decided in the negative—yeas 38, nays 94; [during which operation the lights again made their appearance.]

So the House refused to adjourn.

Mr. SMITH then continued his remarks.

Now, said he, that we have again plenty of light in the Hall, I will endeavor to throw some more light on this subject.

In the first place, (he continued,) he would reply to the inquiry suggested by his friend from Tennessee, [Mr. STANTON.] The gentleman had asked him whether, if Congress were to pass a law making appropriations for the erection of some building, the President could not employ an architect to do the work and pay him for it—call it a salary, or whatever else gentlemen pleased. Undoubtedly, the President could do so, because there was a law for it; and he could not appoint this commissioner, this surveyor, and this secretary, because there was no law for it. And that was just the difference between the two cases. If the President was authorized to put up a structure, he could not only employ an architect and pay him, but he could employ and pay all the laborers and others that were needed; because a general law directing such an object to be effected necessarily involved an authority to employ all the agencies and means necessary to carry that law into effect. And he (Mr. S.) would now say to the gentleman, that whenever Congress should pass a law authorizing the boundary line to be run, and declaring that there should be appointed a commissioner, surveyor, and other agencies necessary to the accomplishment of the object, the President might employ all these persons. The difficulty in the present case was, that there was no such law, unless the gentleman from Tennessee could establish the proposition, that the stipulation in the treaty that the Government of the United States should appoint a commissioner and surveyor, was *per se* a law. And that was the question which the House was now discussing. The President from Tennessee declared that it was no law; here was his language in black and white—and he had asked Congress to pass a law. But the gentleman from Tennessee [Mr. STANTON] said there was a law. He (Mr. S.) was willing to leave this difference to be settled between Mr. Polk and his friend—the one affirming that there was no law, the other that there was a law. They could settle the question between them on Tennessee principles and expositions of constitutional law. "It will be necessary," was the language of the President in the message from which he (Mr. S.) had before quoted, "that provision should be made by law for the appointment of a commissioner and surveyor." The President from Tennessee said this was so; the member from Tennessee said this was not so.

Mr. STANTON, (interposing.) I suppose the recommendations of the President referred simply to provisions for the salaries of these officers which it was necessary for Congress to make.

Mr. SMITH was understood to say, that the language was to provide for the appointment of the officers, and not for their salaries. But he did not propose to prolong the discussion. He owed many apologies to the House for having occupied so much of its time. It only now remained for him to explain very briefly the difference between the bill from the Senate and the substitute proposed by the Committee on Foreign Affairs of the House. Mr. S. proceeded to point out the difference.

He referred particularly to the fact that the bill of the Senate proposed that the appointments of commissioners, &c., should be made at large—that was to say, either from the civilians of the country, or from the Corps of Topographical Engineers, or any other corps appertaining to the army or navy. The Committee on Foreign Affairs proposed to give the performance of these duties entirely into the hands of the Corps of Topographical Engineers, where he humbly conceived it belonged.

What was the duty to be performed? It was that of surveying a boundary line between the United States and the Republic of Mexico, and it was a duty to be performed by scientific men. It was well known that the duty was of a character requiring a high order of science for its discharge—that those engaged in it should be accomplished astronomers, and should be thoroughly versed in the higher branches of mathematical science. And he was of opinion that there were few or no civilians in the country—and certainly no ordinary civilians—who were competent to discharge this high and important duty. He intended to say nothing disrespectful of Colonel Weller—a disclaimer which he had designed to make at an earlier stage of his remarks. The amendment proposed by the Committee on Foreign Affairs had no reference to Col. Weller. That gentleman had been nominated and appointed since this amendment was proposed. It was not, therefore, a blow aimed by the committee at him. He (Mr. S.) wished to speak with sentiments of high respect of that gentleman. He had been associated with him as a member of this House, and had found him a very worthy, and, for aught he knew, a very honorable gentleman. But he denied that Colonel Weller, however competent he might be to command a regiment in Mexico, had the scientific qualifications which were requisite to the discharge of this high duty. But the committee proposed to put the whole duty into the hands of the Corps of Topographical Engineers. Mr. S. then adverted to the organization of that corps, and paid a high compliment to its efficiency. He adverted to the fact, that (so incompetent, he said, were civilians to discharge this duty) the President had ordered a portion of the Corps of Topographical Engineers to accompany Colonel Weller. Lieutenant Colonel Emory went out there in command of as many of the corps as were thought necessary to discharge the duty. In fact, that corps was to do the duty. Why, then, was this civilian to be sent there to ride up and down the banks of the Gila, on a mule, for aught he (Mr. S.) knew? What was he to do there? He was no more wanted there than the fifth wheel of a coach. He was not of the least use—he had nothing to do there. The real duty was to be performed by the Corps of Topographical Engineers.

Mr. BAYLY rose and inquired whether the gentleman from Connecticut [Mr. SMITH] would allow him to ask a question?

Mr. SMITH said he was about through with his remarks, but he would yield to the inquiry of the gentleman.

Mr. BAYLY inquired whether there were any civilians employed in running the Northeastern boundary line?

Mr. SMITH. Certainly. And I say that in that case the duty was performed by the Corps of Topographical Engineers.

Mr. BAYLY. Who made the appointment of the civilians?

Mr. SMITH. No matter who made it.

[SEVERAL VOICES: John Tyler.]

Mr. SMITH, (continuing.) John Tyler—yes, John Tyler, of *Accomac*. [Loud laughter.] And I thought that the honorable gentleman from Virginia [Mr. BAYLY] and his party assumed to have a more correct, and just, and honest view of public affairs than the Whigs. I know well that whenever the powers that be—the Democratic powers that be—are caught in any violation of the laws or the Constitution of the land, or in any impropriety of any kind, up jump the Democracy on the other side of the House, and say "the Whigs did so too." I thought you gentlemen pretended that you had more respect for the Constitution, more devotion to the law, and to the interests of the country, than gentlemen on this side of the House; and to justify this enormity, you bring in your Tyler precedents. I say the Corps of Topographical Engineers did the duty in the case referred to, and that they must do the duty now.

With these remarks, I leave the subject.

Mr. HARALSON said he wished to make a few remarks, and he intended, when he had finished what he had to say, to sit down, and detain the House no longer. He intended, as nearly as possible, to confine himself to the subject which was under consideration. The amendment of the gentleman from Ohio, [Mr. SCHENCK,] as he understood it, provided explicitly that no part of the appropriation contemplated by the bill should be applied in any manner to the payment of the commission which had already been appointed to go on to Mexico, or to recognize any appointment that had been made; and, upon that amendment, the gentleman from Ohio made many, if they were true, very severe remarks against the President of the United States, declaring that he had usurped powers which did not belong to him, in appointing the commission which had already gone to Mexico. Although it was unnecessary for this argument particularly to be answered, (for the history of the whole matter carried the refutation of it upon its face,) yet he felt that it would not be improper for him, perhaps, to notice it.

There was, in some respects, a remarkable difference between the President and those who entertained similar political opinions, and the gentleman from Ohio and his political associates. The President had had one great object in view—that object was to carry out the treaty as made by the plenipotentiaries of the two Governments, as ratified by the Government of Mexico and by the Senate of the United States, and imposing upon this Government the very highest obligations. By the treaty, it was solemnly provided and stipulated that the boundary line should be run within twelve months after the exchange of ratifications. It was complained of the President that he had called upon Congress, by solemn message, to pass a law to authorize the appointment of commissioners to carry out this part of the treaty. This was done soon after the exchange of ratifications; the attention of Congress was called to the subject at an early day. The President did it, as he (Mr. H.) humbly conceived, because it was respectful to Congress;

not because it was his imperative duty under the treaty. Congress being in session, it was proper that he should submit the subject to Congress, because, in the execution of all treaties, there were certain details which became necessary to be carried out by law. Treaties, from their very nature, were general in their character, and it required the passage of certain laws to carry them into execution in all their details. He would not say it was the imperative duty of Congress to make the appropriations necessary under the treaty, but he was sustained by the Constitution in saying that treaties were the supreme law of the land.

He referred also to that portion of the treaty which provides that the Mexican citizens living upon that portion of the territory which comes within the possession of the United States, should have the right to elect whether they will remain under the Government of the United States, or will remove with their property across the line, and remain citizens of Mexico; also to that part which guaranties to Mexico protection against the incursions of the Indians from our territory, and which binds us to repel their incursions, and chastise the Indians, if necessary. He urged that these provisions made it the high and solemn duty of the Government to run the line as speedily as possible, that we might know the extent of our obligations under the treaty, and discharge them.

The great complaint against the President of the United States seemed to be, that he had gone to work too speedily to carry out the provisions of the treaty; that he had not, as many gentlemen on this floor had attempted, repudiated the treaty itself; but that he had gone forward to carry out its stipulations, according to their plain sense and meaning, and within a reasonable time: to say the least, within the time stipulated in the treaty. Suppose the President of the United States had dilly-dallied (if he might make use of the term) upon the subject of the appointment of the commission, waiting for the action of Congress: Congress had, as yet done nothing; and even if this bill became a law, now at the close of the session, a commission appointed under it would hardly be able to reach Santiago—the place designated for the meeting of the commissioners of the two Governments—before the year from the exchange of ratifications had expired.

But he would turn to a provision of the Constitution, in regard to the constitutional power of the President of the United States, to show that there had been no usurpation of powers by him. He had thought that there was to be a cessation of hostilities, at some time, against the President of the United States and this much-abused war. Although, when the war was declared, there were but fourteen members of the other side of this House who had voted against it, yet, from that day forward, there had been an unceasing and general opposition to it from that side of the House; and finally they had obtained a majority of this House to declare that this war was "unnecessarily and unconstitutionally begun by the President of the United States." When was this to cease from those gentlemen? Opposed to the war, and opposed to the treaty! After it was ratified, and had become the supreme law of the land, even then their opposition did not cease. The proposition had even been solemnly made by the gentleman from Ohio, upon the other side, [Mr. SCHENCK,] to restore the whole territory to Mexico. He believed, however, the gentleman proposed to keep the most valuable part—the Bay of San Francisco.

But it did not cease there. Whether the opposition which was made to this measure was as much to the measure itself as a captious opposition to the President of the United States, he would leave for the House and for the country to determine.

He quoted that clause of the Constitution which declares that—

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, [and it would not be doubted, he said, that this treaty was made 'under the authority of the United States,'] shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution and laws of any State to the contrary notwithstanding."

Here it was distinctly declared that treaties made by the Government were the "supreme law of the land;" and it was the highest obligation of the Executive, within the sphere of his constitutional authority, to see them executed. They were also binding upon Congress; but to what extent, he would not now undertake to define. He did not doubt but it was the province of this House to withhold appropriations, if they saw fit, to carry them into execution; because the contrary doctrine would be in opposition to that provision of the Constitution which required that all appropriations should originate in the House of Representatives.

He also read the following clause:

"He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments."

Here, he said, it was made the solemn duty of the President of the United States to appoint all officers provided for by law. The same Constitution, in the clause before quoted, declared that treaties made under the authority of the United States were the "supreme *law* of the land;" and the treaty made with Mexico provided that a commissioner should be appointed by the United States, whose duty it should be to proceed to the territory and commence his operations, in conjunction with a commissioner appointed on the part of Mexico, and to run the boundary line as soon as practicable. Was not the President bound, then, although Congress had passed no law, under this supreme law of the land, to appoint this commissioner?

But, said the gentleman over the way, Oh! the President has gone further, and appointed other officers, such as surveyor, secretary, &c., and where is the necessity for them? He read from the treaty, (an extract with which the reporter is not furnished,) and said it was contemplated in the very language of the treaty that there should be a secretary to keep accounts of all the proceedings of the commission, as well as surveyors, and other "necessary" employés and escorts. Could any sensible man doubt that a secretary was necessary, as well as a surveyor, and a suitable escort? Surely it could not reasonably be denied, that if the President had the power to appoint the one, he had to appoint the others also.

But they were told by the gentleman from Connecticut that the salaries of these officers were already fixed by the President. He referred to the appropriation contained in the general appropriation bill of the last session, of $50,000, for the expenses of running the boundary line, and for payment of salaries thereof, and argued that the President, after this appropriation, (no provision having been made by law, and if none were made as to the salaries,) would be authorized to pay reasonable compensations to this commission.

But what proof had they that the President had fixed the salaries? The gentleman from Connecticut, [Mr. SMITH,] when the question was directly put to him, was compelled to admit that he did not know. The gentleman had said that Rumor told him that a certain amount of salary had been agreed upon by the President and the commissioner; that the President and Colonel Weller had made a treaty on the subject. He (Mr. H.) called for the proof. He had long since learned that Dame Rumor was not very much to be relied upon. Rumor had given us various cabinet officers for the incoming Administration, and probably at every rising sun Dame Rumor would give a different version of the report. During the last canvass it had been said by Rumor that the gentleman from Connecticut himself had received certain very extraordinary letters from General Taylor on the subject of his course upon the Wilmot proviso. Now he (Mr. H.) did not undertake to say that Rumor told the truth; the gentleman himself knew more about that than he possibly could. Some years ago he believed that the same high authority—Rumor—had said that a certain gentleman of considerable character from the State of Ohio had made a certain incursion into the State of Maine, for the purpose of making political speeches there, and that his expenses were paid by the gentleman from Connecticut. He (Mr. H.) did not pretend to say that these things were true; but he mentioned them for the purpose of showing how much credence this ancient dame was entitled to receive. She had been frequently considered exceedingly unreliable. Unreliable, however, as she was, she had shown her presence in this Hall, and had taken a seat upon this floor, and she was referred to as the only authority upon which a grave and solemn charge of usurpation was brought forward against the President of the United States. Gentlemen had no authority whatever.

He now called upon the gentleman from Ohio, the gentleman from Connecticut, or any other gentlemen on that side of the House who might engage in the discussion, to show him the evidence—where was it?—that the President of the United States and the commission had agreed upon any amount of salary they were to receive.

Mr. ASHMUN said he understood the gentleman from Connecticut to have stated that he believed it. He asked the gentleman from Georgia if he was authorized to deny it?

Mr. HARALSON. When the charge is made, it will be time to meet it.

Mr. ASHMUN. I believe it.

Mr. HARALSON. It is not the first time when the gentleman from Massachusetts and the gentleman from Connecticut have believed things with regard to the President for which they had no foundation.

Mr. ASHMUN. Does the gentleman know anything about it?

Mr. HARALSON. It is the part of those who make the charge to bring the proof.

Mr. ASHMUN. Does the gentleman deny it?

Mr. HARALSON. Make the charge, and then I will meet it.

Mr. ASHMUN. I make the charge.

Mr. HARALSON. Then I deny it, and I call upon you to bring the proof to sustain it.

Mr. ASHMUN. One week will be soon enough.

Mr. HARALSON (continuing) said, this charge, like a good many other charges that had been brought against the President, would be found to be utterly without foundation. We had heard a short time since of an awful protocol, which was to be made the subject of impeachment of the President of the United States; but when the papers were communicated, that charge, like other charges, had fallen still-born, with no vitality. Just so it was with this matter. He (Mr. H.) would not so far reflect upon the intelligence of the President, even if he were his political opponent, as to suppose that he and Colonel Weller could enter into an agreement as to how much the salary of the latter was to be, when both parties knew that the matter was liable to be revised and regulated by Congress, at any time, and when they knew that no compensation at all could be paid, except by appropriation by Congress.

He did not profess to look into the hearts of men—he could not see their secret workings; but he must be permitted to fear, at least, that the object of gentlemen in the movement was political effect—political effect to be accomplished by extraordinary means, to say the least of them.

He might read various portions of the treaty with Mexico, to show the necessity and importance of the President having taken active measures to execute that part of the treaty which provided that the boundary line should be run within a certain stipulated time, especially after his communication to Congress, in which he had called upon them to pass such laws as might be necessary to carry out this provision of the treaty, and after Congress, by solemn act, had appropriated $50,000 to be applied to running the boundary line and to the payment of the salaries of the officers who were to be employed thereon. From various portions of the treaty it was clearly shown, that the President, under his oath to sustain the Constitution of the United States, had but faithfully discharged his obligations under the treaty, and therefore that he had been guilty of no usurpation, but had endeavored, within the sphere of his powers and duties, to appropriate to his country the fruits of the treaty.

He repeated, he did not deny that it was competent for the Congress of the United States to fix the amounts of the salaries of the officers of this commission; that the officers would be compelled to accept the salaries so provided by law; and even if there had been an agreement between them and the President as to their amount, that such agreement would of course fall powerless, and be of no binding effect or vitality whatever.

He recurred to the provision of the Constitution before quoted, relative to the appointing power of

the President, and proceeded to argue that the substitute of the Committee on Foreign Affairs, which provided that the President should be confined, in making the appointment of these officers, to the Topographical Corps, was an infringement upon the rights of the President under the Constitution. He denied the power of Congress to attempt to restrict the President in making appointments, by virtue of his constitutional authority, to any particular class, and argued that the discretion of the President was unlimited. In saying this, he intended no attack upon the Topographical Corps: far from it. He could imagine that there were many duties to be performed in the running of a boundary line between the two Republics in which the science of gentlemen belonging to that corps would be necessary; yet he would not so far make an attack upon the gentlemen in civil life throughout the country as to say that men equally scientific, equally capable of discharging this important duty, might not be found in civil life.

In reply to a remark of Mr. SCHENCK, calling his attention to his [Mr. S.'s] amendment, he said the amendment was nothing more nor less than an attack upon the President for discharging his duty in sending a commission to run the boundary line in conformity with the stipulations of the treaty itself. The treaty was the supreme law of the land; it imposed solemn obligations upon the Government; and it was the duty of the President of the United States to execute it.

In conclusion, he remarked that he was anxious to have addressed the House at large upon other subjects, but he would not do so under the circumstances. All he had to say now was, that this attack upon the President of the United States, like all its illustrious predecessors, would fall harmless to the ground; and although that high functionary might not be sustained by the gentleman from Ohio, or the gentleman from Connecticut, or those who were politically associated with them, he (Mr. H.) believed that he would be sustained by the American people and by posterity.

Mr. ASHMUN next obtained the floor, and said he did not think that the fate of this bill, or the circumstances under which they were acting, were such as to justify any further prolongation of the *post mortem* examination of a defunct Executive. He thought that this question had been settled by the American people, and he thought that the gentleman from Georgia, instead of saying that the American people would settle this question, would have been compelled, if he had refreshed his memory, to have said that the American people had already settled the question, and pronounced their sentence of condemnation.

To save the time of the House, he moved the previous question, but withdrew it temporarily at the request of

Mr. WOODWARD, who said: The Constitution provides, that the "President shall nominate, and by and with the advice and consent of the Senate, appoint ambassadors, &c., and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be *established by law*."

In penning this clause of the Constitution, its framers were making an assignment of power to the Executive department, and fixing the limitation of the power. The power is to appoint or elect an officer to an office; the limitation is, that the office shall first be established by law. The phrase, "by law" means by the legislative department; as the term "President" means, the Executive department. This division of power was in conformity to a fundamental principle of liberty, never lost sight of by the Convention, but running through the whole frame of the Constitution. The principle is, that one department shall make the office, and another, the officer. The whole act of creating an office, and appointing an officer, cannot be performed by either department singly. Both must coöperate in doing the whole act, and thereby each is made a check upon the other. This distribution of power among the several departments, making their concurrence necessary to the execution of every power, in a broad sense, is universal in our system, and, besides, was specifically applied to the matter of the appropriation and disbursement of the public money, and the creation of office and of officers—two of the highest trusts in the Constitution.

If it be argued, that a treaty is declared by the Constitution to be *law*, and that therefore an office established by treaty, is established by law; you might go on and say, that a sum of money stipulated and engaged to be paid by treaty, is money appropriated by law; and, therefore, that the sum of $15,000,000 agreed to be paid to Mexico and Mexican claimants is already appropriated. Thus you would allow a single department, without asking any question of the others, to perform, by itself, the three acts of creating an office, filling that office, and making the requisite appropriation of money. There is no way to avoid this conclusion, unless it be admitted, as a principle, that when the Constitution requires a thing to be done *by law*, it means, *by the legislative department*. The spirit and fundamental ideas of our system, the plan of the Constitution and its express words, all, go directly to this effect.

The Constitution is everywhere employed in the assignment and distribution of powers, and when it speaks of any act, which is to be done "by law," it has, in contemplation, the law-making power; and who will pretend that the treaty-making authorities fall under that denomination?

It is said that the Constitution declares a treaty to be "law." The idea meant to be conveyed is, that the Constitution means thereby, to define its own meaning whenever it uses the word "law;" and to bring treaties within that meaning. This is a grand misconception. When the Constitution says that "treaties shall be the supreme law of the land," it means, only, to assert the supremacy of a treaty. The term "law" is here used as a mere word of statement, to indicate the subject concerning which supremacy is predicated. I say that the word "law" is used here merely as a word of statement, and not of definition of what is meant by that word when used elsewhere in the Constitution.

It was never disputed that a treaty was a law, in a general sense; but not in every sense. When the Constitution says: "This Constitution, and the 'laws made in pursuance thereof, and all treaties 'made, &c., shall be the supreme law of the land," it employs the words, constitution, trustees, laws, in contradistinction to one another; and it is in this contradistinct sense, that the word, "law" is used in the Constitution, when different powers are assigned and different departments referred to. What! shall we take the import of a word, where it is used, incidentally, in a mere statement, as indicating its true construction, when it becomes a word of power; and that, too, in reference to the most fundamental principles of the Constitution?

But again: after the Constitution has created divers offices which shall be filled by the appointment of the President and Senate, and left the rest to be created "by law," it adds: "but the Con-'gress may by law, vest the appointment of such 'inferior officers, as they think proper, in the Presi-'dent alone, in the courts of law, or the heads of 'departments."

Admitting, therefore, that an office can be created by treaty-law, yet it was a mistake to assume, as a matter of course, that the President and Senate had the right to appoint the officer. If the Congress please it might give the appointment to a head of department. There can be no dispute about this.

Mr. KAUFMAN (interrupting Mr. WOODWARD) asked whether, it being the duty of the President to see the laws executed, (a treaty being the supreme law of the land,) and having but one year from the date of the exchange of the ratification of the treaty, in which the commissioner and surveyor were to be at the distant point of San Diego on the Pacific; and the Congress at its last session having appropriated fifty thousand dollars for running the boundary line between Mexico and the United States, and for the payment of the "*salaries*" of those engaged therein; and said Congress not having at the same time changed the usual mode of appointment by the President and Senate, by giving the appointment to the "President alone, the courts of law, or heads of department," he (the President) had not good reason to believe that Congress did not intend to alter the usual mode of appointment? And whether his duty did not compel him to save the national faith from violation, by acting promptly in the matter? And such was the conclusion, not only of the President, but the conclusion of the whole Senate, for Colonel Weller's and Mr. Gray's nominations were *unanimously* confirmed by the Senate—by Whigs as well as Democrats.

Mr. WOODWARD. The gentleman from Texas need not be sensitive. I am not attacking the President; and were I disposed to do so, I do not perceive that I should have good ground; for it appears that nearly the entire Senate is involved with him. Two-thirds must have been. Doubtless they all acted upon general consultation; and all that I mean to do is, to express my opinon, that they have committed a gross and fundamental error. As to the incompatibility of certain acts of the last session on this subject, I suppose they were passed without a full consciousness of the situation in which we were placed; as constantly happens in the confusion that prevails in this Hall. But no matter what discrepancy be found in our laws, no matter what inconvenience we be put to; though we should be put to inconvenience for five years, I cannot consent, for anybody's accommodation, not for our own, to give up a great principle of the Constitution, which, once gone, is gone forever—for a thousand years.

The previous question, moved by Mr. ASHMUN, was seconded, and the main question was ordered, being first on the amendment of Mr. SCHENCK.

Mr. BAYLY. Is that amendment in order?

The SPEAKER. The question of order comes altogether too late, as the amendment has already been before the House four or five hours. The Chair would, however, have probably decided the amendment in order, if the question had been raised when the amendment was offered.

Mr. HARALSON. Is it in order to move an amendment to the amendment?

The SPEAKER. No. The previous question has been moved and seconded, and the main question ordered.

Mr. WHITE. Is this an amendment to the original bill?

The SPEAKER. To the original bill.

Mr. SCHENCK demanded the yeas and nays on the adoption of the amendment; but withdrew the call.

Mr. JONES, of Tennessee, renewed it.

The yeas and nays were refused by the House.

The question was taken by a division, and 75 voted in the affirmative.

Mr. ASHMUN asked the yeas and nays.

The SPEAKER stated that they had been refused, and could not again be called for.

Mr. JONES, of Tennessee, asked, as a constitutional right, that the vote be again taken on ordering the yeas and nays.

The SPEAKER said, the Chair was of opinion that the yeas and nays could be demanded but once upon the same question. Otherwise the call might be renewed every day during the session, upon the same question. A motion might be made, however, to reconsider the vote by which the House refused to order the yeas and nays.

Mr. JONES made that motion.

Mr. SCHENCK raised the point of order, that the gentleman had voted for the yeas and nays, and therefore could not move to reconsider.

Mr. GREELEY said he had voted against ordering the yeas and nays, and he would move to reconsider the vote.

The question was taken, and the vote was reconsidered.

The question recurring on ordering the yeas and nays, it was taken and agreed to.

So the yeas and nays were ordered, and being taken, resulted—yeas 83, nays 45—as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Blackmar, Botts, Boyden, Brady, Buckner, Cabell, Canby, Chapman, Cocke, Conger, Cranston, Crisfield, Crowell, Crozier, Dickey, Dixon, Duer, Dunn, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Flournoy, Freedley, Gaines, Gentry, Giddings, Goggin, Gott, Greeley, Grinnell, Nathan K. Hall, James G. Hampton, Henry, Hubbard, Hudson, Joseph R. Ingersoll, Thomas Butler King, Daniel P. King, Levin, Lincoln, Horace Mann, Marsh, Marvin, Morehead, Nelson, Newell, Outlaw, Palfrey, Preston, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Roman, Rose, Root, Rumsey, St. John, Schenck, Shepperd, Sherrill, Slingerland, Caleb B. Smith, Truman Smith, Andrew Stewart, Tallmadge, Taylor, Thibodaux, John B. Thompson, Tompkins, Tuck, Van Dyke, Vinton, Warren, White, Wilson, and Woodward—83.

NAYS—Messrs. Bowdon, Bridges, William G. Brown, Albert G. Brown, Burt, Cathcart, Franklin Clark, Howell Cobb, Daniel, Darling, Faran, French, Fulton, Hammons, Haralson, Harris, Henley, Hill, George S. Houston, Charles J. Ingersoll, Jameson, Andrew Johnson, George W. Jones, Kaufman, Sidney Lawrence, Leffler, Ligon, Lumpkin, Lynde, McClernand, Job Mann, Morris, Nicoll, Petrie, Pilsbury, Smart, Stanton, Charles E. Stuart, Strong, Thomas, Robert A. Thompson, Tharston, Wentworth, Wick, and Wilmot—45.

So the amendment was agreed to.

Mr. ASHMUN moved to reconsider this vote; and on his motion this motion was laid on the table.

The question recurring on the adoption of the substitute of the Committee on Foreign Affairs, was taken, and decided in the affirmative.

So the substitute was adopted.

Mr. WENTWORTH moved to reconsider the vote, and to lay that motion on the table; which latter motion was agreed to.

The amendment was then ordered to be engrossed, and the bill to be read a third time.

Mr. KAUFMAN inquired if the bill could be read a third time to-day?

The SPEAKER. No, unless the amendment is engrossed. The Chair understands, however, that the amendment is engrossed.

The bill was read a third time.

And the question being on its passage—

Mr. ASHMUN moved the previous question.

The previous question was seconded; and, under its operation, the bill was passed.

Mr. ASHMUN moved to reconsider the vote on the passage, and to lay that motion on the table; which latter motion was agreed to.

Mr. COBB, of Georgia, moved that the House adjourn, and asked the yeas and nays.

The yeas and nays were not ordered, and the House refused to adjourn.

Mr. LEVIN moved that the House resolve itself into Committee of the Whole on the state of the Union, for the consideration of the Mexican indemnity bill.

Mr. KAUFMAN inquired, in case the House went into committee, whether the bill to establish the territorial government of New Mexico, being the special order, would not be the first business in order?

The SPEAKER'S reply was not heard.

Mr. WENTWORTH inquired, in case the House did not go into Committee of the Whole on the state of the Union, if the business on the Speaker's table was not in order?

The SPEAKER replied that they were now engaged with business upon the Speaker's table. That business was still in order, unless the House proceeded to other business.

Mr. HENLEY wished the Speaker to state what the first business was in committee?

The SPEAKER was understood to say the bill to establish the territorial government of New Mexico.

The question was then taken, and the vote stood—yeas 60, nays 68.

So the House refused to go into committee.

CLOSE OF TERRITORIAL DEBATE.

Mr. SMITH, of Indiana, moved the usual resolution to terminate debate upon the bill to establish the territorial government of New Mexico in twenty minutes after it should again have been taken up in committee.

Pending the question, Mr. ASHMUN moved that when the House adjourns, it adjourn to meet to-morrow at ten o'clock. Rejected.

The question recurring on the adoption of Mr. SMITH'S resolution—

Mr. KAUFMAN asked the yeas and nays; which were not ordered.

The question was taken, and the vote stood—ayes 41, noes 64. (No quorum.)

Mr. KING, of Georgia, moved that the House adjourn. Rejected.

Mr. BURT said it was very obvious that there was not near a quorum of members present. There were very few on this side of the House. He now moved—and if it was the purpose of the House to proceed with business, he hoped they would sustain the motion—a call of the House. He desired to adjourn; but if they were to sit here, he desired that they should have a quorum.

Mr. HOUSTON, of Alabama. I hope not. My friend from South Carolina knows that this evening is the last levee of the President. I have no doubt that many gentlemen have gone there. They are not here; you cannot get them here by a call of the House.

Mr. BURT. I understand that this is not only the last levee the President would hold, but that the President elect is to be there also. Gentlemen on both sides of the House wish to attend. I wish to go; but if I cannot go myself, I do not wish anybody else to go. [A laugh.] I move that there be a call of the House.

The question was taken upon the motion of Mr. BURT, and no quorum voted.

Mr. VINTON said, there were now, he believed, but two days left in which bills could be passed and sent to the President. There were some $20,000,000 yet of appropriation bills to come before the House. The Indian appropriation bill was lying in committee, blocked by this New Mexico bill. There was some million and a half of dollars involved in this bill. He had risen to suggest that, by common consent, they go into committee, and take up the amendments of the Senate to the Indian appropriation bill.

The SPEAKER said the Chair was obliged to state to the gentleman from Ohio that the last two votes showed that there was no quorum present. There must be a quorum on the record before the House could proceed to business.

Mr. WHITE said he would move that the House adjourn, and called for tellers on the motion, to ascertain whether there was a quorum present.

Mr. KAUFMAN rose (he said) to a privileged question.

The SPEAKER. The motion of the gentleman from New York is a privileged question, and has precedence over all others.

Mr. KAUFMAN. I wish to move that when the House adjourns, it adjourn to meet to-morrow morning at ten o'clock.

The SPEAKER. That motion has already been negatived.

Mr. VINTON said that motion, instead of advancing the business of the House, would retard it. When the civil and diplomatic bill came back from the Senate, there were various important amendments which it would be impossible for the Committee of Ways and Means to act upon, if the House met at ten o'clock and sat here all day and evening, as they would do during the remaining days of the session.

Mr. COBB, of Georgia, wished to ask the gentleman from Ohio if he supposed, in case they took up the Indian appropriation bill, with the very large appropriation which it contained, that it could be passed to-night with so thin an attendance?

Mr. VINTON. I want to do so.

Mr. COBB. The gentleman from Ohio will find himself sustained on this side of the House in every effort he makes to act upon the general appropriation bills. He has been, and he will be sustained upon this side of the House. But so heavy an appropriation ought not to be acted upon with so few members present. The reason that exists will not exist to-morrow night, or any other night during the session. He therefore thought that the House had better adjourn, and return here to-morrow, when they on this side of the House would sustain the gentleman in carrying through his appropriation bills. He hoped, therefore, that the motion to adjourn would be acquiesced in, and to-morrow they would take up the general appropriation bills, which, under the rule, had precedence of all other business. If they did not, they would suspend the rules.

Mr. VINTON inquired if it was in order to move to discharge the Committee of the Whole on the state of the Union from the further consideration of the New Mexico bill? If so, he proposed that the committee be discharged, and that they vote upon it in the House to-morrow.

The SPEAKER replied that it was not in order, except by the unanimous consent, or by a suspension of the rules.

Mr. VINTON asked the unanimous consent that the committee be discharged, and they would vote upon it to-morrow.

Mr. COBB said that bill was not in the way of the general appropriation bills. Did not the rule give the precedence to these bills over all others?

Mr. VINTON replied that when this order was passed making the territorial bills the special order, he had inquired of the Chair whether they would override the appropriation bills, and he had understood the Speaker to reply that they would. He had, then, moved an amendment to except the appropriation bills, and that amendment had been voted down.

Mr. COBB said, upon the ground that it was wholly unnecessary. He himself had voted against the amendment on that ground. He would sustain the gentleman, and he thought he might speak for this side of the House; they would sustain him in taking up the general appropriation bills, above all others.

Mr. VINTON. The House, I supposed, voted in reference to the decision of the Speaker.

The SPEAKER said the gentleman from Ohio had mistaken the Chair. He had not expressed any opinion to that effect; on the contrary, the Chair had always maintained that the rule of the House which provided that the general appropriation bills should have preference over all others, would prevail with reference to the amendments returned from the Senate to these bills, as well as to the bills themselves upon their first consideration.

Mr. VINTON. That being the case, I give notice that when we go into Committee of the Whole on the state of the Union to-morrow morning, I shall move to take up the Indian appropriation bill.

[Cries of "Agreed, agreed."]

The question was then taken on the motion of Mr. WHITE, and having been agreed to—

The House, at twelve minutes to nine o'clock, adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. PALFREY: The petition of Sarah Beans and 77 others, of Pennsylvania, praying Congress to take measures for effecting such changes in the Constitution and laws, as shall abolish slavery throughout the Union.

By Mr. MANN, of Massachusetts: The petition of Simon M. Dixon and 64 others, citizens of the counties of Chatham and Orange, in the State of North Carolina, praying Congress to prohibit the introduction of slavery into the Territories of the United States.

IN SENATE.

THURSDAY, *March* 1, 1849.

The VICE PRESIDENT announced his intention to retire finally from the duties of the chair to-morrow, after the transaction of the morning business.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, exhibiting the payments for miscellaneous claims not otherwise provided for, and expenditures for the relief of disabled seamen from the marine hospital fund; which was read and ordered to lie on the table.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, in reply to a resolution of the Senate of the 8th of August last, calling for a map from the reconnoissance and surveys of the Topographical Engineers in Texas.

CREDENTIALS.

Mr. WESTCOTT presented the credentials of the Hon. Jackson Morton, elected a Senator of the United States from the State of Florida, for the term of six years from the 4th of March instant; which were read and laid on the table.

RESOLUTIONS OF STATE LEGISLATURES.

Mr. BADGER presented resolutions adopted by the Legislature of the State of North Carolina, declaring the enactments of any law of Congress prohibiting slavery or the slave trade in the District of Columbia, or to deprive citizens of the United States of the right of carrying their slaves into the Territories, to be a usurpation of power, &c.; which were read, laid on the table, and ordered to be printed.

Mr. GREENE presented resolutions adopted by the General Assembly of the State of Rhode Island, instructing their Senators, &c., to vote in favor of the establishment of a government in California and New Mexico, and the exclusion of slavery therefrom; of a law to protect the people between the Nueces and the Rio Grande against the claims of Texas, and for the abolition of slavery in the District of Columbia; which were read, laid on the table, and ordered to be printed.

FLOGGING IN THE NAVY.

Mr. GREENE also presented a resolution passed by the Legislature of the State of Rhode Island, in favor of abolishing the spirit ration and corporal punishment in the naval service.

In presenting these resolutions Mr. GREENE said: I ask the indulgence of the Senate for a moment, because I have voted on one of the questions presented to the Senate by the paper which has just been read, and the vote which I have given may possibly lead to erroneous impressions in reference to my views on the subject to which it relates. I am in favor, sir, of abrogating the punishment of the lash in the navy of the United States,

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but I am in favor of that, as I am in favor of all other legislation—only at the proper time, in the proper place, and in a proper manner. The proposition on this subject came before the Senate as an amendment to the bill making appropriations for the civil and diplomatic expenses of the Government—a bill which must be passed or the wheels of the Government would be stopped. That of itself would have been a sufficient reason with me for voting against embarrassing that bill with such a proposition.

But, sir, this was not the only reason why I gave that vote. I trust I am as much a friend of humanity as those gentlemen who voted, conscientiously no doubt, for the proposed amendment; but I am not in favor of abolishing the punishment of the lash until we provide for it some sufficient substitute, or until we have made some investigation, and have had some report, or some authentic statement of facts upon which we can act advisedly. The law which now exists in relation to the punishment of offences in the navy is not a new one. It has stood on our statute book for the last fifty years. It is a part of a code and of a system, and it regulates the extent of punishment which shall be inflicted. It limits the power of the commanding officer in the infliction of this punishment to twelve lashes, and it restricts the exercise of it to the commanding officer alone, unless under the sentence of a court martial, under which sentence it confines the number of lashes to one hundred. Such is the law which the proposition before the Senate was designed to repeal, while it provided no substitute in its place. The effect of this would be to leave that which is now a fixed and settled rule of punishment—a punishment regulated by law—to the mere arbitrary discretion of officers, with power to inflict such as they may think proper to order.

In legislating on this subject, sir, there are various other considerations that should influence our judgments. We must look at the constitution of the navy itself. I mean, to the kind of persons of whom it is composed. Sir, we are not legislating for our commercial marine, nor for the men who man our merchant ships—men who enter on board those ships, not as ordinary sailors for life, but looking to advancement, aiming to become masters and owners of ships themselves, and from among whom have been formed some of our most accomplished shipmasters and respectable merchants. Sir, this legislation is for a class of men three-fourths of whom are foreigners, uneducated, and unacquainted with our laws and our habits. Sir, if we abolish the punishment which has so long existed in the navy without providing for it some adequate substitute, we shall expose ourselves to the most dangerous consequences, and we shall leave it in the power of the officers to inflict in stead more cruel and equally degrading punishments. We have abolished the use of the lash in the army, and what has been the consequence? I have it from the best authority that the men are punished now by the chain and ball, by suspension by the thumbs, and by what is called "the gag." There are other similar punishments too in use in the army, the names of which I do not recollect, but which are certainly as degrading as any punishments that human beings can be subjected to. I reiterate, sir, that if you abolish the punishment of the lash, without providing for it a substitute, you leave it in the power of those who now inflict this punishment to substitute either or all of those which I have named.

Would the Senate consent to this? I will not undertake to argue the point. I leave every one to determine it for himself. But, sir, I will say that I am not willing to substitute for a punishment which has so long prevailed in the navy, and which is regulated by law, the uncertain and arbitrary caprice of the persons who must inflict some punishment, in order to preserve the necessary discipline of the service. There is no position in which men can be placed in which it is so important to preserve a strict discipline as on board a ship. It cannot be expected that a ship's crew can be governed and controlled by argument, or by what is called "moral suasion." It will not do when a ship is on a lee shore, when an order is given to reef a topsail or to let go a sheet, to stop to argue with those whose obedience, to be effective, must be prompt and implicit. Punishment must follow disobedience, or the safety of our ships and their crews can never be secured.

I will not longer trespass on the time of the Senate at this period of the session. I have though it proper to set myself right on this matter; and, in conclusion, I will add, that I shall be happy at all times to give my coöperation, on a proper and deliberate consideration of the subject, to those Senators who desire a change, and desirous of promoting the cause of humanity in any manner as shall at the same time preserve and secure the discipline which is indispensable to the efficiency of our navy.

The resolution was read, laid on the table, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. YULEE, from the Committee on Naval Affairs, reported a joint resolution respecting the claims of A. S. & A. N. Benson; which was read a first time.

On motion of Mr. YULEE, the joint resolution was now considered, and, after brief explanation, was ordered to be engrossed for a third reading. The joint resolution was afterwards read a third time and passed.

Mr. DIX, from the Committee on Military Affairs, reported House bill for the settlement of the claims of New Hampshire against the United States, without amendment.

On motion of Mr. DIX, the Senate proceeded to consider this bill; and it was then ordered to a third reading. It was subsequently read a third time and passed.

Mr. MASON, from the Committee on the Library, reported House joint resolution authorizing the distribution of the "American Archives," under the direction of the Joint Committee on the Library, to literary institutions in the several States and Territories, with amendments.

The amendments were then considered and agreed to, and the joint resolution as amended was read a third time and passed.

PAYMENT FOR LOST HORSES.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, to which was referred the bill from the House further to continue in force the acts for the payment of horses and other property lost in the military service of the United States, reported back the same with an amendment, proposing to strike out all after the enacting clause, and to insert in lieu thereof a new bill, which makes general provision for the payment of all horses, mules, oxen, wagons, carts, boats, &c., that may have been lost in the military service of the United States without any fault or negligence on the part of their owners, &c.

Mr. TURNEY moved a further amendment, consisting of an additional section, which provides, in effect, that in all cases where horses shall have been condemned by a board of officers, on account of their unfitness for service, in consequence of the Government failing to supply forage, such horses and their equipage shall be allowed and paid for where the facts shall be proved by legal and satisfactory evidence.

These amendments were concurred in, and the bill was reported to the Senate and the amendments ordered to be engrossed; and the bill was subsequently read a third time, by unanimous consent, and passed.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, to whom was referred the memorial of the commissioned officers of the third artillery asking that the non-commissioned officers, &c., should have certificates of merit, reported favorably, in the form of an amendment to the military appropriation bill.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, reported a bill to amend an act making provision for an additional number of general officers, and for other purposes, passed 3d March, 1847; which was read a first time and ordered to a second reading.

On motion of Mr. ATHERTON, the Committee on Finance were discharged from the further consideration of the bill to exempt Spanish vessels from discriminating duties in certain cases; and it was referred to the Committee on Commerce.

Mr. BREESE, from the Committee on Public Lands, reported, without amendment, a bill for the relief of Piler Bruff, of the State of Alabama, and for other purposes.

Mr. KING moved that the bill be now considered, and the motion having been agreed to, the bill was considered as in Committee of the Whole, and was reported and ordered to a third reading.

The bill was subsequently read a third time and passed.

Mr. ATCHISON, from the Committee on Indian Affairs, reported a joint resolution authorizing an examination and payment to Susan Coody, a Cherokee woman, and others, for property destroyed by certain disorderly soldiers of the United States forces stationed at Fort Gibson, in the night of the 12th March, 1845; which was read a first time.

On motion of Mr. ATHERTON, the Senate proceeded to consider the joint resolution, and it was ordered to a second reading. It was subsequently read a third time, and passed.

Mr. UPHAM, from the Committee on Claims, reported House bill for the relief of Francis Vigo, with a recommendation that the bill be indefinitely postponed. The report was ordered to be printed.

Mr. HUNTER, from the Committee on Finance, to whom was recommitted the bill requiring all moneys receivable from customs and from all other scources to be paid immediately into the treasury without abatement or deduction, and for other purposes, reported the same with an amendment.

Mr. HUNTER moved that the Senate now consider this bill; but objection being made, the motion did not prevail.

Mr. RUSK, from the Committee on Military Affairs, reported a resolution, to be attached as an amendment to the army bill, appropriating $50,000 for the payment for secret services during the late war with Mexico; which was read.

Mr. DICKINSON, from the Committee on Naval Affairs, reported a joint resolution for the purpose of straightening the line between the lands of the Naval Hospital at New York and of the adjoining proprietors; which was read a first time.

Mr. DICKINSON moved that the joint resolution be now amended; but objection being made, the motion did not prevail.

Mr. FELCH, from the Committee on Pensions, reported, without amendment, the bill for the further relief of the widows and orphans of officers and soldiers in the war with Mexico.

Mr. FELCH, from the Committee on Public Lands, reported a bill to reduce the minimum price of the mineral lands in the Lake Superior district in Michigan, and in the Chippewa district in Wisconsin; which was read a first time, and passed to a second reading.

Mr. BENTON, from the Committee on Military Affairs, reported the bill to provide for the location and construction of a central national road from the Pacific Ocean to the Mississippi river, with a branch of said road to the Columbia river, without amendment.

On motion of Mr. BORLAND, the Committee on Public Lands were discharged from the further consideration of a variety of matters referred to that committee.

Mr. BREESE, from the Committee on Public Lands, reported a bill to authorize the entry by the State of Iowa of the land on which Fort Atkinson stood; which was read a first time.

Mr. DODGE, of Iowa, moved that the bill be now considered, and the motion having been agreed to, the bill was considered and ordered to a third reading, and was subsequently read a third time nad passed

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, reported without amendment a bill from the House—name not heard.

Mr. JOHNSON, of Louisiana, asked that the bill be now considered; but objection being made, the motion did not prevail.

RESOLUTIONS.

Mr. MILLER submitted the following resolution, which was considered and agreed to:

Resolved, That the sixteenth joint rule be so far suspended as to permit the transmission to either House of bills passed in either House this day.

Mr. MASON submitted the following resolution, which was considered and agreed to:

Resolved, That the hour of meeting of the Senate be at eleven o'clock from this day until the end of the present session.

On motion of Mr. ALLEN, the amendment of the House of Representatives to the bill to provide for carrying into effect the fifth article of the treaty between the United States and the Mexican Republic, for establishing the boundary line between them, was referred to the Committee on Foreign Relations.

On motion of Mr. BREESE, the Committee on Public Lands were discharged from the further consideration of a number of memorials.

On motion of Mr. BUTLER, the Committee on the Judiciary were discharged from the further consideration of several memorials.

On motion of Mr. DOUGLAS, the prior orders were postponed, and the Senate proceeded to consider the bill for the relief of James Hotchkiss.

The bill was then considered as in Committee of the Whole, and was amended, on motion of Mr. DOUGLAS, and was reported to the Senate, and ordered to a third reading. It was subsequently read a third time and passed.

BILLS FROM THE HOUSE.

A bill from the House for the relief of Cedar Blum, of the State of Alabama, and for other purposes, was read a first and second time, and referred to the Committee on Public Lands.

A bill from the House to remit the duties on certain goods destroyed by fire in the State of New York, was read a first and second time.

On motion of Mr. HUNTER, the bill was laid on the table for the present.

An act concerning the selection of jurors in certain courts of the United States was read a first and second time, and referred to the Committee on the Judiciary.

RECONSIDERATION.

The Senate took up for consideration the motion made some days ago by Mr. NILES, to reconsider the vote by which the bill authorizing a patent to be issued to William Green; and the motion was agreed to.

The bill was then amended, on motion of Mr. MILLER, and was read a third time and passed.

The bill in relation to the Fox and Wisconsin river reservations in the State of Wisconsin, was considered, and after a few remarks from Mr. WALKER, was read a third time and passed.

UNITED STATES COURTS IN LOUISIANA.

On motion of Mr. DOWNS, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill to amend an act entitled "An act to regulate the mode of practice in the courts of the United States for the District of Louisiana," approved May 26, 1824.

Mr. PHELPS. Mr. President, I had the honor of being on the Committee on the Judiciary when this subject was submitted to their consideration. This is a very important bill. It proposes to change entirely the practice of the United States courts in the State of Louisiana. I have very strong doubts whether this bill should pass.

The history of the bill is this: The proceedings of the State courts of Louisiana are conformed to the civil law; and not very long since a bill in chancery was brought according to the English chancery practice and the practice ruling in this country, and the question raised whether the courts of the United States in that district could entertain a bill in chancery in conformity with the common law practice. This question came to the Supreme Court of the United States, and that court decided that it was competent for the United States courts in that district to sustain a bill in chancery according to the practice of the common law, although it was not in conformity with the local practice. The purpose of this bill is to overrule that decision. I have great doubt whether it should pass.

So far as the local administration of justice is concerned, it is doubtless proper to conform to the practice of the State; but it is to be understood that the jurisdiction of the United States courts is exercised generally between citizens of different States. This is one source of their jurisdiction. Now, whether it be proper to limit every plaintiff who resorts to the United States courts in that State to the peculiar practice of the State, is a question which, in my mind, admits, to say the least of it, of very serious doubts.

Sir, I should prefer myself that a uniform practice in the courts of the United States should be preserved. I think it all-important that citizens of the United States, resorting to the jurisdiction of the United States, should find one and the same remedy, and one and the same course of proceedings in every court. I know, to be sure, that it is a matter of solicitude to gentlemen practising in that State; but when I had a seat on the Judiciary Committee I was furnished with a strong representation of this measure and a very strong remonstrance against it. Under these circumstances, I am willing to leave the subject to the decision of those who are more interested in the matter than I am. But I cannot permit a question of this importance to pass the Senate without calling their attention to it. It is a matter of indifference to me whether or not the bill be passed; but, regarding it as I do, as introducing a very important, a radical change in the proceedings of that court, I thought it my duty to call the attention of the Senate to its purpose.

Mr. ATHERTON. Mr. President, although the Senator from Louisiana [Mr. DOWNS] said this bill would give rise to no debate, it will, notwithstanding, give rise to a long debate. It is a bill of very great importance, at least it is so considered by some gentlemen, and will, therefore, be debated at considerable length, and must necessarily consume much time that had better be appropriated to the consideration of other and more important business. I move, therefore, that the bill be laid upon the table.

The motion was agreed to.

PANAMA RAILROAD.

Mr. BENTON said there were two bills which were reported to the Senate in the early part of the session, and both of which were now ready for final action. These bills had been called up for action several times; their merits and demerits had been discussed over and over again. They had been passed by, and other bills, which had started up extemporaneously, had taken their places. He wished to have these bills considered and acted upon, and the vote taken now; and, so far as he was concerned, it could be taken without one word of debate. One of these bills was the General Post Office bill, under the charge of the Senator from Connecticut, (chairman of the Committee on the Post Office and Post Roads,) and the other was the bill making compensation for the transportation of the mails, munitions of war, &c., across the Isthmus of Panama. These two bills, so far as he was concerned, were ripe for final action. He was willing that they should take up the Panama bill for the final vote upon it; and he would move that the prior orders of the day be postponed that they might proceed to the consideration of that bill.

Mr. ATHERTON hoped that the bill would not be taken up. He was sure that it would give rise to a long debate. It was the intention of several Senators to enter into a full discussion of the subject whenever it should be brought before the Senate.

Mr. CLARKE said he thought, that notwithstanding the advanced stage of the session, some action should be had on this bill. He was certain that it might be passed without debate. He could not permit this opportunity to pass without expressing his strong convictions that some action should be had on the bill. He desired that the Senate should come to a vote on it. He hoped, therefore, that the Senate would consent to take up the bill.

Mr. WALKER said he heard gentlemen say this bill could be disposed of in fifteen minutes. If it should be disposed of in fifteen minutes, all he had to say was, that he would consider it an instance of most hasty and ill-advised legislative action. He thought a bill of such great importance should not be disposed of in fifteen minutes, nor without the most calm, deliberate, and circumspect consideration.

But the bill could not and would not be disposed of in fifteen minutes. If taken up now, it would consume nearly all the residue of the session. He knew many gentlemen who had prepared themselves to discuss the question in all its merits, bearings, and phases. Rival propositions would be brought forward, and the whole subject opened up for discussion. If the bill should be called up now, he should feel it his duty to express his views upon it, and it would take a very decided expression on the part of the Senate to restrain him within the limits of a fifteen minutes' speech.

Mr. ATHERTON hoped that gentlemen would not insist upon taking up the bill. He felt assured that it would consume much more time than could be spared at that stage of the session.

Mr. NILES said that, as chairman of the committee which had reported the post office bill, he felt it his duty to ask the Senate to take up that bill at once, and dispose of it as speedily as possible. He said it had been brought forward at an early period of the session, it had been discussed at considerable length, and certainly to an extent that rendered all further discussion useless. Senators were all familiar with its provisions: all knew what it proposed. He had waited a long time to get it before the Senate, and now he felt it to be his duty to himself and to the people of the country to insist upon its speedy disposition. He said there was no measure so loudly called for by the people of the country. There was no measure which had been so strongly urged upon Congress by the people—no measure in favor of which so great a number of petitions had been received. In fact, it was the people's measure. They demanded it at the hands of their public servants, and it should no longer be withheld. He wanted to get a vote of the Senate upon the bill. He had spent a great deal of time in its preparation, and he presumed this would be his last opportunity of voting for the bill. He desired very much to vote upon the bill, and he hoped that the Senate would at once proceed to its consideration.

Mr. FOOTE said he could not consent that the Senate should take up the Panama bill unless they were willing to go into a discussion of the subject. For one, he felt bound to discuss the matter whenever it should be brought forward. He had some time since told the Senate that he was collecting information upon the subject. Since that time, himself and several other gentlemen had been collecting all the information within their reach touching the matter, and they had amassed a great number of most interesting and important facts; and, whenever the bill should be brought forward, he should offer an amendment to it, which he knew would be resisted, but which he could sustain, eebly by argument, but most cogently by testimony. He was opposed to taking up the bill at that time.

Mr. ATHERTON said that, inasmuch as the time of the Senate was too valuable to be squandered by debating a motion like the one before them, he would move that the motion to take up the bill be laid on the table.

The motion was agreed to.

THE CENSUS.

Mr. UNDERWOOD moved that the Senate proceed to the consideration of the bill to provide for taking the seventh census or enumeration of the inhabitants of the United States. In support of this motion he said: It is very important that we should proceed at once to the consideration of this bill. I have spent much time in its preparation, and I desire to know whether the Senate intend to act upon it at all. If they do not intend to pass the bill at this session I wish to know it. This is the last time that I shall attempt to call it up.

Mr. BUTLER. I concur with the honorable Senator from Kentucky in the propriety of taking up this bill and acting upon it at once.

The motion was agreed to, and the bill was taken up as in Committee of the Whole.

Mr. DAVIS, of Massachusetts. Mr. President, this is a very complicated bill. It has occupied a great part of the time of my friend from Kentucky. Still, after all the labor he has been able to give it, it is conceded to be an incomplete bill, and by it power is proposed to be given to the Secretary of State to add to it such amendments as he may think proper. I will not trouble the Senate by going into this matter further. But I prefer that Congress should have this subject under its own

control. An amendment which I desire to be made will put this matter into the hands of the Secretary of State, Postmaster General, and the Secretary of the Interior, (if one shall be appointed,) and directs them to prepare a bill which the statistics of the country will require, and report that bill to Congress at the commencement of the next session, and also to make such appropriations, by way of providing stationary and other matters, as to give the bill immediate despatch when it shall be passed. This seems to me to be the more appropriate course of proceeding, and one by which we can get a more complete bill than by any process of legislation at this moment. I have therefore preferred to make this proposition in lieu of the bill of my friend from Kentucky. It is a work of infinite labor to prepare these columns for statistics. It is known that, after all the care bestowed upon the census bill for 1840, it was very imperfect. We desire to make it more complete, and thereby render it more useful to the country. I hope, therefore, that the amendment will be adopted.

Mr. D. then sent his amendment to the Chair, the purport of which he had stated.

Mr. WESTCOTT. Mr. President, I do not think it expedient to pass the bill reported by the select committee, and I am also opposed to the amendment of the Senator from Massachusetts, [Mr. DAVIS.] I will briefly state my objections. I am opposed to Congress doing anything in reference to the census, except what the Constitution requires. This census bill is altogether too complex. It takes too wide a range. The census law of March 1830 was a very simple law, providing merely for the enumeration of the inhabitants. I believe the only information called for that was out of the way was something about the deaf and dumb. It was of no use at all. Nothing more was contemplated by the Constitution than an enumeration, necessary to fix the rates of representation in Congress, and direct taxation, perhaps. Nothing else was constitutional. I repeat, the entire and sole object in obtaining the census, is to get authentic data to fix the ratio of representation and direct taxation. In 1840 provision was made in the census bill for obtaining statistics in relation to manufactures, commerce, and agriculture, and the Lord only knows what else. Everybody knows the difficulties that these provisions caused. Everybody knows that the people will not answer all these questions. They will regard it as impertinent to be interrogating them as to the number of chickens, geese, and ducks they raise, and how many eggs are laid daily by their poultry. [Laughter.] What is the object of all this? Sir, it is, in my opinion, the entering wedge of a system to be adopted on the part of Congress to take the supervision of what properly belongs to the States—to take charge and legislate upon the local concerns of the States. Sir, there is something ominous in the reference made to the "Secretary of the Interior," an officer not yet appointed. I hope that those who contend for the exclusive rights of the States to manage their own affairs will be awakened to the character of this bill as an entering wedge for that object, and to its connection with this project to found a Home Department. I am opposed to all this. We do not need what is sought by the inquiries proposed by this bill for any legitimate object of legislation. There is no necessity for them; we have no constitutional power to ask them; and if asked, the people will not answer them. They will ridicule them, scorn them, and tell your marshal and tell Congress to mind its own business. All these statistics are of no use when you get them. I shall move at a proper time to strike out all after the enacting clause of this bill, and adopt the substance of the bill of March, 1830.

Why, sir, the present bill proposes to make the marshals and their deputies inquire into the rate of wages, the prices of labor, and the difference in such prices between slaves and freemen, and then there is something about the health of the laborers. Sir, this will be a difficult business. What is to constitute unhealthiness? Some hold laziness to be a disease. If the medical societies want this, if the doctors need it, let them get it; if the manufacturers want it, let them get it; if the States want it—if agriculturists want it, let them get it, as other people get knowledge necessary to understand their interests, without a special act of Congress establishing inquisitorial proceedings by marshals in this way.

The chicken census law of 1840 helped to defeat Mr. Van Buren. The people were disgusted, and they had a right to be. I object to the amendment of the Senator from Massachusetts, because it looks to the same course of legislation. I hope all such legislation will be refused by Congress. If the new Administration attempt it, it will ruin them as a party, they may rely on it. Congress, they will say, has no right to take the public money and employ the public officers in getting philosophical and medical and physiological information about the slave laborers or about free laborers.

Mr. CALHOUN. Mr. President, there is a great deal of truth in what has been said by the Senator from Florida. If I had been called upon for illustrations of the tendency of the action of this Government towards a concentration of power, I would have submitted the operation of this census law as one, and the progress of the Patent Office as another. The Constitution requires Congress to provide for taking the census, for the purpose of fixing the ratio of representation, every ten years. It requires the mere enumeration of the people, and nothing more. But we have carried it from minutia to minutia, down, down, down, until we have come to the price of labor, and all that. Why are we to collect all these statistics? Is it to supersede the labor of the States? Are not the States competent to take their own census, and manage their own affairs? Why not leave it to them? Why do we undertake to do their work for them? Sir, I know that when, under the census law of 1840, the agents began to inquire of people the number of eggs and hens, and all that, which they possessed, they did not understand what it all meant. They instinctively resisted the operations of the law, and their instincts were right.

So it is in regard to the Patent Office. Under the simple power of granting patents for a limited time, we have gone on until we have reared up a great agricultural institution, with voluminous reports, which cost us thousands of dollars a year to print them. Sir, it is time that we should stop. Ours is a Federal Government, not a National Government. It is a Government of States. As we depart from the original rules of action in regard to all these subjects, the census included, we tend to concentrate and consolidate the power of the Government, and as we go to consolidation, we go to our certain ruin. It is time to arrest this tendency. There will be ample time at the commencement of the next Congress to pass a simple bill of this kind, providing merely for the enumeration of the inhabitants. I understand that it has never been customary to pass a bill until the commencement of the year in which the census was to be taken.

Mr. BADGER. The census bills have been always passed at the commencement of the long session, and in the year in which the census was to be taken.

Mr. UNDERWOOD. The gentleman is entirely mistaken. The census bill has always passed at the short session, the year before the census was to be taken. At least it was so with the last census bill.

Mr. CALHOUN. Be that as it may. Here, in the last week of the session, when other business is crowding upon us, we have a bill going beyond all former bills, and which will require much attention. I had no idea that the bill would be taken up at this time. I had not looked at it, and therefore I was compelled, though reluctantly, to ask the indulgence of the Senate to have it read, in order that I might understand it. I move that the bill be laid upon the table.

The motion was not agreed to.

Mr. CAMERON. Mr. President, I desire only to say that unless this bill be now passed, it cannot be acted upon until it will be too late. It required the whole recess between the sessions of 1839 and 1840 to prepare the forms of the bill. It was a very laborious work, and required a great deal of time. The bill ought to be passed now. It is precisely the same as the bill which was passed ten years ago, and which was passed at the short session. This is necessary, in order to give the State Department time to prepare the forms and send them abroad.

Mr. CALHOUN. The only necessity for preparing these forms in such a complicated form, and in a manner which will take up a great deal of time, is because we are going beyond what we ought to do. If we adopt the bill for taking the first census it will take but a short time to prepare the forms. And one reason why I prefer that the bill should go over to the next session is, that it will be compelled to take a simpler and better form.

Mr. BUTLER. Mr. President, I had no responsibility about this bill. I attended the committee but once, I believe, and then it was to suggest an amendment as to the phraseology of some parts of the bill. The bill seemed to be very much like the one passed ten years ago. As for myself, I am free to oppose the bill. I concur pretty much in the opinions expressed by my colleague and the honorable Senator from Florida, [Mr. WESTCOTT,] that it would be well to adhere to the simple forms of the old bills, and the limits prescribed by the Constitution. But I think the variations of this bill from the old forms are not so great that they should alarm gentlemen, by any means.

Mr. UNDERWOOD. Mr. President, I shall be brief, because I think it more important to act than to speak. I rise simply for the purpose of saying, that in the example set in 1840, and in previous examples, I believe Congress departed from the practice of a mere enumeration and classification of the people of the United States. I have not examined, and do not know, whether they did depart from this practice prior to 1840 or not.

Mr. WESTCOTT, (interposing.) Eighteen hundred and forty was the first time, with the exception that in the act of 1830 we made a separate item in respect to the deaf and dumb.

Mr. UNDERWOOD. Then, Mr. President, there was a partial precedent prior to 1840. But in that year the action of Congress settled clearly the basis upon which this bill has been constructed. This bill proposes only to collect, classify, and arrange very important information, upon which the legislation of Congress may, to some extent, rest. We are just as well prepared without discussion as with it to determine whether this course be or be not correct; and I will leave it to the good sense of the Senate to decide, without saying anything more *pro* or *con.* upon the matter.

If you intend to get rid of all statistical information with regard to manufactures and other matters which these tables provide for, just determine that you will confine the bill to an enumeration of the inhabitants of the United States, and we can settle it at once. Upon that point I will not consume the time of the Senate by making remarks one way or the other, although I am decidedly in favor of maintaining the provisions of the bill.

In reference to the amendment of my friend from Massachusetts, my objection is: that by referring the subject to the departments, you are making the Executive Departments legislators for us. Sir, the tendency of our legislation is to refer everything to the departments; to pass no bill unless recommended by them; and in fact, to make the legislation of the two Houses of Congress nothing more than a register of Executive edicts. I think we should legislate upon this subject for ourselves; and this bill contemplates, except so far as that power is necessarily given to the departments, to make it our own legislation. But the whole basis of the amendment of my friend is to give the power to the Postmaster General, the Secretary of State, and, in case of the erection of a Home Department, to the Secretary of the Interior. The bill allows the Secretary of State alone to exercise the power, which, by the amendment proposed by the gentleman from Massachusetts, is to be given to those three officers. The bill confers the power upon the Secretary of State, by declaring that he may add additional columns to the forms, for the purpose of enlarging, simplifying, or classifying the information which is required to be obtained. The bill, therefore, as it is presented, will be purely legislative. It will direct the department as to what information is to be obtained, and give discretionary authority as to adding additional columns, modifying and correcting, if those furnished by the bill are not sufficient, or need revision.

I have made these few remarks in vindication of the plan proposed by the committee, leaving it entirely to Congress to dispose of the whole subject as they please, and without having a particle of feeling on the subject.

Mr. DAVIS, of Massachusetts. Mr. President, if I can get the attention of the Senate for a moment, I will explain the motives which induced me to bring forward my amendment. I think it is conceded, by the terms of the bill, that it is

imperfect, and that, too, upon the very objection brought against the amendment by my friend from Kentucky, that it confers legislative powers upon the departments. He seems to think that the proposition which I make has that tendency. It has no such tendency whatever. I have proposed, in the amendment which I have offered, that all the doings of the Secretary of State and Postmaster General—let the other department (the Home Department) be struck out; I am not anxious that it should be there—shall be reported to Congress at the commencement of the next session. We shall then have the whole matter in our hands to dispose of. If we please, we can then limit the census to the enumeration of the population alone; or, if we see fit, we can extend it further, if it seems to us desirable so to do. It will be a work of infinite labor to prepare even the columns for the different classes of population, as they are arranged. The number of these columns is very great. I do not know the exact number, but I believe there are some hundreds to arrange for the population alone. Now, I want some person to sit down to this business competent to the task—one that can do it deliberately, and bestow upon it the necessary labor, and thus secure correct returns. Gentlemen say we do not want this information. Very well; you need not have it, if the Senate so decide. Why might not the honorable gentleman from South Carolina rise here and say, with just as much propriety, we want no information in regard to the commerce of the country? Is not the commerce of the interior of the country as important and essential to all our great interests, as essential to us in the course of legislation here, as the exterior commerce of the country? Why not rise here and say that it is unnecessary to know the tonnage of the country? Why expend time and labor to obtain that? And yet, I ask, is any gentleman willing to dispense with the information that is derived from that source? Whenever anything is exported from the country, why is it that entries are made at the custom-house, and returns made here? Why is it? Because this information is found to be constantly useful in the progress of our legislation here, and useful to the country in a thousand ways. If we could arrive at the facts of the case, it is as important to know how many tons, and what kind, of produce, go down the Mississippi river, as to know how many go across the Atlantic. It is as important to the country to know how many bushels of wheat are raised in it, how many barrels of flour are manufactured in it, as it is to know how many bales of cotton are carried across the Atlantic. And yet I think the Senator from South Carolina will not be prepared to deny that the information in this respect is as valuable and desirable to the country as information in regard to the number of bales of cotton exported. It is just as desirable to know how the internal commerce of the country is situated, and the amount of it, as it is to know the facts concerning the external commerce—that which is exported from the country. But I will not detain the Senate by going into a discussion of that question. It is unimportant. My amendment proposes to bring the whole matter back here at the next session—to bring a bill here for the Senate and House of Representatives to act upon, and dispose of as they shall think proper. My amendment also proposes to appropriate a suitable sum of money to make the necessary arrangements for procuring stationery, &c., to give dispatch to the execution of the bill when it shall be passed by Congress. Every one knows that the bill must pass, and therefore the propriety of making some appropriations of that sort now.

This country has become very broad; her territory is extensive, and the census must be prosecuted with considerable dispatch, if the passage of the law is delayed until the beginning of the next session. This is the only motive I have had in offering this amendment, in taking this step. I hope that upon further consideration the honorable Senator from South Carolina will find nothing in the amendment that will prevent him from giving it his sanction.

Mr. CALHOUN. Mr. President, a very few words in reply. The Senator asks, why do we collect information in relation to the commerce of the country, and upon what principle are the reports of our custom-houses made? My answer is, because it is the duty of the Federal Government to regulate external commerce. That is wholly within the power of Congress. The regulation of commerce at home, as far as respects commerce between the States, and no further, is also in the power of Congress. To that extent information may be collected, and no further. There is undoubtedly some reason why the Government should have information to that extent, because they control that branch of our industry; but all the internal commerce and internal productions belong to the States, and let every State provide for itself. I object to this on account of its tendency to absorb the interests of the whole country. I object to it on that ground, and because I think it is taking upon ourselves the proper business of the States.

Mr. BADGER. Mr. President, I do not share at all in the constitutional difficulties which have been mentioned by the Senator from South Carolina [Mr. CALHOUN] and the Senator from Florida, [Mr. WESTCOTT.] But, upon the ground of expediency, I am totally opposed to the system adopted in 1840, of complicating the census or enumeration of the people of the United States by these extrinsic inquiries into the business of the country. The primary, leading purpose, and, in my judgment, the sole purpose, of taking the census, or enumeration of the people of the country, should be, to ascertain, with accuracy, the population of the United States, as the means of fixing, under the Constitution, the basis of representation, and also of direct taxation. Now, sir, every one will perceive, that upon grounds of high expediency, everything ought to be carefully avoided which, when united with this main and leading purpose, would tend to produce a less effectual and less accurate ascertainment of the population of the country. It is manifest that all these extraneous matters complicate the taking of the census. I think it was practically observed, that in the execution of the census law of 1840, the census itself was, to some extent, sacrificed in its accuracy to the statistics. It was, therefore, liable to the objection of putting at hazard the fullness and certainty of the main object, for the purpose of accomplishing one merely incidental. The objection does not stop here. The incidental information, the collection of statistical knowledge, it is manifest, cannot be prepared either with fullness or accuracy by persons who are engaged in taking the census. If it is desirable to have it; if it is wise and necessary to call for it, adopt a quiet, calm, and effectual system to collect the statistics that the legislation of the country may require. But how is it now? A man goes to a house, employed as a subordinate to the marshal, for the purpose of taking the census in a particular district, who is paid so much *per capita*, according to the number of persons whom he visits, the state of whose domestic industry he is able to obtain. What is the consequence? As might be expected, he goes to a house, ascertains the number of people residing there, pulls out a long list of questions, reads over the heads, puts down what is given with the utmost expedition, and flies off to some other family, where the same process is to be repeated, the same erroneous, uncertain, and unsatisfactory information collected, and put forth to the public as being true and certain. And therefore, as I humbly conceive, both objects are sacrificed to an unnatural and forced union in the hands of the same agent. I would willingly, if it is thought desirable, concur in the passage of a bill to secure correct statistical information. But it is manifest that statistics which are not accurate, are not only useless, but positively mischievous. They not only do no good, but they mislead; they mystify; they injuriously affect the public judgment, and the action of the Government. And, unless a considerable degree both of fullness and accuracy can be obtained, in my judgment, we are better without any. That is my view.

With regard to the general subject, as embraced in the bill and the amendment offered by my friend from Massachusetts, [Mr. DAVIS,] I greatly prefer the amendment. I will briefly state my reasons for preferring the amendment. In the first place, it brings this subject under the consideration of Congress at the ensuing long session. It will thus give us an opportunity for full consideration, whether we shall cut off this statistical information altogether, or how many heads of it we will retain. The amendment has this further advantage: we are to have a careful previous examination, and a plan reported to us. It is not, as my friend from Kentucky [Mr. UNDERWOOD] seems to imagine, that we are to devolve upon the Executive departments to pass the law. Not at all; but the amendment provides that they are to suggest to us a plan upon which this statistical information can, in their judgment, be best obtained. It has every advantage over the bill now before us, which, if passed at all, must be passed hurriedly. If we do not adopt the amendment, we must either take the bill of 1840, with all its imperfections, vexatious as they were in their actual application to the country, or we must endeavor to rectify it in a portion of one of the three remaining days of the session.

In the next place, I am in favor of the plan proposed by my friend from Massachusetts, in preference to the original bill, because it avoids the very evils which my friend from Kentucky seems to suppose are chargeable to it. The amendment proposes that everything which it refers to the Executive officers shall be submitted to us by them. Nothing is to be adopted without our sanction, and there is to be no Executive legislation. But how stands the bill? Why, an unlimited discretion is conferred upon an executive officer to add heads and items of statistical inquiry which are never to come here for our revision, and which are to become law by an Executive act, without the subsequent approbation of Congress. In my opinion, this is too important a subject to be disposed of in the brief space of time that we have left. But if we are to do anything upon the subject; if statistics are to be collected by the census; if it is desirable that they should be united with the census or enumeration of the people of the United States, the measure proposed by my friend from Massachusetts has the decided preference over the bill reported by the select committee. It gives us an opportunity of examining the bill which shall be proposed at the next session of Congress; and, by taking all the steps necessary for the execution of the work, it prevents the necessity supposed to exist for anticipating the usual time for passing the census bill.

I should be very willing, however, that the subject should be laid on the table, as it is obstructing important business, and as I do not think there can be a hope of its passing the other House. For my own part, I should have been glad that the motion of the honorable Senator from South Carolina [Mr. CALHOUN] to lay this subject on the table had prevailed.

Mr. BUTLER. I cannot see how my friend from North Carolina can be consistent with regard to his two propositions. He says first, that he is opposed to the whole bill for collecting statistical information. At the same time he gives a preference to the amendment offered by the Senator from Massachusetts, by which we are to go to the expense of preparing stationery to carry out the provisions of a bill which we may reject, if we think proper, at the next session. This bill, as far as I know, is very much like the one of 1840, in reference to the forms to be used; but, as we have no time for its consideration, if the motion were renewed to lay it on the table, I should vote for it.

Mr. HUNTER. Mr. President, as I differ with some of my friends in relation to the proposition of the Senator from Massachusetts, I wish to say but a word or two upon it, and I will detain the Senate but a moment. In my judgment, this matter of the census is exceedingly important, and I believe it requires more time and deliberation to mature and pass a suitable bill than we can now give. For that reason I prefer the proposition of the Senator from Massachusetts.

Sir, for one, I have never entertained the idea that we were confined, either by the Constitution or by any considerations of policy and propriety, in taking a census, to a simple enumeration of the people. I should like to have all the information which it is possible to obtain, provided it be reliable and can be accurately given, so as to take a just, true, and full view of the whole resources and the whole industrial operations of this country. And, sir, so far from these bills having embraced too many subjects heretofore, I think they have not extended their inquiries far enough. I think they might be added to, not only with propriety but with advantage to this country. I do not believe that it commits this Government to the principle that it has a right to legislate on every subject which it has a right to inquire into. By no means. But it does become us, as all our operations, all our

taxations, affect incidentally at least every interest in society, to have some knowledge of what those interests are, in order that we may legislate justly and impartially for them. Not only would this information be highly gratifying to the general scholar, but it would make valuable additions to the mass of statistics, which constitute one of the highest and best subjects of the study of an American statesman. Sir, I know of nothing which has contributed more to the advance of political science than the increased attention which has been paid to statistics, and the opportunity which has thus been afforded of testing theory by experience. Especially is it important for the American statesman to obtain a full and accurate view of all the parts of that vast society whose machinery he directs. He should have all possible facilities for studying our progress, and tracing the connection between cause and effect. And it is because I wish to see a bill fully matured that I am disposed to vote for the amendment of the Senator from Massachusetts, for it will give us time enough to mature a bill. If we agree to the proposition of the Senator from Massachusetts, we shall not be compelled to adopt, as has been argued, any bill that may be sent us from the department. We shall have full discretion to alter or amend it, as it may seem to us proper. It would be unwise, from such a jealousy as this, to reject the aid which we shall probably thus obtain from some mind trained to statistical inquiries, and stored with the necessary information to guide him in suggesting the proper objects of investigation. But if he should fail in doing that, we would then be where we are now. We should lose nothing. If he should not present such a bill as would be suitable, the result would be that we should have suggestions no doubt of much value and utility made to us, and that would materially aid us in framing a bill ourselves.

Another advantage of the amendment is, that it provides in advance for many of those things, paper, stationery, &c., to which the Senator from Kentucky [Mr. UNDERWOOD] has referred, and thus affords the necessary facilities for the execution of the work in case we should pass a bill at an early period of the next session.

My friend from North Carolina [Mr. BADGER] has just informed us that the other House has to-day passed a bill in reference to this matter. I know nothing about that, or for what it provides, but I am not disposed to act definitively on the subject until we have more time and more information. I shall, therefore, vote for the proposition of the Senator from Massachusetts.

Mr. BRIGHT. Mr. President, I acknowledge the importance of this measure, but deny that there is the least necessity for action at this time. The committee reporting this bill have followed substantially the forms in reference to a classification of ages and the statistics of the country, that was adopted in 1839–'40. Now, we have the benefits of experience resulting from that service, and we ought to profit by it. The tables of statistics provided to be taken then, were, from the nature and number of the inquiries, very imperfect. The questions were of a character calculated to create a prejudice in the minds of the agricultural community particularly, and resulted in no practical benefit whatever.

I think we had better defer action on this subject until the next session, thereby affording time and opportunity to digest a plan free from the errors and imperfections apparent upon the face of this bill.

I will not consume time now, in assigning reasons for the opinion that all that part of this proposition, which provides for collecting the statistics of the different States, had much better be left, and more properly belongs to the States themselves; but such is my opinion; and, if the subject is passed over until next session of Congress, I will endeavor to demonstrate it.

Mr. UNDERWOOD. Will my honorable friend allow me to correct a misapprehension he is laboring under in regard to the bill? We have departed entirely from the whole of those features of the bill of 1840, of which the Senator justly complains. Under the operation of this bill no woman will ever be asked how many chickens and bee-hives she possesses, nor how many yards of cloth she has woven during the year? We have put away everything of that sort, as amounting to nothing, if we had the information, and as being wholly impracticable to reach. The statistical information in reference to manufactures relates, not to mere manual labor, but those manufactures which are carried on by steam-power, water-power, or horse-power. We have discarded everything which the gentleman has been criticising, and I think if he was thoroughly acquainted with the bill he would not hesitate to give it his approbation.

Mr. BRIGHT. Mr. President, feeling that this bill has improperly taken the place of more urgent and important business, and that we are wasting time unnecessarily in considering it, I move to lay it on the table.

The motion was agreed to.

On motion of Mr. ATHERTON, the Senate then proceeded to consider the bill making appropriations for the payment of navy pensions for the year ending the 30th of June, 1850, as in Committee of the Whole.

No amendment being offered, the bill was reported, and ordered to a third reading. It was subsequently read a third time, and passed.

On motion of Mr. ATCHISON, the Senate then proceeded to the consideration of Executive business, and the doors were not reopened until the hour for the recess had arrived.

EVENING SESSION.

On motion by Mr. ATHERTON, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill making appropriations for certain fortifications of the United States for the year ending June 30, 1850.

Mr. BORLAND moved to amend the bill by adding a provision appropriating $20,000 for the completion of Fort Gibson, Arkansas.

Mr. B. I will state that this item of appropriation is in accordance with the recommendation of the Quartermaster General, who states that it is necessary for the completion of a work already begun for the accommodation of the troops that are there stationed.

Mr. ATHERTON. The estimates for fortifications ought to come from the Bureau of Engineers.

Mr. BORLAND further explained, and the amendment was agreed to.

No further amendment being offered to the bill, it was reported to the Senate; the amendment was concurred in, the bill ordered to a third reading, and was subsequently read a third time by its title and passed.

LAW FOR CALIFORNIA.

On motion by Mr. ATHERTON, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill making appropriations for the support of the army for the year ending June 30, 1850.

Mr. BALDWIN. I propose to add to this bill the same amendment which I offered to the civil and diplomatic appropriation bill:

And be it further enacted, That the inhabitants of the territories of New Mexico and California respectively shall be entitled to the benefits of the writ of *habeas corpus* in all cases of unlawful detention or restraint; of trial by jury in all criminal cases; and of judicial proceedings according to the common law and the laws and usages in force in said territories; and no person not belonging to the army of navy of the United States shall be liable to be tried by martial law.

Mr. BALDWIN. The question was asked the other day why this amendment was added to the civil and diplomatic appropriation bill, when, by an amendment already adopted, the Constitution of the United States had been extended over these territories, carrying with it, by necessary implication, the writ of *habeas corpus?* But any gentleman who will reflect upon the subject, bearing in mind the language of the Constitution in relation to this writ, will, I think, entertain no doubt that, in this case, as in every other, to give to the courts constituted by this Government the right to issue the writ of *habeas corpus* for the deliverance of the citizen from unlawful restraint, requires the enactment of a special law for that purpose. The act of Congress of 1789, giving to the district, circuit, and supreme courts of the United States the power to issue the writ of *habeas corpus* in the cases specified in that act, can have no application to the courts existing in these territories. It requires, therefore, a special enactment.

Mr. YULEE, If the Senator will pardon me, I will inquire if the Senator is in order in moving this amendment?

PRESIDING OFFICER. The Senator will state the point of order.

Mr. YULEE. This I understand to be an appropriation bill for the support of the army, and the Senator moves an amendment in relation to the government of the people of California. I can conceive of no two subjects more dissimilar.

PRESIDING OFFICER. The rule in the House of Representatives is not to admit amendments incongruous to the subject-matter of the bill. There is, however, no such rule here.

Mr. YULEE. Then I beg leave, as this is an important question, to call the attention of the Presiding Officer to the fact that there is no quorum present.

Mr. FOOTE. I will suggest to my friend from Florida that it would be better to meet this question at once.

PRESIDING OFFICER. The Senator from Connecticut has not yielded the floor.

Mr. BALDWIN. A large number of our citizens, as we all know, from every part of this country, have gone to California. Is it right for us to leave those citizens unprotected? Is it right for us to leave them without the benefit of the great writ of deliverance, which we have provided in our Constitution shall not be suspended unless when, in cases of rebellion or invasion, the public safety shall require it? Sir, I have friends and neighbors that are dear to me who have gone into that region, and I should feel that I was faithless to the duties of my station, faithless to the obligations I owe to those neighbors and friends, if I were to omit any opportunity of throwing around them at least these feeble safeguards, the *habeas corpus* and trial by jury. All the provisions which are contained in the amendment I propose are taken from the act organizing the Territory of Missouri. Those provisions will be substantially found to be incorporated in every territorial bill that has been passed. Why should not the people of these territories, then, be entitled to the same privileges which we have extended to the people of all our other territories? I know of no reason. I am sure that if honorable Senators will reflect that these rights are not extended to them, simply by extending the Constitution and general laws of the United States, but that they need a specific provision of law for that purpose, there will be no objection interposed to the introduction of this amendment. It is said that this is improper to be attached to the army appropriation bill. It strikes me that it is peculiarly proper in this bill. Sir, the present government in California is essentially a military government. Your naval and military forces are there. They need, therefore, the protection of such a provision as this. I do not wish to take up any time in discussing this question; but I am sure that if gentlemen will reflect on the provisions of the amendment I have proposed, they will see that there is nothing contained in it that any section of the country has a right to complain of, nothing but what we should all be eager and anxious to extend to our citizens in those territories.

Mr. FOOTE. We are admonished by a thousand tokens, not less striking than gratifying, that an era in the world's history has been at length reached when *change* and *improvement*, and *general progress*, moral and intellectual, physical and spiritual, are not only to be anticipated, but are in a course of actual realization. However, Mr. President, the philosophers of different ages may have heretofore differed in opinion touching the interesting question of the absolute perfectibility of human institutions, I have for some time past doubted but little that the advance of our species in knowledge, in virtue, and in all that constitutes true earthly felicity, would, despite of all impediments, continue to go on, in all time to come, until the whole world should be irradiated with the light of truth, and all the children of men be heard to rejoice over their deliverance from ignorance, and error, and moral degradation. I am specially gratified at being able to declare, on this occasion, that my hopes of the general amelioration of mankind, and the prospective triumphs of truth, have been both brightened and invigorated, refreshed and confirmed, beyond measure, and inexpressibly, by the speech to which we have just listened from the honorable Senator from Connecticut. A few days since, some of us here were urging most zealously, and with all the efficiency which we could command, the claims of our brethren in California to governmental protection and domestic security at

the hands of the National Legislature. The subject was presented to us in all its aspects and bearings by various Senators, and so affectingly were the sufferings of our brethren in these remote regions depicted to us by honorable Senators, and so cogent was the argumentation which took place upon all the topics involved in the proposition of the honorable Senator from Wisconsin, [Mr. WALKER,] that I could not easily perceive how it was possible for any man, not destitute both of philanthropy and patriotism, to refuse to do at least as much as the honorable Senator from Wisconsin and others urged us to do, and to do without delay. And yet there were some here who refused to extend the Constitution of the United States to our brethren in California and New Mexico—who refused to extend to them the general laws of the Union—who refused to trust the President elect, to whose election they had contributed, with such powers as are obviously necessary to be possessed and exercised by the Executive of the nation, in order to rescue our fellow-countrymen from present evils, and save them from menaced horrors. Among those of our body whose hearts were cold and pulseless, and whose eyelids were unwet with the soft dew of sympathetic emotion, was the Senator from Connecticut. He opposed all adequate legislation for California and New Mexico with the utmost zeal, and with all the energy which he could bring into exercise. He seemed to regard these territories as a foreign country, which had no claims to our commiseration, our respect, and our providing care. He seemed, indeed, scarcely to be aware that a single native-born citizen of our Republic was at this time to be found in all the vast domain which our recent treaty with Mexico has placed in our possession. But now, when the amendment of the Senator from Wisconsin has been favorably acted upon by this body—when there is every likelihood of its becoming a part of the law of the land, and, as such, securing to the people of California and New Mexico municipal quiet and social order—the honorable Senator from Connecticut has become suddenly illuminated—his bosom, heretofore cold and throbless, has become full of ardent and tumultuous emotion—fraternal sympathy and Christian condolence stream from his eyes, and choke his utterance; and he is heard to beseech us, and implore us, and demand of us, in tones both lugubrious and inflammatory, not to permit our brethren in California and New Mexico to remain longer unprovided with the ineffable blessings of *habeas corpus* and jury trial. One who did not know the honorable Senator from Connecticut as well as I do—who did not comprehend the secret motives which actuate him—and who was at the same time uninformed as to those peculiar legislative *tactics* of his which lead him so often to seek the objects of his desire by covert and insidious means, and to indulge in professions of sentiment only by way of experiment upon the feelings of others—would naturally have supposed that the honorable Senator was really actuated by a generous and manly solicitude for the comfort and security of the people of California and New Mexico. But nothing is farther from the truth. Read the amendment, and you will find a single word which throws a flood of light upon the honorable Senator's designs and motives, and convicts him of attempting to impose upon this body an amendment to the bill before us, which, if adopted, might be productive of consequences as mischievous as have ever been realized under any single act of Congressional legislation since the foundation of the Republic. The word to which I allude is the word "inhabitants." He desires the benefits of *habeas corpus* to be extended to all the inhabitants of California and New Mexico. In other words, he desires that slaves, if any shall ever be carried into California or New Mexico, shall have a summary remedy afforded to them of achieving their *emancipation*. Now, I do not say that such would be the necessary effect of the honorable Senator's amendment, but I do aver my solemn belief that the amendment of the honorable Senator from Connecticut was introduced for the purpose just stated, and for no other purpose whatever. The white race of California will have full protection and security afforded to them under the amendment of the honorable Senator from Wisconsin—if, indeed, that amendment shall not be eventually defeated by factious opposition, either here or elsewhere; but should it happen that persons of a different complexion are found there, what guarantee is provided for them, should a claim to their service be set up by white men claiming to be their owners? What is there in the amendment of the Senator from Wisconsin to deter southern men from migrating to California and New Mexico with or without their slaves? What is there in that amendment calculated to secure an unjust and illiberal monopoly in California and New Mexico to the citizens who belong to the free States of our Confederacy? Nothing, sir; nothing. Our plan of territorial government is marked with justice and liberality, and regard for the Constitution. Non-intervention, on the subject of slavery in the new territories, is its leading feature. We had been willing to leave this question to be settled hereafter, under the guidance of experience, by the people of those territories, whose interests are to be chiefly affected, either by the exclusion or admission of slavery. But this plan of ours has not suited either the feelings or judgments of such gentlemen as the Senator from Connecticut and his allies in this Chamber. They have proclaimed their determination to control this domestic question, by Congressional enactment, for the good people of California and New Mexico, to whose decision they are unwilling to trust it. As to the Constitution of the United States, that, we are told, is a sort of moral luxury, only to be enjoyed by such American citizens as chance to reside within the limits of the sovereign States of the Union. We have been assured, solemnly and earnestly assured, that California and New Mexico were actually not a part of the United States at all; that it was not possible for Congress to extend, by any legislation in its power, that sacred instrument, with its well known guarantees, to our fellow-citizens who have gone thither. But now gentlemen seem to have undergone a change; they profess to be profoundly sympathetic for their neighbors and friends who have gone to these distant regions, and lament most dolorously the sufferings which they suppose to be in store for them for want of the protection of the habeas corpus. All this, Mr. President, is sheer hypocrisy—a ridiculous parade of false professions—a disgusting exhibition of pseudo-philanthropy—a coarse and nauseating specimen of demagogism, decked out in the habiliments of christian charity and regard for the great principles of popular freedom: it is abolition, sir, in disguise, and the more fit to be denounced and ridiculed because it is ashamed to avow its real character and designs. The whole scheme of the Senator from Connecticut, and those who favor his amendment, is to enable slaves to emancipate themselves from the control of their masters; and, with a view to this end, agitation upon a question which has already shaken the Union to its centre is to be kept in progress both here and elsewhere. Sir, we fondly flattered ourselves, when the amendment of the honorable Senator from Massachusetts [Mr. WEBSTER] was so signally defeated in this Chamber a day or two since, that fanatical agitation upon the subject of slavery in the territories was at an end. We were confirmed in this belief by the fact that the Wilmot proviso itself had been defeated in the other wing of this Capitol. We began to hope for a season of quiet and repose, and to assure ourselves that the voice of faction would no more jar upon our ears—that the cockatrice of abolition would no longer be seen rearing its accursed crest in our midst; but suddenly we find that the snake is not killed, but scotched only; that demagogues are not yet quieted, but have only become a little more covert and insidious in their movements; that the native land of Washington, and Jefferson, and Franklin, is doomed to be the perpetual theatre of clamor and strife, and it may be of bloodshed too. Sir, I know not how others may feel, but I am disgusted, indignant, full of contempt and detestation, for this new contrivance, and for all who may feel inclined to countenance it even for a moment. I feel certain that I have not mistaken the real object of the honorable Senator from Connecticut, and that I have not employed language at all too strong in my description of it. Dare that gentleman himself rise in his place and say that his objects are misunderstood or misrepresented?

Mr. MANGUM, (interposing.) Will the honorable Senator pardon me for interrupting him? I apprehend his remarks are too personal to be strictly in order.

Mr. FOOTE. Well, sir, I confess it is a little difficult to be perfectly parliamentary under such peculiar provocations. I have designed to use plain and strong language. The season of patience and submission, and strict courtesy, with me at least, has some time since terminated; and if honorable gentlemen expect from me the language of civility, kindness, and complaisance, they must cease their mischievous intermeddling with matters which do not at all concern them, over which they have no constitutional authority, and by interference with which they cannot but be mischievous to an extent which all good men would deplore. If honorable Senators wish to be treated with respect by me, they must cease to bear the torch of the incendiary into this hall of consultation. If they wish to be treated as gentlemen, they must demean themselves in such manner as not to violate the principles which have regulated the conduct of gentlemen in all ages and nations since the first dawn of civilization and refinement. I hope, Mr. President, that, without much further debate, we may come to a vote upon the amendment of the Senator from Connecticut, and, as far as we can, put an end to this troublesome question forever.

Mr. BALDWIN. My own self-respect will prevent me from replying to anything that has been said by the Senator from Mississippi. I beg, however, the indulgence of the Senate, as it may not be within the recollection of all the members of this body, while I read from the act of the 26th of March, 1804, for the organization of a territorial government for the Territory of Louisiana, the provision securing to the inhabitants the right of trial by jury and the benefit of the writ of habeas corpus. Mr. B. read from the 5th section of that act:

"The inhabitants of the said territory shall be entitled to the benefits of the writ of habeas corpus," &c.

This (continued Mr. BALDWIN) was deemed necessary in the case of Louisiana—a slave territory—where the writ of habeas corpus was extended to "the inhabitants" in the same words that I have adopted in the amendment before the Senate. This was in 1804. Again, in the year 1812, when the territorial government of Missouri was formed—also a slave territory—it was deemed necessary to insert, for the protection of the inhabitants, the following provision:

"That the people of said territory shall always be entitled to a proportionate representation in the General Assembly; to judicial proceedings, according to the common law, and the laws and usages in force in the said territory; to the benefit of the writ of habeas corpus. In all criminal cases the trial shall be by jury," &c.

These, sir, were the provisions contained in the act passed by Congress for organizing the Territory of Missouri. Why, I ask, should honorable Senators refuse to extend the same privileges to the people of California and New Mexico? Sir, were they not promised—when General Kearny advanced with his conquering army into New Mexico, and issued his proclamation to the people of Santa Fé—were they not promised the benefits of a free government? And were they not promised this by authority of your own Executive? I beg to call the attention of the Senate for a moment to the language made use of by General Kearny in his proclamation—language which he was authorized to use by the instructions which he received from the Secretary of War. He told them that it was the wish and design of the United States, with the least possible delay, to provide for them a government similar to those which exist in our territories. Had they not a right to suppose, then, that they would have the benefit of the writ of habeas corpus, and all those privileges and immunities which our citizens enjoy under a territorial government? This proclamation was issued in pursuance of instructions contained in a letter of Secretary Marcy, dated June 3, 1846. On the 22d of August, 1846, General Kearny issued, at Santa Fé, his proclamation, announcing it to be the intention of the United States to provide for New Mexico a government with the least possible delay, similar to that of a territory of the United States; and that the people of New Mexico would then be called on to exercise the rights of freemen in electing their own representatives in the territorial legislature. This was the proclamation issued by General Kearny to the people of New Mexico; and he told them, moreover, that the then existing law would be continued in force until the proposed territorial form of government, under the authority of the Congress of the United States, could be provided for them. On the same day on which General Kearny issued this proclamation, he wrote to

General Wool, that without spilling a drop of blood, he had taken possession of Santa Fé. "The people now understand," he added, "the 'advantages they are to derive from a change of 'government, and are much gratified with it."

Sir, I ask, shall we be acting in good faith towards the people of these conquered territories—territories that have yielded to our arms, under such an assurance, authorized by the Executive of the United States—if we fail to extend to them those safeguards which are enjoyed by the inhabitants of our other territories, and which we have so solemnly promised should be extended to them?

Mr. WESTCOTT. I will not presume, much less insinuate, that the Senator from Connecticut has any motive in offering this amendment except that which he has avowed. I will not presume that the Senator proposes to do anything except to throw an additional guard over the inhabitants of California; but I ask the attention of the Senate to a few suggestions which I feel it my duty to make upon this subject, and I trust, if I can secure that attention, that I can satisfy even the Senator from Connecticut that there is no necessity for the provision that is contained in his amendment. Sir, the situation of these territories is very different from that of Louisiana and Florida when the acts respecting a territorial government for those territories were passed. They were not conquered by the army of the United States; they were acquired in time of peace by peaceful cession, by voluntary cession; nay, sir, not only by the consent of the inhabitants, but at their earnest solicitation. They had been asking annexation for years. They were not a people conquered by our arms; and the institutions in those territories were settled, fixed, and assimilated to our own. They had, too, not the civil law—and to this I call the attention of the Senator from Connecticut—not the civil law as in Mexico, but laws modified in certain particulars, congenial to public liberty, which the Mexicans are without. When those territories were ceded to the United States their laws required but very little change or modification. Our constitutional law extended over them without any difficulty, without shaking the prejudices or disturbing the feelings of the inhabitants by any utter change of their law. This was the case in Louisiana, and I may say in Missouri also, because there was more of foreign population there than at New Orleans. The emigrants who crowded into Missouri were chiefly foreigners. Now, what is the law which the Senate has passed in relation to California? I call the attention of the Senator from Connecticut to it. We have adopted, first, as far as suitable and proper, the Constitution of the United States. We have adopted, secondly, all laws of a general character which can be made suitable to the territories; that is the second great feature. And, thirdly, we have invested the President of the United States with power to make rules and regulations to carry into effect those laws. That is the purport of the amendment which has been adopted. Is the honorable Senator not aware that there is no act of Congress in force which provides for the writ of habeas corpus? The constitutional provision is a mere inhibition against the writ being suspended.

Mr. BALDWIN. Will the Senator allow me to ask if there is any provision, by act of Congress, for extending the writ of habeas corpus to the territories?

Mr. WESTCOTT. I thank the Senator for putting the interrogatory. The answer which I shall give him will cover the whole ground; and I ask the attention of the Senate to that answer. We have adopted an act of Congress which can be made applicable, suitable, and proper to the territories, and have authorized the President of the United States to make rules and regulations for the government of those territories. Upon a reference to the act of Congress, it will be seen that it refers to the United States courts. It is a general law; and it is in the power of the President of the United States to make such rules and regulations as he may deem proper; by which the judges whom he may appoint to execute the law, will be empowered to issue the writ of *habeas corpus*. I refer to the act of 1789. "All the courts of the United States may issue," &c.

Now, I ask Senators, have we not extended the provisions of that law expressly to these territories? And I will put a query to the Senator in return, and I will ask him why these naked declarations about the writ of *habeas corpus* and trial by jury being in force here or there, are worth any more than a sheet of blotting paper? Are they useful, without provisions to carry them into operation? I would like to know what they would be worth without the rules and regulations of the President. This is unknown to the law of Mexico. In the civil law we all know they have no trial by jury. We have also the writ of *venire facias*. But the course of the common law does not provide for the execution of these writs. The gentleman seems to suppose that his amendment is to introduce all the laws of England from the time of Alfred down to the present day. I object to the adoption of the amendment, for it is a violation of good faith towards the people of California, who are not our citizens. I have no idea of trampling under foot the civil law which is now in existence. It would be a monstrous act of tyranny. But the objection I make is this—and the Senator, if he is sincere, as I trust he is, will appreciate the objection—that it is not at all necessary. And there is an aspect of this case to which I wish also to refer; it applies to the inhabitants of these territories. Sir, I do not think there could be a more amusing instance of legislation than a proposition to give the writ of *habeas corpus* to the digger Indian, who has as much idea of government as a wild beast. I stated the other day, when the Senator proposed his amendment, that I had no particular objection to it, if confined to citizens of the United States; but I had objections with reference to foreigners. The newspapers tell us that all the rogues and vagabonds, scamps, and scoundrels, who had no place of refuge, were running to the gold region. And I ask the Senator if he is willing that such people shall enjoy the privileges of American citizens. Sir, I, for one, do not hesitate to say, that I regard as one favorable feature in the law which we passed yesterday, that it intrusts the Chief Magistrate with power, if the public interest calls on him to do it, to make rules and regulations, by which your citizens in California will be protected, and your flag preserved inviolate against the refugees from other countries. I am not afraid to trust him with that power; I hope he will be permitted to exercise it. Sir, I see no necessity for this amendment. I have no doubt that the Senator from Connecticut was uninfluenced by any sinister motives, and that he offered it for the purpose of protecting his friends who are in California. I have friends there also. I have a brother there. I am willing to trust him without the *habeas corpus*.

Mr. FOOTE. Mr. President, this thing called self-respect, and which is brought to our notice on this occasion in a manner so especially imposing, is, perhaps, worthy of a little further examination at our hands. Now, sir, self-respect, as I understand it, in its highest forms, is the result of what is called in Scripture "a conscience void of offence towards God and man"—the genuine product of that elevated state of the human soul so happily described as the *mens conscia sibi recti*. If a man is able to look into his own heart, and to find nought there but purity and kindness, and all noble and elevated sentiment, surely it is but natural that his respect for himself should be heightened and confirmed, and his self-love be sensibly enlightened and gratified. Thus was it with Job amidst afflictions; with St. Paul in the prison-house; with a Russel and a Sydney upon the scaffold. Thus must it have been with our own Washington always, and with all the good and noble of bygone ages, who have walked with even dignity the pathways of righteousness and of true honor, and have left reputations behind them free even from all *suspicion* of iniquity. But, sir, there is a sort of bastard self-esteem, which it has been my fate sometimes to encounter, which is no more like the high attribute of which I have just spoken than is the basest counterfeit to the purest gold, or the graceful comeliness of Apollo to the sooty deformity of Vulcan at his stithy. There is an artificial self-respect which delights in shielding itself against examination, which recoils from scrutiny, and evades all just criticism. I have seen this quality exhibited in my time in strange places, and under striking circumstances. It has been barely fifteen years since I was called upon to defend a gifted native of New England against a charge of which he confessed himself guilty; that charge was murder. My client—for such he became—had been guilty, according to his own account, as given in an autobiography dictated by him, but which I was accused, at the time, of writing—of eight murders and sixty robberies. The testimony against the prisoner was too conclusive to be resisted successfully. He had been convicted; the sentence of death was about to be passed upon him, and he was asked the ordinary question—what he had to say why this dreadful judgment should not be pronounced against him. He arose gracefully from his seat on the prisoner's bench; he stood erect before the court and the audience. His countenance was free from the marks of trepidation, of embarrassment, or of conscious guilt. His mind seemed for a moment solemnly to revert to the strange scenes of romantic and bloody adventure through which he had passed. He turned those fierce eyes of his upon the judge, who was presently to consign him to the scaffold, and exclaimed, in tones that I can never forget, "Sir, you have asked me a question, and I intend to answer it. You behold before you a man, cut off from the sympathies of his fellow-beings, who is yet not unworthy of their esteem and commiseration; who has not slept in human habitation for full nine years; who has roamed along the banks of the majestic Mississippi, and lived alone upon the meat, uncooked, of the wild tenants of the wilderness that he has been able to make his victims; who, not forgetful of classic lore, has perused with delight, amidst the gloom of the unfrequented forest, the pages of Horace, of Tacitus, and of Juvenal; who has felt for the degraded condition of his race, and sighed to participate in some work of general amelioration. I have slain men with impunity, and without remorse, who were, in my judgment, burdensome to the generation with which they stood connected, and whose death I supposed would prove a blessing to society. I am now charged with murder, and convicted, upon evidence which I admit to be strong, and even irresistible, of the slaying of a human being in cold blood. But how was it that I slew this man, for whose blood I am now to be held responsible? He was my enemy without provocation. He pursued me with unsparing malignity. He subjected me to indignities which excited me to madness, and I vowed never to rest satisfied until my persecutor should cease to live. Look upon me; bear witness to the world hereafter that I stand up at this solemn hour calmly and composedly before you. My soul is unconscious of crime. My heart accuses me not of murder; and when, a few days hence, I shall ascend the scaffold to expiate offences of which I am myself not sensible, by undergoing a dishonorable death, I shall be found, I trust, as calm, as self-possessed, and as unruffled as I now am." So much for the self-esteem of one who was known in his day as "the Rob Roy of the Mississippi." Let the honorable Senator from Connecticut make any application he pleases of the facts I have now related.

Mr. President, I must confess myself particularly indebted to the honorable Senator from Florida for all he has said in defence of the Senator from Connecticut against the allegations which I have thought proper to prefer. He avers that he has not the least suspicion in the world that the Senator from Connecticut, in bringing forward his amendment, had any object in view save that which he has avowed. Why, sir, the Senator from Florida should recollect that he has himself supplied us with an argument going to show that the amendment of the Senator from Connecticut would be inevitably productive of all the consequences which I have suggested as likely to arise. To declare now that he has no suspicion that such consequences were anticipated by the honorable Senator from Connecticut, is simply to stultify that Senator, and to involve him in still deeper discredit.

Mr. WESTCOTT. I understood the Senator from Connecticut to say that his only object was to protect his friends and neighbors who had gone to California.

Mr. FOOTE. So I certainly understood the honorable Senator from Connecticut to declare. Yet I supposed it to be at least possible that there might be some mistake about the matter, since I well recollect that it was the honorable Senator from Florida himself who put me upon my guard in relation to this very amendment, when offered for our consideration some two or three nights ago, and since, I recollect further, that the honorable Senator from Florida took at that time precisely the same view of the conduct and motives of the

honorable Senator from Connecticut which I now do. I will not accuse the honorable Senator from Florida of inconsistency; but I must say that his whole course in connection with this matter seems to me to be more or less involved in mystery.

Mr. President, I shall say no more upon the amendment of the honorable Senator from Connecticut. Its defeat I hold to be as certain and immediate as its adoption would be detrimental and inglorious.

Mr. BUTLER. I shall be very sorry if the privilege of the habeas corpus be not extended to California, or any of the possessions of the United States. It has been attributed to me this morning that I have said that it was unnecessary to adopt this amendment, inasmuch as the Constitution of the United States being extended to the territories, this privilege was carried along with it. I reaffirm the proposition in its fullest extent. The Constitution of the United States certainly provides, that where the laws of the United States are established, the writ of habeas corpus shall not be suspended. It presupposes, therefore, that the writ of habeas corpus exists in all the States. It certainly does presume that such a writ shall not be suspended where this writ has been recognized by law. Now, sir, if we have, by the bill or amendment which we have sent to the other House, extended, *eo nomine*, the Constitution of the United States to California, it necessarily carries with it as many of its provisions as possible—I say possible and practicable: and can there be any harm in extending the Constitution as far as possible? You might do harm by restricting or making discrimination. But, if you extend the laws of the United States, and a slave or a citizen is taken up unlawfully, and there be courts to enforce its provisions, it would be a singular anomaly, and repugnant to the common principles which seem to be presupposed in this very instrument, if he had not the privilege of habeas corpus. I maintain, that if the Constitution goes there at all—and it is admitted by Senators here that *proprio vigore* it becomes the supreme law—it is unnecessary to pass this amendment. I have no objection, however, to the principle of the amendment of the Senator from Connecticut; for I say it ought to go there. But it is a work of supererogation, unless it be intended to make it a writ demandable by slaves. Who has the right to demand it? None but he who is entitled to his freedom—a recognized slave cannot demand it anywhere. To tell me that one who owes obedience to his master, as incident to his condition, is entitled to demand it, is to tell me that the writ of habeas corpus is to maintain the right of rebellion under the form of law. What would you think, sir, if any one of those fanatical lawyers should go from Connecticut or anywhere else to South Carolina—to single that out as the most odious; for it is the State which is generally held up as peculiarly a slaveholding community—or to Louisiana, or to Mississippi, and one of those lawyers should go and prevail upon a slave to have a writ of habeas corpus taken out, with the knowledge that he was a slave: would any man say that he had a right to the habeas corpus, unless he had a right to demand his freedom?

Mr. BALDWIN. Will the Senator allow me to refer him to the act establishing a territorial government for Louisiana?

Mr. BUTLER. I have great respect for the opinions of the gentleman as a lawyer, and, so far as regards precedents, there is no doubt he is prepared to produce many. But I understand—for I did not hear the remarks of the Senator upon introducing his amendment—that he is endeavoring to reach a particular purpose by the introduction of this amendment. If his purpose be such as I suppose, let him avow it. To accomplish a purpose in an indirect manner is not becoming the fairness of proceeding that should characterize this body. It is a common thing in the South for magistrates to authorize the arrest of blacks, for the purpose of ascertaining whether they were entitled to their freedom. I should not deny the writ of habeas corpus to a man on account of his color, nor to any one entitled to it. But why introduce this proposition into this measure, when it was rejected last night? For, if we have a right to extend the Constitution, it carries with it, as one of its vital provisions—one of the provisions which give it life—the writ of habeas corpus. We have sent to the other House a provision for extending the Constitution. Respect for that body, at least, should induce us to pause until we ascertain how that proposition will be disposed of. I cannot see the necessity for so much philanthropic solicitude on this subject. It does seem to me that there is a pertinacity about it which indicates a purpose that is not avowed. The Senator says that he has precedent for his amendment. I do not dispute that point. But I say that it is unnecessary; it is a kind of cumulative legislation. If it cannot ride upon one bill it is fastened upon another; and I suppose that if a bill for the payment of five hundred dollars to Miss Sally Combs, or to anybody else, were upon its passage, the writ of habeas corpus would be attached to it. I say it with great respect for the Senator's legal attainments—it is altogether unnecessary. I merely rose to vindicate the position (although I am willing to adopt the amendment) that if the laws of the United States and the Constitution be extended to these territories, they carry with them the habeas corpus.

Mr. BALDWIN. I will suggest to the Senator from South Carolina that the words of the act extending the writ of habeas corpus to Louisiana are these—the very language that is used in the amendment which I have proposed.

[Mr. B. quoted from the act.]

Mr. BUTLER. Yes, sir, I do not dispute that, unless the Constitution and laws are extended under such a bill, the amendment might be necessary.

Mr. BALDWIN. Does the Senator from South Carolina say, as a lawyer, that the extension of the Constitution carries with it the habeas corpus?

Mr. BUTLER. Undoubtedly.

Mr. BERRIEN. I do not intend to inquire into the motive which prompts the offer of this amendment. But, sir, it does seem to me that, at this late stage of the session, when, after a very protracted debate, we have sent to the other House a bill containing the outlines of a government for New Mexico and California, it is, at least, an act of supererogation to insert in another bill, with which this subject has no connection, a further provision for the government of these territories. I repeat, sir, I do not inquire into the motive; I do not pretend to affirm that the object of attaching an amendment like this to the present bill is to show such a want of intelligence or of united counsels in the Senate as to weaken the force of the amendment which we have sent to the House in the civil and diplomatic appropriation bill; but such will be its effect; and if we shall be called to a committee of conference on the subject, it may be well said that we did not know our minds sufficiently to express our intentions in the provision which we first made for the government of these territories, and that this was manifested by the adoption of the amendment offered by the Senator from Connecticut. Sir, we have sent to the House a bill containing provisions for the government these territories. We have enacted that those of provisions of the Constitution which can be applied to the condition of a territory shall be operative there. We have invested the President of the United States with power to prescribe rules and regulations for their government; but we have limited the exercise of this power, by requiring that such rules and regulations shall be in conformity with the Constitution of the United States. Then the single question presented by this amendment, is, whether the privilege of the writ of habeas corpus will exist there under these provisions? Honorable Senators have said that this writ is provided for only negatively in the Constitution. The provision and the only provision to which they refer, is that which declares that the privilege of the writ of habeas corpus shall not be suspended, except in particular cases. Now, sir, confining our view to this provision, can it be supposed that the framers of the Constitution would make a solemn provision in that fundamental compact inhibiting the suspension of a privilege which had no existence? Can you suspend a privilege which has no existence? The privilege of the writ of habeas corpus, say the framers of the Constitution, shall not be suspended. Does not this privilege, then, of necessity, exist? Can you suspend the existence of that which has no existence? Were the framers of the Constitution guilty of this fatuity? If it be said that the only effect of this provision was to forbid the suspension of the writ of habeas corpus where it exists, and not to create it, the answer is, that it must exist in every free Government as indispensable to the protection of personal liberty.

But this is not the only provision in the Constitution, as gentlemen will find, if they will consider the matter apart from the bewildering excitement which this question produces. There is a distinct and substantive provision in that instrument which amply secures this privilege.

The fourth article of the amendments is in these words: "The right of the people to be secure in their *persons*, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the *persons* or things to be seized." We have provided a government for these territories; we have required that the rules and regulations to be enforced there shall conform to the provisions of the Constitution: must they not then provide for the protection of personal liberty against unlawful arrest?

I pray Senators to abstain from the adoption of an amendment which can subserve no other purpose but to embarrass the civil and diplomatic appropriation bill in its progress through the other House. We have sent to them a bill providing a government for these territories. Let us await the action of that House, and let us not embarrass it by the introduction of this proposition. It can have no other effect. And, let me say—it is my conviction, and I must therefore express it—I do not believe that these repeated agitations, whether they are the offspring of fanaticism, or of the lust of acquiring political power, can have any beneficial result. I do not believe that they are consonant to the feelings and wishes of the great body of our intelligent and patriotic fellow-citizens in the non-slaveholding States. On the contrary, I believe that gentlemen will better discharge the duty which they owe to their own immediate constituents, and to the country at large, by abstaining from agitations which can accomplish no good, but are eminently calculated to disturb the peace and harmony of the Union; and if I am asked what question is connected with this amendment, I answer, it involves the agitating question which has disturbed us so long, from its inevitable tendency to embarrass the bill to which I have referred in its progress through the other House. I have said before, and now repeat, that I do not mean to question the motives of others; but I express with equal frankness my conviction that the amendment will have the effect which I have indicated, whether it be intended or not.

Mr. RUSK moved to amend the amendment by adding the following proviso:

Provided, That nothing herein contained shall be so construed as to interfere in any respect with the rights of property in any State or of individuals.

Mr. HALE. It seems to me that a very curious state of affairs is presented at this moment. If I remember aright the history of the last session upon this subject, the gentlemen who represent that interest about which they so much deprecate agitation, were found, with but one or two exceptions, voting for a bill in this body, and using all their powers to have it become a law, the principal feature of which was, that the government of the territories which the bill provided should take no action at all upon this question, but that it should be left open for the judiciary; and the very mode of presenting it to the judiciary was by this very *habeas corpus*, which has since been magnified into such an abolition hobgoblin.

Mr. PHELPS. If the Senator will permit me to correct him, the *habeas corpus* was not mentioned in that bill.

Mr. HALE. If I am not very much mistaken—and if I am I hope the Senator will correct me—the honorable member from Maryland [Mr. JOHNSON] introduced an amendment containing this provision to the bill, and it was adopted, I believe unanimously, upon the express assertion that it was necessary in order to give full effect to the provisions of that bill to every one, irrespective of complexion, color, or condition, with regard to this writ of *habeas corpus*, the great bulwark of English and American liberty. I do not know how much of the caution and advice given by the Senator from Georgia [Mr. BERRIEN] to the Senator from Connecticut in front of him, was intended to reach laterally on either side of him. I always listen to him with great respect; but I will, if I may be permitted, say that I do not very often introduce this subject into the discussions of the

Senate, because I think it the last place on the footstool of God where the question ought to be argued, or can be argued with any hope of success. I believe it ought to be argued, sir, where honorable Senators appear to be so much afraid of difficulty, in the hearing of the great body of the people; and when the honorable Senator from Georgia states that he believes that gentlemen from the North do not speak the sentiments of the great body of the American people, I believe he speaks the truth, a plain and naked but most humiliating truth; and that they do not speak out, sir, because they do not express the heart-burning convictions of their constituents. They are dumb and silent, comparatively speaking, upon this great question; and when it is introduced, the impulses which warm the heart and impel the action of their constituents, do not find expression in the voices, or the votes, or the action of their representatives on this floor. And in that respect the assertion is true. Sir, if they had spoken the language of their constituents years ago, we should not have seen the crisis in which we are now situated; we should not have been in the condition in which we now find ourselves. If we had been true to the immortal principles laid down by the fathers of the Constitution in the ordinance of 1787—if we had not become the degenerate sons of an exalted, virtuous, and patriotic ancestry, and swerved from the ever-enduring principles they established for our guidance, we would not have permitted this institution to grow with the growth, and spread with the progress of the country, making constant and continual advances, and we should have avoided this issue now forced upon us, and about which there is given so much abundant caution. I put it to southern gentlemen, how is it you have changed positions on this great principle of habeas corpus? How is it, when that same principle of habeas corpus twelve months ago was the great safety-valve that was to cure all the fanaticism in the land of a proscribed faction in the North, and of all that was discordant in public discussion? How is it, that it has been so altered and so transmografied, that to-day it is an instrument of abolition, a child of fanaticism, and calculated to produce anew the very disturbance and commotion and agitation that not six months since it was said it would alleviate?

Mr. FOOTE. If the Senator from New Hampshire will allow, I desire to make an explanation.

Mr. HALE. Certainly.

Mr. FOOTE. I think it due to myself and my constituents that I should make a brief explanation of this matter. I would state, then, that I have not undertaken at any time to express hostility to the writ of habeas corpus, or dread of its operation in California and New Mexico. I have uniformly said, as other gentlemen have said, that this amendment would be a work of supererogation, inasmuch as the writ of habeas corpus was already extended to the territories. But that I believed that this amendment had been specially introduced in order to rekindle excitement upon the question of slavery, and that the word "inhabitants" was inserted as a covert and ingenious mode of forwarding the cause of abolition. I do not wish gentlemen to assert that I am opposed to the habeas corpus. I have always honored the habeas corpus law of our ancestors most profoundly, and I trust that I am willing, if necessary, to die in support of it.

Mr. HALE. I understood the Senator of Mississippi to say that the amendment proposed by the Senator from Connecticut was a covert abolition movement. Understanding it myself as nothing more than a provision extending the habeas corpus, I felt there was good foundation for the remarks I made.

A word more, sir, and I have done. We are called upon to be quiet, sir, because it is said faction is prostrated by the bill relating to California which has lately passed the Senate, and which is thought to be potent enough to cure this great evil. Sir, have we forgotten that there is another body sitting in the other end of this same building, composed of two hundred and twenty-six members, that have already cured this same difficulty, but by a very different sort of medicine from that which we have administered in the case? I know that the history of past legislation has been that the House, when a difference arose between them and the Senate, have preferred generally to give way. Last session a different application of the rule was made, and it was the body sitting at this end of the Capitol that had to give way. I do hope, sir, that the same issue will be again presented, and that it will be made manifest who are the true representatives of the great public sentiment of this country, the two hundred and twenty-six members of the House, or the sixty Senators occupying this floor, elected for six years, and the higher style of representatives of the sovereign States so much talked about. I do hope that before the 4th of March we will have the question practically presented to us, and then if it shall turn out that our prescription is not the one best calculated to meet the case, and that these two hundred and twenty-six members of the other House consider their prescription a more appropriate one for the patient, and will allow no other to be administered, then, sir, I ask who will be the prostrate faction which never again can rear its hydra head? It is difficult to tell, in popular governments, which is the faction. Generally the one that is put down, prostrated, forced to succumb, is the faction. It may be said that the factionists are down in this body; but if the rumor is to be credited, or the signs of the times regarded, these very factionists are actually controlling the House of Representatives at this very moment. What an alarming state of things is this! It does seem to me that if faction is dead—has been killed here—that, after being carried out of this Chamber, she has sprung anew into life, has entered the House of Representatives, and is now ruling the action of that body; and it may be that she will reënter this Chamber again, triumphant and victorious; and if so, who then will be the prostrate faction? I did not intend to say anything upon this question, Mr. President, but when I heard these suggestive cautions and reproofs thrown out, I could not sit still.

Mr. JOHNSON, of Maryland. Mr. President, it would be improper for me, if I thought so, to say that I doubted the purity of the motives that have induced the Senator from Connecticut [Mr. BALDWIN] to bring forward this amendment; but I do not doubt them. I am sure that they are pure. The difficulty which operates in the mind of that honorable member upon this question is, whether the Constitution of the United States, of itself, so far as California is concerned, extends the writ of *habeas corpus* to those who may be residents of that territory? I happen to differ with some of my friends upon that subject. As I conceive, the Constitution of the United States merely provides that that writ shall not be suspended. It does not give the writ; that is given by legislation. According to my construction, the whole effect of it is, that where there is authority to use it by the Constitution, there is no authority to suspend it. The only question in this case is, whether there is authority now, or will be after this law shall have been passed in relation to California, to use the writ of habeas corpus. I rise merely to say that it is my impression that, by extending the laws of the United States, the provisions of the act of 1789, which give to the courts of the United States the authority to issue the writ of habeas corpus, is in force, or will be when the bill relating to California shall go into operation; and that, therefore, there is no need of the amendment proposed by the honorable member from Connecticut.

Mr. BALDWIN here alluded to a fact illustrating the principle he was advocating with regard to the courts in Florida.

Mr. JOHNSON. No doubt of it. There is no doubt in the case to which the honorable member refers. The question in relation to the courts in Florida was, whether the admiralty jurisdiction of the United States could be vested in courts whose judges held but limited tenure of office? The Supreme Court of the United States decided that it could be done in the case of territories. They decided this and nothing more. They never have decided, in that or any other case, that it is not in the power of the United States, by extending the laws of the United States there, to authorize the courts of the territories established by this Government to issue writs of habeas corpus.

Mr. BERRIEN. If the inhabitants of California and New Mexico are secured in their property and person, they must be entitled to some process by which that security can be enforced when it is violated; and if the President of the United States is invested, by the amendment adopted yesterday, with the power to establish rules and regulations for the government of this territory, in conformity with the provisions of the constitution, he is bound to establish there rules and regulations by which the security of persons and property can be established, and by which the laws can be enforced; and of course, naturally and necessarily, he is bound, in conformity with the Constitution, to provide for the issue of the writ of habeas corpus.

I desire to add a word in reference to this amendment. I trust that the amendment offered by the Senator from Connecticut will not be adopted, for the reason before assigned, that it is calculated to embarrass the bill, the passage of which I deem of great importance to the country of California. I shall vote for the amendment to the amendment proposed by the Senator from Texas; and, if that be adopted, I shall vote against the whole amendment.

The question upon the amendment to the amendment was then taken, and agreed to.

The question recurring upon the amendment as amended—

Mr. BALDWIN asked for the yeas and nays, which were ordered and taken, with the following result:

YEAS—Messrs. Allen, Baldwin, Cameron, Clarke, Corwin, Davis of Massachusetts, Dayton, Dix, Greene, Hale, Hamlin, Miller, Niles, Spruance, Wales, Walker, and Webster—17.

NAYS—Messrs. Atchison, Atherton, Benton, Berrien, Borland, Breese, Bright, Butler, Dickinson, Downs, Fitzgerald, Foote, Hannegan, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Johnson of Georgia, Jones, King, Mangum, Metcalfe, Rusk, Sebastian, Turney, Underwood, and Yulee—27.

So the amendment was rejected.

CORPS OF SAPPERS AND MINERS.

Mr. HAMLIN moved to amend the bill by adding a new section providing for the discharge of such of the corps of sappers and miners engaged in the war with Mexico, as may desire to receive such discharge.

In submitting this amendment he said: Mr. President, I will state, in a very few words, the reasons which have induced me to offer this amendment, which I trust may be such as to commend it to the Senate and induce favorable action upon it. This was a corps differing from any other in the service. It was raised for a specific purpose, and was of a higher grade and character than other portions of the service. I hold in my hand the advertisement published through all the eastern States, and under which the corps was recruited. It is headed an advertisement for "Engineer Recruits." Those who entered the corps were led to believe, and were told in direct terms in the advertisement, that they would be taught the science of civil engineering. Upon that hope, and with the expectation of its being realized, they were induced to enter the service. They entered the service, and were sent to Mexico seventy-eight strong; they returned from Mexico with but twenty-six men in their ranks, having served from the date of their enlistment during all the campaign. I apprehend that no corps in the whole service rendered more service than did this corps, and none suffered so severe a loss of its numbers.

The qualifications which were necessary for those who became members of this corps were, that they should be unmarried, American citizens, and young men of good education. The whole corps was made up of that class of individuals taken from our community who are the most respectable, intellectual, and worthy. They went into the service and discharged their duty as I have stated. The records of that campaign and official papers bear unequivocal testimony to the gallant and meritorious service they performed. The corps has, subsequent to the termination of the war, been filled up with recruits from our cities, whose moral character and attainments are greatly inferior to those of the remnant remaining of the original members. It has been filled up with that class of individuals who are usually recruited for the ordinary service from our large cities and towns, who are morally and socially unfit to occupy a position in the same corps with those individuals to whom I have referred. It is now asked that the remnant of these young men—absolutely seduced into the service, on whom a moral fraud was perpetrated, and who served the country faithfully during all the campaigns in Mexico, and who are now connected in the same corps with the class of recruits to which I have referred, morally and intellectually their inferiors—may be discharged from the service, and the vacancies thus created in the corps made up by recruits as they have been since the close of the war.

These are the facts, as I have briefly stated them. These young men were induced to enter the service from the belief and representations that they should be educated as engineers. In this they have been disappointed, if not deceived. They have endured the hardships of a severe campaign in Mexico, sustaining a loss, it is believed, unequaled by any other corps. The corps itself has been changed by filling its ranks with another and a different class of men. Let them be discharged.

I would gladly refer in detail to the facts in my possession, and speak at length upon what I believe to be the rights and equities of these young men; but I forbear. I know the lateness of the session and the press of business upon us. I trust the Senate will deal in justice in this case.

The question being taken, the amendment was agreed to.

Mr. DIX moved to amend, by inserting a provision to compensate Major Webber, military storekeeper at Watertown, for extra services.

This (he said) is a printed resolution, reported by the Committee on Military Affairs unanimously. A voluminous report upon the subject is among the printed documents of the Senate. It proposes to compensate Major Webber, military storekeeper at Watertown, for extra services. He has performed the duties of quartermaster, commissary of subsistence, and ordnance officer, for many years. The arsenal at Watertown has in fact been an arsenal of construction, and Major Webber has had command of it. He has performed many onerous duties not connected with his particular charge—the safe-keeping of property—and that without any increase of compensation. His salary has been but eight hundred dollars per annum. He has acted as commissary of subsistence, and in supplying the artisans under his command, fitting out troops during the late war, and he has been engaged in performing a variety of other services apart from his regular duties. He has been in command, then, since 1839. The increase of compensation will extend back to 1842, the period when his former compensation, that of a captain in the army, was reduced. These details are all set forth in the report of the committee, however, and I will not trouble the Senate with any further explanation.

Mr. KING. How long did he perform the duties of a commissary of subsistence?

Mr. DIX. He has performed these duties since 1842.

Mr. CAMERON. This case is similar to that of every storekeeper in the country. This Major Webber has a very desirable residence on the banks of the Hudson. He has one of the finest places in the service under the Government. There is a bill now on the files of the Senate, reported by the Military Committee, in relation to compensation of all the storekeepers of the country: there would be some propriety in presenting that bill, in connection with the one before us, but I see no propriety in the present one.

Mr. DIX. The gentleman from Pennsylvania is entirely mistaken in almost every particular he has stated. He is not aware even of Major Webber's locality. It is not on the banks of the Hudson, but at Watertown, some miles from Boston, in the interior of Massachusetts; and I am not aware that it has any extraordinary claims to rural beauty. His case is also a very peculiar one, differing greatly from the situation of other storekeepers. Here, at Washington, the military storekeeper has only his proper duties of taking charge of property. There is an ordnance officer to superintend the transactions of the arsenal. But Major Webber has performed not only the duties of military storekeeper, but has been engaged in the superintendence of an ordnance corps, as a commissary of subsistence, commanding officer, purchaser of provisions, and recruiting officer. I believe there is no similar case so deserving. He is only receiving eight hundred dollars a year—not enough for the bare subsistence of his family.

The amendment was agreed to.

Mr. ATCHISON moved to amend the bill by reducing an appropriation of $360,000 for the distribution of arms to the several States to $260,000, placing the remaining $100,000 at the direction of the Secretary of War, to be expended in the purchase, at his discretion, of Colt's revolving pistols and Jenks's carbine.

Mr. A. Mr. President, my purpose in offering this amendment is to reduce the appropriation made for the purchase of arms for the States one hundred thousand dollars—said sum to be placed at the disposal of the Secretary of War, if he deems it expedient and proper; for the purchase of Colt's pistols and Jenks's carbines.

Mr. RUSK. This appropriation of three hundred and sixty thousand dollars is, as I understand, to furnish the different States with arms; an annual appropriation to that effect always being made. This amendment proposes to reserve one hundred thousand dollars for the purchase of Colt's pistols and Jenks's carbines—a species of arms vastly superior to any now furnished by the United States. This is a matter of considerable importance as to the manner in which this money is expended now; as a large quantity of the arms that are generally furnished have been thrown aside as of no service at all. I know that there have been numerous applications made to the Secretaries of War from the several States of the Union, asking to be furnished with this character of arms, particularly Colt's pistols, but they have been denied because of the limited number in the arsenals of the United States. I hope the Senate will give me their attention while I read a few extracts from letters in relation to Colt's pistols, recommending their use, and testifying to their superior efficiency as a fire-arm.

Major General Zachary Taylor, commanding army of occupation, in a letter to the inventor, writes: "I have been much pleased with an examination which I have made of your new-modeled repeating pistols, and feel satisfied, that under *all* circumstances, they may be safely relied on."

Major General W. J. Worth, in a letter to Mr. Colt, writes: "The recent Mexican war has fully demonstrated the formidable character of this weapon in all mounted corps or partisan service. You can have no better or higher testimony than that of General Lane and Colonel Jack Hays, both gallant officers and of large experience. In a higher degree will its value be shown in our Indian contests, where the onset is sudden and fierce, and momentary—where it is of first importance to deliver the largest amount of fire in the briefest time. Wishing you success in your praiseworthy efforts to improve the armament of the country, I remain," &c.

General Joseph Lane writes: "I think I can say as much for and about this formidable weapon as any one now living, except Colonel Jack Hays, of Texas, (poor Walker is no more.) I have seen them tested in several severe and bloody conflicts, when a few men, armed with Colt's revolver; were equal to five, and in several instances to ten times their numbers. No weapon is equal to it. In close quarters, one man is always equal to three or more. I know the use of it well, and would recommend that all mounted forces be armed with them."

Colonel Jack Hays, of the Texas rangers, writes: "I have had a good opportunity of testing the utility of Colt's pistols during the late Mexican war, and feel no hesitation in saying they are superior (in my opinion) to any other now known for cavalry. The danger of accidental explosion has been obviated by the late improvement. They go off clear. The cylinders revolve with great rapidity, and the distance they carry a ball (I mean the conical ball) is indeed surprising. Soldiers should be practised in the use of them. They soon become easy to the hand; the aim you wish to draw can be easily caught; and when placed in the hands of those who understand the proper use of them, they are unquestionably the most formidable weapon ever used in battle. I therefore concur fully in the opinion that they can be used with the same advantage by the regular as volunteer forces."

There are scores of other letters from officers of the army and navy, but I will not read any more of them. This is not an increase of appropriation, but simply a reservation in the appropriation already made of one hundred thousand dollars to purchase the arms referred to.

Mr. KING. I have no doubt that these arms will be very serviceable, as they have already proved efficient in their use. I am not disposed to throw any obstacle in the way of their purchase; but why make it binding upon the Secretary that he shall purchase these arms? Would it not be better to leave the purchase to his option? Because, if he does not think their purchase necessary, there will be only an appropriation of some two hundred and sixty thousand dollars, as the one hundred thousand must be reserved. If it is left to his option to purchase, he can either use the one hundred thousand dollars for the purchase of these arms or not, as he thinks proper and desirable.

Mr. RUSK. I think that even in that case two hundred and sixty thousand dollars would be sufficient. The usual appropriation has been for two hundred thousand dollars per annum. It is now three hundred and sixty thousand dollars, though in more than half of the States the arms furnished have not been used at all.

The amendment was agreed to.

No further amendments being offered, the bill was reported to the Senate.

The question being on concurring in the amendments—

Mr. ATHERTON said: I desire that the question may be taken separately upon the amendment with reference to the discharge of the corps of sappers and miners that have served in Mexico, and that the question be postponed for the present, for the reason that the chairman of the Military Committee is not in his place—necessarily detained away—he having some objections to the bill. Besides, the chairman of the Military Committee has, by direction of that committee, one or two amendments to offer to this bill. I trust, therefore, that by general consent the bill will be laid aside and the naval appropriation bill taken up. I have no objection, however, to concurring in the other amendments before it is laid aside.

The question being taken upon concurring in all the amendments, except that relating to the discharge of the corps of sappers and miners, they were concurred in.

Mr. JONES offered an amendment providing that the Secretary of the Treasury should reimburse ——— for damages sustained by him in consequence of the seizure of his property while going from Santa Fé to Chihuahua, &c., in conformity with orders from officers of the Government.

Mr. BRADBURY. I hope the Senate will dispose of this amendment at once. It is a private claim, and cannot fail to give rise to debate. It was imperfectly discussed a few days ago, and passed the Senate by a small majority. I trust the time of the Senate will not be consumed in loading appropriation bills with private claims, even if their merit is unquestionable, but especially when of so doubtful a character as the one presented in the amendment of the Senator from Iowa.

Mr. JONES. This amendment, as a separate bill, was passed the other day by the Senate, and is now in the House awaiting their action. It is brought forward from the presumption that it cannot pass the House at this session, unless it is embraced in an appropriation bill.

Mr. ATHERTON. It seems to me that the difficulties thrown in the way of the passage of the appropriation bills instead of diminishing, are increasing. We have refused again and again to insert private claims in these bills; and I trust the Senate will not depart from this principle. Perhaps the House may not be willing to agree to this bill, and are about to decide against this claim; and this may be an attempt to force it upon the consideration of the House, so that it may be passed in the appropriation bill.

Mr. FOOTE was here understood to remark that he should be compelled to vote against the insertion of this claim in the appropriation bill.

Mr. JONES, in deference to the wishes of Senators, withdrew his amendment.

Mr. ATHERTON. I now offer an amendment reported by the Committee on Military Affairs, and in pursuance of the recommendation of the War Department. This estimate was in the army appropriation bill of last year, and would have passed the Senate but for a suggestion of the Senator from Pennsylvania, [Mr. CAMERON,] who understood that there was some difficulty about the title of the land on which it was proposed to erect an arsenal at Franklin, Pennsylvania. He very properly suggested the difficulty, it being in his own State, and, upon his motion, it was stricken out. The matter has been inquired into, and the title to the land has been found to be valid.

The amendment was then read. It provided that twenty thousand dollars should be appropriated for the purchase of the land and erection of an arsenal, and fifteen thousand dollars for the purchase of machinery, guns, &c.

The amendment was agreed to.

Mr. DOUGLAS offered an amendment providing that the State of Illinois should be reimbursed the sum of five hundred and three dollars for moneys paid for recruiting and organizing the first and second regiments of Illinois volunteers for the Mexican war.

The amendment was agreed to.

Upon the motion of Mr. ATHERTON, the further consideration of the bill was postponed until to-morrow.

HOUSE BILLS.

The bill making appropriations for taking the seventh census was read a first and second time by

its title, and referred to the Select Committee on the Census.

The bill to provide for the settlement of the accounts of public officers and others who may have received moneys arising from military contributions or otherwise in Mexico, was read a first and second time by its title, and referred to the Committee on Military Affairs.

The bill for the relief of Stoughton A. Fletcher was read a first and second time by its title, and referred to the Committee on Pensions.

The bill authorizing the Secretary of the Senate and Clerk of the House of Representatives to subscribe for one thousand copies of a further publication of the debates and proceedings of Congress, and for other purposes, was read a first and second time, and referred to the Committee on the Library.

REPORT OF COMMISSIONER OF PATENTS.

On motion of Mr. WESTCOTT, it was ordered that the same number of the annual report of the Commissioner of Patents received during this session, as were ordered to be printed by the Senate at its last session, be printed for the use of the Senate.

TERRITORY OF MINESOTA.

The bill to establish the Territorial Government of Minesota having been returned from the House of Representatives with several amendments, the Senate proceeded to the consideration of the same.

Mr. DOUGLAS said that the Committee on Territories had directed him to recommend a concurrence in all the amendments except the last, and that the last amendment be non-concurred in.

A SENATOR. What is the last amendment?

Mr. DOUGLAS. It provides that the bill shall take effect from the 10th of March next.

The question being taken upon the amendments upon which the committee had reported favorably, they were concurred in.

The question then recurred upon non-concurring in the last amendment.

Mr. DOUGLAS. I trust that this motion will be adopted by the Senate. The bill, as it went to the House, provided that it should take effect immediately after its passage. The House have added this amendment, postponing the operation of the bill until the 10th of March next. I hope the amendment will be non-concurred in.

Mr. WALKER. It is very important that we do something for Minesota immediately, and I hope, therefore, that we shall pass this bill at once. The House may have been unnecessarily careful in fixing the time when this bill shall go into effect; but as the bill will have to go back to the House if the last amendment is non-concurred in, and there may some difficulty arise in consequence, I trust that we will not further delay the bill, but pass it at once. It is only because of my locality that I say anything on this question, or urge any action which the Senator from Illinois, who has so efficiently and faithfully applied himself to this subject, is opposed to.

Mr. DAVIS, of Massachusetts. This appears to me rather a trifling matter. The difference is simply that the bill shall take effect on the 10th instead of the 3d of March, a difference of a week only. I hope the Senate will concur in the amendment.

Mr. DOUGLAS. The Senator overlooks the fact that in the first part of the bill it is provided that it shall take effect immediately after its passage, while this amendment postpones its operation until the 10th of March. There is an incongruity in the bill.

Mr. DAVIS. I move that the further consideration of the bill be postponed until to-morrow.

Mr. DOUGLAS. I hope this postponement will not be made. If the amendment is non-concurred in, there will be time enough for the bill to go to the House and be acted on there. I cannot believe that this point is to be surrendered by us. Mr. President, I may as well come to the point at once. The insertion of this amendment by the House makes it apparent that they are unwilling that the officers to be appointed for the government of this Territory shall be appointed by the present Executive while in office. Sir, I am unwilling to pass this vote of censure—for concurring in this amendment can be called nothing else by a Democratic Senate. I am unwilling that a Democratic Senate shall say by law that the present Executive shall not make appointments while in office. In brief, I am totally opposed to the passage of this amendment by a Democratic Senate, when its sole object is to obtain the spoils of office. There is no other motive for this change in the time when the bill shall go into operation than the spoils; it was made solely with reference to the spoils. The Whig party are not willing even to wait until their Administration shall come in to appoint Whig officers, but they must send bills here from the House of Representatives, at this present time, with provisoes added, stating that the present Executive shall not exercise the power granted to him, so as to afford their own Executive the opportunity of exercising that power. Already have they begun to ask us to double the salaries of foreign ministers—to create new consulships—and to organize a new Home Department, with all its train of new officers; and now they ask us to pass, in effect, a vote of censure upon the present Executive. If this bill is passed in its present form, it will in reality be a vote of censure upon the President of the United States; and it appears that the Whig party will not be satisfied unless it is done. Sir, I wish to see a test vote upon the question, and I therefore ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WALKER. I disclaim any intention of that character in my remarks upon the amendment.

Mr. UNDERWOOD. Mr. President, the Senator from Illinois reads us a lecture, saying that we are influenced by a desire for the spoils of the country in our legislation, and that this measure is destined to be the evidence of such an intention. Now, I wish to put it to that gentleman and his political associates, whether, upon the occasion when a distinguished gentleman from Kentucky was nominated for a judgeship, than whom there is none more accomplished, they did not refuse, on the doctrine of spoils, to concur in that nomination? Sir, I want to show who gave the example?

Mr. DOWNS. I call the gentleman to order.

Mr. UNDERWOOD. Sir, I could bring home examples to the gentleman, and he must be conscious of it, but for the injunction of secrecy, which would come much nigher; but as my tongue is tied, I will not violate the rules of order. I give you that, sir, to show that this doctrine did not begin with us.

Now, Mr. President, I wish it understood that I have always been against the doctrine of spoils, and expect to die against it; but I am not willing to have a lecture read to me by gentlemen who have practised on that principle, and who, when they find that the cup is to be applied to their own lips, try to fix it on the Whig party, and attribute it to sinister motives. Mr. President, I have said that I have always been against the doctrine of the spoils, and that I expect to die against it. Sir, I laid on your table the other day a proposed amendment to the Constitution of the United States in which I hoped, with the aid and assistance of the two branches of Congress and the States, ultimately to put an end to this doctrine, which I believe is sapping the foundations of the republic, and which, if permitted to be carried out, according to former practices, will be almost sure to work the overturn of the Government. Sir, we will see, if I live to bring it up, who will vote for it and who will not. Sir, it is a practice that must be resisted.

Now, when I have avowed this hostility to the practice, and when I have notified you of my design to do all I can to change it, I am not willing to sit by and hear gentlemen upbraid the Whig party for taking a step to secure the spoils, when they themselves have been the very gentlemen who have introduced it in the country, and have practised on it twenty years. Sir, I admit that we have spoilsmen in our party, as in all parties, and regret that there may be many of them assembled here at this particular juncture. But gentlemen on the other side are the last men in the world to use language of this kind to us, by way of reproach, when their own acts have shown that they are too greedy, too much disposed to legislate for their friends. That act, to which I have referred, in the case of Mr. Crittenden, the journal of which has been published, is as good as a thousand to show that the doctrine of those who were engaged in it was to get everything for themselves.

Mr. President, I have made these remarks, as I felt bound to do, and shall feel bound to do, on any occasion when a lecture is read to us of this kind, coming from an improper source.

Mr. DOUGLAS. In regard to the case of Mr. Crittenden, it is not a parallel one, because no changes were proposed in a law for the sake of the spoils. Again, a political Administration coming in did not call on Senators to stultify themselves for that purpose; but this had been reported upon in this form at the session before the last, and it has been changed now, because a change in the Presidential office creates a change in the minds of certain gentlemen belonging to one of the parties of the country. We Democrats say we will not change our legislation with reference to spoils one way or the other. We will go on and pass bills as we did; and yet, in doing this, we are to be charged in Congress with acting in reference to the spoils. But these very gentlemen who have said that this legislation was right when we were in power now say it is wrong. As the Senator from Kentucky says he is not disposed to vote for spoils, I call on him to vote for this bill, in the shape in which it was when both parties agreed it was right. If he vote to change, it will be for the sole purpose to get the spoils; and we are to see whether we are to change our legislation for no reason but for spoils of office. And if we are to do it, I wish to know whether a Democratic Senator is to stultify himself to do it.

Another word more in regard to bills reported this session. I care not if all the spoils go into the hands of the party coming in; but when you change a bill in this way, I am not willing to stultify the committee for the purpose of accommodating a party. This incoming party not only wish to fill all the existing offices, but to create foreign ministers and charges, and to increase their salaries, so as to make them double what they were before, in order to fill them with creatures of their own party.

Mr. UNDERWOOD. I did not get up to read a lecture to the gentleman from Illinois; but to reply to the lecture which he undertook to read to us. What did the gentleman from Massachusetts do? He modestly asked that this bill might lie over till to-morrow, till he could examine it and satisfy himself about these inconsistences which are spoken of. I know not whether they exist or not; it has not been my province to look into these things; they did not come before the committee to which I belonged. But, when that modest request was made, the gentleman from Illinois lectured the Whig party, and charged them with being cormorants for spoils. And, again, what does he say? He charges the Whig party with wishing to double the salaries of foreign ministers, of going beyond all precedents in this body hitherto. I repudiated that charge as I did the other. What Whig made a proposition to double the amount of these salaries? Did the proposition to increase the salaries of the ministers to Russia and France come from a Whig? The gentleman will not say that. Did the information come from a Whig? It was introduced by a Democrat from Alabama, [Mr. KING,] and even approved by a Democrat from South Carolina, [Mr. BUTLER,] a friend of mine, for whom I have the greatest esteem; and another gentleman, [Mr. NILES,] who, from his position, I think is but half a Democrat. Now, it seems that the gentleman is still to charge upon the Whig party a disposition for the spoils.

Mr. DOUGLAS. Will the Senator allow me to ask whether the sole object of this change in this bill is not the spoils?

Mr. UNDERWOOD. I am not acquainted with the bill, nor any of its provisions; it has belonged to none of the committees with which I have acted, and I know not its provisions. But this measure has come from the popular branch of Congress, from the Representatives of the People, and it is customary in all legislative deliberative bodies to fix upon a later day when an act which may be passed shall go into operation. And in this case, I conceive there is great wisdom in this act. What does the gentleman mean when he lectures us on seeking the spoils? I would like to know whether the spoils have anything to do with him.

Mr. DOUGLAS. This act is so drawn that the first section takes effect from and after its passage. It was made so when Whigs and Democrats agreed to it, and none dreamed of a change in it till you got into power; and now, since the election has gone in your favor, you demand this change.

Mr. UNDERWOOD. The gentleman has talked about stultifying the Senate; now, I should have

to stultify him, if I did not accord to him sagacity enough to fix on a day when this should go into operation. It was the easiest thing in the world to fix the day.

Mr. DOUGLAS. Why did not the Whig members put it in this shape, then, at the first?

Mr. UNDERWOOD. I have had nothing to do with it. If it had fallen into my hands, I should have acted upon it, and I should have endeavored to place it on high and honorable ground, which should characterize all our legislation. But is he to denounce a legislative act because it is to go into effect on a particular day? I call upon the country to look at this spectacle, and I shall call on them hereafter to look at it. When one branch of the National Legislature passes an act, shall a member in the other branch, in his place, declare that they passed it on the ground that they are absolutely intent on spoils? But, if this spoils doctrine is to regulate all our action, I think there is great wisdom in putting it at a distant day; I think that, at the last gasp of this antinomian Administration, in which so much is yielded to good works, we should not desire to harass the Executive by hunting up new offices for him to fill. Sir, he will have enough to do to consider the laws presented to him for his consideration and signature; and if he will do that, and will consider the propriety of signing or returning them with his objections, he will have enough to do without filling any more offices. I have had no other object in view than to tell the gentleman from Illinois that I hope he will not read us any more lectures when opposing Whig legislation. Let him do it on principle. I think such a lecture comes with a bad grace, after the examples we have had of the last few years. I had no expectation of opening my mouth on this subject, and I am sorry that I have been called up; but I do not intend, if I can defend myself or my party, to sit by and hear lectures of this kind without attempting to reply.

Mr. ALLEN. This thing of giving a legislative act a prospective operation in the nature of the act itself, is to be regarded as altogether unusual, and its being unusual compels us to resort to an unusual motive to explain it. Now, I shall do nothing here that in the slightest degree tends to cast an imputation upon the party in power. The Senator from Kentucky talks about the last gasp of the Democratic party, but he ought to remember that the first breath of the Whig party is not yet drawn. Sir, gentlemen ought to be modest in commencing their career of power. They will come into power as a minority Administration; as the first minority Administration; they will not have a majority of the American voters with them. And when they undertake to talk about the expiring Democracy of this country, they had better remember that they are not altogether sure that there is such a thing as living Whiggery. In regard to spoils matters, we have no right to make any predictions as to what we are to expect. We have heard much said against proscription in former times, but in these latter days we are told that proscription is to take a new form. It is to take a criminal form; it is to be preceded by criminal charges, by evidence against character, in order to vacate offices, to make places for those that stand ready to receive them.

I understand that it is to be the rule to remove only for cause; that an advertisement is to be put forth calling on all who want office to prepare evidence against present incumbents, who are no longer to be removed for general political reasons. Very well, sir; see what this will amount to in practice. I do not say what will come, but I say, before gentlemen declaim so loudly against the policy of the Democratic party, they had better look to that futurity which is approaching; they had better not crow over the great Democracy of America, as yielding up its last gasp. Sir, that Democracy is this day the most powerful party of men that ever, in any age or country, were banded together; and you will find it out before you have tried their strength two years. Democracy is not prostrated. Whiggery is not triumphant. It did not triumph under its ancient banner; it denied its name; repudiated its doctrines; it came in through a gap in the community, not by a majority. That gap will be filled up in a short time, and when it is filled up, our friends on the other side will find that the great lion-hearted Democracy of the country is yet as true a representative of its glory and its interests as it is of the rights of mankind.

Mr. DAVIS, of Massachusetts. I regret that our friends are so sensitive on this topic. I have often understood that it was a matter of great interest to them, but never saw that interest manifested as in this little matter before us. What is it? A bill comes up from the House of Representatives with certain amendments in it, which are proposed for our concurrence. It is a bill to establish a territorial government in Minesota. They defer the execution of this law, the operation and effect of it, till the tenth day of this present month; and the great question which has excited all this feeling here, and this denunciation, is whether this shall go into effect on the third day of March, or on the tenth. Now, my friend from Illinois and the Senator from Ohio seem to suppose that there is some sinister motive at the bottom of all this; some motive to reflect disgrace on the Administration; and the reason is, that it is entirely unusual: that no such thing has taken place here before, and we can put no other construction on it, except that the House mean to stultify the Senate. I believe that was the language of the Senator from Illinois. Let me assure my friends, and I hope it will console their feelings, that they are not placed in the remarkable position which they suppose. If they will open the volume which I have in my hand, they will find, if they look at the law organizing the Territory of Iowa, and also of Wisconsin, that the operation of the law was reserved to the future. Here, then, are precedents to which they may refer the action of the House of Representatives without looking for any sinister motive. I dare say there is a great number of precedents of the same character.

Mr. DOWNS, (interrupting.) I should like to know what reasons of state there are for postponing this action seven days?

Mr. DAVIS. I will explain it. Sir, I think it is scarcely reputable to inquire into the reason of the action of the concurrent branch of the Legislature, and, above all, into its motives. If the inquiry reflects upon the motives, it is scarcely reputable to do it. Now, I have not heard any argument in the House, or heard a word of any motive which would indicate the principle, motive, or cause which they had in view, nor do I care; it is immaterial. It is a common practice to fix a future day for the operation of an act, and it is not to be presupposed that there is anything in it dishonorable, or that reflects disgrace on anybody. Why, it is said it interferes with the spoils system. And how? Does it displace any friend or the gentleman? Does it displace any appointee of this Administration? If it did, there might be, perhaps, some reason for dissatisfaction; but the poor question is, whether the Administration, which has the right to exercise its power two days more, shall enjoy the fruits, or give it to the incoming Administration? That is the whole view of the subject, and I consider it just to defer to this operation and effect of the act. But are my friends from Illinois and Ohio aware precisely in what position they place themselves when they rise here to make such an argument as they have offered? Is it they, or those on this side of the House that are alarmed? And why are they taking this high ground, and using this denunciatory language, or are we subject to the charge made against us? How does that matter stand? If the purpose is not to exercise the power, as has been suggested by the Senator from Illinois, why not let this amendment be adopted? If it is to be adopted, I ask if it is becoming treatment of an incoming Administration, to seize on this little modicum of patronage? Sir, I ask them to refer to the period four years ago when their President came into power, and then report, and it will show what degree of liberality was then exercised. But what do I see now? One little office after another has been created. A consul is made to fill the office or chargé, where one is not more needed than in the moon. One here, and another there, and another elsewhere, so that every crack and cranny where an office could be created is filled. You were not willing to leave a vacancy caused by the death of an incumbent to be filled by the incoming Administration. But I have heard it said that there is a motive in this; and I will take the liberty to say what it is. However, I impute it to no man here. It has been said that General Taylor is to come into this administration as a liberal and magnanimous man; that he disavows the spoils system. We will see, say they; we will fill up every office, and try this man. We will see what he will do. I have heard that avowed, heard it put forth as a principle of action, that that is the ground to act upon. I ask my friend from Illinois if he means to act upon that principle?

Mr. DOUGLAS. I do not mean to act upon that principle; I mean to act upon the principle of not changing my course in consequence of a change of parties. I say further, I wish to test the sincerity of the Whig party, who have declared that they were not governed by the principle of "spoils," and who are now contending for it here to-night, and arguing and acting solely for the purpose of getting spoils into their hands.

Mr. DAVIS. I do not perceive that the explanation of my friend from Illinois changes the question at all. I am not disposed to charge that Senator or his party with entering into a combined understanding in relation to this matter. But, says the Senator, you are beginning already to create offices; you are beginning to manufacture them this very year; and he gives us an example, and states that we have been voting here for an increase of the salaries of our diplomatic agents abroad. Sir, every Senator who has turned his attention to this subject knows that for several of the missions the salaries are wholly inadequate for a respectable support, and many are of opinion that the law should be modified, and in this opinion I concur. And when it can be properly done, the Senator will find both Whigs and Democrats in this Chamber who will assist in making the modifications, though when done it should be in a suitable and just way.

But, continues the Senator, you are creating a new department, with all its train of officers, for the purpose of increasing your patronage. Does the gentleman from Illinois remember who it was that recommended the organization of this new department? Does he remember that it came to us recommended in the Presidential Message, and particularly by the Secretary of the Treasury?

Mr. DOUGLAS. You should remember also, that we wanted to do it three years ago, but you would not let us. The measure is now put forward in both Houses, and will be supported by some Democrats.

Mr. DAVIS. The Whigs have changed their minds, have they? Has the gentleman from Illinois changed his?

Mr. DOUGLAS. Not at all; I think now as I did then. But the Senator from Massachusetts has changed his mind upon this identical territorial bill before us; for he was a member of the committee that agreed to it in its original shape before the election; and can he give any other reason for preferring it in its present shape as it comes from the House but the spoils?

Mr. DAVIS. I would say to the Senate that I was not present in the committee when this bill was adopted last year or this year. I never read the bill until I looked over it a few days ago.

Mr. DOUGLAS. The Senator is mistaken. I recollect well that a discussion was held between him and the Senator from South Carolina [Mr. BUTLER] in the committee room, upon the question of the ordinance of 1787, whether or not this bill was in violation of that ordinance. The Senator from Massachusetts entered into a full explanation of his views upon the subject.

Mr. DAVIS. I have a fresh recollection of the circumstances to which the Senator adverts. It was not at the time, according to my remembrance, when the bill was adopted and reported. It is not very material, however, whether it was or not. The bill then, at all events, was not ready; and the discussion referred to naturally arose as soon as the bill was taken up—as the Senator from South Carolina recollects unquestionably—as to whether the limitation in the ordinance of 1787, limiting the number of States to be created out of the Northwestern Territory to five, would permit the organization of the remaining territory into a new State. The boundaries of Wisconsin, which constituted the fifth State made out of that territory, are so made that a large portion of Minesota is what was formerly Wisconsin, and, should it become a State, would, in part at least, constitute a sixth made out of the territory covered by this ordinance. In that discussion no particular reference was made as to when this bill should go into operation at all. But I am trespassing upon the time of the Senate, and I will hasten to a conclusion.

This subject, in regard to the creation of a new department in this Government, has been brought before us by the present Administration. It is a measure distinctly recommended as necessary by the present Secretary of the Treasury. He states that the burdens of this department are insupportable, and that no individual is capable of performing the labors of his office without destroying his health and the power of doing business. I am gratified to learn that the Senator from Illinois has found no heavier charge to make against us than that. With reference to this question before us, if it is to be made a political one, I am content it shall be done. There will soon be an end to it, as our opponents have the power.

Mr. DICKINSON. The Senator from Kentucky [Mr. UNDERWOOD] states that the present Administration is in its last gasp. The Senator from Massachusetts [Mr. DAVIS] says it is an expiring Administration. A legal friend near me suggests that the origin of this difficulty lies in the fact that the Whig party have applied for letters of administration before the present Administration is actually dead. [Laughter.]

Mr. FOOTE. I cannot neglect the opportunity presented of responding to some of the remarks which have fallen from honorable gentlemen upon this occasion. But, Mr. President, I must confess my surprise at the strong feeling apparently enkindled upon the Democratic side of this Chamber by this amendment to the Minesota bill. Several of my honorable friends around me have expressed astonishment, mingled with indignation, on account of the illiberal and monopolizing policy indicated by the amendment before us. I am not able to participate in these feelings. I am neither surprised nor angry that the leaders of the Whig party in the two Houses of Congress should display the disposition, now so strikingly manifested, to secure to themselves and their subordinates all the pelf and patronage which they may suppose to lie within their reach. Has not the Whig party, sir, under all its various cognomens, and in all the stages of its rickety and mischievous existence, been distinguished more by an insatiable spirit of plunder and monopoly than by aught else beside? Has not this party been proverbially called the monopoly party? Are its leaders, here and elsewhere, in upholding this amendment, doing more than fairly acting out their vocation, and awarding due respect to the established usages of their party, at least as old as the name of Federalism itself? Why, sir, this attempt to preclude a Democratic President from the distribution of patronage legitimately appertaining to his station, is in the very spirit of that noted transaction in the last moments of the elder Adams, commonly known as the midnight appointment of judges. In justice, sir, we should make some allowance for our friends of the Whig party, upon several grounds, which seem to have been overlooked by Democratic Senators who have preceded me in this debate. It should be recollected that the Whig party, as such, has been seldom in power, and never except for a very short period; and the eagerness manifested to clutch the spoils of office is but natural among men who have been so long famishing, and who feel now that they must verily taste the crumbs of patronage or die of starvation. Besides, Mr. President, the striking fact should not be overlooked, that this metropolis of the Union is filled to overflowing with the locust hosts of office seekers from all parts of the Confederacy; and the cry is, Still they come. Why shall not this legion of fiery expectants be duly attended to and encouraged? They have come far; they have expended much money in the journey; they have worried their friends with getting up suitable recommendations for station; they are thronging our streets, our public places, and even the galleries of this Senate Chamber. It would be cruel to subject them to utter disappointment; and I repeat again, that we are bound to make liberal allowance for our friends, who feel it to be their duty doubtless to provide as far as they can for the pressing emergencies of the moment.

But, sir, to be serious. The honorable Senator from Massachusetts, [Mr. DAVIS,] to whom I always listen with feelings of respect and kindness, gravely urges in our hearing that this case of *deferred* patronage is not without precedent in our annals; and that, in the instances of Wisconsin and Iowa, a similar postponement of official appointments occurred. Does not the honorable Senator perceive that there is no analogy between the cases cited by him and the one before us? Although it is true that the bestowal of office in Wisconsin and Iowa was, owing to peculiar causes, postponed for a short period of time; yet this was done with a distinct understanding that when the hour for appointing should arrive, the President then in power would have the dispensation of patronage in his hands—a state of things directly contrary to that which is attempted to be arranged for by this amendment.

Mr. President, before I take my seat I feel bound to offer a remark or two upon a measure that will be shortly brought up for our consideration, and which has been referred to by the honorable Senator from Massachusetts. I allude to the bill providing for the establishment of the Home Department. Now, it is well known to some of my friends here that I have been very much inclined to vote for this measure ever since its first recommendation by the very distinguished gentleman from my own State, who has presided with so much ability for the last four years in the Department of the Treasury. My present inclination, sir, certainly is to vote for it; and I shall assuredly do so, if I am not deterred by an illiberal and monopolizing conduct on the part of members of the Whig party in Congress, such as has been made the subject of complaint and animadversion on the present occasion. The honorable Senator from Massachusetts, when he urges upon us the establishment of the Home Department on the ground that it has been recommended by the Secretary of the Treasury, should recollect that this measure, now deemed so essential, did not meet with any extraordinary favor among Whig gentlemen in either House of Congress until within a week or two past, when it had become obviously too late for the Administration which recommended it to derive any advantage from its establishment. I would also remind my honorable friend from Massachusetts that this is the first occasion, as I believe, upon which any member of the Whig party has awarded the least credit to the Secretary of the Treasury for his recommendation of the measure to our favorable consideration. When it was under discussion in the other wing of this Capitol, if I recollect aright, even the name of the Secretary of the Treasury was not thought of in connection with an important project which had undeniably originated with him. Then, certain gentlemen of the Whig party were allowed to carry off all the honor supposed to be connected with the authorship of this measure; and even in the columns of the National Intelligencer, of this city, I observed with some mortification that a similar course was pursued: two distinguished gentlemen of the Whig party were commended in language both strong and glowing for bringing forward a bill promising so much public advantage, without the Secretary of the Treasury being even remotely alluded to. Now, sir, in this transaction, I regret to say, I discover the same selfish and monopolizing spirit of which I have already spoken so freely—with this striking addition, that an attempt has been made, in a spirit decidedly unbecoming, to deprive a prominent member of the Democratic party of that *eclat* to which he was justly entitled; reminding us forcibly of that instance of moral larceny alluded to a few nights since by my honorable friend from New York, [Mr. DICKINSON,] and equally justifying that quotation from Shakspeare which provoked us all, at the moment, to so much merriment, illustrative of the peculiar criminality attendant upon the stealing of a man's good name, and making him poor indeed, without enriching the pilferer.

Mr. DAVIS, of Massachusetts, (interposing.) Why, this plan originated with Alexander Hamilton!

Mr. FOOTE. Well, sir, I do not know that to be the fact; but I am informed that a measure something like this was recommended both by Mr. Madison and Mr. Monroe; but is my honorable friend from Massachusetts entirely consistent with himself on this occasion? He has but just now insisted that the Democratic party were responsible for its recommendation. I think he called it the scheme of the Secretary of the Treasury; and now he seems to suggest that neither the Democratic party nor the Secretary deserve the least credit for bringing it forward, since its true author was a distinguished Federal leader of the olden time.

Mr. DAVIS (interposing) remarked that this was a Whig measure, introduced by Whigs in the House of Representatives, and sustained by Whigs in the Senate.

Mr. FOOTE. Well, sir, I fully admit it to be a Whig measure, as at present proposed to us; that it is urged upon our consideration in the true Whig spirit, at such a time and under such circumstances as must carry all the spoils of office into Whig hands; and yet I expect to vote for it should the amendment now under consideration be receded from; for, though I confidently expect to be compelled to make war upon the Administration shortly to come into power, upon all the fundamental issues which divide the two great parties of the Union, yet I should scorn to present a mere factious opposition to any Administration in advance of its actual accession to power, especially when, by so doing, I might more or less endanger the vital interests of the Republic.

Mr. BERRIEN. I am very sensible that it is better that we should get rid of this unprofitable discussion; I therefore move an adjournment.

Upon this motion a division was called for, resulting—ayes 18, noes 28. So the motion was not agreed to.

The question being upon the motion of the Senator from Massachusetts [Mr. DAVIS] to postpone the further consideration of the bill until to-morrow—

Mr. DAVIS withdrew his motion.

The question then recurred upon non-concurring in the last amendment to the bill from the House of Representatives. The yeas and nays being called for, were ordered and taken, with the following result:

YEAS—Messrs. Allen, Atchison, Atherton, Benton, Borland, Bradbury, Breese, Bright, Cameron, Dickinson, Dix, Dodge of Iowa, Douglas, Downs, Fitzpatrick, Foote, Hannegan, Houston, Johnson of Georgia, Jones, King, Mason, Niles, Rusk, Sebastian, Sturgeon, Turney, Walker, Westcott, and Yulee—30.

NAYS—Messrs. Badger, Baldwin, Bell, Berrien, Clarke, Corwin, Davis of Massachusetts, Greene, Johnson of Maryland, Johnson of Louisiana, Mangum, Miller, Pearce, Phelps, Spruance, Underwood, Upham, and Wales—18.

So the amendment was non-concurred in.

Mr. CAMERON moved that the Senate adjourn.

Upon this motion a division was called for, and resulted—ayes 16, noes 23.

So the motion was not agreed to.

INDIAN APPROPRIATION BILL.

A message was received from the House of Representatives, by Mr. CAMPBELL, their Clerk:

Mr. PRESIDENT: The House of Representatives concur in the 1st, 2d, 3d, 4th, 5th, 6th, 7th, and 8th amendments of the Senate to the bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending the 30th June, 1850. They agree to the 9th amendment of the Senate with an amendment, and they agree to the 10th amendment of the Senate with an amendment.

The House of Representatives ask a conference on the disagreeing votes of the two Houses, and have appointed Messrs. VINTON, BRODHEAD, and BARRINGER a Committee of Conference on their part.

The Senate proceeded to consider the amendments of the House of Representatives to the 9th and 10th amendments to the said bill, and

Resolved, That they disagree to the amendments of the House of Representatives to the said 9th and 10th amendments, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses, and name, on their part, Mr. ATHERTON, Mr. BELL, and Mr. HUNTER a Committee of Conference.

THE ARMY BILL.

Mr. ATHERTON. The chairman of the Committee on Military Affairs being now in his place, I move that the army appropriation bill be again taken up. It will be necessary to reconsider the vote for postponement until to-morrow, unless by unanimous consent its present consideration is agreed to.

The Senate, by unanimous consent, then proceeded to the consideration of the army appropriation bill.

Mr. DAVIS, of Mississippi, moved several amendments, which were agreed to, but which we were unable to obtain.

Mr. DAVIS, on offering one amendment in relation to officers' forage, said: Some time since, by instruction of the Military Committee, I introduced a bill to provide for the construction of the act of 1842, so as to give to the commissioned offi-

cers of the army commanding arsenals or armories of construction, being fixed or permanent posts of the United States, the double rations now granted to other commanding officers of posts. This is a provision which covers the case, based on the supposition that the bill we have already passed will become a law.

The amendment was agreed to.

Mr. DAVIS further moved an amendment to defray the expenses of printing the Ordnance Manual, $6,000. In support of this amendment, he said that the last edition of the Ordnance Manual is nearly exhausted. The war with Mexico and the investigations of the Ordnance office have made some changes in the tactics or manual of the ordnance corps, which are deemed to be of sufficient importance to warrant a new compilation and publication.

The amendment was agreed to.

Mr. DAVIS further moved to amend, by inserting an item to defray the expense of the topographical service, $50,000; on which he said: This amount is something like five thousand dollars more than the estimate of the head of the Topographical Engineers. This amendment to the bill is based upon a report and joint resolution which I had the honor to submit to the Military Committee, but which have never been acted upon by the Senate. To decide wisely upon the best routes and positions for frontier posts, it is deemed necessary to examine the mountain ridge south of Santa Fé and east of the Rio Grande, and the country and routes which lie south of those which have been examined, being all those which are below the head of the Arkansas river, and thence west to the Pacific, down to our new boundary with Mexico. The expense of the boundary to be run between the United States and Mexico has not been estimated for in this appropriation. I supposed the appropriation for surveying the boundary would cover all the expenses of that part of the examination.

The amendment was agreed to.

Mr. DAVIS further moved to amend the bill by inserting an item of $50,000 for secret services rendered to the United States in the war with Mexico, to be expended under the direction of the President of the United States; in support of which he said: I cannot explain the objects for which this appropriation is made, because such explanation on my part, as every Senator must perceive, would be improper. The services were of a nature it is impossible for me to specify, and for which full compensation has not been made. To one thing I may call the attention of the Senate, however, and that is, that those Mexicans who rendered services to the American army, and who, to avoid the revenge thus drawn upon their heads, were compelled to return with our army when it evacuated the Mexican territory, are now in New Orleans, destitute and unprovided for—in the destitution which has been brought upon them by their faith to our cause. They should have been provided for out of those contributions levied upon Mexico; this fund has been turned over or is to be accounted for to the United States, and no provision has been made to fulfill the equitable claims and just expectations of these Mexicans.

The amendment was agreed to.

Mr. DAVIS further moved to amend the bill by adding a provision making compensation for extra services performed by clerks in the Adjutant General's office, upon which he said: It has been represented to me that this proposed allowance for extra services is a very proper one. Owing to the great increase of business—the consequence of the late war—at this office, the clerks have had to labor the greater part of the night, and they now ask to be remunerated for their extra labors.

Mr. ATHERTON. This is the same description of claim that has been rejected in the civil and diplomatic appropriation bill. If once allowed in these bills, there will be no end to them.

The amendment was not agreed to.

The question being upon concurring in the amendment of the Senator from Maine, [Mr. HAMLIN,] providing for the discharge of a corps of sappers and miners who had served in the late war, and concurrence with which was postponed owing to the absence of the chairman of the Military Committee—

Mr. DAVIS. As I understand it is regarded as important by the chairman of the Finance Committee that this bill should be passed to-night, I will ask the attention of the Senate for the briefest period only which will enable me to point out the main features of my objection to the amendment offered by the Senator from Maine which has been attached to this bill. It is a part of the system I opposed last year, then applied to a mounted rifle regiment. It is legislation upon the executive details of the army. The case is, by law, to order the discharge of a company of soldiers before the expiration of their enlistment, because their services were of an extraordinary character and the character of their enlistment somewhat unusual. Such was the proposition and such the reasoning in the case of last year. I anticipated evil then—evil alone from the adoption of the principle, and the result has, I regret to say, more than verified my anticipations. It is now proposed by this amendment to make the same experiment on this corps of sappers and miners. How far it can be done without creating discontent, and impairing the efficiency of the army, drawing numerous applications for like indulgences from other regiments, it is for time only to determine. I consider it a distinction we have no right to make. This is a corps receiving higher compensation, performing more agreeable duty, and with greater advantages for instruction, than the ordinary corps in service. The advantages promised to them at the time of their enlistment have not been exactly afforded them because of the war; but they have now reached the point at which the expectations created by the character of their enlistment may be realized. Whatever claim may have been founded upon the promise to instruct them as engineer soldiers, for a discharge when they were in the field, is answered now by their return and consequent opportunity to receive the instruction which, it is alleged, formed the inducement to their enlistment.

Mr. DIX. This case is a peculiar one, somewhat different from that presented last winter. I understand these young men are of the highest respectability. They were induced to enlist because of promises that they should go to West Point and be instructed in the profession of civil engineering. Instead of this, they were sent to Mexico, numbering seventy-six strong, and returned with only twenty-odd men. Their places can be immediately filled up.

The amendment was not concurred in.

Mr. BELL moved to amend the bill by inserting an appropriation of $52,000 for carrying into effect treaties made with the Stockbridge tribe of Indians; which was agreed to.

No further amendment being offered, the bill, as amended, was reported to the Senate, ordered to be engrossed, and was read a third time, and passed.

BILLS PASSED.

The following bills were considered as in Committee of the Whole, reported to the Senate, read a third time, and passed:

A bill for the relief of B. O. Payne.

A bill for the relief of Joshua Barney.

A bill for the relief of Lizur B. Canfield.

A bill to cause the northern boundary of the State of Iowa to be run and marked.

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 1, 1849.

The CLERK had proceeded in the reading of the Journal for about fifteen minutes; when

The SPEAKER interposed, and said, the Chair would venture to state to the House, that owing to the amount of formal business yesterday, there were sixty written pages of the Journal. It was quite obvious that the House was not paying attention to the reading.

On motion of Mr. CRANSTON, the further reading was dispensed with.

CIVIL AND DIPLOMATIC BILL.

The civil and diplomatic bill was received from the Senate with amendments, and, on motion of Mr. VINTON, was referred to the Committee of Ways and Means.

MINERAL LANDS ON LAKE SUPERIOR.

Mr. McCLELLAND asked the unanimous consent of the House, and if that were denied he gave notice that he should move a suspension of the rules, to take up the bill to reduce the prices of mineral lands on Lake Superior. It was a very important bill, (he said;) and if it did not pass the House to-day, it could not get through the Senate.

Mr. DIXON objecting—

The question was taken, and the House refused to suspend the rules: Ayes 40, noes not counted.

THE CENSUS OF 1850.

Mr. PALFREY asked the unanimous consent, and that being denied, he gave notice he should move to suspend the rules, to introduce a bill to make arrangements for taking the seventh census. It was a very short bill, and he asked the Clerk to read it for information.

The bill was read as follows:

AN ACT to make arrangements for taking the Seventh Census.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State, the Secretary of the Home Department, (if such office is by law created,) and the Postmaster General, shall constitute and be a board, to be styled the Census Board; that it shall be the duty of the said board to prepare and cause to be printed such forms and schedules as may be necessary for the full enumeration of the inhabitants of the United States, and also proper forms and schedules for collecting in statistical tables, under proper heads, such information as to mines, agriculture, commerce, manufactures, education, and other topics, as will exhibit a full view of the pursuits, industry, education, and resources of the country; it being provided that the number of said inquiries, exclusive of the enumeration, shall not exceed one hundred, and that the expense incurred in preparing and printing said forms and schedules shall not exceed ten thousand dollars.

SEC. 2. *And be it further enacted*, That the said board shall have power to appoint a secretary, whose remuneration shall be determined by Congress, upon the completion of the duties assigned to the board.

Objection being made—

The question was taken, the rules were suspended, and the bill was brought before the House.

Mr. MEADE inquired if the gentleman from Massachusetts was aware that there was already a bill before the House providing for taking the census of 1850?

Mr. PALFREY said he knew it very well. He was acquainted with that bill. It was reported last session by the Judiciary Committee. It was substantially a transcript of the act for taking the sixth census, ten years ago. There were only a few immaterial alterations, such as a change of the months for making the enumerations and returns, a definition of "transient persons," &c.; and three sections were added relating to the correction of returns, the compensation of *employés*, and the distribution of the printed tables. Now, every one knew that the census of 1840 had been a mortifying failure. It had not been satisfactory at home, nor creditable to us abroad. It was deformed by the grossest errors. This was no doubt owing, in a great degree, to want of competency and faithfulness on the part of the agents. But it was also to be partly ascribed to the character of the act. In his opinion, it was not a judicious and well-considered law. It aimed at far too much. The schedules comprehended altogether too many questions to admit a possibility of correct replies, to say nothing of the character of the inquiries, which in many instances were not sufficiently precise. But he would not trespass on the indulgence of the House, which had been so kindly accorded to him, to go into an examination of the bill. It was perfectly apparent to all who had given any attention to the subject, that it ought at least to receive considerable amendments before it should become a law. It was also perfectly obvious that such amendments could not be made with sufficient deliberation by Congress in the three hurried days which alone remained of its present session. Why not, then, postpone the passage of any law till the next Congress? The reason was, that that course would not leave the proper time to execute the law within the period prescribed by the Constitution. The cost of the last census was nearly a million of dollars. This sum gave some idea of the amount of work done. To mention one particular alone, besides the preparation, printing, and distribution of the schedules, no less than ten thousand reams of paper of a peculiar kind would have to be made to print them on. He (Mr. P.) had been informed, that at the taking of the sixth census, the Government, by reason of a similar delay, had been obliged to induce the manufacturers, in the winter time, when the mills did not work regularly, to break off their contracts with private parties, so as to furnish the supply in season, and the Government had to pay the damages. Under any circumstances, he (Mr. P.) thought that a business of such detail would be best left to

a responsible commission, such as this bill proposed to constitute. It was properly an executive operation. At all events, the circumstances in which we now found ourselves seemed to admit of no other course. He moved the previous question.

The previous question was seconded, and under its operation, the bill was ordered to be engrossed, read a third time, and passed.

Mr. PALFREY moved to reconsider the votes on the engrossment and on the passage, and to lay those motions on the table; which latter motion was agreed to.

WISCONSIN RESOLUTIONS.

Mr. DARLING presented resolutions of the Legislature of the State of Wisconsin on the subject of slavery and the slave trade; which were laid on the table, and ordered to be printed.

MINT IN CALIFORNIA.

Mr. MEADE asked the House, by unanimous consent, and that being refused, gave notice he should move a suspension of the rules, to take up and now act upon the bill to establish a mint at San Francisco. This was a very important bill, (he said.) If gentlemen wished it to pass, it ought now to be acted upon, and sent to the Senate.

DUTIES IN MEXICO.

Mr. TOOMBS rose to a privileged question, and moved to lay on the table the motion made by Mr. VINTON to reconsider the bill passed yesterday for the settlement of the accounts of the officers who collected duties in Mexico.

Mr. VINTON claimed the floor upon that motion.

The SPEAKER said the gentleman from Ohio, having made the motion to reconsider, was entitled to the floor, as a matter of courtesy.

After some conversation, the question was brought before the House.

Mr. VINTON said that he desired, before the vote was taken on the motion to reconsider, to say a few words on this subject.

He had heretofore expressed his opinion that the duties levied upon American citizens and upon neutrals in those ports of Mexico which were in possession of the American army, under a tariff enacted by the President of the United States, were without warrant of law. The subject had been referred to a select committee of the House, who had made a report, and he understood that the gentleman from Georgia [Mr. TOOMBS] entertained the same opinion. He understood also, although he (Mr. V.) had not had an opportunity of seeing the report, as every moment of his time had been occupied, that a majority of the committee had submitted a report entertaining the same opinion. There were also, he thought, two minority reports. The report of the committee had been laid upon the table without any action of the House. At the same time a bill had been reported asking that that might be done which had last year been requested by the Executive, and upon which the Committee of Ways and Means of this House, upon full consideration, had though proper not to act, because, in their opinion, to do so would have been a recognition of the validity of the act of the Executive. The bill reported yesterday, it seemed from the reading, directed these moneys to be accounted for as moneys belonging to the treasury of the United States. The difficulty attendant on that mode of proceeding was this: The report of the committee had been laid on the table without any action, or the expression of any opinion on the part of the House. Now, he desired to incorporate in the bill a declaration that its passage should not be understood as an admission on the part of the House of the authority of the President to lay these duties. If that had been done, he, (Mr. V.,) as a matter of course, would have yielded to the bill a ready and willing assent, because the officers who collected these duties were presumed to have felt bound to obey the directions of the Executive.

Before proceeding further, he would send to the Clerk's table to be read an amendment which he desired to offer if the vote should be reconsidered.

The amendment was read.

Mr. VINTON proceeded. His objection, as he had already stated, was this: he had no objection to the passage of such a bill. He was willing that a law should be passed to enable these officers to be protected for the acts they had done. But he was not willing to pass a law which, in all future time, whenever the country might be placed in similar circumstances, might be regarded as establishing the right of the President of the United States, whenever war existed, to go on and make a law regulating tariff laws and collecting duties in such ports of the enemy as might be in possession of the American army, upon our own citizens and upon neutrals.

We all knew that the Executive power of this country was constantly increasing by implication, and that whatever power was once permitted to be exercised without being denied by the proper legislative authority, was considered as established forever.

During the existence of the war, (and every gentleman on his side of the House at least had felt the difficulty to which he was alluding,) whenever the President did an act which was either unconstitutional, or the constitutionality of which was doubtful, (it being an act the effect of which was to injure the enemy,) if any objection was made here against the act, on the ground of its constitutionality, or as being an act of usurpation on the part of the Executive, those in the opposition were constantly met with the charge, that in making such complaints, they gave aid and comfort to the enemy; that they encouraged him. Every one knew, that during a war, these objections could not be made, and that public opinion could not be brought to a full consideration of them. But now, in a time of peace, was the proper time to review our position, when a charge of giving aid and comfort to the enemy could no longer be brought against any one. And before these proceedings were sanctioned, it was important to this House, as the great legislative department of the Government, to know whether it was setting an example, whether it was yielding a power which could not be recovered in all time to come.

Suppose we should hereafter have foreign wars, and the American army should be in possession of the enemy's ports or country, if this power be yielded to the President in the form in which this bill presents it, it would be considered as yielding, on the part of the Congress of the United States, the power to legislate on the subject. What he held was this: that when the American army was in possession of the ports of an enemy, the Congress of the United States had the right to pass a tariff of duties, to levy duties on American citizens and neutrals and every one there. He thought that, in view of what had been done, it was one of the first duties of Congress, if it intended to preserve the liberties of the country, and to protect itself against the arbitrary power which the Executive of the country, at some future time, (for at this moment there was no danger of such a result,) when some enterprising man might be in possession of the Executive power, to pass a law regulating all these duties and powers on the part of the Executive. It had never been done heretofore, because we had never anticipated the emergency. But when we had seen what had been done, he thought that, instead of passing a law which, as he thought, yielded this power forever, a provision should be inserted that this right was not admitted.

If this bill became a law, it would stand on the statute book. The report of the committee which had been made, and which, as he had said, had never been acted upon, would be considered hereafter as of no authority. If the House had taken up the report of the committee, and passed a resolution asserting the rights of this House, that would have been a different matter. But in the present state of things, he felt sure, that if this bill became a law, it would in all future time be considered as settling the question that the President of the United States, when the American army was in a foreign country, might pass tariff laws, might collect money from American citizens, might pay these moneys out at his will and pleasure, might raise armies; in one word, might carry on war independently of Congress. It would be remembered by all gentlemen that the Secretary of the Treasury said then that he expected to raise out of the ports of Mexico, during the first year, at least the sum of ten millions of dollars; all of which he expected to pay out in raising armies, or in any mode that might be thought proper. If that could be done, of what avail was it that the Constitution of the United States gave to Congress exclusive power to lay taxes, to raise armies, or that the Constitution had said that no appropriation to carry on a war should be continued for more than two years. If the Executive possessed this power to carry on a war independent of the action of Congress whenever he could get an American army into a foreign country, every one would see that, if this should become a military nation, and its power should be in the hands of an enterprising Executive, more might be done in this way to overturn the liberties of the country than could be accomplished by any other mode.

Mr. MEADE said: I agree with the gentleman from Ohio, that Congress should pass a law to regulate the duties and powers of the Executive when engaged in a war with a foreign Power; but in the absence of such a law, I deny that the President has exceeded his powers in this instance. We have all the belligerent rights of other nations—the power to levy contributions on the enemy is unlimited, or to harass him in any shape. We may sack his towns and take the lives of his people—this is the greater power; the lesser power is of course included: instead of forcing contributions out of a few, the conqueror may ameliorate the calamities of war by levying an equal tax; these duties were ultimately paid by the people of Mexico, in a shape less onerous and more humane. The gentleman from Ohio, in a speech made some weeks ago, characterized this act as a pilfering and a plundering of our own people. Sir, this tax was voluntary on the part of the American citizen; he considered it a benefit to him to be allowed to enter with his goods the blockaded ports of Mexico; when he started with them, he knew he would have to pay the duty, he made a profit from them, and it is the first instance I ever heard of, where the plunder of one was not only invited by him, but resulted in a positive benefit. Had these imports been admitted free of duty, they might have been seized as any other Mexican property, and converted to the use of the army. The plan adopted by the Executive supplied his army and injured no one. Had the conceded power been resorted to, the contributions would have been less, and individual suffering greater.

But what are the rights and powers of our Executive in time of war? Except where restrained by law or the Constitution, they are the same as the Executive of any other nation. What any other conqueror, under the law of natious, may do, as incident to the war, we, through our Executive, may also do. It is admitted that Congress could confer this power on the President; for it is one which belongs to all nations at war. The power to levy contributions is an Executive power, the mode is in the discretion of the conqueror. That mode may be, but has not been prescribed by Congress. In the absence of legislation or restriction, the Executive is left with all those powers which, by the law of nations, appertain to the Executive of other Powers. The President, therefore, has not exceeded his authority.

The gentleman from Ohio apprehends an abuse of this power in some future war of invasion. His fears are unfounded. Congress has control of the army; it may refuse supplies; it can disband the army or order it home. While I might vote for a bill to restrict the powers of the Executive and prescribe his duties, yet I doubt whether the power to raise contributions from the enemy, and thus charge him with the expenses of the war, can be wisely limited. The modes are so various, to prescribe them might deprive the Executive of the mode which the exigency of the occasion might make indispensable. For these and other reasons I shall vote against the motion to reconsider.

Mr. TOOMBS said that he did not differ from the gentleman from Ohio [Mr. VINTON] in the principle he had assumed. The committee to whom the message of the President of the United States had been referred, had declared that the authority assumed by him to levy duties and disburse money was not warranted by the Constitution or laws, but was in derogation of both.

At the same time the committee agreed (unanimously, Mr. T. was understood to say) that it would be proper to report this bill, which provided for the settlement of the accounts of the officers who received the moneys thus illegally raised; and also, and what was far more important, to authorize the Government to refund certain contributions which the Government itself believed to have been illegal.

A majority of the committee had concurred in the report. A minority of the committee dis-

sented, and minority reports or views were presented. But a majority of the committee disaffirmed the power of the President to collect duties or disburse them when collected. The report had been ordered to be printed; and inasmuch as it could not be got at, he was willing, rather than admit such unwarrantable power, even by implication, to admit such an amendment as was proposed, because it was in conformity with the opinions expressed by the majority of the committee.

He demanded the previous question on the motion to reconsider.

And there was a second.

After an inquiry by Mr. STANTON—

Mr. KAUFMAN moved that the motion to reconsider be laid on the table.

Mr. VINTON asked the yeas and nays; which were refused.

The question was then taken, and the House decided that the motion should not be laid on the table.

The main question (on the motion to reconsider) was then ordered to be taken.

The yeas and nays were asked and ordered, and being taken, were—yeas 86, nays 88—as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Barringer, Barrow, Blackmar, Boyden, Brady, Buckner, Butler, Cabell, Canby, Chapman, Clingman, Collamer, Cranston, Crowell, Crozier, Dickey, Dixon, Donnell, Dunn, Eckert, Edwards, Embree, Nathan Evans, Fisher, Freedley, Gayle, Giddings, Goggin, Gott, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Henry, Hilliard, I. E. Holmes, Hubbard, Hudson, Hunt, Irvin, John W. Jones, Daniel P. King, William T. Lawrence, Lincoln, McIlvaine, Horace Mann, Marsh, Marvin, Morehead, Mullin, Nelson, Nes, Newell, Outlaw, Palfrey, Pendleton, Pollock, Preston, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Roman, Rose, Root, Rumsey, St. John, Schenck, Shepperd, Sherrill, Truman Smith, Stephens, Andrew Stewart, Strohm, Tallmadge, Taylor, Richard W. Thompson, Toombs, Tuck, Vinton, Warren, White, and Wilson—86.

NAYS—Messrs. Atkinson, Beale, Bedinger, Bingham, Birdsall, Bowdon, Bowlin, Bridges, Brodhead, C. Brown, Albert G. Brown, Burt, Franklin Clark, Williamson R. W. Cobb, Cummins, Daniel, Darling, Edsall, Faran, Featherston, Ficklin, French, Fulton, Green, Greeley, Willard P. Hall, Hammons, Haralson, Harmanson, Harris, Henley, Hill, George S. Houston, Inge, Jameson, Jenkins, Andrew Johnson, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, Lahm, La Sère, Sidney Lawrence, Leffler, Ligon, Lumpkin, Maclay, McClelland, McClernand, McKay, McQueen, Job Mann, Meade, Miller, Morris, Morse, Nicoll, Peaslee, Peck, Petrie, Pettit, Peyton, Phelps, Rhett, Richardson, Richey, Robinson, Sawyer, Simpson, Smart, Robert Smith, Stanton, Starkweather, Charles E. Stuart, Strong, Thomas, James Thompson, Jacob Thompson, William Thompson, Thurston, Venable, Wentworth, Wick, Wiley, Williams, Wilmot, and Woodward—88.

So the motion was not reconsidered.

The bill was read a third time; and the question being on its passage—

Mr. VINTON asked the yeas and nays, remarking that he wished to record his vote against the bill.

The yeas and nays were ordered.

Mr. HALL, of Missouri, moved the previous question.

The previous question was seconded, the main question was ordered, and being taken, the vote stood—yeas 105, nays 67—as follows:

YEAS—Messrs. Atkinson, Bayly, Beale, Bedinger, Birdsall, Bowdon, Bowlin, Boyd, Bridges, Brodhead, Charles Brown, Albert G. Brown, Burt, Butler, Cathcart, Clapp, Franklin Clark, Howell Cobb, Williamson R. W. Cobb, Collins, Cummins, Daniel, Darling, Edsall, Faran, Featherston, Ficklin, French, Fulton, Gayle, Gentry, Goggin, Green, Greeley, Willard P. Hall, Hammons, Haralson, Harmanson, Harris, Henley, Hill, Hilliard, G. S. Houston, Inge, Jameson, Jenkins, Andrew Johnson, James H. Johnson, Robert W. Johnson, George W. Jones, Kennon, Daniel P. King, Lahm, La Sère, Sidney Lawrence, Leffler, Lord, Lumpkin, McClelland, McClernand, McDowell, McKay, McQueen, Job Mann, Meade, Miller, Morehead, Morris, Murphy, Nicoll, Peaslee, Peck, Petrie, Pettit, Peyton, Phelps, Pilsbury, Pollock, Rhett, Richardson, Richey, Robinson, Sawyer, Shepperd, Simpson, Smart, Robert Smith, Stanton, Starkweather, Charles E. Stuart, Strong, Thomas, James Thompson, Jacob Thompson, William Thompson, Thurston, Toombs, Tuck, Venable, Wentworth, Wick, Wiley, Williams, Wilmot, and Woodward—105.

NAYS—Messrs. Abbott, Adams, Ashmun, Barringer, Barrow, Blackmar, Boyden, Buckner, Cabell, Chapman, Clingman, Collamer, Conger, Cranston, Crowell, Crozier, Dickey, Dickinson, Dixon, Donnell, Duer, Edwards, Nathan Evans, Fisher, Freedley, Gott, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Henry, Isaac E. Holmes, Hubbard, Hunt, Kellogg, William T. Lawrence, Lincoln, McIlvaine, Horace Mann, Marsh, Mullin, Nelson, Newell, Outlaw, Palfrey, Pendleton, Preston, Reynolds, Julius Rockwell, John A. Rockwell, Roman, Rose, Root, Rumsey, St. John, Schenck, Sherrill, Caleb B. Smith, Truman Smith, Strohm, Tallmadge, Taylor, Vinton, Warren, White, and Wilson—67.

So the bill was passed.

MOBILE AND OHIO RAILROAD.

Mr. GAYLE made an appeal to the House, to allow him to call up the bill granting the right of way to the Mobile and Ohio Railroad Company.

The House would bear him witness, he said, that he had but seldom taxed its patience. The bill contained but one section; and he pledged himself, if the House would take it up, to move the previous question.

Objection having been made—

The SPEAKER said a suspension of the rules was necessary.

Mr. GAYLE moved a suspension of the rules.

Some conversation followed.

BRANCH MINT IN CALIFORNIA.

Mr. MEADE asked for a vote on the motion heretofore submitted by him to suspend the rules, for the purpose of proceeding to the consideration of the bill to establish a branch mint in the harbor of San Francisco.

Mr. WENTWORTH said, with the permission of the House, he would make a suggestion which would enable both gentlemen [Messrs. GAYLE and MEADE] to accomplish their objects, and at the same time to facilitate the public business.

[Several calls to order.]

After some conversation between Mr. FICKLIN and the SPEAKER—

The question on the motion of Mr. MEADE was taken, and decided in the negative—two-thirds not voting therefor.

So the rules were not suspended.

MOBILE AND OHIO RAILROAD.

The question then recurred and was taken on the motion of Mr. GAYLE; and, two-thirds not voting therefor, the rules were not suspended.

Mr. GAYLE moved a reconsideration of the vote.

The SPEAKER remarked that the motion was not debatable.

And the question being taken, the House decided that the motion should not be reconsidered.

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of taking up the Indian appropriation bill.

Mr. GRINNELL asked the gentleman from Ohio [Mr. VINTON] to waive the motion, to allow him (Mr. G.) to move that Senate bills, on their first and second reading, be taken up and referred.

Mr. VINTON waived his motion.

Mr. McCLERNAND objected.

Mr. GRINNELL moved a suspension of the rules.

Tellers (Messrs. GRINNELL and McCLERNAND) were appointed: and the question was taken, and stood—ayes 72, noes 45.

So two-thirds not voting therefor, the rules were not suspended.

INDIAN APPROPRIATION BILL.

The question recurred and was taken on the motion of Mr. VINTON; and having been decided in the affirmative—

The House resolved itself into Committee of the Whole on the state of the Union, (Mr. CHAPMAN, of Maryland, in the chair.)

On motion of Mr. VINTON, the committee took up the Indian appropriation bill, (which had been returned from the Senate with certain amendments.)

Mr. VINTON moved that the committee rise, with a view to enable him to offer, in the House, a resolution closing debate on the said bill.

The motion having been agreed to, the committee rose and reported.

Mr. VINTON offered a resolution terminating debate on the said bill in one hour after the House should again have gone into committee.

Mr. JOHNSON, of Tennessee, said he hoped the gentleman would not stop debate altogether. It ought to go on for a short time. The bill was an important one. He moved an amendment, substituting three hours for one.

The amendment was rejected.

Mr. VINTON modified his resolution, so as to extend the time to one hour and a half.

The resolution, thus modified, was adopted.

On motion of Mr. VINTON, the committee again resolved itself into Committee of the Whole on the State of Union, (Mr. CHAPMAN in the chair,) and resumed the consideration of said bill.

Certain amendments of the Senate were read and concurred in.

Mr. VINTON offered the following as a substitute for the amendment of the Senate in relation to the Cherokee Indians:

To provide for carrying into effect the treaty of the 6th of August, A. D. 1846, with the Cherokees, to be paid, or so much thereof as may be found due on a fair and just settlement of all moneys due to the Cherokees, in addition to the sums heretofore appropriated, the further sum of $1,231,424 75, that is to say, the sum of $586,398 46, to carry into effect the provisions of the fourth and fifth articles of said treaty, and the sum of $645,026 29 to carry into effect the ninth article of said treaty, which said settlement shall be made on the part of the United States by such officer or officers of the proper Executive department as the President of the United States shall direct to perform that duty, such officer or officers to be subject to the supervision and control of the head of the department to which he or they is or are attached; and their acts shall receive the sanction of such department. And on the part of the Cherokees, said settlement to be made by an agent or agents, duly empowered to act for and bind them in the premises; and the said settlement, so made, shall be final, conclusive, and binding upon both parties thereto for all the matters contained in said treaty. And, in view of the fluctuations to which the receipts from the customs and the public lands are at all times exposed, it may so happen that the revenues of the now current and next fiscal year, after defraying the ordinary expenditures of the Government, may not be adequate to meet the payment of the above appropriated sum of $1,231,424 75, and also the two instalments of the Mexican treaty, amounting to the sum of $7,260,000, appropriated for by the act of the present session, entitled "An act to provide for carrying into execution, in part, the twelfth article of the treaty with Mexico, concluded at Guadalupe Hidalgo," the first and fourth sections of the act of the 23d of July, A. D. 1846, entitled "An act to authorize the issue of treasury notes and a loan," be, and the same are hereby, revived; but treasury notes shall not be issued by virtue of this act to exceed in all the sum of five millions of dollars outstanding at any one time; and the authority hereby given to issue treasury notes shall expire at the end of the next session of Congress; and the treasury notes issued under the provisions of this act shall not bear a higher rate of interest than six per centum per annum, and no part thereof shall be disposed of at less than par; and to meet the necessary expenses of issuing said treasury notes the sum of twenty thousand dollars is hereby appropriated.

Mr. V. proceeded to explain the amendment. His first few sentences were very doubtfully heard, owing to the great noise in the Hall. He referred to the difficulties which had heretofore attended the settlement of the claims of the Cherokee Indians.

The course heretofore pursued had been for the United States to go on and make up the accounts with the Indians; and whenever Congress made appropriations for this object, those bills have been so far satisfactory to the Indians, that they had received the money. But whenever Congress had passed a bill concerning them, which was not satisfactory, or which was of such a character that they could raise out of its terms the slightest implication against the United States, they had uniformly resisted it. This course had been pursued till the condition of things—taking into view the various laws and treaties on the subject—had become the most complicated matter that he ever looked into. He ventured to offer the opinion, that these difficulties had laid the foundation for contracts for the services of agents to prosecute these claims, by which as much as $150,000 were to be given to their agents and attorneys in the shape of fees. And the whole thing had become so complicated that it would not be settled, he feared, for more than half a century. For after a settlement with their agents and attorneys, the Indians, by the terms of the treaty, could come forward, and say to this Government, We require a settlement with you. The United States had gone into this settlement, just as though the gentleman from North Carolina and he (Mr. V.) were in account with each other; and he (Mr. V.) were to sit down and make up the account from his own book.

[Mr. VINTON yielded the floor for a report from the Committee on Enrolled Bills.]

When the SPEAKER again recognized him—

Mr. VINTON proceeded. He was explaining the principle upon which we had attempted to adjust our difficulties with these Indians, preparatory to a statement of the proposition to which the Committee of Ways and Means had resorted for the purpose of bringing this business to an end. All that we had heretofore done was just as though the gentleman from North Carolina and himself were in account, and he (Mr. V.) were to sit down, look over his own account, and strike a balance, without the consent of the gentleman from North Carolina, or his having anything to do with it, and call that a settlement. The Indians had constantly received the money which had been by law appropriated to them from time to time; but whenever an act had been passed upon the subject which the

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skillful attorneys who had always been in their employment could object to, it had been resisted by them, and implications of every kind had been cast upon the United States. So that, after thirteen years of the progress of this settlement, we seemed to be further from any conclusion of it than ever. They began with an engagement on the part of the United States to pay them five millions of dollars; and now, including the present appropriation, there had been paid to them, upon claims founded upon implications of one sort or another, the sum of eight and a half millions of dollars; and he found, also, that they had still lying back other claims, by which they expected to get some two or three millions more.

The treaty of which he had spoken made it the duty of the United States to pay what should appear to be due to the Indians, after a just and fair settlement. When, then, was this debt to become due? As a matter of course, whenever the settlement should be made: that was the time when the money would become payable. The amendment of the Senate was a proposition to appropriate twelve hundred and thirty-one thousand dollars, without saying anything about a final settlement, allowing that consideration to pass over. But the Committee of Ways and Means—thinking he was a pretty good paymaster who paid when the debt became due—struck out the amendment of the Senate, and proposed to appropriate the same sum, to be paid (or so much of it as should be found due) to the Indians upon a just settlement of the whole matter. And in order that the proceeding might be binding, it was provided in the amendment that the President of the United States should direct one or more of the officers in one of the executive departments, to take the management of the settlement with the Indians, so as to bring it under the supervisory control of one of the heads of the departments; and that all allowances thus made, with the consent of the head of the proper department of this Government, should be binding on the part of the United States, and also on the part of the Indians, to be represented also by their duly-authorized agent; and that such settlement shall be conclusive of the whole matter. Such was the principle of the amendment; and it was provided that the money should be paid as soon as the amount of the debt might be ascertained. That, as he thought, was all that could be reasonably expected of the most willing debtor. But as he perceived that the committee were not disposed to listen further to this branch of the case, he would pass it.

Another important provision of the amendment was this: it proposed, in case of emergency, to authorize the President of the United States to issue treasury notes to an amount not exceeding five millions of dollars, with power to reissue from the present time till the close of the next session of Congress: that was to say, it proposed to revive a part of the act of 1846, which was passed in anticipation of a similar emergency, and which conferred on the President authority to issue treasury notes to the amount of ten millions, or take up a loan to that amount. The necessity of this provision arose from two or three causes. But as he found the committee were not disposed to listen, he would not discuss them.

Mr. ATKINSON now took the floor, and spoke an hour; in which he contemplated the state of the Union generally, and especially the question of slavery in the territories, and its effects upon the general welfare. [This speech will be found in the Appendix.]

When Mr. ATKINSON had concluded—

The CHAIRMAN announced the termination of debate, by previous order of the House; and the committee proceeded to the vote.

The Senate amendment, and the amendment thereto by the Committee of Ways and Means, were then read by the Clerk.

Mr. THOMPSON, of Mississippi, proposed to amend the amendment by the Committee of Ways and Means, by adding the following words:

And also to include all claims whatsoever of the Cherokee nation under the 11th article of said treaty.

Mr. T. (under the five minutes rule) supported his amendment by remarks in which he was understood to express his desire to act liberally towards the Indians in this matter, and to concur in the determination of the Committee of Ways and Means, as expressed by the honorable chairman, to make the settlement final and binding upon this Government, as well as upon the Indians.

Mr. STEPHENS (by consent) desired merely to state his entire concurrence in the views of the gentleman from Mississippi as to the final adjustment of the difficulty, and to express his hope that the amendment would be adopted.

Mr. BRODHEAD submitted an inquiry in relation to the proper construction of the 11th article of the treaty requiring certain questions to be submitted to the Senate.

Mr. STEPHENS replied, that was a matter which the Indians could waive whenever it pleased them; and if they did so, we need not object. He was in favor of a final settlement.

Mr. BRODHEAD. So am I.

Mr. STEPHENS (continuing) said that great injustice had been done to these Indians, he had no doubt.

The amendment to the amendment was then adopted.

Mr. JOHNSON, of Arkansas, proposed to amend the amendment of the Committee of Ways and Means by adding thereto the following:

Provided, That all contracts entered into by the delegations representing the Old Settlers in their collective capacity, for the purpose of prosecuting their claim against the United States, shall be examined and adjudicated by the Secretary of War; and where the proofs are satisfactory that such contracts were fairly made with the knowledge and approbation of the Old Settlers aforesaid, and confirmed by their duly authorized representatives who signed the treaty of August 6, 1846, and that the services or other assistance required by said contracts were faithfully and successfully rendered, then they shall be allowed and paid out of the money appropriated to carry said treaty into effect. *Provided, also*, That claims held by individuals against the Old Settler Cherokees for clothing, subsistence, or money advances, which shall be referred to a general council of said Old Settlers, to be convened by the agent after due notice, shall be paid, if passed upon and allowed by them, out of such moneys as shall be due them.

Mr. JOHNSON (in explanation) wished to say, that we had now in this city about the third or fourth delegation from these Indians, which had come here insisting upon the very points embraced in his amendment. They desired not only to evince their determination to adjust their difficulty with the United States upon the principles of justice and honesty, but also to show that they had acted the part of honest people towards all those to whom they had become indebted. The provisions of the bill, without his proposition, would put their money into such a position that their debts could not be paid, and thus would be brought upon them the imputation of dishonesty. He rehearsed the provisions of his amendment, and urged with much earnestness the justice of the latter class of claims which it contemplates. He spoke also of the earnest desire that they should be paid, on the part of the Indians themselves, they having three times passed a resolution in council to that effect.

Mr. VINTON said it was required by the treaty that the United States should pay the money directly to the Indians themselves *per capita*, and was proceeding, when—

The CHAIRMAN arrested his remarks, as in violation of the order of the House.

The question was then taken upon Mr. JOHNSON's amendment, and it was rejected.

Mr. WHITE then proposed to amend the amendment of the Committee of Ways and Means, by striking out all after the word "Hidalgo," and inserting the following:

That the President of the United States, if, in his opinion, it shall be the interest of the United States so to do, may borrow, on credit of the United States, the sum of $5,000,000, and issue thereupon stock of the United States for the sum thus borrowed, in the same form and under the same restrictions, limitations, and provisions as are contained in the act of Congress, approved 21st July, 1841; and such loan shall be made reimbursable at such time, within twenty years from the passage of this act, as the President may prescribe; and the proceeds of said loan may be applied to such payments as the exigencies of the Government may require; and the sum of fifteen thousand dollars is hereby appropriated, out of any money in the treasury not otherwise appropriated, for the purpose of defraying the expenses of negotiating the above loan, in the same manner as provided in the act approved 21st July, 1841.

Mr. WHITE said he had never yet been able to learn the necessity or propriety of this Government resorting to the issue of treasury notes. If there should be a necessity for such a thing, it struck him as more appropriate for the Government (as it would be for an individual) to resort to a loan directly. We never should be able to know the exact amount of the indebtedness of the Government, so long as we permitted the issue of these promises to pay. He hoped that whatever sum might be necessary for the deficiency of the coming year, the Government would be authorized to borrow it.

Mr. VINTON hoped the proposition would not be adopted.

And the question being taken thereon, it was rejected.

Mr. THOMPSON, of Pennsylvania, proposed to amend the amendment by adding the following:

Provided, also, That claims held by individuals against the Old Settler Cherokees, for clothing, subsistence, money, or advances, which shall be referred to a general council of said Old Settlers, to be convened by the agent after due notice, shall be paid, if passed upon and allowed by them, out of such moneys as shall be due them.

Mr. THOMPSON supported his amendment in a few remarks which were not heard by the reporter.

Mr. VINTON said he would be glad of an opportunity to say a word upon this amendment.

Mr. THOMPSON, to afford that opportunity, said he would withdraw his amendment, if the gentleman from Ohio would renew it.

Mr. VINTON renewed the amendment, (*pro forma*,) and said, if he could get the ear of the committee for a few moments, he thought he might be able to satisfy them, that, if this payment were made upon the amendment of the gentleman from Pennsylvania, we should be obliged to pay it over again. By the terms of the treaty, the United Ststes were bound to pay this money to the Indians, distributing it among them individually. From time to time, for ten or fifteen years past, these Indians had had their agents employed to prosecute these claims against the United States. Amos Kendall, formerly Postmaster General, was one of these, and his papers were here, showing that he had entered into a contract with these Indians stipulating that he would prosecute these claims for them, and if he succeeded he was to receive five per cent. of the whole amount they were to receive; and if the claim did not succeed, he was to receive nothing—a mere champerty contract, upon which, when the claim should come to be paid, if it were to be paid, as the gentleman's amendment would provide, the said Amos Kendall would receive one hundred and fifty thousand dollars in fees, instead of standing in the case, as he ought to stand, indictable for fraud, he or any other officer of the Government taking such advantage of his position against the Indians. Upon looking over the argument of Mr. Kendall himself, he found that sixty thousand dollars had been paid by the Indians already for fees of counsel in this case. These agents had made their contract with the Indians. That was their matter. We had nothing to do with it. But if we paid any part of this money over to Amos Kendall, or any other of these agents, we should have to pay it again, as we had already done, in former cases. At the very last session of Congress we paid money in this way, which was now brought in as an unpaid item of the present claim. These agents had made their contracts with the Indians. Let them look to the Indians for their pay.

Mr. V. withdrew the amendment at the instance of—

Mr. JOHNSON, of Arkansas, who renewed it, to enable him to reply to the gentleman from Ohio. What he had heard from that gentleman constituted his opinion merely. He had no doubt that the gentleman intended to do exactly what was right. But the fact was, the gentleman knew nothing at all about the character of the greater portion of those claims against the Indians, nor was it possible for him to understand their nature

fully unless he were well acquainted with the Indian history. This amendment provided that these people—the Indians—should meet in council, to consider all claims against them, and determine what portion of them were just and ought to be paid. He stated the circumstances under which these debts, to which he most particularly referred, were contracted. They were contracted some years ago, when the Indians were thrown out of their former homes without the means of subsistence, for money advanced to them for clothing, and the means of subsistence generally. Moreover, he insisted that these Indians wanted to pay their debts; and, their intentions in the case being honest, should not Congress permit them to act the honest part? He asked that the amendment might be read again, and hoped that gentlemen would hear it.

Mr. J. withdrew the amendment for—

Mr. POLLOCK, who renewed it, to enable him to say one word. He was perfectly willing that agents should be employed by these Indians, and that they should be fully paid. But he objected to the amendment, because of the fact, that by act of Congress, we could not contravene a treaty provision. We were bound by the treaty to pay the money to the Indians *per capita*. This objection was unanswerable. We could not relieve ourselves from the obligation to pay to the Indians individually. Such a thing would require the consent of every member of the tribe. The impression had gone abroad, that by our legislation in pursuance of this treaty, we prohibited the Indians from paying their agents. But such was by no means the fact. We simply provided that the money should be paid to the Indians, leaving their creditors to their recourse upon the Indians. We did nothing to prevent the Indians from paying their debts; but, on the contrary, we gave them the money which would enable them to pay. It was only leaving these Indian creditors to the trouble of taking care of themselves.

Mr. BOYD called for the reading of the amendment.

The amendment was again read by the Clerk.

Mr. JOHNSON, of Arkansas, called for tellers upon the question.

But tellers were not ordered.

The amendment to the amendment was then rejected.

The question now recurred on the adoption of the amendment reported by the Committee of Ways and Means.

Mr. ROCKWELL, of Connecticut, proposed to amend the amendment, by striking out the word "five," and inserting the word "seven," so as to authorize the President to issue seven millions of treasury notes. He then went into a statement of figures, to show that the deficiency in the appropriations for the ensuing financial year would be larger than had yet appeared from the estimates.

His amendment was rejected.

The question then recurred on the amendment proposed by the Committee of Ways and Means.

Mr. THOMPSON, of Mississippi, moved an amendment.

Mr. T. briefly explained the amendment,

Mr. STEPHENS briefly opposed it.

Some conversation followed between Messrs. STEPHENS, THOMPSON, and JOHNSON, of Arkansas.

The amendment was then rejected.

And the question again recurred on the amendment reported by the Committee of Ways and Means.

Mr. ATKINSON called for the reading of the amendment, and it was again read.

Mr. McKAY called for a division of the question. He asked that a separate vote might be taken on that part of the amendment which related to appropriations for the Indians, and a separate vote on that branch which gave authority to issue treasury notes.

Mr. THOMPSON moved to strike out all that part of the amendment which gave authority to issue treasury notes.

He had made this motion (he said) for the purpose of asking the chairman of the Committee of Ways and Means how it was that he arrived at the sum of five millions of dollars. He (Mr. T.) supposed there would be a balance, instead of a deficiency in the revenue.

Mr. VINTON said he had in his hand a letter from the Secretary of the Treasury, in which it was recommended that provision be made for any contingency that might happen. If he could have got the ear of the committee this morning, he would have made explanations on this point.

The letter was read.

Mr. THOMPSON said, on hearing the letter read, he persisted in his motion to strike out all that part of the amendment which gave authority to issue treasury notes.

But Mr. T. withdrew his motion, at the request of—

Mr. VINTON, who renewed it, and made some further explanation.

Mr. HALL, of Missouri, renewing the amendment *pro forma*, said a few words especially in opposition to the loan of five millions.

Mr. ROCKWELL, of Connecticut, on a *pro forma* amendment, replied to some of the remarks of Mr. HALL.

The question was then taken on the amendment of Mr. THOMPSON, of Mississippi, striking out all that part of the amendment which related to treasury notes.

Tellers (Messrs. POLLOCK and THOMPSON of Mississippi) were appointed, and the vote stood—ayes 50, noes 60.

So the amendment was rejected.

The question again recurred on the amendment of the Committee of Ways and Means.

Mr. THOMPSON, of Pennsylvania, (on a *pro forma* amendment,) made a few remarks on the amendment of the committee, and in opposition thereto.

The question was then taken, and by ayes 73, noes 40, the amendment was agreed to.

On motion of Mr. VINTON, the committee rose and reported the bill and amendments to the House.

A message was received from the Senate informing the House that that body had passed a joint resolution suspending the sixteenth joint rule of the two Houses, so far as to allow the transmission of bills passed this day.

The House concurred in the resolution.

The hour of half past three having arrived, the House took a recess until six o'clock.

EVENING SESSION.

The SPEAKER took the chair, and called the House to order at six o'clock.

Mr. DIXON moved to reconsider the vote of yesterday, permitting Mr. LORD to submit a minority report on the subject of the inhalation of vapor or gas to destroy pain in surgical operations.

Mr. D., in support of his motion, said that he had adopted this mode of bringing the subject before the House, because it was too late to present to the Select Committee on the subject the facts which he was now able to lay before the House. That committee had reported before the representatives of Dr. Wells, the real discoverer, had an opportunity to be heard. The committee had acted on the subject with the intention of hearing all interested, and eliciting truth; but Dr. Wells being dead, his representatives did not appear in season to be heard. Mr. D. therefore asked the permission of the House to say a few words at this late stage of the session, in favor of the claims of Dr. Wells to the merit of having originated this great discovery. He would not ask a moment of the valuable time of the House at this time, were he not impelled to do so by what he considered an imperative duty. He wished to do justice to the memory of Dr. Wells, and he therefore asked that a letter from a distinguished physician and surgeon, Dr. Marcy of Hartford, Connecticut, to himself, might be read to the House; which he sent to the Clerk for that purpose.

Mr. D. then proceeded to say that his object was to protest against any conclusion which might have been drawn from the fact that the representatives of Dr. Wells did not appear before the committee. In his belief, founded on the statements of Dr. Marcy, Dr. Wells was the real discoverer, and this, it appears, was the opinion of the "Parisian Medical Society," at the head of which was the celebrated Ricord That society, as he was informed by Dr. Marcy fully investigated the subject, heard the claims of Dr. Jackson, Dr. Morton, and Dr. Wells, and finally decided in favor of the latter, and awarded to him the prize customarily given to discoverers, and voted him (Dr. Wells) an honorary member of their body.

Believing, therefore, that neither Dr. Jackson nor Dr. Morton were entitled to be declared the discoverer of the use of the agent referred to, (Mr. D. said,) he had thus briefly presented the claims of Dr. Wells, (as given in the letter of Dr. Marcy,) and should, if he found it necessary or desirable, take occasion hereafter to write out more fully the remarks which his desire not to waste the valuable time of the House in a debate which could have no practical result, had induced him to bring to an immediate close. Unless some gentleman wished to reply to what he had said, he would withdraw his motion to reconsider.

Mr. EDWARDS, by leave, made a brief explanation in defence of the action of the Select Committee on the subject.

Mr. WHITE stated, that when the Patent Office report was presented to the House, there was an omission to move the printing of the usual number. He now asked the general consent to make that motion.

No objection being made, the motion was received and agreed to.

INDIAN APPROPRIATION BILL.

The House resumed the consideration of the amendments to the Indian appropriation bill.

The action of the Committee of the Whole on the state of the Union upon all the amendments, except the following, was concurred in:

The ninth amendment of the Senate was read as follows:

For compensation to an agent and two interpreters for the Indian tribes of Texas, in addition to former appropriations for this object, three thousand dollars.

The following amendment thereto, reported from the Committee of the Whole on the state of the Union, was read and agreed to, viz:

For surveying the northern and western boundary lines of the country now owned by the Creek Indians, fifteen thousand dollars.

The question recurred on concurring with the Senate in their said ninth amendment as amended, and being put, it was decided in the affirmative.

So said ninth amendment was concurred in.

The tenth and last amendment of the Senate was then read, as follows:

For carrying into effect the treaty of 6th August, 1846, with the Cherokees in addition to the sums heretofore appropriated, the further sum of $1,231,424 75; that is to say, the sum of $586,398 46 to carry into effect the provisions of the fourth and fifth articles of the treaty of 6th August, 1846, with the Cherokees; and the sum of $645,026 29 to carry into effect the ninth article of the said treaty with the Cherokees.

[To this amendment of the Senate, the Committee of the Whole on the state of the Union reported an amendment: which see above.]

The question being on concurring in the action of the committee upon the amendment reported from the Committee of Ways and Means in relation to the settlement of the Cherokee claims, and to the issuing of treasury notes—(see morning's proceedings.)

Mr. BRODHEAD called for a division of the question, so as to take a separate vote upon the clause relative to the issue of treasury notes.

Mr. VINTON made the point that the amendment was not divisible.

The SPEAKER decided that the question was not divisible. The amendment reported from the Committee of the Whole must be acted upon as one amendment.

Mr. HALL, of Missouri, asked a separate vote upon this amendment.

Mr. BRODHEAD appealed from the decision, that the amendment could not be divided.

The question was taken on the appeal, and the decision of the Chair was sustained.

Mr. PHELPS asked the yeas and nays upon concurrence in the adoption of the amendment.

The yeas and nays were ordered, and being taken, were—yeas 64, nays 73—as follows:

YEAS—Messrs. Ashmun, Barringer, Blackmar, Boyden, Brady, Buckner, Canby, Conger, Cranston, Crisfield, Crowell, Crozier, Dickey, Dixon, Duer, Garnett Duncan, Eckert, Edwards, Nathan Evans, Freedley, Fulton, Gaines, Gentry, Giddings, Gott, Greeley, Grinnell, Hale, Nathan K. Hall, Moses Hampton, Henry, Hudson, Daniel P. King, Levin, Maclay, McIlvaine, Horace Mann, Marsh, Marvin, Morehead, Nelson, Newell, Outlaw, Palfrey, Pollock, Preston, Putnam, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Shepperd, Sherrill, Caleb B. Smith, Truman Smith, Andrew Stewart, Strohm, Taylor, Thibodaux, Tompkins, Vinton, Warren, and Wentworth—64.

NAYS—Messrs. Atkinson, Bingham, Birdsall, Bocock, Bowdon, Bowlin, Boyd, Bridges, Brodhead, Franklin Clark, Howell Cobb, Williamson R. W. Cobb, Cummins, Daniel, Edsall, Embree, Faran, Featherston, Ficklin, French, Goggin, Green, Willard P. Hall, Hammons, Haralson, Harris, Henley, Hill, George S. Houston, Inge, Charles J. Ingersoll, Iverson, Jameson, Jenkins, Robert W. Johnson, George

W. Jones, Kennon, La Sère, William T. Lawrence, Sidney Lawrence, Ligon, Lord, Lyude, McClelland, McKay, McQueen, Job Mann, Miller, Morris, Morse, Mullin, Murphy, Petrie, Peyton, Phelps, Rhett, Robinson, Rose, Sawyer, Simpson, Smart, Stanton, Starkweather, Strong, Thomas, Jacob Thompson, Thurston, Tuck, Venable, White, Wick, Williams, and Wilson—73.

So the amendment was not concurred in,

Mr. VINTON said, that after the vote which had just been taken, he would move to disagree to the amendment of the Senate, appropriating twelve hundred and thirty-one thousand dollars for the Cherokee claims, &c.

Mr. V. proceeded to make an explanation of the facts; but, owing to the great noise in the Hall, by which almost every word he spoke was lost, he resigned the floor, simply submitting his motion to disagree.

Mr. ASHMUN moved the previous question.

Several gentlemen asked Mr. VINTON to proceed with his explanation.

Other members addressed the Chair.

The SPEAKER said he would recognize no member until order was restored.

There were several claims to the floor.

The SPEAKER said gentlemen would take their seats; there was so much noise that it was impossible to hear. The gentleman from Massachusetts [Mr. ASHMUN] was entitled to the floor.

Mr. ASHMUN demanded the previous question.

Several members still asked Mr. VINTON to proceed.

Mr. VINTON said that gentlemen appealed to him to go on; and yet, when he took the floor, he could not obtain a hearing.

At length he proceeded with his explanation of facts, and submitted that no more money should be paid to the Indians until we should have had a final settlement. The amount due (he said) had not yet been ascertained.

The House had decided, by the rejection of the amendment, not to authorize the issue of treasury notes; and the state of the treasury, in his opinion, would not justify the payment of this debt before it became due. When it became due, it was our duty to pay it, whether we had the means or not; if we had not got them, we must borrow them.

Mr. BARRINGER made a brief explanation.

Mr. STEPHENS spoke briefly in favor of the amendment of the Senate. He regarded it as eminently proper. He did not concur with the gentleman from Ohio [Mr. VINTON] that this was a debt *in futuro*. It was a debt now due.

Mr. VINTON explained.

Mr. STEPHENS further advocated the amendment, (yielding the floor for explanation to Messrs. TOOMBS and VINTON.)

Further explanations and remarks were made by Messrs. VINTON and STEPHENS.

Mr. POLLOCK expressed himself in favor of striking out the Senate's amendment, and inserting so much of the amendment of the Committee of Ways and Means as related to the settlement of the claim. He made a motion to that effect. He expressed his entire concurrence in the views of Mr. STEPHENS.

Mr. EMBREE moved to reconsider the vote by which the amendment reported from the Committee of Ways and Means (and adopted by the Committee of the Whole) had been rejected.

Mr. HALL, of Missouri, moved to lay the motion to reconsider on the table.

Mr. ROCKWELL, of Connecticut, asked the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered, and being taken, were: Yeas 88, nays 89, as follows:

YEAS—Messrs. Atkinson, Bayly, Beale, Bingham, Bowdon, Bowlin, Boyd, Bridges, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Canby, Cathcart, Clapp, Franklin Clark, Howell Cobb, Williamson R. W. Cobb, Collins, Cummins, Daniel, Edsall, Faran, Featherston, Ficklin, French, Goggin, Green, Willard P. Hall, Hammons, Haralson, Harris, Henley, Hill, George S. Houston, Inge, Charles J. Ingersoll, Iverson, Jameson, Jenkins, Andrew Johnson, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Lahm, La Sère, Sidney Lawrence, Leffler, Ligon, Lord, McClelland, McClernand, McKay, McQueen, Job Mann, Meade, Miller, Morris, Morse, Mullin, Murphy, Peck, Petrie, Peyton, Phelps, Pilsbury, Rhett, Robinson, Rockhill, Rose, Simpson, Robert Smith, Stanton, Charles E. Stuart, Strong, Thomas, Jacob Thompson, Thurston, Toombs, Turner, Wentworth, Wick, Wiley, Williams, Wilmot, Wilson, and Woodward—88.

NAYS—Messrs. Abbott, Ashmun, Barringer, Blackmar, Botts, Boyden, Brady, Buckner, Burt, Chapman, Clingman, Cocke, Conger, Cranston, Crisfield, Crowell, Crozier, Dickey, Dixon, Donnell, Duer, Garnett Duncan, Eckert, Edwards, Embree, Nathan Evans, Farrelly, Fisher, Freedley, Fulton, Gaines, Gentry, Giddings, Gott, Greeley, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Henry, Hilliard, Elias B. Holmes, Hubbard, Hudson, Hunt, Irvin, John W. Jones, Kellogg, Daniel P. King, William T. Lawrence, Lincoln, McIlvaine, Horace Mann, Marsh, Marvin, Morehead, Nelson, Nes, Newell, Outlaw, Palfrey, Pendleton, Pollock, Preston, Putnam, Reynolds, Julius Rockwell, J. A. Rockwell, Roman, Root, Rumsey, St. John, Shepperd, Sherrill, Slingerland, Caleb B. Smith, Truman Smith, Stephens, Andrew Stewart, Strohm, Tallmadge, Taylor, Thibodaux, John B. Thompson, Tompkins, Van Dyke, Vinton, and Warren—89.

So the motion to reconsider was not laid on the table.

The question then recurred on the reconsideration of the vote by which the amendment of the Committee of Ways and Means had been rejected.

Mr. JONES, of Tennessee, asked for the yeas and nays; which were ordered, and being taken, were—yeas 91, nays 86, as follows:

YEAS—Messrs. Abbott, Barringer, Blackmar, Botts, Boyden, Brady, Buckner, Burt, Butler, Chapman, Clingman, Cocke, Conger, Cranston, Crisfield, Crowell, Crozier, Dickey, Dixon, Donnell, Duer, Garnett Duncan, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Farrelly, Fisher, Freedley, Fulton, Gaines, Gentry, Giddings, Gott, Greeley, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Moses Hampton, Henry, Hilliard, Elias B. Holmes, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, Irvin, Kellogg, Daniel P. King, William T. Lawrence, Levin, Lincoln, Lord, McIlvaine, Horace Mann, Marsh, Marvin, Morehead, Nelson, Nes, Outlaw, Palfrey, Pendleton, Pollock, Preston, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Roman, Rumsey, St. John, Shepperd, Sherrill, Slingerland, Caleb B. Smith, Truman Smith, Stephens, Andrew Stewart, Strohm, Tallmadge, Taylor, Thibodaux, John B. Thompson, Tompkins, Tuck, Van Dyke, Vinton, and Warren—91.

NAYS—Messrs. Atkinson, Bayly, Beale, Bingham, Bowdon, Bowlin, Boyd, Bridges, Brodhead, Charles Brown, Albert G. Brown, Canby, Cathcart, Franklin Clark, Howell Cobb, Williamson R. W. Cobb, Collins, Cummins, Daniel, Darling, Edsall, Faran, Featherston, Ficklin, French, Goggin, Green, Willard P. Hall, Hammons, Haralson, Harris, Henley, Hill, George S. Houston, Inge, Charles J. Ingersoll, Iverson, Jameson, Jenkins, Andrew Johnson, James H. Johnson, Robert W. Johnson, George W. Jones, Kaufman, Lahm, La Sère, Sidney Lawrence, Leffler, Ligon, McClelland, McClernand, McKay, McQueen, Job Mann, Meade, Miller, Morris, Morse, Mullin, Murphy, Peck, Petrie, Peyton, Phelps, Pilsbury, Rhett, Richey, Robinson, Rockhill, Simpson, Smart, Robert Smith, Stanton, Charles E. Stuart, Strong, Thomas, Jacob Thompson, William Thompson, Thurston, Turner, Venable, Wentworth, Wick, Wiley, Williams, and Wilmot—86.

So the vote was reconsidered,

And the question recurring on agreeing to the said amendment—

Mr. WHITE offered an amendment striking out from the amendment of the Committee of Ways and Means so much as proposed to issue treasury notes, and inserting in lieu thereof a provision authorizing the President to borrow five millions of dollars, and issue stock under the same limitations and restrictions as are contained in the act of July 21, 1841—said stock to be redeemable at any time within twenty years.

Mr. VINTON briefly opposed the amendment. The original proposition of the Committee of Ways and Means authorized the issue of treasury notes, if there should be a deficit in the treasury. It was a provision for a contingency merely.

Mr. V. also objected to the long period of twenty years, in the present state of the stocks of the Government, which commanded a high premium.

Some explanation followed between Messrs. WHITE and VINTON.

Mr. STEPHENS demanded the previous question, which was seconded; and the main question was ordered to be now taken, (which main question was first on the amendment of Mr. WHITE to the amendment of the Committee of Ways and Means.)

Mr. HALL, of Missouri, asked the yeas and nays; which were refused.

And the question being taken, the amendment of Mr. WHITE was rejected.

The question recurring on the original amendment of the Committee of Ways and Means—

Mr. WHITE asked the yeas and nays, which were ordered.

Mr. BRODHEAD inquired if the amendment was susceptible of division?

The SPEAKER replied in the negative.

Mr. HAMMONS called for the reading of the amendment; which was again read.

And the question on agreeing to the said amendment was then taken, and decided in the affirmative—yeas 92, nays 85, as follows:

YEAS—Messrs. Abbott, Ashmun, Barringer, Blackmar, Botts, Boyden, Brady, Buckner, Burt, Butler, Cabell, Chapman, Clapp, Clingman, Cocke, Conger, Cranston, Crisfield, Crozier, Dickey, Dixon, Donnell, Duer, Garnett Duncan, Dunn, Eckert, Edwards, Embree, Nathan Evans, Farrelly, Fisher, Freedley, Fulton, Gaines, Gentry, Giddings, Gott, Greeley, Grinnell, Hale, Nathan K. Hall, Hammons, James G. Hampton, Moses Hampton, Henry, Hilliard, Elias B. Holmes, Hubbard, Hudson, Hunt, Joseph R. Ingersoll, Irvin, John W. Jones, Daniel P. King, Levin, Lincoln, McIlvaine, Horace Mann, Marsh, Marvin, Morehead, Nelson, Nes, Outlaw, Palfrey, Pendleton, Pollock, Preston, Putnam, Julius Rockwell, John A. Rockwell, Roman, Rumsey, St. John, Shepperd, Sherrill, Slingerland, Caleb B. Smith, Truman Smith, Stephens, Andrew Stewart, Strohm, Tallmadge, Taylor, Thibodaux, John B. Thompson, Tompkins, Tuck, Van Dyke, Vinton, Warren, and Woodward—92.

NAYS—Messrs. Atkinson, Bayly, Beale, Bingham, Birdsall, Bowdon, Bowlin, Boyd, Bridges, Brodhead, William G. Brown, Charles Brown, Albert G. Brown, Canby, Cathcart, Franklin Clark, Howell Cobb, Williamson R. W. Cobb, Collins, Cummins, Daniel, Edsall, Faran, Featherston, Ficklin, French, Goggin, Green, Willard P. Hall, Haralson, Harris, Henley, Hill, George S. Houston, Inge, Charles J. Ingersoll, Iverson, Jameson, Jenkins, Andrew Johnson, James H. Johnson, George W. Jones, Kaufman, Kellogg, Lahm, La Sère, Sidney Lawrence, Leffler, Ligon, Lynde, McClelland, McClernand, McKay, McQueen, Job Mann, Meade, Miller, Morse, Mullin, Peck, Petrie, Peyton, Phelps, Reynolds, Rhett, Richey, Robinson, Rockhill, Rose, Simpson, Smart, Robert Smith, Stanton, Charles E. Stuart, Strong, Thomas, Jacob Thompson, William Thompson, Thurston, Toombs, Turner, White, Wick, Wiley, and Williams—85.

So the amendment was agreed to.

EXTRA PAY.

Mr. THOMPSON, of Mississippi, asked the general consent, and gave notice, if that were refused, he should move a suspension of the rules, to enable him to offer a resolution extending the usual extra compensation to the lamp-lighters employed upon the Capitol grounds and on Pennsylvania avenue.

Mr. HALL, of Missouri, objecting—

The question was taken on suspending the rules, and decided in the negative.

INDIAN APPROPRIATION BILL.

On motion of Mr. VINTON,

Ordered, That a message be sent to the Senate informing that body that on examining the bill making appropriations for the current and contingent expenses of the Indian Department, and fulfilling treaty stipulations with the various Indian tribes for the year ending 30th June, 1850, two items are discovered, amounting together to $34,000, not required to be appropriated.

On motion of Mr. VINTON,

Ordered, That the Committee of Ways and Means have leave to sit during the sessions of the House.

ARMY OFFICERS.

Mr. MILLER moved to suspend the rules, to discharge the Committee of the Whole on the state of the Union from the further consideration of the bill to extend the provisions of the 9th section of the act of February 11, 1847, to raise for a limited time a military force, and for other purposes, to the commissioned officers below the rank of brigadier general who served in the late war with Mexico.

He stated that the Committee on Military Affairs had reported an amendment, to substitute for "brigadier general," "major general."

The question was taken by tellers, and decided in the negative—ayes 50, noes not counted.

Mr. JONES, of Tennessee, moved that the House adjourn. Rejected.

DUTIES IN MEXICO.

Mr. NICOLL (objection being made) moved to suspend the rules, to allow him to introduce a resolution providing for the printing of 10,000 extra copies of the majority and minority reports of the Select Committee on the subject of the duties collected in Mexico. Rejected.

MEXICAN CLAIMANTS.

Mr. EDWARDS (objection being made) moved to suspend the rules, to go into Committee of the Whole on the state of the Union for the consideration of the bill relative to Mexican claimants.

The SPEAKER stated that the motion to go into committee upon a particular bill would require a vote of two-thirds.

Mr. HALL, of Missouri, moved that the House proceed to the consideration of business on the Speaker's table.

The SPEAKER stated that the motion to suspend the rules had priority.

Mr. HOUSTON, of Alabama, asked the yeas and nays; which were refused.

The question was taken on the motion to suspend the rules, and was decided in the negative.

On motion of Mr. HARALSON, the Committee on Military Affairs were discharged from the consideration of certain bills, and they were laid on the table.

Mr. FARAN moved to suspend the rules, to enable him to offer a resolution giving the Secretary of the Treasury until the next session to make the report required of him under a joint resolution of Congress, relative to lands in Cincinnati.

The resolution was received and adopted.

Mr. SCHENCK moved to suspend the rules, to take up the bill for the relief of the captors of the frigate Philadelphia, commonly known (he said) as Mrs. Decatur's bill. Rejected.

On motion of Mr. STUART, of Michigan, a resolution was adopted declaring that the reports of Lieutenants Colonel Emery, Abert, and Cook, and Captain Johnson, having been bound together, but 250 copies of the volume be furnished to the Topographical Bureau.

Mr. COBB, of Georgia, said he did not think the House was likely to do any good here to-night. He would therefore move that the House adjourn.

Tellers (Messrs. WENTWORTH and EDWARDS) were appointed.

And the question being taken, the vote stood—ayes 86, noes 68.

The yeas and nays were then asked and ordered, and being taken, were—yeas 89, nays 57.

So the House adjourned.

PETITIONS, ETC.

The following petitions and memorials were presented under the rule and referred:

By Mr. RUMSEY: The petition of Amanda M. Stillwell and others, ladies of Friendship, Alleghany county, New York, asking Congress to exercise its constitutional powers to restrain and abolish slavery.

By Mr. MORRIS: The petition of citizens of Clermont county, Ohio, petitioning Congress for the freedom of the public lands.

By Mr. STROHM: A memorial signed by citizens of Pennsylvania, remonstrating against the extension of slavery in the Territories acquired from Mexico, and praying that slavery may be abolished in the District of Columbia.

IN SENATE.

FRIDAY, *March* 2, 1849.

A message was received from the President of the United States, communicating a report of the Solicitor of the Treasury, showing the operations of the Solicitor's Office since its organization; which was read and ordered to be printed.

And, on motion by Mr. WESTCOTT, it was

Ordered, That 1,000 additional copies be printed for the use of the Solicitor's Office.

CREDENTIALS.

Mr. BERRIEN presented the credentials of the Hon. WILLIAM C. DAWSON, chosen a Senator by the Legislature of the State of Georgia for six years from and after the 4th day of March next; which were read.

PETITIONS AND MEMORIALS.

Mr. NILES presented a petition of citizens of Rock county, Wisconsin, and a petition of citizens of New York, praying that the rates of postage may be reduced, and the franking privilege be abolished; which were laid on the table.

Mr. N. also presented a petition of citizens and females of Pennsylvania, praying the adoption of measures for abolishing slavery throughout the United States; the motion to receive which was ordered to lie on the table.

Mr. SEBASTIAN submitted documents relating to the claims of W. W. Stevenson, register, and Lemuel R. Lincoln, receiver at the Land Office in Little Rock, Arkansas, to compensation for services in superintending certain sales of public lands at that office; which were laid upon the table.

Mr. CAMERON presented a petition of citizens of Mifflin county, Pennsylvania, praying that the rate of postage may be reduced, and the franking privilege abolished; which was referred to the Committee on the Post Office and Post Roads.

Mr. DAVIS, of Mississippi, presented the petition of H. L. Kendrick, an officer in the army, praying to be discharged from responsibility for a sum of public money of which he was robbed during the evacuation of Puebla, in Mexico, by the United States forces; which was referred to the Committee on Military Affairs.

JUDICIARY.

Mr. BUTLER, from the Committee on the Judiciary, to whom was referred House bill to authorize the judge of the courts of the United States of the fifth circuit to hold the circuit court for the district of Kentucky, reported the same without amendment, and asked that it be considered; which was agreed to.

The Senate then, as in Committee of the Whole, proceeded to the consideration of said bill; and no amendment being submitted, it was reported to the Senate, ordered to a third reading, was read a third time, and passed.

JOEL THATCHER.

On motion of Mr. TURNEY, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill granting a pension to Joel Thatcher; and no amendment being offered, it was reported to the Senate, ordered to a third reading, was read a third time, and passed.

CLERK FOR COMMITTEE ON CLAIMS.

On motion of Mr. MASON, the Senate proceeded to the consideration of the following resolution, submitted by him on the 18th July last:

Resolved, That the Committee on Claims be authorized to employ a clerk annually, whose duties shall be the same as those now performed by the clerk of the Committee on Claims of the House of Representatives, until otherwise directed; to be paid monthly, by the Secretary of the Senate, out of the contingent fund, such compensation as shall be fixed by the committee, not exceeding that allowed to engrossing clerks of the Senate.

Mr. MASON said that the Committee on Claims had a large amount of business which they had been unable to act upon, and that they had instructed him, in place of asking to be discharged from the business that had not been acted upon, to ask the Senate to take up a resolution which he had reported, and which had been adopted by the House. He asked that the resolution be now taken up. It was for the employment of a clerk to assist that committee.

Mr. M. further said, that he would state, in a few minutes, the reasons that induced the committee to ask the Senate to take up the resolution which was reported last session. The House of Representatives had, in 1843, adopted that measure, and they had found it to be of immense benefit to the Committee of Claims in that body. It was not only lessening the labors of the Committee, but it also enabled them to guide their labors in the investigation of claims with intelligence and understanding. The committee asked that the Senate would at once consider the resolution and adopt it.

Mr. BENTON said that he was utterly opposed to the business of employing clerks. It was only a few days ago that the Senate had appointed an additional number of clerks, during the session, to assist the committees while they were at work. He had never had a clerk to assist him at all. He may have employed his son in some cases, but he had never employed a clerk in discharging the duties of the committees on which he had been placed. A clerk had been employed by the Committee on Claims of the House of Representatives; but a clerk in that committee was more needed than one in that body, as that was the more proper place for claims to originate than in the Senate, and as the same claims would have always to come before that body. There were already three clerks for their committee; the one that had been employed by the House of Representatives to assist the committee in that body, the Clerk of the House of Representatives, and the Secretary of the Senate. These made three clerks, all of whom would assist the Committee on Claims in the Senate. The effect of the bill would be to pay clerks for walking about town during the recess of Congress.

Mr. HUNTER inquired if the subject was up before the Senate.

The VICE PRESIDENT stated that the motion was to take up the resolution.

Mr. TURNEY hoped that the resolution would not be taken up. He did not know whether it was intended to make the office a permanent one or not. At that time he was opposed to any action on the subject. A bill had already passed the House of Representatives authorizing the appointment of a board for the adjustment of private claims, and if that bill could pass the Senate, there would be no necessity for the additional clerk. He would hope that the Senate would abandon the idea of passing that resolution, and he would move to take up that bill. He was in favor of it in almost any shape in which it could be presented, as it would relieve Congress of the immense labor of examining private claims.

Mr. BRADBURY inquired if it was the bill providing a board for the investigation of private claims. He expressed a desire, if such were the case, that that bill should be taken up.

Mr. TURNEY moved to lay on the table the motion to take up the resolution, but withdrew it at the instance of—

Mr. RUSK, who said that he had been on the Committee on Claims, and knew the importance of that committee to the interests of the country to be such as to require that the office be made a permanent one. He had frequently been under the necessity of going before the clerk appointed by the House of Representatives for the purpose of getting information on particular claims. Sometimes he could get the information from the clerk, and sometimes he could not, as he was under the direction of the committee of the House of Representatives. Claims that are presented to one body and rejected are often renewed in seven years. It was necessary to preserve all the evidence in such claims, when they should come up again; and if they had the clerk, he could, in a few minutes, furnish them with it. He hoped the resolution would be taken up and passed.

Mr. TURNEY had but a word in reply. He intended to renew his motion; but he wished first to reply to the remark of the Senator from Texas. He thought that if that bill should pass, there would be no necessity for the resolution.

Mr. RUSK (interposing) said that the committee employed the clerk.

Mr. TURNEY wished to know why they wanted to pass the resolution to make the office a permanent one. He thought there was no propriety for that course. If the bill providing the board for settling those claims should pass the Senate, the office would be wholly unnecessary. The clerk would be most likely to become the prosecutor of claims. Such had been pretty much the case in the House. For these reasons he was opposed to the resolution, and he would renew his motion to lay it on the table.

Mr. MASON asked the Senator from Tennessee to withdraw his motion for a few minutes.

Mr. TURNEY withdrew the motion.

Mr. MASON had a word to reply to the Senator from Missouri, [Mr. BENTON.] He presumed that Senator had not been on the Committee on Claims for the last twenty years, and could not be aware of the amount of business before that committee. The Committee on Claims had instructed him to report that resolution; and he would say, that when the proposition to authorize the appointing of a board for the examination of private claims should come up before the Senate, he would vote for it. There were claims which had been before Congress for the last fifteen or twenty years, that ought to be passed. He hoped that the Senate would not lay the resolution on the table; but, being bound to do so, he would renew the motion to lay on the table.

The question being taken on the motion to lay on the table, it was agreed to.

REMISSION OF DUTIES.

On motion by Mr. HUNTER, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill to remit the duties upon certain goods destroyed by fire in the city of New York.

Mr. H. moved to amend the bill by adopting a substitute therefor.

Mr. WEBSTER said, that after a few remarks he would move, as a test question, to lay that bill on the table. There was a bill from the House on that subject which he thought he could support; but the one now before the Senate, in its present shape, he could not support. He saw no principle in it, but mere partiality. It was to assume the duties on the goods lost by the fire in New York, so far as respects the owners of those goods; but the underwriters on similar goods, who had paid for the loss, were not to be indemnified. He would be glad to know upon what principle that discrimination was made. The loss on the insurance was as much a loss as that on the goods. It was a strange idea to him that the insurance offices, who owned the property to the extent of had not been recognized heretofore where property their interest, should not be relieved because they had at three per cent. commission. That principle was lost in insurance, and just claims were made for compensation. To try the sense of the Senate upon the subject, he would move to lay it on the table.

Mr. HUNTER and Mr. PHELPS both requested the gentlemen to withdraw the motion.

Mr. WEBSTER said that he would withdraw it for two minutes—one minute for the Senator from Vermont, and one minute for the Senator from Virginia.

Mr. PHELPS proposed an amendment which had been examined and concurred in by the chair-

man of the Committee on Finance. He had the same objection to the bill as the one mentioned by the Senator from Massachusetts. He would move to strike out that expression in the bill which applied to the insurance companies. Having offered this amendment, if it should be rejected he would of course let the question be taken on the motion of the Senator from Massachusetts.

Mr. HUNTER had but a single word to say at that time; and he would not have said anything, had not the remarks made by the Senator from Massachusetts seemed to demand it. It had been asked, upon what possible principle could a discrimination be made in favor of one class of sufferers over those of another? It was the precise discrimination which had been made in reference to the sufferers from the fire of 1837. That bill, as the one now before the Senate, discriminates between the insurer and importer. The principle upon which the discrimination was made was a very clear one. The insurer was paid for the risk he runs—it came into his business; while such was not the case with the importer.

Mr. BADGER said that he was opposed to both the bill in its original shape, and also to the amendment; and for the purpose of testing the sense of the Senate in regard to them, he would move to lay both the bill and the amendment on the table.

The question being taken on this motion, it was decided not to lay on the table by a vote of ayes 16, noes 19.

Mr. BRADBURY inquired of the Senator from Virginia whether the bill was to provide for future cases?

Mr. HUNTER replied that he supposed it was.

Mr. BRADBURY suggested whether there might not be some difficulty in adopting the amendment with regard to the indemnifying of insurance offices for the losses they sustained. They were paid a certain premium for their insurances. They would, in that case, be indemnified for the very losses which they were paid to encounter. He would ask the Senator from Vermont whether the effect of the amendment would be to indemnify the insurance offices for their insurance of goods destroyed by fire? If so, he was opposed to it. He was opposed to it, for the simple reason, that when they insure, they get the premium for which they run the risk.

Mr. PHELPS would explain his object. It was to give the insurer the same benefit of the act that the insured himself would have; that is to say, if goods were insured, and the insured received the whole value of the goods from the insurer, he would give the insurer himself the benefit of that act.

Mr. CALHOUN. I have not read this bill, nor do I know what its provisions are. I understand, as the bill now reads, that the insurer is not to be paid, but the indemnity is limited to the goods insured. I am not prepared to vote for the bill. As I understand it, sir, all dealers sell their goods at a price sufficient to pay for the insurance, freight, expenses, and the general hazards they are liable to incur, and among these is the hazard of fire. They charge a price to make the business profitable, everything considered. If that be so, the dealer, who is not insured, stands in very much the same position with him who is insured. The latter are self-insured. They charge an additional price to cover the risk of fire. The very argument against insurers applies to these dealers, for they are the insurers of their own property. They charge an additional price; retaining, in this manner, the premium charged by other insurers. I have never seen my way clear in attempting to distinguish between this and other cases of fire. I know that when an evil falls upon large masses, our sympathies are so powerful that we can scarcely resist them. But it seems to me that we should look at the facts and bearings of our legislation. This bill is to make the Government an insurer of goods. Now, sir, I hold that the proper way is to consider each man who is not insured by others as self-insured. Under this impression, unless it shall be removed, I shall feel constrained to vote against the bill.

Mr. HUNTER said that he had a word or two in reply to the Senator from South Carolina. He had paid considerable attention to that subject. It was difficult to do justice to all in a case of this kind. That bill provided for commissions, but left it to the Secretary of the Treasury to decide. He [Mr. CALHOUN] had said, however, that there was no difference between the insurer and the insured, and in the other cases of fire, no difference between the merchants and the insurer. There was a great difference. The merchant expected only to encounter the ordinary risks of trade, and he received, in consideration, only what was sufficient to induce him to carry on that trade. This was the only Government in the world that charged duties on goods lost by fire. Since they were intended for the home consumption, being destroyed they could not be used in that way. Others must be imported to supply their place; and the Government loses nothing by omitting to charge the duties on such goods. There were means of preventing fraud, and of ascertaining the facts exactly. The bill had been revised by the Secretary, and he did not believe it could be better guarded in its language. The principle of the bill he also believed to be correct.

Mr. CALHOUN. The view of my friend does not seem to me to be correct. I will propound to him a question. Suppose the goods have been insured, would you refund the amount to the merchant which you are paid for the duties?

Mr. HUNTER. Being insured, this bill does not give him any indemnity.

Mr. CALHOUN. That is the very point to which I wish to call your attention. That is just and right; he should not be twice indemnified. But why should not the insurance company be indemnified? True, they have received their premium; but so with the merchant, who is self-insured. Does he not lay a general charge upon what he sells to cover the expense of insurance? And does he not, by retaining that amount instead of paying it to an insurance company, virtually insure his own property, and receive the premium upon that insurance?

Mr. HUNTER. They do lay this general charge, and will do so, unless the Government saves them from it by this bill.

Mr. CALHOUN. Precisely. Then the Government would become the insurer. It seems to me to be a great deal better that each man should be made to have his goods insured, or to insure himself by making this general charge.

Mr. WEBSTER. It is perfectly clear, that if this were a matter of law or legal right, to be maintained for the recovery of those duties, the case would not be here. It is a case, therefore, for the just consideration of Congress; and I confess it is not the first time that I have been astonished, but I am always astonished at the occurrence of any attempt to maintain a different equity, and a different ground of claim upon the Government, in the case of a man who has not been insured, and the case of a man who has been insured and has paid the premium. Now, the sentiment of the Senator from South Carolina, in his view of the case, is perfectly just. Every man who does not insure means to stand his own insurer. When a man does not insure, you let him come to the Government; but if he does insure, and is paid by the insurer, in that case you pay nobody. Is the case not so?

Mr. HUNTER made one or two remarks, which were inaudible; and the replies of Mr. W. are therefore necessarily omitted.

Mr. WEBSTER. The gentleman says other goods will be imported equal to the amount of goods before imported, and instead of them; and if you get duties upon all the goods that are insured, you get double duties. Sir, we have discussed this question over and over, and over again, in those foreign stipulations which we have entered into for the recovery of spoliations at sea. Half the money, and more too, that has been paid under the British treaty, the Spanish treaty, and the French treaty, was paid to insurance companies, because the loss fell upon them. They are, in the estimation of the law, purchasers of the goods; they have the interest on the goods and the benefit of the insurance. The recollection of every one acquainted with these cases must bear me out in that. It is plain, it is theirs in justice. But I see, sir, that this matter is to be disputed. The motion of my honored friend from Vermont [Mr. PHELPS] put the matter, as I conceived, in the right attitude. That not having prevailed, I renew the motion to lay the bill on the table, which I do not intend to withdraw.

The question being taken upon the motion to lay upon the table, it was agreed to.

PUNISHMENT OF CRIMES.

Mr. BUTLER, from the Committee on the Judiciary, to whom was referred the bill to amend an act more effectually to provide for the punishment of certain crimes against the United States, and for other purposes, approved March 3, 1825, and an act authorizing the issue of treasury notes, a loan, and for other purposes, approved January 28, 1847, reported it without amendment.

ADJUSTMENT OF LAND CLAIMS.

Mr. WESTCOTT, from the Committee on the Judiciary, to whom was referred the bill to amend the act approved June 17, 1844, entitled "An act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and those parts of the States of Mississippi and Alabama south of the 31st degree of north latitude, and between the Mississippi and Perdido rivers," reported it with an amendment.

Mr. W. also, from the same committee, to whom was referred the petition of —— Tunstell in behalf of the heirs of Jaques Clamargan, submitted a report, accompanied by a bill amendatory of an act approved 26th May, 1824, and reënacted on the 17th June, 1844, entitled "An act enabling claimants to lands within the limits of the State of Missouri and State of Arkansas, to institute proceedings to try the validity of their claims;" which was read and passed to a second reading, and the report was ordered to be printed.

APPELLATE JURISDICTION.

Mr. W. also, from the same committee, to whom was referred the bill in relation to the act to regulate the exercise of the appellate jurisdiction of the Supreme Court of the United States in certain cases, and for other purposes, approved 23d February, 1847, reported back the same with an amendment.

PETER M. MORGAN.

Mr. SEBASTIAN, from the Committee on Patents and the Patent Office, to whom was referred the petition of Peter M. Morgan, submitted an adverse report; which was ordered to be printed.

On motion of Mr. SEBASTIAN,

Ordered, That the petitioner have leave to withdraw his petition and papers.

MARIA L. NOURSE.

Mr. UNDERWOOD, from the Committee on Claims, asked that said committee be discharged from the further consideration of the petition of Maria L. Nourse; which was agreed to.

EXTRA PAY TO VOLUNTEERS.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, to whom was referred the resolution giving three months' extra pay to volunteers in the Mexican war for each term of enlistment, made an adverse report; which was ordered to be printed.

ERROR.

Mr. WALKER, by unanimous consent, introduced a resolution to correct an error in the bill recently passed for the change of a land office in Wisconsin, in which the word "Territory" was used instead of "State;" which was read three times and passed.

RETIREMENT OF THE VICE PRESIDENT.

The VICE PRESIDENT here arose and addressed the Senate as follows:

GENTLEMEN OF THE SENATE: The close of my official term being near at hand, I conform to an established and convenient practice, by withdrawing from the deliberations of this body, and thus creating the occasion for the choice of a temporary President.

It is impossible for me, however, to do this, without begging you, each and all, to accept my thanks for the courtesy and respect by which you have lightened the burden of my service in your Chamber.

The elevated principle and dignified tone which mark the proceedings of the Senate; the frank and yet forbearing temper of its discussions; the mutual manifestations of conciliatory deference, so just and appropriate among the delegates of independent States; and the consequent calmness and precision of its legislative action, have attracted to it a very large share of veneration and confidence. Four years of experience convince me that this confidence is not misplaced. It is true, that such an assembly, constantly handling topics of the widest bearing, of the highest and deepest concern to diversified constituencies, cannot avoid being occasionally disturbed by conflicting sentiments of patriotic duty, or by sudden impulses of feeling. But these transient disturbances are too intimately and obviously associated with representative fidelity, with unquestionable freedom of

debate, and with a quick sense of public honor, to be subject to entire repression by the strictest rules of order. They are, indeed, rare, passing over the scene like flashes which do but startle, and then cease, and which serve only to exhibit in stronger relief the grave decorum of its general conduct. Long, forever, may this character be maintained in the Senate, strengthening, as it cannot fail to strengthen, the attachment of the American people to their admirable constitution of government.

You will, I trust, pardon me if I protract, for an instant, these parting words, in order to utter one or two sentiments, derived solely from my position as an agent of the nation.

A *right* to vote upon any question pending before this body, when its members are equally divided, is given to the Vice President by the Constitution; and *the duty* to exercise that right is imposed upon him by an express rule of the Senate.

Although it so happened that equal divisions have occurred, during my official term, with unusual frequency—not less than *thirty* times—and although no one can be insensible to the signal responsibility of giving to this or the other scale, on such contingencies, the final preponderance, I am not aware of having faltered in casting my suffrage as, in my conscience, I believe the people of the United States, and especially that vast majority of them whose judgments and affections cling with ever-renewing conviction and devotion to the harmony and duration of the Union, would have prescribed. Of the cardinal duties of American functionaries, I have deemed *that* to be the foremost which consists in practically upholding and exemplifying the beneficence, independent social organization, equality, and fraternity, so distinctly and directly inculcated in the Constitution. Nor, Senators, is any man fit to participate in the government of great societies, with elements combined as ours are, who hesitates about disobliging the few who have access to or surround him, for the sake of the many whom he can never see. In these reflections lies the simple and safe rule of truly patriotic action. I am far from the self-flattery of supposing that the deciding votes so often, and sometimes so suddenly, required at my hands, conformed unerringly to this rule; but I cannot repress the hope that time and trial will prove them to have been as positively right as I am absolutely certain they were rightly intended.

My draught, gentlemen, on your generous indulgence is a heavy one, when I ask you to forget or overlook the many imperfections with which the duties of the chair have been discharged. Its labors, occasionally more arduous and anxious, are always more absorbing than is generally supposed; and I undertook them with an oppressive consciousness of inexperience. Now that I am finally relieved from the burden, let me say that I shall take back to the private pursuits whence I was unexpectedly called the most grateful recollections of your kindness, and an ardent wish that your toils to advance the prosperity of a country beloved by us all may be rewarded by the purest public favor, and by prolonged lives of happiness and honor.

VICE PRESIDENT PRO TEM.

On motion by Mr. BENTON,

Mr. ATCHISON was then appointed President of the Senate *pro tem.*

Mr. ATCHISON said, on taking the chair—

SENATORS: I cannot refrain from returning to you my heartfelt thanks for the repeated honors you have conferred on me; and I can only renew the pledge that I made when this honor was first conferred on me—that I will endeavor to discharge the duties of the station faithfully and impartially.

Mr. WEBSTER rose and said: Mr. President, we have witnessed, sir, the retirement from the chair of the Vice President of the United States, who has presided over the deliberations of this body for four years. It has happened to me to have been a member of the Senate from the time when he took his seat as its presiding officer, and it gives me great pleasure, sir, to perform the duty which I now rise to discharge, by offering a resolution, appropriate I hope the Senate will think, to this occasion. I propose a resolution, gravely and most respectfully tendering the thanks of this body to the Vice President of the United States, for the ability and impartiality with which he has presided over its deliberations during the time he has filled the chair.

Mr. W., in conclusion, submitted the following resolution:

Resolved, unanimously, That the thanks of the Senate are due, and are hereby tendered, to George M. Dallas, Vice President of the United States and President of the Senate, for the dignity and impartiality with which he has presided over its deliberations.

The question being taken upon the resolution, it was agreed to.

On motion by Mr. BENTON,

Ordered, That the Secretary of the Senate inform the House of Representatives that the Hon. D. R. Atchison has been appointed President of the Senate *pro tem.*

ELIZABETH S. COBBS.

On motion by Mr. HALE, the Senate proceeded to the consideration of the bill for the relief of Elizabeth S. Cobbs; when

Mr. WESTCOTT moved to lay the bill on the table; which was agreed to—ayes 19, noes 15.

JOINT RESOLUTION FROM THE HOUSE.

On motion by Mr. ALLEN, the joint resolution from the House, giving the Secretary of the Treasury until next session to make a report required of him under a joint resolution of Congress, was read twice, and, on motion by Mr. CORWIN, referred to the Committee on public Lands.

THE SEVENTH CENSUS.

Mr. CAMERON, from the Select Committee on the Census, to whom was referred the House bill making arrangements for taking the seventh census of the inhabitants of the United States, reported back the same.

REPORTS OF DEBATES AND PROCEEDINGS.

Mr. PEARCE, from the Committee on the Library, reported without amendment the joint resolution from the House, authorizing the Secretary of the Senate and Clerk of the House to subscribe for one thousand copies of the Debates and Proceedings in Congress, and asked its immediate consideration.

The Senate, as in Committee of the Whole, proceeded to the consideration of said bill.

Mr. PEARCE said that it was proper that he should state to the Senate briefly the object of that resolution. It was to aid in the publication of a work of very great importance to the public, the history of the Congressional proceedings of the first three Congresses. The Senate was aware that they had no early Congressional proceedings, except for the first Congress under the Constitution; and then subsequently to 1824, the history of the first Congress was compiled by Gales, senior, father of the present editor of the National Intelligencer. The Register of Debates commenced in 1824, and ran on to 1837, inclusive, in the Congressional Globe, and Niles' National Register. The history of the debates and proceedings of the first two or three Congresses was compiled by the same gentleman who compiled the history of the first Congress. It was that they proposed to publish, and for which they had asked the aid of the Government; and in order to show the necessity of the public patronage, he would mention the fact that twenty copies of the Congressional Register of Debates had been purchased by private individuals. Mr. Gales was the reporter to the House of Representatives from 1795 to 1799, inclusive, and he has furnished the only authentic Congressional history of that period which they could have. He would only add further, as an authority for the proposition which he had submitted, that Judge Story had said in relation to his great work upon the Constitution, that he had derived invaluable assistance from the history of the proceedings of the first Congress, and that he had experienced great inconvenience for the want of the history of the proceedings of the subsequent Congresses. That work which they proposed to publish reflected light on the danger and operations of the Government; its policy, and all that was important to be known in regard to it, its powers, its duties, and its policy. It was such a work as England had in the history for parliamentary proceedings. It was a mere continuation of the policy which Congress had already commenced. But it was unnecessary to dwell longer on this subject. He hoped the resolution would be adopted.

The joint resolution was then reported to the Senate, ordered to a third reading, read a third time, and passed.

CHARLES G. GUNTER.

Mr. CORWIN, from the Committee on Public Lands, to whom was referred House bill for the relief of Charles G. Gunter, reported the same back without amendment, and recommended its passage.

Mr. CORWIN. This gentleman's application has been before Congress a number of years, and has been acted upon in various ways in both Houses, I believe, but was never finally passed. At the last session, the papers which were referred to the Committee on Public Lands fell into my hands. I locked them up, and put them away so safely that I never could find them until near the close of this session. Upon the instance of the Senator from Alabama, I made search and found them. The bill proposes to authorize Charles G. Gunter to pay into the land office of Alabama a certain amount of money for a tract of land of which he had been in possession for a number of years. It was supposed to have been an Indian reservation under the treaty of 1814. It turned out not to be a reservation; but while in everybody's estimation it appeared to be an Indian reservation, Gunter bought the land of the Indians, paying them $600 in cash for it. He now proposes to pay into the land office the price, $1 25 an acre, for that reservation. I hope the bill will pass. It has been a long time delayed.

The Senate then considered said bill as in Committee of the Whole; and no amendment being offered, it was reported to the Senate, ordered to a third reading, was read a third time, and passed.

GEOLOGICAL SURVEY.

Mr. CORWIN, from the Committee on Public Lands, reported a joint resolution for a geological survey in detail; which was read and passed to a second reading.

SIXTEENTH JOINT RULE.

Mr. WALKER submitted the following resolution; which was considered and agreed to:

Resolved, That the 16th joint rule of the two Houses be suspended for the remainder of the present Congress.

FORT COVINGTON.

Mr. DIX, from the Committee on Commerce, to whom was referred the House bill declaring Fort Convington, in the State of New York, a port of delivery, and for other purposes, reported the same back without amendment.

The Senate, as in Committee of the Whole, proceeded to the consideration of said bill; and no amendment being offered, it was reported to the Senate, ordered to a third reading, and passed.

MARY G. LEVERETT.

On motion by Mr. BERRIEN, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill for the relief of Mary G. Leverett; and no amendment being offered, it was reported to the Senate, ordered to a third reading, was read a third time, and passed.

COLLECTION DISTRCT OF BELFAST, MAINE.

Mr. DIX, from the Committee on Commerce, to whom was referred the House bill to transfer the towns of Vinal Haven, North Haven, and Islesboro' from the collection district of Penobscot to that of Belfast, in the State of Maine, reported back the same without amendment; which was read three times, and passed.

On motion by Mr. CAMERON, the Senate proceeded to the consideration of the following resolution, submitted by him on the 14th of December last:

Resolved, That the Secretary be directed to furnish each member of the present Senate, who has not already received them, the same number of copies of the Constitution and other books ordered to be furnished to the Senators by the resolutions of February 18, 1847.

Mr. DICKINSON. The resolution is for distribution of books to new Senators. In regard to the "Constitution," which is proposed to be distributed, I wish to say a word. I consider it, especially since the gold has become so plenty in some portions of our territory, as worth its weight in gold. But it has been distributed through all the States, save one or two. I hope that the resolution will be so amended as to permit it to be distributed to them. It is a matter not for the benefit of the Senators, but for the benefit of the States. There is no justice in giving the books again to Senators reëlected, when the State has already received its quota of the books. It may be very well to give them to the Senators of new States, and one copy to new Senators; but the idea of giving them over and over again to the States is altogether wrong.

Mr. CAMERON. I think this would be entirely unfair. I have distributed the books allotted to me over one particular class of people throughout the State. My successor may want to distribute them to a different class. The books would thus reach the whole people. I have no interest in it personally, having already received my full share, but offered the resolution for the benefit of those who had not received them.

Mr. TURNEY. The object of the Senator from Pennsylvania seems to me only partially accomplished in the resolution. He desires to give the books to the successors of the Senators who have already received them. The resolution, however,

does not extend to the next Congress; it only provides for the present Congress. If he wishes to adopt this plan, perhaps he would better make a general law upon the subject.

Now, sir, I am opposed to the whole plan. There is no more necessity for printing an additional number of copies of the "Constitution" for distribution, than for any other document published and distributed by the members of the last or of any preceding Congress. If this doctrine is to prevail, that because we have had the "Constitution" given to us, therefore it must be given to new members for distribution, you ought not to apply this exclusively to the "Constitution," but to every species of documents distributed to members. I hold that when the "Constitution" had once been distributed to the people of the States, there is no necessity for giving it to new members for a redistribution. Some States have new members here. They would get an additional number for distribution. Other States would not then get the same additional number; and thus there would be gross injustice. If it be policy and right to republish the "Constitution," then give it to all the States alike. So far as the books go to members themselves, I have nothing to say; but in relation to the books for distribution, it is altogether wrong to make this partial distribution. Here are Senators from the new State of Iowa who have not yet received their books, and consequently the people of that State have not had their number distributed among them. I would be willing to provide by an amendment to give them the same number of copies of the "Constitution" which the other members receive, so that the people of that State can have an equal benefit from the publication of this book. But, sir, to say that we will continue, from time to time, as a new member comes in, to allow a new distribution to the exclusion of other States, is unequal and unjust. Simply because a change in legislators occurs, and they choose to turn out one man and put in another, ought not to allow an extra distribution among the people of that State. Sir, I hope the amendment to allow the Senators from Iowa the full quota will pass. It does not provide for the next Congress, but only for circumstances now—for members who have not yet received their books.

Mr. CALHOUN. If I understand the object of the resolution, it is to give to every new Senator that comes in the same number of copies as the old members have had, for the purpose of distribution. It appears to me that the proposition made by the Senator from New York, now supported by the Senator from Tennessee, is perfectly fair, to give to the members of the new States, who have not received their proper quota, and to give to each new member, as they come in, one copy. That is the whole affair. The resolution, as it stands, will make a perpetual job of it. Now, we know that unless we publish an edition far beyond our capacity, we cannot give to all the people of the United States. The copies that are now distributed go to few. But if the resolution, as it stands, is adopted, you will be giving book upon book to every newly-elected member, and there will be no end to it. It must, then, stop somewhere; and, in my opinion, this is the proper place for it to stop, as proposed in the amendment.

Mr. WESTCOTT. I regret to be obliged to say something. I have uniformly voted for the giving out of these books. This is one of the little benefits which the States are able to obtain out of the General Government. Sir, I do believe that the books which my State gets are worth more than everything else they get from the Government.

Mr. HALE. What do you do with the money?

Mr. WESTCOTT. We have not got any of the money. You get it all in the North—in the New England States—the whole of it.

Mr. BRADBURY. I think the Senator from New York will be induced to modify his motion. If I understand the reading of it, it provides for the same number of copies to be furnished to the Senator from Iowa as has been furnished to other members. I only rise to say that one copy has been furnished to me, and that is all the books I have received. I am not desirous of receiving a greater number; but I know that the impression has gone abroad that we have all received those books for distribution. I have had many applications for them; but not having received them, I take occasion to say, that I have not had distributed to me any books whatever; and I believe that the older members of the Senate, to whom the distribution of books has been made, are rather of opinion that it is a corrupt practice. They are determined, not having been able to succeed in the work themselves, to shield the new members from the influences of such corruption.

Mr. DAVIS, of Mississippi, said that this was a serious question, and was causing some debate. He would move to pass it by, and go into Executive session. He, however, withdrew it at the request of

Mr. YULEE. The vote, I presume, may be taken at once. I wish to state to the Senate, that by order of the Committee on Indian Affairs, it will be my duty to offer a considerable number of amendments to the naval appropriation bill. I think, sir, that the business of the session would be best promoted by taking up the naval appropriation and Post Office bills, which remain to be acted on, both of which will probably go back to the House with amendments. They may be disposed of during this morning's session, and in the evening we can go into Executive session.

Mr. KING stated, in relation to the question under consideration, that he had received one copy of the books to be distributed, and one copy only.

Mr. DICKINSON. I supposed that what I stated first sufficiently explained the matter in regard to what Senators do with the books. The Senator from Maine and the Senator from Alabama say that they have received but a single copy. Now, I can add that I have also received but a single one. I think I have had a great number of copies, but I sent them away to my constituents. Only one have I retained for my own use. Other Senators may not have had but a single copy, but their predecessors have had them, and they have doubtless been distributed among their constituents. Now, it makes no difference whether Mr. A or Mr. B got them, if they were distributed among the people of the States. I am in favor of giving to the new Senators, who have not received them, one copy at this or at the next session of Congress. I am in favor of making them equal, and giving them the same number in proportion to their population. Then let the matter rest there. It never will rest, if it continues to go on. What I wish to deny is, that it makes, for all the purposes of my motion, any difference whether the distribution be to one or another Senator.

Mr. DOUGLAS. It is a little peculiar that those who have received these books have a holy horror against granting them to others. I never found any voting for them for themselves, but they passed it very easily; but now that they have got them, I think it is very wrong to exclude others from the benefits of them. I rise for the purpose of asking the Senator from New York as to what he supposed to be the mode of distribution? I happened to take a seat in the Senate a few days after the order was made to give to each Senator so many copies. They could not be delivered until after my predecessor ceased to be a Senator. I supposed that they were intended for the Senator, and not for the individual. I applied for them, and was told that I, as the Senator from Illinois, could not obtain them. I was not allowed to frank one of them. They were sent to Illinois as the private property of one who had ceased to be a Senator; and I undertake to say that the two Senators from Illinois here have not had the books, because they were the individual property of my predecessor. I do not mean to say anything in disparagement of my worthy predecessor, who is a very respectable gentleman, and who I am as willing should have them as anybody else; but they were given to the individual and not to the Senator.

Mr. DICKINSON. I suppose the order took effect at the time it was made. Now, I suppose the order is made duty, and the books must be given to Senators going out, and it will not be for those who come in thereafter to take them. Those who get individually a single copy, at any rate will be as well off as I have been.

Mr. DOUGLAS moved to lay the resolution on the table.

The question being then taken upon the motion to lay upon the table, it was agreed to.

Mr. DIX, from the Committee on Commerce, to whom was referred the joint resolution from the House in relation to foreign officers and seamen who shall render relief to American vessels in distress, reported back the same without amendment.

On motion by Mr. DAVIS, of Mississippi, the Senate proceeded to the consideration of Executive business, and so continued until the hour of recess.

EVENING SESSION.

On motion by Mr. HAMLIN, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill for the relief of William Gott; and no amendment being offered, it was reported to the Senate, ordered to a third reading, was read a third time, and passed.

On motion by Mr. UPHAM, the Senate, as in Committee of the Whole, proceeded to the consideration of the House bill for the relief of John P. Skinner and the legal representatives of Isaac Green; and no amendment being offered, the bill was reported to the Senate, and ordered to a third reading.

After some debate by Messrs. BUTLER, UPHAM, WESTCOTT, KING, and BERRIEN, the bill was read a third time and passed.

On motion of Mr. BENTON, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill for the relief of Dr. Adolphus Wislizenus; and no amendment being offered, it was reported to the Senate, was read a third time, and passed.

On motion by Mr. DAVIS, of Mississippi, the Senate, as in Committee of the Whole, proceeded to the consideration of the House bill for the relief of Robert W. Martin; and no amendment being offered, it was repofted to the Senate, was read a third time, and passed.

NAVAL APPROPRIATION BILL.

The Senate then proceeded to consider, as in Committee of the Whole, House bill making appropriations for the naval service for the year ending the 30th June, 1850.

Mr. YULEE moved to amend by adding the following section:

And be it further enacted, That the Secretary of the Navy be, and hereby is, authorized so to modify the contract entered into by him with E. K. Collins and his associates for the transportation of the mail between New York and Liverpool, under direction of the act of Congress approved 3d March, 1847, as to postpone the commencement of the mail service stipulated to be performed until the 1st June, 1850, without in other respects impairing the conditions or obligations of the said contract.

Mr. Y. said the occasion of this application arises out of the fact that there is not in Liverpool any dock large enough for the accommodation of the ships—which are of the largest class—belonging to this line. Arrangements were made for the construction of a dock for their use, but in consequence of the death of the owner of the soil on which it was to be built, it renders it necessary that its construction should be delayed. The Government loses nothing by the delay.

Mr. KING. How will the Government lose nothing?

Mr. YULEE. I have in my hand the correspondence of the contract agents in Liverpool giving the reasons for this application. They state that these vessels are of three thousand tons burden; and the only vessel of that tonnage that has been built in England was the Great Britain, and as she used the screw propeller her width of beam was not so wide as these ships of the Collins' line by some twenty or thirty feet. It requires a dock eighty feet in width to accommodate them, and there is none in Liverpool of that size.

The amendment was agreed to.

Mr. YULEE offered the following amendment:

For the purchase of the right to use A. D. Bishop's patent portable boom-derrick for Government purposes, $10,000: *Provided*, That said Bishop shall, within fifteen days from the passage of this act, notify the Secretary of the Navy, in writing, of his acceptance of said sum in full compensation for said patent right, and all improvements which he may hereafter make upon the same, and shall furnish full working plans and explanations for construction of said boom-derrick.

Mr. ATHERTON. I think we are loading down the appropriation bills with amendments rather too freely. Here is a proposition to purchase a patent right, and what opportunity, I would inquire, will the House have in the next few hours to examine fully into its merits? It was not recommended in the estimates of the department, and I do not see any necessity for it.

Mr. PHELPS. The Senate well know that I am opposed generally to ingrafting any of these amendments on appropriation bills, but from information derived from the best sources, I am

inclined to vote for this amendment. The measure is recommended to me personally by the head of that bureau of the Navy Department which is charged with this matter—I allude to Commodore Smith. I hope it will be adopted.

Mr. ATHERTON. I would inquire whether the measure comes favorably recommended from the department?

Mr. YULEE. I would state that the Naval Committee have recommended nothing to the Senate which was not recommended and asked for by the department. If the Senator desires any more information concerning this patent, I have a communication from the department which I did not ask to be read before, as I did not desire to consume time unnecessarily. This invention is a very important one, and it will be a measure of economy for the Government to purchase it.

The amendment was agreed to.

Mr. YULEE submitted the following amendments, which were agreed to:

For improvements and superintendence at naval depôt near New Orleans, $1,750.

Also, the following additional section:

Be it enacted, &c., That the retention of one dollar per month from the pay of the musicians and privates of the marine corps, directed by the act of the 2d March, 1833, be extended, as in the case of the musicians and privates of the army, to the whole term of their enlistment.

Also, this additional section:

Be it enacted, &c., That the engineers in the navy shall hereafter receive the following pay, viz:

Chief Engineer,	on duty,	first five years	$1,500
Do	do	after five years	2,000
Do	on leave,	first five years	1,200
Do	do	after five years	1,400
First assistant engineer,	on duty		1,000
Do	do	on leave	850
Second	do	on duty	800
Do	do	on leave	600
Third assistant engineer,	on duty		600
Do	do	on leave	400

Also—

For grading University square, $5,000.

And that the officers of the marine corps affected by the fourth section of the act of Congress, approved 2d March, 1847, entitled "An act for the increase of the marine corps of the United States," shall be provided for in the same manner that the officers of the old army who received appointments in the additional regiments raised for the war with Mexico were, under the fourth section of the act of Congress, approved July 19, 1848, entitled "An act supplemental to an act entitled 'An act providing for the prosecution of the existing war between the United States and the Republic of Mexico, and for other purposes.'"

Mr. ATHERTON. I wish to call the attention of the Senate to the fact that this amendment is to increase the number of officers now enlisted by law in the marine corps.

Mr. YULEE. At the last session provision was made for the permanent increase of the marine corps by the addition of five hundred men and twelve officers. The amendment was rejected by the House; but, the session being near its close, a contest was not persevered in by the Senate on the subject, and the amendment was withdrawn. It has been recommended by the Secretary of the Navy, Department, at the present session, that provision be made authorizing him to increase the number of marines, and to reduce in a corresponding degree the number of landsmen serving on board of our ships of war, and to add a sufficient number of officers to command the number of marines thus to be organized. The committee have thought proper, instead of making a permanent increase of officers, to cause the restoration to office of twelve officers discharged under the act of last session, the extension to continue during their lives, and vacancies not to be filled up—in the same manner as officers of the army were provided for in the act of last session. There are circumstances connected with this matter, independent of an increase of men, very strongly appealing to us for the adoption of the amendment. The act of last session, dropping twelve of these marine officers, operated not upon those who had been added during the war by a temporary act providing for the increase of the officers of the marine corps, but upon some of the oldest officers in the service; those who had been twenty-five or thirty years holding their situations, and who had no other possible mode of support. By what rule that selection was determined upon, I am unable to state. I am informed by the report of the Secretary of the Navy that his selection was not because of any ground of complaint against the officers. As there will be a necessity for an increase of officers growing out of the increase of men, the committee thought proper to recommend the reinstation of these officers who had thus been displaced, instead of appointing new ones.

Mr. ATHERTON. The Senator from Florida says there was a good deal of consultation at the last session between the two Houses of Congress with reference to action on this amendment, but, as the subject came up near the close of the session, the Senate was obliged to give way. We are now pretty near the close of a session, and there are perhaps stronger reasons why we should now postpone the consideration than there were then. The increase of the number of officers does not appropriately belong to this appropriation bill. If it were necessary to pass an act of this kind, why has not the bill to increase these officers been brought forward on its own merits, and that bill sent to the House, and a full discussion had, if a contest is necessary? I hope this amendment will not be taken up in this connection, because it does not appropriately belong to this bill. The reason given for attention to it now is, that there are some persons thrown out of office who are unable to support their families. That is no reason why we should act on this bill at all. The only reason why we should at any time act on it is the want of the country. If the country demands this increase, then we may properly make it, and not otherwise.

Mr. YULEE. I stated that the committee deemed it necessary to increase the number of officers, and the reason given was this: that the President was authorized to substitute a marine corps for landsmen in the navy, as far as he deemed it expedient. The number of men added to this corps will be five hundred, for which there will be a corresponding reduction of landsmen; but it will require a larger number of officers to command them. Those men who have been dismissed from service were dismissed in consequence of the provisions of the law, and not from any complaint; and the propriety of this increase of officers, as I stated, grows out of the increase of the number of privates.

Mr. HAMLIN. I will occupy the attention of the Senate but a moment. I agree with the chairman of the committee in one thing. There are offered, as arguments for legislation, appeals to our sympathies very frequently, and, were I controlled by that consideration in this case, I should vote for the amendment. But it seems to me that the demand of our service is the true principle which should control our action here. I think that the chairman has scarcely considered this matter as it should be considered, or he would not have been led to think there is a necessity for this increase of officers. Prior to the increase of the marine corps during the war with Mexico, there were only fifty-nine officers in that corps. Under that law which made this increase in the service it was provided that the corps should be reduced at the end of the war, and the number of officers should be the same as before the increase was made. Now, that law of reduction has taken place, and there may have been hardships perhaps resulting from it; but there are now three more officers than there were before the increase, and I do not understand why there is not a need of a further diminution of the officers of the marine corps, as that law provided.

But there are two or three facts which I think are important to guide our action on this subject. In the first place, I find, from official papers relating to this matter, that there are now two hundred and forty men at shore stations and forty-three officers, making an average of about six men to one officer. Now, I do not know what is the capacity of these officers—perhaps it may need more officers to command this small squad of men—but, taking all the rank and file, commissioned and non-commissioned officers, there is one officer to every five in the whole service. I will send to the table a paper from the department, showing precisely what these officers are doing; that they are not connected with the marine service, but at home, waiting orders, as they say in naval parlance. By examination of these documents, we find that the whole number of naval officers is sixty-three, and the paper which I hold in my hand contains statements which show how these officers of the marine corps were employed on the thirty-first day of January, 1848. The whole number then was seventy-four. Of these, twenty-one were on shore, at stations. On the thirty-first of August, 1848, the whole number was sixty-three, and, out of that number, forty-three were at different stations on shore, not connected with the marine corps on sea service. On the thirty-first of December, forty-three were at shore stations.

These statements show, most satisfactorily to my mind, that the corps which requires one officer to every six men or less, must be composed of men of a very remarkable character, or the officers do not discharge their duties very efficiently. The fact is, the number of officers is now twice what the service of the country requires, and that should be the criterion by which appointments are made, and not the necessities of the appointees. This is nothing more nor less than an attempt to replace men who have been displaced according to law. It may be that some of them have been displaced improperly, but it is hardly our business now to put back officers that have been displaced according to law. Do it here in this instance, and we shall find more applications of this character than we shall desire. Apply it in the marine corps, and then the army will come in for a similar rule. I hope the amendment will not be agreed to.

Mr. YULEE. I may state that I think the Senator from Maine has not given as careful an examination to this matter as he apprehends himself to have given, or he would not have maintained that there were so many officers on shore stations. He has not informed himself of the fact that the duties of marine officers are, in part, to procure men for the service. I have a paper which shows the number required at shore stations, and at the different navy-yards in Boston, New York, Pensacola, and others. Thirty-eight officers, and a quota of six hundred and seventy-five men, furnish the recruits needed at these shore stations. In addition to that, in order to furnish the proper number of men for the vessels in the service, not taking into the account the vessels on the stocks, shortly to be launched, the number of officers needed is forty-nine, under the established regulations of the navy; making the total number eighty-seven, to supply the necessities which the laws create. Now, what is the number of officers employed in the service? The Senator from Maine says there are sixty-three; but he takes the number before the reduction of last year; therefore he must bring them up——

Mr. HAMLIN, (interposing.) The gentleman is mistaken; there are now sixty-three.

Mr. YULEE. I do not know from what quarter the gentleman derives his information; but I hold in my hand a paper which shows the number of men, and certainly there should be an addition of twenty officers besides these twelve. But the committee have not recommended that this increase should be a permanent addition to the list, and have left it to Congress to determine hereafter whether these officers shall be permanent or not. The amendment expressly provides that the vacancies accruing from death or accidents of service shall not be supplied, so that the number will be reduced in a short time to the number now existing. Now, it seems to me that we may take into consideration the condition and circumstances resulting from the direction given to the course of reduction, which perhaps was not contemplated by the Senate, but perhaps the best the department could adopt. It so happened that many old and glorious officers, who have served their country with great gallantry for a long period—one of them for twenty-five or thirty years—were among those thrown out by this reduction. It seems, then, but an act of justice that such men should be reinstated, and receive the provision, which may, perhaps, be considered as pledged to them, at least during good behavior; and the committee have not been able to learn that these were selected for any cause of complaint as to personal or official character. It may be only necessary to repeat, that allowing this addition of twenty, there will still be twenty less than are necessary for the service of the country. I have the letter of the Secretary of the Navy, which can be read, if Senators desire it.

Mr. MANGUM. I rise to perform a duty that I think somebody ought to perform, and I think it belongs to the father of the Senate, from Missouri. During the last session, and during the present session, the Senate of the United States has become a mere polemical body. The smallest questions are discussed, as if Senators could understand nothing without tedious and wearisome explanation. There is a vast amount of business to be done, and I invoke the Senate, the whole body, that they will discourage this prolongation of discussion, this ruinous waste of time. I hope

it will be assumed that we understand something of the business before the body, and that we may be permitted to attend to getting through the business of the session; for, if the practice shall continue through this night and to-morrow, we shall leave two-thirds of the business undone.

Mr. HAMLIN. I wish to state to the Senate that the facts which I presented a few moments since—and I think I have occupied the attention of the Senate but very little—were drawn from official papers of the marine corps.

The amendment was agreed to.

Mr. YULEE offered an amendment to increase the assistant pursers in the navy. He said: At the last session we passed a bill authorizing the appointment of assistant pursers in the navy. It was put on the calendar. It is scarcely necessary to state that the total number of pursers in the navy is sixty-three. For stations there are twelve, leaving about twenty on shore, and leaving about thirty available for other service. There are ninety vessels, so that the number of pursers is only one for every three vessels. It is deemed better for the smaller vessels to appoint a corps of assistant pursers, and give them a small compensation.

Mr. CAMERON. It seems to me that we are endeavoring to get every man into an office. I see no reason for these appointments. I think it is not necessary to have a purser in every vessel. More than half the vessels are on the docks, and the pursers, many of them, are about the country idle. I would much rather see them put to work. When it was thought this bill would become a law there were five hundred applications for the offices.

Mr. ATHERTON. I hope this subject will be acted on as a seperate bill, and that it will not be permitted to embarrass the bill under consideration.

Mr. YULEE. It is proper to say that there are no officers idle, there are no supernumeraries, and a necessity has grown out of the annual increase of the number of vessels in the navy. This necessity was decided on at the last session, and it was deemed the most economical way to appoint these assistant pursers for the service of the small vessels.

The question being taken on the amendment, it was not agreed to.

Mr. DAVIS, of Mississippi, moved to amend the bill by inserting after the 3d section the following:

SEC. 4. *And be it further enacted*, That the Secretary of the Navy may be, and is hereby, authorized and directed, as far as the public transport service will permit, to employ the steamers so transferred to the Navy Department in establishing a semi-monthly line from New Orleans to Vera Cruz, or some other port on the Gulf of Mexico, and connecting with some port on the Pacific; thence to California, as the Secretary may direct.

SEC. 5. *And be it further enacted*, That said steamers shall convey the United States mail, and that American citizens who may be received as passengers in the same shall not be charged a higher rate of fare than shall be necessary to reimburse the Government for the expenses incurred on account of such passengers.

Mr. D. briefly called the attention of the Senate to this amendment.

Mr. DOWNS. Mr. President, I am not aware of the reason which induced the committee to come to the conclusion against the proposition originally referred to them to establish a line of mail steamers between New Orleans and Vera Cruz. That measure was recommended, if I recollect right, by the Secretary of the Navy and the President himself. It is desirable to have a certain and swift mail route here. As it is now, we have to travel round Cape Horn or the Cape of Good Hope, a much longer voyage than is necessary, to get round to the Pacific. It takes a great while to get round to Panama. I think the committee have not gone into the calculation very closely. We have that line of mail steamers between New Orleans and Vera Cruz; and we can, by sending the mail across on the Pacific, save at least half the time that would be required to go round the Cape. This has been proved by some recent information from that quarter. We need a regular organization on the part of the Government that is required to go by Panama. I think this communication of infinite importance; of much more importance than many of the mail routes that we have established elsewhere—much more than those to Europe. But if the Senate has come to the conclusion that the policy with regard to these steamers ought to be stopped; that we should not go any further with this; that the principle is wrong—of which I do not speak—still it does not affect this question, because it is altogether a different one. We do not propose to advance two hundred thousand dollars to establish a line of mail steamers; we do not contemplate an increase of the naval appropriations at all. We have the boats already, belonging to the United States, in the hands of the Quartermaster General, who has reported that he has no further use for them; and they are the very boats that have carried the communications between these two ports during the war. It is now proposed to transfer them to the navy. They are a dead weight on his hands, and cannot be sold for half their value. There are officers here solicitous to take charge of them, and they can transport your mails, and perhaps the whole expense of carrying them will be paid in this way; but if not, the expense would be small compared to the great national advantage to us and our citizens. Those best informed consider this the best route to the Pacific, and surely I would take it with all its disadvantages in preference to any other mode. There is no question of the importance of this route. The trade of Mexico was once one of the most advantageous portions of our foreign trade; but by our quarrels with that Government, it is now nearly lost, and it is transferred from New Orleans to Cuba. The establishment of this line of steamers will be likely to restore this trade, and make our relations with Mexico more friendly. This trade is now in the hands of the British packets; they bring away the specie which goes from Mexico and they take it to Europe. If we establish this line, which we can do so cheaply, these steamers will be driven out of the trade, and it will be in our hands. From these considerations I hope the Senate will adopt it. It is not a question whether we shall establish a new line, but whether we shall employ these steamers, which we can do with little or no expense.

Mr. RUSK. At the present time we have no mail communication by water beyond Galveston, in the State of Texas. The result of all that is the difficulties, so far as transportation of the mails is concerned, which have been alluded to by the Senator from Louisiana. We all see that a regular communication over that country would not only be a benefit, but would vastly extend profitable commerce with Mexico. I have no doubt that within two years an exchange of articles of great value would amount to twelve or fifteen millions of dollars, or perhaps more. And it is no expense. On the contrary, it will be a saving of expense for the Government of the United States to adopt this amendment, there being no regular communication beyond Galveston now. These boats will have to be kept by the Quartermaster's department, and an expense will be incurred in keeping them, and the transportation of supplies to the troops stationed in Western Texas by some other mode will have to be paid. What will be the result? You will have no communication with Galveston; it will cost more to transport what the quartermaster will have to transport to the western portion of Texas, than it will cost to carry the mails all the way. The figures show that, as the quartermaster is bound to keep these vessels for the transportation of supplies and troops, it will cost more to reject than to adopt this amendment. Many passengers will pass in this way through Tehuantepec to California; they are going there now. If this amendment be adopted, we have a connection with the Pacific by steamers belonging to the Quartermaster's department. It will form a direct communication with California, with no additional expense to the United States over what they will have to incur now. You are bound to have supplies in California, of which there are not enough at the present time. Emigration is pouring in there from all quarters of the creation, and it is the policy of this Government to send supplies there, that they may have them on the spot. Another thing about it will be, if General Smith has to keep down anarchy there, he will have no aid from foreigners; but among the Americans he will find a soldiery to sustain the laws of peace and quiet, the laws of his country.

Mr. ATHERTON. Mr. President, this amendment proposes a change in existing laws. It proposes that the Government should embark in a new system. Heretofore, it has not been customary to embody such propositions in appropriation bills; and it is an experiment which should not be tried now.

Mr. RUSK. I would inform the Senator from New Hampshire that this measure has been recommended by the Quartermaster General and by the Navy Department.

Mr. ATHERTON. That makes no difference. It matters not whether it has been recommended by one department or another. I say it introduces a new principle altogether, and therefore ought to be the subject of a separate bill. There may be many things recommended by departments which are not germane to an appropriation bill.

Mr. DAVIS, of Mississippi. Mr. President, I expect very important results to flow from this measure. I expect that the trade which will be opened and engaged in between Mexico and this country, if this measure be passed, will be very great. Besides, the conveniences which it will afford for the transportation of our mails and citizens to California, will be of immense advantage. Viewed in this light, it may have been well for Senators to attach such great importance to the question; but, as a legislative question, the proposition which I have presented is very small indeed. And the Senator from New Hampshire was never more mistaken in his life than when he supposes that my amendment proposes the introduction of anything novel. We have transport vessels now, but they are very improperly, and very anomalously, in the hands of the War Department. The first proposition contained in the amendment is to transfer these vessels from a department which cannot manage them, either economically or well, to one which can manage them to some advantage. At present the Quartermaster General is compelled to employ captains at a very high rate of compensation, and often very incompetent persons. So that the safety of the vessels and all on board is not only hazarded by the present system, but the expense is rendered very great by the high rates of compensation paid to the captains and all the other officers.

Again, the Senator is also as much mistaken as ever he was in his life, when he supposes that the transportation of passengers and freight in transport vessels belonging to the Government is the introduction of a new system. All transport vessels, in all countries under the sun, have done the same from the establishment of the first navy ever known. This is only a proposition to transfer these vessels from the War Department, where they are improperly located, to the Navy Department, where they properly belong; to charge the Navy Department with the transportation of troops and supplies, and to add thereto, as far as the transport service will permit, the transportation of the mails down the Gulf of Mexico, and to our Pacific settlements. That is the whole proposition. If this is not done by the Navy Department, it must be done by the Quartermaster's department: and if it is not done directly by the Quartermaster's department, it must be done by contract. We have been compelled to do it directly. The Quartermaster General has been compelled, with all the disadvantages that belonged to a land officer, (which he has admitted in his report to have been very great,) to purchase vessels, to hire captains and crews to man them, to employ them in the transportation of troops and munitions, and necessarily to carry the public mails of the United States. So far, then, this proposition requires the navy, with these vessels, to do what the army is now doing. American citizens are received on board of, and are to be transported by the public vessels, which are the property of the American citizen, and the officers of the vessels are restricted from charging anything more than the actual expense incurred by taking the citizen on board. That has always been the rates upon our transports. It is the existing rule, as now managed in the Quartermaster's department. There is nothing new in it. There is nothing extraordinary in it. There is nothing in it requiring legislation, because it is based upon military usage and common sense. As to the great question which may lie beyond this, and be incidentally connected with it—the establishment of a line of mail steamers—I have nothing to say in regard to it. I do not deem it appropriate to discuss that subject now, because it has nothing to do with the proposition under consideration. I present this as a simple question of having the transport vessels in our own country, managed as the transport vessels of all other civilized nations are, by the Navy Department, and providing that they shall continue the transportation of the mails, as is now done by the Quartermaster's department, and that they shall

not charge American citizens more than the simple expense incurred by their presence on board the vessels.

Mr. HUNTER. Mr. President, it seems that this measure which we are called upon to adopt is a dangerous precedent. I was not before aware that the practice of transporting citizens of the United States in national vessels existed. In my judgment such matters should be left to individual enterprise. I do not like the idea of the Government of the United States entering into competition with private individuals of the nation in matters of this sort. And, therefore, it seems to me that if such has been the practice of this Government, the practice should be abolished forthwith.

Mr. DAVIS, of Mississippi. I will state to the Senator from Virginia that transport vessels are never used where they come in competition with individual enterprise; for the simple reason that on routes where individual enterprise has established lines of ships, merchant vessels, or steamers, or where any other modes of conveyance exist, transport vessels are never required.

Mr. HUNTER. Then there can be no necessity for these transports; for if there are no merchant vessels to engage in the business of transporting passengers between New Orleans and Vera Cruz, I do not know what route has vessels running upon it. It strikes me that of all species of business in which this Government could be engaged, this is the most unsuitable to the machinery of our Government, and the nature of our institutions. We might at least leave that to the enterprise of private individuals. I do not understand that the employment of these Government steamers is to diminish even by one those that we have already engaged. I agree with the Senator from Mississippi, that it is very doubtful whether these vessels would be found to be useful even in time of war. It is an experiment to which I was originally opposed, and I am against extending it, especially by the United States engaging in an affair of this sort. I hope we will drop the matter where it is.

Mr. ALLEN. Mr. President, it is always bad policy to make any changes in our legislation at the very heel of a session of Congress, when it is impossible that they can undergo that full and ample discussion which ought to precede any great change in the existing state of the Government. I understand that this subject has undergone the consideration of one of the committees of this body, and that, after mature deliberation, they have rejected it.

Mr. DOWNS. The gentleman is mistaken. This proposition has not been rejected. It was the line to Chagres that was rejected. Another committee reported this resolution.

Mr. ALLEN. Be that as it may, my other remark, however, holds good, that this matter ought to be passed over until there can be more time, more thought—until it can be seen how it will affect other interests. Undoubtedly the tendency of this Government and of all other Governments is to do everything that it will be permitted to do; to lay its hands on everything, whether forbidden or not, if it is not prevented. And this business of the Government becoming a competitor, either in the coasting trade or carrying trade, or any kind of trade, with private citizens, is a bad thing. It is a bad practice, if it has existed, and it ought to be stopped at once. Besides, we have a mail contract now for carrying the mail from New Orleans.

Mr. RUSK, (interposing.) Not through the Gulf of Mexico.

Mr. ALLEN. Not through the Gulf of Mexico, if the mail is not carried on the right line. And if the mail is not carried on the right line, then that contract ought to be put an end to before we enter into another. I do not believe it is on the right line, but some five thousand miles from the right line, as will be found to be the fact whenever the route over which the mail is carried comes to be surveyed. But I will not further occupy the time of the Senate in this discussion. I shall have to vote against this amendment, though with reluctance, on account of the great confidence I have in my friend from Mississippi, [Mr. DAVIS,] who is very little liable to introduce objectionable propositions.

Mr. DOWNS. Mr. President, the bill, as it came from the House, already complies with the recommendation of the Quartermaster to tranfer these vessels to the Navy Department. I would like gentlemen to consider before they vote against this proposition to what use the navy can put these vessels, unless they be employed in this service. I know of no service in which they can be more usefully employed. The Quartermaster has transferred them because he has no use for them. And shall we permit these vessels to rot, rather than apply them to a purpose which so many interests call for? We have got these vessels, and do not know what to do with them. By applying them to this use, they would subserve a very valuable and important purpose, and I cannot see why gentlemen should, on mere abstract questions of power, oppose this proposition.

Mr. JOHNSON, of Louisiana. Mr. President, I understand that these vessels are to be transferred to the navy of the United States for the express purpose of employing them, and that if this transfer be not made they will be entirely useless. The measure has been fully examined and recommended by the department, and has, I understand, been favorably reported upon by a committee of the House and by a committee of this body. It is perfectly understood. It is certainly a very important measure, and especially when we take into consideration the increased facilities it will afford for the transportation of passengers from New York to New Orleans and thence to Vera Cruz. I hope it will not be postponed. It has been fully investigated by the committees of both Houses of Congress, and is well understood.

Mr. BRIGHT. The honorable Senator from Louisiana, who has just taken his seat, is entirely correct in saying that this subject has been fully examined by a committee; but he is not correct as to the conclusion to which the committee came. It was very fully examined by the Committee on Naval Affairs, and reported against.

Mr. RUSK, (interposing.) I think the Senator from Indiana is mistaken.

Mr. BRIGHT. I am not mistaken. I will state the facts. A memorial was presented here and referred to the Committee on Naval Affairs. The object of the memorialists was to run a line of mail steamers from New Orleans to Vera Cruz, for which they were to be paid $150,000 per annum. After mature deliberation, the committee reported against the proposition. They did not report in haste. Inquiries were made at the Post Office Department by members of the committee, and, among others, by myself, with reference to the necessity of expending that sum for that service, and it was admitted by all, that so far as the question of dollars and cents was concerned, it would be so much money thrown away. This proposition is identically the same in substance. The language may be changed; the manner of service may be changed a little, by limiting it entirely to the transportation of passengers. But that, I apprehend, makes very little difference. The amendment provides for carrying passengers to such and such points, and for such and such prices. That, I think, is going a little too far. It is narrowing legislation down to too small a circle. If we have no use for these vessels, sell them, or chain them to the shore, and let them rot. It would be much better to make that disposition of them, so far as the pecuniary benefit of the public service is concerned, than that such a system should be opened up between these two points, as this amendment proposes.

After the committee had reported against the one hundred and fifty thousand dollar proposition to which I have referred, the gentleman who had made it, came forward and offered to perform the service for seventy-five thousand dollars, if the committee would agree to report a bill providing for the establishment of the line of steamers. The committee could not report such a bill, in view of the information derived from the Post Office Department that the receipts would not amount to more than five thousand dollars per annum.

As I said before, I regard this proposition as another effort to get into the treasury by the back door. Pass this amendment, and, in a few years, it will result in another line of mail steamers, costing the Government as much as we are now paying for carrying the mail between New York and Liverpool. I will conclude with saying that I cannot vote for this proposition. The committee have examined the subject and reported against it.

Mr. DAVIS, of Mississippi. The Senator is mistaken. The Military Committee have examined this subject, and reported a joint resolution in favor of the measure.

Mr. BRIGHT. I am quite certain that the committee reported against it.

Mr. DAVIS, of Massachusetts. What committee?

Mr. BRIGHT. The Naval Committee.

Mr. DAVIS, of Massachusetts. The Naval Committee had nothing to do with it.

Mr. BRIGHT. The Naval Committee had the subject before them, and reported adversely.

Mr. RUSK. Mr. President, I would say to the Senator from Indiana [Mr. BRIGHT] that he entirely mistakes the proposition. The proposition reported against by the Committee on Naval Affairs, was to make a contract with a company. This proposition is to authorize the Navy Department to run these steamers there, first, for the purpose of affording the necessary transportation for the troops, semi-monthly; in the second place, to carry the mails, because they might just as well do it as not; in the next place, to transport passengers. That is the entire sum and substance of this proposition. The permission to carry passengers confers no privilege at all upon the department. The amendment requires them to transport passengers for the convenience of those who wish to visit our new territories, or who wish to return thence. And this arrangement is demanded by the exigencies of the times. The convenience of the public requires it, and it should be granted.

As for the economy of the honorable gentleman from Indiana, I must say that I cannot agree to it. We have these vessels, which have cost the Government something like $150,000, and the Senator proposes to tie them up and let them rot. What will be the effect of such a course? We shall lose what these vessels cost the Government, and then force the Quartermaster's department to pay more than would be paid, under this arrangement, for sending their transports from New Orleans to Vera Cruz.

Now, in regard to the competition we enter into with private enterprise, by carrying these passengers, we enter into competition with nobody on earth but the British mail steamers. And is it proper and right that we should depend, for all our communications with Vera Cruz, upon the British mail steamers? We now depend upon them for carrying our mails to Vera Cruz. The very dispatches we send to our minister in Mexico, are conveyed by the British mail steamers, unless we go to the enormous expense of sending a special messenger.

Mr. BADGER. Mr. President, I desire merely to say that I concur with the view of this subject taken by the Senator from Virginia, [Mr. HUNTER.] My objection to this proposition is, that it intends to embark the Government in the business of the transportation of passengers in a line of vessels for hire or compensation. So far as it is necessary to employ these vessels when they shall be turned over to the Navy Department for the transportation of our troops, munitions of war, or anything else connected with the operations of the Government, no legislation is required. That is, of course, within the proper authority of the Navy Department, and, whenever the necessities of the Government require the performance of any of these duties, they will be discharged by the Department.

But, I agree with the Senator from Virginia, that if there is anything that should be left to private enterprise and competition, it is the transportation of passengers from one point to another for hire.

However, independent of every objection that has been urged against the amendment, this consideration is conclusive against the measure. The Government must do one of two things. They must either transport passengers for hire, turn into the business of supporting a line of packets, and open books for keeping accounts of the money received, or else they must transport passengers *gratis:* in either case they must establish a line of Government packets—an act nowise distinguishable, so far as I can see, from one for establishing a line of Government post coaches to enter into competition with the appropriate operations of private persons—and to set the Government against the laudable enterprise of private individuals.

Mr. DAVIS, of Mississippi, (interposing.) I am sure the Senator will not urge, as an objection to the amendment, anything which it does not contain. He is certainly arguing against something

that I never contemplated. The amendment I offered restricted officers in command of public vessels—first, from refusing to take American citizens on board their vessels; and, secondly, from charging them passage money, confining the charge to the expenses incurred by taking the citizen on board; just as during the war with Mexico, every officer traveling thither paid, when on board a public transport, so much per day for his board. As the case now stands, (if we do not incorporate this provision,) the captain of a public transport tells the citizen that he shall not go on board, and he must get a permit from the quartermaster or navy agent before the captain will receive him on board. As for this competition with private enterprise, which gentlemen talk so much about, it is altogether out of the question; for all experience shows that whenever passengers can get any other mode of conveyance they will never go on board of a transport.

Mr. BADGER. Mr. President, I did not make the mistake which the honorable Senator supposes. The question is not as to the amount received. It is not the question whether the Government is to receive more or less, or the officers receive more or less.

Mr. DAVIS, of Mississippi. The Government does not receive anything.

Mr. BADGER. Then it is to convert the officers into mere agents for transporting passengers, and pay them more or less.

Mr. DAVIS, of Mississippi. The officers do not receive anything.

Mr. BADGER. They must supply the passengers with food, and they must receive pay for this. They are to receive something in a pecuniary point of view. The amendment restricts it to the actual expenses incurred. Now, to my mind, it is liable to the objections urged by the Senator from Virginia, [Mr. HUNTER.] Besides, in a pecuniary point of view, if the Government is to enter into it at all, I think they should enter into it for pecuniary advantage. Instead of receiving merely pay for expenses incurred, let them do as others do, and receive a reasonable indemnity for enterprise.

Mr. NILES. I would ask my friend from Mississippi what is the character of these vessels, whether they are sail or steam vessels?

Mr. DAVIS, of Mississippi. They are all steam vessels; and four of them good sea vessels. A number of them are small river boats. I would add, that if they are not turned over to the Navy Department, they must unavoidably be sold for what they will bring, and a great sacrifice will be the consequence.

Mr. ALLEN demanded the yeas and nays on the amendment, which were ordered; and the vote stood for the amendment:

YEAS—Messrs. Breese, Corwin, Davis of Mississippi, Dodge of Iowa, Downs, Fitzpatrick, Foote, Houston, Johnson of Louisiana, Jones, Rusk, Sebastian, Westcott, and Yulee—14.

NAYS—Messrs. Allen, Atherton, Badger, Baldwin, Bell, Benton, Berrien, Borland, Bradbury, Bright, Butler, Cameron, Clarke, Davis of Massachusetts, Dayton, Felch, Fitzgerald, Greene, Hale, Hamlin, Hunter, Johnson of Maryland, Johnson of Georgia, King, Mangum, Mason, Miller, Niles, Phelps, Spruance, Turney, Underwood, Upham, Wales, Walker, and Webster—36.

So the amendment was disagreed to.

Mr. MILLER offered the following amendment, from the Committee on Naval Affairs, as an additional section to the bill:

"SEC. 4. *And be it further enacted*, That the sum of $1,336 37 be and the same hereby is appropriated to reimburse Commander Charles Wilkes for expenses incurred by him in several courts, in defending suits brought against him for acts committed in discharge of his official duty."

Mr. BRIGHT. Mr. President, I should like to have read the bill of particulars in that case. I would like to have the paper, which was submitted a few days since, containing the items, read.

Mr. MILLER. Mr. President, I can inform the Senator that the various items were submitted to the committee by Commander Wilkes. They foot up an amount much larger than that named in the amendment. In the estimate submitted by Commander Wilkes, there was an item for expenses incurred on account of the calling of a court martial. The committee did not think that such an allowance ought to be made. They have, therefore, confined the amount of reimbursement to the legal costs and expenses in defending the several suits brought against him in the courts.

Mr. HALE. Mr. President, I hope the Senate will pause some time before they adopt this amendment. I confess that I expected almost any other proposition to be made to the Senate than this. The suits to which the amendment refers I understand to be suits brought by some sailors against their officer for what was alleged to be an illegal punishment. By the finding of the court and jury which tried the case, the result was against the officer, and in favor of the seamen; that is to say, it was the judgment of the jury that it was an excessive, illegal, and outrageous punishment, for which the officer deserved to be mulcted in costs. The case was carried up to the Supreme Court on a bill of exceptions. The Supreme Court granted a *venire facias de novo*. That is not a final decision, and the case yet remains undetermined. An attempt is being made, which I trust will be successful, to do away with the necessity of these suits altogether, and to do away with the cause of that necessity. Public attention has just been directed to the fact that efforts are being made to abolish this relic of barbarism in our navy; and I hope that the American Congress will not, at the commencement of this humane effort, offer a premium for the undue exercise of this barbarous power. If the Congress of the United States are to come forward, and put their hands into the national treasury to pay the suits of every officer that may be prosecuted for the illegal discharge of this duty, I do not know where we are to stop. If it has been the fortune of Commander Wilkes, or of anybody else in the navy, to have been sued for an assault and battery, let him defend himself, as does every other citizen.

I should like to know upon what principles of law and equity the Naval Committee deliberately ask the American Congress to pay the costs of gentlemen that have suits brought against them for assault and battery, because they happen to be officers of the navy? Let them stand with the rest of the citizens of the republic. And, if it is their good or bad fortune to be brought into the courts of law, let them defend themselves as they may, upon their own merits and at their own expense. I should like to know if there is anything so sacred in this species of assault and battery that we are called upon to foot up the bills brought against naval officers for the illegal exercise of this power? I have nothing to say of the merits of the case. It may have been right, or it may have been wrong. But, in Heaven's name, let officers and men stand or fall together. Suits of this sort have been brought by sailors, in which they have sometimes succeeded, and in which the costs recovered have not been anything like their expenses. But who ever heard of Congress coming in to relieve the poor, helpless, friendless sailor, after going into court and litigating his rights? No, sir, no. If the Naval Committee had recommended that an appropriation be made from the national treasury to pay the expenses of these sailors, I could have listened to it with some complacency. And I trust the American Senate will deliberate long before they sanction a principle of such high importance, by which the expenses of naval officers, in litigating suits brought against them, are to be paid out of the public treasury.

Mr. MILLER. Mr. President, the Senator from New Hampshire asks upon what principle of law the Naval Committee reported this measure. I will answer the gentleman that the Naval Committee have adopted this amendment upon the highest principles of law: upon the final decision upon this question made by the Supreme Court of the United States. This amendment is offered out of no respect to Commander Wilkes as an officer of the navy; for, if the lowest man in the service had been made to pay the costs of a suit brought against him in consequence of an act done in the discharge of his duty, according to law, I, for one, would reimburse him every cent he paid in defending himself, if it would require every cent in the treasury.

If the gentleman will read the printed report of the opinion of the Judges of the Supreme Court in this case, he will there perceive that this case is put to rest; that Commander Wilkes was fully justified in law for every act complained of against him, and that he has been put to cost for having faithfully and honestly discharged his duty in the service of his country, on board the vessel, at sea.

The gentleman mistakes the case. This case was not brought for excessive flogging or excessive punishment. It was not brought upon the supposed ground that Commander Wilkes had no authority at all to punish this man. The principle complained of in the declaration is not that flogging which the gentleman considers the greatest punishment which any human being can be subjected to; but it is for imprisoning the plaintiff, for compelling his services in the Exploring Expedition when his term of service had expired. It was contended that Commander Wilkes had no right or authority to control the services of this man. That was the question; it was a question of law, not of fact. There was no pretence whatever that there was any excessive flogging. Nothing of the kind was pretended. The ground taken was, that this man, having enlisted only for three years, and his term of service having expired while at sea, Commander Wilkes had no right to command his services. But it turns out, from the evidence in the case, that the man enlisted, by his own agreement, for the voyage.

In addition to that, it is provided by an act of Congress, that when a sailor's term expires at sea, it is in the discretion of the commanding officer to discharge him, or, if he thinks proper, he may command his services. Without that law what would be the position of things? If a ship going on a voyage of three years happens to be kept out three years and six months, at the end of the three years every sailor on board the vessel would say, "My term has expired, and I will no longer obey the commanding officer." If such had been the case with the Exploring Expedition, the life of every man in that expedition would have been exposed. The Supreme Court has decided that Commander Wilkes had a right to command the services of this man. The Supreme Court has decided that Commander Wilkes, in the case complained of, was faithfully discharging his duty, and could not have done otherwise than he did consistently with the safety of the crew and the service in which he was engaged, and therefore justified him for the act; and the simple question is, whether, when a public officer, in the discharge of his duty, commits an act for which he is prosecuted, and is justified in that act, the Government by whom he is employed will not pay the expenses to which he is put?

This was not a voluntary employment on the part of Commander Wilkes. He was there under the command of his Government; he was bound to keep order; he did the very thing that it was his duty to do; and, if he has been put to expense on that account, ought not the Government to pay it? Numerous cases, upon exactly the same principle, are paid at every session.

Mr. HALE. Mr. President, if I am incorrect, I wish the Senator from New Jersey to correct me. He says that there is a final judgment in this case. I have read the opinion of the judges of the Supreme Court to which he has referred, and I did not so read it. The Supreme Court has ordered a *venire facias de novo* in the case; this is not a final decree. The case is still open to be tried before a jury, and may be tried before a jury, and Commander Wilkes may yet be found guilty upon the judgment of a jury and court. All that appears is, that exceptions were taken from the ruling of the court below, and carried up to the Supreme Court. The Supreme Court does not sustain the ruling of the court below on these points. But it does not appear that Commander Wilkes will be finally discharged. But I will not consume any more time. The idea of illustrating the case by argument seems to be absurd. I ask the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. ATHERTON. Mr. President, this is a mere private claim, whether there be any merit in it or not. And after what has been suggested by my colleague, [Mr. HALE,] it seems to me, if there is ever so much merit in it, that it is prematurely presented. It is a mere private claim, and we have rejected several amendments to the appropriation bills on that ground. And I hope we will not depart from that rule when there are so many private claims on our hands, because in this case the claimant is a commandant in the navy.

Mr. BADGER. Mr. President, I do not concur with the honorable Senator from New Hampshire [Mr. ATHERTON] that this is a mere private claim. The case is one altogether of a peculiar complexion. Commander Wilkes was in the command of an expedition sent out for the purpose of examining the unknown regions lying far towards the south pole. In the course of the voyage, he finds it necessary to inflict punishment upon one man

under his command, that punishment being actually necessary to enable him to carry out the instructions given him by the Government, to enable the expedition to accomplish the object for which it was designed. On his return he was sued (as has been stated by the Senator who reported this amendment from the Committee on Naval Affairs) by that man, not upon the ground that the commanding officer had been guilty of any cruelty or excess or of anything which would pain the heart of man, (unless it be the heart of the honorable gentleman from New Hampshire, [Mr. HALE,] who is pained at the idea of anybody being punished,) but upon the ground that he had no lawful authority to punish the individual. That objection was rested upon two grounds: First, that the person who brought the suit, being a marine, was not a person belonging to the navy, within the meaning of the act of Congress authorizing the infliction of the punishment, and, therefore, he was not liable to it. In other words, he might set the authority of his commanding officer at defiance, and be subject to nobody. Secondly, upon the ground that the commanding officer had no right to retain him in the service after the term of his enlistment expired, although he was authorized to do so by the law of Congress, and by the enlistment, signed by the person in question, authorizing the commanding officer to keep him under his control during the whole voyage.

It was, therefore, the case of an action brought against an officer for the mere discharge of a public duty. No allegation of having inflicted excessive punishment was brought against the officer, except that it was averred that he had no power of jurisdiction over the individual at all. It was a case of expenses incurred by this officer, not on his own account, but imposed upon him by the necessary condition which he occupied as commander of public forces of this country. It was a case in which, as a private individual, he had no interest; in which, as a private man, he could have no action; in which, merely as Charles Wilkes, he had no more connection than any gentleman on this floor has; but it is a case in which Charles Wilkes was called upon to pay, out of his own pocket, the expense of a frivolous and malicious prosecution brought against the commander of the squadron, because the individual, Charles Wilkes, united that office in his person. Under such circumstances, it seems to me plain and evident, according to the universal principles that govern every government that we are bound to indemnify this officer. Governments are bound to indemnify their officers engaged in the faithful carrying out of that which is assigned to them by the Government when they sustain losses, as in the case before us, in a strict and faithful discharge of their public duty. It is exactly the same principle upon which this Senate has passed bill after bill, for the purpose of providing remuneration to individuals whose property has been seized for public uses, or has been destroyed upon reasonable ground of apprehension that it might fall into the hands of the enemy, by the military or naval officer conducting the defences, or prosecuting the lawful warlike enterprises of the country. I can see no difference in the world between the two cases. They rest upon the same principle, and are governed by the same rule of right.

I am aware that the honorable Senator from New Hampshire [Mr. HALE] is of opinion that this kind of punishment should not be, and, as far as I know, he thinks no kind of corporal punishment should be inflicted upon any person connected with the public service of the United States. That is a question to be determined by the Senate when the proper time comes. And, though the Senator may be right in his opinion, that is a question which has nothing to do with the present case. No bias should be raised against the claim of this officer because gentlemen may think that that punishment should be abolished. It is not abolished. It is in full force. And in this case, for which suit has been brought against Commander Wilkes, it was honestly and faithfully exercised in the discharge of his public duty—a duty discharged in a remote quarter of the world, where it was absolutely indispensable to the success of the enterprise, and absolutely indispensable to the safety of the lives of all who were intrusted to his command, that obedience, prompt entire obedience, should be enforced from all under his control.

Now, sir, is this case affected at all by the consideration that the Supreme Court has ordered a *venire facias de novo* to be issued? By the power of the court that was the only judgment they could render. They overturned the ruling of the court below, and therefore the only course which they could pursue was to order a *venire facias de novo*, in order to have the trial conducted upon the correct principles. The court determined all the questions raised in favor of the defendant. When the case goes down to the court below, it will of course go off there for the want of further prosecution.

The question now presented is nothing more nor less than whether the Government will indemnify that honest and faithful public officer for the expense to which he has been put, not upon the ground that he has been faithless to his duty, not upon the ground that he has committed assault and battery, as the Senator from New Hampshire states, but upon the ground that he has been charged with wrongfully detaining a man in the public service, and when it has been proved that he has been faithful to the discharge of his duties to the country in that detention. It seems to me, sir, that to the extent to which the committee thought proper, we should allow this claim. Reason and justice require that he should not be subjected to the expense necessarily incurred in his defence in a civil suit of this character. It seems to me that we are under obligations that the officer shall not sustain loss. That, I think, is the whole case, independent of the question whether this punishment shall hereafter be lawful or not. This case stands entirely free from any question of that sort. It is a case of the application of power held by law, without any unjust excess, without any cruelty or wantonness. The court have decided that it was rightfully exercised by the officer in question, applied justly to an individual under his jurisdiction and control, and subject to punishment as an individual belonging to the navy of the United States.

Mr. BRADBURY. It must be very obvious, from the character of this debate, that this is a private claim—a claim made by an officer of the navy to be reimbursed for expenses incurred in a suit prosecuted against him. Now, there is a large number of claims which are entitled to consideration, and as well entitled to be annexed to an appropriation bill as this. The true question presented for the consideration of the Senate is, whether upon an appropriation we shall undertake to settle private claims? The fact that this individual was an officer in the public service of the United States makes no difference. The honorable Senator from North Carolina remarked, that there were several cases of bills, of a character similar to this amendment, having been passed. I noted that remark.

Mr. BADGER, (interposing.) I would state to the honorable Senator from Maine, that the bills to which I referred were not bills for the purpose of reimbursing officers, but for the purpose of relieving private persons whose property was lost. And this is precisely upon that principle, because the officer himself was responsible, and the Government assumed the debt.

Mr. BRADBURY. I am aware that cases of this kind have been presented by officers claiming to be reimbursed when they acted in a public capacity. And I would like to know if, when a private citizen has a claim upon the Government, he must not present his claim subject to the delays incident to the ordinary action of Congress upon claims. But when an officer of the army or navy has a claim, it is to be taken up as a public claim, legislated upon as though it were of a different character, and considered as standing upon a different principle. And what is the reason of this? It is because the character of the individual changes the character of the claim. Can gentlemen give me any other reason? There is no other. Whenever this matter is presented as other claims are, it will be proper to consider it. And I hope that this and every other similar claim will be rejected, that we may proceed with the appropriation bills.

Mr. HALE. Mr. President, as I have been referred to the record, I want to meet this record; I want the people to see it. This case, as presented by the Supreme Court, presents this fact: an American citizen enlisted in the American navy upon a construction of law which he rationally entertained, and this citizen honestly thought that he was not subject to the control of the commander of the squadron after a certain time.

Mr. WESTCOTT. I rise to a question of order. There have been several speeches made on this subject. The honorable Senator from New Hampshire has spoken twice on this question. For that reason I call him to order. I do so for the purpose of putting an end to debate from all sides.

The PRESIDING OFFICER decided that Mr. HALE was in order.

Mr. WESTCOTT. I would inform the Senator from New Hampshire that I meant nothing personal in calling him to order.

Mr. HALE. I am exceedingly obliged to the Senator for his explanation. But I must say that this question of order has been raised but twice since I have had the honor of a seat in the Senate, and each time it was raised by the Senator from Florida upon the Senator from New Hampshire. That satisfies me that there is nothing personal about the matter. [Great laughter.]

I want to state to the Senate the facts of the case, as they appear upon the record of the Supreme Court. This man stated to the commander that he did not believe he was under his command, as his term of enlistment had expired. For saying so and refusing to do duty he was flogged. After an interval of two or three days, and after explanations and exhortations to duty, and after having time for reflection, he refuses to return to duty, as he did not consider himself bound to do so, the same number of strokes are repeated. After another interval, for like purposes, and on another refusal, the punishment was again inflicted, and at last the man returned to duty. Here was a question of right under the law, raised by an American citizen who happened to be a sailor, and the argument to him is the cat-o'-nine-tails. He is given two or three days to reflect. Then he is asked, "Do you yield this question?" "Do you yield the question of right?" "Will you not obey me, your commander?" He answers, "No." Then comes the cat-o'-nine-tails again. After another interval is given for reflection, he is brought up, and the commander asks him, "Do you now submit?" "Do you give up the rights of an American citizen?" He answers, "No." Again he gets the cat-o'-nine-tails. After another trial he submits, preferring submission to death under the lash. That is the record, and it is for that we are to pay Captain Wilkes $1,000. I leave the subject to the Senate.

The question having been taken on the amendment, it was decided in the negative, as follows:

YEAS—Messrs. Badger, Berrien, Butler, Clarke, Dayton, Foote, Greene, Johnson of Maryland, Johnson of Louisiana, Mangum, Mason, Miller, Pearce, Wales, and Yulee—15.

NAYS—Messrs. Allen, Atchison, Atherton, Benton, Bradbury, Bright, Cameron, Corwin, Dickinson, Dix, Dodge of Iowa, Douglas, Downs, Felch, Fitzgerald, Fitzpatrick, Hale, Hamlin, Johnson of Georgia, Jones, King, Niles, Phelps, Rusk, Sebastian, Spruance, Sturgeon, Turney, Underwood, and Upham—30.

Mr. PEARCE offered an amendment to authorize the Secretary of the Navy to hire suitable accommodations, for a term of five years, in the new building on the corner of F and Seventeenth streets, at a rent not exceeding one hundred and fifty dollars per room per annum, or to purchase the whole building, if it can be procured for a sum not exceeding two hundred thousand dollars.

In support of the amendment he said: I have been induced to offer this amendment, which is similar to the one that was offered and rejected some days since, because I think the facts were not then well understood by the Senate, and because I think, when they are well understood, the Senate will perceive that this measure would be not only economical, but conducive to the public interests in several respects. There are ninety rooms in this building now occupied by various branches of the Department of War. There are, it appears, one hundred rooms in the building, but there are only ninety now occupied by various public offices. But we do not pay rent for all these ninety rooms; some of them we are occupying gratis. The necessity of some such measure as this will easily be made apparent to the Senate by a few facts which I will briefly state. I have a report, made by the Secretaries of War and of the Navy in 1846, urging the erection of public buildings, fire-proof, for the protection of the public documents. The report says:

"The necessity for this building is extremely urgent. The inconvenience to which the public business is now exposed is very great. The most valuable public documents are deposited in several private buildings, which have repeat-

edly been on fire, notwithstanding every precaution has been taken for their safety. The rooms are everywhere crowded with persons, books, papers, models, and instruments, to a degree that seriously impedes the dispatch of business."

They urged an appropriation of "two hundred thousand dollars to commence the work," which, they said, would be sufficient for that purpose. Estimates were submitted by various persons, and the least estimate was one for $370,000 for erecting a building containing one hundred and twenty-eight small rooms or one hundred larger rooms—a building no more capacious or convenient than this building, which can be bought for two hundred thousand dollars. Some estimates for a large building, containing two hundred and twelve rooms, were as high as seven hundred thousand dollars. But none of these estimates were satisfactory. They were all considered to be too loose and defective as to the materials and kind of workmanship. This building has been erected, and found to be very useful, and we now occupy ninety rooms. I have certificates from various public officers—from Colonel Abert, Mr. Mills, architect, Mr. Coltman, builder, and Mr. Ward, another builder. These certificates say that this building has been well built, from the foundation to the garret, and that it is constructed from the very best materials. The testimony of Messrs. Coltman and Ward is, that such a building as this could not be erected by the Government for less than a quarter of a million. Then we have the testimony of Dr. Harris, Dr. Lawson, Surgeon General of the army, Mr. Edwards, Commissioner of Pensions, General McCalla, Second Auditor of the Treasury, and various other public officers, that the mode of heating the building by hot-water pipes is very successful, furnishing a pleasant heat, and one that is very easily controlled and regulated. Now, sir, this makes out the case of a building which is very suitable for the purposes of the Government; and the propriety of adopting either the whole or a part of this amendment will be apparent when I state the fact, that, besides the rooms which the Government now occupy in this building, they rent rooms in other buildings—rooms which are unsafe, not fireproof, and for which they pay a larger rent than is asked for the rooms in this building. I will not trouble the Senate with further remarks. It must be apparent that it will be advantageous to the Government if we adopt either the one or the other branch of this proposition.

We have had no report upon this subject submitted this session from any department, although, I think, one was called for at an early period of the session. But we have the testimony of the Secretary of War and of the Secretary of the Navy, in a report made some time since, and their opinions have not changed. But things have happened since, that make it more than ever desirable that we should have a suitable and safe building. Since that time one of the public offices has been destroyed by fire, and the Government has been put to a great expense—perhaps not less than twenty-five thousand dollars—to replace the papers destroyed by fire last winter.

The amendment was not agreed to.

Mr. CAMERON moved to amend the bill by inserting the following:

Sec. —. *And be it further enacted*, That the Secretary of the Navy be and he is hereby authorized to enter into a contract, on the part of the Government of the United States, with such person or persons as shall have obtained the right to construct a plank road across the Isthmus of Panama, their associates and assigns, for the transportation of the mails of the United States, and of all army and naval forces, including soldiers, marines, and sailors, belonging to the army and navy of the United States, over said road from the Atlantic to the Pacific Ocean, and for the free use of said road for the transportation over it of munitions of war, army and naval stores, for a sum which shall not exceed seventy-five thousand dollars: *Provided*, That no payment shall be made under such contract until such road shall be so far completed as to afford a conveyance across the isthmus within the space of twelve hours: *And provided, also*, That the contract shall be made upon the condition that the said road be commenced within three months from the date of the contract and be completed one year thereafter: *And provided further*, That Congress may, at any time after the said road shall have been completed and in operation five years, rescind the same by joint resolution.

Mr. FOOTE moved to amend the amendment by adding thereto the following:

Provided, also, That, if the Secretary of the Navy shall ascertain that there is any company in existence duly authorized to contract for the transportation of the mails, the army, naval forces, &c., across the Isthmus of Tehuantepec, and that a contract with such latter company will be, upon the whole, more advantageous to the Government than the contract authorized by this section to be made with such person or persons as have obtained the right to construct the plank road herein mentioned across the Isthmus of Panama, he shall be and he is hereby authorized to enter into a contract with such company in preference to the one mentioned in this section, and upon similar terms.

Mr. CAMERON. Mr. President, I have no objection to the amendment of my friend from Mississippi. I have offered my amendment, because I believe that the public interests imperatively demand that Congress should do something to facilitate communication between our Atlantic and Pacific coast. The project proposed some time since contemplated an expenditure of two and a half millions of money. The plan which I have proposed contemplates an expenditure comparatively of a very small sum of money, and nothing is to be paid until the road shall be so far completed that the passage from one end of the isthmus to the other may be made in twelve hours. And when completed it will be a conveyance as good for all practical purposes as a railroad. It is wanted. Every one knows that some mode of communication, which can be completed in a very short time, is necessary. The people cannot wait ten, or five, or three years for the construction of a railroad. They want some temporary mode of communication, which can be completed as speedily as possible, and this is just what they want. This road, which can be constructed in a very short time, will answer all practical purposes, and will not interfere with a railroad across the Isthmus of Panama, or with the project of the Senator from Mississippi for a road across the Isthmus of Tehuantepec. Our citizens are flocking to the Pacific in such vast numbers that all present modes of travel are completely blocked up, and the people are put to vast expense in order to reach those points to which, if this road were constructed, they might travel for a comparatively insignificant sum. This is but a temporary measure, and so well understood that I will not occupy the time of the Senate in discussing it.

Mr. CLARKE. Mr. President, since the project for a railroad across the Isthmus of Panama was first presented to the Senate, I have been impressed with the necessity of some more direct communication with our Pacific possessions. It appears to me that the Government of the United States, the Congress of the United States, are bound, not only from political but from moral reasons, to furnish to the emigrating population of this country a safer, more direct, and better mode of communication than is now possessed. It is not necessary for me to state the views I have entertained for years past in regard to the desirableness of a more direct communication between the Atlantic and Pacific. We have now become possessed of a territory upon that coast, in addition to the former Territory of Oregon, of almost incalculable value. The harbors that nature has formed in the Territory of California are not surpassed by the harbors of any coast in the whole world. It must be perceived that it cannot be long before the harbor of San Francisco must be one of the most important in the world. The population of this country is flocking to California with a rapidity which has never been experienced in the emigration from any one portion of the world to another. Not only are the people of this country flocking thither, but people from all parts of the world are wending their way to California, in search of what the world calls wealth.

The political obligation upon the Government of the United States is that they should, at an early day, form a government able to protect these emigrants from the lawless violence which we know is raging there, and which might well be anticipated. There is a moral obligation, in my opinion, for the United States, now possessed of the country to which they are inviting emigration, to furnish the protection of law to the people who have gone and who may yet go thither. Thousands of our fellow-citizens have gone to California, thousands are on their way there, and many thousands more will proceed thither in the course of the next year; and it does seem to me that it is a matter for weighty and serious consideration whether we are not morally, as well as politically, bound to protect those of our fellow-citizens who have left their homes for that distant land from the lawless violence which must reign there, unless the vicious, the unprincipled, and the reckless are restrained by the strong arm of the law. And, sir, it must be evident to the Senate that there is a necessity, an actual, absolute necessity for some more direct and better route from this country to our possessions on the Pacific. It must be evident, that without direct and speedy communication with that country, we cannot, except at vast trouble and expense, maintain that order among the people of that country which the well-being of society demands. We have now a line of steamers running from New York to Chagres, for which the Government of the United States are paying annually $290,000 for transporting the mails alone. Upon the Pacific side we have another line of steamers running from Panama to San Francisco, for which we annually pay $200,000. These two lines, running from the great commercial emporium of this country to San Francisco, in California, are not connected. They are separated from each other by the Isthmus of Panama. It seems to me that no stronger proof than this of the necessity of some communication across the continent is needed.

We have had the proposition of Mr. Whitney before us for a long time for a railroad to Oregon. We all know that it will take a long time before that road can be made. We have also the magnificent project lately presented by the Senator from Missouri, [Mr. BENTON.] But it will be long before that can be executed, however desirable it may be to form a direct communication across our own country between the Atlantic and Pacific coasts. Every reflecting gentleman must perceive that it will be a long time before that project can, in any shape, be executed. We cannot wait for the completion of any of these great and magnificent projects. We want some mode of communication now. The passage around Cape Horn requires far too great an outlay of time. The route by the way of the Isthmus of Panama is too expensive. The overland route is dangerous, and must be undertaken in military form, and is not calculated for emigration.

We have a project for crossing the Isthmus of Tehuantepec. By an examination of the maps it will be found that a road across that isthmus cannot be made less than one hundred and sixty-five miles in length, which, together with canalling, and steamboating, will make two hundred miles in the aggregate. There is another road proposed in that neighborhood, by way of Lake Nicaragua, which will be some three or four hundred miles in length. The road across the Isthmus of Panama will be about fifty miles from one extremity to the other. And if you take neither of these routes between this country and California, you have no other left but the route around Cape Horn. I see by the papers, that within the last sixty or ninety days, not less than one hundred and seventy-eight vessels, perhaps two hundred, have sailed for California. These ships have taken not less than twelve thousand passengers. From the last accounts from Europe it appears that ships are leaving wharves of their cities loaded with passengers, all bound for the modern Ophir. We are all familiar with these facts. They are spread before us every morning. We all know that the route around Cape Horn is a long one. The distance from the port of New York to San Francisco, by way of Cape Horn, is nineteen thousand miles. By way of the Isthmus of Panama it is only about five thousand miles—an immense saving of distance and of time. It seems to me that it is important that the Government of the United States should provide, not only for itself but for the citizens of the United States, some more direct route, by which the citizens who are flocking into that country could find a more direct passage, and those who choose to return, a more ready access to their homes. Unless something be done by the Government of the United States, we shall adjourn and leave that route, and all the routes between here and San Francisco, precisely as we found them. The Senate of the United States and the President of the United States, in June last, ratified a treaty with the Government of New Granada, by which the Government of the United States, after a long and tedious negotiation, acquired from the Government of New Granada the right of way across the Isthmus of Panama, and that was deemed so important by the President of the United States, and the Senate of the United States, that that treaty, guarantying, as it did, to New Granada the neutrality of the Isthmus, was ratified by the Senate of the United States for the purpose of securing it.

Now, I understand that the gentlemen who have proposed to enter into contract for the transportation of the mails, munitions of war, men, and all kinds of supplies across the isthmus, have obtained from

the Government of New Granada a contract by which they have the exclusive right to make a railroad across the Isthmus of Panama. That right of itself, in my humble estimation, is worth little to them unless they can throw over it the shield of the United States for the protection of their property. It is hardly necessary to say that no prudent citizen of the United States would invest a large sum of money, some five millions of dollars, or anything like it, to build a road in any of the States of Central America, unless they can carry with them the moral capital which the protection of the United States would afford them. Now, the first object, as I understand it, of the gentlemen who have made a proposition to Congress at this session, has been to get from the Government of the United States that protection of their rights, that moral power of the United States thrown over them to protect them in the enjoyment of their property. They have also proposed to the Government of the United States that they would, for a certain compensation, transport for the Government all its men, munitions of war, and every material which they might desire to have carried from one side of the isthmus to the other. Now, sir, unless something be done in the shape of a contract with some company for the transportation of your munitions of war, mails, men, &c., you have no other resource but to send all these Government stores and men by your ships of war around Cape Horn. I would simply remark here that, from the fact that a sloop of war in the service of the United States costs the Government seventy-five thousand dollars a year for pay and support of the men, that a frigate costs two hundred thousand dollars a year, and a ship of the line costs three hundred thousand dollars a year, I think we should save a vast sum annually by sending our munitions of war, and other supplies, across the Isthmus of Panama, instead of sending these ships around Cape Horn. Why, sir, a frigate is six months on its passage from our Atlantic to our Pacific coast. It could make but one voyage in a year. To send our supplies, then, in our Government vessels around Cape Horn, would cost the Government of the United States absolutely more than has been asked at the highest rate for the security of this road across the Isthmus of Panama.

But this is not the plan now proposed, but a new plan suggested by the Senator from Pennsylvania, [Mr. CAMERON.] I shall give my vote for his plan, because I consider it a matter of necessity that there should be some means by which the population which is now flowing into that country may be enabled to travel easily and safely thither, and return easily and safely to their homes in this country, whenever they shall choose to return, and by which a communication may be kept up between our people at home and the people of California.

Mr. President, we have heard of the necessity of giving a government to California. The position of the people of that country has been depicted here. All their necessities have been explained and set forth. Those necessities are real. The Congress of the United States have been advised that some government should be formed there, if a government is ever to be formed there, before the close of the present season. We have no communication between this country and that except the ordinary communication—that long, tedious, and dangerous route around Cape Horn. In such a state of things it is, I may say, almost entirely useless to give a government to California. That country lies so far distant from the seat of the Federal Government, communication with it is so difficult and so unfrequent, that it seems as though it would be almost impossible to hold in check the fierce and lawless tendency of a portion of the population. Any government that we can establish over it would lose half its effect from the want of power to execute it. I have nothing more to say. I leave the subject to the Senate.

The question being on the amendment of Mr. CAMERON, modified by the amendment of Mr. FOOTE—

Mr. MANGUM rose and said: Mr. President, being utterly opposed to that amendment at the present time, I simply rise to ask for the yeas and nays.

The yeas and nays were ordered, and resulted as follows:

YEAS—Messrs. Baldwin, Cameron, Clarke, Dodge of Iowa, Douglas, Fitzgerald, Greene, Hale, King, Wales, and Westcott—16.

NAYS—Messrs. Allen, Atchison, Atherton, Badger, Berrien, Borland, Bradbury, Breese, Bright, Butler, Davis of Mississippi, Dix, Downs, Felch, Fitzpatrick, Hamlin, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Johnson of Georgia, Mangum, Mason, Niles, Pearce, Phelps, Rusk, Spruance, Turney, and Underwood—30.

Mr. WESTCOTT offered the following amendment:

For the survey of the reefs, shoals, and keys and coasts of South Florida by the coast survey, and for which the Secretary of the Navy is hereby directed to provide officers, vessels, and crews to said coast survey, the sum of $30,000.

In offering the amendment Mr. W. said: Mr. President, I do not see the honorable Senator from Massachusetts, [Mr. DAVIS,] who is a member of the Committee on Commerce, in his seat. I would call the attention of the honorable Senator from New York, [Mr. DIX,] who is the chairman of that committee, to the amendment which I now offer, and which is predicated upon a report of the Secretary of the Treasury, which has been printed by order of the Senate, and probably read by all. I beg leave to say, that although the appropriation proposed by the amendment is for a public work in my section of the country, the citizens of my State are not interested one farthing in it. It is a work altogether for the benefit of those who ship produce from the western country, and the northern merchants. It is exclusively, entirely, for their benefit. It is an item for the survey of the reefs, shoals, and coast of South Florida, for which the Secretary of the Navy is authorized to appropriate twenty thousand dollars. There is a report of the Secretary of the Navy on the table, printed by order of the Senate, in which the reasons for this appropriation are stated. I would not encumber the civil and diplomatic appropriation bill, the other day, when it was up, with this amendment, because I considered it more appropriate to the bill now before us, after hearing what was said on a former occasion in relation to the coast survey. The honorable Senator from Massachusetts, and the honorable Senator from New York, I have no doubt, will state that this subject has been referred to the Committee on Commerce, and has not met with their approbation. I would state that there are documents upon the table of the Senate showing the annual value of the wrecks of the northern vessels and western produce upon these reefs and shoals, of which there has never been an American chart published. The only authentic chart of that section of the coast ever published is a Spanish chart some eighty years old. This report estimates the value of vessels and produce lost upon these reefs and shoals last year at $1,282,000. With these few remarks, I take leave of this matter, with the request that the Senator from Massachusetts and the Senator from New York, who are on the Committee on Commerce, will give the Senate the benefit of their knowledge upon the subject.

Mr. DAVIS, of Massachusetts. Mr. President, in answer to the appeal which the honorable Senator from Florida has addressed to me, I can only say that this is unquestionably a very important part of the coast survey. Navigation about that coast is extremely dangerous. The loss of property upon the reefs and shoals with which that coast abounds is very great. I think the amount of property that I have seen stated as having been wrecked within the last year upon the coast where this survey is proposed to be made something exceeds a million of dollars. I have noticed a paper that the Senator from Florida refers to, which, I believe, is a letter from the superintendent of the coast survey, in which he states how, in what way, and in what manner, this work may be commenced consistently with that system which is now going on, and considerable dispatch given to it. It is a mere question of time. We intend to have the survey made. If it can be conveniently commenced by the Government now, the advantages will be the earlier realized from it. I think it is very desirable that it should be done; and it appears to me, from the paper which I have read, that the plan is a feasible one, and connects itself by additional bases with the general survey going on. If we commence it now, we will get a chart sooner, and probably save many valuable vessels with their cargoes, and perhaps the lives of their crews, from being swallowed up upon this dangerous coast.

Mr. DIX. Mr. President, as the Senator from Florida has appealed to me, I wish to say that I shall vote for this amendment. I have read the document to which he has referred, and from it I find that the amount of property lost during the last year upon that coast was $1,282,000. I think it of the utmost importance that this survey should be made, and properly made. I shall, therefore, vote for the proposition.

Mr. BERRIEN. Mr. President, I rise merely for the purpose of asking by whom this survey is to be made, if this amendment is agreed to?

Mr. DAVIS, of Massachusetts. It will be carried on by the superintendent of the coast survey.

The amendment was agreed to.

SPIRIT RATION IN THE NAVY.

Mr. HALE submitted the following amendment:

That the Secretary of the Navy is hereby authorized to forbid the use of spirituous liquors in the navy of the United States, so far as he may deem it expedient, and to substitute other articles or money therefor.

In submitting the amendment, he said: I will only say, that the amendment does not propose to abolish the spirit ration; it merely puts it at the discretion of the Secretary of the Navy. I understand that it was once the case that boys, and those who did not choose to drink the spirit ration served out to them, could transfer it to other sailors, or receive money in lieu of it. But now that is not the case. The grog is now served out in a large tub, and every one must take his ration or nothing. The amendment simply puts it at the discretion of the Secretary of the Navy, if he may deem it expedient, to disallow the spirit ration, and substitute other articles for it. I really hope it will be adopted.

Mr. BERRIEN. This amendment puts this matter at the discretion of the Secretary of the Navy, and for that reason it is objectionable. We should not transfer our responsibility from ourselves to the Secretary of the Navy. If this thing ought to be abolished, let us do it; if not, let us submit to it. But do not let us shrink from our responsibility, and transfer it to an Executive officer.

Mr. DAVIS, of Massachusetts. I would ask the Senator from New Hampshire if there is not power now vested in the Secretary of the Navy to make this commutation in all cases where the parties consent it?

SEVERAL SENATORS. Certainly there is.

Mr. HALE. This authorizes the Secretary to limit the ration.

Mr. DAVIS, of Massachusetts. If I remember the law correctly, it is, that the Secretary is authorized, and such orders exist, that the sailor may receive sugar, coffee, or any article of that description, or the money, in lieu of his spirit ration.

Mr. DIX. I understand that there is a rate of commutation now, and that the ration is only one cent, while the commutation is four cents in money.

Mr. DAVIS, of Massachusetts. As the law now stands, it is better than the Senator from New Hampshire would make it.

Mr. BADGER. The law is now much better than the amendment of the Senator from New Hampshire makes it.

The amendment was not agreed to.

Mr. BENTON offered the following, and it was agreed to:

For testing the capacity and usefulness of the electro-magnetic power as a mechanical agent for the purposes of navigation and locomotion, and the probable cost of using the same according to the invention of Professor Page, the sum of $20,000, to be expended under the supervision of the Secretary of the Navy in making a practical experiment of said invention, according to the plan to be proposed and conducted by Professor Page.

Mr. DICKINSON offered the following, (preceded by remarks which will be found in the Appendix,) and it was agreed to:

For the embankment on the flats between the navy-yard and hospital at Brooklyn, $40,000.

The bill was then reported to the Senate, and the amendments were concurred in, the amendments were engrossed, the bill was ordered to a third reading, read a third time, and passed.

POST OFFICE APPROPRIATION BILL.

On motion of Mr. ATHERTON, the Senate proceeded, as in Committee of the Whole, to the consideration of the bill making appropriations for the service of the Post Office Department for the year ending the 30th June, 1850.

Mr. BORLAND offered an amendment, as an additional section, to establish certain post routes.

In support of this amendment, he said he was aware that the bill before the Senate was not a post road bill. Such bills were passed only once in two years. But the rapid increase of population, since the last post road bill was passed, in

several new States, and especially in the State of Arkansas, had rendered it absolutely necessary that these roads should be established, and that was his reason for offering the amendment. It would require but very little additional expense, inasmuch as the revenue derived from the new offices would very nearly pay the expense incurred by their establishment. He hoped that in view of the necessities of the case, the amendment would be adopted.

Mr. JONES offered an amendment to the amendment, to establish certain post routes in the State of Iowa.

Mr. ATHERTON said he believed that there was no instance of post routes having been put upon appropriation bills. He thought that if they once began adding post routes to the bill, there would be no end to the number that would be added. He had no doubt that every Senator had routes to propose, and if one Senator was allowed to provide for increased mail facilities for the people of any portion of his State, then they must give way to all similar propositions that might be brought forward. He considered the amendment entirely inappropriate, and he hoped the Senate would reject it.

Mr. BORLAND said he regretted the necessity which compelled him to occupy the time of the Senate in discussing the proposition, but he certainly could not allow the amendment to be summarily disposed of, and the postal interests of the people of a portion of the State he had the honor to represent, be thus left in their present unfavorable condition. He had been very unwilling to introduce the amendment at this time, and append it to that bill. It might be an unusual course, but he would remind the Senator from New Hampshire [Mr. ATHERTON] that unusual amendments had been made to almost every bill that had been before the Senate. The Senator from New Hampshire could not appreciate the necessities of the case, because no such necessities exist in that gentleman's State, nor in any of the old States, as exist in the new States, and especially such as exist in the State of Arkansas. Settlements had been made in the State of Arkansas which had no existence at all at the time the last post road bill was passed. They had large settlements in Arkansas, comprising a great number of families, with no post office within less than forty or fifty miles of them. These persons had to maintain a private mail, neighbors clubbing together to bear the expense. Some of the settlements kept up these private mail communications with the nearest post offices as often as twice a week, a fact which of itself furnished conclusive proof of the necessity of the adoption of the amendment. The question was simply whether those persons should still be put to the trouble and expense of sending forty or fifty miles for all their letters and papers, or whether they should have the privilege of establishing new post routes? He could not believe, that as the Senate then understood the urgency of the case, the amendment would be rejected.

Mr. BRIGHT was satisfied that the temper of the Senate was against the amendment of the Senator from Arkansas. He himself had several amendments of a similar character to propose, but he did not think it expedient to offer them now. There would be a bill brought before the Senate before the close of the session to which such amendments would be appropriate, and he would suggest to the Senator from Arkansas to withdraw his amendment at present, and offer it again when the other bill should come up.

Mr. BORLAND replied that he had no objection to withdraw his amendment if there would be another opportunity afforded him of securing its passage.

The amendment was withdrawn.

Mr. ATHERTON said he hoped that the bill would now be allowed to pass; time was pressing.

Mr. NILES said that he was as anxious as any Senator to push through the public business. But he must discharge what he felt to be his duty to the country. There was a bill providing for reduced and uniform rates of postage which had cost him much labor, and upon which he had in vain endeavored to get the action of the Senate. He considered it very important that the bill should be acted upon at this session. He wished to bring the Senate to a vote upon it. He hoped they would take up that bill at once, and act upon it. He would like to know whether the Senate were willing to proceed immediately to the consideration of that bill. He had no objection to its being taken up and disposed of without discussion. All he asked was, that the Senate should vote upon it. And he thought that the bill had been sufficiently discussed already to enable them to act intelligibly upon it. Would the Senate take it up now? If they would not, he should feel it his duty to move it as an amendment to the bill then under consideration.

Mr. ATHERTON said he hoped that the Senator from Connecticut would not offer his bill as an amendment to the bill under consideration. If he did so offer it, it would be voted down. He [Mr. ATHERTON] knew several Senators who were in favor of the bill of the Senator from Connecticut who would vote against it if offered as an amendment to an appropriation bill, because they deemed it inappropriate so to offer it. He himself would vote for the measure as a separate bill, but he should certainly vote against it if offered as an amendment, as inappropriate to an appropriation bill.

Mr. NILES said he could not help it if Senators should deem it their duty to oppose the amendment. He had a duty to the country to perform. He did not wish to discuss the measure, but he must insist upon having some action upon it. The people were anxiously awaiting the action of Congress upon the subject. The people were clamorous for the passage of that or some similar measure. Thousands and tens of thousands of petitions had been received from all parts of the country, all asking and calling upon us to take some steps to relieve the people from this onerous taxation, and they have a right to know the sense of the Senate on the subject. The bill now before the Senate was not a regular appropriation bill, and it was not at all unusual to add other provisions to bills of that kind. At the same time he would prefer to take up the bill for the reduction of postage as a separate measure, if he could get it up. If, however, they would not take it up, he would move it as an amendment to the bill then before the Senate.

Mr. HUNTER suggested that the chairman of the Committee on Finance [Mr. ATHERTON] should allow the post office appropriation bill to be laid aside until to-morrow, in order to allow the gentleman from Connecticut an opportunity to bring up this bill. He said the appropriation bill could be acted upon just as well on the following day as then.

Mr. NILES said that, in accordance with the suggestion of his friend from Virginia, [Mr. HUNTER,] he would move that the post office appropriation bill be postponed, and that the Senate proceed to the consideration of the bill for the reduction of postages.

The motion was disagreed to.

Mr. NILES then offered the following bill for the reduction of postage as an amendment to the post office appropriation bill:

And be it enacted, &c., That from and after the first day of July next, the postage on letters shall be as follows: letters conveyed by mail any distance in the United States shall be charged with postage by weight, and according to their rates; letters weighing not exceeding half an ounce, shall pay one rate of three cents, to be prepaid, and five cents if not so prepaid; letters weighing more than half an ounce, and not exceeding one ounce, shall pay two rates, or six cents, to be prepaid, and ten cents if not prepaid; letters weighing more than one ounce and not exceeding two ounces, shall pay four rates, or twelve cents, to be prepaid, and twenty cents if not prepaid; and letters exceeding two ounces in weight shall pay an additional postage of four rates, or twelve cents for every additional ounce, or fractional part thereof, if prepaid, and twenty cents if not prepaid; and all drop letters, or letters to be delivered at the office where deposited, shall be charged with one cent postage, to be prepaid, and two cents if not so prepaid.

SEC. 2. *And be it further enacted*, That it shall be the duty of the Postmaster General, at all post offices where the gross postage amounts to fifty thousand dollars annually, to provide for conveying letters to the post office by establishing suitable and convenient places of deposite, and by employing carriers to receive and deposite them in the post office free of charge; and at all such offices it shall also be his duty to cause letters to be delivered by suitable carriers, to be appointed by him for that purpose, for which not exceeding one cent for each letter shall be charged, and on advertised letters there shall be an additional charge not exceeding one cent.

SEC. 3. *And be it further enacted*, That from and after the period aforesaid the postage on newspapers, and other printed matter, shall be as follows: all newspapers, not exceeding in weight (when dry) two ounces, shall pay one cent postage, and a like sum for every additional ounce or fractional part thereof: *Provided*, That newspapers, not weighing over one ounce and a half, and sent from the offices where printed not more than fifty miles, shall be charged with one half cent postage only. Pamphlets, magazines, and books, whether periodical or not, shall be charged with postage at the rate of one cent the ounce, but any fractional part of an ounce shall be charged one cent. The postage on newspapers and other periodicals, not sent from the office of publication, must be prepaid; and all handbills, circulars, and printed letters, not sealed, shall be charged with one half the rate of letter postage. That publishers of newspapers and periodicals shall be entitled to receive, free of postage, one copy of any other newspaper or periodical, in exchange for their own publication, and have the privilege of sending bills against their subscribers in their papers or periodicals, free of charge.

SEC. 4. *And be it further enacted*, That all letters conveyed in the United States mail by sea, from any place in the United States to any foreign country, or to the possessions of the United States on the Pacific, shall be charged with a uniform postage of twenty-one cents when not weighing over half an ounce, and the like sum for any additional half ounce, or fractional part thereof; the same rates of postage shall be charged on all letters conveyed in like manner from any foreign country, or the possessions of the United States on the Pacific, to any place in the United States: this rate is exclusive of the foreign postage chargeable on such letters. And all letters conveyed from any place in the United States to any foreign country, in a packet or mail ship belonging to any foreign Power, or the citizens thereof, and employed by such power to transport its mail, shall be charged with postage at the rate of five cents the half ounce, in manner aforesaid, in addition to the postage charged by such countries; and all letters conveyed in such foreign packet or mail ship from any foreign country to any port or place in the United States shall be charged with five cents postage for each half ounce, or fractional part thereof, in addition to the foreign postage; and all letters posted or mailed at any place in the United States for any foreign country, or the Pacific coast of the United States, and conveyed by a private vessel or ship, whether owned by citizens of the United States, or citizens of a foreign country, and not employed in transporting a public mail, shall be charged with five cents postage the half ounce, in manner aforesaid, to be prepaid; and all letters conveyed in such private vessel or ship, from a foreign country to the United States, and posted at any place in the United States, shall be charged with the like postage of five cents the half ounce; and no additional charge shall be made for inland postage. And all newspapers conveyed from the United States to any foreign country, or to the Pacific coast of the United States, or from any foreign country, or the Pacific coast, to the United States, in any packet or steamship, transporting a public mail, shall be charged with two cents postage for each newspaper, no addition being made for inland postage. And all pamphlets, magazines, or books, conveyed in the mail as aforesaid, from the United States to any foreign country, or the Pacific coast of the United States, or from any foreign country on the Pacific coast, to any place in the United States, and not weighing more than two ounces, shall pay two cents postage, and two cents for every additional ounce, or fractional part thereof, no addition being charged for inland postage.

SEC. 5. *And be it further enacted*, That the sum of seven hundred and fifty thousand dollars be, and the same is hereby, appropriated, from any moneys in the treasury not otherwise appropriated, for the service of the Post Office Department, for the year ending on the thirtieth day of June, eighteen hundred and fifty, should the ordinary revenues of the department be insufficient to sustain the service now authorized, or which may hereafter be authorized by law.

SEC. 6. *And be it further enacted*, That the Postmaster General be authorized to prepare postage stamps, which, when attached to any letter, shall be evidence of payment of the postage chargeable on such letter; which said stamps the Postmaster General may deliver to any deputy postmaster who may apply for the same, the deputy postmaster paying or becoming responsible for the stamps so received by him; and if any of said stamps shall not be used, but be returned to the General Post Office, the amount so returned shall be credited to such deputy postmaster; and such deputy postmaster may sell or dispose of any stamps so received by him to any person who may wish to use the same; but it shall not be lawful for any deputy postmaster to prepare, use, or dispose, of any stamps not authorized by or received from the Postmaster General; and any person who shall falsely and fraudulently make, utter, or forge any postage stamp, or shall falsely and fraudulently attach to a letter any stamp which has been used in payment of postage, knowing that such stamp has so been used, and with the intent to defraud the Post Office Department, such person on conviction shall for every such offence be fined not exceeding $300, or imprisoned not exceeding six months, or both, according to the circumstances and aggravations of the offence.

SEC. 7. *And be it further enacted*, That, should the commissions of postmasters decline under the operations of this act, it shall be the duty of the Postmaster General to allow them, in addition to what they are entitled to by existing laws, a sum sufficient to make their whole compensation equal to what it was in the year ending the 30th June, 1848.

SEC. 8. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed: *Provided*, That this act shall not be construed to repeal the several acts or parts of acts relating to the franking privilege.

Mr. ATHERTON said he would only say that he hoped the amendment would not be adopted, but voted down. He wished to have it brought up as a separate measure. He should vote against it as an amendment to the appropriation bill.

The question being on the adoption of the amendment—

Mr. NILES called for the yeas and nays; which were ordered, and resulted as follows:

YEAS—Messrs. Baldwin, Cameron, Clarke, Corwin, Davis of Massachuseits, Dix, Dodge of Iowa, Felch, Fitzgerald, Greene, Hale, Hamlin, Jones, Miller, Niles, Rusk, Underwood, Upham, Wales, and Yulee—20.

NAYS—Messrs. Atchison, Atherton, Badger, Bell, Benton, Berrien, Borland, Bradbury, Breese, Bright, Butler, Davis of Mississippi, Downs, Fitzpatrick, Foote, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, John-

son of Georgia, King, Mason, Pearce, Sebastian, Spruance, and Turney—26.

So the amendment was rejected.

Mr. BORLAND then renewed his amendment for the establishment of new post routes in Arkansas; which was rejected.

Mr. NILES offered the following amendment:

Be it enacted, That the better to enable the postal treaty with Great Britain to go into full effect with equal advantage to both countries, letters shall be mailed as composing one rate only, where the letter exceeds the weight of half an ounce, but does not exceed an ounce; as composing two rates, where it exceeds an ounce, but does not exceed two ounces; as composing four rates, where it exceeds two ounces, but does not exceed three ounces; as composing six rates, where it exceeds three ounces, but does not exceed four ounces; as composing eight rates, where it exceeds four ounces, but does not exceed five ounces; and in like progression for each additional ounce, or portion of an ounce, and that each rate shall be subject to the full postage charge; that letters refused, or which cannot be delivered, may be immediately returned to the office, and that newspapers not sent from the office of publication shall be charged with the same postage as other papers, to be prepaid.

Mr. BRADBURY said he wished it to be understood that, although he voted against appending the "bill for the reduction of postages" to the post office appropriation bill as an amendment, he was in favor of such a measure, and, whenever it should be brought up as a separate bill, he would give it his support.

The amendment was agreed to.

Mr. NILES, at the request of the Post Office Committee, proposed further to amend the bill by the addition of a provision in relation to a contract for transporting the mails from New York to New Orleans by some new route, (of which we could not obtain a copy.)

Mr. ATHERTON. Mr. President, it seems to me that this is an amendment of a very different description from the one just adopted. There have been so many objections to these contracts, that I think it would be very dangerous to enter upon a new contract on the post office appropriation bill. This amendment proposes to authorize the Postmaster General to make a contract. He is to report, to be sure, the contract to the next Congress. But every one knows that when a Postmaster General makes a contract, Congress considers itself bound to sanction that contract. This proposition is just as much a direction to the Postmaster General to make this contract as though it said so in so many words. I hope, at any rate, that it will not be adopted.

Mr. TURNEY. Mr. President, I think the amendment will establish a dangerous and mischievous precedent. The effect of the system shadowed forth in the amendment will be to take from the Post Office Department the power to make these contracts. Not merely contenting yourselves with establishing mail routes, leaving the details of the contracts to the Postmaster General to arrange, in his sound discretion, you must take it upon yourselves to make the contracts, to settle the details. How does the amendment read? It makes it incumbent upon the Postmaster General to make a contract for the transportation of the mails from one point to another "three times a week," and for a certain amount of money. Congress takes upon itself, or will take upon itself, if this amendment be adopted, to arrange all the particulars of these contracts—to specify the amount of service, and the compensation to be paid. Now, I say that such a system of policy will be ruinous and destructive to that department of the Government. It would be much better to let that department manage the business which comes within its legitimate sphere. The Postmaster General can make a much better contract than Congress can make. At any rate, it is within his appropriate sphere to attend to all such business, and it is not in ours. I hope the amendment will be rejected.

Mr. NILES. Mr. President, I am not disposed to take up the time of the Senate in discussing this subject, but it is a very important matter, and deserves some attention. The proposition itself, however, is not of so much importance, as it extends only to the next Congress. The propriety of establishing this line will be readily seen by any one who will take the trouble of looking at the subject. I will only say that I was astonished, on tracing this route on the map, that it has not been established before this. Any one, on examining the matter, will see that it is almost in a direct line from New York to New Orleans, the whole distance being about one thousand miles, which is only a little more than one-half the present. This service is to be performed in five days, a very important consideration. Every one will perceive the importance of such a line, provided that the service can be performed for a reasonable charge. But a more important consideration is, that all the great commercial cities of the eastern, middle, and southern States are situated directly on this route. That is a consideration of the utmost importance, and, united with the others, furnishes ample reason for the adoption of this measure.

Mr. YULEE. Mr. President, I must beg the indulgence of the Senate while I say a very few words. I admit that this amendment, which has been proposed by the Post Office Committee, is not strictly appropriate to the bill before the Senate, and that, if the practice of the Senate were strictly carried, it could not be adopted. But I think the exceedingly important character of the amendment may plead the indulgence of the Senate. I understand it to have been reported unanimously by the Post Office Committee. The present contract time for the performance of the service between New York and New Orleans is eight days. The practical, actual performance is about nine days. It will be seen, then, that this route, if practical, will reduce the term of the trip to one-half the time now required. And when it is calculated that the whole of the New England States, the State of New York, of New Jersey, of Delaware, of part of Pennsylvania, at one end of the route, and Louisiana, a part of Alabama, the whole of Mississippi, a part of Tennessee, and Illinois, the whole of Texas, and the whole of Arkansas, will be immediately benefited by this proposed arrangement—that, instead of its taking, say ten days for their letters to come and return, they will be able to receive them in five days—I say in view of these considerations, it is well worthy the attention of Congress whether this great facility to a population comprising half the entire population of the Union, can be afforded to them within means appropriate to the mail service.

This amendment proposes nothing more than to receive proposels, to be reported at the next session to Congress for its consideration and decision. The importance of acting now, instead of waiting another year, is this: that, if it be determined that the service can be performed for a price which, in the opinion of Congress, will be justified, in consideration of the great facilities for postal communication which will be afforded to such a large portion of our population, a whole year will be saved. The establishment of the line requires the construction of a large number of steamers, which it will take two or three years to build and put into operation. It is, therefore, desirable that proposals should be authorized to be received at once, in order that a whole year may be saved. In conclusion, I will express the hope that an exception will be made in favor of this amendment, in consideration of the important benefits which will result from this measure, and that it will be allowed to pass.

Mr. WALKER. Mr. President, I wish to state that, although one of the Senators living furthest from this route, I feel favorable towards it. I certainly wish to have this amendment adopted, that the proper officer may go on and ascertain what will be the expense of establishing this line.

The amendment was not agreed to.

The bill was reported to the Senate, and the amendments concurred in. The bill was then ordered to be engrossed for a third reading, and was subsequently read a third time and passed.

GENERAL APPROPRIATION BILL.

A message was received from the House of Representatives, announcing that said House had agreed to some and disagreed to other amendments of the Senate to the bill making appropriations for the civil and diplomatic expenses of Government for the year ending June 30, 1850.

The Senate proceeded to the consideration of the said amendments disagreed to by the House of Representatives.

On motion of Mr. ATHERTON, it was ordered that the Senate insist on their amendments disagreed to by the House of Representatives, and ask a conference upon the disagreeing votes of the two Houses.

It was also ordered that Mr. ATHERTON, Mr. DICKINSON, and Mr. BERRIEN, be the committee of conference on the part of the Senate.

Mr. WALKER submitted the following resolution, which was considered and agreed to:

Resolved, That the sixteenth joint rule of the two Houses be suspended for the remainder of the session.

FORTIFICATION, ARMY, AND OTHER BILLS.

A message was received from the House of Representatives announcing that said House had disagreed to the amendment of the Senate to the bill making appropriations for certain fortifications of the United States for the year ending June 30, 1850.

Also, that said House had agreed to the third, fourth, sixth, seventh, and twelfth amendments of the Senate to the bill making appropriations for the support of the army for the year ending the 30th June, 1850; that they had disagreed to the first, second, fifth, eighth, ninth, and eleventh amendments of the Senate, and concurred in the tenth amendment of the Senate to the said bill, with an amendment.

Also, that they had concurred in the amendment of the Senate to the bill to amend the act entitled "An act supplemental to the act for the admission of the States of Iowa and Wisconsin into the Union," with an amendment.

Also, that they had passed the bill to grant the right of way to the Mobile and Ohio Railroad Company, with an amendment.

The question being taken upon concurring in the amendment to the bill last mentioned, it was agreed to.

The Senate proceeded to the consideration of the resolution submitted by Mr. MANGUM on the 28th of February, making an allowance to the officers and others of the Senate, and, having been amended, it was ordered that it be referred to the Committee on Contingent Expenses of the Senate.

CREDENTIALS OF HON. JAMES SHIELDS.

Mr. DOUGLAS presented the credentials of the Hon. JAMES SHIELDS, elected a Senator from the State of Illinois, for six years from the 4th inst., in the place of the Hon. S. BREESE; which were read.

Mr. WALKER rose and said, in justice to General SHIELDS, in justice to the Senate of the United States, in justice to the people, and all concerned—and he disavowed any other purpose—he would move to refer these credentials to the Committee on the Judiciary. He would embody in a resolution instructions to the committee, if he had time to prepare it, to inquire into the eligibility of General SHIELDS. He wished that questions, which have lately to some extent excited an interest among the members of the Senate and the people of the United States, might be inquired into.

Mr. MANGUM thought the motion premature. The proper time to make such a motion would be when General Shields presented himself to take the oath of office. But, beyond that, the present body should not decide a question which properly devolved on the Senate as it would be constituted in a few days.

Mr. WALKER appreciated the suggestion, and withdrew his motion.

Several private bills were passed, and some other business of no particular public importance was transacted; and at half-past eleven o'clock the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 2, 1849.

The Journal of yesterday was read in part, and the further reading having been dispensed with, was approved.

MEXICAN CLAIMS.

Mr. SMITH, of Connecticut, rose and said, that there was on the calendar of the Committee of the Whole on the state of the Union, a bill to establish a board of commissioners on Mexican claims, in order to carry into effect our treaty with the Republic of Mexico; and, as chairman of the Committee on Foreign Affairs, having charge of the bill, he felt it to be his duty to make a special effort to bring the House to the consideration of that bill. He thought that it ought to pass during the present session of Congress. He therefore moved that the rules of the House be suspended, in order to enable him to move that the Committee of the Whole on the state of the Union be discharged from the further consideration of Senate bill No. 313, in order that it might be brought up for the immediate action of the House.

THE CAPITOL GROUNDS.

Mr. JONES, of Tennessee, asked the gentleman from Connecticut [Mr. SMITH] to waive his motion for a few moments.

Mr. SMITH did so.

THE CONGRESSIONAL GLOBE.

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30TH CONGRESS, 2D SESSION. MONDAY, MARCH 5, 1849. NEW SERIES.....No. 42.

Mr. JONES said that it was his intention to support the motion of the gentleman from Connecticut, and to aid him in getting up that bill. But before he (Mr. J.) did so, he desired to submit an inquiry.

He was informed that the Committee of Arrangements had determined that the gates of the Capitol should be closed against all carriages and vehicles until Tuesday morning. The mail wagons, which carried the mails to and from the Capitol, were excluded also. The mails were very heavy. He could not see what disadvantages could result from the mail wagons bringing in the mails and carrying them out. He desired to have an expression of the opinion of the House, that instructions might be given for the mail wagons to pass.

The SPEAKER said, that no Committee of Arrangements had power to make any arrangements in relation to the Capitol grounds, because they were exclusively under the jurisdiction of the President of the Senate and the Speaker of the House of Representatives.

Mr. JONES was proceeding to make a remark, when—

Mr. SMITH claimed the floor, saying that he could not give way for the consideration of any other subject.

Mr. S. insisted on his motion to suspend the rules for the purpose which he had indicated.

And the question having been taken on that motion, and two-thirds voting in the affirmative, the rules were suspended.

The bill was thus before the House.

Its title was read in the following words:

"An act to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico, of the 2d day of February, 1848."

The Clerk proceeded to read the bill.

It had been read in part only, when—

Mr. SMITH interposed, and said that to save the time of the House, he would state that he was about to move a substitute for the bill, which substitute must be read. He would, therefore, suggest the propriety of suspending the further reading of the bill.

Mr. McCLERNAND hoped the bill would be read through.

And the reading of the bill was continued and concluded.

Mr. SMITH then said, that he was instructed by the Committee on Foreign Affairs to move three amendments to the bill.

Being apprehensive that the subject might be involved in some confusion if he attempted to submit these amendments *seriatim*, he proposed, on his own responsibility, to move a substitute for the entire bill—which substitute would be the bill as it came from the Senate, and the three amendments recommended by the Committee on Foreign Affairs.

He moved, therefore, to strike out all after the enacting clause of the bill, and insert the substitute, which he would send to the Clerk's table.

The substitute was then read.

Mr. S. desired, he said, to explain very briefly to the House the provisions of this substitute.

[Mr. S. was interrupted by a message from the Senate, with certain bills, &c.]

Mr. S. then proceeded with his remarks. He said that he desired to state to the House that there were only three differences between the substitute which he had proposed and the original bill as it came from the Senate. The members of the House would find the first difference in the fifteenth line of the first section of the bill. It consisted in inserting the words "of the first and fifth articles" next before the words "unratified convention." As this amendment was merely formal, and as it had been proposed by the committee for the purpose of making the language of the section more explicit, he deemed it unnecessary to make any remarks on the subject.

The next amendment, or alteration rather, would be found commencing at the tenth line of the third section of the bill, and was in the following words:

"And the period of one year from and after the organization of said board is hereby designated, within which said commissioners may, at the instance of any claimant or claimants, apply, through the Secretary of State of the United States, to the Mexican Minister of Foreign Affairs, for all such books, records, or documents, in the possession or power of the Government of the Mexican Republic, as shall be deemed necessary to the just decision of any claim or claims submitted to said board in conformity with the provisions of said treaty."

The object of this amendment (Mr. S. said) was to carry into effect a stipulation which would be found in the fifteenth article of the treaty, and, in the judgment of the Committee on Foreign Affairs, was a suitable and proper provision to be made. As he supposed there would be no opposition to this amendment, he did not think it necessary to submit any further observations on that point.

The other difference to which he had alluded would be found in an additional section which was proposed to the bill, as section 9, and which he read.

[This additional section provides that the act shall not go into operation until from and after the 10th March, 1849.]

He did not deem it necessary to go into an exposition of the reasons which induced the majority of the Committee on Foreign Affairs to come to the conclusion that this amendment ought to be adopted. If honorable gentlemen felt disposed to call for reasons, he was ready, here in his place, to assign them.

Mr. STANTON said:

There can be no difference of opinion as to the propriety and necessity of passing this bill in some form. The United States have assumed the obligation to satisfy the Mexican claimants; this obligation, all will agree, ought to be redeemed in good faith, and without unnecessary delay. The only question which can produce difficulty or division will relate to the extent and character of the obligation thus assumed by this Government. These are to be determined upon the broad principles of justice. I do not understand that there is any demand upon the liberality of Congress, or that it is sought to enforce any claim of a doubtful character. The whole case stands upon the single ground of right. Upon this foundation alone I propose to place it, in the examination upon which I am now about to enter. It is due to the honor of the Government, as well as to the demands of the citizen, that this matter shall be decided fairly and justly.

The amendment of the gentleman from Pennsylvania [Mr. J. R. INGERSOLL] presents the only issues which can be made in the case. The original bill proposes to limit the indemnity to the amount of three and a quarter millions of dollars, according to the limitation of the treaty. The amendment, on the contrary, has no such restriction, but provides for the payment of the full amount of all the claims which may be awarded by the commissioners. Another issue, subordinate to this, presented by the 4th section of the amendment, relates to the character of the claims adjudicated by the commissioners under the treaty of 1839, and not decided by the umpire—the amendment treating these claims as fully adjudicated, while the original bill leaves them to be again established before the new commission. These are the main issues, presented directly and pointedly for the decision of the House. I shall examine them in the order in which I have stated them.

The United States prosecuted the late war with Mexico, partly at least, for the avowed purpose of obtaining reparation for the wrongs which constitute the ground of these claims. A nation is bound to protect its own citizens, so far as it can, against the aggressions of other Governments. This is one of the most important objects of the civil compact. It is true, a nation is not always bound to go to war in order to obtain redress for its injured citizens. The public tranquillity may, in some cases, be more important than the rights of individuals, when these can be maintained only at the expense of the public peace, and with danger to some important general interest. In such cases, a government might sometimes properly refuse to go to war in order to obtain redress for the citizen. To the Government belongs the decision of this question.

But the United States did go to war with Mexico. The outrages committed by that Government against our citizens were repeatedly declared to be a sufficient cause for war; and throughout the whole of the late struggle, the most prominent avowed object put forth in all our public documents, and presented in every attempt at negotiation, was, to obtain indemnity for these very wrongs. I might content myself with this general reference to the facts; but I will read one only, among the many declarations of that kind to be found profusely scattered throughout our records of the war. The President, in his annual message to the last session of Congress, said:

"A treaty of peace which would terminate the existing war, without providing for indemnity, would enable Mexico—the acknowledged debtor, and herself the aggressor in the war—to relieve herself from her just liabilities. By such a treaty, our citizens who hold just demands against her would have no remedy, either against Mexico or their own Government. Our duty to these citizens must forever prevent such a peace; and no treaty which does not provide *ample means* of discharging these demands can receive my sanction."

Such was the general character of our declarations and demands. The claims of our citizens were considered of sufficient importance to justify the prosecution of the war upon the grandest scale. It was upon the strength and magnitude of these claims that our victories were pushed to the enemy's capital, and a magnificent portion of the Mexican territory demanded as an indemnity. If the United States have thus made these very claims the chief ground of the war, and have used them as the means of extorting from the enemy an immense and valuable territory, it does not become us now to depreciate these instruments of victory and of imperial acquisition. We should, at least, deal justly and fairly with the claimants. It is due to the honor and high character of the American Government, as well as to the rights of those citizens who have so long pursued in vain the redress of their aggravated injuries. They ought not to be cut off from the smallest portion of that which justly belongs to them, as the result of a contest waged upon the strength of their claims.

But it is necessary to look to this result, and to examine the stipulations which are to be found in the treaty of Guadalupe Hidalgo, as finally ratified by Mexico and the United States. By that treaty "the extension of the boundaries of the United States" is made the consideration of the stipulations on our part. Those stipulations consist, first, in the payment of fifteen millions of dollars to Mexico; second, in the payment "to the claimants of all the amounts now due them, and those hereafter to become due by reason of the claims already liquidated and decided," &c.; the amount of these being about two millions of dollars; and, lastly, the United States engage to satisfy all the claims originating before the date of the treaty, which have not heretofore been adjudicated and decided. This provision is contained in the fourteenth and fifteenth articles of the treaty, as follows:

"ART. XIV. The United States do furthermore discharge the Mexican Republic from all claims of citizens of the United States, not heretofore decided against the Mexican Government, which may have arisen previously to the date of the signature of this treaty; which discharge shall be final and perpetual, whether the said claims be rejected or be allowed by the board of commissioners provided for in the following article, and whatever shall be the total amount of those allowed.

"ART. XV. The United States, exonerating Mexico from all demands on account of the claims of their citizens mentioned in the preceding article, and considering them entirely and forever cancelled, whatever their amount may be, undertake to make satisfaction for the same, to an amount not exceeding three and one quarter millions of dollars. To ascertain the validity and amount of those claims, a board of commissioners shall be established by the Government of the United States, whose awards shall be final and conclusive: *Provided*, That, in deciding upon the validity of each claim, the board shall be guided and governed by the principles and rules of decision prescribed by the first and fifth articles of the unratified convention, concluded at the city of Mexico on the twentieth day of November, one thousand eight hundred and forty-three; and in no case

shall an award be made in favor of any claim not embraced by these principles and rules.

"If, in the opinion of the said board of commissioners, or of the claimants, any books, records, or documents in the possession or power of the Government of the Mexican Republic, shall be deemed necessary to the just decision of any claim, the commissioners, or the claimants through them, shall, within such period as Congress may designate, make an application in writing for the same, addressed to the Mexican Minister for Foreign Affairs, to be transmitted by the Secretary of State of the United States; and the Mexican Government engages, at the earliest possible moment after the receipt of such demand, to cause any of the books, records, or documents, so specified, which shall be in their possession or power, (or authenticated copies or extracts of the same,) to be transmitted to the said Secretary of State, who shall immediately deliver them over to the said board of commissioners: *Provided*, That no such application shall be made by, or at the instance of, any claimant, until the facts, which it is expected to prove by such books, records, or documents, shall have been stated under oath or affirmation."

Now, by the terms of these articles, the United States have at least undertaken to do one important thing—that is, to release Mexico forever from all claims by our citizens previous to the date of the treaty, "whatever their amount may be." The Government has not merely *undertaken* to do this; it has effectually done it. This release and acquittal of Mexico is binding upon every American citizen, and forever extinguishes his claim upon that Government. The United States, then, have absolutely disposed of the rights of the citizen. But they have received an equivalent. They have taken the rights and demands of the citizen, and sold them to Mexico in part payment for an "extension of boundaries."

But what have the United States assumed to do for the citizens whose acknowledged rights have thus been exchanged for the benefit of the Government? They "undertake to make satisfaction for the same to an amount not exceeding *three and a quarter millions of dollars*." This is the stipulation of the treaty. But it is a stipulation made with Mexico, and not with the American claimants; for these were not parties to the contract established by this instrument. This clause was not designed to have any operation between the high contracting parties, because it was in no sense the true measure of the demands extinguished, nor of the consideration received. If not introduced as a mere formal clause, it was intended only to operate upon third persons who were not present, and who had no voice or influence in the adjustment. I am informed that the claimants protested against this interpolation into the treaty; I say interpolation, because it was evidently inserted by the United States, not for any interest of Mexico in the matter, but in order to limit their own liability to their injured citizens. It was wholly aside from the treaty, and had nothing whatever to do with it. How, then, can this Government look to this stipulation for the measure of the demands of those who have given no sanction or assent to it? What justice can there be in thus arbitrarily assuming a particular amount, and forcing the parties interested to submit to it, however insufficient it may be to indemnify them for their acknowledged injuries?

This was not our language during the prosecution of the war. This was not the spirit in which we conducted the negotiations which terminated in peace. In the President's messages to Congress he declared that "no treaty which did not provide *ample means* of discharging these demands could receive his sanction." In Mr. Buchanan's celebrated letter to Mr. Slidell, the latter was instructed "to assume the payment of *all the just claims* of citizens of the United States against Mexico." This idea of the satisfaction of *all these claims* runs through every document connected with the war, down to the very hour of signing this treaty when this unjust and deceptive clause was inserted. It may well be called "deceptive," because it is calculated to produce the impression that it is a proper and binding stipulation in the agreement between the high contracting parties, when in truth it has no such character. So far from this, it is even true that the Mexicans were disposed to deal more fairly with the claimants. Mr. Trist gives the following account of the negotiations on this subject:

16. Mr. TRIST—"They (the Mexican Commissioners) *proposed that there should be no limitation of the amount of this class of claims*, (not liquidated,) either in connection with the discharge or with the assumption"—I answered, that, in the first place, the limit which had been fixed was founded on data sufficient for a near approximation to the highest sum which, in all probability, could be necessary for paying the just claims; and that in the next place, if that sum should prove insufficient, *the discharge given to Mexico would present a case for the justice and equity of Congress, in respect to which, there was no danger of its being disregarded*; because the obligation to pay, *now* contracted, was limited to a certain amount, it did not at all follow, that if justice should require the payment of a larger amount, provision would not hereafter be made for paying the excess."

Here the true point in the case is distinctly presented. The payments by Congress ought to be commensurate with "the discharge given to Mexico." The whole justice of the demand is summed up in this statement, and it would seem to me to be scarcely necessary to say more on this point.

It might be admitted, perhaps, that if Mexico had stipulated to pay our Government this amount of three and a quarter millions in satisfaction of those claims, without other consideration received, the claimants would have been bound by the arrangement. Such an arrangement, however, would only have been justifiable in our Government, from the fact that we had not the power to enforce a more complete indemnity. But suppose Mexico had stipulated to pay us five millions on account of these claims, and our Government had inserted a stipulation to pay the claimants only three and a quarter millions, thus herself pocketing the difference: will any one say this would have been just to the claimants? Now what has our Government received by this treaty for the seventeen millions (or thereabouts) stipulated to be paid in addition to the three and a quarter millions of these unliquidated claims? I need not undertake to describe that vast scope of valuable territory. I will not attempt to estimate the worth of its Pacific coast, and of the splendid harbors which indent it, destined soon to throw into our lap the rich trade of Asia. Still less is it necessary for me to investigate the value of its inexhaustible mines, which have already excited the wonder and the cupidity of the world. I assume it to be true, beyond all question, that this acquisition made by the force of these claims, after paying everything else stipulated by our Government, will be sufficient in value to pay the amount of these claims, ten times over, whatever may be the sum likely to be awarded by the commissioners. Can it be necessary to attempt the proof of this? I will attempt it only so far as to show the estimate placed upon it by ourselves. Look at the President's message communicating the treaty of peace to Congress. Read the description there given of New Mexico and California, and witness with how just a sentiment of triumph these acquisitions are claimed to have given complete "indemnity for the past."

But I point you to another document—one prepared under very different circumstances. Examine Mr. Buchanan's letter of secret instructions to Mr. Slidell. This was a paper written with a view to procure as good a bargain as possible from Mexico. Every proposition includes the payment not of any part, but of *all these claims*. And in addition to this, the minister was authorized to give "twenty millions of dollars for any boundary 'commencing at any point on the western line of 'New Mexico, and running due west to the Pa-'cific, so as to include the bay and harbor of San 'Francisco." Here was five millions more of money, offered for a much smaller scope of territory. Mr. Trist was also authorized to make a similar arrangement. But it is unnecessary to go further. In all our negotiations we have placed upon this territory a value beyond what is now proposed to be allowed, but not beyond its real worth. How, then, does it comport with the dignity and honor of the Government to keep this splendid domain, the fruits of a bargain made by virtue of the rights of these claimants, and then higgle with them as to whether they shall accept seventy-five or fifty per cent. of the amount justly due?

Such was not the position assumed while prosecuting the war and making out the list of charges against the enemy. Then the amount of these claims was stated at a much larger sum; then, too, the value of the territory acquired was estimated much more liberally. The Government should now vindicate its sincerity and its honor by allowing to the claimant the full amount of his just demand, for it was with this full amount, undisguised and unabated, that our demands were presented to the enemy, and our conquests pushed to the heart of his country.

But there is another consideration which renders this duty of the Government even more plain, if it were possible to make it so. By the thirteenth article of the treaty, the United States engaged "to 'assume and pay to the claimants all the amount 'now due them, or hereafter to become due by 'reason of the claims already liquidated, and de-'cided against the Mexican Republic." These claims, to the amount of two millions of dollars, are thus placed upon a footing, beyond all contingency or doubt. They are to be absolutely paid. Now, what can justify this partiality on the part of our Government? These claims, although liquidated, are not higher or more sacred than other just claims, which have been postponed in order that those might be adjudicated, or which may even have arisen after the commission was established by which those adjudications were made. Here, then, are claims equally good, equally valid, arising from the sufferings of citizens equally entitled to the protection and care of the Government; and yet provision is made for the whole of one class, and only for a portion of the others. There is no principle of right upon which this discrimination can be justified. The adjudication of one claim does not make it better or more just than one which has been wrongfully deferred and left unadjudicated. It may have happened—I believe it did happen—that while Mexico was refusing to provide for the liquidation of some of these claims, she was actually committing aggressions upon other citizens. These last aggressions call as loudly for complete indemnity as any of the former. Not to meet this demand with equal favor, would be to exhibit an arbitrary preference of one citizen over another. Even-handed and impartial justice requires them all to be placed upon the same footing. Our Government would have been false to its own honor—false to its own uniform pretensions and high demands during the war—and above all, false to the just expectations and indisputable rights of its own citizens, if, having Mexico completely in its power, it had exacted only this partial, insufficient, and arbitrary measure of redress. If, under these circumstances, the United States had not actually received a full equivalent for all these claims, and had thus made entire satisfaction for some of them while there was ample means of exacting all, this partiality and unfaithfulness on the part of the Government would have presented a strong case of justice and equity on the part of the claimants for the satisfaction of their whole demand. But now, when there is no dispute as to the fact that we have received more than a full equivalent, a stronger case, demanding the instant action of Congress, could not possibly be made out. Any court of justice in Christendom, if the case could be presented for its decision, would not hesitate to decree the payment of the whole of these claims.

Sir, I have been an ardent supporter of the war against Mexico, from its commencement to its glorious end. In this, I believed I was sustaining the honor of the country. But I have a profound conviction that our honor would be tarnished, if, in the conclusion of the war, the Government should seek an unjust advantage of its own citizens, by refusing to pay any portion of the just claims which it has used as the instrument of obtaining vast acquisitions of territory. I call upon those who, like myself, have supported the war, now also to sustain the high integrity of the Government, by doing complete justice to these claimants. It will not do to say that claims will be manufactured and established by false evidence. Such was not our argument while fighting the enemy. Guard your law by every possible means, so as to secure honesty; but do not refuse to pay the amount which shall be awarded by your own commissioners.

The other question which I propose to examine, has reference to that peculiarly situated class of claims which were acted upon by the commissioners under the convention of 1839, and submitted to the umpire, but not decided by him. Mr. Buchanan, in his letter to Mr. Slidell, refers to them in these words:

"But this is not all. There were pending before the umpire, when the commission expired, claims which had been examined and awarded by the American commissioners, amounting to $928,627 88. Upon these he refused to decide, alleging that his authority had expired.

"This was a strange construction of the treaty. Had he decided that his duties did not commence until those of the commissioners had ended, this would have been a more natural interpretation.

"To obviate this injustice, and to provide for the decision of other claims of American citizens, amounting to $3,336,837 05, which had been submitted too late to be considered by the board, a third convention was signed at Mexico on the 20th November, 1843, by Mr. Waddy Thomp-

son on the part of the United States, and Messrs. Bocanegra and Trigueras on the part of Mexico."

Now, the difficulty to be solved here, is, how these claims are to be considered. Shall they be deemed to have been already adjudicated, or must the claimants be required to establish them again before the new board of commissioners to be appointed by our Government?

It may be said this will be a question for the decision of that board. But, in my judgment, it is a question which can be more properly determined here, and which ought to be settled in the law establishing the commission. The situation of these claims is certainly peculiar. They have already undergone a judicial examination, and the reason should be a strong and clear one, which would require them to be again subjected to the same process. The Government will surely not be anxious to put the parties to any unnecessary trouble and expense; and still less, if the only result must be, either a loss to the Government itself, or a positive injustice to the claimants. If these accounts are to be reëxamined, they may be increased in amount by the new board to the detriment of the United States. But if they should be diminished in amount, this advantage to the Government will be obtained, not without the most serious imputation upon the fairness and justice of its proceedings throughout the whole matter. It is plain that these claims were considered as adjudicated before we entered upon the war, and while we were prosecuting it. Mr. Buchanan's despatch, already quoted, says, "to obviate this injustice, 'and to provide for the decision of other claims of 'American citizens, amounting to $3,336,837 05, 'which had been submitted too late to be con-'sidered by the board, a third convention was 'signed." A broad distinction is made between these and the other claims. Even in this new convention they are placed upon a footing wholly different from that of those demands which had not been acted upon at all. By this third convention, which was not however ultimately ratified, these claims were not to be again contested before the board of commissioners, but were to be submitted only to an umpire. We were then dealing with Mexico. The American Government, by its constituted tribunal, had already declared in favor of these claims, both as to the principles involved and the amounts awarded. We deemed them as adjudicated—Mexico alone disputed them. And we were pressing her simply for the appointment of an umpire to decide between us. But now, Mexico is out of the question, and the matter lies between the Government and its own citizens. What position shall be taken in this new state of things? Shall the Government impose upon its citizens more rigorous terms than Mexico was disposed to demand? While she demanded only an umpire, shall we insist upon reopening the proofs before a new board of commissioners to be appointed by the interested party? The very utmost which this Government could claim, upon any honest principle, would be to select a disinterested umpire to determine the points at issue between the commissioners appointed by the American Government and those appointed by the Mexican. But this has not been provided for, as will be seen by reference to the treaty.

In those articles of the treaty already quoted, it will be seen that the new board which is to be established by this bill is to be "guided and gov-'erned by the principles and rules of decision pre-'scribed by the first and fifth articles of the unrati-'fied convention concluded at the city of Mexico 'on the 20th November, 1843." Now that fifth article is in the following words:

"All claims of citizens of the United States against the Government of the Mexican Republic, which were considered by the commissioners and referred to the umpire appointed under the convention of the 11th April, 1839, and which were not decided by him, shall be referred to and decided by the umpire to be appointed as provided by this convention, on the points submitted to the umpire under the late convention, and his decision shall be final and conclusive. It is also agreed, that if the respective commissioners shall deem it expedient, they may submit to the said arbiter new arguments upon the said claims."

This article is, in effect, adopted by the present treaty; and by it these claims are evidently treated as having been decided fully on our part. If not, why was not an arbiter provided for to decide between our Government and the claimants? If it be said that the United States are substituted for Mexico, and now possess all the rights of the latter, these rights extend no further than to the privilege of submitting these claims to a disinterested third party, who shall impartially arbitrate between the two. But then the position of our Government would be awkward in the extreme. Formerly we stood in opposition to Mexico, making war upon her on account of these claims; but now, standing in the shoes of Mexico, we squabble with the citizen as to the amount of his demand.

It may be said, however, that this board of commissioners will constitute the umpire. This would be a strained construction under any circumstances: but the latter clause of the article just quoted renders it wholly absurd. It is there provided, "*that if the respective commissioners shall deem it expedient, they may submit to the said arbiter new arguments upon the said claims.*" The American commissioners, the appointees and representatives of our Government on the one side, and those of the Mexican on the other, are here placed almost in the position of advocates submitting arguments in favor of their respective clients—Mexico and the United States: so completely did the Government consider itself committed by the decision of that part of this complex tribunal, which had been appointed by itself to determine the rights of its citizens.

If this be not the construction to be placed upon the treaty, I ask why this fifth article of the unratified convention of 1843 was referred to at all? It cannot have the slightest application to any other class of claims; and if it be not construed according to the views presented, it must be treated as a perfect nullity—a senseless and absurd application of words without meaning. But it is a well settled principle of law, applicable here as in all other cases, that every provision of an instrument is to be made effective, if possible, and none is to be rejected, unless it be absolutely impossible to give to it a rational and consistent import. How can this fifth article be construed—how made to conform to the fact that the treaty makes no provision for the appointment of an umpire, to whom alone this class of claims is to be referred? The answer, it seems to me, is very obvious. The language of the fifteenth article of the treaty is, that "the 'board shall be guided and governed by the *prin-'ciples* and rules of decision of the first and fifth 'articles of the unratified convention." Now, what *principle* is established by the fifth article? Clearly, that our Government is fully committed in regard to these claims—that on our part they are adjudicated—and that a reëxamination of them by a board of commissioners is wholly unnecessary, and, indeed, repugnant to the position which has heretofore been uniformly assumed in regard to them. If this *principle*—the principle of consistency—is not involved in that article, what principle is involved, or what *rule* can be drawn from it, to bear any operation in the case whatever? Why was not an umpire provided? Simply because the whole article is based upon the *principle* that our Government, on its part, is already satisfied, and Mexico being placed out of the case by the treaty, no umpire was necessary. This is the only construction which can possibly be placed upon it to give it any force or effect. I cannot conceive how this provision can be otherwise applied. This is the only living, intelligent principle contained in it, when considered in reference to the treaty by which it is adopted. Mexico having surrendered her opposition, and the United States having already by commissioners determined the validity of these claims, there is no alternative left but to pay them.

So far, I have confined myself to a strictly legal view of the duties and obligations of the Government, arising from a fair construction of the language of the treaty. There are, however, other highly important considerations, of a different character, indeed, but not less persuasive and influential than those already presented.

These claims have already been adjudicated by commissioners of the highest character for ability and integrity. The claimants had no part in the choice of these commissioners; they were selected by the Government, and performed the functions of judicial officers. Every presumption, therefore, must be in favor of the decisions of this tribunal, and so far as the Government is concerned, these decisions ought to stand unimpeached.

There is no circumstance to excite the slightest suspicion that the American commissioners have acted unfairly or awarded extravagant sums. They acted under oath. They awarded less than half what the claimants demanded, and the Mexican commissioners did not object to the amounts allowed, but to the principles decided.

Again, it is stated in the report of the commissioners to the Secretary of State, and I believe the fact is not disputed, that the Mexican commissioners withdrew and carried off with them, the most important documentary evidence without which the claimants cannot expect to obtain justice in any reinvestigation which may take place. It is true, the treaty makes it the duty of the Mexican Government to restore these papers, or to furnish copies of such as may be in its possession. But what probability is there that these papers, which contain the evidence of large indebtedness on the part of Mexico, have been carefully or faithfully kept? The contrary is the most reasonable supposition. In this state of things, it would be extremely unjust to force these parties to submit to a new examination. Our Government stands in the shoes of Mexico; but Mexico has unfairly and unjustly abstracted the proofs upon which the claims rest. And now we insist that the parties shall again establish their demands! A more unjust and unprincipled exercise of sovereign power for the oppression of the citizen could not be conceived.

Many of these claims have been in existence for thirty years, and all of them are now of long standing. They have already been postponed after another class of claims having no higher merits have been settled and fully paid. And if it should now be determined that they shall undergo another examination before the new commission, this partiality and injustice will be still further aggravated.

But what will be the position of our Government, in the eyes of the whole world, if these claims are to be sent to a new commission under all the disadvantages already shown, in order to be reduced in amount? If not reduced in amount, the Government will derive no advantage. But if they should be thus reduced, we place ourselves in the disgraceful attitude of having one set of commissioners to award a large sum when Mexico is to pay; and another set of commissioners to curtail that sum, by all sorts of means, when we ourselves have assumed the payment. If we have any regard for the honor of the country—if we have heretofore believed in the justice of her proceedings and desire to maintain her high reputation hereafter—we will not permit her to be placed in this more than questionable position before the eyes of the world.

For all these reasons, I think the amount of these claims ought to be considered as fixed and settled. I have already attempted to show the obligation of the Government to pay the whole amount of just claims which were due from Mexico. If the entire amount is not to be paid—if the indemnification is to be confined to the three and a quarter millions of the treaty—then the whole of this class of claims, though considered as settled in amount, will be obliged to wait for their adjustment until the whole business of the commission shall be closed. Until that time, it will be impossible to determine the pro rata sum to which these claimants will be entitled. Thus a new cause of delay will intervene, and double injustice be done to citizens who have so long suffered from foreign aggression without redress.

The positions I have assumed, or rather the conclusions arrived at, may seem to be extravagant. But I am persuaded that any one who will examine the subject closely and impartially must arrive at the same results. Put out of view the power of the Government to give or withhold this indemnity—look upon it as subject to the control of the ordinary principles of right which obtain between man and man, owing protection to the citizens in return for this allegiance, and bound to do him full justice although he has no power to enforce his claim—looking upon the relations of the Government with the citizen in this light, it seems to me impossible to deny the conclusions to which my arguments have conducted me.

Mr. J. R. INGERSOLL gave notice of a substitute which he should offer for the bill.

Some conversation took place between Messrs. COLLAMER, STANTON, and the SPEAKER, as to the precise state of the pending question.

Mr. COLLAMER said he understood both the propositions to be in the nature of substitutes. He

objected to the amendment of the gentleman from Pennsylvania, [Mr. J. R. INGERSOLL.] He understood that gentleman's amendment to provide for the payment of those claims which have only been awarded by the American commissioners, and never passed upon by the umpire. That he understood to be the first point of the gentleman's bill. The next point of the bill, as he understood it, went on to provide for paying these claims in full, as fast as they should be allowed by our commissioners, without regard to the limitations of the treaty to three and a quarter millions of dollars. We did not yet know whether the sum of all these claims would exceed that limitation or not. As a general rule, it was far from being judicious to provide for a state of things which we do not know will ever arrive. There was no certainty that the sum of these claims, when they should all come to be passed upon and allowed, would exceed the three and a quarter millions. The proposition was to pay in full, instead of *pro rata*, in the event that they should exceed the limitation in the treaty; and in that event, the question would certainly arise, whether they should not all be paid *pro rata*. It was injudicious and unwise thus to provide for these payments in full, because, by taking away the limitation, it would deprive the Government of the advantage of the exposures of fraudulent claims, which the claimants themselves were now interested in pointing out. He would first see what these claims are, ascertain the sum of them, and then provide for their payment.

Mr. EVANS, of Maryland, said the amendment of the gentleman from Pennsylvania was a proposition professing to carry into effect certain stipulations of the late treaty between the Government of the United States and the Government of Mexico. Any gentleman, upon hearing the title of such a bill, would be inclined at once to give it his concurrence. But it was not a bill to carry the treaty into effect. It was contrary to the treaty, and went right in the face of it. He then proceeded to show, that by the thirteenth article of the treaty of Guadalupe Hidalgo, the United States had assumed the payment of all the claims of our citizens against Mexico which have heretofore been regularly adjudged and allowed; that by the fourteenth article of the treaty, the United States were to adjudicate and pay all the claims not heretofore decided upon; and that by the fifteenth article, the United States exonerated Mexico from the payment of these claims of our citizens, and undertook to make satisfaction for them, to an amount not exceeding three and a quarter millions of dollars.

He then read the fourth section of the bill proposed by the gentleman from Pennsylvania, and proceeded to show how the bill conflicted with the treaty. By the treaty, it was agreed that we should pay those claims already adjudicated, and adjudicate and pay others yet undecided, with a limitation as to the amount; but the bill proposed to pay them in full, and at once, uninvestigated, and whether just or unjust. He denounced the bill as a proposition to plunder the treasury, and as carrying a falsehood on the very face of it.

The gentleman from Tennessee [Mr. STANTON] had said that the Government had appointed a commission to make these claims as large as possible.

Mr. STANTON said he did not say that the Government had appointed a commission to make these claims as large as possible; but he had said, that if we now undertake to diminish these awards, we would render ourselves liable to the suspicion of having done such a thing. He said, also, that for the honor of the country, these awards ought to be paid.

Mr. EVANS continued. He considered the gentleman's conclusion a perfect *non sequitur*. We were not bound to pay all these claims in full, under the present state of things. He declared his intention, at the proper time, to move to strike out the fourth section of the bill; and if he could not do that, he should move to lay the whole concern upon the table.

Mr. J. R. INGERSOLL said the remarks of the gentleman from Maryland appeared to be directed only against the title of the bill, as open to his fair and conclusive objections.

Mr. SMITH, of Connecticut, inquired of the Chair whether the amendment contemplated in the remarks of his friend from Maryland was now before the House?

The SPEAKER'S reply was not heard.

Mr. INGERSOLL said he had offered his amendment, about ten minutes ago, with the view of its being read for the information of the gentleman from Vermont, [Mr. COLLAMER.] He should have then offered it to the consideration of the House, if he had been assured that it was in order to do so. He now asked the Speaker if it was in order to move a substitute for the bill reported by the gentleman from Connecticut, [Mr. SMITH.]

The SPEAKER said it would be in order for the gentleman to move to strike out from the bill anything less than the whole.

Mr. INGERSOLL then moved to strike out from the original bill all after the word "That," and insert the bill which he had presented, by way of amendment.

In reply to the gentleman from Maryland, he said, the arguments and suggestions of that gentleman were directed entirely against the title of the bill; and he submitted that such a course of opposition was entirely unparliamentary, for the reason that the title of a bill, or the preamble, constituted no part of the law. He referred to the preamble of a certain law of Congress, passed some three years ago—in May, 1846—to which many gentlemen were opposed; yet they voted for the bill, because they knew the preamble constituted no part of the law. They voted for the bill furnishing troops and supplies, notwithstanding their opposition to the preamble, considering the imminent peril of our little army and its gallant chief. He believed the gentleman himself would acknowledge the manifest impropriety of the application of his remarks. There was a proper stage in the progress of every bill when the title of it might be changed, and made what it ought to be; but it was neither parliamentary nor regular to make objections to a bill because it may have a wrong title.

The bill which he now proposed to amend, by way of substitute, was prepared under the direction of the Committee on Foreign Relations, and was, in a great degree, conformable to the bill passed by the Senate. He would, for a moment, look at the distinction between the proposed substitute and the bill before the House.

The bill, as reported from the Committee on Foreign Affairs, proposed to pay certain claims of our citizens—formerly upon the Government of Mexico, but now upon the United States, by reason of the extinction of their claims by the authority of the United States—against the Government of Mexico. The bill proposed to pay these claims *pro rata*. It also proposed that the amount to be thus paid should be limited to three and a quarter millions. He desired to be distinctly understood as acting disinterestedly in this matter. He was without even an intimate acquaintance with any man at all interested in these claims. But he felt that the payment of these claims was due, and that the Constitution and laws of the United States, and of every free country, absolutely imposed their payment upon us as a duty. The bill proposed to ascertain the entire justice of every claim, and the amount of them all, and then distribute the three and a quarter millions amongst all the claimants *pro rata*.

What he proposed as a substitute, he would state with as much brevity as possible. It was, that every claim which should be found to be justly due from this Government to the citizens of the United States, by reason of the treaty which had made this Government thus responsible, should be paid in full, instead of a *pro rata* payment, whether the sum of them should be three and a quarter millions, or six and a quarter millions: that they should be paid, without regard to the limitation made in the treaty. His proposition was, that these claimants should all be paid in full, and not in any limited, stinted, *pro rata* way. This, as far as he recollected, was the objection of the gentleman from Maryland. Another provision of his bill was, that reports are to be made by the commissioners, from time to time, of such claims as shall be allowed, and certificates of stock, bearing interest at six per cent., shall be issued to the claimants. To this, he understood the gentleman from Vermont to object.

These objections were made to the bill *in limine*, because the precise stipulations of the treaty were not regarded in it. But the bill proceeded upon the principles of justice, and upon the constitutional principle which prescribes, that "private property shall not be taken for public use" without a just indemnity. He proceeded to state that the Government of the United States had, by its paramount authority, deprived its own citizens of the right to prosecute their claims against Mexico, and that their case demanded the most ample relief, upon every principle of law and justice.

Mr. SCHENCK would not make an argument, but desired simply to state how far he was prepared to go with the gentleman from Pennsylvania, [Mr. INGERSOLL,] and wherein consisted the difficulty with him. The United States, by the 14th article of the treaty, having discharged Mexico from all liability and indebtedness to our citizens, ought not to be permitted to limit the amount of the liability thus taken upon herself. She ought to pay every cent of these claims, even if they were to amount to twenty millions. The United States Government had taken upon itself the payment of these claims, as a portion of the price to be paid for the purchase of territory from Mexico, or for the purchase of a peace. This purchase was for the common benefit—if benefit and not mischief was in the bargain at all—of the common country. The claims had been used as the price with which to make the purchase. It was like any other case where "private property had been taken for public uses;" and full compensation ought to be made. That was but simple justice.

His difficulty was in relation to the provision of the substitute for the payment of claims not yet decided upon against Mexico. By the 13th article of the treaty it was agreed that all the claims which had been decided against Mexico should be paid. That was well. Let them be paid. But his opinion was, that those other claims, which have not been decided by the commissioners appointed for that purpose, ought to be left open to be settled by a future commission. These claims were not liquidated and decided against Mexico any more than arbitrators may be said to have decided in a case where one of the arbitrators has given an opinion one way, and the other an adverse opinion, and the umpire has not decided between them.

Mr. INGERSOLL explained, that the substitute-bill proposed that this class should be considered as liquidated claims; and this was the chief difference between it and the original bill. The acting of the United States Commissioners by whom these claims were all decided against Mexico, was of a judicial character: and if the claims had never been acted on at all by the Mexican commissioners, but simply acquiesced in, the decision would have been conclusive against the Government of Mexico, as it was now against the United States.

Mr. SMITH, of Indiana, (interposing, and Mr. I. yielding,) said he had an amendment which he desired to have read for information, and which would remove his objection to the substitute, and perhaps that of the gentleman from Ohio, [Mr. SCHENCK.]

The amendment was then read, and is as follows:

All claims of citizens of the United States, referred to in the said fifth article of the unratified convention, shall be submitted, upon the cases made and referred, to the umpire, under the convention of the 11th April, 1839, to the board of commissioners provided for by this act, and be finally decided and adjudicated by said board, in place and stead of said umpire, and with like force and effect as if decided by said umpire; but said commissioners may, in their discretion, or, on the application of claimants in interest in any particular claim, direct a new argument and hearing of counsel upon such claims. And in all cases in which the strength of the documentary evidence shall appear to have been impaired by the abstraction of papers by the Mexican commissioners appointed to carry into effect the convention of 1839, after claims had been submitted and left by the umpire undecided, the interests of the claimants shall be entitled to the most favorable construction; and the said commissioners shall receive and consider such evidence as may be adduced by the said claimants to supply the place of any testimony so impaired or abstracted, giving to it such weight as they may consider it entitled to, for the purpose of doing substantial justice.

Mr. INGERSOLL continued. He understood the object of that amendment to be, to submit those claims which had been already decided to the judgment of new commissioners. One objection to that proposition was, that the necessary evidence by which many of these claims had been substantiated had been taken away, and was perhaps irrecoverable. He knew there was a provision in the bill by which demands might be made upon Mexico for such evidence, but it might also be withheld. He would remind the House

that all these cases were of this character. Both the American and the Mexican commissioners had awarded large sums of money to those claimants; but the American commissioners awarded larger sums than the Mexican commissioners. These cases would go over to the umpire thus neutralized; and the individuals who were clearly entitled to large amounts of money would be thus denied, and kept out of their rights.

[He continued for some time to elaborate and enforce these considerations, but in the midst of so much promiscuous conversation in the Hall, that the reporter cannot extend the sketch.]

Mr. BURT said he desired to submit a very few remarks on the subject now before the House. It was well known that the Government of the United States, by a late treaty with the Government of Mexico, assumed liabilities to the citizens of the United States for their just claims against the Government of Mexico. In performing the duty imposed by that treaty, it was proposed to establish a commission to investigate and ascertain such claims as were just. It was proposed by the gentleman from Connecticut, [Mr. SMITH,] the chairman of the Committee on Foreign Relations, and by the gentleman from Pennsylvania, [Mr. J. R. INGERSOLL,] who had just taken his seat——

APPROPRIATION BILLS.

Mr. VINTON interposed, and asked the gentleman from South Carolina [Mr. BURT] to yield the floor for a moment.

Mr. BURT having done so—

Mr. VINTON said that the bill making appropriations for the support of the army, and the bill making appropriations for certain fortifications had been returned from the Senate with some amendments. The House was now acting under a suspension of the rules, which put it out of his power to move to go into Committee of the Whole on the state of the Union upon the civil and diplomatic appropriation bill, to which there was a great mass of amendments. He proposed, therefore, that the army bill and the fortification bills should be referred to the Committee of Ways and Means, and that the committee have leave to sit now.

Mr. HALL, of Missouri, suggested that there were a number of Senate bills on the Speaker's table, and that it would be better to take them up in their order.

Mr. VINTON said he hoped the proposition he had made would not be objected to; that the bills would be referred to the Committee of Ways and Means; and that the committee might have a session now, while the debate on the Mexican claims bill was going on. He did not know what other time the committee could have.

Mr. WENTWORTH objected.

Mr. KAUFMAN inquired of the Speaker, whether it would be in order to move a suspension of the rules?

The SPEAKER said it would not. The House was already acting under a suspension of the rules.

MEXICAN CLAIMS.

Mr. BURT resumed his remarks.

The gentleman from Connecticut [Mr. SMITH] and the gentleman from Pennsylvania [Mr. J. R. INGERSOLL] had each submitted a plan for the performance of this duty. Mr. B. referred to the provisions of the two plans. He utterly protested against both. No man who knew him would suspect that he was capable of violating the faith of the Government. It was their duty to establish a commission, and to proceed at once to the ascertainment of these claims; but beyond that, the House should not be urged by any consideration, by the importunities of agents, or claimants, or other instrumentalities, to proceed at this moment.

If the proposition of the gentleman from Pennsylvania should be adopted, he (Mr. B.) pledged whatever was valuable to him for the truth of the assertion, that fifteen millions of dollars would not pay the claims.

If the proposition of the gentleman from Connecticut should be adopted, it would be but the beginning of this thing. If Congress should at this time appropriate the sum of twenty-five millions, he (Mr. B.) was authorized to say, from his own knowledge of some of the claims, that the amount would not be sufficient to pay them.

And here he desired to inquire of the chairman of the Committee on Foreign Affairs, whether he had applied to the Secretary of State for information in relation to these claims? Had he consulted the correspondence which passed between General Waddy Thompson, late minister to Mexico, and Mr. Webster, late Secretary of State, in relation to these claims?

Mr. SMITH. In reply to the question of my honorable friend, I desire to say, that in discharge of my duty as a member of the Committee on Foreign Affairs, I did not think it necessary to enter at all into an investigation of the merits of these claims.

Mr. BURT—complimenting the diligence of Mr. SMITH in the performance of his duties, and that sort of rectilinear propriety which was characteristic of his section of country—thought that the gentleman had been remiss in asking three millions of dollars to pay claims before he had satisfied himself that the amount was due.

He (Mr. B.) was authorized to say that the late Minister of the United States in Mexico refused, in his official character, to present some of the claims about which the gentleman from Pennsylvania [Mr. INGERSOLL] and the gentleman from Tennessee [Mr. STANTON] had spoken so feelingly here to-day. He had refused to degrade himself and his country by the presentation of such claims as some of them were. He refused to submit an argument in favor of them. And he felt himself authorized to say, from information of the most authentic character, that the just claims which remained to be paid would not amount to one million of dollars; and yet he told this House that if they did not make these claimants interested in reducing the claims of each other, twenty-five millions of dollars would be insufficient to pay them. He protested against this House lending itself to a transaction so foul. He protested that they should not do that which even the claimants, with all their effrontery, almost blushed to do, and which our minister abroad had scorned to do. Let the amount that was justly due be ascertained, and then let it be paid.

[Mr. HAMPTON, of New Jersey, from the Committee on Enrolled Bills, made a report.]

Mr. SMITH, of Connecticut, said, he desired to occupy only a very brief space of the time of the House. He wished also to say to the friends of the bill, that unless they would permit it to be brought to a vote, and that right speedily, the state of the public business was such, that he should feel it to be his duty to move that the bill be laid on the table. If he could have been permitted to manage this bill by gentlemen who concurred in opinion with him in relation to it, he could have carried it through this House more than an hour ago.

In answer to the objection stated by his honorable friend from South Carolina, [Mr. BURT,] to making an appropriation at this time, he (Mr. S.) had to say, that the bill, in this respect, was drawn exactly as all other bills had been drawn from the foundation of the Government to this time. It was drawn in conformity with precedent. We had stipulated in the treaty with Mexico, that whatever a board should decide to be due, this Government should pay. Why, then, not make the appropriation now? What use was there in postponing it, since, after there had been an adjudication by the board, Congress would be bound by the treaty to make the appropriation.

He trusted, therefore, that the House would pass the bill in the form in which it came from the Senate, notwithstanding the objections of his friend from South Carolina. And he (Mr. S.) desired to say here, that he accorded fully in the opinion expressed by that gentleman—that these claims, many of them at least, as he believed, were in a high degree fraudulent.

But it was no part of the duty of the Committee on Foreign Affairs to investigate the merits of these claims. It was their duty to draw up a bill to carry into effect the stipulations of the treaty. That treaty stipulated that a board of commissioners, and not the Committee on Foreign Affairs, should decide on the validity of the claims. The Senate, therefore, had proposed a bill in which the Committee on Foreign Affairs of this House unanimously concurred, and the proposition which had been submitted by his friend from Pennsylvania [Mr. INGERSOLL] underwent a full consideration in the committee and was voted down.

We had now an extraordinary proposition brought in here emanating from, or rather suggested in the first instance by, his honorable friend from Indiana, [Mr. SMITH.] He (Mr. S.) saw that this proposition was not in the handwriting of his friend, and he ventured to suggest to the House (although he was prepared to do ample justice to the gentleman's motives) that this most artful and adroit proposition emanated from some one of the numerous agents who had been prowling around this Capitol during the whole of the present session. What was it? It proposed to alter the rule of evidence on this subject, and it placed a certain class of claimants before the commissioners in a better condition than they would be according to the rules of evidence adopted under the common law. That could not be done consistently with the provisions of the treaty. He had said he would be brief, and he would not, therefore, occupy the time of the House with more full explanations.

Mr. J. R. INGERSOLL said he had not seen, and did not to this moment know, the contents of the amendment referred to.

Mr. SMITH. Exactly so; and yet my worthy and most excellent friend has adopted it as his own. This cunning proposition, which had been brought in here, not proposing, as his friend [Mr. INGERSOLL] in his frank and open manner had done, to pay these claimants in full out of the treasury of the United States, was a poor, and he was about to say, a miserable arrangement, changing the rules of evidence, and giving to one class of claimants advantages which others did not possess.

And now he wanted to trip up the whole foundation of this argument, and of the strong appeal which hade been made to the House. He could, he said, lay it by the heel. Gentlemen assumed that there were a set of very honest claims against the Government; while the war with Mexico was pending, anything that could be got up in the nature of a claim was considered valid, whether it had form or circumstance about it or not. His friend assumed that the claims would amount te more than three and a quarter millions of dollars. In answer, all he (Mr. S.) had to say was, that if this House would only adopt the ninth section—that was to say, the proposition to give to one Zachary Taylor the appointment of the board, he (Mr. S.) was willing to stake his life that these claims never would amount to three and a quarter millions of dollars. They never would amount to any such sum. He was not in favor of committing the Government now. He proposed to carry the treaty into effect—to pay the three and a quarter millions of dollars *pro rata*. He was not for saying now, that we would pay in full. Let the board investigate, and see whether the just claims exceeded that amount. They could be submitted to a future Congress, and he had no doubt that entire justice would be done.

Mr. S. concluded his remarks by moving the previous question.

Mr. EVANS, of Maryland, moved to lay the bill on the table; (but this motion was not persisted in or entertained.)

Mr. NICOLL asked the gentleman from Connecticut [Mr. SMITH] to waive his demand for the previous question, to enable him (Mr. N.) to offer an amendment.

The SPEAKER said no other amendment was in order.

The demand for the previous question was then seconded; and the main question was ordered to be taken.

The first question was on the modified amendment of Mr. J. R. INGERSOLL.

The amendment of Mr. SMITH, and the amendment of Mr. INGERSOLL were again read.

Mr. BRODHEAD asked the yeas and nays on Mr. INGERSOLL's amendment; but withdrew the demand.

Tellers were asked and refused.

The question was then taken, and the amendment of Mr. INGERSOLL was rejected.

And the amendment of Mr. SMITH was then agreed to.

Mr. THOMPSON, of Mississippi, asked for the reading of the bill, as amended; and it was read.

Mr. BURT. I believe the previous question has been ordered.

The SPEAKER. The previous question is still in operation.

Mr. BURT. I rise to ask leave of the House to make a single suggestion. It is, that, as the previous question has been ordered, and the bill is

incapable of amendment, that upon the motion which I propose to make, it be laid upon the table, and I will then offer the proposition which I hold in my hand for the establishment of a commission to investigate these claims.

[Cries of "Order."]

Mr. BURT moved to lay the bill on the table; and on that motion asked the yeas and nays.

The yeas and nays were ordered, and being taken, were—yeas 43, nays 152.

So the bill was not laid on the table.

The question recurring on ordering the amendment to be engrossed, and the bill to be read a third time, was taken and agreed to.

Mr. EVANS, of Maryland, asked if the amendment had been engrossed.

The SPEAKER replied in the affirmative.

The bill was read a third time, and the question being upon its passage—

Mr. SMITH, of Connecticut, moved the previous question.

Mr. JONES, of Tennessee. Have I not the right to ask for the reading of the bill?

The SPEAKER replied in the affirmative.

Mr. JONES. I ask for its reading, then, as I could not get the amendment read.

The SPEAKER. The bill will be read through.

It was read accordingly, (from the engrossed copy.)

Mr. EVANS, of Maryland, moved to reconsider the vote on the engrossment, for the purpose (he said) of striking out the sixth and eighth sections of the bill. He was in favor of appointing a commission to adjudicate the claims, but there was no necessity of making the appropriation now. He wanted to carry out the treaty, but he was opposed, by making the appropriations in advance, to tempt the commissioners to make the amount adjudicated as large as possible.

Mr. POLLOCK moved to lay the motion to reconsider on the table. Agreed to.

The question recurring on seconding the demand for the previous question—

Mr. THOMPSON, of Mississippi, inquired if it would be in order to have the fifth and sixth sections read?

The SPEAKER. Not except by unanimous consent.

Objection was made.

The previous question was seconded and the main question was ordered.

Mr. ROOT asked the yeas and nays on the passage of the bill, which were refused.

And the question "Shall this bill pass?" was then taken and decided in the affirmative, without a division.

So the bill was passed.

Mr. CLINGMAN moved a reconsideration of the vote, and that that motion be laid on the table.

And it was ordered accordingly.

APPROPRIATION BILLS.

Mr. VINTON said that he had before him the bill making appropriations for the civil and diplomatic expenses of the Government, which he was directed by the Committee of Ways and Means to report back to the House. It had been returned from the Senate with amendments. The committee had agreed to some of the amendments, disagreed to others, and agreed to some with amendments. He asked leave to report the bill and move its reference to the Committee of the Whole on the state of the Union.

Mr. WENTWORTH objected.

Mr. VINTON moved a suspension of the rules, to allow him to report the bill.

Mr. WENTWORTH moved to amend the motion, so as to suspend the rule generally for bills on their first and second reading.

The SPEAKER said the motion was not amendable.

The question was then taken, and the rules were suspended—two-thirds having voted in the affirmative.

Mr. VINTON thereupon reported the bill.

And, on his motion, it was referred to the Committee of the Whole on the state of the Union.

BILLS BETWEEN THE TWO HOUSES.

The SPEAKER laid before the House a message from the Senate, informing the House that that body had suspended the sixteenth joint rule of the two Houses for the residue of the present session, so as to admit bills to be sent from one House to the other.

The question was on concurrence in the resolution.

Mr. COBB, of Georgia, said he hoped the House would not concur. He had no doubt, he said, that the House would, on any question where it was important that it should be done, concur in suspending the rule; but he was unwilling to make it general, and for that reason objected to it. If the matter was now before the House, he would move that the resolution be laid on the table. At any time when it might be necessary, the rules could be suspended by a vote of two-thirds.

The resolution was laid informally on the Speaker's table.

GENERAL APPROPRIATION BILL.

Mr. VINTON desired to offer a resolution, that when the House should go into Committee of the Whole on the state of the Union on the bill making appropriations for the civil and diplomatic expenses of the Government, all debate should terminate in fifteen minutes.

The SPEAKER said the motion could only be made by general consent, or under a suspension of the rules.

Mr. KING, of Georgia, asked that the House might be called to order. Nothing, he said, could be heard.

Mr. BOTTS said that a few days ago he had moved to reconsider a vote on a certain bill granting the right of way to a certain railroad, (the name of which was not heard.) He had since examined the bill, and was satisfied that it was not liable to the objections that he supposed. He therefore wished to withdraw the motion to reconsider.

The SPEAKER said the motion could only be withdrawn by unanimous consent.

Mr. ROOT objected, because, he said, some other member would have made the motion if the gentleman from Virginia [Mr. BOTTS] had not.

Mr. VINTON now pressed his resolution to terminate debate on the civil and diplomatic appropriation bill in fifteen minutes after the House should have taken it up in Committee of the Whole on the state of the Union.

The SPEAKER again stated that the motion could only be made by general consent, or under a suspension of the rules.

Mr. VINTON moved a suspension of the rules; which motion was decided in the affirmative.

And the resolution being thus before the House—

Mr. KAUFMAN moved to amend it, by substituting five minutes for fifteen minutes.

The amendment was agreed to.

And, as thus amended, the resolution was adopted.

ARMY AND FORTIFICATION BILLS.

Mr. VINTON asked leave to move that the bill making appropriations for the support of the army, and the bill making appropriations for certain fortifications, which were now on the Speaker's table, (having been returned from the Senate with amendments,) be referred to the Committee of Ways and Means, and that the committee have leave to sit during the session of the House.

Objections were made.

Mr. VINTON moved a suspension of the rules, for the purpose of allowing him to make the motion.

Mr. HALL, of Missouri, hoped, he said, that the motion would not prevail, but that the House would proceed to the consideration of business on the Speaker's table.

Mr. NICOLL asked Mr. VINTON to add the light-house bill.

Mr. COBB, of Georgia. No; hold on to your general appropriation bills.

Mr. VINTON did not acquiesce in Mr. NICOLL's suggestion.

The question was then taken, and decided in the affirmative, (two-thirds voting therefor.)

And the motion of Mr. VINTON was agreed to.

PROPERTY LOST IN THE WAR.

Mr. HARALSON desired to call the attention of the House to a bill which (he said) was now on the Speaker's table, providing for the payment of horses and other property lost in the war with Great Britain. It had passed this House, and had been sent back from the Senate with an amendment. He trusted it might be taken up.

Objection having been made—

Mr. HARALSON moved a suspension of the rules.

Mr. McCLERNAND asked the yeas and nays, which were ordered; and being taken, were—yeas 93, nays 101.

So (two-thirds not voting in the affirmative) the rules were not suspended.

Mr. VINTON moved that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. HUNT appealed to him to waive his motion, to allow him to move that bills from the Senate on the Speaker's table, be put on their first and second reading.

Mr. VINTON would have no objection, he said, if bills were not to be put upon their passage, but were simply to be referred to the appropriate committees.

Mr. COBB, of Georgia, said there would be some motions made to suspend the rules, or things of that kind.

Mr. HUNT then moved (Mr. VINTON waiving his motion) that Senate bills on the Speaker's table be put on their first and second reading, and be referred to the appropriate committees.

Mr. HARALSON objected, he said, to the latter part of the motion. There were some bills which gentlemen would not want to refer.

Mr. HUNT moved a suspension of the rules.

And the question having been taken, and two-thirds not having voted therefor, the rules were not suspended.

Mr. VINTON now renewed his motion; which was decided in the affirmative.

GENERAL APPROPRIATION BILL.

So the House resolved itself into Committee of the Whole on the state of the Union, (Mr. STEPHENS, of Georgia, in the chair,) and proceeded to the consideration of the amendments to the bill making appropriations for the civil and diplomatic expenses of the Government.

The recommendations of the Committee of Ways and Means, with reference to the amendments of the Senate, were concurred in without a division, with the exception of those subsequently noticed.

In the amendment of the Senate striking out the provision of the bill as passed by the House, which abolished whipping in the navy, the Committee of Ways and Means recommended a non-concurrence.

The question was taken by tellers upon agreeing to the recommendation of the committee, and decided in the affirmative—ayes 94, noes 43.

So the provision of the original bill was adhered to.

In the amendment of the Senate reimbursing the Corporation of Washington for the cost of half the City Hall building, $30,000, the committee recommended a concurrence.

The amendment was concurred in—the question being taken by tellers—ayes 85, noes 72.

In the amendment of the Senate for clearing out the canal in Washington, $20,000, the committee recommend a concurrence.

The amendment was non-concurred in.

In the amendment appropriating to Colonel R. M. Johnson $6,000 for expenses in the erection of the Choctaw Academy, the Committee of Ways and Means recommended a concurrence, with the addition of the following amendment:

Provided, That the same shall be in full of all claims whatsoever.

The amendment of the committee, and the amendment of the Senate, were severally rejected.

The amendment of the Senate making an appropriation for the purchase of the papers of Washington and Monroe, came up.

To which amendment the Committee of Ways and Means of the House proposed an amendment, limiting the purchase to papers not of a private character.

The question was first on concurring in the amendment to the amendment.

Mr. MURPHY moved to amend the amendment of the Committee of Ways and Means, by striking out so much as excepted the private papers of Washington.

Messrs. MURPHY and VINTON explained.

The amendment of Mr. MURPHY was agreed to.

And the amendment, as thus amended, was concurred in.

THE TERRITORIES.

The following amendment of the Senate came up:

SEC. —. *And be it further enacted*, That the Constitution of the United States, in so far as the provisions of the same

be applicable to the condition of a Territory of the United States, and all and singular the several acts of Congress respecting the registering, recording, enrolling or licensing ships or vessels, and the entry and clearance thereof, and the foreign and coasting trade and fisheries, and all the acts respecting the imposing and collecting of duties on imports, and all acts respecting trade and intercourse with the Indian tribes, and all acts respecting the public lands, or the survey or sale thereof, and all and singular the other acts of Congress of a public and general character, and the provisions whereof are suitable and proper to be applied to the territory west of the Rio del Norte, acquired from Mexico by the treaty of the 2d February, 1848, be, and the same are hereby, extended over and given full force and efficacy in all said territory; and the President of the United States be, and he is hereby authorized to prescribe and establish all proper and needful rules and regulations, in conformity with the Constitution of the United States, for the enforcement of the provisions of the Constitution hereinbefore referred to, and of said laws in said territory, and for the preservation of order and tranquillity, and to the establishment of justice therein, and from time to time to modify or change the said rules and regulations in such manner as may seem to him discreet and proper, and to establish temporarily such divisions, districts, ports, offices, and all arrangements for the execution of said laws, and appoint and commission such officers as may be necessary to administer such laws in said territory for such term or terms as he may prescribe, whose authority shall continue until otherwise provided by Congress; said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States or its Territories for like services; and to enable the same to be done, the sum of $200,000 be appropriated out of any money in the treasury not otherwise appropriated.

This amendment the Committee of Ways and Means of the House had moved to amend, as follows:

That the President of the United States be, and he is hereby, authorized to hold possession of and occupy all the territories ceded by Mexico to the United States by the treaty of the 2d day of February, 1848; and that he be authorized for that purpose, and in order to maintain the authority of the United States and to preserve peace and order in said territories, to employ such parts of the army and navy of the United States as he may deem necessary.

And be it further enacted, That until six months after the expiration of the next session of Congress, unless Congress shall sooner provide for the government of said territories, the existing laws thereof shall be maintained and observed; and that the civil and judicial authorities heretofore exercised in said territories shall be vested in, and exercised by, such person or persons as the President of the United States shall appoint and direct, to the end that the inhabitants of said territories may be protected in the full and free enjoyment of their liberty, property, and religion; and all existing laws of the United States in force in relation to the public lands of the United States, and in relation to their intercourse with the Indian tribes, shall be deemed, so far as practicable, applicable to said territories: *Provided, nevertheless*, That martial law shall not be proclaimed or declared in said territories, or in either of them, nor any military court established, except ordinary courts-martial for the trial of persons belonging to the army and navy of the United States: *And provided, also*, That all existing laws of the United States relative to trial by jury in criminal cases, the issuing writs of habeas corpus, and the proceedings thereupon, are hereby declared to apply to and to be in force in said territories; and any decision upon any writ of habeas corpus ordering the discharge or detention of any person, shall be subject to be reviewed in the Supreme Court of the United States, under such regulations as shall be prescribed by that tribunal.

And be it further enacted, That the sum of $200,000 be, and the same is hereby, appropriated for the purpose of carrying the provisions of this act into effect, to be paid out of any moneys in the treasury not otherwise appropriated.

And the question was on the amendment of the committee to the amendment of the Senate.

Mr. WENTWORTH inquired if the amendment was open to amendment?

The CHAIRMAN answered in the affirmative.

Mr. WENTWORTH. The Committee of Ways and Means propose to amend the amendment of the Senate. I propose to amend the amendment.

Mr. VINTON supposed, he said, that the amendment of the Senate was first open to amendment; and that, after that was disposed of, the substitute of the committee was open to amendment before a vote was taken on striking out and inserting.

Mr. WENTWORTH said that, as he understood the rule, the substitute must be first amended.

Some conversation, not very audible, followed.

The CHAIRMAN. The question now before the committee, in the judgment of the Chair, is the report of the committee, and it is open to amendment; but before amendments are in order to that, any amendments which gentlemen may desire to offer to the original proposition of the Senate will be first in order.

Mr. WENTWORTH. In the first place, I offer an amendment to the amendment of the Senate; and before the substitute is acted upon, I shall move to amend it.

The amendment was in the following words:

Provided, That there shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted."

Mr. WENTWORTH asked for tellers, who were appointed, (Messrs. VENABLE and NICOLL.)

Mr. HOLMES, of South Carolina, inquired of the Chair if the amendment was germane? [Laughter.]

Mr. THOMPSON, of Mississippi, desired to understand whether the Chair had decided that an amendment to the amendment of the Senate was first in order, rather than an amendment to the amendment of the Committee of Ways and Means.

The CHAIRMAN said that was his decision.

The question was then taken, and decided in the negative—ayes 89, noes 96.

So the amendment of Mr. WENTWORTH was rejected.

The hour of half-past three having arrived, the House took a recess until six o'clock.

EVENING SESSION.

The CHAIRMAN resumed his seat, and called the committee to order at six o'clock.

A pause of twenty minutes ensued before any question was stated or business transacted.

THE TERRITORIES.

The CHAIRMAN again called the committee to order, and stated that the question was on concarring in the amendment of the Committee of Ways and Means to the amendment of the Senate.

Mr. WENTWORTH said, before the question was taken, he wished to offer another amendment to the original amendment of the Senate.

It was sent up to the table, and read as follows:

Provided, That the inhabitants of said territory shall be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio, by the articles of compact contained in the ordinance for the government of said territory, passed on the thirteenth day of July, seventeen hundred and eighty-seven, and shall be subject to all the conditions, restrictions, and prohibitionsin said articles of compact imposed upon the people of said territory.

The CHAIRMAN stated that the Chair was of opinion that the amendment of the gentleman from Illinois was not in order, and added that the question could be tested by the committee.

Mr. ROOT. May I be permitted to remind the Chair——

[Cries of "Order, order."]

The CHAIRMAN, (to Mr. ROOT.) Certainly the Chair would hear any suggestion of the gentleman from Ohio.

Mr. ROOT. I wish to state to the Chair that this amendment contains many other provisions which were not contained in the other amendment offered by the gentleman from Illinois.

Mr. PETTIT, (in his seat.) Five others.

Mr. ROOT, (continuing.) Five other provisions. I only wish to call the mind of the Chair to that fact.

The CHAIRMAN. The Chair will state to the gentleman from Ohio, that he would rule the amendment out of order upon other ground. The other conditions to which the gentleman alludes, contained in the ordinance of 1787, are wholly inapplicable to this territory.

Mr. ROOT. From that decision I take an appeal.

Mr. WENTWORTH. I call for tellers on the appeal.

Mr. ASHMUN. I wish to ask if it would be in order to hear the provisions of the ordinance read, [Cries of "No, no,"] because I believe that the Chair is right if the amendment is only confined to the subject of slavery. If it includes other things, it is a new proposition, and therefore in order.

The CHAIRMAN. The Chair will again have the amendment proposed by the gentleman from Illinois read. The Chair takes occasion to request that every gentleman be still, and quiet, and listen, and hear the amendment read, and then gentlemen can judge for themselves. Gentlemen will all take their seats.

The amendment was again read.

The CHAIRMAN. The opinion of the Chair, the Chair will again state, is, that so far as it relates to the subject of slavery, the amendment is identical with the provision rejected before the recess, and therefore out of order.

So far as relates to "all and singular" the provisions of the ordinance of 1787, it is inapplicable to this territory, and therefore out of order on the ground of irrelevancy.

Mr. ASHMUN. The committee, then, ought to know (what the Chair does know, of course) what the other provisions of the ordinance are. I ask, therefore, that it may be read.

[Cries of "Object, object."]

The CHAIRMAN. It is not in order to have it read.

The question on the appeal was taken by tellers, (Messrs. WENTWORTH and PENDLETON,) who reported—ayes 85, noes 84.

So the decision of the Chair was sustained, and the amendment was ruled out of order.

Mr. WENTWORTH rose, he said, to a point of order.

There was great confusion in the Hall.

The CHAIRMAN said that no motion would be received until the committee should come to order.

Mr. WENTWORTH. Will the Chair be so good as to state what the original number on the appeal was before the addition was made?

The reply of the Chairman was not distinctly heard, but he was understood to say that he had taken the count from the Clerk.

Mr. SCHENCK moved to amend the amendment of the Senate by striking out, in the twelfth and thirteenth lines, the words "west of the Rio del Norte."

Several members on the left of the Chair stated that nothing in that part of the Hall could be heard.

The CHAIRMAN said he would again request that all conversation might cease, as complaints were made on the left that nothing could be heard.

The gentleman from Ohio [Mr. SCHENCK] will send his amendment to the Clerk's table.

Mr. SCHENCK did so. And it was read.

Mr. S. would ask, he said, that the rule of the House might be observed. He wished the Clerk to read the amendment of the Senate as it now stood, to state the words proposed to be stricken out, and then to state the amendment of the Senate as it would read if the words were stricken out.

The Clerk did so.

Mr. SCHENCK asked for tellers, who were appointed, (Messrs. SCHENCK and HARMANSON.)

And the question on the amendment was then taken, and decided in the affirmative—ayes 93, noes 81.

So the amendment was agreed to.

THE SLAVE TRADE.

Mr. SIDNEY LAWRENCE moved to amend the amendment of the Senate by adding thereto the following proviso:

That nothing in this act shall be so construed as to extend any law relating to the coastwise slave trade to California and New Mexico.

Some conversation followed on a point of order.

The CHAIRMAN ruled the amendment to be in order.

[The Speaker resumed the chair, informally, to receive a message in writing from the President of the United States, by the hands of J. K. WALKER, Esq., his Private Secretary.]

Tellers were appointed, (Messrs. PENDLETON and SIDNEY LAWRENCE.)

The question was then taken, and decided in the affirmative: Ayes 89, noes 82.

So the amendment was agreed to.

DURATION OF THE SECTION.

Mr. ROCKWELL, of Connecticut, moved to amend the amendment of the Senate, by adding:

Provided, further, That the provisions of this section of the act shall continue in force, unless sooner repealed, until within six months after the rising of the next session of Congress, and no longer.

Mr. SMITH, of Indiana, inquired if this was an amendment to the amendment of the Committee of Ways and Means?

The CHAIRMAN said that amendment had not yet come up.

Mr. ROCKWELL asked for tellers on his amendment; and they were appointed, (Messrs. ROCKWELL and HOUSTON of Alabama.)

The question was then taken, and decided in the affirmative: Ayes 90, noes 82.

So the amendment was agreed to.

SLAVERY IN THE TERRITORIES.

Mr. HUNT, of New York, moved to amend the amendment of the Senate, by adding a proviso that the laws of Mexico abolishing slavery in the

said territories shall remain in full force until the same shall have been repealed by the authority of Congress.

Mr. H. asked for tellers; which were ordered, (Messrs. MEADE and ROCKWELL of Connecticut.)

Mr. FULTON raised the question of order on the amendment.

The CHAIRMAN ruled the amendment to be in order.

Mr. MEADE inquired if it was in order to move an amendment to the amendment?

The CHAIRMAN said it was not.

The question recurring on the adoption of the amendment—

Mr. PETTIT asked that it might be read; and it was again read.

Mr. GREEN, of Missouri, raised the question of order on the amendment.

The CHAIRMAN said he had ruled it to be in order.

The question was then taken, and decided in the affirmative—ayes 95, noes 87.

So the amendment was agreed to.

Mr. MEADE offered an amendment to the amendment, as follows:

Provided, further, That nothing in this act contained shall interfere with or abridge any of the rights of the States of this Union, or the citizens thereof, now secured by the Constitution of the United States.

He called for tellers.

Mr. PETTIT rose to a question of order: this House, both Houses of Congress (he said) could not pass any law that should infringe the rights secured by the Constitution to the States, or the citizens thereof; hence there was no necessity of putting in such a provision.

Mr. MEADE. I beg leave to remark to the gentleman from Indiana, that there are many rights now enjoyed by the States, and the citizens thereof, secured by the Constitution, which, nevertheless, may be altered by legislation. Among them, it is contended—though it is denied by me—is the right to pass the Wilmot proviso. Without the Wilmot proviso, we contend that we have the right to take our slaves into California; but with the Wilmot proviso, (which the gentleman contends we can pass,) we have no right to go there. There are many such rights secured by the Constitution——

[Cries of "Order, order."]

Mr. PETTIT rose and addressed the Chair.

[Cries of "No, no;" "debate is not in order;" "question, question."]

Mr. PETTIT still remained upon the floor.

The CHAIRMAN. The gentleman from Indiana will take his seat.

Mr. PETTIT. Well; I have the privilege to state my question.

The CHAIRMAN. The gentleman from Indiana rises to a point of order—that is not debatable. Does the gentleman from Indiana appeal? He will state his appeal.

Mr. PETTIT. I have taken no appeal.

Tellers were asked and refused, and the question having been taken, was decided in the negative.

So the amendment of Mr. MEADE was rejected.

The CHAIRMAN stated that no other amendments being offered to the original amendment, the question recurred on the amendment of the Committee of Ways and Means to the amendment of the Senate.

The amendment of the Committee of Ways and Means was read. (See morning's proceedings.)

Mr. ROOT rose and said he wished to offer an amendment to the amendment of the committee.

Mr. COBB, of Georgia, made the point that the proposed amendment of the gentleman from Ohio was not in order. The amendment of the Committee of Ways and Means was an amendment to an amendment, and being an amendment in the second degree, an amendment to it was not in order. The bill was the text; the Senate had made an amendment; the Committee of Ways and Means had reported an amendment to that amendment, and another amendment would be an amendment in the third degree.

Mr. ROOT wished to state the point without any argument. His idea was, that the original proposition was the amendment from the Senate; the amendment of the Committee of Ways and Means was an amendment in the first degree, and the amendment which he proposed was an amendment in the second degree. It had repeatedly been so decided in this House.

Mr. TOOMBS called the gentleman to order.

The CHAIRMAN stated that the question was not debatable. The Chair was willing to hear the views of the gentleman from Ohio by consent; if any gentleman, however, exercised the right of calling to order, the Chair must decide that the remarks of the gentleman were not in order.

Mr. TOOMBS said he exercised that right, and called the gentleman to order.

Mr. ROOT said he was only referring to a fact. He did not make any argument.

Mr. TOOMBS was understood to say that the statement of facts was argument.

The CHAIRMAN sustained the point of order of Mr. COBB; holding that the bill was the text, the amendment of the Senate an amendment in the first degree, that of the Committee of Ways and Means an amendment in the second degree, and hence that an amendment to this latter amendment would be an amendment in the third degree, and not in order.

Mr. HUDSON. Will the Chair permit me to propound a question touching this subject?

The CHAIRMAN. With pleasure.

Mr. HUDSON stated that the amendment of the Committee of Ways and Means simply proposed to strike out and insert. That being the case, he would ask whether it was not in order before they struck out the orginal proposition to amend it; and whether it was in order to amend the amendment proposed to be inserted before it was inserted? He believed it was. When a motion was made to strike out and insert, it was in order to perfect that which was proposed to be stricken out, and also to perfect that which was proposed to be inserted before it was inserted.

The CHAIRMAN. The Chair will state to the gentleman from Massachusetts, that it is perfectly in order, when a motion is made to strike out any matter and insert any other, first to perfect the orignal proposition. That has been the case here. The Senate's amendment is the amendment proposed. That is the amendment which the Committee of Ways and Means proposed further to amend by striking out and inserting. Before that question is put, it is perfectly in order to perfect the Senate's amendment, because every motion to perfect the Senate's amendment is an amendment in the second degree, first as the amendment of the Committee of Ways and Means. But now the proposition is to amend the amendment of the Committee of Ways and Means, and it is an amendment in the third degree, and therefore not in order.

Mr. ROOT appealed from that decision.

Mr. ASHMUN addressed the Chair, but was called to order by Mr. TOOMBS. After some conversation, however, he was permitted to ask the Chair to read the authority upon this point.

The CHAIRMAN read from the Manual to sustain his decision.

The question was taken upon the appeal, and the decision of the Chair was sustained.

So the amendment of Mr. ROOT was ruled out of order.

The question then recurred upon agreeing to the substitute of the Committeee of Ways and Means, which was read.

Mr. GRINNELL called for the reading of the Senate amendment as amended; which was read.

The question was then taken by tellers, (Messrs. ROOT and MEADE,) who reported—ayes 17; the noes were not counted.

So the amendment of the Committee of Ways and Means was rejected.

Mr. VINTON moved that the committee rise and report the bill.

It was suggested by several gentlemen that the question ought to be taken upon agreeing to the Senate's amendment as amended.

The CHAIRMAN stated that he understood that the motion to strike out and insert having been rejected, it was equivalent to the adoption of the matter proposed to be stricken out.

Mr. MURPHY asked the unanimous consent to make a verbal amendment to the amendment, relative to the purchase of papers of General Washington.

Mr. GIDDINGS rose to a point of order, which, he said, would have priority over the proposition of Mr. MURPHY. He understood the Chair to say that the question was now settled, and that no further question was to be put upon concurrence in the Senate's amendment. The amendments to the Senate's amendment, he understood, had been gone through with; the question had been propounded upon striking out that amendment, and inserting the substitute of the Committee of Ways and Means; the House had refused to strike out and insert, (which was a motion indivisible by the rules of the House.) Did not the question recur upon agreeing to the Senate's amendment?

The CHAIRMAN replied that the parliamentary law was different; but under the rules of the House, he believed the position of the gentleman from Ohio was correct. The question was, therefore, upon agreeing to the Senate's amendment as amended.

Tellers were asked and ordered, and (the question having been taken) they reported—ayes 7; the noes were not counted.

So the amendment of the Senate, as amended, was *rejected*.

On motion of Mr. VINTON, the committee then rose and reported their action on the several amendments to the House.

Mr. STEPHENS demanded the previous question.

There was a second. And the main question (on concurring in the action of the Committee of the Whole on the state of the Union) was ordered to be now taken.

Mr. PETTIT inquired of the Speaker whether a separate vote would be taken on each amendment?

The SPEAKER said that a separate vote would be taken on each amendment. But whenever a separate vote was not demanded, the amendment would be considered as adopted.

On concurring in the amendment appropriating $30,000 for the completion of the City Hall, in Washington—

Mr. HALL, of Missouri, demanded a separate question.

And he asked the yeas and nays; which were ordered, and being taken, were—yeas 106, nays 98.

So the amendment was concurred in.

The question being on concurring in the amendment of the Senate, appropriating $10,000 to pay certain companies for supporting a light on Eel Grass shoal, (in which the Committee of Ways and Means and the Committee of the Whole had recommended a concurrence)—

The yeas and nays were asked and ordered; and being taken, were—yeas 95, nays 105.

So the amendment was non-concurred in.

Mr. HALL, of Missouri, moved to reconsider this vote, and to lay that motion on the table; which latter motion was agreed to.

The amendment of the Senate appropriating $6,000 to pay Colonel R. M. Johnson the balance of the estimated cost of building the Choctaw academy, next came up.

In this the Committee of Ways and Means had recommended concurrence, with the addition of the following amendment: "The acceptance of which shall be in full of all claims whatsoever."

The amendment to the amendment was agreed to.

And the question being on concurring in the amendment as amended—

Mr. JONES, of Tennessee, asked for the yeas and nays.

The yeas and nays were ordered, and being taken, were—yeas 75, nays 121.

So the amendment as amended was non-concurred in.

Mr. JONES, of Tennessee, moved to reconsider the vote, and to lay that motion on the table; which latter motion was agreed to.

On agreeing to the amendment of the Senate appropriating $20,000 for the purchase of the remaining books and papers of George Washington; and the like sum for the papers of Mr. Monroe—

Mr. PETTIT asked the yeas and nays, which were ordered.

Some conversation followed on points of order.

The question was then taken, and decided in the affirmative—yeas 117, nays 85.

So the amendment was agreed to.

THE TERRITORIES.

The question now came up on agreeing to the last amendment of the Senate, to wit, that which extends the Constitution and laws of the United States over the new Territories. [See morning's proceedings.]

The yeas and nays were asked and ordered; and being taken, were—yeas 100, nays 114, as follows:

YEAS—Messrs. Adams, Atkinson, Barringer, Barrow, Bayly, Beale, Bedinger, Birdsall, Bocock, Botts, Bowdon,

Bowlin, Boyd, Boyden, Bridges, Brodhead, Charles Brown, Albert G. Brown, Buckner, Burt, Cabell, Chapman, B. L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Daniel, Donnell, Garnett Duncan, Alexander Evans, Featherston, Ficklin, Flournoy, French, Fulton, Gaines, Gayle, Gentry, Goggin, Green, Willard P. Hall, Haralson, Harmanson, Harris, Haskell, Hill, Hilliard, Isaac E. Holmes, George S. Houston, John W. Houston, Inge, C. J. Ingersoll, Iverson, Jameson, Andrew Johnson, R. W. Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, Thomas B. King, La Sère, Leffler, Levin, Ligon, Lumpkin, McClernand, McDowell, McKay, McLane, McQueen, Meade, Morehead, Morse, Outlaw, Pendleton, Peyton, Phelps, Pilsbury, Preston, Rhett, Richardson, Roman, Sawyer, Shepperd, Simpson, Stanton, Stephens, Thibodaux, Thomas, Jacob Thompson, John B. Thompson, Robert A. Thompson, Tompkins, Toombs, Venable, Williams, and Woodward—100.

NAYS—Messrs. Abbott, Ashmun, Belcher, Bingham, Blackmar, Brady, Butler, Canby, Cathcart, Collamer, Collins, Conger, Cranston, Crowell, Cummins, Darling, Dickey, Dixon, Duer, Dunn, Eckert, Edsall, Edwards, Embree, Nathan Evans, Farran, Farrelly, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, N. K. Hall, Hammons, James G. Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, Jenkins, James H. Johnson, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Lincoln, Lord, Lynde, McClelland, McIlvaine, Job Mann, Horace Mann, Marsh, Marvin, Miller, Morris, Mullin, Murphy, Nelson, Nes, Newell, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pettit, Pollock, Putnam, Reynolds, Richey, Robinson, Julius Rockwell, John A. Rockwell, Rose, Root, Rumsey, St. John, Schenck, Sherrill, Silvester, Slingerland, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Starkweather, Andrew Stewart, Charles E. Stuart, Strohm, Strong, Tallmadge, Taylor, James Thompson, Richard W. Thompson, William Thompson, Thurston, Tuck, Turner, Van Dyke, Vinton, Warren, Wentworth, White, Wick, Wiley, Wilmot, and Wilson—114.

So the amendment was rejected.

Mr. PETTIT moved a reconsideration of the vote, and that that motion be laid on the table.

And the question having been taken, and decided in the affirmative—

The motion to reconsider was laid on the table.

The action of the Committee of the Whole on the state of the Union, upon the other amendments, not particularly specified, was concurred in.

THE STATE OF THE BUSINESS.

Mr. VINTON said he wished, if he could get the ear of the House, to make a statement in reference to the state of the business of the House.

The SPEAKER called the House to order.

Mr. VINTON said he wished to inform the House what was the state of its business, for the purpose of satisfying them that they could not adjourn to-night, so that if the motion was made to adjourn, gentlemen would know the responsibility which would result from it. In the first place, the bill just passed would go back to the Senate, and would undoubtedly be the subject of conference by the two Houses. If a conference was asked, as a matter of course, unless this House remained in session, that conference could not be had until to-morrow. This would be true as to this bill.

In the next place was the Indian appropriation bill, upon which a conference was asked. The Committee of Conference had had an interview during the recess of the House, and had been unable to finish the conference: it had been left unfinished in consequence of the votes which were being taken upon this bill. That conference must be finished.

The Committee of Ways and Means had not yet had time to take up the Senate's amendments to the fortification bill or to the army bill. He understood that large amendments were being made in the Senate to the naval appropriation bill.

The House would recollect that they had been all this day until now (half-past nine o'clock) acting under the five minutes rule upon this one bill, (*i. e.* the civil and diplomatic appropriation bill.)

What he wanted to say now was, that it was perfectly apparent from the state of business, that unless the House sit here so that messages could be passed between the two Houses, and so that the Committee of Ways and Means could retire and act upon the amendments to the army, navy, and fortification bills, and get them out of the House to-night, it would be impossible to close the appropriation bills during to-morrow and to-morrow night.

He made this statement so that however disagreeable it might be for gentlemen to sit here all night, yet there was no safety, he thought, in adjournment until at least the army, the fortification, and the Indian bills were through the House, and until also (if the Senate asked a conference) conferees were appointed upon the civil and diplomatic bill.

Mr. BROWN, of Pennsylvania, called up the motion of Mr. GOGGIN to reconsider the vote upon the passage of the bill granting the right of way to a certain railroad company in Florida, and moved to lay the motion to reconsider on the table. Agreed to.

Mr. ROCKWELL, of Connecticut, called attention to the state of the private bills, and offered a resolution to go into Committee of the Whole to act upon Senate bills, first upon such as were not objected to.

Objection was made.

Mr. PETTIT moved that the House adjourn; but withdrew the motion; and

The SPEAKER laid before the House certain Executive communications, which were lying on the Speaker's table.

Mr. LEVIN reported, from the Committee on Engraving, a resolution authorizing that committee to contract for the engraving of the drawings accompanying the Patent Office report.

After remarks by Mr. STARKWEATHER, Mr. COBB, Mr. LEVIN, and Mr. STANTON, (in explanation,) Mr. MURPHY, and Mr. STUART, of Michigan—

An amendment of Mr. WHITE to confer the power upon the Commissioner of Patents, and a motion of Mr. FICKLIN to lay the resolution on the table, were severally rejected, and the resolution was adopted.

Mr. CONGER reported, from the Committee on Printing, a joint resolution conferring upon the Secretary of the Senate, the Clerk of the House, and the clerk of the Committee on Printing, the same power of auditing the accounts of the public printers during the recess as are now exercised by the Joint Committee on Printing; which was twice read.

Mr. JONES, of Tennessee, at five minutes past ten, moved that the House adjourn. Lost.

Under the operation of the previous question, moved by Mr. CONGER, an amendment to the joint resolution was rejected, and the resolution was passed.

Mr. MANN made a report from the select committee on the penitentiary of the District of Columbia; which was laid on the table and ordered to be printed.

Mr. HARALSON made an effort to take from the Speaker's table the bill to pay for horses lost in the Mexican war; but waived the effort at the suggestion of—

The SPEAKER, who stated that that bill was second in the class of bills upon the Speaker's table returned with amendments.

By general consent, the House proceeded to the consideration of the said business; and

The bill supplementary to the acts for the admission of Iowa and Wisconsin into the Union was taken up, and, after the adoption of an amendment of Mr. GREEN, was passed.

Mr. VINTON, from the Committee of Ways and Means, reported back to the House the Senate amendments to the army and fortification appropriation bill, with amendments.

FORTIFICATION BILL.

On motion of Mr. VINTON, the House then resolved itself into Committee of the Whole on the state of the Union, (Mr. ASHMUN, of Massachusetts, in the chair,) and took up the consideration of the Senate amendment to the fortification bill, viz: "For the completion of Fort Gibson, twenty thousand dollars."

To this amendment the Committee of Ways and Means reported a recommendation to disagree; which was concurred in.

The bill was then laid aside, to be reported to the House.

ARMY APPROPRIATION BILL.

On motion of Mr. VINTON, the committee then took up the consideration of the several Senate amendments to the army appropriation bill, with amendments thereto proposed by the Committee of Ways and Means.

The recommendations and amendments proposed by the Committee of Ways and Means, were concurred in.

The committee then rose, and reported to the House its action on the army bill and the fortification bill.

The House proceeded to the consideration of the amendments to the army appropriation bill.

Mr. BOWLIN inquired whether it would be in order to move to agree to the report of the Committee of the Whole on the state of the Union?

The SPEAKER said, that by unanimous consent, the amendments could be considered and disposed of, according to the report of the Committee of the Whole on the state of the Union.

And the House having so ordered, the report of the Committee of the Whole on the state of the Union was adopted accordingly.

The House then proceeded to the consideration of the fortification bill, and concurred in the report of the Committee of the Whole on the state of the Union.

HORSES AND OTHER PROPERTY.

On motion of Mr. HARALSON, the House proceeded to the consideration of the bill on the Speaker's table, to provide for the payment of horses and other property lost in the late war with Great Britain.

The pending question was on agreeing to the amendment made by the Senate to the said bill.

The amendment was read.

Mr. HARALSON said he would have been pleased to have seen another amendment made to the bill; but at this late stage of the session, and when the passage of the bill might be jeopardized by any motion of the kind, he should decline to make it. And he moved a concurrence in the amendment of the Senate.

Mr. EVANS, of Maryland, inquired whether the operation of the bill was limited to any time?

Mr. HARALSON said the bill would expire when the class of cases which it was designed to embrace should have been settled by the Government. The bill reënacted the old law which existed on the subject, and probably one or two other classes of cases were also embraced in it.

Mr. ASHMUN inquired whether the bill had been examined by a committee?

Mr. HARALSON explained that the subject had been before the Committee on Military Affairs. They had reported a bill. It passed this House, was sent to the Senate, and was returned to this House with an amendment.

Mr. ASHMUN inquired if the bill had been committed?

Mr. HARALSON said no; and he hoped it would not be committed, but would be passed. He moved a concurrence in the amendment of the Senate, and demanded the previous question.

There was a second. The main question was ordered, and the amendment of the Senate was concurred in.

Mr. HARALSON moved a reconsideration of the vote, and moved that that motion be laid on the table.

It was ordered accordingly.

IMPRISONMENT FOR DEBT.

On motion of Mr. NICOLL, and by general consent, the House took up the bill on the Speaker's table to abolish imprisonment for debt in certain cases.

After a word of explanation by Mr. N., he moved the previous question.

There was a second. The main question was ordered, and the bill was read a third time and passed.

Mr. NICOLL moved a reconsideration of the vote, and that that motion be laid on the table.

And it was ordered accordingly.

MOBILE AND OHIO RAILROAD COMPANY.

On motion of Mr. GAYLE, the House took up the bill on the Speaker's table granting the right of way to the Mobile and Ohio Railroad Company.

The bill having been read—

Mr. COBB, of Georgia, moved an amendment requiring the company to carry the United States mail upon such terms as those upon which the Postmaster General could contract with other companies belonging to the same class.

The amendment was agreed to.

And the bill was read a third time, and passed.

Mr. GAYLE moved to reconsider the vote; which motion was laid on the table.

Mr. HAMPTON, of New Jersey, from the Committee on Enrolled Bills, made a report.

NAVY APPROPRIATION BILL.

On motion of Mr. VINTON, the naval appropriation bill which had been returned from the Senate with amendments, was referred to the Committee of Ways and Means.

LIGHT HOUSE BILL.

On motion of Mr. V., the light-house bill on the Speaker's table was referred to the Committee of the Whole on the state of the Union.

Mr. ASHMUN moved that the House adjourn, on which motion the vote stood—ayes 60, noes 66.

So the House refused to adjourn.

BUSINESS ON THE TABLE.

Mr. WENTWORTH said he desired to move that the House should proceed to the consideration of such bills on the Speaker's table (except that concerning the slave trade in the District of Columbia) as would give rise to no debate.

No objection having been made—

The House proceeded to that order of business.

Several bills which had been returned from the Senate with amendments, were taken up, and the amendments were concurred in.

Mr. BOYDEN moved that the House adjourn.

The vote stood—ayes 51, noes 68.

So the House refused to adjourn.

TERRITORY OF MINESOTA.

The bill to establish a territorial government in Minesota came up. The Senate had concurred in all the amendments of the House with the exception of that one which postponed the operation of the bill until after the 10th of March.

Mr. SIBLEY moved the previous question; which, by ayes 81, noes 35, was seconded.

And the main question was ordered to be now taken, (which main question was on concurring in the amendment of the Senate.)

GENERAL APPROPRIATION BILL.

A message was received from the Senate by A. DICKENS, Esq., Secretary, informing the House (amongst other things) that the Senate insisted on their amendments to this bill which had been disagreed to by the House, and that the Senate on its part had appointed a Committee of Conference.

On motion of Mr. VINTON, it was ordered that a Committee of Conference be appointed on the part of this House to join said committee on the part of the Senate.

POST OFFICE BILL.

On motion of Mr. VINTON, the bill making appropriations for the support of the Post Office Department, which had been returned from the Senate with amendments, was referred to the Committee of Ways and Means.

Mr. BURT said that he was informed that the business of the Committee of Ways and Means in reference to the appropriation bills did not require this House to sit any longer to-night. It was now past eleven o'clock. The House would have to be here until twelve or one o'clock to-morrow night, and he therefore moved that the House adjourn.

Mr. B. waived the motion at the request of—

Mr. COBB, of Georgia, on whose motion the House concurred with the Senate in suspending the 16th joint rule as to a certain bill.

The motion of Mr. BURT was then put, and having been decided in the affirmative—

The House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred:

By Mr. JOHNSON, of Arkansas: The petition of William Holgate, Wilby McNair, and 250 other citizens of Arkansas, praying the establishment of a railroad from Fort Smith, in said State, to San Francisco, in California.

By Mr. DARLING: The petition of Wm. H. Gillock and others, of Wisconsin, praying to be permitted to drain Rush Lake, in said State; and asking a grant of the land thus reclaimed, and lying within the limits of said lake, as a compensation for such drainage.

By Mr. THOMPSON, of Pennsylvania: Three petitions of citizens of Pennsylvania, praying for an alteration of the tariff laws, and for an increase of existing duties.

By Mr. DARLING: The petition of William H. Elliott and others, of Wisconsin, praying to be permitted to drain Rush lake, in said State, and asking a grant of the land thus reclaimed and lying within the limits of said lake as a compensation for such drainage.

IN SENATE.

SATURDAY, *March* 3, 1849.

The PRESIDENT *pro tem.* laid before the Senate a report from the Secretary of the Treasury, in reply to a resolution of the Senate of the 12th December, 1848, on the subject of repealing the act of 30th June, 1834, concerning tonnage duties on Spanish vessels; which was laid on the table, and ordered to be printed.

The PRESIDENT *pro tem.* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 24th February last, information in relation to additional rooms required for the use of the War and Navy Departments, and the expediency of purchasing a building, erected by Mr. Winder, in the vicinity of the public offices; which was read and ordered to be printed.

Also, a report of the Presiding Officer of the Senate and the Secretary of the Senate, prepared in pursuance of the joint resolution of August 3d, 1846, in relation to the execution of the printing for the thirty-first Congress; which was read.

On motion of Mr. WESTCOTT, five hundred additional copies of this document were ordered to be printed.

CREDENTIALS.

Mr. ATHERTON presented the credentials of MOSES K. NORRIS, elected a Senator of the United States from the State of New Hampshire for the term of six years from the 4th instant; which were laid on the table.

Mr. BRIGHT presented the credentials of JAMES WHITCOMB, elected a Senator of the United States from the State of Indiana for the term of six years from the 4th instant; which were laid on the table.

Mr. DOWNS presented the credentials of PIERRE SOULE, elected a Senator of the United States from the State of Louisiana, for the term of six years from the 4th instant; which were laid on the table.

MEMORIALS AND PETITIONS.

Mr. STURGEON presented petitions from the citizens of Pennsylvania, in favor of the abolition of slavery in the District of Columbia; also, a similar petition to the same effect, and against the extension of slavery in any Territory of the United States; the motion to receive which was made, and laid on the table.

Mr. CLARKE presented a petition from a great number of females of Providence, Rhode Island, in favor of the abolition of slavery in the District of Columbia, and against its extension; the motion to receive which was made, and laid on the table.

WITHDRAWAL OF PAPERS.

On motion of Mr. STURGEON, the papers in the case of John J. Smith were ordered to be withdrawn from the files of the Senate.

On motion of Mr. RUSK, the papers in the case of Samuel Walker and Francis G. Betty were ordered to be withdrawn from the files of the Senate.

COMMITTEES DISCHARGED.

On motion of Mr. DOWNS, the Committee on Private Land Claims were discharged from the further consideration of the various subjects referred to them.

PRINTING OF PATENT OFFICE REPORT.

On motion by Mr. BRIGHT, and by unanimous consent, *Ordered*, That five hundred copies of the report of the Commissioner of Patents and the documents annexed thereto, ordered to be printed at this session, be distributed to the Patent Office for the use thereof; the said report and documents, so ordered to be printed, to be bound in the same manner as those of last session.

LAWS OF MEXICO.

Mr. BREESE submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on the Public Lands be authorized to contract with a suitable person to compile and translate for the use of the Senate, such laws, ordinances, and regulations of Spain and Mexico as were in force in New Mexico and California on the 13th day of May, 1846: *Provided*, That such compilation and translation shall be made under the superintendence of the Secretary of State, and be laid before the Senate at the commencement of the next session.

GUARANTEES OF FLORIDA.

Mr. JOHNSON, of Louisiana, submitted the following resolution:

Resolved, That the Secretary of the Treasury and Attorney General report to the Senate at the next session of Congress such information in regard to the bonds and guarantees, issued by the Territorial Government of Florida, as has been or may be collected and obtained pursuant to the resolution of the 20th February, 1847.

Mr. YULEE said he wished to be informed of the object of the resolution.

Mr. WESTCOTT said he believed he could explain it. In 1847, Forstall & Co., of New Orleans, presented a memorial respecting these Florida territorial bank bonds, which was referred to the Committee on the Judiciary of the Senate. I had the honor of making a report from that committee on that petition, concluding with a resolution directing the Attorney General and Secretary of the Treasury to obtain information on the subject and make a report to this session. Owing to circumstances those officers could not make the report as was expected. This resolution was merely to renew and extend the former resolution. The counsel of Mr. Forstall had requested me to offer this resolution, but I declined, and requested the same to be referred to the Senator from Louisiana, [Mr. JOHNSON,] Mr. Forstall being his constituent. I have no objection myself to the resolution being passed.

Mr. YULEE objected to the consideration, and it was laid on the table.

EXTRA COMPENSATION.

Mr. WALKER, from the Committee on the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. MANGUM on the 28th February, granting extra compensation to certain officers and others in the employ of the Senate, together with the amendments proposed thereto, reported the same amended, as follows:

Resolved, That there be allowed and paid, under the direction of the Committee to Audit and Control the Contingent Expenses of the Senate, to the officers, clerks, clerks to committees, messengers, and pages in the employ of the Senate, and the boys employed in carrying the mail, the same amounts, respectively, that were allowed them at the last session; and to the officers and messengers of the Library of Congress one-half the amount allowed them at the last session; and to the western gate-keeper, to each of the regular police of the Capitol, to the firemen of the crypt, the laborers in the Capitol grounds, the sum of $100 each; to the laborer employed in the centre building, the attendant in the closet, the attendant upon the furnaces of the Senate, and the laborer employed in the ventilation of the Senate, the sum of $50 each; and to Thomas Peters the same per diem as the messengers, from the commencement of the session.

Resolved, That the Sergeant-at-arms be authorized to continue John M. Jameson, through the recess of the Senate, in charge of the post office and folding-room, at the same per diem he now receives.

The Senate proceeded to the consideration of said resolutions, and they were adopted.

FUNERAL EXPENSES.

Mr. DIX submitted the following resolution, which was agreed to:

Resolved, That the sum of $200 be paid out of the contingent fund to Robert Beale, for his services and expenses in attending to the funeral of the late Dixon H. Lewis.

CONGRESSIONAL PRINTING.

Mr. CAMERON submitted the following resolution:

Resolved, That there be paid, under the direction of the Committee to Audit and Control the Contingent Expenses of the Senate, to compensate for services performed in carrying into effect the joint resolution requiring proposals to be advertised for and received to execute the printing of Congress, for making the calculations necessary to ascertain the lowest bids; for preparing the contracts and bonds required by law, and attending to that business generally, under the direction of the Presiding Officers of the two Houses, the Secretary of the Senate, and the Clerk of the House of Representatives, three hundred dollars for each occasion of making those contracts.

Mr. NILES moved to amend the resolution by adding the following, which was agreed to:

Resolved, That there be allowed and paid to the officers and messenger of the Library of Congress such additional sum, to the allowance provided for in a resolution passed this day, as shall give them a sum equal to that allowed to the messengers of the Senate.

The question being then taken upon the resolution, as amended, it was agreed to.

REPORTS FROM COMMITTEES.

Mr. BREESE, from the Committee on the Public Lands, to which was referred the joint resolution from the House of Representatives, granting to the Secretary of the Treasury further time to make the report concerning the sale and entry of certain lands in Cincinnati, reported it without amendment.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, to which was referred the petition of Peter A. Carnes, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading.

Mr. DICKINSON, from the Committee on Naval Affairs, to which was referred the bill for the relief of Catharine Clark, reported it without amendment.

The Senate proceeded to the consideration of said bill as in Committee of the Whole, and no amendment being made, it was reported to the Senate, ordered to a third reading, read a third time, and passed.

Mr. FITZPATRICK, from the Committee of Claims, to which was referred the House bill for the relief of Samuel Perry, reported it without amendment.

Mr. JOHNSON, of Louisiana, from the Committee on Pensions, to which was referred the bill from the House for the relief of Houghton A. Fletcher, reported it without amendment.

PAYMENTS TO THE TREASURY.

The Senate, as in Committee of the Whole, proceeded to the consideration of the House bill requiring all moneys receivable from customs and from all other sources to be paid immediately into the treasury without abatement or deduction, and for other purposes; which, having been amended, was reported to the Senate. The amendments were concurred in, and the bill was read a third time and passed.

REVENUE LAWS IN CALIFORNIA.

Mr. DIX, from the Committee on Commerce, to which was referred the bill to exend the revenue laws of the United States over the territory and waters of Upper California, and to create a collection district therein, reported the same without amendment.

On motion of Mr. DIX, the Senate, as in Committee of the Whole, proceeded to the consideration of said bill.

Mr. YULEE inquired whether the amendment to the civil and diplomatic appropriation bill had not rendered this unnecessary?

Mr. DIX. There is a broad distinction between them. This is specific, that is not; this rests upon law, that upon Executive discretion.

Mr. KING. It appears to me, sir, that there is very great propriety in extending our revenue laws over this country; but, in the present condition of the legislation of the country, it seems to me that this ought not to pass until we have disposed of the civil and diplomatic appropriation bill. Every Senator knows that there is a proposition now pending by which the Constitution of the United States is to be extended over that territory. The revenue laws go with the same amendment. If that should fail, it may then become a question how far we shall adopt a bill similar to this, or similar to our bill for Oregon or Louisiana. Certainly, until the other bill is disposed of, it would be very improper for us to pass such a bill as this. I do not intend to delay the bill one moment longer than is necessary; but, believing it to be improper to pass it at this time, in order that we may take it up when the other bill has been disposed of, I move for the present that this bill lie upon the table.

The question being taken upon the motion, it was agreed to.

GOLD COINAGE.

Mr. ATHERTON, from the Committee on Finance, to which was referred the bill from the House to authorize the coinage of twenty dollar and one dollar gold pieces at the mint of the United States and its branches, reported back the same with amendments, and asked its immediate consideration; which was agreed to.

The bill being under consideration as in Committee of the Whole—

Mr. ATHERTON said that the bill had passed the House of Representatives by a large majority, and he hoped the Senate would dispose of it at once. It was a measure of considerable importance.

Mr. KING preferred that the bill should be confined to the coinage of the gold dollar. He thought the double eagle would not be of any convenience. The coin would be too large. He thought if the bill were confined to the single dollar it would be much more advantageous. He could not see the necessity for such a large coin. He considered the single eagle much more convenient than the double eagle. He would move, therefore, that the clause authorizing the coinage of the double eagle to be struck out.

Mr. ATHERTON hoped that the bill would not be amended in that respect. It had passed the House for the coinage of both these pieces. He thought that by increasing the number of coins they would certainly be adding to the convenience of the community. If coins were found inconvenient they would not be brought into use. The people would regulate that matter themselves. He believed that the Senator from Missouri [Mr. BENTON] was pretty good authority on the circulation of gold, and he had expressed it as his opinion that the double eagle would be in greater requisition than the single dollar. The Spanish mints had had authority to coin gold dollars for upwards of a hundred years, but they had coined but very few, from the fact that they never could be forced into circulation. He hoped, therefore, that the bill would not be weakened by striking out the provision for coining double eagles.

The amendment was rejected.

The amendments reported by the Committee on Finance were then agreed to, and the bill was reported to the Senate, and subsequently read a third time and passed.

ACCOUNTS OF PUBLIC OFFICERS.

Mr. DAVIS, of Mississippi, from the Committee on Military Affairs, to which was referred a bill from the House to provide for the settlement of the accounts of public officers and others who may have received moneys arising from military contributions or otherwise in Mexico, reported back the same with an amendment.

The Senate then proceeded to consider said bill as in Committee of the Whole; when the amendment was agreed to.

The bill was then reported to the Senate, the amendment was concurred in, the bill ordered to a third reading, read a third time, and passed.

BRAZOS COLLECTION DISTRICT.

The Senate, as in Committee of the Whole, proceeded to consider the amendment of the House of Representatives to the bill to establish the collection district of Brazos de Santiago, in the State of Texas; when, on motion, said amendment was concurred in.

ARMY APPROPRIATION BILL.

The Senate then proceeded to consider their amendments, amended and disagreed to by the House of Representatives, to the bill making appropriations for the support of the army for the year ending 30th June, 1850.

On motion of Mr. DAVIS, of Mississippi, it was

Resolved, That they disagree to the amendment of the House to the 10th amendment, and insist in their 1st, 2d, 5th, 8th, 9th, and 11th amendments, disagreed to by the House of Representatives, and ask a committee of conference on the disagreeing votes of the two Houses.

On motion, it was ordered that Messrs. DAVIS of Mississippi, BADGER, and RUSK, be the committee of conference on the part of the Senate.

GOVERNMENT FOR CALIFORNIA.

Mr. DOUGLAS stated that he had made repeated efforts to get a meeting of the Committee on the Territories, on the bill from the House to establish the territorial government of Upper California, but had been unsuccessful; he therefore moved that said committee be discharged from the further consideration of that bill, in order that such action might be had upon it in the Senate as the Senate might deem advisable; which was agreed to.

PRIVATE BILLS PASSED.

The Senate then proceeded to consider, as in Committee of the Whole, the following bills and joint resolutions, which were subsequently read a third time and passed:

A bill to authorize the citizens of Ozark county, in the State of Missouri, to enter less than a quarter section of land for the seat of justice in said county.

A bill for the relief of Sidney Flower, of Louisiana, and for other purposes.

An act for the relief of Samuel A. Grier.

An act for the relief of the President and Directors of the Union Bank of Florida.

An act for the relief of Maurice R. Simons.

An act to incorporate the Oak Hill Cemetery in the District of Columbia.

An act for the relief of Polly Dameron, widow of —— Dameron, deceased.

An act for the relief of John H. Ohl.

Joint resolution granting to the Secretary of the Treasury further time to make the report concerning the sale and entry of certain lands in Cincinnati.

AMENDATORY ACT.

The Senate proceeded to consider the amendment of the House of Representatives to the amendment of the Senate to the bill to amend the act entitled "An act supplemental to the act for the admission of the States of Iowa and Florida into the Union."

On motion, it was ordered that they concur therein.

MEXICAN BOUNDARY LINE.

Mr. HANNEGAN, from the Committee on Foreign Relations, to which was referred the amendment of the House of Representatives to the bill to provide for carrying into effect the fifth article of the treaty between the United States and the Mexican Republic, for establishing the boundary line between them, reported thereon.

The Senate proceeded to consider the said amendment.

Mr. HANNEGAN. I will explain the nature of the amendment. At the last session the Senate, without disagreement, passed a bill authorizing the appointment of a commissioner, surveyor, and secretary, under the fifth article of the treaty with Mexico, to run the boundary line between the two countries. As usual, it was left to the discretion of the President and Senate to select these officers. The bill was sent to the House. The House on the day before yesterday returned the bill, with an amendment restricting the President in the selection and the appointment of these officers to the corps of Topographical Engineers. And the Committee on Foreign Relations have unanimously instructed me to return the bill to the Senate, with the recommendation that they disagree to the amendment of the House.

Mr. BALDWIN. When this commissioner was appointed by the President and Senate there had been no act passed sanctioning the appointment of a commission to run this boundary. The treaty itself is directly binding upon the Government to appoint commissioners to meet with the Mexican commissioners for the purpose of running the boundary. But the President of the United States, in his message communicating the treaty to the Senate, recommended that there should be legislation upon the subject to carry into effect that provision of the treaty; that there should be legislation for the purpose of authorizing the commission to carry into effect that provision. The Senate and House of Representatives, at the last session, inserted a clause in the appropriation bill providing for the payment of the expenses of such a commission; but no act was passed authorizing the appointment of a commissioner, the term of his office, authorizing the appointment of any secretary to the commission; in short, nothing was done by legislation upon the subject. The President, in making the nomination, has acted merely upon the requisition in the treaty for the appointment of a commissioner. The treaty required an act of legislation, but did not, as I understand it, authorize the appointment of a commission. The House have amended the bill of the Senate by providing that the surveyor shall be taken from the corps of Topographical Engineers; and it appears to me that there is eminent propriety and wisdom in the amendment. I hope, therefore, that the Senate will not disagree to, but concur in, the amendment of the House of Representatives.

Mr. ALLEN. Mr. President, this bill passed the Senate at the last session. Subsequent to that time, in virtue of the treaty, an appropriation of fifty thousand dollars was made by Congress. The President has appointed and the Senate confirmed the appointment of a commissioner to run this boundary line. The subordinates—secretary, clerk, and surveyor—have all been appointed, and have proceeded to the discharge of their duties. The time fixed by the treaty for the meeting of the commission on the part of both nations was so near at hand that the President could not wait safely for the legislation of Congress, not deeming that legislation necessary only so far as it might be necessary to fix the salaries of the appointees; and that is all the legislation now required upon the subject. By the treaty there was a commission created. It was prescribed by the treaty itself that a commissioner was to be appointed, and all the attendants, officers, and individuals necessary for the execution of the work. That treaty, being the supreme law of the land, constitutes these offices as clearly as an act of Congress could constitute them. And Congress seemed to have taken that view of the subject when, without creating these officers otherwise than as they were created by the treaty, they made an appropriation of fifty thousand dollars, and placed it at the discretion of the President, to be employed in the execution of our part of that treaty. And the President has proceeded to appoint these officers, in obedience to the treaty, and the obligations of the treaty, and the additional obligation imposed upon him by the appropriation of fifty thousand dollars, made by Congress. This bill, which was drawn, as a matter of course, with a prospective operation, passed the

Senate at the last session, prior to these appointments having been made; and the consequence will be, if this bill, as amended by the House, pass, all these appointments will be vacated, and they will have to be made over again, or the bill will be a nullity. I therefore move that this bill lie on the table.

The motion was agreed to.

NAVAL APPROPRIATION BILL.

A message was received from the House of Representatives by Mr. CAMPBELL, their Clerk:

Mr. President: The House of Representatives concur in the fourth, fifth, sixth, seventh, eighth, and eleventh of the amendments of the Senate to the bill making appropriations for the naval service for the year ending 30th June, 1849. They disagree to the first, second, third, ninth, tenth, twelfth, and thirteenth amendments of the Senate to said bill, and concur in the fourteenth amendment of the Senate with an amendment, in which they request the concurrence of the Senate.

The Senate proceeded to consider their amendments amended and disagreed to by the House of Representatives to the bill last mentioned, and

Resolved, That they insist on their amendments disagreed to by the House of Representatives; disagree to the amendment of the House to their fourteenth amendment, and ask a conference on the disagreeing votes of the two Houses.

Ordered, That Mr. BADGER, Mr. HUNTER, and Mr. YULEE be the Committee of Conference on the part of the Senate.

EVIDENCE IN PENSION CASES.

The Senate proceeded to consider as in Committee of the Whole the joint resolution from the House relative to evidence in applications for pensions by widows of deceased soldiers under the act of July 21, 1848; and no amendment having been made, it was reported to the Senate, ordered to a third reading, read a third time, and passed.

SUSPENSION OF RULES.

On motion by Mr. CAMERON, and by unanimous consent, it was

Resolved, That the 16th joint rule of the two Houses be suspended, so far as relates to the resolution (Senate 71) relative to the public printing.

On motion of Mr. WALKER, and by unanimous consent, it was

Resolved, That the 17th joint rule of the two Houses be suspended until the end of the present session of Congress.

These rules prohibited the sending of any bill from one House to the other, and to the President of the United States, during the last three days of the session. The above orders were adopted, after a few words of opposition from Messrs. YULEE, RUSK, and CALHOUN, and of explanation by Messrs. JOHNSON of Maryland, and CAMERON.

LIGHTHOUSE APPROPRIATIONS.

A message was received from the House of Representatives, announcing that said House had passed the Senate bill making appropriations for lighthouses, lightboats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes, with amendments.

The Senate proceeded to consider said amendments, and, on motion, they were concurred in.

GOVERNMENT FOR CALIFORNIA.

Mr. DOUGLAS. Mr. President, I wish to make one more effort to give a government to California. I have in vain endeavored to bring the Senate to act upon the State bill, and I now ask them to take up the bill from the House of Representatives providing a territorial government for California. I move that the Senate proceed to the consideration of that bill.

Mr. BUTLER. I shall oppose the motion, because the bill which came from the House of Representatives has not been reported upon, nor in any way acted upon, nor considered by the Committee on Territories to whom it was referred. I think the bill should take the usual course. It is very possible, yea, highly probable, that the Committee on Territories might agree to some amendment, or modify this bill very materially. The committee is not even organized; there is a vacancy in the committee which should be filled, and the bill should be well considered by the committee before it is brought into the Senate for our consideration and action. At this time it is out of the question that the Senate can give a matter of such great importance as this that consideration which it demands. I want the guarantee, at least, of the Committee on Territories on this matter. I am a member of that committee, and am ready, for one, to give the subject consideration. But there is a vacancy in the committee which should be filled before any action is had by them.

Mr. DOUGLAS. I feel it due to make one statement. The Committee on the Territories, I have no doubt, have done the best they could in the endeavor to discharge their duties, and attend to all the other business which has been devolved upon them. But I must say, that as chairman I notified the committee to attend immediately after the reference of the bill was made. The next morning I was able to get but one member with me. I then renewed the notification, and on the next morning I was unable to get even one member of the committee with me. I have since struggled to get a majority of the committee together, but I have not been able to do so. I think, therefore, that the people of California should not be allowed to suffer for the want of a government, because the members of the Committee on the Territories deemed it their duty to attend to other business in preference to this.

Mr. RUSK. It is known to the Senate that there is a project for the government of California now in charge of a committee of conference between the two Houses, and it is easy to perceive that nothing can be effected by taking up this bill, except to consume the time of the Senate. The appropriation bills are in the hands of committees of conference between the two Houses, and have yet to be passed. Various other measures, all-important to the public interests of the country, are still pending, the amendments appended to them by the two Houses being still under consideration of the committees of conference, or else remain unacted upon by one House. Your table, sir, is now covered with such bills. It is impossible to pass this bill. What Senator does not know that nothing on earth can be effected by taking up this bill now, but the consumption of the remaining time of the Senate. I hope, therefore, that my friend from Illinois will withdraw his motion and allow us to proceed with business, and dispose of the many important bills ready for final action.

Mr. DOUGLAS. I can only say that bills on all subjects have been taken up and considered this session by the Senate, except that of giving a government to the people of California. I have tried to get up State bills, territorial bills, and all kinds of bills, in all shapes, in the hope that some bill, in some shape, would satisfy the Senate. But thus far, I have found their taste in relation to this matter too fastidious for my humble efforts. Now, I wish to make another and a final effort on this bill, to see if the Senate are disposed to do anything towards giving a government to the people of California. And on this question I deem it my duty to call for the yeas and nays.

The yeas and nays were ordered.

Mr. HAMLIN. The Senator from Texas [Mr. RUSK] says there is now a project in the hands of a committee of conference for giving a government to California. That is true. A project, indeed! One granting almost unlimited powers to the Executive of this Government—such powers as have never been granted to the Executive of this Government upon any occasion—despotic powers, if I know the meaning of the word despotism. We have here a bill which serves to define clearly the rights of the governed, and the duties which the Government owe to the people of that territory, and I apprehend that every Senator well understands that this bill is nothing more or less than one of those territorial bills which conform with the almost universal practice of this Government from the time the Government was founded. And if for no other reason than the fact that it defines clearly the rights of the people who are there to be governed, and the powers which are to be exercised over them—if for no other reason than that, I should be in favor of taking up this bill and voting upon it at once.

One word more in relation to the suggestion of the gentleman from South Carolina, [Mr. BUTLER.] I hold that if members of any committee do not see fit to attend the meetings of the committee, or do not attend for some other cause, no matter what that cause may be, it is no good reason why we should withhold our action here, and withhold a government from the people of those territories corresponding with the uniform action of our Government. I hope, therefore, that the Senate will take up this bill, and give it their favorable consideration.

Mr. BUTLER. The reason I did not attend the Committee on the Territories was, that I was chairman of the Committee on the Judiciary, and had my time fully occupied by the duties of that position. And when my friend from Illinois notified me to attend the meeting of the Territorial Committee, I replied that I could not attend that morning; that I had several bills from the House at that time before me; and that my own duties to my own committee required my constant attention. I had no intention to withdraw from the Committee on the Territories, or to avoid any of the responsibilities incident to that committee.

But one word in reply to the remarks of the Senator from Maine, [Mr. HAMLIN,] which are nothing but an echo of those addressed to the Senate the other day when the amendment to the civil and diplomatic appropriation bill offered by the Senator from Wisconsin, [Mr. WALKER,] was under consideration. How can gentlemen make such an assertion? That amendment restricts and controls the unlimited powers which the President must now have. The whole power of governing the Territory of California at this time, without any bill, must necessarily be an Executive power. It must be governed by the army—the power of the sword—martial law. It must be governed by the President, under the rules and regulations of war, and no other, except so far as it may be controlled by the laws of California. And am I to be told, that when we extend the Constitution of the United States over a territory we are conferring unlimited and despotic powers upon the Executive of the United States? Is it not restricting the power of the President instead of conferring new powers upon him? And yet such has been the language used here on all occasions when gentlemen from a particular part of this country have spoken on this subject.

The question was then taken on Mr. DOUGLAS's motion to postpone the prior orders for the purpose of taking up the California bill, and it was determined in the negative.

PRIVATE BILL.

The Senate proceeded to consider, as in Committee of the Whole, House bill for the relief of Mary B. Renner; which, on motion, was laid on the table.

THE SEVENTH CENSUS.

The Senate proceeded to consider, as in Committee of the Whole, the bill from the House to make arrangements for taking the seventh census.

Mr. WESTCOTT moved to lay the bill on the table; which was not agreed to.

Mr. WESTCOTT. Mr. President, this bill is nearly word for word the same as the amendment introduced the other day by the Senator from Massachusetts. It refers this whole matter to the executive officers of the incoming Administration—to the Secretary of State, Secretary of the Treasury, and the Secretary of the Interior, provided such a department shall be created, just as that amendment proposed to do. I will not go over the arguments which were urged the other day with reference to the impropriety of referring to the Executive branch of this Government those duties which properly belong to us to perform, and thus render the departments the mere instruments of Congress to prepare its legislation for it. We should transact our own business and perform our own duties. There is too much concentration already. Congress has gone on until they have got into the habit of shirking out of their responsibility upon nearly every important question. This should be stopped. Let Congress do their own work, and not shirk off their labor and responsibility upon another branch of the Government.

Another objection which was urged the other day, and to which I will now refer, was, that this census bill is the entering wedge to a species of legislation, to a system of policy which many in this country regard as utterly unconstitutional—a system of taking under the control of Congress the supervision of and the legislation upon the local concerns of the States. I object to all this legislation, which is proposed and originated perhaps by the departments. And as for all these statistics which it is proposed by this census bill to collect, I say that we have no right to meddle with them. We need no information except such as is needed by Congress in order to enable them to fix the ratio of representation and direct taxation. If all this information is wanted, it would be more appropri-

ate that the States should collect it. It is a matter which altogether concerns the States. We have nothing to do with it. We have already volume upon volume and document upon document of this kind of information which never will be read by any one. It is an unusual course of proceeding to refer subjects of this kind, or any other kind, for that matter, to the Executive officers. It has not been adopted heretofore. Why is it that this rule was not thought necessary in relation to the sixth census? Why was it not thought necessary in relation to any of our former census bills? Why has not Congress heretofore resorted to these Executive officers for advice in relation to the best mode of taking the census? We have got along hitherto without resorting to such an unusual and pernicious course, and I hope that the Senate will place the seal of condemnation upon it at once by rejecting this bill.

Mr. DAVIS, of Massachusetts. I do not feel disposed to have this bill killed by delay. If it were that frightful, fearful, grasping, crushing thing which the Senator from Florida would have us believe, the Senate might have reason to feel some alarm. But it is not. It is a very simple and a very harmless affair. It proposes nothing more nor nothing less than that the officers named shall prepare a census bill and submit it to us at the next session. And when the bill shall be submitted we can adopt it or reject it, according to our will and pleasure. At any rate, the bill submitted will serve as a good basis on which to form a bill that will be satisfactory. It will present the material ready at our hand, out of which to frame a complete bill. It is for the purpose of obtaining that material in a tangible and classified form that this proposition is made. That is all.

Mr. KING. I would prefer that the bill should be so amended as to strike out the words "Home Department." We have no such department now, and it is uncertain whether or not we shall have one. It seems to me to be a little unusual to provide for referring any matter to an officer that does not exist. I would prefer to have the head of some other department substituted for this one. I would propose to insert "Attorney Generall" in the place of "Home Department." That would make a much better board, and will, I think, be more satisfactory to the Senate.

Mr. DAVIS, of Massachusetts. I would accept that amendment very willingly, but it is a House bill, and I do not wish to send it back.

Mr. WALKER. Mr. President, if that amendment be made, the bill will have to go back to the House, and thus much valuable time will be lost. I am opposed, therefore, to the amendment. And, further, I would like to know whether the Senate have determined to take up the bill providing for the establishment of a Home Department? I do not say that I am in favor of the measure, but I wish to have the bill taken up and considered by the Senate.

Mr. DAVIS, of Mississippi. I would move that this bill be passed by, and that the Senate take up the bill providing for a "Home Department."

Mr. DAVIS, of Massachusetts. I hope my friend from Mississippi will not interpose to defeat this bill. The bill providing for a "Home Department" is not before the Senate. It is still in committee.

Mr. DAVIS, of Mississippi. It is not my object to defeat the bill of my friend from Massachusetts; on the contrary, my motion is calculated to facilitate it. I desire to take up the other bill, in which this is involved, and dispose of it, when this can be again called up and more readily disposed of than now. The fact that the other bill is yet in committee need be no obstacle to its being taken up now. I move that the Committee on Finance be discharged from the further consideration of the bill providing for the establishment of a Home Department.

Mr. HUNTER. I am directed by the Committee on Finance to report back the bill providing for the establishment of a Home Department, with various amendments, and with a recommendation that it do not pass.

Mr. UNDERWOOD. I move to take up the report of the committee.

Mr. KING. I object.

Mr. TURNEY. This is the last day of the session, and I hope the Senate will not postpone all other business to take up one single bill that will require much discussion.

Mr. CALHOUN. I am decidedly opposed to this bill. There is no necessity for it. The plea which is set up, that it is necessary to pass this bill now in order to give time to prepare the details of a bill such as will be necessary for taking the census, is utterly futile. There would be ample time to pass a bill at the next session. For the most part, bills of this kind have not been passed at the short session. They have always been passed, with but one or two exceptions, at the long session. If it is the desire of the Senate to go back to the primitive forms of taking the census, and adopt that simple mode in which it was first commenced, a bill could be passed in the course of one week. But the object of this bill looks to a different result—to have a census bill at least as complicated as the one which the Senate voted down the other day. It is to be referred to the Executive departments. The Executive departments will be surrounded by men who take much interest in this matter. Every one will be urging his peculiar views, and it will be very difficult for the departments to resist the pressure. I hope we will not devolve this duty upon the departments. We are abundantly capable of performing it ourselves. In the simplest and old form, it is one of the easiest bills to prepare, and it is one of the easiest bills to pass. I hope, therefore, that this bill will not be suffered to pass. Let it share the same fate with its fac simile of the other day.

Mr. DAVIS of Massachusetts. The Senator from South Carolina is mistaken in regard to this matter, and especially mistaken as to the time which will be necessary to put all the machinery for taking the census in motion. I believe about the 30th June is the period when it is desirable to have the census taken; and it ought to be taken in reference to a distinct period of time, in order to accomplish the object of those who formed the Constitution. We ought to get the census as nearly as we can, and, if possible on a given day. The period heretofore fixed, I believe, has been the month of June; and if you follow the decennial period, according to the terms of the Constitution, you must get your bill completed, your officers appointed, your forms distributed through this vast country. It will be remembered that California and Oregon have become portions of the United States, and how is it possible to conform with the usual mode of doing this business unless great dispatch be given to it when the next Congress assembles? I assure the Senator from South Carolina, and all other Senators, that I should have no desire whatever to get this bill passed, if I supposed that, without it, proper dispatch would be given to the business after that Congress comes together. But where a bill of this complicated character is necessary, justice cannot possibly be done to the subject by the next Congress unless the preliminary steps proposed by this bill shall have been taken. All that we desire, and all that is proposed is, that a bill shall be prepared and reported to us, and then the whole subject will be in our hands, and can be disposed of as we shall please.

The question was taken on Mr. KING's amendment to strike out the words "Secretary of the Home Department" and insert "Attorney General;" and it was agreed to.

The bill was then reported to the Senate, and the amendment concurred in; and the bill was read a third time and passed.

MESSAGES FROM THE HOUSE.

A message was received from the House of Representatives announcing that said House had agreed to the first, and disagreed to the second amendment of the Senate to the resolution of the House authorizing the distribution of the American Archives, under the direction of the Joint Committee on the Library, to literary institutions in the several States and Territories.

Also, that said House had passed the Senate bill to establish the collection district of Brazos de Santiago, in the State of Texas, with amendments, in which they requested the concurrence of the Senate.

Also, that the said House had concurred in the second amendment of the Senate to the bill requiring all moneys receivable from customs and from all other sources, to be paid immediately into the treasury without abatement or deduction, and for other purposes, without amendment, and had agreed to the residue of the amendments of the Senate to said bill.

COLLECTION DISTRICT OF TEXAS.

The Senate proceeded to the consideration or the amendments of the House of Representatives to the bill to establish the collection district of Brazos de Santiago, in the State of Texas; and, on motion, concurred therein.

FORTIFICATION APPROPRIATIONS.

The Senate proceeded to consider their amendment disagreed to by the House of Representatives to the bill making appropriations for certain fortifications of the United States for the year ending the 30th June, 1850.

Mr. ATHERTON moved that the Senate recede therefrom; which motion was agreed to.

DEPARTMENT OF THE INTERIOR.

Mr. HUNTER, from the Committee on Finance, to which was referred the bill from the House of Representatives to establish the Home Department and to provide for the Treasury Department an Assistant Secretary of the Treasury, and a Commissioner of the Customs, reported it with amendments.

Mr. UNDERWOOD moved to take up the bill to establish a Home Department.

Mr. KING hoped that the bill would not be taken up. He thought it would lead to a very extended discussion.

Mr. UNDERWOOD said he was perfectly willing to vote and to say nothing about it.

Mr. CAMERON thought, from indications around him, that the bill would be very fully discussed. He knew gentlemen who were resolved upon entering largely into the discussion whenever the bill should come up, and he believed it would consume the whole day.

Mr. DOWNS hoped the bill would be taken up. It was a very important measure, and he thought it would not take long to dispose of it.

Mr. BRIGHT. I hope the motion will not prevail. There is a great deal of very important business that ought to be attended to, and I think, from the disposition that is manifested in various quarters to enter largely into the discussion of this bill, that, if it be taken up, very little, if any, business will be done. All, or at least a large portion, of the important bills now ready for the action of the Senate, will have to be passed over if the motion of the Senator from Kentucky shall prevail.

If Senators think that this bill can be passed without a thorough examination and full discussion of its merits, they are mistaken. I hope, therefore, that, if it is to be taken up this session at all, it will not be taken up until all the more important business shall have been disposed of.

Mr. DAVIS, of Mississippi. I do not suppose that any Senator is going into a long speech upon this bill at a moment like this. We are all equally interested with the Senator from Indiana [Mr. BRIGHT] in the speedy disposition of the important bills which remain yet unacted upon. If Senators wish to express their views in relation to the measure, they can do so without occupying much time, if they choose. If objections to the bill exist, they can be briefly stated. All that I have to say, I can say in a brief space. If we seek only to elicit the truth, to ascertain the facts of the case, to legislate for the good of the country, it will not take long to dispose of this bill.

The establishment of a Home Department has been recommended by one whose name will be honorably remembered as long as our Treasury Department stands. This illustrious man, who is about to close his labors in that department, which he filled with such high honor to himself, and such signal benefit to his country, after mature deliberation, after that investigation which no man not at the head of the department could have made, proposed the bill which is now before the Senate, having passed the House. He is convinced that it was absolutely necessary in his administration of the department to have such a division as is proposed by this bill; and that it will be more so during the next four years, and for every succeeding four years during all coming time. I feel a very peculiar interest in this measure, as every one who comes from a new State must feel. We are peopling the public lands; the inhabitants of the old States are the people of commerce. The treasury belongs to us in common. The Secretaries of the Treasury must be taken from those portions of the country where they have foreign commerce, and therefore they are men who are not so intimately connected and acquainted with

the relations and interests of the public lands in the new States as those who control those relations and interests should be, in order to protect and foster the interests of the new States.

Again: no feature is more common in our form of government than its checks and balances—one department checking and guarding the other. Why, then, shall we not carry out that principle to its legitimate extent? Why, then, have we, and why shall we continue an organization which violates that principle? It was a departure from that great principle to put in the same hands in the organization of our Government the collection and the disbursement of the revenue. The one should check the other. The officer who is charged with finding the ways and means to carry on the Government properly, never should have been charged with the disbursement of those ways and means. And this division of the Treasury Department I consider essential to the rigid economy and just accountability which belongs to our Government.

Mr. FOOTE. I should not vote for taking up this bill, nor attach that peculiar importance to it which I do attach, were it not for the fact that I have very recently had a conversation in relation to this very subject with the Secretary of the Treasury, and he assures me that the immediate passage of this bill is so important that he believes no man, however skilled in financial affairs, can get along with that department unless the bill be passed. Under such circumstances I think it the duty of every man, disregarding all party considerations, to come forward and take care of the financial interests of the country. Such I feel to be my duty, and I shall therefore facilitate, as far as I can by my vote, the passage of this bill.

The motion to take up the bill was agreed to, and the Senate proceeded, as in Committee of the Whole, to its consideration.

Mr. HUNTER said, the Committee on Finance proposed to amend the bill by striking out the provisions for a commissioner of customs, and an assistant Secretary of the Treasury, together with so much of the 14th section as proposed to transfer clerks to that commissioner. The committee saw no sufficient reason for creating these new offices, and as provisions already existed for performing the duties proposed to be assigned them, by persons other than the Secretary of the Treasury, they did not see how his labors were to be lessened by the proposed change, nor was it shown to them that the public business would thus be dispatched with more facility.

Mr. DAVIS. A large portion of the labors of the Secretary of the Treasury are a mechanical discharge of duties which cannot be discharged under the present organization, but which will be discharged by the Commissioner of Customs and the Assistant Secretary of the Treasury, by the authority in the bill. It is only by giving them the powers which belong to such an organization that they will be enabled to relieve the Secretary of the Treasury from these mere manual labors. The transfer of the duties is a concomitant of such an organization.

Mr. HUNTER. I wish to inform my friend from Mississippi that he is mistaken. The bill provides for an Assistant Secretary, but it does not require the new officer to sign letters, contracts, and warrants, but provides merely that he shall examine all letters, contracts, and warrants. These are duties which may be, and doubtless are, assigned to clerks as the laws now exist. This provision therefore affords no real relief to the Secretary of the Treasury, for it still leaves him the duty of signing warrants, which is all that he needs do now.

Mr. DAVIS, of Mississippi. By the organization of such a department, a great deal of manual labor will be saved to the Secretary of the Treasury. I would say to the Senator from Virginia that this manual labor is devolved upon him because his clerk is not known as an officer having charge of the business. This is to transfer to him, under the new organization, these labors incident to the department. It is necessary, if anything can be necessary, that he should have these functions transferred to him, and that the clerks should be transferred to the Home Department, with the transfer of their duties to that department. A part of the duties belonging to another officer and the clerks go also to that department. I would say to the Senator from Virginia, that one much more competent than either he or I has drawn up this bill, and I am ready to take it as he has drawn it.

Mr. HUNTER. Mr. President, if the argument against these amendments be that the bill was drawn by one more competent than I to frame such a measure, I can have no response to make to it, except that the assertion as to his superior competency is true. But the Senator from Mississippi is mistaken, in some respects, as to the nature both of the bill and amendments. The amendments do not propose to strike out any provision for transferring clerks from offices already existing to the Assistant Secretary, for one very good reason, amongst others, and that is, that there is no such provision in the bill. The act creates one new clerk for him, but does not propose any transfer of clerks to him. The amendments propose to strike out the provision for transferring clerks to the new bureau of the Commissioner of Customs, as a natural consequence of another amendment, which proposed to strike out the section creating that officer. Now, it may be true that the Secretary of the Treasury, who drew this bill, is far more competent than I can be to frame such a measure; yet the assertion of that fact, is not a sufficient answer to all propositions made to amend the bill. Sir, I did, and do think that the bill is far from perfect, either as a whole or in its parts, and the presumption of acting upon such an opinion is not mine alone, for the Committee on Finance were unanimous, I think, in recommending these amendments.

Mr. ALLEN. I am opposed to this bill; nor do I think we shall have time, during the few hours that remain of this session, to go into the business of creating a new department and new bureaus. This is a bill which will be followed by another bill the next session of Congress, requiring a hundred additional clerks, notwithstanding there are now twice that number. Besides, we propose to make a Cabinet officer the very last day of this Administration. We are assuming that those who are to succeed us require more advisers than we have had; we are doing that thing which they ought to do, if they think it is required. When a new Administration comes in, if they think there is a necessity existing for this department, doubtless they will recommend it to Congress at the next session, when it can be fully considered. I am utterly opposed to taking upon ourselves the responsibility of this augmentation of patronage and consequent expense to the people. The Government has got along in peace and war with our present departments. They have got along most triumphantly; and I never heard till to-day that the Secretary of the Treasury was incapable of performing all the duties of his office, and that it was necessary to add another member to the Cabinet. Sir, there are two things that never go back: one the increase of officers, the other the increase of their salaries. We never decrease offices; we never decrease salaries. And if we begin by this division of the Treasury Department into two departments, it will not be five years before we shall be told that there are causes for augmenting the other departments. If there had been a proposition merely to create an Under Secretary of the Treasury, or to have created a Commissioner of Customs, one or both, there would have been some plausibility in the thing. But here is a proposal to transfer a very large part of the duties of the Secretary entirely from the Secretary of the Treasury to a new Secretary of a Home Department; and, after having diminished his labors one-half, then we are to create two new bureaus. Now, at the close of a war, with a national debt on our hands, and with a bill pending, as I understand, for issuing treasury notes, which is but another form of borrowing some five or six millions of dollars, I do not think it is right to augment the offices of Government. Every one knows who has any experience in public affairs, that if the tendency of things in our Government shall continue, the present tariff will not suffice to keep the Government on foot, much less to supply funds for the gradual extinction of the national debt. There must be retrenchment, or perpetual loans and perpetual debt. The custom-house cannot yield enough to meet the demands now made upon the public treasury, nor can a tariff be made high enough to yield a revenue to meet these demands. The issuing of treasury notes will become the permanent policy of the country, if retrenchment be not resorted to. I made some allusion the other day to adding up these figures. I know, and every one knows, that there is less attention paid to the expenditures of the Government than perhaps at any period of our history; and every one knows where the fault is, and that this tendency is hourly increasing; but this is not the time to discuss this matter further.

Mr. DAVIS, of Mississippi. As usual, I agree very well with the Senator from Ohio, that it is very improper to increase the powers of the Federal Government beyond what they must necessarily be. But here, sir, the vast increase of patronage amounts to an addition of three officers and two clerks, I believe. This is all that is added. There is a division of the Treasury Department, merely to expedite the business and relieve it from manual and mechanical labor. The new officers would perform duties which are now performed by the Treasury Department, and also the duties now performed by some other departments. The questions coming up under the custom laws, which are now referred to the Comptroller of the Treasury, will be decided by the Commissioner of Customs. They are sometimes at present detained from sixty to ninety days, and then go to the Secretary of the Treasury himself. If a Commissioner of Customs is appointed, all these questions growing out of custom laws will be decided promptly by him, and thus a large benefit will be conferred on men engaged in commerce, and the revenue of the country, as these questions involve the revenue of the country as well as the commercial interests of individuals.

With this brief answer to the Senator from Ohio, I will only say that I do not intend to defend this bill, because I believe it has been before the Senate so long as to need no further defence or explanation. I leave it to the Senate, to be debated by those who shall think proper to debate it.

Mr. HUNTER. Mr. President, I did not suppose that, upon a proposition to amend, the debate would turn upon the bill itself. It is but due to the Committee on Finance, and to myself, as one of that committee, to say, that we were so much pressed with other matters that we have not been able to give to this bill that particular and minute attention which such a subject deserves. We thought we saw in it reason enough to induce us to meditate long before we would make such changes as it proposes in the Treasury Department of the United States. This is but a germ, and we can no more judge what it is to be when it attains its full growth than we can estimate what the man will be from the appearance of the infant. Who can foresee the full effect which the creation of this new department is to have upon the distribution of power between the States and Federal Government? And who can estimate the additional patronage to grow out of the new subjects which are probably to be transferred by this bill to this Government? It is true, sir, that the bill, as now framed, contains no proposition for such a transfer of power as we fear; but before we recommend it, and rely upon the arguments in support of a Home Department, we should consider long what is to be its tendency as it shall increase in growth. But, be that as it may, throwing these considerations out of the question, it seems to me, notwithstanding the high reputation of the Secretary of the Treasury, that the bill is neither well digested nor well conceived. Nor can I concur with the Senator from Mississippi [Mr. DAVIS] in the opinion that we are to take whatever any Secretary chooses to recommend.

Mr. DAVIS, (in his seat.) I did not express such an opinion.

Mr. HUNTER. I understood him to say that we were to take it upon that ground; that he would take it upon faith, and to intimate that it was somewhat unbecoming in me to raise a whisper of opposition to what the Secretary had prepared. Now, sir, I maintain, and I am willing to go before the people upon it, that the measure is neither well conceived nor well digested. Why, sir, what is the meaning of that provision which takes from the Treasury Department the supervision of the lands, which is one of the sources of revenue? Are we to destroy the unity of that department? Are we to have two Treasuries and two Secretaries? or are we to have one Treasury and one Secretary, to supervise generally the measures relating to revenue? If the latter be manifestly proper, and this bill virtually admits it by leaving to the Secretary of the Treasury the machinery for collecting and disbursing the proceeds from the public lands, why take from that officer the supervision over our property in lands, and the power of directing the

time and mode in which those lands are to be brought into market? To whatever extent we take this power over the revenue from lands from the Secretary of the Treasury, we impair the unity of the Treasury Department, and diminish its efficiency. We know, sir, that the two chief sources of revenue in this Government are the customs and the public lands. How important, then, to the unity of the Treasury Department, that in the Secretary of the Treasury Department be lodged the power to say to what extent the public lands should be thrown into the market, and to superintend, in short, the revenue of the country.

It is said that many other matters are involved, in which settlers and the States are interested, in the office of Superintendent of the Public Lands. I admit it, sir; but if you have an intelligent and able Commissioner of Public Lands, such an one as the present Commissioner, you might safely give him the power now exercised by the Secretary, of deciding judicial questions with which he is now embarrassed, and thus relieve that officer from the only substantial cause of complaint as to the duties devolved upon him through the public lands. The chief argument, so far as the Treasury Department is concerned, which has been submitted by the Secretary, is founded upon the fact of the number of judicial cases growing out of the supervision of the public lands which he has had to decide; he enumerates, I think, in his report by thousands. Why not give that power to the Commissioner of the Land Office? Why not select always a man for that office who is qualified to pronounce such judgments fairly and intelligently? I believe that the Commissioner who at present fills that office, is as able to decide such cases as any of the Secretaries. This power ought to be transferred; but to do this, you have only to change to some extent the powers devolved upon the Commissioner of Public Lands. Are we prepared, rather than to do this, to place the whole under the charge of another minister, another Secretary? The Committee on Finance certainly did not think this bill was in all respects entitled to their support; for, if I recollect right, they were unanimous in the opinion that it required some amendment. The appointment of an Assistant Secretary is nothing more than raising the salary of him who is now chief clerk. There are no duties devolving on him which may not be performed by the chief clerk. So, too, with the Commissioner of Customs. We had no evidence that it was necessary to construct such a bureau. That branch of the business is, I believe, capable of being as well conducted upon the present plan, and is I have no doubt as well conducted, as it would be under the proposed change. I do not know of any one who pretends to say that the treasury may not require reorganization. I believe, sir, that it does; but I think that it requires a reorganization of a different and much more thorough kind than that which is proposed. I believe we shall have to do it; and if we were to pass this bill, we should find that it would not remove the necessity of such a reorganization. But, sir, it is not for me to indicate my opinions in relation to this matter to the Senate. I know that they are worth little, and I will refrain from offering them upon the discussion of this bill. But I will say, that when the Department of the Treasury is reorganized, it will have to be changed in a very different mode from that proposed in this bill. It has been found, by experience in other countries, that it is the better way so to arrange the forms and so to classify the offices as to introduce thoroughly and completely the principles of the double entry into the whole system of public accounts. This is the great improvement which has constituted the superiority of the admirable French system of finance, which is admitted to be the best in Europe, and which has, to some extent, been borrowed and pursued by other Governments. Even her insular neighbors and rivals have testified their admiration of that system in more ways than one; and it has been made the subject of report and special investigation by the English House of Commons. But, sir, I will not give you my advice (lest it should be deemed officious) in relation to the reorganization of the Treasury Department. I wish merely to say that this bill will not remove the difficulties to be overcome. For one, I am not convinced that it would afford the Secretary of the Treasury any substantial relief. What it proposes to do for the Secretary of State might be effected, if necessary at all, by giving to the Commissioner of Patents the decision of such judicial cases as that Secretary must now decide. What the bill proposes to do for the Secretary of War, in relieving him from the Indian Affairs, is not only unnecessary, as I believe, but I fear is likely to be pernicious. Upon the whole, sir, I am of opinion, even if the general conception of a Home Department were right, still this bill would require important amendments to make it work efficiently and well as a separate department of the Government.

Mr. WEBSTER. Sir, I am in favor of this bill, and I have no objection to the amendments. I am rather inclined to concur in them, and upon the whole I am of the opinion that it is now most expedient, if the Senate approve of the general object of the bill, to take it and pass it. As far back as the time of Mr. Monroe, and up to this time, persons most skilled and of the most experience in the administration of this Government, have recommended the creation of some other department, and to make some further distribution of the duties. Gentlemen can remember what Mr. Monroe, and, I believe, earlier, what Mr. Madison said on that subject. I believe it is true that the business of the Government has outgrown the means of performing the duties of it. It is said, but not very conclusively, that we create offices from time to time, and make additions to salaries of existing offices. Well, the country is increasing; the business of the Government is increasing; there is a great deal more work to be done. I do not know one bureau, one department, one clerkship in the administration of this Government that may now be considered a sinecure. I am persuaded that a great portion of the officers in the Treasury Department are overworked, as well as in the War and other Departments. This bill may not be perfect; it may require further consideration. I wish there was more time to consider it now. But the popular branch of the Legislature has passed it. It is here. It is my opinion that there is a general sense in the country that some such provision is necessary. I see nothing incongruous in separating the business of the Land Office from the Treasury Department, because, in the first place, the business of the Land Office is enough of itself to occupy the attention of one man. I agree that, so far as the revenue of the country results from the receipts from the public lands, if there were no other object, it might be well that they should continue under the same administration. But for all essential purposes it is the same. The proceeds of the public lands are brought into view by the Secretary of the Treasury. And they will be hereafter, as heretofore, included in every estimate of the public income. I see no inconvenience, but it will relieve the head of the Treasury Department from acting and deciding upon these very numerous and very important land questions that arise for his decision. I will not say anything of the importance of the Indian Department, now attached to the Department of War; I will not say anything of certain portions of the duties now assigned to the Department of State, such as the Patent Office, which are quite abundant to supply work enough for the most intelligent and most diligent man in the country. I believe this to be the case, and I entirely concur with what has been said by the member from Mississippi. I shall, for myself, be content to vote for the bill as it is. The subject will be open for revision hereafter, and nothing will be established but what Congress may revise.

Mr. NILES. This is not a bill properly before us for legislation. It is not a proper subject of legislation. You cannot create a new department by the legislation of Congress. The departments of this Government grow not out of the jurisdiction, but the duties of the Government. The necessity of the performance of new duties would lead to the necessity of having new officers to perform those duties. If we were to have an internal revenue, or a direct tax, or any other mode of raising revenue within the country, it might require a new department relating to this internal revenue, and it might include the internal trade and the agricultural interests and statistics of the country, and be connected with all industrial pursuits of the country. The departments grow out of the nature of the public duties. The Department of State is connected with our foreign relations, or with the business of the nation as a confederated State. The Department of the Treasury is connected with the revenue of the country. The Department of War is connected with the military establishment of the country, and the Department of the Navy with the naval establishment of the country. Then we have an Attorney General, who is the law officer of the Government; the Postmaster General, who is connected with the mail service of the country. Now, can you, by law, create a new department where there are no additional public duties to be discharged? Why, sir, it is not a new department; it is a new Cabinet officer. What are his appropriate duties? He has no appropriate duties by this bill; and the very fact that the bill provides for this high officer but one clerk proves that he has no duties whatever as the head of a department. It cannot be called a department. This is only a bureau. The officer is to have supervision in case of appeal, but he has no independent judicial department.

It is important, it is said, that this new officer should be appointed, in order to relieve the Treasury Department. But, as I understand the bill, there are various other duties given to this new officer. One of the bureaus of that department is given to him, it is true; but he has also taken a bureau from almost every other department. He has taken a bureau from the War Department, and from the State Department, and so of others. He has taken the Patent bureau, the Public Land bureau, and a number of other bureaus, thrown together without appropriate connection, and placed under this new officer, and called a department. And what is the advantage of making a separation of these bureaus from the departments to which they are now attached? Why, sir, it is known that they are substantially independent of the departments. They discharge their own appropriate duties; and the cases of appeal are not very numerous, nor very troublesome. They are merely to settle some general principle. All the detail of the ordinary business of the bureau may be considered as independent of the department. This is the case already with most of the bureaus of the Treasury Department. The accounting bureaus are independent by law, and ought to be. They merely bring general principles before the proper head of the department. Questions of law are referred to the law officer of the Government. Those cases where appeal is made to the head of the department, or the Attorney General, are very few, and are not very troublesome.

Now, I see no appropriate duties for this new officer—none at all. What, then, is the necessity of creating an additional officer of this kind, who will have no appropriate duties—a mere officer to be placed at the head of the several bureaus which are now brought together without reason? Sir, I agree with the Senator from Virginia [Mr. HUNTER] in what he has said upon one point. I have no doubt that the departments generally, and the Treasury Department in particular, need a reorganization; but this bill does not provide a reorganization. It will introduce no valuable change in that department. It will not relieve the Treasury Department; but I apprehend that it might rather embarrass the action of that department to create a new officer, whose acts might not be in conformity with the system now existing.

There is a strong argument for a measure of this kind from the recommendation of the Secretary of the Treasury. Why, sir, his recommendation is not higher than that of Mr. Madison, one of our first Presidents, and it seems that his judgment was not very well founded, for he recommended it in his time, more than thirty years ago, and it has not been adopted yet. The necessity which he supposed to exist does not seem to have existed, because we have gone on for more than thirty years, and have found no reason for a change. There is no necessity for that law, and, if there was, the bill is not properly digested. It is not the bill we ought to have. Sir, the whole tendency of this Government is to increase patronage, to foster and enlarge the Executive power, which is becoming a maelstrom to swallow up all the powers of this Government. That tendency is like the dark waves of the Propontis, setting in one direction, without a returning tide. If the power is once created, if you once enlarge the circle of Executive power, can you ever contract it again? Is there such an example in history? There is none, sir; none. Let us then be cautious how we hastily enlarge this power, which is gradually, and not very slowly, swallowing up all the powers of the Government.

Mr. MASON. I cannot but look on this bill as one that will make a material, a vital change in the administration of the affairs of this Government. Its advent in the Senate at this juncture is worthy of remark. In the House of Representatives one of the great political parties in the country is in the ascendant; in the Senate the opposite party is in the ascendant. At this particular moment it is supposed by one of the parties that a new Executive is to be appointed from among themselves. How that may be, I think remains to be seen. But in such a condition of things comes a bill into the Senate, at the very heel of the session, vital in its character, and proposing to make a change in the existing offices of the Government. Now, sir, was not the Federal Government devised and planned and organized to manage the exterior, the foreign relations of the States? Did not its early organization, does not its present organization conform to that plan? The War and Navy Departments, two of the great departments of the Government, manage our foreign relations; for the military power has reference to foreign relations alone. The State Department is to manage our foreign relations within the sphere of peaceful government relations; the Treasury Department was organized for the purpose of the management of the public funds, having under its control all the exterior arrangements relating to revenue. That was the original plan. The design evidently was to confine the Federal Government as far as possible to the management of foreign relations in the four great departments of the Government. The State, Treasury, War, and Navy Departments were organized with that view.

But, sir, none who have watched the course of the Government to any purpose can have failed to see that a policy has gradually grown up, at one time strengthening, at another time decaying, whose object waa, as far as possible, to bring within the power of the General Government the management of its interior and industrial pursuits alluded to by the honorable Senator who has just taken his seat. These industrial pursuits of our people it has been sought to bring within the vortex of Federal action.

What is it that it is proposed to do by this bill? Because it seemed necessary, from the nature of our State relations, of our State Governments, of our people with their federated governments, that some matters of domestic interest should be managed by the Federal Government, it is now proposed to take advantage of that, and to organize a separate department, to include all those powers, and to absorb hereafter as much power as those who hold the reins of Government shall see fit to place in their hands. The Patent Office, the whole subject connected with patents, by the Constitution, is vested in the Federal Government. What is it but a mere subordinate affair, though a matter of some interest, that is connected with this branch of the service? It has less reference to the great powers of the Government which are to be managed for the benefit of the whole people, but it could not well be managed by the States, and was vested in the General Government. It is a purely subordinate matter. Then there is the Indian Bureau, comprising our relations with the Indians, which were necessarily vested in the Federal Government. What does that amount to? These Indian tribes are decreasing in number every day; and they are driven further to the west, till I apprehend they will be driven to the very verge of the Pacific. How do our relations with them stand in comparison with those great departments of the Government which were carved out of the original power of managing our foreign relations? They are purely subordinate. Then the public lands must be left to the control of the General Government. That, too, is a purely subordinate department, entirely so. It is indeed a source of revenue, and at one time was a source of large revenue, but it was still subordinate.

Mr. President, these three subordinate bureaus have been heretofore assigned to their appropriate departments. The Patent Office has been under the supervision of the State Department, the Indian Bureau under the supervision of the War Department, and the Land Office under the supervision of the Treasury Department. But now it is said that these three subordinate bureaus devolve so much labor on the heads of those departments that they cannot properly attend to their duties; and therefore you must constitute out of them a separate department to enter into the organization of the Government, with a view to provide for this difficulty. Why, sir, if any of these departments are overworked, if they find it impossible to perform all the labor devolved upon them, what will be easier—unless there be a design to create a new department for the purpose of increasing the Federal patronage—than to give each of these bureaus an assistant, with the right of appeal to the head of the bureau? That is all that is wanted to obviate the difficulty.

It cannot be expected or supposed that the Secretary would go into the details of the individual cases; he can do no more than to settle principles. If an assistant is given in the Land Office, Patent Office, or Indian Bureau, he may relieve the heads of departments of much of their labor, and the power of appeal will give individuals equal justice. We all know very well, that in the general arrangement of these bureaus, the heads of the Patent Office, the Land Office, and the Bureau of Indian Affairs, must necessarily be men of superior intelligence, gentlemen of integrity, and conversant with all the affairs of the business over which they are placed. The chances are largely in favor of your finding in these bureaus men just as capable of attending to these duties as in the heads of departments themselves. There can be no question, that if the object is merely to provide means of doing the work, it can be better, far better done by keeping the offices, as they now are, separate, and, to a certain extent, independent, giving an assistant to each, subject to appeal to the head of the bureau. Why, sir, the heads of the departments are not only statesmen, but politicians, a great many of them, and necessarily so. They administer the Government honestly, I have no doubt, and correctly, within the sphere of their appropriate and regular duties. But they do more. They are managing the great political machinery of Government out of doors. Their minds are, to some extent, engrossed by matters of public interest, and, to some extent, by matters of personal interest, which utterly preclude the possibility of their going into the details of all these minor subjects. I am against any interference in this matter, and especially at this juncture.

It is said that this measure is recommended by the Secretary of the Treasury. Yes, sir, and it has been recommended from the days of Mr. Madison and Alexander Hamilton. That is all very immaterial. The very fact that it has never been adopted, though so long recommended, and from such high sources, shows a distrust of the people in the scheme, which has prevented them from putting it into practice. What distrust? It is the distrust of the American people of the safety of giving such a State capacity to this Federal power. Why, what do we witness here? Every Senator will speak for himself on the subject. There comes in a question before either House of Congress to create a new department to overshadow, by the influence of this great Federal power, the interests of the States. Are we to increase this central power? More especially are we, who belong to the South—who have very little more interest in this country than to have the protection of our independence with the other States; from whom a great part of the revenue is drawn, and to whom very little of it is returned; who pay everything to Federal power, and receive nothing for it,—are we, at this day, to give our sanction, under whatever auspices it may be presented, to this vital change in the Federal Government, and that upon an occasion when it must have the effect of concentrating and increasing the patronage of the Executive, and in giving that branch of the Government an increased power within the States?

If this thing is done, it is an entering wedge. It simply asks for a name at the outset. It has few offices connected with it, and is to relieve the other departments of duties which they are unable to peform. The result will be to absorb everything, and perhaps to obtain a power over these very industrial pursuits, to which the honorable Senator from Connecticut [Mr. NILES] has alluded. I understand him to be opposed to the passage of this bill. Who doubts that the Home Department will be turned—perverted, if you will—from its original design, to a course which shall be legalized afterwards under the pretence that the Home Department is incompetent to manage all the internal relations of the Government? I trust, sir, that those who stand in the ascendency in this Senate, and whose ascendency has already been exhibited in our action upon one of the bills brought to us from the other House within a few days, will stand firm now in this matter, and refuse to sanction this change in the governing power. I am against any measure and every measure which will tend to strengthen the Federal power and increase its limits. Gentlemen have said it around me, and said wisely, that it is idle to expect error to go back. You create fifty new offices where you dispense with one. You enlarge thousands of salaries where you diminish one. We progress in these respects, but we never go back.

And what is the reason for this change? If there is too much labor in the departments, take it from them. What physical necessity or what moral necessity is there that the State Department or any other department should have the supervision over the Commissioner of the Patent Office? Is there any? I know of none whatever. There is a necessity and a propriety in giving the applicant for patents the right of appeal; but must you make that appeal to the head of the department? It is necessary that the Patent Office should be subordinate to the departments, and that there should be the right of appeal, but it is not necessary that the appeal should be made to the head of the department. So with the Indian Bureau, and so the Land Office. There is no propriety, and far less necessity, that you should lodge the appeal with the heads of those great departments of the Government.

Sir, my honorable colleague, who has investigated this bill to some extent, as a member of the Committee of Finance, has told us that that committee have not had it in their power, engrossed as they were with other business, to give to this bill the attention and examination due to the subject. They have proposed some amendments, but those adverted to do not remedy the evil. It is replied that there is not time now to perfect it in detail, but we may pass it now and perfect it hereafter. But I warn you, sir, that if the bill is passed the wedge goes in, and every act of legislation will be but an additional blow to drive it still further. To perfect it hereafter will be impossible when the power is once given.

The honorable gentleman from Massachusetts [Mr. WEBSTER] says that the country calls for this. It may be that the particular portion of the country with which he is conversant from his location calls for this. Of that I have no doubt. But certainly no part of the country with which I am conversant calls for it. We have yet some hope, although it may be impaired by the experience of every day, that the State organizations will yet outlive the overshadowing influence of this Federal Government. We do not ask for this; on the contrary, we deprecate it as another of the pernicious experiments which have been made with a view to bring the people of the country under the supervision of the Federal power.

I had no intention, sir, when I rose of going so far into the debate as I have done. I am desirous of getting rid of this subject, and with that view I move to lay the bill with the amendment on the table, and I ask the yeas and nays upon that motion.

The yeas and nays were ordered, and resulted as follows:

YEAS—Messrs. Allen, Atchison, Atherton, Benton, Borland, Bradbury, Bright, Butler, Calhoun, Dix, Felch, Fitzpatrick, Hamlin, Hunter, King, Mason, Niles, Rusk, Sebastian, Sturgeon, Turney, and Yulee—22.

NAYS—Messrs. Badger, Baldwin, Bell, Breese, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dayton, Dodge of Iowa, Douglas, Downs, Fitzgerald, Foote, Greene, Hale, Hannegan, Houston, Johnson of Maryland, Johnson of Louisiana, Jones, Mangum, Miller, Pearce, Phelps, Spruance, Underwood, Upham, Wales, Walker, and Webster—31.

So the bill was not laid upon the table.

Mr. CALHOUN. I am aware of the impatience of the Senate to dispose of this subject; and I do not intend to detain them beyond what I deem it my duty to say on this occasion. This is a very important bill, and I exceedingly regret that I am so imperfectly acquainted with the principles upon which it has been urged at this time. I have no further opportunity to know its contents than by hearing it read, and hearing this discussion, and there has been so much noise that the greater part of what has been read and said has escaped my ear. I also regret exceedingly that there is so short a period to consider this bill, because I have noticed, as the result of my experience, that a

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measure, however important, is scarcely ever urged or opposed to any purpose at this late period of a session. Sir, is it fair to urge a bill of this magnitude upon the country at this time? I concur entirely with what was said by the Senator from Virginia, [Mr. MASON.] Bills of a character similar to this have been urged upon Congress, I believe, from the very first administration of General Washington, repeated at intervals by several Administrations, but never acted upon by Congress. There were never any considerable efforts made to carry them through. This I consider the strongest possible evidence against the propriety of such a measure. Why has Congress never carried out the suggestion of those eminent men who administered the affairs of this Government in the early days of this Confederacy? Why has Congress never acted in accordance with those suggestions and recommendations? Because they have felt it their duty, under a deep sense of the obligations imposed upon them by the Constitution, to resist all attempts that have ever been made heretofore to embark in such a policy.

Mr. President, there is something ominous in the expression, "The Secretary of the Interior." This Government, as has been well said by the Senator from Virginia, was made to take charge of the exterior relations of the States. And if there had been no exterior relations the Federal Government would never have existed—the exterior relations with foreign countries, and the exterior relations of States with States, and that only carried to a very limited extent. Sir, the name "Interior Department" itself indicates a great change in the public mind. What has been the cause? We are told that the business of Government now has become such that the existing departments are overloaded, and that it requires a new department to be constituted. Is the fact so? What evidence have we of that fact? Has there been a committee appointed to call upon the several departments, or any of them, or upon the President of the United States, to ascertain whether that is the case? I understand not. We have but a communication from a single department; and upon that authority alone, at this late stage of the session, when we have but a few hours left to consider the importance of this bill, it is urged upon us. Sir, there is something striking in the fact that this measure comes recommended from an outgoing Administration, and is supported here mainly by the friends of the incoming Administration, professing opposite political principles. That fact is very remarkable. The vote recently taken exhibited that remarkable state of things.

If the departments are overcharged, what has been the cause? Has it not resulted from the overaction of our Government? Is it not a strong admonition to us to retrace many of our steps, instead of forming new machinery to give a new impulse to that overaction? and a very powerful impulse this measure will give. But suppose that this overburden of business has not been the result of overaction, is there no other way of remedying it? May it not be corrected in a much more simple and safe form, by following the policy which has been already adopted in at least one of the departments—the Post Office Department—that of having an assistant, two or three of them, if necessary? Why not adopt the same machinery here instead of creating a new department, and bringing under its control half a dozen different branches of the public business having no connection with each other? I lay it down as a rule, founded on some experience, that it is far better that large masses of business, in their nature analogous to one another, should be under a common head, instead of being divided off. All that belongs to the revenue, directly or indirectly, ought to be under the charge of the Secretary of the Treasury; all that belongs to the War Department should be under the charge of the Secretary of War, and so on.

Mr. President, I understand that this bill proposes to make it a portion of the duty of this department to take charge of our Indian affairs. Who does not see that the Indian affairs are immediately connected with the War Department? Who does not see that the preservation of peace and harmony on our frontier, both between ourselves and the Indians, and between the Indian tribes themselves, depends upon the action of the War Department? In my judgment, the Indian affairs are so intimately connected with the War Department that they cannot be separated without producing mischievous consequences.

The next feature of this bill is, as I understand it, that it provides for the creation of the office of Commissioner of Customs——

Mr. HUNTER, (interposing.) I would inform the honorable Senator that the new bureau of Commissioner of Customs is put under the charge of the Secretary of the Treasury.

Mr. CALHOUN. Then I will pass that over and go to the Land Office. The Land Office is put under this new department. Who does not see that there is a far more intimate relation between the duties of the Land Office and the duties of the Treasury Department, than between them and the duties of a department like this that is proposed to be established? The proceeds of the sales of the public lands, being a branch of the revenue, ought to be under the control of the Treasury Department. Does not every man see that everything relating to the revenue ought to be under the control of a common head? It now appears, that after taking away that important branch from the Treasury Department, that department is to have new bureaus created for it, in addition to what it had before, thus adding machinery to machinery, and every addition to this machinery giving a new impulse to that overaction of the Government which causes the necessity for these additions.

Well, sir, what is the next branch of business that is conferred upon this new department? The Patent Office. I admit that there is not a very intimate relation between the Patent Office and the State Department, which now has charge of it. But now I put a question to gentlemen who advocate this bill. The Patent Office is already charged with the subject of agriculture, making long annual reports, and very expensive ones. Is it intended to transfer that with the Patent Office to this Home Department? Is agriculture to go over to this new department, with the Patent Office? for, as the bill now stands, that is the practical operation of it.

Mr. DAVIS, of Mississippi, (interposing.) If the Senator wishes me to answer, I would say that it is one of the blessings to be derived from the contemplated organization, that instead of extending, as has been done for several years, the interference of the Federal Government in the agriculture of the country, by throwing it as one office into a new department, the head of that department will not have to build his reputation upon it. And for that reason the arrangement proposed by the bill is considered preferable to the present arrangement.

Mr. CALHOUN. I am obliged to the Senator for expressing his views so distinctly. There is no power so strong as that of this Patent Office. Congress has struggled, but in vain, for years to limit this power. It has gone on increasing from year to year, until it has become a great overshadowing institution.

There is another large branch of business growing up connected with the legislation of Congress—the Smithsonian Institution. The Government is the trustee of that institution. The Government controls the Board of Trustees, and I venture to say that five years will not pass before the Smithsonian Institution will go into the Home Department. There is no end to these additions. Even the penitentiary of the District is placed under its control. Everything upon the face of God's earth will go into the Home Department,—Indian Affairs, Patent Office, Land Office, Public Buildings, all, all thrown together without the slightest connection. This thing ought not to be. This is a monstrous bill. It is ominous. It will turn over the whole interior affairs of the country to this department; and it is one of the greatest steps that ever has been made in my time to absorb all the remaining powers of the States.

Sir, it is time to stop. Ours is a Federal Government. The States are the constituents of the Federal Government. It is a created, and it is a supervisory power. We are step by step concentrating and consolidating this power, until finally we will take the last and final step, and conduct all the business under the name of the "Department of the Interior." Sir, I cannot believe that if this bill had been earlier taken up, if there had been eight or ten days' deliberate discussion on it, it would receive the sanction of this Senate, or that it would have received the sanction of so many friends who, upon the general questions of the country, have always stood by the Constitution and maintained the rights of the States. But, Mr. President, I know the disposition of the Senate, and I yield the floor.

Mr. FOOTE. I feel that I owe a special apology to the Senate for intruding myself upon its attention at this late period of our session. It was certainly not my intention to engage in the debate now in progress until a minute or two since, when several Senators on this side of the Chamber, who concurred with me in opinion touching the policy of establishing the Home Department, demanded that I should offer a few remarks in explanation of our common attitude. Indeed, it is possible that our motives and objects might be seriously misunderstood, both here and elsewhere, were nothing in addition said in obviation of misconstruction. I have already stated, Mr. President, at an early stage of this discussion, that, being somewhat in doubt as to what should be my own course upon the question under consideration, I made it my business to seek an interview with the Secretary of the Treasury, who in his annual report so warmly recommended the establishment of a Home Department, in order to ascertain whether he still considered this measure indispensable to the successful administration of the fiscal concerns of the Government. The Senate is already advised of the fact that this officer, thus applied to, declared that he did still entertain the opinion formerly expressed by him upon this subject, and that he felt perfectly certain that the Treasury Department would inevitably break down in the hands of any one who might be appointed his successor, unless some relief should be afforded to it in the mode provided by this bill. Having but a limited knowledge of this very delicate part of our governmental machinery, and being compelled, therefore, to rely very much upon the judgment of others, whose experience might enable them to give sound and wholesome advice, and being not unmindful, either, of the purely disinterested attitude occupied now by the distinguished gentleman at the head of the Treasury Department, I confess that his opinion has had much influence in determining my action. It is certainly possible that the experiment proposed to us may result disadvantageously to the public interests—it may, after all, turn out to be erroneous in theory, and pernicious in practice; and yet, under the circumstances stated, unless some more cogent arguments shall be brought forward than any it has been my good fortune yet to hear, I shall feel bound to vote for the measure so imposingly recommended to us for adoption.

The honorable Senator from Ohio, [Mr. ALLEN,] with whom I always so much delight to concur and coöperate, and the honorable Senator from South Carolina, [Mr. CALHOUN,] from whom I never seriously differ without more or less distrust of my own judgment, and other Democratic Senators to whom I never fail to listen with respect and admiration, have stated several objections in our hearing to the bill under consideration, which I regard as entitled to more or less notice at the hands of its friends; though I certainly do not conceive that anything has yet fallen from honorable Senators in opposition to the scheme of a Home Department which demands an extended reply.

The honorable Senator from Ohio seems to be of opinion, that as the Government has got along very well heretofore without a Home Department, there can be no necessity for establishing such a department at present. Sir, this argument would

cut off all future improvement in government, and compel us to remain stationary whilst the whole world is in progress before us. My honorable friend will permit me to suggest that he seems for a moment to have forgotten that this nation has advanced, in a little more than half a century, from three millions of people to twenty millions; that a proportionate increase has taken place in our territorial extent, our commercial, manufacturing, and agricultural resources; and that, consequently, there must be more or less of modification and expansion in the governmental machinery itself. A full-grown man cannot be expected to wear the clothes which were purchased for him in boyhood; and a great nation like ours must expect to incur a little more expense in executing the high task of self-government than it was necessary to encounter in the earlier stages of its existence. Did the bill before us contemplate any radical innovation upon the frame-work of Government, or even propose any considerable multiplication of offices, I might be inclined to yield more than I am disposed to do at present to this objection of the honorable Senator from Ohio; but as no new powers are to be given to the Government, but few new offices to be created, and nothing, in fact, to be done through the instrumentality of this Home Department beyond effectuating a judicious and necessary *division of labor*, I cannot perceive any ground for the apprehensions so gravely expressed as to its tendency and operation.

Mr. President, I trust that I have a proper respect for the maxim, "*Nullius addictus jurare in verba magistri;*" and were I disposed to obey implicitly the commands of any master in relation to grave measures of national legislation, it is possible that I should rely upon the authority and submit to the teachings of the honorable Senator from South Carolina as soon as to those of any man living. But this seems to me to be a question of *experience* more than of mere *authority*, and proper to be settled more upon a cautious and considerate examination of facts than upon abstract theoretic reasonings, however ingenious. The honorable Senator from South Carolina has discovered great incongruity in this bill: he contends that there is neither similarity nor affinity between our Indian policy—our policy in connection with the public lands, and the Patent Office arrangements. Why, sir, is not the honorable Senator in error? Do not all these several matters relate to the *domestic* policy of the Republic, as distinguished from its *exterior* concerns? What two things can be mentioned more closely connected than our Indian policy and the policy of the public lands? We claim the fee-simple title to all the lands on the continent, possessed by the various Indian tribes; we only recognize them as holding a usufructuary interest, and some immense space of territory is every year or two falling into our hands by some treaty effected with these children of the forest, which speedily becomes subject to all our general regulations for the disposition of the public domain. If the honorable Senator will look into the present organization of the different departments of the Government I feel certain that he will find other apparent and unavoidable incongruities far more striking than any to be discovered in the bill before us. But I will not dwell upon this point. I do not deem it material to do so.

But, Mr. President, the honorable Senator from South Carolina seems to entertain most serious fears as to the future encroachments of this Home Department, should we establish it, upon the rights of the States, and declares that he never yet knew a department to be erected which was not guilty of thus encroaching upon the reserved rights of the States and people. Why, sir, surely the honorable Senator from South Carolina will himself admit that he is scarcely as accurate as usual on this point. The honorable Senator was once Secretary of War, and for a considerable period of years. Was the War Department guilty of encroachment during this brilliant period of our national annals? The same distinguished gentleman once occupied the Department of State also. Did encroachment then occur under his guidance? Surely these two instances should be sufficient to dispel any new abstract apprehensions of encroachment which the honorable Senator from South Carolina may entertain. The fact is, Mr. President, not only will the general concerns of the Treasury Department be relieved by assigning a portion of its functions to a new officer, but it will be more easy to counteract encroachments, if any should be meditated, after the passage of this bill than before. The power of the Treasury Department will be sensibly weakened by withdrawing from it a portion of its present patronage, and it will be more easy to watch and counteract movements tending to encroachment on the part of the Secretary of the Home Department than it would be were the same officer the possessor of that vast discretion, and the distribution of the immense patronage which belong at present to the Treasury Department.

And now, sir, I have to say, in conclusion, that, considering the Home Department necessary—regarding it, for obvious reasons already mentioned by others, as particularly important to the new States of the Union—I shall not decline voting for it because a Whig Administration is about to come into power. The general and permanent welfare of the Republic will always be with me a leading and paramount consideration; and even were I to view this measure only with reference to party considerations, inasmuch as I feel confident that the Whig party can never remain in power for more than four years at a time, and that all official patronage brought into existence by this bill will inure permanently to the Democratic party of the country, and be of course judiciously and honestly administered, I can perceive no impropriety in adopting it at once. It would be easy to debate upon this subject; but, for obvious reasons, I forbear. I hope we may soon get a vote, and turn our attention to other matters of pressing and vital interest.

Mr. HUNTER rose to address the Senate, but gave way to—

Mr. ATHERTON, who moved that the bill be passed over informally, in order that action might be had upon the appropriation bills; which was agreed to.

FORTIFICATIONS OF THE UNITED STATES.

The bill making appropriations for certain fortifications having been returned from the House, said House having refused to concur in the Senate amendment thereto—

Mr. ATHERTON moved that the Senate recede from its amendment, which appropriated $20,000 for the completion of Fort Gibson, in the Cherokee country; which was agreed to.

INDIAN APPROPRIATION BILL.

Mr. ATHERTON, from the Committee of Conference on the part of the Senate, on the disagreeing votes of the two Houses on the bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes for the year ending June 30th, 1850, reported:

"That they have met the conferees on the part of the House of Representatives, and, after full and free conference, the two committees could come to no agreement."

The Senate proceeded to consider their amendments, amended and disagreed to by the House of Represetatives, to the said bill.

Mr. ATHERTON moved that the Senate concur in the amendment of the House of Representatives to the ninth amendment of the Senate; which was agreed to.

Mr. A. then said: The second amendment is that offered by the Senator from Tennessee, [Mr. BELL.] It will be recollected that the Senator from Tennessee, from the Indian Committee, offered an amendment for the payment of $200,000 to the Cherokees. The House of Representatives have stricken out that amendment, and introduced an amendment with certain provisions allowing the same sum, but containing certain other provisions as to the mode of settlement, &c. These were not considered satisfactory by the Senator from Tennessee; and there was some difficulty in settling these details; but the most objectionable part of the amendment of the House, in my opinion, was the provision annexed to the amendment of the Senate, for the issue of $5,000,000 in treasury notes.

Mr. BENTON, (in his seat.) To the Indians?

Mr. ATHERTON. I believe not; but they were to be issued from the treasury. It is, in fact, attaching a loan bill, a treasury-note bill, to the Indian appropriation bill. Now, sir, I cannot conceive any necessity for this. I am willing to give the most serious and candid consideration to any proposition for the purpose of raising supplies which may be deemed necessary for the Government, but I can conceive of no event in which it can become necessary. I know, sir, that the appropriations have, to some extent, exceeded the estimate, but not so far, I think, as to create any necessity for such a provision. Besides, sir, it is not necessary, in appropriating for the whole fiscal year, to provide the means of supplying the appropriations for the whole year at once. We are making appropriations for the next fiscal year. If the means should not be sufficient, they will last until the meeting of Congress in December next, and the deficiency can then be provided for.

Now, sir, what is the condition of the treasury? There are six millions subject to draft. On the 1st of April the Secretary of the Treasury has power to make available a loan of $2,700,000. In the mean time, the revenue from the customs will be coming in, which amounted in the first quarter of last year to $11,000,000, so that there can by no possibility be any deficit between now and next December. In order, therefore, to avoid the difficulties which surround this question, there being many difficulties in regard to the details of the Cherokee claim, I move that the Senate recede from their amendment to the Indian appropriation bill. In that way the clause relating to the adjustment of the Cherokee claim, and the clause resting upon our amendment providing for the issue of treasury notes, will fall together.

The hour of four o'clock having arrived, the Senate took a recess until six o'clock, P. M.

EVENING SESSION.

The Senate reassembled at six o'clock and resumed the consideration of the bill to establish the Department of the Interior, on which Mr. HUNTER had the floor.

Mr. HUNTER. I took the floor, Mr. President, for the purpose of replying to an argument which seems to have some weight here; much more weight, I think, than is due to it. It is said that the Secretary of the Treasury will be unable to discharge all the duties of his office, unless we adopt some measure of this kind; that it will be impossible for him to undergo the labor that will be required of him, unless he shall be relieved from some of the duties of his office. Now, I ask, to what extent will this bill relieve the Secretary of the Treasury? It will be found, upon an examination of it, that the greater portion of the business of this Minister of the Interior is to be transferred, not from the Treasury, but from the other departments of the Government. First, he is to have charge of the Indian affairs, which is a transfer from the War Department, to which, as was stated by the Senator from South Carolina, it very properly belongs, inasmuch as they involve matters of war and peace with the Indian tribes. The next subject to be transferred to the Minister of the Interior is that of Patents, which is taken from the State Department. The only subject transferred from the Treasury Department is the control of the public lands, so far as relates to the right to decide in certain cases of appeal from the Land Office, and the general supervision of the public property in land. Now, in relation to this, one of two things must exist. If the Secretary of the Treasury is to be relieved from all the business connected with the public lands, then it must follow that the Minister of the Interior is to make the collections and disbursements of the income from that office. But that is not the business which is to be given to him; for, if it were, what would result? That we should have two Treasuries: one under the Secretary of the Treasury, as at present, for the receipt and disbursement of the income derived from customs; the other, under the Secretary of the Interior, for the management and disbursement of the income derived from the public lands. In what manner would the affairs of this Government be administered, if we should thus disturb the harmony and unity of the Treasury Department? Well, then, if it is not intended by this bill, as I believe it is not, to transfer the collection of revenue from public lands to this Minister of the Interior, how is it that we relieve the Secretary of the Treasury by its enactment? Why, we relieve him only of the decision of appeals from the Commissioner of Public Lands, and from a species of general supervision of the public property in lands. If I understand it, the purpose is to transfer only the power of deciding certain judicial cases arising in the Land Office, together with the supervision of the public lands, as a source of revenue; that is, to commit to

his discretion the manner in which they shall be brought into the market. Now, this last duty manifestly belongs to the Secretary of the Treasury, who ought to control and manage the receipt of public revenue from whatever source derived. It is a mistake to suppose that this is a measure for the relief of the Treasury Department. It relieves the War Department to a far greater extent, taking from it as it does, the Indian affairs and also the Pensions. It relieves the State Department to a greater extent, in taking from it the Patent Office and its concerns. It relieves the Secretary of the Treasury from very little; and from that of which he might be relieved by merely increasing the power of the Commissioner of the Land Office. If I have succeeded in what I intended, I think I have shown that this bill, so far as the public lands are concerned, affords no relief to the Secretary of the Treasury, which could not very properly be given to him by increasing to a small extent the power of the Commissioner of the Land Office; and that all beyond giving the Commissioner the power of appeal, is improper to be given to any other than the head of the Treasury Department. The control of the mode of bringing the public lands into market, as a source of revenue, manifestly belongs to him. As a proof of this, we find that this very bill still leaves to the Secretary of the Treasury the control of the whole machinery for collecting and disbursing the proceeds from the sales of the public lands. Why not leave to his discretion, then, the mode in which they are to be brought into market?

But it is said that the Department is to find great relief in the appointment of an Assistant Secretary of the Treasury. This assistance is more fallacious, if possible, than the other which I have just been combating. What portion of the labors of the Secretary is he to take? Allow me to read the power that is given to him. He is to examine all letters, contracts, and warrants prepared for the signature of the Secretary of the Treasury, and to perform certain duties now discharged by clerks. What duty is here imposed upon him which is not already performed by some of the clerks of the department? It is not proposed to take from the Secretary the labor of signing these warrants; and it could not be taken from him without disarranging the whole machinery of the Treasury Department, and disturbing the system of checks and balances depending on the fact of his having to sign these warrants. This, then, relieves him of nothing. Nothing is transferred from him which might not easily be performed by the chief clerk in that department, and by enlarging the duties of the Commissioner of the Land Office in regard to appeals. And why not do this? We might as well as to create an additional department of the Government. Who can doubt that the creation of an additional department will bring with it a long train of new officials and much additional patronage?

Mr. President, if I had no other objection to this bill I should vote against it, at this late period of the session, because we have not had time to examine and mature it, and because such a bill would stand in the way hereafter of a proper reform of the Treasury Department. Sir, in my opinion, that reform will not be found to consist in multiplying departments and bureaus, and in increasing patronage. No, sir, the labors of that Secretary are to be lessened and the department itself reformed, not by increasing its officers, but by introducing a better system of bookkeeping, and a more judicious arrangement of the duties of the offices which already exist. The offices should be so classed and the accounts so arranged that each in its sphere should contribute to present the process of receipt and disbursement, not in detached portions, but as one whole, whose parts could be traced in minute detail through all the offices which stated the particulars from which the general results were derived. In other words, the reform of method in this department will be found here, as it has been found elsewhere, to consist in introducing fully and completely the system of bookkeeping by double entry. The forms of public accounts should be so prescribed, and the officers so classified in conformity to that arrangement, that each should perform a part, and but a single part, in ascending from minute details to the simple and general results of the ledger, with the same accuracy of balance-sheet and the same periodical rests which distinguish a well-kept private counting-house. A system approximating to this degree of excellence has been matured in France, and might be created here, if we were to take the proper pains, and guide ourselves by the lights of experience. If such a reform were once adopted here, I believe that a Secretary of fair financial ability could discharge all the duties now imposed upon the Department of the Treasury without being over-tasked. I know, sir, that the Senator from Mississippi has admonished us that the labors of the Department, with the duties now imposed upon it, must break down any Secretary who undertakes them. They are great I know, far greater than they need be, if the proper system were introduced, and the proper degree of responsibility enforced. But the remedy proposed in this bill does not even touch the evil. It is the system of accounts, and mode in which they are kept, which produces confusion and embarrassment. Why, sir, I was surprised to find that money derived from customs was often not transferred by warrant to the books of the Treasury Department for months after its receipt, and that revenue stated in Treasury reports as the receipt of one year was often in part the product of another. Sir, I could go further into this matter of the mode in which our public accounts are kept if there were time for it. If a thorough investigation were instituted into the Treasury Department, I think the embarrassments of the Secretary would be found to arise not so much from the number of subjects placed under his control as from the manner and mode in which they are managed.*

But the Senator from Mississippi has admonished me that the present Secretary of the Treasury is far better informed on all such subjects than I can possibly be. Sir, I admit the fact, but I do not know that it should debar me from forming and expressing an opinion of my own, if it should happen to differ from his. If the Secretary of the Treasury possesses the wonderful powers which his friends attribute to him, (and I do not deny him high powers,) why did he not present us with some plan for improving our present system of public accounts, instead of this Home Department, which will leave the embarrassments of the Secretary (as I fear) just where it found them? Why did he not offer us some plan which would at least enable us to distinguish accurately the revenue derived in one year from that received in another? He had both time and opportunity for such a task.

Mr. President, I fear that this new department will lead to all the ill effects so forcibly depicted by the Senator from South Carolina. I fear, sir, that the increased patronage and long train of new officials which he apprehends from it are not the worst results to be expected. I wish it may not draw within the Federal vortex powers long considered the sacred property of the States.

Sir, I should not have occupied so much of the time of the Senate at this late hour, if it had not been for what I conceived to be the importance of this bill, creating, as it does, a new department. It came backed by the high recommendation of the distinguished Secretary of the Treasury; it is obvious that it will pass, and I felt it to be due to myself and the occasion to enter my protest against it; for the day will come, and perhaps is not far distant, when its authors will be sought for.

Mr. BADGER. I hope that any member of the Senate who is in favor of the passage of this bill in any form will vote against all amendments that are proposed to it; for it is perfectly obvious, that to vote for an amendment to the bill at this period is to vote against the bill. The bill may not, perhaps, be as perfect as the ingenuity of wise men can make it; but it is for the purpose of establishing a great and important principle. It is for this that the bill was introduced. It is a bill to establish a Home Department; against which, upon what principle can any one object? And yet, at this late period, on the last day of the session, it is sought to incumber this bill with amendments, so as to secure its rejection. I hope that no Senator will vote for an amendment of any kind. If a majority of the Senate are opposed to the bill, let it be voted down; and if they are in favor of it, let it pass. But I hope, if the majority are in favor of it, that it will not be smothered with amendments.

Mr. HUNTER. There is no desire to smother the bill. The amendments came from the Committee on Finance. So far from any desire to smother it, I was desirous to have the bill reported, because I did not choose to have it said that I would smother it.

Mr. BADGER. That is all very well, if it had been reported a fortnight ago; but no one knows better than the Senator from Virginia that to amend the bill is to destroy it.

Mr. HUNTER. I do not know any such thing. The House of Representatives is still in session, and we wish to render the bill more perfect.

Mr. BADGER. The House is still in session, it is true; and the same remark may be made at five minutes before twelve o'clock. But it must be manifest to every gentleman that, to incumber the measure with amendments, and send it back to the House at this late hour, is to destroy it. I hope, therefore, the Senate will vote affirmatively or negatively upon the amendments at once.

Mr. MASON asked for a division of the question.

Mr. ATHERTON. It is not my intention to delay the progress of this bill, but I wish to make a report from the Committee of Conference. I suppose it is in order to do so.

Mr. MANGUM. It is not in order.

Mr. ATHERTON. Then I move to lay this bill upon the table, in order that I may make the report.

Mr. HUNTER called for the yeas and nays, and the motion to lay the bill on the table was negatived, as follows:

YEAS—Messrs. Atherton, Benton, Berrien, Bradbury, Bright, Butler, Calhoun, Dickinson, Felch, Fitzpatrick, Hunter, Johnson of Georgia, King, Mason, Niles, Sebastian, Sturgeon, Turney, and Yulee—19.

NAYS—Messrs. Badger, Baldwin, Bell, Breese, Clarke, Davis of Massachusetts, Dayton, Dodge of Iowa, Douglas, Downs, Fitzgerald, Foote, Greene, Hale, Hamlin, Hannegan, Houston, Johnson of Maryland, Johnson of Louisiana, Jones, Mangum, Metcalfe, Miller, Pearce, Spruance, Underwood, Upham, Wales, and Webster—29.

The question then being upon the first branch of the amendment reported by the committee, viz: in section 11 to strike out the words "appointing and removing power," and insert "direction and placed under the control"—

Mr. MASON demanded the yeas and nays; and they were ordered; and, being taken, were as follows:

YEAS—Messrs. Atherton, Benton, Borland, Bright, Butler, Calhoun, Dickinson, Dix, Felch, Fitzpatrick, Hamlin, Hunter, Johnson of Georgia, King, Mason, Niles, Sebastian, Sturgeon, Turney, and Yulee—20.

NAYS—Messrs. Badger, Baldwin, Bell, Berrien, Bradbury, Breese, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dayton, Dodge of Iowa, Douglas, Downs, Fitzgerald, Foote, Greene, Hale, Houston, Johnson of Maryland, Johnson of Louisiana, Jones, Mangum, Metcalfe, Miller, Pearce, Rusk, Spruance, Underwood, Upham, Wales, Walker, and Webster—33.

So the amendment was rejected.

Mr. HANNEGAN. I am, and have been for many years past, in favor of this measure. But it is absolutely necessary that we should have some reports from committees of conference upon the appropriation bills; and, in order that those questions may be definitively disposed of, I move to lay this bill upon the table.

SEVERAL SENATORS. Oh, no, no; withdraw your motion.

Mr. HANNEGAN. I feel authorized, then, to say officially that, when the hand of the clock points the hour of twelve, the Senate is dispersed. Senators are acting as though they were determined upon forcing the next Administration to call an extra session of Congress.

The motion to lay upon the table was rejected.

The question being taken upon striking out the thirteenth section of the bill, it was decided in the negative by yeas and nays, as follows:

YEAS—Messrs. Atchison, Atherton, Bright, Butler, Calhoun, Dickinson, Dix, Felch, Fitzpatrick, Hamlin, Hunter, Johnson of Georgia, King, Mason, Niles, Rusk, Sebastian, Sturgeon, Turney—19.

NAYS—Messrs. Badger, Baldwin, Bell, Berrien, Bradbury, Breese, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dayton, Dodge of Iowa, Douglas, Downs, Fitzgerald, Foote, Greene, Hale, Hannegan, Houston, Johnson of Maryland, Johnson of Louisiana, Jones, Mangum, Metcalfe, Miller, Pearce, Phelps, Spruance, Underwood, Upham, Wales, Walker, and Webster—34.

So the amendment was rejected.

The question being taken upon the remaining amendments of the committee, they were disagreed to.

Mr. MASON moved to amend the bill by striking out from the first section the words "created a new Executive department of the Government of the United States, to be called the Department of the Interior, the head of which department shall

* NOTE.—It is proper to state that I attribute this not to the fault of any officer, but to that of the system of public accounts.

be called the Secretary of the Interior," and in lieu thereof inserting "appointed an officer to be called an Assistant Secretary of the Treasury."

In support of this amendment, he said: I said, when I had the honor of addressing the Senate to-day, that this bill would effect an important and vital change in the organization of the Federal Government. It is urged by Senators who sit on this side of the Chamber on the ground that it has been recommended by the present Secretary of the Treasury, and that the reason for the recommendation was, as stated by the honorable Senator from Mississippi, that the Treasury Department was overburdened with work, and would break down with its own weight. I was concerned to find gentlemen, standing, as I do, on the great questions which divide parties in the country, lending their countenance and votes to such a measure.

Mr. FOOTE. Will the Senator bear with me for a moment, while I ask the distinguished Senator from South Carolina whether he himself did not support the recommendation of Mr. Monroe for a similar measure?

Mr. CALHOUN. It is so long since the termination of Mr. Monroe's administration that I will not undertake to assert from memory whether the measure then proposed was similar to this; but I will say this, that I have never been in favor of such a measure.

Mr. MASON. If gentlemen will look at this bill, they will see, that in its first section, it proposes the organization of a separate department for the administration of the affairs of the Federal Government—a separate department, *eo nomine*, its chief to form one of the Cabinet, as it is called, whose counsels are to enter into the administration of the Federal Government. What is the language of this section? "There shall be created a new 'Executive department of the Government of the 'United States, to be called the Department of the 'Interior"—a new Executive department of the Government of the United States, to be called the Department of the Interior—"the head of which department shall be called the Secretary of the Interior, and shall be appointed," &c.

Now, what is the meaning of this? Why, the Secretary of this Home Department, or Department of the Interior, which is to form the fifth department of this Government, is to be a member of the Cabinet, and his voice is to have authority in the councils of the administration of the Government, in the management of all its affairs. To what end? I pray Senators to answer, to what end is all this machinery to be introduced, but to remodel and give a new cast to the organization of this Federal Government? Sir, who can mistake it? Who can be so blind as not to see, and understand, and feel what will be the effect of this new machinery? I beg honorable Senators who sit on this side of the Chamber to remark the spectacle which is exhibited here. Look at Senators who sit on that side, unanimous in favor of this measure, representing the party now called the Whig party, once the Federal party, and not a dissenting vote.

Mr. MANGUM. Not so, sir.

Mr. MASON. I do not mean to say that every individual Senator who sits there is of that school once known as the old Federal party. I am speaking of them as the members of a great party in this Confederacy which has been known from the earliest organization of the Government. Doubtless there are among them those who differ with them. Well, sir, what do we find? We find every vote there ready and prompt to carry this plan into effect. And what will be achieved by it? Why, it is said it will relieve the Secretary of the Treasury from some of the burdens of his department. Now, if this be the only end, I pray Senators who sit here with me to vote for the amendment which I have offered. The amendment I have proposed is to give an assistant to the Secretary of the Treasury, and to devolve on that assistant all the duties prescribed in this bill as those to be discharged by the Secretary of the Interior. This will take from the bill its imposing machinery of creating this fifth department of the Government, called the Home Department, or "*quocunque alio nomine gaudet.*" It will afford all the relief to the heads of existing departments effected by the bill as it stands, and take from it the only character of a separate organization. And, if the object be really, as doubtless it is intended by gentlemen who advocate it here, to take from the Secretary some of the burdens of the department, why not devolve them upon a subordinate officer, instead of creating a new department?

Mr. FOOTE. Will the Senator allow me to vindicate myself? The Senator seems to suppose that some of us on this side are bound to obey the dictation of others. I would like to know from the Senator how long it is since he voted with the Whig party?

Mr. MASON. I can assure the Senator from Mississippi that I never meant to intimate that gentlemen who sit on this side have designed by their votes on this measure to identify themselves with Senators on the other side; and, if I have said anything that was calculated to make that impression, I did myself wrong. But I will answer the inquiry which the Senator has made. I never, so far as I know, have voted in the councils of the opposite side.

Mr. FOOTE. Has not the Senator been what is called a Conservative?

Mr. MASON. Very probably, so called. But I can assure the Senator, when I was called Conservative, my conservatism was to preserve the States and their institutions from the usurping tendencies of the Federal Government. It was not for enlarging the powers of the Federal Government.

Mr. FOOTE. I did not mean to intimate that the Senator was not one of the soundest of Democrats.

Mr. MASON. Mr. President, I take little note of mere names, but he has read the history of his country to little purpose who does not know that there are two great parties in this country: those who would extend the powers of the Federal Government, and those who would confine them; and when I use names it is only for the purpose of distinguishing between parties as so organized. I have offered this amendment, sir, for the purpose of enabling those who sit on this side of the Chamber, and who entertain, and honestly entertain, the opinion that the Department of the Treasury is overburdened—and that opinion may be correct—and that it is necessary to adopt some measure to relieve the head of that department from duties which he is unable to perform, to provide an officer who can perform them—an assistant secretary; and I have drawn the amendment in such way as to devolve all the duties contemplated by this bill to be assigned to the Home Department upon such assistant secretary.

Sir, what is the evil? The evil is, that the department is broken down with the duties that are imposed upon it. And what is the remedy? Why, the remedy reaches far beyond the disease. The remedy is, to create a new department of the Government where none is necessary, and to devolve upon that department everything which belongs to our interior relations, to begin with the Patent Office, taking in the Indian Department and the Land Office, and to stop Heaven knows where. Sir, in the school in which I have been reared, and which I trust I shall ever religiously venerate, I have had impressed upon me a distrust, a deep and settled distrust of every measure which tends to strengthen the arm of Federal power. I would hold this Government strictly to the powers clearly granted, and restrain it, as far as practicable, from interference with the people in their domestic pursuits. I have been taught, sir, that the State governments are to administer in our domestic relations; and that the operations of the Federal Government were intended chiefly for the regulation and administration of our exterior and foreign relations. And the lesson has been impressed upon me by my knowledge of what has been attempted over and over again by those who lean to an extension of Federal power. Sir, how is the country divided? Look at it, I beseech you. Is it not manifest that the planting States, those which grow the articles of export, pay the taxes; and those which enjoy the carrying trade, and conduct our foreign commerce, which are engaged in manufactures, pay but little tax, while they revel and grow rich by the expenditures of the Government? What is the tendency of this? Why, it leads those who thus profit to bring everything they can within the vortex of the Federal Government.

I pray gentleman who sit on this side of the Chamber, and whose object is only to disembarrass the department of duties which I dare say it cannot discharge—I pray them to allow those duties to be devolved upon a subordinate officer of the treasury, and not to create a new department.

In the creation of a Federal Government, in order to effect uniformity of action amongst the States, it was found convenient, in some few instances, to devolve upon it control over certain of the interior or domestic affairs of the people. The public lands, granting patent rights to authors and inventors, and the post office, furnish examples of this kind. The latter alone, from its magnitude, seemed to require, and has always had, a separate organization; and its influence, by means of the extensive patronage it yields, is greater, by many fold, than all the coördinate departments together. All other branches of the public service in this class have heretofore been purely subordinate. I desire still to keep them so. They properly belong to a subordinate sphere, and should not be magnified and elevated to the grade of a separate and independent department of the Government.

I am ambitious of no distinction on this subject. It is the first time in the session that I have assumed or asked the right to be heard upon any great measure whatever. Sir, I see in this the entering wedge to effect a total change in the machinery of Government, and that upon the incoming of the first Administration of a party which has been in a minority for forty years.

SEVERAL SENATORS. Oh, no!

Mr. MASON. Yes, sir, forty years; with a temporary intermission of some thirty days only within two generations. Sir, I wish to call the attention of the southern people to this measure, in order that, if it does pass, they may see it and watch it in its operation. Why, sir, who knows but that the operations of this new power, in name and by nature a Home Department, may be brought to bear upon the great questions which now agitate the American people? Even those institutions which some are so anxious to lay their hands on may be brought into the vortex. Who is wise and farseeing enough to foretell where power will stay its hand? Again, sir, what a door is opened in this Home Department for machination and management on the part of that great interest always at work to hold the South tributary to northern manufacturers? A bureau for the pursuits of domestic industry and the arts would be in perfect keeping with the organization of a Home Department.

I confess, sir, that I feel deeply on this subject, because I find the bill has countenance with some Senators amongst those with whom I am accustomed to act, and I see a fixed determination on the other side to carry it, which cannot be done without their coöperation. I am far, I trust, from any pride of opinion, and further still from mere factious opposition to any measure which finds favor with a majority of this body; but I cannot allow this measure to pass without entering my protest against it. If it is to pass, I want the eyes of the American people to be upon it, that they may see its progress, trace it in its course, and destroy it before it becomes too powerful to be resisted. Honorable Senators have said that this measure has been recommended from the days of Hamilton and Madison down to the present. Sir, if this be so, and it has never been adopted though recommended for half a century, I should strongly infer that its want of favor resulted from apprehension of its hidden and dangerous tendencies. I cannot but remark, too, the striking auspices under which the measure is now brought up—at the advent of a new Administration, and, if we are to credit that party at whose hands it comes into power, when the caste and policy of the Government is to undergo a total change. Whether the expectations of the party claiming the next Executive are to be realized, remains to be seen; but this their first great throw for new sources of patronage and strength fills me with alarm.

I have offered this amendment in good faith. The object being, as I have understood from the course of argument here, to relieve the Secretary of the Treasury from some of the burdens of his office, the effect of the amendment will be to provide an officer who shall stand in the place and have all the duties of secretary of a new department. It is intended to draw off the fire, if I may so express it; but I have made the office subordinate, and taken from the measure its character of a separate and new department. There will be no difficulty in having all the duties discharged without the machinery of a new department. Leave

them, then, as they have heretofore been, subordinate.

What I ask, then, is, that without sufficient occasion at least, neither the power nor patronage of this Government be increased. There is no necessity here to multiply offices, far less to institute a new department of government, with a name of suspicious and dangerous portent. Senators who advocate the measure because recommended by the Secretary of the Treasury, will find every end which he proposes attained by the Assistant Secretary which the amendment provides. I am sorry, in this late hour, to have detained the Senate even for the brief time I have occupied. But, sir, I fear this unknown "Department of the Interior." Sir, there is a dark cloud now lowering over this Capitol——

Mr. BERRIEN, (pointing to the galleries filled with ladies.) I deny it, sir.

Mr. MASON. Which has its origin in authority assumed to interfere with the domestic affairs and the domestic pursuits of our people. *Obsta in limine*, is the safest maxim; and, planting myself there, I again respectfully submit to those on this side of the Chamber, whose only object is to relieve the Secretary of the Treasury, to vote for the subordinate officer provided for by the amendment.

Mr. WEBSTER. I agree, sir, that there is something lowering in the physical sky. We have had a succession of damp and dull weather. But, since I have been acquainted in this latitude, I have not known a time when, in the political world, there were brighter or clearer days. Now, I have but few words to say. Sir, we are in the last hours of the session of Congress, and we have very important business before us. Upon this measure, a majority of the Senate approaching to two-thirds, have again and again expressed, this night, the opinion that it ought to pass. That is the settled opinion of this body. And, sir, if this important measure shall be defeated by the further continuance of discussion here, those are responsible who choose to discuss it after the sense of the body has been again and again clearly and unequivocally expressed. I throw from myself all responsibility on that account.

Now, a few words more. Really, I do not see that this is a dangerous question. It is not a question about the industrial employment of the people of the country. I can scarcely run it out to that length. And I wish to say, and then I shall have done finally, that there is not in this bill, nor in the considerations attached to this bill, one single thing that extends the power of the Government, or the operation of the laws of the Government, a single inch, or line of an inch, further than they extend at present.

Well, sir, here we are acting upon a measure, which has been recommended by a gentleman who has distinguished himself, I agree, at the head of the Treasury Department—a gentleman of Democratic associations. We are acting under the influence of his opinion, as matter of experience; conforming to the opinion of almost every one of the former distinguished Presidents who have presided over this Republic; and, so far as I know, every one of whom came from the State of the honorable member. We know Mr. Madison's and Mr. Monroe's opinions. And all that we have heard here to-night shows us that those opinions have not been acquiesced in. Sir, it is time they were. Gentlemen who have been conversant with the affairs of this Government, and have experienced the inconveniences that exist, have told us again and again that a new organization is necessary. And down to the present moment they all say that all their experience, and all their knowledge, indicate a necessity for this change. And what is the answer? We have not done it. I think it is time we did.

Now, sir, if I understand the argument on the other side, it is merely turning on a word. Why call this the Secretary of the Interior? The impression seems to be that we are going to carry the power of the Government further into the interior than we have ever done before. I do not so understand it. Where is the power? It is only that certain powers heretofore exercised by certain agents are to be exercised by other agents. That is the whole of it. And gentlemen say it is creating a new department; overshadowing everything, swallowing up State influence, and overturning all the glories of our ancient State institutions. I see nothing of all this. I see nothing but a plain practical question. There are duties respecting our foreign relations; and there are duties respecting our internal affairs. Do not the duties of the Indian bureau as much affect our internal affairs now as they will when this bill is passed?

A SENATOR. And they are subordinate duties.

Mr. WEBSTER. And all subordinate; and the only question is, whether there shall be a certain principle established in the superintendence of certain classes of duties. That is the whole of it. There is not a particle of this bill, not a sentence, for extending the powers of the Government. It is a bill for appointing a new agent, for the exercise of already-existing powers—nothing else under heaven. And all our declamation about overshadowing cannot change or affect its import. Sir, I repeat that this measure has been demanded by those who have been conversant with the affairs of this Government, and principally by men from the South. And now, when the emergency has become palpable, such as strikes the sense of every one, it is proposed that this measure, which has passed the popular branch, shall not pass here. Sir, the sense of this body is for it. I will not trespass further than to say to those who know this to be the case, that I desire to see how far they will restrain the Senate, by their opposition to this measure, from proceeding to other necessary business.

Mr. DAVIS, of Mississippi. The debate upon the measure under consideration has assumed a character so different from that which was anticipated when I addressed the Senate in advocacy of the bill, that I am compelled again to ask the attention of the Senate. In doing so, I will express the reluctance I feel to consume any part of the little time which now remains to close the legislation of the session.

Had the measure been opposed directly, and discussed upon its merits, I should not have considered it necessary to reply; but remarks have been made calculated to prejudice the bill, and also those who support it. The Senator from Virginia [Mr. MASON] has presented the question in a form as new as it was unlooked for, and to which it is more disagreeable than difficult to reply. He rests his objection upon party ground, refers to the support given to the bill on the opposite side of the Chamber, seeming thence to draw the conclusion that it deserves opposition from those who, like him and myself, sit upon this. Sir, this argument could only weigh with me in the absence of all reason, when, groping in the dark, without light to direct me, I should find myself reduced to the necessity of following the call of those whose voices assured me of the direction followed by my friends. He says the measure has become popular on the other side, and finds favor with some upon this side of the Chamber. I enter not into the consideration of time when this measure found favor with my political opponents; neither will I scan the motives which may by others be attributed to them as prompting their action. Believing it to be right, I find on the threshold a satisfactory cause for all the support which the measure receives, and am proud to be numbered among the "some upon this side of the Chamber" who support a measure from higher purposes than party advantage or individual benefit; who find in the necessity, the propriety of the act, its justification, and who will not defeat a public measure because the patronage which attaches to it will inure to the benefit of others; still less, far less, because the efficiency it will bring to the executive departments will relieve from embarrassment an administration of the Government by those to whom we are politically opposed.

Sir, I have been surprised to hear it asserted that this is a new proposition, suddenly presented to the Senate. The bill, after debate, passed the House of Representatives, and has been for some time before the Senate. The main proposition is nearly as old as our Government. The first Secretary of the Treasury recommended a division of the Treasury Department, and subsequent experience has brought from time to time additional recommendations for a measure the propriety of which was so soon perceived in the practical working of our Treasury Department, until the bill now before us was prepared by the present Secretary, Mr. Walker, whose fortune it has been to have charge of the department when expanded territory, enlarged commerce, and a war conducted in a foreign country, brought unprecedented burdens and difficulties upon the department, and fully exemplified the necessity for a new organization. To divide, to classify the official functions, so as to give expedition and simplicity, increased checks and accountability, is the purpose and operation of the bill. Yet it is said to be an extension of the Federal power, a measure repugnant to Democracy.

Sir, I have no occasion to climb the house-top and proclaim my own democracy; I have grown with it, and all who know me recognize me best in the only political mantle they have ever known me to wear. Nor, sir, do I believe my democracy so feeble a plant that it requires to be surrounded with props, and is in danger of falling if left alone. But on the present occasion there is no want of supports the highest and most honored. A measure, the principle of which bears the sanction of Washington, Madison, Monroe, and Secretary Walker, could scarcely endanger a democratic reputation which was worth preserving, though these names may render it necessary, if Democracy be the basis of opposition, to trumpet it loudly, lest the fact should not be known. It is a strange confusion of ideas which identifies the creation of a new department, the appointment of new officers, with an extension of Federal power. In the progress of our Government this had been a frequent occurrence; and in its future growth and ramification must continue to occur. One Secretary, at an early period of our national history, had charge of both the Navy and Army Departments. It has been necessary to divide them, and to erect many bureaus in each; the agents have been multiplied, that the powers might be well executed. Extended intercourse with the Indian tribes has required new agencies and superintendents; the expansion of our population has produced, with each village which rose as the forest fell, the necessity of new post routes and offices, new judicial districts, new collection districts—enlarged the patronage, increased the action of the Federal Government; but will it thence be contended that its constitutional power has been magnified, that functions not delegated have been usurped?

Sir, my belief has been, and is, that the Constitution of the United States would suffice for any extent of territory which should be covered by people sufficiently honest and intelligent to administer it; but, with widened surface, and multiplied population, there must be a lengthened list of agents too; nor did it ever occur to me that in this the Constitution would be violated, or Democracy overthrown.

Mr. President, there are two modes in which this bill may be defeated—either by amending it, and causing it, for the want of time, to be lost between the Houses of Congress, or by consuming the time which remains of the session in discussing the merits of a bill upon which the opinion of the Senate has been clearly expressed. To prevent the first, I will vote against all amendments, and to avoid the second will be as brief as circumstances will justify.

I always feel respect for a voice which is raised against the encroachment of the Federal Government, and always feel ready to coöperate with those who declare a purpose to restrain it to its constitutional limits; but, sir, to restrain is not to cripple or to destroy. Within their sphere the powers of the General Government are supreme, entitled to the respect and support of all; to be maintained and defended with the same zeal with which encroachment upon the reserved rights of a State should be resisted. If there be one class which, more than all others, owe this respect and support, it is that which is especially devoted to guarding against encroachment. I was, therefore, surprised to hear the Senator from Virginia, [Mr. MASON,] whilst arguing for restraint upon the Federal Government, assert that it had nothing to do with our domestic relations. Under what other head than domestic relations will he place the district courts, the transmission of the mails, the collection of revenue, the intercourse with Indian tribes, the disposal of the public lands, the protection of frontier inhabitants, and the many other duties of the General Government to the people of the United States?

Mr. MASON. If the honorable Senator will allow me, I will explain. I did not say that the Federal Government had nothing to do with domestic relations. I said the Federal Government was created to provide for forcign relations; but if

it was necessary to give it some share of power over our internal relations, over the Patent Office, Indian bureau, the public lands, &c., it should be subordinate. Being formed to take charge of our exterior relations, we should not extend its power to our interior relations any further than was absolutely necessary.

Mr. DAVIS. It was not my memory, but my hearing which was at fault, as appears by reference to the note I made of the Senator's remarks when delivered. I am very glad to be corrected, and to know his opinion accurately.

Mr. President, this bill has been denounced as a "federal measure." Its origin is democratic, its purposes are democratic, if it passes it will descend as part of the fruit of this Democratic Administration, and I shall claim it as a Democratic measure. The *ad valorem* duties of the tariff of 1846 have created many questions which had to be referred, and which have augmented the labors of the Secretary of the Treasury and increased the necessity for a division of the department as proposed. These questions are incident to that mode of levying duties, and believing it to be the only equitable mode, I am anxious to remove every cause which might serve to impair its usefulness or injure it in public estimation. By the provisions of this bill much of the delay which has occurred from the mass of business thrown upon a single head of department will be avoided, and by prompt decisions great injury to individuals and to the Government will be avoided. Thus will be removed part of the objection to a feature in the present tariff, which I consider particularly democratic, and which I am most anxious to preserve. The argument against transferring the management of the public lands from the Secretary of the Treasury is based upon a supposition that the public domain is to be viewed as property for sale, and disposed of for revenue purposes alone. This may be conclusive to the mind of the Senator from Virginia, but with me one of the strongest inducements to the support of this bill is the provision to separate the disposal of the public lands from the office charged with providing the ways and means to support the Government. It is due to those who tame the wilderness and open new sources of national prosperity and strength, that their interests should be regarded through a purer medium than pecuniary gain. It is due to permanent and general advantage, and to the acquiescence of the new States in the narrow policy which has heretofore obtained in relation to the public domain, that higher and more liberal considerations should govern hereafter. It is not to be expected that the Secretary of the Treasury, intent upon supplying revenue, will consider the public lands otherwise than as a source from which money is to be drawn; he would be more than human if he could divest himself of the influence which his position would exercise in the decision of questions which might seem to militate against his great purpose to supply means to the treasury. In him we would naturally find an opponent to preëmption privileges, grants to States, and graduation laws, and such other enactments as justice to frontier settlers would dictate, and a policy broader than annual receipts would recommend. These are considerations which deeply interest those States in which the General Government is a great landed proprietor, and to which we of those States have a right to ask respectful attention.

Mr. HUNTER. And have a second treasury.

Mr. DAVIS. A second treasury, if the Senator chooses so to term a division of the department which will separate the disposal of the public lands, and the conduct of those measures which principally concern those who settle upon them, from the general system of collecting revenue for the Government. If to provide further means to secure a wise administration of this trust—to place relations between the Government and a highly meritorious and useful class of the people in hands more likely to direct them to the ends of justice—be to establish "a second treasury," sir, let it be established.

I stated this morning, in argument for this transfer, that we had seldom seen a Secretary of the Treasury taken from a section of the country where the operations of the land laws could be practically observed and understood. In future, this will probably be still more the case, as settlement advances from the commercial ports and removes the unsold domain yet further from the places of commerce. The Secretary, chosen on account of his capacity for the more important duties of his station, will usually be from the neighborhood of the great depôts or thoroughfares of trade, and, in the progress of events, be more removed from an opportunity to learn the true policy to be adopted in relation to the public lands. Such was my argument for transferring their management to one whose whole duties would indicate a selection from the citizens of the interior; the men who, by information and sympathy, would have the ability and the will wisely and justly to discharge the duty. I esteemed it fortunate that the bill had been prepared by the present Secretary, who possesses an intimate knowledge, practically and theoretically, of the management of the public lands. No man could better estimate existing and probable difficulties, and none could better suggest remedies and preventives. Upon this and other matters of his department, provided for in the bill under consideration, I said the Secretary of the Treasury was so much better informed than myself that I would adopt his details to carry out principles which I approved—would take them on faith. This the Senator has strangely misconstrued into a declaration on my part that he should not express an opinion opposite to that of the Secretary, and that my creed was to adopt anything which a Secretary should recommend. I said nothing to justify his inferences or to warrant his construction. It was not for me to question the right of that or any other Senator to entertain and express an opinion upon the policy of any measure. I paid a just tribute to the information and honest zeal of the Secretary, and stated how far his opinion would influence my own, but did not claim from the Senator the confidence I felt—certainly did not assume to dictate to him. I felt as little inclined to do so as to adopt his assertions in opposition to the opinions of the Secretary. My remarks were confined to this case, applied to this Secretary of the Treasury, and bore upon my own conduct only. I made no general proposition, stated no opinion as to the weight to be given to the recommendations of secretaries, nor will I follow the Senator in remarks which have no bearing on the subject under discussion. How far my own opinion will be governed by department recommendations will be shown when propositions are presented to which I am opposed. The only answer which it is necessary to give to the statement that this measure will give but little relief to the treasury is, that he who has administered the department, and whose opinions have the advantage of experience and the credit due to a position which must render him personally disinterested, has most emphatically stated the reverse. The relief to be given is not to be measured by the number of items of business transferred, but by the labor of each. This mode of showing the amount of relief is like that of Governor Von Twiller, who adjusted account books by weighing them against each other.

The Senator from South Carolina, [Mr. CALHOUN,] from whom I always regret to differ, and to whose opinion upon a question of organization I would especially defer, objects to the plan of the new department because of the incongruity he discovers in the subjects referred to it, and especially objects to the transfer of the Indian bureau from the War Department. When our intercourse with the Indian tribes was held under the protection of troops, and wars and rumors of wars came annually with the coming of grass, it was proper to place Indian relations under the War Department. Happily for them, honorably for us, the case has greatly changed, and is, I hope, before a distant day, to assume a character consonant with the relations of guardian and ward, which have been claimed by us as those existing between our Government and the Indian tribes. After having been partially civilized and prepared for agricultural life, tribes have been removed to the western frontier. It is now equally a duty to them and ourselves that we should, as far as we can, prevent them from lapsing again into barbarism. By our recent acquisition from Mexico we have a class of Indians industrious and inclined to depend upon the white race, rather than, like sons of Esau, to plunge into the wilderness and live by the chase. These and other changes in their condition recommend a corresponding change of administrative organization. War being the exception, peace the ordinary condition, the policy should be for the latter, not the former condition. To the objection that incongruous things are to be brought into one department, I reply that there is no greater incongruity than exists at present, whilst there is the gain of unity in having all those subjects which are purely interior separated from those which are exterior. Why, to take a case which has been selected for objection, should patents for invention be connected with the State Department? What congruity is there between patent rights and diplomatic intercourse? None, sir; and so different has been the character and qualifications of individuals required for the two, that the connection has been nominal, and the bureau of patents has been steadily growing into an independent department. So far, sir, from perceiving the danger referred to from the further extension of the Patent Office as an agricultural and statistical bureau, I think the reverse would be the effect of this measure; because the office would be brought more under the supervision of the new Secretary than it could be under that of the Secretary of State, and, as it is controlled by one having other objects of interest, other channels through which to reach national reputation, so will the tendency to wander from subjects legitimately belonging to it be diminished.

As a measure of accountability, it is proper that whenever the duties of an officer increase beyond his ability, such division should be made as will afford responsible agents, instead of having functions delegated to clerks for which an officer is held responsible without the power to know how the duty is discharged. A large part of the labor of the Secretary of the Treasury, as the department is now organized, is purely mechanical. This is the necessary result of confiding duties to those who have not power legally to perfect the papers. Such is the labor of signing treasury warrants and correspondence relative to disbursements. This will be remedied by the appointment of an Assistant Secretary, as provided in the bill, to whose office, as an appropriate duty, I suppose will be transferred the signing of warrants and other papers of like character.

Cases arising under the revenue laws will have, by the creation of a Commissioner of Customs, a distinct and appropriate place of reference, and the delays which have occurred, it is to be hoped, will be avoided, and the extra labor which has been performed by the officer charged with these cases as a part of his many duties, will be spared to his post in future, from which dispatch of other business must follow as a consequence.

Those who hear me know how heavily the labors of the Treasury Department has borne upon him who is soon to close his official connection with it, and they will remember how near it came to proving fatal to him. From such bitter experience does he speak in recommending this relief for those who are to succeed him. This is done when he sees his mantle about to fall from his shoulders, and knows it must descend to one not merely unconnected with, but opposed to him politically. It is no common merit, under such circumstances, to have sought to perfect the administrative details, so as to relieve his successor from evils with which he had stoutly struggled, over which he had gloriously triumphed. It was the conduct of one who values the prosperity of his country so much above party considerations, that he would lend a laboring hand to smooth obstructions from the road of his opponent, and wish him the success which is identified with the welfare of our common country.

Mr. President, in the formation of our Constitution, the advocates of popular right looked for safety in providing checks and balances which should restrain the usurpation of power; and nothing in the progress of government has more distinctly marked the two great parties of the country than the advocacy or opposition to centralization. By this bill, it is sought to divide the collection and disbursement of revenue, to separate considerations as to the mode of raising money from the manner of paying out—operations which should not be connected, but which, if distinct, form the proper and efficient checks one upon the other. Let those whose democracy leads to centralizing power and shielding public officers from public scrutiny, denounce this as a federal measure; let those who would restrain emigration to the untamed soil of the West, contend for keeping our public lands under policy and rules which have no

other object than to extract the greatest amount of money from the hardy pioneers who, as joint owners of the public lands, have settled upon them; let those who would prolong, indefinitely, the landed proprietorship of the General Government in the new States, insist upon keeping the disposal of the public domain in hands the least apt to advocate a policy which would hasten their settlement and cultivation: my purposes are the reverse of these; and, from a desire to promote them has arisen the interest I have taken in this bill. Believing it to be a measure of public utility, and that to amend, at this late period of the session, would be to defeat it, I shall vote for the bill as it passed the House of Representatives, and leave to the future the correction of such imperfections as may, in its operation, be found to exist. Fully assured of the correctness of the main features of the bill, I wish to secure the adoption of the measure by passing it. If, as some suppose, it will not serve the main purpose I have in view, because of defects in detail, when time permits I will unite with them in supplying such deficiencies.

Mr. ALLEN. I hold myself, and am held by others, somewhat responsible for any measure that passes this body, and which is to go abroad as a measure of the Democratic party, and as we have had it announced that this is a measure of that kind, I desire to say that it has nothing about it which entitles it to that designation, and that it shall not go out as a measure of the party of which I am a member, and for whose conduct I hold myself, as an individual, responsible. Sir, we have been told that measures of a similar description have been recommended by past Presidents. Be it so. Is this recommended by any President? It is a measure which affects two of the other departments of the Government as much almost as it does the Treasury Department; it is a measure which affects the interior texture of the whole Government, and, as such, ought to have been a cabinet measure, and to have come here with the sanction of the head of the Executive Government. Why is it that one single Secretary recommends this measure? How does the Patent Office happen to fall within the cognizance of the Treasury Department more than that of any other department? How does the Indian bureau happen to fall within the sweep of the Treasury Department more than that of any other department? It is a mixed measure, embracing a part of the duties of almost all the departments, and therefore should come to us sanctioned by the recommendation of him who is over all the departments, the President of the United States. If it had come to us in that way, it would have been entitled to the name of Democracy, in so far as the President was put in power by the Democratic party; but officially heralded to the world, as it will be, as a measure which proposes to augment the patronage of the Government, already so oppressive to the people of this country, upon whom the burden of taxation falls, I do not choose that it shall bear the cognomen of Democratic.

Sir, I remember full well, some years ago, when the proposition to have a clerk, or half a dozen clerks, added to one of the departments, would occasion debate for a week, during the administrations of Jackson and Van Buren. Such propositions never failed to be denounced as seeking to plunder the treasury. Such propositions could not have been got through without a contest of a week, until the whole country had been called to reprobate the tendency in the Executive to augment its power, and pander to its own appetite. That was the case some time ago. But now a department stalks through the Senate with all its long train of pensioned officials. At the next session—mark what I tell you—you will have an application for a hundred clerks, on the ground that experience has proved that the present departments cannot spare their clerks to fulfill the requisitions of this bill: and that, therefore, you must create a batch of a hundred new clerks. A Democratic measure! There are Democrats voting for it, and good ones, I admit; but the Cabinet has not recommended it. Their silence is its condemnation. The President and five members of the Cabinet stand, by their silence, opposed to this measure. The Secretary of the Treasury stands alone as its support. We have a large majority against it. How was it in the House? Almost the entire party recorded their votes, upon the yeas and nays, against it. How is it here? By whose votes will it be passed here? By the votes of some from both sides. But where are the negative votes? Every one from this side of the House. And, sir, it is the negative very often that characterizes and gives party complexion to a measure. I do not understand anything of party in this measure; and I should not have uttered a word had it not been distinctly announced that the party of which I am a member was to be held accountable for this measure. And I know they will be held responsible, unless there be some explanation.

SEVERAL SENATORS. Not at all; not at all. The responsibility will be upon Congress.

Mr. ALLEN. Wait, gentlemen, until you get into power. You are men, and not difficult to be read. By the theory of our Government the party in power, provided they have the means of enacting their measures through Congress, or the means in either House of Congress of arresting measures, and do not do it, are responsible for the measures of the four years. That is the theory of our Constitution and the general sentiment of the people. It is no matter, sir, whether the Democratic party be in a majority in both Houses or not; if they have the affirmative——

Mr. MANGUM, (interposing.) The Senator from Ohio has stated that five out of the six members of the Cabinet are opposed to the measure. Then why protract the debate? Why not let the vote be taken, as the measure cannot pass?

Mr. ALLEN. I am merely making this explanation, sir, in order to knock off the christian name from this measure. It is called Democratic. I want it to be called by its right name. It was owing to that announcement that I felt myself bound to say something; and it has been with extreme reluctance that I have spoken. I did not introduce these party considerations into this discussion. What I said before barely had reference to the financial effect of this measure. I will ask gentlemen on the other side, I will appeal to them as men of candor, whether or not, if the case were reversed, they, who have so long taunted the Democratic Administration with extravagance; I would ask, if the case were reversed, and their Administration were within six hours of its final termination, and our Administration were coming in; I ask them to lay their hands upon their hearts and say whether they would do such a deed as this?

SEVERAL SENATORS. Yes, certainly.

Mr. ALLEN. No, gentlemen. That would be in too frightful a contrast with the speeches you have made, when the question was merely for the appointment of one or two additional clerks.

Now, sir, we have no great and wonderful things to perform, that I am aware of, until the next session of Congress. Then there will be a new Congress elected by the people. Both branches of Congress will have undergone regeneration by the exercise of the public will. Well, leave this measure for them. Leave this great question of changing the internal action of this Government to the next Congress, that the will of the people may be expressed on the subject. Although I have very great regard for the talents and abilities of the Secretary of the Treasury, yet I am not of opinion that he is the only living man who could carry on the business of the department, at least for twelve months to come. He is an able and a laborious man, and I think he has rendered meritorious services to the country; but, at the same time, I do not believe he is the only man in the world who is capable of discharging the duties of the Treasury Department for at least twelve months to come. Well, then, according to the argument that is set up, there is no danger of any harm accruing before the next session of Congress. Then let us postpone the passage of this bill.

Mr. President, something has been said about the responsibility of interrupting the action of the body upon other measures. The way to get through with other measures which are necessary for carrying on the Government is to lay aside this one, which is not necessary for that purpose.

Mr. MANGUM. Would you have the majority give up to the minority?

Mr. ALLEN. We had no vote, I believe.

Mr. MANGUM. Several.

Mr. ALLEN. Well, all I have to say in regard to that is this: that if a measure in favor of which a majority of the Senate can be found, were, for that reason, to undergo no discussion, the rights of the minority and the lights of human reason would avail very little in legislation. I supposed that minorities had some right to claim the privilege of discussion. The object of discussion is, to win over gentlemen from hastily conceived opinions. I have been trying to convert my friend from North Carolina from the error of his way on this subject.

Mr. MANGUM. You will be unable to accomplish it.

Mr. ALLEN. That is the business of reasoning. But my chief object is, as this has been called a Democratic measure, to relieve myself of the responsibility of its passage. I say nothing as to the propriety of those of my Democratic friends who choose to do so, voting for it. I only desire that it shall not be considered a Democratic measure, and it shall not with my consent.

A SENATOR. Let it be called by any other name.

Mr. ALLEN. It shall be marked with a different brand altogether. I desired to say this much, that there might be no mistake in regard to my views respecting it.

Mr. BERRIEN. I certainly do not rise to discuss the merits of this question; and if I can speak in tones that will be heard by Senators, I wish most respectfully and most earnestly to invoke Senators to the performance of the duty which devolves upon us to-night. It seems to be agreed on all hands that this session must terminate at twelve o'clock. We have, then, somewhat less than four hours. Here is a bill upon which the sense of the Senate has been expressed by a deliberate vote. It is not probable that opinions will be changed by discussion, and it is unimportant, because, as the Senator from Ohio has just informed us, the President is opposed to this bill, no legislation therefore can be effective. But I rose for the purpose of saying to the Senate that the discussion of this subject is obstructing the report of the committee of conference upon a bill which is of the utmost importance; which report necessarily involves discussion, and upon the result of which depends the question whether this Government shall have the means necessary to its fiscal operations after the thirtieth of June. Inasmuch as the sense of the Senate has been expressed upon the bill as much as if the bill had been passed by the Senate, and inasmuch as there lies behind it a measure which is of the utmost importance to the Government to decide, and which must be decided in the short interval which remains to us, I invoke Senators, by all the duties of patriotism, by all the respect which they have for the expressed opinions of a majority of the Senate, to allow us to vote on this question without further discussion.

Mr. DOWNS. I have no disposition to enter into the discussion of this subject. There is not time for discussion. But Senators on this side of the Chamber have been appealed to on several occasions to allow this measure to pass, on the ground that it has been recommended by a Democratic Secretary of the Treasury. I believe, Mr. President, that I am not taunted with a want of democracy; I believe I am not taunted with having deviated from the principles of the Democratic party heretofore. I believe I have adhered to them as closely as any gentleman in this Senate. But I cannot consider this a party measure. We are commencing a new political era. New courses of action, new questions are to be marked out, and no doubt honorable Senators who support this measure will sustain their course in a manner alike creditable to themselves and to the Senate. But a great deal has been said about warring against the power of the Federal Government. The gentleman from Virginia seems to suppose that there is much danger to be apprehended from the power of the Federal Government. With all my respect for that gentleman, I must say that I think his apprehensions are altogether unfounded. I would go as far as the Senator from Virginia, or any other Senator, at the proper time, to restrain the power of the Federal Government; but I will join with no gentleman in making war upon it when there is no necessity for any such hostility. There is no increase of power proposed here.

Mr. MASON. I merely wish to say that I have expressed no opinion whatever as to the degree of consideration that should be given to the recommendation of the Secretary of the Treasury. I have as high a respect for that gentleman as the Senator from Louisiana. I intended no disrespect to the Secretary of the Treasury.

Mr. DOWNS. I had no reference to the opin-

ion entertained by the gentleman in regard to the Secretary of the Treasury. That was sufficiently adverted to elsewhere. I rose simply because I thought the gentleman from Virginia was undertaking to speak for the Democratic party. I wish now only to remark, that for reasons satisfactory to myself, I have concluded to vote for this bill; and the majority, as I conceive, of the Senate having repeatedly decided that the bill ought to pass, I think it is due to that majority, at this stage of the session, when so near the close, that they should be permitted to pass the bill; but at the same time, whatever may be the consequence, I, for one, sir, until this matter is disposed of, shall oppose the taking up of anything else. The will of a majority has been clearly expressed. Upon them let the responsibility fall. The bill might have been passed two hours ago, after it was ascertained that there was a majority in favor of it. But, if this discussion is to be protracted for the purpose of forcing us into a rejection of the bill, I, for one, will not submit to any such coercion.

Mr. NILES. If gentlemen on the other side are willing to take the responsibility of passing this measure, let them take it. It reminds me of a memorable period of our history, when, at the expiration of an Administration which had been condemned by the people, their last expiring effort was to create a batch of what were called "midnight judges;" and now we see the friends of the incoming Administration, at the very close of a Presidential term, united in an attempt to extend the patronage of the Government. Sir, what has been done during this session for the country is nothing at all to what is proposed to be done by this bill for office-holders; not for those who are such now, but for those who may become such. I am sorry to see it; and I must be permitted to say—and perhaps it will be the last thing that I shall say here—that if this measure is to be regarded as foreshadowing the course of the incoming Administration, the day will come when the people will hurl them from power, and stamp their acts with the most unequivocal marks of their disapprobation.

Mr. DICKINSON rose amid cries of "question." Senators (he said) are doubtless impatient; but they cannot have the question until I get through with what few remarks I have to make, and I will assure them that I shall not detain them long. I have been absent from the Senate for the greater part of the day, having been engaged upon a committee of conference, and have not had an opportunity to record my vote against the measure, and I therefore desire to say a few words. I am opposed to the bill, I care not whence it emanates. It may entitle a measure to great respect that it emanates from an exalted source; but I regard it precisely as if it emanated from any other source. I regard only the provisions which its contains, and the effect which will be produced by its adoption. Whether it be called a Democratic measure or a Whig measure, its effect, in my humble opinion, will be to build up a great overshadowing central organization here. That is my opinion, and that is the reason why I oppose the bill. It is called, I believe, the Home Department of the Interior; and it seems to me that we should recognize the Department of State as the Foreign Department of the Exterior, so as to make them similar in name as they are in nature. We are told that this will give no additional patronage to the Government. It begins by making a new cabinet minister. And who does not know that it will bring around it a corps of two or three hundred clerks? The effect of it will be to draw one department after another into its grasp, and will ultimately tend to the centralization of this Government, a thing of all others the most to be deplored. The measure will stand out before the country as a measure for the increase of the patronage of this Government; the country will so regard it. The Home Department of the Interior! Why, the very name of it is borrowed substantially from the French nation. I will not detain the Senate further than to say that I am opposed to the bill *in toto;* up and down, round about, and diagonally.

The question being taken upon the amendment of the Senator from Virginia, it was rejected, as follows:

YEAS—Messrs. Allen, Atchison, Atherton, Benton, Borland, Bradbury, Butler, Calhoun, Cameron, Dickinson, Dix, Felch, Fitzpatrick, Hamlin, Hunter, Johnson of Georgia, King, Mason, Niles, Sebastian, Sturgeon, Turner, and Yulee—23.

NAYS—Messrs. Badger, Baldwin, Bell, Berrien, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dayton, Dodge of Iowa, Douglas, Downs, Fitzgerald, Foote, Hale, Houston, Johnson of Maryland, Johnson of Louisiana, Jones, Mangum, Metcalfe, Miller, Pearce, Phelps, Spruance, Underwood, Upham, Wales, Walker, and Webster—30.

The bill was then reported to the Senate without amendment, ordered to a third reading, and read a third time.

The question being stated upon the passage of the bill, the yeas and nays were demanded and ordered, and being taken, resulted as follows:

YEAS—Messrs. Badger, Baldwin, Bell, Berrien, Breese, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dayton, Dodge of Iowa, Douglas, Downs, Fitzgerald, Foote, Greene, Hale, Houston, Johnson of Maryland, Johnson of Louisiana, Jones, Mangum, Metcalfe, Miller, Pearce, Spruance, Underwood, Upham, Wales, Walker, and Webster—31.

NAYS—Messrs. Allen, Atchison, Atherton, Benton, Borland, Bradbury, Bright, Butler, Calhoun, Cameron, Dickinson, Dix, Felch, Fitzpatrick, Hamlin, Hunter, King, Mason, Niles, Phelps, Rusk, Sebastian, Sturgeon, Turney, and Yulee—25.

So the bill was passed.

Mr. BADGER, from the committee of conference on the disagreeing votes of the two Houses on the bill from the House of Representatives making appropriations for the naval service for the year ending the 30th June, 1850, reported:

That they have met the conferees on the part of the House of Representatives, and, after full and free conference, have agreed to recommend to the respective Houses as follows:

That the Senate recede from their first, twelfth, and thirteenth amendments, and that they recede from their disagreement to the amendment proposed by the House to the fourteenth amendment of the Senate, with a further amendment, substituting the word "authorized" for "directed;" and that the House recede from their disagreement to he second, third, ninth, and tenth amendments of the Senate.

The Senate proceeded to the consideration of the said report, and—

Resolved, That they concur therein, and that the bill be amended accordingly.

ARMY APPROPRIATIONS.

Mr. DAVIS, of Mississippi, from the committee of conference on the part of the Senate on the disagreeing votes of the two Houses on the bill making appropriations for the support of the army for the year ending June 30, 1850, reported:

That they have met the conferees on the part of the House of Representatives, and, after a full and free conference, have agreed to recommend to the respective Houses as follows:

That the Senate recede from their first and fifth amendments; that the House recede from their disagreement to the second amendment of the Senate, with an amendment striking out the words "Jenks's carbine," and reducing the appropriation from $100,000 to $50,000; that the House recede from their disagreement to the eighth, ninth, and eleventh amendments of the Senate, and also from their amendment to the tenth amendment of the Senate.

On motion, the Senate concurred in said report.

PRIVATE BILLS.

The Senate proceeded to consider the amendments of the House of Representatives to the bill for the relief of Peter Capella, administrator of Andrew Capella, deceased; and for the relief of John Capo; and for the relief of Elijah Petty, and Hannah Petty, his wife, heirs of John Brandon, deceased; all of which were concurred in.

The Senate proceeded to the consideration of the House amendment to the bill for the relief of James F. Sothoron; and, on motion, concurred therein.

The Senate proceeded to the consideration of the amendment of the House of Representatives to the Senate bill for the relief of Thomas W. Chinn and others; and, on motion, concurred therein.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, notifying the Senate that he had approved and signed sundry bills and resolutions.

GENERAL APPROPRIATION BILL.

Mr. ATHERTON, from the committee of conference on the part of the Senate on the disagreeing votes of the two Houses on the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1850, and for other purposes, reported "that they have met the committee of conference on the part of the House of Representatives, and, after full and free conference, they could come to no agreement."

INDIAN APPROPRIATION BILL.

Mr. ATHERTON moved that the Senate resume the consideration of the Senate amendment to the Indian appropriation bill, disagreed to by the House.

Mr. KING expressed the hope that the civil and diplomatic bill would be first disposed of.

Mr. ATHERTON replied that the bill referred to was in possession of the House of Representatives.

The Senate then resumed the consideration of its amendment to the Indian appropriation bill disagreed to by the House, the question pending being upon Mr. ATHERTON's motion that the Senate recede from its amendment.

[It will be recollected that the amendment referred to was one proposed by Mr. BELL in relation to Cherokee claims, to which the House had attached a provision for the issue of treasury notes.]

Mr. BELL. The Senator from New Hampshire represented me truly when he said that I thought the amendment of the House to the amendment of the Senate was objectionable. I think so still, and I desire to state to the Senate as briefly as I can the objections to the amendment, without going into any argument on the subject.

The amendment of the Senate appropriated one million two hundred thousand dollars to carry into effect the treaty of 1846, with the two parties of the Cherokee tribe of Indians, of which the Old Settler party was to receive about one-half, and six hundred thousand dollars were to be given to the Ross party under the 8th and 9th articles of the treaty. The 11th article of the treaty of 1846 submitted to the arbitrament of the Senate whether these Cherokees were entitled to a further allowance upon a claim to be paid out of the treasury, the amount to be paid for the subsistence of the Indians after they removed west. The Senate has never decided the question. The House in their amendment make it a condition of this appropriation of twelve hundred thousand dollars that it shall be the final settlement of all the questions, embracing the question to be decided under the stipulations of the treaty by the Senate alone, not subject to national legislation. I am not aware that any very serious objection will be interposed by the delegation of the Cherokees to this provision of the bill. It cannot be disguised, however, that it would seem to them that they had been forced into the settlement, and it would be made a ground for a claim against the United States hereafter. I merely make this statement to the Senate, that they may determine for themselves whether they will recede from the entire amendment, as proposed by the Senator from New Hampshire, or whether they will adopt the amendment of the House. For myself, I am very indifferent as to which course shall be taken.

There is another provision, however, in the amendment of the House, which I think deserves a moment's consideration by the Senate. Many gentlemen, more conversant with the true condition of the treasury than I am, think it is expedient that, in this or some other bill, a provision should be made for the contingent issue of some four or five millions of dollars in treasury notes, with power to be exercised, when it shall become necessary to exercise it by reason of the deficiency in the treasury, in order to carry on the Government and to sustain the public credit. I am aware that the Finance Committee of the Senate are averse to the plan; but the Committee of Ways and Means in the House, and indeed a majority of the House, and a number of gentlemen here who have turned their attention to this subject more than I have, are of opinion that it is necessary to make this contingent provision. They come to this conclusion upon the ground that the appropriations which have been, and will be made, will probably exhaust the funds from the treasury, as there is likely to be a large falling off in the receipts from public lands, as well as in the receipts from customs. My opinion is, that we cannot place perfect reliance upon the estimates of gentlemen on either side; but the question is, whether, as the appropriations are likely to exhaust the treasury, we had not better supply the deficiency by treasury notes. This is no favorite scheme of mine. It has been adopted heretofore, for some eight or ten years; and it is for the Senate to say whether they will adopt it in this case.

Now, one word more as to incongruity. This is an Indian appropriation bill. I dislike the term incongruous; for I find it is a very convenient objection when gentlemen are opposed to a proposition, but, when they are pleased with it, it is no objection at all. I believe, however, the objection is neither formidable nor insuperable. I make this remark, because this objection, as far as I can gather, will be applied; and I think we shall act very unwisely not to make some provision of this kind, in the event that it may become necessary. I shall not be pertinacious in regard to any course the Senate shall think proper to pursue in regard to this whole amendment. I think the amendment of the House objectionable; but the objection may be got over by those who think that the provision ought to be made. And it is certainly time that a portion of the treaty should be carried into effect. The Senate may decide the matter as they think proper.

The motion of the Senator from New Hampshire to recede from the Senate amendment was agreed to.

JAMES NORRIS AND MINESOTA TERRITORY.

The Senate proceeded to consider the bill from the House for the relief of James Norris; which was read twice by unanimous consent, and considered as in Committee of the Whole.

Mr. WALKER stated that no appropriation had been made to carry into effect the bill establishing the territorial government of Minesota, and moved to amend the bill under consideration by the addition of an appropriation for the object suggested by him; which was agreed to.

The bill was then reported to the Senate, the amendment was concurred in, the bill ordered to a third reading, read a third time and passed.

On motion, the title of the bill was amended so as to be "A bill for the relief of James Norris and for other purposes."

MARY RENNER.

The Senate proceeded to the consideration of the bill for the relief of Mary Renner.

Mr. UNDERWOOD. I am astonished, sir, that this bill should be again brought up. The Committee of Claims was equally divided.

The evidence showed that the woman was not entitled to one cent. She is not the administratrix of her husband's estate. If the money is to go anywhere, it should go to the administrator, in order to pay the debts of the deceased, for I am told he died perfectly insolvent. And here we have a bill—contrary to the opinion of the committee—in favor of a person who is not entitled to receive one cent of the money, and a bill, too, that has already been rejected. I move again to lay it upon the table.

The motion was agreed to.

REGISTRY OF VESSELS.

The bill from the House for recording the conveyance of vessels and for other purposes was read the first and second time by unanimous consent and considered as in Committee of the Whole.

Mr. DAVIS, of Massachusetts. The object of the bill is to extend the provisions of the law in relation to vessels navigating the James river.

Mr. WEBSTER. It is certainly a very important bill, and one which will have an important bearing upon the navigation laws of the United States. I regret that we have not more time to consider its provisions. I have great respect for the opinions of my colleague on this subject; but we have got along very well with the existing laws for many years, and I think they should not be changed until there is an imperious necessity for it.

Mr. WESTCOTT. My opinion is, that the bill is a palpable violation of the Constitution. I will ask the Senator if it has not been decided over and over again that Congress has no power under the Constitution to prescribe the mode of transfer of property in vessels? This bill proposes to affect such property.

Mr. DAVIS. I do not feel that there are any constitutional difficulties. But if my colleague and others are not satisfied, I certainly will not press the bill. The object is to prevent frauds by requiring transfers to be recorded. The proper reservations are contained in the bill.

Mr. PEARCE. It appears to me that, however proper it may be to guard against frauds in the transfer of vessels, we can pass no other law on the subject than such as relates to the transfer of property belonging to the United States, and that such law will be amply sufficient. This Government has never before, I believe, undertaken to do what this bill proposes. There may be great personal inconvenience attending it too. It appears that the record must be deposited in the office of the collector of customs. People will have no opportunity of ascertaining transfers of property without traveling a great distance; and it will be many years before this law will become known. At all events it is a new thing, and we have not time to examine it.

Mr. DAVIS. I am very sure that if we had time to give the subject examination, it would be found that none of the objections have any foundation. But I said that I would not embarrass the Senate; and I will, therefore, ask that the bill be laid upon the table.

The motion was agreed to.

CREDENTIALS.

Mr. FITZGERALD presented the credentials of the Hon. LEWIS CASS, chosen a Senator by the Senate and House of Representatives of the State of Michigan, to fill the vacancy occasioned by his own resignation, which were read; and, the oath prescribed by law having been administered to him at the hands of the President of the Senate, he took his seat in the Senate.

TREATY WITH MEXICO.

Mr. HANNEGAN, from the Committee on Foreign Relations, to which were referred the amendments of the House of Representatives to the Senate bill to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico, of the 2d day of February, 1848, reported thereon.

The Senate proceeded to the consideration of said amendments, and concurred therein.

BRANCH MINT AT NEW YORK.

On motion of Mr. DIX, the bill from the House to establish a branch mint of the United States in the city of New York, was read a first and second time by unanimous consent, and considered as in Committee of the Whole.

No amendment having been offered, the bill was reported to the Senate, and ordered to a third reading.

On motion that it be now read a third time, it was objected to as being against the rule. The bill was therefore lost for want of time.

BILLS PASSED.

The Senate continued the consideration of bills as they came from the House and those on the calendar, and the following were passed through their final stages, their object and provisions being explained briefly in their progress:

The bill from the House to settle the title to certain tracts of land in the State of Arkansas;

The bill from the House to extend the provisions of all laws now in force relating to the carriage of passengers in merchant vessels, and the regulation thereof;

The bill from the House for the relief of Daniel Wilson;

The bill from the House for the relief of Charles McLane, of Missouri;

The bill from the House for the relief of Andrew Flanagan;

The bill from the House for the relief of John Savage;

The bill from the House for the relief of Lowry Williams;

The bill from the House for the relief of Charles Benns;

The joint resolution from the House for the relief of George R. Smith;

The House bill for the relief of Mary Buck;

The House bill for the relief of William P. Gouge;

The House bill for the relief of John Campbell;

The House bill for the relief of William H. Wilson;

The House bill for the relief of John A. Young, a commander in the navy of the United States;

The House bill for the relief of Amelia Couvillion, of Louisiana;

The House bill for the relief of James Fugate;

The House bill for the relief of Polly Aldrich;

The House bill for the relief of John W. Hocket;

The House bill for the relief of H. Carrington, executor of Pauline Legrand, deceased;

The bill from the House for the relief of Peter Shaffer;

The bill from the House for the relief of Thomas H. Noble;

The bill from the House for the relief of Eve Boggs;

The bill from the House for the relief of Hervey Jones;

The bill from the House for the relief of Noah A. Phelps;

The bill from the House for the relief of the legal representatives of Captain George R. Shoemaker;

The bill from the House for the relief of Jesse Washington Jackson;

The bill from the House for the relief of Satterlee Clarke;

The bill from the House for the relief of Daniel Robinson; the Senate bill for the relief of Alexander Montgomery, captain and assistant quartermaster of the army;

The resolution from the House for the purchase of copies of the General Navy Register and Laws.

LAID ON THE TABLE.

The following bills were considered as in Committee of the Whole, and, on motion, were ordered to lie on the table:

The bill for the relief of Benjamin Reefsnyder;

The bill from the House for the relief of Mary W. Thompson.

WITHDRAWAL OF PAPERS.

On motion by Mr. ATHERTON,

Ordered, That John Whitman have leave to withdraw his petition and papers.

On motion of Mr. CAMERON,

Ordered, That Richard Cochran have leave to withdraw his petition and papers.

Mr. CLARKE asked leave to withdraw the papers in the case of John Baldwin.

Mr. TURNEY. I would like to know the Senator's reasons for withdrawing these papers. Papers are sometimes withdrawn in order to abstract that portion of the testimony which defeats the claim, and they are then presented again, and the claim is allowed.

Mr. CLARKE. These papers were referred to the Committee on Naval Affairs. The purpose of withdrawing them is to give them a different reference.

Mr. TURNEY. I am informed by the chairman of the Committee on Naval Affairs that there was an adverse report; and, unless some good and sufficient reason is assigned for withdrawing them, I shall insist that the application be refused.

The question being put, on a division, the ayes were 12, noes 15—no quorum voting.

Mr. WEBSTER. A single word, sir, on a subject which has occupied the attention of the Senate some years ago to some extent. There is, undoubtedly, a great inconvenience, and, as I think, a great impropriety, in extending an indiscriminate privilege to applicants to Congress whose applications have not been favorably received to withdraw their papers in order to make a new case. I have known cases that have been decided over and over again brought forward session after session, decided upon adversely year after year, for twenty years, and still renewed. And when you consider that all this proceeding is *ex parte*, there is great security in having the original papers in the possession of the Senate. Let the papers remain, and if he wishes anything added, let him supply it. My worthy friend from Rhode Island can, perhaps, state some particular reason for the withdrawal; but, if not, let these papers remain, and if the party have more testimony to offer, let him bring it forward.

Mr. CLARKE. I understand that the origin of this claim was a contract between the petitioner, John Baldwin, and the Government of the United States, for furnishing supplies to the United States Army. The Government relieved him from his obligation without making him sufficient compensation; and he wishes to withdraw his papers so as to bring an action to recover his dues. I hope that leave will be granted.

The motion was agreed to.

ELIZABETH S. COBB.

The Senate proceeded, on motion of Mr. HOUSTON, to consider as in Committee of the Whole the bill from the House for the relief of Elizabeth S. Cobb.

The report of the committee was read.

Mr. UNDERWOOD. This is the same bill

that was objected to upon a former discussion of it and laid upon the table, and now it comes up again just like the claims referred to by the Senator from Massachusetts.

Mr. JOHNSON, of Louisiana. I think the honorable Senator must be mistaken in supposing that this bill was laid upon the table.

Mr. HALE. It was laid upon the table on the suggestion of the gentleman from Florida, I believe, in order that the Senate might proceed with bills which give rise to no discussion.

Mr. HOUSTON. Allow me to explain. When the vote was about to be taken, it was ascertained that there was not a quorum present, and in consequence of that, the bill remained without further action.

Mr. UNDERWOOD. I do not object further than I have stated. If the Senate undertake to sanction the practice of deciding and redeciding upon bills, they may as well do it now as any other time. The report states that the applicant was a sufferer from paralysis a good many years before his death in consequence of injuries received while in service. The facts are not, I think, sufficient to justify the conclusion to which the committee have come; but my objection is, that it is establishing a principle that is objectionable.

Mr. JOHNSON, of Louisiana. The committee have examined the whole of the evidence, and they believe that the case comes within the principle upon which bills are passed every day. The law provides for cases where a man by exposure in the service sustains injury.

Mr. HOUSTON. It is true that Major Cobb did not fall in battle; perhaps it would have been better for him and his family if he had fallen; not that it would have been more honorable, but it might have been considered more meritorious. I have known him for thirty-five years—we were subalterns together. He was an officer who was always to be found at his post, and for thirty odd years he never asked or obtained a furlough from the Government. He was faithful, and hence important trusts were confided to him. He discharged duties upon the frontier for which he never received adequate compensation. In the performance of these extraordinary duties he contracted the disease which finally carried him to the tomb. It was lingering and painful, expensive and onerous to his family, but still he bore it with patience and fortitude. He believed the country which he served so faithfully would not be unmindful of those he left—the widow and the orphan. I grant the existing provisions of law do not cover this case; but is it supposed that, because he does not come within the provisions of the law, he has no claim upon this Government in justice and equity? Out of a hundred cases of claims that have passed within the last few days, there has not been one more equitable than this. The justice of the claim impressed the House—certainly not more charitable than the Senate—with the conviction that this widow was entitled to a pension, and hence the unanimity with which the bill was passed. Under these circumstances, this case has been brought forward. I am not its especial guardian, but there are some circumstances connected with its history in former times that have elicited from me the feelings that I have ventured to express on this occasion. And I do trust that, as an act of justice, and of sheer justice, the bill will pass.

The bill was ordered to a third reading, and was subsequently read a third time and passed.

DISCHARGE OF COMMITTEES.

On motion by Mr. BELL,

Ordered, That the Committee on Indian Affairs be discharged from all subjects referred to the committee and not reported on.

On motion by Mr. BADGER,

Ordered, That the Committee on Naval Affairs be discharged from all subjects referred to said committee and not reported on.

On motion by Mr. DIX,

Ordered, That the Committee on Commerce be discharged from the further consideration of all subjects referred to the committee and not reported on.

On motion by Mr. BRIGHT,

Ordered, That the Committee on Revolutionary Claims be discharged from the subjects referred to the committee and not reported on.

On motion by Mr. HANNEGAN,

Ordered, That the Committee on Foreign Relations be discharged from the further consideration of all subjects referred to the committee and not reported on.

EXECUTIVE BUSINESS.

On motion of Mr. DAVIS, of Mississippi, the Senate then proceeded to the consideration of Executive business; and, after some time so engaged, the doors were reopened, and legislative business was continued.

HOUR OF ADJOURNMENT.

The doors were opened at a quarter before twelve o'clock, and bills for the relief of Robert Ramsay and John W. Stockton were considered and passed.

Mr. CAMERON moved that the Senate take up for consideration a bill for the relief of a person whose name was not distinctly heard.

Mr. BADGER. It has been rejected once.

The question being put, upon a division, there were 12 ayes, 7 noes; no quorum voting.

Mr. BRIGHT. Sir, there are strong objections to this bill, about which the Senator from Pennsylvania is so anxious, as is manifested by his calling it up after it has been disposed of.

Mr. CAMERON. The honorable Senator has incorrectly stated, and I doubt not unintentionally, that this bill has been rejected. It was up, and was laid on the table, on motion of my friend from North Carolina, in good-humored haste, without any opposition to the bill at all. It is for a pension to be allowed to a man who served in the war of 1812, and who contracted a disease while in the service during that war which rendered him incapable of earning his living ever since. It has passed the House of Representatives, and there would not have been a single word of objection raised against it, had it not been for the fact that I had unfortunately an objection to another bill which the Senator from North Carolina had in charge. The question being again taken, there was no quorum voting.

Mr. WESTCOTT. I will inquire whether the hour has not arrived when Congress must adjourn?

PRESIDING OFFICER. That is a question for the Senate to determine.

Mr. HALE. Can any question be entertained when there is no quorum?

Mr. WEBSTER. We are in a position, sir, that is somewhat peculiar. It behooves us to turn our attention from these small matters of justice to individuals, which may be dispatched, I hope, at another time, and consider the position in which the Senate of the United States is placed at a very late hour of the last day of the session, when important bills connected with the continuance of the administration of the Government, which for sixty years have never failed to be passed in time to carry on the Government, are now in some degree of jeopardy. I wish only to say, sir, that, after much consideration of the subject, without the least doubt or hesitation, I am of opinion that the session of this House which commenced on this third day of March, until we vote upon the appropriation bills, must continue without regard to clocks. The legislative day is the day of sitting, and when the session terminates by the vote of the members, the third of March terminates legislatively. Sir, I beg pardon for alluding to these things, but I wish to suggest to the Senate that we are at a crisis of some importance.

Mr. FOOTE. I believe every Senator in this Chamber is aware of the profound deference I entertain for the opinions of the gentleman from Massachusetts, but my opinion is, sir, that as sensible men we are bound to ascertain the progress of the time.

A message was here received from the President of the United States; and, on motion of Mr. YULEE, the Senate proceeded to the consideration of Executive business, and, after some time spent therein, the doors were again opened.

CIVIL AND DIPLOMATIC APPROPRIATIONS.

A message was received from the House of Representatives announcing that said House had concurred in the 53d amendment of the Senate to the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1850, with an amendment, in which they asked the concurrence of the Senate; and that they had receded from their disagreement to the other amendments of the Senate.

The 53d amendment referred to was the provision relative to a government for California.

The Senate proceeded to consider the amendment of the House of Representatives, (which is printed in a following column.)

Mr. WEBSTER moved that the Senate concur; and upon that question he asked the yeas and nays.

Mr. HUNTER moved that the Senate adhere to their amendment.

Mr. FOOTE. I am not prepared to say which of the motions has precedence. But as each involves the same merits, I beg leave to address the Senate.

Mr. WEBSTER. Let the vote be taken.

Mr. DICKINSON. If you go into a debate now, you will lose the whole bill.

Mr. BUTLER. Mr. President——

Mr. FOOTE. I am still in possession of the floor. I have my own judgment in regard to this matter. It is a feeble one, I admit; it is the judgment of an inexperienced man—of a man who entertains a deference for the opinions of others. But it is my own; and being one of those human creatures responsible, as he feels, for his conduct to his conscience, to God, and to mankind, I feel bound to state my opinions, such as they are. Sir, the amendment of the Senator from Massachusetts is, as I stated the other day, a mere nullity.

Mr. WEBSTER. It is the amendment of the Senator from Wisconsin.

SEVERAL SENATORS. Let the amendment be read.

Mr. FOOTE. I am willing that it should be read again for the satisfaction of Senators, provided I shall have the floor for the purpose of commenting on it afterwards.

The amendment was again read.

Mr. BERRIEN. I pray that order may be preserved. Here is an important question; a question involving great interests; and I hope the Senate will proceed deliberately.

Mr. FOOTE. I believe I have the floor. Mr. President, I remarked, in reference to the amendment of the Senator from Massachusetts a few days ago, (I did so with perfect honesty; I did so upon a thorough investigation of that amendment,) that I believed it amounted to nothing, except it be to that which is utterly mischievous. And I think that I am prepared to demonstrate this, humble as my powers are, again and again. Why should we propose—unless we are prepared to make ourselves ridiculous before the civilized world—why should we, I say, propose to take military possession of California?

Mr. MASON. Will the Senator allow me to interrupt him one moment? I wish to make a motion, to which his remarks may be addressed. I move to amend by striking out the second section of the amendment, which provides that until the 4th of July, 1850, unless Congress shall sooner provide, the existing laws in Mexico shall continue in force.

Mr. WEBSTER. The question before the Senate is upon the motion to concur in the report of the Committee of Conference; and no other question can take precedence of it.

Mr. WESTCOTT. I rise to a question of order. I find from the Manual that the order in which motions are to be put is this: first, to agree; secondly, to disagree. But any member has a right to make such motion as may tend to make the amendment more perfect, before taking the vote upon agreement or disagreement.

Mr. MASON. I so understand it. I do not profess to be conversant with parliamentary law. But I take it for granted that we have a right to improve the amendment.

Mr. WEBSTER. May I address the Senate on the point of order? I say, sir, that the only question that can now be taken—but I shall not proceed unless I can obtain the attention of the Senate.

Mr. BALDWIN. I hope that order will be preserved, so that we can hear what is said.

Mr. WEBSTER. The Senate has made an amendment to the bill from the House. The House has amended our amendment. There can be no amendment to an amendment to an amendment; or, in other words, there can be no amendment in the third degree. Now, the only question is, to agree to or concur in the amendment of the House to the amendment of the Senate.

Mr. HUNTER. The Senator from Mississippi is entitled to the floor. When a Senator is called to order, there can be no debate until the point of order is decided.

Mr. WEBSTER. Are you quite sure of that?

Mr. HUNTER. Why, certainly. It is to be decided without debate.

Mr. WEBSTER. Where do you find that rule?

Mr. HUNTER. In all parliamentary law.

Mr. WEBSTER. We have a practice here sometimes of saying that an appeal shall be decided without debate. But as to a question of order, I apprehend it has always been the practice to debate such question.

Mr. HUNTER. Let the Chair decide the point of order.

Mr. WEBSTER. Then I put the question, whether an amendment to an amendment to an amendment is in order?

Mr. HUNTER. That is not debatable.

PRESIDING OFFICER. In the opinion of the Chair, the motion of the Senator from Virginia is not in order.

Mr. FOOTE. That gives me the floor, I believe. Mr. President, with the most profound deference to other gentlemen, (whom I always prefer hearing, when they choose to speak, to anything that I could offer in my humble way,) I feel bound to say that the views that have been stated to the Senate seem to me utterly erroneous. Why, the other day, I did, in a very hasty and very imperfect manner, endeavor to show that the amendment of the Senator from Massachusetts amounted to nothing; I say nothing—worse than nothing; because, sir, it was not only a nullity, but it would be attended with great mischief. I never yet saw a man undertake to do nothing that he did not do some mischief. Well, now, sir, this amendment of the Senator from Massachusetts proposes to authorize the Government of the United States to take possession, and hold possession of California and New Mexico. Why, I ask, in the name of all the gods—I say, in the name of all the gods—in the name of everything that is glorious in our history, have not California and New Mexico been seized and occupied legitimately and constitutionally by the officers of our Government?

Mr. DICKINSON. Will the Senator give way for a moment, until I read the parliamentary law, to show the propriety of this motion of the Senator from Virginia? Allow me to read from page 189 of the Manual:

"A bill originating in one House is passed by the other with an amendment. The originating House agrees to their amendment with an amendment. The other may agree to their amendment with an amendment, that being only in the second and not the third degree; for, as to the amending House, the first amendment with which they passed the bill is a part of its text; it is the only text they have agreed to. The amendment to that text by the originating House, therefore, is only in the first degree, and the amendment to that again by the amending House is only in the second, to wit, an amendment to an amendment, and so admissible."

SEVERAL SENATORS. "Let the vote be taken." "What is the question?"

PRESIDING OFFICER, (Mr. DOWNS being in the chair.) The question is on striking out the second section.

Mr. DAYTON. That has been decided to be out of order; and there was no appeal.

Mr. MASON. I make the appeal now.

Mr. WESTCOTT. I will stay here and contest this thing as long as I have the physical power to do so.

Mr. MASON. I will now move to strike out the second section.

Mr. DAYTON. That cannot be in order. If, when the motion was made before, the Chair decided it to be out of order, and that the only question before the Senate was concurrence or non-concurrence in the report of the Committee of Conference, can the Senator from Virginia rise in his place and renew the same motion?

Mr. HUNTER. The Senator from Mississippi has the floor.

Mr. FOOTE. I hope there is no man in the Republic who feels as much indifference to public speaking as I do, for I think it is a very agreeable business to most men, although very oppressive to some. Still, if this body can now come to a vote, I am prepared for it. Mr. President, what is the question? Let the question be fairly understood.

Mr. MASON. I have moved to strike out the second section.

PRESIDING OFFICER, (Mr. ATCHISON having resumed the chair.) That motion is out of order.

Mr. MASON. I appeal from the judgment of the Chair, and ask for the yeas and nays.

Mr. KING. It is perfectly in order for the Senator from Virginia to make the motion, though I am sorry that he has thought proper to make it. Here is the rule:

"A bill originating in one House is passed by the other with an amendment. The originating House agrees to their amendment with an amendment. The other may agree to their amendment with an amendment, that being only in the second, and not the third degree; for, as to the amending House, the first amendment with which they passed the bill is a part of its text; it is the only text they have agreed to. The amendment to that text by the originating House, therefore, is only in the first degree, and the amendment to that again by the amending House is only in the second, to wit, an amendment to an amendment, and so admissible."

Now, can anything be more plain? Is it possible that any one can doubt that the Senator from Virginia had a right to offer an amendment to the amendment of the House? I hope the Presiding Officer will see the propriety of reversing his decision.

PRESIDING OFFICER. On reflection, I am convinced that the decision of the Chair was wrong. The motion of the Senator from Virginia is in order.

Mr. DICKINSON. I wish to ask whether, if we first take the question on agreeing, and the amendment is disagreed to or agreed to, can we then amend the amendment?

PRESIDING OFFICER. Certainly not.

Mr. HUNTER. What is the question before the Senate?

PRESIDING OFFICER. It is on the motion of the Senator from Virginia.

Mr. HUNTER. What is that motion?

PRESIDING OFFICER. To strike out the second section.

Mr. HUNTER. What is the second section? The Secretary read the section referred to.

Mr. HUNTER. The Chair, then, has entertained a motion to strike out the amendment to our amendment.

Mr. BRIGHT. The Senator from Virginia moves to amend the amendment of the House to our amendment. That is clearly out of order. The bill came to us from the House with an amendment to our amendment. The proposition then is, will the Senate concur in the amendment of the House, or will they insist upon their own amendment? which is one and the same thing; because, if the Senate entertain the proposition to amend, it opens the question *de novo*. The first question to be put is, Will the Senate concur with the amendment as an entirety?—not with any part of it, or with the amendment after something should be added to it, but upon the amendment as it is.

Mr. HUNTER. I agree with the Senator from Indiana: the question is, first, Will the Senate concur in the amendment of the House, or will they insist upon their own?

Mr. WEBSTER. I do not mean to discuss the question whether this amendment is amendable or not. I think it is not. But at any rate, I know of no practice that can now supersede the motion to concur. That is the first motion before the Senate. I agree entirely with the Senator from Indiana in the suggestion that he has made; and I think it is in order now to take the vote of the Senate whether we will concur in the amendment of the House.

Mr. BERRIEN. I understand the Chair to have decided that the Senator from Virginia was in order in the motion which he submitted to amend the amendment of the House.

PRESIDING OFFICER. That is the decision of the Chair.

Mr. BERRIEN. That decision is unappealed from. If appealed from, the sense of the Senate may be taken on the subject. Here is a bill——

Sir, if you cannot keep order, we had better bring these proceedings to a close.

PRESIDING OFFICER. Will the Senator from Georgia take his seat until the Senate is brought to order.

Order having been in some measure restored—

Mr. BERRIEN. I understand, then, that an appeal is taken from the decision of the Chair, that the Senator from Virginia is in order in the amendment he has submitted. That presents the question whether, upon the return of this bill from the House with an amendment to an amendment which we have made, the substitution of a distinct provision by the House for that which the Senate has adopted, we are under the necessity of adopting the amendment in its totality, or whether we can modify it in any manner whatever. When the bill went from the Senate to the House with an amendment, the House disagreed to the amendment of the Senate; a Committee of Conference was appointed; they could not agree; the House being in possession of the papers, upon the return of their committee to the House, a motion was made to recede from their disagreement to the amendment of the Senate. Were they under the necessity, which is imputed to us, of concurring with or disagreeing to the amendment of the Senate in its totality? Was not that amendment subject to modification by the House; and have they not, in the exercise of their rights, amended the amendment of the Senate? Can they, then, by such a course of legislation, impose on us the necessity of receiving in its totality the amendment which they propose to us? Sir, if that be the course, if that shall be the decision of the Chair, the only remaining mode by which the Senate can secure to themselves——

I shall stop, sir, unless this conversation can be suppressed, and submit to you a motion of a different character.

If the sense of the Senate shall be that they are restricted by the amendment which has been sent to them by the House to the mere question for adopting it in its totality; that they have not the power to amend it; there is but one remaining mode by which the Senate can assert its rights, and that is by disagreeing to the amendment which has been proposed by the House, and demanding a conference. The conferees may certainly modify the amendment so as to meet the sense of both branches of the National Legislature; but, in the mean time, I suppose that it is according to the course of legislative proceeding for us to modify the amendment so as to render it unnecessary for us to disagree with the House, and avoid the necessity for two conferences. I submit this consideration to the Senate: if the decision of the Senate can overrule that of the Chair, then the question of concurrence, which the Senator from Massachusetts states to be a question overruling all others, will be open for discussion; and on that subject I desire to be heard.

Mr. WALKER. I presume there is no Senator here who will assert that an amendment to an amendment to an amendment is in order. Now, let us look at this subject in its plain point of view. A bill comes from the House of Representatives; that bill is amended. That is one amendment. It goes back to the House, and they amend that amendment, and send it back here. Now it is proposed to amend the amendment to an amendment in the third degree. Now, I ask, what is the main question? What is the position from which these motions take their degrees? I say it is the bill. The bill is the thing which is amended. Now, I ask, if it is permissible to move to amend in the third degree? In regard to this matter, I have only to say, that, as I view the parliamentary rule in cases of this kind, it cannot be done. But if it could be done, I hope it would not.

Mr. WESTCOTT. This is the third time that the effort has been made to read the rule from the 189th page of the Manual, but we have not been able to be heard. Will the Clerk please to read the rule?

The rule was accordingly read by the Clerk, as follows:

"A bill originating in one House is passed by the other with an amendment. The originating House agrees to their amendment with an amendment. The other may agree to their amendment with an amendment, that being only in the second and not the third degree; for, as to the amending House, the first amendment with which they passed the bill is a part of its text; it is the only text they have agreed to. The amendment to that text by the originating House, therefore, is only in the first degree, and the amendment to that again by the amending House is only in the second, to wit, an amendment to an amendment, and so admissible."

Mr. HUNTER. I rise to make an apology to the Chair. I disputed its decision. I now admit it was right.

Mr. BADGER. And I beg to withdraw the appeal that I took from the decision of the Chair.

Mr. UNDERWOOD. I hope that the pending amendment will not prevail. If this amendment is to be adopted as a whole, allow me to comment very briefly upon both. The first section provides as follows:

"That the President of the United States be, and he hereby is, authorized to hold possession of and occupy the Territories of California and New Mexico, ceded by Mexico to the United States by the treaty of the 2d day of February, 1848, and that he be authorized, for that purpose, and in order to maintain the authority of the United States, and preserve peace and order in said Territories, to employ such parts of the army and navy of the United States as he may deem necessary."

That is the first clause. The whole of it amounts

to this: that the President may use portions of the army and navy to hold possession of the country. Now, who can object to that? No one; all agree there. The next clause is:

"That, until the expiration of the next session of Congress, unless Congress shall sooner provide for the government of said Territories, the existing laws thereof shall be maintained and observed; and that the civil and judicial authorities heretofore exercised in said Territories shall be vested in and exercised by such person or persons as the President of the United States shall appoint and direct, to the end that the inhabitants of said Territories may be protected in the full and free enjoyment of their liberty, property, and religion: *Provided, nevertheless,* That martial law shall not be proclaimed or declared in said Territories, or either of them, nor any military court established or instituted, except ordinary courts-martial for the trial of persons belonging to the army and navy of the United States."

Now, I have already expressed an opinion that the Constitution goes there without any enactment at all. I think the proposition is as clear as anything can possibly be. But there are gentlemen on this floor who dispute it. Then, if it be a debatable and disputable matter, this secures it. Here is the act which carries it there. If it goes there without any legislation, as some gentlemen contend, it does not require this provision. If it does not go there of itself, here is the very thing we want. Here is the legislation to carry it there. Who is there, then, that can object to the first section of the bill? By it we have got two things: we have got the right to occupy the country with our army and navy, and we have got the right to have the Constitution administered.

Mr. FOOTE. We have got both now.

Mr. UNDERWOOD. I say we have got both now. But some of our associates dispute it; and if they are willing to give us a special enactment for it, I have no objection. So much for the first section. Then as to the second. I prefer retaining it to striking it out. I apprehend that some gentlemen suppose that the code of Spanish law, without legislation by us, is to prevail in that country always; and that they object on that ground to this section. Now, if there be any objection of that sort, it is wholly untenable, because it is temporary; the words are, "until the 4th day of July, 1850, unless Congress sooner provide for the government of the Territories." Well, now, sir, you must have officers to administer your laws there upon the principles of the Constitution; and if you strike out the whole section, where will you get the authority to appoint them? It is this second section which provides the authority. And when they are appointed, what follows? In the third section it is provided that "to the end that the inhabitants may be protected," &c.; and here follows another provision, "that martial law shall not be proclaimed," &c. Now, in the second section, the proviso introduces a valuable provision; the second section provides for the appointment of officers who are to execute the laws; and the second section continues the Mexican code in force until July, 1850, unless Congress shall sooner provide.

SENATORS. No, no!

Mr. UNDERWOOD. If that is denied, I am at the end of my argument; because it is as plainly set forth as anything can be. I have given my view of the section.

Mr. FOOTE. Mr. President——

Mr. BUTLER. Oh! let us have the question. We cannot talk it out.

Mr. FOOTE. My object is not to talk it out: it is to express my views. I cannot permit the views of the honorable Senator from Kentucky, for whose judgment I have great respect, to pass without a proper response. And I will ask him to send me the amendment which he holds in his hand, for examination. As I was proceeding to say, some time ago, the first proposition of the amendment is an absurdity, and is unnecessary. It is a matter already provided for. And what is that? Why, that the Government of the United States shall take possession of California and New Mexico. Is it not a fact that we are now in possession? Is it true? I thought it was a part of our history, and not the least creditable part of our history, that these Territories are now in our possession. It is provided that the President shall be authorized to "hold and occupy"—those are the terms—"the territory ceded by Mexico." Do we not occupy the Territories now? Certainly they are occupied, either actually or constructively, by this Government. Sir, is not the President authorized to hold possession? Is there any Senator who dares to take up the contrary position? Why, sir, we have conquered the country: we have occupied the country: we still hold possession of it, against all the powers of the earth. And I ask of any American Senator here if he presumes to assert, in the presence of such a body of men as is here assembled, that we are not now in possession? If gentlemen have any doubt on the subject, I can show them that the President of the United States considers himself as having conquered the country; as being in possession; as being entitled to hold possession; as being bound by every obligation to hold possession in all time to come. Why, then, insert this provision? It is useless. It is more—it is a slander, not intended, but it is a slander upon the Government. It has been said that this was an unconstitutional possession of these Territories; that it was a usurped possession. I deny it altogether. I undertake to assert that this Government has possession, and undisputed possession of the Territories. Why, then, is it that gentlemen urge, at this late hour, that we should take possession? Why, we are bound to hold possession. And if the President should surrender that possession, if he dared to surrender it, he would deserve impeachment. But there is another point.

[Cries of "Question, question!"]

Mr. FOOTE. Gentlemen must be patient.

Mr. MANGUM. My dear sir, ——

Mr. FOOTE. Though "my dear sir," should come from a thousand mouths, I intend to do my duty. I know the precise thing to be argued; I intend to act accordingly. It is provided by the amendment of the Senator from Massachusetts that "the President be, and he is hereby, authorized to employ the army and navy." Well, and is he not authorized to employ the army and navy now? Where is the necessity for this provision? The President has occupied the country; he is bound to occupy it; and if he fails to do so, through infirmity of purpose or treachery of will, he is worthy of impeachment; and I am willing, on the ground of courtesy, to adopt the provision on that account. By the second section it is provided that "until the fourth day of July, 1850," (and this is the third day of March, 1849,)——

A VOICE. This is the *fourth*.

Mr. FOOTE. And here it is provided, sir, that "until the fourth day of July, 1850, unless Congress shall sooner provide for the government of 'said Territories, the existing laws thereof shall 'be maintained and observed; and the civil and 'judicial authority"—my friend from Kentucky, I thought, read this section wrong, but I find he read it right—"the civil and judicial authority 'heretofore exercised in those Territories shall be 'vested in such persons as the President shall 'appoint," &c. Well, now, until the fourth of July, 1850, unless Congress shall provide for the government of the Territories, the laws of Mexico shall remain in force over them, and all the effects and consequences likely to arise from the administration of those laws, variant as they are from ours, will be experienced. Well, sir, some who were most strenuously opposed to the election of the President are to be intrusted with the power of regulating everything in those Territories; but the professed friends of the President, the men who have professed friendship with their lips, but have not exemplified it by their deeds, dare to say what they dare to say until the fourth of July, 1850, and no longer, so help them God. Why, the Democrats of this body dare to assert that the President of the United States, though elected contrary to our votes, is, we nevertheless believe, possessed of good sense, of patriotism, and possessed also of strong intention to do justice to the North and to the South, to subserve all the substantial interests of the country without distinction. We say we are willing to trust the President of the United States, though not elected by us, with power and authority to administer the Government in the Territories, with authority to regulate all matters connected with them until Congress shall otherwise decide; and, in addition to all that, the power of the President of the United States——

A message from the President of the United States was here received, announcing that he had signed several bills.

Mr. FOOTE resumed. Mr. President, whenever I can ascertain that this great question can be settled honestly, and in a manner to preserve all the interests of the South, as well as of the North and West, then I am prepared to cease speaking, which is always painful to me; but until then I must beg leave to continue speaking. And honorable Senators must allow me to judge for myself. I do not intend to be dictated to. I know the rights of the Senate; I know the rights of the Union; I know our people will appreciate their rights; I feel that we are entitled to require of those who have disturbed our action so long, who have so long interfered with the enjoyment of our constitutional rights, that they shall come forward in the face of the day and defend the wrong, or give us a reasonable assurance that we shall enjoy them hereafter. But the honorable Senator from Massachusetts, who well knows that I respect his judgment, has undertaken to urge upon us that we should submit to military law. And what sort of government is that for the Territories? Is it for the Senator from Massachusetts, the champion of science, the man of learning, the scholar, the philosopher, the orator——

Mr. WEBSTER. No, sir; "I am no orator as Brutus is."

Mr. FOOTE. I say more; he is such an orator as Burke, the most consummate orator of modern times. Nay, he is a more consummate orator than Burke. Is it for him, who has raised his potent voice at all times so successfully to excite in the minds of his countrymen a love of learning, and of moral advancement—is it for him to say to us—oh! is it for him to say to us, that we, in the nineteenth century, these twenty millions of Anglo-Saxon men and women, among whom refinement of the highest character exists; among whom books are to be met with in every cottage; is it for him to say to us, "O my countrymen! submit to Mexican law; forget the principles of civilization; forget that you have ever acquired knowledge; forget everything you have learned, either at school or elsewhere; and bow down in profound submission to semi-barbarism?" That is the proposition. And there is not a man now in the Union, vainly sympathizing with the unfortunate Mexicans—who are attempting to imitate our great example in a system of confederated freedom—there is not a man that has felt his sympathies awakened who has not become like one of those "*vari nantes in gurgite vasto.*" The great mass, white and black, or whatever color you please, are marked with barbarism, ignorance, uninformed, even in alphabetical learning. It is a remarkable, a surprising fact, and one that excites astonishment; if three men happen to be about the streets, for the purpose of conversing about election questions, it excites astonishment, because it is not authorized by law. And are we, who possess the lights of science beyond all people of modern times, to receive from that semi-barbarous people the laws by which we are to be governed? Is that the people to whom we are to bow, and say, Do teach us, if you please, the science of government, give us law? It is well known that the most barbarous enactments have dominated over California; and yet the Senator from Massachusetts proposes, and the question is whether we will agree with him, that these laws of Mexico, as they are called, shall be the established laws of New Mexico and California. I ask, is there a man here, (I speak unto wise men, judge ye what I say,) can even the Senator from Massachusetts, learned as he is in law, can he rise up in his place and tell you what Mexican law he has ever read? I know he is informed in the common law, that he is thoroughly acquainted with the civil law; but I judge of him only as a man of good taste, when I say that he is not acquainted with Mexican law. And yet he is gravely proposing to us that Mexican law shall have force in California. Mighty God! sir, what! That the laws of a people shall be enforced that no man pretends to understand; that the very professors of the law cannot explain! For I dare the Senator from Massachusetts—I say it respectfully, courteously, reverentially—to rise in his place and say what laws would be in force? And I say again, that the legislative body of a great nation should not adopt laws of which they know nothing. Why, I undertake to assert that nothing so absurd, no proposition so unreasonable, so pregnant with mischief, has ever been heard of before. And now, sir, I have this to say, I am strongly reminded of an ancient anecdote, familiar, no doubt, to the Senator from Massachusetts, which is applicable to these semi-barbarous Mexican laws. It is this: In venal

times Solon was called upon and authorized by the Athenians to ordain a system of laws. Well, sir, he made a system of laws. He arranged all his ordinances, or statutes, or whatever they may be called, and it so happened that a celebrated individual—an individual now celebrated, though a barbarian, happened to come from the Thracian region, and he called upon him to know if he liked his system of laws. The answer of the barbarian was: "Why, my opinion is, that your laws are 'like a spider's web, well calculated to ensnare the 'feeble and sickly flies, but the hornets and moths 'will break through with impunity." So it is here. These laws of Mexico, what are they? Why, they are such as may prove exceedingly destructive to our people who go out there, to our adventurers who go out there; but, sir, the magnates will break through them, and exercise any mode of injustice that they choose to exercise. I must say, I cannot close my remarks without a solemn, serious, and profound protest against an adoption of the laws of Mexico, without any man pronouncing what they are. I want light on the subject, and I undertake to assert again and again, that no man in the Senate does understand what will be the effect of the adoption of the proposition of the Senator from Massachusetts, (and he does not explain it,) by which we are called upon to adopt the laws of Mexico, that are in force in California.

Mr. DAVIS, of Mississippi. I now move that the Senate disagree to the amendment of the House; and I add to it another motion, that the Senate appoint a Committee of Conference; and I will state why I make these motions. It is in order that the whole subject, relating to California, may be stricken out; and that, at this last moment of the session, we may proceed to pass the civil and diplomatic appropriation bill.

Mr. DOUGLAS. That is the last of all propositions that I can consent to. I would rather see the civil and diplomatic appropriation bill fail, than to see the proposition for a government for California fail. Between the two evils, it does not take me an instant to choose which I would prefer. I have supported every form of bill on which we have been able to vote, in order to give a government to California. I am prepared to do it yet, so far as I can do it, consistently with the principles which I hold to be essential. But I cannot consent now to abandon the whole thing; to leave the people of California without a government, merely for the sake of getting a little money for our own officeholders. And, sir, for what shall the people of California be thrown off? For what shall they be exposed to all the horrors of anarchy and of bloodshed, of murder and of rapine? For what, sir? Merely because there is a technical difference between the amendment of the House and that of the Senate. I, sir, am for concurring. Let us clinch the nail while we can. What is the difference between the two propositions? There is not a shadow of difference; not a particle of substantial difference. There is not a lawyer in the Senate who can show that there is a particle of legal difference. It is simply a quarrel between the Senate's amendment and the amendment of the House; it is merely a controversy for triumph. Yes, sir, the Senate's amendment does continue the existing laws of the Territory. And the Supreme Court has decided the question——

Mr. FOOTE. The Senator is mistaken; the Supreme Court has not decided the question.

Mr. DOUGLAS. That the existing laws of a conquered or ceded country remain in force until repealed by the authority of the conquering or acquiring country. And, as the Senator from Massachusetts says, no man ever doubted the legal proposition. Sir, the bill that we all voted for went on the same principle. It left the existing laws in force, and left to the people the right to legislate on the subject of slavery. The Senate amendment left the existing laws in force. It declared that they should continue in force. And herein consists the difference between it and the House amendment, which merely declares the legal construction, that the existing laws continue in force without special enactment for that purpose. That is the only difference between the two propositions. I have been trying ever since these propositions came before us, to ascertain if there is any difference in point of law between them. I was willing to adhere to the Senate amendment, if I believed there was any reasonable chance of procuring the passage of the bill, and thereby giving a government to California. But, sir, when I see the proposition made here deliberately, as has been done by the Senator from Mississippi, to abandon the people of California, and to subject them to the horrors of anarchy, I can never give it my sanction. The Senator proposes to abandon them; and for what? That your officeholders may obtain their salaries. So long as they can obtain their salaries, you care not if the people of California are exposed to be plundered and murdered. Sir, if either are to be abandoned, let your officeholders be abandoned.

Mr. DAVIS, of Mississippi. I am sure the Senator from Illinois does not wish to misrepresent me; therefore I take it for granted he has misunderstood my purpose. Sir, my purpose was to do that which it was in our power to perform, instead of wasting the last moments of the session in attempting to do that which we cannot accomplish. And, as to the bloodshed, murder, and robbery, I tell the Senator that California is filling with American citizens, who carry with them their protection wherever they go. The elements of government are formed in the breast of every American citizen.

Mr. DOUGLAS. I cannot say I am glad to hear the explanation of the Senator from Mississippi, for the explanation goes to show that the people of California are to be abandoned. He argues that they are capable of taking care of themselves, and that they need no aid from the Government. He ought to have made that argument against the proposition of the Senate. It is an argument against a territorial bill. It is an argument against all legislation. For that reason it is that I am alarmed, lest the people of California shall be abandoned, and no law provided for their protection.

Mr. HUNTER. I rise to offer an amendment, which perhaps will enable us to compromise this difficulty. If, in the second section, we adopt, after "the existing laws," the words, "so far as may be consistent with the Constitution of the United States," so as to enact the existing laws only to that extent, I think it probable that we shall all agree. As I understand, the Senator from Massachusetts and other Senators here wish to compromise on the principle of leaving this great question undecided, or of leaving it, if it has to be decided, to the Supreme Court of the United States.

Mr. WEBSTER. I hope the Senator will allow me to interrupt him. I feel an intense desire that this debate shall be terminated. And I put it to the candor of gentlemen whether it is worth while to send the bill back to the House at this hour of the night for such a purpose, when there is in the bill itself a provision that the Constitution of the United States is to be extended to the Territory? There is this provision in the amendment of the Senator from Wisconsin, although I do not think such a provision at all necessary; for, if the Constitution of the United States goes there, it goes, as has been argued on all sides of the Senate, as the supreme law of the land. Of course everybody knows that the laws of a conquered country exist until the laws of the conquering country are established. Now, I put it to the Senator from Virginia whether it is worth while to send back this bill for the purpose of making a provision which is wholly nugatory?

Mr. HUNTER. I have no desire to prolong the debate. My most earnest desire is that the difficulty shall be adjusted. The Senator from Massachusetts says that according to his construction of the amendment, it does extend the Constitution of the United States to the Territory. I do not rise for the purpose of arguing the matter; but there are gentlemen on this side who doubt the correctness of that construction. They believe it is an enactment of all the Mexican laws, without restriction or modification. Well, now, if the Senator from Massachusetts is willing that only so much of the Mexican laws as are consistent with the Constitution and laws of this country shall be adopted, why not agree to this amendment?

Mr. WEBSTER. I am unwilling that the bill should be sent back to the House. If the gentleman is willing to run the risk of losing the bill, let him take it on his responsibility.

Mr. HUNTER. I am willing to take the responsibility. If we agree to the amendment, I have no doubt the House will agree to it, and especially if the Senator from Massachusetts is right in his construction of the amendment. If our object is compromise, and we do not desire to give an undue advantage—and I say it in all sincerity, for I am willing to compromise on this basis—leave the question to itself; leave it undecided; and, if it be brought up, let it be decided by the Supreme Court of the United States. Now, I ask if this is not fair? I am willing to do this, and I understand that the Senator from Massachusetts is also willing.

Mr. WEBSTER. I mean to say, that if there is anything that we can say or do to make the Constitution of the United States, the paramount law of California, it is already done in the amendment of the Senator from Wisconsin. I say I would not take the risk of making an amendment which will render it necessary to send the bill back to the House, because I think it is a mere metaphysical abstraction upon which we are urged to act; and I say, further, that I cannot keep it out of sight that we have here in the Senate undertaken, upon an ordinary appropriation bill, to ingraft provisions for a government for California. But I am interrupting the Senator.

Mr. HUNTER. In relation to the matters embraced in the amendment, I have only to say that I had no share in bringing it forward; I knew nothing of it, and should not have brought it forward, inasmuch as it touched upon an agitating subject, only that it was incorporated in the bill. In pursuance of the object which I have always advocated, I am willing now to compromise the question upon what I believe to be a fair basis, that is, I am willing to compromise it on the ground that we leave this question of difference undecided, so far as our own legislation goes.

Mr. WEBSTER. It is undecided now.

Mr. HUNTER. The Senator from Massachusetts says it is undecided now. Well, if he believes so, why not introduce the amendment, which will test the question on this side of the Chamber as well as on that? Sir, I seek no advantage over the North, and I am sure they do not wish to obtain any advantage over us. The Senator says he would not endanger the bill by sending it to the House. I do not believe it will endanger it. I believe the House will take the same view that the Senator from Massachusetts does; and, if so, they will adopt the amendment. But, if it will endanger the passage of the bill, it can only be on the ground that the House mean to reënact the Mexican law, which excludes slavery; and, if it does reënact that law, I would be willing to lose the bill sooner than agree to it. Yes, I will take the responsibility of losing the bill, so far as my vote is concerned, and giving occasion for an extra session of Congress, sooner than any law which prohibits slavery in California shall be adopted. The Senator from Massachusetts says that the understanding in all quarters is, that the existing laws in that Territory will remain in force until we supersede them. Then why not say they shall be in force so far as not inconsistent with the Constitution? I do not rise here for the purpose of arguing the question. My object is compromise; my desire is to settle the difficulty. And I think it would be the part of wisdom if gentlemen on the other side would agree to this amendment. If they will not agree to it, I cannot vote for the original amendment, and shall not vote for it, whatever may be the consequences—whether we lose the bill and give occasion for a called session or not.

Sir, I know something of the country which I represent; and I, for one, taking the proposition that I have made to be a reasonable basis of compromise, shall adhere to it, with the full conviction that I shall be sustained by those whom I represent. Sir, I am sure I cannot be mistaken about the propriety and justice of the proposition which I have presented; nor can I be mistaken as to the principle which should govern our action on this subject.

Mr. WESTCOTT. I am not in favor of the amendment which has been adopted by the House, nor will the proposed amendment by the Senator from Virginia at all reconcile me to it; and, if it is adopted by the Senate, it will not induce me to acquiesce in what is represented as a compromise. If I am incorrect in what I now state, I request Senators who are in favor of the amendment to correct me. Sir, the primary objection which will exist, as well after the proposition of the Senator from Virginia is adopted as now, is this: there is no provision in the amendment that has been adopted by the House extending to California and New Mexico the revenue laws of this country, the land

laws, the laws for the punishment of crimes and misdemeanors against the United States, nor any solitary provision on the subject. If I am mistaken, I desire to be corrected. There is nothing, I say, that will extend the acts of Congress relating to the revenue and to the public lands to California. Now, I ask, if this amendment be adopted, what measure the President can adopt to protect the property of the United States there? In a territory which is so much alluded to as a valuable acquisition to this country, how are we to protect the gold mines? how are we to collect a revenue? The laws that were in force anterior to the execution of the treaty have ceased to exist; are we to adopt their laws in relation to duties on imports, in relation to titles to lands? Sir, this, it appears to me, will be the effect of the amendment of the House if adopted.

Mr. FOOTE. If the Senator will allow me——

Mr. WESTCOTT. I have the floor.

Mr. FOOTE. I know that. I rise to a point of order. I understand that the Congress of the United States has arrived at the point of adjournment. Let those take the consequences upon themselves who have dared to resist a reasonable proposition. I insist that the Congress of the United States is now bound to adjourn. We have no right to sit here at all.

The PRESIDING OFFICER decided that the Senator from Florida was in order.

Mr. WESTCOTT. This is an objection which is radical with me, and which, if I am not incorrect, I have observed will not be cured by the amendments of the Senator from Virginia. Sir, with respect to that amendment, I do not think it will place this question in the aspect in which the gentleman thinks it will place it, and therefore it does not affect my objection. With respect to the slavery question, I have been anxious that it should be set at rest; and it was only for that reason that I was willing to advocate the insertion of what did seem to me to be incongruous in an appropriation bill, a provision for the government of California. It was, I say, for the purpose of preserving the peace and harmony of the country that I was induced to support the proposition; but I look to the country to sanction the course that I took. Sir, I have no idea that the people of this country, if this distracting question could have been silenced, would ever have failed to sustain the Senator from Wisconsin. On the contrary, the plaudits of the country, for having restored harmony, would have followed his efforts, I have no doubt. But what is the effect of the amendment of the Senator from Virginia, in reference to this question? It is proposed, in the first place, that the Constitution of the United States shall be extended to California and New Mexico; and it is proposed that the existing laws in those Territories shall continue in force, although the judgment of the Senator from Massachusetts is, that the Constitution will abrogate all the existing laws. Sir, that does not follow; for the Constitution is in force, according to the argument of the Senator, only by virtue of being extended there, not as the paramount law, but having the same authority as the enactment which enforces the Mexican laws. But that is not the point to which I wish to direct the attention of the Senate. It is this: that the amendment of the Senator from Virginia does not effect the compromise which he supposes. I will, however, at so late an hour, postpone any further remarks.

Mr. YULEE. There is a strong conviction upon my mind that we have no right to proceed with legislation; and, if a portion of the Senate think otherwise, in order to test the sense of the Senate, I will move that the Senate now adjourn *sine die*.

Mr. DAVIS, of Mississippi, moved that there be a call of the Senate.

Mr. YULEE. I made my motion as the best means of reaching the decision of the Senate upon the rightfulness of our continuing our session after 12 o'clock.

Mr. BUTLER. Mr. President——

Mr. YULEE. The question of adjournment is not debatable.

Mr. BUTLER. I agree with those who say that it does not depend upon the hour, but is entirely within the discretion of the Senate when they will adjourn.

Mr. YULEE. I believe the motion to adjourn is not debatable.

Mr. DAVIS, of Mississippi. Is it in order to move a call of the Senate

Mr. KING. There is no rule on the subject. We have not been in the habit of having calls; but the Presiding Officer can send the Sergeant-at-arms after absent Senators.

Mr. TURNEY. I am one of those who feel that we are not here by legal authority. Our time is up. The session has expired; and I ask the yeas and nays upon the motion to adjourn.

Mr. DAVIS, of Mississippi. My motion intervenes, I believe.

Mr. HUNTER. A motion to adjourn takes precedence of all others.

Mr. TURNEY. I desire that the Secretary shall note the hour upon the journal.

[It was then twenty minutes past 2 o'clock a. m.,]

Mr. WEBSTER. What is the question?

PRESIDING OFFICER. The question is upon the motion to adjourn *sine die*.

Mr. WEBSTER. I protest against it. We have no right to adjourn without the consent of the other House.

A SENATOR. The President of the United States has gone home.

Mr. WEBSTER. Very well, if he chooses to go; but we shall have the pleasure of sending him a bill between this and ten o'clock to-morrow morning. I protest against it for the sake of the republic.

The PRESIDENT decided that the Senate could not adjourn without the consent of the House of Representatives; and, therefore, that the motion to adjourn was out of order.

Mr. BRIGHT. I desire to say one word. I am one of the few that have resisted the insertion of a provision relating to the government of California in this bill. It was admitted from the beginning that it was not germane to the bill. I now move to strike out all that relates to California, leaving the bill just as we found it.

Mr. MASON. The amendment that was sent to the House provided a government for California. It provided for the appointment of civil officers, and extended the Constitution and laws of this country over the territory. The House struck out the whole amendment, and sent us one back providing, in the first clause, for a military occupation of the country, and, in the second, reënacting the laws of Mexico, and directing them to be enforced. Now, the motion I have made is, to strike out the second section, for the purpose of avoiding the enactment of Mexican laws, and of leaving the country to be governed by military authority.

Mr. BRIGHT. I move to amend the motion of the Senator from Virginia, by striking out the entire amendment of the House.

PRESIDING OFFICER. That motion is not now in order.

Mr. BRIGHT. Then it will be in order after the vote is taken on the amendment of the Senator from Virginia.

Mr. BERRIEN. I desire to make one more effort to preserve this bill, if it be possible. And, if I can have the attention of Senators for a moment, I will very briefly explain my views in relation to this motion of the Senator from Virginia. The bill had been truly described by the Senator to be, in its first section, a legislative provision for the establishment of what will amount to a military government; and, by its second section, reenacting the laws of Mexico. It is said, that, forasmuch as the provisions of the Constitution, or as the Constitution, as far as it is applicable, is extended to California and New Mexico, these Mexican laws are controlled by its provisions, and therefore no apprehension is to be entertained of any mischief that can arise from the adoption of that section. Now, sir, if it be true, that, by force of extending the provisions of the Constitution to those Territories, the Mexican laws will be subjected to their control, and can only operate in subordination to the Constitution; if gentlemen are sincere in the expression of that opinion, and entertain at the same time the belief of a conflict between the Constitution and these Mexican laws, why should we go through the useless legislation of reënacting every existing law in Mexico, when, in consequence of the extension of the Constitution, by another clause, they can have no operation?

Mr. MASON. I comprehend the suggestion of the Senator from Georgia, and accept his modification.

Mr. BERRIEN. I propose, then, instead of a motion to strike out the second section, to submit a motion to strike out these words: "The existing laws thereof shall be retained and observed." Mr. President, the advocates of the amendment maintain this proposition, that the laws of a conquered or ceded territory continue to be of force until they are repealed. We propose to repeal no law of the territory, either of New Mexico or of California. If gentlemen, then, confide in the opinion which they express, that the law of nations does that which they ask us to do by positive enactment, they will vote for the amendment. I ask, then, whether, believing that the laws of a conquered country do remain in force, so far as they regulate the relations between individual and individual, and so far as they do not conflict with the political law of the conquering country—I take that to be the proposition that is laid down in the case which is so often referred to in this discussion—if gentlemen are satisfied of the correctness of the opinion they have advanced, where is the utility of the reënactment of these Mexican laws? It is an act of supererogation. If the law of nations operates to preserve in force the Mexican laws until they are repealed, the only question will be whether those laws which relate to the subject which occasions this discussion are laws which regulate the relations between individuals, or whether they are political laws, which cannot continue in force in consequence of the extension of our Constitution to that territory as the supreme law. That question I wish to leave open for the decision of the supreme judicial tribunal of the country. I wish to avoid the express enactment of Mexican laws. I wish to leave the subject to be governed by the principles of international law, which gentlemen have invoked, and to go with them before the supreme judicial tribunal of the country, and see whether they or we are right in considering the law regulating slavery as a law which partakes of the one character or of the other. I wish to leave the question open. And it will be left open, if the Senate will adopt the amendment which I propose. No doubt the advocates of this bill in the other House also entertain the opinion which has been expressed here, that the retention of Mexican laws by positive enactment is altogether unnecessary. If, then, we adopt this amendment, it will be determined by the judicial tribunals to what class of laws this one belongs. We maintain on one hand, and desire an opportunity of having the question decided, that the laws of the ceded territory which continue after the transfer are only those laws which regulate the relations between individuals, and that those laws which are of a political character do not continue in force after such cession. Then, sir, the question, and the only question, as we maintain, will be, whether the laws relating to slavery in Mexico are laws of a political character, or whether they are merely laws regulating the relations of individuals. We have, then, to inquire whether the constitutional provisions on the subject of taxation——

[Cries of "Question! question! question!"

Mr. BERRIEN. Who calls question?

Mr. FOOTE. It is parliamentary to do so.

Mr. HANNEGAN. When I said "question" I thought the Senator from Georgia had taken his seat.

Mr. CAMERON. I called for the question, because I was astonished that men holding the high and responsible station of Senators of the United States——

Mr. FOOTE. I call the Senator from Pennsylvania to order. He has no right to talk here, still less to interrupt other Senators. His term of office has expired.

Mr. JOHNSON, of Maryland. The Senator from Pennsylvania is clearly out of order.

Mr. BERRIEN. It is difficult, sir, to repress the feeling which has been awakened by more than one incident which has attended this discussion. And if there be anything which could excite a feeling of scorn, if it were not for the contempt that is awakened, it is the offence of crying "question"——

Mr. CAMERON. I rise to a point of order. I wish to know whether such language is parliamentary?

Mr. FOOTE. It is very proper under the circumstances.

Mr. CAMERON. I did not ask his opinion. I can judge for myself, sir, of what is right and proper.

[Other words were uttered by both the Senators from Pennsylvania and Mississippi, and something approaching a personal collision occurred.]

Mr. BERRIEN. I have not occupied the time of the Senate beyond what was necessary to explain my amendment very briefly.

Mr. HANNEGAN. Will the Senator pardon me? I trust the words "scorn and contempt" were not directed towards me.

Mr. BERRIEN. Most certainly I did not refer to the Senator from Indiana. I have stated that I have not the least disposition to detain the Senate. But I mean, when engaged in the respectful exercise of my right to address the Senate, not to be interrupted. I mean that the right shall be accorded to me. I have said that my object in making the proposition is to prevent, by express enactment, the continuance of the Mexican laws. I have said that if gentlemen are sincere in the opinions which they profess, this provision is a work of supererogation. If they believe that by force of international law the laws of Mexico will be continued in force, there is no occasion for the enactment which is contained in this amendment. They will then leave the question open whether the laws are of such a character that they will continue, or whether they are of such a character that they must bend to the controlling laws of the conquering country. I submit the amendment, and ask for the yeas and nays.

Mr. BUTLER. I am satisfied now of the propriety of the opinion which I first entertained. An amendment of this kind ought not to have been incorporated in the civil and diplomatic appropriation bill. I am entirely satisfied of that. I said so then; and I am the more convinced of it now. And whilst we are professing a tender regard for California, I hope we shall not forget a proper respect for ourselves. And I suppose such a thing has never occurred in the history of the Government as an adjournment of Congress without passing the bills for appropriating the necessary means for carrying on the Government.

Mr. FOOTE. Will the Senator allow me? Does he say that there is any law which forbids the adjournment of Congress without passing the appropriation bills?

Mr. BUTLER. I know of no constitutional inhibition. But I know there ought to be a regard for constitutional or parliamentary propriety, at least, sufficient to prevent us from doing so. And, while I am willing to vote for the amendment of the Senator from Wisconsin—though I am somewhat astonished, I confess, to see that proposition superseded in the process which this matter has undergone—I cannot understand why it is that gentlemen should be so averse to extending the Constitution of the United States over our conquered Territories.

There has been a sensibility manifested that is truly astonishing. But when the Senator from Massachusetts offered his amendment, and it was adopted in place of the amendment of the Senator from Wisconsin—although I would not have offered the amendment originally—yet that amendment having been amended, and to all intents and purposes superseded, I never will consent, I would lose the whole appropriation bill sooner than consent to the proposition of the House. But, at the same time, under the obligations of the Constitution, I cannot consent, notwithstanding the anxious solicitude which has been expressed for California, to forget the regard that is due to the older portions of the United States. It seems to me there is an overweening anxiety, to the disregard of the ordinary provisions for carrying on the Government of the United States, to take care of California. I am perfectly willing to strike from the appropriation bill everything except that which is congruous. But if the Senator, and those who rally under his banner, insist upon the provision for California, I would lose the appropriation bill before I would consent to yield to the amendment of the House, for we have made every overture that can be expected from honorable men. We have agreed upon a proposition to give a government to California; but they have interposed a proposition with a disguise, and I use the word significantly. Why offer it, if it is of the same import? I, for one, would strike the whole out, or stand here and lose the appropriation bill. But as long as I act under the Constitution of the United States, I cannot disregard my duty so far as to jeopard the bill, and I am, therefore, willing to strike out all that relates to California, for I am under a solemn obligation to provide for the maintenance of the Government of the United States. [Cries of "Question! question!"] I am going to detain the Senate just as long as I please. I shall speak my speech out. I am willing to do my duty, as far as I can, in accommodating myself to the sentiments of other gentlemen who will enter upon this subject in a spirit of compromise. But if they make an issue, I am willing, sir, to stand by that issue; and I now say I am willing to vote for the proposition of the Senator from Virginia, to strike out all that relates to California.

Mr. YULEE. It is well to know what we may do, in order to determine what we will do. Now, I apprehend that we must either agree to the amendment of the House, or we must agree to it with an amendment, in whatever form it may be proposed. But we cannot, it appears to me, recede now from our amendment.

Mr. FOOTE. Never, never!

Mr. YULEE. It has passed from our power to recede, as I comprehend the rule that governs our proceedings. Sir, I will read a single sentence from the Manual, which will determine the point:

"Nor where one House has adhered to their amendment, and the other agrees with an amendment, can the first House depart from the form which they have fixed by an adherence."

Now, sir, we have adhered——

Mr. WEBSTER, (in his seat.) No, sir; we have not.

Mr. YULEE. By our adherence we are fixed; and we must either now accept the amendment of the House, or return it with an amendment. That, sir, is the view that I take of what we may do; and I call upon the Chair to say whether I am not right? Have we not adhered to our amendment, and proposed a conference?

PRESIDING OFFICER. There has been no such motion.

Mr. YULEE. Well, then, I am mistaken.

Mr. WEBSTER. A few words. In the first place as to the point of order: I do not see how we can now strike out that portion of the bill relating to California. The House having acted upon it, if anything is to be done, it must be by a committee of conference. So much for the suggestion of the Senator from Florida. Then I have to say to the Senator from South Carolina that he is quite mistaken if he supposes that I intend to rely on his support. Far from it. But it will be remembered here and hereafter—let the issue of this great question be whatever it may—that from the first I have done what that gentleman did not do, resist the introduction of the provision relating to California into this annual appropriation bill.

Mr. BUTLER. I resisted it from the beginning.

Mr. FOOTE. Will the Senator from Massachusetts allow me to state——

Mr. WEBSTER. If the Senator will be brief. For God's sake be brief.

Mr. FOOTE. The motion is unparliamentary.

Mr. WEBSTER. I do not deny that it is unparliamentary. But is everything that we do prudent, is everything discreet, is everything worthy of us? We hold the destinies of this Republic in our hands. Parliamentary? No, sir, I cannot say it was parliamentary. I cannot say that if you had a bill under consideration for abolishing flogging in the navy, you might not introduce an amendment declaring war with Great Britain. But there is a question of prudence. And I say, that when we are engaged upon a question of making appropriations for the annual disbursements of this Government, it is not usual, it is not wise, it does not become us, to introduce a subject so disputatious as that its further progress may endanger the passage of the measure before us. That is the main reason why I voted against the proposition of the Senator from Wisconsin. And the only reason why I did not offer a proposition of my own was, that I thought it would be better not to send the bill again to the House. I have gone through this fire, and I will come out of it; and there will be no smoke upon my garments. Let the matter end as it will, I have resisted the introduction of this subject; but it was forced upon us. It went to the House; and now we are reaping the consequences. We cannot now get rid of it. There is no motion, that would be in accordance with parliamentary usage, by which we can strike out altogether that on which the House have acted. It is out of our power. We must act upon things as they are. And these things exist in their present state by the votes of the two Houses. We may amend the amendment, but we cannot strike it out.

Mr. BUTLER. Let me ask for what purpose did you offer your amendment?

Mr. WEBSTER. I did not offer one.

Mr. BUTLER. Did you file it, then?

Mr. WEBSTER. I did not offer it at all.

Mr. BUTLER. It certainly has been offered.

Mr. WEBSTER. It was not offered by me, sir.

Mr. BUTLER. Was it offered in the other House?

Mr. WEBSTER. I have no authority there.

Mr. BUTLER. They speak upon a slight hint sometimes.

Mr. WEBSTER. I do not know what may have been adopted in the other House; I have no authority there. You will recollect, Mr. President, that I proposed to lay a proposition before the Senate, remarking, that upon the whole, if the Senate should come to the conclusion that they would incorporate a provision for the government of California, I preferred that.

Mr. BUTLER. I believe that is fair.

Mr. WEBSTER. Is not that fair? It is true, at all events. I afterwards said, sir, that I should oppose all amendments touching California in this annual appropriation bill. But that was a proposition that I should add to the bill coming from the other House touching our newly acquired Territories. I will adhere to that declaration; and I leave the Senate this night to say, whether it was very ill-timed advice for me, who have been here some twenty years, to address to the Senate? And now a few words for the Senator from Georgia, to whom I always listen with the greatest pleasure. The question between him and me is a practical question. There is no theory in it. There is no difference as to fundamental principles. It is a practical question, which arises here on Sabbath morning, the fourth of March. I do not say it is a great or very important question. But it affects a point upon which the Government has not been affected during the sixty years of its duration. It is whether Congress will withhold the means that are necessary for carrying on the operations of the Government, whether they will withhold the means necessary for its preservation. That is the question. It cannot be blinked, and it shall not, God willing, and I living. That is the question, and I leave gentlemen to act with the same independence with which I claim to act myself. I shall stay here until the question is settled.

Now let me say a word upon the proposition of the Senator from Georgia—a patriotic Senator, a learned lawyer, a man of talent and character, to whom I never listened without respect. Well, what does he say? He says, and says truly, that, by the law of nations, the laws existing in these conquered Territories continue to be in force until the conquering power sees proper to withdraw them. Nothing is more clear than that. Every jurisconsult in the world knows that. Well, then, what does this bill propose to do? It proposes, I do not say unnecessarily, but it proposes to affirm what the Senator from Georgia says is already the law of nations. That is all. Well, will the case stand differently? It will stand differently in this respect only, that those laws only will be in force which are not repugnant to the Constitution of the United States. I have yielded to the proposition of the Senator from Wisconsin, so far as to let it have what force it could in giving to the people of the Territories a continuance of the laws that already exist until we make new ones. But it is admitted that we may make a nugatory and unnecessary affirmance of the law of nations. There can be no harm in it, however. It comes now to this practical question, at this hour in the morning, on the fourth of March, whether we shall, with the known difference between the two Houses, send the bill back with an amendment which does not alter the state of the case at all? That is the question. It does not alter the state of the case at all; and no lawyer, least of all so good a lawyer as my honorable friend from Georgia, can show where it alters it at all. He says the laws will remain until altered by our legislation, in obedience to the law of nations. Well, I say the affirmance of this law cannot be wrong. It may be unnecessary. But shall we, on that account, send the bill back to the House of Representatives? I speak before grave men, sir; I wish to prejudge nothing. And this leads to a single remark on another proposition of

my honorable friend. He says he wishes to leave this state of things to be decided by the supreme judicial tribunal of the country. Do we not all know that we have got to act upon the subject legislatively? Do we propose to leave this subject open for a series of years, until some sort of process, unknown to me, some sort of bill, can get into the Supreme Court, upon which a decision may be had in relation to it? I tell you, sir, my opinion has been, and is, that what we now do is temporary, because we have no time to perfect a system of territorial government. This is a short session, and we are at the end of it. And we propose by this bill that the Mexican laws shall exist? How long? The Senator from Georgia says until repealed. We propose to shorten their duration. We purpose to fix a time beyond which they shall not continue. Otherwise, if we did not act at all, they would exist forever. Now, I put it to the Senator from Georgia—and there is no difference of opinion between us as to the law of nations—but I put it to him, whether, as a practical measure, it is worth while to send this bill back to the House to accomplish nothing? Sir, I shall detain the Senate no longer.

Mr. BERRIEN. Upon an ordinary occasion, I should willingly submit to the criticism of the opinions which I have expressed which has been made by the Senator from Massachusetts. Sir, I do not merely reciprocate the kindly expression which the honorable Senator uses towards me; but I say that his established reputation as a lawyer makes even the very imperfect argument which he has now addressed to the Senate an argument which must be replied to or submitted to. Sir, the honorable Senator says, that taking what he supposes to be my statement of the law of nations, in that particular he entirely agrees with me. But he does not state the whole proposition. I did state, in the hearing of the Senate, that the laws of a conquered country remained in force until they were repealed by the conquering Power. But I did also say—what the Senator did not—that that principle does not apply to all the laws. I said that those laws which regulate the relations between individuals remain in force, notwithstanding that the supreme authority is that of the conquering power.

Mr. WEBSTER. The Senator is quite right in that. The reason that I did not advert to it was, because, in the subject before us, we did not propose to touch anything beyond the political regulations of the Territories.

Mr. BERRIEN. The honorable Senator has not touched the question. The question is, whether a law regulating slavery is not a question to be settled by the supreme judicial tribunal? There is no question as to whether it does, or not, exist under our organic law as a basis of representation, and subject to taxation.

Mr. WEBSTER. Where?

Mr. BERRIEN. In the Constitution of the United States.

Mr. WEBSTER. But in what locality?

Mr. BERRIEN. Everywhere, where the Constitution extends.

Mr. WEBSTER. In Massachusetts?

Mr. BERRIEN. Yes, in Massachusetts, and only not now in Massachusetts because Massachusetts, in the exercise of her sovereign authority, has abolished the institution. But slavery was recognized by the Constitution as existing in the several States of the Union, and was made a basis of representation and taxation. Then the question is, whether that which is made the basis of taxation and representation is not a law political; whether it is not a law affecting commerce, the relations of individuals; or whether it is a law affecting the relations of the people and their government? The principle of the law of nations, as laid down everywhere, is this: The law which affects the relations of individuals exists, notwithstanding a change of sovereignty. The law which affects the relation of people to the sovereign at once ceases. Well, now, we have no sovereign except the people, who form the government; and all the laws which affect the relations between the people and the government at once cease. And the simple inquiry is, whether slavery, as recognized by the Constitution of the United States, does affect the relationship which exists between the people of the United States and the Government? And the question will be made clearly applicable to any territory which may be acquired by the United States, whether it be annexed to the United States as territory, or whether it be incorporated into the Union as States—the relations which exist between the people and this Government, or between the people and the political laws, which cannot exist after a transfer of Mexican authority. But that is not the only question between the Senator from Massachusetts and myself. He stated a portion of my argument without stating the modification. It is not, therefore, a mere nugatory provision to reënact the laws of Mexico. The Senator proposes not merely to reënact the private laws, the laws which affect the relations between individual and individual, but, by a general sweeping enactment, he reënacts those laws which, under the principle embraced in the law of nations, would cease to have vitality.

Mr. CAMERON. I rise to a question of order. I find that no member shall speak more than twice, in any one debate, without leave of the Senate.

PRESIDING OFFICER, (Mr. RUSK in the chair.) The Chair recognizes the rule. It is not competent for the Senator from Georgia to address the Senate a third time upon the same proposition.

A message was here received from the House of Representatives announcing that they were ready to adjourn. [Quarter past three o'clock, a. m.]

Mr. WEBSTER. Question on the amendment.

PRESIDING OFFICER. The motion is to strike out the second section. Is the Senate ready for the question?

Mr. BERRIEN. The Senator accepted a modification of his motion, so as to strike out certain words of the section?

Mr. CASS. As I am among those who believe that the term of this session has expired, and that it is incompetent for us now to do business, I cannot vote upon any motion. I have sat here as a mere looker on. I merely desire to explain why I took no part in the proceedings.

Mr. BERRIEN. Upon the motion before the Senate I ask for the yeas and nays.

They were ordered.

Mr. BRADBURY. I shall vote against the amendment offered by the Senator from Georgia, [Mr. BERRIEN,] as I am satisfied that if it is adopted, or any other amendment, excepting one to strike out the entire clause relating to territorial governments, and the bill is again returned to the House at this late hour, it will defeat it. I am not willing to do anything that will defeat this bill. It is a most important appropriation bill, and I will take upon myself no share of the responsibility of defeating it. I feared this result when the attempt was first made to ingraft upon it the incongruous proposition to give the President the power to govern our Territories; and believing, also, that by entertaining the proposition we were losing all chance to pass at this session suitable territorial bills, I opposed the amendment of the Senator from Wisconsin [Mr. WALKER] at the outset. The House has rejected it, and sent back another proposition less objectionable in its character. The responsibility is now on those who began this course of ingrafting incongruous amendments on appropriation bills. If they send back this bill at this late hour, with the amendment of the Senator from Georgia, the bill will be lost, and they must take the responsibility of the loss.

Mr. TURNEY. I am one of those who believe that we have no right to sit here. The time has expired; one-third of this body are not present at all, and the others have no right to sit here as a part of Congress. But a motion has been made for adjournment, and the Presiding Officer has refused to entertain that motion. This being the case, I must regard all that is done as done in violation of the Constitution, or, rather, not in pursuance of it. It appears to me that we sit here more in the character of a town meeting than as the Senate of the United States, and that what we do is no more binding on the American people than if we did it at a town meeting. I shall express no opinion by saying yea or nay on the question before the Senate. At the same time, I protest against it as being no part of the constitutional proceedings of the Senate of the United States.

The Secretary was proceeding to call the yeas and nays, when—

Mr. YULEE rose and said: May I be permitted to ask what the precise question is?

PRESIDING OFFICER. The amendment will be read.

The Secretary read the amendment.

Mr. YULEE. I should be very sorry, indeed, to make any proposition which may in any degree run counter to the general sentiment of the Senate; but I feel bound, laboring under the strong conviction that I do, to arrest at every step, and by every means, any recorded judgment of the Senate at a time when we are not legally engaged in the discharge of our Senatorial duties. I agree entirely in the view taken by the Senator from Michigan.

Mr. BRIGHT. I rise to a point of order. After the call of the yeas and nays has commenced there can be no debate. I call for the enforcement of the rule.

Mr. YULEE. After there has been an answer, I grant you debate would be out of order.

Mr. BRIGHT. I ask for the decision of the Chair.

PRESIDING OFFICER. The Chair decides that the Senator is in order, no response having been made.

Mr. YULEE. Well, then, it must be evident to the Senate that, if we are proceeding without right, we are proceeding in violation of our duty and our oaths. I, for one, desire that my conscience may be clear, and that the doubts which hang heavy on my mind may be set at rest by the solemn judgment of the Senate. If we may rightfully proceed, it is my desire to take my share of responsibility for the acts of this body; I wish to give my constituents and the country the benefit of my vote, as my judgment may determine me to vote; but before I can give it, I desire that the Senate should advise me whether, in the judgment of a majority, it is proper for us to proceed. I shall yield to their decision; and it is with a view to obtain that decision that I make the motion that this bill be laid aside, for the purpose of taking up the House resolution relating to adjournment.

Mr. BRIGHT. I deny the right of the Senator to make that motion, the yeas and nays having been ordered, and the call having commenced.

Mr. YULEE. I contend that it is in order to lay aside the bill and take up the resolution, no response having been made.

Mr. BRIGHT. I ask for the decision of the Chair.

PRESIDING OFFICER. The Chair will first refer to the rule.

Mr. FOOTE. I rise to a question of order. It is not constitutional. We have no right to legislate in this way.

PRESIDING OFFICER, (having referred to the rule.) The motion is in order.

Mr. BRIGHT. I take an appeal from the decision of the Chair.

Mr. KING. I hope the Senator from Indiana will not insist upon that appeal. There can be no question that, the yeas and nays being ordered, if there had been a response, it would prevent any gentleman from speaking upon the subject. I trust that the Senator will withdraw his appeal, and not consume the time of the Senate upon points of order.

Mr. BRIGHT. I have no disposition to take up the time of the Senate, but I feel quite certain that I am right upon this point. I contend that the fact that there was no response does not alter the question at all.

Mr. BERRIEN. A vote of the Senate cannot decide a question of constitutional right; and after their decision of this question, the Senator from Florida would be just where he is now. If he will withdraw his motion until after the yeas and nays are taken here, and will then submit a simple question to adjourn, the question of order cannot arise, and he can attain his object as far as it could be attained by submitting his motion at the present time.

Mr. YULEE. The Senator will perceive that the object of making the motion would be defeated. The object is to ascertain whether I shall give my constituents the advantage of my vote without a violation of my duties under the Constitution. If I have a right to vote, I wish to give my constituents the benefit of my vote; but, if I have not the right, I do not wish to violate my duty and conscience. I cannot withdraw my motion, therefore, however much I might wish to accommodate gentlemen.

Mr. MANGUM. I would ask the Senator from Florida, if we are in a condition in which we can take no vote, how it is that we can take up the resolution?

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Mr. YULEE. Upon the ground stated by the Chair. When I made the motion to adjourn *sine die*, the Chair referred to the rule (which had escaped my memory) that one branch of Congress cannot adjourn, for a period exceeding three days, without the concurrence of the other branch. We have now a proposition from the House to adjourn, and it is the only thing upon which we can act.

Mr. BRIGHT having withdrawn his appeal, the question was put upon the motion of the Senator from Florida.

Mr. YULEE asked for the yeas and nays.

They were not ordered, and the motion was disagreed to.

The question being put upon the amendment, and the yeas and nays having been ordered—

Mr. BORLAND. I ask to be excused from voting, for the reasons which have been so clearly expressed by the Senator from Michigan and the Senator from Florida.

The yeas and nays being then taken, resulted as follows:

YEAS—Messrs. Atchison, Bell, Berrien, Butler, Cameron, Davis of Mississippi, Dickinson, Downs, Fitzpatrick, Foote, Houston, Hunter, Johnson of Georgia, King, Mangum, Mason, Rusk, Sebastian, Turney, Westcott, and Yulee—21.

NAYS—Messrs. Atherton, Baldwin, Bradbury, Bright, Clarke, Corwin, Davis of Massachusetts, Dayton, Dix, Dodge of Iowa, Douglas, Felch, Greene, Hale, Hamlin, Johnson of Maryland, Jones, Metcalfe, Miller, Niles, Pearce, Spruance, Underwood, Upham, Wales, Walker, and Webster—27.

So the amendment was rejected.

Mr. DICKINSON. The Senator from Ohio did not vote because his constitutional term had expired.

Mr. FOOTE. I move that the Senate of the United States do now adjourn. It is nearly four o'clock.

Mr. HALE asked for the yeas and nays.

Mr. FOOTE. Believing that we have no right to sit here, [Cries of "Order! order! order!"] I now claim the privilege of putting in my protest against any further action of this body.

PRESIDING OFFICER. The motion of the Senator is out of order.

Mr. FOOTE. I take an appeal.

Mr. BERRIEN. Does the Chair decide that a simple motion to adjourn is out of order?

PRESIDING OFFICER. No, sir.

Mr. BERRIEN. It is simply a motion to adjourn.

The PRESIDING OFFICER stated the question to be on the motion to adjourn.

Mr. HALE again asked for the yeas and nays, and they were ordered.

Mr. FOOTE. I rise to a point of order. It is, that no member whose term expires at midnight has a right to vote.

Mr. WEBSTER. This is very extraordinary. The call must be allowed to proceed.

PRESIDING OFFICER. The Senator from Mississippi is out of order.

Mr. FOOTE. I announce to the Democratic members of this Senate that the President of the United States has gone home.

Mr. WEBSTER. Order! Order!

Mr. FOOTE. Who calls to order after twelve o'clock? The Senator from Massachusetts is a constitutional lawyer. He knows that we have no right to sit here.

Mr. WEBSTER. I call on the Chair to preserve order.

Mr. FOOTE. Let him put his point of order in writing.

PRESIDING OFFICER. The Senator from Mississippi is out of order.

The yeas and nays were then taken, and resulted as follows:

YEAS—Messrs. Fitzpatrick, Hale, Hunter, Johnson of Georgia, Mason, Niles, and Yulee—7.

NAYS—Messrs. Atchison, Atherton, Baldwin, Bell, Berrien, Bradbury, Bright, Butler, Cameron, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dayton, Dodge of Iowa, Douglas, Downs, Greene, Houston, Johnson of Maryland, Jones, Mangum, Metcalfe, Miller, Pearce, Rusk, Spruance, Sturgeon, Underwood, Upham, Wales, Walker, and Webster—33.

So the Senate refused to adjourn.

Mr. BRIGHT. We have now reached the point in this matter that I think the Senate has been trying to reach. We have got beyond mere abstract questions. We are now to decide whether we will do something, or whether we will do nothing. We are to decide whether the wheels of the Government, for the next twelve months, shall stop, or shall continue to roll on. If they are to go on, we must strip this bill of all that is incongruous, and pass it in the condition in which it ought to be. I believe the large majority of this body are disposed to do this. The effect of receding from our amendment will be to let the amendment incorporated upon it by the other House fall with it. If the Senate recede, the difficulty will be over, for it will require no concurrent action upon the part of the House to declare this bill a law. I move, therefore, that the Senate do now recede from their amendment. The effect of it will be, as I contend, to strip the bill of everything relating to a government for California.

Mr. WEBSTER. The motion first in order is to concur in the amendment of the House; and I ask whether, if this motion be rejected, we cannot then vote to recede from our own amendment?

Mr. KING. There can be no question but that the Senate has power, at this time, to recede from their amendment to the bill; and, if they do so recede, the amendment of the House falls as a matter of course, and it strips the bill of the whole matter relating to California. We have done that very thing this night, on the motion of the Senator from New Hampshire, in relation to treasury notes. There can be no doubt about it. The practice has been uniform. In order that bills may not be defeated, one or the other House recedes.

Mr. BRIGHT. The Senator from Alabama is perfectly correct in regard to the parliamentary law. What is the effect of our receding from the amendment? It will be that the bill, when stripped of the proposition relating to California, will become a law without being sent back to the other House.

Mr. WEBSTER. Allow me to say to the Senator from Indiana that that is not the question, and cannot be. Two or three hours ago, on the coming in of this question, I moved that the Senate agree to the amendment of the House. The Presiding Officer decided that that proposition might be superseded by a motion to amend. But no proposition can now be in order to recede. We have got to dispose of the amendment of the House, and therefore I insist, with as much confidence as becomes me, that you now put the question, Does the Senate agree to the amendment of the House?

Mr. FOOTE. I disagree with the Senator from Massachusetts, much as I respect his judgment. Why, how can it be the duty of the Presiding Officer to put such a question to this body, when this body is no longer in existence? No man dares state such a point in writing. The question is plain. I care not what man chooses, with perjurious spirit, to violate his oath, I will not do it.

Mr. WESTCOTT. I heard just now, once or twice, a hiss.

Mr. FOOTE. It does not make the least difference. If all the hisses of Pandemonium were sounding in my ears, humble as I am, I assert my own rights; my conscience acquits me, and I am satisfied. I say, sir, (and I intend to put it in print—to send it to the furthest corners of the Republic—to send it across the Atlantic, where I never expect to go,) I intend to state that I did make the proposition this night, four hours after the constitutional term of the Senate of the United States had expired, to prevent legislation. I deny our right to legislate after midnight; nor can we, in my judgment, do so without gross impropriety. With my view of our constitutional duty, I could not participate in legislation after the midnight hour on the 3d of March without a violation of my official oath. I make due allowance for honorable Senators who differ in opinion with me as to our right to legislate after the expiration of the last hour of the 3d of March: as General Jackson once said, "each high public functionary must judge for himself as to the constitutionality of all public measures in the adoption of which he may be called upon to participate." I pronounce we are no longer a Senate. I care not who says the reverse, if he were the most learned jurist in Christendom; and I know I am making a legitimate motion, and one in which the American people will sustain me, when I move that, in any vote to be taken hereafter, those Senators whose term of service expired at midnight shall not be permitted to vote. I make that motion, not in the Senate of the United States, but in this public assembly—this town meeting; and those will not blame me seriously for using this plain language who recollect that Lord Brougham once declared the British House of Lords a *mob*, upon much less provocation. With a view of ascertaining whether there is any remaining sense of propriety in this body, I move that those Senators whose terms of service expired at midnight shall not be allowed to vote.

Mr. UNDERWOOD. I rise to make one effort to see if we can come to a conclusion; and, if we cannot, I shall leave the Chamber. I think the Senator from Indiana is not sustained by parliamentary law in the motion that he has made. Here is the law, sir:

"The regular progression in the case is, that the Commons disagree to the amendment; the Lords insist on it; the Commons insist on their disagreement; the Lords adhere to their amendment; the Commons adhere to their disagreement. The term of insisting may be repeated as often as they choose to keep the question open. But the first adherence by either renders it necessary for the other side to recede or adhere also, when the matter is usually suffered to fall."

Now, Mr. President, what is this amendment? We amended a bill of the other House, and it is returned, and for that amendment another proposition is substituted. You cannot, then, by receding from the original amendment, get clear of the new proposition which has been inserted; because, until the Senate vote upon the new proposition, there is no disagreement; there is nothing to recede from. You have not ascertained that there is any division between the two Houses.

Mr. DAVIS, of Mississippi. The Senator from Indiana will more readily get to the conclusion he wishes to arrive at by a short route. We can first move to recede, and then to disagree.

Mr. UNDERWOOD. Then one word more, sir——

Mr. FOOTE. I call my friend to order. I am entitled to respect. I have made a point of order in regard to the organic law of this body, and I am entitled to have it decided.

PRESIDING OFFICER. The Senator will state his point of order.

Mr. FOOTE. My point of order is, that the hour of midnight being past, those Senators whose terms of office expired on the 4th of March, in the beginning of the morning, have no right to vote with us upon the questions pending.

Mr. TURNEY. Now, I propose to inquire whether this is in order or not. Here is a President to be inaugurated on the 4th of March, at 12 o'clock, and he will receive compensation for that day. But at the end of his term, will he also receive compensation for the fourth day of March? I apprehend that no gentleman can show an instance in which both days have ever been included. At the very moment that the third day of March terminated, at that very instant we were without a Chief Magistrate; and all the power pertaining to that office fell upon the presiding officer of this body. Now, I have another question. What has been the rule, ever since the foundation of this Government, in both Houses of Congress, in regard to the per-diem allowance of members? Your Secretary can inform you whether he has ever paid the members of this body for the fourth day of March. Are we to receive compensation for this day? Assuredly not; notwithstanding we are sitting up all night, in consequence of the Presiding Officer refusing to entertain a motion to adjourn the body. If Senators cannot receive their per diem, can they legally enact laws, or do any act? Where do you find authority for it?

Mr. UNDERWOOD. Will the gentleman allow the point of order to be stated and decided?

Mr. TURNEY. Certainly.

Mr. FOOTE read his point of order, which he had reduced to writing, in obedience to a requisition of the Chair, as follows: My point of order is, that those Senators whose term of office expired on the third day of March have no right to vote upon any question now before the Senate.

Mr. JOHNSON, of Maryland. There is no point of order made.

PRESIDING OFFICER. The Chair does not consider that as a point of order.

Mr. TURNEY. From that decision I appeal; and I will do so if I am to sit here for how long Heaven only knows.

Mr. JOHNSON, of Maryland. "Have no right to vote?" that is no point of order at all. How does he know that they purpose to vote?

Mr. TURNEY. Now, in order to test the point——

Mr. FOOTE. I move that a committee be appointed——

PRESIDING OFFICER. The Chair decides this paper to be no point of order.

Mr. TURNEY. I have not yielded the floor. Whatever it is, it involves a question; and that question will be tested by the question which I have propounded to the Chair, whether the per diem allowance has ever been claimed by any member of this body for the fourth day of March; whether the account has not uniformally been made to terminate with the third day of March. Have you, sir, ever received compensation for the fourth day of March? Have you ever heard it named? Have you ever known Congress fail to adjourn within one or two hours after the expiration of the third of March? I am free to admit that even that was a violation of the Constitution, when they assumed to act but for a few hours, and that for the purpose of winding up the business. I challenge contradiction upon this point. Can there be a joint resolution, or a bill passed on the fourth day of March? Look at your journals; look at every short session from the foundation of the Government. Can you find any legislative act that was done on the fourth day of March? Hence I demanded, more than an hour ago, that the time should be recorded upon the journal, that it might be seen how we were engaged, and what time. Let us see by what authority we are forced to remain. Having said thus much, I care nothing about the appeal. I withdraw it.

Mr. UNDERWOOD. I will now submit, if the Senate will be kind enough to hear me a few moments, the remaining observations which I was about to make when interrupted. We must bring this debate to a close. There is a rule which states that no individual shall speak more than twice on the same subject during the same day, without leave of the Senate. Most of us have spoken more than twice. Hereafter I shall insist that there be no infringement of this rule.

Mr. FOOTE. Has any Senator spoken more than twice on this amendment?

Mr. UNDERWOOD. It is the same thing. No member shall speak more than twice in one debate the same day. The debate is on this bill.

[Question! question!]

I have another remark to make. I ask my friend from Mississippi, I ask my friend from Tennessee, I ask other gentlemen on this floor, who say that they have no constitutional power to act further, I ask them if it is fair, if it is right, if it is generous, if it is magnanimous on their part, when others differ from them, to try to coerce those others into the adoption of their views?

Mr. FOOTE. Will my honorable friend allow me to explain?

Mr. UNDERWOOD. I have but a word or two to add, and then I shall have done.

Mr. FOOTE. I hope the Senator will not attempt to enforce the parliamentary rule against me.

Mr. UNDERWOOD. I give way, sir.

[Here one or two groans were heard.]

Mr. FOOTE. I know my rights, and will maintain them, too, in spite of all the groans that may come from any quarter. Groans will have no effect on me, even though they shall equal the thunders of the most terrific volcano that ever shook the eternal mountains. I beg gentlemen not to give themselves the trouble to hiss me, or to groan, or call to order, for I assure them that it will have no more effect on me than the idle wind that passes by me, which I regard not.

Now, sir, I will reply to the Senator. He appeals to his friend from Tennessee, and he has kindly yielded the floor for explanation. He is quite magnanimous. It is not proper, he says, for us, if we believe that this body is no longer a legislative body, to insist on disturbing and preventing the action of others. Well, believing as I do, before God and man, that this is not the Senate of the United States, but believing that if it proceeds as it is now proceeding, its acts will be stamped with the insignia of illegality and fraud—believing that if this body thus proceeds to exercise legislative functions in the absence of conscientious men who would not remain and give countenance to what they believed to be unconstitutional, great mischief will be done, a most flagitious fraud will be perpetrated,—believing this, does the Senate suppose that it is indecorous in me to rise up and insist that others shall not perpetrate such an act as this, when I believe that my native land will suffer deep detriment by such attempt at legislation? When I believe that gentlemen are acting upon an erroneous opinion in supposing that they have a right to legislate when they have no such right, shall I sit idle here and permit them to go on and produce all the momentous consequences to be apprehended? If I did so, I should feel myself to be worse than a perjured man. I love magnanimity, generosity of feeling; I am desirous of showing civility to my fellowmen; but, so help me God, never will I exercise magnanimity, or attempt to exercise civility, at the expense of the Constitution and of the laws of the land. Never, never. And it surprises me that gentlemen learned in the law should get up here and appeal to our magnanimity to forbear from interposition. Am I to be told by the Senator from Kentucky that a gentleman is not authorized to speak upon an amendment or a bill——

Mr. UNDERWOOD. Allow me to say that I was perfectly satisfied he had no sinister motive in view.

Mr. TURNEY. If the Senator will allow me to respond, I will do it in very few words.

Mr. FOOTE. I have not yielded the floor. As I find gentlemen so very technical, I intend to insist on my rights. Gentlemen say to me if you give way, and say no more, the matter can be accomplished. But if, as I believe, it cannot be done legally, and that if done great mischief will arise, I do not choose to give way. We cannot get through before nine o'clock to-morrow, and I would like to know what Senator dare to pocket pay after midnight. The day expires at midnight. Is it unmagnanimous in me to insist that this sort of legislation—this *pseudo* legislation—this legislation which is to bring upon the country all the horrors of the Wilmot proviso, and worse—is altogether improper? I understand the Senator from Massachusetts to have withdrawn his motion.

Mr. WEBSTER. I intend to address the Chair, if the Senator will take his seat and not interrupt me.

Mr. FOOTE. Though the mightiest archangel were here, I would require him to keep order.

Mr. UNDERWOOD. I only yielded the floor for explanation.

Mr. WEBSTER. Will the Senator yield the floor?

Mr. FOOTE. I will do so, but the Senator will have to wait a little. All I have to say is, that the Senator from Kentucky has criticised my course somewhat severely. I do not stand here for the purpose of being a subject of animadversion for any one. The Senator from Massachusetts I know is incapable of descending to what is so far beneath the dignity of a Senator. I hope he will be a little merciful.

Mr. WEBSTER. I am disposed to make one more effort to dispose of this subject; that is, some time between this and twelve o'clock to-morrow. I have been of opinion that all this matter about California was wrong. I will not pursue it. But I am willing to take this course: I am willing now to withdraw my motion to concur, though I do not do it at this moment until I state what my view is. I am willing to withdraw my motion to agree to the amendment of the House, if gentlemen will then move to recede from the Senate's amendment, and let the bill pass as a mere appropriation bill.

Mr. ATHERTON. Mr. President——

Mr. BERRIEN. Will the Senator permit me——

Mr. ATHERTON. I wish to say one word. I was about to endeavor to get the floor to make the same suggestion which has been made by the Senator from Massachusetts. I have had on myself some responsibility as it regards this bill. I feared at the time of the introduction of the amendment, and so stated, that it would endanger the passage of the bill. I objected to the amendment, and resisted it on that ground. I feel that, so far as my own action is concerned, I am clear of responsibility in this respect, and I find no fault with gentlemen who thought otherwise. With regard to the Indian appropriation bill, the House offered an amendment to the amendment of the Senate. The Committee of Conference were unable to agree. I made a motion that the Senate disagree to the amendment of the House to the amendment of the Senate. I made it in that form. The question was put and carried, and the bill was passed. The amendment of the Senate and the amendment of the House to that amendment being thus disposed of, the bill was passed. Now, I hope the Senator from Massachusetts, if he varies his motion, will put it in this form: that the Senate disagree to the amendment of the House and recede from their own amendment.

PRESIDING OFFICER. Do I understand the Senator from New Hampshire as making that motion?

Mr. ATHERTON. I will make the motion.

Mr. WEBSTER. If the Chair says that the question can be entertained, I will yield the floor.

PRESIDING OFFICER. It can be entertained.

Mr. DOUGLAS. In the first place, Mr. President, the two motions cannot be put together; I object to their being so put; and I renew the motion to concur; which, I apprehend, has precedence, whether proposed first or last.

Mr. BRIGHT. I wish to make one remark. The Senator from Massachusetts moved that the Senate concur in the amendment of the House, and I followed that motion by another, that the Senate recede from its amendment. The Chair decided that the motion to concur must be put first. And if the Senator from Massachusetts withdraw his motion, then, as a matter of course, my motion follows.

Mr. DOUGLAS. I wish now to understand whether a motion to recede takes precedence of a motion to concur.

PRESIDING OFFICER. The motion to recede being first made takes precedence.

Mr. DOUGLAS. Well, I hope the Senate will not recede. I hope we shall proceed, and give some sort of government to California. We can do that if we adhere, or if we concur. I am willing to do either. And in either way we get a government for California. But I can never vote to recede, and thereby abandon the country.

Mr. BUTLER. What is California in comparison with thirty States?

Mr. HOUSTON. I am very reluctant, on any occasion, to occupy a moment of the time of the Senate, and more particularly so at present, when its time is of so much value; and I would not add a single word to what has been said, were it not that this question is so vitally interesting to this Union, and to the character of these United States.

I have forborne on every occasion since this debate commenced to offer any audible opinion—nay, I have not even offered a suggestion to any gentleman who has participated in the debate. But I assure you, sir, as an American Senator, as a citizen, as an individual claiming the protection of the laws of this Union, I have felt the most painful and intense emotions upon witnessing a spectacle exhibited here such as I had never anticipated; and, although I have waded through scenes of anarchy and turbulence, though I have seen people forming a disorganized mass, a chaotic community, I never entertained the same feelings that I have on this occasion. I have seen order resolved from this mass of chaos, but I have never seen order resolved into chaos before. To witness the American Senate, as an American citizen—to see that most sublime and magnificent spectacle ever presented or contemplated resolve itself into disorder and confusion, has oppressed me with much feeling on this occasion. When I have seen the waves of turbulence agitated; when I have seen grave and reverend Senators upon this floor agitated and discomposed as upon the present occasion, I have felt deeply that we exhibited a spectacle to the civilized world at which we should cover our heads with shame.

I hail, sir, the approach of order and regularity.

I will not rebuke the Senate. Every Senator upon this floor is capable of instructing and teaching me. But I cannot repress my joy at the return of system and order. I felt, as I doubt not others felt, when the proposition was made to give a government to California; I felt that something ought to be done; and, less regardful of the true rules of the Senate than I ought to have been, I readily acquiesced in ingrafting upon this bill a provision that was not germane to it. For this, sir, I pay the penalty of contrition and penitence. I regret that I allowed myself to break over the regular course so far as that. We have now arrived at a crisis when it is necessary for us to act for the honor and security of the country, and I do not hesitate to retrace my steps. I return from the course I improperly adopted. Sir, without California the States can exist; but, without the States of this Union, California is less than nothing. Let us preserve the Union. Let us administer the laws of the Union, and let us not be turned aside from our own safety in legislating for others. Let us not keep back our country from the high destiny that awaits her in after time. Let us remember that the world looks to us. It is not our constituency alone—those of whom some gentlemen are so regardful—but it is the whole world, who looks upon us with admiration or disregard—for I will not say contempt; I cannot feel that this body deserves contempt—the whole world looks to us to illustrate that sublime character which the God of nature and the operation of human reason has stamped upon man.

I trust that we can recede; that we can non-concur with the amendment of the House, and recede from our own proposition; and that the waves of discord, though they run mountain high in this Senate Chamber, shall be calm and tranquil as a summer sea. Yes, sir, it requires but the magic touch of reason and the ennobling teachings of patriotism. Throwing aside technicalities, which only obstructed our progress, let us have regard only to the promptings of honor and patriotism; disregarding everything that is of minor importance, let us, in an emergency like this, act with a firm determination that the best interests of the nation shall be protected and preserved.

Mr. WALKER. For the purpose of setting myself right——[Cries of "Question, question!"] I shall not detain the Senate long. I am not in the habit of making long speeches. If I understand the proposition, it is to disagree to the amendment of the House, and then to recede from our own. Now, I beg, most respectfully, to submit to you that such a thing cannot be done. The House has sent us a proposition, without asking us to recede from our own amendment; and to recede will not be to respond to the question put by the House. The only questions that can be in order, are either to agree or to disagree to the amendment of the House.

Mr. WEBSTER. The gentleman is mistaken.

Mr. WALKER. I shall be very much pleased if the Senator from Massachusetts will show me that he is right, and I am wrong. I should be glad to have the decision of the Chair.

Mr. UNDERWOOD. I had a few remarks to make when I yielded the floor to the Senator from Mississippi, and from that time to this I have not been able to utter them. I rise now merely to say—and then quit the subject forever, I trust—suppose you pass this bill, by striking out everything relating to a government for California, what is to be done after that? We are told that the President has left the Capitol, and is *functus officio*.

A SENATOR. Not so.

Mr. UNDERWOOD. Well, if the information is incorrect, the President is now waiting for our action on this bill. Then, sir, he goes on the idea that we have the constitutional power to pass it, and that he will coöperate with us in making it the law of the land. Granting this, I am against striking out this provision which has been made for the government of California, upon the motion first of the Senator from Wisconsin, and subsequently on the motion of the Senator from Massachusetts. Sir, I took the responsibility, so far as my vote went, of putting this provision in the bill; and, having done that, I am not willing now to strike it out. Having inserted a provision giving a government to California, I am unwilling to back out and proclaim to this nation that an exciting question between the North and the South is to dissolve the Union, because we are incapable of legislating in consequence of the existence of that question. Sir, I would do no such thing. It is our duty to give a government to California, and I trust we have everything we can reasonably ask in the proposition before us, and I shall therefore vote for retaining the amendment.

Mr. FOOTE. I shall only offer a remark or two; and I suppose there will be considerable groaning. Now, what I have to say is simply this: I have a constitutional objection against voting upon any bill after midnight. I know it is midnight; and that is my reason, therefore, for not voting; though certainly, if others choose to vote I have no particular objection, provided the object or their voting is only to prevent the defeat of the civil and diplomatic appropriation bill. Now, in reply to the Senator from Kentucky, I have to offer a simple remark. Sir, we of the Democratic party have made a liberal proposition. We have agreed to intrust high powers, to bestow extended patronage, on a President for whose election we did not vote; a President, every measure of whose administration, so far as the great measures are concerned, we have expected to be in opposition to us. But we are willing to trust to his good sense. Let not the Senator from Kentucky burden us with responsibility that does not belong to us. Distinguished Senators, on that side of the Chamber, have refused to repose that confidence in the President elect that we think he is worthy of. They have attempted to throw obstacles in the way. Every attempt has been made, by amendment upon amendment, speech after speech, to defeat the provision which we believe California has a right to expect at our hands. Sir, as the Senator from Tennessee said the other day, the people of California are our fellow-citizens, and they are in need of the protection of law. The Senator from Wisconsin has brought forward the best proposition. It is sanctioned by many Senators I know it is sanctioned by a personage who is now authorized to exercise the highest authority in this Government. Yes, sir, honest men of all parties have said that this plan is a good one. I mean the proposition to leave the decision of this question to the Supreme Court, that more than Amphictryonic council. It is said that the Judiciary should settle this matter for us; and what is the fact? Good men, enlightened men, everywhere except in the Senate, uphold the measure; and it is defeated by wicked and unprincipled demagogues. And now we are expected to bear the responsibility; and gentlemen are called on, after midnight, to sustain the designs—the unprincipled designs—of those who would lead us into a work of damnation so profound that the whole waters of the ocean could not wash our skirts clean. I know there are those who have devoted their energies in a noble manner to the work of securing to California a government. But there are others, and Democrats, too, and others who are ashamed of their names, vile Abolitionists, who have opposed the work. So long as this is kept up, the whole Republic must be kept in a state of confusion. And, sir, who is responsible for it? Am I? Is the Democratic party responsible? No, sir; no! We have done all that we could to avoid such a calamity. It is the result of scheming which we did not participate in. And now we are called upon to vote, at five o'clock in the morning, to undo all that we have done. It is my opinion that we cannot vote at all. I shall withdraw and decline voting; and, if other gentlemen choose to vote, they must take the responsibility. I say, again, that, if the effect is the defeat of this bill, and the imposition on the incoming Administration of the necessity of calling another session of Congress, I still feel bound to go for it. There is nothing to dread as men and gentlemen; I would put no impediment in the way; I would disembarrass this perplexing question. But if gentlemen, with factious motives of disorganization, in anything but a spirit of patriotism, in a spirit which our fathers would have scorned to breathe, choose to undo the work that we have been engaged in, the responsibility will be upon their heads. My skirts are clear.

Mr. DOUGLAS. I am not going to say a word to prolong the debate; I shall not talk against time, nor consume time unnecessarily. All I ask is, that the votes shall be taken orally; that we may have a fair chance to vote according to parliamentary usage. Now, I ask the Chair what is the distinct motion that is pending?

PRESIDING OFFICER. It is the motion of the Senator from Massachusetts to recede from the amendment of the Senate.

Mr. DOUGLAS. Can the double motion be entertained to disagree to the House amendment, and to recede from our own—can both motions be put at the same time? I ask for a decision upon this point. Have I not a right to ask for a decision?

Mr. RUSK. Will the Senator allow me to explain? The amendment of the House is not an amendment of the bill. It is an amendment to the Senate's amendment. If we recede from our amendment, as a matter of course the whole controversy falls. A protraction of this debate amounts to this: It defeats the whole matter in relation to California, and it defeats the appropriation bill. The proposition comes here under the authority of the Senator from Massachusetts to leave California as before. Upon that proposition I appeal to the Senator from Illinois to permit us to take the question.

Mr. DOUGLAS. I am not throwing any obstacle in the way. I am only asking that the two questions be taken separately, because they are distinct questions. The one relates to the House amendment, and we have no right to pass over that amendment and recede from our own. The House is entitled to have our decision upon their amendment.

Mr. HUNTER. It is too late to raise an objection. The objection should have been made when the decision of the Chair was given.

Mr. DOUGLAS. The Senator will remember that the first word I spoke after the decision of the Chair was given, was, that it was a double motion. In regard to that, I can only state, that although the Chair puts it as one motion, I am not satisfied by any means. But I will not appeal from the decision. Will the Chair inform me if we have a right to have a separate vote?

Mr. TURNEY. I am very much gratified with the motion of the Senator from Massachusetts. I have a desire that the bill shall pass, and receive the sanction of the President, if he can find it in his conscience to give it, having date on the third of March. I hope that may be done.

The question being taken on the motion to recede, it was decided in the affirmative, by yeas and nays, as follows:

YEAS—Messrs. Atchison, Atherton, Baldwin, Bell, Berrien, Bradbury, Bright, Butler, Cameron, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dayton, Dickinson, Dix, Downs, Felch, Fitzpatrick, Greene, Hale, Hannegan, Houston, Hunter, Johnson of Maryland, Johnson of Georgia, Jones, Mangum, Mason, Miller, Niles, Pearce, Rusk, Spruance, Turney, Upham, Wales, and Webster—38.

NAYS—Messrs. Dodge of Iowa, Douglas, Metcalfe, Sturgeon, Underwood, Walker, and Westcott—7.

So the Senate having receded from their amendment, the bill was passed.

REVENUE LAWS IN CALIFORNIA.

Mr. WEBSTER. I suppose it is now proper to take some notice of the resolution of the House, and appoint a committee to wait on the President.

Mr. DIX. I reported this morning, from the Committee on Commerce, a bill to extend the revenue laws over California and to establish a collection district therein. I move that that bill be taken up for consideration.

The motion was agreed to and the bill was read.

Mr. YULEE objected to any further proceeding in reference to this bill.

Mr. MANGUM moved that it be laid on the table, and called for the yeas and nays.

Mr. JOHNSON, of Maryland, (the motion to lay the bill on the table having been at his request withdrawn,) explained the necessity that existed for the passage of the bill.

Mr. MANGUM. I cannot change my determination in regard to this bill. We have refused to give a government to California, and it does strike me as being utterly un-American to attempt to wring taxes out of a people that we refuse to govern. Unless we extend our laws to them, I hope we shall not tax them.

Mr. DAVIS, of Massachusetts. I only wish to add one word. I see, by the last arrival, that a very large number of foreign vessels are engaged in the trade coastwise, between the ports of California and the South American ports. If there be no revenue law enforced there, an inequality will be created. This bill does nothing more than extend the revenue laws over the Territory, and provide for the appointment of revenue officers.

Mr. YULEE. I shall vote for the motion to

lay the bill upon the table, and will state, very briefly, my reasons. If I understand the Senator from Massachusetts correctly, he informs us that ships which have sailed from our northern ports laden with goods, bound for California, are required to pay a duty——

Mr. DAVIS. They pay that duty here.

Mr. YULEE. Under what authority do they pay it?

Mr. DAVIS. By the authority of this law.

Mr. YULEE. The whole amount of the matter is this: Our northern friends deny to their southern brethern the right to go there with their property and be protected in their property; but are very ready to urge upon us legislation by which they are to be benefited in carrying their goods there.

Mr. WEBSTER. The gentleman misunderstands the matter.

Mr. YULEE. I do not think that I misunderstand. If there be no necessity for this law, why press it?

Mr. FOOTE. I hope I may be allowed to offer an amendment to the bill.

Mr. YULEE. I was about to state that I understand foreign goods have the advantage over goods from this country in the ports of California. Well, I prefer that it should be so, so long as we withhold from them a Government. I prefer that the inhabitants of California shall be permitted to purchase their goods wherever they can procure them cheapest, whether in London or elsewhere, and refuse to purchase from the North, until our friends of the North come forward, in the true spirit of brotherhood, and place us upon an equal footing with them. I have no hesitation in avowing this. But, sir, I apprehend that foreign merchants have no particular advantage in the trade of California. At all events, I am prepared to refuse any measure of this kind until you are willing to give to California the protection of a government.

Mr. DAVIS, of Mississippi. If we do not extend our revenue laws over California, the consequence will be that all our goods will be reshipped to ports on the Atlantic. It is robbing the country of its revenue. And I will remark, that it seems strange to me to hear it argued that we are depriving the people of California by not giving them a government. Why, the benefit of any provision that we may make for their government will inure to us. The operation of the law is to benefit us, as proprietors of the territory in which they live. Nor, deeply as I sympathize with the Senator from Florida in all he has said about the right of the southern emigrant, will I ever allow that consideration to interfere with the great interests of the country. I will not allow myself to be actuated by a spirit of resentment. I regard this law as being necessary, and therefore I shall vote for it.

Mr. FOOTE offered an amendment to extend the laws and Constitution of the United States, as far as practicable, to California.

Mr. DIX. If this amendment be adopted, the bill will have to go to the other House; and at this hour there is no chance of its being acted upon by that House. I hope the Senator will not embarrass the bill by his amendment.

Mr. FOOTE. The House is in session, I understand. It seems they feel themselves authorized to continue in legislation.

The question being taken on the amendment, it was rejected.

The bill was then reported to the Senate, and ordered to a third reading.

It was read a third time and passed.

MESSAGE FROM THE HOUSE OF REPRESENTATIVES.

The following message was received from the House of Representatives, by Mr. CAMPBELL, their Clerk:

"Mr. President: I am directed to inform the Senate that the House of Representatives, having no business before it, is, if the Senate have no communication to make to it, now ready to adjourn."

MESSAGE TO THE PRESIDENT.

Mr. DODGE, of Iowa, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee be appointed, jointly with such committee as may be appointed on the part of the House of Representatives, to wait on the President of the United States, and notify him that, unless he may have other communications to make to the two Houses of Congress, having finished the business before them, they are ready to close the present session by an adjournment.

Ordered, That Mr. DODGE be the committee on the part of the Senate.

The following message was received from the House of Representatives by Mr. CAMPBELL, their Clerk:

"Mr. President, the House of Representatives concur in the resolution passed by the Senate for the appointment of a joint committee to wait on the President of the United States, and notify him that, unless he may have other communications to make, the two Houses having finished the business before them, are now ready to adjourn, and have appointed Mr. JOHN A. ROCKWELL, Mr. HOWELL COBB, and Mr. LEWIS C. LEVIN, a committee on their part."

THANKS TO THE PRESIDENT PRO TEM.

Mr. MANGUM submitted the following resolution, which was considered by unanimous consent, and agreed to:

Resolved unanimously, That the thanks of the Senate are due, and are hereby tendered, to the Hon. Mr. ATCHISON, for the ability, dignity, and impartiality with which he has performed the duties of President of the Senate *pro tempore*.

EXECUTIVE BUSINESS.

A message in writing was received from the President of the United States.

The Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened.

ADJOURNMENT SINE DIE.

Mr. DODGE, from the committee appointed on the part of the Senate, jointly with the committee appointed on the part of the House of Representatives, to wait on the President of the United States, and notify him that the two Houses, having finished the legislation before them, are ready, if he has no further communication to make, to adjourn, reported that they had performed the duty assigned them, and that the President replied that he had no further communication to make.

On motion, it was

Ordered, That a message be sent to the House of Representatives to inform the House that the Senate, having finished the business before them, are about to adjourn.

Whereupon, at seven o'clock a. m. of Sunday, March 4, the Senate adjourned *sine die*.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March* 3, 1849.

On motion of BRODHEAD, the reading of the Journal was dispensed with.

BUST OF MR. ADAMS.

Mr. ASHMUN rose and said: Mr. Speaker, I ask the particular attention of the members for a few moments. A year ago a distinguished member of this House died under circumstances that made a deep impression upon us who witnessed them, and upon the whole country. In order to commemorate those circumstances, and to mark the spot upon which he died, a voluntary subscription was made by many gentlemen of all parties in this House, for the purpose of procuring a marble bust of Mr. Adams, to be placed in the Speaker's room; and a contract was made with an eminent artist to make one, for which he was to receive the sum of six hundred dollars. That bust has been completed, and has been during the last three days placed in the Library of Congress for public inspection. As a work of art, it has commanded the most marked and general approbation. Of course, it cannot be placed in the Speaker's room without the authority of the vote of this House; and for that purpose I have prepared a resolution which I now hold in my hand. There is also another matter for which I wish to have provision made. It is this: Mr. King was by the contract under no obligation to transport the bust from Boston to this city. But in order to insure its safe transportation, and to see that it be properly placed, he has, at considerable expense of time and money, brought it here, and is waiting for the authority of the House to complete its location. Mr. King, like most artists of genuine merit, cannot afford to bear this loss. And, moreover, as is generally the case with such subscriptions, there is a deficiency in the collection of the subscriptions. In order to make provision for these several objects, I offer the following resolution:

Whereas a bust of John Quincy Adams, late a member of this House, has been procured by the voluntary contributions of members, for the purpose of being placed in the Speaker's room, to mark the spot and commemorate the circumstances of his death: therefore,

Resolved, That the Clerk of the House be directed, under the supervision of the Speaker, to cause said bust to be suitably placed in the Speaker's room; [and that the Clerk be directed to pay to John C. King, the artist who made said bust, for his expenses and time in transporting said bust to Washington, such a sum, not exceeding $400, as in his judgment said King ought to receive.]

Mr. JONES, of Tennessee, objected to the reception of the resolution.

Mr. ASHMUN moved to suspend the rules, to enable him to offer it.

Mr. JONES, of Tennessee, asked the yeas and nays on this motion; which were ordered.

Mr. GRINNELL requested the attention of his colleague for one moment. He besought him to modify his resolution, so as to strike out all that part which proposed an appropriation. He never wanted to hear the name of Mr. Adams connected with money in this Hall. He would pay the expenses out of his own pocket. He asked the gentleman to modify the resolution.

Mr. ASHMUN. I will modify the resolution in obedience to the wishes of my friend; but I do think it is not an honor to the House that the gentleman should be placed in such circumstances.

The resolution was accordingly modified, by striking out that part inserted in brackets.

The SPEAKER stated that the question was on the motion to suspend the rules.

Mr. JONES, of Tennessee, renewed the demand for the yeas and nays; upon which a count was again taken; and but twelve gentlemen rising, the yeas and nays were not ordered.

The question was taken, and decided in the affirmative.

So the rules were suspended; and the resolution, as modified, was brought before the House, and again read.

The yeas and nays were asked and ordered upon its adoption, and being taken, were—yeas 125, nays 19.

So the resolution was adopted.

BRANCH MINT IN NEW YORK.

Mr. TALLMADGE moved that the rules of the House be suspended, to enable him to move that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill to establish a branch mint in the city of New York, in order that the said bill might be put upon its passage.

Mr. MEADE moved to amend the motion so as to include the bill to establish a branch mint at San Francisco, California.

The SPEAKER said the motion was not in order.

Tellers were asked and ordered on the motion to suspend the rules, (Messrs. POLLOCK and LIGON.)

And the question was then taken, and decided in the affirmative—ayes 100, noes 31.

So two-thirds voting in the affirmative, the rules were suspended.

And the bill thus being before the House, was read.

Mr. TALLMADGE moved the previous question on the engrossment of the bill.

Mr. BRODHEAD said that there was no necessity for the passage of this bill. It was merely expending a heavy sum of money for nothing. He moved that the bill be laid on the table.

And the question was taken, and decided in the negative.

So the bill was not laid on the table.

The question recurring on the demand for the previous question—

Mr. POLLOCK asked Mr. TALLMADGE to withdraw the motion.

Mr. MURPHY made a similar request, that he might have an opportunity to offer an amendment.

Mr. TALLMADGE persisted in his motion.

The previous question was then seconded; and the main question having been ordered to be now taken, the bill was ordered to be engrossed for a third reading.

Mr. TALLMADGE moved a reconsideration of the vote, and that that motion be laid on the table.

It was ordered accordingly.

Mr. BRODHEAD inquired of the Speaker whether the bill had been engrossed?

The SPEAKER said he would inquire of the Clerk.

Whilst the Clerk was absent ascertaining the fact—

Mr. COBB, of Georgia, said there was a joint resolution from the Senate correcting a clerical error in a certain bill. He moved that it be taken up.

The SPEAKER said it could only be done by unanimous consent.

Mr. JONES, of Tennessee, objected until the bill under consideration had been disposed of.

The Clerk now stated to the Speaker that the bill in relation to the branch mint had not been engrossed.

Mr. DIXON moved that the rules of the House be suspended, for the purpose of acting on the said bill, without being engrossed.

Tellers (Messrs. TAYLOR and SAWYER) were appointed.

And the question was taken and decided in the negative.

So two-thirds not voting therefor, the rules were not suspended.

Mr. LYNDE asked the unanimous consent of the House to take up at this time the joint resolution from the Senate, referred to by Mr. COBB, of Georgia, to correct a clerical error in a bill which had passed both Houses.

Mr. SMITH, of Indiana, objected to all business out of order.

Mr. LYNDE moved a suspension of the rules, to enable him to submit the motion.

Mr. WENTWORTH said that the gentleman could accomplish his object by a motion renewing the motion which he (Mr. W.) had submitted last evening, that the House proceed to the consideration of bills on the Speaker's table that would not give rise to debate, except the District bill.

Mr. LYNDE adhered to his motion.

And the question having been taken and decided in the affirmative, the rules were suspended.

The joint resolution which corrected a clerical error in the act to change the location of the Chippewa land office, and to establish a new land district in the State of Wisconsin, was then taken up.

The joint resolution having been read twice by its title, was read a third time and passed.

NAVAL APPROPRIATION BILL.

Mr. VINTON, from the Committee of Ways and Means, reported back the bill (which had been returned from the Senate with certain amendments) making appropriations for the naval service.

On motion of Mr. V. the bill was referred to the Committee of the Whole on the state of the Union.

POST OFFICE BILL.

Mr. VINTON, from the Committee of Ways and Means, reported back the bill making appropriation for the Post Office Department, which had been returned from the Senate with an amendment.

The amendment was read and concurred in.

BRAZOS SANTIAGO.

Mr. THIBODAUX moved that the rules of the House be suspended, for the purpose of proceeding to the consideration of the bill from the Senate to establish a collection district at Brazos Santiago, in the State of Texas; (which said bill was on the Speaker's table.)

MINESOTA.

Mr. THOMPSON, of Pennsylvania, said that when the House adjourned last evening, the bill to establish the territorial government of Minesota was under consideration. Was not that bill the first business in order?

The SPEAKER said it was the first in order of business on the Speaker's table, whenever the House proceeded to that business. The pending question now was on the motion of the gentleman from Louisiana, [Mr. THIBODAUX.]

BRAZOS SANTIAGO.

And the question having been taken on the said motion, and two-thirds having voted therefor, the rules were suspended.

And the bill was taken up and read.

Mr. THIBODAUX moved to amend it by striking out all after the enacting clause, and inserting the House bill. The object was, he said, to give the benefit of drawback.

The SPEAKER said it was contrary to the rules of the House to amend one bill by ingrafting another upon it. It could be done by unanimous consent, or a suspension of the rules.

Mr. SMITH, of Indiana, suggested unanimous consent.

And no objection having been made—

The amendment was offered and agreed to.

And the bill was then read a third time and passed.

Mr. THIBODAUX moved a reconsideration of the vote, and that that motion be laid upon the table.

No objection having been made, it was ordered accordingly.

Mr. HUDSON, by general consent, presented certain resolutions of the Legislature of Massachusetts; which, on his motion, were laid on the table and ordered to be printed.

Mr. HUDSON also, on leave, withdrew from the files of the House the papers of Nimrod Clark.

NAVAL APPROPRIATION BILL.

On motion of Mr. VINTON, the House resolved itself into Committee of the Whole on the state of the Union, and proceeded to the consideration of the amendments to the bill making appropriations for the naval service.

The amendments having been disposed of, the committee rose and reported its action to the House.

Mr. VINTON moved the previous question; which was seconded, the main question ordered, and under its operation the recommendations of the Committee of the Whole on the state of the Union were concurred in, with reference to all the amendments not subsequently noticed.

The amendment appropriating $10,000 for the purchase of Bishop's patent portable boom-derrick being under consideration—

Mr. HALL, of Missouri, asked the yeas and nays; which were ordered.

The question was taken, and decided in the negative: Yeas 74, nays 101.

So the amendment was rejected.

Mr. HALL, of Missouri, moved to reconsider this vote, and to lay that motion on the table; which latter motion was agreed to.

The amendment providing that those officers of the marine corps who have been disbanded should be reinstated, and that no appointments or promotions in said corps should be made until the said corps was reduced, by deaths or resignations, to the same number that existed therein previous to its enlargement during the Mexican war, was also disagreed to.

Mr. HAMPTON, of New Jersey, from the Committee on Enrolled Bills, made a report.

THE LIGHT-HOUSE BILL.

Mr. GRINNELL moved that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of taking up the bill making appropriations for light-houses. The motion was waived for the moment.

PRIVATE.

On motion of Mr. MOREHEAD, the motion heretofore made to reconsider the vote on the bill for the relief of J. G. Parsons, was laid on the table.

BOUNTY LANDS.

Mr. BOTTS, on leave given, from the Committee on Military Affairs, reported back, without amendment, the joint resolution from the Senate in relation to bounty lands and extra pay allowed to soldiers in the Mexican war.

On motion of Mr. B., the bill was laid on the table.

NAVAL APPROPRIATION BILL.

Mr. THOMPSON, of Pennsylvania, moved a reconsideration of the vote by which the amendment to this bill, in relation to officers of the Marine Corps, had been rejected.

Mr. T. moved the previous question.

On motion of Mr. JONES, of Tennessee, the motion to reconsider was laid on the table.

THE LIGHT-HOUSE BILL.

On motion of Mr. GRINNELL, the House resolved itself into Committee of the Whole on the state of the Union, (Mr. SCHENCK, of Ohio, in the chair,) and proceeded to the consideration of the bill making appropriations for light-houses, &c.

The bill was read.

Mr. GRINNELL offered the following amendment, (under instructions, he was understood to say, from the Committee on Commerce,) which was agreed to:

For a light house on the east point of Maurice river, Cumberland county, New Jersey, five thousand dollars.

Mr. NEWELL offered the following amendment:

For providing life-boats, life-cars, carronades, lines, rockets, and other necessary apparatus, for the better preservation of life and property from shipwreck along the coast of New Jersey, between Little Egg Harbor and Cape May, ten thousand dollars; to be expended under the direction of such officer of the revenue marine service as may be designated for that purpose by the Secretary of the Treasury.

Tellers (Messrs. NEWELL and MCCLELLAND) were appointed. And the question having been taken, the vote stood—ayes 90, noes not counted.

So the amendment was agreed to.

Mr. GRINNELL offered the following amendment, by direction of the Committee on Commerce; which was agreed to:

For buoys at Nassau river and on the coasts of Georgia and Florida, $1,000.

The bill having been gone through—

On motion of Mr. GRINNELL, the committee rose and reported the bill and amendments to the House.

Under the operation of the previous question, moved by Mr. GRINNELL, the amendments of the committee were agreed to, the bill was read a third time, passed, and returned to the Senate.

Mr. GRINNELL moved to reconsider the vote on the passage, and to lay that motion on the table; which latter motion was agreed to.

On motion of Mr. TURNER, the House proceeded to the consideration of business on the Speaker's table.

The SPEAKER laid before the House a communication from the Secretary of the Treasury; which was laid on the table and ordered to be printed.

Also, a communication from the Secretary of War; which was laid on the table and ordered to be printed.

The joint resolution authorizing the distribution of the American Archives to certain literary institutions, &c., returned from the Senate, with an amendment, was taken up.

The amendment was read and disagreed to.

And the resolution was laid upon the table.

The bill establishing the Territorial Government of Minesota was taken up.

The question pending thereon being on receding from the tenth amendment of the House postponing the operation of the act to the 10th March instant—

The previous question moved thereon by Mr. SIBLEY yesterday was seconded, and, under the operation thereof, the House receded from its said amendment.

The message from the Senate, asking a conference on the disagreeing votes on the amendments to the naval appropriation bill, was taken up and concurred in; and

Messrs. HUDSON, BAYLY, and WHITE, were appointed conferees on the part of the House.

The resolution from the Senate, suspending the 17th joint rule of the two Houses, was taken up, read, and concurred in.

The bill requiring all moneys arising from customs and other sources, to be paid immediately into the treasury, &c., and the amendment of the Senate thereto, was taken up.

The Senate amendment was read.

Mr. POLLOCK moved to amend the amendment, and moved the previous question, which was seconded; and under the operation thereof, Mr. P.'s amendment was agreed to.

The amendment as amended was concurred in, and the Senate acquainted therewith.

The bill authorizing the coinage of one and twenty-dollar gold pieces at the several mints, and the Senate's amendments thereto, were taken up.

The amendments were read; and, under the operation of the previous question moved by Mr. MCKAY, were concurred in, and the Senate acquainted therewith.

The bill from the Senate authorizing a patent to be issued to William Green, junior, and other citizens of the United States, was taken up and read; when—

On motion of Mr. COBB, of Georgia, it was laid on the table.

The bill from the Senate for the relief of James Hotchkiss, and the joint resolution of the Senate respecting the claims of A. S. & A. W. Benson, were severally read three times, passed, and returned to the Senate.

The Senate bill to run and mark the northern boundary line of the States of Iowa and Wisconsin, was read three times, passed, and returned to the Senate.

Joint resolution of the Senate, authorizing the examination and payment of Susan Goody, a Cherokee, and others, for property destroyed by certain disorderly soldiers of the United States forces at Fort Gibson, on the night of the 12th March, 1845, was read; when

Mr. McCLELLAND moved to lay the resolution on the table; which was agreed to.

On motion of Mr. DUNCAN, of Kentucky, the bill to settle the titles to certain land claims in Arkansas was taken up; and, under the operation of the previous question moved by Mr. DUNCAN, was passed.

Mr. DUER, in behalf of the conferees on the part of the House on the disagreeing votes of the two Houses on the bill for the relief of the representatives of William A. Slacum, reported that the House recede from its amendments to said bill.

After some debate by Messrs. FICKLIN and MEADE, the latter moved the previous question; and, under the operation thereof, the House refused to recede from its amendments.

The question was then put, Will the House adhere to its said amendments? and agreed to.

The bill to establish a branch mint in the city of New York, was read the third time and passed.

Mr. POLLOCK moved a suspension of the rules, for the purpose of discharging the Committee of the Whole from the joint resolution to purchase Catlin's gallery of Indian portraits.

The question was put and rejected—two-thirds not voting therefor.

Mr. KAUFMAN moved to discharge the Committee of the Whole on the state of the Union from the bill in relation to the district courts in Texas.

The motion was not agreed to.

On motion of Mr. GRINNELL, the bill to provide for the recording and conveyancing of vessels, &c., was taken up, and, under the operation of the previous question moved thereon by Mr. G., was read three times and passed.

On motion of Mr. GRINNELL, the bill to extend the provisions of the laws relating to the carriage of passengers in merchant vessels, &c., was taken up and read.

Mr. GRINNELL moved an amendment to the said bill, which was agreed to; and the bill was then read the third time, and passed.

On motion of Mr. McCLELLAND, the bill to reduce the minimum price of the mineral lands in the Lake Superior district, in Michigan, and in the Chippewa district, in Wisconsin, was taken up, and, under the operation of the previous question, moved by Mr. McC., read the third time and passed.

Mr. COCKE moved to suspend the rules, to enable him to move that the House resolve itself into Committee of the Whole on the state of the Union on the private calendar, and take up private bills thereon.

Mr. WENTWORTH made an urgent appeal to the House to proceed with the consideration of business on the Speaker's table, pledging himself that he would move that the bill relative to the slave trade in the District of Columbia be informally passed over. They could not now pass the bill. He had done all he could to get up that bill.

Mr. BRODHEAD objected, and said the gentleman wanted to get at something still more objectionable.

Mr. JAMESON moved to suspend the rules, to go into Committee of the Whole on private bills from the Senate to which no objection was made. Rejected.

Other business having intervened, (elsewhere noticed)—

Mr. COCKE renewed the motion to suspend. Agreed to: Ayes 87, noes 41.

So the House resolved itself into Committee of the Whole, (Mr. COCKE, of Tennessee, in the chair,) for the consideration of Senate bills to which no objection was made.

The House proceeded to the consideration of the following bills reported from the Committee of the Whole House on the state of the Union, without amendment, viz:

An act for the relief of Mary MacRae, widow of Lieutenant Colonel William MacRae, late of the United States army;

An act for the relief of George Centre;

An act for the relief of Henry D. Garrison;

An act for the relief of P. Choteau, jr., and Company;

An act for the relief of the owners of the schooner Ticonic;

Which were severally read three times and passed, and returned to the Senate.

The House then proceeded to the consideration of the following bills reported this day from the Committee of the Whole, with amendments, viz:

An act for the relief of Nathaniel Kuykendall.

An act for the relief of James F. Sothoron.

An act for the relief of the heirs of John Wall, deceased.

The amendment to each bill was read and agreed to, and the bills, as amended, were then read a third time and passed, and returned to the Senate.

NAVAL APPROPRIATION BILL.

A message was received from the Senate, stating that that body insisted on certain amendments to this bill, and asked that a committee of conference be appointed.

It was so ordered.

A message was received from the Senate, stating that that body had suspended the seventeenth joint rule of the two Houses, which relates to the presentation of bills to the President.

The resolution was concurred in.

DUTIES LEVIED IN MEXICO.

The bill to provide for the settlement of the accounts of officers who had received moneys for duties levied in the ports of Mexico, was returned from the Senate with an amendment.

Mr. McKAY moved the previous question on concurrence in the amendment. There was a second. The main question was ordered, and, under its operation, the amendment was concurred in.

On motion of Mr. TURNER, the rules having been suspended for the purpose, a bill for the relief of Daniel Wilson was taken up, read three times, and passed.

Mr. ROCKWELL, of Connecticut, from the Committee on Claims, reported several Senate bills, the titles of which could not be obtained. They were committed to the Committee of the Whole.

Mr. ROCKWELL, from the same committee, to whom was referred Senate bill for the relief of Thomas W. Chinn and others, reported the same back with an amendment.

The amendment was read and agreed to, and under the operation of the previous question, moved by Mr. ROCKWELL, the bill was passed and returned to the Senate.

On motion of Mr. ROCKWELL, the bill for the relief of Sayles J. Bowen was taken from the private calendar, and under the operation of the previous question, moved by Mr. R., was read three times and passed.

Mr DARLING called up the motion made by him some days since, to reconsider the vote by which was laid on the table the bill to grant to the State of Wisconsin the military reservation at Fort Winnebago.

Pending the consideration of which, the hour fixed for a recess arrived, and the House accordingly took a recess.

EVENING SESSION.

At six o'clock the House resumed its session.

On motion of Mr. TURNER, the 16th joint rule was so far suspended as to permit bills passed during the morning session to be sent to the Senate.

The SPEAKER laid before the House a communication from the Speaker and Clerk, giving the names of the persons who received the contracts for the execution of the public printing, and stating that bonds had been entered into for the performance of the work.

Mr. MARSH, from the Committee on Foreign Affairs, made a report in the case of P. S. Farnham & Co., in relation to the seizure of the barque "Jones," at St. Helena, by Lieutenant Littlehales, of the British navy; which report was committed to the Committee of the Whole on the state of the Union and ordered to be printed.

On motion of Mr. WILSON, the Committee of the Whole was discharged from the bill for the relief of James Norris.

The bill was then ordered to be engrossed; and being engrossed, was read a third time and passed.

On motion of Mr. WILSON, the 16th joint rule was suspended, so as to permit said bill to be sent to the Senate.

Mr. NICOLL, from the Committee of Ways and Means, to whom was referred a communication from the Secretary of the Treasury transmitting a correspondence between the Secretary and the Collector of New York, in relation to the purchase of certain stocks of the United States, made a report; which was laid on the table and ordered to be printed.

Mr. LEVIN, from the Committee on Engraving, reported the following resolution:

Resolved, That the Clerk of the House be authorized to contract for any engravings that may be required during the interval between this and the next Congress of the United States.

Mr. CONGER moved to amend the resolution, by inserting, after the word "House," the words "and Secretary of the Senate;" which was agreed to.

The resolution as amended was then agreed to.

On motion of Mr. HUNT, the Committee on Commerce were discharged from sundry resolutions, petitions, and memorials; and they were laid upon the table, and ordered to be printed.

Mr. HUNT, from the Committee on Commerce, made a report on the resolution of the House respecting the regulations of the Treasury Department for the storage of imported goods; which was laid upon the table, and ordered to be printed.

The House resumed the consideration of the motion (pending when the House took a recess) made by Mr. DARLING, to reconsider the vote by which was laid upon the table the bill to grant to the State of Wisconsin the military reservation at Fort Winnebago; when,

On motion of Mr. BOTTS, the said motion to reconsider was laid upon the table.

Mr. SMITH, of Indiana, moved that the vote be reconsidered by which the bill from the Senate to authorize a patent to be issued to William Green, Jr., or other citizens of the United States, was laid upon the table.

On motion of Mr. BOWLIN, the said motion to reconsider was laid upon the table.

The bill from the Senate to apply certain alternate sections of the public domain towards the completion of the Clinton and Kalamazoo canal, in the State of Michigan, was taken up, read the third time and passed, and returned to the Senate.

Mr. GREELEY offered the following resolution, which was read twice:

JOINT RESOLUTION

Concerning the future appellation or name of our Federal Union.

Whereas our common country is known among the nations of the earth only as "the United States of America," a designation at once inconveniently cumbrous and palpably indefinite, since the term "United States" is common to other political Confederations, even on this continent, and is very likely to be adopted by or applied to others in the course of not many years:

And whereas that transcendent genius and true hero, by whose life-long devotion and daring this continent was added to the domain of civilization and Christianity, was treated in his earlier life with neglect and contumely as a visionary and a charlatan, in his later years with monstrous ingratitude and wrong as a usurper and tyrant, while, by an amazing fatality, mankind have since conspired to perpetuate the injustice of his age by bestowing on the continent so discovered by Columbus the name of a mere follower in his footsteps, without a shadow of just pretence to the discovery of the New World: Therefore,

Resolved, That this Union of States will hereafter be known and officially designated by the name or appellation COLUMBIA, in grateful acknowledgment of our obligations to, and in tardy atonement for the injustice hitherto suffered by, the great discoverer of this continent.

NAVAL APPROPRIATION BILL.

Mr. HUDSON, from the Committee of Conference on the disagreeing votes of the two Houses on the naval appropriation bill, made the following report:

The Committee of Conference on the disagreeing votes of the two Houses on the bill making appropriations for the naval service for the year ending the 30th June, 1850, have met, and after a full and free conference, have agreed to recommend to the respective Houses, as follows:

That the Senate recede from their first, twelfth, and thirteenth amendments, and that they recede from their disagreement to the amendments proposed by the House to the fourteenth amendment of the Senate, with a further amendment, to wit: Strike out the word "directed" in the said amendment, and insert the word "authorized."

And that the House recede from their disagreement to the second, third, ninth, and tenth amendments of the Senate.

Mr. HUDSON moved the previous question.

Some inquiries and explanations took place between Messrs. BAYLY, HUDSON, ASHMUN, and McKAY, in relation to the meeting of the committee and the members who composed it.

The question was propounded upon agreeing to the report of the Committee of Conference.

Mr. McKAY asked the yeas and nays upon that question, which were ordered, and being taken, were—yeas 122, nays 65.

So the report of the committee was concurred in.

THANKS TO THE SPEAKER.

The Chair being now occupied by Mr. COBB, of Georgia—

Mr. McDOWELL submitted the following resolution:

Resolved, That the thanks of this House are due and are hereby presented to the Hon. ROBERT C. WINTHROP, for the able, impartial, and dignified manner in which he has discharged the duties of Speaker during the present Congress.

Mr. JOHNSON, of Tennessee, moved to amend the resolution by striking out the word "impartial."

Mr. J. proceeded to address the House at length in favor of the amendment. He assailed the administration of the Speaker, especially with reference to the organization of the Committees of the House, and to his habitual awards of the floor.

Some interruptions and conversation took place on points of order on the part of Messrs. HOUSTON of Delaware, HASKELL, GIDDINGS, ASHMUN, and the CHAIR.

Mr. STEPHENS moved the previous question on the adoption of the resolution; which was seconded, and the main question was ordered (being first on the amendment.)

The yeas and nays were asked for in various quarters and ordered, and being taken were—yeas 15, nays 161.

So the amendment was rejected.

The question recurring on the adoption of the resolution—

The yeas and nays were asked and refused, and the question being taken, was decided in the affirmative.

So the resolution was adopted.

ARMY BILL.

Mr. STEPHENS, on behalf of the conferees on the part of the House, on the disagreeing votes of the two Houses on the bill making appropriations for the support of the army, &c., made the following report:

The Committee of Conference, to whom was referred House bill No. 695, report, that it is proposed that the Senate recede from the first amendment, or to strike out the word "three" in 27th line, 4th page.

Second amendment, it is agreed to strike out "Jenks Carbine," in line 27, 4th page; and strike out the word "one hundred," and insert "fifty."

Fifth amendment. Senate recede.

Eighth amendment of the Senate. The House recede, and concur in the Senate's amendment.

Ninth amendment. House recede, and concur in the Senate's amendment.

Tenth amendment. The House recede.

Eleventh amendment. House recede, and concur in the Senate's amendment.

The report was read and agreed to.

Mr. HAMPTON, of New Jersey, from the Committee on Enrolled Bills, made a report.

On motion of Mr. JAMESON, the rules were suspended, and the Committee of the Whole House was discharged from the bill from the Senate for the relief of Thomas Talbot and others.

The said bill was then, under the operation of the previous question moved by Mr. JAMESON, read the third time and passed, and returned to the Senate.

CIVIL AND DIPLOMATIC APPROPRIATIONS.

Mr. VINTON, from the Committee of Conference appointed on the part of the House to meet a similar committee on the part of the Senate on the subject of the disagreeing votes of the two Houses on the bill making appropriations for the civil and diplomatic expenses of the Government, said, that the committee had had the same under consideration, and had been unable to come to any agreement. He asked, therefore, that the committee on the part of the House might be discharged.

[Cries: A new committee—a new committee.]

Mr. ASHMUN said, that before he made the motion which he intended to make, he would ask the Speaker what the precise condition of the bill was, so that members might know the effect of the votes they were about to give.

Unless otherwise advised by the answer of the Chair, it was his (Mr. A.'s) intention to move that the House insist on their disagreement to the amendments of the Senate. He wished to ask the Speaker, in the first place, if the House did not insist, would it not be in order to move that the House agree with an amendment to the amendments of the Senate?

The SPEAKER said that if the House refused to insist on its disagreement, they might recede. If they receded, the amendment would then be open to amendment, precisely as it was before the original disagreement. The question would then be restored to the precise condition in which it was before the House disagreed to the Senate's amendments.

Mr. C. J. INGERSOLL. And there may be another committee?

The SPEAKER. Yes, sir.

Mr. ASHMUN. And the House may resort to another and further proceeding? It may adhere?

The SPEAKER. Yes.

Mr. ASHMUN. To test the sense of the House, I move that the House insist on its disagreement to the amendments of the Senate.

Mr. McCLERNAND inquired whether a motion to recede had precedence over a motion to insist?

The SPEAKER answered in the affirmative.

Mr. McCLERNAND moved that the House recede from its disagreement to the amendment of the Senate; and he demanded the previous question, and the yeas and nays on his motion.

Mr. WENTWORTH moved to lay the motion on the table; and as preliminary, moved a call of the House, and the yeas and nays.

Some conversation followed between Mr. BAYLY and the SPEAKER on a point of order.

The question was on Mr. WENTWORTH's motion for a call of the House; and, first, on ordering the yeas and nays thereon.

Mr. GENTRY suggested the probability, that if the time of the House was consumed in motions for calls of the House, yeas and nays, &c., the bill would be lost.

The House refused the yeas and nays on a call of the House.

And the motion for a call of the House was rejected.

The SPEAKER then decided Mr. WENTWORTH's motion to lay on the table, to be out of order.

Some conversation followed between Messrs. WENTWORTH, PETTIT, COLLINS, C. J. INGERSOLL, STARKWEATHER, and the SPEAKER.

The previous question was seconded, and the main question was ordered, (being upon the motion to recede.)

Mr. PETTIT asked the yeas and nays; which were ordered, and, being taken, were: Yeas 110, nays 107, as follows:

YEAS—Messrs. Adams, Atkinson, Barringer, Barrow, Bayly, Beale, Birdsall, Bocock, Botts, Bowdon, Bowlin, Boyd, Boyden, Brady, Bridges, Brodhead, Charles Brown, Albert G. Brown, Buckner, Burt, Butler, Cabell, Chapman, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Daniel, Donnell, Garnett Duncan, Alexander Evans, Featherston, Ficklin, Flournoy, French, Fulton, Gaines, Gayle, Gentry, Goggin, Greene, Willard P. Hall, Moses Hampton, Haralson, Harmanson, Harris, Haskell, Hill, Hilliard, Isaac E. Holmes, George S. Houston, John W. Houston, Inge, Charles J. Ingersoll, Joseph R. Ingersoll, Irvin, Iverson, Andrew Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Kennon, Thomas Butler King, La Sere, Levin, Ligon, Lumpkin, McClernand, McDowell, McKay, McLane, McQueen, Meade, Morehead, Morse, Murphy, Outlaw, Pendleton, Peyton, Phelps, Pilsbury, Pollock, Preston, Rhett, Richardson, Roman, Sawyer, Shepperd, Simpson, Stanton, Stephens, Andrew Stewart, Thibodaux, Thomas, Jacob Thompson, Richard W. Thompson, Jno. B. Thompson, Robt. A. Thompson, Tompkins, Toombs, Venable, Wiley, Williams, and Woodward—110.

NAYS—Messrs. Abbott, Ashmun, Belcher, Bingham, Blackmar, Canby, Cathcart, Collamer, Collins, Conger, Cranston, Crowell, Cummins, Darling, Dickey, Dixon, Duer, Dunn, Eckert, Edsall, Edwards, Embree, Nathan Evans, Faran, Farrelly, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, Hammons, James G. Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, Jenkins, James H. Johnson, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Lincoln, Lord, Lynde, McClelland, McIlvaine, Horace Mann, Marsh, Marvin, Miller, Morris, Mullin, Nelson, Newell, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pettit, Putnam, Reynolds, Richey, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Rose, Root, Rumsey, St. John, Schenck, Sherrill, Silvester, Slingerland, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Starkweather, Chas. E. Stuart, Strohm, Strong, Tallmadge, Taylor, Jas. Thompson, William Thompson, Thurston, Tuck, Turner, Van Dyke, Vinton, Warren, Wentworth, White, Wick, Wilmot, and Wilson—107.

So the House voted to recede.

There were many competitors for the floor. It was awarded to

Mr. MOREHEAD, who said that it was apparent to the House that it was indispensably necessary that they should do something in relation to this particular subject, that was contested by the different sections of the country. He had been the most of this day engaged upon the Committee of Conference between the two Houses, and he had endeavored faithfully and honestly to hit upon some common ground on which they could adjust this question. He thought he had attained that object. He desired to offer an amendment striking out that part of the Senate's amendment in relation to "west of the Rio Grande," and to insert a proviso, which he understood would be satisfactory to those most deeply and vitally interested—at least a portion of them—to the effect that nothing in this act should affect in any way the question of the boundary of the State of Texas.

He moved this amendment, and asked the previous question.

The amendment was sent up to the Chair, and read as follows:

Strike out "west of the Rio Grande," and add:

Provided, That nothing in this act shall affect in any way the question of the boundary of the State of Texas.

Mr. ASHMUN. I wish to ask, if the previous question be not sustained, whether it will not still be in order further to amend, as amendment to the amendment?

The SPEAKER. Not at the same time that this amendment is pending.

Mr. ASHMUN. On the question of ordering the main question, I ask the yeas and nays.

After some conversation upon points of order—

The question was taken by tellers, (Messrs. WENTWORTH and MOREHEAD,) and decided in the affirmative—ayes 106, noes 101.

So there was a second to the previous question.

On the question of ordering the main question Mr. PETTIT asked the yeas and nays, which were ordered.

Some conversation followed on points of order, which led to no action.

Mr. ASHMUN moved to lay the amendment on the table.

The SPEAKER said that the motion, if it prevailed, would take the bill with it.

Mr. ASHMUN withdrew the motion, remarking that it was a little too early to make it.

And the question "Shall the main question be now taken?" was put and decided in the affirmative—yeas 110, nays 101—as follows:

YEAS—Messrs. Adams, Atkinson, Barringer, Barrow, Bayly, Beale, Birdsall, Bocock, Botts, Bowdon, Bowlin, Boyd, Boyden, Brady, Bridges, Brodhead, Charles Brown, Albert G. Brown, Buckner, Burt, Butler, Cabell, Canby, Chapman, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Daniel, Donnell, Garnett Duncan, Alexander Evans, Featherston, Ficklin, Flournoy, French, Fulton, Gaines, Gayle, Gentry, Goggin, Green, Willard P. Hall, Moses Hampton, Haralson, Harmanson, Harris, Haskell, Hill, Hilliard, Isaac E. Holmes, George S. Houston, John W. Houston, Inge, Charles J. Ingersoll, Joseph R. Ingersoll, Irvin, Iverson, Andrew Johnson, Robert W. Johnson, G. W. Jones, John W. Jones, Kaufman, Kennon, Thomas Butler King, La Sere, Levin, Ligon, Lumpkin, McDowell, McKay, McLane, McQueen, Meade, Miller, Morehead, Morse, Outlaw, Pendleton, Peyton, Phelps, Pilsbury, Preston, Rhett, Richardson, Richey, Roman, Sawyer, Shepperd, Simpson, Stanton, Andrew Stewart, Thibodaux, Thomas, Jacob Thompson, Richard W. Thompson, John B. Thompson, Robert A. Thompson, Tompkins, Toombs, Van Dyke, Venable, Wiley, Williams, and Woodward—110.

NAYS—Messrs. Abbott, Ashmun, Belcher, Bingham, Blackmar, Cathcart, Collamer, Collins, Conger, Cranston, Crowell, Cummins, Darling, Dickey, Dixon, Duer, Dunn, Eckert, Edsall, Edwards, Embree, Nathan Evans, Faran, Fisher, Freedley, Fries, Giddings, Gott, Greeley, Gregory, Grinnell, Hale, Nathan K. Hall, James G. Hampton, Henley, Henry, Elias B. Holmes, Hubbard, Hudson, Hunt, Jenkins, James H. Johnson, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Lincoln, Lord, Lynde, McClelland, McIlvaine, Job Mann, Horace Mann, Marvin, Morris, Mullin, Murphy, Nelson, Newell, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pettit, Pollock, Putnam, Reynolds, Robinson, Rockhill, Julius Rockwell, John A. Rockwell, Rose, Root, Rumsey, St. John, Schenck, Sherrill, Silvester, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Starkweather, Charles E. Stuart, Strohm, Strong, Tallmadge, Taylor, James Thompson, William Thompson, Thurston, Tuck, Turner, Warren, Wentworth, White, Wick, Wilmot, and Wilson—101.

So the main question was ordered.

The SPEAKER stated that the question was

on agreeing to the Senate's amendment, proposed by the gentleman from Kentucky.

A conversation arose, participated in by several gentlemen, upon points of order. An appeal was taken by Mr. COBB, of Georgia, from the Speaker's decision as to the pending question, but was subsequently withdrawn.

Mr. WENTWORTH asked the yeas and nays, which were ordered.

The question was taken, and decided in the affirmative—yeas 187, nays 19—as follows:

YEAS—Messrs. Abbott, Adams, Ashmun, Atkinson, Barringer, Barrow, Bayly, Beale, Belcher, Bingham, Birdsall, Blackmar, Bocock, Botts, Bowdon, Bowlin, Boyd, Boyden, Brady, Bridges, Brodhead, Charles Brown, Albert G. Brown, Buckner, Burt, Butler, Cabell, Canby, Cathcart, Chapman, Clapp, Franklin Clark, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Collamer, Collins, Cranston, Crisfield, Crozier, Cummins, Daniel, Darling, Dickey, Dixon, Donnell, Duer, Garnett Duncan, Dunn, Eckert, Edwards, Embree, Alexander Evans, Nathan Evans, Faran, Farrelly, Featherston, Ficklin, Fisher, Flournoy, Freedley, French, Fries, Fuhon, Gaines, Gentry, Goggin, Gott, Green, Greeley, Grinnell, Hale, Willard P. Hall, Nathan K. Hall, James G. Hampton, Moses Hampton, Haralson, Harmanson, Harris, Haskell, Henry, Hill, Isaac E. Holmes, Elias B. Holmes, George S. Houston, John W. Houston, Hubbard, Hudson, Hunt, Inge, Charles J. Ingersoll, Joseph R. Ingersoll, Irvin, Iverson, Jameson, Jenkins, Andrew Johnson, James H. Johnson, Robert W. Johnson, George W. Jones, J. W. Jones, Kaufman, Kennon, Thomas Butler King, Daniel P. King, Lahm, La Sere, Levin, Ligon, Lincoln, Lord, Lumpkin, Lynde, McClelland, McClernand, McDowell, McIlvaine, McKay, McLane, McQueen, Job Mann, Marsh, Marvin, Meade, Miller, Morehead, Morris, Morse, Murphy, Nelson, Newell, Nicoll, Outlaw, Palfrey, Peaslee, Pendleton, Petrie, Peyton, Phelps, Pilsbury, Pollock, Preston, Putnam, Reynolds, Rhett, Richardson, Richey, Rockhill, Julius Rockwell, John A. Rockwell, Roman, Rose, Rumsey, St. John, Sawyer, Schenck, Shepperd, Sherrill, Silvester, Simpson, Smart, Caleb B. Smith, Truman Smith, Stanton, Stephens, Andrew Stewart, Charles E. Stuart, Tallmadge, Taylor, Thibodaux, Thomas, Jacob Thompson, Richard W. Thompson, John B. Thompson, R. A. Thompson, Wm. Thompson, Tharston, Tompkins, Toombs, Tuck, Turner, Vinton, Warren, Wiley, and Williams—187.

NAYS—Messrs. Edsall, Gayle, Hammons, Henley, Hilliard, William T. Lawrence, Sidney Lawrence, Mullin, Pettit, Robinson, Starkweather, Strong, Van Dyke, Venable, Wentworth, White, Wick, Wilmot, and Woodward—19.

So the amendment of Mr. MOREHEAD to the Senate's amendment was agreed to.

Mr. THOMPSON, of Indiana, amid numerous competitors, was recognized as entitled to the floor.

Mr. ASHMUN rose, he said, to a privileged question. He moved to reconsider the vote by which the amendment of the gentleman from Kentucky had been adopted.

The SPEAKER (after some conversation by gentlemen upon a point of order) decided that the gentleman from Indiana had the floor to state his motion first.

Mr. THOMPSON was proceeding to make a remark, when

Mr. BAYLY rose to a question of order.

Mr. ASHMUN reminded the Speaker that he claimed the floor.

Mr. BAYLY stated his point of order, which was in substance that the previous question had not been exhausted, and consequently that all amendments and debate were out of order, and that the question must now be taken upon the amendment of the Senate as amended on motion of Mr. MOREHEAD.

The SPEAKER decided that the previous question was not pending.

Mr. BAYLY appealed.

Mr. WENTWORTH moved to lay the appeal on the table, and asked the yeas and nays on that motion.

Mr. ASHMUN. Will the Speaker remember that I claim the floor?

The SPEAKER. Certainly.

After conversation and debate by several gentlemen upon the appeal—

Mr. BURT moved the previous question.

Mr. BAYLY (for the reason alone, he said, that he saw it would exhaust the night) withdrew the appeal.

The SPEAKER again announced the gentleman from Indiana [Mr. THOMPSON] entitled to the floor.

Mr. ASHMUN renewed his claim to the floor upon a privileged question.

Further conversation ensued upon the point of order.

Mr. THOMPSON, (his right to the floor having been sustained by the Speaker,) remarking that he intended to detain the House but a very few moments, proceeded to say, that he had labored with great assiduity to effect a settlement, by compromise, of this difficult question, that had been exciting so much, and which was, perhaps, now threatening, the integrity and safety of the union of these States. He now addressed himself to northern men and to southern men; and if he knew himself, he had no sectional feelings in what he had to say. The true substantial question now presented to the consideration of the House was this: to the civil and diplomatic appropriation bill the Senate had made an amendment providing for the establishment of a government in California, in which there were certain provisions, which provisions were found embraced in several statutory laws of the United States. Two amendments had been offered in the Senate, and the third had been reported by the Committee of Ways and Means of the House of Representatives. Neither of these amendments had been adopted; and it was perfectly manifest, that unless something was done by way of compromise, they would leave this Hall at twelve o'clock to-night under a state of excitement that would pervade all parts of the Union.

He proposed a substitute for the amendment of the Senate, which (after a statement of its provisions) he sent up to the Clerk's table, where it was read, as follows:

That the President of the United States be, and he hereby is, authorized to hold possession of and occupy the territories ceded by Mexico to the United States by the treaty of the 2d of February, eighteen hundred and forty-eight; and that he be, and hereby is, authorized for that purpose, and in order to maintain the authority of the United States, and preserve peace and order in said territories, to employ such parts of the army and navy of the United States as he may deem necessary, and that the Constitution of the United States, so far as the same is applicable, be extended over said territories.

SEC. 2. *And be it further enacted, &c.*, That until the fourth day of July, eighteen hundred and fifty, unless Congress shall sooner provide for the government of said territories, the existing laws thereof shall be retained and observed, and that the civil and judicial authority heretofore exercised in said territories shall be vested in, and exercised by, such person or persons as the President of the United States shall appoint and direct, to the end that the inhabitants of said territories may be protected in the full and free enjoyment of their liberty, property, and religion: *Provided, nevertheless*, That martial law shall not be proclaimed or declared in said territories, or either of them, nor any military court established or instituted, except ordinary courts-martial for the trial of persons belonging to the army and navy of the United States; and the imprisonment of any citizen of said territories for debt is hereby forbidden.

SEC. 3. *And be it further enacted, &c.*, That to enable the President to carry into execution the provisions of this act, the sum of two hundred thousand dollars is hereby appropriated, out of any money in the treasury not otherwise appropriated.

Some conversation followed on a point of order between Mr. BAYLY and the SPEAKER.

Mr. COBB, of Georgia, raised the question, that the amendment was out of order.

The SPEAKER decided that it was too late to raise the question of order.

Mr. COBB appealed from the decision.

Mr. WENTWORTH moved that the appeal be laid on the table, and asked the yeas and nays.

Mr. COBB withdrew the appeal.

Mr. DUNN suggested to his colleague, [Mr. THOMPSON,] so to modify his amendment, as to provide for the repeal of all laws authorizing imprisonment for debt.

Mr. THOMPSON accepted the modification.

Some conversation followed between Mr. VINTON, Mr. TOOMBS, and the SPEAKER.

The question then recurred on the demand for the previous question.

Mr. COLLINS moved that there be a call of the House, and asked the yeas and nays on that motion; which were ordered, and being taken, were—yeas 13, nays 193.

So a call of the House was refused.

The question then recurred on the demand for the previous question; and there was a second.

Mr. COLLINS moved that the House adjourn, [at ten minutes to eleven o'clock.]

Mr. PETTIT asked the yeas and nays.

Mr. COLLINS withdrew the motion.

Mr. PETTIT renewed it.

The SPEAKER decided it to be out of order; but withdrew the decision.

Mr. COLLINS asked the yeas and nays on the motion to adjourn; which were refused.

And the question being taken, the House refused to adjourn.

The question then recurring on ordering the main question—

Mr. PETTIT asked the yeas and nays; which were ordered, and being taken, were—yeas 153, nays 55.

So the House decided that the main question should be now taken.

Mr. PETTIT moved that the House resolve itself into Committee of the Whole on the state of Union, and asked the yeas and nays; which were refused.

And the House refused to go into Committee of the Whole on the state of the Union.

Mr. HALL, of Missouri, moved a reconsideration of the vote by which the amendment of the gentleman from Kentucky [Mr. MOREHEAD] had been adopted, and moved to lay that motion on the table.

Mr. PETTIT asked the yeas and nays; which were refused.

And the question having been taken, the motion to reconsider was laid on the table.

The question then recurred on the amendment of Mr. THOMPSON.

The yeas and nays were asked and ordered, and being taken, were—yeas 111, nays 105.

So the amendment was agreed to.

The question then recurred on agreeing to the amendment of the Senate as amended.

Mr. PETTIT moved to reconsider the vote on Mr. THOMPSON's amendment.

Mr. VINTON moved to lay the motion to reconsider on the table.

Mr. PETTIT asked the yeas and nays.

Mr. VINTON withdrew the motion.

The question recurring on the motion to reconsider—

Mr. PETTIT declared his intention to debate it.

[At fifteen minutes past eleven o'clock, it had been observed, the figures of the clock ceased to move.]

Mr. P. remarked upon the fact, and pointing to the clock, said that he presumed the Speaker kept time by that clock, and that when his (Mr. P.'s) hour was out, the Speaker would let his hammer fall.

Mr. P. then proceeded (among frequent interruptions) to address the House, declaring that he would rather that the bill should fail, than that either of the two propositions should be attached to it. They were irrelevant, and no fair or legitimate system of legislation here or elsewhere would have attached such propositions to this bill.

He then proceeded into a general discussion in defence of the power of Congress to prohibit slavery in the territories, and on the expediency of the exercise of that power.

Mr. McCLERNAND rose to a point of order: he submitted that it was not in order to go into this general discussion.

The SPEAKER overruled the point of order.

Mr. McCLERNAND appealed from the decision.

Mr. PETTIT moved to lay the appeal on the table, and asked the yeas and nays; which were refused.

And the question being taken, the appeal was not laid on the table.

And the question recurred, and was taken, "Shall the decision of the Chair stand as the judgment of the House?" and was decided in the negative—ayes 46, noes not counted.

So the decision of the Chair was reversed.

The question recurring on the motion to reconsider—

Mr. HUNT moved that it be laid on the table.

Mr. PETTIT asked the yeas and nays; which were refused.

And the question being taken, the motion to reconsider was laid on the table.

The question then recurred on agreeing to the amendment of the Senate as amended.

The yeas and nays were asked and ordered; and being taken, were—yeas 110, nays 104.

So the House agreed to the amendment of the Senate as amended.

Mr. PETTIT moved to reconsider the vote, and that that motion be laid on the table.

Mr. PETTIT rose to a privileged question, he said. He submitted that the term for the sitting of this House had expired. [It was now twenty-two minutes past twelve.]

The SPEAKER overruled the point of order.

The same question was subsequently raised by Mr. HALL, of Missouri, and overruled.

On motion of Mr. VINTON, the House receded from all its disagreements to the other amendments of the Senate to the said bill.

Mr. COCKE moved a reconsideration of the motion, and that that motion be laid on the table.

Ordered accordingly.

Mr. STUART, of Michigan, moved a suspension of the rules, to enable him to offer a resolution, providing for extra compensation to the clerks, &c.

The rules were not suspended.

The amendment of the Senate to the bill for the relief of James Norris was read and concurred in, and the Senate notified thereof.

The amendment of the Senate to the bill to make arrangements for taking the 7th census was read and concurred in, and the Senate acquainted therewith.

The bill from the Senate for the relief of Alexander Montgomery, captain and assistant quartermaster of the army, was read three times and passed, and returned to the Senate.

Mr. GAYLE moved a reconsideration of the vote on the passage of the last bill, and that the motion to reconsider be laid the table.

Ordered accordingly.

The amendment of the Senate to the bill for the relief of Charles Benns was read and concurred in, and the Senate notified thereof.

Mr. SCHENCK moved a suspension of the rules, for the purpose of taking up the Senate bill for the relief of the captors of the Frigate Philadelphia: disagreed to, two-thirds not voting in favor thereof.

Mr. MORSE moved to take up the Senate bill for the better organization of the District Court of the United States within the State of Louisiana; which motion was agreed to.

The House proceeded to consider said bill; the amendment reported thereto by the Committee on the Judiciary was read, as follows:

Add the following as an additional section:

SEC. 3. That so much of this act as authorizes the appointment of a judge and other officers by the President, by and with the advice and consent of the Senate, shall take effect and be in full force, on and after the 15th day of March, 1849, and the residue of this act shall not take effect, nor shall such officers enter upon the discharge of their duties, or be entitled to any salary or compensation until the first day of June thereafter.

The question was put, and the amendment was rejected.

The bill was then read a third time and passed, and returned to the Senate.

Mr. TALLMADGE (the rules being suspended for the purpose) offered a resolution to pay the chaplain the usual extra allowance granted at the close of a session. And, also, to pay Mrs. Gold, widow of the late Daniel Gold, late a clerk in the office of the House of Representatives, the same amount that Mr. Gold would have received as salary, had he survived to the end of the session.

Mr. BRODHEAD moved to amend the resolution, so as to allow to Mrs. Hornbeck, widow of the late Hon. J. W. Hornbeck, $200, for expenses of funeral, &c.; which amendment was agreed to.

Mr. PUTNAM moved further to amend the resolution, so as to grant to the officers, clerks, messengers, and pages, the usual amount allowed at the end of the session for extra labor performed during the session, &c.; which was agreed to.

Mr. TALLMADGE moved the previous question.

Mr. JONES, of Tennessee, moved that the resolution be laid upon the table; which question was rejected by yeas and nays—yeas 36, nays 107.

The previous question was then seconded; and under the operation thereof, the resolution, as amended, was agreed to.

Mr. WHITE moved to reconsider the vote by which the said resolution was agreed to; and also moved to lay said motion to reconsider on the table. Ordered accordingly.

Mr. THOMPSON, from the Committee on Printing, reported the following resolution:

Resolved, That ten thousand extra copies of the majority and minority reports from the Committee of Ways and Means, in relation to duties on imports, be printed for the use of the House.

Mr. COBB, of Georgia, moved that the resolution be laid upon the table; which motion was not agreed to.

The resolution was then, under the operation of the previous question moved by Mr. CONGER, agreed to.

Mr. THOMPSON, of Mississippi, (the rules being suspended for the purpose,) offered a resolution to pay to the laborers in the Capitol grounds, lamp-lighter, and gate-keeper, the usual allowance granted at the close of a session.

Mr. WENTWORTH moved to amend the resolution so as to include the police of the Capitol, the folders in the folding room of the House of Representatives, &c.; which amendment was agreed to.

The resolution, as amended, was then agreed to.

Mr. WENTWORTH moved a reconsideration of the vote by which the resolution was passed, and moved to lay that motion on the table.

Ordered accordingly.

Mr. THOMPSON, of Kentucky, from the Committee on Printing, reported a joint resolution authorizing payment to William Hickey for services rendered in examining and computing the proposals for doing the printing of Congress.

Mr. CONGER moved to lay the said resolution on the table; which was agreed to.

Mr. BROWN, of Pennsylvania, moved a suspension of the rules, to enable him to offer the following resolution:

Resolved, That the Clerk of the House pay to CHARLES J. INGERSOLL the usual pay and mileage of a member for the time he was contesting the seat of CHARLES NAYLOR in the twenty-fifth Congress.

The question was put on suspending the rules, and rejected—two-thirds voting against it.

On motion of Mr. EDWARDS, the bill to prevent the patenting of medicines was taken up; and the question being on the third reading thereof—

Mr. EDWARDS moved the previous question; which was not seconded.

After some debate by Mr. EDWARDS and Mr. HALL, of Missouri,

Mr. EDWARDS again moved the previous question; which the House again refused to second.

Mr. DUER moved that the bill be laid on the table; which motion was agreed to.

Mr. BINGHAM moved a call of the House: rejected.

Mr. FULTON offered the following resolution, which was agreed to:

Resolved, That the Secretary of War report to the next Congress the names and residence of all the invalid pensioners of the United States; the time when their pensions commenced; the amount of pension received by each, distinguishing each according to grade, with a reference to the several acts of Congress under which said pensions are allowed.

On motion of Mr. KAUFMAN,

Leave was granted to withdraw the papers in the case of John H. Thompson.

Mr. PETTIT offered the following resolution, which was agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire whether any amendment to the law of last session allowing three months' extra pay to the officers and soldiers engaged in the late war with Mexico, is necessary to enable said officers and soldiers to receive the full and intended benefit of said provision.

Mr. HARALSON introduced the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America, That the fifth section of the act approved July 19, 1848, be so construed as to authorize the payment of three months' extra pay for each term of service performed by each officer, non-commissioned officer, musician, and private, in the war with Mexico, if otherwise entitled to the same, according to the provisions of said section.

The resolution was read twice; and the question being on its third reading—

Mr. JOHNSON, of Arkansas, moved the previous question.

Mr. RUMSEY moved that the resolution be laid on the table. Agreed to.

On motion of Mr. STANTON, leave was granted to withdraw from the files of the House the papers of James M. Lewis.

Mr. GENTRY moved a call of the House. Rejected.

Mr. WHITE moved that the bill for the relief of George R. Ward, of the city of New York, be taken up. The motion was not agreed to.

On motion of Mr. JENKINS,

Resolved, That the papers of Phebe Hall, for a pension, be taken from the files of the House. Also, that the papers of Oliver C. Harris for a renewal of a patent, be likewise withdrawn from the files.

On motion of Mr. JENKINS, the Committee of the Whole House on the state of the Union was discharged from the bill for the relief of Oliver C. Harris, and it was laid upon the table.

On motion of Mr. MARVIN,

Resolved, That Walter Sessions have leave to withdraw his petition and papers from the files of the House.

Mr. JOHNSON, of Arkansas, moved a suspension of the rules, to enable him to offer the following resolution:

Resolved, That there be paid out of the contingent fund of the House, as compensation to William R. Nicholls, for conveying the remains of James A. Black, deceased, late a member of this House, from the Congressional burial-ground to Columbia, South Carolina, two hundred and fifty dollars.

The question was put on suspending the rules, and it was rejected.

Mr. FULTON moved that the Committee of the Whole House be discharged from the bill for the relief of George G. Bishop, and the legal representatives of John Arnold, deceased; which motion was agreed to.

Mr. THOMPSON, of Mississippi, moved, at half past two o'clock, that the House adjourn.

And the question being taken by yeas and nays, it was rejected—yeas 20, nays 143.

Mr. PENDLETON moved a suspension of the rules, to enable him to offer the following resolution:

Resolved, That the Clerk of this House be, and he is hereby, directed to pay to John Lee, the ostler of the House, the same compensation that was allowed and paid to the other attendants and laborers of the House, during the present and last Congress.

The question on suspending the rules was put and rejected—two-thirds voting against it.

Mr. KAUFMAN moved that the House resolve itself into Committee of the Whole on the state of the Union; which motion was rejected.

Mr. PHELPS moved that the rules be suspended, and that the House proceed to consider the joint resolution of the Senate to authorize and require a renewal of a contract for carrying the mail; which motion was not agreed to.

Mr. KAUFMAN moved to discharge the Committee of the Whole House on the state of the Union from the bill to establish the territorial government of New Mexico; which motion was not agreed to.

Mr. BUTLER, from the Committee on Revolutionary Claims, made an adverse report on the claim of March Farrington; which was laid on the table and ordered to be printed.

Mr. PUTNAM presented joint resolutions of the Legislature of the State of New York, in relation to the erection of a monument to General Nicholas Herkimer; which were laid on the table and ordered to be printed.

Mr. TAYLOR moved a suspension of the rules to enable him to offer a resolution, (a copy of which the reporter could not obtain;) the motion was not agreed to.

Mr. NEWELL, by leave, offered a resolution authorizing the Clerk of the House to employ C. V. Grey to compile an index to the Executive documents of the House of Representatives, from the 25th Congress to the 30th Congress, inclusive, in compliance with a former resolution of the House.

The resolution was rejected.

On motion of Mr. SCHENCK, it was

Ordered, That a message be sent to the Senate informing that body that the House, having completed the business before it, was ready to adjourn.

Mr. MORSE moved a suspension of the rules, to enable him to offer the following resolution:

Resolved, That the Commissioner of Public Buildings be directed to submit to the next Congress some approved plan, either by changing the form of the present Hall of the House of Representatives, or by the erection of some other hall in the Capitol which shall be better adapted to the purposes of legislation.

The question on suspending the rules was put and rejected, two-thirds voting against it.

Mr. HENLEY moved to suspend the rules, for the purpose of enabling him to offer the usual resolution to appoint a committee to wait upon the President and inform him that Congress, having completed its business, is ready to adjourn.

The motion to suspend the rules was not agreed to, two-thirds voting against it.

Mr. BROWN, of Mississippi, moved a suspension of the rules, to enable him to offer the following resolution:

Resolved, That ten thousand extra copies of the majority and minority reports upon the subject of military contributions enforced in Mexico be printed.

The question on suspending the rules was put and rejected, two-thirds voting against it.

On motion of Mr. CABELL, it was

Resolved, That the attorney in the following private claims have leave to withdraw all the papers connected therewith from the files of the House: Captain William Black, volunteer company's papers; John Lott Philips, volunteer company's papers; John G. Smith; John R. Gamble; Lieutenant Colonel Holt Richeson's heirs; J. Garrason; F. Morino; Micah Whitmarsh's heirs; John Gregg's heirs; Samuel Richard's heirs; George Gresham's heirs; Ebenezer Jackson's heirs; John Winan's heirs; John Slaughter's heirs; Henry Pauling's heirs; Andrew Dover's heirs.

Mr. J. R. INGERSOLL moved to suspend the rules, to enable him to offer the following resolution:

Resolved, That the Clerk be directed to purchase for the use of the members of this House 250 copies of the work on the United States Fiscal Department, prepared by Robert Mayo, in the quarto volumes, provided the price does not exceed five dollars a copy.

The motion to suspend the rules was not agreed to, two-thirds voting against it.

Mr. ROCKWELL, of Connecticut, moved that the Committee of the Whole House be discharged from the joint resolution of the Senate for the relief of Major R. L. Baker of the ordnance corps, and that it be put upon its passage.

The motion was rejected.

Mr. LEVIN moved to reconsider the vote by which the bill establishing a government over the Territory of Minesota had passed.

Mr. L. said that he wished to show the unconstitutionality of the bill, as in his opinion it was a virtual repeal of the naturalization laws of the United States; but as the hour was late, he would not make a speech on the subject; he intended, however to write out, and publish his views on the subject.

Mr. McILVAINE, from the Committee on Indian Affairs, made an adverse report on the petition of the representatives of Colonel John Crowell; which was laid upon the table, and ordered to be printed.

Mr. WENTWORTH called up the motion to reconsider the vote by which the Senate bill to grant to the State of Illinois a right of way through the public lands of the United States, and for other purposes.

The question being on the passage of the bill—

A question of order was raised, and overruled by the Chair.

Mr. HENLEY appealed from the decision of the Chair.

The question was stated on the appeal, and being put, the decision of the Chair was sustained; the vote being taken by yeas and nays, which resulted: Yeas 129, nays 7.

After some remarks by Mr. WENTWORTH—

Mr. HENLEY moved that the bill be laid upon the table; which was agreed to.

On motion of Mr. ROCKWELL, of Conn.,

Resolved, That a committee be appointed on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and notify him that Congress, having completed the business before it, is ready to adjourn.

Messrs. ROCKWELL, COBB of Georgia, and LEVIN, were appointed said committee.

Mr. NEWELL moved a suspension of the rules, to enable him to offer a resolution to authorize the Clerk of the House to employ C. Upton, the keeper of the document room, to compile an index to the executive documents of the House, to commence with the twenty-fifth Congress, and continue to the thirtieth Congress, inclusive, under a resolution of the House heretofore passed.

The motion to suspend the rules did not prevail, two-thirds voting against it.

Mr. HAMPTON, of New Jersey, from the Committee on Enrolled bills, reported that the committee had presented the bill making appropriations for the civil and diplomatic expenses of Government to the President for his approval.

A message was received from the President, by J. KNOX WALKER, Esq., his Private Secretary, notifying the House that he had approved and signed the civil and diplomatic appropriation bill, and the bill extending the revenue laws of the United States over Upper California.

Mr. ROCKWELL, of Connecticut, from the Joint Committee appointed to wait upon the President, reported that the committee had performed that duty, and that the President had stated that he had no further communication to make to Congress.

Mr. KAUFMAN (at seven o'clock on Sunday morning) moved that the House adjourn *sine die;* which motion was agreed to.

The SPEAKER then rose, and addressed the House as follows:

Gentlemen of the House of Representatives:

The hour has arrived which terminates our relations to the country, and our relations to each other, as members of the Thirtieth Congress; and you have already pronounced the word which puts an end at once to my vocation and to your own.

But neither the usage of the occasion, nor my own feelings, will allow me to leave the Chair, without a word of acknowledgment, and a word of farewell, to those with whom I have been so long associated, and by whom I have been so highly honored.

Certainly, gentlemen, I should subject myself to a charge of great ingratitude, were I not to thank you for the resolution in reference to my official services, which you have placed upon the records within a few hours past.

Such a resolution, I need not say, is the most precious testimonial which any presiding officer can receive, and affords the richest remuneration for any labors which it may have cost.

It did not require, however, this formal tribute at your hands, to furnish me with an occasion of grateful acknowledgment to you all. I am deeply sensible, that no intentions however honest, and no efforts however earnest, could have carried me safely and successfully through with the duties which have been imposed upon me, had I not been seconded and sustained, from first to last, by your kind coöperation and friendly forbearance.

I beg you, then, to receive my most hearty thanks, not merely for so generous an appreciation of my services, but for the uniform courtesy and confidence which you have manifested towards me during my whole official term, and by which you have done so much to lighten the labors and relieve the responsibilities which are inseparable from the Chair of this House.

I can honestly say, gentlemen, that I have endeavored, to the best of my ability, to fulfill the pledges with which I entered upon this arduous station, and to discharge its complicated and difficult duties without partiality and without prejudice. Nor am I conscious of having given just cause of imputation or offence to any member of the House. If there be one, however, towards whom I have seemed, at any moment, to exhibit anything of injustice or anything of impatience, I freely offer him the only reparation in my power, in this public expression of my sincere regret.

We have been associated, gentlemen, during a most eventful period in the history of our country and of the world. It would be difficult to designate another era in the modern annals of mankind, which has been signalized by so rapid a succession of startling political changes.

Let us rejoice that while the powers of the earth have almost everywhere else been shaken, that while more than one of the mightiest monarchies and stateliest empires of Europe have tottered or have fallen, our own American Republic has stood firm.

Let us rejoice at the evidence which has thus been furnished to the friends of liberty throughout the world, of the inherent stability of institutions which are founded on the rock of a written Constitution, and which are sustained by the will of a free and intelligent people.

And let us hope and trust—as I, for one, most fervently and confidently do—that, by the blessing of God upon prudent, conciliatory, and patriotic counsels, every cause of domestic dissension and fraternal discord may be speedily done away, and that the States and the people, whose Representatives we are, may be bound together forever in a firm, cordial, and indissoluble union.

Offering once more to you all my most grateful acknowledgments of your kindness, and my best wishes for your individual health and happiness, I proceed to the performance of the only duty which remains to me, by announcing, as I now do,

That the House of Representatives of the United States stands adjourned, *sine die.*

LIST OF ACTS

PASSED AT THE 2D SESSION OF THE 30TH CONGRESS.

An act for the relief of Joshua Barney, United States agent.

An act for the relief of B. O. Payne, of Albany, New York.

An act for the relief of the citizens of Cedar Bluff, in the State of Alabama, and for other purposes.

An act to authorize the judge of the courts of the United States of the fifth circuit to hold the circuit court for the district of Kentucky.

An act concerning the selection of jurors in certain courts of the United States.

An act declaring Fort Covington, in the State of New York, to be a port of delivery, and for other purposes.

An act to transfer the towns of Vinal Haven, North Haven, and Isleboro' from the collection district of Penobscot to that of Belfast, in the State of Maine.

An act for the relief of Joel Thacker.

An act to provide for the payment of horses and other property lost or destroyed in the military service of the United States.

An act for the relief of Mary G. Leverett.

An act for the relief of James Morehead.

An act for the relief Major Charles Larrabee.

An act for the relief of Captain Alexander McEwen.

An act for the relief of David Thomas of Philadelphia.

An act for the relief of John P. Skinner and the legal representatives of Isaac Green.

An act for the relief of Doctor Adolphus Wislizenus.

An act for the relief of William Gott.

An act to authorize the coinage of $20 and $1 gold pieces at the mint of the United States and its branches.

An act for the settlement of the claims of New Hampshire against the United States.

An act for the relief of Edward Quinn.

An act for the relief of George Newton.

An act for the relief of Robert Ramsay.

An act for the relief of Elizabeth S. Cobbs.

An act for the relief of Daniel Robinson.

An act for the relief of Jesse Washington Jackson.

An act for the relief of Mrs. Anne W. Angus.

An act for the relief of Elizabeth Mays.

An act for the relief of Nancy Tompkins.

An act for the relief of James Glynn and others.

An act for the relief of James H. Conley.

An act for the relief of Jesse Young.

An act for the relief of Stephen Champlin.

An act for the relief of William De Buys, late postmaster at New Orleans.

An act for the relief of William Fuller and Orlando Saltmarsh.

An act for the relief of Esther Russell.

An act for the relief of Reuben Perry and Thomas P. Ligon.

An act for the relief of the owners of the Spanish brig Restaurador.

An act for the relief of Anthony Bessee.

An act for the relief of G. F. de la Roche and William P. S. Sanger.

An act for the relief of Zilpha White.

An act for the relief of Hugh Riddle.

An act for the relief of Thomas Badger.

An act for the relief of Archibald Bell and L. S. Finch.

An act for the relief of Noah A. Phelps.

An act for the relief of Charles Waldron.

An act for the relief of Colonel Robert Wallace, aid-de-camp to General William Hull.

An act amendatory of the act entitled "An act amendatory of the act entitled 'An act to incorporate the Provident Association of Clerks in the Civil Departments of the Government of the United States, in the District of Columbia,'" approved March 3, 1825.

An act for the relief of James B. Davenport.

An act for the relief of Elisha Thomason.

An act for the relief of James P. Sexton and Joshua Holden.

An act to confirm Elizabeth Burriss, her heirs or assigns, in their title to a tract of land.

An act for the relief of Simon Rodriguez.

An act for the relief of Marcus Fulton Johnson.

An act supplemental to the act approved the 6th day of July, 1842, entitled "An act confirming certain land claims in Louisiana."

An act for the relief of Joseph Bryan.

An act for the relief of the heirs of William Evans.
An act for the relief of William Fuller and Chas. Savage.
An act for the relief of John Percival, captain in the navy of the United States.
An act granting a pension to John Morrison.
An act for the relief of John Hibbart.
An act for the relief of William Harding.
An act for the relief of Sarah D. Caldwell, wife of James H. Brigham.
An act for the relief of John B. Smith and Simeon Darden.
An act for the relief of A. C. Bryan and others.
An act for the relief of Capt. Dan Drake Henrie.
An act for the relief of Eliza A. Mellon.
An act to extend certain privileges to the town of Whitehall, in the State of New York.
An act for the relief of Philip J. Fontane.
An act for the relief of Levi H. Carson, and for other purposes.
An act for the relief of E. B. Cogswell.
An act for the relief of James Y. Smith.
An act granting a half section of land for the use of schools within fractional township nineteen south, of range eighteen west, county of Lowndes, State of Mississippi.
An act to aid the State of Louisiana in draining the swamp lands therein.
An act to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1849.
An act to provide for carrying into execution, in part, the twelfth article of the treaty with Mexico, concluded at Guadalupe Hidalgo.
An act for the relief of Thomas T. Gamage.
An act making appropriations for the support of the Military Academy for the year ending 30th June, 1850.
An act making appropriations for the payment of revolutionary and other pensions of the United States for the year ending 30th June, 1850.
An act making appropriations for the payment of navy pensions for the year ending June 30, 1850.
An act for the relief of Salsy Darby, of Randolph county, and State of Georgia.
An act for the relief of Charles Wilson.
An act granting five years' half pay to certain widows and orphans of officers and non-commissioned officers, musicians, and privates, both regulars and volunteers.
An act to establish an additional land office in the State of Missouri.
An act for the relief of Solomon Davis.
An act in relation to the Fox and Wisconsin river reservation, in the State of Wisconsin.
An act for the relief of Peter M. Grant.
An act for the relief of Sizur B. Canfield.
An act for the relief of the legal representatives of Captain George R. Shoemaker.
An act to make arrangements for taking the seventh census.
An act for the relief of Charles Benns.
An act for the relief of James Norris, and for other purposes.
An act for the relief of Charles McLane, of Missouri.
An act for the relief of James Fugate.
An act for the relief of John J. Young, a commander in the navy of the United States.
An act for the relief of John Campbell.
An act for the relief of John Savage.
An act for the relief of William H. Wilson.
An act for the relief of Andrew Flanegan.
An act for the relief of William P. Yonge.
An act for the relief of Lowry Williams.
An act for the relief of Mary Buck.
An act for the relief of Amelie Couvillier, of Louisiana.
An act for the relief of John W. Hockett.
An act for the relief of H. Carrington, executor of Paulina Le Grand, deceased.
An act for the relief of Peter Shaffer.
An act for the relief of Polly Aldrich.
An act making appropriations for certain fortifications of the United States for the year ending the 30th June, 1850.
An act for the relief of Eve Boggs.
An act for the relief of James H. Noble.
An act for the relief of Hervey Jones.
An act for the relief of Satterlee Clark.
An act for the relief of Daniel Wilson.
An act to settle the title to certain tracts of land in the State of Arkansas.
An act to amend the act entitled "An act supplemental to the act for the admission of the States of Iowa and Florida into the Union."
An act to incorporate the Oak Hill Cemetery in the District of Columbia.
An act for the relief of the President and Directors of the Union Bank of Florida.
An act for the relief of Sidney Flower, of Louisiana, and for other purposes.
An act for the relief of John T. Ohl.
An act for the relief of Maurice R. Simmons.
An act for the relief Catharine Clark.
An act for the relief of Polly Dameron, widow of Charles Dameron, deceased.
An act to authorize the citizens of Osark county, of Missouri, to enter less than a quarter section of land for the seat of justice in said county.
An act making appropriations for the service of the Post Office Department for the year ending the 30th of June, 1850.
An act for the relief of Samuel A. Grier.
An act to provide for the settlement of the accounts of public officers and others who may have received moneys arising from military contributions or otherwise in Mexico.
An act to extend the provisions of all laws now in force relating to the carriage of passengers in merchant vessels, and the regulation thereof.
An act requiring all moneys receivable from customs and from all other sources to be paid immediately into the treasury, without abatement or deduction, and for other purposes.
An act to establish the Home Department, and to provide for the Treasury Department an Assistant Secretary of the Treasury and a Commissioner of the Customs.
An act making appropriations for the support of the army for the year ending the 30th June, 1850.
An act making appropriations for the naval service for the year ending the 30th June, 1850.
An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30th, 1850.
An act making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th June, 1850, and for other purposes.
An act to extend the revenue laws of the United States over the territory and waters of Upper California, and to create a collection district therein.
An act declaratory of the act for the admission of the State of Iowa into the Union.
An act to extend the provisions of an act, approved the third of March, eighteen hundred and forty-seven, for carrying into effect the existing compacts with the States of Alabama and Mississippi with regard to the five per cent. fund and school reservations.
An act to continue the light at Sands Point, on Long Island.
An act to amend an act entitled "An act for authenticating certain records," approved February 22, 1849.
An act making appropriation for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes.
An act for the better organization of the district court of the United States within the State of Louisiana.
An act concerning the pay department of the army.
An act to establish the collection district of Brazos de Santiago, in the State of Texas, and for other purposes.
An act authorizing the payment of interest upon the advances made by the State of Alabama for the use of the United States Government in the suppression of the Creek Indian hostilities in 1836 and 1837 in Alabama.
An act to authorize the Secretary of War to make reparation for the killing of a Caddo boy by volunteer troops in Texas.
An act to authorize the issuing of a register or enrolment to the ship Annie Teft.
An act in addition to the act entitled "An act to incorporate the Washington, Alexandria, and Georgetown Steam-packet Company.
An act to cause the northern boundary line of the State of Iowa to be run and marked.
An act to continue the office of the Commissioner of Pensions.
An act for authenticating certain records.
An act to grant the right of way to the Mobile and Ohio Railroad Company.
An act to provide for an increase of the medical staff, and for an additional number of chaplains of the army of the United States.
An act to define the period of disability imposed upon certain bidders for small contracts.
An act to grant to the Atlantic and Gulf Railroad Company the right of way through the public lands of the United States.
An act for changing the location of the land office in the Chippewa land district, and establishing an additional land district in the State of Wisconsin.
An act to establish the territorial government of Minesota.
An act to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico, of the 2d day of February, 1848.
An act to provide for the final settlement of the accounts of Abraham Edwards, register of the land office at Kalamazoo, Michigan.
An act for the relief of Alexander Montgomery, captain and assistant quartermaster of the army.
An act for the relief of Thomas W. Chinn and others.
An act for the relief of James F. Sothoron.
An act for the relief of Peter Capella, administrator of Andrew Capella, deceased, and for the relief of John Caho, and for the relief of Elijah Petty and Hannah Petty his wife, heirs of John Beardon, deceased.
An act for the relief of James G. Carson.
An act for the relief of Henry D. Garrison.
An act for the relief of the owners of the schooner Ticonie.
An act for the relief of P. Chouteau, jr., and Company.
An act to provide for the final settlement of the accounts of Thomas C. Sheldon, late receiver of public moneys at Kalamazoo, Michigan.
An act for the relief of Nehemiah Brush.
An act for the relief of William L. Wigent.
An act to allow subsistence to certain Arkansas and other volunteers who have been prisoners of war in Mexico.
An act for the relief of William Plummer, executor of Starkey Armistead, deceased.
An act for the relief of James M. Scantland.
An act for the relief of James Hotchkiss.
An act continuing the pension granted to Patrick Walker.
An act for the relief of Timothy Cavan.
An act for the relief of Thomas Talbot and others.
An act to compensate John M. Moore.
An act for the relief of Mary MacRae, widow of Lieutenant Colonel William MacRae, late of the United States army, deceased.
An act for the relief of Jeanette C. Huntington, widow and sole executrix of William D. Cheever, deceased.
An act for the relief of Creed Taylor.
An act for the relief of the forward officers of the late Exploring Expedition.
An act for the relief of Joseph F. Caldwell.
An act for the relief of Thomas Douglas, late United States attorney for East Florida.
An act to provide for the settlement of the claim of Henry Washington, late a deputy surveyor of the public lands in Florida.
An act for the relief of George Center.
An act for the relief of the heirs of Jean F. Perry, Josiah Bleakeley, Nicholas Garrot, and Robert Morrison.
An act granting a pension to Bethiah Healy, widow of George Healy, deceased.
An act to relinquish the reversionary interest of the United States in a certain Indian reservation in the State of Alabama.
Joint resolution granting to the Secretary of the Treasury further time to make the report concerning the sale and entry of certain lands in Cincinnati.
Joint resolution relative to evidence in applications for pensions by widows of deceased soldiers under the act of July 21, 1848.
Joint resolution for the relief of Geo. R. Smith.
Joint resolution for the purchase of copies of the General Navy Register and Laws.
Joint resolution concerning the settlement of the accounts of William Speiden, purser in the navy of the United States.
Joint resolution for the relief H. M. Barny.

Joint resolution for the relief of J. Melville Gillis and others.

Joint resolution authorizing a settlement of the accounts of Thomas M. Howe, late pension agent at Pittsburg, upon equitable principles.

Joint resolution for the relief of John B. Nevitt, of Adams county, Mississippi.

Joint resolution for the distribution of the Official Register or Blue Book among the several States.

Joint resolution authorizing the Secretary of the Senate and Clerk of the House of Representatives to subscribe for 1,000 copies of a further publication of the Debates and Proceedings of Congress, and for other purposes.

Joint resolution for the relief of the pursers in the navy as to expenditures made in pursuance of orders during the war with Mexico.

Joint resolution directing that the Government of Russia be supplied with certain volumes of the Narrative of the Exploring Expedition, in lieu of those which were lost at sea.

A resolution for the appointment of regents in the Smithsonian Institution.

A resolution relating to the compensation of persons appointed to deliver the votes for President and Vice President of the United States to the President of the Senate.

A resolution authorizing the Secretary of War to furnish arms and ammunition to persons emigrating to the Territories of Oregon, California, and New Mexico.

A resolution to authorize the Secretary of the Treasury to make an equitable settlement with the sureties of Robert T. Lytle, late surveyor general of the district of Ohio.

A resolution to defray the expenses of certain Chippewa Indians and their interpreter.

A resolution to fix the meaning of the second section of an act for changing the location of the land office in the Chippewa land district, and establishing an additional land district in Wisconsin.

A resolution relative to the public printing.

A resolution respecting the claims of A. S. and A. W. Benson.

THIS sheet completes the CONGRESSIONAL GLOBE for the 2d Session of the 30th Congress, except the Index and the Appropriations made during the Session, which will be sent to subscribers in about two weeks.

The last five numbers of the CONGRESSIONAL GLOBE have not been published as promptly as usual, on account of the difficulty of obtaining the official proceedings of the Senate for the last three days of the Session.

Subscribers will be furnished with any numbers not received by them, without charge, if they will write to us for them immediately. Postmasters are authorized by law to frank such letters.

We have printed surplus copies of the CONGRESSIONAL GLOBE and APPENDIX for the last session, which we will sell for $1 50 a copy for each—that is, $1 50 for a copy of the CONGRESSIONAL GLOBE, and $1 50 for a copy of the APPENDIX. If any person will take both, we send them to him, bound in cloth, free of postage, for $3.

The CONGRESSIONAL GLOBE and APPENDIX will be published next session of Congress (which will be a long one) for $3 each. Both Houses of Congress pay to us $3 each for a long session, and $1 50 each for a short one. We sink money at these prices, whenever we do not obtain a large number of subscribers. It is probable that the CONGRESSIONAL GLOBE and APPENDIX will each make near 2,000 pages next session of Congress.

APPENDIX

TO THE CONGRESSIONAL GLOBE.

THIS is the first number of the APPENDIX to the CONGRESSIONAL GLOBE for this session—the second of the Thirtieth Congress. We will print several thousand surplus copies for the purpose of supplying those who may subscribe within a reasonable time—say by the 10th of January—with complete copies. The APPENDIX will contain the President's Messages; the Reports of the Heads of the Executive Departments; and *all* the Speeches made in both Houses of Congress which the members write out or revise.

The CONGRESSIONAL GLOBE is printed in the same form as the APPENDIX, and contains the speeches of the members, condensed; all the resolutions offered; and the yeas and nays on every important question. We will print, also, several thousand surplus copies of it, to supply those who may subscribe hereafter with complete copies.

The following are our prices for them:

For one copy of the CONGRESSIONAL GLOBE.....$1 00
For one copy of the APPENDIX..... 1 00
For six copies of either, or part of both..... 5 00

☞After the 10th of January the price for the CONGRESSIONAL GLOBE and APPENDIX for this session will be $1 50 each. The original price of $1 each does not pay the expense of the publications, in consequence of the great increase of matter published. We must make our profit out of those who neglect to subscribe early.

MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES.

Fellow-citizens of the Senate
and of the House of Representatives:

Under the benignant Providence of Almighty God, the representatives of the States and of the people are again brought together to deliberate for the public good. The gratitude of the nation to the sovereign Arbiter of all human events, should be commensurate with the boundless blessings which we enjoy.

Peace, plenty, and contentment reign throughout our borders, and our beloved country presents a sublime moral spectacle to the world.

The troubled and unsettled condition of some of the principal European Powers has had a necessary tendency to check and embarrass trade, and to depress prices throughout all commercial nations; but notwithstanding these causes, the United States, with their abundant products, have felt their effects less severely than any other country, and all our great interests are still prosperous and successful.

In reviewing the great events of the past year, and contrasting the agitated and disturbed state of other countries with our own tranquil and happy condition, we may congratulate ourselves that we are the most favored people on the face of the earth. While the people of other countries are struggling to establish free institutions, under which man may govern himself, we are in the actual enjoyment of them—a rich inheritance from our fathers. While enlightened nations of Europe are convulsed and distracted by civil war or intestine strife, we settle all our political controversies by the peaceful exercise of the rights of freemen at the ballot-box. The great republican maxim so deeply engraven on the hearts of our people, that the will of the majority, constitutionally expressed, shall prevail, is our sure safeguard against force and violence. It is a subject of just pride, that our fame and character as a nation continue rapidly to advance in the estimation of the civilized world. To our wise and free institutions it is to be attributed, that while other nations have achieved glory at the price of the suffering, distress, and impoverishment of their people, we have won our honorable position in the midst of an uninterrupted prosperity, and of an increasing individual comfort and happiness. I am happy to inform you that our relations with all nations are friendly and pacific. Advantageous treaties of commerce have been concluded, within the last four years, with New Granada, Peru, the Two Sicilies, Belgium, Hanover, Oldenburg, and Mecklenburg-Schwerin. Pursuing our example, the restrictive system of Great Britain, our principal foreign customer, has been relaxed; a more liberal commercial policy has been adopted by other enlightened nations, and our trade has been greatly enlarged and extended. Our country stands higher in the respect of the world than at any former period. To continue to occupy this proud position, it is only necessary to preserve peace, and faithfully adhere to the great and fundamental principle of our foreign policy of non-interference in the domestic concerns of other nations. We recognize in all nations the rights which we enjoy ourselves, to change and reform their political institutions, according to their own will and pleasure. Hence we do not look behind existing governments, capable of maintaining their own authority. We recognize all such actual governments, not only from the dictates of true policy, but from a sacred regard for the independence of nations.

While this is our settled policy, it does not follow that we can ever be indifferent spectators of the progress of liberal principles. The Government and people of the United States hailed with enthusiasm and delight the establishment of the French Republic, as we now hail the efforts in progress to unite the States of Germany in a confederation, similar in many respects to our own Federal Union. If the great and enlightened German States, occupying, as they do, a central and commanding position in Europe, shall succeed in establishing such a Confederated Government, securing at the same time to the citizens of each State, local governments adapted to the peculiar condition of each, with unrestricted trade and intercourse with each other, it will be an important era in the history of human events. Whilst it will consolidate and strengthen the power of Germany, it must essentially promote the cause of peace, commerce, civilization, and constitutional liberty throughout the world.

With all the governments on this continent our relations, it is believed, are now on a more friendly and satisfactory footing than they have ever been at any former period.

Since the exchange of ratifications of the treaty of peace with Mexico, our intercourse with the Government of that Republic has been of the most friendly character. The Envoy Extraordinary and Minister Plenipotentiary of the United States to Mexico has been received and accredited; and a diplomatic representative from Mexico of similar rank has been received and accredited by this Government. The amicable relations between the two countries which had been suspended have been happily restored, and are destined, I trust, to be long preserved. The two Republics, both situated on this continent, and with coterminous territories, have every motive of sympathy and of interest to bind them together in perpetual amity.

This gratifying condition of our foreign relations renders it unnecessary for me to call your attention more specifically to them.

It has been my constant aim and desire to cultivate peace and commerce with all nations. Tranquillity at home, and peaceful relations abroad, constitute the true permanent policy of our country. War, the scourge of nations, sometimes becomes inevitable, but is always to be avoided when it can be done consistently with the rights and honor of the nation.

One of the most important results of the war into which we were recently forced with a neighboring nation, is the demonstration it has afforded of the military strength of our country. Before the late war with Mexico, European and other foreign Powers entertained imperfect and erroneous views of our physical strength as a nation, and of our ability to prosecute war, and especially a war waged out of our own country. They saw that our standing army on the peace establishment did not exceed ten thousand men. Accustomed themselves to maintain in peace large standing armies for the protection of thrones against their own subjects, as well as against foreign enemies, they had not conceived that it was possible for a nation without such an army, well disciplined and of long service, to wage war successfully. They held in low repute our militia, and were far from regarding them as an effective force, unless it might be for temporary defensive operations when invaded on our own soil. The events of the late war with Mexico have not only undeceived them, but have removed erroneous impressions which prevailed to some extent even among a portion of our own countrymen. That war has demonstrated, that upon the breaking out of hostilities not anticipated, and for which no previous preparation had been made, a volunteer army of citizen-soldiers equal to veteran troops, and in numbers equal to any emergency, can in a short period be brought into the field. Unlike what would have occurred in any other country, we were under no necessity of resorting to draughts or conscriptions. On the contrary, such was the number of volunteers who patriotically tendered their services, that the chief difficulty was in making selections, and determining who should be disappointed and compelled to remain at home. Our citizen-soldiers are unlike those drawn from the population of any other country. They are composed indiscriminately of all professions and pursuits: of farmers, lawyers, physicians, merchants, manufacturers, mechanics, and laborers; and this, not only among the officers, but the private soldiers in the ranks. Our citizen-soldiers are unlike those of any other country in other respects. They are armed, and have been accustomed, from their youth up, to handle and use fire-arms; and a large proportion of them, especially in the western and more newly settled States, are expert marksmen. They are men who have a reputation to maintain at home by their good conduct in the field. They are intelligent, and there is an individuality of character which is found in the ranks of no other army. In battle, each private man, as well as every officer, fights not only for his country, but for glory and distinction among his fellow-citizens when he shall return to civil life.

The war with Mexico has demonstrated not only the ability of the Government to organize a numerous army upon a sudden call, but also to provide it with all the munitions and necessary supplies with despatch, convenience, and ease, and to direct its operations with efficiency. The strength of our institutions has not only been displayed in the valor and skill of our troops engaged in active service in the field, but in the organization of those executive branches which were charged with the general direction and conduct of the war. While too great praise cannot be bestowed upon the officers and men who fought our battles, it would be unjust to withhold from those officers necessarily stationed at home, who were charged with the duty of furnishing the army, in proper time, and at proper places, with all the munitions of war and other supplies so necessary to make it efficient, the commendation to which they are entitled. The

credit due to this class of our officers is the greater, when it is considered that no army in ancient or modern times was ever better appointed or provided than our army in Mexico. Operating in an enemy's country, removed two thousand miles from the seat of the Federal Government, its different corps spread over a vast extent of territory, hundreds and even thousands of miles apart from each other, nothing short of the untiring vigilance and extraordinary energy of these officers could have enabled them to provide the army at all points, and in proper season, with all that was required for the most efficient service.

It is but an act of justice to declare, that the officers in charge of the several executive bureaus, all under the immediate eye and supervision of the Secretary of War, performed their respective duties with ability, energy, and efficiency. They have reaped less of the glory of the war, not having been personally exposed to its perils in battle, than their companions in arms; but without their forecast, efficient aid, and coöperation, those in the field would not have been provided with the ample means they possessed of achieving for themselves and their country the unfading honors which they have won for both.

When all these facts are considered, it may cease to be a matter of so much amazement abroad how it happened that our noble army in Mexico, regulars and volunteers, were victorious upon every battle-field, however fearful the odds against them.

The war with Mexico has thus fully developed the capacity of republican governments to prosecute successfully a just and necessary foreign war with all the vigor usually attributed to more arbitrary forms of government. It has been usual for writers on public law to impute to republics a want of that unity, concentration of purpose, and vigor of execution, which are generally admitted to belong to the monarchical and aristocratic forms; and this feature of popular government has been supposed to display itself more particularly in the conduct of a war carried on in an enemy's territory. The war with Great Britain in 1812, was to a great extent confined within our own limits, and shed but little light on this subject. But the war which we have just closed by an honorable peace, evinces beyond all doubt that a popular representative government is equal to any emergency which is likely to arise in the affairs of a nation.

The war with Mexico has developed most strikingly and conspicuously another feature in our institutions. It is, that without cost to the Government or danger to our liberties, we have, in the bosom of our society of freemen, available in a just and necessary war, virtually a standing army of two millions of armed citizen-soldiers, such as fought the battles of Mexico.

But our military strength does not consist alone in our capacity for extended and successful operations on land. The navy is an important arm of the national defence. If the services of the navy were not so brilliant as those of the army in the late war with Mexico, it was because they had no enemy to meet on their own element. While the army had opportunity of performing more conspicuous service, the navy largely participated in the conduct of the war. Both branches of the service performed their whole duty to the country. For the able and gallant services of the officers and men of the navy—acting independently as well as in coöperation with our troops—in the conquest of the Californias, the capture of Vera Cruz, and the seizure and occupation of other important positions on the Gulf and Pacific coasts, the highest praise is due. Their vigilance, energy, and skill rendered the most effective service in excluding munitions of war and other supplies from the enemy, while they secured a safe entrance for abundant supplies for our own army. Our extended commerce was nowhere interrupted; and for this immunity from the evils of war, the country is indebted to the navy.

High praise is due to the officers of the several executive bureaus, navy-yards, and stations connected with the service, all under the immediate direction of the Secretary of the Navy, for the industry, foresight, and energy with which everything was directed and furnished to give efficiency to that branch of the service. The same vigilance existed in directing the operations of the navy, as of the army. There was concert of action and of purpose between the heads of the two arms of the service. By the orders which were from time to time issued, our vessels of war on the Pacific and the Gulf of Mexico were stationed in proper time and in proper positions to coöperate efficiently with the army. By this means their combined power was brought to bear successfully on the enemy.

The great results which have been developed and brought to light by this war, will be of immeasurable importance in the future progress of our country. They will tend powerfully to preserve us from foreign collisions, and to enable us to pursue uninterruptedly our cherished policy of "peace with all nations, entangling alliances with none."

Occupying, as we do, a more commanding position among nations than at any former period, our duties and our responsibilities to ourselves and to posterity are correspondingly increased. This will be the more obvious when we consider the vast additions which have been recently made to our territorial possessions, and their great importance and value.

Within less than four years the annexation of Texas to the Union has been consummated; all conflicting title to the Oregon Territory south of the forty-ninth degree of north latitude, being all that was insisted on by any of my predecessors, has been adjusted; and New Mexico and Upper California have been acquired by treaty. The area of these several Territories, according to a report carefully prepared by the Commissioner of the General Land Office from the most authentic information in his possession, and which is herewith transmitted, contains one million one hundred and ninety-three thousand and sixty-one square miles, or seven hundred and sixty-three million five hundred and fifty-nine thousand and forty acres; while the area of the remaining twenty-nine States, and the territory not yet organized into States east of the Rocky Mountains, contains two million fifty-nine thousand five hundred and thirteen square miles, or thirteen hundred and eighteen million one hundred and twenty-six thousand and fifty-eight acres. These estimates show that the territories recently acquired, and over which our exclusive jurisdiction and dominion have been extended, constitute a country more than half as large as all that which was held by the United States before their acquisition. If Oregon be excluded from the estimate, there will still remain within the limits of Texas, New Mexico, and California, eight hundred and fifty-one thousand five hundred and ninety-eight square miles, or five hundred and forty-five million twelve thousand seven hundred and twenty acres; being an addition equal to more than one-third of all the territory owned by the United States before their acquisition; and, including Oregon, nearly as great an extent of territory as the whole of Europe, Russia only excepted. The Mississippi, so lately the frontier of our country, is now only its centre. With the addition of the late acquisitions, the United States are now estimated to be nearly as large as the whole of Europe. It is estimated by the superintendent of the coast survey, in the accompanying report, that the extent of the seacoast of Texas on the Gulf of Mexico is upwards of four hundred miles; of the coast of Upper California, on the Pacific, of nine hundred and seventy miles; and of Oregon, including the Straits of Fuca, of six hundred and fifty miles; making the whole extent of seacoast on the Pacific one thousand six hundred and twenty miles, and the whole extent on both the Pacific and the Gulf of Mexico two thousand and twenty miles. The length of the coast on the Atlantic, from the northern limits of the United States, around the Capes of Florida to the Sabine, on the eastern boundary of Texas, is estimated to be three thousand one hundred miles; so that the addition of seacoast, including Oregon, is very nearly two-thirds as great as all we possessed before; and, excluding Oregon, is an addition of one thousand three hundred and seventy miles; being nearly equal to one-half of the extent of coast which we possessed before these acquisitions. We have now three great maritime fronts—on the Atlantic, the Gulf of Mexico, and the Pacific—making in the whole an extent of seacoast exceeding five thousand miles. This is the extent of the seacoast of the United States, not including bays, sounds, and small irregularities of the main shore, and of the sea islands. If these be included, the length of the shore line of coast, as estimated by the superintendent of the coast survey, in his report, would be thirty-three thousand and sixty-three miles.

It would be difficult to calculate the value of these immense additions to our territorial possessions. Texas, lying contiguous to the western boundary of Louisiana, embracing within its limits a part of the navigable tributary waters of the Mississippi, and an extensive seacoast, could not long have remained in the hands of a foreign power without endangering the peace of our southwestern frontier. Her products in the vicinity of the tributaries of the Mississippi must have sought a market through these streams, running into and through our territory; and the danger of irritation and collision of interests between Texas as a foreign State and ourselves would have been imminent, while the embarrassments in the commercial intercourse between them must have been constant and unavoidable. Had Texas fallen into the hands, or under the influence and control of a strong maritime or military foreign power, as she might have done, these dangers would have been still greater. They have been avoided by her voluntary and peaceful annexation to the United States. Texas, from her position, was a natural and almost indispensable part of our territories. Fortunately, she has been restored to our country, and now constitutes one of the States of our Confederacy, "upon an equal footing with the original States." The salubrity of climate, the fertility of soil, peculiarly adapted to the production of some of our most valuable staple commodities, and her commercial advantages, must soon make her one of our most populous States.

New Mexico, though situated in the interior, and without a seacoast, is known to contain much fertile land, to abound in rich mines of the precious metals, and to be capable of sustaining a large population. From its position, it is the intermediate and connecting territory between our settlements and our possessions in Texas, and those on the Pacific coast.

Upper California, irrespective of the vast mineral wealth recently developed there, holds at this day, in point of value and importance to the rest of the Union, the same relation that Louisiana did, when that fine territory was acquired from France forty-five years ago. Extending nearly ten degrees of latitude along the Pacific, and embracing the only safe and commodious harbors on that coast for many hundred miles, with a temperate climate, and an extensive interior of fertile lands, it is scarcely possible to estimate its wealth until it shall be brought under the government of our laws, and its resources fully developed. From its position, it must command the rich commerce of China, of Asia, of the islands of the Pacific, of Western Mexico, of Central America, the South American States, and of the Russian possessions bordering on that ocean. A great emporium will doubtless speedily arise on the Californian coast, which may be destined to rival in importance New Orleans itself. The depôt of the vast commerce which must exist on the Pacific will probably be at some point on the bay of San Francisco, and will occupy the same relation to the whole western coast of that ocean, as New Orleans does to the valley of the Mississippi and the Gulf of Mexico. To this depôt our numerous whale ships will resort with their cargoes, to trade, refit, and obtain supplies. This of itself will largely contribute to build up a city, which would soon become the centre of a great and rapidly increasing commerce. Situated on a safe harbor, sufficiently capacious for all the navies as well as the marine of the world, and convenient to excellent timber for ship building, owned by the United States, it must become our great western naval depôt.

It was known that mines of the precious metals existed to a considerable extent in California at the time of its acquisition. Recent discoveries render it probable that these mines are more extensive and valuable than was anticipated. The accounts of the abundance of gold in that territory are of such an extraordinary character as would scarcely command belief were they not corroborated by the authentic reports of officers in the public service, who have visited the mineral district, and derived the facts which they detail from personal observation Reluctant to credit

the reports in general circulation as to the quantity of gold, the officer commanding our forces in California visited the mineral district in July last, for the purpose of obtaining accurate information on the subject. His report to the War Department of the result of his examination, and the facts obtained on the spot, is herewith laid before Congress. When he visited the country, there were about four thousand persons engaged in collecting gold. There is every reason to believe that the number of persons so employed has since been augmented. The explorations already made warrant the belief that the supply is very large, and that gold is found at various places in an extensive district of country.

Information received from officers of the navy and other sources, though not so full and minute, confirm the accounts of the commander of our military force in California. It appears, also, from these reports, that mines of quicksilver are found in the vicinity of the gold region. One of them is now being worked, and is believed to be among the most productive in the world.

The effects produced by the discovery of these rich mineral deposites, and the success which has attended the labors of those who have resorted to them, have produced a surprising change in the state of affairs in California. Labor commands a most exorbitant price, and all other pursuits but that of searching for the precious metals are abandoned. Nearly the whole of the male population of the country have gone to the gold district. Ships arriving on the coast are deserted by their crews, and their voyages suspended for want of sailors. Our commanding officer there entertains apprehensions that soldiers cannot be kept in the public service without a large increase of pay. Desertions in his command have become frequent, and he recommends that those who shall withstand the strong temptation, and remain faithful, should be rewarded.

This abundance of gold, and the all-engrossing pursuit of it, have already caused in California an unprecedented rise in the price of the necessaries of life.

That we may the more speedily and fully avail ourselves of the undeveloped wealth of these mines, it is deemed of vast importance that a branch of the mint of the United States be authorized to be established, at your present session, in California. Among other signal advantages which would result from such an establishment would be that of raising the gold to its par value in that Territory. A branch mint of the United States at the great commercial depôt on the west coast, would convert into our own coin not only the gold derived from our own rich mines, but also the bullion and specie which our commerce may bring from the whole west coast of Central and South America. The west coast of America and the adjacent interior embrace the richest and best mines of Mexico, New Granada, Central America, Chili, and Peru. The bullion and specie drawn from these countries, and especially from those of Western Mexico and Peru, to an amount in value of many millions of dollars, are now annually diverted and carried by the ships of Great Britain to her own ports, to be recoined or used to sustain her National Bank, and thus contribute to increase her ability to command so much of the commerce of the world. If a branch mint be established at the great commercial point upon that coast, a vast amount of bullion and specie would flow thither to be recoined, and pass thence to New Orleans, New York, and other Atlantic cities. The amount of our constitutional currency at home would be greatly increased, while its circulation abroad would be promoted. It is well known to our merchants trading to China and the west coast of America, that great inconvenience and loss are experienced from the fact that our coins are not current at their par value in those countries.

The Powers of Europe, far removed from the west coast of America by the Atlantic Ocean which intervenes, and by a tedious and dangerous navigation around the southern cape of the continent of America, can never successfully compete with the United States in the rich and extensive commerce which is opened to us at so much less cost by the acquisition of California.

The vast importance and commercial advantages of California have heretofore remained undeveloped by the government of the country of which it constituted a part. Now that this fine province is a part of our country, all the States of the Union, some more immediately and directly than others, are deeply interested in the speedy development of its wealth and resources. No section of our country is more interested, or will be more benefited, than the commercial, navigating, and manufacturing interests of the eastern States. Our planting and farming interests in every part of the Union will be greatly benefited by it. As our commerce and navigation are enlarged and extended, our exports of agricultural products and of manufactures will be increased; and in the new markets thus opened, they cannot fail to command remunerating and profitable prices.

The acquisition of California and New Mexico, the settlement of the Oregon boundary, and the annexation of Texas, extending to the Rio Grande, are results which, combined, are of greater consequence, and will add more to the strength and wealth of the nation, than any which have preceded them since the adoption of the Constitution.

But to effect these great results, not only California, but New Mexico, must be brought under the control of regularly organized governments. The existing condition of California, and of that part of New Mexico lying west of the Rio Grande, and without the limits of Texas, imperiously demand that Congress should, at its present session, organize territorial governments over them.

Upon the exchange of ratifications of the treaty of peace with Mexico on the thirtieth of May last, the temporary governments which had been established over New Mexico and California by our military and naval commanders, by virtue of the rights of war, ceased to derive any obligatory force from that source of authority; and having been ceded to the United States, all government and control over them under the authority of Mexico had ceased to exist. Impressed with the necessity of establishing territorial governments over them, I recommended the subject to the favorable consideration of Congress in my message communicating the ratified treaty of peace, on the sixth of July last, and invoked their action at that session. Congress adjourned without making any provision for their government. The inhabitants, by the transfer of their country, had become entitled to the benefits of our laws and Constitution, and yet were left without any regularly organized government. Since that time, the very limited power possessed by the Executive has been exercised to preserve and protect them from the inevitable consequences of a state of anarchy. The only government which remained was that established by the military authority during the war. Regarding this to be a *de facto* government, and that by the presumed consent of the inhabitants it might be continued temporarily, they were advised to conform and submit to it for the short intervening period before Congress would again assemble and could legislate on the subject. The views entertained by the Executive on this point are contained in a communication of the Secretary of State, dated the seventh of October last, which was forwarded for publication to California and New Mexico, a copy of which is herewith transmitted.

The small military force of the regular army, which was serving within the limits of the acquired territories at the close of the war, was retained in them, and additional forces have been ordered there for the protection of the inhabitants, and to preserve and secure the rights and interests of the United States.

No revenue has been or could be collected at the ports in California, because Congress failed to authorize the establishment of custom-houses, or the appointment of officers for that purpose.

The Secretary of the Treasury, by a circular letter addressed to collectors of the customs on the seventh day of October last, a copy of which is herewith transmitted, exercised all the power with which he was invested by law.

In pursuance of the act of the fourteenth of August last, extending the benefit of our post office laws to the people of California, the Postmaster General has appointed two agents, who have proceeded, the one to California, and the other to Oregon, with authority to make the necessary arrangements for carrying its provisions into effect.

The monthly line of mail steamers from Panama to Astoria has been required to "stop and deliver and take mails at San Diego, Monterey, and San Francisco." These mail steamers, connected by the isthmus of Panama with the line of mail steamers on the Atlantic between New York and Chagres, will establish a regular mail communication with California.

It is our solemn duty to provide, with the least practicable delay, for New Mexico and California, regularly organized territorial governments. The causes of the failure to do this at the last session of Congress are well known, and deeply to be regretted. With the opening prospects of increased prosperity and national greatness which the acquisition of these rich and extensive territorial possessions affords, how irrational it would be to forego or to reject these advantages, by the agitation of a domestic question which is coeval with the existence of our Government itself, and to endanger by internal strifes, geographical divisions, and heated contests for political power, or for any other cause, the harmony of the glorious Union of our confederated States; that Union which binds us together as one people, and which for sixty years has been our shield and protection against every danger. In the eyes of the world and of posterity, how trivial and insignificant will be all our internal divisions and struggles compared with the preservation of this Union of the States in all its vigor and with all its countless blessings! No patriot would foment and excite geographical and sectional divisions. No lover of his country would deliberately calculate the value of the Union. Future generations would look in amazement upon the folly of such a course. Other nations at the present day would look upon it with astonishment; and such of them as desire to maintain and perpetuate thrones and monarchical or aristocratical principles will view it with exultation and delight, because in it they will see the elements of faction, which they hope must ultimately overturn our system. Ours is the great example of a prosperous and free self-governed Republic, commanding the admiration and the imitation of all the lovers of freedom throughout the world. How solemn, therefore, is the duty, how impressive the call upon us and upon all parts of our country, to cultivate a patriotic spirit of harmony, of good fellowship, of compromise and mutual concession, in the administration of the incomparable system of government formed by our fathers in the midst of almost insuperable difficulties, and transmitted to us, with the injunction that we should enjoy its blessings and hand it down unimpaired to those who may come after us!

In view of the high and responsible duties which we owe to ourselves and to mankind, I trust you may be able, at your present session, to approach the adjustment of the only domestic question which seriously threatens, or probably ever can threaten, to disturb the harmony and successful operation of our system.

The immensely valuable possessions of New Mexico and California are already inhabited by a considerable population. Attracted by their great fertility, their mineral wealth, their commercial advantages and the salubrity of the climate, emigrants from the older States, in great numbers, are already preparing to seek new homes in these inviting regions.

Shall the dissimilarity of the domestic institutions in the different States prevent us from providing for them suitable governments? These institutions existed at the adoption of the Constitution, but the obstacles which they interposed were overcome by that spirit of compromise which is now invoked. In a conflict of opinions or of interests, real or imaginary, between different sections of our country, neither can justly demand all which it might desire to obtain. Each, in the true spirit of our institutions, should concede something to the other.

Our gallant forces in the Mexican war, by whose patriotism and unparalleled deeds of arms we obtained these possessions as an indemnity for our just demands against Mexico, were composed of citizens who belonged to no one State or section of our Union. They were men from slaveholding and non-slaveholding States, from the North and

the South, from the East and the West. They were all companions-in-arms and fellow-citizens of the same common country, engaged in the same common cause. When prosecuting that war, they were brethren and friends, and shared alike with each other common toils, dangers, and sufferings. Now, when their work is ended, when peace is restored, and they return again to their homes, put off the habiliments of war, take their places in society, and resume their pursuits in civil life, surely a spirit of harmony and concession, and of equal regard for the rights of all and of all sections of the Union ought to prevail in providing governments for the acquired territories—the fruits of their common service. The whole people of the United States and of every State contributed to defray the expenses of that war; and it would not be just for any one section to exclude another from all participation in the acquired territory. This would not be in consonance with the just system of government which the framers of the Constitution adopted.

The question is believed to be rather abstract than practical, whether slavery ever can or would exist in any portion of the acquired territory, even if it were left to the option of the slaveholding States themselves. From the nature of the climate and productions, in much the larger portion of it, it is certain it could never exist; and in the remainder, the probabilities are, it would not. But however this may be, the question, involving as it does, a principle of equality of rights of the separate and several States, as equal co-partners in the Confederacy, should not be disregarded.

In organizing governments over these Territories, no duty imposed on Congress by the Constitution requires that they should legislate on the subject of slavery, while their power to do so is not only seriously questioned, but denied by many of the soundest expounders of that instrument. Whether Congress shall legislate or not, the people of the acquired Territories, when assembled in convention to form State constitutions, will possess the sole and exclusive power to determine for themselves whether slavery shall or shall not exist within their limits. If Congress shall abstain from interfering with the question, the people of these Territories will be left free to adjust it as they may think proper when they apply for admission as States into the Union. No enactment of Congress could restrain the people of any of the sovereign States of the Union, old or new, north or south, slaveholding or non-slaveholding, from determining the character of their own domestic institutions as they may deem wise and proper. Any and all of the States possess this right, and Congress cannot deprive them of it. The people of Georgia might, if they chose, so alter their constitution as to abolish slavery within its limits; and the people of Vermont might so alter their constitution as to admit slavery within its limits. Both States would possess the right; though, as all know, it is not probable that either would exert it.

It is fortunate for the peace and harmony of the Union that this question is in its nature temporary, and can only continue for the brief period which will intervene before California and New Mexico may be admitted as States into the Union. From the tide of population now flowing into them, it is highly probable that this will soon occur.

Considering the several States and the citizens of the several States as equals, and entitled to equal rights under the Constitution, if this were an original question, it might well be insisted on that the principle of non-interference is the true doctrine, and that Congress could not, in the absence of any express grant of power, interfere with their relative rights. Upon a great emergency, however, and under menacing dangers to the Union, the Missouri compromise line in respect to slavery was adopted. The same line was extended further west in the acquisition of Texas. After an acquiescence of nearly thirty years in the principle of compromise recognized and established by these acts, and to avoid the danger to the Union which might follow if it were now disregarded, I have heretofore expressed the opinion that that line of compromise should be extended on the parallel of thirty-six degrees thirty minutes from the western boundary of Texas, where it now terminates, to the Pacific Ocean. This is the middle ground of compromise, upon which the different sections of the Union may meet, as they have heretofore met. If this be done, it is confidently believed a large majority of the people of every section of the country, however widely their abstract opinions on the subject of slavery may differ, would cheerfully and patriotically acquiesce in it, and peace and harmony would again fill our borders.

The restriction north of the line was only yielded to in the case of Missouri and Texas upon a principle of compromise, made necessary for the sake of preserving the harmony, and possibly the existence of the Union.

It was upon these considerations that, at the close of your last session, I gave my sanction to the principle of the Missouri compromise line, by approving and signing the bill to establish "the Territorial Government of Oregon." From a sincere desire to preserve the harmony of the Union, and in deference for the acts of my predecessors, I felt constrained to yield my acquiescence to the extent to which they had gone in compromising this delicate and dangerous question. But if Congress shall now reverse the decision by which the Missouri compromise was effected, and shall propose to extend the restriction over the whole territory, south as well as north of the parallel of thirty-six degrees thirty minutes, it will cease to be a compromise, and must be regarded as an original question.

If Congress, instead of observing the course of non-interference, leaving the adoption of their own domestic institutions to the people who may inhabit these Territories; or if, instead of extending the Missouri compromise line to the Pacific, shall prefer to submit the legal and constitutional questions which may arise to the decision of the judicial tribunals, as was proposed in a bill which passed the Senate at your last session, an adjustment may be effected in this mode. If the whole subject be referred to the Judiciary, all parts of the Union should cheerfully acquiesce in the final decision of the tribunal created by the Constitution for the settlement of all questions which may arise under the Constitution, treaties, and laws of the United States.

Congress is earnestly invoked, for the sake of the Union, its harmony, and our continued prosperity as a nation, to adjust at its present session this, the only dangerous question which lies in our path—if not in some one of the modes suggested, in some other which may be satisfactory.

In anticipation of the establishment of regular governments over the acquired territories, a joint commission of officers of the army and navy has been ordered to proceed to the coast of California and Oregon, for the purpose of making *reconnoissances* and a report as to the proper sites for the erection of fortifications or other defensive works on land, and of suitable situations for naval stations. The information which may be expected from a scientific and skillful examination of the whole face of the coast will be eminently useful to Congress, when they come to consider the propriety of making appropriations for these great national objects. Proper defences on land will be necessary for the security and protection of our possessions; and the establishment of navy-yards, and a dock for the repair and construction of vessels, will be important alike to our navy and commercial marine. Without such establishments, every vessel, whether of the navy or of the merchant service, requiring repair, must at great expense, come round Cape Horn to one of our Atlantic yards for that purpose. With such establishments, vessels, it is believed, may be built or repaired as cheaply in California as upon the Atlantic coast. They would give employment to many of our enterprising shipbuilders and mechanics, and greatly facilitate and enlarge our commerce in the Pacific.

As it is ascertained that mines of gold, silver, copper, and quicksilver exist in New Mexico and California, and that nearly all the lands where they are found belong to the United States, it is deemed important to the public interests, that provision be made for a geological and mineralogical examination of these regions. Measures should be adopted to preserve the mineral lands, especially such as contain the precious metals, for the use of the United States; or if brought into the market, to separate them from the farming lands, and dispose of them in such manner as to secure a large return of money to the treasury, and at the same time lead to the development of their wealth by individual proprietors and purchasers. To do this, it will be necessary to provide for an immediate survey and location of the lots. If Congress should deem it proper to dispose of the mineral lands, they should be sold in small quantities, and at a fixed minimum price.

I recommend that surveyor generals' offices be authorized to be established in New Mexico and California, and provision made for surveying and bringing the public lands into market at the earliest practicable period. In disposing of these lands, I recommend that the right of preëmption be secured, and liberal grants made to the early emigrants who have settled or may settle upon them.

It will be important to extend our revenue laws over these territories, and especially over California, at an early period. There is already a considerable commerce with California; and until ports of entry shall be established and collectors appointed, no revenue can be received.

If these and other necessary and proper measures be adopted for the development of the wealth and resources of New Mexico and California, and regular territorial governments be established over them, such will probably be the rapid enlargement of our commerce and navigation, and such the addition to the national wealth, that the present generation may live to witness the controlling commercial and monetary power of the world transferred from London and other European emporiums to the city of New York.

The apprehensions which were entertained by some of our statesmen, in the earlier periods of the Government, that our system was incapable of operating with sufficient energy and success over largely extended territorial limits, and that if this were attempted, it would fall to pieces by its own weakness, have been dissipated by our experience. By the division of power between the States and Federal Government, the latter is found to operate with as much energy in the extremes as in the centre. It is as efficient in the remotest of the thirty States which now compose the Union, as it was in the thirteen States which formed our Constitution. Indeed, it may well be doubted whether, if our present population had been confined within the limits of the original thirteen States, the tendencies to centralization and consolidation would not have been such as to have encroached upon the essential reserved rights of the States, and thus to have made the Federal Government a widely different one, practically, from what it is in theory, and was intended to be by its framers. So far from entertaining apprehensions of the safety of our system by the extension of our territory, the belief is confidently entertained that each new State gives strength and an additional guarantee for the preservation of the Union itself.

In pursuance of the provisions of the thirteenth article of the treaty of peace, friendship, limits, and settlement, with the Republic of Mexico, and of the act of July the twenty-ninth, 1848, claims of our citizens which had been "already liquidated and decided against the Mexican Republic," amounting, with the interest thereon, to two million twenty-three thousand eight hundred and thirty-two dollars and fifty-one cents, have been liquidated and paid. There remain to be paid of these claims, seventy-four thousand one hundred and ninety-two dollars and twenty-six cents.

Congress, at its last session, having made no provision for executing the fifteenth article of the treaty, by which the United States assume to make satisfaction for the "unliquidated claims" of our citizens against Mexico, to "an amount not exceeding three and a quarter millions of dollars," the subject is again recommended to your favorable consideration.

The exchange of ratifications of the treaty with Mexico took place on the thirtieth of May, 1848. Within one year after that time, the commissioner and surveyor which each Government stipulates to appoint, are required to meet "at the port of 'San Diego, and proceed to run and mark the said 'boundary in its whole course to the mouth of the 'Rio Bravo del Norte." It will be seen from this provision, that the period within which a commissioner and surveyor of the respective Governments are to meet at San Diego, will expire on the thirtieth of May, 1849. Congress, at the close

of its last session, made an appropriation for "the expenses of running and marking the boundary line" between the two countries, but did not fix the amount of salary which should be paid to the commissioner and surveyor to be appointed on the part of the United States. It is desirable that the amount of compensation which they shall receive should be prescribed by law, and not left, as at present, to Executive discretion.

Measures were adopted at the earliest practicable period to organize the "Territorial Government of Oregon," as authorized by the act of the fourteenth of August last. The Governor and Marshal of the Territory, accompanied by a small military escort, left the frontier of Missouri in September last, and took the southern route, by the way of Santa Fé and the river Gila, to California, with the intention of proceeding thence in one of our vessels of war to their destination. The Governor was fully advised of the great importance of his early arrival in the country, and it is confidently believed he may reach Oregon in the latter part of the present month, or early in the next. The other officers for the Territory have proceeded by sea.

In the month of May last, I communicated information to Congress that an Indian war had broken out in Oregon, and recommended that authority be given to raise an adequate number of volunteers, to proceed, without delay, to the assistance of our fellow-citizens in that Territory. The authority to raise such a force not having been granted by Congress, as soon as their services could be dispensed with in Mexico, orders were issued to the regiment of mounted riflemen to proceed to Jefferson Barracks, in Missouri, and to prepare to march to Oregon as soon as the necessary provision could be made. Shortly before it was ready to march, it was arrested by the provision of the act passed by Congress on the last day of the last session, which directed that all the non-commissioned officers, musicians, and privates of that regiment, who had been in service in Mexico, should, upon their application, be entitled to be discharged. The effect of this provision was to disband the rank and file of the regiment; and before their places could be filled by recruits, the season had so far advanced that it was impracticable for it to proceed until the opening of the next spring.

In the month of October last, the accompanying communication was received from the Governor of the temporary government of Oregon, giving information of the continuance of the Indian disturbances, and of the destitution and defenceless condition of the inhabitants. Orders were immediately transmitted to the commander of our squadron in the Pacific, to despatch to their assistance a part of the naval forces on that station, to furnish them with arms and ammunition, and to continue to give them such aid and protection as the navy could afford, until the army could reach the country.

It is the policy of humanity, and one which has always been pursued by the United States, to cultivate the good will of the aboriginal tribes of this continent, and to restrain them from making war, and indulging in excesses, by mild means, rather than by force. That this could have been done with the tribes in Oregon, had that Territory been brought under the government of our laws at an earlier period, and had suitable measures been adopted by Congress, such as now exist in our intercourse with the other Indian tribes within our limits, cannot be doubted. Indeed, the immediate and only cause of the existing hostility of the Indians of Oregon is represented to have been, the long delay of the United States in making to them some trifling compensation, in such articles as they wanted, for the country now occupied by our emigrants, which the Indians claimed, and over which they formerly roamed. This compensation had been promised to them by the temporary government established in Oregon, but its fulfillment had been postponed from time to time, for nearly two years, whilst those who made it had been anxiously waiting for Congress to establish a territorial government over the country. The Indians became at length distrustful of their good faith, and sought redress by plunder and massacre, which finally led to the present difficulties. A few thousand dollars in suitable presents, as a compensation for the country which had been taken possession of by our citizens, would have satisfied the Indians, and have prevented the war. A small amount properly distributed, it is confidently believed, would soon restore quiet. In this Indian war, our fellow-citizens of Oregon have been compelled to take the field in their own defence, have performed valuable military services, and been subjected to expenses which have fallen heavily upon them. Justice demands that provision should be made by Congress to compensate them for their services, and to refund to them the necessary expenses which they have incurred.

I repeat the recommendation heretofore made to Congress, that provision be made for the appointment of a suitable number of Indian agents to reside among the tribes of Oregon, and that a small sum be appropriated to enable these agents to cultivate friendly relations with them. If this be done, the presence of a small military force will be all that is necessary to keep them in check, and preserve peace.

I recommend that similar provision be made as regards the tribes inhabiting northern Texas, New Mexico, California, and the extensive region lying between our settlements in Missouri and these possessions, as the most effective means of preserving peace upon our borders, and within the recently-acquired territories.

The Secretary of the Treasury will present in his annual report a highly satisfactory statement of the condition of the finances.

The imports for the fiscal year ending on the thirtieth of June last were of the value of one hundred and fifty-four million nine hundred and seventy-seven thousand eight hundred and seventy-six dollars; of which the amount exported was twenty-one million one hundred and twenty-eight thousand and ten dollars, leaving one hundred and thirty-three million eight hundred and forty-nine thousand eight hundred and sixty-six dollars in the country for domestic use.

The value of the exports for the same period was one hundred and fifty-four million thirty-two thousand one hundred and thirty-one dollars, consisting of domestic productions amounting to one hundred and thirty-two million nine hundred and four thousand one hundred and twenty-one dollars, and twenty-one million one hundred and twenty-eight thousand and ten dollars of foreign articles.

The receipts into the treasury for the same period, exclusive of loans, amounted to thirty-five million four hundred and thirty-six thousand seven hundred and fifty dollars and fifty-nine cents; of which there was derived from customs thirty-one million seven hundred and fifty-seven thousand and seventy dollars and ninety-six cents; from sales of public lands, three million three hundred and twenty-eight thousand six hundred and forty-two dollars and fifty-six cents; and from miscellaneous and incidental sources, three hundred and fifty-one thousand and thirty-seven dollars and seven cents.

It will be perceived that the revenue from customs for the last fiscal year exceeded by seven hundred and fifty-seven thousand and seventy dollars and ninety-six cents the estimate of the Secretary of the Treasury in his last annual report; and that the aggregate receipts during the same period from customs, lands, and miscellaneous sources, also exceeded the estimate by the sum of five hundred and thirty-six thousand seven hundred and fifty dollars and fifty-nine cents—indicating, however, a very near approach in the estimate to the actual result.

The expenditures during the fiscal year ending on the thirtieth of June last, including those for the war, and exclusive of payments of principal and interest for the public debt, were forty-two million eight hundred and eleven thousand nine hundred and seventy dollars and three cents.

It is estimated that the receipts into the treasury for the fiscal year ending on the thirtieth of June, 1849, including the balance in the treasury on the first of July last, will amount to the sum of fifty-seven million forty-eight thousand nine hundred and sixty-nine dollars and ninety cents; of which thirty-two millions of dollars, it is estimated, will be derived from customs; three millions of dollars from the sales of the public lands; and one million two hundred thousand dollars from miscellaneous and incidental sources, including the premium upon the loan, and the amount paid and to be paid into the treasury on account of military contributions in Mexico, and the sales of arms and vessels and other public property rendered unnecessary for the use of the Government by the termination of the war; and twenty million six hundred and ninety-five thousand four hundred and thirty-five dollars and thirty cents from loans already negotiated, including treasury notes funded, which, together with the balance in the treasury on the first of July last, make the sum estimated.

The expenditures for the same period, including the necessary payment on account of the principal and interest of the public debt, and the principal and interest of the first instalment due to Mexico on the thirtieth of May next, and other expenditures growing out of the war, to be paid during the present year, will amount, including the reimbursement of treasury notes, to the sum of fifty-four million one hundred and ninety-five thousand two hundred and seventy-five dollars and six cents; leaving an estimated balance in the treasury on the first of July, 1849, of two million eight hundred and fifty-three thousand six hundred and ninety-four dollars and eighty-four cents.

The Secretary of the Treasury will present, as required by law, the estimate of the receipts and expenditures for the next fiscal year. The expenditures as estimated for that year are thirty-three million two hundred and thirteen thousand one hundred and fifty-two dollars and seventy-three cents, including three million seven hundred and ninety-nine thousand one hundred and two dollars and eighteen cents for the interest on the public debt, and three million five hundred and forty thousand dollars for the principal and interest due to Mexico on the thirtieth of May, 1850, leaving the sum of twenty-five million eight hundred and seventy-four thousand and fifty dollars and thirty-five cents; which, it is believed, will be ample for the ordinary peace expenditures.

The operations of the tariff act of 1846 have been such during the past year as fully to meet the public expectation, and to confirm the opinion heretofore expressed of the wisdom of the change in our revenue system which was effected by it. The receipts under it into the treasury for the first fiscal year after its enactment exceeded by the sum of five million forty-four thousand four hundred and three dollars and nine cents the amount collected during the last fiscal year under the tariff act of 1842, ending the thirtieth of June, 1846. The total revenue realized from the commencement of its operation, on the first of December, 1846, until the close of the last quarter, on the thirtieth of September last, being twenty-two months, was fifty-six million six hundred and fifty-four thousand five hundred and sixty-three dollars and seventy-nine cents—being a much larger sum than was ever before received from duties during any equal period under the tariff acts of 1824, 1828, 1832, and 1842. Whilst by the repeal of highly protective and prohibitory duties the revenue has been increased, the taxes on the people have been diminished. They have been relieved from the heavy amounts with which they were burdened under former laws in the form of increased prices or bounties paid to favored classes and pursuits.

The predictions which were made, that the tariff act of 1846 would reduce the amount of revenue below that collected under the act of 1842, and would prostrate the business and destroy the prosperity of the country, have not been verified. With an increased and increasing revenue, the finances are in a highly flourishing condition. Agriculture, commerce, and navigation, are prosperous; the prices of manufactured fabrics, and of other products, are much less injuriously affected than was to have been anticipated, from the unprecedented revulsions which, during the last and the present year, have overwhelmed the industry, and paralyzed the credit and commerce of so many great and enlightened nations of Europe.

Severe commercial revulsions abroad have always heretofore operated to depress, and often to affect disastrously, almost every branch of American industry. The temporary depression of a portion of our manufacturing interests is the effect of foreign causes, and is far less severe than has prevailed on all former similar occasions.

It is believed that, looking to the great aggregate of all our interests, the whole country was

never more prosperous than at the present period, and never more rapidly advancing in wealth and population. Neither the foreign war in which we have been involved, nor the loans which have absorbed so large a portion of our capital, nor the commercial revulsion in Great Britain in 1847, nor the paralysis of credit and commerce throughout Europe in 1848, have affected injuriously to any considerable extent any of the great interests of the country, or arrested our onward march to greatness, wealth, and power.

Had the disturbances in Europe not occurred, our commerce would undoubtedly have been still more extended, and would have added still more to the national wealth and public prosperity. But notwithstanding these disturbances, the operations of the revenue system established by the tariff act of 1846 have been so generally beneficial to the Government and the business of the country, that no change in its provisions is demanded by a wise public policy, and none is recommended.

The operations of the constitutional treasury established by the act of the sixth of August, 1846, in the receipt, custody, and disbursement of the public money, have continued to be successful. Under the system the public finances have been carried through a foreign war, involving the necessity of loans and extraordinary expenditures, and requiring distant transfers and disbursements, without embarrassment, and no loss has occurred of any of the public money deposited under its provisions. Whilst it has proved to be safe and useful to the Government, its effects have been most beneficial upon the business of the country. It has tended powerfully to secure an exemption from that inflation and fluctuation of the paper currency, so injurious to domestic industry, and rendering so uncertain the rewards of labor, and it is believed has largely contributed to preserve the whole country from a serious commercial revulsion, such as often occurred under the bank deposite system. In the year 1847 there was a revulsion in the business of Great Britain of great extent and intensity, which was followed by failures in that kingdom unprecedented in number and amount of losses. This is believed to be the first instance when such disastrous bankruptcies, occurring in a country with which we have such extensive commerce, produced little or no injurious effect upon our trade or currency. We remained but little affected in our money market, and our business and industry were still prosperous and progressive.

During the present year, nearly the whole continent of Europe has been convulsed by civil war and revolutions, attended by numerous bankruptcies, by an unprecedented fall in their public securities, and an almost universal paralysis of commerce and industry; and yet, although our trade and the prices of our products must have been somewhat unfavorably affected by these causes, we have escaped a revulsion, our money market is comparatively easy, and public and private credit have advanced and improved.

It is confidently believed that we have been saved from their effect by the salutary operation of the constitutional treasury. It is certain, that if the twenty-four millions of specie imported into the country during the fiscal year ending on the thirtieth of June, 1847, had gone into the banks, as to a great extent it must have done, it would, in the absence of this system, have been made the basis of augmented bank paper issues, probably to an amount not less than sixty or seventy millions of dollars, producing, as an inevitable consequence of an inflated currency, extravagant prices for a time, and wild speculation, which must have been followed, on the reflux to Europe, the succeeding year, of so much of that specie, by the prostration of the business of the country, the suspension of the banks, and most extensive bankruptcies. Occurring, as this would have done, at a period when the country was engaged in a foreign war; when considerable loans of specie were required for distant disbursements, and when the banks, the fiscal agents of the Government, and the depositories of its money, were suspended, the public credit must have sunk, and many millions of dollars, as was the case during the war of 1812, must have been sacrificed in discounts upon loans, and upon the depreciated paper currency which the Government would have been compelled to use.

Under the operations of the constitutional treasury, not a dollar has been lost by the depreciation of the currency. The loans required to prosecute the war with Mexico were negotiated by the Secretary of the Treasury above par, realizing a large premium to the Government. The restraining effect of the system upon the tendencies to excessive paper issues by banks has saved the Government from heavy losses, and thousands of our business men from bankruptcy and ruin. The wisdom of the system has been tested, by the experience of the last two years; and it is the dictate of sound policy that it should remain undisturbed. The modifications in some of the details of this measure, involving none of its essential principles, heretofore recommended, are again presented for your favorable consideration.

In my message of the sixth of July last, transmitting to Congress the ratified treaty of peace with Mexico, I recommended the adoption of measures for the speedy payment of the public debt. In reiterating that recommendation, I refer you to the considerations presented in that message in its support. The public debt, including that authorized to be negotiated, in pursuance of existing laws, and including treasury notes, amounted at that time to sixty-five million seven hundred and seventy-eight thousand four hundred and fifty dollars and forty-one cents.

Funded stock of the United States, amounting to about half a million of dollars, has been purchased, as authorized by law, since that period, and the public debt has thus been reduced, the details of which will be presented in the annual report of the Secretary of the Treasury.

The estimates of expenditures for the next fiscal year, submitted by the Secretary of the Treasury, it is believed will be ample for all necessary purposes. If the appropriations made by Congress shall not exceed the amount estimated, the means in the treasury will be sufficient to defray all the expenses of the Government; to pay off the next instalment of three millions of dollars to Mexico, which will fall due on the thirtieth of May next; and still a considerable surplus will remain, which should be applied to the further purchase of the public stock and reduction of the debt. Should enlarged appropriations be made, the necessary consequence will be to postpone the payment of the debt. Though our debt, as compared with that of most other nations, is small, it is our true policy, and in harmony with the genius of our institutions, that we should present to the world the rare spectacle of a great republic, possessing vast resources and wealth, wholly exempt from public indebtedness. This would add still more to our strength, and give to us a still more commanding position among the nations of the earth.

The public expenditures should be economical, and be confined to such necessary objects as are clearly within the powers of Congress. All such as are not absolutely demanded should be postponed, and the payment of the public debt at the earliest practicable period should be a cardinal principle of our public policy.

For the reason assigned in my last annual message, I repeat the recommendation that a branch of the mint of the United States be established at the city of New York. The importance of this measure is greatly increased by the acquisition of the rich mines of the precious metals in New Mexico and California, and especially in the latter.

I repeat the recommendation, heretofore made, in favor of the graduation and reduction of the price of such of the public lands as have been long offered in the market, and have remained unsold, and in favor of extending the rights of preëmption to actual settlers on the unsurveyed as well as the surveyed lands.

The condition and operations of the army, and the state of other branches of the public service, under the supervision of the War Department, are satisfactorily presented in the accompanying report of the Secretary of War.

On the return of peace, our forces were withdrawn from Mexico, and the volunteers, and that portion of the regular army engaged for the war, were disbanded. Orders have been issued for stationing the forces of our permanent establishment at various positions in our extended country where troops may be required. Owing to the remoteness of some of these positions, the detachments have not yet reached their destination. Notwithstanding the extension of the limits of our country and the forces required in the new territories, it is confidently believed that our present military establishment is sufficient for all exigencies, so long as our peaceful relations remain undisturbed.

Of the amount of military contributions collected in Mexico, the sum of seven hundred and sixty-nine thousand six hundred and fifty dollars was applied towards the payment of the first instalment due under the treaty with Mexico. The further sum of three hundred and forty-six thousand three hundred and sixty-nine dollars and thirty cents has been paid into the treasury, and unexpended balances still remain in the hands of disbursing officers and those who were engaged in the collection of these moneys. After the proclamation of peace, no further disbursements were made of any unexpended moneys arising from this source. The balances on hand were directed to be paid into the treasury, and individual claims on the fund will remain unadjusted until Congress shall authorize their settlement and payment. These claims are not considerable in number or amount.

I recommend to your favorable consideration the suggestions of the Secretary of War and the Secretary of the Navy in regard to legislation on this subject.

Our Indian relations are presented in a most favorable view in the report from the War Department. The wisdom of our policy in regard to the tribes within our limits, is clearly manifested by their improved and rapidly improving condition.

A most important treaty with the Menomonies has been recently negotiated by the Commissioner of Indian Affairs in person, by which all their land in the State of Wisconsin—being about four millions of acres—has been ceded to the United States. This treaty will be submitted to the Senate for ratification at an early period of your present session.

Within the last four years, eight important treaties have been negotiated with different Indian tribes, and at a cost of one million eight hundred and forty-two thousand dollars; Indian lands to the amount of more than eighteen million five hundred thousand acres, have been ceded to the United States; and provision has been made for settling in the country west of the Mississippi the tribes which occupied this large extent of the public domain. The title to all the Indian lands within the several States of our Union, with the exception of a few small reservations, is now extinguished, and a vast region opened for settlement and cultivation.

The accompanying report of the Secretary of the Navy gives a satisfactory exhibit of the operations and condition of that branch of the public service.

A number of small vessels, suitable for entering the mouths of rivers, were judiciously purchased during the war, and gave great efficiency to the squadron in the Gulf of Mexico. On the return of peace, when no longer valuable for naval purposes, and liable to constant deterioration, they were sold, and the money placed in the treasury.

The number of men in the naval service, authorized by law during the war, has been reduced by discharges below the maximum fixed for the peace establishment. Adequate squadrons are maintained in the several quarters of the globe, where experience has shown their services may be most usefully employed; and the naval service was never in a condition of higher discipline or greater efficiency.

I invite attention to the recommendation of the Secretary of the Navy on the subject of the marine corps. The reduction of the corps at the end of the war, required that four officers of each of the three lower grades should be dropped from the rolls. A board of officers made the selection; and those designated were necessarily dismissed, but without any alleged fault. I concur in opinion with the Secretary, that the service would be improved by reducing the number of landsmen, and increasing the marines. Such a measure would justify an increase of the number of officers to the extent of the reduction by dismissal, and still the corps would have fewer officers than a corresponding number of men in the army.

The contracts for the transportation of the mail in steamships convertible into war-steamers, promise to realize all the benefits to our commerce and

to the navy which were anticipated. The first steamer thus secured to the Government was launched in January, 1847. There are now seven; and in another year there will, probably, be not less than seventeen afloat. While this great national advantage is secured, our social and commercial intercourse is increased and promoted with Germany, Great Britain, and other parts of Europe, with all the countries on the west coast of our continent, especially with Oregon and California, and between the northern and southern sections of the United States. Considerable revenue may be expected from postages; but the connected line from New York to Chagres, and thence across the isthmus to Oregon, cannot fail to exert a beneficial influence, not now to be estimated, on the interests of the manufactures, commerce, navigation, and currency of the United States. As an important part of the system, I recommend to your favorable consideration the establishment of the proposed line of steamers between New Orleans and Vera Cruz. It promises the most happy results in cementing friendship between the two Republics, and in extending reciprocal benefits to the trade and manufactures of both.

The report of the Postmaster General will make known to you the operations of that department for the past year.

It is gratifying to find the revenues of the department, under the rates of postage now established by law, so rapidly increasing. The gross amount of postages during the last fiscal year amounted to four million three hundred and seventy-one thousand and seventy-seven dollars, exceeding the annual average received for the nine years immediately preceding the passage of the act of the third of March, 1845, by the sum of six thousand four hundred and fifty-three dollars, and exceeding the amount received for the year ending the thirtieth of June, 1847, by the sum of four hundred and twenty-five thousand one hundred and eighty-four dollars.

The expenditures for the year, excluding the sum of ninety-four thousand six hundred and seventy-two dollars, allowed by Congress, at its last session, to individual claimants, and including the sum of one hundred thousand five hundred dollars paid for the services of the line of steamers between Bremen and New York, amounted to four million one hundred and ninety-eight thousand eight hundred and forty-five dollars, which is less than the annual average for the nine years previous to the act of 1845, by three hundred thousand seven hundred and forty-eight dollars.

The mail routes, on the thirtieth day of June last, were one hundred and sixty-three thousand two hundred and eight miles in extent—being an increase during the last year of nine thousand three hundred and ninety miles. The mails were transported over them, during the same time, forty-one million twelve thousand five hundred and seventy-nine miles; making an increase of transportation for the year of two million one hundred and twenty-four thousand six hundred and eighty miles, whilst the expense was less than that of the previous year by four thousand two hundred and thirty-five dollars.

The increase in the mail transportation within the last three years has been five million three hundred and seventy-eight thousand three hundred and ten miles, whilst the expenses were reduced four hundred and fifty-six thousand seven hundred and thirty-eight dollars—making an increase of service at the rate of fifteen per cent., and a reduction in the expenses of more than fifteen per cent.

During the past year, there have been employed, under contracts with the Post Office Department, two ocean steamers in conveying the mails monthly between New York and Bremen, and one, since October last, performing semi-monthly service between Charleston and Havana; and a contract has been made for the transportation of the Pacific mails across the isthmus from Chagres to Panama.

Under the authority given to the Secretary of the Navy, three ocean steamers have been constructed and sent to the Pacific, and are expected to enter upon the mail service between Panama and Oregon, and the intermediate ports, on the first January next, and a fourth has been engaged by him for the service between Havana and Chagres; so that a regular monthly mail line will be kept up after that time between the United States and our territories on the Pacific.

Notwithstanding this great increase in the mail service, should the revenue continue to increase the present year as it did in the last, there will be received near four hundred and fifty thousand dollars more than the expenditures.

These considerations have satisfied the Postmaster General that, with certain modifications of the act of 1845, the revenue may be still further increased, and a reduction of postages made to a uniform rate of five cents, without an interference with the principle, which has been constantly and properly enforced, of making that department sustain itself.

A well-digested cheap postage system is the best means of diffusing intelligence among the people, and is of so much importance in a country so extensive as that of the United States, that I recommend to your favorable consideration the suggestions of the Postmaster General for its improvement.

Nothing can retard the onward progress of our country, and prevent us from assuming and maintaining the first rank among nations, but a disregard of the experience of the past, and a recurrence to an unwise public policy. We have just closed a foreign war by an honorable peace—a war rendered necessary and unavoidable in vindication of the national rights and honor. The present condition of the country is similar in some respects to that which existed immediately after the close of the war with Great Britain in 1815, and the occasion is deemed to be a proper one to take a retrospect of the measures of public policy which followed that war. There was at that period of our history a departure from our earlier policy. The enlargement of the powers of the Federal Government by *construction*, which obtained, was not warranted by any just interpretation of the Constitution. A few years after the close of that war, a series of measures was adopted which, united and combined, constituted what was termed by their authors and advocates the "American system."

The introduction of the new policy was for a time favored by the condition of the country; by the heavy debt which had been contracted during the war; by the depression of the public credit; by the deranged state of the finances and the currency; and by the commercial and pecuniary embarrassment which extensively prevailed. These were not the only causes which led to its establishment. The events of the war with Great Britain, and the embarrassments which had attended its prosecution, had left on the minds of many of our statesmen the impression that our Government was not strong enough, and that to wield its resources successfully in great emergencies, and especially in war, more power should be concentrated in its hands. This increased power they did not seek to obtain by the legitimate and prescribed mode—an amendment of the Constitution—but by *construction*. They saw governments in the Old World based upon different orders of society, and so constituted as to throw the whole power of nations into the hands of a few, who taxed and controlled the many without responsibility or restraint. In that arrangement they conceived the strength of nations in war consisted. There was also something fascinating in the ease, luxury, and display of the higher orders, who drew their wealth from the toil of the laboring millions. The authors of the system drew their ideas of political economy from what they had witnessed in Europe, and particularly in Great Britain. They had viewed the enormous wealth concentrated in few hands, and had seen the splendor of the overgrown establishments of an aristocracy which was upheld by the restrictive policy. They forgot to look down upon the poorer classes of the English population, upon whose daily and yearly labor the great establishments they so much admired were sustained and supported. They failed to perceive that the scantily-fed and half-clad operatives were not only in abject poverty, but were bound in chains of oppressive servitude for the benefit of favored classes, who were the exclusive objects of the care of the government.

It was not possible to reconstruct society in the United States upon the European plan. Here there was a written constitution, by which orders and titles were not recognized or tolerated. A system of measures was therefore devised, calculated, if not intended, to withdraw power gradually and silently from the States and the mass of the people, and by *construction* to approximate our government to the European models, substituting an aristocracy of wealth for that of orders and titles.

Without reflecting upon the dissimilarity of our institutions, and of the condition of our people and those of Europe, they conceived the vain idea of building up in the United States a system similar to that which they admired abroad. Great Britain had a national bank of large capital, in whose hands was concentrated the controlling monetary and financial power of the nation; an institution wielding almost kingly power, and exerting vast influence upon all the operations of trade, and upon the policy of the government itself. Great Britain had an enormous public debt, and it had become a part of her public policy to regard this as a "public blessing." Great Britain had also a restrictive policy, which placed fetters and burdens on trade, and trammeled the productive industry of the mass of the nation. By her combined system of policy, the landlords and other property-holders were protected and enriched by the enormous taxes which were levied upon the labor of the country for their advantage.

Imitating this foreign policy, the first stop in establishing the new system in the United States was the creation of a national bank. Not foreseeing the dangerous power and countless evils which such an institution might entail on the country, nor perceiving the connection which it was designed to form between the bank and the other branches of the miscalled "American system," but feeling the embarrassments of the treasury, and of the business of the country, consequent upon the war, some of our statesmen who had held different and sounder views were induced to yield their scruples, and, indeed, settled convictions of its unconstitutionality, and to give it their sanction, as an expedient which they vainly hoped might produce relief. It was a most unfortunate error, as the subsequent history and final catastrophe of that dangerous and corrupt institution have abundantly proved. The bank, with its numerous branches, ramified into the States, soon brought many of the active political and commercial men in different sections of the country into the relation of debtors to it, and dependants upon it for pecuniary favors; thus diffusing throughout the mass of society a great number of individuals of power and influence to give tone to public opinion, and to act in concert in cases of emergency. The corrupt power of such a political engine is no longer a matter of speculation, having been displayed in numerous instances, but most signally in the political struggles of 1832-'3-'4, in opposition to the public will represented by a fearless and patriotic President.

But the bank was but one branch of the new system. A public debt of more than one hundred and twenty millions of dollars existed; and it is not to be disguised that many of the authors of the new system did not regard its speedy payment as essential to the public prosperity, but looked upon its continuance as no national evil. Whilst the debt existed, it furnished aliment to the national bank, and rendered increased taxation necessary to the amount of the interest, exceeding seven millions of dollars annually.

This operated in harmony with the next branch of the new system, which was a high protective tariff. This was to afford bounties to favored classes and particular pursuits, at the expense of all others. A proposition to tax the whole people for the purpose of enriching a few, was too monstrous to be openly made. The scheme was, therefore, veiled under the plausible but delusive pretext of a measure to protect "home industry;" and many of our people were, for a time, led to believe that a tax which in the main fell upon labor, was for the benefit of the laborer who paid it. This branch of the system involved a partnership between the Government and the favored classes—the former receiving the proceeds of the tax imposed on articles imported, and the latter the increased price of similar articles produced at home, caused by such tax. It is obvious that the portion to be received by the favored classes would, as a general rule, be increased in proportion to the in-

crease of the rates of tax imposed, and diminished as those rates were reduced to the revenue standard required by the wants of the Government. The rates required to produce a sufficient revenue for the ordinary expenditures of government, for necessary purposes, were not likely to give to the private partners in this scheme profits sufficient to satisfy their cupidity; and hence a variety of expedients and pretexts were resorted to for the purpose of enlarging the expenditures, and thereby creating a necessity for keeping up a high protective tariff. The effect of this policy was to interpose artificial restrictions upon the natural course of the business and trade of the country, and to advance the interests of large capitalists and monopolists, at the expense of the great mass of the people, who were taxed to increase their wealth.

Another branch of this system was a comprehensive scheme of internal improvements, capable of indefinite enlargement, and sufficient to swallow up as many millions annually as could be exacted from the foreign commerce of the country. This was a convenient and necessary adjunct of the protective tariff. It was to be the great absorbent of any surplus which might at any time accumulate in the treasury, and of the taxes levied on the people, not for necessary revenue purposes, but for the avowed object of affording protection to the favored classes.

Auxiliary to the same end, if it was not an essential part of the system itself, was the scheme which, at a later period, obtained, for distributing the proceeds of the sales of the public lands among the States. Other expedients were devised to take money out of the treasury, and prevent its coming in from any other source than the protective tariff. The authors and supporters of the system were the advocates of the largest expenditures, whether for necessary or useful purposes or not, because the larger the expenditures the greater was the pretext for high taxes in the form of protective duties.

These several measures were sustained by popular names and plausible arguments, by which thousands were deluded. The bank was represented to be an indispensable fiscal agent for the Government; was to equalize exchanges, and to regulate and furnish a sound currency, always and everywhere of uniform value. The protective tariff was to give employment to "American labor" at advanced prices; was to protect "home industry," and furnish a steady market for the farmer. Internal improvements were to bring trade into every neighborhood, and enhance the value of every man's property. The distribution of the land money was to enrich the States, finish their public works, plant schools throughout their borders, and relieve them from taxation. But the fact, that for every dollar taken out of the treasury for these objects a much larger sum was transferred from the pockets of the people to the favored classes, was carefully concealed, as was also the tendency, if not the ultimate design of the system, to build up an aristocracy of wealth, to control the masses of society, and monopolize the political power of the country.

The several branches of this system were so intimately blended together, that in their operation each sustained and strengthened the others. Their joint operation was, to add new burdens of taxation and to encourage a largely increased and wasteful expenditure of public money. It was the interest of the bank that the revenue collected and the disbursements made by the Government should be large, because, being the depository of the public money, the larger the amount, the greater would be the bank profits by its use. It was the interest of the favored classes, who were enriched by the protective tariff, to have the rates of that protection as high as possible; for the higher those rates, the greater would be their advantage. It was the interest of the people of all those sections and localities who expected to be benefited by expenditures for internal improvements, that the amount collected should be as large as possible, to the end that the sum disbursed might also be the larger. The States being the beneficiaries in the distribution of the land money, had an interest in having the rates of tax imposed by the protective tariff large enough to yield a sufficient revenue from that source to meet the wants of the Government, without disturbing or taking from them the land fund; so that each of the branches constituting the system had a common interest in swelling the public expenditures. They had a direct interest in maintaining the public debt unpaid, and increasing its amount, because this would produce an annual increased drain upon the treasury, to the amount of the interest, and render augmented taxes necessary. The operation and necessary effect of the whole system were, to encourage large and extravagant expenditures, and thereby to increase the public patronage, and maintain a rich and splendid government at the expense of a taxed and impoverished people.

It is manifest that this scheme of enlarged taxation and expenditures, had it continued to prevail, must soon have converted the Government of the Union, intended by its framers to be a plain, cheap, and simple confederation of States, united together for common protection, and charged with a few specific duties, relating chiefly to our foreign affairs, into a consolidated empire, depriving the States of their reserved rights, and the people of their just power and control in the administration of their Government. In this manner the whole form and character of the Government would be changed, not by an amendment of the Constitution, but by resorting to an unwarrantable and unauthorized construction of that instrument.

The indirect mode of levying the taxes by a duty on imports, prevents the mass of the people from readily perceiving the amount they pay, and has enabled the few, who are thus enriched, and who seek to wield the political power of the country, to deceive and delude them. Were the taxes collected by a direct levy upon the people, as is the case in the States, this could not occur.

The whole system was resisted from its inception by many of our ablest statesmen, some of whom doubted its constitutionality and its expediency, while others believed it was, in all its branches, a flagrant and dangerous infraction of the Constitution.

That a national bank, a protective tariff, levied not to raise the revenue needed, but for protection merely, internal improvements, and the distribution of the proceeds of the sales of the public lands, are measures without the warrant of the Constitution, would, upon the maturest consideration, seem to be clear. It is remarkable that no one of these measures, involving such momentous consequences, is authorized by any express grant of power in the Constitution. No one of them is "incident to, as being necessary and proper for the execution of, the specific powers" granted by the Constitution. The authority under which it has been attempted to justify each of them is derived from inferences and constructions of the Constitution which its letter and its whole object and design do not warrant. Is it to be conceived that such immense powers would have been left by the framers of the Constitution to mere inferences and doubtful constructions? Had it been intended to confer them on the Federal Government, it is but reasonable to conclude that it would have been done by plain and unequivocal grants. This was not done; but the whole structure of which the "American system" consisted, was reared on no other or better foundation than forced implications and inferences of power which its authors assumed might be deduced by construction from the Constitution.

But it has been urged that the National Bank, which constituted so essential a branch of this combined system of measures, was not a new measure, and that its constitutionality had been previously sanctioned, because a bank had been chartered in 1791, and had received the official signature of President Washington. A few facts will show the just weight to which this precedent should be entitled as bearing upon the question of constitutionality.

Great division of opinion upon the subject existed in Congress. It is well known that President Washington entertained serious doubts both as to the constitutionality and expediency of the measure; and while the bill was before him for his official approval or disapproval, so great were these doubts, that he required "the opinion in writing" of the members of his cabinet to aid him in arriving at a decision. His cabinet gave their opinion, and were divided upon the subject—General Hamilton being in favor of, and Mr. Jefferson and Mr. Randolph being opposed to the constitutionality and expediency of the bank. It is well known, also, that President Washington retained the bill from Monday, the fourteenth, when it was presented to him, until Friday, the twenty-fifth of February—being the last moment permitted him by the Constitution to deliberate, when he finally yielded to it his reluctant assent, and gave it his signature. It is certain that as late as the twenty-third of February—being the ninth day after the bill was presented to him—he had arrived at no satisfactory conclusion; for on that day he addressed a note to General Hamilton, in which he informs him that "this bill 'was presented to me by the joint committee of 'Congress at 12 o'clock on Monday, the fourteenth 'instant;" and he requested his opinion "to what 'precise period, by legal interpretation of the Con-'stitution, can the President retain it in his posses-'sion, before it becomes a law by the lapse of ten 'days." If the proper construction was, that the day on which the bill was presented to the President, and the day on which his action was had upon it, were both to be counted inclusive, then the time allowed him, within which it would be competent for him to return it to the House in which it originated with his objections, would expire on Thursday, the twenty-fourth of February. General Hamilton on the same day returned an answer, in which he states: "I give it as my opinion that you 'have ten days exclusive of that on which the bill 'was delivered to you, and Sundays; hence, in the 'present case, if it is returned on Friday, it will be 'in time." By this construction, which the President adopted, he gained another day for deliberation, and it was not until the twenty-fifth of February that he signed the bill; thus affording conclusive proof that he had at last obtained his own consent to sign it not without great and almost insuperable difficulty. Additional light has been recently shed upon the serious doubts which he had on the subject, amounting at one time to a conviction that it was his duty to withhold his approval from the bill. This is found among the manuscript papers of Mr. Madison, authorized to be purchased for the use of the Government by an act of the last session of Congress, and now for the first time accessible to the public. From these papers, it appears that President Washington, while he yet held the bank bill in his hands, actually requested Mr. Madison, at that time a member of the House of Representatives, to prepare the draught of a veto message for him. Mr. Madison, at his request, did prepare the draught of such a message, and sent it to him on the twenty-first of February, 1791. A copy of this original draught, in Mr. Madison's own handwriting, was carefully preserved by him, and is among the papers lately purchased by Congress. It is preceded by a note, written on the same sheet, which is also in Mr. Madison's handwriting, and is as follows:

"February 21st, 1791. Copy of a paper made 'out and sent to the President at his request, to be 'ready in case his judgment should finally decide 'against the bill for incorporating a national bank, 'the bill being then before him."

Among the objections assigned in this paper to the bill, and which were submitted for the consideration of the President, are the following:

"I object to the bill, because it is an essential 'principle of the government that powers not del-'egated by the Constitution cannot be rightfully 'exercised; because the power proposed by the bill 'to be exercised is not expressly delegated, and be-'cause I cannot satisfy myself that it results from 'any express power by fair and safe rules of inter-'pretation."

The weight of the precedent of the bank of 1791, and the sanction of the great name of Washington which has been so often invoked in its support, are greatly weakened by the development of these facts. The experiment of that bank satisfied the country that it ought not to be continued, and at the end of twenty years Congress refused to recharter it. It would have been fortunate for the country, and saved thousands from bankruptcy and ruin, had our public men of 1816 resisted the temporary pressure of the times upon our financial and pecuniary interests, and refused to charter the second bank. Of this the country became abundantly satisfied, and at the close of its twenty years' duration, as in the case of the first bank, it also ceased to exist. Under the repeated blows of

President Jackson, it reeled and fell, and a subsequent attempt to charter a similar institution was arrested by the veto of President Tyler.

Mr. Madison, in yielding his signature to the charter of 1816, did so upon the ground of the respect due to precedents; and, as he subsequently declared, "the Bank of the United States, though, on the original question, held to be unconstitutional, received the Executive signature."

It is probable that neither the bank of 1791, nor that of 1816, would have been chartered but for the embarrassments of the Government in its finances, the derangement of the currency, and the pecuniary pressure which existed—the first the consequence of the war of the Revolution, and the second the consequence of the war of 1812. Both were resorted to in the delusive hope that they would restore public credit, and afford relief to the Government, and to the business of the country.

Those of our public men who opposed the whole "American system," at its commencement, and throughout its progress, foresaw and predicted that it was fraught with incalculable mischiefs, and must result in serious injury to the best interests of the country. For a series of years their wise counsels were unheeded, and the system was established. It was soon apparent that its practical operation was unequal and unjust upon different portions of the country, and upon the people engaged in different pursuits. All were equally entitled to the favor and protection of the Government. It fostered and elevated the money-power, and enriched the favored few by taxing labor, and at the expense of the many. Its effect was to "make the rich richer, and the poor poorer." Its tendency was to create distinctions in society based on wealth, and to give to the favored classes undue control and sway in our Government. It was an organized money-power, which resisted the popular will, and sought to shape and control the public policy.

Under the pernicious workings of this combined system of measures, the country witnessed alternate seasons of temporary apparent prosperity; of sudden and disastrous commercial revulsions; of unprecedented fluctuation of prices, and depression of the great interests of agriculture, navigation, and commerce; of general pecuniary suffering, and of final bankruptcy of thousands. After a severe struggle of more than a quarter of a century, the system was overthrown.

The bank has been succeeded by a practical system of finance, conducted and controlled solely by the Government. The constitutional currency has been restored; the public credit maintained unimpaired, even in a period of foreign war; and the whole country has become satisfied that banks, national or State, are not necessary as fiscal agents of the Government. Revenue duties have taken the place of the protective tariff. The distribution of the money derived from the sale of the public lands has been abandoned, and the corrupting system of internal improvements, it is hoped, has been effectually checked.

It is not doubted, that if this whole train of measures designed to take wealth from the many, and bestow it upon the few, were to prevail, the effect would be to change the entire character of the Government. One only danger remains. It is the seductions of that branch of the system, which consists in internal improvements, holding out, as it does, inducements to the people of particular sections and localities to embark the Government in them without stopping to calculate the inevitable consequences. This branch of the system is so intimately combined and linked with the others, that as surely as an effect is produced by an adequate cause, if it be resuscitated and revived, and firmly established, it requires no sagacity to foresee that it will necessarily and speedily draw after it the reëstablishment of a national bank, the revival of a protective tariff, the distribution of the land money, and not only the postponement to the distant future of the payment of the present national debt, but its annual increase.

I entertain the solemn conviction, that if the internal improvement branch of the "American system" be not firmly resisted at this time, the whole series of measures composing it will be speedily reëstablished, and the country be thrown back from its present high state of prosperity, which the existing policy has produced, and be destined again to witness all the evils, commercial revulsions, depression of prices, and pecuniary embarrassments, through which we have passed during the last twenty-five years.

To guard against consequences so ruinous, is an object of high national importance, involving, in my judgment, the continued prosperity of the country.

I have felt it to be an imperative obligation to withhold my constitutional sanction from two bills which had passed the two Houses of Congress, involving the principle of the internal improvement branch of the "American system," and conflicting in their provisions with the views here expressed.

This power, conferred upon the President by the Constitution, I have on three occasions, during my administration of the Executive department of the Government, deemed it my duty to exercise; and on this last occasion of making to Congress an annual communication "of the state of the Union," it is not deemed inappropriate to review the principles and considerations which have governed my action. I deem this the more necessary, because, after the lapse of nearly sixty years since the adoption of the Constitution, the propriety of the exercise of this undoubted constitutional power by the President has for the first time been drawn seriously in question by a portion of my fellow-citizens.

The Constitution provides that "every bill which 'shall have passed the House of Representatives 'and the Senate shall, before it become a law, be 'presented to the President of the United States: if 'he approve, he *shall* sign it; but if not, he *shall* 'return it, with his objections, to that House in 'which it shall have originated, who shall enter the 'objections at large on their Journal, and proceed 'to reconsider it."

The preservation of the Constitution from infraction is the President's highest duty. He is bound to discharge that duty, at whatever hazard of incurring the displeasure of those who may differ with him in opinion. He is bound to discharge it, as well by his obligations to the people who have clothed him with his exalted trust, as by his oath of office, which he may not disregard. Nor are the obligations of the President in any degree lessened by the prevalence of views different from his own in one or both houses of Congress. It is not alone hasty and inconsiderate legislation that he is required to check; but if at any time Congress shall, after apparently full deliberation, resolve on measures which he deems subversive of the Constitution, or of the vital interests of the country, it is his solemn duty to stand in the breach and resist them. The President is bound to approve, or disapprove, every bill which passes Congress and is presented to him for his signature. The Constitution makes this his duty, and he cannot escape it if he would. He has no election. In deciding upon any bill presented to him, he must exercise his own best judgment. If he cannot approve, the Constitution commands him to return the bill to the House in which it originated, with his objections; and if he fail to do this within ten days, (Sundays excepted,) it shall become a law without his signature. Right or wrong, he may be overruled by a vote of two-thirds of each House; and, in that event, the bill becomes a law without his sanction. If his objections be not thus overruled, the subject is only postponed, and is referred to the States and the people for their consideration and decision. The President's power is negative merely, and not affirmative. He can enact no law The only effect, therefore, of his withholding his approval of a bill passed by Congress, is to suffer the existing laws to remain unchanged, and the delay occasioned is only that required to enable the States and the people to consider and act upon the subject in the election of public agents who will carry out their wishes and instructions. Any attempt to coerce the President to yield his sanction to measures which he cannot approve, would be a violation of the spirit of the Constitution, palpable and flagrant; and if successful, would break down the independence of the executive department, and make the President, elected by the people, and clothed by the Constitution with power to defend their rights, the mere instrument of a majority of Congress. A surrender, on his part, of the powers with which the Constitution has invested his office, would effect a practical alteration of that instrument, without resorting to the prescribed process of amendment.

With the motives or considerations which may induce Congress to pass any bill, the President can have nothing to do. He must presume them to be as pure as his own, and look only to the practical effect of their measures when compared with the Constitution or the public good.

But it has been urged by those who object to the exercise of this undoubted constitutional power, that it assails the representative principle and the capacity of the people to govern themselves; that there is greater safety in a numerous representative body than in the single Executive created by the Constitution, and that the Executive veto is a "one-man power," despotic in its character. To expose the fallacy of this objection, it is only necessary to consider the frame and true character of our system. Ours is not a consolidated empire, but a confederated Union. The States, before the adoption of the Constitution, were coördinate, coequal, and separate independent sovereignties, and by its adoption they did not lose that character. They clothed the Federal Government with certain powers, and reserved all others, including their own sovereignty, to themselves. They guarded their own rights as States and the rights of the people, by the very limitations which they incorporated into the Federal Constitution, whereby the different departments of the General Governmeni were checks upon each other. That the majority should govern, is a general principle, controverted by none; but they must govern according to the Constitution, and not according to an undefined and unrestrained discretion, whereby they may oppress the minority.

The people of the United States are not blind to the fact that they may be temporarily misled, and that their representatives, legislative and executive, may be mistaken or influenced in their action by improper motives. They have therefore interposed between themselves and the laws which may be passed by their public agents, various representations, such as Assemblies, Senates, and Governors in their several States; a House of Representatives, a Senate, and a President of the United States. The people can by their own direct agency make no law; nor can the House of Representatives immediately elected by them; nor can the Senate; nor can both together, without the concurrence of the President, or a vote of two-thirds of both Houses.

Happily for themselves, the people, in framing our admirable system of government, were conscious of the infirmities of their representatives; and, in delegating to them the power of legislation, they have fenced them around with checks, to guard against the effects of hasty action, of error, of combination, and of possible corruption. Error, selfishness, and faction have often sought to rend asunder this web of checks, and subject the Government to the control of fanatic and sinister influences; but these efforts have only satisfied the people of the wisdom of the checks which they have imposed, and of the necessity of preserving them unimpaired.

The true theory of our system is not to govern by the acts or decrees of any one set of representatives. The Constitution interposes checks upon all branches of the Government, in order to give time for error to be corrected, and delusion to pass away; but if the people settle down into a firm conviction different from that of their representatives, they give effect to their opinions by changing their public servants. The checks which the people imposed on their public servants in the adoption of the Constitution, are the best evidence of their capacity for self-government. They know that the men whom they elect to public stations are of like infirmities and passions with themselves, and not to be trusted without being restricted by coördinate authorities and constitutional limitations. Who that has witnessed the legislation of Congress for the last thirty years will say that he knows of no instance in which measures not demanded by the public good, have been carried? Who will deny that, in the State governments, by combinations of individuals and sections, in derogation of the general interest, banks have been

chartered, systems of internal improvement adopted, and debts entailed upon the people, repressing their growth, and impairing their energies for years to come?

After so much experience, it cannot be said that absolute unchecked power is safe in the hands of any one set of representatives, or that the capacity of the people for self-government, which is admitted in its broadest extent, is a conclusive argument to prove the prudence, wisdom, and integrity of their representatives.

The people, by the Constitution, have commanded the President, as much as they have commanded the legislative branch of the Government, to execute their will. They have said to him in the Constitution, which they require he shall take a solemn oath to support, that if Congress pass any bill which he cannot approve, "he shall return it to the House in which it originated, with his objections." In withholding from it his approval and signature, he is executing the will of the people constitutionally expressed, as much as the Congress that passed it. No bill is presumed to be in accordance with the popular will until it shall have passed through all the branches of the Government required by the Constitution to make it a law. A bill which passes the House of Representatives may be rejected by the Senate; and so a bill passed by the Senate may be rejected by the House. In each case the respective Houses exercise the veto power on the other.

Congress, and each House of Congress, hold under the Constitution a check upon the President, and he, by the power of the qualified veto, a check upon Congress. When the President recommends measures to Congress, he avows, in the most solemn form, his opinions, gives his voice in their favor, and pledges himself in advance to approve them if passed by Congress. If he acts without due consideration, or has been influenced by improper or corrupt motives—or if from any other cause Congress, or either House of Congress, shall differ with him in opinion, they exercise *their veto* upon his recommendations, and reject them; and there is no appeal from their decision, but to the people at the ballot-box. These are proper checks upon the Executive, wisely interposed by the Constitution. None will be found to object to them, or to wish them removed. It is equally important that the constitutional checks of the execu tive upon the legislative branch should be preserved.

If it be said that the Representatives in the popular branch of Congress are chosen directly by the people, it is answered, the people elect the President. If both Houses represent the States and the people, so does the President. The President represents in the executive department the whole people of the United States, as each member of the legislative department represents portions of them.

The doctrine of restriction upon legislative and executive power, while a well settled public opinion is enabled within a reasonable time to accomplish its ends, has made our country what it is, and has opened to us a career of glory and happiness to which all other nations have been strangers.

In the exercise of the power of the veto, the President is responsible not only to an enlightened public opinion, but to the people of the whole Union, who elected him, as the representatives in the legislative branches, who differ with him in opinion, are responsible to the people of particular States, or districts, who compose their respective constituencies. To deny to the President the exercise of this power, would be to repeal that provision of the Constitution which confers it upon him. To charge that its exercise unduly controls the legislative will, is to complain of the Constitution itself.

If the Presidential veto be objected to upon the ground that it checks and thwarts the public will, upon the same principle the equality of representation of the States in the Senate should be stricken out of the Constitution. The vote of a Senator from Delaware has equal weight in deciding upon the most important measures with the vote of a Senator from New York; and yet the one represents a State containing, according to the existing apportionment of representatives in the House of Representatives, but one thirty-fourth part of the population of the other. By the constitutional composition of the Senate, a majority of that body from the smaller States represent less than one-fourth of the people of the Union. There are thirty States; and, under the existing apportionment of representatives, there are two hundred and thirty members in the House of Representatives. Sixteen of the smaller States are represented in that House by but fifty members; and yet the Senators from these States constitute a majority of the Senate. So that the President may recommend a measure to Congress, and it may receive the sanction and approval of more than three-fourths of the House of Representatives, and of all the Senators from the large States, containing more than three-fourths of the whole population of the United States; and yet the measure may be defeated by the votes of the Senators from the smaller States. None, it is presumed, can be found ready to change the organization of the Senate on this account, or to strike that body practically out of existence, by requiring that its action shall be conformed to the will of the more numerous branch.

Upon the same principle that the veto of the President should be practically abolished, the power of the Vice President to give the casting vote upon an equal division of the Senate should be abolished also. The Vice President exercises the veto power as effectually by rejecting a bill by his casting vote, as the President does by refusing to approve and sign it. This power has been exercised by the Vice President in a few instances, the most important of which was the rejection of the bill to recharter the Bank of the United States in 1811. It may happen that a bill may be passed by a large majority of the House of Representatives, and may be supported by the Senators from the larger States, and the Vice President may reject it by giving his vote with the Senators from the smaller States; and yet none, it is presumed, are prepared to deny to him the exercise of this power under the Constitution.

But it is, in point of fact, untrue that an act passed by Congress is conclusive evidence that it is an emanation of the popular will. A majority of the whole number elected to each house of Congress constitutes a quorum, and a majority of that quorum is competent to pass laws. It might happen that a quorum of the House of Representatives, consisting of a single member more than half of the whole number elected to that House, might pass a bill by a majority of a single vote, and in that case a fraction more than one-fourth of the people of the United States would be represented by those who voted for it. It might happen that the same bill might be passed by a majority of one, of a quorum of the Senate, composed of Senators from the fifteen smaller States, and a single Senator from a sixteenth State, and if the Senators voting for it happened to be from the eight of the smallest of these States, it would be passed by the votes of Senators from States having but fourteen Representatives in the House of Representatives, and containing less than one-sixteenth of the whole population of the United States. This extreme case is stated to illustrate the fact, that the mere passage of a bill by Congress is no conclusive evidence that those who passed it represent the majority of the people of the United States, or truly reflect their will. If such an extreme case is not likely to happen, cases that approximate it are of constant occurrence. It is believed that not a single law has been passed since the adoption of the Constitution, upon which all the members elected to both Houses have been present and voted. Many of the most important acts which have passed Congress have been carried by a close vote in thin Houses. Many instances of this might be given. Indeed, our experience proves that many of the most important acts of Congress are postponed to the last days, and often the last hours of a session, when they are disposed of in haste, and by Houses but little exceeding the number necessary to form a quorum.

Besides, in most of the States the members of the House of Representatives are chosen by pluralities, and not by majorities of all the voters in their respective districts; and it may happen that a majority of that House may be returned by a less aggregate vote of the people than that received by the minority.

If the principle insisted on be sound, then the Constitution should be so changed that no bill shall become a law unless it is voted for by members representing in each House a majority of the whole people of the United States. We must remodel our whole system, strike down and abolish not only the salutary checks lodged in the Executive branch, but must strike out and abolish those lodged in the Senate also, and thus practically invest the whole power of the Government in a majority of a single assembly—a majority uncontrolled and absolute, and which may become despotic. To conform to this doctrine of the right of majorities to rule, independent of the checks and limitations of the Constitution, we must revolutionize our whole system. We must destroy the constitutional compact by which the several States agreed to form a Federal Union, and rush into consolidation, which must end in monarchy or despotism. No one advocates such a proposition; and yet the doctrine maintained, if carried out, must lead to this result.

One great object of the Constitution, in conferring upon the President a qualified negative upon the legislation of Congress, was to protect minorities from injustice and oppression by majorities. The equality of their representation in the Senate, and the veto power of the President, are the constitutional guarantees which the smaller States have that their rights will be respected. Without these guarantees, all their interests would be at the mercy of majorities in Congress representing the larger States. To the smaller and weaker States, therefore, the preservation of this power, and its exercise upon proper occasions demanding it, is of vital importance. They ratified the Constitution, and entered into the Union, securing to themselves an equal representation with the larger States in the Senate; and they agreed to be bound by all laws passed by Congress, upon the express condition, and none other, that they should be approved by the President, or passed, his objections to the contrary notwithstanding, by a vote of two-thirds of both Houses. Upon this condition, they have a right to insist, as a part of the compact to which they gave their assent.

A bill might be passed by Congress against the will of the whole people of a particular State, and against the votes of its Senators and all its Representatives. However prejudicial it might be to the interests of such State, it would be bound by it if the President shall approve it, or it should be passed by a vote of two-thirds of both Houses; but it has a right to demand that the President shall exercise his constitutional power, and arrest it, if his judgment is against it. If he surrender this power, or fail to exercise it in a case where he cannot approve, it would make his formal approval a mere mockery, and would be itself a violation of the Constitution, and the dissenting State would become bound by a law which had not been passed according to the sanctions of the Constitution.

The objection to the exercise of the *veto* power is founded upon an idea respecting the popular will, which, if carried out, would annihilate State sovereignty, and substitute for the present Federal Government a consolidation, directed by a supposed numerical majority. A revolution of the Government would be silently effected, and the States would be subjected to laws to which they had never given their constitutional consent.

The Supreme Court of the United States is invested with the power to declare, and has declared, acts of Congress passed with the concurrence of the Senate, the House of Representatives, and the approval of the President, to be unconstitutional and void; and yet none, it is presumed, can be found, who will be disposed to strip this highest judicial tribunal under the Constitution of this acknowledged power—a power necessary alike to its independence and the rights of individuals.

For the same reason that the Executive veto should, according to the doctrine maintained, be rendered nugatory, and be practically expunged from the Constitution, this power of the court should also be rendered nugatory and be expunged, because it restrains the legislative and executive will, and because the exercise of such a power by the court may be regarded as being in conflict with the capacity of the people to govern themselves. Indeed, there is more reason for striking this power of the court from the Constitution than there is that of the qualified veto of the President; because the decision of the court is final, and can never be reversed, even though both Houses of Congress and the President should be unanimous

in opposition to it; whereas the veto of the President may be overruled by a vote of two-thirds of both Houses of Congress, or by the people at the polls.

It is obvious that to preserve the system established by the Constitution, each of the coördinate branches of the Government—the executive, legislative, and judicial—must be left in the exercise of its appropriate powers. If the executive or the judicial branch be deprived of powers conferred upon either as checks on the legislative, the preponderance of the latter will become disproportionate and absorbing, and the others impotent for the accomplishment of the great objects for which they were established. Organized as they are by the Constitution, they work together harmoniously for the public good. If the Executive and the Judiciary shall be deprived of the constitutional powers invested in them, and of their due proportions, the equilibrium of the system must be destroyed, and consolidation, with the most pernicious results, must ensue—a consolidation of unchecked, despotic power exercised by majorities of the legislative branch.

The executive, legislative, and judicial, each constitutes a separate coördinate department of the Government; and each is independent of the others. In the performance of their respective duties under the Constitution, neither can, in its legitimate action, control the others. They each act upon their several responsibilities in their respective spheres; but if the doctrines now maintained be correct, the executive must become practically subordinate to the legislative, and the judiciary must become subordinate to both the legislative and the executive; and thus the whole power of the Government would be merged in a single department. Whenever, if ever, this shall occur, our glorious system of well-regulated self-government will crumble into ruins—to be succeeded, first by anarchy, and finally by monarchy or despotism. I am far from believing that this doctrine is the sentiment of the American people; and during the short period which remains in which it will be my duty to administer the Executive Department, it will be my aim to maintain its independence, and discharge its duties, without infringing upon the powers or duties of either of the other departments of the Government.

The power of the Executive veto was exercised by the first and most illustrious of my predecessors, and by four of his successors who preceded me in the administration of the Government, and, it is believed, in no instance prejudicially to the public interests. It has never been, and there is but little danger that it ever can be abused. No President will ever desire, unnecessarily, to place his opinion in opposition to that of Congress. He must always exercise the power reluctantly, and only in cases where his convictions make it a matter of stern duty, which he cannot escape. Indeed, there is more danger that the President, from the repugnance he must always feel to come in collision with Congress, may fail to exercise it in cases where the preservation of the Constitution from infraction, or the public good, may demand it, than that he will ever exercise it unnecessarily or wantonly.

During the period I have administered the Executive Department of the Government, great and important questions of public policy, foreign and domestic, have arisen, upon which it was my duty to act. It may indeed be truly said that my administration has fallen upon eventful times. I have felt most sensibly the weight of the high responsibilities devolved upon me. With no other object than the public good, the enduring fame, and permanent prosperity of my country, I have pursued the convictions of my own best judgment. The impartial arbitrament of enlightened public opinion, present and future, will determine how far the public policy I have maintained, and the measures I have from time to time recommended, may have tended to advance or retard the public prosperity at home, and to elevate or depress the estimate of our national character abroad.

Invoking the blessings of the Almighty upon your deliberations at your present important session, my ardent hope is, that in a spirit of harmony and concord, you may be guided to wise results, and such as may redound to the happiness, the honor, and the glory of our beloved country.

JAMES K. POLK.

WASHINGTON, *December* 5, 1848.

REPORT ON THE FINANCES.

TREASURY DEPARTMENT,
December 9, 1848.

In obedience to law, the following report is submitted:

The receipts and expenditures for the fiscal year ending June 30, 1848, were:

From customs		$31,757,070 96
From public lands		3,328,642 56
From miscellaneous sources		351,037 07
From avails of loans and treasury notes		21,256,700 00
Total receipts		56,693,450 59
Add balance in the treasury July 1, 1847		1,701,251 25
Total means		58,394,701 84
The expenditures during the same fiscal year were		58,241,167 24
Leaving balance in the treasury July 1, 1848, of		153,534 60

As appears in detail by accompanying statement A.

The estimated receipts and expenditures for the fiscal year ending June 30, 1849, are:

RECEIPTS, VIZ:

From customs, 1st quarter, by actual returns		$8,991,935 07
From customs, 2d, 3d, and 4th quarters, as estimated		23,008,064 93
		32,000,000 00
From public lands		3,000,000 00
From miscellaneous sources		1,200,000 00
		36,200,000 00
From loans and treasury notes, 1st quarter, by actual returns, per statement B	$10,127,200 00	
From loans and treasury notes, 2d, 3d, and 4th quarters, per statement C	10,568,235 30	
		20,695,435 30
Total receipts		56,895,435 30
Add balance in the treasury 1st July, 1848		153,534 60
Total means as estimated		57,048,969 90

EXPENDITURES, VIZ:

The actual expenditures for the first quarter ending September 30, 1848, were	$17,866,104 91	
As appears in detail by accompanying statement B. The estimated expenditures during the other three quarters, from 1st October, 1848, to 30th June, 1849, are—		
Civil list, foreign intercourse, and miscellaneous	12,169,354 61	
Army proper, &c	10,464,809 80	
Fortifications, ordnance, arming militia, &c	1,846,697 29	
Indian department	1,589,158 18	
Pensions	722,706 12	
Naval establishment	6,089,032 56	
Interest on public debt and treasury notes	3,285,422 28	
Treasury notes outstanding and payable when presented	161,989 31	
		54,195,275 06
Leaving balance in treasury 1st July, 1849		2,853,694 84

The estimated receipts and expenditures for the fiscal year commencing 1st July, 1849, and ending 30th June, 1850, are:

RECEIPTS, VIZ:

From customs	$32,000,000 00
From public lands	3,000,000 00
From miscellaneous sources	400,000 00
Total receipts	35,400,000 00
Add balance in the treasury 1st July, 1849	2,853,694 84
Total means as estimated	38,253,694 84

The expenditures during the same period, as estimated by the several Departments of State, Treasury, War, Navy, and Postmaster General, are:

EXPENDITURES, VIZ:

The balances of former appropriations, which will be required to be expended in this year,	$3,762,537 29
Permanent and indefinite appropriations	5,297,512 52
Specific appropriations asked for this year	24,153,102 92
	33,213,152 73

This sum is composed of the following particulars:

Civil list, foreign intercourse, and miscellaneous	$9,347,790 91
Army proper, &c	5,902,428 61
Fortifications, ordnance, arming militia, &c	2,242,559 00
Indian Department	1,104,014 45
Pensions	1,458,400 00
Naval establishment	9,358,857 38
Interest on public debt and treasury notes	3,799,102 38
	33,213,152 73
Leaving balance in the treasury, 1st July, 1850	5,040,542 11
	38,253,694 84

This statement shows a balance in the treasury on the 30th June, 1849, of $2.853,694 84, and a balance in the treasury on the 30th June, 1850, of $5,040,542 11. In the estimated expenditures for the year ending on the 30th June, 1850, are included balances of appropriations, amounting to the sum of $3,762,537 29, a considerable portion of which may not be required. Unless new and extraordinary expenditures are authorized by Congress, no further loans will be required, and the public debt may be reduced.

The whole net revenue from duties during the entire period of four years and three months of the operation of the tariff of 1842 (per table D) was $101,554,653 12; being an annual average of $23,895,208 32. The net revenue received from the tariff of 1846, during its entire operation from 1st December, 1846, to 30th September, 1848, was (per table E) $56,654,563 79, or an average of $30,902,489 28 per annum; being an average of $7,007,280 96 more per annum under the tariff of 1846, than was received under the tariff of 1842. The net revenue for the first fiscal year under the tariff of 1846 (per table A) was $31,757,070 96, being $757,070 96 more than the estimate of this department; and this amount would go on augmenting every year under this act, with a favorable state of foreign commerce and industry, in a ratio at least as great as the increase of our population. As the high duties under the act of 1842 were rapidly substituting the domestic articles, and excluding the foreign rival, the revenue must have declined. If, however, the act of 1842 had yielded the average revenue received during the period of its actual operation, this, we have seen, would have been an annual loss of upwards of seven millions of dollars, as compared with the average revenue of the tariff of 1846. With such a result, instead of a large surplus on the 30th June, 1850, there would have been an addition of more than twenty-five millions of dollars to our national debt, which must have gone on rapidly increasing, requiring, in time of peace, new and large loans to be negotiated. If, also, the proceeds of the sales of public lands were taken from the treasury for distribution among the States, the augmentation of the debt and accumulating interest would have been still more rapid and alarming. From this disastrous condition we have been saved by the tariff of 1846, yielding from reduced taxes an average excess thus far of more than seven millions of dollars over the average receipts from the tariff of 1842. Had that act remained in force during the war, from diminished revenue the loans must have been greatly augmented in amount, with a small and declining income, and, instead of premiums realized, large discounts must have been allowed.

That the revenue would have declined results from the position of the protectionists, that by continuing the system a few years, they would supply the whole home market with the protected domestic articles, when the foreign importation must cease, and the revenue also. The result, then, of protection must be the annihilation of the foreign import trade of the country, so far as regards protected products. With the exclusion or diminution of imports, the exports must cease or be reduced, for foreign nations could not buy them. We exported last year (per table F) $130,203,709 in value of domestic products and fabrics, exclusive of specie, and under low duties this must go on augmenting. But how can foreign countries pay for these exports; if we will take no imports, or very few, in return? Clearly, our exports must in time cease, or fall to a very small sum; the foreign markets must be destroyed; and the price of our staple exports of cotton, of rice, of tobacco, of breadstuffs, and provisions, must decline; for we cannot take the return in specie from abroad without exhausting those markets in a single year, nor can we consume at home this augmenting surplus. The British empire (per table G) took from us (not during the year of famine, as it is called, of 1847, but in 1848) our domestic exports, including cotton, rice, tobacco, breadstuffs, and pro-

visions, and other domestic articles, exclusive of specie, to the value of $78,741,416; and Great Britain and Ireland, of the value of $64,222,268. And this is the trade of our best foreign customers, which protectionists propose to sacrifice by high or prohibitory duties. If the tariff of 1842 gradually excluded, as it must, nearly all British fabrics, could they take $78,741,416 in value of our exports, whilst we would take from them scarcely anything but specie in exchange? Such a trade would exhaust Great Britain of her surplus specie in a single year, and leave her nothing with which to purchase our exports; and so in regard to all other nations. Thus would go our foreign markets, commerce, and revenue, and with them our carrying trade; and our vessels and steamships would remain at the wharves without freight. If the importation of protected articles would rapidly decrease when the foreign were high in price, and specific duties operated as a protection, under the tariff of 1842, from 41 to 243 per cent., (per table H, compiled from treasury returns in 1844,) what must not have been the decline of importation and revenue, when the foreign article fell, as it has in many cases, fifty per cent., bringing up the specific duty from 1 to 82, and from 243 to 486 per cent.?

This fact illustrates another objection to the specific duty, namely, that although it professes to be stationary, it is in fact constantly augmenting from reduced prices of foreign articles. Experience proves that from improved machinery, new inventions, and reduced cost of production, the foreign articles are constantly diminishing in price; whilst the specific duty remaining unchanged, it is constantly increasing in ratio as an equivalent ad valorum, and the protection augmenting every year: thus, if the price of sugar was six cents a pound and the duty three cents, it would be equal to fifty per cent. ad valorum; but if the price of sugar fell to three cents, the duties would have risen to one hundred per cent. ad valorum; thus doubling the protection, and continually augmenting with decreasing foreign prices until the duty becomes prohibitory, and the revenue on such articles disappears; whereas, the ad valorum bears, under all changes of price, the same exact ratio to the cost of the foreign fabrics, and therefore is the most just and equal, as also necessarily insuring a larger revenue.

Annexed will be found the table marked H, of seventy-four principal protected articles, prepared at the Treasury Department in 1844, from actual returns, and attached, together with others, to the very able report by Mr. McKAY, from the Committee of Ways and Means, of March 11, 1844, embracing coal, iron, glass, salt, sugar, cotton goods, &c.; showing the actual specific and minimum duties under the tariff of 1842 on those articles, and the equivalent ad valorum, ranging from 41 to 243 per cent. Now, if these foreign articles have fallen in price since that date fifty per cent., the equivalent ad valorem would of course now range from 82 to 486½ per cent., and would go on increasing as the foreign article diminished in price, soon becoming absolutely prohibitory, and destroying all revenue. In this aspect of the case, the objections to the specific duties as a permanent system with a view to revenue, are insuperable; while their unjust operation upon labor, in imposing so much higher duties as an equivalent ad valorem on the cheaper than the more costly qualities of goods, cannot be successfully defended. Our manufacturers do not desire the restoration of the tariff of 1842. They know, from its excessive and prohibitory duties, it will soon annihilate imports and revenue, and produce a reaction fatal to the protective policy. They know, also, that from its immense bounties, ranging at present prices from sixty to three hundred per cent., it will stimulate domestic productions in a few years to such an extent as finally to prove most disastrous to our manufacturers. That which our manufacturers now desire, is what they regard as moderate duties made specific in certain cases. But these specific duties will, as has been shown, be found constantly augmenting in ratio under the operation of the general principle by which the foreign article is continually tending to diminish price; whereas the ad valorem, always bearing the same proportion to the value of the import, is therefore always the most just and equal, and yielding the largest revenue. The augmented revenue under the tariff of 1846 has proved that ad valorem duties can be fairly assessed and collected. It is shown, also, by the returns, that this augmented revenue is derived from a comparatively small amount of foreign imports consumed in the United States. That amount is shown by the table before referred to, marked F, of all those foreign imports in the year ending 30th June, 1848, exclusive of specie thus consumed, being but $127,490,012, upon which was realized a net revenue of $31,757,070 96.

It appears also, from the table, that so far from this tariff having filled the country with foreign goods beyond its capacity for consumption, the domestic export last year, exclusive of specie, actually exceeded, by the sum (per same table) of $2,713,697, the foreign imports, exclusive of specie, consumed the same year in the United States, including all articles but specie, both free and dutiable; thus showing a balance of foreign trade in our favor, without taking into view the immense profit realized in the foreign market on our exports, generally estimated at about fifteen per cent., or the profits of freight and navigation. This was not a year of famine abroad, but of abundant crops in Europe; attended also with revulsions there highly unfavorable to our commerce, creating innumerable foreign bankruptcies, by which vast sums were lost to American creditors, required to be replaced by the export of our specie, which was greatly augmented by the discredit in our market of all bills drawn on our foreign shipments, producing, by this artificial rise of exchange, an unnatural demand for specie and a consequent exportation. But all this specie must soon come back to our country, except so far as it is lost by foreign bankruptcy.

It appears that for the year ending June 30, 1848, (not of famine, but of abundant crops in Europe,) our exports of breadstuffs and provisions (per table I) amounted to the sum of $37,472,751, being largely more than double the average annual export during the tariff of 1842. The result this year demonstrates, that even without a famine, and in seasons of good crops abroad, and even when their means were exhausted the preceding year by an unprecedented loss of specie, producing unparalleled revulsions and bankruptcies, yet with low duties, enabling them to exchange their fabrics for our surplus of agricultural products, they could and did take a large amount of our breadstuffs and provisions, to the value of $37,472,751. Thus, whilst our farmers found this large foreign market for their surplus, which otherwise must have remained unsold here, our navigating interest received a new impulse as well as our commerce, our tonnage having increased during the last year (per table F) from 2,839,046 to 3,150,502 tons, being more than three times the increase we ever realized in the same time under any protective tariff, and making the whole increased tonnage, under the tariff of 1846, 588,417 tons. The increase of our commerce, during the two years since the enactment of the tariff of 1846, has been so great, that our domestic exports, exclusive of specie carried abroad, exceeded by the vast sum of $80,605,181, the exports of the two years preceding, under the tariff of 1842. Whilst the tariff of 1846 has thus augmented our commerce, tonnage, and revenue, it has seen the country pass uninjured through the ordeal of an expensive foreign war, absorbing and withdrawing from industry nearly fifty millions of capital for loans. It has seen the great revulsion in England of 1847 pass over us almost unharmed, together with the general overthrow of Governments on the continent of Europe, with the unparalleled destruction of confidence, credit, and industry there, and with millions lost to our merchants by foreign bankruptcies; yet even through this ordeal, under the benign influence of the tariff of 1846, the country has passed, and is still prosperous and progressive, and prices of manufactures are far less depressed than has been the case in all such preceding revulsions.

Upon the reënactment of the tariff of 1842, or any similar restrictive measure, smuggling to a vast extent will become an organized system. By estimates from the Topographical Bureau and Coast Survey hereto annexed, (marked AA, and BB,) it appears that our direct maritime ocean front, exclusive of bays, inlets, islands, &c., amounts to 5,120 miles, our frontier upon Mexico to 1,456, and our frontier upon the British possessions to 3,303 miles; making, in all, 9,879 miles which we have to guard against smugglers. But if, in addition to this, as must be done, we take the shore line of the United States on the Atlantic, the Pacific, and the Gulf, including the bays, sounds, and other irregularities of the sea-shore and of sea-islands, and of the rivers to head of tide, it makes a distance of 33,063 miles, as estimated by the Coast Survey, which, added to 4,759 miles of frontier upon the British and Mexican possessions, constitutes an entire line open to smugglers of 37,822 miles; to protect which against illicit importation, under the temptation of such a tariff as that of 1842, would be impossible.

In this manner smuggling, so debasing and demoralizing, so destructive to revenue, so injurious to the honest trader and to the whole country, creating a contempt for the laws and the authority of the Union, would become the safety-valve of the protective policy by the operation of causes beyond all governmental control.

Since my last report, the continent of Europe has been convulsed by revolutions and civil commotions, paralyzing their commerce, credit, and industry, and diminishing our trade with them, compared with what it would have been if these events had not occurred. Nevertheless, such have been the advantages of our more unrestricted commerce with all the world, that the estimates of revenue for this fiscal year, presented in my last report, may yet be realized, the quarter ending on the 30th of September last, being the first quarter of the present fiscal year, having yielded $8,991,935 07.

The adoption by each nation of high tariffs, is a war upon the labor of the world. As labor is more productive, capital is more rapidly increased, and wages augmented; yet the tariff, by compelling each nation to employ a portion of its industry in articles which can be produced more cheaply abroad, and refusing the exchange, forces labor throughout the world into less profitable pursuits, and, as a consequence, diminishes the products of labor as well as its wages. Thus, if silks can be manufactured at a less cost in Europe, and breadstuffs more cheaply in this country, and by high tariffs we prevent the import of silks here, whilst by a similar tariff abroad, or their inability to purchase from us because we will not take their fabrics in exchange, our breadstuffs are excluded, to a greater or less extent, from their market, and their silks from our own, labor is forced in both countries into less productive pursuits, and both parties have sustained a loss. International tariffs diminish the aggregate value of the profits of labor to the extent of hundreds of millions of dollars every year, and reduce correspondingly the wages of labor. It would be most useful to examine the tariffs of all nations, and ascertain how much labor in each is thereby diverted into less productive pursuits. These tables have never yet been collected; but if, of the thousand millions of people of the earth, the labor of two hundred millions is thus rendered less profitable to the extent of one cent a day for each, the annual loss would be six hundred millions of dollars. Man was commanded to labor, but he was permitted by his Maker to employ his industry in each country in those pursuits for which it was best suited, and where his labor would be less severe and better rewarded.

But the laws of man by high duties diminish the products of his industry, thus augment his hours of toil, and deprive him of the time designed by his Creator for the acquisition of knowledge. These laws also, whilst diminishing the wealth of nations, produce discord between them; each by high tariffs proclaiming war upon the industry of all others. Under free trade each nation will profit by the labor of every other; each will employ its industry in those pursuits for which it is best adapted, and the surplus of each be thus exchanged with the others, by a reciprocal commerce beneficial to all parties. The true industrial interests of nations are identical; and in exchanging with each other the products most cheaply produced by each, labor everywhere benefits labor, man his brother-man, and nations each other, and their only antagonism is introduced by human legislation. The doctrine of free trade is the petition of labor to employ itself everywhere in those pursuits best adapted by nature to every country, and yielding, therefore, in each the largest pro-

ducts and highest wages. It looks upon our race everywhere as friends, as brethren, as equal in rights, and united in interest and destiny. Rightly understood, there is perfect unity of interest between man and man, and nation and nation, and between capital and labor.

We see the benefits of reciprocal free trade among all the States of this Union: although their wages, products, and fabrics, are as various as those of separate nations, yet all the States find it to be their true interest to admit freely the products of each. The benefits of this unrestricted reciprocal commerce constitute the great bond of interest, constantly augmenting, which keeps together the various parts; but if the protective doctrine be true, it would be the real interest of each and of all these States to impose duties upon similar products in others, for the protection of the people of each State. Yet, clear as is this proof of the benefits of reciprocal free trade between the States of this Union, the principle, as a question of political economy, is the same extended to other States, not united with us under the same Government. The difference in their political institutions cannot affect the great principles of commerce. The local laws of Ohio and Louisiana, of Mississippi and Massachusetts, are more variant in some respects than those of many other States beyond the limits of the Union. Now, whilst we acknowledge the benefits of reciprocal free trade between these four States, thus differing in their local institutions, wages, and products, the protectionists deny that it would be beneficial to establish reciprocal unrestricted commerce with other States beyond our limits. Yet variant forms of government can make no difference as to the reciprocal benefits of commerce. If free trade be beneficial among all republican States, it might at least be extended to them, although monarchies were excluded; but none will maintain that nations should restrict their commerce with each other, because they differ in their form of government. Although governments may differ, we are one race throughout the globe; the toiling millions who inhabit it have one interest; and, as a question of political economy, the benefits of free trade must be the same, whether extended to States within or beyond the limits of the same government; and each State, though separated hereafter by some catastrophe from every other State, would be alike still benefited by reciprocal free trade among the whole, for their commercial interests would not change with the separation from the confederacy.

A Congress representing the several States of this Union perceive how injurious would be the effect of a tariff by any one upon its own interests and that of all the States. Now, trade is not geographical or political, and if a congress of delegates from all nations were assembled, they would soon perceive that commerce was a unit; that it was not local but international; and that tariffs by one or more nations on the products of others, were just as injurious to each and to all nations, as would be a tariff in one State upon the productions of all the other States of the Union. If, then, in such a congress of all nations, reassembling from time to time, their several tariffs were discussed, and their injurious effects upon each and every other nation demonstrated, the whole protective system throughout the world would fall before the light of such an investigation. Wherever the laws of nature are beyond the reach of man, there is perfect order under the direction of Almighty power; but whenever man can disturb these laws, discord and injury are sure to ensue. The earth, the sun, and countless systems wheeling through universal space, move onward in perfect order and beauty; but even the harmony of the spheres would be disturbed, if the legislation of man could interfere and arrest the laws of nature. The natural laws which control trade between nations, and regulate the relation between capital and profits on the one hand, and wages and labor on the other, are perfect and harmonious, and the laws of man which would effect a change, are always injurious. The laws of political economy are fixed and certain. *Let them alone*, is all that is required of man; let all international exchanges of products move as freely in their orbits as the heavenly bodies in their spheres, and their order and harmony will be as perfect, and their results as beneficial as is every movement under the laws of nature when undisturbed by the errors and interference of man.

If labor is dear here and low abroad, in the exchange of products we get more of theirs for a smaller amount of ours, and gain by the exchange. The cheapness of foreign labor is an argument in favor of exchange with them. Thus, if we concede as to linens, that Europe from cheap labor could afford to sell two years for what one would cost here, it would be our interest to purchase from them at the reduced price. But according to the protective theory, the cheaper the foreign labor and the lower the price of its products, the more should we exclude them by higher rates of duty. In the absence of duties, we will exchange our surplus products for their cheaper fabrics, and our labor being applied to the production of articles thus exchanged abroad, wages will be enhanced here by obtaining more extended markets for our products, and getting for them a greater quantity of useful articles at lower prices. In the absence of tariffs, the division of labor would be according to the laws of nature in each nation, and the surplus of each would thus be exchanged among the whole, each employing its labor only in the most productive pursuits, and therefore the aggregate profits would be largest. If labor were so low in any foreign country that they could furnish us goods at almost nominal prices, and these cheap articles were such as we wanted here, it would be our interest to purchase them in exchange for our products, and the cheaper the foreign article, the greater would be our gain in the exchange. It is a strange objection to the purchase of foreign articles that the price is too low.

The argument that we must encourage our infant manufactures was always fallacious, for they would encourage themselves as soon as the country was adapted to them. But are they now infant manufactures? We have called them so for sixty years, and will they ever cease to be infant manufactures until weaned from legislative protection?

On the first of February next, the markets of Great Britain will be open to our breadstuffs, at nominal duties. Shall we enlarge the markets for our products, by selling them to Great Britain in the only way in which she can purchase them for a series of years, by taking in exchange such of her fabrics as she can sell to us at cheaper rates than we can make them? To the farmer or planter, this is just a question whether he shall have two markets or one, or whether he shall sell more at a higher price, or less and at a lower price. If it be our interest to shut out British fabrics, it would be theirs to renew their corn-laws, and exclude our breadstuffs from their markets.

It is said that other nations will not take our products in exchange for their fabrics; but, with reciprocal free trade, they must take them, by the universal rule that the purchaser will buy the cheapest articles, without inquiry whether they were made at home or abroad. To force our industry, by protective duties, into less productive pursuits, by forbidding these exchanges, is to increase the amount of labor, and diminish its products, or, in other words, to force our workmen to labor more and receive less.

The people of the Union, as consumers, pursuing their true interest, if left to their own choice, unfettered by legislation, will purchase the best and cheapest articles. But this is restrained by law, and the consumers compelled by high duties to purchase only, or chiefly, domestic articles, because this, it is said, will encourage home industry. But the foreign import has been purchased by some domestic export. The barter may not have been direct—various factors may have intervened, bills of exchange may have been used, or coin may have adjusted occasional balances; but, in a series of years, in the aggregate, international trade is but an exchange of products. Thus, the foreign import being exchanged for some American export, our own home industry, which produced that export, has been better encouraged than if forced by law into some other pursuit, rendered profitable only by high duties.

The temporary high price of labor in a particular employment is often imputed to the tariff. But if it be conceded that the protected articles are thus enhanced, this additional price paid by the consumers is so much capital taken from them by the tariff, to the full extent of the increased price, which otherwise would have constituted a fund for the employment of labor and the payment of wages. If, then, anything is gained in the enhanced price by a particular branch of industry, it is at the expense of all others, and must result in a diminution of wages, depending as they do on the aggregate profit of all the capital and labor of the country, and not upon that employed in any particular branch of industry. Thus, while wages may be temporarily augmented in some pursuits favored by law, they are diminished in all others, and the wages of a great majority of laborers would be reduced, and finally of all. From the diminished aggregate capital there follows a diminution in the aggregate wages paid in a nation. A vast majority of the labor of this country is employed in agriculture, commerce, navigation, and the non-protected pursuits; and if these are depressed, their profits are reduced, the wages of those employed in such pursuits fall, many are thrown out of employment, and thus a general fall of wages ensues, and the protected manufacturer eventually obtains labor at a very reduced rate. The effect of a protective tariff in truth is, not to enhance wages, but to depress them, and render capital invested in manufactures more profitable by enhanced prices of the protected fabrics. Wages throughout the whole country become lower than they were before, because the aggregate profits of the capital of the nation engaged in all its industry is diminished. Wages in one branch of industry cannot be high when they are low in all others; for wages, like all other commodities, unfortunately will soon find the same level. The aggregate profits of all the labor of the country, and not of any particular branch of industry, constitute the fund out of which wages are paid; and if that general fund is reduced by diminished profits, wages throughout the whole country must eventually fall.

If, then, the great mass of labor in this country and of capital is invested in agriculture, commerce, navigation, and such branches of industry as require no protection, and those pursuits are injured by a protective tariff, either by diminishing the market by the surplus raised by those thus employed, reducing the price of what they sell, or compelling them to pay more for what they buy, there must be in time a general fall of wages throughout the country, even although a particular branch of industry may have been rendered more profitable by a protective tariff. This duty, then, instead of a protection, is a tax upon the whole industry of the country invested in pursuits requiring no tariff.

Nor is it any mitigation, but an aggravation of the evil, that some other nations impose high duties on their own consumers of foreign products. The foreign duty may or may not prove injurious to our industry. If the American article is still in some cases sold abroad to their consumers at a price enhanced by their duty, the injury may have been to that extent to them only, and not to us; but when, by way of relieving us from this injury, whether real or imaginary, we impose a tax upon our own people as consumers, by compelling them to pay high prices for foreign products by high duties, we only augment the evil. Reciprocal free trade is best for all; and reciprocal high duties worst. When it is said, if foreign nations tax our produce by high duties, we must tax theirs in the same manner, we forget that their duty on foreign imports falls mainly on their own people who purchase such imports, and so, likewise, our tax on foreign imports falls chiefly on our own people who purchase them. Let us buy such imports as we desire, at low prices; and the difference of price that is thus saved to our people is so much gained as an additional capital to encourage our own industry, to increase employment and the wages of labor. But if the system of reciprocal taxation is wrong, what argument can be offered in favor of high duties upon fabrics of foreign nations, when they receive our exports at a nominal duty in exchange? Formerly, our protectionists admitted that if Great Britain would freely receive our breadstuffs, we should take their fabrics at low duties, or free of duty, in exchange. Then, the corn laws were in full force in Great Britain, and it was supposed would so forever remain.

But the system was repealed, and our chief agricultural products are now invited free of duty, or

at a nominal duty, on the 1st day of February next, into all their ports. Our protectionists now abandon their former position, and maintain that it injures our farmers to purchase British fabrics at low prices, even though England will take our breadstuffs at a nominal duty in exchange.

Wages can only be increased in any nation, in the aggregate, by augmenting capital, the fund out which wages are paid; and the capital gained by saving in the diminished cost of production and prices to the consumers, will invest itself in new pursuits, necessarily augmenting the demand for labor, and, as a consequence, its aggregate products —profits and wages. On the other hand, the destruction or diminution of capital, by destroying or reducing the fund from which labor is paid, must reduce wages. It is not, however, by the transfer of the same amount of capital by law, from one pursuit to another, that the aggregate capital and profits of national industry can be increased, but by the augmentation of capital, whether by saving or otherwise; and the radical defect of the restrictive system is, that the tariff never augments capital, but simply changes the pursuits in which it is invested, and therefore can never augment wages. On the contrary, it must, in the aggregate, depress wages, by preventing a saving of capital for the employment of labor and the increase of its wages.

Our arguments for low duties, as has heretofore been conceded by our most distinguished protectionists, insured the repeal of the British corn laws. Arguments here in favor of protection present to all nations the supposed benefits of restriction, and would therefore persuade them all to enact high tariffs. Our argument in favor of free trade appeals to all nations to reduce their duties on our products; whereas our arguments for protection are reasons offered to all nations to raise the duties on our exports. Our arguments would persuade them all of the mutual benefits of reciprocal free trade, and teach the doctrine of international unity of interest; whereas the other attempts to prove that their interests are antagonistical, and will be best consulted by each inflicting the greatest injury upon the others, by high tariffs. The one would be read abroad in their legislative and executive councils, in favor of a reduction of duties on our products; the other would be quoted in favor of increasing such duties.

High tariffs should be most useful where they are the most effective. Let us take the interior of New York, remote, not only from the ocean, but from railroads and canals. Now, if the duty were twenty per cent. on the import arriving at the city of New York, or its vicinage, that city and its neighborhood, by the protective theory, should be more injured by the importation than the interior of the State, the freight to which, on many foreign articles might add twenty per cent. to the cost, making the whole enhancement of price forty per cent., and thus operating as a double protection in the interior, compared with the seaboard. Now, if the restrictive theory be true, the resident of the interior, being better protected—the tariff and freight on the foreign article operating as a double duty—should be more prosperous than the resident of the seaboard. But the farmer's products are highest upon the seaboard, and lower at every point as we retire from it—lower at Albany and Buffalo; still lower at Erie, Cleveland, Detroit, Chicago, Lasalle; whilst the price of all the farmer buys is proportionally enhanced; and nothing but the fact that his lands are cheaper in proportion as they are remote from the foreign market enables him to sustain the competition.

The protective system is agrarian, and a war upon property. It attempts to organize labor and capital by law, adding to the profits of one pursuit by reducing that of another. It is incompatible with the security of capital or labor, for capital is but the accumulation of the gains of labor; and, therefore, whatever destroys the security or profits of capital, results in an equal injury to labor. Besides its injurious effects upon industry, it is an arbitrary and despotic power. And if the people should become accustomed to its exercise, looking for legislative support and protection, it would terminate in a struggle for the division and distribution by Congress, every year, of property, profits, and capital, among the favored classes. No legislation of man can change the law of capital and wages, namely, that as capital augments, being the source from which wages are paid, there will be an increased demand for labor, and a consequent addition to its reward. Capital and wages are the weights in the opposite sides of the scale, vibrating under unchanging laws—wages ascending as capital is augmented, and descending as capital is reduced. If, then, we would augment wages, as every lover of mankind must desire, we must increase capital, which no tariff or organization of labor can effect, although it may transfer capital from one pursuit to another—always diminishing the aggregate profits, when the transfer is forced by law.

The belief is erroneous, that as manufacturers increase in number, skill, capital, and products, they will perpetuate high tariffs. When they attain this condition, and their fabrics exceed the home demand, they will desire free trade to open to them the foreign markets. In England this is now the case, and their manufacturers are the great advocates of free trade, as our manufacturers in time will be, and ultimately unite with all other classes in desiring the abandonment of all tariffs and custom-houses, and the repeal of all restrictions on commerce.

Congress having extended the revenue laws to Oregon, and created Astoria the port for that district, the revenue cutter Cornelius W. Lawrence was ordered to that coast, under the command of Captain Alexander V. Fraser, an officer of talents, zeal, and fidelity. The coast survey was also extended there, and through its aid buoys will be located and lighthouses constructed, as directed by Congress. The revenue laws not having been extended to California, no duties could be collected there, but the department exercised all its authority by issuing the circular hereto annexed, (marked Y,) opening free trade under the Constitution between its ports and those of the rest of the Union, at the same time guarding the revenue from loss as far as practicable. It is recommended that besides Astoria, collection districts be authorized at San Diego, Monterey, Puget Sound, and San Francisco, on the Pacific.

Our maritime frontier upon the Pacific is now nearly equal to our Atlantic coast, with many excellent bays and harbors, admirably situated to command the trade of Asia and of the whole western coast of America, whilst our coastwise trade between the Atlantic, the Gulf, and Pacific, must soon become of great value. Congress having directed this department to recommend such measures as will increase our commerce and revenue, it is suggested that if we desire a lucrative trade, and augmented revenue from our Pacific coast, this object can best be accomplished by many additional steamships upon that ocean, as well as upon the Atlantic and the Gulf. Beneficial as this system has proved upon the Atlantic and the Gulf, in augmenting our commerce and revenue, our tonnage and navigation, it is still better adapted to the Pacific, and the long voyages along its shores, and to Asia. This tranquil ocean, as indicated by its name, more subject to calms, is better adapted to steam than the more boisterous Atlantic, and with less danger of injury to the machinery. The calms of the Pacific, so often retarding the sailing-vessel, make shorter and safer the voyage of the steamship; whilst at other periods the trade winds blowing for months continuously in one direction, not affecting the course of the steamer, but forcing sailing-vessels so many thousands of miles out of their way, render steam necessary to the profitable navigation of that ocean. From all these causes, the Pacific must become the principal theatre of the peaceful triumphs of the great expansive power of steam, and we must extend its use there, under our own flag, if we would desire to contend successfully with other nations for the trade and specie of Asia and western America. Our imports from Asia, such as teas, silks, and chiefly costly articles, are still better adapted for the steamships than heavy products. The time required in crossing twice the tropics and the equator from our Atlantic ports to Asia, in the long voyage of the sailing-vessel, is felt severely, not only in the loss of interest, and in the less rapid circulation of capital and realization of profits, but in the still greater loss in arriving at home too late with the cargo, and thereby losing the market, or at least a better price; and this loss of time and interest, of price and markets, is as great in the return as in the outward passage.

The voyage by steam from our Atlantic ports to Asia, by the route of Chagres and Panama, with a railroad to be constructed by private enterprise across the isthmus, would soon be accomplished in a month, instead of three or four months, and the gain of time in our coastwise trade between both oceans would be still greater. In ancient and in modern times, the cities and nations that secured the trade of Asia were greatly enriched. This has occurred successively with Tyre, Sidon, Carthage, Alexandria, Venice, Genoa, Lisbon, Amsterdam, and London; whilst this rich traffic built up large cities even in the midst of deserts, in the caravan route of the track through which it passed. With our front upon both oceans and the Gulf, aided by steamships, by low duties, and by shortening the voyage by the isthmus route, as presented in my annual reports of December, 1846, and December, 1847, we may secure this commerce, and with it, in time, the command of the trade of the world. We may also extend our commerce with all the countries bordering upon the coast of Western America, richer than all others in the precious metals, and abounding in articles which we desire but do not produce; whilst new and vast markets will be opened there for our products and manufactures, and the number and profits of our whale ships greatly increased. Distant now as are our possessions upon the Pacific, if we would desire to extend to them the benefits and blessings of the American Union, and unite them with us in the bonds of an ever augmenting commerce and intercourse, there is at present nothing but steamships that can perform these important duties in connection with a railroad across the Isthmus of Panama. Such a road would always be useful for our trade from the Atlantic and the Gulf with the western coast of America, and, at least for heavy products, with Asia, and especially with that portion of it near to or south of the equator, with the islands in the Indian Ocean, and with Australia. Even at some distant period, a railroad should unite the Atlantic, the Gulf, and the Mississippi, with our harbors upon the Pacific. That such a road will be made at some future period, upon the most practicable route, is not doubted; although, from the time and capital required, its completion unfortunately may be remote; but the railroad which private enterprise could build within a year or two across the isthmus, would answer all our present purposes, and would at once bring New York within ten days of the Pacific, and within thirty days of China, and New Orleans still nearer; maintaining also the important communication between our own harbors on the Atlantic, the Gulf, and the Pacific.

The estimates required by law from this department for the revenue likely to accrue from foreign commerce with all our ports, including those upon the Pacific, must depend upon future events. If private enterprise should soon construct the railroad across the Isthmus, if an adequate number of steamships in continuation of the beneficial system already commenced should facilitate the trade between Asia and our Pacific ports, bringing them within twenty days of China, with the best steamers in sufficent number, starting at regular periods from the Atlantic and the Gulf to Chagres, and from Oregon and California to Panama, to Asia, and to the whole western coast of America, the commerce of all our ports would be incalculably increased, and the revenue collected on the Pacific rise in a few years to several millions of dollars per annum.

Nor is it only with these nations of Asia, with whom we already have treaties, that the steamship would increase our commerce; but it would introduce it, together with diplomatic relations, into vast regions of the East, with whom we have formed no treaties, estimated to contain one hundred and thirty-five millions of people. Many of these are large and populous empires, abounding in specie, and many articles which we need, but do not produce, and desiring also our products and manufactures in exchange. Among those empires with whom we have no treaties, and little or no trade, are Persia, Corea, Cochin China, Birmah, and Japan, with whom nothing but the steamship can successfully introduce our commerce. Among these is Japan, highly advanced

in civilization, containing fifty millions of people, separated but two weeks by steam from our western coast. Its foreign trade is now nearly confined to two Dutch vessels, although it is separated from Holland by eighteen thousand miles, and from our Pacific coast only by 4,500 miles. Its commerce can be secured to us by persevering and peaceful efforts. Our steamships would pass on their way to China, through the narrow channel separating the two great islands composing the empire of Japan, monthly or weekly, in sight of both their coasts, and by thus familiarizing them with our mercantile marine, extending their knowledge, overcoming their prejudice, and opening to them new views of their own true interests, would soon unseal their ports to our commerce.

The acquisition of our immense coast upon the Pacific, and the introduction there of our steamships, especially when private enterprise shall unite the oceans by an isthmus route, would, as remarked in my annual report of December, 1846, "*revolutionize in our favor the commerce of the world,* '*and more rapidly advance our greatness, wealth, and* '*power than any event which has occurred since the* '*adoption of the Constitution.*" The same great subject was again referred to in my annual report of December, 1847, as "*a new commercial era,*" requiring "*ocean steamers in addition to sailing vessels,*" as connecting us "*with China, containing nearly one-third of the population of the globe.*"

Our ports upon the Gulf, with those upon both oceans fronting upon Europe from the east and Asia from the west, occupying the central position between all the continents of the globe, nearer to them all by convenient routes than any other nation, including an easy access to the whole interior of our own country,—we want only the ocean steamships of adequate strength, speed, and numbers, to give to us the command of the trade of all nations. Nor should we forget, that in carrying our trade among the great and populous nations of Asia, and facilitating intercourse with that vast region, passing from coast to coast in the short period of twenty days, with monthly or weekly steamships, the light of Christianity, following the path of commerce, would return with all its blessings to the East, from which it rose.

In those regions commerce must be the precursor of Christianity—commerce, which teaches peace and intercourse between nations; which declares that man is not the enemy of man, nor nation of nation, but that the interest of all countries and of all mankind are identical, and that they will all advance most rapidly under the genial influence of an unrestricted reciprocal trade and intercourse.

By our recent acquisition on the Pacific, Asia has suddenly become our neighbor, with a placid intervening ocean, inviting our steamships upon a track of a commerce greater than that of all Europe combined. This commerce is ours, if our merchants and Government should, by their united energies, secure for us with Asia a rapid and frequent communication by steam. Our products and our manufactures, and especially our coarse cotton fabrics, are precisely what are desired by several hundred millions of their people, who will send us back in return their specie and their rich productions, so few of which are raised within our limits. From our coast on the Pacific, as well as from the Gulf and the Atlantic, and the Isthmus route, we would be much nearer to the west coast of America, as well as Asia, than any European Power; and with the best steamships in adequate number, with the greater certainty of the voyage, of the period of arrival and departure, and economy of time, and saving of interest, and with diminished cost of carriage, we would ultimately supply the western coast of America, as well as Asia, with our products and manufactures on better terms than any European nation. We would in time receive the productions of the East in exchange, not only for our own consumption, but to be warehoused in our ports as entrepôts for the supply of Europe. And so far as European fabrics should reach Asia and the western coast of America, they would ultimately pass chiefly through our hands as factors, and in our vessels, events which would very soon give us the command of the trade and specie of the world. From these great events the whole country would derive vast benefits, but especially the city of New York; it would become the depôt, and storehouse, and entrepôt of the commerce of the world; the centre of business and exchanges; the clearing-house of international trade and business; the place where assorted cargoes of our own products and manufactures, as well as those of all foreign countries, would be sold and reshipped; and the point to which specie and bullion would flow, as the great creditor city of the world, for the adjustment of balances, as the factor of all nations, and the point whence this specie would flow into the interior of our country through all the great channels of internal trade and intercourse. With these great events accomplished, and with abundant facilities for the warehousing of foreign and domestic goods at New York, it must eventuallly surpass in wealth, in commerce, and population, any European emporium; whilst, as a necessary consequence, all our other cities, and every portion of the Union, and all our great interests, would derive corresponding advantages. Our merchants, as must have been expected in any new enterprise, encountered some difficulties in putting their first lines of steamships into full and successful operation, but these obstacles they are rapidly overcoming. They encountered similar difficulties in the commencement of their first line of packet-ships, which soon, however, outstripped those of all other countries; and the same success, with a liberal governmental policy in the outset of their great enterprise, will soon follow, as regards their ocean steamships.

In view of the rapidly augmenting trade between our ports on both oceans, I recommend that an act be passed by Congress, under which all products and fabrics may cross the Isthmus of Panama, under the provisions of our most important recent treaty with New Granada; that foreign goods may be taken from our warehouses, and landed in our ports on either ocean, or the Gulf, in the same manner that goods now warehoused in any port may be taken into and re-warehoused in another. To prevent frauds on the revenue, it will be necessary to provide for the appointment of agents or consuls to reside at Chagres and Panama, in the same manner as now authorized by Congress in regard to Chihuahua, under the act of 3d of March, 1845.

If this should not be done, our commerce will be forced twelve thousand miles out of its course, through the long voyage around Cape Horn. The drawback of the duties on foreign goods exported to Chihuahua, by the routes of Missouri, Arkansas, and Red River, should be extended to that by the Rio Grande, as well as to such other routes through Texas as may be found safe and practicable. A port of entry should be established at the mouth of the Rio Grande, as well as at such other points on that river as may be necessary to guard our revenue laws from invasion on that frontier, and to secure the interior trade with Mexico. The drawbacks of duty should also be allowed on goods exported to Monterey and Saltillo, and perhaps other important interior towns in Mexico, on the same considerations as are now applicable to Chihuahua. In recommending the regulations before referred to, for the transit of goods across the Isthmus of Panama, I would respectfully suggest the extension of the same privileges to the routes by the Mexican isthmus of Tehuantepec, by Lake Nicaragua, by the Rio Atiato and San Juan, to go into effect whenever the same right of transit can be obtained from ocean to ocean. Some, if not all of these routes, may be traversed by railroads, and may become important, as well as that by Chagres from Panama, for our foreign and coastwise commerce between the two great oceans, as well as for the interior trade with Mexico, New Granada, and Central America; and the transit by the Mexican isthmus would be highly advantageous to the whole country, but especially to the valley of the Mississippi and its great depôt, the city of New Orleans, so near the Pacific, by that new and important route. In connection, also, with our supply of the precious metals from the interior of those countries, as well as from Peru and Chili, and the transportation of our own gold and other minerals from California, these routes may all become useful.

The collector of San Diego should be authorized to appoint a deputy at some point in our territory as near as may be to the junction of the rivers Gila and Colorado, at the head of the Gulf of California, with a view to our future trade on that gulf, as authorized by the recent treaty with Mexico, in connection with Lower California and the adjoining Mexican States, Sonora and Sinaloa, so rich in the precious metals, and containing the important ports of Guayamas and Mazatlan.

I renew the recommendation heretofore made by me, for reciprocal free trade between the Canadas and the United States, in all articles of the growth, manufacture, or production of either country.

I recommend also the passage of a law tendering a similar reciprocity to Mexico. It is known that the Canadas, with the consent of Great Britain, (and it is believed New Brunswick also, adjoining New England,) would cheerfully accept this reciprocity.

The advantages to the Canadas would be great, as well as to our ports on the Lakes, the St. Lawrence, and the Atlantic, accompanied by increased tolls and business on our intermediate railroads and canals.

With our neighboring Republic of Mexico, now revising her tariff, so rich in precious metals and dye-stuffs, and other raw material of manufactures, with whom it is our true interest to encourage the most friendly relations, and reciprocal and unrestricted commerce—although she may not at once enact a reciprocal statute, yet it is clearly her interest to do so; and with such an offer standing upon our statute book, it would receive the attention of that republic, and in time be adopted; and, meanwhile, it would present to Mexico the best evidence of our anxious desire to maintain with her the most friendly relations, together with free and reciprocal commerce and intercourse.

The Mexican tariff prepared by this department and enforced by the President of the United States, with a view of military contributions in Mexico, added several millions of dollars to our means during the recent contest, as well as aided the credit and loans of the Government. It was a new but most salutary example set to belligerents in all future wars, not to destroy their own commerce and that of neutral and friendly Powers, by embargoes, and blockades of the ports of the enemy; but to diminish the evils and losses of wars, by encouraging our own commerce, and that of all the rest of the world, with the enemy's ports at more moderate duties, at the same time devolving upon our enemy, instead of our own people, as large a portion as practicable of the burdens and expense of the contest, so as to bring it to a speedy and honorable conclusion.

This example so favorable to neutral nations, mitigating so much the losses of wars, substituting commerce instead of embargoes and blockades, was viewed with high satisfaction by all the Powers with whom we were at peace, and is believed at the same time to have had no inconsiderable influence in accelerating the peace with Mexico. This measure was a step in advance of the progress of commerce and civilization. It was an example worthy to be set to all nations by the United States, and was so warmly approved by all countries, that if, unfortunatety for mankind, wars should hereafter occur, and especially a general European war, (the danger of which many apprehend to be imminent,) this American precedent would probably be adopted by other Powers leaving all ports of the enemy open to neutral commerce, and the consequent gain to our country incalculable.

We should not only have gained the great principle for which we have so long contended, that free ships make free goods, in trading with the ports of a neutral when in her own possession, but we should also terminate the system of actual as well as paper blockades, and leave our commerce uninterrupted in the ports of all the belligerents. This consideration is rendered more momentous by the fact, that our future position, it is hoped, in all time to come will be that of a neutral, and that, as the result in part of our wonderful military power displayed in our recent glorious achievements and unparalleled victories, as well as from the development of our extraordinary moneyed resources, (more than one hundred millions of dollars having been offered by our own capitalists, at a premium, for a Government six per cent. stock, upon advertisements for less than one-half of that sum,) we shall be permitted to enjoy hereafter the blessings of uninterrupted peace with all the world.

Among the important results of that reduced

Mexican tariff, as prepared by this department, is the light thrown by its operations upon the commerce and revenue of Mexico, and the demonstration that both would be augmented by its provisions. So strong has been the effect produced, that a proposition to remove the prohibitions on nearly all our exports to Mexico, existing under the old system, was carried in one House at the recent session of the Mexican Congress, leaving, it is hoped, only the details to be perfected at some future session; a measure that would open new markets to our products and fabrics, prove highly beneficial to Mexico, and unite the neighboring republics in the more intimate and friendly relations of an ever-increasing reciprocal commerce and intercourse.

I renew the recommendation contained in all my annual reports for the establishment of a branch of the mint of the United States at the city of New York. That city, our great commercial metropolis, is advancing to its ultimate position (so important to the whole country) as the emporium of universal commerce, the centre of international exchanges, and the storehouse of the products of the world. To attain this result, we must secure for our great emporium (in competition with foreign cities) the command of her due proportion of coin and bullion. Now, it is clear, that where bullion cannot be coined, and no recoinage can take place, this cannot be accomplished. America is the great continent of the precious metals; they are now found in extraordinary quantities in our own Union, and to a vast extent in countries adjacent; yet nearly all this coin and bullion are diverted to other countries, and especially to Great Britain, being one of the chief instruments in aiding that country in maintaining her command of the business of the world. By steamships, and by exports of her own products and fabrics, she accumulates coin and bullion in London, and provides for their coinage and recoinage in the least time, and without expense; and yet, in our commercial emporium, we have no mint, or even a branch mint, for the important process of coinage or recoinage. If we would command the commerce of all nations, it must be through some one American commercial emporium, the great centre of our own trade and business. The history of our trade demonstrates that some such great point is indispensable to enable any nation to command universal commerce; and that such concentration at some one city, instead of injuring other cities or parts of the same country, is of immense benefit to all. There cannot be two or more financial centres of the foreign commerce of any one nation, any more than there can be two or more centres of a circle. The same principle of the centre of trade of a nation applies to the trade of the world. There can be but one such centre for the world, and but one for each nation, which, in this country, from natural causes, must be New York, where the competition must soon commence with foreign cities for the control of international commerce. Now, as the command of the specie of the world is of immense benefit to our whole country, and can only be secured by making one of our own cities the centre of universal commerce, it is indispensable to success in this great American enterprise, that specie and bullion should be invited from all the world to New York, not by any unjust advantages, but by giving to it equal facilities with our other cities for coinage and recoinage.

It is not for New York merely, or for its commerce, that this mint is desired, but for the benefit of the whole Union. The storehouse of the goods and products of the Union must become the storehouse of its specie: where the commerce and goods are, there the representatives of their value must be also; and there also should be every facility which a mint would give for increasing their circulating values, and for bringing them into immediate and active use in any form which might be desired. It is in vain to say that the specie or bullion brought by our commerce to New York can be sent to a distant point where there is a mint, with but little delay, risk, or expense. It is clear there must be some risk, delay, and expense, operating as a tax on the business of our commercial emporium, and to that extent rendering unequal her contest with European cities for universal commerce. Coinage and recoinage should be immediate, without any risk, expense, or delay; and it might be said as regards merchandise, with nearly the same truth as is urged in the relation to specie, that it would be no injury to the commerce of the Union if light and costly articles would be sent at but trifling expense, risk, or delay, from New York to some distant city, there be stamped, marked, or labeled, and returned to New York for sale and distribution in the general markets of our own country or of the world. It seems to be forgotten by those who present such arguments, that in a great commercial capital, where business to the amount of millions of dollars is transacted from ten to three o'clock, how important time is, where the delay of a day, nay, often an hour, may be most disastrous, and change the balance of profit to loss. Merchants and men of business should be permitted to exchange their bullion or foreign coin for American in a few hours or moments, as could be done at a mint, or receive at once mint certificates of deposite, which often might be to them of the greatest importance. The trade in bullion and specie, in itself one great branch of commerce indispensable in the transaction of business, and especially of international exchange, already exists to a great extent in New York, but is limited, in diffusing its benefits, to American commerce and exchanges, by the want of a mint. Now, it is subject to expense, risk, and delay, to put into a form for circulating value, that delay being itself a great loss of capital; whilst the foreign coin, consisting of denominations unknown to the great body of our people, is almost useless for the purpose of general circulation. It is the rapidity of the circulation of coin that gives it its chief value, and accumulates capital by the speedy realization of profits. And the American eagle or half eagle, and one other decimal coinage, might in a few months perform more of the functions of money, and pass more rapidly through a greater variety of hands, than if it were in some foreign and unknown coin, which would not circulate among our people. Hence it is that a mint at New York, to give activity to our specie circulating capital, by converting it at once into American coin, would be of vast importance to the whole Union.

Credit, when based on real capital, is highly beneficial to the commerce of the country; and specie is one of the main pillars upon which credit can repose with assured confidence. And we must have that specie as the basis of such a credit at our commercial emporium, if we indeed desire to make it the centre of international exchanges.

With a view to augment the circulation of our own coin in our own country, this department has arrested, as far as practicable, the payment of foreign coin out of the treasury, requiring it to be recoined into American coin, by which means it has been enabled, between the 1st March, 1845, and the 30th October, 1848, to coin at our mints (per table K) the sum of $38,717,709 22, which, from the 1st of March, 1845, to the 1st of March, 1849, must exceed $40,000,000—being a larger sum than was coined in thirty-eight years preceding, from 1793 to 1830, inclusive.

But whilst the department will have coined from the 1st March, 1845, to 1st March, 1849, more than $40,000,000, the amount would have been augmented to the extent of several millions of dollars every year, if there had been a branch of the mint at the city of New York. This is proved by the fact, that most of the foreign coin sent from New York and other points to Philadelphia for recoinage, has been that portion which was received for Government dues, and transferred mainly, not by the people or merchants, but by the order of this department, from the several Government depositories; and but little coin comparatively has gone from New York, transmitted voluntarily by individuals for recoinage, to Philadelphia. Individuals will not, to any great extent, subject themselves to the risk, expense, and delay of this process; whereas the whole of the coin and bullion, amounting to many millions of dollars, that come to New York by the operations of commerce or by emigration, now a very large sum, would all be changed into American coin, if there was a mint at that city.

Having no branch at the great centre of American commerce, our mint, notwithstanding the great ability and fidelity with which its business is conducted at Philadelphia, is not, to the extent it should be, the mint of the people, and convenient for the coinage of their bullion and foreign coin, and especially the large amount brought by emigrants into the Union, estimated at eight millions per annum; but is used chiefly, so far as regards other cities, for that of the Government; whereas it ought to be the mint of the Government and people, and for the benefit of both, and can only fully become so by the location of a branch as recommended. The amount of foreign coin recoined at Philadelphia, from 1st March, 1845, to 30th November, 1848, on transferred orders or deposite by officers of this Government, directed by me, was (per table Q, hereto annexed, $11,463,181—being nearly equal to the whole remaining coinage there, during the same period, including plate and bullion.

The branch mint would be most important as auxiliary to the operations of the constitutional treasury, for the present assistant treasurer at New York would then become the treasurer of the branch mint, and perform both functions precisely as is now done at Philadelphia and New Orleans, saving the expense of an increase of officers, preventing double entries and payments, and simplifying the operations of the Government, and saving to the Government and the merchant the risk and cost of the double custody and transfer from the collector to the assistant treasurer. From the 1st January, 1847, to 30th November, 1848, the merchants of New York paid to the collector (per table L) for duties the sum of $35,360,678 36 in specie, being two-thirds the aggregate payment in specie for duties in the Union. Yet whilst the Government exacted from these merchants this immense sum in specie for duties, it refuses them even a branch of the mint where bullion can be coined, or foreign coin recoined, the mere establishment of which would attract there so much specie, and render the payment of this large amount so much more easy. The amount of specie received by the assistant treasurer at New York, from the 1st January, 1847, to 30th November, 1848, was $57,328,369; and the coin disbursed by him there, during the same period, was $55,496,269; making an aggregate of $112,824,638, (per table R.) With a branch mint at New York, the transaction of business would be undisturbed by the operations of the constitutional treasury.

It is true, that even with such a branch there, the collection of duties in specie would operate as a check, not upon the issues, but upon the over-issues of their banks—a gentle and most useful check, restraining their over-issues, and mitigating, if not preventing, those revulsions which are sure to ensue when the business of the banks, and, as a consequence, that of the country, is unduly extended. Credit is useful, and most abundant only when it is based upon capital and specie, and a legitimate business and commerce. But when it is stretched beyond those limits, it necessarily produces revulsions, disastrous not only to the parties involved, but to the commerce and business of the whole country. It is this fatal tendency to over-issues, and the too great and dangerous extension of their business, which constitutes the greatest objection to our banking system; and those banks which are based on sound capital, and desire to conduct their business advantageously to themselves and to the country, ought to rejoice that such others as would transcend these limits are checked and restrained by the demand for coin, created by the specie-receiving and specie-circulating constitutional treasury.

During the year 1847, when more than twenty-four millions of specie were brought into the country, and to a great extent paid in for duties and loans to the Government, had this coin gone into the banks—as under the old State bank deposite system, to a great extent it must—and have been made the basis of an inflated currency, far exceeding that of 1836, it would have been followed, upon the sudden fall of the price of our breadstuffs and staples, and the turn of exchange, and flow of specie out of the country, by a revulsion more disastrous than that of 1837. The fall would have been from a greater inflation to a lower depression, the intensity of the disaster being augmented by the loans and expenses of a foreign war, by the drain of specie to sustain immense armies in foreign countries, by depreciation of Government loans and the fall of the Government credit. The public credit, under that system, being inseparably connected with that of the banks as its depositories,

the Government having no specie, and depending upon their paper, its credit must have fallen with that of the banks, as happened in 1837, and during the war of 1812; and loans for specie (which were indispensable) could only have been obtained, as they were during that war, at ruinous discounts, amounting to millions of dollars per annum. Instead of these sacrifices, the public credit was maintained throughout the war, and its stocks sold for high premiums instead of ruinous discounts; the total premium realized by me for the Government being $555,511 39 A system which has operated so beneficially, both in war and in peace, must, in the main, be wise and salutary; but it would be still more so, if the amendments heretofore recommended by the department were adopted, especially as regards the securities for disbursements, (without which the system is not safe,) and the establishment of a branch mint at New York, as a most important auxiliary.

With these amendments, affecting none of the principles of the bill, and especially its specie receiving and specie circulating clauses, it would so commend itself to the whole country, and prove so beneficial to its industry, commerce, and business, as to become our settled policy, undisturbed by complaint or opposition from any quarter.

Annexed will be found tables (marked U and V,) communicating, in compliance with the 22d section of the act of the 28th of January, 1847, the information required by that act as regards the issue, redemption, purchase, and reissue of treasury notes. Statement W shows the payments into the treasury on account of the loan of 1848. Statement X shows the amount of specie paid into the treasury from all sources, from the 1st of January, 1847, to the 31st of October, 1848, amounting to $91,484,823 55; and the disbursements in specie, during the same period, amounting to $92,142,512 39; making an aggregate, during that period, of receipts and disbursements in specie, of $183,627,335 94.

Under the act of the 31st of March last, authorizing a loan for a sum not exceeding sixteen millions of dollars, the department, on the 17th of April last, and for sixty days thereafter, advertised the proposals, as per copy hereunto annexed, marked S. This advertisement was published for sixty days, not only in the several newspapers in this city, but also in the papers publishing the laws as authorized in each of the States; and, with a view to more extensive circulation, in each of the daily papers of the principal cities of the Union. The proposals were also made known to our ministers and consuls in the principal cities of Great Britain and the continent, wherever it was believed the premium might be enhanced, and bids extended by their efforts. The notice was not inserted in the newspapers until the 17th April, because, by the third section of the act, it was declared that the advertisement should be published "not more than sixty, nor less than twenty days from the time of the first insertion of said advertisement in one or two newspapers in the city of Washington." If, then, upon the day the law passed, or the day succeeding, the loan had been advertised, the time for opening the proposals must have terminated by the last of May or first of June. The department, however, upon the information before it, felt persuaded that the treaty of peace which had been approved by the Senate, would be ratified by Mexico; but that in all probability the intelligence of the ratification could not reach here by the last of May or the first of June, but that it would be received before the middle of June, and consequently, if the advertisement were immediately inserted and the proposals opened by the last of May or the first of June, the Government, in the absence of the news of the ratification of the treaty by Mexico, would necessarily sell the loan upon much less advantageous terms, and at a probable sacrifice of several hundred thousand dollars of premium to the Government. Under these circumstances, the department assumed the responsibility of delaying inserting the advertisement until the 17th of April, allowing the longest period from that date authorized by law for opening the proposals, namely, the 17th of June, some days before which period I was confident that official intelligence of the ratification, by Mexico, of the treaty would be received here. The result justified these anticipations. The intelligence of the ratification of the treaty was not received here by the last of May or first of June, nor in fact until a few days before the 17th of June, when it was immediately made known officially, by telegraph and otherwise, and the Government received the full benefit, in negotiating the loan, of the universal knowledge of the final ratification of the treaty of peace with Mexico. Upon the 17th of June, at the appointed hour, the seals were broken and the bids opened by the Chief Clerk of this department, in my presence and that of the bidders and the public, the bids recorded, and the loans awarded, of course, to the highest bidders.

The total amount bid, together with the names of the successful and unsuccessful bidders, will be found in the statement hereto annexed, marked M. The whole premium obtained on that stock, it will be perceived, was $487,168 66, which was the more extraordinary, inasmuch, on reference to the prices current, it will be found that the entire sale of the sixteen millions of stock, in a single day, exceeded the rate at which the Government six per cent. twenty years' stock, exclusive of interest and brokerage, was then selling in small sums in the market.

It being made by law the duty of this department to devote its attention to "THE SUPPORT OF PUBLIC CREDIT," as well as to "*the improvement and management of the revenue*," it is proper to remark, that this Government has paid punctually at all times the public debt at its maturity, as well as the accruing interest, never suspending for a moment of time in the discharge of either when due. Such has been the attachment of the American people to this the Government of their choice, such their regard for honor and good faith, that however severe the trial or sacrifice, they have liquidated, as they fell due, all the debts of the Union.

A table, certified by the Register of the Treasury, is hereto annexed, marked N, showing our population from 1790 to the present period every year; our debt; our receipts from loans and treasury notes; our revenue each year, exclusive of loans and treasury notes, as well as from these loans and notes; and the principal and interest of debt paid each year, as well as the total amount. It is an official record, which every American may read with pride and satisfaction. It shows, that whenever it was necessary to pay the debt, and sustain the honor of the country, the people cheerfully submitted not merely to duties on imports, but to direct taxes and excises to the amount of many millions of dollars every year; and that even when our population was sparse and our moneyed resources extremely limited, the debts of the country were always punctually discharged after the adoption of the Constitution, both principal and interest, at their maturity.

In 1790 we assumed the debt of the Revolution, determined that the honor of the nation should be preserved stainless and unsullied. That debt then assumed was $75,463,476 52, being equal to a debt at this date of more than $377,000,000, according to population, and nearly six times greater, according to population, than our present debt. At that date, the country, exhausted by a seven years' war, and weakened by internal difficulties growing out of the feeble character of the old Confederation, had scarcely commenced her onward career to greatness, wealth, and power; yet this debt was voluntarily assumed as a matter of honor, and it was paid, including principal and interest, punctually, without failure or suspension.

Again, at the close of the war of 1812, our debt in 1816 was $127,334,933 74, a portion of it bearing an interest of 7 per cent.; yet that debt also was not only fully paid in 1836, both principal and interest, but the Government, after liquidating all its engagements, had a surplus left in the treasury of $28,101,644 91, which was deposited with the States for safe-keeping, who may be called upon to return it to the Government of the Union, should the emergency ever require its use; which is most improbable. At that date, the country had been exhausted by a prolonged and severe struggle with the greatest Power of the world, and its commerce almost annihilated by blockades and embargoes.

Its population then was 8,678,000, and consequently, according to population, the debt of that date would be equivalent to a debt at the present period of upwards of three hundred and eight millions of dollars, or nearly five times as great as our present debt; yet that debt of 1816 was not only punctually paid within twenty years thereafter, but a surplus, as we have seen, of more than twenty-eight millions of dollars deposited with the States. If, then, in twenty years, under such circumstances and with such a population and resources, we could pay a debt of that magnitude, and have a surplus of twenty-eight millions, within how short a period may we liquidate our present engagements? By reference to this table, it will be seen that from 1790 to the present period, including the reimbursement of treasury notes, we have paid a public debt, including interest, amounting to a totality of upwards of five hundred millions of dollars. By reference to the same table, it appears that our revenue, during the same period, derived from sources other than loans or treasury notes, was upwards of eleven hundred and thirty-six millions of dollars. It will be perceived that our present debt, including the whole of the loan yet to be paid in, and deducting the purchase directed by this department of about $500,000 of the public debt within the last few weeks, would be about $65,278,450 41, (see table O,) but to which must be added about $26,000 for Mexican and bounty land scrip. Our whole debt including the loan yet to be paid in, is not a sixteenth part of the debt of Great Britain, and less than one-half the annual interest of that debt.

According to a table of the Commissioner of the General Land Office, hereto annexed, marked P, it appears that our whole public domain unsold amounts to 1,442,217,837 acres, which, at the present minimum price of $1 25 per acre, would make an aggregate value of $1,802,772,296. Regarding them, however, including our mineral lands, at twenty-five cents per acre, they would yield $360,554,459. Large as is this sum, our wealth as a nation would be more rapidly increased by the sales of all our agricultural lands at the low rates, not exceeding twenty-five cents per acre, in small farms to actual settlers and cultivators, and thus, by enlarged products and exports, insuring increased imports and augmented revenue.

As it is obvious, even with liberal appropriations, that our revenue from lands and customs will enable us to pay the public debt before its maturity, I present the following suggestions for the consideration of Congress: The great mass of our public debt, exclusive of treasury notes, consists of five per cents, redeemable in 1853; of six per cents, redeemable in 1856, 1862, 1867, and 1868; and the military bounty land scrip, bearing six per cent. interest, redeemable at the pleasure of the Government. Of this sum the department, as at present authorized by law, can purchase at its discretion, when the means will permit, the five per cents and the six per cents redeemable in 1856, 1862, and 1868; the military bounty land scrip, bearing six per cent. interest, and is redeemable at the pleasure of the Government. No power, however, is given to the Secretary of the Treasury to purchase this debt, although Congress may authorize the department to liquidate it at any time, without paying any premium or advance, and I advise such authority to be given, to take effect at any time after the first of July next. As regards the debt of twenty-eight millions of dollars arising from treasury notes and stock authorized by the act of 28th January, 1847, the Secretary of the Treasury has no authority to purchase treasury notes or stock, except at par. When this act was pending before the two Houses of Congress, this department recommended that this debt should be placed upon the same footing as those which preceded, by delegating the authority to the Treasury to purchase any portion of it, including the treasury notes at the market rate, above or below par. Among other reasons which influenced the department in this recommendation, was the fact, that such a provision would make the debt more valuable to the purchaser when it should be sold by the treasury, and therefore increase the premium which could be obtained by enlarging the number of bidders for it hereafter, namely, the largest probably of all purchasers, the Government itself, and the absence of this provision diminished the premiums, the department was enabled to obtain upon this loan. It is obvious, that if we have the means to purchase the public debt before its maturity, it should be done rather than pay the

interest; and it is also clear, that as the amount which can be purchased by the Government is increased, especially to the great extent of twenty-eight millions of dollars, the treasury can make the purchase upon better terms, by enlarging the number of competitors who could sell to it our own stock. Under these circumstances, I recommend that the Treasury Department be authorized to purchase at the market rate, at any time when its means will allow, after the 1st of July next, any portion of the debt of twenty-eight millions, authorized by the act of 28th of January, 1847, including treasury notes, if any should remain unfunded. This is the more necessary, as the sales of the public lands have been set apart by this department, as directed by that act, for the payment of the interest and purchase of the principal of this stock, which is impossible at present, the right of purchase being limited to par. Unless, then, authority should be given to purchase this stock at the market rate, a considerable sum must remain in the treasury on the 1st of July next of these sales, which can be used for no purpose whatever. As soon as it was ascertained, on the estimates of the several departments, that the Government had the means to purchase a portion of its debt, and arrest the interest, the department considered it to be its duty to make the purchase. Upon looking into these estimates, and comparing them with our means, it was found that there would be a balance of $2,853,694 84 in the treasury on the 1st of July, 1849, and a balance of $5,040,542 11 on the 1st July, 1850. There was also at that date, by the latest returns, (a copy of which is hereto annexed marked T,) $3,403,894 48, in specie in the several depositories to the credit of the Treasurer of the United States, after deducting all drafts unpaid and outstanding; and since the purchase of this stock, there remained, by latest returns, (marked as above,) $3,661,726 89 in specie subject to the draft of the Treasurer, after deducting all drafts unpaid and outstanding. Under these circumstances, it was resolved to make the purchase to the amount of $500,000—thus using a part of the premium obtained on the loans by this department, in liquidating to that extent the debt incurred; and, by the rise of the stock since this purchase, had it been delayed until the present period, the Government would have been compelled to pay a much higher price. It was essensial to success (unless by largely advancing the premium) that the purchase should be made by a confidential agent; and directions for the purchase were accordingly given to Mr. C. W. Lawrence, the collector at New York, in whom the whole community in which he resides justly repose unbounded confidence, and who had executed every trust with fidelity. A full statement of all the details of this purchase, which was made at the lowest market rates, is being prepared and will be placed promptly before the Committee of Ways and Means of the House, and of Finance of the Senate.

That the debt should be liquidated as rapidly as the means in the treasury will permit, so as to arrest the running of interest, will not, it is presumed, be doubted; but the Government should have its option to purchase any of its stocks so as to lessen the premium which it would be compelled to pay; and the purchase should be very gradual and progressive, for if it were forced too rapidly, the premium would become exorbitant. In view of the uncertainty which attends all calculations of accruing revenue, it will probably not be regarded as judicious to make any further purchase until a period succeeding the 1st July next, when estimates both as to receipts and expenditures will be tested by results, when it will be known with certainty what means will be at the disposal of the department to reduce the public indebtedness. As an evidence of the progress of the country in wealth and credit, it may be useful to contrast the sales of the Government stock and treasury notes during and immediately succeeding the war of 1812, with similar sales during and immediately succeeding the war with Mexico. By the report of the Committee of Ways and Means of the House of Representatives of Congress, of the 13th of April, 1830, it appears that for the loans of the war of 1812, for eighty millions of dollars in stock and treasury notes, the Government obtained but $34,000,000, after deducting discounts and depreciation, being a loss of $41,000,000 upon its transactions; whereas, on the loans of the last war with Mexico, this department obtained for forty-nine millions of dollars, borrowed on stock and treasury notes, $49,555,511 39, including a premium of $555,511 39 upon these transactions, having obtained $15,555,511 39 more for forty-nine millions of stock and treasury notes sold by the department for loans growing out of the war with Mexico, than was received for $80,000,000 of stock and treasury notes sold during and immediately succeeding the war with Great Britain; specie being required by me under the constitutional treasury, and paid in for the stock and treasury notes sold. These statements are not made with a view to depreciate my distinguished predecessors in this department, by whom those loans were negotiated. The great services rendered by them are well known and appreciated by the country, and by no one more fully than by the present incumbent of this department, who has had an opportunity of observing all the difficulties by which they were surrounded, and how impossible it was for any Secretary under those circumstances to have made the negotiation on better terms than was effected by them; but the facts are stated as the most gratifying proof of the wonderful advance of the wealth of the country and of the Government credit.

The coast survey, under charge of the Superintendent, Professor A. D. Bache, is making great and rapid progress. During the past year, six sections of the coast, on the Atlantic and Gulf of Mexico, have been under survey; and the computations, drawings, and engravings of charts, have kept pace with the field-work. Within the same period, six new shoals have been discovered and made known on the eastern coast, and one in Chesapeake Bay. Important suggestions in regard to the places for light-houses and buoys have been derived from the coast-survey reports.

While this work is conducted on the highest scientific principles, it is shown, in a letter from the Superintendent, that the land-work cost less than the maximum paid for the survey (conducted with so much economy) of the public lands.

In reviewing the progress of this work for the past four years, the result is most striking. A part of the operations has been carried from the southwest part of Rhode Island into Maine, and the whole land-work has been completed from Point Judith to Cape Cod, covering a very indented coast; the hydrography has passed Nantucket, and both the land and water work of Boston harbor has been completed. Much work of verification and filling up has been done between Point Judith and Cape May. Delaware Bay has been finished, and the chart of the bay and river published. The Chesapeake has been triangulated south of the Virginia line; and both this and the outer coast will be triangulated in from two to three years from the present time. The topography of this section, which was commenced in 1844, is advancing to completion; and, except the off-shore work, one-third of the hydrography is finished. The shores of Albemarle Sound, and most of its territories, have been surveyed—the triangulations extending also over Croatan and Roanoke Sounds; and the hydrography is greatly advanced. A general reconnoissance has been made of part of the coast of South Carolina, Georgia, Florida, Alabama, Mississippi, and Texas; and the operations founded upon this have been commenced in South Carolina and Texas. In Alabama, Mississippi, and Louisiana, the triangulations have advanced nearly from Mobile to Lake Borgne. The topography of Mississippi Sound, and of the adjacent islands, has been nearly completed; and the hydrography of the entrance to Mobile Bay and point of Mississippi Sound, and of Cat and Ship Island harbors, and their approaches, has been finished. The survey of Galveston, upper and lower bay, has made considerable progress. Four base lines have been measured in Massachusetts, Maryland, North Carolina, and Alabama; and two others have been laid out for measurement. Two of the base lines were measured with a most useful apparatus, combining new features, the invention of the Superintendent. Forty astronomical stations have been occupied in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Alabama, Mississippi, and Texas, part of which observations were made with new and improved instruments. Magnetic observations have been made, with the instruments recently introduced upon the survey, at eighty-three stations. While improved geodetic instruments have been introduced upon the work, the principles of the modern mathematics have been extended to every part of its results. The electro-magnetic telegraph has been used for determining the difference of longitude of cardinal points in the work, and with a degree of precision not hitherto attainable by other methods. The Gulf stream has been explored as far south as a section across it at Cape Hatteras, and the law of the ocean temperature ascertained. Twenty-four sheets of charts, remarkable for their arrangement, accuracy, and style of execution, have been published and distributed to literary and scientific institutions at home and abroad, and placed with agents for sale, at prices merely covering the cost of printing and paper. Ten more sheets are in various stages of progress of engraving. While the scale of operations has been enlarged, to embrace the whole extensive coast of the United States, and to afford the benefits of it to every part of the coast as rapidly as possible, the economy of the work has steadily advanced, the augmented expenditures required falling much below the increase of work done. While so much that is eminently useful to commerce and navigation, and to our foreign and coastwise trade, has been accomplished by this great work, it has received the commendation of men of science in Europe and America, and advanced the scientific character of the country. On the Pacific, where this department has already carried the work, and where it will be so useful in obtaining information, and publishing charts of our western coast, I have intrusted to it the location of the buoys and the selection of sites for light-houses in Oregon.

The department has proceeded to carry in execution the several acts of Congress, passed at its last session, making appropriations for light-houses, light-boats, buoys, beacons, &c. It has also carried the laws into effect, providing surf-boats, rockets, carronades, life-boats, and other necessary apparatus, for the better preservation of life and property from shipwreck, calling to its aid the underwriters and Chamber of Commerce of New York, and the Humane Society, for preserving life, of Massachusetts.

Important improvements may be introduced into our light house system. To conduct it properly, requires an accurate knowledge of our coast and navigation; the proper sites, the character of the building and mode of construction, the proper apparatus and mode of lighting, the different elevation, color, and other distinguishing properties of the light, and whether stationary or revolving, the necessary preparations to guard against accidents, or the extinguishing of a light, adequate regulations to secure the accountability and attention of keepers, and all the administrative duties pertaining to the system. There is involved in all this, a varied amount of knowledge, practical and scientific, possessed by no one individual; and to aid the department in the execution of these laws, it has heretofore suggested to Congress, and again respectfully renews its recommendation, for the organization of a board, creating no expense, under the supervision of the Secretary of the Treasury, consisting of the Fifth Auditor, the Superintendent of the Coast Survey, two officers of the navy, an officer of the engineers, as also of the topographical corps, who would unite the requisite knowledge, and enable the department to conduct all the operations of the system upon our extensive lake and maritime frontier with increased efficiency and economy.

The department has also proceeded to carry into execution, as far as practicable, the various laws for the erection of marine hospitals on the rivers and lakes of the West, availing itself of the valuable services of the Topographical Bureau.

Copies of standard weights and measures have been distributed to the States, with the exception of the four most recently admitted into the Union.

The standards for these States, and for the custom-houses of older States not yet supplied, are in the course of preparation. The attention of the States is called, in the report of the Superintendant

of Weights and Measures, received in June last, to the necessary steps for preparing county standards, so as to secure uniformity in the weights and measures in common use.

Fifteen balances for regulating standards have been supplied to five States, and set up by an agent from the office of weights and measures. Two more sets, six in number, have been supplied to two other States. Twenty-nine were on hand on the first of January last, made for distribution. The establishment produces at the rate of six balances of the first class and three of the second, or nine of the second or four of the third, per annum.

The present distribution of weights and measures is, in my opinion, provisional, and has been so considered by statesmen and men of science. A more general uniformity, extending to different nations, was looked forward to by Jefferson and John Quincy Adams as one day attainable, and was recommended in my last annual report. The time, in my opinion, has come for the serious consideration of this subject by Congress. New standards are about to be made in England. The reorganization of the Germanic confederation will give a great extension to whatever system of weights and measures they may adopt; and the political changes going on in other parts of Europe are favorable to the introduction of uniformity. The success of our coins shows that it is practicable to break up the old system, and to introduce another, new and entire. One standard of length, one standard of weights, one standard of capacity, with suitable multiples and subdivisions, would be promotive of convenience, and of economy of time in the business of life and the intercourse of nations. The adoption of the decimal system would also, in my opinion, simplify and facilitate computation; and I recommend that authority be given to this department to take the necessary steps for obtaining international views and action as to uniformity of coins and of weights and measures.

During the past year, the third of a series of elaborate reports of investigations on sugars and hydrometers, under the direction of Professor A. D. Bache, superintendent of weights and measures; by Professor R. S. McCulloh, melter and refiner of the mint at Philadelphia, has been presented to the department and transmitted to Congress, by whom it has been ordered to be printed with a collection of the preceding reports. This report completes the subject of hydrometers, as far as is necessary to make the changes required in the use of the instrument at the custom-houses; and standard instruments are in manual, and nearly prepared for use. These extra official duties were discharged by these gentlemen without compensation.

My last report recommended the grant of one section of land for schools, in every quarter township in Oregon. This grant in each of the new States, of one section of public lands in each township, was designed to secure the benefit of education to all the children of that township. This object has failed to a great extent, because one section in the centre of a township six miles square, is too distant from many other sections to furnish a school to which all can resort, and because, as a pecuniary provision, it is inadequate. The grant, however, of one section for every quarter township would be sufficient, whilst the central location would be adjacent to every other section in such quarter township, bringing the school-house within the immediate vicinage of every child within its limits. Congress, to some extent, adopted this recommendation, by granting two school sections in each township, instead of one, for education in Oregon; but it is respectfully suggested, that even thus extended, the grant is still inadequate in amount, whilst the location is inconvenient, and too remote for a school which all can attend. This subject is again presented to the attention of Congress, with the recommendation that it shall be extended to California and New Mexico, and also to all the other new States and Territories containing the public domain.

Even as a question of revenue, such grants would more than refund their value to the Government. As each quarter township is composed of nine sections, of which the central section would be granted for schools, and each of the remaining eight sections would be adjacent to that granted, these eight sections thus located, and each adjoining a school section, would be of greater value than when separated by many miles from such opportunities; and the thirty-two sections of one entire township with these benefits, would bring a larger price to the Government than thirty-five sections out of thirty-six, where one section only, so remote from the rest, was granted for such a purpose. The public domain would thus be settled at an earlier period, and yielding larger product, thus soon augment our exports and our imports, with a correspondent increase of revenue from duties. The greater diffusion of education would increase the power of mind and knowledge applied to our industrial pursuits, and augment in this way, also, the products and wealth of the nation. Each State is deeply interested in the welfare of every other; for the representatives of the whole regulate by their votes the measures of the Union, which must be more happy and prosperous in proportion as its councils are guided by more enlightened views, resulting from the more universal diffusion of light, and knowledge, and education.

The attention of Congress is respectfully invited to the condition of the public lands in California. The official reports of the great mineral wealth of that region present important questions for your consideration. That gold and quicksilver exist to a great extent in California, would seem to be placed beyond controversy. This gold would appear to require the establishment of a branch of the mint of the United States at San Francisco. The quicksilver is not only important, as connected with the mining of the precious metals, with health, and the arts, but still more with the advance of science, and the progress of discovery in physics. The mines of gold, and perhaps of other minerals, would seem to be located chiefly on the public lands. They belong to the Government, as a trustee for the people, whose interests should be protected and secured by Congress. A scientific commission, to make a geological examination, accompanied with linear surveys, is deemed important.

The voluminous character of this report, growing out of the varied and important duties constantly augmenting, assigned by law to this department, renders it necessary that I should reserve for a few days, and for a special report to Congress, the warehousing system. In advance of that report, I would remark, at this time, that new instructions are prepared by this department, and the forms nearly completed, among other regulations, extending a more free competition for the storage of foreign imports. The progress of the system has been most satisfactory and successful; the value of foreign goods warehoused in our ports since the passage of the law in August, 1846, up to the 20th September last, having amounted to the very large sum of about forty-four millions of dollars.

In soon retiring from this department and from public life, in which I have served so long with inferior abilities to many others, but with equal solicitude to promote the best interests of my beloved country, I submit, with the utmost deference, to the superior wisdom of Congress, my views and experience as regards the organization of the Treasury Department. Its varied and important duties, with the rapid increase of our area, business, and population, can scarcely be all promptly and properly performed by any one Secretary. Yet, in detaching any of its duties from this department, the greatest care must be taken not to impair the unity, simplicity, and efficiency of the system. To take from this department its supervision over the commerce and finances, or over any of the accounting officers of the treasury, the two comptrollers, the six auditors, the treasurer, the solicitor or register, the assistant treasurers or collectors, the revenue marine, the coast survey, the mint, the weights and measures, the marine hospitals, or the light-house system, would create confusion, and be most prejudicial to the public service.

But there are important public duties having no necessary connection with commerce of finance, that could be most advantageously separated from the treasury, and devolve upon a new department of the Government. Among these, are the Land Office, land titles, and surveys connected therewith, linear and geological. The business of the Land Office occupies a very large portion of the time of the Secretary of the Treasury every day, and his duties connected therewith must be greatly increased by the accession of our immense domain in Oregon, New Mexico, and California, especially in connection with their valuable mineral lands, their private land claims, and conflicting titles. From all decisions of the Commissioner of the General Land Office as to Government titles or private land claims, preemptions, private entries, or purchases of the public domain, an appeal lies to the Secretary of the Treasury. This is but one branch of these duties; and yet, as some evidence of the amount of labor thus devolved upon him from this source, I have pronounced judgment in upwards of five thousand cases involving land titles since the 10th March, 1845. These are generally judicial questions, and not financial, requiring often great labor and research, and having no necessary connection with the duties of the Treasury Department. The daily correspondence of this department with the Commissioner of the General Land Office, Surveyor General, the registers and receivers, and other persons connected with the system, is most voluminous.

The supervisory power now exercised by the Secretary of the Treasury over the expenses of the courts of the United States, and other duties connected therewith, through the marshal and clerks of these courts, gives rise to a very considerable daily correspondence with these officers, and having no necessary connection with the finances, should also be detached from the Treasury Department, as well as from the State Department the duties of these marshals in connection with the census of the United States.

Having transferred the laborious duties enumerated from the Secretary of the Treasury, Congress should authorize him to appoint an assistant secretary, who should be a man of great talent and experience, with a salary not less than $3,000 a year, who should examine all letters, contracts, and warrants prepared for the signature of the Secretary, and perform such other duties not requiring the signature of the Secretary as might conveniently be devolved upon him by the department. To maintain the unity and efficiency of the system, he should be appointed by the Secretary, and subject to his direction. He would want one able and efficient clerk, with a salary not less than $1.700 per annum.

The office of Comptroller of the Treasury should be divided, and that great and augmenting portion of his duties relating to the receipts from customs, and the accounts of collectors and other officers of the customs connected therewith, should be devolved upon the head of a new bureau, to be called the Commissioner of Customs, whose duties would be various and important.

The First Comptroller should retain all the other duties now performed by him, and especially his decision upon claims and accounts, which would occupy the whole time of the head of the bureau.

Combined as now are under the First Comptroller, the duties appertaining both to receipts and expenditures of the public money, accounts and claims, the office is overburdened with business which cannot promptly and properly be performed by any one individual, however able and laborious.

The duties now performed by the Commissioner of Indian Affairs are most numerous and important, and must be vastly increased with the great number of tribes scattered over Texas, Oregon, New Mexico, and California, and with the interesting progress of so many of the tribes in Christianity, knowledge, and civilization. These duties do not necessarily appertain to war, but peace, and to our domestic relations with those tribes placed by the Constitution under the charge of this Government.

This most important bureau, then, should be detached from the War Department, with which it has no necessary connection.

The duties of the Patent Office, great and important as they now are, must necessarily increase with the progress of light and knowledge, the developmeat of the wonderful inventive genius of our countrymen, and the researches of so many enlightened minds in this country into machinery, the physical sciences, and the arcana of nature. This bureau has no necessary or proper connec-

tion with the State Department, and ought to be separated from it.

The Pension Office should also be detached from the War Department, inasmuch as no military orders are given to pensioners, as such, by the Secretary of War, nor by the Navy Department, much less to the widows and heirs who receive the bounties from the Government.

There is another reason why the Pension Office as well as the Indian Bureau should be detached from the War Department, and placed under the supervision of the same Secretary to whom the Land Office would be intrusted, namely, under our system of revolutionary and military bounties and land warrants, as well as under treaties and reservations with Indian tribes, many questions arise in relation to our public lands, private land claims, connecting themselves frequently and intimately with our general land system, and with decisions upon land titles made by the Commissioner of the General Land Office; and, therefore, all those bureaus whose duties are so intimately connected with the public lands, as well as with private land claims, ought to be placed under the supervision of the same department, or conflict of decision and jurisdiction may, and does in fact, take place.

Having thus detached the Patent Office from the Department of State, the Land Office from the Treasury, as well as its supervisory duties in connection with accounts of marshals and clerks of the courts, including their connection with the census; having detached also from the War Department the Indian Bureau and the Pension Office; the same supervisory authority as regards them, all now exercised respectively by the Secretary of State, the Secretary of the Treasury, and the Secretary of War, should be intrusted to the head of a new department, to be called the Secretary of the Interior, inasmuch as his duties would be connected with those branches of the public service devolved upon this Government by the express letter of the Constitution, associated with our domestic affairs. The duties of this new department, thus organized, would be great and important, fully equal to those appertaining to the head of any other department, except the Treasury, under our system as at present organized. The whole increased expense of this reorganization would not exceed twenty thousand dollars per annum; whereas to the Government in an increased accountability and efficiency of the service, and to the people in the more prompt discharge of their business with the several departments and bureaus, and the consequent immense saving of time and expense, the gain would be great indeed, the advantages vastly exceeding the small additional expense. From the great and continued multiplication of the business of the Treasury Department, as now organized, with the rapid increase of our maritime frontiers, our area, our commerce, revenue, and population, there is great danger that at some future period the Treasury Department may be broken down by the weight of its labors, and consequences ensue disastrous to the public interest.

Organized even as now proposed, the duties of the Treasury Department would still be great and arduous. Connected with this subject I recommend the completion, at an early day, of the Treasury building, so as to secure fire-proof rooms to all our bureaus free from rent, as well as to accommodate and include in this edifice the State Department, with its invaluable archives.

This department has purchased, for the sum appropriated by Congress, both the bridges within this District over the Eastern Branch of the Potomac, which are now free of toll, as designed by the wise and liberal legislation of Congress; and in consummating this result, valuable aid was rendered to me by the Mayor of this city.

The various recommendations of this my last financial report are respectfully submitted to the enlightened consideration of the two Houses of Congress. They are believed to be such as would best promote the true interest of the American people. For them, and for my country and her glorious confederacy of sovereign and united States, I invoke the continued blessings of Heaven. May her Union be harmonious, progressive, and perpetual. May her career be one of honor, peace, and glory; of equity, justice, and good faith. May each successive Administration, in all time to come, in faithfully discharging the arduous duties of its exalted trust, receive the support and approbation of the people. Guided by conscious rectitude, may they be commended and sustained in every effort to promote the public good; and even their errors, which are the lot of humanity, be regarded with indulgence, and overruled by a benignant Providence, for the advancement of the happiness and welfare of our beloved country.

R. J. WALKER,
Secretary of the Treasury.

Hon. R. C. WINTHROP,
Speaker of the House of Representatives.

Report of the Secretary of War.

WAR DEPARTMENT, *Dec.* 1, 1848.

SIR: The account of our military operations contained in the last annual report from this department left our troops, late in October, 1847, in possession of the capital of Mexico, and many other important places in that country. The main achievements of our armies for that year were then presented to your consideration; but others of a subsequent date, highly creditable to those engaged in them, though of a less important character, deserve notice and commendation.

On the evening of the 22d of November, General Lane moved from Puebla, with a command of only one hundred and sixty men, upon Metamoras, distant about fifty-four miles, in twelve hours. The place was immediately attacked, and the enemy, consisting of from four hundred to six hundred men, put to flight, with a loss of from sixty to eighty in killed and wounded; a quantity of ordnance and munitions was captured, and twenty-one American prisoners liberated. On its way back to Puebla, the detachment was attacked by a Mexican force of about five hundred men, under General Rea. After a short conflict, the enemy were routed and dispersed, sustaining a further loss of about fifty in killed and wounded.

In January, an expedition composed of four companies of Texan rangers, two companies of the 3d dragoons, and one of the mounted rifle regiment—all under the command of General Lane—were sent out from the city of Mexico to "scour the country and drive the guerrillas from the roads." Having ascertained that Santa Anna, with a few regular troops and a considerable irregular force, was at Tehuacan, the detachment moved rapidly on and took possession of that place. So sudden was its approach, that Santa Anna had barely time to save himself by a precipitate flight. The expedition pressed on to Orizaba and Cordova, and took possession of these towns, capturing a quantity of public property, and releasing a number of American prisoners. After remaining a short time, and restoring to the owners private property there deposited, which had been seized by guerrilla bands, it returned to the main column of our army, in the city of Mexico, on the 9th of February. On the 17th of the same month, General Lane led another detachment, consisting of two hundred and fifty Texan rangers, and one hundred and thirty dragoons of the 3d regiment, against the guerrillas, who were infesting the country lying north and northeast of the city of Mexico. On the 25th, he encountered a body of the enemy at Sequalteplan; and, after a severe conflict, the town was taken, and the hostile forces dispersed, with a loss of one hundred and fifty killed, and more than fifty prisoners.

The command of General Lane, on these occasions, displayed much enterprise, spirit, and gallantry. His interesting reports, with the documents accompanying them, are hereto appended.

Under the judicious management of Colonel Mason, the commanding officer of our troops in the Californias, the upper province has been kept in tranquillity; but efforts were made by the enemy to recover possession of Lower California. In November, 1847, the post of La Paz, with a garrison of one hundred and twelve men, under the command of Lieutenant Colonel Burton of the New York volunteers, was repeatedly attacked by a combined force of Mexicans, Californians, and Indians, of from three to five hundred men. The successive attacks were repulsed with *considerable* loss on the part of the assailants.

The gallant defence of San José, and the capture of Mazatlan, are achievements creditable to our arms. They were performed by the naval forces, and will, doubtless, be presented to your particular notice by the Secretary of the Navy. The details of these affairs are contained in the accompanying reports from the commanding officer in California.

Towards the close of the last year the people of Chihuahua exhibited a determined spirit of hostility, and treated with severity American citizens found among them. Information was received by General Price, who was in command of our troops in New Mexico, that General Urrea, with a body of three thousand Mexicans, was moving in the direction of El Paso, with the evident design of attacking our forces in that territory. With a view to disperse the enemy, and repress the rising hostility in an adjoining State, General Price moved, with all his disposable force, from Santa Fé on the 7th of February last, and in March captured the city of Chihuahua. The enemy fled to Santa Cruz de Rosales—a distance of sixty miles—and there made a stand. They occupied the strong positions of that town, and resolved on resistance. Though the place was invested on the 8th of March, an assault was delayed until the 16th, in consequence of the assurances given by the Mexican General (Trias) that a treaty of peace had been concluded, and that official intelligence of the fact was daily expected. After a reasonable delay, and no confirmation of this report being received, it was determined to dislodge the enemy. On the morning of the 16th of March arrangements were made for carrying the town. Several batteries were opened, and, after a continued fire for five hours, a simultaneous assault at different quarters was made, and the town captured. The conflict was severe. The enemy lost in killed two officers and two hundred and thirty-six men. The number wounded was not ascertained. The loss on our part was one officer and three men killed, and nineteen wounded. The number of our troops engaged in this affair was six hundred and sixty-five, and that of the enemy eight hundred and four, exclusive of officers. Among the captured property were eleven pieces of artillery, nine wall pieces, and five hundred and seventy-seven stand of arms. As this engagement took place after an armistice had been concluded at the headquarters of our army in Mexico, the cannon, arms, and all other public property captured at Chihuahua and Santa Cruz de Rosales, were returned to the Mexican authorities. The report of General Price, herewith transmitted, contains a full account of his expedition into Chihuahua, and the engagement with the enemy at Santa Cruz de Rosales.

This concluded the series of brilliant achievements of our armies in the Mexican war; and though, in magnitude, not to be compared to many others, yet it was characterized by the same skill, intrepidity, and enterprise, which have given such wide-spread renown to our recent military operations. To the meritorious services of the officers and soldiers who achieved this last triumph of our arms, a grateful country will award a just measure of admiration and praise.

A portion of the battalion of Missouri volunteers, under the command of Lieutenant Colonel Gilpin, had several encounters in July with the Camanche Indians in the vicinity of Fort Mann, near the Arkansas, on the route to Santa Fé, which resulted in a manner creditable to our troops. The Indians were defeated and dispersed. The reports of these engagements are herewith transmitted.

The line of communication between Vera Cruz and the headquarters of our army was interrupted by guerrilla bands and robbers while our forces were concentrated and moving upon the enemy's capital; but after its fall, this line was reopened and established by reinforcements sent to the main column of the army. On the arrival of additional troops new positions were occupied, with a view not only to obtain abundant supplies and to collect internal revenue, but to resume hostilities with better advantage, and to extend our conquests to other important parts of Mexico, if the efforts to terminate the war by an honorable peace should prove unavailing.

While measures were in progress for sending troops into the mining districts, and extending our military operations in the direction of the Rio Grande, a treaty of peace was entered into at the headquarters of our army in Mexico, and transmitted to the United States for ratification. Pur-

suant to one of its articles, Major General Butler, then in chief command, on the 5th day of March, concluded with the Government of Mexico an agreement for the general suspension of hostilities, to continue two months. This was followed by a definitive treaty of peace, which went into operation on the 30th of May last. On that day the movements for withdrawing our forces commenced, and before the end of the month of July they had evacuated the Republic of Mexico. The volunteers, and that part of the regular army whose term of service was limited to the duration of the war, were disbanded.

Our military peace establishment is now nearly the same in numerical strength as it was at the commencement of the war with Mexico. Filled up to the utmost limit allowed by law, it would be nine thousand eight hundred and seventy-eight officers and soldiers, exclusive of the enlisted men of the ordnance; but its actual numerical strength will generally fall considerably below this number. The great extension of our territorial limits required a new arrangement of our military divisions and departments. The eastern, or first division, is not changed. Texas and New Mexico have been added to the western, or second; and California and Oregon constitute the third, or the division of the Pacific.

As no military force had been stationed in Oregon before or during the war, the department took the earliest measures to send troops into that Territory. Orders were issued to the mounted rifle regiment, even before its return from Mexico, to proceed, as soon as practicable, to Oregon; and hopes were entertained that it might be able to pass across the country during the last season; but this arrangement was frustrated by the act of Congress passed at the close of the last session, which gave permission to the enlisted men of the regiment who had been in service in Mexico to "receive, on application, an honorable discharge 'from the service of the United States, and stand 'as if they had served out their respective terms." It could not be expected that even those who were willing to remain in the service would forego the advantages offered to them by this act. On receiving a discharge, they would at once be entitled to three months' extra pay, and to bounty land. By the operation of this act, the regiment, as to the rank and file, was in effect disbanded. Prompt measures were taken to recruit it; and no doubt is entertained but that early in the spring it will be in a condition to leave for its destination.

The frustration of the attempt to send troops into Oregon during the past season, is the more to be regretted, because it appears, that at the date of the last accounts from that Territory, Indian disturbances still continued, and the inhabitants are anxiously expecting assistance from the United States. A small force, detached as an escort for the Governor, is now on the way to Oregon, and will probably arrive there in the course of this month. With a view to an earlier relief than could be afforded by sending troops from the United States, orders have been issued from the Navy Department, to the commander of our squadron in the Pacific, to despatch a part of his force to Oregon, with arms, ammunition, and supplies, and, in case it should be necessary, to land the marines and sailors to aid the inhabitants, until the troops destined for that Territory should have arrived.

The other regiments of the permanent military establishment were greatly reduced at the close of the war. They had been, to a considerable extent, filled up by recruits enlisted to serve only during its continuance. Owing to the late period of their return from Mexico, and the unavoidable delay in recruiting or organizing, such as were destined for distant service could not be prepared to proceed by land to Oregon, California, or New Mexico, until the season was so far advanced as to render a march across the country impracticable. Foreseeing the necessity for troops in these Territories, and the delay of sending them from the United States, orders, in anticipation of peace, were given to the general in chief command to send a regiment from the headquarters in Mexico to California; but the Mexican Government refused to permit its passage to the Pacific coast.

Orders were also given to General Wool, then in command of the forces at Saltillo, Monterey, and on the Rio Grande frontier, to send a part of the regular troops with him directly to California and New Mexico. Pursuant to this direction, two companies of 1st and two of the 2d dragoons proceeded up the right bank of the Rio Grande to Chihuahua, crossed over to the Gila, and down that river to California. By this time, it is probable they have reached their ultimate destination.

One company of dragoons and one of light artillery were also sent from the Rio Grande, and proceeded on the Mexican side of it up to Santa Fé. These have already arrived in New Mexico.

Two companies of the 1st regiment of artillery have embarked at New York, to go around Cape Horn to Oregon, and the 2d regiment of infantry has also left, to proceed, by the same route, to California. As early in the spring as a passage can be made across the country, other troops will be sent to Oregon in numbers sufficient to hold and protect that Territory.

Troops to guard the Rio Grande frontier and keep in check the Indians in that quarter have been ordered to Texas, and have arrived at, or are on their way to, their respective stations.

The remainder of the army is distributed on the Indian and northern frontiers, and on the Atlantic and Gulf coasts. The accompanying report from the Adjutant General will furnish, in detail, information of the distribution of the army in the several departments into which the country has been divided.

The war with Mexico necessarily caused some delay in establishing posts on the Oregon route. The mounted rifle regiment was diverted from that duty, for which it was originally designed, to serve with the army in Mexico; and it is not now intended to employ any part of it east of the Rocky Mountains. Notwithstanding the demand for all our forces in the enemy's country while the war continued, measures were taken as early as March, 1847, to select proper locations, and establish posts on the eastern section of the route to Oregon. On the 1st of June of that year, instructions were given for the establishment of two of these posts—one near Grand Island, where the road to Oregon encounters the Platte river, and the other at, or near, Fort Laramie. During that season some progress was made in constructing the work at the former place; but it was suspended on the approach of winter. Preparations were made to resume it early in the spring, and it has been in the course of construction during the past season; but the department is unable to state how far it has progressed, as no report has yet been received from the officer charged with its superintendence.

The amount of contributions and avails of captured property received by officers of the army in Mexico, cannot, at this time, for want of full returns, be accurately ascertained. The amount thus far reported is $3,844,373 77, which will be somewhat increased by amounts collected in New Mexico and California. Of this amount, $67,492 33 have been retained for expenses of collections; $346,369 30 paid into the treasury of the United States; $3,267,540 84 turned over to disbursing officers; $49,712 28 credited by the Mexican Government to the United States in payment of the first instalment under the treaty; and the remaining $113,259 02 charged against the collecting officers Of the amount turned over to disbursing officers, $769,650 were applied towards the payment of the first instalment under the treaty with Mexico, and the greater part of the balance has been disbursed for regular and ordinary purposes. Against the balances remaining, charged to collecting officers, they may be entitled to further credits on the several accounts above stated to the amount of about $79,000. The remainder is claimed by them as compensation for extra services, or as having been paid to other army officers for similar services in making the collections. These claims have been suspended, as, under existing laws, no such allowances can be made; but as the claims on this account were considered to some extent just, I urged in my last annual report, and subsequently in a communication to the Committee of Ways and Means, that provision should be made for a reasonable allowance in such cases; and the subject is again recommended for favorable consideration.

The moneys paid over to the disbursing officers have been mingled with the funds drawn from the treasury and placed in their hands for disbursement. This has complicated their accounts and greatly embarrassed the settlement of them. The laws and regulations securing and enforcing the settlement of the accounts of disbursing officers, are considered as applicable only to the public moneys received from the treasury. It is recommended that these laws should be so extended as to apply to the accounts for moneys received from contributions and all other sources. Without some such provision, I am satisfied that much delay and many difficulties will attend the adjustment of these accounts.

There are also other accounts which cannot be adjusted without further legislation. No fund was placed by special appropriation at the disposal of the Executive, or the commanding generals, to meet expenses for secret services or for extraordinary objects. Disbursements of this character are not only usual but indispensable in the prosecution of a war, and particularly a foreign war. The collections in Mexico have been resorted to for these purposes. It is not reasonable to expect that regular vouchers of payment for secret services should be produced, and the accounts embracing such items must remain unadjusted, unless Congress should deem it proper to provide some mode for settling them. The mode which seems most appropriate, so far as regards the expenditure for secret and confidential services, is that which has been provided for settling accounts for the disbursement of the appropriation for contingent expenses of foreign intercourse.

I respectfully refer you to the accompanying reports from the officers in charge of the several bureaus connected with this department. The examination of them will, I trust, satisfactorily show that the duties of each have been discharged with industry, ability, and faithfulness. These duties, so greatly multiplied in all of them by the war with Mexico, have not yet been much diminished by the return of peace. The allowance of three months' extra pay to all who served in that war, has rendered it indispensably necessary to retain in service the temporary paymasters appointed under the act of the 5th of July, 1838. To prevent delay and to subserve the convenience of the volunteers, paymasters have been sent into the several sections of the country where these troops were raised and organized. It is estimated that from eighty to one hundred thousand persons became entitled to three months' extra pay under the act of the 19th of July last; the greater part of this number had left the service before this provision of law was adopted. Scattered, as they are, through every section of the United States, much labor and time will be required to adjust these claims. The vast increase in the extent of our territory, and in the number of military posts, has induced the Paymaster General to ask that the additional paymasters appointed for the war, and whose services were continued by an act of Congress passed at the last session until the 4th of March next, may be retained permanently in the public service. This suggestion, as well as that relative to the peculiar tenure of office in this branch of the army, is respectfully commended to your favorable consideration.

The number of military posts will probably exceed the number of medical officers now authorized by law. Should that be the case, the employment of physicians in civil life will become necessary. Besides the difficulty of procuring such physicians at the points where they are wanted, the expenses often exceed the regular pay and emoluments of army surgeons and assistant surgeons. With a view both to economy and to the interest of the service, I am induced to concur in the recommendation of the Surgeon General in favor of the repeal of the proviso of the third section of the act of the 19th of July last, so far as it relates to the two surgeons and twelve assistant surgeons authorized by the act of the 11th of February, 1847. By such a repeal, the above number of surgeons and assistant surgeons would be added to the permanent medical staff of the army.

The report of the Chief Engineer presents in detail the operations of that department during the past year. The pendency of the war with Mexico, in some degree, suspended the measures for carrying forward our system of exterior defence. In consequence of the return of peace, the estimates for fortifications for the next fiscal year somewhat

exceed those for either of the two preceding years, and will be sufficient to complete some of the works, and considerably advance others already in the progress of construction. It may be advisable to commence new works at some exposed points on the Atlantic and Gulf coasts, particularly within the limits of Texas.

An early attention has been given to our Pacific coast. So little accurate knowledge was possessed of that coast, that it has been deemed advisable to cause it to be carefully and fully examined, with a view to the selection of proper points for fortifications, as well as naval establishments. A board, composed of officers of the army and navy, has been constituted to make such an examination, and are now under orders for California and Oregon, to execute the duties assigned to them. By the instructions prepared by the War and Navy Departments, and herewith submitted, the objects embraced in the examination are fully disclosed.

The appropriations for the army proper required for the next fiscal year amount to $4,432,286. The estimates for the transportation of the troops far exceed that of any other year previous to the war. The increase in this item is to meet the expense of sending troops to Oregon, New Mexico, and California.

Should the suggestion of the Quartermaster General, contained in his report, to employ the public vessels in the naval service for the transportation by sea of army stores and troops, be adopted, this item of expenses would be greatly reduced. Our possessions upon the Pacific seem to render the change in this respect appropriate, and I do not doubt that such a measure will be attended by results favorable to the public service.

In none of the branches of this department has the business been so much augmented as in the Pension bureau. The number of invalid pensioners has increased, during the last year, six hundred and ninety-one; the whole number on the list is three thousand one hundred and twenty-six.

More than sixty thousand claims have been presented under the act of the 11th February, 1847, for bounty land and treasury scrip. About forty thousand of them have been acted on and allowed, twenty thousand are now pending, and it is estimated that there are forty thousand yet to be presented. Great efforts have been made to despatch these applications, and about two hundred and fifty are daily investigated and passed. For the details of the business in the Pension Office, I respectfully refer you to the report of the Commissioner.

A comprehensive and interesting view of our Indian relations will be found in the report of the Commissioner of Indian Affairs. The removal of the tribes to the country set apart for them, west of the Mississippi river, has separated nearly all those who resided within the limits of the States from the unwholesome influences resulting from a contact with the white population, and afforded an opportunity to the Government to enforce the necessary measures for civilizing and improving them. The wisdom of our policy in regard to the Indians is vindicated by the good effects which it has produced, and particularly by the higher degree of improvement among those who first removed to the country assigned to them.

During the last year, our emigrants have experienced less annoyance than at any former period from the Indians on the Missouri frontier, and the difficulties among themselves and with our citizens have been less frequent. This favorable change in their conduct is to be mainly ascribed to the judicious control exercised over their annuities, and to the holding of them liable to be used to compensate for damages resulting from their lawless aggressions, as well upon each other as upon our own citizens.

An important treaty has been recently negotiated by the Commissioner of Indian Affairs, in person, with the Menomonies, by which they have agreed to cede all their lands in Wisconsin—about four millions of acres—and to remove to the excellent country procured for them on the Upper Mississippi, adjoining that of their old friends, the Winnebagoes, recently removed from Iowa. It is reasonable to expect that the interposing of these two tribes between the Sioux and Chippewas, and the establishment of a military post in that region, will check, if not entirely prevent, the sanguinary hostilities so frequent between the two latter tribes, arising from long-cherished and inveterate feuds. The treaty with the Menomonies has, in effect, extinguished the Indian title to the whole country east of the Mississippi, south of Lake Superior, which for a long time has been regarded as an object not only of great importance to our own citizens, but essential to the welfare and prosperity of the Indians themselves.

Within the four last years eight important treaties have been negotiated with different Indian tribes, by which highly beneficial changes in their situation and affairs have been and will be effected, and the United States have acquired, at a cost of only $1,842,000, eighteen million five hundred thousand acres of land. About two million one hundred thousand acres of it have been assigned to other tribes for their permanent residence; and two million nine hundred thousand are reserved for a similar purpose; leaving the remainder—thirteen million five hundred thousand acres—ready for immediate settlement and cultivation in the rapidly growing States of Wisconsin and Iowa. There is also a prospect that Mississippi, as well as other States in which some of the Choctaws still remain, will soon be freed from them. Measures for their emigration are in progress, under modified arrangements entered into within the last year, which promise a favorable result.

The law of 1847, giving additional authority to prevent the introduction and sale of spirituous liquors in the Indian country, and the stringent regulations adopted by the department to restrain this pernicious traffic, have sensibly diminished the amount of suffering among the frontier tribes arising from that prolific source of evil; but an effectual check to it cannot be applied unless the States lying adjacent to the Indian country will coöperate in the measure by restraining their citizens from bringing intoxicating liquors within the reach of the Indians. The policy of paying annuities semi-annually, and of distributing them *per capita*, has been attended by the happiest results. The new regulations in regard to licenses to trade with the Indians, and the rigid supervision over the conduct of those to whom this privilege has been granted, have put an end to many evils and abuses which formerly prevailed and were highly detrimental to the interests and welfare of the Indians.

No subject connected with our Indian affairs has so deeply interested the department and received so much of its anxious solicitude and attention as that of education; and I am happy to be able to say that its efforts to advance this cause have been crowned with success. Among most of the tribes which have removed to and become settled in the Indian country, the blessings of education are beginning to be appreciated, and they generally manifest a willingness to coöperate with the Government in diffusing these blessings. The schools already established have an increased number of pupils, and preparations are making for establishing many new ones. Much credit is due to many excellent missionary societies of different Christian denominations for their aid and contributions to sustain and advance the cause of education among the Indian population.

There are sixteen manual-labor schools and eighty-seven boarding and district schools now in successful operation among the various Indian tribes, and the number of Indian youths attending them, according to the reports received at the department, is three thousand six hundred and eighty-two—of which two thousand six hundred and fifty are males, and the remaining one thousand and thirty-two are females. The schools are generally in charge of missionary societies, and are well conducted. These facts afford the most gratifying evidence that nearly all of our colonized tribes are rapidly advancing in civilization and moral improvement; and I trust it may not be improper on this occasion for me to say, that for the highly improved and rapidly improving condition of the numerous Indian tribes, over which the guardianship of the Government is extended, not only in regard to education, but most other respects, no stinted measure of credit is to be ascribed to the ability, industry, and faithfulness of that branch of this department to which the management of our diversified and difficult Indian affairs is assigned.

Within the newly acquired Territories there is a numerous Indian population, over which our supervision and guardianship must necessarily be extended; but this cannot be effectually done without the action of Congress on the subject. Additional agencies are required to manage Indian affairs in these Territories, and to extend to them our Indian system of control and management, which, in other parts of our country, has already produced such happy results, and is so full of promise for the future.

I respectfully ask your attention to the following subjects, mentioned in my last annual report: the settlement of claims in California, a retired list of officers of the army, and an asylum for disabled and worn out soldiers. In regard to each of these, the views of the department are fully set forth in that report, and I again recommend them to your favorable consideration.

I have the honor to be, very respectfully, your obedient servant,

W. L. MARCY, *Secretary of War.*

To the PRESIDENT.

Report of the Secretary of the Navy.

NAVY DEPARTMENT, *Dec. 4*, 1848.

SIR: I have the honor to submit to you the annual report of the condition and operations of this department of the public service.

During the past year, the St. Lawrence, a frigate of the first class, and the Vermont, a ship-of-the-line, have been launched. The shores as well as the lower timbers of the frigate were found on inspection to be so decayed by the long time she had been on the stocks, that her security would have required repairs at a large cost, and it was deemed economical to launch her. She has been put in commission, and is a splendid addition to the navy. The old ship-house in the Boston yard, which covered the Vermont, stood so near the boundary line of the public grounds that the experienced officers in charge of the Bureau of Construction and in command of the yard concurred in the opinion, officially communicated, that the ship, and the valuable public property in the yard, were exposed to danger of destruction by fire from the contiguous private buildings. I was satisfied that if the ship-house had taken fire, the ship could not have been saved; the admirable stone dock near it would have been destroyed, and public property of the value of several millions of dollars would probably have shared the same fate. I therefore directed that the ship should be launched and secured from injury until the wants of the service would require her to be fitted for sea. This has been done, and the ship-house has been taken down and the materials used for other purposes.

The construction of the four steamships of war authorized by the act of Congress of 3d of March, 1847, is in a satisfactory state of progress. The Saranac, built at the navy-yard at Kittery, has been launched. The Powhatan at Norfolk, the Susquehannah at Philadelphia, and the San Jacinto at New York, may be launched and ready for sea in the course of the next year. In the models and construction of these war-steamers, and in the manufacture of their engines and machinery, great care has been taken in the skillful execution of the work, and in a careful inspection by competent officers, to make them worthy of the service; and I doubt not they will fully meet the expectations of the country. The appropriations by Congress for so important an addition to our naval force have been liberal, and the officers, mechanics, and contractors have exerted themselves to prove that we can be as successful in the construction of steamships of war as we have been in the sailing ships of the navy.

There are unfinished on the stocks at the several navy-yards, four ships of the rate of 74 guns, and two frigates of 44 guns. They are securely sheltered; and it has not been considered judicious or consistent with the interests of the service to launch them. They are so near completion that they can be readily launched and fitted for sea service on short notice, if public exigencies shall require. The vessels in commission during the past year, have been employed as follows:

In the Pacific, the ships-of-the-line Ohio and Columbus, razee Independence, frigate Congress, sloops Portsmouth, Warren, Cyane, Dale, and Preble, with the store-ships Erie, Lexington, and Southampton. The Columbus, Captain Wyman,

bearing the broad pennant of Commodore Biddle, arrived in the United States on the 13th of March last, and was placed in ordinary. The frigate Congress, Captain La Vallette, having been in commission more than three years, has been ordered home, and may be expected to arrive in the coming spring. The Portsmouth, Commander Montgomery, arrived in the United States on the 5th of May last, and was soon again ready for sea. The Cyane, Commander Du Pont, arrived at Norfolk the 9th day of October last, and has been placed in ordinary. In the month of May last the Preble, Commander Glynn, sailed from the west coast, with orders to take to China Commodore Geisinger, commander of the East India squadron, and after having performed this service, to return to her station. The sloop St. Mary's, Commander Crowninshield, on the 11th of April last sailed from Norfolk to join the Pacific squadron.

With a view to the regular supply of the squadron in the Pacific, and to furnish means for transportation of invalids or men whose time of enlistment may have expired, and who desire to come home, orders were given some months since that one of the three store-ships attached to that squadron shall sail, on her return to the United States, semi-annually. Under this arrangement one will be with the squadron, one on her way home, and one will be going out with fresh stores.

The Erie has come home, and under Lieutenant Commanding William McBlair has sailed to the Mediterranean by the Cape de Verds, with stores for the African and Mediterranean squadrons; and the Fredonia, Lieut. Commanding F. A. Neville, has sailed from New York for the Pacific.

When Commodore Biddle left the station, he was succeeded in the command of the squadron by Commodore Shubrick, and he was relieved at his own request by Commodore Thomas Ap Catesby Jones, who assumed command in the month of May last. Commodore Shubrick was authorized by the department to detach himself from the squadron, and return home across the isthmus; but he deemed it to be his duty to remain on board the Independence, and is now on a cruise to the Sandwich, Fejee, and other islands in the Pacific, where the presence of a ship of war was considered of great importance to the interests of American commerce. The Independence may be expected to reach the United States early in the spring of the next year.

The home squadron continued under the command of Commodore Perry until the 20th of November last, when the department, in view of his impaired health, yielded to his request to be relieved of the command, the duties of which had been very arduous, and satisfactorily performed. Commodore Wilkinson on that day assumed the command. During the past year the squadron consisted of the frigate Cumberland; the sloops Albany, John Adams, Germantown, and Saratoga; of the steamers Mississippi, Spitfire, Vixen, Scorpion, Water Witch, Scourge, Iris, and Petrita; of the schooners Reefer, Petrel, Bonito, Flirt, Mahonese, Falcon, and Tampico; and of the bomb-vessels Ætna, Stromboli, Vesuvius, and Hecla; with the store-ships Relief and Electra.

The frigate Cumberland, bearing the pennant of Commodore Perry, arrived in New York in July last, with a considerable number of cases of fever on board; and finding that it did not abate, but assumed a more malignant type, it was deemed unsafe to send her again into the tropics, until she could be thoroughly broken out in a cold climate. She has been put in ordinary. The frigate Raritan, Captain Page, has taken her place in the squadron. The John Adams, Commander Adams, arrived at Boston in September last, and is undergoing repairs. The steamer Mississippi, Commander Mackenzie, returned to the United States in April, and is undergoing repairs of her hull and machinery. The Vixen is also undergoing repair. The Petrita was wrecked in the Gulf of Mexico. The Water Witch and the Iris are at sea. The store-ship Relief has sailed with stores for Brazil, and the Fredonia to the Pacific. The other steamers and vessels enumerated have been sold, and the proceeds paid into the treasury. They were purchased for special service in the Gulf of Mexico during the war, and were not suitable for general naval purposes.

In the squadron on the coast of Africa, commanded by Commodore Bolton, the sloops Jamestown, Commander Mercer; Portsmouth, Commander Armstrong; Decatur, Commander Byrne; and brigs Boxer, Lieutenant Commanding Bell; Porpoise, Commander Gordon; and Bainbridge, Commander Slaughter, have been employed. Commodore Cooper sailed in the sloop Yorktown, Commander Marston, on the 22d of November, with orders to relieve Commodore Bolton in the command of the squadron. The Boxer arrived at Philadelphia in May last, and being condemned, on survey, as unworthy of repair, was sold. Commodore Bolton has orders, on the arrival of his relief, to proceed in the Jamestown and relieve Commodore Read, in command of the naval forces of the United States in the Mediterranean Sea.

There have been employed during the year, in the Mediterranean, under Commodore Read, the frigate United States, Captain Smoot; sloop Marion, Commander Simonds; the steamer Princeton, Commander Engle; schooner Taney, Lieutenant Commanding C. G. Hunter; with the store-ship Supply, Lieutenant Commanding Lynch. The Marion having finished her cruise, arrived at Boston in the month of September. The steamer Alleghany, Lieutenant Commanding W. W. Hunter, has been ordered from the Brazil station to the Mediterranean, and the frigate Constitution, Captain Gwinn, has sailed for the same station. On the arrival of his relief, Commodore Read, having finished a long cruise on the coast of Africa and in the Mediterranean, has orders to return home in the frigate United States. In consequence of our being compelled to discontinue the depôt at Mahon, it became necessary to supply the squadron with stores by means of store-ships. The store-ship Supply, Lieutenant Commanding Lynch, was sent out with a full cargo of stores in the month of November, 1847. Having delivered them to the several ships of the squadron, from time to time, as they were required, she is on her return home, and the Erie has been loaded and sent out to continue the service. Commodore Read has made a temporary arrangement for landing stores for the squadron at Spezzia. There are some objections to this place as a depôt on account of its position, and in the present very disturbed condition of Europe it is uncertain whether the arrangement will be permanently continued.

On the coast of Brazil, under command of Commodore Storer, the frigate Brandywine, Captain Boarman; the brig Perry, Lieutenant Commanding Tilton; and the steamer Alleghany, Lieutenant Commanding W. W. Hunter, have been employed. The sloop St. Louis, Commander Cocke, sailed from Norfolk in August last, to join the squadron, and carried orders for the Alleghany to proceed to the Mediterranean.

In obedience to your directions, and with an anxious desire to give protection to our commerce in the East Indies, I despatched for that station in the month of March last the sloop Plymouth, Commander Gedney. She carried out as a passenger the Hon. Mr. Davis, Commissioner to China, and landed him at Macao on the 16th day of August. The brig Dolphin, Lieut. Commanding Ogden, left New York in the month of May for the same station. As the frigate Congress had nearly completed her cruise in the Pacific, it was deemed advantageous that she should return home by way of China and Bombay, as, in doing so, she would visit several important points, where the occasional presence of a ship of war would exert a favorable influence on our commercial interests. Commodore Geisinger left the United States in November, 1847, to go across the isthmus with orders to the Pacific, and, hoisting his pennant on board the Congress, proceed to China. On his arrival there, he was directed to transfer his pennant to the Plymouth and assume command of the East India squadron, and the frigate was expected to pursue her voyage home. For reasons satisfactory to the department, Commodore Jones, on joining the Pacific squadron, determined to retain the frigate until the pending question of peace should be definitively settled between the United States and Mexico, and ordered the sloop Preble to convey Commodore Geisinger to his station. The delay consequent on this arrangement rendered it just and proper that the Congress should return home by the most direct route, as the terms of her crew's enlistment had generally expired, or would expire before her arrival in the United States, and justice and policy forbade that they should be held to service beyond their contract without urgent necessity.

In the present political condition of the north of Europe, and in view of the existence of war between Prussia and Denmark, it was deemed important that a ship of war should be sent to the North Sea and the Baltic, to give protection to American commercial interests in that quarter. The frigate St. Lawrence, Captain Paulding, sailed from Norfolk in the month of September last, with instructions to touch at Bremer Haven, and to enter the Baltic, if the advanced state of the season did not forbid his doing so. If such should be the case, he was instructed to cruise during the winter between Cape Finisterre and Cadiz, touching at Lisbon, and in the spring to return to the north and execute his orders. Captain Paulding, on his arrival at Bremer Haven, found that the war was suspended by an armistice, and that winter was so near at hand as to make it imprudent for him to take his ship into the Baltic. I am happy to learn that the arrival of the ship has been hailed with universal satisfaction. The highest honors and most gratifying demonstrations of respect have been shown to our flag, and the officers received with the most flattering distinction and fraternal affection. The evidence thus afforded of the friendly feeling and admiration with which Germany regards the United States, leaves no reason to doubt that this noble ship could not have been sent on more important service.

The condition in which our ships have returned from long cruises, and their services abroad, have afforded gratifying evidence of the high state of discipline in the navy.

The political condition of Sicily, Sardinia, and other States bordering on the Mediterranean Sea, has given peculiar interest to the operations of the squadron on that station. Commodore Read has performed his responsible and often delicate duties with zeal, judgment, and activity; and on no occasion have our countrymen received more timely and effective protection of their persons and property than in the violent revolutionary conflicts which, during the past year, have frequently occurred within the limits of his command.

The reports are satisfactory from the squadrons on the coast of Africa, Brazil, and the East Indies.

At the date of my last annual report, the United States were engaged in war with Mexico.

In the Gulf of Mexico, the squadron under command of Commodore Perry continued until the return of peace to hold military possession of the several ports then in its occupation, commanding the trade, collecting a moderate revenue, and administering the temporary civil government authorized by the law of nations.

Yucatan, one of the States of Mexico, had been permitted by the Government of the United States to occupy a neutral position, and was thereby exempted from the evils of the war. While thus situated, hostilities commenced between the Indians and the white inhabitants of that State. It was a war of races, attended by the most shocking atrocities. Under your orders the squadron, with a humanity and success which did honor to our national character, extended protection, food, and shelter to the fleeing white inhabitants in their destitution and despair, and those thus aided were a portion of the people of a country with which we were at war.

In that report I felt authorized to state that the squadron in the Pacific had captured Mazatlan, San Blas, and Acapulco, and was holding them open to the trade of our countrymen and of neutrals, under the same conditions as were other Mexican ports in the military occupation of the United States. The correspondence which is annexed will show that, with the exception of Acapulco, the facts justified the belief expressed. All the important points on both shores of the Gulf of California were gallantly captured by the squadron, in coöperation with a detachment of the army under Lieutenant Colonel Burton, and occupied until the return of peace. Commodore Shubrick found his force too small to attempt the reduction of Acapulco, without so weakening the garrisons of the important places held in the Gulf as to endanger

their recapture, and wisely determined not to make any movement against it.

In the month of March, the commanders of the naval forces in the Gulf of Mexico, and in the Pacific, were confidentially informed of the disposition made by the Senate of the United States of the treaty of peace, and were instructed to act in conformity with its stipulations as soon as they should be informed by the United States Commissioners of its ratification by Mexico in the amended form—thus avoiding an unnecessary and irritating delay.

The exchange of ratifications was made known to them; and, without waiting for further instructions, measures were taken by Commodore Jones in the Pacific, and by Commodore Perry in the Gulf of Mexico, for the evacuation of the Mexican territory, and the restoration, according to the terms of the treaty, of all places within the limits of the Mexican Republic which had been taken and occupied by the naval forces of the United States. These measures were promptly executed; and it is a source of the highest satisfaction to have it in my power to state that no complaint of the manner in which the duty was performed has reached the department.

The skill and courage with which the officers and men of the squadron conducted their military operations, are not entitled to higher praise than is the scrupulous regard to justice and humanity which characterized their conduct while occupying portions of the enemy's country, controlling their revenues and governing their inhabitants. The delicate duties resulting from this position have been performed without a stain on our national character, and without an act of extortion, cruelty, or oppression.

I have the honor to transmit copies of the official reports of our naval officers on the subject of the operations of their respective commands, and especially of military operations during the war. They present more in detail than I could with propriety use in my official reports, incidents which belong to the history of the country.

In this final report of naval operations in the war with Mexico—now happily ended—I deem it to be my duty to make a brief allusion to the participation of the navy in scenes and achievements which have reflected honor and glory on the American name, and commanded the respect of the world for our flag.

The enemy had no navy, and an inconsiderable commercial marine; our ships of war had, therefore, nothing to contend with on their appropriate element. In the Pacific, our squadron, with means not fitted for inland operations, acting independently, and in coöperation with a small portion of our gallant army, effected the conquest of California. In supplying the deficiency of his means, and in preparing for and executing an inland campaign with the crews of his ships, Commodore Stockton displayed the highest military resource, and the greatest energy. Since his memorable march from San Diego to the Ciudad de los Angeles, and the battles of the 8th and 9th of January, 1847, that country has been tranquil, our possession undisputed, and its inhabitants have hailed the cession of California to the United States with grateful satisfaction. Important points in the Gulf of California were taken by the forces under Commodore Shubrick, and their occupation maintained by him and his successor in command, independently and in coöperation with the troops under Lieutenant Colonel Burton, with a display of the highest skill and courage by officers and men; while their conduct was so just and humane, that a large portion of the inhabitants, especially of Lower California, deeply regret that they too are not to have the advantage of our laws and institutions, and the protection of our glorious flag. All will concur in admitting that the troops sent to California, with their acknowledged courage and military skill, were not in sufficient force to have conquered and maintained the occupation of the country, without the efficient service of the officers and men of the squadron, both ashore and afloat.

In the Gulf of Mexico, from the beginning of the war, by coöperation at the Brazos, while the battle of Palo Alto was raging, by the capture of Tampico, by protecting the transportation and the landing of the troops at Vera Cruz, by its gallant coöperation in the siege, bombardment, and capture of that city and its defences, by its successful operations against Tabasco, Tuspan, Laguna, and other points in the interior and on the coast, but especially by holding a constant command of the sea, and by its vigilance and activity, excluding contraband trade and supplies of munitions of war from the enemy, the squadrons rendered the most important services to their common country. These services were rendered in a most inhospitable climate, and in the midst of suffering and death, not caused by the enemy in the honorable conflict of arms, but by the silent ravages of disease. All this was accomplished without withdrawing the squadrons from other stations.

So effective has been the performance of the duty of the navy in every quarter of the globe, that our increasing commerce in the most distant seas has felt no check and met no interruption, notwithstanding we were for more than two years engaged in active hostilities with an enemy possessing an extensive seacoast on the Pacific and Atlantic oceans. Not a single American vessel was lost to her owners by capture by the enemy under the rights of war, and there was not, it is believed, any material effect produced on marine insurance.

These auspicious results, so favorable to our commerce and navigation, are to be attributed to the respect which is universally felt for our flag abroad, and that respect is the honorable reward of the skill and courage, the discretion and justice, the vigilance and boldness, with which the navy has performed its duty.

It is the settled policy of the United States to maintain a navy; but if, notwithstanding its gallant exploits long since achieved, and its practical services so long acknowledged, it were an undecided question whether the United States should foster and cherish a navy, the service performed in the late war would go far to settle it. Without the guns of our squadron, how easily might the troops which formed the army under Major General Scott, when crowded in transports and crossing the Gulf, have been destroyed by a few insignificant cruisers? But for the same protection, with what advantage might they not have been met on landing on the enemy's shores through a dangerous surf! But for the entire control of the enemy's ports by our active cruisers, how long might not the war have been protracted by the introduction of munitions of war and other supplies for the enemy, and what disasters would not have threatened, if they had not befallen our gallant army, if the enemy could have prevented the introduction of these necessary supplies for our own troops! Who can estimate the loss of life and property which would have befallen us, if the tempting offers of the enemy had been accepted, and privateers had taken their letters of marque so freely tendered, and ravaged our commerce in every sea, opposed only by the inadequate defences of a merchant vessel, and unrestrained by the navy?

In time of peace, economy requires, and the public interests do not forbid, that the naval establishment should be comparatively small. Considering our maritime position, the great length and accessibility of our coast, and our commercial importance, our navy is smaller than that of any other Power. In this regard, as in the general practical working of our system of Government, we may safely rely on moral influence. In the extensive cruising grounds of our squadrons, we need employ in time of peace but a few ships of war; it would not be practicable to have one in every port. It is enough that it is known that our flag is afloat, and that an American ship of war is ready to protect American citizens, and our countrymen follow their lawful and peaceful pursuits on the broad ocean without molestation, although there may not be a ship of war within a thousand miles. It should, however, be large enough to serve as a nucleus, capable of any degree of strength which in the event of contingency it may be called to put forth. One of the most important requisites in a permanent naval system for the United States, is its capability of large expansion.

The establishment of docks and yards for building and repair of ships, the collection and preparation of materials, the construction of ships of war ready for launching, and the purchase of cannon and munitions of war in quantities suitable for emergencies, are measures of wise precaution. But in the vast mercantile and mechanical business of our country, these supplies to a certain extent, perhaps to an extent sufficient for the exigency, may be procured when the occasion for expansion shall arise. So, too, the hardy mariners in our merchant service would readily furnish efficient crews for the increased number of ships fitted for war, which a maritime war may render necessary. The difficulty of such a crisis, I apprehend, will not be in providing guns or ships, nor will it be in finding brave hearts and ready hands to man and fight them; the difficulty will be neither in men to fight, nor materials to use, but as to officers in sufficient number and with adequate experience to command and direct. A skillful naval officer, fitted by education and experience in all the grades of the service, to navigate and fight a ship of war, is not readily formed. To qualify him for the responsible duties of his profession, must be the work of years. Personal courage, general intelligence, and experience in navigation, are not sufficient. Notwithstanding exceptions may be found—and no merchant marine would probably furnish them in greater numbers than our own—yet I am decidedly of opinion, that, as a general rule, a naval officer should enter the service at an early age, and passing through all the grades, learn the various and complex duties of his profession by personal experience, and especially thus learn to command those who may be placed under him. I do not therefore deem it unwise, that our navy list contains a larger number of officers than may be required in time of peace for the active duties of their rank.

I have no doubt that important improvements may be made in our naval establishment.

Duty at sea is often attended with responsibility, hardship, and exposure. In the routine of that duty, especially in time of peace, it must often become monotonous, and cease in a great degree to excite the zeal and enthusiasm necessary to high distinction. It is wise to bring into active operation those principles of human conduct which will counteract the tendency to inaction and indifference in the performance of even the dull and disagreeable duties of the profession. The most potent, in my judgment, is the principle of military rank involved in promotion from the lower to the higher grades, by which the rewards of military ambition are secured to those who perform the arduous and active duties of their profession—to those who, by their service and exposure, and their ability for service, deserve them.

No one can doubt that promotions in the navy should be made on the principle of merit, service, and the capacity for duty. Yet the tendency of such a system, without the regulation of law, might be to foster favoritism, to promote a partial dispensation of Executive favor, and to withhold from modest and unobtrusive merit the reward justly due to it.

Under our present system, promotions are generally made by seniority or date of commission; and as the laws now stand, I am not prepared to say that, unfavorable for the interests of the public service as this often proves, any other plan which the Executive can adopt would be free from great objections.

The safest and best mode, it appears to me, is to require by law that officers rendered unfit for duty, otherwise than by wounds received in battle, or not qualified for promotion to higher grades, should be placed, on reduced pay, out of the line of promotion. Justice and policy would require that great care should be taken against the exercise of such a power capriciously, or without a due regard to the rights of all.

The advantages of such a system in guarding officers against contracting disqualifying habits; in stimulating them to the active and zealous performance of duty; in exciting them to the acquisition of professional knowledge, and in securing to the meritorious the rewards of promotion, without having the way blocked up by others, inferior and incompetent, would speedily develop themselves. Such a measure would reduce the expense of the navy, because, under existing laws, officers who do not perform duty, and are incapable of it, are in the receipt of the full pay of their rank.

Another great security for efficiency in the navy will be found in the education, and in affording the means of instruction to the officers.

The beneficial effects of the Naval School at Annapolis upon the service are already beginning

to be sensibly felt. The truth is admitted by all, that the services required of officers are more of the head than the hand. The result of experience in the army—that in proportion as education has been encouraged, and the means of acquiring it afforded, so have the character and efficiency of the officers been improved—will not fail to be confirmed in the navy. An accomplished naval officer must understand all the sciences connected with navigation; he ought to be familiar with steam, the steam-engine and mechanics, with gunnery, with chemistry, with the languages of all nations with whom his duty brings him in contact, and with the laws of his own country and of nations.

The lad who leaves his parents at the age of fourteen or fifteen years to enter the service as a midshipman, cannot be expected to have laid the foundation, even, for so broad a superstructure of knowledge. The Naval School promises to furnish the means of attaining these ends, so important for the navy. It will produce, I trust, the same happy fruits of skill and knowledge which the Military Academy has produced for the army. In its present condition, and for some time to come, I do not apprehend that it will be necessary for Congress to regulate the details of the school by law, which could only be modified, if found injudicious, by the tardy process of repeal or amendment of the law. After a larger practical experience, the department, aided by the learned and judicious professors on duty at the school, and by the officers of the navy who take a deep interest in the subject, will doubtless be prepared to present a more complete system. A necessary appendage to the institution is a vessel of the navy, fitted as a school of practice in gunnery and navigation. I earnestly recommend that the appropriation for the next fiscal year, for which an estimate has been submitted, may be made; and as no appropriation was made for the general wants of the school for the present year, I recommend the propriety of making it at the approaching session of Congress.

There are now in one of the rooms of the building occupied by the Navy Department a considerable number of flags and other trophies taken by the navy from public enemies in war. I recommend that authority may be given by Congress to the Secretary of the Navy, under the direction of the President, to cause them to be placed, with suitable labels, at the Naval School, in the care of the superintendent.

Under the act of the 18th of April, 1814, these trophies have not been displayed to the public. The proposed disposition of them would have a good moral effect in exciting in the youthful bosoms of the midshipmen who are to be the future commanders of our ships of war, an emulation of the virtues and heroism of those of whose valor and skill these trophies are the memorial.

As soon as practicable after the proclamation of peace with Mexico, the seamen, ordinary seamen, landsmen, and boys in the naval service, were reduced by discharges below the number of seven thousand five hundred, as required by law.

By the third section of the act of August 3, 1848, the Secretary of the Navy was directed "forthwith to contract with Messrs. Dakin and Moody for the complete construction of a floating *sectional* dry-dock, basin, and railways at Philadelphia," with "Messrs. Gilbert and Secor for the complete construction of a *balance* floating dry-dock, basin, and railway at Pensacola," and with one or the other of the said respective parties, "for the complete construction, at the navy-yard at Kittery, of a floating dry-dock, basin, and railway, upon either of said plans, as the Secretary of the Navy may prefer, as best adapted to the said yard."

Under the act of March 3, 1847, these parties had respectively submitted to the Navy Department proposals for building, at each of the three yards named, a work, according to each plan, with specifications, suitable for docking a line-of-battle ship.

The act of 1848 made these plans and specifications the basis of the contracts directed to be made, limited the cost to ten per cent. over and above the prices respectively stated in their said proposals, and provided that if the dimensions proposed should not be found adequate to docking war steamers of the largest class—at least three hundred and fifty feet in length—"the Secretary of the Navy shall also, by further contract with said parties, enlarge the dimensions of said works at *each* yard to a capacity sufficient for that purpose."

The plans and specifications were not adequate to that object. The parties were therefore required to submit plans and specifications adapted to the increased dimensions of the works required by law. When presented, I caused their reference to two naval constructors and an engineer, and on their approval, in obedience to the direction of the law, the contracts were executed.

I adopted for the navy-yard at Kittery the balance-dock with its appendages, because that plan of dock had been recommended by the Board of Commissioners in 1847. It was less expensive, and promised to be at least equally useful.

The increase of price consequent on the increase of dimensions was fairly calculated *pro rata*, and the contractors readily agreed to take the materials which had been procured for the works under the act of 1847, at their cost to the Government. The prices stipulated to be paid for the works complete, are—

At Pensacola	$921,937
At Philadelphia	813,742
At Kittery	732,905
Total	2,468,584

By the acts of March 3d, 1847, and August 3d, 1848, seven hundred and fifty thousand dollars were appropriated for these objects; and an estimate is submitted for six hundred and fifty thousand dollars for the next fiscal year. In the contracts for such costly works, and especially as the appropriations made were known to be insufficient to meet the whole cost, it was deemed proper to provide for partial payments as the works progressed, with such security to indemnify the Government in the event of failure to comply on the part of the contractors as it was thought reasonable to require.

Another year's experience has confirmed the anticipation of most valuable results from the establishment of the Observatory. In a report which I had the honor to make from this department under date of November 25, 1844, I expressed the confident opinion, "that in process of time a most perfect set of charts may be supplied from the depôt, to the navy and to the commercial marine, entirely to be relied on for accuracy, at the mere cost of publication." The time has arrived sooner than I anticipated. The chambers of commerce of our principal cities, and intelligent merchants and navigators from all parts of our country, aware of the great importance of such an institution for publication of corrected and verified charts, are readily communicating the results of their observation and experience; and charts from the Observatory are looked on with increasing interest.

Besides these important advantages, most valuable services are rendered at the Observatory by the care and adjustment of chronometers and other nautical instruments for the navy. The establishment is superintended and conducted with credit and success by naval officers who have shown themselves entirely adequate to its duties.

Estimates are submitted, with a view to the publication of charts and a nautical almanac. I recommend them to favorable consideration; and, as a means of refunding a part of the expense, and that none may be restrained from applying for them, I recommend that authority be given to sell them, when published, at the cost of publication.

Under the several contracts made with this department for the transportation of the mail in steamships converted into war steamers, the parties interested have made great progress in the construction of their vessels and machinery.

The assignees of the contract for the route on the Pacific have completed the number of steamers required by the contract. They have been inspected, reported on favorably, and accepted by the department, and have sailed from New York to engage in their most interesting service. The California, the first of this line, it is expected will be at Panama on the first day of January next, ready to make her first trip up the coast. The other two will follow, and there is no reason to apprehend that, in the hands of the enterprising proprietors, the contract will not be satisfactorily executed.

The proprietors of the line from New York to New Orleans, touching at Charleston, Savannah, and Havana, and from Havana to Chagres, have two of their large steamers launched, and in a state of great forwardness, and have made extensive preparations for the construction of the others required by their contract.

I regarded it as a matter of great public importance, that this line should commence its operations, at least to the extent of a monthly communication between Havana and Chagres, in time to connect with the Pacific line. The contractors, desirous to meet the wishes of the department, proposed to place on the route, temporarily, the ocean steamer Falcon. She has been inspected, reported on favorably, and accepted for the service, until the steamers constructed under the contract shall be ready to take their places on the route.

The Falcon has sailed from New York, will touch at the intermediate points of the route, and deliver her mails and passengers in time to cross the Isthmus and join the steamer at Panama on the 1st of January.

The connected lines, in all their parts, will, it is expected, be in successful operation early in the ensuing spring, and a regular communication established between New York and Oregon. The time occupied in the passage will not exceed thirty-five days, and, at no distant day, it is confidently believed that a regular communication will be established by a connecting line of steamers between San Francisco and China, making the passage in twenty days. This may readily be effected by means of the war steamers now being constructed, as parts of the squadron in the East Indies and the Pacific, until individual enterprise shall have introduced steamers better suited for freight and passengers.

The transit of intelligence, merchandise, and passengers from China to Europe, by way of New York, can be effected, when these several lines shall be in operation in connection with the line from that city to Liverpool, in less than one-half the time now occupied in the voyage between those countries.

The communication by steamers regularly plying on the two routes, now about to commence, cannot fail to increase our general commerce, and to bring to our Atlantic cities a large import of the precious metals; and this, with the facility afforded to our enterprising countrymen to visit or to emigrate to the rich territories on the Pacific, more than compensates the expense of the great undertaking.

As a most interesting part of the system, I recommend that authority be given to contract for the transportation of the mail between New Orleans and Vera Cruz in steamships, convertible into war steamers. It will tend, by promoting social and commercial intercourse, to consolidate friendship between Mexico and the United States, promote the introduction of our great staples and manufactured goods into Mexico, and invite her rich products of specie to our cities. It will add, too, to the mails on all the connecting lines, increase the postal profits, and make available for public defence an additional number of war steamers.

The contractor for the line between New York and Liverpool has his vessels in a state of forwardness. He has two steamers, each of two thousand eight hundred tons measurement, ready for launching, and the frames of two others ready to take their places on the building ways as soon as launched, and the machinery in a corresponding state of forwardness. The department has not urged the contractor to undue haste in the construction of his steamers. In the present state of communication with Europe by other means, the thorough and skillful execution of the work on the hull and machinery of the ships is of more importance to the Government than their speedy completion. The contractor is prosecuting his undertaking with energy and judgment.

In execution of the 13th section of the act of August 3, 1848, measures have been taken to remove the insane of the navy and marine corps from the naval hospitals, to institutions established for the treatment and cure of persons thus sadly

afflicted. It is believed that the object can be satisfactorily attained on the moderate terms prescribed by law. The whole number of insane persons in the hospitals is thirteen, and some of them are so quiet and harmless that it may not be necessary to remove them.

The supply of hemp on hand, and deliverable under contracts already existing, rendered it unnecessary to advertise for any additional quantity for the present year. That American hemp can be prepared, in quality equal to any in the world, has been established by experiment under the most rigid tests. The heavy outlay necessary in preparing for the production of the finer descriptions, suitable for naval purposes, has prevented many planters from engaging in annual contracts. The joint resolution of Congress, of the 9th of May last, made a great improvement by authorizing navy contracts for American water-rotted hemp, for a term not exceeding five years, at a remunerating price.

I propose to invite, by advertisement, the hemp-growers themselves to contract, and by accepting proposals for quantities of twenty-five tons and upwards, and, in case of equality of bid, to give the preference to the farmer who grows it, to encourage the general adoption of the most improved process of preparing this important supply for the navy.

Proposals for furnishing machinery for the rope-walk at the Memphis navy-yard have been invited by advertisemont; and as soon as it can be manufactured and delivered, that important establishment will be put in operation.

This place for the delivery of hemp for the use of the navy will be far more convenient for domestic hemp-growers generally than that at which cordage is now manufactured, and the facility of access will justify the farmers in selling their produce directly to the Government, without the intervention of agencies or the expense and loss of more distant transportation and frequent transhipments.

The military contributions collected in the Gulf of Mexico, at ports and places in the military occupation of the naval forces, amount to one hundred and thirty-one thousand eight hundred and thirty-five dollars.

From the squadron in the Pacific the accounts have not yet been received and adjusted. At Mazatlan, then in the occupation of the navy, Commodore Jones reports to the department that up to the 17th of June, 1848, the contributions collected at that port amounted to two hundred and fifty-four thousand three hundred and sixty-eight dollars. It is not probable that any considerable collections were made by officers of the navy at any other point on the Pacific coast.

The plan of settlement adopted required the officers first to settle at the Navy Department, on vouchers, the accounts of contributions, charging them the amount received, and crediting their disbursements made for the service in prosecution of the war as established by their vouchers. The collecting officer has been then required to settle at the treasury his account as acting purser, where he is charged with money and stores received on public account and credited with disbursements satisfactorily vouched other and beyond those already credited in his contribution account, and the balance thus appearing has in each case been paid into the treasury under its proper head of appropriation. The practical effect of this mode of settlement is to relieve appropriations made by law to the full amount of the contributions. There has not been a case of default.

The duty of collection, disbursement, and accounting was performed by naval officers, without any allowance for the service. The act of August 23d, 1842, was construed to forbid any allowance beyond their pay as officers on duty; and no compensation has been made for a service not within the general range of an officer's duties, and in some instances attended with positive and unavoidable loss. I repeat my recommendation, heretofore made, that authority be given to allow in each case a moderate commission on collections and disbursements, not exceeding, in the aggregate, a sum sufficient as a reasonable indemnity for the risk and trouble attendant on the duty.

I have the honor to submit the reports from the several bureaus of the department, with the estimates for the naval service, and for other objects placed under the control of this department, for the fiscal year ending with the 30th of June, 1850.

The gross amount of estimate is $8,858,856 58; of which the following, being for special objects, must be deducted to ascertain the probable annual expense of the navy:

For transportation of the mails.....	$874,600
For floating dry-docks, basin, and railways	650,000
Completing stone dock at New York....	490,000
Improvements, &c., at navy-yards.....	846,310
	2,860,910

Which sums being deducted, will leave for one year's expense of the naval service, including invalid and widows' pensions and the marine corps, $5,997,946 58.

I have the honor herewith to transmit a statement from the Fourth Auditor's office, showing the exact amount of appropriations and expenditures made for the entire public service under the control of the Navy Department in each year from the 30th of June, 1844, to the 1st day of July, 1848; by which it will appear that the aggregate amount of expenditures for the two fiscal years ending on the 30th of June, '45 and '46, amounted to $14,967,036 09, and the aggregate amount expended in the two years ending on the 30th June, 1848, was $21,598,661 18.

The first two were in time of peace; the last two embrace; with a trifling exception, the entire period of the war with Mexico. In the last two, it is worthy of remark, that for the construction of war steamers authorized by Congress, but not intended or expected to be employed in the war, and for other special objects, very considerable expenditures were made under appropriations for the purpose; so that the ordinary expenses of the naval service have been but slightly increased by the war with Mexico.

On the first day of July last, it appears that there remained in the treasury an unexpended balance of the year's appropriations for the naval service of $3,295,630 57. Of this sum, one million seven hundred and ninety-five thousand six hundred and thirty dollars fifty-seven cents were carried to the surplus fund, and, as authorized by law, the balance remains subject to expenditure, if required during the current fiscal year.

It gives me pleasure to bear testimony, as the result of my own experience, to the efficient organization of the Navy Department. Personally, I acknowledge grateful obligations to the distinguished men who are, and have been, in charge of the several bureaus. The division of its duties secures to the civilian who may be at the head of the department the aid and counsel of experienced officers, whose professional information, at all times freely but unobtrusively given, is eminently useful to him in the conduct of the vast and diversified business under his direction. Besides the ships on the stocks, in ordinary, undergoing repairs, and in commission, and excluding navy-yards and other public lands required for purposes of the navy, with their costly improvements, the reports herewith submitted show that the public property on hand for naval purposes amounts, in the aggregate, to $9,400,370. The subdivision of duties and of superintendence among the several bureaus, has led to the introduction of judicious measures for the preservation of stores and materials, and the enforcement of strict accountability, and thus guarded against an immense waste of public property.

Under this wise distribution of duty and labor, economy and efficiency have been promoted, great improvements introduced in the purchase and inspection of timber, hemp, canvass, and other materials for construction, repair, and equipment; a series of well-conducted experiments in gunnery have been made, and ordnance, ordnance stores, and munitions of war of the most improved description are procured.

A judicious system has been established and maintained for the necessary buildings at our navy-yards, and for the uniform regulation of the quantity and prices of mechanical and other labor in public employment; and the navy is supplied with medicines, provisions, and clothing of the best quality and on economical terms, under regulations digested with care and skill.

There is, however, one great defect in the present organization of the Navy Department. The duty of ordering and detailing of officers for service, of the general superintendence of enlistments, of deciding, primarily, on applications for service, relief, or discharges, occupies too large a portion of the Secretary's time, and cannot be so satisfactorily performed by him as by an officer of rank bearing the relation to the department and to the navy which the Adjutant General does to the War Department and to the army. The establishment of a bureau for this most important duty would involve a trifling expense. There would not be required for the purpose any additional clerical labor: the register and clerks now engaged on the same duty would be sufficient. It cannot be doubted that the effects of such an improvement in the organization of the department would be highly beneficial.

A revised book of regulations for the navy is very much wanted. In the government of the navy, executive regulations form a large portion of the law of the service. Those now in force are contained in several publications, made at different times, and in General Orders of the department. It is often difficult for officers to know what they are. A revision, and republication in one book, would prove of great advantage to the service, and a small appropriation would probably cover the expense.

I renew my recommendation that the appointment of a small number of assistant pursers may be authorized by law.

A joint board of officers of the army and navy has been organized, with orders to proceed to the west coast and make an examination of the coast of California and Oregon, with a view to the collection of the necessary information to determine on proper points for fortifications and a navy-yard, when it shall be the pleasure of Congress to direct such establishments. A navy-yard on the California coast, with suitable means for repair of vessels, would, in my judgment, be of the highest public importance.

I submit herewith the annual estimates for the support of the marine corps. In obedience to the direction of the act of Congress of March 2, 1847, at the termination of the Mexican war the marine corps was reduced, both in men and officers, to a number not exceeding the number in service at the date of the act. The reduction of the men was effected by discharges as they arrived in the United States. The duty of reducing the number of officers was more difficult. It was necessary to drop from the rolls four captains, four first lieutenants, and four second lieutenants. It was determined to organize a board of officers of rank superior to that of captain; and they were instructed to designate the officers who could be best spared from the service. They made their report; and the officers designated were dismissed without alleged fault. Copies of the instructions and report are herewith submitted. The efficiency of our ships of war would be promoted if the marine guard allowed by the regulation could be enlarged; and an increase of the rank and file of the corps from one thousand to fifteen hundred would, in my judgment, be highly beneficial. The number of landsmen might be reduced to the same amount. Such an increase of the non-commissioned officers and privates would justify an additional number of commissioned officers equal to the number dismissed.

By the joint resolution of Congress, approved on the 10th of August, 1848, the officers, non-commissioned officers, privates, and musicians of the marine corps who have served with the army in the war with Mexico, were placed, in all respects, as to bounty land and other remuneration, in addition to ordinary pay, on a footing with the officers, non-commissioned officers, privates, and musicians of the army.

On consultation with the Attorney General, I felt constrained so to construe the resolution as not to include the marine guards attached under orders to the ships of war in the Pacific and Gulf of Mexico. It did not appear to me that they could be regarded as *serving* with the army within the meaning of the resolution, as did the battalion of marines who marched into Mexico, and formed a part of the army. It is known that the marine guards of both squadrons were often on land, co-operating in the most gallant manner with the land

forces, and encountering all the dangers and privations of the service with the army. The discrimination has been painfully felt by them, and I may not have given to the terms of the resolution the enlarged construction which its framers intended. However that may be, I deemed it the safer course to wait and submit the subject again to Congress. I am entirely satisfied that, while both classes of the marine officers and men did their duty, there was nothing in the service of the battalion serving in the army, which entitled them to any higher privileges than their brethren who, belonging to the ships, also served ashore. The number of these was not great; and I respectfully recommend that they be put on a footing, as to bounty land and other remuneration, with those who have already received what was given by law to the officers and men of the army.

I have the honor to be, very respectfully, your obedient servant, J. Y. MASON.

TO THE PRESIDENT.

Report of the Postmaster General.

POST OFFICE DEPARTMENT,
December 2, 1848.

SIR: The post routes in operation within the United States, on the 30th day of June last, were 163,208 miles in extent, and the annual transportation of the mails over them was 41,012,579 miles, costing $2,448,766, as follows, to wit:

On railroads	4,327,400 miles, costing	$584,192
In steamboats	4,385,600 " "	262,019
Agencies connected therewith		54,063
In coaches	14,555,188 miles, costing	796,992
In other modes not specified	17,744,191 " "	751,500
And in addition thereto, for foreign mail service		100,500

The table of mail service for the year ending the 30th of June, 1848, made up from the state of the service, as it stood at the close of the year, exhibits, as compared with the table of 1847, an increase in the length of the routes in the United States of 9,390 miles, and an increase on the amount of annual transportation of 2,124,680 miles; but a decrease in the cost of transportation of $12,145
There is, however, an increase in the cost of agencies to be deducted, of 7,910

Leaving a balance of saving in the cost of our inland mails for 1848, as compared with 1847, of $4,235
But the cost of foreign mails, which appears for the first time in the tables of this year, is $100,500
And deducting from this the saving above stated ... 4,235
Leaves an excess of cost for 1848 over 1847, of.... $96,265

For this we have 2,124,680 miles more of annual transportation of our inland mails, and the conveyance of our foreign mails every other month, a distance of 3,800 miles and back.

The new contracts made at the last annual lettings for the middle section, embracing New Jersey, Pennsylvania, Delaware, Maryland, and Ohio, went into operation on the 1st of July, 1848, and exhibit a saving for the current year, to end 30th of June next, upon the cost of the same section for the past year, of $61,674. This is a saving of nearly 12 per cent. Notwithstanding the reduction of cost, the service has been increased under the new contracts. The routes have been extended in distance 293 miles further, and in this way, and by greater frequency of trips this section of service has become greater than last year by 658,897 miles of annual transportation.

On 1st July, 1845, the annual transportation of the mails in the United States, amounted to.....	35,634,269	miles.
On the 30th June, 1846, to.....	37,398,414	"
Increase in service over the preceding year.....	1,764,145	"
On 30th June, 1847, amounting to.....	38,887,899	"
Increase over preceding year.....	1,489,485	"
On 30th June, 1848, amounted to.....	41,012.579	"
Increase over preceding year	2,124,680	"
Total increase for the three years.....	5,378,310	"

But the cost of the service was lessened as follows:

On 1st July, 1845, it stood at.....	$2,905,504
On 30th June, 1846, "	2,716,673
Reduction from the preceding year.....	$188,831
On 30th June 1847, it stood at.....	$2,453,001
Reduction from the preceding year.....	$263,672
On 30th June, 1848, it stood at.....	$2,448,766
Reduction from the preceding year.....	$4,235
Total reduction of cost in the three years.....	$456,738

This is exclusive of the foreign mail service performed in the last year.

The operations of the three years show that the mail service has been augmented fifteen per cent., and its cost at the same time diminished 15 7-10 per cent.

The results of the mail letting last spring, in the middle section, will add to the service of the current year 658,897 miles more of annual transportation, while it makes a reduction from the cost of the year ending June 30, 1848, of $61,674.

The number of mail contractors in the service during the last year was 4,017, and the number of local and mail agents and mail messengers was 248, connected with the service on railroads and steamboats.

The service during the year has been performed by the contractors with commendable zeal and activity. Yet no energy can prevent occasional failures to deliver the mails in due time. In sections of the country where no turnpikes or Macadamized roads, or bridges over the streams, exist, at certain seasons of the year, failures are unavoidable, even on the most improved and best conducted routes. Unfavorable weather, ice, or snow on the railroads, storms or fogs on the rivers, or slight accidents to the machinery, must delay the mails. The speed now given on them renders it seldom possible to regain the time lost. This has been, and always must be, the case.

There is, at this time, more service performed, with more speed, and with as much regularity, as at any former period; nor is it believed that more expedition can be given on the principal mail routes, until further improvements are made on the roads, without endangering the connections necessary to be made to insure the prompt and punctual delivery of the mails.

The foreign service during the past year has been increased by an additional steamer—the Hermann, being placed on the line between New York and Bremen—and monthly trips are now performed between those two cities with regularity.

On the 17th of October last, the Isabel was placed on the line between Charleston and Havana, in compliance with the contract with Messrs. Mordecai & Gourdin, and will hereafter perform semi-monthly trips.

The ocean steamers California, Panama, and Oregon, constructed under a contract with the Secretary of the Navy, for service on the Pacific, have sailed from New York for Panama, and the California is expected to commence service for this department on the 1st of January next, from Panama to Oregon.

The Secretary of the Navy has likewise employed the Falcon on the line between Havana and Chagres, and she is expected to sail from Havana to Chagres in time for the mails to reach Panama, and be forwarded by the California to the territories on the Pacific coast. This department has made a contract for the transportation of the mails across the Isthmus, from Charges to Panama; so that in future there will be a regular monthly mail from Charleston, by Havana, Chagres, and Panama, to Oregon.

It is to be regretted that the Ocean Steam Navigation Company has not, as yet, been able to comply fully with their contract for service between New York and Bremen. But two vessels, the Washington and Hermann, have as yet been completed. The third, the Franklin, has been launched, and great exertions are making to have her finished, and take her place on the line. The fourth vessel, it is believed, has not yet been commenced. Notwithstanding the failure of the company to have their vessels ready for the service within the time specified in the contract, it is not believed that the true policy or the interests of the country would require any forfeiture of the contract, or any other steps taken unfriendly to their interests. The great exertions of the company to comply with the contract, and to secure the best class of vessels suited to the purposes of the Government, and such as would do credit to the country; the great expense of such an undertaking; the want of experience in this country in the construction of that class of vessels; the embarrassments they have had to encounter from the unsettled state of Europe, and from conflicting interests at home; the importance of the service in connecting our country more intimately and directly with the enterprising and enlightened States of the German Confederation, would entitle them to the indulgence of Congress, and the forbearance of the Department.

Since the contract was made with this company, others have been given from New York to Liverpool, and from New York to New Orleans, upon much more favorable terms than were allowed them. The last contracts made by the Navy Department under the direction of Congress, are for the term of ten years, and certain sums of money advanced to aid in the completion of the vessels. The contract made with the Ocean Steam Navigation Company will last but five years, and no money paid them until after the performance of service. Similar liberality, it was hoped, would have been extended to them, having done so much towards the completion of their contract without the aid of Government. They were the pioneers in building that class of vessels in this country, and no doubt sustained serious injury in constructing them, from the want of experience in such undertakings. The importance of the service to be performed, in a commercial and political point of view, give them grounds to hope for the favorable consideration of Congress. Similar advantages extended to them would, it is believed, enable them speedily to comply with their contract, and give a direct and important connection with the central nations of Europe. The line of vessels directed to be established under a contract with the Secretary of the Navy, between New York and New Orleans, will, it is believen, be useless as a means of transporting the mails between those points. The land and steamboat routes over which the mail service is at present performed, are and will be so much more expeditious and certain than by that line, that the principal mails must be continued on them. But if the contract could be so modified as to run daily between New York and Charleston, the great Southern mail, even from Philadelphia, might be sent by them to Charleston or Savannah, and forwarded with more expedition to New Orleans, than by the present routes. The tables of the First Assistant Postmaster General accompany this report, (A,) and are referred to for the details of the service.

The number of post offices on 1st July last, was 16,159, being an increase during the year of 1,013. The number of offices established was 1,309; the number discontinued 296.

The number of postmasters appointed during the year, was 4,121. Of this number 2,169 were appointed in consequence of resignations, 184 in consequence of deaths, 240 in consequence of changing sites of offices, 197 in consequence of removals, 3 in consequence of expiration of commissions which were not renewed, 14 in consequence of commissions renewed, 5 in consequence of becoming presidential appointments, 1,309 in consequence of new offices. The number of appointments made between the 4th of March, 1845, and the 1st of July, 1848, was 13,507; of this number, the removals were 1,598; the balance were made in consequence of resignations, deaths, changes of the sites of the offices, or the establishment of new ones. The act of the 17th May, 1848, directing the accounts of postmasters from the 1st January, 1847, to be readjusted, and that they be allowed their commissions by the quarter instead of the year, has been executed, and the sum of $112,213.44 has been paid to 5,136 postmasters.

The gross revenue of the year ending on 30th June last, including $200,000 appropriated by the 12th section of the act of 3d March, 1847, for the postages of the Government, and the further sum of $48,739 collected from and belonging to the accounts of preceding years, amounted to $4,371,077. This sum exceeds that of the preceding year $425,184, being an increase of 10 77-100 per cent.; and exceeds the annual average of the nine years preceding the 1st July, 1845, $6,453.

The letter postage, including the $200.000 appropriated as above stated, amounted to $3,550,304, exceeding that of the preceding year $295,791, being an increase at the rate of 9 9-100 per cent.

The newspaper postage for the year, amounted to $767,334, making an increase of $124,174, which is equal to 19 30-100 per cent.

The following table exhibits the revenues, including the $200,000 appropriated for the postages of the Government, as well as the expenditures from 1st July, 1845, to 30th June, 1848:

	Revenue.	*Expenditure.*
For the year ending 30th June, 1846..	$3,487.199	$4,084,296
" " " " " 1847..	3,945,893	3,971,310
" " " " " 1848..	4,371,077	4,326,850

The expenditures for the year have been increased by the following items, which do not properly belong to it, viz:

The sum allowed J. L. Graham, for fitting up the New York post office, by the act of the 14th of August, 1848	$49,787
The amount paid the Bremen line of steamers since the 1st of July last, and charged in the accounts of last year	33,333
The amount paid to postmasters as extra commissions since the 1st of January, 1847, by the act of the 17th of May, 1848, was $112,213 44, two-fifths of which should be deducted from the expenses of the present year	44,885
	128,005

Which makes the expenses properly chargeable to the past year, $4,198,845. This includes also the sum of $100,000, paid the Bremen steamers during the year, while the income arising therefrom is reported to be $29,082 83. It is, however, perceived, but too late for correction for this report, that the postages on mails to and from England and France, are in part or wholly omitted.

This exceeds the expenditure of the preceding year $227,535, and falls short of the annual average expenditure for nine years preceding the 1st July, 1845, $300,748.

The gross revenue arising from postages and fines, excluding those arising from miscellaneous sources, as well as the $230,000 appropriated for the postages of the executive departments, for the year ending 30th June, 1848, amounted to	$4,117,761
From the same sources the year preceding	3,832,689
Increase	285,072
Making $7 43 per cent. increase.	
If the revenue from the same sources shall increase during the present year at the rate of six per cent., the proceeds will be	$4,364,826
To this may be added the amount due from the treasury for mail services from 4th March, 1847, to 30th June, 1849, appropriated by 12th section of act of 1847	465,555
Means applicable to the present year	4,830,381
Leaving a surplus over the estimated expenditures for the current year	428,336
If the revenue for the year ending 30th June, 1850, shall increase at the rate of five per cent. upon the estimated revenue of 1849, the amount will be	$4,583,068
Add surplus of 1849	428,336
Annual appropriation for postages of Government	200,000
Estimated means for 1850	5,211,404
Expenditures properly chargeable on the year 1848	$4,198,845
These will be increased during the present year by the following items:	
Steamer from Charleston to Havana, three quarters	37,500
California and Oregon agent	3,200
Additional railroad service and agents	37,500
Ship Hermann, belonging to the Bremen line	100,000
Miscellaneous	25,000
Expenditure for the year 1849	4,402,045
Estimated means of 1849	4,830,381
Surplus	428,336
The estimated expenditures for 1849	$4,402,045
This sum will be increased for the year 1850 by the following items:	
Service on new post routes and railroads	100,000
Two additional steamers on the Bremen line	200,000
Charleston and Havana service, one quarter, not included in 1849	12,500
Additional appropriation for Florida	5,000
California and Oregon agency for five months, not included in 1849	2,300
Miscellaneous	25,000
Estimated expenditures of 1850	4,746,845
Estimated means of 1850	5,211,407
Surplus for 1850	464,562

There has accrued to the Post Office revenue, under the 12th section of the act of 3d March, 1847, the following sums, to wit:

From 4th March to 30th June, 1847			$65,555
Do	do	1848	200,000
Do	do	1849	200,000
			465,555
Estimated surplus 30th June, 1849			428,336
			37,219

It will be seen, that notwithstanding the very large sums estimated for foreign service, as well as the additional service required in the United States, the revenue of the department, unaided by the appropriations of that act, will be equal to the expenditure, except the sum of $37,219, at the close of the present year.

This statement of the operations of the act of 1845, upon the service and finances of the department, confirms the opinion expressed in my last annual report, "that the present low rates of post-'age will not only produce revenue enough to meet 'the expenditure, but leave a considerable surplus 'annually to be applied to the extension of the 'mail service, or would justify a still further re-'duction of the rates of postage."

Notwithstanding the great increase of the service during the last year, inland as well as foreign, there was found, at the close of the year, a surplus of $172,232 beyond the expenses properly chargeable upon it.

Accompanying this report, marked B, will be found that of the Auditor for the Post Office Department, made at my request.

The energy and zeal of the officers engaged in the collection and disbursement of the funds of the department, as well as the punctuality and promptitude of postmasters in making payments and settling their accounts, deserve the highest commendation.

It appears that from the first day of July, 1845, until the 30th of June, 1848, the revenue, exclusive of the annual appropriation of $200,000, for services rendered the Government, amounted to $11,538,614. The whole has been collected except the following sums:

Of the amount due 30th June, 1846, the sum of			$6,162
"	"	1847, "	5,056
"	"	1848, "	26,714
			$37,932

More than half the sum reported for the last year will be probably collected within the next three months.

The balance yet due is less than one-third of one per cent. on the whole amount.

The last year's accounts have been generally collected without a resort to the courts of justice. Suits have been ordered in ninety-one cases, involving only the sum of $3,271; whilst, during the same period, one hundred and eight cases, formerly pending, have been settled, and the money paid, amounting to $10,655.

This large sum collected within the three years, has been disbursed without the loss of a dollar, in payment of the public creditors, in due and proper time, it is believed, without an exception.

Prior to the 1st of July, 1845, there were debts due the department, many of long standing, amounting to $319,880. Of this sum there has been collected within the past year $10,809, and credits allowed upon the settlement of accounts of $51,710, leaving yet a balance due the department of $257,361. A very large proportion of this sum will be probably lost.

The present rates of postage will afford ample means to meet the expenditure and probable increase of the service, and leave a surplus that will in a few years enable the department to repay the treasury the amount received from it since the passage of the act of 1845.

Under these circumstances, shall a further reduction of the postages be made? The means which a well digested cheap mail system affords of a rapid interchange of ideas between different and distant sections of the country, and the consequent increase of knowledge; its influence upon society, but little, if any, less than that of printing; its importance to every interest, social, commercial, and political, would justify the answer, that a lower rate of postage should be adopted, if it can be done without a departure from that principle heretofore maintained in the country—that this department should be sustained from its own resources.

A system so intimately connected with all other interests, and the happiness and prosperity of the people; so diversified in its operations, so minute in its details, requires a careful examination of any suggestions for its improvement, and the adoption of such only as experience proves will be useful to the citizens, and render it more perfect.

The importance, as well as a general desire for a cheap postage system, has attracted much of public attention to the subject, not only in this but other countries, within the last few years. To secure this object in most countries, it is placed under the control of the Government, though, perhaps, not strictly one of its attributes. Had it been left to private enterprise, the more wealthy and populous portions of the community would, no doubt, have been amply provided for; but others, less favored, would have been left destitute of the means of diffusing intelligence among the people. Of so much importance was a well regulated system esteemed by those who framed the Constitution of the United States, that even the States were not permitted to have any control over it, lest the diversity of legislation should destroy its uniformity and regularity, and impair its usefulness. It may, indeed, be questioned whether a free government over such extensive territories as those of the United States could be maintained without it. The perfection of every such system consists in the cheapness, speed, and security, with which communications are interchanged between different and distant portions of the community, or between different nations.

Whatever may be the system adopted, the means for its support must be paid in some way by a tax on the people, for whose benefit it is established. In the United States, upon this point, there has been little or no diversity of opinion. That it should be collected of those who enjoy the benefits of the system by a charge on the matter conveyed in the mails, is so obviously just, as scarcely to have been questioned. It does not seem either just or fair, that those whose condition in life does not enable them to participate in its advantages, should be called on by other modes of taxation to contribute to its support. The revenues arising from it have not heretofore been applied to any other purpose, except for a short time during the war of 1812; nor have the revenues derived from other sources been applied to its use, except to aid in the effort recently made for its improvement. It has been made to depend upon itself, and thereby giving to the Government the best security for the faithful administration of its finances. Perhaps no other means could be adopted more equitable and just.

A large number of the people have little or no connection with the mail system. To subject that class to share the burden of its support by a direct tax, or by imposts levied upon the necessaries of life, would meet, it is believed, the approbation of but few disinterested citizens. If this be the correct principle, of which the undersigned has no doubt, every letter or package conveyed in the mails should pay a just and fair proportion of its cost of transportation, and other expenses attending the delivery. There should be no exception. Any departure from it would unnecessarily increase the amount to others who were taxed for its maintenance.

If the Government does not seek a revenue from it other than that necessary for the support of the system, no higher charge should be made than the cost of transportation, and the expenses attending the delivery of each letter or package. It is difficult, if not impossible, to ascertain with any degree of accuracy, the actual cost of each letter or package conveyed in the mails. In a country like ours, extending from the Atlantic to the Pacific, and from the Lakes to the Gulf, one portion of it covered with cities and villages, demanding daily and double-daily mails, with every facility for speed and cheap transportation; others sparsely populated, without any improvements whatever, scarcely requiring a weekly mail,—the cost of transportation must necessarily vary, and change as often as new contracts have to be made. In no two sections of the country—probably on no two mail routes—would the cost of transportation be the same. A short time since, the mail was transported daily over one route 74 miles in four-horse post coaches at the rate of five cents per annum. On other routes, similar service will cost from $50 to $2,000. In all such cases, the cost of each letter or package must depend, in some degree, upon the amount paid the contractors. The contract changes every four years, and the price for the service depends upon considerations connected with travel over the route, the chances of competition, the cost of supplies, &c., as well as upon the distance. The expense of receiving, forwarding, and delivery, will slightly increase the cost of each, according to the distance it is conveyed, or the number of persons through whose hands it must pass; but neither of these, nor all of them together, will more affect the cost of each, than the number conveyed in the mails, and

that depends in a great degree upon the rate of postage.

If, however, the cost of each could be easily and accurately ascertained, its want of uniformity would prevent its adoption as the rate.

In ascertaining a standard by which the rates are to be adjusted, the cost on different routes in the several sections of the Union, the distance to be conveyed, the expense in the offices of receiving, forwarding, and delivery, are too minute and unimportant to deserve much consideration.

The best, and the only practicable criterion, will be the expense of the whole system compared with the revenue, and the adoption of such a rate as experience shows to be enough to make the one meet the other, approaching as nearly as possible the cost.

Prior to the passage of the act of 1845, the rates of postage on letters were adjusted according to the number of pieces, making each one a single letter, and different sums paid, according to the distance they were conveyed, as if that was the principal element in estimating the cost. This principle was not entirely abandoned by the act of 1845, though much simplified and improved; while charging by the piece is entirely surrendered, and the more just and equitable mode, by weight, substituted. Experience proved that the rates, prior to the passage of that act, were too high for the purposes of revenue. For a series of years prior to that time, the expenditures regularly exceeded the income, exhibiting an annual average deficiency of about $125,000 for the eight years preceding the passage of the act. These deficiencies occurred while the transportation gradually diminished, within the last four or five years, about twelve thousand miles in extent; so that, if the high rates of postage had been continued, the service must have been greatly diminished, or large sums of money drawn annually from the treasury for its use.

This result may be mainly attributed to two causes: First, the multiplication of railroads and steamboat lines augmented the expense of the mail transportation from $404,123, in 1838, to $843,430, on the 30th of June, 1845—more than double the former mail pay; whilst to individuals the expense of transportation was diminished more than half. Second, the high rates of postage and the reduced fare for travel enabled the expresses to enter into competition with the department, by conveying letters out of the mails. This business was extensively carried on, notwithstanding the severe penalties of the law, and the energetic and determined efforts of the department to enforce them.

The act of 1845 reduced the rates of postage more than one-half, and substituted the half-ounce for a single letter, in lieu of the single piece of paper.

At the close of the first year, 30th June, 1846, the deficiency proved much less than was expected, only amounting to $597,098, and at the end of the second year only to $25,417, while at the end of the third year there was found a surplus of $172,232 beyond the proper expenses of the year, notwithstanding the very great increase in the service in each of the years. This was caused not only by an increase of the revenue, but by a reduction of the expenditures nearly equalling the increase. That, however, exceeded the expectation of the friends of the act.

The increased business in the offices, and the improvement of the revenue under the present rates of postage, lead to the conclusion that the ten cent rate may be dispensed with at the close of the present year, if such other modifications of that act as have been suggested in my former reports should be adopted. In my last annual report an estimate was made of the paying letters which passed through the mails, for the year ending 30th June, 1847. This was founded upon the revenues of the preceding year, and the October returns of 1845, which had been made in pursuance of a resolution of Congress. From this it appeared that the number of letters paying postage, including ship and steamboat letters, ship letters forwarded in the mails, dropped letters, and printed circulars, amounted to 52,173,480. An estimate upon the same principle, for the year ending the 30th June last, would give as the number of paying letters 58,069,075. The October returns showed that over one-fourth and less than one-third of the letter-postage was derived from the ten cent rate. This, taken as the basis of calculation, would make 14,303,753 letters paying that rate. If, therefore, that rate should be dropped at the close of the present year, there would be a loss of $715,187, to be supplied from some other source during the next year.

It can scarcely be doubted, that with the surplus expected, at the close of the present year, of $428,336, the $200,000 for the postages of the Government for the next year, the increase of correspondence, from the reduction in the rate of postage and the abolition of the franking privilege, as well as the saving on dead letters, if pre-payment should be required, and the two cents that are paid for advertising, and for the delivery of free letters, would enable the department to meet its expenditures from its own resources on the 30th of June, 1850. If, after that time, the business of the offices shall continue to increase as it has done since the act of 1845, which is probable, from the rapid increase of the population and business of the country, the department would not be embarrassed for the want of means to meet any probable increase in the service.

One other consequence expected by the friends of the act of 1845, and which was relied on as a certain means of improving the revenue, has not been realized. It was confidently believed that by such a reduction in the rates of postage, the business of the expresses would be made unprofitable and be abandoned. This has not been the case. The business, it is believed, between the principal cities, is continued with much activity, and the revenue seriously impaired by it. In a recent number of the *Pathfinder*, published in Boston, the names of 235 cities and villages are given, which are regularly supplied by express-men with packages from that city, and most of them, doubtless, conveying letters regularly out of the mails. The penalties now imposed by law are sufficient for their suppression, if proper means were placed in the hands of the department for their detection; but it is believed that no rate of postage which would cover the expenses of the system, could be adopted, sufficiently low to induce them to abandon it.

In settling the rates of postage, it is not unimportant to have them correspond with the current and legal coins of the United States. The fewer the rates, the more convenient to the postmasters in performing their duties in their offices, and less liable to err in keeping their accounts, and settling them with the department.

Simplicity in the rates, as well as in the mode of keeping their accounts, will promote cheapness as well as regularity in the transportation and delivery of the mails.

For the purpose of taxation, the matter conveyed in the mails should be classified as follows:

First. Letter postage should embrace all written communications, under seal or not, and each sealed packet or package. This class is composed of private confidential communications, often containing articles of value, partaking more of individual than public interest, requiring more care in their preservation, more labor in stamping, packing and enveloping, than printed matter, and are always forwarded under lock and key; and should therefore be charged at a higher rate. A uniform rate of five cents for each half-ounce or fraction under, and another rate for each additional half-ounce or fraction under, would be as low, in the opinion of the undersigned, as they could be made, consistently with the principles above stated.

Second. Newspapers. This class has always been esteemed of so much importance to the public, as the best means of disseminating intelligence generally among the people, that the lowest rate has always been applied, for the purpose of encouraging their circulation. Heretofore, the charge has been made upon each paper, without regard to weight, which is unjust to the publishers, as well as the public; and there is no satisfactory reason why they should not be charged by weight, as well as letters and other sealed packages. This would lead to a discontinuance of the practice of depositing newspapers in the mails before they are dry, which renders them more liable to injury, and their weight is greatly increased from the dampness of the paper. A uniform rate of one cent upon each ounce or fraction under it, would be more just, and probably yield as much revenue as the present rates.

Third. All other printed matter, of whatever nature or kind, should be rated with double newspaper postage. Letters containing articles of value, upon the application of the writer, should be registered, and a receipt taken for the delivery, and triple letter postage charged.

The principles suggested for regulating the inland postages apply with equal force to the foreign, except that the service is much more expensive, and would require an increased rate. Uniformity in the rate is not less important in the one than in the other. The number and different amount of rates now charged by law are very inconvenient to the public, as well as to the officers, in the discharge of their duties. Forty cents are now charged to or from California and Oregon; thirty cents to or from Panama; twenty-four cents to Europe; twenty cents to Chagres; twelve-and-a-half cents to Havana; six cents when delivered at the ports of landing; two cents in addition to the regular postage, when taken in the mails; one cent to the postmaster when sent out of the country. It is believed that one uniform rate of fifteen cents might be advantageously adopted for the foreign postage, and made applicable to our Territories on the Pacific, and produce more revenue than the charges now made. The commercial interests of the country, the social and friendly intercourse now existing, and daily increasing, between the citizens of the United States and the people of other countries, would be greatly promoted by the adoption of that or some one rate less than is at present charged. This would probably soon be adopted by other countries having steamers engaged in similar service. Newspapers and other printed matter sent from or received into the United States, might be rated with double the inland postage on similar mailable matter.

In addition, the Post Office Department, under the direction of the President, should have power to raise or lower these rates of postage whenever it becomes necessary, on account of the competition from other countries, and to impose restrictions upon the vessels of any foreign nation equal to those imposed upon vessels of the United States by such nation. When such powers are given to the post offices in other countries, such restrictions may be imposed, when Congress is not in session, as may deprive the vessels of the United States of any participation in carrying letters. This was done by an order from the Lords of the Treasury in Great Britain, on the 9th of June, 1847, preceding the arrival of the Washington at Southampton, and which had the effect to deprive that vessel of any reasonable share of the business between this country and England or France. That order remained in force more than a year, against all our remonstrances, before a law could be passed to meet the emergency.

If the proposed reductions are to be made, and the department required to sustain itself, it is indispensable that the franking privilege should be abolished. It is now greater and more extensively used than at any former period; and as the privilege is enlarged, the abuses under it increase. The immense mass of free matter sent through the mails necessarily requires a higher and more expensive grade of service, to enable the contractors to transport it. It is not unusual for coach service to be demanded on routes yielding comparatively nothing for the transportation of public documents and other free matter. Over one route, a double daily line, of four-horse post coaches, has become indispensable. Some estimate may be formed of the additional expense of transportation, from the fact reported from the City post office, that in seven days, from the 6th until the 12th day of August last, inclusive, 450 bags of free matter, weighing 35,550 pounds, averaging daily 5,078 pounds, passed through his office. Upon inquiry, it appears that, between the 1st of December and the 1st of October last, there was sent from the two Houses of Congress, through the mails, about five millions of copies of speeches and other matter, weighing under two ounces, and about one hundred and seventy-seven thousand public documents, besides the letters written by the members of the House of Representatives; and there remained to be forwarded more than one-half of the

public documents ordered to be printed at the last session. Such a mass of matter thrown upon the mails, must necessarily add to the cost of transportation, retard the progress of the mails, and produce a great proportion of the failures that are made on the unimproved routes in the newer sections of the country. But this is not all; the department is compelled to pay the postmasters, whose compensation does not exceed $2,000 per annum, two cents for the delivery of each free letter or document. A large proportion of the documents and papers thus sent free are, it is believed, seldom read, and if read, but of little public interest; and worse than useless, inasmuch as the exercise of the privilege to the extent now practised, tends to prevent, if it does not materially interfere with, the circulation of the village newspapers in their respective localities. This subject has been so forcibly presented to the House in the report of the Committee on the Post Office and Post Roads, at the last session, and several other reports previous to that time, that it is not deemed necessary to enlarge upon it at this time.

Whether the suggestions for the modification of the act of 1845 be adopted or not, all matter sent in the mails should be prepaid. This might indemnify the department for the great loss sustained for the transmission of letters not taken from the offices. Near two millions of dead letters are annually returned to the department, upon which it not only loses the postage, but pays two cents each for advertising; and this is in addition to the expense incurred in opening and returning those of value to the writers, and destroying those of no value. Newspapers, periodicals, pamphlets, and essays of various kinds, probably not less in number than the dead letters, are sent to the offices and never called for, or if called for, refused, and remain as dead matter in them. From a careful examination, it has been ascertained that fifty-two thousand annually are received and remain as dead matter in the office at New York; at Boston and Baltimore about ten thousand annually; and at Philadelphia about two thousand six hundred.

If each office averaged but one daily—a low estimate—the whole number in a year would be 5,898,035, which, at the rate of one cent, would be $58,980. If prepayment be not required, then dead letters, papers, and pamphlets should be returned to the writers or publishers, and the payment of double postage, as well as the cost of advertising, be required of them. But little inconvenience would be felt by the public since the adoption of adhesive stamps as the evidence of prepayment of letters. Their use would soon become general, if authority was given to sell them at a slight per cent. discount at the department, so as to make it an object to stationers and other traders to keep them on hand for the accommodation of the public.

The prepayment of official communications from the Executive branch of the Government is now made by a specific appropriation annually. Similar provision might be made by the legislative branch, or a specific sum allowed each member to cover official communications to and from them.

The prepayment of mailable matter, at the proposed low rates, would not, it is believed, materially diminish the number of letters sent in the mails, and, in connection with the general use of the adhesive stamps, will simplify the transaction of business in the offices, the settlement of their accounts, and concentrate the funds of the department at the centres of business in the different sections of the Union, where the money is needed, and in a great degree avoid the hazards incident to the collection and transmission of funds to the places where they can be made available.

Other suggestions, for the improvement of the act of 1845, have been made in my former reports, which I deem it unnecessary to repeat.

It may not be inappropriate to remark, that those connected with the administrative duties of this department could not but have observed that there has been, for some years past, a strong feeling pervading the country, that the system had been conducted by an organized corps, extending throughout the Union, into every neighborhood, under the control of politicians at the seat of Govment, wielded with the view of promoting party purposes and party organization, rather than the business and social interests it was created to advance; that the offices were bestowed as the reward of partisan services, rather than from the merit and qualifications of those selected; and that each Presidental contest is to produce a new distribution of the offices; and hence imbittered political contests are excited in almost every neighborhood, demoralizing in their tendencies, and injuriously affecting the purity of elections.

Whilst such apprehensions are entertained by a respectable portion of the community, a want of confidence in the honesty and correctness of the officers, however pure and upright in their conduct, soon shows itself, seriously injuring the business of the offices, and bringing discredit on the system itself. The post office system was designed for business purposes, for the cultivation of the social and friendly feelings among the citizens of the different sections of the Union, and should be in nowise connected with the party politics of the day. This will give that degree of confidence in its agents necessary to render it the most useful to the people. There does not seem any reason why this business and social agent of the people should be more connected with them, than the officers of the courts of justice, or the accounting officers of the Government. If it were believed that the latter officers performed their duties assigned them with a view to the advancement of party purposes, public opinion would soon correct the evil. If the Post Office were alike exempt from political influence and party contests, public confidence would be maintained, and the best interests of the system promoted.

It may be well worthy of consideration, if these objects would not be advanced, should the Postmaster General be nominated by the President to the Senate for a specific term of years, be separated from the Cabinet, and only removable by impeachment; and the appointment of the principal subordinate officers for a like term of years, be given to him; and to provide that no removal should be made, except for good and sufficient cause, to be reported to each session of the Senate.

I am, respectfully, your obedient servant,

C. JOHNSON.

TO THE PRESIDENT.

B.

[*Report of the Auditor for the Post Office Department.*]

AUDITOR'S OFFICE, P. O. D.,

November 24, 1848.

SIR: In submitting to you, as I have now the honor to do, and in compliance with your request, my second annual report of the operations of this office for the past fiscal year—my former report having comprised the operations for the two preceding years—I am happy to be able to state, that whilst there has been no diminution of the business, but rather an increase, corresponding with the continual increase of preceding years, there has been no abatement of application and exertion on the part of the clerks to the business in its various branches, or failure to despatch it in the due and regular time.

In the year ending 30th of June, 1848, sixty-two thousand and forty-eight quarterly accounts of postmasters have been examined, and the amounts of revenue arising therefrom ascertained. Nine thousand six hundred and eighty-eight quarterly accounts of contractors have been adjusted, and the balances due thereon reported to you for payment. In the former accounts, eight thousand nine hundred and ninety-seven errors have been discovered and corrected. The corrections have been made known to the postmasters, and such other explanations have been given as they have thereupon required. In the latter, the adjustments have been preceded by obtaining evidence from the offices which were the termini of the routes, of the due performance of the service, and have involved the collection, as applicable in part to the payment of the contractors, of the balances of postages in more than twelve thousand of the offices situated upon their mail routes.

The minor branches of accounts, for the supply of blanks, mail bags, locks, keys, and stamps, for advertising, for messenger service, and for special agents, as well as the incidental duties arising out of the transactions of the department with individuals and agents of every kind; the registering of the accounts, and posting of the entries into the books; the preparation, exhibition, and correction of the balances due by direct demand, or the agency of postmasters, and the prosecution of suits; and the correspondence growing out of the whole,—these settlements and these duties, in their several spheres and varieties, have all kept pace with the two leading branches of business first mentioned; have expanded in due proportion with them; and have been performed and despatched with equal promptitude and punctuality.

Under the act of 17th May last, which authorized the existing scale of commissions allowed to postmasters to be cast upon the postages collected in a quarter, instead of the amount collected in a year, as directed by the act of 3d March, 1847, the accounts of five thousand three hundred and thirty-six persons have been readjusted for the respective periods they were severally in office, between the 3d March, 1847, and the 31st March, 1848—say five quarters. The amount which has thus accrued, $112,213 41, has been credited to them, and charged to the appropriation for compensation of postmasters for the last quarter of the year. But two of the clerks employed on this readjustment will be retained for a time to make the necessary corrections growing out of these credits in the general accounts of those postmasters who remained in office only for a part of the time, and will leave a portion of the appropriation of $2,000 for this employment unexpended.

The correspondence of the office for the year has included the receipt of eighty-four thousand eight hundred and twenty-five letters, and packets covering certificates, receipts, returns, and acknowledgments, and the transmission thence of sixty-eight thousand and eleven communications of all kinds, whether written or printed.

The vital business of collection continues to be prosecuted in the manner stated in my last report, and the policy of making immediate demand, before there is time for the sense of responsibility to abate, or for temptation to misapply the public funds to intervene, has since been more abundantly vindicated. Three thousand one hundred and fifty-five postmasters went out of office in the year, indebted, as the accounts have been adjusted, in the sum of $67,681 06

Of this sum there has been already collected	$40,904 98	
The items too trivial in amount for collection, or otherwise bad, amount to	61 42	
		40,966 40
Leaving in the course of collection		26,714 66

$978 72 of which has been put in suit.

The like balance for the preceding year, ending 30th June, 1847, remaining due by my former report, was $23,282 18. By certain additional charges on the one hand, and credits on the other, growing out of adjustment, this balance may be stated at $23,287 01

Of this sum there has been collected in the year	$18,103 20	
The items too trivial in amount for collection, or otherwise bad, amount to	128 09	
		18,231 29
Leaving in the course of collection		5,055 72

Of which $1,638 12 has been put in suit.

The balances of the year again preceding, ending 30th June, 1846, to wit: $10,009 43, as shown by my report, modified as above by adjustment, may be stated at $12,969 93

Of this sum there has been collected in the year	$6,297 14	
The items too trivial in amount for collection, or otherwise bad, amount to	510 48	
		6,807 62
Leaving in the course of collection		6,162 31

Of which $5,079 60 has been put in suit.

The balances arising in the three fiscal years last preceding, remaining uncollected, may therefore be stated as follows:

In the year ending June 30, 1846	$6,162 31
In the year ending June 30, 1847	5,055 72
In the year ending June 30, 1848	26,714 66
	$37,932 69

The balance for the last year of the three is large, relatively to the balances of the two preceding, only because of the brief space which has yet run for the process of collection. More than half of this balance will doubtless be collected within the the next three months, and but a very small portion be ultimately lost. The whole amount must strike you as amazingly small, compared with the revenue of the three years, to wit: $11,538,614 95,

being in fact less than one-third of one per cent. of that amount.

The balance due *from* late postmasters prior to 1st July, 1845, as stated in my report, was		$323,598 40
And as due *to* them		13,196 08
Leaving net		$310,402 32
By modifications in adjustment, including the charge of postages not reported, penalties, interest, and costs, and including a portion of the latter balances paid, the average balance due from late postmasters may be stated at		$319,880 79
Of this sum there has been collected during the year	$10,808 89	
There has been credited in account	51,709 83	
And there has been found clearly not collectable	2,704 28	
		65,223 00
Leaving an average amount of		254,657 79

due to the department. A great portion of this amount has been due for many years; and although it is not intended to remit the efforts at collection, it is not probable that much of it will now be realized.

The number of suits instituted during the year, by direction of this office, is ninety-one—involving balances due to the amount of $3,271 11; whilst the number of cases closed by recovery and collection is one hundred and eight, involving the amount of $10,655 68.

But the business of collection is far more comprehensive in its present application and advantages, than may be inferred from its results, thus detailed in cases of persons who have gone out of office, and in respect to accounts thereby brought to a close. Its systematic extension and rigid enforcement in relation to postmasters in office, and to accounts still running, has, perhaps, had a still more beneficial effect upon the revenues of the department. Of the sixteen thousand one hundred and fifty-nine post offices in operation during the year, the following classification indicates the process relied upon by the department for realizing their quarterly postages: 1,400 draft offices, 800 depositing offices, 1,430 special offices, and 12,529 collection offices.

The first two classes are under the vigilant and exact management of your accomplished Third Assistant, John Marron, Esq. It is only in the cases of these two descriptions of office, when a draft office has failed to honor a draft of the department, or its funds cannot be disbursed at the particular point; or a deposite office has failed to make its periodical deposite, or to make it for the full amount due, that the principle of collection is called into exercise, and this office proceeds to state the account of the postmaster, to ascertain the exact sum in hand and provide for its collection, by deposite, payment, or transfer, as the case may be. In respect to the two latter classes—the special and the collection offices—both under the direct supervision of this office, it is in constant exercise to derive from special offices any surpluses, from time to time, in them, over and above the expense of supplying their mail; and to compel the collection offices to pay over to the contractors, punctually, at the end of each quarter, and to the full amount, the quarterly postages due. By this process the first symptoms of default are checked and corrected, or the defaulter is put out of the way of increasing his indebtedness, and the debt placed at once in the course of liquidation, as the most certain means of preventing loss.

The success of the Post Office Department in availing itself of its revenue, may challenge a comparison with any system of fiscal management whatever. Without any fund in reserve, it maintains an expenditure equal to its revenue, by a reliance merely upon the fidelity of more than sixteen thousand agents who collect it from the people, and upon a machinery adapted to reach it in their hands, under all the difficulties arising from the extent of our country, and the diversity of its parts in population, habits, and the course and direction of its business. So remarkable an example of punctuality must arise, in part, from the national character of our people; but it must also, in part, be ascribed to the energetic administration of the department. The punctuality of fiscal agents will be found in general in direct sympathy with the activity of the superintending power. A systematic vigilance on its part once clearly established, will find but few disposed to set it at defiance; whilst instances of the misapplication of public money to arise from remissness and neglect, will spread the contagious example of withholding (in the hope, perhaps, of finally retaining) it from the service of the Government.

As the revenue of the last three years has been paid over to the use of the department with unsurpassed punctuality, so it is gratifying to me to remark, that it has been disbursed with equal promptitude in the payment of its public creditors. I am well persuaded that no instance has occurred of a demand upon it, adjusted in this office, which has not been promptly discharged by payment where the service may have been performed, or at some other point equally acceptable to the party; and no delay has occurred in adjusting such demands, where the materials for adjustment were at hand; or where they were not, in notifying the party of the obstacle in the way, and acting upon the case when that obstacle was removed. Delays of settlement can never be designed or tolerated by a government which stands in the relation of agents to do that business for the people which they cannot do for themselves. Such delays naturally and inevitably lead to the derogatory necessity or expedient of employing professional agents for the ordinary business in the departments, involving, on the one hand, expense to the principal, and on the other, taking up more time, and requiring more labor on the part of the public office, and, withal, intercepting that direct communication between the parties which should serve to foster and promote just sentiments of respect and attachment to their government on the part of the people. It has been my aim to obviate any supposed necessity of this kind in respect to settlements in my office; and at the same time to enhance, by securing promptitude of payment, the value of the sums allowed, in the estimation of the parties, as a consideration fairly to enter into future stipulations of service, by making such settlements promptly and periodically, and, to a great extent, in advance of applications from the parties—an aim which, I trust, has to some extent been accomplished.

Much pains have been taken to give method and order to the business, and a practicable and comprehensive arrangement to the books and files of the office. In 1840 it was estimated that the time of two clerks on the average was taken up in finding the books required for daily reference. In 1841–'42, a great improvement was made in restricting the books, with qualified exceptions, to their several and proper places. They now number thirteen hundred and eight volumes, constituting a complete series of legers from the year 1776, and day-books, journals, letter-books, &c., &c., for nearly an equal period. An analytical catalogue, now completed, of the whole, together with a similar arrangement of the files, not only greatly facilitates the business, but promotes accuracy, by making the great body of archives at once of easy, not to say instantaneous, access.

The fruits of these arrangements are already manifest. In connection with a more equal distribution of duties among the clerks, and the incentives to zeal and exertion, arising from promotions where opportunities have occurred, they have enabled the office to maintain the regular current of its business without any augmentation of its clerical force, notwithstanding the great increase of its business (progressing annually) which has taken place since the year 1841, when the present number of clerks was provided.

The diversity of the functions of this office, arising from its being the sole office of accounts for the department, and therefore embracing in its organization the several duties which, in respect to the treasury, are shared by the Auditor, Register, Comptroller, and Solicitor, demands a high relative degree of talent, as well as unremitting industry, on the part of its clerks. Their exertions to meet the increased business of the office, and to prevent the derangement and loss consequent upon arrear in any part, deserve, as I respectfully conceive, to be known, to be considered, and appreciated.

I have the honor to remain, your most obedient servant,

P. G. WASHINGTON, *Auditor.*

Hon. CAVE JOHNSON,
Postmaster General.

Report of the Commissioner of Indian Affairs.

WAR DEPARTMENT,
Office Indian Affairs, Nov. 30, 1848.

SIR: I have the honor to lay before you the usual annual exposition of the condition and affairs of this branch of the public service, the details of which, to a considerable extent, will be found in the accompanying reports and statements of the superintendents, agents, and sub-agents of the department, and other persons connected with it; some of which are of peculiar interest, and all worthy of perusal—furnishing, as they do, the latest and most authentic information respecting the condition and prospects of the remnants of an interesting people, who once held undisputed sway over the territory we now occupy, but who have gradually melted away before the advance of civilization, or in broken groups been swept westward by the pressure and rapid extension of a more intelligent and enterprising race.

While, to all, the fate of the red man has thus far been alike unsatisfactory and painful, it has with many been a source of much misrepresentation and unjust national reproach. Apathy, barbarism, and heathenism must give way to energy, civilization, and Christianity—and so the Indian of this continent has been displaced by the European; but this has been attended with much less of oppression and injustice than has generally been represented and believed. If, in the rapid spread of our population and sway, with all their advantages and blessings to ourselves and to others, injury has been inflicted upon the barbarous and heathen people we have displaced, are we, as a nation, alone to be held up to reproach for such a result? Where, in the contest of civilization with barbarism, since the commencement of time, has it been less the case than with us? And where have there been more general and persevering efforts, according to our means and opportunities, than those made by us to extend to the conquered all the superior resources and advantages enjoyed by the conquerors? Of the magnitude and extent of those efforts but little comparatively is generally known.

Stolid and unyielding in his nature, and inveterately wedded to the savage habits, customs, and prejudices in which he has been reared and trained, it is seldom the case that the full-blood Indian of our hemisphere can, in immediate juxtaposition with a white population, be brought further within the pale of civilization than to adopt its vices, under the corrupting influences of which—too indolent to labor, and too weak to resist—he soon sinks into misery and despair. The inequality of his position in all that secures dignity and respect is too glaring; and the contest he has to make with the superior race with which he is brought into contact, in all the avenues to success and prosperity in life, is too unequal to hope for a better result. The collision is to him a positive evil. He is unprepared, and in all respects unfitted for it; and he necessarily soon sinks under it and perishes. It must be recollected, too, that our white population has rapidly increased and extended, and, with a widening contact, constantly pressed upon the Indian occupants of territory necessary for the accommodation of our own people; thus engendering prejudices and creating difficulties which have occasionally led to strife and bloodshed—inevitable between different races under such circumstances—in which the weaker party must suffer. Hence it is to natural and unavoidable causes, easily understood and appreciated, rather than to willful neglect or to deliberate oppression and wrong, that we must, in a great measure, attribute the rapid decline and disappearance of our Indian population. Cannot this sad and depressing tendency of things be checked, and the past be at least measurably repaired by better results in the future? It is believed they can; and, indeed, it has to some extent been done already, by the wise and beneficent system of policy put in operation some years since, and which, if steadily carried out, will soon give to our whole Indian system a very different and a much more favorable aspect.

The policy already begun and relied on to accomplish objects so momentous and so desirable to every Christian and philanthropist, is, as rapidly as it can safely and judiciously be done, to colonize our Indian tribes beyond the reach, for some

years, of our white population—confining each within a small district of country, so that, as the game decreases and becomes scarce, the adults will gradually be compelled to resort to agriculture and other kinds of labor to obtain a subsistence, in which aid may be afforded and facilities furnished them out of the means obtained by the sale of their former possessions; to establish, at the same time, a judicious and well-devised system of manual-labor schools for the education of the youth of both sexes in letters—the males in practical agriculture and the various necessary and useful mechanic arts, and the females in the different branches of housewifery, including spinning and weaving; and these schools, like those already in successful operation, to be in charge of the excellent and active missionary societies of the different Christian denominations of the country, and to be conducted, and the children taught, by efficient, exemplary, and devoted men and women, selected, with the approbation of the department, by those societies, so that a physical, intellectual, moral, and religious education will all be imparted together.

The strongest propensities of an Indian's nature are his desire for war and his love of the chase. These lead him to display tact, judgment, and energy, and to endure great hardships, privation, and suffering; but in all other respects he is indolent and inert, physically and mentally, unless on occasions for display in council, when he not unfrequently exhibits great astuteness and a rude eloquence, evincing no ordinary degree of intellect. But anything like labor is distasteful, and utterly repugnant to his feelings and natural prejudices. He considers it a degradation. His subsistence and dress are obtained principally by means of the chase; and if this resource is insufficient, and it be necessary to cultivate the earth, or to manufacture materials for dress, it has to be done by the women, who are their "hewers of wood and drawers of water." Nothing can induce him to resort to labor, unless compelled to do so by stern necessity; and it is only then that there is any ground to work upon for civilizing and Christianizing him. But little if any good impression can be made upon him in these respects, so long as he is able freely to roam at large and gratify his too predominant inclinations. Nor can these be subdued in any other way than by the mode of colonization to which reference has been made. When compelled to face the stern necessities of life, and to resort to labor for a maintenance, he in a very short time becomes a changed being; and is then willing, and frequently eager, to receive information and instruction in all that may aid him in improving his condition. It is at this stage that he begins to perceive and appreciate the advantages possessed by the white man, and to desire also to enjoy them; and if too far advanced in life for mental instruction himself, he asks that it may be provided for his children. Such is the experience in the cases of several of the tribes not long since colonized, who a few years ago were mere nomads and hunters; and when settled in their new countries, were opposed to labor, and to anything like schools or missionaries, but who are now desirous of both the latter for the benefit of their children and themselves, and are becoming prosperous and happy from having learned how to provide a certain and comfortable support for themselves and their families by the cultivation of the soil and other modes of labor. The most marked change, however, when this transition takes place, is in the condition of the females. She who had been the drudge and the slave, then begins to assume her true position as an equal, and her labor is transferred from the field to her household—to the care of her family and children. This great change in disposition and condition has taken place, to a greater or less extent, in all the tribes that have been removed and permanently settled west of the Mississippi. It is true that portions of some of them enjoyed a considerable degree of civilization before they were transplanted; but prior to that event, they were retrograding in all respects; while now, they and others, who have been colonized and confined within reasonable and fixed limits, are rapidly advancing in intelligence and morality, and in all the means and elements of national and individual prosperity; so that, before many years, if we sacredly observe all our obligations towards them, they will have reached a point at which they will be able to compete with a white population, and to sustain themselves under any probable circumstances of contact or connection with it. If this great end is to be accomplished, however, material changes will soon have to be made in the position of some of the smaller tribes on the frontier, so as to have an ample outlet for our white population to spread and to pass towards and beyond the Rocky Mountains; else, not only will they be run over and extinguished, but all may be materially injured.

It may be said that we have commenced the establishment of two colonies for the Indian tribes that we have been compelled to remove: one north, on the headwaters of the Mississippi, and the other south, on the western borders of Missouri and Arkansas, the southern limit of which is the Red river. The northern colony is intended to embrace the Chippewas of Lake Superior and the upper Mississippi, the Winnebagoes, the Menomonees, such of the Sioux, if any, as may choose to remain in that region, and all other northern Indians east of the Mississippi, (except those in the State of New York,) who have yet to be removed west of that river. The southern boundary of this colony will be the Watab river, which is the southern limit of the country of the Winnebagoes, who have removed there from Iowa within the last year. The Menomonees, now residing near Green Bay, in Wisconsin, are to be located above and adjoining the Winnebagoes, a treaty having very recently been concluded with them to that effect. Above these, to our northern boundary line and westward to the Red river of the north, the country is owned by the Chippewas, many of whom now live there, though they still own a large tract east of the Mississippi, computed at ten million seven hundred and forty-three thousand acres, and lying above a line running nearly due east from opposite the junction of the Crow Wing and Mississippi rivers to a point about 92 degrees 15 minutes west longitude; thence due north to the St. Louis river, and down that river to Lake Superior. Many live north of the above line, but, as stated in my last annual report, a considerable number still remain south of it, on lands heretofore ceded by them, which, for the reasons given at that time, they should soon be required to leave for their own country. But with reference to the civilization and welfare of these people, it would be a wise and even necessary measure to purchase all the lands they own east of the Mississippi, and concentrate them altogether upon those that would still remain to them west of that river. Until this shall have been done, they will continue in so dispersed a condition that it will be difficult, if not impossible, to do anything effective towards their permanent improvement. You are aware that an effort to effect such a purchase was made last year and failed; but it is believed, that if renewed, in connection with the removal of those on the ceded lands, and the transfer of the agency to the Mississippi from La Pointe, Lake Superior, where it now is, it would be successful. These people and the Menomonees being removed west of the Mississippi, the remaining Indians east of that river to be sent to this colony would probably not exceed three thousand six hundred. Of the Sioux, it is not probable many will remain for any considerable period in the Mississippi region. Wild and untamable, and scattered over an immense extent of country, no effort could concentrate them, and, living wholly by the chase, they will probably follow the buffalo and other game, as it gradually disappears towards the Rocky Mountains, either in the direction of the headwaters of the Platte, or those of the Missouri river, or both.

If the Kanzas river were made the northern boundary of the southern colony, there would be ample space of unoccupied territory below it for all the Indians above it that should be included in this colony. But the Delawares, Pottawatomies, and possibly the Kickapoos, who, or nearly all of whom, are just above that river, it would not probably be necessary to disturb. Above these, and on or adjacent to the frontier, are the band of Sacs and Foxes, known as the "Sacs and Foxes of the Missouri," the Iowas, the Ottoes and Missourias, the Omahas, the Poncas, and the Pawnees. The last mentioned tribe are back some distance from the frontier, on the Platte river, directly on the route to Oregon, and have been the most troublesome Indians to the emigrants to that territory. By the treaty of 1833 they ceded all their lands south of that river, and obligated themselves to remove north of it; but as they are constantly liable to attacks from the Sioux in that direction, those south have never removed. As, however, there will soon be a military force in that region, which can afford them protection from the Sioux, they may properly be compelled at an early day to remove and to keep within their own country; and thus be out of the way of our emigrants. They are so obnoxious to the tribes south, that they could not, for the present at least, be colonized with them. They must eventually be driven west or exterminated by the Sioux, who have a strong antipathy to them, unless a better understanding can be effected between them and the southern tribes, which will admit of their being moved down among or in the rear of them. No reasonable amount of military force could prevent their being killed off in detail by the Sioux, if they remain long in their present country. The other tribes mentioned can gradually be removed down to the southern colony, as the convenience of our emigrants and the pressure of our white population may require; which may be the case at no distant day, as the greater portion of the lands they occupy are eligibly located on and near the Missouri river, and from that circumstance, and their superior quality, said to be very desirable. Indeed, it would be a measure of great humanity to purchase out and remove the Omahas and the Ottoes and Missourias at an early period, particularly the former, who are a very interesting people, being mild and tractable in disposition, and much attached to the whites. Were they in a better position, they might, with proper measures, be easily civilized, and be made the instruments of imparting civilization to others. Their proper position would be with the Osages or Kanzas, as they speak nearly, if not quite, the same language, and are probably of the same primary stock. They are the original owners of the soil, and receive no annuities from the United States; and as they are circumscribed in their hunting expeditions by the Sioux and Pawnees, they are liable at times to destitution and great suffering. The Sioux also not unfrequently attack and murder them in their own country, so that their situation is truly an unfortunate one. Their country is estimated to contain from five to six millions of acres of valuable land, which could be obtained at this time at a very moderate price, and so tractable is their character, there would be no difficulty in making ample provision out of the purchase money for their civilization and improvement. Reasons of a similar kind exist for buying out, and removing at an early period, the Ottoes and Missourias, whose affinities of character and language are said to be with the Iowas. The lands claimed by them are estimated to embrace from two to three millions of acres. These two measures consummated, the Pawnees all removed north of the Platte, and the Sioux of the Missouri restrained from coming south of that river, there would be a wide and safe passage for our Oregon emigrants, and for such of those to California as may prefer to take that route, which I am informed will probably be the case with many.

Eventually, when the Sioux shall have left the Mississippi region, and the Pawnees been displaced in one or other of the ways mentioned, and when the other intervening tribes between the northern and southern colony shall have been removed to within the latter, an ample outlet of about six geographical degrees will be opened for our population that may incline to pass or expand in that direction, and thus prevent our colonized tribes from being injuriously pressed upon, if not swept away; while, to the south of the southern colony, there will also be a sufficient outlet for such portion of our population as may take that direction.

In the able and interesting report of that excellent and efficient officer, the Superintendent of Indian Affairs at St. Louis, he refers to the necessity of providing lands suitable for agricultural purposes for such of the prairie tribes as have no lands of their own of that character, in order that they may be saved from the perils which threaten them, when the resources of the chase, on which they now almost wholly rely, shall have been cut off by the extermination of the buffalo—a circumstance

that must ere long occur; and he recommends that lands be obtained from the Omahas and Poncas for that purpose. This would be contrary to the policy I have recommended, and which I think is the correct one, of procuring and keeping open these lands for the egress and expansion of our own population; but aside from this, though pretending to no very accurate knowledge upon the subject, I am induced to believe, from such information as I have been able to obtain, that none of the tribes to which he refers will or could be induced to incline eastward to the Missouri river; but that they will gradually follow the buffalo towards the Rocky Mountains, and southward towards New Mexico, in which direction they may ultimately find a resting-place. A considerable portion of the Sioux, and possibly the Pawnees, will probably take the same direction. Indeed, I am informed that there are now over two thousand Sioux living in the region of the headwaters of the Platte river, where a few years ago there were none to be found. Such of that tribe as do not migrate in that direction will, as heretofore stated, probably take their course up the Mississippi river, in which direction a suitable spot could no doubt be found for colonizing them and the other tribes in that quarter, should that ever become practicable. But should these views prove incorrect, suitable locations could no doubt be found among or in the rear of our colonized tribes for such of those referred to by the Superintendent, as might be compelled to come back to our western border to settle.

In order that the exterior organization of this department may be more generally known and understood, I propose to give a brief outline of it, in connection with the assignment and distribution of the various tribes over which we exercise any immediate supervision or control among the different superintendencies, agencies, and sub-agencies. There is but one full Superintendent of Indian Affairs; but there are two acting superintendents of districts, who are at the same time local agents. The latter is a very imperfect and objectionable arrangement. The position and duties of a superintendent are highly important and responsible, and in many ways entirely incompatible with the local duties of agent. Officers of this grade are indispensable to the department in the distant administration of its affairs, and in the local application of its policy and measures, according to the varied and varying situation, circumstances, and disposition of the different tribes. By constant and active supervision, they can materially aid in preventing or correcting abuses or errors; and however well disposed may be the agents and sub-agents, the presence of the superintendent occasionally, to advise and direct, is of great convenience and assistance. For these, and other reasons that might be given, and which on a former occasion I stated at length, superintendents should be free from all local duties as agent for a tribe.

The agent for the Choctaws, who resides in the Choctaw country, is the acting superintendent for what is called, in the organization act of June 30, 1834, the "Western Territory"—a designation much more appropriate then than now. This superintendency, which might more properly be denominated the southwestern superintendency, embraces the following tribes, viz: the Chickasaws, the Choctaws, the Seminoles, the Creeks, the Cherokees, the Senecas and Shawnees, the Senecas, the Quapaws, and the Osages. The last mentioned tribe, the three immediately preceding, together, and the Seminoles, are respectively in charge of sub-agents, whose salaries are $750 per annum, while the other tribes mentioned are in charge of agents whose salaries are $1,500.

The St. Louis or northwestern superintendency, the office of which is located at St. Louis, includes the following tribes, viz: First, those on and between the upper Arkansas and Platte rivers, consisting particularly of the Cheyennes, the Arapahoes, and the Sioux that have migrated to the upper Platte, and also such of the wandering tribes as from time to time may be within the country—all of which are in charge of and under the supervision of one agent. Second, the Kanzas, the Sacs and Foxes of the Mississippi, Ottawas, Chippewas, the Peorias and Kaskaskias, the Weas and Piankeshaws, and the Miamies—in charge of one agent. Third, the Shawnees, the Pottawatomies, the Delawares, Stockbridges, Munsees, Christian Indians, and the Kickapoos—in charge of one agent. Fourth, the Wyandots, in charge of a sub-agent. Fifth, the Sacs and Foxes of the Missouri, and Iowas—in charge of a sub-agent. Sixth, the Ottoes and Missourias, the Pawnees, and the Omahas—in charge of an agent. Seventh, the Poncas, the Sioux of the Missouri, the Arickarees, the Minitarees, the Mandans, Cheyennes, the Crows, the Assinaboines, and the Blackfeet—in charge of one agent. Eighth, the Sioux of the Mississippi, in charge of a sub-agent. Ninth, the Winnebagoes, and the Chippewas of the upper Mississippi—in charge of one agent.

The third superintendency, which is located at Detroit, embraces the Indians within the limits of the State of Michigan, viz: the united tribes of Ottawas and Chippewas, the Chippewas of Saganaw, the Chippewas of Swan creek and Black river, the Pottawatomies of the Huron, and a portion of the Chippewas of Lake Superior, all of which are in charge of an agent, who is the acting superintendent, except the last mentioned Indians, and that portion of the Chippewas, of the united bands of Ottawas and Chippewas, lying on or near Lake Superior, in the vicinity of the Sault Ste. Marie, which are in charge of a sub-agent.

The following Indians are not within any superintendency, viz: the Chippewas of Lake Superior, which are in charge of a sub-agent; the Menomonees, the Stockbridges, and the Oneidas, in charge of a sub-agent; the several bands of Senecas, and other Indians, in the western part of New York, in charge of a sub-agent; and the Indians of Texas, which, so far as the care or supervision of this bureau is concerned, are in charge of a special agent.

Each agency and sub-agency has an interpreter, whose salary is $300; and where there are different tribes within the same agency or sub-agency, speaking different languages, an interpreter is allowed for each, if necessary. Besides the interpreters, there are employed at most of the agencies, under treaty stipulations to that effect, mechanics of various kinds for the benefit of the Indians, such as blacksmiths, gun-smiths, carpenters, &c.; and, in some cases, farmers and laborers are employed to farm for and instruct them in the art of agriculture.

From the foregoing outline of the distribution and assignment of the different tribes, it will be seen that in some instances a number are within the same agency, and in charge of the same agent. Though some of these tribes are comparatively large, and, in their general disposition and habits, are as peculiar and as different from each other as are almost any of our colonized tribes, they yet live side by side, or near to each other, in peace and harmony; and they are as easily managed and controlled, and their affairs as efficiently conducted, as if they were all one and the same tribe. With good and efficient agents, the same system might be pursued with other tribes, which would admit of the discontinuance of a number of agents and sub-agents, and thus lead to a considerable reduction in the amount now paid for salaries, contingent expenses of agencies, &c. The following is an extract from a report which I had the honor to make upon this subject on the 30th December, 1846, and which will be found in document No 70, House of Representatives, 2d session 29th Congress:

"The concentration of the Indians west of the 'Mississippi since the act of 1834, (the act organ-'izing the Indian Department,) has almost entirely 'done away with the necessity which then existed 'of having separate agents or sub-agents for each 'separate and distinct tribe or band. When, there-'fore, two or more tribes or bands are adjacent, 'between which there is a good understanding, 'it is believed that their affairs could be as well 'and satisfactorily, and certainly much more eco-'nomically, managed by one intelligent and effi-'cient agent, as if there were one agent or sub-'agent for each. By this arrangement, there 'would be not only the difference in the amount 'of compensation saved, but also the difference in 'the expense between keeping up the house, office, '&c., of one agent, and those of a great number." In another part of that report it was shown that even with the creation of two additional independent superintendencies, there might, by this plan, combined with a readjustment of the rates of compensation, be saved out of the $29,250 per annum, then paid for salaries of superintendents, agents, and sub-agents, the sum of $11,650; "while the 'annual saving, in consequence of the reduction 'in the number of the establishments of the agents 'and sub-agents, would probably not be very far 'less." This projet required the action of Congress to carry it into effect; and bills embodying its essential features have twice passed one of the branches of that body.

The general condition and circumstances of the tribes embraced in the outline given, will be found described in the accompanying reports and statements; but the census and statistics now being taken and collected in conformity with the fifth section of the act of March 3, 1847, will, in addition to their numbers, according to families, age, and sex, exhibit their actual condition, means, and resources, with a degree of minuteness and accuracy never before attained. This information will be not only of much intrinsic interest, but, properly used, of great practical value in the administration of the affairs of this department, with reference to the melioration and improvement of the condition and circumstances of the several tribes immediately under our care. That already received, has in a striking manner developed some of the evils existing in our Indian system, the extent of which could otherwise only be guessed at. The pernicious effects upon the welfare and prosperity of a tribe, of large money annuities, have been painfully demonstrated; so that, in all future negotiations for Indian lands, the Government will be recreant to its trust, and to all the dictates of humanity, if it do not strenuously endeavor to have as large amounts as possible of the purchase money set apart for such purposes as will have any tendency to elevate and improve the condition of the tribes with which such negotiations are held, whether in a physical, intellectual, or moral point of view. Nor does its duty in this particular end here: every exertion should also be made to induce those tribes which are now entitled to receive large sums annually, to consent to the application of reasonable portions to purposes of that character. Efforts of this kind have already been made with several tribes, and with an encouraging degree of success. The less an Indian's expectations and resources from the chase, and from the Government in the shape of money annuities, the more readily can he be induced to give up his idle, dissolute, and savage habits, and to resort to labor for a maintenance; and thus commence the transition from a state of barbarism and moral depression, to one of civilization and moral elevation.

In consequence of the difficulty in making the Indians comprehend the object of the inquiries, and their superstitious disinclination to furnish information respecting themselves or their affairs, unexpected delays have in some instances occurred in obtaining the particulars desired. The opposition to the measure has not been confined to the less improved tribes with which it was supposed it would meet with less favor. Some of those more advanced in civilization and intelligence seem obstinately to have taken up the impression that the information is desired for some sinister and improper object, having reference to a change in their present position, or an interference in their domestic concerns. In consequence of this and other circumstances, complete returns have not yet been received, and none for several of the most important tribes. It is hoped, however, that the unfounded and unreasonable objections that have been made will soon be overcome; when it will be in the power of the department to lay before Congress, in a condensed and classified form, a mass of information more interesting, and of more practical value, than any ever heretofore collected in relation to our Indian tribes.

The act above referred to requires not only a census and statistics of the Indian tribes, but also the collection of such materials as will tend to illustrate their history, present condition, and future prospects. This is a duty which we owe to ourselves, to posterity, to the peculiar and interesting people we have in a great measure displaced, and to the world. It is, however, a work of time, requiring great care and much effort and labor. The field of inquiry is a very wide one, and the reliable materials that have been published to the

world scanty and incomplete. Besides the vague and imperfect traditions of the Indians themselves, which have to be obtained, compared, and analyzed, there is much valuable information to be had from persons yet living, who have spent the greater portion of a long life among different tribes, and made themselves well acquainted with many interesting points in their history, as well as with their habits, manners, customs, observances, &c. Efforts have been made to obtain all such information, as well as to enlist the coöperation of such individuals throughout the country as, from a love of philosophical inquiry and investigation, have turned their attention to this highly interesting subject. Much curious and valuable material has already been collected; and when the sources of inquiry shall have been exhausted, the department will be in possession of a large amount of information, valuable in itself, and of singular interest to all who have been, or hereafter may be, led to study the history, or to reflect upon the destiny, of the aborigines of this continent.

Since my last annual report, sixty-four Creeks and fifty-two Chickasaws have removed, and joined their brethren west of the Mississippi river; and such of those tribes as are yet east will doubtless soon follow. Sixty-one Miamies have also removed from Indiana, and joined that portion of the tribe which emigrated last year.

The emigration of the Choctaws remaining east of the Mississippi has been very limited, principally in consequence of their being averse to removal during the summer months—only one hundred and eighteen have been removed; but the business of emigrating them having been thrown open to all persons of a proper character disposed to engage in it, arrangements have been concerted for a large emigration this fall and winter; which, from the latest intelligence received, it is hoped will include nearly, if not quite, all now east of the Mississippi. There is thus a prospect of successfully terminating this tedious and vexatious undertaking, in which a large amount of money has already been expended, and which the Government voluntarily assumed at the urgent request of the States in which the Indians remained, especially of Mississippi, where the most of them were, and of which, by her laws, they were citizens so long as they chose to continue there. All other means and exertions compatible with the rights and interests of the Indians, and with the duty and obligations of the Government towards them, having been tried without any commensurate or satisfactory degree of success, the present effort should, in my judgment, be regarded as the final one; and if it fail, the Government should be considered as absolved from all further obligation in the matter. Every proper inducement will have been held out to influence them to remove; the Government cannot compel them to go; and if they shall still persist in remaining, as they have been encouraged to do by a portion of the whites residing in those States, they should not be further harassed, but be left to the quiet enjoyment of their rights and privileges as citizens. A copy of the instructions under which the present arrangements are in progress, are hereto appended, marked A, B, C, and D.

Within the past year the Pottawatomies, who have heretofore been separated—the larger portion being in Iowa, and the others on the Osage river—have completed their removal to their new country on the Kanzas river, between the Delawares and Shawnees, where they are now comfortably settled. Thus happily reunited, not only among themselves, but in means and interests; and free from those adverse influences arising out of a contact with a white population, to which those in Iowa were subjected; it is confidently expected, that under the measures and influences which may now be favorably brought to bear upon them for the purpose, they will enter upon a course of improvement which, in a few years, will result in at least their comparative civilization. Much credit is due to them not only for their prompt self removal, but for the peaceable and orderly manner in which it was conducted. It was a new feature in our Indian system, to see an entire tribe of Indians quietly organize and leave their old homes, and peacefully, and without disorder of any kind, remove themselves to a new country, nearly two hundred miles distant from most of them, in conformity with a stipulation to that effect in a treaty which they had made with the Government; and bearing their own expenses, out of funds set apart for that purpose. The Kanzas Indians deserve equal credit, having, since my last annual report, in the same commendable manner, removed themselves from their old country on the Kanzas river, to their new, and to them better location, on the headwaters of the Neosho, where they are now well settled, and are already asking for schools and other means of improving their condition and circumstances. The experiment in the case of the Winnebagoes has also been successful, although their emigration from Iowa to their new country on the upper Mississippi, was attended with some delay and difficulty; caused, however, by the unauthorized interference of interested white persons, and of a portion of the Sioux that were desirous to have them stop and remain in their country. Under the operation of improper influences thus brought to bear upon them, a portion of the tribe, after moving some distance on the route, scattered in various directions; the most of them going over to the Missouri river and to the Menomonee country, near Green Bay, in Wisconsin. The others safely reached their new country, which is admirably suited to them, much of it being well adapted to agricultural purposes, and to a considerable extent interspersed with lakes and streams abounding with fish and wild rice. Since their arrival, most of those that dispersed have joined them, which, without doubt, the rest will soon do, in order to share in the large annuities due to the tribe in money, goods, and provisions.

The removal of this tribe and of the Pottawatomies has entirely freed Iowa of her Indian population, which occupied some of the best and most desirable lands in the State, which will now be rapidly settled by our enterprising and industrious citizens. Indeed, so sweeping is the tide of emigration in that quarter, that it is already beginning to break over the northern boundary of the State towards the rich and fertile lands on and south of the Minesota or St. Peter's river, which are now owned by the Sioux Indians, and which it is important to acquire at as early a period as practicable. There is probably nowhere within our limits a more desirable section of country than this, whether for soil or climate; and if opened to our hardy and enterprising pioneers, it would soon become densely settled with a prosperous and thriving white population. To the Sioux it is of no use whatever, as the game has almost all been destroyed; and from their present character and habits, which have already been described, they cannot be induced to abandon the chase and their warlike propensities, and, to any profitable extent, resort to agriculture, or any other species of labor. Being very mischievous and daring in disposition, it is necessary to keep a considerable space between them and our expanding population, in order to prevent difficulties, which might lead to hostilities and bloodshed. For these and other reasons that might be mentioned, sound policy would seem to dictate that an effort should be made at an early day to purchase this country of the Sioux; to defray the expenses of which, an appropriation of about five thousand dollars will probably be necessary.

Wisconsin, like Iowa, may also soon be relieved from the Indian population within her limits. The Brothertowns were made citizens by an act of March 3, 1839; and the Stockbridges by one of March 3, 1843; which, however, was modified by the act of August 6, 1846, providing for the return of such as so desired to their original position as Indians, and for a division of the lands of the band between the latter and those who prefer remaining citizens. The difficulties which prevented the execution of the latter act were fully stated in my report of last year, and have not since been removed; nor do they seem likely to be. Under these circumstances, and as the position of these people is a very unhappy one, in consequence of the dissensions between the two parties into which they are divided, propositions have been made to them, for such as do not wish to avail themselves of the privilege of citizenship, to surrender to the Government, on just and equitable terms, their interest in the lands, and to join their brethren in the West, who are living there prosperous and happy. These fair and liberal propositions it is hoped will be accepted.

The small band of Oneidas, who were originally from New York, though never formally made citizens, may, from their position and circumstances, their civilization and intelligence, be substantially so regarded. A portion of the Chippewas of Lake Superior and the Mississippi, and the Menomonees, may therefore not improperly be considered as the only Indian population now in Wisconsin. The Chippewas, as heretofore stated, are remaining by sufferance on lands which have been ceded to the United States, and from which, looking only to their own benefit, they should soon be required to remove. The Menomonees, like all Indians unprepared for such a position, have for some years been suffering from those untoward circumstances necessarily arising out of a close contact with a rapidly increasing white population; to which, in time, the vicinage of the Indians has also been a great disadvantage. For their own interest and welfare, as well as for the prosperity of that part of Wisconsin, it has for some time been an object of much importance to induce them to cede their lands, and to remove where they could reap the full benefit of the policy of the Government for the civilization and improvement of our Indian tribes. This important object, which unfavorable circumstances and influences have heretofore prevented being effected, has at length been attained; a treaty having recently been negotiated with them by myself in their country, under instructions of the 14th of September last, by which they cede all their lands in Wisconsin, containing about four millions of acres, and agree to remove to those set apart for them on the Upper Mississippi, which are in all respects well suited to them; where, with proper care and attention, they must thrive and prosper, and where they and their neighbors and former associates and friends, the Winnebagoes, may be made the instruments of preventing, in a great measure, the sanguinary hostilities arising out of the bitter and hereditary feuds existing between the Chippewas and Sioux that so frequently occur between those two tribes. This treaty may be regarded as having substantially completed the extinction of the Indian title to all lands east of the Mississippi river, south of Lake Superior, subject to the jurisdiction and control of the General Government.

Since the 4th of March, 1845, treaties have been negotiated with the following tribes, viz: The Camanche and other wild tribes of Texas, the Cherokees, the Chippewas of Lake Superior and the Mississippi, the Pillager band of Chippewas, the Kanzas, the Pottawatomies, the Winnebagoes, and the Menomonees. The first was a treaty of peace and friendship, for the purpose of giving some definiteness to our relations and intercourse with the various tribes within the boundaries of Texas; and the object of the second was to heal the bitter internal dissensions by which the Cherokees had so long been afflicted, and to provide for the settlement of all matters at issue between them and the United States. By the remaining treaties, about eighteen and a half millions of acres of land were surrendered to the Government; of which about two million one hundred thousand acres have been assigned to other tribes as permanent homes; about two million nine hundred thousand acres are held in reserve for a similar purpose; and the remainder—about thirteen and a half millions of acres—in the States of Wisconsin and Iowa, will now come into market, and soon be occupied by a white population. This large extent of territory was obtained at a cost of about $1,842,000, of which $150,000 was the value of other lands assigned the Indians, and the balance was a consideration in money; a liberal portion of which was set apart for beneficial objects, and the remainder is to be paid in a series of years as annuities.

These treaties were all made without granting a single reservation, without assuming a dollar of any Indian indebtedness; and where removal was necessary, they provided for its being accomplished by the Indians themselves, which experience has shown can be done with less trouble and expense than by any of the modes heretofore adopted by the Government. The department has thus rid itself in these cases of three fertile sources of perplexity and embarrassing controversy, if not of corruption and fraud.

There has also been submitted to this office a

treaty, concluded on the 8th of August last, with the Pawnee Indians, by the military authorities, for the acquisition of Grand Island, in the Platte river, and a strip of country on the north side of that river, some sixty miles in length, which I understand is intended for military purposes, and where one of the line of posts on the route to Oregon is to be established. In this treaty, the Pawnees pledge themselves to fidelity and friendship towards the United States; that they will not molest or injure the persons or property of our citizens, nor make war upon other Indians; and that in all cases of difficulty, they will abide by the arbitration and directions of the President.

The last clause of the first section of the act making appropriations for the service of the Indian Department, approved 29th July last, (pamphlet laws, page 99,) appropriated five thousand dollars "for the removal of the Catawba tribe of Indians, now in the limits of North Carolina, to the Indian country west of the Mississippi, with the consent of said tribe;" no part of which sum is to be expended, however, "until the President shall first obtain a home for them among some of the tribes west of the Mississippi river, with their consent, and without any charge upon the Government." The department was without any information whatever in relation to these Indians; but supposing, from their locality and former probable association, to some extent, with the Cherokees, that they might prefer a home among them, a letter was addressed, soon after the passage of the act, to the authorities of that tribe, to ascertain whether they would receive the Catawbas on the terms prescribed. Subsequently, information was obtained that they desired to join the Chickasaws, who had once invited them to do so; and a letter similar to that to the Cherokees was addressed to that tribe, through the Government agent. No answer to either communication has yet been received, though sufficient time has not elapsed for one from the Chickasaws. Every further necessary effort will promptly be made to carry out the law according to its tenor.

The fourth section of the same act required the number and names of the Cherokees in North Carolina, at the date of the treaty at New Echota, (May 23, 1836,) who have not removed west of the Mississippi, nor received the commutation for removal and subsistence allowed by that treaty, to be ascertained and reported to the Secretary of the Treasury, with reference to the amount of that commutation being set apart for their benefit, and interest thereon, at six per cent. from the above date, being paid over to them. The department was embarrassed by the circumstance of no appropriation having been made to defray the expenses of this measure, in consequence of which it had no means of compensating any person to execute the duty. One of the gentlemen of this office, possessed of considerable information respecting the Indians in question, having, however, volunteered to perform the service, and, on his own individual account, to make arrangements for the amount of his expenses until an appropriation therefor could be obtained of Congress, the department, being desirous for the prompt fulfillment of the law, consented to the arrangement. He has but recently returned, after having completed the business, and the required report will in a short time be made to the Secretary of the Treasury, to enable him to fulfill the other provisions of the act. An item has been inserted in the estimates that have been submitted, for an appropriation of four hundred dollars to reimburse the expenses necessarily incurred by the person referred to in the execution of the law.

As required by the sixth section of the act in question, a commissioner was duly appointed to issue certificates for the amounts allowed on the claims against the Pottawatomie Indians, examined and adjudicated by Gen. William B. Mitchell in 1840. He was furnished with the necessary instructions and documents, to aid and guide him in the execution of the duty, upon which he is presumed to be now engaged.

Pursuant to the determination announced in the last annual report, the annuities of most of the tribes have this year been paid semi-annually; and generally, it is believed, much to their interest and advantage. The department has seen no reason to change its views on this subject. From various causes, inconsistent with and opposed to the true interests and welfare of the Indians, opposition to the measure was expected, but has not been realized to the extent anticipated; and the policy should be continued with most, if not all, the tribes whose annuities are sufficiently large to admit of a division of them being made with advantage.

The *per capita* mode of paying annuities has been attended with the happiest effects. It prevents speculation and extortion being practised upon the Indians through the means of national credits, the benefits of which—if so pernicious a system can be attended with benefits—inure principally to the chiefs and their friends and favorites, to the injustice and wrong of the mass of the common Indians; while it gives to every one a knowledge of his just rights, and secures them to him. In the whole course of our Indian policy, there has never been a measure productive of better moral effects. The Indians generally are much gratified with the change, and grateful to the Government for it; and it has secured their confidence and respect to a greater extent, probably, than was ever before possessed. Such being the case, it will be the duty of the Government rigidly to adhere to the policy.

Time sufficient has not yet elapsed to test the expectations entertained as to the good results of the new regulations on the subject of granting licenses to trade in the Indian country, a copy of which accompanied my annual report of last year. They have, however, led to a more rigid and necessary supervision of the whole system, which must result in the correction of many of the abuses which had crept into it. The department takes to itself but little credit for issuing them, for they are only what a proper compliance with the law and the rights and interests of the Indians required.

One of the greatest evils connected with the Indian trade heretofore was the reckless system of national credits which prevailed among the tribes receiving annuities from the Government, and of which those annuities were the basis. When payable, they were generally absorbed by the debts due to the traders, and not unfrequently large balances were left or alleged to be left unpaid. There was generally little or nothing remaining for distribution among the individuals of the tribe, to aid them in supplying themselves with what was requisite for their maintenance and comfort during the winter; or, where balances were left under the old system of paying the annuities into the hands of the chiefs, they and their friends participated most largely, if not exclusively, in them, as they had done in the credits, which were generally obtained on the authority of the chiefs. The mass of the Indians were thus wronged and robbed of their just rights, while no part of the very large annuities received by many of the tribes could be obtained for any purposes of general utility and benefit. This corrupt and ruinous system has been broken up by the adoption of the *per capita* mode of payment, and the inflexible determination of the department to recognize no further indebtedness on the part of the Indians—regarding all matters of account between them and white men as individual and private transactions with which the Government would have nothing to do.

When the instructions of August 30th, 1847, (a copy of which accompanied my report of last year,) were prepared, directing the annuities to be distributed and paid *per capita*, in conformity with the act of March 3, 1847, it was believed that there were few if any debts which could legitimately and properly be regarded as of a national character—the liabilities being incurred by individuals for their own personal benefit, or that of their families. But as representations had been made that debts of that description did exist, which the new mode of payment would prevent being liquidated by the chiefs out of the annuities, and thus wrong and injustice be done to those to whom they were owing, it was provided in the instructions that all such claims might be transmitted to the department, in order that the President might be able to ascertain what should justly be considered as being of a national character, and to decide what course should be pursued in regard to them. There have accordingly been submitted thirty-three claims against different tribes, amounting in the aggregate to $162,908 01, nearly the whole of which—viz: $157,684 22—is against the Pottawatomies, the Miamies, and the Sacs and Foxes—tribes receiving annuities more than sufficient for their actual wants, and who, for years, on receiving them, have paid large amounts for debts, over and above the enormous sum of $721,066 34, which during the last six years has been specially set apart and appropriated, with the consent of the Government, for liabilities of that character urged against those three tribes. It certainly seems incredible how, in any just and proper system of trade, such large balances could have accumulated against them beyond the immense sums that have been paid by and for them.

Annexed (marked E) is a schedule of the claims that have been presented, showing the result of a preliminary examination of them in this office; from which it will be perceived that some of them have heretofore been fully considered and rejected both by the department and the President, and are not, therefore, entitled to a reconsideration; that others are for alleged depredations committed by the Indians, which cannot be included with ordinary debt claims, because a specific course is prescribed in regard to them by the 17th section of the act of June 30th, 1834, regulating trade and intercourse with the Indians; while in none is there satisfactory evidence that the articles charged for were actually sold or furnished, or that the charges, which in many cases seem extravagant, are reasonable and just. It will further be seen that the charges are generally against individual Indians, and would therefore seem to be individual and not national liabilities; and that there is great diversity in the amounts, so that great inequality and injustice would result from their being paid out of the common funds. As the claims now stand, it is impossible to make any safe decision in regard to them short of rejecting the whole; and, under the circumstances, the best, and probably only practicable mode of making any satisfactory and final disposition of them, would be for Congress to authorize the appointment of a commissioner to investigate them on the spot, with power to take testimony and examine witnesses, in order to ascertain satisfactorily how far they should justly be regarded as national or individual liabilities, whether the charges are just and reasonable, and all other facts and circumstances which should be taken into consideration in making a final decision upon them.

The law of March 3, 1847, imposing additional penalties and restrictions upon the crime of introducing spirituous liquors into the Indian country, and trafficking in them with the Indians, has been attended with the most salutary and beneficial results; though this great evil still continues to exist to a frightful extent. Some of the semi-civilized tribes, perceiving its ruinous effects, and appreciating the anxiety of the Government to put a stop to it, have themselves, in the most commendable spirit, passed severe laws upon the subject; but it can never effectually be checked until the States adjoining the Indian country come forward and coöperate in the general effort against this unholy and iniquitous traffic, by passing stringent laws, restraining the evil-disposed among their citizens on the frontier from engaging in it with the Indians. If this were done, and authority were given the department to punish the Indians themselves in the manner recommended in the report of the superintendent at St. Louis, for their participation in it, this moral pestilence would soon be driven from the confines of the Indian country, which would be followed by the dawn of a brighter day upon the condition and destiny of our colonized Indians.

The general deportment of the more civilized tribes during the year has been most commendable; and the influence of their good example upon their less advanced and less fortunate brethren cannot but be salutary and beneficial. Indeed, they appear of late to have considerably improved in their general temper and disposition; especially those with whom we have treaty stipulations, and who receive annuities from the United States, which they have been made to understand are liable for any outrages or injuries they commit, whether upon our own citizens or upon each other. Occurrences of this kind have been less frequent during the past year than heretofore. But two of any consequence are known to have taken place; one, an attack by the

Sioux on a steamboat on the upper Missouri river engaged in a trading expedition, in which a white man attached to the boat was killed; and the other, an attack by the Iowas upon a party of Pawnees, in which some twelve of the latter were slain and scalped. The Indians alleged that they were instigated to the first by white persons in their country, supposed to be rivals in trade with those whose goods were on board the boat. A further report in relation to the causes which led to it is soon expected; and, when received, the department will be better advised as to the measures which should be adopted to punish the really guilty parties, and to prevent such outrages in future. The attack of the Iowas upon the Pawnees was unprovoked and wanton; and their annuities were directed to be withheld until they had made the most satisfactory reparation of which the case admitted. They accordingly entered into an agreement with the Pawnees to pay them eight hundred dollars out of their present year's annuity, which was satisfactory; and both parties bound themselves hereafter to submit all cases of dispute or difficulty between them to the President, and to abide by his decision.

The making of the annuities of a tribe liable for such acts of misconduct, has no doubt a restraining effect, but of itself is not sufficient among the less civilized tribes. Their natural propensities are warlike, and success in war is the principal and most ready mode of obtaining distinction and power; and hence it is difficult, and often impossible, for the chiefs and well-disposed of a tribe to restrain the restless and ambitious from hostile aggressions upon Indians of other tribes. This can be done only by the prompt and vigorous interposition of the Government; and it is strongly recommended, by those whose judgment and experience are worthy of entire reliance, that power should be given to the department in all such cases to arrest the guilty parties, and to inflict some proper punishment upon them, according to the nature and extent of the offence. Until those immediately concerned in such outrages are made severely to feel that they are liable to be attended with consequences of a humiliating and painful character, they cannot be effectually checked. Where chiefs are implicated, they should be broken and degraded; and all concerned should be punished with confinement and hard labor at some of the military posts. Such a course of policy, rigidly pursued, would soon put an end to tribal as well as intestine wars.

Though most of the expenditures in this branch of the public service are, in their objects and amounts, specifically defined and fixed by law or treaty stipulations, so that there is but little scope for the exercise of Executive discretion, the estimates recently submitted of the appropriations required for the next fiscal year exhibit a reduction in amount compared with those of last year; whilst both are considerably less than those for the four preceding years, which averaged $1,218,591.

The amount of those of last year was	$892,134 68
Those presented this year amount to	857,473 45
Difference	34,661 23

This result has been attained only by the most rigid supervision, for some time past, of the expenditures for such objects as are in any way subject to the discretion or control of the department, and by cutting off all those which could possibly be dispensed with without manifest injury to the service. Appended, marked F, is a copy of a circular issued a short time since, imposing additional responsibilities and restrictions in reference to expenses of a contingent nature, which, it is expected, will lead to still further economy in the disbursements of that character.

The policy announced in my report for 1846, of surrendering to the treasury all balances of two years' standing, not needed for the current expenditures, in order that they may be carried to the surplus fund, and the appropriations cancelled, continues to be rigidly adhered to. This not only produces a greater degree of conformity between the amounts of the estimates and expenditures, but, as the department is compelled, when means are necessary for the objects for which the balances carried to the surplus fund were intended, to apply to Congress for new appropriations, it keeps that body better advised of the expenditures of the department, and enables it to exercise a greater degree of supervision over them. The result of this policy, in reference to the balances dispensed with, has been as follows:

Amount designated to go to the surplus fund in 1846	$1,096,564 81
Amount designated to go to the surplus fund in 1847	74,588 52
Amount designated to go to the surplus fund in 1848	157,374 37
	1,328,527 70

This system necessarily increases the yearly estimates to the extent that the old balances could be used; but this is far better than that those balances should be retained, and the estimates lessened accordingly, and a delusive view be thus presented to Congress of the probable amount of expenditures in the next succeeding year.

The accumulation of large amounts in the hands of disbursing agents, has always been considered one of the most fruitful sources of malfeasance in the public service—leading, as it frequently does, to speculations with the public funds, and eventually to defalcations. The special attention of this office continues to be directed to this subject. As stated last year, the large sum of $284,849 91, which had accumulated in the hands of the various agents, was withdrawn therefrom and restored to the treasury, and the remittances are now so arranged and regulated, that they never have in their possession anything beyond what is almost immediately required for expenditure.

Tables G and H are appended to show the amounts invested in stocks of various States, and of the United States, for the benefit of several of the tribes, and the annual income therefrom; and also the amounts not invested, but held in trust, and interest thereon annually paid by the Government.

In my report of last year, I noticed the peculiar situation of certain Indian reservations in the State of Illinois, which had been set apart by treaty for the use and benefit of individual Indians, without vesting in them the fee, and which they could not therefore sell, as in other cases; but the act of the 9th of March last authorized them to do so, with the approval of the President. Regulations prescribing the conditions of such approval were adopted, and widely circulated; but so far only four cases have been perfected in accordance therewith, and approved. A large number of claims, by purchase, to other reservations, under various treaties, have been examined during the past year, of which upwards of fifty, having been perfected according to the regulations of the department, have been confirmed.

Of reservations under treaties prior to 1830, about sixty remain untransferred, though about half of them are claimed by purchases which have not been confirmed, because the prerequisites thereto have not been complied with. By subsequent treaties—principally those with the Choctaws, Creeks, and Chickasaws, of 1830, 1832, and 1834—upwards of nine thousand reservations were set apart for individual Indians the greater portion of which have been sold by the reservees, and the sales approved. The investigation and settlement of these cases have imposed upon the office a vast amount of labor and difficulty, there being many cases of fraud, and numerous contests between opposing claimants, which rendered necessary the greatest care and caution. Those remaining unsettled are generally now in such a situation that they may soon be disposed of; and as the evil and corrupt policy of granting reservations in Indian treaties has been discontinued, this tedious and embarrassing class of business may be entirely closed up at an early day, and the time and attention required by it be profitably devoted to the other important and increasing duties of the office.

Under the acts of August 3, 1842, and August 6, 1846, there have been adjudicated three thousand eight hundred and thirty-two claims, including those of children, of that class of the cases arising under the 14th article of the Choctaw treaty of 1830, for which reservations could not be assigned in accordance with the specific provisions of that treaty, and for which those laws authorized the granting of scrip to the claimants, one-half only of which was to be issued to them, the other half being required to be funded by the act of March 3, 1845, and on which interest at five per cent. is payable to the parties, commencing on their arrival in the country of their brethren west of the Mississippi river. Of the half deliverable to the claimants, there has been issued a portion equal to 330,840 acres of land. The remainder is in the hands of the agent of the Choctaws west of the Mississippi, ready to be issued to the Indian claimants as soon as they shall have removed there, it being withheld till then, in accordance with the decision of the President of September 25, 1847, (see Appendix B.) The whole amount of the scrip awarded in this class of claims is equal to one million four hundred thousand four hundred and eighty acres of land, one-half of which only, however, will be absorbed by the unfunded portion of the scrip.

An increasing interest continues to be everywhere manifested in the cause of education. Many of the tribes which have heretofore refused to permit the introduction of schools into their country, are now coming forward and asking for their establishment, and some of them are even offering to appropriate a portion of their own means to the promotion of this great object. This gratifying change in their sentiments and views has been brought about in a great measure by the system which has been pursued for some time of imparting a knowledge of agriculture and the mechanic arts, with that of letters, and the efficient coöperation of the different missionary societies in the efforts of the department.

The number of schools in the Indian country has increased more rapidly during the past than in any preceding year, whilst the attendance and deportment of the scholars have been far more constant and exemplary than before. It appears from the reports made to this office, that there are now in successful operation, among the different tribes, sixteen manual-labor institutions, at which are maintained and educated eight hundred and nine scholars, of which five hundred and seventy-seven are males, and two hundred and thirty-two females; and eighty-seven boarding and other schools, with 2,873 scholars—2,073 males, and 800 females. These schools are represented to be supplied with good and competent teachers, and to be otherwise in a prosperous and highly-satisfactory condition. With the efforts of the Government, and of the various religious and philanthropic societies of the United States, thus united, the blessings and advantages of this great moral enterprise, worthy of the age and of the country, may be extended to the whole of our aboriginal race.

There are also now under contract, and in progress of establishment, seven more large manual-labor schools—one among the Chickasaws, two among the Creeks, one among the Miamies, two among the Pottawatomies, and one among the Kanzas. The aggregate sum set apart by these tribes for the buildings and improvements is $34,000, and that for their annual endowment and maintenance about $26,000; which sums are in addition to the amount that is to be furnished by the missionary societies, under whose care they will in a great measure be placed.

The Chickasaws are not disposed to stop with the establishment of one institution; they have recently authorized the department to make arrangements for two more of the same description; and, in a spirit of liberality that might be advantageously imitated elsewhere, have appropriated, from the interest arising from their stock investments, the sum of $12,000 for the buildings, and a like amount annually for their maintenance and support. And the Creeks, unwilling to be surpassed by their neighbors in their appreciation of the advantages arising from the education of their children, have determined, in council, to apply the whole proceeds of the fund realized from the sale of their orphan lands, which was invested in stocks, to a similar purpose.

The Choctaws have not only made provision for the maintenance of eight large boarding schools in their own country, but they recently appropriated and set apart the interest arising from certain moneys which they have invested in stocks of the United States, for the instruction of such of their youth as, at the annual examinations of their own schools, may appear to evince the most promise and aptitude for study in the various branches of

a classical and scientific education. In pursuance of this policy, they sent on, during the last summer, to the care of this department, five very interesting and promising boys, who have been accordingly entered at Delaware College, and who, although never before out of their own country, were found sufficiently advanced, after a few months' preparation, for admission into the freshman class, and where they have since, according to the report of the learned and distinguished president of that institution, (Appendix I,) "maintained their standing, manifesting mental capacity, industry, and self-denying application, fully equal to any of their associates."

The schools in the Cherokee nation are under the supervision and control of their own authorities, and are shown by the report of the superintendent to the principal chief (a copy of which has just been received at this office) to be in a highly flourishing condition.

In the support and management of this important and extensive system, there is nothing whatever drawn from the treasury of the United States beyond the permanent annual appropriation of $10,000 for "the civilization of Indians," which, in order to afford the same advantages to tribes not possessed of means of their own, and as a matter of philanthropy and sound policy, should, in my opinion, be increased to $50,000.

The law establishing the territorial government of Oregon, omitted to provide for the appointment of any agents in that interesting portion of our country. The President, however, pursuant to that provision of the law of June 30, 1834, organizing the department of Indian affairs, which authorizes him to employ a competent number of sub-agents to reside at such places as he may direct, appointed three persons who have long resided in Oregon, and were represented to be well acquainted with the location and peculiar characteristics of the various tribes in that region, to act in that capacity until more satisfactory arrangements can be made. The distribution of their duties, and the boundaries of their respective agencies, have been left to the Governor, who is by law the superintendent of Indian affairs in the Territory, and to whom the necessary and usual instructions have been forwarded.

The fortunate termination of the war with Mexico, and the enlargemnt of our boundaries by the acquisition of California and New Mexico, will increase the number of Indians in the United States, and require the appointment of additional agents for the proper management of the affairs of this department. The knowledge possessed by this office of the character, habits, and location of the various tribes within these Territories, is too limited to justify it in making any specific recommendation as to the measures which should be adopted at this time. The extension over them of the laws regulating our intercourse with the other Indians of the United States, and authority and means to appoint and maintain a suitable number of agents, will enable the department to make such suggestions next year for the consideration of the President and of Congress, as will lead to some more definite and satisfactory action on the subject.

From the various reports which have been received from Major Neighbors, the special and efficient agent of the United States, in Texas, (copies of which are annexed,) it appears that peaceful and friendly relations with the numerous and warlike tribes of that State have generally been maintained. It may be, however, that this gratifying result is to be attributed in some measure to the large military force that has been kept on the frontier, and by which the whites as well as the Indians have been restrained from those acts of aggression which so frequently terminate in violence. Your attention has been called, in the two last reports from this office, to the peculiar situation of these Indians, and to the anomalous character of their relations to the General Government. Texas, on coming into the Union, expressly reserved the right to, and exclusive jurisdiction over, all the vacant and unappropriated lands lying within her limits. The existing laws regulating trade and intercourse with the Indians having been limited to certain geographical boundaries, and never having been expressly extended over Texas, are not believed to be in force in that State. The department has, therefore, no power to prevent the settlement of disorderly white persons among the Indians, the introduction and sale of spirituous liquors, or the numerous other causes of strife and difficulty; and hence the duties of the agent have thus far been confined to such persuasive influences as he could bring to bear during his intercourse with the chiefs of the different tribes. By the 11th article of the treaty with the Republic of Mexico, it will be perceived that the United States stipulate and agree to restrain all incursions of Indians from our territories into Mexico, for whatever purpose the same may be made; and when such incursions cannot be prevented, to punish and exact indemnity therefor, with the same diligence and energy as if they were meditated or committed within our territory, and against our own people. Some legislation will be necessary for this purpose; and a proper observance of our stipulations with that Republic, as well as the peace and safety of our own citizens residing on this new and extensive frontier, calls for such action as may be deemed requisite at the earliest possible day.

Very respectfully, your obedient servant,

W. MEDILL,
Commissioner of Indian Affairs.

Hon. WM. L. MARCY, *Secretary of War.*

Report of the Commissioner of the General Land Office.

GENERAL LAND OFFICE, *Nov.* 30, 1848.

SIR: As preliminary to details of the annual operations and views of the Land Department of the Government, respecting the disposal of the public lands, the recent large accessions to it, suggest the propriety of some reference to its locality and area.

"THE PUBLIC DOMAIN," in which the General Government possesses a proprietary interest, lies within the limits of twelve of the sovereign States of the American Union, to wit: Ohio, Indiana, Illinois, Missouri, Alabama, Mississippi, Louisiana, Michigan, Arkansas, Wisconsin, Iowa, and Florida; and in the following Territories, viz: In the territory north and west of the Mississippi river, and east of the Rocky Mountains, bounded on the north by the 49th degree of north latitude, east by the Mississippi river, south by the State of Iowa and Platte river, and west by the Rocky Mountains; in the residue of the Northwestern Territory, east of the Mississippi river, and northwest of Wisconsin; in the Indian territory west of the States of Missouri and Arkansas, and south of the Platte river; and in the Territories of Oregon, Upper California, and New Mexico.

This domain, by *estimate*, covers, according to exhibit No. 1, herewith, fifteen hundred and eighty-four millions two hundred and forty-three thousand two hundred acres, of which, up to the 30th September last, about one hundred and forty-two millions twenty-six thousand and three acres had been sold, or otherwise disposed of; leaving then unsold, fourteen hundred and forty-two millions two hundred and seventeen thousand one hundred and ninety-seven acres.

It consists in the new, and part of the old Territories, of large connected bodies of land; and in the old *land* States, and part of the old Territories, of hundreds of thousands of small, detached, and scattered tracts or parcels; the whole being comprised within about the 25th and 49th degree of north latitude, and about the 80th and 124th degree of longitude west from Greenwich.

Here, indeed, we have a magnificent estate, which cannot fail, under proper management, of being a rich and continued source of national revenue for generations to come; whilst, under the liberal and generous policy of our Government, it invites, on terms almost nominal, the inhabitants of every clime, who seek citizenship in our Republic, to a home, for themselves and families, of independence and comfort, in climates of every temperature, with soils abounding in varied wealth, agricultural and mineral, and of exhaustless fertility.

In submitting this report of the operations of this branch of the public service for the year 1847, and the first three quarters of the year 1848, the first matter in *detail* which engages attention is,

I.—THE SURVEY AND DISPOSAL OF THE PUBLIC LANDS.

Ohio.—The whole of the public lands in this State, which contains an area of 39,964 square miles, or 25,576,960 acres, have been surveyed, and the township plats returned to this office and the respective district land offices. The books, plats, field notes, &c., appertaining to the surveys therein, have been transferred to the proper authorities of the State, under the acts of 12th June, 1840, and 3d March, 1845; and that part of the business of the Surveyor General's office, northwest of the Ohio, relating to surveys, &c., in this State, entirely closed up. The land districts have been consolidated, from time to time, as the sales have progressed, until the number of the local land offices has been reduced to two, one of which is located at Chilicothe and the other at Defiance. All the lands have been proclaimed, and offered at public sale, and there still remain, of the public lands to be disposed of in this State, as near as can be ascertained, about 875,465 acres.

Indiana.—In this State, having an area of 33,809 square miles, or 21,637,760 acres, the whole of the public lands have been surveyed, and the township plats returned to this and the district land offices. The surveys in this State having been finished, the Surveyor General has been instructed to have the plats, field-notes, &c., pertaining to those surveys, completed, and transferred to the authorities of the State, by or before the 30th June next, as required by the acts of 12th June, 1840, and 3d March, 1845. The Surveyor General reports that he will be able to comply with those instructions; consequently, after that shall have been done, the authority of the Surveyor General northwest of the Ohio will be restricted to the State of Michigan. All the public lands in this State have also been proclaimed, and offered at public sale; and of those lands about 3,572,645 acres remain unsold and undisposed of.

Illinois.—The area of this State is 55,405 square miles, or 35,459,200 acres. The whole of the public lands have been surveyed, and the plats returned to the district land offices, with the exception of a few detached tracts, all of which will be completed, however, together with the plats, records, &c., connected therewith, under instructions from this office, and the latter turned over to the authorities of the State, by the 30th June next, or as soon thereafter as practicable, as required by the act of 12th June, 1840. All the lands which have been surveyed have been proclaimed and offered at public sale; and there still remain 15,693,076 acres of public lands in this State to be sold or disposed of.

Michigan.—In this State, having an area of 56,243 square miles, or 35,995,520 acres, the surveys have been executed, and plats returned to this office and the district land offices of 28,177,185 acres; and of the remainder, it is estimated that 1,478,400 acres will be surveyed, and the plats returned during the ensuing year. With the exception of about 529,000 acres in the southern Peninsula, all the lands remaining to be surveyed in Michigan are in the Upper Peninsula. Of the public lands in this State, it is estimated that there are remaining to be sold or disposed of about 25,097,296 acres.

Wisconsin.—It is estimated that there is contained within the boundaries of this State, an area of 53,924 square miles, or 34,511,360 acres. Of this area, 14,352,879 acres have been surveyed, and the plats returned to this and the district land offices; and of the remainder, it is estimated that 1,344,000 acres will be surveyed, and the plats returned during the next year. All the lands in this State, the plats of which were received in time, have been proclaimed, and offered at public sale; and 28,863,763 acres still remain unsold and undisposed of.

Iowa.—The boundaries of this State include 50,915 square miles, or 32,584,960 acres. Of these 14,806,381 acres have been surveyed, and the plats returned; and of the balance, 2,240,000 acres it is expected will be surveyed, and the plats returned in the ensuing year. Of the lands in this State which have been prepared for market, and not yet offered at public sale, the greater part are situated between Brown's and Sullivan's line, and will not of course be offered, till the question of boundary between Missouri and Iowa, now pending before the Supreme Court of the United States, shall have

been definitively settled. Of the public lands in this State, adopting Sullivan's line as the south boundary, 29,868,038 acres remain unsold and undisposed of.

Missouri.—In this State, with an area of 67,380 square miles, or 43,123,200 acres, 41,486,447 acres have been surveyed, and the plats returned to this office and to the offices of the respective land districts. Of the remainder, it is estimated that 1,200,000 acres will be surveyed, and the plats returned during the next year; and if it be determined that Sullivan's line is the northern boundary, those returns will nearly close the surveys in this State. All the disposable land which has been surveyed has been proclaimed and offered at public sale, and adopting Sullivan's line as the northern boundary there are 29,766,740 acres of public lands remaining unsold and undisposed of.

Arkansas.—The surveys of the whole of the public lands in this State, the area of which is 52,198 square miles, or 33,406,720 acres, have been executed, or are in process of being completed; and the plats of nearly all those lands have been returned to this and the district land offices. Under instructions from this office, the Surveyor General is closing up the business of his district; and by the 30th June next, the whole of the surveys will be finished, the maps, field notes, &c., pertaining to these surveys will be completed, and turned over to the authorities of the State, as required by the act of 12th June, 1840. All the disposable public lands in this State, the plats of which were received in time, have been proclaimed and offered at public sale; and it is expected that the next proclamation will embrace all the residue that can be brought into market. Of these lands, 27,669,207 acres remain unsold and undisposed of.

Louisiana.—The area of this State is 46,431 square miles, or 29,715,840 acres. Of these, 20,343,442 acres have been surveyed, and the plats returned to the proper land offices, and to this office; and of the balance, it is expected that 336,000 acres of new lands will be surveyed, and the plats returned during the next year. Great and peculiar difficulties have surrounded the surveys in this State, and prevented their early completion. Most of those made at an early period were very defective, owing, as appears from their history, to the inadequacy of the price then paid for that service; many were fraudulent, and others, owing to the intricacy of the boundaries, and the vagueness of locality, were either not surveyed, or so executed, that no confidence could be reposed in them. This was peculiarly the case in the Greensburg district, and finally led to the passage of the act of 29th August, 1842, directing a resurvey of the whole of the lands in that district. That work has been carried on as rapidly as the peculiar circumstances of the case would admit, and is now speedily drawing to a conclusion. Numerous resurveys have also been required and executed in the other districts, and many still remain to be done. It is expected, however, that by a careful and judicious investigation, both by the surveyor general and this office, where resurveys appear to be required, and by the adoption of a system for completing the surveys and locations of private claims in all such cases, the difficulties and embarrassments which exist will finally and speedily be overcome. Nearly a million of acres which have been surveyed in this State have not been offered at public sale, for the reason that some of them are interfered with by private claims, and others are reported as erroneous or fraudulent surveys. These difficulties will be removed as speedily as practicable, and, in all cases that will admit of it, the lands will be brought into market. Of the public lands in this State, surveyed and unsurveyed, there remain 23,677,775 acres yet to be disposed of.

Mississippi.—In this State, having an area of 47,147 square miles, or 30,174,080 acres, the whole of the public lands have been surveyed, and brought into market, and the plats returned to this office and the respective district land offices. Numerous retracings and resurveys have also been made, to locate private claims, supply lost field notes, and correct erroneous surveys. The surveyor general of this State has been instructed to finish all the surveys and resurveys now on hand, and to complete the plats, field notes, &c., connected with the surveys, that they may be turned over to the authorities of the State, as required by the act of 12th June, 1840, by the 30th June next. He has assured this office of his determination to comply with those instructions, but at the same time suggests, that this course may be prejudicial to the interests of the owners of some of the private claims which have not yet been located. The difficulties suggested in this case can easily be remedied by the passage of an act, rendered absolutely necessary by the closing of these offices, and which will be considered and explained in a subsequent part of this report. Of the public lands in this State, 11,815,040 acres remain unsold and undisposed of.

Alabama.—The lands in this State, the area of which is 50,722 square miles, or 32,462,080 acres, have all been surveyed, or are in process of completion. The plats have been returned to this office and the district land offices, and, as far as available, the lands embraced by them have been proclaimed and offered at public sale. Numerous resurveys have been made in this State, to supply the field notes which were unfortunately destroyed by a fire, which consumed the office of the surveyor general, with many of the records. The surveyor general has been instructed to complete the business of his office, and to prepare the plats, field notes, &c., connected with the surveys, to be turned over to the authorities of the State, by the 30th June next, as required by the act of 12th June, 1840. Of the public lands in this State, 17,516,346 acres remain the property of the Government, and are subject to be sold or otherwise disposed of.

Florida.—The area of this State is 59,268 square miles, or 37,931,520 acres. Of these, 15,032,052 acres have been surveyed, and the plats returned to the respective land offices, and to this office; and during the ensuing year, it is expected that the surveys will be executed and the plats returned of 2,240,000 acres more. As far as practicable, the lands, the surveys of which have been completed and returned, have been proclaimed, and offered at public sale, and there now remain the property of the Government, and subject to be disposed of, 36,137,137 acres, including those which have not been surveyed.

In view of the numerous difficulties which have surrounded the location of private claims in this State, and to which the attention of Congress has been frequently called, that body, on the 28th June, 1848, passed an act authorizing this office to cause to be surveyed such of those private claims or grants as had been duly confirmed; said surveys to be made by such persons and on such terms as might be deemed most expedient and proper; the price, however, not to exceed twenty-five per cent. on the maximum price per mile heretofore allowed by the United States in other States or Territories, in addition to such price.

As the regular duties of the surveyor general of Florida are very onerous, and occupy the whole of his time and attention; and as this law clearly contemplated the execution of these surveys by persons selected by this office, under a personal superintendence and direction which could not consequently be given by that officer, deputies of known ability and experience were selected for this service, and with your approbation placed under the direction of a gentleman highly recommended as every way qualified to discharge this duty. All the persons employed on this service entered into bond, with approved security, for the faithful performance of the trust reposed in them, and, with instructions full and minute on all points, have departed for the field of their operations. The object of those instructions was, to secure the location of those claims as nearly as possible in accordance with the terms of the original grant, and according to the confirmation, and to secure to the owners of those claims the lands which they had improved and occupied as their own under these grants; and by commencing operations in the northern part of the State, locating all the grants practicable as they advanced, and progressing south, that the whole should be finally completed as speedily and perfectly as possible. As this work has to be done under the personal direction and supervision of the superintendent, who has been required to inform himself thoroughly of the character and location of each grant, from the records of the Surveyor General's office, and those of the late keepers of the archives, it is hoped that all questions in relation to those locations will forever be put at rest, and this serious difficulty to the sale of the lands, and the settlement of the State, be finally removed. When settlers can purchase the rich and valuable lands of this State, yielding all the fruits of the tropics in the greatest abundance, and specially adapted to the cultivation of sugar, cotton, and tobacco, with a certainty that their titles will not in after times be disputed, we may look forward to a rapid disposal of those lands, and the consequent settlement of the State. The gentlemen intrusted with these duties have not as yet been able to make any reports of their progress, owing to the time that was required, after the appropriation was made for this service, to prepare their instructions and start them for the field; and the additional time necessary to procure the facts and evidence which must form the basis of their operations.

By the same act this office was authorized and directed to cause to be surveyed, as soon as practicable, the islands, and keys, and other lands in South Florida, interspersed with water, which cannot conveniently be connected with the regular public surveys; the price for this service being limited to the maximum price per mile heretofore allowed for surveys by the United States in other States and Territories.

On a full examination of this matter, and on conference with you, in view of the fact, that these islands, keys, and lands interspersed with water, would have to be surveyed at an unusual expense, for vessels and other conveniences not required in the ordinary linear surveys; that the officers of the United States Coast Survey possessed all these facilities, and were required by law to make all these surveys, in the discharge of the duties imposed upon them, except such lines as might be necessary to divide these lands into tracts of suitable size for sale; that, under these circumstances, the employment of deputies to make those surveys would involve the execution of the work twice over, and consequently a double expenditure of the public money, it was deemed most expedient and economical to intrust this duty to the Coast Survey, more especially as Professor Bache, the gentleman having charge of that service, was willing to detail a part of his force for that duty immediately, and by every means in his power to advance the views of Congress, and of this office, in this matter. Hence this course has been taken, and the proper instructions have been issued as to the preparation of these lands for market.

From the previous statements, it will be perceived that the surveys have been closed, or are in process of completion, in Ohio, Indiana, Illinois, Arkansas, Mississippi, and Alabama; that the plats, field notes, &c., connected with the surveys, have been turned over to the authorities of the State, as directed by the act of 12th June, 1840, in the case of Ohio, and will be in all the others, by the 30th June next, or as soon thereafter as practicable. In all these cases the Governors of the States have been requested to make the necessary arrangements for the reception of those archives by the 30th June next, when the surveyors general have been instructed to turn them over.

It is but justice to the surveyors general to state, that they have ably carried out the views of Congress and of this office, in pressing on the surveys of the public lands and the location of private claims, as rapidly and economically as the means placed at their disposal would permit; and further, it is believed that in general those surveys have been executed more faithfully and correctly than in some former years. This course has already almost or entirely completed the surveys in six of the States, and is rapidly drawing to a close those in Michigan, Missouri, and Florida. As vast bodies of land in most of these States still remain undisposed of, and as subdivisions are frequently required, sometimes retracing, to supply lines and corners which have been obliterated by time or accident, it becomes a matter of manifest necessity that the powers which have been exercised by the surveyors general should be devolved on some other officer, where the archives connected with the surveys have been turned over to the States, and the office of surveyor general shall consequently be abolished. Although the labors of the Commissioner of this office are already sufficiently arduous, still it would seem that that is the proper office to

which to attach these duties when they are no longer exercised by the surveyors general, and I would therefore respectfully recommend that the necessary legislation be had for that purpose.

Early last summer Messrs. Owen and Jackson, the geologists appointed under the acts of 1st and 3d March, 1847, to make a geological survey and exploration of the copper regions of Michican, Wisconsin, and Iowa, were despatched to the field of their operations, with instructions to close their explorations this year. From letters received from these gentlemen, it would appear that they have extended their observations over a large portion of the districts assigned them, and I have no doubt that the result of their labors will be highly interesting to the cause of science. They have not, however, quite completed their labors, and I would respectfully recommend that they be authorized to complete their explorations during the ensuing season. No appropriation has been asked for this service, however, as it is believed that the funds already provided are sufficient for the purpose. Should it be found, on further examination, that there is a small deficiency, it will be made the subject of a special report. The synopses of these gentlemen, as far as received, are attached to and form part of this report.

As intimately connected with this matter, I would here recommend the establishment of a surveyor general's office for Oregon, of a commission to adjudicate and determine the private claims in California and New Mexico, and subsequently the establishment of a surveyor general's office there also, and the extension of our system of surveying over those Territories and over that of Nebraska also. The expediency and advantages of this course are set forth more fully and in detail under the head of private land claims.

The necessary instructions have been issued to the surveyors general of Arkansas and Missouri to close the surveys in those States respectively on the line established as the boundary between them by the act of 15th February, 1848.

The evidence in this office, that the main channel of the Mississippi was on the east side of Wolf Island, being considered clear and conclusive, that being the broader channel, discharging more water, and being more generally used it has been concluded, as no action has been had on the matter by Congress, to consider that island as part of Missouri; and in justice to the claimants, to issue the patents for the entries and locations made upon it as part of the public domain, leaving the final question of title to be determined by the courts, if it should ever be disputed.

The question of the boundary between Missouri and Iowa is still pending before the Supreme Court; and in relation to those between Arkansas and Louisiana, and between Georgia and Florida, no action has yet been had by Congress. It is highly important, for the reasons heretofore given, that these questions should be speedily and finally determined, especially that between Arkansas and Louisiana, as the office of the surveyor general in the former district is about being closed.

The necessary instructions have been issued to the surveyor general of Florida, to have the quarter section surveyed, which was granted by the act of 25th July, 1848, for the county site of Hillsborough county, in the State of Florida. The work has been ordered by the surveyor general, and the return of the survey is expected at an early day.

II.—PRIVATE LAND CLAIMS.

In my last annual communication, I had the honor to advert to difficulties which existed particularly in Florida, in locating and surveying titles of this class, on account of the data on which they were founded being often meagre and too vague to fix the precise localities, and where claimants had failed to furnish such information to the surveyors as would enable them to trace out and establish their boundaries.

Such obstacles, to a greater or less extent, are inseparable from the very nature of this numerous class of ancient titles, which, in fact, of themselves constitutes a *system* gradually formed, under the operation of early and successive acts of Congress, which have been passed pursuant to treaty stipulations, in order to respect and carry out in good faith, the intentions of Spain, France, and Great Britain, in regard to rights, inceptive and mature, which had originated under the laws, customs, and usages of colonies, once the territories of these transatlantic sovereignties.

These claims, of various forms and size, in the different States where the public domain lies, are scattered over the regular public land surveying system, and present to the eye the principal deviations from its simplicity and uniformity.

In their wide range and irregular course, they serve to show the progress of the early settlements, and advance of civilization; and where still held in continued possession by the descendants, or legal representatives of the original owners, whose rights have been recognized by laws of the United States, there can be but little difficulty in ascertaining, and severing from the public lands, such private property, which justice and national good faith require should be scrupulously respected and recognized by the United States survey and patent.

But where the possession is not continued, or other impediments exist in ascertaining the precise limits of such claims, the interest of the Government, and sound policy, demand that, in cases falling in this category, which, from the designation of their general locality, are susceptible of location, the department be empowered, by law, to order the location of them according to the lines of the public surveys, and so as to include the ancient settlements, or improvements, where they can be ascertained; and further, that where such locations are made, they shall be held forever binding upon the claimants, unless within one year from the date of the approval of the survey, the parties shall satisfactorily show the location to be erroneous, and in prejudice of their rights as heretofore recognized by law; in which event, it is proposed that the department be authorized to order a new final location and survey.

Besides the numerous titles which are embraced in the various reports of the boards of United States Land Commissioners, and which have been recognized by act of Congress, or confirmed by decrees of court, individual cases are appearing by petition, at almost every session of Congress, seeking confirmation; and our statute books show, that numerous similar cases, from time to time, have been affirmed by special enactment.

In order to quiet titles, and avoid, as far as possible, conflict hereafter between claimants under such ancient titles, and purchasers from the United States, it is further proposed, in respect to claims unconditionally confirmed, which have been already surveyed, and found to be interfered with by sales or other junior titles, that authority by law be conferred on the department to order, upon the assent of the confirmee or his legal representatives, the area of interference to be located on other lands, subject to private entry in the States in which the original claim was situated, and to carry such interfering sale, if regular in other respects, into patent. And in reference to cases which have not been heretofore actually located or surveyed, and where the claimant has failed to give such notice to the local land office as will show the location of such claim in connection with the public surveys, any sale which may have been, or may be made by the United States prior to such notice when given, and, when not given, prior to the return of survey to the local office, shall, when regular in other respects, be carried into patent, and the confirmee, or his legal representatives, allowed the area in other lands subject to private entry.

There is also a class of private claims in Louisiana, principally found in the report, dated 1st January, 1821, of Daniel S. Sutton, former register of the district north of Red river, and a few in Samuel H. Harper's report of that year for the southeastern district, about forty-nine in number, and covering eighty thousand some hundred acres, which are confirmed by an act of Congress approved 28th February, 1823, but were suspended after their confirmation, for the reason that the title-papers on which they were founded were suspected to be fraudulent.

This matter was adverted to, in reports from this office, shortly after the confirmation, and subsequently; but no legislative action in the premises has since been had, and the confirmatory statute remains unrepealed. As a quarter of a century has elapsed since they were confirmed, it is reasonable to presume that the most, if not all of them, have passed into the hands of innocent purchasers, who are now the claimants.

In order, therefore, to relieve this matter from its present and from future embarrassment, it is respectfully submitted for the consideration of Congress, whether it would not be proper to empower the department, by law, to institute an examination into those suspected cases; and where it is ascertained that a claim is in the hands of an innocent party, and it has been actually located and surveyed, and is not interfered with by any adverse claim, in virtue of a sale, confirmation, or preëmption right, prior to such survey, that the department be authorized to direct the survey to be approved, and issue a relinquishment, or quit-claim patent, to the claimant; and further, that in any of the suspected class, not yet surveyed, but susceptible of a proper location, the department be further authorized to order a survey, which survey shall be approved, subject, however, to any regular sale, previously made, to any prior location of a recognized claim, and to any preemption right which has been filed with the register and receiver, and which may be found regular in other respects; and that the patents in all such cases be issued with a saving clause, so that the question of title, if desired by any of the parties, may be ultimately tested by judicial investigation.

It is deemed proper to invite attention to the in-lots and out-lots of the present village of *Sault Ste. Marie*, situated in the northern frontier of the Union, on the waters between Lake Superior and Lake Huron, and to suggest that legislative action be had, with a view to the alienation, on liberal terms, to actual settlers, of the title of the United States to such lots as may not be required for military or other public purposes; the lines of the public surveys having been extended up to that region, and a United States land office there opened, for the sale of the public lands in that part of the country.

To effect this object, it is proposed that authority of law be conferred on the department, to have an actual survey made of the village of Sault Ste. Marie; or if there be an existing accurate survey of it, to have the same retraced, in connection with the lines of the public surveys, and upon a map of the same, to have first exhibited such lots or tracts as may be required by the War Department for military or other public purposes; then to direct an examination and report by the register and receiver of the claims of all actual *bonâ fide* settlers who have built upon and improved any of the said lots or parts of the same, discriminating between those holding under the old claims, which were acted upon by the board of commissioners, under the act of 21st February, 1823, and entered in "book No. 7," of the proceedings of the commissioners on claims at the Sault Ste. Marie, (State papers, D. Green, vol. 4, pages 830 to 842,) and such actual settlers as are of a more recent date. Then to have an assessment of the value of such lots at the time of settlement, and of the price that should be paid for the same; and upon the approval, by the department, of such survey and report, each settler who may pay ——— to the receiver, within a limited time, the amount of assessment, to be entitled to receive a patent for his lot. All the vacant lots to be exposed to the highest bidder; and those not sold, to be disposed of at a reasonable minimum at private entry. The money accruing from the sale of improved lots, to be applied to defray the expense of such survey; and the balance paid over to the trustees of the village, for the erection of public buildings, &c. A measure like this would quiet titles, quicken the growth and improvement of the place, which may, and probably will become, before many years, an important commercial point, inviting emigration to that section of country, and leading to an actual and speedy sale and settlement of the public lands in that region, and to the development of the agricultural and rich mineral resources already known to exist in that interesting portion of our country. In connection with this matter, it is proper to observe, that there is a large claim at the Sault Ste. Marie, for six leagues front on the river, and six leagues in depth; which claim originated in 1750, in a concession by Lejonquiere, the Lieutenant Governor General, and Bijot, the Intendant General of New France, and is represent-

ed to have been ratified by Louis XV. on the 24th June, 1751. This claim, however, at the last session was before a committee of the Senate, who made an elaborate report against its validity. (Senate report, No. 209, 1st session 30th Congress.)

By a proviso in the act of Congress, approved 27th March last, entitled "An act further to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1848," so much of the act of 3d March, 1825, as authorized the appointment of two keepers of the public archives in Florida, was repealed, from and after the 30th June, 1848; and in the mean time, it was made the duty of the Secretary of the Treasury to cause the said archives to be removed to some public office in the State of Florida, to be designated by the President, there to be safely kept. This matter having been referred to me by the acting Secretary on the 4th May last, this office made a report on the 8th of that month, suggesting a plan of transfer, and proposing the surveyor general's office at St. Augustine, Florida, as the place of deposite. It having been subsequently represented to the department that the Senate had taken further action on the subject, the matter was ordered to be held in suspense, in deference to that body, and with a view to ascertain whether it was the will of Congress to modify the aforesaid provision of law, or not; but in the publication of all the laws of the last session, it appearing that no change had been made in that provision of the act, and this fact having been brought to the notice of the Executive, the President ordered the archives to be transferred to the office of the surveyor general, as recommended in the aforesaid report from this office of the 8th May last; and instructions have been issued accordingly by this office, requiring the late keeper of the archives at St. Augustine, and the late keeper at Pensacola, to transfer, with proper schedules, all the archives in their possession, respectively, to the custody of the surveyor general at St. Augustine. That seemed to be the most appropriate place to which the transfer could be made, as it is important that the archives should be within the reach and under the control of the surveying department, because of the large number of private claims in Florida yet to be located and surveyed, and in view of the special act of Congress, approved 28th June, 1848, "respecting certain surveys in the State of Florida," which expressly delegates authority to the Commissioner to have the surveys of confirmed private claims made in connection with the surveys of the Florida keys and islands, and in reference to which contracts have been made, and special and detailed instructions given, which have been treated of more fully in another place in this report.

As the numerous reports which have been made at different periods, and by successive boards of commissioners, commencing with the earliest legislation of Congress for the adjudication of foreign titles to land within our territorial limits, and for ancient settlement claims, necessarily exhibit only the nature and extent of the original and derivative titles, with a reference to the surveys under the former governments, or to general localities, I have contemplated the preparation of *exhibits*, which shall contain, in addition to the abstracts of titles, as presented in the adjudications of the commissioners, a reference to the confirmatory acts of Congress, or decrees of courts, and also the designation of the surveys, when finally made, of every confirmed claim. This work has been in part ordered and undertaken, and a portion of it finished. It is proposed that it shall advance to completion, as the public land and private claim surveys shall be closed up in the several States in which the public lands are situated, so that when completely finished, the archives of our Government shall contain a condensed history of every title, from its inception under the former governments, to its adjudication under our own; its confirmation by act of Congress, or judicial decree, and its final survey and patenting, under the authority of the United States.

The treaty of limits westward of the Rocky Mountains, concluded on the 5th August, 1846, between the United States and Great Britain; the organization of the Territory by the act of Congress, approved 14th August, 1848, entitled "An act to establish the Territorial Government of Oregon;" and the interests of our settlers in that distant western frontier, call for further and speedy legislative and administrative action.

By the 3d article of that treaty, it is declared, that "in the future appropriation of the territory 'south of the forty-ninth parallel of north latitude, 'as provided in the first article of this treaty, the 'possessory rights of the Hudson's Bay Company, 'and of all British subjects, who may be already 'in the occupation of land or other property law-'fully acquired within the said territory, shall be 'respected." And by the 4th article of the same treaty, "the farms, lands, and other property of 'every description, belonging to the Puget's Sound 'Agricultural Company, on the north side of the 'Columbia river, shall be confirmed to the said 'company," with a right, on the part of our Government, to purchase, if the situation of those farms and lands should be considered by the United States to be of public and political importance. In the first section of the aforesaid act of 14th August, 1848, for the territorial organization, it is provided, "that the title to the land, not exceeding six hun-'dred and forty acres, now occupied as missionary 'stations among the Indian tribes in said Territory, 'together with the improvements thereon, be con-'firmed and established in the several religious so-'cieties to which said missionary stations respect-'ively belong," &c. And by the 14th section of that act, all laws of the Provisional Territorial Government, making grants of land, or otherwise affecting or incumbering the title to lands, are declared to be null and void.

The obligations imposed by the treaty, and assumed by the first section of the act of 14th August, 1848, render it important and necessary for our Government to establish a tribunal for the prompt adjudication of all claims under the treaty and act of Congress, in order that what is private property may be definitively and speedily ascertained, and that immediately upon the organization of a surveying department for the Territory, all such claims may be regularly and properly separated, by actual survey, from the public lands. As the 14th section of the act of August, 1848, has abrogated and annulled the Provisional Territorial laws making grants of land, the settlers in Oregon are thrown upon the liberality of Congress, to whom alone belongs, under our Government, the power of the primary disposal of the soil.

It is submitted that authority of law should be conferred for the examination and recognition of *bona fide*, actual settlement claims, which existed before, and at the time of the treaty of limits; and that in all cases where substantial and valuable improvements have been made, that the right to the soil should be conceded, and a liberal policy observed, not only to the old settlers, but to those who may hereafter, within a limited and prospective period, seek homes in that region, and establish and maintain such continued possession as will show that they have permanently identified themselves with the interests and future condition of the country. The importance of making provision for the examination and adjudication of titles and claims to land, in our recent territorial acquisitions in New Mexico and California, will doubtless also engage the early attention of Congress.

Though the relations between a people and their former Government be dissolved by a change of sovereignty, "the right of private property remains unaffected by this change."

It is not only, then, required of us as a matter of justice, under this acknowledged principle of universal law, to recognize and respect private property, held by valid titles under former Governments, but it is incumbent upon us to do so, under express stipulations in the 8th and 9th articles of the treaty of peace, friendship, limits, and settlement, with the Republic of Mexico, as ratified on the 4th July, 1848.

It is also of the highest importance to the present and future welfare of those Territories, that early and efficient measures be taken by the appointment of a tribunal, clothed with the necessary powers for ascertaining and adjudicating claims to lands within those Territories, which may be held by *bona fide* titles, under the Governments of Mexico and Spain, and so recognized by the Mexican authorities, before military possession was taken by the United States, in order that all such as are valid and binding upon us may be confirmed and detached from the public lands, and all such as are spurious, or illegally made, may be summarily annulled. Such a tribunal should have the power to hold its sessions at whatever places the President may deem most proper for the object contemplated, should be authorized finally to confirm, and report all valid and complete titles under the Spanish and Mexican Governments for small areas, say, not exceeding tracts of 1,000 arpens each, and to make a report for the decision of Congress, upon all such grants of a larger area, and also upon such of a less area than 1,000 arpens, not held under complete titles, but inchoate, where the latter may appear to be of such a meritorious character as to entitle them to favorable consideration.

It should also be authorized to examine and adjudicate all individual and municipal titles to lots, held under valid and complete grants from the authorities of Mexico, for the erection of pueblos or towns, and to confirm, and finally release the title of the United States to such lots, not wanted for military or other public uses, as may have been granted to the authorities of a town, by a United States military officer, acting at the time as governor, under an appointment from the President of the United States.

Such a tribunal is indispensable, in order properly to discriminate and separate the valid and meritorious titles from those which are invalid and intrinsically destitute of merit in law and equity.

The testimony before the Military Committee of the Senate, in February last, shows the circumstances that, fortunately for the interests of the United States, frustrated the consummation of the immense colonization grant to MACNAMARA,* which he sought of the Mexican Government, for 3,000 square leagues between the river San Joaquin, from its source to its mouth, and the Sierra Nevada, and extending from the river Consumne on the north, to the Tulares on the south, in the neighborhood of San Gabriel, and embracing the most valuable portion of the beautiful valley of San Joaquin. That testimony also shows that the Californian authorities, shortly before the United States flag was hoisted at Monterey, and military possession taken of the country, were settling and granting the public domain to residents, non-residents, and foreigners, at very inconsiderable, if not nominal prices; and further, that "nearly all the missions south of San Luis Obispo, the mission of San Raphael in Sonoma, and some of the large islands on the coast, were granted;" and that it was understood that "many of these grants were hastily made, without the usual legal forms, and wanting the usual formalities." It is of the utmost consequence to the present and future prosperity of our new Territories, and indeed to the interests of the United States, that legal provision be soon made for the summary and final annulment of such invalid claims.

The generous spirit evinced in the grant of school lands by the Oregon Territorial act of 14th August, 1848, will doubtless be extended by Congress to New Mexico and California, to which, also, as regards donations to actual settlers, I beg leave to apply the recommendation in this report respecting Oregon.

The inhabitants there, and the emigrants now seeking homes in those remote Territories, have a right to expect fostering care, and an expansive and enlarged policy towards them, from our Government.

There will be no surer means of contributing to their prosperity than by an early settlement of claims, the gradual extinguishment of the Indian title to meet the advance of civilized settlements, the establishment of surveying departments, the extension over the Territories of our simple and beautiful surveying system, and the opening of United States land offices for the sale of the public domain.

The recommendations in the foregoing, look to the early introduction of our whole land system, and its gradual and progressive extension over our new Territories; but, as in a part of them the mineral productions of the country, which are reported to be great, will doubtless stimulate and

*He proposed to give to each family he would bring "*un sitio deganado mayor*," being a square league, containing 4,428 acres, and to the children of the colonists, when they married, a half *sitio*.

hasten emigration, it is submitted, whether it would not be proper for Congress, in advance of our general legislation, and at an early period, to delegate authority to the department to appoint a superintendent, with a corps of surveyors, to make a preliminary reconnoissance of the mineral precincts, and to survey them off into small tracts, to suit persons desirous of making mineral explorations; say, in lots of ten acres each, being one-fourth of the present smallest legal subdivision. Then to fix a reasonable mimimum, with a right of preëmption to the first occupant or discoverer, and, after exposure to public sale, under such instructions as may be given by the department, to lay open at private entry at the minimum, such lots as may not be disposed of at public sale.

A measure like this will create a proper relation and legal connection between the people and their Government; will afford an opportunity to individuals to obtain a legal title to the lands; and instead of the irregularity and confusion likely to arise in the pursuit of ore, will establish system and order, and insure to every one whatever he may honestly obtain by his labor, within the limits of his own lot; whilst, at the same time, the Government, by an adoption of some such policy, will doubtless eventually be well reimbursed.

In relation to the issuing of grants for—

III.—INDIAN RESERVATIONS,

Which belongs to the "Private Land Claim" branch of this office, I have the honor to report, that the business is steadily progressing, and the General Land Office is prepared, on demand, to issue patents in all cases where the requisite evidence of elementary title has been rendered to this office.

Under the Choctaw treaty of 1830, patents are issued to the Indian residents for reserves, under the 14th article, and under the 19th article or supplement, either to the reservee, where he has not sold his interest, or to the *first* purchaser from him, when the sale has been approved.

In respect to the numerous reservations under the Creek treaty of 1832, there are some instances in which grants issued to the reservees themselves, but by far the greater portion are cases in which the reservees have sold their rights, and under the act of Congress it is required that the patents shall issue to the last purchaser, in virtue of regular assignments.

This requirement has devolved much labor upon this office, in the examination of claims of title, not unfrequently complex and embarrassed, growing out, in many cases, of purchases made by companies from the Indians, and afterwards transferred; and, in others, of rights which have been the subject of controversy, or of judicial inquiry and determinatien.

In several other treaties with Indian tribes, in which the reservations are less numerous than those above mentioned, such as the Pottawatomies, Winnebagoes, Miamies, &c., the form of patent has of course to be adapted to the peculiarities of such treaties.

For the more numerous reservations under the Chickasaw treaties of 1832 and 1834, the grants issue to the reservees themselves, and purchasers from the Indians hold in virtue of such grants, and of approved deeds by the President.

In regard to the Chickasaw cession, the United States, as you are aware, undertook the sale of the lands for the benefit of the Chickasaws, and in 1833, and subsequently, "regulations" on the subject were adopted, and approved by the President.

Pursuant to those regulations, this office was charged with the general direction of the surveys and sale of the land, with the auditing and adjusting of the accounts of the principal surveyor, and of the receiver of public moneys in the cession, and with the issuing of patents for the reserves and general sales.

The cession embraces, as heretofore reported, six millions seven hundred and eighteen thousand five hundred and eighty-six acres, and twenty-seven hundredths. After satisfying the reserves, which cover over a third of the cession, the residue of the land has been exposed to sale, the "land office section" excepted; including all the isolated tracts which, at the date of my last annual report, were unoffered, they having since been brought into market in the manner then proposed. More than nine-tenths of the land which was liable to sale in the cession have been sold, leaving less than one-tenth of it now in market unsold, the most of which has graduated to the lowest rate specified in the treaty, being 12½ cents per acre.

There have been made out for sales in the cession, and for reserves, twenty-three thousand eight hundred patents; and semi-annual reports as to the progress of the business up to thirtieth June last, have been regularly communicated from this office to the Indian Office, War Department.

In the 11th article of the treaty of 1834, referring to the periods of graduation therein specified, it is provided as follows: "But as it may happen, 'in the fourth and after years, that the expenses 'may prove greater than the receipts, it is agreed, 'that at any time after the third year, the Chicka-'saws may declare the residue of their lands aban-'doned to the United States; and if so, they shall 'be thenceforth acquitted of all and every expense 'on account of the sale of the same;" and in the 5th article of the supplement to that treaty, it is declared, that "whenever the President shall be 'of opinion that the services of any officer em-'ployed under this treaty for the sale of lands can 'be dispensed with, he will, in justice to the Chick-'asaws, and to save them from unnecessary ex-'penses, discontinue the whole, or such as can be 'dispensed with."

Under this last stipulation, the services of all the officers at Pontotoc, Mississippi, connected with land operations at that place, which is the seat of the local office in the cession, have been dispensed with, except the register and receiver, whose compensation is fixed by the treaty; and therefore the sales and general management of the business will necessarily procced as at present, until either the cession is sold out, or the contingency alluded to in the aforesaid 11th article of the treaty of 1834 shall occur, or other measures shall be prescribed by further treaty stipulations or by legislation.

IV.—PROCLAMATIONS OF LAND SALES.

Since the last annual report from this office, there have been proclaimed for sale, exclusive of school lands:

In Ohio, the unsold, improved Wyandot lands.		
In Michigan	2,662,218	acres.
In Wisconsin	877,963	"
In Iowa	1,928,317	"
In Missouri	1,410,049	"
In Arkansas	937,864	"
In Louisiana	281,961	"
In Florida	1,361,369	"
Making a total of	9,459,741	"

The quantity now surveyed and prepared for market, but the greater part of which cannot be offered for sale at present, for the reasons mentioned in the details and notes of exhibit, is 4,716,375 acres.

The quantity of land estimated for survey, the township plats of which are expected to be returned during the year 1849, is 9,113,400 acres; which is about the usual average quantity annually surveyed and brought into market for several years past.

Numerous sales of detached tracts have been ordered, under the authority conferred on this office by the fifth section of the act of 3d August, 1846; and measures have been adopted to offer the balance of these lands at the earliest practicable period. There is a class of these detached tracts, however, over which this office has no control; and settlers; consequently, are frequently prevented from entering them, and thus securing their homes and the fruits of their industry. Reference is here made to lands which have been reserved for military and naval purposes, and which are no longer needed or useful for those purposes. Under the act of 3d March, 1819, the Secretary of War is authorized to dispose of lands which have been reserved for military purposes, and which become useless for those purposes; but no authority of law exists for the sale of those which have been reserved for naval purposes. Except where valuable improvements are situated on these lands, they will not yield more than the ordinary minimum, and hence will not justify the expense of sending a special agent to dispose of them. It is therefore respectfully recommended, that this office be authorized to dispose of those lands in the ordinary mode, or under such regulations as may be required for the interests of the Government, so that the value of the improvements shall be secured to the United States, in addition to the price of the lands.

V.—SALES OF PUBLIC LANDS, LOCATIONS OF CHOCTAW CERTIFICATES, LATE WAR WARRANTS, MEXICAN WAR BOUNTY LAND WARRANTS, ETC.

During the calender year 1847, there have been sold of the public lands, exclusive of the erroneous entries, 2,521,305.59 acres; for which there was received in payment, cash $3,201,284 08, in treasury notes $20,452 01, in treasurer's receipts $72, in military land scrip $5,196 81, in forfeited land stock $92 68, and in Choctaw certificates $69,306 50, up to the 30th June, 1847, when they ceased to be received as money, making the gross amount of purchase money $3,296,404 08: and during the first, second, and third quarters of the calendar year 1848, there were sold 1,448,240.51 acres, for which there was received in payment, in cash $2,018,032 71, in treasury notes $8,094 95, and in military land scrip $4,540 64, making the gross amount of purchase money $2,030,668 30.

There have been located with "Choctaw certificates," distinct from the ordinary sales for cash, from the 1st of July to the 31st December, 1847, 55,903.79 acres; and during the first, second, and third quarters of 1848, 42,083.44 acres; and in October, 1848, as far as the returns have been received at this office, 3,216.78 acres.

There have been located with bounty land warrants, under the act of May 6, 1812, for services rendered in the late war with Great Britain, during the calendar year 1847, 37,440 acres; and for the first three quarters of the year 1848, 3,840 acres.

The number of outstanding "*certificates of location,*" issued upon warrants of this class, under the above recited act, which have not as yet been returned as located, is 137, embracing 21,920 acres, being for 160 acres each:

The act of July 27, 1842, entitled "An act to provide for satisfying claims for bounty lands, for military services in the late war with Great Britain, and for other purposes," which had expired by its own limitation, has been again revived by the act of June 26th, 1848; and the time for issuing this class of warrants extended to the 26th of June, 1853:

With Mexican war bounty land warrants, under the 9th section of the act of February 11, 1847, during the year 1847, 250,320 acres; and for the first three-quarters of the year 1848, 1,525,200 acres:

Making the whole amount of the public lands disposed of by *sales* and *locations*, for the periods aforesaid, 5,887,550.11 acres.

According to a statement from the Commissioner of Indian Affairs, dated November 30, 1848, 3,832 Choctaw certificates have been issued under the act of Congress of August 23, 1842, calling for 700,240 acres, and transmitted for delivery to the claimants; of which, according to the latest returns, 1,843 certificates appear to have been delivered. Of the amount thus issued and delivered, 1,559 certificates, calling for 279,140 acres have, according to the latest returns to this office, been absorbed in the location of 277,376.14 acres of land in the *four* States of Mississippi, Louisiana, Alabama, and Arkansas, in which only they are by law receivable, leaving 421,100 acres yet to be located.

The first Mexican war warrant issued from the Pension Office, a branch of the War Department, under the 9th section of the act of Congress of the 11th of February, 1847, for 160 acres of land, is dated the 19th of March, 1847, and was registered in this office March 20, 1847. The first warrant for 40 acres bears date the 7th of April, 1847, and was registered April 8, 1847.

Since that time, and up to November 30, 1848, warrants have been issued for 160 acres each, to the number of 39,825, for 6,372,000 acres of land; and for 40 acres each, to the number of 3,349, for 133,960 acres; making the whole number of Mexican war warrants issued, up to the 30th of November, 1848, 43,174, embracing 6,505,960 acres of land.

Of this number, 10,793 warrants for 160 acres each, and 1,216 warrants for 40 acres each, calling

in the aggregate for 1,775,520 acres, have been located upon lands, and returned to this office, by the local land officers, for patents.

It will be seen, by the statement of the Adjutant General, dated April 5, 1848, which was communicated in a report made to the Senate of the United States by the Secretary of War, on the 8th of the same month, that the strength of the regular army, at the commencement of hostilities with Mexico in April, 1846, was 7,244 men; that since the 18th May, 1846, 29,000 men have been recruited, of which 23,556 were sent to Mexico; making the old army and recruits together amount to 36,244, besides a battalion of marines, composed of 350 men. There were other recruits after that time, not mentioned in this statement, which General Jones (the Adjutant General) estimates at about 5,000 or 6,000; making, altogether, of the regular army, as nearly as can be ascertained, 40,000 men. Of this number, 35,000 were probably entitled to "land warrants."

According to the same statement, the volunteer force enrolled under the act of May 13, 1846, and the 5th section of the act of March 3, 1847, amounted to 56,926 officers and men. General Jones thinks that a sufficient number of recruits may be added, which became necessary, from time to time, to keep up the whole number authorized by the act of Congress to 50,000 men, to make the entire number of volunteers equal to about 60,000 men. Of this number, 55,000 were probably entitled to land warrants: making the whole number of regulars and volunteers entitled to bounty lands, about 90,000 men.

The number of warrants issued by the Commissioner of Pensions, and registered in this office, up to the 30th of November, 1848, amounts, as before stated, to 43,174. Now, if this estimate should prove to be correct, that 90,000 were originally entitled to bounty lands, 46,826 warrants still remain to be issued.

It is understood that the average number of warrants issued by the Commissioner of Pensions per day is from 150 to 200. At this rate, it will take about 268 working days to complete the number still to be issued, if all who are entitled should apply, (a supposition by no means probable,) which would make the time still required for this service about ten months.

I think it not improbable, however, judging from our past experience, in respect to the "*late war warrants*," that from *ten* to *fifteen* thousand (embracing the cases of foreigners who were killed or died in the service, without relatives in this country, and of heirs, who are frequently ignorant of their rights) will not be applied for within the ensuing year, and very many, doubtlesss, will never be called for at all.

The estimated receipts of cash, on account of the sales of the public lands, for the fiscal year ending 30th June, 1849, are stated at $2,834,700; and for the fiscal year ending 30th June, 1850, $2,407,500, provided the usual quantity of fresh lands are surveyed and brought into market, according to the existing practice of the Government.

This supposed falling off in the receipts, as compared with the last year or two, is accounted for by the fact, that very large amounts of the public lands are now being located with Mexican war warrants, instead of money; and so it must be, in a more or less degree, from year to year, until these warrants are all absorbed by locations, and thus withdrawn from competition in the market.

From the best data that can be obtained, it is estimated that 15,000 warrants, covering 2,400,000 acres, will be located during the balance of the current fiscal year; and 25,000 warrants embracing 4,000,000 acres, for the year ending 30th June, 1850. These, added to the estimated amount of cash sales, it will be perceived, will make the estimated aggregates of lands disposed of in each year nearly double the usual average, with proper allowance for increase of population, and the increase of locations consequent upon the reduced price of these warrants.

The compensation allowed to the district land officers for their services in the location of these warrants, by the act of 17th May, 1848, has been found to be wholly inadequate, and many just complaints have been made on this subject. The labor and trouble devolved on those officers, in receiving, noting, registering, and returning those warrants, is much greater than in receiving, noting, &c., an application for an ordinary private entry. I would therefore respectfully recommend, that the act of 17th May, 1848, above mentioned, be so amended as to authorize those officers to charge the same per centage for the location of those warrants that they are now allowed by law on cash entries, retaining the provision, however, that they shall not be permitted to make any charge in cases where the warrant is located by, and for the use of, the volunteer or soldier to whom such warrant may have issued.

The experience had, since my incumbency of the office I now hold, has convinced me that a new arrangement of the duties of this office was absolutely necessary, to secure a prompt, efficient, and regular discharge of the public business. On several occasions, when gentlemen having charge of special branches of business, were absent from sickness, or for relaxation, necessary alike to the health of the officer and the true interests of the Government, their duties had to remain unexecuted till their return. Moreover, it sometimes happened, that different branches of the same business were discharged by different individuals, and hence arose a risk of discordant views, and conflicting decisions. To obviate these evils, on full consideration, I concluded to place the whole of the accounting business, including the bookkeeping, and miscellaneous correspondence connected therewith, under the charge of four of the most experienced and competent clerks, giving to each a first assistant, who could discharge his dutes in case of sickness or absence; and such further assistance as the magnitude of his duties required. The transmission of patents, with all the correspondence connected therewith, was placed under the charge of the Recorder. By this means, the Miscellaneous Bureau has been abolished, the force of the office concentrated, and although the new system has not been long enough in operation to decide finally on its merits, I have no doubt that its results will be highly satisfactory, and will materially advance the public business, and promote the best interests of the office.

Under the act of 9th May, 1848, relative to the selections for the Wabash and Erie canal in Indiana, and entitled "An act in addition to an act therein mentioned," the necessary instructions have been issued, to enable the trustees of that work to complete the selections authorized by that act.

To carry out the provisions of the second and third sections of the act of 29th May, 1848, "for the admission of Wisconsin into the Union," lists have been prepared of all the sales made within the limits of the grant for the Milwaukie and Rock River canal, showing those at the increased minimum fixed by the act of 18th June, 1838. These lists have been sent to the land officers at Milwaukie, with instructions to compare them with their records, and to check any errors or omissions that may be found in them. When these lists are returned thus corrected, the lands in the even-numbered sections belonging to the Government, will be brought into market at the ordinary minimum, as required by the act of 29th May, 1848, above mentioned; under the same act, the land officers were required to ascertain and report the present owners of the lands within the limits of this grant, which were purchased at the increased minimum fixed by the act of 18th June, 1838, that the certificates for the difference between the minimum of one dollar and twenty-five cents per acre, and the price paid for those lands, may be issued to the present holder of them, as required by the third section of the act of 1848.

Diagrams have also been prepared of the grant made by the act of 8th August, 1846, to Wisconsin, on her admission into the Union, for the improvements of the Fox and Wisconsin rivers, and for connecting the same by a canal. This act is manifestly deficient in this, that it grants to the State a *quantity* of land equal to one-half of three sections in width on each side of Fox river, the lakes through which it passes, and the canal above mentioned, but makes no provision as to character or locality of the lands that shall be selected to supply deficiencies caused by sales and donations in the odd-numbered sections within that grant, which were made before that act went into operation. In the correspondence with the Governor on this subject, he has been authorized to make selections to supply those deficiencies; and the land officers have been instructed to reserve all lands so selected till the final action of Congress has been had on the subject.

The act of 16th June, 1848, "to attach a portion of the northwestern land district in Louisiana to the district north of Red river in Louisiana" has been executed, and the plats and records of the lands thus separated have been transmitted from the former to the latter office.

Under the act of 1st July, 1848, "for the relief of the *bona fide* settlers, under the acts for the armed occupation and settlement of a part of the Territory of Florida," an agent was appointed to repair to Florida, and to obtain the evidence required by that act. Instructions, full and minute in every particular, were prepared for this agent, with records, in which all the cases that had arisen under the armed occupation acts were entered in numerical order, with a full history of each, so far as was shown by the records of this office; and a blank column left for the decisions of the agent. The returns of his operations, as far as received, have been highly satisfactory; and there is every reason to believe that this long-pending and harassing matter will soon be finally disposed of.

VI.—STATE SELECTIONS.

The following statement shows the quantity of land to which each of the new States was entitled, under the 8th section of the act of Congress of September 4, 1841; the number of acres selected and located by each, and approved by the Secretary of the Treasury, up to November 30, 1848; the number selected and located, but not finally acted upon for the want of township plats, and other causes; and the residue not as yet selected and finally located, to which each of said States is entitled, respectively:

Names of States.	Number of acres to which each State was entitled.	Number of acres selected by the States and approved by the Secretary of the Treasury.	Number of acres selected, but suspended for further examination.	Number of acres to which each State is yet entitled, including the suspended locations.
Arkansas..	500,000	490,869.46	3,833.72	9,130.54
Missouri...	500,000	498,997.62	None.	1,002.38
Louisiana..	500,000	245,371.38	96,445.56	254,628.62
Illinois....	209,085.50	209,060.05	None.	25.45
Michigan..	500,000	492,914.07	None.	7,085.93
Alabama...	97,469.17	None.	None.	97,469.17
Florida....	499,990	None.	262,571.42	499,990.00
Iowa.....	500,000	5,866.39	7,361.57	494,133.61
Mississippi.	500,000	478,643.20	None.	21,356.80
Wisconsin.	360,364.01	None.	21,102.72	360,364.01
Total....	4,166,908.68	2,421,722.17	391,319.99	1,745,186.51

Showing that the aggregate amount to which said States were originally entitled, under the act referred to, was 4,166,908.68 acres; the quantity already selected, located, and approved by the Secretary of the Treasury, 2,421,722.17 acres; the quantity selected, but the locations of which have been suspended for further examination, 391,319.99 acres; and the quantity to which said States are yet entitled, on the 30th of November, 1848, 1,745,186.51 acres, including the cases of location held up for further examination, and which have not been approved by the Secretary of the Treasury.

It may not be improper to remark, in connection with this subject, that by an act of Congress passed on the 11th of August, 1845, the State of Alabama is authorized to locate the quantity of land to which that State is yet entitled, in legal subdivisions of not less than *forty* acres each, with the privilege of selling the same, when thus located, for the use of schools within the townships of said State, at such prices as the Legislature may direct. The other States are required, by the act of September 4, 1841, to locate "in parcels, conformably 'to sectional divisions and subdivisions, of not 'less than 320 acres in any one location."

VIII.—SUSPENDED ENTRIES.

Prior to the expiration of the act of 3d of August, 1846, in relation to suspended entries of land in this office, it was discovered that other and pressing duties would have to be neglected, or they would prevent a due examination, within the time limited by the act, of many cases of preëmp-

tion and private entry, which ought justly and properly to be confirmed, under its provisions. To avoid this evil, I recommended to the appropriate committees of Congress, at the last session, an extension of said law for a year; which recommendation was approved, and led to the passage of the act of 17th July, 1848, extending the provisions of the act of the 3d of August, 1846, to the 3d of August, 1849; within which period, it is believed, all the cases in which the claimants are *equitably* entitled to relief, will be disposed of.

In my last annual report, I stated all the cases which had been examined and confirmed up to that date. Since then, the following additional cases have been adjudicated favorably to the claimants, to wit:

	Acres.
In Mississippi—	
5 preëmption entries, embracing about.....	560
In Louisiana—	
32 preëmption entries.....do.....	4,160
9 back concession and private entries, embracing about.....	1,920
In Missouri—	
159 preëmption entries, embracing about.....	20,640
14 private entries.....do.....	1,120
In Arkansas—	
12 preëmption entries.....do.....	1,520
9 private entries.....do.....	1,760
In Wisconsin—	
2 preëmption entries.....do.....	160
558 private entries.....do.....	46,800
In Florida—	
6 preëmption entries.....do.....	480
In Indiana—	
1 preëmption entry.....do.....	80
Total confirmed, 897 preëmption and private entries, embracing.....	79,200
Rejected 2 entries, in part, in Wisconsin.....	160

As soon as the remaining cases shall have been adjudicated by the board, a full report will be made to Congress of the whole number of entries confirmed and rejected by the board, under the provisions of the acts aforesaid, in conformity with the second and third sections of the first recited act, of August 3d, 1846.

In the mean time, patents will be issued to the claimants as heretofore, as fast as the confirmations are made, and the several cases are thereby released from suspension.

VIII.—THE NUMBER OF PATENTS ENGROSSED, RECORDED, TRANSMITTED, ETC.

1. The number of cash-system patents engrossed, recorded, and transmitted to patentees, on account of the ordinary sales of the public lands, for cash, from the 1st of January, 1847, to the 30th of September, 1848, is 134,500.

2. The number of patents engrossed, recorded, and transmitted, for private land claims, Indian reservations, and Chickasaw Indian sales, from the 1st of January, 1847, to the 30th of September, 1848, is 1,622.

3. The number of patents engrossed, recorded, aed transmitted upon located bounty-land warrants, for services rendered in the late war with Great Britain, from the 1st January, 1847, to the 30th September, 1848, is 257.

4. The number of Virginia military patents engrossed, recorded, and transmitted, on entries and surveys made, in the Virginia military reservation in the State of Ohio, from the 1st January, 1847, to the 30th September, 1848, is 375.

5. The number of patents engrossed, recorded, and transmitted, on locations made with Mexican war bounty land warrants, from the 4th day of December, 1847, to the 30th day of September, 1848, is 5,002.

Making the total number of patents engrossed, recorded, and transmitted to the patentees, by the General Land Office, during the calendar year 1847, and first, second, and third quarters of the year 1848, 141,756.

1. The number of copies, or exemplifications of cash-system patents, furnished to applicants, during the year 1847, and for the first, second, and third quarters of 1848, is 457.

2. The number of copies, or exemplifications, of late war with Great Britain bounty land patents, for the same periods, is 400.

3. The number of copies, or exemplifications, of Virginia military patents, for the same periods, is 300.

4. The number of copies, or exemplifications, of private land claims, Indian reservations, and Chickasaw Indian sales patents, for the same periods, is 256.

Making the total number of copies of patents furnished to applicants during the year 1847, and for the first, second, and third quarters of the year 1848, 1,413.

Unremitted attention has been given to this important branch of the operations of this office, with the view of bringing up all the patents, of the various classes mentioned, to the latest practicable date; and much credit is due to the gentlemen intrusted with this service, for the extraordinary number, as compared with former years, which have been written and transmitted for the last, and first three-quarters of the present year.

Great labor and particularity are often necessary, in preparing the forms of the patents for the private land claim and Indian reservation cases, and much time is consumed in writing them, after the forms are made out and corrected—it being not unfrequently the case, that the writing of a single patent will require the constant employment of a good clerk for a whole day. The Virginia military patents also require much time in writing them, on account of the numerous courses and distances in many of the surveys, and much care is necessary, to avoid mistakes, which might render them valueless in the hands of the patentees, after they are written.

To avoid all possible errors, however, as far as may be practicable, all the patents, of every description, are rigidly examined and compared with the certificates of purchase, certificates of location, or other data upon which they are predicated, by boards of competent examiners, before they are given out to the patentees, or transmitted to the local land offices for delivery.

IX.—BOUNTY LAND DISTRICTS IN THE STATE OF OHIO—BOUNTY LAND SCRIP, &c.

I mentioned in my last annual report, that there were *three* military districts in the State of Ohio, to wit: 1st. The United States Military District; 2d. The Canadian and Nova Scotia Refugee District; and 3d. The Virginia Military District. These districts were originally carved out of the "Northwestern Territory," and set apart and reserved by the United States and the State of Virginia, for the satisfaction of claims to "bounty lands," for services rendered during the revolutionary war.

1. *The United States Military District* contained originally 2,514,867.58 acres, and was set apart to satisfy the claims of such officers and soldiers only as had served on continental establishment during the war. Of this quantity, 1,301,326.38 acres were located with bounty-land warrants, and 127,626.50 acres appropriated for common schools in the district, and otherwise granted to persons properly entitled thereto—leaving 1,085,914.70 acres unlocated, prior to the 3d of July, 1832.

The unlocated portions of this district were restored to the mass of the public domain, and made subject to private entry, as other public lands, by the act of July 3d, 1832, of which there have been sold, up to December 31st, 1847, 1,069,204.56 acres, leaving still a vacant remnant of 16,710.14 acres subject to sale at "*private entry.*" The same act provided for the satisfaction of all the outstanding unlocated claims upon this district, in a species of *scrip*, usually called "*revolutionary military land scrip*," which was made receivable in the entry and payment of other public lands, for the number of acres expressed upon the face of the scrip.

The time for issuing warrants for these unsatisfied claims was extended, by the act of July 13th, 1832, to the 1st January, 1835; and by the act of January 27th, 1835, to the 1st day of January, 1842.

The act of 27th January, 1835, was subsequently revived, and continued in force, by the act of July 27th, 1842, for the term of five years, from and after the date of the last-mentioned act.

The time for issuing this class of warrants expired on the 27th July, 1847. The second section of the last-recited act provided, that all cases which were not finally disposed of within the time thus limited, should be, therefore, forever barred from the benefit of all claim to bounty land, for services performed, within the spirit and meaning of the foregoing recited acts.

The two acts of January 27th, 1835, have been again revived, by the act of the 26th June, 1848, and continued in force for *five* years from the passage of said act—by which the time for issuing this class of warrants has been extended to June 26th, 1853.

2. *The Canadian and Nova Scotia Refugee Land District.*—By the act of February 18th, 1801, fractional townships of the 16th, 17th, 18th, 19th, 20th, 21st, and 22d ranges of townships adjoining the southern boundary of the first-mentioned district, containing 97,930.17 acres, were ordered to be subdivided into half sections of three hundred and twenty acres each, and set apart to satisfy the grants made to the refugees from the British provinces of Canada and Nova Scotia, of which 53,462 acres were located with Canadian warrants; leaving 44,468.17 acres unlocated prior to the 29th of April, 1816.

The unlocated portions of this district were reattached to the public domain, and made a part of the Chilicothe land district, by the act of Congress of April 29th, 1816; and having been shortly afterwards proclaimed for sale at public auction, subsequently became subject to sale at "private entry," as other public lands; since when, and up to 31st December, 1847, 43,386.17 acres have been sold; leaving a small remnant of 1,082 acres, still vacant and unsold.

3. *The Virginia Military District* lies between the Scioto and Little Miami rivers, and contained originally upwards of 4,000,000 of acres. This district was reserved by the State of Virginia, in her deed of cession of 1784, for the purpose of satisfying the "bounty land" claims of her own officers and soldiers on continental establishment, for services rendered during the revolutionary war. The good lands in this district have been long since absorbed by the locations of the more early claimants, and a large number of warrants of this class appear still to be unsatisfied. The quantity of land still remaining vacant in this district is estimated at about 175,000 acres, the greater part of which is represented to be of very inferior quality, and much of it as entirely unfit for cultivation.

The first act passed by Congress, on the 30th May, 1830, for the relief of the officers and soldiers of the Virginia State line, and the navy of the Revolution, provided for a relinquishment of their claims to bounties in lands, and for the issuing of certificates of scrip, in satisfaction of them, for certain nominal sums equal to the minimum price of the public lands, for such number of acres as the claimants were entitled to. These certificates of scrip were made receivable in payment for any lands subject to sale at "private entry," in the States of Ohio, Indiana, and Illinois; the time of issuing them limited to the 1st January, 1835, and the quantity of land thus to be located restricted to 260,000 acres.

By the 7th section of the same act, the like provision was made for the unsatisfied warrants of the Virginia line of troops, on *continental establishment*, and the quantity of land limited to 50,000 acres, which was in addition to the 260,000 acres, authorized to be located for the benefit of her State line troops and navy, by the fifth section of the act. This amount of scrip having proved to be insufficient for the satisfaction of these classes of warrants, another act was passed on the 13th July, 1832, authorizing an additional issue of *scrip* for 300,000, embracing as well the Virginia line of troops on continental establishment, as her State line and navy, so far as the warrants of either remained unsatisfied.

This last mentioned appropriation being also exhausted, another act was passed on the 2d of March, 1833, providing for the issue of an additional amount of scrip, for 200,000 acres of land, for the same uses, with the additional privilege, that this class of scrip should be receivable in payment for any of the public lands subject to private entry, without restriction as to the State or Territory in which they might be situated.

A large number of these warrants being still unsatisfied, Congress again, by the second section of the act of 3d of March, 1835, making "appropriations for the civil and diplomatic expenses of the Government for the year 1835," authorized a further issue of scrip for 650,000 acres of land, in addition to the amounts heretofore appropriated by the acts of 1830, 1832, and 1833, with the provis-

ion, that such certificates of scrip should be receivable in payment for any of the public lands subject to sale at "private entry."

This section of the law, which seems to have been intended to put an end to any further applications to Congress on account of these unsatisfied claims, provided that no scrip should be issued under it until the 1st day of September, 1835, and that, in the mean time, these land warrants should be received in the General Land Office until that day; and that, if the amount thus filed should exceed in quantity the 650,000 acres of land appropriated by the act, the Commissioner of the General Land Office should *apportion* the said amount of land among the warrants which might then be on file in his office, *in full satisfaction thereof.*

This is the last law which has been passed in reference to this class of claims. The claimants have, nevertheless, continued to file their warrants in this office, from time to time, notwithstanding the expiration of the period limited by the act, in the hope or expectation that some further provision would yet be made by Congress for their final and complete satisfaction, at some future period, in "*scrip.*"

The number of warrants of this description issued by the authority of the State of Virginia, and now on file in this office, is 330, consisting of Virginia Continental State line and Navy warrants, embracing in the whole 201,000 acres.

Whether a further issue of "*scrip,*" to satisfy these claims, is required by justice or not, under all the circumstances, is now again respectfully submitted for the consideration of Congress.

The number of patents issued upon surveys of lands in this district during the year 1847, and for the first three quarters of the year 1848, is 375, embracing 33,275 acres; and the number of surveys now on file in this office, and not *patented,* is 73, calling for 5,201 acres of land.

X.—LEAD MINERAL LANDS.

Under the act of July 11, 1846, the whole of the reserved lands in the States of Illinois, Arkansas, Wisconsin, and Iowa, supposed to contain mines of "*lead ore,*" have been offered for sale at public auction, and but a very small proportion sold as "mineral lands." The portions still remaining unsold have become subject to "private entry," at the ordinary minimum of $1 25 per acre; and the leasing system has been entirely abandoned, as unprofitable to the Government, and injurious to the settlement and improvement of the country.

Of the 556 entries in the Mineral Point District, Wisconsin, which had been heretofore suspended on account of alleged frauds, and which were investigated and reported upon by General Samuel Leech, under instructions from this office, dated April 12th, 1847, 540 cases have been confirmed under the provisions of the act of August 3, 1846, leaving sixteen only for future adjustment; most of which will probably be rejected, for want of sufficient testimony to show an equitable interest on the part of the present claimants.

In the adjudication of these cases, a liberal policy has been uniformly adopted by the board, where there were no conflicting claims on the part of third persons, to make it necessary to pursue a more rigid course of examination.

XI.—COPPER MINERAL LANDS.

The sales of the mineral lands in the Lake Superior district, in Michigan, and in the Chippewa district in Wisconsin, have fallen far short of what had been anticipated. In the former district, there have been sold 2,016.07 acres, at the minimum of five dollars per acre; and 6,464.81 acres under leases, at the minimum of two dollars and fifty cents per acre; making a total of 8,480.88 acres, amounting to $26,242 37. In the latter district, no sales have been made of mineral lands.

There is no doubt there are many valuable mines of copper in these districts; but it is evident, from the reports of the geologists, that there are also numerous deposites of mineral that are not worth working. The experience of the past with reference to the mineral regions of Wisconsin, Iowa, and Missouri, is certainly conclusive as to the inexpediency of continuing the leasing system, or increasing the minimum price of these mineral lands; and it would seem to be but reasonable that we should be guided by that experience in reference to the mineral lands now under consideration. Admitting that valuable mines may be discovered, and that the persons working them can procure the lands embracing them for five dollars per acre, it is manifest that that price is no equivalent for such mines. But where persons are deceived by indications, and purchase lands containing valuable deposites, at the same price, it is equally apparent that they have suffered injustice. Moreover, by fixing the minimum of these lands at a high rate, the settlement of the country is retarded; and by compelling lessees to enter large bodies of these lands to secure their mines, the whole country is thrown into the hands of a few capitalists, instead of being apportioned out in small tracts among actual settlers and agriculturists. By these means the hardy pioneers are shut out of the country, and, consequently, the actual wealth of it cannot be explored and developed.

If every facility was given to the purchase and settlement of these regions, the miners could cultivate the soil, while they were seeking for mineral wealth; and the farmers would reap a rich reward for their labors, in the advanced price they would get, in that inhospitable region, for the products of their farms. More mines would be discovered and worked, and the consequent increase in the quantity of the metal produced would decrease the price of it, and thus the whole community would be benefited. I would, therefore, respectfully recommend, that the price of these lands be reduced to the ordinary minimum, and that they be thrown open to preëmption, reserving, however, to the owners of leases which have not expired, the right to enter all the lands covered by their leases at the reduced minimum.

The report of the mineral agent is very full and satisfactory, and shows that several of the mines which have been worked have proved to be valuable investments. This agency has not only supported itself, but has yielded an actual revenue to the Government, over and above all expenses, of nearly seven thousand dollars, in the space of about two years. As the sales progress, the business of the agency of course decreases; and as it is expected that most of the lands which have been surveyed will be brought into market next summer, I would respectfully recommend that that agency be closed after the 30th June next, and the remaining duties, if any, be devolved upon the land officers at Sault Ste. Marie, with a reasonable compensation for additional duty.

XII.—PRE-EMPTION RIGHTS.

I beg leave most respectfully to refer to the recommendation in my last annual report, for the extension of the preëmption privilege to all actual settlers on the public lands, whether surveyed or not, to which the Indian title has been extinguished. This meritorious class of our citizens is entitled to special consideration, as it is chiefly through their instrumentality that the fruitful regions of the West have been opened up to the enterprise and industry of the millions who now people them. When we compare the prosperity of those young and flourishing States with their condition thirty or forty years ago, and remember that it was chiefly by means of the labor, the sufferings, and toil of the hardy pioneers and their descendants, that the wilderness has been transformed into fruitful fields, and cities and towns built up where the beasts of the forest were wont to range, it is certainly but small compensation that they should be permitted to purchase their homes and farms at the price fixed by the Government, without competing with the greedy speculator for the fruits of their own labor. Certainly the Government cannot desire to increase its revenues by the pittance that might be obtained at public sale for the improvements of such settlers; and as those improvements alone enhance the value of such lands, it is a matter of strict justice and equity that every settler should be permitted to purchase his lands at the maximum that they would yield if they were not improved. I would therefore recommend that the preëmption laws be so amended, and that provision be made to prevent the injustice now frequently suffered by settlers, under the act of 4th September, 1841, who may not have filed their declarations within the time prescribed by that act, and consequently lose their improvements by preëmption rights acquired by subsequent settlers. And also to require the settlers upon lands subject to "*private entry,*" with the view of procuring the right of preëmption under the 15th section of the act, to file with the register of the proper local land office, in lieu of the declaratory statement now required by law, and within the time now limited by that act, an affidavit that he has actually made a settlement upon the land claimed, by a personal residence thereon; that it is his intention to purchase the same from the United States, in good faith; and that such settlement and claim are made for his own benefit, and not for the use or in trust for another: the said affidavit to be accompanied by the corroborating testimony of two credible witnesses, who shall also state in their affidavits the number composing the claimant's family, the nature and extent of his improvement upon the land, and that he continued to reside thereon.

This precaution has become necessary, from experience in numerous cases, to prevent fraudulent declarations and pretended settlements, with a view to speculation only, where there is no apparent intention to purchase the land from the Government.

XIII.—SCHOOL LANDS.

It has been the policy of Congress to promote educational purposes, by a grant of the sixteenth section to every township, for the support of schools; and where that section is interfered with, either in whole or in part, by private confirmed claims, donations, or Indian reserves, legal provision has further been made, entitling such township or fractional township to a selection, for the use of schools, of other lands in the same district—the quantity thus allowed to each to depend upon the area of the township, in the ratios specified in the act of Congress approved 20th May, 1826, entitled "An act to appropriate lands for the support of schools, in certain townships and fractional townships, not before provided for." This laudable purpose of our National Legislature has, however, often been defeated, or has proved ineffective, in consequence of the *sixteenth* section frequently falling (as in the alluvial parts of Louisiana) upon "irreclaimable sea-marsh;" and, in other instances, upon lands unfit for cultivation, and sometimes entirely valueless. As existing legislation makes no provision for cases of this category, I recommend that Congress provide for the same, by giving authority of law to the proper State officers to select other public lands in lieu of worthless school sections—the new selection to be subject to the approval of the department, and the terms of the enactment to be such, that, upon the approval being given to the new selection, the original tract shall, *ipso facto,* revert to the Government.

This subject is adverted to in resolutions of the Legislatures of Louisiana and Florida, and also in a memorial of the State of Louisiana, which were presented at the last session, and are found in Senate miscellaneous documents Nos. 42, 43, 72, 1st session, 30th Congress.

The Legislature of Louisiana, in view of existing legal limitations, as to the sale and disposal of the school lands, have asked of Congress authority of law to the State to make a common school fund of all the school lands to which Louisiana is entitled, to be expended as the authorities of the State may direct, without reference to the particular townships in which the lands may be situated.

In consideration of the provisions in the Constitution of the State of Louisiana in respect to the establishment of free schools throughout the State, as referred to in the memorial, and for the reasons appearing in that memorial, I recommend that authority of law be conferred accordingly upon the Legislature of the State.

This office decided, in 1846, that the State of Florida was not entitled, under existing laws, to school lands, in lieu of what would have been the 16th sections within the limits of the two confirmed claims, known as the "Forbes Purchase," and "Arredondo Grant," the aggregate areas of which amount to 1,716,935 acres.

This matter is adverted to in the Florida Resolutions, and authority of law is asked of Congress for the location of an equivalent on other lands, which I recommend, but with the limitation that the selection be confined to that State. Indeed, I would respectfully invite the consideration of Congress to the propriety of an enlargement of the school donation, by an additional appropriation for each township, as there can be but one opinion as to the importance of liberally promoting general

education over our wide-spread Republic, whose institutions rest upon the intelligence and virtue of the people. In this respect I beg leave to suggest that the seat of the General Government, the capital of the country, has heretofore been overlooked.

Congress is the constitutional legislature of the District, and to that body the citizens of this District naturally look for the extension of that liberality which has been so generally manifested elsewhere in regard to the school system.

Notwithstanding the heavy taxation to which the citizens are subject, for improving and beautifying the streets and thoroughfares of the cities of the District, and with a very limited revenue, they have endeavored, with a spirit worthy of the highest commendation, to secure to the rising generation the blessings of an enlarged and general system of education. Such endeavors, I am sure, will find favor with Congress, by whom special and liberal grants have heretofore been made, for benevolent purposes, in *all* of the new and some of the old States.

I therefore earnestly recommend that a liberal grant of land be made to this District, in addition to all the vacant lots in the city and county of Washington, which belong to the Government, that a fund may be created, the income from which will be sufficient to sustain, on a permanent basis, the common school system in this District.

XIV.—GRADUATION AND REDUCTION OF THE PRICE OF THE PUBLIC LANDS, DONATIONS OF SWAMP LANDS, &c.

The subject of graduating and reducing the price of the public lands has been so often presented and fully considered, that I deem it unnecessary to do more than refer to previous reports in regard to this measure.

The expediency of making a liberal disposition of the swamp lands to the States in which they lie, has also been presented and considered. These lands are of no value to the Government in their present condition, and are fruitful sources of disease and death in the neighborhoods in which they are located. It cannot be expected that the States will incur the expense of draining these lands, when they have no interest in them, although they may render their immediate neighborhoods unhealthy. It is, therefore, respectfully suggested, that these lands shall be granted to the States in which they are situated, on condition that the proceeds be applied, as far as necessary, in reclaiming them, and the balance to form a fund for general purposes of education, and such works of internal improvement as may be best calculated to promote the peculiar interest of such States.

I would also suggest, in all cases where the quantity of the public lands in any State is reduced below one million of acres, that they be ceded to the States in which they lie. By this means the land system will be more speedily closed up in the several States, and the expense of sustaining it dispensed with, after the sales shall have ceased to be profitable to the Government in the way of revenue.

It is but just to remark, in conclusion, that in conducting the details of business of this *now* extensive and important branch of the Treasury Department of the Government for the past and present year, I have been aided by intelligence and talent of no ordinary character; and in presenting these results of our official labors, through you to Congress, a sense of duty demands of me the pleasing task of bearing testimony to the exemplary deportment of the gentlemen employed in this office, and to the ability and zeal with which each, as a general rule, has faithfully performed his duty.

For detailed tabular statements of the facts set forth in this report, I beg leave to refer to the accompanying exhibits marked Nos. A to N, inclusive.

All which is most respectfully submitted.

I have the honor to be, with great respect, your obedient servant, RICHARD M. YOUNG,
Commissioner.

Hon. R. J. WALKER,
Secretary of the Treasury.

P. S.—The report of the surveyor general of Louisiana has not yet been received. The map of the State of Michigan, to accompany the report of the surveyor general of that State, will be submitted hereafter.

SPEECH OF MR. WESTCOTT,
OF FLORIDA,

In the Senate of the United States, on the 25th day of July, 1848, *on the "Territorial Bill," reported by the Select Committee of the Senate.*

Mr. PRESIDENT: I shall avoid going into a full discussion of many of the questions arising upon this bill. Those which have been heretofore debated by other Senators I shall not enter upon, any further than is necessary to explain my own views, some of which are a little different from any as yet advanced by any southern Senator.

With respect to the power claimed for Congress to legislate, to a certain extent, for territory acquired by conquest or cession, it has not, so far as I have heard, been questioned in this Chamber by any. I have looked over the debates in Congress in 1820 and 1821, and I do not find that such limited power was then questioned. Such power has been exercised by Congress on various occasions since the adoption of the Constitution.

The character and extent of the power of Congress over Territories—whether it is absolute and arbitrary, or restrained within certain limits; and, if limited, what are the restraints; whether they are found in provisions of the federal compact between the States, or in the fundamental principles of our Government; and how far these restrictions extend, are the subjects of inquiry.

I hold that the power of Congress as to the government of Territories acquired by conquest or cession, does not extend beyond the establishment in them of mere temporary municipal police regulations. Congress cannot rightfully do more than establish in such Territory a municipal corporation, partaking of the character of a government *pro hac vice*, and its power to do this arises from the *necessity* of the case entirely. It cannot rightfully attempt to exercise any of the *powers of sovereignty* which belong to the people of such Territory, uncalled for by such imperious necessity, or otherwise than for the conservation of the peace, and the protection of the personal rights of property in said Territory. All the legislation of Congress should be *for* the people of such Territory; and, except with reference to the disposal of the public lands, post offices, revenues from imposts, and other subjects wholly of federal concern and jurisdiction, it should be for their *exclusive* benefit. The legislation of a local character should not go beyond that exercised by Congress *in the States*, except where this overruling necessity exists. The only difference between the people of a Territory and the people of a State, with reference to the power of Congress over them, is, that whilst the former remain under the temporary guardianship of Congress during their state of political *minority*, and before they have taken upon themselves the exercise of their inherent rights of sovereignty, it is the peculiar duty of Congress to protect, defend, and preserve those rights from all encroachments, so that the ultimate admission of such people into the Confederacy may be as an *equal*, and as a "free, sovereign, and independent State." No legislation by Congress tending to fetter or cripple those rights, or to restrain them in advance, or to direct their exercise, or mould their institutions to suit the fancy of any portion of the people of the Confederacy other than the people of the Territory themselves, or in anywise to shape their fundamental laws to any standard, or in any degree beyond *general* conformity to the principles of our Government, *as recognized in the Federal Constitution*, can be justified.

Nor can the people of such Territory—and in using this term I mean only those recognized as *citizens of the United States* residing in such Territory—exercise any of the sovereign powers that pertain to a sovereign and independent State, except such as are absolutely necessary for the preservation of the peace and good order of society, and the protection of the rights of property and of personal rights, by the adoption of those local municipal police regulations necessary in all communities. To this the territorial legislation must be restricted. Until the people form and organize their sovereign State government, their rights of sovereignty are *dormant* and in *abeyance*. No power exists to exercise such rights, except in a case of overruling necessity. The law of self-preservation is in all cases, and in all conditions of society or government, paramount, and overrides the restraints of political agreements, and compacts, and constitutions, and institutions; and, with reference to the people of a Territory, it may allow, in *extreme cases*, a Territorial Government to assume, temporarily, the exercise of *sovereign* powers; but in such case only can they be exercised by such people, or by the Territorial Government. Congress cannot invest it with such sovereign powers; Congress has no such sovereign powers to delegate. If exercised in the case supposed, the right is not derived from any delegation by Congress, but it is founded exclusively on the law of *necessity*.

Mr. President, the views I have advanced as to the character of a Territorial Government are not entirely novel. An honorable Senator from Missouri, [Mr. BENTON,] in a speech on this floor in 1840, gave a definition of a territorial government which I will read. It is, in my judgment, as correct as any that can be quoted. I will also refer to some authorities from other distinguished sources. [Mr. W. here read the extract referred to in note A, appendix.] Yes, sir, this thing you create and form, called the Territorial Government, is a mere temporary, fugacious, local, police institute; a limited, dependant, *municipal corporation*, similar to those existing in counties, cities, parishes, towns, boroughs, or townships, incorporated by our State Legislatures.

Mr. President, in the discussion here of the question as to the power of Congress to exclude the institution of domestic servitude from Territories acquired by conquest or cession, it seems to me one of the most important and fatal objections to the exercise of such power by Congress, has been left untouched. We have been debating as to *our* rights—as to the rights of the people of the non-slaveholding States and of the slaveholding States—as to the constitutional privileges of the citizens resident in different sections of the Union, with respect to such Territories; but have left out of view altogether, the *rights* of our fellow-citizens residing, or who may reside, in those Territories. We are zealous in defence of *our own rights and interests;* but hitherto those of the people of the Territories have been without a champion in either House of Congress. No one has raised his voice in their behalf, although, in my judgment, the true solution of *all* the questions that have been mooted, will be arrived at in the consideration of *their rights*, and of our *duty*, and of course our *powers* with reference exclusively to *them*. The truth may be reached by following different paths of reasoning. I regard this as the most direct and shortest, least incumbered with abstractions, and therefore purpose pursuing it before following any other. It seems to me, that the discussion here as to the policy that should be pursued with respect to Oregon, California, and New Mexico, is an apt illustration of that trait in human nature exemplified in the fact, that while all young people think they have the right to marry according to their own liking, all old people insist they ought to marry according to theirs. This trait, it would seem, extends its influence even to our Government. The doctrine now advanced of the illimitable, supreme, uncontrolled, arbitrary power of Congress to legislate for the people of the distant Territories of Oregon, California, and New Mexico, "in all cases whatsoever," was not the doctrine maintained by our forefathers in the youthful days of this empire. I desire to present to the Senate and to the people of this country some of the views *they* entertained, the principles *they* upheld, and to maintain which *they* rebelled against *their* parent Government. It is grateful—it is refreshing, to recur to the principles advanced by those apostles of political liberty. The narrow influences of sectional jealousy, the paltry considerations of party success, should not blind us to a disregard of them. They should be our landmarks. By adhering to them, we shall avoid many errors. Sir, the principles upon which it is attempted to justify Congressional legislation to exclude the institution of domestic servitude as recognized by the Federal Constitution, from our distant colonies, are identical with the principles upon which the *Tories of the Revolution* of 1776 sought to justify the attempted usurpations by the British Government, of the rights of the people of the American colonies. They are precisely identical. Great

Britain claimed "*the rightful power to legislate for the Colonies in all cases whatsoever*," and as "*inherent in the parent Government*." I hold in my hand two pamphlets written in 1774 by two of the ablest men of that day, *John Adams*, of Boston, a WHIG, and *Jonathan Sewall*, of Boston, a TORY; which pamphlets are devoted to the discussion of this great question.

I ask the indulgence of the Senate while I read a few remarks from them. First, hear the doctrines of the Tory Sewall, who signs himself "Massachusetensis."

[Mr. W. here read the extracts contained in note B, appendix.]

Now hear the Whig Adams, who writes over the signature of "Novanglus."

[Mr. W. here read the extracts contained in same note.]

The history of the revolution is replete with the writings of the Whig sages and patriots of that era, to the same effect; a few others of which I will refer to; and the language of the Tory writers, and of the Tory members of the British Parliament, is similar to that I have quoted from Sewall.

[Mr. W. here read and commented upon several of the other documents cited in the same note.]

Mr. President, from whence, I ask, is the right of Congress to exercise plenary and unrestricted powers of legislation over our distant colonies—nearly as far by land from us, as we were by sea from Great Britain—derived? It can be derived from no source from which the power claimed in 1776 by the British Tories over us, may not also be as legitimately drawn. Those who contend for such power in Congress, are just as much in the wrong as the Tories then were. They are contending for the same doctrines and principles. All the arguments of "inherent sovereignty," "implied power," "policy," "necessity," "ultimate welfare and interests of the colonies," "good of the people" of the colonies, and of "precedent," are to be found in the Tory Sewall's pamphlet, as ably urged as they have been since, here or elsewhere, with reference to the Territories and the people there. In fact, the position of the advocates of power in Congress to legislate for the people of the Territories "*in all cases whatsoever*," without restraint, and especially the position of those who contend for the exercise of such right, is more indefensible than that assumed by the British Tories. They had the apology of being subjects of a monarchical Government, and could not as well appreciate the true principles of political right which they sought to invade. They had the apology of selfish pecuniary interest for their blindness and perversity. Those who now seek to invade the rights of the people of these Territories are citizens of a free Government, and are repudiating the principles on which that Government is based—nay, from which it sprang into existence; and this is done gratuitously, wantonly, and with no apology of interest to incite them, except that of an increase of sectional political power, or the promotion of selfish partisan views.

The power sought to be exercised, if founded in right, covers everything. Upon the doctrine sought to be established, if totally unrestrained by the Federal Constitution or its principles, you can justify the exclusion of the Catholic, Episcopalian, Presbyterian, Methodist, or Baptist church in these Territories, and the establishment of the Mormon as the territorial church. You may establish a monarchy there, or a despotic military government. If Congress can exclude the institution of domestic servitude it can do anything. Its power is without check or restraint. The will of the majority *here*, as to all the Territories, is then absolute and despotic. I repeat the question: Can these doctrines be reconciled to the principles maintained by our fathers of the Revolution? Would not any man who advanced them from 1772 to 1782, with reference to the power of Great Britain over her American colonies, have been regarded as a Tory? Yes, sir, we are setting up pretensions to the "omnipotence" claimed for the power of the British Parliament, to the prerogatives of "*King, Lords*, and *Commons*," and asserting that, like the King, "*we can do no wrong*." If our minister at St. James should be reproached that we had adopted the principles we rebelled against seventy-five years ago, he could not venture a denial, but, covering his face in shame, would be compelled by truth to confess our inconsistency. What an argument is thus furnished the enemies of our institutions and Government!

I deny the right of the people of Massachusetts or New York, of Vermont, Virginia, or South Carolina, of any, or of all of them together, to dictate to the citizens of this Confederacy, in California—their equals, and as much *freemen* as they are—in reference to their institutions of Government and political laws, except so far as they give their consent, express or implied. I deny the asserted *inherent* power of this, or of any other Government or people, to prescribe fundamental principles and rules of legislation for and to any other people on God's earth. The "fixation" of the political rights of a people is the most exalted attribute of *sovereignty*—in fact, it is the sum of all those attributes. It cannot rightfully be exercised by an *extraneous* power, *in any degree foreign*, without the consent of the people over whom it is to be exercised.

The institution of domestic servitude is a *political* institution: it is not a mere "municipal regulation." The excuse set up of its being "a sin and an evil," if it were true, is no justification for an attempt to suppress it by the *usurpation* of legislative power, or by the use of military force. Pretexts can be invented, and have always been, for usurpations by tyrants and by governments. The attempt to reduce, by act of Congress, all the white freemen of a *conquered* or *ceded* territory into bondage to the negroes and Indians there, could be defended by pretexts equally forcible. I ask the Senator from Ohio, [Mr. CORWIN,] while he denounces so eloquently the abridgment of the political or personal privileges of those who are of African blood, in the slaveholding States, to pause, and reconcile, if he can, the principles he contends for with the rightfulness of the power he claims for Congress, to exercise arbitrary and unrestrained power over the white population of the territories by legislation, dictating the forms of government, and the measure of political rights they shall enjoy. Why, sir, the political bondage *to us* of the white race in California, New Mexico, and Oregon, if his doctrine be true, would, in principle, be as servile as that of the African for whom he has such great commiseration. The African slave would have but one master; the Californian white citizen would be subject to the capricious tyranny of about three hundred masters in these Halls. Where, I ask, is the limit?—what the restraint upon the despotic power of Congress over the people of the territories, if the power now contended for is established? Nowhere; there is none whatever. There is no despotism so odious and fearful, as that of a majority influenced by sectional interests, partisan zeal, or fanaticism, and wholly irresponsible to those whom their despotic acts affect. The rifle or dagger of a single patriot may rid an oppressed people of a tyrant; but to a people whose political rights are invaded by such majority of an extraneous Government, determined, and having the physical power, to enforce its edicts, there is no alternative left but submission, and reliance on the mercy of Providence to enlighten those who usurp their rights to juster views of right and wrong. The people of these territories are unrepresented here or in the other branch of Congress. They rely upon our adherence to the principles for which Washington and his compatriots periled "their lives, their fortunes, and their sacred honor," and which, under Providence, they were successful in maintaining against the attempted usurpations of the British Parliament. If we prove false to those principles; if, before the grass has grown upon the grave of the last of the patriots of the Revolution, we shall attempt, with respect to *them*, the same unscrupulous usurpations as were attempted by Great Britain with respect to *her* colonies; for one, sir, I devoutly hope the freemen of these territories will resist your usurped authority, and to the extremest limit of their powers of resistance. Information of their resolution, at all hazards, not to submit to your unlawful usurpation, will make every true patriot feel as did Mr. Pitt, when he exclaimed from his seat in Parliament, "*Sir, I rejoice that America has resisted; three millions of people so dead to all the feelings of liberty, as voluntarily to submit to be slaves, would have been fit instruments to make slaves of all the rest.*" I, for one, would prefer to see the people of the entire Pacific coast and New Mexico, a separate, independent Republic, with their own institutions and laws, rather than that they should be subject to the despotic and uncontrolled legislation of this Government, irresponsible to them, and which recent occurrences indicate are alien in interests to them in many respects, and with feelings and sympathies excited only as the adversity or prosperity of those colonies may affect selfish interests on the Atlantic. If such should be the result of this attempt to encroach upon their rights, or if any future attempt, on other subjects, besides what is sneeringly called the "peculiar institution" should be carried out, under the precedent now sought to be established, they will be encouraged in resistance by the sympathies of thousands in the Atlantic and western States. I am much mistaken if the voices of some in this Chamber, and on the floor of the other House, are not heard cheering them in such struggle against usurpation, as Chatham, Fox, Barré, Conway, Dowdeswell, Burke, and others, cheered our revolutionary patriots nearly a century ago.

Mr. President, I repeat, I do not dispute the power of Congress to adopt rules and regulations, necessary for the establishment of the *local* municipal government of a Territory; but I limit it to that extent. I cannot bestow upon such government, any functions or sovereign powers, that it does not itself possess. The *American* doctrine is, that all political sovereignty primarily resides in, is *inherent in*, THE PEOPLE. One people or political community, cannot rightfully possess the sovereignty of another. That a people may voluntarily delegate the exercise of such sovereignty to an extraneous or foreign government, I concede; but without such delegation, its exercise by such extraneous or foreign government, is a usurpation. Have the citizens of these Territories—either those now there, *made citizens by the treaty of cession*, or those who, being citizens before, have gone thither—ever transferred their sovereignty to the Federal Government? I should like to hear the ratiocination by which this is shown. It is because no such delegation has been made, that Congress cannot either exercise such power, or delegate its exercise to the Territorial Government. It is because the prohibition of the institution of domestic slavery *is the exercise of such power*, of *sovereign* political power, that Congress cannot thus act. To prohibit the institution of domestic servitude requires something more than the exercise of the mere *legislative* power, as contradistinguished from the *sovereign* authority. The power of establishing the scale of political franchises which the *inhabitants* of a country are to be governed by—the designation of what political privileges each is to have and exercise—the establishment of the rules by which the right of suffrage shall be regulated—who shall vote, and who shall not vote—who shall be eligible to office, and who shall not be, are all the exercise of attributes of *sovereignty*, and not of the mere *law-making* authority, which is of inferior character. This is the view I take of the asserted right to exclude the institution of domestic servitude, regarded as a political institution merely.

Other Senators from the South have discussed this subject, in the various other aspects it presents itself, with an ability far superior to any I pretend to, and it would be an unpardonable trespass by me on the time of the Senate, to go over the same ground. The positions maintained by them, with reference to the constitutional guarantees by the Federal Government, and by the States respectively, of slaves *as property*, to citizens of the States where the institution has not been abolished, and the equal right of such citizens to emigrate with such property to a Federal Territory, without restraint, and the inequality and injustice, and therefore the unconstitutionality, of any such restraint, seem to me to be incontrovertible. I am satisfied to rest the discussion as to the rights of all the States, and of their citizens respectively, under the Constitution, with what has been already urged on these points; but I desire to discuss a little more at length, some different, though not in any respect inconsistent grounds, I take. Indeed, the positions I contend for, if conceded, conclusively establish those advanced by others, in support of the rights of the citizens of the southern States.

The creation of a corporation, and its endow-

ment with franchises borrowed from the people, is also the exercise of an attribute of sovereignty. In the language of a distinguished statesman, [Mr. Clay,] it is "one of the most exalted attributes of sovereignty." (Vide his speech against the Bank of the United States, in Senate, February 14, 1811.) Without a delegation by the people, to the Legislature, of such power, in their fundamental law, either expressly or by implication, such act by the Legislature is an *usurpation*. Hence, while Congress may create the municipal corporation called a Territorial Government, it cannot bestow upon it any functions and powers of sovereignty, except temporarily, and as *imperious necessity*, for the benefit of the people of the Territory, absolutely demands. The doctrine of *inherent* power in Congress is *cousin german* to that of the divine right of kings, and about as sustainable. Congress has no powers not enumerated in the Federal Constitution; and, upon the principles I have sought to maintain, if there were to be found in the Constitution an express declaration that Congress should have the power to exclude the institution of domestic servitude in territories acquired by conquest or cession, I do not hesitate to say that, for one, I would denounce it as an usurpation on the rights of third persons, not parties—the people of the Territories; and as a violation of the fundamental principles of our Government.

If Congress does not possess the power to exclude the institution of domestic servitude, it cannot confer it on its *creature*, the Territorial Government. That government cannot possess any greater powers than Congress, from whom it derives its existence. The *Territorial Government* has no *inherent* powers. The notion that it is a government of the *People* of the Territory, is founded on a confusion of terms and ideas. Its origin is not from *such people*, but from the law of Congress, usually styled the "organic law," establishing it. An extraneous power—the federal authority of the United States—appoints the executive and judicial officers, and most of the civil officers. They are paid out of the federal treasury. The appointing power as to such officers has uniformly been vested by law in the President of the United States, (as in other cases of appointments to *constitutional* offices in the States, and in the District of Columbia,) and in more than one instance the appointment of the Territorial *Legislature* also has been vested in the President. The legislators are paid by the United States. When the people of a territory have been allowed to select the legislators, the selection has been merely of AGENTS OF THE FEDERAL GOVERNMENT, and under the rules that Government has itself prescribed in the "organic law." And, besides, Congress has always reserved a *veto* upon the Territorial laws. The Territorial Government is in no sense a government of the people—is not derived from the people—and it is a mockery to call it a government of the people. It cannot exercise, because it has not had delegated to it, *and could not have* delegated to it, any of the *attributes of sovereignty* which rest in the people of the Territory, and in that people only. When it is said, therefore, that the people of a Territory have the right and power to inhibit the institution of domestic servitude, while it is true in one sense, as I shall presently show, if it is intended to assert that *the Territorial Government* can do so, the asserted right cannot be sustained. Whilst the Territorial *corporation* exists, and until the people of a Territory, *by* the formation and establishment of *their sovereign independent State government*, awake their sovereign rights, powers, and attributes into active existence, those rights, powers, and attributes are *dormant*, and in *abeyance*. Neither Congress nor the Territorial corporation can exercise them.

I am aware that the distinguished Senator from South Carolina, [Mr. CALHOUN,] a distinguished member of the House from the same State, [Mr. RHETT,] my honorable colleague and others, have advanced views somewhat dissimilar to mine, in relation to *where* this sovereign power is deposited, whilst the Territorial corporation is in existence, and *before the State government is established*. They make "the people of the several and respective States" of the Confederacy the depositaries of that sovereignty. The State Democratic Convention of my State recently adopted a resolution recognizing this doctrine. I do not acquiesce in its soundness. In the first place, I deny its correctnesss, because it is not, as I conceive, in accordance with the great principle of free government and political liberty (I have before adverted to,) that no foreign or extraneous government or people can rightfully possess the sovereignty of *another* separate and distinct political community. I deny it, *secondly*, because, if admitted, it may amount to a virtual practical concession of all that the South contend for. I say a virtual practical concession; for if it be correct, *then* "the several and respective States" may, at some future period, alter the Federal Constitution so as to confer the power upon Congress. As I before stated, with such a provision in the Constitution, I would still resist its exercise by Congress as a usurped power by "the several and respective States," belonging to the people of the territory, though they could not exercise it, till assembled in their primary sovereignty, to constitute their State government. But the difference I have adverted to is upon an incidental and collateral part of the argument, and it is not material that I should notice it further. It does not affect the similar conclusion to which all those who thus differ, ultimately arrive. I believe the people of Michigan were right, when some years ago they abolished the territorial corporation, established their State government, and demanded admission into the Union. For seven years I sought to induce the people of Florida to follow in their footsteps. We met, formed and adopted our State constitution in 1838 and 1839, and were causelessly and arbitrarily denied admission till 1845. Consistently with the principles on which our Government is founded, we cannot arbitrarily oppose this right of peaceful political revolution and assumption of the right of self-government, by the white citizens of the United States in a Territory, if of sufficient numbers to entitle them to a Representative in Congress, and otherwise possessing the proper and constitutional requisites for a sovereign State, *whenever they choose to exercise it*, except by advice, persuasion, and reason. To prevent its exercise by force of legislation, or by force of arms, would be tyranny—despotism. A republican government is less excusable for a disregard of principle, and for despotic courses, than a monarchy. The only apology for opposition to freemen in asserting and maintaining the right of self-government, that could exist in any case, would be the danger of injury to vital, or at least to important interests of the Government of the Union, which could not often be urged with truth. The admission of such new State into the Union is another and different question, not now necessary to consider, though in deciding it, similar rules should control.

It is idle to impute *inconsistency* to the argument that concedes to Congress the right to charter the temporary and limited municipal corporation called a Territorial Government, and to regulate, *temporarily*, the elective franchise and the eligibility to office in a territory, growing out of the necessity of the case, and the denial of its right to exercise all the attributes of sovereign power. Every case rests on its own merits. No such imperious controlling necessity exists with respect to the inhibition of domestic servitude. As a political institution, it is conformable to the Federal Constitution, and the prohibition of it is a gratuitous act, supererogatory entirely, and not called for, or *indispensable* to the establishment of the Territorial Government, and which is the sole excuse for the exercise of power by Congress at all, or to any extent.

Mr. President, the views I have just expressed are not made up for this occasion. More than eighteen years ago I emigrated to a territory, and held for years an executive office, to fulfill which it became my duty to investigate the character and powers of the Territorial Government. The opinions I now express are the same I maintained as an executive officer of the Territory of Florida; as a judicial or civil officer, after I resigned my executive appointment; as a member of the convention which formed the State constitution; and as a member of the Territorial Legislature. The very questions now under discussion, as to the power of Congress and of the Territorial Legislature, were discussed in the public journals of Florida, and in various legislative reports and other documents; and I have heard very little in either House of Congress that was not then advanced by one or the other of the conflicting parties in Florida, except the claim to arbitrary power over the Territories set up by Congress for itself.

The dispute in Florida was as to the power of the Territorial Legislature to create and charter banks, and pledge the faith of the people for the payment of bonds to the amount of millions, and thus bind the future State. I, with others, resisted the exercise of this attribute of sovereign power as a flagrant usurpation. Such I still regard it, and upon the principles and reasoning I have now advanced. I have seen that at the last session of the Legislature of Florida, a majority of which was Whig, resolutions were adopted asserting, in effect, as I conceive, the sovereign power of the Territorial Legislature. To this doctrine I can no more assent than to that I have before noticed as to "the people of the several respective States" being the depositaries of the sovereignty of the people of a Territory before it becomes a State. If followed out, both are, in my judgment, a practical abandonment by the South of this question, or, at any rate, they weaken positions otherwise impregnable. If true, a majority in Congress, opposed to the allowance of the institution of domestic servitude in a Territory, can very easily, by *indirect* means in the organization of the Territorial Government, secure the action of that government for its inhibition. The true principle, I repeat, is, that all the primary powers of sovereignty belonging to the people of a Territory are, till their State Government is formed and established, dormant, but not extinct—in abeyance, suspended, awaiting the action of the people in their primary capacity to awaken them into active life, but still resting with and abiding in those people, and not in the people of a different political community. The abolition of the institution of domestic servitude, requiring the exercise of that sovereign power, cannot be rightfully attempted *before the State constitution is formed.*

There has been much discussion, here and elsewhere, respecting the relations which these Territories bear to the Government of the United States in their present condition. The facts as to Oregon are not precisely the same as those relating to California and New Mexico. The origin of the title of this country to Oregon is prior discovery, confirmed by occupation, and further admitted and *confirmed* by conflicting claimants, in the treaty by which Louisiana was ceded to us, and in the recent convention with Great Britain. It was, when discovered, uninhabited, except by a few uncivilized Indians, without government or laws, and nomadic in their character. Nearly two centuries ago, that eminent whig judge, Lord Chief Justice Holt, and the whole English Court of King's Bench, laid down the true principle of law to be, that on such discovery by an English subject, all the laws in force in England became at once in force in the new country. Other authorities are to the same effect; and among them at least one express decision of the Supreme Court of the United States. (See note C, appendix.) And here I may remark, that nowhere are to be found the true elementary principles of national law, or the fundamental principles of political right, more perspicuously laid down than in the judicial opinions of the eminent whig lawyers just before, during, and just after the Revolution of 1688. Those opinions, and the writings of the patriots of that era, are the sources of the arguments used by the patriots of our Revolution. Their exposition of the rights of free-born Englishmen, under their *great charter*, is the Horeb from which, when stricken by our revolutionary patriarchs, flowed the waters of republican constitutional freedom. The operation of the rule cited may have been necessarily suspended while the country was, under the agreements between the United States and Great Britain, in the joint occupation of the two Governments; but the moment we acquired the exclusive possession, the rule obtained in full force. The common law, or principles of this Government, and the Constitution and laws of the United States, so far as they were applicable to the territory, forthwith became operative and in force therein. No systems, no institutions, no laws inconsistent to or incompatible with them, were *valid*, from the moment our right and possession was admitted to be *exclusive*. All the systems, institutions, and laws that had grown up, or had

been adopted whilst the country was in the joint occupation of the United States and Great Britain, forthwith, by the force of the rule cited, were melted and moulded into conformity with ours. The citizens of the United States, owing allegiance to the United States, were the *only* persons who could rightfully attempt the exercise of any of the powers of governmental control, in any wise, over the country or its inhabitants; and until expressly empowered by the legislative authority of Congress, *they* could only exercise such powers by consent of the community, and to the extent only that the law of self-preservation and of *imperious necessity* required. This community could not exercise the attributes of sovereignty as an independent people, whilst they admitted their allegiance to the Government of the United States. Exclusion of the institution of domestic servitude was the exercise of such sovereign authority. Several other powers assumed by the "provisional government of Oregon" in the establishment of their "organic law of 1845"—for example, that of making war and treaties, establishing and regulating currency, disposing of the public domain, &c.—are like sovereign powers. Hence these provisions of that "organic law," being also inconsistent to and incompatible with the common law or principles of the Federal Government and of the Constitution of the United States, and the institutions recognized by it, and the rights of the citizens of the States under them, *are void.*

With respect to California and New Mexico, it is entirely immaterial whether we regard them as conquered countries or as acquired by cession under the treaty with Mexico. The same rule governs both cases. In fact, except by *annihilation* of the government of a country, no conquest of it can be consummated without a *cession*, or by the *uti possidetis* which operates as a cession. That rule is, that, upon the consummation of the conquest or cession, the political relations between the country so acquired, and its former government are dissolved and extinguished. The allegiance of its inhabitants is transferred to their new government, and is qualified in its character to conformity with the laws and institutions of the latter, so as to harmonize with the principles of such new government in all respects. All the political laws, whether mandatory or prohibitory; all the political institutions of such country in anywise inconsistent to, or incompatible with, those of such new government, or that do not assimilate to them, are, upon the consummation of such cession by it, *ex vi termini*, annulled. Such is the law as laid down in the approved authorities, and by your Supreme Court in the 1st Peters. (See note C, appendix.) No such political law, whether mandatory or prohibitory, no such political institution could *continue*, if so inconsistent or incompatible, any more than the people of such country could enact or establish them *after* the change of government, with the same inconsistencies and incompatibilities. They are, by force of the cession, made to conform entirely to the laws, institutions, and policy of the new government. For instance, will it be pretended that, on the conquest by the United States or cession to it of a country governed by a king, with his nobility, his princes, dukes, earls, barons, and knights, each with franchises and privileges appurtenant to his rank and title, that these political creations could be recognized by us, after the cession, when our institutions and our Federal Constitution repudiate them? Again, the sanction of political authority and of law is given in some countries to the right of clerical superiors to compel, by coercive means, conformity in matters of religion. This right is also repudiated in our Government. Would it exist after the cession to us of a country in which it existed at the time of cession? None will, I presume, so contend. Hence I hold, that any prohibitory law with respect to the institution of domestic servitude—a political institution recognized by the Federal Constitution—though such law may have been in force in California and New Mexico when ceded to the United States, was annulled by the cession.

Such law originating in a foreign political source, and not having the express sanction of any competent constitutional power in this Government, and being inconsistent with political institutions in the States recognized by the Federal Constitution, and incompatible with the equal rights of citizens of those States with respect to these Territories under the Constitution, would become inoperative and null and void, upon the consummation of the cession. It needs no affirmative legislation on the part of the United States, to annul such law. It is a political law, that dies with the extinction of the political authority from whence it was derived. The instant of the cession, the political principles of this Government, of its institutions, the principles of the Federal Constitution, and all the laws of the United States, attach as far as they may, to the new country, and control it as a Territory of the United States, free of all restrictions not imposed or recognized by competent authority of this Government. It is true, by the laws of nations the local and municipal regulations, those regulating the title to property, and the municipal offices in a conquered or ceded country, remain until changed by the conquering power, or by the Government to which the country is ceded. This last rule, as I before stated, does not extend to *political* institutions or laws conflicting with those of the new Government, and it does not embrace even the laws of a local and municipal character in a ceded country, totally irreconcilable to and incompatible with the principles and institutions of the new Government. Of necessity they must conform to the common law of such new Government. The decisions of the Supreme Court of the United States, as reported in 1st and 7th Peters' Reports, sustain this doctrine to the full extent that I have stated it. [See note C, appendix.] But it has been argued that there is no principle of the Government of the United States recognizing the institution of domestic servitude as a political institution of the *Federal* Government. It is said, while some of the States recognize African slavery, some do not; and that the character of the servitude recognized in different States is dissimilar, and that the measure of its recognition by the Federal Government is only to the extent and in the degree that it has been or may be recognized by the sovereign authority of each State, within its own jurisdiction, and it is only recognized in that State. It is said that it is a local municipal institution, which must be established by the local authority competent to do so, and is dependant exclusively on the local law; and hence it has been contended that unless the institution existed by virtue of such law in those Territories, before and at the time of the cession, it must be first *established* by competent authority and by positive affirmative legislation, before the rule of recognition by the Federal Government can operate. The fallacy of this deduction and of others based upon it will, I think, be manifest, upon a more correct statement of the principles from which it is sought to deduce it. The whole error, I conceive, arises from the incorrect manner in which those principles are stated. It is true, the character and degree of domestic servitude in each State depend upon the local institutions of each State, and that they are variant in different States; but this fact cannot create the least difficulty as to the extent in which it is to prevail in these Territories, or in the application of the principles I have contended for with respect to them. Those who make the difficulty start from a wrong point.

Soon after the first settlement of this continent, the institution of domestic servitude, with respect to negroes and Indians, became established, and it continued to exist, in most, if not all of the colonies. It had the sanction of colonial legislation, and of the legislation of the English Parliament, and of the parent Government, by provisions in charters, and in other modes; and it became a part of the common law, was incorporated into the political systems of the colonies, becoming one of their fundamental institutions. Even the African slave trade was carried on under the sanction of express law, and by citizens of New England States. Our governments were governments of the *white* race. Upon the revolution, this primary principle was not *abandoned*, but has been tenaciously adhered to. I believe but one State had abolished slavery in 1776. I know that among the multiplied causes of grievance that constrained the colonies to rebellion was the forcing by the British Government of the African slave trade upon some of them against their consent. This fact proves that the *distinction* arose from necessity rather than choice in some of the colonies, and it throws the responsibility of the existence of the institution of slavery in this country upon Great Britain; but so far from weakening the argument founded on the *actual existence* of the institution here when we became independent, it fortifies it. It was recognized as a legal institution, and the circumstances that caused the recognition cannot change *the fact*. The States, after the treaty of independence in 1783, were compelled, by *the fact* of its being here, to recognize it, and conform their Government *to its existence*. This distinction of *races* has been recognized and maintained in the State and Federal Governments. The allowance of any participation whatever in these Governments by blacks or Indians, or by those in which African or Indian blood predominates—even where slavery has been abolished, and when the blacks and Indians were not in actual domestic servitude—has been merely a voluntary extension by the *whites*. I believe that in no one of the States of this Confederacy has the privilege yet been bestowed upon or extended to free negroes and Indians of equal suffrage in the State with the whites, and equal eligibility to State offices of any degree with the whites. No one has elevated those races from their political and social degradation, except "*in a degree.*" Positive affirmative legislation in every instance of proposed extension, is necessary to abrogate the American common law, derived from our colonial ancestors, establishing the distinction of races, and establishing also the political inferiority and subjection of the *negro* and Indian, to the white man. It is idle, and worse than idle, to preach about the imprescriptible, inalienable, and universal equality of the political rights of the whole human family—to denounce all distinction of races, of color, of intelligence, and civilization—to declaim about the natural equality of the negro and Indian with the white race—to inveigh against the institution of domestic servitude established and recognized in this country, as to those races—and to assail the southern States that have not abrogated that institution, to the same extent as some of the eastern States, since the policy of colonial times ceased to have influence upon the latter. The true rule is, that until the political inferiority and subjection of the blacks and Indians to the white race is changed by positive affirmative laws enacted by competent sovereign authority, and which may elevate their condition in a greater or less degree, throughout the whole extent of this empire, in every part of this Government, Federal, State, and Territorial, that *status* of inferiority and subjection attaches to those races. It is a fundamental principle of the Government. It is recognized and maintained in the Federal Constitution, and the Federal Government is based and founded upon it. Why, sir, *negro slavery* in the United States was expressly recognized by *the United States*, and adopted in and by the *very first treaty* the United States made with Great Britain!—in the *treaty of Independence*—that in which the British Crown *first* admitted the United States to be a separate and free people. In the preliminary articles signed in '82, and in the definitive treaty of '83, Great Britain stipulated not to "carry off" any "*negroes or other property of the American inhabitants.*" John Adams, Benjamin Franklin, John Jay, and Henry Laurens, negotiated and signed this first treaty. So in the treaty of Ghent with Great Britain in 1814, negotiated by John Quincy Adams, H. Clay, Albert Gallatin, Jonathan Russell, and James A. Bayard, she makes a like stipulation as to "*slaves*," and the United States subsequently received and paid to the *owners* a large sum for *slaves* carried off in violation of the first article of this treaty. Our statute book is replete with acts founded on the distinction I have stated, and recognizing the institution of negro slavery as the *lex legum* of the land; not less binding if unwritten, and in force wherever positive sovereign State legislation has not repealed it.

This rule I have advanced as to the distinction between the races; and the institution of domestic servitude is expressly adopted in the third clause of the second section of the first article of the Constitution, settling the basis of representation and of direct taxes in the Federal Government. That clause provides that the ratio shall be obtained "by adding to the whole number of free persons, 'including those bound to service for a term of

'years, and excluding Indians not taxed, three-'fifths of all other persons."

The fourth clause of same article, with reference to a *capitation* tax, contains a like recognition.

The first clause of the ninth section of the same article, which provides that "the migration or im-'portation of such persons as any of the States now 'existing shall think proper to admit, shall not 'be prohibited by the Congress prior to the year 'eighteen hundred and eight; but a tax or duty 'may be imposed on such importation not exceed-'ing ten dollars for each person," not only recognizes and sanctions the distinction stated, and the institution of domestic servitude, but the right of citizens of the States is recognized by the Federal Government to purchase slaves in Africa or other foreign countries, and to import them into the United States as slaves at any time prior to 1808. Up to that period the *slave trade* was sanctioned by the *Federal Constitution*.

The third clause of section second, article fourth, which provides that "no person held to service or 'labor in one State under the laws, escaping into 'another, shall, in consequence of any law or reg-'ulation therein, be discharged from such service 'or labor, but shall be delivered up on claim of the 'party to whom such service or labor may be due," also recognizes the institution of domestic servitude; and the several States, in assenting to it, expressly agreed to yield their aid and assistance *to sustain it*, according to the stipulation recited.

The third clause of section eight, article first, delegating to Congress the authority to regulate commerce with the "Indian tribes," likewise recognizes the distinction between those tribes and the white citizens of this Government, which, in our negotiations with them, and in all our laws respecting them, has uniformly been adhered to.

But it is asserted that these provisions only recognize slavery as is existing in the *States* respectively, and not as extending beyond the limits of those States. This bold pretence is the basis of the whole argument by which it is attempted to uphold and justify the interposition of Congress to break down the distinction between the white and the colored races, by prohibiting the institution of domestic servitude, and placing whites, negroes, and Indians upon the same platform of personal, political, and social equality. Its inconsistency with the facts that cannot be controverted as to the foundation of the distinction, and the origin of the institution in this country, is, it seems to me, an all-sufficient answer. It is not consistent with the principles sanctioned by Congress, and the construction it has placed upon these constitutional provisions, and their effect, when the very first law enacted in pursuance of the authority to suppress the foreign slave trade after the first of January, 1808, (see note as to slave-trade acts in appendix,) was passed. That law (passed prospectively March 2, 1807) contains provisions to suppress the foreign slave trade; but the 8th section contains also a proviso that nothing in it "shall extend to prohibit the taking on board, or 'transporting on any river or inland bay of the sea, 'within the jurisdiction of the United States, any 'negro, mulatto, or person of color, (not imported 'contrary to the provisions of this act,) in any 'vessel or species of craft whatever." And the 9th section provides that vessels "sailing coastwise 'from any port in the United States to any port or 'place within the jurisdiction of the same," having on board negroes, &c., "for the purpose of trans-'porting them to be sold or disposed of as slaves, 'or to be held to service or labor," shall provide manifests, describing the slave and stating his owner's name and residence, and that, "under the laws of the State" such slave is transported from, he is "held to service or labor;" and the collector of the customs shall thereupon issue a clearance, &c.; and by the 10th section the collector of the port of destination is directed to give a permit to land such slave, on production of the manifest and clearance and compliance with the law. These provisions are enforced by the infliction of pecuniary penalties, and by forfeiture of vessel and furniture, for a violation of them.

Does not this law recognize slavery as existing beyond the limits and jurisdiction of *any* State where it exists—on the high seas, the highway of nations, where no jurisdiction of this country but that of the *Federal* Government can operate, in a vessel perhaps of Maine, Massachusetts, or New York, and in cases where the slave is taken by the master beyond such limits voluntarily? Does not the same principle apply to the taking of a slave beyond the limits of a slave State into a *Federal* Territory? The question as to what particular law of slavery operates in a Federal Territory, what State institution of domestic servitude is to be recognized and to govern, is readily answered. The right to the service and labor of the slave—the term and nature of the servitude—depends in each case, upon the institutions of the State in which the right originated, and as they existed when the slave was taken from such State. This is the rule on the removal of slaves from one State to another. The right cannot be strengthened or weakened by such removal, except by the exercise of the *sovereign* power of the political jurisdiction into which the slave is transported; and then the power of abrogation does not extend beyond the limits of such jurisdiction, but is subject to the restrictions of the third clause of the eighth section of the fourth article of the Constitution, before cited. The local municipal police laws of a State, and also of a Territory, by which slavery, when admitted to exist, is regulated, and the right of the master protected, and by which the slave also is protected, may be more or less efficient and salutary, as the feelings or policy of those who enact them may dictate; but the constitutional right of the slaveholder to take his slave into a Federal Territory is still the same, whatever difficulties, neglect, or refusal to fulfill their just duties, on the part of the Territorial Government, may create, or how much soever such omission may lessen the value of his slave property. And such government can *enact* no law that will *impair* his constitutional rights to his *property*.

Again: the abandonment of the rule of distinction between the white and colored races, which I have adverted to as a part of the common law of this Government, will lead, in the very cases now under consideration by the Senate, to results not merely absurd, but shocking. It is admitted that, upon the cession, the citizens of California and New Mexico, who chose to remain there, became *ipso facto* citizens of this Government. This is the rule of the law of nations; and it is also expressly recognized and reiterated in the eighth and ninth articles of the treaty with Mexico, which gives them the right to "retain the character" of "Mexican citizens" if they declare their intention so to do within a year from the final ratification of the treaty, and which also provides that those who do not make such declaration "shall be considered to have elected to have become citizens of the United States;" and stipulates that "those who shall not preserve the character of citizens of the Mexican Republic," as stipulated, "shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution," &c.

Provisions, similar in their character and effect, though less useless verbosity is used, are to be found in the Louisiana treaty, and in the Florida treaty, with respect to the "inhabitants" (the term employed in the former treaties) of those Territories at the time of their cession respectively.

Was it ever pretended or supposed that by the cession of Louisiana the negroes and Indians in it, or by the cession of the Floridas the negroes and Indians there, became entitled to the privileges stipulated in those treaties as equal American citizens by the application of this boasted theory of the "universal equality of human rights," unaffected by considerations relating to race or color, civilization or condition? If so, Oceola, Wild Cat, Jumper, and the other hostile Seminole chiefs should have been arraigned and prosecuted, tried and punished, for treason as free *citizens*, and not treated as Indians. It is now too late to proceed by indictment against *citizen* Arpiarka, who yet remains in the Everglades, though there might be some trouble in arresting that "citizen" by the marshal, even with the *posse comitatus*. If the doctrines of the Senator from New Hampshire [Mr. HALE] and others, urged here and elsewhere, prevail, and the rule of the law of nations I have stated, sustained by the Supreme Court of the United States on more than one occasion, (see note C, appendix,) is applied to them, we shall be compelled to receive not merely the white citizens of California and New Mexico, but the peons, negroes, and Indians of all sorts, the wild tribe of the Camanches, the bug-and-lizard-eating "Diggers," and other half-monkey savages in those countries, as *equal citizens of the United States. Then*, as they exceed the whites in numbers in those Territories, but for their unhappy ignorance of their inestimable rights, and the legitimate modes of enforcing them, they could readily control the governments there. They could send hither Peon or Camanche, or Digger or negro delegates, at the first election; and when they organize States there, and are admitted here, may have others of the same or some other *equal* CASTE for Governors and Judges, and Senators and Representatives in the Federal Congress. This is one of the glorious results of a disregard of the distinction between the *white* and *colored* races, that is sought by some in this country, and which we have heard of in this Chamber. Can the Senator from New Hampshire [Mr. HALE] regard this as "a consummation devoutly to be wished?" [Mr. HALE. I have not so contended.] But it is, in my opinion, the conclusion and result of the principles the honorable Senator sustains.

Mr. President, by adherence to the principles handed down to us by the statesmen of the Revolution, who were as true men in the cause of political liberty, and as devoted to justice and human rights as any of the new lights of the present age, and which principles are ingrafted on the Constitution, none of these difficulties can occur. The colored races—the Guachenangoes, the Peons, the Camanches, the Diggers, and the Negroes, will all remain in their appropriate condition—that which is best suited to them, and in which necessity requires they should remain for the well-being and security of the whole community; and none but those free whites, who only, under the principles of our Government and our institutions, "according to the principles of the Constitution," can be *free citizens of all the States*, will become entitled to that privilege, either under the law of nations or under the stipulations of the treaty. The treaty was framed with reference to our institutions, and is to be construed and executed in harmony with them.

If I am correct in the principles I have advanced, all inquiries as to whether there was or was not, prior to the cession of California and New Mexico, laws there, either of the local governments or of the Central Government of Mexico, *excluding* the institution of domestic servitude as recognized in this Government, are entirely useless. Those laws, if such existed, are annulled by the cession.

So, too, investigations as to the existence and character of *Peon* servitude in those Territories are wholly unnecessary. The result can in no respect affect the question of the institution of domestic servitude as recognized in this Government. If I have been correctly informed, Peon servitude originates in the local *municipal* laws of Mexico for *the collection of debts* from pauper debtors, not dissimilar to *insolvent* laws and *pauper* laws, now or recently in force in some of the non-slaveholding States of this Union, authorizing the disposal of the person, and the control of the services and labor of the insolvent, for the payment of his creditors, or of the pauper for the benefit of the public, and which laws apply to all races and colors. Such laws have been in force in some of the States with respect to *vagrants*. Odious as some may esteem such laws in their operation upon free citizens, possessing equal rights, and so forth, and repugnant as they may be to the great principles of "human rights and of civil and political liberty," they are an *amelioration* of the old laws under which the creditor could immure his debtor in a prison, and keep him incarcerated there, without bail or mainprise. Such local municipal laws of California and New Mexico, whether enacted by those States or by the Central Government of Mexico, if in force at the cession, not being inconsistent with our institutions, not being an exercise of ultimate sovereign power, but merely of the ordinary law-making authority, would remain in force until repealed prospectively by the competent legislative authority of these Territories.

Mr. President, I have been unable to find in the Federal Constitution but *two* provisions relating,

in terms, to legislative powers conferred upon Congress respecting *slaves*, or respecting *Territories*. Both of them I have before quoted.

The first is as to slaves, (sec. 9, art. 1,) and was intended to interdict Congress from passing any law prohibiting, prior to 1808, the foreign slave trade, as to States that should allow it, except by taxing such imported slaves ten dollars each.

The second is as to Territories, (sec. 3, art. 4,) and gives Congress power to "*dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States.*"

These two provisions must be construed together.

The first is, in terms, but a restriction for a *time*, and as to *certain States* only, of the exercise by Congress of a power it authorizes to be implied, (perhaps aided by other general grants in the Constitution,) to *prohibit the foreign slave trade*. I say "IT *authorizes*," because, but for this provision, the construction by which such power could be derived from the Constitution, would, it seems to me, be exceedingly liberal, if not loose. Conceding, however, that it recognizes such power, it also, in my judgment, confines it exclusively to the regulation or prohibition of the *foreign* slave trade. Any other construction renders this provision a palpable absurdity. If Congress possessed the power to legislate as to slavery generally, or in any otherwise than as to the *foreign* slave trade—for example, as to the removal of slaves, *not* imported from abroad, from one State to another, or to a Territory—inasmuch as the exercise of *such* power is not restrained by the provision cited, notwithstanding its adoption, Congress could have so legislated prior to 1808. Whilst it was prohibited from legislation as to slaves imported after the adoption of the Constitution in September, 1787, and prior to January, 1808, it was entirely unrestrained as to those born in this country, or imported prior to 1787. This ridiculous result of the argument that Congress possesses any power as to slavery, beyond that of regulating or suppressing the *foreign* slave trade, when applied to the provision cited, proves that its framers had no idea of such power being implied, and never intended to bestow it. If it was conferred, and its exercise left unrestrained, the restriction as to the *foreign* slave trade is nugatory. Without violating the letter of the constitutional restriction, Congress could, at any time, by legislation prohibiting the removal from one State to another, or to a Territory, of native slaves, or those imported prior to 1787, have so affected the *foreign* slave trade as to have rendered the entire provision a dead letter. Direct prohibitory laws as to the removal of slaves imported between 1787 and 1808, would have had no greater effect on the foreign slave trade than the prohibition of the removal of the two other classes. Besides, what *principle*, or what *rule of policy*, can be divined for the inhibition as to the removal of slaves, if natives, or if imported prior to 1787, and yet allowing those imported between 1787 and 1808 to be so removed? Why this distinction in favor of the removal to other States, or to the Territories, of *recently*-imported slaves? Reasons could be suggested why a contrary distinction should have been preferred.

The word "*migration*" employed in the clause I have cited, it has been said, refers to the removal of slaves from one State to another, or to a Territory; and hence the deduction as to the existence of the power prior to 1787, and since 1808, to inhibit such removal *of all slaves* by congressional legislation. This is to me a very extraordinary deduction. The terms used are "migration *or* importation," and are used with reference to certain "persons;" and to their *introduction into certain States* then existing that shall "*think proper to admit*" them. They are not used with reference to their *egress* from such States, but their *ingress* into those States exclusively. If otherwise, as they could not *migrate from such State* until they had been *imported into it*, the words would have been transposed. They may have been employed to satisfy the fastidious scruples of some as to the application solely of the word "*importation*" to "*persons*," whom they would not, in unequivocal language, recognize as *property*. It is well known that the suppression of the words "slavery" and "slaves" in the Constitution was induced by a similar cause. If so, the meaning of the two words is to be regarded as synonymous, and as so intended. It has been supposed, also, that the word "*migration*" was intended to apply to free persons coming in from abroad, and who come in voluntarily, as distinguished from those brought in as slaves. I am, however, inclined to believe the word "*migration*" may have been employed with express reference to slaves to be brought into the United States *by land* from the adjoining dominions of *foreign* governments, (Louisiana, the Floridas, &c.,) as distinguished from those "*imported*" from foreign countries *by sea*. The public records show that such introduction by land into Georgia and the old Mississippi Territory was extensive. Either of the constructions suggested is more reasonable than the first.

I do not consider it important to contest the position that the terms "*States now existing*," in the clause cited, exclude the States that did not "think proper to admit" *foreign* slaves, and also the *new* States, and the *Territories*, from the operation of the interdict upon Congress in force till 1808, and that it left Congress free to legislate as to them before 1808. I have said, that with respect to those States, and the Territories, Congress was as free before the expiration of the interdict, as it has been since with respect to ALL the States and Territories; but to such extent only. The interdict was—1. As to the prohibition of the "*migration or importation*" of slaves admitted between 1787 and 1808. 2. It was confined to the States then "*existing*." 3. It was still further confined to the *then* "*existing*" States that should "*think proper to admit*" such "persons." Give the interdict its fullest force, and it does not authorize any deduction presuming the existence of powers when it was imposed, and that were revived on its expiration in 1808, a syllable beyond those *of which the exercise were prohibited by it*. Since 1808, the "*migration or importation*" of *all* slaves from abroad, either in the *old* or *new* States, or in the *Territories*, and whether they "*think proper to admit them*" or not, can be prohibited by congressional legislation; *and this is the extent of its powers on this subject.*

The constitutional interdict, it is well known, was inserted to quiet the apprehensions of certain of the southern States, of attempted legislation by Congress on this subject. The history of the formation of the Constitution proves that it was found necessary to adopt it, to secure the concurrence of those States in the compact. They would not have yielded their assent without it. It has been said it was regarded as a guarantee against attempted unconstitutional legislation, rather than a restraint upon admitted constitutional power. This fact may, with some, weaken the force of the deduction made from the interdict, of the existence *even of the power it prohibited;* but I will give such deduction full weight. It is necessary to give the slave-trade acts validity. I will regard every power that can, with any semblance of reason, be inferred from the terms of the constitutional interdict, upon its expiration in 1808, as unrestrained and in full force. The argument that cannot be assented to is, that an interdict for a specified period against the prohibition of the "*migration*" (allowing that word means removal into the interior after "*importation*" from *abroad*) of *foreign* slaves, authorizes the conclusion that a power existed to prohibit the "*migration*" of all *slaves*. The implication from the interdict, on its expiration, of a preëxisting power thereby restored, it is repeated, must be limited to the precise extent, and to the identical character of the power interdicted. A *general* power beyond the limit, and different in character from that interdicted, cannot be implied from the interdict itself. If claimed, it must be established otherwise. So far from the interdict in this case strengthening the claim of a *general* power of legislation by Congress on the subject of slavery, and as to *all* slaves, as before suggested, its recognition of the power as to the *foreign* slave trade, and the absence of any further recognition, destroys it. It recognizes and establishes the distinction between the *foreign* slave trade and the local domestic institutions of the States in relation to slavery. The propriety of the former being under the control of the *Federal* Government, while the latter should be exempt from such control, must be obvious to all who look to harmony in its various provisions, as a rule to be observed in the construction of the Constitution.

Since the expiration of the interdict, in 1808, all the States and Territories stand precisely on the same footing as to the legislation of Congress respecting slavery. It has power to prohibit the *foreign* slave trade, by laws "*necessary and proper for carrying into execution*" such power.

But it has no power to intermeddle with slavery in the States or in the Territories; and if my construction of the clause of the Constitution be correct, the entire power of Congress on the subject of slavery, since 1808, must be exclusively directed to, and expended in, the suppression of the *foreign slave trade*. All its laws must be "*necessary*" and "*proper*" to effect that end. Intermeddling with the domestic institutions of the States or Territories cannot be justified on the ground that their abolition would most effectually destroy such trade. The pretence is too far-fetched. Like arguments would justify a congressional edict for the burning of all American ships engaged in foreign commerce, to prevent importations by them competing with our domestic manufactures; and the destruction of all our cotton, except what is necessary for the *home* supply.

If the constitutional authority of Congress, as to slavery and slaves, is not held to be limited to legislation respecting the "migration or importation" of slaves *from abroad*, and to the inhibition of the admission of *such* slaves into the States or Territories by general law, the deduction is clear, (and it is one pregnant of fearful consequences,) that there is no excuse or argument that has been or can be presented in favor, either of the right, or of the propriety, or of the policy, of extending the exercise of the power beyond that limit, that may not be urged with equal plausibility to sustain interference with the institution, and as to *all* slaves in the States, *old* and *new*, as well as in the *Territories*. Indeed, some boldly claim the power without limit, repel the idea of any restraint whatever existing, and contend for the right in Congress to abolish slavery in the States. Others, with greater sagacity and policy, but as devotedly intent on the same ultimate object, as yet concede that the original States who were parties to the Constitution, and perhaps those admitted since as parties, may have in that instrument barriers against interference by Congress with their local institutions and laws; but that the Territories, not being parties to the Constitution, are without such shield. I do not consider there is any great difference as to these assailants. It is only as to the mode of assault. Indeed, the avowed abolitionist whose attacks are open and direct is a more worthy antagonist than those whose course is concealed, indirect, and insidious. The hostility of either, when excited by sectional prejudice, and stimulated by combined party action, will not be restrained by the concessions of constitutional guarantees now made. When there is necessity for disputing their existence, or when party policy demands it, there is little security that all now admitted will not be repudiated.

The strictest scrutiny and the most liberal construction of the Constitution will not exhibit any provision, except that I have cited, conferring, in express terms, any powers upon Congress as to Territories. It can "*dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States.*" This is the extent of its powers. Differing with some Senators, I yield to the judicial decisions that this clause was *intended* to confer limited authority to Congress to legislate for the government of Territories, and I hold it to be the *only* authority delegated in the Constitution; and I prefer this to any *implied* power.

It has been suggested that Congress can exercise the power claimed under the 3d clause, section 8, article 1, of the Constitution, delegating to it the power to "*regulate* commerce with foreign nations, *and among the several States*," &c. As to *Territories*, this clause does not, in *its terms*, include them; and those who urge it as applicable to them involve themselves in the inconsistency of insisting, that when powers are *conferred* upon Congress, Territories are to be included, but when they are *withheld* from Congress, or the exercise of them *prohibited*, they are not so included. It is a bad rule that will not work both ways. I submit the

true rule is, that Territories are in the same category as States, except where the Constitution expressly confers additional or extraordinary powers with respect to *Territories*, as in the clause of the 4th article before cited; and that such powers, as before insisted, must be, in their character, and the exercise of them must be, consistent with the elemental laws of the Government, and not violative of the restrictions or prohibitions in the Constitution as to its general legislation. It may be well to observe, that if the clause of the 1st article referred to has any bearing on the subject of slavery, it applies *to the States;* and under it, the power by Congress to interdict the removal of slaves *from one State to another* may be claimed with equal force as to *a Territory*. The removal or emigration of slaves (especially if not for *sale* merely) from one part of the Union to another, (and in the term Union I am willing to include the Territories, giving the provision full effect as to them,) is not within the meaning of the term "*commerce;*" and if otherwise, the power to "*regulate* commerce" is given to promote it, and cannot rightfully be wielded to *annihilate it*. With respect to *slaves*—and whether considered as *property* or as "*persons*," is, in my judgment, entirely immaterial, or at any rate by no means decisive of the question—each *State exclusively* has the power to regulate their introduction, or to prohibit it with respect to itself, as it may deem best. Mr. Clay, in his admirable speech on abolition petitions, delivered in this Chamber on the 7th of February, 1839, successfully assails the construction placed on the clause of the Constitution quoted, giving to Congress any power as to slaves and slavery; but the argument of Mr. R. J. Walker, in the Supreme Court of the United States, in Groves *vs.* Slaughter, in 1841, (Appendix, 15 Peters' Reports,) should put it to rest forever. (See also "The City of New York *vs.* Milne," 11 Peters, 102.) That argument of Mr. Walker has, in my judgment, never been excelled, if equaled, by any made in that court. If its distinguished author had done nothing else, the masterly ability, profound learning, and accomplished eloquence it displays, would be sufficient to place him in the very first rank of the eminent constitutional jurists and statesmen this country has produced.

A critical examination of the phraseology of the clause I have referred to of the fourth article, respecting *Territories*, word by word, will prove that the powers intended to be conferred on Congress as to Territories are *limited*. The terms employed are peculiarly cautious and restrictive. Congress is not, as it is with respect to the District of Columbia, dock-yards, arsenals, &c., invested with the power of "*exclusive legislation;*" the terms are not that, as to Territories, or the people of the Territories, Congress may "*form*," "*constitute*," "*ordain*," or "*establish*" governments for them—the usual phrases to "*pass laws*," or "*enact laws*" for those Territories and people are not used; and it is authorized only to "*make*," (not general laws of every character,) but merely "rules and regulations" respecting *the territory* (as "property") or "other property belonging to the United States," and those "rules and regulations" must be "needful;" the power cannot be exercised except in cases of *necessity*. I repeat, this carefully-worded clause was obviously intended to be restrictive. A comparison of it with other clauses of the Constitution that I have indicated, proves this. It cannot be made consistent and harmonious with those other parts of the Constitution, without so regarding it. Such construction gives a definite meaning to each word in it, and to each word in the other clauses, some of which would otherwise be unmeaning. This power—not to form constitutions, not to prescribe and ordain fundamental political laws, not to exercise "exclusive" legislative powers, not even to enact general laws; but the limited, restricted authority to "make" temporary "rules," or municipal police "regulations" of a local character, respecting the "property" of the United States, designated as "the territory belonging to the United States," not "respecting" or *for* the *people* there—is the sole basis of the asserted right to exercise illimitable sovereign authority over Territories, and the people residing in them, and their posterity. The omnipotent, supreme, arbitrary power claimed for Congress, springs exclusively from those dozen and a half words. *They* compose the whole foundation of the mighty and magnificent superstructure of federal power, which the people of this country are told *is based* on the *Federal Constitution*. If I am in error, I demand to be informed of that part of the Constitution specifically delegating to Congress power of *any* kind, or to do *anything*, with respect to Territories, besides this I have quoted. As I have before said, I do not question the power of Congress being, with respect to *general* legislation for Territories, the same precisely as is its power with *respect to the States*, and derived in the same way; and I intend my argument only to refer to *special* and *extraordinary* legislation as to *Territories*, and to limit its application to the principle that such *special* legislation as *necessity* may demand, is to be controlled by the same general rules.

The constitutional power to make *war* and the *treaty* power have been invoked in aid of the claim made for Congress of supreme legislative authority over the Territories and their people. The right to conquer, to receive cessions of, and to annex foreign territory and their inhabitants, is said to be *incident* to these powers—to be implied and derived from them—and *then* the right and power to *govern* such Territories and people, is further implied as a necessary result. In my judgment, this argument is outside of the true question, and has little to do with it. Concede it fully, and it proves nothing tending to establish the power claimed. Anterior to a treaty of peace, and either an express cession thereby of the conquered territory, or the *confirmation* of our hostile possession of it by the *uti possidetis*, such territory is regarded as *foreign* territory, and (except our own citizens and neutrals there) its inhabitants are our *alien enemies*, subject to the laws of *war*. Doubtless the right to govern such *foreign* territory and *alien enemies* in it according to the laws of nations and laws of war, is an incident to, and is derived from, and founded upon the *war* power of the Federal Government. Though it should not be allowed, it may be exercised fully by the Executive authority of the Government in conducting the war, without any previous legislation, except that declaring the existence of war—I say should not be allowed, for the reason that it is more congenial to the spirit of our institutions that arbitrary power, and especially *military* power, should, in every case that can occur under this Government, be regulated and restrained, if practicable, by previous legislation. That the despotic will of any Executive functionary or of any military commander should be the only rule for the government of any people not in arms, not entertaining belligerent purposes—a conquered and subdued people—and when there is no imperative *necessity* for it, is an idea revolting to the spirit and genius of our institutions. The exercise of such power in a distant and enemy's country, and as to its people may not affect our citizens, but it is pernicious in its example and influences. It is objectionable on account of the extension of official patronage with no restraint but the discretion of the Executive or military officer dispensing it, resulting from its exercise under the laws of nations and the laws of war, if not regulated by legislation here. Of the constitutional power of Congress to restrain and direct by legislation the Executive as to the conduct of a war, in all respects, I have no question. I do not doubt that Congress can rightfully prohibit the marching of troops in time of war beyond our own boundaries, and forbid, under any circumstances, the invasion of the country of the enemy. Congress may prescribe the mode in which an enemy's territory in possession of our forces shall be governed under the laws of *war*. Such legislation is an amelioration of the law of the sword, which would otherwise prevail. But until the conquest of a foreign territory is consummated, as I have stated, the Federal Constitution does not extend to such territory, except as to our own citizens; nor do our *general* laws extend there, and it is governed as *foreign* territory. When it becomes *annexed* by either process suggested, the case is different. *Then* the territory has become as other territory of the United States. It is subject to the same constitutional and other laws; and all the power of Congress to govern it is derived from the same source, and is similarly restrained as it is with respect to other Territories. The ultimate power implied from the power of war, of conquest, and of treaty, is that of *annexation* merely; and the only power to govern that can be implied from *it* is a power to govern *under the Constitution*, and according to the *principles* of the Constitution, as *all* Territories, however acquired, must be governed. There is no distinction between territory acquired by war, conquest, consummation of conquest, or cession, and consequent *annexation*, than territory acquired by discovery and occupation, or by peaceful purchase and *annexation* following it.

I take this occasion to recur to some remarks made by me in this Chamber in December, 1846, upon introducing a resolution suggesting the formation of temporary civil governments in the Mexican provinces then in possession of our forces, in which I urged that the Federal Constitution did not extend to them without express directory legislation by Congress to that effect, and from whence I argued the expediency of such legislation. This is identical with what I have just advanced, and entirely consistent with the argument that the Constitution is *in force* as to all territory of the United States that has been legally *annexed;* and I refer to what I then urged to correct misapprehensions in relation to it, and to show its consistency with what I have now said, and shall further say before I close. All know that the *war* with Mexico then "*existed*." Those provinces had been subdued by our arms, and were in our undisturbed possession, as we were officially informed by the President, who recommended such measures. Our conquests were not, however, then consummated by cession, and the provinces had not been *annexed* to the United States. They were then *foreign* territory. Their free white inhabitants were not, by the naked conquest, made citizens of the United States. It was because of all this that the Federal Constitution and its principles, as I then urged, did not extend over these Territories, except as to our own citizens there. Whilst the war existed, the Mexicans there were our *alien enemies*, subject to the authority of this Government, under the laws of nations and the laws of war; and I proposed merely to *substitute* civil regulations more congenial to our Government than an arbitrary military despotism *for the latter*.

In exercising the powers delegated by the Constitution with respect to Territories, Congress should, besides adhering to the rules of fundamental law I have before commented on, conform to all the *prohibitions* on its powers as to legislation on other subjects, or with respect to the States, that can be made to apply to legislation for such Territories. On all occasions, and in every case, such prohibitions should be given full force and effect. They should always be looked to as beacons to direct the course of legislation *from* improper channels—as *landmarks* to guide in following the true path. The argument that these prohibitions do not apply *in terms* to Territories should have no weight in such legislation, except to secure the removal of all doubt by their extension and adoption by express law as to all Territories, and to control all legislation respecting them. I give no weight to the exploded false federal postulate that Congress can do whatever may be esteemed "necessary and proper," and for "the general welfare," if it is not expressly prohibited by the Constitution, or if the authority can be gathered from fugitive implications. The notion that a legislator should be estimated more highly because of his ingenuity in contrivances to evade the restrictions of the constitutional compact, in the exercise of power by the Federal Government, should not be encouraged. Such rules leave Congress afloat on the trackless ocean of expediency, without a pilot, and to go whither the popular caprice of the dominant party may force it. In past times, some legislators of unequaled ability in making excuses and finding justifications for doing that which they had no right to do,—even some denying the power of Congress to charter a national bank *in the States*—have wandered in search of that "vagrant power" into *this District*, and into the *Territories;* where they have supposed they found it, unaffected by constitutional impediments *as to the States*, and then have satisfied their consciences that they could in this District, or in a Territory, establish *it for the States*. I advert to this, because if the doctrines contended for by those who urge the adoption of the Wilmot proviso as to these Territories be cor-

rect, there is not a constitutional restriction or prohibition, with reference to the powers of Congress relating to *the States*, that may not be *evaded* by legislation, as to Territories disregarding them. The old-fashioned, well-settled Democratic rule, is that of strict construction—that Congress has no powers that have not been expressly delegated to it, or that cannot be clearly, directly, and necessarily implied; and these principles are maintained in the 9th and 10th amendments to the Constitution, and strict adherence to them will preserve concord and harmony in the Confederacy.

Many of the prohibitions in the Constitution do, however, in fact apply to legislation for Territories; are *general*, and extend to *all* legislation wherever to be enforced. For instance, the Constitution says, "*no bill* of attainder, &c., shall be passed." "Congress shall make *no law* respecting an establishment of religion," &c. "*No title* of nobility shall be granted," &c. "The privilege of the writ of *habeas corpus shall not* be suspended," &c.; all of which prohibitions restrain legislation for Territories as well as for the States, unless, forsooth, it should be *implied* these *prohibitions* are confined to legislation for *the States*, under the rule I have controverted. No "rules or regulations respecting a Territory," violative of these restrictions, would be valid. The argument on the other side proves too much, if it proves that those prohibitions do not apply to *Territories*.

Full and unrestricted power to form and establish governments for Territories to be admitted as States was not delegated to Congress. It was intended to confine it to cases of *necessity*. Doubtless the repugnancy of such delegation to the elemental laws of this Government, and that *competent authority did not exist to make such delegation*, were among the reasons for withholding it. I mean a power to frame constitutions under which new States were to be received into the Confederacy, or to do more than make temporary needful rules and regulations respecting the Territory, anterior to such admission. The constitutional convention was *for* the *States*, and had delegated to it *their* powers only. How, I ask, became it invested with the sovereignty of, or over, the people of all future colonies or territories, acquired by discovery or conquest, or ceded to the Federal Government in all time to come? Had the people of the "respective States" such prospective unqualified sovereignty as to acquisitions by the Federal Government, then being modeled and constituted, half a century in advance of such acquisition? I deny it. Such doctrine is revolting to the fundamental principles of our republican institutions. Neither the States possessed *then*, nor the States or the Federal Government possess *now*, any power whatever with respect to such Territories, beyond what is strictly necessary or "needful" to enable the proper disposition of the public "property" therein, with the object, and to secure the ultimate admission of such Territories into the Confederacy, in accordance with those principles. The organization of "free, sovereign, and independent States," and the augmentation of the power and increase of the prosperity of the Confederation, and the extension of the area of republican constitutional liberty, by the admission into the Union of such State, on terms of *equality* with its other members, are the only legitimate objects for such acquisitions, and should be the cardinal rules for their "regulation" by the United States until admitted. Would it not be a violation of those elemental laws to *force* a constitution, even if unobjectionable in its provisions, upon the citizens of those Territories, in advance of such admission, and against their consent? If it contained provisions not requisite to effect that entire harmony with the Federal Constitution necessary for their admission, or provisions hostile to the interests, or not agreeable to the wishes of those citizens, could the attempt to impose it upon them be successfully defended? I suggest these queries to show that the bestowal upon Congress by the Convention of such powers of *sovereignty*—and the exclusion of the institution of domestic servitude is one—would have been an invasion of the *inherent rights of the people of such Territories*. This objection is not connected with that arising from the injustice to those citizens whom it is sought in this case to debar from emigration to those Territories, lest they may have influence to effect the adoption of certain rules in the fundamental political laws of the new States, when organized, and is without reference to the outrage upon the *right* of all the States to participate in the benefit of these Territories, the *common* property of all. Is it not equally a violation of the elemental laws of this Government to effect, by *indirect restraining means*, the formation of a State government, to please a majority of Congress on this subject, as if done by *direct coercion?* Is not the adoption of measures *here*, tending to trammel or fetter the exercise of the absolute sovereignty of the people of the Territories, or to superinduce such exercise in a particular manner, equally an *usurpation* as if Congress was to dictate every word and letter of the State constitution by imperative mandate? The fact is, much more extensive power than that granted to Congress with respect to Territories, was proposed in the Convention, under which (if rightfully delegated) Congress could have *conformed* and *adopted* the ordinance of 1787, or framed and imposed upon the Territories other similarly-prescribed forms of government. The members of that Convention had not forgotten the doctrines of the Whigs of the Revolution; and *it rejected all those propositions*. As to the argument founded upon the absence of positive prohibitions, expressly restraining Congress from exercising such sovereign powers as to Territories, it would have been absurd for those who framed, and those who adopted and established the Federal Constitution, to have inserted such a prohibition as to a power which *they had no right to delegate*.

The solitary provision in the Federal Constitution authorizing any scrutiny of, or interference with, in anywise, by the Federal Government as to the constitutions of the States, *old* or *new*, is that in section four of article four, stipulating that "the United States shall guaranty to every State of this Union a republican form of government," &c. This is the defined limit of its review of such constitution either *before* or *after* admission of the State, and any intermeddling or action by Congress at any time, *direct* or *indirect*, outside that limit, is an unconstitutional encroachment on the rights of the people of the State thus interfered with, and upon the rights of the others, whose citizens may be injuriously affected by such irregular obtrusion.

Mr. President, I will reiterate that if the constitutional authority of Congress, with respect to slavery and slaves, is not held since 1808, to be limited to legislation respecting the "migration or importation" of persons *from abroad*, the consequence follows that the power of Congress since 1808, as to *all* the States, and as to the District of Columbia, and as to forts, arsenals, dock-yards, public lands, &c., and as to all the Territories, (except to the extent of abolishing the institution of domestic servitude *within a State* against its consent, and by a direct and positive mandatory congressional edict,) is *plenary and unrestrained!* It can then assail the institution even in the States, by laws restraining the locomotion of citizens with their slaves beyond the limits of such State, and it can inflict innumerable annoyances upon the slaveholder, though remaining with his slaves in his State, by singling out this species of property as the subject of special regulation, exaction, and restraint, and by withholding the operation of *remedial enactments* from it. Is this doctrine to be tolerated? There are some who boldly maintain it; but the South has hitherto been assured they were few in numbers, and mostly ignorant, misguided fanatics, having little influence, and unworthy of serious notice. Recent occurrences indicate the accession of auxiliaries to their ranks. I hope the combination of the ultra abolitionists and others actuated by hostility to the South, (though differently excited,) and their rallying together under the flag distinguished by the claptrap motto of "*free labor and free soil*," may not result in the testing of this doctrine. When the crisis comes, it will be found that it and the Union cannot be sustained together. Equally dangerous enemies to the Union are those who, to create a distinction between *the States* and this District and the *Territories*, and thereby justify action by Congress as to the latter, and to prevent immediate excitement in the slaveholding States as to their own security, *now admit* that the States are all direct parties to the Constitution, and have direct, express, and unequivocal guarantees in it against Congressional legislation directly affecting the States, which, they contend, do not exist but as *to the States;* and that as to this District, &c., and as to all *Territories*, Congress is without restraint. It is said Territories are *necessarily dependent* on Congress for the primary establishment of their governments, and for their support; and that plenary power to govern without restraint results from such dependence and such necessity. As I have before admitted, *imperative necessity* may *excuse*, if not justify, the exercise of power even not founded on strict right. But its exercise beyond that *necessity* is not only without right, but without excuse. Is the exclusion of the South and of its institutions from those Territories demanded by such *inexorable necessity?* Is it *indispensable* to the safety and security of those Territories, and the interests of the Federal Government therein, that the South should be denied all participation in them? If not, there is no *excuse* even for the exercise of such power. The dependent and defenceless condition—the weakness of the people of a far distant and sparsely populated Territory, without effective means of resistance to federal tyranny, which a State may have, not merely in its own strength, but in the sympathy arising from close neighborhood and association, and the congenial interests of sister States—may be a prudential consideration, weakening motives for withholding the exercise of arbitrary and usurped power by the Federal Government as to Territories; but surely it is no argument in favor of *the right*. Have the most astute of those who contend for such right pointed out a single guarantee to *the States* contained in the Constitution, in anywise relating to slaves and slavery, that is expressly *confined to the States*, and that does not extend to citizens of the Territories? Has the distinction they assert been established? Is the guarantee in the Constitution, in the 9th and 10th amendments—which stipulate "that the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others *retained by the people;*" and that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to *the people*"—limited to *the States* exclusively? Is the term "people" there employed, in contradistinction to the terms "the States respectively," confined exclusively to the *people* of the STATES? It is not. I invoke it as applicable—as meant to include "the people"—the citizens of the United States in *the Territories*—all citizens, wherever located.

I concede that the Constitution is a compact between the States alone. As I have urged, it is true that no provision of that instrument, but that I have quoted from the fourth article, refers, in specific and precise terms, to the *territory* beyond the boundaries of the States. I know that the Supreme Court of the United States has decided in the case, in 1st Peters' Reports, which I have before referred to, that the judges of the Territorial courts, though appointed by the President and Senate, under authority of an act of Congress, are not "constitutional" federal courts; and that Congress has repeatedly affirmed, by its legislation, that those judges may be appointed for a term of years, and not "during good behavior," as all federal judges are required by the Constitution to be. These concessions afford no ground for argument in favor of the asserted power. As to the tenure of judicial office in the Territories, it should be noticed, the office itself, under the Territorial government, is but *temporary*. The provision in the Constitution as to the term of office of the judges, obviously applies only to those of the PERMANENT federal courts, and not to those the organization and duration of which render such provision inappropriate to them. Admitting, however, the correctness of the position, that Congress, in its legislation for Territories, is not restrained by specific and positive prohibitions in the Federal Constitution in express terms, and that it was made *for* the States, and to regulate the Federal Government in its legislation as to them; unless the doctrine can be established that the Federal Government of and for *such States*, has the inherent sovereignty of the people of a Territory in its custody, and has, till such Territory becomes a State, the right to exercise it, the power now asserted for Congress does not exist.

But all verbal criticisms of the Constitution may be dismissed as of little effect in restraining the operation of that instrument, and its extension, to Territories. Can it be contended, in the face of the American people, that the *spirit* of the Constitution—its *principles*, in the maintenance of which the patriots of colonial times achieved our independence—*all* the fundamental principles on which this Government is based—the elemental laws of our institutions—*do not extend over the* WHOLE EMPIRE? Is not *all* the legislation of Congress subordinate to these principles? Is not the legislation of the States also? Is not the conduct of every citizen regulated and controlled by them? Is not their fealty, their allegiance, due to those principles as a part and parcel of the Constitution? If not, then the Federal compact, and our State constitutions, the Declaration of Independence, and all our State papers, asserting and maintaining those principles, are little more than a jumble of words, not worth the parchment or paper on which they are written. Can it be that those principles are to be held as *lost* or *forgotten* whenever their recital in the Federal Constitution has been deemed superfluous? This is the conclusion to which such arguments inevitably lead. But this is not the true rule. The rule is, that *all* the fundamental principles—the whole body of elemental law of our republican institutions—our political *leges non scriptæ*—the American common law—as established when our Governments, State and Federal, were founded; that have "grown with their growth, and strengthened with their strength," by which the Consitution is construed and expounded—ALL extend *with* the Constitution, in *support and in aid* of the Constitution, and as a *part* of the Constitution; and that the instrument itself, bearing those principles, and as the *paramount law*, reaches into and covers, not with impaired vigor, but with undiminished force, as well the remotest Territories of the United States, with or without governments, as the States that formed that Constitution. It is the bulwark and shield of every American citizen; and with all whose heads and hearts are right, its guarantees and its principles are sacred at all times and in all places, on land and at sea, at home and abroad, whenever and wherever the American flag waves above an American deck, or over American soil! What if *this* or *that* or the *other* provision or prohibition does not specify in precise terms "Territories," or citizens residing in Territories! You claim of those citizens fealty and allegiance; they are sworn to support and defend the Constitution. By what just rule do you make this exaction, and yet deny them its protection and its privileges? Do you honestly fulfill your reciprocal duty to them, if you exclude them from the pale of that instrument? Why should stipulations admitted to be *conservative and salutary* as to States and their resident citizens, be expurgated as *odious* with reference to citizens residing in *Territories*, solely because the latter are not specifically "enumerated?" Why seek to evade and avoid such stipulations as to *them?* Yielding that the Constitution may not, in terms, in all its provisions, cover Territories, I insist that such rigid technical adherence to its letter, by which their exclusion from its advantages is created, is altogether unworthy this enlightened age, and the liberal feeling which should animate all who belong to the republican family of these States towards each other.

The impregnable argument, that a restriction imposed by Congress as to the full exercise of the sovereignty of the people of a territory when they become a State, in advance of their organization of their State government, and whilst in the territorial state, and which fetters, controls, and directs, by constraint, the full and free exercise of that sovereignty by the State, and in fact moulds its political institutions to fit the fancy of majorities here, would destroy the EQUALITY of such State upon its admission; and that, therefore, such restriction is repugnant to the Constitution, has been maintained by other Senators with an ability that admonishes me to avoid further effort for the exposition of its truth. I advert to it for another purpose. The reply given to it, that the State, on the assumption of its sovereignty, may disregard such restriction, is a mockery! The guardian who had brought up his ward a sailor, might as well taunt him, on his coming of age, with his entire freedom as a man to adopt one of the learned professions. If it be conceded that such restriction would not so effect the EQUALITY of the *new* State—if it is admitted that the fact of her coming into the Confederacy on terms and conditions imposed by the other States, (not imposed upon them when they joined it,) or by Congress, does not impair such *equality*—if it be acknowledged that there are, and should be, distinctions as to the States of this Confederacy, based on wealth, population, resources, geographical location, superior improvement, intelligence, or virtue, or greater age—if it be considered that such new State is not in the least degraded by having had, while in her infancy, a portion of her sovereignty despoiled by arbitrary power; and that yet having the alternative of remaining in territorial vassalage, or of standing upon her *inherent sovereign* rights, and become alien to, and independent of the Confederacy in case she cannot relish *submission* to the *conditions* thus imposed, and that her admission into the Union depends on her own *voluntary* action, still the question remains to be answered, *Where is the letter or syllable in the Constitution giving such power to Congress?* The existence of the power is not proved by abandonment of the argument, and by the concessions alluded to; though its non-existence is established if such argument is not refuted. The overthrow of this argument, and of others based upon the injurious consequences flowing from the exercise of the asserted power, and all the absurdities to which it tends, but resolves the question back again to the origin and source of the power claimed. Its advocates are bound to show the precept or the principle from which it is derived. In the absence of any express delegation of power in the Constitution respecting the Territories, except that I have noticed authorizing the "making of needful rules and regulations," and there being no precise *definition* of the character of these "rules and regulations," the advocates of such power are driven to the trite excuses and defences of *all usurpations*—the hackneyed doctrines of *inherent* powers, and *implied* powers, and the "*general-welfare*" principle. The various hypotheses assumed by them—the non-recognition by the Constitution in terms of slavery—that it is not a *federal* institution, and the like—their hypercritical construction of the word "migration," as contradistinguished from "importation; *all of them* (save only that making the removal of slaves from a plantation in one State to a plantation in another State, or in a Territory, "*commerce*" within the meaning of the Constitution; and that which implies a power to inhibit the removal of *all* slaves, from an interdict *against prohibiting for a limited term* the removal of *imported* slaves; which we cannot concede without *self-stultification*) *may be fully admitted*—all the sublimated harangues respecting the natural rights of man, and about philanthropy and humanity, "free soil and free labor," and so forth, may be applauded as in excellent taste, even from that section of the Union which supplied the South for a price with slaves from Africa; and what is the result? what does it all amount to? The demand is again made, where is to be found in the Federal Constitution any express delegation of power to Congress as to Territories, *on this subject?* If they will defy the enforcement of "*that other law*" of the Confederacy, by which, in the last resort, all Federal oppression may be rebuked; if they will, at all hazards, claim "the pound of flesh nearest the heart," they should at least be enabled to say, with the Venetian Jew, "*it is so nominated in the bond.*"

The most plausible reasoning by which the power claimed for Congress has been supported is, in my judgment, that founded upon the action of the Congress of the Confederation in adopting the 6th article of the ordinance of July 13, 1787, excluding the institution of domestic servitude "forever" from the Territories northwest of the Ohio, and that based upon precedents in the legislation of Congress as to Territories since the adoption of the Federal Constitution. I think, however, a close scrutiny of these precedents will show they should have little weight. All of them have been collected, cited, and commented upon by the Senator from New York, [Mr. DIX,] with that consummate ability characteristic of all his efforts here and elsewhere. As presented by him, they constitute, apparently, quite formidable intrenchments for the advocates of the arbitrary power of Congress over the Territories, and the most imposing cover for its advocates that has yet been advanced; yet it seems to me they are all surmounted by one query —*Can any one believe that if the case now sought to be made had been conjectured when those measures were adopted, they would not have been resisted by the whole South?*

But I will endeavor to meet the challenge so triumphantly given here and elsewhere to reconcile the doctrines and principles of the ordinance of 1787, and of the past legislation of Congress, which, it is said, contains concessions of the asserted power of Congress to exclude slavery from the Territories, with the positions denying that power we now contend for by an examination of each one of them.

Mr. President, the advancement of the arguments of *precedent* in justification of the exclusion of slavery by act of Congress from Oregon, California, and New Mexico, should arouse those who believe the exercise of power to be an usurpation, to more unflinching and determined resistance to the *additional precedent* now sought to be established.

As to the 6th article of the ordinance of 1787, I do not hesitate to say that it was an assumption of power by the Congress of the Confederation not warranted by the Articles of the Confederation. There has never yet been found a syllable in those articles authorizing that ordinance. The old Congress had not even the power conferred on the present Congress by clause 2, section 2, article 4, of the Federal Constitution, to make "all needful rules," &c. The *entire* authority exercised by the old Congress over the Territory was *usurped*, and it is so admitted by all who have since treated on the subject. Mr. Madison, in the 38th number of the "Federalist," as has already been noticed by the Senator from New York, [Mr. DIX,] says, in reference to the Western Territory:

"We may calculate, therefore, that a rich and fertile country, of an area equal to the inhabited extent of the United States, will soon become a national stock. *Congress have assumed the administration of this stock. They have begun to render it productive. Congress have undertaken to do more: they have proceeded to form new States; to erect temporary governments; to appoint officers for them; and to prescribe the conditions on which such States shall be admitted into the Confederacy.* ALL THIS HAS BEEN DONE, AND DONE WITHOUT THE LEAST COLOR OF CONSTITUTIONAL AUTHORITY. *Yet no blame has been whispered; no alarm has been sounded.*"

This opinion is quoted by Judge Story, in his Commentaries, (3 Com., 187,) and as I conceive in a manner that shows he concurred with Mr. Madison as to the total absence of authority in the Congress of the Confederation to pass the ordinance of 1787; and other eminent authorities coincide with them. Mr. William Pinkney denounced it as void, for that reason, in his celebrated speech in this Chamber on the Missouri question, as I find in the best notice of his speech extant, in a Georgetown paper published at that time.

It has been argued that the Federal Constitution was intended to supply such *defect of power;* and the 43d No. of the "Federalist" has been referred to as showing such to be Mr. Madison's opinion. I have looked carefully to that number, but I have been unable to find anything in it to such effect. Mr. Madison quotes the clause in the new Constitution authorizing Congress to make "all needful rules," &c., and then says:

"This is a power of very great importance, and required by considerations similar to those which show the propriety of the former. The proviso annexed is proper in itself, and was probably rendered absolutely necessary by jealousies and questions concerning the Western Territory sufficiently known to the public."

And this is every syllable in that article on the subject. The reference to a "*former*" power spoken of, is the power to admit new States, which Mr. Madison previously noticed in the same number, observing—

"The eventual establishment of *new States* seems to have been overlooked by the compilers of that instrument. We have seen the inconvenience of this omission, and the assumption into which Congress have been led by it. With great propriety, therefore, has the new system supplied the defect."

And it is upon this the argument is based. Concede its full force, and it amounts to no more than this, that the Constitution supplied the want of authority of the Congress of the Confederation to "*make all needful rules and regulations,*" &c. Surely the "*defect*" is not supplied beyond the extent of the *new* power delegated. If I am correct, the very argument used to sustain the ordi-

nance of 1787 proves it was *void* as an usurpation of power. I am aware that an expression reported to have been used by Mr. Madison, in 1790, in a debate in the House of Representatives, has been quoted by the Senator from New York, [Mr. DIX,] to the effect, that though Congress could not interdict the importation of slaves into the States prior to 1808, "yet *regulations* might be made in relation to the introduction of them into the new 'States to be formed out of the Western Territory." Admitting the report to be accurate, there is no inconsistency in that expression, if confined to *slaves imported from abroad*, which is doubtless what Mr. Madison meant; but it is in harmony with his opinions since given in an authentic form, and which I shall presently advert to.

It should not be unnoticed, that there is not a syllable in the Federal Constitution confirming or continuing the ordinance of 1787, or any other ordinance of the Congress of the Confederation. As to any confirmation or adoption by Congress, subsequent to the ratification of the Constitution, either of this or any ordinance of the old Congress, if such ordinance was originally invalid, or if inconsistent with the Constitution, such adoption of it would be nugatory. Congress must, to adopt it, possess power to enact it as an original law. It cannot confirm or adopt what it had no power to enact. If invalid, or if abrogated by the Constitution; or if it exceeds the powers of the constitutional Congress, and is in nowise confirmed by the Constitution; its express repeal by law would have been superfluous, and would not have increased its invalidity. I admit that, by the first clause of the sixth article of the Constitution, all *debts* contracted and "*engagements*" entered into by the Confederation, were to be as valid as they were under the Confederation; but this was the full extent of the ratification or saving of the acts of the old Congress. They all died on the adoption of the new Government. Especially those incompatible with the new fundamental law, became extinct. The *form* of legislation adopted by the Congress of the Confederation, was that of "ordinance;" but their acts were of no more force or efficacy than ordinary laws. The use of the form appropriate for the PEOPLE when convened in their primary capacity and exercising their sovereignty, gives no additional sanction to those laws. They were mere *legislative* acts, (repealable as other laws,) and the *sovereign* powers necessary to give validity to the sixth article of the ordinance of 1787 were not possessed as to the Northwestern Territory, by the Congress of the Confederation. The Articles of Confederation did not, and could not, confer such powers; and their exercise, except in case of imperious necessity, was forbidden by the elemental laws of the land. None of the States ceding territory to the Confederation (supposing that, anterior to the cession, such State possessed the power) stipulated in the cession *for* such prohibition, or authorized it. Of course I mean the State, acting through its constitutional legislature. I am aware of the course taken by different southern members of the Congress to the Confederation in relation to this ordinance of 1787; but this was not the action of the individual State, any more than is a vote in this Chamber the action of the State represented by the Senator who gives it. Virginia, in her cession, expressly stipulated that the States to be formed out of the Northwest Territory ceded by her should be "distinct Republican 'States, and admitted members of the Federal 'Union, having the same rights of sovereignty, 'freedom, and independence as the other States," which had been previously suggested in October, 1780, by resolution of Congress. Subsequently to the cession, and in 1788, by agreement between Congress and Virginia, the number of the States to be thus formed was limited to *five*. Georgia and North Carolina both expressly repudiated the 6th article of the ordinance in their acts of cession, and declared it should not extend to the territory ceded by them; and the United States accepted their cession upon the terms stipulated by that State. Can the provisions of the ordinance of 1787, trammeling and restraining "forever" the "sovereignty, freedom, and independence" of the States to be formed out of the Northwest Territory, with respect to their fundamental laws and domestic institutions, not leaving them "the same" as the other States, be reconciled to the stipulation in the cession of Virginia! Was it not a violation of that condition—a condition agreed to, "*engaged*" to be fulfilled by the Congress of the Confederation, and ratified by the Federal Constitution in its 6th article? I hold that it was, and that it was *void* for such cause, even if Congress, without such restraint, had possessed the power to "ordain" it. I find also, upon examination of the historical records touching this ordinance, that, after the adoption of it, and after the organization of the Federal Government under the Constitution, citizens of the "Illinois country" relinquished by Virginia, and who were residing there with their slaves, remonstrated to Congress against the 6th article in strong terms, (American State Papers, "Public Lands," vol. 1, p. 61;) and that subsequently other citizens residing in Indiana held a convention at Vincennes, of which General William H. Harrison was President, and reiterated these remonstrances in strong terms, (see ibid. p. 146, and ibid, "Miscellaneous," vol. 1, p. 173, 450, 467, 478, 484, &c.;) and the act of 1793, sec. 3, would seem to recognize the existence of slaves (persons "held to service and labor") there after the ordinance.

But concede that the "ordinance" of '87 was the exercise of rightful power, it is still important to know precisely what were its *objects*. The honorable Senator from Virginia, [Mr. MASON,] in his speech on the 8th of July, on this bill, referred to a letter from Mr. Madison to Mr. Monroe, that I had shown him, procured by me from the manuscripts of the latter, dated February 12, 1820, stating distinctly the *purpose* of the 6th article. He shows it to have been such as to excuse those who voted for it from any imputation of intentional usurpation of power; and, *if limited to such object*, the exercise of the power is less objectionable, and has the support of stronger necessity. When the ordinance was passed, it was conceded that the Congress of the Confederation had no authority to prohibit or restrain the *foreign slave trade* in the States. Yet every State except three, or perhaps four, had expressed decided hostility to that trade, and *had passed laws to suppress it*. The sole object of the 6th article of the ordinance, says Mr. Madison, was to aid in putting an end "*to the importation of slaves* FROM ABROAD;" and if the Congress had possessed the power to do so by general law as to all the States, this article "*creating a distinction among the States in the degree of their sovereignty, would not have been adopted, or perhaps thought of.*" All of the letter I read this remark from, that relates to this subject, will be appended to these remarks, when published, (see note D, Appendix.) Now, I say, inasmuch as the Federal Constitution conferred on the Congress of the Constitution full power to prohibit the importation of slaves from abroad since 1808, and that power having been fully exercised, and such prohibition being now in full force, (even if it was the prescribed limit of our power on this subject,) and the ordinance having grown out of the *necessity* created by the *absence of this very power* in the Congress of the Confederation, that ordinance does not afford any precedent or excuse for borrowing and reënacting its exclusion, as it is attempted, and *superadded* to that power already exercised under the Constitution. On the contrary, reasons that appear to me to be conclusive on the score of right and of propriety, are suggested by this fact, forbidding such course.

Again, if the power of Congress should be conceded, the adoption of the ordinance of 1787, sixty years ago, before the Constitution was adopted, and with reference to the *Northwestern Territory*, is not a just precedent for seeking its reënactment for, and its extension to, other Territories *very differently situated;* and which is now proposed for entirely different objects, and with entirely different motives, from those that induced the original law, and when its effects would be different upon the Territories, and as it respects the States. It is a cogent argument in favor of Mr. Madison's views as to the objects of the sixth article of the ordinance of 1787, that a similar provision was not extended to the Territories ceded by South Carolina in 1787, by North Carolina in 1790, and by Georgia in 1802, and which embrace most of the States of Tennessee, Alabama, and Mississippi. The first Territorial Government as to Mississippi was established before the final cession by Georgia, and in 1798; and Congress was not then fettered by the stipulation subsequently made by Georgia in her final deed of cession in 1802, that the sixth article of the ordinance should not be extended to it. Why were not the principles of that article subsequently ingrafted or attempted to be ingrafted by Congress on the governments formed for the country acquired by the Louisiana treaty—to Louisiana, Arkansas, and Missouri—immediately succeeding the cession, whilst they were Territories, and before 1819? Why did it not make the exclusion as to the Floridas as soon as the cession of them was consummated, and in the formation of their Territorial Government?

The first combined attempt after the ordinance to extend it, was made in 1819 with reference to Missouri, and her admission *as a State;* and it is true, those who made it succeeded in passing a law in 1820 to exclude slavery from all the territory ceded by the Louisiana treaty to the United States, situated west and north of the southern boundary of Missouri. Upon that law and its history, before I take my seat, I shall make some comments.

In 1819, 1820, and 1821, it was also attempted to establish a similar prohibition as to Arkansas and Alabama, and indeed "*all exterior Territories;*" but the attempt failed. Was the exercise of such power withheld by Congress from 1787 to 1820, in delicate indulgence to southern feelings, a tender regard for southern interests, and not out of any consideration for the constitutional rights of the southern States and their citizens? I will not do the non-slaveholding States the wrong of commending their *forbearance*, when I can find a motive for their course in *a sense of justice and right*, not corroded or weakened by selfish ambition for political ascendency, or the influences of sectional prejudice, or of fanatical or factious excitement. It was this sense of justice—this conviction of the rightfulness of the claim of the South and its citizens to *equality* with them, that for thirty-odd years influenced those who preceded us, if not to *stifle* all attempts to usurp power for the Federal Government on the subject of slavery, at least to *control* the action of Congress in relation to those attempts, so as to prevent the harmony of the Union being disturbed. In my judgment, the very legislative precedents cited to sustain the asserted power of Congress, and their history, recorded in your archives, show this; and, moreover, that Congress resisted importunate appeals made to them at nearly every session during that period, solely because of the *absence of power* in it to legislate as those inimical to the South asked of it. The 6th article of the ordinance of 1787, all must know, had but little *practical effect* as to any of the Northwest Territory, unless it was the southern parts of "the Illinois country," and Indiana. It was the "manifest destiny" of that region to be non-slaveholding. The institution of domestic servitude as to the African race, if sanctioned by express law, could not exist there beneficially, either to the master or to the slave. In the Territories as to which Congress *omitted* to exercise the asserted power, the exclusion could have had *full practical effect*. The institution is adapted to their locality, climate, and products. I refer to this as an exemplification of my remark, that, until 1819, the action of Congress on this dangerous topic was controlled by the sagacious and patriotic statesmen of those times, so as to avoid excitement as far as practicable. Especially was direct collision with any *interest* of any section, as to any matter of *practical* importance, avoided. All discordant and clashing influences were sought to be harmonized. Those to whom slavery was odious, were gratified by its supposed legal exclusion by the ordinance of 1787 as to Territories where slavery could not exist even if allowed by law, and whither they could emigrate without being shocked by it; and, on the other hand, those who did not regard it with such "holy horror," were not disturbed as to their rights in those Territories adapted to the institution, and they could emigrate thither with or without their slaves. While the ordinance of 1787 was confined to the Northwest Territory, the South generally had little motive to moot the abstract question of its validity, or otherwise seek to disturb it. These facts, it seems to me, should satisfy all impartial minds that the non-exercise by the Congress of the Constitution, of the asserted power for the great length of time, and with respect to at

least *six* Territories, (Mississippi, Orleans, Missouri, Alabama, Arkansas, and Florida,) is just as strong a precedent on the one side, as the action of the Congress of the Confederation as to the Northwest Territory, and the subsequent acts of Congress referring to the ordinance, are on the other.

The reference to the ordinance, and the reiteration of its provisions as to slavery, in acts of Congress relating to the Territories of Ohio, Illinois, Indiana, Michigan, Wisconsin, and Iowa, nearly all of which States were originally included within it, shows that the original validity of the ordinance, and its being operative *per se*, was regarded as questionable. The act of August 7, 1789, fortifies this view. It is recited, "whereas, *in order* that the ordinance *may continue* to have full effect," &c., and then modifies the ordinance. Why else such legislation? If the ordinance was valid, such act did not grant any additional strength. It will be noticed that, as to the territory it covers, the ordinance *purports* to be for *all time to come*. By the article respecting slavery, it is excluded "*forever*" from the Northwest Territory; thus attempting to bind the future sovereign State government. The same word is in the 8th section of the Missouri compromise act of 1820.

When the fact is considered, that all propositions in the constitutional Convention to bestow upon Congress powers adequate to prescribe such fundamental political law *were rejected*, and the 3d section of the 4th article of the Constitution adopted —the only clause at all defining the powers of Congress as to territories—and also the non-ratification and continuance of the ordinance in the Constitution; it seems to me its abrogation from the date of the adoption of the Constitution must be conceded. Certainly, if the ordinance is inconsistent with any provisions of the Constitution or its principles, it must yield to their paramount force.

As to any *admissions* of the power of Congress, either that of the Confederation, or of the Congress of the Constitution, *implied* from the action as to the Northwest Territory, a reasonable man can imagine, that with respect to all that country, the members from slaveholding States would be less vigilant in their scrutiny of enactments than if made for Territories in which the *interests* of the South might be *practically* injured. Unsuspicious of the establishment of precedents to be years afterwards cast in the teeth of their successors, as concessions of principles, and an abandonment of claim to rights—reposing in confidence that their uniformly liberal course towards their fellow-citizens of the non-slaveholding States was sincerely reciprocated—averse to caviling with any of their sister States, with whom they had stood shoulder to shoulder through the Revolution, and out of which contest all had just come triumphant over their common oppressor; even if the ordinance of 1787 did contain the concessions and admissions it is argued that it does, it is entitled to little respect; and, with all respect I would say, cannot be urged with becoming American feeling as an *estoppel* against the South. No man in any section of the Union, or of any party or faction, can doubt that if the southern delegates, in 1787, had been admonished of the use to be made of that law thereafter—if they had been forewarned that it would be put forth as an admission of the power of the Federal Government to assail southern rights, prostrate southern interests, and degrade the southern States from their rightful political *equality*—that they would not have, unanimously, and at once, indignantly spurned it. Can any one believe that the southern States would ever have made the cessions of territory they did make to the Confederacy, for the common benefit, if they had entertained a suspicion of the course that would be pursued? Would Virginia have relinquished the very territory over which the ordinance was extended, if she could have foreseen that the hostile measure on a subject vital to her, and of which an *incipient* step is now sought to be taken, would be consummated, and that this ordinance would be tortured into a confession by her of the power to adopt such measures? Would she not have resisted its enactment to extremities, if she had imagined it was *a snare*? Would her distinguished statesmen who aided in its adoption have given such aid, had they suspected it contained covert and latent concessions? Would any of the southern States have ratified the Federal Constitution, if they had anticipated that its provisions and its guarantees would be so construed by the other States as to effect that result in reference to the institution of domestic servitude, now attempted to be accomplished? No, sir! They did not suppose it possible that in less than a third of a century attempts would be made to exclude their citizens from the privilege of emigration, with colored domestics, to any Territories acquired by the Confederacy, to be held to service or labor there; and that within little more than half a century the party cry of "free soil and free labor" would be heard rallying sectional and fanatical prejudice to the aid of faction in its efforts to dishonor and degrade the South by such exclusion. Had the slaveholding States so conjectured, who can doubt that they would have resolved even to encounter all the trials and perils of a separate political organization, and established a distinct confederacy of their own, in preference to an alliance with those who would place them under "*ban and interdict*"—confine them as infected—as tainted with the "leprosy" of the institution of domestic servitude, to their own *State boundaries*, and hold them as unfit and unworthy associates on equal terms, even of those whose progenitors are equally responsible for the establishment of that institution there, being themselves the chief parties in the African slave trade? If they had not, under such circumstances, rejected such alliance, they would not have been faithful guardians of the honor, interests, and rights of those who were to come after them, and their dereliction would have proved them appropriate subjects for the degradation sought to be cast upon them.

I will now consider the argument urged with such earnestness, here and elsewhere, that the 8th section of the act of March 6, 1820, called the "compromise act," making provision for the formation of a State constitution by the people of Missouri, is a virtual concession of the full power of Congress.

It is said southern members voted for it; a southern President, (Mr. Monroe,) with a majority of his cabinet from the slaveholding States, (Mr. Crawford of Georgia, Mr. Calhoun of South Carolina, and Mr. Wirt of Virginia,) approved it; and that the South acquiesced in it, though it gave up the principles we now contend for. We have been asked, if they had then regarded the prohibition of slavery in Territories by act of Congress as an usurpation of power, why did the slaveholding States submit to that act? Why was not the Executive *veto* interposed, or State interposition resorted to?

Mr. President, no one who is old enough to have witnessed the occurrences of 1819, 1820, and 1821, or who has read the history of that day attentively, after full and impartial consideration of all the circumstances connected with the formation of the State constitution of Missouri, in June, 1820, and her admission as a State in 1821, can justly resort to such argument. All know with what almost entire unanimity and earnestness the South resisted the restrictions proposed in 1819, in the bill which was lost, and in 1820 in the act referred to, and that restriction in the resolution of 1821, and others of a like character then attempted. All know they denounced the exercise of congressional power to impose them, as an usurpation, in excited debates, for three successive sessions, in this and in the other House of Congress. I shall append to these remarks, when published, some interesting letters to and from President Monroe, from and to distinguished citizens of different parts of the Union, while the Missouri controversy was going on, and after it was settled, in verification of what I now say. I have procured them from his valuable manuscripts in possession of his son-in-law, S. L. Gouverneur, Esq., of this city. As they have never before been published, they may shed some light on the occurrences of that era; and I beg leave here to briefly advert to some of them. [Mr. W. here read extracts from some of them, in note E, No. 1 to 18 inclusive, appendix.] I will also direct the notice of the Senate and of the country to the tone of the then leading southern paper, the Richmond Enquirer, edited by T. Ritchie, Esq., the present editor of the Union. I have copied two extracts from his paper, which I shall publish. [See note E, Nos. 19 and 21, appendix.]

For several successive years, the Enquirer contained able editorials, and essays written by others, specially aimed at, and denouncing as unconstitutional, the attempts in Congress to interfere with slavery either in the States or Territories, and in strong language. In December, 1819, and in January, 1820, President Monroe caused his son-in-law (Mr. George Hay, of Richmond, Va.) to publish in the Enquirer a series of articles, from No. 1 to No. 8, signed "*An American*," contesting the power of Congress by cogent arguments. The identity of *language* in these essays and in Mr. Monroe's letters, &c., and letter of Mr. Hay, (note E, No. 1,) shows that if Mr. Monroe was not the writer of them, he furnished notes, &c., from which they were written, and that they *expressed his convictions*. But in February, 1820, he was constrained to yield, and to favor the proposed compromise; and on the 17th of that month, Mr. Hay furnished the Enquirer with an article purporting to be an *extract* from a letter from Washington, &c., which it appears (see note E, No. 5) was sent by the President, and had his countenance, and *the conclusion of this extract presses the compromise!* [Mr. W. here read this extract, note E, No. 20.] Mr. Ritchie, in the same paper, displays his hostility to the compromise, as "neither agreeable to the Constitution nor to our interests;" and in his next he denounces it in the most decided terms, and says the "scheme of a compromise," as suggested in this extract, was received in Virginia "with one universal burst of reprobation," and it is intimated that the letter from which the "*extract*" was made *could not* be from a "Virginian." Until the *compromise* was adopted, every Enquirer contained strong and emphatic denunciations of the "scheme," as a violation of the Constitution, as an outrage, as an insult, &c.; and after it had passed, though it stated it should "*submit*," it said, "instead of joy, we scarcely ever recollect tasting a bitterer cup;" and it still continued to declare the measure as pernicious, and *predicted* its violation, and that it would be used as an entering wedge for additional usurpations. This was continued through 1820; and in 1821, when the further compromise of Mr. Clay on the resolutions admitting Missouri was under consideration, the denunciations of the first compromise were renewed; and for the nine years following that I have looked into the files of the Enquirer, I have not found that the compromise bill of 1820 was alluded to without reiterating the opinions it expressed in 1820.

It is due to Mr. Ritchie, however, that I should state that he has expressed to me his desire, that if I referred to those opinions, I should also say that his present convictions are in favor of the extension of the Missouri compromise line to the Pacific. He has apprehensions of peril to the harmony of the Union, if the question is not so settled, that constrain him to accommodate his opinions to such adjustment as the most likely to be made. I refer to his former opinions for no purpose of assailing those now entertained as being inconsistent with them, but solely to show that those I hold in unison with those he held in common with the whole South in 1819, 1820, 1821, and 1822, should be spared from very harsh denunciation, and as being too *ultra*, from that quarter at least. The bill of 1819, and that of 1820, and the resolutions of 1821, were denounced while pending in Congress, and after they had been passed by southern Legislatures, and by the people of the South, and by nearly every southern newspaper in equally emphatic language. Truly this was a strange mode of "conceding"—a novel *form* of "admitting" the asserted right. But they were overborne by numerical force here. They were constrained to acquiesce in them, or more odious impositions, or to "stand on their reserved rights." Devotion to the Union, and of the love of harmony and peace, subdued their impulses to resistance which the outrage caused. This alone, and not any conviction of the rightfulness of the power exercised, induced the acquiescence now tortured into an admission of that power.

A brief history of the Missouri bills, and of the resolutions for the admission of that State, will show these facts.

The first bill respecting Missouri was introduced

April 3, 1818, but it was not acted on at the session of 1817–'18. It was considered at the next session in the House, (February 13, 1819,) and passed the House February 17, 1819. The Senate amended it. The House refused to concur in *one* amendment, and finally, March 2, 1819, both Houses "*adhering*," the bill was lost. This bill provided for the formation of a State constitution by the "*free white male citizens*" of Missouri Territory, and prohibited the further *introduction of slavery there, except for crimes, &c., and provided that children of slaves born in Missouri might be held to service or labor till twenty-five years of age.* The amendment which the two Houses disagreed on, was that of the Senate, striking out all these clauses respecting slavery. The vote in the Senate was 22 to 16, and in the House 76 to 78. During the progress of the bill through the House, various amendments were proposed for extending restrictions on the subject of slavery to the adjacent territories, and to all territories. Mr. John Sergeant's resolutions to prohibit slavery in all the territories was proposed January 15, 1819. All those propositions were either rejected, or not finally acted on. Great excitement prevailed throughout the Union after Congress adjourned. It entered into the congressional and other elections in the recess. *President Monroe was prepared, if the bill of* 1818–'19 *had passed the Senate in the form it passed the House of Representatives, to veto it.* I hold in my hand, *in his own handwriting*, the rough draught or notes of a *veto message* he had prepared to meet such a contingency, and which I will presently read to the Senate. There is other evidence of his determination as to that bill, had not the inflexibility of the friends of the Constitution in the Senate defeated it. Before reading this veto message, I would ask leave of the Senator from Ohio [Mr. CORWIN] to commend it to his special attention. In his speech on yesterday, that Senator expressed the opinion that any President who dared to send a *veto* on this subject should be beheaded as a traitor!

Mr. CORWIN. I am not quoted correctly. I said, a President who would again and again thrust his will in the way of the legislative power, and arrest the popular decree, might provoke the summary vengeance of an abused and insulted people; but I spoke of impeachment and execution for such cause as not in accordance with law.

Mr. WESTCOTT. I would not do the Senator injustice, and cheerfully adopt his correction. It does not soften the sentiment ascribed to him in the notice of his remarks from which I borrowed the expression I used. I doubt not the Senator's words were misunderstood. But as corrected, I still find reason for soliciting his attention to this veto message as containing some arguments that may, I trust, modify and molify his views. [Mr. W. here read the draught of the veto message appended—Note F.] It may be that this draught was for the bill of 1820, and some have so supposed, as it refers to provisions as to *Territories* in the bill of 1820, and not in that of 1819, as it passed the House, though it was supposed, while it was pending, such provision would be inserted. President Monroe's letter to Judge Roane, dated February 16, 1820, (note G. appendix,) but 20 days before the bill of 1820 was signed, would seem to indicate that he had not then fully "made up his mind," and authorizes the presumption that he prepared this draught after he wrote that letter, and that he intended to reject the bill of 1820. If so, the authority is strengthened. The force of the compromise act of 1820, if such be the fact, is more directly weakened by this veto message, although the President and his cabinet may, subsequently to his decision to reject the bill, have felt themselves constrained by considerations of urgent expediency—nay, of such momentous character and overwhelming force, involving, perhaps, the existence of the Confederacy—to acquiesce in the arrangement made by Congress, and allow the bill to become a law.

Under these circumstances, can there be a man of intelligence, from Maine to Texas, who will venture to say that any one of the distinguished citizens of the South, who were Mr. Monroe's chosen constitutional counsellors in March, 1820, would, in contemplation of what is now attempted, have assented to that compromise? Had they harbored the suspicion that the contest would be again renewed, and this very compromise urged as a precedent for new and additional outrage of a more grievous character, would they not all and at once have met the difficulty by spurning the compromise, and adhering to the Constitution as their shield? Would, in such case, either one of them have remained in Mr. Monroe's cabinet an hour after he should have approved the bill? No man who reads Mr. Monroe's draught of his veto message, and who reads his correspondence, can doubt that he sacrificed his opinions to preserve the harmony and peace of the Union. If he violated the Constitution, it was to save the Constitution. And yet this act is urged as a precedent! It, forsooth, is an admission of the power that *estops* the South from further denial. I admit that, with respect to the Territory it covers, it is a *relinquishment, as far as it can be so relinquished*, of all contest as to the claim of power; and this, those who insist on the exclusion of slavery northwest of 36° 30′ in the territory *then* possessed by the United States, and to which that bill applies, may have the benefit of. This does not preclude us from insisting, as was insisted in 1820, that the act of exclusion was an *usurpation*. The South yielded to such usurpation rather than contend with you on the question of abstract right as to a Territory where its concession by you would be practically worthless to them. But if the validity of the act of 1820 was less doubtful, it is not, under the circumstances, a just precedent for the measure now insisted upon, and now resisted as one of *cumulative usurpation*. The exclusion now proposed as to California and New Mexico, or a large portion of these Territories, not only outrages the *rights* of all, but injures the *interests* of a portion of the southern States. The act of 1820, though it was a wrong, effected but little *practical injury*, as was the case with the ordinance of 1787 over the Northwest Territory.

During the recess, and before the meeting of the first session of the 16th Congress, in December, 1819, many of the most influential citizens of the middle, southern, and western States exerted themselves to allay the alarming excitement that pervaded the whole country. Conciliation by mutual concession was deemed best, and the compromise bill of next session (1819–'20) was the result. It was reported by a select committee at an early day of that session. Mr. Crawford, then Secretary of the Treasury, and other leading southern statesmen, originally insisting on the strict constitutional rights of the southern States, and that Congress had no power to inhibit them, as attempted, were constrained by devotion to the Union, and the apprehension of having more odious measures forced upon them; and by the consideration, also, that with respect to the territory north of 36° 30′, it was not a *practical* question, to favor the plan of a *compromise*. (As to Mr. Crawford, see letter in appendix, note E, No. 3.) There is little doubt, notwithstanding the strong opposition of Mr. Monroe to the principle of the attempted restriction, either as to Territories or States, he also was constrained, as the crisis approached, by the same considerations, to forego his own opinions and yield his judgment, and also acquiesce in such compromise. Nay, as the danger became imminent, I have little question *his exertions were used to further* a compromise. I have before alluded to evidence, afforded by the annexed letters, that an article in the Richmond Enquirer in favor of a compromise was either written by him or with his countenance and approbation. (Note E, Nos. 1, 5, 19, 20, and 21.) These papers show that the bill of 1820 was acceded to as a *compromise* merely. The bill was reported December 9, 1819; and after a violent debate of several weeks, and various amendments offered, some of which were adopted, and others rejected, it passed the House March 1, 1820. and passed the Senate with amendments March 2, 1820, which were concurred in by the House same day, and it was signed by Mr. Monroe, March 6, 1820. (See 3d vol. Stat. at Large, chap. 22, p. 547.)

The 8th section of this act, before quoted, applies in terms only to territory acquired by the Louisiana treaty *from France*, north of 36° 30′. It excludes slavery from it forever.

This embraced all the country to the eastern base of the Rocky Mountains. Beyond those mountains, in Oregon, we had not then the exclusive possession. We did not obtain it from France. We claimed it by right of prior discovery and occupation.

It is true, after the compromise bill had passed in March, 1820, the South were disposed to regard it as a final settlement of all contests on this topic, and to let it rest undisturbed. It deprecated then, as it deprecates now, the agitation of this topic in any way, as productive of pernicious effects at home. Some of the other sections doubtless do not appreciate this feeling, and, from their want of knowledge, do not abstain from those courses that outrage and excite the South. There are, however, those who do know, and are incited by such knowledge to such agitation. The South trusted the agitation was settled by the act of 1820. But, at the very next session, the country witnessed the eager renewal of the efforts of those who seem to consider it a most laudable vocation to excite discord and hostility between the different sections of the Union. The "free white male citizens" of the Territory of Missouri, as authorized by the act of 1820, (not the Indians, negroes, and mulattoes,) formed their State constitution in June, 1820. They delegated to their State Legislature power to pass laws to prohibit the introduction—1st, of *felon* slaves; 2d, of slaves for sale or speculation merely; 3d, of slaves and their offspring illegally imported from abroad in any State or Territory; 4th, of *free negroes and mulattoes*. Her admission was opposed on account of this *last* provision. Thrice was a resolution, in the same terms as of that finally adopted, and which allowed her admission, rejected in the House of Representatives; once in committee, by a vote of 73 to 64; and once in the House, by a vote of 83 to 80; and, again, upon a reconsideration, and several days' fierce debate, by a *third* vote. A select committee of both Houses was, however, appointed, who reported the resolution again, and it was adopted February 26, 1821, by the House, by a vote 87 to 81; and by the Senate by a vote of 29 to 7. (Vide resolution, vol. 3, Stat. at Large, p. 645.) To Mr. Henry Clay has generally been given the reputation of effecting its adoption. It allowed the admission of the State, but provided that no law should be passed under the clause of its constitution objecting to inhibiting "citizens" of any of the States from ingress and egress, &c.; thus leaving the question of citizenship to judicial decision in any case that might arise; and leaving also the validity of the restriction in the act to be tested in the same way.

The South was willing to adhere in good faith to all those measures, for the reasons I have before stated. She was even disposed to leave their validity unquestioned, if those who constrained her to acquiesce in them as a compromise, would in good faith refrain from further attempts to encroach upon her.

Suppose Missouri had been *rejected* by Congress on account of the provision in her State consiitution *excepted to:* what would have been the consequences? Can any one doubt that she would have remained an independent State out of the Union? and would the Federal Government have dared to attempt her subjection by force of arms? Would not, in such case, the entire South and Southwest have rushed to her rescue? I have procured an original letter to Mr. Monroe, from the illustrious soldier, statesman, and patriot of the Hermitage dated January 7, 1821, and which shows what was the feeling of the Southwest, excited by the course in the House of Representatives in 1819 and 1820, and before the contest upon the resolution of admission in 1821. [Mr. W. here read and commented on the letter—see note E, No. 14, appendix.]

Do I err, sir, when I say that while the South has never admitted the principle, it has yet never sought to disturb the compromise of 1820? Upon the annexation of Texas, the compromise line of 36° 30′ was extended through that State by the resolutions of 1845. After the adjustment of our differences with Great Britain respecting Oregon in 1846, and the prospect of an accession of territory on the Pacific from Mexico became probable, a distinguished southern member of the other House [Mr. BURT, of South Carolina] proposed in good faith, January 12, 1847, as an amendment to the Oregon bill then pending, to extend that line so as to include Oregon in that compromise. This proposition was rejected by the votes from the non-slaveholding States! They repudiated the

compromise. What course was then left to the South but *submission* to the exercise of the asserted power to the full extent claimed by the non-slaveholding States, or that resistance which has since been made to the attempted usurpation, and which, it may be relied on, will not in this case cease or be abated on the enactment of the law by which it is proposed in effect to "draw black lines around" the slaveholding States, and "expunge" them from the Constitution and the Union as not being equal in character to the other States, nor entitled to equal privileges?

And now, Mr. President, I put the question, Can the Missouri compromise act of 1820 be fairly urged as a precedent—as an admission by the South of the power claimed? Is it entitled to any respect as such? It may be with others. Some may find in such *precedent* a sufficient excuse for the violation of the fundamental principles of this Government and of the *Constitution*. I cannot. I coincide most cordially with Mr. Clay in the views he maintained in a speech in this Chamber, in 1811, (see note H, appendix,) against the recharter of the United States Bank, and which, in my judgment, is not surpassed in ability and for its soundness by any speech ever made in Congress. *Precedents* are not *our* guides. The Constitution should be our polar star, and is of itself all-sufficient with those disposed to adhere to it.

It is a rule of reason, as well as of law, that in a *practical compromise* of a matter of dispute as to right and power, and in agreeing to its exercise to a specified limit, there is no implied concession of the right or power a hair's-breadth beyond such limit; and, on the other hand, it is fair to imply from an express *limitation* of the exercise of the asserted power, agreed to by the party claiming it, that such limitation should be *permanent*, otherwise there is no such thing as a compromise. In every case, the party yielding *part*, by so yielding would estop him from contesting the right to the residue. If allowed to do so, still his relinquishment of the part given up would not merely be useless to himself, but it would prejudice him. Why was the exclusion of slavery in the Missouri bill *limited* to 36° 30', if the non-slaveholding States did not agree to regard that line as the *southern boundary* of their claim, and as a final settlement of the controversy? An honorable Senator, my friend from Kentucky, [Mr. UNDERWOOD,] has proposed, in connection with the proposal to extend the line of 36° 30' to the Pacific, an express *declaratory* guarantee for the exemption of all the country *south* of that line from any restriction. Why, sir, if the implied pledge given in the compromise act of 1820 is broken, I would not give a fig for all the express guarantees that may be adopted, drawn in the strongest terms my friend can employ. They, too, will be disregarded when the time comes for so doing. What confidence can the South have in the good faith of those who assail them after the repudiation of the compromise of 1820? What palliation is there for a violation by the non-slaveholding States of their plighted faith as to that compromise? They deny, it is true, that was a *compromise*. They contend it was a *surrender* by the South—an *admission* of the principle—an *acknowledgment* of the power of Congress to impose the interdict. It is true, to be a compromise the concessions must be *mutual*. A *compromise* cannot be where one side only yields. If the non-slaveholding States did not, in 1820, by confining the interdict to 36° 30', yield their claim to all south of that line, then the bad faith is not in the violation of the agreement by them, but in their making it. It was political *jockeyism*. Besides, whilst a mere *right* or the exercise of a power may be *waived*, it is not so with respect to a *principle*. Principles are fixed, immutable. They are neither increased in force nor diminished in strength by *concessions* or *admissions*. Men may change—principles are steadfast. "Principles" is but another term for "*truths*." When they relate to *political rights*, they do not rest upon admissions and concessions like those said to have been made by the South, but upon the more solid and stable foundations of constitutional compact, the rules of elemental law, and fundamental doctrines of the Government. They cannot be altered by the admissions of statesmen, or by compromises of majorities in Congress. Even if the power of Congress was fully conceded, yet the non-slaveholding States are without excuse for their course, because, without infringing at all upon any cardinal principle—without any abandonment or compromise of any constitutional principle or rule—the mere waiver of an abstract right, the non-exercise of such right is all they are asked for. They do not pretend there is any imperative constitutional exaction that constrains them to impose the interdict. The South are differently situated. While they feel impelled to resist the interdict, because of its injustice to them, they also feel coerced to oppose it as a violation of the Constitution. The non-slaveholding States do not urge that the omission to impose it would violate the Federal Constitution. And yet they insist upon our surrender of our *constitutional* objections to their views of mere policy and expediency, and insist that our asserted constitutional rights were surrendered in 1820.

For myself, I do not regard the compromise act of 1820 as a whit more warranted by the Constitution than was Mr. Sergeant's proposition to extend the principles of the ordinance of '87 to all "*exterior territories*." I hold it to have been a palpable and flagrant usurpation of power; an usurpation with reference to the equal constitutional rights of the slaveholding States and their citizens, and an usurpation with respect to the future population of all the territory included in the prohibition thereby made. The word "compromise" is, in my judgment, altogether inapplicable to this arrangement. Who authorized, and how became Congress authorized to sequester the sovereignty of the people of these territories—constitute themselves the voluntary *bailees* of their rights—seize upon as a *treasure trove*, or as a *waif*, impound them, and then bargain them away according to the interests or the whim of a majority? The act should be called the "Division act of 1820." I cannot appreciate the consistency by which a free constitutional government, the collected political virtue and patriotism of the old thirteen States of the Confederacy, who had rebelled because of this very usurpation in 1776 by the British Government, thus act. They "compromise" the difficulty by *dividing* the rights of third parties among themselves. The South had no more power to yield or to surrender, than their opponents had to take or usurp those rights of a political community yet to be formed, and which might disown them both. If the term "division" is excepted to, "parceling," "partition," "appropriation," may be adopted. All are better than "compromise." Doubtless there are examples in history for this spoliation, also sought to be concealed by equally euphonious names. The "Partition of Poland" is one. There are others. I know, however, of no precedent for this act by a government professing to be governed by republican principles. That the United States of America, claiming to be the great exemplar of the friends of constitutional freedom throughout the world, should have thus violated those principles the revolution of 1776 was undertaken to sustain, is a sad evidence of the proneness of "power to forget right." And without reference to the usurpation and division of the rights of *third* parties—and without looking to the invasion of the constitutional rights of the South to participate in territory acquired by the common treasure—*I have no conception of a compromise of the Constitution, but of its being a violation of the Constitution.*

Mr. President, I fear, if I should vote for any such compromise with my admitted impregnable convictions as to the baseless character of the claim of power made for Congress, I should expose myself to the charge of violating my oath to support the Constitution; and I now take occasion to declare that whatever may be the consequences, except to avert a civil war, I cannot vote for any bill recognizing and extending the line of 36° 30' to the Pacific as a rightful act. I may consistently vote to amend a bill substituting such line for a provision extending the 6th article of the ordinance over all those territories, as the least of two outrages; but I cannot then sustain a bill, even so amended, with my vote willingly given. Those who hold different opinions from me on the question of power, have not the same restraints upon their action. They can waive the exercise of the power without encountering constitutional difficulties.

Those who are pressing this restriction upon the South, it seems to me, without reference to the bad faith displayed in the repudiation by them of the arrangement of 1820, and yet urging it as a *precedent*, and as an admission by the South of the power of Congress, and conceding that the abstract right exists, exhibit a spirit wholly unbecoming this Government. Waiving the question of right and power, is it, I ask, proper to force upon a little less than one-half of this Confederacy, against their remonstrances, a measure so odious to them? I ask them if this Government, extended, as it is to be in time, over the whole of this continent and the West Indies, or even, as it is *now*, from the Atlantic to the Pacific, and on the former from Maine to Texas, and on the latter seventeen degrees of latitude, can be administered *in this spirit?* If the rights of the minority, or even the rights they *claim*, can be thus disregarded—if they are to be thus taunted, reproached, and contemned—can any man in his sober senses believe the Government can continue as a free Government, and as now united? When I use the word *minority*, I refer to *minorities* opposed to any measure of vital and general interest, and I refer also to *affirmative* legislation. The safety of this Government is in withholding the exercise of disputed and doubtful powers, and all affirmative legislation that any large portion of the Confederacy are hostile to, no matter what the subject is. I hold to the doctrine of 1776, that "in a free government no law, not clearly indispensable, and not clearly just, if unpopular with any considerable portion of the people, should be enacted."

As to the course of Mr. Monroe and his cabinet on the Missouri compromise bill of 1820, learning that the President had required the separate written opinion of the members of his administration, I examined his manuscripts. I found a memorandum in these words:

"*Interrogatories.—Missouri, March 4, 1820.—To the Heads of Departments and Attorney General:*

"Has Congress a right, under the powers vested in it by the Constitution, to make a regulation prohibiting slavery in a territory?

"Is the 8th section of the act which passed both Houses on the 3d instant, for the admission of Missouri into the Union, consistent with the Constitution?"

An original draught of a letter from him, not directed, but doubtless intended for General Jackson, as its contents show, was also found in his handwriting, of which I shall append a copy to these remarks when published.

[This paper has been accidentally mislaid in preparing these remarks for publication. It will be published hereafter.]

On finding it, I procured search to be made among General Jackson's papers for the letter received by him from Mr. Monroe; and the Hon. Amos Kendall, who has the papers of General Jackson, has furnished me a copy. It is dated May 23, 1820. I have seen other papers referring to these interrogatories and to the answers given to them, but nothing, in my judgment, that conflicts materially with the conclusions I make from the documents now produced. President Monroe, from the *draught* referred to, manifestly at first intended to advise General Jackson fully of all that occurred. He proceeds in the draught of the letter, to inform him of the interrogatories he had propounded. He then proceeds to give him a general statement of the effect of the answers. He first says: "*the* VOTE *of every member*" was "in favor of it." This he *erases*. He then inserts the word "*unanimous*" instead of "every member," but *erases* that word also. He then inserts the word "*explicit*," but immediately discards that also; and the draught reads: "I took the opinion in writing of the administration, as to the constitutionality of restraining territories, which was in favor of it," &c. &c.

And after all, when this draught, thus altered and realtered, corrected and recorrected, is copied to transmit to General J., *the entire reference and statement is expunged!* He never sent that statement to General Jackson. This is proved by the original letter he *did send*, and in which, though the *statement is omitted*, the residue of the letter, or the concluding paragraphs, are found nearly *verbatim*. It is quite clear to my mind, that the several members of the cabinet did not all take the *same view* of the subjects involved in the interrogatories, and that the President suppressed this statement, even thus corrected, because he was not satisfied of its correctness, and fearful that it might

do *some of them* injustice with reference to those opinions. The last correction of the statement, however, in my judgment, forbids the conclusion that the cabinet *unanimously* and *unequivocally* yielded the question of power in all cases as to all Territories.

I have caused search to be made in the State Department and elsewhere for these opinions, but can find no trace of them in official archives, nor any data as to their contents that is conclusive.* There is little doubt of their being given.

That Mr. Adams and Mr Thompson both answered the interrogatories, sustaining the power, I am satisfied.

That Mr. Crawford favored the compromise, from the considerations I have stated, is shown by the letter I have referred to of Mr. Hay giving Mr. Barbour as authority. (See letter, note E, No 3.)

That Mr. Wirt took a similar view of the subject, I think is quite likely, though I have not seen authentic data as to the tenor of his opinion.

The remaining member of his cabinet, and the only one now living, is the distinguished Senator from South Carolina, [Mr. CALHOUN.] As bound in courtesy and justice, I have shown that Senator the memoranda and draught of the letter I have referred to, and he has informed me that he has not the slightest recollection of being called on for such opinion in reference to the bill of 1820, and that his course was that of mere acquiescence in its passage as an adjustment of serious difficulties, and to avert apprehended consequences still more serious, if the question was not settled; and if he gave any opinion, its effect and extent were, he is satisfied, limited to such view of the case presented.

Mr. CALHOUN. I have no recollection of any written opinions being asked for or given; but I have a distinct remembrance of the apprehensions existing in all quarters of the consequences that might ensue from the difficulty not being adjusted, and which constrained the South, after resisting the restrictions attempted to be imposed for two sessions, to acquiesce finally in the bill proposed as a compromise.

Mr. WESTCOTT. I have no idea but that when these opinions are brought to light, it will be that the southern members of the Cabinet all took a similar view. Mr. Monroe's draught of his message, and the articles written in December, 1819, and published with his countenance in the Enquirer, (see note E, No. 1,) show what were his opinions; and the "extract" in the Enquirer of February 19, 1820, (see note E, No. 20,) show what considerations constrained him to yield.

He gave up his convictions on the abstract question of Congressional power reluctantly. He sought the counsel of Jefferson, Madison, Roane, and others of his friends, and on whose judgment and patriotism he relied. It was to save the Constitution, and to save the country from the impending peril, that he yielded, and because he believed that bill would bury the dispute forever, beyond the power of sectional factionists to resuscitate it. That the danger to the country in 1820 was imminent, tradition and recorded history both testify. The Union was convulsed to its centre. As Jefferson said, that controversy was as alarming as the sound of "a fire-bell in the night." Those inimical to the South and Southwest—those who hated them for cause, or without cause, and for the reason that it was in their nature to hate something—were determined on the most desperate measures to effect their designs. If the *records* of the secret midnight conclaves of the chief conspirators to disturb the harmony of the Union, by instigating the East and North to outrage, and of course enrage the South and Southwest, held at the house of one of them in this city, are ever made public, the selfish, nefarious, and unholy designs of the chief instigators will shock every true friend of the Union. Mr. Monroe, I do not doubt, was fully apprized of their plots and machinations, as were others of the distinguished patriots of that day; and doubtless such information had its influence on his course. By that course their designs were thwarted and checked for a time. I hope, for the honor of the American name, the records I have referred to may never be divulged. No such evil example should darken the pages of our history. They should be suppressed.

Dismissing the Missouri act of 1820 with these remarks, I will take a cursory notice of the other legislation of Congress referred to by the Senator from New York, [Mr. DIX.]

All of the acts of Congress relating to the Northwestern Territory, or those Territories organized out of it, referred to by the honorable Senator, being founded upon the ordinance of '87, are entitled to the same weight and consideration that it is, and *no more*. Nearly all the arguments urged against the ordinance apply to them. Besides, I have adverted specially to the effect of such legislation, when considering the ordinance, and it is not necessary to repeat the arguments then urged.

The other acts of Congress referred to by the honorable Senator are not in the same category. In my judgment, all the legislation of Congress (*excepting* that relating to the Northwestern Territory, founded on the ordinance of '87, and *excepting* the Missouri compromise act of 1820, and the restriction in the resolution of March 1, 1845, annexing Texas, *excluding* slavery north of 36° 30′ *in a State!*) strengthens the arguments urged against the exercise by Congress of the power *assumed* in the excepted cases. With reference to the Texas resolutions of 1845, I frankly concede that the arguments of *concession of power* and of *precedent* apply with almost irresistible force when applied to them. That they did compromit the non-slaveholding States with reference to the power of Congress, unless there are in the circumstances under which they were adopted, and in their object, something to obviate their import, must be admitted. The only other answer that can be made to them is, the denial of the force of *precedent* in legislation on questions of constitutional power, and of such concessions being entitled to any weight. It is true, they were founded upon, and carried out, the Missouri compromise of 36° 30′; and that they *confirmed* and *ratified* it, is the radical objection to them. The South may perhaps be excused for their good faith in not seeking to disturb that compromise even at a sacrifice. But those resolutions did *more;* and what was *worse*, they expressly imposed *conditions* forever on any STATE created north of 36° 30′, as to slavery, and even assumed to *grant* the country and people south of that line, as a boon, the privilege of deciding for themselves when they became a State or States! I hold this provision to be the most audacious usurpation of power ever perpetrated in this country. I should have been impelled, by my convictions as to the constitutional power, and of my duty, to have voted even against the *annexation of Texas* with those provisions in the resolutions, and I so avowed at the time. It is said the exercise of the State sovereignty of Texas after her admission can nullify them. Such does not seem to be Mr. Madison's judgment, (see note E, No. 11;) but admit the fact to be so—and the case is a strong one—and it affords additional reasons why they should not have been adopted. They were at most useless.

The acts of Congress respecting the foreign slave trade, and the prohibition of the bringing in of free persons of color from abroad into States that had prohibited such introduction, or those that relate in anywise to slavery in the Territories south of 36° 30′, (Mississippi, Orleans, Alabama, Missouri, Arkansas, and Florida,) so far from justifying the power of Congress, all, in my opinion, corroborate and fortify the views I have advanced on that subject. I conceive they are all confined to the suppression of the importation of slaves from abroad, or in aid of *State* or *Territorial* laws prohibiting the introduction of negroes, &c., slaves or *free*, from abroad; or in aid of municipal police regulations, excluding *felons* and other dangerous slaves from being introduced into the Territories for *sale*, and by *traders*, to be got rid of merely. (A memorandum of these acts is annexed—Note 1, appendix.)

The only act that can, with any show of reason, be urged as an exception to these principles, is the temporary act respecting the "*Orleans* Territory" of March 26, 1804; and this, I think, can be explained satisfactorily. The *first* prohibition in that act is as to slaves imported from "*without* the United States" into said Territory. It was copied *verbatim* from the act of 7th April, 1798, respecting the "*Mississippi* Territory." Both impose a penalty of three hundred dollars for each slave so imported, and declare the slave free. It is not important to inquire whether this provision was extended to the "Louisiana district," (afterwards "Missouri Territory,") prior to 1808. That Congress possessed, as to the Territories, precisely the same powers, prior to 1808, that it possesses *now* as to the whole Union, was the received opinion when those provisions as to Mississippi and Orleans were adopted. Some hold the interdict did not apply to the *new* States, not "existing" when it was agreed to. The old States that had enacted laws excluding foreign slaves and negroes invoked the aid of Congress, and urged that the interdict did not prevent such aid being given to their laws. So far from sustaining the power now claimed, these opinions (and under that as to Territories the provisions of the acts of 1798 and of 1804 were adopted) are *inconsistent* with such claim of power. *Then* it was not pretended that Congress had any general power beyond the *foreign* slave trade, restrained, till 1808, in a specified mode. It was not questioned that it had power to pass laws *in aid* of the laws of the old States that did not "admit" importations of persons from abroad, and also to prohibit by law such foreign importations directly into the Territories. It is not necessary to inquire as to its power with respect to the *new* States. The only *new* slave States prior to 1812 were Kentucky and Tennessee, both *interior* States, into which there could not well be importations from *abroad* but through the Territories, or through the *old* States. The universal sentiment of the country long before the interdict expired in 1808 was adverse to the *foreign* slave trade, and a general feeling prevailed to *loosen* the interdict upon Congress as far as possible. Even in Georgia and South Carolina, that had insisted upon its adoption, popular opinion was against the trade. The steadfast friends of the traffic were from the East. As late as 1806, a memorial to Congress from Philadelphia, (see American State Papers, Tit. Miss., volume 1, page 450,) asserts that "eminence in the slave trade has long disgracefully distinguished a number of the citizens of an *eastern* State;" and it states, that to evade the foreign slave trade act of 1800, which gave *all* the forfeited vessel and property to *the informer*, the offenders would procure *participators* to inform against them, and divide the proceeds! Such disreputable shifts increased the odium attached to the foreign slave trade; and excited Congress to exercise its powers to the extremest limit allowed by the constitutional interdict; and every syllable of that interdict, I doubt not, was closely scanned, and legal ingenuity exerted by all, from every section of the Union, to allow further legislation in aid of the State laws, and to suppress the *foreign slave trade* in every possible mode except by that interdicted. Hence the acts of 1794 and 1800, against the foreign slave trade. Hence, also, the act of 1803, prohibiting the bringing into a State any negroes, slaves or free, prohibited by the laws of such State. Hence, also, these provisions in the territorial acts of 1798 and 1804. All (except the act of 1803, which is not within the purview of the general acts) were *merged* in the general slave-trade act of 1808. All were under the admitted general power of Congress to prohibit the *foreign* slave trade in every way and mode, and in every form, and as to every place not shielded by the special interdict in the Constitution; and which interdict being released in 1808, such general power has since been plenary. But this is no precedent or warrant for the power now claimed of excluding *all* slaves from the Territories.

The act of 1804, in the second place, inhibited the *bringing into* the Territory of Orleans, from the United States, slaves that had been imported from abroad since May 1st, 1798. Why this particular *date* was fixed upon, I cannot certainly say. The

* Since the adjournment of Congress I have *personally* aided in searching the records and files of the State Department for those opinions, and having some years since been a clerk in that department, I am enabled to know the search was complete. The following entry is on the "Register of Letters *received* from 1817 to 1820, No. 1:"

"March 8, 1820. Adams, Crawford, Calhoun, Wirt, and Thompson—Messrs. — Washington, March 4, 1820. Their opinions in writing upon the constitutionality of the law for the admission of Missouri into the Union."

This entry is in the handwriting of Mr. King, then a clerk in the department, who has been dead many years. A book, in which those papers were probably bound, is supposed to be lost; at any rate, the papers cannot be found.

act organizing Mississippi Territory, and containing a prohibition as to the importation of foreign slaves into that Territory, was passed April 7, 1798. Perhaps the date refers to that prohibition, and to the time it became known in Mississippi Territory; and the allowance as to slaves imported before that time was to admit into "Orleans" Territory all slaves legally imported into Mississippi *prior* to that prohibition, and exclude all other imported slaves. It is known, however, that the influx of foreign slaves into Louisiana, before the cession, from St. Domingo, &c., where insurrections had broken out, had caused apprehensions from them; and measures, it is not unlikely, were adopted to prevent dangerous slaves and free negroes being introduced, and this prohibition may have been in aid of local Spanish or French laws for such purpose, in force at the cession with respect to said Territory. (American State Papers, Tit. Mississippi, volume 1, pages 380, 390, 396, 399, 417, 418, &c.) But this provision is included in the principle of the first. Both apply exclusively to slaves imported from abroad. The first, it is true, applied only to prospective importations into Orleans Territory, and this excludes all slaves imported into other parts of the United States after 1st May, 1798. I can imagine that both were urged on the ground of being in aid of the objects of the interdict, and not a violation of it. The object of the interdict was twofold: 1st. To enable the States "existing" in 1787, that should "think proper to admit" foreign slaves, to supply themselves with the additional slave labor *they* needed. 2d. The ultimate effectual suppression of the foreign slave trade in 1808, as to the whole Union. The prohibition of the *foreign* slave trade as to Territories, left the old States that allowed it without competition; and, being thereby enabled to procure their needful supply sooner, they surely could not complain of such prohibition as a violation of the interdict. It was probably urged, too, that the interdict was intended merely to enable those States to obtain such supply of additional labor for themselves, and not to allow them to force *such importations* into other States or Territories, or to become the *media* of introducing *them* there. The mere right of "*importation*" certainly was not *disturbed*, because they were not removable to another jurisdiction, unless the importation was intended to be allowed for such object. The old slave States, doubtless, did not consider the placing of these *new* "importations" in competition, in the Territories, with their native slaves, or those imported before the adoption of the Constitution, as a right to the importing States fairly deducible from the spirit of the interdict. Such importing State certainly had no right to force *such* slaves on other jurisdictions, *equal* to that with reference to native slaves, or those in her jurisdiction when the Constitution was adopted. Her co-States could interdict as to all. The prohibition as to the Territories could, prior to 1808, only be as to *foreign* importations and *felons*, &c.; and since 1808, when all reason for special legislation as to Territories has ceased by the general law inhibiting such foreign importations as to all States and Territories, there can be no prohibitions, excepting by police regulations, to exclude felon slaves, or those of dangerous character. Congress could not pass a *general* law till 1808 excluding foreign slaves; but the *States*, old and new, could then protect themselves by their own laws. This provision was *imperatively necessary* to prevent an *evasion* of the *first* prohibition; in fact to prevent its being a *dead letter!* Of what use would the first prohibition have been if the foreign slaves could still have been imported into Georgia or South Carolina, and from thence removed to "Orleans" Territory? It would have had the effect merely of giving to those States a monopoly of the foreign slave trade, and of increasing it. Probably this effect was seen under the Mississippi act of 1798. The second prohibition was, therefore, for the same object as the *first.* And these prohibitions fortify Mr. Madison's opinion as to the object of the ordinance of 1787. They were all, to borrow his language, (see note D,) leveled against the *foreign* slave trade alone, and operated to discourage it by "narrowing the space open for the reception of slaves," and without any violation of the constitutional interdict.

Besides the obvious *distinction* with respect to the danger to be apprehended, and as to usefulness in a new and sparsely-populated Territory, between native slaves reared by and with their masters, and attached to them, and whose characters had been tested, and *foreign* slaves recently imported from Africa, or St. Domingo, or elsewhere, qualifies this provision as a municipal police regulation merely. Nobody doubts that the States as to themselves, and that Congress or the Territorial legislatures as to Territories, are competent to pass laws excluding the introduction of *felon* and insubordinate and dangerous slaves, as they could exclude the introduction of infectious or dangerous diseases. That would be a municipal police regulation. Such power exists of *necessity.* The Supreme Court has sustained this power of regulation as to other subjects, dangerous or prejudicial to the States, though articles of "importation." No attempt was made in the act of 1798 as to native slaves or those imported prior to 1787, or those imported subsequent to 1787 and prior to its date. The provisions before noticed in the act of 1804 do not attempt to restrain the native slaves, or those imported prior to 1787, or those imported subsequent to 1787 and prior to 1st May, 1798. It did not exclude slavery; it recognized it, and merely required a slave to have been in the country *six years* at least, to allow his introduction into the Territory. So, too, the *third* prohibition, of all slaves being brought in from the United States, except for "actual settlement," and by "citizens," "bona fide owners," may be defended on the same grounds. It was to prevent the introduction of felon or insubordinate slaves by traders for *sale* merely, and to get rid of them in the States. The only way to inhibit such slaves is by such law. Then the owner and settler becomes an insurer or security for the slaves he introduces. This was a mere municipal police regulation, preventing the territory being made the market for such slaves, most dangerous to it in its infancy, and when thinly populated by the whites. Most of the New States and Territories always have had laws of like import, and they are wise and salutary laws. For one, I will not object to such law as to all these territories. It is not the exercise of sovereign power; it is of the municipal law-making authority; they are police regulations only.

Without these last two provisions the first prohibition would have been a legislative *encouragement* to the foreign slave trade in the old States. The report of a committee of the House of Representatives, December 17, 1806, (American State Papers, Tit. Miss., vol. 1, p. 451,) shows the object of these prohibitions, and that they were aimed exclusively at the foreign slave trade, or were mere police regulations to exclude improper persons. It states that these provisions of the act of 1804 were in force *but a few months*, before they were repealed by the act of 3d March, 1805, though the honorable Senator from New York [Mr. DIX] holds a different opinion. The act of 1805 expressly, in the 5th section, repudiates the 6th article of the ordinance of 1787 as to the Territories of Orleans and the district of Louisiana. In my judgment, the judicial decision he cited from Martin's Reports, that the previous laws of Congress as to slaves and slavery were merged in the general slave trade that went into effect in 1808, strongly fortifies Mr. Madison's opinion, that I have quoted, as to the object and effect of the ordinance of 1787, and shows that all of the legislation of Congress was directed to the foreign slave trade exclusively, and to suppress it, as far as could be done within the interdict; and that before and since 1808, the *foreign* trade is the limit of its authority. I exclude from this *merger* the act of 1803 respecting the bringing in of free negroes, &c., and I include in the powers still possessed by Congress that of making needful police rules and regulations, excluding felons, &c., from Territories. The provisions of these acts are all within this scope, and, I repeat, give no sanction to the attempted exercise of the power of excluding slaves being removed to a Territory from a slave State, by a citizen owner, for actual settlement, and of excluding all slaves and slavery forever from such Territory.

The acts relating to Alabama, Missouri, Arkansas, and Florida, are either the same as those relating to Mississippi and Orleans, or are confined to the first prohibition of foreign importations into those Territories.

That as to Florida was borrowed in terms from the Mississippi act of 1798, and the first prohibition in the Orleans act of 1804, and imposes the same penalty of three hundred dollars and frees the slave. There were two acts of the same import as to Florida—one in 1822, and the other in 1823. Being after the slave-trade acts of 1807, of 1818, 1819, and 1820, and being as to importation of *foreign* slaves only, and these general laws being also extended over the Territory, we had one law making the importation death, and another subjecting the offender for the same offence to a fine of three hundred dollars only! The passage of this law after those of 1808, 1818, 1819, and 1820, is to me inexplicable; but it merits the same consideration as the others referred to. It is no precedent for any legislation, except as to the *foreign slave trade.*

Mr. President, with this expression of my views on the main question involved in this bill, and the amendments offered to it, I will now state some objections I have to some details of this bill.

Heretofore, on the 31st of May and 2d of June last, and previously, I stated objections I had to the details of bills before under discussion here, organizing the Territorial Government of Oregon; which are in several respects similar to the present. Most of my objections were obviated by amendments reported by the Judiciary Committee, February 10, 1847, to the Oregon bill then before the Senate. I will not present and argue a special demurrer as to those details, but I desire to notice some of its objectionable features, and to excuse myself for the vote I shall give for the bill with them in it. If the main question is properly adjusted, these defects can be amended hereafter.

All of the bills reported as to Territories heretofore reserve a *veto* or *annulling* power, as to legislation, to Congress. I regard the true policy to be to prescribe general "rules and regulations," and leave conformity by the Territorial legislation to the limitations they prescribe, to be enforced by the judiciary. Experience has satisfied me that this reserved power to Congress, is either useless or pernicious. It is not likely to be exercised in cases that it should be. It is most likely to be exercised in cases that it should not be. I will instance cases in illustration of this assertion. The Florida Territorial Legislature, without authority, as I have before said, chartered three faith bond banks, issued bonds and guarantees for millions to the banks on certain conditions, and pledged the faith of the Territory for their payment. Those acts were usurpations. They were brought to the notice of Congress forthwith. Congress neglected attending to them. What was everybody's business was nobody's. They were not annulled or modified. Some years afterwards Congress got alarmed, and passed a law prohibiting the Territorial Legislature from passing any bank charter without its *express* sanction; but it positively refused to meddle with the former banks in Florida, because they had gone into operation. This was in 1836. Those banks all failed; and now the holders of the Territorial bonds are calling *on Congress* for payment of their bonds. As to what you should or should not do, I shall not now express any opinion. I have carefully avoided it heretofore on all occasions. Had your powers been exercised when the laws were first submitted to you, there would have been no trouble. That is one case on one side, and I will state one on the other side. The same Legislature passed laws in effect imposing a tax of $10 or $15 on negroes brought into Florida from the States for *sale* merely and by *traders.* The influence of the traders in the States caused this law to be annulled, and, strange to say, in part by votes inimical to the extension of slavery! This was in 1834; and other laws relating to our police and municipal concerns have been annulled without sound reasons, and from misrepresentations by interested parties. I have more confidence in Territorial legislation as to the local domestic concerns of the Territories, if guided and restrained by judicious general "rules and regulations" in their organization, than in the legislation of Congress. We are strangers to the people, and know but little of their local interests and wants. The judiciary can be relied on to keep the legislation within the limits of general rules. There is no necessity for this reservation; and, besides, it is not congenial with our republi-

can institutions. It is the same power the British Crown claimed in 1772 over the Colonial Legislatures.

Another feature in this bill is so extremely objectionable, that but for the circumstances that excuse it, it would be fatal with me. It is that which confers all the legislative power of the Territories of California and New Mexico upon the governors, secretaries, and judges of those Territories, respectively. These officers are appointed by the President, with the advice of the Senate, and are paid by the United States. They are not in any degree amenable to the people for whom they are first to *enact* laws; second, to *expound* them; third, to *execute* them. A government having such combined powers, is the very essence of despotism. The only apology for its establishment now, *temporarily* even, is imperious necessity. We have no authentic satisfactory data as to the population, geographical interests, &c., of the different parts of those territories to enable us to frame a law under which the white citizens there could elect a legislature. We should commit blunders and do injustice in attempting it. Some government should be established; and as we have examples in the similar temporary governments established in Louisiana and Florida, this law may be excused. The ordinance of 1787, lauded as it has been, provided for such government. General Jackson, who was made first governor of Florida, said, on resigning his commission, that *no individual should ever be invested with such powers.* Agreeing with him fully, when I vote for this bill, it is upon the consideration that so soon as the proper data is obtained to give the people what has been called the "second grade" of Territorial government, it is to be done. Even this will be an amelioration only of the evil. The whole system of Territorial governments is repugnant to the principles of our institutions. The proconsular despotisms that Rome allowed in her distant provinces, and the abuses which Cicero denounces in his oration for the Maxilian law, could not be more abhorrent than our Territorial municipal corporations. I have lived sixteen years under one, and felt disfranchised as an American freeman the whole time. State prisoners in Venice were once tantalized by golden inscriptions on the walls of their dungeons, eulogistic of the principles of civil and political liberty. So are citizens of Territories, who witness those in States adjoining them, fully participating in all the privileges, and exercising and enjoying all the rights of American freemen, denied to them. The condition of colonial vassalage is dependent, degrading, and humiliating. The principle of "no taxation without representation" is violated. They have no representation, but a mere agent here, who has no vote, and is impotent to do more than beg for justice. The citizens of a Territory have, it is true, the right of grumbling; but that is by no means satisfactory when it effects no redress. The old colonies had like agents at St. James. Franklin was one. The treatment of that great man by Wedderburn, when he was examined by order of the British Commons, is an example of what, in different ways, Territorial agents, without any Presidential votes, or other votes, sometimes receive here. He is powerless in the political contests that arise. It is true, Territories are looked to with some favor as affording means of rewarding political favorites by governorships, judgeships, &c.; but the sending *non-residents* to rule a people, renders the government only more hateful. The people are prone to be dissatisfied under them, and it is not to be wondered that they are. There are two Senators on this floor, [Mr. KING and Mr. DODGE,] who, besides myself, have held federal executive office in federal Territories. I can appeal to them to testify that what I say is true—that the whole system is uncongenial to our Government, and should not be continued, but that a more liberal system should be devised. In these distant territories, unless you do so, *they will soon separate from you.* I make this *prediction* upon a knowledge of what American citizens have done, and will do, under such a government. This law, if passed, should not be continued in force a year.

The sixth section contains the delegation of legislative power as to Oregon, and it is to "all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act," restraining it, however, as to public lands, taxes, &c.; and with respect to this Territory, there is no inhibition as to the passage of laws "respecting slavery." The right of revision and annulment of the Territorial laws is reserved by Congress.

The twelfth section contains a provision continuing all the laws of the "provisional government" of Oregon, now in force, "not incompatible with the Constitution and the provisions of this act," for "*three months after the first meeting of the Legislature* of said Territory," subject, however, to be "altered, repealed," &c.; and the Constitution and laws of the United States are extended over said Territory. It will be recollected that the "provisional government" of Oregon has abolished and excluded slavery in that Territory as far as it has the power to do so. The organic law of that government, of 1845, has incorporated in it the restriction of the ordinance of 1787—the precise terms of what is called the "Wilmot Proviso."

The thirty-third section of this bill, delegating the legislative power as to California and New Mexico, places it with the governor, secretary, and judges of the supreme court of each Territory respectively, and gives them power "to pass any law for the administration of justice," "not repugnant to this act, or inconsistent with the laws and Constitution of the United States." It inhibits the passage of every law "respecting the establishment of religion, or respecting slavery" and the public lands, and restrains the taxing power, and also reserves a Congressional *veto* as to all laws.

After the bill was first printed, I examined it carefully; and as *then printed*, I made up my mind that it was my duty to vote against it; and I avowed my intention so to do, unless it was amended by its friends. I advised with my colleague here, and consulted with my colleague in the other house; and both of them coincided with me in opinion of the defectiveness of the bill, as it then appeared. It was subsequently discovered that the printed copy was incorrect, and that important words in the twelfth section, and material words in other parts of the bill, had been left out. The clauses requiring compatibility in the laws of the "provisional government" of Oregon with the Constitution of the United States to allow their continuance, and limiting the continuance of all such laws *to the term of three months after the first meeting of the Legislature of the Territory*, reported by the committee, had been omitted by mistake in the printing. I did not regard the clause respecting the constitutional compatibility as important; for I hold that repugnancy to the Constitution makes a law void, even if there is no declaration by the legislative power to that effect, and the extension of the Constitution over the Territory was therefore all-sufficient; but I did consider the limitation of the term of the continuance of all the "provisional" laws as important—otherwise the organic law of 1845, before referred to, could have been continued with the implied sanction and under the authority of Congress thus given for an indefinite period. Though the copy has been corrected, I am not yet fully satisfied with the provisions of the bill. I fear that, like the "Missouri compromise bill," and the other precedents pressed upon us, it may hereafter be brought up in judgment as containing an admission of the power of Congress to legislate upon the subject of slavery in the Territories, and to exclude it; and of the power of the Territorial Legislature to exclude it, unless *prohibited* by act of Congress. Nay, sir, I have strong doubts, as I suggested the other day in my inquiry of the honorable Senator from Vermont, [Mr. PHELPS,] as to the effect of the terms employed in this bill; and whether the *practical effect* of these terms may not be the exclusion of slavery from these Territories as effectually as if the Wilmot proviso was adopted. From the language used on yesterday by the Senator from Ohio, [Mr. CORWIN,] when referring to that inquiry, I presume he misapprehended its import. It is proper that I should correct his error.

The Senator from Ohio inferred that my apprehensions were excited lest a negro slave "nurse," without some "forty constables," provided by law, to guard the infant in her charge, might "throttle it." I never entertained any such idea. The fancy of throttling white infants by their black nurses, never originated in the mind of any one from the South. In these distempered times there are political incendiaries who, excited by hatred of the South for various causes, would revel with the delight of devils to see that region the theatre of a servile war, and the scene of outrage, massacre, and desolation. There are others who, to gratify political aspirations, do not hesitate to resort to the desperate means of organizing sectional factions, and exciting sectional jealousies, especially upon the topic of domestic servitude. The effect of the courses of these two classes is to encourage assaults from different quarters upon the institutions of the South. The fanatic is found profaning the Holy Scriptures in the unholy work of exciting dissatisfaction and discord among the slaves, instead of the peace and good will he should inculcate. Others, fiends in human shape, without the palliation of ignorance or delusion, incited by various motives—some of interest, some of ambition for notoriety—find satisfaction in the treasonable work of sowing the seeds of disaffection, sedition, insurrection, and revolt. There are others who steal slaves for profit, as they would steal a horse; and others who entice them away, or harbor them when they abscond. Some of these people cannot be punished by laws; but there are others that can be. The necessity of laws to prevent the crimes of sedition, incendiarism, inciting slaves to abscond, harboring slaves, and stealing them, and to punish the perpetrators if preventives fail, must be obvious. Exposed to the midnight incendiarism of the abolitionist—political or fanatical—and to the prowling thief, without such laws, the institution of domestic servitude—now in its character patriarchal, and ameliorated by the affection and sympathies that have grown up between the master and slave, till it is but the guardianship of the intelligent and strong, over the ignorant and weak—might, with respect to both, become the direst curse that could be inflicted on a country. Suspicions would be engendered, often unjust; the privileges of the slave would be abridged; and more rigid exactions adopted to satisfy the whites of their security. In every slaveholding community, when not disturbed by the causes I have alluded to, the necessity of police and patrol laws applying *exclusively* to slaves, and special legislation providing for their regulation, the prevention and punishment of criminal offences by them, and especially venial offences, and for their protection, is known to all who have resided in such community. The institution would be valueless, the slave would be worthless to his master, and infinitely more uncomfortable would be the condition of the slave without such laws, than with them. Now, sir, my inquiry of the Senator from Vermont was simply as to the effect of this bill. I desired him to inform me whether, in his opinion, the twelfth section of it would prevent the Territorial Legislature from passing such laws as would deter or punish the crimes I have referred to.

May not the prohibition in this bill as to the Territorial Legislatures passing any laws "respecting slavery," be construed to be a prospective nullification of such necessary patrol laws, and of special laws for their trial and punishment for venial and other offences, and laws to prevent abolition, sedition, and incendiarism from exciting to revolt? I am told not, and that the authority to pass "any law for the administration of justice," and the employment of the term "slavery," in this bill, refers only to the establishment or exclusion of the institution merely, and cannot prohibit such necessary laws respecting "slavery," as those I have mentioned, if, under the Constitution and laws of the United States, the institution already exists there. The Senator from Vermont [Mr. PHELPS] does not, however, concur in this view, but regards the prohibition in the bill as covering the whole subject. I do not feel entirely secure in the construction which may be given to this bill by the Territorial judiciary; and after the circuitous and expensive judicial process it allows to the Supreme Court, even by that court; I feel less secure when I consider that a future Congress, if such construction should be in favor of the power to pass such laws, may overturn it by another act. The South are justified, under the circumstances, to ask for a declaration that the equal rights and interests of the citizens of the slaveholding States in the Territories, and to emigrate

to those Territories with their property, should be inviolate from Congressional and Territorial legislation. A clause should be inserted similar to that contained in the Oregon bill reported by the Judiciary Committee of this body, February 10, 1847. That declaration, which I drew after consultation with Senators to whose judgment I feel bound to defer, is in the twelfth section of the bill then reported, and is in these words. After continuing the provisional laws till the end of the first session of the Legislature, and no longer, it provides:

"That no provisions of such laws, or of any act hereafter passed by the Legislative Assembly of said Territory, shall be construed to restrict citizens of any of the United States, or of any territory thereof, from emigrating with their property to, and settling and residing in, said Territory, and holding and possessing their property therein, and fully participating in all the benefits, advantages, privileges, and immunities thereof, as a territory of the United States, with such property, on an equal footing with citizens of any of the United States; and all laws and parts of laws which shall operate in restraint of, or detriment to, the full enjoyment of such rights, are hereby declared to be null and void. The laws of the United States are hereby extended over and declared to be in force in said Territory, so far as the same, or any provision thereof, may be applicable."

If this is not conceded, why not let the whole question *be untouched*, and the powers of the Territorial Legislature, and of the rights of those interested under the laws of nations and the Constitution of the United States, left to the ordinary course of judicial decision? I should not have any objection to such course, and indeed prefer it to all others suggested, except that adopting the declarative guarantee I have recited, which might secure against future agitation.

But I have concluded—in deference to the more experienced judgment of the distinguished southern Senators who advocate this bill as it is, and especially to that of the distinguished Senator from South Carolina, [Mr. CALHOUN,] who was a member of the select committee that reported it—to forego all these objections. That Senator, as on a former occasion I observed on this floor, is looked to by the South as its foremost champion on this delicate subject; and as I then declared, when I may doubt, I conceive it to be my duty to follow the path in which he leads; and especially if, as in this instance, his views are concurred in by most others from the same section. I could do this when the duress of different opinion was stronger than in this case, and yet feel that I had discharged my responsibility to my State faithfully. But when I witness the Senator from New Hampshire, [Mr. HALE,] the Senators from Connecticut, [Mr. NILES and Mr. BALDWIN,] and the Senator from Ohio, [Mr. CORWIN,] and others on this floor and elsewhere, who are known to be hostile to the South in sentiment and policy on this subject, strenuously opposing this bill, I can hesitate no longer. No personal disrespect is intended—and I can hardly suppose such disclaimer is necessary, but I make it to prevent possible misconstruction—when I say that I could not justify to those I represent, being found with *them* in such opposition, and particularly when they denounce the bill as a recognition of all that the South claims. Some urge this bill as a *compromise;* and others say it is the best the South "can get," and is the only alternative against the adoption by majorities in both Houses of Congress of other measures, more injurious to the rights and interests, and more offensive to the feelings, of the South. Neither of these arguments has had much weight with me. I do not feel that I have ever been empowered by the people of my State to *compromise* their constitutional rights. I am quite certain the people of these Territories never invested me with any such power, and that they never have been in a situation to do it. Further, I frankly say that, for one, I do not apprehend any very great trouble being given to the South by any adoption by Congress of the "Wilmot proviso" while this Administration is in power; for I have no doubt the present Executive would promptly *veto* that exclusion, however presented. This "free-soil" clamor, in my judgment, is gotten up chiefly by politicians, and will last till the presidential election is over, and then give way to some other electioneering clap-trap to be used in 1852. I have too much confidence in the masses, in the great body of the American people, to believe they will not stifle it; and if it should seriously threaten the Union, I feel assured in the end they will do what is right. In my vote for this bill, I decide upon the construction given to it by its southern friends here; and upon consideration of what they held its *effect* is, and what its *effects* will be, and though I am somewhat dubious in my own mind as to its practical operation on both points, as I have stated, if I should err, I wish it understood, I claim no exemption for full responsibility for such vote. I have reviewed the subject calmly and deliberately, and I feel that to pertinaciously adhere to my own views would be justly regarded as self-opiniated, and subject me to the charge of being obstinate and impracticable. My State, sir, stands here differently from any others, except perhaps Texas and Arkansas. She is contending for PRINCIPLE *only*. She is resisting outrage and insult upon the South, attempted wantonly, but which, if carried out, would really *injure* her present and temporary *interests*, not political, less than those of any other southern State. Florida needs additional agricultural labor. Half a million or more of slaves could be sustained and advantageously employed within her limits in the cultivation of tobacco, rice, cotton, sugar, tropical fruits, corn, and hundreds of products that no other part of the Union can produce. Were she selfish—did she not adhere to *principle*, and disregard her present temporary interests, she would seek to stifle all *rivalry*, bar all competition as to slave emigration, and let this exclusion be made as to all these Territories. As to *Oregon*, but for the *principle*, we should take about as much interest in a "Wilmot proviso" laid by law upon the territories in the moon, as when laid on that cold region where, if you were to take a southern negro, he would very likely freeze to death the first winter. California and New Mexico may be adapted to slave labor; but if not, the attempt by the non-slaveholding States to mould their destiny by laws and provisos, in derogation of southern rights, should be resisted, as it will be resisted, by the united South. If these Territories are not fitted for slave labor, there is no necessity for the exclusion; and it should be opposed as gratuitous and wanton—as an *uncalled-for* outrage. But, sir, this measure, if not a mere presidential electioneering scheme, can only be understood, as I have said, as the *entering wedge* to more serious attempts upon southern institutions. It may be the wooden horse, filled with armed men that are to sack Ilium. If successful, we may next see other measures and other schemes proposed, of more fatal effect, and directly assailing southern institutions in the States. Slaveholders may be proscribed from any participation in the government of the Confederacy. If this contest survives the next presidential election, it will become a mere sectional dispute for political power and ascendency; and the happy days of the Union, and of its prosperity, and honor, and glory, will be numbered. Hence it is the duty of the South to resist this attempt in the outset. If we are defeated, we must, under Providence, do the best we can. This is no place for gastering about what the South will do. I can answer for my State. She is yet in her infancy—rich in resources that, with an industrious population, will make her in half a century one of the most prosperous in the Confederacy. But she is weak in numbers. Her citizens, neglected as all at the extremities of the empire are, still are devoted to the Union, and to the Constitution as the bond of the Union. But in *any* crisis that may come, arising upon this question, she will stand by her sister southern States, and unflinchingly adhere to them "through sunshine and through storm." This is, and will be, her resolution and her course, without reference to the success or defeat of either of the great political parties that have divided this country. The first motto of the State of Florida, adopted by the Democratic party, was, "Let us alone." A Whig Legislature expunged it, and substituted "In God is our trust." Whenever the mischievous intermeddling of Congress, or of any State, as to the domestic institutions of the South, has approached that point when forbearance ceases to be a virtue, the *two mottoes* and *all parties* will be united in resistance to the aggression by such rightful means as Providence may allow them. The East may outnumber us—they may vote us down here on this measure; but they cannot go one step further. The early history of this country should teach them that when a people "know their rights, and knowing, dare maintain them," the superior numerical force of the usurper does not always insure the continued possession of misused power.

APPENDIX.—NOTE A.

Extract from Mr. BENTON's speech on Florida armed occupation bill, in the Senate of U. S. January 12.—*Appendix to Congressional Globe*, p. 99.

"In one thing I concur with the Senator from South Carolina, [Mr. Preston,] namely, in the opinion that Florida has been too much neglected. I concur in the justice of the remark, but not in the sense in which he intends it. He intends it for the Administration; I intend it for Congress. I intend it to apply to our neglect. I say ours, for I mean to take a full share of the blame to myself in neglecting the supervision of the Florida legislation, in not even reading the acts of the Legislative Council, which it was our duty to supervise before they became laws. The Territory is buried under corporations and under debts which the organic law referred to our inspection, and of which we knew nothing until the acts were consummated. *The debts are void, for a Territory is not a State, and has no power but that which is granted to it by Congress, and Congress has not granted to its* POLICE GOVERNMENT in Florida the privilege of contracting five millions, or any number of millions of debt. The corporations, from what I have seen of their absurd and monstrous privileges, are either void or voidable. Congress has neglected its duty in suffering these debts and these corporations to be created in the first instance, and to remain so long unarraigned at our bar. * * * * The President, in his noble message, has called our attention to the *civil abuses there, especially to the power 'ASSUMED' by the Territorial Legislature, to authorize the issue of bonds by corporate companies on the guarantee of the Territory.*"

Judge Story, in his Commentaries on the Constitution, (3 Com. 133, sec. 1260,) classes the Territorial Governments as "*corporations;*" and Mr. Hamilton, in his celebrated opinion on the constitutionality of a national bank, given to President Washington in 1794, styles those governments *by the same name.* It is worth noticing that in his opinion is *first asserted* the arbitrary power of Congress over territories acquired by the United States by conquest or cession, &c.; and that this power, and the power to incorporate a national bank, are sought to be deduced by that great man from the same identical ground—the *general, inherent, sovereign power of the Federal Government.* With respect to the creation of governments for the Territories, no weight is allowed by him to the peculiar phraseology of the 2d clause, 3d sec. 4th art. of the Constitution, prescribing, and, as I conceive, *limiting* the power of Congress to making "needful rules and regulations"—the establishing the kind of government Mr. Benton describes, totally different from that given by 16th sec. 8th art., as to District of Columbia, forts, &c.

It is worthy of notice, that, doubtless giving such construction to the clause in the 4th article cited, and *it* being therefore unexceptionable, yet Virginia (in the amendments she proposed upon ratifying the Constitution, with reference to the clause respecting *this District*, the forts, &c.) proposed the following:

"12th. That the exclusive power of legislation given to Congress over the federal town and its adjacent district, and other places, &c., shall extend only to *such regulations as respect the police and good government thereof.*"—3 *Elliot's Debates*, p. 660.

General Cass has, in his Nicholson letter, referred to the palpable difference in import of the two clauses, in a very forcible manner.

NOTE B.—*Tory of '76.*

Mr. Sewall was the King's attorney general for Massachusetts. He wrote a series of letters, the first of which is dated December 17, 1774, characterized by great ability and learning. Expressions of a popular character, since grown into maxims, and the authorship of which has been ascribed to others, are to be found scattered through his letters; and among them "the press, when open to all parties and influenced by none, is a salutary engine in a free State."

(Page 170.) "It is beyond a doubt that it was the sense both of the parent country and our ancestors, that they were to remain *subject to Parliament.* It is evident from the charter itself; and *this authority has been exercised by Parliament, from*

time to time, almost ever since the first settlement of the country, and has been *expressly acknowledged by our provincial legislatures.* It is not less our *interest* than our *duty* to continue subject *to the authority of Parliament*, which will be more fully considered hereafter."

(Page 173.) "Had a person, some fifteen years ago, undertaken to prove that the colonies were a part of the British empire or dominion, and as such subject to the authority of the British Parliament, he would have acted as ridiculous a part as to have undertaken to prove a self-evident proposition. Had any person denied it, he would have been called a fool or a madman."

(Page 181.) Quoting and adopting from a pamphlet he refers to as published in 1764, he says: "It is a maxim that '*the King can do no wrong;*' and every good subject is bound to believe his King is not inclined to do any. We are blessed with a prince who has given abundant demonstrations that in all his actions he studies the good of his people and the true glory of his crown, which are inseparable. It would, therefore, be the highest degree of *impudence* and *disloyalty* to imagine that the King, at the head of his Parliament, could have *any* but the most *pure and perfect intentions of justice, goodness, and truth*, that human nature is capable of.' All this I say and believe of the *King and Parliament, in all their acts;* even in that which so nearly affects the interests of the colonists; and that *a most perfect and ready obedience is to be yielded to it while it remains in force. The power of Parliament is uncontrollable, but by themselves, and we* MUST OBEY. They only can repeal their own acts. There would be an end of all government if one or a number of subjects or subordinate provinces should take upon them so far to judge of the justice of an act of Parliament as to refuse obedience to it. If there was nothing else to restrain such a step, prudence ought to do it, for forcibly resisting the Parliament and the King's laws is high treason. *Therefore, let the Parliament lay what burdens they please on us, we must, for it is our duty to, submit and patiently bear them till they will be pleased to relieve us.*"

(Page 202.) "But, say our patriots, if the British Parliament may take a penny from us without our consent, they may a pound, and so on, till they have filched away all our property. This incessant incantation operates like a spell or charm, and checks the efforts of loyalty in many an honest breast. Let us give it its full weight. Do they mean that, if the Parliament has a right to raise a revenue of one penny on the colonies, that they must therefore have a *right* to wrest from us all our property? If this be their meaning, I deny their deduction; for the supreme legislature can have no right to tax any part of the empire to a greater amount than its just and equitable proportion of the necessary national expense. This is a line drawn by the constitution itself. Do they mean that, if we admit that the Parliament may constitutionally raise one penny upon us for the purpose of revenue, they will probably proceed from light to heavy taxes, till their impositions become grievous and intolerable? This amounts *to no more than a denial of the right, lest it should be abused.* But an argument drawn from the *actual abuse* of a power will not conclude *to the illegality of such power;* much less will an argument drawn from a *capability* of its *being abused.* If it would, we might readily argue away all power that man is intrusted with. I will admit that a power of taxation is more liable to abuse than legislation, separately considered; and it would give me pleasure to see some other line drawn, some other barrier erected, than what the constitution has already done, if it be possible, whereby the constitutional authority of the supreme legislature might be preserved entire, and America be guarantied in every right and exemption consistent with her subordination and dependence; *but this can only be done by Parliament.*"

(Page 216.) "But how different are the effects of our connection with and subordination to Britain! They are too strongly marked to escape the most careless observer. Our merchants are opulent, and our yeomanry in easier circumstances than the noblesse of some States. Population is so rapid as to double the number of inhabitants in the short period of twenty-five years. Cities are springing up in the depths of the wilderness. Schools, colleges, and even universities, are interspersed through the continent; our country abounds with foreign refinements, and flows with exotic luxuries. These are infallible marks not only of opulence, but of freedom. The recluse may speculate—the curious repine—the disaffected calumniate—all these may combine to excite fears and jealousies in the minds of the multitude, and keep them in alarm from the beginning to the end of the year; but such evidence as this must forever carry conviction with it to the minds of the most dispassionate and judicious." [The coincidence between this argument and those about the superior prosperity, &c., of New York, owing to "free labor," is quite striking.]

"Where are the traces of the slavery that our patriots would terrify us with? The effects of slavery are as glaring and obvious in those countries that are cursed with its abode, as the effect of war, pestilence, or famine. Our land is not disgraced by the wooden shoes of France, or the uncombed hair of Poland; we have neither racks nor inquisitions, tortures or assassinations; the mildness of our criminal jurisprudence is proverbial. '*A man must have many friends to get hanged in New England.*' Who has been arbitrarily imprisoned, disseized of his freehold, or despoiled of his goods? Each peasant that is industrious may acquire an estate, enjoy it in his lifetime, and at his death transmit a fair inheritance to his posterity. The Protestant religion is established, as far as human laws can establish it. My dear friends, let me ask each one whether he has not enjoyed every blessing that is in the power of civil government to bestow? And yet the Parliament has, from the earliest days of the colonies, *claimed the lately controverted right, both of legislation and taxation, and for more than a century has been in the actual exercise of it.* There is no grievous exercise of that right at this day, unless the measures taken to prevent our revolting may be called grievances. Are we, then, to rebel, lest there should be grievances? Are we to take up arms and make war against our parent, lest that parent, *contrary to the experience of a century and a half—contrary to her own genius, inclination, affection, and interest*—should treat us or our posterity as bastards, and not as sons, and, instead of protecting, should *enslave* us? The annals of the world have not, as yet, been deformed with a single instance of so unnatural, so causeless, so wanton, so wicked a rebellion."

Whig of '76.

Mr. Adams, in reply to Mr. Sewall, in his "Novanglus" letters, says:

(Page 22.) "Now let me ask you, if the Parliament of Great Britain had all the natural foundations of authority, wisdom, goodness, justice, power, in as great perfection as they ever existed in any body of men since Adam's fall; and if the English nation was the most virtuous, pure, and free that ever was, would not such an unlimited subjection of three millions of people to that Parliament, at three thousand miles distance, be real slavery? There are but two sorts of men in the world—freemen and slaves. *The very definition of a freeman is one who is bound by no law to which he has not consented* Americans would have no way of giving or withholding their consent to the acts of this Parliament; *therefore they would not be freemen.*"

(Page 26.) "That the fundamentals of the Government over them are disputed; that the minister pretends and had the influence to obtain the vote of the last Parliament in his favor; *that Parliament is the only supreme, sovereign, absolute, and uncontrollable legislative power over all the colonies;* that therefore the minister, and all his advocates, will call resistance to acts of Parliament by the names of treason and rebellion. But at the same time they know that, in their own opinions, and in the opinions of all the colonies, Parliament has no authority over them, except to regulate their trade, and this is not by any principle of common law, *but merely by the consent of the colonies*, founded on *obvious necessity* of a case which was never in contemplation of that law, nor provided for by it; that therefore they have as good a right to charge that minister, and Massachusetensis, and the whole army to which he has fled for protection, with treason and rebellion."

(Page 30.) "When he says that the King's dominions must have an uncontrollable power coextensive with them, I ask whether they have such a power or not, and utterly deny that they have, by any law but that of Louis XIV. and the King of Sardinia. If they have not, and it is necessary that they should have, it then follows that there is a defect in what he calls the British empire; and how shall this defect be supplied? It cannot be supplied consistently with reason, justice, policy, morality, or humanity, without the consent of the colonies, and some new plan of connection. But if Great Britain will set all these at defiance, and resort to the *ratio ultima*, all Europe will pronounce her a tyrant, and America never will submit to her, be the danger of disobedience as great as it will."

(Page 34.) "*Obsta principiis*—nip the shoots of arbitrary power in the bud—*is the only maxim which can ever preserve the liberties of any people.* When the people give way, their deceivers, betrayers, and destroyers, press upon them so fast that there is no resisting afterwards. The nature of the encroachment upon the American Constitution is such as to grow every day more and more encroaching. Like a cancer, it eats faster and faster every hour. The revenue creates pensioners, and the pensioners urge for more revenue. The people grow less steady, spirited, and virtuous, the seekers more numerous and more corrupt, and every day increases the circles of their dependents and expectants, until virtue, integrity, public spirit, simplicity, and frugality become the objects of ridicule and scorn, and vanity, luxury, foppery, selfishness, meanness, and downright venality swallow up the whole society."

(Page 38.) "The truth is, the authority of Parliament was never generally acknowledged in America. More than a century since, Massachusetts and Virginia both protested against even the act of navigation, and refused obedience for this very reason, because they were not represented in Parliament, and were, therefore, not bound: and afterwards confirmed it by their own provincial authority."

(Page 46.) "It is extremely provoking to courtiers that they cannot vote as the cabinet direct them, against their consciences, the known sense of their constituents, and the obvious good of the community, without being detected. *Generally, perhaps universally, no unpopular measure in a free Government, particularly the English, ought ever to pass.* Why have the people a share in the legislature but to prevent such measures from passing—I mean such as are disapproved by the people at large? But did not these yea and nay votes expose the Whigs as well as Tories to the impartial judgment of the public? If the votes of the former were given for measures injurious to the community, had not the latter an equal opportunity of improving them to the disadvantage of their adversaries in the next election? Besides, were not those few persons in the House, who generally voted for unpopular measures, near the Governor, in possession of his confidence? Had they not the absolute disposal in their towns and counties of the favor of Government? Were not all the judges, justices, sheriffs, coroners, and military officers made in their towns upon their recommendation? Did not this give them a prodigious weight and influence? Had the Whigs any such advantage?"

The same doctrines are to be found in the celebrated republican pamphlet, "CRISIS," published in 1776:

"These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country; but he that stands it now deserves the love and thanks of man and woman. Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict the more glorious the triumph. What we obtain too cheap we esteem too lightly; 'tis dearness only that gives everything its value. Heaven knows how to put a proper price upon its goods; and it would be strange indeed if so celestial an article as FREEDOM should not be highly rated. Britain, with an army to enforce her tyranny, has declared that she has a right *not only to TAX*, but '*to BIND* us *in ALL CASES WHATSOEVER;*' and if being *bound in that manner* is not slavery, then is there not such a thing as slavery upon earth. Even the expression is impious, for so unlimited a power can only belong to God."

(Page 101.) "One of the greatest degrees of

sentimental union which America knew was in denying the right of the British Parliament '*to bind the colonies in all cases whatsoever.*' The declaration is in its form an almighty one, and is the loftiest stretch of arbitrary power that ever one set of men or one country claimed over another."

"In every former publication of mine, (from Common Sense down to the Last Crisis,) I have generally gone on the charitable supposition that the Tories were rather a mistaken than a criminal people, and have applied argument after argument, with all the candor and temper which I was capable of, in order to set every part of the case clearly and fairly before them, and if possible to reclaim them from ruin to reason. I have done my duty by them, and have now done with that doctrine, taking it for granted that those who yet hold their disaffection are either a set of avaricious miscreants, who would sacrifice the continent to save themselves, or a banditti of hungry traitors, who are hoping for a division of the spoil; to which may be added a list of crown or proprietary dependents, who, rather than go without a portion of power, would be content to share it with the devil. Of such men there is no hope; and their obedience will only be according to the danger set before them, and the power that is exercised over them."

"A time will shortly arrive in which, by ascertaining the character of persons now, we shall be guarded against their mischiefs then; for, in proportion as the enemy despairs of conquest, they will be trying the arts of seduction and the force of fear by all the mischiefs which they can inflict."

In the first volume of American Archives are to be found the speeches of Lord Chatham, General Conway, Mr. Burke, Mr. C. Fox, Colonel Barré, Mr. Dowdeswell, and others in the British Parliament, in answer to those of the Tory members; and the same book contains the acts and resolutions of Parliament, and likewise many of the acts and resolutions of the colonial assemblies, town meetings, committees, &c., and correspondence of Whigs and Tories of that day. They are all to the same effect.

Chancellor Kent, referring (1 Com., 385) to the probability when he wrote of the United States acquiring exclusive possession of Oregon, says, according to the precedents of Congressional legislation, and even the decisions of the Supreme Court, the power of Congress must be regarded as absolute over it till it becomes a State; and he further says:

"The colonists would be in a state of the most complete subordination, and as dependent upon the will of Congress as the people of this country would have *been upon the King and Parliament* of Great Britain, if they could have sustained their claim to bind us in all cases whatsoever. Such a state of *absolute* sovereignty on the one hand and of absolute dependence on the other, is not *congenial* with the free and independent spirit of our native institutions; and the establishment of distant Territorial Governments, ruled according to will and pleasure, would have a very natural tendency, as all proconsular governments have had, to abuse and oppression."

NOTE C.

The following authorities treat on this subject. Some of them do not accord with each other; but from all of them together I deduce the principles and rules I have advanced. The laws of nations, as received and recognized for the last two centuries, maintain as a *principle* what in ancient times was commended as laudable on the part of the conqueror, viz: that the people of a conquered province are not to be treated as *captives*, subject to his arbitrary power, but are to be governed according to equity and justice, and to be allowed to retain their ancient *municipal* laws not inconsistent with the fundamental laws of their new sovereign. The *rights* of private property are now recognized and respected by the laws of nations. Formerly, the *clemency* of the conqueror was all that the conquered could rely upon. The policy inculcated by the publicists of ancient times *to incorporate the conquest into the conquering State, is now also a rule of the law of nations.* The same rule obtains as to ceded territory, or newly discovered territory. Such possessions become a part and parcel of the empire, or state, or nation that acquire possession of them by cession or discovery, and their political laws and institutions must conform to the political laws of the latter. Especially is a republican government, that has no subjects of the white race, bound to recognize this rule. Otherwise, the white inhabitants would be slaves, not citizens; and in this case the treaty guarantee would be violated. The English authorities are, 7 Coke, Rep. 17, Calvin's case; Craw *vs.* Ramsay, C. B. 1669, Vaughan 279; Blankard *vs.* Gaddy, 2 Salk. 411, 1692; Dutton *vs.* Howell, 1 Show. Parl. col., 31, Lords, Decision in Privy Council, 1772, 2 P. Wms. 75; 1 Black., Com. 107; Chitty on Prerog., ch. 3, p. 29; 1 Chalm. Op. 194, 2 ib. 202; Rex *vs.* Brampton, 10 East. 282; Hall *vs.* Campbell, 1 Cowp., 211; Mostyn *vs.* Fabregas, ib. 180; 1 Chalm. Ann. 14, 639, 658; Stokes's Colonial Law, pp. 11, 30; Clarke's Colonial Law, 5 to 21.

Note 6, in the last authority cited, page 5, in commenting on Lord Mansfield's opinion, in Campbell *vs.* Hall, says:

"But there is one distinction that deserves to be considered. This *relates to laws contrary to the fundamental principles of the British constitution.* Such laws would, with regard to the conqueror at least, and, it is apprehended, with regard to the conquered also, cease upon the instant of conquest."—*Clarke's Colonial Law, p. 5, note.*

Again:

"Thus, if any country in which the infliction of torture was the law, should come into the possession of Great Britain, such law would fall of course. *The constitution of Great Britain would put an end to it.*"—*Ibid.*

Clarke cites Lord C. J. DeGrey in Mostyn *vs.* Fabregas, above cited:

"The nations whom the Romans permitted to retain their own laws had this liberty only so far as *their laws included nothing contrary to the Roman laws.*"—Grotius's War and Peace, b. 3, ch. 15, sec. 10, and note referring to Bynkershoeck; and see Puff. b. 2, ch. 12, sec. 8, and Vattel, b. 1, ch. 18, sec. 209, 210, and *ib.* b. 3, ch. 13, sec. 200, 201, &c.

The following American authorities relate to this subject: Declaration of Rights by Congress, Oct. 14, 1774, Journal, p. 17 to 21, 2 Wils. Law Lec. 49 to 54, 3 *ib.* 234; Johnson *vs.* McIntosh, 8 Wheaton 543; 1 Kent Com. 383; 1 Story Com. 133 to 142; 3 *ib.* 187; Am. Ins. Co. *vs.* Canter, 1 Peters' Reps. 511, and U. S. *vs.* Percheman, 7 Peters' Reports, 87.

In the case in 1 Peters, Chief Justice Marshall, delivering the opinion of the court, says, p. 542:

"The usage of the world is, if a nation be not entirely subdued, to consider the holding of conquered territory as a mere military occupation, until its fate shall be determined at the treaty of peace. If it be ceded by the treaty, the acquisition is confirmed, and the ceded territory *becomes a part of the nation* to which it is annexed, either on the terms stipulated in the treaty of cession, or on such as its new master shall enforce. On such transfer of territory it has never been held that the relations of the inhabitants with *each other* undergo any change. Their relations with their former sovereign are dissolved, and new relations are created between them and the government which has acquired the territory. The same act which transfers their country transfers the allegiance of those who remain in it; and the law which *may be denominated* POLITICAL *is necessarily changed,* although that which regulates the intercourse and general conduct of individuals remains in force *until altered* by the newly-created power of the State."

After citing the clause in the Florida treaty, admitting the inhabitants of those provinces citizens, similar to that in the treaty with Mexico, he proceeds:

"This treaty is the law of the land, and admits the inhabitants of Florida to the enjoyment of the privileges, rights, and immunities of the *citizens of the United States. It is unnecessary to inquire whether this is not their condition independent of such stipulation.* They do not, however, participate in *political power;* they do not share in the Government till Florida shall become a State. In the mean time Florida continues to be a Territory of the United States, governed by virtue of that clause in the Constitution which empowers Congress to "make all needful rules and regulations," &c.

Again, p. 544: "It has been already stated that all the laws which were in force in Florida while a province of Spain, *those excepted which were* POLITICAL *in their character,* which concerned the relations between *the people and their sovereign,* remained in force until altered by the Government of the United States."

The case of the United States *vs.* Percheman, 7 Peters, 87, reiterates the doctrine as to the *continuance* of the local *municipal* law of a ceded country regulating *private rights,* till altered by the new government.

NOTE D.

Copied from the original, among the Monroe manuscripts.]

MR. MADISON TO PRESIDENT MONROE.

Extract of a letter, dated Montpelier, Feb. 10, 1820.

"I find the idea is fast spreading, that the zeal with which the extension (so called) of slavery is opposed, has, with the coalesced *leaders,* an object very different from the welfare of slaves, or the check to their increase; and that the real object is, as you intimate, to form a new state of parties founded on local instead of political distinctions; thereby dividing the Republicans of the North from those of the South, and making the former instrumental in giving the opponents of both an ascendency over the whole. If this be the view of the subject at Washington, it furnishes an additional reason for a conciliatory proceeding in relation to Maine.

"I have been truly astonished at some of the doctrines and declarations to which the Missouri question has led; and particularly so at the interpretation of the terms 'migration or importation,' &c. Judging from my own impressions, I should deem it impossible that the memory of any one who was a member of the general Convention could favor an opinion that the terms did not *exclusively* refer to migration and importation *into the United States.* Had they been understood in that body in the sense now put on them, it is easy to conceive the alienation they would have there created in certain States; and no one can decide better than yourself the effect they would have had on the State conventions, if such a meaning had been avowed by the advocates of the Constitution. If a suspicion had existed of such a construction, it would at least have made a conspicuous figure among the amendments proposed to the instrument."

"*I have observed, as yet, in none of the views taken of the ordinance of* 1787, *interdicting slavery northwest of the Ohio, an allusion to the circumstance that when it passed, the Congress had no authority to prohibit the importation of slaves from abroad; that all the States had, and some were in the full exercise of, the right to import them; and, consequently, that there was no mode in which Congress could check the evil, but the indirect one of narrowing the space open for the reception of slaves.*

"*Had a federal authority then existed to prohibit, directly and totally, the importation from abroad, can it be doubted that it would have been exerted; and that a regulation having merely the effect of preventing the interior disposition of slaves actually in the United States, and creating a distinction among the States in the degrees of their sovereignty, would not have been adopted, or perhaps thought of?*"

NOTE E.

[Papers copied from the originals among the Monroe manuscripts.]

No. 1.

MR. GEORGE HAY TO PRESIDENT MONROE.

"ASHFIELD, *Friday, Dec.* 24, 1819.

"DEAR SIR: I received, on Wednesday last, your letter of the 20th. I am taking precisely the view of that subject which your letter exhibits. The first part (the constitutional question) is ready for the press, and will appear in the first paper published next week—probably, in consequence of Xmas (Christmas) times, not until Wednesday. The second part (the treaty question) is written, and will follow in the paper of Friday or Saturday. The third part (the expedience of the amendment) is not commenced, but the subject is arranged in my head. I mean in this third part to put Grayson's conduct and motives on their true ground: the speculators in inhumanity, or rather under the mask of humanity, shall not triumph in the use of his name. I mean also to show the cruelty of the regulation or amendment as it now stands.

Barbour talks to Ritchie, I know not what, *about a compromise; I see not how a compromise can be made;* I am very confident that none ought to be made. If the friends of the Constitution, of national honor, of *real* humanity and justice, are firm, the scheme must fail. The argument against it is irresistible."

[NOTE.—In connection with this letter, see Richmond Enquirer of December, 1819, and January, 1820, for articles signed "An American," above referred to, which it appears were written at President Monroe's instance. They contest the powers of Congress to impose the restriction.]

No. 2.

GENERAL A. LACOCK TO PRESIDENT MONROE.

Extract of a letter, dated Beaver, January 30, 1820.

[Confidential.]

"The Missouri question is assuming an aspect that gives me concern and uneasiness.

"The slave question will divide the Union nearly in equal parts, geographically, and as to population also; each division will be composed of States lying contiguous to each other, a circumstance favoring harmonious concert. The slaveholding will be arrayed against the non-slaveholding States; it will be a question of feeling and of interest, urged on by political ambition.

"The Chief Magistrate will be elected by one or other of these great divisions, exclusively; the selection of the principal officers must and will be made from amongst his friends to the exclusion of others. The consequence may be—the moral ties and affections being broken and dissolved—a dismemberment of the Union. * * * * Some prudent and discreet men, in other respects, in Congress, have brought themselves to this awful alternative, 'to dissolve the Union rather than submit to the establishment of slave States over the Mississippi.'

"This dispute must be ended by a compromise—the sooner the better. * * * * Let the slaveholding States accept Missouri, Arkansas, and the Floridas, and give an equivalent to the others in the West. * * * Mr. Thomas has introduced into the Senate a bill of this nature. I hope the good sense of that body will induce them to adopt it.

"My principal object in writing this letter was to respectfully suggest to you the propriety (if you think with me on the subject) of recommending to your confidential friends this compromise."

No. 3.

MR. GEORGE HAY (SON-IN-LAW TO PRESIDENT MONROE) TO MRS. HAY, IN WASHINGTON.

Extract of a letter dated Richmond, Virginia, February 12, 1820.

"I think that I understand, and have always understood, the great object of the movements in Washington, and have been perfectly sensible of the difficulties which your father would have to encounter. If I have not said much on the subject, my failure has arisen from an unwillingness to increase a solicitude which I knew not how to alleviate. It is impossible for me to suggest any plan unless I was on the spot, and even then I should not attempt it where there are so many who are more competent to judge.

"Barbour says, in a letter to Yancey, that Mr. Crawford, &c., &c., are in favor of a compromise. This has excited great feeling here; and certainly would do your father great injury if there was not a belief that this is the very object which the northern people aim at. If your father does not stand compromitted on that point, I certainly should think his best course would be to let things take their course, and when the bill came to him imposing restrictions on Missouri, (if it did come in that shape,) to reject it; and also to reject any bill imposing restrictions on the Territories, if he thinks Congress have no right to impose these territorial restrictions, or that the right ought not to be exercised, no matter what the northern people may say; they will say and do anything to effect their object, and they are only to be met with patience and firmness."

No. 4.

February 15.

"Mr. * * * * 's conduct is universally condemned, and regarded, even by those who think that Congress have the territorial power, as a desperate attempt to obtain power for himself at the expense of the peace and welfare of the Union."

No. 5.

MR. GEORGE HAY TO PRESIDENT MONROE.

Extract of a letter dated Richmond, Va., February 16, 1820.

"I have received your last communications, and a letter from * * * * *, covering a second 'Extract' for the Enquirer. The first and second both will appear in the Enquirer to-morrow. I presume their effect will be favorable here. They are well written, and are calculated to make a strong impression.

"After the caucus is over, *perhaps* some measure may be brought forward indicating the opinion of Virginia in relation to a compromise, supposing that the constitutional difficulty is removed."

[NOTE.—See the "Extract" referred to in this letter in another column, No. 20, the concluding paragraphs of which advocate a compromise in strong terms. This was doubtless, if not written, countenanced by President Monroe.]

No. 6.

MR. GEORGE HAY TO PRESIDENT MONROE.

Extract of a letter dated Richmond, Thursday night, February 17, 1820.

"I have this moment received your note of yesterday. * * * * I have never said how you would act, but simply that you would do your duty. The members have gone up to the caucus under a conviction that you will put your veto on this infamous cabal and intrigue, in all its forms and shapes. This I would certainly and promptly do. You may be injured in the northern and eastern States, but you will be amply repaid by the gratitude and affection of the South.

"I rejoice that you sent your letter to me. In the present state of things, the effect of such a communication, indicating hesitation or doubt, would be fatal. I therefore send the letter back, that you may preserve it if you choose to do so. I know and see the temper of the people here. They are prepared for any struggle.

"The whole affair is regarded as a base and hypocritical scheme to get power under the mask of humanity; and it excites the most unqualified indignation and resentment.

"I believe that in cases of this kind there is no middle course to be observed. The subject with all its consequences must be met, and the decision must be firmly pronounced. Such is my conviction. I can hardly be mistaken. Still, after the caucus (at this moment in session) is at an end, I am not without hope that a plan may be suggested by which the difficulties and dangers at present surrounding us may be dispelled. If the Constitution were not believed to be in the way, the men of understanding, perhaps all, would be disposed to a compromise on something like equal terms."

No. 7.

MR. MADISON TO PRESIDENT MONROE.

Extracts from a letter dated Montpelier, Feb. 23, 1820.

"I received yours of the 19th on Monday. * * * The pinch of the difficulty in the case stated, seems to be in the words "for ever," coupled with the interdict relating to the territory north of latitude 36° 30'. If the necessary import of these words be, that they are to operate as a condition on future States admitted into the Union, and as a restriction on them after admission, they seem to encounter, indirectly, the arguments which prevailed in the Senate for an unconditional admission of Missouri. I must conclude, therefore, from the assent of the Senate to the words, after the strong vote, on constitutional grounds, against the restriction on Missouri, that there is some other mode of explaining them in their actual application.

"As to the right of Congress to apply such a restriction during the *territorial* period, it depends on the clause specially providing for the management of those subordinate establishments.

"On one side it naturally occurs, that the right, being given from the necessity of the case, and in suspension of the great principle of self-government, ought not to be extended further, nor continued longer, than the occasion might fairly require.

"On the other side, it cannot be denied that the constitutional phrase "to make all rules," &c., as expounded by uniform practice, is somewhat of a ductile nature, and leaves much to legislative discretion.

"The questions to be decided seem to be—

"1. Whether a *territorial* restriction be an assumption of illegitimate power; or,

"2. A misuse of legitimate power; and if the latter only, whether the injury threatened to the nation from an acquiescence in the misuse, or from a frustration of it, be the greater.

"On the first point, there is certainly room for difference of opinion; though, for myself, I must own that I have always leaned to the belief that the restriction was not within the true scope of the Constitution.

"On the alternative presented by the second point, there can be no room, with the cool and candid, for blame on those acquiescing in a conciliatory course, the demand for which was deemed urgent, and the course itself deemed not irreconcilable with the Constitution.

"This is the hasty view I have taken of the subject. I am aware that it may be suspected of being influenced by the habit of a guarded construction of constitutional powers; and I have certainly felt all the influence that could justly flow from a conviction, that an uncontrolled dispersion of the slaves now within the United States, was not only best for the nation, but most favorable for the slaves also, both as to their prospects of emancipation, and as to their condition in the mean time.

"The inflammatory conduct of Mr. ***** surprises every one. His general warfare against the slaveholding States, and his efforts to disparage the securities derived from the Constitution, were least of all to have been looked for. I have noticed less of recurrence to contemporary expositions of the charter, than was to have been expected from the zeal and industry of the champions in debate. The proceedings of the Virginia convention have been well sifted; but those of other States ought not to have been overlooked. The speeches of Mr. King, in Massachusetts, and Mr. Hamilton, in New York, show the ground on which *they* vindicated, particularly, the compound rule of representation in Congress; and doubtless there are many other evidences of the way of thinking then prevalent on that and other articles, equally the result of a sense of *equity* and a spirit of *mutual* concession."

No. 8.

MR. JEFFERSON TO PRESIDENT MONROE.

Extract of a letter dated Monticello, March 3, 1820.

"I am indebted to you for your two letters of February 7 and 19. This Missouri question, by a geographical line of division, is the most portentous one I have ever contemplated. **** is ready to risk the Union for any chance of restoring his party to power, and wriggling himself to the head of it; nor is ******* without his hopes, nor scrupulous as to the means of fulfilling them. I hope I shall be spared the pain of witnessing it, either by the good sense of the people, or by the more certain reliance—the hand of death. On this or that side of the Styx, I am ever and devotedly yours."

No. 9.

The following letter is published on account of its interesting prophetic references to the Floridas, to Texas, and to Cuba, though it is not directly pertinent to the questions involved in this discussion:

MONTICELLO, *May* 14, 1820.

DEAR SIR: Your favor of the 3d is received, and always with welcome. These texts of truth relieve me from the floating falsehoods of the public papers.

I confess to you I am not sorry for the non-ratification of the Spanish treaty. Our assent to it has proved our desire to be on friendly terms with Spain; their dissent, the imbecility and malignity of their Government towards us. We have placed them in the wrong in the eyes of the world, and that is well. *But to us the province of Texas will be the richest State of our Union, without any exception. Its southern part will make more sugar than we can consume, and the Red River on it; north is the most*

luxuriant country on earth. Florida, moreover, is ours. Every nation in Europe considers it such of right. We need not care for its occupation in time of peace; and, in war, the first cannon makes it ours without offence to anybody. The friendly advisements, too, of Russia and France, as well as the change of government in Spain, now insured, require a further and respectful forbearance While their request will rebut the plea of prescriptive possession, it will give us a right to their approbation when taken in the maturity of circumstances. I really think, too, that neither the state of our finances, the condition of our country, nor the public opinion, urges us to precipitation into war. The treaty has had the valuable effect of strengthening our title to Texas, because the cession of the Floridas in exchange for Texas, imports an acknowledgment of our right to it. This province, moreover, the Floridas, and possibly Cuba, will join us on the acknowledgment of their independence—a measure to which their new government will probably accede voluntarily. But why should I be saying all this to you, of whose mind all the circumstances of this affair have had possession for years?

I shall rejoice to see you here; and were I to live to see you here finally, it would be a day of jubilee. But our days are all numbered, and mine are not many. God bless you and preserve you *muchos años.* TH. JEFFERSON.

The PRESIDENT of the U. S.

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No. 10.

[Copied from a copy of the original, among Mr. Monroe's manuscripts.]

PRESIDENT MONROE TO MR. MADISON.

Extract of a letter, with a copy of the message, dated Washington, November 16, 1820.

"The contest for the chair, and the result, indicate a disposition to renew the Missouri question, in the temper displayed in the last session.

"The clause in the constitution of that State authorizing an inhibition of free negroes from emigrating into it, is understood to be that which will be more particularly laid hold of.

"Unfavorable [opinions] are formed of the result. It is undoubted[ly] much to be regretted that the State furnished any pretext for such [opinions.] It is urged by some, favorable to the immediate admission of the State into the Union, that as the Constitution [nullifies] all parts of the State constitutions repugnant to it, then in force, so it will nullify any part of the constitution of a new State which may be admitted, it being necessary that the incorporation should be complete in every clause, the same as to the new as well as the original States, and not a compact or treaty between separate communities, as it would otherwise be: that Congress, in its legislative character, can make no compact which would deprive the Supreme Court of its right to declare such article in the constitution of the new State void: that if, however, it had such right, a declaration by Congress, disapproving of that clause, and protesting against it, would deprive it of such sanction, and leave it to the decision of the court."

[MEMORANDUM.—The words placed within brackets were *blanks* in the copy from which the above is taken, as if the clerk who made it had been unable to read Mr. Monroe's manuscript.]

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No. 11.

MR. MADISON TO PRESIDENT MONROE.

Extracts of a letter, in reply to Mr. Monroe's of the 16th, dated Montpelier, November 19, 1820.

"I infer from the language of your letter, that the contest for the chair terminated in favor of Mr. Taylor, and that it manifested a continuance of the spirit which connected itself with the Missouri question of the last session. This is much to be regretted, as is the clause in the constitution of the new State, which furnishes a text for the angry and unfortunate discussion.

"There can be no doubt that the clause, if against the Constitution of the United States, would be a nullity; it being impossible for Congress, with, more than without, a concurrence, of new or old members of the Union, to vary the political equality of the States, or their constitutional relations to each other, or to the whole. But it must, to say the least, be an awkward precedent, to sanction the constitution of the new State, containing a clause at variance with that of the United States, even with the declaration that the clause was a nullity; and the awkwardness might become a very serious perplexity, if the admission of the new State into the Union, and of its Senators and Representatives into Congress, and *their participation in the acts of the latter,* should be followed by a determination of Missouri to remain as it is, rather than accede to an annulment of the obnoxious clause.

"Would it not be a better course to suspend the admission until the people of Missouri could amend their constitution, provided their so doing would put an end to the controversy, and produce a quiet admission at the ensuing session? Or, if the objections to this course be insuperable, may it not deserve consideration, whether the terms of the clause would not be satisfied by referring the authority it gives to the case of free people of color, *not citizens,* of other States

"Not having the constitution of Missouri at hand, I can form no opinion on this point. But a right in the States to inhibit the entrance of that description of colored people, it may be presumed, would be as little disrelished by the States having no slaves as by the States retaining them There is room also for a more critical examination of the constitutional meaning of the term 'citizens,' than has yet taken place; and of the *effect* of the various civil disqualifications applied by the laws of the States to free people of color."

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No. 12.

MR. ARCHIBALD STUART TO PRESIDENT MONROE.

Extract of a letter dated Richmond, Virginia, December 8, 1820.

"I feel considerable anxiety concerning the mad career which certain factious individuals are pursuing respecting the State of Missouri. * * * * Suppose they refuse her admission into the Union: what then? She will go on to govern herself, and her enemies will be unable to procure a law to offer her violence. The prospect of losing the whole country west of the Mississippi will then be presented to their view. These and other ulterior considerations, even a separation of the Union, will compel them to retrace their steps. * * * *

"The merchants, the ship-owners, the manufacturers, to the North, will never risk a separation from the growers of tobacco, cotton, sugar, rice, and indigo, and such customers as a newly settled country will afford. * * * They would be the rivals of all other nations in the carrying trade, and would be unable to purchase anything from them. * * * It is true, large exports are made from the northern ports, but it is well known whence they come.

"These consequences are too obvious to escape the attention of a cunning, pelf-loving people; from which I conclude their proceedings are intended for temporary and ambitious purposes."

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No. 13.

MR. MADISON TO PRESIDENT MONROE.

Extract from a letter dated Montpelier, December 28, 1820.

"I received your two favors of the 18th and 23d instant. The prospect of a favorable issue to the difficulties with Spain is very agreeable. I hope the ratification will arrive without clogs on it, and that the acquisition of Florida may give no new stimulus to the spirit excited by the case of Missouri. I am glad to learn that a termination of this case also is not despaired of. If the new State is to be admitted with a proviso, none better occurs than a declaration that its admission is not to imply an opinion in Congress, that its constitution will be less subject to be tested and controlled by the Constitution of the United States, than if formed after its admission, or than the constitution of other States now members of the Union.

"It is a happy circumstance that the discussions renewed by the offensive clause introduced by Missouri are marked by such mitigated feelings in Congress. It augurs well as to the ultimate effect which you anticipate. The spirit and manner of conducting the opposition to the new State, with the palpable efforts to kindle lasting animosity between geographical divisions of the nation, will have a natural tendency, when the feverish crisis shall have passed, to reunite those who never differed as to the essential principles and the true policy of the Government."

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No. 14.

[Extract from a letter from General Jackson to President Monroe, dated Nashville, January 7, 1821, copied from the Monroe manuscripts.]

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"I sincerely regret the unpleasant situation in which the House of Representatives have placed the nation, by the vote rejecting the State of Missouri. Should the House not reconsider the subject, *I shudder for the consequences. The feelings of the South and West are aroused.* The eastern and northern people have fully unmasked themselves, *and if I can judge correctly, Missouri will not retrograde, or humble herself.* What, then, will be the consequence? *Missouri may seize the public property and funds within her limits.* What course will Congress then adopt? I hope the majority will see the evil of *this rash despotic act,* and admit the State and prevent the evil."

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No. 15.

MR. NICHOLAS BIDDLE TO MR. MONROE.

Extracts of letters of the following dates:

PHILADELPHIA, *February* 27, 1821.

"I saw with great regret the failure of Mr. Roberts's proposition. * * * * *

"The accounts which I have from Washington to-day are so far satisfactory that they state a determination on the part of a sufficient number of the members from Pennsylvania to decide the question, if the gentlemen from the South will adhere, as I really think they ought to do, to the principles of compromise, for which they have already once voted.

"I could have wished that Mr. Roberts had succeeded, for his own sake and for the honor of our State. The immediate admission, too, is better than the prospective; and I cannot but think the objections of the Senate too fastidious and technical. But if the good is accomplished, I am content to receive it at any hands. And it will be still satisfactory to reflect that our members gave the first impulse, and may afford the decisive aid in the adjustment."

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No. 16.

ANDALUSIA, NEAR PHILAD., *June* 14, 1821.

"It has given me great satisfaction to find that what I ventured to assure our representatives at Washington, as to the feeling of this State on the Missouri question, has been completely realized. The State has acquiesced in the decision of Congress, and the gentlemen who had the independence to vote for the conciliation, have suffered nothing in the estimation of the country by that wise measure."

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No. 17.

MR. ROBERT S. GARNETT, M. C., TO PRESIDENT MONROE.

Extract of a letter dated Washington, March 29, 1822.

"It was once my misfortune, and my fault, to vote against my convictions. I allude to my vote on the resolution on which Missouri was admitted into the Union; and although I afterwards had an opportunity of recalling my vote, I would not again suffer the pangs I endured in the intermediate time, for all the honors my country could confer on me. Since that period, I have made a firm resolve never to swerve from the dictates of my deliberate judgment."

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No. 18.

GENERAL (AFTERWARDS PRESIDENT) HARRISON TO PRESIDENT MONROE.

Extract of a letter dated North Bend, June 16, 1823.

"Amongst the circumstances which have been thought of as likely to oppose my success [in obtaining the mission to Mexico] is the loss of my election last fall, going to show a want of confidence in the community in which I live. The result of that election was produced by a combination of circumstances which rarely, if ever, before occurred. But it is a fact, well known throughout this country, that all the others combined would have been ineffectual, if it had not been for two objections which were made to me, and which would have equally applied to yourself, Mr. Jefferson, or Mr. Madison.

"These were: my opinion on the Missouri question, and my having been for some years in the employment of the Government.

"In relation to the Missouri question, I am, and have been for many years, so much opposed to slavery, that I will never live in a State where it exists. But I believe that the Constitution has given no power to the General Government to interfere in this matter, and that to have slaves or no slaves, depends upon the will of the people in each State alone.

"Besides the constitutional objection, I am persuaded that the obvious tendency of *such interferences on the part of the States which have no slaves with the property of their fellow-citizens of the others, is to produce a state of discord and jealousy that will, in the end, prove fatal to the* UNION. *I believe in no other State are such wild and dangerous sentiments entertained on this subject as in Ohio; and I claim the merit of being the* ONLY *person of any political standing in the State who publicly oppose them.*"

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No. 19.

To the Editor of the Richmond Enquirer:

WASHINGTON, *February* 17.

[From a firm and honorable man.]

"The Missouri question is still under discussion here. I perceive some of the leading men are in favor of a *compromise!!! King, of New York*, has made two of the weakest and most factious and fanatical speeches ever delivered."

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No. 20.

Extract of a letter from a gentleman in Washington to his friend in Richmond.

WASHINGTON, *February* 12, 1820.

The *Missouri* question continues to occupy almost exclusively the whole attention of Congress. The debate is still going on in both Houses, and God only knows when or how it will terminate. It was but reasonable to suppose that after the vote of the Senate upon Mr. Roberts's proposition for restriction, the subject would not have been further discussed in that body; but Mr. King, of New York, who, during the debate, had maintained a silence as mysterious as it was unexpected, has contrived to recommence the discussion in a different shape; and yesterday, without the least expectation or hope of producing any change in the Senate, delivered a speech better calculated to delude and mislead our northren brethern, and more alarming to the friends of our Union (whether Federalists or Republicans) than anything which has hitherto been written or spoken upon the subject.

Previous to his arrival in this city, a spirit of conciliation and compromise which was thought to be due to the universal excitement which prevails, seemed to be pretty generally indulged. The tone of his friends, however, were soon altered, and "*aut Cæsar aut nullus*" adopted as their principle of action.

Having given notice of his intention to speak a day or two beforehand, no doubt with a view to be heard by the northern members of the House of Representatives, who crowded the Senate Chamber for that purpose, much of his speech consisted of ingenious efforts to excite their prejudices, and enlist their pride in opposition to any and everything which even savored of compromise.

On other occasions he had expressed his wish that the *territory of Missouri belonged to the moon*, or was given up to the residence of bears, *tigers*, and other *wild beasts*. In his speech he denied the authority of this Government to *acquire Louisiana* in the manner in which it had been obtained.

Disdaining to assume the mask of pretended religion, morality, or humanity, or calculating to gain greater advantages by throwing off all disguise, he openly and boldly treated the subject as a *mere question of political power*, and contended that *no kind of interest* ought to reconcile the people of the *North* to part with any *portion of their power*. He inveighed against that *inequality of representation which is predicated upon our slave population, and exclaimed, "Place freemen by the side of freemen, and we are willing to go all lengths with you."*

He disclaimed all authority to impose the restriction, from any other clause or part of the Constitution but that which declares that "Congress may admit new States into this Union," expressly admitting that all other parts of that instrument were inapplicable, notwithstanding he himself had contended for the restriction upon another clause, in a pamphlet purporting to be the substance of two speeches which he delivered last session, but which is not only very different from, but in some important parts in *direct opposition* to those speeches, one of which was actually made to demonstrate that *such was the nature of property in slaves that Congress could not rightfully interfere in the manner proposed with the children hereafter to be born of such slaves. He succeeded in defeating that part of the proposition, and the Journals will exhibit his vote upon the subject.*

Apparently determined not to be outdone by Mr. Clinton or his friends, two of whom (among the most conspicuous) had contended in the Legislature of New York that slavery did not exist in the United States, and that the Supreme Court would so decide, *Mr. King contended that the Constitution of the United States had not sanctioned slavery; that it had only forborne* to interfere with it, and that if there had been no attempt to tolerate it beyond the limits of the Old Thirteen, he would have forborne to express his sentiments upon the subject, but declaring, with his peculiar emphasis, that "*his purpose was fixed.*" He said that *one man could not make a slave of another;* that a plurality of individuals could not do so; and, for the same reason, communities, however organized, could not do it; *that all laws or compacts imposing such a condition upon any human being were absolutely void, because contrary to the law of nature, which was the law of God, and above all human control;* that these principles had been affirmed in the case of Somerset in England, and that similar judicial decisions had been made in Massachusetts, and I think in some other northern State; and he intimated, in language too distinct to be misunderstood, that it was not less the duty than the right of this nation to maintain *those principles.*

He declared that if the restriction did not prevail, *the northern people ought not to submit*, and that, as one of the original parties to the compact, he felt himself in honor bound to resist. All of which he expressed, not as ebullitions of passion, but as the settled and deliberate determination of a mind steadfastly fixed upon the accomplishment of its object.

His friends, as well as those who are opposed to the restriction, were equally surprised by the undisguised boldness of his views. No one expected to hear as much from him; and if I am not greatly mistaken, several of his most intelligent friends are as much at a loss as we are to penetrate his ultimate object. They could not account for his determination to renew the discussion at the time and under the circumstances which he selected; all thought it unseasonable and inopportune, and some suppose it to have proceeded from some new counsels with friends lately arrived.

It is known, that during the past summer he visited Massachusetts, &c. It is suspected that much of the excitement in that section of country has emanated from his conduct, and that his speech may be intended as the watchword for the commencement of the measures which he and his associates may have determined upon. I am constrained to believe, that if he sees that he cannot be President of the United States, he would prefer to be the first man in a new Confederacy, to be formed out of New York, New England, &c. His policy evidently must be to keep the Missouri question suspended for another year, that he may derive every possible advantage from the excitement it is so well calculated to produce. If he can be made President—which is probably his first object—he may be willing to preserve the Union.

The crisis is indeed a most auspicious one, and nothing but the prudence and wisdom of practical men can avert the dangers which it threatens. If either party completely triumphs, it is much to be feared that the other will not submit; and I am penetrated with the deepest regret and horror at seeing that too many on both sides view disunion with so little repugnance. Your Virginians yielding to the dictates of a pride natural to such high-minded people, are too apt to overlook consequences; however noble this may be in individuals acting for themselves, it is dangerous for a politician to yield himself up to the indulgence of such a spirit. You calculate that you would remunerate yourselves out of the public lands; but short-sighted must be that politician who does not see, that if the Atlantic States separate, the western States will become a separate confederacy, and then, if you get those lands, it must be by hard fighting.

Your pride revolts at the idea of a compromise of any kind, and thus is it most completely rendered the instrument of promoting the views of Mr. King and his friends, who are drawing the highest advantages from the stand you are taking, whilst it aids them, also, in their endeavors to put down those of our northern friends, who, in opposition to the popular current in their respective States, are firmly identifying themselves with us on the present occasion? Is nothing due to the magnanimity of those gentlemen? But what is the question which the proposed compromise presents? It is singly whether you will save any part of the country? By the compromise you would give up nothing which you can retain; while, by seeming to yield to it voluntarily, you would, by manifesting your own moderation, place your opponents so much the more in the wrong, there being a large majority in the House of Representatives in favor of restricting the States as well as the Territories. You have nothing to hope from that quarter, and I can assure you that there is a very decided majority in the Senate in favor of excluding slavery from all unsettled territory north of 36½ degrees north latitude, and I believe, if a compromise does not take place, the exclusion will be general. If it should not happen this year, from the disproportionate increase of the non-slaveholding population, it must eventually succeed.—(See Mr. Hay's letter, No. 5, above.)

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No. 21.

From the Richmond Enquirer, February 19, 1820.

MISSOURI COMPROMISE—RUFUS KING, &c.—The letters from Washington (in our last) have had the effect which we expected. The writer's abilities are admired; whilst his scheme of compromise has produced one general burst of reprobation. What more could have been expected? Some have ascribed these letters to the pen of a Virginian. Not so; we trust there is no Virginian at Washington that would dare publicly to vindicate a compromise with the Constitution of his country—this compromise, too, that is so disproportionate, inexpedient, and unjust. No one here has advocated it; there is not one, within our knowledge, but has set his face firmly and unequivocally against it.

Other States may talk of our pride, they may charge us with an arrogant and domineering spirit: some panic-struck politician may regret the heat of the "*Virginians at Richmond*" on a late memorable occasion; let them vituperate as much as they please. We trust that Virginia will never sleep at her post; that she will never suffer others to violate the Constitution in silence, or subscribe herself to any compromise with her principles.

These are certainly no ordinary times. A storm is gathering over our heads which it may be difficult to disperse. The eastern representatives may threaten a dissolution of the Union, or the election of another President in spite of these menaces; it becomes us to be calm, but unwavering and unshaken as Mount Atlas.

We say this firmly and frankly, though we are not ignorant of the pretensions of those who would fill the chair. *Of De Witt Clinton we have never concealed our opinion. Ambitious, intriguing, grasping in his designs, careless* of his means—such is one of those who aspire to "lord it over Venice." Of *Mr. King*, we confess frankly, we had formed a different opinion. We regarded him, though a Federalist, as a high and honorable patriot. But that time has passed. In one daring moment he has forgotten all the discretion and coolness which he has long studied to practise; and now he stands exposed in the eyes of his countrymen, goaded by an unholy ambition, attempting to clutch the office which we trust will forever elude his grasp.

We understand that on Tuesday last Mr. Pinkney *replied to Mr. King*, in a speech of the most commanding eloquence. It is said to have been infinitely superior to his first. His manner towards Mr. K. was respectful and kind; but he tore his argument to atoms. The Senator from New York was observed to wince and cower beneath the thunders of his eloquence.

NOTE F.

[Rough draught or notes of President Monroe's intended veto message rejecting the Missouri bill, if it had passed Congress, with certain restrictions, found in his handwriting among his papers in possession of S. L. Gouverneur, Esq.]

Having fully considered the bill entitled, &c., and disapproved of it, I now return it to the —— in which it originated, with my objections to the same:

That the constitution, in providing that new States may be admitted into the Union, as is done by the third section of the fourth article, intended that they should be admitted, with all the rights and immunities of the original States, retaining, like them, all the powers as to their local governments, and ceding to the United States, in the general government, all the powers ceded to it by the constitution.

That if conditions of a character not applicable to the original States should be imposed on a new State, an inequality would be imposed or created, lessening in degree the right of State sovereignty, which would always be degrading to such new State, and which operating as a condition of its admission, its incorporation would be incomplete, and would also be annulled, and such new State be severed from the Union should it afterwards assume equality and exercise a power acknowledged to belong to all the original States.

That the proposed restriction to Territories which are to be admitted into the Union, *if not in direct violation of the Constitution*, IS REPUGNANT TO ITS PRINCIPLES, since it is intended to produce an effect on the future policy of the new States, operating unequally in regard to the original States—injuring those affected by it, in an interest protected from such injury by the Constitution, without benefiting any State in the Union; and that in this sense it is repugnant to the generous spirit which has [" so long" erased] always existed and been cherished by the several States towards each other.

That the first clause of the ninth section of the first article, which provides that "the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior," &c., in whatever sense the term migration and importation may be understood, whether as applicable to the same description of persons or otherwise, confines the power of Congress exclusively to persons entering the United States, or who might be disposed to enter, FROM ABROAD, and precludes *all interference with such persons*, or any other persons, who had previously entered according to the laws of any of the States.

That by the third section of the first article—whereby it is provided representation and direct taxes shall be apportioned among the several States which may be included within this Union, according to the whole number of free persons, including those bound to service for a number of years, and excluding Indians not taxed, three-fifths of all other persons—[the words "*the persons held in bondage*" erased,] slavery as existing under the laws of the several States [the word "*were*" erased] was not only recognized, but [the word "*secured*" erased] its political existence was secured to the States, which it would be unjust to the States within which such persons are, to deprive them of, as it would be inhuman to the persons themselves.

That should the slaves be confined to the States in which slavery exists, as the free population will continue to emigrate, the disproportion between them will in a few years be very great, and at no distant period the whole country will fall into the hands of the blacks. As soon as this disproportion reaches a certain State, the white population would probably abandon those States to avoid insurrection and massacre. What would become of the country in that state? Would the General Government ["*protect*" erased] support the owners of the slaves in their authority over them, after the States individually had lost the power?—or the slaves being in possession of those States, and independent of their owners, would the States be recognized as belonging to them, and their representatives be received in Congress?

That it would be better to compel the whites to remain, and the blacks to move, &c.

That slavery is not the offspring of the Revolution; that it took place in our colonial state; that all further importations have been prohibited since the Revolution, under laws which are rigorously enforced; that in our revolutionary struggle, the States in which slavery existed sustained their share in the common burdens, furnished their equal quotas of troops, and paid their equal share of taxes; that slavery, though a national evil, is felt most sensibly by the States in which it exists; that it would be destructive to the whites to confine it there; and to the *blacks*, as the distribution of them over an extensive territory, and among many owners, will secure them a better treatment; that the extension of it to new States cannot possibly injure the old, as they will claim all their rights, since no attempt can ever be made, or idea entertained, of requiring them to admit slavery; that an attempt to fix on the States having slavery any odium, is unmerited, and would be ungenerous.

NOTE G.

Mr. Monroe to Judge Roane, of Virginia.

[Copied from the draught found in the Monroe MSS.]

WASHINGTON, *February* 16, 1820.

DEAR SIR: I have written you before two letters, in which I intended to give as correct a view as I could of the state of things here in regard to the Missouri question. I stated that the majority of States, of physical force, and eventually of votes in both Houses, would be on the side of the non-slaveholding States; and that if they persevered in their scheme, and the authors of it should be supported by their constituents, which now seemed probable, they would succeed in their purpose, or the Union be dissolved. I consider this an atrocious attempt in certain persons to grasp at power; and, being very artfully laid, as more likely to succeed than any former effort. I know that the people to the east are devoted to the Union, as they are in every other quarter; but still the eastern people connect this question with a sentiment of liberty, without duly appreciating its effect on the southern States, and are also taught to believe, under the sectional impression made on them, that if something like a division is not agreed on, all power will be forever transferred from them. Under these circumstances, this project has better prospect of success than any I have before known.

As to the part which I may act, in all circumstances in which I may be placed, I have not made up my mind, nor shall I until the period arrives when it will be my duty to act, and then I shall weigh well the injunctions of the Constitution; which, according to my understanding of them, will be conclusive with me. The next consideration with me, will be the preservation of the Union. My decided opinion is, that all the States composing our Union, new as well as the old, must have equal rights, ceding to the General Government an equal share of power, and retaining to themselves the like; that they cannot be incorporated into the Union on different principles or conditions. Whether the same restraint exists in the power of the General Government as to territories in their incipient and territorial state, is a question on which my mind is not clearly decided. By the Constitution Congress has power to make all needful rules and regulations respecting the territory and other property belonging to the United States, with a provision that nothing in the Constitution should be construed so as to prejudice any claims of the United States or of any particular State. This provision is the only check on the power of Congress, and referring only to the old controversy between the United States and individual States, respecting vacant lands, within their chartered limits, whose relative claims it was intended to preserve, has no operation, as I presume, on the present case. The power itself applies to territory ceded by individual States to the United States, and to none other. In such portions of territory so ceded as are altogether uninhabited, the people who move there under any ordinance of Congress have no rights in such Territory, except such as they may acquire under the ordinance; the question therefore cannot occur in regard to them, except on the general principle applicable to all other citizens—whether the ordinance be constitutional, and which, if submitted to the court there, must be decided against them. If there is any restraint, then, on the power of Congress, it must be found in other parts of the Constitution. Slavery is recognized by it as five to three; but is not the right thus recognized, that only of the States in which the slaves are, as the measure or rule of representation in the House of Representatives, and for direct taxes? It is not a right to the slaves themselves, nor, as I presume, to their owners, out of the States in which they reside. By another clause it is provided that if slaves run away, they may be pursued, demanded, and brought back to the State from which they fled. This is a right of the slaveholding States, and of the owners living in them. Should the owner move to a non-slaveholding State, he could not avail himself of it there. As slavery is recognized by the Constitution, it is very unjust to restrain the owner from carrying his slave into a Territory, and retaining his right to him there; but whether the power to do this has not been granted, is the point on which I have doubts, and on which I shall be glad to receive your opinion. If I can be satisfied that the Constitution forbids the restraint, all further inquiry with me will be at an end.

Should a bill pass admitting Missouri subject to restraint, I shall have no difficulty in the course to be pursued, nor shall I in any future case, respecting the admission of any other new State, as to its right as a State. Arkansas being organized as a Territory without restraint, and people having moved there since, as is understood, it stands on the most favorable ground, on constitutional principles, in the view stated above.

Considerations of injustice and impolicy also merit much attention, and will have their weight with me. I do not think, supposing the constitutional right to impose the restraint to exist, for argument's sake, that Congress ought to confine the slaves within such narrow limits, even of Territories, as might tend eventually to make them a burden on the old States. How far it may be proper to go on this principle, I shall duly weigh. If the right to impose a restraint exists, and Congress should pass a law for it, to reject it as to the whole of the unsettled Territory might, with existing impressions in other quarters, affect our system. This I should look to with a just sensibility to the parts likely to be injured by such restraint.

The pressure of other weighty concerns prevents my going so fully into this as I should otherwise do. I have, however, in this and my preceding letters, given you a tolerably full view of the state of things here. I have also stated in this the point on which I entertain constitutional doubts. We have harmonized much in political affairs through life, and I entertain great respect for your opinion on constitutional questions; for which reason I shall be glad to receive it on the present one, as well as on the subject generally.

Very sincerely your friend,

JAMES MONROE.

NOTE H.

Extracts from Mr. Clay's speech in the Senate of the United States, 1811, on the bill to recharter a national bank.

"When gentlemen attempt to carry this measure upon the ground of acquiescence or *precedent*, do they forget that we are not in Westminster Hall? In courts of justice the utility of uniform decision exacts of the judge a conformity to the adjudication of his predecessor. In the interpretation and administration of the law, this practice is wise and proper; and without it, everything depending upon the caprice of the judge, we should have no security for our dearest rights. It is *far otherwise when applied to the source of legislation*. Here *no rule exists but the* CONSTITUTION; and to legislate upon the ground merely that our predecessors thought themselves authorized, under similar circumstances, to legislate, is to sanctify error and to perpetuate usurpation."

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"This doctrine of *precedents*, applied to the *legislature*, appears to me to be fraught with the most mischievous consequences. The great advantage of our system of government over all others is, that we have a *written* constitution, defining its limits, and prescribing its authorities; and that

however, for a time, faction may convulse the nation, and passion and party prejudice sway its functionaries, the season of reflection will recur, when, calmly retracing their deeds, all aberrations from fundamental principle will be corrected. But once substitute *practice* for principle, the *exposition* of the Constitution for the *text* of the Constitution, and in vain shall we look for the instrument in the instrument itself! It will be as diffused and intangible as the pretended constitution of England; and must be sought for in the *statute* book, in the fugitive journals of Congress, and in reports of the Secretary of the Treasury. What would be our condition if we were to take the interpretations given to that sacred book which is, or ought to be, the criterion of our faith, for the book itself? We should find the Holy Bible buried beneath the interpretations, glosses, and comments of councils, synods, and learned divines, which have produced swarms of intolerant and furious sects, partaking less of the mildness and meekness of their origin than of a vindictive spirit of hostility towards each other. They ought to afford us a solemn warning to *make that Constitution, which we have sworn to support, our invariable guide.*"

NOTE I.

Memorandum as to slave-trade acts, &c.

The first act respecting the foreign slave trade was passed March 22, 1794, and prohibited citizens of the United States from being engaged in the slave trade in and *between foreign countries.* The next is that of May 10, 1800, in addition to the first, and for the same object; and the sixth section provides "that nothing in this act shall be construed to authorize the bringing into either of the United States any person or persons, the importation of whom is by the existing laws of such State prohibited. The next is the act of February 28, 1803. I have before referred to it. This act prohibited the bringing into a State, or its waters, any negro, &c., (free or slave,) when the laws of such State prohibited such bringing in, &c. Mistaking its object and the causes of its enactment, an eminent judge, in a hasty opinion not called for in the case, doubted its application to a negro who was one of the *crew* of a foreign vessel; and it is since sought to evade it by bringing in such persons in that capacity, in defiance of State laws! This is a most important and salutary act, if properly and rigidly enforced. The British Government have remonstrated against its enforcement as to the Bahamian negro and mulatto Emancipees, who are found on board the wreckers and fishing smacks of those islands and the other British West Indies, (and who infest our coasts and waters, interfering with the privileges of our citizens, and attempting to do mischief otherwise,) and allege it is a violation of our treaty stipulations with Great Britain; and the opinion of the judge I have alluded to has been noticed to sustain a departmental suggestion as to the act restraining its operation as to the crews of foreign vessels; but the question is rightly left untouched, and the law *will take its course* when a proper case arises. The people of Florida, it is certain, if this act is ineffectual, will find other means of preventing the admission of foreign incendiaries into the State, and at all hazards. The act was passed expressly, and in terms intended to be, *in aid* of the statutes of different States prohibiting the bringing in of negroes, mulattoes, and persons of color, whether free or slaves, from abroad. That act was passed upon the petition of citizens of Wilmington, North Carolina. Laws of that State prohibiting the introduction of all negroes, &c., from abroad, were found to be ineffectual. This was made to aid in their enforcement. It imposes heavy penalties, and forfeiture of vessel, &c., for a violation of any State law, whether the person of color is bond or free. Its immediate object was to keep out the fugitives and mulattoes, bond or free, escaping from St. Domingo and other West India islands during the Brigand and Maroon insurrections. It was passed five years before the expiration of the interdict in 1808. Nobody ever disputed its constitutionality.

The act passed March 2, 1807, to go into operation January 1st, 1808, prohibits the importation of negroes, mulattoes, or persons of color, as *slaves.* The 8th and 9th sections, as I have before stated, recognize the transportation of slaves from a slave State "by sea" to any place "*within the jurisdiction of the United States.*" An additional act was passed April 20, 1818, repealing the first *six* sections of the act of 1807, and altering and extending those provisions, but the 8th, 9th, and 10th sections were untouched. This last expressly names "territories," and makes the prohibition applicable to them precisely as it applied to the States. The 7th section, prohibiting the purchasing or holding of a slave illegally imported, and imposing forfeitures therefore, contains this proviso:

"*Provided,* That the aforesaid forfeiture shall not extend to the seller or purchaser of any negro, mulatto, or person of color who may be sold or disposed of in virtue of any regulations which may have been heretofore, or shall hereafter be, lawfully made by any legislature of any State *or Territory* in pursuance of this act and the Constitution of the United States."

The 5th section of same act of 1818, provides that negroes, &c., so imported, shall remain subject to regulations—not contravening that act—which the Legislature of any State or *Territory* had made or should make for their disposal. An additional act was passed March 3, 1819, affording more efficacious means of enforcing the previous laws, but not very materially changing them. On the 15th May, 1820, an act was passed making the being concerned by a citizen of the United States in any way in the foreign slave trade, statutory "piracy." This law is still in force. This novel species of piracy is punished by death! The punishment had been forfeiture of vessel, fine, imprisonment, &c. The 4th and 5th sections of this act expressly recognize slavery in "Territories." With respect to this mode of making participation in the slave trade "piracy," the act is certainly a curiosity. "Piracy" is a crime defined by, and against the *laws of nations.* It is punished under *those laws* by every civilized nation. A pirate is *hostis humani generis*, and the authorities of any nation may seize, try, and hang him. It is anomalous for a government thus not only to *outlaw*, as to the whole world, its citizens by local statute; but to declare that being concerned in a certain trade heretofore sanctioned by the laws of nations shall constitute a definite specific crime *against those laws*, is still more singular. The act might have been as well declared *murder;* though no homicide was committed, or arson, or perjury. Then, too, it would not have involved the inconsistency of refusing, though rightfully, the armed vessels of other governments permission to seize, and their courts to try, our citizens engaged in what by law we expressly declare to be "piracy."

Southern Territorial Acts.

The first act of Congress relating to the southern territories was that of May 16, 1790, and it adopted the ordinance of 1787, except the sixth article, *prohibited* by the terms of the cession from North Carolina, made by State Legislature in December, 1789, and by her commissioners February 25, 1790, and accepted by Congress April 2, 1790. This related to Tennessee, which was admitted June 1, 1796.

The second was respecting the Mississippi Territory, passed the 7th of April, 1798. This also adopts the ordinance excluding the sixth article. This article was subsequently excluded by the terms of the cession 24th April, 1802. The act of 1798 prohibited any "importing" or "bringing into" Mississippi Territory any slave from any place "without the limits of the United States," under a penalty of $300, and slave to be *free.*

The third act relates to the same Territory, and was passed May 10, 1800, but it does not bear on this question. It provides chiefly for the election by the "*free*" people of a territorial legislature.

The fourth act is that of October 31, 1803, authorizing the President to take possession of Louisiana, and investing all military, civil, and judicial powers in the officers he may appoint to govern it temporarily.

The fifth is the act of March 6, 1804, dividing Louisiana into two districts, one to be called "Orleans Territory." The tenth section adopts the prohibition of the Mississippi act of the 7th of April, 1798, in terms, penalty, &c. It then excludes *slaves* from any place *within* the United States, imported into the United States since May 1, 1798, and all slaves thereafter imported from abroad under a like penalty, &c.; and further excludes *all slaves* except of citizens of the United States who shall be their *bona fide* owners, and for "actual settlement," &c., and a slave introduced contrary to the act shall be free, &c. This was to go into operation 1st October, 1804, and expire 1st October, 1805, or at the end of next session of Congress thereafter. This act also created the district of *Louisiana*, composed of the northern part of the country ceded by France, and placed it under the control of the authorities of the Indiana Territory.

The sixth act is that of 2d March, 1805. It supplies the *temporary* act last cited. It adopts the ordinance of 1787, except the 6th article, as to slavery, which it expressly "excludes," and as to descents, &c. It continues "residue" of act of 1804, not repugnant to it, in force till repealed, &c.

The seventh act is that of February 20, 1811, by which "the free white male citizens" of Orleans Territory were authorized to form a State constitution; and by act of May 22, 1822, the State of Louisiana was admitted into the Union.

The eighth act is that of June 4, 1812, by which the Territory formerly called Louisiana was created a Territory, and called "Missouri." It contains no provisions with respect to slavery, except that "free white male citizens" only are allowed the elective franchise. The acts of 1804 and 1805 are extended when not repugnant.

The ninth act relates to Alabama organized as a Territory March 3, 1817. Nothing is said about slavery in the act, but the Mississippi laws were adopted. Her "*free white* male citizens" were authorized to form a State constitution March 19, 1819; and December 4, 1819, she was admitted into the Union.

The tenth is the act of 2d March, 1819, which formed Arkansas Territory out of the southern part of Missouri, giving her "*free white male* residents" only the elective franchise. She was admitted June 15, 1836, into the Union.

Eleventh. Florida was organized a Territory in 1822. The President had been previously empowered to take possession, and appoint officers, as was done in Orleans Territory. The act is March 4, 1819. By the first act organizing the Territorial Government, the importation of slaves from abroad was prohibited, under a penalty of $300 and slave being free. That law being amended, the provision was reënacted by an act of 1823, and it was continued while Florida was a Territory. The elective franchise was allowed by act of Congess to certain "*free white male citizens,*" and who only could serve as jurors.

The Florida foreign slave trade prohibition so pertinaciously adhered to as a special act for Florida, though all the general slave trade acts were expressly made to be in force there, operated as a *repeal*, in part, of the famous piracy act as to Florida. For bringing a slave into that Territory from Africa, instead being hanged as a pirate, the offender paid only $300, and the slave was freed. The provision was copied from that of the acts passed *before* 1808, and it is an evidence of the stupid blundering, or ignorance and blind folly, of those who procured its passage.

THE TARIFF.

SPEECH OF MR. DAVID FISHER,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

December 20, 1848.

The House being in Committee of the Whole on the state of the Union, upon the resolutions referring the President's message—

The pending question was on the motion of Mr. RUMSEY, to amend the fourth resolution, which is in the following words, viz:

"4th. That so much of said message as relates to the tariffs of 1842 and 1846, the revenue, the state of the treasury, the public debt, the subtreasury, the general condition of the finances, the estimated receipts and expenditures for the next fiscal year, the unliquidated claims of citizens of the United States against Mexico, and the establishment of additional branch mints, be referred to the Committee of Ways and Means."

So as to strike out the words "the tariffs of 1846 and 1842," and to add the following as an additional resolution:

Resolved, That so much of the said message as relates to the tariffs of 1846 and 1842 be referred to the Committee on Manufactures.

Mr. FISHER (who was entitled to the floor

from yesterday) resumed and concluded his remarks, as follows:

Mr. CHAIRMAN: In the few moments I spoke on yesterday I indicated my intention to vote for the original resolution reported by the chairman of the Committee of Ways and Means, which referred that part of the President's message relative to the tariffs of 1842 and 1846 to the Committee of Ways and Means, and against the amendment of the gentleman from New York to refer it to the Committee on Manufactures. Yet I care but little to what committee it is referred. I have no fears that if a report is made at all it will do ample justice to the subject of the tariff, and to the President's message upon that subject. It is my opinion, a report should be made at this time, with as little delay as possible. I am aware that it has been said, on the opposite side of the House, that gentlemen on this side were afraid of the influence of the President's message upon the country, and so desired to prepare an answer to it to go out before the people. Very well; we certainly have a right to send out the truth, to disabuse the minds of the people of the impressions made upon them by the erroneous assertions and arguments of the President's message; for certainly that part of it which refers to the tariffs of 1842 and 1846 was designed for an electioneering document, and nothing else. Five or six of the last columns of that voluminous document belong not to the message, but appear to be scraps, perhaps written by the President himself, prior to the late election, for the columns of the "Union." But "Father Ritchie," being more prudent than the President, foresaw the evil, and rejected them. Indeed, the venerable editor of the "Union" himself told us a week or two since, that that part of the message, which relates to the tariff, was written before the election. Now, how he knew this, unless it was presented to him for publication, I cannot tell. But the President appeared determined that his argument should not be lost, so he thought he would attach them to the fag end of his message.

The attentive reader cannot but observe, that the message is a medley of contradictions, sophistry, and downright falsehood, from beginning to end, so far as the question of protective policy is concerned, misrepresenting the acts, and impugning the designs and motives of the Republican party, with Mr. Madison at its head, of 1816. But now the President and head of the modern professed Republican party, after their defeat, has thrown off the guise, and made a virulent attack upon the measures and motives of those who conducted the ship of State safely through an arduous war with the most powerful nation upon earth!—yes, those whose honest, patriotic Republicanism has never been called in question by any one, since the final overthrow of Federalism in 1816.

This modern Locofoco party have claimed, as I have heretofore understood, to be the true descendants of the Republican party of 1812. But now the President in his annual message to Congress turns upon *that* party, and tells us that they "departed from our earlier policy—that they enlarged the powers of the Federal Government by *construction*, which was not warranted by the Constitution—that they introduced a new policy, to concentrate more power into the hands of the Government by illegitimate modes—that they wished to base our Government upon different orders of society, so constituted as to throw the whole power of the nation into the hands of a few, who taxed and controlled the many without responsibility or restraint—that they were fascinated by the ease, luxury, and display of the higher orders (in Europe.") "That they devised a system of measures calculated to withdraw power from the States and the mass of the people, and to approximate our Government to the European models, substituting an aristocracy of wealth for that of orders and titles—that they conceived the vain idea of building up in the United States a system similar to that which they admired abroad—that this new system was to afford bounties to favored classes, at the expense of all others—to tax the whole people for the purpose of enriching a few—that the scheme was veiled under delusive pretext to protect home industry—that this was a partnership between the Government and the favored classes—that a variety of schemes were resorted to for the purpose of enlarging the expenditures, to advance the interests of large capitalists and monopolists, at the expense of the great mass of the people, who were taxed to increase their wealth—that they desired to maintain a rich and splendid Government at the expense of a taxed and impoverished people—that they sought to wield the political power of the country, to deceive and delude the people—that this whole train of measures was *designed* to take wealth from the many, and bestow it upon the few," &c.

Now, Mr. Chairman, what do you think of this picture, as drawn by the masterly hand of our pretended Republican President? Does it resemble those sage, patriotic men who conducted the affairs of our Government through the war of 1812 with Great Britain? If he had not told us who he meant, would you ever have dreamed that this was intended to portray the character of that party who controlled the Government from 1812 to 1824? Who ever before heard *all*, who approved or advocated a protective tariff, charged with being such a corrupt, designing set of scoundrels? And is it possible, that the corrupt designs of Madison, Monroe, Clay, Jackson, Benton, Van Buren, R. M. Johnson, Adams, Webster, Buchanan, Crawford, Harrison, Cass, and, in a word, all of our public men of those times, in advocating and voting for the protective policy, has been kept a secret from the world, until James K. Polk has seen fit, impelled by his patriotism, to divulge the secret? And has it come to this, that the party now in power is only to be sustained by charging all the administrations which preceded this with corrupt designs and motives, except that of the elder Adams? For none of those measures were enacted in his administration. What will the rising generation think of those men who have been extolled to the skies for their purity of character and patriotism, after reading the history of our country, and the President's late message? Nay, rather, what will they think of the message? Why, sir, they will think of it just as I do and have said, that it is not true—that it is the merest fiction in the universe, except those former messages which came from the same hand.

The President has fairly thrown off the guise; he no longer claims to belong to the old Republican party. He has said nothing against the measures of the modern Whig party, only as he has done it by abusing the policy of the old Republican party, thereby identifying us with them, which I am perfectly willing he should do. And it is not true, as he has said, that their measures were new measures, for it is well known to all, that *they* only revived the policy which originated at a period coeval with our Government—originated in the administration of General Washington, and were carried on through all the various successive administrations, down to 1846.

Again: The President tells us that "under the 'pernicious workings of this combined system of 'measures, [the tariff, bank, &c.,] the country wit-'nessed alternate seasons of sudden and disastrous 'commercial revulsions, unprecedented fluctuation 'of prices, and depression to the great interest of 'agriculture, navigation, and commerce; of general 'pecuniary suffering, and of final bankruptcy of 'thousands." Now, sir, is this true? If so, when did it take place? Never when those measures were in full operation. But three "great commercial revulsions" have taken place in this country since the Revolution. The first was from 1783 to 1791; the second from 1815 to 1824; and the third from 1837 to 1842; and at neither of those periods had we a United States Bank or a protective tariff. To prove the truth of this, I appeal to those who recollect those periods, and to the history of our country. So far from its being true that the above measures *ever* produced "general pecuniary suffering and final bankruptcy of thousands," it has only taken place in the *absence* of those measures, and was the very thing, on *all* occasions, which induced their adoption, to relieve the country from its suffering and embarrassment. And never were they adopted but they produced the desired effect, and even more than was anticipated by the authors of them, as the annals of history prove. The first revulsion induced the adoption of the present form of government, for the *very* purpose of instituting those measures, especially that of a protective tariff. The second came on in 1815, three years after the expiration of the old bank, and the inadequacy of the tariff, and induced the revival of those measures by the Republican party. The third commercial revulsion came on in 1837, and is within the recollection of the smallest boy in this Hall. The second United States Bank charter expired one year before, and the duty had been reduced to twenty per cent. ad valorem, when universal bankruptcy prevailed, both of the Government and the people. The Republican Whig party having once more obtained the power, the cry went up from all parts of the Union for relief, which induced the adoption of the same policy which had delivered the country from its embarrassed condition on two former occasions. But unfortunately, when the country was fast recovering, but before it was entirely free from embarrassment, the same reckless party who brought on the former disasters came into power, and arrested the progress and prosperity of the country by again overturning a just and wise protective policy; and that, too, against the almost universal remonstrance of the people; and instituting a policy which has never failed to bring on universal distress and suffering. And now, sir, already, when this policy has been in operation but a little rising two years, the national debt has accumulated to about one hundred millions of dollars, and a depression of the various interests of the country is beginning to be severely felt; and if the policy of the Government is not changed, a universal revulsion will as certainly take place in one or two years at most, as that effect follows an adequate cause. This is not a mere abstraction; it is the dictate of right reason and of common sense. I reason from what I know; I judge of the future from the past: like causes produce like effects; and as low duties never have produced any other effect than that of universal "pecuniary suffering," I judge it never will. What has prevented its taking place before this time? Nothing but the famine in Europe. Gentlemen laugh at this, and the Secretary of the Treasury intimates that there has been no famine there. Have gentlemen so soon forgotten the sufferings of poor Ireland—the thousands who starved to death there—the vast quantity of breadstuffs sent to them as a gratuity by the benevolent citizens of this country, and the bill which they rejected in the Senate to donate five hundred thousand dollars to preserve the lives of those poor people? I ask, have they forgotten all this? If so, their sympathy for poor Ireland is not as great as is sometimes pretended.

Yes, Mr. Chairman, I repeat, that the famine in Europe is all that has prevented universal distress in this country at this time. Have not the President and his Secretary boasted of the vast amount of breadstuffs exported to Europe last year? And yet thousands starved to death there. But yet there was no famine! Oh, no; it was all the effect of free trade. But the Secretary tells us there has been a revulsion in Great Britain. What, sir, produced that revulsion? Was it their free-trade system, or was it the famine? They, too, can boast of having exported more goods the last year to the United States than they ever did before in the same time; and yet there was a revulsion. It is strange that the repeal of *their* corn laws works a revulsion there, and the repeal of *our* tariff law works such "unparalleled prosperity here!" But so it is; the President, with all his ingenuity, cannot conceal the naked absurdity and contradictions of his message. After reciting the various measures which he has adopted, he says: "The whole country has become satisfied with it." Father Ritchie was no doubt right in saying that this was written before the election; and I suppose the President forgot to strike it out after it was proved not to be true at the ballot-box.

Again: The President says: "The present condition of the country is similar, in some respects, to that which existed immediately after the close of the war with Great Britain in 1815." But in *what* respects, this deponent sayeth not. But he goes on and says: "There was at that period of our history a departure from our earlier policy." Does he mean to be understood that the similarity consists in this? That there is a departure *now* from our earlier policy is true; but that there was then, is not true. And for the purpose of returning to the earlier policy of our first Presidents, the people

have elected General Taylor. I know of no similarity in the condition of our country *now* and in 1815, but in the commercial embarrassments and the enormous public debt which existed at those two periods. In this they are similar. And as the measures adopted at the former period were entirely successful in paying off the public debt, which the President says "was more than one hundred and twenty millions of dollars," and relieved the people from their embarrassments, why not adopt the same policy *now* for the same purpose?

UPON THE TARIFF.—Now, sir, having shown some of the contradictions, sophistry, and prevarications contained in this part of the message, I will now devote the residue of the time allotted me to the examination of the doctrine it contains upon the subject of the tariff. This is the more necessary, because all the annual messages of the President, and reports of the Secretary of the Treasury, from year to year, have teemed with assertions and arguments against the protective policy and in favor of free trade, calculated, if not intended, to mislead the people upon that subject, whether there was any call for it or not. And, lest our silence should be construed into an acknowledgment of the correctness of their doctrines and arguments, I will now undertake a reply.

Now, Mr. Chairman, I wish the special attention of the committee to my remarks, as I may advance some ideas which are not altogether in accordance with the views entertained by my own political party. I do not profess to be thoroughly conversant with this subject, and if I assume positions which are not tenable, I hope to be corrected by my opponents, or by my friends.

All the opposition that exists against the protective policy, in whatever shape it may come, resolve themselves into these three propositions:

First. That a protective tariff is unconstitutional.

Second. That the duty on imports is incorporated with the price of the commodity, and ultimately paid by the consumer.

Third. That the protective policy prohibits importation, so as to drive us to direct taxation for the support of Government.

I know of no objections that do not resolve themselves into one of these three positions. Now, if *all*, or either of them, can be substantiated, the protective policy ought not to be established. And if they cannot, all objections to it should cease.

First, then: As it regards the constitutionality of the protective policy, I think there can be no objection seriously made. It is a policy coeval with our Government. The very first Congress that assembled under the Constitution, and the second act of that Congress, enacted a protective law, the preamble of which expressly declared, that it was "for the collection of revenue, *and* for the ENCOURAGEMENT AND PROTECTION of our manufactories." This policy originated with the framers of the Constitution, and the principles of protection being retained in every tariff law that has ever been enacted in the United States from that time till the enactment of the existing law, it seems to me should forever settle the question as to the constitutionality of protection. If it does not, I cannot hope to do it by any argument I can adduce. But I feel so confident that this objection is only resorted to as an excuse to oppose protection without seriously believing it to be a valid one, that I will not consume my time in trying to answer it, but will pass on to the next proposition.

Second. The most formidable objection to the protective system is, that the consumer has the duty to pay. Many take for granted that this is true, without at all looking into the evidence to see whether it is sustained by facts or not. I know that this doctrine has been asserted and reasserted, iterated and reiterated, by the President and Secretary, in all its different shades and forms, to render a protective tariff hideous in the estimation of the people, especially of the agriculturists. The President calls it a tax upon the labor of the country paid to the manufacturer—a bounty—unjust and oppressive, &c. This implies that the tax or bounty alluded to is paid by the consumer. The tariff is a duty or tax laid upon foreign imports, I admit; but the question is, *by* whom, and *to* whom, is it paid? The President says it is paid by the consumer to the manufacturer. This is a mere begging of the question, as logicians would say—an assumption without any proof; taking for granted the very point at issue. Prove this, and I am a free trade man. The tariff is a tax, it is true; but it is not paid by the consumer to the manufacturer, but by the foreign importer to our Government. It is a bounty, it is true; but it is paid by the importer to our Government for the privilege of selling in our market.

The Secretary, in his annual report of 1845, after estimating the amount the consumer had to pay under the tariff of 1842, says: "This estimate is 'based upon the position that the duty is added to 'the price of the import, and also of its domestic 'rival. The merchant advances in cash the duty 'on the import, and adds the duty, with a profit 'upon it, and other charges, to the price, which 'must, therefore, be enhanced to that extent, unless 'the foreign producer had first deducted the duty 'from the price; but this is impossible. The duty, 'therefore, must be added to the price and paid by 'the consumer, the duty constituting as much a part 'of the price as the cost of production." It is a rule in logic that *any* argument that proves against a *known* fact is unquestionably a false argument. It is a known *fact* to Mr. Walker, and every gentleman upon this floor, that the increased duty of the tariff of 1842 was *not* added to the former prices of the article; that goods did *not* sell that much higher, and was *not* paid by the consumer; and, therefore, any argument that goes to prove that it was added to the price is positively a false argument. It is most astonishing what exertions are made by the President and Secretary to sustain that old theory of free trade political economists, which has been exploded a thousand times by practice, experience, and positive observation.

Now, if his doctrine is true, why not present the facts? It is capable of demonstration. Had he just produced the prices current previous and subsequent to the existence of that tariff, and compared them, it would at once have settled the matter. But he well knew that it would settle it against his theory, and according to truth, and that was just what he feared. On referring to our experience under the protective policy, if it is found that the duty was added to the original cost of the article, and it sold that much higher, then I will yield the point.

I call upon gentlemen on the other side of the House to bring forward the prices current prior and subsequent to the going into operation of *any* of our protective tariffs; and if it is true, as a matter of fact, that imported goods, wares, and merchandise, subsequent to the taking effect of any tariff law, sold as much higher than they did prior to that time as the amount of duty levied, then they have gained their point; but if they cannot do so, then they have failed, and should, as honest men, give up their theory. But this I know, and *they* know, they cannot do: for no protective duty, from the beginning of the Government to the present time, has *ever* enhanced the price of goods generally; it might have had that effect with reference to some articles; but, upon an average, it *never* had, from first to last.

I ask gentlemen to go back with me to the tariff of 1842; that is within the recollection of us all. What were its results? Did not the Whigs tell you and the country that the duty would not be added to the price of goods, and that they would not sell that much higher, but that they would even sell lower? And was it not contended by our opponents, from the President and Secretary of the Treasury down to the smallest two-penny newspaper or stump speaker, that the duty *would* be added, and the consumer *would* have it to pay? Well, the tariff of 1842 did go into operation; and did it increase the price of goods? If so, gentlemen, you can prove it. Produce the invoices of merchandise or prices current prior and subsequent to its going into operation, and that will settle the matter. But if they should prove that the price of goods did not rise, but actually did fall, which is the fact, then, as honest-hearted men, you should never make that objection again to a protective tariff. Here is the whole matter, now comprised in a nut shell, upon this proposition. But I will give gentlemen another chance to prove the President's and Secretary's assertions true. Still more recently, but two years ago, the tariff of 1846, which reduced the tariff of 1842 about fifteen per cent., went into operation. Now prove that the price of goods have been reduced that per centage, and it will suffice. Bring forward your prices current, and let this controversy be settled at once; it will save your President and Secretary much study and labor to prove a known fact to be false. Call upon *them* for the proof; and, if they cannot furnish it, ask them why they are constantly trying to deceive the people by attempting to make them believe that which they *know* is not true. It is true, that about one year after the tariff of 1842 took effect, raw cotton rose in price, and, of course, cotton goods rose also; to this, I suppose, the cotton planter had no objection.

Now, sir, facts are stubborn things, and the President knows, and we *all* know, that what I have stated with regard to the practical operation of the tariff is true; but because they cannot understand the *modus operandi*, they deny the fact; so, many men have denied their own existence, because they could not understand the *manner* of their existence; but intelligent men just laughed at their folly. We all know the *fact*, that prior to the tariff of 1842, many of our manufactories had to stop, and the operatives were turned out of employment; but after the tariff of 1842 took effect, they again went into operation, and they employed their operatives and laborers at good prices, and yet the prices of goods were reduced. This our opponents seem not to understand, for they can see protection in nothing but increased prices; and hence, because manufactories that had previously stopped afterwards went into operation, they argue, from that fact, that prices did rise, when they *know* they did not. Say the free trade men, if the duty is *not* added to the price of the article, it will *not* give protection. Now, I take precisely the opposite position, and say, if the duty *is* added to the price of the article, it will not give protection. Here we are perfect antipodes. Our opponents are in error, and that error arises out of a misapprehension of what it is that gives protection. As I said, they can see protection in nothing but high prices, when, in truth, it does not consist in that, but in a regular, firm, and ready market in which to sell. High prices will not always furnish this. No matter how high the prices are, manufactories must stop if they cannot sell. High prices will rather prevent protection, because it will induce the importation of more foreign goods, and thus diminish the sales of domestic goods.

Were you, sir, to order your son to go and *protect* your crop of corn against the ravages of your neighbors' beasts, which had broken into your field and were destroying your crops, what would he understand by the word *protect*? If he understood it as the free-trade men do, he would go into the field and cultivate the ground, and pay no attention to the beasts; but I think you would get but little corn, no matter how well it was cultivated. But were your son a Whig, he would go and drive the beasts out of the field, and put up the fence. This he would call *protection*. Foreign imports are brought in and glut our markets, and the higher the prices the more will come in, and the less we will be able to buy. Protection, then, means to keep them out to a certain extent, so as to give the market to our own mechanics and manufacturers.

Mr. LAHM said: He understood his colleague that the object of protection was to drive foreigners out of the country, and keep the market exclusively for ourselves. He asked the gentleman, would he be in favor of making his protection so high as to bring about that result?

Mr. FISHER. I said in the outset that the friends of protection never contemplated having a tariff so high as to amount to entire exclusion of foreign manufactures; but they did desire to exclude enough of certain goods to give to our manufactures a ready market.

Mr. LAHM wished to know where the gentleman would stop when he drew the line of demarcation between exclusion and prohibition?

Mr. FISHER. The party with whom I act have always contended for a revenue tariff, with discriminations in favor of protection; and for that purpose would prohibit the importation of certain articles. Under the tariff of 1842 we received about one hundred millions of foreign dutiable imports annually. The duty upon these goods produced sufficient revenue to support the Government, and to put the public debt in progress of pay-

ment, which accrued under the low tariff of 1840. But the tariff of 1846 reduced the tariff of 1842 about one-third. Hence, to raise the same amount of revenue under the existing tariff that was raised under that of 1842, we must purchase one hundred and fifty millions of dutiable imports, instead of one hundred millions, and so exclude fifty millions of our home manufactures from the market; and, consequently, throw our own mechanics and laborers out of employment to the number it required to manufacture fifty millions dollars' worth of goods. The real difference, then, between the two tariffs is this: the tariff of 1842 prohibited fifty millions of *foreign* goods, and gave the market to our *home* manufactures to that amount; but that of 1846 prohibits fifty millions of *our home* manufactures, and gives the market to *foreign* manufactures to that amount. It does not require any great powers of intellect to discover which system is the most American. Both tariffs bring the same amount of revenue; and goods sell at the same price under both. The only question, then, to be settled on this point is, which is best for the people of the United States—to purchase $50,000,000 worth of goods manufactured by foreign labor out of foreign materials, or the same amount manufactured by American labor out of American materials, at the same prices? Why, says the free-trade party, it is best to purchase of foreigners, because, by so doing, *they* will purchase *that* amount more of our exports. This is not true; but, to give them the benefit of all they ask, I will ask another question: which is best, for the farmers of the United States to take their wheat, wool, and raw hides to Great Britain, and there have them manufactured into flour, cloth, leather, and then into shoes, or to let their neighbors do it all at the same prices? And the Pennsylvanians, too; would it be better for them to take their coal and iron ore to Great Britain, and there have it manufactured, and then buy their iron, or manufacture it themselves? And so, also, the cotton planter. I think it would not require much reading on political economy to determine these questions against free trade. The exercise of a little common sense would settle the whole matter in favor of home manufactures.

Mr. LAHM wished to ask his colleague one other question. If it was legitimate to exclude $50,000,000 when they amounted to $150,000,000, why did not the same principle hold good to the exclusion of fifty additional millions, or of the whole?

Mr. FISHER. It is in our power to do so; but it is not necessary for the protection we desire; for we do not expect to manufacture *all* the articles which are consumed in the country. Another thing: the fact that our manufactories were compelled to stop operation previous to the tariff of 1842, and afterwards were enabled to commence and continue in operation, when goods sold lower than before, is proof positive that protection does not consist in high prices; for, no matter what the prices may be, if the manufacturer invests all his capital in goods, and they lie in his warehouse for the want of a market, he will be compelled to cease operation. In 1842, foreign goods had possession of our markets; and if the increased duty (which was about fifteen per cent.) of the tariff of that year had been added to the price of the goods, they would have *kept* possession of it, and our manufactories would have remained closed as before; the increased duty would have been no *advantage* to them, or any *disadvantage* to the foreign importer. Hence, as I have said, protection does not consist in high prices, but in a ready market; and this never can be obtained only by prohibition.

It was not for the want of a price that our manufactories were closed in 1842, but for the want of a market; prices were good enough, but they could not sell. But when *that* tariff took effect, it prohibited, to a certain extent, foreign imports, and gave the market to our own manufacturers; and, because they could make ready sales and quick returns, they could, and *did*, sell at reduced prices. These are now the *facts* in the case, and no sophistry can overturn them. But, to illustrate and make plain to all the reason why goods can be sold at lower prices under a protective duty than under free trade, I will suppose that here, in the city of Washington, there are two merchants, each employing a capital of twenty thousand dollars. One of them sells tardily; he turns his capital but once in a year, at a profit of forty per cent. The other sells rapidly, and turns his capital four times in a year. Now, the latter could undersell the former thirty per cent., and make as much money. For, if he sells at a profit of ten per cent., and turns his capital four times, it will amount to as much profit as will be received on the same amount of capital turned but once with a profit of forty per cent. And, consequently, twenty thousand dollars turned four times would be as much money in the hands of the capitalist as eighty thousand dollars turned but once. This, now, is the true secret of goods selling lower with protection than they do without. And it is to the advantage of our manufacturers to sell as low as possible; for the lower they sell the fewer foreign goods will be brought into competition with them, and the brisker will be their sales.

Error never can be reconciled with truth. More fully, now, to prove the absurdity of the doctrine, that a protective duty will enhance the price of goods to that amount, I will now introduce the third objection urged against a protective tariff, to wit: "That it will prohibit foreign importation, 'and thus force us into direct taxation for the sup-'port of Government." This is the principal objection urged by Mr. Walker in his late annual report. The first part of this proposition is true, but the conclusion, "that it will force us into direct taxation for the support of Government," is erroneous; which I will demonstrate by-and-by.

It being a fact admitted by all free-trade men as well as protectionists, that protective duties will prohibit imports, this admitted fact comes in conflict with, and completely overturns, the great objection to protection—"that the consumer has the duty to pay." These two propositions are perfectly antagonistic to each other. It is impossible for both to be true. One may be and *is* true; but both *cannot* be. If it *is* true that the duty is added to the price of the article, it is *not* true that it prohibits importation. And, if it is true that it prohibits importation, then it is *not* true that it is added to the price of the article. I do not know that I would be much of an acquisition to the free trade ranks; but if the President, his Secretary, or any gentleman upon this floor, can reconcile these two propositions, they shall have my humble services in their ranks for all time to come.

As I have said, it is an admitted fact, that protective duties *do* prohibit importations; for, unless they do, they are not protective. Now, if the duty is added to the price of the article, I desire to know why it prohibits them? Suppose, by way of illustration, that without a duty a hat could be purchased here for three dollars of the importer; but, now, our Government lays a duty of one dollar, or 33⅓ per cent., upon the hat; and that duty, according to the free-trade doctrine, is added to the former price of the hat, and it now sells for four, instead of three dollars; I ask, why would that prevent the importation of hats? The importer would return with the same amount of net profits that he did before the duty was laid.

Mr. LAHM inquired who, in that case, paid the additional duty of one dollar upon the price of the hat? Was it the man who consumed the hat or not?

Mr. FISHER. The gentleman does not understand me. I deny that it is added to the price of the hat; if it were, the consumer would pay for it of course. But I was trying to show, that if it was, it would not prevent the importation of hats; for what do the importers care about the amount of duty laid upon the hat, if they can sell it that much higher here? Why, if the doctrine is true, you cannot *lay* a duty so high as to prohibit the importation of hats. Lay a duty of ten dollars, if you please, upon the hat, and then add that to the former price, and let the importer sell it for thirteen dollars, instead of three, and it will not prohibit the importation of hats. Why should it? He takes back three dollars profit, just as he did before there was any duty laid upon it at all. But if a duty of one dollar were laid upon the hat, and it would continue to sell for but three dollars here, as before the duty was laid, then the importer would have to return with but *two* dollars, instead of three—having paid one dollar duty. This, sir, would be very apt to prohibit the importation of many hats—would it not? This, and this alone, *can* prohibit the importation of goods. That a duty does prohibit imports, is proof positive that it is not added to the price, and that the consumer has it not to pay.

To prate about the protective tariff enhancing the price to that amount, and yet say that it prohibits importation, is perfectly idle, and cannot be reconciled. If the duty were this day increased 50 per cent., and goods were to sell that much higher than they now do in consequence of it, it would prohibit no more goods than the present tariff law does; but if goods were *not* to rise in price, it would prohibit nearly all dutiable goods.

But it is often said that foreigners will, though they have it at first to pay, add it to the price of their goods. Well, suppose they do; does it follow as a consequence that we must pay it? If men would lay aside their theories, and study their own experience, and pay some attention to the every-day transactions of trade and their own business, such inconsistent notions would not give them much trouble. I was brought up a farmer, and have followed that occupation nearly all my life; and I have long since learned that I had to sell my produce at the current price in the market or not sell at all, no matter what it may cost me to get it there. Suppose that a farmer lives out of this city some fifty miles, and that, coming to market with a wagon-load of flour, he pays a toll at several gates, and by the time he arrives here his flour has cost him twenty-five cents per barrel tollage. He offers it in market, and a merchant asks him his price for his flour. He answers, six dollars and twenty-five cents per barrel. The merchant replies that he can purchase at six dollars; that that is the market price. The farmer, being of the free-trade faith, says, Yes, true; but I had to pay twenty-five cents per barrel tollage, and the doctrine of my party is, that the duty or tollage is added to the price of the flour, and that the consumer of it has it to pay; so I must have six dollars and twenty-five cents per barrel. The merchant would laugh at his ignorance, and say, I tell you, you must be content to take the market price, or take your flour home with you.

Now, if there was no other flour to be had in market but his, then necessity would compel the consumer to pay the additional 25 cents. But he finds others in market as well as himself, so he must be content to take the current price. So with foreign importers; they may add the duty and all other costs as much as they please, and what does that avail? They meet *our* manufacturers in market here, and of course our merchants will buy of them rather than buy the foreign article which is of no better quality, and pay the duty in addition, when they can get the domestic article without paying it. But *they* will add the duty to *theirs!* This has been proved not to be true. Now, if the free-trade doctrine prevails, and our manufacturers are broken down, and foreigners have the whole control of our markets, then I admit, that they *can* add any cost they please to their goods, and we will be compelled to pay it, because there will be no goods in market but their own. But this can never be done under a protective tariff. Or, if there is a duty laid upon any article of necessity, which we do not produce in this country, then the duty could, and perhaps would be added, and the American consumer would have it to pay. Hence, the Whigs have refused to lay a duty upon tea and coffee, although urged by the present Administration over and over again to do so.

For the sake of brevity, I have said the *importer* had the duty to pay; but there is no doubt that the foreign *manufacturer* makes the deduction from the price of his goods to that amount, and so is the loser. And when I speak of manufactories, I do not mean those large establishments exclusively. I also mean the shop that contains but a single individual. A single shoemaker is as much a manufacturer of shoes as he who owns the largest shoe manufactory in Lynn; and he needs, and receives, the benefit of protection as much, in his sphere, as the largest manufacturer in the United States. Call them by what name you please all the difference is in the size of their shops. And when I speak of *goods*, I mean *all kinds* of manufactured articles which are made in this country, whether iron, wool, cotton, hemp, flax, wood, or raw hides.

But again: If the consumer has the duty to pay,

why do we complain of, or care, what amount of duty other nations lay upon our *exports*, since the duty is paid by the foreign consumer? And why does Mr. Walker rejoice so much at the repeal of the British corn laws? I care not how much duty is laid on my wheat and pork by foreign nations, if they pay it themselves. Nor need *they* care how much *we* lay upon their imports, if *we* pay it ourselves. For, according to the doctrine of the President's message and the Secretary's report—indeed, of the whole party—*we* pay all the duty we lay upon *imports;* and other nations pay all the duty *they* lay upon our *exports*. But the President and Secretary rejoice very much because the tariff of 1846 makes the people pay several millions more tax than they did under the tariff of 1842. And, to make us pay still more, they propose to destroy our manufactories, and compel us to buy *all* from abroad, that we may pay tax upon all we use. They rejoice very much because they have compelled us to buy, last year, one hundred and fifty millions of dollars' worth of goods from abroad. Why? Because this tariff law of theirs made us pay (according to their doctrine) thirty-one millions of dollars *tax* on them! Well, this may be a matter of joy to them; but it cannot be to the people, if they believe the doctrine.

Another thing: If this free-trade party is sincere in the belief that the people of the United States have to pay all the duty or tax we lay upon foreign goods, and they have as much regard for the poor as they profess to have, why not change the policy, so as to relieve us from taxation entirely, and compel other nations to pay it for us? It is easily done; just take the duty off the *imports*, and lay it on our *exports;* and then, according to the doctrine, we will be free of paying duty, and foreign nations, who consume our produce, will have to pay the expenses of our Government, instead of us. If their doctrine be true, the price of goods would fall twenty per cent., and our exports would rise, abroad, to the amount of duty we lay upon it.

Ridiculous as this really is, it is a true presentation of the doctrine of the President and Secretary, and no sophistry can evade it. The constant repetition by those high functionaries of this oft-exploded doctrine, when there is no call for it, deserves only to be treated with ridicule. It is astonishing with what apparent assurance they will talk about "taxing the many for the benefit of the few—to make the poor poorer and the rich richer—to protect one interest by taxing all others," &c., &c.! When the tariff of 1842 was still in operation, they seemed to pant, and puff, and gasp for breath, as if in the last agonies; and all this from the oppression of that miserable tariff of 1842. So they repealed it; but goods sell no lower. The people pay more tax now than they did before; but these men appear to breathe perfectly free and easy ever since. But, mind you, they have only thrown the burden from themselves upon the people; and they, in turn, are beginning to pant and writhe under it.

They quote the tariff of 1842 on some articles which were used by the poor man, to prove how oppressive and unjust it was to tax him so much. A case occurred in the campaign of 1844, which is just in point, to show how futile all such flummery is. A free-trade stumper was making a speech, and a man stood before him with a pretty coarse cotton shirt. The stumper became very eloquent on the tariff of 1842, and pointing to the man with the coarse shirt, says: that black Whig tariff made that poor man pay six cents per yard tax for that coarse cotton shirt. Well, the man said he did not see how that could be, for it only cost him five and a half cents per yard; so, he said, he must have cheated the Government out of half a cent per yard, and the manufacturer got nothing for his labor! Many domestic articles sold for less than the duty upon the foreign articles of the same kind.

This now answers all the objections that can be urged on the ground of high duties oppressing the poor man. But there was something very remarkable in the tariff of 1842. Oppressive as it was to the farmers and all other laborers of the country, they never knew it or complained of it, only as they were told by demagogues that they were oppressed; and then they did not believe it, or they would have asked to be relieved from it; but they did not. During the existence of that tariff, I never heard a complaint of its oppression from a single farmer, mechanic, or laborer. And it was amusing to read the President's messages and locofoco papers, to see how they were lamenting over us poor farmers; how we were oppressed and taxed for the benefit of the capitalists; and how we were perfectly contented and knew nothing about it, only as they told us! And even then it did not distress us on our own account, but we were sorry that the President was so much distressed about us!

Much has been said by the President and Secretary against protectionists, "for wishing to legislate for the benefit of one particular class of our citizens and against all others; to *force* men into pursuits they do not desire," &c. That man who does not *know* that we *cannot* legislate for any one class to the exclusion of all others, has lived to but little purpose indeed. Who does a protective tariff *force* into any kind of business he does not desire? Or, *who* is not left as free to choose his own occupation as he was before? No man is compelled to leave his plough and go into a shop, if he does not desire to do so. Instead of *forcing* him into a different pursuit, it only gives him an opportunity to make a choice of pursuits. It says to our citizens, "Here, you who have not a tact or inclination to farm, but have a disposition and genius to be a mechanic, we will protect you against the mechanics of Europe, and give you a chance to pursue that occupation to which you are most inclined." There are a great variety of talents and gifts amongst us. All of us are not calculated for farmers, nor all for mechanics. Protection gives the privilege of a choice, which privilege we would not have without protection, because foreign mechanics and manufacturers would drive us from our shops to the plough for a support, whether we were inclined to it or not. I never knew that the protective tariff compelled me to be a farmer; nor did I ever know a man that supposed it compelled him to be a mechanic. We all supposed we were voluntarily pursuing that employment which offered the greatest inducement to us for a support.

If a tariff offers a sufficient inducement to a man, or a company of men, to quit their farms and build up a manufactory in the neighborhood, did you ever hear the other farmers complain that the law was partial; that it was oppressive to them; that they could not engage in the same business, &c.? Or, rather, did they not rejoice at it, and value their land higher, because they would have a convenient market for their produce? Did you ever hear a farmer complain because he was injured by the prosperity of a neighboring mechanic or manufacturer?

But we are told that protection does not benefit the farmer, but is oppressive to him. What does a farmer want? All he wants is a good price for his produce, and a convenient and ready market. What will give them all this? Free trade will not, that is certain. Prices are regulated by supply and demand. Whatever, then, will diminish the supply and increase the demand, will satisfy his wants. This can be done by diminishing the *number* of producers, and increasing the *number* of consumers who do *not* produce. Free trade will not do this, but the reverse; it will drive the consumers out of their shops to farms, and thus increase the number of producers upon the one hand; while, upon the other, it will diminish the number of consumers who do *not* produce in the same ratio. But protection to mechanics and manufacturers will have precisely the contrary effect; it will diminish the number of producers, by inducing some to go into other pursuits, and so increase the number of those who do not produce; and thus they will become purchasers to the remaining farmers, instead of their competitors. Protection, then, will give good prices and a ready market; and, by inducing the erection of manufactories in the neighborhood, will give a *convenient* market.

But we are again told, that free trade will give the farmer the whole world for his market. The reverse is true. Free trade will place all our consumers on the other side of the ocean, and will not even *increase* the number there, nor the amount consumed. An agricultural people never can compete with a manufacturing people at that distance apart, because of the vast difference in the weight and consequent cost of transportation. A farmer takes a wagon load of produce a few miles, and it costs him five or ten dollars; and he takes the proceeds of his load in goods, in his portmanteau, or perhaps tied up in his handkerchief. A ton of produce would cost as much to take it to Europe, as a ton of goods would cost to bring them here, whilst the produce might not sell for more than two thousand dollars, and the goods sell for forty or fifty thousand. Many articles of produce will not pay cost to take so far as Europe, whilst *none* will pay cost to take them to China in their crude state. With a protective tariff, we can make China, Hindostan, or any part of the world, our market for our produce; not in its raw state, but we can sell our produce to the manufacturer here, and it will be consumed by his operatives, and it will become a constituent part of the cost of the fabric; and thus, in the shape of goods of light carriage, we can sell our produce to the Chinese. If you sell your produce to England, and then buy your goods of her, you will buy back your produce again in the shape of goods; for it will be a part of the goods, so to speak, because the operatives consumed it while they manufactured them. In buying foreign goods, we always have to pay for the produce that was consumed in making them, whether it was of their own production or that which they purchased from us.

No system is so well calculated to benefit the farmer, as that which will bring the mechanics and manufacturers, and consequently the market, to him. The farmers of Ohio labor under a disadvantage by having the manufacturers principally in New England; it would be much better for them if they were in Ohio. And there they would be, in a few years, if a stable and certain protective system were established.

Ireland is an almost entire agricultural country, and has free trade with England; and what is her condition compared with the neighboring nations who manufacture for them? Poor, indeed. But, if that is too strong a case, take Canada and all the British provinces in North America. They are agricultural countries, and have free trade with Great Britain, and are *they* more prosperous than our neighboring States that join them? Who can say that they are *near as* prosperous, and tell the truth? Or, let any man consult the annals of history, and he will there see the miserable condition of these colonies, and afterwards of these United States, before the adoption of the present Constitution, when we had entire free trade with all the world. Do free traders wish to return to such a state of things again? So it appears.

Having, as I believe, fully proved that what I have called the second objection to a protective tariff, to wit: that the duty is added to the price of the goods, &c., has no foundation in truth, I will now, in brief, notice the third objection; that is, "That a protective tariff will destroy our revenue and drive us to direct taxation for the support of Government."

The most effectual method of removing this objection is, to call up the President's message and the history of the country. The message, in speaking of the introduction, as he calls it, of the protective tariff system in 1816, in connection, says, that at that time "a public debt of more than one hundred and twenty millions of dollars existed." Well, what has become of that debt? Has it been paid? Certainly it has. Well, was it paid under a system of free trade or a protective tariff? The President tells us, "that at that time there was a currupt, designing set of men who had the control of our Government, who sought to build up an aristocracy, and trample upon the rights of the poor man—men who thought a public debt a blessing, and who sought all means to squander the public money, in order to have an excuse for a high tariff," &c. Now, those men *did* enact a protective system, or rather made the then existing system *more* protective in its character, from time to time, in 1816, in 1820, in 1824; and in 1828 the highest tariff we ever had was enacted, and remained till 1832, and then was a little modified; and in 1833 the compromise bill was passed; it was gradual in its reduction of duties, so that it was protective till 1837.

Of course, now, if Mr. Walker's doctrine is true, we were driven to direct taxation for the support of Government. But what were the facts? Why, sir, in twenty years, "those *corrupt, designing* men," with this "corrupt system of protection," paid every dollar of the public debt, more

than $120,000,000, and had a surplus in the treasury of forty millions; near thirty millions of which were distributed amongst the several States—in 1836 or 1837. What a commentary this is upon the labored effort of Mr. Walker to prove that protection would cut off all our revenue! It always requires much more labor to prove an error to be true than to show truth itself. Here was the truth, lying at Mr. Walker's feet, contained in this short history of our national affairs, and of such recent date that I cannot tell how he came to overlook it. He must have lost much time in framing arguments to evade the truth.

But there is quite a contradiction between the President's message and the Secretary's report; for, whilst the President is proving that a protective policy brings millions of surplus money into the treasury, Mr. Walker is racking his brains to prove that it does not bring *any* at all. So they have completely used each other up—they forgot to compare notes.

What objection can now exist against a protective policy, either north, south, east, or west? If, then, as I have shown, it is constitutional, it does not enhance the price of goods, nor cut off our revenue by prohibition, but simply furnishes a market for all our goods, wares, and merchandise, and, as a consequence, for the planters' cotton, the farmers' produce, and for the laborers' services; these all are but links in the great chain, which must follow each other. Break out one link, and you shock all, from one extremity to the other. The different employments in our country are so closely united in interest, that it is as impossible to legislate so as to seriously affect any one occupation, for weal or for woe, without affecting all others in a like manner, as it is, sir, to amputate one of your limbs without affecting the other members.

Again: I suppose it is so, that the cotton planters, in general, do not look upon a protective policy very favorably; but the reason why, I never could fully understand. I *know* that they do not have to pay the increased duties, by an enhanced price for their goods. I *know*, too, that the price of their cotton is lower *now*, under the existing tariff, than it *ever* was under the protective policy. It is said that they do not require a *direct* duty upon their cotton to protect them against foreign competition; neither does the farmer. But they require a competition in markets for their cotton, as much as the farmer does for his wool and other produce; and this can only be accomplished by building up a home market to compete with the foreign market; and this gives them the advantage of both, instead of being at the mercy of but one. And if they destroy our home market, by driving, or suffering foreigners to drive, our mechanics and manufacturers out of their shops into other pursuits, if cotton growing offers a better reward than anything else, they will go into that business of course, and so increase the number of planters. The truth is, the free-trade theory is contradicted by universal experience, and the every-day practice of those who advocate it in their own private affairs. If men were to lay aside their old books on political economy, and consult their own experience and the common current of trade, and how they manage their domestic concerns, they would be at no loss upon this subject; for nations are but families upon a large scale, and are required to be managed in the same way. When I speak of laying aside the old books on political economy, I do not mean that they shall not be read; read them, but do not adopt their theories where they are contradicted by facts and experience.

I therefore appeal to the experience of every gentleman upon this floor, to the history of our country, and to the whole people of the United States, to say whether the doctrine of the President and the Secretary, "that the duty is added to the price of the goods, that they sell that much higher, and that protection will cut off all our revenue," has not been contradicted, invariably, by the practical results of that policy ever since we were a nation? I know there can be but one answer given in truth, and that is, that it does. If the duty was added in 1842, it has not been taken off; for goods, upon an average, are not reduced in price. Then where is the advantage? Being a plain man, I have spoken plainly, and hope I am understood.

THE PRESIDENT'S MESSAGE.

SPEECH OF MR. W. HUNT,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

December 20, 1848.

The House having resolved itself into Committee of the Whole on the reference of the President's Message, (Mr. THOMPSON, of Indiana, in the chair,) the question pending being the motion of Mr. RUMSEY to refer that portion of the Message relating to the tariffs of 1842 and 1846 to the Committee on Manufactures—

Mr. HUNT said: The gentleman from Virginia, [Mr. BAYLY,] who addressed the House yesterday, had objected to referring that portion of the President's message which relates to the tariffs of 1842 and 1846 to the Committee on Manufactures, from an apprehension that it might be made the subject of "an electioneering document." The bare suggestion that a report may be made on the protective policy, by a competent committee of the House, in reply to the assumptions and arguments of the message, seemed to excite the gentleman to unusual vehemence, and almost to move him from his propriety. The supporters of the Administration manifest a strong antipathy to political documents, unless, perchance, they emanate from the Executive. Notwithstanding their aversion to monopolies, they claim the sole manufacture of "electioneering documents" as an exclusive prerogative of the President. It belongs to him to assail opponents, to denounce their measures, and impeach their patriotism. He is commissioned, it would seem, to promulgate political disquisitions and partisan appeals; but when we propose to refer his statements to an appropriate committee of Congress for calm investigation, we are admonished of the impropriety of sending forth party reports under the sanction of the House; and the Committee on Manufactures is specially objected to, on the ground that a majority of its members are politically adverse to the Administration.

At every session of Congress, year after year, the President sends in his annual message, which is followed by a series of special messages, submitting his views of political doctrine and public affairs. Not content with a discharge of the constitutional requirement "to give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient," he volunteers to go beyond his duty, notoriously transcending his proper functions to take a part in the political discussions of the day. Nor is he satisfied with his abortive essays in defence of his measures and the doctrines of his party. He chooses to assume an offensive attitude, and assail those who dissent from his infallibility, indulging in wanton and ungenerous reflections upon their purposes and motives. Did a portion of the intelligent and reflecting people of this country express their disapproval of the usurpation of the war power by the Executive, by which he involved the nation in hostilities while Congress were in session, without their knowledge or sanction: the President was prompt to arraign them in his annual message on a charge of "moral treason," imputing to them a want of fidelity to their Government, and a design to afford aid and comfort to the enemy. Do any of us contend for a just and enlightened policy, which will sustain our national interests and protect American industry: the Chief Magistrate modestly asserts that we seek to subvert our republican system of free government by introducing here the oppressive institutions of Europe. Yet, when we desire to vindicate ourselves and our measures from these false imputations, and to present our policy in its true light to the country, we are reminded by his satellites here that it is unbecoming the dignity of Congress to promulgate documents of a political character. To such a height has Executive insolence reached, even at this youthful stage of the Republic!

Mr. H. said he had hoped, after the recent expression of the public will upon the measures which divide parties, after the American people had pronounced their verdict upon the merits of the Administration, that the President would have felt the propriety of confining himself to an honest exposition of the state of the public service, communicating only such legitimate information and recommendations as might tend to promote wise and intelligent legislation. We had a right to anticipate, under present circumstances, that he would forego the indecent practice, so long indulged in, of reproaching his opponents and misrepresenting their aims and intentions. But "the ruling passion is strong in death."

[Mr. TURNER here interposed, and inquired what questions the gentleman from New York considered to have been decided by the people in the recent election?]

Mr. H. replied, that he intended to touch upon that subject directly. But, as the gentleman appears to be impatient for an answer, he would inform him that one material question, at least, had been put at rest by the recent election. The present Executive, and the measures of his Administration, have been signally condemned by the American people. They have decreed that the action of the Government shall be changed, as well in its foreign as its domestic policy.

Before he was interrupted, he was about to express his regret that adversity had not inspired the President with wisdom and forbearance to forego political discussions on this occasion. He could have wished, that instead of wrestling with the popular judgment, he had received its rebuke with a graceful deference, yielding to the public voice, if not with a zeal, at least a seeming respect. Even an expiring dynasty may engage the sympathy, if it cannot claim the respect, of the world, by elevation and dignity of bearing under misfortune. But the Executive breast is agitated by a spirit of contention to the last. The President is eager "to fight his battles o'er again;" his perturbed temper rejects all repose, and allows no truce to the enemy. On the present occasion, he has exceeded his usual license, and, if it were conceivable, has outdone himself. It may be doubted, if an Executive document was ever submitted to Congress so remarkable for its exuberance of party spirit, so unblushing and arrogant in the tone of its partisanship, or evincing so desperate a determination to stand before Congress and the country on mere party issues. Like some former communications, it proves that the Executive is incapable of candor in presenting subjects of a political nature. In his eagerness to cover his opponents with odium, and to magnify his own public virtues, he has shown himself dead to every sentiment of justice and impartiality. Bold and reckless in assertion, ever ready to suppress some facts and exaggerate others, to mutilate history to sustain an argument, urging the absurdest inferences with the coolest assurance, equally licentious in unjust imputations and vainglorious in self applause, he is evidently insensible to the proprieties of his position, and wantonly defies the restraints of official elevation and enlightened public sentiment.

It is fortunate, for the cause of truth and for the liberties of mankind, that rejected rulers are not received as the most reliable historians of their own times and conduct. If the protestations of discarded ministers are to be regarded as proof of their disinterestedness and patriotism, it would appear that those who have been most emphatically condemned by the general voice for usurpation or abuse of power, and whose sway was most odious to the governed, in reality suffered martyrdom for their public virtues, and possessed the strongest claims upon the grateful affections of mankind. Admit the State papers and official manifestoes promulgated by governors ejected from power by the popular will, whether in ancient or modern times, as authentic historical evidence, and we are almost forced to conclude that the people were always wrong, and their rulers ever in the right. They would make it appear that the greatest tyrants were the greatest benefactors, animated by the highest motives and the purest patriotism. If they have usurped power, it was from an excessive desire to guard public freedom from danger. If they invaded popular rights, and overleaped constitutional barriers, it was to protect the people from evil designs at home or abroad, and to establish their liberties on stronger foundations. Listen to expiring dynasties, and it shall seem that the best and wisest rulers were expelled from power because nations were incompetent to appreciate, or unworthy to enjoy, the blessings of good government. Unhappily for the fame of tyrants and

demagogues, the opinions of the world are shaped by more impartial annals. The judgment of mankind is governed by the blending currents of cotemporaneous testimony, proceeding from purer sources, and forming the great stream of history, by which a knowledge of events and their causes is conveyed to posterity.

A portion of the message is evidently intended as historical, and may be regarded as an appeal from the popular verdict to the arbitrament of posterity. As the President recounts his services, and portrays the beneficent effects of his measures, we are almost persuaded to renounce the convictions produced by our own knowledge and experience, and to adopt a belief that he has done more for the welfare and prosperity of the country than all his predecessors. If we may judge from the tone of complacent triumph which he assumes, the people of the United States have the highest cause for gratitude, instead of censure, and are under obligations to the Administration which they do not adequately appreciate. Why, sir, what has not this Administration accomplished? It has made war, and made peace; annexed Texas, New Mexico, and California; it has overthrown the protective system, and established the free-trade tariff of 1846; restored the sub-treasury; created a vast debt; prevented the waste of public money on the improvement of harbors and rivers; maintained the veto; enlarged, by construction and assumption, the Executive authority to an extent hardly dreamed of before; and suppressed the exercise of great substantive powers, created by the Constitution for the welfare of the people and the protection of national interests. These are its claims to public gratitude.

Mr. H. said he believed his democratic friends professed great confidence in the American people. Of course they will allow that they are an intelligent, thinking people, competent to judge of the measures of Government and the merits of their public agents. Patriotic and virtuous themselves, they are not inclined to distrust those whom they have placed in power; and rarely abandon them until convinced that their policy is pernicious, and that they have fallen short of their obligations to the country.

It is evidently unaccountable to the friends of the President, that such a people should reject an Administration which so confidently challenges their approval; an Administration which claims so large a share of glory for its conquests abroad, and its beneficent policy at home; so prolific of measures for the prosperity of the country; so intent on promoting the national welfare; and professing to be guided in all things by a faithful observance of the Constitution, turning neither to the right hand nor the left.

If we admit the President's estimate of the value of his services, and the effects of his measures, he would confess it seemed passing strange that the people should have desired a change. But they adopt a different estimate, and judge the Administration by a higher standard of patriotism. The triumphant tone and self-laudation of the Executive finds no response in the public breast.

Gentlemen on the other side confidently ask what it is that the people have determined by the recent expression of popular opinion? It is not difficult to answer them. He thought the people had declared their wishes in language too plain and decisive to be mistaken. The conduct and policy of the Administration had been distinctly submitted to them for their approval. They were invited to sanction its measures, and establish them as the permanent policy of the Government. But, instead of confirming, they rejected the present system of administration, and declared for a liberal, enlightened, and American system. They have condemned the whole series of measures upon which the President has taken his appeal to posterity. No impartial observer can fail to see, in the late expression of public sentiment, a determination to reform abuses, and restore honest, patriotic counsels in the conduct of our national affairs, both foreign and internal; to rebuke usurpation, and arrest the daring encroachments of Executive power; and to reestablish in Congress its rightful control over the legislation of the country.

The Whig party had arraigned the Administration before that great popular tribunal to which all political disputes must be finally referred. Those party questions which have been so freely discussed in Congress were submitted to the people. We averred that the President had plunged the country into war by a mere Executive act, in which he substituted his arbitrary will for the constitutional action of Congress. In other words, we contended that he had usurped the war power, so jealously guarded by the framers of the Constitution, and vested exclusively in Congress. He would not at this time enter into a discussion of the motives, objects, or consequences of the Mexican war. That was foreign to his present purpose. He spoke of its origin. It had its beginning in an act of Executive usurpation; a military rescript ordering an invasion of foreign territory by our troops without the knowledge or consent of Congress. Commenced in usurpation, a similar disregard of constitutional restraint was equally conspicuous in its prosecution. Every step was marked by some new and flagrant encroachment. The President assumed power to erect a military government in territory which he had uniformly maintained to be part and parcel of the United States—to collect revenue in the Mexican ports by a tariff of duties on commerce, subjecting the property of our own citizens to contribution—and to disburse the money at his own pleasure, without appropriation by law.

He might point out other instances in the progress of the war where the President had assumed powers which, under every free government, and especially in ours, reside in the legislative department, and cannot be constitutionally exercised without its authority. A great question of popular right and constitutional liberty was involved in the issue—whether these daring freaks of Executive prerogative should be consigned to history, with the dangerous force of precedent, resulting from acquiescence, or stamped as usurpations by an emphatic sentence of public condemnation. That question, so long disputed on this floor, has been answered by the people. In this view, more strikingly perhaps than any other, the result of the election is a triumph of the Constitution, a vindication of its principles from repeated violations, and an assertion of the independence and paramount authority of Congress as the law-making power of the Union.

Mr. H. said he had taken the floor from a desire to submit some remarks on the topic more immediately under consideration. Upon no subject has the position of parties been more clearly defined than in respect to our tariff policy. The Whigs have ever contended, and continue to maintain, that a system of discriminations, judiciously framed to afford protection to the industrious classes of our country in all branches of employment, agricultural, mechanical, and manufacturing, is indispensable to the national prosperity. The Administration and its supporters reject the protective policy, disavow all obligation to guard American labor from foreign competition, and assert the doctrine that duties are to be imposed for revenue alone, without reference to the effect upon our industrial interests. According to their theory, the only legitimate object of discrimination is to secure the largest possible amount of revenue; and in carrying out this principle in the act of 1846, they have discriminated in many instances in favor of the productions of other countries, giving the foreign manufacturer a direct advantage over our own. Whilst we would modify some of its details, and abandon such provisions as have been made unnecessary by the progress of improvement in certain branches, the Whigs have not failed to assert the necessity of restoring the protective principles embodied in the tariff of 1842. Our opponents have taken their stand on the tariff of 1846, as the perfection of political economy. The issue is well understood, and was distinctly submitted to the country. He contended that the free-trade policy of the Administration had been thoroughly condemned by the people. They have pronounced against it, not only in the Presidential election, but in both the Congressional elections held since the passage of the act of 1846. The sentiment of the country on this subject will not be changed by the plausible sophistries of the Secretary of the Treasury, or the deceptive statements of the message. It seems the President does not think it inconsistent with his character or station to reiterate "the thrice-told tale" of political demagogues, so often heard in party discussions, and so conclusively answered by experience. He repeats the exploded dogmas of free-trade theorists, distorting facts to sustain his positions, and employs language intended to excite jealousies, and array classes in unnatural hostility, by invidious appeals to popular prejudice.

Indeed, the President of the United States may vie with the most mendacious of his partisan supporters in the audacity of his imputations. The advocates of protection, who seek to elevate labor by a system which insures employment and remuneration to the industrious, are arraigned as enemies of the working classes; whilst he who has prostrated many branches of industry by opening our markets to other countries, and giving foreign labor a preference over our own, claims to be the exclusive friend of the American laborer, and the special champion of his rights. We, who have struggled to maintain the prosperity of the whole people by making our country independent of foreign rivalry, are accused of a deliberate design to subvert popular liberty by establishing here the special privileges and oppressive distinctions which weigh down the masses under the kingly governments of Europe. Even if self-respect permitted, he felt sure it was unnecessary to comment upon pretensions so insolent, and aspersions so wanting in truth, justice, and decorum.

Mr. H. said he intended to have remained silent in this discussion, but the bold challenge of the gentleman from Virginia [Mr. BAYLY] had prompted him to take the floor. That gentleman asserts that the tariff of 1846 had fulfilled all the promises and expectations of its friends, and falsified all the predictions of its opponents; and, with a tone of triumph, he defies contradiction. Now, he proposed to join issue with the gentleman in the whole length and breadth of his declaration, and on some proper occasion, if any shall arise in the course of the session, unless other gentlemen better qualified for the task (and he knew there were many such) relieved him of the duty, he pledged himself to meet the issue.

He thought it would be an easy matter to establish the reverse of the gentleman's proposition. He stood ready to maintain, that in almost every essential respect, the apprehensions expressed by those who resisted the act of 1846 had been fulfilled by its practical operation, whilst it had failed to justify the arguments and realize the anticipations of its supporters. When the act was under discussion, its probable effect upon the industry, finances, and general condition of the country, was the great point of difference. We contended that its inevitable tendency must be to embarrass many departments of industry and production, and to prostrate some branches of manufactures without benefit to any of our great producing interests.

Its advocates insisted that the reduction of duties would raise the value of all our agricultural productions, without injury to other branches of industry. We were told, that instead of reducing, it would increase the profits of labor, by relieving it from oppressive burdens; that production would be stimulated, and all our national interests advanced to the highest state of prosperity. Whether these promises or our predictions have been most truly fulfilled, is more a point of fact than of argument. The present occasion would not allow a full discussion of the subject, and he did not intend to engage in any elaborate details. But he would advert to a few general facts, which he considered conclusive. In the first place, let us inquire what was the actual condition of the country at the time of the passage of the tariff act of 1846.

The protective policy had been in operation for four years under the tariff of 1842. It had produced ample revenue for the wants of Government. It had imparted a degree of prosperity, almost unexampled, to all branches of trade and industry, as well to the agricultural as the manufacturing interest. Money became abundant. The increase of wealth in the country during that period was rapid and substantial. Labor was fully employed and well rewarded. The effect of that great measure was to raise the country from the lowest point of depression to a healthful state of prosperity. Yet the free-trade theorists, backed by the political power of the Administration, demanded and accomplished a change. They gave us the act of

1846. External and accidental causes operated to counteract its tendencies for the first year after its passage. An extraordinary demand and high prices for our surplus products, caused by the famine abroad, warded off the blow for a season. The war with Mexico, by which large numbers were withdrawn from productive pursuits, was not without its influence in modifying the effect of the new policy. But with the disappearance of these extraordinary and temporary causes, the destructive principles of the tariff of 1846 came down upon the country with irresistible force. For the last year, its effect has been to depress the manufacturing interest in almost every branch. On this point we have the testimony of the gentleman from Pennsylvania, [Mr. THOMPSON,] a prominent supporter of the Administration, who addressed the House yesterday. He informs us that the iron interest of Pennsylvania—that great interest, which employs so much of the industry of his State, and which, if properly developed and sustained, constitutes in itself a source of inexhaustible wealth—has been completely prostrated by the act of 1846; and he assures his party friends that this question exerted a controlling influence in that State in the recent elections.

Let us turn from the iron interest to those other important branches in which so large a capital and the comfort of so many thousand laboring people are concerned—the cotton and woollen manufactures. He asserted what no man can deny, when he stated that both these branches have labored under great embarrassment during the past year; that the enormous importations of cheap goods from abroad had reduced prices to a point where it is impossible for the American manufacturer to stand against foreign competition; that many establishments have been compelled to limit their business or suspend it altogether; whilst others have found it necessary to reduce wages from 15 to 30 per cent., as the only means of self-preservation. The practical knowledge of many gentlemen on this floor would bear him out in these assertions, and it surprised him that any friend of the present system should venture to invite a contrast between its practical operation and the early predictions of its opponents.

He denied that it had produced any favorable effect upon our agriculture. Excluding the year of famine, the average prices of our agricultural products had been lower under the present tariff than under the act of 1842. The embarrassment caused by such a measure is first felt by those engaged in manufacturing and mechanical pursuits; but it soon reaches the agricultural classes, by limiting the home market, and increasing the number who are forced to resort to cultivation of the land. As a general proposition, it is impossible for one of these interests to flourish for any length of time while the other is crippled and paralyzed. Consider the present value of our great southern staple, cotton. He believed it was never cheaper, nor the market more stagnant, than it has been during the last year. Wool, that important product of northern agriculture, had suffered a similar, if not an equal depression.

Even the President admits that our manufacturers have experienced some embarrassment the last year; but he informs us that this is the effect of "severe commercial revulsions abroad." He seems to forget that our strongsst objection to the free-trade system is, that it leaves our industry exposed to the fluctuations of foreign markets. Are prices reduced one-third or one-half by political convulsions or commercial bankruptcies in Europe: our present tariff invites the foreign manufacturer to throw his surplus upon the American markets; the country is inundated with imports; our own workshops are closed, and our artisans thrown out of employment. A leading object, and one of the most beneficial effects of a protective tariff, is to guard our own people against the ruinous effects of fluctuations and commercial revolutions in other countries. The free-trade policy compels us to share the calamities of all nations.

But we are told that the act of 1846 has given us an increased and increasing revenue. In other words, the Government has taken care of itself, let the people suffer what they may. Mr. H. said he was ready to admit that the present tariff has yielded more revenue than was anticipated by either its advocates or its opponents. This result is easily explained. It may be attributed, in a large degree, to those foreign causes of which he had spoken. The prostration of prices abroad has thrown immense quantities of foreign goods into our markets, to be converted into money at any sacrifice. The facilities afforded by our present *ad valorem* system have produced large over-importations, and of course the effect has been to swell the revenue. But gentlemen seem to forget that every million added to the revenue by excessive imports abstracts several millions from the financial resources of the country to pay for the imported articles.

We are now purchasing from abroad large quantities of fabrics which we ought to manufacture for ourselves. These over-importations impoverish the country, and have exerted a most unfavorable influence upon our money market during the last year. The Secretary of the Treasury reports that our exports for the year have exceeded our imports. But this, like many estimates from the same source, will probably prove to be fallacious. The *ad valorem* principle opens a door through which goods are consigned by foreign houses to their own agents here under fictitious invoices, and the treasury returns afford no criterion of their real value. He believed few intelligent commercial men will doubt that the balance of trade has been considerably against us the last year. It appears from the treasury returns that the export of specie exceeded the import by nearly ten millions; several millions of Government stocks have been remitted and sold abroad; and it is evident that these items, at least, were necessary to discharge the commercial balance against this country. In reverting to the condition of the money market during the year, it is not easy to determine whether the present tariff, or that kindred measure of the Administration, the sub-treasury, has been most instrumental in producing derangement. It is not to be denied that, between the combined action of both, our financial affairs have been thrown into serious disorder and embarrassment. The President continues to speak of the sub-treasury plan for collecting the revenue in gold and silver in terms of extravagant laudation. He informs us that "its effects have been most salutary upon the business of the country." The actual state of the money market affords the most significant commentary upon this assertion.

Have our finances been in a favorable condition for the pursuits of legitimate and regular business? On the contrary, there has been an unusual scarcity of money in most of our manufacturing and commercial towns. Interest has been extravagantly high, solvent men having been compelled, during a large part of the year, to pay two or three times the legal rates to preserve their credit and sustain their business. For a time, while the Government was a borrower, sustaining itself by loans and treasury notes, the sub-treasury was comparatively harmless; but when the current changed, and coin began to accumulate in the vaults of your receivers, the system was felt as a blight upon the active business of the country. In New York, its effects were so disastrous, that the Secretary of the Treasury deemed it necessary to make a loan of the public money, under the disguise of a contract for the purchase and sale of treasury notes. Instead of imparting stability and steadiness to the currency, it produces fluctuations, and increases the evils which it professes to remedy. The collection of specie at the principal commercial points exposes the circulating medium to all the alternations of the revenue; the ability of the banks fluctuates with the ever-varying condition of the treasury; and in proportion as the Government is enriched by specie, withdrawn from general use, the people are impoverished. No persuasion of political soothsayers can reconcile the country to such a system. The sub-treasury is odious to the people; it always was, it always will be. They rejected it in 1840, and have condemned it again in 1848. The whole scheme is absurd and mischievous; impracticable in some respects, intolerable in others. The voice of the country demands a speedy return to a more enlightened system of finance, adapted to the habits and condition of our people, and administered with proper regard to commercial usages and the public prosperity.

The President devotes a considerable portion of his message to the defence of the veto power. This prerogative is magnified as the chief excellence of the Constitution, "the shield and buckler" of the republican system, and great credit is claimed for the freedom and boldness with which it has been wielded. He gives us an elaborate argument to prove, what was never disputed, that since the power is conferred, it may be proper, under some circumstances, to use it. But the real question is, what constitutes a sufficient occasion to justify its exercise? The power was given as a check upon violent or inconsiderate legislation, whether proceeding from sudden excitement and want of deliberation, or from the spirit of faction, by which legislative bodies have been sometimes swayed in other times and countries. It is an extreme power, to be used in extreme cases, to avert a clear and palpable infraction of the Constitution. But the doctrines of the message go far beyond the spirit of the Constitution, and are repugnant to the known intentions of its authors.

The President assumes to be the representative of the whole people, and that his views are to prevail over the deliberate judgment of the legislative bodies composed of members chosen by States and districts for their supposed knowledge of public opinion, their fitness to reflect it, and their capacity to deliberate and decide upon public measures. In addition to his executive functions, he claims to be a constituent branch of the legislature, and it is for him to judge, in all cases, what laws shall be enacted.

If the opinions of Congress respecting measures are contrary to his personal views, then his will is to prevail, and he becomes the law-making as well as the law-executing power.

Mr. H. emphatically denied these doctrines. He repudiated them as monstrous assumptions. Tyranny never asserted a bolder pretension than the claim of the Executive to be the representative of the whole people, in a legislative sense. If such an assumption be tolerated, the whole theory of popular representation becomes a mockery. Even with a wise and honest Chief Magistrate, it is impossible that the wants and sentiments of the people can be known, except through the local representatives coming from the States and districts. The great and wise men who formed our Constitution could not have contemplated it as possible that any man, elevated to the Presidency by the confidence of the people, would venture to wield the veto power as an arbitrary prerogative to promote party schemes, and thwart the deliberate sentiment of the country in reference to great national questions. But the President evidently thought it necessary to signalize his administration by a veto on some subject.

Mr. H. thought he had been unfortunate in the selection of occasions and objects for the exercise of this prerogative. What were the instances which, in his judgment, had made it proper for him to oppose his will to the opinions of the legislative department?

The first bill which he arrested was an act of justice to our own citizens—the appropriation for the payment of the French claims. These claims had been long before Congress. They had been fully discussed, and finally, after mature deliberation, a majority in both Houses decided they should be paid. It was purely a measure of justice to American citizens who had been deprived of their property by the spoliations of France, our Government having subsequently assumed to indemnify them by a treaty stipulation with the French Government. Reparation, which ought to have been made more than forty years ago, had been resisted and deferred from year to year under various pretexts. It was a case involving no constitutional principle, a question of good faith and expediency, belonging peculiarly to Congress. The interference of the Executive in such a case is an arbitrary abuse of power, alike odious and indefensible. Yet the President, upon a preconceived prejudice against the claims, and because he deemed it inconvenient to pay them, while he was expending millions in a war waged ostensibly to enforce more recent claims against Mexico, determined to overrule Congress and reject the bill.

There is another subject far more important in its bearing upon the national prosperity, on which the President deems it proper to interpose his arbitrary will against the action of Congress. He exerts the veto power to save the people (of whom he is the representative) from their partiality

towards that dangerous branch of the "American system" denominated "internal improvements." The necessity of affording more ample protection to commerce was one of the prominent causes which led to the formation of our present Federal system. It was one of the great purposes of the Constitution. To carry out this design was one of the first labors of the first Congress. From that day to the present appropriations have been made from time to time for the improvement of navigation on the great channels of commerce, internal and external. Every Congress, for nearly thirty years, has passed bills applying some portion of the public revenue for improvements on the western lakes and rivers, and on the seaboard. But now all measures intended to protect and facilitate commerce by removing the dangers and obstacles which attend navigation fall under the ban of the Executive. The suffering interests of the country, the preservation of life and property, the emphatic demands of public opinion, the deliberate judgment of Congress, all are set at naught by the President The supremacy of the Executive will has been felt throughout our borders as a mildew and a curse. Judicious appropriations have been passed in vain at every session of Congress during this Administration for the completion of works previously commenced by the Government. Bills of the same character had been passed by every Congress for more than twenty-five years, and received the sanction of every Chief Magistrate during that period. Most of the objects rejected by the present Executive as unconstitutional were approved and the expenditures upon them commenced by General Jackson and Mr. Van Buren.

But Mr. Polk assumes to be wiser than all his predecessors. He goes beyond the older abstractionists of his own school, and rejects appropriations of every sort for the improvement of navigation. He can find no constitutional power to expend the public money for any useful purpose, or any work of improvement *within* the limits of the United States. On going beyond our boundaries, into foreign territory, his constitutional scruples mysteriously disappear. He finds ample authority to offer Mexico five millions for a right of way across Tehuantepec, and claims applause for securing a railroad track across the Isthmus of Panama. According to his theory, we have a constitution whose powers quicken and become effective the moment it is brought to operate beyond the sphere for which it was originally created. But when you propose to improve the navigation of the waters within the maritime jurisdiction of the Federal Government, by appropriating money to remove snags and sand bars from the western rivers, and open convenient harbors on the lakes and the seaboard, the Constitution is dormant; no power can be discovered in its provisions, and the conscientious reluctance of the President to suffer the exercise of doubtful authority, constrains him to baffle Congress and defy the people. He perceives no difficulty in expending the people's money upon commercial communications, provided, always, they are *out* of the country; but *within* it, the Constitution is impotent; our commerce is left to its fate, the most vital interests are sacrificed, and the people's representatives are brought to a dead stand by the caprice of the Executive. The message dwells with a pleasing complacency upon the thousands of miles added to our coast by conquest and annexation, without expressing a single regret that the innumerable bays and harbors thus brought within the Union (so defective is our Constitution) have *ipso facto* forfeited all claim to government aid and protection. It is glorious to spend millions in acquiring them, but a violation of the Constitution to employ a dollar in improving them.

The arguments of the President on the veto power assume that his personal opinions are to outweigh the settled and deliberate judgment of the country. On no question has public sentiment been more decisive and uniform than in favor of the constitutional power and duty of Government to improve harbors and rivers. Every administration has recognized it to some extent; a great majority of the people have always asserted it; every Congress has affirmed it. Now, what can be more arrogant, or repugnant to the principles of our Government; what so well calculated to bring this admirable Constitution into odium, as a pretension that the fixed opinion and purpose of the country on a question of such magnitude must yield to the arbitrary caprice of the Executive? One of the historical facts brought forward in the message furnishes an unanswerable argument against the abuse of the veto power.

The President was not satisfied with touching upon all the questions which have engaged the public mind during his term. Intent on reviving old quarrels, he has conjured up the ghost of the United States Bank. Whatever may be thought of it as a question of taste, none can deny the constitutional right of an expiring Administration to seek consolation in its last hours in ghastly exultations over a defunct corporation, whose fate it is soon to follow. It is difficult to perceive any occasion for presenting that subject to Congress at the present time. For some years past the question of a bank, if not "obsolete," has been viewed as a subject belonging to history. It has not entered into political discussions, or engaged the public mind. No party has proposed to establish a national bank since Mr. Polk came into power, and it is not apprehended that he will be called on to sign a charter during the few remaining weeks of his term. There was a time when patriotic denunciations of the bank were favorably received at Tammany Hall; but even there, and in most of the party clubs, the subject has been dismissed as "stale and unprofitable." Yet the President of the United States could not consent to give us his last annual message without an attempt to revive this by-gone controversy, and to fix odium upon those whose views of the subject may have differed from his own.

Unfortunately for the President, in his solicitude to fortify his argument against the bank, and to weaken the force of President Washington's sanction of the charter of 1791, he has brought forward a historical fact which is entirely fatal to his doctrine of Executive supremacy. It furnishes a conclusive answer to all his reasoning in support of the free exercise of the veto power. When the bank charter was sent to President Washington for his signature, he entertained serious doubts, both as to the constitutionality and expediency of the measure. The message states that "these doubts amounted at one time to a conviction that it was his duty to withhold his approval from the bill." He held it till the last moment permitted him by the Constitution, "when he finally yielded to it his reluctant assent, and gave it his signature." Such was the conduct of the illustrious Washington when the action of Congress on a great measure came in conflict with his original opinions. If the President had studied the philosophy of his own precedent, he would have seen that it furnished the highest authority in favor of a spirit of deference on the part of the Executive to the Legislative branch of the Government. General Washington had doubts as to the existence of the power, and his individual opinions were adverse to its exercise, yet he decided as a wise patriot, that while doubts remained upon his own mind, the will of the people, as declared through their legislative organs, should prevail; and acting in the true spirit of the Constitution, over whose formation he had presided, he yielded his approving sanction to the bill.

The message refers, also, to the example of Madison, and adduces his opinion against the bank charter in 1791. Yet Madison had the wisdom to perceive and the virtue to declare, that when a question of constitutional competency has been determined by the action of the various departments of Government, it must be thenceforth regarded as conclusively settled. Thus, notwithstanding his objections to the first bank charter, he yielded his original opinion, and signed the bill of 1816.

These glorious examples were left by Washington and Madison as a beacon light to guide their successors in all future time. How striking is the contrast, when we compare the conduct of Washington and Madison, their respect for the opinions of Congress, with the arrogant pretensions of the present Executive! On one side we behold the patriot and the sage, animated by a spirit of true devotion to his country, seeking to conform his views to the public will, and finally yielding to the counsels of Congress a cheerful acquiescence; on the other, a narrow partisan, a self-sufficient, all-sufficient, pretender, assuming to be wiser and better qualified to decide what the welfare of the people requires than their own representatives.

Mr. H. said he had not intended to go into a full discussion of the questions brought forward in the message. He had alluded to some of them, and endeavored to controvert some of its positions, from an unwillingness that such remarkable assumptions should go forth without contradiction. With an Executive so unscrupulous in his official communications to Congress, free discussion here is necessary, as well to vindicate popular rights as to preserve the truth of history. Another consideration had prompted him to speak of the leading measures of the Administration at this time. Efforts are made here and elsewhere to inculcate a belief that the American people, in the recent exercise of their political rights, had been carried away by blind freak and passion, without any settled purpose; and we are told that the result decides nothing in reference to the great questions which divide parties. Gentlemen contend that the election of General Taylor affords no evidence of popular opinion in respect to the future policy or past conduct of the Government, and had no reference to the conflicting measures of the two political parties. If gentlemen on the other side entertain this belief, he could assure them, sincere as may be their professions of respect for the people, that they have widely mistaken the popular character.

They misapprehend the real nature of the contest which has just terminated. They seem to forget that the measures and merits of this Administration were distinctly submitted to the country by the Baltimore Convention. That convention laid down a platform on which all these measures were grouped together, and presented in the most attractive colors. The free-trade tariff of 1846, the sub-treasury, hostility to internal improvements, approbation of the war, and the whole foreign policy of the Administration, were put forth as the watchwords upon which the Democracy were summoned to action. In short, it was proclaimed that the present Administration was to be continued in General Cass, and he stood pledged before the country to maintain all its measures. He was pledged in favor of its whole policy, internal and external, and it was well known that his election would operate as an extension of the existing *regime* for four years longer. But the people would not accept the Baltimore platform or the Baltimore candidate. For the last three years, they had been weary of the policy pursued by the present Executive. Since the first year of its existence, the Administration has not enjoyed the confidence of the country.

The Congressional elections in 1846 may be referred to in proof of this assertion. The President came here with a majority in this House numbering nearly two to one; yet, at the first opportunity that was presented to the people to speak upon his measures, they returned a majority of Representatives against him. Notwithstanding the triumphant tone assumed by the President in defence of his measures, the real sentiment of the country has been opposed to them from the beginning. In the recent election, the people have pronounced final sentence upon the Executive and his system of administration.

The American people knew full well what they desired, and what they were doing, when they accomplished that great change of rulers which is about to restore the Government to its original purity, and revive the better days of the Republic. They desired to put an end to Executive encroachments and Executive corruption. They were resolved to discard all those party theories and measures which operate so oppressively upon the industry of the country; especially the free-trade system, which discriminates in favor of foreign labor, and the sub-treasury, which rejects the circulating medium in common use among the people.

They intended to rebuke the usurpations of power which have marked the course of the present Executive. They sought to arrest the march of conquest; to close the dazzling delusive career of glory which was placed before our people to seduce them from the paths of safety and happiness, by that class of pretended patriots who, indifferent to the arts and blessings of peace, are ever ready to plunge the country into "inevitable war," as the true road to national grandeur, and the only agency appointed by Providence for the accomplishment of our "manifest destiny." The people desire to see a new order of things. They have

declared in favor of a just and pacific policy in our relations with foreign Powers; integrity and elevated statesmanship in the conduct of our affairs at home; an enlightened exercise of the useful powers of the Constitution to accomplish the great ends proposed by the founders of our Federal system. The nation demands, and will have, internal improvements and protection to American industry. A decree has gone forth that Executive supremacy shall be abolished, and the constitutional supremacy of the Legislative department restored. To insure a redress of grievances, and a return to Whig measures, the people have not only chosen a Whig President, but have again returned a Whig House of Representatives. From the honest, incorruptible patriot, who has been elevated to the chair of Washington by the free suffrages of a free people, we may confidently anticipate a cheerful conformity to public sentiment upon all great questions of national policy. His stern virtues and past services afford the surest presage of his future conduct. In the firmness of his character, and the purity of his patriotism, no less than in his declared opinions, we have the highest guarantee that justice and moderation will inspire our national councils; that the harmony of the Union will be cherished, and its peace preserved; that our free Government will become, what its founders intended, an active and beneficent agency for the promotion of public happiness and the protection of our national interests. We may hope again to see the coördinate departments of the Government moving on in harmony, each performing its functions with fidelity in itsc onstitutional sphere of duty; the laws emanating from the people, through the independent action of their Representatives in Congress, administered with firmness and dignity by the Executive department; every branch of the public service animated by patriotism, and invigorated by the spirit of the Constitution.

PAYMENT FOR A SLAVE.

SPEECH OF MR. R. K. MEADE,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

January 13, 1849,

On the Bill to pay the legal representatives of Pacheco the value of a slave hired by the Government during the Seminole war, and sent to the West with the Indians at the conclusion of the war.

Mr. MEADE said:

Mr. SPEAKER: The gentleman from Vermont [Mr. COLLAMER] had justly complained that gentlemen of this House had put forth extreme views on the subject of slavery. He thought the gentleman ought to have had the candor to say that no such proposition had emanated from southern members in this House; that they had never appeared upon this subject, unless they had been called upon by the course which the discussion here had taken, and then that they had come forward, not for the purpose of attack, but of self-defence.

I have risen for the purpose of discussing the legal question, and intend to place the Government in the same situation, in reference to it, that an individual would occupy who, under similar circumstances, had acquired possession of this negro slave. I do not intend to enter into the question of the legality of slavery, or to discuss the right by which that property was held. If that were necessary, I might fall back upon the guarantee that the ancestors of gentlemen of the North had given to ours when they sold these slaves; at any rate, we might contend that gentlemen of the North were estopped from disputing a title which we derived by and through them.

Mr. GIDDINGS interposed, and said he would feel under obligation to the gentleman from Virginia if he would point out, specifically, this guarantee to which he alluded—where it was to be found. If in the Constitution, let them have the article.

Mr. MEADE. It was not only in the Constitution, (that was a question which had been so often discussed that it was unnecessary for him now to enter into it,) but it arose from that implied guarantee which all venders of slaves, or any other property, entered into with the vendee; and if the private papers of gentlemen of the South who lived fifty or sixty years ago could be brought to light, there would be found, no doubt, express guarantees of the validity of the title acquired to slaves purchased from northern men.

I had not intended even to state the fact to this House, that every civilized nation on earth, and every uncivilized nation, as far as we had any knowledge, had acknowledged the right of property in slaves by owning and using them. The common law of England, which emancipated slaves who might tread upon English soil, had nevertheless been set aside, even by that Government, in favor of the title to property in slaves in their colonies; and he appealed, not to any municipal law, but to the common law of nations, as the foundation on which this species of property rests; and by that law I could take that property into any country that had not expressly abolished it.

The right to this property had never yet been denied, except in this country. It was not even denied by a majority of northern members in this House. A small clique of abolitionists, and some others—men whose conduct justified the conclusion that they were seeking to dissolve this Confederacy—were the only persons of whom he had ever heard, who seriously denied their title to property in slaves.

I had not intended to enter even thus largely into the question of the right of property in slaves. But when a man rose to speak upon this subject, especially a gentleman from the South, upon whose forehead a majority of this House had placed a placard with the inscription that he was a reproach to humanity, morality, and religion, it was utterly impossible for such an one to address this House without being carried further than he perhaps ought to go. I am the last person to discuss the question of slavery here; but I am one of those who believe that the interest and safety of the South require it to demand of northern members to discuss this question no more, or else it could no longer remain in bonds of fraternity with them. The slave population was now in a state of subjection, of obedience, and even of love to their masters; but if these discussions were to continue many more years, the time would come when no southern man could sleep in his bed without a guard at his door. It was the necessity of the case which compelled us to require of our northern friends, if they be friends, that these discussions should cease, and cease of their own accord. We do not desire to impair the liberty of speech, or to do violence to that great right in any particular, but we will require it, as an essential to our longer continuance in this Union, that this agitation must stop. Could any southern man, with a just appreciation of his honor and dignity of character, sit here with such a brand as was placed upon his forehead by a majority of this House a few days since, and remain perfectly quiet and undisturbed in his feelings?

If he had a true southern heart, he must rebel against such action on the part of this House. When that vote was passed upon the resolution of the gentleman from New York, [Mr. GOTT,] if there was a southern heart here which did not beat even with rebellion, if gentlemen chose to call it so, then it was the heart of no true southerner.

Mr. TOOMBS rose to a question of order, and called for the enforcement of the rule which the Chair had applied to the gentleman from Vermont. He thought the business before the House was about Pacheco and his negro, and he wanted to get at it; he did not want this subject discussed at large.

Mr. MEADE. I did not expect an interruption upon this subject from a southern gentleman, especially after such a latitude of debate as had been taken by gentlemen from the North.

The SPEAKER said, the Chair would state to the gentleman from Virginia that when the gentleman from Vermont [Mr. COLLAMER] had commenced digressing, by discussing resolutions which were not before the House, the Chair had called the attention of the House to the fact, and had stated that the gentleman could not go on without the leave of the House. That leave having been virtually given, as no objection was made, the gentleman was allowed to proceed. But now, the point being insisted upon, it was not in order for the gentleman to discuss the general question of slavery. It was proper for him to allude to other subjects by way of illustration, not of argument.

Mr. TOOMBS said, having called the gentleman from Vermont to order for discussing a question of slavery, he deemed it not only his right but his duty to call the gentleman from Virginia to order. He insisted upon the point of order.

Mr. RHETT. Was not the gentleman from Vermont permitted to go on?

Mr. MEADE said he hardly thought he was traveling further out of the limits than the gentleman from Ohio [Mr. GIDDINGS] had a few days since, and he had not been called to order.

The SPEAKER said, the Chair decided that any discussion of the resolution introduced a few days since by the gentleman from Ohio was not in order upon this bill.

Mr. MEADE said he was speaking upon the subject of the Pacheco claim, and the ground had been taken, among others, by gentleman in this discussion, that there was no right of property in slaves.

The SPEAKER. The gentleman has the right to argue that question.

Mr. MEADE. Then have I not the right to say that the agitation of such questions has a tendency to the disruption of the Union?

The SPEAKER. The Chair has no objection to that remark.

Mr. MEADE. I am only amplifying on the subject.

Since my remarks are rather distasteful to gentlemen, I have no objection to leave that branch of the inquiry, and proceed to the question, whether this Government was bound to deliver up this slave Lewis to his owner, or to indemnify the owner for his loss? We all know that the Government could not be a defendant before a court of justice, and hence there were no decisions to be found in our reports which established the liability of the Government to damages in this form. We must therefore argue this question of law solely with reference to the liability of individuals similarly situated. I intend to place this matter in such a light that no legal gentleman at least could vote against this bill, unless it was for some other reason than that this Government would not be bound to pay for the claim if it were placed in the same relation to the party as an individual would be. There were many who would vote against the bill on the ground that property could not be held in slaves; there were many who would vote against it for fear of their constituents at home, or of those who held the balance of power at home, and under the ostensible plea that the Government was not bound. He could not believe that there were twenty members of the House who would vote against the bill on the ground that the Government was not morally bound to make remuneration for this slave, admitting it to be property; and that the Government would not, if it could be sued, upon principles of law and equity, be bound to make restitution.

The question had been made, whether or not General Jesup had exceeded his authority in sending this slave with the Indians to the West? Was it denied that he was the agent of this Government? If he was the agent, and the officers acting under him were the sub-agents, the only question to be inquired into, to fix the liability of the Government, was, whether his original possession of the slave was lawful? None could deny that he had the power to make this contract for the services of the slave; and none could deny, that under that contract, he was bound to redeliver the property thus temporarily committed to his charge. Was that a legal proposition which was to be discussed at this day? And the only way in which he could relieve himself, as the agent of the Government, from redelivering the slave was, by showing that circumstances intervened which made it impossible for him to do so. If the slave, after being captured by the Indians, had continued in their possession, or secreted himself so that he could not afterwards be found or recovered, the Government would not be bound to make restitution; for Pacheco, when he hired this slave at twenty-five dollars per month, took upon himself all the hazards of war and of the service for which he hired him.

But the original possession of the slave by General Jesup, under the contract, was a lawful possession, and it was a lawful contract; and after the

service contracted for had ceased, he was bound by that contract to redeliver the slave to his owner, unless some contingency intervened which made it impossible for him to do so.

Mr. PETTIT interposed, and (the floor being yielded) said, he had no difficulty at all in admitting that property might be held in slaves; but he wished to ask the gentleman whether, if private property, be it slaves or horses, were captured in war by the enemy, that private property did not become, as a necessary consequence, or *per se*, (as John Tyler would say,) the personal property of the captor? And whether it must not remain so, not only during the war, but forever, unless by the terms of peace, by the stipulations of the treaty of peace, private property was surrendered?

Mr. MEADE. I had intended to discuss that point; and, in so doing, would give an answer to the gentleman from Indiana. It had been adverted to by the gentleman from Vermont. But the fundamental error committed by the gentleman from Indiana, as well as by the gentleman from Vermont, consisted in the idea that the Seminoles, whom we were endeavoring to reduce to subjection, were a nation. They had never been treated as a nation. The object of the Government in commencing this war with them had been either to drive them beyond the confines of the country or to exterminate them. Was that ever the object in view between nations going to war? Were the captures made by the Indians during the Seminole predatory war to be governed by the same principles of international law as governed the intercourse between this country and Great Britain when they were at war? That was the error into which gentlemen had fallen. No gentleman could contend, with any plausibility, that a tribe of Indians, living within a sovereign State of this Confederacy, temporarily occupying, by the consent of our Government, a small tract of country under our jurisdiction, was a nation—invested with all the rights of a nation. Was that the position assumed by gentlemen upon the other side—assumed as an excuse for their voting against this bill? Ever since our forefathers landed on these shores we have been driving these savages before us, without respect to any of their rights. When they are among the whites they are only tolerated; and all that we accord them is from a feeling of humanity. We never did respect a tribe as a nation.

If there were not legal decisions even, in favor of the restitution of this slave, or of indemnifying his master, there was a moral obligation, under the circumstances, resting upon the Government to do one of these things; and nothing could relieve gentlemen from the necessity of admitting this position, unless they took the ground that there was no property in slaves. General Jesup sent this slave abroad for national reasons alone; from motives of public policy, (as we are told,) for the purpose of keeping the country in which he lived quiet; for he was turbulent and rebellious. For the good of the country at large was this step taken; and it had been sanctioned and ratified by the Government. How? By the refusal of the Government to redeliver him to his owner; by their never complaining to General Jesup that he had transcended his authority in this matter. Did we find, in the correspondence of the Executive department, a line which showed that our Government dissented from that act of General Jesup? Was not that, then, a virtual acquiescence and ratification of the act? Having retaken the property which had been hired by an agent of the Government, and having obtained possession, did not the original contract fasten upon it, and require the Government to redeliver the property thus retaken, having been placed by the chances of war in a condition in which it could comply with the contract? What was it which relieved the Government from complying with the conditions of the contract? Was the original contract made with Pacheco good or not? And what was this contract? It was, that the United States should receive services of a certain character from the slave of Pacheco, for which Pacheco was to be paid a certain sum, he running all the hazards incident to the service; but the Government, on the other hand, of course, binding itself under the contract to take such care of that property as it would take of its own. Would any gentleman contend that a slave belonging to General Jesup, retaken under the same circumstances, would not have been retained by him as his property? Would gentlemen contend that a wagon and horses impressed into the service, taken by the Indians, and recaptured from them under the same circumstances, would not have been returned to the owner? The idea was preposterous. If a wagon and horses had been taken by General Jesup to transport the Indians to west of the Mississippi, would the gentleman contend that the Government would refuse to pay for them? No such ground could be assumed.

I am right, therefore, in saying that gentlemen in voting against this bill were influenced by the fear that property in slaves would not be regarded as property by their constituents. Whatever might be said of southern slavery, he found a slavery in this House more servile and reprehensible than any which existed in the southern States. About one-tenth of the population of the North had enslaved gentlemen to a degree that they dare not vote their own opinions, but were held in bondage by a little squad at home, who held the balance of power between them and their political opponents. There are honorable exceptions, I know. If gentlemen would at once break those chains, and join their hands as brothers over the altar of their common country, and unite in crushing with their heels these reptiles who are seeking to destroy this Confederacy, and to apply the knife to the throat of the southern master, we should never hear more of these discussions.

Gentlemen said that General Jesup had exceeded his authority. Sir, the principal is bound for even the misfeasance and torts of his agent. We had heard of a case, which recently occurred in one of our northern cities, of an omnibus driver, hired by his master to transport passengers, who had run over an individual who recovered from the owner of the omnibus fifteen hundred dollars. Here the driver was certainly not hired for this purpose, yet the principal was held responsible for the acts of his agent. The law books were full of cases of a similar nature.

But the gentleman had argued that it would be a dangerous doctrine to the South, if the general in command of an army was allowed to impress their slaves and transport them to the free States, where, of course, not being regarded as fugitive slaves, they would be entitled to their freedom. He was perfectly willing to run this hazard. There would be no justification for such an act, and the owner would be entitled to redress. There were cases in which the public safety was superior to all law. Would it be denied that a general in want of provisions for his army could go to the nearest plantation and take them, even contrary to the assent of the owner? And would gentlemen refuse to make indemnity for them on the ground that the general had exceeded his authority, and that the Government was not bound? There might be cases in which a commanding general had the right to burn the town of his own people: would it be contended that such an act was not the act of the Government? There were innumerable instances of impressments made by generals in command, and redress had been sought at the hands of Government. Had it ever been refused?

He referred to the fact that a general order had been issued from the War Department to deliver up to their owners the slaves that had been captured by the Seminoles in this war. He read the following extract from the letter of Mr. Poinsett (then Secretary of War) to General Jesup, dated October 7, 1837:

"With respect to the final disposition of the slaves, [captured by the Creek warriors,] great care must be taken that, as far as practicable, such of them as are runaways should be restored to their owners. The remainder must be kept in safe custody, and, if possible, in such manner as will enable them to earn the value of their subsistence, till the close of the war; when, if deemed expedient, those belonging to the Indians can be restored to them; the residue remaining for such disposition as may be deemed proper. There does not seem to me to be any authority with the Executive to send them to Africa, but that measure can be recommended to Congress for its sanction."

This letter directed runaway slaves, where recaptured, to be delivered to their owners. Could there be any distinction drawn between runaway slaves taken by the Seminoles, and such as were seized in the fort in which Dade's command was massacred? The "residue" were to be reserved "for such disposition as might be deemed proper." By whom? By the Government. What disposition was deemed proper of the slave Lewis? General Jesup thought that he should be sent west with the Indians, and the act had been sanctioned by the Government, inasmuch as the Government had never complained of it. The Government was, then, as much bound to make indemnity for the slave as an individual would be under the same circumstances.

Before the railroad between Washington and Baltimore was constructed, wagons ran as common carriers between the two cities. Suppose the driver of one of these had converted the goods intrusted to him to his own use—the owner of the wagon would be responsible. If he was robbed on the way, and had afterwards found or recovered the goods, and refused to deliver them, the owner of the wagon would be still responsible.

Mr. MEADE proceeded to read several extracts from the law, as laid down by Judge Story, to fortify his position upon the nature of the contract entered into for the slave, and the consequences which attached to it.

Judge Story was preëminent among lawyers; no northern man would question his authority. He says (Story on Agency, page 540:)

"But the responsibility of principals to third persons is not confined to cases where the contract has been actually made under his express or implied authority. It extends further, and binds the principal, in all cases where the agent is acting within the scope of his usual employment, or is held out to the public or to the other party as having competent authority, although he has, in fact, in the particular instance, executed or violated his instructions, and acted without authority. For in all such cases, where one of two innocent persons is to suffer, he ought to suffer who misled the other into the contract, by holding out the agent as competent to act, and as enjoying his confidence. We have already seen that this doctrine applies to a large class of agencies, where the party acts under a general authority, as contradistinguished from a special authority."

Now, sir, the authority of commanding officers in time of war is scarcely ever, and from the nature of the service can seldom be, specifically defined. And in this case General Jesup was clothed with general authority to close the war.

The same author says, on page 554:

"It is a general doctrine of law, that although the principal is not ordinarily liable, (for he sometimes is,) in a criminal suit, for the acts or misdeeds of his agent, yet he is held liable to third persons, in a civil suit, for the frauds, deceits, concealments, misrepresentations, torts, negligences, and other malfeasances or misfeasances and omissions of duty of his agent, in the course of his employment, although the principal did not authorize, or justify, or participate in, or indeed know of, such misconduct, or even if he forbade the acts or disapproved of them. In all such cases, the rule applies, *respondeat superior*."

No case could occur to which this rule of law would be more applicable than the case of Pacheco, even if General Jesup had exceeded his authority, which is denied. But, sir, the author goes still further, and says, page 580:

"The liability of the principal to third persons for the misfeasances, negligences, and torts of their agents and servants, may also arise, although the act is not done, or the wrong is not committed, within the scope of the ordinary business of the principal, if it is done or committed, by the previous command, or with the subsequent assent, adoption, or ratification of the principal. Thus, if the principal should direct his agent to commit a trespass, or to make a conversion of the property of a third person, or he should subsequently ratify or adopt the act, when done, for his own use or benefit, he will be liable as an original trespasser or wrongdoer."

It has already been shown that this slave was sent away for public considerations, or, in the words of the author, for the "use and benefit" of the public, and that the Government, by its acquiescence, had "adopted and ratified" the act.

In controversion of the argument that the commanding general should be held responsible to the claimant, Mr. M. read from the decision of the case of Gidley *vs.* Lord Palmerston, to show that a public agent could not be held personally answerable for actions of this nature, and that the Government was responsible even for the malfeasance and torts of its agent, and he proceeded to allude to some of the considerations of public policy upon which such a principle was founded. On the authority of the case of Gidley *vs.* Lord Palmerston, Judge Story (page 385) says:

"It has been held that no suit will lie against a person who is Secretary of War for refusing to pay over moneys which he has received to distribute among certain claimants."

In this case, Mr. Justice Ashhurst observed: "In great questions of policy we cannot argue 'from the nature of private agreements. Great 'inconveniences would result from considering a 'governor or commander as personally responsi-

'ble. No man would accept of any office of trust 'under Government upon such conditions." Judge Story says that this personal responsibility may be assumed, but "the proofs ought to be exceed- 'ingly cogent and clear, in order to create such 'personal responsibility in a known public agent, 'and to *repel the presumption of law* that he con- 'tracts only on the credit of the Government." General Jesup was the accredited agent of the country; he found it necessary, upon considerations of public policy, to send this slave Lewis out of the country. Even supposing that General Jesup had transcended his authority, it was admitted that he had acted in good faith with reference to the general interests of the country; and, he asked, should an innocent person be made to suffer in consequence? Would gentlemen mete out justice to the citizen with so sparing a hand? The Government was bound to make restitution of the value of the slave. No gentleman would hesitate to do so if the claim was for other property which had thus been placed beyond the control of its owner.

I will now read an extract of a letter from General Jesup to Mr. Poinsett, dated April 9, 1837, in which it was stated that the Indian chiefs had entered into an engagement "to surrender negroes taken during the war," and "to deliver them to the commanding officers of the posts on the St. John's." I presume (though I have not looked minutely into the facts) that this slave Lewis was included in this stipulation.

I can see no excuse for gentleman voting against this claim. I have never known a case which came before Congress more strongly recommended by justice. The owner having taken upon himself the risk of the chances of war, of the escape, and of the death of his negro, the Government was certainly bound, after the service had expired under the contract, to return the slave to his owner; and being in a position in which it was enabled to do so, but choosing to send him beyond the reach of his master, justice most obviously required that indemnity should be made.

No reason had been assigned to the contrary; but the objections rested upon the hostility entertained by gentlemen from one section of the country against the property held by another section. If southern claimants were refused indemnity in cases of this description—if the doors of justice were closed upon them—and, in addition, if Congress refused to pass the necessary laws to enable them to recover their fugitive slaves under the express provisions of the Constitution, he would like to know of what value was this Union to the people of the South?

When the States of Virginia, the Carolinas, and Georgia, came into the Union, it was supposed that the Union would be a means by which their prosperity and happiness would be promoted. It was certainly not intended that, by entering into this Confederacy, they should be curtailed or restricted in the enjoyment of any right; but, on the contrary, the Confederacy was regarded as a means by which all their rights and their future prosperity would be more fully enjoyed and more perfectly secured. But has all this been realized? The southern States, indeed, had largely shared in the places of honor and trust in this Union. I admit that her warriors wore as green laurels, and her statesmen enjoyed as high reputation, as any. With respect to these benefits, the people of the southern States had enjoyed their full share. But to their own enterprise, to their own genius, and to their own gallantry, are they indebted for these things. But, apart from these considerations, I would ask, of what value was this Confederation to the southern people, if their slave property, amounting to nine hundred millions of dollars, was no more to be regarded as a possession of right, and was to be subject continually to the depredations of the very men who had come under obligations of mutual protection? Of what value, if the price in future should be a constant apprehension of midnight assassination? Upon the principle assumed by northern gentlemen, if a vessel, laden with this species of property, were to sail from the capes of Virginia for the mouth of the Mississippi, an abolitionist captain of a United States vessel, acting under a special mission from *above*, might seize it, set the slaves ashore on a British island, and when their owners come in and require of the Government indemnity for their slaves, they would be told that the naval commander, acting under the holy influence of his conscience, was alone responsible for all the property so lost; that the Government could have nothing to do with it; they might be responsible for the little articles of property accompanying the slaves, but not for the slaves themselves. And the same plea might be set up by the British Government, or any other government whose officers might commit a like aggression. Would gentlemen who hold that slaves are not property assist us in such a case? Would they go to war in our behalf?

I ask, if, at some future day, a hostile foreign crusade should be undertaken against the southern States, in order to put down the institution of slavery there, whether, in such event, they could expect any relief from their northern brethren? If Charleston, New Orleans, and all the intermediate coast, were to be invaded with hostile fleets, avowing such a purpose, what assistance could they expect? Was it to be reasonably expected by the South that in such an event the people of Boston or New York would come forward to their assistance? No, sir; not if all were of the same mind as some on this floor, (and that they are rapidly approximating in opinion, no one will deny.) They would say to the South, We will take no part or lot in this strife; ye yourselves are the aggressors in the matter which oppresses you; and the invasion of your coasts is but a means by which, in the order of a good Providence, it has become necessary to chastise you! But if Boston or New York was sacked, they would expect (and not in vain) southern men to fly to their relief.

Consequences like these were intimately involved in the principle upon which the bill under consideration had been opposed. Reject it, and no slaveholder could longer look to Congress for protection, or to the Constitution as the broad panoply under which all may rest in safety. There was an evil feeling growing out of the agitation of this question of slavery. A feeling for separation was rapidly progressing at the South; and unless gentlemen here were prepared to tell the southern people that they still regarded them as a branch——

Mr. DICKEY (interposing) asked the gentleman from Virginia who introduced the bill under consideration? Was it introduced by any northern man?

Mr. MEADE replied, No, sir. But gentlemen from the North had raised the issue about property in slaves. Does the gentleman from Pennsylvania say that we are not to come here for the restitution of our property which the Government has appropriated?

Mr. DICKEY. Whenever you bring a well-grounded claim for property, you may expect it to be restored.

Mr. MEADE continued. That reply was exactly what I had expected. The people of the South were to be debarred from maintaining a claim for property in slaves; and if they were not to be allowed by the North to maintain a claim of this sort, was it to be supposed that the North would aid the South in defence of their right to this species of property, even by repelling a foreign invasion? I will say to the House that such apprehensions prevailed extensively in the South. The slaveholder doubts whether his property would be protected by Congress if invaded; and he would ask, how long this Confederacy could exist under the spreading influences of such an opinion? Nay, he would ask whether, if this bill should be rejected because slaves are not property, it could be regarded as a thing very desirable on the part of the South that it should exist at all? It certainly was not, unless the slaveholding States, as members of this great and growing Republic, could be allowed to enjoy their rights of property as fully and as freely as they shared the laurels of their country's victories and the reputation of her statesmen. He would like for gentlemen to show in what respect the Union could be considered of the slightest advantage to the southern States whenever a principle like this should obtain the sanction of Congress? For himself he declared, that in such an event, he would not give the snap of his finger for it. When he took his seat in that body, twelve months ago, there was scarcely a man of the South who regarded the Union with more reverence than he did. But in the course of the present session he had witnessed what he considered most flagrant attacks upon the rights and interests of the South; and he had been compelled to listen to the most opprobrious epithets, employed not only in debate, but in resolutions which had been passed by that body.

Mr. VAN DYKE (interposing, and Mr. MEADE giving way) said, if he understood the gentleman from Virginia, he was complaining of a matter as the act of the northern members, which was brought about by the votes of gentlemen from the South, and in part, as he believed, by the vote of the gentleman himself. He alluded especially to the vote sustaining the previous question upon the resolution to which the gentleman had just referred. He would like to know how many southern men voted to sustain the demand for the previous question upon that resolution, by which the House was forced to the vote, without any opportunity for amendment or explanation.

Mr. MEADE. I care not how many southern men voted to sustain the previous question. Were northern men obliged to vote for the resolution? I voted for the previous question myself, to disclose to the South, by a vote on the subject, the danger that threatened them, and the real state of feeling on the part of northern men.* I desire not to delay, if I cannot prevent, the issue that was coming upon us. I perceive the danger, and am prepared to meet it at the threshold; and I will say now, that if there was to be any internal commotion on account of this question, it were better for the South for it to come at once, and not be delayed until after years, when the seeds of servile insurrections might be sown. It were much better for the crisis to come now, while the best feeling of love and confidence between master and slave prevailed upon every plantation, than for it to be procrastinated till the time when much of this good feeling might be destroyed; better far that it should not be delayed till the people of the South find themselves in the midst of enemies at their own homes, instead of the friends by whom they are now surrounded.

Here Mr. MEADE's hour expired.

SLAVE TRADE IN THE DISTRICT OF COLUMBIA.

SPEECH OF MR. WM. SAWYER,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

January 10, 1849,

On a motion to reconsider the vote by which the House had adopted the resolution instructing the Committee on the District of Columbia to report a bill to abolish the slave trade in the District of Columbia—

Mr. SAWYER said:

Mr. SPEAKER: I have heard this question discussed from time to time, and by one gentleman after another, until it would really seem there is no other subject claiming the deliberations of this House but negro slavery. It takes precedence of all other questions—nay, it elbows all other business out of this House. Come up what may, in steps abolitionism, pushes it aside, and appropriates to its own use the time which properly belongs to the people—the white people—the people who constitute this great nation. Nearly half the session has already passed. There are now on the calendar some seven hundred private bills yet to be acted upon, and nearly two hundred of a general and important nature, in which every citizen of this Republic is interested; besides, petitions are coming in daily praying Congress to legislate upon many subjects which the petitioners deem worthy of the consideration of their representa-

* The resolution called "GOTT's resolution" was offered, and the previous question demanded by the mover. Mr. HARALSON, of Georgia, moved to lay the resolution on the table, which gentlemen from the North refused to do. The previous question was sustained by a majority of nearly two to one, and the resolution adopted by a majority of ten, every northern man voting for it except seventeen. The resolution is in these words:

"Whereas the traffic now prosecuted in this metropolis of the Republic in human beings, as chattels, is contrary to natural justice and the fundamental principles of our political system, and is notoriously a reproach to our country throughout Christendom, and a serious hinderance to the progress of republican liberty among the nations of the earth: Therefore,

"*Resolved*, That the Committee for the District of Columbia be instructed to report a bill, as soon as practicable, prohibiting the slave trade in said district."

tives here; and yet, from morning to night, day after day, and week after week, nothing is talked of here, nothing can get a hearing that will not afford an opportunity to lug in something about negro slavery. It is negro in the morning—the poor negro at noon—and at night again this same negro is thrust in upon us. Sir, I am heartily tired of this nigger business. I want a change. I beg gentlemen to remember there are some white people in this country, and that these white people are entitled to some consideration—rather more I think than the blacks; at least, my sympathies and affections lead me to this opinion. Yet, a stranger, unacquainted with the real condition of things here, on listening to the debates on this floor, would come to a different conclusion—would very naturally suppose that Congress was instituted mainly for the benefit of negroes. And I begin to fear that the hundreds of American citizens who have presented claims for the consideration and action of Congress may come to the same inference.

There are, too, large numbers of petitions before us praying Congress to adopt various measures, some intended to have a local and some a general bearing. Are these petitioners not to be heard? Are they to be crowded out of Congress by niggers? Are they to be told that the negro, whom they only know as inferiors, wield a superior influence in this House? Sir, no gentleman here will speak out and say "yes!" But it is an old saying, and time has approved it true, that "actions speak louder than words." And the actions of gentlemen here answer these questions in a very different language from that their lips would give. Their constituents may be satisfied with this difference between words and actions; they may open their ears to the one, and close their eyes to the other. But, sir, the constituency I have the honor to represent are not of this stamp; they are an intelligent and independent people, far above the craven's favorite game of hide-and-go-seek; they like plain dealing; they like to see a man's words and actions correspond; they do not recognize the nigger as an equal, far less a superior; they expect their Representative to look to their interests, and not to waste his time in mischievous endeavors to hoist the nigger into the social scale with them. They prefer to see such measures as are calculated to promote their own happiness and prosperity pushed along.

It is now two yeare since I had the honor to introduce into this House a bill for the graduation and reduction of the price of the public lands, and to give to every poor man and to every poor woman who is the head of a family one hundred and sixty acres for a home, free of cost. This bill has never been acted upon, notwithstanding my repeated exertions in its favor. The benefits that would arise from the operations of such a law to that portion of the State which I have the honor to represent, are incalculable. There are large tracts of Government lands there which, at the present price, will not sell in many years. This is a very serious obstacle in the way of the improvement of that portion of the State. Many parts are as yet but sparsely settled, and neighbors find themselves separated by broad tracts of public land, the price of which is too high to induce persons to buy and settle. Families are thus placed too far apart to unite in establishing schools, and to enjoy that frequent interchange of society and good offices which settlers in new countries have so much need of. Where settlements are retarded by large bodies of public lands, roads cannot be worked to any advantage. Every man has enough to do on his own land without making roads through the public domain. The Government, too, is the loser by this miserly system.

The wealth and strength of a nation consist in the numbers and prosperity of its people. The public lands are not national wealth until they are settled, improved, and made productive. Then, indeed, the Government derives benefits from them, and not till then. By the cultivation of these lands the exports of the country are greatly increased, and in proportion to this increase will be the demand for those articles on which the Government receives a tax, and of this tax her revenues are made up. It is therefore the duty and interest of the Government to offer every facility for the settlement and improvement of these lands. And I believe it could adopt no plan better calculated to further this great object, than to give to every head of a family, man or woman, a quarter section, upon the express condition that they live upon and improve it. Thus would be placed in the hands of poor and industrious persons the means of obtaining those articles on which the revenues of the Government are raised; and the settler would thereby render an ample equivalent for the home he would receive.

But there is another reason why lands should be given to such persons as are not able to buy. It is the duty of the Government to aid, protect, and encourage industry; and there is no better way to do these than to place before the laborer proper inducements to exertion. Give him a little tract of land where he can make a home, and feel certain that every stroke of labor he makes is for his own and his family's benefit, and not to be divided with others. He can sit down under his own "vine and fig-tree," with his wife and his little ones around him, without fear of being driven away at the will of a captious landlord. Thus will industry receive its proper reward, and the certainty of this reward will act as a stimulus to exertion. This is the way to make a wealthy country, and an industrious, virtuous, and prosperous population.

There is much land in the northwestern part of Ohio as rich as any in the world, but covered with such heavy forests that few men can afford to pay the present Government price for it, and then clear up their farms. They can put their money to more profitable uses. And for these reasons, this fertile region in many parts is but sparsely inhabited. But give these lands to the hardy but poor pioneer, and this wilderness will soon bloom as the rose; the sound of the axe will be heard in every direction, and the crash of falling trees will attest the energy with which it is wielded; and the crackling flame and curling smoke make Indian summer for the sturdy laborer within his clearing. There will be "rollings" every Thursday, and "raisings" every Saturday. The dinner horn will be heard across broad fields, and will be answered by the keen appetites attendant upon honest labor. The music of the spinning-wheel will echo back the gayety of the happy-hearted lass. Little boys and girls, ruddy with health and made cheerful by plenty, will crowd the forest paths to schools. Good roads will thread the wilderness, and upon them will be seen hundreds of hardy farmers wending their way to markets with the products of their own labor, and returning with presents for their little children, and comforts and conveniences for their families. And in this demand for foreign productions in exchange for our own, the Government will very soon receive four times the value of the lands it gives to produce this glorious result. And here, too, in times of war, the Government will find soldiers; and in times of peace a happy and prosperous people. And what more can it reasonably desire? Upon every consideration of humanity, of justice, and of sound policy, this plan of disposing of the public lands ought to be adopted.

All agree that air and water belong to the human race in common, and laws are enacted to protect all alike in their enjoyment of them, because man cannot exist without them; and yet land is just as necessary to his existence as either of these elements, and yet its use is circumscribed, confined to those who have money to buy. This should not be so. The great secret of American prosperity is in our liberal land system—liberal compared with that of other governments, yet capable of great improvement; and the faster that improvement is made the more rapid will be our progress to that glorious destiny before us. This, sir, is something in which my constituents feel an interest far deeper than in any nigger question you can raise here. They want to see the wild lands around them in the hands of industrious, useful settlers, and it is in the power of Congress to grant this reasonable wish.

Now, I appeal to the good sense of this House; I appeal to the patriotism of gentlemen here; to their sense of obligation to their constituents and to the country; to their respect for the dignity and credit of this body, to abandon this infamous waste of time—for such I must call it. I desire to cast no censure upon this House, but I must say a question has been agitated here for some time which should long ago have been disposed of, or kept out until the great interests of the nation could have received the necessary action: it is a subject of minor, or rather of no importance to my constituents; there are other subjects before this House of far greater interest to them. The House is spending its time day after day without any beneficial result, in the discussion of abstract questions; and certain gentlemen seem to aspire to nothing higher than raising questions the effect of which is only to embarrass others in the votes they are to give, without aiming at any practical good. For my own part, I shall feel no embarrassment from this source. My way is clear. My constituents will not require me to give my vote, unless upon tangible and practical propositions. They care nothing about the ingenious devices gentlemen may choose to invent for their own amusement, or to entrap and puzzle other gentlemen. They look to Congress for proceedings of a higher character, for legislation of a graver nature. They expect solid benefits from the meetings of Congress, and not flimsy declamations upon as flimsy subjects.

I ask gentlemen to look seriously into this matter; to withdraw their eyes for a few moments from the beautiful niggers, if they can—if their sympathies and affections are not too deeply involved in the fortunes of Sambo and Dinah—if they can for a little while recollect that there are a few white people too who would like to receive some attention,—and to proceed to the despatch of the public business, and to let negroes and negro slavery rest a little. They will be all the better for it; and better still would it be for them if this obtrusive sympathy had never been excited. There was a time when this question was unknown in the halls of Congress. Gentlemen assembled here then to attend to the public interests, and quietly permitted the respective States to regulate their own internal affairs in their own way. In those days, the work of emancipation went on without noise, but with a steady progress. During this period, several of the States in which slavery was legalized adopted systems of gradual emancipation; and under the slow, but sure and safe, operations of this system, slavery disappeared from within their limits. Other States, in which the institution still exists, were about to follow this enlightened and politic example. But a few individuals in free States, incapable of bringing themselves into notice by honorable means, determined to do so by expedients of a different character. Their malicious spirits could not contemplate the steady and smooth progress of a good work without envy; and their first movement was to check it, by pretending to hasten it along—thus adding hypocrisy to malignity. They therefore interfered with the good work which the citizens of the slaveholding States had commenced, determined to take the job out of their hands, and to finish it, not by contract, nor by permission, but by main force, and in their own way—the way, too, most offensive and injurious to those who really possessed the sole right to interfere in the matter. This threw the people of those States upon their reserved rights, and compelled them, from self-respect, to abandon a labor they saw and felt the wisdom and necessity of completing. This impertinent meddling has cost the nation millions of dollars, and there is not one slave the less. If these agitators had but attended to their own business, the work of emancipation would have gone on smoothly and quietly; millions of dollars would have been saved to the public treasury; the bond of union among the States would have been strengthened; the public business would have received prompt attention; and demagogues would have sunk into the obscurity they deserve. It is not too late to bring these things about yet. It is true, the money that has been squandered, and the time that has been wasted, cannot be recalled; but we can start anew, and escape from the dangers that threaten, and make the future atone for the past.

We have much business on hand that is properly our own, or has been intrusted to us by a confiding people. Why should we not give our attention to that first? And when that is done, let us return to those who employ us, and give an account of our stewardship, and inquire what other service we can perform for their benefit. But no; here we are forever disputing about matters without form or substance.

The course pursued by this House reminds me of an anecdote I have heard of a little boy who went to a woman in his neighborhood to get her to patch his pantaloons. The boy had perhaps been sliding on the cellar-door too much: at any rate, the seat of his pantaloons was considerably damaged; and I fancy he looked very much like the "mill-boy of the slashes," who is represented by his admiring friends, mounted on his grist, going to mill, "with his shirt-tail sticking out behind." The woman asked him why his mother did not put a patch on for him. "Why," said the lad, "she is busy at a sewing society, making clothes for the poor Greeks." "Well," replied the woman, "ask your mother to come home and attend to her own household, and then, if she has any time to spare, she can give it to the Greeks." There is a moral in this little story quite applicable to the present condition of things here. We are here busily expending our sympathies and time upon the Greeks, who are far away, and who have not solicited our interference, while, as John Randolph said, "the Greeks are at our doors." Yes, sir, there are some twenty millions of these American Greeks at our doors, asking and expecting much at our hands; and they have a right not only to ask and to expect, but to demand, a compliance with their wishes. And are we to turn a deaf ear to their prayers and their wants, and force our tender care upon those who ask it not, and into regions to which our forefathers solemnly bound themselves and their posterity it should never be extended?

Sir, if we wish to interfere with State institutions, have we not, in most of these States, an institution equally unjust and injurious to the great body of the people and to the prosperity of the country with this much-talked-about and much-sympathized-about slavery? I mean the banking institution. This infamous institution not only holds slaves, but exists by making slaves—not of the black man, but of the white man; it is forever riveting its insidious chains upon the needy and upon the unwary. Many an honest, hard-working man has mauled rails for fifty cents a hundred, that he might be able to get a little coffee, or tea, or sugar, or some other delicacy or necessary, for a sick wife or child, or to pay a doctor's bill, and received for his labor the false promises of this kind of institution, when perhaps the very next day they become worthless, leaving the poor man and his family to suffer, whilst the bankers roll in luxury purchased by these frauds. Sir, this is no fancy sketch; it has happened to thousands. There is scarcely a laboring man in any of the States where banking is tolerated but has been injured more or less by this villanous institution. There has been more misery, more real heart-rending distress, inflicted upon the white population of this country, within twenty years, by banks, than upon the blacks within fifty years by slavery. Startling as this declaration may appear, it is true. And yet these gentlemen who talk so glibly about enlarging "the circle of human sympathies and human affections," so as to take in the negroes, exclude from that circle the unfortunate victims of this hellish system, although of their own color, and, peradventure, of their own blood.

Sir, here is an enemy to human liberty, to equal rights, and to sound morality, that ought to be subdued. I think there is a clause in the Constitution which prohibits the "emission of bills of credit by any of the States." Now, if these bank notes are not "bills of credit," they are but the shabby substitutes for them, and ought to be suppressed. In this measure the whole Union is interested, and a day now and then might be profitably employed on it. But this question is not now before Congress; but it has a much better right to be here than this everlasting question of slavery.

It is my deliberate opinion that this abolitionism is another of the devices invented by that old arch-enemy of Democratic principles, known in modern times by the name of Whiggery. I have seen it assume so many disguises, and take so many different roads, that when I see any new humbug started I feel pretty certain this old antagonist is at the bottom of it. Like the scuttle-fish, which, when it is pursued by an enemy, immediately roils the water, in order to conceal itself in the dirt it raises, or to blind its foe, and thereby make its escape, the Whig party is almost all the time in muddy water. I remember a few years ago it ventured to attack the old sage who sleeps at the Hermitage, in clear water, but its defeat was so overwhelming that it immediately took refuge in the muddy waters of anti-masonry, and then, thinking itself quite concealed from view, renewed the attack on the old man and the Democratic party, but without doing the least harm. It has been in dirty water and in dirty business pretty much ever since, and has got so used to it that it now asserts a claim to all free dirt, and a little more, and has managed to envelop itself so thoroughly in it that many good people are deceived by it. I think, however, if we could get this abolition fish into clear water, and scrape a few of the scales off it, we would find it belongs to the Whig family. But I care not what forms it may assume, nor what claims it may set up, if it would only keep them out of this Chamber, and allow us to proceed with the business for the transaction of which we are assembled.

I declare, in the presence of this House, before my constituents and the world, the course this House is pursuing is disgraceful and degrading to its character. The session is now about half over; there is a vast amount of public business to attend to—business, too, of the highest importance; yet here we are caviling about abstractions. A solemn voice warns us to desist from this misapplicatioa of time. The cholera is approaching; and I predict, that in another week it will be among us. And if it should come, Congress will not be kept together one week after the event. There are yet no appropriations made for the ensuing year; and should a cholera panic dissolve this House without these appropriations, the very worst of evils must inevitably flow from it, or an early extra session of Congress will have to be called, at a cost of a few hundred thousand dollars, which can every cent be saved, if gentlemen would only stop to reflect what is their duty, and how short the time for discharging it. And I earnestly urge it upon their sober consideration to lay aside all extraneous questions, and to go to work upon the business which the Constitution has expressly placed in their hands, to consult the interests of their common country, and to hearken to the petitions sent here by their constituents suggesting measures for legislative action. With these most important national interests before us, we permit our time to be consumed in these disgraceful scenes. I feel it, therefore, to be my duty to ask the Speaker to inform me how I can get clear of this idle, worse than useless wrangling—whether by a motion to lay on the table, or to postpone indefinitely, or by what other way?

[SEVERAL VOICES: "Call the previous question."]

Mr. SAWYER. Well, I will do so: and I am not afraid to vote upon it. I move the previous question, and I will not withdraw it.

Mr. GIDDINGS. I want the ear of my colleague for a moment.

Mr. SAWYER. No, sir.

Mr. GIDDINGS. I want to inquire of my colleague——

Mr. SAWYER. I want to go to some other business.

REDUCTION OF THE RATES OF POSTAGE.

SPEECH OF MR. NILES,

OF CONNECTICUT,

IN THE SENATE OF THE UNITED STATES,

February 2, 1849,

On the Bill to reduce the Rates of Postage, and for other purposes.

The Senate proceeded, as in Committee of the Whole, to the consideration of the bill to reduce the rates of postage, and for other purposes; the question pending being upon a motion by Mr. CAMERON to strike out the clause providing that papers not weighing more than an ounce and a half shall be circulated within the distance of fifty miles from the place of publication at half a cent postage, and substitute therefor a clause providing that such papers may be sent through the mail any distance not exceeding thirty miles from the place of publication free of postage.

Mr. CAMERON modified his amendment, at the suggestion of Mr. ALLEN, by striking out the words an ounce and a half, so that any paper might go free through the mails within thirty miles of the office of publication.

Mr. NILES. Mr. President, this amendment is, perhaps, of more importance than may strike the minds of those who have not looked into the whole subject. This bill has been prepared as a whole. The committee have aimed at certain arrangements which would bring down postage to what they considered the *minimum* rate, and which, at the same time, would be consistent with enabling the department to sustain itself after the system shall have had a fair trial and its principle be brought into full operation. Any essential interference with this arrangement would be likely to defeat this result. The amendment offered by the honorable Senator from Pennsylvania would, in the opinion of the honorable Senator from Ohio, [Mr. ALLEN,] withdraw some four hundred thousand dollars from the revenue expected to be derived from the system proposed by this bill. I think this is too large an estimate, but should it be two hundred thousand dollars, it could not well be spared; and considering this amendment as materially interfering with the main features of the bill, I may now, perhaps, as well as on any other occasion, say something on the financial character of the bill itself, and upon its distinguishing features; for, if there are to be any material changes made in the bill in that respect, the whole character of it will be changed. The committee have not framed this bill upon any calculations of materially changing the system in its financial character. They did not contemplate throwing this branch of the public service upon the treasury. They believe, sir, that the public can have the benefits, the various benefits, provided for in this bill, after the system can have a fair trial, without any permanent charge upon the treasury—that system will remain substantially what it was, sustaining itself from its own revenues. But if changes are made in its main features, and important abstractions are made from the revenues which the bill is intended to provide, you change the system itself, and throw the post office virtually upon the public treasury. Viewing this matter in this light, and regarding this amendment as involving, in no small degree, the merits of this whole measure, I propose to say something on the main features of the bill as a system, upon its financial aspects, and the results that are to follow from it.

Before doing so, however, perhaps I ought to say a few words, in addition to what I said the other day, in reply to the very able and extraordinary speech of my friend from Ohio, [Mr. ALLEN.] I did not wholly dispose of it in what I said at that time, and I will therefore give it some further consideration on this occasion, though I cannot bestow much time upon it now.

My friend, on that occasion, took a very extensive range in his discussion of the question then before the Senate, giving it, perhaps, more importance than it was entitled to; an importance not only relating to the financial results of this bill, but going into elementary considerations, the first principles of civil liberty, the efficacy of that amendment upon the great interests of freedom, of free institutions, and civilization; and among other things, brought into the discussion the mail lines of steamers, whose connection with this subject appears to be somewhat remote. Well, sir, I met the objections of the gentleman in relation to the mail lines by the *argumentum ad hominem*. I said that I thought my friend was himself responsible for that policy of the Government. I thought I established that point very well; and I now repeat that I consider him responsible more than any other man for the establishment of these lines.

Mr. President, I cannot very well give my opinions here, as there is so much "noise and confusion" that it is impossible to make myself heard. [Laughter.]

I endeavored to show, at that time, Mr. President, that my friend from Ohio was, more than any other member of this body, responsible for the establishment of this policy. I have a word or two more to say upon that subject. The other day, I referred to a very celebrated speech which the honorable Senator from Ohio made in this Hall, the object of which was to get up a war spirit in this country, a war with Great Britain, our great maritime rival; and I will now go further and say, that he not only attempted to get up a war spirit, and prepare the hearts of the people for war, but that he proposed precisely this kind of warfare, this steam-maritime warfare. That was the great

idea of the gentleman's speech, and he told us in that very celebrated war-speech, that the introduction of steam into maritime warfare had produced a revolution in naval power throughout the world, the effect of which was to deprive Great Britain of all the immense advantages of her naval superiority, and that all commercial nations were now to enter with equal advantages into competition, from this common departure, and that Power which might be most successful in this new mode of warfare would, of course, have command of the seas, and that Great Britain would no longer have any advantage over us, or any other commercial Power. This was the leading idea of the gentleman's speech, and I suppose it had effect with the people, with the Senate, and with the Executive branch of the Government, so far as the adoption of this policy is concerned; because very soon after the delivery of that speech this policy began to be agitated here, and was carried out to the extent to which it has received the sanction of Congress. But this is not all. I hold the gentleman still further responsible. He has attacked this line to Havre. I am surprised at that, for I hold him responsible for that line also. This I will now demonstrate. You will all doubtless recollect that at the last session my friend from Ohio introduced a very notable resolution here, which was one of very high responsibility, by which we pledged ourselves—for that was the interpretation put upon it by the Executive of the country—virtually to aid in consolidating liberty in France. Well, sir, that resolution was passed, and what did the President do? Why, he communicated it to the French Government, and interpreting it, as I suppose my friend did, as meaning something more than congratulation, it was interpreted as an offer of our good offices, as a tender of our services and coöperation in consolidating the liberties of the French people. In communicating it to the Executive of the French Republic, the Secretary of State, no doubt acting under the advice of the President, in a very polite and diplomatic way, suggested the very deep interest this Government took in the consolidation of liberty in France, and in the same diplomatic style hinted that they would do well to respect our example, and profit from the lights of our experience, the only great free people on earth. And Lamartine, then the organ of the French Republic, appears to have understood this resolution in the same sense; for, in his reply to our minister, he observed that "France would show a just sensibility on receiving the congratulations of any foreign Power, mingled with advice:" but, in consideration of the long and intimate friendship which had subsisted between France and the United States, she would waive all exceptions in this instance.

Now, sir, it appears that, by the Executives of both countries, this resolution was regarded as a sort of obligation on our part to aid by our good offices, and every way we could, without improper interference, in accomplishing the great object of consolidating liberty in France. Well, sir, having proceeded thus far, what was to be done in order to carry out this great idea? We must carry it out in some way. We must do something to secure this important result. Well, sir, this contract which had been made for a line of mail steamers to Bremen was the alternative: two of these ships were to go to Havre, or the whole four were to go to Bremen, according to the wish of the contractors; and, in consequence of this obligation we had assumed in relation to consolidating liberty in France, the Government thought best to divert two of these ships from Bremen to Havre. I suppose the object is to introduce our newspapers among the French people, to send them our debates, and thus furnish them light upon this great subject of consolidating liberty. [Laughter.] How else could we do it, sir, but by sending there the gentleman's speeches, and the speeches of other gentlemen, and letting them see our method of consolidating liberty here; holding up our candle to them, and letting them see those measures by which we were so successful in consolidating liberty in this country? That, sir, was the origin of that line; and I therefore hold my friend responsible for it, as having introduced this policy, also, as well as the general policy of securing to us the mastery of the seas by this new mode of warfare—the introduction of steam-power into the navy.

Sir, I come now to the turning point. In regard to the course of my friend, so far, I have no particular objection to make to it, but I want to call the attention of the Senate and the country to the fact that "a change has been going on in his mind," though I do not wish to injure his high standing in the country. It is very common for public men to experience these changes. The ideas of my friend in relation to this matter have undergone a very great change, which I have been very sorry to see. I am sorry to see so many changes taking place in the minds of our public men upon public measures. We had a great many such changes during the past year. I say that the ideas of my friend from Ohio have undergone a great change during the past year in relation to this subject. It is not long since he made speeches here holding out these great objects to the country, and instructing the masses in relation to this new mode of warfare. Having induced us to enter upon this policy, what does he do? Does he stand by us?—No, sir; he now comes forward and denounces the whole scheme. He says it is all the business of jobbers. Jobbers! This policy is the carrying out of his own views as put forth by him upon this floor.

Mr. President, there is a memorable example in history, and in that very country to which the Senator from Ohio turned our attention when speaking upon this subject the other day, which I wish to make allusion, not that I think my friend's case comes quite up to it, but it is very similar to it. My friend has not yet involved his country in war, as did the distinguished orator and statesman to whom I am about to allude, but he has prepared them for war, and now he is the first to denounce that policy, and back out from it. Well, sir, there is an example in the history of that people to which the Senator referred, with which we were all familiar in our school-boy days, nearly parallel with the case of my friend. I allude to Demosthenes, the orator, the renowned orator of Athens. Demosthenes, like my friend, undertook to prepare the hearts of the people of Athens for war. He made speech after speech, oration after oration; and as they were all directed against King Philip of Macedon, they were called "philippics." He succeeded, and, like my friend, aroused a war spirit, and prepared the hearts of the people for war; and such was the effect of his speeches, that when the people returned from the forum, it was in the mouth of every one, "Let us fight Philip." So it was after the speech of the honorable Senator from Ohio. Every one said, "Let us have a brush with England." [Laughter.] Well, sir, that wise and enlightened people, whose example the Senator brought up, came to a very natural conclusion, that the man who was so successful in preparing the hearts of the people for war would be the very man to conduct the war, and so they appointed Demosthenes their general. But lo! and sad to relate, when he came to face the enemy, he was the first man to flee. [Laughter.] I do not mean to say that the Senator from Ohio would do that. I rather think, that if he was called into the field, and brought into a tight place, he would fight. [Renewed laughter.] But that eminent person to whom I have referred, having done so much to prepare the hearts of the people for war, found, when he came to face the enemy, that it was a much more agreeable and safer thing to talk about war than it was to have a collision with the deadly instruments of an enemy, and he threw down his arms and fled. That was the result of that unfortunate preparation of the hearts of the people for war. The Senator from Ohio has not quite got us into war, but in preparation for war—having expended a large sum, having authorized the establishment of these lines of mail steamers, the very instruments which he told us were necessary to enable us to cope with our great commercial rival; and now he turns round and says it is all a miserable business, got up by the jobbers. But I will not detain the Senate further with this part of the Senator's speech; but there are one or two other points of that speech to which I wish to allude.

The Senator brought up, as examples, the ancient republics of Greece and Rome for our guidance on this important question of the free circulation of newspapers within thirty miles from the office of publication. [Laughter.] He treated this question as one involving the continuance of the liberties of this country; and he pointed out how it was that those ancient republics lost their liberty. It was because they had not this free circulation of newspapers. [Laughter.] There was no communication between the inhabitants of the great cities and the yeomanry of the country. There was no communication between the law-makers and the people at large. The great mass of the people, the yeomanry, had no means of making their power felt, and their power would be a more pure, safe, and virtuous power; and if it could have been brought in connection with the inhabitants of the great cities, so as to have made their conservative power felt, probably those republics would have been standing to-day; but unfortunately that could not be done, because they had no free circulation of newspapers within thirty miles of the office of publication. [Laughter.] My friend did not inform us how they carried their mails in that day, whether they conveyed them by railroad or steamboat, or on steamships. He did not tell us even whether they had electric telegraphs or not. But they wanted this free circulation, and if they could have only had the benefit of that, the liberties of those enlightened countries would have been preserved in all their pristine vigor and purity, and those ancient republics would have continued to exist at the present day. This want of "free circulation within thirty miles" was their great misfortune. [Laughter.] It was a great pity that they could not have had this free circulation of papers, although it so turned out, to be sure, that the art of printing was not discovered till some centuries afterwards. But if they had not this great *desideratum*, they had other appliances, which many consider essential to the existence of a free Government. They had a great deal of party spirit and of the machinery of party in those days, as well as at the present time. If they had no free circulation of papers, they had some of the means which we have of preserving the liberties of the country. They had candidates for office, who took the stump and the forum, as our candidates and party orators do nowadays. They had the means of preparing the hearts of the people for war, and not only for war, but for the elections, and of enlightening them upon all political questions, very much as we have, except that they had no free circulation of papers. That was the great misfortune, the want of which was fatal to them. That was their great mistake, and led to the overthrow of their liberties!

Again, the Senator from Ohio says that the press—by which, I suppose, he means the party press—is a part of the machinery of Government, and that it enters essentially into the elements of Government. I do not know but it is; almost everything, perhaps, may enter into the elements of Government, but I think many of these elements are much better than these partisan presses. I think the common-school system, where it exists, is a much healthier element than these presses. I say my friend seems to think that the press is a part of the machinery of Government, and he comes to the conclusion that Government should, therefore, take care of it. Now, although my friend belongs to the school of "Progressives," I think he has taken a terrible stride backwards. Why, sir, I believe that far back, about the time of the discovery of the art of printing, and for more than a century after that discovery, I think it was the general idea that the press was a part of the machinery of Government. This was precisely the idea that my friend has now taken up—an old and exploded idea. The press was then considered a part of the machinery of Government, and the king everywhere took exclusive control of it. It was a royal prerogative, and it was for the king to decide what was proper for the people to read and what not; I suppose my friend would go back to that great principle, and have the Government take charge of the press of the country, and, of course, we are to decide what the presses are to do, and what they are to publish, and we are to circulate the papers free within thirty miles.

Mr. ALLEN, (interposing.) Does the Senator from Connecticut state that I said that?

Mr. NILES. No, sir, I am only drawing inferences. A great many inferences are to be drawn from the remarks of the gentleman.

Mr. ALLEN. Mr. President, I wish to state

that the Senator from Connecticut has been ascribing a great many remarks to me which I never uttered, and which he knew I had never uttered when he so ascribed them.

Mr. NILES. I have not said that the Senator from Ohio made statements precisely of this kind. I am merely drawing inferences from the position of considering the press a part of the machinery of Government, and I draw inferences with perfect freedom on all occasions. I say, that if the Government is to take charge of the press, if it is to be considered a part of the machinery of Government, the consequence that will immediately follow is, that it will be a mere instrument in the hands of the party in power, and they will control it for their own purposes. I object, therefore, to the whole scheme. I believe the true principle would be to leave the press entirely free, disconnected from the Government altogether.

There is one other point to which I will refer. I think the Senator makes another retrograde movement in regard to this free circulation. I think that this principle of free circulation of papers comes within the class of privilege. He does not propose a general free circulation. If he did propose this, it would not fall within the idea of privilege. It would be a service performed by the Government for one entire interest of the press. But when he proposes to draw a line of discrimination, and circulate a certain class of papers free at the charge and expense of the Government, I think that it is a matter of privilege—a privilege to the publishers of this class of papers—a privilege to the citizens living within this limit, which is not common to all others. All privileges are in derogation of common right, and this stands upon the same ground. And I would ask my friend on what principle of right it can be justified? If you go for a free circulation to all papers it is one thing, but to draw a line allowing certain papers having a limited circulation to be under the care and protection of Government, circulated by our agents free, and all others subject to charge, it is a privilege not common to all engaged in the same business.

Mr. President, my friend was the last member of this body that I ever supposed would raise his powerful voice in defence of privilege. Why, I have heard him combating privileges, fighting monopolies, leading the forlorn hope against bank monopolies and all others, with a power and spirit that did my heart good to hear him; and, after all this, I am sorry to see him stand up here as the advocate of privileges of any kind whatever. He advocates two privileges in this bill—a privilege to a certain class of papers, and a privilege to the members of this body, the franking privilege. I think he has avowed himself the advocate of that privilege. I know he says that is a privilege for the people. Sir, I believe that may be said in regard to all privileges. No man ever asks for a privilege but in the name of the people. Whether it is so or not, is always a question for the Legislature to decide.

Mr. President, I am sorry to see my friend fall back, as I think he has, instead of going ahead. He belongs to the "Progressive Democracy," and yet he has fallen back, and comes here the advocate of privileges. Why, sir, I expected to see him fighting against privilege in every form, leading on the masses, standing on the very trench where the enemy was to be met, and with his powerful voice rallying his forces with the spirit-stirring shout—

"Charge, Chester! Charge! On, Stanley! On!"
"Once more unto the breach! Dear friends, once more!"
[Laughter.]

But instead of this, I find him, to my great sorrow, backing out from this honorable position, and coming forward as an advocate of privileges to others, and urging one for himself. [Laughter.]

Mr. President, I have done with that part of the subject. I believe I have said all that is necessary to say in answer to the very powerful speech of my honorable friend. I would also say, that notwithstanding this apparent falling back on his part—notwithstanding we have other evidences of a change going on in the minds of public men, still, sir, I hope that, although I shall soon cease to be a member of this honorable body, my friend will remain here, and that in retirement I shall be gratified, not in hearing his powerful voice, but in reading his speeches in the newspapers—not circulated free, I hope—in which he will be found standing upon the ground which he occupied when he entered this body, and which he has generally maintained, as the enemy of all privilege, as well as the enemy of jobbers; as the opponent of all special legislation; and as the great and powerful advocate of the equal and common rights of the whole people. This I shall expect, sir, and I hope I shall not be disappointed in my expectations.

I will beg leave now to call the attention of the Senate, as briefly as I can, to some few remarks upon the general character of this bill, which has been discussed very little. I shall confine myself entirely to the main features of the bill, to its financial character. And I certainly have no wish to consume any more time with it, if I shall be satisfied that it is not likely to meet with the approbation of a majority of the Senate. And after I have said what I have to submit as to the general features and financial character of the measure, and heard such reply as any one may be disposed to make, I shall esteem it a favor if some one would make a motion to strike out the enacting clause, or some other which will test the sense of the Senate upon the subject. This bill contains two features, though not entirely new perhaps, but which are so great a departure from our former laws that it may be considered as substantially a new system.

The first and most important of these features is that of introducing, substantially, the penny system of a very low rate of postage.

The other is the principle of a uniform rate, which is carried out through this bill.

Now, sir, these two principles of the bill, I think, must stand or fall together; for those who are in favor of a reduced rate are also in favor of a uniform rate, if we can introduce one so low as that it will be little more than a nominal charge. I am not in favor of a uniform rate myself, if that rate be a considerable one. If we cannot sustain a very low rate, I think there ought to be a discrimination; because, if the charge is a considerable one, everybody must see that there is justice and propriety in charging more for a letter or paper carried a thousand miles than for a letter or paper carried only ten miles. But if we can sustain the system with a very low rate like that proposed in the bill—three cents on letters and one cent on newspapers—then I am in favor of a uniform rate, because this low rate does not operate unjustly towards any one. It is a reasonable rate for a letter carried ten miles, and if the system can sustain itself by adhering to the same rate for any distance, although those receiving distant letters may, perhaps, be more benefited, but still, as there is no injustice done to those who use the mail for conveyance of letters for a short distance, they certainly cannot complain, and this rate may be sustained in the transmission of letters a great distance as well as a limited distance. The two principles then, I think, properly go together.

But if we were to have a uniform rate of seven or even five cents, it would be unjust. It would not be just and fair to tax a man five cents, which would be three cents more than it would cost to carry a letter by private express ten, twenty, or thirty miles, and then carry a letter a thousand miles for the same sum. In order to avoid this inequality and injustice, you must come down to a very low rate, and then no injustice will be done, as the charge for conveying a letter a short distance will not be more than the service is worth. There are many and weighty considerations in favor of a uniform rate, as it gives simplicity to the system, and will save much labor in the business of the post offices and the department. When the rate is so low that no injustice is done on the short distances, when no one is unjustly taxed to pay for carrying letters for others a great distance at rates below the actual expense of the service, there is a degree of justice and propriety in a uniform rate. Ours is a country of great extent, and all parts of it have commercial intercourse with the seaports on the Atlantic. A uniform rate places the whole people on an equality in their business transactions, so far as the mail is concerned, with our great commercial cities. The business of those cities is for the whole country and with the whole country, and why should not all be placed on an equality in their intercourse with the seats of trade? An uniform rate will perhaps operate most beneficially to the interior States, because their commercial and other intercourse is with the Atlantic States. They, also, have more of the foreign immigrants than the old States, who want a correspondence with Europe. The uniform rate in this bill applies to foreign as well as to inland letters, so that a person at Chicago can send or receive a letter from Europe at the same charge as a person residing in New York. And, in regard to social correspondence, it is important to remove the barrier which distance interposes as far as possible, and, so far as the expense of correspondence is concerned, to bring distant friends as near together as those who are separated only by a few intervening miles. Low postage, with a uniform rate, is a great boon to the whole people which cannot well be estimated; however high your estimate, it will fall below the reality. The people demand this great boon at our hands, and when they have once tasted of this hitherto forbidden fruit, you can no longer withhold it from them. They have now only a foretaste, but even that stimulates them to demand the full fruition of so great a blessing.

Mr. President, I apprehend that it is not necessary to go further into the consideration of the public and individual benefits which will arise under the operations of this bill, for I presume it can meet with little opposition from any quarter, if gentlemen can be satisfied that the financial character of the bill will not prove a failure. I suppose that that is the main objection which is to be met. I believe it may be conceded that all its provisions are calculated to benefit the community; that it is in all respects an improvement upon the present system, not only in the reduction of postage, but in the simplicity, uniformity, precision, and certainty, and particularly in regard to foreign rates. In foreign letters the same principles of uniformity are found, so that a merchant or an immigrant or a farmer in the western States can receive a letter from his friend in Europe at precisely the same rate as an immigrant living in New York. This equality in the foreign and domestic correspondence is something that never has been enjoyed in this country, placing the whole people, without reference to their particular location, upon the same ground, all enjoying the same advantages in their intercourse, both foreign and domestic. Without saying more, sir, in respect to the character of this bill, in the conveniences and advantages it will afford to the people, I will now call the attention of the Senate to the views which I have to present in regard to its financial results, and whether the system can sustain itself.

In framing this bill, the committee have acted upon a view, which I have partially presented, that this is not to be a material departure, in its financial aspects, from the system which has prevailed from the formation of this Government. It is supposed that these rates, when the principle can have a full and fair operation—that is to say, when the power and efficacy of this principle of a low rate can be fully developed—will produce a revenue about sufficient to sustain the department. It may be that some aid from the treasury will be required to cover the expense of the unproductive routes. But if the country was as generally settled as it is in the old States—not the most populous States, but say the Atlantic States generally, or all the old States—I have very little doubt but that this system would sustain itself. Something, perhaps, may be required—some one or two hundred thousand dollars, perhaps three hundred thousand dollars—to make up the expense upon the unproductive routes in the unsettled portions of the country. We believe, that as these routes are required to be established, in order to do justice to those living in such sections of the country, it is right that the people should be accommodated; but at the same time, we did not think it was just that this burden should be thrown upon the post office establishment exclusively, as it would thus come out of the pockets of those only who pay for carrying letters in the mails. We have conceived, therefore, that it should be thrown upon the whole country; and that burden is proposed to be charged upon the treasury, so that all will bear an equal share of it. What it will amount to, I am not prepared to say; probably not more than a few hundred thousand dollars.

But besides this, we have presented this bill

with the belief that it will require aid only temporarily; that its principle, when it can have full action in this country, will prove as efficacious here as it has in England; and that these low rates will produce a revenue adequate to sustain the establishment.

Mr. President, I am perfectly aware that so great a change as this bill proposes, reducing the first rate of letters—that is, letters sent over routes wholly within the United States—to three cents, would, a few years ago, have been deemed a proposition so extravagant that no Senator would have given it a moment's consideration. I would not myself, perhaps, have deemed it worthy of consideration ten years ago, or even less. I was for a reform during the short time I was in the department. I thought, at that time, that the rates should be somewhat reduced, and recommended a reduction to fifteen, ten, and five cents. In 1845 we made a greater change than that. We introduced the present rates of five and ten cents. This bill proposes a uniform rate of three cents; and, as I have observed, it is the experience which has been had, and the light thrown upon this subject, which affords the only arguments and the only ground of support to the idea that the department will be sustained from its own revenue under the operations of this bill. I know that there are some who propose a lower rate. I am not one of that class, though I know that the people of this country demand a low rate of postage. I believe they will have it, even though the result should be to throw a considerable charge upon the treasury. But if that is not necessary, if the system can be made to sustain itself, I think that every one will be in favor of it. I trust that every one would be in favor of the system proposed by this bill, if they could be convinced that, after a fair trial, it can sustain itself. Whether it can or not rests entirely upon the experience which has been had of the efficacy of this principle in producing revenue, and of course the same evidence with regard to the benefits which are otherwise conferred upon the country; because the amount of revenue proves the vast number of communications which pass through the mails. The more extensive its operation, the greater the benefits to the country. The revenue, therefore, which has been derived under the act of 1845 shows the benefits of the system in increasing correspondence, as well as its efficacy in respect to revenue.

Sir, we have the example of England; we have our own experience under the act of 1845, which I believe every one will say has been more successful than was expected at the time. I was one of its advocates. My worthy friend from Rhode Island, [Mr. SIMMONS,] no longer here, and myself were the principal advocates of the rates established at that time. The chairman of the committee was for higher rates.

I will now call the attention of the Senate for a moment to the results of this system in England. This, of course, is a matter not in any way political; and if we can get at the result in any other country upon a matter of this kind, the results there are as safe to be followed as results here. I do not think that low rates of postage will produce results, essentially, more favorable in respect to revenue in England than in this country. They are, perhaps, more commercial and manufacturing than we are; but, on the other hand, they are not so generally educated as the people of the United States. They are not a people so migratory as the people of this country. They have no western country, no general emigration from one section of the country to the other, to give rise to extensive correspondence. They are stationary, full everywhere; and yet we see what have been the astonishing results of this system there. I will call the attention of the Senate briefly to a statistical statement of the results of the system in England.

In the first place, in respect to revenue, the receipts of the English post office in the year 1840, before they changed their law, were £2,390,000, omitting fractions. The new law took effect in 1841. The reduction of the receipts in the first year was great. The revenue in the year 1841, the first year of the new system, amounted to only £1,359,000, being a deficiency of something over a million. It is not necessary to give the increase from year to year. In 1847 the revenue amounted to £1,963,000. The last year (1848) was the eighth year of the new system, and the receipts amounted to £2,181,000, being a falling off from the receipts of the last year of the old system of £209,000. We see, then, that in the eighth year, in England, where the postage was reduced from an average rate of seven pence [fourteen cents] to one penny, [two cents,] the postage came up to the amount received under the old system, within a little over two hundred thousand pounds sterling.

Now, Mr. President, this increase of postage was connected, of course, with a very great increase of circulation of matter passing through the mails. I have some statistics in regard to the progress of the increase of letters. I will first give the statistics of the London local post office. Under the old system, in 1840, the number of letters which during four weeks passed through this office was two millions one hundred thousand; in 1848 the letters had increased to eight millions five hundred and odd thousand for a like period of four weeks. That includes the local letters, written within and delivered within the city. Here are the statistics of the general post office in London, with regard to the distribution of letters coming from every part of the kingdom, not written in the city, but delivered there. In 1840, before the new law went into operation, the number of letters passing through that office in four weeks was one million three hundred thousand. In 1846 the number of letters was two millions seven hundred and seventy-six thousand; and in 1847 it was two millions eight hundred and seventy-two thousand, making more than thirty thousand for the year. Then, again, the increase of what they call money orders—which is a large business that we have not here—which are certain letters conveying money not exceeding five pounds sterling, was very great. In 1840 the amount of these orders paid, under the old system, was ninety-two thousand pounds sterling. And under their present system, in 1848, the amount paid was three millions five hundred and forty-seven thousand pounds sterling.

In regard to their entire circulation in Great Britain, I have the statistics, coming down to 1848, showing the rapid and great increase. In 1840, under the old system, the whole number of taxable letters circulated through the British post office was seventy-six millions. In 1841, the first year under the new system, the number increased to one hundred and sixty-nine millions. In 1842, one hundred and ninety-six and a half millions. In 1843, two hundred and eight and a half millions. In 1844, two hundred and twenty and a half millions. In 1845, two hundred and forty-two millions. In 1846, two hundred and seventy-one millions. In 1847, two hundred and ninety-nine and a half millions. In 1848, three hundred and forty-six millions. I have a letter from Mr. Hume, the distinguished English reformer, who has taken great interest in the postage reform, as well as all other governmental reforms, which was written to a gentleman in Boston. In this letter, Mr. Hume says, that in the judgment of the officers of the department in England, the revenue of last year (1848) would have reached the point where it stood under the old system; but it seems the result has not proved quite so favorable. Mr. Hume says: "I am informed by the General Post Office that the gross revenue of this year (1848) will equal, it is expected, the gross amount of postage the year before the rates were reduced."

It is to be remarked here, perhaps, Mr. President, that this change in England was made, as all important changes are made in the laws of that country, in pursuance of a very thorough investigation. They found that there was a difficulty in the system of postage revenue; that the people were burdened with heavy taxes; and that while the population was increasing, the revenue of that branch of the Government was not increasing. In three years preceding the change, the increase was but about fifty thousand pounds. This led to an investigation by a commission which, I believe, continued some two months. After a thorough investigation, they discovered the difficulty. One evil was, that a large portion of commercial and other letters were conveyed out of the mails; and it was found impossible to remedy this evil by any penal enactments, or any vigilance in the service. A very low rate was believed the only means of removing this evil, whilst it would be the means of greatly increasing the number of letters written. They introduced the penny system for the beneficial effects it would have in respect to revenue, by drawing letters into the mails which had been carried by private expresses and otherwise, and by increasing correspondence. I have alluded to the increase of letters, and this increase, no doubt, arises from two sources. There are two elements which give efficacy to this system of low postage. One is its tendency to withdraw from other channels of communication the great amount of letters which are not mailed—withdraw them from private expresses, private conveyances, and every other channel; the other source is, that from the lowness of the tax, it being no longer regarded, a greater number of letters are written. By these two elements we are to account for the very great increase in letters of some five or six hundred per cent. which has taken place in England; and this has been its result in seven or eight years. Their postal revenue has reached nearly the point where it was under the old and onerous system. As the increase of letters and revenue is still going on, if it has not already, it will soon reach that point. And as their revenue was not increasing under the system of high rates, it follows that they have already, or soon will, realize as much revenue as they did under the old system. It is true that the expenses of the mail service are somewhat increased. But still they have a large surplus over the expenditures for the inland mail service of some nine hundred thousand pounds sterling; the expenses of the packet and foreign mail service bring a charge upon the treasury. With little or no loss of revenue, how great have been the benefits which have flowed from this great measure of reform? Well may Mr. Hume speak of it enthusiastically, and imploringly beseech us to avail ourselves of this great blessing.

I now propose to call the attention of the Senate to the result of our own act of 1845. At the time that the act was passed, the average rate of postage was something like fourteen cents. That law established two rates—five and ten cents. Numerically, the average would be seven and a half cents, but the department estimate the average in reference to the amount of revenue which accrues from the different rates. They, therefore, call the average six and a third cents; and consequently, taking that as the average, we reduced from thirteen and a half to six and a third, or something more than one-half. It is estimated by the Assistant Postmaster General, Major Hobbie, whose communication, I presume, most if not all the Senators have read, that the reduction in the rates of postage, under the act of 1845, was fifty-six and a third per cent. What was the effect of that reduction? What was the result upon the revenue of that reduction of something more than fifty-six per cent. in the rates of postage? Why, sir, the postage upon letters, in 1845, was three millions six hundred and sixty thousand dollars at the old rates. In 1846, the first year under the act of 1845, the postage upon letters was two millions eight hundred and eighty-eight thousand dollars, (leaving out hundreds,) making a deficiency in the first year of seven hundred and seventy-eight thousand dollars. The deficiency, however, in respect to expenditure was not so great. The actual reduction in reference to the expenditures of that year was five hundred and ninety-seven thousand dollars. The committee who reported that bill had provided for the deficiency the same sum that we have in the present bill, seven hundred and fifty thousand dollars, which was something more than was required to meet the deficiency which occurred. The next year, 1847, the revenue from letters, including the appropriation made for Government letters, (two hundred thousand dollars,) was three millions two hundred and fifty-four thousand dollars, being an increase upon the preceding year of three hundred and seventy-two thousand dollars. The letter postage for the year 1848 was three millions five hundred and fifty thousand dollars, being an increase upon the preceding year of two hundred and ninety-five thousand dollars, and less than the revenue of 1845 only one hundred and nine thousand dollars. So it seems, sir, that under this system of reduction of more than fifty-six per cent. upon the rates of postage, we have in the third year of its operation realized from this branch of the revenue the sum realized under the old system, with the deficiency of only one hundred and nine

thousand dollars. That has been the result of an experiment of three years. The result of the first year, of course, was a diminution of the revenue as it was under the old law. The second year was the first result that can be compared of the operation of the present law to prove the efficacy of the principle of increase. The second year produced an increase upon the preceding year of nearly four hundred thousand dollars. The third year produced an increase over the second year of nearly three hundred thousand dollars.

Now, sir, Major Hobbie, in the report which Senators have doubtless looked into if they have not carefully examined it, in reviewing this matter, comes to a conclusion in which I do not fully concur. He seems to think that the efficacy of the principle of increase by the reduction of the rate by the act of 1845 has exhausted itself, inasmuch as the increase of letter postage during the last year was not much more than what is regarded as the ordinary increase from the growth of the country. The increase in 1847 over 1846 was nearly eleven per cent. In 1848 the increase on the whole revenues was nearly seven and a half per cent. The ordinary increase from the progress of the country is estimated at five per cent. As last year exhibited little more than the ordinary increase, Major Hobbie concludes that the reduced rates by the act of 1845 had exhausted their influence. But he does not seem to consider that other causes may, and undoubtedly did, influence the results of the two years. The ordinary increase of five per cent. is not an increase from year to year. It is only by taking a series of years that we arrive at that result. Some years there is no increase on the preceding, and even a decline. This depends on commercial activity and the general prosperity of the country. The year 1847, as we all know, was one of extraordinary trade and unusual prosperity, and the increase must be partly attributed to that cause. The past year was one of less activity in trade, and less general prosperity, although perhaps an average one. But, had the revenue been less in 1847, as under other circumstances it would have been, the same revenue in 1846 would have exhibited a greater rate of increase. I do not think the rates by the act of 1845 have yet ceased to operate in increasing the number of letters and the amount of revenue. But it requires a very low rate to have the principle continue its efficiency for a long series of years. In England, the increase still goes on after the lapse of eight years; and I believe that this principle will operate here, as it has in England, for a series of years, and that it will not exhaust itself. I believe that we shall find, under the present law, an increase going on beyond what it has been heretofore under the old system.

The Assistant Postmaster General has made an estimate based upon the proportion between the reduction of the rate of postage and the reduction of revenue under the act of 1845, which he has applied to the rates contained in this bill. He has assumed that a certain per cent. of reduction upon the rate of postage has, under the act of 1845, produced a certain reduction of revenue. That is to say, fifty-six and a third per cent. reduction in the rate of postage occasioned a reduction of twenty-one per cent. in the revenue received, and he would apply that principle to the present rate of three cents. It is a simple proposition in arithmetic, that if a reduction of fifty-six per cent. in the rates of postage produces a reduction of revenue of twenty-seven per cent., what reduction of revenue would fifty-two per cent. reduction of the rate of postage (which is the reduction of this bill) occasion? This is the basis upon which Major Hobbie has made his calculation, and upon that basis he says that the proposed rate would occasion a reduction of nineteen and four-fifths per cent. from the revenue by the present law. He calculates that a uniform rate of three cents is a reduction of fifty-two and two-thirds per cent. upon the present rates; and if fifty-six and a third per cent. reduction in rate occasioned a reduction in revenue of twenty-one per cent., a reduction in postage rates of fifty-two and two-thirds per cent. would occasion a reduction in revenue of nineteen and four-fifths per cent. That would be a falling off of seven hundred and ten thousand dollars, making the revenue under this bill from letters two millions eight hundred and twenty-nine thousand dollars. Add for newspapers, &c., seven hundred and thirty thousand dollars, and appropriation of the bill seven hundred and fifty thousand dollars, making four millions three hundred and nineteen thousand dollars. To this I add the surplus in the department on the 1st day of July next, four hundred and twenty-eight thousand dollars—making the whole means of the department for the next fiscal year four millions seven hundred and seventy-eight thousand dollars, which will be something more than is required. That is adding the appropriation made in this bill; but I have more sanguine expectations of this bill than that. I believe that rule is not altogether an accurate one, because it is assuming a principle not altogether true—that a higher rate of postage will produce more revenue than a lower rate. Whether the reduction of the revenue under this bill will correspond precisely with the reduction upon the rates of postage, as compared with the results under the act of 1845, I think is very doubtful. I am inclined to believe that the principles of this bill will be more favorable to the revenue; that from this very low rate the increase of letters will be much greater than it was under the reduction made by the act of 1845. Under the present law that reduction was not such as to affect a large class of letters passing through the mails. All letters within thirty miles had no effective reduction. They were only six and a quarter cents before, and consequently that law had no operation or effect whatever to increase communication within these limits, either by drawing letters into the mails or increasing the number of letters, because the reduction was so small as not to affect perceptibly that class of letters. I am inclined, therefore, to think that this low reduction will be more efficacious in reference to the rate of reduction over the existing law than the reduction under the act of 1845. I have made an estimate based upon another principle, that of the increase of letters, which it strikes me is quite as just and safe as that founded upon the basis upon which the Assistant Postmaster General has made his calculation. I have taken the increase of letters under the act of 1845 as the basis of my calculation.

The number of taxable letters, previous to the act of 1845, was about twenty-five millions—an amazingly small number for the population of the country. It is an evidence that there was something wrong in our system; that although we had a population of eighteen or nineteen millions at that time, we did not circulate more than about twenty-five millions of letters. I believe there were twenty-four millions of letters in 1843; hence I assumed there may have been about twenty-five millions of letters in 1845, as the revenues were scarcely increasing at that period. The number of taxable letters in 1846 has not been ascertained, but in 1847 they amounted to over fifty-two millions, and in 1848 to more than fifty-eight millions. This is an increase for the first two years of one hundred and twenty per cent., and for the three years of nearly one hundred and fifty per cent. The first year must have given a greater increase than the second, and therefore exceeded sixty per cent. I estimate the first year's increase of letters under this bill at seventy-five per cent., assuming that the franking privilege is abolished. This would give one hundred and one millions six hundred thousand taxable letters, which, at three cents each, is.....$3,048,000

For double and excess on unpaid letters, estimated at seven and a half per cent.....	228,000
For Government postage.....	200,000
Newspapers, &c.....	780,000
Surplus on hand July 1, 1849.....	428,000
Total.....	4,684,000

Making the whole means of the department for the year four millions six hundred and eighty-four thousand dollars, equal to its entire wants without including the appropriation in this bill.

I make another estimate, on the assumption that the franking privilege should not be abolished, assuming an increase of sixty per cent. on letters. This makes the taxable letters ninety-two millions nine hundred thousand, which, at three cents, is.....$2,787,000

For double letters, &c., seven and a half per cent.	209,000
For Government postage.....	200,000
Newspapers, &c.....	730,000
Surplus on hand July 1, 1849.....	428,000
Total means of the year.....	4,354,000

According to this estimate, a small part only of the appropriation provided in the bill would be required. For the expenses of the mail revenue proper, not including the steam lines, not more than four or five hundred thousand dollars will be required. The estimated increase of letters of sixty per cent. is less than the increase under the reduction in 1845.

Mr. President, perhaps if we have confidence that this principle of low postage will, when it can have time, produce the results that have been observed to follow from it elsewhere, and here so far as we have tried it, the only question would be whether we will make a temporary charge upon the treasury, as we propose in the bill, for some three or four years, in order to secure to the country the great benefits of this system. That, I apprehend, is the great question for us to decide. I think it is not very material for those who have felt that this principle will produce a result when it can have time to exert itself, that will substantially sustain the department and give to the whole country the immense advantages of this system of postage. Whether during these four years the demand upon the treasury shall be a few hundred thousand dollars, more or less, is not in my judgment of much importance. The great question to be considered is what I have stated. Have we faith in the system, in its ultimate success? For one, I have no reasonable doubt of it? These results may not be realized fully within the period named; but they will follow in time, and the system will vindicate itself as a financial measure. As to this temporary charge upon the treasury, why, sir, we have got to meet it at some time. It is impossible for us to make this change without a charge upon the treasury. It cannot be made in any other way. It was so in England. They had derived a great revenue from this source. They gave up that revenue even when they were obliged to exhaust the last source of taxation, when they had to resort to an income tax even in time of peace. They gave up this source of revenue—amounting to about five millions of dollars the first year—in order to secure to the people the great benefits of this system; and they are giving up something to this day, I suppose. But the system has now reached, in that country, a point at which it will sustain itself. They will no longer have to make any sacrifice, and they have secured to their people the lasting and continually increasing benefits of this system.

Now, are we willing to make these temporary sacrifices for the benefit of our people, and secure to them the same advantages enjoyed by those of Great Britain and France?—for they, I believe, have introduced a very low rate of postage into their country. All the countries of Europe have made reductions in their rates of postage.

I know there are some who believe that it would be safer to bring about this result gradually—some who would prefer a five-cent rate; but it seems to me that it is the wiser and better policy to come down at once to the *minimum* rate. We must come there. It is a mere question of time. The people of this country demand it; and they will not be taxed at a higher rate in this particular than the people of other countries, whom we are in the habit of regarding as being burdened and oppressed with onerous taxation. It is very bad to be changing our laws from year to year, coming down step by step, continually changing and unsettling our policy. If we have faith in this principle, why not come down to the *minimum* rate at once? I repeat, we will have to come there at last. The people will never rest satisfied until they are allowed the full benefits of this system. The public mind is very much aroused in relation to this matter. Numerous petitions have been presented here, and State Legislatures have taken it up. It may not be the same in all parts of the country; but in the New England States and in the middle States they expect this, and they expect it now. They think they are entitled to it. After enjoying our present system for three years, and perceiving the great benefits which have resulted from this partial experiment, they are satisfied that the system proposed by this bill is practicable. The partial experiment of 1845, every one must be satisfied, has been attended with complete success. Its success has exceeded the expectations of its most sanguine friends. At the time that reduction was made, it was said by those who opposed the sys-

tem that it would be a charge upon the Government for years; but the reduction has been made, and the receipts of the department, under that system, have already reached an amount nearly equal to that received during the last year of the old system.

Now, we are in a position to go on and make this further reduction; and shall we not try this system to its full extent, that we may have the full benefits of it, and submit to a few temporary charges upon the treasury for the sake of securing to the people of this country the inestimable advantages which will arise from carrying it out to its full extent?

I know there are some individuals and enthusiastic associations at the North who want the rate reduced to two cents. I think we cannot go lower than three cents, and calculate upon the department sustaining itself.

It has been suggested in certain quarters that perhaps it would be well to wait until we shall be out of debt before making this further reduction in our rates of postage, and throw additional burdens upon the treasury, as we inevitably must for a limited period, if we make this reduction. Sir, we cannot wait, the people will not wait for this benefit until we get out of debt. I fear that we shall not pay off this debt very soon. We have a large debt greatly increased by the events of the last few years. In my judgment this debt will not be paid off in less than one generation, and the country will not wait for that length of time for the benefits which it is confidently believed will result from this measure. The people demand this reduction now, and they will not be put off for nearly half a century upon any such plea as that. Besides, sir, this charge upon the treasury will be very inconsiderable. I am willing to risk this bill with the appropriation of three quarters of a million which it provides for. I think the department will be safe with an appropriation of that kind. Considering the very great number of appropriations of all kinds which we make at every session of Congress for objects of comparatively little general importance to the country, I think this charge upon the treasury ought not to be regarded as an objection to the bill, especially when we take into consideration the immense benefits that will result from the adoption of this great measure of reform.

Mr. President, it is not necessary for me to enlarge on the advantages of this measure. You see these advantages in the statistics which I have presented to the Senate. You see them in the increase of letters, in the increase of business, in the increase of accommodations to the people, in the increase and multiplication of all the facilities of communication, whether of a business or of a social character, which are connected with the increase of letters, under the experiment which we have made—an increase of nearly 150 per cent. Look at the results of the last year. What are they? Why, in point of revenue, we have come up nearly to where we were under the old system—only some hundred thousand dollars short. And what have been the additional benefits to the country? What have been the additional facilities and advantages enjoyed by the people? Why, sir, we can only judge of them from the number of communications. We have fifty-eight millions last year against twenty-five millions in 1845. Sir, these advantages must be great. All of these letters are of importance to somebody. They relate to matters of business, or are social communications. They carry with them benefits to the whole people; and if we have secured these benefits, we have something more than duplicated the advantages enjoyed under our former system by what we have done, to lighten the tax, and enlarge the facilities of mail accommodations, for the benefit of all our citizens, in the transaction of business and the interchange of social and friendly greetings transmitted by the mails to distant friends. If these things are to be valued—and I think they should be highly valued—doubling the amount of this great good is no small matter. And we have done more than that, and without impairing materially our revenue. Are we not, then, encouraged to go on and increase still further these benefits, by duplicating the number of mail communications again? And we can do more than that.

Sir, we are a people full of enterprise and activity, a migratory people, moving and passing from the east to the west, and that in masses. Then there is a large population from foreign countries who have become our citizens, whose interests we ought to regard. Our social relations are divided, as a matter of course, by seas, mountains, and rivers, occupying, as we do, a country of vast extent, which is not the case with other less favored countries. And, therefore, to establish and increase communications between our people is a matter of the highest importance, and entitled to the first consideration, whether viewed in a commercial, a social, or a political aspect. We want to make our citizens all interested members of the same great family, to sustain and strengthen as much as possible the social and friendly intercourse between individuals residing in different and distant parts of the Union. Is it not a wise policy, then, to encourage those social and friendly feelings, by giving every possible and reasonable facility towards the accomplishment of that object? This system of cheap postage, properly so called, in connection with our railroad system, will tend in this way to strengthen the bonds of the Union. Its influence will be felt everywhere, not only in the transactions of commerce and the business of trade, not only in the social and friendly relations of our people, but in the higher and stronger ties of political sympathy, mutual confidence, and general harmony of action. There is no people who are more interested in a most liberal and favorable system to facilitate intercourse among them and ours; occupying a country of vast extent, active and enterprising, in the habit of emigration, and invited to it by inducements possessed by no other people, with political interests enjoyed nowhere else, their occasion for liberal, free, mail accommodations are greater, perhaps, than those of any other people; and the possession of them would, in a corresponding degree, be a greater blessing, and one that cannot be sufficiently appreciated.

TREATY OF PEACE WITH MEXICO.

SPEECH OF MR. G. S. HOUSTON,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

February 5, 1849.

In reply to Mr. STEPHENS, of Georgia, on his resolution calling upon the President of the United States for information relative to the Mexican Treaty, and the action of Commissioners Sevier and Clifford upon the same.

Mr. HOUSTON said:

Mr. SPEAKER: I did not expect a discussion on this subject this morning. I did not anticipate a debate at this stage of the proceeding. It is very unusual to debate a proposition calling for information, until the information is obtained; and I think by the time the gentleman from Georgia [Mr. STEPHENS] shall have examined with proper care the papers which his resolution shall bring forth, if he will extend it as I desire him to do, he will be satisfied that his speech this morning was not only premature, but that it has done gross injustice to the President of the United States.

It is a little singular that the gentleman from Georgia should not have thought proper, in his examination of documents, to recur to the message of the President of the United States communicating the treaty to Congress, and to the documents that accompanied that message, when the treaty was returned after its ratification by the Government of Mexico. If he had referred to that message, and the documents which accompanied it, he would have found that the letter of Mr. Buchanan, our Secretary of State, to the Minister of Foreign Affairs of Mexico, was published, and contained precisely what the Government of the United States based its action upon, and constituted a guide for the commissioners, by which to control their action in this matter. And if it be be true that the wording of the protocol does not precisely conform to the letter of Mr. Buchanan, or to the instructions of this Government to the commissioners—which instructions I hope will be called for by this House—I am sure that cannot be charged as a fault upon the Administration.

But by a proper examination of this protocol, and comparing its provisions with the treaty itself, as proclaimed to the country, and also with the letter of Mr. Buchanan, our Secretary of State, to the Mexican Minister of Foreign Affairs, and with the instructions—which of course we are bound to presume must have accompanied the treaty—gentlemen will find that there is no material difference in any essential particular.

Mr. STEPHENS (the floor being yielded for explanation) said he would state to the gentleman from Alabama that he had read the letter of Mr. Buchanan to the Minister of Foreign Affairs of Mexico.

As to what the instructions to these commissioners were, he did not know. This House had called for them last year; the President had refused to give them. He wished to say, then, in reply to the gentleman, that so far as Mr. Buchanan's letter to the Mexican Minister of Foreign Affairs was concerned, that Mr. Buchanan assumed and made an argument to convince the Mexican Government that the amendment was a matter of form and not of substance. He (Mr. S.) granted that was legitimate if he could convince them of it. But it was one thing to make an argument to convince the Government of Mexico of a thing, and quite another thing to pledge the honor of our Government that it was so. The Mexican Government, it seemed, was not convinced by the argument of Mr. Buchanan. They said, If it be so, sign this protocol. He had no doubt but the President gave the commissioners instructions to sign it, if it was necessary. That was the power which he denied that the President possessed. The Mexican Government would not receive the argument of Mr. Buchanan, and required the ministers of this country to pledge the faith of the country that it was a matter of form, not of substance, and that the Senate intended it as such, and nothing else.

Mr. HOUSTON. The gentleman says he has examined the letter of the Secretary of State. I must express my regret, then, that he has not read it free from bias or prejudice; that he has not so read it as to see—that which must be apparent to the members of this House—its entire and perfect conformity to, and consistency with, the treaty as amended by the Senate of the United States.

I was remarking, when interrupted by the gentleman, that by comparing the treaty as originally presented to the Senate of the United States, and also the treaty as amended by that body, with the provisions of this protocol, there was in no important or essential particular one iota of difference.

Let me make that comparison, by taking up the objections as they have been presented. Let me read from the protocol:

"1st. The American Government, by suppressing the ninth article of the treaty of Guadalupe, and substituting the third article of the treaty of Louisiana, did not intend to diminish in any way what was agreed upon by the aforesaid article ninth in favor of the inhabitants of the territories ceded by Mexico. Its understanding is, that all of that agreement is contained in the third article of the treaty of Louisiana. In consequence, all the privileges and guarantees, civil, political, and religious, which would have been possessed by the inhabitants of the ceded territories, if the ninth article of the treaty had been retained, will be enjoyed by them, without any difference, under the article which has been substituted."

The first article of the protocol is in regard to the property of the church. Now, I presume we will agree to the statement in Mr. Buchanan's letter, that the property of the churches of the country, of every denomination, whether Catholic or Protestant, should be and is held as sacred as that of individuals; that the inhabitants shall be protected in their liberty, their property, and their religious worship; that is all the protocol states; and it is folly, it is nonsense—if I may be allowed to use so strong an expression, which I do without intending any disrespect—to attempt to make the country believe, that by a treaty between the United States and Mexico, the United States have attempted to abrogate or annul any of the rights of property of the churches, or of any individual of that country. That provision of the treaty was amended, as Mr. Buchanan states in his letter to the Mexican Minister, with a view to avoid the prolixity of the original article of the treaty, and also with a view to bring it under the plain precedents of the treaties by which we acquired Louisiana and Florida; yet the President and his Secretary of State must believe—and I think all candid minds will concur—that there is a substantial conformity throughout this entire article of the treaty with the protocol.

Mr. CRISFIELD (the floor having been yielded for explanation) said the gentleman from Alabama

seemed to be endeavoring to show that the protocol conformed to the treaty. The point in issue was, whether the commissioners, either with or without the authority of the President, attempted to give a construction to the treaty which ingrafted new conditions upon it, after it had been ratified on our part. Was the protocol genuine, or substantially so? Was there any such paper as it purported to be? Will the gentleman inform the House?

Mr. HOUSTON. I will read an extract from the letter of Mr. Buchanan, on the point on which I was remarking when interrupted by the gentleman from Maryland; his question will be answered in the course of my remarks:

"Under these treaties with France and Spain, the free and flourishing States of Louisiana, Missouri, Arkansas, Iowa, and Florida, have been admitted into the Union; and no complaint has ever been made by the original or other inhabitants that their civil or religious rights have not been amply protected. The property belonging to the different churches in the United States is held as sacred by our Constitution and laws as the property of individuals; and every individual enjoys the inalienable right of worshipping his God according to the dictates of his own conscience."

Thus you see what our Secretary of State said to the Mexican Government. Upon this statement or explanation, that Government had either to ratify or reject the amended treaty—and upon it the Mexican Congress, with great ananimity, did ratify it.

The second point in the protocol relates to grants of land by the Mexican Government previous to our title. I will read it:

"2d. The American Government, by suppressing the tenth article of the treaty of Guadalupe, did not in any way intend to annul the grants of lands made by Mexico in the ceded territories. These grants, notwithstanding the suppression of this article of the treaty, preserve the legal value which they may possess, and the grantees may cause their legitimate titles to be *acknowledged* before the American tribunals."

Does this give any assurance to the Mexican Government that the treaty contained, either latent or otherwise, any other provisions than those expressed upon its face? If gentlemen will refer to this article of the protocol, they will find that it contains a statement of law—the statement of a legal principle, and nothing more. It says:

"These grants, notwithstanding the suppression of this article of the treaty, *preserve the legal value which they may possess*, and the grantees may cause their *legitimate titles* to be *acknowleged* before the American tribunals."

Allow me also to read another extract from Mr Buchanan's letter on this point. I desire to do this for the purpose of showing that there could have been no mistake on the part of the Mexican Government as to the true sense and meaning of our amendments to that treaty; that they could not have misunderstood the position of our Government; that they did not misunderstand either the protocol or the amendments to the treaty. But to the extract: it is explicit—decided—conclusive. Hear it:

"The third amendment of the Senate strikes from the treaty the tenth article.

"It is truly unaccountable how this article should have found a place in the treaty. That portion of it in regard to lands in Texas did not receive a single vote in the Senate. If it were adopted, it would be a mere nullity on the face of the treaty, and the judges of our courts would be compelled to disregard it. It is our glory that no human power exists in this country which can deprive one individual of his property, without his consent, and transfer it to another. If grantees of lands in Texas, under the Mexican Government, possess valid titles, they can maintain their claims before our courts of justice. If they have forfeited their grants by not complying with the conditions on which they were made, it is beyond the power of this Government, in any mode of action, to render these titles valid, either against Texas or any individual proprietor. To resuscitate such grants, and to allow the grantees the same period after the exchange of the ratifications of this treaty, to which they were originally entitled, for the purpose of performing the conditions on which these grants had been made, even if this could be accomplished by the power of the Government of the United States, would work manifold injustice.

"These Mexican grants, it is understood, cover nearly the whole sea-coast and a large portion of the interior of Texas. They embrace thriving villages and a great number of cultivated farms, the proprietors of which have acquired them honestly by purchase from the State of Texas. These proprietors are now dwelling in peace and security. To revive dead titles, and suffer the inhabitants of Texas to be ejected under them from their possessions, would be an act of flagrant injustice, if not wanton cruelty. Fortunately, this Government possesses no power to adopt such a proceeding.

"The same observations equally apply to such grantees in New Mexico and Upper California.

"The present treaty provides amply and specifically in its 8th and 9th articles for the security of property of every kind belonging to Mexicans, whether held under Mexican grants or otherwise, in the acquired territory. The property of foreigners, under our Constitution and laws, will be equally secure without any treaty stipulation. The tenth article could have no effect upon such grantees as had forfeited their claims, but that of involving them in endless litigation, under the vain hope that a treaty might cure the defects in their titles against honest purchasers and owners of the soil.

"And here it may be worthy of observation, that if no stipulations whatever were contained in the treaty to secure to the Mexican inhabitants and all others protection in the free enjoyment of their liberty, property, and the religion which they profess, these would be amply guarantied by the Constitution and laws of the United States. These invaluable blessings, under our forms of government, do not result from treaty stipulations, but from the very nature and character of our institutions."

I desire to know if there is a lawyer in this House who will controvert any part of that statement? Will any gentleman be so reckless as to stake his legal reputation upon the inaccuracy of the law, as stated either in Mr. Buchanan's letter or the protocol? Can we deny that vested rights, which had accrued and were valid under the constitution and laws of Mexico, before we acquired that country, remained precisely in the same condition after our acquisition? Can we controvert the doctrine, that these grants "preserve the legal value which they may possess," and the grantees may cause their *legitimate titles to be acknowledged* before the American tribunals? This is all the second article of the protocol says—nothing more.

Mr. STEPHENS interposed, and requested to be allowed to make an inquiry of the gentleman.

Mr. HOUSTON having yielded—

Mr. STEPHENS said, he would state to the gentleman, that anterior to the war of the Revolution, certain British subjects held under the British law good titles to lands in Georgia; they took sides against the Government in the war; their lands were confiscated and granted by the State to other persons, to citizens.

Mr. HOUSTON. The gentleman must be aware that his is a totally different case—that it has no analogy to the one now under consideration.

Mr. STEPHENS. They are the same in principle.

Mr. HOUSTON. The cases are not the same in principle or otherwise. In the case mentioned by the gentleman, property was *confiscated by law*, because those who owned it had joined the enemy and fought against this country in its struggle for independence which was then going on. In this case we were negotiating with Mexico; those negotiations resulted in a purchase by the United States of a part of her territory; when we obtained it we found, to some extent, incumbrances upon it; we knew before we acquired it that those incumbrances existed. We found that before our purchase legal titles had been obtained by individuals in that country—titles which were good under the laws of Mexico; and unless we made some provision by which we confiscated that property, as a matter of course the titles to it, as the protocol states, could be brought before the courts of the United States, and if legal before the treaty was made, they would be sustained. Did the Government of the United States attempt to confiscate property thus acquired and held? Did it even desire its confiscation? Then, if they were good and existing titles under the Constitution and laws of Mexico, and our Government did nothing to abrogate or impair them, they are valid yet, and may "*be acknowledged before the American tribunals.*" According to my judgment, there is no plainer principle of law than this; and that is all the protocol states, viz: that the legal titles acquired from Mexico previous to May, 1846, existed precisely on the same foundation under the treaty as they did before, because the Government of the United States and the laws of the United States did not divest the legal title acquired before the title of the United States was itself acquired to that territory.*

I will now read the other branch of that article of the protocol:

"Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories, are those which were legitimate titles under the Mexican law in California and New Mexico, up to the 13th of May, 1846, and in Texas up to the 2d of March, 1836."

Mr. TOOMBS interposed, and (the floor being yielded) said, while he concurred with the gentleman from Alabama in the general principles of law as laid down by him, he wished to inquire of the gentleman whether it was competent for the Government of the United States, by treaty or in any other way, to restore the rights of Mexican citizens, or of anybody, to grants in Texas which had been abrogated by the Government of Texas?

Mr. HOUSTON. Certainly not; but that point is in no way presented under this treaty. Neither the protocol, the treaty, nor the Government of the United States, assert any such doctrine; they claim no such power. None of the abrogated rights in Texas, or anywhere else, are attempted to be restored. On the contrary, the Secretary of State informs the Government of Mexico, that if we should attempt to revive or restore any abrogated rights, that provision of the treaty would be a nullity on its face, and the judges of our courts would be compelled to disregard it. Instead of attempting to revive abrogated rights of any description, the treaty as it now exists, as well as that article of the protocol, throws back the claimants upon their rights as they existed under the laws of Mexico before the treaty; and, as far as their validity is concerned, they neither derive advantage nor disadvantage from the treaty. I admit that the treaty, the Constitution and laws of the United States, when extended over that country, will authorize the grantees to come into the American courts to have their titles adjudicated, and if legal—valid—to be acknowledged and protected. The treaty neither confirmed nor did it disaffirm any rights to land either in Texas or the acquired territory; nor does the protocol claim or assert any such principle to be in the treaty. This Government has no control over the lands of Texas. Our Secretary of State so informed the Mexican Government. No one controverts that principle. I cannot, then, for the life of me, see that there is any, the least incongruity between the protocol and the amended treaty as ratified by the Mexican Government. There is no incongruity.

I will now address a few remarks to the third and last article of the protocol; which I will first read:

"3. The Government of the United States, by suppressing the concluding paragraph of article twelfth of the treaty, did not intend to deprive the Mexican Republic of the free and unrestrained faculty of ceding, conveying, or transferring, at any time, (as it may judge best,) the sum of twelve millions of dollars, which the same Government of the United States is to deliver in the places designated by the amended article."

The twelfth article of the treaty, as it originally stood, provided two modes of payment of the $12,000,000 which we would owe to Mexico after the exchange of ratifications. The first was—

"Immediately after this treaty shall have been duly ratified by the Government of the Mexican Republic, the sum of three millions of dollars shall be paid to the said Government by that of the United States, at the city of Mexico, in the gold or silver coin of Mexico. The remaining twelve millions of dollars shall be paid at the same place, and in the same coin, in annual instalments of three millions of dollars each."

I read from the twelfth article of the treaty, and only such parts as are relevant to the issue, and necessary to elucidate it. The second was—

"Certificates in proper form for the said instalments respectively, in such sums as shall be desired by the Mexican Government, and transferable by it, shall be delivered to the said Government by that of the United States."

* In the case of the United States *vs.* Percheman, 7 Peters' 83 and 87, Chief Justice Marshall said:

"It may not be unworthy of remark, that it is very unusual, even in cases of conquest, for the conqueror to do more than to displace the sovereign and assume dominion over the country. The modern usage of nations, which has become law, would be violated; that sense of justice and of right which is acknowledged and felt by the whole civilized world would be outraged, if private property should be generally confiscated and private rights annulled. The people change their allegiance; their relation to their ancient sovereign is dissolved; but their relations to each other and their rights of property remain undisturbed. If this be the modern rule, even in cases of conquest, who can doubt its application to the case of an amicable cession of territory? Had Florida changed its sovereign by an act containing no stipulation respecting the property of individuals, the right of property in all those who became subjects or citizens of the new government would have been unaffected by the change. It would have remained the same as under the ancient sovereign."

* * * * * * *

"A cession of territory is never understood to be a cession of the property belonging to its inhabitants. The King cedes that only which belonged to him. Lands he had previously granted were not his to cede. Neither party could so understand the cession. Neither party could consider itself as attempting a wrong to individuals, condemned by the practice of the whole civilized world. The cession of a territory by its name from one sovereign to another, conveying the compound idea of surrendering at the same time the lands of the people who inhabit them, would be necessarily understood to pass the sovereignty only, and not to interfere with private property."

The Senate of the United States, in its action upon that section of the treaty, struck out the latter branch of it which provided for the issue of *transferable certificates* for the twelve millions; leaving that part which required the payments to be made "*at the city of Mexico in the gold and silver coin of Mexico.*" The point raised by the gentleman from Georgia [Mr. STEPHENS] is, that under the 12th section of the treaty, after the latter branch of it had been stricken out, the Government of Mexico could not so transfer or pledge our indebtedness to it as to raise money for any purpose it might see fit. Now, if he be correct in that view, then the protocol is erroneous in its statement. Before I proceed to examine the correctness of his position, I desire to read another short extract from Mr. Buchanan's letter to the Mexican Government:

"It is not apprehended that the Mexican Government will have any difficulty in agreeing to this amendment. It is true, that in case they should find it convenient to anticipate the receipt of the whole or any part of the $12,000,000, they might do this more readily were a stock to be created, and transferable certificates issued for small and convenient sums; but yet no doubt is entertained that capitalists may be found who will be willing to advance any amount that might be desired, upon the faith of a treaty obligation solemnly entered into by the Government of the United States."

Now the protocol, although a little variant in its phraseology from the letter of Mr. Buchanan, contains the substance of it, as well as the substance of the treaty, and of what we know to be the law of the case arising under that provision of the treaty. Is it possible that gentlemen can gravely contend for the doctrine, that this Government intended to say to Mexico that she should not raise money upon the obligation that arose in her favor and against us under the treaty? Is not the money due her under that treaty—$3,000,000 to be paid upon its ratification, and the balance in instalments of $3,000,000 annually? And cannot the Mexican Government take that obligation and hypothecate it, regardless of any provision—of any restriction by which the treaty may have attempted to prevent its transfer? It will not do to advocate a doctrine so untenable, as that an individual, who holds a claim upon another, may not pledge or hypothecate it in order to raise funds to be used as he may see fit. I concur with the gentleman that the action of the Senate was intended to throw a restriction around the transfer of that debt; but it was not possible to deprive the Mexican Government of that right, which cannot be detached from an obligation of this character, viz: to hypothecate it at any time. The Senate refused to allow the issuance of transferable certificates for the debt: hence no certificates or bonds of any sort were issued. Our Senate did not say that Mexico should not pledge the debt, and thereby raise money; and while I might admit that the debt is not negotiable, yet Mexico can hypothecate it with a pledge of her own faith. We all admit that we owe the money; we also admit that we owe it to Mexico; that it is her property, *absolutely* and *unconditionally;* that she has a perfect right to do with it as she may think proper. She can forgive it if she will, or she may give it away, or sell it; and to contend otherwise, is to argue that the debt is not hers. Suppose that clause of the twelfth section, which was stricken out by our Senate, had never been in the treaty, and the section had been ratified as it now stands: would any one have argued or contended that Mexico had not a perfect right to do with the debt as she thought proper? I grant that it is not, in legal phrase, "negotiable;" but although not transferable in a legal sense, yet Mexico can do with it as an individual could do with a debt under like circumstances—she can dispose of it as she may see fit.

Mr. STEPHENS interrupted, and (the floor being yielded) inquired of the gentleman whether, if an instrument, negotiable, such as a promissory note, should be altered so as to restrict its negotiability, he would consider such alteration matter of form or of substance?

Mr. HOUSTON. That question has nothing to do with the case before us. There were no certificates issued in this case—no bonds—no obligations of any description, other than the treaty itself; there is nothing on the face of the treaty which gives to it the character of negotiability. The Government of the United States was indebted, after the ratification of the treaty and the payment of the $3,000,000, to the amount of $12,000,000; and all the Mexican Government had to do was, to take the treaty, which exhibited that indebtedness, and hypothecate the debt shown by it to be due, in order to raise its funds, if it desired; by a pledge of its faith it could do so, and we could not prevent it. I admit that if a negotiable instrument were altered after it was put in circulation, so as to restrict its negotiability, the alteration would be one of substance, and not of form merely. But this is not that case. There were no certificates or bonds issued by the Government; there was nothing but the treaty which showed the indebtedness; and the commissioners of the United States said nothing in this protocol which conflicted with the legal rights of Mexico or the United States, arising under the treaty. The Government of the United States could not expect to be able to prevent the Government of Mexico from hypothecating that indebtedness, although the American Senate may have intended, as far as possible, to restrict its negotiability, by refusing to issue certificates transferable upon their face. That is what the Senate intended to do; and the protocol of the commissioners does not at all contravene the spirit, or even the letter, of the article of the treaty as amended by the Senate of the United States.

But I wish to call the attention of the House to another thing relative to this treaty, and to this protocol. The country is informed by the documents which accompanied the treaty, when the two Houses of Congress were notified of its ratification as amended, that the treaty, as amended, was ratified before this protocol was entered into, or even before the conversations took place which were afterwards reduced to writing in the form of a protocol. I wish to repeat, and wish the gentleman from Georgia particularly to notice the fact, that this protocol was entered into, and that the conversations which formed it were had after the treaty had been ratified by both Houses of the Mexican Congress; and I desire to know why he, in all the fairness which he would seek to make the country believe actuates him in this matter, did not state this fact to the House.

Here is an extract of the letter of Messrs. Sevier and Clifford to Mr. Buchanan, dated

"CITY OF QUERETARO, *May* 25, 1848—9 *o'clock, p. m.*

"SIR: We have the satisfaction to inform you that we reached this city this afternoon at about five o'clock, and that the treaty, as amended by the Senate of the United States, passed the Mexican Senate about the hour of our arrival, by a vote of thirty-three to five, it having previously passed the House of Deputies. Nothing now remains but to exchange the ratifications of the treaty."

This letter is dated 25th May, and the protocol the 26th May, 1848. How is it, then, that this alleged fraud has been practised upon the Mexican Government? No such thing: nothing has been done by our Government or commissioners in the least exceptionable. Here is the treaty, formed by the representatives of the two Governments, amended by the Senate of the United States, and these amendments concurred in by the Mexican Congress before any conversation ever took place between the commissioners of the United States and the Mexican minister.

Mr. STEPHENS wished to explain.

Mr. HOUSTON. I have been interrupted too often already, but I will yield to the gentleman.

Mr. STEPHENS said he was very familiar with the letter to which the gentleman now alluded. It was true, the treaty had passed both Houses of the Mexican Congress before the date of the protocol, but the Executive, he apprehended, was a part of the Government of Mexico, and an important part; and if the Executive, through his minister, refused to sanction the treaty, it was no treaty, it was not ratified. The House and the Senate might have agreed to the amendments, but if the President did not give his consent until assurance was given him by this protocol, it was in vain for the gentleman to say that the protocol was dated after the amendments of the treaty were agreed to by the Mexican Congress.

Mr. ASHMUN. Will the gentleman from Alabama allow me to say one word?

Mr. HOUSTON, after a word of conversation, yielded.

Mr. ASHMUN said, the letter of Messrs. Sevier and Clifford, announcing the exchange of ratifications of the treaty, was dated 30th May, 1848; the protocol was dated 26th May, four days before Messrs. Sevier and Clifford wrote to Mr. Buchanan, saying—

"We have now the satisfaction to announce that the exchange of ratifications was effected to-day. Some delay occurred after the conferences, in the preparation of the Mexican copy of the treaty. That was finally accomplished within the last hour, when the exchange of ratifications was duly made by Mr. Rosa, in behalf of the Mexican Government, and ourselves on the part of the United States."

So (said Mr. A.) it seems that this protocol, or whatever it was called, was four days before the final ratification and exchange of treaty.

Mr. HOUSTON. I will refer to the point raised by the gentleman from Massachusetts [Mr. ASHMUN] before I close my remarks, though I consider it an unimportant one.

The gentleman from Georgia [Mr. STEPHENS] says the Congress of Mexico is not the Government of that country. I am aware that it is not exclusively so. But everybody knows, who is at all familiar with the constitution of Mexico, that it is very similar to our own. While the Senate of the United States, acting upon a treaty, express the sense of the country, yet the President of the United States has the formal exchange of the ratifications. So it is under the Mexican constitution. The two Houses of the Mexican Congress are essentially the Government of that country. They express the sense of the people, the feelings of the constituent body whom they represent, as our Congress does here; and when they pass in favor of a treaty, or of any measure, especially by so overwhelming a majority, everybody knows that no such thing would be likely to occur, as that the President of that Republic—any more than would our President under similar circumstances—would attempt to set aside the action of the Congress and defeat the measure.*

On the 25th of May the amended treaty had passed both Houses of the Mexican Congress, and, in the language of our commissioners, nothing remained to be done but the mere enchange of ratifications. That which remained to be done, and which was done on the 30th of May, was matter of form, and, as stated by our commissioners, delay intervened, because the Mexican copy of the treaty had to be prepared. As soon as that was accomplished, then—on the 30th of May—the exchange took place.

Mr. STEPHENS again interposed, and said that he was very familiar with that letter. But as he understood the constitution of Mexico, the treaty had to be ratified by the Executive as well as by the two Houses of Congress; and the assurances in the protocol were given to the minister of the Executive before his consent to its ratification could be obtained.

Mr. HOUSTON. It is true that the Mexican constitution assimilates itself to the Constitution of the United States in respect to treaties—the difference being that with us the action of the President and the Senate is necessary to the ratification of a treaty, while with Mexico the action of the President and of both Houses is required. And I would ask the gentleman from Georgia, [Mr. STEPHENS,] and this House, whether this protocol was ever submitted to the Congress of Mexico? If it be a material part of the treaty, why did not the President of Mexico submit it to the Mexican Congress—a body that must ratify all treaties, and provisions of treaties, before they are considered valid, or can be carried into effect? So this shows that Mexico herself did not consider it a part of the treaty; it shows beyond question that the President of Mexico considered it no part of the treaty; because, if he had so considered it, he

* The President of that Republic, in submitting the amended treaty to the Mexican Congress, in his message on the 8th day of May, 1848, said: "If the treaty could have been 'submitted to your deliberation precisely as it came from 'the hands of the plenipotentiaries, my satisfaction in seeing 'the war at last brought to an end would not have been less-'sened, as it this day is, in consequence of the modifications 'introduced into it by the Senate of the United States, and 'which have received the sanction of the President." "At 'present it is sufficient for us to say to you, that if, in the 'opinion of the Government, justice had not been evinced 'on the part of the Senate and Government of the United 'States, in introducing such modifications, it is presumed, 'on the other hand, that they are not of such importance 'that they should set aside the treaty. I believe, on the con-'trary, that it ought to be ratified upon the same terms in 'which it has already received the sanction of the American 'Government. My opinion is also greatly strengthened by 'the fact that a new negotiation is neither expected nor con-'sidered possible; much less could another be brought for-'ward upon a basis more favorable for the Republic."

would, under the laws and constitution of his Government, have been bound to submit it to Congress for its ratification; and as he did not do so, as he did not even make an effort to do so, it is conclusive evidence that he considered it as no part of the treaty itself—and it is no part.

We are told that this protocol destroys the treaty, because the President of the United States did not submit it to our Senate. I have already shown, that if it could otherwise be considered as a part of the treaty, it could not be so considered in this instance, for the reason that it had never been before the Mexican Congress; that Congress had not passed upon or ratified it, and of course it could not be regarded as a part of the treaty, or in any way influencing or changing it. Suppose this protocol had varied from the treaty in essential points, and the President of the United States had regarded it as a part of the treaty, and it had been acted upon by our Senate, would Mexico have been bound by its provisions? Suppose our Government had found it essential to its interests to enforce the provisions of the protocol: could it have done so? No one will contend for a proposition so absurd. But a protocol is no part of a treaty, under any circumstances, and has never been so regarded between nations.

My remarks, Mr. Speaker, have necessarily been of a desultory character. I had no intention of addressing the House to-day on this subject. I supposed the debate would take place when the President sends us the information we seek to obtain; and I must say, I do not regard this debate as in the best taste, for the reason that we have not before us the information which it is desirable we should have before entering upon criminations and recriminations.

Mr. STEPHENS here interposed, and inquired whether the treaty spoken of by our commissioners, in their letter of the 25th May, was the treaty as amended by the Senate of the United States?

Mr. HOUSTON. Certainly; the commissioners in that letter call it the "*amended treaty;*" their letter is conclusive—fully so. That was the last act which the Mexican Congress did in respect to this treaty. It has never been submitted to them since that time. They had done all that they were authorized to do under their constitution. They had given life and vitality to the treaty. And, in the language of our commissioners, nothing remained to be done beyond the mere exchange of ratifications. And all this took place the day before the protocol bore date. I desire particularly to fix the attention of gentlemen on this fact, and therefore I repeat it. This ratification took place with almost entire unanimity by the two Houses, before one word of conversation passed between our commissioners and any officer of the Mexican Government, or any of its legitimate agents or representatives.

I have said all I intended to say upon the main points of this case. I now desire to propose an amendment to the resolution of the gentleman from Georgia, [Mr. STEPHENS.] I regretted to hear that gentleman, whose fairness in debate, and whose decorum in legislative proceedings are well known on this floor, say that he intended to insist upon an absolute call upon the Executive for this information. I submit, that it is not only a violation of the usual action of Congress in such cases, but that there is no necessity for it—none at all. I hope the gentleman will reconsider his decision, and submit his resolution in the usual form, calling for the information "if not incompatible with the public interests."

Mr. STEPHENS. I state distinctly that I cannot accept the modification which the gentleman proposes, for the reason which I stated when I was addressing the House—that in July of last year, the instructions given to these commissioners were refused. The Senate, as I am informed, knew nothing at all of this protocol.

Mr. HOUSTON. What was the date of the call?

Mr. STEPHENS. The 17th of July, 1848, after the President had issued his proclamation. The President then refused to furnish the information. I am not going to ask him again; but I tell him, and his friends here, and the country, that if he does now refuse, I shall move for the appointment of a committee of inquiry, with power to send for persons and papers——

Mr. HOUSTON. It amuses me to hear these fulminations. I have heard them often, and I presume this will be as all the others—very harmless in its effects upon any one. But no one knows better than the gentleman from Georgia, that if he attempts the course indicated by him, he will have his "*pains* for his *trouble*."

Mr. STEPHENS. We will try it.

Mr. HOUSTON. I do not intend now, or at any time, to speak for the President. Yet, I am sure that this resolution will not be any more likely to bring forth the information and papers (if as much so) as one couched in proper terms. The gentleman is well satisfied that the papers will be sent in, hence his threat of sending for persons and papers. I regret this course of action; it is unusual—entirely so; it is in violation of parliamentary proceedings; it is almost without a precedent. The gentleman attempts to justify himself for this extraordinary procedure by saying that the President refused to furnish the House with this information when requested by resolution to do so. He forgets that the call to which he refers, made in July of last year, was not for the information sought by his present resolutions; that call was for the instructions which had been given to our commissioners. This one does not ask for those instructions; hence the excuse given does not in fact exist. He mistakes when he says the President refused the papers his present resolutions seek; they have not before been called for, and the terms of his present proposition are, in all regards, without justification, and indefensible.

The President of the United States has been assailed by the gentleman from Georgia in strong and unwarranted terms—in terms that certainly do the President not the least injury, but recoil upon the gentleman. Language has been employed by him in his abuse of the President totally unsuited to the halls of Congress. In this course he has been left to pursue his own taste and desires; and it is for the country to determine who has been damaged by it.

My friend from Georgia threatens to send for persons and papers. Yes, sir, persons and papers. We have heard such as this before. In the case of the *demand* for the instructions to Mr. Slidell, we heard much of such talk and threats of impeachment. The President refused to send to this House those instructions, although you had *demanded* them of him, as you propose to do in this case. Did you send for persons and papers? No, sir. Did you ask to do so? No, sir. Then what did you do? You submitted; you cowered; and you would do so again. You dare not bring forth such a proposition. You have not the most remote idea of it, and I presume from your conduct you never had. If you had really wanted to do so, why did you not do it when he gave you the opportunity? You had an opportunity just as good then as can be presented under this resolution. Where was your courage? Where then was the chivalry of my friend from Georgia? Why did he not bring forth his proposition to send for persons and papers? No; he did not do it; he will not do it now. I have no fear that the President will refuse to send this information forth. And it ought to have occurred to the gentleman from Georgia and to others, that reasons might have existed at the time these instructions are said to have been withheld which do not exist now. At that time our relations with Mexico were exceedingly delicate and tender. Only some few days had elapsed after the ratified treaty had reached this city; the call was made at a time when the relations of peace and friendship between the two Governments had not been reëstablished on a permanent basis. These are considerations which gentlemen should not disregard. And there might have been something in the instructions themselves requiring that they should be withheld *at that time*, which may now have passed away, thus enabling the President to lay them before the country.*

I now propose the following amendment:

Resolved, further, That the President also communicate to this House, if not incompatible with the public interest, a copy of the instructions of this Government to Commissioners A. H. Sevier and Nathan Clifford, together with such other correspondence as appertains to said treaty; and that the information called for in the foregoing resolutions be not communicated if in his judgment it be incompatible with the public interest.

I hope my amendment may be adopted, and that the resolution will then be agreed to. I wish the information to go to the country. But I will not vote for a mandatory resolution in the first instance. I think it highly improper to assume an attitude of hostility to, and unnecessarily *demand* of a coördinate department of the Government, that which we would obtain by a *request* in *respectful terms*.

I do not know that it is desirable to continue this debate to-day. The gentleman from Georgia [Mr. STEPHENS] has submitted his remarks. I have attempted to reply to them. Gentlemen all round desire me to move the previous question. [Cries of "No, no."] Then I will not move it, but yield the floor to those who may desire to participate.

SCHOOL LANDS IN IOWA.

REMARKS OF MR. S. LEFFLER,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

February 8, 1849.

On the passage of the bill declaratory of the act for the admission of Iowa into the Union, with an amendment thereto reported by the Committee on Territories, as follows: Strike out the word "forty," and insert "three hundred and twenty," so as to read, "said laid to be selected in legal subdivisions not less than three hundred and twenty acres."

Mr. LEFFLER said: I am opposed to the amendment just reported by the Committee on Territories. I hope it will not be adopted by the House. It is important that this bill should pass, and pass now, and highly important that it should pass as it came from the Senate, without this amendment. It is unfortunate that I am under the necessity of asking the House to take a vote upon this proposition now. Amidst the confusion now existing, I am well aware that it is almost impossible to get its attention to any explanations, or to induce it, without more consideration than can now be given to the subject, to vote down an amendment made by a standing committee. But, sir, however hopeless the task, I feel under obligations to make the effort, assuring gentlemen that I shall be very brief in my explanations, and shall detain the House only for a very few moments.

Before I say anything in relation to the amendment reported by the Committee on Territories, I wish to say one word upon the general subject of the bill, and the pressing necessity for its immediate passage. It is really nothing more than what it purports to be—a declaratory act, declaratory of the intention of the act admitting the State of Iowa into the Union. It proposes no new grant of land to the State, but simply to confirm a grant already made to purposes somewhat different from those contemplated in the act by which the grant was originally made. Under the distribution act of 1841, the State of Iowa became entitled, on its admission into the Union, to one-half million of acres of public land. That act also provided that the land thus granted to the new States should be applied to the purposes of internal improvements, and should be selected in legal subdivisions not less than three hundred and twenty acres. This grant, though special and defined in its objects, the people of Iowa supposed might be applied, with the subsequent assent of Congress, to a purpose different from that contemplated in the act of 1841. In the formation of the constitution, therefore, the convention determined to apply the whole grant to the support of common schools. Con-

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* Since my remarks were submitted to the House I have examined the President's message refusing the instructions to our commissioners, and find his reasons for withholding them as I had supposed them to be. In his message the President says:

To the House of Representatives of the United States:

In answer to the resolution of the House of Representatives of the 17th instant, requesting the President "to communicate (if not inconsistent with the public interests) copies of all instructions given to the Hon. Ambrose H. Sevier and Nathan Clifford, commissioners appointed to conduct negotiations for the ratification of the treaty lately concluded between the United States and the Republic of Mexico," I have to state, that in my opinion it would be "inconsistent with the public interests" to give publicity to these instructions at the present time.

I avail myself of this occasion to observe, that, as a general rule, applicable to all our important negotiations with foreign Powers, it could not fail to be prejudicial to the public interest to publish the instructions to our ministers until some time had elapsed after the conclusion of such negotiations. * * * * * *

taining this provision, the constitution of Iowa was submitted to Congress upon an application for admission into the Union as a State. The act of admission was passed without any special dissent to this part of the constitution, and thus the people of the State of Iowa regarded the transfer of the grant to the support of common schools as ratified and confirmed by that act. Such also was the case with regard to the net proceeds of the five per cent. fund. That fund was also diverted by the constitution of the State from its original purpose, and applied to the same object. Upon the basis of these two grants, the Legislature of the State, at its first session, organized a system of common schools commensurate with the wants of the people, and attempted to put it into immediate operation. All the legislation necessary for this purpose was adopted, the office of superintendent of public instruction was created, and a superintendent elected. That officer was authorized by law to select the lands granted to the State, and to draw upon the treasury of the United States for the amount due on account of the five per cent. fund. When this application was made by the superintendent, the question was raised by the department here, as to the right of the State to apply those funds to any other purpose than that indicated in the act of 1841, deciding, as will be seen by reference to the correspondence, that the act of admission did not sanction the transfer made in the constitution of the State, and that, consequently, these funds, or their proceeds, could not be applied to any purpose other than internal improvements. Such are the facts, such the law, and such the decision of the department; from all which, it will very readily appear, that the continued operations of the whole system of common schools as at present organized in the State, depends upon the immediate passage of this act. The whole system was organized with special reference to the probable proceeds of these funds. And if they are now withheld, as they must and will be without the passage of this act, the system must be either reduced from its present proportions, or entirely suspended for the want of adequate means of support.

That it was the intention of Congress, when the act was passed for the admission of the State into the Union, that these funds should be applied to the support of common schools, as provided in the constitution, there can be no possible doubt. The same question now raised by the department was, upon the passage of that act, raised in both Houses of Congress, as many gentlemen now here will doubtless well recollect. It was well understood and fully believed that such would be the effect of the act of admission; and instead of being urged as an objection to that instrument, this provision of the constitution was highly extolled in terms the most complimentary to the beneficent intentions and intelligence of the people of the State. And, sir, in laying the foundation of a new State, so rich in all the elements of wealth and power, destined to grow up with magical rapidity, and rank, at an early day, with the first of the Union, to what purpose more beneficial or appropriate could those funds have been devoted? Not that I should attempt to depreciate the importance of internal improvements; far from it—especially in a new State, so vastly productive in many articles, which, to be profitable, must find a market beyond its own limits. Such is no part of my purpose. But however important they may be to the growth and prosperity of a State, they certainly cannot be more so than a general, thorough, well-devised, and well-executed system of common-school instruction, permanently endowed and sustained, carrying its benefits alike to all classes of the community.

Mr. ROCKWELL, of Connecticut, interposed, and moved that the House proceed to the consideration of business on the Speaker's table.

Mr. HARALSON rose to a question of order. He desired to know how the gentleman from Connecticut [Mr. ROCKWELL] could make his motion, whilst the gentleman from Iowa [Mr. LEFFLER] was on the floor?

The SPEAKER said, that after one hour devoted to the reception of reports from committees, such a motion was in order.

Mr. HARALSON did not understand how the gentleman could get the floor to make it.

The SPEAKER said, the question was on proceeding to the consideration of business on the Speaker's table.

Mr. WENTWORTH rose to a question of order. He understood that the gentleman from Iowa [Mr. LEFFLER] had been recognized by the Chair—that he was on the floor—that he was addressing the House—and that in the middle of a sentence the gentleman from Connecticut [Mr. ROCKWELL] had risen and moved that the House proceed to the orders of the day.

The SPEAKER said, that under the rules of the House, the Chair had always entertained such a motion after one hour had been devoted to reports. If the motion was not entertained, the effect would be that the rules of the House would be superseded, and that two hours, or more, would be devoted to reports of committees, instead of one. When the hour expired, whoever was upon the floor, the motion to proceed to the consideration of business on the Speaker's table was in order.

Mr. WENTWORTH desired to know how one gentleman could take the floor from another?

The SPEAKER. Precisely as under the rules of the House, a gentleman who has spoken one hour may be stopped in his remarks.

The question "Will the House proceed to the consideration of business on the Speaker's table?" was taken, and decided in the negative.

So the motion was rejected.

Mr. LEFFLER then made a few remarks in opposition to the amendment reported by the Committee on Territories.

He was exceedingly anxious that this amendment should be struck from the bill; and although some gentlemen appeared to be a little restive, he hoped the House would indulge him a few moments longer while he should attempt to state the reasons. This amendment provides that these lands, appropriated by the State to a purpose at once so beneficial and so creditable, shall be selected in quantites of not less than 320 acres. All he asked was, that the State should have the same right possessed by every private purchaser, to select these lands according to the legal subdivisions established in the public surveys. He asked no more, and he thought the State had a right to expect no less. He was frank to say that the object was to derive the largest possible amount of revenue from these lands, and to make that revenue available for the support of education at the earliest possible day. Such was certainly the wish of the whole population of the State. But if the State was required to select these lands in legal subdivisions of not less than 320 acres, one of two results would be inevitable: either to take a good deal of land indifferent as to quality, or unmarketable from other considerations. One of these two results would follow as a matter of necessity. The selections would have to be made entirely from the late surveys, for in the interior of the State, far from all business and all improvements; or, if made in the settled portions of the State, where the lands have been in market for the last ten or twelve years, examined, picked, and culled over time after time, such selections, if required to be made in such large quantities, (three hundred and twenty acres in a tract,) would necessarily embrace a large portion of indifferent and unsalable land. To make these selections entirely upon the new surveys, the lands so selected would be so far remote from everything to give them present value, that it would, perhaps, be a number of years before they would be productive of any considerable amount of revenue. To select lands of an inferior quality, although situated in the settled portions of the State, a large portion of them perhaps could not be sold for years at any price, and thus the object of the grant would be indirectly defeated. But if this amendment was struck out, if you would give the State the same right that is now possessed by every private purchaser, according to the established legal subdivisions, in lots as low as forty acres, these selections could then be so distributed all over the State, so as to make them not only valuable to the fund, but available for revenue at once.

But, sir, there is another consideration to which I wish to call the attention of the House. The great objection which weighs so strongly on the minds of the Committee on Territories, and which doubtless prompted the amendment of that committee, is, that if these lands were authorized to be selected in quantities as small as forty acres, all the public lands in the State would be culled and picked over, none but lands of the very best quality selected, and all in lots not exceeding forty acres. I can assure gentlemen there is no danger of any such result. In fact it is not contemplated that the State shall, directly by its own agency, make any of these selections. They will be made by citizens who wish to purchase for settlement and cultivation. If it were really the object of the State to grasp all the choice spots of the public domain, and exclude the settler and cultivator, there might be some propriety in requiring the selections to be made in tracts not less than three hundred and twenty acres. Of this, however, as I have already said, there is not the remotest danger. The lands will be selected by settlers and cultivators, and selected no faster than the wants of settlement and cultivation require. This will be the mode of selection: A State land office will be opened, and any person who may wish to make a purchase of school lands from the State will go and select the lands himself, report such selection to the office, have it located there as a part of the school land, and afterwards purchase it from the State. There is, therefore, no reason to believe that if this amendment is struck out, the State will attempt to monopolize all the best of the public domain within its limits.

But in addition to all these considerations there is another inducement in behalf of the State for the selection of these lands in small lots, to which I would invite the particular attention of the House. A great interest seems to be felt here occasionally to bring the public land within the reach of every person who may wish to settle and cultivate them. This is very proper, and to effect it, no system could be better devised than that now contemplated by the State in connection with these school lands. Under the policy adopted by the State, these lands are to be sold on a credit, long or short, as the circumstances of the purchaser may require, as under the constitution nothing but the interest of the school fund can be applied by the Legislature to defray the current expenses of the school system. If these lands could be selected in small lots, every man, however poor, could become a landholder, possess a homestead, and by proper habits of industry readily acquire an independent position in the community. A home, however humble—a permanent, stationary home—is a matter of the highest importance; and every inducement should be held out, every advantage given, to enable the poor man to acquire it. But if these lands are to be selected in large tracts, the poor man will be unwilling to purchase, even on a long credit, because unable to pay the interest, and will thus be effectually excluded from the market. I shall not detain the House any longer, as there seems to be an evident wish to proceed to the consideration of other business. I hope, therefore, with all due respect for the opinion of the honorable chairman of the Committee on Territories, that it may be the pleasure of the House to strike out this amendment, and pass the bill as it came from the Senate. It will then be a magnificent grant, devoted to a magnificent purpose. But whatever may be the decision of the House, I hope that decision will be made now. The whole school system of the State depends upon it; and if it should be passed over now, or referred to the Committee of the Whole, it is highly probable that it would not be reached again during the present session of Congress.

CALIFORNIA AND NEW MEXICO.

SPEECH OF MR. STARKWEATHER,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 16, 1849,

In Committee of the Whole on the state of the Union, (Mr. CABELL, of Florida, in the chair,) on the bill to carry into effect the Treaty of Peace with Mexico.

Mr. STARKWEATHER said:

Mr. CHAIRMAN: I shall offer no apology for asking the indulgence of the committee to submit my views on the question of slavery, which, in fact, is the great question of the day.

I maintain, Mr. Chairman, first, that Congress has the constitutional power to extend its legisla-

tion over territories belonging to the United States, and consequently to exclude slavery therefrom: Second, that slavery is a great political, social, and moral evil, in direct conflict with the fundamental principles of this Government, opposed to its growth, prosperity, and future welfare; and that therefore it follows, as a necessary and irresistible conclusion from the two first propositions, that Congress should adopt all constitutional measures to prevent its further extension. I am aware, Mr. Chairman, that my *first* proposition is denied by some gentlemen of high consideration and talents. The honorable gentleman from South Carolina, [Mr. RHETT,] in a labored, talented, and I must be permitted to add, very *ingenious* speech, delivered at the second session of the twenty-ninth Congress, assumed the position, and claims to have maintained it, that Congress has not the power to exclude the people of the southern States from entering and colonizing with their slaves the territories of the United States, and that the sovereignty of the several States existed in all its plenitude over territories belonging to the United States, as much as within the States themselves. Having demonstrated this proposition satisfactorily, at least to himself, in a speech made at the first session of the present Congress, he said:

"At the last session of Congress, I endeavored to show that Congress had no power under the Constitution to exclude us [meaning the South and their slaves] from these territories. I propose now to consider, *first*, Can the territories by their legislation exclude us? and, secondly, are we excluded by laws of Mexico—or, in other words, are the inhabitants of our territories, or Mexicans, sovereign in our territories?"

These last two propositions the honorable gentleman from South Carolina claims to have maintained and established. Well, sir, if Congress has not the constitutional right to exclude the South from occupying with their slaves these territories belonging to the United States, and if they cannot be excluded by territorial legislation, and if they are not excluded by the laws of Mexico, I should like to know where this *sovereign right* to exclude or admit does reside. The answer given by the gentleman from South Carolina is, "in the *several* States in all its plenitude."

Mr. Chairman, the South, by this mode of reasoning, literally break into the territories with their slaves; and having thus broken in, *then* constitute an integral part of the inhabitants of the territory. But what is their condition? They have no power, *according* to the reasoning of the gentleman, to legislate for themselves upon this question, or any other, until a government is provided for them. Congress cannot legislate for them—the States cannot legislate for them, for the reason that the sovereignty is in all the States coequally as tenants in common. What is to be done in such a dilemma as this? Unless there is some constitutional provision, some power somewhere, I see not but California and New Mexico may send up their petitions to Congress—as New Mexico has done—and pray for territorial governments to be provided for them, to protect them against the evils of slavery, in vain. Congress will be compelled to send back the chilling response, We have no constitutional power—it is not nominated in the bond. If the territories press the right to legislate for themselves, the answer is, You *have* no constitutional right. If they press still further, and ask the States, where the sovereignty exists in all its plenitude, according to the gentleman's doctrine, to make some provision for them, the answer is, that this plenitude of sovereignty in the States is so nicely divided and balanced, that by a well-settled mathematical principle that *two* bodies meeting each other with equal momentum are put at rest, so this sovereignty is unavailable. Are the territories, then, without hope and without remedy?

Mr. Chairman, I trust I shall be able to show, in the course of my remarks, that there is a constitutional remedy; and, in fact, I might venture to let the gentleman himself answer. He says:

"It [the Constitution] declares that the territories belong to the United States. They are tenants in common, or joint proprietors and co-sovereigns over them. As co-sovereigns they have agreed, in their common compact, the Constitution, that their agent, the General Government, may dispose of and make all the needful rules and regulations with respect to them; but beyond this, they are not limited or limitable in their rights; yet there can be no conflict, for none of the States can make any "rules and regulations" *separate* within the territories. The rules and regulations prevailing will be made by all and obligatory on all, through their common agency, the Government of the United States. The only effect, and probably the only object of their reserved sovereignty, is, that it secures to each State the right to enter the territories with her citizens, and settle and occupy them with their property, with whatever is recognized as property by each State."

It is true he also says:

"To dispose of or sell the public lands is the primary object. But can this be done without a government and laws which will assure the title to the settler, and protect the purchaser in the quiet and peaceable possession of the property we sell to him? Who will purchase land or emigrate to a territory when there is no safety for person or property? To fulfill, therefore, the commission given to Congress to sell the public lands in a territory, it may fairly be inferred, as an incident, under the words "to make all needful rules and regulations," that "Congress may authorize and set up a restricted government in the territories."

But, sir, this is begging the question. Where is the boundary line which marks the limitation of this power? Where does the power of Congress stop, and that of the territory commence? Most certainly Congress has not only the power to regulate the form of government of the territories, but also to reserve to themselves the right to approve or disapprove of any laws or regulations which may be passed by the legislative power which they have created. The territorial legislature has no power except such as is derived from Congress, and, therefore, all the laws must be considered as emanating from the United States, through their agent, the Congress of the United States

I submit, therefore, Mr. Chairman, whether we are not, in fact, back in the argument to the very point of departure; that is, to the question of rules and regulations.

The honorable gentleman from Virginia [Mr. BAYLY] occupies the same position in reference to the power of Congress to legislate for the territories. He says, "I wholly deny the power of Congress to legislate for the territories in respect to their domestic affairs." He also denied the validity of the ordinance of 1787, and entered upon a long train of reasoning to show, that if the ordinance is considered a legislative act, then it is null and void, because the Congress of 1787 had no authority to pass it as such; and if it is considered a compact, then it is void for want of contracting parties. Having made these preliminary remarks, I propose to examine this question of constitutional power, as embraced within my first proposition.

By the third section of the fourth article of the Constitution of the United States, "Congress shall 'have power to dispose of, and make all needful 'rules and regulations respecting, the territory or 'other property belonging to the United States." Now, it is maintained by gentlemen who deny the power of Congress to legislate for territories, that inasmuch as this grant of power, to make rules and regulations respecting the territory, is connected with the words "or other *property* belonging to the United States," that therefore it follows conclusively, that the power to make such rules and regulations is confined to the territory as *property*, and does not and cannot by any fair construction extend to anything else. But I submit, Mr. Chairman, whether this is the fair construction of that portion of the Constitution to which I have referred. "The Congress shall have power to dispose of"—dispose of what? The public lands in the territory. This is a perfect, independent grant. What else, sir? *And*, not *or*—"*and* to make all needful rules and regulations respecting it." It may be well to inquire here what is the meaning of the word *rule*. The first book put into my hands to read, as a student at law, was Blackstone's Commentaries. That learned commentator defines *law* to be a *rule* of *action* prescribed by the supreme authority, commanding what is right and prohibiting what is wrong. If this definition be correct, the terms *rule* and *law* are synonymous, and they *command* and *prohibit*. It is very obvious, therefore, that the grant of power to make rules and regulations was not designed by the framers of the Constitution, and cannot by possibility be restricted to, or controlled by, the words "*or other property;*" but, on the contrary, must have been used in a broader sense, as applicable to the *acts* and *rights* of citizens within *such territory*. It would be absurd for Congress to make a rule or law for the *government* of *inert matter—land, territory*—commanding *it* to do, or prohibiting *it* from doing, *certain acts*. And yet the position occupied by gentlemen who advocate the restrictive sense of this clause in the Constitution, involves them in this very absurdity. That I am borne out in the construction which I have given to this section of the Constitution, appears to me to be obvious, from the fact also, as well as from other considerations, which I shall proceed by-and-by to notice, that the words *rules* and *regulations* are frequently used elsewhere in the Constitution as synonymous with the word *laws*.

Thus, in the *first* article, section 8: "Congress 'shall have power to *regulate* commerce with for-'eign nations; to establish a uniform *rule* of natu-'ralization; to coin money and *regulate* the value 'thereof; to make *rules* for the government and '*regulation* of the land and naval forces." And by article 4th, section 2d: "No person held to service 'or labor in one State, under the laws thereof, 'escaping into another, shall, in consequence of 'any *law* or *regulation* therein, be discharged from 'such service or labor," &c.

Again, sir, Virginia, in 1784, ceded to the United States her right and title to the Northwest Territory, on condition "that the States therein to be 'formed should be admitted *members* of the Fed-'eral Union, having the same *rights of sovereignty*, 'freedom, and independence, as the other States." The ordinance of 1787, which is similar to the ordinance introduced by Mr. Jefferson in 1784, and which I am informed is in his handwriting, was passed in July. It received the unanimous vote of all the States. It is as follows:

"And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory; to provide, also, for the establishment of States, and, permanent government therein, and for their admission to a share in the Federal councils, *on an equal footing with the original States*, at as early a period as may be consistent with the general interest:

"*It is hereby ordained and declared, by the authority aforesaid*, That the following articles shall be considered as articles of compact between the orginal States and the people in the said territory, and forever remain unalterable, unless by common consent."

Then follow the articles; the sixth article being as follows:

"There shall be neither slavery nor involuntary servitude in the said *territory*, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service, as aforesaid."

The States to be formed out of this territory, ceded by Virginia, were to have the same rights of *sovereignty, freedom, and independence*, as the other States. Virginia was represented in the Congress that passed this ordinance. Shall she now be permitted to say, that the sixth article of this ordinance deprived the States thus to be formed of any rights of sovereignty, freedom, or independence? The Convention which framed the Constitution was in session at the time of the passage of the above ordinance. The Constitution was not adopted, however, by the Convention, until September following. The Convention, with a full knowledge, as is reasonable to suppose, of the provisions of the ordinance which applied to the Northwest Territory, made no constitutional provisions inconsistent with that ordinance; but, on the contrary, conferred upon Congress the power of making all needful rules and regulations respecting the territory of the United States. The ordinance of 1787 had already provided for the Northwestern Territory, and it is therefore very obvious that the framers of the Constitution designed, not only to recognize the validity of that ordinance, as applicable to that territory, but to extend that grant of power without limitation, from the very fact that Congress was authorized to make all needful rules and regulations respecting the territory of the United States. The State of Virginia was represented in the Congress that passed that ordinance; also, in the Convention that framed the Constitution. Besides, subsequently, and by act of the Assembly, passed December 30, 1788, Virginia consented to this very ordinance, and ratified and confirmed the same.

By what authority, then, I ask, does Virginia now urge that this ordinance is null and void? Is she not precluded by her own acts from setting up this plea? It appears to me most clearly that she is.

Again: in 1790 North Carolina ceded to the United States that portion of her territory which

comprises the State of Tennessee. The grant was made upon the condition "that no *regulation made or to be made* should tend to *emancipate* slaves." The peculiar phraseology of this condition is worthy of notice. The word used is *regulation:* "that no regulation *made* or to be made," so as to prevent any law then existing from attaching on the one hand, and at the same time prevent Congress from exercising that power which North Carolina must have then supposed was clearly conferred in the grant "to make all needful rules and regulations respecting territory belonging to the United States." North Carolina has therefore, by her own acts, given her construction to this grant of power contained in the Constitution? Will she abide by that construction? or will she now abandon it?

Again: the State of Georgia, in 1802, ceded to the United States the Mississippi territory, which provided that said territory should form a State, and be admitted into the Union upon the same conditions as is provided in the ordinance of 1787, with the exception of the sixth article, which prohibits slavery. Here, then, we have the construction which Georgia has given to this ordinance. That State could not then have supposed it was unconstitutional, or entertained the opinion that it was null and void. If so, why was the condition annexed to the grant?

The first Congress that assembled after the adoption of the Constitution in 1789 recognized the validity of this ordinance. The preamble of the act to which I refer is as follows:

"Whereas, in order that the ordinance of the United States, in Congress assembled, for the government of the territory northwest of the Ohio may *continue* to have full force and effect, it is requisite that certain provisions should be made to adapt the same to the present Constitution of the United States: therefore, *Be it enacted*," &c.

Now, if the ordinance was void, if the Constitution had abrogated it, then no provisions would have been necessary to adapt it to the present Constitution.

At a convention held at Vincennes, Indiana Territory, on the 28th of December, 1802, over which General Harrison presided, a memorial was adopted praying Congress to suspend the sixth article of the ordinance of 1787 for the period of ten years, so as to permit the introduction of slaves born within the United States from any of the individual States. At the next session of Congress, (in 1803,) this memorial was read, and referred to a Committee of the Whole House; and the committee reported against the prayer of the memorialists.

In 1790, upon the question of committing the memorial of the Quakers on the slave trade, Mr. Madison said: "He adverted to the western country and the cession of Georgia, in which Congress 'have certainly the power to regulate the subject 'of slavery, which shows that gentlemen are mis-'taken in supposing that Congress cannot *constitu-'tionally* interfere in the business in any degree 'whatever."—(*Elliot's Debates, vol.* 4, *p.* 213.) But whether this right is conferred by the clause in the Constitution which I have been considering, or whether it is incident to the power to acquire territory, is not very material to my argument. The fact that it has been exercised ever since the organization of the Government, and the principles of the ordinance of 1787 applied to the territories and several of the States, and has also received the sanction of Presidents Washington and Adams and Jefferson and Madison and Monroe and Jackson and Van Buren and Polk, should afford satisfactory proof to every reasonable mind that this power has been constitutionally exercised.

The position which I have taken is sustained by elementary writers and sanctioned by the judicial tribunals of the country. I might cite numerous authorities, but I will only refer to the following:

"Whichever may be the source whence this power is derived, the possession of it is unquestionable."—1 *Peters' Reports*, 543.

Again:

"Rules and regulations respecting the territories of the United States: they necessarily include complete jurisdiction."—5 *Peters' Reports*, 44.

Chancellor Kent, in his Commentaries, volume 1, page 385, says:

"It would seem, from the various Congressional regulations of the territories belonging to the United States, that Congress have supreme power in the government of them, depending upon their sound discretion."

Rawle, in his work on the Constitution, page 227, says:

"Congress has always been considered as entitled to regulate not only the form of government of the territory, but also to reserve to themselves the *approbation* or rejection of such laws as may be passed by the legislative power which they may establish. These laws are considered as emanating from the United States."

But, sir, I have another authority, which I think is conclusive: it comes from the fountain-head, the people—the source of all sovereignty. They have ratified and forever confirmed the principles of this ordinance. For what, I ask, Mr. Chairman, was the issue presented to the people to pass upon and decide in the late Presidential election? It was, whether Congress had the constitutional power to make such rules and regulations in reference to the territory of New Mexico and California as would prohibit slavery from entering there; and if so, whether such power should be exercised. Was there any other issue? Does any one pretend there was any other issue? Was there a word said during the canvass about a bank of the United States? Was there anything said about a protective tariff? Anything about the disposition of the proceeds of the public lands? Anything in regard to the constitutional power of Congress to make appropriations for the improvement of our rivers, lakes, and harbors? Anything in relation to the independent treasury? These questions, or some of them, may have been incidentally adverted to, but no one will pretend that any issue was made in reference to either of them. Who, Mr. Chairman, made up this issue, and in what shape was it presented to the people for their approval or disapproval?

The issue was made by the South. Georgia, Florida, Alabama, Virginia, and other slaveholding States, passed resolutions, in advance of the Baltimore Convention—for I am now speaking of the Cass party—that they would not support any men for the Presidency and Vice Presidency, unless they would clearly and unequivocally declare that they were opposed to the principles of the provisions of the Wilmot proviso. It was conceded that the North was entitled to the Presidential candidate. Several prominent men were spoken of. None, however, were to be taken on trust. The South understood their interest too well to be caught. No northern man could be nominated, under the operation of the two-thirds rule, without the aid of the South. The prize was a golden one—the temptation great. General Cass was induced, under these circumstances, to abandon, virtually, the position which he had occupied with so much credit to himself and satisfaction to the North; to address a letter to Mr. Nicholson, of Tennessee, virtually declaring himself in favor of the *extension* of slavery, and denying that Congress had any constitutional power to legislate upon the question in the territories.

Here Mr. SAWYER interposed, and asked the gentleman from New York to read that portion of General Cass's letter which showed he was in favor of the extension of slavery.

Mr. STARKWEATHER said, Certainly; and then proceeded to read, as follows:

"But there is another important consideration, which ought not to be lost sight of, in the investigation of this subject. The question that presents itself is not a question of the increase, but of the diffusion, of slavery. Whether its sphere be stationary or progressive, its amount will be the same. The rejection of this restriction will not add one to the class of servitude; nor will its adoption give freedom to a single being who is now placed therein. The same numbers will be spread over greater territory; and so far as compression, with less abundance of the necessaries of life, is an evil, so far will that evil be mitigated by transporting slaves to a new country, and giving them a larger space to occupy."

In the other portion of the letter to which I referred, General Cass, speaking of the constitutional power of Congress over this question, says:

"I do not see in the Constitution any grant of the requisite power to Congress."

Thus I repeat that General Cass expressed himself in favor of the extension of slavery. I am not talking about the increase: that is a proposition too plain to admit of argument.

Well, sir, in this state of things the Baltimore Convention meets; and in order to render this issue morally certain and to force it upon the country, *nolens volens*, the delegation from the state of New York were excluded from participating in the deliberations of that body: General Cass was nominated, according to the conditions of the bond, which had been signed, sealed, and delivered by the high contracting parties. The Democracy of the State of New York refused to ratify the contract. She was not a party to it; not even a witness to it. She was not wanted. The South was strong enough without her. In this state of affairs, the Democracy of the State of New York nominated Mr. Van Buren for their candidate, whose nomination was subsequently confirmed by the Buffalo Convention. No sooner had the State of New York refused to be controlled by southern dictation and asserted her rights as a sovereign State, than Mr. Van Buren and his friends at the North were assailed and denounced by the South with the most opprobrious epithets.

The honorable gentleman from Georgia, [Mr. IVERSON]—a State that has never cast its electoral vote for a northern President, charged that Mr. Van Buren "had deserted the South and taken his stand in the ranks of its mortal enemies;" that he would "descend to the grave with the brand of *traitor* upon his forehead, bearing with him the contempt and scorn of all honorable men"—meaning southern men, I presume. Sir, this was designed as a direct attack upon the State which I have the honor, in part, to represent. It is an indignity which, for one, I will not submit to in silence. Mr. Van Buren deserted the South! Sir, the South deserted him! In 1844, when Mr. Van Buren was a candidate, he had the united delegation from his own State. A majority of the Convention was in favor of his nomination. The South had determined he should not be nominated. The two-thirds rule was put in operation to defeat him. He was no longer in favor with the South. He had written the Texas letter. Mr. Van Buren must be sacrificed or the southern policy would be endangered. The South, always true to their own interest, procured, by address and management, the nomination of Mr. Polk, of Tennessee.

What, I ask, was the conduct of the State of New York under these circumstances? Their own candidate had been defeated. Did New York desert the South then? No, sir. She came manfully into the field. She invested her whole political capital to sustain the issue which the South had made. She consented to withdraw from the Senate of the United States the only man who was equal to the emergency—Silas Wright—the eminent statesman, the profound jurist, the man whose very name was a host, and around whose standard the Democracy of the State of New York rallied as one man, with an energy and strength which defied all opposition. Sir, the banner was first unfurled in that campaign in the State of New York in my own little village. The names of Polk and Dallas, *Wright* and Gardner, were inscribed upon its ample folds. Under that banner we fought, under that banner we conquered. If any one inquired who James K. Polk was, we referred him to Silas Wright. But, alas! this eminent statesman, this great and good man is no more. He has gone, Mr. Chairman, to "that undiscovered country from whose bourn no traveler returns." His memory lives. It *lives*, and will continue to live, in the hearts of his countrymen. It is written on "memory's tablet, and will only disappear when recorded things are washed out by the stream of time." Sir, the South are indebted to the State of New York for the victory of 1844. And now, sir, what do we witness? The delegates from New York appear at the Baltimore Convention in 1848, fresh as it were from the field of victory. The armor of warfare had scarcely been flung aside, when, lo and behold! we were met at the very threshold by the South, and required to take a fresh oath of allegiance—allegiance to the South—that we would be true to the Democratic cause, and faithfully and cordially support the nominees of the Convention. This oath of allegiance was made the condition precedent of our admission. Sir, the North were alarmed, and that alarm was not without cause, as recent developments have clearly demonstrated. The South, however, were inflexible. They had the game, as they supposed, in their own hands. They could carry the election without New York. There were the conditions, and submission the only alternative. Sir, was there ever, could there ever by possibility *be* a greater indignity than this offered to a sovereign State? I thank God—for the honor of

my State, of which I feel proud—that the condition was spurned from her with a dignity which truly became her character. The issue being thus made up, the whole patronage of the Administration was called into requisition to sustain it. Gentlemen of high standing and moral worth—gentlemen who had contributed largely to elevate the present Chief Magistrate to the position he now occupies, were turned out of office, not for official misconduct, not for incompetency, but because they dared to differ with the South upon the question of slavery, and their places filled with those more subservient to southern views. Four country postmasters were turned out of office in my district, without consulting even their Representative, for the sole reason, and none other than that they differed with the Postmaster General in reference to the Presidential candidate. I have seen the papers on file, and made extracts from them. The charges are, that they were deserters from the Democratic ranks—deserters, because they were opposed to the extension of slavery: that was the test—deserters! Why, sir, if that be desertion, then there are over one hundred and twenty thousand deserters in the State of New York. The deserters are more numerous than the regular army. If they keep on so, there will not be regulars enough by the 4th of March next to form a court-martial. And yet, sir, the Postmaster General, who was so particular as to recommend that newspapers should be dried before mailed, in his report at the commencement of the present session, before the ink was dry upon the pen with which he had written the sentence of excommunication against these postmasters, holds the following language:

"It may not be inappropriate to remark, that those connected with administrative duties of this department could not but have observed that there has been for some years past a strong feeling pervading the country, that the system had been conducted by an organized corps, extending throughout the Union, into every neighborhood, under the control of politicians at the seat of Government, wielded with the view of promoting party purposes and party organization, rather than the business and social interests it was created to advance; that the offices were bestowed as the reward of partisan services, rather than from the merit and qualifications of those selected; and that each Presidential contest is to produce a new distribution of the offices, and hence embittered political contests are excited in almost every neighborhood, demoralizing in their tendencies, and injuriously affecting the purity of elections.

"Whilst such apprehensions are entertained by a respectable portion of the community, a want of confidence in the honesty and correctness of the officers, however pure and upright in their conduct, soon shows itself, seriously injuring the business of the offices, and bringing discredit upon the system itself. The post office system was designed for business purposes, for the cultivation of the social and friendly feelings among the citizens of the different sections of the Union, and should be in nowise connected with the party politics of the day. This will give that degree of confidence in its agents necessary to rendet it the most useful to the people.

"There does not seem any reason why this business and social agent of the people should be more connected with them than the officers of the courts of justice, or the accounting officers of the Government. If it were believed that the latter officers performed the duties assigned them with a view to the advancement of party purposes, public opinion would soon correct the evil. If the post office were alike exempt from political influence and party contests, public confidence would be maintained, and the best interests of the system promoted.

"It may be well worthy of consideration if these objects would not be advanced, should the Postmaster General be nominated by the President to the Senate for a specific term of years, be separated from the Cabinet, and only removable by impeachment, and the appointment of the principal subordinate officers for a like term of years be given to him; and to provide that no removal should be made except for good and sufficient cause, to be reported to each session of the Senate.

"I am, respectfully, your obedient servant,

"C. JOHNSON."

This, Mr. Chairman, is the position occupied by the newspaper-drying Postmaster General of James K. Polk's administration, which old Father Ritchie has proclaimed to the world will go out in a blaze of glory. Sir, notwithstanding all the efforts put forth to sustain the issue thus forced upon the country by the South, it has resulted in a most signal failure. This failure is chargeable to the South for deserting their northern friends, and making an issue which they knew the North ought not and would not sustain, and which, as the result has shown, the South could not. General Cass, with all his popularity, sustained by party organization, and the patronage of the Administration, has been beaten upon this issue, and General Taylor elected upon it. The reasons are too obvious to be mistaken. The northern Whigs supported General Taylor upon the ground that he would not interpose the Executive veto to any law Congress might pass prohibiting slavery in the territories, and the southern Whigs supported him because he was a southern man, and could be relied upon with quite as much confidence as General Cass, whose mind had undergone such a sudden and mysterious change. On the other hand, the northern Democracy could not support General Cass, for the reason that he had declared that Congress had no constitutional power to legislate upon the question of slavery, and, therefore, under his constitutional oath, would be bound to veto any law Congress might pass upon that subject. In addition to this, many of the radical Democracy of the State of New York voted *directly* and openly for General Taylor; and the Democrats of the South would not support General Cass, for the reason that his conversion was too sudden and miraculous to inspire them with confidence that he would adhere to his position. Thus, Mr. Chairman, I affirm that the sovereign people have proclaimed to the world, through the ballot-box, that they are opposed to the further extension of slavery, and are in favor of the principles of the Jeffersonian ordinance of 1787. They have weighed the institution of slavery in the balance and found it wanting, and have written its sentence of condemnation upon the inner walls of the Temple of Liberty. It remains to be seen whether the will of the people is to be carried out. Gentlemen may struggle—they may change positions—they may temporize for the present—they may delay—but they will not escape the just indignation of an insulted people which awaits them. It were better for that man that a millstone were tied about his neck, and he cast into the depths of the sea, than for him to attempt to defeat the will of the people, or tarnish his country's honor for a mess of pottage!

But, sir, notwithstanding Congress has the constitutional power to legislate for territories belonging to the United States, the expediency of such legislation by no means follows as a matter of course. The exercise of a power must be controlled and governed by the results to be produced. If the benefits to be derived to the country by the exercise of *this* power will not counterbalance the evil, then, in my judgment, it should by no means be exercised. The Constitution was ordained and established in order, among other things, to promote the general welfare, and secure the blessings of liberty to ourselves and posterity.

This naturally leads me, sir, to the consideration of my second proposition—the influence of slavery upon the country, in a political, moral, and social point of view. It is not enough for the North to prove that their interests would be promoted by restricting slavery to its present limits. Nor is it sufficient for the South to show that their interests will be advanced by extending it to these territories. Something more than this must be shown. This was designed for a perfect and perpetual Union. It cannot be perfect and perpetual unless the general interest is cared for. The South would hardly be willing to take the position, and attempt to maintain it, that although their interest might be promoted by the extension of slavery, that it would be right and just, if it could be shown that the aggregate interests of the whole would be materially impaired thereby. We are, then, to inquire, whether the extension of slavery is calculated to promote the general welfare of the country, elevate its moral character, and give strength and stability to our institutions. Does any one *believe this? Can* any one *believe it?*

Let us proceed in all candor to examine this question a little in detail. And here I beg gentlemen will understand that I am not passing any censure upon them, but looking at the influence of slavery upon the country. Comparisons are unpleasant, but sometimes necessary, by way of illustration. Were we to compare the value of the crops of the State of New York, the amount of funds invested in manufactures, the amount invested in merchandise, for any given period, with the value of the crops of Virginia, and the amount of funds invested in manufactures and merchandise in that State, I venture to say that the amount would be more than as five to one in favor of the former. In 1790 Virginia had ten Representatives, and New York six. Now New York has thirty-four, and Virginia fifteen. Here is a political power growing out of the increase of population. The reasons of this increase are obvious. If we look at the common-school system, it will stand thus: The number of organized school districts in the State of New York, as appears by the returns for the past year, and as stated in the Governor's message, was 10,621; and the number of children taught in the common schools during the year was 775,723, being an increase of 27,336 over the number reported the preceding year. The number of unincorporated and private schools reported is 1,785, in which 32,256 children were taught, making the aggregate of 807,979 children who receive instruction in the common and private schools of the State. The amount of public moneys paid for teachers' wages during the year was $639,008, and the amount paid on rate bills for teachers' wages was $466,674 44, being an aggregate of $1,105,682 44. The number of schools in one hundred and twenty-one counties and towns in Virginia, as appears from the American Almanac, was 3,718. The total number of children educated in one hundred and twenty-seven counties and towns was 29,122. The amount expended for tuition of poor children, including books, compensation to officers, and all other expenses, was only $70,306 08. I leave gentlemen to account for this difference. "Intelligence is the life of liberty." It is the fountain-spring of all the future hopes of the Republic. It is one of the main pillars upon which the permanency and perpetuity of the Government depends.

Again, Mr. Chairman, if we contemplate this question of slavery in another aspect, we cannot fail to see its true character. If slavery did not now exist in this country, where, I ask, is the member in this House who would dare rise in his seat and propose to engage in this unholy traffic? If he is here, let him stand up. Sir, the very proposition would be revolting to all the better feelings of the heart. No one at the present day could come to the deliberate conclusion to engage in such a traffic. We should be told that it was an inhuman traffic. The evils of slavery and the enormity of such a traffic would be portrayed in all their appalling features; it would be condemned in strains of irresistible eloquence from all quarters, and none would be more eloquent in its condemnation than the South. They would tell you that a traffic which proposes to deal in human beings as merchandise—a traffic which separates husband and wife, parent and child, brothers and sisters, and puts them up in market overt, to be struck off to the highest bidder, and taken from their homes into a distant land to drag out a wearisome and miserable life of toil and bondage, without the hope of release, and without the hope of visiting the land of their birth and seeing those they once loved—was a damnable traffic, and against the laws of God and humanity, and could never receive their sanction! And yet, how strange it is! gentlemen are advocating the continuance of this very slave traffic; and the only apology urged for such a course is, that slavery exists without their fault, and therefore the traffic may be lawfully prosecuted for their profit. In the name of God, and for the honor of our common country, I beg gentlemen to pause.

Mr. Chairman, I might here go into a catalogue of evils, to show the influence of slavery upon the country in a social and moral point of view; but I forbear, and will content myself, upon this occasion, by referring to the opinions of others.

Mr. Jefferson said:

"There must be an unhappy influence on the manners of our people, produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise of the most boisterous passions—the most unremitting despotism on the one part, and degrading submissions on the other. Our children see this, and learn to imitate it. The man must be a prodigy who can retain his manners and morals undepraved by such circumstances. And with what execration should the statesman be loaded, who, permitting one-half the citizens thus to trample on the rights of the other, transforms those into despots and these into enemies, destroys the morals of the one part and the *amor patriæ* of the other. With the morals of the people their industry is also destroyed."

Washington said, in a letter addressed to Robert Morris:

"I can only say, that there is not a man living, who wishes more sincerely than I do, to see a plan adopted for the abolition of it; but there is only one proper and effectual mode by which it can be done, and that is, by the legislative authority; and this, as far as my suffrage will go, shall not be wanting."

General Lafayette, in speaking of the prospects of this country, said:

"While I am indulging in my views of American prospects and American liberty, it is mortifying to be told, that in that very country a large portion of the *people* are slaves. It is a dark spot on the face of the nation. Such a state of things cannot always exist."

Again, he said:

"I would never have drawn my sword in the cause of America if I could have conceived that thereby I was founding a land of slavery."

Again:

"The *character* of the institution of slavery may be understood from the laws regulating it. I will refer to some of these laws. When any sheriff or other officer shall serve an attachment on slaves, horses, or other live stock, and the same shall not be immediately replevied or restored to the debtor, it shall and may be lawful for such officers, and they are hereby required, to provide sufficient sustenance for the support of such slaves and live stock," &c.—*Tate's Digest of the Virginia Laws, 2d edition*, p. 68, prepared in 1841.

The provision for sustenance, when a levy shall have been made, is as follows:

"*Provided*, The allowance so made shall not exceed twenty cents per day for each slave, seventeen cents per day for each horse or mule, nine cents per day for each head of horned cattle or hog, and six cents per day for every sheep or goat."—*Idem*, p. 379.

By the above law slaves are put upon an equal footing with *other* live stock.

Here follows an exception in favor of the slaves:

"No sheriff or other officer to whom any writ of *fieri facias* shall be directed, shall take in execution any slave or slaves, unless the debt and costs mentioned in such *fieri facias* shall amount to the sum of *thirty-three dollars*, or two thousand pounds of tobacco."—*Idem*, p. 372.

By this law, if the debt is over the value of two thousand pounds of tobacco, the slave may be sold and the tobacco kept for *home* consumption.

"If any slave, free negro, or mulatto, shall prepare, exhibit, or administer any medicine whatever, he or she so offending, shall be judged guilty of felony, and suffer death without benefit of clergy."—*Idem*, p. 852.

"By the statutes of *South Carolina*, slaves may be baptized and become Christians, but shall not thereby be manumitted or set free."—*7th vol. Statutes of South Carolina*, p. 364.

"Slaves, if manumitted, must leave the province in six months, and if they return within seven years, to lose their freedom, unless the manumission has been approved of by the Legislature."—*Idem*, p. 395.

"No negro, by receiving the sacrament of baptism, is thereby manumitted or set free, nor hath any right or title to freedom or manumission, more than he or she had before."—*Laws of Maryland*, 1715, chap. 44, sec. 23.

"When any negro or mulatto shall be found, upon due proof made to any county or corporation court of this Commonwealth, to have given false testimony, every such offender shall, without further trial, be ordered by the said court to have one ear nailed to the pillory, and there to stand for the space of one hour, and then the said ear to be cut off, and thereafter the other ear nailed in like manner, and cut off at the expiration of one other hour; and, moreover, to receive thirty-nine lashes on his or her *bare back, well laid on*, at the public whipping-post, or such other punishment as the court shall think proper, not extending to life or limb."—*Tate's Digest of the Virginia Laws*, p. 276.

But we are told by some that this slavery question is a mere abstraction—that there can be no practical legislation in relation to it; that it is morally and physically impossible for slavery to exist in these territories; that they are now free, and will remain so; that the moment slaveholders take their slaves there, their shackles fall off. Mr. Chairman, if gentlemen honestly entertained these views, they would not object to the passage of a bill providing governments for these territories prohibiting slavery therein. The passage of such a bill would satisfy the country, and stop all further agitation. But we know the South entertain views entirely different. They claim the constitutional right to enter these territories, and to carry their slaves with them, as property, and hold them as such; and they deny that Congress has any constitutional power whatever to prohibit them from the exercise of this right. Nay, some gentlemen of high standing and influence maintain that slavery now exists in New Mexico and California. The Attorney General of the State of Mississippi, in reply to an invitation to address the citizens of Alabama, affirmed that the act of the Mexican Congress, abolishing slavery, was an act of usurpation, and therefore null and void. He also made a severe attack upon the honorable gentleman from Georgia, [Mr. STEPHENS,] and charged that his course was calculated to deprive the South of *thirteen* slave States, and, consequently, twenty-six Senators in the National Legislature, and members of Congress in proportion. Here, sir, is the secret of the southern movement—thirteen slave States, to advance their political power, and open a profitable market for the sale of slaves! Extension is demanded by the South. They consider the issue made a direct attack upon their constitutional rights. But it must be remarked, that this is not a proposition to interfere with slavery where it now exists. It is not a proposition to abolish slavery in the States. All that is proposed is, to prevent the extension of it into territory now free; and that, too, upon the principle that the general welfare of the country will be promoted by it, its character vindicated, and its honor maintained. The South, however, are unyielding. Extension or dissolution is the only alternative.

And what, I ask, are you of the South to gain by a dissolution? Will separate and small confederacies be profitable? Will it open a better market for your cotton, your rice, your sugar, and your tobacco? The whole world is open to you now. Will it lessen your burdens for the maintenance of government? Will it promote good neighborhood? Are no difficulties to be apprehended from such an extent of northern frontier? With the elements of destruction within your own limits, will it add to your strength and security in time of war? Have the free States been unprofitable partners? Are they too exacting? When Florida was acquired by treaty with Spain, did the North claim it? Did she not give it up to the South? Will you dissolve the Union for that? When we acquired Texas, which has cost the country, connected with the war which followed in consequence of it, $200,000,000, did the North claim it? Has she not yielded it to the South? Will not northern labor and northern capital have to pay two-thirds of this debt? Will you dissolve the Union for that? The fifteen slave States contain 900,000 square miles of territory, while the free States contain only about 450,000: Is that cause of complaint, and will you dissolve the Union for that? The amount paid for carrying the mails in the slave States exceeds the amount of receipts by more than $550,000 per annum, all of which excess is paid by the North: You would not dissolve the Union for that! The free States furnish all your schoolmasters and schoolmistresses: I know you would not dissolve the Union for that! The slave-holding States have had twelve of the Presidential terms, making forty-eight years, and have now secured four years more. You would not dissolve the Union for that! The South have had *seventeen* judges of the Supreme Court, and the North *eleven; fourteen* attorney generals, and the North *five; twenty-one* Speakers of the House of Representatives, and the North *eleven; sixty-one* Presidents of the Senate *pro tem.*, and the North *sixteen; eighty* foreign ministers, and the North *fifty-four;* the disproportion in the army and navy is still greater; while the appointments in the several departments are substantially all given to the South: You would not dissolve the Union on this account!

But, Mr. Chairman, I will not pursue this train of thought further. This question rises infinitely above all such considerations. For what, then, I ask, is this glorious Union to be dissolved? Let the country hear it; let the civilized world hear it; let the fact be recorded as a matter of history: The Union is to be dissolved, because slavery is not permitted to go into territory now free. Are you of the South prepared to make this issue? Are you willing to occupy such a position? Who will uphold you in it? The civilized world will condemn you; posterity will condemn you; and the "Almighty has no attribute that can take sides with you in such a" work.

Mr. Chairman, every expedient has been resorted to by the advocates of slavery to raise false issues in order to defeat the will of the people. At one time we are told that Congress has no constitutional power to legislate upon the question; again, admitting the power, its exercise is considered of doubtful expediency. Now, we are pressed to leave the settlement of the question to the people in the Territories. Frightened at this proposition, the notorious compromise bill is introduced, which was laid upon the table in the popular branch of the National Legislature without debate. *There let it remain.* All these expedients having failed, a new system is adopted. The honorable Senator from Illinois [Mr. DOUGLAS] brings in a bill for organizing a kind of territorial State, as though baptizing it by a new name would change its character or escape the difficulty The editor of the Union immediately proclaims to the country that a perfect child has been born into the world, and he is ready to stand sponsor for it; and he calls upon all to fall down and worship it. I tell you, Mr. Chairman, the child is born under the law, and is not *free*. It is not entitled to christian baptism, but, according to ancient rites and ceremonies, must be *circumcised*.

Sir, as the deep fountain of public opinion breaks up, overwhelming the advocates of slavery, or driving them from their position, they retreat and assume another. Like Noah's dove, they can find no resting-place. Now, the point of attack is changed, and the resolution introduced by my honorable colleague [Mr. GOTT] is made the subject of severe remark. The resolution is in these words:

"Whereas, the traffic now prosecuted in this metropolis of the Republic in human beings, as chattels, is contrary to natural justice and the fundamental principles of our political system, and is notoriously a reproach to our country throughout Christendom, and a serious hindrance to the progress of republican liberty among the nations of the earth: therefore,

"*Resolved*, That the Committee on the District of Columbia be instructed to report a bill as soon as practicable, *prohibiting the slave trade in the District*."

Is there anything wrong in this resolution? What does it propose? Does it propose anything more than to prohibit the *slave trade* in the District?

The honorable gentleman from Indiana, [Mr. THOMPSON,] in a speech made in this Hall, but a short time since, raised a false issue upon this resolution, and talked in strains of burning eloquence about the right of Congress to *abolish slavery* in the District. He cited the opinion of Judge Story, delivered in the case of Prigg *vs.* the Commonwealth of Pennsylvania, reported in 16 Peters, 611. This was a case which involved the right of the master to reclaim his slave, under the provisions of the 2d section of the 4th article of the Constitution of the United States. The honorable gentleman then goes down on his sliding scale to what General Harrison said, in a letter written in 1836 to one Thomas Sloo, Jr., about the right of Congress to *abolish* slavery in the District of Columbia. Then he goes up on his sliding scale to the great embodiment of Whiggery, and tells us what Mr. Clay said upon the same subject; and finally quotes what Washington said in his Farewell Address about combinations and associations, with a view to awe the regular deliberation and action of constituted authorities. Well, sir, I should like to know what all that has to do with the resolution. The resolution of my honorable colleague does not propose to resist the constituted authorities; nor does it propose to abolish *slavery*, but the *slave trade*.

If the gentleman from Indiana had postponed his remarks until the petition from the Board of Aldermen and Common Council of the city of Washington had been presented to this House, he would have better understood the import of the resolution. That petition is as follows:

"The undersigned, members of the Board of Aldermen and Common Council of the city of Washington, having, in common with their fellow-citizens, long regarded with disapprobation the *importation* of slaves into the District of Columbia for purposes of *sale* or *traffic* elsewhere, and deeming it alike *prejudicial to the interest of our city*, and *offensive* to public *sentiment*, request your honorable body to *restrain such traffic* by the enactment of some law similar in its provision to that embraced in the code of laws for the District of Columbia, reported to the House of Representatives in the year 1832, by Mr. Wilde, of Georgia, and to the Senate by Mr. Chambers, of Maryland, the enactments of the adjoining States of Maryland and Virginia on this subject, or grant to the respective corporate authorities of Washington and Georgetown such powers as will enable them to remedy this evil."

I beg the attention of gentlemen to the language of this petition. It states that the traffic IS PREJUDICIAL TO THE INTEREST of the city, and *offensive* to *public sentiment*. This is quite as strong as the language employed in the resolution.

This petition from the Board of Aldermen and Common Council, presented but a few days since, asks precisely what the resolution introduced by my honorable colleague contemplates—"*the abolition of the slave trade in the District.*" Can there be any doubt of the constitutional right of Congress upon this question? By article 1, section 8, of the Constitution of the United States, "Con-'gress shall have power to exercise *exclusive legis-'lation*, in all cases whatsoever, over such District '(not exceeding ten miles square) as may, by ces-

'sion of particular States, and the acceptance of 'Congress, become the seat of Government of the 'United States." But do you not know, say the advocates of slavery, that although Maryland and Virginia, at the time of the cession, agreed that Congress might provide for the government of the District, as contemplated by the eighth section of the first article of the Constitution of the United States, it was not anticipated that any such jurisdiction would be exercised without their consent? Did not the country know that slavery existed in the District at the time of the cession, and that it was not expected that any law would be passed by Congress to prevent us from selling our surplus slave stock to slave dealers who visit Washington, from Baltimore or elsewhere, for the purpose of making profitable investments? Are our rights and our feelings to be outraged by such a law? Are we to be treated with such indignity? Are we to be told that our slaves are not *articles* of merchandise? Is dealing in human beings to be brought into disrepute at this late day, in the middle of the nineteenth century, when Christianity is spreading its benign influence to the remotest parts of the world? Is the Congress of this enlightened Republic prepared to adopt a measure so monstrous, as to prevent slaveholders from Maryland, and Virginia, and elsewhere, from selling their slaves at the seat of Government as they would sell any other merchandise? Why, sir, Congress might as well say we should not sell our horses and our mules here! It is an invasion of southern rights. It is an encroachment, and must be resisted; or, at least, if this is not an encroachment upon our constitutional rights, it is very evident Congress designs to do something by and by that will be.

But the honorable gentleman from Indiana [Mr. THOMPSON] asks, in an air of total indifference, "What is the 'slave trade' in the District of Co-'lumbia? I have heard a great deal said about ''slave pens;' about slaves sold at auction; and 'about stripping the mother from the child, and the 'husband from the wife. These things may exist 'here, but I do not know of them. Since I have 'been in the habit of visiting the District—which is 'from my boyhood—I have never seen a negro sold 'here. I have never seen a band of negroes taken 'off by the slave trader. I do not remember that 'I have even seen the slave trader himself. I know '*nothing of the slave pen that is so much talked about.* 'It may be here, however, and these things may 'happen every day before the eyes of gentlemen 'who choose to hunt them up; but for myself, I 'have no taste for such things."

Mr. Chairman, I am credibly informed that from four to six hundred of these unfortunate beings are sold annually at the slave pen situate near the Smithsonian Institution. Of the seventy-six slaves who escaped from their masters in this District during the last session of Congress, and who, after they were recaptured, were *driven* directly by the door of the boarding-house of the gentleman from Indiana, *forty* of them were sold at the common jail in this District, to a slave dealer from Baltimore, and taken to that city. Where they now are, God only may know.

Mr. Chairman, there was a black man by the name of Ware arrested during the last session of Congress, in open day, on Pennsylvania avenue. He made his appeal to members of Congress for help, as they were going from this Hall to their respective boarding-houses. That appeal was made in the very sight of the American stripes and stars which proudly floated over this Capitol. The appeal, however, was made in vain. The black man was taken to Alexandria for sale. He was not sold, however. A subscription paper was started, and the pound of flesh demanded, paid for, and the black man restored to his wife and children, and they were again a happy little household. The honorable gentleman from Indiana, [Mr. THOMPSON,] although a member of this House at the time, and although in the habit of visiting this District from his boyhood, did not see this. He never has seen anything like this. He knows nothing about any slave pen here. I presume he would not know a slave pen if he were to see one. He has never even seen a slave dealer. He has no *taste* for such things. Mr. Chairman, I hope the free constituency of the gentleman from Indiana will correct his *taste* and improve his *sight*, so that he will be able to distinguish between a *slave pen* and a *seminary of learning*.

Sir, if the evils of slavery are such as I have attempted to portray them, and if the prosperity, welfare, and honor of the country demand that its progress be stayed, shall we, will we, fail to repudiate "masterly inactivity," and act, discharge our duty fearlessly as the representatives of a free people? Great Britain and Denmark, the South American Republics, and France, have abolished slavery—nay, the whole world is moving in this great principle of freedom; and shall it be left for this, our boasted model Republic, not only to perpetuate, but extend slavery? Sir, this country occupies an important and interesting position. When we look at the origin of this Republic, and contemplate the design of its founders, can we fail to see that upon us devolves a most important and sacred trust? Let us not fail to discharge it faithfully. I, for one, solemnly believe, that the interests of this country imperiously demand that slavery should be checked in its progress. Are we prepared to act? Are we ready to meet the question? If we dare not meet it now, how shall we be able to meet it when it has become more formidable? Shall avarice, pride, and sordid interest, prevail over duty? For one, sir, my mind is made up. I am prepared to act. I am opposed to the extension of slavery over another foot of territory now acquired, or hereafter to be acquired, by the United States. I am in favor of abolishing the slave *trade* in the District of Columbia and wherever else the Constitution will permit. And while I say this, I will also add, that I always have been, am now, and shall continue to be, opposed to any and all interference with the question of slavery in the States. The States alone have the control over it there, and Congress has no right to interfere. But, sir, I maintain that it is a libel upon the country and its free institutions; it is a libel upon the memory of the fathers of the Revolution; it is a libel upon the fair fame of departed patriots and statesmen; it is a libel upon the eternal and immutable principles of truth and justice; nay, more, it is a libel upon the attributes of the Almighty, for gentlemen to contend that this Government has no control over this question, but that we are compelled, by the laws of inevitable necessity, to let the question of slavery *alone*, until its blighting influences have literally despoiled our glorious Union of all its beauty, magnificence, and moral grandeur! Sir, I believe in no such doctrine of necessity.

These, Mr. Chairman, are my sentiments. I have expressed them fearlessly, but honestly; I am willing to live by them, and I hope to be willing to die by them. And when that hour shall come, and come it will, I shall hope to have one consolation at least—that I have not given a vote, nor done an act knowingly, calculated to rivet the chains of slavery upon a single human being. Sir, let us do right, and trust to Him who controls the destiny of nations for the consequences.

THE TARIFF AND SLAVERY QUESTIONS.

SPEECH OF MR. J. B. THOMPSON,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1849,

In Committee of the Whole on the state of the Union, on the bill to carry into effect the Treaty of Peace with Mexico.

Mr. THOMPSON spoke as follows:

Mr. CHAIRMAN: It had not been my purpose to address the committee; but as it is now to me pretty evident, that beyond the usual appropriation bills little will be done during this session of Congress, except that discursive and protracted examination which seems with us necessarily to precede action upon all questions of political moment, I will therefore briefly allude to these questions, which I trust will be sufficiently discussed and matured for early action under the auspicious influence of a different Congress and another Executive.

I regret to believe that there exists a mischievous disposition not to settle as *yet* the territorial questions. The friends of the incoming Administration, anxious for its success and its popularity, cannot feel otherwise than an ardent wish that that Administration could commence its career disembarrassed of these territorial difficulties. Left as open questions, the mode of their settlement, their very settlement itself, however made, may harass that Administration and disaffect its friends.

To the predetermined opponents of that Administration, to cover their factious purpose, there is the pretence—the gauze vail—that these matters of mighty moment, in all their vastness of responsibility and intricacy of adjustment, should be left to the management and upon the shoulders of those whom the people have selected to conduct their affairs. However much such considerations may influence the action of those who regard political issues adroitly made—upon which one party is to go out and another party is to come into power, as the only proper aim of statesmanship and political effort—there is another tribunal, high above faction, slow but sure in its just judgments—the sovereign people, who will impartially condemn or impartially award honor and praise to those who shall settle these questions. The people, like a jury of the country, will make up their verdict, too, all the facts and circumstances being first considered, not prejudged.

The intelligence and moral fitness of that tribunal, proved and exemplified as it recently has been by the very act that brings into existence the next Administration, will, in a spirit of fairness, generosity, and with magnanimity, give support to the rulers they have freely and deliberately elected, until and unless, in the progress of events, and by the action of that Administration, public confidence in it shall be forfeited, its wisdom is found wanting, its motives unpatriotic, its measures pernicious.

No premature and prurient thirst for change—no factious purpose to condemn, right or wrong—no captious opposition, animates those who recently exhibited to the world the sublime, the grand moral spectacle, that twenty millions of American people, without riot, bloodshed, or even the interruption of the ordinary avocations of life but for a day, changed their rulers. Nearly balanced in two parties numerically, they who are beaten acquiesce, as those who succeed have acquiesced before. Law, order, peace, reign supreme at and over the great trial. No bloody battles, no armed soldiery, no executions for political offences, no besieged or sacked cities give token, or leave memorial of the revolutionary throes that disastrously blacken the efforts of those in other countries who essay to imitate us. Such is the absence of all the paraphernalia that mark popular effort to change rulers elsewhere, that a foreigner, in amazement at the absence of all such physical force, and mute with wonder at the moral energy of the scene, might bewilderingly look for the Government; the public judgment, by the virtue of the citizen executes itself.

This tribunal, too, is the only party interested; and therefore I feel the persuasion of the kindest augury, that upon the topics of expected difficulty, there will be found a facility of satisfactory adjustment astonishing even to ourselves.

First, as to that trite subject of the tariff, which never should have been perverted into a party question, or mixed up with party politics, whatever may be the effort to repeal the tariff act of 1846, or substitute that of 1842 in its stead, I anticipate, after much discussion, *such modification* of the existing laws only will be made as to dissatisfy none except those so greedy and growling for a particular interest, or so moonstruck with some peculiar theory, that eternal dissatisfaction is "their manifest destiny" at best. Protection for protection's sake, and absolute prohibition, are now, or ought to be, "obsolete" commercial regulations, and unadvocated. Like perfect free trade, and a resort to direct taxes, their day of false doctrine is passing by, or gone. Enough of general principles and sound theory seems to be concurred in by the sound common sense of the nation to construct an almost unexceptionable scale of duties upon imports.

By the war of the Revolution we achieved our national independence; to secure that independence, the *means* of self-preservation, the necessary material for aggressive or defensive operations in war, should be so fostered that no exigency or crisis would find us without them. The iron to make bail, cast cannon, anchors, or to construct other appliances of warfare, as well as the materiel to

manufacture cordage, sail, &c., to rig a man-of war and the like, independently of the fact that they are great national interests, challenge our fostering care. It is familiar to the House that such has been the opinion of our wisest statesmen of the past time, as well as of the current generation. That a tariff of duties, however, should be constructed upon the basis of raising revenue for the Government, and incidentally at the same time, by discrimination in the rates of duty, affording what protection it can to home pursuits and industry, seems to me, in popular conviction, a settled principle—"a fixed fact." That whilst mainly for the purpose of revenue, and with an eye to the public treasury, a scale of duties on foreign imports is to be laid; yet if, at the same time by discrimination within the revenue standard, home interests may be protected, the pursuits of life diversified, a home market created or encouraged, a portion of the superabundant agricultural class turned from producers into consumers, it seems to me that the competition in the first periods of such measures, and eventually by the established and confirmed manufacture of the encouraged articles at home, the general interests, in the language of the Constitution, must be promoted. Such tariff on articles easy of transportation and concealment as will not superinduce contrabanding by the temptation of excessive profits, by evasion of the revenue laws—such tariff as by its provisions seeks upon foreign luxuries to collect the largest possible amount of income to the treasury, whilst it taxes luxury and encourages republican simplicity of life, seems to comport as much with the feelings of our people as the desire to have as cheap and accessible as possible to the people the articles of daily use and consumption—such as tea and coffee, although of foreign growth. How far the list of free articles should go, and what should be those articles, could be easily decided, if the spirit of the principles I have stated could be brought to bear. The principle of fictitious valuations—I mean the minimum and maximum modes of valuation—from its deceptiousness, I believe, has met with universal condemnation. That articles of one value shall be classified, rated, and if I may use the term, taxed by mimimum or maximum per cent., according to classification, or to a standard of value bearing no proportion to the real value of the article itself, but according to the per cent. on the class with which it is rated, is obviously unjust. Practical common sense, aided by the experience and personal knowledge of the members of the House to the extent it shall apply indisputable abstract principles to the state of commerce and trade, will make a *judicious* or injudicious tariff. Not *the* principles—*their* application constitutes the difficulty. Embodying the principles in the form of a law, and giving them practical operation, demands large experience and minute statistical knowledge of our trade, productions, and commerce. When we shall come to modify or reconstruct our tariff system, I doubt not the men fitted for the time and the business will be found. That everything should be taxed or tariffed according to its value *prima facie*, and abstractedly, seems right—it is theoretically right. But foreign valuation would place us at the mercy of foreign merchants; and home valuation, however beautiful in appearance, and however theoretically calculated to be fair by accommodating itself to the progress or fluctuation of values, produces want of uniformity in taxation, and is the fruitful parent of much fraud. The same valuation of the same article will not be made at Boston and at Mobile or St. Louis; under valuation will prevail everywhere; false and fraudulent invoices, to evade the revenue laws, will also prevail. Then to specify the duty on the particular article, and not have its value to be settled at the custom-house, is perhaps, in most instances, the most unobjectionable mode.

However, Mr. Chairman, whether duties are to be specific or ad valorem, or what warehousing system, or what debentures, drawbacks, or bounties are to prevail, are unfit to be made party questions. The revenue for the maintenance and support of the Government in all its branches must be provided; it has heretofore, and will continue to be, chiefly raised through the medium of a tariff upon imports. This is paid unconsciously; it is paid by no compulsion; the people are in habit and by usage accustomed and accommodated to it; and it seems to me that when practical experience, sound common sense, and a small share of patriotic feeling shall have, after laborious investigation—laborious it must be—so modified the tariff laws, that both branches of Congress will concur in it—and that is then sanctioned by the Executive, as it will be—there must at last be a cessation of vexing the public ear with this question. Stability, fixedness, a to-be-relied-upon continuance of some system, should prevail. If adjusted not precisely right at first, business and capital will adjust themselves to it, and the people afterwards.

In this spirit I hope this question will be settled, for already, by the position of the incoming Executive, it is taken from the arena of party politics. This question, referred to the people through their representatives in Congress assembled, when hereafter settled, not as an Administration or anti-Administration measure, must necessarily command a majority of the representatives of the people in this branch of Congress, and a majority of the States, or rather, a majority of the representatives of the States, in the Senate. This adjustment, when made, should be satisfactory—final, except so far as the progress of the country, or the changes of commerce imperiously demand after modifications. This same majority of the representatives of the people and majority of the representatives of the States, I doubt not, will allow a United States bank to sleep the sleep of death, and will repeal the sub-treasury when and as soon as some more safe, convenient, and economical agency, to collect, keep, and disburse the revenues of the Government, shall have been provided. The Executive and his Administration, wisely uncommitted to everything touching these matters, save faithfully to execute and carry out the popular will as manifested by law, happily deprives those and kindred ones of all that party cast and aspect that might superinduce ill-advised enactments.

Secondly. Although the patriotic position of the President elect has drawn the viper fang that would sting and gnaw the best interests of the country involved in these questions, still there is another question made the question of questions: factionists and fanatics, conscious of impotency for mischief upon other subjects, concentrate all their assaults upon the repose and peace of the country to that question—I allude to negroism, knowing no better term to designate the agitation or the agitators. This subject of negroes and slavery I desire not so much to discuss as to state some facts and express some opinions.

All men, of all parties, even Abolitionists, disclaim all interference or pretence of right to interfere, under the Constitution, with slavery in the States. It exists as a municipal institution or regulation in the State of Kentucky. Whatever her own people do touching it, as it exists Congress has no more jurisdiction to legislate concerning it than Congress has to interpose and prescribe a law of descents and succession for France, or interpose and enact a statute of limitations for all Germany, or regulate the relations of parent and child, master and servant, or other domestic relations of the people of the Chinese Empire. This licentious spirit of mischief has, then, to act upon the remnant of the District of Columbia and the Territories. Of these two, in their order, I will briefly speak. Sir, the Declaration of Independence—independence from British rule—the history of the Continental Congress, with all their glorious associations and reminiscences, are familiar to all. But the war of the Revolution brought not to us republican government in the States, or the Federal Constitution. It was a war for independence: civil liberty, the Federal Union, State and Federal republican principles of popular representation and popular rights, according to the civil history of the country, were laid deep and broad by those who fought first to cast off subjugation to the British Crown, and by their genius and virtue afterwards framed—as architects before them had never framed the like or a prototype—our State governments and our inimitable Federal Union, as it looms out in the vast and gothic proportions of the Federal Constitution. Without particular specification of the various acts and proceedings of the Congress of the Confederation, or the various acts of the Legislatures of Maryland and Virginia, I state so much as is pertinent to my present purpose.

In the twelfth year of American independence, the deputies from the States at Philadelphia, in Convention assembled, in pursuance of the resolution of the Congress of the Confederation of 21st February, 1787, formed, and on the 17th September, 1787, submitted, through George Washington, deputy from Virginia, and President of the Convention, what now (together with amendments since adopted) constitutes the Constitution of the United States. By the terms of the Constitution, nine of the thirteen States were to ratify before it was even obligatory on the other States ratifying. New Hampshire, 21st June, 1788, was the ninth State to ratify: others afterwards ratified or accepted; and on Wednesday, 4th March, 1789, at New York city, the first Congress assembled, and the present Federal Constitution may be said to have taken effect and gone into operation. The Government of the Union was afterwards held at Philadelphia, until, in the Territory or District of Columbia, on the 17th October, 1803, the first Congress was held here. The Government may be said before that time to have come to what then was popularly termed the Federal City—the present metropolis of the Union, or, speaking with geographical precision, its capital. The Government of the Union is now here in virtue of the provision (among others) of the eighth section of the first article of the Constitution, declaring that the Congress shall have the power to "exercise exclusive 'legislation in all cases whatsoever (over such ter-'ritory not exceeding ten miles square) as may, by 'the cession of particular States, and the acceptance 'of Congress, become the seat of the Government 'of the United States."

By the cession of Maryland and Virginia, respectively, and the acceptance of Congress, the ten miles square, called the District of Columbia, did become the seat of the Government. The portion ceded by Virginia, lying on the other side of the Potomac, has been retroceded, and now, as before the cession, constitutes a part of that ancient Commonwealth. The cis-Potomac, or Maryland portion, is—say a moiety—five by ten miles square of the original District, on which is located the public buildings, and where the Government resides. This is the small locality to which the mischievous disturbance of slavery agitation by pious patriots is to be applied! The second section of the act of cession of Maryland (it is now useless to speak of Virginia or her acts) provided, "that 'all that part of said territory called Columbia, 'which lies within the limits of this (Maryland) 'State, shall, and the same is hereby, acknowl-'edged to be forever ceded and relinquished to 'Congress and the Government of the United 'States, in full and absolute and exclusive juris-'diction, as well of soil as of persons residing or 'to reside thereon, pursuant to the tenor and effect 'of the eighth section of the first article of the 'Constitution of the Government of the United 'States."

The clause of the Constitution quoted, and this enactment, are the substantial, operative, explicit words of the grant. Congress accepted the grant, *has heretofore in all cases exercised exclusive jurisdiction* and legislative power in the District: the country has acquiesced in it. In the acts of Congress, or of the State of Maryland, there is no proviso, reservation, or condition, restricting or limiting the power of exclusive legislation in all cases. Even had there been such reservation, by ambiguous or doubtful terms or phraseology, on account of inconsistency with the clause of the Constitution quoted, that the exclusive jurisdiction contemplated might rest, such condition inconsistent with the Constitution should be rejected as void, and repugnant to the principal and leading intent of the parties. Such being the language of the Constitution, and of the act of cession of Maryland, by sound interpretation, words of reservation should be regarded as void and inoperative, as contrary to the intent and object primarily contemplated. But there is no ambiguity of phrase, or doubt, from the language, and the legal maxim —"*nulla expositio fienda est contra verba*"—is the common-sense and sound construction as to the power and right of Congress to legislate in all cases, and over all subjects of legislation, in the District. The force of the terms leave no room for implication; they are absolute, unconditional, unmistakable. I have thus spoken of the power, and I do so because I do not wish to be placed on a wrong ground in a matter sufficiently strong, on

other grounds, to uphold my view of it. The power of Congress to abolish slavery in this District, by gradual emancipation or otherwise, I concede. This, too, I thought the admitted, recognized doctrine. Even Van Buren, objectionable for many things, and objected to for everything, escaped unscathed for this, when he admitted the power, but took ground—high veto ground—against the exercise of the power to abolish slavery in this District.

But, Mr. Chairman, I trust no Congress or Executive will ever exercise, or allow that power to be wantonly exercised. Good faith towards Maryland forbids it. Will any man pretend that when jurisdiction over soil and citizens was granted, the State or the people of the District contemplated, or ever dreamed of any such action on the part of Congress as abolishing slavery in the territory? It was not thought of—it is not necessary for any purpose had in view then, or now proper to execute and carry out the reasons of having this District set apart. I admit the power is plenary—unlimited. I pretend to no implied restriction (none is expressed) lurking like a mental reservation behind or outside of the honest face of the transaction. This Jesuitical casuistry about power is not, in my opinion, proper to be set up; but the exercise of that power for the abolition of slavery would be to Maryland dishonest, *mala fide*, fraudulent in fact. The reasons of integrity—good faith—the honest execution of what was contemplated by the parties—its intrinsic propriety—are all cogent, ethical arguments that I am persuaded no Congress will wantonly override by "inconsiderate and hasty legislation." The laws here ought to conform, upon the subject of slavery, to the laws of Maryland. That would be just, uniform, and put the inhabitants here precisely where they would be if there never had been any District of Columbia.

The foreign slave trade is by law *piracy;* the infamous professional negro dealer everywhere, like the piratical slaver, is abhorred. The laws of Maryland upon this subject are like, perhaps not so perfect and full, as the law of 1833 of Kentucky, upon the subject of importing slaves into that State. I know no good reason why the laws of this part of what was Maryland should not, for uniformity's sake, as well as from considerations of police and policy, be identical with those of Maryland. However, when such law is presented, it may then be that more properly it should be argued, and if possible perfected. There however now exists, and is likely to exist, other reasons, for ages, that will exert a controlling influence over this question. A man might very properly be willing to see the laws here conform to those of Maryland; but there surely can be few persons sincerely anxious to see the institution of slavery abolished here. Besides the exhibition of bad faith, would not the five by ten miles square left of free territory be a thorn in the side of Virginia from the facility with which the Potomac may be passed by bridge or boat, by ice or swimming, or even at some points *wading* across it? It would be full of runaway negroes from Virginia. A cancer too in the side of Maryland. Separated from it by an imaginary line, the free negro population, thicker than the lice and frogs of Egypt, would light upon the District like gangs of crows upon some carrion carcass. This vile, degraded population would make the District the harbor of runaways, the receptacle and hiding-place of stolen property; and we would literally sit here surrounded by free negroes, dens of thieves, fugitive slaves, and ceaseless distraction for their reclamation and recapture. Half the Union in its officers could not safely come here with their servants, or reside here. We would be in our councils as if we sat somewhere in Ethiopia; and besides the annoyance and inconvenience to ourselves, all foreign ambassadors and agents would experience about as much comfort, and entertain for us the same respect, the like presence would inspire, had they been accredited to Hayti, or the Tonga Islands, instead of the United States of North America. The proposition to abolish slavery here is so absurd, inconvenient, preposterous, dishonest, that of it I have no more to say.

Now, Mr. Chairman, as under the incoming Administration internal policy is to be settled by the voice of the people; as the States, by the admission of all, are to do what *to each State seemeth best* upon the subject of slavery; and inasmuch as one-half the District of Columbia has been retroceded to Virginia, (and as to that there can be no appeal to disturb the judgment and act of Congress, and because, as to the remnant of the District the absurdity of interference is so obvious, I deem it also settled, except as occasionally furnishing a pretext for agitation,) I will therefore briefly give my views of slavery in the territories.

We are at peace with all the world, and there is now left for national uneasiness and anxiety the question, How shall we organize, and what restrictions, if any, as to slavery, shall we make in the Territories of New Mexico and California, recently acquired by the Mexican war? The great influx of population to California, the interest of the Government in the public lands and mineral wealth of that Territory, demand of Congress a territorial government. The people there who come under our dominion by the treaty of Queretaro or Guadalupe Hidalgo, as well as our emigrants, need and expect the protection and fostering care of our Government. The organization of a territorial government, and the enactment of suitable laws, is arrested by the question, how shall slavery there be acted upon?

I know the Wilmot proviso—that is, the proposition to forever exclude slavery from these territories—is of Democratic origin; and I know that notwithstanding Mr. Polk signed the bill to organize the Territory of Oregon with the Wilmot proviso, or slavery restriction in it, still, every one South of Mason and Dixon's line—Whigs and Democrats—feel and think very much alike upon this subject. The books of travelers, and official explorations, seem to favor and confirm the opinion expressed by the present Secretary of State, (Mr. Buchanan,) who, in speaking of the subject, says:

"In regard to New Mexico east of the Rio Grande, the question has already been settled by the admission of Texas into the Union. Should we acquire territory beyond the Rio Grande, and east of the Rocky Mountains, it is morally impossible that a majority of the people should consent to the re-establishment of slavery. They are themselves a colored population, and among them the negro does not belong socially to a degraded class."

This opinion of Mr. Buchanan is by General Cass alluded to, and quoted with approbation in his celebrated Nicholson letter. The present Secretary of the Treasury, (Mr. Walker,) in his powerful exposé of reasons for the annexation of Texas, says: "Beyond the Rio del Norte slavery will 'not only not pass because it is forbidden by law, 'but because the colored race there predominates 'in the ratio of ten to one of the whites; and 'holding as they do the Government and most of 'the offices in their possession, they will not permit the enslavement of any portion of the colored 'race which makes and executes the laws of the 'country." The approval by Mr. Polk (under protest) of the Oregon Territorial bill, and these sentiments of Walker and Buchanan, endorsed by General Cass, I do not refer to as evidence to convict the entire Democratic party of such opinions. I refer to them as admissions and evidences that California and New Mexico are now free territories. The treaty of peace, amity, and limits, in this regard contains nothing to change their condition. I refer to these opinions also to show, what General Cass said. The question, it will therefore be seen on examination, does not regard the exclusion of slavery from a region where it now exists, but a prohibition against its introduction when it does not exist, and where, from the feelings of the inhabitants and the laws of nations, it is morally impossible (as Mr. Buchanan says) it can ever *re-establish* itself. The treaty did not affect it, when acquired—it was free territory, and therefore, according to the view of these statesmen, it is only by affirmative enactment and legislation that any part of the acquisition can be otherwise, if I may use the expression, than free soil. If the geographical necessity of climate, latitude, soil, and the like, forbid African slavery there, why the unnecessary supererogatory work of incorporating into any bill the Wilmot proviso? I am against the incorporation of that proviso *in any bill* of organization of territorial government, because I see for it no necessity. It may hereafter be contended that such present action, like the ordinance of 1787 for the territory northwest of the Ohio, is a fundamental, precedent, superior obligation, that even the State of California cannot hereafter control or modify. I am against the mongrel, conquered, ignorant population of Mexicans, Peons, Indians, and what not, under a territorial charter, settling this matter for their conquerors. Had General Cass been elected President, his non-interference policy that forbade all action, affirmative or otherwise, by Congress, would have been, in fact was equivalent to, a waiver and abandonment of all southern pretension of right to go to the acquired territory with slaves.

The territory is the price of common blood and common treasure. The slave States furnished troops, especially volunteers, far beyond their proportionate population, with the non-slaveholding States. The very men of the war may wish to emigrate to this territory, locate their bounty lands, take with them slaves acquired by marriage or inheritance, necessary to them by habit and education. They came into the Union as slaveholders; as such, in a common war, achieved their portion of the conquest, and now, is it fair that they shall renounce the character in which they came into the Union, and fought the battles of the Mexican war, before they emigrate thither? The rapidity with which the country acquired, especially California, is being populated, demands something be done. I dislike to look to such a question in a party aspect; but I must say, that affirmative action on the part of Congress only can, in my opinion, guaranty to the people of the fifteen slave States of the Union a right to settle in the territory acquired with slave property. Time, convenience, commerce, population, political necessity, by the doctrine of non-interference would, in General Cass's time, have had to settle this question, had he been elected, and would probably have settled it before his time expired. The territory being already free, I imagine, to sanction affirmative action by Congress in favor of the South, if such can be procured or induced, and non-interference which forbids such sanction, is the principal difference as to this point between the late aspirants to the Presidency. Whether General Cass, as President, would only have regarded the Wilmot proviso as a mere legislative declaration and recognition of what is already law, and therefore not to be vetoed, can only be inferred from his opinions before alluded to, and from what the law is, as I shall presently show.

Whether General Taylor will veto or not such proviso, if the territories are with that restriction organized in his time, because of its incorporation, or will acquiesce in the opinion of a majority of the people as expressed through their representatives in this House, and as declared by the States through the Senators in the other House, I am wholly unadvised. The non-slaveholding States having here the majority, can make a President hereafter; therefore if the Senate go the proviso, if not in Taylor's time, very soon after, another and a northern President, with his House and State or Senate majority, will organize the territories as they choose. But, Mr. Chairman, to the law of the case, (for the collection of which I am indebted to one [Mr. STEPHENS] if not to two [Mr. TOOMBS] very able gentlemen of Georgia.) The Constitution of the United States, in the clauses securing the right of reclamation of fugitive slaves, forbidding their foreign importation after the year 1808, and apportioning representatives and direct taxes, recognize the existence of such an institution. The quibbles about the words "held to service" not including the idea, and referring to slavery as then and now existing in many of the States, is mere chicanery. The Supreme Court of the United States, in passing upon these clauses, recognize slaves as property. They are property by the municipal regulations of the local authority of the States. The relation, like that of parent and child, guardian and ward, or other domestic relation, as between the master and slave, is regulated by law, the ownership secured, and the right of succession, devise, and transfer, regulated as those rights to real or personal estate are regulated by the law of the particular State. What is a subject of ownership, what is property, is defined and modified necessarily and properly by the laws of every community or State. When we acquired Louisiana, slavery existed there by the laws in force there; the same of Florida; the same of Texas. How that institution may have been the cause, or was one of the moving causes, in the revolution

and separation of the province of Texas from Mexico, it is useless to inquire. Slavery exists in them by local municipal law, and their acquisition or annexation to us left it as it left their other municipal laws local to the respective places. The terms of the treaties with Spain or France, or of the treaty of annexation with Texas, in nowise affected the institution. The recent treaty with Mexico in no way affects the institution of slavery, *its existence, or non-existence*, as by law it stood in New Mexico and California at the acquisition. How, then, did they stand as to this species of property when we acquired them? They were parts of the Mexican Confederacy, and as such, free from slavery; because the Mexican Government had, in the year 1829, in the exercise of its supreme authority, totally abolished slavery. This law, "slavery is forever abolished in the Republic," was afterwards, in 1837, in the law providing for the payment of manumitted slaves, reaffirmed, by the declarative law, "slavery is, and shall remain, abolished throughout the entire Republic." The transfer of those countries to us found them —shall I say free soil?—without the existence of African slavery as a municipal regulation. This point was so argumentatively and unanswerably elaborated by the gentleman from Georgia [Mr. STEPHENS] at the last session, as well by reason, as upon authority, I could add nothing to it. That is incontestible, as well as the doctrine laid down by Vattel, by Grotius; recognized by Mansfield, by Marshall, by the Supreme Court of the Union, and confirmed by the concurring history and recognition of the principle among civilized nations, *that the laws and institutions of a conquered or acquired country remain in full force and virtue until abolished or altered by the conquerer or transferee.* The Clayton or compromise bill of the last session I voted against, because it left to laws the settlement of the question of slavery in the Territories, which laws struck from the slave all pretence of right in his master to his services as soon as he emigrated with him to the recent acquisition. The right of appeal to the Supreme Court only aggravated the matter. By former adjudications and precedents they would have been compelled to decide the slave carried there free; and by the decision, that tribunal—the purest and weakest department of the Government —would have been brought into the arena of party politics, and a great national judge-breaking question added to the territorial difficulty. Sir, "we, the people of the United States"—not the States, or the people of States, in their separate and sovereign capacities—"in order to form a more perfect union, established a Constitution for the United States of America." The people of the Union, by that Constitution, endowed the Federal Government with, and delegated to it, certain attributes of sovereignty, and among them the power to dispose of and make "all needful rules and regulations respecting the territory or other property belonging to the United States." These Territories do belong to the United States, in their capacity and character of United States; and if the clause beforementioned was not comprehensive enough to invest of itself, as I think it does, the Federal Government with full power over the Territories, what would be, without the clause, the proper construction as to the sovereign power of this Government over the Territories? The attributes of sovereignty, (in this nation,) of peace and war, belong to the Federal Government. Incidental to the war power is that of acquiring territory, and, like any other natural or individual acquisition of right or property, the person or nation acquiring, necessarily has the power of disposition and control. The language of Chief Justice Marshall, at the head of the Supreme Court of the Union, thus announces these doctrines:

"The Constitution confers absolutely on the Government the powers of making war and of making peace; consequently, that Government possesses the power of acquiring territory either by conquest or by treaty. The usage of the world is, if a nation be not entirely subdued, to consider the holding of a conquered country as a mere military occupation until its fate shall be determined at the treaty of peace. If it be ceded by the treaty, the acquisition is confirmed, and the ceded territory becomes a part of the nation to which it is annexed, either on the terms stipulated in the treaty of cession, or such as its new master shall impose. On such transfer of territory it has never been held that the relations of the inhabitants with each other undergo any change."

The legislative power and control of the Federal Government over New Mexico and California, ought to be exercised. There is almost an imperious necessity for territorial governments, overriding all other considerations. I am against Congress shuffling off upon the Judiciary the responsibility of the question of slavery in these Territories. I am against the Wilmot proviso, as an ordinance to be attached to the Territory in such sort, that hereafter, when States it is to be relied upon as an obligation antecedent and superior to the State sovereignty itself—binding and obligatory upon these States, whatever political necessity, or the supervening exigencies of a different policy, may dictate. I have before declared my desire that 36° 30′ of north latitude (the Missouri compromise and Texas annexation line) should be persevered in—run to the Pacific Ocean. Firmly, not factiously; truly and throughout, I will so vote, as, if possible, to secure some fair and just consideration of southern rights, to migrate to this territory as southern men, with southern property, if they choose to do so. But, Mr. Chairman, I must say, that I regard the supremacy and inviolability of the Federal Constitution, or the integrity of the Union, far beyond the value of these provinces, a thousand times told over, even were they a thousand times as golden and valuable as said to be. Within the limits of constitutional action I will strive for a fraternal and fair division between them, north and south, of the acquisition. I said north and south; they are sectional, geographical terms. The north, I know, is not the Anti-Slavery Society of Massachusetts, or its fungous excrescences springing up elsewhere, like sporadic cases of some pestilential disorder; which society, the other day, among its objects and chief aims, set down at Faneuil Hall, the dissolution of the Union; nor is the South but a galvanic spasm of revived nullification, that in the excess of State-rights sentiment can singly, or in opposition to the other, or combined with it, bring serious detriment to the Republic. Where Bunker Hill stands, and as long as it stands!—where Marion and Sumpter lived, and as long as their descendants live, however brilliantly as focal points of ultraism for the North or the South they may shine—still there, and all over this glorious Union, the great reserved fund of common sense and patriotism, unseen and unheard in the ephemeral and transient political excitements of the day, habitually love the Union and will defend its perpetuity. Mr. Chairman, I commit myself to no uncalled-for political combination. Its purpose—if not that, its end—might be to control, if not to control, to oppose, to thwart, the constituted authorities. The people I represent are not easily alarmed. A fictitious and unreal crisis only seems to them vapor—smoke. My responsibility is to them, not to any section; they know no North or South, outside of the constitutional functions of the Government; and however this question of going to California with or without slaves may be settled—whether wisely or unwisely, by time, necessity, the present or the Taylor administration—they wish it settled; and when settled, still Whig and Democrat, in their heart of hearts, will they cherish the Union, and as a first lesson teach their children to revere the supremacy of the Federal Constitution, and be ever ready to maintain the integrity of the Union.

I cannot concur with the gentleman from New Hampshire [General WILSON] in his asseveration, that he would prefer the dissolution of the Union, even of the universe, to the extension of slavery. I am sorry I am not poetic or enthusiastic enough to come up to any right appreciation of such desperate sentiment. Whether California or New Mexico are in or out of the Union, or whether, as a condition of their political existence, African slavery exists there or shall not exist there, will neither dim or impede the bright pathway of the Union as she courses upward and onward in her march among the nations of the earth. Towards the slave it is inhuman not to allow his physical comforts and condition to be ameliorated by diffusing the points of his residence. The foreign slave trade is piracy by law now. Whether the slave may go with his master or not to California, does not increase slavery or its natural increase. If it is forbidden by law to carry slaves to California, the only result to the slave is, that he must, with his kind, be huddled down South so thickly on sugar and cotton plantations, that slavery will be limited only by the superinduced disease and decrease. It is said a celebrated French marshal, in the Algerine war, a few years ago, circumscribed the Bedouin Arabs by suffocating them in a cave; and this Wilmot proviso commends itself to the enlightened sense of Christendom by the same sort of humanity and a like warfare. The settlement of this question—law and order for the Territory are so necessary, so imperious, and proper —that within constitutional limits I will vote for any territorial organization and charter that does not invidiously discriminate against or virtually surrender all southern right to participate in the settlement of these territories. For such discrimination or such surrender, I cannot, I will not vote.

SLAVERY IN THE TERRITORIES.

SPEECH OF MR. T. JENKINS,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1849,

In Committee of the Whole on the state of the Union, (Mr. CABELL, of Florida, in the chair,) on the bill to carry into effect the Treaty of Peace with Mexico.

Mr. JENKINS said:

Mr. CHAIRMAN: I have listened with interest to the speech just made by the gentleman from Kentucky, [Mr. THOMPSON.] The arguments which he has put forth, showing the constitutional right in Congress to abolish the slave trade, as well as slavery itself, in the District of Columbia, and to exclude slavery from the new territories, were no less instructive than patriotic in their character. Without compromiting the interests of the southern States, he has assured us that the discussion of this subject, and the exclusion of slavery from the new territories by Congress, so far from being a cause for dissolving the Union, or even for any material excitement, will quietly be acquiesced in, as other acts of our National Legislature are, and open to the future, prospects realized nowhere but in the past history of this country. Sir, I agree with these sentiments. They are the more a treasure, because they come from a Kentuckian.

I cannot agree with the gentleman from Georgia, [Mr. STEPHENS,] who addressed the committee this morning. If there be any difference between the protocol signed by our ministers to Mexico and the treaty of Guadalupe Hidalgo, this affords no good cause for abandoning and giving up the acquired territory. Further negotiation is the appropriate means of arranging such difference, if any such exist. No, sir; I am in favor of paying Mexico according to the terms of the treaty, and of providing governments for these territories without delay. The difficulties which the slave question presents, have induced some to desire a postponement of this subject for adjustment by another Administration. I am opposed to this policy. Neither a belief in any superior abilities of the incoming Administration on the one hand, or a desire to embarrass its operations on the other, can be a sufficient reason for delay upon this subject. At this time there is no civil government over this wide domain, except what arises from the laws of necessity. None can rightfully be instituted without the authority of Congress. The vast tide of emigration there, composed of the adventurous—those, mainly, who have had but little experience in the administration of the laws—must of necessity lead to conflicts injurious to the present peace of the people, and detrimental to the permanent prosperity of the country. If there be difficulties in the way of forming governments for these territories, let us make an effort to surmount them. If there be dangers, let us meet them, and not rest supinely until we are overwhelmed.

We have heard it said, that if the "Wilmot proviso" should be embodied in a territorial bill, the bill thus framed would never pass the Senate; or if it should struggle through that body, it would be met by the Executive veto. If these forebodings were well founded, should we therefore neglect *our* duty? Has it come to this, that an opinion shadowed forth from this quarter or that, high or low, should be construed into a *mandate;* and that this House must hence take heed and frame its enactments according to the prescribed rule?

Such a practice may be well suited to purposes of arbitrary power, but can have no lodgment in a government like ours. I complain not that the President, when he signed the Oregon bill, gave out that he would not have signed it, containing as it did the "Wilmot proviso," if the country had been located south of north latiude thirty-six degrees and thirty minutes. He had a right to speak for himself. We have the same right, and in case of disagreement the country must decide. No, sir; if such were the opinions of the President, I complain not that he has given utterance to them *in advance*. He has thereby afforded us a fair opportunity to examine the soundness of his positions, and we have some right to expect that closer scrutiny and more ample reflection, on his part, will yet place his opinions upon this subject in the line of coincidence with his vast constituency—a constituency whose interests he is supposed to represent, and whose will he must obey. In approving the act organizing the territorial government of Oregon, the President gave the sanction of his name and place to the constitutional right of Congress to exclude slavery from the territories. All that remains in his mind, therefore, dwindles into a mere question of expediency—a question which time and reason will take care of.

But I put this question upon higher ground than the opinions of any President. Nothwithstanding the force of great names, the force of principle is greater. The confidence which the opinions of men inspire, is feeble indeed when compared to clear conviction, founded upon adequate examination. A strong sense of justice pervading the public mind—calm, decisive, and fearless—outweighs the glitter of names, and successfully grapples with error in its own entrenchments.

It is claimed by some that Congress has no right to legislate in any manner for the government of the territories. Others insist, that although Congress has the right to provide for the government of the territories, yet that we have no power to exclude *slavery* from them. If Congress has the right to legislate upon the subject of slavery in the territories, it is as much a breach of our fundamental law for us to withhold the exercise of that power in a proper case, as it would be for Congress to grasp authority forbidden by the Constitution. Whoever, through weakness, or from motives of ambition, withdraws that instrument from its appropriate field of action and cripples its native energies, inflicts a deep wound upon the Constitution, and has approached the verge of anarchy. The question then is, whether this doctrine of the absence of power in Congress to legislate upon this subject, is sound? Will it stand the test of reason? Has it stood the test of experience?

No extended argument is necessary to show that Congress has ample power and the exclusive right to legislate for the Territories, and that this power does not stop short of, but embraces the subject of slavery. If the Constitution of the United States were entirely silent on the subject, the right to govern territories acquired by purchase or conquest is manifestly incident to such acquisition. The right to acquire carries with it the power to take care of the thing acquired.

The United States, as a nation, can act only through Congress. By express provision in the Constitution, Congress has the exclusive power of making war. If a territory be conquered, what is to be done with the fruits of the conquest? Surely, the right of sovereignty over the territory passes to the United States as a nation, and through the instrumentality of Congress the nation must govern it. If the territory derived from Mexico be regarded as a conquered country, we obtained the same right of sovereignty over it that Mexico had before the conquest. If the exercise of any portion of that sovereignty is forbidden to Congress by the Constitution, then to such extent, and no more, is the power of Congress circumscribed. But the Constitution has nowhere forbidden Congress control over the subject of slavery in the Territories. If, therefore, Mexico, when she governed the country, could control the subject of slavery therein, we can now. If she could exclude it from the country, so can we.

The rule is the same with regard to territories acquired by purchase. In the year 1803 we purchased Louisiana of the Republic of France. The First Consul, in the name of the French people, ceded to the United States "forever, and in *full sovereignty*, the said Territory, with all its rights and appurtenances." In 1819 we purchased the Floridas of Spain. This Territory, also, according to the words of the treaty, was ceded to the United States "*in full property and sovereignty.*" What is the sovereignty which was thus conveyed to the United States? It was the supreme power to rule and govern the territories. The grants did not stop short and prohibit our interference with slavery, but they conveyed to us the most ample and unrestricted power.

By the late treaty with Mexico, we have acquired New Mexico and California; in part as a conquest, and in part as a purchase. Upon the execution of this treaty the *full right of sovereignty* over these Territories was vested in the United States. Manifestly, we have all the rights over the acquired country that Mexico ever could have had. Whether, therefore, our title was obtained by purchase or conquest, the effect is the same. In either case, the sovereignty passed from Mexico to the United States. The right to forbid slavery therein passed to us as fully as Mexico herself had enjoyed that power. If we have not the same power that Mexico had over the acquired territory, when, where, and how did we lose it? Amusing, indeed, would be the task of accounting for such a remarkable loss!

A distinction may be taken between territory within the orginal limits of the United States, and our acquisitions since the formation of the Constitution. This distinction makes in favor of our power to legislate for the Territories. But suppose New Mexico and California to stand in the same relation that they would be in if they had belonged to the United States as a part of our territory prior to the adoption of that instrument, and what is the result? It will not be difficult to find authority in the Constitution for the full and complete government of the Territories by the National Legislature.

Prior to the adoption of the Constitution, the vacant lands now composing the States of Ohio, Indiana, Illinois, Michigan, Wisconsin, Kentucky, Tennessee, Alabama, and Mississippi, and which had been claimed by the United States on the one hand, and by various individual States on the other, had been chiefly ceded to the United States. As early as 1780, Congress, by a resolution, declared that these lands should subsequently be erected into States. By the ordinance of 1787, the government of the territory northwest of the Ohio river was provided for, and a similar territorial government had been under discussion for the territory south of that river as early as 1784. These facts were all before the framers of the Constitution when that instrument was made. Would it not be strange indeed if the venerable and sagacious founders of our present form of government did not provide, in the Constitution, for the government of these vast territories, preparatory to their admission into the Union as States? Can those who contend for the absence of this power assign any reason why a subject of such moment should have escaped the attention of that assemblage? The framers of that instrument well knew that the power to govern the territories, under the Articles of Confederation, was doubted, and hence they must have distinctly seen the importance of embracing it in the Constitution. With these facts in view, the Convention inserted in the Constitution a clause conferring on Congress the "power to dispose of, and make all needful '*rules and regulations* respecting, the territory and 'other property of the United States." The power to "make all needful *rules* and *regulations*," is a most comprehensive authority. Law itself is a rule. The Constitution and the whole body of laws, which this or any country has ever made, are nothing more or less than a system of *rules* and *regulations*. How, then, can it be said that the Constitution has not vested in Congress the most ample power to provide for the government of the territories? The right of Congress to legislate for the territories is far more ample than that of any State government over its own dominions; for the States have surrendered a portion of their sovereignty to the Union: but Congress, over the territories, has all the power of the State and General Governments combined.

If such be our power over the Territories, from what clause in the Constitution, or upon what principle of law, do gentlemen find that we are required to stop short of touching the question of slavery? By what rule of construction is it ascertained, that we may travel on in the labor of government until we reach the confines of this subject, and that then the whole machinery must halt? Surely if there be any reason for such a sudden rupture in the round of legislation, the sharp sense of gentlemen upon this subject would have discovered it before this very power had been exercised more than half a century.

Notwithstanding this ample authority to legislate for the Territories, granted to Congress in the Constitution itself, scarcely a week passes without a stout denial of this power by those who are in favor of extending slavery beyond its present limits into territory now free. We are reminded of the importance of a strict construction of the Constitution—of the caution with which we should approach the outer margin of power therein granted. But gentlemen should be cautious about going too far. The rule which is proposed as our guide to let slavery into the Territories may let in freedom also. What authority in the *Constitution* is there for reclaiming a slave who escapes from a *State* into a *Territory*? Would it not be well to see whether the legislation of Congress has not gone beyond its constitutional sphere in upholding the institution of slavery? The only clause in the Constitution for reclaiming fugitive slaves provides that "no person held to service or labor in one '*State*, under the laws thereof, escaping into *an*-'*other* [another *State*] shall, in consequence of any 'law or regulation therein, be discharged from such 'service or labor, but shall be delivered up on 'claim of the party to whom such service or labor 'may be due." If a slave escape from a *State* to a *Territory*, or from a *Territory* to a *State*, there is not a word in the *Constitution* authorizing the recapture of such slave; for the *Constitution* authorizes such recapture only when the slave escapes from one *State* to another *State;* not from a *State* to a *Territory*, from a *Territory* to a *State*, or from one *Territory* to *another*. What, then, shall be said of the statute of 1793, which goes beyond this clause in the Constitution, and authorizes the recapture of slaves escaping into or from any *Territory*? Where is the constitutional provision authorizing the passage of any such statute? But suppose the Constitution had conferred upon Congress the right to make all *needful rules and regulations* for the recapture of persons held to service escaping to or from the Territories, the words "rules and regulations" would then be allowed to mean something. They would be found full of significance. But let us put the question again, Where do you find the constitutional power to reclaim slaves who have escaped to or from the Territories? I answer, nowhere but in the clause empowering Congress "to make all needful rules and regulations respecting the territory or other property of the United States." To this same clause, alleged to confer no power upon Congress over the subject of slavery in the Territories, must you resort to reclaim your fugitive slaves, who escape into or from those Territories.

Another part of the Constitution throws further light on this question. By that instrument, *States* are forbidden from entering into any treaty, alliance, or confederation; *States* are prohibited from coining money, emitting bills of credit, making anything but gold and silver a tender, from making any *ex post facto* law, or granting any title of nobility. But no such power is forbidden to the *Territories*. Why? For the best of reasons: the government of these Territories, by the different States represented in Congress, is a sufficient guarantee against setting up in the Territories what is forbidden to the States themselves. But if it be true that Congress has no right to govern the Territories, and that the people of the Territories have a right to set up their own governments, then a *territorial government*, thus self-constituted, has the right to go far beyond the powers conferred on the States, and coin money, emit bills of credit, make anything a tender, enact *ex post facto* laws, and *grant titles of nobility!* Is it believed that it was the intention of the framers of the Constitution to leave to the *Territories* the exercise of more ample powers than was allowed to the *States*?

The Constitution guarantees to the *States* a *republican* form of government, but contains nothing

of this sort with regard to the *Territories*. Those who maintain that Congress has no right to legislate for the Territories would find no difficulty in setting up a monarchy within their limits without violating the Constitution.

If the people of the Territories have a right to originate their own governments, and are in no respect dependent upon the action of Congress, not only the form of government, but the time of organizing it, the extent of territory which they may choose to embrace, are without restriction or limitation. Will the advocates of this scheme contend that a few families can go into a territory of vast extent, and there, of their own motion, lawfully set up a government for themselves in defiance of the General Government? If not, what number of persons could do it? Where is there any guide in regard to the requisite number to be found? What amount of territory shall they bring within their jurisdiction? If Congress has nothing to do with governing the Territories, a few settlers might claim jurisdiction over territory enough for several States. Other settlements would grow up in different parts of the country, disclaiming any connection with those who happened first to get there, and endless conflicts for jurisdiction and power would be the inevitable consequence.

The first requisite of all Governments is not only the capacity to make suitable laws, but power to enforce the observance of them. Without this power, no contrivance, however wise and equitable its provisions, is worthy the name of government. The compact should have consistence and strength. It should be able to stretch forth its power to the utmost limits of the territory, and bring within the protection of its laws and institutions every inhabitant, however weak, and to suppress all disorder. Oregon, with her twelve thousand inhabitants, was unable to do this. During the unreasonable delay of Congress to provide for her a government, she from necessity constituted a legislature, and enacted laws; but many of the people refused to obey them. And while Oregon was petitioning *Congress to legalize what her Legislature had done*, this strange doctrine of a want of constitutional power in Congress to provide for her a government sprung into existence. It came from men stung with ambition, and whose only desire was to avoid the delicate responsibility of acting upon the subject. It came from men less anxious to provide for the government and well-being of the territories than for themselves places of honor and profit.

The action of Congress in regard to the government of the territories has been simple, and suited to the genius of all our institutions. When the inhabitants were scattered and few, a territorial government has been formed for most of the territories, which have since become States, consisting of a governor and council, clothed with certain well-defined powers. As soon as the people of a territory had grown sufficiently numerous to render such a step advisable, a delegate in Congress was authorized, and a legislature elected by the people was provided for; but Congress reserved to itself the right to abrogate such laws. A still further increase of population, a growth in wealth and importance, at length brought these territories, one after another, into the family of States. This system is admirably adapted to fit, step by step, even discordant materials for the business of self-government. In those territories peopled by migrations from other States, the process was plain and natural. Even Louisiana and Florida, though governed from their infancy by a monarchy, were gradually moulded into elements congenial to our republican institutions.

Some who admit the power of Congress to control slavery in the territories, doubt or deny the expediency of exercising that power. They think that legislation upon this subject should be left to the people of the territories. It is not strange that many well-disposed persons, naturally desirous to postpone the adjustment of difficult and exciting questions, should yield to this proposition quite an easy assent. Indeed, the scheme itself, at first view, is quite plausible; and, in some portions of the country, party alliance has had no small degree of influence in its favor. The ardent partisan is apt to think only of success in the first die to be turned, without considering fully the effect of his acts for any considerable time to come. He seizes the strong point in his case, and asks, with an air of triumph, "Are you afraid to leave this question with the people? Slavery is a domestic institution, as much so as the institution of marriage; and will you withhold the right to control family arrangements from the people? It is decided by great theologians, that slavery is sanctioned by Divine Revelation, and can you say that Congress ought to legislate upon the consciences of the people?"

Slavery once introduced, takes a deep and abiding hold upon the country. Its effects are soon diffused through every department of society—all domestic arrangements must be formed in accordance with it. The plantations, instead of containing one or two hundred acres, must embrace one or two thousand—the plough and the axe, in the hands of the slave, must be used by him, or those scarcely above his condition; for the man of substance never descends to the labor of the slave, where slavery has gained a foothold. Education cannot be generally diffused, for this can be done only by common schools; and what can be done for common schools, where the extent of the plantations will not admit of residents within a mile or more of each other? The sons and daughters of the planter will soon enter upon a life of luxurious ease. Industry is necessarily degraded—society is comparatively stationary—the poor cannot rise, and the rich fall only when prodigality has supplanted the place of virtue; or the plantation, bereft of its fertility, compels the sons of the planter to seek a commission in the army or navy for subsistence. We know how hard it is to break from the thraldom of a monarchial government; but far greater is the task of breaking up the institution of slavery when once fully established with all of its appendages, and when the wealth of the people consists in a great measure in the value of their slaves, than to throw off the yoke of the most powerful monarch. It may be said, that this was not so in the northern States. But the northern States were not surveyed into large plantations. Small farms, a dense population, and a cold climate will soon put an end to slavery in any country. Sir, let the system of slavery be once settled fully into the texture of society, and when you undertake to reverse the wheels of legislation, and turn back the strong current of custom, of prejudice, and interest, depend upon it you have a task in hand which generations may long strive in vain to achieve. The master will not easily give up the slave. He will not willingly put his own hands to the plough. It will not suit him to take up the toil now wrung from his bondmen. He has the wealth and the influence, and long will he maintain the ascendency.

The climate of Oregon is as well suited to the products of slave labor as Virginia; California and New Mexico take rank with the range of States in the extreme South. If Oregon contained as many people to the square mile as the State of New York does, her population would exceed sixteen millions; or if as dense as that of Massachusetts, the number would be upwards of twenty-nine millions. But Oregon has now only twelve thousand inhabitants, and probably not over twenty-five hundred voters. The vast amount of her unoccupied lands belonging to the United States is worthy of attention, and the people of the whole nation are interested in their value. That country must be settled chiefly by migrations from the various States of the Union, and by emigrants from foreign countries. No one can doubt but that the people who will go there within a very few years, and who are now inhabitants of the States, will far exceed the present population of the Territory in numbers. The inhabitants of the whole Union, therefore, have a far greater interest in the question, whether slavery shall be admitted into Oregon than the present inhabitants of that country have. Any legislation of the people now there would not be as much for themselves as for others yet to go there, but who now reside in the various States, and who are and will be, until their removal, represented in the National Legislature. If, therefore, Congress had conferred upon the people of Oregon the power to admit or exclude slavery, the exercise of that power by so small a number of people scattered over such a vast extent of territory, thus settling the question not only for themselves but for all who should move there, would be both impolitic and unjust. It would be conferring upon the people of Oregon the power to legislate, not upon a course of policy which might be easily changed, and which is temporary in its character, but upon a vital question which must give bent and controlling influence to society there for ages. It is far more in accordance with the spirit of our republican institutions, that the people of the whole nation, through their representatives in Congress, should have some voice in arranging the permanent institutions of a new and distant Territory, than to vest this important trust in the hands of a few straggling settlers, of uncongenial habits and fluctuating in purpose.

I have alluded to Oregon to illustrate a principle; and what has been said of that country is equally applicable to California and New Mexico. These two territories, of twice the area of Oregon, with a population brought up under a foreign government, speaking another language, and far from ranking high in the scale of civilization, do not present an inviting field for experiment.

Few will undertake to deny, at this late day, that this is a national question. Its influence has been felt in every part of the Union. The power which slavery has exerted is beyond all estimate. The politician has kneeled to this power as to an idol. The press has pleaded its cause. The *condition* of the slave has been lauded to the skies, and his *nature* traduced by the North and the South with the blackest invective. The belief that slavery should be excluded from the territories now free, has been met with every grade of disparagement, both from the high in power and the low in purpose. The principle has been attacked under the name of men, and men under the name of principle, until our vernacular, unable to bear on the contest with sufficient effect, was forced to admit an accession of reproachful terms, unheard of before in any dialect. While this conflict of words has been carried on by the politician and the press, the great body of the people, north and south, have been comparatively quiet. They kept a clear eye upon passing events, and have given some indication that they also were entitled to be heard upon this question. Most of the newspaper artillery was, and still is, too far off, too high up, to disturb the quiet of their daily pursuits. They have not yet seen the Union break in pieces. They know as well as we do that discussion, if worth anything, will produce some stir—well enough called agitation; and they have lived long enough to know that *descriptions of tremendous excitements* are far more frequent than excitements themselves. Let us, then, turn to our duty, unawed by the machinery set in motion to avoid this question, as dangerous to the Union, and firmly vote upon the subject as a national question. We ought to legislate for the benefit of these territories, but at the same time keep in view the interest that every State has in their growth and prosperity. Their rapid settlement would sooner bring the public lands there into market, and enable us to turn over the avails to pay the expenses of the war, and the fifteen millions due to Mexico. Their speedy settlement will tend to increase our revenues derived from import duties, to be devoted to the same object. If the question were settled that slavery should be excluded, farmers from the North and the South, who work for *themselves*, would soon congregate there, irrigate the land, and show to the slaveholder that free labor is suited to a warm as well as a cold climate; that a man who is stimulated by the ordinary incentives of property, freedom, and independence, will accomplish more manual labor without the shackles of slavery upon him, than with them. Give us the opportunity to try the experiment of free labor in the same climate with your slave labor, but without the blighting influence of its presence, and then it will be far easier to decide which should have the preference. Slave labor now engrosses the business of raising cane and cotton. No one will contend that the labor of the freeman and the slave can be carried on together. The freeman will not submit to the degradation of working by the side of the slave. Why banish the free laboring man of the North and the free laboring man of the South from this field of our acquisitions? A large portion of the people residing in southern Ohio, Indiana, and Illinois, moved there from slaveholding States, happy to get beyond the reach of this domestic

institution. But the entire South have now no free isothermal territory. There must be poor men in the South, who would be glad to live in a climate congenial to the place of their nativity: why not provide a free territory where their laudable aspirations for an independent living upon their own farms may be gratified?

It is amusing to hear it announced that the South fought for the country, and if we exclude slavery, we banish the people of the South—the soldiers—from the acquired possessions. Let it be remembered that slaveholders do not carry knapsacks upon their backs. It is the poor of the South who have done that. The slaveholders are rewarded with the offices. These soldiers—men who have done the labor of the campaigns, who have suffered the greatest privations, obeyed every command, and met every danger—should be amply provided for. Think ye that these men, rocked in the cradle of virtuous poverty, fought for the extension and perpetuation of slavery? I greatly mistake the tendencies of man's nature, if the daring and brave but humane and sympathetic poor have any substantial alliance with the institution of slavery. No, sir, that institution depends upon elements drawn from another direction. If you intend to devote the new territories to the officers of the southern States who served in the Mexican war and their wealthy relatives and friends, and to banish the soldiers from thence, then plant slavery there. Let the fertile valleys there groan under its weight until the soil, abused and exhausted, shall refuse subsistence to man. Whether the North or the South furnished the largest number of men for the Mexican war, has no bearing upon this question. Certain it is that the North was anxious and offered to supply far more volunteers than the President would accept. If he admitted into the service a larger proportion from the South than the North, and refused to allow the North to furnish its due quota, it may be difficult to decide which is entitled to the most credit for patriotism, those who sought the favor of entering the service, but without success, or those who were so fortunate as to win that favor. If it be admitted that there is more patriotism in the South than the North, what then? Is southern *patriotism* of such a sort that it must require a corresponding sacrifice of freedom? If this be so, the nature of patriotism is greatly changed since the Revolution. It has descended into the balance with merchandise, and is more nearly allied to crime than virtue. The condition of the nation we have been at war with is such as to afford a lesson upon the subject of slavery. Brave as our armies were, it is obvious that they could not have expected such unprecedented success if they had been met by French or English troops; or if the Mexican race had equaled in valor the intrepid soldiers of Cortez. Three centuries of slavery in Mexico has produced important results. The soldiers drawn from a depressed people who have never enjoyed the substantial blessings of liberty, and the officers effeminate with luxury, afforded no insurmountable obstacle to our victorious armies. I do not underrate the valor of the American arms. They fought against numbers fearfully unequal, and gained a greater number of brilliant victories, without a single reverse, than was before recorded upon the page of history. But I do say, that if the Mexicans for half a century past had been as intelligent as the Americans—if the rewards of industry, enterprise, and individual and national independence had been allowed to wake into life and quicken the energies of her whole people, depend upon it, her capital could not have been reached by the American forces in a few months, and the existence of Mexico, as a nation, reduced within our power. Now it is proposed to carry slavery back into territories which we have acquired, as much by its blighting effects upon the people of Mexico, as by the valor of our armies. It seems to me that the nation should pause before doing this rash act. We should first look fully to the consequences, and measure the effect of spreading upon the whole northern and eastern borders of Mexico, for a distance of two thousand miles, an institution whose very nature and construction, lays the country which it occupies, open to successful invasion from without, and servile insurrection within. Slavery is an aggressive institution. Notwithstanding its incapacity for self-defence, it forever lusts for conquests and expansion. After the passage of the ordinance of 1787, slave owners, for years, continued to take their slaves from the southern States, against the express provisions of that ordinance, into that part of the Northwest Territory now consisting of southern Ohio, Indiana, and Illinois. But settlers from the North and East also flocked into these States, and in progress of time, the provisions of the ordinance were enforced, and the traffic in slaves there ceased.

The importation of slaves into Cuba has been forbidden near twenty years, by express treaty stipulations between the Spanish Government, Great Britain, and the United States, and for a violation of which the persons convicted were punishable as for piracy. The importation of slaves was prohibited in Brazil by like treaty stipulations with that Government; yet such is the aggressive character of the institution, that slaves are constantly imported from Africa into Brazil and Cuba, and sold in market under the very eye of their Governments. In 1829 slavery was abolished throughout the whole of Mexico, including, of course, Texas. Yet immigrants took advantage of the unsettled condition of things in Mexico, and in face of the prohibition, planted slavery in Texas. Let slavery be extended to our Territories bordering upon Mexico, from the Gulf to the Pacific, and it will soon make its way, *against* law, as it has elsewhere, into the Mexican country, and thus lay the foundation of another war for conquest. This question, therefore, has an important bearing upon our future relations with Mexico. Place slavery upon that whole frontier, and another hundred millions of dollars will be called for in a few years, to carry on another war with that country—another war for a further acquisition of territory and the further extension of slavery.

Upon our part we have but one plain, simple, effective measure to carry out, and that is, to prohibit at once and forever the entrance of slavery into these territories by an act of Congress. Opposed to this, measures of a thousand hues, often conflicting in principle, but tending to the same result, are put forth with inconceivable vehemence. We hear from one quarter that the question should be left to the people; from another, that slavery ought to be admitted south of north latitude thirty-six degrees thirty minutes, and excluded north of that line. One says that the country should at once be organized into States; another, that one State should be organized and the rest of the country put in "limbo"—neither Territory nor State, but bordering on both. All of these projects are children of the same family, having for their ultimate design the safe introduction of slavery into the free territories. Circumstances indicate that the whole of the opponents of the far-famed "Wilmot proviso," or, in other words, all who are in favor of openly or secretly introducing slavery into these territories, will at last combine to form these territories into States at once, without any restriction upon the subject of slavery. I would not say that any such arrangement has been announced; for it is sometimes supposed, in legislation as in diplomacy, that the last thing to be said is the first to be done. Some portion of the press has for a long time been laboring to prepare the public mind for this result.

It has been confidently alleged as a settled question, that when the territories become States, they have a right to admit slavery or reject it as they should deem proper; and hence that any restriction upon the territories against admitting slavery is of no possible avail. This question deserves a passing notice. The framers of the Constitution of the United States clearly did not contemplate the acquisition of territory beyond the then existing limits of the Union, for no provision is made in that instrument for any such contingency. What, then, is the process by which the Constitution has been extended over our subsequent acquisitions? How is it that this instrument, so complete in itself, so definite in all its parts, has broken over its original limits, and brought within its embrace an additional area sufficient for the maintenance of an empire? Does its capacity enlarge with the growth of our passion for dominion? Various laws of the United States in form prior to the acquisition of Louisiana, Florida, Oregon, and Texas, have been extended over those countries by express enactment of Congress; and the Senate, in the celebrated "compromise bill" of last winter, inserted a clause *extending the Constitution* over California and New Mexico. It is not my purpose to inquire into the abstract right of Congress to make such enactments. I leave to others to discuss the question when it may arise, whether the *Constitution* is made of such elastic materials as to be capable of extension or contraction by *an act of Congress*. But I do maintain that whether these acquired territories be held within the embrace of the Constitution by the tacit acquiescence of our people, or by the enactments of our National Legislature, that legislature has the right to prescribe the terms upon which such Territories may come into the Union as States, and to withhold from such States the power to legislate upon the subject of slavery. Let us illustrate this principle by a few familiar examples. The ordinance of 1787 prohibiting slavery in the Territories northwest of the Ohio river, was adopted by Congress under the Articles of Confederation, before the adoption of the Constitution of the United States in 1789. After the adoption of the Constitution, Congress recognized the ordinance of 1787, as a subsisting law, and applied it to the state of things under the Constitution.

In 1802, Congress authorized the then Territory of Ohio to form a constitution and State government, but required *the same to be republican, and not repugnant to the ordinance of* 1787. Congress also reserved the right to change the boundary of that State. Indiana and Illinois were severally admitted subject to the same ordinance. In 1820, Congress, by the act providing for the admission of the State of Missouri into the Union, prohibited slavery in all the rest of the territory purchased of France which lies north of the parallel of thirty-six degrees and thirty minutes of north latitude. In the joint resolutions of Congress, passed in 1845, providing for the annexation of Texas, it is declared that such States as might thereafter be formed out of that portion of Texas lying south of north latitude thirty-six degrees and thirty minutes, should be admitted into the Union with or without slavery, as the people of each State asking admission might desire; and that in such State or States as should be formed out of said territory north of said parallel of latitude, slavery or involuntary servitude, except for crime, should be prohibited. These provisions, with respect to the ordinance of 1787, in regard to the possessions purchased of France and acquired by the annexation of Texas, are in the nature of compacts, and cannot be abrogated except by the joint action of Congress and the government of a State interested in such abrogation. If, previous to the admission of California and New Mexico into the Union as States, Congress shall have prohibited slavery therein, such prohibition must continue until it is repealed. And if, during the continuance of such prohibition, they shall be admitted into the Union as States, such admission would of course be subject to the prohibition of slavery; after which, the action of both the State and National Legislatures would be required to abrogate the restriction.

If an application be made for the admission of California and New Mexico into the Union as States, at once, and without having passed through previous discipline under territorial governments, it well becomes us to inquire into the reasons for such extraordinary proceedings.

Surely it cannot be maintained that this foreign and unsettled population, not yet a year out of the control of Mexico, are better qualified to exercise the rights of State sovereignty than the people of Ohio, Indiana, and the other new Territories were, and who were required to pass through the preparatory steps of territorial governments. No, sir, this is not the reason for hurrying California and New Mexico into the Union as States. But the advocates of this plan suppose, that by making these Territories States at once, no provision excluding slavery will be required. In this I think they are mistaken. The Constitution confers upon Congress the power to admit new States into the Union. A new State cannot come into the Union as a matter of arbitrary and absolute right. They are to be partners in the Confederacy, and it is the duty of the National Legislature to judge of the expediency of the measure, and to admit them upon such conditions as shall promote the general welfare of the Union. If to exclude slavery would

promote this object, let that be a condition. This condition would be in the nature of a compact, and as binding upon the parties as are the restrictions contained in the ordinance of 1787, the Missouri compromise, or the resolutions for annexing Texas, are upon the parties concerned. It is unjust to call this prohibition an invidious discrimination, when the free States northwest of the Ohio, Iowa, and a part of Texas, are yet under the same prohibition. In Territories like California and New Mexico, where the white population is comparatively small, the anxiety to gain settlers is so great that but little objection is made to slavery; and slaveholders, with their slaves, may be considered a valuable acquisition. Hence Indiana, when under a territorial government, and before she had learned to deprecate the effects of slavery upon her prosperity, petitioned Congress for the repeal of the restrictions contained in the ordinance of 1787, prohibiting slavery from that Territory. She has reason to rejoice that Congress declined to grant the petition; for if granted, she would now have been languishing under a load destructive to her prosperity as a State. Emigrants from the free States would have shunned her as a blot upon the fair Northwest. It is obvious, therefore, that the right to legislate upon this subject should be held by Congress for the present, at least, whether the governments to be constituted shall be State or Territorial.

With a view of showing that no legislation upon the subject of slavery in the new Territories would be of any avail, the position is taken, that inasmuch as slavery was abolished while these Territories formed a part of the Mexican Confederacy, they are now free and need no prohibition by act of Congress. I concur in the opinion, that these Territories are indeed free. But the whole people of the slaveholding States, so far as I have been able to learn, are of a different opinion; and maintain, that if a citizen of the United States should take his slaves into these Territories, he would have a right to hold them as his property. This difference of opinion arises from the difference in the institutions under which the North and the South have been respectively educated. In the North, no person, whatever the color, is to be deemed a slave until that fact be proved. In the South, a negro is deemed a slave until he is proved to be free; and if no master claims him, they have a summary process of providing a master for him. In one of the southern States, it has recently been decided by the courts, that the fact that a negro is found in any place is evidence that the law authorizes slavery in such place; and the color of the skin is left to settle the question which is the master and which the slave. That there should be such a fundamental difference between the laws of the North and the South upon this subject of *evidence*, is remarkable, but not less strange than the difference of opinion existing in regard to the question of freedom in the new Territories.

It has been the practice in every civilized nation, when there is a difference of opinion in regard to an important legal principle, to have the principle settled by legislation. A great variety of statutes are passed merely in affirmance of the common law. So of this question. It is not only our right but our duty to settle it definitely and permanently by an act of the National Legislature. But if gentlemen choose to leave it open and unsettled, what will be the consequence? A struggle will be kept up year after year. The master will take his slaves into the new territories, and who will be there to sue for their freedom? Surely the master will not send off his slaves to employ counsel for that purpose, nor will he furnish them funds to carry on the litigation. Suppose that some benevolent person should cause a suit to be instituted for the liberation of a slave; if the judge be a southern man, as he doubtless will be, he will decide that the color of the person held to service is evidence, not only that slavery is sanctioned by law there, but that the person himself is a slave. As the law stands, the suit could not be taken to the Supreme Court of the United States for reversal, and thus the suit would terminate without liberating the slave. But suppose there were a law authorizing the removal of such a cause to the Supreme Court of the United States, and the suit were prosecuted, at a vast expense, to a successful termination; verily, *one* slave would be liberated; but what would become of the thousands by that time carried into the new territory? Would suits for the freedom of each one be instituted? Let the fate of those slaves of Pennsylvania, entitled to freedom by the manumission act of that State, who were sent and sold in Kentucky, and their posterity, answer the question. Let the thousands of negroes unlawfully introduced yearly into Brazil and Cuba, and there fixed in perpetual bondage, proclaim how frail to the black race the tenure of liberty is. If, under such circumstances, our National Legislature is too weak to settle the law by direct and unequivocal enactment, equally vacillating will be the adjudications of our courts of justice upon this subject. Slavery, as aggressive now as ever, will stealthily invade our new territorial acquisitions, and plant itself there; and legislators now having the power but not the magnanimity to *prevent it*, will not then have the firmness to *expel it*. If Congress should expressly forbid the introduction of slavery into the new territories, the act itself would be a pledge of the nation to the prompt execution of the law. If the law were violated, a remedy adequate to the task would soon be provided. Such a law would be known and heeded by the settlers destined for that country. But let this remain a disputed question; let Congress falter and hesitate, but not decide, and slavery will have won a victory over liberty, unbecoming the age in which we live. The certificates of chancellors and judges of the North—given out of court—printed but not reported, will be as useless in staying the tide of this aggressive institution, as they have been fruitless in the political arena.

I am aware that this subject is not agreeable to many for whom I have a high respect. I can make allowance for difference in education, and doubt not the frequent exercise of humanity in the master. I am not called upon to speak of slavery in the States where it now exists; when those States came into the Union, no power over the subject was reserved to the General Government, and hence this power belongs to such States exclusively. But in discussing the expediency and the right of extending this institution into free territory, it would be unpardonable in a legislator to shut his eyes against any thing legitimately bearing on the question.

The charge, that the agitation of this subject tends to affect slave property in the southern States, is true to a certain extent. It is like the influence produced by the emancipation of our own country from the thraldom of Great Britain upon several nations in Europe. So will the policy pursued by our Government in regard to these newly acquired territories, produce some moral effect upon the slaveholding States themselves. Even the emancipation of the slaves in the northern States must have produced some influence in the South. I am not surprised that the emancipation of slaves by Mexico, the South American Republics, England, and Denmark, should press somewhat upon the southern States, and produce a restiveness occasioned by the spread of principles hostile to this institution. This progress of freedom to the slave illy prepared the mind of the slaveholder for the intelligence that republican France, among her first legislative enactments, extended to her slaves the same liberty which she had won for her own citizens; and ratified the deed by inserting in her constitution the short but comprehensive and memorable article, that "slavery cannot exist in any territory belonging to France." Though this general progress of liberty may produce some effect in the South, it is demanding too much that all that the world is doing for liberal principles should stop on that account. Can the South ask more than the pledge, that slavery in the States where it now is, shall not be interfered with?

I am aware that there is a species of philanthropists north and south who verily believe that the black race is better off in a state of servitude than freedom. They also fear that the discussion in regard to slavery in the Territories will induce the master to draw the cord of servitude closer, and thus prove an injury to the slave himself. Their fears, however, do not stop here. They think that the discussion of this subject will disturb the respective political parties to which they belong, and that, if persevered in, the loss of place and patronage may be the consequence. These sentiments are felt the strongest in the dominant political party, whichever that party may chance to be; and as power changes from one party to the other, sentiments upon this subject change also. Who, a year since, would have thought that the gentleman from Indiana [Mr. THOMPSON] would so soon have hurled denunciation at his political friend from New York, [Mr. GOTT,] for an effort to abolish the slave trade at the capital of the nation? Ah, sir! the changes going on upon the other side of the House are as rapid as the mutations in the formation of insects: yesterday, the hard, tough chrysalis; to-day, the full-grown butterfly! Mr. GOTT's resolution was carried by a large majority. By changes on the other side of the political line, it was reconsidered and sent upon the general orders, where it will never be reached more. Time will disclose from what motives these changes sprang. Let me say to the gentleman from Indiana, that the principle of the "Wilmot proviso," which so disturbs thy slumbers and haunts thee as a spectre, has only paid thee his first boding visit, and "will meet thee again at Cannæ." Those who maintain that the negro is best off in a state of slavery, belong to that class of philosophers who believe the less a man knows the more happy he is—the lower the degradation the greater the enjoyment. This rule, if applicable anywhere, can have but little respect to color. It may well be supposed, that when the slaveholder from time to time discovers the progress of liberal principles, the greater will be his apprehension of the frailty of the tenure under which he holds his bondmen; and hence it is to be expected that less lenity to his slaves will be exhibited. That this question, also, may disturb political parties is equally obvious. But the apprehension of these results, necessarily of a temporary character, forms no basis for arresting a course of legislation founded upon the most obvious principles of justice. If fear, instead of sound sense, is to guide us; if an act clearly wrong is to be done, merely out of fear that a right one may produce some temporary inconvenience to persons or political parties, then the weak legislator, who is easily driven from instability to timidity, from timidity to fear, from fear to delirious affright, should be sent here to transact the business of the nation. I feel disgust for arguments so wanting in substance. They indicate a species of mental vassalage unbecoming the representatives of a free and independent people.

Sir, the proposition to extend slavery beyond its present limits, brings the institution itself before us upon its merits, moral, social, and political. If slavery is to be sent into the new territories, it should first be shown, by those who take an interest in its favor, to be advantageous to the country and its institutions, to the slave and to the master. That the surrender of a new country of vast extent, to this domestic institution, tends to strengthen and perpetuate it, will not be denied by any who have examined its progress, decline, and final extinction, in every part of western Europe. The vast amount of uncultivated lands in the southern States will keep up the institution for a long time to come. The addition of Texas to this interest will perpetuate slavery more than half a century. The master will not give up the institution. The longer it continues, the less is he inclined to abandon it. So long as slaveholders, by their numbers, their wealth, and their influence, can control a majority of electors in a State, so long will the institution remain there. It has always been so, and it always will be. When did any class of men voluntarily surrender power? The French church and nobility would not only have held, but increased their vast possessions to this day, but for the revolution of 1799. Did the cry of want ever awaken their sympathy? The British landholders have never extended their possessions so rapidly as now. The tenants are daily driven from their houses, to wander without shelter, and to famish. When will these hereditary landholders consent to divide their vast possessions, or pass any law tending to an equal distribution, even among their own children? When the slaveholders as a body, shall voluntarily manumit their slaves, or enact laws encouraging manumission, then may we expect that the British nobleman will unloose his iron grasp upon his boundless possessions. Both are actuated by the same motives; the effect produced upon both is the same. Neither has so praised his own peculiar institution for a

century past as now, and neither institution has been more universally deplored than at this moment.

I refer to slavery as it is, for the purpose of showing what its fruits must be in our new territories. What is its effect upon the white race? Under every form of government having the benefits of civilization there is a middle class, neither rich nor poor, in which is concentrated the chief enterprise of the country. The virtues of industry and economy, ambition, and capacity to increase in knowledge and wealth, a watchful guardianship of their own rights, and a vigilant attention to the public welfare, are their leading characteristics. In the slave States there is in substance no middle class. Great wealth or hopeless poverty is the settled condition. The connecting link is left out. The white laborer is necessarily the companion of the slave; and the master is as far removed from the one as the other. This arrangement of society is an artificial one. It is unsound in principle, and unsafe in practice. It consists of a conglomeration of many oligarchies; the more numerous the masters, the more arbitrary the rule. The one is raised as far above a fit condition for improvement as the other is sunk below it. It is anti-republican in all its tendencies. What is the true strength of such a compact? Probe it to the core, and see if it is sound there. Does each part naturally tend to support and strengthen the other? No; there is no affinity between the lash and its victim. A slight change of circumstances might produce a change of masters. If slavery is not safe against internal commotion, what is its effect in time of war? Slave possessions present an open gateway to the invader. This is the institution, sir, which gentlemen propose to send off, as a guard, upon our remote outposts, and stretch it along our southern border to the Pacific Ocean. The Constitution guaranties to each State a republican form of government; and the only way to insure that result is, to set up institutions in our territories which shall prove the elements of power, not the seed of weakness and decay.

The effects of this institution are not the the choice of the slaveholder. He chooses to possess himself of the slaves, and the effects are as far beyond his control as the laws of nature are. Send this institution to California and New Mexico, and you must send with it all of its incidents. You must take, as an exemplar, the statutes of the slave States, statutes enacted not from choice, but as a necessary part of the institution, and learn the severe lesson of what *must* be done. Compare these laws with the past, and you will not find, in the history of the most barbarous age, enactments more revolting to the moral sense of mankind. Yes, sir; if you *will* send slavery into our free Territories, you *must* send the "black code" there to protect it. You must teach the people of the Territories to regard these human beings as *property—property* of a peculiar character. You must insert in the code that this *property* must not read; that it may become *Christian property*, and be baptized, but that it shall not, for that cause, become free; that this *property* must not steal *itself*, and if it should, it shall be adjudged guilty of felony; that this *property* shall not commit murder on pain of death; and if executed, the *State* shall pay the owner for it; that this *property* shall not take an oath against a white man, notwithstanding the brutality of the offence committed. You must send the whipping-post there, and tutor the sensibilities of the people with the spectacle of flogging. Patrols must be sent out at the public expence to hunt down the truant slave, and guard the dwelling of his master. The army and navy must be increased to quell internal commotion. The penalty of death must be inflicted on the slaves for petty offences, and *justices of the peace* authorized to flog, maim, or hang them. The slave must have no right to a trial by jury. The solemn dignitaries of the law—men supposed to be capable of exercising the grave civil responsibilities conferred on them by the "ten pound act," must be the sole dispensers, without appeal, of life and liberty. Every possible discouragement must be enacted against the voluntary emancipation of the slave by the master; and laws either expelling the free blacks from the country, or placing them in a state of servility little above slavery itself, must mar the face of your statute books. The slave market must be enlarged; the breeding of slaves for sale encouraged, and the strongest ties which nature has made wrung asunder to people these new Territories with the victims of the slave-dealer's avarice.

Whoever learns to look upon a wrong with unconcern, has done himself a greater injury than the one inflicted on the sufferer. Is he not to be pitied who has so subdued his own moral sense, as to witness with cool deliberation and frigid composure, the final separation of parent and child to meet a destiny, to them all the more afflicting, because unknown? The horror of the middle passage has been deplored by the philanthropist, and condemned by the civilized world—its fatality to life has excited sympathy everywhere. But no bodily suffering can stir anguish so deep as the mental torture of separation to those whose only solace is the affectionate regard of parents (slaves though they be) and other ties of consanguinity. Tutor a man to look with disdain upon these emotions, and he is a fit instrument to carry on the domestic slave trade. Such a man is more the object of pity than the subject of censure. He has lost more than his own liberty—he has lost his humanity. The question then, is, whether we shall open a new market for the encouragement of this traffic? Will such a market improve our people, and contribute to the general welfare of the country? Do a majority of the people in the United States desire the adoption of such a measure? If not, then our duty is plain; and we will write upon the statute book the perpetual exclusion of slavery from the free territories.

GOVERNMENTS FOR THE NEW TERRITORIES.

SPEECH OF MR. H. W. HILLIARD,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

February 10, 1849,

On the subject of providing Governments for the new Territories, and in respect to Slavery therein, delivered in Committee of the Whole on the state of the Union.

Mr. HILLIARD said:

Mr. CHAIRMAN: I shall follow the example of the gentleman from Virginia [Mr. PRESTON] who addressed the committee a day or two since, and proceed at once to give my views of the importance of establishing a government for the inhabitants of the territory recently acquired from Mexico, based upon principles which seem to me to be perfectly proper in themselves, and which promise tranquillity to the whole country. I am not insensible to the importance of this question. A question of greater magnitude has not come up in our time; and in addressing myself to it, I shall endeavor, so far as may be proper, to lose sight of my allegiance to party or section; I shall hope to treat it as a great American question.

In my judgment, the transfer of that territory to the United States has devolved on us an important duty—a duty which we can neither overlook nor neglect. We are in full and undisturbed possession of an extensive region, which was subjected to our arms during the late war with Mexico, and which has since been ceded to us by a treaty concluded with that Republic, the ratifications of which were exchanged at Queretaro, on the 30th of May, 1848. By the terms of that treaty, the Government of the United States is bound to pay to that of Mexico fifteen millions of dollars, and also to assume and pay to the claimants all the amounts which may be due to them by reason of the claims already liquidated and decided against the Mexican Republic, under the conventions heretofore held between that Government and our own, as well as certain other demands which our citizens may have against the Mexican Government, not exceeding three and a quarter millions of dollars.

Now, sir, this territory, for the cession of which we have undertaken to make these payments, is, as I have already observed, in our possession; our people are at this moment engaged in gathering the rich treasures which its mines yield. It has been wrested from Mexico; it can never be restored to her. I can see no mode of escape from the payment of this debt. In my judgment, the national honor is involved in making the payment which the treaty provides for; and though I most reluctantly differ from some of my friends who have already expressed themselves on this point, I am compelled to say, that while I clearly recognize the right of this House to participate, to a certain extent, in the negotiations carried on by the other branches of the Government, so far at least as the granting the necessary appropriations to perfect these negotiations is concerned—holding this doctrine, clearly admitting it, being quite ready to allow that cases might come up where I should be in favor of exerting that right on the part of the House, yet, under the present circumstances, I could not, under my obligations as a member of the American Congress, vote to withhold from Mexico the payment of the sum which we are bound by the treaty to make. A territory torn from a feeble Government, now in our full possession, forever separated from the Republic to which it belonged, must be paid for. To refuse it would be to expose ourselves to the charge of national repudiation in a very offensive sense. Whether we give or withhold a government, the territory must be paid for in perfect good faith. I hold this to be our first duty.

Again, sir, I think we ought to provide a government for the inhabitants of that territory with as little delay as possible. Numbers of our own people have already gone there, others are on their way, and these will need our protection. By looking into the treaty, especially at the ninth article, it will be seen, too, that we have undertaken to protect those Mexicans who, by remaining in the ceded territory, have become citizens of the United States, in the full enjoyment of their liberty and property. How can we discharge this duty, if we do not provide a government for them? How can we protect them, unless we extend over them our jurisdiction and authority? I say, then, that our first duty is, to pay for this territory; and our next, to provide a government for its inhabitants. We ought to do both, as speedily as may be.

Heretofore, every attempt to provide a government for this territory has proved fruitless. An important question involved in it has baffled the wisest counsels. Before proceeding to give my own ideas of this great question, which I shall do with diffidence, but at the same time, with entire earnestness and candor, I shall recur to a history of the attempts which have been made to settle it.

It will be remembered, that some time during the last session of Congress, a distinguished Senator from Delaware [Mr. CLAYTON] brought forward in the Senate a measure named by its friends the compromise bill, which undertook to dispose of the question. That bill sought to establish a territorial government for the inhabitants of that territory, without making any provision for the adjustment of the conflicting claims of the North and the South, but turned them over to the judicial tribunals of the country, to ascertain the extent of their privileges. It passed the Senate after an interesting debate, and came to this House, where, upon the motion of my friend from Georgia, [Mr. STEPHENS,] who sits before me, animated by the most patriotic motives, as I have never doubted, by a vote of 112 to 97, it was laid on the table. The proposition failed. There existed too great a conflict of opinion as to its effects, to allow the hope that it would settle the question. It would have divided opinion throughout the country still more widely—ranging the northern and the southern States as contestants before the Supreme Court.

The second attempt to settle this question appeared in an amendment moved by a Senator from Illinois, [Mr. DOUGLAS,] for whom I entertain a high respect. He proposed to attach to the Oregon bill, then before the Senate, an amendment extending the Missouri compromise line to the Pacific Ocean, in the same sense, and with the same understanding in which it was originally adopted—applying it to all territory now belonging to, or hereafter to be acquired by, the United States. That proposition came to this House, and was here rejected, by a vote of 82 for, and 121 against it. The bill went back to the Senate; that body receded from its amendment; the Oregon bill was passed without this recognition of the compromise line; it received the signature of the President—taking away from this measure one great element of adjustment, of which it should never have been

deprived, and this question is still open. Now, I desire to say, that in my humble judgment, that would have been a perfectly fair settlement of this great question. The line which it proposed to stretch to the Pacific Ocean was a marked line. It had a historical weight about it. It had the sanction of patriotic example. It would have disposed forever not only of the present question, but of all kindred questions. The House thought proper to reject it, and, of course, I must acquiesce in that decision.

There is another question directly connected with this of which I have been speaking, on which I desire to offer some views, and which ought also to be settled. By the joint resolution of March 1, 1845, admitting Texas as a State into this Union—or rather, providing for her annexation to the United States—it was enacted that the State should be formed, subject to the adjustment by this Government of all questions of boundary that might arise with other Governments. Now, it is perfectly well known that Texas had a disputed question of boundary with Mexico, at the time of her admission. That State, by an act of her own Congress, of December, 1836, declared her western boundary to be the Rio Grande—the whole extent of it, from its mouth to its source, and thence due north to the forty-second degree of north latitude. We annexed Texas, claiming that boundary; and we undertook to settle her quarrel with Mexico. An attempt to do this by negotiation failed. A resort was had to arms. The Government of the United States proceeded to urge our right to the country embraced within the limits of Texas, thus defined, against Mexico. Now, it will be very well remembered that we claimed the country bordering on the Rio Grande as our own soil, through no other right than that which we had derived from Texas. We sent our troops there to occupy that territory, distinctly upon the ground that it was embraced within the limits of the Republic of Texas; which, having been annexed to the United States, devolved on us the duty of protecting its soil from violation. On the very banks of the Rio Grande, the battles of the 8th and 9th of May were fought; and here I cannot forbear to say, that the crowning victory of that second day, as Cromwell would have called it, not only shed its undying lustre upon the American flag, but disclosed to our eyes one who has never since been lost sight of—one who, having earned upon successive battle-fields a military fame which gives him rank with the greatest captains of any age, is about to enter on a career which will cover him with as much civic glory.

Whatever may be thought of the claim of Texas to the Rio Grande as her western boundary, as against Mexico, it must be seen that her claim, to the full extent of her limits, as against the United States, rests on the strongest ground. Our late treaty with Mexico has put us in undisputed possession of every foot of the territory claimed by Texas in her contest with that Republic. The western boundary claimed by Texas, before her annexation to the United States—a boundary which this Government, after her annexation, undertook to assert and to secure by negotiation, and failing in that, occupied and held by force—a boundary which we have compelled Mexico to admit—must be the boundary of Texas as one of the States of this Union. There is no longer a party left to dispute this boundary. Having extinguished the claim of Mexico, Texas is left with a clear title to the full extent of the limits which she defined and asserted as against that Republic. The Government of the United States cannot appropriate to its own use any part of the disputed territory. It reserved the right to adjust questions touching the boundaries of Texas with other governments. The only question of boundary in which Texas was interested has been settled by us in our late treaty with Mexico; and this Government is now estopped from saying anything against the claim of Texas to the boundary which she originally marked out for herself. So clear is this, that the President of the United States, in a special message sent to this House, in July last, distinctly and fully admits the claim of Texas in all its extent. I very well remember, that a gentleman from Kentucky [Mr. DUNCAN] addressed an argument to the House last summer—a short time before the adjournment of Congress—in which he maintained the claim of Texas to her western boundary in the most clear, satisfactory, and convincing manner; it is an argument which I think any gentleman holding different opinions will find it difficult to answer.

These two questions, then—that respecting the government of the territory which we have acquired from Mexico, and that respecting the limits of Texas—are kindred questions; they ought to be settled at the same time; otherwise, you transfer the dispute as to the boundaries of that State to the new State which you propose to form out of the territory which was involved in it while it constituted a part of Mexico. At this moment the subject is within your control. When States shall have been formed and admitted, it will cease to be so forever. I can conceive of no question more delicate or more difficult than that of deciding between the conflicting claims of sovereign States as to domain. Yet this is the very question which you are about to bring up, if, without defining the limits of Texas, you proceed to form or admit a new State, asserting its right to territory east of the Rio Grande.

It is better to avoid this great question by wise legislation, than to turn it over to the highest judicial tribunal in our country for its decision, after it shall have assumed the gravity of a dispute as to domain between two sovereign States of this Union. Let us give to the inhabitants of the territory which we have lately acquired, a government; let us declare and fix the limits of Texas.

Not only are these kindred questions—they are disturbing questions. They have never ceased to excite us since the admission of Texas. Is this agitation, I ask, to go on? There are persons who are deeply interested in keeping up this agitation. Preferring tempest to tranquillity, they let loose the winds from their caves to blow upon the great deep; but, most fortunately, we, like Neptune, hold the trident which can still the wild waters, let the winds blow ever so fiercely. Shall we exert that power? Or shall we sit inactive in the midst of such a scene?

Having observed no disposition in any quarter of the House to move in a matter which is certainly formidable enough, I brought forward two bills which I tendered to the House, and desired to submit to a select committee, which committee might give them a candid, thorough, patient examination, and report upon them. I did it because I believed there was merit enough in the proposition, if it could be fairly brought before the House, to give hope of its success. But before the proposition could be fairly exhibited—before even the whole plan could be presented—the most violent opposition was shown to it; and being unwilling to suffer one part to go out unaccompanied by the other, I withdrew both bills, and shall offer them as a substitute for the bills reported from the Committee on Territories.

I wish now, briefly, to exhibit the plan to which I have referred, and which I think the proper one for putting these questions forever at rest. I propose to authorize the people inhabiting that part of California, west of the Sierra Nevada, to form a constitution, and apply for admission as a State into this Union. The boundaries of that State would be these: lying on the Pacific, extending eastward to the summit of the Sierra Nevada range of mountains, it will have Oregon on the North, while it will bend with the Sierra Nevada range in a southwest direction, finding its southern limit at the parallel of 34° 30'; where, from an inspection of the map, it will be observed, that range of mountains touches the Pacific Ocean. These are natural boundaries; the waters at the southern base of these mountains empty into different channels, parting, as on a dividing ridge, and running northward and southward. Within these limits may be formed a State which, besides its great mineral wealth, its beautiful and fertile valleys, and its delightful climate, will own the finest harbors on the Pacific coast.

One of our own countrymen, (Frémont,) whose genius and whose training eminently qualify him for the task of estimating the advantages of such a region, and the fidelity of whose descriptions is unquestionable, says of that part of California:

"West of the Sierra Nevada, and between that mountain and the sea, is the second grand division of California, and the only part to which the name applies in the current language of the country. It is the occupied and inhabited part, and so different in character, so divided by the mountain wall of the Sierra from the Great Basin above, as to constitute a region to itself, with a structure and configuration, a soil, climate, and productions, of its own; and as Northern Persia may be referred to as some type of the former, so may Italy be referred to as some point of comparison for the latter. North and south, the region embraces about ten degrees of latitude; from 32°, where it touches the peninsula of California, to 42°, where it bounds to Oregon. East and west from the Sierra Navada to the sea, it will average, in the middle parts, one hundred and fifty miles, in the northern parts two hundred, giving an area of above one hundred thousand square miles."

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"Perhaps few parts of the world can produce in such perfection so great a variety of fruits and grains as the large and various region enclosing the bay of San Francisco, and drained by its waters. A view of the map will show that region and its great extent, comprehending the entire valleys of the Sacramento and San Joaquin, and the whole western slope of the Sierra Nevada."

This will give us some idea of what the State of California, with its appropriate boundaries, is likely to become.

The territory not included within the limits of that State, nor embraced within the boundaries of Texas, as I propose to run them, may be governed in such manner as Congress may prescribe, until it contains sufficient population for a State.

In defining the limits of Texas, I would cut off from that State all her domain lying above the parallel of 36° 30' north latitude; a territory of great extent, which, it has been well stated by the gentleman from Kentucky, to whom I have already alluded, [Mr. DUNCAN,] is conceded to be large enough to form at least two States. It is known to contain 43,537 square miles. Let the northern boundary of Texas begin where the parallel of 36° 30' cuts her eastern boundary; let it extend along that parallel, westward, to the summit of the Sierra Nevada range of mountains—already fixed on as marking the eastern limits of the State of California—and thence, follow those limits, to the Pacific Ocean. I would grant to Texas all the territory lately acquired from Mexico south of the northern boundary, which I have just sketched, subject to the conditions under which Texas was admitted into the Union. The joint resolution for annexing Texas to the United States, provides, among other things, that "new States of 'convenient size, not exceeding four in number, 'in addition to said State of Texas, and having 'sufficient population, may hereafter, by consent 'of said State, be formed out of the territory there- 'of, which shall be entitled to admission under the 'provisions of the Federal Constitution. And 'such States as may be formed out of that portion 'of said territory lying south of 36° 30', north 'latitude, commonly known as the Missouri com- 'promise line, shall be admitted into the Union 'with or without slavery, as the people of each 'State asking admission may desire. And in such 'State or States as shall be formed out of such 'territory north of said Missouri compromise 'line, slavery or involuntary servitude (except for 'crimes) shall be prohibited."

I would, of course, provide also, that all public lands within the territory thus granted to Texas should be reserved to the United States.

These are the great features of the bills which I wish to submit for the consideration of the committee, and they agree, in the main, with those of the bill brought forward by the gentleman from Virginia, [Mr. PRESTON;] at least, we both desire to relieve the inhabitants of the territory, which is the subject of our legislation, from territorial restraints as soon as they are in circumstances to form and maintain a State government. We differ upon the subject of boundaries: he would give the vast region which has been ceded to us by Mexico, to the jurisdiction of the inhabitants now there, who are mainly concentrated in the neighborhood of San Francisco, and authorize them to create a State, stretching its authority over its whole extent, and regulating, by its laws, the right of property for the people who are already upon the soil, and who may hereafter make their abode there. Now, sir, I am quite ready to concede to the people of California proper—a community residing west of the Sierra Nevada—the right to form a State, with its proper boundaries; but I am not willing to allow them to stretch their jurisdiction along the whole Pacific coast, and embrace within their limits the whole extent of the vast region lying outside of those proper boundaries—settling, in advance, the great questions now before the country, and deciding, by their laws, upon

the rights of our citizens who may wish hereafter to reside there.

If the people of California proper are ready to come into this Union as a State, let them come in; the bill which I have the honor to submit, provides for their admission. But why should the whole territory be subjected to their legislation? The right of a people to establish a government for themselves—a great popular right, which I shall never deny—is one thing, and the extent of their domain is quite another thing. It may be very important to allow the people west of the Sierra Nevada to exercise this right at this time; and I desire that they shall exercise it speedily; but it does not follow that it is wise or proper to allow them to subject the whole extent of our lately acquired territory to their laws, for all time to come. The very principle for which the gentleman contends would forbid this; for the grant of such a power as he wishes to confer upon the inhabitants already in California would deprive future settlers in other parts of our new territory of the right of establishing a government for themselves.

The bill offered by the gentleman from Virginia makes no provision respecting the limits of Texas, but leaves the boundary of that State to be ascertained and fixed by the judicial tribunals of the country.

I wish, sir, as I have already said, to settle that question; and, in defining the limits of Texas, I would deal with her liberally. I would reward the confidence with which she came into this Union by a generous reception. I would treat her claims as a powerful Confederacy ought to treat the claims of a great State—a State heretofore sovereign and independent, and voluntarily subjecting herself to the authority of our Constitution. Do not, with this State in your presence asserting her ancient rights, turn her over to your courts, and instruct them to look carefully into "the bond," and then fix her limits within the narrowest bounds.

It will be seen, that the settlement which I propose is an approximation to the Missouri compromise line; but there are important points of difference. By that line, as it was drawn by the Senator from Illinois in his amendment to the Oregon bill, Texas was left in possession of her entire domain, stretching up to the 42d parallel of latitude; while the compromise line was extended to the Pacific Ocean, cutting off the base of the State of California lying within the boundaries which I have described. Now, the bill which I offer cuts off from Texas all her territory north of the line of 36° 30′, and leaves the State of California in possession of its entire territory, pursuing a natural and great boundary until it enters the Pacific Ocean at the parallel of 34° 30 north latitude.

So far as slavery is concerned, it is conceded that it will never enter any part of the territory lying above 36° 30′, not embraced within the contemplated State of California; while no one doubts that the State of California, when organized, will prohibit its introduction. That part of the territory granted to Texas will be covered with a population who will tolerate or exclude slavery, as the soil, the climate, the relative situation of that region, and the wishes of its inhabitants may determine; referring that question to the decision of the people of the States hereafter to be formed there. I suppose it is admitted that Texas will, at some day, be subdivided into several States. By the resolution of annexation, it was provided that this should take place with the consent of Texas, when her territory contained a sufficient population. I am willing to rely upon the patriotic spirit of the people of that State for their consent to this arrangement; if other gentlemen are not, it may be specially provided for in this bill, by making it a condition precedent of this extension of her limits, that this subdivision is to be made by the Government of the United States at some proper time, to be judged of by Congress, out of territory lying north of the Ensenado. Gentlemen representing States interested in the exclusion of slavery from all territory belonging to the United States may, it seems to me, readily consent to vote for this measure. It takes from Texas a large part of her domain, for the loss of which she is compensated by an extension of her western boundary. It does not establish slavery within any part of the new territory subjected to the jurisdiction of Texas; but leaves the existence of that description of labor to depend, for the present, upon natural causes; and refers it, hereafter, to the decision of the people that may reside there. The right to decide this question for themselves, is one of those great popular rights of which no one should desire to deprive them. The States formed out of the territory taken from Texas, lying north of 36° 30′, would exclude slavery; while those lying south of it might tolerate or exclude it. But the great advantage secured by such a division of the territory would be, that a class of States lying below that line, as well as those lying above it, would be homogeneous in their character.

Let us now inquire into the comparative advantages which the northern and southern portions of this Confederacy would derive from such an adjustment of their conflicting claims. The number of square miles in that part of the territory lately ceded by Mexico to the United States, not embraced within the limits claimed by Texas, is 526,078; of this, New Mexico contains 77,387 square miles, while California measures 448,691. It will at once be seen what a disproportion would exist between the respective shares of the North and the South, if all California should be given to the former and New Mexico to the latter.

By confining the limits of Texas within the parallel of 36° 30′, and extending that line, as I propose to do, the North would hold possession of a part of the domain of Texas, amounting to 43,537 square miles, of California 303,457 square miles, and of New Mexico 33,898: in all, 380,892 square miles; while the South would receive, of California only 145,234 square miles, of New Mexico 43,489 square miles: in all, 188,723 square miles—giving, to the North an excess, under this division, of some 200,000 square miles.

Let it be borne in mind that the territory of Texas alone, which would be cut off to the North by the line which I desire to draw, would be sufficient to make six States, each one as large as the State of Massachusetts; or a single State larger than Ohio, and nearly as large as New York. When you come to survey the fine harbors embraced within the proposed State of California, especially that of San Francisco, which, in the language of one of our naval officers, is large enough to contain all the shipping of the world; when you come to consider the mineral wealth of that region, its productive soil and its beautiful mountain slopes, you perceive that the North would receive the lion's share, while the South would hold but a small part of the Pacific coast, embracing the inconsiderable harbor of San Diego. Frémont says the "Bay of San Francisco has been celebrated, from the time of its first discovery, as one of the finest in the world, and is justly entitled to that character, even under the seaman's view of a mere harbor. But when all the accessory advantages which belong to it—fertile and picturesque dependent country; mildness and salubrity of climate; connection with the great interior valley of the Sacramento and San Joaquin; its vast resources for ship timber, grain, and cattle;—when these advantages are taken into the account, with its geographical position on the line of communication with Asia, it rises into an importance far above that of a mere harbor, and deserves a particular notice in any account of maritime California. Its latitudinal position is that of Lisbon; its climate, that of southern Italy; settlements upon it for more than half a century attest its healthiness; bold shores and mountains give it grandeur; the extent and fertility of its dependent country give it great resources for agriculture, commerce, and population."

Add to this extensive and important region (which, under the plan of adjustment we are now considering, goes to the North, increasing its maritime power) Oregon, with its 341,467 square miles, you find, that the domain recently acquired on the Pacific, by that section of the Union, is overshadowing.

This brings me to a part of the question which I desire to press upon the consideration of this committee with earnestness. Is it intended to exclude the South from all participation in our acquisition upon the Pacific coast? Will the North, with its vast Atlantic possessions, and its vast Pacific acquisitions, insist upon shutting out the South forever from all participation in the benefits of this great accession to our maritime power? Cannot our institutions, which we brought into the Confederacy with us, and about which the Constitution, from the very first hour of its existence—springing into being, like Minerva, full-grown—threw its protecting ægis,—cannot these institutions be carried there with us? Are we to be now excluded, thus settling forever the political question, that the South can have no share in the acquisitions which may hereafter be made along the Pacific coast?—swelling the already vast power of the North, and making the disproportion against the South still greater.

I do not allow myself to entertain any jealousy of the North. On the contrary, I rejoice in the prosperity of that part of my country. I glory in the great qualities of New England, for instance—qualities which have covered rock-girt regions and a reluctant soil with every exhibition which wealth, and genius, and civilization can furnish—qualities which have been gloriously displayed both in peace and in war—qualities which have enabled her to carry the flag of our country in triumph over the ocean, whether against British vessels, bristling with guns and bearing the cross of St. George, or in the quiet pursuit of a peaceful commerce, or following the whale into the Arctic seas. These are qualities in which I claim a participation. They do not belong to New England, they belong to the whole country. But, while I make this admission—it is not an admission—while I proclaim this sentiment with all the warmth of my heart, I desire to say with equal sincerity, that in my judgment the balance of power which has heretofore been maintained by the two great sections of our Confederacy, is essential to wise and conservative legislation, and to the preservation of our institutions. Firmly believing this—it is from no hostility to the North, it is from a profound conviction that the best interests of the whole country demand that this equipoise, if possible, shall be maintained—believing this, as I do, I cannot give my consent to any policy which shall strengthen the disproportion against the South, or make the influence of the North still more powerful. If any bill is to pass this body by which the South is to be shut out from all participation in our late acquisitions, that bill must pass without my aid.

Mr. Chairman, I am about to make a statement which may be thought to have the demerit of too much frankness. I shall make it in all candor. There is a domestic institution in the South which in some sort insulates us from all mankind. The civilized world is against us. I know it; I comprehend it; I feel it. A sentiment which took its birth in England, which has since spread over the continent of Europe, which now covers a large proportion of our own country—that sentiment, gathering strength with every advancing year, threatens to overwhelm us. The tide has been rising higher and higher, until, sir, we begin to feel the spray breaking over the very embankments which surround us. Our moral condition at the South resembles the physical condition of Holland, where dikes, thrown up by the ingenuity of man, hardly protect the habitations of man against the incursions of the sea. If the South were in a commanding position, I should be willing to concede much; but because of her very weakness, I shall stand by her to the last. My eyes first beheld the light there, and there my eyes shall close upon it. I was nurtured in the bosom of the South, and I wish to rest in her bosom when this consciousness is at an end, and this form is wasting in the dust. No change of circumstances, no overwhelming power arrayed against her, no decline of her fortunes, can ever induce me, for one, to forget or to forsake her.

"For, though the ear be all unstrung,
Still, still, it loves the lowland tongue."

Holding the opinions that I do—representing a people thus invested by the civilized world—I cannot consent, for one single moment, to abandon any part of their claims. Before I consent, by any act or vote of mine, to surrender one jot or one tittle of the rights or the honor or the glory of the South, "my right hand shall forget its cunning, and my tongue cleave to the roof of my mouth." I know that the gentlemen who surround me from the other portions of the Confederacy respect me the more for the sentiment. If the South cannot rely upon us to urge her claims and vindicate her honor, where, in all the earth, can she look for

advocates? No; representing a people invested as we are, I can never give my consent to any measure which diminishes any portion of their rights.

I have already, Mr. Chairman, shown the points of resemblance and the points of difference between the bill offered by the gentleman from Virginia [Mr. PRESTON] and the measure which I have the honor to submit. Now, I intend, throughout this entire speech, to use the utmost frankness. If the whole territory ceded to us by Mexico is made into one State—as that gentleman proposes it shall be—then this question, for which we have all along been contending, is decided against us. Who does not see it? Who does not comprehend it? The very regiment first sent out by the President of the United States—that from New York—would have decided it against us long ago; and if you leave it to the people now there to settle this question, it is forever gone. I see it too well to doubt it for a single moment. If we have been contending for any substantial right, it is to be given up. I do not know that we can do better; the time for protecting the South was when the treaty was before the Senate. There was the field upon which our rights might have been maintained; and since that fortunate hour has been suffered to go by, it may be that it is too late to retrieve our fortunes. But I do not hesitate to say—in full view of my friend, [Mr. PRESTON,] and with perfect respect for his patriotism as well as his intellect—that if we accept the bill of the gentleman, we shall be in circumstances precisely similar to those in which Francis I. found himself after the battle of Pavia; and in writing to our constituents, we may employ the very language which he addressed to his mother: "All is lost save our honor." Who questions this? I admit that our honor is worth all the rest. But who does not perceive, that to make a single State out of this new territory, and to allow the people there to-day, inhabiting a part of the territory, to legislate for the whole of it—to subject its entire extent to their exclusive jurisdiction—to allow them to decide upon the question of slavery or no slavery, is substantially to abandon everything which the South has heretofore claimed? I do not desire to influence the votes of gentlemen either from the South or the North; let them take the question on their own responsibility; but I frankly give my view of the effects of the bill which the gentleman proposes.

It is said that slave labor can never be carried profitably into that region. Why, then, I ask, seek to exclude it by odious legislation? What patriotic motive—what high consideration—what generous impulse, can urge gentlemen to press upon us an offensive measure, in advance of an exclusion which, they insist, will be as certainly secured by the existing laws of nature? It is nothing short of bigotry—mere blind bigotry—which, in the language of an Irish orator, "has no head, and cannot think—has no heart, and cannot feel." Why urge a measure of this sort? Why not leave to the laws of nature what the laws of nature will surely accomplish?

There can be no objection to the size of the State of Texas with the boundaries which I propose for it, that does not apply with equal force to the State of California, which the gentleman from Virginia proposes to create. If it be said that Texas will be too large, with this extension of her boundaries, I would ask, if California will not be too large, covering the vast region which is to be embraced within its limits? Do you object to extending the boundary of Texas to the Pacific? You must, then, also object to extending the boundaries of California from the Pacific to the limits of Texas. Let it be borne in mind, that this is to be a temporary arrangement; that the new territory which I propose to give to Texas is to be subdivided hereafter into States. I regard it as a limited subjection to the jurisdiction of Texas—a subjection which will cease when it possesses a sufficient population to form a separate State. Virginia was once a State vast in extent; so was Georgia; but both these great States, animated by patriotic motives, have surrendered a large amount of their territorial possessions. Texas will follow their example.

Neither can there be any objection to altering the boundary of California or New Mexico. Mexican provinces have no fixed boundaries like our States, but are modified or subdivided to suit the convenience of the supreme power.

I confess, sir, my desire to secure the vast region which we have recently acquired by treaty, and to see it embraced within the Union as an integral part of our domain. We may spread our system of government with perfect safety. Our progress is pacific. It grows out of the inherent energy of our people, and the character of our institutions. The progress of the Roman Empire was military; the weight of its chariot wheel crushed everything in its course; tribes, provinces, nations, were subdued by the force of arms, and were held in subjection by resistless power. When they recovered strength, they threw off the yoke, and turned their spears against their oppressors. Such a system lost its strength by extension. A decay of the central power suffered the remote possessions to feel their independence and assert their liberty; and an empire built up by arms, covering the civilized world, making a single city the seat of boundless imperial power, fell by its own weight. The very principle upon which the structure was raised, announced the certainty of its destruction. Our system, too, is a representative republic, local in one respect, and federal in another. In the philosophical language of Montesquieu—quoted with approbation by Alexander Hamilton, who was one of the first, if not the first statesman to whom this country has given birth—"A CONFEDERATE REPUBLIC has all the internal advantages of a republican, together with the external force of a monarchical government. As this government is composed of small republics, it enjoys the internal happiness of each; and with respect to its external situation, it is possessed, by means of the association, of all the advantages of large monarchies." We can afford to spread a government over this entire continent—at least so much as belongs to us—without the slightest apprehension of internal disorders, or of dissolution. The truth is, we find our strength in our union. Neighboring States are rival States. I have seen it recently stated, that the wars of the time of Louis XIV., and since, are, at this day, an annual charge upon the States of Europe of five hundred millions of dollars, besides several millions more, which must be taken into the account, for maintaining standing armies to protect themselves against each other. Who desires to see such a state of things upon this continent? Who would give away any portion of our territory? Some of the very considerations which induce me to maintain the Union as it is now, would induce me to embrace within the Union all the territories which belong to us. I am, therefore, opposed to the idea, which I have heard thrown out in conversation—and sometimes expressed where the gravity and dignity of a speech go with it—the idea of cutting off any part of this territory which now belongs to us, so as to make an independent republic. A Senator, distinguished for his intellect and his learning, [Mr. Benton,] said, I believe, in a speech delivered by him some years since, that "he desired to see the god Terminus placed on the summit of the Rocky Mountains, marking the boundary between the two republics—an Atlantic republic, and a Pacific republic." I do not, for a moment, participate in the sentiment. It does not meet my approbation on any single principle; and I am happy to see that distinguished Senator himself now urging the construction of a great national highway across the continent. The danger of border wars, conflicting commercial systems, rival interests, all forbid the existence of an independent kindred State; the national safety, national tranquillity, and national glory, all demand an extension of our political system over our entire domain. I trust that "the god Terminus" will never stand on the Rocky Mountains, or on the Sierra Nevada; but that he will sink under the placid waves of the Pacific, and that our Government will be outspread over the entire region which belongs to us. I desire to realize the picture of one people extending from the St. Lawrence to the Gulf of Mexico, and from the Atlantic to the Pacific, living under the same laws, speaking the same language, professing the same religious faith, bearing the same national standard, calling up the same glorious recollections, and looking forward to the same glorious hopes. This is what I desire to see realized. The sun, in his course, has looked down upon many a glorious exhibition of commercial wealth and political power; he has seen the Assyrian, the Macedonian, and the Roman empires rise and fall; he sees, to-day, the British empire in the full pride of its power; but never, in his whole course, has he turned his burning vision upon a spectacle of commercial wealth, political power, and national glory, like that which this country will present when we have carried our institutions over our entire domain. For one, I desire to realize it, and to realize it as speedily as possible.

There is, in my judgment, a great advantage to be derived by the American nation from the acquisition of California, as an essential and permanent portion of this Republic. I do not speak of its mineral wealth. I allude to considerations far more important—I mean its harbors. We need harbors on the Pacific coast. We must have them; and California, as it happens, presents the finest the world has ever seen. I have already referred to the harbor of San Francisco. Before we pronounce this to be a small acquisition,—for I cannot consent to view it in a party light, opposed as I was to the acquisition of territory, and to making war upon a feeble people; opposed as I was to it, I regard the question as now settled, and I am prepared to estimate the full value of the acquisition,—we must look to the trade with Asia; we must look to the gainful traffic of the Eastern Archipelago and of China, before we pronounce this a light or trifling acquisition. The time is not far distant when we shall import into California the muslins, silks, teas, and other commodities of great value produced by China. The time is not far distant when the neighboring islands will be covered with an industrious and civilized population, consuming our products and exchanging their commodities with us.

The time is not far distant when our Eastern trade, now carried on with Asia at great risk, running the gauntlet of the British naval posts, will be transferred to the tranquil bosom of the Pacific, and be conducted in comparative security. The time is not far distant when an idea will be realized which I remember to have thrown out in the first speech I ever made on this floor: we shall have a railroad running through our entire domain, connecting the East with the West, and the trade and travel of the whole world will be turned across this road, through our western ports, into the Pacific. I confess I value an acquisition which brings to us a promise of this sort; and, for one, I shall do all in my power—as Mexico has lost the territory, as it is now in our possession—towards securing it, and making it a permanent part of our possessions. When the institutions of this country are thus carried out; when our religion, and laws, and civilization, are seated on the shores of the Pacific; when they begin to spread their splendor over the neighboring islands and upon the distant East; then, I say, this country will present a picture which the philanthropist, the statesman, and the Christian, may contemplate with unmixed delight. Let it come in our time—the sooner the better. I earnestly desire it may all be realized.

But while I have this feeling, in all the strength with which I have expressed it, at the same time I do not hesitate to say that I prefer the Union of these States to any increase of wealth, or any accession of power. I love old alliances too well to seek new ones at the expense of the old. Highly as I value California, glorious as is the picture which the future presents, I would cast it all away, as my eloquent friend from Indiana [Mr. THOMPSON] said the other day, rather than put in peril this Union as it exists to-day.

Sir, I do not regard the Union as in any danger. Far from it. But the time may come when the fraternal feeling which gives this Union all its value may be destroyed. The time may come when the lofty patriotism which now pervades the American bosom, and makes the American feel—whether treading the hills of New England, the plains of the South, or the prairies of the West—

"This is my own, my native land,"

may expire—when everything like patriotism shall be lost, and national glory and national power shall be maintained at the sacrifice of that sentiment which first brought these kindred States into voluntary and cordial union.

I have already said that I am a southern man by birth, by rearing, by allegiance, by all the mighty

sympathies which can bind the heart of a man to his people; but I claim the wider and still more glorious privilege, of being a citizen of the American Union; and while I love the South, I should love the South less if it did not form a part of this Union. No act of mine shall ever do anything towards surrendering the glory and the rights of the section from which I come; no act of mine shall ever do anything towards weakening the tie which binds us together as a common country. I have heretofore never participated in any scheme of that kind, and while God gives me reason, I never shall. I will encounter any hazard, here or at home, before I will take part in any combination looking to any such purpose. There are rights, many rights, dear to us as a southern people. I know it. But no man shall make me count the cost of this Union; no man shall bring me to the point when I will run over the estimate to see what I can afford to give up—the South or the Union. I will cling to both. I will never be brought into a cold, arithmetical estimate of that description. If I thought the organizing a government for California would put this Union in peril, I would forever withhold that government. If I thought the surrender of that territory was necessary to the preservation of our harmony, or our fraternal feeling, I would give up that territory now and forever. But I cannot believe that all patriotic feeling is lost in the representatives of the people. That cannot be. We have the manliness, the patriotism, the wisdom to construct a government, I am sure, which will concede something on both sides, and leave us all far better off, because we shall have disposed of these disturbing questions; and henceforth we shall better understand each other.

I see my time is rapidly drawing to a close. I have endeavored to exhibit this scheme as clearly as possible. I know that in the short time allotted to me I cannot do it justice. But I believe it possesses great merits. I think it ought to be seriously considered. I do not pretend to say what bill I shall vote for if mine is rejected, or whether I shall vote for any. But I do say I never will consent to any enactment on the part of this body, if I can prevent it, which makes that portion of the Union which I in part represent in any manner less in dignity, less in glory, or less in coördinate sovereignty, than other portions.

LET THE UNION STAND, AND STAND, IF IT MAY BE, FOREVER. I rejoice to hope it will. But, at the same time, I desire to see harmony prevail among the several States of the Union—harmony like that which reigns in the spheres. If we must rival each other, let us differ from each other as one star differeth from another star in glory; and let us be held together in our mighty sweep through the vast orbit we are filling, not by a binding girdle of iron, but by the indestructible power of universal attraction.

SLAVERY IN THE TERRITORIES.

SPEECH OF MR. SAMUEL LAHM,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1849,

In Committee of the Whole on the state of the Union, (Mr. CABELL, of Florida, in the chair,) on the bill to carry into effect the Treaty of Peace with Mexico.

Mr. LAHM said:

Mr. CHAIRMAN: A considerable portion of the time of the present Congress has been consumed in discussing the question of slavery. This, sir, is not to be wondered at—for whether we regard the character of the institution itself, the importance attached to it by the people of the whole Union, the consequences with which it is said to be pregnant, or the proceedings which have recently been had in regard to it, we cannot avoid coming to the conclusion that it is "the great question of the day." And, sir, it has not only been the theme of constant discussion in this and the other end of the Capitol, but throughout the country—in the halls of State legislation, the temples of religion, the places of learning, the forums of justice, the workshop of the mechanic, and the village bar-room—it has become the great subject of controversy; so that, were this the first time in the history of the country that this great question was before the people, associated as it is with other subjects of vast importance, and connected with all the bitterness and violence which sometimes accompanies sectional and party feeling, we might have great reason to tremble for the safety of the Union.

But, sir, the subject is not a novel one. The people of this country have been accustomed to grapple with it since the earliest period of their history. With the fathers and founders of the Republic, in the Convention which framed the Constitution, it was the great question of controversy; that disposed of, every obstacle in the way of a more perfect union of the States vanished like the morning mist before the gently heating rays of the rising sun. At a later period our political fabric was shaken as it were to its very centre by the bitter and violent contest which ended in what was called the Missouri compromise. Then, as now, its influences were calculated by political economists, its consequences and determinations by political prophets, until all, from the highest to the lowest in position, were arrayed on one side or the other of this great question. Yet, sir, whenever and wherever it has been before the people of the country, and whatever may have been the degree of violence with which it was discussed, yet, after all, a settlement of the question was brought about, in which every section of the Union, with commendable patriotism, acquiesced; and the ship of State, having been tossed to and fro for a while upon the dashing waves of sectional and party controversy, resumed her wonted position upon the gently rippling sea of the Constitution, steadily and with firmness sailing on in the discharge of her duty to all the people of the Union. Sir, it will be so again. The violent storms of feeling and passion which occasionally surround us, and almost make the stoutest hearts among us tremble for the safety of the Union, will prove the precursors of that calm and quiet which has always followed the settlement of this question, and which are the result of the sober second thought of the people.

Mr. Chairman, I have an abiding confidence in the patriotism and intelligence of the great mass of the people of every section of our country; and although the agitation of this question here and elsewhere is eliciting, as it has done at former periods of our national existence, much feeling; and although many things are done and said here, in the North and in the South, which are calculated to destroy that feeling of amity, of mutual deference and concession, which marks every article of our Constitution, and gives value and strength to the Union, yet I am well convinced that the whole subject can, and ultimately will, be disposed of, and that whatever that disposition may be, will, as on all former occasions, be acquiesced in by the people of the whole country, with that same high and lofty patriotism which has always manifested itself in the submission of the minority to the action of the majority, in all great and exciting controversies through which we have passed. And, sir, believing this, and believing, further, that this discussion is not calculated to change the mind of a single gentleman who occupies a seat in this Hall; and having long since declared my determination to use all legitimate means in my power for the exclusion of slavery from the Territories now free, I propose to discuss the question, not in connection with the Territories, but in connection with the compromises of the Constitution in regard to it, and to avail myself of this opportunity to give my views of the nature and character of the institution of slavery, and of property in slaves, and to defend the people of the State I have the honor in part to represent, against the base and unqualified charges which are made against them in a celebrated address which has recently emanated from a conclave of southern politicians, assembled in the other end of the Capitol.

First, then, very briefly, my views of the nature and character of the institution of slavery and of property in slaves.

Under the bill providing for the payment of a slave to the representatives of Pacheco, the question of property in slaves was fully discussed. It was claimed by some gentlemen who engaged in that discussion, that there could be no such thing as property in slaves; that man could not have property in his fellow-man; and that the laws of the States creating the relation of master and slave were in violation of the natural rights of man, and therefore not binding on the slave; but that still, if this was not so, yet it was contended that the Constitution of the United States does not recognize this species of property. On the other hand, it was contended that this species of property does exist; that it is as legitimate as any other kind of property; and that it is recognized by the Constitution, and it is even claimed, that by virtue of the Constitution, the master may take and hold his slaves in territory now free.

It is not my purpose to discuss the abstract question of property in slaves. I do not think that much good can result from such discussion, for whatever might be our views in regard to it were it before us as an original question, still we are estopped by the action of our ancestors; and as legislators acting for the whole Union, under the compromises of the Constitution, we must accommodate our action to things as they are, and not as we would desire them to be.

What, then, is the condition of things? Slaves were held as property in all the colonies previous to the adoption of the Articles of Confederation; the right of the owner to that species of property was never called in question; the statutes in force recognized and sanctioned it, and no ill-feeling was ever engendered in consequence of it. At the adoption of the Articles of Confederation, this state of things continued to exist; slavery was sanctioned by the laws of all the colonies, and the slave trade was in full tide of prosecution. The Articles of Confederation were adopted, and no restrictions or limitations imposed on that species of property; and although no provision was made for the delivery of fugitive slaves who should escape from their masters, yet, by a kind of comity or conventional understanding, all serious difficulties in this respect were avoided. Thus things remained up to the adoption of the Constitution; slavery and the slave trade unrestricted, except by the laws of a few of the States. In the Convention the subject was fully discussed; the institution was, by many, as much abhorred then as it possibly can be now. Much difficulty was encountered in making a satisfactory disposition of the question; yet it was never denied, that under the local laws of the States, the master did have property in, and title to, the services of his slaves. The Constitution itself acknowledges the existence of this fact, in that section which provides for the delivery of persons held to service or labor by the laws of the State from which they have escaped. This, then, being the condition of things, and the Constitution having been adopted by all the States, with a recognition in it of the fact that slavery did exist by the laws of the States, it follows, that whatever might be our opinions in regard to it, were it before us as an original question, still we are estopped by the action of the fathers of the Republic, and it is too late to call in question the validity of local institutions over which, as a national legislature, we never had, and have not now, any control.

And now, sir, having yielded this much in favor of this demoralizing institution, and admitted that by the laws of the States you do have property in the services of your slaves, let us inquire for a moment as to the character of this property, and the nature of your title to it. Slavery has been very properly denominated a "peculiar institution," and slave property a "peculiar species of property;" and this is inferred from the fact that it is property held in violation of the eternal principles of right, and has no one thing to sanction it, except the bloody code of the States in which it exists; and when, therefore, the slave gets beyond the jurisdiction of the laws by which he is held, his manacles drop off and he becomes a man, a freeman. This I take to be the law of the question, as settled both by the English and American authorities.

In the celebrated Somerset case, Lord Mansfield, with the unanimous concurrence of all the judges of the King's Bench, decided that a slave brought upon British soil became *ipso facto* free:

"The state of slavery (said the Judge) is of such a nature that it is incapable of being introduced on any reasons, moral or political, but only by positive law. It is so odious that nothing can be suffered to support it but positive law."

In the case of Forbes *vs.* Cochran, (2d Barnwell and Cresswell, 448,) Justice Bayley remarked:

"Slavery is a local law, and therefore, if a man wishes to preserve his slaves, let him attach them to him by affection, or make fast the bars of their prison, or rivet well their chains; for the instant they go beyond the limits where slavery is recognized by the local laws, they have broken their chains, they have escaped from their prison, they are free."

This has been the doctrine of the English courts for near one hundred years; and it is certainly no less strange to hear gentlemen call in question the validity of this doctrine, than it is to hear others call in question the validity of laws creating the relation of master and slave.

But, sir, the doctrine that slavery is a mere local institution, depending for its existence solely and exclusively upon the laws and constitutions of the States in which it is sanctioned, and that the slave becomes free so soon as he gets beyond the jurisdiction of the laws by which he is held in servitude, is not only recognized by the English courts, but it is equally as well settled and acquiesced in by all our own courts, both State and Federal.

The Supreme Court of Mississippi has declared that "slavery does not exist *by the laws of nature*, 'but that it exists, *and can only exist*, through mu-'nicipal regulations."—*Harvey* vs. *Decker et. al., Walker's Reports, page* 36.

The same court, in Jones's case, declared that, "In the Constitution of the United States, slaves 'are expressly designated as persons, and that the 'right of the master exists, not by force of the *law* 'of nature or of nations, but by virtue *only of the pos-*'*itive law of the State.*"—*Walker's Reports, p.* 83.

In the case of Lunsford *vs.* Coquillon, the Supreme Court of Louisiana declared that "the rela-'tion of owner and slave in the States of this Union, 'in which it has a legal existence, is a creature of 'the municipal law."—14 *Martin's Reports, p.* 404.

The Supreme Court of Kentucky have declared that "slavery is sanctioned by the laws of this 'State, but we consider that as a right existing by 'a positive law of a municipal character, without 'foundation in the law of nature."

In the great case of Groves *vs.* Slaughter, in which the character of property in slaves was before the court, Justice McLean made use of this emphatic language:

"The character of property is given them by the local law. This law is respected, and all rights under it are protected by the Federal authorities; but the Constitution acts upon slaves as persons, and not as property."

Again:

"The power over slavery belongs to the States respectively. It is local in its character and in its effects."

Mr. Walker, the present Secretary of the Treasury, in his celebrated argument in that case, uses this language:

"We say the character of merchandise, or property, is attached to negroes, not by any grant of power in the Constitution of the United States, but by virtue of the positive law of the States in which they are found." "The relation of master and slave, of master and apprentice, of owner and redemptioner, of purchaser and convict sold, of guardian and ward, husband and wife, parent and child, are all relations depending exclusively on the municipal regulations of each State." "The master has the right (not created by the Constitution of the United States, or to be regulated by it, but created and regulated by State laws) to the services of the slave for life, *the time prescribed by the laws of the State.*" "The master has no right to the flesh and blood, the bones and sinews of any man in the South; this is an abolition slander, and the right is to the services of the slave, so declared expressly in the laws of the South, and so recognized in the Constitution of the United States, where slaves are described as 'persons bound to service or labor,' and so unanimously decided by the highest court of our State."—*Jonesis case, Walker's Mississippi Reports,* 83.

"The right of the master is to the services of the slave—a right accruing only by virtue of the law of the State, and upon the terms therein prescribed."

"Slavery is a local institution, existing not by virtue of the law of nations, or of nature, or of the common law, but only by the authority of the municipal law of the State in which it exists."

The same principles are maintained in the case of Prigg against the Commonwealth of Pennsylvania, all going to the point that slavery is a mere local institution, depending for its existence solely and exclusively upon the laws and constitutions of the States; and that the character of property is given them only by municipal regulation. Take from it this support, and you leave it not a single pillar to rest upon. The Constitution of the Union neither strengthens nor weakens the title to it. Destroy the Constitution, and slavery remains as it is, and where it is, exclusively under the control of State legislation, where it was previous to the adoption of the Constitution.

But, sir, if any further argument were necessary upon this point, I might refer to that oft-talked-of article of the Constitution which provides for the delivery of fugitives from labor. In it, slaves are spoken of not as property made so by the laws of nations, of nature, or even of the common law, but as "persons held to service or labor in one State, *under the laws thereof.*" Yes, sir, *only as persons held to service or labor under and by virtue of the laws* of the State from which they escape; and it was only in consideration of the fact that by the laws of the States such labor was due, that the Constitution provided that they "shall be delivered up on claim of the party to whom such service or labor is due." Sir, this is the extent of the recognition of property in slaves by the Constitution. It recognizes the fact that by the laws of some States, certain persons were held to service or labor; but it does not recognize property in their persons. Sir, the Convention heeded well the admonition of Mr. Madison, when he said he "thought it wrong to admit in the Constitution the idea that there could be property in man." I repeat, then, that the Constitution does not recognize slaves as property, but simply as persons held to service or labor by the laws of the States in which slavery is sanctioned. It recognizes the fact of the existence of such laws, but neither strengthens nor weakens the title to that species of property, any further than is done by that provision which relates to their delivery on claim to their owner. Here I am willing to leave the subject, treating it as a peculiar local institution, depending for its existence upon State legislation. Yet, sir, while I leave it here, where the compromises of the Constitution have placed it, and where I have no right to interfere with it, still, were it before me as an original question, I would adopt the language of Mr. Madison, and say, that "man cannot have property in man;" and in the eloquent language of a distinguished English statesman, I would add, "Tell me not of rights—talk 'not of the property of the planter in his slaves. I 'deny the right—I acknowledge not the property. 'In vain you tell me of laws that sanction such a 'claim. There is a law above all the enactments 'of human codes, the same throughout the world, 'the same in all times: it is the law written by the 'finger of God upon the heart of man; and by 'that law, unchangeable and eternal, while men 'despise fraud, and loathe rapine, and abhor blood, 'they shall reject with indignation the wild and 'guilty fantasy, that 'man can hold property in 'man.'"

And now having disposed of the question, under my first proposition, and shown that the institution of slavery is strictly local in its character, and that the people of the South have no property in their slaves, except that which is created by the positive laws of the States in which it exists, and over which laws we have no control—they being subject only to the action of State legislation, and their validity *in the States* having been recognized by the Constitution—I propose to discuss the question under my second proposition, and inquire what the compromises of the Constitution are in regard to the subject.

Mr. Chairman, whenever this subject has been under discussion, there has been so much said about the compromises of the Constitution in regard to it, that to one who had merely heard the discussion, without having examined that sacred instrument, it would seem that it had been adopted and ratified, not for the purposes declared in the preamble, prominent among which was, to "secure the blessings of liberty to ourselves and our posterity," but solely for the purpose of securing to the people of the South the perpetuity of a local, demoralizing institution, which, in this enlightened age of the world, is condemned by all Christendom, and the continuation of which in the States is only justified or excused on the plea of necessity, and from a well-founded opinion or apprehension that emancipation would be followed by greater evils than would result from its continuance. Sir, I have no disposition to interfere with the compromises of the Constitution. I trust that the people of the non-slaveholding States will religiously and in good faith adhere to them; they were the best that the friends of freedom could obtain at the time; and although they all yield something to slavery, yet, combined, they do not yield as much as is claimed by gentlemen from the South.

Mr. Chairman, what are the compromises of the Constitution in regard to this institution? In a celebrated address, which has recently emanated from a conclave of southern politicians, they are said to be embodied in substance in the following five provisions:

1. That representatives and direct taxes shall be apportioned among the States according to their respective numbers; and that, in ascertaining the number of such, five slaves shall be estimated as three.

2. That slaves escaping into States where slavery does not exist, shall not be discharged from servitude, but shall be delivered up on claim of the party to whom their labor or service is due.

3. That Congress shall not prohibit the importation of slaves before the year 1808; but a tax not exceeding ten dollars may be imposed on each imported.

4. That no capitation or direct tax shall be laid but in proportion to Federal numbers; and

5. That no amendment of the Constitution, prior to 1808, shall affect the last provision, nor that relating to the importation of slaves.

And, sir, we are further informed by this very patriotic body of gentlemen convened in secret conclave, that:

"So satisfactory were these provisions, that the second, relative to the delivering up of fugitive slaves, was adopted unanimously, and all the rest, except the third, relative to the importation of slaves until 1808, with almost equal unanimity."

Sir, this may all be true, and I am willing to admit that the five provisions of the Constitution, thus substantially set forth in this address, embody all the *express* provisions and compromises in regard to the institution of slavery; but there is still one further compromise which runs through all the rest, and which these gentlemen did not see proper to explain to their constituents, and it consists in this, that although the institution of slavery is recognized as existing by virtue of State legislation, yet in the Constitution itself, slaves are not only not recognized as property, but in every section in which they are spoken of, or at all alluded to, they are designated not as property—no, not even as slaves—but in the capacity and character alone of "persons." Sir, this was an important compromise. It was one without which the Constitution could never have been ratified. By it was excluded from that sacred instrument, "the wild and guilty fantasy, that man could have property in man."

Mr. Chairman, the question has frequently been asked upon this floor by southern gentlemen, and among others the honorable member from Mississippi, [Governor BROWN,] whether the Constitution created property in, or gave title to, any other article of property?—to horses and cattle, if you choose? I answer these gentlemen, that it does not, so far as any of the commonly known and universally recognized articles of property are concerned. It is not necessary that it should; such articles are considered property wherever found. The law of nature, of nations, and the common law, make them property, and it only requires legislation to make that property which is not universally conceded to be property. Hence the necessity of legislation on the subject of copyrights, patent rights, slavery, &c. But when gentlemen claim that slaves are as much property under the Constitution as are horses and cattle, they had better be mindful of the fact that "he who lives by the sword to-day may die by the sword to-morrow." The doctrine of the Abolitionists is, that slaves are property; that they are the subjects of commercial regulation; and that it is the duty of Congress to regulate the inter-State slave trade, under its exclusive power to regulate "commerce among the States." Are gentlemen of the South willing to concede this to Abolitionism? If not, beware how you contend that, by virtue of the Constitution, slaves are property.

Mr. Chairman, the first compromise of the Constitution in regard to slavery, set forth in the southern or Calhoun address, is that which relates to representation and taxation. In the Constitution it is in these words:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this

Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those held to service for a number of years, and excluding Indians not taxed, three-fifths of all other persons."

I believe it is not claimed by the southern caucus, and has not been by any gentleman here, that the people of the free States have violated this provision of the national compact. Under it we have now in this Hall some twenty representatives from the slave States, who hold their seats, not as representatives of free, intelligent, active, enterprising citizens of the South, but of men held in perpetual bondage—men whom the laws of those States have degraded to a level with the ox that wears the yoke, and the horse that pulls in the harness—men who are bought and sold in the market, in violation of every principle of natural right, without regard to anything but the pecuniary interest of the seller and purchaser. Why, sir, it was claimed not long since by a gentleman from South Carolina, [Mr. HOLMES,] that because they are thus bought and sold, that therefore they are property by virtue of the Constitution. Sir, if I had no other objection to the extension of slavery to territory now free, the one found in this compromise of the Constitution would be insuperable. Where the propriety of this anti-democratic provision in our representation? Is it right that property shall be represented on this floor—that in which consists the major part of the wealth of the South—that which by law is placed upon a level with our horses and cattle? If so, why not give us a representation for our horses and cattle? Sir, this is a concession in favor of slavery that I will never consent to extend. It is a concession in favor of the South without any corresponding advantage to the North, and one which the people of the North would never consent to, if it were for the first time asked of them, in this our day and generation. But we have been told that we represent our free negroes of the North, and that if slavery was abolished, the South would have a representation for the whole of her slave population, whereas now she has a representation only for three-fifths of it. Sir, this is true; but divest these people of their character of property—take from the white man the motives of avarice which induce him to use all honorable, and sometimes dishonorable means for the increase of this character of persons, and you would find in a short time less representation on account of this unfortunate race than is now here. Sir, the increase would be in less ratio than it is now said to be. But if even this be not true, still a different state of things would be brought about, numerous as they are, exceeding in numbers the white population in many of the States; if even not placed on political equality, (as I do not pretend that they should be if even they were free,) yet they would exercise an influence which would be felt in the country, and would compel their representatives here so to legislate as to raise them up in the scale of humanity, instead of bringing them down to a level with the brute. And, sir, in proportion as the institutions of the country would bring them up in the scale of intelligence and usefulness, they would confer a benefit to the whole country, and there would be no objection to their having a representation here.

Again, I may be told that representation and taxation go together, and such is the provision of the Constitution—representation was the concession, taxation the consideration; but how often, in the history of the Government, have you paid the consideration? Four times, sir. In 1798, 1813, 1814, and 1816. And the sum total that you ever paid into the treasury, under this compromise of the Constitution, for your slaves, is $1,256,553; whilst you received out of the treasury, on account of slave representation, under the law distributing the surplus revenue in 1837, $3,186,127 50, to which may be added $57,556, which the South received in 1842 from the sale of public lands, on account of her slaves, and it will make the amount received out of the treasury, over and above the amount paid into it under this compromise of the Constitution, $1,987,130 50 as a bonus to slave representation upon this floor. Well might Mr. Pinckney declare, in the convention of South Carolina, that 'the terms of the Union were not bad for the South." But, sir, the compromise was made; it is too late to call it in question. I have no disposition to interfere with it; but when called upon to extend or permit slavery to go to territory where it does not now exist; when it follows, that with it we extend this unheard-of and anti-democratic principle of representation, I feel it my duty to protest against it. I do protest against it.

Mr. Chairman, there is one other compromise of the Constitution in regard to which I wish to make some observations. It is that which relates to fugitives from labor, and is substantially set forth in the second provision of the southern address. In the Constitution it is in these words:

"No person held to service or labor in one State, *under the laws thereof*, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such labor may be due."

In the address to which I have referred, great importance is attached to this provision, and many declarations made to satisfy the people of the South that in every non-slaveholding State, except Indiana and Illinois, "the provision is defunct," and "may be regarded now as practically expunged from the Constitution," in consequence of "clear and palpable evasions" practised by the people of the North; and we are even told that "the evasion by which it has been set aside may fairly be regarded as one of the most fatal blows ever received by the South and the Union."

Sir, I need not repeat that I do not justify a violation of *any* of the compromises of the Constitution. I think they ought to be religiously observed. And, sir, the provision which relates to fugitives from labor, above all others, ought not to be violated. It had its origin not in the Constitution; it is older than the Constitution; it had its origin in the Congress which gave birth to that sacred provision which forever excludes slavery from the now happy and growing States northwest of the Ohio river. It is a part of the very article of the ordinance of 1787 to which two millions of free, happy, intelligent, and prosperous people of the great State of Ohio alone in a great measure attribute their present enviable condition.

The last article of the ordinance is in these words:

"There shall be neither slavery nor involuntary servitude in the said territory otherwise than in punishment of crimes whereof the party shall have been duly convicted: *Provided always*, That any person escaping into the same from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her service or labor as aforesaid."

Thus it will be seen that this provision is substantially embodied in the ordinance of 1787, and is senior, therefore, to the Constitution. It was attached as a proviso to that sacred provision of Mr. Jefferson, by which slavery, with all its curses, has been excluded from that delightful and happy portion of our country which I have the honor, in part, to represent. Sir, I would not disturb it. I would let it stand unchanged and inviolate, as is the provision of freedom with which it was originally connected.

But we are told that this provision no longer remains a part of the Constitution; that it has been "practically expunged" in consequence of "clear and palpable evasions" practised by the people of the North. This is a grave charge, sir, made by gentlemen representing in part nearly half the States of the Union in this and the other end of the Capitol. It is a charge which has been frequently made upon this floor, and as frequently refuted. Sir, I stand here not in defence of the people of all the States in the North; I stand here only in defence of the people of Ohio, the State I am proud in having the honor in part to represent. She is included in this broad, unqualified denunciation; her people have been charged with "the adoption of hostile acts, intended to render a provision of the Constitution of none effect," and by which they have aimed "a fatal blow at the South and the Union." Sir, what are these hostile acts? In what consists these "clear and palpable evasions?" When and where have our people aimed a "fatal blow at the South and the Union?"

Sir, I challenge gentlemen to specify; I challenge them to come out from behind the coward's fort of broad and unqualified denunciation, and name the facts upon which they rely in justification of the charge that we have violated the compromises of the Constitution. Was it when, at the request of a delegation sent by the Legislature of Kentucky to the State of Ohio, the Legislature of Ohio passed a law, enabling the people of the South more easily to recapture their runaway negroes within the jurisdiction of our State? Was it when the very gentlemen at whose solicitation that law was passed, subsequently came back into Ohio, and denounced the political party that gave them the law, and used all means in their power to overthrow it? Was it because of this infamous and ungrateful conduct we wiped from our statute-book this law which, from feelings of friendship, we were induced to place there; and which, according to a decision subsequently made by the Supreme Court of the United States, was unconstitutional? Was it because the people of Ohio, especially the Democracy, in the late Presidential campaign, were willing to sacrifice, in a measure, their own sentiments, and meet you upon the broad platform of non-interference, and give the vote of the State to a man who, in advocating that doctrine, made himself a sacrifice for the interests of the South? Was it because the Legislature of our State at its present session repealed our black laws, thereby permitting your free negroes to come among us without any restrictions, relieving you in a great measure from what you consider a greater evil than slavery itself? Was it because ninety-nine out of every hundred of our citizens have always afforded you all reasonable aid in recapturing your slaves? Or is it because a very few of our citizens, living, as they do, in a State where liberty is the boast and the birthright of every creature wearing the image of his God, abhorring slavery in principle, have the audacity, in the exercise of the sacred right of free discussion, to advocate the doctrine of universal emancipation? Are these the offences of which we have been guilty—the "clear and palpable evasions" of the Constitution, by which we have aimed a "fatal blow at the South and the Union?" No, sir, no; the Address does not say so.

Sir, these very patriotic gentlemen, who convened in secret caucus with a view to advise their constituents of the aggressions that had been made upon their rights by the people of the North, satisfied themselves, as is their custom when speaking on this subject, with making broad and denunciatory declarations, without the shadow of a foundation to base them upon, and without presenting any facts in a tangible shape from which their constituents and the people of the Union may judge as to the correctness of their declarations. "The citizens of the South," say they, "in their 'attempt to recover their slaves, now meet, instead 'of aid and coöperation, resistance from all sides: 'resistance from hostile acts of legislation, intended 'to baffle and defeat their claims by all sorts of 'devices, and by interposing every description of 'impediment; resistance from judges and magis-'trates; and, finally, when all these fail, from mobs, 'composed of whites and blacks, which, by threats 'or force, rescue the fugitive slave from the posses-'sion of his rightful owner." Sir, I can assure these gentlemen, that so far as Ohio is implicated, they are entirely mistaken; we have passed no hostile acts of legislation intended to throw obstacles in the way of the recapture of slaves. Our judges and magistrates have not interposed any resistance to your just claims; neither have I known of any mobs, "composed of whites and blacks," raised for the purpose of "rescuing fugitive slaves from the possession of their rightful owners." All these things are new to me; they will be new to the people of Ohio; they have known of no such things; they would sanction no such things; they are attached to the Union, to the compromises of the Constitution; they abhor slavery, but they still cherish the Union. True, we have abolitionists in our midst, isolated individuals, perhaps, who would sever the Union, if thereby they could bring about universal emancipation. They are few in number; they receive no sympathy from the great mass of our people; their number is not sufficient to give them much power, either for great evil or great good. They have their societies, their conventions, and their fairs. They use all legitimate means within their power to promote their objects and accomplish their ends; still they are not "mobs, composed of whites and blacks;" they are free, active, intelligent citizens, acting, most of them, in discharge of what they believe to be a moral and religious duty. Sir, I have no

sympathies with them; I have always disapproved their course; for twelve years I have not attended any of their meetings; the first public speech I ever made in Ohio was in opposition to their schemes. I believe they have been instrumental of some good and of much evil; yet they have an importance in the South which they never had in the North; they are diminishing in numbers. Abolish slavery and the slave trade in the District of Columbia, and exclude slavery from the territories now free, and you deprive them of the only food which gives them nourishment and strength, and keeps them alive with power, as a party, to advocate the doctrine of dissolution or universal emancipation.

But, sir, what are the rights of the people of the South, and the duties of the people of the North, under this provision of the Constitution? In the Articles of Confederation there was no provision on this subject. So far as regarded the institution of slavery, the States were as independent of each other as though they had not been associated for any purposes. The people of the North had already begun to agitate the question of emancipation, and some of the States had passed laws of abolition. Persons held to service or labor in the slave States began to escape into those that were free. Already some of the non-slaveholding States had passed laws providing that slaves coming into them, and remaining a certain length of time, should be discharged from servitude. It was as well settled then as it is now, that "there is no 'general principle in the law of nations which re-'quires a surrender of a fugitive slave, and that 'the surrender must be required by compact." Hence the necessity of making specific provision prohibiting the States from legislating freedom to slaves who should escape from their masters, and providing that they should be delivered up on claim of their owners. The object of the provision was well understood in the North and in the South. This is evident from the remarks of Judge Iredell, made when speaking of this provision, in the North Carolina ratifying Convention:

"In some of the northern States they have emancipated all of their slaves. If any one of our slaves go there, and remain there a certain time, they would, by the present laws, be entitled to their freedom; so that their masters could not get them again. This would be extremely prejudicial to the inhabitants of the southern States; and, to prevent it, this clause is inserted in the Constitution."

Hence, also, in the South Carolina Convention, Charles C. Pinckney said:

"We have obtained a right to recover our slaves, in whatever part of America they may take refuge; which is a right we had not before."

Hence also Mr. Madison, in the Virginia Convention:

"At present, if any slave elopes to any of those States where slaves are free, he becomes emancipated by their laws: for the laws of the States are uncharitable to one another in this respect."

Also, Judge McLean, in the case of Prigg *vs.* the Commonwealth of Pennsylvania:

"At an early period of our history, slavery existed in all the colonies; and fugitives from labor were claimed and delivered up under a spirit of comity or conventional law among the Colonies. The Articles of Confederation contained no provision on the subject, and there can be no doubt but the provision introduced into the Constitution was the result of experience and manifest necessity."

Thus, sir, it will be seen, that the provision was entirely for the benefit of the South, intended to guard and protect the owners of slaves against evils which had already begun to manifest themselves, by providing that the free States should pass no law, nor make any regulation, by which persons coming into the free States from whom service or labor was due in any of the other States, should be discharged from such service or labor. The provision thus far is plain. It was intended, in a word, simply to prohibit the free States from legislating freedom to runaway negroes, to prohibit them from continuing that character of legislation which had been adopted, and which had proved detrimental to the interests of the people of the South. And now, sir, I challenge gentlemen to show wherein the Legislature of Ohio has ever violated that part of that compromise of the Constitution. When has our State ever passed any law, or made any regulation, by which slaves or other persons held to labor, coming within the State, were made free, or discharged from such labor? You may ransack the history of our legislation from the commencement of our State Government down to the present time, and you will find no such law, no such regulation. But, sir, the free States are not only prohibited by this provision of the Constitution from passing any law, or making any regulation, by which persons held to service or labor shall be discharged from such service or labor; but it is further provided that they shall be delivered up on claim of the party to whom such service or labor is due.

Mr. Chairman, there has never been any difference of opinion in regard to the first clause of this provision of the Constitution, and I doubt whether a single act of legislation can be found in any of the States in violation of it; but, sir, the latter clause is not so clear, and there has existed in the North and the South a difference of opinion in regard to it. The southern address, in speaking of this provision says:

"All is clear. There is not an uncertain or equivocal word to be found in the whole provision. What shall not be done, and what shall be done, are fully and explicitly set forth. The former provides that the fugitive slave shall not be discharged from his servitude by any law or regulation of the State wherein he is found; and the latter, that he shall be delivered up on claim of his owner."

Now, sir, I would ask those gentlemen whether this latter clause is so clear as they pretend it is? The slave shall be delivered up on claim: delivered up by whom?—by the State in which he is found, on requisition to the Governor? It was never so understood. By the person in whose possession he is found? No such construction has ever been given to the article. By whom, then, is he to be delivered up? What is "the plain meaning and true intent" of this provision? Why, says this address:

"What that meaning and intent are, there was no diversity of opinion. In the better days of the Republic, prior to 1819, Congress, State Legislatures, State and Federal judges, and magistrates, and people, all spontaneously placed the same interpretation on it."

But, sir, I ask, what was *that* interpretation? Why does not this address tell the people of the South what the action of Congress was in the "better days of the Republic?" Why do these gentlemen, in speaking of the "better days of the Republic, prior to 1819," content themselves with coming down, and citing from two decisions of the courts, both of which were made within the last ten years? Sir, I repeat, why have we not been informed what the interpretation was in the better days of the Republic? The Congress of 1793, consisting in part of many of the very best men who sat in convention, and aided in making the Constitution, supposed that they understood the "true intent and meaning" of this provision. They legislated in regard to it; and with a view to carrying it into execution, provided by law—

"That when a person held to labor in any of the United States, or in either of the Territories northwest or south of the river Ohio, under the laws thereof, shall escape into any other of the said States or Territory, the person to whom such service or labor may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labor, and to take him or her before any judge of the circuit or district courts of the United States, residing or being within the State, or before any magistrate of a county, city, or town corporate, wherein such seizure or arrest shall be made; and upon proof to the satisfaction of such judge or magistrate, either by oral testimony or affidavit, taken before and certified by a magistrate of any such State or Territory, that the person so seized or arrested doth, under the laws of the State or Territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant for removing the said fugitive from labor, to the State or Territory from which he or she fled."—*Section 3d, law of* 1793.

Here, sir, it will be seen that they authorized the "master to pursue his slave, and seize or arrest him, and take him before a judge of the circuit or district courts of the United States, or before a magistrate of a county, city, or town corporate, and on making proof that the person was a slave in the State from which he had fled, the judge or magistrate was to give a certificate of this fact to the claimant, and this was his warrant for removing him to the State or Territory from which he had fled." Sir, this was the construction given to this provision in the better days of the Republic. Who changed this construction? Was it the people of the North? the State magistrates and the State courts? No, sir; it was the Supreme Court of the United States, consisting of northern and southern judges. It was done by this very decision of Prigg against the Commonwealth of Pennsylvania, from which this southern address quotes largely to show what the object of the provision was. With southern gentlemen, therefore, it is good authority. What does it say?—

"The clause relating to fugitive slaves is found in the National Constitution, and not in that of any State. It might well be deemed an unconstitutional exercise of the power of interpretation, to insist that the States are bound to provide means to carry into effect the duties of the National Government, nowhere delegated or intrusted to them by the Constitution. On the contrary, the natural, if not the necessary, conclusion is, that the National Government, in the absence of all positive provisions to the contrary, is bound, through its own proper departments—legislative, executive, and judiciary, as the case may require—to carry into effect all the rights and duties imposed upon it by the Constitution."

Again:

"The provisions of the sections of the act of Congress of 12th February, 1793, on the subject of fugitive slaves, as well as relative to fugitives from justice, cover both the subjects—not because they exhaust the remedies which may be applied by Congress to enforce the rights, if the provisions, in practice, shall be found not to attain the objects of the Constitution, but because they point out all the modes of attaining the objects which Congress has as yet deemed expedient and proper. If this is so, it would seem, on just principles of construction, that the legislation of Congress, if constitutional, must supersede all State legislation on the same subject, and by necessary implication prohibit it. Where Congress have an exclusive power over a subject, it is not competent for State legislation to interfere."

Again:

"The provision of the act of 1793 relative to fugitive slaves is clearly constitutional in all its leading provisions; and, indeed, with the exception of that part which confers authority on State magistrates, is free from reasonable doubt or difficulty. As to the authority so conferred on State magistrates, while a difference of opinion exists, and may exist, on this point, in different States, whether State magistrates are bound to act under it, none is entertained by the court that State magistrates may, if they choose, exercise the authority, unless prohibited by State legislation.

"The power of legislation in relation to fugitives from labor is exclusive in the National Legislature."

Here, Mr. Chairman, is the true construction of this provision of the Constitution—a construction given it by the highest judicial tribunal known to our laws—a tribunal consisting of northern and of southern men—and cannot, therefore, be said to be a sectional construction. By this decision, it is settled that "the power of legislation in relation to fugitives from labor is exclusive in the National Legislature;" that State legislation in regard to them would be a usurpation of power by the States; and to require State magistrates to exercise any of the duties which belong exclusively to national officers, would be a gross infringement upon the rights of the States. The people of the North have adopted this construction. Some of the States have passed laws prohibiting their magistrates from thus usurping the duties of the national officers. They have provided for a strict execution of this provision, in accordance with the construction that has been given it by the highest judicial tribunal in the country. What more could they do? What more could the South ask them to do? We passed laws to aid you in the recapture of your slaves. By your conduct, you forced upon us an issue, in a suit, in which the validity of these laws was called in question; and the decision of your own judges declared them unconstitutional. To that decision we bow with submission.

But says this address: "We do not deem it 'necessary to undertake to refute the sophistry 'and subterfuges by which so plain a provision of 'the Constitution has been evaded and in effect 'annulled." Sir, I ask these gentlemen what sophistry, what subterfuges have the people of the North used in evading and annulling this provision of the Constitution? I do not ask them to undertake a refutation of them; this might be asking them to engage in a matter entirely unworthy their intellects. But, sir, when the people of the North are charged with evading and annulling a provision of the Constitution by sophistries and subterfuges, it is their right to know what these sophistries and subterfuges are—in what consists these evasions of the Constitution. In behalf of Ohio, and as far as the people of that State are implicated, I challenge gentlemen to specify. They cannot do it. Our people have not evaded or annulled any provision of the Constitution. They would not do it. They cling to it as their ark of safety. Under its protecting influences they have grown in wealth and prosperity with a rapidity unparalleled in the history of the States. They would not annul, if they could, one of the least of its provisions. No; they feel that it having been the Constitution of their

fathers, it ought to be, solid and entire, the Constitution of their descendants. Again, in further speaking of this provision, the Address continues:

"It constitutes an essential part of the constitutional compact, and of course of the supreme law of the land. As such, it is binding on all Federal and State governments, the States and the individuals composing them. The sacred obligation of compact, and the solemn injunction of the supreme law, which legislators and judges, both Federal and State, are bound by oath to support, all unite to enforce its fulfillment, according to its plain meaning and true intent."

All this is right; and I have already shown that the people of the North are engaged in carrying out the provision in strict accordance with "its plain meaning and true intent," as given them by the court, in the very decision from which the Address has copiously drawn to prove the "importance and clearness of the provision."

Sir, this decision is correct. I would be the last man to controvert any of its positions. They have never been controverted by any individual or any court. They are in strict accordance with the Constitution; and though not made in what are said to have been the better days of the Republic, yet they are none the less correct for that.

There is one other part of this Address to which I wish to direct the attention of the country: it is that which "alludes to secret combinations, *believed* to exist in most, if not all, the northern States adjacent to the South, whose object is, to entice, decoy, entrap, inveigle, and seduce slaves to escape from their masters, and to pass them secretly and rapidly, by means organized for the purpose, into Canada." Sir, I have frequently heard this charge made by southern gentlemen, here and elsewhere; and I know not what secret combinations may exist in other States; but I can assure gentlemen there are no such organized combinations in Ohio. I don't believe that they exist in any State of the Union. The people of Ohio, I know, would not countenance them; and there is every reason to believe that they would receive no sympathy from the great mass of the people of the North anywhere. There may be isolated individuals, even in Ohio, and in other States, who would give every assistance in their power to aid a runaway slave in making an escape, and getting beyond the reach of his owner—men who would even be willing to violate the laws, if by that means they could accomplish their objects; but, sir, they are few in number; they do not constitute secret combinations, neither do the people of Ohio "look on 'and witness, with indifference and secret appro-'bation, a great number of slaves enticed from 'their masters, and placed beyond the possibility 'of recovery." Sir, so far as Ohio is concerned, there is no truth in the charge. Gentlemen cannot name the combinations that are thus engaged in violating the laws. Should there be any; our courts are open as well for the people of the South as for the citizens of our own State, and we have not even passed a law prohibiting our magistrates from taking jurisdiction in cases under the law providing for the recapture of slaves.

Mr. Chairman, I have done with this Address; I have not spoken of that part which treats of the rights of the South in connection with the territories. I have confined my remarks to that part which speaks of the compromises of the Constitution and of the violations of those compromises by the people of the North. I have spoken of it in terms appropriate to its character. I believe it was sent forth to the people of the South, with a view to irritate them against the North, and increase, if possible, the bitterness and violence of that sectional feeling which is at this moment shaking the Union to its very center. The motives which induced it, have in my opinion, no affinity to the high and lofty patriotism which governed the actions of men "in the better days of the Republic." Sir, there are master-spirits in the South, as well as there may be in the North, who *now* are in favor of a dissolution of this glorious Union. I have no apprehension that such a result can be brought about. There is too much patriotism with the people of every section of the country, to permit us even to entertain a doubt as to the final result of this great controversy. The Union may be even more violently convulsed than it now is, or ever has been; but the ligaments which bind it together will prove equal to the crisis, and the storm which now surrounds us, having exhausted its force, will be succeeded by that same calm and quiet which has ever followed the settlement of this question.

But, sir, if in this I be mistaken; if there be, as was intimated the other day by the gentleman from Illinois, [Mr. TURNER,] a secret plot on foot for a dissolution of this our glorious Union; if the people of the South will suffer themselves to be led away under an ill-founded apprehension that their "peculiar rights" are not secure under the protecting ægis of the Constitution, and will suffer slavery to be made the instrument for the overthrow of this the most noble political structure ever built up by the hands of man—the pride of America, and the wonder of the world; they had better beware, that on the day they announce the Union at an end, they do not send forth a decree as certain as any that ever emanated from the Almighty, proclaiming freedom to every slave in the South.

THE NORTH AND THE SOUTH.

SPEECH OF MR. H. BEDINGER,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

February 16, 1849,

In Committee of the Whole on the state of the Union, (Mr. CABELL, of Florida, in the chair,) on the bill to carry into effect the Treaty of Peace with Mexico.

Mr. BEDINGER said:

Mr. CHAIRMAN: I have been edified and very much entertained by the speech which the gentleman from New Hampshire [Mr. WILSON] has this moment delivered; for declamation, when it is good, is often very entertaining, even though it be as barren of argument and as destitute of facts, as he would have us believe the soil which is "cursed" with slavery is barren and destitute of every product calculated to improve the condition of mankind. The gentleman denounced slavery as a curse, but he did not pause to prove it such; and, if I mistake not, I shall, before I conclude, satisfy those who hear me, that the gentleman's bold assertion has nothing to sustain it but ignorance and prejudice.

I would gladly see this exciting subject put to rest forever. It never would have been opened by gentlemen from the South, and I am sure that I misrepresent none of the representatives from slaveholding communities when I say, that they are all willing, if permitted to do so, to abandon now and forever the whole subject, and never again to recur to it in this House. This is the fourth session of Congress that I have had the honor of a seat upon this floor, and I am sure, sir, that in all that time I have never known a discussion upon the subject of slavery to have been commenced by a gentleman representing a slaveholding constituency. We are satisfied with that institution as it exists amongst us; and all that we ask of northern interference is, that it will cease, that it will let us alone, and suffer us to enjoy the blessing, or the "curse," if they choose to call it so, of slavery, without its uncalled-for and unwarranted meddling. We ask for nothing but justice, and to be suffered to enjoy the rights and privileges which the Constitution of our common country guaranties to us.

We have acquired new and immensely valuable territory by the united exertions of our whole people. Shall all be permitted to share it, or shall a portion be excluded unless they will consent to restrictions and provisoes, in direct violation of the Constitution, and at variance with every sentiment of justice and equality? That is the whole question, sir, by which this country has been excited and agitated for so long a time. I said I would be glad to see this agitation cease, and I would. If any proposition had been offered in this House by which I believed it could be terminated without a sacrifice of principle and of privilege upon the part of the South, I would be among the first to accept the olive branch and to silence forever this useless and most dangerous excitement. I am sorry to be obliged to confess, that I see no such prospect at present. At the last session a proposition was made to us, which, in my opinion, was well calculated to satisfy every portion of this Union, and to allay the feverish excitement which has ever since distracted our counsels and our country It was the production of the combined wisdom, patriotism, and concessions of wise men from every section of this Confederacy. It was adopted by the Senate; but when it came to this House it was condemned and executed, even without the form of a trial—condemned and executed, sir, by southern Whig votes!—by men who declare now that they would be pleased to see this difficult question compromised, but who then refused and rejected every compromise, and every effort at compromise.

I have seen no proposition in this House, at least, upon which I think the South and North can, by possibility, unite. I have seen none, sir, which, as a southern man, I can support. Of those proposed, the bill offered some days since by my colleague [Mr. PRESTON] is possibly the least objectionable. But even that, sir, contains features so objectionable, that for the life of me I cannot understand how any southern man can give it his support. And yet, sir, it is the least bitter of any of the draughts which have been tendered to us. That bill does not halve matters; it does not cut up the territory into two States; it does not ask us to vote for four "Free-soil" Senators, to appear here next winter to swell the ranks of the already domineering North. It *only* provides for the formation into one State of the whole of our vast acquisitions of California and New Mexico. It *only* provides that territory sufficiently large to form ten, fifteen, or even twenty States, shall, "at one fell swoop," be swept from the control of the *United* States, and given as a gratuity to a handful of adventurers, who are there now, or who shall be there by the first of October next! No matter from whence they may come, or of what character they may be—South Americans, Chinese, Sandwich Islanders, Mexicans, mulattoes, free negroes, and foreigners from every part of the globe,—give them the *whole* territory, make them a State, a sovereign, independent State—which shall have power to exclude forever, from every portion of its territory, all others of our citizens! Sir, no man can have greater regard for the sovereign people than I have; no one will more readily admit, that the fountain of all power, under the Constitution, is in them. But to ask me to grant that the twenty thousand (my information satisfies me that there are not more than that number at present there) adventurers in New Mexico and California—a large proportion of whom are not citizens of the United States—be invested with this attribute of sovereignty, of that sovereignty which, independent of every earthly power, submits to no dictation, and succombs to no authority—is asking, in my poor judgment, a little too much.

I have not time to dwell longer upon this portion of the subject now, sir. I earnestly wish I had. I have only time to ask why we cannot, as in the case of all other territory, form a territorial government for them, without attaching thereto any restriction, any unconstitutional proviso, and wait patiently until they shall have ripened into manhood, and are prepared to become members of this great Confederacy? Is it because northern men, exulting in their numerical strength, are resolved to bring the South under the yoke? They cannot, they dare not say that our blood was not as freely shed, our money as liberally contributed, and our exertions as zealously given to procure this territory as their own. Even the ingenious gentleman from Maine, [Mr. SMART,] who addressed the House some days since, could not show that more men had gone forth from the free States to war with Mexico than the slave States had contributed. The gentleman's argument upon this point was ingenious, but it was not sound; for, allowing the accuracy of all his figures, it will still appear that the South sent many more men, in proportion to her free population, than went from the North. According to the gentleman's statement, the number of men furnished by the North and South, including regulars and volunteers, and those who served in the navy, was as follows:

Regular army from the free States	29,179
Volunteers from the free States	26,910
Naval force from the free States	7,619
Total	63,708
Regular army from the slave States	13,731
Volunteers, including "three and six months' men" from the slave States	42,510
Naval force from the slave States	1,695
Total	57,936

This statement shows that the free States furnished 5,772 more men than the slave States; but, sir, the population of the free States is 12,193,000, and that of the slave States 8,553,000. The number of slaves in those States is 2,487,355, which, deducted from the population of the slave States, will leave 6,065,645 freemen. Yet these 6,065,645 freemen of the South contributed but 5,772 men less than the 12,193,000 freemen of the North, according to the gentleman's own showing. Yes, sir, less than one-half the number of freemen of the South contributed within a fraction as many men as were sent from the whole North.

Mr. SMART. The gentleman will remember that I said, deduct the three months' and six months' men furnished by the South, and those whose services were merely nominal, and the proportion will be still greater.

Mr. BEDINGER. I will not dispute the gentleman's calculation or his figures; I only know the fact, that with less than half the free population, we furnished very nearly, if not quite as many men for the Mexican war as were furnished by the free States. And now, sir, when we ask for our share of the indemnity which we so freely contributed to win, we are told we shall not touch an acre of it unless we will consent to arbitrary and insolent restrictions. Gentlemen seek, in various ways, to justify this domineering policy of theirs. At one moment they claim the power, under the Constitution, to exclude us from our common property; at another, slavery is a "curse," and will blast and destroy any land where it shall enter; at another, the free laboring population of the North will not emigrate to lands where slavery is tolerated. This latter assertion was gravely made by the gentleman from Maine, [Mr. SMART.] "The laboring men of the North will not emigrate to slaveholding communities!" Indeed! this is news to me, sir; I was not aware of the fact before, and I hope the gentleman will pardon my doubting its correctness now. I am not certain, sir, that with a telescope, from the top of the cupola, the gentleman might not have ocular demonstration of the groundlessness of his assertion. A survey of the neighboring county of Fairfax, in Virginia—just across the river, sir—would show the gentleman many industrious, thrifty, enterprising northern laborers, who from time to time have purchased land in that county, settled down right among the negroes, and are now boasting that they are rapidly renovating the impoverished soil of that county. And yet they will not go to California if slavery be tolerated there—no, they cannot be induced to go there, not even by the golden visions of that country, which are forever floating before their delighted eyes! Does the gentleman suppose that such an assertion can find credit among men of common intelligence or common sense? But he also declares that slavery is a curse, withering and desolating in its effects; and in this he is followed by the gentleman from New York, [Mr. STARKWEATHER,] and by the gentleman from New Hampshire, [Mr. WILSON.] I propose, so far as I can do so, during the limited time allowed me, to examine to what extent slavery has "cursed" those States in which it has been established.

The gentleman from Maine [Mr. SMART] drew a comparison between Virginia and New England, and said:

"The comparative population of Virginia and New England, white and colored, in 1790, 1810, and 1840, was as follows:

	Virginia.	*New England.*
1790.—White	442,115	992,781
Colored	306,193	17,042
Total	748,308	1,009,823
1810.—White	551,534	1,451,985
Colored	423,088	19,906
Total	974,622	1,471,892
1840.—White	746,968	2,212,165
Colored	498,829	22,657
Total	1,239,797	2,234,822"

Now, sir, if the increase of population alone, be conclusive proof of the prosperity of any country, the gentleman must admit that his own State is marvelously in the rear of Indiana, or any one of the western States. The increase of population in the four States of Maine and Massachusetts, Indiana and Illinois, since 1820, has been as follows:

In Massachusetts the population increased, from 1820 to 1830	87,121
And from 1830 to 1840, it increased	127,291
That of Illinois increased, in the first period	102,244
In the second	373,939
The population of Maine increased, from 1820 to 1830	101,620
From 1830 to 1840	101,838
That of Indiana increased, in the first period	195,853
In the second	342,835

So that, if the increase of population be the proper criterion by which to judge of the prosperity of a State, Illinois is vastly in advance of Massachusetts, and Indiana of Maine; and the gentleman must find some other cause than slavery for the puny progress which his own State and that of Massachusetts, according to his own criterion, have made.

But he compares, also, the aggregate amount of wealth owned by Virginia and New England. I will reach that part of his argument, I hope, sir, before I conclude. At present, I will only remark, that in making up the aggregate of New England's wealth, the gentleman gives her credit for upwards of eighty-two millions of dollars of manufactures; from which he does not think it worth while to deduct one dollar for the cost of the raw material, or for the labor bestowed upon them!

Mr. Chairman, I know that it is customary with those who lack the taste to select or the ability to handle a more becoming theme, to discharge their tiny artillery at southern character and southern institutions; and especially does Virginia come in for a full share of the pointless arrows of these gentlemen, whose efforts constantly remind me of those very ambitious persons whose names are to be seen, inscribed by their own hands, on every edifice or monument of art, and who hope, by thus disfiguring or defiling it, they may render their own paltry memories as lasting as the building itself. Now, whether Virginia has deteriorated or not; whether her palmiest days have passed by, and her energies are "in the sear and yellow leaf;" whether her present sons are dwarfs in comparison with her elder born; whether the sceptre of intellect has departed from her, and in the race of glory and of greatness she is no longer first; whether the plucking of northern cupidity has drained her of her wealth, or her own unbounded and unwise liberality exhausted her resources,—I will not, at present, attempt to determine; but this I will boldly assert, and that without the fear of contradiction, that in her regard for law and order—in her love of justice, and her strict obedience to all its dictates—in the careful observance of the rights and privileges of all, manifested by her citizens, in piety, morality, and sobriety—and in her sacred observance of the plighted word of her government, the mother of States need fear no comparison with any of her progeny, or with any of her sisters.

Massachusetts is a great State, sir—a very great State, indeed, is Massachusetts. She could not well be anything else, sir; for she has Boston, and Bunker Hill, and the Rock of Plymouth! There the Mayflower landed the Pilgrims; and there witches and Indians and Quakers and Catholics, and other such heretics, were, "in the brave days of old," burned, literally, by the cord! She is, unquestionably, sir, a great State, and some of her Representatives on this floor seem to know it; and in the plenitude of their merciful hearts, they pour out a deal of compassion and surplus pity upon poor old Virginia! They not unfrequently raise their sanctified eyes to Heaven, and thank the Lord they are not like that poor publican!

Not long since, one of these gentlemen (the one, I mean, who seems particularly anxious to establish himself the Anacharsis Cloots of the present day, the "modern orator of the human race") lamented in very pathetic strains the incapacity of Old Virginia to appreciate the political tenets of Massachusetts; and immediately after, this gentleman gave us a most interesting description of the accomplishments, abilities, and acquirements of one of the "sweetest" negro boys the world ever saw. He did not tell us whether he came "from the sunny South, stealing and *giving odor*," or whether he was sweet like "Tucky Squash," so well described in Salmagundi, who was "a marvelously *sweet* youth, provided you kept *to windward* of him!" This same gentleman, by way of further illustrating the greatness of Massachusetts and the rapidity with which she had outstripped Old Virginia in civilization and advancement, informed us, that not very long ago, a "gemman of color" had been elected to the Legislature of that State. True, he added, this delegate did not take his seat. And, if I understood him correctly, the reason was, that the negro did not like to be caught in the company which at that time composed the Legislature of Massachusetts. Well, sir, "*de gustibus non*," &c.; but surely Massachusetts is vastly in advance of the rest of this Union, since the first negro elected a delegate to her Legislature scorned to take his seat in that body.

But, sir, do not understand me as attempting, in the slightest degree, to depreciate the great State of Massachusetts. She *is* great, sir; she is great, flourishing, populous, and rich. True it is, she has been highly fed and pampered by the Federal Government; true, she has been "protected," at the expense of the rest of this Union, to the amount of many millions of dollars; true, she has ever been most importunate, and, like a sturdy beggar, has constantly clamored to her sisters for contributions, aid, and alms, in the shape of tariff monopolies; true, she has long imitated the horse-leech, crying "Give, give." But what of that, sir? Is she not a great State, and is it not her privilege to turn to the South, and taunt us with that very depletion which her own avarice, aided by Federal "protection," has brought upon us? Is it not her peculiar privilege, I say, to pluck our pockets and laugh at us?—with one hand, through Federal privileges and monopolies, to plunder us of our hard earnings, and with the other to kindle the fires of fanaticism and civil strife in our homesteads and upon our hearths?

But, sir, there are certain occurrences which occasionally take place in Massachusetts and others of our northern sister States, which have never been known among the much-abused slaveholding States of the South. It has not been *very* many years since a most respectable mob, composed, doubtless, of those whose hearts do daily bleed for the servitude of the poor blacks, assembled in the town of Charlestown, in Massachusetts, and gave to the flames a convent occupied by women, defenceless nuns. Yes, sir, this Massachusetts mob, upon that occasion, plied the torch of the incendiary until the midnight heaven hung blushing over the conflagration.

Sir, in the slaveholding South, we do not frighten feeble women by burning their houses over their heads at midnight. If we did, such disgraceful conduct would at once be attributed to the influence of slavery amongst us. Unless the newspapers greatly slander the city of Boston, there are more distinguished atheists there than in all the rest of the Union together; and I remember to have seen a description of an anniversary meeting of atheists which took place not long ago, in the city of New York, and at which the delegates from Boston figured most conspicuously.

Now, sir, we poor, stupid slaveholders of the South do believe in a God, and I doubt exceedingly if a convention of atheists would be tolerated in any one of our southern cities. If atheists did hold these meetings amongst us, would it not be attributed to the influence of slavery? If the newspapers do not slander Boston, moreover, there are anti-Sabbath societies there, whose members are numerous and influential. We do not compel our slaves to labor on the Sabbath, sir; we have no such societies amongst us. If we had, our pious brethren would be horribly shocked, and would forthwith attribute their existence to the influence of slavery. We are, doubtless, a long way behind our northern friends in advancement, progress, and civilization. We do not tear down convents, like the Bostonians; nor shoot sheriffs who attempt to collect lawful rents, like the New Yorkers; nor burn churches, like the Philadelphians. I quote these things, sir, not to cast odium upon the people of the North, as a people, but simply (because slaveholders appear to be regarded as monsters) to show that there are *some* monstrosities we *never* commit. I wish to show that there are some evils from which the slaveholding South is exempt—evils which, if they *did* exist there as they do at the North, would certainly be attributed to the influence of slavery. But, if their existence amongst us would certainly be attributed to the influence of slavery, is it unfair or unreasonable to attribute our exemption from them to that same influence? If certain evils are seen

to abound in the free States, which are never heard of in the States where slavery exists, is it a forced inference to say that it is the influence of slavery which expels them? Whether it is so or not, one fact is certain, and it is a most remarkable fact: there is not one solitary "*ism*" which is odious, that had its origin in a slaveholding State. Atheism, Fanaticism, Fourierism, Millerism, Mormonism, Anti-rentism—foul blots, cankers, sores, deformities, as they are—all, all of them are the progenies of non-slaveholding communities; and not one of them has ever had origin or taken root in any slave State in this Union. And I do sincerely believe that the only reason why we are exempt from these curses in the South is, because that peculiar population, among whom alone these villanous creeds find favor and support, is excluded by our slaves. And if it be true (though for one, I utterly deny it) that the existence of slavery in any country does retard that country in the accumulation of mere wealth, yet I believe (it is susceptible of demonstration) that it is a protection and safeguard, to every country where it exists, against evils a hundred fold more to be dreaded than poverty or the *absence of affluence and luxury.*

Mr. Chairman, I hold in my hand the most masterly vindication of the South, of southern institutions, of southern people, that it has ever been my good fortune to meet with. It is an address delivered before the "Young Men's Mercantile Library Association of Cincinnati, Ohio, January 16, 1849, by Ellwood Fisher."

I have no acquaintance with the author further than that which I have gathered from his address. It is evident that he has thought and read much upon this subject; and that he is a bold man, who loves the truth and dares to utter it. He puts to the test this boasted superiority of the North to the South, and vindicates, in the most triumphant and conclusive manner, southern institutions and southern men. He shows, that before the system of "protection" was adopted—before the South was made tributary to the North by the adoption of the miscalled American system—the slaveholding States were greatly in advance of the free States in commerce and in wealth; and even at the present day, notwithstanding the burdens we have been compelled to bear, we are, in all that tends to the comfort and happiness of our race, infinitely better off than our northern confederates. I beg the attention of the committee while I read a few of the facts which this address contains:

"For the first quarter of a century of the present Government, up to 1816, the South took the lead of the North in commerce: as at the end of that period the exports of the southern States amounted to about thirty millions of dollars, which was five millions more than the northern. At this time, in 1816, South Carolina and New York were the two greatest exporting States of the Union, South Carolina exporting more than $10,000,000, and New York over $14,000,000.

"According to the assessments made by authority of the Federal Government in 1815 for direct taxes, the value of property in the southern States had risen to $859,574,697, the white population being then, according to an average of the census of 1810 and that of 1820, about 2,749,795, or about $312 per head, whilst the property of the northern States amounted to $1,042,782,264, for 4,326,550 population, or only $240 per head.

"Even in manufactures the South, at this period, excelled the North, in proportion to the numbers of their population. In 1810, according to the returns of the marshals of the United States, the fabrics of wool, cotton, and linen, manufactured in the northern States amounted to 40,344,274 yards, valued at $21,061,525; whilst the South fabricated 34,786,497 yards, estimated at $15,771,724. Thus, after the lapse of the first quarter of a century under our present form of government, the South had surpassed the North in commerce, in manufactures, and in the accumulation of wealth, in proportion to the number of citizens of the respective sections.

"Since that period a great change has occurred. The harbors of Norfolk, of Richmond, of Charleston, and Savannah, have been deserted for those of Philadelphia, New York, and Boston; and New Orleans is the only southern city that pretends to rival its northern competitors. The grass is growing in the streets of those cities of the South which originally monopolized our colonial commerce, and maintained their ascendency in the earlier years of the Union. Manufactures and the arts have also gone to take up their abode in the North. Cities have been expanded and multiplied in the same favored region. Railroads and canals have been constructed, and education has delighted there to build her colleges and seminaries."

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"In addition to this, the establishment of a bank of the United States, located at the North, with large deposites of Government money, and enabled by the confidence of the Government to maintain a large circulation, which would naturally be devoted to the promotion of northern commerce, it was thought was also adverse to southern commercial rivalry. These two measures were the work of a republican administration of the Government, but they were strenuously opposed by the State rights party. On their passage in Congress, it was declared by John Randolph, one of the most profound and sagacious statesmen Virginia or any other country ever produced, that a revolution in our Government had occurred, whose consequences no man could calculate. The result verified this prediction. Our population is now twenty millions, and yet it is thought by all parties that twenty-five millions of dollars per annum is enough for the support of Government in time of peace. Yet sixteen years ago, when our population was little more than half of what it is now, this Government exacted $32,000,000 as duties on our foreign imports, and that, too, when in consequence of this heavy burden on our foreign trade we only imported $64,000,000. The Government took half the value of the imports as a tax on foreign trade. This outrage was the cause of South Carolina nullification."

Notwithstanding all this, sir, it will be seen by a further examination of this address that the South has not been wholly impoverished yet, and that, with this pretended curse of slavery and this real curse of protection upon her, she has still managed to surpass the North in everything calculated to render her people comfortable and happy. Take the author's comparison of some of the free States with some of those holding slaves, and it will be perceived at once which enjoys most comforts and most blessings:

"The State of Massachusetts, for instance, is generally regarded as one of the most successful and flourishing of the North, and is constantly referred to by the newspapers as a model for all the others, and very frequently as a taunt to the southern. If, however, we compare this favorite of the North with Maryland, a southern State of similar territorial extent, and one of the least of the southern States, we shall find the latter to be decidedly superior in wealth in proportion to the number of her citizens. According to the census of 1840, Maryland had a free population of 380,282, and in 1847 her property was assessed at $202,272,650. Massachusetts in 1840 had a population of 737,699, and her property now is only $300,000,000. Taking these two assessments as the basis of comparison, and it appears that the average property of a free person in Maryland was $531, whilst in Massachusetts it is now, in the palmiest days she has ever seen, only $406 per head—the freeman of Maryland being about 25 per cent. the richer.

"The States of New York and Virginia are both of great territorial extent, and not materially unequal in that respect. New York is also regarded habitually as one of the grandest products of free institutions—and the present condition of Virginia is continually referred to, as a striking and melancholy result of slavery. Her poverty, her ignorance, her idleness, her decay, and her misery, are the threadbare topics of modern political philosophy, here and abroad. Let us now consider the facts. Her free population in 1840, according to the census, was 790,810, and her property is now about $600,000,000. The population of New York in 1840 was 2,428,921, and in 1847 her property is assessed at $632,699,993. The average property of a free person in Virginia is $758; in New York it is only $260, or a little more than one-third."

* * * * * *

"In 1840, Kentucky had a free population of 597,570, and her property amounts, according to her tax assessment of 1848, to about $272,847,696. Ohio, in 1840, had a population of 1,519,467, and her assessment last year was $421,067,991. The average value of property belonging to each free person in Kentucky is $456; in Ohio it is only $276, or more than one-third less; and as the population of Ohio is now still greater in proportion to that of Kentucky than in 1840, the difference in favor of the latter is still more."

Mr. ASHMUN asked if the negroes in slave States should not be reckoned as persons, in the above comparisons, and not as property?

Mr. BEDINGER. The argument is carried out, and it will be found upon examining this pamphlet, that whether the negroes be counted as persons or as property, the advantage will be on the side of the South.

Mr. VINTON. I would like to ask the gentleman if he endorses those statements which he has just quoted?

Mr. BEDINGER. As far as I have had time to examine them, I believe them to be entirely correct.

Mr. VINTON. Then how does he reconcile those results with his former statement that Virginia and the South have been impoverished and ruined by the protective policy?

Mr. BEDINGER. I never stated that Virginia had been impoverished or ruined. She has been plundered, but not impoverished; she has been robbed, but not ruined; and so, to a greater or less degree, has every southern State.

I regret exceedingly, Mr. Chairman, that the brief time allowed me will not permit me to read more from this valuable production; the facts it contains are more interesting than anything I can say. I earnestly recommend it to all unprejudiced minds. But as my time is rapidly passing, I will read but one or two additional statements:

"In the State of New York the progress of pauperism has been rapid. In 1830, the number supported or relieved was 15,503. In 1835, it was 38,362—according to Chapin's United States Gazeteer for 1844. In 1843 or 1844 the number had increased to 72,000 permanent, and the same number of occasional paupers, making a total of 144,000—as appears from the Journal of Commerce. These were for the whole State, and there was thus one pauper to every seventeen inhabitants. In 1847 there were received at the principal alms-houses for the city of New York 26,692 persons, and *out-door* relief was given out of public funds to 44,572 persons, making a total of 73,264. So that about *one person out of every five* in the city of New York was dependent, more or less, on public charity. The total cost that year of this pauperism was $319,293 88. For this present year of 1849, the estimate is $400,000, according to the mayor's message.

"In Massachusetts, it appears by the returns, that there were in 1836, 5,580 paupers, and in 1848, 18,693. These were all in the alms-houses. Those relieved out of the alms-houses, were 9,817, making a total of 28,510, according to the report of the Secretary of State of Massachusetts. And the returns from forty-one towns are omitted. If allowance be made for these, it will be seen that in Massachusetts one person out of every twenty is a constant or occasional pauper. It thus appears that in these two States pauperism is advancing ten times as rapidly as their wealth or population. It has become so great as to include large numbers of able-bodied men, who it appears cannot, or what is worse will not, earn a subsistence; and if such be the case, what must be the condition of the great mass of people hanging on the verge of pauperism, but withheld by an honorable pride, from applying for public charity.

"Now, throughout the greater part of Virginia and Kentucky, pauperism is almost unknown. I passed, some time ago, the poorhouse of Campbell county, Kentucky, on the opposite side of the river, and there was not a solitary inmate. And I have known a populous county in Virginia to have but one."

Mr. MANN. Does not the gentleman know that nearly all the paupers at the North are foreign emigrants?

Mr. BEDINGER. No, sir; I know that such is generally believed to be the case, but the very reverse of it is the fact, as will appear from the following statement:

"It has generally been supposed that the paupers of Massachusetts and New York are principally foreign emigrants. But this is a mistake. Of the 5,580 paupers of Massachusetts in 1836, only 1,192 were of foreign birth—but little over one-fifth, which does not probably exceed the proportion then of that population in the State. In 1845, of 1,016 persons admitted into alms-houses of Boston, 490 were foreign, of whom 382 were Irish; but that was the year of Irish famine. In 1848, of 18,993 paupers received into the alms-houses of Massachusetts, 7,413 were foreigners. We do not know what proportion of the people of that State are foreigners. In Boston there is about one-third."

The statistics of crime show still more remarkably against the North, and in favor of the South. Listen to the following statements:

"If we turn to the official reports of crime in the great cities of the North, we behold a state of society exhibited at which the mind is appalled. In Boston the number of persons annually arraigned for crime exceeds four thousand, and of this number about one-third are females. So that one person out of every fourteen males, and one out of every twenty-eight females, is arrested annually for criminal offences. There may be some who are arraigned more than once a year; but, on the other hand, there must be many who escape detection altogether.

"In New York the proportion of crime is about the same, some eighteen thousand persons having been arrested there last year. Of these, it is said six thousand were for drunkenness, twelve thousand were committed to the Tombs for examination, of whom ten thousand were committed for trial. Of these, there were sentenced to the State prison one hundred and nineteen men and seventeen women; to the penitentiary seven hundred men and one hundred and seventy women; to the city prison one hundred and sixty-two men and sixty-seven women; total nine hundred and eighty-one men, two hundred and fifty-four women—showing an amount of crime, in a single city, greater than in all the southern States together. In the Kentucky penitentiary there is not a single woman; in the Virginia, I believe there is none.

"The enormous amount of crime in the eastern cities, which already rivals the depravity of those of Europe, has been ascribed to the multitude of European emigrants. But the returns do not sustain this plea. Of 7,009 persons in the jails and houses of correction in Massachusetts in 1847, only 1,165 were natives of foreign countries. This is less than one-fourth of the whole number, and cannot vary materially from the proportions of the foreign and native population in the State."

Thus, sir, view this question in every aspect, the conclusion is inevitable. Slavery, so far from having cursed and blasted the communities in which it exists, has preserved them from crime, has blessed them with prosperity, with peace, with comfort, and happiness. And yet, sir, we are to be excluded from the sunny regions of our new territory, unless we will consent to abandon our slaves, and all the habits and associations to which we have been accustomed from our childhood. Unless we will consent to abandon the institutions which we inherited from our fathers, and which the Constitution of our country has guarantied to us, we shall not touch an acre of the rich lands which our own citizens, our own friends and relations won for us with their bravery and with their blood. Sir, the proposition is monstrous. The voice of Justice cries out against it. The spirit of our fathers forbids us to submit to it. If the gal-

lant sons of the South who sleep upon the fields of Mexico could arise from their bloody graves and confront you here, how would you dare to meet them with such a proposition?

Sir, an eloquent gentlemen from Mississippi, [Mr. BROWN,] in a speech which he delivered at the last session, upon the injustice, unfairness, and fraud, which this restrictive principle involves, spoke in terms worthy of the subject, and of the particular individuals to whom he alluded; of the gallant bearing, the unwavering patriotism, and severe sufferings of the citizens of those States whose sons it is now proposed to exclude from the territories purchased by their blood. He spoke of the gallant conduct of a certain heroic young officer who now has a seat in the other branch of our National Legislature, and of several other gallant men of the South, whose heroic deeds shall never die. But, sir, there was one whose name, greatly to my regret, he did not mention; I say greatly to my regret, only because I know, that with his accustomed ability and fervent feeling, he would have done such justice to the memory of that gallant hero as it can never receive from any poor eulogy of mine: I speak, sir, of one with whom I had the honor of a personal acquaintance, between whom and myself there existed an intimacy which, to me, was always a source of pride and pleasure; of one who, but a short time ago, stood with us upon this floor, and participated in our deliberations; one whose manly and dignified character, whose urbane and courteous manners, and whose unquestioned integrity, assigned to him the very highest place in the estimation of all who knew him. Sir, I shall never forget his conduct and bearing when the news first reached him of the uncalled-for, unprovoked, and infamous outrages perpetrated by the Mexicans upon our troops and our soil. I shall never forget his gallant bearing upon that occasion; his flashing eye, his indignant exclamations, and the earnest manner in which he declared his intention to take part in the vengeance which he knew his country would wreak upon those who had thus rashly dared to violate her soil and insult her flag. Sir, the first peal of the tocsin had barely reached us—the alarum of war had barely rung out in the land, when he resigned his seat upon this floor, flew to the standard of his country, and upon the glorious field of Buena Vista poured out his life's-blood in defence of her honor and her rights.

Sir, I have never heard the name of that gallant man mentioned on this floor, in any of the many complimentary notices which have been taken of our army and our officers. Yet, of one thing I am very certain: I do know, that so long as patriotism, so long as self-sacrificing devotion to country, shall be deemed a virtue worthy of the estimation of mankind—so long as bravery, chivalry, and noble daring shall be prized by the American people,—so long shall live in their grateful recollections, so long shall flourish and grow green in their hearts, the name, the memory, and the virtues of Archibald Yell. I trust this digression may be pardoned. I hope it is allowable to step aside from the beaten path of dull debate, to pay a poor tribute of respect to the memory of a gallant man and true patriot. And, sir, it is his descendants, and the descendants of such men as he, whom it is proposed to exclude from our territories. It cannot be done, sir; it is impossible; and those who persist in the unjust and tyranical attempt, while they will fail to accomplish their object, will reap for themselves an abundance of infamy.

Mr. Chairman, I have but a moment or two of my allotted time remaining. Will this committee allow me to say a word or two about myself? Some year or two ago, certain eloquent gentlemen took so many liberties with the "American eagle," that the bird began to look marvelously like a buzzard, and I took it into my head to burnish up his plumes afresh, and send him off to Oregon. Since which time, sir, divers gentlemen have made themselves merry at my expense—one in particular, with whom I had the honor of breaking a lance during the last session, and who has recently shown himself a true son of the South, by breaking asunder the shackles of party, as the strong man of old burst the new cords and green withes with which treachery would have tied him: I mean the gentleman from Mississippi, [Mr. TOMPKINS.] This gentleman, I say, thought proper, upon a certain occasion, to denominate me the "Eagle from Harper's Ferry," and the gentleman may congratulate himself upon the success of his sarcasm. I felt the full effect of his irony. I would gladly believe it was not meant as such, but my modesty forbids it. I have often earnestly desired to possess some of the qualities of the bird to which the gentleman thought proper to liken me. I have often sighed for his tireless wing, to bear my spirit from this dull world to those higher and purer regions which, at least, seem nearer Heaven—for the power to pierce the mists of folly, of prejudice, of ignorance, and error, and look full upon the Sun of Truth with unblenching vision and undazzled gaze, as the eye of that bold bird meets the blaze of the day-god—for his calm and unruffled spirit, calm and unruffled in the mightiest storm whose thunders shake the eternal hills, as in the gentlest breeze whose breath scarce stirs the blossoms of spring. Would such qualities were mine. But the want of them causes me to feel more palpably the gentleman's irony, and prompts me to retaliate by a comparison much more appropriate, in my opinion, than the one which the gentleman chose to institute. I am prompted to tell the gentleman that there is *another* bird, whose habits, customs, and qualities render it a particularly appropriate emblem of that great party of which the gentleman is a conspicuous member. It is a bird, sir, somewhat renowned in classic lore, and remarkably well known in domestic life. The same bird, sir,

"Whose vigilant and faithful calls,
Saved Rome's old Capitol from murderous Gauls."

A bird, sir, marvelously addicted to——

[Down fell the hammer.]

ABOLITION AND SLAVERY.

SPEECH OF MR. CHARLES BROWN,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

February 3, 1849,

In reply to Mr. THOMPSON, of Indiana, on Abolition and Slavery.

Mr. BROWN said:

Mr. CHAIRMAN: Ever since I have been in active political life, beginning twenty years back, before the people of Pennsylvania, in her halls of legislation, and in the convention that amended her constitution, have I spoken as I speak this day, against this whole abolition agitation, here or in the free States. Since I have had the honor of a seat in this House, I have given silent votes against every proposition that has been brought into it in any way calculated to interfere with the subject of slavery, here or in the slave States, knowing that its agitation could do no good, and was doing much harm. And I would have continued the same quiet course for the brief space of time I have yet to remain here—looking to the future to approve my course, as my constituents have heretofore approved all that I have said and done upon the subject—but for the remarkable speech of the gentleman from Indiana [Mr. THOMPSON]—a speech which struck me, as I think it must have struck this House, with surprise and astonishment.

The gentleman told us, that upon this subject he belonged to the great conservative party of the Union—the party opposed to the abolition of slavery in the District of Columbia, or in the States, or its agitation in any place where it might have the tendency to disturb the peace and harmony of the country, or endanger the perpetuity of our Union. He not only asserted his own conservatism, but vouched for the conservatism of the people of the State which he in part represents; and, still further, vouched for and boasted of the conservatism of the late venerable gentleman from Massachusetts, [Mr. J. Q. Adams,] who, but a few months since, fell among us. Now, I ask, were not these startling assertions? To me they were. I remember well when I met that gentleman [Mr. THOMPSON] on this floor some seven years ago; he was then truly conservative on this question. I had doubts then as to the propriety of the twenty-first rule, and my colleague [Mr. C. J. INGERSOLL] and myself attempted for days to have it modified, that whatever was objectionable in it might be struck out, and all its conservative character retained. After two or three weeks' trial, we failed to attain our end. We could not amend it, and we voted for it; and from that time to this I have sustained that rule, and opposed the introduction of the subject of slavery in any shape. Then the gentleman was with us, in laying upon the table all abolition questions. Then he was a conservative, and rebuked the agitating spirit of abolitionism here. But when I again met him on this floor at the commencement of the present Congress, how stood the matter? There is the record. Upon every question of the introduction of petitions, during the last session of Congress, relative to slavery in the District of Columbia, the gentleman who, in his speech, so sternly rebukes these movements as calculated to dismember the Union, or to disturb its harmony, voted upon the yeas and nays to bring them into this Hall, and against laying them on the table.

Nay more. When the gentleman from Ohio, [Mr. GIDDINGS,] at the last session, introduced resolutions concerning a slave who had been maltreated at some hotel in this city—a subject well calculated to agitate and irritate the feelings of southern members—did not the gentleman from Indiana again vote against laying the resolutions on the table, desiring to have them agitated by the House? How changed was the gentleman last session from the time when he stood beside me, six years ago, voting to censure the gentleman from Ohio [Mr. GIDDINGS] for introducing resolutions calculated to excite the country, and to create unhappy feelings. He who then stood with me to censure and expel from this Hall the gentleman from Ohio, is now found voting with him.

On the territorial question the gentleman's acts have been equally as much at variance with his speech. He says:

"Before he would endanger the union of these States by the determination of any question which might arise in the settlement of the controversy between the North and the South, in reference to New Mexico and California, he would vote deliberately in his place to give it all back, gold mines and all."

And yet we find by the record he has voted for the Wilmot proviso whenever it has been offered, and against both of the bills that were passed by the Senate as compromises to settle this question without endangering the Union. In his speech he says:

"The discussion of the Missouri compromise, and the admission of that State into the Union, shook this Union to its very centre; the spirit of fanaticism and of faction well nigh worked the dissolution of that glorious Union, under whose preservation our rights had been so long guarantied and maintained. But conciliation, compromise, and concession, again prevailed, and the Union and its integrity were safe."

Patriotic sentiments! But then, while my friend from Indiana eulogizes the men who fixed the line of 36° 30′ as patriots deserving the lasting honor of the country, he did not vote the other day for 36° 30′; he did not follow in the footsteps of those men whom he eulogized—he voted against it.

I heard the eloquent speech of the gentleman from Indiana [Mr. THOMPSON] (for he is always eloquent) with great pleasure, and I only regret that his acts have not corresponded with his words. I regret that he gives to the friends of his youth and the harmony of the Union his *speech* only, and to the enemies of both all his *votes*.

Nor is he more consistent in his eulogy of Mr. Adams. Will any man in this House believe that Mr. Adams stood as a bulwark against the encroachments of abolition feeling in this country? I ask the friends of that departed man, if the gentleman from Indiana does honor to his name or fame in making him the stumbling-block in the way of "fanatical abolition," in making him "stay its progress, although it required the strength of a giant to arrest it," and "rebuke the incendiary spirit which would have sundered every link of the beautiful cycle of our Union?"

I know Mr. Adams did say what the gentleman asserts, that he was opposed to the abolition of slavery in the District of Columbia then; but I appeal to the memory of that man, if, while he said this, he did not on every occasion, and under all circumstances, through his "scathing eloquence" and votes, give his powerful aid to roll on, no matter who might be crushed by it, the ball of abolition agitation.

Nor has my friend from Indiana placed his own constituents, or the people of Indiana, in any truer position than he has Mr. Adams, or occupies him-

self. I have before me the proceedings of a late Whig convention in Indiana—but just gone by—scarcely cold. The paper that conveys the intelligence to the country of the conservatism of the Whigs of Indiana is scarcely dry. The resolutions of the convention, like the speech of the gentleman from Indiana, are full of high-sounding phrases of fraternal regard for the South, eloquent in their tone, but containing poison within them; like Joab with Amasa, with one hand they embrace the South to kiss them, saying, "Is it well with thee, my brother?" whilst in the other hand they hold the dagger with which they stab them to the heart. I will read these resolutions, because they may be new to many in this House who heard the speech of my friend the other day:

"*Resolved*, That the Whig party of Indiana, here represented in convention, would calmly but firmly express the conviction that the extension of slavery over the newly acquired Territories of New Mexico and California ought to be prohibited by law; that it is our settled opinion that Congress, as the guardian of our infant Territories, possesses that right; that its exercise would be promotive of lasting good to the people who shall inhabit the country included in the late treaty with Mexico; and further, that it is the opinion of this convention that it is expedient to exercise the power at the present session of Congress."

The resolution introduced by the gentleman from New York [Mr. GOTT] a few days ago, met the special censure of my friend from Indiana, because it spoke of slavery interfering with the progress of human liberty throughout the world. We all know how eloquently the gentleman disclaimed any such imputation upon slavery. I will read his words:

"This resolution asserted that slavery, as it existed in the United States, was 'a serious hindrance to the progress of republican liberty throughout the earth.' Well, he could not, for the life of him, imagine what sort of an abstraction that was; but it was not true."

Here is the response from the Whigs of Indiana:

"*Resolved*, That the spirit of the age, and the liberal and enlightened philanthropy which distinguishes its progress, require sacrifices of individual opinion to the great cause of human freedom; that this spirit should be shared by the government and the governed; that MAN, in every condition, should be reinvested with his rights of life, liberty, and the pursuit of happiness; and that it is the anxious desire of the people here represented, that all constitutional and proper means should be employed to free our national capital from the last vestige of human bondage."

These conservative Whigs of Indiana overlooked, in their zeal for the "RIGHTS OF MAN," that negroes in their own State were not invested with any political right—were not allowed their oaths against white men, though necessary to protect their life or liberty.

The resolutions of the Whigs of Indiana show that they are not as conservative on this subject as the speech of the gentleman represented them—they sympathize more with the fanatical abolitionists he condemns.

In eulogizing Mr. Adams, the gentleman from Indiana took occasion to condemn his son for associating himself with Mr. Van Buren in forming the Free-soil party; thanking his God that, "so far, their course has been stayed by the stern rebuke of the American people;" and says, "neither 'the Whig nor Democratic parties of the North can 'in any degree sympathize with the present or 'ultimate purposes of this fanatical party." Now, what say the Whigs of Indiana? I have before me a leading newspaper, the editor of which was one of the Taylor electors, who, I suppose, speaks with as much knowledge of the subject as the gentleman, and probably is to be regarded as a much better exponent of the opinions of the people there. He says, in speaking of the Free-soil convention which had just assembled:

"We learn, also, that a good deal of difference of opinion existed as to the propriety of attempting to keep up a separate organization, now that the Whigs have put in nomination as good Free-soil men as can be found in the State. A resolution confirming the nominations of Messrs. Embree and Stanfield was offered by John H. Bradley, Esq. * * * He contended that the candidates presented by the Whig party were all that could be asked on the slavery question, and by the proper effort and union they could be elected, whilst there was no possibility of electing the nominees of a third party organization."

And thus concludes:

"The effect of such a course would most probably enable *James H. Lane to give the casting vote against the passage of proper instructions to our Senators on the slavery question, and would elect Mr. Wright, whose whole past action proved him to be opposed to any interference on the part of Congress in relation to slavery in our Territories.*"

Thus this leading Whig editor connects the Whig party, its candidates and measures, with the Free-soil party and its measures, and says, that unless the latter should adopt the Whig candidates, the only effect would be to cause the election of Democratic candidates who are opposed to the interference of Congress on the subject of slavery. Is that the conservatism of Indiana? Is that the conservatism of the gentleman himself?—to aid in the election of men who are known to be in favor of free soil, and of the agitation of the subject of abolition, and to defeat men who would carry out the objects which he asserts on this floor he and the people of Indiana would sustain? The arguments used by this Whig editor to get the votes of the Free-soil party of Indiana for the Whig candidates are just such as were used everywhere in the North previous to the late Presidential election, and which, in Pennsylvania, unfortunately were but too successful.

But I rejoice at one thing in the gentleman's speech. It will be found in the following passage:

"He wished it were true—he wished he could say it was true, that this Hall of legislation had as much of that calm, deliberate conservatism as existed in the minds of the great body of the American people. But there was often to be found a difference between the representative and his constituent: while the constituent, at home, was steadily, calmly, coolly, and earnestly looking and praying for the preservation of the welfare of the Government, *they in this Hall, too often prompted by considerations of faction and party, were disturbing the peace and repose of the Union, and were agitating and exciting for their own sinister ends and selfish purposes.* There was coming a time, he believed—and he thanked God it was so—*when there should come out from the Federal Executive of this Union this spirit of popular conservatism, and it should be poured like oil upon the waters of party;* when, in the settlement of great national questions, they should neither know the name of Whig nor Democrat, but should be prompted by those high, holy, elevated considerations which alone existed in the heart of the true American patriot, whose every pulsation beats for the integrity of the Union of these States."

It may be there are those in this House and out of it, whose minds are undergoing, or have undergone changes on this subject, as well as that of the gentleman from Indiana; and it may be they see, in the incoming Executive, "a spirit of popular conservatism, that is to be poured, like oil, upon the waters of party;" that they see, in that incumbent of the Executive chair, a man who has not only lived half his life, but the whole of it, in the South; and that to these indications of coming Executive influence may be attributed their "conservative" change—a change that will prove alike favorable to their country and their own future prospects. If so, if favors are to be won by the conservative principles so eloquently expressed by my friend from Indiana, I, for one, shall regret to the last day of my life that I opposed the election of an Executive who would exercise so great and glorious an influence over the destinies of this country. I would fain hope that the omen is true, and that those who fear that the new Executive will not be prompted by those high, holy, elevated considerations, will be found to be in error. I would fain hope that we shall have peace and harmony again; that we shall be as a band of brothers; that we shall meet in this Hall, and everywhere throughout the country, as our fathers met in the days of the Revolution, or as our predecessors met but a few years ago, and crushed everything that interfered with the peace, harmony, and integrity of the Union.

I know the gentleman from Indiana is a man of discernment, and can see as far into the future as most men—perhaps a little further than many of his associates. The shadows that coming events oft cast before have certainly been penetrated by him, and he sees and feels the sunlight that is soon to shine from the White House—the sun whose beams often warm into being, and control many a man's acts in this country, as well as his speeches and votes in these Halls. I impute no improper motive to my friend from Indiana. A change has truly come over the spirit of his dream since our last session, or he could not have voted then as he did, and speak now as he does. Had he felt then, when the bitter waters of agitation were spreading themselves far and wide, and reaching the very hearts of every portion of our people, what he speaks now, he would here, in New England, in Indiana, and everywhere else where his mission then led him, have rebuked the unhallowed spirit that rode upon those waters, in the same eloquent language he poured forth in this Hall the other day. Changed he is—but this change is doubtless an honest one. It may be the return of early feelings and associations, the ties of which come back upon us stronger and stronger, as we grow older—or it may be, and no doubt is, the convictions of a riper judgment—the triumph of a better patriotism, that rises over all "sinister ends and selfish purposes." No matter what may be the causes or the motives of the change that has taken place in my friend from Indiana and others, I augur from it great good to the whole people of these United States; and I most sincerely hope that the good work will go on, and that when the new Whig and Democratic no-party Administration comes into power, the political millennium predicted by the gentleman from Indiana shall surely come with it.

For myself, I have opposed this agitation from the first to this time; and I think it behooves us all to look where we stand, and where we are going. As the gentleman from Indiana has justly said, we do not stand where we did. This agitation is leading us onwards and downwards, and no man can predict where it will end. A few years ago, who thought that speeches, such as are now delivered here, from time to time, would ever be heard in this Hall? What would have been thought, in the early days of the Republic, if speeches, such as was delivered by the gentleman from Massachusetts, [Mr. MANN,] had been heard? Where was the noble son of the South who would have sat and listened to such a speech, or who would not have rebuked it in the face of the country, or left the Hall in a moment?—a speech traducing the South, characterizing its citizens as among the most degraded in the civilized world, and attributing to them all the vices humanity can be guilty of, and closing the catalogue by saying: "Thus, at length, has been produced what may 'be called the *bowie-knife style of civilization;* and 'the new west of the South is overrun by it—a 'spirit of blood which defies all the laws of GOD 'and MAN!"

It would not be difficult, in any state or condition of society, to point to many a wrong that evil hearts and bad passions inflict upon their victims—to many a human right violated, and to many a wreck of human happiness they have left upon the shores of life; but are we therefore to conclude that because these do occur that the whole society is wicked and vile, and unworthy a place on GOD'S footstool? Where can we find a spot on the earth where men dwell together that no wrong nor outrage is committed? Why, sir, if we were to gather from the records of those chronicles of passing events, the newspapers, none but the deepest and foulest crimes that are committed in a single year in a single State or city of this Union—aye, even in that State and city that seems to say to all the world, "I am holier than thou"—I mean the "old Bay State," and the "cradle of liberty"—and send them forth to the world in the simplest language of truth, stripped of all the burning and damning eloquence of words and images with which the character of the slaveholder and the wrongs of the slave are published to the world by the fanatical abolitionist, who is there in that proud State and city that would not shudder at the fearful exhibition? I know in my own native city and State—the city and State of Penn—such an array of crimes would be fearful indeed, and would prove that there, as everywhere else,

"Man's inhumanity to man
Makes countless thousands mourn."

What would the gentleman from Massachusetts, who was himself at the head of the school-system of that State, and who recently received the thanks of the State for his services, think, if a southern man should rise in his place here, with a long array of crimes committed, day after day, and week after week, and characterize them as evidences of the civilization of New England, or of the effects of the school-system in his own State? What would he think, if a southern gentleman had risen here, and pointed to a recent event—a trial then just completed—of a son of New England for the quadruple crime of seduction, adultery, murder, and arson? I allude to the case of Tirrell. True, though he was guilty of all these crimes, and if they had been perpetrated in the South, a southern jury would have brought him in guilty of all, and he would have expiated his offence on the gallows, yet a Massachusetts judge and jury, through the eloquence of a Massachusetts lawyer, pronounced all these crimes—what? Seduction—adultery—murder—arson? No—*Somnambulism.* New Eng-

land finds honeyed terms for crimes committed there. But if done in the South—if the evil passions which everywhere exhibit themselves from the pulpit to the lowest alley in the largest city, should have been thus manifested in a southern State, or by a master towards his slave, or the crime committted upon a negro, it would have been blazoned forth in eloquent language, embellished by the painter's and the graver's art, and sent throughout the world as the effect of slavery.

But I have no taste for such criminations and recriminations, and I trust they will be heard no more in these Halls. Nor have I any pleasure in hunting up from the records of criminal courts or calendars the evidences of the wrongs and outrages with which earth is filled, north and south; and no true lover of his country ought to have, upon which to find an indictment against my fellow-countrymen. I would rather cover them from all eyes, and hold up to the admiration of the world the nobler traits and better deeds of the whole American people, and thus elevate our national character abroad, and induce a more christian love and charity for each other, and a more just appreciation of our hallowed Union at home.

The best and surest way of removing this unhappy state of feeling is by voting down every proposition introduced for the mere purpose of agitation. This will never be done while encouragement is given to those who introduce them. I am told by some members who voted against laying on the table the bill of the gentleman from Ohio [Mr. GIDDINGS] to allow slaves in this District to vote for their own emancipation—to place all persons, black and white, bond and free, on an equality—that they were opposed to this part of it, and would not have voted for the bill with this in it. No matter what else of good might have been in the bill, containing, as it did, this insulting proposition, every friend to the peace and harmony of the Union should have voted it down immediately. Why should members from Connecticut, a State which, a few years since, by a vote of three to one, refused to negroes the right of suffrage—or from Illinois, that not only has refused them all political rights, but refuses to allow them to live upon her soil, entertain for a moment such a monstrous proposition, or desire to have it considered and debated here?

In Pennsylvania we have excluded negroes from voting, after a solemn adjudication of the subject. Yet some of my colleagues, coming, too, from districts whose votes were almost unanimous in favor of this exclusion, have placed upon the record their votes against the immediate suppression of the consideration of the subject here. My friend from the northern district [Mr. WILMOT] is one of them. When he first offered his proviso to the territorial bill, he repudiated all connection with the Abolitionists; and I know, in a speech which he did me the honor to send me, delivered elsewhere, he said he had no sympathy with the negroes; that all he did was for the white man, for the free laborer of the North. Then (here is the record) he voted to suppress all petitions for the abolition of slavery in the District of Columbia. His vote is not found then to aid this abolition agitation; yet how do we find him voting this session? Why, against laying on the table a bill to allow the negroes, both slave and free, to vote in this District, and for all questions which have arisen for the agitation of the subject of the abolition of slavery. It shows (for I mean nothing unkind to my colleague; I have no unkind feelings towards him) where we are going—like little children, we begin by creeping, then we walk, and then we run. All these attempts, whether successful or unsuccessful, to raise the negro politically or socially to an equality with the white man, by act of Congress, and most of all, to allow slaves to vote in this District, in the midst of slaveholding States, for their own emancipation, are most incendiary in their character, and insulting to the South. In few States have they any political rights, and in still fewer are they in any respect placed on an equality with ourselves. Why should we entertain, then, for a moment, in this House, such a question? May not the people of the South justly say to us, "First cast out the beam out of thine own eye, and then shalt thou see clearly to cast out the mote out of thy brother's eye?"

In the olden time, as the gentleman from Indiana justly says, these abolition agitations were summarily put down in this House. Now, we have little else before us. Day after day, in one shape or another, the negroes have all our consideration: we seem to think of nothing else, we talk of nothing else. All the other business of the country is postponed, or badly done, that we may vilify and abuse each other about slavery. Nor is this the worst aspect of this agitation. This sectional war, carried on here in words, is sent out by every mail—aye, with telegraphic speed—among the people, there to make enemies of those

> "Who had else
> Like kindred drops been mingled into one."

There seems to be an inexplicable mystery hanging over all these our doings. The gentleman from Indiana tells us he and his people are conservative on this question; that they do not desire to abolish slavery in this District, or anywhere else; that they do not want to commit any wrong upon the rights, or feelings, or interests of the people of the South, or in any way or in any place agitate the question of abolition. How is it, then, and why is it, their votes here, and their conventions at home, are all with those they denounce as fanatical abolitionists? Nor is the gentleman from Indiana and his people the only ones who pursue this strange course. Many others in this Hall will, when you talk to them privately, avow the same conservative feelings; yet they vote with the agitators. I think they are doing injustice to themselves, and the great body of the people of the North: I am sure they are to the democratic portion of them. They cannot anywhere desire to keep up a perpetual war against their brothers of the South. Then why should we, their representatives, do it? If all the disturbance is, as some say, made by a few fanatics at the North and South, is it not time for those who are opposed to its continuance to unite, as one man, and banish it from among us? And not only should we banish it hence, but from among our whole people. This is the course I have pursued, and I intend to pursue. During my whole political life have I openly rebuked this disturbing spirit in all the speeches I have made before the people of Pennsylvania, and during all that time I never lost an election. Fanatical abolitionism has but small place among the people of Philadelphia or of Pennsylvania, and would have less, if their representatives would but cease to agitate the question here.

I was not born in the South, as the gentleman from Indiana was, though I lived there—in old Virginia—the greater part of six or seven years. I have no ties of feeling or of interest which bind me to the South; all the associations of my childhood and my riper years, all I possess in property or reputation, belong to the North. It is my own native place—my HOME; but I speak here, as I have spoken there, the sentiments of duty, the dictates of my own heart, what I believe is due to the whole people of the United States, live where they may. It is a feeling which I imbibed from reading the early history of our country—the history of the scenes of the Revolution—the patriotism, the eloquence of the sons of the South and of the North pleading and battling for a common cause, and pouring out their blood on the common fields of the South and of the North, for a common country. And the last pulse of my heart shall cease to beat before I can know anything else than that they are all my brethren—bone of my bone, and flesh of my flesh; and if the North shall continue these aggressions, and attempt to make war upon the South, northern man as I am, I cannot now tell on which side I would be found. I fear I would be on the side—I do not fear, but I know, I would be on the side of justice and right; and I mean by that, that I would be with the South; for I believe that justice and right are with them, and I prefer to be right with them to being wrong with any others.

In many of the northern States, my own among them, I think we have done wrong in throwing obstacles in the way of the recovery of fugitive slaves. I know that some guards are necessary to prevent bad men from taking free negroes out of the State under color of their being slaves; yet in some States, these obstacles almost if not quite nullify the constitutional provision on the subject. In this, we have, in my estimation, violated the Constitution of the United States; or, if we have not violated the strict letter, we have violated every principle of fraternal feeling, and of the spirit of that instrument, in passing laws that interfere with the right of the southern people to reclaim their fugitive slaves when they come among us. The Constitution says they shall be given up; and I hold it to be the duty of every northern State through all its functionaries of Government, to exercise all its powers to deliver up every fugitive slave that shall be found harbored within its borders; it is the spirit, it is the word of the Constitution; it is the bond of the Constitution.

How can it be otherwise than irritating to the South, and calculated to lessen their respect for the Union, thus to see the provisions of the Constitution set aside and the bond of brotherly love disregarded, all for the purpose of robbing them of that which the law and the Constitution guaranties to them?

I was in Virginia shortly after the Southampton insurrection in 1831. I attended the debates of the Legislature for three weeks, listening to eloquent speeches in favor of the abolition of slavery. Never was there a more able examination of the whole subject, or a more sincere desire manifested to devise some way or means to rid the State of it. The thing was found to be impracticable—impossible. Each and every scheme proposed (and there were many) was found, when fairly and fully considered, to contain worse evils than slavery itself. Emboldened by the attempt of Virginia to do something on the subject, I know that the Abolitionists of the North immediately began to pour their emissaries into the South, and to distribute their books with all the pictured horrors of slavery, to induce the people there, I presume, to go on with the subject of abolition. But what was the consequence? These publications were not guardedly sent to the owners; they thought to do a double work: while they enlightened the owners as to their duty, they sought to enlighten the slaves as to theirs; and they induced the belief in many that they would be right in breaking their bonds, even though it were at the price of the blood of those who owned them.

All these means were resorted to to excite the slave to insurrection, to stir within his heart the spirit of rebellion. Nay, what do we see now all over the country? Read the papers, and you will see that these very abolition agents are now there stealing negroes—not only stirring them up to run away, but it is well known that they are everywhere ready to receive them, and that they have their emissaries in the slave States, inducing the slaves to run away. Now, you who have never lived among the slaveholders, what do you think it is to know that these machinations are at work to stir up a savage feeling of discontent, of rebellion, and of revenge in the breasts of those who surround you? It may be all sport to you. It may be you believe you are doing God service in endeavoring by these means to emancipate the negroes. But have you no feeling for the whites? Are the blacks only your brothers? Is there no other race on this earth or in this country but the negro? How many whites would you sacrifice in the South to abolish slavery? I fear, if some were to answer from their hearts, they must say all, *all*, ALL, and the victims would be too few, they would say, to expiate the cruelties that have been inflicted upon the slave. This is the feeling I want to have rebuked. I know that women and weak men live in terror. They do not doubt that if let alone, all would go on well; the harmony between the races would not be disturbed; but it is in this continual effort at abolition agitation, it is these emissaries of the northern fanatics, secretly among them, whom they dread—perhaps not dread, but whom they have most to fear.

Nor are the whites the only sufferers. It breaks up all confidence between the races, and often causes injurious suspicions to rest on the slave greatly to his injury, preventing much from being done for the improvement of his condition that would be done if they were allowed to live together in peace and security.

And what is the justification for all this? "Southern encroachments!" The Abolitionists, whenever they attempt to justify any attack upon the South, say, Oh! it is the southern encroachments. Now, I ask them, in all sincerity, to tell me wherein the southern encroachments consist? I have misread

the history of this country if they can point me to a single instance where the South has attempted to trample upon the rights of the North, or to interfere with their domestic institutions in any way. When the people of the northern States thought proper to abolish slavery, did their brothers of the South interfere? Did they attempt in any way to say, We entered into this Union all as slave States, and you cannot do away with slavery? No. When the North agreed to abolish slavery and send their slaves to the South, did the South shut their doors and say, You shall not come here? When the North attempted to stop the foreign slave trade, did the South say, No? Did the South say, You are characterizing this trade as piracy, and making us odious, and bringing upon us discredit in the face of the world, and we cannot join with you? I never heard of it. I have always understood that the South united with the North to prohibit the foreign slave trade, and brand it with all its odious characteristics. I have yet to learn that anything has been done in the North on the subject of the abolition of slavery anywhere, abroad or at home, that the South has ever attempted to interfere with or encroach upon our rights.

At the time our Constitution was formed Virginia owned nearly the whole of the territory out of which has since been made the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin. Her right to it may have been doubted, but we conceded it when we took the gift from her. What did she do? With all her slaves, she said, Take it. You may prohibit slavery there. Instead of encroaching upon us, Virginia, a southern State, made the donation of this magnificent domain to the free people of the North.

Next, we acquired Louisiana. Gentlemen now say, We only ask that there shall be no slavery in New Mexico and California, because those Territories are now free, and it would be encroachments on the rights of the northern man to let the slaveholder go there; but if it was slave territory we would not ask you to abolish slavery there. But when we got Louisiana, and Missouri presented herself for admission into the Union, how stood the case? It was all slave territory. Missouri, as a sovereign State, presented herself to the Union—we threatened, we tried to reject her; but better counsels prevailed, and she was admitted—but one half of all Louisiana was made free.

Then Texas was annexed. I made the first speech at the first meeting held in the State of Pennsylvania in favor of annexation. I loved the lone star. It rose in gloom, but soon shone forth in glory. There is not in the records of history, our own included, a page so eloquent of great achievements—of patience, patriotism, and bravery—of all that true hearts and strong arms could do or endure in a good cause, as that on which is recorded the brief but glorious transit of the "LONE STAR." It deserved to belong to the great American constellation, and I rejoice it is in it, there to remain forever.

Texas, before it was annexed, was all slave territory. Did we then say as we say now of California and New Mexico: We do not ask to change her institutions; all we want is to have them continue as they are? Did we not take from the South one-half of Texas as we had that of Louisiana? Now, all this looks very much to me as if we had been encroaching upon the South, and not the South upon us. I appeal to the House and the country if all this is not true. And now, after having received as a gift from a slave State the magnificent domain of the Northwest, and taken one-half of Louisiana and Texas, we propose to take all of California and New Mexico, and at the same time cry out against southern encroachments!

But we are told—and it is the strong argument of the agitators—that the institution of slavery produces a political inequality against the North. Why, that is very strange. In any light in which I can view it, I think the political inequality is against the South. What is this political inequality? It is placing representation upon numbers that do not participate in the Government. Look at Rhode Island—until the adoption of the new constitution, no poor man could vote in that State. We know, that at the time of the formation of the Constitution of the Union, a large number of the States required a property qualification for voters, and all those who had no property, and all free negroes, were counted in their full numbers, to give Representatives here, while the slaves of the South were only counted three for every five. I may misapprehend the subject; but it strikes me the political inequality is against the South, and in favor of the North. Abolish slavery to-morrow, and every negro of the three millions in the southern States would be entitled to be counted one in making up the basis of representation in this House, and give them between fourteen and fifteen more members in this House.

I desire to excite no sectional feeling, but to allay it—to show who are right and who are wrong in all this. I speak under the influence of no incumbent of the White House, nor for any district, but to you, the Representatives of the whole American people, and, through you, to the people themselves, that all may know and respect each other's rights and feelings, and live as we ought to do, in brotherly love—emulous only of who shall do the most good to the other, and best promote the peace, the welfare, and the happiness of the whole.

What is the aim and object of all this agitation? Does the North, or any part of it, aim at the immediate and total unprepared emancipation of the slaves of the South? My colleague from the Beaver district [Mr. DICKEY] will say yes! The mileage gentleman from New York [Mr. GREELEY] will say yes! The gentleman from Ohio, [Mr. GIDDINGS,] and the gentleman from Massachusetts [Mr. PALFREY,] and perhaps others, will say yes! What next? Is it your intention to agitate on until the negro is placed on an equality in all things, social and political, with the white man? This is demanded by the fanatical abolitionists; and such was the object of the bill introduced the other day by the gentleman from Ohio [Mr. GIDDINGS.] Such, no doubt, is the aim and object of these agitations.

To me the consequences of such a consummation are fearful—now or any time which I can see in the future; for I can see but a short way—fearful to the white race, and still more fearful to the black. And why should we thus rush on madly to carry out an idea, regardless of consequences? Has slavery in reality been such a curse to the slaves? or has emancipation proved so great a blessing to the free negroes?

Compare the condition of the three millions of slaves now in the United States with the condition of any three millions of negroes in any part of the world, but particularly in those countries in Africa from which they came, and say which is superior. I care not in what the comparison is made—in the development of their mental or bodily faculties. Show me, upon the map, where the three millions dwell who know their God and their Saviour as they know them? Show me the three millions who can and do worship that God as they can and do? Where, in the countries from which they came, are the three millions with minds and intellects so improved and expanded—who know the hundredth or thousandth part of the great workings of the human system as they do? Nor is it in all this only they excel. In the development of physical powers, and the enjoyment of physical comforts, they are no less in advance of their race. Go to any district in the southern States, from the Delaware to the Rio Grande—take the most secluded district, or where the slaves are the hardest worked, worst-fed, and most abused, in all that distance, and then go to the land whence they sprung, and take an equal number there from any condition of life, and place them face to face, or hand to hand, in intellectual or personal conflict or comparison, and the superiority of the former would place them as much above the latter as the white race here is above them.

But I am told that slavery is in violation of the laws of God—that it is a great evil, and ought therefore to be immediately extirpated. What the laws of God are upon this subject I do not pretend to know; I am only dealing with *facts*. And will any man tell me where and what is the condition of life that is without its evils? I do not say slavery is a good; I only say it has produced upon the negro race some good, if to improve and christianize so large a mass of mankind be a good.

The Abolitionists rarely or never take so extended a view of this subject as I am doing, but confine themselves to portraying the degradation and the wrongs of the negro slaves, taking always the worst cases—the exceptions to the rule—and painting them in the blackest colors their imaginations can find, and these they contrast with the highest condition of free negro life in the United States or elsewhere, forgetting that even this improved condition of the free negro has itself mainly grown out of slavery. It has been my lot to live a part of some years in the midst of a dense slave population. I speak, therefore, what I know when I say, as a whole, I do not believe out of our own country there is a less worked, better fed, and more affectionately cared for or happier class of laborers in the world. I am sure they do not, on an average, do half as much work in a year as is done in the same period by an equal number of laborers in the northern States. The misery that intemperance and want inflict upon the laboring population of many parts of the world, and upon none more than the free negroes in some parts of our own country, is unknown among them. If the laboring population of Europe, aye, even of the best parts of it, had the food and clothing, the dwellings and comforts of home as have ninty-nine hundredths or more of the slaves of our southern States, they would be far better off than they now are.

We of the North do great injustice to our southern brethren on this subject. Much as we may be opposed to slavery, and disposed to eradicate it from among them, let us, at least, do them justice. Condemn slavery as we will, and depict its wrongs as we may, let us neither deny nor conceal what all know, who know the truth—that the great mass of the slaveholders are good masters, and treat their slaves with humanity and kindness.

I am no advocate for slavery, in any shape or place; and no man regrets its existence among us more than I do, or would more sincerely rejoice at its removal, without the infliction of a greater wrong, and with it the entire negro race from our whole land. As it is, it has evils which might and ought to be removed, and of which I intend to speak, as soon as I can get an opportunity, in the language of truth, but in the spirit of kindness, to those who alone have the right and whose duty it is to cure them. At present, my object is briefly to show to those whose disturbing influences are alike injurious to master and slave, their error and their wrong.

Slavery may be an evil—an evil to produce good; for it has pleased God in his wisdom frequently to place nations, as well as individuals, in servitude and bondage, that they may ultimately be redeemed with a greater salvation. When the bondage of the negroes is to end, or what is to be their future pestiny, He alone knows, or can accomplish. One thing we do know—that the emancipation, thus far, of individuals among us, or bodies elsewhere, has not been as successful as its philanthropic promoters anticipated. Many individuals of high and pure character when slaves, have become low and vile when freed; and wherever they have established themselves in bodies, they have not improved, but rather deteriorated. For a century or more, there have been schools for their education at the North. Some twenty years ago, the public schools were opened for the negroes in Philadelphia, with which you, Mr. Chairman, are well acquainted; and although we have a number of well educated and highly respectable negroes among us, yet taken in the mass the negro population is no better now than it was theen. Where have the free negroes who were educated with the son of the gentleman from Massachusetts, [Mr. PALFREY,] gone out into the world and exhibited superior talents, or done anything to elevate their race? Roberts, who is now the Governor of Liberia, and Frederick Douglas, the lion of the Abolitionists—were they not born and raised as slaves? Who is that eloquent divine who is now thrilling the hearts of negroes in Liberia, and whose first sermon was to one of the most enlightened audiences in Alabama? Ellis was born and raised a slave—was a slave when he was received into the ministry, and when he was a proficient in the Greek, Hebrew, and Latin languages. Slavery, if it be an evil, has not been so great an evil to the negro race, so far as we can judge from results, as to the white race, and to the country in which it exists; and if any one deserves our sympathy, it is the whites.

While they are held as a degraded caste among us, emancipation does not add to their happiness

any more than to their mental or moral improvement. I know, in the South, the slaves are more contented in their position and happier than are the free negroes of the North. Few of the slaves ever dream they are equal to their masters; they aspire to no such equality. They are as happy in the best condition of their lot as are the highest and proudest of earth's rulers in the best condition of theirs, nay, more—for they are free from the anxieties and cares that often make the latter miserable. Whilst the free negroes, through the visionary fanaticism of those who believe, or would make them believe, they are equal to the whites, feel their degradation as a wrong inflicted upon them, and made to believe, as they are, that they are entitled to political and social equality, the want of it gives them a thousand times more poignancy of feeling than any slave ever felt for the want of his personal freedom. The history of the world—nay, the history of the last year—shows what men will suffer and do for political equality. It has nothing equal, to prove their longing for mere personal liberty.

Why cannot we leave this whole question of slavery to the care of an overruling Providence, and the people of the States where it exists? To the latter it is left by the Constitution, to regulate or abolish it, as they think best. In one-half of the slave States, if not in three-fourths of them, the majority of the voters, in whose hands this question rests, are not slaveholders. In Delaware, Maryland, Virginia, Missouri, Kentucky, and Tennessee, the number of non-slaveholding voters over slaveholding is very great; and in most of the States, they hold the political power. Why, then, can we not leave this whole slavery question to them? They have no pecuniary interest in it, and know all about it—know its evils, and can best foresee the effects of its abolition. Think you they have not as much of the milk of human kindness as we who live in the North? The abolitionists themselves say the interest of non-slaveholders in the slave States is opposed to the continuation of slavery. Certain it is, if slavery were as great an evil as it is represented, and its abolition so easy, these non-slaveholding voters would soon remove it from among them. For one, I am willing to leave it to them and their fellow-citizens to take care of. Theirs it is to manage as they please, and with them it is our duty to leave it. Shall we do this, or shall we go on to encourage these fanatical crusaders, who go forth, as of old, under the peaceful banner of the Cross, and with the specious object of doing God service, to desolate and destroy a nation, and perish themselves amid the scenes of strife and bloodshed their own unholy zeal had kindled?

Continued February 7.

Mr. CHAIRMAN: Having been obliged, by the briefness of the time allowed me, when considering the condition of the negroes the other day, to pass over it more rapidly than I desired, I return to it now, for a few moments, to present it more fully to the view of the committee and the country.

In an estimate of the capacity of the negroes for self-government, as individuals or communities, many overlook the fact, that even their free, improved condition, such as it is anywhere, has mainly grown out of their previous servitude. I have already alluded to them in relation to individuals and bodies of them in the United States, and now refer to them in the West Indies, South America, and Liberia, as further illustration of the fact. In Hayti, though they have had the government of the island in their own hands more than fifty years, they have not only not improved their condition in any respect, but have been warring upon each other, on account of their different shades of color, until their best friends fear they will not much longer be able to govern themselves, but must fall under the dominion of the whites again—conquered by adventurers, or by some other nation. They have no men among them now equal to Toussaint L'Ouverture and his fellow slaves, who achieved its independence.

Thus far, the slaves emancipated in the British West Indies have not improved. Many of them have gone back almost into their original African barbarism; and generally they have become indolent, improvident, and vicious; and unless they shall change their course, it will not be many years until the fair islands they inhabit will be as unproductive as they were before the arrival of Columbus, or as any part of Africa.

Of all places on earth where the negroes now dwell, around Liberia the fondest hopes of the friends of the race are gathered. There they have not yet gone back—they are advancing. It is a bright spot in the dark history of that dark people. What it may prove to be in the future, no man knows; but for its success all good men should pray. But while all eyes are turned to it in hope, let none forget that *now*, with all its intelligence and progress, it is yet only a *colony of liberated slaves* from these United States.

I do not say the negro race is incapable of governing themselves as other civilized nations; but thus far the experiments have not proved very successful. It may be they will yet succeed, or it may be these attempts have been premature; that they have not been through a sufficient number of generations connected with the white race to have that pupillary training required to raise so low and barbarous a race to the proper degree of civilization to enable them to carry on and out that further and continued progress necessary to ultimate success; and this, I think, is the true reason of much of their retrogradation. No one can deny that they are, through climate, physical conformation, or long degradation, an inferior race; not only inferior to the white, but inferior to the American Indians and other races. As such, it may be doubted whether they ever can attain to a sufficiently high standard of civilization to associate with the whites as equals, or as nations to maintain their independence, if left to their own free action. They may lack many of the elements of character necessary to such an attainment. This, however, is what their Maker alone can know—we can only guess at it, from the limited knowledge we possess.

One thing is certain, that no two unequal races can keep distinct, and live together and harmonize as equals. The history of the world is against it. Look at our own history. Two hundred years ago, the whites began to settle this country. Then, all this vast Union was peopled by a race evidently superior to the negroes. They were free. Everything that religion and philanthropy could devise or do to civilize and christianize this race was done, and yet what has been the result? Millions and millions have been destroyed by us, until the whole race has nearly passed away; and how few have we either christianized or civilized! About the same time we began to civilize and christianize the free Indians, we began to import negroes into this country as slaves. The climate was certainly more favorable to the natives than to the negroes. These negro slaves have not only increased and multiplied beyond all other people, but in civilization and christianity have risen faster and higher than any and all other barbarous people during the same period. I submit this simple statement of facts to the serious consideration of the fanatical abolitionist, as well as the true philanthropist and Christian. It is full of admonition. To me it proves clearly that an inferior race, or degraded caste, cannot thrive in connection with a superior, unless under its care and control; the former must be made equal to the latter, or be enslaved or destroyed by it. I do not suppose that complete equality (which can only be brought about by a perfect unity or amalgamation of the races) can be desired by any sane member of the European branch of the American family. It is too monstrous to think of, and would lead to such a degeneracy of the whole people of this country as, in a brief period, to cause them to fall before some invading, superior, and purer northern nation or people, in the same way the Indians have fallen, and the mixed breeds south of us must certainly hereafter fall before us.

If the friends of the negroes—fanatical or reasonable—would do the race a real good, they would cease to desire or urge their political or social connection with us, (which, in my estimation, never can, will, or ought to take place,) and direct their efforts to their improvement and removal southward in America or to Africa. The course now being pursued by both fanatical abolitionists and free-soilers, if persevered in, and the more if they shall succeed, will lead, sooner or later, combined with other causes to which I shall shortly allude, and particularly the competition of labor, to a war of races, that must end in the extermination of the weaker.

While the people of the South have *rights* that should be respected, defended, and protected by the North, and which, for one, I have ever done and intend to do, they have *duties* to perform, alike required of them by the progressive institutions of freedom and enlightenment in this our own country, by the spirit of the age in which we live, and by their God. As they shall give an account of their stewardship at the great day, they are bound to improve the negroes intrusted to their care, and elevate them to the highest degree of civilization and christianity their situation and condition will admit. They are an inferior race, it is true; but they are not a bad one. They have many valuable and good characteristics, and are endowed with feelings and a soul; and it is due to them, as well as to the white people of the South, that nothing should be left undone that will develop their good qualities and eradicate their bad.

Marriage among them ought to be made and regarded with as much solemnity and obligation as among whites. They should only marry by consent of their masters, and then never be separated; nor should they be separated from their children while young. I know that these ties of marriage and nature are fully respected by all good masters now, and that their violation is as much condemned by the community generally in the South as in the North. But they should never be violated—they should be made the law of the land as unalterable as those of the Medes and Persians. I am aware, and have already testified to the care and humanity of the masters generally throughout the South; but I know, and we all know, there are bad men among slaveholders as in other conditions of life, and it is to protect the slave from wrong when owned by such men, that every law should be enacted necessary for his improvement and protection. Many good laws are already in existence for the latter purpose, and as I know, are rigidly enforced, far more than the people of the North generally have any idea of. Indeed, the great ignorance of the latter on the whole subject of slavery, is the main cause of all the agitation that has been and is now disturbing the peace of the country.

They should all be educated—taught to read at least—and all good books placed in their hands. I know this was being done to a great extent throughout the southern States before the fanatics began to send their incendiary tracts among them, causing laws to be passed prohibiting education. Those incendiaries ought to be treated as pirates—enemies to all mankind—and effectually put down. Whether they are or not, still I think those laws are wrong. I do not believe education would make them any more likely to be misled by these fanatics than they are without it. Through secret channels and open discussions, one way or another, they are made acquainted with all the doings and designs of these fanatics now, and through ignorance may believe they are for their good; thus creating secret dissatisfaction that cannot be openly met and removed. If they could read, they would know the true condition of their race, and be less likely to be misled. All that I have seen or heard of the effects of education among the slaves has convinced me that it makes them more contented, and more reliable, and more valuable. Indeed, even now, so sensible are many of this fact, that in despite of the laws against it, they deem it their duty to teach their slaves to read. No objections I have ever yet heard, in the eyes of mankind or of God, will be taken as a sufficient reason or excuse for allowing the minds of so large a mass of mankind to remain in comparative darkness forever.

Independently of the high moral tone all this will confer upon the slaves, and the consequent beneficial results to the masters, it will take from the opponents of the institution their most powerful arguments against it. The anathemas of the fanatical abolitionists would be hushed in the approbation of all the rest of mankind.

To cultivate and to christianize so many millions of slaves is an achievement within the power of the South, and will return a hundred fold of good on those who do it. Let the world see these millions of slaves advancing in intelligence and virtue, under the care of their masters, and at the same time all the rest of the race remaining in barbarism, or

disturbed and destroyed by their own want of capacity to govern themselves, and slavery will cease to be the theme for agitation, anywhere and everywhere.

Besides the loss sustained for the want of useful mental cultivation, I know that the people of the South generally suffer much from the want of the proper cultivation of other faculties of their slaves. There is no reason why slaves cannot do as much and as varied work, and as well, as any others, only that they are not trained to the best modes of doing it, and have not placed in their hands the best instruments used in its performance. As a whole, for these reasons they do not perform more than half as much as they might do, with equal ease and more satisfaction to themselves, if they had this physical and mental cultivation. Nor is that half work more than half done, which is a double loss to their masters and to the community. There is no reason why the whole South does not improve in all that embellishes its soil, or renders it more productive, but that its labor is not directed by the intelligence, taste, and energy necessary. The South has all the means requisite to make it the most prosperous and highly beautified portion of the earth, if it would but properly and efficiently develop and direct its means.

I think it is the duty of the South to allow gradual manumission, if not to encourage it. In connection with this, or indeed anterior to it, the South ought to take more effectual steps to improve the free negroes among them. As it is, they are a curse to the whites, to the slaves, and to themselves. They might be made a useful and respectable class, and manumission would then be beneficial to the negro and the whole community, and thus prepare the way for the freedom of the race, without violence or wrong, if Providence ever intends them to be free and remain among us.

I come now to speak of the proposed territorial restriction; that is, to confine slavery within its present limits. Should it be understood at the South that this decree is to be irrevocable, and they submit to it, each of the southern States, looking to its own future prosperity, if not its existence, will do what has been frequently attempted to be done by the fanatics through Congress—stop all immigration of slaves from one State into another. Thus far the slaves have been gradually immigrating southward. At the declaration of our independence, every State in the Union held slaves. New England had as many as Georgia, and so had New York. Even in Pennsylvania and New Jersey, together, the slaves outnumbered those of Georgia. Since then, in the short period of a little over seventy years, all the slaves from the seven old northern States have gone southward into the old southern States, and, with their progeny and the progeny of others of the southern States, have gone and are going on in the same direction, into Kentucky, Tennessee, Alabama, Mississippi, Florida, Louisiana, Missouri, Arkansas, and Texas. Slavery was not abolished in the northern States so much from feelings of philanthropy as from interest. It was found, as foreign white immigration increased, to be less profitable to work slaves than to sell them to the South and employ white labor. The same causes are steadily and increasingly at work now to banish slavery from Delaware, Maryland, Missouri, Kentucky, Tennessee, and Virginia; a considerable portion of each of these States now employ white labor, and have comparatively few slaves. As foreign emigration increases, (and increase it will to millions a year,) this removal of the slaves will be continued with a corresponding increased celerity, until slavery, and, to a great extent, the whole negro race in this country, will be confined to the range of country stretching from the Chesapeake all around the coast of the Atlantic and the Gulf of Mexico, and inwards to within a few miles of the lower falls of the rivers. This is the great cotton, rice, and sugar-growing country, where negroes can do field work and live and thrive, and where white men cannot work in the fields and retain health and life long. If we do not stop this operation of the wise laws of Providence, the two races will go on to find and enjoy those portions of the earth best suited to each. The negroes, either free or as slaves, will be the laborers to produce cotton, rice, sugar, and other field productions of the South; and the whites who labor will occupy the higher and more healthy portions of the country, and be the producers of breadstuffs, and carry on all or most of the manufacturing and mechanic arts. Should we, however, restrict the slaves and negroes to where they now are, and the more southern slave States prohibit them from coming from the more northern, they will begin in the latter, from which they are now disappearing, to increase in numbers, (unless means are provided to take them out of the country, or they shall be driven into the sea,) and will go on increasing, until they soon drive out all the white laborers, mechanics, and workmen from these States, and throw them back on the northern free States. One-fourth of the people of Delaware, Kentucky, and Tennessee, and nearly one-third of those of Maryland, and two-fifths of those of Virginia, are negroes. Has any man in the North contemplated what must be the effect on the States north of these States of penning the negroes all up where they are? They are a rapidly-increasing race; and should our humanity remain superior to our interest, and we continue to allow them to come among us, they will, instead of sending the surplus South, as they now do, roll back year after year upon us, the worst part of both slave and free, until they drive all the white laborers out of Pennsylvania, New Jersey, and northward. This will not be submitted to patiently by the white laborers of the North; and, before they yield to them, many and bloody will be the contests that must inevitably take place. If ever the two races shall become engaged in bloody strife for any object, and most of all for *bread*, it will have but one end—the extirpation of the negroes. We of Philadelphia have had some experience of such a conflict of races; and we of Pennsylvania will be the soonest and most overrun by these returning hordes of negroes.

To the more northern States, this view of the subject will present little or no danger. Their climate is too cold to induce many negroes to go there, and consequently they know very little practically about them—little as free, and less as slaves. But suppose our interest shall prove stronger than our humanity, and we follow the example of Ohio, Indiana, and Illinois, who impose penalties on all negroes coming into them, and by the last State they are kept out entirely by constitutional prohibition—suppose we do this, what then will be the consequences on the North?

As the negroes increase, the white operatives in these States will diminish, until the former will have taken the place of the latter in all the industrial pursuits. The advocates of the free white laborers of the North forget that there are hundreds of thousands of the free white mechanics of the North now living and prospering in the southern States. Every town and city is filled with them. In many of them they hold the political power. Besides the mechanics that are there, others are going there continually. Those that are there must go away, or at least no others need go there, if this restrictive system shall be established, for their places will be filled by negroes. As soon as the negroes increase to over supply the demands for their usual out-door pursuits, their owners will of necessity find employment for them in-doors; first in the ruder mechanic and manufacturing arts, and then the more refined, until they will absorb them all.

Still they will go on to increase, and when they have filled all the known avenues of labor, then they will begin to seek new ones; and instead of being, as they now are, the great consumers of the products of the mechanics and manufacturers of the North, they will become their rivals, and then supersede them in the markets of the world. Maryland, Virginia, and indeed nearly all the southern States, have within them rich mineral deposites of coal and iron, and other metals; and their rivers have most magnificent sites for water power open all the year. Inferior as the negroes are, they are nevertheless well qualified for operatives in manufactories. Already in Virginia, and in other southern States, many cotton manufactories are in successful operation, worked by slaves.

Still they will increase, and cannot go out; and as they increase in number, the wages of their labor will decrease, and thus will *we* cause to grow up in our midst a body of worse than pauper laborers, against whom no tariff or other laws can afford protection. If this slavery-restriction system shall be fully carried into effect, as the Free-soil party contemplate, before one hundred years, or it may be fifty, the manufactories of New England and Pennsylvania, and her iron works too, will be superseded by those on the mountains and rivers between the Chesapeake and the Rio Grande, as certain as the sun shall continue to shine.

Take a more limited view of the effect this restrictive system will have on the trade between the two sections—a trade that has gone on increasing with every expansion of territory to the South until it far exceeds all the rest of the trade of the country. Go to the wharves of Philadelphia, New York, Boston, and other seaports of the North, and look at the cargoes of the hundred ships and other vessels there daily, and almost hourly, sailing for some southern port, with all the products of the skill and labor of our workmen. Look, too, at the rich and valuable cargoes of rice, cotton, and sugar they bring us back in return, or take to other countries and bring in return for them to us the products or the merchandise of those countries. All this natural and useful trade and intercourse must be broken up, and those whose bread and comfortable existence depends upon it in the North be driven to unknown parts or pursuits.

There is a great deception in the cry raised for "free soil for free men." I have already said, large numbers of mechanics, artisans, and others of the freemen of the North are now in the South, and are constantly going there, all of whom find profitable and respectable employment.

If we take into consideration, in addition to the freemen of the North who thus find employment in the slave territory, the vast number of them who find it at home, in providing for the wants of the slave States, I question if the extension of slave territory has not done more for the free workmen of the North than has a like extension of free territory in this or any other country.

I think it is a great mistake to suppose, that to extend the area of slavery is to increase the number of slaves. This is not true while all foreign importation is prohibited. I do not think negroes multiply any faster when scattered over a large surface. The idea that is frequently expressed by some of the most visionary of the fanatics, that their increase is promoted through cupidity, is, to my mind, too absurd to need refutation. The migration of the slaves southward, and their retention in field labor has been a great blessing to them. They are far better off now in the new States of the South, than they would be if they had been confined to the old ones. Think you, if the three millions were confined now within the six old slave States, their condition or the condition of the whites, north or south, would be better than it is? Yet such would be the state of things, if the ideas of those who are opposed to the enlargement of the area of slavery had been adopted fifty years ago; and something like it, or worse, it will be fifty years hence, if they are adopted now, as I have attempted to show.

If such will be some of the effects of this restrictive system upon the North, what will be those upon the South? It is a fearful thought. The very idea of building such a wall around any people to shut them *in* where they are, and *out* of all other parts of the earth, is to my mind, in any aspect of the case, most unnatural and horrible. What if the white people of Ireland, or England, or even New England had been thus shut in, can any one imagine what would have been their present condition? And yet we would shut in these three millions and upwards of negroes, with less than double that number of whites, and with the certainty that they would soon be further closed within narrower limits, and with less than an equal number of whites.

I will not attempt to foreshadow what will eventually be the consequence and the end of such a measure to them all. History affords no example to judge from. The world has never yet witnessed so stupendous an act of despotic power and wrong committed by one portion of the people of a country on another as we are, step by step, inflicting on the South, in prohibiting slaves from going south by act of Congress, and then prohibiting all free negroes from going north by acts of the States. True, though the negro may not go out either bond or free, the white man may; but before he is en-

tirely banished from his home, and the home of his fathers, fearful indeed will be the conflict and the suffering to him, and still more fearful to the negroes who must still remain behind him.

What should we do, then, with this great question? for great it is, and of absorbing interest to the philanthropist and the statesman. I cannot say, with my colleague, [Mr. WILMOT,] that "I have no sympathy for the negro," for I have a deep and abiding sympathy for him, and would do all that can be done consistent with what is due to our own race for his welfare and elevation. I would, looking to his good, recommend no general system of emancipation until he shall have proved himself, beyond all doubt, fit to be free. I would wait till it is seen what his freedom will do for him in this country, in the West Indies, and in Africa. If ever he is to rise in the scale of humanity, it must be in that clime where he is physically best fitted to live in. He never can rise in northern countries, for there, sooner or later, unless renewed from the south, his whole race must become extinct. Let all wait, then, till he shows what freedom will do for him in the West Indies and Africa before we disrupt society here, and desolate our whole land merely that he may be free. In the mean time, let us pass no laws to fix the race in any one place, but let them continue their migration southward until they go through the United States, if they will, into Mexico and further south, where already they seem to be amalgamating with the other races. And while they are going, we of the North should let them alone. We cannot mend their destiny; we can only mar it. They are in the South, and of the South. The five or six millions of our white brothers there are more intimately connected with them, and more deeply interested in them, than we are. Let us, I repeat, leave them to those among whom they dwell, trusting to their patriotism, their humanity, their wisdom, their christianity, to deal kindly and justly with them, until the common Father of us all shall work out his own great and good purposes with us and with them.

We have already seen the utter inutility of laws fixing the bounds of slavery. This country was agitated far and wide on the introduction of Missouri into the Union. The attempt was then made to prescribe the limits of slavery; and fanatics looked upon the reception of that State into the Union with slavery as aiding the extension of that institution. Yet what are the facts in relation to Missouri now? Why, if white laborers continue to flow into her as they have been doing recently, it will not be many years before slavery will cease to exist there, as it already has, by these same natural laws, quietly and peaceably ceased in all the old northern States. I mention the case of Missouri, to show that natural laws are more powerful than Congressional ones. The ordinance of 1787, much as it is respected by anti-slavery advocates, to my mind was of very little importance, and of the same little consequence do I consider the Missouri compromise. If slaves had been allowed to go into the Northwestern Territory, or north of 36° 30′ in that of Louisiana, by law, few would ever have been taken there; and those who formed the State Governments would have excluded them, or if they had not, they would soon have gone out from the same causes that have taken them out of the old northern States. The impossibility of fixing slavery by law upon any part of this country whose climate is such that white labor can be readily obtained and successfully brought into competition with it, has been shown, north and west, to be an absurdity. Why has it disappeared from the more northern States, or why is it decreasing, positively or comparatively, in Delaware, Maryland, Missouri, Kentucky, Tennessee, and Virginia? Because this law of God—their climate—is more powerful than the laws of man. Even in the higher and more healthy parts of the southern States, the number of slaves is small, compared with the lower, warmer, and more unhealthy parts of them. When the superior race have the advantage of climate, the inferior race, if not forced to remain by human laws, will disappear.

On the other hand, were we to enact a thousand laws to drive or keep the negroes out of those parts of the southern States to which I have alluded as the cotton, rice, and sugar-growing portions, whose climate is death to any white man from the North who attempts to labor on its fields, they would not induce the white laborers of the North to go there. He would be their worst enemy who would attempt it. They would but go to their graves. Some years since, a large number of Irishmen were taken to New Orleans to dig a canal near that city; the consequence was, that they nearly all died, and that very soon. A number of German laborers were induced to go to the southern part of Texas. I am told by a gentleman on this floor that, after suffering with diseases the most painful, they have nearly all died. We all know how destructive of life the whole South is to northern men, even when not exposed to the sun. What would it be if they were obliged to labor day after day under its scorching beams? No laws could impel them to do it; and if we had prohibited slavery in Louisiana, Mississippi, or Alabama before they were States, and enough white men had gone there to form a State, they would either have become depopulated, or, from the law of necessity, have adopted slavery afterwards. Does any man doubt this? Then why should we agitate this whole country time and again, and alienate one portion of its people from another, to accomplish what is impracticable and pernicious.

If slaves were to be carried to California, or the higher part of New Mexico, the pressure of the whites would soon drive them out of it. But no man, north or south, that I have ever conversed with, believes they will ever be carried there. The certainty that slaves will be prohibited by them when formed into States, will prevent any one from taking slaves there, if so disposed. Then, I am asked, why not prohibit them by law? For a very good reason—it is obnoxious to a large number of our brethren; it places them, our equals under our Constitution, in the position of our inferiors; and, for one, I am not willing to fix upon them this mark of degradation. We are told by high authority, that "when one member suffers all the members suffer with it," and that "if one member be honored all the members rejoice with it." Let us, then, rejoice in doing justice and honor to all the members of this great Union of ours, rather than in dishonoring any of them.

I am opposed to it, moreover, because, though it can do no good, it may do much harm, by depriving one-half of the people of the States of their equal rights with the other—of an equal participation in the common property of the Union, won equally by their services, sufferings, and bravery, consecrated equally with their blood, and to be paid for equally by them from their common treasury. I am opposed to it, because it makes invidious distinctions among equals, by attempting to fix a stigma upon the institutions of one-half of the States, which, at the formation of our Union, were common to them all. But above all, I am opposed to it, because it is in violation of the spirit, if not of the letter of the Constitution, which spreads its protecting ægis over the property of the citizens of all the States alike when beyond the jurisdiction of the State—alike over the slaves of the South, as over the ships of the North when wrecked on a foreign shore, and which should make no distinctions in its protection of these same ships or slaves when found in the waters or on the land of the common territory of all the States, until those who inhabit that territory shall provide a government and laws for their own protection.

But it is said by some, the people of the South would never oppose the prohibition, if only the mere abstract right were involved. Whoever reasons thus, must think they are degenerate sons of their sires of the Revolution, or must have forgotten that those sires pledged their "lives, their fortunes, and their sacred honor" for an abstract right, and nobly redeemed the pledge on many a battle-field. We of the North, and particularly they of Massachusetts, should remember, too, that it was more for wrongs inflicted on the North than the South that they fought and bled.

If the people of the South asked any special legislation for their benefit, I should be as much opposed to it as I am to special legislation against them. All the rights they have under the Constitution, every man in the Union ought to allow them to enjoy in peace and safety; and these are all they demand. They do not ask us to establish slavery anywhere. They do not propose to exclude any free man, woman, or child, in the northern States, or in any other part of the world, from going into these Territories, and taking with them all they possess, and, when there, being secured in its full enjoyment. They have not asked to be allowed to take their slaves there—they have asked nothing for their slaves, or for slavery, at any time, in this District, in the States, or in the Territories. They ask nothing but to be let alone. They do not want the word "slaves," or "slavery," to be heard in the debates of this Hall, or to be found upon your statute-books. Surely it is hard, very hard, they cannot enjoy this small privilege—nay, this sacred right—the right of our brotherhood, the right of the Constitution—in peace.

Thus far I have voted for every proposition to settle this vexed question, and to enable the people of those territories to form governments, confident that if we leave them unrestricted, they will do what is best. My object, in all that I have said or done on this subject, has been to allay this sectional war, which has already done much to alienate the affections of one part of our country from another, and to restore a better feeling; and while I shall remain here, I intend to pursue the same course to the end.

NEW MEXICO AND CALIFORNIA.

SPEECH OF MR. A. G. BROWN,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

February 10, 1849,

On the proposition of Mr. PRESTON, of Virginia, to admit New Mexico and California as a State; and in reply to Mr. HUNT on the general policy of the Administration.

Mr. BROWN said:

Mr. CHAIRMAN: It is not my purpose to follow the line of discussion marked out by the gentleman who has just taken his seat. My chief object in taking the floor is to reply to remarks made some time since by the gentleman from New York, [Mr. HUNT,] in reference to the late Presidential election and the general policy of the existing Administration. The question prominently before the committee is certainly one of most absorbing interest; but my reflections so far have brought my mind to no satisfactory conclusion in regard to it. I am not fully prepared to say in what manner I shall even dispose of my own vote. Since, however, the proposition to accord State governments to New Mexico and California has been presented under such imposing forms; since the eloquent gentleman from Virginia [Mr. PRESTON] has urged it with so much of zeal and ability; since my friend from Alabama [Mr. HILLIARD] has entered the list of its advocates, and urged its favorable consideration with more than his accustomed intellectual power; since the frequent discussion in the other end of the Capitol has attracted so large an amount of public attention; and above all, since it is almost certain that we shall be called upon, before the close of the present session, to vote upon some one, and perhaps all, of the several propositions submitted, and to be submitted, I will avail myself of the opportunity now presented to assume that position before the country which I desire to occupy.

Whether I can finally bring myself to vote for any proposition to admit these Territories as States, I cannot now undertake to say. None of those submitted thus far meet my views in their details. The details, however, are matters of secondary importance. The great question to be determined is, "Shall we admit these Territories as States at this session of Congress?" Upon this question, for the sake of harmony and the peace of the Union I am prepared to make very great and important sacrifices. To attain this end I am ready to give up everything but principle and honor; but, before I move from my present position I want to know whether our opponents are ready to meet us in a corresponding spirit. Are they ready to make corresponding sacrifices for the sake of peace, harmony, and brotherly union. I am prepared to go to that point where conflicting interests and opinions may meet, and adjust this dangerous issue upon terms honorable to both sides, and without any undue sacrifice by either party. That such a point exists, no one seriously questions. Shall we meet there, is the only point worth considering.

We of the South voted at the last session of Congress for more than one proposition which our judgments did not wholly approve. We did so in a spirit of concession and compromise. But in what spirit were we met? In a spirit of stern and obstinate resistance. Every tender of the olive branch was rudely, almost indignantly rejected. All our propositions were voted down as they were successively presented, by that party who claimed a right to undivided dominion over these Territories. I never have and never will assent to the justice of this claim; and hereafter I will vote to maintain the rights of the South in their broadest latitude, unless I shall plainly see, that by an honorable and manly surrender of a portion of these rights, peace may be secured, and the Union rescued from its present perilous condition. I love the Union, but the love I bear it is for its blessings, and not its curses. Let it fulfill the high purpose of its creation, and the people will preserve it at any and every sacrifice of blood or treasure, and nowhere will these sacrifices be more freely made than in the South. But divert it from this purpose, resolve it into a mighty engine of oppression, to be wielded by the strong and powerful for the subjugation of the weak and powerless, and you convert our love into hatred; and these sacrifices which we now freely offer for its preservation, we will then reserve for its destruction. The Union of these States rests on a foundation solid and sacred, the affections of the people of all the States. Be careful how you tamper with that foundation, lest you destroy it, and thus destroy the Union itself. Let the Union dispense equal and exact justice to all, special favors to none, and not one murmur of complaint will ever come up here from the patriotic sons of the "Sunny South." We despise injustice of every kind. In the emphatic words of a distinguished chieftain, "We ask no favors, and shrink from no responsibility."

It has been charged that my political associates intend to postpone the settlement of this question, to the end that it may be to General Taylor a stream of consuming fire, which it may be impossible to circumvent, and which he cannot cross in safety. For myself, the unworthy imputation is emphatically disclaimed. I shall vote upon this, as upon all other questions, precisely as I would have done before the late Presidential election—just as I should have done had General Cass been the successful candidate, or as though no Presidential election had intervened. This, to my mind, is a question above all party considerations. It deeply involves the harmony and stability of the Union, and I should despise myself if I were capable of shaping my conduct, on such a question, with a view to partisan results. Upon such issues I shall vote without reference to party ties, and without stopping to inquire whether I am advancing or retarding the political fortunes of the President elect. And I may lay it down as a general rule, that whilst I will not travel out of my way to remove obstacles from the path of General Taylor—if, indeed, there be any such in his way—I shall not regard it as compatible with my duty as a citizen, or dignity as a Representative, to interpose such obstacles where none now exist.

Before dismissing the subject, allow me, Mr. Chairman, to congratulate the gentleman from Virginia, [Mr. PRESTON,] and, through him, his political associates here and elsewhere, that he and they are at last so near on the "Cass platform." If the gentleman will move a very little to the right, he will find himself in exact juxtaposition with the late Democratic candidate for the Presidency, on this question; that is, asserting that the people of the Territories, under the general limitations and restrictions of the Federal Constitution, may rightfully settle the slavery question for themselves. The gentleman, at the last session of Congress, and throughout the canvass for President, was understood to oppose this doctrine.

Mr. PRESTON interposed. He had been misunderstood by the gentleman from Mississippi. Last year, and always and everywhere, he had advocated the doctrine and made the distinction which he had attempted to make day before yesterday. The distinction he drew was, between the territorial rights of a people, contemplated as the people of a Territory, and the sovereign rights of a people after they have been created a State government.

Mr. BROWN. I so understood the gentleman, and have given him due credit for his ingenuity. But the distinction seems to me, when applied to the case in hand, a thing rather of form than substance. Here is a conquered people, possessing as yet no political rights under our laws and Constitution, because not yet admitted to the rights of citizenship; and what is worse, possessing no practical knowledge of the workings of our system of government, and knowing nothing of our institutions. The substantial question is, Shall such a people give laws to our Territories, and shape and mould their institutions for the present, and possibly for all after time? It is a matter of form whether they shall proceed to do this at once, under the general limitations and restrictions of the Constitution, or whether you shall hoist them into the Union as a State, with the avowed purpose, object, and aim, of giving them the power to do the same thing. Is there a member of this House who would ever have taken upon himself to lead into the Union a State of such huge dimensions as that proposed by my friend from Virginia—embracing, as it does, all of New Mexico and California—but that it seemed to present a feasible means of getting clear of this most dangerous and perplexing question? Hitherto it has been usual to introduce States with fixed metes and bounds—to know something of the people who were to govern them—to know at least that they were or intended to become citizens of the United States—to have a reasonable assurance that they understood something of our laws and appreciated our institutions. But here is a proposition to admit a State, extending from near the thirty-second to the forty-second degree of north latitude—almost six hundred miles on an air line, bounded on the one side by the Pacific Ocean, and having no fixed limits on the other. And this vast country, sparsely settled, with a foreign population knowing nothing of our laws, distrusting from education, the soundness of our political theories, and disliking our people from habit, is to be hoisted, in all its huge proportions and with this strange population, into our Union upon terms of equality with the original States—and for what end? Disguise it as you will, it is that these people may have the power to exclude slavery from the Territories now and forever. Have they gone through any territorial probation? Is there any evidence that these people, strangers as they are, desire admission into the Union, or that they will now consent to come in, if you invite them? or must we bring them in *nolens volens*? The gentleman's bill gives to every white male inhabitant over the age of twenty-one years the right to vote, whether Spaniard, Mexican, Swede, Turk, or what not. So he be but a white male inhabitant of the Territory, and twenty-one years old, he is to vote, it matters not what may have drawn him there, or what his future intentions may be. If he be but an inhabitant, and white, and twenty-one years old, he is to vote in the formation of a constitution, by which your rights and mine, Mr. Chairman, and those of our constituents, are to be controlled through all after time. And this is the proposition of the gentleman who found such mighty fault with General Cass for saying the people of the Territories, under the restrictions and limitations of the Federal Constitution, could do this same thing. I submit to my honorable friend, whether it would not be respectful, to say the least of it, towards his constituents and mine, to require these people, before they pass final judgment upon our rights, to make an intimation in some form that they intend to become citizens as well as inhabitants of the United States.

But, says the gentleman, there are some one hundred thousand to two hundred thousand American emigrants in that country. It must be a lively imagination that could multiply the few thousand gold hunters who have gone to California to such vast numbers. There may be some ten to twenty thousand Americans there—certainly not more than thirty thousand—mere adventurers, who will stay in the country if they find it profitable to dig or pick up gold. The emigrants whose rights are to be affected by this proceeding—the cotton, sugar, and tobacco-grower—have not yet started on their journey, and yet you are proposing to force the Territory into the Union as a State, settle its institutions, and forever exclude this better class of emigrants.

These are some of my reflections, Mr. Chairman, hastily thrown out in a discussion which I did not intend, at this time, to participate in. I do not say that I shall vote against the proposition of the gentleman from Virginia. It may be that I shall vote for it. I cannot part with the subject at this moment, however, without saying to my honorable friend, if it was wrong in General Cass to say the people of the Territories, under the general limitations and restrictions of the Federal Constitution, might exclude slavery, it must be equally wrong in him to give these same people a factitious political character, to the end that they may thereby accomplish the same thing. The people, in the judgment of the gentleman, had not this power last summer; and what are they now that they were not then? They are the same people, with the same feelings, passions, and prejudices; with the same political powers—no more nor less. I may appeal to my honorable friend if it was quite just in him to hunt down General Cass for his opinions, and then, in effect, to put forth the same opinions himself.

But I must leave this subject, to pay my respects to a speech made by an honorable member from New York [Mr. HUNT] some time since. That gentleman, in the outset of his remarks, declared with emphasis, that all the measures of the existing Administration had been triumphantly overthrown, and the President and his party friends signally rebuked at the late Presidential election. So strong was this impression on the mind of the gentleman, that he took occasion to mention it two or three times in the course of his speech. Whether it was in truth altogether a strong impression on the gentleman's own mind, or whether it was that he thought so novel an historical fact needed repetition to imprint it on the mind of others, I do not know; but certain it is, the declaration was several times repeated, and each time with additional emphasis. It is my purpose, among other things, to investigate the truth of this declaration.

The gentleman says it is fortunate for the truth of history and the correct understanding of political issues, that deposed ministers and dismissed secretaries are not the most accredited historians of their own lives, times, and acts; and I take leave to add, that it is equally fortunate for the truth of history and the vindication of men and measures, that partisan leaders and political tricksters are not always the most accredited historians of their own lives, times, and tricks. Were the gentleman from New York to write a history of the late Presidential canvass, he would induce the world to think that the election had turned upon such issues as the bank, the tariff, the independent treasury, and other questions which had hitherto divided the two great political parties. The gentleman has a way of proving his declaration that all these things were in issue, which is at once novel and unique. He says the Baltimore Convention tendered these issues. True, sir, most true. The Baltimore Convention did tender these issues; but did the Philadelphia Convention accept them? It requires two parties to make up an issue. The Democratic party, with an instinctive love of truth and justice peculiar to themselves, did tender all these issues; but will the gentleman pretend that the Whig party accepted them, or went to the country upon them? If so, when, where, and by whom was it done? Certainly not in Philadelphia. Certainly not here. Certainly it has not transpired that any one duly authorized to speak for the Whig party did, at any time or place anterior to the late Presidential election, accept the issues tendered. On the contrary, we were everywhere told that the old issues were buried, and that we were before the country on other new and more important issues. And have these new and important issues so soon been forgotten? Can it be, that in six short weeks after the election is over, the distinguished gentleman does not even dare allude to them in a speech bearing evident marks of preparation? Must the defunct issues be so soon summoned from their sepulchres, and the new ones be sent to take their places? When the gentleman comes to write the history of his own life and times, he may perhaps enlighten the world as to the origin of that overruling political necessity which has induced this sudden abandonment of new issues—this longing after old ones. Summon the old issues, if you like. Call them from their tombs of martyrdom. But let me tell you, the new ones "will not down at your bidding."

Mr. HUNT interposed, but the reporter did not catch his remark.

Mr. BROWN. The gentleman says it was always understood that the Whigs were opposed to the independent treasury. But did they, as a party, say so in the last contest? That is the question. Did they give the country distinctly to understand that this measure was in issue, and that General Taylor's success would be followed by the instant repeal of the independent treasury law? I undertake to say, no such authoritative declaration was ever made. On the contrary, the people were everywhere assured that the old party issues were withdrawn, or were permitted to sleep, to the end that the full measure of a nation's gratitude might be meted out to the successful general—the chieftain who had led our armies in triumph and glory through "an unnecessary, unconstitutional, unholy, wicked, and murderous war."

But, says the gentleman, the tariff of 1846 was also overthrown in this general denunciation of popular fury. Indeed! And pray, sir, who put that measure at issue? We shall again be told, I suppose, that the Whigs were understood to be opposed to the tariff of 1846, and in favor of that of 1842. However this may be, Mr. Chairman, as a general party rule, it does not hold good in every instance; for I well recollect to have heard the ablest and most eloquent of the Whig orators in my part of the Union, declare their entire satisfaction with this measure. As a measure of revenue it seemed, they said, thus far, to have answered the purposes of its projectors; and so long as it continued to do so, they were satisfied to let it alone. But again, let me remind the gentleman that this measure was not in issue by any competent party authority. The President elect is not a party man, and is not going to lend himself to any party schemes, if we may believe his own emphatic declarations, repeated time and again, throughout the whole of the late Presidential canvass. How dare the gentleman claim his election as a verdict for or against any party measure? Why, sir, to this day the gentleman cannot himself say what General Taylor is for or against.

There are other great measures of the Democratic party, such as vindicating the national honor and exacting a due and proper regard for our national rights. By a steady observance of these measures, this Administration has settled a dispute with England of near fifty years' standing, and has flogged Mexico into a decent respect for our national flag. All this, the gentleman says, has passed under general condemnation.

The President has repeatedly and earnestly recommended the reduction of the price of the public lands. The Secretary of the Treasury has urged the same great measure with zeal and ability. This, too, has been condemned. It will be news to my Democratic constituents who have been inveigled, by specious Whig promises adroitly put forth, into voting for General Taylor, that they thereby passed their verdict of condemnation upon this, to them, the most interesting of all the great political questions.

Not only have the people pronounced against all the measures of the Democratic party, but, in the gentleman's judgment, they have pronounced in favor of all the Whig measures. Let me ask my honorable friend, what financial scheme for the collection, safe-keeping, and disbursement of the public revenue is to take the place of the independent treasury?—or do I offend in asking the question? Must I assume that the "obsolete idea" is to be revived—that we are to have a national bank? I pause for a reply.

Mr. HUNT. The public money may be collected and safely disbursed, without the agency of either a bank or sub-treasury.

Mr. BROWN. How?

Mr. HUNT replied, that no difficulty had been found in collecting the revenues in the ordinary currency of the country, and making the disbursement without loss, by exercising the same judgment and discretion which governs prudent individuals in their own affairs. On the subject of a bank, he had only said there was no occasion for the President to revive that discussion at this time in his annual message.

Mr. BROWN. I accept the gentleman's answer. In the remarks to which I am replying he took the President seriously to task for discussing the bank question in his late annual message. He now says there was no necessity to revive that discussion at this time. Why not, pray? Is not a bank one of the measures revived in the late Whig victory? Why this chariness of your old friend? Must the bank sleep on in its deep, cold grave, whilst all Whigdom is redolent with joy at the resurrection of its kindred measures? Or are you afraid that the old Jackson men, who aided you in achieving your triumph, will raise the war-whoop if you exhibit the carcass of the "old monster?" I commend your prudence in not saying "bank" too soon to the Democratic supporters of General Taylor.

But what can the gentleman mean by the Government's collecting, safe-keeping, and disbursing its revenue without the agency of banks, in the same way that a prudent and discreet individual would do the same thing? Need I tell the gentleman, that whenever the Government collects and disburses its money like a discreet man of business, the sub-treasury is then in full operation? This is the sub-treasury in all its length and breadth. It simply proposes that the Government shall collect, keep, and disburse our money in the same way that a sensible and discreet business man would collect, keep and disburse his money. After all, sir, the sub-treasury may not turn out such a raw-head-and-bloody-bones as my honorable friend supposes. I commend it to his attention as a thing worthy of his confidence, and eminently entitled to his support on the grounds just taken by himself.

A mighty cause of complaint is the "profligacy and corruption" of the Administration. These phrases are too often applied to the President of the United States. Coarse in themselves, worn threadbare by constant vulgar use, they are singularly out of place in the speech of a gentleman so remarkable for his courtesy as the gentleman from New York. Charges of "profligacy and corruption" are never made by one member against another, by a Representative against a Senator, or by one gentleman in private life against another similarly situated. We all know to what results such charges, if made in any of these cases, would certainly lead. Is it, then, in good taste thus to assail the President, simply because he is President? I will not say that the known fact, that such charges when made against the President involve no personal responsibility, encourages their repetition. But this I will say, the very fact of knowing that we may assault a man with impunity, should forever induce us to speak to and of him in language free from insult. The President is, in an eminent degree, the custodian of the national honor; and whoever degrades the President, to some extent degrades the nation. And for this, if for no other reason, I would wish to see gentlemen more circumspect in their language, and more forbearing in their censure.

What does the gentleman mean by the profligacy of the President? If he means to say the President has made a profligate or wasteful use of the public money, I take issue with him. The public money has been used for the purposes for which it was appropriated by Congress. The gentleman knows very well that not one dollar can be drawn from the treasury but in pursuance of lawful appropriations; that the President is, in fact, further removed from the public money than the gentleman or myself. For though the world were at stake, not one dollar can he take from the national treasury until the members of this House first vote the appropriation. If there has been "profligate and wasteful appropriations," to the gentleman and his party belong the responsibility. It is well known that on that side of the House appropriations of every kind find a majority of their supporters. I do not say that these appropriations are profligate, least of all do I say they are corrupt I say the President is not, and that the Whig party is, responsible for the voting of these appropriations.

Mr. BOYDEN (interposing, and the floor being yielded) said the President should be called upon to declare in what manner the money had been expended which was collected under contributions levied by his order in Mexico.

Mr. BROWN. There is no difficulty on that point. The money was expended in subsisting our brave troops in Mexico, and to my mind it was a wise, patriotic, and just use of it. I am not displeased, Mr. Chairman, that the gentleman from North Carolina has thought proper to introduce this topic. It gives me an opportunity to say a word in reference to it, which otherwise I may not have had. When the point was first presented as to the President's right to collect duties in the Mexican ports temporarily in the occupancy of American troops, the learned gentleman from Pennsylvania [Mr. C. J. INGERSOLL] admitted the right to collect, but intimated his doubts as to the power to disburse the money thus collected. I thought then, as I do now, that the right was clear in both cases. If the American general had found a million of dollars in the custom-house in the captured city of Vera Cruz, no one would have questioned his right to take possession of it. It would not only have been his right as the conqueror, but it would have been his duty to have seized such treasure. If he could seize money already collected, might he not also seize such as was subsequently collected? Will it be seriously insisted that the American general would have discharged his duty to his country if he had permitted the Mexican authorities to go on collecting duties at Vera Cruz, after the city was in his military possession, and have stood by while the funds thus collected were quietly handed over, to be used in arming and subsisting the enemy's forces? Such a proceeding could not and would not have been justified. Should he then have closed the ports against our own and the commerce of neutrals, would not our merchants and those of friendly nations have had just cause of complaint against such a rigid use of military power? What, then, was his manifest duty? To admit the commerce of all countries upon terms at least as favorable as those imposed by Mexico, and see that the duties were faithfully kept from the hands of the enemy. True, he may have done this by allowing the Mexican collector to continue in performance of his duties, and establishing a sort of surveilliance over him, to see that he faithfully accounted for the money collected. It was much easier, however, and much more compatible with the relative position of the two Powers, to dismiss the Mexican and appoint an American collector. This was done, and less could not have been done, short of allowing collections to go on for the use and benefit of the Mexican army.

Mr. BOYDEN again interrupted, to say that the President's contributions upon imports in Mexico were not levied upon the Mexicans, but upon the commerce of American citizens, when they arrived in those conquered ports. What right had the President to levy his contributions upon American citizens?

Mr. BROWN. The contributions were levied upon all commerce alike. Neither our citizens, nor the citizens and subjects of foreign friendly Powers had any just cause of complaint, since the American tariff of duties was less than Mexico herself had collected. I may not fully comprehend the gentleman. Do I understand him to insist that the President had no right to order the collection of duties in the Mexican ports captured by our arms?

Mr. BOYDEN. No, sir; but I do insist that, under the pretence of levying contributions upon the enemy, the President has no right to take the property of American citizens, and to convert it to the purposes of his will, without any authority of law whatever.

Mr. BROWN. The gentleman seems to be interposing a new point. I do not understand that the President ever directed the property of American citizens to be taken and converted to his own or the purposes of any one else; but I do understand that American merchants, by his order, entered the Mexican ports upon terms of equality with those of England, France, Spain, and other countries. And if an American merchant pays duties in New York for the support of his Government, can it be a very great hardship if he does the same thing at Vera Cruz? Our merchants would not have gone into Mexican ports unless it was to their advantage to do so; and if they went, it was with the full expectation of paying duties to some one. It would, I think, be a most unworthy imputation upon an American merchant to say that he was more willing to pay a heavy duty to the Mexican Government than a light duty to his own.

Mr. BOYDEN. The gentleman has mistaken my position, or he understands only a part of it. I complain that the money was improperly taken by the President, and used without the authority of law. A tax was improperly levied upon the property of American citizens, under the name of levying contributions upon the enemy; and it was given out that the money collected under this pretence was expended in carrying on the war. But how did we know that? Does not the Constitution prescribe that all appropriations for carrying on war shall be made by Congress? How, then, could the President expend this money? He not only levied his contributions without authority, but he expended the money so collected in open violation of the Constitution, and without the slightest authority of law.

Mr. BROWN. I recognize the gentleman's right in its broadest latitude: when he finds he has a bad hold, to let go and take hold again; and if the gentleman shall want again to mend his hold, I will again give way. If I now fully comprehend the gentleman, the point to which he specially desires attention is, as to the constitutional power of the President to direct the use of the money without an appropriation first made by Congress. Does the gentleman regard contributions of this character as money in the treasury, within the meaning of the Constitution? If so, he and I differ widely on that point. I regard it as property captured of the enemy, to be used, if need be, in conquering that enemy, and to be accounted for in no otherwise than as other captured property. Suppose General Scott had captured in the city of Vera Cruz a thousand barrels of flour and fifty thousand cartridges: could he not have used these articles in prosecuting the war without the special leave of Congress? Suppose his soldiers had wanted bread—suppose, in the midst of the action, his cartridges had given out: must he say to the hungry soldier, You shall not eat, Congress has not consented that you should consume this captured bread, and I have no other? or must he cease firing in the midst of the action, because he cannot shoot a captured Mexican cartridge until Congress has given its consent that it may be thus used? Gentlemen smile, and well they may, for nothing can appear more ridiculous, unless it be the proposition gravely put forth by the gentleman from North Carolina, that if General Scott had been without bread, without transports, and without munitions of war, he could not purchase them with this Mexican money in his hands until Congress had first appropriated it. The contribution was levied as a means of distressing the enemy; and, in my judgment, the levy was right. It was used, when collected, in subsisting our army; and there could have been no better disposition made of it. I am satisfied with the whole affair, and I make no doubt the country is satisfied.

The gentleman from North Carolina has led me off from the points I was discussing. I was about to show, when the gentleman interposed, that my friend from New York was wholly mistaken in the assumption that the people, at the late Presidential election, had condemned the independent treasury, the revenue tariff of 1846, and other kindred Democratic measures. Let us take the independent treasury by way of illustration: the gentleman says it was condemned in the election of General Taylor. I pass by the point that General Taylor, so far as the world knows, is as much for as against this measure; and I give the gentleman the full benefit of his claim, that all the votes polled for the General have pronounced against the independent treasury—and then how stands the case? General Cass was known to be in favor of this measure. Mr. Van Buren claims to have been its father; and however he may have strangled other of his political offspring, he has ever shown an abiding parental affection for this. Now, it so turns out that the two friends of the measure have, together, polled a popular majority of one hundred and fifty-two thousand votes over General Taylor. And, sir, if it be true, as has been asserted by my honorable friend, that this great measure was an issue, and that the people voted in reference to it, then has it triumphed, and it now stands before the world endorsed by the approving voice of a popular majority of more than one hundred and fifty thousand free American electors. And what I say of this measure is equally true of all the others enumerated by the honorable gentleman.

Mr. HUNT inquired if the gentleman intended to claim the vote for Van Buren and Adams as part of the Democratic vote? If he chose to figure out a majority in that way, it was not for him to interfere.

Mr. BROWN. I claim them on the gentleman's own assumption that the independent treasury, the revenue tariff, and other Democratic measures were in issue, and that the late Presidential election had been conducted in reference to those issues. This being the case, I maintain that the friends of these measures have polled the largest popular vote by one hundred and fifty thousand, and that the measures are therefore triumphant before the people, and have only been defeated in the electoral college by a division among their friends.

Just here the gentleman would, I have no doubt, be glad to interpose the Free-soil issue, and I might justly deny his right to do so, since he made a speech closing seven minutes before the expiration of his allotted hour, and wholly neglected to mention the question of Free-soil. The gentleman found time to mention almost every conceivable question that *was not* in issue, and closed his speech, with seven minutes of time left, without alluding in the smallest degree to the only question that *was* in issue—I mean the question of Free-soil. Why was this? Has it been found difficult to unite the Whigs north and south on this issue? After running General Taylor at the North as a better Free-soil man than even Van Buren himself, and at the South as the very prince of slave-holders; after obtaining the anti-war vote of the North by one story, and the votes of the war-party at the South by another story; after traversing the Republic from north to south, representing General Taylor as being "all things to all men," thus obtaining for him thousands of Democratic votes, it is very convenient to forget the real points of the canvass, and claim a victory on other points not introduced, and never discussed before the people.

May I ask the gentleman whether he did not himself tell the people in his district that General Taylor would approve of the Wilmot proviso?

Mr. HUNT. I said I had no doubt of it.

Mr. BROWN. Now, Mr. Chairman, if I should ask you or any other southern representative what you told your constituents, I should be assured that you told them General Taylor never would approve the proviso.

Mr. HUNT interposed, to say he would like to know what the gentleman from Mississippi told the people on that subject.

Mr. BROWN. I told them General Cass would never approve of the Wilmot proviso, and it was my opinion that General Taylor would.

Now, let me ask the gentleman whether he did not assure the people of New York that we should have a Free-soil administration if General Taylor was elected?

Mr. HUNT. We expressed our willingness to leave that question to the representatives of the people.

Mr. BROWN. And you, Mr. Chairman, and your southern colleagues, told your constituents that General Taylor would stand by the South on that question.

What I maintain is, that you have no right, after obtaining a victory by such means as were employed in the late Presidential election, to come into this House, in six short weeks after closing the drama, and claim a victory on points notoriously not in issue, and omit all mention of the great point on which the election notoriously turned north, south, east, and west. I say again, that on this slavery question, you made General Taylor all things to all men; and it has been by such means that your boasted victory has been won. And now, sir, let me ask the gentleman from New York, if I was not right in the beginning, when I said it was fortunate for the truth of history, and for the correct instruction of mankind, that political tricksters were not the most accredited historians of their own lives, times, and tricks?

A word in conclusion, Mr. Chairman, as to what the people have *not* decided in the late Presidential race. Rely upon it, sir, they have not decided in favor of Whig measures—they have not decided against Democratic measures. Thousands and tens of thousands of voters in the North have been brought to General Taylor's support on the Free-soil issue. Other thousands of honest, upright Democrats have voted for him as a no-party man. Whilst, by the glare of his military fame, he has carried captive the enthusiastic and ardent youth of the country. You and I, Mr. Chairman, know very well what means were employed in the South to commend the General to Democratic voters: how General Cass was denounced as an Abolitionist—a political weathercock—a man of no fixed principles—a very political Judas, standing ready to betray the South with a kiss: how General Taylor was set down as the exact counterpart of all this—a patriot, with nothing to serve but his country—no party ties to bind him—no party wrongs to vindicate—no fixed political prejudices to gratify—a man like Washington, who had filled the measure of his country's glory, and was best deserving his country's highest honors. Banks, tariffs, distributions, were all repudiated—party lines were wiped out—a political millennium was at hand—General Taylor would scorn all party rules, and be the President alone of a great, happy, united nation of brothers—and above all things, his warm southern affections would bind him to the South and to southern institutions as with hooks of steel. It was by means like these you carried to his support thousands of Democratic voters. Whether all of these, or any considerable portion of them, will continue to follow his political fortunes, remains to be seen, and must, I think, depend on circumstances.

As a Democrat, I could wish General Taylor no worse fortune than to follow the counsels of his friend from New York. If he undertakes to uproot all the wise measures of the Democratic party and to substitute Whig follies in their place, I take it for granted his Democratic supporters will abandon him; and this done, your boasted triumph will turn out a barren victory. The gentleman from New York seems to have his misgivings, for he dare not go so far as to commit his party for a bank, though he has no doubt, I suppose, it ought and will be established.

The people are now, have been, and always will be, in favor of Democratic measures, because these measures proclaim equality among men—not social, but political equality; not equality in mental or physical proportions, but equality in the possession and enjoyment of every right under the laws and Constitution. Democracy proclaims no moral, social, intellectual, or religious equality. In all these we admit that one man rises above another as do the stars in the firmament rise above the clods of the valley. But our code recognizes no political distinctions among men. Equal and exact justice to all, special privileges to none, is our motto. It is because in practice the Whig leaders repudiate this doctrine that the masses always have and always will repudiate the Whig leaders. What is your doctrine of protection but a cunningly-devised scheme to build up a privileged order in the country—to grant immunities and political rights to the favored few which must of necessity be denied to the toiling millions? What your banking system but a system to plunder the many for the benefit of the few? And so of all your measures, of all your policy. What right has the manufacturer to demand the passage of laws for his special protection? And how dare you, in this land of equal laws, sanction such demands? Shall the banker have laws to legalize his frauds? Shall he be allowed to loan his credit at usury, whilst the honest laborer may only take lawful interest for his hard-earned dollars? Your whole system is a system of favoritism. Your motto has always been, Let the Government take care of the rich, and the rich will take care of the poor. Well may Whiggery rejoice in this the hour of its triumph, for a day of reckoning will come. Let Democracy be of good cheer, for the day will be when the people shall winnow the harvest and separate the false from the good seed. In that day Democracy will be stored in their heart of hearts, but Whiggery will be scattered as chaff before the winds.

MR. HUNT, OF NEW YORK.

Mr. HUNT next obtained the floor. As he had no idea of being drawn into a discussion of this character at the present time, he should not, for the few minutes remaining before the hour fixed for the close of debate upon the bill before the committee, go into an examination of the issues taken, and the principles which prevailed, in the late

Presidential canvass. He merely desired to be indulged in a few words, maintaining the correctness of his former positions. He thought the result of the late election spoke for itself. The party having the reins of government came before the people upon such issues as it chose to make for itself, and asked for a continuance of power. They published their measures before the country. They placed the name of their candidate before the people, and with it their declaration of measures. The Whigs took issue with them, here and elsewhere, avowing themselves to be opposed in principle and policy to their whole scheme of measures.

Mr. BROWN interrupted to ask a question, and (the floor being yielded) said he understood the gentleman to affirm that issue was taken "here and elsewhere," upon the principles presented by the Democratic party. Did the gentleman mean, by the phrase "here and elsewhere," that this issue was taken by the Philadelphia Convention?

Mr. HUNT replied, that the delegates to the Philadelphia Convention were sent there to select candidates, not to produce or promulgate political doctrines. It was unneeessary for them to make a declaration of principles. Our opponents may invent and modify their doctrines, and issue a new *pronunciamento* at pleasure; but the Whig party had principles which were well known—they were ancient, binding, and enduring. The great principles of the Whig party are unchanging; they will stand forever. He had not time, nor was it necessary to enlarge upon them now, nor would he allow himself to be drawn away from his purpose into a discussion of abstract questions. The Whigs, he said, accepted the issues presented by the supporters of the present Administration; and, so far as he knew anything about the contest, it was conducted with reference to the principles which had divided parties in this country for years past. It was very true, that the Free-soil question had become a topic of agitation, and in some parts of the country, he had no doubt, it was considered paramount to all other questions. But it was not so with the great body of the Whigs. Whatever sectional differences may exist among them, they are bound together by common sentiments on great questions of national interest. They had no idea that this Government was to be controlled and administered with reference to any single question whatever. They wished the Government to carry out the great national purposes for which it was created. They had no desire that the Government should be administered otherwise than in a spirit of justice and equality toward the whole country. His own views on the subject of slavery and its extension were well known; but in the recent contest the Whigs of the Union had united and acted together on broad national grounds; and on the subject which the gentleman urges, he believed they were prepared, in both sections, to abide by the deliberate action of Congress.

Mr. McCLERNAND (interposing, and Mr. H. yielding) said he desired to ask the gentleman whether it was the purpose of the Whig party to undertake the restoration of the Whig policy generally, under the auspices of the incoming Administration?

Mr. HUNT replied: If the gentleman is patient, he will learn in due time. He would tell the gentleman that it was intended to restore and establish that enlightened, national policy, which should best carry forward the country in its career of greatness and prosperity, instead of pursuing the narrow, partisan policy, which had marked its course for years past.

Mr. McCLERNAND (interposing again) desired further to ask, whether he was to understand by that policy, the erection of a United States bank, the establishment of high protective duties, and a distribution of the proceeds of the sales of the public lands?

Mr. HUNT continued: He believed there were but four or five minutes remaining now before this debate would be closed, under the order of the House, and it was evident that he had not time to respond fully to the gentleman's interrogatories. He should say nothing about the precise course of action that may be adopted in regard to particular measures. They would be taken up in due season, and no doubt wisely disposed of. He would merely say, however, that the protective policy had never been abandoned; the country will insist on such reasonable discriminations as are necessary to sustain American industry.

He believed that the gentleman from Mississippi [Mr. BROWN] had not imputed to him any intention to misrepresent; and notwithstanding all the gentleman had said, he still believed it would be found, that what he had stated in the speech referred to was literally in accordance with fact. For the truth of every point asserted in that speech he was still willing to appeal to the people. It was known to all, that in the late Presidential canvass, the Whigs assailed the conduct and policy of the party in power. They asserted the independence of Congress and the constitutional supremacy of the legislative department of the Government; and they appealed to the people for a restoration of that principle. These were the issues distinctly presented: and how it was, in the face of the decided expression of public sentiment resulting from that canvass, that the gentleman from Mississippi could still declare that the people were in favor of the measures generally of the existing Administration, was most surprising to his mind. He had no expectation of meeting any gentleman so bold as to avow such an opinion at this time. If the people wanted this dynasty, or another like it, they would have said so. He admitted that he had declared the present to be a profligate Administration—that it had used its power for the promotion of mere party purposes and ends, without reference to the public welfare, and without being very fastidious as to the means employed. That was what he had said. He asserted, and believed he had proved, that the present Executive did not possess the confidence of the country.

Mr. BROWN (interposing) said, the gentleman had now charged the Democratic Administration with using power for the political advantage of its friends. It was only a few days since the Whig majority in this House attempted to use their power here for the advantage of their political friends: and if such things amounted to corruption and profligacy in the Democratic Administration, should they not bear the same reproach when practised by the Whigs?

Mr. HUNT replied that he was not speaking of the appointments to office, but the partisan character of every prominent measure of the Administration. It seemed to be the great aim of the Administration, in all its movements, to prolong its policy and power. With this Executive, the interests of the country are always subordinate to the success of party. Why was it that the President was continually running into labored arguments in vindication of extreme partisan measures—free trade, the sub-treasury, the war, the veto, &c.—and indulging in the most unmanly reflections against his opponents? How often had the President of the United States, in his messages to Congress, imputed a want of patriotism to those who were opposed to the war, and who sought to put an end to its calamities? It was the arrogance of the Administration which the people intended to rebuke, the wanton usurpations of the Executive, and the exercise of power for the promotion of party ends. It was the declared will and purpose of the people, in the late canvass, to restore and bring back the course of governmental power to the orbit prescribed in the Constitution, and to drive out of power the men who have labored to reduce this free government of ours to an agency for the promotion of mere party purposes. We were told the other day by a supporter of the Executive, that he had proved himself "the President of the Democratic party." That declaration was most true, and he admired it for its truth. The present incumbent has evidently regarded himself as the President of a party. He trusted we were soon to have a President of the United States who will consider himself the Chief Magistrate of the nation; a man whose patriotism is as broad and expansive as his country, and who will regard himself as the honored servant of the whole people, to administer their highest trust, rather than the ignoble instrument of faction.

Mr. HOUSTON, of Alabama, interrupted Mr. HUNT, and complained that his language had not been correctly quoted, and contended that he had spoken of the President of the United States in a particular connection, and then added that he was President of the Democratic party upon that question.

Mr. HUNT replied that the House heard what was said by the gentleman from Alabama on a former occasion. He made no objection to the gentleman's original declaration, nor did he see that it was materially changed by his present explanation.

In the midst of this exciting colloquy, the hour fixed for the termination of the debate expired, and the committee proceeded to vote on the bill.

RELATION OF THE FEDERAL GOVERNMENT TO SLAVERY.

SPEECH OF MR. J. R. GIDDINGS,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1849,

In Committee of the Whole on the state of the Union, upon the bill to provide for carrying into effect the late Treaty with Mexico.

Mr. GIDDINGS said, that he regarded speeches made here as profitable only so far as they elicited truth. If, therefore, (said he,) any gentleman shall discover me to be in error upon any matter of fact or of law, I will regard it as an act of friendship if he will set me right. I make this remark, as some gentlemen during this debate have refused to be corrected. If I labor under error, I desire to be set right at the earliest possible moment, before I impress my error upon any other human being.

The bill before us has opened up the important question of the relation which this Federal Government holds to the institution of slavery. The exclusion of that institution from our new territories, sustaining it in this District, and the maintenance of the slave trade here, have all been ably and eloquently debated. I have no hope of bringing any new views before the committee, although I may perhaps present those already advanced in a connection different from those who have gone before me.

On that ill-fated day when this House adopted the war which had been commenced by the Executive, I saw, or thought I clearly saw, the present difficulties into which we have been precipitated. These difficulties I pointed out in an humble speech which I had the honor of delivering to this body on the day following. During the whole period of hostilities we were all conscious that it was the design of the Executive to acquire territory, principally for the purpose of spreading the curse of human bondage over it. Gentlemen of the two great political parties then united in sustaining and continuing the war, with our present position in full view before them. During the progress of the war we constantly cautioned our southern friends, we assured them, that if territory were obtained we should not consent to abolish freedom therein. They now speak of the amount of southern blood shed in that war. It was their own folly. They knew that our army was fighting for the purpose of bringing these questions before us for decision. They now talk of its dangers. Sir, they should have reflected on that before the declaration of war; they should have listened to our advice, and avoided the dangers which we so distinctly pointed out. If our maintenance of liberty be dangerous, that danger has now become unavoidable. We hope to meet it in a proper manner, as becomes freemen.

In the arguments of southern gentlemen there seems to be a fundamental error common to them all. *They assume that this Government was founded, at least in part, for the support of slavery.* They insist that southern oppression is as much entitled to the encouragement and fostering care of the National Government as are the liberties of the people for whom we legislate. They seem to have overlooked the great object which the founders of our institutions had in view. That design stands recorded on every page of our history: they left perpetual monuments on every battle-field of the Revolution, proclaiming, in unmistakable language, their hostility to oppression and their devotion to freedom. No class of men, at any period of the world, were more inveterately opposed to slavery than were the founders of this Government. In setting forth the reasons which induced them to separate from the mother country, and to found

an independent sovereignty, they declared that the objects of government were to secure the *lives* and *liberties* of the people. It was hostility to slavery of every description which impelled them to action.

Every argument, therefore, based on the assumption that we are, to any extent or in any manner, to shape our legislation for the encouragement or maintenance of slavery, must of course be erroneous. If we carry out in good faith the intentions of those who framed our institutions, we shall devote our energies to the support and encouragement of freedom, limiting our efforts in this respect by the Constitution, so as not to interfere with slavery within the States. There it is beyond our reach: we cannot interfere with it. But to encourage its existence even there, would be a violation of every principle which controlled the action of those who achieved our independence, as well as of those who framed our Constitution.

Here, then, is the precise point on which the advocates of slavery and the supporters of liberty differ: We demand that our whole legislation shall be in favor of freedom, of justice and humanity; they insist that we are to place slavery, injustice, and crime upon the same level, and to bestow upon each the same attention and encouragement. Differing thus as to the essential elements of our compact, it were impossible for us to arrive at the same conclusions in our arguments. The controversy is therefore radical. It involves the most vital principles of our association.

Of all the erroneous sayings common to our country none is more unfounded than the very common assertion, that "*slavery is guarantied by the Federal Constitution.*" We hear it repeated in this Hall, and we read it in official documents, and gentlemen appear to regard it as an established maxim, by which we are to guide our legislation. I have often requested those who repeat this assertion to point me to the article, section, or clause of the Constitution which *guaranties slavery.* I most respectfully made the inquiry, in the presence of the House, of the gentleman from Virginia [Mr. MEADE] who sits opposite; but he failed to name the clause, or section, or article.

Now, sir, I desire to elicit truth, and to expose error. I am surrounded by the ablest statesmen of the South, by men who insist that slavery is thus guarantied to them: I therefore respectfully desire any one of them now to inform this body and the country on what clause of the Constitution they rely to sustain the assertion to which I have alluded. To enable any one to do that, I now proffer to him the floor.

[Mr. GIDDINGS here paused for some moments, and then resumed.]

Mr. Chairman, here, sir, is a most important error, either on my part or on the part of those who assert that the Constitution guaranties slavery. If wrong, I desire to be corrected now, before this body, and before the American people. I call on gentlemen, in respectful terms, to show the grounds of their faith on this point. They sit in silence. No one is willing to hazard his reputation by attempting it. Sir, there is no such guarantee. *The people of the North have been deceived on this point. The pretence is entirely without foundation.* I therefore repeat, that the proper constitutional attitude of this Government is in favor of liberty, and opposed, unyieldingly opposed, to every form of oppression, where we possess the power to legislate.

The doctrine, that we are bound to encourage and perpetuate slavery is of recent origin. It was never asserted until 1843. Prior to that period, the doctrine which I have laid down was admitted by statesmen from all portions of the Union. An attempt was then made to change the fundamental principles of our Government, and to transform it into a slaveholding, a slave-sustaining Confederacy. The great apostle of southern slavery stood forth as the advocate of this new theory. He went out of his way to argue the humane character of slavery in his official correspondence, and to point out the dangers of freedom to the colored race. He went further, and endeavored to show that it was the duty of this Government to uphold, extend, and perpetuate an institution abhorred by nearly all civilized nations. He, sir, is a bold and honest statesman. He speaks his thoughts, and leaves no doubts as to his position. For this, I honor him. He was born and educated in a land of slavery. His interest has at all times been identified with that institution. His prejudices are in favor of it. It is interwoven as it were with his very existence. This is his misfortune: for that I will not reproach him. The great error of that distinguished gentleman and his coadjutors consisted in pressing their favorite theory *too far.* This new doctrine was carried into practice by the annexation of Texas. The war and conquest which followed, and the present efforts to appropriate our Mexican territory to the blighting curse of slavery, has precipitated upon us the important questions now pending These circumstances have aroused the northern people to examine their rights. For years individuals had endeavored to awaken the northern sentiment to the protection of northern rights; but it was in vain. Southern aggressions have accomplished a work which northern philanthropy attempted in vain. A portion of our northern people have taken their position distinctly in favor of separating this Government from all interference with slavery in the States, and of hostility to it in all places where we have the power to legislate upon the subject.

This position of northern men has called forth a convention of southern statesmen. They have issued an address to the people of the South. Upon that address I propose to bestow a few remarks. I wish to approach it with no feelings other than a desire to ascertain truth. Those gentlemen evidently think their rights are invaded. They are dissatisfied, and have sent forth an address stating their grievances. As a member of this body—as a lover of justice—it becomes my duty to inquire into the cause of discontent, if it exists among any portion of the people, either north or south; and if any just cause of dissatisfaction is found, we ought at once to remove it. This is a Government *of* and *for* the people. It should be administered to the satisfaction of all, so far as may be compatible with justice and the Constitution.

With these feelings I cannot but regret the attempts which are made to array unmeaning prejudices against those southern members who constituted the Convention alluded to. It has been called a "Disunion Convention," a "Hartford Convention," and other terms of reproach have been applied to it. We ought to use only the arguments of truth and justice. Those gentlemen not only possessed the right to meet and compare views and deliberate, but if they felt that the rights of their people were invaded, it was their duty to take such constitutional course as they deemed best calculated to obtain justice for their constituents. I have no doubt they were prompted by these desires. They have stated the causes of their complaint. The imputation of improper motives constitutes no answer to the charges they make. To say that the rights of the *North* have been trampled upon, will constitute no legitimate reason for withholding justice from the *South.* Suppose that, under merely imaginary wrongs, they have contemplated a dissolution of the American Union, we should, nevertheless, treat them kindly, and by the force of reason and the presentation of truth, endeavor to set them right. We should bear in mind that oppression, a disregard of our rights, caused our fathers to dissolve the union between Great Britain and these United States: indeed, we all hold "*that whenever any form of government becomes destructive*" to the happiness of the people, "*it is their right to alter or to abolish it.*" Our first duty is, to carry out and maintain the constitutional rights of each portion of the Union; our next duty is, to examine into and remove all just cause of complaint. The most humble citizen is entitled to a patient hearing in this body.

Now, sir, for a moment let us look into this Address, and ascertain why dissatisfaction exists among our southern friends.

The general cause of complaint is, *that this National Government has failed to secure and encourage oppression*—that under its administration men are rending the chains that have bound them for ages—that they are rising from a state of degradation, and resuming the rights with which God endowed them.

We regard this as the best of all possible arguments in favor of the Union. We look upon it as carrying into practice the very objects for which it was formed. These gentlemen, however, evidently think it was formed, not for the purpose of encouraging liberty, but to uphold slavery. Thus I am again brought to this point of divergence, mentioned at the commencement of my remarks. Southern men holding this doctrine shape their legislation to the support of slavery, believing that the legitimate object of our association; while we of the North direct our efforts to the promotion of freedom, believing that the design for which our Government was instituted. Thus we start in different directions, and while we travel, we shall of course increase the distance between us.

This Address will serve in a great degree to inform the country of the true issues between the advocates of slavery and those who are laboring to promote the cause of human rights. We hope that southern men will no longer deal in vague generalities. We rejoice to see them in this Address come down to distinct specifications. This enables us to meet them understandingly, and to compare our views on specific points.

They first complain, that we lend them no aid in the arrest of their *fugitive* slaves. They evidently think that by the terms of our compact we are bound to aid the slaveholder in arresting the bondman who flees from oppression. On this point we are not left without definite information of the intention of those who framed the Constitution.

When Mr. Butler, of South Carolina, moved, in the Convention that framed the Constitution, an amendment making it the duty of the free States *to arrest and deliver up fugitive slaves in the same manner that we are bound to arrest and deliver up fugitives from crime,* Mr. Willson, of Pennsylvania, objected that such a provision would involve the people of the free States in the *expense* of arresting such fugitive slaves; and the motion was withdrawn.

Mr. Madison, in his history of the formation of the Constitution, gives us this information. South Carolina did not then hold the doctrine now maintained by her most distinguished statesmen. Such claim was then spurned by northern men, and was abandoned by those of the South. Our obligations are embraced in the following clause of the second section of the fourth article:

"No person held to service or labor in one State, and fleeing into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due."

These are our stipulations. We are to pass no law, make no regulation by which the person escaping shall be discharged. Our duty thus far is negative. We are *not* to act; we are to refrain from all action, to leave master and slave to themselves.

The latter part of the clause says, "*he shall be delivered up on claim of the person to whom such service or labor may be due.*" How delivered up? This question is distinctly answered by the Supreme Court of the United States, in the case of Prigg *vs.* The Commonwealth of Pennsylvania. They say he is to be delivered up in the same manner that we deliver up our friends to the civil officer in our own State. We are bound to permit the master to take him wherever he finds him. We must surrender him *on claim of the master.* We must not secrete him from the master. We must not defend him against the master; nor are we to rescue him from the master's custody after he shall have taken him. This is the way in which he is to be delivered up, according to the high tribunal which is authorized to give construction to the Constitution: and it is worthy of remark that a majority of the court making this decision were slaveholders. They have determined our duties; I believe them in strict accordance with the intentions of those who framed the Constitution. These slaveholding judges do not pretend that this Government, or the people of the free States, are bound to encourage or sustain slavery: on the contrary, they solemnly declare that our whole duty is to abstain from secreting, defending, or rescuing the slave. These obligations we observe to the very letter. They may have been violated by individuals; but I have never known an instance of the kind. I have heard and read of cases where citizens of my own State have been convicted of violating these stipulations, and have suffered the legal penalties attached to such violation; but no

such case has ever come under my observation, nor have I heard of such an instance in northern Ohio.

It is proper, on such occasions as the present, that we should speak with perfect frankness. I therefore remark, that our people consider these obligations as restraining the exercise of our moral duties. They therefore very properly refuse to go further than is required by the Constitution. Their sympathies are with the slave—such is the ordained law of the human intellect. We cannot suppress the feelings of our nature. We cannot look with indifference upon the panting fugitive as he flies from bondage. We will not do it. We receive him into our houses, we feed and clothe him, and treat him as a *man*. We inform him, teach him his rights, and point him to that immortality that awaits him. Sir, our people know their constitutional obligations on this subject. It is useless to say to them that it is their duty, to assume the character of bloodhounds, and give chase to him who is fleeing from a land of chains and tears. No, sir, they have neither sympathy nor respect for the slave-catcher. We look upon him as a moral pestilence, a legalized pirate. We will not admit him to our dwellings; we drive him from our premises. We regard him as unworthy to associate with any portion of our race.

I understood the gentleman from Indiana [Mr. THOMPSON] and the gentleman from Pennsylvania [Mr. BROWN] and my colleague [Mr. TAYLOR] to say, that in their districts the master who pursues his slave is treated with hospitality and respect. They further said their people aided the master in tracking out the trembling object of his pursuit. It is due to candor that I should assure southern gentlemen that no such beings reside in my district. They would find no associates there. In the language of that eminent patriot, Mr. Gerry, we hold that "*we have nothing to do with slavery in the States; but we will be careful to lend it no sanction.*" We rejoice when we see our fellow-men, who have been subjected to all that is wrong, and barbarous, and cruel, breathing the air of freedom, and wending their way to a land of safety. Nor will we interpose the slightest obstacle; but we will lend them all the aid in our power, without violating the Constitution or laws of the land.

This Address further complains that the people of the North discuss the subject of slavery; that debating clubs examine into its demerits; and that members on this floor denounce it as wrong, as destructive to the best interests of mankind; and that the newspaper press is left untrammeled by a censorship.

This feeling did not exist when the framers of the Constitution solemnly declared, "THAT CONGRESS SHALL MAKE NO LAW ABRIDGING THE FREEDOM OF SPEECH OR OF THE PRESS." The founders of our Government had no idea of rendering the press subservient to slavery. Deeming it one of the bulwarks of liberty, they placed its freedom beyond the power of Congress. They had no thoughts of sealing the lips of freemen, or of members of Congress, in order to uphold and continue the slavery of the South. Yet it is a lamentable truth, that for a time these rights were surrendered, ingloriously surrendered, by northern timidity. Yes, in servile obedience to slaveholding dictation, for a time we established a vitiated state of public sentiment throughout the whole North. Fifteen years since it was regarded as disreputable to discuss the demerits of slavery in our social circles. Our pulpits were silent in regard to the most heaven-daring crimes when connected with southern oppression. Our presses dared not speak the language of freedom; and here, in this Hall, a tyranny more absolute and unrelenting than exists in any deliberative body in the civilized world, held undisputed sway. I speak with some feeling on this subject. I witnessed that tyranny: sir, I *felt* it. For years I sat here under the inexorable rule of the slave power—reproached, assailed, insulted, and driven from my seat because I insisted upon my right, as an American statesman, to speak the sincere convictions of my heart. But, sir, after years of toil, of solicitude, and of responsibility, we have regained the freedom of speech. Do not gentlemen know that we found our right to speak our thoughts both here and elsewhere upon the Constitution, upon the very rock of our political salvation? Do they desire again to seal our lips? God forbid. Do they complain that truth spoken here excites their slaves to strive for freedom? I rejoice to hear such tidings. Would that I were able, from this forum, to make every bondman in the nation hear me. I would teach them their rights, and if truth could instantly effect it, I would, before I resume my seat, strike the chains from every slave in the wide universe. I am perfectly aware that these gentlemen are correct, when they assure the country that these discussions are constantly weakening and relaxing the cords by which the slaves are bound. I rejoice at it. Truth is doing its perfect work. Justice is beginning to assert her rights. The voice of humanity is listened to. Our press of the North is beginning to speak out. The people talk of slavery as they do of other great iniquities. Truth and righteousness are now preached from our pulpits. While Turks and Tartars denounce the sins of slavery, shall Americans keep silence? While the followers of Mohammed are purifying themselves from its crimes, shall Christians uphold and encourage its God-provoking iniquities? Here, in this city, in every street, we meet our brother-man, borne down, trampled upon, and held in the most abhorrent degradation. From the windows of this Hall, we witness the barracoons, these legalized hells, established by our laws, and now sustained by this body. And shall we keep silence? We possess the moral and constitutional right to speak and print whatever shall conduce to the elevation of our race. Duty to our fellow-men and obedience to God, require the exercise of those rights. They will never be surrendered.

Those gentlemen also complain that we regard slavery as sinful and wicked. I presume at this day it would be superfluous to argue that any act or institution which detracts from the happiness of mankind, or inflicts misery and suffering upon any portion of our race, except as a punishment for crimes, is opposed to the design of our Creator, and in violation of his law. I believe this may be regarded as an admitted principle. How is it with slavery? How does the civilized world regard it? How have we as a nation regarded it? When, in 1804, the semi-barbarians of Tripoli seized and enslaved our people, did we not regard it as sinful? Why, sir, we pronounced them "*pirates*" and "*savages*," and sent an armed force to slay and destroy them, as beings unfit to remain on the earth. Their blood flowed and their lives were taken for crimes far less aggravated than are daily committed in this city, under the sanction of our laws.

By the most accurate data we can obtain, the number of human lives sacrificed upon the sugar, cotton, and rice plantations of the South, amounts annually to more than twenty thousand. These murders are effected by driving the slaves so hard as to render their average existence upon those plantations from five to seven years. And will southern gentlemen assert that this worse than savage barbarity is innocent? Does our religion teach this bloody code? Sir, happy would those slaves feel if they could escape from professed Christians, whose hands are dripping with human gore, to the protection of the most unrelenting despotisms of the Old World: or, could they even fall into the hands of the savage Arabs of Morocco, they would regard it as an unspeakable improvement of their condition. Look at the victims of our domestic slave trade! Mark the agony, the horror, the transports of grief which they suffer!—listen to their sighs, their groans, and wailings! Do you believe that a holy, pure, and righteous God, approves the infliction of such suffering? Sir, these gentlemen are correct, when they assert that we regard slavery as a *sin*. We look upon it not only as wicked and sinful, but as compounded of the worst of crimes. It *robs* men of their labor; it *steals* from them their domestic and intellectual enjoyments; it *degrades, brutalizes, and murders them*. For my own part, I can conceive of no greater crime than that of slavery: it is on that account that the Christian world are opposed to it.

Another and principal cause of complaint set forth in this Address, is the expected exclusion of slavery from our newly-acquired territory. In establishing a government there, we have an object by which we are guided. What is it? The answer is given in the American Declaration of Independence: "*Governments are instituted among men to secure the people in the enjoyment of these rights*"—meaning the right to life and liberty. Northern men are now ready and willing to form such a government in California; but our southern friends insist that a government shall be established there by which a portion of the people may be robbed of those rights, may be brutalized, disrobed of their humanity We reply, that such an act would be vitally opposed to the objects for which our Union was formed, at war with the principles of justice, and opposed to the dictates of humanity and the Constitution. This subject, however, has been so fully argued by others, as well as by myself, on former occasions, that I will not detain the committee longer upon it. I will merely add, that the people of the North have examined and considered this subject, and, I think, have made up their judgments in regard to it. Their motto is, "*No slave territory—no more slave States.*"

I again remark, that this Address, in its general aspect, and in each and every particular, is founded upon the erroneous assumption that *this Government is bound to regard slavery with favor, and to uphold and encourage it;* while we of the North hold that the ultimate design of our Constitution is *unyielding hostility to slavery, and every species of oppression, wherever we have power to legislate.*

It is this error into which southern men have so generally fallen, that leads us to differ in relation to the abolition of slavery in this District. By our law of 1801, we took possession of this territory, and extended over that part of it which we now hold the laws of Maryland. In that act we declared that the laws of that State, in force at the time we took possession of the district, *should remain and continue in force.* Among those laws was the entire slave code of that State. This we adopted with the others. By this enactment these laws became "*acts of Congress.*" They are to this *day* sustained and made law by this act of 1801. It is, therefore, solely by virtue of this act of 1801, that slavery exists in this District. It is that which sustains the slave trade. By force of this Congressional enactment, men are bought and sold, women are made the subjects of traffic, and a commerce in children is carried on within this territory, under the jurisdiction of this Government. This view of the subject is taken by the Attorney General of the United States, as well as by all the courts in this District, and by the Supreme Court of the United States. Now, sir, all that abolitionists or free-soil men ask, is the repeal of that law of Congress of 1801. Let that be repealed, and the chains would instantly fall from every slave in the District. This is the doctrine which, for ten years, we have constantly held forth in this Hall. We insist that our power to repeal this law of our own enacting is clear and indisputable. I have never been able to find any member of this body willing to deny this position. Yet we sit here and listen to long and eloquent speeches, denouncing us for attempting to interfere with the rights of slave property here. We have heard a most ingenious argument from the gentleman who has just taken his seat, [Mr. CRISFIELD,] urging that we have not the constitutional power to abolish either slavery or the slave trade in this District. I had hoped that he would have met this position. While listening to his speech I greatly desired to ask him whether he denied the power of Congress to repeal its own law to which I have referred. He, however, refused to be interrupted. I see the gentleman is now in his seat. I feel desirous of knowing whether he and I differ on this subject; and in order to determine that question, I respectfully ask him, whether he denies the power of Congress to repeal that law of 1801, to which I have referred? And I tender him the floor to answer that interrogatory.

Mr. CRISFIELD said he had not been paying particular attention to what the gentleman from Ohio [Mr. GIDDINGS] was saying. But he had refused to be interrogated, and should refuse answering any questions.

Mr. GIDDINGS. Yes, Mr. Chairman, that is probably a more convenient mode for gentlemen to get along with this subject. Evasion, sir, is their only mode of escape. I call on the House and the country to witness that I desire to meet this question openly and candidly. At the very opening of my remarks I tendered to any gentleman who deemed me in error the floor, for the purpose of setting me right. I regard it as a favor to me, and

an act of friendship in any gentleman who will propound to me questions for the purpose of eliciting truth. That, sir, is the very object for which I speak. Now, if the gentleman admits our power to repeal our own laws, then there would be no issue between us in regard to our constitutional authority.

The gentleman, and his colleague [Mr. McLANE] who spoke the other day, insist that we ought not to abolish slavery here, until Maryland abolishes it in that State. Slavery, as I have already shown, exists by virtue of our own laws. Its existence has no more connection with slavery in Maryland, than it has with that institution in Algiers. We, sir, the people of Ohio—of all the free States—uphold and sustain slavery in this District. Its wrongs, its outrages, its crimes, and its guilt, rest on us. To God and to mankind we are responsible. Yet we are told that we must continue involved in all these enormities until the people of Maryland shall awake to the turpitude of slavery. The guilt of sustaining the crimes of that institution sits heavy upon the conscience of our people. They are deeply anxious to be relieved from it. Again, sir, the slave trade carried on here forms a part of the institution itself. But the gentleman from Maryland denies that the slave trade exists in this District, or that slave prisons are to be found in this city, or that persons are brought here from Maryland for sale. Why, sir, this very day I was applied to for counsel in a case where three persons, said to be legally entitled to their freedom, were brought from Maryland, and during yesterday were sold and taken to Alexandria. At the last session I was called on for counsel in a case where a large family was brought from that State and sold south, where, if living, they are now dragging out a miserable existence. But the gentleman denies that there are slave prisons in this city. If he will go to either of these front windows, and cast his eye down Maryland avenue as far as Seventh street, he will see a large brick building, standing back from both streets, its out-buildings surrounded by a high brick wall. Sir, I hesitate not to say, that if he will ask any colored person in the city of ten years of age, they will tell him "THAT IS A SLAVE PEN." I have visited it. I went there to redeem my fellow-man, with "sordid dust," from the grasp of the soul-driver. On my right sits my friend from Pennsylvania, [Mr. MCILVAINE,] who accompanied me. I leave it for that gentleman to give a full description of the scene which we witnessed on that occasion. I have no language adequate to that purpose. The man whom we redeemed was there some six or seven days. He assured us that every night during his stay, slaves were brought in from the country and confined in that receptacle of suffering humanity. When gentlemen deny the existence of the slave trade here, do they intend to charge falsehood upon the venerable Justice Cranch, and ten hundred and sixty-three other respectable citizens of this District, who have assured us that this traffic, with all its horrors and attendant crimes, is continually carried on in this city? There is their petition praying us to deliver them from those painful exhibitions of this slave trade which your law has authorized. Yet gentlemen say there is no traffic carried on here. Will they deny that in April last, Hope H. Slatter, a noted dealer in slaves, marched fifty men, women, and children, victims of this commerce, from the jail in this city, through Pennsylvania avenue, to the railroad depôt, thence to Baltimore, for the southern market, where they now pine in bondage? No man will deny these specific facts. They are known to the whole country. The gentleman from Indiana [Mr. THOMPSON] said that he had seen nothing of this slave trade, and sneeringly remarked that "gentlemen who had *looked for it may have seen it.*" Sir, I receive his taunts with all humility. I am one of those who feel it my duty to look around me and learn the effect of those laws which we enact. I have attended the sale of slaves at auction for this express purpose. I have witnessed the chained coffle as they passed by the very walls of the building in which we are now sitting; where the star-spangled banner which floats over us threw its shadow in bitter irony upon those victims of your barbarous law, which we now uphold and sustain.

Now, sir, I repeat, that this Government was not formed for the purpose of thus robbing men of their rights—of degrading and brutalizing them. It was not for such purpose that our fathers of the Revolution toiled and bled. They struggled to establish a Government that should suppress outrage and crimes like these.

But it is said that this slave trade causes no suffering; that it produces no distress. There is no doubt that great pains are taken to prevent the promulgation of facts which illustrate the barbarous character of this traffic. Generally, the slaves of the District are sold when they are unconscious of the fact. They are sent by their masters to some place agreed upon with the purchaser; there they are seized, gagged, and instantly taken to the slave pen, and few, if any, spectators witness the horrid process. Those purchased out of the city are brought here in the night, and are taken away during the hours of darkness. This caution has increased as the public attention has been turned to the subject; until now but few of its enormities are witnessed by the public.

Some years since, a man of this city, more white than black, having a wife and several children, was informed by his owner that she had sold him to one of those dealers in our common humanity who hover around this city. The man, in a transport of despair, attempted to cut his throat. He was seized, and the wound was dressed; but no sooner was he released from the grasp of those who held him, than he ran to the bridge over the canal on Seventh street, and threw himself into its turbid waters. In death he sought relief from the barbarity inflicted upon him by your laws. If the gentleman from Indiana wishes to know more of this transaction, I refer him to the then Representative from the city of Boston, who saw the body taken from its watery grave the next morning. Nor is it unusual for the victims of this commerce to seek relief in death from those sufferings to which your laws subject them.

At a more recent period, I was told of a young woman, who attempted in the daytime to escape from the establishment situated on Maryland avenue to which I have referred. She was making her way back to her home in Virginia, and while on the bridge over the Potomac, was pursued. Those who sought to arrest her gave the alarm to some men who were coming from the other side of the river. She halted, looked forward, then behind her. She saw that escape was impossible: but one appeal was left—that was to her final Judge. She threw herself from the bridge, the waters closed over her body: her spirit ascended to the "Judge of all the earth." Believe you, sir, that He will hold us guiltless of her blood? Is there no responsibility resting on us, who now maintain these barbarous laws? Yet, sir, these people die, that political parties may be sustained.

A few members are exerting all their efforts to relieve the people of the free States from the stain of such infamy, but all our labors are baffled by those who show themselves anxious to continue these outrages upon humanity. I feel constrained to speak frankly on this subject, to point the people to existing facts.

Sir, the Speaker of this House is a distinguished friend of the incoming Executive. He was an advocate of General Taylor's nomination many months prior to the occurrence of that event. He arranges the committees who hold jurisdiction of this slave trade. A majority of those committees are the avowed friends of General Taylor. The petitions of many thousands of our northern people praying to be released from the guilt of supporting this infamous traffic are sent to those committees, and are by them buried in silence. We can extort no report upon them. Without such report, the friends of humanity can do nothing. There stand the committees, placed by the Speaker between us and the slave-dealers, upholding the law, and encouraging the crimes to which I have referred.

Mr. EVANS, of Maryland, (interruping Mr. GIDDINGS,) said that he understood the gentleman from Ohio to say that the Speaker placed an undue proportion of southern men on those committees, while the facts were that a majority of each committee were from the North.

Mr. GIDDINGS resumed. I had not charged the Speaker with placing a majority of southern men on those committees. I said they were so arranged by the Speaker that all efforts to obtain a report from them upon the petitions referred to their consideration had proved fruitless. They will neither report in favor of continuing the sale of slaves in this District, nor will they report in favor of abolishing it.

Mr. EDWARDS said, they had reported a bill on that subject.

Mr. GIDDINGS (resuming) remarked, that they had reported a bill to prohibit bringing slaves from the surrounding country to this market; but they had left the people of the District (those entitled to our protection) to be bought and sold, at the option of those who claimed to own them. After all the demonstrations of popular feeling, and after the reiterated expression of the sentiments of members in this Hall, those committees still persist in sustaining the slave merchants while they pursue their hated vocation. I would not be uncharitable; but it is my duty to let the people understand facts. No man has a right to complain when his official acts are placed fairly before the public. I will not prejudge General Taylor. I wish merely to call public attention to the course which his leading friends pursue on this floor. They are generally loud in their protestations of devotion to the cause of humanity. Yet no man can doubt, that had they failed to exert themselves to reconsider the resolution of my friend from New York, [Mr. GOTT,] this slave trade would, ere now, have been abolished. At the time that resolution was adopted, a distinguished friend of the incoming Executive, said to be a candidate for the office of Secretary of the Treasury, [Mr. SMITH, of Connecticut,] positively fled the Hall in apparent dismay. Another gentleman, from Indiana, said to be a candidate for a Cabinet appointment, [Mr. C. B. SMITH,] I believe, failed to vote, though he remained in the Hall; and other lesser lights from the North, who are looking for minor offices, voted against the resolution. But it was adopted. And we looked upon the slave trade as abolished. It is said that the slaver-dealers commenced closing up their business, and the slave mother, pressing her child more closely to her bosom, breathed her silent gratitude to God for the prospect that she would soon cease to tremble at the thought that the soul-driver would tear from her the object of her tenderest affections. But gentlemen, leading friends of the incoming Administration, appeared anxious to reconsider the vote adopting the resolution. The gentleman from Indiana [Mr. C. B. SMITH] said he was desirous to reconsider it, as he wanted "some *practical* legislation." What could have been more practical than its entire and instantaneous abolition, I have yet to learn. But both the gentlemen to whom I have just referred, and other northern members, said to be candidates for Executive appointments, voted to reconsider the resolution; and their efforts prevailed. The resolution was reconsidered, and now stands on your calendar never again to be taken up. The slave trade is revived; the dealers in humanity have made new investments; more men have been purchased, more women have been collected, and an increased number of children obtained, for the southern market; and here ends the gentleman's "*practical* legislation." Sir, I am sick at heart, my soul is nauseated with these deceptions, evasions, and never-ending tergiversations. I tried to draw from the gentleman from Indiana [Mr. CALEB B. SMITH] an express avowal of his own wishes. I respectfully asked him, in the presence of the House, whether he desired to continue slavery in this District? But I could not learn. He answered that his opinions were well *known*. Now, sir, they may have been known to himself and to his more intimate friends; but I did not know, and could not learn. He refused to inform me; but he sneeringly said, that "when he submitted the question to the people of this District, *he would not allow negroes to vote.*" I believe that gentleman was born and educated in a State where negroes vote, where the equality of *all men* is recognized. He may now revile the sublime truths, the maintenance of which constitutes the true glory of that "old Bay State" which gave him birth: he may despise the doctrines which gave unfading lustre to the names of Hancock and of Adams: he may pander for the slaveholders; but time will demonstrate to him that the people do not regard that course as the evidence of patriotism.

Thus, sir, are slavery and the slave trade in this District upheld and protected by leading friends of General Taylor. In calling attention to these facts, I shall do no injustice to any man or any party. We shall soon see further developments. Will General Taylor, with these facts before him and known to the country, select his officers from among those who now exert their official influence to protect this slave trade, to sustain crimes which strike us with horror? If he does, such indications will be regarded as establishing the character of his administration. Those members who believe that the powers of this Government ought to be exerted to rob men of their inalienable rights will sustain him; and he will be opposed by those who think such powers should be exerted to secure those rights and to elevate our race.

I am fully aware that a great effort is making to divert public attention from this issue, and to revive old party divisions. But I am of opinion that the experience of the present session has fully demonstrated the perfect hopelessness of that attempt. A portion of both the old parties will, under all circumstances, sustain the doctrine that we are bound to support this system of southern oppression; while a large portion of both parties will oppose it with all the power and influence which they possess.

I need say nothing of the importance of this transcendent question. It is the same issue which led our fathers to the battle-fields of the Revolution. They intended to separate our country from the advocates of oppression—from the influence of those who used civil power to deprive men of their just rights. But the spirit of oppression had taken deep root upon this American soil. It was suffered to remain; and at the formation of the Constitution, it retained possession of the slave States as the only field of its operations. It is ever aggressive. If now demands aid of this Government to extend its sphere, and to maintain its ascendency in this District and upon the high seas. The freemen of the North are now called upon to participate in its crimes and share its disgrace. Shall we comply? That is the question. Shall we assist in subverting the fundamental doctrines of our Government? Are the principles of freedom which we have so long cherished now to be basely surrendered?

The manifestations of popular sentiment exhibited at Buffalo in August last, seconded by three hundred thousand free electors in November, and responded to by the Legislature of nearly every free State, sustained by a hundred presses, now give an emphatic answer.

Tell me not of the *Whig* party, or of the *Democratic* party, while their hands are dripping with the blood of innocent victims daily hurried to their final account by the barbarity of those laws which they support. Whether those crimes be protected by Whig or by Democratic votes, I will not participate in the turpitude.

The time has arrived when parties must separate on this absorbing question. Those who support outrage and crime will be politically opposed by those who adhere to the "self-evident truth" of man's equality. On those truths we base our action. Those who are not with us are against us. There can be no neutrals. Every man is in favor of this slave trade and its attendant crimes, or he is against it. Those with whom I act are opposed to every man and every party who upholds oppression.

We shall put forth our utmost endeavors to strike the chains of bondage from the limbs of mankind, wherever this Government has power to legislate. "*Free soil, free men, and free speech,*" is our motto. If General Taylor and his friends unite with us, we shall rejoice to act with them. They may have the offices, we want them not: we desire to extend liberty to the downtrodden, to raise up the bowed down, to exalt our race. To this object our energies will be directed. And if General Taylor's administration shall be devoted to riveting the chains of servitude upon our fellow-man, to the degradation of any portion of our race, then, sir, we shall be opposed to him. I make these remarks that our position may be distinctly understood.

There is one point on which some gentlemen appear to deceive themselves. They urge the passage of a bill to organize our Mexican territory, in order to silence the agitation in regard to slavery. They should be undeceived. They should distinctly understand, that while the people of the free States are involved in the support of slavery in this District, or of the coastwise slave trade; while Congress lends its powers and influence to rob a portion of the people of their inalienable rights—northern philanthropy and northern patriotism will make their voices heard in this Hall. Nor will they be silenced until this District is rendered *free*, until the nation's flag shall cease to float over cargoes of slaves, and the territories of the United States shall be exempt from the curse of oppression. We wish to deceive no one. We desire all to understand our position. We base our efforts distinctly upon the letter and the spirit of the Constitution. *Separation of the Federal Government and the people of the free States from all participation in the support of slavery*, constitutes our object. Nor shall we relax our exertions while a slave shall be held as such under the laws of Congress.

But myself and political friends are charged with "*agitation.*" What is intended by this language I do not precisely understand. No man accuses us of bringing irrelevant or improper subjects into discussion, or that we speak upon them at improper times; nor do they charge us with misrepresentation or erroneous statements. If they intend by this language to say that we speak truth without disguise, that we do not attempt to suppress facts, then, sir, I admit the correctness of their assertion. They do not deny our doctrines. No man, either north or south, will rise here and take issue on any principle embraced in our political creed. I repeat, that I am wholly incapable of understanding the import of this charge of *agitation* made against the free-soil members of this body. But why do gentlemen complain? Not more than one member in twenty belongs to our party. The others speak nineteen times as often and nineteen times as much as we do; and if we should put forth false doctrines, surely our opponents possess ample means to correct us.

Gentlemen have constantly asserted that northern members were invading the rights of the South. The gentleman from Indiana, [Mr. THOMPSON,] and the gentleman from Pennsylvania, [Mr. BROWN,] and my colleague, [Mr. TAYLOR,] were all understood as imputing to us efforts to interfere with southern rights. For years I have listened to such charges. They seem to be stereotyped. For years I have called on gentlemen to come down from these *general* denunciations, and specify *an instance* in which any proposition was ever made in this body to invade the rights of the South. I have constantly called on them to state *who* made such proposition? To give us the name. When was such proposition made? What was the proposition? To all these questions, a respectful silence is the only answer which I have ever been able to obtain.

There is another complaint made by gentlemen which demands a word of comment. It is said that members are constrained to vote on those questions relating to slavery; that they are not permitted to dodge, evade, and put off subjects of that character. Southern gentlemen are denounced for assisting us to bring these questions to a vote. Well, sir, it is one of the noble characteristics of southern statesmen that they act *boldly*, and they undoubtedly desire to see others show their hands. It is a virtue which I admire. They have never deceived me, and I trust they will do me the justice to admit, that I have at all times dealt frankly and sincerely with them. They desire to know the real sentiments of gentlemen of the North, and therefore wish them to record their votes.

But gentlemen find fault with northern Democrats for voting with us. One gentleman charged them with having changed their course of action on the subject of slavery. And who has not changed on this subject? I well recollect that my late venerable and lamented friend [Mr. Adams] interested me greatly when describing this change in his own mind. We have all changed. But it is said that the Democrats are not sincere in their professions. Of that I can only judge by their acts. The voice of inspiration has taught us to show our faith by our works. If men will speak, and act, and vote right, I will leave the examination of their hearts to "Him who searcheth the heart." But those gentlemen who make this complaint will neither speak, nor act, nor vote in favor of freedom; yet they complain of the motives of others. "O! Consistency, thou art a jewel." I am constrained to regard these gentlemen as sincere, when voting against *freedom*, precisely as I feel bound to believe those sincere who vote against *slavery*.

During the discussions of this body, those with whom I act have been reproached for having supported for President a man who, in former times, was opposed to the abolition of slavery in this District. Sir, the charge is true. Mr. Van-Buren, in 1837, like all our public men of both parties at that time, was undoubtedly opposed to the abolition of slavery in this District. The subject had undergone no investigation by them. They had not even looked into it. Even John Quincy Adams, the distinguished friend of humanity, was then opposed to that measure. The gentlemen who now assail us not only supported the same doctrines at that time, *but they now sustain both slavery and the slave trade in this city, and assail all who attempt to abolish them.* The difference between these gentlemen and Mr. Van Buren is this: he now avows our doctrines; they adhere to the slave trade, with all its turpitude. Indeed, they supported a man who made no professions on the subject; but who is a slaveholder, and whose interest and associations are all in favor of that institution.

It is also true that Mr. Van Buren, while President, followed the example of General Jackson in lending the influence of his office to sustain the coastwise slave trade. In this he complied with the avowed opinion of the Senate. That august body adopted resolutions, as late as 1840, unanimously declaring it to be the duty of this Government to protect those who were engaged in that detestable traffic. Neither Whig nor Democrat then denied the correctness of that doctrine. No man who now denounces Mr. Van Buren, *then* even objected to his policy. Indeed, when I alone, and single-handed, denied its correctness, not one of them stood by me or sustained me in that denial. But the Convention at Buffalo which nominated Mr. Van Buren, declared it the duty of this Government "*to relieve itself from all support of slavery and the slave trade.*" In answer to this doctrine, Mr. Van Buren replied, that "*it breathes the right spirit:*" and he pledged himself to its support. Before Heaven I believe the doctrine to be right. I had no doubt of his sincerity, and I advocated his election cheerfully and cordially. Sir, I would rather have been the author of that letter than to enjoy all the honors that he has ever gained in discharging the duties of President.

Several gentlemen have inquired, rather vauntingly, what we have effected by our labors in the cause of humanity? They will find a very satisfactory answer to this interrogatory in the Address of the Southern Members, to which I have called attention.

When I first took my seat in this Hall, the petitions of our people asking to be relieved from the burden, the guilt, and disgrace of supporting the slave trade, were not received, nor were they permitted to be read; but they were treated with the most marked contempt. I found here that distinguished statesman whom history will describe as the great champion of popular rights, [Mr. J. Q. Adams;] he was laboring to regain the right of petition. His zeal and devotion to that cause were unbounded. His spirit was undaunted, and his energy never relaxed. Who that was then here has forgotten his herculean labors? No difficulties embarrassed, no dangers deterred him. His determination of purpose appeared to be more and more developed as opposition increased. We saw him arraigned at your bar, like a base felon, for no other charge than that of sustaining the right of the people; and as the dark storm of human passions gathered thick, and the tempest raged, and the waves of vituperation and calumny rolled and dashed in wild confusion around him, he stood calm and unmoved in his purpose as the adamantine rock. Who has forgotten the boundless resources of his intellect, or his unrivaled eloquence, or his terrible invective? They were all called forth and exerted in favor of the right of petition. I rejoice that he lived to witness the consummation of his labors. He has now gone to his rest, but the affections of a nation cluster around his memory.

At my first entrance to this Hall, no member

was allowed to speak irreverently of the slave trade, or of slavery. A more unrelenting tyranny never existed in a Turkish divan, than reigned here. The gentleman who now fills the Presidential chair then presided over our deliberations, and most effectually did he exercise his authority for the suppression of truth and of liberty. For years my lips were hermetically sealed on the subject of humanity. Often have I listened for hours to language insulting to myself, to my constituents, and to the people of the free States, without the liberty of saying a word in vindication of those whom I represented, or of expressing in any degree the indignant emotions which prompted the utterance of salutary truth. Often have I seen the venerable and world-honored member from Massachusetts [Mr. J. Q. Adams] peremptorily ordered to his seat when he dared even to allude to the slave trade, or to the slavery which was sustained in this District by laws of our own enactment. But how changed the scene! I can scarcely realize that this is the Hall in which I have witnessed the display of deadly weapons, exhibited for the purpose of intimidating northern members to keep silence in regard to the crimes and disgrace of slavery. Here, sir, in this body has been displayed, in the most striking manner, the power of truth. The freedom of speech has been regained.

We now give free utterance to the emotions of the soul in behalf of suffering humanity. We have regained and now enjoy an equality of privileges with southern members. This important reformation has been brought about by toil, and labor, and suffering which never will and never can be appreciated by any person who has not shared in them. It is, however, due to truth that I should say, northern servility, manifested through a venal press, and exhibited to this body in speeches, and illustrated in a variety of ways, has presented even greater obstacles to the progress of truth than all the opposition of southern men.

Another evidence of the progress of the great reformation now going on is to be found in the action of the Executive. In 1832 a slave ship, (the Comet,) laden with slaves, sailed from this District for New Orleans, and was wrecked on one of the British West India islands. When the slaves reached British soil they became instantly free, and each went in pursuit of his own fortune. The slave-dealers demanded that the British authorities should arrest and return them to their owners, but they spurned the degrading proposition. The slave merchants, thus failing in their speculations, returned to this city, and demanded that the character and influence of the nation should be prostituted to aid them in obtaining a compensation for their loss from the Government of England. And strange to say, the President, instead of recommending to Congress the passage of laws to punish with death the crimes of which they had been guilty, sent orders to our minister at the Court of St. James to demand, in the name of this Government, indemnity for the loss of those slaves. The orders of the President were obeyed. Our minister, (Mr. Stevenson,) however, still further disgraced the Government. In order to obtain indemnity for crimes of the deepest dye, he had recourse to misrepresentation—to flagrant falsehood. I invite the friends of that gentleman to call me to an account for what I am saying; to demand explanation before this body and the country for the charge I make against him. He, however, deceived the British ministers, and obtained the money. The people of Great Britain have paid these slave merchants for the commission of crimes more aggravated than that of murder or of piracy. Other slave ships were wrecked, and their cargoes obtained freedom in the same manner, and compensation has been demanded, and in one instance obtained; in others it was refused. The South became clamorous. The Senate passed resolutions unanimously declaring that it was the duty of this Government to support this coastwise slave trade. A report from the Committee on Foreign Relations in this body was made, hinting at war in case indemnity was withheld from these slave-dealers; and speeches were made, even by northern members, which indicated a willingness to see our country involved in a war to support this infamous traffic. The case of the Creole is fresh in the recollection of all who hear me. On board that ship the slaves, conscious of the rights with which God had endowed them, and true to the noblest impulses of our nature, asserted and maintained in practice the doctrines of our revolutionary fathers. They regained their freedom by their own physical strength. They then navigated the ship to the island of New Providence, and each sought his own happiness. At that time a Whig administration controlled the Government. Mr. Van Buren, now so much denounced for his favor to the slave power, had retired to Lindenwald. The Executive sent immediate orders to our minister at London to demand compensation of the English Government for the loss of these slave merchants who had been unable to control their human cargo. Sir, I then saw the party with whom I had always acted about to commit itself and the Government to the support of a detestable commerce in mankind. I saw the Constitution violated, by a prostitution of our national influence to support a traffic detested by men and cursed of Heaven; a traffic abhorrent to every feeling of our nature, and at war with every principle of Christianity. I had sworn at your altar faithfully to support that Constitution. I saw no way but to express my views, humble and unpretending as they were. I did so in a series of resolutions, denying the right of this Government thus to involve the people of the free States in the expense, disgrace, and crimes of the slave trade. The effect of that movement upon myself was unimportant—of that I do not speak; but the effect which it exerted upon the Government should be known and understood by all. It called public attention to the subject. The press of the North spoke forth the sentiments of the North. Leading men and statesmen denounced the practice of involving the people of the free States in the support of crimes at the contemplation of which humanity shudders. In view of these demonstrations, a slaveholding Executive hesitated in his course, doubted, and ceased to follow a practice which for ten years had disgraced the nation. I speak from contemporaneous history. I refer to the first volume of "Wheeler's Political and Biographical History," a work compiled with great labor and ability, and which may be consulted even by statesmen with profit. The author, speaking of the effect of that movement, says that he "*has been unable to learn that the demand of this Government for the loss of slaves was ever renewed.*" I have other evidence, satisfactory to myself, that the demand was never pressed afterwards.

Thus, sir, the Executive has been driven from a position at war with our national honor, with justice, with humanity, and with the Constitution.

When asked what we have effected by our efforts, I answer, that in Congress we have regained the right of petition and the freedom of debate. We have relieved the Government from the ostensible support of the coastwise slave trade. We have called the attention of statesmen and jurists to the investigation of those rights which northern freemen hold under the Federal compact. We have rendered northern servility unpopular. Where now are those timid, faltering statesmen of the North who filled these seats ten years since? During the short period of my service in this body, I have seen whole generations, as it were, appear here, avow their detestation of those who maintained the rights of our people and of humanity, meekly bow to the dictates of the slave power, and then depart to that political "bourn from which no traveler returns." Where are now those northern members who, only seven years since, voted to censure me for merely asserting the rights of my constituents to be exempt from the crimes attendant upon the coastwise slave trade? Why, sir, three or four of them yet remain, the "spared monuments" of the people's mercy; but I believe not one of them has been reëlected to meet me here in December next. A few days will separate us probably forever. Towards them I feel no unkindness; and I now refer to the fact as showing the progress of that revolution which is going forward. Look to the other end of the Capitol, and you will find unmistakable evidences of the change now going on in the popular mind. Read the proceedings of our State Legislatures. In Ohio, at one vote, they have erased from our statutes the whole code of black laws which have disgraced the State for nearly half a century. In Pennsylvania, they have gone even further in the cause of justice and freedom: they have very properly rendered it penal for the citizens or officers of that State to aid or assist the slave-catcher in seizing upon the victims of his unrighteous oppression, as they fly from bondage. New York, too, that "Empire State," is assuming a position on this subject worthy of herself. Of other States I need not speak. The effects of our labors are seen and felt in every free State—in every county, town, and school district of the free States. They are visible in our social circles, in our pulpits, in our literary publications, our newspapers, our debating clubs, our political discussions, and in all departments of society. The foundations of the mighty deep of popular sentiment are broken up. Political parties are disorganized, and party attachments are disregarded.

These are some of the effects of that moral and political revolution now going forward in this nation. I trust it will continue to progress, until this Government and the people of the free States shall be fully redeemed and purified from the contagion of slavery and all manner of oppression, and the Constitution and the rights of humanity shall be fully vindicated.

REVIEW OF THE REPORT OF THE SECRETARY OF THE TREASURY.

SPEECH OF MR. J. POLLOCK,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

December 28, 1848.

The bill making appropriations to supply deficiencies in the Appropriations for the service of the fiscal year ending June 30, 1849, being under consideration in Committee of the Whole House on the state of the Union—

Mr. POLLOCK said:

Mr. CHAIRMAN: I desire to submit to the House some remarks on a subject, if not directly, at least indirectly, connected with this bill. The bill makes appropriations to supply deficiencies in former appropriations. It is my intention to vote for it; and I do not design by the remarks I may make on the subject I have selected, to provoke any discussion that may delay its passage. My wish is, that it may be passed at the earliest possible moment.

The bill involves appropriations of money, and consequently the ways and means by which funds are to be raised to meet these appropriations, are legitimately the subject of debate. If money is to be appropriated, it is proper to inquire by what *best* means the treasury can be supplied. I have not risen to enter into a general discussion of the subject of finance, or to examine at length the comparative merits of the tariff acts of 1842 and 1846. I will confine myself to a brief review of the facts, arguments, and general positions of the late report of the Secretary of the Treasury. This discussion, under the rules of the House, will be in order.

I had intended, if the House had gone into Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the President's message, to have submitted these remarks on the question of its reference. I would have advocated, and will vote for, the reference of so much of the message as relates to the finances of the country, to the Committee of Ways and Means. To that committee the consideration of this subject appropriately belongs. I do not doubt the competency and ability of the Committee on Manufactures to give to the subject the consideration its importance demands; nor do I doubt, that on the question of protection, in connection with or separated from the finances of the country, they are as reliable as any of the committees of this House. My objection to the reference of this portion of the message to the Committee on Manufactures, as proposed by the gentleman from New York, [Mr. RUMSEY,] is this, that the subject of finance, however intimately connected with the question of protection, is made, by the rules and practice of the House, the appropriate business of the Committee of Ways and Means. The settled policy of the country seems now to be, to combine the principles of revenue and protection, and they cannot with propriety be separated. Whether we regard protection as the *principal* or the *incident* in a system of revenue, the Committee of Ways and Means is the more appropriate committee for the consideration of that question. A

reference to any other committee would separate that which the past and present policy of the country has joined together. The reference to the Committee of Ways and Means will obviate the difficulty, and secure for the general subject the consideration demanded by its importance, both as a question of revenue and protection. No gentleman upon this floor is a more firm advocate of the protective policy than myself; and when I vote to refer the portion of the message already indicated to the Committee of Ways and Means, and against its reference to the Committee on Manufactures, it will not be on account of any opposition I have to that doctrine. On the contrary, I desire that policy to be maintained and defended. It has ever been regarded as the true policy of the country, and has been sustained by the wisest and best of American statesmen. It secures alike the interests of the Government and the people; it replenishes your treasury, and protects the industry of the country. Unfortunately, other counsels have recently prevailed—other principles have been adopted; and we are now in the full tide of a new and rash experiment. The opponents of the policy of protection, emboldened by the adventitious success of their favorite measure, the act of 1846, are now clamorous for *free trade* and *direct taxation*. The report of the Secretary of the Treasury boldly advocates the doctrines of free trade; and the President, in his message, sanctions and approves the report. Let, then, this whole subject be referred as indicated, and the result will be, that the errors and sophisms of the Secretary of the Treasury will be fully exposed, whilst the principles of those who advocate the protective policy will be vindicated and maintained. We fear not an appeal to facts. Examination and investigation will expose error and establish truth.

There is, sir, a necessity for this reference. There is a necessity that this subject, in connection with the report of the Secretary of the Treasury, should be fully examined and investigated; that the facts connected with the operation of the act of 1846 should be fairly and truthfully presented to the American people. When the act of 1846 was passed, the friends of the act of 1842 opposed its passage, for many reasons. Among others, the *ad valorem* principle which was substituted for *specific duties* was considered an innovation, not only upon the principles which had heretofore controlled the legislation of this country, but of all the civilized countries of the world. No country can be found where a system of ad valorem duties prevails as in our own. England, with all her boasted advocacy of free trade, has not abandoned specific duties; she still adheres to them tenaciously; she refuses to adopt the ad valorem principle, in its length and breadth, but hesitates not to recommend it to other nations. Our own statesmen, who see so much to admire in the theories of British political economists, might learn wisdom from their example; and would better promote the interests of their own country by rejecting their theory and imitating their practice.

The friends of the act of 1842 were not only opposed to this innovation as dangerous and inexpedient, but it was considered by them as a total abandonment of the protective policy. The act of 1846 was so regarded at the time of its passage. The rate of duty and the mode of assessment excluded the idea of protection. Protection, incidental or otherwise, has no place in that act. Revenue, and revenue alone, was the object of its framers. The fostering care of the Government was withdrawn from the labor of the country; foreign competition was invited, and foreign importations encouraged, by which alone the revenues could be augmented; in fine, a foreign policy, in opposition to the American policy, is the chief characteristic of the act of 1846. In all this the friends of the "American system" could see nothing but disaster to the industrial interests of the nation. Experience has proved that the fears then entertained have been more than realized; for while the revenues have been temporarily augmented, every branch of industry, with but few exceptions, is suffering from the fatal effects of that ill-advised measure.

They opposed it not only on the ground of the abandonment of the principle of protection, but because the mode of assessment discriminated against the manufactures of the United States. The act of 1846 does not only, not protect the American manufacturer and laborer, but it encourages the foreign manufacturer, and invites his competition. Examine the act in its details, and it will be seen that a higher rate of duty, in many instances, is assessed upon the raw material than upon the article manufactured therefrom; the difference of duty being but a premium to the foreign manufacturer—an inducement to him to introduce his wares and merchandise into the United States, and substitute them for the American manufactured article. This is the case with many of the articles manufactured from iron, but more particularly with the woolen fabrics—the duty being from five to ten per centum *less* upon the manufactured article than the raw material. Will the foreign merchant import the raw material, when he can introduce the manufactured article at a lower rate of duty? He not only avoids the payment of a higher rate of duty, by introducing the material already manufactured; but the conversion of the raw material, in foreign workshops, gives employment to labor and capital abroad—secures to the foreign manufacturer the profits of such conversion, and incidentally encourages and promotes the agricultural and commercial interests of the manufacturing nation. This system, while it tends to build up and sustain foreign manufactures, and encourage foreign labor, pulls down and destroys our own. These discriminations have operated injuriously, and the result will be, the prostration of many important branches of American industry, unless the act is repealed or greatly modified. The act of 1842 had at least the merit of discriminating in favor of American interests—not against them. It protected the country from the fatal effects of an overwhelming foreign competition; it replenished the treasury, without sacrificing the interests of home industry, and it supplied the wants of the people from the products of their own looms and workshops. The substitution of the *domestic article* for the *foreign*, is one of the grave charges preferred by the Secretary of the Treasury against the act of 1842. The honorable Secretary, seeming to evince more anxiety for the revenue than for the general interests of the country, in his report made to the House at the commencement of this session, says: "As the high duties under the act of 1842 'were rapidly substituting the domestic articles, 'and excluding the foreign rival, the revenue must 'have declined." Whether the premises or the conclusions of the Secretary are the most worthy of admiration, I will leave to the impartial judgment of the American people. Such views and such sentiments are in perfect accordance with the odious discriminations against American interests that characterized the act of 1846. If the substitution of "the domestic articles" and the exclusion of "the foreign rival" is a fault, then, sir, to be American in feeling and interestis a crime. I do not propose to enter upon an elaborate argument to show how *ad valorem* duties necessarily destroy the principle of protection. A system of revenue designed to protect the industry of the country, principally or incidentally, must be fixed and certain in its operation. Permanency in the value and mode of assessment is essential. The ad valorem system does not possess this requisite. Fluctuating and changing with every change of price—subject to all the disturbing influences that affect the trade and commerce of the world, it fails to give protection when protection is most required. Specific duties, fixed and permanent, operate under all circumstances to maintain and protect the industrial interests of the country.

Sir, I must confess my surprise, that my friend and colleague over the way, [Mr. THOMPSON,] should, a few days since, in the debate on the President's message, have referred to the tariff of 1842 in the terms he then used. That gentleman and myself, shoulder to shoulder, have battled on this floor in defence, not only of the act itself, but of the protective policy embodied in it; and when the gentleman rose and denounced that measure as an odious one, containing within itself the elements of its own destruction, I was certainly astonished. I know not how to account for the change that has come over the spirit of the gentleman's dream: certainly there is nothing in the recent events that have transpired in Pennsylvania that could change, or justify a change of his sentiments on the protective policy. But political associations often involve gentlemen in strange inconsistencies; and it might be, that having attached himself to the fortunes of a party, the gentleman felt constrained, in consistency with the course of that party, in some degree to violate the doctrines which he himself had advocated and sustained. His great and paramount objection to the act of 1842 was the *minimum* principle it contained; yet, at the same time, he advocated a modification of the act of 1846, by repealing the ad valorem duties upon coal and iron, and substituting upon these articles *specific duties*. The question was very pertinently asked my colleague by gentlemen on this floor, how he would discriminate between the principle of *minimum* and *specific* duties—what was the difference? The question was very properly asked, but my friend certainly failed to give a very definite or satisfactory answer. The difference between minimum and specific duties, is, in fact, merely a difference in form, not in substance. The one is an assessment of a fixed sum upon a certain *quantity;* the other is the assessment of a certain ad valorem duty upon a determinate *value*, which is assumed and fixed by law. Under the act of 1842, the minimum principle, as applied to cotton cloth, was this: a yard of cotton costing *less* than twenty cents was deemed and taken to be of the value of twenty cents, and upon this value a duty of thirty per centum was charged. The result of this mode of assessment was a fixed and certain duty of six cents on the square yard of cotton. By the same act, a specific duty of twenty-five dollars was assessed upon a ton of rolled iron. The *mode* of assessment is different; the result in both cases being a duty equally certain and specific. Although a restoration of minimum duties upon the articles to which they were applied in the act of 1842, or the application of specific duties to these articles, may not be desirable, yet an objection to this act, founded upon, or justified by, a supposed difference between minimum and specific duties is, to say the least of it, a *minimum* objection.

I ask the attention of the House to more important considerations. Those who opposed the passage of the act of 1846, adduced, as an argument against it, the fact that low duties encouraged excessive importations, and induced a ruinous competition of foreign with home productions; that to increase the revenue under a system of low duties, importations must be largely increased. This last position was not denied; it could not be denied. It is the basis of the free-trade policy, and is openly advocated by those who opposed the protective policy. Such being the operation of a system of low duties, large importations were anticipated under the act of 1846, much larger than at any period during the existence of the act of 1842. In some remarks I had the honor to submit to the House during the last session of Congress on this subject, I then said: "The importations of 'this year, (1848,) exclusive of specie, will exceed 'those of the last at least thirty millions. The 'total importations for the same period, exclusive 'of specie, from data already known, will fall but 'little below, and may exceed *one hundred and fifty* '*millions*." Have these statements been verified? The excess of importations during the year 1848, over the previous year, specie excluded, as appears officially in the report of the Secretary of the Treasury, is about *twenty-seven millions*. The total importations, for the same period, from the same authority, were nearly *one hundred and forty-nine millions*. It will thus be seen that the estimates then submitted differ but little from the actual result. Finding my views in this regard confirmed by the actual operation of the act of 1846, I confess my surprise when I read the following statement in the report of the Secretary:

"It is thus shown also by the returns, that this augmented revenue is derived from a comparatively small amount of foreign imports consumed in the United States; that amount, as shown by the table before referred to, (marked F,) of all these foreign imports thus consumed in the year ending June 30, 1848, exclusive of specie, being but $127,490,012, upon which was realized a net revenue of $31,757,070 96. It appears also from the same table, that so far from this tariff having filled the country with foreign goods beyond its capacity for consumption, the domestic exports last year, exclusive of specie, actually exceeded by the sum (per same table) of $2,713,697 the foreign imports, exclusive of specie, consumed the same year in the United States, including all articles but specie, both free and dutiable; thus showing a balance of foreign trade in our favor," &c.

This statement, if reliable, would seem to confirm the theories of the Secretary, and the facts

announced would furnish an almost unanswerable vindication of the act of 1846 as a revenue measure. I turned to the tables to which reference had been made, and there I was met by another fact equally startling, equally confirmatory of the principles of free trade. By a comparison of the imports *consumed* in the year 1847 with those consumed in the year 1848, the increase for the last period over the former was found to be *eleven millions two hundred and thirty-two thousand dollars*, whilst the increase of revenue for the last period over the former was *eight millions and nine thousand dollars! Eleven* millions increase of importations; *eight* millions increase of revenue!—the increase of revenue being but three millions less than the increase of importations, and this, too, under a system of low duties. And this fact will appear still more surprising, when it is remembered that the fiscal year 1847 embraced but *five* months under the act of 1842, and *seven* months under the act of 1846; and that three-fourths of the total imports of that year were made during the last seven months. Could so large an increase of revenue be realized from so "comparatively small" increase of importations, the same system of low duties being in operation for seven months of the previous year? Can these things be so? or is there error somewhere? Let the tables of the Secretary and the facts furnish the answer. To facilitate our examinations, that portion of table F, to which the Secretary of the Treasury has referred, is given below; commencing with the year 1845, and ending with the year 1848, inclusive. The revenue for each year, included in this part of the table, is added, for convenient reference. The tonnage is omitted. The table is as follows:

Year.	1845	1846	1847	1848
Total imports.	117,254,564	121,691,797	146,545,698	154,977,876
Imports consumed in the United States, exclusive of specie.	105,559,541	110,048,859	116,238,310	127,490,012
Domestic produce exported, exclusive of specie.	98,455,330	101,718,043	150,574,844	130,203,769
Foreign merchandise exported, exclusive of specie.	7,584,731	7,885,206	6,166,039	7,986,806
Total exports.	114,040,006	113,488,516	158,648,632	154,033,131
Revenue.	27,528,112	26,719,667	23,747,864	31,757,070

The total imports include merchandise, free and dutiable, and specie. To ascertain, therefore, the actual amount of foreign imports consumed in the United States, exclusive of specie, we must first ascertain the amount of specie imported. And here I may remark, that the amount of specie imported and exported is nowhere stated in the report of the Secretary, or in the message of the President. There seems to be an ominous and studied silence on this subject. The amount can only be ascertained, if at all, by calculations founded on the tables presented in the report. This silence will appear the more singular, when it is recollected, that in the report of the Secretary for the year 1847, the amount of imports and exports of specie is not only stated once, but repeated on almost every page of the report; and tables, carefully prepared, are presented, showing the large importations of specie for that year, as compared with other years. The fact was announced, with something more than a mere rhetorical flourish—with notes of triumph—that the importations of specie were $24,121,289, whilst the exports, for the same period, were but $1,845,119; leaving a specie balance in our favor of $22,276,170. These notes of triumph are not now heard. There is a profound silence in this regard, save a reluctant admission, accompanied by a multitude of explanations, that the "vast sums lost to American creditors (in 'Europe) required to be replaced by the *export of* 'our specie, which was greatly augmented by the 'discredit in our market of all bills drawn on our 'foreign shipments, producing, by this artificial 'rise of exchange, an unnatural demand for specie, 'and a *consequent exportation*. But all this specie 'must soon come back to our country, except so far 'as it is lost by foreign bankruptcy." The fact is here admitted that the exports of specie for that year were large; it may be inferred from the language of the Secretary that the imports were small. This unfortunate change in the specie account may have induced the omission of the amount of imports and exports, which was so liberally given in the report of the previous year.

But to return. Can we, from the table furnished by the Secretary, ascertain the true amount of specie imported? Let us see. As the specie imported is included in the total imports, we must, to derive the amount, deduct from the total imports, the amount of imports consumed in the United States and the foreign merchandise exported. Thus:

Total imports, specie included		$154,977,876
Deduct imports consumed in the United States	$127,490,012	
Deduct foreign merchandise exported	7,986,806	
		135,476,818
Amount of specie imported, as per table F....		19,501,058

We thus have the amount of specie imported, according to table F., nineteen millions five hundred thousand dollars, omitting the fractions. Is this the true amount of specie imported during the fiscal year 1848? It is not in harmony with the admissions of the Secretary, and is contrary to the knowledge of the general fact by every gentleman who was the least observant of the movements of specie during that year. It is well known that the import of specie was small during that period. When, therefore, my examinations revealed the result already stated, I could not but regard it as an error. I called upon the Register of the Treasury for information; I have his official statement before me. The amount of specie imported, according to this statement, is ($6,359,854) six millions three hundred and fifty-nine thousand eight hundred and fifty-four dollars—being *thirteen millions one hundred and forty-one thousand two hundred and four dollars less* than the amount shown by the table to which I have referred. This error or discrepancy cannot be explained by saying that the foreign merchandise remaining in the public warehouses at the close of the fiscal year is included in the total imports, and must, therefore, be deducted from their amount. Such is not the fact. The merchandise remaining in the warehouses at the close of the year is not included in the total imports, as the accounts made up for the year 1847 clearly show, and as I have been informed by the Register of the Treasury. Foreign imports entered at the custom-house for payment of duties, or for consumption in the United States, are included in the total imports; but foreign merchandise entered for warehousing is not carried to that account until entered for payment of duties. Were it otherwise, the fact would not explain the discrepancy, for the reason that the amount of foreign merchandise in warehouse at the close of that year, falls far below the alleged error in the amount of specie imported.

But the error does not stop here. It affects other important items contained in table F, particularly the amount of imports consumed in the United States. The Secretary, in his report, says "that 'the foreign imports consumed in the year ending '30th June, 1848, exclusive of specie, were but 'one hundred and twenty-seven millions four hun-'dred and ninety thousand and twelve dollars, 'upon which was realized a net revenue of $31,-'757,070."

I will now proceed to show that the sum of one hundred and twenty-seven millions, exclusive of specie, is not the true amount of imports consumed in that year, that the error in this amount is still greater than in the amount of specie imported. To determine the amount of imports consumed in that year, exclusive of specie, we must deduct from the *total imports* the specie imported and the foreign merchandise exported, *which was included in the total imports*. The amount of specie imported, we have seen, was $6,359,854. The amount of foreign merchandise exported, *exclusive of specie*, as stated in the table, is $7,986,806. We then have—

Total imports, specie included		$154,977,876
Deduct specie imported	$6,359,854	
Deduct foreign merchandise exported, &c.	7,986,806	
		14,346,660
Actual amount of imports consumed, exclusive of specie		140,631,216
Amount of imports consumed, exclusive of specie, as per table		127,490,012
Error in amount consumed		13,141,204

It will be perceived that this error is the same in amount as the error in amount of specie imported. I now ask attention to a fact that will explain the origin of these errors, and which proves the correctness of the calculation I have submitted. The amount of the error in both cases is precisely the amount of *specie exported in foreign coin and bullion* during the fiscal year 1848, as will appear by the report on commerce and navigation, when printed and laid upon your tables. In making up table F, in the Secretary's report, the amount of *foreign coin exported* was regarded as so much foreign merchandise exported of the imports of that year, and was improperly deducted from the total imports, the whole amount of specie imported having been previously taken from these imports. If the imports of specie for that year had been nineteen and a half millions, instead of six and a half millions, which was the true amount, then the additional sum of thirteen millions would have been properly taken from the total imports, to determine the amount of foreign merchandise consumed or remaining in the United States, and from which the revenue had been derived. The fact that this amount of specie was exported in *foreign coin*, and not in *American* coin, cannot change the result. It was so much specie exported which had not been imported during that year, and therefore ought not to be deducted from the total imports of that period.

But it may be said that this specie in foreign coin was imported in 1847, or previously. Be it so. The fact that foreign coin was imported in 1847, and exported in 1848, will not affect the amount of foreign merchandise, exclusive of specie, of the imports of 1848, consumed or remaining in the United States, and from which the revenues for that year were derived. Let me illustrate this position. Suppose a merchant, in 1847, had imported ten thousand dollars in *foreign coin;* and that in 1848 he imported ten thousand dollars in value of foreign merchandise, to pay for which he exported, the same year, the foreign specie previously imported: what amount of foreign merchandise will remain in the hands of the merchant? Evidently the amount imported, undiminished by the *export* of an equal amount of *foreign coin*. The coin is gone; but the amount of merchandise remains. If the foreign coin exported reduces the amount of merchandise imported, in the case supposed—which is the principle assumed in the report of the Secretary—then it follows, the imports and exports being equal, that no imports of 1848 remain in the hands of the merchant. Let us apply this illustration to the case presented in the report now under consideration. I have shown that the actual amount of imports consumed in the United States, exclusive of specie imported, in 1848, was one hundred and forty millions. From this sum the Secretary deducts the *foreign coin* exported, which coin was not included in the imports of that year, and then asserts the amount of foreign merchandise consumed to be the "comparatively small sum of one hundred and twenty-seven millions." Now if, instead of exporting thirteen millions in foreign coin, we had exported one hundred and forty millions, previously imported in exchange for domestic productions, and would deduct this last sum from the total imports—the specie imported and the foreign merchandise exported being first deducted—it would follow that not one dollar of imports was consumed in that year; and still further, that the thirty-one millions of revenue had been realized, not from a certain amount of imports, "comparatively small" or

large, but from *nothing*, by the magic energies of free trade. Such a result would indeed be the crowning glory of that policy—a result that the Secretary is in a fair way of reaching by a very free trade in figures.

But the error does not stop here. Another mistake in the mode of making up the accounts of imports and exports remains to be corrected, and this correction will still further increase the amount of foreign merchandise consumed, and from which the revenue was derived. The amount of foreign merchandise exported, exclusive of specie, is stated to be $7,986,806. Of this amount, the sum of $2,869,941 was withdrawn from the warehouses, as will appear from the report on commerce and navigation, to which I have referred. This class of imports, not having been entered for payment of duties or consumption, forms therefore no part of the total imports enumerated in the tables before us, and consequently should not be deducted therefrom in ascertaining the amount of foreign goods consumed. In the calculation before submitted, this sum, being included in the amount of foreign goods exported, was deducted from the total imports. To correct that calculation, this sum of $2,869,941, improperly deducted, should be added to the result there obtained, viz: $140,631,216. By this addition, we have the sum of one hundred and forty-three millions five hundred and one thousand one hundred and fifty-seven dollars, the true amount of foreign merchandise, exclusive of specie, consumed, and from which the revenue was realized. The Secretary states this amount to be $127,490,012. We then have—

True amount of foreign merchandise consumed	$143,501,157
Amount as stated in report	127,490,012
Difference	$16,011,145

An error of *sixteen millions* in a document regarded by the friends of free trade as a text book, is one of no small importance. It affects the argument and weakens the conclusions of the Secretary. It explains what had before surprised and almost confounded the advocates of the protective policy. I do not charge the Secretary with willful concealment or misrepresentation of the facts. He may not be immediately responsible for the errors in the tables he has submitted with his report. I know that these tables are made up by gentlemen connected with the Treasury Department, whose appropriate business it is to prepare them for the Secretary. But I hold the Secretary responsible in this: that he adopted these tables without examination or revision; that he assumed them to be correct without testing, by data within his reach, their correctness; and that upon these tables, abounding in errors, he based an argument in favor of his peculiar system, which he and his friends deem to be conclusive against those who oppose his theories. The Secretary owes it to himself, to his friends, and the country, to explain these discrepancies. He should restate his argument, and admit that the imports, instead of being "comparatively small," were unusually large.

The statements of the report having been corrected, let us briefly review the practical operation of the act of 1846; and first, in relation to the imports and exports of specie for the fiscal year 1848. The amount of specie exported can be ascertained from the tables in the report; the amount imported cannot with accuracy, as we have already shown an error of more than thirteen millions in the amount derived from the tables. The true amount *imported*, according to the statement of the Register of the Treasury, is $6,359,854. The exports of specie for the same period were $15,841,616; showing a balance against us, in the specie account, of $9,481,762. In 1847, the specie balance in our favor was $22,276,170: against us in 1848, $9,481,762; exhibiting a change against us in one year of $31,757,932. This result is not very favorable to the country, or to the operation of the present system of low duties. The Secretary, however, says "all this specie must soon come back to our country." It may be so; I fear his system, in its practical operation, is but ill calculated to cause its return. One fact is certain: specie is still leaving our country in large quantities, and must continue, so long as excessive importations of foreign goods continue. The time of its return is not yet.

Again, as regards the general balance of trade. The Secretary, in his report, says:

"It appears also from the table that so far from this tariff having filled the country with foreign goods beyond its capacity for consumption, the domestic export last year, exclusive of specie, actually exceeded by the sum (per same table) of $2,713,697, the foreign imports, exclusive of specie, consumed the same year in the United States, including all articles but specie, both free and dutiable, thus showing a balance of foreign trade in our favor."

Here is the declaration of the honorable Secretary. Does it accord with the fact? Let us see:

Foreign merchandise consumed, exclusive of specie	$143,501,157
Domestic exports, exclusive of specie	130,203,709
Actual balance against us	13,297,448

This shows the balance to be against us of $13,297,448, instead of $2,700,000 in our favor, as stated in the report. In 1847 the balance of foreign trade in favor of the United States was $12,102,984; balance against us in 1848, $13,297,448; a change against us in one year of $25,400,432. If such facts as these furnish any proof of the beneficial operation of the act of 1846, I cannot discover it.

Let us now look at the revenue, and the imports from which it was derived, in 1848, as compared with the revenue and imports in 1845, under the act of 1842:

In 1848, under act of 1846, the net revenue was	$31,757,070
In 1845, under act of 1842, the net revenue was	27,528,112
Increase of revenue under the act of 1846	4,229,958

This is one side of the question. Now let us examine the other:

In 1848 the imports consumed were	$143,501,157
In 1845 the imports consumed were	105,599,541
Increase of imports under act of 1846	37,902,616

This statement shows that whilst the increase in the revenue was four millions two hundred thousand dollars, the increased importations were nearly *thirty-eight millions* of dollars. To place four millions additional revenue in the treasury, you have taken from the pockets of the people thirty-eight millions to pay for foreign productions, which neither their wants nor interests demanded. You have substituted thirty-eight millions of foreign productions for that amount of domestic productions—substituted foreign labor for home labor—paralyzed the industry and checked the prosperity of our own country, by encouraging and promoting the interests of other nations; and all this to increase your revenue four millions! Under the act of 1842, an equal amount of imports would have yielded at least thirty-nine millions three hundred and twenty-five thousand dollars, taking the average rate of duty in 1845 as the basis of calculation. The loss, therefore, in revenue alone, by the repeal of the act of 1842, and the enactment of the act of 1846, on the imports of 1848, is nearly *eight millions*. I admit that the importations would not have been so large, had the act of 1842 been in operation; but an equal amount of revenue would have been realized from a much smaller amount of imports. The condition of Europe and our country during the year 1848, would necessarily have caused an increase of imports under any revenue system, but not so great as under the act of 1846.

But will this act, as a revenue measure, meet the expectations of its friends? The returns for the first quarter, ending September 30, 1848, of the present fiscal year, compared with the returns for the corresponding quarter of the last year, show a large decrease in the receipts from customs. The comparison is as follows:

1847, first qr., ending Sept. 30, net revenue	$11,106,257
1848, do do do	8,991,935
Decrease in receipts from customs	2,114,322

Now let us compare the receipts of the first quarter of the present year with those of a corresponding quarter in the year 1845, under the act of 1842:

1845, first qr., ending Sept. 30, net revenue	$10,873,718
1848, do do do	8,991,935
Excess in favor of act of 1842	1,881,783

It is thus seen that the receipts for the first quarter, ending September 30, 1845, of that fiscal year, under the act of 1842, exceed those of a corresponding quarter in 1848, nearly $2,000,000; the importations for these quarters being larger in 1848 than in 1845. The act of 1846, as a revenue measure, like every system of low duties, will ultimately fail. Increased revenues, under low duties, can only be derived from increased importations. Increased importations depend more upon the ability of the people to consume, than upon legislation. Excessive importations, by substituting the foreign for home productions—by cheapening labor, and depriving it of its employment and reward, impair this ability to consume, to purchase the cheap goods of foreign workshops. Unable to purchase, importations diminish and your revenues decline. Such has ever been the practical operation of these systems.

The Secretary, as we have seen, complains "that the high duties under the act of 1842 were rapidly substituting the domestic articles, and excluding the foreign rival." No such cause of complaint exists against the act of 1846. It has yielded everything to the "foreign rival." The foreign rival has taken the place, to a great extent, of our domestic productions. Our markets are glutted with it. Every counter in the country is covered with British and foreign productions. Every branch of domestic industry has been affected by the enormous importations under this act. Its ruinous effects have not yet been fully developed. They have been delayed by the extraordinary and exciting circumstances connected with our European trade. These have passed away; and we are now beginning to feel, deeply feel, the fatal effects of disregarding the true interests of home and country, and encouraging and cherishing a "foreign rival."

Let us refer to some particular interests affected by this state of things. I will select the iron interest, one in which Pennsylvania is deeply interested. Time will not permit extended details. The imports of iron and its manufactures in value, during the whole period of the act of 1842, (four years and three months,) were $26,358,479, as appears by the report of the Secretary of the Treasury, made in answer to the resolution of the House on this subject. The imports of iron and its manufactures, under the act of 1846, from December 1st, 1846, to June 30th, 1848, (a period of seventeen months,) were, as appears by the same report, $18,196,281. This latter period is just one-third of the former, and yet the imports are but eight millions less. If the imports under the act of 1846 should be continued in the same proportion for a period equal to the duration of the act of 1846, they would amount to the sum of $54,588,843—more than double the imports under the act of 1842. The annual import of iron and its manufactures now exceed twelve millions of dollars. Under the low duties of our present system it must increase. The result will be the ruin of this branch of industry. In view of these facts, is it surprising that Pennsylvania feels, and is, deeply injured by the operation of the present system of low duties? Is it surprising, that at the late Presidential election, she repudiated an Administration that has waged a war of extermination against her best interests? The large amount of foreign iron thrown into our markets, under the present system, has had a most paralyzing effect upon this interest. It has ruinously affected, not only the capital, but the labor employed in the manufacture. Pennsylvania demands some protection against the ruinous competition of foreign monopolists. Our workmen and mechanics, honest and industrious, demand it. Suffering now from the effects of your ill-timed and ill-advised legislation, they ask to be relieved. Shall their demands be heeded? Will we, wedded to a system of free trade—a system foreign to our interests, and favorable only to foreign interests—turn a deaf ear to their entreaties, and refuse the relief that must sooner or later be yielded to them? Whatever this Administration has done, or may do, a better day has dawned upon the country. We require all that our hopes prompt us to expect. The real, not imaginary prostration of this branch of industry and its kindred, the mining interest, must not be suffered to continue. Do gentlemen doubt that real cause of complaint exists? Let them go to our iron and coal regions, and examine for themselves. Let them witness the results of the system they advocate, and which they aided in forcing upon the country. They would doubt no longer. The extinguished fires of our furnaces—the deep stillness of our rolling-mills—the silence of the deserted mine—the honest laborer without employment—all pronounce the condemnation of your policy, and plead eloquently "against the deep damnation of their taking off."

PRESERVATION OF LIFE AND PROPERTY FROM SHIPWRECK.

REMARKS OF MR. NEWELL,

OF NEW JERSEY,

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1849,

On a proposition to make an appropriation for the better preservation of life and property from shipwreck along the coast of New Jersey, between Little Egg Harbor and Cape May, at Barnegat Inlet, and also along the Atlantic coast of Long Island.

The House having resolved itself into Committee of the Whole on the state of the Union, on the Mexican treaty appropriation bill—

Mr. NEWELL said:

During the short period allotted to me by the rules of this House, I shall make a few remarks upon a subject widely differing from that now legitimately before the committee. In doing so, however, I shall but conform to a well-established usage of this body.

Some weeks since I had the honor to introduce sundry resolutions directing the Committee on Commerce to inquire into the expediency of making an appropriation to provide means for the better preservation of life and property from shipwreck along the coast of New Jersey, between Little Egg Harbor and Cape May, as well as along the Atlantic coast of Long Island, and also to inquire into the expediency of providing buoys at Barnegat Inlet, and at the mouth of Tom's river, in New Jersey.

I ask the indulgence of the committee to some remarks on these resolutions, which shall be as brief as the occasion will admit, in explanation of the purpose which is to be accomplished by the proposed appropriations. Indeed, were I not deeply impressed with the importance of these measures, I should not venture to occupy the time of the House now proportionately increasing in value as we approach the termination of the session, but choose rather to continue to be a silent observer of its proceedings.

In the first place, it will be seen that it is designed to protect an extent of coast equal to two hundred miles, which, added to the portion already in process of protection, being the shore portion of my own district, will make a continuous range of coast, embracing altogether, a line of two hundred and seventy-five miles, and all this extent of seashore—should the object commend itself as favorably to the House on the present as upon a former occasion—will be furnished with safeguards to life and property upon the ocean, at an expense, in the aggregate, far below the cost of many a single light-house.

It is difficult to present, in detail, the facts which make a measure of this kind desirable and expedient. Even were all those present acquainted, to some extent, with the dangers attending navigation, and had each one a map before him by which to follow out the result of my inquiries, with respect to bars, inlets, shoals, &c., the process would be tedious and uninviting. I shall content myself, therefore, with some general reasoning, which all who are kind enough to give me attention will readily comprehend.

By calling to mind the features of the coasts of Long Island and New Jersey, or referring to them as exhibited in one of the maps of the coast survey report of this session, it will be seen that these shores make the two sides of an entering angle, meeting at the great city of New York.

Upon the magnitude and importance of the commerce which centers in New York, it is needless to dilate. Every one knows that one-third, or nearly this proportion, of our revenue, is collected at this point. It is obvious then, that the number of vessels liable to be embayed between these two shores, as compared with other points of danger in our long line of seacoast, must be vastly disproportioned. To present the case in other words, and in a form more readily appreciated by this money-loving age—if the whole line of our seaboard be taken at three thousand miles, and the portion which my resolutions of the last and present sessions embrace as three hundred miles, then if our revenue be set down at $30,000,000, we protect one-third of this revenue while protecting one-tenth of this coast. This, however, is a mercenary calculation, which is not advanced as an argument, except to those—if such there be—who may object to the proposed expenditure, as partial and sectional, rather than as national in its scope and character.

A glance at a report sent a few weeks since by the Secretary of the Treasury, in answer to a resolution of the Senate—a document which would have been of infinite value, had it been full and accurate (and in saying this I do not intend to cast the slightest censure upon that officer, for his means of answering the resolution were obviously limited)—will prove that this observation is borne out by facts, so far as they can be ascertained. The report in question will show upon analysis, that the destruction of life and property is in this ratio. Among the cargoes lost within the limits named in my resolutions, according to this report, there is one alone set down as valued at $750,000. Probably few will examine these statistics with much scrutiny; but to those who are acquainted with the circumstances attending one of these disasters recorded in the whole array of dumb figures, spreading out in column upon column, page after page, they disclose an aggregate of loss and woe which is truly appalling: "The total number of wrecks 'included in this statement is 585. The number 'of the men engaged in working the vessels is '1,916, passengers 1,969, and of lives lost 477. 'The value of the vessels is estimated at $2,021,176, 'and of the cargoes at $2,501,771, making together 'the sum of $4,523,176. The amount of insurance 'paid on these vessels was $1,579,492, and on the 'cargoes $1,221,827, making the total property 'saved $2,801,319. Thus showing the actual loss 'to be $1,721,857," and this statement embraces a period of but one year.

It is not contended that all this loss and misery can be averted, but certainly very much of it may, and in my opinion it is the sacred duty of this Government to use all the means which God and the people have put within its reach to compass this end. Providence helps those who help themselves. The bold and hardy seaman, coming from a long and weary cruise, and approaching our country's coast, has to contend with trials which call forth all the physical energies of man, and which only strong hands and stout hearts can endure, and his courage and hardships are such as to command sympathy and admiration. But even when confident in the strength of the wood, and iron, and rope, and canvass, which bear him through the yawning waters, there are times when every resource of human skill and courage fail to gain the mastery over the elements of destruction raging around him. When, day after day, his ship has been tossing about in the midst of a fog which scarcely enables him to see from the wheel to the bowsprit, or in the midst of a blinding snow, with the decks and rigging covered with sleet and ice, when every wave that dashes over the vessel adds to the frozen mass, his situation would seem to be wretched in extreme. Yet these things produce discomfort without alarm; it is the horrors of a lee shore which the seaman dreads, and these horrors it is in our power to mitigate. By selecting stations along the shore at suitable distances from each other, and providing at these stations surf-boats, rockets, lines, and other appliances for rendering aid in cases of shipwreck, the hazard to life at least would be greatly diminished; and all this may be done at an expense so trifling compared with the great object to be attained, that I persuade myself that the necessary means will not be withheld. Each succeeding year witnesses vast additions to our commerce, and of course in the same proportion increases the hazards to disaster; for, notwithstanding the alleged discoveries of the philosophy of storms, no stretch of human skill or science will ever enable us to control them.

The appropriation made at the last session of Congress for the seashore of the district which I have the honor to represent, is now, as has been already stated, in process of application, and it gives me great pleasure to add, under the superintendence of a gentleman who evidently understands the nature of his task, and enters upon it with all the ardor and spirit which characterizes with all the ardor and spirit which characterizes gentlemen of his profession. With the permission of the committee, I will send to the Clerk's desk a letter lately received from this gentleman, (Captain Ottinger,) of the revenue marine service:

"NEW YORK, *January* 16, 1849.

Hon. W. A. NEWELL, *Member of Congress:*

"DEAR SIR: I take much pleasure in giving you information on the subject of your letter, and although it may appear that we have not progressed rapidly, yet we have been constant in our efforts to bring the matter to good account, and have called to our assistance several of the most intelligent surfmen along the coast, who have selected a boat as a *model* by which those provided for in the appropriation are to be constructed. We have selected eight *stations* on the beach, within the limits embraced in the law, "for the preservation of life and property from shipwreck on the coast of New Jersey," and design to have at each of them a frame house of the most substantial kind, to be furnished with a galvanized iron surf-boat, with ten separate "air-chambers," one hundred and eighty fathoms of hawser, three hundred and sixty fathoms of hauling line, six hundred yards of rocket line, rockets, &c., &c.

"Stoves and fuel will also be placed in the buildings, which will be sufficiently large to shelter persons and goods. In addition to the surf-boats, I propose to have a "life car" at each station, which is designed to be sent to the stranded vessel when the wind and sea is too heavy for the best constructed boats to live. I have not yet had the car approved of by the committee of the Board of Underwriters, by whom I am advised in these matters, but I have no doubt it will meet their approbation.

"I am much indebted to Major Henry Wardell, one of your constituents, for valuable information on the subject of my present duties; and during my recent visit to that city I had the satisfaction of hearing remarks from several intelligent persons which evidenced that the people throughout the neighborhood were gratified that the Government is about to place under their control more efficient means to enable them to extend their usefulness in saving life and property from shipwreck.

"I have made some experiments in throwing a line from the shore to a vessel with a rocket, which was witnessed by Messrs. Jones and Suydam, of the committee, and several other gentlemen, who accompanied us in the United States revenue cutter outside of Sandy Hook, at which I fired several rockets with lines attached, and threw out two hundred and fifty yards of line, weighing 1.62 ounces per yard, with which we tested the practicability of sending a hawser from the beach to a boat or vessel.

"The rockets used on that occasion were imported by R. B. Forbes, Esq., of Boston, who is the executive officer of the 'Massachusetts Humane Society,' and is constructing surf-boats from the appropriation of five thousand dollars given by Congress to that society. Captain Forbes informs me that Colonel Talcott, of the Ordnance, at Washington, has offered to furnish rockets from the arsenal at that place for humane purposes; and from experiments recently made by the officer in the pyrotechnic department, it is believed that he can produce rockets fully equal to those imported.

"It is my intention, as soon as the weather will permit, to make some trials in throwing a line by means of a mortar and shot, and am of the opinion that we will also place them at the several stations. I can scarcely answer your inquiry respecting the persons to whom the boats are to be intrusted; but from what I learn on that point, my opinion is, that the *surfman* who first arrives at the boat-house should have the privilege of taking charge of her for that occasion, *provided* he has the ability to take the 'steering oar;' and if he has not, none of the others will place themselves under his command.

"But the general charge of both the houses and the public property is to be given to some responsible person who resides near the station. These persons are mostly agents for some of the Insurance Companies, and the 'boat's crew' who first boards a stranded ship, is employed by the underwriters in preference to any other; and if I may judge from the remarks of the various persons whom I have met on the beach, the boats will be readily 'manned;' for I am happy to say, that I believe that many persons on the 'seashore' of your district enter warmly into the feelings by which you were actuated in obtaining an appropriation for so noble a cause, and I am much gratified to have the honor of being selected as the executive of your views in this case; and I hope to have everything connected therewith in progress of construction in a few days. I have conversed with several intelligent seamen respecting the need of surf-boats between Cape May and Egg Harbor, and their opinions agree with mine, that it is of much importance, and boats would be highly useful on that part of the coast.

"The boats and buildings which I am superintending the construction of will endure for twenty years at least; and it is my intention to suggest to the Secretary of the Treasury, in my report, that the public interests might be served by making it the duty of the commanders of the *revenue cruisers* to visit once in three months the persons intrusted with the care of the surf-boat stations, and inquire whether anything is needed, as well as to inspect, with the keeper, their condition, and report to the Secretary. If that matter is embraced in the law of Congress making the appropriation, it will be likely to insure the duty being done more effectually.

"It will always add to my happiness to give you any information that you may require respecting my duties.

"I am, very respectfully, yours,

"D. OTTINGER, *Captain U. S. R. Marine.*

"I have omitted to mention that the seacoast of Long Island is sadly in need of surf-boats and houses to save and shelter the shipwrecked, and hope that that important part of our shore will be cared for. Yours, D. OTTINGER."

This letter, Mr. Chairman, furnishes information in detail, of the plan to be pursued in carrying out the intention of Congress, as expressed at the last session; it only remains to be seen, whether these measures shall be extended so as to take in the rest of the New Jersey coast, and the opposite shore of Long Island. In urging this extension,

sir, but one motive actuates me: that of advancing the claims of humanity—claims which are alike dear to us all. Under the appropriation asked for, no new offices are to be created, no salaries given; there are to be no contracts for favorites, party is nowhere brought in question; the one sole end and object is the preservation of life and property, by placing within the reach of the sentinel upon shore, the means of affording timely and effectual relief to his distressed brother upon the ocean. The only objections which can be properly urged to any expenditure for public purposes, are the want of power in the Constitution, or the want of money in the treasury. As regards the first, the proposed expenditure has already received the sanction of this Congress, in the case of my own district. It is but carrying out the same system under which light-houses, breakwaters, buoys, and other facilities to navigation have been provided from the earliest organization of our Government; a system which is the dictate of sound governmental policy, and *requires to be extended for like purposes to every part of our common country.* As to the second point, it will not be seriously urged in the case of so trifling an appropriation, in a time of profound peace. It may be said, that while the object is meritorious, the scheme embraced is purely philanthropical, and as such should be left to the care of private association; or that, if New Jersey and New York are the points of frequent shipwrecks with its attendant horrors, these States should themselves provide the necessary means of relief. The reply is, that although the coasting trade will share all the benefits of the proposed relief, it will chiefly protect that foreign commerce which is the exclusive care and concern of the nation, and from which we derive nearly our whole revenue. Assuredly it cannot be maintained that any exclusive advantages will be enjoyed in the premises by either of these States. As for my own State, sir, she does not require pecuniary aid for herself in any form. Her bonds are not to be found in any market, at home or abroad, and whoever has read the last message of her Chief Magistrate will have observed with pride that not only is New Jersey entirely independent of debt, but that she possesses a large surplus fund, which, under the wisest republican policy, is set apart for the education of her children. Nor is she behind her sister States in other good works. Massachusetts has been regarded as the great exemplar of States, in matters of internal policy, and rightly so; but it was with pride that I observed from a paragraph in the press lately, that a joint committee of her last Legislature, appointed to inquire into the subject of insanity, have made a report to the present Legislature, in which they recommend the construction of an asylum, on the plan of the New Jersey State Asylum. Several other States, it is said, have also recommended the building of asylums on the plan of that in my State.

As for New York, she needs as little to crave any pecuniary boon; her resources, too, are ample. Lest it should be thought that I am usurping the prerogative of some one of the Representatives of that State in urging the adoption of a measure to be carried out within her limits, let me say, in self-justification, that the interest which I took in this subject upon a former occasion, has been the cause of my receiving numerous letters soliciting my agency in the present, and these appeals have come from different quarters, prompted, however, alike by the common plea of humanity. But, sir, apology in this respect is superfluous; I claim to represent any and every district in any portion of this Confederacy as well as my own, and to stand here as a Representative of the Union. Considering the numerous forebodings we have had of late, concerning the fate of this glorious Union, a moment's digression will be pardoned me for my views in this matter. The remark of my friend from Illinois, [Mr. FICKLIN,] who has just taken his seat, that "the people were never more proud of the Union, or more determined to stand by it, than at the present time," is strictly true. Sir, my faith in the strength of the Union has never wavered for an instant. Though feverish and fitful bursts of passions here, may occasionally indicate the contrary, I speak confidently of my own State, and doubt not the same is true of every other; at home, among the people, the public pulse beats regularly, healthfully on this question. Our citizens are true to the Union, to their common country; and if they believed that the addition of territory to this Confederacy, in whatever quarter or in whatever form, would destroy its equipoise, and end in disruption, they would say, rather than such a catastrophe, Let Mexico alone; perish California and its gold; let it be swallowed by an earthquake, or covered chin deep with lava, and marked in all future geographies as the counterpart of the great African desert. No, sir, the Union will be preserved by this generation, and the utmost stretch of the power of the few, the very few, now upon the stage of action, who are indifferent to its fate, or wish it harm, can effect no more than impair its ties and familiarize the idea of its destruction in the hearts of those who are to come after us.

When a distinguished Senator from Kentucky (Governor Metcalfe) was asked, a few days since, what side his State would take in a certain contingency, his reply was noble and truthful, and was applicable to every one of the middle States. He answered that Kentucky would side neither with the North nor the South; but stretching one hand to the North and the other to the South, she would hold on to both with an unyielding grasp, and grapple them together with hooks of steel. Sir, when this Confederacy was first established, it was brought together by sympathy in a common cause, and a long and terrible struggle against a common foe; and for a long time after this period it may be said that it was only held together by a written parchment. But how is it now? Has the Union acquired no strength? Whatever fears some may entertain of a central and consolidated government, they cannot deny, that so far as the States are concerned, our people have lost much of their individuality. In framing the Constitution, the words "we the people" may have been a matter of form, but they are now matter of fact. The evidence of this is around us in this very Hall; we see here gentlemen whose birth-place was in the extreme North, representing constituencies in the extreme South; gentlemen from North Carolina and Indiana who were born in Massachusetts and Virginia. Do these gentlemen feel or know any difference as regards the land of their nativity and the land of their adoption? And suppose that our business relations, closely interwoven as they are, could be severed; that the roads and canals, and the magnetic wires, that now link together the extremities of this Union, could be destroyed in far less time than it has taken for art and enterprise to construct them: can we as easily, nay, can we at all, blot out the ties of consanguinity and kindred that now constitute us one nation? Let political dreamers and madmen speculate in this matter as they may, my conviction is firm that the people will remain true to themselves, that there can be no disruption of the Union.

But, sir, I have wandered from my theme—or rather the subject has insensibly grown upon my hand; and while considering the welfare of only a small part of our country, the unbroken grandeur of the whole has lured me into this digression; but recent and numerous precedents must be my warrant.

There is no coast in the whole world frequented by commerce, as I am assured by experienced navigators, which is so badly provided with the necessary means of preserving life and property, as are the shores of Long Island and New Jersey. From the latter may be excepted the Highlands of Neversink, and the floating light off the Sandy Hook. It gives me pleasure, in this connection, to speak of Captain Bartling, the keeper of this floating light, as a man whom I have heard highly commended for his unremitting attention to the duties of his station.

From Little Egg Harbor to Cape May, the direction of the coast is southwest and northeast, and along the whole coast are shoals running nearly parallel with the beach, at a distance from it varying from three to five hundred yards, and at the mouths of the numerous inlets are also treacherous bars.

The shore of Long Island, sir, lies in a direction of E. N. E. and W. S. W., and here too are bars lining the coast from the east point of Rockaway Beach to Mauriche's Bay, of from one hundred and fifty to two hundred yards distance from the main land. From Mauriche's Beach to Montauk Point, the shore is bold, the water varying in depth from three and a half to seven fathoms. These shoals are the especial dread of mariners; some of them at times are entirely dry, and at other times covered with about six feet of water. Vessels driven by stress of weather upon lee shores such as these, have but a narrow chance for preservation, and the disasters which overtake them come almost invariably at that inclement season of the year when the limbs of the hardy and weather-beaten seaman are stiffened with cold, and chilled with the frozen spray; these sufferings are chiefly visited, too, upon the inward bound, for those outward bound may choose their own auspicious moment for putting out to sea; but the homeward bound, less fit for peril, must make land at such time as wind and weather allow. By providing stations at suitable points along the shores, with shelter and ready means of warmth and comfort for the shipwrecked seamen, the bearing and distance of such stations from the various lights will soon come to be known to our navigators, and they will strive in seasons of danger to bring their vessels within helping reach of these hospitable points. The proper points of danger can be best judged of on the spot by a practical seaman; but among them my attention has been specially called to Pelican Beach and Rockaway Inlet; at the latter place there should be provided two boats, one for each opposite point of the inlet, so that, in case of a violent storm, the boats may start from either point, and having boarded the stranded vessel, take the benefit of the wind in returning to shore; having reached the shelter of the shore, the boats may then be pulled across the inlet, and again speed forth on their errand of mercy or usefulness. The suggestion of Captain Ottinger, that it should be made the duty of our revenue cutters to visit these stations from time to time, and report of their condition, and the good they may be instrumental in rendering, appears to me to be highly judicious; but I am persuaded, that although left to the unrestrained care of the inhabitants of the shore, the property and fixtures would be regarded as sacredly as those which adorn our cemeteries.

In reference to my resolution, which relates to an appropriation to provide buoys at the places heretofore designated, I will remark, that in my opinion, there are no points on our whole seaboard which so much require these conveniences to navigation. At Barnegat Inlet the channel is very narrow, and bounded on either side by dangerous shoals which lie at a distance of some hundreds of yards from the beach. Very many of our coasting vessels have been wrecked here, whilst attempting to avoid the dangers of an ocean storm, by passing through the Inlet into the bay beyond, where a safe harbor would be afforded them.

The channel at the mouth of Toms river is also very narrow, and during the thick fogs which are so common at some seasons of the year, vessels are prevented, for many days together, from getting into the bay in consequence of the danger of being grounded on the bars which abound there. At a very small expense, buoys may be furnished, by which these dangers may be almost entirely averted.

The establishment of these measures of safety for the forlorn and shipwrecked mariners ought not to be left to the States, or to charitable associations. The Government itself, the nation, should be identified with all such schemes of benevolence, for by these means more than any others, can best be preserved the kindliest relations between the citizen and his country. That mutual dependence, which, instead of being a mere periodical routine of statistics and taxation for the purpose of keeping up the paraphernalia of government, rises into something higher and holier, and gives to associated strength a sanctity far beyond what it can derive from the most formidable warlike preparations—a sanctity which makes patriotism something more than the mere *genius loci*, and binds the people to the constituted authorities and institutions of their land by ties of gratitude and affection.

A few words upon a kindred subject, and my remarks will be brought to a close. In the course of some observations which I had the honor to submit at the last session, I took occasion to comment upon a practice prevailing in other enlightened countries, but entirely disregarded in our own, viz: the bestowal of medals by the head of

the Government upon such citizens or foreigners as have performed some conspicuous good act, reflecting honor upon themselves and their country. Congress has frequently voted such rewards, but chiefly for military valor. There are examples of heroism in peace as well as war, but it would be impracticable to bring their details, for the purpose of honorable testimonial, before a large legislative body, and power ought therefore to be vested in the President to discharge this grateful duty. An honorable member from Maine [Mr. CLAPP] has anticipated me in introducing a resolution for this purpose, which it is sincerely to be hoped will be passed at the present session. This may seem to some to be a trivial matter, but, for one, I cannot so regard it.

"The love of praise, howe'er concealed by art,
Reigns more or less, and glows in every heart."

Our Constitution wisely guards against patents of nobility and hereditary distinctions, but we may well afford to award praise and honor to him who is the artificer of his own fame, and we can thus secure the good which arises from honorable emulation. A gold medal received at the hands of the President of the United States, as a testimonial of national gratitude, would be regarded by the recipient, whatever his station in life, as the proudest heirloom for his posterity; its possession could excite no jealousy, for it is a homage to virtue alone, and the glow of patriotism which it would kindle, coming from no borrowed or transmitted light, would be pure and holy.

If to aid philanthropy and encourage benevolence be among the objects of a good government, the measures which I have endeavored to set forth will assuredly commend themselves to the favorable consideration of members, and with this conviction I cheerfully leave the subject in their hands.

SLAVERY IN THE NEW TERRITORIES.

SPEECH OF MR. McCLELLAND,

OF MICHIGAN.

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1849.

In Committee of the Whole on the state of the Union, (Mr. CABELL, of Florida, in the Chair,) on the Bill to carry into effect the Treaty of Peace with Mexico.

Mr. McCLELLAND said:

Mr. CHAIRMAN: We are called upon daily to take into consideration the necessity of giving some kind of government to California and New Mexico, by those who desire to emigrate there—by the applications of the inhabitants of both Territories—by the want of law and order, and the terror that reigns in the gold regions—and by considerations constantly pressed upon us by the friends of the present and the incoming Administration; and there is, therefore, no subject which, in my judgment, so strongly commends itself to our attention.

Members are impressing upon us the idea, that the times, the circumstances surrounding this question, and the excited feeling pervading a large portion of the people, require conciliation, concession, compromise. When no sacrifice of principle is necessary, it is always best to adopt this course. Under ordinary circumstances, its results are generally salutary, as it softens those asperities of feeling which otherwise arise. But it would have been advisable to have pursued this method of disposing of the vexed question, when the annexation of Texas, which is the foundation of all this difficulty, was in contemplation. Some of the strongest and most distinguished men of the North were opposed to the connection in any form. Others took ground against it, as extending the area of slave territory, and a few were so hostile to it as to solemnly declare it would, *per se*, be a dissolution of the Union. In this state of things was any spirit of conciliation, concession, or compromise, manifested? Was any regard paid to the demands of the North? When the argument was used, that unless it was united to our Union, it would fall under the control of Great Britain by commercial treaty or otherwise, and consequently it would become free, and we replied, that as slavery existed in a portion of it, we were willing to divide it into free and slave States, secure its annexation, and thus settle forever this agitating question,—we were not listened to, but entirely disregarded.

The Missouri compromise line, (36° 30′,) which several gentlemen have claimed as a concession to gratify and satisfy the North, was not placed there by northern men; and the only conceivable object had in view at the time, judging from the manner in which it is interpolated, was to make the resolutions more palatable to some members, and to give others a plausible pretext to vote for them. At one time, we believed we had enough of members to have dictated our own terms; but during the discussion, by some mysterious influence which we could not comprehend, many of our men were induced to give way, and finally we were overcome.

The House resolutions for the annexation contemplated the erection of the Republic of Texas into a State, in order that it might be admitted, upon certain conditions, as one of the States of the Union. When they reached the Senate, insurmountable obstacles were interposed to their passage, and an important struggle took place. The tone of the advocates of the House resolutions, after some discussion, began to moderate; and at last the amendatory Senate resolutions were attached to those of the House. They authorized the President to negotiate with Texas, that a State might be formed out of the Republic of Texas, with suitable extent and boundaries, and admitted into the Union; and the cession of the remaining Texian territory to the United States was to be agreed upon by the Governments of Texas and the United States. The understanding of those who had opposed the House resolutions and advocated the Senate amendment, was, that the latter should be the basis of action on the part of the Executive; and if such had not been their honest conviction, I have no doubt they never could have passed the Senate. At the time, it was considered a compromise; and all here who were then members will recollect, that immediately thereafter, union and harmony were restored to the Democratic party. But we were destined to disappointment. A few short days elapsed, and what had been whispered about privately in the social circle was made public, and we were informed semi-officially that the House resolutions had been forwarded to Texas, and that the Senate amendment was suppressed. Nothing could have surprised or astonished us more; but the matter was beyond our control, and we were compelled quietly to submit. If our understanding had been carried out, in my opinion the union of Texas to the United States could have been consummated without war. Negotiations might have been opened with it and Mexico, and would, with proper management, have been speedily brought to a favorable and peaceful termination. The step taken by the then Executive was the germ of much of the excited feeling prevailing in the North, and which so often bursts forth in this Hall. What was the cause of pressing annexation under the House resolutions with such hot haste, if not to sustain, extend, and perpetuate slavery? If the Executive had taken the Senate resolutions, it would at least have given a prospect to the North of obtaining, at some future time, a portion of the territory; but by the mode of operation adopted, every hope was extinguished.

What was the argument used by many of the southern members? Why, that the permanent interests and proper balances of the General Government absolutely required that the South should have the preponderance of power in the Senate, as the North, by its greater increase of population, would always possess it in the other House. In other words, it was deemed necessary to give to the South the control of all appointments, treaties, and an equal share in the passing of all laws, and thus perpetuate their power. This was the object, and thus far it has been accomplished.

Look for a moment at that provision of the House resolutions which covers the Missouri compromise. The language excludes slavery and involuntary servitude north of 36° 30′; but suppose States are never formed north of this latitude, or Texas proper never consents to it, (Texas having, by the resolutions, the whole power of control over the sublutions, the whole power of control over the sub-ject,) of what avail is the restriction? And of what force or effect is such prohibition on a sovereign State? And, in the mean time, what stipulation with Texas prevents the introduction of slavery into this territory? None whatever.

I would here call the attention of those who contend that we have no constitutional power to impose such restriction upon a territory, to the fact of their having themselves in this case imposed a restriction on a sovereign State, which presents a different and much graver question.

Mr. Chairman, in our action upon this question of slavery as connected with these Territories, we should take into consideration two things—the prosperity and happiness of the Territories, and the good of the whole Union. These considerations induce all northern men to oppose the extension of slave territory. We believe slavery to be an evil, which retards the progress and advancement of a State. It is the only way in which we can satisfactorily account for the great disparity between northern and southern States in wealth, population, and prosperity. The climate, the soil, the geographical position, and the staple commodities of the South, are far superior to those of the northern States; and yet it must be conceded, that since the organization of our Government, the South has, comparatively speaking, deteriorated in all the elements of greatness. The emigrant from the States of Europe or our own country seldom finds a home in the slave States, but almost invariably seeks it in the free States of the West. The lands of the South are as cheap, as productive, and the country as healthy, and yet they are purchased slowly. Around the capital, in the contiguous States, are locations the most eligible in every point of view; but they remain unsold: and why? Because of this blighting institution.

If we adopt, Mr. Chairman, the sentiment of the President in his last annual message, that "equal regard for the rights of all, and of all sections of the Union, ought to prevail," these Territories must remain free. In this connection I have a remark to make in reply to the gentleman from Alabama, who lauded Virginia so highly for patriotically relinquishing her claim to the Northwest Territory. That State has laurels enough to boast of, without endeavoring to claim that to which she has no title. This merit has been awarded her without, in my opinion, an examination of the history of that Territory. The best reasons for its surrender by the several States are found in the instructions of the General Assembly of Maryland to their delegates in Congress in 1789, from which I beg leave to quote a paragraph. They say: "We are convinced policy and justice require 'that a country unsettled at the commencement 'of this war, claimed by the British Crown, and 'ceded to it by the treaty of Paris, if wrested from 'the common enemy by the blood and treasure of 'the thirteen States, should be considered as a 'common property, subject to be parceled out by 'Congress into free, convenient, and independent 'governments, in such manner and at such times 'as the wisdom of that assembly shall hereafter 'direct." Every one who will take the trouble to investigate the facts will be convinced of the accuracy of these statements, and it is just that the truth of history in regard to this matter should be vindicated. And it is well understood that if it had not been for the firm and decided stand taken by John Adams in negotiating the treaty of peace with Great Britain, the Ohio river would have constituted the boundary between the United States and the British Provinces. The Northwestern Territory was part and parcel of our original territory, and slavery was excluded from it before the adoption of the Constitution, and at the instance and by the votes of southern members of Congress. They then considered slavery an evil; and if you will look into the proceedings of the Convention that framed our Constitution, you cannot avoid the conclusion, that they esteemed it a mere temporary institution.

Throw out of the calculation this Territory, and you will find the estimate of the gentleman from Maine [Mr. SMART] correct. You have the fertile, productive, and desirable regions of Louisiana and Texas, as well as the two Floridas, to counterbalance Oregon, the northern portion of the Louisiana Territory, California, and New Mexico—the greatest part of which is uninhabitable, and a large portion of that which is improvable is occupied by tribes of Indians. Previous to the annexation of Texas, the North and South were

content, and there was no strife about Oregon, which was by all looked upon as properly free territory. Then the admission of Texas came, and with it all our troubles and perplexities. The annexation was the cause of the war, because Mexico did not contend for that which lay between the Nueces and the Rio Grande, nor for any other part of Texas, but in all her pronunciamentos claimed the entirety, and marshaled her forces with a view of reconquering it. For it we entered the contest, and brought into requisition all our powers; and it is the sheerest folly to deny it. Well, we succeeded; and for the money expended, and the sacrifice of our citizens, we have obtained the recognition by Mexico of Texas, as an integral part of the Federal Union, and also New Mexico and California. You would not exchange the first for the two last; and, although the population of the free States is far greater than that of the slave States, yet you are not satisfied, but are grasping for more, and threaten to dissolve the Union if you do not obtain it. But this threat has been made so often, that even for northern men it has no terror; we are accustomed to it; and although formerly we were oftimes frightened from our propriety by it, we have ceased to be longer alarmed. It would amuse one of our plain, unsophisticated constituents to look in upon our proceedings here, after reading the journals of the day giving descriptions of the great excitement prevailing in these halls, and the danger of a dissolution of the Union, to find us calm as a summer's morn, and talking and chatting with each other as if nothing of importance had occurred or was occurring. Many of them do not understand these things; still, our people are becoming daily more enlightened in regard to them.

It is astonishing that the South should complain, when, as to the Presidents, Speakers, heads of departments, judges of the Supreme Court, officers of the army and navy, down to the clerks in the different bureaus, it has always had the lion's share. The Government, whether Whig or Democratic, has been, from its organization to the present period, under its guidance and control; and what more do you want?

Mr. Chairman, I do not intend to discuss the constitutionality of our right to prohibit slavery in these Territories. That is a trite subject, and there are others who will give it their attention. I cheerfully agree with the Southern Address as to States—that slavery is a domestic institution; that it belongs to the States, each for itself, to decide whether it shall be established or not; and if it be established, whether it should be abolished or not. Thus far I can go with it, but no further. We plant ourselves in regard to territory on the precedents, from the formation of the Constitution to the signing of the Oregon bill by the present Executive; on the decisions of the Supreme Court, where the question has incidentally been decided; and upon the Missouri compromise itself. When the Oregon bill was before this House in 1845, and previous to this slavery question being mooted, on its passage, containing the principle of the ordinance of 1787, some fifty-one southern members voted for it, and only twenty-four against it. This is an evidence that then they did not contest its constitutionality, nor does the President question it in his message assigning his reasons for approving the bill organizing a territorial government in Oregon. Will you ascribe this to your desire not to interfere with the Missouri compromise? Remember that you have for the last two sessions abandoned that, unless we would consent to its introduction into New Mexico and California. Do you say that you can compromise this great question without compromising the Constitution? or that the acquiescence of the people in the Missouri compromise has made this line part and parcel of it? If so, with how much greater propriety can we point you to the precedents, which show the uniform practice of Congress, and which have, until recently, never been questioned, but always acquiesced in and approved by the whole people. But why has the ordinance of 1787 become so odious? A few short years have elapsed since there was a great contest between the North and South as to its paternity—each claimed it as a jewel worthy of preservation. And why does it meet opposition from western men, whose territories have grown up into mighty States under its benign influence? They see the beneficial effects of the institutions reared under it. They know their people revere it, and have a respect for its provisions that will never cease; and yet they denounce it. A short time ago, when the attempt was made to attach it to the two million bill, and Senator DAVIS, by an unfortunate speech, prevented action upon it, he was attacked by many of the advocates of the bill, and denounced in the most unmeasured terms; but afterwards it was characterized as a mere abstraction. It was said, when it became a practical question, they were ready and willing to vote for the proviso; but most unfortunately when that time arrives, we find these gentlemen deserting us. Its history is certainly a curious one.

The ordinance of 1787 regulated the descent and conveyance of real estate, and the transfer of personal property. The laws passed by the governor and judges, and the legislative assembly, were subject, upon the disapproval of Congress, to become null and void. The qualifications of the legislators were prescribed. A bill of rights, such as is ingrafted upon most of our State constitutions, was incorporated into it, and in its scope many municipal regulations, of great value and importance to a State, were embraced; and this was done by a Congress in which were many of the framers of the Constitution, and by which it was afterwards sanctioned; and yet we are gravely told we have no constitutional power to make such rules.

Sir, Congress has not confined itself, in regulating this institution, to the free Territories, but has extended it to the slave Territories. By the seventh section of the act organizing the Territory of Mississippi, passed in 1798, the importation of slaves into the Territory, from any place without the Union, was prohibited under severe penalties. In 1804, the power was exercised, and, so far as we can ascertain, without any opposition, in the Territory of Orleans.

If, Mr. Chairman, we have no right to form territorial governments, where is our authority to designate the time for the organization of a State government, to determine its size, prescribe its boundaries, and fix upon the requisite population? In what article or clause of the Constitution do you find, for such purpose, any power, which is not compatible with our views in regard to territorial governments?

But it is said, why will you thrust these questions into discussion upon territorial bills, which excite and exasperate our southern friends, when it is admitted that when these Territories become States, they can adopt the institution? I ask, if ever the people of a free Territory did so? and is there a man here that has the remotest idea it ever will be done? Let the Territory be free until a State constitution is formed, and the danger is forever at an end.

Many who are opposed to slavery, and consider it a great evil, say the territory is free and must remain so: why, therefore, consume time in legislating about it? In reply, I would refer them to its unlawful introduction into Texas, where it was positively prohibited by the fundamental law of Mexico. And I would direct their attention to the Territory of Indiana, over which the principles of the ordinance of 1787 prevailed; and yet slaves were carried there: a suspension of the ordinance as to slavery was prayed for, and a severe contest carried on between those for and against slavery, which fortunately resulted in favor of the latter. I would ask them also to look at the small number of slaveholders in some of the States in comparison with the non-slaveholders, and tell me why slavery is not abolished there? There is a mysterious and at the same time an all-powerful influence in this institution that is incomprehensible.

Another argument used is, that slaves cannot be taken there. How were they taken to Oregon? and why did we exclude it from its borders? Can any other reason be assigned than that we were fearful it would find its way into that region? The means of transportation are now greater to California and far greater to New Mexico; and it is stated, on what is considered reliable authority, that some are at this time being taken into these Territories.

Again: it is alleged that slave labor will not be profitable in those regions, and therefore self-interest will preclude its introduction. But this assertion is denied by every intelligent traveler who has given a description of them. Mr. Frémont says: "The inhabitants of corresponding 'latitudes on the Atlantic side of this continent can 'with difficulty conceive of the soft air and southern productions under the same latitudes in the 'maritime region of Upper California." By a glance at the map, you will perceive that Maryland, Virginia, North Carolina, Kentucky, Tennessee, Missouri, and Arkansas, all slave States, are almost entirely in the same latitudes. If slave labor is profitable in these States, why not in California? Would slaveholders be so solicitous to take slaves there, were they convinced that they would suffer by it? Or would they incur so great expense as attends the removal of their slaves, if they believed there was the least risk in it? They know that slaves, properly managed and controlled, are profitable, and therefore they would transport them either for their own use or for the market.

Another scheme was proposed at the last session of Congress for the disposition of this question. In the Senate a bill was passed, commonly called the compromise bill, providing for the submission of the slavery question to the decision of the Supreme Court of the United States; and, in the mean time, prohibiting the people of the territories from interfering with it. This compromise was, as usual, all on one side. It was an ingeniously-devised plan to entrap northern men; but it did not ensnare enough of them to make it a law. The strong probability is, that no slave would ever have been able to take his case up to the Supreme Court; and if he had been, it would not, under ordinary circumstances, have been decided in less than five years. It is seldom that any constitutional question is sooner disposed of; and, in the mean time, the transition from colonial vassalage to that of a State government might have taken place, and the decision would have been of no practical importance. And how, Mr. Chairman, could those gentlemen, who have strenuously contended for the right of the people of these territories to decide this question for themselves, and in their own way, reconcile their votes for this bill with that principle, when the bill expressly deprived the people of all power over it? There is another strange inconsistency in their conduct. If they were at all conversant with the delays in the Supreme Court, they must have known that this question would not have been definitively settled there for many years. In the mean time slaves might have been taken into these territories with impunity by the master. But it was said by some, that this part of the bill precluding the people from deciding this question, was rendered necessary by the character of the population then there, and the emigration that would probably go there; and yet now these men are for dispensing entirely with a provisional or territorial government, and in favor of erecting a State government in a few short months. But I ask northern gentlemen, why risk a question of such magnitude and vital concern to the northern States to any such tribunal, when we can settle it here, and upon the most equitable principles acquire the whole of it for the free and independent laborers of the North? Its submission to the decision of the Supreme Court would have increased the agitation and excitement, and may have shaken the confidence of the people in the court itself.

Gentlemen contend that these territories are held by us as a trust. For whom? This doctrine amounts virtually to this: that the United States goes to war, expends the money, means, and life-blood of her citizens, and eventually, by treaty or conquest, acquires territory; the moment it is acquired it belongs to those who inhabited it; or, if there are no occupants, then to the first adventurers; and we cannot control it, nor for any time mould its institutions, or frame any of its municipal regulations. Such a principle cannot be sustained. The only obligation to the people of these territories that is binding upon Congress is found in the treaty and the Constitution. By the treaty we have guarantied that the Mexicans becoming citizens shall be incorporated into the Union, and admitted at the proper time (to be judged of by Congress) to the enjoyment of all the rights of other of our citizens according to the principles of the Constitution; and, in the mean time, they are to be maintained and protected in the free enjoyment of their liberty and property, and secured in

the free exercise of their religion without restriction. We are ready and willing to carry into full effect all these stipulations, but are opposed to every scheme that will have the slightest tendency to propagate slavery in that country. This would be contrary to what was anticipated by the Mexicans, and what was understood (if we can rely upon the language of the commissioner on our part, Mr. Trist) by them to be the intention of our Government. He says:

"Among the points which came under discussion was the exclusion of slavery from all territory which should pass from Mexico. In the course of these remarks upon the subject, I was told that if it were proposed to the people of the United States to part with a portion of their territory, in order that the Inquisition should be therein established, the proposal could not excite stronger feelings of abhorrence than these awakened in Mexico by the prospect of the introduction of slavery in any territory parted with by her."

Here is the testimony of him who made the treaty, and whose declaration upon this subject is certainly worthy our consideration. And why should we hesitate in conforming our action to this understanding, and in fulfilling all our implied stipulations in good faith to the Mexican Government?

The gentleman from Virginia, [Mr. PRESTON,] and the gentleman from Alabama, [Mr. HILLIARD,] call upon us to comply with the demands of the people of California and New Mexico. Give them a State government, and submit the slavery question to the people. A distinguished citizen of my own State will be gratified to learn that those who recently opposed his election to the highest office in the gift of the people, and defeated him by means of this question, are now becoming willing converts to his doctrine. Why was not this ground assumed before by our friends on the other side of the House? However, we join hands with them, and cordially agree to carry out the expressed wishes of the people of these two Territories, and this we were willing to do at any time during this session. But what do these people desire? By reference to the petition of the people of New Mexico, presented in the Senate by the Senator from Missouri, [Mr. BENTON,] they call for a *temporary*, or territorial civil government; they request that the offices of governor, secretary of state, United States marshal, United States district attorney, and judges be filled by appointment by the President of the United States by and with the advice and consent of the Senate; and they say: "We do not desire to have domestic slavery within our borders, and until the time shall arrive for our admission into the Union as a State, we *desire to be protected by Congress* against their introduction amongst us." Such, sir, is the application of the inhabitants of New Mexico. From the information we possess in regard to California, the same sentiments prevail there. All the letters received thence, which speak on this subject, concur in the general expression that a territorial government is required, and that it is expected slavery and involuntary servitude will be prohibited. Such is also the tone of the newspaper published at San Francisco, and I have yet to see the first letter containing even an intimation that a solitary individual in these territories desires slavery or a State government. The latest information received from California is contained in the letters of Commodore Jones to the Secretary of the Navy, and Mr. Folsom, of the Quartermaster's Department, to General Jesup; and both urge upon us the imperative necessity of giving them a provisional or territorial government.

All our Territories have gone through a state of tutelage and preparation. Its good effects have been realized by the people in our new States, and their experience on this point is of great value to us. It would be difficult to find one of them who would approve of the immediate organization of a State government. By an examination of the acts of Congress, it will be found that the average duration of territorial governments is about fifteen years. The territorial government of Ohio was the shortest, being about five years, and Michigan the longest, being about thirty years. Louisiana was eight, and Florida twenty years, preparing to discharge the functions of a State organization. And are the inhabitants of New Mexico or California better prepared to administer the affairs of a State government than the people of these States? Hear what the Judiciary Committee of the Senate (composed of Messrs. BUTLER, BERRIEN, WESTCOTT, DAYTON, and DOWNS, the last dissenting) say in regard to the State bill of the Senator from Illinois, [Mr. DOUGLAS]:

"The ninth article of that treaty [Mexican treaty] was, in consequence, amended, so as to give notice to the Mexican Government, and to those Mexicans who chose to transfer their allegiance to the United States, of the terms on which they would be incorporated into the Union, and be admitted to all the rights of citizens of the United States; that this would be done not instantly, as is proposed by this bill, but 'at the proper time to be judged of by the Congress of the United States;' that is to say, when, by a course of territorial pupilage they had become acquainted with our Constitution and laws, conversant with the operations of the Government, and had acquired, in some degree, that similarity of character which can alone fit men for the intimate political association which exists between the several States of this Union."

It appears to me that no candid man can fail to be convinced of the force of these views, thus strongly and briefly expressed; and if they are correct, then a State government is out of the question. But a few days ago the gentleman from Alabama [Mr. HILLIARD] asked leave of the House to introduce a bill for the organization of a State government in California; and, at first blush, it appeared so obnoxious to members, that on a test vote leave was refused by 120 noes to 60 ayes. This was not the result of any feeling of discourtesy to the gentleman from Alabama—for whom every one entertains the highest respect—but it was the impartial and disinterested manifestation of the opinions of the House. Time will show what change "malign influences" may produce upon our minds. No man acquainted with the secret springs of action here will pretend to form any correct conclusions from this recorded vote. Mark what the future will develop, and what an expunging process may become necessary to preserve the consistency of certain gentleman in this House!

But, sir, how are we to dispose of the pledges and promises made by our own Government to the inhabitants of these territories? It is understood that generally the proclamations of our officers in command in Mexico were framed here, and obtained the sanction of this Administration. Now, General Kearny, in his proclamations at Santa Fé, on the 26th of August, 1846, and at Monterey, on the Pacific, on the 1st of March, 1847, promised the people free governments like those of our own territories, and the choice of their own legislature to enact laws for them. We cannot, in good faith, disregard such obligations, and refuse their fulfillment.

Suppose, Mr. Chairman, you impose a State Government upon them, how are they to support and maintain it? It will cost annually at least $60,000, which, at two mills on the dollar—and this is rather an exorbitant tax—will require $30,000,000 of taxable property. Where is this property? There are very few lands there owned in fee simple, and there is comparatively but little personal property, and I cannot conceive how they are to raise money to sustain the machinery of a State organization. How can they construct roads, build schoolhouses, support schools, defray their town and county charges and improve their country, with such a burden resting upon them? Sir, if we desire to harass, embarrass, and oppress these people, and drive them from us, (as some fear we shall if we do not provide a government for them,) we should pass this State law. If anything will induce them to make an attempt to free themselves from this Union, it will be this gross injustice and disregard of their rights and our own pledges.

Look at these State bills, and see the power you are conferring on the President of the United States, who controls the officers in the Territories. They are empowered to form election districts, to designate the time and place of holding elections, to appoint the judges and inspectors, prescribe the mode and manner of making returns, to apportion the delegates that are to meet in convention and form the constitution, and fix upon the time and place of holding the convention, with other incidental and inferential powers connected with our system of elections. Would our people grant such plenary powers to any of our State governments? Most of our States are striving to curtail Executive power, and both the great parties in the Union are constantly declaiming against it and its exercise at the seat of the General Government; and yet we are called upon now to cast aside all well established principles, and go for what may emphatically be termed the one-man power. It cannot be that men are so forgetful of the past and so heedless of the future.

Again: here is a vast extent of country, the parts differ in natural relations, climate, soil, productions, markets, and people, with vast ranges of impassable mountains, deserts, and a great basin obstructing and precluding their intercourse; and yet they are all embraced in one State by the gentleman from Virginia, [Mr. PRESTON,] and in two by the Senator from Illinois, [Mr. DOUGLAS,] and the same institutions are to govern the whole. A few individuals, not to exceed 15,000 whites of all nations, according to the late letter of Mr. Folsom, dated December 25, 1848, in California, and a smaller number in New Mexico, are to frame a fundamental law for millions of people hereafter. If by possibility—and there appears to be nothing in politics impossible for this institution to accomplish in this country—slavery should be ingrafted upon their constitution or constitutions, how are we to get rid of it; and what prospect will there be of its ever being extinguished in any part of this immense region? Sir, I fear there is evil lurking beneath the language of this bill, and that it is an ingeniously-devised scheme for the extension of slavery.

None of the bills define the boundary between Texas and New Mexico, but leave this question open for the decision of the Supreme Court; and if it is as tardy as it was in the case between the States of Massachusetts and Rhode Island, it will not be determined in less than ten years. The citizens of New Mexico east of the Rio Grande (and most of the inhabitants reside there) are authorized by the provisions of these bills to coöperate with the other citizens of these territories in the formation of the constitution. These very men who may hereafter be set off to Texas, and brought under its jurisdiction, may, through their delegates, be the means of ingrafting upon that constitution features that are abhorrent to a majority of the people of the balance of the territories; and if the ordinary provision as to amending the constitution should be inserted requiring a two-thirds vote of the legislature to recommend a change, the majority may be put into the power of the minority. In the mean time, by what laws are Santa Fé and the contiguous territory to be governed? If crimes and misdemeanors are committed upon the disputed ground, how are the perpetrators to be punished? Is there any power in this Government to grant to the two contesting States concurrent jurisdiction? and if they had it, how could it be exercised? Questions of this description have perplexed and embarrassed other States, and unless settled by Congress, this will create an intensity of bitter feeling on the borders of these new States, which we should endeavor to prevent. It is our duty to fix the limits and boundaries of each, as Congress did in the cases of Ohio and Michigan, and Michigan and Wisconsin. We undoubtedly have the power, and it only requires a little nerve to do it. When done, there is no doubt that our decision will be readily acquiesced in, and all difficulties between the States will soon be forgotten. But leave it open to be contested and no one can fortell the deplorable consequences that may ensue. The longer it remains undecided the worse it will be, for there are few things which the people of a State will desire to preserve more than the integrity of their soil, and nothing upon which the political demagogue can so successfully descant.

Mr. Chairman, how many votes do you imagine could have been obtained for such an extravagant proposition last session? Was there a member who had conceived the project of making one, or at most two States of this great extent of territory? By the bill of the Senator from Illinois, the State of California will have some 660 miles on the Pacific Ocean, and 550 on the line of the 42d degree of north latitude. He divides the whole Territory acquired into two nearly equal parts, each containing about 263,000 square miles. I have obtained from the report of the Commissioner of the General Land Office, made at the first session of the thirtieth Congress, the area in square miles of the new States which have been admitted into the Union, and I find that—

	Square Miles.
Ohio has	39,905
Indiana	33,809
Illinois	55,404
Missouri	67,380

	Square Miles.
Alabama	50,722
Mississippi	47,147
Louisiana	46,431
Michigan	56,243
Arkansas	52,198
Wisconsin	53,924
Iowa	50,914
Florida	59,268

It will be perceived by this statement that Missouri is the largest, and it may be well to remark that it is larger than Virginia, the largest of the old States. I apprehend, if you were to consult the sensible, considerate and reflecting men of these new States, they would all tell you that their States are abundantly large for all practical purposes, and that sound policy and justice to them should have induced Congress to restrict rather than enlarge the boundaries. They would oppose these unwieldy, unmanageable machines, whose operation can never conduce to the harmony, union, or happiness of the people. It may be said that these States are not so large as Texas. True, but Texas is too large, and there is power given to subdivide her into five States; and it was not supposed, I presume, by a single member who voted for the annexation, that she would preserve her present extensive limits. When four more States are carved out of Texas, each will contain 79,400 square miles, which in my opinion will be found incompatible with the interests of the State.

Here I would enquire why this Senator passes over the mountains with the southern boundary for the State of California, and does not extend it directly to the Mexican line, so that if California becomes a free State and by any unforeseen movement New Mexico is covered with slavery, the free States will be bounded by Mexico, and not be entirely cut off from it? That gentleman must know that it is the object and desire of many of the southern statesmen to have a cordon of slave States between the free States and Mexico—and why? Because if any further accessions take place in that quarter, they may have the benefit of them. If slavery should be extended along this northern boundary of Mexico, does he believe that aggressions upon Mexico will be prevented, and that no more Mexican territory will be acquired? I candidly confess I do not understand this move, but hope it is susceptible of a satisfactory explanation. I do not mean to charge that the southern people will seek any cause of aggression against the Mexican Government, but I am afraid we shall have abundance of it without our seeking.

But to return to this project of forming such large States. Let us look into the acts of those wise men of old, whose names we profess so much to revere, but whose opinions and principles we so often disregard. What did they think of the proper extent of a State? In 1790, Congress resolved, in relation to the Northwest Territory, that each State should contain a suitable extent of territory, not less than one hundred nor more than one hundred and fifty miles square, or as near thereto as circumstances would admit. In 1783, the State of Virginia adopted similar resolutions. The ordinance of 1787 required that not less than three nor more than five States should be formed out of the Northwestern Territory, and not one of those States, now constituting a part of the Union, exceeds 57,000 square miles.

The Territories of California and New Mexico are half as large as Russia in Europe and Russian Poland, which, although not one third of it is peopled or cultivated, contains a population of 54,000,000 of inhabitants; and why may not these territories in the course of time sustain as great a number? Such a State would crush the smaller States here, and members have already felt the influence of an Empire State in these halls. United, their representation would be irresistible, and the only mode of defence that could be adopted would be to divide it by some means, and this would probably lead to intestine feuds and commotions in the State. The new States have not had that voice in the Senate, to which their extent and limits entitle them; and even when their population exceeds the old States, they will not have it. Many western men have manifested rather a grasping disposition, and have looked upon large and extensive boundaries with feelings of pride and pleasure. I am not one of them. My belief is, that we shall yet see the day when we shall regret it. Our policy and the great interests of the nation demand that we should be strongly represented in the Senate. If ever an effort is made to dissolve this Union, the new States, from their geographical position, will prevent it. Never can they be induced to favor a scheme which would prostrate and make them subservient to the northern and southern States. The North and the South might, by force of circumstances and under strong feelings of excitement, be, in an unfortunate moment, persuaded to look upon disunion with some degree of favor; but never could the West be prevailed upon to think of it for a moment. The great lakes and the inland seas bind us to the North, East, and South, with bands that cannot be broken. If such a time ever arrives in our destiny, you will see the new States present an unbroken front, and step forward with a determination that will strike down all resistance. But, sir, although there are those who may in their hearts desire this sad calamity to befall us, the American people have too much regard for the perpetuity of our institutions ever to countenance any effort to destroy the Union.

It is said, Mr. Chairman, that we gain nothing by passing a territorial bill with the principle of the ordinance of 1787 ingrafted upon it, because the President will not give it his executive sanction. Be it so; we shall have discharged our duty to the country, let him discharge his. If a government cannot be organized for these territories on such terms, then I, for one, am for "masterly inactivity." If we are to be driven to the wall, I would rather confide in the people themselves, than trust any executive or officials to act for them. They know their wants; they have spoken to us in language that cannot be misunderstood, and judging from the character of their applications, I am more willing to leave this matter to them, than grant the power asked for to the President or any officers under his control, I care not who they may be. The people are a more safe depositary of power than they, and on this question I have more confidence in them. We have far more to fear from the operation of these State bills than our own inaction. Most of the emigration is from the free States or from Europe, where slavery is not recognized, and they, if left to the dictates of their own judgments, will settle this question to our satisfaction. Men who have had experience in territorial governments know, and many of them have felt the influence of government officials; and although I have the highest respect for the character and integrity of the United States officers in California, I am compelled to admit that I would not confide this power to them upon general principles, but more especially in the present crisis.

But what will you gain by passing these bills? You say it will still the agitation that prevails. Adopt the proposition of the Senator from Illinois, [Mr. DOUGLAS,] and the agitation and excitement will increase ten-fold. His bill divides the whole Territory into two States—the one to be called California, and to be admitted in a short time; the other to become one of the States of this Union so soon as it shall contain the proper number of inhabitants. This is to be judged of by Congress. Now, sir, what is to be done in the mean time? Are the people within the boundaries he prescribes to live without law or any municipal regulations, and be subject to all the miseries of anarchy and confusion? Will no crimes be committed; will no criminal or civil remedies be required; will the wants of the inhabitants demand no courts and no municipal officers; and will the fact that it is called a State, or rather that the people are authorized to do by act of Congress what they have done in several cases without it, form a State constitution, and ask for admission into the Union, prevent the people and members from the northern and western States from endeavoring to prohibit slavery from this Territory? No, sir; they will view it as I do, as a mere vagary, and pay as little regard to it as if it had never been enacted. Such guard against agitation will prove futile, and the first session after its adoption will convince the gentleman of his error.

Before I conclude, Mr. Chairman, I have a word to say to the gentleman from Virginia, [Mr. MEADE.] When discussing the Pacheco case, he made these remarks:

"Whatever might be said of southern slavery, he found a slavery in this House more servile and reprehensible than any which existed in the southern States. About one-tenth of the population of the North had enslaved gentlemen to a degree that they dare not vote their own opinions, but were held in bondage by a little squad at home, who held the balance of power between them and their political opponents. There are honorable exceptions, I know. If gentlemen would at once break those chains, and join their hands as brothers over the altar of their common country, and unite in crushing with their heels these reptiles who are seeking to destroy this Confederacy and to apply the knife to the throat of the southern master, we should never hear more of these discussions."

Sir, I would not have thus taunted the South, even if I had believed every word I uttered to be true. Crimination and recrimination prove nothing, nor does it satisfy or gratify the mind of a sensible man. Such language might be used to slaves, but is not quite so decorous and chaste when addressed to equals. The gentleman is totally mistaken in his facts. I tell him candidly, that the masses in the North coincide in opinion with us, and that we truly reflect their views upon this great question. It is true there are some of our citizens who disagree with us, and honestly entertain different opinions, but they are comparatively few in number. I fear that if the gentleman would examine the returns of the last canvass, and was conversant with the sentiments of the people in the northern districts, he would find his "honorable exceptions" grow "small by degrees and beautifully less." The people of the North have generally expressed their opinions upon this subject, and with surprising unanimity; and what is most incomprehensible to me is, that any one should dare to disregard them. I never have been instructed by the people of my district upon any question since I have taken my seat in this Hall; but I know what are the wishes of a large majority of my constituents, and they are in accordance with my action here. Their views and opinions were known to me before I was elected, and I should be recreant to my duty as their representative, if on all occasions I did not carry them out. They are as binding on me as the most public and explicit instructions; and let me inform the gentleman that they are the matured opinions of an intelligent, reading, thinking, reflecting people, many of whom are far more capable of instructing me upon this question than I to instruct them; and that if I were to adopt the course of some gentlemen here, I would be hurled from my position so soon as the ballot could do it. We have been severely censured for many of our votes, which by some gentlemen have been construed into insults to the South. Those votes, properly understood, will not bear such construction, nor was such my intention. But when gentlemen are canvassing this in their minds, let me direct their attention to the language used by John Randolph, of Roanoke, when, on the 1st of March, 1816, he moved his resolution for a committee to inquire into "the existence of an inhuman traffic in slaves, carried on in and through the District of Columbia," and impressed upon the House the necessity of it, and (to use the language ascribed to him at the time by the National Intelligencer) "of providing a remedy for a practice so heinous and abominable, (making this District a depôt for the slave trade of the neighboring States, and a medium for evading the laws in force, by collusive sales;) and concluded by declaring, that if the business was declined by the House, he would undertake it himself, *and ferret out of their holes and corners the villains who carried it on.*" This is far more caustic and severe than that of any of the resolutions adopted this session. I would also respectfully request them to examine, at their leisure, a memorial of the inhabitants of the District of Columbia, praying for the abolition of the slave trade and the gradual abolition of slavery in the District of Columbia, presented to this House March 24, 1828, signed by one thousand and eighty-two of her most respected citizens, and among the number Judges Cranch and Thruston, General Van Ness, and others of the most distinguished men here. I will quote a few extracts from that memorial, to show gentlemen its tone and spirit, and what slaveholders themselves thought of slavery and the slave trade:

"While the laws of the United States," say they, "denounce the foreign slave trade as piracy, and punish with death those who are found engaged in its perpetration, there exists in this District, the seat of the National Government, a domestic slave trade, scarcely less disgraceful in its character, and even more demoralizing in its influence. For this is not, like the former, carried on against a barbarous,

nation; its victims are reared up among the people of this country, educated in the precepts of the same religion, and imbued with similar domestic attachments."

"We are aware of the difficulties that would attend any attempt to relieve us from these grievances by a *sudden* emancipation of the slaves in this District, and we would, therefore, be far from recommending so rash a measure. But the course pursued by many of the States of this Confederacy, that have happily succeeded in relieving themselves from a similar burden, together with the bright example which has been set us by the South American republics, proves most conclusively that a course of gradual emancipation, to commence at some fixed period, and to take effect only upon those who may hereafter be born or removed into the District, might be pursued without detriment to the present proprietors, and would greatly redound to the prosperity and honor of our country.

"The existence among us of a distinct class of people, who, by their condition as slaves, are deprived of almost every incentive to virtue and industry, and shut out from many of the sources of light and knowledge, has an evident tendency to corrupt the morals of the people, and to damp the spirit of enterprise, by accustoming the rising generation to look with contempt upon honest labor, and to depend for support too much upon the labor of others. It prevents a useful and industrious class of people from settling among us, by rendering the means of subsistence more precarious to the laboring class of whites.

"It diminishes the resources of the community by throwing the earnings of the poor into the coffers of the rich, thus rendering the former dependent, servile, and improvident, while the latter are tempted to become in the same proportion luxurious and prodigal.

"That these disastrous results flow from the existence of slavery among us is sufficiently conspicuous, when we contrast the languishing condition of this District and the surrounding country with the prosperity of those parts of the Union which are less favored in point of climate and location, but blessed with a free and industrious population."

Here you have the spontaneous and unrestrained feelings of southern men, and they are so much more strongly and forcibly expressed, that they must have escaped the recollection of even some of our northern friends, when they were reproaching us for our votes.

Sir, I have given many votes on this question since my entrance into this body, and on reviewing them carefully, I regret none of them, and have no apology to offer for them. I have been true to my constituents, and when I return to them the trust confided to me it shall be untarnished. Unlike the gentleman from Pennsylvania, [Mr. BROWN,] I shall carry with me in my retirement the cheering consolation that I have ever advocated the right of petition, and always opposed the extension of slavery.

RESTRICTION OF SLAVERY.

REMARKS OF MR. WILMOT,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1849.

The bill appropriating for the execution in part of the Mexican Treaty, being under consideration—

Mr. WILMOT requested that his friend from Michigan [Mr. MCCLELLAND] would yield the floor, to enable him to make a brief statement, which he felt was called for from him at this time. The request being granted, upon condition that a few moments only should be occupied—

Mr. WILMOT proceeded to say:

That while listening to an interesting debate in the Senate, he had been informed that a gentleman from Georgia, [Mr. STEPHENS,] in the course of his remarks to this committee, had referred to him, in connection with certain expressions or declarations of the President of the United States. He regretted that the gentleman from Georgia had made any reference or allusion to the subject whatever, because he was satisfied that no good could result from it. He had had no conversation with the gentleman from Georgia during the present session. He was not aware that a word had passed between them, and therefore there could have been no concert in giving publicity to the matter about which he desired to speak.

During the second session of the preceding Congress, I had a conversation with the President upon the subject of the proviso which I had offered at the previous session, in connection with an appropriation which he desired should be made to enable him to conclude a peace with Mexico. It was previous to the introduction of the three million bill, but in anticipation of such a measure, which he was extremely anxious should pass. The President either sent for me, or I had called upon him, and he expressed a desire that I should call again, naming the time, when he could have an opportunity of conversing with me without interruption. I called in pursuance of his request—it was in the evening. The President said that the proviso was giving him great trouble and embarrassment, and if insisted upon as an amendment to an appropriation bill, would present a serious obstacle in the way of consummating a peace. He said that he had no doubt of his ability to negotiate an early peace, and named a day not distant, within which he could bring about such a result, provided he could obtain from Congress the necessary money appropriation, unrestricted and unclogged with any conditions. I presumed to question the efficacy of such an appropriation in bringing about so desirable a result; and expressed my apprehension, that an appropriation of the character he desired, would excite the jealousy of the Mexican people, and cause them to distrust the integrity of their own rulers. He answered me very properly, by saying that he was much better informed as to the state of affairs in Mexico than I possibly could be; spoke of having confidential agents in Mexico, who kept him fully informed as to the movements and temper of the Government there. I assured the President that I had no wish to embarrass his Administration in any respect, much less in a matter so important as the making of an early peace; that so far as I was concerned, I would be just as well satisfied with the expression of Congress in any other form, as with the proviso; that all I desired was, to obtain the expression of Congress, in an authoritative and legislative form, to the effect that slavery should forever be excluded from all territory that we might acquire from Mexico; and I doubted not that such was the feeling of others who had favored the movement. I suggested, in the course of the conversation, the introduction of a joint resolution declaring this principle, and said that I should be satisfied with it in that form. The President said, substantially, and I think almost literally, "Mr. Wilmot, bring it forward in that form; I assure you such a declaration would not be unpopular in Mississippi." I noted particularly that he did not name his own State, but supposed, and made no doubt but such was his intention, that he purposely presented an example in which the slave interest was stronger than in Tennessee. He further said, "that he had been brought up surrounded with this institution, (slavery;) that all his habits and associations were connected with it; but," said he, and with a good deal of earnestness of manner, "I do not desire to see it extended one foot beyond its present limits; that he was conscious that it could not be done without endangering the peace and safety of the Union."

On my return to my lodgings, I draughted a resolution in accordance with the suggestion I had made; but, upon consultation with friends of more legislative experience than myself, (never before having been a member of a legislative body,) I became fully satisfied that any attempt to get through Congress such a resolution would be idle, and therefore abandoned it.

I informed the gentleman from South Carolina, immediately in front of me, [Mr. WOODWARD,] of this conversation a few days after it occurred. He spoke of it as a matter of interest and importance to his constituents, and asked me if I had any objections to its being made public. I understood him to wish in some way to make public the declaration of the President to me respecting the extension of slavery. I expressed a wish that it should not be made public—not that the conversation was confidential, further than the nature of it, and the circumstances attending it, would imply confidence—but I did not wish that my conversation with the President should be made the topic of public discussion, either here or through the press of the country.

Some time during the last session of Congress, in conversation with the gentleman from Georgia, [Mr. STEPHENS,] or with others in his presence, I narrated substantially what I have here said. The gentleman has thought proper to refer to it on this floor. I repeat my regret that he has done so, because I can see no possible good that can result from it; but in so far as any responsibility may attach to me in this matter, I have no regrets. Before God, I have stated substantially the declarations of the President to me, without, however, entering into all the details of the conversation.

POSTAGE REFORM.

SPEECH OF MR. W. L. GOGGIN,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

February 21, 1849,

In favor of establishing uniform Postal Charges, and to restrain the Franking Privilege.

The bill to abolish the Franking Privilege, introduced by Mr. DIXON, coming up for consideration on its engrossment, and Mr. ASHMUN having moved to amend it, Mr. GOGGIN asked the Speaker if it would be in order now to move to commit the bill to the Committee of the Whole House on the state of the Union, with instructions. The SPEAKER said it would. Mr. GOGGIN then made the motion to commit the bill, with instructions to the committee to report a bill to provide for a reduction of the rates of postage—saying that his object was to substitute a bill which he had then before him.

The bill is in these words:

A BILL to reduce the rates of postage on letters and newspapers, to establish uniform postal charges, and to restrain the use of the franking privilege.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of July next, on all letters deposited in any post office to be carried in the United States mails, not exceeding half an ounce in weight, there shall be charged and prepaid the uniform postage of three cents, for all distances within the United States or the Territories thereof, and for any additional weight or excess, there shall be charged an additional postage of three cents for each half ounce or for any fraction less than half an ounce; and, when not prepaid, there shall be charged five cents instead of three for each half ounce or fraction less than a half ounce; and that so much of the first section of the act "to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the Post Office Department," approved the third of March, eighteen hundred and forty-five, and all other acts or parts of acts in conflict with the provisions of this act, be, and the same are hereby, repealed.

SEC. 2. *And be it further enacted*, That from and after the period aforesaid, there shall be charged and paid on all newspapers sent through the mails of a greater size or superficies than nineteen hundred square inches, including any supplement or extra to be measured as one paper, the uniform rate of one cent on each paper, for all distances; on all newspapers, with such supplement or extra as aforesaid, of any size over five hundred and less than nineteen hundred square inches, there shall be charged and paid the uniform rate of one-half cent, for all distances; and on all newspapers of a less size than five hundred square inches, there shall be charged and paid the uniform rate of one-fourth of a cent, for all distances, within the United States or the Territories thereof.

SEC. 3. *And be it further enacted*, That all printed or lithographed circulars and hand bills, or advertisements printed or lithographed on quarto post, or single cap paper, or paper not larger than single cap, folded, directed, and unsealed, sent from the office or place of publication, shall be charged with postage at the rate of one cent for each sheet and no more, whatever be the distance the same may be sent, and double the said rate when the paper shall be larger than the size aforesaid, and in all cases to be prepaid when deposited in the office to be forwarded by mail.

SEC. 4. *And be it further enacted*, That all newspapers, commonly called transient newspapers, not sent from the office or place of publication, to regular subscribers, and all printed or lithographed circulars and handbills, or advertisements, printed or lithographed, as mentioned in the preceding section, and not sent from the office or place of publication, shall be charged with postage at the rate of two cents for each sheet, whatever be the distance the same may be sent, to be prepaid in all cases when deposited in any post office to be conveyed by mail; and all such postages as are embraced in this and the preceding section, shall be received and accounted for by postmasters in the settlement of their accounts, as newspaper and not as letter postage.

SEC. 5. *And be it further enacted*, That all pamphlets, magazines, periodicals, or reviews, and every other kind and description of printed or other matter, except hereinbefore provided for, which shall be unconnected with any manuscript letter or writing, except the direction thereon, and which it is now or may be lawful, by future enactments or regulations, to transmit by mail, shall be charged with postage at the rate of one cent for each copy sent to subscribers, or for each parcel, of no greater weight than one ounce; and one-half cent additional shall be charged for each additional ounce after the first, of the weight of any such pamphlet, magazine, periodical, review, matter or thing which may be rightfully transmitted through the mail, whatever may be the distance the same may be sent; and any fractional excess, less than half an ounce, shall be charged as if said excess amounted to a full half ounce.

SEC. 6. *And be it further enacted*, That the subscribers to newspapers, magazines, periodicals, and reviews, shall pay in advance for each quarter of the year, the postage on all such publications, at the office to which the same shall be sent, as is now provided by law in regard to the postage on newspapers only: *Provided, however*, That publishers may furnish postmasters at the office nearest the place of publication, quarterly lists of the names of all subscribers to whom their publications are intended to be sent by mail from such office, verifying the correctness thereof by affidavit made on oath and to be filed with such postmaster, when it shall be lawful for such publishers to prepay to him the postage for each quarter, on all such publications sent through the mail for the subscribers on said lists, accounting at each quarterly payment for all new subscribers in the quarter preceding;

and such postmaster shall thereupon be required to discount thirty per cent. of the postage otherwise chargeable by the provisions of this act in favor of such publishers; but before they shall be entitled to make such prepayment so as to have the benefit of such discount, they shall cause to be inserted in some conspicuous place in such publication, with the sanction of such postmaster, a notice of such prepayment; and where such papers are not sent from the office nearest the place of publication, they shall in all cases be charged with the regular rates of postage on transient newspapers, the same to be prepaid. And the commissions to postmasters shall be computed on the sums actually paid them without regard to the discount authorized by this section in favor of prepayment by publishers.

SEC. 7. *And be it further enacted*, That the publishers of all pamphlets, magazines, periodicals, or reviews, published at intervals of not more than three months, may send copies in exchange to other publishers of works, either of the same class or of newspapers within the United States or the Territories thereof, free of postage, as is now provided by law in regard to exchanges between the publishers of newspapers, under such regulations as the Postmaster General may adopt.

SEC. 8. *And be it further enacted*, That the Postmaster General may allow to all postmasters, in the settlement of their quarterly accounts, a sum, as compensation, including commissions, not less in amount than the compensation received by them for the last quarter of the year ending the 30th of June, 1849.

SEC. 9. *And be it further enacted*, That it shall be the duty of the Postmaster General, at all offices where the receipts for postage now amount to ten thousand dollars annually, to provide for conveying letters to the post office intended to be mailed, by establishing suitable and convenient places of deposit, under proper regulations, for such letters; to employ carriers to receive them when so deposited from such places, to carry them to the post office free of charge; and at all such offices it shall also be his duty to cause letters to be delivered by the same carriers to the persons to whom addressed, if their places of abode be known, unless otherwise directed, for which such carrier shall receive not less than two cents for each letter; but for all advertised letters there shall be an additional charge not exceeding two cents for the publication thereof in one paper only having the largest circulation, and published in the city or town where such post office is situated.

SEC. 10. *And be it further enacted*, That the Postmaster General, under the provisions of the eleventh section of the act approved March 3d, 1847, entitled "An act to establish certain post routes, and for other purposes," shall cause to be prepared postage stamps corresponding with the rates of postage established by this act, of the denomination of ten cents, five, three, two, one, one-half, and one-fourth of a cent. And if any person shall counterfeit or imitate by any device any such stamp or stamps, or use any such false or counterfeit stamp, in either case, with the view to evade the payment of postage, he or she so offending shall forfeit and pay the sum of three hundred dollars, or be imprisoned not exceeding six months, or be subject to both fine and imprisonment, according to the circumstances and aggravations of the offence.

SEC. 11. *And be it further enacted*, That the sea postage charged by the United States on foreign mail matter and on mails sent in whole or in part by sea to the Territories of the United States on the Pacific coast, shall be of the uniform rates now established by a postal arrangement with Great Britain; and that the Postmaster General, under the direction of the President of the United States, shall have power to raise or lower the rates of postage on all foreign mail matter, whenever the postal arrangements of any other country, with which the United States have no postal treaty, may seem to render it proper to do so immediately, only, however, when the two Houses of Congress shall not be in session, and then it shall be the duty of the President, so soon as Congress shall assemble, to communicate to the two Houses all the facts and the reasons for such change.

SEC. 12. *And be it further enacted*, That the Postmaster General shall cause to be kept at each post office a register of money-letters, showing the date of mailing, by whom deposited, to whom addressed, to what office sent, and the postage charged or paid, of all letters or packages containing money, drafts or checks, scrip or certificates of stock or treasury notes, sent from such office, or as letters deposited to be sent of the character aforesaid, on which there shall be charged and prepaid double the rates of letter postage as heretofore directed by the provisions of this act; and such postmaster, if required to do so, shall, at the time, give to the person depositing such letter a certificate stating the facts of the case: *Provided, however*, That nothing herein contained shall be so construed as to prevent persons from sending all such letters at the usual charges for letter postage, when not deposited as such, or stated to be letters containing money or other things herein enumerated; and publishers are hereby authorized to send their bills to subscribers, folded in their newspapers or other publications, free of any additional charge for postage.

SEC. 13. *And be it further enacted*, That the franking privilege, as it exists under any law, or usage, or custom, or as exercised by any person, or any officer of the United States in any department of the Government, is hereby abolished, and shall cease after the thirtieth day of June, one thousand eight hundred and forty-nine; and that all laws in conflict with the provisions of this section be, and the same are hereby, repealed: *Provided, however*, That the postage of all letters containing petitions and memorials to one or both Houses of Congress, when addressed to the members of either, at the seat of the General Government, and when either branch of Congress is in session, or twenty days before such session commences, shall be paid for out of the contingent fund of that House of which the person to whom it is addressed shall be a member or delegate.

SEC. 14. *And be it further enacted*, That for the purpose of guarding against the possibility of any embarrassment in the operations of the Post Office Department, consequent upon any deficiency of the revenues of the said department, which may be occasioned by the reduction of the rates of postage by this act made, there be, and hereby is, appropriated the sum of seven hundred and fifty thousand dollars, to be paid out of any money in the treasury not otherwise appropriated, and to be placed to the credit of the Post Office Department in the treasury of the United States, to be applied, under the direction of the Postmaster General, to supplying any deficiency in the regular revenues from postage in the same manner as the revenues of said department are now by law applied.

Mr. GOGGIN (after alluding to the great difficulties he had to contend with in getting the bill properly before the House in its regular order, of which he now had no hope if this effort failed, as the session was near its close) then said:

Mr. SPEAKER: The bill now under consideration is one of interest to me, not only from the fact that I introduced it to the notice of the House, but it derives a higher interest from its general character, from its national importance, from its intimate connection with the business and social relations of life, and from its direct bearing upon the happiness, prosperity, and welfare of the great body of the people of this Union. Not sectional in its character, it embraces the North as well as the South; from the East to the West it recognizes no distinction, but is based upon the idea, that we are one undivided people, aiming to advance the best interests of a common country, whose union, whose liberal institutions, whose liberty itself, can only be destroyed by departing in our practice from the sacred principles which should lie at the foundation of all legislation. It is pleasing, sir, in these times of party excitement, in moments when discord itself takes the place of harmony, and when the better feelings of our natures are sometimes supplanted, to be able to turn aside to the contemplation of some subject of legislation where party is forgotten; where success can bring no triumph on one side, and where defeat can cause no mortification on the other. To be connected as I am with this particular subject, places me in that position in this House which I am not at all unwilling to occupy—a position aside from all the perplexing political questions of the day. For, while I have the party attachments which unite me most strongly with my friends on this floor—while I have political preferences and antipathies—while I do not profess to be unlike other men, free from the bias which often misleads our judgment,—yet I do rejoice when I am permitted to bear a part in legislation on a great question such as this, free from all suspicion, even, of party preferences and prejudices. Such is the subject with which I am connected as the organ of one of the committees of this House, which I have had the honor to bring to its notice; and if I may be permitted to speak for myself or of my associates on the committee, however we may have differed as to the details of this bill, or any bill connected with this subject, we have endeavored to meet it, as this House will, I trust, in its great national character—its broad, extended, comprehensive operation—knowing no party, nor identified with any sectional interest.

It is proper that I should remark, Mr. Speaker, that the original bill, which is printed, was introduced upon my own responsibility, but was framed in accordance with the views of some of the members of the committee, as expressed at the last session. It was introduced, however, before the committees of the present session were announced, simply with the view of bringing the subject up for consideration at as early a period in this session as possible. I had no desire, by the introduction of this particular bill, to forestall the action of the committee, or of the House. My aim was to bring the attention of members to bear at once upon the subject, and I have no pride of paternity whatever that I am not ready at once to lay aside, freely and fully, to canvass the merits of any other scheme that may be presented. So far from having any such feeling—as I am not vain enough to suppose that bill free from imperfections in the judgment of others, it is not so even in my own—I would not have it to pass in the shape it was first introduced, in all respects as it has been printed, for, as I have said, it was thrown out to build upon, and not as a finished structure in itself. I have myself prepared, therefore, a substitute for the whole bill, which I propose to introduce.

As far as the sense of this House has been ascertained—as far as any expression of opinion by the committee has been had, I thought at one time it might be safely assumed, that an earnest effort would be made at this session to reduce the rates of postage on letters, newspapers, and other mailable matter. In this hope, however, I have been disappointed; but the country expects it at our hands; the people have petitioned for it, and we had given some earnest on our part, at the last session, of our purpose to respond to their wishes in this respect. There is, however, another subject intimately connected with this, which demands at once our consideration. As in all works of reform, it is necessary, I think, in the first place to look at home, to see if our own household is in order, and to determine whether or not we should begin there, or go elsewhere to commence our operations for the public good. The subject to which I allude, while it pertains to the members of this House as a personal, representative privilege, yet, in some respects, it concerns those also for whom we are legislating. I refer to the right which we now exercise of sending, through the mails, free of charge, for two years and thirty days, whatever we may write or print, whether it be letters to our families, letters of business, speeches, or documents, and to receive all such from others free for the same time. This privilege was doubtless given to members of the two Houses of Congress that they might be enabled the more freely to communicate with their constituents and others on matters of business pertaining to their character as representatives of the people; that they might receive freely and as freely impart any information whatever in which they or the public were concerned, or which could probably aid in advancing the public good. But in accomplishing this valuable end, has it occurred to the members of the House, that for a period running back to the very origin of the post office system, this privilege of members of Congress has been a tax upon that department, which it is now said must sustain itself?—that while the revenues of the department have, in some years, been insufficient, and in others barely enough to support the system, an immense amount of labor has been performed by the department in transmitting the public mails, for which it gets not one cent? And yet some of those for whom this service is gratuitously performed, are ready to denounce all attempts to lower the rates of postage, lest the department should, to some extent, become a charge upon the treasury for a time. Such gentlemen would require it still "to work for nothing and find itself," while they are enjoying the benefits of its labor, and are reaping the reward of an approving constituency, who acknowledge the frequent complimentary notices which they receive so freely through the post office, that a speech or a document, however really valueless, many times is expected by some persons to be sent, at least as an evidence that the member has not forgotten those former recipients of his public favors.

I shall not dwell at any great length on the inconveniences to the department and to the people by the continuance of the present system. The privilege of franking, under the law as it now exists, has been retained, with some restraints and modifications, in the original bill, out of a proper deference and respect to the views of a majority of the committee, while my own individual wishes (said Mr. G.) have uniformly been, that we should surrender the privilege altogether; and in the substitute it is stricken out. The fact, however, cannot be concealed, that it has been greatly abused; and in saying this, I do not mean to be understood as censuring any particular party in this House; but let the odium, if there be any, attach to all parties. No more appropriate time can be had than the present for action on this subject. We have just passed through an excited contest between the two parties in the country, and four years must elapse before we shall be called upon to enter another. This privilege of franking has been, as we all know, freely used during the late canvass by both parties; and at such a time, neither perhaps was entirely willing to surrender its advantages, if, indeed, it has any. Now, however, the heat of that contest has passed away, and we may fairly and equally make the sacrifice, if it shall be considered one, looking only to the future permanent good of all parties, and to the good of the whole country. And here I will ask, shall we refuse to do that in this popular representative Republic—in a country which boasts that ours is a land of equality? Shall we, as the representatives of the people, refuse to do that which has been

done already in England by the Lords and Commons—aye, sir, by the privileged orders of that country where power and prerogative are so rarely surrendered for the advantage of the community? I am sure, sir, that we will not present ourselves in this attitude before the country. The reasons which served to satisfy the members of the British Parliament upon this subject, it would appear to me, should have much greater force here. The Chancellor of the Exchequer in England, in discussing this subject, said:

"As to any notion that honorable gentlemen should retain their privilege under a penny postage, they must have a more intense appreciation of the value of money, and a greater disregard of the value of time, than I can conceive, if they insist on it."

So will say the American people here, if we reduce the rates as proposed. One member there complained that the bill would be taxing him £15 per annum. Another defended the franking privilege of members of Parliament, on the ground that it benefited the poor British subjects in her Majesty's dominions—a very mistaken notion, as the result has shown; and it was ascertained by the Parliamentary committee that one-ninth of the letters passing through the mails were free; reckoning by weight, it was in fact shown that the proportion of franked letters was thirty per cent. It was further exhibited in proof to the country, that before the dispensation with this privilege, it had been worth, to some commercial houses, who had seats in Parliament, through some member of the firm, the sum of from £300 to £800 sterling per annum! —that is, from $1,300 to $3,800 of our money. These privileges and these advantages, however, were all given up; and the operation of the new system, with a penny postage, has been shown to be that which is most beneficial to the poor, to the privileged orders, to all classes. The issue in England was directly made between the retention of the franking privilege on the one hand and low penny postage on the other. The latter finally prevailed, as I have already said; and its operation now for a period of years, has satisfied all classes, not only of its practicability, but of its superiority over all other systems hitherto adopted. The same issue is tendered here by the friends of cheap postage; and I confidently rely, that when all the difficulties are presented, we too shall be able to overcome them ourselves.

The Postmaster General, in his last annual report, informs us, that from the first day of October last to the first of December, there were sent through the mails, free of charge, about five millions of copies of speeches and other matter, weighing under two ounces, and about 177,000 public documents, besides the letters written by members of Congress as well as those received by them, written by others. This embraces, as will be seen, one month before and one month after the Presidential election. Rating the documents at letter postage, as well as the speeches, and making an average of their weight, including the letters also, estimated at six thousand only for the two months, all at the rate of five cents, it would give the enormous sum of *over half a million of dollars*, for which the department has never received one cent. If the same number had been sent through the entire year as were sent in those two months, it would give us the sum of over *three millions* of dollars, as the value of services rendered by the Post Office Department in a single year, for which it has never received a single cent. An estimate may be formed of the great burden cast upon the department by this system, from an actual account kept at the Washington City post office.

[Mr. JONES, of Tennessee, here interposed, and asked Mr. G. if it was right that the people to whom these documents were sent should pay the postage on them?

Mr. GOGGIN said he had not so argued. His argument was, that these documents paid nothing to support this system which gentlemen said must sustain itself. If it were thought proper, as he would presently show, provision could be made for sending documents free to the person receiving them by paying the postage out of the contingent fund, as all members now receive a portion of that fund to pay for their stationery during the session. That might be done in regard to their postages also, by a simple resolution of either House.]

Mr. G. (resuming) said, when I speak of burdens cast on the department, I mean the consequent increased cost of the transportation from the increased size of the mails. It is stated, that in seven days, (from the sixth until the twelfth day of August last, inclusive,) 450 bags of free matter, weighing 35,550 pounds, averaging daily 5,078 pounds, passed through that office alone. This, at the rate of five cents the ounce, would give the sum of $21,330 of postage which would have accrued to the department at a single office in seven days, if the whole had been prepaid.

[Mr. MANN, of Massachusatts, here asked Mr. GOGGIN to yield for a moment; and he having done so, Mr. M. said that the period selected and referred to was just before or near the day of the adjournment of Congress, when members of course are clearing out their rooms and getting ready to leave for home; they had necessarily to send off a larger amount of such matter than usual; and was going on to make other statements, when Mr. G. said the gentleman must excuse him, as his time was limited. The date, however, he had himself referred to, and all knew that it was about the period of the adjournment. But all that did not affect the argument; other periods had been referred to as well as that, and the facts were as stated.]

Mr. G. (again resuming) said, we are told by the Postmaster General, and indeed it must be obvious to all, that this immense mass of free matter sent through the mails necessarily requires a higher and more expensive grade of service to enable the contractors to transport it; that post-coaches must take the place of other inferior modes of transportation, and that now it has become impossible to transport the mails on certain routes unless the service is changed to *double daily* four-horse post-coaches. This additional expense must of course be paid, and how is it paid? By taxing the correspondence of the entire Union—by keeping up the rates of postage to sustain the department, that it may be enabled to carry the free documents, the free letters, and the free speeches of the members of the two Houses of Congress, while the people and all the departments of the Government are required to pay their postages. And to illustrate this system, the Commissioner of Pensions, who writes, for example, to a widow on the subject of a claim for the services of her husband, has to pay postage on the letter, while a member of Congress can send home his speech, a letter to his family, or his friend, on his own business, or even a Christmas present, (if not too heavy,) without any charge at all.

It is said, by way of exemplifying still further the operation of this system, that one of the Patent Office reports, of which 55,000 copies were ordered to be printed a few years since, weighed, including the wrapper, three pounds each, making 165,000 pounds, or eighty-two and a half tons of what is called mailable matter. And the report of 1847, to which the gentleman from Georgia [Mr. TOOMBS] referred sometime since, was printed to the number, by the two Houses, of 130,000.

[Mr. EVANS, of Maryland, (without rising,) said that was too much for the weight of the document.

Mr. GOGGIN said, the gentleman says I have estimated the weight too high; that might be, but he had put it at only half the weight of one he had referred to, which it was said had been actually weighed, and the weight of which was three pounds.]

Mr. G. (again resuming his remarks.) This, at the rate of one and a half pounds to the copy, the wrapper included, would give near 200,000 pounds, or one hundred tons of mail matter, going free, for a single document. I do not at all object to the printing of the report, (said Mr. G.,) for it is certainly much sought after by the people; but the objection is, that the Patent Office itself having a surplus fund of its own, amounting to near thirty thousand dollars, many thousands of its voluminous reports have to be transported by the Post Office Department free of all charge and without contributing anything to pay the sixteen thousand postmasters who are required to distribute it—postmasters who are required to distribute it—without furnishing the smallest sum to meet the expenses of mail carriers, the wear and tear of mail-bags and horse-flesh, stage coaches, mail agents, and a thousand other incidental expenses. But, instead of this, all such documents, all free speeches and letters, if the law were liberally construed in favor of postmasters, *are an actual charge on the department of two cents each*, which are paid *by it*, or may be paid to all postmasters whose commissions do not amount to $500 in a single quarter of the year.

Let everything, then, which goes into the mail pay a fair compensation for the services expected to be rendered; and if it be necessary that public documents should be sent without charge, or even letters, if you please, to and from members of the two Houses of Congress, while in session, let the postage be paid out of the contingent expenses of the two Houses, as he had already said when interrupted by the gentleman from Tennessee, [Mr. JONES.] Let an account be kept of the postage of each member, and let the country see what it is. Such an account can be easily kept by the member's simply endorsing his name on a letter when sent by him, and when sent to him, his name of course will appear upon it. If gentlemen, however, prefer another mode, let a specific appropriation be made of a given sum for each member; let that sum be paid him at once; or it may be retained by the postmasters of the two Houses, to pay the postages of members, just as that officer in this House now keeps an account of our stationery, and regularly, in this way, pays over to each of us, out of the contingent fund, the sum of $25 or $35 for these purposes, as the session may be a long or a short one. Again: stamps are provided for in this bill, as they are now by law, and members, out of the contingent fund, can be supplied with them, in any amount that may be necessary. Any plan that can be adopted, so as to give the Post Office Department the benefit of its legitimate revenues, I will not object to. In regard to documents, if it be deemed essential that they should go free at all times, it will be an easy matter to give the Clerk of the House the power, as he now has, to send them, with his frank upon them, and also, if deemed of any importance, with the name of the member by whom sent. But I am clearly of the opinion it will be better to abolish the privilege of franking altogether; and that, unless we do, it is wholly idle to talk about a reduction of the postage on letters to three cents, and newspapers to a uniform charge of one, one-half, and one-fourth of a cent. With this change, however effected, it might be provided that memorials and petitions should be sent to members of Congress, when in session, free of all charge; and then, I believe, in the course of a very few years the department would be able to sustain itself without any further aid from the treasury in all time. In the course of the first year the receipts would be, probably, about $3,000,000, exclusive of the appropriation of $200,000 for the postages of the Government, which is now annually made. The estimated surplus for the year ending the 30th June, 1849, is $428,336. There would then, upon this estimate, be at the command of the department the sum of $3,628,000 (including $200,000 for that year of the usual appropriation) applicable to the service for the year ending the 30th of June, 1850. The estimated expenditures for that year are put down by the department at $4,746,845, which would leave a deficiency of $1,118,845 to be supplied for the year ending with June, 1850, based on these calculations.

In this estimate (Mr. G. said) I have put the number of letters at 70,000,000, each paying only three cents; while the number of *paying* letters now is 58,069,075. A large number under the bill proposed, however, will pay five instead of three cents. The newspaper postage is put down for the first year at only $750,000, when, under the present system, it amounts to $767,334. The sum arising from all sources, consequent on the dispensation with the franking privilege, is estimated at $150,000 only. It is difficult to make extended estimates upon the operations of an untried system that can possibly approach to accuracy; but basing my calculations somewhat upon the estimates of others, and presenting another view, I have supposed the department would require, if the system is fully carried out (with the usual appropriation also)—

For the year ending 30th June,		1850.....	$750,000
Do	do	do	1851..... 500,000
Do	do	do	1852..... 230,000
Do	do	do	1853..... 30,000

and that after the last year the department would be able, from its own resources, to sustain itself without any further aid, and perhaps would have a surplus at the end of the next year.

These estimates, it will be observed, are all made upon the supposition that the franking privilege will cease entirely—that a uniform rate of three cents prepaid, and five when not, will be adopted for all letters of half an ounce, for all distances; that on newspapers of the usual size also, will be paid a uniform rate of one-half cent for all distances; and that the system of prepayment on letters would indemnify the department, to some extent, against the great losses which it now sustains from the unproductive mail matter which is thrown upon it. Near two millions of dead letters are annually returned to the Post Office Department, upon which it not only loses the postage, but has to pay two cents each for advertising. This is an addition to the other incidental expenses of the dead letter office. An estimate is also made of the newspapers, pamphlets, and other matter of the like kind which are never called for in the various offices, amounting to 5,898,035. The whole together—letters, newspapers, &c.—would make the sum of near $180,000 of postages lost to the department under the present system, and the most of which, it was supposed would be saved under the system of prepayment, if adhered to throughout, and which is abandoned as impracticable now.

A reduction in the rates of postage to three cents, it is supposed, also would bring into the mails not only an immense amount of letters and other matter from an increased correspondence, but it would greatly add to the postages of the department from an addition to the mails of all the letters and correspondence now sent by private expresses. All efforts to suppress private expresses have so far proved unavailing, and it will ever be so, till postages are reduced to so low a rate as to put down the business of the smuggler, who then will have no inducement to cheat the department when it is ready to carry his letters as cheap as the private individual whom he has hitherto employed. The cheap postage association of Boston—in your own city, Mr. Speaker—report the fact that there are *two hundred and forty* expresses that go regularly from Boston to the other towns, distant from three miles to three hundred; and that all, or most of them, carry mail matter. The number of letters in the course of the year, in that vicinity alone, thus carried, and the postage of which is lost to the department, is seven hundred and fifty thousand, or three-quarters of a million. A system of stringent measures, to prevent these infractions of the law, can never be carried out as long as the private express will carry a letter at one-half the price which the Government charges for the same service. The only remedy, therefore, for such an evil is a reduction of the Government rates, so as to make the department the most popular and convenient as well as reliable channel of communication between the people themselves. And the committee of the association, in speaking of the consequences of this illicit mode of communication, well say:

"The evils of such a state of things need not be here set forth. One of the greatest, yet one which would not strike every mind, is the demoralization of the public mind, in abating the reverence for law and the sense of gratitude and honor to the Government."

And in this connection I will remark, that the objects of a well-regulated system in the administration of the department, and which I hope will ever be kept in view, are summed up in a report made by the committee of this House in 1844, and to which I beg leave to call attention on this occasion. This is what they say, in summing up the advantages of cheap postage, of its blessings:

"To content the man dwelling more remote from town, with his homely lot, by giving him regular and frequent means of intercommunication; to assure the emigrant who plants his new home on the skirts of the distant wilderness, or prairie, that he is not forever severed from the kindred and society that still share his interest and love; to prevent those whom the swelling tide of population is constantly pressing to the outer verge of civilization from being surrendered to surrounding influences, and sinking into the hunter or savage state; to render the citizen, how far soever from the seat of his Government, worthy, by proper knowledge and intelligence, of his important privileges as a sovereign constituent of the Government; to diffuse, throughout all parts of the land, enlightened, social improvement, and national affinities, elevating our people in the scale of civilization, and binding them together in patriotic affection."

To show the operation of a cheap over a high rate of postage, I will, while referring to these reports, also advert to another statement in one of them. The number of chargeable letters which passed through the mails in 1843, was 24,267,552, yielding the sum of $3,525,268. It is now shown, also, that the number for the year ending the 30th June, 1847, was 52,173,480, yielding $3,188,957. The first sum, as will be observed, was before the reduction in 1845; the latter since that reduction. The reduction therefore, of postage, one-half, has in two years more than doubled the number of letters. Again, the Postmaster General tells us in his report, communicated at the present session, that the number of paying letters for the year ending the 30th June last was 58,069,075, as before stated; yielding, including the appropriation of $200,000 for the postages of the various departments, the sum of $3,550,304. This statement shows, beyond all question, that the number of paying letters has in three years, under the new system, more than doubled the number under the old; and that the revenue under the reduced system, as compared with the higher rates in 1843, has exceeded that year by the sum of $25,036. This, it will be borne in mind, too, is under the operation of the franking system, which it is proposed now to dispense with. In 1840, it appeared that the whole number of letters and documents, making a fair average, on an account kept for part of the time, was, for thirty-three weeks of the year, (during which Congress was in session,) 4,781,293. Besides this, it appears that 484,555 letters, exclusive of documents, were received and sent free by members of Congress in a single year: the postage on these, at the former rates, would have been $100,000. Remark, too, the increase: in October and November last, alone, the number, as already stated, was over five millions!!! It is also shown, by accounts kept in the year 1843, that the number of letters franked and received *by other officers* having the franking privilege, was 1,024,068; by postmasters, also, 1,568,928: making a total of 2,592,998 letters, on which, at 14½ cents, the highest average, the postage would have been, under the old rates, $376,073. From which statements it will be seen, that the loss on free letters, at that time, was $476,073; this is exclusive of the postages on public documents, weighing, according to the average accounts kept in 1840, 359,579 lbs.; the postage on which, (say at 2½ cents per ounce,) would amount to $147,581: making a total of $623,654 of postage lost to the department in a single year. The report of a committee of the Massachusetts Legislature, made last year, makes the amount from all these sources $512,500. It may be fairly estimated, I think, at $568,077, which is the average between the two sums.

Some place the claim to free postage for Congress, or the franking privilege, upon the ground that the Government heretofore has contributed large sums to sustain the Department of the Post Office, and that it now makes an appropriation annually to pay the salaries of the Postmaster General and his assistants, and other contingencies. On examination, we find that the appropriation for the past year, for these objects, was $179,290. If we deduct this from the sum of $568,077, the amount of service performed for which the department gets no pay, the general treasury would be still rightfully indebted to that of the post office, for the last year, in the sum of $388,787. Again, it is urged that because the Post Office buildings for the use of the department, in this city, were erected at the general expense of the treasury, the department should therefore be made to carry the correspondence of members of Congress and others at the proper charge of that department alone.

Now, let us see how this will operate, if carried out. These buildings, erected for the accommodation of the public, it is said, cost the Government about $750,000. They have been erected about eight years, during which time the department has been carrying the free correspondence of members and others, annually, to the amount of $568,077. The eight years would make an aggregate of $4,544,516; from which deduct $750,000 for the cost of buildings, and $3,794,516 would still remain to the credit of the department; but from this there should be deducted also, for eight years' appropriations for the annual expenses out of the general treasury, a sum amounting each year to $179,290—in eight years to $1,434,320, and there still would remain to the credit of the Post Office Department, for the eight years, $2,360,196. If we go back for a period of fifty years only, (during which this service has been gratuitously and satisfactorily rendered,) and making, for that time, only the allowance of $200,000 annually, for services rendered by the department—instead of near three times that amount, as it is now shown to be—we shall have the general treasury debtor to the Post Office Department in the sum of $10,000,000. At the cost actually shown for several years, it would be near $30,000,000. If gentlemen, then, desire to settle this great question upon these principles—upon a basis so narrow—they will see, that when carried out, it will lead to a result at once astonishing, and would actually establish a debt due by the Government greater than they, I am sure, would be willing to charge upon it. I do not, however, proceed, in my views, upon the idea that the Government is one thing and the Post Office another; for that department is, at last, one of the functions of the Government; it is a part and parcel of the great machinery of the system of government, designed for the public good—a system, too, of itself, in some respects, in which every part, which makes it perfect as a whole, (if it is to be self-sustaining,) should be so arranged as to perform its appropriate duty without doing the work of other parts, and without which it never can be made to fulfill the expectations of the public.

The experiment of reducing the rates of postage and dispensing with the franking privilege, was made in England in 1840: and what are the facts as compared with the results in our own country, to which I have already alluded? The Parliamentary Committee, in 1838, state that the number of chargeable letters passing through the post office annually, before the reduction, was 77,500,000; franks 7,000,000; total of chargeable and free letters 84,500,000; the average postage was 7*d.*; the aggregate receipts annually, for six years ending with 1820, were £2,190,597; for six years ending with 1837, they averaged £2,251,424; while for the year ending with 1847, under the reduced system of 1*d.*, they were 320,000,000, and the receipts nearly equal to the old system: showing an increase in the new over the old, in about seven years, of near five hundred per cent. in the number of letters. Lord Ashburton had said, in the debate in the British Parliament, it would amount to a sacrifice of the whole revenue of the Post Office Department, as, indeed, it was to the treasury, while it benefited the people by cheapening correspondence, and was no longer a source of revenue for general purposes. Mr. McDuffie, and others also, in the Senate and in this House—when the bill of 1845, reducing the rates of postage to the present standard, was passed—"protested 'against its passage, as a measure more radical 'and revolutionary than anything that had ever 'been done by Congress." In both nations, however, the cheap postage system, to a certain extent, prevailed—the results are given—they are before the country—and the forebodings of the nobles of England as well as American Senators, have both been shown to be unfounded, as far as it regards its solid advantages to the public. The operations of the reduced system in our own country, has even called forth the commendation of the present head of the Post Office Department, though he too was opposed to the passage of the law under which the change was effected. In his last report, he says:

"The present rates of postage will afford ample means to meet the expenditure and probable increase of the service, and leave a surplus that will in a few years enable the department to repay the treasury the amount received from it since the passage of the act of 1845.

"Under these circumstances, shall a further reduction of the postages be made? The means which a well-digested cheap mail system affords of a rapid interchange of ideas between different and distant sections of the country, and the consequent increase of knowledge; its influence upon society, but little, if any, less than that of printing; its importance to every interest, social, commercial, and political, would justify the answer that a lower rate of postage should be adopted, if it can be done without a departure from that principle heretofore maintained in the country, that this department should be sustained from its own resources.

"A system so intimately connected with all other interests, and the happiness and prosperity of the people—so diversified in its operations, so minute in its details—requires

a careful examination of any suggestions for its improvement, and the adoption of such only as experience proves will be useful to the citizens and render it more perfect."

He then recommends a reduction of the present rates on letters to a uniform charge of five cents the half ounce; a rate of one cent the ounce on newspapers, &c.; prepayment in all cases; and the abolition of the franking privilege.

I feel very confident, Mr. Speaker, (said Mr. G.,) that this House is prepared for a reduction to the rates as recommended here. I hope they will be reduced even lower, as I believe they can be with safety, if the franking privilege is no longer retained. But the question is often asked, Why carry a letter one thousand miles for no more than is charged for carrying it one hundred? In answer to this, it is only necessary to remark, that the actual weight of letters, strictly speaking, is a small item, a very small item, in the expenses of the mail. Mails have to be, and are now, extended into almost all parts of the country; post offices, then, are necessarily established; and if a mail carrier, on horseback, in a stage-coach, a steamboat, or a rail car, (who has to make the trip any how,) has ten letters or ten hundred, he can carry them with perfect ease—the weight is nothing. But in fact most of the horse mails, as they are called, do not average to each country office they pass, per day, more than five letters, if so many—yet the mail has still to be carried. I wish it to be understood that I refer to *letters*, properly so called, not to speeches and documents, with which the mails are loaded. If we were to look to the mere productiveness of some of the mail routes, it would be made appear, that they are not self-supporting, but are dependent on the productive routes for the means of keeping them up. Why is this? It is because they are parts and parcels of one entire system. But if the idea is insisted on that the department *must sustain itself always and under all circumstances*, why, then, we should have no drones in this great establishment; each one should make his own living. But is this so? On the contrary, we have a mail route to Oregon, and an agent, at a salary of one thousand dollars per annum, is appointed to superintend it, having his traveling expenses paid also. No one supposes that this mail route, at least for some years, will pay its expenses; yet it is highly proper that it should have been established, as it is. When mails are sent, as they now are, to Chagres, and Panama, and San Francisco, to the newly acquired Territories of California and New Mexico, it is with no expectation at all that they will meet the expenses attending them by any return of postages to the department, for the present. The protection which we are bound to give to our citizens who have gone there, the honor of the country, the interests of the people of the entire Union, however, require that this should be done. But carry out the principle, that the department must always sustain itself, and you at once cut off these mails. Look at the unproductive routes in all the South, West, Northwest and Southwest: these must be given up if this doctrine is to prevail to its fullest extent. Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Missouri, Tennessee, Alabama, Mississippi, Arkansas, and Texas *would be without mails entirely*. I will here give an extract from an official document from the department, (No. 72,) laid before Congress at the last session, showing the postage received in the States I have named, during the year ending 30th June, 1847, and the cost of mail transportation in those States annually, also. The column showing the excess I have (said Mr. G.) prepared myself; the statement is this:

	Cost.	*Revenue.*	*Excess of cost.*
Maryland	$133,751	$81,656	$52,095
Virginia	192,615	92,292	100,323
North Carolina	172,520	31,379	141,141
South Carolina	118,157	50,383	67,774
Georgia	153,001	55,859	97,142
Florida	45,193	10,883	34,210
Missouri	49,720	41,506	8,214
Kentucky	89,581	53,632	35,549
Tennessee	55,298	37,987	17,311
Alabama	136,499	49,602	86,897
Mississippi	58,451	33,773	24,687
Arkansas	39,996	9,569	30,427
Texas	24,102	8,246	15,856
Whole excess of cost over the revenue			$712,626

[Mr. COBB, of Georgia, here inquired of Mr. GOGGIN (who yielded the floor for the purpose) where the *excess* of revenue was derived from which went to sustain the system?

Mr. GOGGIN said the gentleman's question would have been answered if he had but waited a moment. Though it evidently (he said) was intended to refer to other questions of political economy with which this debate had nothing to do, he would show the gentleman how this deficiency was made up.]

Mr. GOGGIN then resuming his remarks, said this deficiency in one section is thrown upon the productive routes generally in another, embracing the States of Maine, New Hampshire, Vermont, (which, by the by, has no transactions with the people of Georgia in a commercial line, for she has no commerce and no large emporiums,) Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Delaware, Michigan, Iowa, Wisconsin, and Louisiana. In these States the revenues exceed the cost of transportation $589,994. In the States of Ohio, Indiana, Illinois, and New Jersey, on the other hand, there is a deficiency in revenue as compared with the cost of transportation, of $87,887; leaving still a balance, after this deduction, in favor of those States where the revenue exceeds the cost, of $502,107. I shall not, of course, stop here (for it would be out of place in this connection) to *calculate the value of the Union*, which I trust will ever be preserved; and it is not inappropriate *to hope*, at least, that it may be as perpetual, as enduring, as its great founders designed it should be when they framed its Constitution, in order to "a more perfect Union," and thereby to "secure the blessings of liberty to ourselves and our posterity."

But to avoid these evils of the loss of mail facilities, let the department be treated as if it existed *everywhere* in our territory; or that its operations should be conducted in all quarters of this Union as if it were an entire and a uniform system, in which all the parts sympathized and harmonized with each other. Why create a distinction in regard to postages, or an internal tax, which the Constitution does not tolerate in regard to impost duties? In the very first article, 9th section, of that instrument it is declared, that "no preference shall be given, by any regulation of commerce or revenue, to the ports of one State over those of another;" and our navy extends its operations, in the protection of our commerce, to the Pacific and Indian Oceans, to the coast of China, as well as to the Chesapeake Bay, the Gulf of Mexico, or to Charleston harbor. The Government charges the citizen, however, no more for protection in one case than the other: distance is not an element at all in the estimate of its duty. Again, what would be thought of a proposition to compel the people of Texas, California, New Mexico, or Oregon to pay for the additional charges of sending our army there to defend them in case of invasion, over and above the cost of a call for troops to defend the great cities of New York, Boston, or Baltimore? Yet, according to the views of some who would keep up this distinction in the rates of postage, the man who lives a thousand miles from the great commercial emporium of the Union—in the city of St. Louis, for example, whither he has gone to pursue his occupation as a merchant in a small way—is taxed three or five times as much on his correspondence with New York as the rich Boston or Philadelphia merchant, who is living within one hundred and fifty or three hundred miles of that city. A uniform rate of postage, it seems to me, necessarily results from the uniformity of the system itself—I mean uniform as to distances and charges; and as I have endeavored to show that the actual cost of the transportation of the letter mail cannot be increased by any addition to this particular sort of mail matter, I will remark that it has been ascertained that ten thousand letters, of one sheet each, would weigh only about one hundred and fifty pounds—near the weight of an ordinary-sized man, who would be carried from Albany to Boston on a railroad, two hundred miles, for five dollars, or from Richmond to Lynchburg on a canal packet for $3 50, a distance of one hundred and fifty miles. Ten thousand letters, at the same time, weighing only as much as the passenger, on either of these mail routes, would yield to the department, at five cents, the sum of $500. The average cost of the mail transportation in the United States is, I believe, ascertained to be a little more than six cents per mile. In England it is said to be on letters, at the average cost of 36-100ths of a penny. "If we select a mail route in our own country, ten miles in length, and it costs the department one dollar for carrying the mail upon it, or ten cents a mile; and another of one hundred miles in length, at the same rate per mile; if, on the first route, there is carried only one letter, as is often the case, this single letter would cost the department one dollar!! On the other route of one hundred miles, we will "suppose," says an intelligent writer on this subject, to whom I am greatly indebted for his views, "there are ten 'thousand letters to be carried, which will cost the 'Government for transportation just one mill per 'letter. How, then, can we make distance the basis 'of postage?" We might here refer in this connection, if it were necessary, also to the fact, that there are many of the ports of entry and collection districts, in various parts of the Union, which do not support the costs of the collection of the few dollars that are received at many of them; yet they are kept up, and maintained as a part of the system of revenue. Many of them which are an actual charge of thousands of dollars, do not yield to the treasury of the United States, in net revenue, so many cents. It would not do, however, to make the amount of revenue received at such places "the basis" upon which to calculate the necessity of such an establishment, any more than it will do to make "distance the basis of postage," because, otherwise, vessels would enter these places without paying duties, and the smuggler would be thereby enabled to defraud the Government of its legitimate dues. I mention these facts only to show that there is no system, however perfect, that, when you come to examine it, does not disclose some inequality in its operation. Such inequality exists in regard to the mileage and pay of the members of this House, and it may be found everywhere.

I come now to the question of prepayment, in regard to which some difficulty exists in the minds of not a few of those who are tenacious of the present plan, or the old system, as it is called. It will be necessary here only to say, that the bill leaves the prepayment of letters entirely optional with the writer. It holds out an inducement to him to prepay by fixing the rates of all such letters, for any distance, at three cents; but, if he chooses to do so, he may fix the cost of carrying it by mail on the person who receives it; but then, the department is to receive five cents for the transportation, and as some chance for indemnity against the loss incurred for carrying letters for nothing, in the event that they are not taken out of the office. While it has this effect, yet at the same time it gives the person receiving it the benefit of reduced postage of this character to a uniform rate of five cents, and enables all persons to deposit their letters in the office boxes at any time, even in the absence of the postmaster, or at any hour of the night, which could not be if prepayment was always required. None can therefore complain. Such a system as this, it is supposed, will cover the losses from a large portion of the dead letters now annually a charge to the department. The Postmaster General, in his last report, tells us, as I before said:

"Near two millons of dead letters are annually returned to the department, upon which it not only loses the postage, but pays two cents each for advertising; and this is in addition to the expense incurred in opening and returning those of value to the writers, and destroying those of no value. Newspapers, periodicals, pamphlets, and essays of various kinds, probably not less in number than the dead letters, are sent to the offices and never called for, or if called for, refused, and remain as dead matter in them. From a careful examination it has been ascertained that 52,000 annually are received and remain as dead matter in the office at New York; at Boston and Baltimore about 10,000 annually; and at Philadelphia about 2,600."

As it respects the prepayment of newspaper postage, postages on periodicals, &c., I do not apprehend that any very serious difficulty need be anticipated if the law were passed as recommended by the Postmaster General, requiring prepayment. The second section of the original bill provides that the subscribers may prepay their postages for each quarter of a year to the postmaster at the office to which the paper shall be sent. This ar-

rangement, it was hoped, would quiet the fears of publishers, who seem to have some apprehension that such an arrangement would injure them, and that the burden of *daily* payments would be imposed on them also, to their great annoyance. No such thing is contemplated, however. If *they* were, in fact, compelled to pay, they would not be required to do so oftener than once in three months, and then, instead of counting out "*pennies*" for each paper, they would pay an aggregate sum for so many subscribers as they might have. It was supposed that a system something like this, so far from prejudicing the publishers, would be advantageous to them, and that the system was well founded on the great reduction of postages on their papers. They could then charge their respective papers at so much, which, including postage, would still be less than the present charge. This would of itself naturally induce a system of prepayment by subscribers to the publishers, who would thus save the expense of collectors, and who would be sure, too, never to make bad debts, as theirs would be a cash business altogether, and, as has been said, "would assist in training the whole community to the habit of prompt payment." Anticipating, however, the difficulties suggested by publishers, and not desiring particularly to retain this feature, the bill has only provided for quarterly payments in advance by the subscribers themselves. In this there is no innovation upon the usages of the department, no change in the law itself, for the 30th section of the act of 1825 already provides that "the Postmaster General *shall* require 'those who receive newspapers by post to pay '*always* the amount of one quarter's postage in 'advance."

This bill also provides for the use of stamps, which, it is supposed, will obviate any difficulty growing out of the scarcity of coppers, or fractional parts of coppers, in all parts of the country. These stamps, which are neatly engraved to prevent counterfeiting, are provided for, of the denomination of from one-fourth of a cent to ten cents; and it is easy to guard against their use the second time, by providing each post office with what is called a "cancel stamp," with which the adhesive stamp is marked as soon as the letter is received at the office of delivery.

The rates of postage in the new bill are lower on newspapers, perhaps, than some may think it proper to adopt; but I am very strongly inclined to believe that it is one of the kinds of postage which might be dispensed with altogether, for the amount of revenue derived from this source is comparatively very small. It certainly, however, to some extent aids the revenues of the department, and adds something to the compensation of postmasters in the country, many of whom are very poorly paid for the services they perform.

[Here Mr. STRONG, of Pennsylvania, rose and said he desired to ask the chairman, [Mr. GOGGIN,] whether his bill contained any provision for postmasters?]

Mr. GOGGIN (in continuation of his remarks, and in reply to Mr. S. also) said, in the event this bill, or its main provisions are adopted, to prevent any injustice being done to this very meritorious class of officers, and to guard against any diminution of their little perquisites, it is already provided that the Postmaster General shall have authority to continue their present compensation, or in proportion, at least, to the labor they may have to perform.

[Mr. STRONG here expressed his satisfaction at the statement.]

Many are anxious to have inserted in this bill (said Mr. GOGGIN) a provision for the free circulation of newspapers within thirty miles of the place of publication, or within the county or congressional district where they are printed. While I have every desire to see the press, in the country and the small towns, flourish and extend its circulation, I am unable to see any peculiar claims to exemption from postage to which it is entitled. I cannot see why a farmer of Virginia living near the mountains, thirty-one miles from the town of Lynchburg, for example, should be compelled to pay postage on a newspaper, when his neighbor, who lives only thirty miles from the same place shall receive his paper at the same office, but has only the same interest in the news it contains—bears only the same burdens of Government, and is entitled only to the same protection as his neighbor, should have, by laws passed for his benefit, a special exemption from newspaper postage. The man, too, who lives within a few miles of the market-town where the paper is published, may receive, under this special exemption, his paper *free*, though he has already the advantages of a market at his door—the conveniences of a daily personal intercourse with his merchant, his agent, or his banker—a knowledge of the state of the markets, by which in a few hours he is enabled to avail himself of a rise in breadstuffs, or any other commercial intelligence—the advantages of schools and of churches, always more abundant in such situations—to say nothing of the increased value of his lands by reason of all these facilities. Yet the man more remote, with comparatively few of these advantages, is to be still taxed by his postages, when the other is exempted. It is a departure, in my estimation, from the very first principles of fairness and equality—a departure from the fixed idea with some that distance is a proper basis of "charge"—a departure at least from the spirit of our institutions, whose general laws should have regard, not to particular localities, but to the good of the whole community. Persons, moreover, who live in the vicinity of towns, along the lines of stage-coaches, railroads, and steamboats, have other facilities for the supply of newspapers, which are not possessed by those living at a distance and on cross routes. They receive now, many of them, their newspapers free of postage, by simply making an arrangement with the mail-carrier to supply them as he passes. This is done under the provision of the law which authorizes the Postmaster General to grant the privilege to contractors to "carry newspapers, magazines, and pamphlets, other than those conveyed in the mail." I cannot, therefore, see the propriety or justice of a measure that is still further to benefit one class of persons at the expense of another. Again, sir, if this sending of newspapers free of postage within thirty miles of the place of publication shall prevail, the consequence will be, that most of the postmasters within that distance will resign, and no one properly qualified can be got to discharge the duties of these offices. This was the case to a great extent when this law was passed in the year 1845, and produced such very general dissatisfaction that it was repealed in a very short time. The cause of this discontent among the postmasters was occasioned by heavy losses in their commissions, mainly derived by many of them, as they are, from the postage on newspapers, the commission on these and all magazines and pamphlets being fifty per cent. As the rates of postage are so much reduced by the bill under consideration, should it pass it will be difficult, I have no doubt, to induce many of them, under any circumstances, to retain their places; but the reduction should, without any other advantages, at least satisfy the readers of newspapers nearest the place of publication; and the postmasters, it is hoped, will be willing to look for the increase of their pay in the increase of mail matter in a few years, and be for the present satisfied with the provision which is contemplated by the authority given the Postmaster General, as I have already explained, (said Mr. G.,) to make provision, under particular circumstances, against any diminution of their compensation, and that it shall be under the new law as it is at the close of the last quarter of the present year (ending in June) under the old. A provision is made in this bill also, that there shall be established in those cities and towns, where the business will justify it, places of deposit for all letters, &c., intended to go to the post office to be mailed, and that they shall be taken from these places and mailed by those in the employment of the office free of charge, in bags closed to all except the officers themselves; that all letters, and newspapers also, as far as practicable, shall be delivered by such persons, to those to whom addressed, (for which the postmaster shall direct the carrier to charge two cents,) unless persons shall otherwise direct. It is proposed to do this as a part of the regular business of the office; not so much with the view to the accommodation of others, as for the convenience of the post office itself. It is said, seventy-five millions of letters are thus delivered in the city of London annually. It will be the means, here, of bringing into our mails also, as there, much of rightful postage that is now lost, because of the difficulty, frequently, of sending letters a great distance, in cities, to be mailed, and for the want of proper facilities of getting letters from the office. It is supposed that the delivery of letters and other mail matter may be accomplished by the postmasters, in the cities, by carriers who shall be under their control, and who shall receive for their compensation the sums which will be paid for the letters, &c., delivered by them. These carriers will regularly assist in assorting the mails, and in the removal of all mail matter to the post offices, from the places selected for its deposit: such places, of course, will be chosen as will suit the general convenience of those residing in a given neighborhood, such as an apothecary's establishment, or some public place where the owner or occupant would not object to its location at his store or his shop, for the reason that it would rather benefit than injure him. Such persons also might be intrusted with the disposal of postage stamps; being furnished with them by the Post Office Department at a small discount. In this way, all letters, &c., deposited could be paid at the place of deposit, by means of these stamps, procured on the spot, and an infinite deal of trouble would be avoided; the crowds at the city office would be diminished, and a rapid delivery of letters effected; a change no doubt desirable to all. The details of such a system, of course would be left to the direction of the department itself.

Another subject of great interest to many is that of Ocean postage, which is provided for also in this bill. A want of a uniform rate between this and foreign countries is seriously felt in the adjustment of this difficult subject. It is felt also in the different rates now charged on foreign postages and our own, as applicable to California and Oregon, where the charge on a letter is forty cents. The Postmaster General has suggested a uniform rate of fifteen cents; and it is submitted to the consideration of Congress, called on, as it now is, to regulate the whole subject of postage. I am inclined myself (Mr. G. said) to favor the suggestions of the head of the department in this particular, and have accordingly prepared, to be inserted in the bill, a provision to that effect, fixing the rate lately agreed on in a postal treaty made with England since the passage of the retaliatory law of the last session of Congress. The same section of the bill also makes provision for raising or lowering the rates of postage between this and other countries where no postal treaty exists, whenever the postal regulations of such countries may render it immediately necessary, and when Congress may not be in session—as suggested also by the head of the department.

I have now, Mr. Speaker, referred to some of the principal leading features of this bill, and have endeavored to present the views which I entertain myself. In regard to them, I am well aware I have said but little, as time will not allow me to go fully into all the explanations. I will endeavor, however, in the course of the consideration of the different sections of the bill, (should it be acted upon at all,) to add any explanations which I can give the House or the committee; remarking now, however, that many verbal and other amendments have suggested themselves to my mind, as no doubt they have to others, since this bill was printed. These will be noticed at the proper time, when we shall proceed to vote upon the various sections of the bill. I hope, in conclusion, to have the aid of all who feel an interest in this subject, in proposing any modifications for the better, having no wish, as I said, to forestall the opinions of the committee, or of any member of this House. I sincerely desire to see a bill passed reducing the rates of postage; and whether it be this or some other bill, founded on just, fair, and equitable principles, is a matter wholly immaterial to me, as it will be to the country.

Mr. G. said, in order to obviate the difficulty of moving so many amendments, I propose to substitute a new bill for that first introduced by me, as I have said, embracing the amendments, which I shall move in lieu of the original bill, and shall ask that the substitute be printed by the House, as it has already been by the public journals. I feel very confident the substitute will be more acceptable to the committee, to the House, and to the people, as it certainly is more in accordance with my own views.

THE MEXICAN TREATY.

SPEECH OF MR. A. H. STEPHENS,

OF GEORGIA,

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1849,

In Committee of the Whole on the state of the Union, upon the bill to provide for carrying into effect the late Treaty with Mexico.

Mr. STEPHENS said: Without following the example of those who, in their wanderings from the real question before us, had been led into a discussion of collateral matters, I propose to make a few remarks on the subject immediately under consideration. The bill upon the table provides for the appropriation of a sum of money to carry into effect the late treaty between this Government and Mexico. Before passing this bill, or making this appropriation, in my opinion, it is our constitutional right and duty to inquire into the expediency of the measure. This will necessarily lead us into a consideration of the policy, the propriety, and wisdom of the treaty itself, and the consequences likely to ensue, if it should be carried into effect, upon the general interests, peace, prosperity, and harmony of the whole country. This is the question, in my opinion, which we are now about being called upon to decide. The subject is a grave one, and our duty properly to consider it is one of the heaviest responsibility. I am aware that the views I entertain of the powers and rights of this House to grant or to withhold this appropriation, according to our approval or disapproval of the policy of the treaty, and our judgment of its effects upon the country, have not only been questioned upon this floor, but have been assailed in high quarters elsewhere, and denounced even with bitterness, as erroneous and heretical. It has been, and is even now, denied by many that we have any power or control over this matter, but to vote the money; that, in the language of the President himself, in his message to this House, the "treaty is the supreme law of the land;" and that we have nothing to do with it but to discharge an obligation resting upon us to make all necessary appropriations, and pass all other necessary laws to give it efficiency and effect; without any right, on our part, to inquire into its character, or to estimate and deliberate upon its advantages or disadvantages, or in any way to consider of its effects upon our national character and national welfare, or even to debate with ourselves, whether it will be salutary or injurious, beneficial or destructive. The raising of such a question, or the statement of such a principle or doctrine, (if it may be so called,) as to the powers and rights, as well as duty or constitutional obligation, on the part of the members of this House, greatly enhances the interest of the inquiry, and the importance of a correct decision.

The subject enlarges as we approach it.

It presents for primary consideration a question of no small import, and that is, whether this House has the constitutional right to withhold this appropriation, if, in their judgment, the treaty is improper or unwise, and may be attended with serious detriment to the country? This is the first point, therefore, to which I call the attention of the committee: I hold that we do possess the constitutional power. And, after establishing this position, it is my purpose to show, that for reasons of vast interest and importance to the country, we should exercise this constitutional right upon this occasion. Those who take the opposite side of the question, as I understand them, rest their argument solely upon the assertion, that the Constitution declares that treaties shall be regarded as the supreme law of the land. And as this treaty has been ratified by the President and the Senate, we are bound to comply with its requirements. As everything turns upon a correct construction of this clause of the Constitution, taken in connection with other parts of the same instrument, it may be well to pay particular attention to the language used. These are the words:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

Under this clause it is insisted that when a treaty is made by the President and Senate, it is not only the supreme law of the land, binding upon the judges of the several States, but also binding upon this House, and creating an obligation on us to pass such laws as may be necessary to give it operation, efficiency, and effect.

That such was not the meaning and intention of the clause, is apparent to my mind from the article itself. No one can mistake, from reading it, to perceive that the sole object was to define a restriction placed upon the State authorities. Side by side, or rather before treaties, it is provided that the laws of the United States shall be equally supreme. Supreme over what? Certainly not over the law-making power. If so, you could never repeal a law when once made. We should be as the Medes and Persians. The State authorities were evidently meant. It never could have been intended to make treaties supreme over the legislative action of Congress on those subjects which, in other clauses, were specially and exclusively delegated to that department or branch of the Government. No rule is better established than that, in construing the Constitution, as well as a statute, or any instrument, all the parts are to be taken together; and with this rule before us, I cannot well imagine how any one can conceive that the framers of the Constitution intended, under the single power of making treaties, which was given to the President and two-thirds of the Senate, to embrace all those other great powers which were specifically granted to Congress. And that such would be the effect of such a construction, no one can doubt. The treaty-making power, by that construction, would or could absorb the entire legislation of the country. For instance: the Constitution declares that all legislative power shall be vested in the two Houses of Congress, with the right of the President to interpose a veto. Under this class of powers, Congress has the right to lay and collect taxes; to declare war; to raise armies; to regulate trade, &c.; and the House of Representatives have the exclusive right to originate bills of revenue and bills to appropriate money. But if the doctrine I am opposing be correct, all these wise provisions and safeguards can be effectually superseded by the President, with the concurrence of two-thirds of the Senate.

He has but to enter into a treaty of alliance with some foreign state at war with another, and we should thereby become a party to such war in the face of that clause of the Constitution that declares that Congress shall possess the power of involving us in war. He may by treaty stipulate that subsidies to any amount shall be contributed for an indefinite time in the very teeth of that clause of the Constitution which even restricts Congress from making any appropriation of money for the support of armies for a period longer than two years. And we, the representatives of the people, would have nothing to do but vote the men and money, because such a treaty would be the supreme law of the land. The whole regulation of commerce and tariffs of duties may be brought within the same principle. If a railroad is wanted across the isthmus at Panama, there is nothing to be done but to enter into a treaty with New Granada, with a stipulation to pay annually, not the sum of half a million only, but it may be five millions or ten millions; and all the discretion we shall have will be to vote the money. Or if a road is wanted to Oregon, all that is necessary to effect it is to find a few wild Indian chiefs in the Rocky Mountains, and make a treaty with them, which may provide for the construction of the road at the cost of two hundred millions or more; and all the voice this House would have in the matter would be to empty the treasury by appropriations, and fill it again by taxes upon our constituents. The answer to any objection would be just as it now is, that the House is bound by the treaty—*the supreme law of the land*—though the Constitution, which is the great magna charta of our powers as well as rights, has guarantied to this House the sole and exclusive right of taxing the people or disposing of their money! To say that we would still have the right to originate these bills just as this has been originated, but that it was our duty to do it—that we were under an obligation to do it—that we had no discretion in the matter, would be nothing short of an insult to the people, and a mockery to ourselves. The House of Representatives in the American Congress would have less power to protect the interests of the people on that point especially confided to them than even the British House of Commons have to protect the subjects of the Crown from the exactions of an acknowledged sovereign. Instead of being the guardians and protectors of the purses of the people, we should be nothing but the assessors, to demand contributions. In England, where the treaty-making power is absolute in the Crown, no one questions the right of Parliament to withhold its assent and concurrence whenever such assent or concurrence is necessary to give it effect, if in the judgment of Parliament such treaty would be prejudicial to the public interests. No one there supposes that a treaty, made and ratified by the monarch, imposes any obligation on the Commons to vote the money necessary to carry it into effect. Many instances are upon record where the House of Commons have asserted their right of disapproval. I have one before me that was cited by Mr. Gallatin, in the debate in this House upon Jay's treaty. It is taken from Anderson's History of Commerce. The author, in speaking of a treaty with France, says:

"But we could not omit our animadversions on the 8th and 9th articles, as they were so extraordinary in themselves, and as they occasioned so great a stir and uneasiness at that time as to have brought the whole treaty of commerce to miscarry then and ever since.

"'ART. IX. That in the space of two months after a law 'shall be made in Great Britain, whereby it shall be sufficiently provided that not more customs or duties be paid 'for goods and merchandise brought from France into Great 'Britain than what are payable for goods and merchandise, 'of the like nature, imported into Great Britain from any 'other country in Europe; and that all laws made in Great 'Britain, since the year 1664, prohibiting the importation of 'any goods or merchandise coming from France, which were 'not prohibited before that time, be repealed, *the general 'tariff in France on the 18th of September, in the same year* '1664, *shall take place there again*, and the duties payable in 'France by the subjects of Great Britain for goods imported 'and exported, shall be paid according to the tenor of the 'tariff above mentioned.'

"When the said two articles came to be known by the merchants of Great Britain, they were received with the utmost surprise and indignation, and the clamor was loud and universal: that the complying with those two articles would effectually ruin the commerce we carried on to Portugal, the very best branch of all our European commerce: that the said 8th article did, in general terms, put France on an equal footing with Portugal, or any other of our best allies in point of commerce.

"This is in brief the sum of this mercantile controversy, which, when brought into Parliament, it was so apparent that our trade to France had ever been a ruinous one, and that if, in consequence of accepting the said 8th and 9th articles, the British Parliament should consent to reduce the high duties and take off the prohibitions so prudently laid on French commodities, it would effectually ruin the very best branches of commerce, and would thereby deprive many hundred thousand manufacturers of their subsistence; which was also supported by petitions from many parts of the kingdom: that although a great majority of that House of Commons was in other respects closely attached to the ministry, *the bill for agreeing to the purport of the said two articles was rejected by a majority of nine voices*, after the most eminent merchants had been heard at the bar of that House, to the great joy of the whole trading part of the nation, and of all other impartial people."

This is an English precedent. And shall it be said that this House has less discretion and less power over the purse-strings of this country than the House of Commons has in Great Britain? The principle acknowledged there is, that when the King makes a treaty which requires an appropriation of money, or any other act of legislation to carry it into effect, it is not binding until such legislative action is obtained. And in granting such legislation, the Parliament exercises the same discretion and right of approval or disapproval that they do in all other cases. No such doctrine is thought of there, that Parliament is bound to make its legislation conform to the treaty. The same principle, sir, must be true in this country. I do not claim for this House any of the treaty-making power. That belongs to the President and two-thirds of the Senate. But it is not an unlimited power, and it cannot annul other powers specifically and exclusively delegated to this body. If it is exercised upon subjects which lie within its own sphere, it is valid upon the exchange of ratifications, and operates under the Constitution as a law of the land *proprio vigore*. But if it touches upon other subjects which, by the Constitution, belong exclusively to other departments of the Government, it must necessarily await and receive the sanction of such other department before it acquires the force and obligation of law. Nor is the national faith compromited by the exercise of a

constitutional right against giving effect to a treaty. In diplomacy as in trade, in market overt, the doctrine of *caveat emptor* applies. This is precisely the character of the treaty we are now discussing. It provides for the payment of a sum of money to Mexico. This payment can only be made by an act of Congress. No appropriation of money from the treasury can be made but by law.

If the treaty was already not only a law, but "the *supreme* law of the land," why was this bill introduced? Why did not the President direct the money to be drawn from the treasury by virtue of the treaty? The question shows the fallacy of the assumption. The treaty is not the law of the land, so far as it interferes with the constitutional rights of this House, until the sanction of this House is obtained. We have nothing to do with *making* treaties, I repeat; but we have a vast deal to do in watching and defending those rights, of which we are the sole guardians under the Constitution. And we have the same right, and the same solemn *duty* to perform in withholding an appropriation to carry out a bad treaty, that we have to withhold any other improper expenditure of the public money.

This, Mr. Chairman, is no new doctrine. In advancing this opinion—which in these days of degeneracy have been pronounced to be wild, visionary, and disorganizing—I am but reiterating the sentiments and opinions of many of the ablest and purest men who lived in the early days of the Republic. This question was raised under our Constitution for the first time in the debate that grew out of Jay's treaty. The House of Representatives was then honored by some of the most distinguished men the country has ever produced. Mr. Madison—who has been justly styled the Father of the Constitution, and who will ever be entitled to be ranked amongst the first statesmen of this or any other country—was then a member of this House, and perhaps the acknowledged leader of it. By his side, and not much his inferior, stood the distinguished Gallatin, who alone of all his illustrious associates of that day, still survives to enjoy in his old age that fame which integrity, genius, patriotism, and exalted worth never fail to establish and secure. I ask the attention of the committee to the opinions expressed by these gentlemen.

I read first from Mr. Gallatin, as he appeared first in the debate:

"A treaty is unconstitutional, if it provides for doing such things the doing of which is forbidden by the Constitution. But if a treaty embraces objects within the sphere of the general powers delegated to the Federal Government, but which have been exclusively and specially granted to a particular branch of government, (say to the legislative department,) such a treaty, though not unconstitutional, does not become the law of the land until it has obtained the sanction of that branch."

Again:

"To what, he asked, would a contrary doctrine lead? If the power of making treaties is to reside in the President and Senate unlimitedly; in other words, if in the exercise of this power the President and Senate are to be restrained by no other branch of the Government, the President and Senate may absorb all legislative power: the Executive has then nothing to do but to substitute a foreign nation to the House of Representatives, and they may legislate to any extent. If the treaty-making power is unlimited and undefined, it may extend to every object of legislation; under it money may be borrowed, as well as commerce regulated; and why not money appropriated? For, arguing as the gentlemen do, they might say, the Constitution says that no money shall be drawn from the treasury but in consequence of appropriations made by law; but treaties, whatever provisions they may contain, are law; appropriations therefore may be made by treaties; then it would have been the shortest way to have carried the late treaty into effect by the instrument itself, by adding to it another article appropriating the necessary sums. By what provision of the Constitution is the treaty-making power, agreeably to the construction of the gentlemen, limited? Is it limited by the provisions with respect to appropriations? Not more so than by the other specific powers granted to the Legislature. Is it limited by any law passed? If not, it must embrace everything, and all the objects of legislation. If not limited by existing laws, or if it repeals the laws which clash with it; or if the Legislature is obliged to repeal the laws so clashing; then the legislative power in fact resides in the President and Senate, and they can, by employing an Indian tribe, pass any law under the color of treaty. Unless it is allowed that either the power of the House over the purse-strings is a check, or the existing laws cannot be repealed by a treaty, or that the special powers granted to Congress limit the general power of treaty making, there are no bounds to it; it must absorb all others, repeal all laws in contravention to it, and act without control."

Could a principle be more clearly stated, or an argument be more conclusive? Comment upon such a text would but detract from its force. I read it barely to let the House know how fully I am sustained by an authority of such high character. I wish every member of this House would read this entire debate. It was one of great interest: the most important and exciting, perhaps, ever had in the House of Representatives. The contest was between the Republican and the Federal parties. The ablest champions on each side were enlisted in the contest; and there were giants here in those days.

Mr. Madison followed shortly after Mr. Gallatin had spoken. I read a portion of his remarks, and deeply regret that I have not time to read the whole speech. He said:

"But the question immediately under consideration, and which the context and spirit of the Constitution must decide, turned on the event of the treaty power in relation to the objects *specifically and expressly* submitted to the *legislative power*.

"It was an important, and appeared to him to be a decisive view of the subject, that if the treaty power alone could perform any one act for which the authority of Congress is required by the Constitution, it may perform every act for which the authority of that part of the Government is required. Congress have power to regulate trade, to declare war, to raise armies, to levy, borrow, and appropriate money, &c. If by treaty, therefore, as paramount to the legislative power, the President and Senate can regulate trade, they can also declare war, they can raise armies to carry on war, and they can procure money to support armies."

Again, he says:

"The force of this reasoning is not obviated by saying that the President and Senate would only pledge the public faith, and that the agency of Congress would be necessary to carry it into operation: For, what difference does this make, if the obligation imposed be, as is alleged, a *constitutional one;* if Congress have no will but to obey, and if to *disobey* be *treason* and *rebellion* against the constituted authorities? Under a constitutional obligation, with such sanctions to it, Congress, in case the President and Senate should enter into an alliance for war, would be nothing more than the mere heralds for proclaiming it. In fact, it had been said, that they must obey the injunctions of a treaty, as implicitly as a subordinate officer in the Executive line was bound to obey the Chief Magistrate, or as the judges are bound to decide according to the laws."

Yes, sir; and this is the same argument we hear now. The treaty, it is said, is the supreme law of the land, and we are bound to *obey* its injunctions.

Mr. RHETT interposed, and asked Mr. STEPHENS if he would allow him to ask a question?

Mr. STEPHENS having yielded the floor—

Mr. RHETT inquired, to what gentlemen on this floor the gentleman was talking?

Mr. STEPHENS. Do you concur in my argument?

Mr. RHETT. In every word of it.

Mr. STEPHENS. Very well; then you are not one of those to whom I allude.

Mr. RHETT. I have not heard a single gentleman on either side of the House controvert it.

Mr. STEPHENS. The gentleman cannot say as much for his President. He has controverted it; his message to this House controverts it. And if the gentleman had been a regular attendant in his seat, he would have heard it controverted upon this floor.

Mr. RHETT was understood to say, that so far as he recollected, he did not understand the President as contending for such a doctrine. He thought the question had been settled that the House had the power.

Mr. STEPHENS. The gentleman is so seldom in his seat that he probably has not read the papers which the President has sent in. There is such a message. I will not take up time by reading it for the benefit of those who do not know what it contains. I am gratified, however, to hear the gentleman from South Carolina say that he concurs with me as to the rights and powers of this House; and I wish I could indulge the hope that a similar sentiment prevails as generally as he seems to think it does. Nothing but a conviction on my mind that it does not could have induced me to consume so much time on this point. I feel no less reluctant in trespassing upon the time of the House in presenting it, than I do ashamed of the degeneracy of the times that requires it. A great constitutional principle is at stake. I see one of the main safeguards of public liberty, which has been committed to the faithful charge and keeping of this House, about to be abandoned and surrendered to the encroachments of power. But I am determined that it shall not be done by my sanction, directly or indirectly. I shall, upon this and all occasions while I am here, defend and maintain, to the utmost of my ability, the constitutional rights of this House. We are the immediate representatives of the people; and in this matter I am for the people and their rights, against Executive encroachments. We have seen enough of these encroachments within a few years past to alarm every well-wisher to the country. We have seen an Executive, in open disregard of the Constitution, and in palpable violation of its plain letter, make war with a neighboring country. We have seen him claiming and exercising all the attributes and prerogatives of an absolute sovereign over conquered provinces. We have seen him impose duties, establish a tariff, collect millions of dollars, and appropriate them without consulting Congress, and without authority of law. We have seen him make a treaty, by which we are to pay millions of money for a territory which is likely to embroil the country in a fearful civil discord; and after hiding and secreting an important paper touching the construction of amendments made by the Senate, we have seen him proclaim this treaty as the supreme law of the land, and require at our hands, as a duty which we are bound to perform, to make the necessary appropriations, without the right on our part to inquire into the propriety or expediency of the measure.

Sir, as one of the representatives of the freemen of this country, I dare stand up in this Hall, consecrated to the rights of the people, and raise my voice against the consummation of these monstrous outrages. And as a shield to protect me in the position I occupy, against all assaults, come from what quarter they may, I hold up the resolution which I have in my hand, and which is the embodiment of the principles of the old Republican party in 1796, as to the obligation imposed by a treaty upon the action of this House. This resolution passed by a majority of fifty-four to thirty-seven! For it Mr. Madison and Gallatin and Baldwin, Livingston, Giles, and all the Republicans voted. I ask the attention of the committee to its language and the principles it proclaims.

Resolved, That, it being declared by the second section of the second article of the Constitution, that the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur, the House of Representatives do not claim any agency in making treaties; but that, when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its execution, as to such stipulations, on a law or laws to be passed by Congress; and it is the constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as, in their judgment, may be most conducive to the public good."

These are the principles on which I rely. And in pursuance of these principles, I this day claim, and shall exercise the constitutional right, as I feel it to be my duty to do, to inquire into the expediency of voting the appropriation contained in this bill to carry this Mexican treaty into effect.

And having said thus much, Mr. Chairman, upon the subject of the right, I shall now offer some reasons why I shall exercise this right by voting against this appropriation.

In the first place then, sir, I am opposed to the principles and policy on which this treaty rests, and of which it is an acknowledged result. It is but the sequel and consummation of a war of aggression and conquest. A policy so utterly destructive to all the principles on which our Government is founded, can never receive my sanction. The first great duty for a Representative on this floor is to preserve the purity and integrity of the Constitution. Nothing could be more entirely subversive of the whole superstructure of this Government than the establishment of the principle that provoked this war and directed its progress. I opposed it in the beginning, and I shall continue to oppose it to the end. It has no pretext for its justification, but an unholy lust of dominion and extent of empire. It has no warrant in the Constitution. It is at war with every principle on which the Government was founded. Ours is a Republic based upon the great truth, that every nation of people have a right to govern themselves according to their own free will and choice. With this view our fathers claimed the right of self-government; they asserted that right in the establishment of the institutions under which we live; and these institutions can only be maintained by the preservation of this principle. It is the very spirit and life of the whole body politic. This preservation depends

as much upon a strict observance of it in all our relations with other nations, as it does on a rigid adherence to the same in all our domestic policy. This war with Mexico may be considered as the commencement of a new era in the history of this country. The reckless and ambitious idea of conquest was never before entertained by American statesmen. This is our first step in that fatal course that proved the destruction and overthrow of all the great Republics that have gone before us: and who can promise himself that it will be less disastrous to us in its tendencies than it has been to others? Whenever the immutable principles of right are abandoned, and error, however specious, tempting, and fascinating is adopted either by individuals or nations, the merited chastisement will in due season inevitably follow. This is by a law as fixed, controlling, and inflexible as that by which effects succeed causes, and by which all things material about us and around us are held together and governed. These principles were well understood by the wise men who gave us the form of government which we possess, and under which we have heretofore been so prosperous and successful. They lie at the foundation of our entire system—they form more than the corner-stone—the whole superstructure in solid mass rests upon them; and if they be removed and upturned, the stately edifice, with all its grandeur, can no longer stand—a common and general ruin must be the inevitable consequence.

Gentlemen on different sides of this House speak daily almost of a dissolution of the Union on questions growing out of a disposition of these conquests. Some say that the Union cannot survive the passage of the Wilmot proviso. On the other side, we heard the other day a gentleman from New Hampshire [Mr. WILSON] assert that he was for the proviso, if the Union or even the universe should thereby be dissolved. Now, for my own part, I think there is a much greater and a graver question before us this day, than that of either extending or prohibiting the institutions of the South in California and New Mexico. It is the question of sanctioning by this House the outrages and aggressions upon the Constitution by which the acquisition of these territories is to be consummated! Whence do you derive your authority, either in reason, justice, or that great chart which prescribes the rule of your action and the limitation of your powers to dismember a neighboring republic, despoil her of extensive provinces, and by subjugation to compel her alien and an unwilling people to yield to you their allegiance? If this principle is to be sanctioned, and this policy is to be adopted—if this first step in a new, wild, and lawless career of aggression is to be followed by other and more rapid strides in the same fatal direction, I am free, frank, and bold to assert here in my place to this House, and to the whole American people, that the day is not far distant when it will be found that there will be very little left in this Union—much as I value its past, and appreciate its present, and hope for its future—which will be worth preserving. The safeguards thrown around our institutions by the Constitution will be swept away. That instrument will be defunct. It will be a dead letter. It may preserve its form for a time; and the Government, as a huge inanimate monster, may also preserve its form for a time; but its life, its spirit—its soul, that principle that looks towards and longs for immortality—will be gone, and we shall become as loathsome as creeping vermin, crawling and feeding on its dead carcass! It cannot be otherwise—the truth is beyond all disguise. We should not deceive ourselves: might, as we have heretofore been taught, does not constitute right. But this is the monstrous doctrine now about to be established. There are none so blind as not to see it. It could not even escape the discernment of the untutored savage. For my country's honor, I could but feel humiliated in reading what Captain Johnson in his Journal (Ex. Doc. 41, page 580) records of a conversation between an Indian chief and General Kearny, on his march to California. He says:

"Just as we were leaving camp to-day, an old Apache chief came in, and harangued the General thus: 'You have taken Santa Fé; let us go on and take Chihuahua and Sonora; we will go with you; you fight for the soil, we fight for plunder; so we will agree perfectly. Their people are bad Christians; let us give them a good thrashing," &c.

This old chief, sir, was right. He who makes war upon a weak neighbor for soil, is no better than he who fights for plunder.

You cannot escape this issue by attempting to draw consolation from the flattering and delusive cry of National Glory. National glory springs from no such source. It is no foster-child of violence, oppression, and wrong—of robbery, pillage, and rapine. Truth, justice, uprightness, or righteousness (as the wise man says) exalteth a nation, but sin, or that which is wrong, is a reproach to any people. The glory of those nations which have inscribed their names amongst the first on the roll of fame is not to be found in the history of their conquests. The monuments of their greatness are to be seen in the productions of art, the creations of genius, the refinement of taste, the perfection of morals, and the works of learning and science. You perceive it in their paintings, their sculpture, their architecture, their poetry, their oratory, and their philosophy. But if you wish to acquaint yourself with lamentable instances of national disgrace and degradation incurred by iniquity and crime, you have but to open the annals of sanguinary wars waged from motives of national aggrandizement and personal ambition. Those who glory in such deeds glory in their own shame. The cry of Gold, which has also been raised for the same purpose, is equally unavailing. Mines of great richness and treasures inexhaustible in California, it is said, have been acquired by the war, and therefore all is right. The end not only justifies but sanctifies the means. Of all the appeals which have been made by way of excuse or extenuation of the course of the Administration upon this subject, this to me appears to be the lowest, the meanest, the most corrupting, and the most despicable! It is the plea of the cheat, the knave, the thief, the highwayman, the brigand, and the lawless of every grade and character! The man who picks your pocket, does it for gold. The man who demands your purse, does it for gold. The man who basely sells himself or his country, does it for gold. The detested pirate who, as an outcast from all civil society, scours the seas and makes his home on the ocean wave, seizing and appropriating by violence all that comes within his reach and power, is in pursuit of the same sordid object—gold. And where is the difference between him and me, and him and you, if you and I should prove ourselves to be so lost to all sense of right as to justify wrong, even although all the gold in California, and Peru besides, were to be acquired thereby? Sir, if I believed that all the extravagant stories we hear of the mines in California were true, which I do not, it would make no difference with me. If her soil were lined with gold, if it stood out in solid mountain piles as high as her own Sierra Nevada, I should spurn the degrading temptation.

But I have another reason for voting against carrying this treaty into effect. What I have said relates exclusively to the principle of conquest—the policy of taking by force that which belongs to another: apart altogether from these considerations, I am, and always have been, and always shall be, utterly opposed to the acquisition of any additional territory to this Union, by purchase, treaty, or otherwise, which may likely disturb the peace and quiet of the country. If, therefore, this treaty had not been the extorted concession, as it is, of a vanquished party; if it had been the result of friendly negotiations in time of peace, as it has not been, I should oppose carrying it into effect until those disturbing questions growing out of it, which now so greatly excite and agitate the public mind, were first settled and adjusted. I am for this Union as it is, if it can be preserved and maintained in its purity and integrity. If the President and Senate should be so unwise as to enter into a treaty surrendering the city of New York or New Orleans, or interfering with any of the rights of the States, is there any man here who would vote to carry it into effect? Not one, I suppose. And why? Because it would endanger the Union. Well, should we not be just as cautious in giving effect to any other treaty which may be fraught with the same danger? Before the treaty defining our northeastern boundary was carried into effect, the assent of Maine was first obtained. And would it not be well—would it not be wise—is it not indispensable—is it not a duty of the highest order we owe to the country, that there should be an adjustment of those sectional differences growing out of any treaty of this kind, before it is carried into effect? Are you prepared to hazard the result? Why not first see whether we can agree upon a disposition of these Territories, before you declare that they shall be part and parcel of this country? To you, men of the North, I speak with calmness, but fixed determination—I cannot and will not vote one dollar from the public treasury for the acquisition of any territory from which my section is to be excluded; nor will I vote one dollar for such a purpose, until I know what is to be your policy upon this subject. I do not intend to enter into an estimate as to which section contributed most blood in this war, or which will contribute most of the money. I am free to admit that the North contributed as freely and largely as the South, and that the South contributed as willingly and generously as the North. We, being nearer the scene of action, may have sent a larger number of volunteers, and you may have furnished the larger number of the enlistments; this, I believe, is the truth of the case. But it is a consideration of too paltry a character to make prominent in our wranglings here. It is sufficient that both sections contributed their quota. All that were asked for were cheerfully rendered, and thousands more were ready to go if a call had been made for their services. Those who did go, from all sections, went under a common flag; they went as Americans, brothers, and patriots, prompted by a nobler and a higher motive, I doubt not, than personal cupidity or that *auri sacra fames*—that raging, consuming thirst for gold that is now excited and pandered to. It was the call of their country, and they obeyed it. The fires of war had been kindled, and they had to be extinguished. With these views and feelings, men of all parties and sections promptly and cordially united. I am not one of those who entertain the opinion that patriotism in this country is confined to any locality. It is a plant which, when properly cherished, grows as indigenously and as luxuriantly upon the granite hills of New England, as it does in the broad savannahs of the South, and the ocean-like *prairies* of the West. And in our army in Mexico there stood, side by side, gallant-hearted men from Pennsylvania, New York, the old Bay State, South Carolina, Georgia, Virginia, Tennessee, Kentucky, Illinois, Ohio, and all the States. The blood of the North and the South commingled in the valley of the Rio Grande, at Monterey, Buena Vista, Cerro Gordo, Churubusco, and Chapultepec. Clay and Hardin, McKee and Lincoln, Yell and Hamer, Butler and Webster, and many others, if not so distinguished, at least quite as patriotic, from the two great sections respectively, sacrificed their lives upon the altar of their common country, and in the support of a common cause. There was with them no quarrels and divisions upon questions of North and South, free States and slave States, as we find at this time in this Hall and throughout the country; but in unity and harmony they stood together and fell together, just as the fathers of many of them stood and fell at Trenton, Brandywine, Eutaw, and Yorktown—Lundy's Lane, North Point, and New Orleans; and just as I would rejoice to see the members of this House to-day, and at all times, stand up and act together upon all great national questions.

But to you, men of the North, I again say, Do you expect us of the South to contribute both our blood and our money for the acquisition of a territory for your own exclusive enjoyment, and from which we are to be prohibited?—a country hedged in and walled high with prohibitions and restrictions against us; with free and open ingress to you, with your property, your herds, and cattle, but with every avenue, gate, and entrance to us, with our men-servants and maid-servants, bolted and barred and guarded with the flaming sword of a legislative act? If you do, I tell you, in frankness I fear you hazard too much. As you value this Union, you had better pause before you resolve to put this to the test. I shall not undertake to say what may be the consequence. I shall not indulge in the language of threat or menace. But it is my duty to speak to you in words of soberness and caution. I shall not even venture to say what course the South ought to pursue in such a contingency: the people of the South must decide that question for themselves when the act is consum-

mated. But I tell you, you are trifling with dangerous elements when you presume upon their submission. History, as well as philosophy, teaches us that the human passions often present the strangest phenomena that have ever been brought to the scrutiny of human analysis. Like the air we breathe, the elastic and unseen atmosphere that surrounds us, their energy and potency are not to be judged of from appearances when in a state of comparative quiet and stillness. A calm is often the precurser of a storm. So the greatest revolutions have come upon mankind when least expected. This day twelve months ago, Louis Philippe was seated upon the throne of France, with the conscious security of a monarch who had but to exercise the legitimate powers of a sovereign to claim the proper obedience of his subjects. France was undisturbed, and even Paris was free from any unusual excitement. There was no agitation of the public mind. Everything was as still and as quiet and as cheerful as the heavens of a bright May morning; and yet, before one short week rolled around, this strange and mysterious and tremendous element of the human passions had been aroused to action; a storm of popular feeling raged, with sudden and terrific violence, in that city, and before its force and fury the throne of that august potentate, and one of the strongest governments of Europe, were swept away, as the sturdiest sires of the forest and the firmest habitations of man are often borne upon the bosom of the tornado when the genius of the power of the air displays his grandeur, majesty, and terror. Do not deceive yourselves with the belief that the blood of the Anglo-Saxon race this side of the water and south of Mason and Dixon's line beats less warmly than it does in the bosom of Frenchmen, or that their resentments are not as quick, and their passions as strong. As one who knows that people well, and whose feelings and sympathies are all with them, I tell you to beware how you wantonly excite them; you may, in your madness or folly, produce a whirlwind which neither you nor any human power can control. If you are determined, therefore, to ingraft your proviso upon these Territories, I invoke you, in the name and behalf of our common country, to join with me in the rejection of this apple of discord.

And now, you men of the South, I have words to say to you upon this subject—particularly to you who have favored this acquisition from the beginning, with a declared determination to resist, if the Wilmot proviso should be finally adopted. Do you prefer to hazard the consequences of a dissolution to the enjoyment of the advantages of the Union as it is? Are you ready to vote the money of your constituents to pay for the country before their right of participation therein is first settled? Are you determined to taste the "forbidden fruit," let the consequences be what they may? When a distinguished gentleman of South Carolina [Mr. CALHOUN] said, two years ago in the Senate, that he looked upon Mexico as the "forbidden fruit" to this country, I thought the idea was no less prophetic than sublime and true. And yet, with this expressed conviction on his mind, no one can imagine my surprise in hearing him declare, before he finished his speech, that he was nevertheless in favor of taking a *bite*. This seemed to me to be worse than the rash act of our mother Eve, which caused the fall of man, and brought upon us all our woes! For although she had been told "the day thou eatest thereof thou shalt surely die," yet no one can believe that she realized the full force of the important truth. Are you determined to try a repetition of the fearful experiment? If so, the responsibility shall be yours. And I now repeat to you what I said where I now stand, two years ago: I very much fear that in your "eager pursuit after the unenviable distinction of 'dispoiling a neighboring republic, you will have 'the still less enviable glory of looking back upon 'the shattered and broken fragments of your own 'Confederacy." I look upon this acquisition as an unclean and unholy thing. It is the price of blood, which I have no disposition to touch or handle in any way. But if it is to be had, so far as the rights of the people of my section are concerned, I do not intend to cheat, or be cheated. I am for open, plain, fair dealing. And if the worst consequences ensue, be the responsibility upon those whose policy produced them. These views I submit to your consideration. Judge ye of them wisely.

But, Mr. Chairman, there is still another reason, independent of all these, which of itself would control me in voting against this bill at this time. It arises from the disclosures drawn from the President the other day in relation to the actual condition of this treaty. No man can look into the history of this matter, and not be satisfied that there is a misunderstanding between this Government and Mexico with regard to it. An important paper, under the name and style of a protocol, has lately been brought to light, which contains the construction put upon it by Mexico, and the understanding on the part of that Government with which it was ratified. That paper was withheld by the Executive from the Senate. It gave solemn assurances, under the hands of our commissioners, as to what was the meaning and intention of the Senate in certain important amendments made by them to the original treaty, and the effect of those amendments. The Senate alone had the power to do this. As the matter now stands, it appears that we really have no perfect treaty with Mexico. I do not pretend to assert, as I said on the day I submitted this matter to the House, that the protocol invalidates or renders the treaty entirely void; but I do maintain, that it should have received the sanction of the Senate before any one should have presumed to consider the treaty as perfect or completely ratified by the properly constituted authorities. For my own part, I do not hesitate to give it as my opinion, that if it had been submitted to them their concurrence could never have been obtained. It virtually affirms that the amendments made by them were matters of form, and not matters of substance. This I am persuaded they were not prepared to assert. For it is generally understood that without the amendments the treaty could never have passed that body. And who now, with a knowledge of the whole history of the case, can doubt that it was a full belief, amounting almost, if not quite to a consciousness of the fact that such would be the result, that caused the President to withhold the paper and suppress the information? What other motive could he have had in refusing to respond to the call of this House last year, but a desire to cover up and conceal this protocol? He said then that it was incompatible with the public interest to disclose the correspondence with our commissioners. But we now have all the papers of that correspondence, and I should like for some friend of the President to point out, if he can, anything in any of them, or all of them, which was incompatible with the public interest to disclose at that time, but this protocol. This is the unfortunate darling—the illegitimate bantling which he thought compatibility with his own honor required him to keep from the knowledge of the public. This is the most natural conclusion to which the mind can come. Else why was it suppressed?—why was it kept back? He could not have thought it of less importance than the letter of the commissioners announcing their arrival in Mexico, and yet even that was sent to us with the treaty. Why was there a studious concealment of this paper? Sir, secrecy is always a badge of fraud, as well as a good ground for suspicion of criminal intent. The shallow pretext and miserable subterfuge resorted to in the late message to explain this matter, will not bear investigation. We are now told that the paper was not deemed material—that it was not considered as inconsistent with or variant from the Senate's amendments, and that, according to the practice of the Government, it has not been usual to publish such papers.

Now, sir, I protest against the correctness of all these positions and assumptions. The practice of this Government, I undertake to say, has been directly the reverse of that stated. When was such a paper ever before withheld? I might even ask, when was such an one ever before made? The nearest approximation to it that I am aware of, was a written statement made by Bonaparte at the time of the ratification of the Louisiana treaty, of his understanding of the effect of the rejection of an article in the original treaty by the American Senate. Mr. Jefferson, who was then President, did not presume to judge of the matter himself, or to determine whether it was material or immaterial, but sent it to the Senate to get their decision upon the subject. The practice of this Government, I venture to assert, furnishes no case to sustain this act of Mr. Polk; and I doubt if the history of the world can furnish many of greater turpitude. There is one, however, too analagous not to be mentioned—I allude to the secret treaty of Dover, made by Charless II. of England with Louis XIV. of France—that for treachery, perfidy, and infamy, perhaps, has no parallel. It was not permitted to be made fully known even to all the members of that profligate ministry, the initials of whose names when combined have become famous in the word *cabal*. Clifford and Arlington signed it, and therefore were privy to the guilt of their master; but Buckingham, Ashley, and Lauderdale, corrupt as they were, were kept in ignorance of the worst parts of it. This is a precedent which those who are anxious to defend this shameful transaction by the weight of authority and the bad practice of Governments, would do well to consult. And perhaps in their researches they may observe a striking similarity between the conduct as well as character of our present Executive and one of the most perfidious of England's kings, in more instances than one. Duplicity, hypocrisy, and treachery were amongst his most prominent characteristics; and his whole policy seemed singularly directed to the inglorious end of bringing disgrace upon himself, and ignominy upon his administration.

To dissemble, to deceive, and to betray, seems to have been objects which he as assiduously pursued in almost every public act of his life, as if he considered them worthy of the highest ambition. Whether the same may be said of our Executive, a few instances and facts in the memory of all will attest. He deceived the people of Pennsylvania in obtaining his election. He deceived the 54 40 men, by pretending to be for the whole of Oregon, while he was secretly negotiating for a settlement upon 49. During the agitation of the public mind on that question, a bill was introduced in this House to authorize him to call out a large military force, under pretence of an apprehension of a collision with England, when subsequent events showed that its real object was to make war on Mexico.* He asserted to the world, with all the boldness of one supposing that the people would believe he was telling the truth, that Texas had extended her jurisdiction to the Rio Grande, and that she had been annexed to this Union, with her western boundary extending from the mouth to the source of that river, notwithstanding, in his secret instructions to Mr. Slidell, he had much more distinctly stated that Texas had never extended her jurisdiction over any part of New Mexico; that all that part of the country claimed by Texas had been in possession of Mexico for two hundred years, and he authorized his minister to give five millions for its cession. He declared, and repeated again and again, that the war was commenced by Mexico, when the fact is notorious, that he provoked it himself. This great truth was asserted by this House at the last ses-

* "It [the bill] does not appear to have been prepared for the particular emergency with Mexico, but rather as a sort of general provision 'for all comers;' for it is declared, on the face of the bill itself, to have been reported by Mr. HARALSON, from the Committee on Military Affairs, so far back as the 27th of the previous January—a time when 'the clear and unquestionable title to the whole of the Oregon territory' bloomed in all its freshness. And its first section authorized the President 'to resist any attempt which may be made on the part of *any foreign nation* to exclusive jurisdiction over any part of the territory of the United States, or any territory in dispute between the United States and any foreign Government, as well as also to sustain the rights of the United States to, and repel invasion upon, the said territory,' &c.

"In fact the bill, though afterward altered and made applicable to Mexico alone, was drawn up by Mr. HARALSON, then chairman of the Military Committee, in conjunction with the late Colonel ARCHIBALD YELL, who fell, gallantly leading his regiment to the charge, at Buena Vista; and, as originally drawn, was intended to prepare for the worst, both as respects Great Britain and Mexico. The number of troops was left blank, and was subsequently filled up with the number of fifty thousand; but one hundred thousand would have been proposed if thought necessary. A comparison of dates will show that the bill was reported to the House several months before the receipt of the news from General Taylor's army which led to the declaration of war. On the receipt of that news, the Military Committee were notified to attend at their room in the Capitol at half-past 8 o'clock the next morning, which was Sunday. They then acted upon the subject, and the next day, on receipt of the President's message, the bill was passed."—See *Wheeler's History of Congress, vol. 1, pages 401 and 402.*

sion. And though some gentlemen seem to be exceedingly anxious to get that resolution expunged from your records, I tell them their labor is in vain. There it will continue to stand forever as the greatest moral achievement ever before made by the American House of Representatives. He said at first that war should not be waged for conquest; and now that its full history is disclosed, it appears that, with this profession upon his lips, he had long before made arrangements and perfected schemes for the permanent possession of California. He pretended to be opposed to the constitutionality of the Wilmot proviso; and yet he signed the Oregon bill that contained it. The reasons given in his message to the House for this strange act of duplicity and double-dealing towards his own section, were no less extraordinary than fallacious. The intimation that it received his sanction, because it came within the principles of the Missouri compromise line, may be credited by those who are not acquainted with the facts of the case. But no man could be credulous enough to grant him the merit of sincerity who knows, as you and I do, that the Missouri compromise principle had been expressly rejected from that bill by this House. The South had been deceived, and a false pretext was resorted to, to quiet their apprehensions. No man can judge of what he will do by what he says. For in that same message the country was given to understand that he would never sanction a bill containing the proviso applied to California and New Mexico; and yet I heard the gentleman from Pennsylvania, the author of this proviso, [Mr. WILMOT,] declare in that area there, in my presence, and that of other gentlemen, when the Oregon bill was before the Senate last session, and when there was doubt entertained whether he would sign it, if passed, that he had had an interview with the President, two years ago, when he had or was about offering his proviso to the three-million bill, and that this same President had urged him not to obstruct that measure with it, but to bring it in as a separate proposition, and it would not be unpopular even in Mississippi. Whether he intended then to deceive the gentleman from Pennsylvania, or whether his policy towards the people of the South on this subject is now one of deception, I shall leave for those to determine who may feel interested in such a speculation.

It affords me no pleasure to speak thus of the character of a Chief Magistrate; nor would I willingly, (as was intimated the other day on the other side of the House,) at this time, give any unnecessary pang to the dying agonies of his administration. It dies hard enough, I have no doubt. And if I have heretofore, or now, spoken in terms of severity towards him or his measures, it has been from no motive but a sense of duty. A knave is a knave to me, in every state, whether upon a pillory or near a throne. And, in all that I have said, I feel conscious of no cause of regret or reproach to myself, except from a consideration of the degree of my forbearance. Sir, it would require a master-hand to portray, in proper colors, the enormities of misrule in the government of this country for the last four years, under the guidance and control of his mischievous councils; that will be the heavy task of the historian, when he comes hereafter to trace their effects upon our future progress and destiny.

But the assumption that there is no variance between the assurances of the protocol and the intention and effect of the Senate's amendments, is just as untenable as that in relation to the practice of the Government. Gentlemen have contended on this floor, as the President has argued, that there is no inconsistency and no difference between them. Upon this point I join issue. There is, in my opinion, an essential difference, and a difference out of which a serious difficulty will almost certainly arise. And when I make a point I do not intend that it shall either be misunderstood or evaded. The protocol, amongst other things, gives this solemn assurance: that,

"Conformably to the laws of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories, are those which were legitimate titles under the Mexican law in California and New Mexico up to the 13th May, 1846, and in Texas up to the 2d March, 1836."

This assurance amounts to nothing short of a guarantee on the part of the United States that all the titles and grants to land in Texas, which were good and valid according to the laws of Mexico up to the 2d March, 1836, will be held and considered valid and legitimate by our courts. This is exactly what the 10th article of the original treaty provided for. That article, we all know, was unanimously stricken out in the Senate. The President himself advised its rejection. That article, as it originally stood before it was stricken out, was in the following words:

"All grants of land made by the Mexican Government, or by the competent authorities in territories previously appertaining to Mexico, and remaining for the future within the limits of the United States, shall be respected as valid to the same extent that the same grants would be valid if the said territories had remained within the limits of Mexico. But the grantees of lands in Texas, put in possession thereof, who, by reason of the circumstances of the country since the beginning of the troubles between Texas and the Mexican Government, may have been prevented from fulfilling all the conditions of their grants, shall be under the obligation to fulfill the said conditions within the periods limited in the same respectively, such periods to be now counted from the date of the exchange of ratification of this treaty; in default of which, the said grants shall not be obligatory upon the State of Texas in virtue of the stipulations contained in this article.

"The foregoing stipulation in regard to grantees of land in Texas is extended to all grantees of land in the territories aforesaid, elsewhere than in Texas, put in possession under such grants; and in default of the fulfillment of the conditions of any such grant, within the new period, which, as is above stipulated, begins with the day of the exchange of ratifications of this treaty, the same shall be null and void.

"The Mexican Government declares that no grant whatever of lands in Texas has been made since the second day of March, one thousand eight hundred and thirty-six, and that no grant whatever of land in any of the territories aforesaid has been made since the thirteenth day of May, one thousand eight hundred and forty-six."

And, notwithstanding there was not a single Senator who voted to retain it, yet these commissioners have assured the Government of Mexico that the Senate meant nothing by its rejection, and that, conformably to the law of the United States, the courts here will hold all those grants and titles to land in Texas to be good and valid, as well without as with the original tenth article of the treaty.

Mr. PETTIT was understood to inquire if the gentleman stated that the protocol affirmed that the titles were good?

Mr. STEPHENS. Yes, the protocol affirms that all those titles which were good or legitimate according to the Mexican law on the 2d March, 1836, are according to our law now legitimate or good.

Mr. PETTIT said he understood the declaration of the protocol to be merely that these titles retained all their legal value which they had under the Mexican laws.

Mr. STEPHENS. That is what it declares, and that is what the original tenth article intended to secure, but what the American Senate utterly refused to stipulate for. Gentlemen must keep in mind the nature and character of that class of titles here alluded to and intended to be embraced by the language used. They are known as the empresario grants. They were a sort of conditional grants issued before the 2d March, 1836, or the date of the Texas revolution. But at that time they were, according to Mexican law, perfectly good and valid upon a fulfillment of the conditions on which they were made. These grants covered a large portion of the best land in Texas. But since the revolution, Texas has disregarded those titles. She virtually abrogated or confiscated them, as she had a right to do, and has granted them to her own citizens. But who now will assert that these titles, according to our law, retain all the legal value which they had on the 2d March, 1836, according to Mexican law? I should like to hear from the gentleman from Texas, whether his State is prepared to give to them all the *validity* or legal value which they had on the 2d March, 1836?

Mr. KAUFMAN, in reply, said that Texas never *confiscated* an acre of *titled* land. It is true that the empresario *contracts* existing at the declaration of Texan independence, on the 2d of March, 1836, were *suspended* by Texas. These empresario contracts have been denominated *titles—grants;* but they were neither *titles* nor *grants*. An empresario contract was nothing more than a specification of certain metes and bounds, *within* which the empresario was authorized to introduce settlers or colonists; and for every hundred colonists introduced into the limits prescribed by said empresario contract, the empresario was to be entitled to five leagues of land. Each family settling within said contract was entitled to a league of land. The titles to the settlers for these lands, and to the empresario for his *premium* lands, had to come from the Government of Mexico, or the States of Mexico, with the consent of the General Government. The land within the limits of the empresario contract remained *public* land, belonging to the Mexican Government, except so far as it was titled to the settlers and to the empresario, as he proceeded in the introduction of settlers. The *further* colonization of these empresario contracts was merely *suspended* by Texas. All legal titles issued by Coahuila and Texas, or by Mexico, previous to the Texan revolution, have been uniformly *respected* by Texas. The protocol only speaks of *grants* or *titles*, and cannot have any bearing upon these empresario contracts. The law of Texas suspended the empresario contracts of citizens, as well as of *foreigners*.

Mr. STEPHENS. The gentleman may call these grants contracts; but that is immaterial, as we know full well that all grants are contracts; the name does not change the thing; they were titles known to the law, and legitimate titles of value under the law on the 2d March, 1836; and call them titles, grants, or contracts, or whatever other name you may, they were rendered useless, worthless, and void by Texas. You may call it suspended, confiscated, abrogated, or nullified. And as to whether the protocol, in using the words grants and titles, did or did not intend to have any bearing upon this particular class of contracts or grants, that can be easily determined by a reference to the papers. The tenth article of the original treaty before alluded to contained this stipulation.

But the grantees of lands in Texas, put in possession thereof, who, by reason of the circumstances of the country since the beginning of the troubles between Texas and the Mexican Government, may have been prevented from fulfilling all the conditions of their grants, shall be under the obligation to fulfill the said conditions within the periods limited in the same, respectively. From this it is evident the tenth article had special reference to that class of titles. Mr. Buchanan must have so understood it; for, in speaking of this tenth article, he says:

"To resuscitate such grants, and to allow the grantees the same period after the exchange of the ratifications of this treaty, to which they were originally entitled, for the purpose of performing the conditions on which these grants had been made, even if this could be accomplished by the power of the Government of the United States, would work manifold injustice.

"These Mexican grants, it is understood, cover nearly the whole seacoast and a large portion of the interior of Texas. They embrace thriving villages, and a number of cultivated farms, the proprietors of which have acquired them honestly by purchase from the State of Texas. These proprietors are now dwelling in peace and security. To revive dead titles, and suffer the inhabitants of Texas to be ejected under them from their possessions, would be an act of flagrant injustice, if not wanton cruelty. Fortunately, this Government possesses no power to adopt such a proceeding."

It will be perceived that he does not call them contracts either, or suspended contracts; but he speaks of them as grants and titles, *dead* under the laws of Texas, which it is not in the power of this Government to resuscitate.

And now the language of the protocol, in reference to the original tenth article, is in these words:

"2d. The American Government, by suppressing the tenth article of the treaty of Guadalupe, did not in any way intend to annul the grants of lands made by Mexico, in the ceded Territories. These grants, notwithstanding the suppression of the article of the treaty, preserve the legal value which they may possess, and the grantees may cause their legitimate titles to be acknowledged before the American tribunals.

"Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded Territories, are those which were legitimate titles, under the Mexican law, in California and New Mexico, up to the 13th May, 1846, and in Texas up to the 2d March, 1836."

From this no man, it seems to me, can doubt that the assurance of this protocol does apply to and embrace these conditional grants, and that it does virtually reinstate the original 10th article of the treaty. It is useless for the President to say, as he does in his message, that the language of the protocol in this particular "is, simply, that 'the nullification of this article was not intended 'to destroy valid legitimate titles to land, which 'existed and were in full force independently of 'the provisions and without the aid of this arti-'cle. Notwithstanding it has been expunged from 'the treaty, these grants were to 'preserve the

'legal value which they may possess.'" The protocol affirms, in effect, what shall be legitimate titles. It asserts that those titles in Texas which were legitimate on the 2d March, 1836, will be held to be legitimate by our law, though they be now *dead* by the law of Texas. You cannot escape from this point by any art of reason or mystification of argument; neither can there be any doubt that Mexico so understands it. I have not alluded to other palpable differences between the protocol and the amended treaty, for my time will not allow me. I have alluded to the one out of which a controversy will most probably arise. I have done this to show the actual condition of our relations with Mexico. Before we go further, would it not be better for the regularly constituted authorities of the two countries to take a review of the matter, and come to a perfect agreement upon the subject, about which there can afterwards be no grounds of cavil or complaint? The dealings of nations with each other, like the dealings of individuals, should be clear and distinct. If you, by an agent, had made a contract with another, and, before the time of the fulfillment of it on your part, you became apprised of the fact, that, without your authority, knowledge, or consent, your agent had transcended his powers, and had attached conditions that you had expressly refused, would you not instantly demand an investigation, and have the matter settled before proceeding any further with the business? If such course would be proper in our private affairs, why is it not equally so when the public interest is concerned? Do you intend to rely upon the treaty, as amended by the Senate, and pay no attention to the explanations, assurances, and guarantees of the protocol, and without giving any notice to Mexico of the construction you place upon the treaty? This is evidently the policy adopted by Mr. Polk. But to me it looks very much like the policy of the cheat and the swindler. He cheated his own country in the beginning, and now he intends, even after robbing them, to cheat the Mexicans in the end. My time will not allow me to say more upon this point; and I submit it without further remark to the consideration of the committee.

And now, Mr. Chairman, I have shown, I think, that we have the constitutional right without doubt to reject this appropriation, if we do not approve of the expediency of the treaty. I have shown that the treaty is nothing but the result and consummation of a policy of conquest, which is utterly opposed to the principles of our Government, and which, if pursued, will lead to its inevitable destruction; and that, therefore, in my opinion, we should exercise our constitutional right in preventing it from being carried into effect. I have also attempted to show the great danger and impolicy of acquiring any more territory, in any way, unless all questions growing out of it tending to disturb the peace and harmony of the Union, as this acquisition does, should be first settled; and therefore this appropriation, for that reason, apart from all others, ought not to be made, until we can see whether those disturbing questions can be peacefully adjusted.

I have, in addition, and still further, I trust, shown, that there is a clear misunderstanding between the parties to this treaty, touching the construction placed upon important parts of it by them, respectively; and that therefore, for this reason, if no other, all action on our part to carry it into effect should at least be postponed until there is, by mutual agreement, a distinct acknowledgment of the full meaning and import by which each, in good faith, is to be considered as bound.

And having submitted those views which influence me in voting against this bill, I wish to say but a few words in conclusion.

I know there are many gentlemen in this House who concur with me in most if not all of what I have said, who nevertheless intend to vote for the bill because they consider it but an act of justice, they say, to Mexico—that the war was ended by the treaty which they were induced to make in consideration and expectation of this money—that they are in need of it—that our people have already got possession of California, and that it would be impossible to restore that country back as it was at the date of the treaty. To those gentlemen I wish barely to say, that my objections are not to the amount of money involved in this case; they arise, as you perceive, altogether from other considerations. To preserve the national faith beyond all imputation or reproach, as I shall ever be as ready as any one to do, I am willing to vote for a bill appropriating the money which shall at the same time disaffirm the treaty. So far as the money is concerned, I believe it would be good policy to-day to give Mexico not only the twelve millions yet to be paid her, but as many more millions, if we could thereby get rid of the effects and consequences of carrying this treaty into effect. I would also be willing to pay all our own citizens the full amount of their just claims against Mexico which have been assumed by this Government. But all this I should do *ex gratia*, and not *ex debito justiciæ*. I should do it as a matter of favor, and not as a matter of right or duty. I should do it from no other considerations than those of generosity, liberality, and magnanimity.

THE SLAVERY QUESTION.

SPEECH OF MR. SAMUEL A. BRIDGES,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1849,

In Committee of the Whole on the state of the Union, upon the bill to provide for carrying into effect the late Treaty with Mexico.

Mr. BRIDGES said:

Mr. CHAIRMAN: I had not intended to address the committee at this time upon what seems to be the great topic of the day, but to embrace an opportunity when the "bill to establish a government in Upper California," which has been reported by the chairman of the Committee on Territories, should be before this committee for consideration, to express my views upon it. That time I thought would be peculiarly fitting for the purpose, inasmuch as the twelfth section of the bill involves a principle which to me is objectionable, not on account of the great object intended to be accomplished by it, but because I believe, that at this time it is impolitic and inexpedient to attempt to enforce it. Having uniformly taken a position against it since I have been a member of this House, I think it obligatory upon myself, and a duty which I owe to my constituents, to explain the reasons which have prompted me to take that position, and I propose to do so at this time. The section of the bill to which I have alluded reads as follows:

"That the inhabitants of said Territory shall be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the Territory of the United States northwest of the river Ohio, by the article of compact contained in the ordinance for the government of said territory, on the thirteenth day of July, seventeen hundred and eighty-seven, and shall be subject to all the conditions, restrictions, and prohibitions in said articles of compact imposed upon the people of said Territory."

That portion of the ordinance of 1787, referred to in this section, is to be found in the sixth article, and reads as follows:

"There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid."

This, then, directly brings up the question, whether Congress has the power to extend this restriction to any territory belonging to the United States? For my own part, I have never for a moment doubted the full and complete power of Congress to do it, whenever it thought proper; and the more I examine the subject, the more I am confirmed in my opinion. It must be noticed that the ordinance from which the extract is taken, was passed the 13th of July, 1787: but the Constitution, which seems to clothe Congress with the power, was not passed until the 17th of September of the same year. It appears to me, therefore, that if the Congress which passed the ordinance had transcended its authority, the framers of the Constitution, adopted subsequently, would have made some provision against a similar occurrence. But inasmuch as it is silent upon the subject, I take it for granted that the Convention which framed it, by its most deliberate act, ratified the ordinance, and fully acknowledged the power of Congress to pass it; and I have no doubt but that it was so understood at the time. But whether such was the understanding or not, is of no importance; for the Constitution is, in my opinion, clear and strong; and that part of it under which it is claimed that Congress derives its power to prohibit slavery in the Territories, is contained in the second clause of the third section of the fourth article, and reads as follows:

"The Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States."

The debate upon this clause, at the last session, took a very wide range, and different constructions were put upon it. The North contended that it was too clear and plain in its language to admit of a doubt but that Congress had the power to prohibit slavery in any territory belonging to the United States; that it implied obedience and the exercise of power to command it; and that rules and regulations could only be passed for the government of the people who inhabited such territory. In this I think the North was right. On the part of the South it was contended, that under this clause, Congress only had the power to adopt terms and pass laws for the sale and disposition of the land itself. But from a careful examination of it, and a comparison of its language with other parts of the Constitution, I am constrained to believe that the South was in error.

In the same debate, the ordinance of 1787 received different constructions. On the part of the North, it was contended by some, that as it was passed for, and embraced all the territory northwest of the river Ohio, its provisions were, by implication, extended over the Oregon territory. The South contended that such was not the case, but that they were confined strictly to our northwestern territory as it then existed, and had no reference whatever to territory acquired at a subsequent period. In these two positions, I think the North was wrong and the South right.

Another doctrine, advanced by some individuals from the South, I could not approve. They contended that the States of the Union could severally exercise a sort of jurisdiction or sovereignty over territory belonging to us, so far as to protect their respective citizens who might emigrate thither, in the enjoyment of certain privileges and immunities, and to govern them with their own laws, which each citizen would be supposed virtually to carry with him. But, in my opinion, such a state of things could never exist. It would produce a jarring and a discord which would prove fatal to the existence of a community in such territory. For thirty citizens, one from each of the thirty States in the Union, living together in the same territory, to be governed by thirty different codes of law, would be what no human being ever saw, and what could never be. And for any State to attempt to exercise such an authority, would be nothing less than an encroachment upon the rights of all the States collectively, secured to them by the Constitution. It would, in my opinion, be carrying the doctrine of State rights to a dangerous extreme. Such a sentiment, I apprehend, could find favor with but few, not being founded in reason or justice.

In the same debate, other positions were assumed which I did not approve. It was contended by some, on the part of the North, that there must be legislation upon the principle contained in the ordinance of 1787, and that its provisions must, at all events, be extended to the Oregon Territory. It was what they wanted, and what they would have. On the part of the South, it was by some as zealously contended that an organic law establishing a territorial government there should be passed, authorizing the existence of slavery. In this, sir, they were both in error. I thought so then, and I think so still, and my reasons for so thinking I will proceed now to state.

And first, sir, I will say, that before I took my seat in this House, I was under the impression that the question of slavery was one that should never be discussed here; that members were never sent here for that purpose, but that business more conducive to the public good, and more promotive of the public interests, should at all times receive their attention; that the people did not send members here to spend a very great portion of their

time in discussing the great Wilmot (not proviso, but) *agitator*. I say *agitator*, sir, because it has done more to disturb the peace and harmony of the nation, to produce domestic discord, and create sectional jealousies, than any other subject that has ever been before an American Congress, save its legitimate parent, Abolitionism. And, sir, permit me to say here, that I do not envy the author of this agitation the ephemeral distinction which he may suppose he has gained by its introduction into this House. No, sir. When I look around me and see this great nation convulsed from its centre to its circumference, the great ligaments which bind the Union together about to be rent asunder, and my country, as it were, about to bleed at every pore, I envy him not the honor—an honor which is destined, ere long, to be turned into dishonor, for the time is not far distant when a rebuke of the people will be severely felt. I would rather, sir, sit here wrapt in silence for ages, than to introduce such a firebrand into this House—a firebrand that has consumed more of the public time and money than anything else that has engaged the attention of this House since I have been a member; for, sir, there are gentlemen upon this floor, whose whole existence seems to depend upon the question of slavery. They speak about it by day, and dream about it by night; and every occasion, whether proper or improper, seems to be seized upon to introduce it here. Why, sir, it is fresh in the recollection of us all, that at the last session, the honorable gentleman from Massachusetts [Mr. PALFREY] rose to a privileged question, and offered a preamble and resolution, the substance of which was, that it had been "represented to members of this House 'that a lawless mob had assembled within the Dis-'trict of Columbia, and had menaced individuals of 'this body," and moved for the appointment of a committee to investigate the matter, with power to send for persons and papers. A kindred spirit simultaneously made a similar move in the other wing of the Capitol; the consequence of which was, that both Houses spent considerable time in discussing the matter, which might have been profitably employed in attending to business of more importance to the nation. And, sir, what was the result of the discussion? Why, it simply brought to light the fact, that if the honorable member from Ohio [Mr. GIDDINGS]—who was the person alluded to as having been menaced—had been menaced at all, it was while he was extending his sympathetic aid to certain individuals who were then imprisoned in the jail for violating the laws of the District, in aiding the escape of sixty or seventy slaves. It was there, in the prison, and not while he was in the discharge of his official duties, that the fancied and reported menace was made. And yet, sir, the occasion was seized upon with all the avidity imaginable, as one well calculated to create popular excitement, and fan the flames of hostility to the South. But in this the actors in the farce were disappointed, for it failed to accomplish the end intended. Not only on this occasion was the abolition hand most conspicuously displayed, but I shall refer to others before I conclude of a similar character, and productive of as little good to the nation.

Another reason, sir, why I thought the North and South erred was, that it was both unnecessary and inexpedient to legislate at all upon the subject of slavery. It is admitted, I believe, by all, that an organic law which Congress might pass, establishing a territorial government, could only continue in force during the existence of the Territory; and that as soon as it should be admitted into the Union as a State, such law would be void. And with regard to the Oregon Territory, in particular, believing that its rapid settlement would, in a very short time, enable it to take rank among us as a sister State, I thought it wrong to disturb the peace of the Union, and stir up hostile passions, by legislating upon the subject of slavery, when such legislation could retain its binding force but for a very short period. I thought that that question ought to be settled by the people alone who inhabited the Territory at the time of its formation into a State, they being the best judges of what they wanted, and what the climate and the country would justify. This, in any event, they would have a right to do the moment they acquired the rights and privileges of a State. I therefore thought it the most prudent course to steer between the positions assumed by the North and South, and reject them both.

I am happy to say, sir, that I was not the only one that occupied this conservative position. For amid the raging storm of debate, when all hopes of reconciliation and union had fled, and the future presented but a dark and gloomy prospect, there suddenly appeared in the other wing of the Capitol a ray of hope of deliverance, and the olive-branch of peace. Whence came they? from the North? Had they come from that quarter, it would have been an act of magnanimity of which I should have been proud. But, instead of coming from that quarter, they sprung up from a State in which slavery is recognized, and which were eagerly seized upon by the generous South; who, forgetting the aggressions of the North, kindly invited a friendly reunion upon the "Clayton compromise"—a compromise which would have ended the unhappy contest by giving victory to the North, by virtually yielding to it all it desired, and all that it had asked. The great object of northern interference would have been accomplished, and slavery would have been denied an existence in the Oregon Territory. For as slavery can exist nowhere without positive enactment, no legislation upon the subject is equal to legislation against it.

If this position is correct, what could the South have done? Could they have taken their slaves there with a view to settle? No, sir; for there being no positive law to shield and protect them, the moment that their slaves had planted their feet upon Oregon soil, that moment they would have become free. And I cannot, perhaps, cite a better authority upon this point, than by referring to the language of the eloquent and distinguished Curran, who, when speaking upon the subject of slavery, said: "Slaves cannot breathe in England. The moment they touch our soil their chains are broken and their shackles fall." Why? Because there was no law there tolerating slavery. Precisely the same effect would have been produced in Oregon, California, or any free territory of the United States. But the North, having no confidence in the judiciary of the country to settle the vexed question, must have positive legislation upon it. They had it, and the bill for establishing a territorial government in Oregon passed both Houses, excluding slavery from that Territory. In this, sir, after the friendly advances of the South, I am free to say that there was exhibited, on the part of the North, the most unjustifiable pertinacity, and a determination to disregard and trample under foot southern rights; by doing which, the hopes of the nation, that the "Clayton compromise" would be a successful balm to heal the wound between the North and the South, were blasted, and an agitated nation again left to indulge in painful reflections concerning the fate of our beloved country. Sir, let me tell you, and this committee, that the eyes of the whole American people were, at that time, intently turned to this Capitol, anxiously watching the fate of that compromise; and many were the silent and heartfelt ejaculations that went up to Heaven in behalf of its adoption. A vast throng, too, of spirits of departed patriots were hovering over us, anxiously awaiting the result.

The time has again arrived, sir, when we occupy a similar position. An effort will again be made to enforce the principles of the ordinance of 1787, by the passage of the bill to which I have already referred. Southern rights are again to be set at naught, the peace of the Union disturbed, and civil liberty endangered. I speak, sir, of southern rights. Although by birth and education I belong to the North, and am as much opposed to slavery in the abstract as any one from that section of the Union, yet I unhesitatingly say that the South has rights as well as the North, and rights, too, that ought to be respected; rights which *were* respected by our ancestors when the Federal compact was entered into, and which were firmly secured by the Constitution, at a time when reason and justice reigned supreme, instead of fanatical Abolitionism. These rights *now*, are as strong, yea, even stronger than they were *then*. The noble conduct of the South in the Revolution, justly entitled them to favorable consideration. In the war of 1812 it was foremost in fighting the battles of the country. In the recent war with Mexico, the same gallantry was displayed. It sent more volunteers into the field than the North. Southern soldiers made the interests of our common country their interests. They freely poured out their blood upon Mexican soil, and laid down their lives in defence of the rights of the American nation. Through them, and the soldiers of the North, our country was enabled in the late war to assume one of the most enviable positions ever assumed by any country in the world, and to present one of the most beautiful spectacles ever held up to the view of nations. For while it was compelled to chastise a rebellious nation with one hand, it was feeding the starving nations of Europe with the other. The war, as is usual with other nations, had not the effect to exhaust her resources, cripple her energies, or impair her credit. But like a mighty tower, she stood firm, and demonstrated to an admiring world the beauty and stability of her institutions and the unconquerable power of her citizen-soldiers. Yes, sir, the chivalrous South was there in all its pride and power, and helped to accomplish this. Its gallant sons, emulous of fame, and ever ready to avenge their country's wrongs, rushed to the field, bared their bosoms to the foe, and deserted not their posts, until victory perched upon the American banner, and an honorable peace was conquered. The fruits of this peace, as is well known to this committee, are the acquisition of Mexican territory. And shall it be said, sir, when we come to legislate for this territory, that the South, after all its devotion and its sacrifices, shall have no lot or part in it? Shall there be a legislative barrier thrown around it to prevent it from asserting its rights to this property in common with the North? Shall it be told that notwithstanding the soil has been fattened by the blood of its sons, that it has no interest there? Shall the widows of those brave men who offered up their lives as a sacrifice in their country's cause, and who now lie mouldering in Mexican dust, be told that their husbands have fought and bled for nothing? Shall their destitute and needy orphans seek in vain for an inheritance there, and receive nothing but cold denial from the North? Such a course, sir, in my opinion, would not only be anti-republican, but anti-christian. And to draw such discriminating lines I believe to be unjust in the extreme, and dangerous to the peace of the Union. Our Mexican possessions are acknowledged to be the joint property of all the States, in which each has an interest. Then why not concede the interest, and permit it to be enjoyed in the best way that it can, and in a way that would give satisfaction to all?

This leads me to discuss for a moment the question, how and in what manner this interest ought to be enjoyed? I believe it to be generally conceded that some respect ought to be paid to the laws and municipal regulations existing in a territory at the time of its acquisition, although the laws of nations lay down the rule, that all laws in it, inconsistent with the constitution and laws of the nation to which it is brought into subjection, are at once abrogated. Then, if those not so inconsistent may be respected, the institution of slavery, not being inconsistent with the Constitution and general laws of the United States, ought, in my opinion, to be respected. For example: at the time of the admission of Louisiana into the Union, slavery existed within its limits, I believe by positive law, if not, certainly with the general consent of its inhabitants. And this being the case, the Congress that authorized its admission did not feel justified in imposing upon it a condition, that slavery should be abolished within its limits, but very properly left that question to be decided by the people. Precisely the same course was pursued in relation to other States, and in fact the same thing was done in relation to all the States, at the time of the adoption of the Constitution. Wherever slavery had obtained a foothold, there it was suffered to remain. A similar policy ought now, in my opinion, to be pursued in relation to our Mexican territory. Before its reduction to our possession, the question as to its laws and municipal regulations was not discussed. The existence or non-existence of slavery there was not made a point, either by the North or the South. They jointly fought for it and conquered it, without regard to it. The question now, for the first time, comes up, Which has won, or lost by the operation? To settle this, the precise situation of

the territory at the time of its acquisition must be ascertained. And just as this turns out to be, so, in my opinion, it should be settled. It is a risk which the North and South both run. By a brief reference to the laws of Mexico upon this subject, we find that as long ago as the 13th of July, 1824, the Mexican Congress, then in session, passed the following decrees:

1st. "The commerce and traffic in slaves, from whatever power, and under whatever flag they may come, is and shall be forever prohibited in the territory of the Mexican United States."

2d. "Slaves introduced contrary to the tenor of the preceding article are free, from the fact alone of their treading the Mexican territory."

These decrees, I believe, have received the sanction of all the Presidents of Mexico since that time, but especially of Santa Anna, and, in my opinion, ought to give character to that portion of Mexico which now belongs to us. If so, the Territory of California and New Mexico having been free while under the dominion of the Mexican Government, should remain so still. This, then, saves the North; and it is only for the South to inquire how the matter stands with it, whether its interest there can be enjoyed to the extent which it desires, and whether it has not been subjected to a disappointment which it did not anticipate. For my own part, I am so well satisfied that it cannot, that I am willing to dispense with all legislation upon the subject whatever, and throw the door wide open for it to try the experiment, the legality of which I would then submit to the judiciary branch of the Government to settle. Such a course, in my opinion, would be the most conciliatory and just. For if it should be decided against the South, I greatly overrate its noble generosity, for which I have always considered it distinguished, if it would not bow with peaceful submission, and consider it an unavoidable misfortune.

But such is not the character of the South, as alleged by the honorable gentleman from New York [Mr. STARKWEATHER] who addressed us yesterday. He said, the "South demanded the extension of slavery, or a dissolution of the Union." Sir, I undertake to say that the South, in a body, demand no such thing, and it never will demand it. For it is willing, and has proposed, that there should be no legislation at all upon the subject, and desire to have all its rights settled before a legal tribunal. It could only be in the event of an attempt to encroach upon it, and to deprive it of its rights already secured to it by the Constitution, that the idea of a dissolution of the Union could be for a moment entertained. The only idea of a dissolution, sir, exists in the fevered brain of the North. It has long ago thrown down the gauntlet; but the South has spurned it, and scorned to take it up. And permit me to say, that if the Union is ever dissolved, the North *must* and *will* be charged with having been the cause of it.

The same gentleman again asserted, sir, that the "recent election has set the seal upon the existence of slavery." I take the liberty of saying, that I think the gentleman is mistaken upon this subject, and that the question of slavery was not made a general issue. It probably was so in the State of New York, and in some few other very limited portions of the Union; but it was not, as far as my knowledge extends, a general issue before the people at large. Will the gentleman dare to tell us, that because North Carolina, Georgia and Louisiana cast their votes for General Taylor, that therefore they have denounced slavery, which exists there at this very hour, and is likely to exist there for years to come? If such a construction is now to be put upon the votes of those States, I exceedingly regret that the gentleman, or some one else, did not apprise the people of those States of it before the election. If he had done so, I am confident they would have produced very different results. Will he furthermore tell us that the election of a practical slaveholder to the Presidency is a declaration against slavery?

Why, sir, I think it absurd to talk thus. It is quite the reverse. It is nothing less than a positive demonstration that slavery as an institution is popular, and is sanctioned by those who claim the victory in the recent election.

But the gentleman from New York is quite as correct in these allegations, as he is when he says that the "South abandoned Mr. Van Buren." Now, the truth is, Mr. Van Buren, in his letter against the annexation of Texas, abandoned the South. For we all know that the annexation of Texas was not only in the South, but in the North, one of the great rallying points of the Democratic party in 1844. Mr. Van Buren was opposed to the extension of the area of freedom, while the country was for it. It was this that brought him into bad odor with the South. For it is well known that as long as he was a "northern man with southern principles," he was a great favorite with it. And could he expect after his Texas letter to be in favor with the South, or even the North? I very well recollect, that in Pennsylvania, a part of which I have the honor to represent, that that letter was generally condemned by the people, and I believe scarcely one member of the Democratic party could be found who approved it. But the truth is, Mr. Van Buren at that time overshot his mark, for he intended to publish such a letter as he thought would be acceptable to the people, and prove a passport to the Presidential chair; but in this he was mistaken. In that letter it could be plainly seen, that the false mask which he had so successfully worn for many years, had become a little turned; while more recent events show, that he has at last entirely pulled it off.

The honorable gentleman from New York has also thought proper to refer to "Silas Wright," whom he calls the "eminent statesman, the profound jurist, the man whose very name was a host, and around whose standard the Democracy of New York rallied as one man, with an energy that defied all opposition." I sincerely thank the gentleman for referring to that distinguished patriot, whose name is never to be mentioned but to be revered and loved, because it enables me to lay before the committee and the country his sentiments in relation to Abolitionism, which I believe not only to be a part of, but a great deal better than Free-soilism. For this purpose, sir, I shall read a few extracts from the address of the Democratic National Convention of 1836, which nominated Martin Van Buren for President, and Richard M. Johnson for Vice President of the United States, with the name of Silas Wright appended, as one of the committee who draughted it, and which was approved by Mr. Van Buren. The first to which I invite attention is as follows:

"We come now, fellow-citizens, to another objection to the convention, or rather to one of its nominations, and to another effort at division of a very different character, and probably *one of the most mischievous and wicked that has ever been made against the peace and happiness of any country! It is the attempt to create sectional parties and divisions, and to alienate one portion of our country from the rest.*"

Yet, sir, the gentleman was no longer ago than yesterday zealously engaged, in the language of his friend, in that *mischievous* and *wicked* enterprise, and *has been* for some time, as I shall directly show, notwithstanding he would feign make us believe that he has been educated at the feet of that political Gamaliel. But I will hasten to other passages in the address:

"Hence it is that in different parts of our country we see *mischievous* and *misguided* men attempting to *weaken the bond of union*, and exciting the North against the South, and the South against the North."

Again:

"So deeply rooted is this conviction, not only in the minds of our brethren of the northern and middle States, *but in the minds of the whole Republican party* of the Union, that it is incorporated in the *Democratic creed*, and constitutes one of the broad lines of separation between the strict constructionists of the Jeffersonian school and the latitudinarians, or consolidationists, under all their Protean colors."

And again:

"All such proceedings are instituted by *anti-republicans* and those who are *opposed* to us."

But again:

"*True republicans* can never lend their aid and influence in creating geographical lines in the East, West, North, or South. They can never engage in such schemes without *violating their principles*—principles which tell them that they are *all brothers*, and each left a rich inheritance by their fathers, never to be cancelled while they forbear to meddle with the *local feelings* and *domestic relations* of each other."

Again:

"The people of no State, therefore, can *violate that compromise on which this Union is based*, and *call themselves republicans.*"

And lastly:

"Whatever movements may be made, then, in the North or the South, the East or the West, inconsistent with the *domestic and social rights* secured by the Constitution to the respective States of the Confederacy, will emanate from and be confined to *anti-republicans*, and, like all other evils, will be most effectually counteracted by the union, integrity, and resistance of the Republican party."

These, sir, were the sentiments of that man, whose name the gentleman from New York [Mr. STARKWEATHER] says "was a host, and around whose standard the Democracy of New York rallied."

Permit me to say, Mr. Chairman, that these are also *my sentiments*, and the *firm and unyielding sentiments* of the Democratic portion of my constituents. And these sentiments have alone governed me, in relation to the question of slavery, since I have been a member of this House. Sir, they are not only *good*, but they are *precious* sentiments, that ought to be treasured up in every Democratic heart. And I wish to accord such sentiments to the noble son of New York, to whom the gentleman has referred me, and which I believe would be cherished by him *now* were he among the living. That man, sir, was to the Democracy of his own State, what the natural sun is to the solar system, around whom revolved the lesser planets in peaceful harmony. But no sooner had his spirit winged its way to the God who gave it, and he lay numbered with the dead, than the centripetal force was broken, and they were seen flying in wild confusion from their respective orbits, until they struck against the cold, dreary and sunless planet of Abolitionism. And in this vast agitation and disturbance of the political spheres, there could be seen in the lead no less a personage than Martin Van Buren, the *prince of "magicians,"* and the great *ringleader in political treachery.*

But lest it should be said, sir, that the address to which I have referred was penned in reference to the fanatical movements of the northern Abolitionists, I shall now proceed to show that the honorable gentleman has wedded himself to that party, is identified with them, and therefore is obnoxious to the charges contained in the extracts to which I have referred; and I shall show it by record proof.

On the 18th of December last, the honorable gentleman from Ohio [Mr. GIDDINGS] "obtained leave, and introduced a bill to authorize the people of the District of Columbia to express their wishes as to the continuance of slavery and the slave trade within said District." Upon the question to lay the bill upon the table, I find him voting in the negative, in company with gentlemen who do not disguise the fact that they are Abolitionists in the truest sense of the term.

Again, on the 21st of December, the gentleman from New York [Mr. GOTT] offered a resolution, "That the Committee for the District of Columbia be instructed to report a bill as soon as practicable prohibiting the slave-trade in said District." On the question to lay the resolution on the table, I find the gentleman again voting with the same company, and his vote recorded in the negative. And when the resolution was put upon its passage, I find him still in the same company, voting in the affirmative. A motion having been made to reconsider the vote by which the resolution was adopted, I find that on the 27th of December, the House proceeded to consider the motion to reconsider, when, on the motion to lay the motion of reconsideration on the table," I find him still with his new associates voting in the affirmative. And on the 9th of January, 1849, on a motion made that the motion to "reconsider the vote by which the House agreed to the resolution offered by Mr. GOTT, be laid upon the table," his vote stands recorded in the negative—still in the same company; and not only do I find the honorable gentleman thus voting, but many others with him, who freely admit that they are Free-soilers, but not Abolitionists. Their votes, however, clearly indicate their characters and their principles. By these alone we are to judge.

Again, sir, on the 29th of December, on the consideration of the bill for the relief of the legal representatives of Antonio Pacheco, I find the same gentleman voting, through all its stages, with Abolitionists, against it; thus showing, most conclusively, that he who so much applauds the name and the democracy of Silas Wright, has identified himself with men that were odious in his sight, and whom he denounced as *mischievous and wicked, violators of their principles*, and *anti-republican*. This is the position which not only the honorable gen-

tleman, but many of the Free-soil party occupy, and I do not see how they can easily escape from it.

But I must hasten, sir, to give a passing notice to the gentleman from New Hampshire, [Mr. WILSON,] who next addressed us. In the same address to which I have already referred the committee, I find the following language:

"Within the last two years, while political incendiaries, with the view of creating sectional parties, have been proclaiming to the South that the North were preparing to interfere with her domestic relations, have we not seen the preachers of such doctrines driven from public assemblies, in the North and Northeast, with mockery and scorn? It was but the other day that the Abolitionists were refused permission, by an overwhelming vote of the Legislature of New Hampshire, to hold meetings in either legislative hall, on the ground that the objects of the society were incompatible with those southern interests secured by the Constitution, with which the northern people had nothing to do, and which could never be agitated without danger and alarm. It is the power and influence of united republicanism and patriotism which ties the hands of the Abolitionists and fanatics in the North, and scorns their doctrines."

Notwithstanding this strong expression of opinion of the Legislature of his own State, I find the honorable gentleman often voting with those who are opposed to the existence of slavery. But the gentleman may offer as an excuse for taking this position, that he claims no affinity with the democracy of New Hampshire, inasmuch as he is now representing the Whig portion of that State, and therefore is bound by none of its decisions. If so, he certainly cannot be charged with being faithless to his trust. But, sir, it appears to me that he was guilty of *one* inconsistency, at least, in wandering from the main subject of his speech for the purpose of attacking the proceedings of the late Baltimore Convention, and declaring that in that Convention the South ruled the North. This permits me to take the liberty of asking him whether the South did not rule the North in the Whig Convention held in Philadelphia? Was General Taylor the favorite, or the choice of the North? Did not some of the northern delegates not only not vote for him, but refuse to ratify his nomination, until an opportunity of consulting with their constituents had been afforded them? Was not the whole stomach of the North, in fact, sickened by the dose which the South compelled it to swallow? Was it not publicly said, in Convention, that the forced nomination of General Taylor was a virtual annihilation of the Whig party? Then, I would ask the gentleman, who ruled in that Convention—the North or the South? If he says he does not know, I will tell him to ask the northern States *in general*, and the editor of the New York Tribune *in particular*, and I presume he will be enlightened upon the subject.

But, sir, to return to the subject more immediately before us: having shown, I think conclusively, that, so far as any action in this House is concerned, the Abolition and Free-soil parties are acting in concert, I will proceed to show, that instead of being friends, they are enemies to the slave race, and that the course which the former heretofore pursued defeated the object which it had in view; and that the course which both parties are now taking together, will have the same effect.

In 1832 the question of the emancipation of slaves in Virginia was extensively agitated in that State. Although the subject before that time had been forbidden ground, yet by general consent the question was put in such a shape that it could properly be met. The people took ground on both sides of it. The members of the Legislature were divided upon the subject. The feelings of the people of the whole State at length became so enlisted in the matter, that it was finally resolved to test the question at the ballot-box, at the next ensuing election of members to the Legislature. The result was, that every member of the preceding Legislature who had taken ground in favor of emancipation, save one, were reëlected by greatly increased majorities: thus showing a decided popular majority in its favor. Not only this, but other slaveholding States had so far caught the spirit of Virginia, that it was proposed to hold a Southern Convention, for the purpose of forming some plan for the general emancipation of their slaves.

Sir, no sooner had this grand project begun to shed its cheering beams upon the South, than a dark cloud arose in the North and obscured their brightness. That was the cloud of Abolitionism. Had it not been for that, a vast number of slaves would have been now enjoying their freedom. The moment the South became apprised of the operations of the North, all idea of emancipation vanished, and it planted itself upon its constitutional rights. And could it do less? Would it have been consistent with its dignity to have yielded to this attack upon their domestic institutions? No, sir; they would have been derelict in duty to themselves and to posterity had they done it.

Upon whose shoulders, then, let me ask, lies the charge of the existence of the institution of slavery, to the extent to which it now exists? Upon none other than those who made the attack upon it. They have been the means of drawing the cords of slavery closer than they otherwise would have been, and to them belongs the credit of having done more injury to the race than, I fear, they can ever do good. And such will continue to be the case, as long as this improper crusade is carried on against the South.

If, sir, these people could succeed in their enterprise, would they stand in a better light before the world, or receive more praise from all moral and good men? It should be recollected that there are two sides of the picture which we are now contemplating. If slavery is an evil, would not emancipation bring upon the nation *one* still greater? Suppose the three millions of slaves who now exist in the United States, could at the same moment be set free: could they maintain themselves in the South, and enjoy all the comforts of life that are now afforded them? Experience has thus far taught us that they could not; that freedom, in most instances, has a deleterious effect upon them, and in its enjoyment they sink into an abandoned and profligate condition.

But suppose the blacks should leave the South, which the greater portion of them inevitably must do: where would they go? Would they go to the free States? Sir, it must not be forgotten that they have already been driven from the State of Ohio at the point of the bayonet. And why? Because the intelligent and far-seeing people of that State will not suffer emancipated slaves to come among them, to plant a free colored race, to breed mischief, misery, and crime, so generally incident to them, and generate subjects for almshouses. Can they go North? If they did, I fear that they would not meet with a warmer reception there. But if, perchance, they might get a foothold there, their situation would be miserable indeed, as I think I shall show before I conclude. But suppose they are driven from that quarter whither would they flee? Could they throw themselves into the arms of the American Colonization Society? That could avail them comparatively little, inasmuch as it would not have the means, or the power of extending its benefits, if any, to so great a number, and especially within any reasonable period of time; for, by the last report of that society, it appears that but four hundred and forty-three emigrants have been sent to Liberia during the last year. At this rate, how long would it take to colonize three millions? Not less than six thousand seven hundred and seventy-two years, to say nothing of the increase during that period. And what would be the expense which must necessarily be incurred by it? By the same report, I find that "the average expense of transporting to Liberia, and supporting there six months, each emigrant, may be set down at fifty dollars," which for three millions would amount to the sum of one hundred and fifty millions of dollars. And can this enormous expense be incurred? No, sir. The country is not rich enough and liberal enough to do it. It has not the power to accomplish so vast an enterprise.

And, sir, the experiment in Liberia is in its infancy, and the great question of its utility is yet a problem. For the race is so physically constituted, that I fear they will never be capable of self-government, and that they can never exist as a distinct people. They have minds, it is true, but minds which education can scarcely brighten. They are in every respect a peculiar race, entirely distinct from the Anglo-Saxon race, for whose use nature seems to have designed them. Their physical formation, their ideas, and their mode of expressing them, are entirely different. They lack also in judgment, enterprise, and general aptitude for business. They want a leader to guide and direct them. And, in fact, everything pertaining to them seems to indicate, that they are a race ever destined to be governed.

If these views be correct, where can the blacks be governed better than where they now are? Go to the peaceful plantation in the South, on which they reside, and contemplate for a moment the comforts of life—yea, the happiness which they enjoy. They are generally well fed and comfortably clad. In sickness, every necessary attention is paid to them, and in old age a comfortable support is allowed them; and when their lamp of life goes out, they are decently committed to the grave. They are, while living, kind and affectionate to their masters, by which their masters become attached to them. Their interests being mutual, a correct and friendly state of things cannot but exist between them. How different, in every respect, is their condition from that of the free negroes of the North! Let us in imagination, sir, accompany our northern friends there, and for a moment contemplate the scenes there presented. There we shall find wretchedness and misery presented to us in the most frightful forms. We shall find them living in miserable hovels, in the midst of filth and vermin, their nakedness half covered, and themselves half starved. Call them from their refuges, which serve more to shield them from the frowns of better educated and enlightened man, than to protect them from the rude blasts of heaven, and ask them if they are comfortable and happy, and they will tell us no. Ask them if they are treated kindly by the white race, and they will tell us no. They will tell us that they are frowned down, and scarcely looked upon as human beings. And it is so. They are indeed civilly and politically set at nought. The rights of citizenship are denied them, and they are in every respect placed in the lowest scale of human beings. And indeed they, as well as the slaves at the South, never can be made good citizens, or become attached to the institutions of the country. So thought the Earl of Dartmouth in 1777, who, when speaking of the slave trade with the American colonies, said: "We cannot allow the colonies 'to check or in any degree discourage a traffic so 'beneficial to the English nation." Again, said he, "*negroes cannot become republicans; they will be a power in our hands to restrain the unruly colonists.*"

Then, if the situation of free negroes is such as we have described it, why this boasted philanthropy in the North, this burning zeal in favor of a similar race in another portion of the Union? Why not let charity begin at home, and do its work there first? And why not present a better state of things and a better record of morals there before they begin to preach to their neighbors. Now, sir, let us glance at the criminal statistics of a few of the States, and see how much greater a proportion of blacks have been imprisoned for crimes committed than whites, and how many more free negroes than slaves:

The State of Maine has a population of.....501,793
Of these, are free colored..... 1,355
There have been imprisoned in the last ten years—whites 279, colored 14, making one for every 1,798 of the former, and one for every 97 of the latter.

Massachusetts has a population of.....737,699
Of these, are free colored..... 8,653
Imprisoned in the last ten years—whites 943, colored 101, making one for every 773 of the former, and one for every 80 of the latter.

Rhode Island has a population of.....108,830
Of these are free colored..... 3,238
Imprisoned in the last ten years—whites 194, colored 55, making one for every 544 of the former, and one for every 58 of the latter.

Connecticut has a population of.....309,978
Of these, are free colored..... 8,105
Imprisoned in the last ten years—whites 1,351, colored 447, making one for every 297 of the former, and one for every 17 of the latter.

Thus it will be seen that there is a greater number of crimes committed by the free colored people of the North, in proportion to their numbers, than by the white race. And it is a remarkable coincidence, that in the States of Massachusetts and Connecticut, which have professed more compassion for the colored race than either of the other States that I have mentioned, a greater proportion of crimes have been committed by it. What has been the cause of it, I leave to this committee and the country to judge. I will now endeavor to see how the commission of crimes by free colored persons in these *two States* will correspond with the

commission of crimes by slaves in two other States, to wit, Maryland and Virginia:

Maryland has a population of	469,232
Of these are free colored	62,020
Slaves	89,495

In this State, I must remark, that there was no law authorizing the imprisonment of slaves in the penitentiary prior to the act of 11th March, 1846. Since which time there have been imprisoned only six, being but one for every 14,916, during a period of nearly three years.

Virginia has a population of	1,239,796
Of these there are free colored	49,852
Slaves	449,090

There have been received into the penitentiary of this State, since 1815, and condemned for transportation, five hundred and seven slaves, making one for every eight hundred and eighty-five, and only so small a number during a period of *thirty-four* years; thus clearly proving the commission of more crimes among the free negroes than slaves. And to what can the difference be attributed? To nothing, sir, but a better guardianship over them, and a better protection of their morals. Who, then, can claim their freedom? Do their masters claim it? No. Do the slaves themselves claim it? No; for they are attached to their masters, and will not leave them. Then, sir, who has a right to interfere with them? I answer, *No one.* If not, then in the name of, and for the good of our common country, I say, let them remain where they are. It is both impolitic and dangerous to disturb them; impolitic, because no positive good can result from it; and dangerous, for the consequences may be of the most unhappy character. Of this, other men in other times were fearful.

Washington, when speaking of the "unity of government," said: "Accustoming yourselves to 'think and speak of it as of the palladium of your 'political safety and prosperity; watching for its 'preservation with zealous anxiety; discountenancing whatever may suggest even a suspicion 'that it can in *any event be abandoned;* and *indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.*" And Mr. Jefferson, after he had retired to private life, alluding to the disturbance produced by the agitation of the slavery question, said: "It comes upon me like a fire-bell in the night, to disturb my repose." Sir, it is indeed a "fire-bell" to every good man and every patriot, and it ought to sound an alarm throughout the land. Let the question be asked, for *what* are different portions of this great Confederacy contending? Let the answer be candidly given—*for a negro's skin.* Is this to be the entering wedge to disturb the peace and destroy the unity of the nation? Is this to compel the sword which has just been returned to its scabbard, reeking with Mexican blood, to be again unsheathed to drink the blood of brothers in civil war? This reminds me of other ages, when trifling causes divided empires, and swept nations from existence. But, sir, that must never happen here, and, in my opinion, it never will. There is too much patriotism in the country to allow it. Concession and compromise *must* and *will* prevent it. I invoke their aid. I invoke the forbearance of both extremes of the Union. I call upon them to meet together upon the broad platform of justice and equity, where the patriots of other days have stood. I call upon you, the representatives of the nation, to do your duty in this eventful crisis. I call upon the people to urge and compel you to do it. Now is the time to settle the unhappy controversy. Delay is dangerous. Something *should* and *must* be done before the termination of the present Congress. Let this House, then, at once legislate; and legislate for peace. If no territorial government can be established in our Mexican possessions satisfactory to all, let them be admitted into the Union as a State at once. The latter, in my opinion, is by far the most preferable. The suffering inhabitants of that country demand it at our hands. As the great prize of war, we ought to show our just appreciation of it, and not let its brilliancy be tarnished by neglect. Besides, such a course would, in my opinion, give finality to the unfortunate feud in which we are at present engaged, and repose to our troubled country. If so, a grateful nation will applaud us, and posterity will bless us.

SLAVERY IN THE TERRITORIES.

SPEECH OF MR. O. B. FICKLIN,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1849,

In Committee of the Whole on the state of the Union, (Mr. CABELL, of Florida, in the chair,) on the Bill to carry into effect the Treaty of Peace with Mexico.

Mr. FICKLIN said:

Mr. CHAIRMAN: I have striven for the floor for the purpose of presenting the views which I entertain in regard to this vexed question of slavery, which has been so much discussed during the present, as well as preceding sessions of Congress. At one time I had intended to say something with reference to its party character; but I must confess to you, Mr. Chairman, and to the committee, that the speech which we all heard to-day from the gentleman from Kentucky [Mr. BUCKNER] has gone far toward disarming me of every partisan feeling, and I will not mingle the bitterness of the past, with the embarrassments of the present moment. During the agitation which the subject of slavery has produced, whenever it was mentioned within these walls, I have felt the necessity for some gentleman from a slave State to come forward, and, by taking bold ground, present this question as it ought to be presented to the American people. I have long been convinced, that whenever its true character shall be made known to the country, all danger will be dissipated.

Slavery is purely a local question, and does not legitimately enter into party politics; nor is it possible even for party drill to harmonize the views of those residing in different sections. We all know that it is just as impossible for the people of the free States, and the people of the slave States, to entertain identity of views and feelings in relation to slavery, as it is for the subjects of a monarchy to be of the same mind with our own independent citizens in reference to any political topic. Slavery in this country, though purely local, has been mixed up with politics by politicians, desirous of availing themselves of the temporary popularity, which its agitation would give to them in their respective localities.

I listened with great interest, a few days past, to the very eloquent speech of my friend from Alabama, [Mr. HILLIARD,] who (as I regret to perceive) is not in his place this evening. Sir, I was struck with the novelty of some of the positions taken by my friend, in regard to the disposition of these Territories. He admits, in the first place, that slavery is condemned by the civilized world; and then he says, if the decision of this question were left to the people of New Mexico and California, that it would be decided against the South. He says further, that he desires these Territories to be divided between the North and the South; because he wishes to preserve the balance of power, between the slave and the free States. And here he makes the most astounding declaration which was ever made upon the subject in this Hall. He declared that, by his vote, he never would consent to the admission of any free State into the Union, which might disturb the equilibrium of power between the two sections of the Union. He says:

"The balance of power [in his judgment] which has heretofore been maintained by the two great sections of our Confederacy, is essential to wise and conservative legislation, and to the preservation of our institutions. Firmly believing this—it is from no hostility to the North, it is from a profound conviction that the best interests of the whole country demand that this equipoise, if possible, shall be maintained—believing this, as I do, I cannot give my consent to any policy which shall strengthen the disproportion against the South, or make the influence of the North still more powerful. If any bill is to pass this body by which the South is to be shut out from all participation in our late acquisitions, that bill must pass without my aid.

"Mr. Chairman, I am about to make a statement which may be thought to have the demerit of too much frankness. I shall make it in all candor. There is a domestic institution in the South which in some sort insulates us from all mankind. The civilized world is against us. I know it; I comprehend it; I feel it. A sentiment which took its birth in England, which has since spread over the continent of Europe, which now covers a large proportion of our own country—that sentiment, gathering strength with every advancing year, threatens to overwhelm us."

When my friend from Alabama admits, as he does, that the opinion of the civilized world is against him, and that the people of the new Territories are opposed to him on the subject of slavery, and then declares that he will not vote for the admission of any free State, which tends to destroy the equilibrium of power, by giving to the free States the preponderance over the slave States: how, I ask, can he expect that the free States (having a majority of forty or fifty members on this floor) would divide the new Territories, and establish slavery in one half of them, when it does not at this time exist there? This is the first time in the history of our country, when the aid of Congress has been invoked to establish slavery, contrary to the will of the people who are to be affected by it. The balance of power of which he speaks, is the very thing that I hope to avoid, because it would continue a struggle for political ascendency between the two sections of the Union, and thus engender bitter feelings. I cannot desire that the constant and absorbing agitations of this element of discord should be kept up, so as to present to the people local and sectional issues, rather than those of a national character. We saw too much of the bitter feelings and heartburnings, produced by those agitations in forming a Territorial Government for Oregon. That whole region was left entirely without laws to protect its people for two or three years longer than it would have been, but for these agitations, which rose to such a height in the Senate, when the bill came up on its final passage in that body, as almost to peril "life and limb." It is with the hope to avoid all this excitement, and to get rid of this strife about the balance of power, that I desire this controversy to be settled now, if possible; and if not now, as soon as may be hereafter. I have a great horror of this "balance-of-power" doctrine, originating, as it did, with the intrigues of the European courts, for the purpose of uniting the many against the few, to the end that republics might be put down in the most effectual manner possible. And its most prominent advocate having received a signal rebuke in the overthrow of the monarchy of France, I have no desire to see that political principle cherished here in any form whatever.

Let the master be content, in the undisturbed dominion over his slave in the States tolerating slavery, and he will have the sympathies of the masses in the free States, in expelling, by the most effective and summary process, abolitionists and others, who unwarrantably meddle with his property. But an attempt to extend slavery to free territory, despite the will of its inhabitants, will not be sanctioned by any free State.

My friend from New York, [Mr. JENKINS,] who has just addressed the committee from the place where I now stand, repudiated the idea of admitting States into the Union, formed out of the newly-acquired territories, with such governments as the people there might provide for themselves. I think he will find nothing in the Constitution, to prevent the admission into the Union of any new State, presenting itself with an adequate strength of population and a proper political organization. The admission of Kentucky, Tennessee, Vermont, and others, the first States which came into the Union under the new organization, are precedents which completely justify the proposition for the admission of the State of California; and the principle that would now exclude her would also have excluded from admission all these older States.

With me, this would be a favorite plan; and if California were now ready with her constitution, I would be most willing to vote this night, in favor of a bill for her admission as a State, into this Union, with a government such as might be adopted by the population now there.

It was a novel doctrine to me, Mr. Chairman, that my friend from New York should not be willing to subscribe to this great popular right of the people, to determine upon a form of government for themselves. For one, sir, I have an abiding confidence in popular intelligence; and if the people of that country want slavery in California, I would not dissolve the Union to prevent it; and if they want to reject slavery, I would not dissolve the Union in order to defeat their wishes in this respect. Believing that the people there are competent to decide this matter for themselves, I would be perfectly willing for them to take it at once into their own hands, and determine whether they will or will not have slavery within their limits. I do

not sympathize at all with the gentleman from New York, in his desire to withhold from that people the right of self-government. Let them decide this question, and they will decide it right. We need not be told that the emigrants to California, have not sufficient intelligence to determine and settle all things that interest them. Who are the people that have gone out there? They, for the most part, are men of mind and motive, or they would never have left their homes and quiet firesides, to encounter the perils and privations of a trip to the Rocky Mountains, and across to the shores of the Pacific. Such men always possess energy and intellect enough to decide for themselves, all the questions which may be presented to them respecting their own civil and political affairs; and I am willing that they should proceed now to settle every one of these propositions, from the most minute of them up to those of the first magnitude. I prefer that they should select all their officers, from the lowest grade of magistracy up to the very highest office in their gift, by a direct vote of the people; for they are as competent and qualified, every way, to decide upon all these matters, as the two Houses of Congress and the President are to decide for them. There are men there now, who, one day or other, will grace with their presence these halls of legislation, and vindicate their own character for intelligence and patriotism.

I listened with pleasure, a few days since, to the eloquent speech of my friend from Virginia [Mr. PRESTON] who manifests a laudable anxiety, to dispose of the newly-acquired territories at this session of Congress, and in a manner to give as little offence as possible to either section of the Union. Subscribing as I do to many of his positions, and indeed to most that he said, I may nevertheless be permitted to give the reasons why I cannot go with him, in his proposition to organize into one State, the Territories of California and New Mexico. The area of those two territories, is sufficient for the formation of from four to six States of good size, and by uniting them into one, we might possibly avoid a present embarrassment, but I think we should become involved in one much greater. This one mammoth State would ultimately have to be parceled out into smaller States, and no one can now count the cost of such an operation. The habits and customs of the Mexican population dwelling in those territories at the time we acquired them, were wholly different; and we cannot unite by law, persons separated by custom and habit, so as to make them harmonize. The very distance that they are apart, is of itself, an insuperable objection to uniting them in one State.

The great characteristics of our newly acquired Territories of New Mexico and California, are their mountains, their deserts, and their minerals. In almost every portion of that country, the eye of the traveler rests upon some mountain range, rising upon an average, seven thousand feet above the level of the sea, and many of its spurs and peaks are covered with snow the whole year. Even the table-lands in the great basin of the Salt and Eutaw lakes, are four thousand feet above the level of the sea, and the temperature of the climate is everywhere determined by the elevation of each particular locality. Many portions of the country are as destitute of timber, as the great desert of Sahara, and are little else than barren plains of sand. On the contrary, very many of the valleys (narrow though they be) equal in fertility any portion of the habitable globe. The year is divided, not into spring, summer, autumn, and winter, but into the rainy and dry seasons; and that portion of time corresponding to our winter and spring, from November till May, is the rainy season, "and 'robes the country in a luxuriant vegetation, which 'is killed by the drought of summer, and not by 'the frosts of winter." The whole country abounds in mineral wealth, and it may literally be said that "the ore of every metal is struggling to its surface." Its geographical formation corresponds with the mineral regions of Mexico, and it cannot be doubted that, for centuries to come, the silver, gold, quicksilver, and many other minerals, will still be unexhausted in that country. Agriculture will be pursued to supply the immediate wants of the inhabitants, but mining must remain the chief employment of the great body of the people there. The grape, the olive, the lemon, the citron, the orange, with which that country abounds, will find but few to embark in their cultivation, for the young and the vigorous will abandon them for the mines. The sixty or one hundred thousand Indians, civilized and uncivilized, will soon have to abandon their reliance upon fish, fruit, and the wild animals of the country for their subsistence, and engage in mining or other pursuits of manual labor. Their horses and cattle that now range during the whole year in countless droves over hills and valleys, covered with the richest clover and the finest oats, known to any country, must in time be supplied with the means of subsistence by the industry of man. Commerce is the only business which can at all compete with mining in giving employment to the people of that country.

While I am decidedly of opinion that the population which came to us by the treaty with Mexico will, in time, be better fitted for organizing and establishing a republican form of government, yet it is equally clear to my mind that a portion of California might, with eminent propriety, be erected into a State. Every step in the formation of States in that country should be taken with reference to its geographical formation, and its population present as well as probable. The country lying between the Sierra Nevada and the coast of the Pacific, and embraced within parallels 34° 30′ and 41° 30′, is sufficiently large, and contains a sufficient number of people, for the formation of a State. Its external configuration is remarkable; its mines are rich and inexhaustible; and the Bay of San Francisco furnishes a harbor without a rival. The length of this proposed State would be four hundred and twenty miles, and its breadth about one hundred and fifty miles in the south, and about two hundred miles in the north, embracing within its limits mountains of perpetual snow, and valleys of perennial flowers.

There is yet another wonderful feature in the face of the country of which I am speaking. It will be seen, by reference to the map, that the Rio Sacramento rises near the forty-first parallel, and runs almost due south; and the Rio San Joaquin has its source near the thirty-fifth parallel, and runs almost due north—the two streams making a continuous valley of four or five hundred miles long and forty or fifty wide, and lying between the Sierra Nevada and the coast range of mountains; and passing through a gorge of the latter, they mingle their waters in the Bay of San Francisco. Feather river, one of the tributaries of the Sacramento, and at present the El Dorado of this continent, in consequence of its gold mines, is included within the proposed limits.

Between the Pacific and the coast range of mountains, which mountains run parallel with the Pacific coast at the distance of about forty miles, the climate is as balmy and salubrious as could be desired for the residence of man. The valley of the Sacramento and San Joaquin, though subject to some extent to ague and fever, with the miners, who are greatly exposed, it is thought will be very healthy so soon as its inhabitants provide themselves with the comforts of life. Cyprus, oak, pine, and cedar are found in great abundance on the mountains. The valley of the Sacramento produces the grains and fruits common to the middle States, and is at this time swarming with emigrants from all parts of the world, searching for gold. No question can exist as to the propriety of declaring that the people now within those limits may form a constitution, and cause it to be admitted as one of the States of this Union. A great majority of the emigrants are from the non-slaveholding States, and there can be no doubt that slavery would be excluded, in terms, by their constitution. Nor can the South complain of this; for if the people there do not want slavery, no one should desire to force it on them. The remainder of the country could be organized under two separate territorial governments, and after they had passed through a probationary term, be admitted as States.

Here, however, the vexed question of the Wilmot proviso lies in our path, and we must dispose of it as best we can. Mexico abolished slavery in this territory in the year 1829. By the late treaty, all of her jurisdiction and sovereignty over New Mexico and California were transferred to the United States. At the time we acquired it, the territory was free, and African slavery nowhere existed within its limits; nor could slavery be established there except by positive law, by affirmative legislative action, either establishing or recognizing it. During the progress of the war, and before we had acquired the territory, the Wilmot proviso was offered as an amendment to what was called the "three-million bill." Regarding this proviso as being presented prematurely, and as being calculated to embarrass rather than to facilitate negotiations for peace between the two countries, I felt it to be my duty to vote against it, although I am opposed to the extension of slavery to free territory. The true rule would seem to be, that when we acquire territory where slavery exists, and where the people desire its continuance, the Government should not interpose to defeat the popular will; and, on the other hand, when free territory is acquired, and the inhabitants desire it to remain so, this Government most assuredly should not lend its aid to establish slavery there.

The ground is boldly taken by some persons, both here and elsewhere, that Congress does not possess the power to prohibit slavery in the Territories; but the great current of judicial decisions and of popular opinion, as well as the practice of the Government, from its foundation to the present time, is decidedly against them. The Constitution confers upon Congress the exclusive right of declaring war, and upon the President and Senate the power of concluding treaties, and consequently territory may be acquired by conquest or by treaty. The right to acquire carries with it, as a necessary consequence, the right to govern, and to make all needful rules and regulations connected with such government. It is very clear, I think, therefore, that Congress has the power over this subject in the Territories. While I will not needlessly harass our southern friends, by seeking to attach the Wilmot proviso to bills where it does not legitimately belong, yet I cannot concur with them in the assumption (if I may so designate it) that the passage of the "proviso" would be a stigma upon the South. Its principles were incorporated in the ordinance of 1787, under the auspices of Mr. Jefferson and most of the other then distinguished statesmen of the South, and Congress has uniformly exerted the power from that day to this, and it has been, from time to time, sanctioned and ratified by the Executive and Judicial departments of the Government. If it be insulting or unconstitutional now, it was so when first adopted in 1787, and furnished good cause for the slave States not to come into the Union. From the time that the Dutch man-of-war appeared in James river, in August, 1620, to the present day, slavery has produced more or less excitement in particular localities; and of late, some politicians, both North and South, appear desirous of making it *the* question which is to override all others, and upon which all elections, great and small, are to turn. This "one idea" party, both north and south, seems to be smitten with a species of political blindness, which is urging them forward to a point from which it will be difficult for them to recede. They seem to be desirous of getting up a "panic," of bringing on a "crisis," and of disturbing the foundations of the Union, at a time when the great mass of the people desire quiet and repose. It is well settled, I think, that slavery will not and cannot be extended to any territory that is now free. The non-slaveholding States, having a majority now of forty or fifty members on this floor, (which majority is annually increasing,) cannot be induced by persuasion nor be frightened by menace into slavery extension. Our true policy is, to repudiate the slave question as a political issue, and let each one adopt or reject it for his own reasons, and without reference to party.

Mr. Chairman, I wish to submit a few remarks in reference to the Southern Address, as it is called. (I cannot treat it otherwise than kindly, because I find appended to it the names of too many of my friends to speak of it with harshness.) On reading that document I was struck with the fact, that the most prominent grievance presented by it on the part of the South, is the failure of the non-slaveholding States to act, or their improper action, in regard to the recapture and delivery of fugitive slaves. I find that to be the gravest charge presented, the sorest grievance complained of in that manifesto. It occurred to my mind at once, that if the individual who draughted it had been cool in head and thought at the time, and been desirous

of expelling, rather than of producing a crisis, he would have seen that such a complaint was only proper to have been made by one State against another State. For instance, if the people of Ohio have treated the people of Kentucky badly in the matter of concealing, or refusing to surrender, a runaway slave, it becomes a question before the Legislatures of those States, and not a national question, in which the General Government is to interfere. No one can imagine that, in any act of Congress, the Government of the United States could authoritatively say to the State of Ohio, We charge you, that when a runaway negro slave finds his way into your borders from Kentucky, that you cause such negro slave to be taken, and in the most prompt and energetic manner to be delivered up to the owner. No man, in his proper senses, could say that such legislation can be properly demanded of Congress. All question of grievance between individual States belong entirely to the States concerned. Hence that complaint, if proper to be made at all, should originate with the injured State, and should be addressed to the one doing the wrong.

There is another portion of that address to which I wish to allude. It is artfully drawn for purposes of mischief, and is well calculated to engender sectional animosities and heartburnings, while at the same time it does the grossest injustice to Illinois, and all the other free States with which I am acquainted. I will send up an extract, which I desire to have read from the Clerk's table.

The extract was read by the Clerk, and is as follows:

"Very different would be the circumstances under which emancipation would take place with us. If it ever should be effected, it will be through the agency of the Federal Government, controlled by the dominant power of the northern States of the Confederacy, against the resistance and struggle of the southern. It can then only be effected by the prostration of the white race; and that would necessarily engender the bitterest feelings of hostility between them and the North. But the reverse would be the case between the blacks of the South and the people of the North. Owing their emancipation to them, they would regard them as friends, guardians, and patrons, and center, accordingly, all their sympathy in them. The people of the North would not fail to reciprocate and to favor them, instead of the whites. Under the influence of such feelings, and impelled by fanaticism and love of power, they would not stop at emancipation. Another step would be taken—to raise them to a political and social equality with their former owners, by giving them the right of voting and holding public offices under the Federal Government. We see the first step toward it in the bill already alluded to—to vest the free blacks and slaves with the right to vote on the question of emancipation in this District. But when once raised to an equality, they would become the fast political associates of the North, acting and voting with them on all questions, and by this political union between them, holding the white race at the South in complete subjection. The blacks, and the profligate whites that might unite with them, would become the principal recipients of Federal offices and patronage, and would, in consequence, be raised above the whites of the South in the political and social scale. We would, in a word, change conditions with them—a degradation greater than has ever yet fallen to the lot of a free and enlightened people, and one from which we could not escape, should emancipation take place, (which it certainly will if not prevented,) but by fleeing the homes of ourselves and ancestors, and by abandoning our country to our former slaves, to become the permanent abode of disorder, anarchy, poverty, misery, and wretchedness."

I wish to say one word in reply to this baseless assumption, which is found on the last page of that eccentric production. As to the existence of any feeling among the free States in favor of elevating the negroes to an equality with the whites, either social or political, I can state that those who dictated that charge must have been wholly uninformed of the subject-matter treated of, so far as it relates to any free State with which I am acquainted. Sir, I speak knowing what I say; and I tell you that the people of my State, (Illinois,) and the people of Indiana, and other of the northwestern States, have no more desire to see the negroes raised to an equality with the whites than have the people of South Carolina, Louisiana, or the most ultra of the slaveholding States. They spurn not only every proposition tending to degrade the whites to a level with the blacks, but they scorn the man who cherishes such feelings. I ask you, sir, to look at the legislation of Illinois with reference to the black race. Have we allowed the negroes to vote there? Have we given them any privilege which could be withheld. Nay, we have been reproached because free negroes, under our new constitution, may be excluded from Illinois. But that was an act not only just to herself, but one of the wisest and most commendable and politic acts in the history of the legislation of the State. Is it right for the slave States, who derive all the benefit from that institution, to expect the free States to support their paupers? Can it be contended that we should furnish poorhouses and asylums for their cast-off population? No, sir; such an expectation cannot rest upon any principle of right and justice, and I glory, therefore, in the legislation of my State which contemplates in the future a riddance of a free negro population. I ask if the slave States themselves do not exclude the free negroes of other States? Can it be expected, then, that the free States should be more liberal towards the slave States than the slave States are towards each other? The whole history of the negro race in this country admonishes us that a free negro population is the worst that can be inflicted upon any community. In all the States they are found to be the most miserable, squalid, helpless population of any other, and getting worse constantly, instead of improving by the examples around them. Their habits, owing to the bondage in which they have been bred, by which they have been taught to look up to the white man as their master, and to have food and shelter provided for them by him, seems to have physically and mentally unfitted them, in most cases, for taking care of themselves, and that State acts most unwisely which does not exclude them.

In reference to this Address of forty-eight members of Congress, I would remark, further, that this is not the first *pronunciamento* which we have had in this connection. About the close of the twenty-seventh Congress, we had a very spirited *pronunciamento* on the other side. The late JOHN Q. ADAMS, and the far-famed gentleman from Ohio, [Mr. GIDDINGS,] who has been thought to be in advance of others upon this subject, united with eighteen or nineteen members of that Congress, and issued an Address, taking the strongest possible ground against slavery extension by the annexation of Texas, foretelling and foreshadowing the most horrible consequences in case that event should occur. Texas was annexed, and the Union still exists in all its pride of power. Now we have, on the other side, forty-eight members of Congress, not threatening to dissolve the Union, but looking that way, if slavery be not carried into California. I think, however, there are enough sober-minded men in this and the other end of the Capitol, to settle this question without dissolving the Union, either upon the principle claimed by the forty-eight, or that insisted upon by the nineteen—[Mr. GIDDINGS: "The twenty."] I stand corrected by the gentleman from Ohio, who knows all about that Address. We are now certain that the anti-slavery appeal did not dissolve the Union, and I have not much fear about the result of the manifesto of the forty-eight.

To return now to what I was going to say in reply to the first complaint urged by our friends from the South. I, for one, am willing to take the responsibility of doing everything that can be done under the Constitution, in our State of Illinois, to aid the slave-owner in the recapture of his runaway slave. We now punish, in the most exemplary manner, all persons engaged in kidnapping, or in harboring or concealing runaway slaves within our limits. I would also approve of the most stringent laws in the slave States, to prevent abolitionists from interfering with the rights of slave property. You may make laws on that subject as penal as you please, and we of Illinois will not complain.

But suppose, for a moment, that those who are in favor of a dissolution of the Union were to effect their object: what would be the result, as far as slavery is concerned? I would ask the friends of slavery, if Ohio would not continue to be just as near to Virginia? If Indiana and Illinois would not continue to be just as contiguous to Kentucky and Missouri as at present? And whether the escape of slaves into those free States would not continue to be a thing just as easily accomplished as heretofore? Most assuredly. And more than this—the emancipation of slaves would be facilitated by such an event, because there would be no act of Congress compelling them to be restored. And the very fact of their passing beyond the limits of the States in which slavery is tolerated, to those in which it is not, would work their immediate emancipation. This doctrine has been fully settled by a vast current of decisions in the British courts, and the correctness of this position has been repeatedly recognized by the courts of this country. Should, therefore, the ultra Abolitionists of the North, and the ultra fanatics of the South, (constituting, I grant, but a very small portion of the people of either section,) succeed in their mad project of dissolution, their troubles would then have but begun, and each step in their downward career would present new and untried difficulties.

But, sir, we have now in the United States somewhere about three millions, I believe, of slaves, and something near a half million of free negroes. The free negroes of this District have already increased, until they are now more than double that of the slave population; and I tell gentlemen now, that the means of getting rid of our free negro population is destined to become a much more grave question than that of the extension of slavery to our free territories. What is to become of this half million and their increase, together with those who are manumitted from year to year? They must be sent beyond the limits of this continent. They cannot remain here; for the white race and the free black race cannot live together in the same country on terms of equality. While the free negro acts and talks as he did when a slave, he may be tolerated; but in time he will become insolent; then it is that the work of extermination will commence, and the African, being the weaker race, will be overpowered. I desire to see all negroes now free, or hereafter to become so, sent to their native Africa, there to exercise those functions of body and mind which cannot be developed in a state of servitude, or while they are overshadowed by a superior race. It is this view of the subject which imparts so much interest to the success of the cause of colonization.

Prompted by true sympathy and lofty patriotism, let the North and the South unite, not in the extension of slavery or in its abolition, but in relieving the slaveholding and non-slaveholding States of their free negro population, through the humane aid of colonization societies and such other agencies and instrumentalities as may from time to time be placed within their control. Ultimately, if the South shall see that her interests will be promoted by the gradual emancipation and deportation of her slaves, it will be done under the auspices and by the action of the State Legislatures—the only authority that can rightfully effect the object.

I will conclude by expressing the hope that wisdom and moderation may guide us in the proper path, and that our love of country may be equalled only by our devotion to this glorious Union as it is.

SLAVERY IN THE TERRITORIES.

SPEECH OF MR. J. G. CHAPMAN,

OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1849,

Upon the bill to establish a Territorial Government in California, and upon the powers of the Federal Government over slavery in the District of Columbia.

The House being in Committee of the Whole on the state of the Union, and having taken up the bill to establish a Government in California—

Mr. CHAPMAN said:

Mr. CHAIRMAN: Since I have held a seat as a member of this House, I have not discussed the question of slavery, either as it exists in the States or the District of Columbia, or the power of Congress over it in the formation of governments for the Territories. I have abstained from doing so, because within the States it is beyond the power and control of Congress; within this District it is also, in my judgment, not subject to be disturbed by any legislation; and within the Territories it should be left to the people to establish it or not, as their own judgment may direct them.

Not having the power to legislate upon the subject, or to interfere with this institution, which existed before the adoption of the Constitution, I have thought it unwise to discuss what belongs to the States, and over which this Government has no power. And I have heard with feelings which

I cannot describe, the continued agitation of this subject upon this floor. I do not now intend to discuss the abstract question of slavery, or to speak in justification of an institution which has existed from the earliest period of civil society; which was instituted by the providence of God for purposes which we cannot comprehend, and which is likely to exist as long as civil government shall be known.

The question has now assumed an aspect which we may not be at liberty to disregard; and if we value this Union and the form of government under which we live, it behooves us to quiet the agitation and excitement which has been growing up, and which, if appearances are not deceptive, may spread into one general conflagration throughout this land. It is time that the sober-minded people of the country should form a union against factionists and demagogues, and disregarding all party obligations, determine to stand together by the Union and the compromises of the Constitution. It may be done—now is the time—and no man is a patriot who will not yield some individual preference of fancied importance for the peace and tranquillity of the country.

Let this question, which is now agitating this country from its centre to its circumference, be settled. The country requires repose, and it can have no peace or quiet until this agitation ceases; until every ground upon which designing politicians, or aspiring demagogues, or fanatics, can place themselves, to appeal to passion and prejudice, shall be removed. Let it be done, and done speedily. I believe, sir, that the conservative feeling of the country is yet strong enough and sound enough to forestall the movements of politicians. I have more faith in the virtue and patriotism of the people than I have in their representatives. The people are attached to the Union, and properly estimate the blessings of the Government under which our country has pursued its march to a high position among the nations of the world. The excitement which is produced here has not extended itself to those who are to be overwhelmed by its consequences if it is not arrested. Fortunate, indeed, is it that the people are more deeply interested to preserve the Union than the politicians, and that the storms of faction and fanaticism which are got up here to subserve the purposes of aspiring men, can be stayed by the sober sense and patriotic feeling of a virtuous people.

The great question of political power to result from the character of the institutions to be established in the newly-acquired Territories of New Mexico and California, I trust will soon be settled. It may be done, and that without doing violence to the Constitution, by such a measure as that proposed by my friend from Virginia, [Mr. PRESTON.]

The mode of settlement proposed by that bill leaves the question of slavery where the Constitution places it—in the hands of the people, among whom it is to exist or not, as their wishes or judgment may direct.

I was opposed, sir, as you know, and many other members with whom I had the pleasure of serving in the last Congress, to the acquisition of this territory, and to the war by which it was obtained. I foresaw the disastrous consequences which might result from the mad spirit of aggression and conquest, by which these provinces were to be annexed to our Republic. Some of the evils which I anticipated are upon us; and it becomes our imperative duty to arrest the approach of others, before the ark of the Government, which has already been floating in turbid waters, may be swept over by a tempest which will dash it into fragments.

There are several propositions before the two Houses of Congress for the settlement of this question. I do not intend to discuss their relative merits. I will cheerfully vote for the substitute of my friend from Virginia, [Mr. PRESTON,] now before the committee, or for any other measure which will settle this agitating question according to the spirit and compromises of the Constitution. I will vote for my friend's bill, because I know it was prompted by the loftiest sense of patriotism and duty, and because it yields no principle of constitutional guarantee, and leaves the institution to be regulated by the people of the Territories in accordance with the adjustment of that question by the Constitution.

I have learned enough to satisfy me that the continued agitation of the slavery question, and the excitement sought to be created by its discussion here, has not proceeded so much from any hostility to the institution, nor from the belief that it is injurious in its moral influences, as from the expectation of acquiring political power by combinations to be formed by those who appeal to the prejudices of the people. If the Territory of California is to be held by us, (and it seems there is now no alternative,) place her under no disabilities; let her come into the Union when she is prepared to do so, upon an equality with the other States, with her local institutions subject to her own municipal regulations, and extend over her all the guarantees of the Constitution. Thus will be removed all ground for serious agitation, and there will then be left but this District, some five miles by ten now remaining of it, not large enough to create any contest for power and ascendency, and by the force of circumstances, in a few years, will not afford debatable ground for political aspirants, or those who may be led by misguided zeal or misdirected philanthropy.

I said Mr. Chairman, that I had not discussed the subject of slavery, and that I deemed it unwise to do so. I do not intend to speak of it now in any other terms but those known to the Constitution. We have to deal with the Constitution and the powers conferred upon the Federal Government, and I shall confine my remarks upon the power of Congress in this District to interfere with rights which existed before the Constitution.

I have said, sir, that in my judgment Congress has no power over the institution of slavery in this District; and I shall give the reasons which have brought my mind to that conclusion, upon a candid examination of the subject, and with a sincere desire to arrive at the true reading of the Constitution. The powers of Congress over the District are derived from the Constitution, and from the act of cession by the State of Maryland; and I shall consider them as emanating from these two sources, and inquire into their nature and extent.

And now, sir, that the House may better understand and apply the argument which I shall offer, and as the time allowed to me under the rule of the House will not permit me fully to discuss them, I take leave to state the following principles, which I shall attempt to illustrate, though not exactly in the order in which they are here placed.

1. That the Federal Government "is a Government of enumerated powers," and though limited in its powers, is supreme within its sphere, "and supreme as to its objects."

2. That to establish and regulate slavery is not one of the enumerated powers delegated to the Federal Government.

3. That the subject of slavery, not being within the powers of the Federal Government, is without its jurisdiction, except so far as is embraced in the second section of the fourth article of the Constitution.

4. That power is given, and it is made obligatory upon the Federal Government, to enforce the second section, fourth article of the Constitution, which in is these words, viz:

"No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

5. That under the Constitution and laws of Maryland, existing and in force at the time of the cession of this territory to the Federal Government, the power over the subject of slavery was a sovereign power, and abided with the people of the State.

6. That the power to legislate upon the subject of slavery in the District of Columbia was not transferred by the State of Maryland, and that the act of cession did not enlarge the powers of the Federal Government which were granted by the thirteen confederated States.

7. That the power to abolish slavery, or to interfere with it, where it existed at the time of the adoption of the Constitution, is a sovereign power, and can only be exercised by the people of the States where it exists.

The Constitution confers on Congress two classes of powers, national and municipal. Those which are national embrace all such subjects as are necessary for the welfare of the Union, and for the end and purposes for which the Federal Government was formed: to lay and collect taxes, to provide for the common defence and general welfare, to regulate commerce, establish post offices and roads, to declare war, to raise and support armies, to provide and maintain a navy, to provide for calling forth the militia, and for arming and disciplining them for certain purposes; with others, which I need not specify. Its municipal powers relate to the rights of the citizen, and the protection of those rights, and the establishment of tribunals before which those rights may be inquired into, enforced, and protected.

I shall consider the powers of Congress over the District as derived from the specific grant in the second section, first article, of the Constitution, and from the act of cession of the State of Maryland, at December session, 1791, and how far it is controlled by the extent and character of the powers delegated to the Federal Government by the States and the people.

The time allowed to me will not admit of my tracing the action of the States upon this subject prior to and at the formation of the Constitution; nor is it necessary that I should do so, for the purpose of showing the views which were held by the States, and the inducements to the formation of the present Constitution. The history of those times was related by my worthy colleague, [Mr. CRISFIELD,] a few days ago, in his able argument upon the obligations of the Government to keep its faith; and I take occasion here to say, that in many of the views and opinions expressed by him with so much ability, I agree—although, upon the question of power in this Government over this subject, I am compelled to differ with him in opinion. Slavery existed in most of the States at that time. The institution was recognized, and the right of property guarantied, by the Constitution; yes, sir, guarantied, by the strongest terms that could be used—the obligation that fugitives from service and labor into another State "*shall be delivered up*" to "the party to whom such service or labor may be due," and the duty imposed upon the Federal Government to execute this contract, and to interpose its power whenever necessary for this purpose. The opinion which I express is fully sustained by the Supreme Court.

In delivering the opinion of the court in the case of Prigg *vs.* the Commonwealth of Pennsylvania, Mr. Justice Story says:

"The last clause (2d section, 4th article of the Constitution) is that, the true interpretation whereof is directly in judgment before us. Historically, it is well known that the object of this clause was to secure to the citizens of the slaveholding States the complete right and title of ownership in their slaves as property in every State in the Union into which they might escape from the State where they were held in servitude. The full recognition of this right and title was indispensable to the security of this species of property in all the slaveholding States, and indeed was so vital to the preservation of their domestic interests and institutions, that it cannot be doubted that it constituted a fundamental article, without the adoption of which the Union could not have been formed. Its true design was to guard against the doctrines and principles prevalent in the non-slaveholding States, by preventing them from intermeddling with, or obstructing or abolishing the rights of the owners of slaves."

At the time of the adoption of the Constitution, this District was a part of the State of Maryland, where slavery existed and was recognized by the Constitution; and the same rights inured to the citizens under the Constitution as to the other citizens of Maryland, and among them the recognition of their right of property in their slaves, and that they should be secured in those rights, and the right of recapture of their slaves in any State of this Union; that their private property should not be taken for public use, without just compensation. No power is given to Congress by the Constitution over slavery except as before stated, nor can any be exercised by implication.

Slavery, as I have said, existed in most of the States at the formation of the Constitution. It not only existed as a municipal institution, but the Convention was compelled to recognize and acknowledge it, and to guaranty its protection and the rights of the owner; or that Constitution never would have been adopted—this Union never would have been formed. I do not mean to enter into a defence of the institution; this is not the appropriate place for it: we have nothing to do with it but in its political relations, and I speak only as to

the guarantied rights and constitutional obligations of this Government to the slaveholding States.

But, sir, power is claimed to legislate upon all subjects in this District, under the eighth section, first article, of the Constitution, which authorizes Congress "to exercise exclusive legislation in all 'cases whatsoever, over such district not exceed-'ing ten miles square as may by cession of par-'ticular States, and the acceptance of Congress, 'become the seat of the Government of the United 'States, and to exercise *like authority* over all places 'purchased by the consent of the Legislature of 'the State in which the same shall be, for the 'erection of forts, magazines, arsenals, dock-yards, 'and other needful buildings." Here is the grant of power, and its extent and exercise is limited and defined. The power of legislation in the district accepted for a seat of Government, is qualified and explained by the authority to be exercised over territory ceded for dock-yards, arsenals, and fortifications. The authority in one case is similar to that given in the other; it is such as might be necessary for the purposes for which the grant might be made, and without which the object of the grant could not be accomplished. The grant is to be construed most liberally in favor of the rights of the citizen, and against the exercise of doubtful powers, or those which are not expressed. The Government is the trustee, and the trusts are to be executed for the benefit of the cestui que use, and for the objects for which it was created. Congress can have no power beyond the grant, and can exercise none, except those which are necessary for the trust. The purpose of the grant was a seat of government, and the authority necessary for that purpose was given. To improve a territory by the erection of necessary buildings, and establish such a police as would protect the Government property and the persons of its officers, to guard against disturbances, and avoid a conflict of jurisdiction with State authority, were the powers necessary to be exercised. Its jurisdiction is to be coextensive with the authority which it might require for the purposes of a seat of government, and to exclude the necessity of legislation by the State in whose limits it might be situated. If State authority could interpose, the Congress would be prevented from erecting buildings for the accommodation of the Government, and from grading and constructing streets and avenues from one department to another, without the consent of the State. The power to legislate for its necessary purposes of government was to exclude the legislation of the States upon the same subjects. But was the power to abolish slavery within the ceded territory necessary for the Government? Would it make the District more available for the purposes of Government, or enable it more efficiently to administer the various functions of its different departments? But exclusive jurisdiction is construed to mean unlimited power; and if it be so, Congress has like authority over all places ceded for forts and dock-yards. Where would such an assumption of power lead to? It could exercise *like authority* over its navy or dock-yards and forts, no matter where situated. And if it possess this power, it can abolish slavery in its navy-yards at Norfolk, Charleston, and Pensacola, and establish slavery in its navy-yard at Boston. If exclusive legislation is unlimited power, then, indeed, have this people no safeguard for their rights beyond the precarious will of an irresponsible body. But Congress cannot exercise the same powers here which State Legislatures have in their respective States. Nor can Congress exercise other powers here than it can elsewhere, except such as I have before described, for the purposes for which the cession was made, and the ends to be attained by the grant for a seat of government.

Let me ask those who construe the power of exclusive legislation to mean the exercise of unlimited legislative powers, if Congress could have imposed other restrictions and disabilities upon the foreign slave trade in this District before 1808, than those imposed upon the States? Yet, a State might have prohibited the trade before that time, although Congress could not have done so. Could Congress lay a direct or capitation tax in this District, unless in proportion to the census throughout the Union? Can Congress impose a tax or duty on any article exported from this District? Can Congress pass any law, declaring that fugitives from justice or service and labor within this District shall not be recaptured in another State? No, sir; no such powers are claimed for this Government; and yet, if exclusive legislation means unlimited legislative powers, Congress might exercise all those which are inhibited by the Constitution.

Again, sir: can Congress make any law respecting an establishment of religion within this District? No, sir; and yet a State may, within its territory, if there is no constitutional prohibition within such State.

States may alter and abolish their constitutions and establish a new form of government, provided it is republican in its character; yet, Congress cannot change the constitution for this District, if, indeed there be any such. What is the constitution for this District? Is it the whole Constitution, or only the 17th paragraph of the 8th section, 1st article? And where does the sovereignty reside? Is it in Congress, or with the people, or in the State of Maryland? If the purposes for which the territory was ceded shall fail, and the Government should no longer hold it as its seat, and should be removed, what would be its political condition? under what jurisdiction would it be? Would it continue under the jurisdiction of the Federal Government? or, the purpose for which it was ceded having failed, the condition of the grant not having been complied with, the consideration having been forfeited or withheld, would not the territory revert to the State of Maryland? If so, the sovereignty is still there, if it abides with any government; and if a government can possess sovereignty, the government of Maryland has it in reversion in this District. The power of Congress over this District is a trust power, and is to be exercised in executing the purposes of the grant.

In determining the power of Congress, and the extent of its jurisdiction over the District of Columbia, its citizens, and their property, let us consider it in its relations to the principles of the Government. Sovereignty, in this country, abides with the people. The Government is the representative of that sovereignty; the Legislature is but its agent. The Government is but the creature of the Constitution; and the Legislature has no power but that which is conferred. Sovereign power cannot be delegated; and if the people had delegated it, it has not been conferred on the Legislature alone. Sir, exclusive jurisdiction is not unlimited jurisdiction, nor unlimited power; but it is exclusive of the jurisdiction of the States, and limited by the powers conferred on Congress by the Constitution. Jurisdiction is construed to mean sovereignty, when it is but the exercise of powers delegated and conferred. No sovereignty is transferred over this District by the exclusive jurisdiction, and it is excluded by the act of cession, which gives to the Government the right to purchase and accept lands from the proprietors, necessary for the purposes of a seat of government. The power of eminent domain remains with the people. They have yielded up no sovereignty; and the Legislature of Maryland transferred no power which it did not possess; and over the subject of slavery it never had, and does not now possess, the power to abolish it. What power is transferred by the deed of cession? The District of Columbia, as now left, was ceded by the State of Maryland to the Federal Government. At the time of the cession, slavery existed here, and was recognized and acknowledged by both contracting parties. The right to abolish it, if it existed anywhere, was in the State of Maryland, and the cession was made with all the rights of its citizens unimpaired. The jurisdiction of the State was transferred, but the rights of the citizens of the ceded territory were secured, not only by the Constitution, but by the terms of the deed of cession. The act of cession of the State of Maryland contains this clause:

"That all that part of said territory called Columbia, which lies within the limits of this State, shall be, and the same is hereby, acknowledged to be forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right and exclusive jurisdiction, as well of soil as of persons residing, or to reside thereon, pursuant to the tenor and effect of the 4th section of the 1st article of the Constitution of the Government of the United States: *Provided*, That nothing herein contained shall be so construed to vest in the United States any right of property in the soil as to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States: *And provided also*, That the jurisdiction of the laws of this State over the persons and property of individuals residing within the limits of the cession aforesaid shall not cease or determine until Congress shall, by law, provide for the government thereof under their jurisdiction, in manner provided by the article of the Constitution before recited."

Such was the condition of the citizens of this District at the adoption of the Constitution, and such the security to them and their property stipulated by the act of cession by the State of Maryland, and accepted by the Federal Government. The limitation of power, and the transfer of jurisdiction, are explicit—they admit of no misconstruction. The rights of individuals are not to be affected by the transfer of jurisdiction; and by the cession, Congress is to possess and exercise no power over the property or the rights of the citizens which it could not have exercised over the property and rights of the citizens of Maryland, or further than may be transferred by individuals to the United States. The limitations contained in this clause of the act of cession, are as comprehensive as they could have been expressed. The rights of the citizen are not to be the subject of legislation by Congress, and their property is expressly excluded in the grant of power from the control of legislation, and can only be affected by individual transfer.

I may be told that the power of exclusive legislation over the District is fully transferred by the act of cession, and that it gives to Congress the right to legislate upon all subjects. Not so. Either by the powers conferred by the Constitution, or the power derived from the State of Maryland, after the adoption of the Constitution, authorizing the cession and acceptance of a District as the seat of government, a contract was necessary to be made between the Federal Government and a State or States to carry that provision into effect. That contract was made with the State of Maryland by the act of cession and its acceptance by Congress; and the contract is to be construed and interpreted as any other instrument of like character; and the rights, privileges, and powers inuring and secured to the parties to that contract, are to be judged of, and are to be governed by, the terms, the meaning, and spirit of the contract. The right to form this contract cannot be doubted. It is provided for by the Constitution, and Congress acknowledges the right to contract on the part of Maryland, and the compact is of as binding force and obligation as if it had been a treaty of cession by a foreign State. Congress can have no title beyond the deed under which it claims and the terms of its acceptance, and can exercise no powers which are without the limitations therein contained. The deed of cession is to operate according to its terms, and the powers granted and to be exercised over the ceded territory are confined by the limitations expressed in the deed:

"That nothing herein contained shall be construed as to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States."

An attempt to exercise any power not conferred upon Congress by the act of cession, would be a gross usurpation of power, and in violation of the rights of the State of Maryland, and of the compact entered into with her. Sir, Congress has no right to take power by implication. Congress has no right to construe the compact with Maryland, other than as explicitly stated on the face of it. Maryland has as much right to construe it as Congress has; and more than once has that State expressed her construction of it, and denied that any power was given to Congress over the question of slavery in the District, either by the Constitution or the act of cession,

Again, sir: does any man believe that Maryland intended to relinquish all power over this question to Congress, when she ceded the territory for a seat of government, and authorized her citizens to give or grant their lands to the United States for a Federal city? No rational man will hazard such an opinion. Maryland has declared, by repeated resolutions of her Legislature, that such was not the intent of the grant; and surely the grant of power without any consideration, except such as is to inure to the benefit of the grantee, is to be construed by limiting the power to the express words of the deed, and the objects for which the grant was made.

Mr. Chairman, if a cession of territory, under the article in the Constitution authorizing Congress

to accept such territory for a seat of Government, had been made by one of the States of this Union which had abolished slavery before the formation of the Constitution, and had been accepted by Congress as a seat of government, let me ask, sir, if Congress could have established slavery therein without the consent of that State? If the cession had been made by Massachusetts or Pennsylvania, as was contemplated might have been by the latter State, would it have been competent for Congress to have established slavery in the territory so ceded, under the power of exclusive legislation? No, sir; such a power is not within the grant, because not within the range of conferred powers; and the power of exclusive legislation, though it excludes the power of State authority and the right of State legislation, is yet controlled by the limitations, and within the purview and for the purposes for which the cession was made. If Congress could have had no power to establish in the District, if it had been ceded in a non-slave-holding State, an institution which had been abolished before the formation of the Constitution, I ask, in all candor, how can it possess the power to destroy the institution which did exist in the ceded territory before the formation of the Constitution? If there is no power to create in the one case, it certainly does give none to destroy in the other. The power to destroy presupposes the power to create. All the powers and jurisdiction transferred are to be exercised pursuant to the tenor and effect of the 8th section, 1st article of the Constitution, which authorized Congress to exercise such and "*like authority*" as it exercises over dock-yards and fortifications, and no other. That is authority necessary for the object for the accomplishment of which the cession might be made. I think, then, sir, it is clear, that the end to be attained by the cession and acceptance of this territory, and the inducements and purposes of the cession made by Maryland and Virginia, then a party to this transaction with the United States, did not require or make it necessary that Congress should possess the power to abolish slavery in the territory ceded; and I take leave to add, that in contemplation of that cession, Maryland herself could not have abolished slavery in this territory without abolishing the institution throughout the State, and certainly could transfer no power to this Government which she did not possess.

But, sir, the Legislature neither transferred this power, nor was it competent to do it. The Legislature is not the sovereign power of the State, and cannot alter or change its organic law, nor divest one of its citizens of his rights. The Constitution points out the manner by which it shall be changed. The people arranged that when it was adopted. It can only be done by the process and in the manner pointed out by the Constitution, or by the exercise of the inalienable right to hold a convention for that purpose.

Contemplating the inconveniences and difficulties which would attend a convention of the people for any change in their form of government or organic law, they provided a manner of change to prevent that necessity, and any alteration can be made by two successive acts of the General Assembly. When an alteration is required, it is submitted by the Legislature to the people, and they ratify and confirm it at the next meeting of the General Assembly by instructions to their representatives, or it is rejected by them if they do not approve of it. Such is and ever has been the constitution of Maryland from its adoption in 1776. So that the Legislature of Maryland possessed no power to transfer to Congress authority or unlimited power over this subject, and if the transfer had been made it would have been void. Neither the Legislature of Maryland nor this Legislature can abolish the title to slaves any more than title to lands or any other property.

The same power which can alter and amend the Constitution of Maryland or the Constitution of the United States, can control this question in either, and no other power. It is an incident to sovereignty, and beyond the power of ordinary legislation.

But, sir, I will go further upon this branch of the question of power. The Legislature neither transferred any power over the subject of slavery to Congress, nor was the Legislature competent; but if such power had been transferred by the sovereign power of Maryland, it would have been void. The Constitution of the United States is a compact between thirteen independent States; to this compact each and every one of the parties has assented. It contained certain specified powers or trusts conveyed for certain purposes. Now, sir, it would be useless to argue that one of the parties to that contract is not competent to change, alter, limit, enlarge, or annul that contract, or to give to the trustee other or different powers from those enumerated and conferred by the agreement of the parties. It would be strange, sir, if the powers of the Federal Government could be enlarged by the act of Assembly of one State; or if one of the thirteen States, or even one-half of them, could change the contract to which all are parties.

Let me ask, sir, what power does this Government or any other Government possess over the property of the citizen? The great law of public necessity and the general welfare, and which makes individual interest secondary to the welfare of the community, is directed and controlled by our Constitution. The 5th article of the Amendments to the Constitution has this declaration:

"Nor shall private property be taken for public use, without just compensation."

If taken for public use, just compensation is to be made, to be ascertained by a properly-constituted tribunal. Now, sir, I contend that no emergency can arise, wherein the slaves of this District could be taken by the Government under this authority of the Constitution. There is no public use to which they could be applied, except perhaps in time of invasive war, to work upon fortifications, or in such temporary employments. But, sir, if they could be taken by the Government for public use, that does not authorize the destruction of rights in property not required for public use, without making just compensation to the owner. The right to appropriate the property of an individual for the public good, does not carry with it the greater right to destroy his property without any compensation.

The power of this Government over this District and the rights of its citizens is limited by the grant and its acceptance; and I think I have already shown that the power to abolish slavery was not given, and that Maryland did not herself possess it, unless it had been made applicable to the whole State, and that under the exercise of a different authority from that of her Legislature.

All the power that was granted was that which was necessary to accomplish the object; and the exclusive power of legislation was given to prevent the interference of State authority, and a conflict of jurisdiction, by which the deliberations of Congress might be interrupted and rendered insecure, as they had been upon a previous occasion. Any act of this Congress in violation of this compact would be a usurpation of power, and would have no binding force or obligation upon the persons whose rights were invaded.

Then, sir, if the Government of the United States has no power over this question, and the subject of slavery in the District of Columbia, under the specific grant contained in the eighth section of the first article of the Constitution; if the act of cession of the State of Maryland transfers no greater powers than those authorized to be held by Congress under the limitations contained in that grant, and for the purposes therein expressed; if the Legislature of Maryland had no power to transfer, except for the purposes of a seat of government; and if such a grant, if made, would have been in violation of the compact between the thirteen States,—let us inquire into the general powers of this Government, and see if this power to legislate upon the subject of property in slaves, except to enforce the compact providing for the recapture of fugitives, comes within the range of powers delegated by the States to the Federal Government.

Chief Justice Marshall, in pronouncing the judgment of the court in the case of McCulloh *vs.* The State of Maryland, said:

"This Government is acknowledged by all to be one of enumerated powers. The principle, that it can exercise only the powers granted to it, would seem too apparent to have required to be enforced by all those arguments which its enlightened friends, while it was depending before the people, found it necessary to urge. That principle is now universally admitted."

As to the extent of powers actually granted to the Federal Government, and the conflicting powers and jurisdiction of the Federal and State Governments, Judge Marshall holds this language:

"If any one proposition could command the universal assent of mankind, we might expect it would be this—that the Government of the Union, though limited in its powers, is supreme within its sphere of action."

In the case of Cohens *vs.* Virginia, Chief Justice Marshall also says:

"The General Government, though limited as to its powers, is supreme as to its objects."—6 *Wheaton's Reports.*

In the same case of McCulloh *vs.* The State of Maryland, he says:

"The Government of the United States, then, though limited in its powers, is supreme; and its laws, when made in pursuance of the Constitution, form the law of the land, anything in the constitution or laws of any State to the contrary notwithstanding."

"The powers of sovereignty are divided between the Government of the Union and those of the States. They are each sovereign, with respect to the objects committed to it, and neither sovereign with respect to the objects committed to the other."

Here, Mr. Chairman, are three principles defining the powers of the Federal Government:

1st. That it can exercise only the powers granted to it.

2d. Though limited in its powers, it is supreme as to the objects committed to it, and over those objects supreme in its exercise.

3d. That sovereignty is divided between the State governments and the Federal Government, each being supreme over the objects respectively committed to them.

Here, sir, is the limitation of power, its extent and its character, and by these must the action of this Government be controlled. Its powers are enumerated in the Constitution, expressly granted by the people, and acknowledged and ratified by the sovereign States. It possesses no other powers but those which are enumerated, and such as are incidental and necessary to the exercise of those enumerated. There can be no conflict of jurisdiction between the different sovereignties in the exercise of State and Federal powers. The Government of the Union is limited in its power. It is bound by the grant which was executed by the people of the States, and circumscribed within the sphere assigned to it by the Constitution. But within that sphere it is supreme, and over the subjects which come within its jurisdiction and range of powers, it has no rival. Its power within the range of its exercise spreads over the Union, and is supreme, but only supreme when within the limitations of the Constitution; and as to the objects for which it was created, and the subjects coming under its jurisdiction, over all subjects committed to its jurisdiction it is paramount to State authority. If, then, it is supreme over all subjects, and in all places where it has power and jurisdiction, it follows as a corollary that it has no power or jurisdiction over any subject which it does not possess everywhere in the Union. There is no divided sovereignty as to the objects of power between State and Federal authority. Jurisdiction over a subject-matter is wholly Federal or State. The Federal Government has the supreme and unlimited power over it, or it has no power over it. Its power, if it rightfully has any, knows no bounds but the limits of this Confederacy. Its march is over the Union; it has ubiquity and omnipotence.

But, Mr. Chairman, who ever contended that this Government had power over slavery throughout the Union? Who ever thought, that upon this subject, its powers were sovereign and supreme? Who has ever claimed for it any power over this subject, until, within a few years, the dreams of fanaticism have imagined that some political capital might be made by claiming power over this subject within this District? Yes, sir, it is claimed, as yet, in this District only. It is not claimed as a supreme power, to be exercised as its other powers are; but an opposite character is given to it—the sphere of its exercise is to be limited, instead of its power. The constitutional attributes of the Government are reversed by this assumption of power. The power over the subject is claimed for the Congress, but it is admitted that the exercise of the power is limited and restrained. But, sir, if it can be exercised over the subject of slavery here—if that is one of the objects committed to the Federal Government—is not its power over the subject without limit, supreme,

and commensurate with the boundaries of this Republic, and can be as rightfully exercised in the States as here, "the supreme law of the land?" There is no limitation in its sphere of action. The limitations of the Constitution are in the powers which are granted. If any is granted as to an object, it is paramount to State authority; and laws passed in the exercise of that power form the law of the land, the whole land. The conclusion, then, to my mind, is irresistible, that if the power of the Federal Government, over all subjects and in all places where it has jurisdiction, is supreme, it has no power or jurisdiction over a subject anywhere which it has not everywhere; and having no power over slavery in the States, it has no power over it in this District, or elsewhere, where it existed at the time of the formation of the Constitution, and entered into the guaranties and compromises of that instrument. We may learn something of the powers of the Government from the construction given to the Constitution and the opinions entertained by Congress soon after its adoption. In 1790, a petition was presented, praying Congress, among other things, to legislate upon the subject of slavery. It was about the time that it was adopting measures for a permanent seat of government, when, if the power had been possessed, it would have been asserted, although it might not have been exercised. The petition was referred to a Committee of the Whole House, with many instructions, and reported back to the House, with the following expression of opinion, viz:

"That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them within any of the States, it remaining with the several States alone to provide any regulations therein which humanity and true policy may require."—*See House Journal, ("reprint,") page* 181, *March* 23, 1790.

In January, 1800, the question again was discussed in the House of Representatives. As has always been the case, it produced excitement. It arose upon a petition relating to the foreign slave trade; and also asking "*that Congress should interfere with the subject of slavery as far as might be in its power.*" The petition was referred to a committee, to inquire "what alterations ought to be made in the law, entitled An act to prohibit the carrying on the slave trade from the United States to any foreign place or country." Pending this debate, and the excitement which it produced, it was necessary for the House to adjourn. I have not been able to see the debate as reported at that time. It is to be had, I learn, in no paper published at that early day except the Aurora, and I have seen no perfect copy of that work. But, sir, I have been told by a distinguished gentleman, long a member of this House, who had not only read the debate, but had heard an account of it by those who were present and participated in it, that it was characterized by all the ability and patriotic feeling for which the public men of that early day of the Republic were so noted.

It will be recollected, sir, that it was during the Presidency of the elder Adams, when the Federal party were in power, distinguished, if not above, at least as much as any party which has ever banded together, in support of free institutions. The chief supporters of the Administration were from the South; among them the distinguished Edward Rutledge, from South Carolina. I am informed, sir, that on Mr. Rutledge's motion, the House adjourned over, and that there was on that night a meeting of the friends of the Administration upon the subject; that it was insisted by Mr. Rutledge that the friends of the Administration from the North should stand by the South, and the compromises of the Constitution. An amendment to the instructions was agreed to, and reported the next morning, which was adopted by the House—yeas 85, nay 1—every man from the North voting for it but one. The amendment is in these words:

"And that the parts of the said petition which invite Congress to legislate upon subjects from which the General Government is precluded by the Constitution, have a tendency to create disquiet and jealousy, and ought therefore to receive no encouragement or countenance from this House."

Such was the opinion of Congress in 1800, when those were living who had been actors on the stage, and participated in forming the Constitution; and I am not aware, Mr. Chairman, that there are any circumstances at this day which entitles this subject or its agitation to more "countenance or encouragement" from this House than it has received. We are not willing to admit that we are less patriotic, or that we are indifferent to the peace and quiet of the country. If, sir, we intend to preserve this Government in the spirit which prompted its formation, we must adhere to the compromises of the Constitution as they were agreed upon.

Mr. Chairman, the history of the Government is replete with evidence that it was the intention of the Convention to secure the right of property in slaves wherever it then existed. No guarantee could be more express than that contained in the Constitution; and the opinions expressed by the distinguished men, both from the North and the South, of the obligations upon the States to adhere to the compromises and the protection afforded to the owners of slaves by the Constitution, place this question beyond cavil or doubt. I have not the time to refer to the opinions of distinguished men in the State conventions which ratified the Constitution. Let whoever wishes to be guided in his reading and construction of that instrument by the light of those who framed it, refer to the proceedings of the State conventions. There he will see that one of the compromises was, to place the commerce and navigating interest, which was peculiar to the northern States, "under the control of a majority of Congress, and that there should be no restraints on their navigation," and "that the South was secured in its property in slaves" by the same instrument. But, sir, I have not time to discuss this branch of my subject farther.

I desire to submit some views upon the power to prohibit the sale of slaves in this District, or their introduction for sale. I am dealing with this question as one of legal right and constitutional power, and not of individual opinion or personal feeling. The law in force in this District, as the House has been informed more than once, is the act of Maryland of 1796, chapter 67. This law prohibits the introduction of slaves into this District, except from the State, and with some exceptions in favor of those acquiring title to them by marriage, bequest, or in course of distribution. If the views which I have given upon the power of the Government to abolish the institution be correct, they apply with equal force to the exercise of the power over the sale. The right of property includes the right to alien and transfer, and it is well settled that a deed with condition that the grantee shall not alien, that the condition is void. The right of property and the right to transfer are inseparable. The right of sale is one of the attributes of property; the major includes the minor; it gives it its value. "You take the life, when you take that whereby it lives."

I intended to present another view of this question, connected with the power of Congress over commerce between the States, but my time will not admit of it. I will, however, refer to the opinions of the Supreme Court, bearing upon this view of it, which I intended to discuss.

In the case of Groves *et al. vs.* Slaughter, reported in 15th Peters, Judge McLean, in giving the opinion of the court, says:

"The power over slavery belongs to the States respectively. It is local in its character and in its effects, and the transfer or sale of slaves cannot be separated from this power. It is, indeed, an essential part of it."

Chief Justice Taney, in the same case, says:

"The action of the several States upon this subject cannot be controlled by Congress, either by virtue of its power to regulate commerce, or by virtue of any other power conferred by the Constitution of the United States."

In the decision of this case, the power of Congress to regulate commerce between the States was discussed, and is embraced in the opinions given by the court. It seems not to have been necessary that this question should have been decided, because not material to the issues in the cause; but the court did decide it—that slaves were not merchandise, under the meaning of the Constitution, and could be transferred from one State to another, and cannot be controlled by Congress. If, then, the purchase and sale cannot be controlled by Congress as commerce, how can Congress prohibit the purchase of them by the people of this District from the State of Maryland?

In the same case, Judge Baldwin says:

"What should be the extent of the right of property in the owner of a slave, depended on the law of each State; that was and is a subject on which no power is granted by the Constitution to Congress; consequently none can be exercised, directly or indirectly. It is a matter of national police, over which the States have reserved the entire control; they and they alone can declare what is property, &c., which leaves this subject untouched and intangible, except by the States."—15 *Peters*, 515.

Again he says:

"Being property by the law of every State, the owners are protected from every violation of the rights of property by Congress, under the fifth amendment of the Constitution; these rights do not consist merely in ownership; *the right of disposing of property of all kinds is incident to it*, which Congress cannot touch."

Let us inquire into our powers and obligations, when legislating upon the rights and interests of this District. The Congress of the United States, Mr. Chairman, is the National Legislature, and, as such, legislates and has jurisdiction over all subjects of a national character, and for the purposes of the Union and the National Government. But, sir, when it legislates upon subjects and questions which appertain to this District, and the rights of its citizens, it loses its character of nationality, and becomes the local legislature, exercising another class of powers, conferred for municipal purposes. In legislating for the rights of the citizens of this Territory, we are not the representatives of the States from which we come; we are the representatives of this people, and bound, by all the obligations which attach to the representative character, to guard the rights and interests committed to us, and to respect the wishes of those whom we represent, within the range of constitutional powers. If you erect any other standard of duty and obligation, on the part of the representatives towards this District, you subject this people to the will of a foreign community. Bad enough is it that they are deprived of self-government—that they have no voice in the legislation which is to control their rights; but far worse would it be, if they are to be governed by those who are foreign to them in feeling, and strangers to their interests and their wants. If this evil exists, as alleged, who is to judge of its extent, and the necessity for its removal? Is the legislation of this Congress for the local interests and the private rights of this people to be controlled by the wishes and opinions of the people of this District, or by the people of Ohio, and Massachusetts, and New Hampshire, Michigan, or Illinois? Are the people of other States to become the censors of the morals of this community, and the rights of the District to be subjected to the standard of the particular taste of another people? I think, sir, that this community is as capable of judging of and determining what is a nuisance among them, as those who live afar off, and have different opinions and different tastes. If you subject this District and its citizens, with their rights, their interests, and their property, to the control of Representatives who are bound to listen to and be guided by the opinions and tastes of the different constituencies whom they represent, you place them under as very a despotism as any existing in the civilized world.

We are told, sir, that the North is sound upon this subject—that they know their constitutional obligations, and they understand the rights of the South, and that they will not encroach upon them. We are told that the true sentiment of the mass of the people is not reflected by the abolition excitement which is exhibited on this floor, and that no disposition is felt to break down the barriers of the Constitution, or to disregard the compromises which led to and entered into its formation and adoption by the States. Sir, I once thought so too; but I must say—and I say it with deep regret—that my opinion as to the conservative feeling of the North is undergoing a change. We witness, and have to combat too, many efforts on this floor to interfere with our rights. If the people of the North intend to adhere to the compromises of the Constitution, why do they not speak out like men, and tell their representatives to attend to their legitimate business? Why do they not instruct them to abstain from intermeddling with the rights secured to the slaveholding States by the Constitution, and without which security, they have been told judicially, by one of the ablest and most upright jurists who ever wore the ermine, that "the Union could not have been formed."

Why this incessant, never-ceasing agitation? Why this continued discussion about slavery? Why this protracted and unholy crusade against an institution which was fastened upon us by the

agency of others, and for which the people of the North are as much if not more responsible than we are? Can any good grow out of it? Will it produce benefit to the North or to the South? Will it strengthen the bonds of union which cost our fathers so much to create? Will it make the Republic more enduring, or the people more prosperous and happy? No, sir, no; no such purpose has prompted this agitation; no love of country or patriotic feeling lies at the bottom of these movements. They are excited by an ambition of a less noble impulse—an ambition that seeks its own gratification, and that would fire the very temple of Liberty, if it would shed a brighter light upon its own unhallowed path.

Where, sir, do these continued excitements tend? how are they to terminate? I have not believed that disunion were possible. I have thought, and still wish to think, that the American people "will 'indignantly frown upon the first dawning of every 'attempt to alienate any portion of our country from 'the rest, or to enfeeble the sacred ties which link 'together the various parts." But this agitation cannot continue. It must cease, or who can foresee the consequences? The spirit of forbearance will wear out, and that love for the Union which burned so brightly in the earlier days of the Republic will expire upon its own altar, when it ceases to find fuel for its existence in the blessings which were anticipated from the alliance.

Sir, the outward limits of this Confederacy are but little interested in the consequences of this excitement, compared to what we feel upon the subject. The State which I in part represent is the one most deeply concerned. Think you, sir, that we, the representatives from Maryland, are unmoved at the continued threats of dissolving the Union? Think you that we can look at the black cloud which is gathering, without feeling deep and painful anxiety? No tongue can tell how dark would that day hang over the destinies of that patriotic State, if the sun should rise upon more than one Confederacy between the St. Lawrence and the Gulf of Mexico or the Atlantic and our western limits.

What would be the condition of this city, laid out by the Father of his Country, as the seat of a government founded in a spirit of compromise and concession, and intended to dispense the blessings of civil and religious liberty to countless millions? The grass, sir, would soon grow up in its streets; the birds of the air would build their nests in temples erected to the worship of the living God; and this Capitol afford dens and lurking-places for the border bandit, who would wage his predatory wars upon the neighboring country. What security would the people of Maryland have for their slaves or any other property? Maryland, sir, has had no agency in producing this agitation. Her whole course and policy has been to strengthen the bonds which bind this Union together. In the war of independence, she stood among the foremost on the battle-field, and in every contest in which the country has been engaged, she has not stopped to inquire into the cause of quarrel, or the dangers to be encountered; but she looked to the honor of the country, the whole country, and her best blood has been given wherever the offering was required. To strengthen the bonds of this Union, she has contributed her means to the extent of her ability, and she advanced her credit, as far as honor would permit, and far beyond what prudential considerations dictated, to strengthen the ties which bind this Union together. Her position is central, and her pursuits agricultural and commercial; and in the efforts which she has made to construct works of improvement to afford facilities of intercommunication between the Atlantic and the West, it was not so much that facilities might be afforded for transporting to market her agricultural productions, or to open an avenue for her mineral wealth, as that her railroads and canals would bring our western brethren nearer to us; that they would afford them facilities of bringing their rich productions to market by a nearer and less expensive route; that they would be additional ties to bind the East and the West together, and would be mountain barriers to our disunion. Sir, Maryland has a deeper interest in this question than any other State, and it is no matter of surprise, that her representatives feel the responsibility that rests upon them, and the momentous consequences with which these agitations may be fraught.

I desire now, sir, to notice some of the views which have been expressed on this subject. [The Chairman's hammer fell, and Mr. C. was arrested in his remarks by the expiration of his time.]

SLAVERY IN THE TERRITORIES.

SPEECH OF MR. A. W. VENABLE,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

February 26, 1849,

In Committee of the Whole on the state of the Union, (Mr. VINTON, of Ohio, in the chair,) on the bill to establish a Territorial Government in California.

Mr. VENABLE said:

Mr. CHAIRMAN: I have given to each proposition which has been submitted, either in this House or the Senate, having for its object the adjustment of this vexed question, the most mature consideration. I have approached them with the most sincere desire to fix upon some one, which would afford a just basis, for a final and satisfactory settlement. Aware of the vast importance of repose to the public mind, I have been desirous that some measure of conciliation should be adopted, which, whilst it would effect a just and fair arrangement between the parties, would carry with it a prevailing influence to restore kind and fraternal relations.

It would be uncandid, as well as unwise to say that alienation of feeling does not exist, and that to a most serious and fearful extent. It does exist, and he, sir, must have been utterly regardless of our history, who has not been deeply affected with the nature of the events which have given character to our legislative history for years past; who has not marked the progressive inroads of one party, and the equally decided remonstrances of the other; the steady purpose on the one hand to invade, and the warning given on the other that hopeless evil must be the result of the invasion. I know that it has become common to denominate every expression of a purpose to resist aggression on the part of southern gentlemen, a threat; and we have been gravely told that nothing could transcend the folly of making them, but the extreme weakness of regarding them when made. We are gravely advised upon this matter; and it is not my purpose to argue this subject, either in the spirit of menace or of supplication. I propose only to claim for the South the guarantees of the Constitution, and, for one, will not be satisfied with anything less. I feel assured that it is one thing to be the subject of an injury inflicted by the hand of power, and quite another to be the willing author of the disaster which overwhelms you. I feel assured, that as men of honor in private life can never secure a friendship by any arrangement which exalts the one and degrades the other, so statesmen can never restore or perpetuate fraternal relations amongst the citizens of this great Republic, upon any basis which does not combine the elements of equality and justice. I shall not at present enlarge upon so obvious and simple a proposition: my purpose was only to express the conviction, that in all our expressions of anxiety to give the country repose, it should be manifest, at least, that that repose should owe its existence to a conviction on all hands that justice had been done.

There is a repose, Mr. Chairman, which all patriots desire—that tranquillity spoken of in the preamble of our Constitution, which dwells in the midst of a people conscious of a mild and well-ordered government; which springs from a sense of security to persons and property, and is founded upon the great principles of justice and equality. The approach of aggression, or the assaults of a selfish policy, must disturb this repose; for it is only by this vigilance that it can be restored or preserved. But there is a repose which no patriot can desire: an abject submission to wrong, or the paralysis of despair, which sometimes produces quiet without peace, and stillness without repose; a sense of deep injustice, without the hope of redress; a sullen acquiescence to evil, because it is without remedy. This is the repose which is found in the stillness of despotism, and can never exist amidst free institutions. The statesman should never be unwilling to hear the murmurs of the people, in a Government like ours. He should never complain of agitation when the rights of the citizens are invaded. The clamor which men raise under a sense of wrong, is the healthful and natural indication of pain and disease in the body politic. The way to calm such agitation, is to do justice, and to cause the wrong-doer to forbear. It is but aggravating the wrong, to rebuke the complaint which announces it. It is but encouraging the wrong-doer, to denounce that complaint as agitation.

I have said thus much, sir, because of a sickly sensibility which seems to have come over the public mind, and sometimes into this House, in relation to this subject of slavery in all its bearings and relations. Gentlemen are often alluded to as agitators and fanatics, who have never gone beyond the mere assertion of the guarantees of the Constitution, and denounced as desirous of keeping the subject open for the purposes of agitation, because they are not ready to abandon the rights of their constituents to an unjust demand. There seems to be with some a fearful apprehension that the subject ought not to be discussed because it will agitate.

Sir, it ought to be discussed, however it may agitate, because it lies at the bottom of all the deeply fearful matters which now fester in the hearts, and alienate the affections of our people. He is but an empiric who prescribes without a thorough knowledge of the disease which he proposes to treat; and if fatal consequences ensue, is but little less guilty than the murderer. Turn from the contemplation of this subject of domestic slavery we may—avoid the adjustment of the difficulties which are connected with it, we can for a while; but the difficulties must accumulate with the delay, and dangers which arise out of those difficulties must become more fearful.

I shall not at this time enlarge upon the subject of slavery as it exists at the South. I do not rise to discuss questions of ethics, but of constitutional right—not to lecture on the progress of society or the developments of transcendental benevolence in future times, but to weigh and determine the value of the propositions which are urged with a view to the government to be framed in the bill and substitute now under consideration—to examine the measures proposed, and their adaptation to the end. And here, sir, I would remark, that I am convinced that the President has recommended the proper policy. In his message of the last session, shortly before its close, he recommended a territorial government for the provinces of California and New Mexico; he brought the subject before Congress, and urged the pressing necessity of such a measure upon the expiration of the military governments which he had formed during the war. The fate of the bill for the formation of territorial governments for the then Territories of Oregon, California, and New Mexico, is well known in this House. I deeply regret the failure of that measure, for it would have adjusted at least this cause of alienation between the North and the South. In his annual message at the opening of this session of Congress he made the same recommendation—of which I do most cordially approve, and for which I am prepared to vote. A territorial government which does not seek either to establish or prohibit slavery within their limits, but is silent on the subject, will meet with my most cordial support. The annexation of the Wilmot proviso would secure my opposition; but that is not the fault of southern men, but of those who insist upon their right so to appropriate the domain of the United States as to exclude a large portion of our countrymen from a participation therein.

The reasons, sir, why a territorial government should be preferred, are most obvious. Our acquaintance with the population and the territories themselves, must at once determine our minds that they are not prepared for the exercise of the sovereignty of a State. When the treaty of peace was ratified, there were supposed to be about 110,000 inhabitants, including Indians, in the ceded territory; a surface equal to at least one-third of the United States, and a population not much exceeding half of that of the small State of Rhode Island; a population the larger portion of which are actually savages, and the remainder not highly

civilized, living in villages, or sparsely scattered over an immense surface, and unaccustomed to the restraints of law, or the operation of civil institutions—particularly ignorant of our social system, and unenlightened as to self-government. For such a people, prudence at once decides that a territorial government, in the first degree, is that which circumstances imperiously demand, and the only one which can at once give order and tranquillity to the incongruous elements of society as it exists. The social tie is not of sufficient force to bring them together under any other form of government at present. Distance, as well as the inveteracy of habit, render them naturally averse to the effort which any other government would require; and the security from violence, and the instincts of self-protection, would at once demonstrate to them that a powerful, strong, and efficient organic government is demanded, and ought to be preferred. They are unlike the inhabitants of our western domain, who, by early association and education, are inclined to prefer, and whose experience would cause them to adopt, institutions similar to our own. A longer tutelage is indispensable—a time for assimilation must be allowed.

It was well said, Mr. Chairman, by the gentleman from Virginia, [Mr. PRESTON,] that this Federal Government was the trustee, and held these territories in virtue of that trust. In a speech recently delivered by him, he says:

"We talk here about dissolving this Union—we talk about destroying our institutions—we talk about abandoning all the past, and all the glorious prospects of the future, because, forsooth, we will squabble over the distribution of a trust subject and a trust fund. We, the mere trustee, holding it but for an hour or a day, quarrel and destroy all our institutions, while there are the people of California—the *cestui que trust*—they to whom it belongs—they who are primarily entitled to it, ask and demand of you that you should not quarrel over the distribution of the trust fund, but that you should come up and surrender that trust subject itself into the hands of those who are its legitimate owners, that a sovereign State may be created out of it."

I am very far from admitting, however, that the inhabitants of the Territories are alone the *cestui que trusts*.

Mr. PRESTON. Will the gentleman give way?

Mr. VENABLE. Certainly.

Mr. PRESTON. I said that the Government of the United States was trustee for the great purpose of maturing the growth of a State, and that the citizens of the United States composing that community were the *cestui que trusts*.

Mr. VENABLE. I accept the explanation; but it does not obviate the difficulty, for it presupposes that there can be a time, when, if there were no inhabitants, there could be no *cestui que trust*, and at least when there was a number less than should be formed into a State, that there was in existence only an incomplete *cestui que trust*. Conquest would confer upon the inhabitants the title to territory, instead of transferring it to the conquerors; and even a treaty could confer no title to eminent domain, without the consent of the inhabitants of a conquered or a ceded territory. It is the domain of the United States, of all the people of all the States, and this Government is the trustee for the whole. This trust estate can cease in only two ways—either by the cession of the territories to a foreign Power, as was done in the case of Texas, or by admitting the sovereignty of the territory, when it shall have asserted it. The territorial condition ceases by the consent of Congress, in the acknowledgment of the asserted sovereignty of the "inhabitants." The law admitting the State is a conveyance by the trustee to a sovereign State, of that which was held for all the people of all the States. A cession by treaty to a foreign Power carries with it the territory and its inhabitants, unless they choose to remove within the limits of the United States. There is no absolute right of a Territory to demand admission as a State. It is a privilege to ask, and if nothing of sufficient importance should forbid, it is the duty of Congress to admit. But it is a matter of sound discretion to be exercised by Congress, who should judge discreetly, and act justly in the premises. The assertion of sovereignty on the part of the Territories does not give them a right to exercise it antagonistically to the Federal Government, but the propriety of that assertion is to be judged of and acted upon by Congress itself; and whenever a Territory, without a previous legislative enactment on the part of Congress, does make a government, and declare itself sovereign, it is a revolutionary act, rendered harmless, it is true, by a reception into the Confederacy. It is scarcely necessary for me here to remark, that Congress have no right to regulate or impose conditions upon a sovereign State, as to the provisions of its constitution; but it is equally true that there may be provisions which would render it proper for Congress to refuse admission into the Union of the State which adopted them. The right to form a government is one thing, but the right to come into this Confederation is another; so that we do not hold as trustees for the inhabitants of the Territories alone, neither have they a right to demand admission unconditionally into the Union as a matter of right. We learn much from contemporaneous history. The ordinance of 1783 provided that the States to be formed out of the Northwest Territory should adopt republican constitutions—a provision which enables us to understand what is meant by that provision in the Constitution which guaranties a republican form of government to each of the States. The people who form must be able to understand and create a republican form of government, before Congress could exercise a sound discretion in the admission of such a State. The substitute of the gentleman from Virginia [Mr. PRESTON] contemplates the admission of the State of California without any review of its constitution, on a given day, upon the announcement of the organization of a State government—a government which might establish a religion, or contain many provisions which conflict with the spirit of our institutions.

The article of the Constitution which provides that new States may be admitted into the Union, certainly contemplated the existence of those States, composed of such elements as were congenial to those States which already composed the Confederacy. The power is one of discretion, and should be soundly and discreetly exercised. A State is a sovereign, and votes equally in the Senate; and the substitute proposes to give two members in the House of Representatives. This is evidently and conclusively unconstitutional, as representation is to be apportioned to population, except that no State shall have less than one representative. The population of the whole Territory of New Mexico, excluding savages, does not amount to much more than the quota of one representative; and if this arbitrary apportionment of representatives be allowed in the formation of States, there would be no limit to the abuse. But the radical defect is, that a State is created by the consent of Congress, and admitted on a day certain, without reference to the character of the government which she may adopt, or the fitness of the population to form or appreciate republican institutions. Sir, why this expedient to settle this territorial difficulty? Did not almost all the southern Representatives vote, in the last session, for the Missouri compromise and the Clayton compromise bills? Was not the last bill objected to by the extreme Free-soilers, as yielding too much to their southern fellow-citizens in giving them barely a chance in the courts; and by some southern gentlemen, because they believed that it abandoned all to the North?

And what do we gain, sir, by this expedient? Have we reason to believe that the incongruous multitude, with none of the elements of statesmanship or political experience, ought to be intrusted with the great task of fixing the foundations of political institutions for posterity? Ought we to conclude that this scheme will secure or protect southern citizens in emigrating with their property into these Territories? Sir, it is but another form of the Wilmot proviso, with this difference—it is equally effectual in excluding, us by admitting the territorial sovereignty to be exercised by a population averse to our peculiar institution, embittered, however, by the reflection, that we fix it on ourselves. If the proviso is fixed to the bill by a majority, it is an affair, sir, which power imposes; if we vote for a State government before emigration has given the southern States a chance, we fix it upon ourselves. Believe me, sir, that this expedient will never satisfy thinking men to the South. We all must know, that if the formation of a State government be hurried now, slavery must be excluded.

To vote for this bill is to seal forever this question against the South. I was much pleased to find my friend from Kentucky [Mr. MOREHEAD] still confiding in the conservative veto of the President. I listened with pleasure and with profit to his remarks. I am for resisting this policy by the legislative and the executive arm, for I feel assured that the adoption of the Wilmot proviso, either in its terms or in its spirit, must be productive of fatal results.

Sir, I use no language of menace—it is both unmanly and unbecoming: but when every Legislature, from Virginia to Florida, has spoken out in resolutions which manifest a deep sense of injustice, and a purpose of resistance, it becomes us to pause. I have heard with pain several gentlemen speak with but small respect of the resolutions of Legislatures. In the best days of our Republic it was not so: Congress listened with respect, and received with courtesy their communications, and they were usually regarded as safe indications of the popular mind. But, sir, those days have passed. The magnificence of this central Government has eclipsed the modest pretensions of the State institutions; and those sovereign States to which we owe our allegiance are sneered at as insignificant, and their voice disregarded. It is not the least distressing indication of the times that all State-rights politicians are considered as abstractionists, and that the commanding power of a great central Government threatens to absorb all rival authority. Those State sovereignties whose original light was intended to give luster to the Federal power, are rapidly becoming reflectors, instead of generators: their governments, at first seeming to revolve around this center, were, in fact, within the influence of a great political whirlpool; each successive revolution makes the heads of statesmen more giddy, and comes nearer and nearer to the center, until all will be overwhelmed in the vortex of consolidation. Congress, who, under the Constitution, was authorized to admit new States, is now supposed to have the power to create them; and I fear it will next be discovered that the power which can create has the ability to obliterate from existence a refractory member of the Confederacy.

Sir, I fully appreciate the patriotic motives of the gentleman from Virginia, [Mr. PRESTON,] in the substitute before us. I sympathize most sincerely in his deep anxiety to give repose and a final adjustment to this disturbing question. But, sir, his bill cannot effect that object. Should a State government be formed excluding slavery, the South will not be satisfied, because a surface equal to one-fourth of the United States has been taken from them by the population of a conquered territory and a few emigrants from all quarters of the world; the mineral wealth of these regions, forever lost to them by the vote of those who have been conquered by their valor, and all the advantages of position and of prosperity at once secured to a favored portion of their fellow-citizens. Should they fail to make a government within the limited time, (an event almost absolutely certain,) then the question comes back to us, combining more complicated elements of strife and of difficulty. An accomplished officer—Lieutenant Lanman—of our navy, who, until the last of October, acted as collector of the port of Monterey on the Pacific, informed me that the combined population of California proper, west of the Sierra Nevada, did not exceed fifteen thousand—a population less than that of either of three counties in my own district; that such was the intense interest for gold-hunting, that it was impossible for him to get the citizens there to elect the alcalde or judge; and that he actually was compelled to keep open the polls for several days, without precedent or law, to effect an election. He promptly affirmed that he did not believe that the occupation of gold digging would be abandoned for a length of time sufficient to constitute the elements of a government according to the provisions of any law. The people of California think so themselves; and in a communication I have before me, ask a territorial government as the one best suited to the case.

Sir, I feel assured, in supporting a territorial government in California, I am carrying out the expressed wishes of the Executive, who, with much wisdom, has decided that this is the government which they need. If he had changed his opinion, he would doubtless have communicated the same to Congress in a message.

I am profoundly conscious, sir, of the duty which

we owe to these inhabitants to extend over them the protection of a government. I voted against the bill to extend the revenue laws over those territories, which passed some days since, because I will not collect taxes or impose burdens where I withhold government and deny protection. I regret that that bill passed, because it is at war with our revolutionary and republican doctrines. I shall do everything short of a surrender of the rights of my constituents, to effect that object. I believe that Virginia, the Carolinas, and Florida meant the spirit and effect of the Wilmot proviso, and no set form of words, in their resolutions; and, so meaning, have assumed grounds from which they will not recede. Believing so, sir, I owe allegiance to North Carolina, and obedience to this Federal Government and its authorities, because North Csrolina commands me to do so. Should their commands conflict, I must and should obey my State. I must withhold my vote from the substitute, because I cannot perceive the constitutional right of Congress to create, by a prospective law, a State not having preëxisting form or substance, without reference to the nature or character of its future government, and with an unconstitutional apportionment of representatives in this House—unconstitutional, because adopted without the evidence of a sufficient population to justify the number, and with every probability against it; because I am sure that a constitution now formed would exclude slaveholders and their property from the territories, and thus inflict the result of the proviso on the South; because there is but a remote probability that a people sparsely scattered over such an enormous surface could assemble so as to form a constitutional assembly, representing the localities, the wishes, and the interests of the people; and because the population, from the want of civilization, with incongruous opinions on the subject of government, and collected from such remote quarters by emigration, hostile to the institutions of the conquering country, and practically ignorant of republican principles, are not in such a state of moral or political development as to justify the enactment of a law which summons them to the formation of a constitution.

I turn now to that portion of this House who are determined to fix the Wilmot proviso to this bill, and ask them, why insist upon this measure? Many of you profess to believe that slavery can never go there; others, that it is excluded by the laws of Mexico already. Why, then, exasperate your southern fellow-citizens by thus wantonly inflicting that which they suppose to be a dishonor? Why do that which great States have declared shall be resisted at all hazards and to the last extremity, unnecessarily? The collision must come—the South will not back out; she asks no backing out from you, but only to pause in the progress of aggression. As empty as you may consider the apprehensions of danger to the Union, I warn you to forbear. Should Virginia resist, as her resolutions indicate, I do not believe there is a State south of Mason and Dixon's line that would see the mother of States assailed and overthrown by Federal bayonets.

I am gratified, however, sir, to believe that there is a proposition upon which a majority of this House can agree: I allude to the amendment of my friend from Maryland, [Mr. EVANS,] which is nearly a transcript of the law of 1803 for the government of Louisiana. An amendment of the same kind is now pending in the Senate, and I hope will pass that body. We can all of us, I trust, consent to give the territories an efficient government—territorial in its character, short in its duration, and efficient in its provisions. It meets the obligation which we are under to give the government—places the power and the responsibility of that government in the hands of the Executive, and avoids the exasperating difficulties which may arise with either of the bills we have been considering. It gives authority to protect persons and property, and to repress and punish crime, and places no restraint upon the inhabitants as to the formation of their own institutions. On this we can all unite, and the future developments may tend to make our line of action clearer and more satisfactory.

But, sir, there are some other considerations which I am disposed to bring before the committee. This whole subject has the gravest aspect, and should be well considered by us all. I will not, with the gentleman from New York, [Mr. STARKWEATHER,] review the battle-field of the late Presidential election, and among the dead and wounded look for the causes of this great political difficulty. He, with pious reverence, pronounced the funeral oration of Martin Van Buren: it was a labor of love—the dead burying the dead, as I learn that my friend fell in the same battle with his leader. But he greatly mistakes southern feeling if he supposes that either an attachment for, or a prejudice against, any individual, constitutes any element in southern opinion. Mr. Van Buren deserted the principles which he had avowed and proposed, and the southern Republicans adhered to their principles and abandoned Mr. Van Buren. Another gentleman from New York, [Mr. MULLIN,] a few moments since, referred to the same subject, and concluded by assuring us that all concessions had been made by dough-faces, and that the northern people now and forever adhered to the principles of the proviso. I listened with attention and respect, but can assure the gentleman that such declarations may hurry the formation of a geographical and sectional party, but can be productive of no better result.

The people of the South are charged with a want of reverence to the Union—the glorious Union. But I have never heard of a southern statesman whose abhorrence of the Wilmot proviso, or even of abolition, led him to such extravagant denunciations as those which fell from the gentleman from New Hampshire, [Mr. WILSON.] Driven by the current of his eloquent thought he averred that, before he would consent to the extension of slavery, he would not only see this Union dissolved, but the whole universe in a state of collapse—not our solar system alone, but all the bright stars which shine on the robe of night, together with this little world —*slaves and all*—New Mexico and California, all blotted from existence. I cannot but admire the gentleman's desire to be a martyr, for in this universal crash he could not hope to escape annihilation. A well-known manifesto of twenty members of Congress, headed by Mr. Adams, so often apostrophized by orators in this House as a patron of patriotism and the embodiment of statesmanshp, also declared that the admission of Texas was a virtual dissolution of the Union; and that it became the States aggrieved to accomplish the separation, peaceably if they could, forcibly if they must. The leader of such a movement is canonized, whilst the mere complaint of aggression by a southern statesman is called disunion and treason.

Sir, I wish no better evidence of the progress of debasement than this crouching to the hand of power; that timidity which rebukes the wronged for remonstrance, and conciliates the wrong-doer with honeyed words. I say to gentlemen, that they are engaged in an adventure, the progress of which should be gravely considered.

A gentleman from Illinois [Mr. FICKLIN] said a few days since that this slavery question and the proviso was a local and not a political question—that it was brought here by tricksters and knavish politicians for effect. How far this may be true, it is for those who bring it here to determine. The slaveholding States never brought it here. But, sir, he differs widely from Mr. Rufus King, the Free-soil Federal leader of the year 1819, of the Missouri compromise. He declared in the Senate that it was not a question of humanity, but one of political power; and it has been so regarded ever since, and is so regarded now. The struggle is for power in the Senate and power in new States. Gentlemen know that three-fourths of the States can amend the Constitution, and that the voice of small States is as potential as the large ones. The slaveholding States are fully aware of the way in which they may be assailed, and do not mean to afford the opportunity.

It was well remarked by my friend who spoke an hour ago, [Mr. EVANS, of Maryland,] that we of the South were not weak enough to suppose that the abolition of slavery in this District was all that was desired, and would give tranquillity and repose. I am indebted to the gentleman for his able speech, and for the spirited manner in which he exposed the fallacies which have been paraded before this House so often and so gravely. No, sir, that would not satisfy, although there are many gentlemen here who unhesitatingly demand this abolition in the face of the resolutions of Virginia and the other States, as if resolved to compel submission or an inglorious retreat—who say, that this will compose the difficulty and restore harmony—we desire not to assail your institutions in your States. We know that it is but the song of the syren; that it would create in this District all the elements of discord and disturbance which could be derived from the impurity and the corruption of wicked men; that all those resources would be made to subserve the agitation of this subject in all the adjoining States, until they would, from instincts of self-preservation, suppress and abate the nuisance. I do not believe, sir, in the safety of the experiment of placing power in the hands of reckless or of wicked men. The prophet looked on the face of Hazael, the minister of the King of Assyria, and wept. Hazael asked, with astonishment, "Wherefore doth my lord weep?" The prophet was overwhelmed with the terrific view of the cruelties which he would inflict upon the unhappy Jews, his brethren, and told him so. "Thou shalt be King of Assyria, and shalt afflict my people." Hazael, astonished, exclaimed, "Is thy servant a dog that he should do such things." Before one short day had passed, Hazael had thrown a wet cloth on the face of the dying Benhadad, who perished by his hand—usurped his throne, and ground to dust the persecuted and prostrated Israelites. There are other Hazaels than that one of whom the prophet speaks; and rivers of tears would flow from patriotic eyes, if opened to perceive the wretchedness which such a system of policy would secure. The warnings of the prophet will have been in vain to us if the result be not apprehended, and by timely precautions prevented.

My colleague [Mr. DONNELL] gave me the highest gratification by the first part of a speech delivered here by him a few days since. With the feelings and opinions of a southern man, he asserted our rights, and recapitulated the story of our wrongs. It was with surprise, as well as with pain, that I saw him place his southern friends in the wrong, because of their impatience under a sense of injury. A meeting of near eighty of the southern delegation was by him denominated a midnight caucus, and placed in the same category with the Hartford Convention. He did not, it is true, impugn the motives of gentlemen directly, but left the inference so clear that none could mistake the conclusions of his mind as to the character of the meeting or the purpose of those who composed it. I am amazed to find southern gentlemen adopting such a course at this time—that they should rebuke their colleagues of the South for a manifestation of restlessness under the pressure of aggression. Those strictures would have been more properly addressed to the wrong-doers. The value of the Union and the blessings of our system of government are most obviously subjects of calculation to those people by whose lawless and faithless policy the South is oppressed and plundered. It is most to be deplored when those are to be found amongst ourselves who would break the force of every effort to secure redress; that those hearts which throb only for the good of the people whom they represent, and the minds whose entire energies are devoted to the maintenance of their rights, should be represented as being under the influence of motives which shunned the public eye, and associated with traitors, and placed before the public as the enemies of liberty.

But, sir, I am contented to be associated with those gentlemen, even at the expense of my colleague's disapprobation. If his superior prudence has preserved him from so contaminating an association, to him let the benefit accrue. I feel no concern for the result, either to myself or my associates, when I know, that in all the meeting, there were but eighteen who voted against any address to go forth with the authority of that meeting. A large portion of the northern press admits the justice of our complaints as imbodied in that address; and the South, without distinction of party, both approve and applaud us. My colleague intimated that the whole arrangement was made, and the movement consummated, by the distinguished author of the Address; and that the concluding advice to the South, to be united amongst themselves, meant nothing more nor less than to be united upon him—JOHN C. CALHOUN. Sir, that this eminent individual approved of the meeting, I

know; that he coöperated with alacrity, all must know; but he was neither the suggester nor the adviser. With a promptitude which always marks his devotion to the interests of the South, he threw himself in our midst, to enlighten us by his counsels and sustain us by his presence. He acted with promptness and with energy—I may add, success. Gentlemen cannot avoid the difficulties of their position in assailing him or the measures of so large a portion of southern representatives.

It is in vain to say that that movement is a movement of persons disappointed by the election of General Taylor. There were too many of the prominent friends of that distinguished person in the meeting. There were some who, rising above the restraints of party discipline, saw, in the menaced rights and interests of the South, something that ought to merge all party considerations. And many who did not sign the Address adopted by the meeting voted their approval of one which concurred entirely in a detail of facts.

With the distinguished statesman to whom my colleague has alluded, [Mr. CALHOUN,] it has been my fortune to differ in some of the most important political movements. I have differed with him, however, without doing injustice to the purity of his heart, the elevation of his motives, or the transcendent powers of his mind. On one subject I have always felt most deeply with him—his devotion to the South and its institutions. All of us must have admired his unwearied resistance to aggression, and the prophetic skill with which he foretold the present unhappy state of affairs. Who can forget his magnificent *entrée* upon the political arena, near forty years ago, when he won his spurs in the lists of 1812. In the darkest hours of that war, his firmness and his sagacity were the admiration of all observers. Then, sir, a brilliant constellation shone amidst the representatives of the people, and he shone with the brightest in the group. We see his venerable form sinking under the weight of years and the accumulation of labors—a specimen of the statesman who ruled in the better days of our Republic, and whose head covered with the snows of age, reminds us that we may soon lose his inestimable services. He is amongst us as the last jewel which once shone prominently amongst its companions in the crown which encircled our country's brow. The rest have fallen from the places in which they were set, and the eye is refreshed by the radiance which still beams from this diamond of the first water. The friend of this Union, the champion of republican institutions, and the philosophic statesman, he will live to adorn the history of our Republic, when the most of those who either approve or condemn his political course will be lost in a common oblivion. His reputation will suffer nothing by the Address of which he is the author. Calm, dignified, and truthful, the people will wonder why any one could have been unwilling to trust them with the facts, or reluctant to disclose the full extent of their injuries.

Mr. Chairman, I am reminded of the state of feeling which exists between the different portions of our Republic. No man who takes notice of passing events can fail to observe the progress of alienation between the North and the South. Sir, alienation of feeling is but the beginning of hostility; hostility produces enmity, with all its appalling consequences. Of all feuds, the most irreconcilable are those of kindred and of friends; of all rancorous hostilities, the most unmitigated are those which originate in natural ties severed and social charities disregarded. The border war between England and Scotland was never ended till both crowns were worn by the same individual; and the union of the two nations under one government brought tranquillity and repose. I make these remarks, sir, because of the exasperating difficulties which continually arise on the borders of the free States in relation to fugitive slaves. The Constitution requires that fugitives shall be delivered up. The free States deny the obligation to deliver, but content themselves (some of them) with permitting the master to arrest them. Other States obstruct the recapture by statutory enactments. Sir, this is a disgraceful subterfuge—an unprincipled attempt to annul the Constitution. If I covenant to deliver to you a horse, it is no fulfillment of my covenant to say that I permit you to take a wild mustang in the prairie with your own lasso. The obligation to deliver requires positive action on the part of the authorities of the free States. Sir, the ordinance of 1787 could never have been passed with the restrictive clause as to slavery, but for the consideration of the delivery of fugitive slaves. A continued effort was made to incorporate that clause excluding slavery, but was never successful until the consideration was acknowledged that fugitives from labor should be delivered up to those entitled to their services. The same provisions were ingrafted in the Constitution of the United States at the same time, and doubtless for the same reasons.

Mr. Chairman, the conduct of many of the free States is an outrage. A report from the Legislature of Virginia declares, that $96,000 worth of slaves have fled successfully to Rennsylvania from Virginia in the current year. New York protects the fugitive and obstructs the recapture, as do many of those States who seem to call themselves free, from their peculiar freedom from constitutional obligation. Such an outrage on any other species of property would have long since brought matters to extremities. If the most obscure fishing smack from New England, returning from the capture of codfish, was taken either by a foreign nation or one of the confederated States, and the capture either justified or compensation refused, it would call forth murmurs and remonstrances, which would ripen into resistance and war if unheeded. Upon the course of the State of New York I look with the deepest concern. The recent election of William H. Seward to the United States Senate, from that State, is calculated to excite the gravest apprehensions in the minds of southern statesmen. The selection of a man, who, in October last, addressing a meeting at Cleveland, Ohio, urged upon them to "extend a cordial welcome to the fugitive 'who lays his weary limbs at your door, and de-'fend him as you would your paternal gods; cor-'rect your own error, that slavery has any consti-'tutional guarantee which may not be released and 'ought not to be relinquished,"—cannot be regarded but as the exposure of a decided purpose to destroy our institutions, and render our property in slaves valueless. The facilities of transportation render an escape to those States of easy accomplishment; and when Senators and high public functionaries urge their protection by all the holy rights of hospitality, we may expect the worst results. Sir, to be plundered by an enemy is not easily endured; but to be swindled by a confederate, robbed by a partner, is insufferable. I have before me an advertisement of meetings which are now being held in Michigan, by an agent and a lecturer, for the purpose of collecting funds for the relief of suffering fugitive slaves who are on the opposite Canadian shore.

I have no hesitation in declaring, sir, that every southern State ought to deny the citizens of all States who do not comply with the requisitions of the Constitution as to the delivery of fugitive slaves, the use of their courts for the collection of debts, the use of their harbors for the ingress and egress of vessels; and a total confiscation of all claims by the citizens of the former upon those of the latter; all trade with their cities or their citizens ought to be abandoned; and those sensibilities, which have been banished from their mind and conscience, may perhaps be found to have taken refuge in the purse. I do not speak in the language of menace. No, sir; I do not speak here as I expect to speak to a portion of my constituents next week. Such plainness of speech would be unbecoming here. But, sir, I say to gentlemen here, that we are not ignorant of our rights, or of the means of securing them. We love the union which has for its object tranquillity, equal justice, and security; but, sir, no other. None of us will worship a devil because he is arrayed in an angel's robes. The blame shall never be on us if the tie is dissolved. The Union, which now reflects the glorious image of empires within an empire—a circle of States, each giving light to a central Government, which derives its consequence and its power from them, and them alone—if broken, shall not receive the blow from us. It must be shivered by those who wantonly and wickedly make experiments upon its power of resisting force. And when its shattered fragments shall only multiply images of sorrow and ruin, we will be comforted by the assurance that we made every attempt to avert the wicked blow which brought about the dissolution.

I have a remark to make in relation to the action of certain members of the southern delegation, who signed and published an address to their constituents. As an humble member of that meeting, I may be permitted to speak of its objects and its aims. We have been denounced as disunionists. The denunciation is false. We are the friends of the Union; but, sir, we prefer disunion to dishonor; and where is the craven southern heart that does not? Resistance before degradation, and the hazard of all consequences to fixed political inequality. And again, I ask, who that lives in a southern State would gainsay these conclusions? I rejoice that southern States have spoken through their Legislatures; that a southern constituency are alive to the responsibilities of their position, and that southern hearts beat high for the preservation of State rights and State sovereignty. The gentleman from Ohio [Mr. ROOT] said that we were said to be a proud people, and that we could not help it. I responded with my whole heart to the declaration, however he may have regarded us when he made it. We are proud of our determination to maintain the guarantees of the Constitution. We are proud of our history—proud that it was not the wrongs of southern colonies, the favorites of the British Government, which hurried on the Revolution; but that it was the blood of Massachusetts, shed on the plains of Lexington, which summoned southern patriots to the dark struggle, and opened the tides of blood which mingled with theirs in the conflicts of the Revolution. How we have been compensated for this fraternal feeling let history determine. I, in common with this whole House, listened with delight to the enrapturing eloquence of my friend from Virginia [Mr. MCDOWELL] a few days since. His patriotism and high moral elevation must ever place him in a high position. I trust that his appeals may be useful in the adjustment of this harassing question. But I do not agree with him or others who have spoken of the danger to southern slave-owners from the vengeance of their slaves. No, sir; I fear them not. We ask no aid to protect ourselves. They have neither the cause nor the disposition to do their masters injury. We are in no more danger from our own or our neighbors' servants than from the stock which graze upon our farms. They are our friends, and their domestic relations are kind and conservative. Nowhere has that race been so elevated in morals, religion, and civilization as in the state in which they have been amongst us. I challenge the history of the world to contradict the statement. I trust shortly to be amongst the domestics of my own family, and shall meet with more greetings of heartfelt kindness, which have ever compensated for the pain of separation from those whose affectionate regard and unwavering confidence causes every southern master to look upon his servants as his most abiding friends.

Sir, I shall vote for any amendment to the substitute which embodies the principles of the act of 1803, relative to Louisiana. The substitute of the gentleman from Virginia is impracticable, and does not settle the question. Who would vote for the formation of a State composed of Florida and Maine, leaving all the intervening territory an uninhabited reserve? Who is willing to give a handful of foreigners and emigrants an equal vote in the Senate, and two Representatives in this House, to add to the growing numbers of those who are already opposed to our institutions? Who can consent to yield to the principle, whilst he only regrets the name of the Wilmot proviso? No, sir; I say to the North, refrain from your unreasonable claims; repeal your offensive laws concerning fugitive slaves; come back to the guarantees of the Constitution; avoid sectional jealousies; leave the agitation of abolitionism in this District; and restore the kind feelings so nearly destroyed.

With my friend from Maryland, [Mr. EVANS,] I say, if nothing can satisfy the people of the North, as to the District, remove the capital, take it to the Far West, plant it in a free State, and save yourselves from the associations which so much annoy you; but as you value the Union, our interest, our prosperity as one people, assail no further the guarantees of the Constitution. Gentlemen disclose the weakness of their position by the arguments to which they resort. They tell us that the Constitution contemplated no further acquisition

of territory. It is amusing to mark the acuteness with which constructions of the Constitution are assumed, when no such provision exists, and the palpable disregard of clear requirements. Do gentlemen forget that the acquisition of territory by treaty and by conquest results from the nature of government itself? Did our ancestors, form the feeblest and most inefficient of all governments, by denying the right or the power of invading an enemy who has rendered it even necessary and unavoidable—did they place this great Republic in the impotent position, that whilst it might be invaded, the territory of the invader should be inviolable? No, sir, the conclusion is absurd. And whilst I would deplore a spirit of conquest from other nations, I would equally reprobate a spirit of injustice amongst ourselves.

The gentleman from Ohio [Mr. ROOT] would repress the spirit of war and conquest which he seems to think peculiar to the South; he would make the rebuke effective, by appropriating to his own portion of the Confederacy all the unholy conquests which are made. He would take to himself the spoils by way of reproof to the South. Sir, did the South alone declare war against Mexico, or annex Texas? No, sir; the North and the South acted together. There was as great opposition in the South as in the North. And whilst I approve of both measures, it is unfair for gentlemen to inflict an injury on the South, in order that the North may appropriate the spoils to themselves—and thus to rebuke the plunderers. This device is too shallow—all must see that lust of power is the excuse—and all must question the sincerity of a policy which is sustained by such devices. Sir, I invoke the patriotism of all parties to the adjustment of the causes of alienation. I invoke the memory of our ancestors—our regard for our present and our future prosperity—above all, a sense of equal justice—for the final arrangement of all causes of complaint, and the restoration of peaceful relations in this broad Republic.

CIVIL AND DIPLOMATIC APPROPRIATIONS.

SPEECH OF MR. WM. SAWYER,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

January 16, 1849,

On the bill making appropriations for the civil and diplomatic expenses of the Government for the fiscal year ending the 30th day of June, 1850.

Mr. SAWYER rose and said:

Mr. SPEAKER: I propose to occupy some of the remaining time allotted to debate in calling the attention of the House to some features of the bill under consideration, to which I have objections, and upon which I may not have an opportunity to give my views under the five minutes rule.

With reference to this matter of mileage, I have nothing further to say; I have had full, ample satisfaction on that subject. The gentleman who attempted to bring me up, together with other members of Congress, before our constituents, I think has received a just rebuke for the course he took. His falsehoods or mistakes, or both, have been exposed, and can do no harm, except to their author. "Truth is mighty, and will prevail." Had the gentleman thought of this proverb, and given it due consideration, before he made those charges against members of this House, he would probably have saved himself the mortification which this exposure ought to occasion him. I say *ought*, because I am not sure but he is pleased with the notoriety it has given him, and is insensible to the contempt which his conduct has incurred. But, as I have said, I am content with the result of this matter. I have had full, ample satisfaction.

But I rose to point out certain items to this bill to which I am opposed. I stated some of these objections at the last session, and I will now repeat them: First, there is the "Auxiliary Guard" of Washington. What this guard is for, I am not satisfactorily informed. I am informed there is a law in existence allowing the captain of the guard a salary of one thousand dollars a year; to five others of the guard thirty-five dollars a month each, and to ten others of this guard thirty dollars a month each; making in all a yearly expenditure, in the item of salaries for this object, amounting to the sum of six thousand two hundred dollars. But here is an appropriation for six thousand seven hundred and seventy-five dollars, while the law only provides for salaries to the amount of six thousand two hundred dollars. Here is an excess of five hundred and seventy-five dollars on the amount required by law. To what purpose it is to be applied, I am unable to say. I now give notice of my intention at the proper time to make a motion to strike out the whole of this item. I have other reasons to support the objections I have already urged against this item; there is a law authorizing the employment of guards for every public building; and notwithstanding this precaution for the security of the public property, it has not been long since the National Institute has suffered the loss of some of the most valuable articles in the collection. These articles were lost while the guards of the Patent Office building were on their watch, or ought to have been there; they were at any rate getting pay for being there; but they were probably sleeping in their rooms, and by sheer neglect, suffered these things to be taken away. They were stolen at all events, in spite of the vigilance of both principal and auxiliary guards. I am utterly opposed to that state of things which permits of the employment of such guards who are paid out of the people's money, and allowed to walk about at leisure, or sleep or pursue their own private inclinations, while the public property which they are paid for protecting is plundered and carried away. It is the reflection that my constituents are required to contribute their proportion of money to the payment of these officers that excites my disapprobation of this whole matter. I am not willing to see them imposed upon in this way. The money they pay for the support of this Government they do not expect to be thrown away upon faithless men, and upon useless objects. I will make no remarks as to the just grounds which, to my mind, exist of suspicion of dishonest connivance by which this lost has been sustained, but merely say that there has been a most manifest abuse of their trust and dereliction of duty on the part of these guards. The guard is therefore inefficient; it is useless, and if it cannot protect the public property from robbers, let us keep our six thousand seven hundred and seventy-five dollars. I don't like being robbed both ways, or rather, I don't like to pay for being robbed. Just such worthless watchmen are described most faithfully in the Good Book by Isaiah the Prophet, in chapter 56, and verses 10, 11, and 12.

I find another strong objection to this bill in the omission of any provision in that portion which relates to the Navy Department, for the abolishment of that most infamous and degrading practice of whipping the common sailors. I utterly abhor this most abominable and contemptible practice of whipping the sailors in the naval service; and I intend, at the proper time, to offer an amendment to this portion of the bill, making it the duty of the Secretary of the Navy forthwith to publish an order to abolish this practice. I shall offer this amendment, if not anticipated by the motion of some other gentleman, and demand the yeas and nays upon the subject. This practice is one of those relics of barbarism and despotism which that other ism, commonly known by the name of Federalism, has preserved to us; for I know that the just, ennobling, and humane principles of Democracy would never have countenanced so disgraceful a custom. Its only effect is to brutalize the sailor and gratify the spleen of the petty tyrant of the quarter deck. It completely destroys all that pride and self-respect which make a man, and substitutes the abject spirit of the slave. If our naval officers possessed the souls which distinguish the brave and generous-hearted, they would themselves abolish a privilege the exercise of which degrades the common sailor to a level with slaves; they would feel too proud of commanding men, to wish to convert them into brutes by the exercise of such a power. If our officers possessed the right kind of souls, they would feel a pride in having their crews composed of the best materials, and would endeavor to improve them rather than to destroy every spark of manly spirit in them. You need not tell me they cannot preserve subordination without the "cat." I don't believe it. I know something about human nature too; and I know that good treatment will sooner make good men than bad treatment. Destroy a man's self-respect, which a single whipping is sufficient to do, and he will care but little about his conduct afterwards. Cruelty and tyranny never secured fidelity, nor ever will. Destroy a man in his own estimation, and if there is a particle of evil in his nature it will thenceforward grow and strengthen, until it forms his whole character. I am in favor of discipline strict as you will; but I know it can be enforced without this brutalizing infliction. It is a safe rule to "do unto others as you would have others do unto you." In other words, the kind of treatment that would secure your obedience to superiors will also secure the obedience of your inferiors to you. If officers were to act upon this principle, there would be but little necessity for the cruelty with which they treat those under their command.

I object, also, to the item for allowing compensation for "four assistant draw-keepers at the Potomac bridge, including oil for lamps and machinery, firewood and repairs, four thousand two hundred and ninety dollars." Some gentlemen may suppose this a small business to be talking about, but I do not so consider it; for, in the first place, this bridge was built at the expense of the General Government; and I particularly call your attention to a recent appropriation of thirty thousand dollars for similar objects in this city. This bridge was built at the expense of the nation, for private and local use. And now I would consider that the least that could be done by the people interested in the work, would be to keep it in repair. I shall deem it my duty, therefore, at the proper time, to move to strike out this item.

I have, too, another objection to this bill. I find, at line 501, the following item: "For completing the centre strip of Pennsylvania avenue to fifteenth street west, one thousand two hundred dollars." At the last session of Congress, there was appropriated to this object the sum of four thousand dollars; making in all, for this little "*centre strip*," the sum of *five thousand two hundred dollars*. In the year 1847, there was appropriated to the improvement of this same street, the sum of *sixteen thousand dollars*. But this was not enough; these people increase their demands as fast as Congress can grant them. They go on the principle that "one good turn deserves another;" but manage to have all the "good turns" in their own favor. As soon as Congress makes one appropriation for their benefit, they immediately go to work to have it followed up by another, and another, until there would seem to be no limit to these demands. Far from being content with the munificence of the General Government, by which this street has been built as a gratuity, and on which has been expended, within less than two years, *twenty thousand dollars*—and how much more previous to that time, I have not had leisure to ascertain—but last year, by the shameless importunities of the people of this city, and a corresponding weakness on the part of members of Congress, there was another appropriation for *lighting this street with gas*, by the erection of lamps on both sides of it, of ten thousand dollars—making the whole outlay upon one street, within two years, *thirty-one thousand two hundred dollars*. And all this out of the national treasury, and without any constitutional or equitable right to one dollar of this amount. As for my constituents, they make their own roads and streets, build their own bridges, light their own cities, pay their own guards and auxiliary guards, and do everything else pertaining to their own interests and security, at their own expense. The people of the State of Ohio and other States provide and pay for these things out of their own pockets. And in view of the injustice done to other parts of the country having equal claims with this city, by such an appropriation as this of which I am now speaking, were I a citizen of the city of Washington, I would spurn such a boon at the hands of Congress. I would stand up like a man, and say to the National Legislature, on the part of my fellow-citizens, We are able to do these things for ourselves, and we prefer not to be dependent on the General Government. But I am reminded that the people of Washington are making other improvements, for the purpose of drawing trade to their city. How stand the facts? The people of Washington did, once upon a time, go into a work of internal improvement, of which I have a pretty distinct recol-

lection: I refer to the *wet-weather* canal which they proposed to dig at their own expense, and afterwards called upon the Government to pay the debt which they incurred by it. *And the Government paid it.* This canal, which was never of any use, and which has been broken and filled up in many places, and has long lain in this ruinous condition, is now, I understand, to be reopened; and if so, it will be like the cannon of Corporal Trim, which was made out of the leg of an old boot—it will be a sorry and *silent* burlesque on the genuine article, which, however, I would not object to, if it was as harmless as the Corporal's folly, or if, like him, the projectors were to be the only losers by it. But I venture the prediction, that a single year will not elapse before there will be another call upon the Government for a reimbursement for this expenditure. Indeed, I understand that efforts to that effect are already being made. This canal never was, nor ever will be, of any benefit; and the only object in its resuscitation seems to be, to get engineerships and superintendencies for idle loafers who have the good fortune to belong to "*first families.*"

Against all such outrageous impositions, I enter my solemn protest in the name of my constituents. I know not, and I regard not, what gentlemen may think of my course in relation to these matters. I am determined to persist in calling attention to these abuses, and I will not be diverted from my purpose by frowns and sneers. What I believe to be my duty, I will fearlessly perform; and here upon this floor I now declare my uncompromising opposition to all such plans for robbing the treasury of the nation to gratify the vanity or the avarice of a few at the expense of the whole people. The people of Washington have no more right to these appropriations than those of any other portion of the Union. They are not content with the possession of nearly all the best offices in the country, but are eternally pressing Congress for donations of money besides. I despise this poor, beggarly spirit that would turn the national capital into one vast alms-house, swarming with lazzaroni. It is disgraceful, contemptible.

The next item to which I would call the attention of the committee, is the compensation "for the 'warden, clerk, physician, chaplain, three assistant 'keepers, five guards, and messengers, of the Penitentiary of the District of Columbia, *eight thou*-'*sand five hundred and fifty dollars.*" This is an increase over the same item for last year of upwards of two thousand dollars. I have taken some pains to inquire into the condition of this prison, and find that this appropriation is equal to *four dollars and twenty cents* per week for every convict in it, without counting one cent for their labor. They ought to have good living at this price, for there is no house rent to pay. What their labor is worth, I don't know; but as everything hereabouts lives off the Government without making any adequate return, I presume they do very little—are a sort of aristocracy, with privileges somewhat abridged, it is true, but enjoying handsome allowances and exemptions above their compeers in the States. I can think of no other cause for this entire dependence on the treasury. The Ohio penitentiary not only pays all its expenses by the products of convict labor, but is a source of considerable revenue to the State, and I can't see why this one should not at least pay its own expenses. I particularly object to the appropriation for a chaplain, for I believe there is no warrant for it in the Constitution, and for this reason I have always voted against the appointment of such an officer for this House. I don't think we can constitutionally apply money to this purpose.

I desire also to call the attention of the committee to my objections to the appropriation for the coast survey. With reference to this item, I would observe, that I consider it one of the most outrageous propositions in the whole bill; and if gentlemen would look at the report of the Secretary of the Treasury, exhibiting the annual amounts appropriated for the support of this branch of the service, recently laid on their tables, they would find a most alarming increase in the expenses of this coast survey. They would perceive that the table commences with appropriations of fifty thousand dollars, forty-nine thousand dollars, twenty thousand dollars, thirty thousand dollars, and so on; but when I look down the column to the year 1845, I find this item has increased to one hundred thousand dollars; in the year 1846, it was one hundred and eleven thousand dollars; in the year 1847, it was one hundred and forty thousand dollars; and in 1848, it was one hundred and sixty-five thousand dollars. These were direct appropriations; but by an usurpation of power totally inexcusable and dangerous in tendency, large amounts that were appropriated for the naval and revenue service have been diverted from those objects and applied to this coast survey, until the whole amount of the yearly expense is now nearly *three hundred thousand dollars.* And I predict that it will be but a short time before Congress will be called upon for not only three or four hundred thousand dollars, but a million of dollars for the annual support of this service. The child is not yet born who will see the end of this most ruinous system of public expenditure for these useless surveying and exploring expeditions.

What are they now doing in this service? Why, they are surveying mere brooks which would not float a canoe, and which a respectable western minnow would consider too shallow for its convenience. One of these brooks is within sight of this Capitol and runs *under* the principal street of this city; a grasshopper could jump across it without greasing his joints; and yet we have it paraded as large as life, yes, *almost* as large as life, on these fine maps of the coast survey, clear up the country to its very source. This mighty stream and all its tributaries (any of which a boy of ten years old could step across without wetting a foot) are here laid down with such minuteness that future navigators will find no difficulties in following the deepest channels, provided they go a-foot and keep a sharp look-out. But this is not all; very far from it. By the important labors of these scientific gentlemen, we are enabled to point out the exact location of Soaper's hill; here it is on the map as plain as day. It ought to be called *soft*-Soaper's hill, as there is a great deal of *soft-soaping* about all this business. [Laughter.] This Soaper's hill is about *fifteen* miles from any stream big enough to float an old shoe, and has about as much to do with navigation as it has with phrenology. There is no connection between them whatever. But such is not the opinion of our energetic surveyor, who tells us, in his voluminous report, page 34, "Our 'occupation of the station on the Magothy was 'prolonged by bad weather to six weeks, during 'which time the signal at Soaper's was seen but 'three times." Yes, here were six weeks spent at Magothy in looking out for signals from Soaper's, and this, too, in the most favorable season of the year; for these coast surveyors tell us there are but a few weeks in the year that they can work at this business. This Soaper's hill must then be in a very foggy region, and I would advise navigators (for whose benefit these surveys are made) not to go within fifteen miles of this dangerous spot; and I doubt not they will take my advice, for there is no water of sufficient depth for even the smallest craft within that distance. But we may account for this "*bad weather,*" without throwing all the blame on the atmosphere. It is stated in an able article in Hunt's Merchants' Magazine—a work of great merit and truthfulness—that "where the summers are most bracing and the winters most fictive," these coast surveyors are longest delayed by this "*bad weather.*" Yes, it seems where the living is good, the *weather is bad.* This is doubtless the secret of the "*bad weather*" that obstructed the view between Magothy and Soaper's. This long continuance of "*bad weather*" reminds me of a gentleman whose face was horribly battered, and upon being asked what had befallen him, said, with a very grave look: "It is very remarkable, but it is 'a fact, that as I was walking along, the pavement 'flew up and struck me in the face, which produced 'these painful bruises." The gentleman had no doubt been detained somewhere by "*bad weather.*"

But this Soaper's hill is a small affair when compared with some other discoveries of these scientific surveyors. On page 24 of this precious report, I find—

"The hills in Truro will average from 100 to 140 feet high, and in Wellfleet and Eastham from 120 to 80 and 60. These are all of the most abrupt and irregular character, with alternate hollows and peaks. In six *consecutive* square miles there are not less than 300 separate peaks of hills, and some 510 holes or hollows, all requiring and having separate and distinct curves of contour and elevation."

And a little further down, on the same page, we are told,

"Up to the 25th September, an area of 26 square miles, 36½ miles of shore line, and 67½ miles of roads had been surveyed. The part completed includes no less than seven villages."

And among these villages we find there was a month (August) of *bad weather* again. And here I am again puzzled to know in what manner this survey of roads and villages is to benefit navigation. I can hardly believe it is expected our sea-captains will undertake to run their vessels along these roads and through these villages; and this grand report does not throw any light on the subject. In the first of these paragraphs we have the number of hills in "six consecutive miles," and also the number of hollows. In this wonderful exploration there is one thing that is new to me, and I presume will be to many others, and that is, that there are so many more hollows than hills—nearly two to one. This I think would be a very troublesome country to navigators, for there is an impression very general among western people that ships can only sail in water, but we have no account of any of this element in these "*hollows,*" and I imagine there is very little on these "300 *peaks of hills.*" If, therefore, our impressions are correct, the ship that gets into these hollows will have some trouble to get out again.

But do these coast surveyors never go on the water and discover dangerous shoals and rocks? Oh, yes; on almost every page we are told of some "gratifying result" of this character about Nantucket and Cape Cod, and Cape Cod and Nantucket. Look at page 26, and you will read:

"It will be highly gratifying to you, however, to know that our labors in this field have already proved useful to the coasting trade, in pointing out the safe and expeditious route clear of the shoals to the southward of Nantucket; this has been made known chiefly through the pilots and others employed in this branch of the coast survey."

Yes, this highly "gratifying" information was obtained from *pilots*, hired no doubt to tell what their experience had found out; and the Coast Survey, with characteristic meanness and falsehood, places it to its own credit, in order to swell its importance, and the more effectually to blind the public and to screen the impositions those engaged in it are guilty of. But this shoal work was too small a business for the coast surveyors, which was probably the reason of their applying to *pilots* for information; and they go to work on the Gulf stream, not to hunt up shoals and reefs and rocks; oh! no, such things are beneath their notice. And what are they to do with the Gulf stream? Why, to find out how cold the water is. Yes, this is the mighty enterprise our Government is now spending a few hundred thousand dollars in.

On page 38 of this Coast Survey report, we read:

"Observations upon the section southeast from Cape Henry have been made for three consecutive years, to indicate the changes in the distribution of the temperature of the ocean. In consequence of the loss of the most trustworthy instruments, the parting of the line in drawing it up, after a cast of 3,300 fathoms in depth off Hatteras, the further prosecution of the soundings for temperature during the season were postponed, and the Legaré was used for important service in another part of the survey."

Here we have *three years* thrown away, at an immense expense to the Government, in vain attempts to find out how cold the water is twenty thousand feet below the surface. But this I suppose was merely for amusement, merely for the sake of vanity, in this grave farce for which the public have to pay so high a price. In the able magazine, to which I have already alluded, it is stated, on page 141, that—

"The superintendent, (of the Coast Survey,) in the four years of his personal field-work, has scarce yet passed the limit in which Mr. Borden had preceded him; and if it be ever judicious in such matters to raise questions of economy, it might be well worth asking whether the work done in the field by the present superintendent, at immense expense, has been necessary at all."

It appears, then, that the immense sum of *one million one hundred and twelve thousand dollars* has been expended by the superintendent within the short period of four years, on work that was long ago completed and paid for, and now, for the sake of getting hold of this money for *nothing*, is gone over again, so that, for all this money, we get not one benefit in return. Was there ever a more glaring and base imposition practised on any people? On page 19 of this superintendent's report, we are informed of a man who is kept at Nantucket

a *whole year to look at the moon.* On page 38 we are informed that experiments have been making for *three years* to find out the temperature of the ocean at the depth of twenty thousand feet. On page 27 we are told of a great search after "the white rock," which was never found. On page 2 we are told that—

"During the past year the work has been carried into every State, with one exception, on the Atlantic and Gulf of Mexico, and parties are on the way and under orders for the Pacific coast."

This is all false, except that parties are on their way to the Pacific coast. This is true. Since the discovery of the gold in California the Pacific coast has been very attractive, and favorites are despatched thither at the expense of the Government and in Government vessels, to reap the golden harvests that should be open to all equally. This favoritism is infamous. The citizen has to get to that distant region at his own expense, and the best way he can; while these minions of power receive handsome salaries, have national vessels furnished them, and all their expenses paid, and are thus enabled to precede the private citizen, who is taxed to pay for this injustice to himself. I feel indignant at this rascality. But it is *false* that these "surveys have been carried into every State, with one exception, on the Atlantic and Gulf of Mexico." Men employed in this service have *traveled* through parts of these States, and carried some instruments with them, and perhaps here and there took an observation for the purpose of giving this falsehood the coloring of truth. But no surveys have been attempted on those dangerous coasts where vessels are really wrecked. On the contrary, all these expensive operations are carried on about Cape Cod, Boston harbor, Washington city, and other places, where good living and a healthy climate are found, and which have been surveyed over and over again.

But this system is only in its infancy; the amount already expended is but the entering wedge. As the families who monopolize this branch of the service increase, so must these appropriations be increased so as to provide places for their rising progeny. We are fast building up an official aristocracy. This coast survey is a part of the foundation on which this grand superstructure is to be raised, and a most convenient foundation it is, for it can be easily enlarged at any time to accommodate the builders. Let us look a little into its expansive capabilities; it has been in active operation now seventeen years. The first appropriation was of fifty thousand dollars, but this was in the very beginning, when everything was to furnish, and every one knows it is more troublesome and expensive to start a business than afterwards it is to keep it up; and in the earlier years of this coast survey, before it became a family affair, and the special object of a powerful combination, the annual expense varied from twenty thousand dollars to thirty, forty, and fifty thousand dollars; but for the last five years, the increase has been steady and large, until now, together with the amounts it usurps from other branches of the public service, it is near three hundred thousand dollars; and as in the present appropriation it is proposed to increase it twenty thousand dollars over that of last year, which, together with the large amounts it covertly appropriates to itself from funds designed for other branches of the public service, will probably bring it up, for the year 1849, to three hundred and fifty thousand dollars or more; for its concerns are so managed that it is almost impossible to ascertain the exact amount it absorbs. But we can get at it very nearly, and the data we have warrant the belief that it will cost over three hundred and fifty thousand dollars during the current year. And thus will it continue to grow, until it will defy all opposition, unless put down, together with its legitimate parent, the West Point Academy.

And what is the most remarkable feature in this phenomenon, in our republican form of government, is, that as expense increases the services decrease. It is possible that for the first few years, when this system was first started, it was of some benefit to navigation; but of late years there is nothing of the kind; and so sensible does its superintendent appear of this extraordinary fact, that in his report he attaches the utmost importance to the most trifling acts of himself and his subordinates, even to the manner of fastening a chain to a buoy, as may be seen by a reference to page 33; and, indeed, there are similar cases in almost every page of the report. Under the present plan of management, it will be no difficult matter to increase the patronage of this department indefinitely. When these favored family architects want to fasten another of their brood to the public crib, all they have to do is to conjecture there is some hole in the ocean that has not been sounded, or some rock that has not been measured, and the Government is asked for an appropriation for the purpose, and the young booby is intrusted with the mighty undertaking. When he is thus fairly fastened on Uncle Sam's purse, instead of dropping off after one good suck, he goes on, like the wood-tick, burying himself deeper and deeper in its ample folds. There is no end to the holes and rocks and reefs about our coast; and if they should get a little scarce now and then, the young hopeful may be very profitably employed a year or so in looking after Lot's wife on the Dead Sea, although there are lots of wives nearer home of better material, and who, it appears to me, could throw as much light on the subject of navigation as Mrs. Lot, and whose opinions could be obtained at a much cheaper rate.

While upon this subject, I will take occasion to remark that this coast survey was but the offspring of one of the early and most objectionable institutions of this country. The Coast Survey, the Exploring Expedition, the National Observatory, the expedition to measure the sun's distance from the earth—all these devices for the expenditure of the public money had their source and origin in one of the institutions of this country which has been long supported at a heavy expense, and which has always taken to itself more praise than was its just due. I refer to the West Point Academy. In that institution are educated the sons of members of Congress, or, generally, sons of rich men. And after they are educated, they are thrown upon the country for employment, or left to themselves, to rack their brains in order to devise the ways and means of getting up national observatories, and exploring and scientific expeditions, at the public expense. And all the hundreds of thousands of dollars that have been expended upon these objects have been worse than thrown away. I say worse, because they have produced no good result, and have opened the door to unlimited extravagance in appropriations for similar objects. Science needs not the aid of government: no great scientific discovery has ever been made under the patronage of any government, and never will, for the reason that the true votaries of science are never noticed by the government until their great discoveries are made. These government scientific gentlemen are appointed because of the family influence they can bring to bear in their favor, or on account of their own self-assurance and importunate solicitations, rather than the possession of great ability. It does not follow that because Doctor Franklin was a great philosopher, all his descendants shall be distinguished for the same qualities. And this very interference of the Government with a pursuit that should be open alike to all, is calculated to injure it, by discouraging those engaged in it on their own private resources. You may lavish all the resources of this Government upon your observatories and coast surveys, and you will not make one philosopher the more. Money cannot bribe Nature to turn the simpleton into a Solomon.

But it is to get hold of this money, to quarter upon the Government a swarm of those idle, worthless sycophants, that these appropriations are continually asked for. All these applications for this expenditure of the public moneys come from this quarter. We are first required to educate young men, and then to give them all the offices of honor and profit, to the exclusion of those enterprising and talented youths who pay for their own education, and who are often more capable and deserving than the pampered favorites of the Government. This institution has already cost this nation millions of dollars, and not more than one person in a hundred thousand has been benefited by it; yet these nine hundred and ninety-nine thousand have to pay for the education and support of this one individual, who stands an insuperable obstacle to the promotion of the private citizen, and renders no service in return. True it is, we are told, that the West Point graduate is the most efficient in war, and equally true it is, he receives the compliment with great complaisance.

In looking over this morning's "Union," I find an account of the presentation of the flags, standards, and colors, taken by our gallant army in the war with Mexico, to that institution, for safe-keeping, in "consideration," as the gratuitously generous Secretary of War says in authorizing this unmerited honor, "of the admitted fact that 'the graduates of that institution have contributed 'in an eminent degree to our unexampled course 'of success." And thus the brave volunteers, who did the hard fighting, and with whose bones the plains of Mexico are whitened, are to be robbed of the honors which their bravery and heroic devotion to their country's cause won. And the jackdaws, how do they receive the plundered plumage of the peacock? O! we are told, with "*no little gratification.*" "No little gratification!" "No little gratification!" Yes, it is with "*no little gratification*" these pensioned upstarts appropriate to themselves the bright laurels torn from the brows of our lamented Hamer—it is with "*no little gratification*" they behold the sanctity of the tomb invaded, and the dead plundered of his hard-earned honors to deck their own unworthy brows! With "*no little gratification*" they behold the glorious Palmetto regiment pour out their chivalrous blood like rain, and then step forward, when the battle no longer rages, and deliberately carry away the trophies which their undaunted courage won! Worse, far worse is this, than the thieving of the dastardly Mexicans, who roamed over the field of battle to strip the dead of their clothes, but sought not to tarnish nor to filch the fame of their deeds.

But not only the dead are robbed, but the living, too, are refused the just meed of praise and insulted, to bestow this "*no little gratification*" upon a bloated and mercenary aristocracy. I see to my right an honorable gentleman, [Mr. HASKELL,] and upon my left another, [Mr. RICHARDSON,] and before me another, [Mr. HALL,] who "contributed in an eminent degree to our unexampled career of success," without ever having their courage or their patriotism vamped and varnished at West Point; and yet they are excluded from all share of the honors achieved in this war. The battle of Buena Vista was fought principally by volunteers; and such was their indomitable courage, that their commander said, "Those volunteers don't know when they are whipped." No, sir; they did not know *that*, because it had not entered into their calculations that they *could* be whipped; and they knew there was an enemy before them, and they had no other thought but that they were to whip that enemy. Perhaps, if they had been educated at West Point, they would have sought renown by a scientific retreat—they would have carried some old book of tactics in their pockets, and have looked into its pages to find out when they were whipped, and how to get out of the scrape; but they were not acquainted with the niceties of their profession; they had only learned how to give hard knocks, and what little learning they had on this subject they put into good practice. But they had a stubborn foe of greatly superior numbers to contend with, and they fell by hundreds on that bloody field, and it is now consecrated ground—consecrated by as noble blood as ever flowed in human veins; but there are those who regard not the sacredness of the claims of the dead, and their sacrilegious feet have ventured here; and we are now told "it is with no little gratification" these pampered minions of power, these bandbox heroes, steal upon the grave-covered field of Buena Vista when peace returns, and stillness reigns, and foes are far away, and pluck from the brows of the mouldering dead the hallowed laurels purchased at so dear a price.

Those whose honors are thus violently wrested from them were no mercenary soldiers; they were men engaged in the peaceful and useful pursuits of private life. When the call "To arms!" was heard, they left their ploughs, their workshops, their counters, their books and desks, and all the avocations of private life, and obeyed the summons, all of them at heavy sacrifices of interests and comforts, and many of them at the sacrifice of their lives. They had not been drawing their pay, their rations, their forage, their servants' pay and their servants' clothing, from the public treasury for thirty or forty years, nor for one year, nor for

one day; nor were they even educated at the public expense, as those are who have done them this infamous wrong. They had the energy, the ability, and the independence to support themselves in times of peace; and when their country's interests required, they went to fight her battles and gather honors for themselves, never suspecting that that country which they loved so devotedly nourished within its bosom, at *their* expense, an aristocracy that was to wear the laurels they should win. They even entered the lists with great disadvantages in comparison with the students of West Point, for these monopolized most of the best offices, and stood in the way and effectually prevented the advancement of many a meritorious young man, who had quit his workshop or his farm to seek distinction in his country's quarrel. To all those who rise by dint of their own exertions, the avenues to promotion are effectually closed by the spawn of this accursed institution. There are no commissions for them in the army nor in the navy; there are no exploring expeditions fitted out for their benefit, and least of all are they permitted to share in this darling pet humbug, the coast survey. This is the sweetest nut ever cracked by this Government, and many a lazy, worthless rascal fattens on the kernel. All he has to do is to lie about Washington during the sittings of Congress, and watch the appropriation bills—a good business; and I must do those engaged in it the justice to say it is well followed. Last year the appropriation for this West Point Academy was somewhere about one hundred and twenty thousand dollars; this year it is one hundred and forty-three thousand dollars—an increase of over twenty thousand dollars a year. Are the people willing to pay this enormous amount to have their sons excluded from all the honors of the Government? When they understand the subject properly, I am sure they will not. The greater portion of the most desirable places in the Government are now filled by the graduates of this institution, and presently the only claim to Government favor will be an education at West Point; and the aspiring youth who struggles up through the discouragements of poverty and obscurity will find the doors of competition closed against him to all governmental honors.

I will not proceed any further. I have sought the floor merely for the purpose of declaring that I will not countenance such a system of extravagance and injustice. If these things are to be supported at the expense of my constituents, they shall not have the sanction of my vote. I have given my views to the committee, as it is my privilege and duty to do. As an honest man, and the representative of an honest constituency, I have offered my objections to the bill; and having done so I will now resign the floor.

SLAVERY QUESTION.

SPEECH OF MR. H. C. MURPHY,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1849.

The House being in Committee of the Whole on the state of the Union—

Mr. MURPHY said, that in the remarks which he was about to submit, he should speak to the question of our duties as a nation towards our territories as colonies, in regard to the subject of slavery; and in doing so, should speak freely and with frankness, and he trusted without offence. He should, moreover, address himself on some points particularly to his Democratic friends.

While listening to the gentleman from Virginia [Governor McDOWELL] yesterday, and admiring the high moral and patriotic tone of his speech, he could not help reflecting how much of the importance attached to this question was merely factitious, and how little foundation there was for the apprehensions in which honorable gentlemen indulged, of a dissolution of this Confederacy by reason of any action of Congress on this subject. He felt that this question, when settled, would be disposed of without reference to the disunionists north or south, and so determined as not to affect the permanency or the peace of the Republic. The American people, sincerely attached to the Union, and habituated to acquiescence in the decision of majorities, will submit, without violence, to any constitutional disposition of it by Congress; and for any unconstitutional action by this body, relief will be sought for and obtained from the Federal Judiciary.

There was nothing in it to alarm for a moment. It was a ball which politicians were tossing about for their own personal purposes. The gentleman from Pennsylvania [Mr. WILMOT] may hereafter be considered the greatest political agitator of his day, but perhaps he was (he said it with respect) only an instrument in the hands of others, when he brought forward his famous proviso. The gentleman from New Hampshire [Mr. WILSON] may congratulate himself, as he did in his eloquent speech on this floor, that this was a great popular movement in which the people were marching up in solid phalanx driving the politicians forward; but he too may be, after all, a mere instrument of politicians.

How does this question obtain its importance? Why is it here? There are some reminiscences which should not be forgotten. Its history is brief, and may be recounted in a few words. When Congress assembled at the session of 1843–4, the demonstration of democratic sentiment was in favor of the nomination of Mr. Van Buren as the candidate of the Democratic party in the Presidential canvass of 1844. The great body of Democratic members were in his favor, and in this merely indicated the feelings of their constituents. Measures were immediately put on foot to defeat his nomination at the Baltimore Convention. There have, of late years, been in this country two third parties, so to speak, by which I mean a third party for the South who wished to build itself up on the institution of slavery, and a third party for the North, taking opposite ground and seeking power by opposition to it, known as Abolitionists. It was this third southern party which sought to set aside the voice of the Democracy in favor of Mr. Van Buren; who sprung upon him the Texas question for that purpose. His opposition to that measure was declared to be fatal to his success, because the people of the South would not vote for a man who would not favor what was calculated to strengthen the slave interest. He could not, it was said, be elected for that reason; Virginia and Tennessee, by whose side New York had stood in many a conflict in defence of the rights of the South, had deserted him, and he was defeated. Here was the great error of the Democratic party. Here was not only a foul wrong, but the first introduction of this sectional question into the councils of the Democratic party. The indomitable Democracy of New York—indomitable till then—who had stood by the South in excluding the question of slavery from the conventions of the party and the councils of the nation, breasting the billows of Abolitionism and Federalism, were rewarded by a rejection of their own candidate on this sectional ground. The consequence has been ruin to that great party in New York, and defeat in the Union. Mr. Van Buren and his personal friends did what was natural. They determined upon retaliation. They resolved to put the poisoned chalice to the lips of those who had administered it to them. The great body of the Democrats of New York could not go with him. Though they felt the wrong to him was a wrong to them, they could not desert the principles in which they had been nurtured and to which they were devoted; which had been taught them by the sages of the party, religiously to eschew and avoid geographical questions; but they were divided. For one, I regret the course Mr. Van Buren thought proper to pursue, because it has cast a cloud upon his bright and untarnished fame; because it has thrown a suspicion upon the sincerity of his past life; because it has scandalized the motives of the party of which he had been the acknowledged leader; and especially because it has left that party, once so proud and unconquerable, and so potent for good, a miserable wreck. I cannot dwell upon this topic, nor will I indulge in complaint of my friends. But this I say, the present aspect of the slavery question has been brought about by this struggle of parties—that southern politicians first employed it for their purposes; and northern politicians are now using it in a retaliatory spirit. This is understood by the people, and I therefore repeat, that I have no fears that the principles of our institutions will not be strong enough to give it a peaceable adjustment.

There is another view of this subject which leads me to the same conclusion. It is this: the application of the provision excluding slavery in the new territories is of no practical effect. Adopt it, and you only reaffirm what already exists; reject it, and these territories are still free. In some remarks I submitted at the last session of Congress, I held that the law of conquest was, that the local laws of conquered territory remain in force until other laws are imposed by the conqueror. The position then taken has been since sustained by the most eminent jurists north and south in its application to New Mexico and California. How, then, is slavery to go there, unless the sovereign power here, or the people authorized by us there, enact it? The very language with which the Wilmot proviso is justified, and the ground upon which it is urged, present the very point. That language is, that territory now free should remain free. If it be free, then, must it not be so until slavery be authorized by law? Slavery is the creature of law; it does not exist by natural right. I ask the gentleman from Pennsylvania, how is slavery to go to California, if that Territory be, as he says, now free?

Mr. WILMOT said, in reply to the question, that slavery would go there as it had gone into every portion of the American continent—by violence and fraud. The whole history of slavery showed the necessity of positive prohibition. It had gone up to the very line of legislative prohibition. Why was it that it had stopped at the Ohio, and did not go north of it? Why did it stop at the latitude of 36° 30′ west of Missouri? It was because the ordinance of 1787 prohibited it in the former case, and the law called the Missouri compromise in the latter.

Mr. MURPHY resumed. He was happy to hear the gentleman, but in his opinion he had not given a satisfactory answer to the question. If fraud and violence should succeed in establishing slavery in California against the existing law there, it would do so in opposition to any law Congress should pass. But it was not true slavery had been introduced anywhere in this country by such means. It was introduced into the American Colonies by the free will and consent of the people of the Colonies. No foreign power had ever attempted it. It was a peculiarity of African slavery, that while it was adopted by all the American Colonies, it never existed in the mother countries of Europe. There was no necessity for fraud and violence to introduce slavery, especially as it was not considered by our fathers as an immoral or anti-republican institution. The first law upon the subject of slavery, recognizing and authorizing it in any of the old thirteen Colonies, was passed by Massachusetts in 1641. That law authorized slaves to be held, and provided that they should be treated in the same way that the law of God, established in Israel, required they should be treated. Here was an express acknowledgment by the Pilgrim Fathers of the consistency of slavery with the law of God. William Penn, the great philanthropist and friend of human rights, was a slaveholder, and one of his descendants, while Governor of Pennsylvania and Delaware in 1775, refused his assent to a bill passed by the Assembly of the latter Colony prohibiting the importation of slaves. So much for the morality of the institution in the estimation of our pious ancestors. In regard to its violation of human rights, Thomas Jefferson, the author of the Declaration of Independence, of that instrument which declares that all men are created free and equal, did not so consider it, or else he would not have remained and died a slaveholder. In fact, African negroes were not considered in the category of men, as spoken of in that great instrument, by Americans, either North or South. I have recently read in the Boston Gazette of the 22d July, 1776, an account of the ceremonies on the publication of the Declaration of Independence in that city. It was proclaimed amidst the firing of cannon, the ringing of bells, and the shouts and huzzas of the people. A grand entertainment was given on the occasion, when patriotic toasts were drank in favor of universal liberty and the downfall of tyranny. Yet they were slaveholders; for in the same paper in which this republican pageant is so glowingly

described, there is an advertisement of a stout negro man for sale. The fact is, the fathers of the Revolution did not mean to include the African slave within the description of those entitled to freedom; else they could not have been so inconsistent as the language of the Declaration would imply. I do not mean to defend them in this particular or to justify slavery, but to present the fact in reply to the suggestion that slavery existed against their consent.

The gentleman refers to the ordinance of 1787 as a precedent, showing the necessity of prohibition. With due submission to his opinion, I beg to say it is not a case in point. The territories which we are now considering are now free from slavery. It is expressly prohibited there by the local law. It was otherwise in the Northwest Territory covered by the ordinance. That territory was considered as a part of the State of Virginia, and the United States derived its title to it by the cession of Virginia. As a part then of Virginia, it was, at the time of its cession, subject to its local laws upon the very principle I have asserted; and as Virginia tolerated slavery, this territory was slave territory. In fact, slaves were at the time actually held in it, at Kaskaskia, in Illinois. The prohibition in the ordinance was therefore properly introduced to effect the object intended by it.

I therefore repeat, that slavery could not go to the new territories without the positive enactment of Congress, or by the people there, acting by permission of Congress. The adoption, therefore, of the proviso prohibiting slavery is unnecessary. On the other hand, considered as a legal proposition, its adoption can do no harm. Those, therefore, who oppose it, and those who advocate it, equally give it an importance to which it is not entitled.

The power of Congress to legislate for territories acquired since the adoption of the Constitution, results from our right to acquire them. This proposition I sought to establish on the occasion of my former remarks. But it does not follow because we have the right to legislate upon the question, that we should exercise it directly. To establish that power in Congress, is to deny the doctrine which has been contended for here, that citizens of the United States going into the new territories have the protection of the laws of their States in regard to their property there. So far as is necessary to reject this doctrine I go; but I maintain the further proposition, that Congress should provide for local legislatures in the territories by which all questions of internal policy, including slavery in those territories, should be determined.

There is nothing in the Constitution which deprives the people of the territories of the privilege of self-government; and by the same argument which the authors of the American Revolution contended for it in the colonies, are the people of our territories entitled to it. Certainly our colonies are in no greater dependence upon the United States than were the old thirteen colonies upon the Crown of Great Britain. The American doctrine was set forth by the Continental Congress of 1774, in the following words:

"The inhabitants of the English Colonies in North America, by the immutable laws of nature, the principles of the English Constitution, and the several charters or compacts, have the following rights:

"*Resolved*, 1. That they are entitled to life, liberty, and property, and they have never ceded to any sovereign power whatever a right to dispose of either without their consent.

"*Resolved*, 2. That our ancestors, who first settled these colonies, were, at the time of their emigration from the mother country, entitled to all the rights, liberties, and immunities of free and national born subjects, within the realm of England.

"*Resolved*, 3. That by such emigration they by no means forfeited, surrendered, or lost any of these rights; but that they were, and their descendants now are, entitled to the exercise and enjoyment of all such of them, as their local and other circumstances enable them to exercise and enjoy.

"*Resolved*, 4. That the foundation of English liberty, and of all free government, is a right in the people to participate in their legislative council; and as the English colonists are not represented, and from their local and other circumstances cannot be properly represented in the British Parliament, *they are entitled to a free and exclusive power of legislation in their several provincial legislatures*, where their right of representation can alone be preserved, IN ALL CASES OF TAXATION and INTERNAL POLITY, subject only to the negative of their sovereign, in such manner as has been heretofore used and accustomed. But, from the necessity of the case, and a regard to the mutual interest of both countries, we cheerfully consent to the operation of such acts of the British Parliament, as are *bona fide* restrained to the regulation of our external commerce, for the purpose of securing the commercial advantages of the whole Empire to the mother country, and the commercial benefits of its respective members; excluding every idea of taxation, internal or external, for raising a revenue on the subjects in America, without their consent."

These resolutions affirm the principle that in all questions of internal policy, of which slavery was one, the colonies had the *exclusive* jurisdiction. The same jealousy of the right of the people to regulate all municipal matters affecting themselves was exhibited in the different Provincial Congresses, when they instructed their delegates to vote for the Declaration of Independence. Thus, Virginia instructed her delegates to propose to the Continental Congress to declare the colonies independent, provided the power of forming government for and the regulation of the internal concerns of each colony, be left to the respective Colonial Legislatures. North Carolina, Connecticut, Pennsylvania, New Hampshire, Delaware, New Jersey, and others, did the same. If the people of Delaware and Rhode Island, not as numerous then or even now as the people of California or New Mexico, were entitled to this privilege, why are not the latter entitled to it at our hands? There is no difference in principle between the two cases, nor between the territories and the colonies.

Our Territories are to be considered in two points of view, and it is the confounding of ideas in regard to them that has produced the difficulty which surrounds this question. They are colonies when viewed in reference to the inhabitants, and domain as regards the land. The Constitution, when it confers upon Congress the power of making rules and regulations for the disposal of the territory and other property of the United States, refers to them as property. It has no reference to government over the people. It merely creates a trust to be discharged by the Federal Government, of selling the lands for the common benefit. On the other hand, the people going there possess the same right of regulating their own internal affairs, as did the old American colonists. The duty of this Government is, to authorize them to exercise it; and in all matters of external policy and foreign interference, to regulate and protect them, and to organize them into States whenever they shall, under the Constitution, be entitled to admission into the Union.

The doctrine so frequently asserted by southern gentlemen on this floor, that the citizens of the South have a right to take their slaves to California and enjoy them as property, is in direct conflict with the republican principle which I have laid down, because they seek to force slavery upon them, without their consent, by the laws of individual States. Now, no State can impose her laws upon another: why can it upon a territory? Slaves are property only by law of the State in which it is tolerated; just as the right of the husband to convert the personal property of his wife to his own use is the law of particular States. In Louisiana, and I believe in California, the law is different. A wife there holds her personal property independently of the control of her husband. Why, then, may not a citizen of New York as well claim property in his wife's goods, should they go to Louisiana or California, as for a citizen of South Carolina to claim property in his slave there? The truth is, both these rights are created by the laws of the States, and, being purely local in their character, cease to exist whenever the jurisdiction of the local authority creating them terminates.

In this connection I may refer to another part of the same argument, that because this new territory has been acquired by the common treasure and the common blood of the North and of the South, the citizens of the South have a right to go there with their slave property and be protected in it, and that the exclusion of slavery destroys the equality of the States of the Union, and gives the North an advantage over the South, inasmuch as northern citizens may immigrate to the territory with their property. So far from this being so, the converse of the proposition is true. The claim of the South, if allowed, will produce this very inequality. The slave property of the southern States has now a fixed available value which its owners can realize there. If they wish to immigrate to California, they can take the proceeds of this property with them, and they can have no object in taking their slaves with them, unless they expect them to be enhanced in value. Such probably would be the effect. Introducing slaves there would increase the value of those left behind as well as those taken. In this respect, therefore, an advantage would be enjoyed by the South not participated in by the North, and so far an inequality would be created against the North.

I proceed to speak of the duties of Democrats on this question; they are plain. While there has been a division among them in opinion in regard to the power of Congress to legislate for the territories, there has always been a common ground upon which they have stood in regard to legislation upon the particular subject of slavery—that of non-interference with it by Congress. Democracy strikes both for liberty and for union. The father of our political faith, the immortal Jefferson, was the author of the famous provision prohibiting slavery in the Northwest Territory. Though a southern man, he participated in our northern feelings in regard to that institution. He knew it to be an evil to the people where it existed, and he wished to see it eradicated from the land; but when it was attempted in the Missouri question to make it a political question by which men might be elected to office, and the North and South arrayed against each other, he denounced the attempt as a trick of hypocrisy, producing geographical divisions in order to secure the then next President. The gentleman from New Hampshire calls this a change of opinion by Mr. Jefferson. It is not so. So long as the question was as to the best means of getting rid of slavery, he was foremost; when it was made a hack for political purposes, he denounced the motive. This was no inconsistency. It is the ground which the Democrats of the North, and especially of New York, have long occupied. We are opposed to slavery, as is shown by our abolition of it; still we have been taught by our political fathers, and by Mr. Van Buren especially, that the question should not be brought into Congress, even as relates to this District, in regard to which it is our bounden constitutional duty to legislate upon all internal and municipal affairs. It has been the uniform doctrine of our national conventions. That which nominated Mr. Van Buren for President declared, that "true republicans can never lend 'their aid and influence in creating geographical 'lines, and can never engage in such schemes with-'out violating their principles—principles which 'tell them that they are all brothers, each left with 'a rich inheritance by their fathers, which can 'never be cancelled while they forbear to meddle 'with the local feelings and domestic relations of 'each other." To these principles Democrats have until the last election unitedly adhered. At that election a majority of the Democrats of New York still adhered to them, and though my colleague who addressed the House the other day, spoke of the Democracy of New York as if they had gone with Mr. Van Buren in his change of opinion on this point, I beg to say that they have sustained—so far as a majority may be considered as speaking for the whole—the doctrine of non-interference.

Mr. STARKWEATHER, interrupting Mr. M., inquired, what evidence have you of the fact? Thirty thousand Democrats did not go to the polls. Your candidate fell below Mr. Van Buren over six thousand votes, and was in a minority.

Mr. MURPHY. Mr. Van Buren received fifteen or twenty thousand Abolition votes. Deduct them from his whole vote, and he falls below General Cass. Deduct as many more Whig votes, which Mr. Van Buren received under the Free-soil organization, and you have him far in the minority of the Democratic vote.

Mr. STARKWEATHER. Does not the gentleman know that many Democrats in New York city voted for General Taylor?

Mr. MURPHY. Yes; but they were not Free-soilers, else they would not have voted for a slaveholder.

Mr. STARKWEATHER. On what ground, then, did they vote for Taylor?

Mr. MURPHY. On the ground of military distinction, and the belief that, not having been an

aspirant for the place, he would conduct his administration with moderation.

Mr. STARKWEATHER. They voted for him on the ground that he would not interpose the Executive veto to any bill Congress might pass in relation to slavery in the Territories.

Mr. MURPHY. I know of none such. So far as came under my observation, the Free-soil party to a man voted for Mr. Van Buren, at least such of them as had previously acted with the Democratic party; and what is more, they all went to the polls. It was not so with many of the Democrats on the other side. They staid home, hundreds and thousands of them, because they knew all effort was hopeless to secure the vote of New York for General Cass. Had they all gone to the polls, his vote would have been much greater.

Mr. STARKWEATHER. How is it that Van Buren and Cass together only received sixteen thousand votes more than Taylor?

Mr. MURPHY. I have explained that already. Many democrats did not vote; while on the other hand, many Whigs voted for Mr. Van Buren. General Taylor did not receive the full Whig vote. Many distinguished Whigs openly repudiated and voted against him—such men as Willis Hall, and, almost, my colleague over the way [Mr. GREELEY.] That they could not all have voted for General Taylor is evident from the fact, that the full Whig vote is about 245,000, while he only received about 216,000 votes. On a fair test between the Whigs and Democrats, the latter have a majority of ten thousand; and, Mr. Chairman, I trust the time is near at hand when, forgetting our present causes of difference, all good Democrats will unite in driving the Whigs from power. At least, I do not mean to quarrel with my colleague or any one else in relation to these difficulties. What I have said has been for the purpose of justifying the course which those who sustained the regular nomination at Baltimore thought proper to pursue at the late election, and of testing their conduct by the principles of our ancient faith. There is another authority to which I must refer, that of a great man in the political annals of our State, who has rarely had his equal and never his superior in the Union, for high integrity, pure heart, and clear, unclouded intellect—I mean Silas Wright. Although opposed to slavery, he was also opposed to making it a political question. He deprecated it as a sectional issue, in words which I will read to the House.

Mr. COLLINS here rose, and asked Mr. MURPHY to yield the floor in reply.

Mr. MURPHY. In a moment, sir, after I have read the extract. I know what you wish to refer to—the letter to Mr. Titus. In that letter I agree with him. He there said he was opposed to the acquisition of more territory for the purpose of extending slavery. So are we all. But the question is, what shall we do with it after it has been lawfully obtained, and not for such purpose? I apply the language which he himself used many years ago, on another occasion, but intended to apply to an occasion like the present. Principles do not change. What was then truth, is truth now. [The hammer here fell, and the Chairman declared the hour expired.]

Mr. MURPHY said he would furnish the quotation for the printed report of his speech. It is as follows:

"If there be those among us," said Mr. Wright, "who, misled by a mistaken sympathy, or by sudden excitement, upon any subject, are forgetting their obligation to the whole country, to the Constitution, and the Union, let us use every effort of persuasion and example to awaken them to a sense of their dangerous error. If those, who, for the sake of private interest, personal ambition, or momentary political success, are willing to experiment upon the public passions, to treat lightly their constitutional obligations, to foment sectional jealousies, and raise up geographical distinctions within the Union, let the absence of our countenance and support convince such that the personal gratification, or public services of any living man, are not objects of sufficient magnitude to be gained at the expense of the harmony of the country, the peace of the Union, or a single letter in the list of our constitutional duties. If among us there be any, which Heaven forbid, who are prepared, for any earthly object to dismember our Confederacy, and destroy that Constitution which binds us together, let the fate of an Arnold be theirs, and let the detestation and scorn of every American be their constant companions, until, like him, they shall abandon a country whose rich blessings they are no longer worthy to enjoy."

SLAVERY IN THE TERRITORIES.

SPEECH OF MR. A. ATKINSON,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

March 1, 1849,

In Committee of the Whole on the state of the Union on the Indian Appropriation Bill.

Mr. ATKINSON said:

Mr. CHAIRMAN: I have been a Representative in Congress for six years. I have mixed and associated with those from every portion of the Union; differences of principle and of interest have often divided us; the passions of our nature have been sometimes aroused, and conflicting views of public policy have threatened to sever the ties that bind us together; yet I trust that I shall separate from my co-laborers here without a spark of enmity to any, and in peace and good will with all. It is time that I should give way to others who are doubtless as ambitious of honors and distinctions as I am, equally emulous of kindness and favors, and better qualified, it may be, to protect and advance the interests of my constituents. In dissolving, however, the relation which so long has subsisted as Representative and constituents, I am proud to acknowledge my profound gratitude for their repeated evidences of regard and confidence. To be useful to my country, true to my trust, and faithful to my constituents, are the characteristics which I have sought to make conspicuous in my course. Their will, and the principles of the Federal Compact as construed by the Democratic party, have been my only guides. How I have succeeded is for others, not me, to decide. My public acts stand upon record, open to the examination and subject to the approval or condemnation of those who have trusted me. By them I must stand or fall, and I cheerfully submit to the award of a generous constituency. If, in discharging the duties of this responsible station, I have given satisfaction to those to whom I am responsible, and rendered some small service to my country, I shall have secured, and shall enjoy in my retirement, the highest and best reward that a public servant can desire.

In retiring to private life, in the pursuit of domestic pleasures, to which my taste and inclination have long inclined me, I cannot forbear to express my unabated devotion to the principles of Democracy, and an ardent hope that their influences may continue to spread till they shall produce the happiest results to the civilized world.

Sir, every day furnishes to my mind fresh proofs, not only of the wisdom and patriotism of the illustrious men who framed our Constitution, but of the truth of that construction of its spirit and meaning, as expounded by the Republican party. According to this construction, no theory of government yet conceived can equal the moral beauty of the actual system under which we live, and under which, in a few years, we have attained a national prosperity and power, without a parallel in the annals of history.

Although apparently complicated in consequence of the separate relation we bear to two distinct governments, *those of State and Federal*, and seemingly dangerous in consequence of collisions which may arise between them, yet, upon inspection, it is found that the whole machine is simple in its mechanism, and harmonious in its operations.

Regarding as we all do, that the sovereignty of a nation legitimately and of right belongs to the people, (not in parts and parcels, but in its entirety,) and that governments are only emanations of that sovereignty—only manifestations—exhibitions of its power and action—all difficulty in comprehending the true character of our system at once disappears. To each of these governments, separate and distinct powers have been granted, and so long as each shall confine its action within the limits prescribed for it, so long will everything move smoothly and successfully along. It is only by encroachments upon the lawful domains of each other, that danger can possibly arise.

Mr. Chairman, the first exercise of sovereignty by the people of this country, after securing their independence, was exerted in the formation of their State governments, whose powers and duties were defined in a written constitution, and confined to subjects of a local, municipal, domestic character.

The next occurred at a subsequent period, and resulted in the formation and adoption of the Federal Government, whose powers and duties were in *like* manner defined and specified.

These powers are few in number, and relate to subjects of an *external* character—to our relations chiefly with foreign nations, to the protection and defence of the people, and to such other general interests as could be more advantageously managed by the Federal than by the State governments—such as the coining of money, the regulation of weights and measures, the postal system, and some others.

In the grants of power made to the Federal Government by the Constitution, and in the limitations or reservations of power, there is exhibited an amount of sagacity and wisdom which all the combined powers of human intellect could not have produced; and there is no event, no circumstance connected with the history of our Revolution, and of those times, which displays the wondrous workings of the Almighty Mind in a more remarkable degree than the formation and adoption of that immortal instrument. This bond of union is not the work of the closet; it is not the result of deliberation or deduction; it is no artificial device of man's art or cunning; but it is a compromise of jarring and conflicting interests—a general resultant of the combined action of opposing forces—a consequence of laws operating upon humanity, as inevitable and as necessary as are any of those which we daily and hourly see in the physical world under the invariable relations of cause and effect. Such, sir, was the jealousy of the different sections of the country towards each other, and especially of the State governments towards the new government then to be established, that every word employed was weighed with care, with deliberation, and caution. The precise import of the language was duly ascertained and determined; and it may be said, that the change of a single important term, the least abstraction or addition, would have defeated the great object in view. It could not have been otherwise; but, like every other effect resulting from natural causes, the instrument, as adopted, created not only the best system of government that could have been devised, but, *under the circumstances, a perfect system.*

Such a confederation was necessary and indispensable for the happiness, the independence, and the security of the whole. Without it, the blood and treasure expended in the revolutionary struggle would have been poured out in vain. In their separate and distinct character, with a sparse population, and extending over a large surface, although the States would have been perfectly competent to manage and conduct their own *internal* concerns, they would still have been constantly exposed to collisions and disputes among themselves, and at all times subject to the dangers of foreign invasion and subjugation. Bound, as they now are, under a Federal compact, with powers limited to a few specific general objects, our nationality has been preserved, and a degree of prosperity, greatness, and happiness secured for ourselves, in this point of view, unknown to all former times. While retaining their own sovereignty over all subjects of a domestic kind, they are permitted to pursue their own individual aggrandizement, under their own peculiar institutions, in their own way. Sir, the entire system is novel and unique; nothing similar to it is to be found in the world's history. Its success has been beyond all calculation; its influence has been pervasive; it is now shedding its beams over the whole earth; it is attracting the admiration of every nation, and directing their eyes to the "Model Republic," after which to build up and reconstruct the ruins of the old European regime, whose separate dynasties are successively and rapidly falling into decay. The tree of liberty planted by our fathers has, under its influence, found a genial soil on the American continent, and taking deep root, has extended its branches from sea to sea, affording shelter and protection to the millions who are destined to take up their abode beneath it.

The Constitution, proceeding from the sovereign will of the people, has given vitality to the spirit of Democracy, which has produced an upheaving among the masses, to the dismay of kings and

potentates, to the toppling down of thrones and principalities, and tends to the establishment of equal rights, of equal privileges, and of freedom to all. This spirit has stamped its impress upon the age in which we live, and marked it as one of the grand epochs of human civilization; it has gone forth "conquering and to conquer," and in the fulfillment of its high destiny, will not be staid in its progress, so long as there may remain a *tyrant* to be dethroned, or a *serf* to be ennobled. Sir, I have said that the formation of the Federal Government was the result of a compromise of conflicting interests. It was natural, therefore, that men who had come together under the influence of their own preconceived theories, should have felt mortification at the result, and a distrust in the successful operation of their work. The greatest and best among them were alike subject to these misgivings, yet, as devoted patriots, when they saw the indispensable necessity for a union of some sort, and that it could be secured only upon the conditions prescribed by the instrument which they had adopted, they united warmly and heartily in recommending it to the adoption of the American people; and we find such men as Alexander Hamilton, John Jay, and James Madison, though differing widely in many of their views, zealously devoting their combined talents to secure *to it* the favorable consideration of their fellow-citizens.

One of the most serious grounds of apprehension was as to the powers which had been conferred upon the new government: one class of men believing that its powers were too feeble to preserve the system in order, or to hold together in one union a people occupying so large a territory as that embraced within the jurisdiction of the old thirteen States; and that, when the population became dense, it would necessarily fall by the mere pressure of its own weight. Parties were consequently formed at an early period upon this ground; and those who partook largely of this alarm sought, by a latitudinous construction of its language, to supply the deficiencies which they conceived to exist. Hence a train of measures was devised, with the avowed object of enlarging the powers of the General Government—such as a funded debt, a national bank, alien and sedition laws, an increase of patronage by any means; at the same time they made a strenuous opposition to any enlargement of our territory. The other party advocated, and have continued to advocate up *to this day*, a directly opposite policy. The Republican party contended that the powers of the Government were as great as it would be safe for them to be, and that this power would continue to increase with the increasing population and business of the country. They have therefore contended for a strict construction of the Constitution, for confining the action of the Government to the specific powers confided to it according to the true and natural meaning of its language, and for an economical administration of all departments of the Government. The experience of little more than half a century has demonstrated the utter fallacy of any just ground for apprehension on account of its too limited powers. Happily for *us*, and happily for the world, this Government has been mainly administered upon the principles and in accordance with the views of the Republican party; and it is believed, that at this moment, there is not a single measure which has been at any time adopted or advocated by the Federal or Whig party *now* in operation; and there is no point of view in which the character of the two parties, the "Whigs and Democrats," can be seen in bolder relief, or in more striking contrast, than is to be found *in that fact*. Within the short space of our existence, the number of States has more than doubled; our territory has been increased *three*-fold; while our population has grown from three to upwards of twenty millions of souls. Our commerce has extended over every sea; our manufactures are successfully competing in foreign markets with those of older countries; and our agricultural products amount annually to an almost incredible sum. A foreign war has been successfully waged upon the enemy's soil; our arms have been crowned by a series of victories the most brilliant on record, and our national character abroad more respected and admired than at any former period. Indeed, sir, so complete and so triumphant has been the success of Democratic measures, that our nation at this time stands as a monument of wonder and astonishment to the Governments and people of Europe; and while we look upon *her*, as she *now* appears before the eyes of the world, could we but turn and take an imaginary view of the picture that she would have presented under the operation of Federal and Whig rule, disgust and mortification would take the places of wonder and admiration, and *that party* itself would stand amazed and abashed at the haggard and gloomy portrait which would thus be drawn.

Experience has proved, not only the truth and wisdom of the democratic views in regard to the powers of the General Government, but it has brought out a latent fact which was not before conceived. The preamble to the Constitution clearly explains the objects which the Convention had in view. These were, "to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and posterity." For, notwithstanding provision was made for the admission of new States into the Union, it was not conceived that they would be extended to the present number, or go much beyond that of the Old Thirteen. It never entered into the imagination of our fathers, that they were establishing a system which might be safely carried to the whole extent of this continent, and it may be, of the earth itself: and, sir, by the rigid adherence to the democratic policy of keeping the action of the General Government within the powers to which it has been limited, our territory may be indefinitely extended without encroachments upon the rights of any; and the manufacturers and fishermen of the North and East, the cotton planters of the South, the grain and hemp raisers of the West, and the gold diggers of California, may safely enter into this alliance, where protection is secured from violence from without by the power of the Union, and the local interests of each are left to be defined and regulated by local legislation of their own. Sir, it is only by a departure from this policy that difficulties can arise and dangers threaten. The natural tendency of every Government is self-aggrandizement; and we find that the Federal Government is ever making efforts to encroach upon rights reserved to the States. It has been by these encroachments and assumptions of power over subjects not within its jurisdiction, that the peace and happiness of our country has ever been disturbed or broken: so far from being too weak, its great and daily increasing power has become one of the most alarming features in our system. Sir, the application of steam to the purposes of intercommunication and trade—the wonder-working influences of the electric wires in transmitting news with lightning speed from one part of the Union to another—the necessary enlargement of its patronage by the increase of wealth and population—all tend to strengthen the arm of this Government, and give to it an undue preponderance and influence. If to these *natural* and *necessary* sources of power, *under a strict construction*, be added those which would spring from the measures of our political opponents—a funded debt, enriching the few at the expense of the many; a national bank, insinuating its influence into and regulating every branch of industry; a high protective tariff, heavily and unjustly taxing one portion of the country for the benefit of another; a system of internal improvements, addressing itself to the cupidity and interest of different sections as a bribe, and thus drawing them as suppliants to its footstool,—the power of *this* Government would overshadow everything else, and acquire a position from which it could be displaced only by the indignant uprising of the people themselves. It becomes us, then, to be more vigilant than ever, in keeping its action within its prescribed limits, and to repel the first manifestations of its tendency to encroachment and usurpation upon the rights of the States.

Sir, the time occupied by me in giving this brief synopsis of the theory of our Government, may by some be considered a waste; but, depend on it, sir, nothing can be lost, and much may be gained for the benefit of religion and of politics, by a frequent recurrence to fundamental principles; indeed, I am quite sure that a daily reading of the Constitution of the United States and the Declaration of American Independence, would go far to preserve the purity of our system. Intending, sir, to speak now my valedictory to my constituents, I shall be excused for taking a rapid view of the principal measures that have agitated the public mind since I had the honor to become a member of this House.

I first appeared as a Representative in Congress during the administration of President Tyler, who had reached that exalted station under peculiar circumstances, which placed him in the singular position of a President *without a party to sustain him*. I had no hand in his election; but feeling then, as I now do in regard to the incoming Administration, a determination to approve and support what I believed to be right, and oppose the wrong, I gave to the general measures of *his* Administration my *earnest support*.

Sir, in the campaign of 1844, the two political parties were at issue upon four leading questions—these were the annexation of Texas, the adjustment of our title to Oregon, the repeal of the Whig protective tariff of 1842 with its odious minimum principle, and the reëstablishment of the independent treasury. They were clearly and distinctly announced in the address of the Baltimore Convention—were fully discussed—our candidates were elected as the exponents of our feelings upon these important questions. The contest was maintained with zeal and ability—the battle was fought—Whiggery was vanquished, and Democracy triumphed.

Under ordinary circumstances it would be no common compliment to an Administration to say, that *in one term* it had carried through all the measures proposed by the party electing it; but *such* a compliment paid to those who have been in power sinks into insignificance when the important character of the measures, the wide-spread influences which they have exercised upon the world, and the splendor of their success, are duly considered. Mr. Chairman, you cannot have forgotten the gloomy picture of misery and woe which our political opponents drew as the certain consequences of the adoption of our policy. When the President (after a dilatory and unsuccessful negotiation upon the settlement of the Oregon question) recommended that the notice to dissolve the joint occupation of that territory, required by the treaty, should be given to England, the Whigs contended that *such* notice would be a *quasi* declaration of war, and that war with that *power* would be the certain consequence.

The notice, however, was given—Oregon was acquired, and no war succeeded.

The annexation of Texas was consummated under the administration of Mr. Tyler. The Whigs, therefore, were compelled to change the mode of their attack upon the present Administration, and affirmed that the war with Mexico was the war of Mr. Polk, and brought on by the order to advance our troops under General Taylor from Corpus Christi to the banks of the Rio Grande. It is a sufficient refutation of this charge, or rather a sufficient proof of their insincerity in making it, to know, that whilst they denounce the President for this movement of the troops, they have elected to the Chief Magistracy of the nation the *very man* upon whose recommendation it was ordered. But the war—according to the predictions of these patriotic citizens, the Whigs—was to be a most disastrous one to the nation. Our farmers and mechanics were to be dragged from their homes, and forced into a most inhospitable climate, subjected to disease, privations, and wants of all kind. Our armies were to be everywhere disgraced, and our country loaded with an enormous debt. How, I pray you, sir, have these predictions been verified? Instead of disasters, we have an unbroken succession of victories; instead of farmers and others being dragged from quiet homes, we have an hundred thousand volunteers ready to rush to the tented field; instead of an enormous debt, we have a debt it is true, but of an insignificant amount compared with the vast resources of the country, and the rich and extensive territory acquired. Never, never could predictions have been more ill-timed and ill-advised—never could prophets have been more false and more disgraced.

In regard to the establishment of the independent treasury, (which is intended to separate the Government funds from the banking system,) and the substitution of the present revenue tariff for the

protective tariff of 1842, our opponents were equally vociferous in predicting the most direful consequences. The loss of our commerce, the overthrow of our manufactures, the prostration of the banks by the expulsion of the precious metals, the ruin of private credit, a diminished revenue, a degraded treasury, and a bankrupt Government, were the sure and certain consequences upon the adoption of these measures. Such, sir, was the fancy-sketch portrait by the wild imagination of the Whig party. But what is the full-life picture which history presents? A largely increased commerce; the most flourishing state of our manufactures; entire solvency of the banks where their management has been dictated by prudence; a much enlarged importation of the precious metals; private prosperity unprecedented; a largely increased revenue, exceeding by millions even the estimate of friends; an abundant treasury; and a Government whose credit has commanded loans of any amount, and always (even in time of war) at a premium, and being at this day as high as twelve or fourteen per centum. These are the rich fruits of Democratic measures, which have made our country erect, and rising, like some vast Colossus standing between two seas; and while, with one hand, she has chastened the insolence and petulance of a neighboring power, like a kind mother correcting the faults of a wayward child, she was seen stretching the other across the broad Atlantic, pouring from the horn of her plenty, as a free-will and a free-gift offering, its rich contents into the lap of famishing and starving Ireland.

I would, sir, that I could here close my remarks, already extended, I fear, beyond the patience of the committee; but duty bids me on. Sir, in the midst of blessings so abundantly showered upon us as a nation, *one* gloomy object stands as a dark cloud in the vista before us. It seems big with danger, and if it be not averted, by *timely* and judicious action on the part of the people of the South, and by a prudent and proper forbearance of those of the North, threatens our beautiful fabric with violence and destruction.

The people of the various States constitute (for certain purposes) one great family. In the confederacy of States, we are copartners; we ought to work together for the general safety. Let us not deceive one another. It were unwise, unjust, unchristianlike, unstatesmanlike, to withhold the truth and to dissemble when dangers threaten to disturb our harmony. Let us be wise; let us calm the troubled waters, and save the ship of state. Sir, the people, in the exercise of their sovereignty, are almost daily speaking, through their State authorities, to us, and indicating their will upon the portentous question that so much agitates this nation. I am aware that many here regard with seeming indifference the lively sensation that has been produced in the South. They believe, or affect to believe, that there is discord and division among them which will render their preambles and resolutions but as spiders' webs, to be broken at every breeze; but I say, in all sincerity and truth, to my friends in this Hall, and to their constituents, *Be ye not deceived.* I speak, sir, not in a spirit of threat and defiance, but in the spirit of a brother—of one who represents, in part, a State that loves the Union—and I tell you, that Virginia, my good old mother, has never, will never *resolve, without courage to execute.* She has planted herself upon her rights. She has pledged her sacred honor to resist aggression *at every hazard.* Virginia seeks not to dissolve this Union. We of the South are not disunionists; we are not disorganizers; we wish rather to add strength and vitality to the Confederation. We stand upon our rights, as the best and surest means of safety against the base and selfish purposes of ambitious demagogues and unscrupulous politicians.

But we of the South are constantly told that we are assailing the North and East, and demanding privileges that they cannot enjoy. This, sir, is a false issue that they tender; and I should be unfaithful to my constituents were I to permit them to be hoodwinked by so thin and so deceptive a veil. Let us, sir, view this controversy as becomes statesmen and patriots. Let us "nothing extenuate, nor set down aught in malice."

As the just reward for a free outpouring of our blood and treasure, New Mexico and California are ours; and it is our solemn duty to provide, with the least possible delay, and according to the plain principles of the Constitution, for the inhabitants regularly organized territorial governments.

In the language of the Democratic friends of General Cass, in meeting at Marshall, in the State of Michigan, as late as the 27th of January, we contend "that the people of Territories are equally capable of governing themselves, of framing their own municipal laws, and regulating their own domestic affairs, as the people of the States; that the General Government is not the creator, but merely the creature of the sovereign States, created for national purposes only, and with specified and limited powers, and that the power of exercising municipal authority over the people of either States or Territories, touching their municipal regulations or domestic institutions, has never been ceded to the General Government, is *not* a *necessary* incident thereto, and cannot therefore be rightfully exercised; that the 'Wilmot proviso,' so called, is one of the most absurd political humbugs of the day, and has been seized upon by demagogues to distract and disorganize the Democratic party, and is well calculated, in the end, to engender bitter political feuds, and to array the people of one section of the Union against those of the other, without the least resulting benefit to the country, or those in servitude." We ask not that Congress shall legislate specially in our favor, but that you will not molest, not cripple us, not exclude us from that rich and vast domain which has been acquired by the blood and treasure of all the States. We ask no extension of slavery by law, no discrimination in our *favor* or *against* us. But we demand as a right, that you will throw no shackles around us; that we shall not be prohibited from immigrating with our property into any of the new territories. Because *we are slaveholders*, do not, for that reason, disfranchise us of a privilege granted to all others, whether savage or civilized, without regard to character or color.

By the Constitution, Congress is authorized to dispose of and make all *needful* rules and regulations concerning the territory or *other* property of the United States. Now, sir, it is plain and evident that these powers are restricted to *needful* rules, and *they* must concern the territory *as property*—and "other *property* of the United States,"—not the people of the Territories, but the public lands and other public property of the United States. You may make regulations and rules concerning the dock-yards, the arsenals, the ships, the armament in the navy-yards; but it never, I suppose, entered into the imagination of man, that Congress, under that clause, could make the municipal laws to govern the citizens living at Old Point Comfort, and other places belonging to the United States, so far as to regulate the kind of property they may possess, or the manner in which their estates shall descend, *in case of intestacy.* It is not an express power, nor is such necessary and proper to regulate and dispose of the *territory* or other *property* belonging to the United States. It therefore follows that Congress has no power to ingraft the Wilmot proviso. But suppose you had the power, you would not be compelled to exercise it; and *so* to exercise granted powers, as unnecessarily to injure the people of any of the States, would be an act of gross injustice, amounting to little less than unmitigated tyranny. You should not, *if you could*, confine the slaves within such narrow limits as to injure them, and make them eventually a burden on the old States in which they now are. Sir, if some inhabitant of another sphere, in looking at the valuable and extensive possessions we have obtained from Mexico, could see us, and hear the childish objections that are raised against an *unconditional* territorial bill; if he could see us passively permitting the people of other countries to carry off its rich treasures, leaving anarchy and murder, and all the crimes to which our nature is exposed, to wanton and revel among our citizens who have immigrated thither: what would be his exclamation of wonder and surprise? Think you, sir, his deductions would be in any way creditable to our character as wise, as prudent, as patriotic, or even as reasonable men?

Mr. Chairman, I have no complaint to make, no unkind epithets, no anathemas to hurl against such as vote in accordance with the will of their constituents, if that will does not require them to violate the Constitution. Yet I hold no man *guiltless* whose every move here indicates a settled purpose to agitate this delicate question, when he must know that no necessity exists, and that no bill can become a law with the Wilmot proviso appended to it. I honor the Democrats of the free States, who, upon this question, have heretofore stood by the Constitution and the rights of the South; if, in so doing, they have been sacrificed, they have fallen in defence of the honor of their country; and when reason shall rule the hour, they will find their reward in the hearts of a grateful people.

What, let me ask in all earnestness, are the causes which operate upon Congress in withholding a territorial government for California and New Mexico? Does not every consideration which should operate upon rational minds, or upon reasonable beings, present themselves to prompt us to speedy action upon this subject? We have acquired a territory which seems to abound in mineral wealth; and its abundance is setting the whole world agog; people from every quarter are rushing by thousands to acquire its treasures. Our own people find themselves elbowed at every turn by foreigners, who would put them aside, and appropriate to themselves the fruits acquired by the valor and blood of our own brothers. The law of force is becoming the ruling principle of action; massacres and death are rife in the midst; robberies and rapine must soon follow: yet, in the midst of all, *apathy and indifference* mark our course, and *you* hug to your bosoms the Wilmot proviso, though its fangs may reach the very vitals of the body politic.

Mr. Chairman, it has been said here, that in the support given by some of the slave States to General Taylor and Mr. Fillmore, this question has been given up. This, sir, is an error. In the free States, the politicians of the Whig party asserted boldly that General Cass was in favor of southern institutions, and pointed to the Baltimore platform and the Nicholson letter. But, in the slave States, these same gentlemen declared that the platform and the letter of Cass were deceptive; that slaveholders should, of right, support a slaveholder, whether he was Whig or Democrat; that the southern Whigs were themselves opposed to the proviso; that the interest of General Taylor was in common with theirs; and when the Democrats asked them for his pledges, they pointed to his slaves. Did I say that the people were deceived? Yes, sir, it is true that, in the North, the President elect was supported as the "Wilmot proviso" friend—in the South, as the enemy. Indeed, sir, the public press bears me out, when it shows that the Hon. CALEB B. SMITH, of Indiana, in a speech at Cincinnati, Ohio, in August last, declared that General Taylor (if elected) *would not* veto a bill containing a provision for the exclusion of slavery from the Territories of New Mexico and California, and *that the southern Whigs would sustain him in such a course.* In support of it, he said the Hon. WILLIAM BALLARD PRESTON had so assured him, not longer ago than two weeks. If this be so, how can you wonder at Whig success? It is true, sir, that I have heard of a denial, on the part of my colleague, [Mr. PRESTON,] that he had given such assurance to the gentleman from Indiana. Indeed, I understand he has said that no conversation *between them, on that subject*, had occurred. These gentlemen know best who is mistaken. I believe, sir, the Cincinnati Enquirer reported the speech to which I allude, and I apprehend it was seen by each of them.

[Here Mr. CALEB B. SMITH, on leave, made an explanation.]

But, sir, look, if you please, at the States of North Carolina and Florida. They cast their electoral votes for Taylor and Fillmore. Did they sanction the exclusion of slavery from the Territories? No, sir; so far from it, the Legislatures of those States have passed strong and spirited resolutions against it.

The State of Florida was regarded rather as the banner Whig State; her Assembly is composed chiefly of Whigs—at any rate, a large majority; and yet, by an *unanimous* vote, they have resolved, "that the abolition of slavery in the District of Columbia, involving, as it does, an exercise of power not granted by the Constitution, and designed, as it is, as a means of affecting the institution of slavery in the States, against whom it is aimed as a blow, should be resisted on the part of

the South, by whatever means are best adapted to the protection of the Constitution, the defence of herself, and the preservation of the Union;" and, "that knowing no party names or political divisions on questions involving, in their settlement and consequences, the character, property, and lives of those whom they represent," they declare themselves "ready, heart and soul, with a united front, to join Virginia, the Carolinas, and the other southern States, in taking such measures for the defence of their rights, and the preservation of themselves, and those whom they hold dear, as the highest wisdom of all may (whether through a southern convention or otherwise) suggest and devise."

The resolutions of other southern States are equally impressive and determined; and that man must be blind to the light of truth, who can now suppose that tame submission is to be the fate of those people. Sir, I appeal to you, to this committee, to the people of the States: Is it for the purpose of gratifying a thirst for political ambition; to indulge an appetite for sectional aggrandizement; to stimulate the phrensy of wild fanaticism, and to whet the fangs and give poignancy to the course of religious bigotry? Is there any truth, any reason, any justice, any patriotism, any virtue, any morality, in all this?

Sir, in whatever aspect we may view the application of the "Wilmot proviso" to the territory which we have just made ours, we shall in vain look for any other object than either that of harassing the feelings of the South, or of creating a precedent to justify Congress in any action which it may hereafter propose in regard to the general subject of slavery.

In all the grounds that have been taken to sustain the present movement against the peculiar institutions of the South, we find not even the merit of plausibility. They are mere pretences, and bald attempts at deception. It is a daring assumption of power, not conferred by the bond of our Union. It is an effort of unmitigated tyranny and usurpation—a wanton intermeddling in the affairs and business of your neighbors, in which you have not a particle of interest or of rightful concern. But we are told that slavery is an evil, a moral and political evil, and a blighting curse upon the country, and therefore ought to be abolished. Sir, I did not hear the speech of Hon. Mr. STARKWEATHER, of New York, a few days ago; but he did me the honor to send me a copy. In respect to him, sir, I have looked a little into it, and I was struck with his remarkable tact in jumping to his conclusions. He says that Congress has the constitutional power to extend its legislation over territories belonging to the United States, and consequently to exclude slavery therefrom. This, sir, is a *non sequitur;* if his premises were true to the fullest extent, his conclusions would be false, erroneous.

Sir, every one here knows that Congress has the constitutional power to extend its legislation into every State in this Union, especially, sir, where there are lands or other property of the United States; to make rules and regulations concerning that property; to control the army, the navy, fortifications, dock-yards, arsenals, and magazines; and yet, sir, no one, I trust, will contend that Congress has the right to interfere with our municipal matters in the States, over which its particular legislation has been extended, and especially to exclude slavery therefrom. What kind of legislation is this confided by the sovereign States to Congress?—for, sir, I take it for granted that the gentleman from New York, being a Democrat, claims no powers for the Federal Government other than such as have been granted by the creators, *the States.* It is the power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States. Now, sir, how the power *to dispose of, and make all needful rules and regulations respecting, the territory or other property of the United States,* can confer upon this and the other branch jurisdiction over *private property* of any kind, is to *me* unintelligible.

But the honorable gentleman from New York, in his second proposition, affirms "that slavery is a great political, social, and moral evil; in direct conflict with the fundamental principles of this Government; opposed to its growth, prosperity, and future welfare." Let us look for a moment at this branch of the subject. I presume the gentleman was never a slaveholder—has never been much, if at all, in the slave States, and, in his candor, must acknowledge that, *practically,* he knows nothing of the workings of that institution upon the moral, social, or political condition of society where it exists.

I ask the honorable gentleman, and those who think with him, to go with me into the families of the South, where you will find *black* slaves, but no *white* slaves. What do you see? A farmer, the owner of five, ten, twenty, or may be an hundred negro slaves; they are well fed, well clothed; when in good health, they are employed chiefly in agriculture; not confined to the hot rooms of a northern manufactory, but breathing a healthy, salubrious atmosphere; not compelled to work at inclement seasons; and when the sun sets in the west to close the day, you will see the happy, cheerful negro retire to his comfortable house with a light heart, partake of his night's meal, and if a wife and children in the family of his master or his neighbor, he spends the cheerful eve with them. If he is sick, he is *not thrust* from his master, denied the common comforts of life, and permitted, like some poor wretch and pauper, to suffer with all the ills to which man is subject; but he is supplied with a physician, nourishment, and attendance; and when he recovers from the bed of sickness he has no bills to pay—no home, no employment to seek.

Sir, I wish the gentleman could visit my native State—that proud old Commonwealth, God bless her—enjoy the hospitality of her citizens—go to their places of worship, and see the well-dressed negroes marching up to the altar to pay their devotions to the living God; to see the mistress and her children reading to their menials the Bible, *the Book of Life,* and teaching the young blacks their catechism, and responsibility to their Creator. Think you, sir, you or the honorable member from the empire State would find in all this a *social* and *moral* evil? No, sir; you gentlemen who have had no experience in this matter, know nothing of our domestic servitude. You can no more see the truth respecting it, than can a blind man distinguish colors, or admire the beauties of the rainbow. Our slaves are instructed in religious exercises, and, in many instances, houses are erected on the farms for public worship, and ministers of the gospel paid, by the year, for their pastoral services to the blacks. How, then, sir, can slavery, such as that I have described, and which I know to exist, be a moral or social evil?

But the honorable gentleman says it is a political evil. I ask, to whom is it a political evil? Under the provisions of the Constitution, five slaves (being both persons and property) count only as three *white* persons; and under its operation, Virginia has about four representatives upon this floor by reason of her slave population. Now, sir, suppose we emancipate them, *then* they do not count as five to three only, but are to be reckoned as persons, (*white persons,*) and in political influence stand up as man to man with the whites of the North. Virginia, under that state of things, would be entitled to nearly three more Representatives than she *now* has. How, then, is the relative political influence of the North diminished by the existence of slavery? And how, let me ask again, is slavery in New Mexico or California, or both, to give the South additional weight over the North in the councils of the nation? It is not at all probable that the climate of that region will be more favorable to the multiplication of the negro race than Virginia, South and North Carolina, Georgia, &c.; the only effect of their immigration to the Territories will be, to spread the *same number* over a larger surface, and thereby render them more valuable to their owners; whereas, to hem them up in the States in which slavery now exists, is to affect the interest of the master, and lessen the happiness and comfort of the slave. Slavery, therefore, sir, is no political evil to the free States, can be no political evil to the people of the free States; if it be an evil, it is *our evil,* and we ask gentlemen to let us bear our ills, and take care of *themselves.* From what we daily see here, I am sure that these very kind-hearted gentlemen, who are so distressed for our sins, do not wish to increase *our* influence in this House; and therefore I can trace their continual intermeddling with the business of others to no other cause than not having the advantages derivable from the ownership of our well-fed, well-bred, *well-behaved servants.* Being obliged to perform for *themselves* many offices performed by our slaves, they are, in truth, envious of our comforts and our pleasures.

I have heard many men railing against the evils and moral tendencies of slavery, yet I never saw one of them settle in the South, but that the first money he could get by school-teaching, by selling tin, or wooden nutmegs—if he located in the South—was expended in the purchase of a slave. I doubt not, sir, there are men on this floor from *southern States,* Representatives, who were born, raised, and educated in the free States; if there be such, I warrant you, sir, they are slaveholders. These gentlemen, who are so conscientious when north of Mason and Dixon's line, lose their horror for holding man in bondage when they shall have married some fine Virginia or Carolina girl, who made him a master, and a gentleman of fortune. He no longer is *his own shoe-black,* but he calls upon Cuffee.

Mr. Chairman, that negro slavery is immoral, or even wrong in itself, I utterly deny. If it be wrong or immoral, then are the laws of nature herself wrong, and of immoral tendencies; then is it immoral to raise one of God's creatures to the highest point of intelligence and happiness which he is capable of attaining; then is it immoral to make a moral, religious, and comparatively intellectual being of one who, otherwise, would have been an ignorant and utterly degraded savage. Sir, at the date of the adoption of the Constitution every State had slaves. I find that, in 1790, New Hampshire had 158, Rhode Island 952, Connecticut 2,759, New York 21,324, New Jersey 11,423, Pennsylvania 3,737; and in seven of those States were 40,370 slaves, and some of the citizens continued to hold their fellow-men in absolute bondage even up to 1830; and *then* New Jersey had 2,254. And even to the present day, some of these gentlemen, of tender consciences, are holding human beings to labor, in *involuntary* servitude, without their having been convicted of crime. These people were held as *property,* not in violation of the Constitution, *but under its sanctions and provisions.*

I strongly suspect that the men of that day were as honest, as religious and just, as their descendants. They were protected by the same Federal compact that now binds us together; yet it was no political evil *at that day.* And I pray you, sir, how did they get rid of them? Not by invoking the aid of Congress, but by the voluntary act of their owners. They emancipated some, no doubt; but the greater number were brought into the market, as they did their cattle, and sold for the best price that could be obtained. The climate, soil, and other circumstances of the North, made their labor unprofitable; they found it good policy to convert their slaves into money, to be employed in manufactures, in stock-jobbing, in commercial operations, in ships for the whale fishery, and, it may be, for transporting these poor savages from their homes and families in Africa. In all this time, your sympathies were not awakened, your tongues were not continually exercised in vituperation and abuse of the owners of slaves. When your ancestors have found it politic to sell their negroes to southern men, and *warrant them to be property,* you come here *now,* and say that property cannot exist in man. Shame! shame upon you! the ghost of your fathers should haunt you, and chide their ungrateful children, for breaking the bond of covenant which they had sealed.

Suppose, sir, that with the great slave interest existing at the adoption of the Constitution, it had been provided that in any territory thereafter to be acquired slavery should not exist, think you that that immortal instrument would have been ratified? No, sir; never, never!

The South has already emancipated more slaves than you of the free States ever did possess, and of greater value than the much lauded example of England, in giving her *millions* for the liberation of her West India slaves. But we claim no merit for this. It was the result of free volition; but we claim the same property in them which was guarantied to us by the principles of the Constitution; we claim to manage that property in our own way; and before fanatics and madmen will be permitted to interfere and destroy our interest in it, we will rend asunder every ligament that now binds us to you, even if the consequences should cause us to

gore our own soil with our *own blood.* Suppose, for a moment, we of Virginia were forced or induced to emancipate our slaves—to render ourselves, our wives and children, penniless—that the companions of our bosoms, whom we of the South esteem the best gifts of Heaven, were thereby made house-servants, scullions, washerwomen, and milkers of our herds; what then would become of the black race among us? Think you that my blessed mother Virginia would permit them to remain within her borders? In less than one year they would be driven, if needful, at the point of the bayonet, to quit her soil: whither, I pray you, would they go? Those sympathetic people of the free States would slam their doors in the faces of the emancipated negroes. They would become footballs, and be kicked from post to pillar, to seek a lodgment or shelter wherever they could find it. Many of the men might seek employment upon the ocean, and in all the most dangerous, loathsome employments of life, while the females and children would huddle in squalid huts, in the fetid cells and cellars of your cities, and there, like the starved brute, die of hunger, and become a pestilence, contaminating the very air which they had ceased to breathe. Yet you come to us and talk about your sickly sentimentality, with "damning sins"—"behind the spirit of the age"—"foul spots upon our character"—"stain upon national honor"—and all such stuff upon your lips. To such we say, look to your own menials; look to the fifty thousand females in the factories of Massachusetts—to those young unmarried women who, in the language of the learned Fisher, "at a time of life that ought to 'be sacred to love and courtship, to pleasure and to 'hope, to home and to society, are sent forth from 'the parental roof to labor for years, confined to 'an over-heated room, containing one hundred per-'sons, each in a space of five feet square, for thir-'teen hours a day, under a *male* overseer, and not 'permitted to receive a visit from friend or lover, 'except by the permission of the overseer or of the 'proprietor's housekeeper when the mill stands 'still." Go to Lowell, loosen the chains of poverty and shame which bind the *poor* Yankee girl to submission to the rich man's will; weep over her as an angel fallen from the high estate to which she belongs by the providence of God, and Heaven will bless you. Go to the almshouses of Massachusetts and of New York, pour forth your sympathy for the 28,510 in the former, and 144,000 paupers in the latter State. Go, I beseech you, and look upon the convicts in the three penitentiaries of New York—Auburn, Sing-Sing, and Blackwell's Island—and let your tears flow like the gushing waters from the mighty rock. Look, I pray you, to the city of Boston; weep for the depravity and wickedness of the four thousand freemen annually arraigned for crime; and *then*, if you have any sympathy still in store, bestow it, I beg you, upon the miserable, deluded, misguided slaves, whom your hypocritical, whining abolitionists have seduced from their *happy homes*. But I tell you *now*, that the well-fed, well-clad, contented negro of Virginia asks not your sympathy for him.

Sir, the action of the State Legislatures and of Representatives here have at length aroused the people of the South, and forced us to calculate the value of the Union. You of the North say you do not seek to interfere with our rights, but at the same time we see the *anti-slavery* fanatics maintain their course of hostility to the South with a singular pertinacity. It is not confined to Massachusetts or New York, but is rapidly moving throughout the North and Northwest. The New York Legislature, composed of a large majority of Whigs, has elected to the Senate of the United States Ex-Governor Seward, whose past history shows him to be reckless and fanatical upon *this delicate subject.*

Not content with denouncing slavery in the territories, this Whig Abolition Senator, in October last, and when, I suppose, he was canvassing for the election of General Taylor, took the pains to travel to Ohio, counseling and advising her citizens to enact laws for the *greater* protection of fugitive slaves—laws, too, which he has been obliged to admit would be in violation of the Constitution of the United States. He openly upbraided them for their inertness in the cause of the slave, and declared that humanity and public sentiment demanded that every barrier in the Constitution should be broken down and violated to effect their emancipation. With a knowledge that such had been the course of conduct of their candidate, *that Legislature* has elected him to one of the highest and most responsible stations in the world, which he can never occupy without swearing to support that bond of our union guarantying rights and establishing principles which he would violate in order to rob us of our slaves. The people of New York had a right to make their own choice; but when we remember that twelve other prominent Whigs were before them for that high station, how can any man doubt but that Mr. Seward was chosen mainly on account of his ultraism to southern interests?

The recent speeches, orations, and developments coming from this Senator elect, and his kindred spirits, have taken the broad ground in favor of the anti-slavery movements of the North—the abolition of slavery, the prohibition of the slave trade in the District of Columbia, the exclusion of slavery from the *new territories.* The adoption of such measures in the free States force us to repel those sweeping demands. With this picture before us for years, can any frank and candid man deny that we are on the verge of a great and alarming excitement, the end of which is not yet seen? But, for one, sir, representing, in part, that mother whom I love, and to the support of whose rights I swear eternal constancy—I tell you, I will never submit to be a beggar for the kind and tender mercies of a ruthless majority. I know, sir, that I speak with warmth, confessedly under a strong excitement; but it is an honorable excitement. I mean to speak frankly to my brethren of each political party, and of the States, respectively. I tell them, that our people—not the politicians, but the masses—mean to stand by their homes, their property, and firesides, *come what may.*

The first wish of my heart is, that this Union may be preserved under the limitations and provisions of the Constitution; but I demand that the States shall have *equal rights*, so long as this co-partnership exists. I say, you of the free States have compelled us to calculate the value of this Union. We of the South value and reverence the act of our fathers, but we can never submit to such aggression and insult as must dishonor us. When I had the honor, a few days ago, to present the resolutions of the Legislature of my native State upon the subject of the Wilmot proviso, I was anxious to submit some few remarks, in the spirit that I trust became a gentleman and a Virginian. But, sir, there was one small voice heard, as if coming from some icy clime, crying "I object." Sir, according to the rules of the House, that member had the right to object, and he had the parliamentary right to refuse to extend to me that courtesy which, upon a like occasion, I would extend to him. The resolutions from Virginia were *first* adopted on the 8th of March, 1847. After the lapse of two years, and the same cloud *yet* existing in the political horizon, but of a more alarming aspect, her Legislature has reaffirmed them but a few days since, as the settled, deliberate sentiment of the people of each political party. An unanimity but rarely found, attests the truth of what I say.

In a legislative body, composed of one hundred and sixty-four members, fresh from their constituents, where the question had been widely discussed, and public sentiment fully ascertained, but seventeen were found recording their votes in the negative. I regret, sir, that the resolutions had not been adopted *unanimously;* but I am pleased to see that among the noes, is not to be found a single Democrat. In this is presented one striking fact, that while a large portion of Western Virginia (from the nature of soil, situation, and climate) never can be adapted to slave labor; while the people there do not desire it, because in conflict with their peculiar interest, yet such was the patriotism of the members from that portion of the State, that they sunk all differences, and united in one common sentiment for the honor of all.

Sir, the resolutions of Virginia contain no threat, no defiance, no insult; but they do give a word of warning. They ask no *favors*, no *mercy*, but appeal to right, and the principles and compromises of the Constitution. She would scorn to supplicate to States, Confederacies, or to Empires. When the voice of a sovereign is thus heard, you should pause before you further go.

Disguise it, sir, as we may, the truth is apparent to every reflecting man, that the integrity of this Union is in danger. It may be that dissolution is near at hand. If that terrible event shall happen—if the tempest come, and the building be destroyed—say not that we of the South have done it. Let not the misguided agitators, the disturbers of the peace and harmony of our beloved country, lay the flattering unction to their souls, let them charge the hellish deed, where high Heaven will place it, upon the head of the immortal author of the "Wilmot proviso." You of the anti-slavery States seem to know not, or care not for, the consequences of your present attitude against the South. But I beseech you to pause, to think, before it is too late. We speak to you in the language of friends and brothers—in the language of soberness and truth. The conduct of the people of the free States, the resolutions of their Legislatures, and the movements in this Hall, indicate a settled determination to make war upon our peculiar institutions; and, with the strongest affection for this beloved Confederacy, we can never consent that it shall be "a sword to attack, but not a shield to defend."

Every day, sir, brings to us new and additional evidences of the uprisings of the masses in the southern States. They are moved by an impulse which will never be suppressed till justice be done. No one can doubt the loyalty of Virginia and of her sons to the Union of these States. In proof, she points you to the sacrifices she has made for the honor and glory of our beloved country. But there is a point where forbearance ceases to be a virtue, and becomes *cowardly, dastardly humility.* She will never tarnish her well-earned glory by submitting to dishonorable exactions.

We regard the Wilmot proviso as poisonous as the far-famed Upas tree, which spreads death and desolation all around it. Adopting the spirit of those resolutions, that in future history will do honor to my State, *I* will resist every attempt to fix upon the people of this country this *hateful, detestable*, destructive proviso. I will oppose all measures intended to *evade it*, and to throw the responsibility upon those who come after us. I will not *compromise* the question. I am prepared for the issue. If it is to come, let it come: I will meet it full in the face. I plant myself upon the compromises of the Constitution, and upon them alone: any point beyond is a usurpation on the part of Congress, and a treason to the sovereignty of the people, that, for *one*, I will oppose at every hazard.

Virginia will never sleep at her post. Her watchmen are on the tower. They will never cry "All's well" when the citadel is in flames, or the torch about to be applied by the wicked incendiary. Her sons will be patient, calm, as circumstances will allow, but as unwavering and unshaken as Mount Atlas itself.

RESOLUTIONS OF THE STATE OF FLORIDA.

REMARKS
OF
MR. YULEE AND MR. WESTCOTT,
OF FLORIDA,
IN THE SENATE OF THE UNITED STATES,
February 19, 1849.

Mr. YULEE presented resolutions of the Legislature of the State of Florida, declaring that Congress possesses no power to prohibit slavery in any Territory of the United States, and that any attempt on the part of Congress to abolish slavery in the District of Columbia should be resisted by the South, as the exercise of a power not conferred, and in violation of the Constitution of the United States.

Mr. YULEE said: I deem it proper to make known to the Senate certain resolutions which were recently passed by the General Assembly of Florida. It will be seen that they are not addressed to the Federal Congress, nor designed, I presume, for influence here. They contain simply an expression of the opinions and feelings entertained by the people of Florida upon the subjects they relate to, and a declaration, to her sister States in the South, of her willingness to coöperate with them in resisting, if they cannot avert appre-

hended aggressions, and her readiness to adopt their lead and share their fortunes. Inasmuch as they have been transmitted by the Executive of the State to her representatives here, and as they will guide my course and that of my colleague, and as I deem it to be important at this juncture that the States of the Union should understand each other distinctly, we propose to place a copy of them among the files of the Senate.

There are circumstances which give to these resolutions a marked significance. Florida is one of the States whose vote was announced a few days since in support of the nominees of the Whig party for President and Vice President. It is claimed, I believe, that she was the banner Whig State. The Legislature which enacted them comprised among its members many of the leading spirits of both parties, and contained a decided majority in each branch of the friends of the incoming President. They were all fresh from the people, and from an active canvass. They had just consummated the election of a gentleman to represent the State upon this floor, who is a member of the Whig party. This Assembly, thus composed, have declared that, "knowing no party names or political divisions" upon the subject of the resolutions, they "are ready, heart and soul, with a united front, to join Virginia, the Carolinas, and other southern States," in asserting and defending their common rights. In token of their sincerity, the resolutions containing this pledge, were passed with a unanimous vote in each branch, and received the prompt approval of the Executive.

The people of Florida, sir, compose a portion of the people of the South, and are, therefore, acted upon by similar influences and sympathies with the rest. These proceedings, then, signify that however reluctant representatives here may be to take the responsibility of decided action, or to precipitate the issues now impending between the northern and southern sections of this Union, the people of the South, and the States of the South, mean to assert their due rights, and will be found, at the proper time, acting together to this end, without faltering, "heart and soul, with a united front."

The State from which these resolutions emanate has not long occupied a place in the Confederacy; but her title to that place was found in her due estimate of the value of liberty and dignity of independence. To maintain these she joined the Union; and, if necessary, she must retire from the Union to maintain them. Her population is not numerous, but her jurisdiction covers a large area, possessing unusual advantages of climate, soil, and position. In this early day of her history, the duty devolves upon her of giving shape to the destinies of the powerful Commonwealth which must one day occupy her boundaries. She feels her responsibility, and will not shrink from it. She dare not omit the duty of maintaining unimpaired the freedom of her people; and to do this, she must defend, at all hazards, their political equality with the rest of the Union; for without equality, neither the liberty of the individual nor the independence of States can exist. The issue involves her sovereignty, and this she must defend and preserve—happy if in doing so, the Union can be preserved.

The resolutions, Mr. President, speak for themselves; they declare the united voice of Florida; they deliberately assume a posture, and announce a pledge, from which the State cannot recede with honor, and from which, therefore, I feel warranted to say she will not recede.

It remains only for me to add, that I approve cordially the course which my State has indicated for her citizens, and shall humbly but faithfully aid in giving effect to her will.

I move now that the resolutions be read, and printed for the information of the Senate.

The resolutions were then read, as follows:

Resolved by the Senate and House of Representatives of the State of Florida in General Assembly convened, That, as friends of the Union, we view with most serious alarm the course of our northern brethren in relation to the question of slavery—a course which, marked by unkindness, wrong, insult, and injury, has already, to a most unfortunate extent, weakened the bonds which unite them and us; which, if persisted in, in the same spirit, can only terminate in further alienation, and in the inevitable dissolution of the Confederacy.

Resolved, That the recently acquired territory having been purchased by blood and treasure of which her full proportion was contributed by the South, she and her sons are entitled, equally with any other portion of the Union, to the enjoyment of the same; this General Assembly, therefore, believing that Congress possesses, under the Constitution, no power to pass such a measure, adopting similar language to that of the Legislature of Virginia, hereby declaring it as their opinion, "that, under no circumstances, will the people of this State be willing to recognize as binding any enactment of the Federal Government which has for its object the prohibition of slavery in any territory south of the line of the Missouri compromise, holding it to be the natural and independent right of each citizen of each and every State of the Confederacy to reside with his property, of whatever description, in any territory acquired by the arms of the United States, or yielded by treaty with any foreign Power."

Resolved, That the abolition of slavery in the District of Columbia, involving, as it does, an exercise of power not granted by the Constitution, and designed, as it is, as a means of affecting the institution of slavery in the States, against whom it is aimed as a blow, should be resisted on the part of the South, by whatever means are best adapted to the protection of the Constitution, the defence of herself, and the preservation of the Union.

Resolved, That, knowing no party names or political divisions, on questions involving, in their settlement and consequences, the character, property, and lives of those whom we represent, we are ready, heart and soul, with a united front, to join Virginia, the Carolinas, and the other southern States, in taking such measures for the defence of our rights, and the preservation of ourselves, and those whom we hold dear, as the highest wisdom of all may, whether through a southern convention or otherwise, suggest and devise.

Resolved, That a copy of these resolutions be transmitted to the Governor of each of the slave States, with a request that they be laid before the Legislatures of such as are now in session.

Mr. WESTCOTT. Mr. President, I trust I may rely upon the indulgence of the Senate to listen to a few remarks which I deem it my duty to my State, and to myself, to make on this occasion.

The resolutions presented by my colleague, were adopted by the General Assembly of the State of Florida, on the 4th of last month. Copies of them were received by my colleague and myself about the middle of January. It will be noticed they do not indicate to the Governor of the State, the transmission of them to the Senators and Representative of the State in Congress. They do not contain any *instructions* to the Senators, or any request to the Representative. They are not directed to be laid before either House of Congress. The Governor is directed merely to transmit a copy of them "*to the Governors of each of the slave States, with the request that they be laid before the Legislatures of those States.*"

I presume the direction thus given, was, because the resolutions treat of a question of local and domestic policy of the slave States *exclusively*, with which the non-slaveholding States have rightfully no concern, and to avoid affording any pretext, (in reply to those resolutions,) for what might be offensive, and tend to increase the unkind feelings already existing.

My colleague in this body, upon consultation with me, has deemed it proper to submit these resolutions to the Senate of the Confederacy, of which the State we represent here, although one of its youngest members, is, under the Constitution, the equal of the eldest and proudest. We have regarded it as due to Florida, and as due to her sister States, that her feelings and her determination upon this momentous question, should be expressed here, and placed on record; and though the terms of the resolution do not enjoin it upon us to present them, and ask for their printing, under the precedent of the resolutions of the New York Legislature, made a few days since, we cannot doubt the motion will be acceded to.

Mr. President, I am egotist enough to regard the forbearance of the Legislature of Florida to give any instructions to those who represent the State in Congress, to the confidence reposed in them by the Legislature, that on the subject referred to in those resolutions, such instructions were unnecessary. If I know myself, sir, that confidence is not misplaced. I may differ with some from the South, as to the best course to be adopted to protect and defend successfully the constitutional rights of the southern States, and of their citizens, on this subject; but I will not yield to any in sincerity of purpose to maintain those rights to the last extremity. There is one thing that I will not do. I will not consent to make this a mere party question. I will do my utmost to prevent it being prostituted to such degenerate purpose. This question shall never, with my aid, be made a football for political aspirants, here, or elsewhere. I am rejoiced to see that the Legislature of my State, in the resolutions now laid before the Senate, (which I learn were adopted unanimously,) express the same opinion; and I can freely declare, that every sentiment, every word and letter of these resolutions, finds an echo in my feelings, and an approval in my deliberate judgment.

Mr. President, in these resolutions there is no menace. There are no words of "sound and fury signifying nothing" to be found in them. They are in grave but earnest language, becoming a sovereign State, whose free citizens feel that they have been and are insulted and wronged by those who seem to regard power as the only limit of right.

Sir, the first resolution declares that the people of the State of Florida, "AS FRIENDS OF THE UNION, 'view, with most serious alarm, the course of our 'northern brethren in relation to the question of 'slavery—a course which, marked by unkindness, 'wrong, insult, and injury, has already, to a most 'unfortunate extent, weakened the bonds which 'unite them and us; which, if persisted in, in the 'same spirit, can only terminate in further alien-'ation, and in the inevitable dissolution of the 'Confederacy."

Would to Heaven, Mr. President, that I could impress my fellow-citizens of the other sections of the Union with the conviction, that the sad prediction there made will be verified, if the voice of insult is not hushed—if the hand of aggression is not stayed, and if sectional faction is not checked in its selfish encroachments upon the Constitution, and upon the equal rights of the South under that compact.

That prediction, Mr. President, is "THE INEVITABLE DISSOLUTION OF THE CONFEDERACY."

What true American is there who can look upon such catastrophe but with horror? There may be those who can. I am not of that number. I have ever held, and while I live I shall hold, that the preservation of the Federal Union, upon the principles which were adopted as its basis, by those who made the constitutional compact, ought to be the controlling dictate of the political conduct of every good citizen. I repeat, sir, the Union and its perpetuity, upon the principles of the Constitution, should be the polar star of every patriot. I look to the dissolution of this Confederacy, as the political extinction, as a respectable power among the nations of the earth, of the people of all this continent.

When that flag which has so often led American freemen on land, and on sea, to victory and honor—that flag which is now a sure protection to American citizens, wherever it waves throughout the world—whose stripes remind us that within a century *thirteen* dependent and oppressed, but United Colonies won their independence as sovereign States—whose stars remind us that *seventeen* other States, their offspring, but equally sovereign, have since sprung into existence, and that, united, they form the mightiest Confederacy of republican States the world has ever beheld; when that glorious flag is torn to shreds, in the terrible conflict that must be the prelude to the dissolution of their Union, I ask the North and East, what other banner will you adopt in its stead? What other Constitution than that signed by Washington, will secure the dissevered sections equal freedom, equal security, and equal prosperity, to that which all have hitherto enjoyed, and which all could still enjoy, if the compact of union was by all sought to be faithfully adhered to? If the different sections of the Union become independent and separate Governments, disconnected from each other, and holding each other as *foreign*, regarding each other as "*enemies in war*," and, if it can be, "*in peace friends*," who cannot foresee that each section may successively become the victim of aggression by European Powers, now our jealous rivals, and whose hostility is only restrained by the consideration that the "United States of America" possess the power to redress wrong, though perpetrated by the mightiest of them, or by all combined; and that indignity to the "star-spangled banner," cannot be committed with impunity?

And now, Mr. President, how is the dissolution of the Union to be compassed? What are the means of which it is to be the result? I ask those who seem bent on goading the South to extremities, to pause and reflect. Can any one be so infatuated as to imagine that the bonds of this Confederacy can be *peacefully* dissolved? No, sir.

What, then? CIVIL WAR! This is the practical process by which the dissolution of the Union is to be accomplished. Are you prepared for this? Are you resolved on this? Will you enforce your arbitrary, your insulting, your degrading edicts against the southern States and their citizens, at this hazard? There have been taunts. It has been said "the South dares not resist!" We have been defied and threatened, and boasts have been made of the superior power of the North and East. I would, Mr. President, implore those who thus act, to listen to the voice of humanity, if that of justice, and the guaranties of the Constitution are still unheeded. As our fathers of the Revolution appealed to the people of Great Britain, they are appealed to: their "native justice and magnanimity are invoked;" they are "conjured by the ties of our common kindred to disavow these usurpations" of which the South so justly complain, and which will "inevitably interrupt our connections and correspondence." As our fathers of the Revolution "warned" the people of Great Britain, as to the usurpations of the British Crown and Parliament, they have "from time to time" been "warned of the attempts," by the Legislature of the Confederacy, "to extend an unwarrantable jurisdiction" over the South and its domestic institutions. They have been "reminded of the circumstances of our emigration and settlement" on this continent; of the struggle which effected our common independence; of the formation of the constitutional compact, and of the unparalleled prosperity we have all enjoyed under it; and can it be that history is to record that, disregarding all those appeals, as the people of Great Britain were in 1776, "they, too, are deaf to the voice of justice and consanguinity?" I ask them, are your feelings towards the South so embittered, that you wish to drive the southern States from the Union? Can there be any whose prejudices are so overwhelming as to desire the Union to be severed? Is their hatred of the South so intense that it can only be slaked by a CIVIL WAR? Can it be possible that any intelligent citizen of the United States has such feelings? Shut your eyes, if you can, to all the horrors of such strife; to the disruption of the ties of kindred; to the rending asunder of the bonds of society; to the devastation and carnage which will be its attendants—hope, if you can, that it may be conducted by humane commanders, and according to the rules of modern civilized warfare, and I ask you, what will there be of profit or of honor to you, if you should be victorious? What boots it if you succeed in *subjugating* those who are now your *fellow-citizens* of the southern States? Could you exult in such victory? Could it be crowned with glory? Could heroes spring up among you in such conflict? And what dictate of permanent political or commercial or other interest, can you find to induce any desire to subvert the Constitution and Union? There is none. Fanatics and demagogues may seek to mislead you, but you will ultimately find that your welfare and prosperity depend upon the harmonious preservation of the Union, and the constitutional rights of all.

Suppose in the effort to subdue the South you have the aid of the machine called the Federal Government; do you imagine this will sanctify the outrages you may perpetrate in its name? Suppose that by arms it compels the South to submit. In a few years your boasted supremacy of numbers will cease to exist. It is destiny that the "Great West" is soon to control this Government, and then in your disregard of the guaranties of the Constitution, and in your aggressions on the South, may perhaps be found its justification for returning the "poisoned chalice to your lips." I will not present a picture of your condition if the South should under Providence defeat you in the conflict of arms, which must precede the severance of this Union. Whoever triumphs, no true-hearted patriot—no friend of republican liberty—no friend of humanity—no true philanthropist, but will revolt with abhorrence from the scene presented by such conflict, and its issue. No matter what section is victorious, those who may cause such deplorable war, and those who, having power, do not strive to prevent it, will be detested while living, and their memory execrated as long as constitutional republican freedom has a disciple on earth. If you should subjugate the South—if you should by force compel them to submit to your arbitrary edicts, bitter and scalding will be the tears of remorse that you will shed for your unhappy success.

Am I asked, Mr. President, why I speak thus to the East and North, and why I do not address similar exhortations to forbearance to my own section. I will cheerfully answer. The South are not the aggressors. They are the assailed—they are the defensive party. Sir, the South knows well that she could not, if she would, hesitate as to her course on this subject. She feels that she is forced by the dictate of self-preservation, and at every hazard, to resist the unconstitutional course pursued towards her. She feels that it is her political death if she passively yields. She has no alternative. She must resist. The questions involved are of vital character. Not merely CIVIL WAR, but, what is still more dreadful, *servile war*, is one of the consequences of submission to the attempted encroachments upon her constitutional rights; and this will come upon her if she does not at once unite and take a firm stand against the incendiary intermeddling of other sections, with the domestic institutions and local policy of the southern States. Sir, the South does not seek a dissolution of the Union. The imputation that she does, is an infamous calumny. The people of the South are not merely attached to, but they are devoted to the Union. They are as national in their feelings as those of any other section. But the Union to which they are bound, is the Union of the Constitution. By that compact, all the States of every section are equals. The bastard Union that sectional and fanatical faction would force upon the South, instead of that formed by our fathers, has not, and never will have our affection, or our respect. The South never can admit the doctrine that the Federal Government possesses the power in any wise, or to any extent, to legislate with a view to exclude the institution of domestic servitude from the Territories. Followed up as it would be by attempts to enforce kindred doctrines as to the rightfulness of interfering with the local affairs of the States, they would soon be degraded to the position of inferiors. They would cease to be equals, and become the dependent vassals of an arbitrary sectional majority in Congress. Such were not the terms of the Union agreed upon sixty-two years ago, by the southern States, when they ratified the Federal Constitution.

I repeat the South cannot yield. She is resisting a principle which, if established, seals her political doom under this Confederacy. It is her political death to acquiesce in its establishment. It is not so with those sections that are striving to force this principle upon her. Those sections are contending for a mere political abstraction, what they believe to be a philanthropic sentiment; for a principle that does not affect them locally, and which relates wholly to the Government and domestic institutions of other, and distinct political communities. The advocates of the anti-slavery restriction are striving not only to exclude southern institutions by coercive means from the new territories, but they seek, by the power of arbitrary legislation, to force the people of those territories, to adopt their principles, their prejudices, and their institutions.

Will the North and East jeopard the Union—are they prepared to meet all that must occur before that Union is dissolved, merely to carry out an abstract political sentiment, which is not to operate on themselves, and in which, if carried out, those sections can have but little interest? I will, however, present the question in so simple a form, that every intelligent citizen in the Union, can understand it truly, and see its injustice at once. If the South had majorities in both Houses of Congress, and should propose with respect to these territories, a law of Congress, declaring that no citizen of a non-slaveholding State should go to the territories, unless he bought and took with him a negro slave, and held such slave in servitude there, would the North and East submit? This is the other side of the question presented by those who seem determined to insist on the exclusion from the territories, of the southern citizen with his slave property. It is a bad rule that will not work both ways. Why, sir, the whole non-slaveholding States would rise up at once, *en masse*, to resist by arms, if necessary, their exclusion by such law of Congress. If southern majorities here should enact such a law, the North and East and West would be united, and would withdraw from the Confederacy, and fight, rather than submit to such coercive exclusion. And, sir, they would act rightly. And yet, for daring to speak of resistance to the exclusion now sought to be imposed upon the South, its citizens are denounced as "southern fanatics," "agitators," "disunionists," and "traitors," seeking a severance of the Union!

Mr. President, the whole history of this country stamps all these accusations with falsehood. Before and since the adoption of the Federal Constitution the southern States have shown their devotion to the Union. Their sacrifices in the revolutionary struggle were at least equal to those of the other sections. Her sons, though slaveholders, were not laggards in that contest. There is not a battle-field in that war, from Maine to Georgia, but was moistened with the blood of some of her sons. In the councils of that era her sages were among the wisest and firmest patriots. And how was it after our independence was gained? Virginia, North Carolina, South Carolina, and Georgia, voluntarily restricted their respective western boundaries, and gave to their sister States, as "a common fund," their vast domain, extending westward to the Mississippi. Virginia gave the Northwest Territory before the Constitution was ratified. *All that region was tributary to her laws, and under them slavery existed there.* In the establishment of the government for that territory, it was provided that it should be what is now called "free soil." She did not resist that usurpation of power. Six non-slaveholding States have grown up under the restriction thus imposed. Virginia, in that cession, had no degrading jealousy; the South were not influenced by any pitiful sectional feeling in the other cessions I have referred to. And how has the confidence and generosity of the South been requited? By illiberal suspicion, jealousy, abuse, and attempted outrage. The gift made by Virginia of the Northwest Territory, and her not resisting the restriction upon it as to slavery, have been made a pretext for assailing her institutions as "revolting to the spirit of the age." Her voluntary cession and acquiescence in the restriction of the ordinance of 1787 has been advanced as an "admission," and urged as a "precedent" to sustain the exclusion now threatened as to California and New Mexico.

Mr. President, in her devotion to the Union the South has, since the Constitution was formed, in 1787, submitted again and again to the partial and sectional legislation of Congress to advance the interests of the eastern and middle States; and, with but one exception, without any attempt to resort to the rightful remedies reserved to the States against Federal usurpation, or aggression, or injustice, and often without a murmur.

Congress since 1787 has repeatedly enacted laws for the protection of the navigation interests of New England and New York. The South has yielded to the navigation States of the east and middle sections all her carrying trade. Those sections enjoy it exclusively. Have selfish feelings influenced the South in this? The monopoly of the entire coasting trade of the Union is given to the navigating States upon an old and obsolete principle of the restrictive policy of Europe. Have the South sought to be allowed to employ foreign vessels in their domestic or coasting trade, or claimed the advantage of their competition with the vessels of the eastern and middle States? So far from it, sir, at this very time, acts of Congress for the benefit of eastern vessel-owners, oblige the southern States, whose citizens have little navigating interest, to procure the products they consume of Cuba and Porto Rico, via the eastern Atlantic cities. My own State and Georgia get two-thirds of what they use of the products of those islands, from the East, though we are within a short distance from both islands. Under the operation of your navigation laws, and laws respecting commerce, eastern ships monopolize the carrying of most of our foreign cotton trade. Few foreign vessels now visit southern ports, though they can generally carry freight profitably for prices below what vessels of the United States exact. The South has submitted to all this.

Look at your fishing-bounty laws, for the benefit of the eastern States. It would be an instructive lesson as to the value of the Union to these States, and the pecuniary profit it has been to them

as a mere speculation, to have a statement of the *immense*—yes, sir, the *immense* sums annually paid for many years under these fishing-bounty laws.

And, sir, all the difficulties we have had with foreign Powers, have been chiefly on account of interests of the citizens of the eastern States. That with France at the commencement of this century; those with the Barbary Powers, about the same time; the war with England of 1812; the quarrel with Algiers, and the difficulty with France since, mostly originated in the efforts of this Government to protect the commercial and navigating interests of New England and New York and Philadelphia. Eight-tenths of all the claims for foreign spoliations are from those cities and New England. Why, sir, I learn six-tenths of the claims on Mexico are from the same quarters, and are the very claims which the refusal by Mexico to pay was urged by the President as a just cause of war.

The expenditures of your revenue, military, naval, and civil, are chiefly in the Middle and East. Look at your fortifications, navy-yards, docks, arsenals, light-houses, and your public custom-houses, in the middle and eastern States, and then look at those in the South. Of your local officers, of any consequence, in number and in amount of emolument, eight-tenths are to be found in New England, including as far south as Pennsylvania. You even deny the frontier southern and western States the small favor of neighborhood mails, if it occasions a few dollars of expense; while millions are spent for the benefit of Atlantic cities, and to carry on intercourse between them and foreign countries.

I will not recur in detail to the iniquitous tariff laws that you have, in past times, imposed upon the South, for the protection of the manufactures of the eastern and middle States, and by the effect and operation of which the South were compelled to bear the chief burden of all the taxes on imports. With your Federal bank as an engine in former times, and your laws respecting the currency, and affecting exchanges, trade, and commerce in the ten thousand ways so well understood by shrewd commercial men, you have done more than natural causes have, to occasion a concentration of business in New York—make it the great monetary focus, and render the South, and the agricultural interests of the country generally tributary to it. After the explosion of the Federal bank, (and General Jackson was aided in his movements against the bank, by New York, as it was then located in Philadelphia,) the effects I have mentioned were produced as much by the administration of the laws, by the powers here, as otherwise, until that was checked, in some degree, by the sub-treasury act, though still the entire power of the Federal Government is continually exercised, for the benefit of the Atlantic cities of the eastern and middle States, to the prejudice of the other sections. I know this cannot always be the case. In a few years New Orleans will outstrip even the Empire city; and if ever Canada is annexed, the opening of the St. Lawrence to the commerce of the Northwest and West, will rear up another formidable rival to her on the shores of that river.

I will not, on this occasion, recapitulate the course of the East with respect to slavery. Some of that course is detailed in a document recently published in this city by southern members of Congress, in the form of an address to the South; but, in my judgment, much of outrage has been omitted in that detail.

The Missouri "compromise act," as it is called, is, in my opinion, the leading aggression; and it is scarcely noticed in that paper, and certainly not in terms of becoming reprehension and denunciation. Nor are the subsequent parodies of that outrage called a "compromise," in my judgment, properly condemned. The agency of some in the eastern States, in causing the attempt to revolt by the slaves in Charleston, South Carolina, within two years after the Missouri agitation, and the fact that the insurrection in Southampton, Virginia, some ten years afterwards, was occasioned by incendiary abolition publications made in Boston, and clandestinely circulated among the slaves, and also abolition speeches in Congress from 1819 to the session preceding that outbreak, is entirely unnoticed in that address. The evidence of the truth of what I state to be facts, is in the books on the desk before me. I have before alluded to it in this Chamber.

So, too, the course of the Federal Government with respect to foreign Governments, on the subject of slavery, has not been fair or just to the South. It has not exercised its constitutional powers, or fulfilled its constitutional duties on this subject. It has failed to do justice to a foreign Government, from prejudices respecting slaves and slavery. I allude to the case of L'Amistad, and to the refusal of this Government to meet the demands of Spain honorably. Sir, is it not notorious that our refusal to do justice, has well-nigh occasioned Spain to recall her minister home, and put an end to all diplomatic intercourse between the two Governments? She would have been justified in so doing. How can the miserable neglect of the Federal Government to insist upon the rendition by Great Britain of indemnity to the owners of the last vessel (I believe she was called the Enterprise) that was taken into the Bahamas by the slaves on board of her, who had revolted and committed murder and piracy; and were protected in those islands, be excused? How can its unpardonable omission and neglect to insist upon the honest fulfillment by Great Britain of the treaty of 1842, and her delivery, under that treaty, of the seven slaves who, after committing murder and robbery in Florida, fled to Nassau, and were protected there, and were refused to be given up to the Florida marshal, be palliated? Sir, your politicians dare not do their duty. The coasts of Florida are infested by dozens of British smacks from the Bahamas, manned, and often commanded by the mulatto and negro emancipees of those islands, who, lurking about our harbors, inveigle off slaves, or excite them to disaffection. Does the Federal Government seek to afford its aid for our protection against their incendiarism? No, sir. When the act of 1803 is invoked, an act passed at the instance of citizens of North Carolina, to keep out the brigands of St. Domingo; we are told it does not apply to the *crews* of vessels, and that they are protected by the treaty with Great Britain. Treaty or no treaty, law or no law, the visits of these vessels and their crews, to our waters, will be prevented.

And, sir, to all these wrongs, the people of my State, have had superadded other causes for the weakening of their affection for the Federal Government, and for the eastern sections of the Union.

In 1836 the war with the Seminole Indians broke out in Florida. It was not caused by its citizens—it was deprecated by us—but it was caused by the attempt to carry out a system of policy adopted by this Government, of removing the Indians west. We had nothing to do with its origin. When it broke out we were entirely defenceless and unprotected. Our Territory and its wants had been shamefully neglected by Congress, and the Federal Executive for years. Florida was devastated by the savages. A frontier of four hundred miles was a line of smoking ruins. Well, sir, our State and its citizens have been defamed and reviled, and denounced as having caused the war, as having made it a source of peculation and profit—the just claims of honest citizens for supplies sold your troops—for services—for property destroyed by your officers, and for spoliations by the enemy, caused by your not affording the protection it was your duty to have afforded, are refused to be paid, on the most trifling pretences and subterfuges; and injustice and injury thereby added to defamation and insult. Nor is this all. The negro slaves of white citizens, fugitives among the Indians, if captured by your army, were sent west by the Government, without payment to the owner, from whom they had fled; and if retained and employed in the service of the Government, and if they were killed, the owner has to petition ten years in vain for compensation; and at this very session, after a month spent in the House in its consideration, a claim of this kind is passed by a meager majority of only one or two votes.

Mr. President, one reason for my making these remarks is because, that I have, within a few days past, seen in some northern papers erroneous causes assigned for the absence of my name, with those of other southern Democratic members of Congress, from the Address to which I have adverted; and, predicated upon the statements I allude to, some censures have appeared in southern prints of those who withheld their names from that paper. While I concurred in the policy of an address, I did not sign the paper presented, because it did not suit my fancy, in several particulars. It did not meet my views of what such a paper should contain, and it contained some things I did not like. It did not refer to the often repeated accumulated aggressions of the East and North upon the South, in other respects, than with reference to slavery. It did not, as I have stated, present the infamous Missouri act in its proper character, and as the leading wrong, and as the progenitor of all the subsequent outrages, and it passed over the abolition efforts from 1821 to 1835, and their effect in producing the insurrections in Charleston and Southampton, totally unnoticed. Sir, if a revolt of slaves in the South should take place within a year, the incendiaries of the East will be responsible for the consequences. The blood that is shed will be on their heads. And further, the address omitted what, to prevent improper imputation, I wished to be inserted, to ward off defamation in advance. This was the unequivocal declaration of the attachment of the South, to the Constitution and to the Union, and not merely a disclaimer of intention, but the denunciation as an unfounded calumny, of the accusation, that it was seeking to disrupt the Confederacy. Sir, I hold we are the true champions of the Constitution, the true defenders of the Union; and I desired it should be declared in terms.

Again: I should have preferred, instead of the assertion of the anticipation of the stubborn persistance by the East and North in their erroneous courses towards the South, and instead of the dissolution of the Union being put forth as the sole means of redress for wrongs, the perpetration of which could not be averted—I say I preferred an expression, if not of confidence, at least of hope, that there might be no necessity for a resort to that terrible remedy. That hope I still entertain. I trust that all patriotism and liberality and justice is not fled from our fellow-citizens of the northern and eastern and middle States. If I could have procured the modification of the address, as I have suggested, I should have been proud to have placed my name with those of the distinguished sons of the South who did sign it; and if it is supposed, that from any cause, I can be recreant to my State, or that I can waver in my allegiance to her, I am done injustice. If my hope as to the course of the East is a mistaken one, I shall obey the mandate of Florida. It is expressed in the fourth resolution, in these words:

"That knowing no *party* names, or political divisions, on questions involving in their settlement and consequences the character, property, and lives of those whom we represent, we are ready, heart and soul, with a united front, to join Virginia, the Carolinas, and the other southern States, in taking such measures for the defence of our rights and the preservation of ourselves, and those whom we hold dear, as the highest wisdom of all may, whether through a Southern Convention or otherwise, suggest and devise."

I can do so cheerfully, for I approve of it.

Mr. President, I have seized on this occasion to express my views, in order to avail myself of the advantage afforded me by the publication of what I say here, in the two papers of this city, that report our debates. My constituents will be enabled to know what my course has been and will be, and the motives for it; and the whole country can see, and all may condemn or approve, as they think right. I am entirely satisfied as to that course, and careless of the opinion of but very few with respect to it. I thank the Senate for its attention, and trust the resolutions will be printed, and laid on the table, as moved by my colleague.

SLAVERY IN THE TERRITORIES.

SPEECH OF MR. C. E. STUART,

OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

February 26, 1849.

The House resolved itself into Committee of the Whole on the state of the Union, (Mr. VINTON in the chair,) and resumed the consideration of the Bill to establish a Territorial Government for Upper California.

Mr. STUART, of Michigan, addressed the committee in substance as follows:

Mr. CHAIRMAN: The bill that is now before the committee, providing for a territorial government in California, is one which, under any circumstances, would command the attention of this committee.

But inasmuch as it contains a section restricting slavery in that Territory, the excitement which has pervaded, and does now pervade, the public mind on this subject, has invested it with a double interest.

The power to institute a territorial government at all is by some denied, and the power to institute a government containing this restriction is denied by many more; the expediency of doing so is also denied. To discuss, at length, either one of these propositions would require more time than is allowed to gentlemen in the discussion of any subject in the Committee of the Whole in this House; and yet I intend to glance at all of them, imperfectly of course, within the time that is allowed to me. I hold that Congress possesses the power to do all these things. Entertaining this opinion, it is not very important to determine from what source the power is derived; but inasmuch as much speculation exists on this subject, inasmuch as great minds have employed extensive research upon it, I propose, for the purpose of justifying the vote which I shall probably be called upon to give upon this bill, to state not only the existence of the power, but the source from which I think it is derived. The history of the legislation of this Government on the subject is sufficient, as a matter of precedent, to establish the existence of the power as claimed. Judicial decisions of the country have not been had upon this express question, but upon those so analogous and of such frequent occurrence that that source, too, may be looked to with confidence as sustaining this power.

In all this, however, it will be conceded by every gentleman who has carefully examined the subject, that the fact of the existence of the power has oftener been brought in question than the source from which that power is derived. It is sufficient for me to say that I do not regard it as a power under the Constitution of the United States. In saying that, however, I admit that any gentleman who wishes to make an argument sustaining that view of the case, can find precedents sufficient. He can find judicial authority and legislative authority bearing on this question, as well as individual opinions, from which a respectable argument might be made to sustain that view of the question. But yet I am among those who believe that the framers of the Constitution never anticipated the acquisition of additional territory. Not anticipating it, they did not make provision for it. They were a body of men met together to do a particular work; they did that work perfectly, but they interfered with no other business.

One of the strongest arguments that was used by the opponents of the adoption of the Constitution of the United States by the States respectively, was, that the territory was already too large to be comprehended under one government. This power to acquire and govern, is one possessed by every nation; and in this, is exercised exclusively by the General Government.

Now, sir, this general position indicates the views which I entertain on the subject. It is not necessary for me to go further upon it. If it is admitted that the Constitution of the United States confers upon Congress the power to organize a territorial government, to appoint judges, a governor, and a legislative assembly, under the clause which authorizes Congress "to dispose of, and 'make all needful rules and regulations respecting, 'the territory or other property of the United 'States," that very admission covers the whole ground. If you admit that Congress can do this under the Constitution, where is the dividing line? What higher duty is there imposed on any legislative assembly than the protection of life, liberty, and property?

Legislation in relation to property stands second in importance; yet it is insisted by a portion of the Union, that the power to legislate in relation to property in slaves, does not exist under the Constitution.

Mr. Chairman, this is a strange proposition. I say it is a strange proposition from those who admit the power to act under the Constitution at all. It is said that Congress may make all needful rules and regulations, emphasizing the word needful. But it is contended that this is not a needful rule, and therefore that it is not constitutional. This is a matter of opinion; it is a matter of discretion. It is not a question of constitutional power. This tribunal can determine finally no such questions; and whether it be needful to pass a law or not, must be decided in the first instance by Congress.

But there is a strange absurdity involved in the course of those who take this ground. What! you can legislate in relation to the possession and descent of real estate; you can legislate in relation to every other sort of property; you can deprive a man of the right to hold any property at all; you can take his life: but you cannot say he shall not hold a slave. It is insisted upon by the same class of gentlemen that the Constitution confers upon them the right to move with their property into this Territory. So far from this, the Constitution confers no right at all even to go there. No man, I say, under the Constitution, has even the right to go there. Congress possesses the power to prohibit it. This power to make regulations concerning the public territory, confers upon Congress the right to restrict trespasses; and if the public lands be withheld from market, and there be none in the Territory but public land, every man in the world is excluded. He cannot go there. If this is a constitutional right, it is a right which cannot be abridged; it is a right which cannot be modified; it is a right which cannot be suspended. And yet, in the case that I put: if a territory be unsettled—if the whole property belongs to the Government of the United States, and that Government enforces its laws prohibiting trespasses upon it—how is a man to go there? The moment he sets his foot upon a single inch of that territory, he is a trespasser. He can be excluded entirely.

But if this power were admitted, if it were conceded that we have a right to go there with our property, has not the legislative power of the country the right to declare what is property and what shall be property there? Animals wild by nature are property in some States. In others they are not property. Has not Congress the power to declare that such animals should not be regarded as property in the Territory? and if so, can you go there and hold it?

But it is said again that this territory belongs to the people of the United States; or to refine a little, to the States respectively; and hence that Congress does not possess this power. It is true that the sovereignty rests with the people, and not elsewhere; but through what medium is this sovereignty exercised? Is there any other known to our institutions except the power of Congress. Are not the States expressly prohibited from making treaties? They cannot acquire territory. They have no legislative power outside the boundaries of their States. They can do nothing in convention. They can do nothing by any voluntary movement. The only medium through which they can exercise this power is through Congress. Here it is truly exercised, and not elsewhere.

But when gentlemen fail to find powers of the Constitution of the United States expressly granted, they talk to us about the compromises of the Constitution. Yet these same gentlemen tell us, that all the powers conferred by that instrument are enumerated. Will they inform me where they find these enumerated compromises in the Constitution? Upon what page? In what section? In what line? How many are there, and to what different subjects do they relate? Lay your fingers, gentlemen, if you please, upon that compromise which guaranties to you, in your own language, the right to take your slaves into the Territory. Such a thing does not exist; it cannot be found. The compromises of the Constitution ended when that instrument was perfected. They have no existence now. When we make a new constitution, we will make it upon new compromises; but those which existed, and under which we made this instrument, exist no longer. We now stand on the positive provisions of the Constitution, and gentlemen overlook its positive provisions in a fruitless search after its compromises. Congress, in the first instance, determines for itself, under the Constitution, the power to pass laws. If there is a mistake, then the tribunal established by the same instrument shall determine the extent of that mistake. But, in the first instance, I repeat, Congress determines the question for itself.

I insist that the framers of the Constitution did not anticipate the acquisition of any further territory. I ask gentlemen from the South who claim these rights under the Constitution, to recollect, for one moment, that provision of it which relates to the reclaiming of fugitive slaves in the States and Territories. It is provided that a slave escaping into a Territory shall not, by that act, be free. Without this provision of the Constitution he would be free. Do gentlemen say that the provision relates to territories thereafter to be acquired? If they say this, they admit that he is free if taken there by the act of his master. I repeat it, and I ask southern gentlemen to answer me—if the Constitution of the United States applies to territory thereafter to be acquired, I say that the provision concerning fugitive slaves contains the inference that they are free when taken into the territories by the act of the master. If the provision extends to territory thereafter to be acquired, what becomes of your right to take your slaves into the territories of the United States? It is ended; it has no further existence.

Briefly as I have referred to these questions of power, I must leave them where they are; and I proceed to inquire into the policy and necessity of exercising this power.

First of all, the strongest reason that can be urged upon any legislative body is the request of the people inhabiting the territory. The same obligation upon us to respond to that request which exists in relation to the Territory called the District of Columbia, enhanced by the fact that they have no immediate voice in the electoral college, rests upon us to comply with that request. But it is due to the Mexican inhabitants of that territory; to those who have been transferred under the recent treaty; who have been taken from a country in which African slavery had no existence, and against which they entertained the strongest impressions—these persons, I say, placed under the laws of this Government, have a right to demand this much from us. It is due to them. The principles of sound policy also require it.

The very eloquent gentleman from Virginia, [Mr. McDOWELL,] the other day, submitted to this House an argument which was replete with reasons why Congress should exercise this power. In a strain not susceptible of imitation, and which is peculiar to the gentleman himself, he called upon us to extend this institution; because, if we did not, the time was not far distant when the overwhelming numbers of the slave population would rise in insurrection against their masters, and exterminate the white population. Shall we aggravate this evil? If southern gentlemen are now apprehensive that the time is not far distant when, within the territory which it now covers, a war between the races is a probable event, shall we, I repeat, extend it over more than double the territory which it now covers? If we shall do that, when, at some distant day, that territory shall have become densely populated also, and gentlemen shall rise here and demand the intervention of the North to protect them against institutions of this character; where then will be the territory to which these institutions shall be transferred?

But it is objected that a law of this character is unjust, unequal, and insulting to the southern States. Does it propose any restrictions upon any particular portion of the community? Cannot a man from South Carolina or Virginia go there with every species of property which a man from Michigan can take with him? Does a man from one section of country enjoy any privileges superior to those enjoyed by a man from another section? How, then, is the law unjust and unequal? How is it insulting? The very idea seems to me to be preposterous. Insulting in the Congress of the United States in the middle of the nineteenth century, to restrict the extension of slavery! It was an idea not dreamed of by the fathers of the Republic.

But if one State or one set of States here, or elsewhere, can do anything that is insulting to the remainder, I ask, does not that insult consist in uniting together in anticipation of legislation, and declaring that if a certain act be passed, they will resist it?

Mr. GAYLE interposed, and was understood to ask to what the gentleman referred?

Mr. STUART. I will say to the gentleman from Alabama, [Mr. GAYLE]—for I do nothing by halves—that I refer to a meeting held within the walls of this Capitol. I refer to the sentiments expressed in the public press throughout the South, and in the leading Democratic paper of this city.

I refer to the sentiments uttered on this subject; and I say that the substance of this whole movement is this—that if the Congress of the United States should pass a law prohibiting southern men from emigrating to these territories with their slaves, they have declared that they would resist that law.

Mr. GAYLE (scarcely heard) was understood to say, that there had been nothing that looked like resistance to the action of this Government.

Mr. STUART. I confess my surprise to hear the gentleman make such a declaration. If from the commencement of the address to the end of it, there is anything breathed, except resistance to the action of Congress of this character, I have read it in vain. It is suggested to me by the gentleman from Virginia, near me, that resistance is found in the resolutions of the State of Virginia. I have said, what I repeat, that the public press in the South, and the leading Democratic paper in this city, the Legislatures of the southern States, the address of the southern members to their constituents, breathe this sentiment, and no other. I speak in no spirit of disrespect.

Mr. WOODWARD interposed, and (the floor having been yielded) was understood to remark, that the address of the southern delegates was not an address drawn to those from whom they apprehended aggression, nor an address to this House, the instrument through which the aggression was to be committed. It was an address to their constituents.

Mr. STUART. I am aware of that. But does that affect the avowal I have made? I said that if any one State or set of States could insult the remainder, it would be by an open avowal in anticipation of legislation, that if Congress did a certain act, these States would resist it.

Mr. HOUSTON, of Alabama, interposed, and (the floor having been yielded) said, he did not intend now to say anything in regard to the "Southern Address;" he had not signed that address; his reasons for his course would, at the proper time, and in a proper way, be submitted to his constituents, to whom he was indebted for his position here, and to whom he felt himself responsible for his action as a representative. He must, however, say to the gentleman from Michigan, [Mr. STUART,] that he seemed wholly and totally to misunderstand the feelings and sentiments of the southern people. They believe that Congress has no power to pass any such proposition as the "Wilmot proviso," and that its enactment into law would be at the expense of the Constitution of the United States, and therefore of no binding force upon them. As such, he need not feel in the least surprised to hear them and their representatives speak of their determination not to acquiesce in its adoption. Whenever in their opinion all peaceful and constitutional means for their protection shall have failed, and the time shall come (which he hoped might never come) for them to choose an ignominious abandonment of their honor and their rights, or resistance to unconstitutional legislation, he will find but one sentiment amongst them; they will present an unbroken front and a determined spirit.

Mr. STUART. That is precisely one of the remarks I made half an hour ago—that gentlemen, in looking after the compromises of the Constitution, overlooked and forgot its express provisions. Congress, I said, must decide in the first instance, whether laws were constitutional or not. Southern men think this law unconstitutional; northern men think that it comes within the powers of the Constitution; and the express provision of that instrument is, that upon this difference of opinion the Supreme Court of the United States shall settle the question finally and conclusively. When an appeal shall be made to that tribunal, if, as I think they would, they should give a decision sustaining this legislation, southern men have a revolutionary right, but no other.

But, sir, these are the mere shadows of objections. The real objection is entirely of another character. It is, that the South has so long held a controlling influence in the Government, that it is like parting soul and body to give it up. The leader—that intellect which is capable of leading anywhere and everywhere, which carries the southern States, and is always sufficient for any emergency, proclaimed, in a speech made in the Senate in 1847, the real reasons why they oppose this legislation. In that speech, Mr. CALHOUN, among other things, made use of the following language:

"Sir, there is no mistaking the signs of the times; and it is high time that the southern States, the slaveholding States, should inquire what is now their relative strength in this Union, and what it will be if this determination shall be carried into effect hereafter. Sir, already are we in a minority—I use the word "we" for brevity's sake—already we are in the minority in the other House, in the electoral college, and I may say in every department of this Government, except at present in the Senate of the United States; there for the present we have an equality. * * * * * There are two hundred and twenty-eight representatives. * * * * Of these one hundred and thirty-eight are from the non-slaveholding States, and ninety from what are called the slave States, giving a majority in the aggregate to the former of forty-eight. In the electoral college there are one hundred and sixty-eight votes belonging to the non-slaveholding States, and one hundred and eighteen to the slaveholding, giving a majority of fifty to the non-slaveholding. * * * * But, sir, if this aggressive policy is to be followed—if the determination of the non-slaveholding States is to be adhered to hereafter, and we are to be entirely excluded from the Territories which we already possess or may possess—if this is to be the fixed policy of the Government, I ask, what will be our situation hereafter? * * * Twelve more States upon the Territory already ours—without reference to any acquisitions from Mexico, may be, and will be shortly added to these United States. How shall we then stand? * * * * The Government will be entirely in the hands of the non-slaveholding States—overwhelmingly. * * * * We shall be at the entire mercy of the non-slaveholding States. * * * * These, Mr. President, are solemn questions, not only to us, but, let me say to gentleman from the non-slaveholding States, to them. Sir, the day that the balance between the two sections of the country—the slaveholding States and non-slaveholding States is destroyed, is a day that will not be far removed from political revolution, anarchy, civil war, and wide-spread disaster. The balance of this system is in the slaveholding States. They are the conservative portion—always have been the conservative portion—always will be the conservative portion; and with a due balance on their part, may, for generations to come, uphold this glorious Union of ours. But if this scheme should be carried out—if we are to be reduced to a handful—if we are to become a mere ball to play the Presidential game with—to count something in the Baltimore caucus—if this is to be the result—wo, wo, I say to this Union."

Mr. Chairman, these are the arguments of a very bold man who never has any reasons under cover, but openly speaks the motives by which he acts. Here, I say, is the secret of all this organization; the secret of all this resistance to the power of Congress, and here alone. If the slaveholding States were as two to one, they would be perfectly willing that slavery should be excluded from these territories; but they cannot bear to see the sceptre depart from the hand of Judah.

As to the policy of excluding slavery from these territories, it is found in the very sentiments to which we have just referred. How has it happened that with a territory more than double the size of thrt covered by the free States, the South are in a minority in this House and in the electoral college? Will any gentleman contend that their soil is less fertile? Is it not as suitable for a dense population as New England, New York, or Pennsylvania? The southern States are the garden of the Union. The State of Virginia has been growing less ever since the Constitution was adopted—less, I say, in the scale of States—and yet she is probably the very best of the Old Thirteen. Her soil and climate, her navigable waters, her timber, her water-power, are not excelled by either of the old States—scarcely equalled in any portion of the land. What is the incubus that bears these people down? It is slavery; simply because it prevents a dense population. Wipe that out, and you will instantly find that the land which is now owned in quantities of thousands of acres will be parceled out into forty-acre lots, having industrious farmers upon it with taxable property from the amount of two to five thousand dollars. These are arguments which are not to be overlooked or evaded by gentlemen here, if they would not entail this curse upon generations yet to come. If before our own eyes we see these appalling effects—if the history of the country backs this record, shall we now legislate in a manner affecting California and New Mexico for ages to come, so as to extend and perpetuate this evil? For one, I never will.

Mr. Chairman, I proceed now (for I must pass rapidly on) to consider the effect of the Missouri compromise, and the effect of this State legislation, which is one and the same thing. I object to the Missouri compromise, because it extends slavery from the western borders of these States to the Pacific, south of 36° 30'; and I object to the bill of Senator Douglas, which is based upon a similar principle.

I am among the number who believe that the day is not far distant when the whole of the Republic of Mexico will be swallowed up in the Republic of the United States. If you allow the institution of slavery to be carried to the Pacific; if you allow its influence to be extended to that Republic, you will establish a line which cannot be surmounted, south of which slavery will be maintained, and ultimately spread even to the Isthmus of Darien. Therefore I oppose it. I say I believe that Republic will, in the course of events, be swallowed up in this, because it is in accordance with the laws of God. The history of the world does not show a case where a people, such as that, has been able to live in juxtaposition with a people like ours, superior in every respect, and maintain their nationality. It cannot and will not be done.

But the most objectionable plan which has come up yet is that which has been introduced by the gentleman from Virginia [Mr. PRESTON] as a substitute for this bill. The gentleman proposes to organize California and New Mexico into one State. Why, to a plain man at home the bare statement of the proposition would be enough to reject it. A territory larger by about one-fifth than all the slaveholding States of this Union, more than twice as large as all the free States, to be organized into one State! Who ever heard of such a proposition before? But for the excitement on the subject of slavery, such a proposition would never have been dreamed of. It cannot, it is not possible that it can meet with countenance anywhere.

But, Mr. Chairman, we are asked to compromise this question. We were called upon by the eloquent gentleman from Virginia [Mr. MCDOWELL] the other day, in strains of eloquence peculiarly his own, to come up to the subject and to the compromise of this question in the spirit in which our fathers of the Revolution assembled together and framed the Constitution of this Government. Sir, in that spirit I come. I look to gentlemen from the South; I see among them numbers of men—aye, I may say that without an exception I am proud to call gentlemen from the South on this floor my personal friends. If I were to perform a mission in this House, to select those by me most beloved, I would find them indiscriminately among gentlemen representing the North and the South. But do they meet us in the spirit of *their* fathers? Have they forgotten that the original draught of the Declaration of Independence contained among the first and most prominent causes which it set forth to justify a revolution, that the power of the Crown of Great Britain had interposed its veto to laws to prevent the importation of slaves into the then colonies?

When first reported, the Declaration of Independence contained this charge against the King of Great Britain:

"He has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation hither. This piratical warfare, the opprobrium of Infidel Powers, is the warfare of the Christian King of Great Britain. Determined to keep open a market where men should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce. And that this assemblage of horrors might want no fact of distinguishing die, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which he has deprived them, by murdering the people on whom he also obtruded them: thus paying off former crimes committed against the liberties of one people, with crimes which he urges them to commit against the lives of another."

But again, sir: in 1781 and 1782, Mr. Jefferson wrote his Notes on Virginia. Hear what he then said on the subject of slavery:

"There must doubtless be an unhappy influence on the manners of our people produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submissions on the other. Our children see this and learn to imitate it; for man is an imitative animal. This quality is the germ of all education in him. From his cradle to his grave he is learning to do what he sees others do. If a parent could find no motive either in his philanthropy or his self-love, for restraining the intemperance of passion towards his slave, it should always be a sufficient one that his child is present. But generally it is not sufficient. The parent storms, the child looks on, catches the lineaments of wrath, puts on the same airs in the circle of smaller slaves, gives a loose to the worst of passions, and thus nursed, educated, and daily exercised in tyranny, cannot but be stamped by it with odious peculiarities. The man must be a prodigy

who can retain his manners and morals undepraved by such circumstances. And with what execration should the statesman be loaded who, permitting one-half the citizens thus to trample on the rights of the other, transforms those into despots and these into enemies, destroys the morals of the one part and the *amor patriæ* of the other? For if a slave can have a country in this world, it must be any other in preference to that in which he is born to live and labor for another; in which he must lock up the faculties of his nature; contribute, as far as depends on his individual endeavors, to the evanishment of the human race, or entail his own miserable condition on the endless generations proceeding from him. With the morals of the people, their industry also is destroyed: for, in a warm climate, no man will labor for himself who can make another labor for him. This is so true, that of the proprietors of slaves a very small proportion indeed are ever seen to labor. And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God? that they are not to be violated, but with his wrath? Indeed, I tremble for my country when I reflect that God is just; that his justice cannot sleep forever; that, considering numbers, nature, and natural means only, a revolution of the wheel of fortune, an exchange of situation, is among possible events: that it may become probable by supernatural interference. The Almighty has no attribute which can take side with us in such a contest. But it is impossible to be temperate and to pursue this subject through the various considerations of policy, of morals, of history, natural and civil. We must be contented to hope they will force their way into every one's mind. I think a change already perceptible since the origin of the present revolution. The spirit of the master is abating, that of the slave rising from the dust; his condition mollifying; the way is, I hope, preparing, under the auspices of Heaven, for a total emancipation; and that this is disposed, in the order of events, to be with the consent of the masters rather than by their extirpation."

Again: Mr. Jefferson, in a letter to Governor Coles, of Indiana, speaking of slavery, said:

"The hour of emancipation will come; but whether it shall be brought about by the generous energy of our own minds, or by the bloody process of St. Domingo, is a leaf in our history not yet turned over."

General Washington, in his letter to Robert Morris, says:

"I can only say, that there is not a man living who wishes more sincerely than I do to see a plan adopted for the abolition of it, (slavery;) but there is only one proper and effectual mode by which it can be accomplished, and that is, by the legislative authority; and this, as far as my suffrage will go, shall not be wanting."

Colonel Mason, of Virginia, in the Federal Convention, said:

"Slavery discourages arts and manufactures. The poor despise labor when performed by slaves. They prevent the emigration of whites, who really enrich and strengthen a country. They produce the most pernicious effect upon manners. Every master of slaves is born a petty tyrant. They bring the judgment of Heaven on a country. As nations cannot be rewarded or punished in the next world, they must be in this. By an inevitable chain of causes and effects, Providence punishes national sins by national calamities. He held it essential (he said) in every point of view that the General Government should have power to prevent the increase of slavery."

Have southern gentlemen forgotten what that eloquent gentleman [Mr. McDOWELL] remarked, that it was the votes of the slaveholding States in the Convention which established the ordinance of 1787, and excluded slavery from the territory northwest of the Ohio? Sir, they had lived under the baleful influence of the institution of slavery, and they were determined that its limits should not be extended. I repeat to my friends from the South, I meet them in the spirit of our fathers. Take care of this curse, my friends, while you can. If, in the language of the venerable gentleman from Virginia, you fear the institution now, if, as you say, the day is not far distant when the knife in the hand of that population may be applied to your throats, why extend its baleful influence to a territory more than equal to your present slaveholding States, and which is now exempt from the evils of this institution, thus multiplying these dangers and entailing them upon future generations? Come up, now; come up in a spirit of compromise; come up while the power of the Union exists; come up in the spirit of your fathers of the Revolution; come up and strike a blow for freedom.

Mr. Chairman, I have but a few minutes left; and during those few minutes I propose to call the attention of the committee to the remarks of the gentleman from Virginia, [Mr. MEADE.] In a speech delivered by that gentleman not long since upon the Pacheco claim, he said:

"He was right, therefore, in saying that gentlemen in voting against this bill were influenced by the fear that property in slaves would not be regarded as property by their constituents. Whatever might be said of southern slavery, he found a slavery in this House more servile and reprehensible than any which existed in the southern States. About one tenth of the population of the North had enslaved gentlemen, and deprived them of their independence, so that they dare not vote their own opinions, but were held in bondage by a little squad at home, who held the balance of power between them and their political opponents. There were honorable exceptions, he knew. 'If gentlemen would at once break those chains, and join their hands as brothers over the altar of their common country, and unite in crushing with their heels these reptiles, who are seeking to destroy this Confederacy, and to apply the knife to the throat of the southern master, we should never hear more of these discussions, and they would be seen acting as men emancipated from those shackles which had been imposed upon them by a fraction of heir own people."

Mr. Chairman, this is pretty strong language, sir, to be used even under the impulse of the momentary excitement of debate; but when it is employed by a gentleman who has coolly drawn out and revised his speech and placed it upon record, I feel myself bound, as one gentleman from the North, to state how I regard it. A slavery more reprehensible than any slavery in the South! Sir, the gentleman does not understand the subject. He will find that we not only represent our constituents properly, but he will find that we dare to represent them, and that we dare to condemn such language, come from what source it may; it is unbecoming any legislator when used to a member of the same body.

The gentleman from Virginia asks, in a subsequent part of that speech, whether, if there should be a southern invasion—if the southern States should be invaded for the purpose of liberating the slaves—the North would come to their assistance? I answer him, Yes, sir; and we will never inquire after the cause of the invasion. With the same spirit in which we met you at Yorktown, we will meet you whenever you are invaded, and we will never lay down our arms until every hostile foot is excluded from our country, no matter upon what portion of that country the invasion may fall.

But, sir, there is another gentleman here—the gentleman from Pennsylvania, [Mr. BROWN,] who has come in here as counsel for the South, and has said things which southern gentlemen would disdain to say. He comes here and attempts to interpret what we do. He says, when a gentleman votes against laying a bill on the table, he votes for that bill as it is; and without reference to amendments. Such a parliamentary inference as that was never dreamed of before. I understand, when a member votes to lay a bill on the table, he does it because he is opposed to any legislation on the subject. If he votes against laying it on the table, he retains the measure, with the power to modify it, and make it according to his own opinions.

But the gentleman says, when these aggressions upon the South shall have been pushed to extremes—when civil war shall begin, he will be found fighting for the South.

Mr. Chairman, only think of that terrible day, sir! Imagine that gentleman, seated astride the Rocky Mountains on the line of thirty six degrees and thirty minutes, with one foot upon the Pacific and the other upon the Rio Grande, with his ebony legions in serried ranks behind him, shaking his grisly locks and shouting vengeance! And can you doubt, sir, that the free States of the North will bow in humble submission and capitulate upon any terms this northern giant with southern principles may see fit to dictate?

That gentleman expressed a desire that his remarks should be bound in a volume with those of the gentleman from Indiana, [Mr. THOMPSON,] and go out to the country together,

Sir, he will find them, if sent to the North, returning to him like Noah's dove to the ark, without a single resting-place; for, sir, the deep and pure waters of freedom cover the face of that land.

I have thus, Mr. Chairman, briefly, very briefly, given my views on this subject. I am obliged to the committee for the attention with which they have heard me, and will detain them no longer.

CALIFORNIA AND NEW MEXICO.

REMARKS OF MR. TH. S. BOCOCK,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

February 26, 1849,

In Committee of the Whole, on the bill to establish a government in California.

Mr. BOCOCK said:

Mr. CHAIRMAN: I avail myself of this opportunity to express a few views in relation to the various propositions which are proposed for our consideration, having in view the establishment of governments in our newly-acquired territories. As I have heretofore refrained from speaking this session, because I did not choose to interrupt the progress of business without strong occasion, so now my interruption shall be as limited as the occasion which produces it will allow. The bills reported by the Committee on Territories for establishing territorial governments in California and New Mexico, being encumbered with what is called the "Wilmot proviso," can, under no circumstances, obtain my support in their present form. Strike out that feature, and I will vote for them with great pleasure. The substitute offered by my colleague [Mr. PRESTON] I have considered with a sincere desire to come to a favorable conclusion in relation to it. It was advocated by him with considerable zeal and ability; it has been sustained by a respected colleague on this side of the House [Mr. McDOWELL] with surpassing eloquence. It has been hailed by a portion of the press in my own region as the *harbinger* of *peace*. I could not, therefore, feel otherwise than sincerely desirous of bringing my mind to view it with favor. I have not, however, been altogether successful in doing so. There may not be any constitutional difficulties in the way, but there are other difficulties of scarcely inferior weight.

This substitute proposes to authorize one State to be formed out of all California and New Mexico—a tract of country greater in extent than all the present slave States of this Union; it proposes to unite in one State two large regions, which are connected neither geographically nor commercially.

Between New Mexico and the inhabited parts of California a "howling wilderness" intervenes, about seven hundred miles in extent, across which there is seen no foot-print, save that of the wandering savage or the homeless emigrant from the States. There is between the two regions no trade, no intercourse. California has, or shortly will have, commerce with Asia, Europe, the Sandwich Islands, South America, Mexico itself; but not New Mexico. Let them be formed into one State, and the delegates from one region or the other will have to pass the trackless wild above alluded to, to reach the seat of Government. Having met in one Legislature, what will they do? What common subject of legislation will present itself? What common interest will ask attention? What community of feeling and sympathy will exist? Will one and the same judicial and municipal and revenue system do for both? Bearing the burdens of taxation equally, will the two regions have common objects to which *their* revenues may be applied? Will the inhabitants of the two constitute, in any proper sense, one political community? No more than the people of Minesota and the people of California.

The union is unnatural, inconvenient, and unjust to the citizens of the country. It would produce dissatisfaction and trouble. Not only this, but other objections present themselves.

The people of New Mexico certainly, if not also the inhabitants of California, are unprepared to take position as the citizens of a sovereign State in the Confederacy. It would be premature to make them so. To be citizens of a State, they must be prepared for self-government—they must understand and be ready to carry on a free, representative, republican system. Are they in that condition, or likely to become so in a few months? I find the condition of the inhabitants of New Mexico described by two distinguished gentlemen—one a member of this House, and the other a member of the Senate—both of whom possessed the talent and the information to do justice to the subject.

In a speech delivered in the Senate of the United States, on the twenty-third day of March last, Mr. WEBSTER, speaking of New Mexico, said:

"The people are far less elevated in mind and condition than the people of the Sandwich Islands—far less worthy of our association—far less fit are they to send their Senators here than the inhabitants of the Sandwich Islands—far less worthy than the better classes of Indians in our neighborhood. They have no notion of our institutions, or of any free institutions. They any notion of popular government! Why, not the slightest—not the slightest on earth. And the question is asked, what will be their constitution? It is farcical to talk of such a people making a constitution. They do not know the meaning of the term."

Ruxton, an intelligent English traveler, whose authority Mr. WEBSTER introduces, says of them:

"In their social state, but one degree removed from the veriest savages, they might take lessons even from these in morality and the conventional decencies of life."

To the same effect is the testimony borne on this subject by the honorable TRUMAN SMITH, of Connecticut. In a carefully and elaborately prepared speech delivered in this House on the second day of March, 1848, he says of the inhabitants of New Mexico:

"I do not hesitate to say, that a more degraded, ignorant, brutal, or vicious people does not exist on the face of the earth."

He shows, too, that from the nature of the country and its locality, the character of the people will be slow to change. They are of three classes: those of Spanish descent, those of Indian, and a mixture of the two.

And yet these people will constitute two-thirds of the citizens of my colleague's proposed State. The inhabitants of California, made up of every nation on earth, many of them recently subjects of monarchical governments, will constitute the other third. To such men he proposes forthwith to confide the delicate trust of self-government. To such men he proposes to commit the destiny of a country in which the States of this Union have so great an interest. It is premature—it is contrary to all precedent—it is unsafe. But, sir, great as are these objections, there is another to my mind equally as great. We of the South have contended, and upon the strongest reasoning, that the territories acquired by the joint blood and joint treasure of the whole Union become the common property of the people of the several States, and that the Congress of the United States was merely the agent or trustee, with limited authority, having no right so to execute its trust as to impair the equality of the States.

We have held, that whenever there should be a people occupying any portion of this territory, prepared for self-government by numbers, intelligence, &c., such a people may, with the consent of Congress, form themselves into a State; and thus acquire the sovereign authority within their own limits, and consequently the right to control the municipal regulations of the country. To that sovereignty we cheerfully accord the right to say whether there shall be slaves there or not. But all this must be done in good faith; there must be a people prepared to receive enfranchisement, to manage the affairs of the State, and to judge intelligently of its municipal regulations. Congress may surrender its trust to such a people, but to no other. It could not rightfully consent that a tribe of savages inhabiting this territory should form a State, and acquire the rights referred to. No man could so contend. It is clear, then, that Congress would violate its duty, and commit a breach of trust, if it should consent that a people not duly prepared for self-government, as I have shown is the case with the New Mexicans, should form themselves into a State, and thus acquire the right of deciding for or against our institutions. I will now show that this breach of trust on the part of Congress, would operate to exclude our institutions from all that country, and that the bill of my colleague is a surrender of that question—a surrender upon terms, it is true, but still a surrender.

Under this bill, who would constitute the new State which would decide the question? The inhabitants of California and New Mexico together. They are in number about one hundred and forty thousand; and at the time limited for the formation of the State, would not be more than one hundred and seventy-five thousand. Of these, one hundred thousand are New Mexicans, and the rest would be inhabitants of California. The people of New Mexico are represented, on all hands, as having prejudices against the institution of African slavery. They recently held a convention, and in a petition presented to the Senate of the United States, say: "We do not desire to have domestic 'slavery within our borders; and until the time 'shall arrive for our admission into the Union as 'a State, we desire to be protected by Congress 'against their introduction among us." As there is very little emigration from the States into New Mexico, this prejudice is not likely to be at once removed. I speak of it as a prejudice, because the character ascribed to the people of that country forbids the idea of their forming an intelligent opinion at this time.

Well, then, if all California, with its probable seventy-five thousand inhabitants, should vote in favor of having slavery, New Mexico, with its one hundred thousand would overrule it. But how is it with California herself? Of the seventy-five thousand people, which she may be expected to have at that time, twenty thousand are natives, with the character and prejudices of the New Mexicans. Of the other fifty thousand, a large number would be Europeans, South Americans, and Sandwich Islanders; leaving not more than twenty-five or thirty thousand to be emigrants from the United States; and it is well known that the non-slaveholding States have had greatly the advantage thus far in this emigration.

Against us would stand nearly all New Mexico, the native population of California, and the greater part of the emigration from foreign countries and from the non-slaveholding States of our own country. I do not speak too strongly, then, when I say, that to allow the *immediate* formation of one State out of New Mexico and California, would be a certain surrender of this question in the whole country. So it is looked upon by its leading advocate in the Senate, though a southern man. In a speech delivered in that body on the 21st instant, Mr. BELL, of Tennessee, said:

"The probability is, that if those Territories are admitted into the Union forthwith, they will at an early day present themselves in the form of free States. I ask my northern friends to attend to that fact. I act upon the presumption that they will come in as free States. If it is voted now, it is a free State."

Here is a surrender to which the attention of the victors is particularly invited. But, sir, if I do not greatly misunderstand the import of language, my colleague, who introduced the bill, regards it a surrender. In his speech, made upon its first presentation, he says:

"Again: gentlemen of the North, will you insist that the Wilmot proviso shall pass *nolens volens*? Why, your orators demonstrate, day after day, that there can be no slavery there. A gentleman the other day demonstrated to my satisfaction, that the people who were there when we took the country do not desire the institution; and he demonstrated further, that those who are going there do not desire it. He showed to you, and it may be true, (I make the passing remark,) that in this effort—this career to reduce the country to our possession, the North had the advantage over us; that those in favor of free institutions had the advantage over us, which no power could check. Look, for a moment, at Virginia and the South: if the slaveholder wants to emigrate, and take the slaves with him, it is a work of time. His business affairs must be arranged; he is a man of substance and property; he has to collect last year's hire; he has to collect the proceeds of the sale of his farm; and that is not the work of a moment. But this is not the case with those emigrating from the North. Why, then, do gentlemen say we will have the Wilmot proviso, *nolens volens*? I say this to gentlemen of the North: if you want this thing, leave it to a great principle."

Now, I ask of any candid man, does not this mean, You of the North have the advantage at present, and if you will take it in my way, you may have the country? Certainly, I do so understand it, and so understanding it, I consider it a just explanation of the effect of this bill. It surrenders the question. Well, sir, I am not ready for that. Such is not the spirit of my people. I will not overleap precedent, and violate great rules of reason and of right, in order to make a graceful surrender. If many leading men of both parties have declared the opinion that slavery can never go there, less reason exists, therefore, that we should take such extraordinary means to keep it out. But I do not see anything in the nature of the climate, and soil, and productions of much of California to forbid slavery. However that may be, all we ask for is a fair chance. If the people, when in regular course they have become ready to form a State or States, shall deliberately decide against the institution of domestic slavery, we are perfectly satisfied. Give them time to become trained to republican government, to learn the duties of free citizens, to understand the nature and merits of our institutions. Give to the citizens of the South the opportunity, in the mean time, to meet the citizens of the North in argument and influence before them. Give this, and then, whatever may be the result, we are satisfied.

It is said, that if we do not pass this bill, the Wilmot proviso will be forced upon us. Well, sir, I have not learned that in order to avoid insult we must submit to injury. I stand to the rights of my constituents, and leave to others the responsibility of any course they may think proper to pursue.

I shall probably be accused of ultraism, and a desire to produce excitement. Already we who participated in a recent move here, are characterized as agitators. But the charge is untrue. In relation to that move I have no explanation to make, no apology to offer. When the rights of my constituents are involved, I am ready, at all times, to consult with the friends of those rights, by night and by day, and if they advise nothing imprudent or improper, I shall be ready to coöperate with them. I challenge an investigation of the proceedings of the southern meeting. If it be said that it was a sectional move, the answer will be, The evil was a sectional one; the constituency aggrieved were those of a section; and no member or members can ever address his or their constituents, without making a sectional move in this respect.

If it be charged that it was extraordinary, I answer in the language of the distinguished John Pym, when defending the bold measures of the English Commons, in sixteen hundred and forty-two, before the House of Lords: "The mischiefs 'have been expressed with more danger and violence than for many ages before, and therefore 'your Lordships will not wonder that there be 'something extraordinary in the cure."

That it was not premature, I appeal to the history of this session and the current of events before us to prove. If measures of prevention are to be taken, now is the accepted time. When the mischief is consummated, it will be too late for anything but redress; and Heaven forever avert that necessity.

Sir, it has been said that it was an attack in advance on General Taylor's administration. Certainly, that charge will not apply to some of us on this floor. During the last session a proposition was made in the Senate, and there carried, to settle this question by an extension of the Missouri compromise line. It was brought to this House, and here promptly rejected. That looked portentous. It created much feeling among southern members. At that time a paper was brought to me, calling a meeting of the southern members. It was headed by the gallant Whig member from Alabama [Governor GAYLE] and signed also by my colleague from the Petersburg district.

The Presidential election had not been held. It was undecided on which standard victory would perch. Without looking at those considerations, I promptly signed the call. The same feeling which actuated me then, did so on this occasion. Let those whose every act springs from party considerations make the charge—I am guiltless of it. It is too much to be feared that there were those who looked to party, as they ever do, and feared to strike for their constituents, lest they might injure party. I leave it to their own consciences and to the enlightened minds of the public to say who they were. But, sir, in relation to this move, the cry of secret conclave, midnight conspiracy, and Hartford Convention, has been raised upon this floor by northern men. Do they mean to excite against us prejudices the danger of which they themselves had not the nerve to meet? These are words without applicability. The Hartford Convention was an assemblage, the object of which was to bring about a dissolution of the Union. The Southern Convention, as it is called, was an assemblage met together with the sole view, if possible, to save the Union.

If its proceedings were held at night, with closed doors, every member was authorized, during the sittings, to divulge them; and, when the business was concluded, the journal was made out and submitted to the view of the public. Everything there done has been brought out in the face of day, and the most scrutinizing gaze of the public has been challenged.

What act of that meeting was wrong? Tell me that, or withhold accusations. You cannot cover your defection at a critical moment by your false clamor against us. You have mistaken the signs of the times. Like inexperienced boys, you have gone out to your fairweather sports, to fly your kites, and to raise your balloons, when the storm was bursting in the air. Sir, the people of the South are not in a temper to be amused by clap-traps and idle catchwords. They are in a graver, sterner mood. There is a spirit among them that cannot

thus be allayed. See the resolves of their State legislatures. See the proceedings of the thousands of popular meetings sustaining the legislatures, and tell me if there be not deep feeling in the southern masses, which you will in vain strive to compose with mimic arts. The idle juggler in the streets of ancient Pompeii might amuse with his tricks a gaping multitude, but he could not still the quakings of the earth which foretold the coming catastrophe. He could not quench those fires which burnt deep in the bosom of the mountain, ready to break forth in terror and wonder. Gentlemen by their cant words may please themselves, may amuse the House, but they cannot turn from their purpose or mislead the people. I know there are those who ridicule all demonstrations of feeling on this subject either on this floor of in the legislatures and popular meetings of the South. Such men are deeply; I fear fatally mistaken. The division here among southern representatives has produced but little corresponding division at home. The popular masses are beginning to be of one mind, and the force of sentiment with them is already dragging along those who, for party purposes, have been disposed to hang back. Gentlemen of the North need not be surprised at this. This slavery question, which to them is one of far-off speculative philanthropy, comes home to our firesides and our hearths. It is to us a deeply practical question. But, sir, we are not agitators, we are sincerely desirous of a fair and satisfactory settlement of this question. In this spirit I have voted for every proposition of compromise which has thus far been put to the vote of the House. I went for the extension to the Pacific of the Missouri compromise line last session.

Our forefathers, with that spirit of patriotism which characterized all their acts, agreed to adopt it as a settlement of a similar difficulty. Virginia had expressed a willingness to abide by it still, in hope that it might be made the basis of a permanent adjustment of the question; and her Representatives on this floor were willing to carry out her views. It was a great sacrifice on our part, but on the altar of the Union we were willing to make it. A northern majority rejected that peace-offering. Another compromise proposition came to us from the Senate, under the most imposing circumstances. Got up in that body by a committee selected with the greatest care; sustained in that body, after full discussion, by a vote of nearly two-thirds, it appeared to present a platform on which all the friends of compromise might willingly unite. It remitted the parties to their rights respectively, under the Constitution, and under the common law of all nations, and left the adjudication of those rights to a tribunal which in this case is as nearly impartial as any which could be devised. Have we a right, under the Constitution, and under the common law of all nations, to carry our slave property to these territories? This is the question, in my estimation, upon which the whole controversy hangs. That it should be decided in our favor, I have the utmost confidence; and I was willing, under the circumstances, to trust it to the decision of the Supreme Court. The judicial compromise bill, as it was called, I consider, upon reflection and mature consideration, one of the happiest schemes ever yet devised for the settlement of this most unlucky controversy. It pleased gentlemen on this floor, without attempting to improve or perfect this bill, to lay it on the table. They may have thought that the *convenient season* had not arrived. The question may not, then, in their opinion, have subserved all the party purposes of which it was capable. The Presidential contest was approaching, in which they may have desired to use it as a grand "*dodging ground.*" But, sir, they should have remembered that events in dark current were rushing on, and this dread controversy waxing warmer and warmer. What could be done then, cannot, I fear, be done now. The question has served their purpose; but they cannot now recall to life that beautiful creation. I fear they have no "Promethean heat which can its light relume."

All these compromise propositions I have sustained, and am willing yet to sustain. But, sir, I will go for nothing which surrenders the rights of my constituents. I will go for no compromise, where the sacrifice is altogether on our side. That has been too nearly the case with those which have been heretofore made.

When the necessities of our western commerce pointed to the acquisition of the Louisiana territory, that acquisition was called for by the northern as well as the southern States of the Union. Upon the treaty by which it was made being submitted to the Senate, eleven Senators from the North voted for its ratification, and five against it. I mention this fact to show with what truth it has been asserted on this floor that it was a triumph of the slave power in this Government. The Louisiana territory came in, however, with laws allowing the institution of slavery. But, sir, the North did not acquiesce in its retaining that condition. At the admission of Missouri, a difficulty was created on this subject by them, which seriously threatened the existence of the Union. The result was, that a compromise was made, by which the North got of this territory all lying north of the latitude 36° 30′ except the State of Missouri. In this arrangement she got of our territory about 970,000 square miles, and we retained about 380,000.

This was a compromise which satisfied her very well at that time. Since then she has taken the whole of Oregon, containing about 341,000 square miles; and all of Texas north of 36° 30′. We have received Florida, containing 59,000 square miles, and the remainder of Texas, containing about 300,000 square miles. The account thus far is, for the North, 1,311,000 square miles, from which our slave property is totally excluded; and for the South 739,000 square miles, subject to the right of northern citizens to enjoy it with all their property, and on equal terms with ourselves. She has hers all to herself, free from our immigration with our property, and is joint tenant with us in ours. But now, not satisfied even with such compromises as these, she comes boldly out and claims everything; all of California, all of New Mexico, the District of Columbia—everything. For ourselves, she grudgingly grants the enjoyment of our property in our present limits. She would fain have us "so abject, mean, and vile, as to beg our brother worm of dust to give us leave to toil." Sir, I am tired of such compromises and such exactions; my State is opposed to them; and if I do not like this bill of my colleague, it is because such, in my estimation, is its character. The bill pending in the Senate, and introduced by the distinguished Senator from Illinois, [Mr. DOUGLAS,] though not free from similar objections, is decidedly preferable, and that would be less objectionable a year hence than now, because the people of California would then be more ripe for self-government than now. In the mean time, if we cannot agree upon a territorial bill, in the name of peace let us pass something like the proposition introduced by the Senator from Wisconsin. It is the best temporary arrangement that can be made. It extends over our Territories our land laws, our revenue law, our Indian laws, and leaves the preservation of order to the President of the nation.

Cannot gentlemen of the North agree to take this, and forego their agitation? If this question is ever settled, a different spirit must be manifested, on their part, from that which has exhibited itself this winter. Sir, I have witnessed that spirit with dark forebodings. I have heard its outpourings with deep regret. I will not recount the acts of the session; but, sir, have we not heard, again and again, that slavery is a moral evil, and that gentlemen would not permit it to be extended a thousandth part of an inch, to save the universe from dissolution. What monstrous impudence! Aiming a thrust, as it does, at the best and wisest and purest who ever lived upon earth, and with a wild blasphemy impeaching the wisdom of Heaven itself, we could not be expected to listen to it without stern indignation. But, sir, when it comes, as it sometimes does, from men whose fathers, if not themselves, shuffled off their slaves upon the people of the South, and made a profitable traffic, it mingles with our other emotions a feeling of contempt and derision. It raises before my mind the picture of the daughters of Lot, twitching their old father by the beard, and reproaching him with a drunkenness into which they themselves had seduced him, with a view to accomplish their far more wicked and abominable purposes. In such attitude do these northern gentlemen place themselves by their illiberal and wicked reproaches against us. Sir, if they would listen to the counsels of so humble an individual as myself, I would advise that they desist forthwith and forever. Such a course is neither fraternal nor patriotic. It is hostile to peace; it is hostile to that spirit of concession by which this difficulty is to be adjusted, if ever it shall be. We must all learn to bring to the consideration of this subject calm and conciliatory minds, and "out of pure hearts, fervently," we must strive for its settlement.

OCEAN MAIL STEAMERS.

SPEECH OF MR. W. STRONG,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

January 30, 1849.

The House being in Committee of the Whole on the state of the Union, (Mr. J. R. INGERSOLL in the chair,) on the Bill making Appropriations for the Naval Service for the year ending June 30, 1849—

Mr. STRONG said:

Mr. CHAIRMAN: I have not risen for the purpose of adverting at all to the subject which has occupied the attention of the gentleman [Mr. BROWN] who has just taken his seat. I propose to avail myself of some other occasion, more suitable than the present, to be heard upon that subject, (slavery.) I entertain some views of it which have influenced my conduct, and which I desire to present to the House before I shall be called upon to take any step which may be productive of practical results. My present intention is to speak of the bill before the Committee, or, more properly, of the policy of one of the appropriations which it contains. I refer to that section which appropriates eight hundred and seventy-four thousand six hundred dollars for the transportation of the United States mail between New York and Liverpool, New York and New Orleans, Havana and Chagres, and between Panama and some point in the Territory of Oregon. This subject—the policy of making appropriations for the establishment and support of these lines of ocean steamers—was pressed upon the attention of the House at the last session of Congress, in an elaborate report by the chairman of the Committee on Naval Affairs. It will be recollected that the bill, or joint resolution, accompanying that report, was made the special order of the day, and sustained by the honorable gentleman from Georgia [Mr. KING] in an able and eloquent speech. At that time, sir, I strove for an opportunity to reply to some of the views expressed by that gentleman; but I strove in vain. Subsequently, on one of the general appropriation bills, in which there was a clause ratifying the contract for the transportation of the mails from Charleston to Havana, I endeavored again to obtain the floor for the purpose of expressing my opinions in relation to these contracts; but I was again unsuccessful. Having at length succeeded in obtaining an opportunity, I desire to examine at some length the whole policy, and see whether it is worthy of that favor which it has received at the hands of this Congress and of that which preceded it.

This ocean mail steampacket communication is a novel thing. It is new to the world, and, if I am not mistaken, it is less than three years since it has found a place in our legislation. Yet, with all its novelty, so fascinating has it proved, that it has found many and able advocates, who have succeeded in leading this House and the Senate to the adoption of measures which, if persisted in, must, in my opinion, produce the largest results of evil. Congress has entered upon a course of legislation, and embarked in a system of expenditures, which, if not arrested, threaten to embarrass our treasury, and to sacrifice many interests which are near and dear to our people. While we have thoughtlessly regarded the policy as worthy of little attention, and overlooked the consequences which it is calculated to produce, it has already abstracted from our treasury a sum, of which, I am persuaded, neither this House nor the country is aware. It has been a policy adopted without discussion, and pursued without examination. Though yet in its infancy, it has begun where other enterprises have ended. It is only two years and a half since the first step was taken. It was not until the 10th of May, 1846, that the earliest definitive measures were adopted in this House;

and in June of the same year, the first contract was made with the Post Office Department for the transportation of the mail in four steamers between New York and Bremen, at an annual cost of four hundred thousand dollars. In the following year, on the 3d of March, A. D. 1847, on the last expiring day of the session of Congress, three other lines were authorized—one from New York to Liverpool; one from New York to New Orleans, by the way of Havana, with a branch to Chagres, and one from Panama to Oregon. Still another line has been authorized, from Charleston to Havana. Under the authority thus given, contracts have already been made, five lines of ocean steamers have been established, and the Government has assumed the obligation to pay annually, during the ensuing ten years, the extraordinary sum of one million three hundred and twenty-nine thousand six hundred dollars. Nor is this all. Sir, this is but the birth and growth of but two years and a half. Such has been the facility with which acts of Congress authorizing these contracts have been obtained, that numerous other projects of a similar character are presented for our approval, and demand our action. Already has the Committee on Naval Affairs reported a resolution for the establishment of another line from New York to Havre; and still another, from New York to Antwerp, in Belgium, a place distant a little more than two hundred miles from Bremen, the terminus of the first line authorized. If these be established, they will add to the annual demands upon our treasury another sum of not less than eight hundred thousand dollars. And even this, sir, is not the beginning of the end; a line is proposed from some point in California to Shanghai and Canton, with Government steamers; a line which cannot be supported at a less yearly expense than one million of dollars. One is proposed to the mouth of the Elbe, and thence to St. Petersburg; and the honorable gentleman from Georgia [Mr. KING] has told us, in his able and interesting, though, as it seems to me, fallacious speech, that it is highly probable other lines may be established between important points which have not been suggested. This he denominates "the American system of steam mail-packet communication." True, it is a splendid scheme, but I fear it will be found to contain more blanks than prizes. Sir, I cannot resist the conviction that it is time for us to consider how far this policy is to be pursued. The steps already taken, we cannot retrace. The thirteen millions, or the one million three hundred and twenty-nine thousand six hundred dollars annually, for ten years, we have contracted to pay, and that is beyond our control, but we may decline assuming greater responsibilities. At all events the subject is sufficiently large to invite discussion, to deserve the attention of Congress and of the country. I propose, therefore, to ask the attention of the committee while I make a brief examination of the system, and express some of those views which have awakened in my mind a decided hostility to it, and which lead me to oppose any further extension of the policy. The advocates of these contracts have advanced several reasons for urging them upon the favorable consideration of Congress. I must be permitted to say that those reasons have not always been the same, nor have they been consistent with each other.

The adoption of the system was urged as a means of enlarging the conveniences of the mails; and accordingly, the first contract was placed under the charge of the Post Office Department. As such, it claimed the approbation of the country. But, sir, it is not difficult to show that instead of facilitating mail accommodations, these contracts are and must continue to be an actual burden upon the Post Office Department, the most formidable existing obstacle in the way of that reduced and uniform postage which the country demands. The harmonious voice of every section of the country comes up to us, and asks for the utmost reduction of postage which is consistent with the policy of making the revenues of the department defray its expenses. From the earliest history of our Government to the present day, with a brief exception, there has been no departure from the principle that the conveniences of the mail are to be extended as widely as possible, provided the expense did not exceed the revenue. I have said that there has been a brief exception. This occurred during the last war with Great Britain, when, for a short period, an additional postage of fifty per cent. was exacted, with the design to raise revenue for the support of the Government. The experiment was soon abandoned, and the principle has become settled that the expenditures of the Post Office Department are to be coextensive only with its revenue. I know of few persons who are willing to see this principle abandoned. Now, sir, why is it that during the last year the revenues of the Post Office Department have not *far* exceeded its expenses? One answer is obvious. It is because so large annuities have been paid to these ocean mail steampacket lines. Had no contracts for such service been in existence, there would have been a large surplus beyond the expenditure, and no misgivings could be felt as to the feasibility or the propriety of a uniform postage of five, perhaps even of three cents. The entire expense of the transportation of the mails within the United States for the year ending June 30, 1847, was two millions four hundred and ninety-five thousand seven hundred dollars. It was the same last year; but I select the year ending June 30, 1847, because I have been able to find fuller statistics respecting that year. The number of letters carried exceeded fifty-two millions, and the number of papers fifty-five millions. Both papers and letters were more numerous during the last year. The sum already contracted to be paid for the ocean mail steampacket service is one million three hundred and twenty-nine thousand six hundred dollars for a single year; more than half as much as is paid for the transportation of the mails over all the post roads of the country. Sir, it requires but a statement of these facts to exhibit the utter baselessness of the argument that the conveniences of the mail are enlarged by the establishment of these lines of ocean mail steamers. I am aware that only a part of this sum is charged to the Post Office Department, but the whole is justly a subject of consideration in the investigation of the extent to which increased mail accommodations are given to the community by this steam mail packet service.

Now, sir, what is the return for all this expenditure? What are the glorious results of this splendid experiment? From the report of the Postmaster General for the same year, (ending June 30, 1847,) I learn that the number of letters forwarded in the mails from foreign countries was eight hundred and fifty thousand nine hundred and eighty. It must not be forgotten that these were all. This sum includes those which came from all foreign lands, those which came in English as well as American steamers, in packet-ships, and by every mode of conveyance. And yet the aggregate of all is eight hundred and fifty thousand nine hundred and eighty—proportioned to the domestic letters about as one to sixty. And yet we pay for the transportation of this one-sixtieth more than half as much as for the conveyance of all the domestic mails, even assuming that they all come in American steamers. Add to this sum all ship and steamboat letters, and the sum total is less than thirteen hundred thousand. It thus appears that the Government of the United States has already, by these contracts, engaged to pay more than one dollar for the transportation of every letter which comes to our shores from foreign lands. There are no other data from which to gather the amount of postages received for mail transportation by these lines. It seems to be too small to be worthy of separate notice. The Postmaster General's report of this year states that the income from the Bremen line is reported to be $29,082 83. These, then, are the results of these enterprises; this the rich harvest that we have gathered, and this the cost at which that harvest has been secured! Sir, all this is done, this one dollar for every foreign letter paid, this $1,300,000 annually appropriated at the expense of the business, the intelligence, and the social affections of the country. Our citizens are taxed for the support of these lines, and debarred from that free intercourse with each other, from that unfettered trade, from that interchange of knowledge, of thought, and of feeling, which, but for this policy, they might enjoy. The rapidly-increasing population of our western country, the interior of New Mexico, California, and Oregon, all require new post routes, and increased postal accommodations. They ought to possess them. But these must be sacrificed or long delayed. In regard to one of these lines, that from New York to New Orleans, we are informed by the head of the Post Office Department, in his report made at the commencement of this session, that it is utterly useless as a means of transporting the mails between those places, and yet to that line we pay annually the sum of $290,000.

It is absurd, then, to sustain this system, or to urge its extension as a means of giving to our people increased mail accommodations. If the object really be to extend and enlarge the mail conveniences of the country, to me it seems that it could far better be done by allowing every properly-constructed ship that sails from our ports to carry letters, and to receive for compensation one-half the postage. By this mode, the foreign mail transportation, instead of being an onerous tax, would be a source of revenue to the Government. And by this mode substantial additions would be made to postal accommodations. But I dismiss the further consideration of this argument, heretofore so strenuously urged in behalf of the extension of governmental aid to those lines of mail steamers. Experience, the great test of truth, has proved its fallacy.

Equally unsatisfactory is the argument which the chairman of the Committee on Naval Affairs, [Mr. T. B. KING,] addressed to us at the last session of Congress. He then advocated an extension of this policy, the establishment of other lines of ocean mail steamers, and urged it as a judicious plan for increasing our navy. Sir, it may well be doubted whether the situation or the necessities of the country require any large increase of our naval establishment. The necessity of such an increase must be conceded or proved, before there can be any force in the argument of the honorable gentleman. But without delaying to enter into the consideration of that question, I confess myself unable to perceive the advantages which we are to gather from this new system of naval enlargement. And yet this seems to be the argument upon which most reliance is placed, and which the gentleman urged with all his ability. He has given us a glowing picture; but the utmost skill of the painter cannot convert a picture into the reality. I have already stated that this system was first quartered upon the Post Office Department; but when it became apparent, that as an agent of that department it could not be sustained, it is then discovered that it is demanded by the necessities of our navy; and we are pointed to the large appropriations made by Great Britain and France to build up a steam marine. But, sir, it seems to be overlooked, that the difference in our circumstances and position may require from us a different policy. England and France are in close neighborhood, not only with each other, but with other maritime nations. Each, too, has its own colonies, remotely situated, and yet not too remote to be accessible by steam navigation. To them, therefore, either for purposes of attack or defence, a steam marine is doubtless indispensable, and the fact that one is engaged in providing such an armament, imposes upon the other the necessity of corresponding action. How unlike is our situation! To us all the steamships in the world would be worthless for the purposes of attack upon any European nation at home. Far removed as we are from other maritime nations, and having no colonies, such a marine would lie idle upon our hands. The quantity of fuel which steamers must carry, limits the duration of the voyage to a period of from fifteen to thirty days—too short to admit of an hostile demonstration in the European seas. And, sir, that which is our disability is also our defence. The same cause which would prevent our employing steamships for offensive operations in Europe, must ever bar European nations from using them to attack our coast. Great Britain alone has supplies of fuel upon this continent, and in the event of war those supplies would speedily fall into our hands. So, too, for the purpose of protecting our commerce in distant seas, is a steam marine of little value, and for the same reasons. It is only for defensive operations, for the immediate protection of our coast, that such an armament is at all desirable. For this purpose I admit its value, and for this almost alone. But for this purpose the steamers already built, and those in progress are ill adapted. They are primarily intended for the accommodation of

freight and trade, some of them having a tonnage of nearly three thousand tons—far two large for efficiency in the defence of the coast. Steamers, to accomplish much, must depend upon celerity of movement, and be able to escape from pursuit into almost any harbor inlet. Such are not those already constructed. I see in the public prints a statement that the steamers recently launched for the New York and Liverpool line measure two thousand eight hundred tons. There are very few harbors upon our whole coast into which they could enter. Their adaptedness to the purposes of commerce, to the carrying trade for which they are primarily intended, is inconsistent with their efficiency as vessels of war.

But, sir, saying nothing more of its inefficiency, I protest against this mode of creating a steam marine, as the most expensive that could be adopted. To put afloat the five lines already authorized, we have contracted to pay the sum of one million three hundred and twenty-nine thousand six hundred dollars annually, a sum nearly sufficient to build three war steamers. These contracts are to continue in force for ten years, and, of course, the amount thus appropriated is thirteen millions two hundred and ninety-six thousand dollars. If, instead of pursuing the policy thus adopted, we had devoted a similar sum to the construction of vessels suited to the wants of the Government, and adapted to the purposes for which they were intended, at the expiration of ten years we should be the absolute owners of thirty war steamers, fitted for all the objects for which such steamers are desirable. Yet more: if we are to adhere to this system; if the contracts already made are to be indefinitely continued; if these appropriations are to be permanent, (and who doubts that they will be, for "*revocare gradum, hoc opus, hic labor est,*") though no other such contracts be made,—we have already invested a sum exceeding twenty-two millions of dollars. And for what? For war steamers? No, sir, for not even the shadow of moonshine. We obtain not one war steamer for all this expenditure. We acquire simply the right to take fifteen steamers at a valuation, paying for them their full value—a right already ours by virtue of our sovereignty, and which is in no iota enlarged by all these contracts. Truly, sir, this is a magnificent scheme of economy, suited to the republican simplicity of the age in which we live! And yet we are urged by the Committee on Naval Affairs to pursue this policy so auspiciously commenced, to establish several other lines, make other contracts, and purchase at similar cost similar nothings.

It is no answer to all this to refer to the expense of maintaining vessels of war in commission. These steamships are not in commission, they are not maintained as vessels of war. Nor while in the hands of the private contractor, and employed in the carrying trade, do they subserve any of the purposes for which a naval armament is intended.

This argument, therefore, that by the establishment of these lines of ocean mail steamers, we are judiciously providing for the increase of the navy, however imposing at first view, has very little force in my estimation; and I am persuaded, that if it had been fairly presented and fully discussed, it could never have received the approbation of Congress. It is not in war that we derive the greatest advantages from a naval establishment. Nor should we look at a state of war alone. Yet these contracts lose sight of all the daily advantages resulting from a naval force, disregard the size and construction of the steamers required, and make the most costly sacrifices for the acquisition of that which we already possess. It cannot be the intrinsic merits of the system that have commanded for it so much favor. We have been content to imitate the example of Great Britain and of France, have yielded our judgment a captive to theirs, and have forgotten that what may be wisdom for them, may be folly for the United States.

I pass now to the consideration of another argument which has been strenuously urged in support of the policy of extending governmental aid to the establishment of these lines of ocean mail steamers, and which is the only other that I have heard advanced. It is, that we are thus granting protection and encouragement to commerce. Sir, I yield to no man the precedence in a disposition to encourage all the great interests of American industry, so far as it can be done consistently with the Constitution and the best interests of the whole country. But commerce is not the only interest to be affected by our legislation. So far as this policy aids commerce, it aids it at the expense of the agricultural and mechanical industry of our people. It is possible, I admit, to aid one branch of business in such a way that all others shall be benefited. But the farmer, the mechanic, and the manufacturer are to pay these annuities granted to these lines of ocean mail steamers without reaping any corresponding benefit. There are gentlemen who have voted for these contracts, and earnestly advocated the system, who are opposed to the doctrine of protection, and profess to regard it as a donation to the few at the expense of the many. But, sir, this is protection in its most odious form. The advocates of protective duties have never demanded gratuities to individuals. They have never been accused of seeking to benefit less than a class, an entire branch of industry or of trade, and they have claimed to do this in a way consistent with the best interests of the whole country. Yet here is a measure which seeks not to benefit a department of labor or of business, protects not a class, navigation, merchants as a body, or even importers, but selects a single firm, or one merchant, and bestows upon him all its encouragement; engages to pay him hundreds of thousands of dollars for nominal services, for what may be secured at a far less price, and claims to aim at promoting the interests of commerce. Such a mode of protection can never receive my support or approbation. Nor can I perceive that our commercial interests demand any such encouragement. I repeat, that I am not unfriendly to their growth—I rejoice in their prosperity; but if there be any one department of trade, which more than others needs no governmental aid, I am assured that it is our commerce with foreign nations. The industry and enterprise of our people always have been and ever will be adequate to its protection. No fostering hand of Government has led our youth on, step by step, to the second place in the commerce of the world. Relying upon their own unassisted energies, our citizens have almost monopolized the carrying trade between the United States and Europe. They own every line of packet-ships that crosses the Atlantic to and from our shores, and they find but one rival in any sea. They have hitherto found in their own right arm their best protection. They are not coming to our doors with complaints, nor is it from them that we hear of encouragement needed.

I am aware that ocean steam navigation is introducing a new feature into our foreign trade. A revolutionary process is going on. Time is more regarded, and doubtless the day is not remote when a large portion of our carrying trade between this country and Europe will be done by ocean steamers. I admit the importance of retaining this trade in the hands of our citizens, but I have an abiding confidence that the same American enterprise which secured every line of packet-ships will not fail us in this emergency, even though no arm of Government be extended for its relief. Emergency is ever the parent of successful enterprise, and these are not degenerate days.

It is, however, an utter mistake, in my opinion, to suppose that by encouraging these lines we are extending aid to our commercial interests. Far from it; a directly contrary effect must be produced. Who does not know that competition is the life of progress in every department of industry, whether it be trade, manufactures, or agriculture? And who can fail to perceive that the system of contracts with these lines of ocean mail steamers creates a perfect monopoly, and bars the door against all competition? Does any one ask how? The answer is most obvious. You enter into a contract with a New York merchant to pay to him four hundred thousand dollars annually for ten years, for the support of his line from New York to Liverpool. Now, how can another merchant sustain another line between the same places, or places in the vicinity, who has no such governmental patronage? He does not stand on the same platform. He must in some way secure an equal sum before he can enter upon the race of competition. Sir, he can only live by the sufferance of the governmental line. What sane man in such circumstances would embark in such an enterprise? All competition must be utterly extinguished, and the Government assumes the high prerogative of declaring who shall and who shall not do the carrying trade of the country; who shall and who shall not be our importers. The same must be true of the carrying trade between New York and Bremen, and so must it be with our trade with France, if the proposed line to Havre be ever established. So well is this understood already, that individuals come to the lobbies of this House at every session seeking for themselves a similar monopoly. Sir, the best interests of commerce revolt from all such governmental patronage. I verily believe the steps already taken, the contracts we have already made, have done more to impede the progress of our ocean steam navigation than all other causes combined, and if the policy be not speedily arrested, those who are engaged in the foreign carrying trade must sink under it. They will soon come to this House earnestly asking to be delivered from their friends, and repudiating that protection which palsies the hand of competition, by extending the aid of the Government to a favored few.

And, sir, this policy not only gives monopolies to individuals, but it discriminates against the ports of the country. If the design be to encourage commerce, and to aid the carrying trade, why should New York enjoy the whole proposed advantage? Why should Philadelphia and Boston be neglected? Why should Charleston and Savannah be selected, and Baltimore and Norfolk be passed by? Are we to say into what ports all foreign goods shall be brought, and from what cities our people may export? Are Philadelphia and Boston, Baltimore and Mobile, to have an embargo laid upon them for the benefit of other cities? I trust not. I trust the weight of this Government is not to be thrown into the scale against any of our seaports, or any of our citizens. Let the same course be pursued which I have recommended for the transportation of the mails, and equal benefits will be extended to all.

Thus far, Mr. Chairman, I have confined my attention to the arguments which the friends of such contracts have advanced in support of their favorite policy. I am not aware that reliance has been placed upon any other. If the system cannot be sustained for these reasons, it is fair to presume that it is indefensible. And unless I have deceived myself, every argument of the friends of these mail contracts contains within itself the material for its own refutation, and were it possible to adduce no other objection, I cannot but feel that I have said enough to justify myself in assuming a position of uncompromising hostility against any extension of the system now fastened upon us. But there are other considerations which have influence upon my mind, and which I desire to present to the judgment of the committee.

Sir, I doubt the constitutionality of all such contracts, of that entire policy which we have adopted in establishing and supporting these lines, and which we are asked to prosecute still further. Let me not be misunderstood. I do not question the constitutional power of Congress to provide and pay for the transportation of the mail, or for the enlargement of the navy, or to regulate commerce. But the establishment of these lines of mail steamers is neither. It certainly will not be pretended that it is a regulation of commerce; and the whole argument in its support concedes that the transportation of the mail and the increase of the navy are but *incidents*—neither the primary design, nor the primary effect. And indeed it would be as absurd to denominate them the principal thing as it would be to call a farm an appurtenance of a right of way. Now, it may well be doubted whether it is among the constitutional powers of Congress to grant money to a citizen to enable him to build steamships, when only the incidents of such ships, *and those not even necessary*, are legitimate subjects for legislation. A gift of the principal necessarily carries with it the incident; but the converse of the proposition is not true: a gift of an incident does not carry with it the principal. Let me illustrate this: We have constitutional power to provide munitions of war: may we, under this conceded power, grant money to a founder, to enable him to erect and work a foundry? And can we justify the grant on the ground, that when the foundry shall be completed, he will manufacture

cannon which we may or may not buy at pleasure? Large quantities of cotton goods are used in our navy; we have an undoubted right to procure them: does this include the right to appropriate money to a manufacturer, to enable him to build and carry on a cotton factory, because we may wish to buy his cotton fabrics? Again, sir: leather is necessary for mail bags, and the right to procure it is undeniable; but who will say that this constitutional right embraces the gift of money to a citizen to enable him to establish and support a tannery? This will hardly be asserted; and yet it will be found difficult to show that our annuities to lines of mail steamers rest upon a different principle. The truth is, it by no means follows, that because we have power over that which is a possible consequence, we have equal power over everything of which it may be a consequence. I know, sir, that it is sometimes difficult to draw the line and determine what is and what is not within the powers granted to Congress, and I do not wish to be understood as expressing more than doubt. But it is always safest to keep within the limits of acknowledged constitutional authority. It may be worthy of consideration whether, if Congress may constitutionally contribute to the establishment of these lines, it may not also enter into competition with our citizens in almost any branch of trade or manufactures. I am unwilling, for one, to establish such precedents, to support a system that promises no more of good than this, even if there be only a doubt of its constitutionality.

But there is another reason for the opposition which I feel to the further extension of this novel policy. It is, that in this way the Government becomes jointly embarked with private citizens in the business of the country, substantially a partner in private enterprise. In all such unnatural alliances both parties are almost certain of being sufferers. Experience has shown that the Government best performs its functions when it keeps its operations distinct from, though not in opposition to, the operations of the people. The good policy of separating the treasury from all connection with banking institutions, of retaining our funds within the control of our own officers, is one lesson which we have learned from the past. When we step into the arena of business with our citizens, we are departing from the legitimate design of every good Government. In every such experiment we must necessarily intrust our interests to other hands—to those whose interests are diverse from and often opposite to ours—and success or failure must be alike disastrous. If we succeed, it must be at the expense of the citizen who competes with us, and awaken in his heart a feeling of bitterness against that Government which, instead of protecting, has destroyed him. There is a constant tendency in every Government to step beyond the sphere of its legitimate action, to interfere in the private concerns of the citizens, when such interference can be productive only of evil. To me it seems, Mr. Chairman, that true wisdom requires of Congress only the protection of the citizen in his lawful enterprises, allowing no other interference than the competition of those who stand upon the same platform, and have similar advantages. Its crowning excellence is, that with an unseen hand it secures the personal and relative rights of every citizen. There is much that is fascinating, I know, in taking part in all the operations of trade, in mingling in all the multiform industry of the people, but the fascination is dangerous. Power is ever avaricious. Such a course may indeed give prominence to the Government, and make its arm more constantly felt, but it must be at the expense of the happiness of the people. It may give additional splendor to its operations, but the history of the world has shown that splendid Governments are built upon the degradation of the masses; that beneath their gilded surface there heaves an ocean of poverty, of ignorance, and of wretchedness.

My opposition to these lines of governmental mail steamers is supported by other reasons, to which I have only time to allude. One is, that our whole legislation in regard to them is covert, an effort to conceal the real design. If the object be, as is said in argument, to facilitate commerce, or to increase the navy, why not avow this object openly, and let us have a bill with a corresponding title to meet the censure or approval of the country? Thus our people would be informed of the purposes for which their money is appropriated. Then we might learn their wishes in regard to the payment of annuities for the increase of the naval establishment, or for the benefit of the foreign carrying trade. Why not call things by their right names, and not, under the modest pretence of seeking to provide for the mails, aim at another entirely different object?

I complain also of the governmental aid extended to these lines of steamers, because it gives undue prominence to our foreign trade. We owe an equal duty to all our people, to every branch of American industry. But while we have been appropriating millions to these ocean steamers, and riveting them for years upon our treasury, what have we done for the great domestic trade of the country? You refuse to appropriate one dollar to remove a snag from the channel of the Mississippi, or to improve one harbor on our northern lakes, or to remove a rock that impedes our coast navigation. And yet the domestic trade of the country is far more extended than is our foreign trade; in it our people are more deeply interested, and upon it the wealth and happiness of the country are far more dependent. Yet this system of ocean steam navigation has been prosecuted to the entire neglect of these great internal interests, and we have been lavishing bounties upon a single port and a few individuals, while the prosperity of the great mass of our citizens has been uncared for.

But, sir, I have no time to say more. I have summarily referred to a part of those considerations which direct my course upon this subject, in hopes to awaken the attention of the House and of the country to a great and growing evil. If I succeed in doing so, all that I intended is accomplished.

THE SLAVERY QUESTION.

SPEECH OF MR. R. W. THOMPSON,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1849.

The Committee of the Whole House on the state of the Union having under consideration the bill making appropriations for the support of the army for the year ending June 30, 1850, (Mr. TOOMBS, of Georgia, in the chair)

Mr. THOMPSON said:

Mr. CHAIRMAN: Availing myself of the latitude of debate already indulged in during the discussion of this bill, I propose to devote the hour allowed me exclusively to the consideration of matters arising out of the delicate and exciting question of slavery. I do it, sir, with no little reluctance, because it is the first time I have ever obtained my own consent to engage in a general discussion of the kind, and because I know that what I shall say will meet with some opposition from both sections of the Union—from the *ultra* men of both North and South. I do it, however, from a conviction that I represent a class of people who require of me that upon every suitable occasion I shall endeavor, with whatever ability I may possess, to bring to bear upon the great questions which now agitate and threaten the Union that conservatism and conciliatory spirit which they themselves possess. If any considerations personal to myself could induce me to shrink from such a duty, I should be unworthy of my position as a member of this House. I shall, therefore, proceed to its performance without further preface, except to say that I cannot consent to imitate the example of those who seem to take especial delight in employing terms of censure and denunciation in efforts to excite one section of the Union against another. This course I regard as calculated not only to do no good, but to do serious and positive harm, by disturbing the harmony of that Union which has so long been our strength and our security.

It is very well known, Mr. Chairman—and need scarcely be repeated—that the institution of slavery was not established in this country with the consent of our forefathers, but that it was forced upon us by the people and Government of Great Britain, in despite the urgent petitions and remonstrances of every one of the American Colonies. The feelings of cupidity which prompted its introduction were too strong to be resisted by considerations of humanity and benevolence. It was so generally diffused throughout the Colonies that, before the Revolution, and at the date of the Declaration of Independence, every one of them held a right in slaves *as property*, by virtue of existing laws of their own, which, for their defence and security, they had been compelled to establish by their Colonial Legislatures. The whole number, at that time, was more than *half a million*. Of these, Massachusetts had 3,500, Rhode Island 4,300, Connecticut 6,000, New Hampshire 600, New York 15,000, New Jersey 7,500, Pennsylvania 10,000, Delaware 9,000, Maryland 80,000, Virginia 16,500, North Carolina 75,000, South Carolina 110,000, and Georgia 16,000. In what are now free States, of the Old Thirteen, it will be seen that there were then 46,900 slaves, while in the remainder, which continue slave States, there were 306,500; showing, even at that early period, a much larger number in the South than in the North.

With this preponderance of slave property in the South, it is not very wonderful that difficulties should have been encountered at the infancy of our Government, in the adjustment of the principles of representation and taxation. These difficulties did arise at the very outset. In the Congress of the Confederation, the institution of slavery became, at one time, an almost insurmountable impediment in apportioning amongst the colonies their respective shares of the public debt. The northern colonies insisted that the "common treasury" should be supplied "in proportion to the number of inhabitants of *every age, sex, and quality*, except Indians not paying taxes, in each colony." Those of the South were quite as zealous in insisting that the quotas of the respective colonies should be paid, not by the number of inhabitants of *every* condition, but by that of the *white* inhabitants. If a difficulty of this kind were to arise in our time, the consequences might well be feared. But the men of that age were wise, and conservative, and patriotic men. They looked to the common welfare—to the peace, prosperity, and happiness of every colony. They acted for the country, not for themselves or for party. A compromise of the difficulty was agreed on, and the apportionment made according to the number of inhabitants, deducting *two-fifths for slaves*. Mr. Madison, afterwards, in writing to Edmund Randolph on the subject, said of this compromise, that it would "go forth in the general recommendation, as *material to future harmony and justice among the members of the Confederacy*. The deduction of two-fifths was a *compromise* between the wide opinions and demands of the southern and other States." And it was unquestionably true, as Mr. Madison said, that this compromise was held by the men of that day to be necessary and essential to the harmony of the Confederacy. It did restore peace and quiet. But the Confederated Government, for reasons which were manifest at the time, and have been abundantly demonstrated since, was not sufficiently strong to enforce upon the colonies the legislation of the Confederated Congress, and hence the Convention was called which resulted in the formation of our present Constitution.

It is thus shown to be true, sir, that slavery had already been the subject of compromise between the North and the South, before the Federal Convention of 1787 met. But so discordant, for a long time, were the views of the northern and southern members of the Convention, that even in that patriotic body of men, the same difficulty was encountered which had agitated the Congress of the Confederation. History records no more conclusively established truth, than that this division of sentiment would have prevented the establishment of our Federal Union, if the same spirit of conciliation and compromise which prevailed in the Confederated Congress had not also prevailed in the Convention. This spirit triumphed over every feeling of sectional jealousy, and brought about a *second compromise*—that which still stands upon our Constitution, fixing representation and taxation upon the same basis, and adjusting each according to the number of free persons, by adding *three-fifths of all the slaves*. I repeat, sir, what is known to every man at all acquainted with our history—that without this compromise, our present Union could not have been formed, nor could this country have grown to its present greatness.

Very soon after the formation of the Constitution, and before a fixed construction had been given to it by the several departments of the Government, and by the people themselves, efforts were made, by petitions to Congress and appeals to federal legislation, to interfere with the rights that had been guarantied and secured by that instrument. A direct attempt was made to bring the power of the General Government to bear upon the institution of slavery as it existed in the several States of the Union. Congress was, at that time, composed of wise, of grave, of deliberate men, who neither acted from impulse nor passion. These men calmly and earnestly implored those who had agitated this question, to let it alone, and to stand by the compromises of the Constitution. The moderation, the forbearance, the conciliation, the compromising spirit of that day triumphed over fanaticism and faction, and hushed them into silence. Men were not so accustomed then as now to narrow and enervate their minds with that miserable and sordid selfishness which, if the times were not sadly out of joint, would stamp its possessors as unfit for public trust.

The country was not again excited with the subject of slavery, until the application of the State of Missouri for admission into the Union. I need not refer to the scenes which grew out of that interesting and important question—they are of occurrence recent enough to be recollected by the most of those who hear me. It cannot be forgotten that the Union was then shaken from centre to circumference, and that the spirit of fanaticism and of faction were about to be let loose upon the country with all their desolating influences. Nor can it be forgotten, that by conciliation, concession, and compromise, the Union and its integrity were again saved—that glorious Union of the States, by whose preservation and security our national, State, and individual rights have been so long guarantied and maintained.

After the adoption of what is known as "the Missouri Compromise," we heard but little more of the question of slavery, and nothing of the abolition of it, until the formation of the present Abolition party. An effort was made, it is true, at the session of Congress of 1835-'36, akin to and precisely like the one which was made immediately after the formation of the Constitution, to interfere with slavery and the slave trade in the District of Columbia. A memorial was presented to this House, from the State of Pennsylvania, in 1835-'36, praying Congress to abolish the slave trade and slavery in the District of Columbia. The question which arose at that time was on the reception of the memorial. A motion was made to lay it on the table, and a very large majority of the House of Representatives did lay that memorial on the table, by voting to lay the question of its reception on the table. At the head of those who voted in the majority upon that occasion, stood the venerable and distinguished gentleman from Massachusetts, [Mr. ADAMS,] who but the other day fell in this Hall, illustrious alike for his integrity, his greatness, and his patriotism.

This attempt to interfere with slavery in the District of Columbia was frowned down by the House of Representatives; but the agitation of the question had commenced. No impetus, however, was given to it until the year 1840, when, as I verily believe, it received most important aid from the action of this House, without which it would now have been so dead that even the "Buffalo Convention" could not have galvanized it into life again. At that time, to get rid of the petitions on the subject of slavery which were pressing upon this House, the *southern* gentlemen here, with the aid of some of their northern friends, adopted the celebrated "twenty-first rule," which denied to the people of the North the right to petition Congress on the subject of slavery. Here the two extremes actually met—the agitators of the question on one side, and the opponents of agitation on the other. Immediately upon the adoption of the "twenty-first rule," the question of the abolition of slavery in the District of Columbia became a suspended question, and there was substituted in lieu of it, in the northern States, the question of the right of petition. The consideration of that question appealed so strongly to the feelings of the North, that a large number of northern citizens became accustomed to act with the party which was urging upon Congress the recognition of the right of petition, and continued to act with them in defence of this great right, until they became almost insensibly, political abolitionists. Thus, I verily believe, the adoption of the "twenty-first rule" had a tendency to strengthen and increase the number of political fanatical abolitionists at the North. This right of petition was a sacred right. The North was earnestly addressed in behalf of it, and there (pointing to the seat formerly occupied by Mr. Adams) stood the distinguished gentleman from Massachusetts to whom I have just alluded, day after day, month after month, and year after year, continually clamorous in this Hall for the preservation of this high constitutional right, until the excitement became so great that a portion of the northern people, living in the State of Massachusetts, through that same distinguished Representative, presented a memorial upon this floor, praying that Congress would take steps for the immediate dissolution of the Union. Those gentlemen who were present will recollect the exciting scenes which took place upon this floor on that occasion, and with what ability, with what earnestness and power, that "old man eloquent" defended himself against the assaults of those who attacked him, claiming only this—that while he did not, either in sentiment or feeling, accord in one jot or tittle with the sentiments of the memorial, he stood prepared to maintain the right of petition, as guarantied to the American citizen. Upon that occasion, Mr. Adams—as it were, almost pressed to the wall by his adversaries—was compelled to declare, and did declare, what his own feelings were upon this very question on which this House has been compelled to vote within the last two weeks. He then said, in order to stop this agitation, in order to arouse the conciliatory spirit of his countrymen—*within the District of Columbia you men of the North have nothing to do with the right of the master over his slave;* and he went further and declared, that if he were called upon to vote upon a bill to abolish slavery in this District, *he would vote against it.* But I prefer to give Mr. Adams's own words. In debate in the House of Representatives, February 2, 1842, he said:

"He had now been ten years successively a Representative of a portion of the people of the Commonwealth of Massachusetts, and within the very first week of his holding a seat in this House he had presented fifteen petitions for the abolition of slavery in the District of Columbia, and at that time he gave notice to the House, the petitioners, and the whole country, and his constituents among them, that if they sent their petitions to him to be presented *because they expected him to support them, they must understand from him that they were mistaken.* This was not an irresponsible act of his, for in his district at that time, there were perhaps more abolitionists than now. It was not then so odious a thing to be an abolitionist. The inhabitants of his district had presented petitions for that same prayer, which were referred to a committee, and a most respectable report made upon them. He had *repeated that same sentiment, time after time,* in this House, and he *repeated it now.* He said, *if a bill were to be brought into this House for the abolition of slavery in the District of Columbia to-morrow, he would vote against it.* But from the first day that a petition was presented to him on this subject, he had uniformly said it was his duty to present them. He believed it the duty of the House to receive them and consider them. *Not to grant them*—that would be according to the sense of propriety of the House itself. It was not an irresponsible thing when he first took this position in this House."

Mr. Chairman, I very well recollect these remarks of Mr. Adams, and the sensation they produced in this Hall. His position was such, both here and before the country, that whatever he said upon this or any other question, was entitled to the highest consideration. As the acknowledged leader of the party advocating the right of petition, he was enabled to exercise a most potent influence in staying the progress of fanaticism on the subject of slavery in this District and in the States. He did stay its progress, although it required the strength of a giant to arrest it. He put forth his arm, and said to it, "thus far shalt thou go and no further." He rebuked the incendiary spirit which would have sundered every link in the beautiful cycle of our Union; and its possessors, both in the North and in the South, shrank back before his lofty patriotism and scathing eloquence. But, sir, he passed away. We who are here saw what, to him, was the "*last of earth.*" This House, in his death, lost its patriarchal leader, whose very presence linked it with a past and better age, and this country lost one of the ablest defenders of its freedom and its rights. But his remains had scarcely been carried home to the burial place of his fathers at Quincy, before one who bore his own name—a name ever to be honored and revered—became associated with a political hack, upon whose head rested the constantly accumulating sins of years, which had been spent in fixing ignominy and reproach upon him and his administration. This political organization was brought about by men who had left every party in the North, and who were bent upon the accomplishment of the very designs against which this venerable patriot had labored throughout his long and useful life. Devoutly should we thank that God who "shapes our ends, rough-hew them as we may," that, so far, their course has been stayed by the stern rebuke of the American people.

It is not, however, to be disguised, Mr. Chairman, that the danger from this political organization is not yet past. The result of the late Presidential election seems to have produced one conviction upon the minds of those who adhere to it: that there is in some of the States of the North, lodged in the hands of this party, the *balance of political power*, and that if they can keep up, by agitation, their political organization, they will compel either the Whig or Democratic party to come to them, and, by this means, consummate their designs. I think, and most earnestly hope, that they have calculated "without their host." They *must* be mistaken, sir, in both the Whig party of the North, and the Democratic party of the North—neither of whom can, in any degree whatever, sympathize with the present or ultimate purposes of this fanatical party. I trust and hope, that when the end shall come, they will stand alone—marked and reprobated by the whole American people; as, in time, every man must be, who raises his arm against the Union of these States.

The present session of Congress followed immediately upon the late Presidential election, and we had scarcely got together here, before we witnessed the effect of this political organization. *First*, sir, we were called on to vote upon a proposition to abolish, *directly and unqualifiedly*, both *slavery and the slave trade* in the District of Columbia, without the consent of Maryland, and without the consent of the people of the District. Here was a bold attempt—*made for the first time, in this Hall, since the formation of our Constitution,** to exercise the Federal power of this Government, to do that which all good men of all parties, and at all times have declared that Congress could not do without a violation of individual rights, without tarnishing the fame of the nation, and endangering the Union of the States. True, sir—and fortunate it is for us that it is true—this bill was voted down by the House, but I cannot conceal the expression of the astonishment which I felt to see the very large vote which it received upon the motion to suspend the rules for its introduction.

Within less than a week after this proposition to abolish slavery and the slave trade in this District had been voted down by the House, we were called on to vote upon another no less inflammatory; that is, to submit to the people of the District the question as to whether slavery should or should not exist here, allowing the *negro man to vote*, and placing the *slave* upon an equal footing with the white man, in determining the question whether or no his bonds should be broken. A proposition thus to legislate needed but to be stated to any portion of the American people to be repudiated, condemned, and spurned by every man whose opinions are not warped and gangrened by prejudice.

We had next a proposition to abolish the *slave trade* in the District of Columbia. I will remark, in reference to the course which was pursued towards the resolution proposing this object, that there was a class of gentlemen here who had always denied to Congress jurisdiction over the question of slavery within the District of Columbia or within the States; yet I was astonished, when that resolution came into this Hall, to find these same gentlemen forcing the House to take jurisdiction of it, and that against the earnest remonstrances of this side of the Hall. When that resolution proposing to abolish the slave trade in the District of Columbia was submitted, the previous question was called upon it, and it will be

* I recollect no other instance in which a *bill* to abolish slavery in the District of Columbia was presented to Congress.

recollected that the distinguished gentleman from Ohio, the chairman of the Committee of Ways and Means, [Mr. VINTON,] got up in his place and implored the House to pass it by, by voting down the proposition to put the main question. But the records of the House show that *twenty-six gentlemen of the Democratic party from the slave States*, representing slave constituencies, voted to order the main question, and force the House to a direct vote upon the question, against the earnest remonstrances and direct vote of *twenty-eight Whigs and ten Democrats from the slave States.*

Mr. MEADE, (in his seat.) What of it?

Mr. THOMPSON. What of it? is asked by the gentleman from Virginia. There is this of it—that you have always denied that Congress has any jurisdiction over the question of which you forced us to take jurisdiction by your own vote, when we wanted to get rid of it without voting at all, unless we could have an opportunity to modify its preamble. As a lawyer, the gentleman from Virginia knows that when a cause is once in court, it may be decided either for the claimant or against him; but when you have no jurisdiction, you have no power to decide either way; and he knows, too, that it is too late to plead to the jurisdiction after it has once obtained. By pressing this question upon us, *you* have admitted the jurisdiction of Congress over slavery within the District of Columbia.

Mr. VINTON (the floor being yielded, at his request, for a word of explanation) said, he had asked the House not to sustain the previous question on the proposition because he wanted to amend it before voting. It was not his purpose to stave off voting upon it, but to strike out the preamble.

Mr. THOMPSON. I concur, Mr. Chairman, with the gentleman from Ohio, that there was a strong desire on this side of the House to strike out or to modify the preamble, and that there was no fear of a vote upon the resolution. For myself, sir, I am not now, nor have I ever been, afraid to meet any proposition of the kind. Although I come from a free State I voted against it, and without hesitation, and by that vote I still stand with an entire confidence that it is *right*, and that it is approved by my constituents and the country. It is approved by my *conscience*, and that is the highest reward which an honest man can ask.

Before I proceed to notice particularly this preamble and resolution, I desire to remark that there was one feature of this transaction which struck my mind as rather curious—that was, that *ultra slavery* men on that side of the House, and *ultra anti-slavery* men on this side, got together and coalesced with admirable and amazing harmony in pressing this preamble and resolution upon the House. *How* they got together, I did not then, nor do I now, understand. Perhaps, before this session of Congress expires, they may get together again. Stranger things than that have happened, and we all know that "*politics make strange bedfellows.*" "*Nous verrons.*"

I propose now, sir, to speak of the resolution of the gentleman from New York, [Mr. GOTT.] It is in these words:

"Whereas the traffic now prosecuted in this metropolis of the Republic in human beings as chattels is contrary to natural justice and the fundamental principles of our political system, and is notoriously a reproach to our country throughout Christendom, and a serious hindrance to the progress of republican liberty among the nations of the earth: Therefore,

"*Resolved*, That the Committee for the District of Columbia be instructed to report a bill, as soon as practicable, prohibiting the slave trade in said District."

I voted against this preamble and resolution for several reasons, which were entirely satisfactory to my own mind, and a few of which I propose to state. I voted against it, because it assumes that the "traffic now prosecuted in this metropolis of 'the Republic in human beings as chattels is con-'trary to natural justice and the fundamental prin-'ciples of our political system." I do not regard this as true under our form of government; and this leads me to inquire, whether, under the Constitution of the United States, and the compact between the States, we are compelled to recognize *property* as existing in the slaves of the South? How is this to be decided? For myself, I know of but one mode, under the Constitution, of determining upon a question of law which arises out of a conflict between the States, or between the States and the Federal Government, and that is by reference to *judicial* authority. In inquiring whether or no slaves are property under the Constitution of the United States, I am compelled to look to the decisions of the Supreme Court of the United States, and nowhere else; and recollecting how uniform these decisions had been, I was surprised to hear the doctrine asserted the other day, that the Constitution did not recognize the right of the slaveholder to his slave as *property*. I do not intend to detain the committee by reading at any length, but I have before me the interpretation of the Constitution as given by one of the most distinguished men this country has produced.

In the case of *Prigg* vs. *the Commonwealth of Pennsylvania*, reported in 16 Peters 611, it became necessary for the court to put a construction upon the following clause of the second section of the fourth article of the Constitution of the United States, to wit:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on the claim of the party to whom such service or labor may be due."

In delivering the opinion of the court, Judge Story said:

"The last clause is that, the true interpretation whereof is directly in judgment before us. Historically, it is well known that the object of this clause was to secure to the citizens of the slaveholding States the complete right and title of ownership in their slaves *as property*, in every State in the Union into which they might escape from the State where they were held in servitude. *The full recognition of this right and title was indispensable to the security of this species of property in all the slaveholding States; and, indeed, was so vital to the preservation of their domestic interests and institutions, that it cannot be doubted that it constituted a fundamental article, without the adoption of which the Union could not have been formed.* Its true design was to guard against the doctrines and principles prevalent in the non-slaveholding States, by preventing them from intermeddling with, or obstructing or abolishing the rights of the owners of slaves."

Here, Mr. Chairman, is the solemn, well-matured, and deliberately-expressed opinion of the Supreme Court of the United States, given by Judge Story, a northern, Massachusetts judge, of the highest attainments, which settles the question, as between the North and South, of the right of the master to his slave, and that the slave, by the Federal Constitution, is recognized as *property*. This decision is binding upon me as a citizen and as a member of this House. It is the decision of the only tribunal known to the Constitution as having authority to settle this question. And inasmuch as it has been thus settled, and is binding upon the whole country, both North and South, I hold that the man who attempts to array popular prejudice against it, with a view to political effect, is an enemy to the public welfare and the public peace. Sir, it *is* the law of the land, forever fixed and settled by the highest judicial tribunal in the country, and all good men must so regard it. Nothing can be more dangerous to our peace and prosperity as a nation than these repeated attempts to appeal from the decision of our highest courts to the tribunal of *party* and of *faction*. There was a time in our history when the "slow, unmoving finger of scorn" would have been pointed, with unerring certainty, at the man who dared thus attempt to break down or impair those checks and balances which the Constitution and laws have thrown around the rights of the citizen. But, sir, we have seen more than once, in the last ten years, both the Constitution and the law trodden under the feet of party. We have seen Dorrism, and other *isms* not less odious, ready to spring up upon their shattered fragments, and have only been saved from their influence when the power of the States and of the Federal Government has held these petty factions in check. In view of all this, I repeat, and I wish the sentiment fixed upon the minds of all who hear me, and upon the country, that under our form of government, when our highest judicial tribunal—the supreme expounder of the Constitution and law—has fixed what that Constitution and law is, I hold that man to be an enemy to the public welfare and the public peace who, for political, party purposes, seeks to array popular prejudice against that Constitution and law, thus settled and fixed.* In my judgment, then, sir, this is no longer a debatable question. It is *res adjudicata*—it is a "fixed fact," that slaves are recognized by the Constitution of the United States as *property*. They are made so by the municipal laws of the southern States, placed as such in the Constitution, form part of the basis of representation in this House, and must so stand until either those municipal laws or that Constitution are changed.

The next clause in the preamble to this resolution asserts that slavery "*is notoriously a reproach to our country throughout Christendom.*" Mr. Chairman, if I desired to do anything else than merely *agitate* the question of slavery for political purposes, if I wished to accomplish any good and useful object, I would seek to do it by earnest appeals to my brethren of the South. I would employ no terms of denunciation or rebuke. The men of the South are no more responsible for the introduction of slavery into this country than are the men of the North. They have it, but they could not help it. It was fixed upon them, evil as it was and is, against their earnest remonstrances and entreaty. It is there without any agency of ours; let them get rid of it according to the promptings of their own judgment, in the best way they can. But when here, in this Hall, dedicated to *national* legislation, we talk about an institution which exists in one part of the Union under the law of the sovereign States, which is recognized by the Constitution of the United States, and for which we of the North are not responsible, it is wrong, and we have no right to denounce it as against the spirit of the age, and against the liberalizing influences of Christianity. This is the Hall of the *National* Legislature—a Hall consecrated to the *Union of the States;* and though one gentleman comes from a slave constituency and another from a free constituency, they are each bone of the other's bone, and flesh of his flesh; we are all American citizens and American Representatives, protected and shielded by the same Constitution, guarded by the same laws; we have a common fame, a common ancestry, and a common revolutionary renown. I hold, sir, that as the Congress of the *United States*, we have no right to employ terms of denunciation against the South or against the North. We stand here, I repeat it, upon ground consecrated by the joint labor and wisdom of our fathers, where we are secured by that Constitution which sprang from the conservative spirit of their day—a Constitution, which, so long as it stands as they left it, will guard us against inroads from abroad and from faction at home.

This preamble again asserts that slavery, as it exists in the United States, is "*a serious hindrance to the progress of republican liberty throughout the world.*" For the life of me, I cannot imagine what is intended by such an abstraction as this. But abstraction as it is, it is not historically true. I do not believe, evil as I hold the institution of slavery to be, that the slavery of the African race has ever kept the Anglo-Saxon, or any other white race, in any degree whatsoever, from political freedom. The fact of the institution of slavery existing in the American colonies did not impede the progress of our fathers in their establishment of a republican Government. But it is true that those countries where vice and immorality and superstition and ignorance prevail to the greatest extent—as for example, Mexico, and I believe a number of the South American republics—recognize no such thing as the institution of slavery. The question of slavery is not one to be viewed in this light; it is a question between the immediate per-

* General Washington, in his "*Farewell Address*" to the American people, employed this strong and emphatic language:

"All obstruction to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive to this fundamental principle, and of fatal tendency. They serve to *organize faction*, to give it an artificial and extraordinary force, to put in the place of the delegated will of the nation, *the will of a party*, often a small but *artful* and enterprising minority of the community; and, according to the ultimate triumphs of different parties, *to make the public administration the mirror of ill-concerted and incongruous projects of faction*, rather than the organ of consistent and wholesome plans, digested by common counsels, and modified by mutual interests."

"However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which *cunning, ambitious, and unprincipled men* will be enabled to *subvert the power of the people*, and to *usurp for themselves the reins of government*; destroying, afterwards, the very engines which had lifted them to *unjust dominion*."

sonal interest of the slaveholder and the slave; and I do not now propose to discuss the question as to whether slavery may or may not have been an evil to the black race. If the colonization scheme, or any other scheme which may be devised by the ingenuity and benevolence of man for planting the African race on its native shores, shall be instrumental in building up a republican form of government there, and establishing the freedom of that race, I will leave it for the moralist of after days to determine whether slavery has or has not been an evil to the black man.

The resolution of the gentleman from New York [Mr. GOTT] proposes to abolish the "*slave trade*" in the District of Columbia. What is meant by the "*slave trade?*" In the terms of this resolution, I cannot understand it as meaning anything more or less than a direct interference with the relation of master and slave in this District. I have already shown that Congress has not heretofore hesitated to declare that this ought not to be done; and that Mr. Adams expressed this opinion in the most emphatic terms. For myself, I maintain this doctrine, and intend to be governed by it, that under the laws by which the District of Columbia was ceded to the United States and accepted, for the seat of the Federal Government, Congress is bound not to interfere with the relations between master and slave here.* What is the "slave trade" in the District of Columbia? I have heard a great deal said about "slave-pens," about slaves sold at auction, and about stripping the mother from the child, and the husband from the wife. These things may exist here, but I do not know of them. Since I have been in the habit of visiting this District—which is from my boyhood—I have never seen a negro sold here, I have never seen a band of negroes taken off by the slave trader, I do not remember that I have ever seen the slave trader himself. I know nothing of the "slave-pen" that is so much talked about. It may be here, however, and these things may happen every day before the eyes of gentlemen who choose to hunt them up; but, for myself, I have no taste for such things. One thing, however, I do know, and that is, that slavery exists here in the mildest possible form, that the number of slaves is gradually diminishing, and that in a few years it will be abolished by natural causes and by the people themselves, without any aid or interference from us.

The "slave-trade," as referred to in this resolution, is the right of the master to sell his slave. Congress has no right to say to him that he shall not do so. If gentlemen desire to enact a law, providing against the *importation of slaves into this District for sale*, I will go with them. This may be easily done, and without objection from any quarter. When the States of Maryland and Virginia ceded this District to the United States, for the purpose of a seat of Government, provision was made by their Legislatures that the laws of those States should prevail in their respective parts of the District, until Congress should provide other laws. Congress, in 1801, provided that the laws of these States should prevail here; but in 1802 changed them, by declaring that no part of the law of Maryland or Virginia should be so construed as to prohibit the owners of slaves to hire them within, or remove them to the District, in the same way as was practised prior to the passage of the act of 1801. The result of this is, since Alexandria county has been retroceded to Virginia, that while a gentleman living in Virginia cannot now bring his slave into the District, unless he comes with the *bona fide* intention of becoming a citizen, or as a sojourner, yet a citizen of Maryland may do so, under the compact between the General Government and that State. Now all that any man can reasonably ask to be done is this: That we shall repeal the law of 1802, revive the operation of the Maryland law of 1796, and make it applicable to the District as a jurisdiction separate from the State of Maryland. The effect will then be, that if a man brings his slave here from Maryland, or anywhere else, the moment he comes within the limits of the District, for the purpose of carrying on the illegal and abominable traffic of slave-trading, that moment the slave becomes free; but if he comes with the *bona fide* intention of becoming a resident of the District, or as a temporary sojourner, he has the right to hold his slave, under his original right as acquired from the State of Maryland. Now, sir, I venture the assertion that there are very few, if any, southern gentleman here, who will not vote to revive this law to-day. It presents, then, to my mind, a common ground upon which gentleman from all sections of the Union may stand. Let such a bill be introduced—and if no other gentleman does so, I am ready to do it, for I have one already drawn for the purpose—let it be passed, restore the law of Maryland of 1796, prevent the importation of slaves, and restore to the nation that harmony and quiet which it so much needs. There can be no objection to such a course, except amongst those who have no desire to see the question settled, but who wish to agitate and distract us, by continual excitement, for party and political purposes.*

Suppose, Mr. Chairman, that instead of making some such provision as the one I have indicated, we shall proceed to pass a law, in the general form prescribed by this resolution: what will be the next step? It is to my mind perfectly clear, that we should see immediately following it a proposition from the political Abolitionists of the North *to abolish the slave trade between the States.*† Now, sir, I am no alarmist. I abominate these continual threats of dissolution. I have little respect for the man who is eternally talking about breaking the Union asunder, and destroying that harmony and fraternal affection which have so long held us together. I have no sympathy with such movements. But tell this House and the country, that, just as surely as the sun of heaven shines above us, just as surely as we are now a *Union* of States, just so certainly must that Union become broken and dissevered, if the municipal and local rights of the States are thus interfered with by this Congress. I say to gentlemen of the South—you shall not trample upon the rights of the North, so far as I represent the rights of the North; nor will I attempt to trample upon any of those rights of yours which are guarantied to you by the Constitution—the only charter of Republican Government which man has yet devised. Sir, I have spent the first half of my life in the South, and the last half of it in the North. I think I know the people of the South, and I think I know the people of the North; and I tell gentlemen here, both from the North and from the South, who talk about disunion, that they do not represent the feelings of the American people on this great question. No, sir, they do not represent the heart of the American people. That heart is moved by conservative influences on this and all other questions, and every throb of it is for the Union as it is—the sheet-anchor of our national hopes and future renown.

If Congress shall attempt to interfere with the slave trade between the States, the inevitable, positive, direct result will be a dissolution of the Union. This the people of the South would no more submit to, than would the people of the North submit to have Congress declare that they should not transport *their property* beyond the limits of their States. The Union could not exist if either were to be done. The people of neither portion of the country would remain passive under such legislation.

I find great fault, Mr. Chairman, with gentlemen from both North and South who discuss this question of slavery; it is, that they deal in threats and denunciation which are calculated to alienate one section of the Union from the other. This is all wrong. I have said that I will not indulge in it towards the South; yet I am not disposed to enter a very formal complaint against gentlemen of the South who speak in strong terms of the North. I should prefer that they would except—as the fact will warrant—a large portion of the people of all the northern States. Northern man though I am, I am, nevertheless, compelled to admit that some of the people of the North deserve a good deal of what is said of them by southern men. I cannot imagine, for instance, what is better calculated to arouse the feelings of the South—their indignation, if gentlemen please—than an attempt on the part of the northern States to interfere with and check that Congressional legislation which has been provided, under the Constitution, for securing the rights of the master when his slave escapes from him into another State. I believe that some of the States have repealed their legislation on this subject, and that others have inflicted a penalty upon their officers for aiding the master in arresting his slave. I take pride in saying, however, that I come from a constituency who have not gone thus far in aggression upon the South. The people whom I represent—the State from which I come—is essentially conservative on this question of slavery. I represent a constituency among whom the master would be just as secure under the law of the land, in attempting to recover his fugitive slave, as he would be in any county of Virginia or North Carolina. I do not know of a judge or a justice of the peace within the State of Indiana who would not give to the master every possible aid in his power to arrest his fugitive slave. They neither sympathize with the fanatical abolitionists of the North, nor with the ultra pro-slavery men of the South; all they say to the South is: Take care of the institution of slavery as it was left you by your fathers; it is none of ours; we will have nothing to do with it; manage it as you please.

I am a good deal inclined to think that a very considerable proportion, if not a majority, of the negroes of the South are quite as well off, if not better off, in bondage, so far as physical comforts are concerned, than they would be if they were free. Take, for instance, the legislation of Indiana with reference to free negroes. The law of that State requires that when they come into the State they shall give bond and security never to become a county or township charge, and if a person hires, harbors, or conceals

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* *General Harrison*, in his letter of 26th November, 1836, addressed to Thomas Sloo, Jun., said: "*I do not believe that Congress can abolish slavery in the District of Columbia without the consent of the States of Virginia and Maryland and the people of the District.*"

Mr. Clay, in his speech on "abolition petitions," in the Senate of the United States, February 7, 1839, said:

"It was upon this view of the subject that the Senate at its last session solemnly declared that it would be a *violation of implied faith*, resulting from the transaction of the cession, to abolish slavery within the District of Columbia. And would it not be? By implied faith is meant, that when a grant is made for one avowed and declared purpose, known to the parties, the grant should not be perverted to another purpose, unavowed and undeclared, and injurious to the grantor. The grant, in the case we are considering, of the Territory of Columbia, was *for a seat of Government*. Whatever power is necessary to accomplish that object is carried along with the grant. But the abolition of slavery is not necessary to the enjoyment of this site as a seat of the General Government."

*The following is the bill I have drawn up, the general features of which are approved by southern gentlemen to whom I have shown it. It is copied from the Maryland law of 1796:

"A BILL to regulate the importation of slaves in the District of Columbia.

"SEC. 1. *Be it enacted, &c.*, That the seventh section of an act entitled 'An act additional to, and amendatory of, an act entitled An act concerning the District of Columbia, approved May 3, 1802,' be and the same is hereby repealed.

"SEC. 2. *Be it further enacted*, That from and after the passage of this act, it shall not be lawful for any person or persons to import or bring into the District of Columbia, any negro, mulatto, or other slave, for sale or to reside within said District; and any person brought into said District as a slave, contrary to this act, if a slave before, shall thereupon immediately cease to be the property of the person or persons so importing or bringing such person within said District, and shall be free: *Provided*, That nothing in this act shall be so construed as to prevent any citizen of the United States who shall come into said District, with a *bona fide* intention of settling herein, or who shall acquire the right to a slave in any of the States of this Union, by bequest, by gift, by marriage, or by inheritance, from bringing such slaves into said District, within one year from the time such right was acquired, or such removal into said District took place; and that nothing herein contained shall be so construed or taken to affect the right of any person traveling or sojourning with any slave within said District, such slave not being sold or otherwise disposed of in said District."

The act of Maryland of 1796 is in force now in the District of Columbia, as has been decided by the Supreme Court of the United States in the case of *Lee* vs. *Lee*, 8 *Peters*, 45; but as it is now construed, the District stands in the same relation to it as if it were still a part of Maryland. An act such as the above, or something like it, will be necessary to make the District as to Maryland, what other States are to that State—that is, to prevent even citizens of Maryland from bringing slaves here. This Maryland has consented to, for it is part of her own legislation.

† Mr. Clay took the same view of this subject in 1839. He said:

"But, Mr. President, I will not detain the Senate longer on the subject of slavery within the District [of Columbia] and in Florida, and of the right of Congress to prohibit the removal of slaves from one State to another. These, as I have already intimated, with *ultra Abolitionists*, are but so many *masked batteries, concealing the real and ultimate point of attack*. That point of attack is the institution of domestic slavery *as it exists in these States*. It is to liberate three millions of slaves held in bondage within them."

one of them, knowing that he has not given such bond and security, he is liable to indictment and fine. I have myself, since my election to the present Congress, defended several of my constituents who were indicted, and one of whom was fined under this law. In the State of Indiana, and I believe in the adjoining State of Illinois, this thing of political abolitionism has never extended very far, and I do not believe it ever will in either of these States of the Northwest. If the feeling which exists there should prevail all over the Union, we should have no more agitation about slavery in this District and in the States, but Congress would be enabled to settle all other questions which grow out of it without difficulty or danger to the public peace. All we want is quiet and harmony, and we can settle any question. While we are mad and excited we can settle none. Just let slavery alone where it is protected by the Constitution and laws, and we shall have no further difficulty. Neither the ordinance of 1787, nor any proviso you can then attach to your territorial bills, will for a single moment endanger the peace of the nation.

I do not, Mr. Chairman, propose to say anything now in reference to the inhibition of slavery in the territories which we have acquired by our war with Mexico, except to remark, that if it had not been for the disregard of law to which I have referred; if it had not been for repeated violations of the Constitution, to which the Abolition party owes its political existence; if it had not been for the Abolition party itself, we should have had no Mexican war, and no Mexican territory. But we have had the war, we have got the territory, and what is to be done with it? For my own part, I declare to you, sir, that before I would endanger the union of these States by the determination of any question which might arise in the settlement of the controversy between the North and the South, in reference to New Mexico and California, I would vote to give it all back, gold mines and all, to Mexico. Yes; although the gold mines were ten times richer than they are, they should not weigh a feather in the scale, compared with the integrity of the union of these States. But as we cannot give them back, for one, I am in no very great hurry to organize a government for them. I believe gentlemen from all sections had better get cool upon this question before they undertake to do a great deal about it; they are too excited now; there is not sufficient conservatism either in the South or the North. A portion of the North say they will dissolve the Union, unless Congress inhibits slavery in these territories; a portion of the South say they will dissolve the Union if Congress does inhibit slavery there. Which of these two extremes shall yield? Shall moderate counsels prevail? I am convinced, if we shall get rid of these other exciting matters, that the calm, deliberate, moderate, and conservative spirit of the country will yet prevail in the settlement of any question connected with these territories; and that in such settlement, it will be found that deep, earnest, strong, and fixed devotion to the Union is the leading impulse of the American heart.

I wish it were true, Mr. Chairman; I wish that what I see around me here every day would enable me to say it was true, that this Legislative hall had as much of calm conservatism about it as exists in the minds of the American people. But we cannot shut our eyes to the fact, that there is very often to be found a vast difference between the Representative and those who send him here. While the constituent at home is seated around his own quiet and retired hearthstone, calmly and earnestly praying for the preservation of the welfare of the Government, we who are here are too often prompted by considerations of mere faction and party, are disturbing the peace and repose of the Union, and agitating and convulsing the whole country for our own sinister ends and selfish purposes. There is coming a time, sir—it is nearly here, and I thank God that it is so—when there will emanate from the Federal Executive of the nation this spirit of popular conservatism, which will be poured like oil upon the agitated waters of party; when, in the settlement of great national questions, we shall neither know the names of North or South, of Whig or Democrat; but shall be prompted by those high, holy, and elevated considerations which exist in the heart of every patriot. Sir, the question of the integrity and safety of this Union is higher than that of the triumph of any party. Without the Union we cannot exist as a nation; with it, no power on earth can arrest the progress of our greatness. It must be preserved as it is. No man is a patriot who will assail it; and he who, in this *national* hall, shall seek to array in angry conflict the North against the South, or the South against the North, is an enemy to the peace of the Republic.

Sir, I am a northern man, in sympathy and feeling; but I love the South. The South was to me the home of early and dearly cherished recollections. There are yet the playmates of my boyhood, and the friends of my youth. But I love the North none the less for loving the South so much. My home is in the North; my interests are there, my affections are there, my sympathies are there. Shall I love the North more than the South, or the South more than the North? Shall my patriotism be hemmed in and circumscribed by the little spot of earth where I may happen to have been born or to live? No, sir, no. I trust in God the time shall never come when I shall not feel an equal devotion for the sterile hills of New England and the sunny plains of the South that I do for our own broad and beautiful prairies of the West. It is all my country; it belongs to the nation; it is the common inheritance of us all; and though I represent a people who have deposited important trusts in my hands, yet I know them well enough to know that they will respond to the declaration which I make, that so long as I remain a member of the National Legislature, I will give no vote which shall not look to the rights, the interests, and the prosperity, of the *whole Union*—to the North as well as the South, the East as well as the West.*

MILEAGE OF MEMBERS OF CONGRESS.

SPEECH OF MR. ELISHA EMBREE,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

January 11, 1849.

The House being in the Committee of the Whole on the state of the Union, the following item being under consideration in the Civil and Diplomatic Appropriation bill for compensation and mileage of Senators, members of the House of Representatives, and Delegates, $768,200," Mr. EMBREE had moved to amend by inserting the following: "*Provided*, That the mileage of members of both Houses of Congress shall hereafter be charged upon the shortest mail route from their places of residence respectively, to the city of Washington"—

Mr. EMBREE said:

Mr. CHAIRMAN: Truth compels me to say, that I address the committee with diffidence. Far from harboring any design to sneer at those educational facilities which honorable gentlemen here possess in a superior degree, candor compels me to remark, that I have been reared on a backwoods farm; that I have taken no "degree," unless in that school of labor wherein is taught the *science* of splitting rails, following the plough, and those agricultural pursuits which are the lot of the western farmer's son. Thus reared until the age of eighteen or twenty, with but little education, it cannot be expected that I should be an adept in the art of using flowery words; in other language, in the business of speech making. I was never even considered (as our western folks have the term) "*good on the stump.*" If I have any *forte*, it does not lie, I assure you, sir, in that direction. Your humble speaker is a plain man, who desires to submit a few plain facts, in an unadorned manner, for the consideration of this body. I should not weary you at all, did not an overwhelming sense of duty to my constituents impel me at least to attempt a reform of what I consider, sir, in plain English, to be an outrageous and scandalous waste of the public money by public servants; money collected from hard earnings of the people, from toil in the harvest field, and at day's work; that sort of employment, sir, which sweats for what it collects together. In this I can sympathize, for I know something about it from experience. I know the pay of the laborer who rises with the sun and toils until it goes down. I know the value of gold among those yeomanry of our land, whose wives and daughters clothe themselves by their own hard-driven industry; and I know, therefore, that that which may seem to those who were cradled in wealth as a very small matter, is to them a very great matter. Trifles make up the sum of life. While Congress is busied here in what it is fashionable to call "great affairs of state," it may not be an useless task, even for me, to descend a little from these lofty topics, that I may discuss the propriety of saving a little money to the tax payers of the country. I know the subject is ungrateful to many. I am prepared to hear my motives assailed. I expect the imputation of demagogue to be hurled at me. These assaults here are common, and only mean that a member advocates the rights of the people. I know my own heart, and while it approves my motives I shall be content.

In what few words I am about to submit, Mr. Chairman, I speak of facts. With *men* I have nothing to do. I disclaim all imputation upon members. I complain of an existing *law*, which tolerates the abuses which I shall endeavor to expose, and I ask that the law be reformed.

Mr. Chairman, whether there be glory or disgrace in this movement, I believe that it originated with myself, not with the member from New York, [Mr. GREELEY.] He has chosen to aid in this reform in his own way and at his own time. On the 11th day of last month I had the honor to offer a resolution, which was adopted by this House, and which reads in the following words:

Resolved, That the Committee of Ways and Means inquire into the expediency of adopting a more economical system of public expenditure: *First*, By reducing the salary or pay of all officers of Government one-fourth, where the salary or pay exceeds one thousand dollars per annum, and the Constitution does not prohibit such reduction. *Second*, By estimating the mileage of members of Congress and delegates of Territories by the nearest mail route from the city of Washington to the post office nearest the residence of each member or delegate. *Third*, By providing, that after Congress has been in session for three months during any Congress, the pay of members and delegates shall be reduced one-half from that time to the close of the session. And by such other economical provisions as to said committee may seem right and expedient; and that said committee report by bill or otherwise.

This resolution, in fact, was prepared by myself at the last session of Congress, and was offered by myself eleven days previous to the exposition made in the New York Tribune on the subject of mileage. My object, sir, in desiring this amendment to be made to the bill under consideration simply is, that I may thus insure its passage through the Senate, inasmuch as the bill before us must pass that body to secure to its honorable members, in common with all other officers of the Government, their pay. I desire that my amendment shall stand in the road between members and the treasury of the United States. If any effort of mine can prevent it, it shall not be stifled or dodged. I desire the amendment, sir, to be adopted.

Mr. Chairman, I propose to glance at the several propositions of this resolution.

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* The following is an extract from the "Farewell Address" of General Washington:

"The unity of government, which constitutes you one people, is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence—the support of your tranquillity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But, as it is easy to foresee, that from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the only point in your political fortress against which the batteries of our internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed—it is of infinite moment that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

"For this you have every inducement of sympathy and interest. Citizens by birth or choice, of a common country, that country has a right to concentrate your affections. The name of *American*, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess are the work of joint counsels and joint efforts, of common dangers, sufferings, and successes."

Sir, the present law in relation to mileage was passed when honorable members were forced to reach Washington, the best way they might, on horseback. Quite a change since that period has come over everything else: why shall we not have a change also in the *law*? Now, instead of the nearest route by land, we have railroad routes, steamboat routes, lake routes, ocean routes. By this process the mileage of members of Congress has been doubled—more than doubled. They were sufficiently high when the law was first passed; yet, now, with all the facilities enumerated, we find them doubled.

It has been well said, sir, that "figures will not *lie*." I have prepared from the books of your Sergeant-at-arms certain plain facts, in a tabular statement. If their accuracy can be denied, let it be done now, that I may correct them. The glaring abuse and extravagance of this mileage system will be far more eloquently exposed by the figures which follow, than they can be by words. Look at the figures, sir, and let honorable gentlemen answer if there be nothing in this law which needs reformation?

Mileage and pay of members of Congress, for second session thirtieth Congress.

By reference to the books it will be seen:

I.—*Mileage.*

That the aggregate amount of mileage received by twenty members of Congress, is only	$1,919 00
While the aggregate amount received by twenty other members is	34,757 00
The average amount for each member of the first twenty is less than	100 00
While the average received by each of the second twenty is	1,737 00
Each of the latter receives on an average more than each of the former	1,642 00
The aggregate amount of mileage of ten members is only	724 00
While the aggregate amount of ten others is the enormous amount of	19,233 00
The average received by each of the first ten	72 40
The average received by each of the second ten	1,923 30

The ten latter received twenty-six times as much as the ten former.

II.—*Mileage and per diem.*

The average amount of mileage and per diem of twenty members (for the present session) is, for each, about	$816 00
The average amount of mileage and per diem of twenty others is about	2,457 00
Pay per day of each of the first, a little over	9 00
Pay per day of each of the second, more than	27 00
Average amount of mileage and per diem of thirty Representatives and Senators is, for each, (for the present session,) about	2,522 00
Average amount of thirty others, each, about	820 00
Or for each of the first, more, per day, (for the present session,) than	28 00
While for each of the second, a little more than	9 00
Average amount of mileage and per diem for four Senators, for each, about	3,006 00
Or more, per day, (Sundays included,) during the present session, than	33 00
If these Senators received the full amount of books voted to new members, they would receive, for every day of the session, about	40 00

The per diem pay of the members of each House is eight dollars; but with the mileage it amounts, for many of them, to from twenty to thirty dollars per day.

Mr. EVANS, of Maryland, desired to ask the gentleman from Indiana, if the amendment which he proposed would, in his opinion, reduce these inequalities in any great degree? Whether, in the gentleman's opinion, after the adoption of his amendment, inequalities would not still exist?

Mr. EMBREE said he would answer the gentleman with great pleasure. The amendment which he (Mr. EMBREE) proposed, would reduce the mileage of members of Congress more than sixty thousand dollars. It went, at least, so far; and if the gentleman would bring in another proposition still further to reduce it, he (Mr. EMBREE) would go with him most heartily.

Mr. HALL asked the question: Whether the gentleman's amendment *did* apply to the present Congress? And he asked further, if the gentleman expected to be a member of the *next* Congress? [Laughter, and some playful allusions by gentlemen, in an under tone, to the recent nomination for Governor of Indiana.]

Mr. EMBREE said: At the time when, at the last session, he had advocated a proposition of this kind, he had expected to be a member of the next Congress, as he had also when he had offered the amendment which was now under consideration. He did not now know whether he should be or not, [a laugh.] That would depend upon *circumstances*, [renewed laughter.]

To return from this digression, sir. Do not these facts conclusively show the necessity for amending the law now in force regulating mileage? From the developments of this table, it appears that while there are twenty members of Congress who receive each one thousand seven hundred and thirty-seven dollars of mileage for every session, there are likewise ten who receive each one thousand *nine hundred and twenty-three dollars*. It also appears from this exposé that there are thirty Representatives and Senators who receive each in per diem and mileage the sum of *twenty-eight dollars per day* during the present session; while others—with the books voted by members to themselves allowed—receive the sum of *forty* dollars per day.

Yes, sir, while the people suppose that a member here is in the receipt of eight dollars per day, it is a fact that he receives (in some instances) from twenty-five to forty dollars per day.

Is not such pay enormous? Is not such a law unjust? Is it not an odious and intolerable public burden? And it is as unequal as it is unjust; for I have demonstrated, sir, that while some gentlemen receive from $25 to $40 per day, others receive, mileage and per diem included, but $9 per day.

The member from Mississippi [Mr. BROWN] has said, sir, that this "is a small matter." A *small* matter! Well, sir, my amendment will save to the Government *more than sixty thousand dollars a year*. When the honorable chairman of this committee [Mr. CALEB B. SMITH] was the Speaker of the House of Representatives of Indiana, (or perhaps a few years prior to that period,) the *whole* expenses of our growing and prosperous State were but about *fifty thousand dollars!* This is the way that we unsophisticated souls of the West reckon about "small affairs." We Hoosiers estimate the value of money perhaps somewhat differently from a Mississippi constituency. We don't consider the whole expense of a State government "a small affair." No, sir, not by any means!

Mr. Chairman, there is a common trick in legislative assemblies, always resorted to to break down a measure when members feel a little awkward about meeting the proposition which they wish to murder by honest, blunt, straightforward opposition. Instead of openly and manfully resisting such measures; instead of avowing themselves to be their enemies, and thus meeting the people fairly on such questions, they kill by *kindness!* by "running the thing in the ground," as the phrase goes; by saddling the proposition with amendment after amendment, until the saddle breaks down the whole measure.

Now, I am not about to charge my friend from Mississippi with practising this trick; but this gentleman tells me that he will go for *any* general system of reform; and the gentleman has proposed that kind of reform which will prevent members of Congress from receiving pay for time when they are not in attendance upon their respective Houses. Sir, I will readily go with the gentleman for that proposition whenever he shall bring it forward. But *every* species of reform cannot be included in *this* amendment; and thus to burden this amendment is, in the end, to defeat it. The honorable member's suggestion reminds me of the boy who, having to travel a thousand miles, concluded that he would not start upon his journey until his legs had grown long enough to make the whole distance by a single step! Step by step, item by item, is the only way in which reforms of this nature can be attained.

The gentleman from Ohio has also favored us with a *kind* suggestion. Instead of the mileage which they now receive, he proposes that members of Congress shall be paid by the *hour* for traveling to Washington. Sir, I have learned from my boyhood to respect premiums on industry, but here is a bounty absolutely held out to downright laziness!

Gentlemen tell us, that even if my amendment prevails in this House the Senate will reject it. I cannot respect this suggestion as an argument. It sounds very strangely to my ears. As members of this body we should do *our* duty, and leave the Senate to act upon its own responsibilities. Am I to understand that we of the House of Representatives must await *instructions* from the Senate before we shall proceed to legislation here? This is certainly the only point observable in this suggestion. For reasons, however, which I shall proceed to endeavor to explain, I am obliged to gentlemen for their allusion to the Senate; it enables me to fortify my exposition of the gross wrongs practised, in respect to drafts on the treasury, upon the people.

It is with unaffected and profound regret that I am forced to breathe a word in disparagement of the acts of members of the American Senate—that boast of our system—that pillar of our Constitution—that fountain of wisdom and greatness. But, sir, facts must be spoken fearlessly by him who undertakes to speak the whole truth. And, sir, I am constrained to express my humble opinion that the length of the Senatorial term, their distance from the people, and, above all, the hateful influence of an ultra party spirit, have of late years much conspired to detract from its dignity, to destroy its usefulness, and to lessen the popular confidence in its character. I will not speak at random; I will deal in no unsustained accusations; but will ask the attention of the committee to two flagrant facts connected with that body.

Mr. Chairman, while I pronounce the *law* under which members of this House *legally* abstract their per diem and mileage from the treasury as odious, I conceive the practice, which has been adopted by some Senators, of charging *constructive* mileage, to be a *total violation of all law*, and a most wanton outrage upon popular rights.

Let us examine the monstrous facts connected with this system. The simple statement of them, sir, will do away with all necessity for comment.

On the 3d of March, 1845, the session of Congress closed, and the Senators were entitled by law to receive, and did receive, for mileage to and from Washington, the gross sum of $40,226 40. Yet, sir, twenty-seven of these Senators, these *same* Senators, *charged* and *received* the *additional* sum of TWENTY-THREE THOUSAND DOLLARS! This, sir, was *double* mileage! This, sir, to some of those Senators, was about FOUR THOUSAND DOLLARS *each* over and above their regular per diem allowance! And what was the pretence of this wholesale draft? Why, sir, on the 4th of March, *one day* after the close of that Congress, the President called the Senate together to confirm Mr. Polk's appointments; and for this grave service they not only charged their eight dollars per day, but twenty-seven of them received full mileage for a *pretended* traveling to their homes on the night of the third of March! For this service some of the Senators received *one hundred and eighteen dollars* per *day*, and one Senator received *one hundred and* THIRTY dollars per day, for every day during that special session. Did they go home and return? No, sir! All this mileage was paid them for their valuable services in *sleeping* on the night of the third of March! Is this, likewise, "a small affair," Mr. Chairman? Is it "a very small affair" to pay gentlemen the sum of $2,000 each for a night's snoring? Is it a very "small affair" to the people, who supposed at that period that their Senators were pocketing only $8 per day, to be now informed that they were paid to the tune of one hundred and thirty dollars per day? There were, however, many honorable Senators who refused to charge and receive any portion of this constructive mileage.

Mr. Chairman, with the indulgence of the committee, I will refer to another instance in which I conceive the conduct of a majority of the Senate to have been justly reprehensible.

Immediately, sir, *after* that body had, at the last session, ratified the treaty of peace, the majority of that body passed a bill calling ten thousand additional regulars into the field. At that time we *had* already nearly fifty thousand idle troops, at an enormous expense to the Government. For three months this measure had been hanging in the Senate without its action. But as soon as a treaty of peace was ratified—in other words, as soon as the

war was *ended*—it suddenly passed. Now, sir, who is blind enough not to know that no such force was called for by the good of the service? But the good of *a party*, Mr. Chairman, required that the hundreds of office-seekers, who had been droning and lounging around this Capitol and the White House, asking for the four or five hundred offices which this bill would place at the disposal of the Executive—the good of a party, sir, required its passage, and it did pass! Fortunately, this House arrested it, or the people would have been saddled with near another million of war expense.

There is a fact presses on me here, and I must be indulged for a moment while I refer to it. While this kind of extravagance was thus pressed upon us, Congress refused to allow a reward to the patriotic survivers of the soldiers of the Indian wars and the late war with Great Britain; refused to grant to these veterans, their widows and orphans, a small tract of land as a home in their declining years. When lands were voted for the soldiers of the Mexican war, at the last session, I strenuously advocated the same claims for the soldiers of the Indian wars and the war of 1812. I then contended that they were as brave as others; that they were equally patriotic; that they had covered themselves with glory and their country with renown; that they had performed services equally meritorious and deserving of reward; that they had fought in defence of our most sacred rights against fiendish barbarism and despotic aggression; and that those who united in that struggle, who exposed life and limb in the conflicts of that period, were entitled to recompense from the abundant fullness of the nation's resources. But, sir, all arguments and appeals were disregarded. Far from me was it to object to the grant of lands made to our gallant men in Mexico; but I then thought, I still think, that justice required that services equally meritorious should receive equal reward. I thought then, and I still believe, that granting lands to the soldiers of the Mexican campaign, and withholding them from the others, produced an invidious distinction against the gallant veterans of 1812. It was almost as if Congress had said that they were not as worthy as the soldiers of the Mexican war.

Mr. Chairman, another provision in my resolution contemplates the reduction of the pay of all officers of the Government one-fourth, where such reduction would not bring their pay below one thousand dollars. The salaries of the different officers of this Government vary from $25,000 to less than $1,000 per year. Now, according to the best of my information and judgment, many of these officers do not earn one-half their pay, but employ the public time and money to the most unseemly party purposes. In 1836 there was an act of Congress passed, requiring that all the public offices in Washington should be kept open ten hours per day in the summer, and eight hours in the winter. But what has been the practice of the officers of Government under this law? During the past summer these offices were not opened until 9 a. m., and were closed at 3 p. m.—but little more than half the time required by law! Not only so, but when I and other members have had engagements at these offices, and have repaired there during legal hours, we have been unable to find persons with whom to transact the necessary business of our constituents.

By examining the rates of salaries, gentlemen will observe that some of those officials receive *more* than *three* dollars for *every hour* they remain in their offices. During their unemployed time—time pilfered, as I have shown, from the public service—to wit, from three in the afternoon until nine of the following morning, these gentlemen were engaged, in the late Presidential canvass, directing documents and writing articles for party newspapers. Besides, the evil has been recently augmented. At the last session some two hundred officers were added to the Government! Is no reform needed here? If those in the public employ obeyed the law, and devoted the *whole* of the time required by Congress to the public service, but half the number of officers would be requisite. One hundred per cent. in the way of salaries is thus paid by the people as a sort of pension fund to lazy officers and clerks! Sir, it amounts to this; smooth over and "honey it" over as you may, it amounts to a bounty to idleness, if not to corruption.

I am an enemy to high salaries, for I deem them to be the fountain of infinite evil to our country. They abstract men from useful pursuits; men who, otherwise, would establish for themselves permanent business, which would benefit them and advance society. Under this Government there are about one hundred thousand offices; for each office there are about four applicants; a grand total of five hundred thousand place-holders and place-seekers, stimulated by the hope of salaries to abandon the ennobling fields of useful industry, and to give themselves up to the employment of humbugging and electioneering; occupying all their precious moments, from election to election, in endeavors to ride the wave of public excitement, in the hope that it may bring them into station.

Sir, I wish ardently that this subject were justly estimated by honorable gentlemen. Our country is kept in a constant state of party strife by these office-hunting agitators. Patriotism is ever on their tongues; but I fear that the sentiment is rare in their hearts. Let salaries be reduced to a reasonable standard, and we shall soon find that electioneerers will become rare. The talented young men of our country will no longer have held out to them this tempting bait. They will settle down in our communities, and add to the welfare of their neighbors and the country by those pursuits which bless and elevate mankind. Let us cut up this evil by the roots. It is a cancer in the heart of the body politic.

Another branch of my resolution, sir, contemplates the reduction of the pay of members of Congress one-half, after Congress shall have been three months in session. I have said that my amendment to this bill would save to the country some sixty thousand dollars yearly in the item of mileage. Here, sir, is a reform by which a saving of hundreds of thousands may be effected. Would the public interests suffer by thus shortening the sessions of Congress? (for such would be the effect of shortening the pay.) Let us consider this, sir.

At the last session the remark was common, among the older members of this body, that it was necessary to *fix* a day of adjournment. Why, sir? For the reason which gentlemen then urged, viz: "Congress will do as much business in one day, after the period for adjournment is *fixed*, as they would otherwise do in one week." And this tells the whole story, Mr. Chairman. The business can be done in one-half of the time; and it *will* be done, if the pay be not so inviting as it is at present.

Sir, turn your attention to the journals for the past ten or twelve years. I have examined them, and I find that, for the first thirty days of a session, Congress did not sit more than *two hours* per day. It is not a great deal better *now*. This rule has operated well in my State; it has abridged the sessions of the Legislature; it has worked no harm to the public interest; and such would be its result if introduced here, I confidently believe.

My resolution, in addition to designating these specific items, contains a clause requiring the Committee of Ways and Means to inquire into all other modes by which the expenses of the Government may be curtailed. Did time permit, this topic might be dwelt upon with advantage. Under the circumstances, however, I shall advert but to two particulars in which reform is seriously demanded.

I can see no propriety in the practice which obtains here of voting some thirty thousand dollars per Congress in the way of "Globes" and other newspapers. Let the people have light—it is the duty of the Representatives to furnish them with the proceedings here; but, for one, I declare my conviction that all such expenditures should come out of the pocket of the member. To him the cost of a few hundred newspapers is comparatively insignificant, as contrasted with the sum total thus taken from the treasury.

And the franking privilege calls loudly for reform. What immense sums, sir, by the abuse of this privilege, are annually lost to the treasury! Upwards of two hundred thousand dollars, sir; or the sum of two millions in ten years! Why, I have learned from the Postmaster General himself, that during a part of the last session, something like five thousand pounds of mailable matter were franked and sent *daily* from the city of Washington! I ask, in all sober reason, sir, was this perversion ever contemplated as the result of the franking privilege? Does it not amount to a flagrant abuse? The mails of the country are absolutely packed down, at a great public cost, with cumbrous matter, a great portion of which is absolutely worthless, while by far too much of it is calculated to spread the seeds of national demoralization. I deprecate, also, the practice in which this House has for many years indulged of voting over six hundred dollars' worth of books to each member. One would imagine that over thirty dollars per day (received by some gentlemen) was an adequate compensation to satisfy avarice itself; but it seems that to this has been added the *little* matter of over six hundred dollars in the way of books! During the last seventeen years, there has thus been given away by the Government, in books to members, the snug sum of some eleven hundred thousand dollars, *in addition* to per diem and mileage! And, sir, it is said, on high authority, that many of these books do not even go home to the residences of the members, but are sold here in the city of Washington.

Mr. Chairman, I have now, in a plain and temperate way, endeavored to expose some of the prominent abuses of the public expenditure. No man can gainsay the facts which I have presented; they are all too true; all have been gleaned from the fountain head. There is a radical, a monstrous wrong in the law regulating the mileage of members; there is an unqualified fraud, as I think, practised in the system of constructive mileage; there is rottenness, from beginning to end, in the management of a majority of the offices and clerkships here; there is a flagrant outrage in the abuse of the franking privilege; all of which, sir, did they only tend to draw money improperly from the public, would be bad enough; but when the consideration is added, that they are but so many engines to inflame, to deceive, to corrupt the people, by building up here, in this capital, a vast and wicked partisan machinery, for the sole and entire benefit of designing politicians, then, sir, in this view, the evil becomes absolutely appalling. If persisted in, its tendency cannot be regarded without fear that it may yet prove too strong for the arm of popular reformation. History is full of warning to us. These devices of the few to cajole and override the many, have had their existence in every government; and it has been to such fountains as these, of luxury and favoritism established at the seat of power, that we trace the melancholy fate of a majority of governments. These abuses advance stealthily; one makes room for another, until the whole system becomes changed. Such, too, in this regard, has been our history. Let the present abuses go on, sir, and what condition of things will be presented ten years hence? I shall not attempt the picture.

Ah, sir, if such abuses as these grew up in your private affairs—if they occurred in the management of your estates, your farms, your manufactories, your law offices, and your stores—the corrective would soon be applied! Shall we be less just to the people than we would be to ourselves? Shall we act in a spirit of unfaithfulness to the high interests which others implicitly confide to our care—a spirit in which we could not be induced to act in regard to our own meanest and humblest personal interests? Is this honesty? Is it Christianity? Is it common fairness? And shall I fear, sir, to declare these things, lest the epithet of demagogue and other unseemly language shall be cast in my teeth? No, sir! I may regret, and I do regret, my inability to ably discharge my duty; but I shall never be afraid or ashamed honestly to attempt it, no matter whether the path lies through the prejudices, or passions, or sordid interests of men.

I hope that this reform may begin here, and that it may begin now; but whether gentlemen heed it or not, there is an abiding sense of justice among the people of the country which, when all these abuses shall be fully comprehended by them, will awaken a stern spirit of indignation which will not be quieted until, in the language of the Good Book, "the axe is laid to the root of the tree."

Mr. Chairman, I know the American people well enough to know that they are not mean-spirited; they require of us no pitiful retrenchment; they are liberal; they know the full value of the services

devoted to the public interest, and their hearts are ever ready fully to reward, in money, in affection, and in honorable promotion, every man who serves them.

I ask you to meet them in the same spirit. A large proportion of them draw their means from the earth—earth that yields no "yellow metal"—from the soil, which they till laboriously for a support, and for an inheritance for their children. We are the guardians of their interests. They select us, they trust us, they honor us by their marks of confidence. Let us prove worthy of them on every occasion, so far as we can. Let us not impose needless burdens on their backs, that we may riot in plenty.

SLAVERY IN THE TERRITORIES.

SPEECH OF MR. JAMES WILSON,

OF NEW HAMPSHIRE,

IN THE HOUSE OF REPRESENTATIVES,

February 16, 1849,

On the political influence of Slavery, and the expediency of permitting Slavery in the Territories recently acquired from Mexico.

The bill to provide for carrying into execution, in part, the 12th article of the Treaty with Mexico, being under discussion—the House being in Committee of the Whole on the state of the Union—

Mr. WILSON addressed the committee substantially as follows:

Mr. CHAIRMAN: I deem it unnecessary to make any apology to the committee for breaking the silence which I have studiously imposed on myself since taking my seat in this Congress. I propose to speak of slavery, deeming it *the question*, not merely of this country, but of the whole Christian world—emphatically the question of the age, and its discussion upon this floor fit and proper, in reference to its influences and bearings upon our national affairs.

The honorable gentleman from Alabama, [Mr. HILLIARD,] the other day, spoke truly in regard to the effects of slavery in the southern States of this Union; that they are isolated, cut off from the sympathy of the Christian States of the world, by reason of that peculiar domestic institution. I concur entirely with the honorable gentleman in that opinion, and award to him high credit for his honest, frank, manly avowal of that truth upon this floor. I rejoice, sir, that the truth is known to southern gentlemen, and proclaimed here by one of their number of large experience and acknowledged ability.

It has been said by some one, that "man is the child of circumstance." It is a sage remark, and true; and to me it is not surprising that gentlemen should entertain different opinions, and should rise here in debate and express opposite views, upon the subject of slavery. I know, can feel, and realize, that my own views and opinions are influenced much by the impressions received in childhood; and, while I am conscious of that in myself, it is but just to infer that other men are influenced by the circumstances with which they were surrounded during the receptive period of early life. It excites no marvel in my mind that gentlemen who have first seen the light of day at the South—who have first opened their eyes to the realities of life under the auspices of that institution—who were early taught to command, and that it was their right to be obeyed—who had but to say to a certain class of individuals around them, "Come," and they would come; "Go," and they would go;—I can very well realize and understand how it is that gentlemen, accustomed from their childhood to command, being nurtured in this way up to the condition of manhood, should entertain entirely different opinions from those which I, and those who have been brought up as I have been, entertain. In the northern States of this Union, we are taught from childhood to look upon labor as the condition of life; to think from the outset that we are born to labor. The child is instructed and made to know that if he wants anything done within the compass of his own ability, he must do it for himself. He is encouraged to effort, and compelled, if need be, to make it. Labor becomes habit.

I have said, sir, that, in the free-labor States of this Union, even the little children are required to labor according to their intellectual ability and physical strength. Even from its cradle it is put to work. It is aroused from its morning slumbers to be greeted by the smiles of a kind mother, and is encouraged to make the effort to do for itself what it may be able to do. It is not, to be sure, furnished with the heavy tools, the drills and hammers, picks and gads, of the miner, and sent to sink shafts in trap rock or limestone, in search of copper ore; it is not furnished with a spade and windlass, rope and tub, and sent away to sink its shaft in clay diggings, in search of lead mineral. No, sir; but, its morning bath and wardrobe attended to, and its breakfast finished, it has its working tools, consisting of some simple books carefully arranged in a little satchel, wrought all over with pictures of birds and butterflies and flowers, in gay colors, by the hand of a kind sister. Thus equipped, it is sent away to the village school, to work—to work. It begins to sink its shaft down into its own intellect; it sinks on and on, deeper and deeper. Encouraged by its success, it perseveres, until, by and by, it brings up to view, and for the use of mankind, treasures infinitely more valuable than the gold from the mines of Mexico, or Peru, or California—gems more brilliant than ever sparkled upon the brow of queens, or blazed in the halls of royalty.

The powers of the mind, like the muscles of the body, must be trained and disciplined to vigorous, energetic, persevering effort, if they are to exhibit their full strength; and these are some of the results which we are justified in expecting from those whose early condition imposes upon them the necessity of early intellectual and physical labor.

It shall be my purpose, during the little time allotted to me by the rules of this House, to speak on the subject of slavery as connected with the political affairs of the country, regarding it merely in a political view, without attempting to discuss the question generally in its moral aspects. Upon this subject I desire to premise a few things, in order that I may be fully understood.

In the first place, I must say that I do not assent, to the fullest extent, to the charge which is sometimes made against the South with reference to the amount of physical suffering inflicted upon the African race. I do not believe that the slaves of the southern States are commonly subjected to those extreme physical sufferings so often affirmed by the opposers of slavery. I cannot believe it. Having never been taught to look upon all men as demons, I cannot think that there is, on the face of the earth, in any part of the Christain world, certainly not in this our own beloved country, any considerable number of persons devoid of every feeling of human sympathy. Considering the early and intimate relation that must necessarily subsist between the master and his slaves, I am constrained to believe that there must be a great deal of just sympathy felt by the superior for his inferior. There may be, and undoubtedly are, many exceptions. But I cannot doubt that, wherever a slaveholder exercises unreasonable severity towards his bond people—wherever he withholds from them reasonable necessary supplies for their physical comforts, or overtasks their physical strength—he is censured as severely, and his course condemned as heartily, by his brother slaveholders as he would be by the most ardent advocates of freedom.

But there is another point upon which I rest my chief objection to the institution, and that is, that the condition of the slave is absolutely and irretrievably fixed. There are no means of improvement left to the slave; he has no power—no hope of moral or intellectual elevation.

In the nothern States of this Union there is no man so poor that he is without this hope, either for himself or his children. However broken and dilapidated the cabin that imperfectly shelters him; however meager the stock of provisions on hand to supply the daily wants of himself and family; however scanty their wardrobes, still he has the cheering consciousness that he is a freeman. He has a bright and confident hope of better days for himself or for his children. There is nothing in the laws of the land where he lives to bind him down, and his children after him, to a condition of hopeless degradation. There is the village schoolhouse hard by his dwelling. His children have equal privileges with those of the wealthiest. They associate on terms of perfect equality in the schoolroom; and often, quite often, is it that the son or the daughter of the poorest parents in the district stand at the head of the school for scientific attainment; they return home with the highest reward of merit from the teacher. Think you that the father or mother, as they gaze upon the gay and happy faces of their children, while those children exhibit the evidences of their triumphs at the school, stop to think of their own poverty, or yield to any despondency? No, sir. They are sustained by a bright, a cheering, a confident hope. They would not exchange or barter that hope of a bright future for their children for any earthly consideration.

To the laboring slave population there is no such hope, either for the generation that now is, or for the long succession of generations that are to come in all future time.

Now, the great question before the country is, whether it be expedient for Congress to extend this institution of slavery into the territories recently acquired from Mexico? I am aware of the charge which has been made, insisted upon, and urged, reiterated here and elsewhere, in public speeches, and public documents, and papers of every class in the slave interest, that the North were constantly trespassing upon the South, because they would not consent to the passage of laws making more secure the right of the slaveholder to his property. I undertake to say that, for the last fifty years of the history of this Government, this great slavery question has been the very center and focus of all our political action; the focal point around which every great national interest has revolved.

I might illustrate by a comparison with the movements of the planets in their orbits around the natural sun. The figure of speech would not be quite accurate and appropriate, because, when we speak of the natural sun, we convey to the mind the idea of light and heat, warmth and life-giving energy throughout the entire sphere of its influence; while that central point of our political action is as black and as dark as Egyptian darkness; as cold, and heartless, and unsympathizing as the icebergs that roll in the Arctic Ocean.

I must ask the indulgence of the committee for a few moments, while I refer to the introduction of slavery into this continent. During the same year that the Pilgrim Fathers of New England were escaping from the oppressions that had been inflicted upon them in the Old World; while they were buffeting the waves of the Atlantic, in a frail water craft, in pursuit of a land where they could be free to study their Bibles and worship God according to the dictates of their own consciences; in that same year (1620) a Dutch ship also found its way across the Atlantic, put into the mouth of James river, having on board some three or four-and-twenty Africans, who were brought to be sold into slavery. Such was the beginning of slavery in this country. The trade was soon monopolized by the English, and they continued to prosecute it with great vigor, it proving a convenient traffic to enable the mother country to extort the substance of the colonists. England was pursuing towards the colonies a system of policy by which she was enabled to convert to her own advantage the commercial value of all the labor of the country. To her it was a matter of perfect indifference what the kind of labor was; whether free or slave, its beneficial results all inured to her profit. Slaves were brought rapidly into the country. Influenced partly by climate, but much more by the peculiar characteristics of the settlers of the northern and southern provinces, much the greater number of slaves were taken to the southern. The northern people were a laboring people; they shrunk not from the most severe trials and deprivations; encountering a rigorous climate, a barren granite soil, and patiently bending to the hardest labor to sustain themselves and enjoy only their religious freedom. Their reliance was upon their own manly efforts. They did not look to others to do their work for them, that they might indulge in unproductive indolence. As a consequence of this state of things, there were but few slaves taken into the northern provinces.

Let me here direct the attention of the committee to the political condition of the Colonies for a series of years preceding the Revolution. The old thirteen Colonies were communities with interests separate and distinct from each other. There was no bond of union between them. They were each

organized under its own royal charter, and the policy of England was to keep them as far as possible from forming any alliances, or becoming mutually dependent upon, or serviceable to, each other, by the free, unrestricted interchange of commercial commodities. This system of policy was rigidly enforced upon the Colonies by the mother country, until it became so oppressive that they separated themselves from the power of England; threw off the yoke of oppression; in 1776 declared themselves independent. In this act the old thirteen Colonies, or rather *the people* of the old thirteen Colonies, became "one united people," instead of thirteen separate provinces of the Crown of England. In the Declaration of Independence they had first proclaimed to the world the great political truth of the equality of man, and his endowment by God with certain inalienable rights, among which are his right to "life, liberty, and the pursuit of happiness." This Declaration was issued while the country was subjected to the severe, the agonizing trials of civil war. It was to be maintained by the rigorous, unflinching prosecution of that war; and for six years the people of the Colonies did maintain themselves gloriously, and came triumphantly out of it. The pressure of that war kept the people united. They fought in the common cause. All their energies were united against the common enemy. They never once stopped to consider the difficulties and troubles which would beset them on every hand, whenever they should come to the trial of managing the affairs of Government in time of peace. In 1783 the war was terminated, and it was not till then they saw clearly the embarrassments which beset them in the government of the country in its new position.

They had no government. Then came the greatest trial of the patriots of the country. It was then that this question of slavery first presented itself, with its various conflicting interests, to annoy, perplex, and thwart them in their attempts to form a government of adequate strength and power, to answer all the requisite purposes of government.

The people of the United Colonies had solemnly declared that all men are created equal; were endowed by nature with certain inalienable rights, among which were life and liberty; and they could not safely renounce the principles of that declaration when they came to form a national compact.

This question of slavery, then intruding itself upon their councils, led the great men of the nation, if not absolutely to renounce it, at least to disregard it, and prompted them to make the attempt to form a government by Articles of Confederation, based upon a contract or agreement of "thirteen independent sovereignties." It was the existence of slavery in the southern States that led them into that fatal error, lying at the foundation of the Articles of Confederation, of "each State retaining its sovereignty." Those articles looked to the power of the States as sovereign, overlooking and disregarding the paramount truth that sovereignty resided in the people. There was a jealousy at the South, where there were a great number of slaves, that if the several States surrendered their separate sovereignty to the General Government, the time would come when the great wrong of slavery, existing as it did in violation of natural right, would be corrected by that General Government. From the experience derived during the time intervening between the years 1783 and 1787, it was found that the National Government could not be administered under the Articles of Confederation: a Constitution for the United States was requisite. I must ask the attention of the committee while I examine, very briefly, some of the circumstances connected with the formation of the Constitution of the United States.

And first, it is worthy of remark, that among all the great men of the nation of that period, there was not one who claimed to be, or who could properly be charged with being, a *perpetualist* upon the subject of slavery. No, sir; not one, from any part of the Union. The universal sentiment of the men of that age was against it; openly and distinctly expressed, against it. The fathers and founders of the Republic of that day were ardently looking forward to the time when this should become a great country, with a numerous population of industrious, prosperous, intelligent *freemen;* a time, and that not far distant, when there would be an end of slavery. Upon the most diligent search, I have been unable to find that there was a single man, of distinguished reputation and approved patriotism, among all those who met in the Convention to form the National Constitution, of whom it could be justly said that he was a perpetualist.

To sustain my view on this point, I first refer to the opinions of Thomas Jefferson. To that distinguished man was assigned the duty of draughting the Declaration of Independence. The great leading idea of that wonderful document is emphatically anti-slavery. It maintains the equality of all men, and the possession, by all men, of certain "*inalienable rights,*" among which are "life, liberty, and the pursuit of happiness." Can anything go beyond this? Is it possible to find language that can more distinctly pronounce the condemnation of slavery than that used in the Declaration of Independence? I think not.

Again, in the original draught of the Declaration of Independence, as drawn up by Mr. Jefferson, among other reasons which a due respect for the opinions of mankind rendered proper to be assigned for dissolving the political connection that had previously existed between these States and the Kingdom of Great Britain, he places the following as a charge against King George III.:

"He has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people, who never offended him; captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel Powers, is the warfare of the Christian King of Great Britain. Determined to keep a market where men should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce."

This charge, it is true, was stricken out of the Declaration before it was adopted by the Continental Congress. It was too clear and forcible in its language to suit the taste of some gentlemen. No matter for that. Jefferson wrote it; he reported it. It expresses his opinion as entertained at the time, and will so remain forever.

Still again, Mr. Jefferson, in his Notes on Virginia, written about 1783 or '84, expresses, in the most full, clear, and unreserved manner, his opinions upon the character and influences of slavery on society. He calls it a system of unmitigated tyranny, and he deprecates its power upon the character of the young who are reared up to manhood under its baleful influence. In 1784 the subject of organizing some kind of government for that great region of country northwest of the Ohio was under consideration. Mr. Jefferson proposed the famous article that "slavery, or involuntary 'servitude, should not exist therein, except as a 'punishment for crime, of which the party should 'have been duly convicted."

This all preceded the famous ordinance of 1787, in which that article is included, and which finally was adopted, and which was subsequently recognized under the Constitution. I look upon Mr. Jefferson as the author of the article subsequently incorporated into the ordinance of 1787.

Mark you, Mr. Chairman, these opinions of Mr. Jefferson were the outburstings of his first love for free institutions and republican government, unalloyed, unbiased, pure, and sincere. Let it not be said, then, that Mr. Jefferson, in the early stages of our political history, was a perpetualist. I have been careful in my researches into the early records and documents existing, and which could throw any light upon these matters; I have hunted up the famous Mecklenburg Declaration; I have examined the proceedings of the Congress under the Articles of Confederation, and proceedings of the Convention for the formation of the Constitution; and I verily believe I am right in assigning to Mr. Jefferson the authorship of the sentiments expressed by him in the documents above referred to. Were I to write a history of American slavery, I should be constrained, in all honesty and truth, to say, that Mr. Jefferson was entitled to the credit of first publicly expressing anti-slavery sentiments in this country; that he was the prime originator of the anti-slavery movement.

I am aware, Mr. Chairman, that in after life, Mr. Jefferson's opinions underwent some change; I am not surprised that it should have been so. The cautious, sagacious, wily politician found other opinions than those of the ardent, sincere, self-sacrificing young patriot to subserve his purposes and aspirations better. It could not escape the far-seeing mind of such a man as Jefferson, that the institution of slavery was one of those peculiarly constructed machines which the politician could readily turn to good account; that by it a kind of galvanic chain was constructed, connecting the heart-strings with the purse-strings of every slaveholder in the country; that by the working of this political telegraph, it affected, through the nervous fluid, the brain of the whole slaveholding community. It was an engine of mighty political power in the hand of a skillful, sagacious operator. Mr. Jefferson undoubtedly saw how important it was to him, and he could not forego its use. But, sir, he had strewn upon the earth the seminal principle of a great truth; he had advertised the world of the true character of the slave trade and slavery; that truth had taken deep root; it was sending forth a vigorous growth, refreshing and invigorating, over the whole country; even Mr. Jefferson himself, had he desired to destroy it, could not accomplish his purpose. He, and others in the same interest, might scathe its foliage with fire—might cut, and hack, and mar, and lop off its branches; although the axe might be laid at its trunk, and girdled around its entire circumference—yea, although men might strike at its roots with plough and spade, and attempt to root it from the earth, still it could not be destroyed; for the truth was there; its roots were firmly fixed, and it would sprout again, strong, vigorous, and fresh, in spite of every assault that might be made upon it; it was destined to remain as indestructible as the great truths that lay at the foundation of the throne of the Deity.

I must be allowed to refer the committee, in support of my allegation that there were no perpetualists in the Convention assembled to form the Constitution, to the Madison Papers, pages 1137, 1263, 1447. I must refer to the letters of Washington; to the speeches of Gouverneur Morris, Wilson, of Pennsylvania, and Dawes and others, in Elliot's Debates; and also to the famous speech of Luther Martin, of Maryland.

I am to speak by and by of the propriety of extending slavery to the new territories, and I must beg of the committee to carry along with them this fact in mind, *that there were no perpetualists among the fathers of the Constitution.*

The early patriots of the land, seeing the necessity of an organized national government, the Convention came together for the purpose of forming a constitution for the United States. The necessity was imperative. The public safety required it; and it was required as well, in order to provide the means of paying the public debt, as to provide for the common defence and general welfare. The Convention came together clothed with the sovereign power of the people. They assumed to speak for the people, and to make an instrument which should depend upon the authority of "We, the people," for its vitality. Now, sir, mark the date of this Convention, 1787. Let the members of this committee ask themselves, *for what* was that Convention to form a constitution? *For what?* Clearly the Convention was to form a constitution for the *United States.* Now, what was *the* United States in 1787?

Were I to go to your State of Florida, Mr. Chairman, and were I to be so far charmed by the beauty of the country and the salubrity of the climate as to entertain the design of settling there, and I should begin to talk with you about purchasing a farm, we would first try to ascertain its boundaries; we would try to raise the surveyor's monuments, his section corners and his quarter section posts, his mounds or his marked trees; we would ascertain by chain and compass the quantity of land contained in *the farm.* As our negotiation or treaty of bargain and sale progressed, we should adopt and use, invariably, the definite mode of expression; we should speak of *the farm,* and our conversation would be definite and intelligible. Apply this plain, common-sense view of the subject to the case which I am considering, viz: the assembling of a convention to form a constitution for the *United States,* as the United States was then, in the year of our Lord 1787. Can anything be clearer? To ascertain what then constituted the United States, it was only necessary to refer to the treaty with England of 1783. There we find what was the United States; what everybody must

mean when they spoke of the United States; what every public document must mean when it referred to the United States, viz: to a certain, definite, distinct, well-defined tract or portion of the earth's surface, with the people who inhabited it. The geographical extent of the United States, marked and defined in the treaty of 1783, is set out as follows: The eastern boundary was on the Passamaquoddy bay, the Schoodic or St. Croix river, and a straight line running north from a certain point on the Schoodic to the northwest corner of Nova Scotia, on the highlands that divide the waters emptying into the Atlantic Ocean from those emptying into the St. Lawrence; thence southward and westward along said highlands until it struck the westernmost branch of Connecticut river; down said river to 45° of north latitude; west along said parallel of latitude until it struck the St. Lawrence; through the great lakes and the channels of the streams to the Lake of the Woods; from thence southerly to the head waters of the Mississippi; down the main channel of the Mississippi until it intersected the northern boundary of Louisiana; eastwardly along said northern boundary of Louisiana and the northern boundary line of Florida to the Atlantic Ocean; and on the said ocean northeastwardly to the Passamaquoddy bay. That was to be the United States; and, after the treaty of 1783, *was* the United States.

There was, then, a certain, distinct, and definite tract of country to which the Constitution of the United States was to apply. And now let me ask any member of the committee to take the journal of that Convention in his hand, and say whether he could believe that the men of that Convention, who were brought together for the purpose of framing a constitution for *the United States*, did, in fact, form an instrument with all the properties of a monstrous gum-elastic overshoe inverted, the toe of which could be drawn on over the north pole, and the heel hitched down over some tall mountain near the Isthmus of Darien? The very idea is too preposterous to be entertained for a moment by any sensible man of fair impartial mind.

I will venture to assert, that the framers of the Constitution no more thought that the Constitution which they were making for the United States had the capacity to operate over the whole continent of North America, than they thought it capable of being extended to operate over Siberia and China and the Islands in the Indian Ocean. Certain it is, such an idea never entered the heads of the honest republican people who adopted it and gave it validity, as containing and prescribing a form of government adapted to their wants, their security, and their welfare.

The Constitution adopted, the illustrious Washington was called, by the unanimous voice of his fellow-citizens, to the administration of public affairs. He held the first office under the Constitution for eight years, and declined a reëlection. During his administration, the affairs of the country went on in comparative quiet. He was from a slave State and a slaveholder, yet he could realize that he was the President of the whole country. He could appreciate talent and patriotism and integrity wherever he found it, in northern men as well as southern. If there was fault found with him, it did not come from northern men.

A President from the North succeeded the great and the good Washington. He was a man of high abilities, of as pure a patriotism as ever warmed a human being, of as ardent a love for free republican institutions as ever glowed in a human heart, as firm a friend to the cause of freedom as could be found in the Union; but he was a northern man. The slave power of the country could not brook him. He failed of a reëlection. He was prostrated, and for twenty-four years consecutively, the Presidency was given to the slave States, with all its patronage and all its power.

I could wish, Mr. Chairman, that I had time to go fully into the discussion of the political power and influence of the slave States, in connection with the election to the Presidency. For forty-eight years, out of sixty, has the office of President been held by persons identified with the slave interest. The mighty power of Executive influence has been, again, and again, and again, in instances innumerable, invoked and used to carry measures in which the slave States felt a deep interest, and adverse, yea ruinous, to the great interests of the free labor of the country. I am precluded, by the one hour rule, from doing so at this time.

I am compelled to hurry on to the consideration of other matters, for the purpose of showing that the slave power of the country for the last fifty years has governed the country, in relation to all great and important leading political questions; and particularly such questions as related to the extension of slave territory and the perpetuity of the slave institution, and the consequent overthrow of the political rights and interests of the free people of the free States of this Union.

In 1803, when the proposition first came up for the purchase of Louisiana, Mr. Jefferson, after having negotiated for the purchase, stated openly, that the territory could not be obtained and annexed to the United States without an amendment of the Constitution. But it was obviously a most desirable country, embracing a most salubrious climate, and the best soil in the world. It became almost indispensable to our great western country, for the reason that it had control of the outlet of the Mississippi river. This began to be seen as early as 1804 or 1805; and the common voice of the country assented to the purchase, under the necessity which every person felt of having the control of the mouth of the Mississippi river. The purchase was accordingly made. Louisiana having been, long previously, settled by a mixed population of French and Spanish descent, slavery already existed there, and it was not proposed to interrupt it in that portion of the country settled at the time of the purchase.

But, in the year 1819 or 1820, another portion of this country, the Territory of Missouri, which had been in the hands of the Indian tribes up to the time of its purchase by the United States, was ready to come into the Union.

I must here remark, that when the slave power of the country once resolves upon any peculiar measure or policy, it always holds on to it. It never gives back. In the classic language of the honorable chairman of the Committee of Ways and Means, when it once gets its *grip* upon any territory, it never lets go.

When the famous Missouri proposition was first submitted to Congress, to come into the Union as a slaveholding State, it was resisted by Congress; and by a vote in the House of Representatives, the proposition was defeated. The question of admission was decided against Missouri, if she insisted upon coming in with power to hold slaves, and the consequent right of slave representation.

But the matter was not to be determined so. At a subsequent time it was brought up again, and persevered in, until finally the purpose of the slave power was accomplished, and the State of Missouri was admitted with the institution of slavery upon her.

It has not required hitherto any great sagacity to be a politician in this country. The veriest tyro may, by very little attention, be as skillful in determining political results, whether relating to measures or elections, as the most experienced politician in the land. He has only to find out, with reasonable certainty, what the slave power determines shall be done in the given case, and so he may be sure it will be done. The rule is simple, easily understood, and subject to no embarrassing exceptions. I should like to appropriate the rest of my hour to illustrate this, by reference to various cases in our political history, in connection with almost every great and agitating question which has excited the country during the last half century. Peace and war, currency, tariff, public lands, internal improvements, appointments to office, questions of rejection from confirmation, Indian negotiations and removals, each and all of them furnish more or less examples and apt illustrations. But as the acquisition of territory, out of which to form slave States, has the prominent place, and is the most palpable instance of the overweening determination of the slave power to extend and perpetuate itself, and govern the country according to its own sovereign pleasure, I must confine myself to that.

Florida was purchased and annexed. A Florida war was prosecuted; some twenty or thirty millions were expended in that war, and it is well known to every man of reflection that the chief object of that purchase, and the subsequent expensive war to drive out a small number of wandering Indians, was to give greater security to slave property and slave power.

I come now to the consideration of another case more recent and more extraordinary, in the circumstances attendant upon its annexation, than any that have preceded it. The committee must indulge me while I examine it somewhat in detail. It is an important case, and ought to be thoroughly understood by every American politician. If I do not misjudge, it inflicted the deepest wound upon the Constitution that ever has been inflicted upon that time-honored instrument since its adoption. It has depleted it to the very verge of endurance. Another such wound, only one more, if we can ever imagine another administration capable of making it, and my life on it, the poor, insulted, abused Constitution, will faint and die under the operation. I am not quite sure it can survive the last infliction. I must be understood, by every person who does me the honor to listen to me, to allude to the annexation of Texas, and all the circumstances antecedent which led to it, and subsequent as growing out of and dependent upon it.

During the administration of Mr. Van Buren application had been made by Texas to this Government to be taken into our Federal Union. Mr. Van Buren, notwithstanding he had been elected as a "northern man with southern principles," could not so far forget his oath to support the Constitution of his own country, nor could he so far disregard the plighted faith of this country to Mexico, as to give his assent to the application of Texas for admission. He was compelled to direct his Secretary of State, Mr. Forsyth, to return a negative answer to the application of Texas. That honest answer was the bowie knife which let the life-blood out of poor Mr. Van Buren.

On the 11th of May, 1843, the last member of the Harrison Cabinet left public employment in the administration of John Tyler. The country was then in a peculiar position. Mr. Tyler was acting President without a party. The Whig party which elected him had left him. A complete separation had taken place between them. The great Democratic party would not adopt and sustain either him or his measures. Now, in this state of things, what was Mr. Tyler to do? There was but one course left for him. That course was obvious. He was himself identified with the great slave interest of the country. There was in this country a third party—a kind of "*tertium quid*"—small in numbers, but powerful in talent, at the head of which stood one of the ablest men in the country, of the most extensive political experience and political learning; whose whole life had been spent in the public service, and whose private character was eminently pure and above all reproach. It is obvious that Mr. Tyler had no alternative. It was almost a political necessity. He was compelled to throw himself into the arms of that third party.

Mr. MEADE here rose and addressed the Chair.

The CHAIRMAN. Does the gentleman from New Hampshire yield the floor?

[SEVERAL VOICES. "Go on, go on."]

Mr. WILSON said, I must decline yielding the floor. I have never attempted to interrupt any gentleman when he has been addressing the committee or the House, and I must insist on my right to proceed without interruption.

Situated as Mr. Tyler was, he called into his Cabinet a distinguished citizen from the gentleman's own State, [Mr. Upshur,] and confided to his care the State Department. He was a gentleman of eminent talents, of great legal attainments and literary acquirements, although not extensively known to the country as a politician and diplomatist. He was understood to be in sympathy with the third party to which I have alluded. No sooner was Mr. Tyler's Cabinet made up thus, than this Texas question was again brought under discussion with this new feature. Texas had before applied to this Government for admission. She had begged and implored the United States to accept her. Now the tables were turned. This country went begging, soliciting, importuning Texas to come and unite with us. A correspondence was opened upon the subject, induced by the facts stated in certain mysterious letters, which our Secretary of State had received from somewhere and from somebody, upon the danger which was said

to be impending over the slave interest in Texas, and consequently the slave interest in this country. This correspondence was carried on between our Secretary of State and a General Murphy, as I believe, who was the agent of this Government in Texas. Our agent was instructed to represent to Texas, as an inducement to her to comply with our wishes, that unless she united with the United States, slavery could not be maintained in Texas for ten years longer. A treaty for the annexation of Texas was under consideration by the Secretary of State and the agent of Texas; but, before that treaty was perfected, or in condition to be submitted to the Senate of the United States for ratification, that eminent citizen to whom I have referred, by a most mournful accident, while on a steamboat pleasure trip down the Potomac, suddenly ended all his negotiations upon the earth, and was called to his last account with his Maker above. The great head of that third party, to which I have referred, was called to the head of the State Department, and addressed himself to the completion of the treaty, until it was perfected and sent to the Senate. But when it reached that body, instead of having a majority of two-thirds in its favor, (which was necessary under the Constitution in order to the ratification of any treaty,) it was rejected by a majority of two-thirds. Two-thirds of the Senate, after deliberate investigation, put their seal of condemnation upon that treaty; and that vote of the Senate, as I believe, was a very fair exhibit of the popular sentiment of the country upon the subject at the time. But the slave power did not yield to that most signal and emphatic expression.

This was the state of affairs in regard to Texas, when there was a certain meeting of politicians in the city of Baltimore, in May, 1844. This scheme for the annexation of Texas was not to be defeated. The general sentiment of the country, as expressed by the signal defeat of the treaty in the Senate, was treated with the most marked contempt. The subject of the annexation of Texas was brought up in the Baltimore Convention. It was literally forced upon the great Democratic party by the overbearing and violent course of management of the southern delegates in that Convention. I speak the solemn truth when I say, that at that time, a great majority of the Democratic party at the North were opposed to the annexation of Texas. I could cite an overwhelming mass of testimony, would time permit, from the public newspapers of that day, from resolutions of public bodies, and from various other sources, upon that point, that, upon investigation, could not leave a doubt upon any honest mind. The whole North, of all parties, prior to May, 1844, were almost unanimously opposed to annexation. But the Baltimore Convention, a self-constituted body, coming together professedly to nominate candidates for the Presidency and Vice Presidency, took the subject in hand; they made the question of annexation the test of party fidelity; they adopted certain party catch-words. "Texas and Oregon" were tied together by a kind of illicit semi-hymeneal bond. The Democratic party of the North and West were to be cheated, humbugged, inveigled into the support of the candidates of that Convention; and that done, the great North was to be overrode by the annexation of Texas. "Oregon" was thrown in to cheat, deceive, and impose upon the honest Democracy of the West.

When the party managers at the Baltimore Convention (and, mark you, it was subject entirely to southern management) proposed that the question of entire rights and claims in Oregon should be carried into the canvass, were they sincere; were they honest; did they really intend to insist upon the whole amount of our claims in Oregon at all hazards? Let the result answer. The western politicians undoubtedly thought them sincere. General Cass spoke often and vigorously in the Senate upon the subject, claiming the whole of Oregon, and declaring that the administration of Mr. Polk would insist upon the whole to 54° 40'. He spoke undoubtingly of the President's purpose, and said that England would not yield, and that "war is inevitable." The words "war is inevitable," wrung through the whole country. The phrase became ridiculously common throughout the land. Another western Senator "cried aloud," with a voice that might be heard from Capitol Hill to the Grand Monadnock, "*We will have to* 54° 40', *or we will fight.*" And another, still more eloquent than either, held similar sentiments. Things went on this way for some three months of the session of 1845–'46, and I verily believe the western Senators and the great western Democratic party were deceived, thoroughly overreached and imposed upon by this southern political jugglery about Oregon. I am led to this conclusion from a scene I witnessed in the Senate during one of the days about the last of February or the 1st of March, 1846. A Democratic Senator from North Carolina [Mr. Haywood] rose calmly in his place, and coolly, with placid countenance and gentlemanly bearing, administered a chilling rebuke to the "war is inevitable" 54° 40' or fight men, by telling them plainly that they misunderstood Mr. Polk altogether; that he was ready to compromise the Oregon boundary line upon 49°.

Sir, I can never forget that outburst of eloquent indignation towards the President, from a western Senator, upon this accredited announcement being made by the honorable Senator from North Carolina. "What! (said the honorable Senator,) is it possible the President is going to desert us? Can it be that he will assent to the abandonment of any part of Oregon short of 54° 40'? If he does, he will sink to an infamy so deep that the hand of resurrection will not reach him."

But I must go back to the Baltimore Convention of May, 1844, for the purpose of examining its doings a little more minutely, and more fully to illustrate my position that the slave power, whenever it resolves upon carrying any measure, never abandons it, never lets any means escape it which may tend to aid in the accomplishment of its purpose.

Prior to the assembling of the Baltimore Convention of May, 1844, who had heard the name of James K. Polk, of Tennessee, mentioned for the Presidency? Had it been placed at the head of any Democratic newspaper in the country, and kept there for any length of time before that Convention? If it had, sir, I must say I had never seen it, had never heard of it, and from that day to the present I have not seen the first man who had seen it, nor the first visionist who had ever dreamed of such a thing. Who did not know that at the assembling of that Convention "the northern man with southern principles" had a large majority of its delegates in his favor? Several of the members from the North avowed openly that they would go into the Convention as the uncompromising friends of Mr. Van Buren. But the two-thirds rule was sprung upon the Convention, and that killed poor Mr. Van Buren dead as a hammer. He had written the Texas letter, and it was found necessary to kill him off, in order to secure the success of the slave power in accomplishing its purpose in the annexation of Texas. On the first ballot it was found that Mr. Van Buren had 143 votes, while Mr. Cass had but 90. But as the balloting continued, these candidates so far changed sides, that while Mr. Van Buren went down nearly to 90, Mr. Cass went up to about 140, and then they let him go. The slave power had accomplished its purpose—it had defeated Mr. Van Buren. Did the southern men then intend to nominate General Cass? Were they sincere in running him? No, they could have done so if they had pleased. General Cass was then understood to be a Wilmot proviso man, and long after that entertained the same sentiments. No, the politicians of the South were not sincere; they were only using General Cass, a northern man, as the wood-chopper uses his beetle—they swung him round and round, bringing his great weight to bear, until, by repeated blows, they beat the brains out of the unfortunate little Dutchman; and then, upon examining the tool with which they had been operating, they found it battered, split, shivered into splinters, and they threw it unceremoniously away, as unfit for further use.

The ballotings for a candidate for the Presidency continued through some thirty-three, thirty-four, or thirty-five different trials, if my memory is accurate. The excitement became intense, if credit is to be given to the facts as stated by the letter-writers who witnessed it, and we may well infer that from the published journal—an adjournment took place. An artificial state of things had been produced by the management and manœuvering of the southern politicians. It was a point at which they had been aiming from the commencement. Then came expressions of great concern and alarm for the safety of the great Democratic party. Then suggestions for a compromise—*compromise*, that ill-fated word, so fatal to every northern interest. Compromise carried the day. All the former candidates were dropped, and a compromise effected upon James K. Polk, who was nominated the next morning. For effect he was dubbed Young Hickory. On the flag of the party was inscribed *Polk and Dallas—Texas and Oregon;* it was given to the breeze, and was successful. And I would now ask, where is the honest northern or western Democrat who can study this chapter of the political history of his party, and say that he feels proud of the record?

The election of Mr. Polk settled the question of the annexation of Texas. Other frauds, to be sure, had to be practised; other and deeper wounds had to be inflicted upon the Constitution, in order to do it. But the election of Mr. Polk gave to the slaveholding-Texas-annexation party the Executive patronage of the Government, and the rest was easily accomplished. Time does not permit me to pursue this particular branch of the subject further.

I come now to the consideration of the general question of the power and duty of Congress in regard to the subject of slavery in the territories. That Congress has the power to legislate for the territories, cannot admit of a reasonable doubt. I look upon it now as merely a question of expediency, whether Congress will or not legislate upon that subject. I do not stop to argue about its constitutionality. The time for argument on that question has long since gone by. That power has been exercised by Congress; has been recognized and acted upon ever since the adoption of the Constitution. If Congress can do anything for the territories, it can make laws in relation to the subject of slavery, to have effect within the territories, as well as anything else. Slavery cannot exist anywhere except by positive law, it being in derogation of natural right. Now, sir, I regard slavery as a blighting, withering curse upon every country with which it is infested. It passes over a country like a prairie fire; it burns up every green thing on the face of the earth, and, not content with that, it penetrates into the soil itself, and burns out its very power of productiveness. You cannot, Mr. Chairman, look out from one of the windows of this Capitol, in any direction, and let your eye traverse the surrounding country, without seeing convincing evidence of this truth. The earth itself, the dilapidated buildings and ruined fences, become vocal in attestation of it. You cannot walk through the public market place of this city without seeing full and convincing proof of it. The dumb beasts, yea, even the yokes and gears and implements of husbandry on the slave plantations all around us, speak out and bear unconflicting testimony of the blighting effects of slavery. Is this institution, then, with such characteristics and attendant evils, to be sent into the territories over which Congress has jurisdiction, by the exercise of the law-making power? Or, in other words, shall it be permitted to go and spread itself over those territories to curse and ruin them, when Congress has the power to prevent it?

The American Colonies passed laws to restrain the slave trade here before the Revolution, and asked the royal approval of those laws, which the British King, influenced by the base and sordid motives of his English subjects, withheld. The colonists, seventy-five years ago, were loud in their condemnation of the King for withholding his approval. Shall we, the members of an American Congress, in a free republican government, in this age of Christian light and Christian philanthropy, shall we send an institution to curse and crush the people of our territories, of which our fathers justly complained of their governors for sending upon them three-fourths of a century gone by?

Congress, it was said the other day by the gentleman from Virginia, [Mr. PRESTON,] held only a trust power for the territories—a mere temporary power, which we must soon surrender. Very well; I agree to that: but I maintain that Congress is bound, in good faith, to take due and proper care of the estate while it is in possession for the benefit of the *cestui qus trust*. The trustee is not

at liberty to abuse the trust; not at liberty to embarrass or encumber the estate; not at liberty to permit it to deteriorate in value; not to send upon it by order, or to permit a trespass upon it by his negligence, the blighting curse of the slave institution.

I hold that Congress is bound to take care of the territories, and so execute the trust as will best promote the permanent interest of those who may hereafter be entitled to the beneficial use. As a member of this Congress, I feel that I sustain a part of that responsibility, and it is my desire to acquit myself worthily in meeting it. I desire so to acquit myself that my own conscience will not upbraid me, and that, when I shall pass away, no reproach shall fall upon me, or my children after me, for my acts here upon this momentous question. I have, sir, an only son, now a little fellow, whom some of this committee may have seen here. Think you, that when I am gone, and he shall grow up to manhood, and shall come forward to act his part among the citizens of the country, I will leave it to be cast in his teeth, as a reproach, that his father voted to send slavery into those territories? No; oh, no! I look reverently up to the Father of us all, and fervently implore of Him to spare that child that reproach. May God forbid it!

Sir, let Congress give to those territories free institutions and equal and just laws—institutions and laws that will improve, enlighten, educate, and elevate those who are now there, those who may hereafter go there, and the generations that may be born there in all after time. Those are the institutions and laws, and those only, that I am willing to be instrumental in sending into that comparatively new country.

I have said that it is characteristic of the slave power to accomplish all its political purposes in this Government. I must now say that I think the power and influence of slavery over the action of Congress is impaired, if not entirely gone. I make this declaration, not because I have any confidence in the politicians of the day. No, sir; I have none whatever. The politicians are just as ready now to betray their constituents as they ever have been. I am sorry to say there is evidence enough of this. My confidence is in the people. They have taken the matter into their own hands; they have brought themselves into order of battle and line, without the word of command from any political leader. There they stand, with front rank and rear rank, and rank of file-closers, in position, with bayonets at a charge. They have spoken to their Representatives in a voice of thunder, and warned them against abandoning their interests. They have bid them do it at their peril. The constituencies have challenged their Representatives to betray their trusts, and skulk, and retreat upon them, *if they dared.* And, sir, the constituencies have spoken "*upon honor.*" They are determined, and will execute their purposes.

There was a time when, if the slave power had any special work to be done, and wanted a northern man to do it, they hunted him up from New Hampshire; little, unfortunate New Hampshire was called upon to furnish the scavenger to do the dirty work. That day, thank God, has gone by, and it will not come again very soon.

The reform has been the work of the people themselves. Politicians have had little to do with it. I think they rather resisted it; but the people triumphed, and the work is well done. If I do not misjudge, it is universally so throughout the whole extent of the northern States, from the Passamaquoddy bay to the head waters of the Des Moines river.

I was surprised to hear the declarations made the other day by the gentleman from Indiana [Mr. THOMPSON] upon this subject. I was almost led to infer, from his remarks, that in Indiana the people went with the slave power in its measures, and that the free labor of that noble, thriving, enterprising State, was ready to surrender all its interests to the supervisory care and tender mercies of the southern politicians. On inquiry from other sources, I learn that it is not quite so; and if I am not mistaken, when that gentleman comes to explain the positions taken in his recent speech to the free laboring people of his district, he will be met by difficulties hard to overcome.

The North are not disposed to trespass or interfere with the rights of the South. Where slavery exists within the States, and recognized by the Constitution of the United States, the northern people claim no right to interfere with it by any political action of this Government. The people ask no action by Congress on the subject of slavery within the States. But gentlemen need not ask me for my vote to extend the institution of slavery one single inch beyond its present boundaries. Did I say *an inch*, Mr. Chairman? Aye, I would not extend it one-sixteen-thousandth part of a hair's breadth. I would not extend it, because it would be doing an irretrievable wrong to my fellow-man; because it would be doing irreparable wrong to those territories for which we are now to legislate; because it would be doing violence to nature and to nature's God; and because it would be a wicked and wanton betrayal of the trust confided to me by the free, intelligent constituency which has done me the honor to send me here.

It shall not be in the power of any man to shake a menacing finger at me, and look me in the face with a gibe of contempt, and say to me in the insulting language of a former representative from Virginia, [Mr. Randolph,] "we have conquered you, and we will conquer you again; we have not conquered you by the black slaves of the South, but by the white slaves of the North." No, sir, that remark shall never apply to me. Gentlemen need not talk to me, or attempt to frighten me, by threats of the dissolution of the Union. Sir, I do not permit myself to talk or even think about the dissolution of the Union; very few northern men do. We all look upon such a thing as impossible. But, sir, if the alternative should be presented to me of the extension of slavery or the dissolution of the Union, I would say, rather than extend slavery, let the Union, aye, the universe itself, be dissolved! Never, never will I raise my hand or my voice to give a vote by which slavery can or may be extended. As God is my judge, I cannot, I will not, be moved from the purpose I have now announced.

The difficulties which surround us, springing from this question of slavery, are the natural result of the different character of the labor of the two districts of country. In the free States of this Union labor stands upon a different footing from what it does in any other part of the world. There, labor is an independent agent. It works when it pleases, for whom it pleases, where it pleases, at what it pleases, and makes its own terms and conditions. The laboring man stands upon his own rights. He chaffers freely with his employer how he shall be fed, furnished, lodged, and what sort of specific conveniences for his labor shall be furnished to him. In that free country, when a man wishes to employ a laborer, the parties, the employer and the employed, stand upon a perfect equality the one with the other. The employer states what he wants done, and asks of the laborer if he can do it. If he gets an affirmative answer, the price per day, week, month, or year is talked of and agreed upon. The laborer does not pull off his hat to his employer, but stands on a perfect equality with him; and when they both come to the ballot-box, there again there is perfect equality. The one has just as good a vote as the other.

Is there such a labor in any other part of the world? I venture to assert that there is not. Is there such an enviable condition of labor to be found in our own country, south of Mason and Dixon's line? Let us look a moment and see how it is there. The gentleman at the South, if he wants anything done which requires manual labor, throws himself down upon his lounge or his easy chair, in his office or study, and, without any disturbance or consultation from or with anybody, considers of the matter he wants accomplished. He has no bargains to make, no disagreeable chaffering with a laboring man about prices of labor per day, or week, or month, or year, and board and lodging, &c. Nothing of all this. When he has properly considered his object, and the force necessary to accomplish it, he considers how much it will cost him to purchase the requisite weight of human bones and muscles, wrapt up in black skins, to do his work. He asks no consent of the laborer. He judges what board and lodging and conveniences are necessary to be furnished to the laborer. The laborer has nothing to say about all that. There is an obvious, a marked difference between the labor of the North and the South. Every laborer at the North (and northern men are almost all laborers) is a free man; he has a vote, and sustains his just share of the sovereignty. The great mass of the laboring men at the South are slaves, and have, individually, no share of the sovereignty; the master has three-fifths of it for them.

Compare the labor in our free States with the condition of labor in France, England, Germany, Russia, or any other part of the eastern continent. You will find that labor there, instead of being the free, independent agent it is here in our free States, is substantially a dependent agent—the mere subject of arbitrary power. It has no alternative but to work or to starve. Such has never been the degraded condition of labor in our free States, and, by the blessing of God, I hope it never may be. It cannot be, if the free laboring people understand their rights. That free labor is becoming tired of the control of the slave power of the South, a power which is constantly exerting itself to prostrate the just political influence of the free laboring portion of the country, and to check, restrain, and embarrass that free labor in its efforts to attain a high degree of industrial prosperity.

Mr. Chairman, I have but very imperfectly accomplished the duty I had assigned myself on this momentous question; but I am admonished that the pendulum of the clock is upon its last vibration of the hour allotted to me. I have made up the record of this day's work of my life, imperfect I know. But I am willing it should be unrolled and read by the whole people whom I have the honor to represent; I am willing it should be read by the people of this great country; above all, I am willing it should be unrolled and read by the light of Eternity, in the presence of the assembled universe, and to abide the decree of the Omnipotent Judge upon the record.

THE COAST SURVEY.

DEBATE IN THE SENATE,

SATURDAY, *February* 17, 1849.

The Senate, as in Committee of the Whole, having proceeded to the consideration of the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1850—

COAST SURVEY.

Mr. BENTON moved to strike out the clause appropriating $186,000 for defraying the expenses of the Coast Survey, including compensation to the Superintendent and his Assistants, and to insert in lieu thereof the following:

For survey of the coast of the United States the sum of $30,000; and from and after the 30th day of June, 1849, the said survey shall be carried on exclusively by the Navy Department, under the direction of the President of the United States.

Mr. BENTON said: The principle of the amendment is to employ the navy exclusively in carrying on the coast survey, after the expiration of the present fiscal year. The year will terminate the 30th of June next, and $165,000 was appropriated at the last session to defray the expenses of the survey until that time. If the amendment prevails, the persons in civil life now engaged in the survey will cease to be employed after the 30th of June next, but the survey itself will not cease. It will go on by the navy, and at little expense, as the navy is now under pay, and will only need a small additional sum for the extra work and expenses which the survey will involve. The sum of $30,000 is named in the amendment to meet the expense for a year of this extra work; but it is named at a guess, subject to be made more or less, according to information, but believed to be enough, as all the persons and all the vessels to be employed in the survey are already under pay, and nothing will be wanting but a small sum to meet extra expenses. Far from stopping the work, the amendment provides for its continuance; and by turning the unrestricted force of the navy upon it, it is expected to go on much faster.

The coast survey dates from the year 1807, when the first act of Congress for that purpose was passed; it is carried on now under an act of 1832. That act refers to the act of 1807—revives it, and

gives it effect. The first section of it is in these words:

"That for carrying into *effect* the act entitled 'An act to provide for surveying the coasts of the United States,' approved on the 10th day of February, 1807, there shall be, and hereby is, appropriated a sum not exceeding twenty thousand dollars, to be paid out of any money in the treasury not otherwise appropriated, and the said act is hereby revived, and shall be deemed to provide for the survey of the coasts of Florida, in the same manner as if the same had been named therein."

The terms of this section are material and potential, as showing that nothing was added to the act of 1807—that the design was to revive it and enforce it. It declares the object of the revival, and the next section shows the means by which the revived act was to be carried into effect. It is in these words:

"SEC. 2. That the *President* of the United States be, and he is hereby authorized, in and about the execution of the said act, to use all maps, charts, books, instruments, and apparatus which now or hereafter may belong to the United States, and employ all persons in the land or naval service of the United States, and such *astronomers* and other *persons* as he shall deem proper: *Provided*, That nothing in this act, or the act hereby revived, shall be construed to authorize the *construction* or *maintenance* of a permanent astronomical observatory."

These were the means for executing the revived act—an authority vested in the President to turn over to the coast survey all maps, charts, books, instruments, and apparatus which belonged to the United States; secondly, to employ all persons in the land or naval service of the United States; third, to employ astronomers, or other persons, as far as he should deem proper; with a *proviso* against the establishment or maintenance of a permanent observatory. These were the means for executing the revived act of 1807; and we will now see what that act was. It is in these words:

"That the President of the United States shall be, and he hereby is, authorized and requested to cause a survey to be taken of the coasts of the United States, in which shall be designated the islands and shoals, with the roads or places of anchorage, within twenty leagues of any part of the shores of the United States; and also the respective courses and distances between the principal capes or headlands, together with such other matters as he may deem proper for completing an accurate chart of every part of the coasts within the extent aforesaid.

"SEC. 2. That it shall be lawful for the President of the United States to cause such examinations and observations to be made with respect to St. George's bank, and any other bank or shoal, and the soundings and currents beyond the distance aforesaid to the Gulf stream, as in his opinion may be especially subservient to the commercial interests of the United States.

"SEC. 3. That the President of the United States shall be, and he is hereby, authorized and requested, for any of the purposes aforesaid, to cause proper and intelligent persons to be employed, and also such of the public vessels, in actual service, as he may judge expedient, and to give such instructions for regulating their conduct as to him may appear proper according to the tenor of this act." (*And appropriates* $50,000.)

This is the act of 1807, and the means of executing it. The object of it, a survey of the coasts and islands, shoals and harbors, capes and headlands, within twenty leagues of the coast, for the safety of commerce and navigation; and the means to be the public vessels of the United States, (of course with their crews,) and such other proper and intelligent persons as the President should think proper to employ.

The object is plain and obvious: it is to provide for the safety of commerce, and rests upon the same principle as the improvement of our large rivers and lakes. The coast survey, as authorized by the act of 1807, and the reviving act of 1832, is only of internal improvement, and the law which justifies the survey of the coasts also justifies the improvement of the lakes and rivers.

From this view of the acts of 1807 and 1832, it is evident that the intention was to survey the coasts for the benefit of commerce and navigation—that the public ships and naval officers were to be employed in it—and that other persons, characterized as intelligent in the act of 1807, and named as astronomers in 1832, were to be employed, over and above the military and naval forces. In the year 1818 an act was passed repealing so much of the act of 1807 as authorized the employment of persons from civil life in the coast survey, and confining that work expressly to the army and navy. The act says: "That so much of the act of 1807 as authorizes the employment of other persons in the coast survey than the persons belonging to the army and navy, shall be repealed."

This repealing act remained in force until 1832, when authority was given to the President again to employ persons from civil life, namely, an astronomer and others, with a prohibition against an observatory. This act of 1832 authorized the President to employ all persons in the army and navy in this survey, and then gave them an astronomer. We who were contemporary with the act know that Mr. Hassler was the astronomer intended, and he well deserved the honorable distinction for his great science, his long and close connection with the coast survey, the order and system which he had given it, and his own excellent character. The astronomer was to be Mr. Hassler, and the astronomer he was; and on assuming his duties he entered into a written contract with the Secretary of the Treasury, which was a revival of his contract under the act of 1816, and becomes of the highest moment here, as being the construction of the act of 1807, both before and after the reviving act of 1832. I will read some clauses from his contract, and afterwards make application of them to show how widely the present conduct of the coast survey has departed from what the law made it:

"Mr. Hassler engages to bestow all his time, labor, and attention to the *work* of the survey, as well as to make *himself* the general large triangulation, and the consequent calculations, as to superintend and direct the establishment of the observatories, and the officers of engineers or naval officers, who will be engaged under his orders, in the detail parts of the work, and give them proper instructions to that effect, according to the plan proposed by him, on the 15th of May, 1816. It is understood that the work shall not be carried on in the form of a bureau or office; but that Mr. Hassler himself, as well as the officers under his direction, shall execute such work as devolves upon them, or are ordered to them in the field." "It is to be understood that Mr. Hassler will continue his services in the construction of weights and measures for the custom houses, as far as may be compatible with his duties in the coast survey, without any other compensation than what is allowed for the coast survey."

This is the contract, as signed both in 1816 and in 1832, and it shows what the "*intelligent*" person under the act of 1807, and the "*astronomer*" under the act of 1832, was to do, and what he was not to do. In the first place, he was to do the work of an astronomer in the field; he was to do the work personally, and was himself personally to make the general large triangulation, and the consequent calculations. Then he was to superintend and direct the establishment of the observatories, (mere little temporary erections in the field,) and to superintend and direct the officers of engineers, and the naval officers, who should be placed under his orders, and give them instructions for the detail of their work. In the next place, he was not to carry on his work in the form of an office or bureau, but he and his officers were to work in the field. And, besides, Mr. Hassler was to continue his care over the preparation of the weights and measures without additional charge. These are three most material stipulations, and exactly agree with the idea of the law in providing for an astronomer to go with our officers into the field, work with them, superintend their work in the field, and then make his own calculations. This is the way the act was understood and acted upon in Mr. Hassler's time. How is it now? I presume we have a bureau and an office! I presume we have a superintendent, presiding, not over the details of the work in the field, but over a system in an office! I presume the present superintendent does not do the work of the astronomer in the field, and that he has compensation for attending to weights and measures, as well as to the survey. If this is so; if the present superintendent has a bureau and an office; if he is superintending a system in the closet; instead of workers in the field, it is a total departure from the acts of Congress, both upon their words, and upon the construction put upon them by the contracts of 1816–1832. I speak of the acts of Congress, not of the clauses put into the appropriation bills, where, by altering a single word, and in a case where it might escape all observation, not only a whole law, but a system is sometimes overturned. Thus it happens in this case. The appropriation bill of 1844—and it may have done so previously—drops the word "*astronomer*," and substitutes "*superintendent;*" and this may be supposed to legitimate the dropping of the duties of the astronomer, and establishing a general superintendence of a system in a closet. But I do not admit that a word slipped unobservedly into an appropriation bill is to alter the act of Congress on which that appropriation is founded. The appropriation clause is in these words:

"For survey of the coasts of the United States, including compensation to the *superintendent* and *assistants*, $80,000: *Provided*, That officers of the army and navy shall, as far as practicable, be employed in the work, whenever and in the manner required by the *Department* having charge thereof."

This is the appropriation clause of the bill of 1844, and it makes three alterations not found in the acts of Congress upon which they are founded. It substitutes *superintendent* for astronomer, introduces "assistants," and places the whole army and navy under the Treasury Department. In the acts of Congress it was the President always who was to direct what officers of the army and navy, and what public vessels, were to go into the coast survey: and that was right; for the President is the head of the army and navy. But here they are put under the department—that is to say, under the Secretary of the Treasury; and this authority extends to the whole, and they are required to be used as far as practicable. And it is the design of my amendment to carry out that practicability, by having the whole work done by the navy, under the direction of the President. It is very practicable for them (the navy) to do the whole work, as I shall show in the proper place. At present I quote this appropriation clause of 1844—there may be others of the same kind—to show that words are in it not found in the laws on which the appropriation is founded; and that these words are all encroachments and variations, having the effect, perhaps, of legitimating, *sub silentio*, the departure from those acts.

We will now see what the coast survey is actually engaged in, and proposes to engage in, and to what a vast distance it has traveled from the acts which authorized it. In a semi-official publication made at Cincinnati we read as follows:

"The laws of Congress under which the coast survey is at present organized, forbid the erection and outfit of a National Observatory. But legislation cannot alter or diminish the demands of science. The coast survey being thus forbidden to build an observatory proper, does the next best thing, and engages the assistance of the local observatories throughout the country. Already series of observations are made for this purpose at Cambridge, Nantucket, Philadelphia, and Charleston, on the Atlantic; and, recently, they have been commenced at Cincinnati."

Here is a very neat and clear declaration, and as cool as it is clear and neat. Congress having forbid the coast survey to establish or to maintain a permanent observatory, then the coast survey will go into connection with all the local observatories of the Union. And for what purpose? Not to survey the coasts, but to survey the country, and the heavens to boot—in fact, to do the exact business of a permanent National Observatory! We all remember the assaults upon Mr. Adams for the light-houses of the skies, and the denial of their constitutionality; and we have just seen the prohibition of an observatory in the very act reviving the law for the coast survey, and authorizing an astronomer for it. But the wants of science, it seems, are above law, and, therefore, the coast survey will be above law, and will do what it was forbid to do, not by having one observatory, but all! Sir, the object of the prohibition was not against brick and mortar—not against the stone and timber which built the observatory—but against the business of it—against permitting this coast survey to engage in the work and business of a National Observatory.

Listen to another account of the business in which the coast survey is engaged, and see how exactly it is employed in the peculiar work of an observatory—that of determining the differences of longitudes and latitudes over the earth's surface. It is in an official report to the House of Representatives, and is thus heralded in Ex. Doc. No. 21, of the present session:

Electro-Magnetic Telegraph—Astronomical Observations.

Letter of the Secretary of the Treasury, communicating a report by the Superintendent of the Coast Survey, on an application of the galvanic circuit to an astronomical clock and telegraphic register in determining local differences of longitude, and in astronomical observations generally.

[January 6, 1849.—Laid upon the table and ordered to be printed, together with 1,000 extra copies, 250 of which for the Superintendent of the Coast Survey.]

TREASURY DEPARTMENT, *January* 3, 1849.

SIR: I have the honor to transmit, for the information of the House of Representatives, a report from the Superintendent of the Coast Survey, Professor A. D. Bache, communicating the report of the assistant charged with telegraph operations for longitude, on an application of the galvanic circuit in connection with an astronomical clock and tele-

graph register, to determining and registering the instant of the occurrence of any astronomical phenomena. As this application is of importance, not only in the coast survey operations, but to practical astronomy generally, I have deemed it best to make special report of it to the House of Representatives, that it may thus obtain due publicity.

Very respectfully, your obedient servant,

R. J. WALKER,
Secretary of the Treasury.

To the Hon. R. C. WINTHROP,
Speaker of the House of Representatives.

The document goes on to show that Dr. Locke, of Cincinnati, is the inventor of the magnetic clock and telegraphic register of which mention is here made; and I have another document showing that the National Observatory proper, of this city, availed itself of the same discovery of Dr. Locke for the proper business of an observatory, so that we have two observatories—one proper, and one improper—one authorized by law, and the other forbid by law—both doing the same thing, in the same city. It is the letter of Lieutenant Maury, of the Observatory, to the Secretary of the Navy, asking leave to purchase one of these magnetic clocks for the use of the National Observatory. The letter pays so just a tribute to the invention of Dr. Locke, and is itself so clear and beautiful in style—such a model of simplicity and perspicuity, and of scientific description—that I will read more of it than the occasion absolutely demands. I will read it all, while the occasion would only require to show that the National Observatory is very properly availing itself of Dr. Locke's discovery.

NATIONAL OBSERVATORY,
Washington, January 5, 1849.

SIR: I have the honor of making known to you a most important discovery for astronomy, which has been made by Dr. Locke, of Ohio, and of asking authority from you to avail myself of it for the use and purposes of this Observatory.

The discovery consists in the invention of a "magnetic clock," by means of which seconds of time may be divided into hundredths with as much accuracy and precision as the machinist, with rule and compass, can subdivide an inch of space.

Nor do its powers end here. They are such that the astronomer in New Orleans, St. Louis, Boston, and of every other place which the magnetic telegraph reaches, may make his observation, and at the same moment cause this clock, here in Washington, to record the instant with wonderful precision.

Thus the astronomer in Boston observes the transit of a star as it flits through the field of his instrument, and crosses the meridian of that place. Instead of looking at a clock before him, and noting time in the usual way, he touches a key, and the clock here subdivides his seconds to the minutest fraction, and records the time with unerring accuracy.

The astronomer in Washington waits for the same star to cross his meridian; and as it does, Dr. Locke's magnetic clock is again touched: it divides the seconds, and records the time for him with equal precision.

The difference between these two times is the longitude of Boston from the meridian of Washington.

The astronomers in New Orleans and St. Louis, and every other place within the reach of the magnetic wires, may wait for the same star; and as it comes to their meridian, they have but to touch a key, and straightway the central magnetic clock tells their longitude.

And thus this problem, which has vexed astronomers and navigators, and perplexed the world for ages, is reduced at once, by American ingenuity, to a form and method the most simple and accurate.

While the process is so much simplified, the results are greatly refined. In one night the longitude may now be determined with far more accuracy by means of the magnetic telegraph and clock, than it can by years of observation according to any other method that has ever been tried.

It is, therefore, well entitled to be called a most important discovery; and it belongs to that class of achievements by which the most beautiful and enduring monuments are erected to national honor and greatness. It is a national triumph; and my feelings of professional pride will not allow me to pass it by without calling your attention to the garland that has been hung about it by the navy.

To the navy belongs the honor of having first applied the magnetic telegraph to the determination of longitude. Five or six years ago, Captain Wilkes, of the navy, used it for determining the difference of longitude between this city and Baltimore. This was the first time it had been applied to such a purpose; and it was a great improvement upon the methods which, up to that time, had been used for finding the longitude, for it reduced the results down to the accuracy with which the time between the ticks of the second-hand could be measured on the face of the clock by the eye and ear.

And thus the honor of being the first to convert the magnetic telegraph into an astronomical instrument, and that, too, into one of great practical value and importance, was secured by one of its officers to the American navy. Though the errors of the problem were greatly reduced by this discovery, there were, however, small sources of error still remaining, and it was left for Dr. Locke, formerly an officer of the navy also, to devise a means of eliminating them so completely, that now there is scarce a "*trace*" left in the results—so free are they from doubt and uncertainty. The probable error of longitude determined with Dr. Locke's clock, is brought within such narrow limits, that if, while the astronomer in St. Louis, or elsewhere, were operating with the magnetic clock here for his longitude, the observer in Washington were to move from one instrument to another in this building, the fact that he had moved would be made known at once, and whether he had moved to the east or the west would be told by the clock, and appear in the resulting longitude.

Dr. Locke was formerly a member of the medical corps of the navy, and, as such, spent a portion of his early manhood and prime years of his life at sea. It is, therefore, not surprising that sailors should be *quick* to lay hold of the problem of longitude through any improved means that may be offered for its solution. Every one can see the importance of accurate determinations of longitude, but sailors both see and *feel* it.

In his letter to me describing his clock, and giving an account of its performance, Dr. Locke kindly offers to put up one at this Observatory.

It would be of incalculable service and advantage. It would increase the accuracy of results and greatly multiply them in numbers. With this clock, one observer could do more and better work than two can now. An illustration of the value of such a clock just now occurs. I am writing at night; the sky is very clear, and it is the first fair night for observations that we have had this year. The wind is very high, and the observers have just come in to say they cannot hear the clock on account of the wind, and therefore they cannot observe. Now, it is not necessary to hear or even to see the magnetic clock; and, had we one, we could work quite as well in windy as in calm weather.

While, therefore, one of Dr. Locke's magnetic clocks would be of such value to the Observatory, it would, without at all interfering with that value, be of incalculable advantage to the public generally; for wherever in any part of the country there is a transit instrument and a line of wires, this clock may be used by the observer at that instrument, not only for recording his observations, but also for determining his longitude from the capital of the country; and thus it would, without cost or trouble, enable the National Observatory to perform a most important part of its appropriate duties, and a most acceptable service to the world, in perfecting the geography of the country, and in affording so many well determined points of departure for the traveler, the surveyor, and the navigator. Respectfully, &c.,

M. F. MAURY, *Lieut. U. S. N.*

HON. JOHN Y. MASON, *Secretary of the Navy.*

Thus the coast survey is encroaching upon the business of the National Observatory, and actually charging itself with the peculiar and eminent object of an observatory—that of engaging in astronomical observations generally, and with the determination of the differences of latitudes and longitudes particularly. But this is not all. It has a large mission in abstract science to fulfill, which is thus stated in a semi-official publication—the publication of Lieutenant Davis, of the United States navy—and which, I presume, may be considered as good as official. This is an extract:

"In abstract science it has also its mission, equally useful and distinguished. It is to contribute a part of the means by which the irregularly elliptical form of the earth may be satisfactorily determined, the variations in local gravitation, their causes, and thence the internal structure of the earth be made known, and the phenomena of terrestrial magnetism be explained. It will illustrate the astronomical problem of the tides. Its numerous meteorological records will also contribute to a better knowledge of the climates of the United States, and of the nature and action of meteoric storms, and thus be of service to the farmer as well as the navigator."

It also goes into geodesy, as if the survey of the whole surface of our part of the continent had also become the mission of this coast survey. The same publication of Lieutenant Davis says:

"The science of geodetics prescribes the principles upon which a survey of an extended region should be conducted. In the ordinary operations of land surveying, the surveyor is permitted to regard his field of work as a plane surface; but the engineer who is to construct a map of a whole country, or of a long line of continuous seacoast, must take into consideration the spheroidal figure of the earth, and present an exact delineation of that part of the spheroid upon which he is employed. This necessity controls the processes used in computation, and the plan of projection upon which the detailed results are given, whether it be called a map or chart. Both the projection and the formulæ for computation involve the higher mathematics, and require an acquaintance with the most advanced state of the mathematico-physical sciences."

It also seems to charge itself with furnishing the data necessary to the *defence* of the coasts, as well as to their navigation—also data for local and general improvements—and data for maps of States through which the surveys pass. All this we learn from Lieutenant Davis, thus:

"It is now understood that the aim of the coast survey is to furnish with the utmost attainable accuracy, and in a connected and uniform manner, all the geographical, topographical, and hydrographical data that can be made in any way useful to the navigation and *defence* of the coast. And it is also supposed that, in collecting these data, information will be accumulated that may become serviceable in suggesting and directing local and general improvements; such as the placing and constructing of light-houses, beacons, buoys, &c.; the means of improving channels; the effect of contemplated constructions upon harbors and tidal deposites; the suitableness of a submerged soil for building, &c. And it is presumed that those States through which the survey passes will, sooner or later, avail themselves of the base it is able to supply, to form a correct geographical map of their own territory, under circumstances very favorable to economy and accuracy. These are the practical benefits, either direct or incidental, conferred by the coast survey."

Such seems to be the present and prospective mission of the coast survey. And now whence is derived all this power? Not from the acts of 1807 and 1832; not from any act of Congress; not from the Constitution of the United States—an instrument which never contemplated the establishment of a college for the sciences in the Treasury Department, or any other department of this Government.

My object, Mr. President, is to return the coast survey to what the law directed it to be, and to confine its execution, after the 30th of June next, to the Navy Department. We have now, both by law and in fact, a bureau for the purpose—that of Ordnance and Hydrography—and to the hydrographical section of this bureau properly belongs the execution of the coast survey. It is the very business of hydrography; and in Great Britain, from whom we borrow the idea of this bureau, the hydrographer, always a naval officer, and operating wholly with naval forces, is charged with the whole business of the coast survey of that great empire. One hydrographer, and with only ten vessels until lately, conducts the whole survey of coasts under the laws of that empire—surveys not confined to the British Isles, but to the British possessions in the four quarters of the globe—and not merely to their own possessions, but to the coasts of all countries with which they have commerce, or expect war, and of which they have not reliable charts—even to China and the Island of Borneo. Rear Admiral Beaufort is now the hydrographer, and has been for twenty years; and he has no civil astronomer to do the work for him, or any civil superintendent to overlook and direct him. But he has somebody to overlook him, and those who know what they are about—namely, the Lords of the Admiralty—and something more besides—namely, the House of Commons, through its select committees—and by which the whole work of this hydrographer is most carefully overlooked, and every survey brought to the test of law and expediency in its inception, and of economy and speed in its execution. I have now before me one of the examinations of this hydrographer before a select committee of the House of Commons, made only last year, and which shows that the British House of Commons holds its hydrographer to the track of the law—confines him to his proper business—and that proper business is precisely the work which is required by our acts of 1807 and 1832. Here is the volume which contains, among other things, the examination of Rear Admiral Beaufort, (showing a huge folio of more than a thousand pages.) I do not mean to read it. I merely produce it to show that, in Great Britain, the hydrographer, a naval officer, is charged with the whole business of the coast survey, and executes it exclusively with the men and ships of the navy; and having produced it for this purpose, I read a single question from it, not for the sake of the answer, but for the sake of the facts in the question. It relates to the number of assistants retained by the Rear Admiral, and the late increase in their number. The question is in these words:

"In 1834 and 1835 you had three assistants—one at three pounds a week, and two at two guineas a week: now you have five assistants—one at four pounds a week, three at three pounds, and one at three guineas: why has this increase been made?"

The answer was, that these assistants had to live in London, where living was dear, and that they had to do much work—for example, had printed 61,631 charts the year before. I pass over the answer for the sake of the question, and the facts of the question, and to contrast them with something in our own coast survey. The question was, why he had increased the number of the assistants from three to five, and the compensation of the principal one from about $800 to about $1,000, and of the others from about $600 to about $800 a year? And turning to our Blue Book, under the head of coast survey, I find the number of the assistants of our superintendent rather more than three, or five, and their salaries rather more than six, or eight, or even

ten or twelve hundred dollars. The list stands thus:

Coast Survey.

A. D. Bache, superintendent		$4,500
Edmund Blunt, assistant		3,500
F. H. Gerder,	do	2,500
C. M. Eakin,	do	2,000
W. M. Boyce,	do	2,000
John Farley,	do	2,000
J. J. S. Hassler,	do	1,500
H. L. Whiting,	do	1,500
R. H. Fauntleroy,	do	1,500
R. D. Cutts,	do	1,300
J. C. Neilson,	do	1,300
C. O. Boutette,	do	1,300
J. S. Williams,	do	1,300
George D. Wise,	do	1,000
J. B. Gluck,	do	1,000
J. E. Hilyard,	do	600
A. W. Longfellow,	do	600
W. M. C. Fairfax,	draughtsman	1,500
M. J. McClery,	do	600
S. C. Walker,	computer	1,500
Theo. W. Warner,	do	1,000
Eug. Nulty,	do	1,000
Sam. Hein,	disbursing officer	2,000

I do not know of the law which fixes either the number or compensation of these assistants, nor do I know that Congress has ever troubled itself to inquire into their existence; but if our superintendent was in England, the question which I have read shows that there would be an inquiry. But the coast survey proper is not the only expense that goes along with it: we have a weight and measure business that seems to be part and parcel of the coast survey, and destined to last as long, and which Mr. Hassler was to overlook without compensation after he became *astronomer* to the coast survey. The Blue Book shows this item in relation to these weights and measures, which certainly have been weighing and measuring money out of the treasury for a long time:

Weights and Measures.

A. D. Bache, superintendent	$1,500
J. Saxton, assistant and foreman	2,000

Mr. President, the cost of this coast survey has been very great, and is becoming greater every year, and, expanding as it does, must annually get further from its completion. The direct appropriations out of the treasury exceed a million and a half of dollars, besides the $186,000 now in the bill which I propose to reduce to $30,000. Here is a list of the direct appropriations. They begin small, but increase as they go. Thus:

Dates of appropriations.	*Amount.*
1807, February 10	$50,000 00
1812, February 26, reappropriation	49,284 25
1816, April 16, do	29,720 57
1816, April 27	54,720 57
1832, July 10	20,000 00
1833, March 2	20,000 00
1834, June 27	30,000 00
1835, February 13	30,000 00
1833, May 9	80,000 00
1837, March 3	60,000 00
1838, July 7	90,000 00
1839, March 3	90,000 00
1840, May 8	100,000 00
1841, March 3	100,000 00
1842, May 18	100,000 00
1843, March 3	100,000 00
1844, June 17	80,000 00
1845, March 3	100,000 00
1846, August 10	111,000 00
1847, March 3	146,000 00
1848, August 12	165,000 00
	1,605,725 39
Deduct amounts carried to the surplus fund, viz:	
In 1809	$40,284 25
In 1814	29,720 57
In 1822	14,816 75
In 1825	2,585 00
	96,407 57
	1,509,317 82

These are the direct appropriations; but they are only half, or less than half the actual expense of this survey. The indirect expenses are much greater than the direct appropriations; and without pretending to know the whole extent of them, I think I can show a table which will go as high as $210,000 for the last year. It has been seen, that the superintendent (for I suppose that astronomer is no longer the recognized title, although the legal one) is authorized to get from the Treasury Department *quantum sufficit* of men and ships. Accordingly, for the last year the number of vessels was thirteen—the number of men and officers 576—and the cost of supporting the whole about $210,000 a year, and this coming from the naval appropriations proper. This is the table:

Annual expense of the Hydrographical department of the Coast Survey; showing the names and number of vessels, officers, seamen, &c., employed therein, under the superintendence of Professor Backe.

Vessels' names.	Burden.	Original cost.	Number of officers.	Pay of officers.	Number of seamen, firemen, and servants.	Pay of seamen, firemen, &c.	Fuel and oil.	Contingencies.	Annual expense.
	Tons.	*Dollars.*		*Dollars.*		*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*
Steamer Legare	400	140,650	10	9,564	50	7,650	4,500	1,200	22,914
Steamer Bibb	500	150,000	10	9,564	50	7,650	4,500	1,200	22,914
Steamer Walker	380	120,000	10	9,564	50	7,650	4,500	1,200	22,914
Steamer Jefferson	450	130,000	10	9,564	50	7,650	4,500	1,200	22,914
Brig Washington	280	35,000	6	7,992	50	7,650	320	800	16,762
Schr. Ewing	180	30,000	6	7,992	40	6,120	320	800	15,232
Schr. Gallatin	130	15,000	6	7,992	39	4,590	320	800	13,702
Schr. Nautilus	120	10,000	6	7,992	25	3,825	320	800	12,627
Schr. Phenix	100	10,000	6	7,992	25	3,825	320	800	12,627
Schr. Wave	100	10,000	6	7,992	25	3,825	320	800	12,627
Schr. Vanderbilt	90	8,000	6	7,992	20	3,060	320	500	11,772
Schr. Walker	90	8,000	6	7,992	20	3,060	320	500	11,772
Schr. Petrel	90	8,000	6	7,992	20	3,060	320	500	11,772
Thirteen vessels	2,720	694,000	94	110,184	469	69,350	30,880	9,600	209,714

Thus, sir, the navy does a good deal, and pays a good deal, towards this coast survey; and my only objection is, that it does not do the whole, and pay the whole, and get the credit due to their work, instead of being, as they now are, unseen and unnoticed—eclipsed and cast into the shade by the civil superintendent and his civil assistants.

I have shown you that in Great Britain the Bureau of Ordnance and Hydrography is charged with the coast survey: we have the same bureau, both by law and in fact; but that bureau has only a divided, and I believe, subordinate part of the coast survey. We have the expense of it, and that expense should be added to the expense of the coast survey. Great Britain has no civil superintendent for this business. We have her law, but not her practice, and my motion is, to come to her practice. We should save by it the whole amount of the direct appropriations, saving and excepting the small appropriations for the extra expense which it would bring upon the navy. The men and officers are under pay, and would be glad to have the work to do. Our naval establishment is now very large, and but little to do. The ships, I suppose, are about seventy; the men and officers some ten thousand: the expense of the whole establishment between eight and nine millions of dollars a year. We are in a state of profound peace, and no way to employ this large naval force. Why not put it upon the coast survey? I know that officers wish it—that they feel humiliated at being supposed incompetent to it—and if found to be so, are willing to pay the penalty, by being dismissed the service. Incompetency is the only ground upon which a civil superintendent and a list of civil assistants can be placed over them. And is that objection well founded? Look to Maury, whose name is the synonym of nautical and astronomical science. Look to that Dr. Locke, once on the medical staff of the navy, and now pursuing a career of science in the West, from which has resulted that discovery of the magnetic clock and telegraph register which the coast survey now uses, and which an officer of the navy (Captain Wilkes) was the first to apply to the purposes for which it is now used. Sir, I feel bound to pause at the name of Dr. Locke, and to quote from a Cincinnati paper a notice of his scientific labors, pursued, not in public office, and under Government patronage, and in the enjoyment of city life, but at his own expense, in the remote woods and wilds, and amidst dangers and privations. It is thus the paper speaks of him:

"Dr. Locke has, for years, devoted much time and mental and physical labor to the investigation of terrestrial magnetism. He has traversed the wild regions of the upper lakes, resolutely hazarding the exposures and dangers of navigating those 'stormy inland seas,' in an open boat, for thousands of miles.

"He has, for weeks and months, 'camped out' on the ground, frequently rain-drenched; and often deserted in the woods, by capricious Indian assistants, and not unfrequently conspired against and maltreated, while making his way through tangled and trackless forests—at all times furnishing his own instruments, and paying his own expenses.

"Few men would perform the same day labor and night study, endure the same hardships, and embrace the same dangers, in the pursuit of scientific discoveries and inventions, for ten times the pecuniary compensation which Dr. Locke will receive by the proposed appropriation.

"Since writing the above, and as appropriate to the case, we annex the following, which we have found in the remarks of Colonel Sabine, Vice President of the Royal Society, in regard to Dr. Locke, and his experiments.

"Colonel Sabine introduces Professor Locke's observations with the following prefatory remarks:

"'From Dr. Locke, of Cincinnati, I have received the result of a very extensive series of observations of the Inclination and Force, on which he has been engaged for eight years, (1838 to 1845, inclusive,) comprehending the determination of both elements, at about one hundred stations, distributed in longitude from the seaboard of the United States to the Mississippi river, and in latitude from thirty-eight to forty-eight degrees. It is, in fact, a magnetical survey of the Inclination and Force of the northwestern and northeastern States of the Union, conducted by an individual *on his own unaided resources*, and one of the many notable instances of private research, elicited by the impulse and systematic direction which have been given of late years to the study of magnetism.'—*Contributions to Terrestrial Magnetism, Part vii.*, 1846."

And are we to presume our naval officers incompetent to the conduct of this coast survey when it has produced such men as these—when it may contain in its bosom we know not how many more such? In 1807 we had no navy—we may say none, for it was small, and going down to nothing. Then, it might be justifiable to employ an astronomer. In 1832, the navy had fought itself into favor; but Mr. Hassler, the father of the coast survey, was still alive, and it was justifiable to employ him as an astronomer. But now there is no need for a civil astronomer, much less for a civil superintendent; and the whole work should go to the navy. We have naval schools now for the instruction of officers; we have officers with the laudable ambition to instruct themselves. The American character, ardent in everything, is pre-eminently ardent in the pursuit of knowledge. In every walk of life, from the highest to the lowest, from the most humble mechanical to the highest professional employment, knowledge is a pursuit, and a laudable object of ambition with a great number. We are ardent in the pursuit of wealth—equally so in the pursuit of science. The navy partakes of this laudable ambition. You will see an immense number of the naval officers, of all ages and of all ranks, devoting themselves, with all the ardor of young students, for the acquisition of knowledge: and are all these—the whole naval profession—to be told that none of them are able to conduct the coast survey, none of them able to execute the act of 1807, none of them able to find shoals and islands within twenty leagues of the coast, to sound a harbor, to take the distance and bearings of headlands and capes—and all this within sixty miles of the shore? Are they to be told this? If they are, and it could be told with truth, it would be time to go to reducing. But it cannot be said with truth. The naval officers can, not only execute the act of 1807, but they can do anything, if it was proper to do it, which the present coast survey is engaged in over and beyond that act. They can do anything that the British officers can do; and the British naval officers conduct the coast survey of that great empire. We have many that can do anything that Rear Admiral Beaufort can do, and he has conducted the British coast survey for twenty years, and has stood examinations before select committees of the British House of Commons, which have showed that no civil superintendent was necessary to guide him.

Mr. President, we have a large, and almost an idle navy at present. We have a home squadron like the British, though we do not live on an island, and in times subject to a descent, like England from Spain in the time of the invincible Armada, or from the Baltic in the times of Canute and Hardicanute. Our home squadron has nothing to do, unless it can be put on the coast survey. We have a Mediterranean squadron; but there are

no longer pirates in the Mediterranean to be kept in check. We have a Pacific squadron, and it has no enemy to watch in the Pacific Ocean. Give these squadrons employment—a part of them at least. Put them on the coast survey, as many as possible, and have the work finished—finished for the present age as well as for posterity. We have been forty years about it; and, the way we go on, may be forty more. The present age wants the benefit of these surveys, and let us accelerate them by turning the navy upon them—as much of it as can be properly employed. Let us put the whole work in the hands of the navy, and try the question whether or not they are incompetent to it.

Mr. PEARCE. Mr. President, I differ widely from the Senator from Missouri. My views are altogether different from those which he has just presented. I believe that the United States coast survey, as it is now organized, as it is now carried on, has not grown up in defiance of any act of Congress. I believe it is in strict conformity with the original act of Congress authorizing the commencement of the coast survey, and with the subsequent act authorizing its continuance; strictly in conformity with the objects of that survey, as described generally in the laws authorizing it, and with the special objects which were left by those laws at the discretion of the President; strictly in conformity not only with the interests of science, but with the great interests of commerce and navigation.

Sir, this work was due not only to science, but to ourselves—due to that commerce which pours into our treasury nine-tenths of all its revenue, which you distribute in a thousand channels throughout the land; due to the navigation which conducts that commerce, and which furnishes us with the very best defences our country can have against foreign aggression. We know that the security of all the property invested in foreign commerce and our coastwise commerce too, depends upon the accuracy with which that work is performed. We know that the lives of our mariners, who are constantly engaged in the most perilous of all occupations, likewise depend upon the accuracy with which that work is accomplished. And I believe that this work has been so conducted, that, while it has been in strict conformity with the law, it has advanced in the very highest degree the interests of commerce and navigation. Let us look at the law, and see whether it is so very limited in its object as the Senator from Missouri supposes. I find that the act of 1807 reads as follows:

"*Be it enacted, &c.*, That the President of the United States shall be, and he is hereby, authorized and requested to cause a survey to be taken of the coast of the United States, in which shall be designated the islands and shoals, with the roads or places of anchorage, within twenty leagues of any part of the shore of the United States; and also the respective courses and distances between the principal capes, or headlands, together with *such other matters* as he may deem proper for completing an accurate chart of every part of the coast within the extent aforesaid."

This is the general designation of the objects of this survey. It is not limited to pointing out the islands and shoals which may exist within twenty leagues of the coast. It is not confined to the mere ascertainment of the principal capes and headlands, but it embraces all such other matters as the President, in his large discretion, may think should come within the proper scope of such a survey as this.

Again, by the third section of the act of 1807, the President was "authorized and requested to 'cause proper and intelligent persons to be em-'ployed to carry out any of the purposes of the 'act." He was not limited as to the number of persons to be employed. He was not restricted as to the character of the individuals, or the nature of their professions or pursuits. It mattered not whether they were astronomers, engineers, or otherwise. But in the express language of the act, he is "authorized and requested, for any of 'the purposes aforesaid, to cause proper and in-'telligent persons to be employed, and also such 'public vessels in actual service as he may judge 'expedient, and to give such instructions for regu-'lating their conduct as to him may appear proper, 'according to the tenor of this act." So much for the scope of that law as to the employment of persons to carry on this work.

But further: The act of 1832 revives the act of 1807, and authorizes the President of the United States, "in and about the execution of the said 'act, to use all maps, charts, books, instruments, 'and apparatus which now, or hereafter may be-'long to the United States, and employ all per-'sons in the land or naval service of the United 'States, and such *astronomers* and *other persons* as 'he shall deem proper."

The Senate will perceive that the very largest discretion is given to the President in regard to this matter, and it was rightly given. It would not have been proper for Congress to lay down the details of a plan for observations so delicate and so complicated as those necessary to the survey of the coast of the United States. That was wisely and properly left to the discretion of the President. And the President, in the exercise of that discretion, began by directing the Secretary of the Treasury to acquire the information necessary to the successful prosecution of the survey, and to consult highly distinguished scientific men throughout the country as to the plan upon which this important undertaking was to be pursued. The Secretary did so, and adopted the plan of a geodetic survey submitted by Mr. Hassler, subsequently sending him abroad to procure instruments for executing the work. This done, Mr. Hassler, when ready to commence the survey in 1816, was employed to conduct its operations under the designation of "superintendent." And, sir, the President departed from neither the letter nor the spirit of any law when he appointed a superintendent of the coast survey. A work of such importance, magnitude, and delicacy, and of such a complicated character, could not have been conducted in any manner, much less conducted properly, unless under the supervision of one intelligent head, and that intelligent head must needs be "superintendent," no matter by what name designated. And Congress have recognized the propriety of this designation by their legislation. It is now a common term in the legislation of the country. And the term "superintendent of the coast survey" has not "stolen" into the language of our statute books. It was brought in openly, properly, intelligently, and it would have been rather a matter of surprise than otherwise if that word had not been used by the Executive and by Congress too.

The act of Congress of March 3d, 1843, directed the reorganization of the mode of executing the survey, upon a plan to be recommended by a board designated in the law. This plan of reorganization was completed, according to the provisions of the law, before Mr. Bache became superintendent; was submitted to and approved of by the President, and has furnished the general rules for the conduct of the survey; referring to the department charged with the survey the employment of the civilians engaged on them, the pay to be allowed them, and providing for filling vacancies occurring thereafter in the scientific department of the survey.

The Senator from Missouri seems to suppose that the sole object of the coast survey was what may be termed hydrographical, and he seems to think, that because such was its supposed object, the whole work comes peculiarly and solely within the province of the navy. Sir, I do not so understand it. I apprehend that the Congress which passed this law must have understood the general principles upon which great works like this have always been regulated in other countries. The letter of Mr. Gallatin to the individuals whom he consulted as to the plan for the coast survey, shows that he knew perfectly well what the language of science was upon this subject, and that in framing this plan, which has been carried out, and not departed from from that day up to the present time, he was following out those rules which scientific men, acquainted with the subject, had decided to be the best for conducting such an operation.

Mr. President, the primary object of the coast survey is to make an accurate map on which shall be delineated the whole coast of the United States—not the principal capes and headlands only, but the whole coast, with all its indentations and sinuosities, including those objects, whether on the shore or off the shore, the knowledge of which may be of any sort of value to navigation. This is a work which cannot be done either by ordinary land surveying or by ordinary off-shore surveying. It is a work of the highest science. It requires the very best ability, the most complete and refined observations, the use of the most delicate instruments, the nicest and most complex calculations—astronomical as well as ordinary trigonometrical calculations. The processes by which the latitude and longitude of any point on the earth's surface are calculated are the very nicest of all the processes known to science—processes, perhaps, not perfectly completed at this day. And I may say of the coast survey under Mr. Bache—as indeed when under Mr. Hassler—that it has not only kept up with all the inventions and improvements of science in other countries, but it has surpassed them. The learned and able gentlemen engaged in prosecuting this work have made discoveries of their own, have invented new instruments, new processes, by which more precise results are arrived at in the various scientific calculations connected with their undertaking; and many of their inventions and discoveries have attracted the notice and won the admiration of the scientific world, and will render our country illustrious for all time. To delineate accurately the coast of the United States, according to the opinion of all scientific and practical men, requires, as I have said, the highest scientific and practical abilities; for this, though a practical, is not a plain business, as the Senator from Missouri assumes. It is not a business which can be performed by every officer of the navy, or by one-tenth, or by one-twentieth part of the officers of the navy, if I know anything of their abilities for such a work. I know many of them who are no more competent to perform this work than I am myself, and I am utterly incompetent. I know very few naval officers who are competent for this business, and those few have been trained and rendered competent by their labors in this service, under the present accomplished and efficient superintendent of the coast survey and his learned predecessor. The profession of the naval officer does not require the profound scientific education which these duties demand, and that period of life usually devoted to such studies is passed by them in acquiring *nautical* knowledge. From sixteen to twenty-two, when the foundation of this knowledge is laid with all professional men, they are commonly on the ocean, without the means of, or the leisure for, this scientific training. Therefore, though there are many gallant and generally intelligent men among our naval officers, it is not to be wondered at that they do not furnish the kind or degree of acquirement requisite for the higher operations of the coast survey. There are some brilliant exceptions to this general rule, but they are only exceptions.

In the army there is necessarily more mathematical and astronomical science, and it has been availed of in the coast survey, which, indeed, has been a capital school for the further improvement of our young officers.

In relation to the navy, as well as the army, I may say, that they have not been idle, even since the war with Mexico has been brought to a close. Large and increasing demands are made upon them for the protection of our commerce in every part of the world; and I think that the leisure allowed them is nothing more than a reasonable relief from the common hardships and perils of their profession.

There are very few whose attention has been drawn to the operations of this survey, and perhaps it may be well to give some explanation of the process.

The operation begins with a series of *triangulations*, so called, by fixing upon a number of prominent points on the coast, some of them at large distances, and connecting these points by trigonometrical operations upon a large scale. It is then necessary to include in the first another series of secondary and tertiary triangles, correcting and verifying the whole by astronomical observations of the greatest nicety.

The Senator from Missouri seems to suppose that the superintendent of the coast survey has violated the law by establishing an observatory for the purpose of making astronomical observations. Not at all. Every astronomical observation that has been made by the superintendent, has been necessary for the determination of the latitude and longitude of places or points of the survey, which it was requisite to have fixed and precisely known. Sir, I scarcely think it needful to give the Senate any authority for these statements, but I can easily do so. I will read a paragraph from an article in

the "Princeton Review," written by Professor Henry, one of the most distinguished savans of this or any other country:

"Connected with the primaryt riangulation a series of astronomical observations are made for ascertaining the latitude and longitude of the principal points, the result of which may serve to check the triangulation, and establish on the chart the parallels of latitude and meridians of longitude. Such a survey is susceptible of great accuracy, and possesses within itself the data for its own verification." "It might appear at first sight that the process here described is one of no great difficulty of execution, and that it may be safely trusted to men of ordinary scientific acquirements, &c., but nothing can be further from the truth."

Sir, a minute error in your base line—a small mistake in any of your primary observations—propagates and multiplies itself throughout the whole extent of a work of this sort.

So that the astronomical observations which, it has been supposed, might convert the coast survey into a permanent national observatory, are nothing more than the necessary instruments for giving precision and value to the result of the surveys made in the prosecution of this work. This is well known. It is the practice in every civilized country under heaven, where any attempt has been made to execute a grand work like this. The great survey of England is both trigonometrical and astronomical. So is the great survey of France. So are those of Wurtemburg, of Prussia, of Russia, of Italy, and other countries, many of which have been executed with extraordinary fidelity and accuracy, but not one of which is superior, in any respect, to that in which we are now engaged. We have improved upon their means in some particulars, and our surveys are inferior in accuracy, completeness of detail, and economy of performance, to none in the world. A National Observatory has grown up here since the passage of the act of 1832, but it has grown up under different auspices from those of the coast survey. It has been legally established by an act of Congress, by the coöperation of the two branches of the legislative and the executive, and it has no connection with the coast survey. If, at any time, an observation has been made at the National Observatory for the benefit of the coast survey, it has been but a proper and incidental contribution from that establishment towards the accomplishment of this great national work. Sir, I venture to say that it never entered the mind of Mr. Bache or Mr. Hassler that, in prosecuting those observations absolutely necessary to the success of the undertaking in which they were engaged, they were running in conflict with any act of Congress requiring that the coast survey should not establish a permanent astronomical observatory. The superintendent of the coast survey would have been disgraced as a scientific man, and a faithless public servant, if he had omitted to give accuracy, precision, and value to his work, by such indispensable and well-known means as are and must be employed in all works of this character.

But to return to the manner in which these operations are conducted. After the main triangulations and the secondary and tertiary triangulations, comes the topography, which delineates the country for a few miles inland. Mr. Hassler carried it much further inland than Mr. Bache has done. That was partly owing, however, to the fact of the great difference in the character of the country upon which the two officers were engaged. Mr. Hassler was occupied chiefly with the hilly regions of the North, where there were many prominent natural objects, far inland, which furnished the best points for his triangulations. His observations were, therefore, necessarily carried further into the interior than those of Mr. Bache, who, besides a considerable amount of work at the North, has been much occupied with the southern portions of our country, where the land is lower and more level, and where Mr. Hassler never carried his operations.

While, then, they are making this primary triangulation, this secondary triangulation, which is subsidiary to the former, and this tertiary triangulation, to assist in the completion and verification of the whole, they might just as well make a topographical map of the country. They might have omitted that, to be sure; but I think that it was discretionary with the President to include this work, since, while engaged in the coast survey, it would make but a very little addition to the expense to make a topographical map of the coast, instead of a mere skeleton map of the different stations and triangulations. Besides, an important part of this topography is to furnish the shore line necessary to the hydrography of the coast. It is by ascertaining the precise position, as to latitude and longitude, of all the points upon the coast, that you arrive at an accurate delineation of the shore lines upon that coast. That is not all. The hydrography cannot be ascertained with any precision without the aid of shore operations. It is necessary to make triangulations with points upon the coast, with which to connect the points off the coast, in order to mark down and describe the soundings. The system of triangulation is just as necessary, in order to enable you to delineate upon a map the character of the surface of the earth under the ocean, as to enable you to delineate the objects upon the surface of the earth upon the shore; so that trigonometrical and astronomical observations are absolutely necessary for this survey, and are, in fact, the basis of it.

Sir, we have had detached surveys, made at different times, of different parts of the coast—hydrographical surveys; and I venture to say not a single one of them has been accurate, but most of them have been in the highest degree inaccurate. I know this to be a fact. I know, for example, that the hydrographical surveys off New Bedford and Buzzard's Bay have been exceedingly incorrect, and that by the operation of this precise system under which the coast survey has been prosecuted, we have discovered the greatest dangers to navigation lying directly in the track of vessels on their way to that port—a port which owns three hundred whale ships. Dangerous sunken rocks, with but five feet water on them, have been discovered lying almost directly in the channel. The discovery of these sunken rocks by the coast survey may, in the course of time, save to this country more than the whole expense of the coast survey. A great deal has been saved by this discovery to citizens, and a great deal to the Government, for the Government very often loses more duties by the wreck of vessels in one year than the whole of the annual expense of the coast survey.

To ascertain and delineate the topography of the surface underneath the waters, to some distance from the shore, with the same precision with which you describe the surface of the shore, is a very important matter, sir. Navigation cannot be secure without it. The navigator who approaches your coast in thick weather, or in a cloudy night, when he cannot take observations of the heavens, and when too far out to see the lights, must depend upon his soundings for his position. Various modes have been pursued to furnish the character of the bottom, not only in the bays and sounds, but upon the sea, near the shore, and as far out as the sounding line can ordinarily reach. The common method is by means of a greased lead, which brings up a specimen of the deposites on the bottom.* These are accurately examined and described; and their character and depth, and their relations to points on the shore, which have been previously determined by scientific observations, are carefully marked on the charts.

It is desirable, then, to give not only the topography of the shore, but also the exact character or topography of the bottom of the sea on our coast within reach of soundings. Thus, and thus only, can navigation be made safe.

Now, sir, the results of that coast survey have already been of extreme value. The discovery of a deep and direct channel over the outer bars of the harbor of New York, never before used or known, has proved of immense importance to the commerce of that great commercial city. It has earned the gratitude of the merchants of that city, and elicited testimonials of the highest approbation from the chamber of commerce and other public bodies. The navigation of Delaware bay has been vastly improved by it. A new straight channel, parallel to the old one, has been found in this bay, better sheltered from floating ice. Three channels were found over what are called the Cape May Ridges, which will be vastly serviceable to the coasting vessels of the coal trade—a business which sends from Philadelphia, annually, nine thousand cargoes of coal to various parts of the coast. The whole form of the bottom of the bay has been ascertained to have been inaccurately given heretofore. Some dangerous shoals—on which wrecks have frequently taken place—have been discovered to be miles out of place on the old maps. Other supposed ones are shown not to exist. The width of the bay has been found to be less at certain points than heretofore described, by several miles, and the position of important points has been corrected. In the case of a light-house, the error was some six or seven miles. For example, the position of the light-house at Bombay Hook, on the lower part of the bay, in a neighborhood noted for the number of vessels grounded there, has been found to have been erroneously assigned on the old charts by a distance of six or seven miles

Off the shores of Nantucket a number of shoals have been discovered by Lieutenant Davis, and have since been surveyed, which were wholly unknown before. They lie directly in the track of vessels from New York to Europe, from all the southern coast to several of the New England States, and from these latter to the West Indies, and are and will continue to be very serious dangers to navigation until the mariner shall be warned from them by proper beacons or other means.

Very great improvements have also been made in the navigation of Chesapeake bay. Many dangerous shoals have been discovered, by these precise operations, in that bay, which were never before known to exist; and who can tell what amount of property, and how many valuable lives might have been swallowed up in that bay but for these discoveries? Great and similar improvements have been made also in the navigation of Long Island sound, Massachusetts bay, &c. New channels have been discovered, and hidden dangers not before known have been pointed out.

These are some of the direct and practical benefits resulting from the operations of the coast survey, which will soon be extended to all the coasts of the United States. No such benefits, I venture to say, could have resulted, or ever will result, from a system different from that which we are now pursuing. One important feature of this system—one which has been successfully carried out in the progress of its investigations—is the union of the officers of the army and navy and of civilians for the better prosecution of the work.

Officers of the navy are now exclusively employed in the hydrography. They have not been unceremoniously set aside, nor have they been thrust out of employment for which they were fit. They are the only men who have been employed in the hydrographical department of the coast survey. Officers of the army have been employed on the shore work when they could be obtained, and both have rendered excellent service in this combined system of operations. Only three of the army, I think, are now employed upon the survey. Prior to the war with Mexico eleven of them were so employed. Applications are now pending, as I know, for more of them to be employed in the same service. The combination of army and navy officers and civilians is precisely the mode of all foreign countries, except Great Britain.

In Great Britain the trigonometrical survey is confined to the ordnance branch of the military service. That is not exactly such a survey as ours. It is a geodetic survey of the whole kingdom, and the hydrographical part is comparatively limited, and is, besides, not intended, I believe, to be complete and continuous, as ours will be. The surveys of that description are detached—particular parts of the coast only being surveyed and delineated, in which respect it resembles the great survey of France.

The great object of the English survey is to describe the whole interior of the kingdom. I do not know how many officers there may be employed in this, or how many vessels they may engage. Their hydrographical operations are by no means so extensive as those of the United States. They have no such extent of coast, sir, as we have—a coast of 30,000 miles, exclusive of our new possessions on the Pacific coast; and we have innumerable rivers, besides the bays and sounds. When I say 30,000 miles, I mean to count the sinuosities, of course. That is the estimate. We have a vastly more extended coast than that of Great Britain. There is a great deal more to be done. Besides, a

*A valuable invention of Lieutenant Stellwagen, of the United States navy, by means of which specimens of the bottom are brought up in sufficient quantities for preservation, is used on the coast survey.

great deal of their coast is unapproachable, and they survey only such portions as may be approached. They began in 1783, with an intention to connect by trigonometrical observations the Observatory at Greenwich with that at Paris. In 1791 the Government undertook a general survey under the direction of their Board of Ordnance. We know how abundantly liberal their appropriations have been, and yet, sir, that service is going on to this day, and is not likely to be completed for some time to come. It has cost money far beyond anything which the coast survey of the United States has cost. They have appropriated more than seven millions of dollars, exclusive of other large sums spent in the general hydrographical operations, to which the Senator has alluded, in the fifty-eight years during which it has been in progress. Since 1825, the annual appropriations have varied from $250,000 to $500,000 per annum.* How many officers they employ I do not know, but I know that they have a corps of sappers, amounting to three hundred and fifteen men, specially organized for the service. And it is well known that the military service of Great Britain is organized upon so large a scale that they have much greater range of selection than we have among the much larger number of scientific officers in their army.

Besides the seven millions already expended, the appropriations necessary to complete their survey have been reported at about $1,500,000; so that to finish it they will require a sum equal to the whole amount already expended by us in our coast survey; and it will be remembered that these additional demands are necessary to complete a plan which has been in operation for fifty-eight years.

We have already, in seventeen years, accomplished a large part of our coast survey; much of the primary and other triangulations of the topography and hydrography—not all of it connected, to be sure; but upon the scale of appropriation asked for, the whole may be completed in fifteen years.

Plans have been adopted by the present superintendent to prosecute the work more rapidly. He has divided the whole Atlantic and Gulf coast into nine sections, and parties are at work on all these sections, in eighteen different States of the Union. Though the work on these different sections will be separately conducted, the whole will finally be connected, so as to form one continuous series of observations and surveys, and to make the work a unit. The work in one part will verify that in another, and a general, minute, and accurate survey of our whole coast will be the result.

Now, sir, the expenses of this coast survey, so far, have been, I believe, about a million and a half of dollars; of which, the sum expended in Mr. Hassler's time was $766,000, and that in Mr. Bache's time $579,000. Mr. Bache now has on hand nearly $150,000, in vessels, instruments, equipments, engraving apparatus, &c., and, deducting the cost of such of these as were purchased during his superintendence from the gross sum spent by him, we have about $500,000 as the aggregate expenditure for all other purposes during his five years. For this sum he has accomplished more than was done with much larger expenditure in Mr. Hassler's time.

Now, sir, it is very true that the appropriations have been increased largely since Mr. Hassler commenced the work, but it is equally true that the results have increased in a much larger proportion, and that greater accuracy as well as rapidity of execution is demonstrable.

I take no notice of the work done prior to the suspension of the survey in 1819, because that was very little in amount. But I compare the work done by Mr. Hassler from 1832 to 1844 with that done by Mr. Bache from 1844 to 1849. Mr. Hassler's reconnoissances in twelve years covered 18,103 square miles. Mr. Bache's in five years cover 22,544 square miles.

Mr. Hassler's triangulation in twelve years covered 14,483 square miles. Mr. Bache's extended over an area of 19,309 square miles. The hydrography in Mr. Hassler's time spread over an area of 9,632 square miles, a little more than half of which was off shore; that of Mr. Bache covered 15,086 square miles, of which three-fourths was off-shore work.

Mr. Hassler's soundings were 808,147. Mr. Bache's 950,202. Mr. Hassler's engraved plates of maps were five; Mr. Bache's twenty-four. None were published by Mr. Hassler; but twenty-one have been published by Mr. Bache, and 7,678 printed sheets of maps have been distributed in his time, and not one during Mr. Hassler's.

The comparison continues the same throughout almost all the items of the tabular statement from which I draw this information.

The only particulars in which Mr. Hassler's work exceeds that of Mr. Bache are in the amount of topography and shore line, and the number of original topographical maps. It will be observed that the amount of Mr. Bache's topography is, in proportion to the time employed, larger than Mr. Hassler's. It is absolutely less, because Mr. Bache designedly reduced the amount—not considering it necessary to prosecute these surveys so far inland, and because, in this way, the expense might be lessened: of course the number of original maps would be necessarily less. The shore line, of which I now speak, is that which includes the rivers, as well as the sea, bay, and sound coast; and it will be perceived that the amount of this under Mr. Bache, is two-fifths of the whole, although his time is less than one-third of the whole time.

Thus it appears that the work done by Mr. Hassler was far more limited in its amount than that performed by Mr. Bache. I do not say this as a matter of reproach to Mr. Hassler; far from it. He had the difficulties of the early organization to surmount, and, during the first half of his superintendence, smaller annual appropriations were made by Congress. He had also to educate for the service some of these very persons who now seek to destroy the progress and prosperity of the work. But I wish to show, that while the appropriations have been increased when Mr. Bache has had the superintendence, the work which has been done has increased in a greater proportion. The work is advancing much more satisfactorily, and will accomplish much sooner its great object—that is, the security of the commerce and lives of the citizens of the United States. Almost all discoveries in science are so connected that it is scarcely possible to prosecute the necessary operations of the coast survey without advancing, incidentally, the interests of science on matters not of themselves indispensable to the work. But who will venture to object to that when this grand object is accomplished? The further expense will be a mere nothing; and when it is in the power of the President to allow it or disallow it, he must of course be supposed to have allowed it if he has not expressly disapproved.

The Senator from Missouri seems to think that this will subject the army and navy to the command of the Treasury Department instead of the President of the United States; that it would subject, and had subjected, the army and navy to the command of the Secretary of the Treasury. Why, I apprehend that the Secretary of War never dreamed of any such results. I venture to say there is not a single instance in which any officer of the army or navy has been subjected to the command of the Secretary of the Treasury by virtue of the introduction of these words into the act to which the Senator has referred. The Secretary of the Treasury has never dreamed of taking any authority into his hands over the army or navy of the United States on account of this phrase. He has never called upon one of them to do any service connected with this survey, without the express assent and direction of the Secretaries of War and Navy. It depends upon them, and not upon the Secretary of the Treasury, whether those officers shall be ordered into the service of the coast survey or not. It is so with the men; it is so with the vessels of the navy. At this very time an application is pending before the Secretary of War for more officers of the army for this very service.

Now, sir, the Senator stated that there were thirteen vessels employed in our coast survey, whereas there were only ten employed in the British hydrography.

Mr. BENTON. Before a certain day.

Mr. PEARCE. Be it so. Now, sir, these thirteen vessels—are they an excess or not? That is the question. As I said before, we have the coast divided into nine different sections, in which the work is all going on at the same time. It is necessary to have a considerable number of vessels to carry on all these operations in the different sections, and execute the work properly and efficiently. They are not only necessary for the hydrographic part of the work, but it is necessary to have small vessels connected with the service for the topographical and triangulating parties. Some of those vessels are so employed to my own certain knowledge, for I have seen them in the Chesapeake bay. They are used not merely for the purpose of carrying on the hydrographical operations, but to furnish lodgings for officers and men. In the sickly regions it would not be safe for the parties to sleep in tents upon the marshy shores. It is the experience which the officers of the coast survey have had in this which induced them to ask for these vessels. They obtained them, and they do not camp on shore by night; they do not sleep on those low shores, subject to the miasma and the vapors, but on board of their vessels. They found this to be not only more healthful, but very economical. Besides, in thinly settled parts of the coast they must carry all their supplies in this way; and, indeed, the vessels are necessary sometimes to carry them from one point to another, where a passage is only practicable by water.

Now, sir, in regard to the vessels obtained, and the circumstances under which they have been obtained. Some of these vessels have been turned over to them from the revenue service. A steam vessel, for instance, was built several years ago, at great expense, without authority of Congress. Gentlemen will remember the complaint of this in Mr. Tyler's time—the passage of a bill to prevent it in future, which was vetoed by the President, and passed, in spite of his veto, by two-thirds of both Houses. Two of these vessels, one of which cost $120,000, were found utterly unfit for the use of the navy or revenue service. This vessel was not fast enough for a revenue cutter, and was vastly more expensive than sailing vessels, and was not a good seaboat. When one of them returned from Mexico to New Orleans, it was advertised to be sold at auction, and $3,000 only was bid for it. The officer having charge of it would not complete the sale at that price, and informed the Secretary of the Treasury, who directed it to be converted into a light-boat. Another steamer, liable to the same objections, was transferred by the department to the coast survey. As the operations of the coast survey do not require very rapid movements, nor oblige vessels to put out far to sea, this vessel answers her present purpose pretty well. Such has been the case with another one.

The Senator says that the additional expense of this little fleet, not charged to the coast survey, is about $210,000 per annum—making the proposed expense of the next year about $400,000. But this is a mistake. These vessels are sailed or steamed out of the coast survey appropriation. The men of all but those used in the hydrography are also paid from the same fund. The officers and men of seven of them are furnished by the navy; and the Secretary of that department, in a report recently sent in, states that their whole expense for five years is $193,000, or at the rate of $38,600 per year. So that the Senator's calculation is entirely at fault.

Now, it is asked that an appropriation should be made at the rate of $186,000 per annum, and that is thought to be enormous. Well, it is certainly larger than the amount appropriated in Mr. Hassler's time, which in his last year was $100,000. The Senate will recollect that we are increasing the force. In fact, you are getting the work done sooner, better, and cheaper, by making appropriations to have it carried on upon a proper scale. The plan, progress, and economy of the coast survey have received the approval of every scientific man of any note in the country, and of

*Abstract of the aggregate amount paid in each year, on account of the survey of counties and the trigonometrical surveys, since the year 1832 up to January, 1847.

Year.	Total.	Year.	Total.
	£ s. d.		£ s. d.
1832-'33	44,329 17 3	1840-'41	84,039 4 11¾
1833-'34	42,528 14 2	1841-'42	84,365 11 11
1834-'35	50,856 5 7	1842-'43	93,147 11 1½
1835-'36	56,404 14 5	1843-'44	77,402 9 1
1836-'37	66,447 4 9	1844-'45	65,428 2 4
1837-'38	80,149 16 6	1845-'46	57,311 19 5¼
1838-'39	73,918 4 5	Up to January,	
1839-'40	79,681 8 0½	1847.....	44,155 13 11½

the Department. I have before me the testimony of learned societies and of learned men, and I find one single sentiment to pervade them all.

The superintendent, sir, is not always in the field, it is true. He cannot always be in the field, but he is in the field for eight months in the year, conducting and superintending the observations—always when in the field, making astronomical and geodetic observations himself. Indeed, whenever there is any difficult process to be carried out, such as measuring a base line, for which purpose his ingenious apparatus has commanded the admiration of the scientific world, he always personally attends to it. But he cannot be in all the points of the survey at once. In the neighborhood where he is, he always makes all the more important observations himself. It is true that he has a number of assistants. But the scale upon which his plans are pursued, and which I may say has received the approval not only of the President of the United States, but of Congress, requires all the assistants allowed him. The specific details of all their work are regulated by instructions directly from him. Mr. Bache has furnished every year a full account of his operations to the department and Congress. He has concealed nothing.

He is not only a man of profound scientific ability, disciplined in the severest school of study known in the United States, but he has matured and improved his earlier acquisitions since his arrival at manhood, by the most diligent research, perseveringly pursued at home and carefully prosecuted abroad, and indeed by every means known to the philosophic scholar. To all this ability and acquirement, he adds a simplicity of character which becomes the philosopher, which not only sheds a grace upon him, but secures for him the fullest confidence of all who know him.

Such a man could not and would not conceal anything from Congress and the public; and accordingly he has developed in the fullest manner, and to the minutest point, all his plans and operations. With a full knowledge, therefore, of all they could desire to know, Congress has made the appropriations asked for, and has thus sanctioned the manner, the means, and the extent of the coast survey as conducted at the present time.

I think a work so interesting to science as this, so incalculably valuable to the country, so honorable to the superintendent, his assistants, and all concerned, should not be changed or checked, more especially in this manner.

I trust that the old exploded system of detached and imperfect surveys will not be resumed. That system has uniformly ended in disappointment and failure, and the present is the only one worthy of Congress and the country.

The Senate adjourned.

MONDAY, *February* 19, 1849.

The Senate resumed the consideration of the bill, and the question being on the motion submitted by Mr. BENTON—

Mr. ATHERTON rose to address the Senate.

Mr. FOOTE. Will the Senator give way for a moment, and allow me to offer an amendment? I simply wish to present it now, in order to move that it be printed.

Mr. ATHERTON. I will certainly give way for that purpose, but I really hope that the bill can be passed before the amendment can be printed, for I hope that it may be passed to-day.

Mr. FOOTE then sent to the Secretary's table the amendment which he intended to offer, and which, on his motion, without being read, was ordered to be printed.

SEVERAL SENATORS. What is the purport of the amendment?

Mr. FOOTE. It is simply to ingraft the leading features of the bill for the establishment of a government in California upon this bill by the appropriations for the purpose of carrying into effect such governments.

Mr. ATHERTON then resumed the floor, and addressed the Senate as follows:

After the remarks of the Senator from Maryland, I shall certainly not undertake to go at large into the subject of the amendment offered by the Senator from Missouri. But, sir, while I feel under much obligation to that Senator for the compliment which he was pleased to pay me in approving the attempts which I had made to arrest amendments offered to appropriation bills which go to alter the laws of the United States, or whose object is to change the system of government as now established by law, and which do not properly belong to appropriation bills, I think I cannot better deserve the compliment than by resisting his amendment, the very object of which is to alter in an appropriation bill a system established by law, founded in law, and regulated by law as thoroughly as any part of the Government, as any part of the transactions of the Government, as any bureau of the Government, or any department of the Government.

Sir, the object of the Senator's amendment is to change the law, to repeal the law which now establishes the coast survey; to revive another law which has been repealed, and to alter the whole system as now established by law. If there are any abuses in the coast survey as now conducted, if it requires examination, if it requires modification or alteration, this ought to be done in the most calm and deliberate manner; it ought to receive the investigation of a committee, with power to enter into a full examination of the subject in all its bearings; and it seems to me, sir, that it is an entire departure from the principle which received the sanction, and properly received the sanction of the Senator from Missouri, to undertake, by an amendment to an appropriation bill, to do what his amendment proposes to do. It is conceded on all hands that this is a most important object, that of the coast survey; there is no doubt of that. That object is now carried on in pursuance of law, in a manner regulated by law, and we might just as well in an appropriation bill attack our system of pensions, repeal the law on that subject, and establish another system in its stead; we might just as well abolish one of our departments, and substitute something new in its place; we might as well abolish one of our bureaus, and substitute another; we might as well provide for disbanding some of the officers of our navy and army; we might with just as much propriety do this, it seems to me, as to attack this system in this incidental manner—a system, as I have stated, that is established and regulated by law. Therefore, aside from any objection which arises as to the manner in which the work is carried on; aside from any objection to the amendment drawn from the fact of the importance of the objection, and from the fact that it is carried on, as I believe, in a more efficient manner than it ever has been before, I conceive there are insuperable objections to attacking this system in this way, and this amendment does not belong to an appropriation bill; but if the system is to be modified at all, it ought to be done by a separate bill, which should receive the examination and the deliberate examination of some committee of the Senate.

It is said, sir, that this coast survey belongs to the Bureau of Ordnance and Hydrography. Sir, the Bureau of Ordnance and Hydrography was established long posterior to the time when the coast survey was organized under its present system. It has for its object purposes altogether aside from those of the coast survey. Nautical surveying is only a part of the object which was originally contemplated in the establishment of this coast survey. It is not to be expected that the respectable head of the Bureau of Ordnance and Hydrography and his clerks would be sufficient to carry on the coast survey. It is acknowledged on all hands that it requires men of the highest scientific attainments, men of the highest proficiency in science, to carry on its operations.

Again, why should this coast survey be under the superintendence of the navy rather than of the army? If there are men of science in the navy, are there not also men of science in the army? Our original plan of survey contemplated the employment of officers of the army and navy also. If the officers of the navy have a right to feel chagrin and mortification that this coast survey is not under their direction, why should not the officers of the army feel chagrined and mortified also? May they not come and say to us, why have you passed us by, why have you neglected us, especially as you have educated us at West Point Academy? There are officers in the army who are scientific men, and they have the same reason to feel chagrined and mortified that the officers of the navy have that they have not the control of this work. But it seems to me that these respectable gentlemen, the officers of the navy—and I respect them for their scientific attainments as well as for their gallantry in their profession—it seems to me they have reputation enough for science, and they ought to be satisfied with it, without entertaining any jealousy of the advancement of other scientific gentlemen. They have no need to be actuated by such motives. It cannot conduce to their reputation to be actuated by such motives, and I apprehend they are not. Sir, I am of the opinion that this coast survey was originally organized on the most efficient plan, which was, to bring scientific men in civil life, in connection with the officers of the army and navy, or such officers and men as could be properly spared from their regular duties, to assist in the prosecution of this work. And it is only saying that you shall have an efficient prosecution of the work by this means; indeed, experience shows us that this is true. Sir, I do not know that there is anything practically incompatible with the highest attainments in science, in the pursuit of the officers of the navy, or in the occupation of the officers of the army. It is very much to the credit of any gentleman belonging to either of these branches if he has attained a reputation for the highest attainments in science; but I must say, that if they have become eminent in the highest degree for such attainments, it is not that they belong to the army or navy, but it is in spite of their employment; for their employment in either of those branches will tend rather to impede than to facilitate their progress in the ultimate attainments of scientific knowledge in its highest branches, as much as the profession of law, or of politics, or any other occupation. It redounds to their credit then, that, notwithstanding these obstructions, they have attained so much reputation in scientific pursuits.

Sir, when this coast survey was first organized, we did not send to Europe for a commodore to take charge of it; we sent for Mr. Hassler, who was eminent throughout Europe for his scientific attainments. Sir, it seems to me that the officers of our army and navy might well be satisfied with possessing the reputation of Nelson or the Duke of Wellington. But who would have selected either of those individuals as superintendent of a coast survey? Who supposes that even they, whose reputations were so great—the one as a great naval, and the other as a great military commander—possessed that sort of science necessary in superintending such a survey? No one, sir. And it is no disparagement to the officers of the navy that they are not solely and alone employed in this work. The Senator from Missouri seems to suppose that this belonged to the Bureau of Hydrography alone. The original establishment of the coast survey proves that this was not the case. The original instructions of Mr. Gallatin show that this was not the case. Officers of the navy were brought in to assist in the survey, in that portion of it which belongs to nautical survey, to take the bearings of currents and tides and the soundings of shoals, and all those things that belong to nautical survey. The officers of the army could be advantageously employed on shore; and it requires the highest degree of science, too, if we combine these two, to direct them, to teach the use of the instruments, and to combine the results of all their observations, so that the work shall be completed in the manner that was originally designed. I need only refer to the original law to show that this was the case.

The Senator from Missouri has stated that here is a departure from the original design of the law; that it was contemplated that the navy should be employed, and here we have civilians employed. Why, nothing can be more general than the terms of the law of 1807. What was the practice under Mr. Hassler, which has been referred to by the Senator from Missouri? It was to employ civilians together with officers of the army and navy. In 1807, the law which I have referred to as being general in its terms was passed. Mr. Hassler was sent for, and he went to Europe to procure instruments, and was detained there several years in procuring the necessary instruments for carrying on the coast survey. Now, this very fact shows that it was no departure from the plan originally contemplated, because the instruments which Mr. Hassler went abroad to obtain were the instru-

ments which would be required for geometrical survey, for the survey of the shore, with its indentations, as well as of the ocean near the shores. And, sir, this would appear from the instructions contained in the circular letter of Mr. Gallatin. He says:

"1. The ascertainment, by a series of astronomical observations, of the true position of a few remarkable points on the coast, and some of the light-houses, placed on the principal capes or at the entrance of the principal harbors." * * *

"2. A trigonometrical survey of the coast between those points of which the position shall have been astronomically ascertained, in the execution of which survey the position of every distinguishable permanent object should be carefully designated." * * * * * *

"3. A nautical survey of the shoals and soundings of the coast, of which the trigonometrical survey of the coast itself, and the ascertained position of the light-houses and other distinguishable objects would be the bases." * * *

Now, it seems to me that the Senator from Missouri, in speaking of the object of this survey, only includes one part, and that the part that was mentioned third by Mr. Gallatin. But, sir, further than this: Mr. Hassler returns, after the lapse of a few years, from Europe, and was employed to preside over this survey.

I understood the Senator from Missouri to intimate that the term *superintendent* had crept into the appropriation bills, the original word being *astronomer*, as authorized in the law reviving the law of 1807; and the inference was drawn that the appointment of Superintendent of the Coast Survey was without any foundation in law. It appears, sir, that in the authority given to Mr. Hassler by Mr. Dallas to preside as having charge of this coast survey, he was called to superintend the survey. Here is the letter from Mr. Dallas to Mr. Hassler:

"TREASURY DEPARTMENT, *August* 3, 1816.

"SIR: The correspondence and documents relative to your being employed as superintendent of the survey of the coast under the act of Congress respecting that object, have been submitted to the President, and your services are engaged on the following terms." * * * *

Now, this is the authority under which Mr. Hassler was employed, signed by the Secretary of the Treasury in 1816. Then the act of 1807 was first carried into effect, because Mr. Hassler had been detained in Europe in the purchase of instruments, and did not proceed in the business of the coast survey until the time of the date of this letter of 1816, wherein he is called to superintend the coast survey. The coast survey went on for a short time, but there was some uneasiness springing up about it; probably the difficulties of the operation were not well understood; the length of time which it would occupy was not understood; at any rate, there were some anxieties growing about it, and there was a law passed in 1818. Now, what was that law? It was not to place this coast survey under the direction of the navy alone, but it was to place it under the superintendence of the army and navy. [Mr. A. quoted the law.]

That was a repeal of the law of 1807, so far as it authorized the employment of persons other than those belonging to the army or navy. Well, what was the result? From 1819 to 1822 the coast survey went on under the act which repealed the law of 1807, and under the direction of the army and navy; and the experiments during the interval in which the coast survey was under the direction of the officers of the army and navy, caused Congress to restore the act of 1807; and one of the reasons which induced them to do this is to be found in the letter of Mr. Southard, who was Secretary of the Navy at that time.

In 1827 the survey of the coast, after a lapse of ten years, again excited popular attention. The Secretary of the Navy, (Mr. Southard,) in describing certain surveys which had been made by naval officers for an especial purpose, stated, in his annual report, that "the time within which it 'was supposed desirable to make them, (the sur-'veys,) and the means granted by the appropria-'tion, did not permit them to be so made as to 'furnish perfect surveys and charts of those har-'bors; nor can such surveys be made without the 'aid of the means contemplated by the act of 10th 'of February, 1807, to provide for surveying the 'coast of the United States."

In 1828 the Committee on Naval Affairs addressed a letter to the Secretary of the Navy, (Mr. Southard,) asking information in reference to the survey of the coast, to wit, whether it ought to be made, the best plan for making it, what progress had heretofore been made, &c. In reply, he proceeds to say, after referring to a list of maps and charts:

"Of the whole of the maps and charts in possession of the Government, it may be remarked that they do not furnish a satisfactory survey of the coast, for the following reasons:

"1. They exhibit detached parts unconnected with each other.

"2. Are generally confined to the shore, and do not extend sufficiently far into the ocean.

"3. Were many of them made by incompetent men, with incompetent means.

"4. They were governed by no fixed and certain principles or guides, in ascertaining the latitude and longitude of the principal points and positions.

"5. They do not embrace the whole coast. For these and other reasons they are unsafe, and, in many instances, useless and pernicious."

That was the opinion expressed by Mr. Southard—that the results to which the labor of the officers of the army and navy, from the organization of the coast survey, had been applied, were not only useless, but in a great degree pernicious. It was in consequence of this impression that Congress, in 1832, revived the act of 1807. "Provided that the said act is hereby revived." And it also provided, in addition to the authority given to the President to employ such intelligent persons as he should choose, "that he should employ persons in the army and navy as he should deem proper, and an astronomer."

And it seems to me that nothing can be more general than the terms of that act. But this is not all the legislation on the subject. The Senator from Missouri complains that the term *superintendent* has crept in through the appropriation bills, where it did not belong. It seems to me that the clauses contained in the appropriation bills having reference to this subject have been a limitation upon former acts rather than an extension of them. They have had the effect of limiting and regulating the power rather than of extending it. The appropriation bill of March, 1843, provided for the expenses of the coast survey, including compensation for assistants, one hundred thousand dollars; and it also provided that a board of officers should be called by the President, and that one of that board should be the present superintendent of the coast survey; and that the regulations made by that board should have the effect of law. The board had a meeting, and they agreed upon a system, I believe, and reported to the President, and it was sanctioned by him, for carrying on the coast survey. So that this coast survey is not carried on without authority of law; for here was a plan, approved of by the President, reported by a board of officers convened by law for the purpose; and the law declared that their plan, when approved, should have the effect of law. Not only so, sir; this plan contemplates the employment of the superintendent of the coast survey, and, in addition to that, Mr. Spencer, who was at the head of the Treasury Department in 1844, drew up a set of regulations for conducting the affairs of that survey, for the disbursement of money, fixing the amount of the salaries that should be paid, &c. So that the whole of the operations of the survey are regulated by law, and are not left to the discretion of any man or set of men.

And, sir, so far as regards the increase of expenses, my object was merely to point to this law under which the coast survey is carried on. I may say that the increase of the annual appropriation is made in pursuance of the original plan suggested by Professor Bache in his reports; and it is conceded that by a division of labor the labor can be sooner done, and done more cheaply, and the improvement that has taken place under the superintendence of Professor Bache shows that this is the case; because by comparing the expenses of the twelve years whilst Mr. Hassler was superintendent with the expenses of the five years under Professor Bache, we find that the annual expense of the whole time is reduced in the proportion of eight to six, and perhaps there has been fifty per cent. more work accomplished. I therefore hope that this amendment will not prevail, and that this work, which has received the sanction of scientific men, will not be interrupted by this incidental amendment to an appropriation bill.

Mr. DAVIS, of Mississippi, obtained the floor. He said: Mr. President, the amendment offered by the Senator from Missouri [Mr. BENTON] offends against the advice of St. Paul, which tells us to "prove all things, and hold fast that which is good." It proposes to go back to an old exploded system, an experiment made in 1818, which, after years of lost time and millions of lost money, was finally abandoned. It is to abandon an organization more perfect than, I believe, any country has ever before possessed for such a purpose, and to return to one, because it might imitate that of Great Britain, the imperfections of which stand forth upon every map of the British Island. Let any man obtain two hydrographic maps—take one issued by the coast survey, and one issued recently by Great Britain—and he will find that science and intelligibility stand forth as the prominent features of the one, and confusion in the other; sometimes, even, surveys marked by square lines where the lines of equal depth are curved, and can have no natural relation to the rectangles thus presented.

I was sorry to hear the chairman of the Committee on Finance propose that this matter should be investigated by a committee, and made the subject of a separate bill. It is before us, and we are as ready to decide it now as at any other time.

Mr. ATHERTON. I did not mean to say that it should be made the subject of a separate bill.

Mr. DAVIS. It is useful and desirable that the question should not only be settled now, but that it should be quieted for all time. I believe more than one-half the valuable labors of that distinguished astronomer, Mr. Hassler, were lost to science and the country, in consequence of his constant wrangling with Congress to obtain appropriations. His mind was diverted from the pure pursuits of science, and he has, in consequence, left behind him comparatively little of those results which we should have expected from his high reputation.

I desire, therefore, Mr. President, that the Senate will consider the whole question now; and I hope that they will settle it by such a majority as was given in the House last session, where I think the vote stood ninety to thirty-six, after a full discussion.

The object of the Senator from Missouri, in his amendment, is, to give up the whole coast survey to the navy, and return to the law of 1818. Now, sir, if the proposition had been to give up the whole to the army, I should have thought that there was more propriety in it. The original plan was a survey of the coast, and a nautical survey based upon it. Such was the idea of Jefferson, and the idea of Gallatin, who in his letter addressed to scientific men of the day, has as clearly delineated a geodetic survey as language can describe.

Mr. Gallatin proposes—

"1. The ascertainment, by a series of astronomical observations, of the true position of a few remarkable points on the coast. * * * * * *

"2. A trigonometrical survey of the coast between those points of which the position shall have been astronomically ascertained. * * * * *

"3. A nautical survey of the shoals and soundings of the coast, of which the trigonometrical survey of the coast itself and the ascertained position of the light-houses and other distinguishable objects, would be the basis." * *

Now, sir, if the basis of a nautical survey is the triangulation of the coast, then we had better refer the work over to the army than to the navy, if it is to be confined to one department; for they are more competent to make that geodetical survey which must be the basis of any useful nautical survey. If the purpose is merely to make a nautical reconnoissance along the coast, and make nautical charts, we have such now, made in our colonial existence. But, sir, of little value are they, without accurate determinations of latitude and longitude—without correct delineations of the coast—so that when the mariner approaches it he may recognize the prominent features that tell him with certainty where he is. It adds little either to the benefits of commerce or the navy; it adds nothing to science, positively nothing.

So far as I followed the Senator's argument, it was based upon the idea of the recurrence to a former law, and of producing economy and despatch in the work. Now, sir, as to the former law, the act of 1807 did not provide in terms for the use of the army and navy at all. So far from providing a plan to be executed by the army and navy, as the Senator's argument would lead one to suppose, it says nothing about the army and navy. It says that the President of the United States shall be, and is hereby, authorized to cause

"proper and intelligent persons to be employed, and also such of the public vessels in actual service as he may judge expedient."

So far as the navy could be employed under this law, it must be constructively, from the use of the term "public vessels in actual service," which might apply to the revenue vessels as well as to those of the navy.

When Mr. Hassler was appointed superintendent for this work, one of his early difficulties was that the officers were not, technically speaking, under his orders; and after the work was discontinued and revived, Mr. Hassler, in 1832, wrote a letter which contained the clause that the superintendent of the coast survey, the astronomer, or whatever he was called, should make actual observations in the field; that he should give orders and instructions to the officers of parties, and thus to guard against such a condition of things as had led to his former difficulty. It was to give him authority, and to avoid being reduced to the head of a bureau, instead of having an opportunity in the field to illustrate the science which he believed himself to possess. It was his ambition to be in the field, as it is that of the present superintendent. He did not wish, as a mere bureau officer, as head of the department, to receive the reports of parties in the field. He wished to make astronomical observations, and to connect himself with the triangulation of the coast. These were not the terms imposed upon, but those sought by, Mr. Hassler, as a man of science. Has it been changed? Have there been any variations from the duties assigned to the superintendent? If so, have they not been constantly increasing his field labors?

In the year 1832, when the system of 1807 was revived, we find distinct provision for the employment of officers of the army and navy. The President is authorized to "employ all persons in the land and naval service" for the survey of the coast, "and such astronomers and other persons as he shall deem proper." Now, the navy was specifically connected by law with the hydrography of the survey. During Mr. Spencer's administration of the Treasury Department an organization was adopted giving the superintendent the powers which the present superintendent now exercises. Did this constitute a bureau? If so, it was a bureau of Mr. Hassler's. But, Mr. President, can that be a bureau which is a mere temporary employment? This is a mere temporary employment, without a fixed salary, and without commission of office. The whole ground on which Mr. Hassler claimed a right to continue in employment was, that the terms of his letter being accepted, constituted a contract. It was not a bureau *then;* it is not a bureau *now.* It was an office then, to which reports were made for examination, and results sent for computation; it is the same now, and in the same building, as in Mr. Hassler's time. What change, then, has been made in the organization?

I said, Mr. President, that the duties discharged were of the same character; but they have become more extended. The present superintendent passes about eight months of the year in the field, engaged in astronomical observations, in triangulation, in magnetic observations, in measurement of bases upon which triangulations rest. Last year he was in North Carolina, Maryland, and New Hampshire; and the year before he was in Massachusetts, Maine, Mississippi, Louisiana, and Alabama—thus stretching his observations over the whole breadth of the Union. Last summer he took the field long before the adjournment of Congress, and returned after Congress had reassembled. He left, I believe, in the month of April, and returned after the commencement of the present session of Congress. Mr. Hassler made but two preliminary and one actual base of operations. Now we are operating upon four distinct measured bases. The old plan might have been conducted with one astronomer, for it commenced on one base, and was extended north and south. No man living ever could have seen it completed. When it had passed a certain point, say three hundred miles, it would have been necessary to measure bases of verification. In the present system, these bases have been measured and made the original bases of other triangulations, and in time become also bases of verification. Thus the work is divided into different sections, and various parts of the coast—some of them very dangerous—are brought under early examination, and promptly the benefits of the work are conveyed to every portion of the Union, and the time in which it may be completed reduced. Now we have nine sections; and just to this extent, if the appropriations are sufficiently large, may the time be divided in which it is to be finally completed. Had the present superintendent desired merely to get his salary, had he consulted his own ease, he surely never would have extended the survey so widely, and divided it into various sections, giving him the increased and increasing mass of work which now devolves upon him—shortening the period, according to this plan, in which the work will be completed, and therefore the term for which he can hold the office he now fills under the present coast survey organization.

Let me not be misunderstood. These remarks are not intended to reflect in any way upon the late distinguished superintendent, or to disparage his labors. In the language of the present superintendent:

"The survey, which was suspended by the act of 1818, was revived by that of 1832. The preliminary operations of 1816 and 1817 were but partially available on recommencing the survey in 1832, from which latter period, therefore, it dates its effective beginning. The first years were necessarily years of organization and instruction. The superintendent, Mr. Hassler, had to systematize methods, to train up assistants, to cause the work to grow from a small beginning until it comprehended the various operations of a geodetic survey of the coast, and included its hydrography. When the results accumulated, it was necessary to provide for their computation and reduction, and the preparation of maps and charts upon a plan suited to our extended coast, and the engraving of the maps. All these things were new in this country. The amount of knowledge, skill, and labor required to overcome these and other difficulties were hardly appreciated. The results show how large an amount of work had been done, and how the work was extending beneficially at the time of Mr. Hassler's death."

"Building upon this foundation, it was easy for Mr. Hassler's successor to give further development to the work."

As to the economy of transferring this survey to the navy, I should think nothing can be more manifest than that if it was assigned to a single corps, the compensation of which, and reputation in its prosecution, was not derived from the work, it would lose in expedition and increase in expense. Not only has the result been proved by the experiment of 1818, but the same conclusion should have been reached by *a priori* reasoning. What interest would they have; what dread of examination; what regard for public opinion? They will have their pay and professional distinction as connected with the navy, whether the coast survey be approved or not, whether it be continued or discontinued. And if we refer to foreign services, where surveys are conducted thus, it will be found that the expense bears no relation to that of our coast survey. This is established by the reply of the Secretary of the Treasury, recently sent to the Senate. He estimates the secondary triangulation and topography by the ordnance corps in Great Britain, exclusive of officers' pay, at sixteen cents two mills per acre—between twice and three times the cost of our surveys of the same kind.

The Secretary says he had not sufficient data to make an estimate for the foreign hydrography. From other sources I find that the hydrography executed by Great Britain (I read now a manuscript note) cost in two years, 1845–'6 and 1846–'7, an amount equal to the whole appropriation of the coast survey of the United States from its beginning to the present time. In the ten years past, it amounts to five millions of dollars, and this is besides her Arctic and Antarctic expeditions; it is also besides her trigonometrical surveys. This Bureau besides her trigonometrical surveys. This Bureau of Ordnance and Hydrography is misunderstood, or as to England misapplied. The ordnance surveys of Great Britain have no connection with the hydrographer's office or with the hydrographical surveys. The ordnance survey of Great Britain is a geodetic survey of the whole kingdom, carried on by the ordnance corps of the army. It has cost, in the same period, 1,500,000 pounds sterling, which is equal to about seven millions and a half of dollars. It has been in progress since 1791; and if we examine the cost officially reported, we are startled by the amount of expenditure which we meet. Economy, then, can be no inducement to exchange our system for that of Great Britain.

But it is said that the navy desires this work. It is said that they are mortified because the work is not confided to them. Now, Mr. President, what part of this work is professional to the navy? Can it be any part of the land work? Can it be the determination of latitudes and longitudes on shore? Can it belong to the seaman's profession to make topographical surveys? The hydrographical part of the work is now in the hands of the navy—is entirely confided to the navy. Why should we put officers and men of the navy upon other than that part of the work they are best able to perform? They are now engaged in surveying the shoals, marking their outlines, delineating the curves of soundings at equal depths, determining the limits and depths of channels, and the character of the bottom. These determinations are based upon the points accurately fixed by the trigonometrical survey of the coast itself. When the distance from the shore is reached, beyond which the sights from the shore cannot be extended, it becomes necessary to anchor vessels, and make them new stations of observation. All this work, and the observations of tides and currents, is executed by the hydrographic parties, composed of naval officers exclusively, under scientific superintendence.

If the navy, Mr. President, is (as has been said) unemployed; if there be any portion of it which ought to be employed on this coast survey, and is not, the superintendent has provided for them. He has thrown his bases wide over the coast—has divided the work into sections. It therefore lies ready, as the coast is surveyed, for such increase of hydrographical parties as the naval service will permit, furnishing employment upon a scale which could not have been reached if the work had been continued on a single base of operations.

But what truth is there in the idea that the navy is seeking this work and cannot obtain it? Why, sir, there is now an application to the Secretary of the Navy for a hydrographical party for Charleston. The Secretary of the Navy may grant the requisition. I do not doubt his willingness to do so, if the interest of the service will permit it. But I have heard of his complaining of the frequent draughts by the survey on the navy.

The officers of the navy have shared fully the honors of the coast survey, having received full credit for the work executed by them. Where is the channel that has been discovered by them, that does not bear the name of the officer of the navy who discovered it? Where is the chart, that does not show the name of the officer by whom the hydrography was executed? I have not seen one. Gedney's name is indelibly associated with the harbor of New York, and that of Blake with the new channel in Delaware bay. I know of no reputation which the officers of the navy could gain from a work of this sort, higher than that which they now acquire as a part of this great system.

By attempting, as under the law of 1818, to combine topography—work not at all professional to the sailor—with the hydrography, credit was lost, not won. The Secretary of the Navy, (Mr. Southard,) in 1828, referring to the charts produced, says of them, that "they are unsafe, and, in many instances, useless and pernicious." There must be a system, organization, and connection of the whole. In the emphatic language of Mr. Southard, "nor can such surveys be made without the aid of the means contemplated by the act of 10th February, 1807." Could this organization be obtained in any other way? Suppose an officer of the army charged with the conduct of the survey—would you require the officers of the navy to serve under him? If you place an officer of the navy in charge, then he must either take the highest rank in the navy, or confine yourself to those who are the juniors of your superintendent. Here is at once introduced the jealousy of rank which does not exist under the present system. You lose, thus, the services of officers otherwise well suited to the work, and who, in independent positions, under scientific superintendence merely, would be glad to serve. This I think to be a very great drawback to efficiency. But there are branches of the naval service now filled by civilians, and some of them positions of very high emolument, which appropriately belong to the nautical profession. The naval officer should be able to build a vessel, and yet civilians are employed in this work. Engineers are employed, and some at high salaries, in building docks, &c. Steam engineers from civil life are also employed. Why

should not the navy build the engines for their vessels, and direct the working of the engines which propel their vessels, as they would the sails? These are branches of the profession in which they can be employed, usefully and honorably employed, and which would not divert them from the proper pursuits of the sailor. But if an officer of the navy, of science and special information and rank, sufficient to carry on this great work, should be charged with it, how long would he continue in the post? An officer of professional enthusiasm, at the very first note of war, the first gun that comes booming over the sea, would disdain the functions of the savant. He would call for his sea-glass, instead of his telescope; his thoughts would be on the trunnions of cannon, instead of the pivots of observing instruments. His computing tables would be thrown from him, that his hand might grasp the sabre, and he stand with arms rattling about him, beneath his country's flag—upon his country's deck. If he would not do this, he would not be worthy to hold the station of an officer in the navy. Then, sir, in the hour of greatest need, he who had charge of the work would abandon it for service better filling hopes proper to his profession, and then you must seek a savant to superintend the work during war, and he must learn the organization of the establishment, under circumstances least favorable to instruction, and most demanding accuracy, activity, and efficiency.

But, sir, it has been asserted that our navy is idle and unemployed; that our present establishment is a war establishment; and that the annual appropriation of eight or nine millions is therefore an expenditure without adequate return.

Is the navy idle? With even the small force which we keep in commission, our ships are in the four quarters of the globe, engaged in maintaining the police of the seas, and in vigilantly watching over the interests of American commerce. Their presence everywhere arms the functionaries of the Republic with greater consideration and power of usefulness.

Is the navy unemployed? If so, increase the number of vessels in commission, for we surely cannot have an excessive number afloat while our trade with China is so imperfectly protected; when we have not a single vessel on the coast of Sumatra; while our merchant marine and whaling fleet in the South seas ask in vain for the arm of the American navy to protect them, and enforce discipline in lawless and discontented crews; while our fellow-citizens abroad have again and again been indebted to the courtesy of British naval officers for services which their own Government is bound, by every consideration of justice as well as pride and policy, to render.

Is the navy on a war establishment? This is most easily answered by referring to the fact that even during the late war with Mexico, destitute as that country was of maritime power, authority was given to our Executive to increase the naval force during hostilities. With the restoration of peace this authority was annulled, and the navy reduced to its former narrow dimensions. There is enough, and more than enough, of appropriate duty for all the navy which we keep in commission. Let it, then, continue in its legitimate employments at home and abroad, not be brought from its ships to labor on shore in the solution of problems in geodesy and magnetism, which are not even cognate branches of a sea officer's education. The sea is the element on which they are to serve their country in war—the element on which they should be educated in peace.

I think the Senator is mistaken in supposing that our naval officers are chagrined or mortified at not being intrusted with these uncongenial operations of the coast survey. They will, I doubt not, be far more gratified if he will extend the field of their labors upon the ocean, and open to them new roads to preferment in the line of their own profession.

The State by whose authority I am here, whose rights and interests it is my duty to guard and promote by all the power with which I am endowed, has much involved in the proper execution of this work, and she has claims of no common character to consideration for these interests. She has contributed without stint to support expenditures in other portions of the Union; she has seen the northern Atlantic coast the subject of special care, and rejoiced to see its harbors surveyed, its capes and islands crowned with fortifications, its shore glittering with light-houses and beacons, through storm and darkness to guide, to save, to welcome home, the canvas-winged birds of the ocean. But when she turns to her own coast, with winding channels and shifting bars and shoals irregularly presented, without charts of sufficient accuracy for the most common purposes of navigation, still less to determine where and how the hand of man may enlarge and render permanent the advantages of nature, has she not a right to demand, that this exact, scientific survey and investigation of her channels and shoals, and the great causes which may hereafter, as they have in times past, disturb and alter the one or the other, shall progress to its completion; shall bring to her door this the first contribution by the General Government to her commercial interests and maritime defence? Already this survey has made important additions to the knowledge of our Gulf coast; channels have been explored and delineated; new means of approach secured; the points for lights thus properly determined; the fact of changed depth in some of the most important avenues of commerce discovered and published; and now, when all seems hastening to a healthy maturity, shall we fell the tree with its unripe fruit to plant another, the product of which no one will contend can be better?

The interest of those whom I represent has prompted me to an examination more than ordinarily full of the organization and progress of the coast survey. In both I have found much to admire, of efficiency, economy, and order. Years of experience and patient toil, under men bounteously gifted by nature and rarely favored by education, have brought the system to its present state of perfection. Could I see where a pillar, a prop, a brace, a key, or a pin was wanting to the fabric, I should have pride in attempting to supply it, in coming to the aid of those past and present to whom the merit of construction is due.

We have been referred to the increasing appropriations for the survey of the coast, and this unconnected fact has been presented for the purpose of attack upon the conduct of the work. The value of the fact depends upon the relation of expenditure to product.

And now, Mr. President, what has been the result since the present superintendent took charge of the work? Five years have elapsed since his appointment, from which to gather an answer to the inquiry. It is due to the memory of the former eminent superintendent, that we should recollect that he took charge of the work when in its infancy; that it was necessary for him to organize the survey, to train up assistants, and to make a beginning in the introduction of geodetical science into our country. But what have been the comparative results?—for economy is not to be measured by the thousands of dollars provided in any one appropriation, but from the return for money expended.

In the letter of the Secretary of the Treasury, before referred to, we find that the expenditure for twelve years—1832 to 1844—under the superintendence of Mr. Hassler, was $766,134 18, the annual appropriations ranging from $20,000 in 1832, to $100,000 in 1843, as the work became organized and developed. The expenditures are less than the appropriations. The expenditure from 1832 to 1844, is $766,134 18; from 1844 to 1849, $579,250 32; the expenditure of money, as seven to five; time, as twelve to five. The work done in the last five years exceeds that in twelve preceding years. If in less time for less money greater results are obtained, shall we complain of increased annual expenditures? Is not this economy? Surely, sir, no one will contend against an appropriation which hastens to completion a work which is more valuable as earlier completed. It is said this coast survey will not be brought to a close in forty years. Upon what calculation does this assertion depend?

The length of our shore line is estimated at twenty-eight thousand miles. It is certainly beyond that, because there are indentations of the coast not shown on the charts by which we estimate. Now, the work done in the year 1844, compared with the work of 1848, will be about as one to two. The average of the last five years as one and a half to two. Upon this, then, we have the basis of a calculation as to when the work will be finished. The average, then, of the last five years is, to the work of 1848, as one and a half is to two; one-seventh of the coast, reckoning on the same maps from which the total shore line is estimated, has been triangulated in the last five years; in the next five years, at the same rate, we would achieve three-fourteenths—fifty per cent. over the latter. Then, in fifteen years, we should have finished nine-fourteenths; making, with one-third already accomplished, within a very small fraction of the whole coast. I do not say that in fifteen years we shall have no need of the coast survey, and that it is then to close. And more, sir, I hope it will not. In its progress, the parts of the coast which are liable to change will have become definitively known, and the work may then be employed in ascertaining the changing of the shoals and shifting of the channels, necessary to the benefit of commerce. Besides, sir, I hope to add yet further to our coast. I would be glad to include the shores of the Gulf of California as those of one of these States. I should be glad to gather in the Island of Cuba, so long desired. I should rejoice in the extension of our Union. I therefore speak of this term only as indicating the progress of the work; the time at which the survey of the coast on the Atlantic and Gulf of Mexico would be brought to a close at the present rate of progress. But, sir, our laws have been extended over a portion of the coast upon the Pacific, and we have made appropriations for building light-houses and placing buoys at the mouth of the Columbia river. To determine the places of these is an appropriate and necessary hydrographic service of the coast survey, and to commence the survey there, and render this service, parties have been despatched to the coast of Oregon, and not, as has been falsely stated in some of the papers, to California and New Mexico.

For the hydrographical survey a very accomplished officer of the navy was selected, and an able party was placed under his orders; for the survey of the shore, a party of civil assistants and officers of the army. It is worthy of remark, sir, that when the present superintendent took charge of the coast survey, he found that the officers of the army had abandoned the work—had become dissatisfied—and the Secretary of War had refused their aid on the terms upon which it was asked. The present superintendent, by avoiding a controversy which grew out of the requirement that the land parties should be equally divided between civil assistants and officers of the army, and by the judgment which he brings to bear on everything, has been able to draw them back to the work. When the war with Mexico broke out, he had eleven officers of the army thus employed; eight of them were taken away. He has applied for topographical engineers since the termination of the war—an application which has been laid over for the present by the chief of the Topographical Bureau, until he can determine whether officers are disposable from the other wants of that department. An application is now pending before the Secretary of War for officers of the line of the army to aid in the survey of the coast. In the last report on the coast survey to the Secretary of the Treasury, the superintendent expressed himself upon this particular point. He says:

"The number of officers and petty officers and men are regulated by the same department, on application from the officers of the navy commanding the hydrographic parties. These are transmitted through the Superintendent and Secretary of the Treasury as a matter of form; but the judgment of the officers is conclusive with me, and the requisitions are complied with or denied, at the pleasure of the Secretary of the Navy. The law requires that as many officers of the army and navy as practicable be employed on the work; and, independently of the desire to husband the direct appropriation, which I confess is a strong motive with me, and of the respect which I feel for the officers of both branches of the service, and of the gratification which official or private intercourse with them always gives, I am bound by the spirit, and even by the letter of the law, to apply for additional officers whenever they can be usefully employed on the work.

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"Under the law, the organization of the coast survey contemplates the employment of civilians and officers of the army and navy. This triple organization brings the scientific and practical training of civilians and officers of the army and navy to its aid; a more permanent nucleus is supplied from civil life than the wants of either the military or naval service could yield, while entire concert of action is secured under a central authority, the department in which

matters pertaining to the trade, commerce, and navigation of the country centre, in the name and by the authority of which the superintendent acts. The scientific details, which careful study and the action of many minds, viewing them from different points have matured, are made uniform throughout the work, and the whole proceeds according to a regular plan, carefully arranged, and having in view a definite result. The temporary character of the work is recognized as a cardinal principle, no permanent corps being organized to conduct it—a feature which has proved important in other works, and which, I doubt not, has its influence in this. Free scope is afforded for selection from the science of the country at large, or from either branch of the military or naval service, under the heads of their respective departments, of those whom ability, knowledge, and opportunity unite in recommending for the service.

"As soon as the arrangements of the army in its new positions permit, I hope again to have the services upon the work of such of the staff and line officers as can be suitably employed, and can be spared from their regular duties."

That is his application of the law—such his desire to have officers of the army and navy seeking for more than he is able to obtain.

The Senator has referred to an article in the plan of organization of the coast survey of 1843, which requires that chiefs of parties detailed from the army and navy should not be relieved from the work without notice to the department having charge of it, and this, he says, puts the entire army and navy under the Secretary of the Treasury. The Senator surely must be aware that the Secretary of the Treasury has no power to detail an officer of the army or navy for the survey, but that is done by the head of their respective departments. Nor can it follow, as a legitimate construction of the article, that the department having charge of the work could refuse to allow an officer of the army or navy to be withdrawn by the head of the department to which he belongs, but only that notice shall be given, that the Secretary may not be embarrassed by the withdrawal of the chief of a party, without an opportunity having been given to supply his place and to provide for the prosecution of the particular work of which he may have had charge. Still more strange is the construction which would place the "*entire*" army and navy under the control of the Secretary of the Treasury, from the employment of a portion of it in the survey of the coast.

The investigations involved in the coast survey are of the most abstruse science, requiring computations of the highest order of mathematics and physics, such for example as the problem indicated by La Place in the Chamber of Deputies in 1817, and which has received its first solution, for the pride of American science be it remembered, by the present superintendent of the coast survey. To determine the curvature of the earth, its exterior form, by the deflection of the plumb line, indicating the internal structure of the earth. This knowledge is essential to the exact determination of latitude, and therefore coupled most usefully and directly with the establishment of stations and with the accuracy of the survey. If there be officers of the navy, then, competent to this high reach of science, and, therefore, to superintend a geodetic survey, why do we not employ them to teach in the naval school? Why do we employ civil professors to teach midshipmen the elements of science? That seems to me far more professional than to undertake a work where the observations are astronomical or terrestrial—and the computations are for trigonometrical or topographical surveys, which can have no connection with their profession.

I do not know how far the navy complain of not having their full share of this work. You will always find persons in the navy, as in other pursuits of life, complaining of their lot as compared with that of their neighbors. Many are no doubt anxious to go to the Mediterranean—anxious to go to the Pacific, and to take command of mail steamers. Two of them have left the coast survey for this purpose very recently. All desire the most eligible positions, and but very few in any vocation are ever content. My acquaintance is very limited with officers of the navy. My conclusions are derived from the few, but are very decided that in this, as on more memorable occasions, they are ready to coöperate with the army and share with them the good and evil. One of them—at this time an assistant in the coast survey—who is an honor to his profession, and who, if there be an officer in the navy competent to take charge of it, is, I doubt not, the very one—always commends in the highest terms the present organization of the coast survey. He takes every proper occasion to place in bold relief the successful labors of the superintendent, and would most deeply regret to see him driven from his position, even for the benefit of an officer of the navy.

I am anxious, Mr. President, to pass over these points as rapidly as possible; but I cannot neglect the statement which has been made of the existence of a bureau of ordnance and hydrography in connection with the surveys of Great Britain. The surveys made by the ordnance corps of Great Britain correspond very nearly to those made by our topographical corps. Their ordnance surveys are like our topographical surveys. Their hydrographical bureau is for hydrographical surveys; and by not having the two connected, it follows that the ordnance corps establish their stations, make their topographical survey, and then the hydrographical party must establish their stations also, upon which their hydrographical survey is based. The stations being independent one of the other, each must take independent observations, which perhaps never correspond, and produce disagreeing maps of the same localities. The Senator says we have a bureau of ordnance and hydrography; but it is for very different purposes from those which he seems to attribute to it. It is to supply naval ordnance and munitions, to keep and issue nautical charts and instruments for vessels of war.

I have referred already to the expenditure of the ordnance survey of Great Britain; I will refer very briefly to their hydrographical surveys. I find for 1846, coupled with the hydrographical surveys, there are reported eighteen vessels, and these vessels of large tonnage—a large number of officers on board—a great many of them steamers—making the total tonnage upwards of 6,276. On the coast of England they have nine vessels, amounting to 3,201 tons, with sixty officers.

	Vessels.	*Tons.*	*Stations.*	*Officers.*
1.	Beacon	378	Mediterranean	12
2.	Blazer*	527	Harwich†	7
3.	Bonetta	319	Mediterranean	6
4.	Columbia*	351	North America	6
5.	Dasher	260	Portsmouth†	7
6.	Firefly*		Irish Channel†	7
7.	Fly	485	East Indies	12
8.	Herald	500	Pacific	10
9.	Lucifer*	387	Coast of Ireland†	7
10.	Pandora	319	Devonport†	5
11.	Philomel	350	S. E. coast of America	8
12.	Plover		East Indies	5
13.	Porcupine*	382	River Thames†	6
14.	Janarang	500	East Indies	12
15.	Shearwater*	343	Coast of Scotland†	6
16.	Sparrow	160	Coast of Scotland†	5
17.	Tartarus*	523	Coast of Ireland†	10
18.	Thunder	472	N. America and W. Indies	8
		6,276		139

* Steam-vessels.

† On coast of England, 9 vessels, numbering 3,210 tons, and with 60 officers.

On coast of United States, 8 vessels, numbering 1,732 tons, with 49 officers.

This is the great establishment upon which their surveys rest, extending far beyond their own coast, at an expense such as is always to be found wherever the work is turned over to a corps or a profession not dependent for either its reputation or support upon the achievement of the work.

In relation to the amount which has been stated of the expenditure made by the navy for the benefit of the survey, I have taken the trouble to collect some facts. I find that the Secretary of the Navy, in reply to an inquiry growing out of the call of the Senate as to the expenditure made from the navy for the benefit of the coast survey, stated it to be $192,000 since 1844. This does not include the pay of the officers of the navy, which they would be entitled to if on leave of absence, but the difference between the leave of absence and sea pay, as the only amount which can properly be chargeable to the coast survey. If it be supposed that they would not be on leave, but waiting orders, the amount would be less. The case therefore presents it in a most unfavorable form.

We find that the vessels employed were four schooners belonging to the navy; the rest either belong to the coast survey, or have been turned over from the revenue marine. The whole charge, therefore, which can be represented as an unseen contribution from the navy to the coast survey, is the use of four schooners. It will be recollected, Mr. President, that for the revenue service we built some steam vessels, and they were found wholly unsuited to the service, and after the most expensive, fruitless experiments, they have been turned over to the coast survey, and running at low rates of speed, they have been found to answer a very good purpose.

The great expense of these steamers, their inapplicability to revenue purposes, and the expensive repairs constantly required, rendered it desirable to the treasury to get rid of them. In the coast survey they require few repairs. The consumption of fuel is very small, and a saving by transferring these vessels from the revenue marine, and substituting sailing vessels, as stated by Captain Alexander V. Fraser, will be from three to four hundred thousand dollars, so that the treasury has lost nothing by transferring these vessels to the coast survey.

The Senator from Missouri [Mr. BENTON] used a table. I do not know where it was obtained. It makes an exhibit of the annual expense to the navy of the hydrographical department of the coast survey, and of the number of vessels employed therein by Professor Bache. In this table, it appears, there are two hundred and nine thousand dollars annual expense to be charged to the coast survey, which was drawn from the navy. Now, sir, I do not find that the vessels here stated are used in the hydrography of the coast survey. It does not appear that some of them have ever been there. The officers, stated to be ninety-four in number, are actually forty-nine. The "Jefferson" has never been used in the coast survey The "Gallatin" has been transferred from the coast survey to the revenue service temporarily in exchange for the "Ewing." Several of the vessels, viz: the Phœnix, Wave, Vanderbilt, and Walker? [Gerdes] are employed by the triangulation and topographical parties, and are sailed and manned exclusively at the cost of the coast survey. The cost of fuel and oil and contingencies is paid from the coast survey appropriation. It is not too much to say of this table that not one of the ten columns which it contains is correct. Its erroneous character will appear from the following tables:

List of the vessels used in the hydrography of the Coast Survey in 1848.

Names.	Class.	Where employed.	No. of men: Pass'd mid'n	Clerks.	Total.
1. Bibb	Steamer*	Nantucket Shoals	3	2	1	6
2. Gallatin	Schooner	Nantucket Shoals	2	2	1	5
3. Nautilus	Schooner	Long Island Sound and south shore of Massachusetts	3	3	1	7
4. Petrel	Schooner	Hell Gate and New York harbor	1	2	1	4
5. Washington	Brig	Chesapeake and outer coast of Maryland	3	5	1	9
6. John Y. Mason	Schooner	Chesapeake and N. Carolina	1	3	1	5
7. Legaré	Steamer*	Gulf stream and off shore Long Island	2	4	1	7
8. Walker	Steamer*	Mobile bay and Mississippi sound	2	3	1	6

* Schooners.

NAMES.	Number of officers stated in table of Senator from Missouri to be employed in hydrographical parties.	Number actually employed in 1848.	Error.
Legaré	10	9	1
Bibb	10	6	4
Walker	10	6	4
Jefferson	10	0	10
Washington	6	9	3
Ewing	6	0	6
Gallatin	6	5	1
Nautilus	6	8	2
Phœnix	6	0	6
Wave	6	0	6
Vanderbilt	6	0	6
Walker [Gerdes]	6	0	6
Petrel	6	4	2
	94	47	57

Error 50 per cent.

There are errors in the table in the number of vessels and the number of officers employed, making an expense of $209,000 for *one* year, when,

by the report of the Secretary of the Navy, it appears that in *five* years it was $192,000—that is, in five years it was less than the amount stated here for one; or, if you include the whole pay of the officers of the navy, it will be $335,000 for five years, as shown by the Auditor's statement to the Secretary of the Navy. Thus it will be about $67,000 instead of $209,000, per annum. At any event, the error is very great.

Official statement of the Fourth Auditor, showing the amount of difference between the sea-service pay and leave-of-absence pay of the officers of the navy engaged in the Coast Survey, from January 1, 1844, to December 31, 1848, the value of their rations, the pay of the crews of the vessels employed on the said service, and the value of their rations for the same period.

Sea-service pay of officers subsequent to January 1, 1844	$207,584 25	
Estimated leave-pay for the same period	142,757 16	
Difference	64,827 09	
		$64,827 09
Rations of officers for the same period		11,998 60
Pay of crews		81,953 00
Rations of crews		33,886 00
Total (five years)		$192,664 69

Note of entire pay estimated at highest rate, or sea-service pay, (five years)	$207,584 25
Rations	11,998 60
Pay of crews	81,953 00
Rations of crews	33,886 00
	$335,421 85

Connected with British hydrography, "in the four quarters of the globe," instead of ten, there appear to have been, in 1846, eighteen vessels, at an expense of £178,000. The question asked by the committee of the House of Commons of the chief hydrographer was in relation to his assistants in the bureau, who had no more to do with the surveying than the clerks in any other bureau. The surveys are made by naval officers, and the number of officers employed is not indicated at all by the amount of money expended, which is over and above their navy pay.

The following is a table of the expenditures for hydrography from 1847 to 1847:

Hydrography of Great Britain and Colonies.

1837-'38	£68,517
1838-'39	59,202
1839-'40	58,862
1840-'41	52,517
1841-'42	91,839
1842-'43	142,235
1843-'44	134,196
1844-'45	126,583
1845-'46	178,782
1846-'47	123,678

In the last two years an amount equal to the whole coast survey appropriation, and in ten years five millions of dollars. This is besides her arctic and antarctic expeditions; and besides her trigonometrical survey, which, from 1811 to 1847, cost £1,500,000.

The amount of expenditures for pay of officers and men employed in the hydrography of the coast survey, and which I have stated above, is to be found in the reply of the Secretary of the Navy to the Secretary of the Treasury—a document which I am sorry is not printed and in the hands of every Senator.

The salary of the superintendent has been referred to; and the whole answer to that is, that no salary has ever been fixed by law. It is a temporary employment. The annual compensation originally made to Mr. Hassler has been continued to the present day. When he resumed his work in 1832, there were about four years—perhaps five—when the amount of $1,500 claimed for superintendence of coast survey and weights and measures was not paid him. In 1836, however, the terms of the appropriation bill referring to the superintendent were used, and considered as covering the back pay, and the back pay of $1,500 per annum was given to him. His compensation to the close of his life was $6,000 per annum. The same rate has been continued, dollar for dollar, to the present superintendent. There has been no change in the compensation. The duty has changed only by increase of the time in the field. He still retains, under the same organization, the same amount of compensation. It can be varied by the President at any time. As this might cause the present superintendent to leave the employment of Government, it would be a serious evil, and in which the country would lose far more than the superintendent. In justice I should state, that the researches on hydrometers for the revenue, and on sugars, have been superintended gratuitously.

But the next position taken was, that these observations concerning latitude and longitude were invading the proper duties of the National Observatory. Now, Mr. President, two observatories, since the establishment of the telegraph wires, may determine difference of longitude with great accuracy. But how a fixed observatory is to determine the latitude of other places, I am wholly at a loss to imagine. The observatory can fix the stars; but, unless it is made locomotive, put upon wheels, and carried over the country, it can have no power to determine the latitude and longitude of places. But this observatory is to be made the receptacle of the coast survey, instead of tranferring *it* to the coast survey—the minor to the major part.

And is it reasonable, sir, that this observatory take charge of the determination of the latitude and longitude of stations on the coast, those observations upon which all primary triangulations of the coast survey must necessarily rest? Shall they wait until this observatory can go over the country and determine the latitude for them? The coast survey has employed observatories, as far as available, to make astronomical observations for stations: thus it could be done better than in temporary buildings, and at one-fifth the cost—that is, for about $200 a year; whereas it would cost about $1,000 to erect temporary observatories and provide observers. It is economy, then, to use these observatories; and when the law prohibited the construction and maintenance of an observatory by the coast survey, I cannot conceive that it prohibited the use of observatories, so far as it contributed to the objects and economy of the work.

It was to avoid, I suppose, connecting the Government with the establishment of such an institution, and its maintenance, that the prohibition was made. When, sir, observatories are erected and maintained, and offer facilities for observation, surely it could not have been designed to forbid their use for temporary purposes. If it was astronomical observations which were to be excluded, why then, sir; authorize the appointment of an astronomer? If astronomical observations are to be made, surely they should be made under all the circumstances which give the greatest accuracy. Nor is it material, so far as accurate determinations of *longitude* are concerned, whether this observatory be upon the coast or far in the interior; all that is required is, that the line of a magnetic telegraph should pass through it, and the observatory at Cincinnati is as available for determining the longitude of New Orleans, Charleston, New York, Boston, or Portland, as a similar establishment at either of those stations of the coast.

The advantages, Mr. President, of a mixed organization for conducting the coast survey are fully shown by the working of the present system. The army and navy are brought together by a harmonizing link, a head not supposed to be prejudiced in favor of either the one or the other. The superintendent of the whole lays down the plan, presses his land survey in advance of his hydrographical survey; and while the hydrographical survey, by observing points upon the coast, will test the accuracy and emulate the land parties, there can be no rivalry other than a generous one, there can be no jealousy between the two arms of the survey, no conflict of rank between the assistants and the savant who has charge of it, and binds the whole together by the fraternizing bands of science. The results are seen in the good feelings which have existed in the operations of this work, so far as I have learned, justifying fully the wisdom of the plan which was adopted by that Secretary of the Treasury who took the deepest interest in this matter, and who was the best qualified, probably, since Mr. Gallatin, to perfect the organization of the work. I now refer to the plan of 1843, and the regulations of the Hon. John C. Spencer. From that time to this it has continued. It is carried on now exactly under the organization of the original establishment, as modified by the regulations of 1843 and 1844; the superintendent operating more constantly in the field, being about three-quarters of the year in open air, living in tents and schooners, making his observations, measuring his angles, measuring with still more wonderful accuracy the bases upon which these observations rest. It was fortunate, sir, that this work, when it lost its founder, was transferred to its present superintendent—a man who, to the severest early training in science, combined simplicity, purity of character, and strict utilitarian principles, which he has always brought to those subjects intimately connected with the work. No wandering after vague problems, no seeking idle reputation by the discussion of questions which, however abstruse, were unconnected with the purposes before him; always intent upon the object—a survey of the coast—and to execute it according to the spirit of the law. He has brought his topography nearer to the coast, extending no further than the first high land or road, so as to limit it to the most narrow compass which would answer every purpose of navigation and coast defence.

Defence is certainly very intimately connected with the purpose of coast survey. Had Long Island been surveyed, and had we possessed a map of it during the revolutionary war, the difficulties which General Sullivan encountered would never have occurred. His letters to General Washington state that he was ignorant of the country. That want of knowledge of the country caused one road, which he did not know, to be left open. The enemy, informed of it, turned his position, made a feint in front, a real attack in rear, and defeat followed. The disaster which befel the army was the result of the want of a topographical map of the island.

And again, sir, to refer to the same period and locality: Had the bay of New York been known as well then as now, Count d'Estaing would have passed with his vessels of war into the harbor, and would have found the British without the power of effective resistance. Want of knowledge of that channel by the pilots sent to the French fleet induced their commander to abandon, as a hopeless object, an entrance where there was really sufficient water for the draught of his vessels. These are two great facts, and present their own application.

Now, sir, as the most minute accuracy is required in topographical maps to serve for military operations, anything which improves their exactness or legibility is important. I saw, in the office of the Coast Survey, two maps of New London and its vicinity—one of 1840, the other of 1847. In the first, two streams emptying into different bays had been considered one, and the officer who should have landed upon the coast and projected his operations by the first map would have fallen into a fatal error; and if in presence of an adversary better informed than himself, must have been defeated.

Nothing, sir, could have been a greater error than to suppose that the present superintendent of the coast survey would prefer to be a bureau officer; he is a man of science, a practical astronomer—delights in the days and nights passed in the field of observation. If an attempt was made to reduce him to the condition of a mere bureau officer, he would assuredly resist it.

Shall it be objected, sir, to this coast survey, that it has attained the highest scientific character, at home and abroad? That is with me a great object of pride and of gratitude. Nor, sir, has there been one scientific discovery, so far as I have been informed, upon the coast survey, which has not had direct and almost immediate application to the work. The bars for measuring bases give a good illustration of this. It was found that the best compensating bars which existed were liable to unequal expansion by heat during change of temperature. The compensating bars are of brass and iron, and these two metals have unequal capacities for heat and unequal conducting powers. In the base apparatus, made by the present superintendent, under his orders, the bars are so proportioned in mass as to heat in equal times, the surfaces being covered by a varnish, so as to render the absorption at the surface the same, or nearly so.

In former base bars, when the temperature was rising or falling, it was found that one would absorb heat more rapidly than another, and thus produce a variation in the length; whereas it should be constantly the same at all temperatures. To the present superintendent of the coast survey, it is due to say, that he has brought this problem to

a complete solution. He has, by changing the mass of one or the other metal, in a certain proportion, obtained a constant expression of length, with the exception of a small residual error; and he has even corrected that minute residual error, which had been shown by experiment still to exist, by the use of different pigments, so as to increase the absorptive power of one of the metallic surfaces. The equilibrium is now so perfect, that in a base six miles in length the maximum variation has been found from experiment to be so small a fraction that I fear to state it—I believe it is less than five-tenths of an inch.

He has also introduced another great improvement, namely, the process of electrotype multiplication of plates for the printing of the charts without wearing out the original engraved plate. It is a most beautiful application of an invention which only men of science could ever have understood, and still less have improved to actual use.

The remark has been criticized, though I think it was well said by one of the most distinguished assistants of the coast survey, that it has its mission of science; and happily has this mission been connected with useful purposes in this survey. When sounding for deep channels and samples of bottom, the earth was found to be filled with organisms; and when naturalists observed that different organisms were found in the different depths of the sea, as different animals at different heights of the land, one would hardly have seen how immediately this was to be connected with navigation; and yet it has been so far followed out, as to give good reason to believe that we shall find families to be classed below as above the great level of the earth; and that, finally, a hydrographic chart may be constructed which shall give us, by the nature of the organisms, a new mode of determining the longitude of the vessel as she approaches the coast. The latitude is always most easily determined by a vessel at sea; and if the longitude can be ascertained, the position is exactly known. If this can be learned, therefore, from the appearance of the bottom, by the aid of the lead, a great portion of the danger in approaching the coast is obviated. But the captain is relieved from the apprehension of any errors when he sees the whole line of coast before him, as presented in its bold topographical character, so as never to be mistaken.

By constant soundings of the sea, charts of the bottom so accurate may be made as to enable the vessel, when she approaches the shore, by the lead, to inspect the ground over which she sails, as by the glass to examine the appearance of the coast. These elements, added to observations for the latitude, determine the position without the possibility of a doubt as to the shore she is upon, what coast she is approaching, what channel she is in.

It is always a high astronomical problem to discuss the tides, and currents dependent upon the tides. This problem is now in the progress of a solution, which will throw new light upon this subject, and give an additional advantage to commerce which could not have been otherwise derived.

In a particular part of the main ship channel in the harbor of Boston, for example, this singular phenomenon is presented: that there is but one quarter of the ebb tide in which the current sets out of the harbor. In all others, the current runs in, ebb or flow; so that a vessel passing out to sea on the ebb would, on reaching this part of the harbor, find the current adverse. These are facts which, though of great value to the mariner, it requires careful and well-directed observations to explore. The whole system of observations on tides and currents in the coast survey has been greatly improved, and the mode of discussing the observations brought to considerable perfection.

Then, too, sir, systematic observations have been made upon that great phenomenon of our continent, the Gulf stream. It is somewhat remarkable that Doctor Franklin, about the year 1760, first observed the change of temperature in that Gulf stream, and indicated its application to useful purposes of navigation, and that it now falls upon his descendant—and one worthy to be a descendant of him whose common-sense taught him the most difficult lessons of philosophy, and placed him in advance of the age in which he lived; whose science was of that daring kind which brought Jove's bolts from his charged battery, and held them by a silken string; so useful, that it lives on the cottage roof and in the parlor fire-place; so permanent, that his name is known where wisdom is honored and virtue respected—somewhat strange that this problem, first marked out by him, should descend, for its solution, to the present superintendent of the coast survey, the great-grandson of the original discoverer, and that the most extensive observations should have been made by a brother of the superintendent, a gallant sailor, who, devoted to the honor of his profession and the duty in which he was engaged, lost his life in the exploration of the character of this phenomenon, and left behind him labors which have not yet been properly appreciated.

Here is another element by which to determine the longitude of vessels approaching our coast—the temperature of the water. When the line which separates the cold water near the coast from the hot water of the Gulf stream, shall have been accurately laid down, the approximate longitude will be known by an observation of the thermometer. This requires careful and repeated observation to fix the limits of change of temperature by season and in different years. The high temperature of this ocean stream, and its ceaseless flow, render its position of primary importance to the navigator near our Atlantic coast.

I must not, Mr. President, dwell upon the great number of discoveries of channels, sunken rocks, shoals, and bars, every one of which may, in a single hour, save to the commerce of the country more than the whole coast survey has cost from its commencement. Many of these shoals, if accurately laid down in previous nautical charts, would have saved the wreck of vessels; by which, from the mere duties upon the goods wrecked, we lose more than would have been sufficient to furnish a complete survey of the portion of the coast where these disasters occurred.

The maps are in rapid progress of publication. The present superintendent has issued twenty-one distinct maps, and a large number of copies have been printed and distributed, a number of preliminary sketches have been prepared, to give the earliest information to the public, to show a channel or harbor useful to navigation and beneficial to commerce, or a shoal or rock to be avoided.

Now, Mr. President, after this long term of years, and when this minute examination of the coast has been extended continuously from the southern limits of Maine to the northern limits of Virginia; when the work is going on in seven of the nine sections into which the coast has been divided; when five bases have been measured, and the work is progressing in every State but one on the Atlantic and Gulf of Mexico; when we of the extreme South, who have contributed to its support, are about to derive some advantage from it, what justice is there in abandoning it, and going back to the exploded scheme of a nautical survey, which has once failed to furnish such maps and charts of the coast as we require? I have the evidence before me from insurance companies, chambers of commerce, scientific associations, all bearing the highest commendation to the mode in which it is now conducted. It has been submitted to the closest scrutiny of scientific men, and has obtained their approval. Then, sir, I ask, can we abandon a work bearing such useful fruits, fruits so honorable to the commerce of the country, at a time when its abandonment would operate so unequally to different portions of the Union, and resort to that which has been tried, fully tried, and which has been found to contain the inherent element of its own destruction?

Mr. DAVIS, of Massachusetts. Mr. President, I think that some unintentional injustice has been done to Mr. Hassler, former superintendent of the coast survey. I do not suppose that any gentleman has intended, by the comparisons which have been made, to make any reflections upon the character of the former distinguished superintendent, now deceased. But two learned members of the Senate have seen fit, in the course of their observations, to compare the work of the late Mr. Hassler with the work of the present superintendent; and when you come to compare dollars and cents with the amount of work which has been accomplished for dollars and cents, the balance seems to make against Mr. Hassler and his operations. Now, there are very obvious reasons for this; reasons that do no injustice to the reputation of that distinguished mathematician. He came, as was justly observed by the honorable Senator from Mississippi, into this work when it was green—I think that was the expression used—when there was in this country no knowledge of triangulation. The instruments which are used for that purpose were not to be found in the country; and one of the first acts of this gentleman was to go abroad, into Europe, to obtain the necessary instruments to prosecute the survey. Well, the men that were taken into his employ when he organized the work, when he put it in operation, were men with no acquaintance whatever with the business which they entered upon. He labored under all the disadvantages incident to this state of things. He had to train, to discipline, to educate the men that served under him. The force that was under him was greatly inferior to that which is now employed by the present superintendent. Under these circumstances it reflects no dishonor upon the memory of Mr. Hassler that he was not able to accomplish for a given sum of money as much work as has been accomplished by the present superintendent. Sir, there is no man that has ever been employed by this Government who devoted greater energy to the business in which he was engaged than that lamented individual; and I hazard little in saying that there are few men who equaled him in the great attainments of knowledge with which his mind was stored. He has prosecuted with eminent success both the branch of weights and measures and of the coast survey.

Now, sir, one word in relation to the survey itself, and I will leave the subject to the Senate. I intend to cast no reflection on the present incumbent. I am willing that he should have the full benefit of the remarks and observations which have been made in regard to him and his high qualifications. But, sir, what does the country want in the coast survey? They want a very useful work done, a very important work done, and they want it done in the best manner. It is not purely a question of science. It is not a mere matter of knowledge and reputation to the country; it is a thing in which the business of the country, the great interests of the country, are deeply involved. We wish to obtain some knowledge of the coast of the United States; we wish to diminish the hazards of navigation; we wish to diminish the expense of transportation; we wish to place means in the hands of navigators which will save human life from the perils which surround it. That is what we wish to do. Now, is there any means—and I appeal to the honorable Senator from Missouri whether there be any means so effectual for this purpose as the triangulation of the coast? Why, sir, it is not only the most accurate, as every man knows, but it is altogether the most permanent and useful. It is, I admit, very expensive; it is very slow in its progress; but it is necessarily so. These were the very difficulties which surrounded Mr. Hassler in a preëminent degree.

The country was unacquainted with the science which belongs to this subject; they were unacquainted with the reasons of the slow progress which belong to it; and therefore they thought that it was in consequence of the inefficiency of Mr. Hassler; and that was the reason why he was dismissed from that service. But a change took place in the public mind, and he was recalled to do over all those things, and the country understood his merits. Now, does it pass through the mind of any Senator how many days, out of the three hundred and sixty-five in a year, observations can be made? Sir, I know something about this business. At the time the coast survey was committed to the hands of Mr. Hassler, we were carrying on a triangulation in the State of Massachusetts, with a view to get a map of the State; but we found, for reasons which I need not here explain, that it was best for us to dismiss the individual who had the superintendence of that survey; and the Commonwealth of Massachusetts at that period, which was about the time when Mr. Hassler resumed the coast survey, found it impossible not only to find the instruments in the country, but to find an individual, except this same Mr. Hassler, whom

they deemed competent to carry on the work in the manner it ought to be performed. Nobody could be found capable of performing it, until it was finally intrusted to the hands of a self-educated individual, who has accomplished it very well, in a manner very satisfactory, and creditable to himself. He was taken out of the mechanic's shop for that purpose. That shows the great difficulties which Mr. Hassler had to contend with, not only in these operations, but in regard to public sentiment, which was uninformed on this subject. They could not comprehend that there were only a few days in a year in which observations could be made. They could not comprehend that there was not a single man in the Commonwealth of Massachusetts who could repair one of these instruments. These difficulties surrounded Mr. Hassler at every step which he took, and they are apology enough for his not accomplishing as much for the same sum in dollars and cents as the man that followed him.

But, sir, to return from this digression. I say that we want to know the topography of the bottom of the sea; we want to understand precisely where the headlands are, what is their latitude and longitude, where the reefs are, where the channels are, and we want to understand exactly what the character of the bottom of the sea is when we go upon the soundings of the waters. These are the only guides which sailors have when they come upon the coast, and if there be an error in the latitude and longitude of light-houses, headlands, or islands, the sailor brings with him in his ship the reckonings which he has made at sea, and if those reckonings be correct, the consequence of a light-house being a degree or half a degree, or a quarter of a degree, or a few miles out of the way, is oftentimes disaster, necessarily disaster. And let me say, sir, what is well known to be true, that disasters have often occurred upon this coast in consequence of the erroneous statements of the latitude and longitude of the light-houses upon the shores. Some of them are known now to be placed in erroneous positions, and I remember very well that a friend of mine went some years ago to France. At that time the Senator from Alabama [Mr. KING] was upon the Committee on Commerce, which recommended the bringing in of lenticular lights. My friend, an officer of the navy, to whom was intrusted the duty of procuring these lights, informed me after his return that he went into the Bureau of Charts, and they were there—rather a singular coincidence—examining a chart of the seacoast of Alabama, and they found it impossible, from the data which they possessed, to reconcile the latitude and longitude of the coast. They found the position of a light-house located some eight or ten miles in the interior. Now, sir, these are very dangerous errors, and we want charts of the coast which fix with great accuracy and precision the latitude and longitude of all the light-houses, all the headlands. It is indispensable to the safety of navigation, not only to the safety of our public ships, but to our civil marine. It diminishes greatly the dangers of the sea, and it is very important that a work of this sort should be thoroughly and well executed, if done at all. It is perfectly evident that the course now pursued is altogether the best one, that the highest degree of accuracy is obtainable by it. All scientific men know this, all men who have attended to this subject very well understand it. We are now called upon, under these circumstances, after having gone on for a series of years to make appropriations for this purpose, to stop its progress. I have no desire to stop its progress; far from it. I am desirous that it should be prosecuted to its end, that accurate charts should be obtained for the great purposes of navigation.

Whether this work is carried on in the most economical and best manner is a question which I shall not undertake to settle here, on a motion of this description. If there be any just grounds of complaint in this regard, it seems to me very clear that an appropriation bill is not the place to take them up and discuss them. They should be made the subject of distinct and deliberate inquiry in some other way. If the Senator from Missouri or any other gentleman thinks that this is a matter which ought to be inquired into, which ought to be examined into—that there is any want of fidelity, skill, or energy in the prosecution of this work, let us take it up in a proper way; but let us not undertake to stop the law by stopping the appropriation. It seems to me that the interests of this country would greatly suffer in such an event, and I trust such a measure will not be adopted. I hope, therefore, that the amendment will not prevail.

Mr. BENTON. The Senator from Massachusetts has touched upon a point which has struck me with great force. A parallel has been run by gentlemen between the amount of labor performed under Mr. Hassler and under the present superintendent of the coast survey. It was entirely unexpected to me to see any such parallel run between them, for I had never alluded to it, nor did the greater or less amount of work done by either of those gentlemen enter at all into the reasons which induced me to make the motion that I have made, nor had the slightest effect upon my course in relation to it. I never thought of running any parallel between them. It was another question. It was not upon any supposition of more or less work done by the present superintendent, nor of more or less ability brought into it—not at all.

Mr. DAVIS, of Massachusetts. I beg to inform the honorable Senator that I did not refer to his remarks.

Mr. BENTON. I agree perfectly with the Senator from Massachusetts in what he has said; and what I am now saying is, that I myself did not say anything, so far as I can possibly recollect, which should have given rise upon the other side to the running of a parallel or a comparison between Mr. Hassler and the present superintendent, for the purpose of showing the superiority, a greater worthiness of the latter. I know of nothing which should have given rise to this, for no such view of the subject ever entered into my mind. This subject is too large, in my mind, to be treated as personal. Sir, I have nothing to do with persons. But the parallel has been run with respect to money, and the amount of labor done, and the Senator from Massachusetts has well answered for that man of profound science and simplicity of character. The Senator has well answered for him, when he has spoken and represented him as taking up this subject from the beginning; as having not only the whole subject to study, but having to go to Europe, and there himself remain and superintend the construction of the instruments which would be required.

And the Senator from Massachusetts has done more. He has touched another point which is vital to the comparisons between those two gentlemen, if comparisons must be had. He has touched upon the small number of persons employed by Mr. Hassler, the small number of vessels which he had under him. And a little further examination into the table would show, that of the small appropriations made for this work in Mr. Hassler's time, the sum of $96,000, in a period of four years, relapsed into the treasury of the United States—went back into the sinking fund on account of remaining two years unused by him. I mention this to show that he had not force to use up the small amounts appropriated to him. Ninety-six thousand dollars went into the surplus fund in the space of four years, because he had not force to use it. And a comparison of the amount of work done under him is instituted with that done now, when the appropriations are double what they were in his time; when the number of vessels is also double, and more than double; and when the number of assistants employed by the present superintendent is unlimited. I believe the largest number of vessels Mr. Hassler ever employed was four. The present superintendent has had thirteen vessels in his employ, if not seventeen or eighteen.

Certainly, sir, I did not come prepared to sustain an argument upon this subject. I did not look for such a state of things. I looked to nothing that was personal either to Mr. Hassler or to the present superintendent. But the comparison has been run. Mr. Hassler is dead. The dead and the absent are always in the wrong. So it fares with Mr. Hassler. He gets the second place in the comparison.

Mr. DAVIS, of Mississippi, (interposing.) Mr. President, I am very sorry to be misunderstood, so far as my remarks are concerned. If I was not complimentary to Mr. Hassler, I certainly intended to be so. If I did not state the difficulties which he encountered in organizing a new work, in instructing his assistants, and in conducting the whole matter of this geodetic triangulation in its infancy, I failed in my intention. Such was my intention, but I did not intend to draw any invidious comparisons. I was comparing appropriations which were expended, not the money which went back into the treasury, but the amount actually expended—dollars and years of work. Mr. Hassler organized this work, and the present superintendent took it up where he left it, and has faithfully carried it on. Both gentlemen deserve great praise, and they both have received it, and will continue to receive it in just proportions.

Mr. BENTON. I was speaking, Mr. President, of the very material fact that Mr. Hassler had only one-fourth or one-third the force that is now employed on this work. But I am taken entirely by surprise in seeing this subject treated as a personal affair—personal to the present superintendent—and the labors of gentlemen are brought out to vindicate his character, to exalt his character, and to make the general manner in which we are to carry on this coast survey depend hereafter upon what is personal to the present superintendent. Sir, I have never made any reference to persons. I utterly disclaim all such things, and I am not conscious of having uttered one single reason for putting this survey into the hands of the navy which has a personal reference to any one connected with it. I am not sensible of it.

But, Mr. President, I looked at the great fact that we have a navy which costs nine or ten millions annually, and doing nothing. And I have looked at the great fact that England has a navy greater than ours, and is engaged in a coast survey at home and abroad—for all her returns upon the subject are entered under the two heads "at home" and "abroad;" that that Government has surveys going on in the four quarters of the globe, and that she carries on the whole by her navy—conducted by a hydrographer, under the Lords of the Admiralty, who is himself a naval officer. In this way are these surveys carried on in that mighty empire, whose commerce and whose naval establishment so far transcend our own. All her coast surveys are carried on by her naval officers. And it is sufficient for her thousand ships of war; and cannot our naval men provide for our seventy or eighty vessels? If it is sufficient for her ships of commerce, cannot we provide for the safety of our own? Sir, the surveys of the coast conducted by the naval officers of Great Britain are such that that empire is willing to trust the safety of her commerce and her military marine upon it; and I apprehend that nation never did exist, nor ever will exist, more careful of her marine, both commercial and military, than Great Britain is.

Mr. President, Senators have entirely mistaken the whole object of my motion, though I endeavored to make it intelligible. It is not to stop the survey of the coast. Far from it. The reverse of it precisely. It is to accelerate it. It is to carry it on, so as to bring it to a conclusion. To conclude it for the living generation as well as for the unborn. Forty years have we been at it. No one presumes to say we will finish it in forty years to come. We took thirteen vessels from the navy last year; why not take thirty or forty this year—take all that are fit for the purpose? A great number are not fit for the purpose, but the small vessels are. Why not turn the unrestricted force of the whole navy upon this survey? Why, my motion, instead of stopping the surveys, is to terminate them in some reasonable time, by bringing them to a conclusion, so that the nation may have the benefit of them. This is my motion; and, Mr. President, I made that motion on this occasion for the purpose of bringing up the question, and of knowing what is the reason that the navy of the United States cannot be charged upon this coast survey? The great object which I had in making that motion was to bring up the question and get it answered. What is the reason that our navy cannot do this work, done in Great Britain, not only for herself, but all over the world? What is the reason? Is it for want of numbers? I believe our navy has grown up to eight or ten thousand men. Is it for want of ships? We have seventy or eighty. Is it for want of money? We employ eight or nine millions annually in the navy. What, then, is the

reason? There is no war, no pirates, no object anywhere calling the navy abroad to engage in it. What, then, sir, is the reason, that this large naval establishment—for, take notice, we have no peace naval establishment, it is all warn aval establishment, whether there be a war or not—what is the reason, I ask, that the navy cannot do this work, which is not only done in Great Britain, but all over the world? What is the reason? We have come to the reason, sir. The navy is incompetent. I have brought out the reason, and it will now go to the navy, and to the American people, that the only reason that can be given for keeping up an establishment of this kind—for which $186,000 are to be voted this year—is the one that has been given, the incompetency of the navy.

Sir, I do not admit the validity of that reason. Viewing our naval officers and men as being so many American people—I believe there are nearly three thousand officers—viewing them only as a mass of the American people set aside from the rest, and devoted to that profession—I will say that in any body of Americans, three thousand of them—lay off the diagram where you please—there will be found in these three thousand persons men competent to do everything done by man, whether of the head or of the hand, whether of the heart or of the body. You will find in every section, in every mass of three thousand men over the whole extent of our country, no matter where your diagram falls, men competent to do everything that man can do. I do not believe at all that this thing is exclusively possessed by any one man. I do not believe any such thing, sir; I believe that mind is distributed; I believe that the Great Author of our being has been kind enough to distribute mind; and I believe that He has distributed far the larger portion of it to the white race. And I will go further and say, that I believe that the American people are the most ingenious, the most adventurous, and the most intelligent people upon the face of God's earth; that they develop more than any other people upon the face of the earth—resulting more, perhaps, from the nature of our institutions, and the freedom which every mind enjoys to exert itself in every possible form.

I do not admit the incompetency of the American navy to survey the coast of the United States and islands; that is the work they have to do. The work that was intended to be done was a work tangible and visible; a work upon the earth and the water; a work for the benefit and safety of navigation and commerce; a work to save the lives of mariners; a work to save vessels from shipwreck. It was a practical work, for the benefit of commerce and navigation; and your coast survey, as intended by the acts of 1807 and 1832, rests precisely upon the principle that the internal improvement of the great rivers and harbors rests. The principle which has sustained the coast survey, according to the acts of 1807 and 1832, sustained the improvement of the great inland rivers and lakes. The principle is the same, and, apart from that principle, you have got nothing.

My objection to the coast survey, at present, is that it has gone into the survey of the heavens, not merely to determine the point under consideration for the moment, but the general business of astronomy; and, besides that, it has gone into the general business of geodesy—the face of the earth and the air is to be surveyed by them in addition to the coast survey.

Now, sir, I do not admit the incompetency of the American navy. I demand for them not a hearing such as I can make, but a trial before they are condemned. Are we to admit that Great Britain has found in the person of Francis Beaufort, rear admiral, an officer who for twenty years has conducted the coast, survey, not merely of her own islands and possessions in the four quarters of the globe, but of all other countries with which she has either war or commerce, and that we cannot find any one in our navy to do it even for our own use?

But Senators seem to look upon my motion as an attack upon this system of measuring and surveying the coast by triangulations. Why, sir, I am very much in the condition of our volunteers in battle, who, on attacking a position, run upon a cannon and seize it with their hands, because they know of no other way of taking it. I am very much in that position. I did not know that there was any other way of carrying on a survey except by this system of triangulation; but a little inquiry has convinced me that there was formerly another mode in use, the chronometric; and at the time of Mr. Hassler, it was a great question which of the two was preferable. After considerable experimenting he adopted the system of triangulation, and that has been followed ever since. I find, in reading an account of the hydrography of Great Britain, that the chronometric mode is never now mentioned. It is triangulation forever and ever, and nothing else. But really, so far from thinking of abolishing the method of carrying on the survey by triangulations, I was for the time ignorant that there was any other method. But there was formerly. I believe that the system of triangulation is adopted throughout the world. France had it in her coast survey. Great Britain has also adopted it. It has been established for us by Mr. Hassler, and in any comparison that may be drawn between him and his successors for all time to come, he ought not to have the second place assigned to him, whether in amount of work done, or money expended, or for his profound science, or for the amiableness and simplicity of his manners. He is the father of the coast survey. There can no comparison ever be drawn in which he shall have the second place in any point whatever. It was, therefore, surprising that I found these parallels run, and the immensity of labor the gentleman went into for sustaining one side.

Mr. President, it is late. The time has come for voting. I have undertaken to make the question for the American navy and the American people, why they cannot do this work. That question is now met, and the answer is given on this floor, "incompetence." That word shall go home to the navy and the American people, and we will see whether or not we are to keep up an establishment upon personal considerations—keep up an establishment now costing one hundred and eighty-six thousand dollars per annum of direct appropriation, besides those which come in incidentally—whether upon personal considerations we are to keep up an establishment of this kind, while we have a navy costing eight or nine millions a year, comprising seventy or eighty vessels, manned by eight or ten thousand men, actually without employment. Why cannot we make them available? The question is now met. It goes forth, and the navy will have to answer for themselves. I affirm their competency, and demand for them a chance; and especially, after what has been said here; I demand for them a chance to show their abilities for the execution of this work, to take a higher part in it than the mere hewers of wood and the carriers of water, for that is the only business to which they are applied.

Sir, the naval officers employed in this business are not seen; they may put their names upon a channel, perhaps. But the whole argument turns on their competency to conduct the business—not to perform the details of it—but their incompetency to conduct it. Upon this point I am now ready to let the question go to the navy and to the American people.

Mr. PEARCE. Mr. President, I would not have troubled the Senate with any further remark upon this subject, but for that which fell from the Senator from Massachusetts, [Mr. DAVIS,] and which was endorsed by the Senator from Missouri, [Mr. BENTON.] The Senator from Massachusetts seems to be apprehensive that it was intended by me and another gentleman who has spoken upon this question, to institute a comparison between Mr. Hassler and Professor Bache, to the discredit and reproach of the former. Sir, I expressly disclaimed——

Mr. DAVIS, of Massachusetts. The Senator will pardon me, but I said I did not suppose there was any intention whatever to reflect upon Mr. Hassler.

Mr. PEARCE. I expressly disclaimed it the other day—certainly I intended to say that Mr. Hassler, having commenced the operations of the coast survey, had all the difficulties to surmount which are incident to the organization of such a great work. And I did not desire to make any comparison unfavorable to him, but there was necessity for such a comparison. There were statements made on this floor which rendered it necessary. There was that said on this floor by the Senator from Missouri, which he has probably forgotten, which made it necessary. And there were comparisons made elsewhere, and brought to the notice of members of this body which rendered it necessary. I remember an article, a most calumnious article, and unworthy to be received into the columns of such a highly respectable journal as Hunt's Merchants' Magazine—an article prompted by the basest and meanest of motives, and abounding in falsehoods—this article had been submitted to the notice of the members of the Committee on Finance of the Senate for the purpose of influencing their action upon this very subject, and I know that it prejudiced the minds of some of them for a short period. That was not all. I found the Senator from Missouri instituting, as I thought, a comparison of the work under Mr. Hassler and Mr. Bache, which certainly was not calculated to prepossess his hearers in favor of the latter gentleman. Here is his language. After giving us the acts of Congress under which this work was organized, and after showing how contracted was the sphere of operations which those acts of Congress contemplated and described, he says: "This is the way the act was understood and acted upon in Mr. Hassler's time. How is it now?"

Now, sir, I understood that as being a comparison of the proceedings by Mr. Hassler and the proceedings by Mr. Bache under those laws. I understood it to be, in fact, if not in direct terms, an assumption that Mr. Bache has extended this work to such a degree as to have violated the law, within which Mr. Hassler confined himself.

Then I found the Senator from Missouri reciting the expenses, the great number of assistants, the great number of vessels, and giving the appropriations. And then again he has called attention to the fact, by way of discrimination, that during Mr. Hassler's time there was $96,000 of the appropriations carried back or refunded to the treasury of the United States. By the way, I would remark that not one of these was subsequent to 1826. The moneys were refunded during the years 1814, 1819, 1822, and 1826. Mr. Hassler had no control over the work, either in the year 1822 or 1826. There must have been special appropriations, made under a different system entirely. In the years 1809 and 1814 seventy-nine thousand dollars was carried back to the surplus fund. Not a single dollar was ever carried back to that fund during the period when Mr. Hassler was engaged in active operations.

Again, I found the Senator from Missouri giving a statement of the appropriations from 1807 down to the last year, and making remarks on the increase of expenditure under Professor Bache. Was not this a matter of contrast and parallel? Did it not compel those who knew Mr. Bache to speak in his defence? As highly as I esteemed Mr. Hassler—and I do not mean to detract from his great and undisputed merits—I will not admit that Mr. Bache is his inferior: I will not admit that Mr. Hassler, distinguished scientific man as he was, foreigner as he was, was a whit superior to the grandson of Franklin, a native-born American citizen. I need not undertake to show that Mr. Bache possesses as high claims to science as Mr. Hassler, nor need I attempt to show the efficiency and economy with which he has applied the appropriations intrusted to his care. These are all well known.

Let me call the attention of Senators, who may perhaps have been unintentionally misled to believe that, under the superintendence of Mr. Bache the appropriations have been enormously increased, to the facts. I will compare an equal period of years. I will take, for example, the appropriations made from 1838 to 1844, six years in Mr. Hassler's time, and compare them with those made during Mr. Bache's five years, from 1844 to 1849.

In 1838 the appropriation for the coast survey was $90,000; in 1839 it was $90,000; in 1840 it was $100,000; in 1841 it was $100,000; in the years 1842 and 1843 it was the same. In the year 1844, the first year of Mr. Bache's term, the amount appropriated was $80,000. In 1845, the second year of Mr. Bache, it was $100,000, which is no more than the amount appropriated in Mr. Hassler's last year. In 1846 we appropriated $111,000, a very small increase. In 1847, we appropriated, not double the appropriation for Mr. Hassler's last year, as the Senator from Missouri seems to suppose, but $146,000, being just forty-six per cent,

increase. For the last year, 1848, we appropriated $165,000, being sixty-five per cent. increase over Mr. Hassler. There has been no such extraordinary increase of expenditure as the Senator from Missouri seems to suppose. But, sir, these comparisons having been instituted by the Senator—and they are either comparisons or they are nothing—it became necessary for those who knew the merits of Mr. Bache, and the value of that work which he is prosecuting with such distinguished ability and success, to show that, though the appropriations have been increased during his time, but not at all to the extent supposed, the results had increased in an equal and, indeed, greater proportion. And it was but justice to him, and no reproach to Mr. Hassler, to show that the results increased in a greater proportion than the expenditures, and the data which have been exhibited show to the Senate that is the undeniable fact.

Mr. President, I, no more than the Senator from Missouri, desire to see this work continued for personal considerations. There cannot be personal considerations in such a case as this. This is an expenditure which calls upon the patriotism and the good sense of every American Senator. It appeals to national feeling and public duty, and he who would suffer personal considerations to influence him, in a case like this, is unworthy of a seat on this floor, or the society of honest men. Sir, I have entertained no such idea. The Senator from Missouri asks, who can compute the period of time that will be required to complete this survey at the present rate of progress? It will not, he thinks, be closed in forty years. Sir, it has been computed by naval officers engaged in this very survey; it has been computed that in fifteen years the work may be completed, and I believe that, if Congress will make the appropriations necessary, it will be completed in that time, and so completed that the work will compare advantageously with similar works in any other country.

The Senator asks why it is that the navy are incompetent to the execution of this work. Sir, I did say that they were generally incompetent to the more difficult and scientific operations of this work. I repeat it, and I have not the least fear that I can be successfully contradicted. I do not mean to disparage the navy, neither do I mean to court the navy, or any other branch of the service. I know there are many men in the navy of great general intelligence; but there is a scarcity of that particular information necessary in the geodetic operations of this survey, and these geodetic operations are as necessary as the hydrographic; to that branch they are competent, and in it they are exclusively employed. The officers of the navy are intelligent, within the scope of their profession and means of education, and according to the demand which the country has upon them, and not beyond it. There is more of astronomical and mathematical science among the officers of the army, because it has been the policy of the country to give them this science. They have, therefore, the thorough education which West Point affords, and there are officers of the army whose services would be eminently useful, and have been eminently useful in these geodetic surveys, and I believe that due credit has never been withheld from them. I know that in Mr. Bache's time credit has invariably been given to every officer who has made any discovery. But, sir, it is not a matter of wonder that men who are not educated with special reference to this kind of service should be incompetent. I do not believe any man will feel hurt by any remark that I have made; for while I concede their general intelligence, I only deny what may not reasonably be expected of them. But I will not delay the Senate with further remarks.

Mr. DAVIS, of Mississippi. A question has been asked which I feel disposed to answer before the adjournment—the question whether the navy is, in fact, incompetent to conduct the hydrographical survey. The answer to this is, that they do conduct it, and nobody else conducts it but the navy. The whole of the portion of the work which is professional to the navy is confided to them. The only difference between our survey and that referred to, of England, arises from the fact that the navy conducts our hydrographical survey in connection with the trigonometrical surveys. Of course, instead of being compelled to make their own observations, and to fix their own stations upon which to base their hydrographical observations, they derive their points and shore line from the land parties; this is the economy of our organization. Surely it is no discredit to the navy to suppose that those who are trained to topographical labor upon the shore would execute it better than those whose lives are spent upon the waters, and whose profession is upon the water. The work upon the land is not appropriate to them; it is not their own element; and I cannot believe that any proud sailor of the American navy would wish to rival an officer of the army in topographical survey, or to rival the *savant* in the computation of astronomical phenomena, or in the making of astronomical observations. It is not his profession. His pride is in his profession. His glory is to be gained there, and the laurels which now crown the navy, and endear it to every American heart, have been gathered at sea in the face of the enemy. Hydrographical surveys are usefully and properly executed by the navy in time of peace. They constitute a school in which the American sailor is instructed, and prepared for the high contingencies of war. In referring to the work on land as the more appropriate duty of the army officer, I make no invidious comparison between the naval and the army officer. I make no reflection upon the talents of the officers of the navy. This is not the work of talent. It is the work of training, of preparation, of close study, of extended science—such as the officer of the navy cannot acquire at sea; and if his early life were to be devoted to such studies on shore, his nautical experience must necessarily be very limited—his character as a sailor sunk in exact proportion as his character as a *savant* rose. I should dislike very much to see any prejudice or jealously excited in the navy; there is no necessity for it. Instead of reducing their professional pride, I desire to exalt their ambition in those things which are entirely professional to them. I attempted, to-day, to point out new fields in which they may be employed.

I did not certainly intend to cast any reproach upon Mr. Hassler. On the contrary, if I was not complimentary to him, I intended to be so. If I did not state as a reason for the difference in the progress of the work under the former and present superintendent, the embarrassment to which he was subjected, and the difficulty of organizing a new work under a new system, of which he was the founder, I failed of doing what I intended. It was my intention to draw no invidious comparison. I was comparing, not appropriations—the Senator mistook me there—but expenditures; not the money appropriated, but the money actually expended—dollars, years, and work. Mr. Hassler organized this work. The present superintendent took it as he found it.

I cannot allow this occasion to pass, sir, without again saying that I made no invidious comparison. In defending an organization which I considered essential to success in the coast survey, I compared, as I considered it my duty, the expenditures, the time, and the labor. I attempted to show that the work was progressing rapidly, and even went out of the appropriate line of my argument to guard against being misunderstood as disparaging the works of the former superintendent, to point out the disadvantages under which he labored. It is to me a matter of pride, sir, that the reflection once made that no American could be found to take charge of the work has proved so untrue. An American has been found who has not only been able to discharge the duties of his office, who has not only been able to keep pace with science, but who has been foremost in some of the most difficult investigations, and has attained results for highly useful application to the necessities of commerce and the perfection of the work with which he is charged; often passing before, never falling behind, the improvements of the age, he has elevated our scientific reputation abroad, and is at home justly the object of American pride.

Mr. BRADBURY. If the amendment of the Senator of Missouri were disposed of, I have one which I should offer. I hope he will consent to withdraw his, or to accept the one I send to the chair as a substitute.

I will only say, before the reading of my amendment, that I regard the coast survey as a great national work, and one that is an honor to this country, and I wish to see it sustained until our whole coast shall be surveyed. It is of vast importance to the interest of commerce generally, and is especially important to the State of Maine—a State which has more numerous harbors and a larger extent of coast yet unsurveyed than any other State in the Union. As little or nothing has been done in the survey on her coast, it is a matter of great interest to her that the work should go forward. I do not wish to cripple the survey, and I think the amendment of the Senator, which limits the appropriation to $30,000, would cripple it, and I shall therefore vote against it.

If it is correct, as has been stated, that there are capable officers of the navy who could be spared from that service and profitably employed on the survey, and who are not so employed, I wish to see it done, and my amendment provides that it shall be done. If there are abuses in the present organization of the survey they ought to be corrected; and my amendment provides that a report shall be made at the next session of Congress, by the Secretary of the Treasury, of such facts as will enable Congress to determine whether there is an unnecessary expenditure and an unnecessary employment of persons in this work or not. I leave the appropriation as in the bill. I ask the reading of the amendment.

The amendment was read.

"And from and after the 30th day of June, 1849, no person shall be employed in the coast survey who is not in the naval or military service, when his place can without detriment be supplied from such service; and it shall be the duty of the Secretary of the Navy to report to Congress, at the next session the names of all persons employed in such service not belonging to the army or navy, the duty performed, the compensation received, and the reasons for continuing them in such employment."

Mr. BENTON. That amendment is getting towards the same object which I had in view, and I believe I shall yield to it. I withdraw my amendment.

Mr. BRADBURY. Then I submit my amendment as an addition to the item in the bill, leaving the appropriation to stand as it is, at $186,000.

And the question being taken upon the amendment submitted by Mr. BRADBURY, it was rejected.

NEW MEXICO AND CALIFORNIA.

SPEECH OF MR. J. McDOWELL,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

February 23, 1849,

On the formation of one or more new States out of the Territories of New Mexico and California.

The Committee of the Whole on the state of the Union having under consideration the bill to provide for the support of the Post Office Department for the year ending 30th June, 1850, and for other purposes, (Mr. WHITE, of New York, in the chair)—

Mr. McDOWELL addressed the Chairman, and after expressing his regret at being constrained by the state of business before the committee and the House, either to adopt the disorderly and irregular practice of speaking upon one subject whilst another and a different one was formally before the committee, or to forego the only opportunity he might have of speaking at all, then proceeded, substantially, as follows:

Mr. Chairman, if it had been my good fortune to have entered upon the discussion of our territorial affairs at an earlier period of the debate of which they have so long been the subject, I would have considered it not only my privilege, but my duty, to have examined the constitutional questions with which they have been connected, as fully and thoroughly as my short hour would have allowed; but at this late period of the session, and of the debate also, after these very questions, in all their latitude, have been discussed here, almost to the hundredth time, with unwearied elaboration, and oftentimes with great ability, it would seem that any further and formal discussion of them now was scarcely admissible. At all events, sir, I cannot but know, not only how irksome it would be to me to go over these questions afresh, but how utterly hopeless also would be the expectation, on my part, of reproducing them in any more favorable or more impressive lights than those in which they have already been presented

by my colleagues in opinion. Gladly, therefore, Mr. Chairman, as I would have gone into an examination of these questions at a more propitious moment, and fully as I had prepared myself to do so, and had intended to do so until within a few days ago, I shall now leave them, and instead of any argument upon them will proceed to offer some remarks to the committee in vindication and support of the bill which proposes to *admit our Mexican Territories upon the footing of a State.*

Whether the bill which was originally reported upon that subject in the Senate by an honorable member of that body from Illinois, [Mr. DOUGLAS,] or the substitute for that bill which was offered in this House by my kinsman and colleague from Virginia, [Mr. PRESTON,] be preferred, is, in my opinion, not very material. Upon the whole, I prefer the substitute, but will cheerfully vote for either. They both rest upon the same basis, and depend for their rejection or support upon the same general considerations. It is not pretended that either the original bill or the substitute for it is free from objections; nor is it pretended that these objections should not weigh heavily against both in a different and less critical condition of the country than the present. But as these objections are temporary mainly, as none of them are fatal in their nature, and as the advantages with which they are connected are of high national value, it is justly considered, I think, sir, that the measure which the bill and the substitute embody furnishes an honorable and common ground upon which our conflicting opinions on the subject of that measure may be mutually given up, and our national difficulties about it suitably and finally disposed of. As to the constitutional authority which it involves, that, I presume, will not be seriously questioned by anybody.

The constitutional power to admit a State—that which this measure proposes to draw into immediate exercise—is a distinct, positive, expressly-granted power, subject to no prescribed qualification of substance or form, which is at all applicable to the case in which it is now proposed to be exercised. The whole power, together with every connected circumstance under which it may be considered necessary and proper to carry it into execution, is confided exclusively to the sound judgment and discretion of Congress. Whether, therefore, the State which it is proposed to admit, itself at the time being a territory of the United States, ought or ought not to be kept for a longer or a shorter period in its territorial condition, or whether that condition ought to be dispensed with entirely, are questions which necessarily result from the execution of the power to admit, and which it is for the discretion of Congress, and that only, to determine. There may exist the very strongest and soundest reasons, in a particular case, why the territorial condition should be enforced rigorously, and for a long period of time; and so too, on the contrary, there may be reasons of equal obligation and authority, in another case, why this preliminary or nursery condition of the territory should be passed over altogether, and the embryo commonwealth at once taken into the family of the States. The Congress of 1787, acting upon the necessities then existing, constituted a government for the Northwestern Territory upon the model of their own famous ordinance of that day. The Congress of 1849, acting upon the necessities of this day, and with a jurisdiction over the subject more plenary than that of its predecessor, may, at its own election, either constitute a government for its Mexican territories as territories, or authorize them to constitute a government for themselves as a State.

Of these alternative modes of action, both equally belonging to Congress, the formation of a government for the territories as such, with reserved supremacy here, is most consistent with our legislative precedents; but the admission of them forthwith into the Union under the guarantee of a republican form of government, and with a State constitution established by themselves, is but the exercise in another form of our admitted discretion in the case, and is, withal, in the very strictest spirit of the Constitution itself. Our whole power over the territories is a trust power—a power which gives us the right to control them temporarily, but with the obligation of admitting them at some time into the Union, and of securing to them, when admitted, a republican form of government. Where this right to control them ceases, and the obligation to admit them into the Union begins, is a point not settled by the Constitution, and therefore left by it to be settled upon just such judgment as Congress may form upon the fiduciary nature of the power, and upon the special circumstances in each case in which it is their duty to exercise it. In a letter of Mr. Madison, which was addressed to Mr. President Monroe in 1820 upon the subject of the "Missouri restriction," and which letter has but recently been brought to light as part of an appendix to a speech of an honorable Senator from Florida, [Mr. WESTCOTT,] we find the following passage:

"The right of Congress to control the territories being given from the necessity of the case and in suspension of the great principle of self-government, ought not to be extended further nor continued longer than the occasion might fairly require."

Here, in this declaration of Mr. Madison, himself the most authoritative and soundest of all of our constitutional expositors, we have all the essential elements of this territorial power admirably compressed into a single sentence, and stated with an analytical precision which forbids mistake. It results from the general ground here taken by Mr. Madison, first, that the right which is founded in necessity should be controlled by it, and hence that Congress should extend to the territories no further control or government than that which is demanded by the most general and indispensable objects of civil administration. It results also that the government of the territories by Congress being a suspension of the great right of self-government by the people of the territories themselves, is admissible only whilst the necessity for it continues, and should be surrendered the moment that necessity—the justifying cause of it—is at an end. It is a yet further deduction from these grounds of opinion, though in a much larger and stronger sense still—a deduction from the whole scope and tenor of our representative system and representative duty—that whenever the case shall arise in which the necessity for establishing a territorial government shall be met and resisted by a stronger and intenser national necessity for pretermitting it altogether, that in that case the stronger necessity must be allowed to prevail, the territorial government be given up, and the young and expectant commonwealth instantly taken into the family of the States. Whenever, in the administration of public affairs, a smaller and a larger interest come into unavoidable conflict with one another, the smaller one must give way. And this is precisely the state of affairs before us now.

We have, on the one hand, our national safety to protect—a duty which, of all others under Heaven, it is the most imperative upon us faithfully and inflexibly to perform: we have, on the other hand, a territory to provide with a government and laws—a duty of far inferior interest, to be sure, but not to be neglected. These are the respective duties to which we are now called; and though they have often arisen under the same classification, and have often been discharged in the past administration of the Government, yet never before, as we all know and feel, did they enter into and blend so vitally and so indissolubly with one another as they do now. In the efforts which we have made to discharge our duty to the territories, plans of government for them have been offered and discussed here which have been prolific of little else than public apprehension and alarm, which thus far have served only to array one great geographical division of the United States against another, and to stir up between them a spirit of alienation, animosity, and feud, as utterly inconsistent with the unity of their political relationship as dangerous to the continued maintenance of their common interests and common peace.

In this gloomy conjunction of affairs a new plan of government for the Territories is presented—a plan of mediation and of peace; one which has no connection with any sectional interest or sectional feeling of any kind whatever; which stands aside from all that source of heart-burning, jealousy, and disturbance, and which, having no serious constitutional objections to encounter, promises, on all these accounts, to put an immediate and pacific end to a most angry, harassing, and portentous national dispute. These are its general aspects. As to its more particular ones: what though it be new and untried and awkward—what though it consolidate into one political community a vast, unwieldy, disconnected, and half-peopled region—what though it admits to the immediate enjoyment of all the rights and privileges of American citizenship, thousands of foreigners who know nothing about them—what though it conflicts with our own preconceived determinations and views upon this subject, or rubs, peradventure, against any prearranged political calculations and hopes which any of us may entertain,—what of all these objections and all others that can be added to them, making the most of them and the worst of them—what are they all when gathered together and piled up to their topmost aggregate, Pelion upon Ossa, but the small dust of the balance when weighed against—what it may fairly hope to accomplish—the pacification and perpetual union of more than twenty millions of freemen!

Let us remember, sir, that our business is no longer the simple and comparatively easy one of framing the best possible government for a territory, considered independently and apart from its relations to the Union. Our true business, on the contrary, is the very opposite of this: it is to provide a government for the Territories which, being constitutional and sufficient for them, shall, at the same time, be best in its primary reference to the peaceful relations, and therein to the universal welfare, of the States. Our work in this matter is no longer limited to the Territories, either in its motives or effects. It goes, under the force and pressure of events to the whole country; it goes to all those vast and unutterable issues for good or evil which depend upon maintaining or not maintaining that country just as it now is—one powerful, prosperous, united whole. It is, therefore, eminently and above all others, a work with which no carping, nor fault-finding, nor bigoted, nor sectional, nor pettifogging spirit has anything to do. It is one which nothing less than the largest patriotism, earnestly, loyally, wisely operating for the very largest and holiest ends of public good, can ever adequately or rightly accomplish. It is a work of all for all—of each part for every part—of the entire country and of entire devotion to that country. And whilst we to whom it is confided stand here to execute it as a common brotherhood for a common good, our ears must be heavy and our heart hard, beyond the ordinary lot of our kind, unless we hear and feel the voice of our mother-land, coming up over all other voices, and calling upon each one of us, in soft and thrilling tones, "My son, my son, be true to thy trust—be true to me." He who, at such a moment so responsible to himself, so great in its issues to the country that has honored him—he who, at such a moment, is afraid to be a good man, has already, to say the least of him, begun to be a bad one.

If gentlemen, Mr. Chairman, are still tenacious of their objections to the plan proposed, and do not find, in the national difficulties by which we are surrounded, persuasives enough to relinquish them, let us look for a moment to the peculiar structure of our Government, and see if we cannot derive from that an additional and sufficient persuasive for this purpose. That Government—to use the language which was employed by General Washington, as President of the Convention that formed it, to recommend it to the adoption of the people and the States—that Government was founded in "a spirit of amity and of mutual deference and concession." It is, therefore, in its nature and origin and history, and throughout the whole range of its purposes and provisions, directly opposed to everything that is sectional, separate, or peculiar. It rejects as its worst and most fatal enemies all exclusiveness and all ultraism, whether of opinion or of action. It associates with no extremes of any kind whatever, and hence not only has the general policy of the Government been remarkably free from the control of extreme views, but whenever a particular measure, partaking of that character, has been fortuitously forced upon it, it has never failed to go down, speedily and certainly, under the moderating and equalizing spirit of the general system.

If you would maintain such a Government as this in its true and natural vigor, you must put your shoulder to the foundation principles upon which it rests, and see that their strength and stability are never disturbed. This, indeed, is an indispensable

safeguard in all governments, no matter what their form; for if the parent principle of them be relaxed, neglected, or misapplied, languor, decay, or dissolution will inevitably follow.

Most of the governments of the world are nothing better than modifications of the principle of force, but they possess, in this very circumstance, very great means of supporting themselves by the mere external power of organization. Our Government, on the contrary, in both its subdivided and its compounded forms, resting entirely upon the voluntary principle or consent of the governed, can never maintain itself upon the external aids of its machinery, nor otherwise in its healthy and legitimate vigor, than upon the supporting concurrence of the national will. But consent in our case—the case of a Federative Government—is the modified or harmonized will of the various parties collected into one, and is but another name for compromise; and so, in fact, our Government is, to all intents and purposes, a government of compromise. Look away, sir, from all that you know of the external history of the Constitution—from all that you have ever read of the opinions, suggestions, and statements of its framers; turn your eye inward upon the instrument itself; run it over line by line; count up all of its provisions, and COMPROMISE is the one outstanding and characteristic feature which is indelibly stamped upon every page of it. It was once said by a French critic of a fine literary performance which he was reviewing, that after he had written the words *bene, pulchrè, optimè*, at the top of every page, his work of criticism was accomplished. So it may be said of our Constitution—that after writing the word *compromise* upon every part of it, your work of descriptive history is over. This is especially true of all those portions of it where the relative rights of the States are concerned. Wherever these rights were involved, there all *a priori* hypotheses of government, all abstract and theoretic ideas of perfection, were at once abandoned, and some conventional adjustment resorted to instead, by which the largest practicable measure of equality, justice, union, and contentment, was expected to be established. These, indeed, were the great and ultimate ends for which the Constitution was intended, and no abstractions nor idealities of Government, nor any local or sectional objects were ever allowed to frustrate or thwart them. The result was, that all the external, national, and aggregate interests of the States were collected into and placed under the control of one central head, whilst all their separate and local interests were left to the home governments out of which they arose, and to which they properly belonged.

Pressed as these States had been to the very earth by the heavy foot of an unnatural power, even after they had confederated with one another for mutual assistance, none better understood, from experience, than they did, that security and strength, and life itself, lay in their most intimate and closest union with one another; that if separate and disunited, they would not only be less capable by far both for internal prosperity and external defence, but must sooner or later sink under the grasp of some foreign usurper, or under jealousies, aggressions, and conflicts with one another. UNION, then, was the wisdom of our revolutionary day; UNION is the wisdom of our day, and UNION will continue to be the wisdom of every day that is yet to come, until the nations of the earth have no rapacities and no ambition to gratify, and this poor heart of ours—that world of iniquity within itself—has no foul passions to inflame, to misdirect, or defile it.

The well-advised and cordial faith with which the framers of our Constitution committed themselves to this great historic truth, and the political consequences to which it led the way—that our highest wisdom was in closest union with one another—is strikingly exemplified in the character of the constitutional concessions which they devised to secure it. Look, for example, at the representation in the Senate. There you see every actual, and almost every possible inequality between the associated States disregarded, and the States themselves made politically equal to each other. There you see Delaware and New York, the pigmy and the colossus of the Union, sitting side by side, the equal of each other in dignity, and sharing alike in the power and the counsels by which the affairs of each and of all are controlled. Having a representation in this House founded upon numbers, the small States might reasonably have entertained some apprehensions for their security, unless supplied with the check of a unit or political representation in the Senate. They, therefore, demanded this—persistingly and vehemently demanded it, declaring that they could not surrender it without subjecting themselves to the mere mercy of their constitutional associates, which they would not do. This demand, so perfectly subversive of the dominion, and so revolting to the natural love of consequence and power in the larger States, was finally acquiesced in. Its clear justice in a federative government, backed and enforced by that ardent revolutionary spirit, not then extinct, which nationalized everything, triumphed over every objection, and thus secured its adoption as one of the most marked and conservative features of the whole Constitution.

But it is not so much to the *extent* of the compromise in this particular matter to which I would direct your attention, Mr. Chairman, as it is to the principle on which it is made—the principle, namely, of *defending the weak against the encroachments and aggressions of the strong*. "I will not have," said Isocrates, when treating with certain Grecian States about the affairs of Athens—"I will not have," said he, "any guarantee that you can offer us but this: that you shall not be able to hurt us if you would." This is precisely the guarantee intended by our Constitution; the weak were to be so protected by it that the strong should not hurt them if they would. It was not enough to the equitable and just and provident spirit of our Constitution-makers that the States should, in all respects, be as safe and as well off under the Constitution then forming as they were before; they looked and labored for something beyond this, and better than this. Determined to place every State in a sounder and safer condition than ever before, they not only left it a sovereignty sufficient for all local wants, but they so labored as to possess it, at the same time, with a central head, which should be perfectly capable of defending it from all external aggression, and yet perfectly incapable of committing upon it any aggression of its own.

After this brief and imperfect sketch of the compromise character of the Constitution, I feel myself more at liberty to insist upon the representative duties which that character enjoins, and to require, on behalf of the South, and as one of its representatives here, that its high authorities be executed for the broad and national ends for which they were given. Our situation in the South, so far as any of the rights or interests which attach to it can be subjected, even resultingly, to the action of Congress, is just that which some of the compromises spoken of were intended to provide for. We are a minority in numbers; we are a minority in interest; we are thus laboring under a double incapacity to defend ourselves, representatively, here, and have no other reliance, *within* the Constitution, for the protection of our rights and interests, when questioned or assailed, except in the faithful and righteous administration of that instrument, under the limitations, for the objects, and in the fraternal spirit, in which it was formed. This is our reliance; it may be what we expect it to be—a safe and a solid reliance; it may be a worthless and a rotten one. Whatever it be, it is our constitutional all; and we are determined to stand upon it whilst it lasts. Should it fail us—which Heaven forbid!—and we, as a consequence, be thrown off, unprotected and aggrieved, then, sir, in that dread hour, we shall look for such relief for ourselves, outside of the Constitution, as our whole case of exigency and of duty shall suggest. Meanwhile, and as the wise and fit preventive of any such ultimate resort, we invoke the earnest and instant use of all the safeguards and protecting energies of the Constitution. And this we do with a confidence made stronger and deeper by the fact that our own southern States were amongst the foremost to surrender the powers upon which these very safeguards were established. What State, for instance, ever sacrificed as Virginia sacrificed, in constituting the coequality of the Senate?—in admitting to an equal participation with herself, even in the adjustment of questions affecting her own rights, some States which would not have figured as a handbreadth upon the map of her immense dominions? When this was done, (1788,) Virginia was the most powerful of all the States in the Union; the most powerful in population, in wealth, in physical capability, in prospective growth, and immeasurably the most so in political influence and control. Yet she surrendered these great advantages, generously and without a murmur, that she might coöperate with her sister States in building up a permanent and, as far as possible, a perfect constitutional safeguard for the protection of the defenceless and the weak. The feeble in interest or in numbers were never to be trampled on by the strong in either or in both. This was the immunity which she labored and which she sacrificed to establish; and this, therefore, with special and emphatic justice, she is entitled to demand. Give to her, wherever the action of the Government touches her rights, that safety which she contributed so much and so freely to secure for the benefit of others and of all; give her this, and so let her experience, and so show on your part, that national generosity such as hers, is not in all cases simple and unadulterated national folly.

But, Mr. Chairman, when I thus speak of compromise, I desire to be understood as doing it with reference only to the general representative duty which it imposes, but with none whatever to the measure which I have been endeavoring to support, that of allowing our Mexican territories to take upon themselves immediately the functions and the independence of a State. So far from referring to that, it would be extremely difficult, as it seems to me, to present any measure upon any great or greatly controverted subject of national policy, which, either constitutionally or otherwise, involves so little of compromise in it as that measure does. Constitutionally considered, it scarcely affords ground enough upon which the subtlest expositor could support the most shadowy abstraction; whilst as a practical measure, coming into competition with other measures, it demands only that it should be preferred, that it should be taken as a choice, and is to that extent, and that only, a compromise. It calls upon no one to disavow his avowals. It asks not that any member should repudiate or retract his opinions. The anti-proviso man and the proviso man can both support it in perfect consistency with what each of them has said of his own opinions, and what each has said against the opinions of the other. The anti-proviso member cannot and will not vote for or support any act of this Government, by which the introduction of slavery into the Territories of the United States from any of the slaveholding States will be prohibited. The proviso member, taking the opposite ground, will not, and cannot, as he avers, give his vote or his sanction to any act of this Government by which the introduction of slaves from any quarter into the territories shall be allowed. Thus they stand, mutually facing and defying one another, and both calling upon the great geographical sections which they respectively represent, to stand up and support them. Here it is, at this point, that the measure now offered proposes to interfere: it proposes to step in before the contending parties, and cut off all necessity for a decision upon the questions in controversy between them: it asks the privilege of making up a new record in the matter, and going to trial and judgment upon that. It proposes, in other words, to sink the whole question of a territorial government with its long train of difficulties, doubts, and dangers, and to entertain in place of it the question of an immediate formation of a State government with its admitted rights and admitted jurisdiction. Our whole embroilment with one another here, relates to the extent of the legislative authority which Congress may constitutionally exercise over the territories, whilst they are subject to its control. We have no disagreement of opinion whatsoever as to the powers and rights of these territories over their own affairs, from the moment their territorial condition is renounced, and their State condition is assumed. From that moment, as we all agree, they are absolutely and entirely independent of this Government in the regulation and control of their own internal concerns, and have the full and sovereign right of a perfect State to establish just such system of civil rights and civil institutions as may be most agreeable to themselves. The measure before us, wisely avoiding the ground of irreconcilable and hopeless

dispute, puts itself upon that of our common agreement, and therefore, with great justice, calls upon us all to come up and support it there. It gives to neither of the antagonist parties, what each one of them would doubtless have preferred—the triumph of his own side. On the contrary, it mediates between them in a spirit of fraternal and perfect fidelity to each, and by inclining neither to the one nor the other, it proposes and expects to accomplish the wise and just and national end, of settling the claims of both, consistently with the honor and the rights of both. Looking at it in this light, I cannot but regard it as a seasonable and happy measure of deliverance and relief, worthy of all acceptation and all assistance. Take it, and our troubles are over—our reassurance of cordial and permanent brotherhood is complete. The upheaving deep of the public feeling, the surges of which already break at our very feet, will be soothed at once, and will sink back again into a calm as smooth and glassy as that of a summer sea. But reject it, and follow up that rejection by a measure of sectional wrong enforced by the stubborn will of a sectional majority, and amongst the wild and fearful issues which such a course will force into life, and which no mortal eye can foresee, it may open up a pit for us all, only less horrible than that of the lost.

Since the discussion of our territorial question commenced in this Hall, and the interest and agitation of it has extended to the country at large, we have heard more than ever before of a certain mysterious but malignant and corrupting "*slave power*," by which, it is alleged, the free action of this Government and the liberties of our people are trodden under foot. "Slave power!" Oh, sir, how the truth of history, in the very matter implicated, and how the warm and kindly sentiment of national relationship which glows in the bosom of every American, wherever his home, how are they alike invaded and outraged by this offensive phrase, and the more offensive ends of sectional prejudice, animosity, and deception, to which it is so often and so wrongfully applied! The free action of this Government and the liberties of our people stricken down by the "slave power!" Why, sir, does not every one of us know, that of all the positive or governmental checks by which the spread of slavery has ever been restricted, the most efficacious and comprehensive of all others, by a thousandfold, is that which was put upon it under the lead, and with the hearty concurrence of slaveholding statesmen and slaveholding States? Was it not the restrictive or anti-slavery article of the ordinance of 1787, which, if not prepared at the suggestion and by the hand of Mr. Jefferson himself, was certainly prepared with his assent, and sustained upon the assent of Virginia also? Was it not this which has protected the finest territory we ever owned from the approach and the presence of the slave?—a territory of larger capabilities for the growth, and sustenance, and wealth, of civilized man, than any other equal area, it is believed, upon the surface of the globe. And yet, citizens coming from that very country, no less than citizens coming from other places, rise up in the midst of us here, and brand with abusive epithets the very men and the very "power" that gave this magnificent empire a bridal dowry "*to free labor and to free soil.*"

The check imposed by the Government, which is next in the order of importance and of time, is the constitutional prohibition against the importation of slaves from abroad—a prohibition which was introduced into the Constitution upon the votes both of northern and of southern States, but which would have gone into effect as early as 1800, instead of 1808, the time fixed by that instrument, had it not been for the strenuous and unrelaxing resistance in the Convention of three of the northern States—Massachusetts, New Hampshire, and Connecticut. Virginia, the great "slave power" of that day, and the one most reviled by this epithet at this day, stood up for the interdict on the foreign importation at the *earliest* period. Massachusetts and her colleagues at the *latest*. Virginia, disregarding her own interest, was willing, at the earliest hour, to sweep the traffic from the sea, and to leave those "human cargoes" that we hear of, to the wretched land that produced them. Massachusetts and her colleagues, baulking at an ardor so generous as this, dropped into the rear of Virginia, and clung, perseveringly clung, to the profits of the trade, to the last hour that their associates in the Convention would allow. And thus, by different modes of action on this one subject of slavery—fostering it in the early days of the Government, denouncing it in the latter—our northern friends have contrived, by a process of ingenuity characteristically *yankee*, (I speak descriptively, not derisively,) to make out of it pecuniary capital then, and political capital now. Never was there a more available subject in the hands of workmen more willing or more cunning to control it. The widow's cruse, which could not be exhausted by pouring out, is but a poor and faint emblem of its value to them. *This*, though inexhaustible, never grew greater. *That* did and does. No matter how opposite the uses to which these managers have applied it, whether to those of merchandise or of politics; no matter whether they nourished their opulence in former years from the tears of the slave, or point to them now in the homes of others, to arouse the horror, and so to shape the legislation of the country, no matter what the form in which they treat, or by which they metamorphose this subject of slavery, it springs up to their hands in one never-ending, but increasing harvest of advantage.

There is yet another restriction of law which has been placed by this Government upon the geographical limits of slavery—that which was placed upon it in 1820 by the well-known "Missouri compromise"—according to which all slavery was prohibited in the then territory of the United States, not embraced in the ordinance of 1787, which lay north of thirty-six and a half degrees of latitude. I need hardly say that the real author of this restriction was himself a slaveholding Representative of a slaveholding State—Henry Clay, of Kentucky. Other persons than Mr. Clay may stand upon the Journals of Congress as the formal movers and patrons of this measure, but the whole cotemporary history of the act is utterly false and worthless, if he was not the master-spirit that conceived, matured, and carried it through. When this act was passed, the great body of the southern Representatives voted against it. But since then they have not only acquiesced in it, and maintained it inviolate, but have coöperated with others in applying it to Texas, and have proposed and pressed it as a ground of equitable settlement for the controversy which now embarrasses and divides us.

Here, then, Mr. Chairman, we have a series of legal acts, proceeding more or less directly from the hands of southern men and southern States, all of which have gone to restrict the institution of slavery, both in its limits and its political strength, and all of which are entitled to be heard as witnesses whenever the "slave power" that is spoken of, is arraigned for its monstrous and its constant atrocities upon freedom and humanity! With these acts of beneficent legislation let these accusers be content; and, instead of harassing the Government and harassing the country with fanatical and unconstitutional efforts to enlist the sanction and the power of law yet further on their side, let them be thankful for what has been done, and leave all else to the controlling and natural influence of time and events.

I may as well advert, Mr. Chairman, at this point as at any other, to a practical question which is oftentimes asked by gentlemen here who insist upon the exclusion of slavery from our Mexican territory, and who maintain, at the same time, that such exclusion does not prejudice or impair, in the least, the full and equal right of the South and of her citizens to the use and enjoyment of that territory. We are asked to say, how such exclusion can impair this equality, seeing that northern and southern citizens, and all others, when they go into the territory as inhabitants, go there under the operation of the same law, and live there in the possession, in all respects, of precisely the same rights? How, then, can they be unequal? This question is easily answered. This Mexican territory being a conquest of the United States, effected by the united resources of all, both men and money, is consequently the joint and common property of all. This is granted. As the joint and common property, then, of all, it is, of course, free and open to the use and occupation of all, and that without any precedent or qualifying conditions, which, acting on a part only, would have the effect of distinguishing individuals or sections of the country from one another. But exclude slavery, and you do this: you establish conditions, and thereby distinctions, where there should be none. The southern citizen owning slaves would be obliged, under this exclusion, to dispose of them before he could settle in that territory, and must, of course, enjoy his share of the common property upon conditions, and perhaps embarassing conditions, first to be complied with. The northern citizen having no slaves to dispose of, settles upon and enjoys his share of the common property without conditions. In the one case, a separate and preëxisting right, constitutionally and legally established for many generations, must be given up before a common right is allowed to be used. In the other case, that common right is laid open to immediate use, without requiring as a preliminary thereto the surrender, or the commutation, or the disposal of any other right whatever. What sort of equality is there here? and how is it possible that the very pretence of it, coexisting with such a state of facts as this, can be otherwise than offensive, both to the feelings and the understanding of the party aggrieved?

Upon this view of the effect on the relative rights of the different sections of the country, which must necessarily result from the proposed exclusion of slavery from the Territories, we, who represent the South, have abundant reasons of right and of justice to demand of our associates here, that no such exclusion shall be sanctioned; and that no territorial government shall be forced upon us by the arbitrary use of their majority-power, by which the fundamental and cherished principle of our perfect constitutional equality shall be so painfully and hazardously set aside. To this demand, besides the sophism examined, that that exclusion works no inequality, we are yet further answered by these associates (with but few exceptions) that they cannot and will not countenance any government or any law by which slavery may be extended to Territories now free; that, in their judgment, slavery is a false, cruel, and evil institution, the "*extension*" of which, so far as it may depend upon them, they are determined to resist at all hazards. "*No extension*" is the short but comprehensive dogma under which the rights of the South, in this matter, are to be sacrificed, and the stability of the Union itself knowingly put into peril. Let us inquire into the practical purpose thus declared, and see whether it is in any respect worthy of the serious, and it may be, the fatal consequences which are so boldly and daringly risked to maintain it. This "non-extension," though a fallacy, as I think I can show, in its main and substantial idea, is nevertheless a term, as we are given to understand here, of overshadowing, and in certain regions of our Republic, of cabalistic power. It is there the Shibboleth of politicians—to utter which aright, is to live—to stammer over it, is to die. It has power to throw instantly open to its advocates the door of this Hall; it has the power as instantly to shut it in the face of its opposers, and so condemn them to penitence or to obscurity. In this, it is like the "open sesame" of the Arabian Tales, which had only to be spoken clear and strong, with emphasis and unction enough, and at once the rocky door to which it was addressed flying open, offered a cavern of gold for the spoil of the spokesman. So here, let the words "non-extension" be only spoken out by some free-soiler, with no Mussulman faith, but with a hearty and believing spirit, and our own barred-up and heavy door swings wide open to the speaker, and admits him to a share of richer treasures than were ever found in the cave of Abdallah.

But, sir, to the words themselves: in what sense are we to understand them? As far as I have understood the gentlemen who use them, they do not place their objections to slavery upon the ground that it covers any particular superficies of the country—as Alabama, or Louisiana, or Texas, for example—or upon the ground that it may cover any other superficies; but upon that of its intrinsic qualities: slavery, as established amongst us, being in their judgment a prejudicial and a wicked institution—wrong in principle, wrong in practice, wrong every way—and one, therefore, the strength and the growth of which, and the personal suffer-

ers from which, ought never to be increased by any act of the Government, and never shall be by any act or concurrence of theirs. This is their ground. And if the gentlemen who take it can only show, that by extending this institution into our Mexican territories its basis is made firmer and deeper than ever—that stronger supports of law are thereby provided to foster and sustain it—that a new condition and habit of society more favorable to its continuance than any preëxisting one is established—that when it is extended in that direction it is not correspondently weakened in any other, and that the number of slaves is actually increased by the process; if they can show that by these means, collectively, or by other means of equivalent effect, the institution of slavery, considered as a whole, is rendered by its admission into those territories a more powerful institution than ever—better sustained by law, by social preferences, by private interest, and more incapable, throughout the length and breadth of it, of voluntary control,—then they will make out a case of real and substantial "extension," and not of ideal only. But, Mr. Chairman, I deny that the admission of slavery into these territories will be followed by any such general and invigorating consequences to itself as these, and deny, therefore, that the "extension" of it thither, in any substantial sense, is an extension at all. Nay, sir, I go further than this, and maintain that such admission, so far from being an "extension" or invigoration of the system of slavery, is, on the other hand, one of the direct means by which its ultimate extinction (should that be ever desired by the people who have sanctioned and who only have the right to control it) may be rendered more accessible and more easy. Every slave, be it recollected, that is taken to California or to New Mexico, makes one less in some of the States. Let them be taken by thousands or by tens of thousands, it matters not, the whole process of filling up the territories with them, whether faster or slower, is a process for reducing, *pro tanto*, the numbers of them where they now are, and, consequently, amounting, in national effect, to neither more nor less than a transfer of these people from one portion of the United States to another. And not only is this true of the first effect, but also of the ultimate effect of this transfer. For the slaveholding States, being altogether as fruitful in the production of everything necessary to human subsistence as our territories are, the people that inhabit them are just as remote as any equal numbers in the territories could ever be from the period when their natural progression would be checked by the scantiness of food. Whatever, then, the number to which the emigrant slaves and their posterity might grow up in the territories, if admitted there, it will be, allowing for the difference at the outset, substantially the same as that to which it would have grown up in the States, had none of them ever been removed. Now, as the original supply of slaves for this emigration must be furnished by the slaveholding States, whose own numbers must thereby be reduced by the exact amount of that supply, and as their reproduction in the territories is in no degree greater than in the supplying States, it is clear, that whilst a fragment of the slave population has changed an old residence for a new one, the population, in other respects, is just what it was. Not a solitary human being has been made a slave by the "extension" who would not have been one—necessarily and inevitably one—had such extension never taken place, and never been dreamed of. As the extent of personal slavery cannot be changed by its transfer to the territories, what is it that is to be changed? Not the personal hardships of the condition, and not the legal enactments by which that condition is secured or enforced; for it is, in no respect, even supposable, either that the treatment of the slave will be harsher in the territories than in the States, or that the property or police laws which govern him there will differ in any material point from those to which he has elsewhere been subjected. If slavery, then, in its most important aspects, in its personal, numerical, moral, and legal aspects, is unchanged, if not unchangeable, by its admission into the territories, where is the harm which comes of this "extension," that it should be so furiously and rel ntlessly resisted? There is but one solitary element of increased strength or power to slavery which this extension can involve, and that is the political one which may contingently inure to it from an increased representation in the United States Senate. Should the admission of it into the territories result, as it probably would, in the final recognition and establishment of it under their State constitutions, there would result with it the advantage of being represented by additional members in the Senate; and in that particular, and that only, the extension would bring along with it an unquestionable gain. In this House there would be none. The representation in it being founded in numbers, the whole of the slaves who would be counted for representatives in California and New Mexico, but for their removal there, would have been added, with all their increase, to the count or reckoning of the States from which they were taken.

In this House, therefore, the strength of slavery will not be increased a particle by its deprecated extension. In the Senate it will be, and it is just and right, upon the whole spirit and structure of our Government, that it should be. We of the South, as I have already said, are in a double minority—one of numbers and one of interest; and on behalf particularly of our interest minority, we are entitled, consistently with the defensive principles of our political system, to direct and adequate constitutional protection.

A minority in numbers may be so identical in sympathy and interest with the majority in numbers as to enjoy, practically and in fact, the full benefit and protection of the majority power. But this can never be the case with the minority in interest, as we have some painful occasion to know. Our interest is separate, sectional, and peculiar—at all points an interest of antagonism; adversary, as our constitutional colleagues allege, to *their* feelings, *their* habits, *their* convictions of right, and *their* sense of public duty, to sanction or maintain it; and hence it is an interest which is especially liable to attack and aggression, and will be sure to suffer from both unless protected by a sufficient constitutional shield. This would be afforded, in some measure, by adding directly to its representation in the Senate, and afforded precisely on the same principle on which that representation was originally granted to such States as Rhode Island and Delaware—the principle, namely, of defending the weaker against the power and aggression of the stronger. But even then, with all the benefit of new and augmented numbers in the Senate, the whole necessities of our case will not, at last, be reached; for, to other minorities, we are destined to that of a minority of States, as well as of population and interest.

Turn your eye upon that part of our national map which is yet to be parceled out into States, the Mexican territories included, and it would seem that the probable and natural division of it would be into about five new slaveholding States, and six or eight non-slaveholding or "Free-soil" States. Add these five to our present stock of fourteen, (for I do not reckon Delaware amongst the slaveholding States,) and we shall have nineteen States, represented by thirty-eight Senators. Add the new to the sixteen free States, and they will amount, at the lowest estimate, to twenty-two in all, having forty-four Senators.

Thus, upon the supposition that New Mexico and California should both become slaveholding States, the other States have now, and will continue to have, a fixed, established, and immovable majority. Their present majority, also, in this House, is obliged to become progressively greater and greater, at every successive reapportionment of its numbers. Almost all of the foreign and almost all of the internal immigration is also to them; and, what is more, it is in the power of their Representatives in Congress, being a majority of the whole, so to dispose of this territorial subject as to stimulate that emigration from the slaveholding States to a greater and more mischievous extent than ever.

Although it would be easy, Mr. Chairman, to illustrate the nature and effect of that "extension," so denounced and so resisted by gentlemen here, in still other aspects, yet enough has been said, I think, to show that the main idea which it conveys to the popular mind is a deceptive and mistaken one; that, in point of fact, the extension of slavery to the territories will not and cannot make one single human being in this country a slave, who would not have been one without it; that it will not render the personal condition of the slave a particle harsher than now; that it will not render the rights of slavery, as a social or legal system, a particle stronger than now; that it will not add anything whatsoever to its strength, except, contingently, in its greater political representation in the United States Senate, and that the addition so made to it there is not only in strictest accordance with the guarantee principle on which that branch of Congress, for just such cases, is constituted, but falls short of full and perfect protection, because of that ultimate minority in which the slaveholding States are destined to remain.

We thus see, Mr. Chairman, what extension *will not do*. Let us reverse the picture for a moment, and see what it *will do*, not politically, but practically. It will coöperate with other causes already existing for the gradual transfer of slaves from situations where their labor is least valuable, to where it will be most so; that is, from the grain-growing to the planting regions of the United States. Wherever sugar and cotton-growing lands could be had in these Territories cheaper and more productive than similar lands in the States, they would be bought up and settled with slaves, and these, to that extent, would be drained off from their present abodes into them. This deportation of slaves for the very purpose of settling such lands has been steadily going on for many years amongst the States themselves, until at length it has come to mark itself upon the condition of property and the structure of society in some of them—Virginia, for instance—by consequences of the most decided and almost revolutionary kind. First, the annual reduction of the black race by removal is equal to, if not greater than his natural annual increase. Second, this reduction of black labor opens up many employments, especially mechanical employments, to the easier and more profitable pursuit of the white man, and thus discourages his emigration from the State. Thirdly, this reduction has the further effect of leaving a progressively increasing deficiency of labor for the full occupation and tillage of the soil, and so throws out of use and into market immense quantities of improved land, which, far exceeding the wants and the means of local purchasers, are left to grow on into greater and greater amount, until, by-and-by—perhaps at this hour—habitations of a comfortable kind, and of indefinite extent, can be had upon better terms in the oldest, and, commercially considered, the best portions of that "ancient" Commonwealth, than even in the unpeopled wilds of the "far West." These causes, combining with one another and with other causes, have so operated upon the relative growth of the two races in that State, as to be daily adding to the more and more decided preponderance of the white one. If they are allowed to work on as they have already done and are now doing, especially if the auxiliary and stimulating cause of a free admission of slaves into the Territories be superadded, it is evident, as their number, both absolute and relative, will grow less and less, that the whole system of slavery in Virginia will be placed in a new and more controllable relation than it has ever stood in before. When, under the uniform and wholesome law of private interest, the black population of Virginia and Maryland and North Carolina, Missouri or Kentucky, quietly empties itself out upon the sugar and the cotton lands of the Territories, or of the lower South, where the torrid sun is so propitious to their constitution and labor, and when, as a consequence of this removal, freemen enter into and occupy the homes they have left, what is there in this to lament? What shock does it inflict upon personal humanity or general freedom, that those of us here who are the professed, if not the exclusive supporters of both, should denounce and deplore it?

But, Mr. Chairman, let this transfer of the slave to the lower, more congenial, and more profitable latitudes of the South be stopped; begin the stoppage of it here, by shutting him out of your territories in Mexico; let that act of yours be followed, as it surely would be, by prohibitory acts on the part of the slaveholding States themselves, mutually forbidding importations from one another, then the relative progression of the black over the white race will rapidly advance, and a disastrous future

to them both will begin at once to be shadowed out. Not only is the increase of the black race greater under all circumstances than that of the white, because of the absence, in their case, of all prudential restraint, but when no emigration is allowed to keep down that excessive growth, it will follow, of course, that that race will absorb all the occupations upon which the laboring part of the white one can live, and they, as a consequence, will be driven away. When all the field labor, when all the handicraft trades, such as carpenters, coopers, tanners, blacksmiths, shoemakers, &c., are engrossed by the slave, and taken away from the resources of the laboring white man; when, in addition to this, the hopes and means of common education are all cut off by contiguous settlements of slaves over whole districts of country; when this comes to pass, what earthly consideration can prevent a laboring man so situated from instantly picking up his family and going to some other community where he might hope to improve and better their condition? Nothing could prevent him. Thus throng after throng of this class—amongst the very soundest and best of all—would pass away from amongst us, almost as numerous and as unreturning as the passengers to the tomb; and so they would continue to pass away, until, by-and-by, in the course of a few generations, the whole population in our slaveholding States would be reduced to the slaves upon one side, and the masters and managers on the other—a disproportion so great, so palpable to every eye, so suggestive to the slave himself of the fearful secret of his gigantic physical power, that nothing could take from his heart the temptation to try it, and try it he would, no matter what the consequences; and thus catastrophe would follow catastrophe, and our sunny and happy South would be covered over with scenes of conflict and of weeping. Concentrate the slaves where they now are, and strip us by that very act of the energies and protecting presence of the laboring white man, and the bloody process of St. Domingo emancipation will be tried amongst ourselves—vainly, but yet afflictingly tried.

The only preventive for this which is at our command, the only constitutional mode in which slavery is accessible to us at all, is to open up, as far as we have the power, every practicable outlet for its diffusion. Let it go into the territories; let it go, unrestrained, wherever it is thought most to its interest to go—to the ends of the earth, if it were possible. You thus cut up the great mass of it into fragments, which you divide or parcel out amongst a greater number of States, thereby rendering it comparatively harmless for evil, and thereby, too, so reducing the magnitude of it, wherever considered a burden, that each particular State upon which it presses will be better able than before to cope with and to master it.

But this is the exact remedy in the case which gentlemen here so strenuously and so ardently resist. Instead of dividing out and draining off this population, they are for hedging it in; they are for accumulating it mass upon mass into one vast storehouse of conflict and calamity. Like a turbid and swollen stream, if its channels are open and unobstructed, it will flow on without danger; but if they are choked and dammed across, and the living and swelling waters, thrown back upon themselves, are to be pent up and confined, they will gather, wave upon wave, into an impending deluge for the overwhelming of embankments and all that they were raised to protect.

Well, gentlemen, go on with your schemes; carry out your proposition of "free labor and free soil" to the uttermost; rule out the slave from your territories; rule out the South, your true and loyal partner in every extremity for seventy years; rule her out from all due participation in these territories; use all the liberty and all the faculties which your union with her has imparted to yourselves to crush her right to a coequality with you in the use and enjoyment of a common property; call upon her to bow down and submit to conditions as conditions precedent to such enjoyment which, or the equivalents of which, in your own case, you would indignantly refuse; do all this, and do it in such a way as will go the furthest to offend her sense of justice and of constitutional right—to wound her honor, to mortify her quick and generous spirit; and what, at last, will you have accomplished by it all? What amount of public good at all commensurate with so much sectional wrong? What, in fact, will you have done by it, except to depopulate the South in a great measure of her white inhabitants, and to put the residue, together with their slaves, in a state of aggravated and appalling danger to one another? This is all that you will have done. And is this an achievement worthy of your philanthropy and your labors? Is this an object for which, in the judgment of patriots, statesmen, and christians, the angriest passions of the country ought to be aroused, its great divisions thrown into commotion with one another, and our blessed Union itself brought into danger—that Union which, next to personal liberty (and it is a high protector even of that) is to every American the richest of all the public treasures which Heaven has to give—that Union which, considered even as antagonistic to the hopes of the slave, (though it is not so,) would still, in the righteous judgment of the world, be worth more, immeasurably more, to us and to mankind than all the slaves of all the globe together? Extinguish it, if you can, in a ruthless and senseless crusade for the slave, and he and his advocate and his master will suffer and perish together. Light up, if you can, the warfare and the spirit of another Peter the Hermit, and in this case, as in that, you will be rewarded with desolation and a tomb.

That slavery has been permitted to establish itself on this Continent for purposes both of wisdom and of mercy, no reasonable man who is accustomed to look for the origin or the progress of events in a power and a knowledge higher than his own, can reasonably doubt. Neither can he doubt that these purposes, whatever they are, will in due time be made manifest to all. Meanwhile, it is not for us to lay an impatient and forbidden hand upon any of the powers of this Government for the purpose of disturbing or controlling it by any authority or action of ours. On our part, perfect abstinence in regard to it is the wisest of all policies, the clearest of all constitutional obligations, and the best of all personal humanities. *Let it alone*, is the one rational and authoritative injunction of wisdom and of duty concerning it—let it go south, still south, as it is now going; and let its diffusion be such that the two races shall be protected as long as possible and as much as possible from all liabilities of violent collision with one another. This permitted and done, all else should be patiently left to the developments and the teachings of time.

Some of these, as they have gradually come to be seen and apprehended, are beginning to shine forth with impressive and instructive significance. Take the color, for instance—a mark of perpetual separation from the white man, but a bond of perpetual union and sympathy with the negroes themselves. It is and ever has been prohibitory of all complete amalgamation between the races, and thus preserves amongst us all the physical characteristics of the African just as they were impressed upon him at the hour and in the land of his birth. But this separation of the races, with the ultimate and providential design, it would seem, to maintain on this continent all the physical peculiarities of the African on his own, would never have been effectual had it been left to the mere caprices of sentiment or taste founded upon varieties of color. These might have been overcome, and the peculiarities to be maintained consequently lost. They are therefore placed beyond the law of taste, under the protection of another physical law which lies far deeper, operating independently of all human will, and enforcing itself under the sternest and severest of natural penalties. The offspring of the two races is a hybrid—an offspring whose progression, though not limited like that of some of the lower animals to the first generation, is nevertheless so arrested by lunacy, idiocy, blindness, deafness, and dumbness, and other the most crushing infirmities "that flesh is heir to," that it can never become the sound parental stock of a self-maintaining population.*

Here, then, we have, always before us, the remarkable phenomenon of one race of mankind living, and living for upwards of two hundred years in the midst of another race, and yet incapable, by reason of natural laws, of disappearing by incorporation with it and thereby incapable also of impairing or losing any of its original and native characteristics. The final cause of this phenomenon must be looked for either in that primitive doom upon Canaan by which he was sentenced to be "a servant of servants unto his brethren," or it is to be found in some high and renovating function which the American slave is yet to fulfill in the redemption of the continent from which he came.

Besides this physical immutability of the negro, as a race amongst us, he has in association with it another peculiarity, scarcely less striking or significant than it is: and that is his extraordinary aptitude to possess himself, as if by intuition, of all the tastes and social habits and mechanical arts and domestic intelligence and civilization of his master. You may pick up a wild negro in Dahomy, and bring him to Virginia, with his fetishes and his conjuring rod, and his sharpened cannibal teeth, and his unintelligible tongue, and give him there no other instruction but what he can catch from his fellow-slave at their common work, and in a few years he will be a civilized man. And if *he* is not, his American child in the first generation will be. This is true of no other savage man upon earth. Look at our own red man—as uncivilized almost as if centuries of effort had not been expended upon his improvement. Look at this very African himself in his own country, amongst the most incapable of all savages for self-elevation, but wonderfully capable of helping himself up by the hands and assistance of others.

In this connection, it may be stated, as one of a group of facts, mutually bearing upon and illustrating one another, that the climate of Africa is too fatal to the white man ever to become the place of his safe and permanent abode. This, our experience at Liberia, and the missionary experience of our religious societies at other points, very fully establish. It is obvious, therefore, from this, that whatever is done for the moral improvement of that continent, must be done by those whose entire physical nature is suited to its baleful and burning sun. It must, in other words, be done by the black man himself. And here, in the absolute necessity of confiding this high mission to him, or of leaving Africa to her solitary woe, we find a not improbable solution of so much that is peculiar and otherwise mysterious in his circumstances and position amongst ourselves. Here, in the light of this necessity, we see, most probably, why it is that his perfect identity has been protected by natural laws, which rendered his incorporation with us, and, consequently, his disappearance as a distinct race, absolutely impossible. Here, too, we have, as probably, the reason of his extraordinary capacity to take upon himself the knowledge and the arts of his master. Here, too, perhaps, the reason of his presence *with us*, amongst whom the habits of private intercourse are freer, and the rudiments of learning more pervasive and universal, than amongst any other people in the world; and here, also, may be the reason, why he was bound, hand and foot, with the iron chain of personal bondage, that thus he might be fastened to the spot of his trials and his training, until all things were ready for his final deliverance and departure.

I offer you, Mr. Chairman, no hypothesis upon these facts. They are such, however, undoubtedly, as to encourage the hope that our country may become to Africa, as to others, the nursery and storehouse of its civilization and its freedom; that though it has trodden upon a portion of her children, and harnessed them for long years to the yoke of its labors, yet that even thus it has been unconsciously but beneficently preparing the means by which the smitings of this very portion may be converted into the uplifting of a continent, and the superstition and cannibalism and tears of its sunken

* The following *facts*, taken from an official letter from the Secretary of State to Mr. Pakenham, the British Minister, in April, 1844, will serve to illustrate this position. The number of deaf and dumb, blind, idiots, and insane, amongst the free blacks in the non-slaveholding States, is one out of every ninety-six; the number of the same classes amongst the slaves of the slaveholding States, is one in six hundred and seventy-two. In the State of Maine, the number of free blacks returned as deaf and dumb, blind, insane, and idiots, by the census of 1840, is one in every twelve. In Florida, the number of the same classes amongst the slaves, is one in every one thousand one hundred and five. In Massachusetts, out of a free black population of something more than eight thousand, one in every thirteen was either deaf and dumb, blind, idiot, insane, or in prison.

millions be wiped away. The facts, also, are such as to surround this whole subject of slavery with new motives to forbearance, and new injunctions against the folly and the wickedness of all unauthorized intermeddling with it.

When I look, Mr. Chairman, beyond the forms of legislation, and consider who the real parties are to the controversy before us—that they are not individuals rushing into altercation with one another, under the fierceness of ignoble passions, excited for ignoble objects, but powerful and independent States, constituted into one for certain great ends of mutual protection and advantage, and bound therefore, upon the first great law of governments as well as of persons—the law of self-preservation—so to administer that common government as never to endanger or overwhelm it;—when I consider, sir, who the parties are—what their relative obligations—what their reciprocal dependence—how infinitely exceeding everything else is the interest of each in the mutual justice and fidelity of all—how amazing their prosperity—how exalted their renown—how renovating their example upon the hopes and liberties of the world—how inspiring the thought that their republican banner not only waves over an empire unparalleled in all its elements of happiness and freedom and power, but is yet to wave, by its influence, over the illimitable empire of reborn and self-governing man;—when I consider all this, sir, I cannot be otherwise than cheered with the conviction that all will be well; that parties so situated will never profane their story nor their honor, through an act of deliberate wrong by either on the other; and that "the spirit of amity and of mutual deference and concession" which united them at first, will triumph over all troubles, dispose aright of all contests, and thus continue to harmonize and unite them forever. In such a brotherhood of parties, when difficulties arise, there is no expediency upon which to settle them but that of justice; no benefit to be sought in the settlement but the benefit of all. So thinking and feeling habitually, I almost hesitate to ask of any possible adjustment of the difficulty before us, what will our part, our southern part, of its history be? Will it be a history of disappointment, mortification, indignity, and wrong? And your part of its history—will it be the short and the stern one of power—power—uncaring and unrelenting power? It is said of one of the very worst of the Roman emperors that he lamented with great bitterness that his reign had never been distinguished by the occurrence of any remarkable calamity, and had no other or better record by which to be transmitted to posterity than the dull and monotonous one of its prosperity and peace. He dreaded lest it should fade from the history of the world, and be lost to the gaze and the animadversion of man. Sir, if you will only push on the controversy which now disturbs us, from angrier to angrier tone, if you will only settle it here with deliberate indignity and wrong to one of the parties it involves, you will soon interweave with the richest and purest national happiness which it was ever allowed any people on earth to enjoy, a memorial of national sorrow, withering and crushing enough to have satisfied the monster wish and the monster heart of Caligula himself.

But, Mr. Chairman, when I pass by the collective parties in this case, and recall the particular ones; when I see that my own State is as deeply implicated in the trouble and the danger of it as any other, and shares, to the full, with all of her southern colleagues, in the most painful apprehensions of its issue,—when I see this, I turn involuntarily, and with unaffected deference of spirit, and ask, What, in this exigent moment to Virginia, will Massachusetts do?—that Massachusetts which, in the designations of our early colonial history, was known as Northern Virginia. What will Northern Virginia do, in the matter before us, for her southern namesake and sister? Will you too (I speak to her as present in her Representatives)—will you too, forgetting all the past, put forth a hand to smite her ignominiously upon the cheek? In your own early day of deepest extremity and distress—the day of the Boston Port Bill—when your beautiful capital was threatened with extinction, and England was collecting her gigantic power to sweep your liberties away, Virginia, caring for no odds, and counting no cost, bravely, generously, instantly, stepped forth for your deliverance. She made the day on which this bill was to be executed, the 1st of June, 1774, a day of humiliation, fasting, and prayer—thus imploring, with one voice, the protection and blessing of Heaven upon you, and thus, through a religious act, the ultimate one of national distress, rousing up her people to the fullest and most startling sense of the outrage and the peril which awaited you. She called upon you to stand up for your cause; that it was the true cause—the cause of right, and freedom, and justice; that, as such, she made it her own, and would fight it out with you, blow by blow, and, live or die, would give every faculty that belonged to her of soul and body and estate, to make it good. Addressing her through the justice of your cause and the agonies of your condition, you asked her for her heart. She gave it: with scarce the reservation of a throb, she gave it freely and gave it all. You called upon her for her blood. She took her children from her bosom and offered them to supply it. With her spirit, with her appreciation of the great principles of representative and of popular government which your case involved, and with her holy enthusiasm in their support, Virginia would have been utterly recreant to herself if she had done anything else or anything less than she did.

But in all this she felt and knew that she was more than your political ally—more than your political friend. She felt and knew that she was your near, natural-born relation—such in virtue of your common descent, but such far more still, in virtue of the higher attributes of a congenial and kindred nature. Do not be startled at the idea of common qualities between the American cavalier and the American roundhead. [NOTE.—At this point Mr. McDOWELL's hour having expired, he was about to close his remarks, when he was called upon from all parts of the Hall, with strong emphasis, to "go on"—"go on." To this request, the committee giving its unanimous consent, he proceeded:] Do not be startled, Mr. Chairman, at the idea of a close and near relationship between the impetuous and haughty, but courteous colonist of Jamestown, with his intense point of personal honor, and his devotion to all that is stirring in the incidents of life, and the stern, solemn, self-denying, almost ascetic pilgrim of Plymouth. A proud but misguided legality drives the defenders of the Stuarts to the shores of the Chesapeake, that there, in privation and in poverty, if need be, they might follow out the impulses of their own honor and their own free will, without let or hindrance from human authority. A pure, exclusive, uncompromising spirit of religion, that *could* not mingle with, and that *would* not be controlled by the corruptions of earth, drives a persecuted but a precious people to the rocks of Massachusetts Bay, that there, whatever else might betide them, they could pour out their hearts as they pleased to Him whom it was the richest of all their delights to worship and to serve. A heroic and unconquerable will, differently directed, is the pervasive and master element in the character of both. Secondary differences—the differences of culture—a culture which, in the one case, was directed to train the heart for all that was gay and glad and animating in life; and in the other, to train it for a subdued, chastened, concentrated spirituality—these have thrown around our ancestors a various costume, and have long exhibited them to one another and to the world in all the glare of a pictured and dramatic contrast. But in that proud and lofty spirit which claims the human will for itself, which indignantly repulses every desire or effort to control it, as an unwarrantable and impious wrong—in that they were thoroughly and indissolubly one. The same in this master quality, so controlling in itself of all others, it was impossible for them to be otherwise than blended by it promptly, harmoniously, gloriously, at the very dawn of our national day. They were the first, as a consequence, to proclaim and to resist the aggressions of England, and never after, even in the fainting hours of the struggle that followed, were they absent from the duty or the spot where their valor or their counsels were required. Nourished by the same spirit, sharing as twin sisters in the struggle and the heritage of the same revolution, what is there in any demand of national faith or of constitutional duty, or of public morals, which should separate them now? What is there in these grounds—the sound and the true grounds of national conduct—that should induce Massachusetts to disavow the rights, disown the equality, disdain the remonstrance, or scorn the feelings and the honor of her best, her strongest, and her earliest friend? What is there in the possibilities of sectional advantage so precious as to justify her, or any other, in risking, for a single moment, the danger of incurable family discord in order to obtain it? It is not for us as a people or as States, to stay the march of that unseen and eternal cause which sweeps over the devices and the trophies of man, and crowds whole nations, in melancholy procession, to the tomb. But it is for us, as both, to stay the very beginnings of that family quarrel which never fails, wheresoever it occurs, to hurry onward and downward the destiny of a people, and which so strips the destiny that it hurries on of every hope that could soothe, and so surrounds it with every element of utter and appalling woe, as to mark it out from all common curses for the shuddering, the horror, and the admonition of man. Shrinking from such a fate as this, and from the causes that impel to it, we cherish with the deeper fervor the just and the natural hope that here, in this honored temple of our common liberty, Virginia and Massachusetts, by whose hands and whose wisdom in chief it was reared into power, will sit and worship side by side for ever; that here, in the peace of Heaven and of each other, with clean hands and pure hearts, they will always minister in public things, doing right to all, wrong to none; that here they will carry on, to its brightest consummation, the illustrious career they have begun, comforting, cheering, supporting one another through all the conflicts of the day, and mitigating, should they ever come, the convulsions of the last hour by the soothings of a last embrace: thus testifying, for the honor of our nature, to a national fidelity, which there was nothing in the power of temptation that could corrupt, and nothing but the power of death that could destroy.

Gentlemen, Representatives of Massachusetts, what say you? Are you agreed? Your equals before the Revolution began—your equals when it did begin—confederated as your equals in 1777—united as such in 1787—coöperating with you as such in the administration of our common country from the declaration of independence to the present hour, and so confederated, united, and coöperating with you with all the local rights and institutions which are objected to us now—are you agreed that what we were and are, and ought to be and must be, we shall always continue to be, your equals—inviolably your equals still? Are you agreed to this? If so, then, in the sight of Heaven and of man, we shall renew this day a compact, not of peace only—no, no; not only of peace, grateful as that alone would be—but a compact of immortality for our country.

As the powers of this Government, and, therefore, to a great extent, the destinies of this country are intrusted officially to our hands, it is our duty to give all vigilance of ear and eye and thought—to everything that can affect them. It is for us, then, to be warned by that voice that comes from all the records of all the past, and comes to admonish us, that lost republics are lost forever; that though their spirit never dies, but abides upon the earth to enlighten, to improve, and to bless it, yet that it never revives to regenerate themselves. Look at the reptile and the tiger, as they have dwelt for ages in the habitations of the Holy City; look at despotism, worse than either, as it has nestled and brooded with its raven wing upon the very bosom of buried republics, and be warned of that mysterious doom, that evident ordination from on high, which connects, in eternal fellowship, the privileges with the punishments of nations, and never allots the highest blessings but side by side with the heaviest woes. Let us be warned by this fated conjunction to put away all passion, and prejudice, and parricide—unacknowledged but latent parricide—from amongst us, to gather around and press to the side of our country; to heal the chafings and wounds of her spirit by the unity and fervor of our own; to be ready ourselves to sacrifice and suffer, if need be, that she may never sorrow or perish; and if there is a curse in all our borders, let it abide for the overwhelming of him who cometh not up in the hour of trouble to succor,

to defend, and to save;—yes, for the overwhelming of him and such as him; for where, under Providence, but upon the heart—the constant and devoted heart—where but upon the patriotism and the virtue of her sons is the country to rely in the moment of adversity, or at any time to rely against the perversion of her own mighty elements of good into mighty engines of evil?

Give us but a part of that devotion which glowed in the heart of the younger Pitt, and of our own elder Adams, who, in the midst of their agonies, forgot not the countries they had lived for, but mingled with the spasms of their dying hour a last and imploring appeal to the Parent of all Mercies that he would remember, in eternal blessings, the land of their birth: give us their devotion—give us that of the young enthusiast of Paris, who, listening to Mirabeau in one of his surpassing vindications of human rights, and seeing him fall from his stand, dying, as a physician proclaimed, for the want of blood, rushed to the spot, and as he bent over the expiring man, bared his arm for the lancet, and cried again and again, with impassioned voice—"Here, take it—'take it—oh! take it from *me;* let *me* die, so that 'Mirabeau and the liberties of my country may 'not perish!" Give us something only of such a spirit as this—something only of such a love of country, and we are safe, forever safe: the troubles which shadow over and oppress us now, will pass away as a summer cloud. No measure of unallowable wrong, no measure of unconquerable disagreement, will be pressed upon us here. The fatal element of all our discord will be taken from amongst us. Let gentlemen be entreated to remove it, as the one only and solitary obstacle to our perfect peace. Let them be adjured by the weal of this and of coming ages—by our own and our children's good—by all that we love or that we look for in the progress and the glories of our land, to leave the entire subject of slavery, with every accountability it may impose, every remedy it may require, every accumulation of difficulty or of pressure it may reach—to leave it all to the interest, to the wisdom, and to the conscience of those upon whom the providence of God and the Constitution of their country have cast it. Leave it to them, *now and forever*, and stop, whilst it is yet possible to stop, the furious and blind headway of that wild and mad philanthropy, which is lighting up for the Nation itself the fires of the stake, and which is rushing on, stride after stride, to an intestine struggle that may bury us all under a harder, and wickeder, and more incurable slavery, than any it would extinguish.

Nothing but aggravation of heart and of lot have been brought upon the poor slave by the rash and unwarranted efforts which have been put forth to relieve him. They have broken down the footing he had reached, crushed the sympathies he had won, embarrassed and accursed the fortunes they were intended to control. The generous and elevating influence of our free institutions was relaxing his bondage, bettering his condition, lifting up his character, turning upon him the public anxieties and the public counsels, as a fit and deserving object of provident and public provision—was changing, at all points, the aspects of his fate, when the spirit of Abolitionism, political and fanatic, came from abroad to scourge him with a demon visitation, to wrench him from the arms of his only true and only capable benefactors, to throw him back again upon the earth, a thousandfold more suspected, separate, and forlorn than ever; riveting upon him every fetter it would loosen, poisoning every blessing it would bestow; and so filling his whole case with elements of hopelessness, explosion, and evil, that the heart shudders whilst it weeps to look upon it. What are they who cherish and direct this spirit? Friends of the slave? They are robbing him of every vestige of liberty he has left. Friends of humanity? They are staking it, ruthlessly staking it, upon the issues of massacre and convulsion. Friends of the country? They are rapidly becoming its iron homicides, cleaving down its Constitution with murderous arm, and tearing it limb from limb.

Should it ever happen, as the result of any interference and action here, that some insurgent ebullition of the slave will break out amongst us, that the blood of our people will be made to stream in our dwellings, and ooze up from the bosom of the soil that feeds us, it will cry aloud, like that of Abel, for vengeance against the brother's hand that shed it; and vengeance would be had, though every drop that was left should be poured out in one anguished and dying effort to obtain it. Nothing but Heaven could stop a people so lashed up to phrensy by rage and suffering and wrong, from sending back upon the firesides and the fields of the guilty that visitation of calamity and death which had first been sent to desolate their own. Spare, oh! spare us the curse of a broken brotherhood—of a ruined, ruined, ruined country. Remember that there are no groans like the groans of expiring liberty—no convulsions like those which her dying agonies extort. It took Rome some three hundred years to die. With far deeper vitality than hers, our end, when it comes, will come with a far keener, crueler, and bitterer pang.

Give up our common and united country—give it up at the call of some sectional interest—sacrifice it to the phrensy of fanaticism or of passion—let it go down, down, under some monstrous and horrible struggle of brother with brother,—do this, and you will get it back again as you have it now—the home of happiness, the city upon a hill towering up for the light and for the healing of nations—you will get it thus again when the "shadows shall go back upon the dial of Ahaz"—when He who sent out the luminary of day upon his march shall again put forth his hand and stop him in his pathway of light.

It is said, sir, that at some dark hour of our revolutionary contest, when army after army had been lost, when dispirited, beaten, wretched, the heart of the boldest and faithfulest died within them, and all, for an instant, seemed conquered except the unconquerable soul of our father-chief,—it is said that at that moment, rising above all the auguries around him, and buoyed up by the inspiration of his immortal work for all the trials it could bring, he roused anew the sunken spirit of his associates by this confident and daring declaration: "Strip me (said he) of the dejected and suffering remnant of my army—take from me all that I have left—leave me but a banner, give me but the means to plant it upon the mountains of West Augusta, and I will yet draw around me the men who will lift up their bleeding country from the dust, and set her free." Give to me, who am a son and representative here of that same West Augusta, give to me as a banner the propitious measure I have endeavored to support, help me to plant *it* upon this mountain top of our national power, and the land of Washington, undivided and unbroken, will be our land, and the land of our children's children forever. So help me to do this at this hour, and generations hence, some future son of the South, standing where I stand, in this same honored Hall, and in the midst of our legitimate successors, will bless and praise and thank God that he, too, can say of them, as I of you, and of all around me, These, these are *my* brethren, *and this, this, oh! this, too, is my country!*

NOTE.—Mr. McDOWELL, in committing the foregoing speech to the press, deems it but just to say, that, though he labored to report it exactly as it was delivered, yet he has succeeded in part only. In some parts the report he knows to be exact, but in others to be rather a resemblance than a copy. Some paragraphs are published which were glanced at only, and not spoken, lest the hour rule should cut off others that, at the time, he preferred to introduce. Some short portions, on the other hand, are omitted entirely, because the general tone of them could not be recovered.

SLAVERY IN THE TERRITORIES.

SPEECH OF MR. T. J. TURNER,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

February 23, 1849.

The bill making appropriations for the support of the Post Office Department for the year 1850, and for other purposes, being under consideration—

Mr. TURNER moved an amendment to strike out the first section of the bill; and proceeded to address the committee.

I shall offer no apology (said he) to this committee for following in the footsteps of a great many gentlemen who have made speeches on this floor that have had very little relation to the subject immediately before the committee. We are now upon the last days of the session; it is perhaps the last time when my voice will ever be heard in this Hall, and I propose to make a few remarks defining some of the views which I hold upon the subject of slavery, and, in connection with that subject, upon the question relative to the establishment of territorial governments for New Mexico and California.

Sir, I hold that it is the duty of the present Congress, short as is the time which remains to it, to provide governments for the Territories of California and New Mexico. I hold that it is our duty to provide governments for them, from a variety of considerations. The first is, that by treaty stipulations we have bound ourselves to the inhabitants of those territories to furnish them governments, or to furnish them protection until such time as they may be admitted into the Union of these States. A great many different propositions have been brought before Congress pointing to that result. We have had Territorial bills, and we have had bills proposing to admit these Territories into the union of the States. For one, I am decidedly in favor of giving these countries Territorial and not State governments; and for many reasons. It is well known to every member of this committee, that the people who are now in those territories have emigrated thither from all parts of the Union. Many of them have gone for the purpose of taking up a permanent abode there; many for the temporary purpose of amassing a fortune; and many of them, who went with the intention of returning, will perhaps remain permanently, in consequence of the inducements which are held out to them. But would it be justice to that people—would it be justice to our friends and brethren who have gone there from the several States of this Union—to throw upon them at this time the burdens and expenses of a State government? Why, these emigrants have not yet houses to shelter them from the inclemencies of the elements; they have not yet fields reduced to cultivation, from which they can raise the necessaries of life; they are almost unable to subsist; and shall we, in this state of the case, throw upon them the additional burden of supporting and maintaining a State government? It would be rolling upon them a burden which has never been thrown upon any other people in similar circumstances.

Mr. TALLMADGE rose to a point of order. The bill under consideration, he said, was a bill making appropriations for the Post Office Department, and the gentleman from Illinois [Mr. TURNER] was now discussing the question of slavery. He put it to the committee, whether the public business was thus to be suspended from day to day by discussions totally irrelevant to the subject-matters before it.

The CHAIRMAN said, that according to the universal usage, when the House was in Committee of the Whole on the state of the Union, all manner of matter was debated; and the Chair therefore felt obliged to decide in favor of the gentleman from Illinois, [Mr. TURNER,] and to overrule the point of order.

Mr. TALLMADGE appealed from the decision.

Mr. STUART, of Michigan, called for tellers on the appeal; which were refused.

After some conversation, the question was taken, and the decision of the Chair was affirmed.

So Mr. TURNER proceeded with his remarks.

He said that he certainly felt under great obligations to the committee for the courtesy it had shown him. He hoped that, the question of order being now settled, he should be permitted to go on and make the few remarks which he proposed to submit. He did not expect that he should occupy the whole hour allowed by the rule. He might, however, do so. He had no promises to make on that point.

At the time he had been interrupted, he was remarking that it was unjust and unfair to throw the burdens of State governments upon those emigrants who had gone to these Territories from the different States.

Mr. McCLERNAND interposed, and asked his colleague to yield the floor for a moment.

Mr. TURNER having done so—

Mr. McCLERNAND said he understood his colleague to admit the right of the people of California, and of every other people, to govern them-

selves; this was an inherent and inalienable right. Very well; if the people of California had petitioned Congress for its consent to enable them to form a State government, would not the gentleman give it? would he not let the people judge for themselves? Besides, it would be left to the people of California to accept or reject the offer of our consent. There would be no compulsion in the case.

Mr. McC. differed from his colleague; he would vote for any proper measure designed to facilitate the formation of a State government by the people of California, and the admission of such State into the Union. He believed sound policy and public duty demanded this.

Mr. TURNER resumed. I know that a great many gentlemen in this House are in favor of erecting these Territories into States at the present time. I am not exceedingly vain of my powers to persuade or convince; but I believe that if prejudice could be laid entirely aside, and this question could be stripped of the external circumstances which invest it, I could convince every member of this House that it is not proper, at this time, to erect these Territories into State governments. But the subject was so invested with external circumstances that the minds of men were not prepared to receive even a sound argument in relation to it. I therefore address myself, through this committee, to my constituents and to the country at large, and leave to the test of time to decide whether the views that I present are right or wrong.

I have stated some of the reasons why I think these Territories should not be erected into States. I say further that I am not aware that any large or respectable portion of the citizens of California or New Mexico have petitioned Congress to be admitted as States. I am not aware of the fact. But I concede that the people in any territory have a right, when a sufficient number shall be there to organize a State government, to apply for admission into the Union. And I ask my colleague, [Mr. MCCLERNAND,] and those gentlemen who are in favor of the State government, whether the people of New Mexico or California have met in convention and resolved to apply to Congress for admission? I know that they have not. And until they do apply, it would be an act of tyranny in us to force such a condition upon them.

The policy of our Government from its earliest history to this time, has been to afford to our colonies or territories the protection of territorial governments. We have not thrown upon them, in their infant state, the burdens and expenses of government, but we have taken them upon ourselves. We first organized the Northwestern Territory. From that sprung a great number of territories which have since had the benefits of similar governments. Each new settlement, as it spread itself out into the wilderness, was protected by a territorial government. So with our acquisitions from France and Spain. Our purchases from those Governments were also allowed the protection of territorial governments. Is there anything which should make California and New Mexico an exception to the general rule? Have they committed any crime that they are not to be entitled to the same rights, privileges, and immunities which were extended to other infant settlements? The people of those countries are bone of our bone, and flesh of our flesh. They are our fathers, brothers, cousins, and uncles. Who is there on this floor who has not friends or neighbors in that country? I appeal to this committee and to Congress to say, if they are willing to let the people remain there unprotected by a government. Appeals have been made to us from all quarters of the Union; the press has spoken out almost unanimously upon the subject. We are constantly reminded that the golden treasures of California invite to its borders hordes of lawless adventurers. The robber, the thief, and the assassin will be there, hence the necessity for laws and a government; and if we neglect them much longer, the people will be driven by necessity to establish an independent government, or to seek protection at the hand of another nation. All parties in Congress agree that governments ought to be given to them; and the countries being now free from slavery, it is absurd for gentlemen who profess to be in favor of government to require as a condition that slavery shall be carried there and sustained; and if we fail to organize territorial governments, the responsibility will rest upon the proslavery members of this House.

This leads me to another branch of the subject, which I regard as of rather more importance than anything I have yet spoken of. I refer to the subject of slavery as connected with the great subject of the Territories of California and New Mexico. I speak from the book—I speak from positive knowledge, when I say that a very large portion of the members of this House who are in favor of organizing these territories into States at the present time, are in favor of doing so for the purpose of avoiding this vexed question of slavery. When I make this declaration, I speak what I know to be the fact. Is it right that we, under existing circumstances, should evade this question of slavery? Is it right that we should skulk from it? Is it right that we should evade it in any way? I hold that it is not. That great question is now before us. It has been brought before us in the most imposing form; and it is part of the duty of members of Congress to meet it boldly and fearlessly; to settle it, and, let the settlement cost what it may, I am in favor of settling it. And my reasons for this opinion are various.

One of them is, that so long as the subject of slavery agitates the minds of members of Congress, it will produce ill-feeling throughout the country. It tends to array the North against the South, and the South against the North, and therefore the counsels of wisdom are, that in some way or other it should be settled.

But there is another reason why I deem it of more importance that the question should be settled at this session of Congress. I allude to the fact that the ill-feeling in relation to it has already grown so high as seriously to threaten the permanence of the Union. I know that this is rather a cant phrase; and I know that it frequently creates a smile when it is used. I know the answer to it. The answer generally is: "Oh! such a thing cannot be done; the Union cannot be dissolved." I was, until a few months past, among the number of those who believed so. I believed that no agitation could endanger the stability and permanency of the Government and of the Union. But recent events have convinced my mind that there is danger that this agitation may be carried so far as even to sever the bonds of the Union. It is but a few years since that any individual who talked of a dissolution of the Union, was thought little better than a traitor. A man who would gravely stand up on this floor, or anywhere else, and seriously speak of a dissolution of the Union as a thing that *could* happen, would be regarded almost as an enemy to the country. But now such an event has become the subject of daily remark here. Since I have had the honor of a seat on this floor, there have been many members who have come out boldly and fearlessly, and declared in their places, that if such and such a thing should come to pass, they were ready and prepared to dissolve the Union.

But this spirit has not stopped here. It has gone further. One of the most imposing meetings ever held in the United States—a meeting composed of the venerable, the aged, the middle-aged, and young members of Congress, from a large portion of the country, embracing half of the States of the Union, recently assembled within the halls of this Capitol for the purpose of testing the value of this Union. They met, I say, within the halls of this Capitol for the purpose of prescribing a limit beyond which they would not suffer the Congress of the United States to pass. I ask, then, is it not time that the patriot and the philanthropist should awake to the importance of the subject? Is it not time that they should weigh it in all its length and breadth, that we may see and know precisely how deeply this feeling of hatred has taken root in the breasts of members of Congress and of the people of the nation? We can judge something of the magnitude of the event to which I refer by the imposing address which has been issued by that meeting—an address prepared by no less enlightened a man than John C. Calhoun—a man as illustrious in the annals of the country as any other—a man whose intellectual acquirements are not surpassed, if equaled, by those of any other man in the country. The zeal, the talent, and the energies of such a man, were brought to bear in the formation of this address—or perhaps, more properly speaking, it should be called this declaration of independence. In it, the grievances of the South for years are portrayed in vivid colors, without any circumstance of palliation. In it are laid down all the aggressions which could be charged against the North. And it winds up by declaring that if such and such measures should be enacted by Congress—if such and such things should not be put a stop to in the United States, they must resist. The address urges resistance. Therefore, I say that it is time to take this matter seriously in hand.

What are the main features of that address? What position does the South take on the subject? And what is the relation between the people of the South and the people of the North in regard to it? How are we to act? Can we longer act in unison? Can the South act with the North, or the North with the South, upon this great question of slavery? The first charge brought against the North, in the line of aggression, is, the passage of the bill commonly called the Missouri compromise. That is marked as a starting point of aggression by the North. But a very simple answer divests it of very much of its force: the fact that a southern man—a man who had been the leader of a great party in the United States—was the author of that compromise bill. It would appear to be a sufficient answer to say, that Henry Clay, a southern man, a man owning slaves himself, was the author of the bill. But if that were not so, the answer would be found in the fact that the South itself had since, by its votes in the Senate and in the House of Representatives, adopted that line as the measure by which they were willing to abide.

Mr. KAUFMAN interrupted Mr. TURNER. He stated, that if the gentleman had examined the Journals of Congress in regard to the admission of Missouri, he would have found that the Missouri compromise line, prohibiting slavery north of 36° 30′ of north latitude, *did not originate with Mr. Clay*, but that it was *first* introduced into the United States Senate by Mr. Thomas, of Illinois, and *afterwards* into the House of Representatives by Mr. Storrs, of New York. There were two Missouri compromises—one in regard to *slaves*, and the other in regard to *free negroes*. After the Missouri compromise *line* had been established by Congress, Missouri presented her constitution to Congress, by one provision of which *free negroes* were prevented from removing to that State. This provision created tremendous excitement and opposition. Mr. Clay (who was Speaker at the time of the establishment of the Missouri compromise *line*, but on account of his absence at the commencement of the next session of Congress—his place as Speaker being supplied by John W. Taylor, of New York—resumed his place on the floor) put himself at the head of a joint committee of both Houses, and *compromised* the difficulty in regard to this *free negro* provision, by inserting a provision in the bill finally admitting Missouri, that her admission should not be complete unless she would previously insert in her State constitution the following provision of the Constitution of the United States, viz: "The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." Missouri complied, and her admission was consummated. Of this *compromise*, Mr. Clay was the author; but as far as the Journals show, he had nothing to do with the Missouri compromise line in regard to slavery.

Mr. TURNER resumed. I am aware that Mr. Thomas, of Illinois, offered that proposition. I am also aware that pæans of glory have been sung to the name of the illustrious Clay in the South and in the North, as the author of that glorious compromise. Why, the name of Clay is not unknown to this Republic! The great glory of his life—that upon which his friends have placed the greatest stress—has been that he saved the Union at a critical moment. And I am told by a venerable member near me, [Mr. C. J. INGERSOLL,] that the bill can now be found in the handwriting of Mr. Clay, among the records of the Senate. Democrat as I am, I am unwilling to shear that illustrious man of one plume that he wears by that deed. I am unwilling to rob him of his just fame. I am unwilling now, in the decline of his life, after he has been cast aside by his own party, to pluck one plume from the cap of his fame.

I was remarking, Mr. Chairman, that the South itself had endorsed the Missouri compromise no longer ago than last session. They were satisfied with it then. They were satisfied with it until the present winter, when it was put forth as a charge of aggression upon the South by the people of the North. I think this is a sufficient reply to the grave charge brought against the people of the North.

The next charge—one which has already produced probably more ill-feeling than all the others combined, and one which addresses itself to the interests and the pockets of the people of the South—is, that the North has violated the Constitution of the United States, because they have ceased to aid masters in recapturing their fugitive slaves. The charge is gravely put forth that the North is in the habit of pirating upon the South, and that the Constitution was violated in that particular. Let me state what I consider the constitutional provision to be in respect to fugitive slaves. I had some notes prepared, and some authorities also, which it was my intention to have read. But I shall be compelled to be absent from this House for a few days; and I came here this morning unprepared with my papers. I must, therefore, speak from memory. If I understand the clause of the Constitution in respect to fugitive slaves, it is that no person held to labor in one portion of the Union, escaping into another, shall be discharged from that labor, but shall be given up to the persons entitled to it. I quote the clause substantially, not in its terms.

Now, under this clause, what is the manifest duty of the North? When a slave comes among us, is it our duty to take him up and advertise him as we would a stray horse? Does the Constitution require us to take a slave or a negro man, coming into our territory, and take him back to the South—to inquire who is his master, and to give him up to him? No such thing will be contended for by the most ultra pro-slavery party.

What is the ground of complaint? It is, that we have not passed efficient laws in our States to enable the owners of slaves to recapture them. Does the Constitution require us to pass such laws? Clearly not. I understand the provision to be, simply, that we are to let the slaves alone; that we are to have no part nor lot in slavery. The provision of the Constitution respecting fugitive slaves——

The SPEAKER informally resumed the chair, for the purpose of receiving a message from the President of the United States, by the hands of J. K. WALKER, Esq., his Private Secretary, stating that the President had approved and signed certain bills.

The CHAIRMAN resumed the chair.

Mr. TURNER proceeded with his remarks. I have just been informed (he said) that the gentleman who gave me the statement a short time ago, and which I communicated to the committee, that the Missouri compromise was among the records of the Senate, in the handwriting of Mr. Clay, was mistaken. It was the tariff compromise. I think it proper to make this public explanation. But it does not alter the fact that Mr. Clay has always been regarded as the author of that great measure.

When I was interrupted, I was proceeding to show what I considered the duty of the northern States to be in respect to fugitive slaves. And I advance no new doctrine when I say, that in the early history of our Government, slavery was regarded as a local institution. And I have the authority of almost every southern State in the Union for making that assertion. I believe it to be the constitutional provision; I believe slavery to be a local institution; and I know very well, that in reply to all the abolition lectures ever delivered in the northern part of the Republic, the ground was clearly taken that slavery was a local institution, and that it belonged to the States where it existed. I know, too, that this is a doctrine of the South. If, then, it is a local institution, I inquire, what part have we to take in arresting fugitive slaves under the provision of the Constitution? The clause of that instrument which provides for the delivering up of fugitives from justice requires that application shall be made to the Executive of the State, and that through him the fugitives shall be given up. Now, an attempt is made to show that the case in respect to fugitive slaves is a parallel case. I hold that it is not. I know that this is the ground taken by the Supreme Court in the celebrated case of *Prigg*. And I feel confident that the Supreme Court erred when it held that claims in relation to fugitive slaves were parallel to claims of fugitives for crime. They held that something affirmative had to be done by the people of the North to deliver up the slaves. If slavery is a local institution, and if it depends on the clause of the Constitution, I ask, is it our duty to pass laws compelling our magistrates and courts to enter into the business of recapturing and delivering up slaves? To understand this matter fully, it may be well to glance at what is the law in regard to persons throughout the civilized world, where slavery does not exist. All human beings are by nature free, and it requires an artificial state of society to make them anything else; hence, in the absence of law, every human being is free, no matter where he may have come from, nor what may have been his condition previously. A man who was a slave in France or the United States, becomes a freeman when he lands in England. Nay, more, a slave escaping from South Carolina, and fleeing to Russia, becomes free in the latter country, and is absolved from all allegiance to his master. This is the universal law throughout Christendom. Now, if the Government of the United States, like that of most if not all other countries, were single and absolute, it would have the power to create or abolish slavery; but our Federal Government was instituted for national purposes, that the several States might have one head, through which they could perform all those acts which pertain to national sovereignty. Its attributes do not extend to internal affairs any further than they are permitted by express or clearly implied grants in the Constitution. Hence, in that instrument, we find an enumeration of all the powers granted, and then, as if to prevent mistake or misconstruction, there is a clause which declares "that all powers not 'herein granted are reserved to the States or the 'people." To illustrate more clearly: Previous to the Confederation of the several States, each was absolutely sovereign and independent of the others, as much so as England is independent of France. Those States, then, which held slaves, held them by right of their State sovereignty, and a slave escaping from his master, and fleeing to one of the free States, would thereby become a freeman, as much so as if he escaped to England. It therefore became a matter for grave discussion, and of no little difficulty, in forming the Confederation or Union of the States, to devise some plan to overcome that universal law of nature and of nations by which the slave regained his freedom when he entered the precincts of a free State. The result was, the adoption of the clause which provides that a person held to labor in one State, and escaping into another, should not thereby be released from such service or labor, but should be delivered up, &c. The Constitution also provides that in case of insurrection the several States shall aid in quelling it. These were concessions granted in favor of the slaveholding States, particularly that in regard to fugitive slaves; but, by granting those concessions, we by no means adopted slavery as a national institution. If we did so adopt it, we clearly have a right to abolish it within all our borders. I therefore maintain, that if the South desire to perpetuate that institution, they must not attempt to force it into free portions of the Union. There is clearly no clause in the Constitution which requires the people of the free States to aid in the recapture of a slave; their duty to the South ceases when they permit the master, unmolested, to pursue and take him.

Now, the complaint in the Southern Address is, that we have aided the escape of fugitive slaves. I defy any gentleman on this floor, or elsewhere, to point to a single instance where a law has been passed by any of the northern States to prevent a master from recapturing his slave. Such a law has never been passed.

And if riots have sometimes occurred when a master undertook to recapture his slave in a free State, such riot was a violation of law; and in most cases persons concerned in them are made amenable to the law. No State has ever been so fortunate as to suppress crime, although it may do all in its power to prevent it. There are regularly organized gangs of horse-thieves extending from the free States into the slaveholding States, and a man who steals a horse in Illinois, and flees to Missouri, cannot be tried in the latter State for the crime; and if a citizen of Illinois steals and carries away a slave from Kentucky, he cannot be tried in Illinois for the offence; but upon indictment in Kentucky, the Executive thereof can demand, and have the offender delivered up to the authorities of that State. Here, then, is a remedy for the charge that we decoy slaves from their masters; and if southern gentlemen would reflect a moment, they would see that the crime of slave-stealing ought to be punished in the slaveholding States.

The ground of complaint (if ground of complaint there be) is, that we have forbidden our officers to meddle in recapturing slaves, have denied the use of our prisons for this purpose. A gentleman near me reminds me that we have also passed laws making it penal for our citizens to aid in the recapture of slaves. I am not aware of the fact, though it may be so. If it is so, I want to know if it interferes with the constitutional provision. There is no clause of the Constitution which requires us to aid and abet the master in the pursuit of his slave.

Mr. MEADE interposed, and begged to remind the gentleman from Illinois that the Constitution imposed a duty, an obligation upon the States into which a slave might escape: that he was to be "delivered up" upon the claim of the owner. He would ask the gentleman if the law to which he had alluded did not interpose obstacles instead of affording assistance to the owner in the recovery of his slave?

Mr. TURNER, (continuing.) I am not aware of any law that throws any obstacles in the way of the master in the recovery of his slave against the requirements of the Constitution. If it is an obstacle that our prisons are barred against them, and our magistrates required not to arrest them, I hold that there is no provision in the Constitution which requires that we should take any such measures to aid them. I know, after the Constitution of the United States was adopted, that this subject of slavery was mixed up with the politics of the country; a great effort was made to propitiate the South, and laws were passed opening our jails for the detention of the slave, and aiding and abetting the master in his recapture. I hold that these laws, if not unconstitutional, were without the authority of the Constitution.

But the third grand charge brought by this Address against the North is, that we have been in the habit of agitating this subject of slavery; that we have established presses and made publications at the North to defend the cause of liberty; that we have made speeches on the subject, here and elsewhere; that we have attempted, by these speeches, to instigate the slaves to rebellion. I am not aware of the fact that we have sent Abolitionists into the southern States, though perhaps it has been done; but if we have, I hold that we have the constitutional right to do so; and one remark ought to silence this charge forever: it is, that if we have an institution in our country which cannot bear the light of truth, which is based upon dark ignorance, and depends upon ignorance for its support and countenance, it is time, high time that that institution should be exposed. I do not say whether slavery is right or wrong, when I make this assertion. If it is right, all the arrows of falsehood that can be hurled against it by all the Abolitionists in Christendom cannot affect it; it will stand immutable as the pillars of Heaven. But if it is wrong—if it is a crime—if it is against justice—if it is against right and reason—I say, also, to the South, Beware of discussion! for I tell you that the arrows of truth, pointed by the force of reason, will penetrate to the very center and foundation of every institution in this Republic that is against natural right and natural reason.

But have we offended in discussing this subject? Why, the Constitution expressly guaranties the right of speech and the liberty of the press. I understand it to be an inherent right of American citizenship to assemble together, to discuss, to argue, to publish, to do everything to disseminate truth, and even falsehood. But I think, in the language of a high southern authority, that there is little danger to be apprehended from error when truth is left free to combat it, before an intelligent

people like the people of the United States. Now, is it a charge worthy of being put into this grave declaration of independence that we have discussed the subject of slavery in the North? Is it a sufficient cause why this Union should be dissolved, that we at the North have discussed the subject of slavery?

But there is another charge, viz: that we have agitated the subject in Congress—that we are constantly exciting the people of the North by bringing in bills and resolutions calculated to interfere with the constitutional rights of the South. Well, I am not prepared to say that we may not have, in some degree, overstepped the constitutional bounds in this respect. But if we have, we have done it boldly; we have brought our propositions before Congress and given you the chance to combat them; and I believe the people of the North are honest; I believe, as soon as you convince them that we have overleaped the Constitution, that they will be ready to retract; and if unconstitutional laws have been passed, I believe the northern people are ready to be convinced of it, and to instruct their representatives to correct the evil.

Mr. STARKWEATHER interposed, and inquired of the gentleman if he did not speak for himself, and not for the people of the North?

Mr. TURNER. I speak, as the gentleman says, for the people of the North. I saw a smile upon the countenances of some gentlemen when I stated that we had perhaps overleaped the Constitution. I will explain: I do not consider that the bringing in a bill to abolish the slave trade in the District of Columbia, or the passage of such a bill—if such a bill were to be passed—would be a violation of the Constitution. Although I have always considered the Wilmot proviso as calculated to agitate rather than to do good, I do not believe that its adoption by Congress would be a violation of the Constitution. But we have had bills here, if I mistake not, for the purpose of abolishing slavery at the different military posts on the southern, as well as on the northern frontier. I consider that any rights reserved by the United States within the territory of any State, are reserved for specific purposes, and have nothing to do with the general sovereignty; and upon a construction of this kind, it is possible that we may have overleaped the bounds of the Constitution in proposing to abolish slavery at these military posts of the United States.

But another ground of complaint in this Address is, that we seek, by the Wilmot proviso, to exclude the South from the Territories of New Mexico and California. This charge is made the more imposing from the array of figures which appear in the Southern Address, by which it is attempted to be shown that the South not only furnished its quota of men to conduct the war, but actually furnished more than its just proportion. I deny this statement. I admit, that so far as mere numbers are concerned, not taking into consideration the term of enlistment, the South furnished the greatest number in proportion to its population; but, considering the duration of the term of service, including the regular army and the navy, the North had the preponderance.

There is another fact which I wish to state in this connection. This is brought as a charge against the North. It is put forth in this manifesto. Now, if the South furnished more men than the North, what was the cause of it? Was it because the people of the North were backward to come forward at the call of their country? or was it because a southern man had the reins of Government, and received more men into the service from the South than from the North? Why, the strife was not who should get rid of going to Mexico, but who should have the opportunity to go. No effort was required to get troops; on the contrary, many who were anxious to go could not have the opportunity. We sent something like eight regiments, including regulars and volunteers, from Illinois, that new and small State, and yet not one-half went from that State who were prepared to go. And because the President did not receive us, is it to be brought as a charge against us? If we had had a President from Illinois, he would perhaps have received more of our men. I have no reason to complain of the present Executive; he did as well as he could. But if he selected more southern men than northern men—I say selected, because he had to choose; we had hundreds of thousands of men whose services were ready, and from whom a choice was made—and the balance sent home disappointed, I ask if that should be brought as a charge against the North? It seems to me unjust.

I have now noticed all the charges which are brought against us; and as the Address says nothing about the complaints which we of the North might make against the South, I propose to mention a few of them. I do not think there is much difference in the grounds of complaint which the North and the South have against each other. If we have infringed in any measure upon their rights, they have upon ours also. One would suppose, from reading the celebrated Address, that the South had never transgressed; that they had always been conciliatory; that they had never offended the North in any respect. I consider that they have. I consider that the most flagrant violation of the Constitution ever perpetrated in these United States was the law of South Carolina forbidding the colored citizens of Massachusetts from going into that State; even imprisoning them when they go there aboard their vessels. I know it may be answered that Massachusetts has no right to make the negroes citizens; but she has just the same right that South Carolina has to make them slaves; and the Supreme Court, in the celebrated case which has lately been adjudicated within this Capitol, says in effect that that law of South Carolina is unconstitutional. The law of South Carolina not only prevents the black citizen of Massachusetts from going into South Carolina, but it prevents an appeal being taken from the judgment of the courts of that State to the Supreme Court of the United States, and therefore cuts off one of the inherent rights of the American citizen—the right of appeal to the superior courts. Is not this an offence, a cause of complaint? I know it may be said that this is an old subject, and has been talked of before; but so have the charges which are put forth in this Address been talked of before. Here, then, is an offence against the Constitution, against Massachusetts, and all the States who make the blacks citizens.

But there is another offence, and in that offence I must say that the people of the North—and I am sorry to say the party to which I belong—have to some extent acquiesced, and given their aid and countenance to it. It is an outrage upon the people of this Republic, such as would scarcely be tolerated in England, or in any other country. I allude to the "twenty-first rule," which hung like an incubus upon this House for many years. I allude to that rule, because I consider it the base, the groundwork upon which most of this slavery agitation has been built up. If that weapon had not been put into the hands of the Abolition party of the North, Abolitionism would have died before it had well been born. But a great right—one of the dearest and most sacred rights of the American citizen, was trampled upon; and the issue was changed from Abolitionism to the right of petition, and the force of truth was with the party who maintained the right of petition, and it gave them a power which they never could have had under any other circumstances. The whole issue was in consequence of this state of things changed, and from being the Abolition party, it had become the Liberty party; and the Liberty party had grown from a handful until it pervaded the entire North, and had more or less strength in almost every section and Congressional district of the North. And (to make use of a quotation) have we been wanting in courtesy to our southern brethren that they should thus revolt against us? Why, has not a portion of the North stood up like a wall of fire between the Abolition party and the South? Have not a portion of the North planted themselves on the ground that the South ought to have met them upon, and which they have most signally failed to do? Our doctrine is what was originally the doctrine of the South—that slavery is a local institution, and that we have no right to interfere with it. Sir, I regret that the South has not stood by the Democratic party upon that platform. But they themselves have deserted us; they have attempted to roll the black tide of slavery upon territories which are now free, and they call upon us to assist them in that unholy work, and many of our men have stood by them until they have been cut down by the popular resentment at home.

I say a large portion of the North stood by the South until she forsook her old doctrines of non-interference. When the cry was raised to reject the purchase of Louisiana because of slavery, that cry was unheeded, and that territory was admitted with all her slaves, and has since been erected into three large flourishing slaveholding States. Florida was purchased and admitted into the Union a slaveholding State. Texas was admitted a slaveholding State, with the right to subdivide into three slaveholding States. In all this did the North attempt to destroy the municipal laws and domestic institutions of those countries? Did the North threaten a dissolution of the Union unless slavery should be abolished? Clearly not. In all our purchases or conquests, New Mexico and California alone have been free; they alone of our purchases have furnished an outlet to the free labor of the North. And shall the Union be dissolved because we protest against planting slavery on the free soil of those territories?

It may be asked, what has that revolutionary convention and that southern address to do with the form of government we shall establish over our western possessions. To my mind it has much to do. There is an axiom that "revolutions never go backwards;" and the reason why it is so, is because the counsels of wisdom are not heeded by the rebelled against more than the rebelling. When a spirit of discontent has seized upon a portion of a community, the government generally falls into one of two fatal errors; either of which is calculated to fan the flame of discord, and to hasten that which it seeks to prevent. The first and most common error is, for a government to crush with its power the first symptoms of rebellion; to hunt down and persecute its instigators, and, by force and cruelty, arouse the people to a phrensied indignation. Such a course, in a government like ours, could end in nothing but disaster. The other error, though slower in its operation, is no less fatal. It is to yield to a rebelling faction a principle of right, for the purpose of propitiating its favor. By that you may avert the stroke of the uplifted arm, but you only nerve that arm and strengthen it for a more deadly blow. Let those who hold this Union so cheaply know that you tremble beneath their frown, and that you will retrace your steps because they have threatened you, and how long will it be before every important measure will be carried through Congress in the same manner? Nay, further; how long will it be until the election of your Chief Magistrate will be made to turn upon the threat of a party who would dissolve the Union to carry out a particular measure? Our duty, then, obviously is, not to swerve to the right hand or to the left, but by moderation and firmness to establish territorial governments over those countries, and to secure to the people all the rights and immunities of which they were possessed at the time they were annexed. If we do this, the southern convention will come to nought and be forgotten, like the Hartford Convention or the nullification of South Carolina. But the times are portentous when, under the roof of this Capitol, and within the walls of this temple dedicated to liberty and our whole country, a secret conclave, with barred doors, can sit at the hour of midnight to calculate the value of this Union, and to deliberate upon its overthrow. When the foundations of this Capitol were laid deep in the earth, our fathers looked to it with pride and with hope. Their imaginations ran down the vista of years, and they beheld their children's children, to the remotest generations, assembled beneath this dome to deliberate and enact laws for the government of a great, a happy, and a united people. Alas, that it should ever be prostituted to any other use! Can it indeed be said, that blessings have been showered upon us with so liberal a hand that we have forgotten the Great Giver, and are rushing madly upon our own destruction? Oh, my country! shall I or my children cease to look upon thy comely proportions? Shall we live to behold thy broken fragments scattered by the hand of civil discord? Can the cause of freedom be advanced by extending slavery? Is slavery so strong, and are the bonds of our Union so weak that they must burst asunder, that it may have an outlet?

Physically, our country is the most wonderful upon the face of the earth. Nature seems to have

designed it for one great confederation of States by combining every variety of climate, soil, and production. The East cannot say to the West, we are independent; the North cannot say to the South, nor the South to the North, that we derive no benefit from our union, for the interests of all the parts depend upon the whole. The breadstuffs of the West are needed in the North and South; the manufactures of the North are needed in the South and West; and the cotton, sugar, and tobacco of the South, are needed in the North and West. Thus are we mutually dependent upon each other; and a dissolution of the Union would destroy the best interests of all sections; and we have no right to calculate what portion would suffer most. But as far as the institution of slavery is concerned, how would the matter stand with the South? Will their peculiar institutions be more safe when the power of the General Government is broken, and it depends upon the slaveholding States alone for its support? When the North shall be discharged from all constitutional obligations, think you she will permit runaway slaves to be recaptured? When insurrections break out among the negroes, will the North take sides with the oppressor against the oppressed? Sir, the day that marks the dissolution of this Union will hear the death-knell of slavery. The chains will be torn from the limbs of the black man, and Ethiopia will stretch out her free hands to her God; and that, sir, will be the only bright star that will shine out upon the dark bosom of the storm that wrecks our common country.

If we yield the great principle of right and justice, and establish slavery and protect it in our free possessions, we will incur the contempt of the civilized world; but if, on the contrary, we evince the firmness which ought to characterize the legislation of a great country by enacting laws just to all, without special favors to any, we will command the respect of the world, and bind, by another link, the hearts of our people to the whole country. In times of peace and national prosperity, the people, that great substratum of society, which nourishes and supports our glorious institutions, are overlooked and perhaps neglected; but in times like these, when danger hangs like a pall of darkness upon our country, the patriot turns with hope and confidence to the uncorrupted, incorruptible people.

They will never consent to a dissolution of the Union because slavery is not extended over New Mexico and California. We are now a prosperous and happy nation. There is not a people upon earth whose advancement equals ours. The tide of our progress has been onward until it spans the continent. Our numbers are as the trees of the forest; they cover the hills like the clouds of heaven. Our glory is not alone in numbers and in strength, although a million armed men would spring from our bosom at the first note of danger; but our commerce rivals that of the Mistress of the Seas. We have chained the elements to the car of science, until our thoughts fly upon the lightning's wing from one end of the continent to the other. Will the people, then, with all these evidences of the benefits and blessings of our Federal Union, permit themselves to be launched out upon a sea of uncertainty, where no chart points to a haven of repose? We stand upon the brink of ruin's precipice; we can no longer shut our eyes upon danger and feel that we are secure, for at our very feet yawns a gulf, upon whose dark waters are written, in characters of blood, "the grave of nations whose unity have been severed by domestic discord."

GOVERNMENTS FOR THE NEW TERRITORIES.

SPEECH OF MR. A. BUCKNER,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1849,

On the propriety of organizing Governments for the Territories.

Mr. CHAIRMAN: It is the duty of Congress to organize governments for the Territories of New Mexico and California. The military rule in force in these Territories during the continuance of the war, ceased upon the ratification of the treaty of peace with the Republic of Mexico. The only government that obtains there now is one partly civil and partly military, established by the necessity of the case, and ought to be superseded at the earliest practicable period of time. The only difficulty in the way of legislation is to be found in the question of slavery. The agitation of this subject has already disturbed the harmony and peace of the Union, and is regarded by some as threatening its dissolution. It is the part of wisdom to remove this cause of discord, to close up this fountain of bitter waters. In the adjustment of the terms by which governments are to be given to these Territories, the slave States cannot suffer. Governments once established, the North will be hushed into silence, fanaticism lose the food which feeds it, and the Union become more indissolubly united. The factionists of the North and South, by the advocacy of unwise measures and the use of imprudent speeches, have fomented sectional jealousies and excited prejudices, which, if not arrested, must lead to the most unhappy results. Remove the cause of the excitement, and tranquillity necessarily follows. Give governments to these Territories, and the whole country will glide smoothly and rapidly into a state of quietude equal to that which prevailed anterior to the origin of the controversy.

In my opinion, slavery can never be planted in these Territories. Many causes exist, insuperable in their nature, to prevent any such result. In the first instance, should Congress sanction the introduction of slavery within their limits, it would be conferring a useless privilege. Their soil, climate, and agricultural productions forbid the profitable employment of negro slaves. A careful perusal of the reconnoissance made of these Territories by Colonel Frémont, Lieutenants Emory, Abert, Cooke, and Johnston, who were directed by the President to examine the country, and to ascertain, among other objects, its agricultural and mineral resources, must satisfy every unprejudiced mind of this fact. Nine-tenths of it is either rough, barren, and inaccessible mountains, whose summits in many instances are covered with everlasting snows, or vast, sterile, and arid deserts, destitute of water, vegetation, and all animal subsistence. The residue of the country is at times partially covered with grass: occasionally an oasis is found, rich in verdure, but in the greater part of it nature makes but feeble and often abortive attempts to cover her nakedness. The year is divided into but two seasons, the wet and the dry. The first is from December to March; the last, the remainder of the year. During the wet season the rains often fall in large quantities, but in the dry season not a drop is looked for, or experienced. Then an oppressive and even intense heat predominates, consuming the grass and drying up the small streams of water. Famine, the most direful of all calamities that can afflict a country, would prevail, but for the manner in which the soil is cultivated. This is done by irrigation; the water is drawn from the streams by the use of canals and other artificial contrivances, and is thus made to overflow the fields in cultivation, giving sustenance and nourishment to the growing crops. But I will quote from the authorities just mentioned for a more full and accurate description of this country and of its physical peculiarities.

"The country, (says Lieutenant Emory,) from the Arkansas to the Colorado, a distance of over 1,200 miles, in its adaptation to agriculture, has peculiarities which must forever stamp itself upon the population which inhabits it. All of North Mexico, embracing New Mexico, Chihuahua, Sonora, and the Californias, as far north as the Sacramento, is, as far as the best information goes, the same in the physical character of its surface, and differs but little in climate and products.

"In no part of this vast tract can the rains from heaven be relied upon to any extent for the cultivation of the soil. The earth is destitute of trees, and in great part also of any vegetation whatever.

"A few feeble streams flow in different directions from the great mountains, which in many places traverse this region. These streams are separated sometimes by plains, and sometimes by mountains, without water and without vegetation, and may be called deserts, so far as they perform any useful part in the sustenance of animal life. The cultivation of the earth is, therefore, confined to those narrow strips of land which are within the level of the waters of the streams, and wherever practised in a community with any success or to any extent, involves a degree of subordination and absolute obedience to a chief repugnant to the habits of our people.

"The chief who directs the time and quantity of the precious irrigating water must be implicitly obeyed by the whole community. A departure from his orders, by the waste of water or unjust distribution of it, or neglect to make the proper embankments, may endanger the means of subsistence of many people. He must, therefore, be armed with power to punish promptly and immediately."

Again: Describing the country east of the Tulare lakes, and south of the parallel of 36°, and the country between the Colorado and Gila rivers, he says:

"Of these regions nothing is known except from the reports of trappers and the speculations of geologists. As far as these accounts go, all concur in representing it as a waste of sand and rock, unadorned with vegetation, poorly watered, and unfit, it is believed, for any of the useful purposes of life. A glance at the map will show what an immense area is embraced in these boundaries; and, notwithstanding the oral accounts in regard to it, it is difficult to bring the mind to the belief in the existence of such a sea of waste and desert, when every other grand division of the earth presents some prominent feature in the economy of nature administering to the wants of man."

The principal agricultural productions of this country are Indian corn and wheat; the grape is successfully cultivated, and makes a fair quality of wine; detached and small parts of it offer good pasturage for cattle and sheep; but the remote and isolated position of New Mexico from the commercial parts of the world will prevent its ever having a foreign market for its surplus products. The nearest settlements to New Mexico on the west are the towns of the Pacific coast, distant six or seven hundred miles, and separated by nearly impassable deserts. Chihuahua is distant from the most southern settlement of New Mexico four hundred and twenty miles, and most of the intervening country desert; the traders are usually from thirty to forty days transporting loads from Santa Fé to Chihuahua. To the east the nearest settlements are our own borders; the distance to Fort Leavenworth, by the usually traveled route, is eight hundred and seventy miles. New Mexico has no railroads, canals, or navigable rivers, to facilitate intercourse with, or cheapen transportation to, foreign markets. But, from the best data furnished, it may well be doubted, if this country can afford much of an agricultural surplus after supplying the wants of its inhabitants. The necessity for irrigation, and the small supply of water found in that country, fixes a limit, and a very narrow one, to all the tillable soil, and consequently to the amount of its productions. Lieutenant Emory, speaking of the amount of tillable soil in this country, says:

"The surface covered with vegetation, though small, is difficult to estimate; and perhaps it is unimportant that an estimate should be made, since the productiveness of these regions depends on other considerations than smoothness of surface and character of soil. The rains cannot be relied upon, and the tiller of the earth depends upon irrigation from the mountain streams for his crops. The extent of ground capable of tillage is thus reduced to very narrow limits, easy of computation. A knowledge of the water courses, their fall, volume and extent, and the quantity of lands on their margin within the level of these waters, are the data upon which the computation must be based. Taking this as a guide, an inspection of a map will give a general idea of the extent of arable ground, sufficiently correct for all practicable purposes; but, in candor, it should be said, that many streams laid down in it disappear in the sand, while the rocky cliffs, forming the banks of others, render navigation impracticable."

Lieutenant Peck remarks upon the same subject, when speaking of the Territory of New Mexico, that a large portion of it is made up of sands, rocks, and desert waste. He says:

"If you cast your eye upon the map, you will see from the position of the towns where the arable land is found. A narrow strip along the Del Norte, with a few detached patches here and there upon the affluents of the same river, constitute it all; for there is very little land not already improved that is worth occupying."

The present population of New Mexico is estimated at one hundred thousand persons. A very large proportion of this number is composed of poor, illiterate, and degraded Indians, substantially slaves to the few resident Mexicans of Spanish descent, and who, from their extreme indigence and a limited demand for labor, are compelled to work for a mere pittance. The remoteness of New Mexico from a suitable market, her abundant cheap labor, the small amount of tillable soil within her limits, and the great expense and trouble attendant upon its cultivation, taken in connection with the character of her agricultural products and other commercial resources, must prevent the profitable transfer of negro slave labor from the rice, cotton, and sugar plantations of the South, or from the corn, wheat, tobacco, and hemp fields of the western States, to the banks of the Rio Grande. Nature has more effectually prohibited slavery in New Mexico than can any legislative enactment

of Congress. The same objections obtain against all the territories acquired by the treaty with Mexico, subject to slight modifications in respect to the country embraced within the valley of the Sacramento and San Joaquin rivers. This valley is situated between the Sierra Nevada mountains and the Pacific Ocean, north of the 36th parallel, and contains the only valuable territory in California. Its general character is barren and unproductive, yet with a fine climate and the use of irrigation, many parts of it are made to yield abundantly, and could only be made to produce by these means. Wheat and corn, rye and oats, with all the fruits of the temperate and many of the tropical climates, are cultivated with success. But this valley can be of little value for agricultural purposes, and must be incapable of sustaining, by its own agricultural resources, the dense population destined to inhabit it.

The rivers of the valley begin to rise with the rains of the wet season, and are kept up the first part of the summer by the melting of the snows in the adjacent mountains. They often overflow their banks, submerging many of the contiguous bottoms, and this at a season when it does great damage to the crops; the low temperature of the water not only checks the growth, but more frequently destroys the entire crop whether of grass or grain. These inundations do not take place every year. That depends upon the amount of snow which accumulates in the neighboring mountains during the preceding winter. The overflows are of frequent, not annual, occurrence. This overflow offers an impediment which will prevent the cultivation of many of those rich alluvial bottoms now regarded by many as furnishing fine sites for productive farms.

The small valleys at the foot of the mountains, which, from their rapid descent and the streams of water which occasionally flow through them and furnish the means and facilities of irrigation, are the only spots of soil which can be cultivated, and are the seats of the missions. The amount of tillable soil in this valley will be found upon actual experiment, comparatively speaking, confined to a very few acres—far too few to meet the wants of its inhabitants. Until within a few years this valley has been occupied by intelligent, industrious, and energetic Catholic missionaries from Spain for at least two hundred years. During that period of time they were not enabled, with the coöperation of the tractable Indian labor of the valley, to convert it into an agricultural country. Natural causes, and not the want of industry or of skill on their part, defeated the experiment.

The valley is said, at times, to furnish fine pasturage for cattle, but the grazier will encounter many difficulties in the pursuit of his occupation. The genial rains of the wet season cover the whole country with a rich and luxuriant carpet of vegetation. During this time the cattle, bountifully supplied with nutritious grasses, soon become fat; but as the dry season advances, the grass gradually disappears from the face of the country, the result of excessive heat and protracted dry weather; it then presents the parched and desolate and arid appearance of a desert, and the cattle, deprived of their accustomed food, become rapidly poor and often die of starvation.

Captain Wilkes, of the Exploring Expedition, says: that "when in California, no rain had fallen 'for eleven months; that none fell for the next six; 'making in all seventeen consecutive months of 'drought. The cattle died by hundreds upon the 'plains. He was informed by residents that such 'droughts were not unfrequent." Greenhow, in his history of California, says, "heavy rains are of rare occurrence, and two years without any is not unusual." The droughts and consequent destruction of the grass must ever render stock-raising a precarious and often unprofitable business.

This valley is estimated to contain twenty thousand Indians, who, for two centuries, have performed all the labor needed in the country, "and are stimulated to work by a salary of three dollars per month, and repeated floggings."

Lieutenant Emory says:

"This race, which, in our country, has never been reduced to slavery, is in that degraded condition throughout California, and do the only labor performed in the country. Nothing can exceed their present degraded condition. For negligence or refusal to work, the lash is freely applied, and in many instances life has been taken by the Californians without being held accountable by the laws of the land."

But the wages of labor have been materially changed by the recent discovery of the great and unprecedented mineral wealth of that country. The region containing these mines of gold are at this time unappropriated; all who desire and have the opportunity, can work there for golden treasure without the fear of interruption from the Government of the United States. This bright and alluring prospect offered of acquiring in a short time an independent fortune by mere manual labor, has caused a large, a very large stream of immigration to flow in that direction, and which will never cease until the whole country is completely inundated by a dense population, inured to toil, and who have looked to manual labor as the means of livelihood. This immigration will be chiefly from the free States, and the thickly populated countries of Europe, opposed upon principle and from motives of interest to the institution of slavery. But the condition of things in California is destined to undergo a considerable change; the lands will be surveyed and sold by the United States Government, and purchased by capitalists. Then will be found the California Indian and the immigrant competing with each other at the mines for employment. The number seeking work will exceed the demand for it. To plant slavery in California and perpetuate it, slave men and women must be taken there, and families of them reared. Go to any farm in Kentucky where slaves are owned, and it will be proved that not more than one in four, on an average, are enabled to maintain themselves. The women with young and increasing families cannot be employed so as to earn food and raiment for themselves and families. The old and infirm are incumbrances. Now, deduct the expense of maintaining a family of four persons (including the payment of taxes and doctor's bills) from the gross income of one of the number, and a basis is established upon which can be truly estimated the net profits derivable from the employment of slave labor.

A voyage by sea to California cannot be performed in less time than three months. It is attended with considerable inconvenience and great dangers, having to make the circuit of the whole of South America, doubling Cape Horn, being the most southern extremity of the western continent—an undertaking considered hazardous even by experienced navigators. A voyage through the Gulf of Mexico, across the Isthmus of Panama, and thence by the Pacific Ocean to California, is very expensive, and still more dangerous. A journey by land across the Rocky Mountains, and the immense deserts which intervene between the United States and California, present scenes of hardship to be endured, and obstacles to be surmounted, calculated to deter the most intrepid adventurer. Those going by this route collect together on the western borders of the State of Missouri early in the spring; and on the appearance of the grass commence a forward movement, and continue traveling until late in autumn, by which time, if fortunate, they arrive in the inhabited portions of California; but should they, from any misfortune or untoward accident, be delayed, winter overtakes them while yet in the mountains, the grass is destroyed, the game disappears, the cold becomes intense, their cattle die of starvation, and they, impeded in their journey by the deep snows, chilled and benumbed by the frigid climate, and destitute of food, die a most horrid death. Whole parties have met with this horrid fate in the mountains.

The prominent objections militating against the introduction of slavery into these territories, consists, first, in the cost, trouble, and danger of transporting slaves from the United States to that country; secondly, in the comparatively few of the whole number of a family whose labor can be rendered pecuniarily advantageous to the owner; and, thirdly, from the high price of living, the result of a condition of things and a combination of circumstances beyond control. But little of the soil is subject to cultivation, which is attended with great trouble and expense, and when taxed to its utmost power of production, will not yield sufficient food for the wants of its inhabitants. They will have to look to a foreign market to supply the deficit, which necessarily enhances the price of provisions, and increases the expense of living. The fourth obstacle to the introduction of slavery is, the low wages of labor effected by competition for employment between the free immigrant and the California Indian. Let any man of unprejudiced mind take into consideration these difficulties, and he will, in my opinion, come to the conclusion that slavery can find no abiding place in California.

Lieutenant Emory, who traversed the most of this country, having regard to its physical appearance, and probable capacity, says, upon the subject of negro slavery, that—

"The profits of labor are too inadequate for the existence of negro slavery. Slavery, as practised by the Mexicans, under the form of peonage, which enables their master to get the services of the adult while in the prime of life, without the obligation of rearing him in infancy, supporting him in old age, or maintaining his family, affords no data for estimating the profit of slave labor, as it exists in the United States. No one who has ever visited this country, and who is acquainted with the character and value of slave labor in the United States, would ever think of bringing his own slaves here with any view to profit; much less would he purchase slaves for such purpose. Their labor here, if they could be retained as slaves among peons nearly of their own color, would never repay the cost of transportation, much less the additional purchase money."

The President of the United States, in his late annual message, expresses the belief that in all probability California and New Mexico, from the nature of their soil and climate, are unsuited to the institution of slavery. He says:

"The question is believed to be rather abstract than practical, whether slavery ever can or would exist in any portion of the acquired territory, even if it were left to the option of the slaveholding States themselves. From the nature of the climate and productions in much the larger portion of it, it is certain it could never exist, and in the remainder, the probabilities are, it would not."

But if the nature of the climate and the character of the productions of this country will not exclude the use of slaves, other causes exist which will. Upon the transfer of territory by one Government to another, no laws are repealed or abrogated in the country ceded, except such as are inconsistent with the relations which those people sustain to the new Government. The acquisition only implies change of dominion and allegiance, a transfer of legal authority and executive control, and all laws not necessarily inconsistent therewith remain in full force and unaltered, until modified or abolished by the new Government. The necessity for such a regulation is apparent. The interval of time which must necessarily elapse between the transfer and organization of a new code of laws for the people of a ceded territory, would leave them exposed to all the dangers appertaining to a country without government, if no provision had been made for such a contingency. International law recognized as binding by all the civilized nations of the whole world, from considerations of imperative necessity, and having its foundation on the principles of natural justice and equity, affords protection against the evils of anarchy and the perils of unrestrained licentiousness in such cases.

On this subject Vattel thus expresses himself:

"The fundamental regulation that determines the manner in which the public authority is to be executed, is what forms the constitution of the State. In this is seen the form in which the nation acts, in quality of a body politic; how, and by whom the people are to be governed; and what are the rights and duties of the governor. 'The laws are regulations established by public authority, to be observed in society.' The laws made directly with a view to the *public* welfare are *political* laws, and in this class, those that concern the body itself, and the being of society, the form of government, the manner in which the public authority is to be exerted; those, in a word, which together form the constitution of the State, are the *fundamental laws*. The *civil laws* are those that regulate the rights and conduct of the citizens among themselves."

Chief Justice Marshall, in the case of the American Insurance Company *vs.* Canter, (1st Peters' Reports,) speaking in relation to the transfer of the Territory of Florida by the King of Spain to the Government of the United States, and the effect produced by that cession, says:

"On such transfer of territory, it has never been held that the relations of the inhabitants with each other undergo *any* change. Their relations with their former sovereign are dissolved, and new relations are created between them and the Government which has acquired their territory. The same act which transfers their country, transfers the allegiance of those who remain in it, and the law which may be termed *political* is *necessarily* changed; although that which regulates the intercourse and general conduct of individuals remains in force until altered by the newly created power of the State."

And again, in the same opinion, says:

"It has already been stated, that all the laws which were in force in Florida, while a province of Spain, those excepted which were political in their character, which con-

cerned the relations between the people and their sovereign, remained in force until altered by the Government of the United States. Congress recognized this principle by using the words, 'laws of the territory now in force therein.'"

It is evident, from these authorities, that none of the laws in force in New Mexico and California at the time of their cession to the United States, were abrogated except those termed political, and those are only termed political which refer to the relations existing between the people and the new Government. The allegiance due from the citizens of these Territories to the Republic of Mexico, was transferred by the act of cession to the Government of the United States. That transfer originated in the necessity of the case. But all the other laws, the municipal or local laws, or those which regulate the rights and conduct of the citizens among themselves, remain obligatory and unaltered.

All writers on national law, and judges who have given judicial decisions upon the subject, agree in the opinion that the relation of master and slave does not exist by the law of nature; nor is the claim of the master, like the right to property in general, recognized by all civilized communities; it owes its existence to positive law. Slavery, says the supreme court of the State of Mississippi, (Walker's Reports, page 36,) "is condemned by reason and the law of nature; it exists, and can exist, only through municipal regulations." In the same volume, page 83, the court says: "In 'the Constitution of the United States, slaves are 'expressly designated as *persons;* the right of the 'master exists, not by the force of the law of na-'tions or of nature, but by virtue only of the posi-'tive law of the States." The supreme court of the State of Louisiana, in the 14th of Martin's Reports, page 470, says: "Slavery is sanctioned 'by the laws of this State, but we consider that as 'a right existing by a positive law of a municipal 'character, without foundation in the law of na-'ture." And the supreme court of Kentucky says: "Slavery is sanctioned by the laws of this State, but we consider that as a right existing by a positive law of a municipal character, without foundation in the law of nature." Slavery, if these authorities are entitled to respect, can only exist by a positive law, created by usage, custom, or statutory provision. It is not necessary to forbid it; it is enough that it is not specially authorized. The Republic of Mexico had, long before the cession of this country to the Government of the United States, abolished negro slavery; and such was the law of that country at the time of this acquisition.

By the constitutive acts of the Mexican Congress, adopted 31st January, 1824, the 30th article declares: "It is the duty of the nation to protect by wise and just laws the rights of man and of the citizens." On the 13th of July, in the same year, the Mexican Congress decreed as follows: 1st. "The commerce and traffic in slaves, from what-'ever power, and under whatever flag they may 'come, is and shall be forever prohibited in the 'territory of the Mexican United States." 2d. "Slaves introduced contrary to the tenor of the 'preceding article are free, from the fact alone of 'their treading the Mexican territory." President Guerrero, on the 15th September, 1829, upon the authority granted by the constitutive acts, and according to the provision of the 30th article, decreed, 1st, "that slavery be exterminated in the republic;" 2d, "consequently, those are free who, up to this day, have been looked upon as slaves."

I am constrained to believe that Congress has the sole and exclusive right to legislate for the territories; to organize governments for them, and to regulate by law all matters of local and domestic concern appertaining to the inhabitants residing in such territories. This opinion is sustained by the decision of the Supreme Court of the United States, and is in conformity with the whole practice of the General Government from the time of its foundation up to the present day.

The right of the General Government to acquire territory under the war and treaty-making power is granted. It would seem to follow, as an inevitable consequence, that it possesses the power to govern whatever it might acquire; the former is but an incident to the latter. The citizens of territories acquired do not become entitled to self-government. If possessed of that right, the principal object of acquisition, the right of jurisdiction and dominion, would be frustrated. In this particular instance, recognize the right of self-government to the citizens of these territories, and they might, and in all probability would, liberate themselves from all obedience and responsibility to this Government. Annexation took place without asking their consent, and without consulting their wishes upon the subject. A union thus effected, is a violation of one of the fundamental principles of republicanism, as avowed in our Declaration of Independence, that all governments derive their just powers from the consent of the governed. It was an odious act of tyranny, for the perpetration of which no reasonable excuse can be offered. These territories are not subject to State jurisdiction. A State, by the Constitution, is expressly prohibited from entering into any treaty with a foreign Power, or into a compact, or agreement with another State, or to engage in war unless actually invaded, or in such imminent danger as will admit of no delay. She acts only in self-defence. Territory, therefore, can neither be gained for a State by conquest, or acquired by treaty. The power and jurisdiction of a State is necessarily confined to her territorial limits. Any other arrangement of jurisdiction would produce collisions between the States and the General Government, dangerous to the integrity of the Union. Separate legislation for the territory of thirty independent States, with an attempt to enforce their laws within its limits, would have a tendency to cause thirty civil wars. The conflict in the laws of the several States would utterly confound the judges, and close every avenue to the temple of justice. The General and State Governments are supreme and independent within their respective spheres, and whilst each revolves in its appropriate and independent orbit, harmony exists between them; but suffer either to move without the circle of its peculiar duties, and strife is the inevitable consequence. Yield this power to the General Government, where it justly belongs, and no clashing of jurisdiction can take place, and justice will be administered without delay or impediment. The territories must, then, be under the jurisdiction of the General Government or without government at all. In my opinion, the power is conferred on Congress in that clause of the Constitution which declares: "Congress shall 'have power to make all laws necessary and 'proper for carrying into execution the power 'vested by this Constitution in the Government 'of the United States." We have, by the war and treaty-making power, the ability to acquire territory, and by this provision of the Constitution Congress has the right to legislate for it when acquired, to carry into effect the true and legitimate object of acquisition, the right of jurisdiction and dominion. But there is an express grant of power in the third section of the fourth article of the Constitution, which says: "Congress shall have 'power to dispose of, and make all needful rules 'and regulations, respecting the territory or other 'property belonging to the United States." This general clause is amply sufficient to authorize Congress to establish territorial governments, and, in fact, to do anything in the territories not prohibited in the Constitution itself. Some persons contend that this clause only gives Congress the power to sell the land, without the power to regulate the municipal affairs of those who settle upon it. But it is evident a Government may hold property in territory without owning one foot of the soil. If the lands are appropriated at the time of its annexation, the right of jurisdiction is the only power acquired, and which was the case in the annexation of Texas to the United States. The unappropriated lands were, by the terms of the articles of annexation, reserved to the use of the State.

Vattel informs us, in his Laws of Nations, "that 'the right of a people to a country implies two 'things: First. The *domain*, by virtue of which 'the nation alone may use the country for the 'supply of its necessities, may dispose of it as it 'thinks proper, and derive from it every advan-'tage it is capable of yielding. Second. The *em-'pire*, or the right of sovereign command, by which 'the nation directs and regulates, at its pleasure, 'everything they possess in the country. When 'a nation takes possession of a country, it is con-'sidered as acquiring the empire or sovereignty of 'it, at the same time with the domain; for since 'the nation is free and independent, it can have no 'intention in settling in a country to leave to 'others the right to command, or any of those 'rights that constitute sovereignty." This authority clearly sustains the position that possession of territory gives a full and perfect right to govern and control it. On the subject of the property the nation owns in her territory, Vattel says: "We have already explained how a nation takes 'possession of a country, and at the same time 'gains possession of the domain and government 'thereof. That government, with everything in-'cluded in it, becomes the property of the nation 'in general." In this passage, the term property is used in a broader sense than mere land; it implies jurisdiction and full legislative power over it. Then the United States Government, upon obtaining possession of these Territories, acquired the supreme right of legislation over them, unless the Constitution expressly limits it. The only limit to the exercise of this power is to be found in the sound discretion and presumed integrity of the Congress. This opinion is confirmed by the decisions of the Supreme Court of the United States.

In the case of schooner Exchange *vs.* McFaddon and others, (7th Cranch,) Judge Marshall says: "The jurisdiction of a nation within its own 'territory is necessarily exclusive and absolute. 'It is susceptible of no limitations not imposed by 'itself. All exceptions, therefore, to the full and 'complete power within its own territories must 'be traced up to the consent of the nation itself; 'they can flow from no other legitimate source." Again, in the case of the American Insurance Company *vs.* Canter, (1 Peters,) the court says: "Until Florida shall become a State, she continues 'to be a Territory of the United States, governed 'by that clause in the Constitution which empow-'ers Congress 'to make all needful rules and reg-'ulations respecting the territory and property of 'the United States.'" Again, in the case of the Cherokee Nation *vs.* the State of Georgia, the court says: "The power given in this clause is of the 'most plenary kind. Rules and regulations re-'specting the territory of the United States: they 'necessarily confer complete jurisdiction. It was 'necessary to confer it without limitation, to enable 'the Government to redeem the pledge given to 'the old in relation to the formation and powers 'of the new States." The same doctrines are reiterated in the case of Gratiot and others, (14 Peters, 537.)

I will briefly recite the acts of Congress ratifying this construction of the Constitution, and having the force of legislative precedent.

1st. The ordinance of 1787 was recognized at the first session of the first Congress. The precedent is coeval with the birth of the Government. Many of those persons who sat in the Convention which framed the Constitution were members of the first Congress, and it may be almost denominated the work of the framers of that instrument. This ordinance prohibited slavery or involuntary servitude in the territory northwest of the Ohio river. The act was signed by General Washington.

2d. On the 7th April, 1798, an act was passed authorizing the establishment of a government for the Territory of the Mississippi. That act authorized the President to establish a government therein, in all respects similar to that in the territory northwest of the Ohio river, except the article prohibiting slavery; it then forbade the importation of slaves into the territory from any place without the limits of the United States. This act was passed some considerable time before Congress was authorized by the Constitution to prohibit the importation of slaves into the States which were originally parties to the Federal compact. This provision of the Constitution applied only to the existing States; it did not extend to the States thereafter to be formed, nor to the territories of the United States. The exercise of jurisdiction in the organization of this territory over matters of domestic concern to the inhabitants, and especially over the subject of slavery, without opposition, shows the undisputed interpretation put, at that day, on the Constitution in respect to the power of Congress upon the subject. There was a direct exercise of legislative power in the territories which was positively prohibited in respect to the States existing at the adoption of the Constitution.

3d. In the year 1800, Congress passed an act to divide the territories belonging to the United States northwest of the Ohio river, into two separate governments. This act gave to the Territory of Indiana a government similar to that provided by the ordinance of 1787 for the Northwest Territory.

4th. On the 26th March, 1804, an act passed dividing Louisiana into two territories. The 10th section of the act had three provisions in respect to the subject of slavery. First, the importation of slaves from any place without the limit of the United States was prohibited; second, the importation from any place within the limits of the United States of slaves imported since the first of May, 1798, was prohibited; and third, the importation of slaves except by a citizen of the United States removing into said territory for actual settlement, and being at the time of such removal *bona fide* owner of such slaves, was prohibited. Congress, by these prohibitions, imposed restrictions upon its extension even within territories in which it existed. It was a direct prohibition of the domestic slave trade—it was an act of power in respect to the territories which Congress did not possess in respect to the States. This act was signed by Mr. Jefferson.

5th. On the 11th January, 1805, an act was passed establishing the Territory of Michigan, with a government including the sixth article of the ordinance of 1787.

6th. On the 3d February, 1809, a similar government was established for the Territory of Illinois. These acts were approved by Mr. Jefferson.

7th. On the 4th June, 1812, an act was passed providing for the government of the Territory of Missouri, and the laws and regulations in force in the district of Louisiana were continued in operation.

8th. On the 3d March, 1817, a government was formed for the Territory of Alabama, and the laws then in force within it as a part of Mississippi, were continued in operation.

9th. On the 2d March, 1819, the Territory of Arkansas was formed from the Territory of Missouri, and a government formed for it.

10th. On the 30th March, 1822, an act was passed for the territorial government of Florida, containing provisions making it unlawful to import or bring within the said Territory, from any place without the territory of the United States, any slave or slaves. These acts were passed under Mr. Monroe's administration.

11th. On the 20th April, 1836, an act was passed establishing the territorial government of Wisconsin, securing to the inhabitants "the rights, privileges, and advantages" secured to the people of the Northwest Territory by the ordinance of 1787. This act was signed by General Jackson. On the 12th June, 1838, a territorial government for Iowa was established, and the laws of the United States extended over it. This act was signed by Mr. Van Buren.

12th. Near the close of the last session of this Congress, a government was established for the Territory of Oregon, extending the ordinance of 1787, or, in other words, the Wilmot proviso, over it. The act was approved by Mr. Polk. These legislative precedents commenced during the first Congress holden under our present form of government, and have continued without interruption to the present time.

The acts referred to recognize, regulate, and prohibit slavery, and in fact embrace a full and complete exercise of legislative power over the whole subject. Many of them were passed by the consent of those very patriots and statesmen who aided in the formation of our Constitution, who, it is reasonable to presume, best understood the extent of legislative power conferred by that instrument. These acts have been approved by all the Presidents who were incumbents of the Executive chair at the time of their several enactments, from Washington to Polk. They have been invariably sustained by the decisions of the Supreme Court, a coördinate department of our Government, authorized to decide all constitutional questions, and from whose opinions no appeals are known by the laws of the land. The writers on our constitutional laws admit the existence of the power. The Constitution expressly grants it, in my opinion. But, if a doubt lingered on my mind, it would be removed by the concurrent weight of evidence adduced. I again repeat, I am constrained to believe Congress has the power, under the Constitution, to admit slavery into or exclude it from the territories. The testimony and authorities referred to clearly demonstrate the non-existence of negro slavery within New Mexico and California, and the impracticability of its being carried there, except by the assent of Congress. Can that be obtained? A considerable majority of all the members of this branch of Congress are from the free States. The people whom they represent are opposed to slavery, and regard it as a moral and political evil.

Shortly after the adoption of our present form of government, the States of the North, in which slavery then existed, gave an indubitable proof of their attachment to the principles of universal freedom and abhorrence of human bondage, by commencing a course of legislation for its gradual extinction, which has long since been accomplished. The frequent agitation of the subject of slavery, and the acrimonious and vindictive discussions emanating from it, has considerably increased the enmity of the northern people to the institution, and settled the public mind against the further enlargement of the area of slavery. If there is one sentiment common to the people of the North it is a fixed and unalterable determination to resist, by all lawful and constitutional means, the introduction of negro slavery into these territories. Is there a member in this Chamber from the free States, who will truly reflect the wishes of his constituents by voting to extend it beyond its present limits? No gentleman can be elected from any one of all the Congressional districts of the free States, who is not pledged or known to be opposed to it. The governments cannot be organized unless the principle of slavery be excluded. Upon this subject the people of the North will neither be influenced by persuasion, nor intimidated by threats. They know their rights, and are determined to maintain them by the use of all lawful means. It is unnecessary for me to decide upon the justice of their resolve. I only speak of it as an existing and unquestionable fact. Can the interest of the slave States be promoted by a failure at this session to organize governments for the territories? Are the probabilities increased of slavery being established there by such delay? I cannot perceive upon what foundation such a hope can be reared. The people of the North argue, that to admit slavery is, in effect, to exclude free labor; that experience has tested that free labor and slave labor will not fraternize; that it never has and never will exist to any extent together; that free labor is necessarily degraded by an association with slave labor; and consequently the people of the North are virtually excluded from these territories, if negro slavery is admitted. They further state, that of all the territory acquired by purchase of France and Spain, now including the States of Louisiana, Arkansas, Missouri, Iowa, and Florida, four out of the five have been admitted into the Union as slave States, and Texas, by the articles of annexation, came in as a slave State; that, heretofore, if slavery existed in the territories at the time of its acquisition, it was recognized in the territorial government furnished them by Congress; that this territory came into the Union free, and they only demand it may be kept so by a law of Congress; but the South, selfish and exacting, refuse this reasonable request, after having heretofore appropriated five-sixths of the States previously acquired to the uses of slavery. They believe slavery to be an exclusive and aristocratical institution, elevating the slaveholder above all stimulus to labor, and sinking the other part of the community below it; that it is the duty of Congress to shape its laws so as to produce the greatest good to the greatest number; that but few of the whole number of the citizens even of the slave States are slaveholders, consequently, as Congress encourages the extension of slavery, they crush the rights and humble the social position of all other classes of the community. Will men entertaining and cherishing such opinions abandon them for trivial causes? Delay in giving governments to these territories upon the terms claimed by the North will, in my opinion, add intensity to a feeling now bordering on fanaticism. Will the citizens of these territories be willing to incorporate the principle of slavery in a State constitution? The Mexican population, it is well known, are opposed to it. Of those going from the slave States not one in fifty will be a slaveholder, and none will take their slaves with them, because, when voluntarily carried there by their master, they become entitled to their freedom. Two-thirds of the emigrants will be from the free States and countries where it is not recognized, and will be equally adverse to it.

But should the citizens of these Territories desire admission into the Union with that feature in their Constitution, Congress would not suffer it. The Constitution of the United States says: "Congress may admit new States into the Union," thereby giving to them full and discretionary power upon the subject. The treaty with the Republic of Mexico stipulates that the time of their admission into the Union shall depend upon the will of Congress. I am satisfied both natural causes and political causes exist which will ever prevent slavery being established in these Territories. I should consider my conduct unwise and impolitic to oppose the establishment of governments where the necessity for them is so urgent, by a cavil upon a matter of mere moonshine. It is exclusively a question of expediency and of justice. Taking into consideration all the circumstances of the controversy, I believe it would be expedient in the members of Congress from the slave States to agree to the establishment of a government with a clause prohibiting slavery. By so doing they sacrifice no interest, concede no principle, nor abandon any rights belonging to the slave States. It would take the principal element from the question of the abolition of slavery, the agitation of which can do no good to the South, and may be productive of much mischief and evil to the whole Union.

The dishonest interference, by the Abolitionists, with the vested rights of the people of the slave States, guarantied to them in the compromises of the Constitution, has greatly embarrassed and delayed the settlement of this controversy by exciting sectional jealousies and local animosities. Their aggressions have been entirely unprovoked and highly injurious to the owners of slaves. Slavery is a State institution, exclusively under State control and management. It can be established or abolished at its supreme will and pleasure. Congress has no power over, or right to interfere with it in any shape whatever. The State governments, in their regulations upon this subject, are only responsible to their own constituents, to the general laws of propriety, humanity, and justice, and to God. Any attempt to disturb the relations existing between the master and his slave, by persons not living within the slave States, is a violation of the spirit of the Constitution, and highly reprehensible to the parties engaged in it, be it done by individuals, parties, or by State legislation.

The Abolition party have caused to be circulated in the slave States, incendiary publications with the intention of exciting discontent among the slaves. They have sent emissaries into these States, instructed to incite the slaves to abandon their owners, and to aid in their escape, and by the employment of such practices, have in many instances effected their nefarious purposes.

They have by force within the limits of the free States taken slaves from the possession of their rightful owners. These acts, with many others of a similar kind, which it is unnecessary to enumerate, are offensive and injurious to the slave-owner, and cannot be justified upon any principle of honesty or morality. The troublesome interference of these fanatics have counteracted their own avowed intentions. The use of moral persuasion, the adduction of substantial arguments against the utility and justness of holding human beings in perpetual bondage, addressed to the master and not to the slave, is the only legitimate mode of effecting emancipation. But the people of the North are no more responsible for the conduct of these fanatics, than are the citizens of the slave States amenable for the unlawful acts and heinous offences of their own horse-thieves, counterfeiters, and murderers.

The northern and southern States mutually charge each other with having committed aggressions upon their respective rights, and to a limited extent it is true. When the States accepted the Constitution, they agreed to give full effect to its provisions, and to perform all the duties to which it bound them. The 4th article of that instrument,

giving the slave States the right of reclamation, and making it the duty of the free States to deliver up fugitive slaves upon demand, is clear, explicit, and unequivocal in its intent and meaning. Legislation by any State to avoid the full and faithful discharge of the duties imposed by said article is in violation of the spirit and letter of the Constitution. And they stand justly exposed to the imputation of bad faith and dereliction of a pledged duty. Any laws passed by any southern State in contravention of the rights of the citizens of the northern States, is liable to the same objections and imputations. Give governments to these Territories, and it will bring about a restoration of mutual good feeling between the South and North, which may lead to a correction of these aggressive acts.

SLAVERY AND THE SLAVE TRADE.

SPEECH OF MR. J. W. CRISFIELD,

OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1849,

On Slavery and the Slave Trade in the District of Columbia.

The House being in Committee of the Whole, and having under consideration the state of the Union generally, and particularly the Bill to provide for carrying into execution the Twelfth Article of the Treaty with Mexico, concluded at Guadalupe Hidalgo—

Mr. CRISFIELD rose and said:

Mr. CHAIRMAN: If this debate had been confined to the bill under consideration, and to the topics properly growing out of it; if our attention had been directed only to questions affecting the necessity and justice of the late war, the policy of the treaty with Mexico, and the constitutional duty of Congress to make the appropriations necessary to carry that treaty into effect, I should not have thought it necessary, at this late hour, to claim the attention of the committee. I should have left these subjects to be discussed by the superior abilities and intelligence of others by whom I am surrounded. And if, sir, the debate had been confined to the nature and extent of the powers of this Government to frame and establish systems of government for the territories acquired by that treaty, and to authorize or forbid negro slavery therein, I should still have remained silent. Upon these questions, at the last session, I expressed my opinions, and I have since seen no reason to change them. Although subsequent reflection and observation have tended to confirm what I then ventured to express; although new views, confirmatory, have presented themselves to my mind; and I might probably add something to the argument; yet, I will content myself with what was said at that time, and not trouble the committee further on that subject.

But, sir, this debate has glided from the topics properly before us, and we now find ourselves in the midst of the slavery question. Although nominally considering our relations with Mexico and the recent treaty, we are, in fact, considering negro slavery in the United States. That which is now in progress is but the continuation of the debate which has, at frequent intervals, been going on during the whole session. We are prone to glide into this subject. From whatever point we start, we always terminate with slavery. This tendency demonstrates the importance of the subject, and the deep and absorbing interest it excites in this House and the country. We have it before us in every form, and constantly. We have heard the ultras on both sides. We have listened to the various and conflicting opinions of gentlemen, day after day, on slavery in the abstract, with all its merits and vices, real or supposed; on slavery in the States; in the Territories of the United States; and in this District. To my constituents, this is a deeply interesting subject, especially that branch which relates to the abolition of slavery in this District. They feel that if the doctrines which have been proclaimed here, and the measures proposed should be adopted, they would be scarcely less injurious to them, or more alarming and insulting, than would be the direct emancipation of their slaves by the act of this Government. Under these circumstances, it is due to them, to this House, and the country, that their opinions and feelings should be made known; and as this probably will be the only occasion I shall have, I must overcome my reluctance to debate questions not properly before us, and invoke the attention of the committee for a brief space, while I consider slavery and the slave trade in the District of Columbia.

In the debate on the Pacheco case, early in the present session, some novel propositions respecting slavery were held. In that case, it was contended that slaves were not property. The gentleman from New Hampshire, [Mr. WILSON,] who, a few days ago, delighted us with his eloquence, and startled us with his strong expressions, in the debate referred to, while speaking of slaves, said, "the Constitution of the United States regarded them altogether, from beginning to end, as persons, and nothing else; it did not regard them as property in any form." And the gentleman from Massachusetts, [Mr. PALFREY,] also affirmed the same proposition. He is reported to have said, "that the Constitution of the United States in those places in which it was understood to refer to slaves, spoke of them uniformly, not as property, but as persons, and that no case had been produced in which any United States court, or any court of any free or slave State, had decided slaves to be property, *under the Federal Constitution*.

For some purposes, undoubtedly, the Constitution of the United States treats slaves as persons; for instance, in apportioning representation on this floor, slaves are enumerated, each slave being regarded as three-fifths of a man. So, also, in apportioning taxes. And the slaveholding States themselves, without an exception, it is believed, for some purposes, regard slaves as persons; for instance, it is murder to slay a slave, precisely as it is to kill a free man. All crimes committed on their persons are punished in the same mode as if committed on the persons of freemen. They are also subject to the criminal laws, entitled to the same privileges of trial and defence, and are punished, in most of the States, as freemen, for like offences. But they are also regarded by the Federal Constitution as property; and I cannot but feel surprised that two gentlemen so justly distinguished should have controverted it.

The language of the gentleman from Massachusetts is indefinite. He has not announced his proposition with that precision which might have been expected from his learning and intelligence. Does he mean that property in slaves is not *created* by the Federal Constitution? If so, he is combating a proposition which no one affirms. The Federal Constitution *creates* property in no personal chattel. The right exists independent of the Constitution, and existed before it was established. We hold our slaves, as we do our horses, under State laws, or the common law; and all which has ever been contended for is, that our property in slaves is recognized, and sanctioned, and sustained, by the Federal Constitution.

The Constitution of the United States provides, that—

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due.

The meaning of this is clear; there is no ambiguity, no obscurity. What is property? It is that which is under the dominion of a person, and which cannot, at any time, be withdrawn from his control, without his consent. It is the result of law; and whatever may be held by law is property. Men may be the property of men, in the same way, and as perfectly, as horses. No legal distinction can be shown to exist. None does exist. Now, what says the Constitution? It speaks of "persons held to service or labor in one State by the laws thereof." There is no qualification, no limitation. It uses apt and certain language, perfectly descriptive of the thing intended, and declares, that this class of persons, "escaping into another State," shall not "be discharged from such service or labor, but *shall be delivered up on claim of the party to whom such service or labor may be due.*" Now, what can that person be, who is held to service or labor by another, and shall not be discharged, but must be delivered up to him "to whom such service or labor may be due," but the property of that other? Language could not be more explicit; argument can aid nothing to its force.

But it is said that the term "persons" being used, and not "slaves," there is no property admitted. This is rather hypercritical. It is caviling about words when we are dealing with ideas. The Constitution presents the idea of property; and has used clear and explicit language to convey it, and the only language that certainly would have conveyed that idea. It was the work of good lawyers; their design was well formed, and fitly expressed. The term slave would not have done it. Its meaning is not definite, and would not of itself have implied property. There is nothing, therefore, in the objection drawn from the failure of the Constitution to use the term slave. The idea of property in persons is quite as manifest and much more certainly expressed by the phraseology it has adopted.

Every department of the Government has admitted and acted on this interpretation of the Constitution.

Congress, by act of February 12, 1793, made provision for the recapture of fugitive slaves. The 3d section of that act provided, "That when a person held to labor, &c., shall escape, &c., the person to whom such labor or service may be due, &c., is hereby empowered to seize or arrest such fugitive from labor, and take him," &c.

And again: The Federal Government has exercised the taxing power on the slaves of the slaveholding States as upon other property. The act of July 9, 1798, "to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States," gives directions for making out lists of property, and says: "In respect to *slaves*, the said lists shall specify the number above the age of twelve and under fifty years of age, *owned or possessed* by, or under the care of, each person, with the name of such person."

The 5th section of the act of Congress of 22d July, 1813, is as follows: "That whenever a direct tax shall be laid by the authority of the United States, the same shall be assessed and laid on the value of all lands, lots of ground, with improvements, dwelling-houses, and *slaves*, which several articles, subject to taxation, shall be enumerated and valued by the respective assessors, at the rate each of them is worth in money."

The 5th section of the act of the 9th of January, 1815, is to the same effect. It provides:

"That the said direct tax, laid by this act, shall be assessed and laid on the value of all lands and lots of ground, with their improvements, dwelling-houses, and *slaves*, which several articles, subject to taxation, shall be enumerated and valued by the respective assessors, at the rate each of them is worth in money."

This subject has also engaged the attention of the treaty-making branch of the Government, and its action is entirely in accordance with the spirit of these acts of Congress. It has fully admitted that slaves were property under the Federal Constitution—has itself respected the right of the owner, and caused it to be respected by others. In the Convention with Great Britain, on the 20th October, 1818, designed to carry into effect the treaty of Ghent, the right of property in slaves was affirmed by the United States; and the fifth article of that Convention was assented to as providing a method of settling the difficulty which existed between the two Governments on this subject. I will quote the whole article as best explaining the grounds of difference, and the views of our Executive. It is as follows:

"ART. 5. Whereas it was agreed by the first article of the treaty of Ghent, that 'all territories, places, and possessions, whatsoever, taken by either party from the other, during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery, or other public property originally captured in the said forts or places, which shall remain therein, upon the exchange of the ratifications of this treaty, or any slaves, or other private property;' and whereas under the aforesaid article, *the United States claim for their citizens, and as their private property, the restitution of, or full compensation for, all slaves who, at the date of the exchange of the ratifications of the said treaty, were in any territory, places, or possessions, whatsoever, directed by the said treaty to be restored to the United States*, but then still occupied by the British forces, whether such slaves were at the date aforesaid, on shore, or on board any British vessels lying in waters within the territory or jurisdiction of the United States; and whereas differences have arisen, whether, by the true intent and meaning of the aforesaid article of the treaty of Ghent, the United States are entitled to the restitution of, or full compensation for, all or any slaves, as above described, the high con-

tracting parties hereby agree to refer the said differences to some friendly Sovereign or State, to be named for the purpose; and the high contracting parties further engage to consider the decision of such friendly Sovereign or State to be final and conclusive on all matters referred."

In pursuance of this article, the parties agreed on the Emperor of Russia as the arbitrator, who gave his decision as follows:

"That the United States are entitled to claim from Great Britain a just indemnification for all private property which the British forces may have carried away; and as the question relates to slaves more especially, for all slaves that the British forces may have carried away from places and territories of which the treaty stipulates the restitution in quitting these same places and territories."

In pursuance of this award a commission was established by the two countries; proof was taken of the number and value of deported slaves, and Great Britain paid for them accordingly. No higher or stronger evidence can be furnished, nor is any needed, of the views of this Government. Slaves were treated in this negotiation as property; they are claimed by our Government as the "private property" of our citizens; payment for them as "private property" was insisted on, and as "private property" they were ultimately paid for.

Thus we see, that the law-making and the treaty-making powers of our Government—Congress and Executive—have each considered slaves as property, and have repeatedly and uniformly treated them as such. The first has guarantied the right of the owner, by declaring that the slave "shall be delivered up to the party to whom his service and labor may be due," without limitation or condition; and has taxed this, as all other kinds of property, for revenue to supply the wants of the Federal Government; and the second, in its negotiations with a foreign power, has required that this kind of property shall be respected, and has demanded and received indemnity for it "as the private property of our citizens."

Nor has the remaining department of the Government—the Judiciary—held different opinions on this subject. By the uniform current of its decisions the Supreme Court has treated slaves as property. A numerous list might be produced, all in the same direction. I will trouble the committee with but one; and that one for the reason that it is among the most recent, and because the opinion of the court was delivered by Judge Story, who, from his position and associations, may be supposed to have been not very friendly to the institution of slavery. I commend his opinion to the especial attention of the gentleman from Massachusetts, [Mr. PALFREY,] and from it he may perhaps learn something to correct the crudities of his own opinions. In the case of Prigg *vs.* the Commonwealth of Pennsylvania, this subject was discussed in the Supreme Court; and Judge Story, whose judgments are received with universal assent wherever truth can be appreciated, delivered the opinion of the court. In that opinion, while discussing the clause of the Constitution relating to fugitives, he says: "It is well known that the object of this clause was to secure to the citizens of the slaveholding States, *complete right and title of ownership in their slaves, as property,* in every State in the Union into which they might escape, from the State where they were held in servitude." And further on he says: "The clause manifestly contemplates the existence of *a positive, unqualified right on the part of the owner of a slave,* which no law or regulation can in any way qualify, regulate, control, or restrain." And the clause must be interpreted, he adds, "in such manner, as, consistently with the words, shall fully and completely effectuate the whole objects of it."

Such, Mr. Chairman, is the constitutional provision relating to this subject, and such the course of the legislative, executive, and judicial branches of the Government—all proceeding in the same direction, without variation, or a doubt expressed of its correctness—all admitting to the fullest extent that slaves are property, and that the duty and obligation rest on this Government to protect and preserve it where it exists, until the States, each for itself, shall otherwise provide. Slaves not property under the Federal Constitution! He who, in the face of all this proof, can deny it, would, amid the thunders of Sinai, have denied the presence of God!

Some persons, Mr. Chairman, have attempted to distinguish the services of the slave from his person, and have contended that while the former belong to his master, his body is not the subject of property. And this idea is supposed to be sustained by the language of the Constitution, and also from the fact that the master is forbid to kill him. This is a distinction without a difference. It is too refined for practical men. The interpretation given to the Constitution by the uniform action of the Government contradicts it, as we have seen. A master may not kill his slave, neither can he cruelly use his horse. Humanity forbids it; but it is no limitation of the right of property; it is only a regulation for its use. The labor and service of the slave, in the language of the Constitution, are due to the master, and the master shall not be deprived of it. Now, how can the master enjoy "the labor and service of the slave," unless he also have control and dominion over his person? The master transports him whither he pleases, and he works him as his interest or inclination prompts. The services are inseparable from the person of the slave; the right to the one necessarily includes the right to the other. The opposite doctrine is impracticable and absurd.

Mr. Chairman, the gentleman from Massachusetts, acting on the erroneous theory that the Federal Constitution does not regard slaves as property, advocates the immediate abolition of slavery in this District, and a few weeks ago introduced a proposition to repeal all laws relating to and sustaining slavery here. No measure, Mr. Chairman, short of the emancipation by this Government of the slaves in the slaveholding States could be more objectionable to the people of the South; none could excite deeper feelings of alarm and resentment among southern people. While it would violate the vested rights of the people of the District, and be a wanton destruction of their property, upon the people of Maryland it would be a fraud and insult too gross to be borne. Sir, I deny your right to emancipate the slaves of this District without the consent of their owners; and if you had the power, you ought not to exert it.

I admit, Mr. Chairman, that Congress has, over this District, the same, or equal power of legislation, which Maryland had at the time of the cession. And in making this admission, I am perhaps going further than some of my southern friends will approve. But looking to the grant in the Constitution, and to the acts of cession of Maryland and Virginia, I cannot doubt the power of Congress to legislate for this District, as fully and perfectly as the States might have done before the cession. And as on this point it is my misfortune to differ to some extent with my excellent friend and colleague over the way, [Mr. CHAPMAN,] from whom I can never differ without suspecting the correctness of my own judgment, I pray to be allowed to state some considerations which, otherwise, would not be necessary to the main purpose I have in view.

By the 17th clause of the 8th section of the 1st article of the Constitution, Congress is empowered "to exercise exclusive legislation in all cases whatsoever over such District, (not exceeding ten miles square,) as may, by the cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States." In pursuance of this provision of the Constitution, Maryland and Virginia made the cessions without reservation or condition, other than that contained in the Constitution itself. The Maryland act of cession declared, "that all that part of the said territory, called Columbia, which lies within the limits of this State, shall be, and the same is hereby, acknowledged to be forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right, and exclusive jurisdiction, as well of soil as of persons residing, or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of the Government of the United States." The Virginia grant was quite as ample, and is in nearly the same words. Her act of 3d December, 1789, provided, "that a tract of country not exceeding ten miles square, &c., to be located, &c., shall be, and the same is hereby, forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right and exclusive jurisdiction, as well of soil as of persons residing, or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of the Government of the United States."

This statement of itself, and the obvious meaning of these grants, I should think, were quite sufficient to convince every one that the power of Congress to legislate for this District was adequate and exclusive in all cases whatsoever. The States parted with all their jurisdiction and control; they retained no part of it. The people of the District have no power of legislation whatever, and never had; and if Congress do not possess it, it exists nowhere—an absurdity which will hardly be insisted on. And if we consider the object for which the power of exclusive legislation over such District as might become the seat of Government of the United States was given to Congress, it sustains, with irresistible force, the view I have expressed. At the time of the formation of the Constitution, all the inhabited portions of the country were within the jurisdiction of some of the States; and it was deemed important, for the safety and independence of the new Government, that it should be placed beyond the reach of the hostility or caprice or local influence of the States. If no provision of this kind had been made, and the seat of the Federal Government had been fixed, as in that case it must have been, within some State, it would have been liable at any time to have been ousted; it would have been unable to protect itself from insult; and its own officers would have been subject to a jurisdiction foreign to it, and possibly inimical. Sir, without such a provision, your National Government would have been a houseless and homeless loafer, living on the good nature of the States, and ever liable to have the door of hospitality shut in its face. It was necessary to make a gentleman of it—to give it a habitation and a home, and fence them about with such guards as would preserve it from molestation. This could only be done by putting the new Government in a locality separate from the States, and under its exclusive jurisdiction. And if the powers of Congress to legislate for the seat of Government were limited otherwise than by the Constitution itself—if it were prohibited from exercising here any jurisdiction, which, according to our system, may be exercised by the States within their respective limits—then that independence and security which were necessary to, and on which depended the usefulness and success of, the new Government, would have been defeated.

It is said that this is a Government of limited jurisdiction, that all its powers lie in a grant, and that it can exercise no power which is not specifically enumerated. This, as a general rule, is conceded; but it is applicable only to cases where the legislation of Congress is general, and relates to the whole. Over the States, and people of the States, this Government possesses only such powers as are specially given, and what are not enumerated in the grant are secured to the States or the people. But what a different rule prevails in this District. Here, Congress may exercise all power not prohibited to it, and from the nature of things, this must be so; otherwise there would be presented the anomaly of a people, without a law-making power. The only limitations are those which are to be found in the Constitution itself; as for instance, no *ex post facto* law shall be passed; no one shall be deprived of his property, except by due process of law; and private property shall not be taken for the public use, without just compensation; these, and other provisions of a like nature, are restrictions on the powers of Congress in this District, but subject to them, its power is unqualified.

Maryland ceded the District to become the seat of the Government of the United States, and Congress accepted it, on that condition, and hence it is argued by some gentlemen, that Maryland has a reversionary right, dependent on the performance of the condition. This may be conceded, and yet it cannot fairly be contended that it in any way impairs the power of Congress to legislate for it, as long as the condition remains unbroken. When this District shall cease to be the seat of the Government, the power of Congress may also cease, and the District may revert to its former proprietor; but until that contingency happens, the power is not, thereby, at all restrained, but is quite as ample as it would have been, had no such condition existed.

With these views, which I believe to be well founded, I cannot doubt, that whatever Maryland might have done in this District, before and at the time of the cession, Congress can rightfully do now. But for reasons entirely different, I deny your power to abolish slavery here. Maryland could not have done it,* and no power can do it without the consent of the owner.

Slaves, Mr. Chairman, are private property; they belong to their masters, and are subject to all the rules governing the rights to private property. They have all the qualities of personal chattels. They may be sold; they pass by delivery; they may be bequeathed or distributed; they are taxed at their cash value, and they may be distrained, and seized in execution. Property in them, and in other chattels, is established and sustained by the same laws, controlled by the same rules, and guarantied by the same securites. No distinction exists between them. This is the law of Maryland, and of this District. The 5th amended article of the Constitution declares, that "no person shall be deprived of life, liberty, or *property*, without due process of law; nor shall private property be taken for public use, without just compensation." Now, if slaves are property, as I have shown them to be, here is an absolute prohibition of the passage of any act of emancipation against the consent of the owner. This clause is a perfect guarantee of the owner's right. If any other article of property were the subject, on which this experiment was proposed to be made, there would not be two opinions on the point. No man will say that this Government, or any of the States, has power to legislate away the land titles of their citizens; or by act, to declare that all the horses shall graze on the commons, discharged from their owners. This is a radicalism which no man will maintain. Even the anti-renter and repudiator would feel themselves disgraced by such a doctrine.

Nor can emancipation be rightfully effected through the power to take private property for the public use. To take private property for the *public use*, in the constitutional sense, means to take it for the *public service*, and it can only be resorted to on such an emergency as that the service would suffer in a great degree without it, or when it cannot otherwise be obtained. For instance, the Government may seize, without the consent of the owner, supplies necessary for its army, sites for fortifications, land for highways, &c., if he will not consent to give them up, and they cannot otherwise be had; and in that case, he is to be paid a just compensation. This is the extent to which this power has ever been, or can be carried. It has never been contended that the Government, by means of this grant, has power to remodel society, establish new political relations, and endow one class of men with political rights, which they do not possess before. It has never been held, to authorize the Government *to destroy an entire class of property*, or to liberate an entire class of its people from restrictions imposed by the Constitution and laws, upon some vague and indefinite idea, that the public good will thereby be promoted. This would be a most fearful pretension, utterly subversive of constitutional restraint, and would enable this Government to abolish slavery, as well in the States, as here; to say nothing of other extravagancies to which it would lead.

To supply the public use, in the sense here stated, is the only lawful means, by which men may be deprived of their property, without their consent. And it is no answer to say just compensation shall be made; that does not lessen the difficulty. It is no less a violation of his rights to take his property and pay him for it, than to take it without payment at all. In each case, you force him against his consent, to part with that which is his; this is the wrong, which you have no right to do. The payment, it is true, is some indemnity for the injury, but it is not, and cannot be, any authority to do the wrong.

Mr. Chairman, slavery exists here by your own agreement. It existed in Maryland from the earliest period. As early as 1715, the Legislature of that State legalized the institution. It declared that all negroes and other slaves, already imported or to be imported, and their children, born or to be born, should be slaves; and made rules for the enjoyment of them as property. Congress has adopted this among the other laws of Maryland. It is a contract between this Government and the citizens of the District, that they may hold, and that you will protect, their slave property; and good faith requires that you adhere to your engagement. And in support of this view, I beg leave to quote the language of the Supreme Court in a recent case:

"Under every established government," says the court, "the tenure of property is derived, mediately or immediately, from the sovereign power of the political body, organized in such mode, or exerted in such way, as the community or the State may have thought proper to ordain. It can rest on no other foundation; can have no other guarantee. It is owing to these characteristics only, in the original tenure, that appeals can be made to the laws either for protection or assertion of the rights of property. Upon any other hypothesis, the law of property would be simply the law of force. Now, it is undeniable, that the investment of property in the citizen by the Government, whether made for a pecuniary consideration or founded on conditions of civil or political duty, is a contract between the State, or the government acting as its agent, and the grantee; and both the parties thereto are bound in good faith to fulfill it."

To my mind, Mr. Chairman, it is clear, that the immediate emancipation of the slaves of this District, without the consent of the owners, would be the exercise of a power which does not belong to this Government. It would be an interference with private property forbidden by the Constitution. It would be a violation of the engagement of the Government; an utter annihilation of all those guards and securities, which it was the purpose of the Constitution to throw around the citizen. Sir, it cannot be done. Nor can you rightfully pass an act of prospective emancipation. That is equally beyond your power, and for the same reasons. One element of the value of a female slave is the probable increase she may produce; it just as much enters into and forms a part of her worth, as does the value of her present services. The laws of Maryland treat the probable increase of slaves before their birth, as a substantial interest. It may be granted, bequeathed, or emancipated; of course to take effect in future. And the same rule prevails here. And in truth it prevails everywhere. It is the rule of *partus sequitur ventrem*, which is of universal application. Now, if you cannot emancipate the female slave, because it is a violation of the rights of property, neither can you diminish her value by declaring her issue to be born shall be free. The one is a total destruction of the right of property in her; the other a partial destruction; and I apprehend, that if you are forbid to destroy the whole, on no principle of just reasoning can you have power to destroy the half.

I apprehend, therefore, there is no power in this Government to abolish slavery here, either presently or prospectively; nor in the States to abolish it within their limits. It is true it has been done in many of the States; but wherever such acts have been passed, they were sustained by a very general public sentiment, and the question of right has never been raised. And when public sentiment here demands the liberation of the slaves, it will be done; but let it be done, as it may be, without the violation of any constitutional principle. When the people of this District shall wish to be rid of slavery, pass an act offering inducements to the slaveholder to liberate his slaves, and giving him facilities in doing it, without injury to himself; but let the act of emancipation be his own voluntary act. In this mode, and among a population anxious to be rid of it, slavery would soon disappear, and that, too, in a fair, peaceful, and constitutional mode.

But, Mr. Chairman, if Congress had the power to abolish slavery in this District, it would be highly inexpedient and improper to exercise it, for many reasons which might be stated. I will trouble the committee with only a few. In the first place, Congress is the local Legislature, and is bound to consult the interests and wishes of the people of the District. It will not do for members to look to the sentiments and prejudices of those who sent them here, and who, from position and association, are wholly unqualified to judge what laws are proper and just for the local interests around this capital. How do the people of Michigan, or of Iowa, know—how can they know—what regulations are suitable for this people? To obey the instructions of constituencies so far removed, with reference to legislation for this District, would be to reduce the people of the District to a state of slavery. We ought not, therefore, to abolish slavery here, or do any act simply affecting the local interests of this people without their consent. Now, what evidence is there that the people of the District desire the abolition of slavery? No petition has been presented; they have not asked for it, either directly or indirectly; and shall we, in the absence of all proof that they desire it, adopt a measure which so materially affects their social condition? Again: Such a measure would be a wanton sacrifice of a large amount of property now held by this people under the protection of our laws. The value of the slaves in this District cannot be much short of one million of dollars; and you propose to legislate out of existence this vast amount of property, by a dash of your pen, and that, too, without consulting those who, reposing confidence in your laws, have invested their means, to this extent, in this description of property. It is wholly irreconcilable with sound morality, and is incompatible with national honor.

On the slaveholding States contiguous, the abolition of slavery in this District would be most disastrous; and if it had been foreseen, it is quite certain they never would have ceded the territory of which it was composed. They never imagined, that in setting apart a portion of their territories for the seat of the Federal Government, and ceding the jurisdiction to the United States, laws would be put in force here which would disturb the relations of society there. The effect of abolition here is, to throw the moral influence of the Government against slavery in these States; and it must necessarily weaken the relation which exists between the master and slave. This is an assault upon their institutions which they could not have foreseen; there was nothing in the condition of public opinion at the time of the cession, to cause them to apprehend such an evil. The controversy over the Constitution had ceased; political power was apportioned, apparently at least, to the satisfaction of all; no prejudices were expressed against slavery; this District, in two slaveholding States, was selected as the seat of the National Government, without objection on account of its being slave territory; and on the cession being made, the laws of the States from which it was carved, sanctioning and sustaining slavery, were adopted, and continued in force by act of Congress. The States, then, could not have apprehended any legislation here on this subject that would be offensive to them and injurious to their internal interests. No such legislation was apprehended; and it would be an insult and a fraud on those States, positively injurious to them, to abolish slavery here as long as they see fit to continue it within their limits. Besides, the same feelings and influences which would, under these circumstances, procure the passage of laws abolishing slavery here, would also procure the repeal of all laws for the apprehension of fugitive slaves escaping from those States into this District. If this were done, this District would become the great receptacle of runaway slaves, who would live under the protection of this Government, and laugh at the vain efforts of their masters to recapture them. They would become as numerous as the frogs of Egypt; they would cover the land, eating up the substance of this people, demoralizing its society; and patronized by the Government, would be an insult and a degradation to the States whence they come. How long would the slaveholding States submit to this? What would Virginia say—the venerable, eccentric, and proud Old Dominion, who prides herself as having given consistency to American liberty, and limitations to Federal power? Will she submit to the fraud, lay aside her dignity, and tamely endure the injury? For her answer, consult her recent resolutions; consult her resolutions of 1798—that bible of her faith—the mysterious revelations of her political divinities, which *she* cherishes as the infallible exponents of constitutional freedom. As for Maryland, she is weak in physical power, but she is proud. She is peaceful, but not spiritless. She loves the Union, and appreciates its value. She venerates it as the child venerates its parent. It is her pride, her glory, her security. She submitted to great sacrifices to establish it; she will submit to greater to preserve it. As long as compatible with her honor, her wealth, and the blood

*Maryland, in 1836, amended her constitution; but I have not thought it necessary to examine that amendment, as it can have no effect on the question under consideration.

of her children, will be freely given to defend it. But love may be curdled into hate. The strongest attachment may be broken. The adamant may be rent, and Maryland may be turned from the object of her affection. She makes no threats, she utters no defiance; but she implores this Government and her sister States not to experiment on her powers of endurance. She can meet, as the brave man meets, misfortunes; she may bear injuries, but she will not tolerate insults.

But why all this anxiety for the abolition of slavery in this District? Is not the work proceeding already fast enough? Have gentlemen consulted the statistics? They show that this work has been going on for years, is now in progress, and will soon accomplish the object they have in view. By the census of 1830, there were in this District 6,119 slaves, and in 1840 there were only 4,594, which is a decrease of a fraction over 23 per cent., or nearly one-fourth. Alexandria city and county, according to the census, had in 1840, 1,374 slaves, and the residue of the District 3,220. Alexandria city and county have been retroceded to Virginia; and if the decrease goes on from 1840 to 1850 in the same ratio, there will be less than 2,500 slaves in this District in 1850. But it may reasonably be expected, as the number of slaves diminishes, the work of emancipation will proceed with accelerated pace; that in the present ten years it has proceeded more rapidly than in the last; and that in the next ten years it will go on faster still. In a few years, therefore, by the quiet operation of causes now at work, slavery will entirely disappear from this District without any aid from Congress. What more can be desired by those who seek its abolition. Surely, they are not moved by that spirit of faction which delights to stir and inflame the passions of men! I will not allow myself to believe, that they are influenced by unpatriotic motives! When the object they aim at is so certainly and rapidly approaching, by natural causes, without exercising any doubtful power, or exciting any jealousy or resentments unfavorable to the harmony of the Union, why should gentlemen pursue a course so offensive to a large portion of the people of this country? Patriotism and true philanthropy indicate a different course.

Mr. Chairman, an examination of the census shows us another fact well worthy the attention of those who desire to promote the welfare of this District. Under the influence of the laws now in force, this District has become a receptacle of free blacks. They flock here in great numbers. In 1830 there were 6,152 free blacks in this District, and in 1840 the number had increased to 8,361, a little over 35 per cent.; and at the same ratio of increase their number will be not less than 11,000 in 1850. It is well known that this is the worst class of population in this country—in the free or slave States. For the most part they are lazy, idle, and worthless; they corrupt the slaves and consume the substance of the masters, and are, themselves, the victims of suffering and crime. Here, then, is an object worthy the attention of the philanthropic. Let gentlemen devote themselves to devising means by which the condition of this class may be ameliorated and made useful citizens, and the rest of the society be freed of, and protected from, the nuisance. Let them do this, and they will be rewarded with the admiration of every right-minded man.

Mr. Chairman, much has been said during this session on the slave trade in this District. Gentlemen from the North have had their feelings wonderfully harrowed up by the trade carried on here, and the gentleman from New York [Mr. GOTT] has made himself quite notorious by his efforts to stop a traffic which he denounces as "contrary to natural justice." I hope, sir, his efforts in this behalf may be rewarded by good fruits among his own people; elsewhere they will be repaid only by reproach. Sir, this much-talked-of slave trade in this District—which has excited such deep feeling, which has sounded the wells of philanthropy on one side, and on the other has set men to calculating the value of the Union—is all a humbug at last, and wholly unworthy of being the cause of all this outbreak of patriotism and benevolence. It is not understood that gentlemen refer to the sale of District slaves; but the evil complained of, and sought to be abolished, as gentlemen tell us, is, that this District is the slave market of the States. Now, let me ask, is there any evidence that a single slave has been brought here for sale? Do the "slave-pens," as they are called, to be seen from our windows, and which excite the sympathies of certain gentlemen so much, contain a single slave, save District slaves? If they do, they must be there by their own consent. They possess the keys to open them, not simply to see the light, and breathe the fresh air of heaven, but to freedom! If slaves have been brought into this District from any quarter except the State of Maryland for sale or any other purpose, except only with and as a part of the family of the master, who comes here to make this his permanent and *bona fide* residence, they are instantly free! The laws of this District are stringent against the importation of slaves, and if they are not executed, it is only because the slaves themselves do not choose to require it to be done. Washington county, being all that remains of the District since the retrocession of Alexandria to Virginia, was ceded to the United States by the State of Maryland, and by the act of Congress of 27th February, 1801, "the laws of the State of Maryland, as they then 'existed, were continued in force in that part of 'the District which was ceded by that State to the 'United States." Maryland, by her act of 1796, ch. 67, declared, "It shall not be lawful to import 'or bring into this State, by land or water, any 'negro, mulatto, or other slave, for sale, or to re-'side within this State; and any person brought 'into this State, as a slave, contrary to this act, if 'a slave before, shall thereupon immediately cease 'to be the property of the person so importing, or 'bringing such slave within this State, and *shall be* '*free;*" and there is an exception in favor of any citizen of the United States who shall come into the State with the intention of settling therein, and brings his slaves, at the time of his removal, or within a year afterwards. This law is now in force in this District. The act of Congress of the 3d of May, 1802, does not repeal it, as some have supposed. That act provides, "That no part of the laws of Virginia and Mary-'land, declared by act of Congress, passed 27th 'February, 1801, concerning the District of Co-'lumbia, to be in force within the said District, 'shall ever be construed so as to prohibit the own-'ers of slaves to hire them within, or remove them 'to the said District, in the same way as was prac-'tised prior to the passage of the above recited 'act." The sole effect of this act was to allow Maryland slaves to be brought into the Maryland part of the District, just as if that portion of the District had been still a part of that State. Under this law, slaves could not be brought from Alexandria county to Washington county; and so the law stood, and was acted on, till the act of Congress of 24th June, 1812, sec. 9. That section provides, "That hereafter it shall be lawful for 'any inhabitant or inhabitants, in either of the 'said counties, owning and possessing any slave 'or slaves therein, to remove the same from one 'county into the other; and to exercise freely and 'fully all the rights of property in and over the 'said slave or slaves therein, which could be ex-'ercised over him, her, or them, in the county 'from whence the removal was made, anything in 'any legislative act in force at this time in either 'of the said counties to the contrary notwithstand-'ing." This law only gave the right of transmission from one county to the other, but did not otherwise enlarge the right to import from other quarters; and Alexandria county being no longer a part of the District, the act of the 24th June, 1812, is repealed by the act of retrocession. The law, therefore, now stands as it did before the act of 1812; the Maryland act of 1796 is in full force here, and all slaves are excluded, except those coming from that State. I am sustained in this view by the opinion of the Supreme Court, in the case of Lee *vs.* Lee, 8 Peters' Rep., 44. In that case, the petitioners had been slaves of the defendant in Virginia, and were removed, in 1820, into Alexandria county, District of Columbia, and there hired, one for a year, and the other for a few months. They were then removed into Washington county, by their master, of which county he was a citizen, and had been from 1817. They claimed freedom under the Maryland act of 1796, adopted by act of Congress 27th February, 1801, alleging, that the hiring in Alexandria county was merely colorable, and a fraud on the law of Congress of 1812. In their decision, the court say: "The Maryland law of 1796 is therefore in force 'in the county of Washington, and the petitioners, 'if brought directly from Virginia into the county 'of Washington, would, under the provisions of 'that law, be entitled to their freedom. This has 'not been denied on the part of the defendant in 'error, and, indeed, is fully recognized by the 'court below, in the first instruction given to the 'jury. And the question turns on the refusal of 'the court to give the instructions prayed, in rela-'tion to the hiring of the petitioners in the county 'of Alexandria before being brought into the 'county of Washington."

This fully sustains my view; and if further evidence were required to show that the importation of slaves into this District is unlawful, it is to be found in the private acts of Congress, specially passed to allow particular persons to bring into the District slaves particularly named. By act of 30th June, 1834, Edmund Brooke, of Georgetown, was authorized and permitted to bring into this District, from Virginia, his two negro slaves, John and Alfred, owned by him before his removal from that State, and to hold the same as his property, any law to the contrary notwithstanding; and by the act of 2d March, 1841, John Carter, of Georgetown, was authorized to bring from the State of Alabama, into the District, and hold in like manner, his slave man William. These acts are legislative declarations that the importation of slaves into this District, for any purpose, is forbidden by law.

All this to-do, then, about slave trade in this District, is sheer nonsense. It does not exist, except for the domestic purposes of the District. It is to be found only in the crotchet of some northern brain. The laws forbid the importation, except from Maryland; and there is no evidence that any are brought here from that State; certainly, if any are brought, the number is extremely limited. And yet, without examining the facts, or having consulted the law, on the mere cry of wolf, started by the mischievous or the wicked, this House and the country work themselves into a terrible excitement. The northern man, "remembering to forget" that it was the avarice of his fathers which fixed this institution upon us, puts on a long face and a pharisaical countenance, reads homilies on natural rights, equality, ordinance of 1787, free soil, and emancipation; and refrains to look out at yon window, lest his delicate sensibilities should be crushed, by witnessing the enormities of the traffic in human flesh and blood! And your southern hotspur, whose temper is as ardent as his climate, cries out southern rights, resolutions of 1798, nullification, resistance, force, blood, disunion! Sir, how unnecessary, how worse than unnecessary, is all this! How will it read in history? The Union dissolved on Gott's resolution! When posterity shall read the record, will they not exclaim, that the follies of nations, as of men, are incomprehensible and past finding out?

If the slave trade, as it exists here, be offensive to gentlemen, let it be abolished, or at least regulated, so that, while the rights of property are respected, the moral sense and taste of our northern friends shall not be offended. If slaves are brought here from Maryland for sale, let it be stopped. We shall not object to it. We exclude them from our State, and we are willing that this District, and other States, shall follow our precedent. Slavery in Maryland exists in a mild form. Our laws respect and defend the rights of the master to the fullest extent; but, consistent with the owner's right, they favor emancipation. Our policy is to rid ourselves of the entire black race. We exclude the black man, bond and free, from our borders, and we facilitate the emancipation and deportation of our slaves. We do not allow the emancipated slave to remain among us. We tax our people, and annually devote a large sum to send him to, and support him in, the land of his fathers. We desire to be rid of the race. If this were practicable, slavery would cease at once in Maryland. It is not generally profitable; and we retain it, and shall continue to retain it, not because we are enamored of it, but from necessity; not for profit, but for protection. Free blacks are pests to society; less manageable, and greater nuisances, than slaves. We cannot tolerate them. Unless some practica-

ble plan be devised for removing the black race from among us, slavery will continue to exist in our State. Our security requires it.

Now, Mr. Chairman, the same policy which we have deemed necessary and proper to adopt for our security and protection, we are willing shall be adopted for this District. We are willing to give up any advantage we now may be supposed to have, of bringing our slaves into this District for sale or service. Put us on the same footing which the other States are, and we shall not complain. Adopt for this District our laws, and we are content. They are safe, and have proved beneficial to us, and we are willing that they shall be extended to the people of this District. We believe they would be beneficial to them; acceptable to the whole South; and ought to be satisfactory to the North.

Slavery, Mr. Chairman, has always been a subject of discord in this country. It was the principal difficulty in the formation of the Constitution; and it may perhaps be doubted, whether the provisions of that instrument relating to it were ever entirely satisfactory to all parties. The South believed that it had yielded too much—the North that it had gained too little. Unfortunately it was made an element of political power; and from the formation of the Constitution to this day, the controversy has been going on—the one side endeavoring to enlarge its influence, the other struggling to curtail or counteract it. The conflict has been constantly in progress with more or less violence; now almost absorbed in more exciting questions, then bursting forth with terrific energy, ingulfing all other interests. In 1819–20, on the Missouri question, it agitated the whole country, and threatened to dash in pieces the American Confederacy; and the danger was only averted by the prudence of the men of that day, and by resorting to an expedient which it would be difficult to justify on any other ground than a desire to avoid a great and impending evil. Again the same fierce contest agitates and divides us, destroying the harmony which should prevail between the different sections of the Union, and making enemies of those who ought to be friends. On the one side, this struggle for power has been exasperated by the misplaced benevolence and fierce fanaticism which it has called into existence; on the other, by denunciation and contumely, by assaults on admitted rights, and by the apprehension of domestic insecurity. Both sides have erred, and both have cause of repentance and regret. It is, perhaps, not for me, Mr. Chairman, to sit in judgment on the conduct of a whole people; yet I should be faithless to those who sent me here, if I were to withhold my opinions. I believe that much of the bitterness of this contest is owing to the blunders and mistakes, not to say the wickedness and bad faith, which may be seen on both sides; and that good will come of making them known. The first lesson of amendment is to acquire a knowledge of error. I speak not to irritate, but to soothe—not in the tone of passion, but in the soberness of truth.

The Constitution left slavery where it found it—a State institution, exclusively under the control of the States where it existed, and guarantied its protection by engaging to redeliver to the owner fugitives from service. Northern people have been faithless to this engagement. It has been constantly violated from the hour of its acceptance to the present moment. They have never been content to leave slavery to the exclusive management of the States where it existed; but, by every possible means of annoyance, they have sought to disturb, and ultimately, abolish it. They have assailed it as a great moral evil, a reproach to the country, a sin for which the whole people was responsible; they have proclaimed, that human beings cannot be property, and denied our title to slaves; they have attacked the justice and the right of the representation for three-fifths of the slaves on this floor. These, and other dangerous doctrines, in every conceivable form, through the press and from this Hall, have been scattered all over the slaveholding States, uprooting society, creating disaffection among the slaves, prompting them to insurrection and civil war, endangering the firesides, and diminishing the wealth of the South. Northern people have facilitated the escape of our slaves—they have comforted and sustained the fugitives—they have embarrassed the master in his attempts to recapture his property—withheld from him all aid and countenance—hunted him with mobs, with violence, and, once, at least, with death. We have seen northern men going out of their way, sometimes leaving this Hall, to sympathize with notorious slave-stealers, and for no conceivable reason but to exasperate the South, disgrace and degrade it. We now see the North united as one man, at any hazard, to prevent southern people, with their property, from enjoying equally with northern people, the fruits of their joint labors and common sacrifices. And more: we see a large portion of the northern people seeking to abolish slavery in this District, which, if not a violation of the Constitution, is at least a violation of private right, and a fraud on the State which granted the territory to the Government. And all this for no other reason but to provoke the slaveholding States, and weaken the relation between the master and slave.

These proceedings on the part of the North, notorious as they are aggressive, adverse to the harmony of the Union, and destructive of the interests and the property of the slaveholding States, have called into action at the South a spirit scarcely less dangerous or less to be condemned. Acting under a sense of insult and injury, the South unwisely and improperly refused, some years ago, to receive petitions on the subject of abolition, from the North, and in effect denied the right of petition. This was an unfortunate error, and did more to strengthen the abolition feeling at the North than the abolitionists themselves would have been able to accomplish in half a century. It united the advocates of right of petition to the abolitionists, and made the latter in some degree respectable. It gave them a real and substantial object to contend for. It did more: it betrayed the sensitiveness and fear of the South; it showed the country and the world that the South had no confidence in its power and ability to maintain its position. This inspired her adversaries with new energy. So far from being intimidated by the refusal to receive their petitions, they returned to the contest with renewed vigor; and, finally, the South, unable to defend its ill-chosen ground, had to recede, and receive, without reservation, these offensive petitions. This whole proceeding was a great mistake. Without the opposition to the reception of their petitions, and the union it brought about between them and those who maintained the right of petition, the Abolitionist of that day would have been simply contemptible. If their petitions had been received, and answered by a cool and well-tempered report, showing the mischievous consequences which would follow if their views were enacted into practice, the whole country would, at that time, have discouraged their efforts; and they would, long since, have been consigned to oblivion. But opposition gave them importance and a power for evil, which, otherwise, they never would have possessed.

Next came the annexation of Texas; a measure projected by southern men avowedly to preserve the preponderance of the slave States. The abolition clamor was made the pretext for it. It received, it is true, northern votes; and without them, would never have been consummated; but they were obtained only by adroitly connecting annexation with the fortunes of a southern candidate for the Presidency; and by the mere force of party drill, his adherents in the North were forced into its support. It was, nevertheless, a southern measure, and designed by its projectors to increase the weight, and preserve the preponderance, of the slaveholding States in the Senate. Texas was slave territory, and sufficient in size for five States of the largest class. Notwithstanding northern votes had supported the measure, it alarmed and exasperated the northern States. They believed they saw in it the worst consequences. They believed that the South, jealous of the rapid growth of the non-slaveholding States, was striving to deprive them of the power and advantages which, in their judgment, their increase of wealth and population entitled them to. The annexation of Texas was denounced, as prompted by a spirit unfriendly to the harmony of the Union, and designed to humiliate the North; that it inflicted an unprovoked wrong on Mexico, and would cost us a war with that power. Well, sir, war came. It cost us one hundred and fifty millions of money, and thirty thousand lives—of which the North will pay its full share. It ended, as was predicted, with a further acquisition in that quarter. A territory, in size, equal to one-fourth of the whole of the organized States, has thus been added to our limits; and is it reasonable to suppose that the North will quietly submit, that this vast acquisition now free, made without its consent, and against its will, and, as the North charges, to keep the free States in the minority, shall become slave territory? Would the South, under like circumstances, submit? Northern people besought us not to rob Mexico—not to bring new territory into the Union to disturb the fraternal feeling heretofore subsisting between the different sections of this Confederacy. They told us they would never submit to a further extension of slavery; that if we pressed the acquisition, they would make it free territory; and if, by so doing, evil consequences followed, we, and not they, were responsible for them. Yet in the face of these warnings and admonitions, we pressed the conquest—we sent our victorious eagles into the heart of Mexico—we acquired the territories. And can we, ought we, to expect to find northern people, with their views of the Constitution and of slavery, willing to allow us to devote these acquisitions to southern policy?

Sir, both parties to this controversy are, or have been, wrong. The course of neither can be justified. Each has sought its own sectional aggrandizement in a mode inimical to the Union. It is time to pause. We cannot much longer pursue the course we are upon without disaster. Let us end the strife. Let the few remaining days of this session be consecrated to the work of peace—to dispelling the feelings of enmity and distrust which now agitate and distract the country.

If northern gentlemen are strong enough to carry the territorial bills in their own way, let them do it. I shall oppose them. I believe their favorite proviso is unconstitutional; I opposed it at the last session—I shall do it again. But if I am voted down, I shall submit; and this, in my judgment, is the duty of every man. I will, by no act of mine, promote sectional discord, or weaken the bonds which unite these States. And, Mr. Chairman, if the proviso be stricken out, let there be a corresponding acquiescence by our northern brethren. At all events, let us act; the peace of the country requires it—the wants of the Territories demand it.

Let us also remove the causes of agitation in this District. If need be, pass a suitable bill regulating the introduction of slaves. Put a stop to the slave trade, if it exist, as complained of; but at the same time, let us respect and guard the vested rights of the citizen and owner. I should doubt the efficacy of the bill reported by my honorable friend from Ohio, [Mr. EDWARDS.] I think it would not accomplish the objects he aims at, and would soon be found, or fancied, an object of discontent to our northern friends. For many reasons I would prefer to see the Maryland policy adopted.

And, Mr. Chairman, let northern people cease to taunt us for our institutions. Let them be content with their superior advancement and prosperity, if, indeed, they have them. They cannot scold us into their way of thinking. We can judge best what will promote our interests. If slavery be a sin, they are not responsible for it; if injurious, ours is the burden.

Mr. Chairman, I will no longer detain the committee.

CALIFORNIA AND NEW MEXICO:

SPEECH OF MR. J. A. ROCKWELL,

OF CONNECTICUT,

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1849,

In relation to Slavery in the Territories.

The House being in Committee of the Whole on the state of the Union, on the bill to provide for carrying into execution, in part, the twelfth article of the treaty with Mexico—

Mr. ROCKWELL said:

Mr. CHAIRMAN: The Legislature of Connecticut, on the 24th of June, 1847, passed the following resolutions, which have been presented to the House of Representatives, and printed:

"Whereas, in consequence of the admission of Texas into the Union, and of the order of the President, without the authority of the Constitution or the law, directing troops

to march into territory in the occupation of Mexico, a state of war exists between the United States and Mexico, conducted at a great expense of life and treasure, and which may result in the acquisition of large portions of territory, hereafter to be made States of the Union: therefore,

"*Resolved*, That if any territory shall hereafter be acquired by the United States, or annexed thereto, the act by which such territory is acquired or annexed, whatever such act may be, should contain an unalterable fundamental article or provision whereby slavery or involuntary servitude, except as a punishment for crime, shall be forever excluded from the territory acquired or annexed.

"*Resolved*, That the Senators and Representatives in Congress from this State be requested to use their best efforts to carry into effect the views expressed in the foregoing resolution.

"*Resolved*, That his Excellency the Governor be, and he is hereby, requested to transmit to the Executives of the several States of the Union, requesting that the same may be submitted to the Legislatures of the several States, copies of the preamble and resolutions on slavery passed by this Assembly; and that he also be requested to transmit the same to the Senators and Representatives of this State in the Congress of the United States."

These resolutions were, by the Governor of the State, under the direction of the Legislature, transmitted to the Governors of the several States, with the request that they should be laid before their respective Legislatures. The Governor of the State of Virginia, last year, in communicating these resolutions to the Legislature of that State, commented at length upon them. I will read one or two extracts from his communication on this subject:

"The South never can consent to be confined to prescribed limits. She wants and must have space, *if consistent with honor and propriety*. It is due to the happiness and interests of her population, and to no portion of it more than to the slave himself. Confine her to prescribed limits—allow emigration to the white man, and forbid it to the slave—and the consequence is obvious. Her slaves will rapidly accumulate, the white man must emigrate, and finally the slave will become the owner of the present slaveholding States. Nothing can arrest this result, under such a policy, but the adoption of some means on the part of the whites to prevent the increase of slaves, by well-known checks upon population, or by sending off the worthless and unproductive to the non-slaveholding States. These are grave and unpleasant views of this important question; but it is well at once to look them firmly in the face, and boldly present them to public consideration."

The Governor concludes his remarks upon this subject in these words:

"In view of these considerations, and others which readily present themselves, I recommend the adoption of a resolution, without argument or comment, in which Connecticut shall be informed, that if the policy of her resolutions prevails, it will sacrifice our priceless, glorious Union."

In pursuance of the same views, the Legislature of the State of Virginia passed sundry resolutions, during the last and present sessions, in relation to the subject of slavery, from which I will read a few extracts:

"5. *Resolved, unanimously*, That the passage of the above-mentioned proviso makes it the duty of every slaveholding State, and of all the citizens thereof, as they value their dearest privileges, their sovereignty, their independence, their rights of property, to take firm, united, and concerted action in this emergency."

"II. *Resolved*, That we regard the passage of a law by the Congress of the United States, abolishing slavery or the slave trade in the District of Columbia, as a direct attack upon the institutions of the southern States, to be resisted at every hazard.

"III. *Resolved*, That in the event of the passage by Congress of the 'Wilmot Proviso,' or any law abolishing slavery or the slave trade in the District of Columbia, the Governor of this Commonwealth is requested immediately to convene the Legislature of this State (if it shall have adjourned) to consider of the mode and measure of redress."

With regard to the resolutions of the Legislature of my own State, I agree with every word and sentiment which they contain; and it is my present purpose to sustain and enforce, as far as I can, the opinions and statements expressed in them. I place in juxtaposition with them the comments of the Governor of the most prominent of the slaveholding States, and the declarations of its Legislature, on the subject of slavery; and I prefer to take the State of Virginia and comment on its action on this subject, because I design, before closing my remarks, out of her own mouth to condemn her, and to show that least of all, and last of all of any of the States of this Union, should Virginia use such language in reference to the exercise by Congress of legislative power over these Territories on the subject of slavery. All that I will now say in relation to these Virginia declarations is, that I hold in the utmost contempt any and all threats, from any quarter, of disunion for this cause: as was well remarked the other day, the only thing more absurd than the threats themselves is any alarm in consequence of them. It is quite time, sir, that it should be understood that the language of menace is unfit to be addressed by any one State to its associates, and should be met with defiance or derision.

But my present purpose is to vindicate and enforce the soundness of the opinions and statements in the resolutions of Connecticut, which seem to have been so ill received in the ancient Commonwealth of Virginia, and to show not only that Congress has the power under the Constitution to legislate on this subject, but that the power in this instance should be exercised as it has been exercised in repeated instances, from the origin of the Government to the present time.

The power to legislate on the subject of slavery, or on any other subject connected with the territories, must reside somewhere. Where is this attribute of sovereignty vested? It must be either in the States in their individual capacity, in the people of the Territories, or in Congress.

Had it not been urged with great earnestness that this power rested in the States as sovereigns, it would seem scarcely necessary to say that it seems quite impossible and absurd that any such power should be claimed to reside in the States. How is this power to be exercised? The laws of no two States are the same on any subject; they differ very widely even in the slave States on the subject of slavery. If the laws of the slave States on the subject of slavery are to be carried to the Territories, those of the free States on the same subject should be carried also. Nor would it be in relation to slavery alone that this conflict would arise. The same difficulties would occur in relation to the descent and transfer of property, and, indeed, in reference to every possible subject of legislation. If this claim of State sovereignty and rights over these Territories means anything, it means that the legislative power over them is to be exercised by thirty distinct independent sovereignties. It is not true, as a matter of constitutional right, that the law of property should be to the citizen of any State removing into a territory the law of the State from which he came. It is a mere assumption, not sustained by any provision in the Constitution, or any practice under the Government, nor is it possible that any such state of things should for a moment exist.

Now, sir, is the claim, that this sovereign power of legislation resides in the people of the Territories any more sound or tenable?

This has been a favorite doctrine of many persons, and seems to have been the opinion of the unsuccessful Democratic candidate for the Presidency. It is somewhat difficult to understand, however, what are the views of the advocates of this doctrine. Does this power, said to reside in the people of the Territories, extend to all subjects of legislation? If not, where is the line; and what subjects are excluded; and on what principle is the distinction taken? Are all the *laws* of the United States nugatory there? Are they absolutely sovereign? Are the revenue laws applicable to them? Can any tax be imposed upon them? Can we interfere with the form of their government? The Constitution provides in relation to new States; but what are the extent and limits of the jurisdiction of these new sovereignties? Can New Mexico and California form their own territorial governments, set Congress at defiance, and so continue forever? Where is the power in the Constitution which can be used to coerce them to become States of the Union?

It would, under this hypothesis, be difficult to see what the United States have gained by the acquisition of any of its territories, if these doctrines are sound, and the provinces acquired could form themselves into independent sovereignties, and so continue as long as it suited them.

Besides, sir, this assertion is perfectly gratuitous, unsustained by any provision of the Constitution or practice of the Government, and leading to the most absurd results. It is by the United States as a *nation* that these and other territories have been acquired, either by conquest or negotiation, and they must be so held and governed. It is with us, as among the great powers of the world, that foreign nations have treated in relation to these various territories acquired at different times. In the treaty for the acquisition of Louisiana, the French Government "cedes to the United States forever, and *in full sovereignty*, the said territory, with all its rights and appurtenances;" and, in the Florida treaty of 1819, the Spanish Government "cedes to the United States, *in full property and sovereignty*, all the territories," &c.; and in both these treaties the United States make sundry stipulations concerning the persons and property in these territories, requiring the legislation of Congress. And yet it is seriously contended, that after the various territories have been purchased and paid for, the Frenchmen of Louisiana, or the Spaniards of Florida, or the Mexicans of California and New Mexico, can, immediately after the cession of these territories, establish for themselves an independent government; and if the United States see fit to pass any act of Congress prescribing a territorial government for them, they may, as claimed by a distinguished member from Virginia, [Mr. BAYLY,] reject it if they see fit; or, treating it as a kind offer of a form of government tendered to them, after the manner of Mr. Locke, adopt it just so far and for just so long a time as they may please.

But, sir, those claims are perfectly novel. They have, so far as I know, never been presented until within some two or three years past. The power of Congress over the territories has been constantly exercised, as well in relation to slavery as other subjects of legislation, from the time of the adoption of the Constitution to this hour. That power has been recognized in the courts of several of the slave States, and never denied by any, and been expressly so decided by the Supreme Court of the United States. Virginia and Virginia men have been prominent in the recognition of this right and the exercise of it. I deem it proper to give a brief history of the legislation on this subject.

On the 13th July, 1787, before the adoption of the Constitution of the United States, the old Congress adopted the famous ordinance entitled "an ordinance for the government of the territory of the United States northwest of the Ohio river." The sixth article was in the following words:

"There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: *Provided, always*, That any person escaping into the same from labor or service lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid."

It appears from the Journal of July 11, 1787, as follows:

"The committee, consisting of Mr. Carrington, (*of Virginia*,) Mr. Dane, (of Massachusetts,) Mr. R. H. Lee, (*of Virginia*,) Mr. Kean, (of South Carolina,) Mr. Smith, (of New York,) to whom was referred the report of a committee touching the temporary government of the western territory, reported an ordinance for the government of the United States territory northwest of the river Ohio; which was read a first time."

On the 13th July it was read the third time, and passed. There were eight States represented and voting, of which five were then and are now slave States, viz: Delaware, Virginia, North and South Carolina and Georgia, and Massachusetts, New York and New Jersey. The vote of the States was unanimous, and also of all the members from the States, except only Mr. Yates, of New York.

It will be seen, sir, that this was the Wilmot proviso of that day—the very proviso in terms which the honorable gentleman from Pennsylvania [Mr. WILMOT] copied and introduced as an amendment to the three million bill some two years ago. It should also be borne in mind that when this proviso was adopted in the ordinance of 1787, slavery to some extent existed in a portion of the Northwest Territory, and that it was adopted against the wishes of probably a majority of the inhabitants of that territory; and yet, sir, Virginia, who at that early period took so prominent a part in its adoption, when the Legislature of Connecticut recommend the introduction of the very same provision in relation to territory now free, and desired (certainly not opposed) by the inhabitants of the territory, deems it in good taste and sound patriotism to threaten a dissolution of the Union, as a consequence of following the example of that Commonwealth in its better days!

It has been claimed by a distinguished member from Virginia [Mr. BAYLY] that "the sixth article of this ordinance (the one relating to slavery) was always treated as a nullity in the territory itself;" and in proof of that, he cites the third section of the act of 1793 in relation to fugitive slaves, which provided: "That when a person, held to labor in any of the United States or in

'*either of the territories on the northwest* or south of 'the Ohio, *under the laws thereof*, shall escape into 'any other of the said States or Territories, the 'person to whom such service or labor shall be 'due," &c.

The gentleman is, I think, clearly mistaken in his facts and reasoning on this point. There was an express exception in the ordinance itself which enabled a certain portion of the inhabitants of that territory to retain their slaves. The following is a proviso to the second section of the ordinance: 'Saving, however, to the French and Canadian 'inhabitants, and other settlers of the Kaskaskies, 'St. Vincent's, and the neighboring villages, who 'have heretofore professed themselves citizens of 'Virginia, their laws and customs now in force 'among them in relation to the descent and con-'veyance of property."

This act has received a judicial construction to this effect, but it has been decided that it did not apply to slaves born after the passage of the ordinance of 1787.

The case of Menard *vs.* Aspasia, in 5 Peters, 506, before the Supreme Court of the United States, although not deciding this point, presents the following facts:

"The mother of Aspasia, a colored woman, was born a slave at Kaskaskia, in Illinois, previous to 1787, and before that country was conquered by Virginia. Aspasia was born in Illinois subsequent to the passage of the ordinance for the government of that territory. Aspasia was afterwards sent a slave to Missouri. In Missouri Aspasia claimed to be free under the ordinance for the government of the territory northwest of the river Ohio, passed 13th July, 1787. The supreme court of Missouri decided that Aspasia was free," &c.

The case was decided by the Supreme Court, and the writ of error was dismissed on technical grounds, and not involving the merits of the controversy. Indeed, so far were the people in the Northwest Territory from considering the ordinance a nullity, that they repeatedly petitioned Congress to suspend the sixth article of the ordinance. On the 21st January, 1807, a resolution was passed unanimously by the Territorial Legislature of Indiana that to suspend the sixth article of the ordinance "would be highly advantageous to the said territory, and meet the approbation of at least nine-tenths of the good citizens thereof." These applications were, however, uniformly refused by Congress, and the ordinance, so far from being a nullity, effectually abolished slavery in the whole territory against the wishes of the people. After the adoption of the present Constitution of the United States, one of the very first legislative acts was "An act to provide for the government of the territory northwest of the river Ohio." This act was passed on the 7th August, 1789, and the preamble is as follows:

"Whereas, in order that the ordinance of the United States in Congress assembled for the government of the territory northwest of the river Ohio may *continue to have full effect*, it is requisite that certain provisions should be made to adapt the same to the present Constitution of the United States."

This recognition was clearly equivalent to an original enactment of this ordinance by Congress.

In relation to the Territories and States formed out of this territory, there was, in every instance, a positive reënactment of this ordinance.

As there have been some very erroneous statements made in this House, in previous discussions, in relation to the phraseology of those provisions, and the effect of them, I think it best, at the hazard of wearying the committee, to give, with some detail, the facts on this subject.

On the 7th of May, 1800, Congress passed "An act to divide the territory of the United States northwest of the Ohio into two separate governments," constituting Indiana Territory. The second section was as follows:

"That there shall be established, within the said territory, *a government in all respects similar* to that provided by the ordinance of Congress passed on the 13th July, 1787, for the government of the territory of the United States northwest of the river Ohio, and the inhabitants thereof shall be entitled to and enjoy all and singular the rights, privileges, and advantages granted and secured to the people by the said ordinance"

In the act for the admission of Ohio into the Union, and the meeting of the convention to form a "constitution and State government," there is the following proviso:

"*Provided*, The same shall be republican, and *not repugnant to the ordinance of the 13th July*, 1787, between the original States and the people and States of the territory northwest of the river Ohio."

On the 19th of April, 1816, "An act to enable the people of Indiana Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," was passed by Congress; to the fourth section of which there was this proviso:

"*Provided*, That the same, whenever formed, shall be republican, and not repugnant to *those articles of the ordinance of the 13th July*, 1787, *which are declared to be irrevocable* between the original States and the people and States northwest of the river Ohio, excepting so much of said articles as relates to the boundaries of the States therein to be formed."

It should be borne in mind, Mr. Chairman, that this sixth article is one of the articles which, in the ordinance itself, are declared to be *irrevocable*.

To the resolutions for finally admitting the State of Indiana into the Union, passed on the 11th of December, 1816, there is the following preamble:

"Whereas, in pusuance of an act," &c., "the people of said territory," &c., "did form for themselves a constitution and State government, which constitution and State government, so formed, is republican, and *in conformity with the principles of the articles of compact between the original States and the people and States in the territory northwest of the river Ohio, passed the 13th July*, 1787," &c.

The act providing for the adoption of a constitution by the people of Illinois, preparatory to its admission, passed on the 18th April, 1808, contains similar provisions on this subject to the act concerning Indiana; and the preamble to the resolutions for its admission into the Union is in the same precise terms as in the case of Indiana.

The act for the territorial government of Michigan, passed on the 11th January, 1805, contained provisions similar to those which I have mentioned before.

In an act for the establishment of a territorial government for the Territory of Wisconsin, passed April 20, 1836, in addition to the provisions in relation to the other Territories, it was provided that the inhabitants should "be subject to all the conditions and restrictions and prohibitions in said articles of compact imposed upon the people of said territory" northwest of the river Ohio.

In the act for the establishment of a government for Iowa Territory, it was provided that the inhabitants should "be entitled to all the rights, privileges, and immunities heretofore granted and secured to the Territory of Wisconsin."

Such is a brief history in relation to the legislation as to the free territory and the States formed out of it. It would have seemed that language could not have been more explicit or better fitted to convey the idea of the reënactment of the ordinance of 1787 in relation to them all, including, of course, the exclusion of slavery from these Territories and States. Such was always the understanding on this subject, and such the practical construction given to their various provisions, until very recently, when the necessity of being relieved from this overwhelming weight of precedent has led some gentlemen from the South to seek, by ingenious and sophistical arguments, to evade or pervert the plain facts in the case.

But, sir, as this question of the constitutional power of Congress to legislate on the subject of slavery in the Territories is one of the utmost importance, and for the proposed exercise of which Virginia, and some other States, propose to dissolve the Union, I do not feel justified in omitting to present all the precedents on this question within my reach. The provisions of the different acts of Congress, in relation to the Territories at the southwest and south, present the subject in a still stronger light and with more conclusive force.

Mississippi Territory was organized on the 7th April, 1791, and the act provides:

"And the President of the United States is hereby authorized to establish therein a government, in all respects similar to that now exercised in the territory northwest of the river Ohio, *excepting and excluding the last article of the ordinance made for the government thereof by the late Congress on the 13th July*, 1787."

Can there be stronger evidence of the recognition of the power to legislate on this subject? The very exception of this sixth article, which excluded slavery, is an acknowledgment not only of the validity of the ordinance, but of its binding force, where no exception was made. And it is further shown that, without an express exception, the previous general terms would introduce the whole ordinance as the law of the territory, including the provision excluding slavery; and these previous general terms are precisely the terms used in relation to the territories to which I have already referred.

But the provisions of "An act erecting Louisiana into two territories and providing for the temporary government thereof," passed on the 26th March, 1804, are still more important in connection with this question. The tenth section of that act, which is too long to be quoted in full, provides: 1st. Against the importation of any slaves from any place without the limits of the United States into the territory. 2d. Against the importation into the territory of any slave, from any place within the territory of the United States, who had been introduced into the United States since 1st May, 1798, or which should thereafter be introduced. 3d. That no slave should be introduced into said territory, "except by a citizen of the United States removing into said territory for actual settlement, and being, at the time of such removal, bona fide owner of such slave or slaves." The penalty of a violation of either of these provisions was a fine of $300 and the freedom of the slave.

Here, then, is an act of Congress, passed more than forty years since, under the administration of a distinguished son of Virginia, prohibiting, in this *Territory*, the introduction of slaves from abroad, when, by the provisions of the Constitution of the United States, they could not be excluded from the *States* prior to the year 1808, and were not so excluded; and not only so, but prohibiting the introduction of any slave who had been or should be imported after 1st May, 1798, and even confining the introduction of slaves entirely to citizens of the United States and actual settlers. And all this in the section of country said to be best fitted for slave labor, and where it was then in existence.

No question as to constitutional power was raised when this act was passed. Virginia did not threaten to dissolve the Union. Her members probably voted for the bill; certainly one of her most distinguished citizens gave his signature to it. This bill might, with much more propriety, have been objected to by the statesmen of that day, than the proposition to shut slavery out of free territory. It might have been urged that, the Constitution probibiting the abolition of the slave trade prior to 1808, no right existed to abolish it in the territories prior to that time. They might have contended, with some of the Free-soil Democrats of the present day, that there was a vast difference between the exclusion of slavery from, or the limitation of it in, territories where slavery existed at the time of their admission, and the exclusion of it from free territory. But they took no such ground.

It is most surprising, Mr. Chairman, that with such acts of legislation as this, participated and concurred in by the southern States, they should, at this late day, have the face to object to the introduction of the sixth article of the ordinance of 1787 into the territorial bills for the government of New Mexico and California. We have a right to complain, sir, that the South should have ever opposed this proviso. When they assume the position of people who are aggrieved, and whose rights and privileges are assailed, we may be surprised and regret the strange and unreasonable opinions and claims set up by them. But when they undertake to talk of resistance, and threaten a dissolution of the Union, it is difficult to say whether that opinion and absurd declaration would excite indignation or derision.

In connection with this legislation in relation to Louisiana, I wish particularly to call the attention of the House to some proceedings in Congress, of a similar character, in the year 1806, to which, so far as I know, public attention has not been heretofore directed.

It appears, by the Journal of the House of Representatives of the first session of the 9th Congress, that, on the 7th February, 1806, the following resolution was adopted:

"*Resolved*, That a committee be appointed to inquire whether any, and, if any, what additional provisions are necessary to prevent the importation of slaves into the Territories of the United States."

"*Ordered*, That Messrs. Williams, (of South Carolina,) Jackson, (of Virginia,) Spalding, (of Georgia,) Kelley, (of Pennsylvania,) and Blackledge, (of North Carolina,) be appointed a committee in pursuance of said resolution."

On the 17th February, Mr. David R. Williams, on behalf of this committee, made a report. This report was committed to the Committee of the Whole, and, having been considered in committee, on the 28th February, 1806, the following resolution was adopted by the House of Representatives:

"*Resolved*, That it shall not be lawful for any person or persons to import or bring into any of the Territories of the

United States any slave or slaves that may hereafter be imported into the United States."

"*Ordered*, That a bill or bills be brought in pursuant to the said resolution, and that Mr. David R. Williams, and Messrs. Johnson, Spalding, Kelley, and Blackledge, do prepare and bring in the same."

On the 27th March, the following bill was reported and committed to the Committee of the Whole House on the state of the Union, viz:

"A BILL to prohibit the introduction of slaves into the Mississippi Territory and the Territory of Orleans.

"*Be it enacted, &c.*, That it shall not be lawful for any person or persons to import or bring into the Mississippi Territory, or the Territory of Orleans, from any port or place within the limits of the United States, or to cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing, any slave or slaves who shall have been imported since the first of January, 1803, into any port or place within the limits of the United States, or who may hereafter be so imported, from any port or place without the limits of the United States, and any person or persons so offending, and being thereof convicted before any court, within the said Territories, having competent jurisdiction, shall forfeit and pay, for each and every slave so imported or brought, the sum of five hundred dollars, one moiety for the United States, and the other moiety for the use of the person or persons who shall sue for the same. *Provided*, That nothing in this act contained shall be construed to prevent any citizen of the United States removing into either of the said Territories, for actual settlement, from carrying with him any slave or slaves that he shall be *bona fide* owner of at the time of such removal.

"SEC. —. That so much of any act or acts as are repugnant with this act, shall, from and after the first day of April, 1806, be repealed, and the residue of said acts shall continue in force until repealed."

No further action appears to have been taken in relation to this bill.

It will be seen, sir, that four out of five of the committee that reported the resolution and bill were southern men, and that South Carolina and Virginia stood prominently forward on this as on other occasions. Nor is it merely as a recognition of constitutional power that I would refer to this action of southern gentlemen on this question of slavery. We heard nothing then from the southern statesmen of that day about Louisiana having been acquired by the common treasure of the nation, and that southern men were aggrieved and injured by any restriction upon their occupying this country with their slaves. They not only coöperated with the North in the exclusion of slavery from the Northwest Territory, where the climate was unpropitious, but they took the lead in seeking to restrict and regulate the introduction of slavery into the very heart of the slave country. They regarded slavery as a serious evil, and one which they would not willingly extend to new territory.

I have not time, sir, to give in detail the legislation of Congress in relation to some of the other Territories. The Territory of Orleans was organized on the 2d March, 1805, in which the ordinance of 1787 was adopted, with the exception of the sixth article on the subject of slavery, and one other on another subject. It has been asserted on this floor that this act repealed the tenth section of the act of the 26th March, 1804. It is not at all essential, for the purpose of our argument, whether it was or was not so repealed; but a careful examination of the acts, to which I refer gentlemen, will show that this assertion is erroneous.

In relation to the legislation as to the Missouri Territory in 1812, and the admission of Missouri into the Union in 1820, they are too well known to require that I should repeat that to which reference has been so often made.

In relation to Florida, so recently as 30th March, 1822, in "An act to establish a territorial government in Florida," it is provided "that it shall not be lawful to import slaves," &c.; "and every slave so imported or brought shall thereafter become entitled to and receive his or her freedom."

It should be remarked, not only that all these acts of legislation sanction legislation on the subject of slavery in these Territories, but the provision that the slave shall be free when introduced from abroad into the Territories of Louisiana, Missouri, and Florida, and other provisions on the subject, are different from the provisions on the subject of the slave trade as applicable to the States.

In addition to these various acts of Congress to which I have referred, Congress has always possessed, and often exercised, the power of repealing acts of the territorial legislatures. I will only refer to an instance in relation to the Territory of Florida. The territorial legislature of Florida having passed a law imposing a higher tax on the slaves of non-residents than on those of persons residing in the Territory, Congress, by an act passed on the 30th June, 1834, repealed that law; asserting, indeed, no novel power, but one which is so vehemently denied by the Solons of the present day.

I have thus, sir, in order to show the utter absurdity and folly of the denial of constitutional power in Congress to legislate on this question in the territories, accumulated the proofs, at the hazard of wearying the House by these details. It shows that the practice of the Government has been uniform on this subject; that the power has been asserted from the beginning, and never seriously questioned until very recently. The Judiciary, the Executive, and the Legislative departments have all not only acknowledged but established the permanent right of Congress on that subject.

I have not the time to refer to the opinions of individual statesmen on this question, fully sustaining the views which I have taken. Those of Mr. Madison are, however, too important, from his position, to be omitted, especially in opposition to views of Virginia politicians of the present day. In the House of Representatives, in March, 1790, a debate arose on committing the memorial of the Quakers on the slave trade. From the report of this debate, in 4 Elliott's Debates, 213, I will read the remarks of Mr. Madison:

"Mr. Madison entered into a critical review of the circumstances respecting the adoption of the Constitution; the ideas upon the limitation of the powers of Congress in the regulations of commerce in slaves, and showing that they were not precluded from interfering in their importation; and generally to regulate the mode in which every species of business should be transacted. *He adverted to the western country, and the cession of Georgia, in which Congress have certainly the power to regulate the subject of slavery; which shows that gentlemen are mistaken in supposing that Congress cannot, constitutionally, interfere in the business in any degree whatever.*"

And yet, sir, when Connecticut urges upon Congress to exercise this very power, considered by Mr. Madison undeniable, the Governor of Virginia recommends that "Connecticut shall be informed that if the policy of her resolutions prevails, it will sacrifice our priceless, glorious Union!"

But, sir, I hasten to the consideration of the question whether Congress ought to exercise this power; and I am as clear as to the *duty* as I am in relation to the *right* and *power* of Congress with regard to New Mexico and California.

In the first place, sir, in addition to the wrong done to the slave, slavery is a great social and political evil. It is strange, sir, that this proposition should ever have been denied; and it is not now denied even by a very large portion of the citizens of the slave States. In many of those States, if the question were now to be presented as a new one, few could be found to desire the introduction of slavery. A very serious effort has been made at different times to adopt measures to remove this great evil, by citizens of some of the slaveholding States. And it is very strange, under these circumstances, that they should desire its extension.

I prefer, sir, on this question, to take the testimony of southern men of high standing, and as I suppose, in every instance, slaveholders themselves—and shall confine myself to the distinguished men of Virginia alone.

Mr. Jefferson has been so often quoted on this question, I will read but a single passage, showing his opinion.

In a letter to Mr. Holmes, of Maine, on the Missouri question, cited in Tucker's Life of Jefferson, he says:

"On the subject of slaves, there is not a man on earth who would sacrifice more than I would to relieve us from this heavy reproach in any practicable way. The cession of that kind of property, for so it is misnamed, is a bagatelle which would not cost me a second thought, if in that way a general emancipation and expatriation could be effected, and gradually, with due sacrifices, I think it might be. But as it is, we have the wolf by the ears, and we can neither hold him nor safely let him go. Justice is in the one scale, and self-preservation in the other."

Patrick Henry remarked, in a debate on this subject: "Slavery is detested. We feel its fatal effects. We deplore it with all the piety of humanity," &c.

In the year 1832, an exceedingly interesting debate arose in the Virginia Legislature in relation to certain propositions for the general abolition of slavery in that State. From this debate I would refer quite at length to the able and eloquent remarks of a number of the distinguished members of that Legislature.

I will read some extracts from a few of the speeches then made.

General W. H. Brodnax, of Dinwiddie, said:

"That slavery in Virginia is an evil, and a transcendent evil, it would be idle and worse than idle for any human being to doubt or deny. It is a mildew which has blighted in its course every region it has touched from the creation of the world. Illustrations from the history of other countries and other times, might be instructive and profitable, had we time to review them; but we have evidences tending to the same conviction, nearer at hand, and accessible to daily observation, in the short history of the different States of this great Confederacy, which are impressive in their admonitions and conclusive in their character," &c.

The Hon. C. J. Faulkner remarked:

"Slavery, it is admitted, is an evil; it is an institution which presses heavily against the best interests of the State. It banishes free white labor; it exterminates the mechanic, the artisan, the manufacturer; it deprives them of occupation; it deprives them of bread; it converts the energy of a community into indolence, its power into imbecility, its efficiency into weakness. Sir, being thus injurious, have we not a right to demand its extermination? Shall society suffer that the slaveholder may continue to gather his *crop* of human flesh? What is his mere pecuniary claim, compared with the great interests of the common weal? Must the country languish, droop, die, that the slaveholder may flourish? Shall all interests be subservient to one—all rights subordinate to those of the slaveholder? Has not the mechanic, have not the middle classes, their rights—rights incompatible with the existence of slavery?"

The Hon. T. J. Randolph said:

"Slavery has the effect of lessening the free population of a country. The wealthy are not dependent upon the poor for those aids and those services, compensation for which enables the poor man to give bread to his family. The ordinary mechanic arts are all practised by slaves. In the servitude of Europe in the middle ages, in years of famine, the poor had to barter their liberty for bread: they had to surrender their liberty to some wealthy man to save their families from the horrors of famine. The slave was sustained in sickness and famine upon the wealth of his master, who preserved him as he would any other species of property. All the sources of the poor man's support were absorbed by him. In this country he cannot become a slave, but he flies to some other country more congenial to his condition, and where he who supports himself by honest labor is not degraded in his caste. Those who remain, relying upon the support of casual employment, often become more degraded in their condition than the slaves themselves."

The Hon. James Marshall said:

"Wherefore, then, object to slavery? Because it is ruinous to the whites; retards improvement; roots out an industrious population; banishes the yeomanry of the country; deprives the spinner, the weaver, the smith, the shoemaker, the carpenter, of employment and support. The evil admits of no remedy. It is increasing, and will continue to increase, until the whole country will be inundated by one black wave, covering its whole extent, with a few white faces here and there floating on the surface. The master has no capital but what is vested in human flesh. The father, instead of being richer for his sons, is at a loss to provide for them. There is no diversity of occupations, no incentive to enterprise. Labor of every species is disreputable, because performed mostly by slaves. Our towns are stationary, our villages almost everywhere declining, and the general aspect of the country marks the curse of a wasteful, idle, reckless population, who have no interest in the soil, and care not how much it is impoverished. Public improvements are neglected; and the entire continent does not present a region for which nature has done so much, and art so little. If cultivated by free labor, the soil of Virginia is capable of sustaining a dense population, among whom labor would be honorable, and where 'the busy hum of men' would tell that all were happy, and that all were free."

Extracts from the speech of the Hon. James McDowell:

"We know that the picture is the 'counterfeit presentment' of the true one. We know that inefficiency and languor characterize our movements; that enterprise is scarcely known to us, but from observation of its influence on other communities. We know that the blessings of our position, and soil, and climate, are countervailed by the apathy of our public councils, and by our exclusive reliance upon involuntary labor. Our interests and senses proclaim the progress of general decline; conscience and experience attest that slavery is its principal cause. Is it not so? When we look at Virginia as a whole, without pausing upon the bright and the beautiful that still show forth as intrinsic qualities *of her character*, but look at her in reference to her everyday practical habit and appearance, is she not anything but prosperous? Do we not, in this respect, contemplate her justly when we regard her as meager, haggard, and enfeebled—with decrepitude stealing upon her limbs—as given over to leanness and impotency, and as wasting away under the improvidence and inactivity which eternally accompany the fatal institution that she cherishes—and cherishes, too, as a mother who will hazard her own life rather than part even with the monstrous offspring that afflicts her? Sir, it is true of Virginia, not merely that she has not advanced, but that in many respects she has greatly declined. And what have we got as a compensation for this decline—as a compensation for this disparity between what Virginia is and what she might have been? Nothing but the right of property in the very beings who have brought this disparity upon us. This is our pay; this is what we have got to remunerate us for our delinquent prosperity—to repay us for our desolated fields, our torpid enterprise; and, in this dark day of our humbled importance, to sustain our hopes and to soothe our pride as a people." * * * *

"But, sir, it is in this very circumstance, in this alleviated and improved condition, that we have a principal cause of apprehension from the slave. You raise his intelligence with his condition, and, as he better understands his position in the world, he were not man if it did not the more inflame his discontent. That it has this effect we all know; for the truth is proverbial, that a slave is the more unhappy as he is the more indulged. It could not be otherwise: he follows but the impulse of human nature in being so. Introduce him step after step into the enjoyments of the estate from which he has fallen, and yet proclaim to him that he is never to regain it, and his heart rejects every favor but the favor which is denied. As you benefit his external condition, then, you do not better him as a slave; but, with feelings of increased discontent, you improve his intellect, and thereby increase both his disposition and his capacity for the purposes of resentment. Depend upon it, sir, that he will use his capacity for such purposes—that the state of things which we boast of as the evidence of our humanity is not the state of things to be trusted in.

"Let gentlemen look to the clothed and comforted and privileged condition of their slaves, and please themselves with it as an achievement of kindness; but see to it, sir, if it be not a mask of mischief, a covering which hides from the eye the fire of a future explosion. Lift up the condition of the slave, and you bring him in nearer contact with the liberty he has lost; you deepen upon his heart, irrevocably deepen, the image of that idol of which man is everywhere the worshipper. And is this safe? Or think you that no such consequence occurs, that the slave, crawling in the dust, has none of the generous feelings of a man—regards not and worships not the liberty which stirs the blood and wakens up the enthusiasm of the free? It might indeed be so, had not the love of liberty come to us with life, and made up a part of its character. Sir, you may place the slave where you please; you may dry up to your uttermost the fountains of his feelings, the springs of his thought; you may close upon his mind every avenue of knowledge, and cloud it over with artificial night; you may yoke him to your labors as the ox which liveth only to work, and worketh only to live; you may put him under any process which, without destroying his value as a slave, will debase and crush him as a rational being; you may do this, and the idea that he was born to be free will survive all. It is allied to his hope of immortality; it is the ethereal part of his nature, which oppression cannot reach; it is a torch lit up in his soul by the hand of the Deity, and never meant to be extinguished by the hand of man."

The Hon. Henry Berry said:

"Pass as severe laws as you will to keep these unfortunate creatures in ignorance, it is in vain, unless you can extinguish that spark of intellect which God has given them. Let any man who advocates slavery examine the system of laws that we have adopted (from stern necessity, it may be said) towards these creatures, and he may shed a tear upon that; and would to God, sir, the memory of it might thus be blotted out forever! Sir, we have, as far as possible, closed every avenue by which light might enter into their minds; we have only to go one step further—to extinguish the capacity to see the light—and our work would be completed. They would then be reduced to the level of the beasts of the field, and we should be safe. And I am not certain that we would not do it if we could find out the necessary process, and that under the plea of necessity. But, sir, this is impossible. And can man be in the midst of freemen, and not know what freedom is? Can he feel that he has the power to assert his liberty, and will he not do it?"

I wish not to comment upon these descriptions thus furnished to us from the distinguished men of Virginia of this enormous evil. It affords me no pleasure to read them, and still less to dwell upon this frightful picture. And yet, sir, this very State claims that a new and virgin soil, a territory now exempt from the evils of slavery, shall not continue so; and threatens to dissolve the Union if slaves are excluded from it.

It is mainly because I think it our duty as legislators to pass such laws for this extensive territory as may be for the best good of those who occupy it, and for the honor and welfare of the country—because the same obligation is imposed upon us as there would be if we were residing in the territory itself, and were called upon to adopt the wisest measures for the present and future well-being of the people—it is for no narrow or sectional reasons that I consider the duty so obvious, and the exercise of the power of Congress so important. I am aware, sir, that many consider the question of political power as the important one involved, and that as Louisiana, Florida, and Texas have been added with their slave population and representation in Congress, that the recently acquired territories should be formed into territorial governments which should secure the formation of free States. This, sir, is a very good answer to the arguments of some southern gentlemen on this subject, and to their complaints, which are whimsical enough, of their having been oppressed and injured by the free States of the Union.

But, after all, sir, the question is not so much in relation to an equipoise of political power, and the preservation of any precise balance of free and slave State, as it is what is best for the entire country, and especially for that portion of it for which we are legislating? And on that question, it seems to me to be strange that there should be two opinions.

It is said, Mr. Chairman, that the climate of the country is such that slaves cannot be profitably employed there, and that it is very unnecessary for us to legislate on the subject. I mean not, sir, to enter into any discussion of this question. It is sufficient for me that this proposition is disputed; and it is a matter of some question whether they cannot be, and would not be, introduced into some portions of New Mexico and California. Sure I am, sir, that it would be the height of folly, on a question of such importance, when the introduction of a few lines would settle the question of exclusion, not to insert them; and no bill of any kind for the government of these territories shall ever receive my vote which has not in it a provision similar to the sixth article of the ordinance of 1787.

Besides, sir, what I consider of no less importance is a solemn legislative declaration on this subject—a notice to the whole country, and to the world, that hereafter if any territory is to be added to this Union, it must come in as free territory. If this shall have the effect of checking the insane thirst for conquest or acquisition of new territory in any other mode, I shall not regret it. If it saves the country from the addition of Mexico, or Cuba, or Canada, to our territory, as I think it will, it will be a most auspicious result, and one at which the South, as well as the North, may well rejoice.

But it is said, sir, that this country has been acquired by the common blood and treasure of the nation—the South as well as the North; and that the South should not be excluded from the territory. There is no exclusion of southern men from this territory. They have precisely the same right to go there, and reside there, as men from the North. It is said that they cannot carry their property with them—meaning their slave property. It is by the laws of the several States that these persons are property; and it is true, that they must expect to be governed by the laws of property which prevail in the country to which they go, and not from which they come; and the question, whether that which is held as property in one State, or a portion of the States, shall be so considered, depends entirely on the legislation of Congress, in whom the power resides.

Nor is it true that the southern people in a body are partially excluded from these territories, or anything like a majority of them. A very large majority of the adult white inhabitants of the slaveholding States are not slaveholders. It is, I presume, the case in every slave State in the Union—certainly in most of them. I appeal to the gentlemen around me, representing the States of Kentucky, Tennessee, Western Virginia, North Carolina. I see that they assent to the proposition that not a fifth, in some cases but one-tenth, are slaveholders.

It is not true, then, that a majority in any of these States would find themselves encumbered with slaves if they should emigrate, with all their property, to California. It would not be difficult, I presume, to show that of those that would emigrate to New Mexico and California from the slave States, a very large proportion (four-fifths, perhaps nine-tenths) would go without slaves. Certainly a majority of them would be persons of this character. So that, if the object were to consult the interest or wishes even of the emigrants from the slave States alone, it is not at all certain that a majority of them would not be best suited by the exclusion of slavery from these Territories.

But the slave States are not alone to be consulted. It would be found a far more effectual exclusion of white men from the North by the admission of slavery in these Territories, than of southern men by the prohibition of it. I presume the fact will be found to be, that there are more emigrants from the slave States to the free States, than from the free to the slave States.

But it is said that the confining slavery within its present limits is of great injury to the slave, and in every way greatly aggravates the evil of slavery; and the diffusion of it does in no manner increase the evil of slavery, or the number of the slaves. These are, as I understand it, the views of General Cass, as set forth in his Nicholson letter, and have been urged with great earnestness by a number of gentlemen in this House, the supporters of that gentleman, as well from the North as the South. The proposition is, I think, erroneous in all its parts, both in matters of fact and of inference. It is not true that slavery is restricted within narrow limits; unless it is the design and wish of gentlemen that slavery should be fostered and encouraged, and should continue to increase for generations to come, it would seem that the territory in which it now exists was quite sufficiently extensive to satisfy any one. The area of the present slave territory, exclusive of Texas, is over six hundred thousand square miles, besides the immense and undefined territorial limits of that State. Here is range and scope enough surely for the expansion of this "peculiar institution," without any danger of that confining and penning up, or any immediate ground of apprehension of a too dense population in the slave States, at which southern gentlemen seem so much alarmed.

But, sir, it is not true, in point of fact, that the diffusion of this system of slavery does not increase the number of slaves. The well-known laws of population, and the experience of all past time and former generations, prove the contrary. There are natural encouragements to, and checks of, population, arising from the superabundance or the sparseness of inhabitants, which are known and recognized the world over; and in relation to such a population as the negro slaves these principles apply with increased force; and these checks upon population are not necessarily connected with any considerable amount of physical sufferings. It is surely not necessary nor desirable that I should enlarge upon this branch of political economy, but any one must know that when slaves should be of very great value, the increase of their numbers would be successfully encouraged to a far greater extent than when their value was very small, with no greater amount of physical suffering or privation in the one case than in the other.

If, however, in the course of a long period of time, the extensive portions of the country, now peopled sparsely by a slave population, should become densely populated, and the number of the slaves should so far increase as greatly to diminish their value, the result doubtless would be their eventual emancipation; but this result would be at so remote a period that it would furnish most abundant opportunity for slavery to anticipate the evil, and would lead the slave States to a resolute and serious meeting of the question, and a proper preparation for it by such means as they in their *own wisdom* might consider most just and safe. Are we, sir, in order to postpone still further the time when, by the density of population, combined with other causes, the value of slave labor shall be diminished, or wholly cease, to extend indefinitely this territory upon which this curse of slavery shall be inflicted? It will only render this crisis a still more appalling one when it does come.

No, sir, we have already, so far as this question is concerned, committed a grave error by the increased addition of slave territory to that which was originally embraced in the States of this Union. I have not the statistics before me, but I suppose, by a reference to the tables of population in the several slave States, it will be found that the number of slaves in the States formed out of the Louisiana and Florida purchases, and Texas, is not far short of the number of all in the original territory of the United States. Does any one suppose, sir, if that new territory had not been acquired, or slavery had been excluded from it, that the number of slaves would have been as large at this time, in their original limits, as it now is in the whole country? The numbers have increased with appalling rapidity, and the evil is daily becoming more and more unmanageable; and yet the insane idea is urged and pressed with apparent sincerity, that you must increase the area, and add eventually, of course, to the number of the slaves, and postpone meeting and acting upon this dreadful question; I mean, of course, by the States, and them alone, in whose limits this system exists.

But, sir, even if the number of slaves was not increased by this diffusion of slavery, the evils of slavery would be greatly increased by doubling the area over which it would be extended. The argument, if it proves anything, leads to this result—that if the slaves now in the slave States were spread over the entire country, and diffused throughout the territory of the United States, the evil would be no greater than it now is. This I

utterly deny. It would not, by so doing, seriously relieve the present slave States from those evils of slavery so eloquently depicted by the Virginia statesmen, and, on the other hand, would spread the blight and mildew through the entire country. It would lower free white labor; it would exterminate the mechanic, the artisan, the manufacturer, where they now are, and would not introduce them where they are not. It would not render labor reputable at the South, while it became disreputable at the North. It would banish the yeomanry of the country, and deprive the spinner, the weaver, the smith, the carpenter, the shoemaker, of employment and support at the North, and would not introduce them at the South.

It is a great mistake to suppose that the proportion of slaves should be very large in order to produce these desolating effects. A comparison of the free and slave States bordering on the Ohio river shows the contrary. The same is true in relation to the new territories, and the spread of the slaves of the South over a portion of them. It is worse than if the present non-slaveholding States should admit slavery, because it might require the slow operation of time to change the habits of a free people; but the evils would at once appear in the new regions of New Mexico and California.

Mr. Chairman, I would as soon, if in the Legislature of my own State, vote to restore slavery, in order to aid in this *diffusion* of it, as standing here, with the responsibility of legislating for these new territories, give my vote for its admission, or omit to give my vote for its exclusion now and forever. I consider the duty as imperative in the one case as in the other. I would insert this proviso when it would have, as at present, the binding force of a legislative act, or when introduced and applied, as on former occasions, with no such force, but with the scarcely less important purpose of giving a public and solemn legislative declaration, that if territory were acquired, the free States would insist that it should be free now and in all future time.

I was against the acquisition of this territory. I desired not that any root of bitterness should spring up in the midst of us. I rejoiced in giving my vote against it, and at the same time of giving fair notice that if it came in I should to the last claim that no slavery should go there. There are gentlemen now on this floor, the faithful supporters of the author of the Nicholson letter, who urged the seizing of this territory, and some of whom desired the plundering of the whole of Mexico, and seemed to take pleasure in the idea that these ill-omened acquisitions would lead to new sources of contest and heartburnings between the different members of this great nation. I have no such pleasure. I regret most deeply, seriously regret, that any cause of alienation and unkindness should have arisen, and I rejoice to say, that those with whom it has been my honor to be associated politically, both from the North and South, united in seeking to avoid the occasion of this controversy.

As I utterly despise all *threats* of disunion, or of any other kind, proceeding from the few ultra men of the South, so do I detest and abominate the tone of low vituperation, of unmeasured and disgusting abuse, which is sometimes bestowed upon the South, and by none more recklessly, or with more bitterness, than those persons of the Democratic party who have heretofore been the friends and allies of a set of violent southern politicians.

I need not say to you, sir, or the House, that as I have in all times past, so shall I in all future time give my voice and vote in favor of freedom and against slavery; and shall seek, in the earliest and most effectual manner, to exclude it, not only from the present Territories of New Mexico and California, but from any territories which may be hereafter acquired, whether the same shall at the time include slaves or not; but I shall never vote to acquire any such territory, whether at the South or the North.

With these well known and settled opinions, and with the determination at all times to give them full effect, I can see neither patriotism, nor wisdom, nor sound policy, nor kind philanthropic and christian feeling, in seeking every occasion to wound and irritate and insult the feelings of the South. It has sometimes seemed as though the purpose of some gentlemen was more to give vent to personal bitterness and ill-will toward the South than any sincere desire of benefiting the slave or promoting the cause of freedom. A sneer or a sarcasm has been indulged in, even if defeating an important movement in the cause of freedom.

I have thus, sir, endeavored to show that Congress has the constitutional power, and that it ought to exercise it in excluding forever slavery from the territories of New Mexico and California. I wish to say a few words in relation to the origin of this whole matter.

The preamble of the Connecticut resolutions declares that the annexation of Texas was the cause of the war with Mexico, which has resulted in the acquisition of these territories, although, probably, that war might have been avoided were it not for the course pursued by the President.

I think it both proper and profitable to refer to the annexation of Texas, connected as it is so intimately with the subject which I am now discussing, and to show to whom it is that we are indebted for that iniquitous transaction and the long catalogue of evils which we have suffered, and which are still in store for us.

It is due to a portion of the South to say that this measure was not so much a sectional as a party measure, and was carried through Congress by the Democratic party as such at the West and South, with the incidental aid furnished by the so-called Liberty party of that day in securing the election of Mr. Polk.

In order to show that I am correct in these statements, I refer you to the House Journal of the second session of the twenty-eighth Congress. On the 25th January, 1845, the joint resolution for the annexation of Texas having been amended in the Committee of the Whole on the state of the Union, the question arose on the adoption of the resolution, and decided on the yeas and nays—yeas 120, nays 97. Of those in the affirmative there were but seven Whigs; these were from the southern States. But eighteen southern Whigs voted in the negative. All the Democrats except twenty-eight voted in the affirmative, fifty-four of whom were from the North or non-slaveholding States: that being thus within one of one-half of those in the affirmative northern Democrats. Of the Connecticut members, Mr. Catlin alone voted in the negative.

On the 28th February, 1845, these resolutions were returned from the Senate with an amendment. In this stage of the proceedings there were only two ways of defeating the whole measure of annexation. One was a certain and effectual defeat of the whole measure in every form by laying it on the table. On this vote there were, in favor of laying on the table, or defeating the measure, 59 yeas. The nays, or those against defeating the annexation project, were 120. Of these yeas, they were all Whigs but one; and all the Whigs voted for it except seven, including in the yeas seventeen southern Whigs and one northern Democrat—that is, the whole of the Whig members of the House of Representatives, including seventeen southern Whigs, voted finally to defeat the annexation project, and only seven Whigs—six from the South and one from the North—voted on the other side. The 120, whose vote showed that they were in favor of the annexation in some form or other, were all Democrats but seven; and of the 120, seventy-eight were northern men, and forty-two southern men, including Whigs and Democrats. Of these 78, seventy-seven were northern Democrats, and only one northern Whig. It thus appears not only that there were nearly two northern members to one from the South voting for the annexation, but that the majority of northern members were greater than the majority of southern members in favor of annexation.

On the same day the question arose on the concurring in the amendment of the Senate to the resolutions. The vote stood 134 yeas and 77 nays. All Democrats, North and South, except two, voted in the affirmative; and all the Whigs, North and South, except one, voted in the negative.

On both of these last votes all the Connecticut delegation were present, and voted against laying on the table and in favor of the amendment.

Although, Mr. Chairman, this worst of all measures was carried by northern Democrats, thus voting in a body for the introduction of slave territory of an immense extent, clearly and confessedly in violation of the Constitution of the United States, and as Mr. Calhoun officially, as Secretary of State, declared in order to protect the slave interest of the South; yet, sir, some of these very men, thus voting, are men not only open-mouthed and clamorous and abusive in their professed zeal for "free soil," and denunciatory of the uniform and early and constant supporters of freedom and free territory, but many of them do not even profess to have repented of their heinous sin in annexing Texas. They seek to make the distinction between voting to admit an *unbounded* region of slave territory, and admitting slavery into territory which they have previously annexed. This is clearly no defence, and the reasoning of these gentlemen would to-morrow justify them in voting to admit the island of Cuba with all its slaves.

I refer the House to speeches from some of the leading Free-soil Democrats in both Houses, during this and the last Congress, delivered in the hearing of us all. I find in the Congressional Globe, of the first session of the 29th Congress, a report of a speech of the honorable gentleman from Pennsylvania, [Mr. WILMOT,] August 8, 1846, on the two-million bill, to which the next day, or the day following, on his motion, the famous Wilmot proviso was annexed, from which I read:

"He referred to the annexation of Texas and his affirmative vote on the proposition connected with it at this session; he was for taking it as it was. Slavery had already been established there. But if free territory comes in, God forbid that he should be the means of planting the institution upon it."

And my honorable colleague in the Senate, [Mr. NILES,] when explaining the vote he was about to give on the acceptance of the Texas constitution, is reported in the Congressional Globe as follows:

"He had determined to vote in the affirmative. He did not regret the passage of the resolution, although he did regret that the mode, by which the object had been accomplished, had not been as acceptable as he had desired."

It will be recollected that the vote given by both these gentlemen, and all or nearly all the Democratic members of both Houses, was in favor of accepting the constitution of Texas, which absolutely prohibited the exclusion of slavery from its territory; and that among the number may be found the names of some of the most prominent members of the Free-soil party in New York and other States.

It also should not be forgotten that this very constitution of Texas paid no regard whatever to the Missouri compromise line, or the resolutions of admission recognizing that line; but if Texas has any territory north of 36° 30′, it is all by this constitution irrevocably slave territory.

Mr. Chairman, I have referred to the history of this greatest of political offences not only to show to whom the country is indebted for this source of endless mischief, but as being a useful lesson for the future. That history has already been written in the blood of thousands of our citizens. The prospect for the future is not bright or cheering, and where it will end, and what will be the result, no human mind can foretell.

There is another lesson which these facts would teach, and that is, that those who have so recently joined a portion of the South in this measure of annexation, and thus extended the area of slavery, should show a little modesty as well as contrition when lecturing their late allies, and especially that it ill becomes *them* to indulge in the tone of the Pharisee, but rather, after sincere repentance for so heinous an offence, to take the more humble position of the publican.

GOVERNMENTS FOR THE NEW TERRITORIES.

SPEECH OF MR. R. S. DONNELL,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

February 19, 1849,

On the Bills to establish a Territorial Government in California and New Mexico.

The House being in Committee of the Whole on the state of the Union, (Mr. CABELL, of Florida, in the chair,) and having under consideration the bill to carry out, in part, the twelfth article of the Mexican Treaty—

Mr. DONNELL spoke as follows:

Mr. CHAIRMAN: At this late period of the session, I feel great reluctance to ask the attention and to consume the time of the committee in explaining

the reasons which will govern my votes upon the different plans that have been prepared for providing a government in California and New Mexico. If I could consult my feelings, my present indisposition would induce me to postpone my remarks until the territorial bills come up for our consideration. But the great uncertainty of obtaining the floor upon an occasion when my remarks would be more appropriate, compels me to follow the example of others, and present the views that have impressed themselves upon my mind at this time.

I have listened with great attention to the debate upon this subject, particularly to the earnest and eloquent appeal of the gentleman from Virginia, [Mr. PRESTON,] and the no less eloquent and impressive remarks of my friend from Alabama, [Mr. HILLIARD.] But I have not been able to bring my mind to the support of either of the plans respectively advocated by them. I cannot regard either of the bills, proposed as a substitute for those which the committee have reported, in the light in which they have been presented by their authors. There are objections which suggest themselves to me, too strong to be sacrificed to the *faint* hope held out to us of settling thereby the agitating question of slavery. I think gentlemen have deceived themselves with the hope to settle it in the way they propose. I shall endeavor to show, in its proper place, in the course of my remarks, that they leave the question where they found it, and that they have no reason to believe that gentlemen from the North would not be as pertinacious in their attempts to attach the objectionable proviso to any bill admitting the Territory as a State, as they have been to the bills for a territorial government.

The bills reported by the Committee on Territories are unexceptionable, except in the section which embodies the ordinance of 1787, known to the country now as the Wilmot proviso. It is that alone which distracts and divides us. The honorable gentleman from Virginia proposes to avoid all our difficulties upon this subject, by admitting at once into the Union, as *one* State, the whole of this newly acquired territory. He thinks that we are bound, by our constitutional obligations to do it; that there is a great constitutional principle that requires it, the principle of self-government. He puts it upon the broad general principle that it is our duty, at the earliest possible moment, to accord to the people in these territories the right to govern themselves. While I assent readily to the position, that the principle of popular sovereignty lies at the foundation of our institutions, I cannot agree with him in its application to these territories in their present condition. He asserts, very truly, that the Government is only the trustee of these territories, but he errs when he treats the people there as the cestui que trust. I quote from his speech:

"Here are a people, numbering two hundred thousand, asking you to surrender the trust, to give them the rights guarantied to them, and for which this acquisition of territory was made; and, I ask you, does the point of honor forbid your giving it up to them?"

I hold that the people of the United States—of the North, the South, the East, and the West—are the proper cestui que trust. Suppose the acquisition of a territory entirely uninhabited, would there be any doubt who are they for whose benefit it is held, to whose interest we should look in order to learn the nature and object of the trust? Well, in the progrees of its settlement, when is there a change either in the people for whom it is held, or the object we have in view? Would one settler there, or any small community of settlers, produce such a change? It is, as I contend, our purpose and our duty to build up sovereign, independent States, by establishing a temporary government, by extending over it our system of land laws, and disposing of it upon such terms as in our judgment will most speedily and effectually accomplish that purpose. We are not to create the mere form of a State, and transfer thus the execution of the trust to the hands of those but recently our enemies, and now strangers to the spirit of our institutions. We are not to surrender the trust, in the whole or in any part of it, until the purpose for which we hold it is accomplished. That will happen when any portion of the proper size to constitute a State becomes generally settled, so that the more direct interest of those who have settled it is paramount to that of the people of the States. When that time arrives is referred to the discretion of Congress. It is impliedly referred to us in the clause of the Constitution which declares that "new States *may* be admitted by Congress into this Union;" and, if not, it must be inferred from the nature of the trust. I admit that the discretion must not be arbitrarily exercised. But there is no prescribed limit to it. The only limit is that which arises from the nature of the trust. It is a great mistake to suppose that we are to discharge ourselves of this trust "as soon as possible." We may, by treaty stipulations, bind ourselves, in good faith, to do so under any circumstances; but then the obligation arises out of the contract. In the late treaty with Mexico the original proposition from Mexico was, that we should bind ourselves to admit the territories which we acquired "as soon as possible." The Senate very wisely annulled it, and expressly reserved to Congress the right to judge of the proper time.

If I am right in the view I have presented, it is our duty to look to other things than the fact that there are about one hundred and fifty thousand Mexicans and Indians there, and about fifty thousand emigrants. We should look to our own people, to the situation and condition of the country, the nature and character of the people, and to their numbers as compared with the extent of country they inhabit. This, then, is one objection to the proposition submitted by the gentleman from Virginia. It is precisely because I regard it as a sacred trust, and because this is the ground upon which the South stands in her opposition to the Wilmot proviso, that I cannot assent to the bill. Give up this principle, and we have no ground upon which we can oppose the Wilmot proviso. In the language of the gentleman from Virginia, the question passes from under us. Let us glance, for a moment, at the condition and comparative settlement of the country. The country which we have acquired covers an area more than ten times as large as New York, Pennsylvania, or North Carolina. It contains 526,078 square miles, and 335,887,920 acres, and the estimated number of inhabitants is about 200,000; of which three-fourths are Mexicans and Indians. What a monstrous proposition to admit these at once, with this magnificent extent of country, upon an equality with the rest of the States, and thus put into their hands the power not only to make a constitution for the whole of that territory, but to shape the policy of a large portion of country that may eventually control our destiny as a nation. Who are these fifty thousand emigrants that are said to be there: They are not American citizens alone. The gold mania has spread over the whole continent of Europe, and England and Germany are sending their thousands as well as Boston and New York. I have no doubt that many enterprising and respectable American citizens have gone there, and will still continue to go. But, as yet, few have gone with the intention of remaining. Many have gone to speculate upon the labor of others. Many have been dazzled with the prospect of *picking up* a fortune, to realize a fate perhaps worse than the curse of Midas. Besides, we have not yet granted title to one foot of the land. They are all mere squatters, whose vocation it is, not to cultivate and improve the land, but to appropriate the property of the people of the United States. Is it for those people, in this condition of things, that the great principle of our Revolution is invoked? And is it for them that the blood of our gallant citizens was poured out upon the heights of Cerro Gordo, and on the ever memorable field of Buena Vista? I ask, how can we justify ourselves in passing such a sweeping *naturalization* law as is proposed, and surrendering into such hands the trust which is ours to execute?

I will now examine how far the fundamental principles of our Government are violated in forming a territorial government for the people of California. Wherein is any republican principle violated? We give them a legislature, and the selection of the members of that legislature. They thus have, as fully as we do, a voice in the enactment of the laws that are to govern their property, and their civil relations to each other, subject to the supervision of Congress. We do not *legislate* for them; we only reserve the power to supervise, for the purpose of protecting the rights and the interests of the people of the United States against any aggressions on their part. Their political relations only are controlled by Congress. Taking into consideration the condition of that Territory, there seems to me to be an obvious *propriety* in a territorial form of government. There is certainly no violation of the spirit of American republicanism in it. True, until they become a State, they have no constitution. When a people make a constitution, they determine upon the fundamental principles that are ever afterwards to limit their own legislation. It is generally made difficult to alter or amend it, that it may have a character of stability. It is not usually made subject to the will of a majority. It gives a fixed political character to the government. It is the corporeal frame of the government. It comports with our ideas of a republican constitution, that it should not only concede powers to the majority, but that it should also impose restrictions upon that majority for the protection of the minority. Are the little handful of people now in New Mexico and California to be allowed to establish almost unalterably the constitution of that country, and to mould the political institutions for perhaps millions of our citizens? If we give them the power to form a constitution for the whole of that country, why might they not embody in it restrictions that would have a material effect upon its future settlement? I do not see that they have any more constitutional right to put restrictions upon territory which *they do not occupy* than Congress has.

The honorable gentleman from Alabama very properly argued that we ought not to permit them thus to extend their power over the whole; and I think the spirit of the argument I have given is destructive to his bill also, for he proposes to bring the people there under the laws of Texas; under a constitution and laws in the enactment of which they have had no voice; and it is giving to Texas the trust which we have no right to abandon. His bill does not appear quite as objectionable as that of the gentleman from Virginia; but I do not think it can be sustained. It is subject, in common with the bill proposed by the gentleman from Virginia, to many of the objections that I have urged. The spirit which my friend from Virginia thought he saw walking upon the bosom of the storm-tossed ocean, and bidding him "be of good cheer," was the creation of his patriotic and anxious fears. It was born of the gloom and darkness that envelops our political sky—a spectre of the imagination, assuming the heavenly form of American republicanism. It is visible only in the dim and confused light of hope, and fades away at the approach of reason, like the disturbed ghost "at the herald of the morn."

If I understood the proposition of the gentleman from Alabama, as explained by him, it still leaves territory south of 36° 30', and we should still have this exciting question on our hands.

Mr. HILLIARD (interposing) said: The gentleman is mistaken.

Mr. DONNELL. I understood the gentleman, in laying off the proposed boundaries of Texas, to begin at her eastern boundary, on the parallel of 36° 30', and run along that parallel to the Sierra Nevada mountains, and then to follow the course of the mountains to the Pacific, which does not include a part of the territory west of the mountains, and south of 36° 30'.

Mr. HILLIARD. That I proposed should be erected into a State.

Mr. DONNELL. I am happy to be corrected. But as I now understand it, all the objections which I have stated to the project of bringing the Territory in as a State apply to it. If we are to bring these people into the Union, I think the bill proposed in the Senate by the Senator from Illinois [Mr. DOUGLAS] preferable to any we have before us, and that, I think, leaves the old boundary question between Texas and Mexico as simple a judicial question as the proposition of the gentleman from Virginia. I have great objections to a State or States so largely disproportioned in area to the other States of the Union. While they are sparsely populated, the expense of keeping up their governments would be very burdensome to them, and the execution of their laws difficult and embarrassing. As they fill up, their relation to us becomes a matter of grave consideration. Every introduction of a new State into the Union disturbs the

relations of the whole, and the introduction of one so largely disproportioned to the others, would exercise an influence upon the country, "for weal or for woe," which we cannot foresee, and which no human prescience can foretell. No matter what may be the variety of climate, or soil, or interest within the boundaries of a State, there is a feeling of State pride, and sympathy with State institutions and State interest, which binds together her citizens, and would exhibit itself in these Halls. Suppose the golden dreams of some gentlemen should be realized, and this new State should have a thriving population, that would entitle her to ten times as many Representatives as any other State in the Union: what is to wrest from her the control of the whole legislation of the country? Again, the weight which each State has in the election of the President depends upon the number of her Representatives. She would have ten times the number of electors that any other State would have, and the electors from California, chosen perhaps by a bare majority of her citizens, would make the President for the whole country. In view of these things, it is our duty to limit the boundaries of States which we admit, so as to preserve, as nearly as possible, the relations which now exist. It is no answer to say that a disproportion already exists. That we cannot avoid. We should see that it is not increased. It is said we can divide it hereafter. But you give up all power over it when you have erected it into a State. You must have the assent of the State first; and although there are instances in the early history of our country of the surrender on the part of a State of the power which a large extent of country would, in process of time, give it, I am not willing to run the risk. As long as a State can conveniently support its government, it is exceedingly improbable that it would be willing to yield any of its territory, in the present state of civilization and science, when "space is annihilated," and the mighty power of steam links together the remotest interests. There are no longer difficulties in keeping together, under one government, countries that differ widely in their soil or their climate. What, think you, the great State of New York would say to a proposition to divide her territory? How would Texas receive, even in her present situation, a similar summons on the part of this Government? Sir, it is idle to expect that when a State has struggled through all the difficulties and the burdens of its first existence, and become strong and prosperous, it would surrender the power which it has acquired at the summons from Congress.

After all, Mr. Chairman, what reason have we to believe that the people of California and New Mexico would accept our proposition to them to erect a State government? Are they willing now to take upon themselves the expense of a State government, particularly one as extensive and burdensome as we propose? On the contrary, we have every reason to believe that they would not, not only from general reasoning upon the subject, but from their own expressed wish, that we should give them a *territorial* government. The gentleman from Michigan [Mr. MCCLELLAND] has already referred the committee to the petition which they sent us during this session, in which it is expressly declared that they do not wish to come in as a State now. Is it not probable that the next Congress will find this question again before us? Again: what reason have gentlemen to think that the North would not insist upon the proviso to their bills, as well as to a territorial bill? Would not the considerate and moderate gentlemen from the North have to yield to the action of those who live upon the agitation of the subject of slavery? What consistency would there be on their part to permit either of these bills to pass without the proviso, and insist upon attaching it to a territorial bill? It is admitted by all, that from the nature and soil of the country, and the habits and education of those now emigrating to it, there is no possibility of the institution being established there. Their "holy horror" of the institution drives them to establish the precedent, so as to mark upon the legislative records of the country their undying hostility to the extension of slavery one inch further in the territory of this Government through all time to come. Sir, if we can pass either of these bills, we can pass a territorial bill without the Wilmot proviso; and if we cannot, so far as my action goes, the people of California must remain as they are now. I will not hazard the institutions of my country, or its happiness or prosperity, to give a government to California. I would rather it should fall back into the hands of Mexico, with all its glittering dust and its Pactolian streams. The reason that we cannot settle this question is, that there is not enough of conciliation and conservatism here. The course of the ultra gentlemen, both from the North and South, has produced an unnecessary and unfortunate excitement upon this subject. The more moderate gentlemen from the North justify their course in sustaining measures which they would not *introduce*, on the ground that they would have to make explanations to their constituents. I call upon them hereafter to meet the responsibility, and make whatever explanations may become necessary. The importance of the occasion demands it; their country requires it of them. The intemperate manner in which this question has been discussed here, both on the part of the South and the North, deserves, and will meet, the indignant condemnation of the country. If the North had been content to put themselves upon the broad position of public policy, and contended, in mild and conciliatory terms, for the exclusion of slave labor from a country unfitted by nature for it, on the ground that it was for the ultimate prosperity of that country, they would have found the South respectful listeners, and might have entertained some hope of obtaining its acquiescence. But they have not chosen to pursue such a course. Their ultraism has carried them so far that they have gravely labored to sustain the position that there could be no property in slaves, and that the United States Government has never recognized it. They do this in the face of the decisions of the Supreme and Circuit Courts of the United States made by northern judges, of the repeated action of the treaty-making power of the Government upon the subject, and of the legislation and sanction of this House. They constantly labor to depreciate and discredit those *patriotic* representatives from the North who do not partake of their fanaticism. A member from Ohio, on Saturday last, went so far as to attack the character and impugn the motives of our respected Speaker. He charged him with packing the committees of the House, with a view of sustaining the *slave power* in the House. An imputation upon the motives of the highest officer of the House reflects upon the honor of the House, and attaches itself to every member here, particularly to those who elected and have sustained the Speaker, and, I do not doubt, is indignantly spurned by gentlemen of both parties.

Mr. GIDDINGS. I impugned no motives of the Speaker.

Mr. DONNELL. I will give way for an explanation, provided it be short.

Mr. GIDDINGS. I do not wish to make any explanation. I desire to set myself right.

Mr. DONNELL. I shall not give way then. I do not know what was meant; but I do remember the impression made by him, and I profess to know the meaning of the English language. He had an opportunity of setting himself right immediately after the charge was uttered. My friend from Maryland [Mr. EVANS] reminded him at the time that the Committee on the District of Columbia, to which he referred, was composed of *five* from the non-slaveholding States, and *four* from the slaveholding States; and, in defiance of these facts, he had the temerity to reiterate the charge. He charged that these northern gentlemen, or some of them, were "northern dough-faces," and that the Speaker "knew his men." Sir, let me tell that gentleman that the dignity, ability, and impartiality with which the honorable Speaker has discharged the perplexing duties of his honorable station, places him high, *high* above such base and calumnious charges. The country is justly proud of him, and nothing can happen which will tend so much to fix him in the place he holds in the esteem and confidence of the people as such a charge from such a source.

I was sorry to see the course pursued a few days ago by the gentlemen from New Hampshire, [Mr. WILSON,] whose talents and character, if applied to the settlement of this subject in a spirit of conciliation, might enable us to do so much. He emphatically declared that he would sooner see, not only "the dissolution of the Union, but the dissolution of the universe," than to see the institutions of slavery extended "one-sixteenth part of an inch further." In his zeal he charged that the slave interest had controlled the measures of the Government ever since its existence as a government. If so, it has controlled them very much to the profit of the North. I have not the time to refute this point. His speech may have its effect upon the elections in New Hampshire, but it does not present the subject which he discussed in its true light. I will not accuse him of a want of candor; but how can he justify the position he has taken—that the South is asking him to *legislate* the institution anywhere? This is the impression which his speech will make upon every uninformed reader; and will make, I doubt not, upon his constituents. The South asks him to forbear to impose an odious restriction upon them, when he must admit that the North is to gain nothing by it. I may be asked why we resist when we are to lose nothing? I will state why I do. I resist it on the position that it will establish the precedent, that the legislation of Congress is to be perverted to carry out, not the interest, but the mere wanton mischievous wishes of the North.

Mr. CROWELL. The precedent is already established. I ask the gentleman if the ordinance of 1787 is not a precedent in point?

Mr. DONNELL. I do not regard that as forcing upon the South an abstract, unnecessary principle, which is unjust. That was a compromise, or rather a voluntary concession, on the part of the South, and was unanimously passed. The Missouri compromise was a concession, also, by the South. No, sir, the precedent has not yet been established; but I have no doubt would be very soon, if the ultra wishes of the gentleman were to prevail.

And now, sir, I will be pardoned for commenting upon the course pursued by the South. We have heard here, during the last session and the present session, repeated threats of disunion. I have been astonished at the deliberate manner in which they have been made, and the approval given by many gentlemen to the intemperate resolutions which have been sent here from the legislatures of several southern States. The threat now is "sound and fury, signifying nothing." But we are criminal if we familiarize our constituents with the idea of disunion. To do so, is to enfeeble the ties that bind us together. I have no fears now of the dissolution of the Union. If *politicians* would have it dissolved, the *people* will not. No, sir, there is a sacred regard for the Union in the hearts of the people. It is the compact of a great and growing confederacy—the fruit of our struggle for independence—the work of the heroes and the sages of the Revolution—the ark of our political liberty—the fountain of our greatness and our glory. All the cherished reminiscences of the past, of our common struggle in the cause of freedom, of the oppression which we endured together, and which we together resisted, and together conquered—all that is gratifying to our pride and honorable in our history, and all that is commemorative of the prudence, the wisdom, and the patriotism of our forefathers, conspire to give it a hold upon the hearts of the American people that is a sure guarantee of its preservation. I repeat it; I have no fears of the dissolution of the Union. As I look down the long vista of the future, I see a numerous and prosperous people, the citizens of one great and glorious Union, mingling harmoniously and happily together, and wondering, as they read the records of these times, that such madness should have seized upon us in this day of our political existence. I may be mistaken, but I will cling to the delusion. An American poet has said, that "man is born to die, and so are nations;" and it may be, as in human life, that early ripeness ought to admonish us of an untimely dissolution. If so, let us heed the admonition; let us not hasten it by our willful imprudence; let us run out the course of our destiny. Why should our country—

> "——fall a moment ere her time?
> No. Let us draw her term of freedom out
> In its full length, and spin it to the last;
> So shall we gain still one day more of liberty."

Sir, disunion is but another word for revolution and for civil war. There can be no such thing as a peaceable dissolution of this Union. It can be

effected only by steeping the flourishing villages of the North, and the sunny plains of the South, in fraternal blood, shed in a fraternal war. Who can picture the scenes that are to follow the attempt to dissolve it. A servile war, a long and exhausting struggle with each other, and the ultimate extinction of our liberty. Yes, the sun that shines upon the last day of our existence as a united people, will be the last to rise upon American liberty. Upon this subject I pledge myself to the country, and to my constituents, never to countenance anything that may *tend "to enfeeble the social ties that now link together the various parts"* of our Union. I will stand upon the platform made for me by the Legislature of my State. I beg leave to read it to the committee:

"*Resolved*, That we, the people of North Carolina, of all parties, are devotedly attached to the union of the United States; that they regard it as a main pillar in the edifice of real independence, the support of tranquillity at home, of peace abroad, of safety, of property, and of that very liberty they so highly prize; that they cherish a cordial, habitual, and unmovable attachment to it, and that they watch for its preservation with jealous anxiety; that they believe it is the duty of their public servants to discountenance whatever may suggest even a suspicion that it can, in any event, be abandoned; and to 'repel indignantly every attempt to 'alienate any portion of our country from the rest, or to en-'feeble the sacred ties which now link together the various 'parts."

I am proud to be able to say that I never fraternized with, or took "lot or part" in the recent movement known as the Southern Convention. It is due to my constituents that I should state briefly my reasons, and in doing so I distinctly disclaim any disposition to arraign the motives of any gentleman on this floor. I only desire to state the position in which I should appear if I had been in that convention. I had been an ardent admirer and an enthusiastic supporter of General Taylor for the Presidency. Believing that the present Administration had involved us in our present difficulties by the blind pursuit of its own aggrandizement, and that General Taylor was the "man for the times," I had devoted whatever humble ability I had to his election. I had represented to my constituents my conviction that he was imbued with national principles; that his heart was as true to his country as his own tried blade; and that under his administration I believed the interests and the honor of the whole country would be safe. I could not be so untrue now to myself as to announce to my constituents, upon the eve of his inauguration, that their rights were in danger, when I did not believe it. Was I to bring distrust upon him whom I had so zealously supported, before he had yet been tried? Where was the necessity, at that particular time, for that movement on the part of a portion of the southern Democracy? Why was it not made when Mr. Polk signed the Oregon bill with the Wilmot proviso? When he thus gave up forever to the North this territory, before the North had agreed to concede to the South even the poor privilege of escaping the humiliation which she is seeking to bring upon her, why was the insult pocketed? It is said the passage through the House of the resolution of instructions offered by the gentleman from New York [Mr. GOTT] was the moving cause; but that was reconsidered before the address was prepared, and it never had passed even the final action of this House. If it had, it must yet have passed the Senate, and then through the hands of Mr. Polk, before an act of aggression would have been perpetrated. Had gentlemen begun to distrust their President? Did they fear Mr. Polk would carry out the views he expressed in private to the gentleman from Pennsylvania [Mr. WILMOT]? Why was it made by gentlemen who have just been defeated by the people, when this question had been put in issue before the people, and when a President from the South was about to come into power? Such a movement could do no good to them, except to throw distrust upon the incoming Administration. All honor to the twenty-seven Democrats who refused to join the movement. What was the purpose of the address? It professes to seek to unite the South. Unite it on what? Are we not already united upon this subject? I have heard of no difference in the views or actions of the South, except during the last session in the Senate, when two Democratic Senators gave their votes for the bill which Mr. Polk afterwards approved, and which contained the Wilmot proviso. I allude to the Senator from Missouri [Mr. BENTON] and the Senator from Texas, [Mr. HOUSTON,] one of those recently *annexed* by the Democrats of the South in order to strengthen the South in that Chamber. There was no more necessity for such a convention or address at this time than there was twelve months ago. The union called for is one which, in my judgment, looks to disunion. I interpret the address of the distinguished Senator from South Carolina to be a call upon the South to unite upon *him*. I shall always regret, too, that this convention was held with closed doors, in the dark hour of the night, and in the Chamber of this Capitol dedicated to the deliberations of the conservative branch of the Government. Whether it deserve it or not, it can scarcely hope to escape the denunciations which have heretofore been so liberally heaped upon the Hartford Convention. I think I serve my constituents much more truly, and conform more strictly to the oath which I have taken to support that bond of our political union, the Constitution, by exerting myself in my place here to allay this morbid excitement. I could not but believe that a movement like this by the whole South would have produced a reaction at the North, widen the breach already so fearful, and "alienate a portion of our country from the rest."

I do not believe we shall be able to settle the question at this time. If we should fail, as I fear we will, at this session, California and New Mexico must continue under a military government, and I trust that the next Congress may find a better spirit prevailing in these Halls. It will be a happy thing for the people to have us, who are the principal agitators, once more at our homes, where our capacity for mischief will be limited.

Whatever is to be the end of this controversy, I hope the people of the South will not forget *who* are responsible for our difficulties. I will not now recapitulate the arguments that we urged upon them to prove that the object of this war was conquest, or to forewarn them that they were to be the sufferers by this gross violation of the Constitution on the part of the President. The recent development of the fraud which consummated this aggression by the President upon the Constitution, claims my attention during the few moments that are left. I tried to get the floor when the subject of the protocol was under discussion, that I might express my views at length. I cannot now go into an examination of its effect upon the relations between us and Mexico, or how far Mexico would have a right to require us to adhere to the protocol, or how far the acquiescence or silence of the Senate now may operate to give it validity. I shall direct my remarks to the positions which have been taken in defence of the President, and think that I can throw out some suggestions that will enable gentlemen to see that the protocol is not conformable to the understanding of the treaty as amended. The secrecy by which this transaction has been covered over, the apparent consciousness of guilt which characterizes it, the difficulty with which it was brought to light almost at the last hour of the existence of this Administration, stamp the indelible stigma of fraud upon it—fraud perpetrated not only upon a weak and humiliated enemy, but also upon the people of the United States. Mr. Polk in his proclamation declared that the treaty *as amended* by the Senate had been ratified by Mexico, and after a lapse of ten months a solemn formal protocol is extracted from him by a resolution of the House, which shows that our commissioners had *explained away* the *amendments* before the exchange of ratifications. They did, in substance, represent the Senate of the United States as a junto of verbal critics engaged in secret session more than three weeks in polishing the language of the treaty. The defence made by the President's friends is very amusing. It is first said that the protocol follows the explanations, as they were detailed in the letter of instructions from Mr. Buchanan, and thus they seek to shield the commissioners. Then it is asserted that they were particularly told in the letter that they had no right to alter the treaty, and thus the President is to escape. I was particularly attracted by the emphatic manner in which it seems to have been urged upon the commissioners that they had *no right* to alter the treaty. Why was this? Had Mr. Polk selected commissioners who did not know this, or was it all designed in the event of a subsequent disclosure to shield the President from the just indignation of the country? Was there any verbal understanding, any understanding that was not to be preserved upon paper, like that which seems to have been mysteriously whispered by the winds of heaven in the ear of Santa Anna when the secret pass was awaiting his arrival at Vera Cruz? The President cannot escape. He knew it after it had been done, if he did not before, and sanctioned it by his silence and his execrable secrecy. Who dreamed of such a paper while the campaign for the election of President was going on? While this subject was under discussion, a gentleman remarked that the protocol was only given to the President of Mexico to enable him to satisfy the people of Mexico, and I do not doubt that it was a good electioneering document for him. It would not probably have been so good a one for Mr. Polk's party in this country.

It was too small a matter to be submitted to the Senate, but much too important for the House of Representatives or the people to know. The President excuses himself for not complying with the call of the House, on the ground that it was incompatible with the public interest. It may very often, during the pendency of diplomatic correspondence, or immediately after the ratification of a treaty, be proper that he should keep secret important state papers from the opposite party; but here the information was in the hands of the people of Mexico, and there is no excuse for suppressing it, except the consciousness of guilt. The President and his friends justify the protocol on the ground, further, that it does not vary the treaty. I have been surprised at the confidence with which it is asserted that there is no difference between the treaty and the protocol; that the protocol is the true construction of the treaty. Now, sir, if gentlemen will look at some of the decisions of our Supreme Court, they will find that treaties are usually construed very strictly. I will give one example: A case arose under the treaty with Spain, which you, Mr. Chairman, will remember, involving the question of title under a grant made by Spain before the acquisition of Florida by this Government. The case will be found in 2d Peters' Rep., 253, (Foster *vs.* Neilson.) The treaty had been drawn up both in English and in Spanish, as is the case with this treaty with Mexico, and the English form of the treaty was before the court. The decision turned upon the construction of the clause in the treaty which declares that "all the grants of land made be-'fore the 24th day of January, 1818, by his Catholic 'Majesty, or by his lawful authorities in the said 'territories, ceded by his Majesty to the United 'States, *shall be ratified* and *confirmed* to the persons 'in possession of the lands to the same extent that 'the same grants would be valid if the territories 'had remained under the dominion of his Catholic 'Majesty." Chief Justice Marshall, who delivered the opinion of the court, decided that the words "shall be ratified and confirmed," did not *per se* operate to give validity to grants not otherwise valid, but that it required legislative action to carry out the treaty. Some time afterwards the case of the United States *vs.* Percheman was brought up, and Chief Justice Marshall again delivered the opinion of the court. The Spanish form of the treaty was then before the court. The correct translation of the Spanish made it vary from the English form in a single word. It read, "shall *remain* ratified and confirmed." The effect of it was that the court overruled its former decision upon that single word. I have selected these cases from many others in the books to show that there may be nice and difficult questions arising out of the words of a treaty, and that it is a bold opinion for any one to hazard, that this protocol does not amount to anything. I propose now to compare the protocol with the amended treaty. I read the ninth article of the treaty as it originally was, the amendment, and the protocol:

"ARTICLE 9. The Mexicans who in the territories aforesaid shall not preserve the character of citizens of the Mexican Republic conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights of citizens of the United States. In the mean time, they shall be maintained and protected in the enjoyment of their liberty, their property, and the civil rights now vested in them according to the Mexican laws. With respect to political rights, their condition shall be on an equality with that of the inhabitants of the other territories of the United States, and at least equally good as that of the inhabitants of Louisiana and the Floridas when these

provinces, by transfer from the French Republic and the Crown of Spain, became territories of the United States.

"The same most ample guarantee shall be enjoyed by all ecclesiastics and religious corporations or communities, as well in the discharge of the offices of their ministry as in the enjoyment of their property of every kind, whether individual or corporate. This guarantee shall embrace all temples, houses, and edifices dedicated to the Roman Catholic worship, as well as all property destined to its support, or to that of schools, hospitals, and other foundations for charitable or beneficent purposes. No property of this nature shall be considered as having become the property of the American Government, or as subject to be by it disposed of or diverted to other uses.

"Finally, the relations and communication between the Catholics living in the territories aforesaid and their respective ecclesiastical authorities shall be open, free, and exempt from all hindrance whatever, even although such authorities should reside within the limits of the Mexican Republic, as defined by this treaty; and this freedom shall continue so long as a new demarkation of ecclesiastical districts shall not have been made, conformably with the laws of the Roman Catholic Church."

This was finally amended by the Senate, so as to read—

"The Mexicans who in the territories aforesaid shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution, and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction."

The following is the assurance, given in solemn form, by the commissioners appointed by Mr. Polk, one of whom (Mr. Sevier) was a member of the Senate while the treaty was before them:

Protocol of the conference previous to the ratification and exchange of the treaty of peace between Ambrose H. Sevier and Nathan Clifford, commissioned as Ministers Plenipotentiary on the part of the United States of America, and Don Luis de la Rosa, Minister of Foreign and Internal Affairs of the Mexican Republic:

"In the city of Queretaro, on the 26th of the month of May, 1848, at a conference between their Excellencies Nathan Clifford and Ambrose H. Sevier, Commissioners of the United States of America, *with full powers from their Government to make to the Mexican Republic* suitable explanations in regard to the amendments which the Senate and Government of the United States have made in the treaty of peace, friendship, limits, and definitive settlement between the two Republics, signed in the city of Guadalupe Hidalgo, on the 2d day of February, of the present year, and his Excellency Don Luis de la Rosa, Minister of Foreign Affairs of the Republic of Mexico, it was agreed, after adequate conversation respecting the changes alluded to, to record in the present protocol the following explanations, which their aforesaid Excellencies, the Commissioners, gave in the name of their Government, and in fulfillment of the commission conferred upon them near the Mexican Republic:

"1st. The American Government, by suppressing the ninth article of the treaty of Guadalupe, and substituting the third article of the treaty of Louisiana, did not intend to diminish in any way what was agreed upon by the aforesaid article ninth, in favor of the inhabitants of the territories ceded by Mexico. Its understanding is, that all of that agreement is contained in the third article of the treaty of Louisiana. In consequence, all the privileges and guarantees, civil, political, and religious, which would have been possessed by the inhabitants of the ceded territories if the ninth article of the treaty had been retained, will be enjoyed by them, without any difference, under the article which has been substituted."

Is this assurance, thus solemnly made and signed and sealed by both our commissioners and by the Mexican minister, true? I might, if I had time, show that there are important ecclesiastical privileges given in the original that are not secured in the amendment; but there are parts that have been "suppressed" by the Senate which have some relation to the subject which I have been discussing. The Senate did not choose to pledge the faith of the Government to admit them into the Union "as soon as possible." If the protocol is binding upon us, the gentleman from Virginia would have an unanswerable argument in favor of his bill. He might well urge that our faith is pledged to do it now, or as soon as it can be effected. I will not undertake to say how far it does affect the treaty. I shall show, in a few moments, that in some cases it may have a material effect upon it. I can only say now, that it is with great reluctance that I recognize the treaty for any purposes. I shall certainly, in legislating, not recognize the protocol as pledging me to bring such evils upon the country as I think would follow the introduction of these people now as an organized State.

Again: it will be observed that in the original treaty there was a pledge that the "*civil laws*" of *Mexico* are to be guarantied to them until we do admit them into the Union; that, until they are admitted, there is to be no change except in their "*political* laws." I made an argument at the last session of Congress to prove, that upon the cession of inhabited territory to this country, the political laws were the only laws that were *ipso facto* changed, and that their municipal regulations continued in force until they were repealed. If we give to New Mexico a territorial legislature, they may repeal them, or Congress may, if it think proper. We could not have repealed them without violating our faith, if the original article had been sanctioned by the Senate. Now, among their municipal or civil laws was one forbidding slavery, and it may be that the Mexican Government had reference to this very subject; for it will be seen, by reference to the correspondence of Mr. Trist, that they were not indifferent to it, and they seem to be much better diplomatists than Mr. Polk. Mr. Trist says that they could not be more startled at the proposition to introduce the inquisition into the ceded territory than they were at the idea of the introduction of slavery. However that may be, I ask southern gentlemen if it would not have been as effective to restrict slavery as the Wilmot proviso? Would it not also have kept up the system of peon servitude? I do not know what other objectionable regulations it might have preserved there; but, whatever they may be, could we have abrogated them and kept our faith? And if there had been no laws in existence there that are objectionable, it would not affect the argument. I am examining the position that the protocol adheres to the amended treaty. The view that I have endeavored to present did not escape the Senate during its deliberations upon the treaty. The very first amendment proposed to this article was, by Mr. Johnson, of Georgia, to insert, after the words "Mexican laws," the words "not inconsistent with the Constitution and the *laws* of the United States." The vote was 38 in the affirmative and 7 in the negative—Mr. SEVIER voting in the affirmative. But I pass to the next article of the treaty.

"ARTICLE X.—All grants of land made by the Mexican Government, or by the competent authorities, in territories previously appertaining to Mexico, and remaining for the future within the limits of the United States, shall be respected as valid, to the same extent that the same grants would be valid if the said territories had remained within the limits of Mexico. But the grantees of lands in Texas, put in possession thereof, who, by reason of the circumstances of the country since the beginning of the troubles between Texas and the Mexican Government, may have been prevented from fulfilling all the conditions of their grants, shall be under the obligation to fulfill the said conditions within the periods limited in the same respectively; such periods to be now counted from the date of the exchange of ratifications of this treaty; in default of which, the said grants shall not be obligatory upon the State of Texas, in virtue of the stipulations contained in this article.

"The foregoing stipulation in regard to grantees of land in Texas, is extended to all grantees of land in the territories aforesaid, elsewhere than in Texas, put in possession under such grants; and, in default of the fulfillment of the conditions of any such grant within the new period, which, as is above stipulated, begins with the day of the exchange of ratifications of this treaty, the same shall be null and void.

"The Mexican Government declares, that no grant whatever of lands in Texas has been made since the second day of March, one thousand eight hundred and thirty-six; and that no grant whatever of lands, in any of the territories aforesaid, has been made since the thirteenth day of May, one thousand eight hundred and forty-six."

This article was stricken out and nothing substituted in its place, and the protocol assures the Mexican Government—that

"2d. The American Government, by suppressing the tenth article of the treaty of Guadalupe, did not, in any way, intend to annul the grants of lands made by Mexico in the ceded territories. These grants, notwithstanding the suppression of this article of the treaty, preserve the legal value which they may possess, and the grantees may cause their legitimate titles to be *acknowledged* before the American tribunals.

"Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories, are those which were legitimate titles under the Mexican law in California and New Mexico, up to the 13th of May, 1846, and in Texas up to the 2d of March, 1836.

"3d. * * * * * * * *

"And these explanations having been *accepted* by the Minister of Foreign Affairs of the Mexican Republic, be declared in the name of his Government, *that, with the understanding conveyed by them*, the same Government would proceed to *ratify the treaty of Guadalupe, as modified by the Senate and Government of the United States.* In testimony of which, their Excellencies, the aforesaid Commissioners and the Minister, have signed and sealed, in quintuplicate, the present protocol. NATHAN CLIFFORD, [L. S.]
AMBROSE H. SEVIER, [L. S.]
LUIS DE LA ROSA." [L. S.]

Let us see how that is. Gentlemen say that it is nothing more than the application of international law to the subject upon which it rests. Now, sir, in the first place, international law is nothing more than rules of action that owe their existence to the custom and comity of nations. Whether they shall be applied or not, depends upon the mere will of the nation. The sovereignty of every nation is, within its own borders, supreme. We might choose to declare, we might find it our policy to declare, that these principles should not be applied by our courts. There might be many instances in which we might find it necessary to do so to preserve our institutions. It is well known to gentlemen that the conditions upon which these grants have been made in Mexico are, many of them, against the spirit of our institutions. The Senate did not think proper to pledge themselves to Mexico that our Government would not legislate upon this subject. But our President and Commissioners, in the plentitude of their power, have impliedly done it. The reason that all our treaties in relation to the cession of territories have a provision on the subject of grants is, that we may be restricted in good faith from annulling them. We chose to be untrammeled in this instance. We have heretofore exercised this power of annulling grants made by the former sovereign of the ceded country.

A recital of the facts in the case to which I allude will show the propriety of the amendment of the Senate. We acquired Louisiana from France by the treaty of 1803. France had previously acquired it from Spain by the treaty of 1800, called the treaty of St. Ildefonso. After we acquired it there was a disputed boundary question, between our Government and that of Spain. Spain held possession of the country between the Iberville and the Perdido. We claimed it as a part of the territory ceded by the treaty of St. Ildefonso to France, and afterwards by France to the United States. In several of the acts of Congress in relation to the Territory of Louisiana, its boundaries are treated according to our claim, but there never was any practical application of our laws to the disputed territory. It remained in the possession of the Spanish Government. Our claim was only a constructive one, like that of Texas to the territory between the Nueces and the Rio Grande, until we acquired from Spain in 1819 all the Spanish territory east of the Mississippi. I have already referred to the stipulations in the treaty of 1819. In the year 1804, the year after the acquisition of Louisiana, Congress created two territories there, and in one of the sections of the act declared "that all grants for lands 'within the territories ceded by the French republic 'to the United States by the treaty of the 30th April, '1803, the title whereof was, at the date of the treaty 'of Ildefonso, in the Crown, Government, or nation 'of Spain, and every act and proceeding subsequent 'thereto, of whatsoever nature, towards the obtaining of any grant, title, or claim to such lands, and 'under whatsoever authority transacted or pretended, be and the same are hereby declared to be, 'and have been from the beginning, null and void, 'and of no effect in law or equity." A parallel case may occur in the history of this Mexican treaty. There was a disputed territory between Mexico and Texas. Mexico claimed it as hers, and held possession of it until the United States took armed occupation of it in 1846. Are her grants in that portion of the territory up to the 13th May, 1846, valid? Or may it be necessary for Congress or the Legislature of Texas to annul them? In the other portions of her territory which has been ceded to us there are grants involving intricate questions of law. We know that it has been the policy of Mexico, particularly since her difficulties with Texas, to impose conditions that are at war with the policy and contrary to the spirit of our institutions. In some, as I understand, the settlement by Americans is expressly forbidden. We have not forgotten the attempt to make one to Macnamara in 1846, with the object of keeping it out of the hands of the Americans, comprising within its limits the bay of Francisco and the best military positions in the country, covering an extent of three thousand square leagues. Are grants with conditions of this character to be held good? How many difficult questions arise in these cases, that will readily suggest themselves to a lawyer. The whole doctrine of conditions, precedent and subsequent, the effect of the condition being rendered impossible by the act of the grantor and many others that I have not time to enumerate.

Our courts, in determining these questions, must look to the treaty, the compact and understanding between the parties; and, in arriving at that, they must take the contemporaneous exposition. In the case of Foster *vs.* Neilson, already referred to, they have declared that they have no right to construe a treaty when the government has put a construction upon it. Here is a construction in the most formal manner put upon this treaty by the agents of the government, and up to this time acquiesced in by the Government. There were also a class of cases of Empresario titles made by Mexico in the territory comprised within the limits of Texas proper before the 2d March, 1836, which Texas has declared void, and which have been since granted away by Texas. Can the original grantees cause these titles "to be acknowledged before the American tribunals?" The gentleman from Texas [Mr. KAUFMAN] seemed to think that they would not come within the meaning of the protocol, because there were no formal grants in the proper legal acceptation of the term, and my friend from Georgia [Mr. STEPHENS] very properly reminded him that the protocol used the word "titles" also. But if that had not been the case, these Empresario titles would be included in the meaning of the word grant. The Supreme Court have decided that question also.*

At this part of his remarks, Mr. DONNELL's hour expired.

* In the case of Strother *vs.* Lucas, 12 Peters' Rep., 410, the court have declared, that by grant in a treaty is understood any warrant, concession, order, or permission to survey, possess, or settle, evinced by writing or parol, or presumed from possession."

GOVERNMENT FOR CALIFORNIA.

SPEECH OF MR. A. EVANS,

OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,

February 26, 1849,

On the Bill to provide a Territorial Government for California.

The House being in Committee of the Whole on the state of the Union, (Mr. VINTON, of Ohio, in the chair,) and having under consideration the bill to provide a territorial government for the Territory of California—

Mr. EVANS rose and addressed the committee nearly as follows:

Mr. CHAIRMAN: I acknowledge that it is with considerable diffidence that I rise to address the committee upon this occasion. I have been preceded by a gentleman [Mr. ROOT] who has brought to this discussion an information so extensive, an ability so marked, and an eloquence so persuasive, that whatever I can say must seem uninteresting in comparison. He has, indeed, gathered for me an audience; that I shall be able to retain it, is more than I dare promise to those who listen so patiently and attentively to these opening remarks. And yet, sir, I propose to myself no trifling theme, no little and unimportant subject, no project beneath the dignity of the legislation of a mighty empire. Upon the contrary, sir, it is indeed a very considerable question, and one upon which seem at present to be staked the peace, the welfare, and the prosperity of the whole Republic, and that question, the prominent existing causes of difference between the northern and southern portions of this nation, and the means and prospect of their removal. Foremost among all these causes, are those which spring out of the bill now under consideration—whether we will provide the means of security and protection to the people of California; and if we will provide those means, how we will provide them? It is, in short, sir, the question of the government of those vast territories, which we have acquired by a treaty of peace, closing a war of almost unrivaled military splendor, achievement, and renown; territories acquired, too, sir, by the most lavish expenditure of life, and a boundless profusion of treasure. In every way the subject commends itself to us by its dignity and importance, and it behooves us to approach it with a becoming sense of its magnitude, and with a proper feeling of our own duty. What I have to say, sir, upon this subject, I have reserved unto this time, because I have always felt an unaffected repugnance to speak out of place, and upon subjects not properly the objects of the consideration of the House; and I trust that I may be permitted, without impropriety, to make it the object of my own honest self-gratulation, that never since I have enjoyed the honor of a seat upon this floor, though during that time I have frequently addressed this body, have I ever spoken except to the business of the House and to the particular matter at the time under consideration and debate. Sir, I hope there is no indelicacy in having thus alluded upon this occasion.

And now, sir, let us examine what are the measures before us, for the government of the Territory of California. First, we have the bill of the chairman of the Committee on Territories, [Mr. SMITH,] a bill in its general features resembling those which have, in former years, been enacted for the regulation of the various Territories which have, from time to time, been established by this Government; for that bill a substitute has been offered by the gentleman from Virginia, [Mr. PRESTON;] to the latter I shall, for a few minutes, more particularly call the attention of the committee. It is as follows:

"SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Congress doth consent that a new State may be erected out of and including all that territory ceded to the United States by the treaty of peace, friendship, limits, and settlement with the Republic of Mexico, concluded 2d February, 1848, with a republican form of government, to be adopted by the inhabitants of said territory, assembled by delegates in convention, as hereinafter provided for that purpose, in order that the said State may be admitted into this Union.

"SEC. 2. *And be it further enacted*, That the foregoing consent of Congress is given upon the following reservations and conditions: First, That the United States hereby unconditionally reserves to the Federal Government all right of property in the public domain, and other property ceded to the United States by the treaty of peace aforesaid, free from all taxes or assessments of any kind by the said State; and, also, the power of disposing of the same, including the right of adjusting all claim and title to land derived from foreign governments, in such manner as Congress shall prescribe. Second, That the new State shall be formed and its government adopted prior to the first day of October, in the year of our Lord, 1849.

"SEC. 3. *And be it further enacted*, That, on the said first day of October, 1849, the said new State having been thus formed, by the name and style of the State of California, and with the consent of the people thereof, shall be received and admitted into the Union as a new and entire member of the United States of America.

"SEC. 4. *And be it further enacted*, That the acting Governor of California, so soon as he shall be provided with a copy of this act, to the end that the people may have an opportunity of establishing for themselves a constitution and republican form of government for said State prior to the first day of October next, shall immediately proceed to lay off the country embraced within the limits of the proposed State into convenient districts for the election of delegates to a convention for the purpose of forming a State constitution, and shall designate the time and place of holding the election in each district, appoint the officers to conduct the same, and prescribe the mode of making the returns thereof; and shall apportion the delegates, fifty in all, among the several districts, as near as may be, according to the number of legal voters in each; and he shall also designate the time and place for the assembling of said convention. Every white male inhabitant of said territory, being an actual resident of the proposed State, and having attained the age of twenty-one years, shall be entitled to vote at said election.

"SEC. 5. *And be it further enacted*, That the State of California, when admitted into this Union, in conformity with the provisions of this act, shall be entitled and continue to be entitled, until the next general census, to two Representatives in the House of Representatives of the United States; and in all other respects, as far as they may be applicable, the laws of the United States shall extend to, and have force in, the State of California."

It will be perceived, by the committee, that this bill provides that a new State may be erected, out of *all* the territory ceded to the United States by the treaty of Guadalupe Hidalgo, concluded with the Republic of Mexico, on the second day of February, eighteen hundred and forty-eight. Sir, when I say, at the outset, that I intend to give this substitute my support, I may be allowed to state, nevertheless, some of the objections which prevail against it; when I declare that, in my estimation, the gentleman from Virginia has been actuated only by the loftiest and most patriotic considerations in proposing it, I only assert what I am sure is the unanimous opinion of this House, and I trust, sir, of this country.

And, in the first place, the imagination is startled at the idea of the immense extent, the almost boundless area of this mighty region; it is a country, sir, that from its southern boundary, below the port of San Diego, to its northern, under the forty-second degree of latitude, has a length of coast of more than a thousand miles—as great as it is, on the Atlantic, from Boston to Savannah—a country extending through ten degrees of latitude, and five and twenty degrees of longitude, and containing an area, in my judgment, of more than half a million square miles. I know, sir, that the map sent to us from the General Land Office, makes the area less; but, in this I am satisfied, that that map is inaccurate, or at least inconsistent with itself; by it the Northwest Territory, north of the Platte river and the State of Iowa, and east of the Rocky Mountains, and west of the Mississippi, is reported to contain seven hundred and twenty-three thousand square miles; yet, it requires only a glance of the eye, to perceive that the extent of territory acquired from Mexico, greatly exceeds it. I am justified, then, in estimating the latter, as at least five hundred thousand square miles, or an area capable of making sixty States of the size of Maryland.

Sir, there is everything to distinguish this remarkable country from our own; its climate, soil, productions, and physical characteristics, are extremely different from anything with which we are personally acquainted. Along the Pacific coast, the fertile valleys of the San Joaquin, and the Sacramento, are shut in between the range of the coast mountains, and the lofty peaks of the Sierra Nevada, which, as their name denotes, are covered with almost eternal snows. In the streams which flow from their gorges, that gold is found, which rivals in its reputed abundance, all that the Spaniard in his palmiest day ever dreamed of El Dorado. Beyond the Sierra is the great basin, wild, uninhabited, unexplored, except where the energetic and daring Frémont has set his wandering and inquisitive step; here all seems to be one vast waste, one illimitable desert; still further east, shut in by mountains, along the declivitous course of the Rio Bravo, are the Mexican towns of Santa Fé, Albuquerque, and Taos; and here, seated upon a few fertile spots, is all the civilized population of New Mexico; this latter is separated from the people of the Pacific coast by two or three immense ranges of mountains, and by the unexplored region of the great basin of Alta California; but not more by these than by the diversity of their habits, and pursuits. So much for the geography of this region.

It is next proper to inquire what the population of California may amount to? The gentleman from Virginia, in his speech, set it down at one hundred and fifty thousand persons; my own estimate, from all the information I have been able to obtain, is widely different. Captain Wilkes estimated the number, in the year 1848, to be thirty thousand; and, as at a former census, only one-sixth of the population was white, we cannot estimate the white population at more than six thousand. I am aware that large numbers are supposed to be *en route* from the United States, but their numbers have been greatly exaggerated. They do not, from the most authentic accounts, exceed eight or ten thousand; adding these, we have forty thousand for the population of Upper California, so far as known, including whites, half-breeds, Spaniards, Mexicans, and Indians, instead of one hundred and fifty thousand, as estimated by the gentleman from Virginia.

[Here Mr. PRESTON interposed, and said that he had not estimated the population of Upper California at one hundred and fifty thousand persons, but that he had included the population of New Mexico also, in order to obtain that amount.]

Mr. EVANS, in continuation, remarked: I am very happy to have that correction from the gentleman from Virginia; yet, sir, it will not remove the objection which I am about to make to the bill on that score, and that is, that the population in California is, as yet, too sparse, too little acquainted with the nature and workings of our institutions, to be intrusted with the government of so vast a State. Sir, the condition of pupilage is not yet passed with them; on the contrary, it has scarcely begun: how few among them there are able to appreciate the respect due to the laws; the necessity for the control of passion; and a regard for the will of a just majority? It is a country in which, heretofore, every change has been a revolution. What then can we expect from their management at present?

But there is an objection, still more serious, founded upon the extent of territory. The evils resulting from a small and an uneducated popula-

tion will not be of very long continuance; the multitude of persons who will be attracted to that country in the next few years by the thirst of gold, *auri sacra fames*, or by the desire of adventure, will, in the nature of things, prevent that objection from lasting during any great length of time. But, sir, when the population does become dense—when it reaches anything like the proportion to the area occupied that obtains in the Atlantic States of this Union, what may we not fear from the creation of a State so vast? Sir, its power will be incredible. More than equal in extent to the whole original thirteen States of the Union; situated upon the borders of an ocean, whose other margin washes the shores of the furthest east; with all the capabilities of a vast commerce, so far at least as the Sacramento, and San Joaquin valleys are concerned; bordering, at the South, upon a neighbor weak, and little capable of making defence; peopled, as it will be, by the most energetic, restless, and inquisitive people to be found in the whole world: what, I say, may we not fear from its wild and reckless independence?

Sir, it has been but a few days since you extended your revenue laws over this country. I am proud to say that I resisted that extension, that I opposed it by every means in my power, and that I voted against it. I did not, and I never will, consent to tax this people, while we deny to them the benefit of government, and even of protection. But suppose, sir, that at some future day, they, in the plenitude of their power, set your revenue laws at defiance, and refuse to submit to the collection of customs, and the levy of taxes in their ports—what means have you at command, to compel compliance from a State, whose area is half a million of square miles? None, sir; none at all. Beside, I do not believe that any State ought to be created, whose size greatly exceeds that of the rest. The power of representation in this House, ought not to be greatly different among the different States. There is, perhaps, too great a disparity at present, and it ought not to be increased.

Such, sir, are some of the objections which may be urged against the adoption of the substitute offered by the gentleman from Virginia. They are, in my opinion, of great weight; and, if time permitted, others might be added to the list. Let these suffice. I have no doubt that they have suggested themselves to the gentleman from Virginia. Yet strong, and weighty, and influential as I conceive them to be—ill-fitted as I think that territory is for a single State, in which the people of one portion are separated from the people of another by trackless deserts and impassable mountains—difficult as I admit it would be to attend any central or other seat of government and legislation, yet, sir, notwithstanding all these difficulties, I am prepared to give this substitute my support in preference to the bill reported by the gentleman from Indiana, [Mr. SMITH.]

I will not stop now, sir, to express my opinion of that bill, or of some particular provisions of it; nor to inquire whether those provisions ought, or ought not, to form a part of it. It is sufficient for me to know that a deep-seated dislike to some particulars of that bill, more or less, pervades fifteen States of this Union. It is sufficient for me to know that a condition of excitement exists, such as has hitherto been unknown from the foundation of the Government, that it increases from day to day, and expresses itself in every variety of speech and action. Sir, when the legislatures of several States of this nation pledge themselves, in advance, to resist certain measures; when others upon adjournment desire that they may be immediately convened, if some of the provisions of this bill be adopted by Congress; when I see about me every day, a growing disaffection; when I hear the Union daily valued, and valued at little; I think the time has come when every lover of his country should strive to heal the dissensions which threaten her peace and safety.

It has not been long, sir, since I stood by the grave of WASHINGTON, and I little esteem the heart of that man whose patriotism is not exalted by such a pilgrimage; and this, sir, is, I fully believe, a time when it behooves us to remember his farewell warning to his countrymen. These are his words:

"The unity of Government, which constitutes you one people; is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence—the support of your tranquillity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But, as it is easy to foresee that from different quarters much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth—as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed—it is of infinite moment that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with zealous anxiety; discountenancing what may suggest even a suspicion that it can in any event be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts."

In my estimation, from the foundation of this Government until now, there never has been a time when it was more necessary that we should carefully consider these parting words of warning and advice. The "suspicion that the Union may be abandoned" has already been entertained; and, though I cannot say that if the bill of the chairman of the Committee on Territories becomes a law, that abandonment will take place, yet I do believe that it will prove a fruitful source of difficulty and dissension; and what will the Union be worth when the parts are sundered in feeling, and the citizen of the North, and the citizen of the South, entertain for each other mutual feelings of hatred and ill-will?

I believe that the substitute of the gentleman from Virginia, will, in a great measure, if not altogether, heal these dissensions; it is correct in theory, it appeals to the great principle of popular sovereignty, and leaves the people to choose for themselves those institutions under which they desire to live; it is because of this, notwithstanding the objections I have made to it, I shall give it my support; and yet I confess that I have no considerable expectation that it will pass this body. No, notwithstanding the people of California, or at least of a portion of it, have expressed their desire that slavery should not be introduced into those Territories, and though there is every probability that this bill, if such be the fact, would result in the creation of one immense free State, I say, notwithstanding this, I have no confidence that certain northern gentlemen will give this conservative measure their support.

[Here Mr. MEADE and Mr. VENABLE interposed, and remarked that they understood that expression of opinion, to have come from the people of New Mexico, and not from those of California.]

Mr. EVANS, continuing, said that, even if that were the case, New Mexico was embraced in this substitute; but, unless he were greatly mistaken, and without being entirely positive, he was quite sure that he was not in error, in making the assertion that the people of California, or a portion of them, had done the same thing. I well remember (he said) the remarkable debate which sprung up in the other end of this Capitol upon the petition of the people of New Mexico, and therefore I cannot have confounded with it that of the Californians. The effect, then, of the substitute might be to make this territory free; but, sir, I do not believe that a single supporter will be found for it on that account. If it should fail, I intend to offer, as a temporary measure, a substitute of my own, which is as follows:

"1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That until the end of the first session of the next Congress, all and singular the acts of Congress with respect to trade and intercourse with the Indian tribes, and all acts with regard to the survey and disposition of the public lands, are hereby extended over the territory acquired from Mexico by the treaty of the second of February, eighteen hundred and forty-eight; and all and singular the military, civil, and judicial powers exercised by the officers of the existing government of the same territory, shall be vested in such person or persons, and shall be exercised in such manner, as the President of the United States shall direct, for the maintaining the inhabitants of said territory in the free enjoyment of their liberty, property, and religion.

"SEC. 2. *And be it further enacted*, That, in order to maintain the authority of the United States, and preserve peace and order in said territory, the President of the United States be, and he is hereby, authorized to employ such part of the land and naval forces of the United States as he may deem necessary: *Provided, nevertheless*, That martial law shall not be proclaimed or declared in said territory, nor any military court established or instituted, except ordinary courts-martial, for the trial of persons belonging to the army and navy of the United States.

"SEC. 3. *And be it further enacted*, That the sum of one hundred thousand dollars be, and the same is hereby, appropriated for the purpose of carrying these provisions into effect, to be paid out of any moneys in the treasury not otherwise appropriated."

And I offer it because I believe that we are bound by every consideration of justice, and by our own solemn oaths, to provide these people with some government, unless by so doing we should create more dissension and anarchy at home than now exists in California. This substitute is, in all its essential features, a copy of the act of the thirty-first of October, eighteen hundred and three, for the temporary government of Louisiana, which we had acquired by the treaty of Paris on the thirtieth of April, in the same year; and if the amendment of the gentleman from Virginia should not prevail, I trust that my substitute may be adopted. As to the bill of the chairman of the Committee on Territories, it is plain that there is not the slightest chance that it will become a law at this session of Congress; five days of the session alone remain, and the Senate has not as yet passed a single one of the great appropriation bills; and if, notwithstanding the fierce opposition with which it will meet at the other end of this Capitol, it should be adopted by the body assembled there, I trust, Mr. Chairman, that I may allude to it without impropriety—the President of the United States has already informed us in advance, with what degree of propriety I will not now pretend to say, that it cannot receive his sanction. Everybody knows, then, that there is no hope that this bill, reported by the chairman of the Committee on the Territories, can become a law; to pass it is a mere mockery; and yet the condition of the people and territory of California is such as to cry aloud to us for relief. There is in that country no law, or it is so feebly administered as entirely to fail of its objects; robbery, and violence, and murder, are the most ordinary occurrences; not an arrival from that country but brings to us the narrative of some barbarity or outrage; to kill is common, to plunder usual, and yet we refuse these people our protection!

I recollect well, Mr. Chairman, when a few days ago the proposition was made in this House to refuse to make the appropriation for paying to the Mexican Government the amount stipulated in the treaty as the consideration for the purchase of California, with what a vehement and manly eloquence you resisted it. And, sir, I had the pleasure of agreeing with you in opinion. Like you, sir, I thought that the stipulations of that treaty ought to be observed, and that the sum of money ought to be paid. It is upon the constitutional principle that a treaty is the supreme law of the land, and that the occasion must be one of extreme urgency, in which the House of Representatives will be justified in withholding the appropriation; but the obligation to maintain and uphold one portion of that treaty, is in no way more binding than the duty to keep, and observe, the other portions of it—all the parts are of equal validity and of equal force. The oaths we have taken to support the Constitution—which Constitution declares that "all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land"—compel us to observe the conditions of this treaty in every respect. Now, sir, it was contended upon every part of this House, with but ten voices to the contrary, that we were bound by every obligation of national honor and of national faith to pay the twelve millions and interest to Mexico. The point of good faith was dwelt upon, sir, by you and others with a particular gravity and unction. All the horrors of repudiation were held up before our eyes. We were even told that to refuse to pay, would be to be guilty of more than Punic perfidy. And, sir, in that I agreed with you, without intending any reflection upon those who think differently. I was one of those who believed it impossible to return the Californias to Mexico; that, indeed, it were easier to conquer all that was left her, from the waters of the Gila, to the Isthmus of Tehuantepec, than to restore her the territories she had surrendered to us. But if we would be guilty of national dishonor by the refusal to pay these miserable dollars, I ask, in what condition we shall be found if we do not observe the stipulations of the ninth article of the treaty of Guadalupe Hidalgo? and which is as follows:

"The Mexicans who in the territories aforesaid shall not preserve the character of citizens of the Mexican Republic

conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution, and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction."

Are we less obliged to protect these people in the free enjoyment of their liberty, property, and religion, as provided by this article, than we are to pay the money provided for by another article?

"The free enjoyment of their liberty, property, and religion;" these, sir, are the very words of my substitute. It is intended to provide for the observance of the treaty; it is intended to give law, and protection, to our fellow-people of the Pacific coast, who are now destitute of both; it is intended to bring order out of disorder, and method out of confusion; and it is intended by settling the government upon a firm, though temporary basis, to provide hereafter for a permanent, and efficient administration of affairs, through some well-settled scheme of legislation.

This plan may not succeed; it may not meet with the sanction of this House; but, I am well assured that all others must fail. The bill reported by the chairman of the Committee on Territories will not become a law; the substitute offered by the gentleman from Virginia will probably not prevail, it being in the nature of a permanent arrangement; may I not then hope that this substitute, which is only intended for the temporary government of this Territory, will be adopted?

If this or some measure analagous to it, be not adopted, it will be only an additional proof, added to those which have already accumulated, that the desire of certain gentlemen here, is not so much to provide for the peace, safety, and security of our recent, and distant acquisitions, as it is to keep up a dangerous, though profitable, political agitation.

Already western California is becoming the scene of a wide-spread and, I trust, a profitable commerce; cargoes to the amount of many millions value have left the ports of the United States bound for those distant regions; a numerous and hardy emigration is thronging towards the Bay of St. Francis—some around the Cape, some by the Isthmus, some westward, through the wilds of the American continent; yet, sir, there is no means of protection for the property when it arrives, except the strong hand; there is no punishment for him who molests the emigrant, except that which each man settles for himself. And northern gentlemen seem unwilling to provide for these people even a temporary protection. Their action has never been so slack when their own private interests were concerned. When the bill for the extension of our revenue laws over that country was before this House, the gentleman from Ohio [Mr. ROOT] was very anxious to add to it the Wilmot proviso; but those gentlemen who ordinarily are willing enough to attach it to every subject without any regard to its pertinence, were skillful enough to prevent the gentleman from Ohio from effecting his object; to do so they knew would suffer the goods and shipping of Holland, France, and England to compete even-handed in the ports of California, with the goods and shipping of the North. The proviso had to yield to the interest of northern gentlemen upon that occasion.

Mr. Chairman, I have dwelt sufficiently long upon this first great national difficulty; my waning hour admonishes me to pass to other subjects which I wish to consider before I close these remarks. I have endeavored to point out a way of healing those dissensions which seem to endanger the permanence of the Union itself. I have believed that the substitute offered by the gentleman from Virginia would effect that object, or, failing that, I have believed that my own substitute, by giving time for reflection and better feeling; by removing, for a time at least, the present causes of discord; and, above all, by securing to the people of these new territories protection and some sort of government, would give such a permanence to their affairs, and stimulus to their growth, that perhaps, before the expiration of the act, they would be enabled to organize a government of their own, and apply here for admission to the Union.

This provision of a government for the acquired territory, is our first great difficulty; it is one of the most dangerous aspect; one which has already, in a great degree, disturbed the peace and harmony of our Union, to which discord is almost the same as destruction. Sir, it is one of that plentiful harvest of evils which have sprung out of the admission of Texas into this Union—evils of which we have scarcely yet seen the beginning, but which have already signally displayed themselves in national discord, confusion, and dismay. In what an aspect do we present ourselves to the view of the whole civilized world!

The friends of self-government, we deny to the people of a distant province that inestimable privilege—the descendants of those who encountered danger, difficulty, and death itself, rather than submit to taxation without representation; yet we do not scruple to impose such taxation upon a distant and as yet feeble people! The greedy seekers after territory which we own our inability to govern, when we have acquired it!

Gentlemen accuse us, too, of hindering the settlement of this question, and say that we oppose the twelfth section of the Territorial bill, containing the Wilmot proviso, because we desire to extend slavery into the territories. Sir, the charge is unfounded. I have no desire to extend slavery there. I believe that my colleagues have no such desire; that the State of Maryland has none; but that State does desire to stand an equal in this Confederacy, and not a dependent; and voting, as I always have, against that proviso, the reasons already given by me are sufficient, if I had no other; and those are, that I perceive in it the germ which will grow into such discord, and ill-feeling, as may lead to the disunion of this Confederacy.

I pass now, sir, to another question—another of the causes of dissension among us; a question in which the people of my State feel a great and not unnatural interest, and that is, the subject of slavery in this District, which has occupied so much time here of late.

I remember very well, that when the resolution of the gentleman from New York [Mr. GOTT] was offered in this body, and I claimed the right of the State of Maryland to be heard upon it—desiring that my colleague, who is now seated in front of me, [Mr. MCLANE,] might speak upon the subject—the gentleman from Ohio [Mr. GIDDINGS] remarked, that Ohio, too, wished to be heard. There was more, sir, in the manner than the matter of the observation; but it was intended to convey the idea that Maryland is not more interested in the question of the abolition of slavery here, than Ohio. It is not true, sir, that Ohio has the same interest in this subject, that the people of Maryland have. It is vital to our interests; it is indifferent to theirs. With us it is a practical question of the highest import; with them it is at most a speculative abstraction. With us it may be a question of life or death; with them it is but a means of political agitation, and political profit.

But, sir, the exquisite and refined sensibilities of the gentleman from Ohio have been, as he informs us, shocked by the sight of the manacled slave, from the windows of this Capitol. It is somewhat remarkable, that that view has not crossed the eyes of any other member of this body; but I can tell that member that of which perhaps he is ignorant; *for many crimes slaves are not punished as the white man is, by confinement within the walls of a penitentiary, but by deportation.* Sir, I have no doubt that the gentleman has wasted a vast deal of fine feeling, and expended a great quantity of unnecessary sympathy upon some ignominious felon.

All this, however, no doubt, finds its account in that gentleman's district, and produces a rich harvest of political profit. The sympathy that is wasted upon the manacled highwayman or burglar, turns quite as much to gain, as any that could be expended upon a case of real hardship and suffering.

Another favorite theme with that gentleman is the slave dens, as he is pleased to denominate them. Now, sir, I do not appear here as any apologist for slave dens. Such is not my purpose. But when he asserts that they are kept up for the purpose of confining within their walls slaves brought from my own State, I think proper to meet the assertion by an indignant denial. Slaves are not brought from Maryland into this District for sale, or at least very few. I have never seen nor known of any. Slaves cannot legally be brought here from any other State. If any, then, be confined here, they are slaves belonging properly to the District; and yet the gentleman would persuade his constituents that this is the great mart of slave trade.

In fact, slavery exists in this District in its mildest form—in a form, indeed, so mild that it is a misnomer to call it slavery; yet certain members continually dwell upon its horrors and barbarity without ever having seen a single instance of either.

Sir, the citizens of Maryland are interested, deeply interested, in this question of the abolition of slavery here. The people of this District were once our citizens; they are still governed by our laws; whatever touches their interests also intimately affects us; they are, as it were, in our midst. And let not gentlemen upon this floor imagine that we are deceived by the philanthropical pretences of certain people in this country. Sir, it is not the good of the slave that they seek, but our ill. They well know that he is unfitted for an immediate emancipation, and that nothing is more dangerous than to intrust power to the ignorant; but emancipation is not their object. No, sir; no: it is to establish here a great central magazine of agitation. It is from hence that they hope to excite to discontent the slaves of the surrounding States; to instill into their minds disaffection, distrust, and hatred for the whites among whom they live; and finally, to consummate, at any cost, their pernicious designs. And can we, sir, who are to be the first victims of this agitation, sit by and behold it with calmness and unconcern? Can we with equanimity look upon the consummation of a policy which threatens us with every evil that the imagination can conceive? And can we see all that we love, in danger of desecration and destruction, at once without feeling, and without expostulation? We were more, or less than human, if we did not evince the deepest interest upon this subject. And, sir, I have sat long enough in this Hall to estimate, at its just value, all the philanthropy which we behold within its walls. I have learned to know that the pretended hatred of slavery is of the same character as that which Macaulay, in his late admirable history, attributes to the Puritans for bear-baiting: it was not, he says, "*because it hurt the bear, but because it pleased the spectators.*" Sir, slavery is not disliked because it injures the black man, but because it is presumed to be of some ease or profit to the white.

But the gentleman from Massachusetts, the successor of the late venerable Mr. Adams, [Mr. MANN,] has advanced a proposition, in a speech which he delivered a few days since, which, to say the least of it, is somewhat extraordinary. That gentleman is reported to have said that—

"According to his view of the constitutionality of slavery in the District of Columbia, this institution did not exist here by positive law, but by the force of precedent and example. He proceeded to show that slavery could not exist but by positive law. When the jurisdiction over slavery and slaves had ceased to exist, it was the same as though the residence of the slaves had been changed to another jurisdiction. It was sufficient for the freedom of the slave if he pass out of a jurisdiction where slavery had been established, into a jurisdiction which never had slavery, and never could establish it. This was precisely the case with slavery in the District of Columbia. It was the same as though this District, with all its inhabitants, had been ceded to Pennsylvania or Massachusetts."

That is, that the establishment of the seat of Government here, at once liberated all the slaves. Sir, I scarcely think that gentleman, whom I know for a lawyer of great reputation and ability, could have examined the act of cession with his accustomed accuracy.

The act of Congress, of the 16th July, 1790, declares that—

"The operation of the laws of Maryland within the District of Columbia shall not be affected by the acceptance by the United States of the said District for the permanent seat of Government of the United States, until the time fixed for the removal of the seat of Government to the said District, and until Congress shall otherwise by law provide."

And the act of the Legislature of Maryland, of the 19th December, 1791, which is the act of cession, expressly provides that—

"The jurisdiction of the laws of this State over the persons and property of individuals residing within the limits of the cession aforesaid, (the county of Washington, in the District of Columbia,) shall not cease or determine until Congress shall by law provide for the government thereof under their jurisdiction, in manner provided by the eighth section of the first article of the Constitution of the Government of the United States."

In further pursuance of these provisions, Con-

gress, by the act of the 27th of February, 1801, declared that—

"The laws of the State of Maryland, as they now exist, shall be and continue in force in that part of the said District which was ceded by that State to the United States, and by them accepted, for the permanent seat of Government of the United States."

Now, what is the state of fact? Congress declared that its acceptance of a district for the seat of Government from Maryland should not affect the laws therein, and Maryland, to make assurance doubly sure, so provided by the grant of cession itself. In performance of this express contract between the two, followed the act of 1801, continuing in force all the laws of Maryland as they then existed, among which were laws sanctioning slavery. In pursuance of that contract slavery has existed here ever since, without a question as to its constitutionality, until it was made by the learned and ingenious gentleman from Massachusetts.

But perhaps that gentleman will answer, that in all this Congress exceeded its powers; that it had no authority to take a gift coupled with such condition; and that, therefore, as the taking the slave to the free jurisdiction liberates him, so taking the jurisdiction to the slave gives him equal title to freedom.

Sir, *the jurisdiction was not taken to the slave by the master;* and, even if the argument of the gentleman were true, the utmost that the Government of the United States could ask, would be to be replaced in the condition she occupied when she committed the error; that is, to be remitted again to Philadelphia.

That gentleman [Mr. MANN] also exhibited a deal of feeling at the sight of slavery in this District, and desired very much that it should be abolished, in order that the eyes of northern gentlemen might be relieved from the revolting spectacle. Sir, I would ask that gentleman a question. He and others here think slavery a nuisance; whether it be or not, I shall not now say, but they so declare it. Now, I ask that gentleman, as a lawyer, if any one can come to a nuisance and ask for its abatement? If that gentleman, if other northern gentlemen, do not like the institutions of this District, let them remove the seat of Government into free territory, and in that way get rid of the "revolting spectacle."

I do not know that such a proposition would be popular in Maryland; it would undoubtedly in some measure be injurious to her. She has an investment—not a very large one, to be sure—in the road which connects this city with her own commercial emporium; yet it were better that all this were sacrificed—yes, sir, far better that this magnificent building should stand silent and deserted, than that we should be guilty of any act of perfidy and bad faith. We do not sit here to legislate for the District of Columbia upon the opinions of the people of Maine or of Louisiana. We are the local legislature of this District, and are to provide the people here with just laws, suitable to their condition and their wishes, and not in conformity merely with the opinions of people in Massachusetts or in Mississippi. When the people of this District ask for emancipation or needlessly resist it, when the slaves are fitted for freedom, then it will be time for us to bestow it upon them. Those who wish to proceed with such headlong haste do a real injury to the slaves. Many of them are young and helpless; how will you in freedom furnish them with support? Many are old and feeble; what gentleman here will provide for these as their masters do at present?

And now, sir, I have said all that I intend on this particular subject. I have not professed to argue the question of the abolition of slavery in this District. My friend and colleague from the 6th district [Mr. CRISFIELD] performed that task with great ability, in a speech which he delivered in this Hall only a few days ago. I have only spoken of it as one of the subjects which threaten our Union. In the last resort, (I hope that the occasion for it may never come,) I have offered you a remedy. It is the removal of your seat of government into free territory. Secession will not answer while you retain even a hall here for your deliberations. Suppose a slave should escape into it, what embarrassing questions with regard to his delivery to his master might arise!

And now, sir, I have a few remarks with regard to an observation which was made by the gentleman who preceded me, [Mr. ROOT.] He declared that the gentleman from Virginia, [Mr. MCDOWELL,] in the truly eloquent oration which he pronounced in this Hall a few days ago, called upon the North to *submit.* I listened, sir, to that spirit-stirring and patriotic address with the most profound attention, and I failed entirely to observe any such request. The gentleman from Virginia is too noble himself to make that demand of others. The true gentleman does not call for submission, because he never descends to meanness, tyranny, or oppression. Submission! the gentleman from Virginia never asked it. He did indeed refer to those days of our common glory, when the sons of Virginia and Massachusetts stood shoulder to shoulder together upon the bloody battle-fields of the Revolution; and he called upon the children, not to forget the fraternal affection, which had animated the fathers. The gentleman from Ohio, fears rather the force of such an appeal. I trust, sir, that, if there be one who was moved by the eloquence of the true-hearted son of Virginia to a spirit of greater conciliation, and of greater moderation, that he will not suffer the gentleman from Ohio to stir him from that ground by any hints at *submission.*

Mr. Chairman, the brief span of my allotted hour has almost ended; the last few moments hurry to their close. Suffer me in them to appeal to gentlemen from all sides, for moderation upon the delicate questions of legislation, upon which I have this day spoken. Sir, would the northern or southern portions of this Union, be bettered by separation? Will the North be more powerful, the South less subject to agitation? I trust that the spirit of prudence and conciliation, may preside over our councils. For myself, I am the representative of the whole Union; not more of Maryland, than of Massachusetts or Georgia. Maryland, sir, chose me; but she chose me to serve, and faithfully to serve, the whole country; and, so far as lies in my power, I will endeavor so to do. I will never consent to sever this Union, nor will I consider what would be sufficient reason for dissolution. If the day shall ever come when that is necessary, which I will not believe, Maryland will do what becomes a State, without my warning or dictation. My hope and prayer for this Union is, that it may endure forever.

GOVERNMENTS FOR THE NEW TERRITORIES.

SPEECH OF MR. C. S. MOREHEAD,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1849,

On the necessity of organizing governments for our recently acquired Territories.

The House being in Committee of the Whole on the state of the Union—

Mr. MOREHEAD said:

Mr. CHAIRMAN: Availing myself of the privilege accorded in Committee of the Whole, I desire to express my views upon the necessity of organizing governments for our territories, as well as upon that distracting subject which, in the public mind, has become so intimately connected with it. The subject of slavery has so often been the topic of discussion in this Hall, and that discussion occasionally been characterized by a spirit so inimical to the best interests of the country, that I approach it with extreme reluctance, and under an oppressive sense of its magnitude and importance. I am a citizen of a slaveholding State. My feelings, my sympathies, and all my interests are there. I am jealous of the rights secured to us by the Federal Constitution on this subject. I yield to no man in the earnestness and zeal with which I would guard and protect those rights. But while I feel thus, I am constrained to add that I deprecate that spirit of acrimony and denunciation which has too often characterized the discussion on both sides.

Gentlemen have entered the political arena with an apparent determination to do whatever they could to obliterate all traces of past party organization, in order to build up two great sectional or geographical parties. Lamenting this tendency, as I most sincerely do, and concurring, from the very bottom of my heart, in all the patriotic sentiments, on this subject, which fell on yesterday from the gentleman from Virginia, [Mr. MCDOWELL,] and which were listened to with such intense interest by this House, I have endeavored to elevate myself above all mere sectional feelings, and to look at this whole subject in a spirit of conciliation, of liberality, and of candor.

When we commenced our history as a nation we had but about three millions of inhabitants scattered over thirteen States skirting our Atlantic border. Now we have a population of more than twenty millions, inhabiting thirty separate independent sovereign States, all moving harmoniously in their constitutional orbits, and I thank God that we are yet one people—one in interest, one in patriotic feeling, one in language, one in our past history, and I trust we shall continue forever one in our future destiny. I do not believe there is any real diversity of interests between the different sections of this Confederacy. God has wisely ordained that we should owe our prosperity in some measure to each other; that there should be a mutual dependence one upon the other, and reciprocal interests growing out of our geographical position, creating a common interest to cement and render us forever a united people.

I have an abiding confidence in the patriotism of every section. The great mass of the people everywhere are deeply attached to the form of government under which we live, and most ardently desire to preserve inviolate the Constitution which holds us together. There are those, it is true, who believe that slavery is contrary to the genius of our institutions and the spirit of the age in which we live, and who think it ought to be assailed in every possible mode by which a blow could be given. These assaults, often reckless in their character, have in many instances occasioned just grounds of complaint to the slaveholding States. It is not my purpose on the present occasion to review these complaints, or to attempt to show in what instances they are well founded, or wherein I believe a spirit of retaliation has been unnecessarily manifested in the South. The question with us is not whether slavery in the abstract is right or wrong. We have slaves in such vast numbers, and the interests growing out of the relation are so intertwined with all our institutions, and the difficulty of knowing what to do with them, if manumitted, is so great, that we could not get clear of them if we would.

It is, perhaps, natural that those living in the free States should look upon this institution as a great moral and political evil. I have no complaint to make for this. There are thousands in my own State who entertain the same opinion; but there is no difference of opinion there that it is our own sole exclusive business to get clear of it or not, in our own way and in our own time.

If I understand anything of the spirit of the North—of its devotion to free government, and its ardent desire for the perpetuation of all the blessings of liberty—there is no wish there, even among her politicians, as avowed over and over again on this floor, to interfere with slavery as it exists in the States. I have been taught to believe that there is not to be found within the bounds of this Republic a people more attached to law and order, or more characterized by a ready obedience to, and a willing acquiescence in, all the provisions of the Constitution as expounded by our highest judicial tribunal, than the people of the North. Whatever manifestations may now and then have been made to the contrary, and whatever sentiments we may sometimes have heard on this floor indicating a different spirit, I yet have full confidence in the known patriotism, the love of country, and, more than all, in that sound practical common sense so characteristic of our northern brethren.

That there are fanatics in the North, we all know. There are those there, I lament to say it, who openly and unblushingly advocate a dissolution of the Union on account of the existence of slavery; who proclaim that they would, on this account, tear down the pillars of the Constitution, and rejoice over its broken and shattered fragments. But I have never feared their agitations, or felt the least alarm from their incendiary publications. They, and their unwilling or willing allies here, are the real pro-slavery men of this nation; they are daily and hourly forging the fetters and manacles of slavery, and riveting them

more tightly. Those who desire the perpetuation of slavery where it now exists, should be most thankful to them. Does any one suppose, can any one who has ever lived in the South for one moment believe, that their efforts have had, or can have, the least possible effect, either in ameliorating the condition of the slave, or in bringing about a feeling in favor of his manumission? My own State borders, for seven hundred miles, upon free States. If there is a State in this Union where the effect of such agitation would be most and soonest felt, it is in Kentucky. We are annoyed by those who come among us and decoy and entice away our slaves; and the facility of escape is so great that a recapture is a rare occurrence. Notwithstanding these things, instead of this agitation having the effect of either ameliorating the condition of the slave or of producing a feeling in favor of emancipation there, I speak what I know when I say, that it has most materially operated the other way. Twenty years ago there was a strong feeling in Kentucky in favor of some system of gradual emancipation. Now, it cannot be disguised that the spirit of abolition has produced the reaction that might have been expected. The present Legislature has declared, by a unanimous vote, that it is opposed to any and every system of emancipation; and the law by which the importation of slaves into that State was prohibited effectually, has been, or will be, so repealed or modified as to *admit* them. To those gentlemen, then, who are sincere in all that they say respecting the horrors of slavery, I tell them that the responsibility for its continuance is, in a great degree, upon their shoulders, and that the people of the South never can or will believe that they are actuated by motives of philanthropy, when language is used calculated to exasperate those who alone can bring about the result which they profess to desire. To my southern friends I say, that we have nothing to fear from this agitation. Let them go on in their mad career. Error of opinion may be tolerated as long as reason is left free to combat it. Our rights are based on a foundation too solid to be affected by any efforts of this character. The Constitution throws its protecting ægis around us, and the checks and balances which it has wisely provided constitute our surest guarantee, our best safeguard. If a domineering majority of this House, under the influence of what would be political insanity, should pass a bill in violation of the Constitution, affecting our rights on this subject, we have the conservative spirit of the Senate, a body representing the sovereignty of the States, upon which we can rely. If, however, that body should yield to what might become a temporary popular clamor, the President may arrest the evil by the tribunitian power of his qualified veto. If all these should fail, and such a bill should be passed into the form of a law, we have that ultimate and last appeal provided by the Constitution—the Supreme Court of the United States—whose decisions have done so much to place constitutional rights upon an enduring basis. Already have we seen that august tribunal, elevated far above the party passions and sectional jealousies of the day, deciding that the slave trade between the States is not embraced by that clause of the Constitution which gives to Congress the power to regulate commerce between the States. It is authoritatively settled that this subject belongs exclusively to the States where this peculiar institution (as it has so often been termed) exists; and, in the construction thus given, I doubt not that all good men of every section will most cheerfully acquiesce. In the celebrated case of Prigg *vs.* the Commonwealth of Pennsylvania, we find judges from the North and from the South alike declaring that a particular provision of the Constitution was inserted for the express and avowed purpose—to use the language of Judge Story—"to secure the citizens of the slaveholding States *the complete right and title of ownership in their slaves as property.*" Such was the language of a northern but national man; such the decision of the highest judicial tribunal known to this Republic. What care I, then, for the declamation of gentlemen on this floor, that slaves are persons by the Constitution, and that the right of property in them cannot exist? As much as I may respect them personally, I prefer the solemn and deliberate opinion of such a tribunal as that of the Supreme Court to any hasty or ill-considered opinion to the contrary. But, considering the question as they put it, that slaves are *persons*, they are *persons held to labor*, in the language of the Constitution; and all the rights growing out of the relation thus recognized are secured by constitutional sanction, and those rights before the adoption of the Constitution, and ever since, have been considered and treated as property to all intents and purposes. In the State of Maryland, to which this District, as it now exists, once belonged, these rights existed, at the period of cession, to the fullest extent.

When the seat of Government was established here, slaves were held as property. The proprietorship in them never was doubted nor denied by any one. All the rights attached to this species of property were recognized and enforced by all the judicial tribunals of the land. But, while virtually acknowledging all this, the learned and eloquent gentleman from Massachusetts, [Mr. MANN,] on yesterday evening, advanced the doctrine that the act of cession by the State of Maryland to the United States of itself abrogated all these rights; that it in no respect differed, so far as its effect upon slavery was concerned, from the case of a cession by Maryland to Pennsylvania, where slavery is prohibited; and that the amendment of the Constitution, which declares that no man shall be deprived of his life, liberty, or property, without due process of law, secured freedom to the slave in this District. These positions are as novel as they are utterly fallacious. I might satisfy myself with the contemporaneous construction given to the Constitution by all those who took part in its formation, and by the uniform recognition by the Supreme Court of the legitimacy of slavery here, in every case where it has either directly or incidentally been brought in question. But, as a mere abstract proposition, it is as false in theory as it has been untrue in practice. The Federal Constitution neither made nor abolished any rights on this subject. It incorporated a provision for their better security, and created a legal obligation for the attainment of that which under the Confederation depended solely upon the comity of the several States. The Constitution contemplated a cession ten miles square for a seat of Government. All the rights of property of every description were left untouched. According to this new theory, the same consequences would follow from the cession by any State, within its own borders, of any place for the erection of forts, magazines, dock-yards, and other needful buildings. Exclusive legislation, in all cases whatsoever, is granted by the Constitution, not only over the ten miles square, but also over all such places. This grant of exclusive legislation, however, was given subject to all the restrictions imposed upon the general legislative power of Congress. By exclusive legislation is not meant unlimited and unrestricted legislation. All the restrictions upon the power of Congress are national in their character. They are restrictions upon the whole legislative power of the Union, and apply wherever that legislation can extend. Among these restrictions we find one, that no *ex post facto* law shall be passed. To illustrate my position, let me ask if that constitutional restriction is to be limited to the States? Or, in other words, can Congress, under the grant of exclusive legislation over this District, pass an *ex post facto* law which shall be applicable here and nowhere else? Can it pass a law suspending the writ of *habeas corpus*, except in cases of rebellion or actual invasion? Can it give a preference to the ports of this District over the ports of the States? Can it require vessels to enter, clear, or pay duties here, bound from one State to another? Can it abridge the freedom of speech, or of the press, in this District? Can it pass a law respecting the establishment of religion, or prohibit the free exercise thereof? Can it establish an order of nobility here? Can it abolish the right of trial by jury, or put twice in jeopardy the life or limb of any man in this District? Can it disregard any of these restrictions in the exercise of its legislative power over this District? If none of these things can be done, then I would take the very clause of the Constitution containing the restriction to which the gentleman from Massachusetts [Mr. MANN] referred, "that no man shall be deprived of his life, liberty, or *property*, without due course of law," and draw a conclusion the very opposite of that to which he has brought his mind. Assuming as established what has never been doubted by any judicial tribunal, that slaves are property, or, if you please, that there is a right of property growing out of the relation between those *persons held to labor* and the persons who thus hold them, I ask, how can you deprive the citizens of this District of their rights in such property, without due process of law? How can you take private property, except for public use, upon just compensation made? If Congress has no power to take the personal effects, the goods, wares, and merchandise of a citizen of this District, except under the before recited restriction for public use, slave property must come within the same restrictive clause. Private property may undoubtedly be taken, but it must be taken according to constitutional restriction; and no principle is better established than that a just compensation must first be provided. Whether a law destroying the relation between the two races, and abolishing that as property which is now such, is taking property for public use, can scarcely need an argument before such an assembly as this. The public cannot use property taken for that purpose, when the very act of taking destroys its character of property.

Without attempting to enlarge upon this subject, which the time limited by the rules will not allow, and entertaining a deep conviction that Congress has no power to abolish slavery in this District without the consent of the owners, I have regretted its introduction, as calculated to exert an unhappy influence upon the question of our territorial governments; a question we are bound to meet; one of paramount importance, and certainly surrounded by sufficient intrinsic difficulties of its own without the perplexity of kindred questions involving the elements of discord.

In relation to these territorial governments, I listened with great pleasure the other day to the gentleman from New Hampshire, [Mr. WILSON,] who I am happy to see in his seat. In common with others, I felt and could but admire his fervid eloquence; and while I accord to him all that it can extort from me in commendation, yet, believing that the deductions drawn from historical facts are alike unjust to the South and to the North, I desire briefly to call the attention of the committee to them. In his review of our territorial acquisitions, he has attributed them all, beginning with Louisiana, and including Florida, Texas, New Mexico, and California, to the silent but pervading and energetic influence of slavery, which he represented as the great focal point around which every interest of this nation had been made to revolve. In vindication of the truth of history, I deny the existence of any such influence, or that our acquisitions of territory are properly attributable to any such cause. I admit that the treaty by which our independence was acknowledged circumscribed us within comparatively narrow limits. Our southern boundary extended only to the parallel of 31°, and our western limits, according to our own claim, only to the Mississippi river. Spain, then a powerful nation, contended that we should be limited on the west by the Alleghany Mountains, and the navigation of the Mississippi river was closed against us. Who is there that knows anything of the history of the western country, and particularly of Kentucky, can be ignorant of the deep feeling of dissatisfaction resulting from the denial of the navigation of that great river? This dissatisfaction, at one period, extended so far as to inspire hopes in the Government of Spain of annexing what was then the far West of this country to her own American dominions. Intrigues were commenced by the Governor of Louisiana, and secret emissaries sent out to make alluring promises to bring about the much-desired event. It was in allusion to this state of things that the Father of his Country, in speaking of the importance to the West "of an indissoluble community of interest as one 'nation for the secure enjoyment of indispensable 'outlets for its own productions," remarks, that "any other tenure by which the West can hold 'this essential advantage, whether derived from 'its own separate strength or from an apostate and 'unnatural connection with any foreign Power, 'must be intrinsically precarious." The great desideratum of the West was the navigation of the Mississippi, and the General Government earnest-

ly endeavored to secure it. As early as 1790, Mr. Carmichael, our minister to Spain, was instructed to offer a perpetual guarantee to that nation of all the country lying on the west of the Mississippi, in order to procure its free navigation; and in looking over those instructions, it is remarkable to find that he was directed to insist that conquest was not in accordance with our principles, and inconsistent with our Government, and that it was not our interest to cross the Mississippi for ages.

The object was not effected; and on the 1st of October, 1800, by the secret treaty of St. Ildefonso, France purchased Louisiana from Spain. This was first disclosed by the treaty of Amiens. When it became known that Napoleon, then at the summit of his gigantic power, was bending his energies to build up, upon the American continent, an antagonist power in the south to that of Great Britain in the north, the Government of this country became alarmed, and our ministers at Paris were then instructed to procure, if possible, by purchase from France, all the territory, including New Orleans, lying east of the Mississippi, with a guarantee for all west of that stream, and leaving the navigation common to both. This was all that was asked by Mr. Jefferson, all that he instructed our ministers to procure. He wished to extend our boundary from the 31st parallel of latitude to the Gulf of Mexico, and to give to the great valley east of the Mississippi the free navigation of that river. Upon the abrupt termination of the treaty of Amiens, Napoleon saw there was great danger of Louisiana being wrested from him by the overwhelming maritime power of Great Britain, and he answered the proposition of our ministers to purchase to the Mississippi river by offering to sell the whole. It was thus that Louisiana was purchased, if not in violation, in the absence of instructions from this Government, and most certainly without any reference to the question of slavery, wholly unconnected with the desire for its extension, and uninfluenced by that aggrandizing spirit to which the gentleman from New Hampshire alluded.

It is alike due to truth and to justice, as well as to the memory of the illustrious man under whose auspices that great and, as now acknowledged on all hands, indispensable acquisition was made, to say that he was circumscribed by no narrow or sectional views, or influenced by any wish to give an undue preponderance to one section of this Union over another. No, sir, my friend from New Hampshire is mistaken. No wish of mere sectional aggrandizement influenced the Administration or people of that day, in desiring the acquisition of Louisiana. It claimed its support upon the high ground of national expediency and necessity, and in which, from a community of interests between all sections, the whole country was deeply and vitally interested.

But if there has been for more than fifty years a fixed purpose, as the gentleman supposes, to give a greater relative political importance to the South than to the North, by the acquisition of territory to extend slavery, if we examine for a moment the division of these acquisitions between the two sections, it will be seen that this object has not been attained. I have a map before me, made by authority, and which I presume has been sent to each member, exhibiting the areas of the several States and Territories of the United States in square miles and acres, from which it appears, that at the period of our separation from the mother country, the States of the original thirteen which now tolerate slavery claimed and owned, speaking in round numbers, 647,000 square miles; while, at the same time, those not now tolerating slavery held 164,000 square miles. Such was the vast disproportion in the ownership of the soil between the two sections at that time. Then it was that Virginia, with a munificent liberality, and with a spirit similar to that which characterized on yesterday her worthy son, [Mr. McDOWELL,] dedicated to free States her vast northwestern domain, including now the States of Ohio, Indiana, Illinois, Michigan, Wisconsin, and a part of the Territory of Minesota, and containing, in round numbers, 262,000 square miles. This cession had the effect of nearly equalizing the territorial strength of the slave and the free States, giving, however, a preponderance to the latter in the ratio of 426 to 385.

In the acquisition of Louisiana we obtained one million one hundred and thirty-eight thousand square miles. It was a slaveholding province when acquired. But when Missouri, although a part of that province, claimed to be admitted into the Union as a State, with a constitution tolerating slavery, no one is ignorant of the struggle which ensued, and which convulsed this Union to its center. A compromise was then the result, and I have listened with much interest to the allusion made to the author of this compromise, and to the question raised as to the part taken in it by Mr. Clay. I have not examined the record on this subject, nor have I deemed it important or material to do so. It may be, and probably is true, that Mr. Thomas, of Illinois, offered the compromise line of 36° 30′, and that Mr. Clay submitted the second compromise in relation to the exclusion of free negroes. However this may be, all contemporaneous history must be untrue, and the living witnesses of every party utterly deceived, if, under the inspiration of that lofty patriotism which has characterized his whole life, and with that devotion to his country, his whole and entire country, which has marked his long and brilliant career, he did not do more than all others in allaying the troubled and tumultuous waves of faction which then threatened the disruption of all the ties which held us together as a nation. But in settling that agitating and alarming question, let me ask gentlemen if it can be supposed that he could have been looking to the aggrandizement of the slave power, as it is termed? Could such a consideration have had any influence with one who, in early life, had stood up in his own State against the power and influence of wealth and talents in favor of some system of gradual emancipation?—whose whole life has been dedicated to the cause of rational liberty, and the defence of constitutional rights? No, sir, no. No such influence governed his conduct. No motives akin to these pervaded his bosom. He acted solely with reference to the welfare, the prosperity, and the happiness of the whole country. Had he acted with an eye to a fair division of territory merely, between the two sections of the country, the result would have been a signal failure. By that compromise the South obtained 226,000 square miles of territory only, while the North acquired 912,000 square miles. Sir, there is just as little reason to attribute the acquisition of Florida to the influence of any such spirit. Who negotiated the treaty by which that territory was obtained? Does the gentleman from New Hampshire intend to attribute the exercise of any such influence to that great and good man (Mr. J. Q. Adams) who lately sat in our midst? Does he believe that Mr. Adams, who so often manifested in this Hall his repugnance to slavery, in every mode by which his opposition to it could be displayed, was influenced by any desire of a sectional aggrandizement of the slaveholding States? He surely cannot believe that. I do not believe that Mr. Adams looked either to the advantage of the North or the aggrandizement of the South in the negotiation of that treaty, but viewed the measure as necessary to our common safety and general security.

If by that treaty we obtained our best title to the Territory of Oregon, by it the slaveholding States acquired 59,000 square miles, and the free States gained 341,000 square miles.

But, sir, the acquisition of Texas was particularly examined by the gentleman from New Hampshire, and its history minutely canvassed; and that, too, was attributed by him to the all-controlling spirit of slavery. I would like to ask the gentleman, who admitted Texas into the Union? When a treaty for that purpose was made and submitted to the Senate, instead of a concurrence of two-thirds of that body, as required by the Constitution for its ratification, it was rejected by a vote of two-thirds against it. An issue was made on that subject before the American people in the Presidential election, which soon afterwards ensued. The gentleman comes from New Hampshire, and I tell him that Texas was admitted by the act of his own State, while Kentucky and North Carolina and Tennessee and Maryland and Delaware stood up against it. The admission of Texas was insisted on by a large portion of the North. New Hampshire stood foremost in the fight. The Empire State came to the rescue; and Pennsylvania, with Indiana, Illinois, and Michigan, stood side by side with New York.

Mr. MEADE interposed here, and Mr. MOREHEAD giving way, he said: I beg to remind the gentleman from Kentucky of another historical fact. The first attempt to acquire Texas was made by a northern President. Mr. Adams, in 1826, instructed our Minister to Mexico at that time, Mr. Poinsett, to offer one million of dollars for the purchase of Texas to the Rio Grande, or five hundred thousand dollars to the Nueces. Slavery then existed there.

Mr. MOREHEAD resumed. I thank the gentleman for reminding me of this well-known fact. In the negotiation of the Florida treaty, it is known that Mr. Adams desired to retain Texas, if possible; and when he was made President, as stated by the gentleman from Virginia, he offered to purchase it from Mexico. The offer made by him was renewed under the administration of his successor, General Jackson. I admit that it was not because the country was not deemed desirable, that we, in Kentucky, opposed its annexation. We were against it under the peculiar relations then existing between it and Mexico, because we feared it would lead to the very state of things which we have all witnessed. We believed that it would result in war, and lead to the angry discussion of those exciting questions which are now agitating and convulsing the Union from one end to the other. It was upon high considerations of public policy and political expediency, that we opposed the annexation. While we were thus influenced by what we believed to be principle, there were politicians in the North, the avowed and professed opponents of slavery—aye, sir, men who have since become the exponents of free-soil doctrine, even Mr. Van Buren himself—who stood forth and sustained and elected the man upon whose elevation the issue of the annexation of Texas depended.

The annexation of Texas being accomplished, those who opposed it in the South acquiesced, in that spirit of obedience to the will of a constitutional majority, which is a cardinal principle of free government. The compromise line of 36° 30′ had divided the country between the North and and the South. Both sections of the country claimed an interest there, and both aided in making her one of the States of this Confederacy through the sovereign will of the nation. From that moment I have felt that she was part and parcel of ourselves; and the ardent wish of my heart was then, as it is now, that the light "of her lone star" might never pale, and that, amid all the trials and troubles incident to our career as a nation, she might be found, where we have already found her, on the side of the Constitution and the Union.

We now, sir, have New Mexico and California, thus adding to our national domain about 526,000 square miles. If the whole of these countries shall exclude slavery, as in all human probability would be done if left to the natural course of things, then the free States of the North will have upwards of two millions of square miles of territory, and the South, including all of Texas, only nine hundred and thirty-six thousand square miles. I have not, sir, made these statements in any spirit of complaint whatever, or for any other purpose than that of merely correcting impressions, doubtless honestly entertained, that the slave power, as gentlemen please to call it, has accomplished these acquisitions for its own political aggrandizement. Taking in all these acquisitions, from the first to the last, we have a national domain of which the heart of the patriot may justly be proud; a country extending from the inland seas of the north to the Gulf of Mexico on the south, and from the Atlantic to the Pacific Ocean, embracing within its great area every variety of climate and soil, marching forward with the fearless steps of a young giant in the career of prosperity and power; increasing in population with unparalleled rapidity, with a rapidity which, if unchecked by opposing elements, in a century from this time—which in the eyes of Providence and in the history of a nation is but a day—will give us a population of three hundred millions of souls; a country which, from the force of circumstances, and I might add, "its inevitable destiny," must seek within its own borders a workshop for its materials, and a mart for its vast surplus productions.

Connected with this country and its future destiny, we have a high and solemn duty to perform. The treaty between the United States and Mexico, by which the Territories of New Mexico and California were acquired, by the ratification of the Senate became the supreme law of the land. I feel the full force of all the obligations it has imposed upon us. By it these territories have become ours. For weal or for woe, they are ours; and every consideration which can appeal to our patriotism or our interest admonishes us that we should approach the subject in that spirit which governed our revolutionary sires when they met together to construct that framework of government under which we now live. I cannot allow myself to believe that we will not find members from every section, who, looking alone to the permanent and enduring welfare of the whole country, will, in a crisis like the present, elevate themselves above all mere sectional views, and seek to settle the distracting and exciting question before us, in that mode which shall best promote harmony, and most certainly preserve the long-cherished cordiality and fraternal feelings of all. Sir, that man is an enemy to his country who would desire even a seeming triumph of one section over another, or wish the consummation of any act, unnecessary in itself, which could weaken the attachment or alienate the feelings of one portion of the country from another.

I was pained to hear the declaration of the gentleman from New Hampshire, and I trust it proceeded alone from the heat of debate, and has not the sanction of his sober judgment—"that he would dissolve this Union rather than see slavery extended the sixteenth part of an inch."

[A VOICE: He said he would rather the universe were dissolved.]

Mr. MOREHEAD. Yes, rising to the climax of his eloquence, he added, that he would rather this universe were dissolved. On the other hand, sovereign States have arrayed themselves in a directly antagonistic position, and have solemnly resolved that they will resist any congressional restriction on this subject "*at all hazards;*" and provision is made, as I am informed, in at least one State, for a call of the Legislature, should such a restriction be enacted, perhaps to open its ports to foreign nations, and bring on a direct collision with the General Government. Sir, I regret, I lament, I deplore this state of things. The time was when the heart of the patriot instinctively recoiled from the bare contemplation of the possibility of a disunion of these States. No hand was bold enough to raise the curtain that concealed the dark gulf of wretchedness and misery which such an event would entail upon us. Let me tell you, sir, if the sun of this Union should ever set, it will go down in blood, and there will be no morning to the dark night of anarchy and despotism that will ensue. There are moral as well as physical ties now binding us together in a brotherhood of union. The scenes of heroic valor by which our liberty was achieved; the sacrifices, privations, and sufferings of those who took upon themselves the perilous responsibility of leading the public counsels in the path of revolution; the voice of our fathers' blood crying to us aloud from every battle-field of liberty, —all, all admonish us to preserve unimpaired that glorious heritage which they transmitted to us. And now, in the very morning of its full fruition, with a future before us which the utmost stretch of the imagination cannot picture, we are coolly talking of tearing down the only solid fabric of human liberty in the world. In the name of that common country which we all profess to love, I ask, what more persuasive argument could be adduced of the absolute, the indispensable necessity of meeting upon some common ground to adjust and settle this distracting question? This common ground can be found, if gentlemen will seek it in the right spirit, in the spirit of devotion to the best interests of the whole country.

Different modes of settlement have been proposed to avoid that upon which there is such a radical difference of opinion, and in which is involved the triumph of one section over the other. It is certainly desirable to organize some sort of territorial government, if it can be properly done, in preference to erecting States at once; yet, rather than prolong the present state of feeling on both sides, so injurious in all its consequences, I would vote to-day for the bill, with some slight modifications, proposed by the gentleman from Virginia, [Mr. PRESTON,] and place myself by his side upon the high ground of popular sovereignty. That there are objections to this course I am well aware, but I do not expect to get any bill on this subject which will satisfy me in all respects. The very fact of acquiring the country imposed an obligation, apart from all treaty stipulations, to give it a government which would afford protection to its inhabitants. There are adventitious causes now in vigorous operation, in addition, rendering this obligation still more imperious. Thousands upon thousands of our enterprising young men are now flocking there to seek their fortunes amid the golden sands of that El Dorado, which is so glittering to the youthful imagination. They have a right to expect the protecting arm of this Government will be extended to them. To those who are opposed to slavery going there, let me ask if there is not more likelihood of its being carried there in the absence of law and order, than if there was an organized government there? There are but few gentlemen living in free States who do not believe that slavery is the mere creature of municipal law. Let me ask them, then, what is the necessity for a legislative restriction? I confess that I do not myself believe that slavery can or will go there; and, under that conviction, if I were as much opposed to it as any Free-soiler in this House, I would not vote for a restriction for a mere triumph of one section of the country over another. Whole States believe that any such restriction is unconstitutional. Whatever may be my own opinions upon the subject, under the influence of precedent, I yet believe that an opinion of this kind, honestly entertained by large masses of our constituents, ought to constitute a good reason for refraining from action were it is really unnecessary. This opinion cannot be said to be so absurd as to be unworthy of notice, when it is known that Mr. Madison, who has been, not inappropriately, called the Father of the Constitution, entertained the same. In a letter, recently brought to light in the other end of the Capitol, from him to President Monroe, bearing date the 23d of February, 1820, he says: "On the other side, it cannot be denied 'that the constitutional phrase 'to make all rules,' '&c., as expounded by uniform practice, is some-'what of a ductile nature, and leaves much to legis-'lative discretion. The questions to be decided 'seem to be, 1st, whether a territorial restriction 'be an assumption of illegitimate power, or 2d, a 'misuse of legitimate power," &c. And he adds: "On the first point there is certainly room for dif-'ference of opinion; though, for myself, I must 'own that I have always leaned to the belief that 'the restriction was not within the true scope of 'the Constitution." Under the circumstances by which we are surrounded, this opinion alone ought to be a sufficient reason why we should not impose the restriction. But, sir, it is well known that the difference of opinion upon this subject between the two Houses of Congress would defeat any bill with the restrictive clause in it, and its insertion is tantamount to the denial of all government to our recently-acquired Territories. With these difficulties upon us, so serious in their character, and fraught with consequences so injurious to our best interests, to obviate them all I am willing to the formation of a State government, where the people in their sovereign will may decide for themselves whether they will have slavery or not. It is said that they do not desire it, and are opposed to it. If so, the North has gained all that it could by imposing a positive restriction, and at the same time the harmony and peace and fraternal feelings of the Union are preserved. If, however, no bill of this kind can be passed, it is our duty to enact some law, similar to the first one passed for Louisiana, and afterwards for Florida, giving to the President of the United States the right to carry on the government, now without authority, and to protect the life, liberty, and property of the inhabitants, until Congress shall organize a more substantial form of government. This would be simply giving our sanction to that which it is presumed is now done without authority from the necessity of the case. I offered an amendment to the Mexican treaty bill, embodying the substance of the Louisiana law, which it is known was ruled out of order. I am happy to find that substantially the same amendment has been offered in the Senate, and I trust that we shall yet have an opportunity of enacting it into a law.

Sir, in my judgment we must do something. Let us approach the difficulty before us as statesmen and patriots, untrammeled by the influence of all party ties and sectional jealousies, and settle this question. We may then go to work to bind that now distant country to us by all those physical ties which, acting upon the moral influences which now unite us, will so increase and strengthen them as to render them perpetual. I hope to live to see the day dawn when the great distance between us shall be, as it were, annihilated; and when the magnificent bay of San Francisco shall be nearer to us than Kentucky was to this metropolis when she first became a State; when an iron pathway shall penetrate the gloom of the desert and the wilderness, uniting our great commercial emporium through St. Louis, and Charleston and Savannah through Memphis, with the shores of the Pacific—extending almost indefinitely the area of our inland commerce, enlarging our navigation, opening to American enterprise and industry all the riches of the East, and pouring into our lap the treasures of the Pacific archipelago; when the electric wire shall communicate intelligence, between ocean and ocean, more rapidly than the earth rolls upon its axis. Who can estimate the effect of such influences upon our future commercial prospects—upon our future destiny as a nation?

And shall we, in the very wantonness of folly—nay, of madness—destroy the bright prospects before us, and convulse this nation upon a mere abstraction? The highest duties of patriotism, and every feeling of enlightened self-interest, alike forbid that we should.

SLAVERY—NEW MEXICO, HER BOUNDARY.

REMARKS OF MR. H. GREELEY,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 26, 1849,

On the Bill to provide a Territorial Government for California.

The House being in Committee of the Whole on the state of the Union, (Mr. VINTON, of Ohio, in the chair,) and having under consideration the bill to provide a territorial government for the Territory of California—

Mr. GREELEY addressed the committee as follows:

Mr. CHAIRMAN: If my speaking now would postpone for one minute the action of the House on this bill, or the progress of business generally, I should hesitate to say one word. I am so anxious to see that business pressed forward that I would cheerfully refrain from speaking if I could thereby come at once to the voting. I want to act, not to talk. For weeks I have maintained entire silence on this floor, only rising to vote or to second the previous question. We have so much important business yet undone, and so little time left to do it in, that I grudge every moment devoted to debate. I do not care to explain any vote I shall give, and I do not think my constituents want any speech-making from me. But, since this evening is devoted to this debate, and no vote can be taken till to-morrow, I will ask the attention of the committee for a few minutes only.

I shall not enter upon any discussion of the character or the influences of slavery. It strikes me that *that* topic is well-nigh exhausted. From the day I entered this Hall to this moment—no matter what the bill before us—we have had discussions of slavery and nothing else. Slavery in its nature—slavery in its effects—slavery in the District—slavery in the Territories—has been the one perpetual theme. In order or out of order—generally the latter—we have been compelled to listen to it and nothing else. And gentlemen from that section which but a few years since declared and resolved that slavery should *not* be discussed in Congress—that we had *no right* to discuss it, and must hold our peace—are now foremost in its discussion, and most eager to have it discussed by others. It was but three days since—the *Post Office* appropriation bill being before us—that a gentleman from Illinois [Mr. TURNER] got the

floor and commenced—"Mr. Chairman, I propose 'to give my views on the general subject of sla-'very"—my colleague [Mr. TALLMADGE] rose and objected to that course of argumentation as irrelevant and out of order. He called attention to our rules, which clearly sustained his objection. But the general cry was "Let him go on!" and my colleague's appeal was overruled by a large majority, including nearly all the southern members. Very well, gentlemen! if you insist on having slavery debated here, you shall have enough of it! I voted to limit the discussion then—I shall probably never vote so again. Since the South insists on having slavery discussed here, I certainly shall make no objection.

Yet I do not propose now to follow the general example. I think the topic has been worn threadbare, and I care not to pursue it. I shall say nothing about slavery in the abstract, nor of slavery anywhere but in the new Territories. That subject is now fairly before us. What is the point that divides us?

I can only understand it as a question of allowing or forbidding slavery to be planted and legalized in our new Territories. If it is not that, I cannot imagine what it is. To suppose that we have been debating, contending, struggling here for years on a mere punctilio—a matter of form or etiquette—is most absurd. We, on our side, want to keep slavery out of the Territories. That is clear enough. If they, on the other side, do not want to let it in, what *do* they want? Why are we divided and striving? Does any man imagine that we should have continued to confront each other so resolutely merely to decide whether slavery should be kept out of those Territories or stay out of itself? No, sir; this is a practical question, and as such, to be discussed and decided.

In this matter of admitting or excluding slavery there are two parties interested—the people of the United States and the people of the Territories themselves. Which of these parties desires the extension of slavery? Do the people of California and New Mexico? We know they do not. (I speak, of course, of the natives of those lands—the original and permanent people.) We have authentic information that they earnestly desire the *exclusion* of slavery. Some of them were slaves themselves prior to the abolition of slavery by Mexico more than twenty years ago. These, surely, do not desire slavery reëstablished; they detest, they abhor it. Neither do their former masters desire it—they acquiesced cheerfully in the act of emancipation—they have never asked its repeal. The whole population of those Territories—the indigenous population—are intensely anti-slavery. We have a memorial here from a convention of the people of New Mexico unanimously praying our protection against the introduction of slavery. Have they not a right to be heard in regard to this matter?

Well, then, the other party interested—the people of the United States—do *they* desire the extension of slavery? Will you commit the question to *their* decision? Mr. Chairman, I will not speak for the slave States, though I do not believe a majority of *their* people desire to see slavery extended; but with the public sentiment of the free States I profess to be acquainted. And I do confidently assert that there is not one Congressional district in all the free States which, on a fair, distinct issue, would elect a Representative in favor of extending slavery. But no man is mad enough to give us a trial on this point. All our candidates, no matter of what party, profess to be in favor of free soil. Some reject the Wilmot proviso, but expressly on the ground that it is needless—that slavery will never cross the Rio Grande, proviso or no proviso. No man ventures to repudiate it on any other ground.

And, Mr. Chairman, I assure the South that the public feeling of the North is much stronger on this subject than they seem to imagine. The gentleman from North Carolina, [Mr. VENABLE,] who last spoke, told us Rufus King avowed that this question of extending slavery (in respect to Missouri) was purely a question of political power. I must believe that citation does injustice to Rufus King. But, be that as it may, and even if this were a question of power with politicians, it is very different with the great mass of the people. They may be politicians for the sake of resisting slavery—they are not slavery restrictionists for the sake of power or politics. This Wilmot proviso has been a trouble and a confusion to politicians—a thorn and an annoyance which they would gladly have been rid of. They have only moved on this question as they have been impelled by the resistless force behind them. Politicians may pander to slavery as merchants trade with it; but the popular heart is sound and thorough. With the great majority of northern and western freemen, this is a question, not of politics, but of conviction—not of power, but of conscience. They DARE NOT consent to the extension of slavery. Do not crowd them on this point—do not dream you can cajole them—do not hope to buy them. You *may* buy members of Congress with visions of promotion and sudden wealth, but you cannot purchase their constituents. You may outrage, you may arouse them, but you cannot corrupt them. And I assure the representatives of the South on this floor, that, supposing it is desirable to them that slavery should longer exist among them, and exert its constitutional power in this Capitol—a triumph on this question would be to them a fearful calamity. When I consider what an immense, an almost total revolution in the northern opinion has been wrought within a few years past, by the annexation of Texas and the resistance on this floor to the right of petition, I warn the champions of slavery not to seek a victory of which the effect must be to shake the firmest pillars of their peculiar institution. I warn them to be wise while it is called to-day.

But, Mr. Chairman, I had proposed to discuss mainly another branch of the subject—the boundary of New Mexico. I regard that as the most important practical question now before Congress. I do not believe California can ever be other than a free State, proviso or no proviso. Since the question is raised and before us, I shall vote now, as always, for freedom. I will resist any implication that we might consent under any circumstances to the extension of slavery—will contend against the remotest possibility of such extension. But, while California is shielded by position, by destiny, from the influx of slavery, New Mexico is imminently exposed to it. Three-fourths of her territory, nine-tenths at least of her people, are on this side of the Rio Grande—in the region audaciously claimed by slaveholding Texas. At this moment Texas is preparing to assert jurisdiction over these distant, conquered, slavery-hating people; she has sent a district attorney to Santa Fé to enforce her laws there—she is preparing to sustain his authority by armed force. The triumph of this enterprise will be a present, palpable, practical extension of slavery and slave laws over a region larger than New England. And it *will* triumph, unless prevented by the action of this Government. The abject, timid, conquered people of New Mexico cannot successfully resist the power of Texas tacitly sustained by the Federal Government. And if this Congress shall separate without providing for the protection of that imploring, shrinking, struggling people of New Mexico, I do greatly fear that they will be subjugated by Texas and annexed to her slaveholding domain—a crime fit to rank in history with the partition of Poland.

And what do southern gentlemen say to this? The gentleman from Virginia [Gov. MCDOWELL] who so eloquently, pathetically conjured us to act together for harmony, conciliation, union,—what will *he* say to this? Can he hope to lull us by his eloquence into acquiescence in the subjugation of free New Mexico by slave Texas? Can he imagine that our constituents would acquiesce in this if we could be induced to? Let him not so deceive himself!

And here, Mr. Chairman, is my main ground of objection to all the substitutes proposed in this House or the other for the territorial bills now legitimately before us. Our committee's bill [Mr. C. B. SMITH's] gives New Mexico expressly her ancient and proper boundaries. There is no dodge nor shuffle about it. They organize New Mexico and California into territories, and give to each distinct and definite boundaries. None of the substitutes proposed do any such thing. On the contrary, they all lean the other way. That of the gentleman from Virginia [Mr. PRESTON] proposes to leave the whole matter to the Supreme Court, but it is only appearance. In the first place, it forms all the new territory into *one* State, to be called—what? The State of *California*. Now, California is properly the name of a small portion of our new acquisitions—that portion lying west of the Sierra Nevada and bordering on the Pacific Ocean. Its capital will naturally be San Francisco; and who believes that Santa Fé, Taos, Albuquerque, will be represented in, protected by, a State government whose capital is there? Who that knows anything of the savage deserts and rugged mountains that separate Santa Fé from San Francisco can believe that the former can be properly governed, protected, cared for by State authorities located in the latter? No, sir; this whole State project is contrived to cover the surrender of New Mexico to Texas, and as such I must oppose it to the utmost.

And I exhort the friends of the incoming Administration to meet this question in a manly, decided way, for reasons which appeal especially to them. If Congress does not meet this boundary question fully, the new Administration must. If we do not plant the shield of the Union before the people and the liberties of New Mexico, the President must decide to protect or abandon them. We may blink the question, but the Executive cannot. If we do not determine to protect the New Mexican people, the President will soon be entreated to do it, just as Mr. Adams was obliged to protect the Cherokees against Georgia, and as Mr. Tyler was required to interfere in the troubles of Rhode Island. I ask the friends of General Taylor if they choose to involve him in this dilemma? Do they wish to force upon him the necessity of deciding to acquiesce in the pretensions of Texas to New Mexico, or to heed the prayers of her people and defend them by armed force? Will the South quietly, unmurmuringly assent to this? I cannot answer for her, but this I am quite sure of, that if General Taylor shall surrender the people of New Mexico to the enforced domination of Texas and slavery, he will have no single State in the North or free West to sustain him in that course; he will not have twenty supporters from the free States on this floor chosen at the election after such action on his part. I entreat, then, his friends on this floor to shield him from responsibility which belongs not to him, but to us, by passing some bill which shall settle definitively the boundary between Texas and New Mexico. The terms of the annexation of Texas require it at our hands; the harmony and peace of the Union, the safety and rights of New Mexico, require it. Let us not shrink from our proper responsibilities, but fearlessly discharge our whole duty.

On the following day, the House bill organizing New Mexico as a Territory being under consideration, and the first section (that which sets forth the boundaries of New Mexico) having been read—

Mr. VINTON moved a proviso reserving all the rights of Texas to the territory this side of the Rio Grande from latitude 34° to latitude 42° north, (embracing two-thirds of New Mexico and nearly all its people,) and providing for bringing the question of the right of Texas to this territory before the Supreme Court for final adjudication. Mr. V. supported this proposition in a brief, but spirited and able speech.

Mr. GREELEY. Mr. Chairman, I never before in my life listened to a proposition with so much surprise and regret as to that of the gentleman from Ohio. What does it imply? Clearly that Texas has a plausible claim to all New Mexico this side of the Rio Grande—virtually to all New Mexico. And though the gentleman has warned us in his speech that this is purely a question of law, and that none but lawyers are qualified to discuss it, yet I will venture to disregard that admonition, and engage in the discussion. For to my mind this is not more a question of law than of fact—of history and of freedom. Texas claims New Mexico as a part of her territory—on what ground? Not of possession; for she never held a court nor an election, exercised authority nor served a writ, within its limits. Not of conquest; for the only expedition she ever sent thither was utterly defeated and captured by the New Mexicans—the surviving invaders finding their way home by a route more circuitous than any on which Congressional mileage is computed.

Not, certainly, of ancient and traditionary dependence; for New Mexico never was a part of Texas, nor in any way dependent upon it. Not on the ground of transfer, by stipulation; for Texas has made no treaty on the subject, and our annexing joint resolutions expressly leave every question of her boundaries subject to adjustment by this Government alone. There is no shadow of foundation for this claim of Texas but the claim itself—a mere paper declaration, never enforced down to this day.

Still Texas insists on subjugating and ruling New Mexico; and this amendment proposes to declare the question an open one, and submit it to the arbitration of the Supreme Court. Submit what? Where are the data on which the Supreme Court is to act? Who are the parties? What is the law of the case? What considerations shall govern the decision?

Mr. Chairman, there is one consideration which the Supreme Court could not give weight to, but which we are bound to weigh well. It is that of the will of the people of New Mexico. If we are to arbitrate this question at all, I insist that *they* be the umpires. Let them determine whether to be an independent free Territory, or become part of the slaveholding State of Texas. Submit the question fairly to them, and I agree to abide their decision. But to authorize five slaveholders (forming a majority of our Supreme Court) to decide this momentous question on grounds and under rules which silence entirely the voice of the people of New Mexico, is what I can never agree to.

It is not an hour since gentlemen on the other side were most vociferous for letting the people of California govern themselves—letting them decide whether they should legalize slavery or otherwise. I call upon them to stand by that principle now. I plead for the right of the people of New Mexico to be governed in accordance with their own well understood demands and entreaties. You know well how they have resisted and still abhor the dominion of Texas. Their unanimous entreaty for protection against it is now before Congress. Their danger is imminent—our aid must be prompt or it will be too late to avail. I implore this House to perform its whole duty promptly in the premises, and not seek to shuffle off the responsibility upon the Executive or the Supreme Court. Pass the bill before us as it stands; if Texas has constitutional rights here, it will not invalidate them. Let her bring her action in the Supreme Court, if she chooses—no action of ours can be essential to that—but let us do all in our power to shield the New Mexican people from her detested dominion.

TREATY OF PEACE WITH MEXICO.

SPEECH OF MR. H. PUTNAM,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 23, 1849,

On the Treaty with Mexico.

The House being in Committee of the Whole on the state of the Union—

Mr. PUTMAN addressed the Chair as follows:

Mr. CHAIRMAN: The condition of the House, under the influence of the speech just closed by the gentleman from Virginia, [Mr. MCDOWELL,] is anything else but favorable for any member at this time to take the floor. Its power over the mind was marked upon every countenance. The hour rule was forgotten and suspended until the close of his remarks. This indulgence was due to him for the pure and lofty sentiments of his speech touching the Constitution of the country. His appeals to sustain its *compromises* should meet the approval of every man. Those compromises are above all price. They were the result and offspring of a hard contest for liberty. The fathers of the country knew their value, and it becomes their children sacredly to respect them. History furnishes most positive evidence that the extension of slave territory was never anticipated under the Constitution. The spirit of freedom, seen at that early day, in every movement of the country, the constitutional provision in restraint of the slave trade, the ordinance of 1787, and the debates on the Constitution upon the question of its adoption, all furnish most decisive evidence that the sentiment of the country was opposed to slavery. The same spirit of philanthropy, with reference to slavery, has continued its onward march without hindrance, save only as it has been checked by avarice and desire for worldly gain. When the people of this country resolved that the colonies ought to be free and independent States, they declared that liberty was the *inalienable right* of man.

But, sir, I am trenching upon time I had designed for another object. My purpose was not to speak about slavery, but upon another subject of no small importance, having respect to our interests, honor, and integrity, as affected by our conduct towards foreign nations. I will, however, refer for a moment to slavery, with respect to the District of Columbia. This District belongs to the nation—to the North as well as the South—and is governed by its laws. Here are located the Executive, the Legislative, and Judicial departments of the Government. If any spot on earth should be free from the slavery of our fellow-man, this should; yet the soil is desecrated by the plague of the institution, and made the mart for the sale of human flesh. Every effort for its abolition has thus far been defeated. The action in the House, recently, furnished a ray of hope that a change was about to take place; but even that has been driven away by the opposition of the slave interest. A bill was reported to abolish the slave trade in the District. The people, through the municipal authorities of the city, prayed for its passage; but in vain. It lies upon the table, and under the rules of the House, and influence of members, will be forced to remain there. One thing, Mr. Chairman, is certain, that slavery here must be abolished in all its forms, or the capital of the nation will be removed to some other location.

An important question has recently arisen touching our treaty relations with Mexico. War existed for more than two years between the two Governments, commenced by the Administration, and, I need not say what is true, commenced without any justifiable cause. The country became tired of its prosecution, and desired the restoration of peace. Not a peace made under such circumstances as would disgrace us in the eyes of the world, or humble us in our own national feelings; but a peace under a treaty fully understood, having no fraudulent existence, but honorable and just in all its conclusions. A commissioner had been appointed to negotiate, yet Mexico, though her country was overrun by our armies, and the strong citadels of her power had fallen before an invading enemy, was too proud to submit to terms other than those of her own choice. The commissioner was recalled and divested of his authority to negotiate, yet he was not to be driven from the purpose of his mission. He still held on, and, acting under assumed authority, continued his negotiations, until, at last, it was announced, to the surprise of all, that the recalled agent had concluded a treaty with Mexico. The President accepted the anomalous instrument; and so disgraceful a one, in some of its stipulations, no conqueror ever accepted from a fallen enemy than was received through this self-constituted officer of the Government. It was presented to the Senate for their consideration. Instead of this, it should have been rejected; and, as Mexico manifested some willingness to treat with us, commissioners, with powers usual and necessary for such purposes, should have been sent out, and if successful, return a treaty made under the sanction of official authority, and one the nation could receive without humiliation.

After much debate and time spent by the Senate in amending its provisions, commissioners were appointed to return it to Mexico for ratification. It was again returned to our Government, and by the Executive published to the country. A strange state of things is now presented to the nation. By some it is believed we have no treaty with Mexico; or, if we have, that it has been obtained by fraud and misrepresentation. On the other hand, this position is met, not by a denial of the facts upon which the assertion is based—for they are fully admitted—but by an effort to avoid any prejudicial results, on the ground, as is claimed, that the instrument returned with the treaty is not material, and does not change its provisions.

The instrument was returned with the treaty as though it was a proper and necessary appendage to it. It was filed away among the archives of the nation, and there might have remained as an unknown thing, until waked up from its slumber by the demands of Mexico, were it not for an accidental circumstance which called it forth, and led to its publication. The published treaty was the same in every particular as the one approved by the Senate. No one suspected that any change or addition whatever had been made to it. It however now turns out that, before the exchange of the treaty, and before it had been ratified by all the departments of the Mexican Government, as required by her constitution, an additional instrument, touching and most essentially differing from the terms of the treaty, called a protocol, was executed by our commissioners jointly with the Mexican minister.

Its execution was demanded by Mexico as a condition precedent to the final ratification of the treaty. Whether the protocol was understood as forming a part of the treaty or not, if found to differ from it, I apprehend it can make but little difference as to its effect upon our Government; for there can be no doubt it was accepted and understood as an exposition of what the treaty was, and equivalent, therefore, to an agreement that the amendment of the Senate did not change the stipulations or character of the original treaty. Nor can I conceive it would affect us less seriously, if the transaction was designed to *deceive* the Government of Mexico as to the import and true construction of the treaty, unless by the laws of nations moral principles and integrity of action may be laid aside in negotiating a treaty; or unless it is conceded that a suppression of the truth or the suggestion of a falsehood may be tolerated on such an occasion. Such a concession as to the rule of conduct in international transactions, I apprehend, would find but little favor among the civilized nations of the world. That the Government of Mexico placed confidence in what was declared in the protocol, no one can doubt. True, she had considered every step taken by our Government against her as an aggression upon her rights, and unjustifiable on our part. But when we tendered to her the olive branch of peace, she had every reason to trust in our integrity, and free herself from every suspicion of intended fraud. A contrary course would be an imputation upon us unworthy of her as a nation, and I would hope unmerited by us. With such views towards us she no doubt entered upon the final consummation of the treaty arrangements.

That the protocol is virtually an agreement, and therefore is a part and parcel of the treaty, it seems to me that no impartial mind can doubt. It is executed by the diplomatic representatives of the two nations—the one party making certain representations as an inducement to its execution, and the other accepting it as defining the meaning and terms of the several amendments. It therefore has all the necessary ingredients of a contract, binding and obligatory upon the parties. It declares that "it was *agreed*, after adequate conversation respecting the changes alluded to, to record in the present protocol the following explanations, which 'their aforesaid excellencies the commissioners 'gave in the *name of their Government*, and in fulfillment of their commission conferred upon them 'near the Mexican Republic." So objectionable to the Mexican minister were our Senate's amendments, and so vitally important did he deem the statements of our commissioners in virtually restoring the original articles, that he required the same should be reduced to writing. Is it to be supposed that the commissioners would draw it up with all the care and precision with which it was done, and done, too, for and "in the name of their Government," without intending to give it a consequence beyond a mere conversational importance?

The Mexican minister required of them a step beyond mere "diplomatic notes," and even *such* they were advised to avoid, "*unless in case of necessity.*" His demand was obeyed. The case of "*necessity*" came. They found the Mexicans still proud in spirit and unyielding on every point of the original treaty, though their flags were trailing in the dust. The Administration was standing just upon the heel of their political existence, with a war hanging over their heads growing more and more unpopular every day. To protect therefore the *succession*, their "necessity" became the opportunity of Mexico, and enabled her to dictate

her own terms, and the Administration yielded to the demand.

Sir, having said thus much preliminarily, I will proceed to examine the original treaty, and the action of the Senate in connection with the protocol.

It will be noticed that the conference between our commissioners and the Mexican minister, the result of which was the drawing up and execution of the protocol, was on the 26th day of May, 1848, four days previous to the exchange of the treaty. By the 8th article, the Mexicans residing in the territory ceded to us were permitted to remain, or at any time remove to the Mexican Republic, retaining their property or dispose of it, and take the avails wherever they pleased free of any tax or charge whatever. Those who remained were permitted to retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. As to which, they were required to make their election in one year from the exchange of ratifications of the treaty; and those who remained after that period, without having made such election, were to be held as citizens of the United States.

The original ninth article, therefore, proceeded to declare the rights of those who should thus renounce the character of Mexican citizens, and to require of our Government their establishment "*as soon as possible*," according to the Constitution, to the enjoyment of the rights of citizens of the United States by an incorporation into the Union; and, in the mean time, they were to be protected in the enjoyment of their liberty and their civil rights according to the Mexican laws. This provision manifested a paternal care over her people, about to be separated from her government, commendable in the highest degree; but Mexico had no right to insist that her population, with all their reputed ignorance and unfitness for self-government, should, "as soon as possible, (a time demanding immediate action,) be formed into a State." A territorial tutelage under the ordinary territorial government might be deemed much better for the people. As to the time when the territory should be admitted as a State, the Senate amended the article, so as to read, "and be admitted at the proper time, *to be judged of by the Congress of the United States.*" This amendment was offered by Colonel DAVIS, an able and experienced officer in Mexico, than whom, perhaps, no man better understood the character and fitness of their people for self-government. The amendment should meet the approval of every man. The great body of the Mexican people in the ceded territory must be as ignorant of the principles of our institutions, and, perhaps, as ill prepared to take upon themselves the framing of laws and of their administration, in the departments of a State government, as the inhabitants of any other portion of the world. The Senate, therefore, acted wisely in abrogating the clause referred to, and adopting another, giving to Congress the right to determine the time when a State might be formed. The policy in this movement of Mexico, in one particular, must be apparent to all. If organized into a State government immediately, her people, possessing all the prejudice and national feelings of Mexicans, would mould such a form of State government as would accord, as far as possible, with all the various governmental institutions of Mexico, and particularly those of an ecclesiastical character. We see, therefore, as between the original article and the Senate's amendment, there is a positive and radical difference with respect to the time of organizing a State government.

In this connection I will refer to that part of the protocol which has reference to the point under consideration. The following is a copy:

"The American Government, by suppressing the ninth article of the treaty of Guadalupe, and substituting the third article of the treaty of Louisiana, did not intend to diminish in any way what was agreed upon by the aforesaid article ninth in favor of the inhabitants of the territories ceded by Mexico."

It is here represented that the third article of the treaty of Louisiana was substituted for the ninth article of the treaty; and further, that "its understanding is, that all of that agreement is contained in the third article of the treaty of Louisiana."

The following is a copy of the Louisiana article referred to:

"The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

As to the time of admission into the States, the language of the ninth article, which for designation I will call the Trist article, is the same as the Louisiana article. The words are, "shall be *admitted as soon as possible.*" But this language the Senate would not agree to, and instead thereof used the language above quoted: "shall be admitted *at the proper time, to be judged of by the Congress of the United States.*" The difference in the phraseology is too apparent to need comment. In one case, the language is satisfied only by an incorporation as soon as a bill can be passed at the next session of Congress after the ratification of the treaty; and, in the other, the Government is left to do it *when*, and not before, it shall be the pleasure of Congress to do so. Still, the commissioners declare in the protocol that it was not intended by the amendment to diminish in any way what was agreed upon by the Trist article. Such a declaration cannot be made, and be consistent with the facts and the truth of the case; and still it has the approval of the President and his Secretary. The object was accomplished. The fears of the Mexican Government were quieted.

I will pass to consider the second paragraph of the article:

"The same most ample guarantee shall be enjoyed by all ecclesiastics and religious corporations or communities, as well in the discharge of the offices of their ministry, as in the enjoyment of their property of every kind, whether individual or corporate. This guarantee shall embrace all temples, houses, and edifices dedicated to the Roman Catholic worship, as well as all property destined to its support, or to that of schools, hospitals, and other foundations for charitable or beneficent purposes. No property of this nature shall be considered as having become the property of the American Government, or as subject to be by it disposed or diverted to other uses."

This paragraph has respect to the future interests of the Roman Catholic Church over the territory ceded by the treaty. The better to understand the evils that would arise by suffering such powers to be retained in the hands of the priesthood, to be exercised over the people of the ceded territory, and to appreciate the reasons which governed the Senate in the rejection of this article, it may be proper to premise, that by the constitution of Mexico, "*the religion of the Mexican nation is and 'will be perpetually the Roman Catholic Apostolic. 'The nation will protect it by wise and just laws, and 'prohibit the exercise of any other whatever.*" It is, then, by the supreme law of the land, made the national religion; is exclusive in its character, and intolerant towards all other denominations of Christians. In no part of the habitable globe did Catholicism ever exercise over the people more absolute dominion. This despotism is founded upon the union of Church and State. We might here contrast this constitutional provision of Mexico with our own, which declares that "no law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof." This is one of the great moral triumphs of this country. Every one is permitted to worship the Supreme Being according to the dictates of his own conscience. The whole nation stands alike upon this fundamental principle of our Government—a principle that will greatly tend to the perpetuity of the institutions of the country. I venture to say, that among all the influences which have operated to produce the constant disturbance and the repeated revolutions in Mexico, no one has been more prolific of harm than has this constitutional church establishment. It is not strange, then, that the Senate discovered in this foreign ecclesiastical government, proposed to be spread over a large portion of our territory, a direct encroachment upon the Constitution and the spirit of our institutions.

Besides this constitutional objection, large and extensive grants of land, from time to time, had been made by Mexico to the ecclesiastics, which is held for *pious uses*, and cannot be alienated—tending, as this necessarily must, to strengthen and perpetuate exclusive church privileges over the country. Not the least objectionable feature in these grants is that which holds them in perpetuity, making them inalienable, and thus reducing the people to be mere serfs of ecclesiastical landholders.

Colonization grants were also made to the ecclesiastics of extensive tracts of land. To illustrate the object and policy of Mexico in creating such grants, I will refer to one only, which was made of lands in Upper California, to Eugenio Macnamara, a "Catholic priest and apostolical missionary," as he styles himself. He urged its importance upon the President of Mexico in the following language:

"It does not require the gift of prophecy to foresee that in a little time this fertile country will cease to be an integral part of this Republic, unless some prompt and efficacious measures be adopted to restrain foreign rapacity. The immediate question that presents itself is, what are the speediest and most sure measures of avoiding such a calamity? The unanimous voice of the country responds, colonization."

To carry this project into operation, he urged upon the President the following considerations. He says:

"I propose, with the aid and approbation of your Excellency, to carry forward this project, to place in Upper California a colony of Irish Catholics. I have a triple object in making this proposition. I wish, in the first place, to advance the cause of Catholicism. In the second, to contribute to the happiness of my countrymen. Thirdly, I desire to put an obstacle in the way of further usurpations on the part of an irreligious and anti-Catholic nation. I therefore propose to your Excellency that there be conceded to me an extent of territory, on the coast of Upper California, for the purpose I have indicated."

And again he says:

"I should bring, for a beginning, one thousand families; afterwards, should it appear well to your Excellency, I would establish a second colony near Monterey, and a third at Santa Barbara. By this means, the entire coast (by which most danger is to be expected) would be completely secured against invasions and pillages of foreigners. For each family that I bring I will require the land that composes "one sitio de ganado mayor" (a square league, containing 4,428 acres) to be given free of all cost; likewise, that the children of the colonists, when they marry, shall receive a half sitio (2,214 acres) as a national gift."

And in a further article, by which he urges immediate action upon his proposition, he says:

"If the means which I propose be not speedily adopted, your Excellency may be assured that, before another year, the Californians will form a part of the American nation. Their Catholic institutions will become the prey of the Methodist wolves, and the whole country will be inundated with the cruel invaders; whilst I propose the means of repelling them, my propositions ought to be the more admissible, inasmuch as I have no personal interest in the affair, save the progress of the holy religion of God and the happiness of my countrymen."

By these extracts we are forcibly reminded how strong are the national prejudices of Mexico in support of her government religion. It is not strange, however, that it is so; thus she has always been educated, and a full conviction of the truthfulness of the doctrines of her church have ever been enforced by a union of the civil and ecclesiastical power. That the people, as a body, are as sincere believers in their religion as any other, there is in my opinion no doubt. The defence of the country and the interests of the church are the leading objects plainly to be seen in the extracts I have given. A part of their territory had been wrested from them by the aid of American citizens, and by an act of the Government annexed to our country. Further aggressions were anticipated, and it became therefore the settled policy to colonize the country as rapidly as possible, to be prepared to meet any emergency that might arise in the future.

I submit whether their worst apprehensions were not more than realized by the march of our armies and the organization of a military force within her borders. In the annexation of Texas, Mexico looked upon us as having laid violent hands upon her rights, and was led to fear further conquests upon her territory. The page of history will judge impartially whether their fears were not well founded and sustained by subsequent events.

The extract above given from the treaty would be an ample guarantee to the ecclesiastics and their corporations—would protect them in the discharge of the offices of their ministry, and the enjoyment of their property of every kind destined to the support of the Catholic Church. Had this clause received the approval of our Government, the body of the Catholic clergy would enjoy in the ceded territory, both as to *person* and *property*, all the rights, privileges, and immunities, temporal and spiritual, as the same are enjoyed in Mexico under the established religion of the Roman Catholic Church. And as the large and extensive tracts of

land held by the ecclesiastics and the church could not be "disposed of or diverted to other uses," they would be free and exempt forever from the laws of a territorial or State government. They would be held independent of the established rules of alienation and descent, and exempt from a participation in the support of the government by taxation or otherwise. Such a system the article proposed to establish over the ceded territory—a system wholly at war with the spirit of that clause of our Constitution that "Congress shall make no law respecting the establishment of religion." Besides, with reference to the "*guarantee*," there is another and important difference between the article and as the same was amended by the Senate. In the former, it was a *continued* and *perpetual* guarantee. The words "in the mean time," in the amendment, extend the protection to the time only when a State government shall be formed, after which, I apprehend, no *partial* or *special* privileges will be granted to any Christian denomination.

The language of the protocol is full and conclusive, representing to the Mexican Government that the original treaty was in no way changed or modified by the amendments. This was intended to be asserted if necessary, and was concluded upon before the treaty left Washington. The Secretary, in his communication to the Mexican minister, stated that the amendment was "substantially the same" as the first article, but avoids unnecessary "prolixity." If it was *substantially the same*, what man, unless he be afflicted with political blindness, can believe that the Senate would have made the amendment merely because the article was a little more prolix, or had a little more verbiage than perhaps was necessary to express what Mexico intended to establish? Much of the time, during the discussion of the treaty, was devoted to the ninth and tenth articles. The result was, they were striken out as being radically wrong. The Secretary tells the minister, however, that it was done to "avoid unnecessary prolixity!" I submit the *good faith* of this statement to the judgment of others.

I will proceed to examine the last paragraph of this ninth article; and, sir, if any key is necessary to reach the intention of the Mexican Government, and aid in a correct interpretation of the article, it is found in this clause, and he that reads may understand. The following is a copy:

"The relations and communications between the Catholics living in the territories aforesaid and their respective ecclesiastical authorities shall be open, free, and exempt from all hindrance whatever, even although authorities should reside within the limits of the Mexican Republic, as defined by this treaty; and this freedom shall continue so long as a new demarkation of ecclesiastical districts shall not have been made conformably with the laws of the Roman Catholic Church."

By this clause there is a reservation of power retained in the hands of the church to be exercised over the Catholics in the territory. It will be noticed that the duration of these "relations" hangs upon the will and action of the priesthood, for they continue until new districts shall be made conformably with the *laws of the Roman Catholic Church*. But what are these powers or "relations?" I answer, they are all which the Roman Catholic Apostolic religion of Mexico confers upon the priesthood, and they are almost unlimited. The ecclesiastics have a controlling military influence over the people. In the revolution of 1821, when Iturbide was declared Emperor by the army, history tells us that "its real authors were the priests, and therefore it succeeded," and that the basis of its movement was "the preservation of the Holy Catholic religion." Their political influence is no less effectual. Mr. Thompson, in his "Recollections of Mexico," says, "a residence 'in a Catholic country has thoroughly satisfied me 'that no political movement can succeed (where 'that religion prevails) to which the priesthood 'is opposed." Again, he says: "It will consti-'tute a new epoch in history whenever that priest-'hood is not opposed to any great movement in 'favor of human liberty." This power is also strengthened by the great extent of their property. Mr. Thompson says he has heard intelligent men express the opinion that one-fourth of the property of the country is in the hands of the priesthood, and, instead of diminishing, it is continually increasing; and it is said that Mexico is the only country where the church property remains in its untouched entirety. The Government has at no time dared to encroach upon that which is regarded as consecrated property. It is also a well-known doctrine of that church that the priesthood, from the highest down to the lowest functionary almost, have power to forgive sins. These indulgences bring them large revenues, and in no country, says Mr. Thompson, "have the efficacy of them been more universally believed and relied upon than in Mexico, even to this day." Their ecclesiastical power is supreme, and connected with the civil, which to some extent they possess. Infliction of corporal punishment is imposed as the penalties for violations of spiritual or ecclesiastical laws. Indeed, the great body of their people is in a state of perfect vassalage, body and soul, to the priesthood.*

These are some of the "relations" and powers of the church in Mexico proposed to be retained over their people in the ceded territory, and to this extent the paragraph goes. Is it surprising, then, that the Senate should refuse to tolerate a foreign power that extends such controlling influences over the inhabitants of the territory? Certain it is that the Louisiana treaty does not contain them. The enjoyment of liberty, property, and religion, thereby guarantied, is the same only as is allowed under our Constitution.

With this picture before us, I desire to ask the attention of the committee to the protocol. It says:

"All the privileges and guarantees, civil, political, and religious, which would have been possessed by the inhabitants of the ceded territories, if the ninth article of the treaty had been retained, will be enjoyed by them, without any difference, under the article which has been substituted."

This same averment had been made to the Mexican Government. It was too important a matter to remain as a mere verbal explanation. She resolved to have it in a tangible shape, showing on paper, and under hand and seal, what was the manifest intention of the parties. In this she trusted, and had a right to believe that all that was contained in the rejected ninth article would be contained and enjoyed by her in the Louisiana article. Her purpose was to retain her ecclesiastical jurisdiction over the territory. The original article established it; the Senate disallowed it; but the protocol in language reaffirmed it. Whether it shall prove a "promise to the ear, and broken to the hope," I leave for the future to develop.

I will pass to consider the tenth article of the first treaty, which was stricken out by the Senate. The following is a copy of the first paragraph:

"All grants of land made by the Mexican Government, or by the competent authorities, in territories previously appertaining to Mexico, and remaining for the future within the limits of the United States, shall be respected as valid, to the same extent that the same grants would be valid if the said territories had remained within the limits of Mexico. But the grantees of lands in Texas, put in possession thereof, who, by reason of the circumstances of the country, since the beginning of the troubles between Texas and the Mexican Government, may have been prevented from fulfilling all the conditions of their grants, shall be under the obligation to fulfill the said conditions within the periods limited in the same respectively; such periods to be now counted from the date of the exchange of ratifications of this treaty; in default of which, the said grants shall not be obligatory upon the State of Texas, in virtue of the stipulations contained in this article."

The next paragraph of the article extends the same revival of the condition of performance by the grantees to the ceded territory as is given to those of Texas. The last paragraph declares that no grant of lands in Texas has been made since March 2, 1836; and, in the ceded territories, none since May 13, 1846.

The scope of the article is a conditional confirmation of all the grants of land made by Mexico previous to the periods above named. Had it been assented to on our part, the conditions of the grants would be revived, and, if performed within two years from the ratification of the treaty, the grants would be valid. This would result in changing and unsettling the title to large tracts of land, and open an endless avenue for litigation, profitable, perhaps, to lawyers, but vastly expensive and detrimental to the country. As to its effect, if the grant to Macnamara was made in season, he would have two years to perform the condition, and thereby obtain a large tract of the most valuable lands of California. As to the extent of these grants, the Secretary of State says: "These Mex-'ican grants, it is understood, cover nearly the 'whole seacoast, and a large portion of the interior 'of Texas. They embrace thriving villages, and 'a great number of cultivated farms, the proprie-'tors of which have acquired them honestly, by 'purchase from the State of Texas."

But, sir, claiming, as I do, that the protocol and the treaty are equally valid or imperfect, I will examine them in connection with the rejected article. The first paragraph is as follows:

"The American Government, by suppressing the tenth article of the treaty of Guadalupe, did not, in any way, intend to annul the grants of lands made by Mexico in the ceded territories. These grants, notwithstanding the suppression of this article of the treaty, preserve the legal value which they may possess, and the grantees may cause their legitimate titles to be *acknowledged* before the American tribunals."

This speaks of "*legal value*" and "*legitimate titles*," and on these phrases hang the friends of the Administration, claiming that the grants had no *such value* or *titles*. From the next paragraph we learn something of the meaning of these terms:

"Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories, are those which were legitimate titles under the Mexican law in California and New Mexico, up to the 13th of May, 1846, and in Texas up to the 2d of March, 1836."

The question is, what were *legitimate titles* at the periods referred to? It is true that the colonization grants were conditional; that is to say, a certain number of families were to be settled on the territory covered by the grants within a given period—usually six or seven years. But it is also true, that as to a large portion of the grants, the time for performing the condition had not elapsed at the periods named in the protocol. It has been decided by the Supreme Court of the United States, that such a grant conveys a legitimate title in fee—an interest vested on its execution, which could only be divested by a breach or non-performance of the conditions.

Until the forfeiture, therefore, the grant was valid, and gave to the grantee a *legitimate title* as against the Government of Mexico and all others. It possessed a *legal value*. The case, therefore, comes within the guarantee of the protocol; and, according to it, may cause the titles to be "acknowledged before the American tribunals." But, as I have admitted that the grants were conditional, it may be claimed that the grantees are bound to perform, within the time specified, the condition on which they were made, or that the premises will revert to the owners. If this is true, the territory having been ceded to us, our Government stands in the place of Mexico; and the condition being transferred to us, we are entitled to its performance. It strikes me there are some difficulties here to encounter. In the first place, Mexico had no power thus to assign an agreement between her and her citizens, and thereby establish the liability of the grantee to a foreign government. In the second place, such a proposition would be totally absurd. Did our Government take the cession subject to any conditions, the performance or neglect of which would confer or withhold from us any portion of the territory? Surely not. In the third place, I apprehend, our Government would be slow to recognize or claim the benefit of any grant of land which, if carried out, would settle in the country *such* a colony as was contemplated by the grants. The question then arises, how is the grant affected by the cession of the territory to us? The grant being valid as against Mexico, no act of hers could render it void; and equally certain it is that we received the cession subject to all legally existing claims. It must follow, therefore, as a legal result, that the cession of the territory to us is a direct and positive *release* to the grantee of any further performance of the condition of the grant, and the grantee holds a legal and unconditional title. It is a well-settled rule of *national* law, (if not of universal application,) that "if a grant is made on a condition *subsequent*, and its performance becomes impossible by the act of the grantor, the grant becomes single," and is valid in favor of the grantee. The legal principles here stated may be found settled in the case of the United States *vs.* Arredondo and others, in 6th Peters' Reports. That was a colonization grant to Arredondo by the Government of Spain of a large tract of land in Florida, before the treaty ceding that State to us.

* The above quotations are taken from the "Recollections of Mexico," written by Waddy Thompson while he was a Minister to Mexico.

By way of illustrating the rule excusing a performance of the condition, the court instance, among other reasons, the case of a transfer of the territory, the change of government, laws, and the political relations of the country. The cession of California and New Mexico to us affects, therefore, all grants, the time of which, for the performance of the conditions, had not expired when the cession was made. The same rule also applies to Texas, the existence of war and the revolution rendering the performance of the conditions by the grantees impossible. Mexico was the cause of such failure, as her neglect in not arresting the revolution placed the grantees beyond the power of rendering a compliance.

By the original treaty Mexico reserved to the grantees a period of time for the performance of the condition, but this the Senate refused. By the protocol, however, she is assured that the title held by the grantees under the laws of the ceded territory should be recognized as legal titles under the laws of the United States. Well might she consent upon such premises to ratify the treaty, and obtain an *absolute*, instead of a *conditional*, fee for her grantees. I need say no more on this rejected article. It was evident that Mexico considered it all-important in the first instance, and it was in no respect diminished when the treaty was finally ratified by her. She stood out against the rejection, until the original was in effect restored by the protocol, as she had every reason to believe.

By the twelfth article of the Trist treaty, we agreed to pay the Mexican Republic the sum of $15,000,000. For the largest portion of it a stock was to be created, with interest at six per cent., payable at the city of Washington. Transferable certificates of such stock were to be delivered to the Mexican Government. The Senate refused to create the stock, or make paper of a transferable character. This was deemed important as a guarantee for the good conduct of Mexico towards us under her treaty stipulations. If we look back to a former message of the President, and can believe half he said in his bills of indictment for offences committed by Mexico upon our country, we cease to regard the striking out the *transferability* of the debt as a strange act of the Senate. It was a prudent act, and one which should have been approved of, instead of being defeated by the Executive authorities. Had such certificates of stock been given, we should be bound to pay a *bona fide* holder, and could not avoid it. It would be in vain to plead that Mexico had violated the treaty, and thereby had forfeited all claim upon us for payment. A declaration or act of war by Mexico would alone rescind the obligation, and wholly exonerate us from the payment of the debt. And such, no doubt, would be the effect of a violation by Mexico of any of the material provisions of the treaty on her part.

How stands the case under the protocol? So far as they had the power, the commissioners rendered void the Senate's amendment. The protocol declares that "the Government of the United 'States, by suppressing the concluding paragraph 'of article twelfth of the treaty, did *not* intend to 'deprive the Mexican Republic of the *free* and *un*-'*restrained* faculty of ceding, conveying, or trans-'ferring at any time (as it may judge best) the 'sum of twelve millions of dollars, which the same 'Government of the United States is to deliver in 'the places designated in the amended article."

In the construction of this clause, no one will doubt that the *Republic* understood, that she had a *right* to understand, and that the commissioners intended she *should* understand, that our liability, under any circumstances, to pay to her assignee, remained as valid as though the article had not been amended. The protocol, then, in equity, at least, virtually reëstablishes the original article in full. If the commissioners had no *direct* authority from Secretary Buchanan for this perversion of the article, yet they had, in his letter to the Mexican minister, an apology for their conduct. After stating it would be more convenient for the Republic to have negotiable certificates, he says, "no doubt 'is entertained that capitalists may be found who 'will be willing to advance any amount that might 'be desired upon the faith of a treaty obligation sol-'emnly entered into by the Government of the 'United States." This diplomatic functionary thus commenced the work of repeal, which was carried out by the commissioners; and, for the payment to the holder of the claim, he did not scruple to pledge "the faith of our treaty obligations, solemnly entered into." This is the effect of his letter. After this warrant, and the protocol treading upon its heels, who would hesitate to purchase the claim, as regards any fear that the Government should withhold the instalments, however just and valid such a step might be as between us and Mexico? Permit me to say, sir, that this act of the President, through his Secretary and the commissioners, is a high-handed usurpation of power and malfeasance in office. The treaty-making power, the acts and doings of the Senate in settling treaty obligations, have, in the instance before us, been overrode, as though they were matters of not the slightest importance. The Senate, for wise and good reasons, refused to make the obligation negotiable. The President and the commissioners declare, in effect, they intended no such thing. They defeat, so far as in their power, the solemn and deliberate act of the Senate. It was well understood, that when the treaty was before the Senate there was a British agent (McIntosh) in Mexico waiting its return to purchase the claim. Hence we see her unwillingness to yield to the Senate's amendment. The commissioners, therefore, met the issue by a disclaimer wholly in conflict with the policy and object which dictated the amendment—a disclaimer that pays as little respect to the constitutional powers of the Senate, as a branch of the treaty-making power, as to the nation itself.

I will spend, sir, a few moments in examining the protocol as it affects the treaty, and may yet most seriously affect the country. It is time it should be examined. The President kept it hid away from the nation until it was called out by a plenary and mandatory resolution. He was made to surrender information important to the country, and which the Mexican minister claims to be the property of his nation; that is, a restoration to her of all the guarantees which were in the original treaty, and rejected by the Senate.

The settlement of a treaty between two nations is but a contract or an agreement. The same rules of law which make any agreement a valid instrument, apply to such a contract. (6 Peters' Rep., 735–'6.) The parties must have power to contract, and if the contract is made by an agent, his authority must be strictly pursued; if he falls short of the power, or exceeds it, the agreement is void, unless ratified by the principal. It must be fully executed, and after execution quite as important a requisite yet remains to be done as any other, without which the contract is utterly void; that is, its delivery and exchange between the parties. Several instruments, delivered at the same time, having reference to the same subject-matter, are here blended together, and constitute but one agreement.

Mexico refused to execute the treaty (amended as it was by the Senate) until the protocol was executed, which she demanded as a condition precedent. The protocol proves this, as is apparent by its last paragraph, which is as follows:

"And these explanations having been accepted by the Minister of Foreign Affairs of the Mexican Republic, he declared, in the name of his Government, that, with the understanding conveyed by them, the same Government would proceed to ratify the treaty of Guadalupe, as modified by the Senate and Government of the United States. In testimony of which their Excellencies, the aforesaid Commissioners, and the Minister, have signed and sealed, in quintuplicate, the present protocol.

"NATHAN CLIFFORD, [L. S.]
"AMBROSE H. SEVIER, [L. S.]
"LUIS DE LA ROSA." [L. S.]

This extract contains the moving consideration for the execution of the treaty on the part of Mexico. "The understanding conveyed" by the explanations was, that the amendments of the Senate did not change or alter the original treaty. On this stands the validity of the treaty. This being admitted, its relation and connection with it can be no longer disputed. The consideration is always a part of the agreement, whether in the same or in another instrument. Remove it, or prove that none existed, and the agreement necessarily falls. It no longer has any binding obligation.

If I am correct in these views, it follows that the protocol has an immediate and substantial bearing upon the treaty. If, then, Mexico has a right to rely upon it, I need not say that it is an agreement *equally* binding upon us. Its effect must be *mutual*. The inevitable result is, that it should have been sent to the Senate for approval, and, so long as this is omitted, the treaty is imperfect and inoperative.

The President says, when he received the protocol with the ratified treaty, he did not regard it as *material*, or in anywise attempting to "modify or change the treaty as amended by the Senate." He tells us what he did not consider it, but fails to give the country his opinion as to what it was. It would seem as though the instrument might have some affirmative character. He gives it merely a negative one. It certainly has some strong marks of an honorable paternity, and even of a *national* existence. It was the *occasion* and the moving lever to the ratification of a treaty between two nations: an act which arrested the progress of a rapidly increasing national debt, and brought peace to the country; and yet the President could not regard it as a *material* instrument, but as something of no importance, destitute of a proper name, but which, for the sake of designation, he terms a "paper" called a "protocol!" This piece of *paper* he saw was executed by no less personages than the ministers of the two nations, clothed with special powers; was not only signed by them, but, by way of giving it the more solemnity and form as a *specialty*, it was also sealed.

Was it a diplomatic correspondence?—though even this the commissioners were instructed to avoid, except "in case of necessity." A correspondence is an intercourse between persons by means of letters and answers received. A diplomatic correspondence differs from any other only in respect to the *character* or relative position of the writers and in the subject-matter. A mere correspondence is never signed by both parties, but each signs his own communication. If signed by both, it would be more than a correspondence, and would contain some proposition as to which the minds of the parties meet. Whatever may be the effect of diplomatic notes or correspondence, the protocol certainly does not belong to that family.

Is it claimed to be a mere "explanation?" Such, I admit, may be signed by both parties. An explanation is a mutual exposition of terms, with a desire to adjust a misunderstanding and reconcile differences. This presupposes the existence of an agreement, or some proposition as to which there is a difference of understanding between the parties on account of obscurity or some ambiguity arising from the language. With reference to the treaty, the Mexican Government objected to the amendments made by our Senate. The Secretary tells them they do not *materially* change the original articles. The commissioners repeat the same, and declare that, by the amendments, we did not intend in any way to diminish what was agreed upon by the original treaty. They go further, and say it is all embraced in the Louisiana amendment.

Mexico replies, reduce this to writing and we will ratify the treaty. It was done. Call it, sir, what you please—diplomatic notes, explanation, or anything else, it is not the *name* alone that gives the character. The whole tenor of the protocol is *positive assertion* of matters of fact, besides being signed and sealed by both parties. I should like, therefore, to be informed why *such* an instrument is not an agreement. The minds of the parties came together; there was a union of sentiment and of action, and in the instrument a clearly-expressed consideration to sustain it. We have explanatory or declaratory laws, which are founded on some previous enactments, as to which there was some ambiguity rendering it difficult to carry out the enactment. Another act is passed explaining the former, and this it is that gives *force* to the first. Equally important and material is the relation of the protocol to the treaty.

Again: who ever knew mere diplomatic notes, or correspondence, executed under the joint hands and seals of the ministers of two governments, and quintuple copies made? This must have been a new thing to the President—an anomaly in the history of diplomacy. He *could not* call it a diplomatic correspondence, for it possessed none of its forms or qualities; he would not call it an agreement, for then it would have to come to the light, and be referred to the Senate. It being therefore a nondescript, a new thing, he made up his mind that it was an *immaterial* matter, and concluded to entomb it within the vaults of his Secretary, he

and his diplomatic functionary being the only attendants upon the ceremony. Under the existing state of things they had no difficulty, it seems, in coming to the conclusion that such a deposit was a *safer* disposition of it, *at that particular juncture of time*, than any other that could be made. What is there in the protocol that calls for secrecy? What in it that would endanger the interests of the country, if a knowledge of its existence had been given to the people? It will be recollected that the President was called upon in July last, by a resolution, to communicate to the House copies of all instructions given to the commissioners in relation to the treaty. It will also be recollected that he refused by his message to do it, on the ground, as he said, that it would be "inconsistent with the public interests." Why this shuffling excuse? What iniquity could there be in the instructions, rendering them at that time, or at any time, unsafe for the public eye? Upon a further demand we *now* have the instructions, and they show plainly the intention to silence all the fears and opposition that Mexico might manifest against the Senate's amendments at all hazards, and at whatever expense of truth the circumstances might demand. Why safer *now* as to the "public interests" than in July? I can see no reason; nor can I imagine any for the President, unless I am permitted to suppose he *considered* the "public interests" demanded the election of the Baltimore nominee.

But look again at the conduct of the President. In his message, refusing copies of said instructions, he says, that "no contingency occurred 'which made it either necessary or proper for our 'commissioners to enter upon any negotiation with 'the Mexican Government, further than to urge 'upon that Government the ratification of the 'treaty in the amended form." What, sir, does he say that no contingency occurred which made it necessary to enter upon any negotiation? How, I ask, can he speak the truth, and say this? Does he not well know (for the protocol proves it) that Mexico refused to ratify the treaty until a negotiation had been held between the ministers, that resulted in the execution of the protocol, without which, we have every reason to believe, it would not have been approved by the President of Mexico? And still does he say that no contingency occurred making it necessary to enter upon negotiations? Was not a refusal to ratify a contingency? Wherefore, then, this utter falsehood and prevarication? The message referred to bears date July 28, 1848. At that time political interests were at stake, and they were more potent than the strong obligations of truth; and hence the secrecy and filing away the protocol. Had it been sent to the Senate, as it should have been, no doubt before this we should have had a treaty honorable to both parties, and free from any occasion of misunderstanding in the future. The counsels of the wicked, however, were overruled; and the man who was a terror to Mexico had become a terror to the Administration; and, in spite of all their efforts to sacrifice him on the field of battle, he has triumphed over his enemy, and the people rejoice.

Sir, it affords me no pleasure thus to review or speak of the acts of the Administration; but duty to my country with me is far above any personal regards I have for any man, and especially if his conduct is offensive and prejudicial to the institutions of the country.

Mr. Chairman, since the days of the Revolution there has been no like period of time in which the acts of the Administration have furnished more material for the historian than the last three or four years. The one-man power has been made the supreme law of the land; the restraints of the Constitution have been disregarded, and the Legislative department of the Government encroached upon by the Executive; the will of the people has been disobeyed, and the demands of justice made to yield to partisan interests. In opposition to the will of a large majority, foreign territory has been forced upon us, bringing with it an institution opposed to the principles of our Government and of humanity. An aggressive and unconstitutional war has been waged upon our neighbors, which has cost the country thousands of lives and millions of money, besides a heavy national debt, for which we have a large territory added to our domain—the subject of discord and contention, if not of disunion.

Sir, is it not time to pause and see what the end will be, if such usurpations are to pass unnoticed? What, under the existing circumstances of the treaty, shall be done? I consider we have no choice to make. There is but one course to be taken. The country must yield submission. A wicked administration may bring injury and dishonor upon the nation, but the Government must be sustained. We must cancel the instalments as they become due under the treaty; wait the action of Mexico under the treaty guarantees; stand on the defensive; but I hope, in the name of my country, we shall commit no act hostile to the principles of national justice, or dishonor ourselves in the estimation of the world.

NEW MEXICO AND CALIFORNIA.

DEBATE IN THE SENATE,

In relation to the Government of the Territories of New Mexico and California.

WEDNESDAY, *February* 21, 1849.

The Senate resumed the consideration of the Amendments moved to the Civil and Diplomatic Appropriation Bill, in relation to the government of the Territories of New Mexico and California, and Mr. BELL* having concluded his remarks—

Mr. BERRIEN said: Mr. President, I do not rise for the purpose of discussing the merits of this amendment. Without intending to call in question the correctness of the course of any Senator who has, or who may think proper to enter into it, from the view which I have taken of it, all such discussion has appeared to me to be entirely useless in the present stage of our proceedings. I can anticipate but one result to this motion. Notwithstanding what has been said of its congruity to the bill under discussion, and of the importance and necessity of sacrificing all parliamentary usage to the great and imposing exigencies of this case, I cannot but believe that there are Senators who, apart from any opinion they may have of the merits of the question, will feel compelled to dissent from this amendment, on the ground of its being a total departure from all parliamentary usage, and, in the opinion of many, from all parliamentary propriety. I believe that this discussion, if we go into it now, must be repeated when the California bill shall be presented to the consideration of the Senate; and I entertain none of the apprehensions of the Senator from Tennessee, that the consideration of that bill, or the decision of it, will be avoided by the Senate. I entertain no apprehension that there is a competent number, or any great number of Senators, who are disposed to be so regardless of their duty as to refuse the consideration of the question, whether a government shall be given to the people of those territories, when that question is presented to them in a form in which, consistently with their own sense of propriety, they can do it. I abstain, therefore, from all examination of the merits of the amendment in this discussion. I am induced to trouble the Senate for a few moments, simply from the fact that I am a member of the Judiciary Committee, and that, by the order of that committee, it was made my duty to prepare the report which was submitted to the Senate upon the bill for the admission of California as a State—a report which so far influenced the action of the Senator by whom the bill was introduced, as to induce him to modify it, thus acquiescing in the positions stated in the report, and seeking to avoid them by those amendments. The Senator from Tennessee, in his seat, says this observation does not apply to him. Most certainly not, sir.

The bill to which I have referred was introduced by the Senator from Illinois, [Mr. DOUGLAS.] If the Senator had adverted to that fact, and to the discussion which took place when that report was presented to the Senate, he would have been relieved from the apprehension that my remarks were intended to apply to him. But, sir, before I proceed to examine very briefly the objections which the Senator from Tennessee has presented to this report, I desire in the first place to say that, in my judgment, the argument of that Senator in support of his amendment is suicidal. If the people of these Territories be such as he has described them; if they be, as he says, so utterly destitute of all moral restraint—so entirely reckless of every principle of morality as to require the exercise of the power of this Government, which he invokes for their protection—they are totally unfit to become the associates of a free people, and to participate in the birthright of the American people, as citizens of a *State* of this Union. I desire to be understood, sir, I do not endorse the statement of the Senator from Tennessee as to the character of the people.

Mr. BELL. The Senator from Georgia is doing me great injustice. I stated, I think, twice in the course of my remarks, that a large portion of the population were careful, prudent men in their habits, and accustomed to the enjoyment of the privileges of a free Government; and if we allowed them to form a State constitution to-day, they would do it; but that eighteen months hence the country could be overrun with hordes of reckless adventurers, rendering it almost a moral impossibility that a constitution could be formed and maintained.

Mr. BERRIEN. I had not the slightest wish to do injustice to the honorable Senator from Tennessee. He did indeed say that a large portion of the population of that country was such as he has now described, but he said also that another large portion were of so opposite a character, so entirely reckless of moral restraint, as to require the interposition of this Government for the protection of the quiet and well-disposed. I repeat, sir, this argument is suicidal. If such be the character of a large portion of the people of these territories; if they are so utterly reckless and lawless, I appeal to the Senate, I appeal to the American people, are we or will they be willing to share their and our birthright with men of such character as the Senator has described, by admitting them into this Union as one of the States of this Confederacy? I agree, sir, that all the power which can be legitimately exerted ought to be exercised to restrain such people. But I inquire, will not a territorial government established by Congress as completely effect his object—as effectually restrain a people disposed to be lawless, as if they were admitted as a State into the Union, and thus left to their own guidance, and absolved from our superintendence? The argument of the honorable Senator is perfect to show the propriety of establishing a territorial government over this territory, in conformity with the established usages of Government, and with the constitutional power of Congress; but it falls far short of proving that it is proper at this time to admit these people as a State of this Union. On the contrary, it serves to demonstrate the impropriety of such admission to the precise extent to which it shows the absence of moral restraint among a large portion of that people, and the propriety of keeping them in a state of pupilage until they shall be better qualified to enjoy the privileges of American citizens and to become members of this Union.

I am told that we were at war when this treaty was negotiated; that northern Senators warned us that if these territories were acquired, the Wilmot proviso, the inhibition of slavery within their limits, would be enforced. The Senator from Tennessee, therefore, advises us at once to admit these people as a State; to incorporate them into this Union, to allow them to become our brethren; aye, sir, that we of the South, cowering under the apprehensions which the honorable Senator would excite in our bosoms, should tamely submit to the wanton aggression which, if we do not acquiesce in this amendment, he supposes will be offered to the people of the South. Mr. President, I do not know what are the feelings of any other man in this Chamber upon this subject. I have communed with no Senator in respect to it; I speak for myself only when I say, that if that disposition exists among the people to whom it is ascribed, I desire that it should be manifested on the instant. If I had no other motive for preferring a territorial government over that of a State—if I did not think these people in their present condition, as that is described by the Senator from Tennessee, were utterly unfitted to constitute one of the States—the menace, the intimation of a determination on the

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* The revised speech of Mr. BELL was not received from him in time to be inserted in its appropriate place; but when furnished it will be published, and may be found on reference to the Index. For the previous proceedings, and the various amendments and other propositions made pending the consideration of this subject, see the CONGRESSIONAL GLOBE.

part of gentlemen advocating these free-soil doctrines that they will consent to no government which does not establish this provision in despite of their declaration to us, so often repeated and so strenuously urged, that slavery can never be introduced into these Territories—that it is forbidden alike by the climate and by the laws in force there: thus clearly manifesting that such a provision would be enacted simply to exert what, in relation to these Territories, according to their own declarations, would be an exercise of power at once wanton and nugatory, for the mere purpose of aggression upon the constitutional equality of the South, and of violating the feelings of every southern man in this Chamber—of every true southern man in this Union—if, I say, there were no other motive for requiring, so far as my vote could accomplish it, that this amendment should be put down, and a territorial bill, or some amendment equivalent to it inserted, that motive alone with me would be sufficient. If such a feeling exists on the part of northern Senators I would be glad to know it. If such a crisis must come, let it come, and come quickly. Let the determination be manifested by a vote to withhold a territorial government from the people whose condition is thus represented as requiring the interposition of this Government for their protection against their lawless associates—let the determination be announced to withhold from these people the benefits of any government, unless those who unite with us in forming it are permitted to insert a provision which they themselves admit to be nugatory and valueless, and which can, therefore, as I have already said, only be inserted for the purpose of trampling on the constitutional equality of the South, and violating the feelings of every southern man. Sir, I do not believe it. Notwithstanding the suggestions of the Senator from Tennessee—notwithstanding the declarations which have been made in the warmth of debate, and in the private conversations to which he refers—I have more confidence in the honor, and integrity, and patriotism of northern Senators and Representatives—aye, sir, and in the like feeling of the people whom they represent, than to believe that, for the purpose of doing an act which is merely nugatory, aggressive, and insulting, they would leave the people of these Territories for years without the restraint and protection of a government which they have it in their power to establish. But, sir, I repeat, if that is to be the result, the more promptly it can be exhibited, in my judgment, the better. The American people are, in all probability, as prudent and patriotic now as they will be hereafter.

I rose, however, principally for the purpose of relieving the report of the Judiciary Committee, as far as I may be able to do it, from the special assault which has been made upon it by the Senator from Tennessee. I will not venture to say to the honorable Senator that he has not seriously considered what he has uttered; I suppose he has deliberately examined the question; but I say, in behalf of the Judiciary Committee, that they also have carefully considered it, and if they have erred in the propositions which they have stated, or in the deductions which they have drawn, it is because of the infirmity of their nature and their inability to comprehend the subject referred to them, not from want of care or attention. The Judiciary Committee have asserted the proposition that Congress possesses no power to create a State. They have examined the question first with reference to the Constitution, and secondly to the interpretation which has been given to its provisions in the usage of the Government.

The proposition of the Senator from Tennessee is, on the other hand, that Congress alone, and no other power, has authority to create a State.

Mr. BELL, (in his seat.) Of this Union.

Mr. BERRIEN. That is a limitation of the proposition. Be it so. Certainly nobody but Congress can admit a State into this Union; and, so far, the sole power to create a State may be said to belong to Congress. But the argument of the honorable Senator for the power of Congress went further, and applied to the condition of a people who, before their admission into the Union, claimed to constitute a State. Now, there are two propositions of the Senator which I wish to consider. First, nobody but Congress can create a State. He asks, "What is a State?" Well, I suppose that till a better definition can be given, we must adopt the one which has been considered appropriate, which has been adopted in former times, and has been generally received. A State has been defined to be a political community—a body of men organized for the purpose of civil government. Those who have been disposed to refine on the subject, have used it in contradistinction to a monarchy or despotism. But a State, considered as a political organization for the purposes of civil government, is the definition which I submit to the honorable Senator and to the Senate. The proposition is, that nobody but Congress can create a State. Now, sir, in considering this, look first to the Constitution. I presume that I misunderstood the honorable Senator, or that it was a mere *lapsus linguæ*, when he said that Congress could do anything not prohibited by the Constitution.

Mr. BELL, (in his seat.) It was not so.

Mr. BERRIEN. Very well. Then I understand the proposition to be that Congress may do whatever is not prohibited by the Constitution. I thought at the moment that it was a misapprehension of terms, but the Senator acquiesces in my understanding of it. And now, sir, allow me to ask, what is this legislative power of Congress? It does not require a large discussion. If we look to the Constitution we find it declared that all legislative power therein granted shall be vested in the Congress of the United States. There is, then, no power conferred upon the Congress of the United States which is not expressly granted, or necessarily incidental to some granted power. Well, I look into the Constitution for the purpose of ascertaining the power which Congress possesses in relation to creating States, and I find there a power to admit new States.

The subject of States to be admitted into the Union was therefore present to the mind of the members of the Convention who formed the Constitution. I look again, and I find a power given to Congress to make rules and regulations for the government of Territories. There is, then, a power to *admit States* and to *govern Territories*, but the power to *create a State* is not found in the Constitution. The transition of a people from the condition of a Territory to that of a State is *casus omissus* in the Constitution. If it be true—and who will deny it—that Congress possesses no powers but those which are expressly granted, or necessarily incident to some granted power, this reference would seem to exclude the idea that they are invested with power to create a State. With reference to the intermediate period between the condition of a Territory and that of a State, all provision is omitted in the Constitution, and, as I apprehend, purposely omitted; for the Convention had in mind the condition of the Territories when they provided the clause which relates to the government of Territories. And they had in mind the subject of States to be admitted into the Union when they gave to Congress the power to admit new States.

But I put the question, since it is obvious that this whole subject was considered by the Convention—since they gave to Congress the power to make rules and regulations for the government of the territories, and authorized them to admit new States, would they have overlooked the condition of the people of a territory, in their transition state from their territorial condition to that of a State, if they had intended to invest Congress with power over that subject, the power to create a State? No, sir. It was omitted, and purposely omitted, in obedience to those great and broad principles by which that Convention was actuated—to the principle of popular sovereignty which belongs to every free people, which requires that those who are to constitute the State are alone competent to organize it. Sir, this interpretation of the Constitution has been verified by the uniform usage of this Government from the very time of its foundation to the present moment. And the exceptions which have been dwelt upon with so much earnestness by the Senator from Tennessee will be found, on a very cursory examination, to have no analogy to the question which we are considering. The proposition stated in the report of the Judiciary Committee is, that the States which have been admitted into the Union are of two classes: States formed out of portions of the States already existing, or States formed out of territories ceded by other States to the Union, or from territories acquired by the Union from foreign Governments.

Now, in relation to the first class, it is stated in the report that Congress have admitted new States formed out of other States, without subjecting them to the condition of pupilage which they require in other cases. But, in relation to States formed out of territories ceded by other States, or by foreign Governments, they have been uniformly subjected to a state of pupilage, of territorial government, before they have been admitted as States. The Senator from Tennessee supposes that the case of Kentucky offers an exception, and furnishes a proof of his proposition that Congress has power to create a State. Will the Senator for a moment consider how total is the want of analogy between that case and the one we are now considering—how entirely different these cases are? The power of Congress in that case was exercised under a clause of the Constitution which declares that no State shall be formed out of any other State without the consent of that State. The people of the district of Kentucky desired to form a separate State. They applied to the Legislature of Virginia, of which State they constituted a part, for an act authorizing them to form an independent State government. This application was prolonged during several years, from difficulties which existed between the Legislature of Virginia and the people of Kentucky as to the terms on which this consent should be given. But when they had surmounted these difficulties, then they made application to Congress for their admission into the Union as a State. Well, did the Legislature of Virginia create that State? Did the Congress of the United States create it? No, sir; Virginia gave her consent first that the people of the district of Kentucky should form a State, because the territory was a part of that State, and Congress then provided for their admission into the Union, because they had complied with the provision of the Constitution by obtaining the consent of the State of which they formed a part. But, in reference to both, it was a mere consent that that should be done which was done, in the exercise of the right of popular sovereignty, by the people of the district of Kentucky, in forming their own constitution, and thereby constituting themselves a State. And that they did, in form and in fact, before they were admitted into the Union. The act of Congress was prospective. It provided for the admission of Kentucky as a State in June, 1792, and in April of that year they formed their constitution, and became a State. In November following President Washington announced to Congress that a copy of their constitution had been transmitted to him. I repeat, then, that there never has been an unorganized body of men admitted by the Congress of the United States as a State of this Union.

But there is another proposition of the Senator which may require a moment's examination. It is, that Congress has a controlling power over the people of the territories; that they cannot form a constitution without the consent of Congress, unless it be in the exercise of what the Senator denominates the right of revolution. Now, sir, if he will do me the favor to revise the report of the committee, he will find nothing which conflicts with the proposition which he thus states. The report traces the course of the Government on this subject. It states that Congress, in the exercise of the power conferred by the Constitution, gives its consent to the people of a territory to form a constitution, which constitutes them a State; but whether, in the absence of such a consent, it would be competent for them to form a constitution and organize themselves into a State, is a question which is neither affirmed nor denied in the report.

But the question here is, whether the State that is formed by the people of a territory, with the consent of Congress, is created by the people or by Congress? And when that question is examined by the Senator from Tennessee, I think he will find it cannot admit of a doubt. Congress does not form a constitution and government for the new State. It authorizes the people of the territory to do this. If the power was in Congress, why do they not exercise it? If Congress possessed the power of creating a State, why do they depute the power to another, and not exercise it themselves? Could they exercise it? Could they form

a constitution for the new State, and compel the people of the territory to accept it, and become a State? Sir, it was under the conviction of a total want of power—in obedience to that principle of free governments that it belongs to the people who are to form the State, to frame the constitution which is to regulate the action of that State.

Mr. President, the honorable Senator, in the progress of his argument, proposed this question: Can a State, formed out of one of the Territories of this Union, be recognized as a State until it is admitted into this Union? In other words, does it become a State till it is so admitted? He denies that such a State has any constitutional existence until delegates are received on the floor of the Congress of the United States. Well, sir, except inferentially, there is nothing in the report of the committee to affirm or deny this. Yet I have no hesitation to commit myself to the distinct affirmance of that proposition.

Suppose that Congress refuses to admit such State, are the people without government? Can Congress reduce them to their territorial condition? Will Senators advert to the condition of Missouri? The people of that Territory, with the assent of Congress, framed a constitution in the year 1819, and thus became a State. In 1820 they applied for admission into the Union. The same unhappy question then agitated the councils of the Confederacy which disturbs us now, to avoid which we are to violate all parliamentary usage, and to transcend the limits of our constitutional power. Will Senators recollect the condition of Missouri when that measure was adopted which was called the Missouri compromise? Sir, Missouri had a State constitution, a legislature, and officers of her government at that time. She was a State then, and whether she might or might not be a State of this Union depended upon Congress. But she was a State, armed with all the powers which belong to a State. If Congress imposed terms to which she was unwilling to submit, she might, as a sovereign State, though not as a State of this Union, stand aloof, and Congress had no power to reduce her to her territorial condition. When I speak of a want of power, I speak of a power which would have been sustained by the moral force of public opinion. It was the conviction of this, more than the influence of any individual which induced Congress to adopt that compromise. The Senator has heard it suggested that action in relation to these territories is to be delayed, awaiting the aid of the same distinguished individual. Sir, I have heard no such suggestion. I speak for myself, and believe that I may do so for those around me. I am here to discharge my own duty, and I invoke no other aid than that which I trust every other Senator will feel disposed to ask.

Well, sir, the people of a territory cannot form a constitution without the consent of Congress. I am willing to concede this for the sake of argument. But what then? Does the power to consent that the people of a territory shall exercise that right necessarily include the power of Congress to exercise this right? Could Congress have formed a constitution for Missouri, and have compelled her to come into the Union on the terms they had prescribed, or did she not become a State by force of the constitution formed by her own people? What, then, becomes of the argument of the Senator from Tennessee? Sir, the power to create a State is with the people themselves, who are to constitute it. There must be people, I agree; there must be a population greater or less—as, even in this age of progress, we have not yet become a nation of aeronauts, they must have territory; but the power is with the people, whether it be exercised by the consent of Congress or as a revolutionary right. The consent of Congress that the people may form a State is not the creation of such a State by Congress, any more than the forming of the State Government adopted by the people of Kentucky, with the consent of Virginia, was the forming of that State by Virginia. The convention of the people of Kentucky in April, 1792, framed their constitution, and if the Senator will take the pains to examine the State papers to be found in an adjacent room of the Capitol, he will find, as I have before said, that General Washington announced the fact to the next Congress.

The Senator still insists that a State cannot have existence until her delegates are received in Congress. She is, then, in a condition of suspended animation until this event occurs to resuscitate her. But in this state of things, how, I ask, could she have delegates here? By whom were they to be chosen? Under what authority? Were they to be elected in conformity to the constitution and laws of a State which had no existence? Were not these laws and the existence of the State recognized by the very act of receiving the delegates elected under their authority to represent that State? Or does the Senator mean to contend that the appearance of the delegates gave, retroactively, vitality to the State which sent them?

Mr. President, I do not desire to occupy the time of the Senate on this subject, but I do desire, most anxiously desire, that the principles which I deem essential to the rights of the States of this Union should not be misunderstood. I do desire, if it be the last act of my life, to contribute, as far as may be in my power, to the correct apprehension of them. I should regret to believe that the people of the several States of this Union could be led to suppose that such power as is claimed for Congress on this occasion does in fact belong to them, or that we are disposed to depart from the uniform understanding of our predecessors in the interpretation of the power which the Senator desires us to exercise, that it was to be enlarged into a constructive power to *create* the *States* of this Union, and that in this age of progress, when it is perhaps impossible to limit the extent of territory which may be acquired by this Government, that Congress would assume the power which it is proposed now to exercise. Such a doctrine is fatal to the rights of the States, and the preservation of their rights is essential to the permanence of the Union.

The Senator maintains another proposition, or rather he illustrates his principle by an argument of this sort: that a State is not a State until it is admitted into this Union.

Mr. BELL, (in his seat, in a low tone of voice.) I said that no State can exist in any territory of this Union unless it be created by Congress, until it is admitted into the Union.

Mr. BERRIEN. I will state the proposition in the Senator's own words. No State can exist in any territory of this Union, unless it be created by Congress, until it is admitted into the Union.

Mr. BELL, (in his seat.) Unless we relinquish our sovereignty over it.

Mr. BERRIEN. With this limitation, I think the argument of the honorable Senator is yielded. The sanction which is given to the people of a territory to form a constitution and State government is the relinquishment of our sovereignty *quoad hoc;* it is the relinquishment of the very sovereign power which the Senator from Tennessee claims. When, then, the Congress of the United States have given their consent to the people of a territory to form a constitution and State government, they become a State. No, says the Senator, not until they are admitted into the Union, because Congress exercises sovereign power within their territory, and a State cannot be a State when any foreign power can exercise sovereign power within its limits. Sir, that is a total annihilation of every State of this Union. According to that doctrine, we have no longer a State in the Union, because there is not one sovereign State of this Union within the limits of which the General Government may not exercise sovereign power. The power of taxation, I apprehend, is a sovereign power. The General Government may exercise those powers within the limits of the sovereign States, and, therefore, *quoderat demonstrandum*, we cease to be States. Surely this argument will not commend itself to the deliberate reflection of the Senator himself.

The true state of this fact, as I apprehend it, is this: The Constitution of the United States has enabled the Congress of the United States to make rules and regulations for the Government of the territories belonging to the United States. Under that clause of the Constitution they exercise the power to prescribe a territorial government, and while that people remain under their territorial government, their power is *functus officio*, except as to the supervisory power which they (Congress) retain of controlling the legislation of that territory as a subordinate legislature. But, when Congress shall have parted with their sovereignty—in the language of the Senator from Tennessee, when they shall have consented that the people of that State, or of that territory, in the exercise of their privileges as freemen, shall form a constitution and State government, then is called into exercise, and not before, the power which is conferred by the Constitution upon Congress to admit that State into the Union, the intermediate power having been exercised by the popular sovereignty itself, by the consent of Congress, if that consent has been given, or if not, in the exercise of a revolutionary right.

Sir, the history of the Government from the beginning will show this. By the resolutions of 1784, with regard to territories which we then had within our limits, it was provided that when they should obtain the number of twenty thousand inhabitants, they should be allowed to form a Territorial Government under the direction of the Confederacy, and when they acquired as many inhabitants as the smallest State in the Confederacy, then they should be admitted into the Confederacy. These resolutions of 1784 were repealed in 1785, and then the provision was that Congress would exercise this power and establish territorial governments when they should have acquired a certain number of inhabitants; and when they should have obtained sixty thousand free white inhabitants that they would be authorized, upon application to Congress, to establish a State government. That was stipulated in the compact with Virginia; and Virginia, by their compact, waived all right of sovereignty over those territories which it granted to the Confederacy upon this specified condition, among others. Such has been the course pursued since, in regard to the Territories of the Union. Congress has, in the first instance, established a territorial government, and when the people have acquired sufficient numbers to entitle them to admission into the Union as a State, they have applied to Congress, its consent has been given, the people have been admitted to their natural rights as freemen, and, in the exercise of these, they have established a constitution, and have formed and created a State. All that Congress has subsequently done has been to admit that State into the Union.

The question was then taken on Mr. BELL's amendment to the amendment, as modified, and decided in the negative—yeas 4, nays 39.

[For the amendments, yeas and nays, and other proceedings, see Congressional Globe, pp. 573–4, etc.]

IN SENATE, *February* 23, 1849.

The Senate, as in Committee of the Whole, having under consideration the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1850, and the question pending being upon the following amendment, submitted by Mr. WALKER and modified by Mr. FOOTE:

"SEC. —. *And be it further enacted*, That the Constitution of the United States and all and singular the several acts of Congress respecting the registering, recording, enrolling, or licensing ships or vessels, and the entry and clearance thereof, and the foreign and coasting trade and fisheries, and all the acts respecting the imposing and collecting of duties on imports, and all acts respecting trade and intercourse with the Indian tribes, and all acts respecting the public lands, or the survey or sale thereof, and all and singular the other acts of Congress of a public and general character, and the provisions whereof are suitable and proper to be applied to the territory west of the Rio del Norte, acquired from Mexico by the treaty of the second day of February, eighteen hundred and forty-eight, be, and the same are hereby, extended over and given full force and efficacy in all said territory; and the President of the United States be, and he is hereby, authorized to prescribe and establish all proper and needful rules and regulations (in conformity with the Constitution of the United States) for the enforcement of said laws in said territory, and for the preservation of order and tranquillity, and the establishment of justice therein, and from time to time to modify or change the said rules and regulations in such manner as may seem to him discreet and proper, and may prescribe and establish, temporarily, such divisions, districts, ports, offices, and arrangements proper for the execution of said laws, and appoint and commission such officers as may be necessary to administer such laws in said territory, for such term or terms as he may prescribe, whose authority shall continue until otherwise provided by Congress; said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States, or its Territories, for like services; and, to enable the same to be done, the sum of two hundred thousand dollars be appropriated, out of any money in the treasury not otherwise appropriated"—

Mr. DAYTON said: Mr. President, I now propose to carry into effect the proposition indicated at the close of the debate on Wednesday last,

which is, to amend the amendment proposed by the honorable Senator from Wisconsin by the amendment which I yesterday sent to the chair, and which is now on the table. That amendment, sir, consists in nothing but the statute which gave a temporary government to Florida and Louisiana, with an appropriation to carry it into effect. It provides—

"That until the end of the first session of the next Congress, unless other provision for the government of the territories recently acquired from Mexico, under the late treaty with that Government, (dated second February, eighteen hundred and forty-eight,) be sooner made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing government of the same territories shall be vested in such person or persons, and shall be exercised in such manner, as the President of the United States shall direct, for the maintaining the inhabitants of said territories in the free enjoyment of their liberty, property, and religion; and the laws of the United States, relating to the revenue and its collection, shall be extended to said territories. And the President of the United States shall be, and he is hereby, authorized, within the term aforesaid, to establish such districts for the collection of the revenue, and during the recess of Congress appoint such officers, whose commissions shall expire at the end of the next session of Congress, to enforce the said laws, as to him shall seem expedient; said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States, or its territories, for like service; and to enable the same to be done, the sum of two hundred thousand dollars be appropriated, out of any money in the treasury not otherwise appropriated."

I said, Mr. President, when this matter was up on Wednesday last, that the proposition of the Senator from Wisconsin embodied, to some extent at least, my views of what ought to be done during this session of Congress; but my impression, from a hasty reading of that proposition, then was, that it would be better to adhere to the precedents fixed by past legislation; and a more careful examination of the amendment has satisfied me of the correctness of this conclusion. I am willing, for one, to give to the territory of California a government—either a temporary one, such as was given to Florida and Louisiana, or the ordinary form of territorial government. But it seems to me that we cannot overlook the fact, that under existing circumstances, it is scarcely probable that any territorial bill will pass during this session. I may be pardoned for saying, that if such a bill pass the House, it will pass with peculiar provisions in reference to the subject of slavery; and such a bill, with such provisions, will scarcely pass this body; and should it pass this body, I refer only to public acts and public declarations of the President, when I say that, ultimately, it cannot become a law. The question is, therefore, whether we will give to California a temporary government or no government? For one, I repeat again, I am disposed to provide for this country a government of the same character as was provided for Florida and Louisiana; and I prefer that it should be created under the operation of my amendment rather than that it should be raised under the operation of that proposed by the Senator from Wisconsin. I suspect that there is something more in that amendment than met the eye or attracted the attention of the Senator from Wisconsin. The proposition of the Senator is, in the first place, objectionable, because it is novel in form, and in some respects untried in substance. In the next place, it is objectionable, because it assumes in this indirect way to settle the question of boundary between New Mexico and Texas. It limits this species of territorial government to a country which lies west of the Rio Grande, leaving that on the east under the government of Texas, or none at all. In the third place, and more especially is it objectionable, because it *assumes* to extend, by present enactments, the Constitution of the United States over the territories of California and New Mexico.

Now, sir, in the first place, this is objectionable because of its changing, in the view and according to the doctrine of the South, the present condition of things in reference to the question of carrying slaves into these territories. It has been held by established judicial authority that the Constitution of the United States, *proprio vigore*, does not extend to or reach the territories at all. You are about, then, by a legislative enactment, to extend the Constitution to a country over which the Constitution does not and cannot extend until you admit it as a State. If the Constitution does not by its own inherent power extend to the territories, as the Supreme Court of the United States have held, no act of legislation can carry it there. But if you do extend its operation by legislative enactment, then you alter, if the southern view of the Constitution be right, (in which I do not concur,) the position of certain great interests in this country. Our friends of the South say, that under the operation of the Constitution, they have a right to take slaves wherever that Constitution reaches. It does not now reach, according to judicial decisions, to California. You seek by special act on this amendment to make the Constitution overreach California and New Mexico, and thus give to the South, according to their view, a privilege which they would not otherwise have. In the first place, I say that you cannot, by legislative enactment, extend the Constitution; and, if you did, it would not be right, under existing circumstances, upon pretence merely of giving a temporary government to California, to change the relative position in which parties stand in reference to this slave question. Now, in forming this temporary government for California, we of the free States ask no advantage, and are disposed to yield no advantage. We are willing to govern the country, to shelter the people from disorder and anarchy, but leave the law and other matters to remain as they are.

In lieu of this provision, suggested by the Senator from Wisconsin, I offer to our southern friends, to the country, that species of temporary government which has been yielded by the North to the South—to the slave territories of Florida and Louisiana. And I ask our southern friends now whether they will not be willing to adopt for a free country the same species of government which we cheerfully extended to Florida, a slave country?

When I intimated my purpose to offer this section in lieu of that proposed by the Senator from Wisconsin, I was not aware that the honorable Senator from Massachusetts was disposed to offer any new proposition. That proposition does not differ materially from the one which I have presented, except in one of its phases. It does not extend the revenue laws over the country, which it seems to me is absolutely essential. I have, in offering this proposition to establish a temporary government there, stricken out the clause which prevents the importation of free people of color. I have done this simply for the purpose of relieving the sensibilities and gratifying the feelings of our southern friends. That clause in the Florida act extends only to the foreign slave trade, and that is now prohibited—it is piracy by law. At all events it is useless, and I have therefore cheerfully erased it from the proposition. I prefer this proposition, because it is a tried precedent in two cases, and has been found to answer the purpose.

Now, permit me to call the attention of the Senate to the operation of this act in time past. In the case of Florida, that country was acquired by treaty of the 22d of February, 1819. Some difficulty arose about the ratification of the treaty, which was signed here by Don Onis, the Spanish Minister, and Mr. Adams. It was supposed that it would be ratified in Spain immediately, and under that pursuasion an act was passed similar to that which I now offer, on the 3d of March, 1819. There was some difficulty about the ratification of that treaty in Spain, which delayed the matter, and another act was subsequently passed March 3, 1821. Both of these acts were substantially the same as the one which I offer. Under this act that country was governed until March 30, 1822. So, too, the same was true in relation to the government of Louisiana. That State was likewise acquired by treaty, and she was provided with a temporary government under a law somewhat analogous, and was governed for one year. There is no difficulty in reference to these laws—they are established precedents—having been acted on in time past. I ask the Senate, with all respect, why, when we are about to provide for a new country, acquired from a foreign power, why we are to depart from established precedents, (precedents which have served our purpose in time past,) and hazard State governments or any other kind of government?

Under this law for a temporary government, you can govern California, and keep it in order too. It is the very kind of government which you will want in California now, and for a year or two to come. That country will need a government where the arm of the Executive is strong. You have been told, by the Senator from Tennessee, that in the course of a year the good will be overrun by the bad; that you will have there literally the offscourings of the earth and the sweepings of the sea; that every tribe, and kindred, and tongue will be there. You will want a government strong enough and powerful enough to keep this incongruous material in order. I know well the species of power which Jackson exercised under this Florida law, and you will need something of this kind for the people of California. Give such a power, and this country will be governed better than the country could govern itself for two or three years to come. We need such a law, and the power which such a law gives for the exigency.

And, sir, if the hour is approaching when a strong government is needed there, thank God the man is approaching too who will not fear to exercise it if called for. The hour and the man are just at hand! The present Governor, too, General Persifer Smith, is a statesman as well as a soldier. Give us the power, and we will give you law and order in California more effectually than California will provide law and order for itself. I know that under this act, provided for the temporary government of Florida, General Jackson did strain his power to its utmost tension—he took such a course as to alarm prudent thinking men in reference to such laws. He usurped—not usurped, because it was allowed afterwards by Congress to be rightly done—he took to himself all the powers of government—executive, legislative, and judicial. Under the commission given him by President Monroe and the act of Congress, he took all the powers of the Captain General, Intendant and Governor of the Island of Cuba. When he came to justify his highhanded power, he showed that, under the commission which he held and this law, he was authorized to exercise all such powers. It was shown that this officer, the Captain General of Cuba, had a species of absolute power over the whole of Florida. He reigned there as a despot, centering in himself the right to legislate, to construe, and to execute. It was, therefore, under this law that General Jackson was able to justify himself for the course that he took in Florida. But let it be remembered, that there is no such law, no such captain-general possessing these extraordinary powers in California. The man who rules there must regulate himself by the laws existing there. There is no danger that the incoming President, or the Governor, General Smith, a statesman and soldier, (as before said,) would exercise under this act any undue or high-handed Executive power.

Mr. President, if this clause pass, incorporated in this appropriation bill, (I confess it is a species of incongruence which I do not like—a departure from that strict propriety and parliamentary precedent which ought to govern us here)—but if it pass, I say, either in this appropriation bill or out of the appropriation bill, there will be no law for a *State* government in California at this session; and that is one strong reason, to my mind, for its favorable consideration. I hold, Mr. President, that there is no sufficient reason for the establishment of a State government there now, while there is much to condemn it. The Senate will bear with me in the few remarks which I offer on this point, because the subject has been largely spoken of here and elsewhere. The reasons assigned for the formation of a State government are not commensurate with the object. I speak with all respect for my southern friends and for southern legislators, and all who are interested. In my humble judgment, there is little difficulty in reference to the subject of slavery to grow ultimately out of California, if that question be left open for the future, though I would willingly settle it now, if it could rightly be done. The vast influx of free population does not permit it to be a question, if it ever were so, whether the territory shall continue free. I hold that there will be no nullification, now or hereafter, to be apprehended on any such grounds as the want of ability to carry slaves to California. If such an evil come, my word for it, it will be in consequence of some great practical wrong done by one section of the Confederacy to another. I cannot, therefore, seriously lay to heart those solemn warnings, or even those State resolutions which have been laid on our table.

My deep confidence in the attachment of the South to the Union will not permit me to believe that, on a question involving no practical wrong, she would ever dissolve the Union if she could.

Mr. BUTLER. I should like to understand the nature of the position taken by the Senator from New Jersey before he proceeds further. Do I understand the Senator to maintain that he objects to the extension of the Constitution of the United States over California, because it would give southern slaveholders the benefit of its protection?

Mr. DAYTON. I wish the Senator from South Carolina had propounded that inquiry while I was speaking upon that branch of the subject. I observed that there was in this bill an *indirect* way of changing the relative position of parties, according, at least, to the southern view of the Constitution. While I am willing to provide for the government of that country, and to do everything to suppress anarchy and disorder, I am yet unwilling to do any act which, even indirectly, can change the position of parties, according to the view of anybody, in reference to this subject. I was arguing that part of the question upon the southern view of their rights under the Constitution. I concur myself in no such view. I have already stated, that I do not believe that under the Constitution, even if it extended there, with the laws of that country as they now exist, the South have a right to take slaves there. I say it would better the position of the South, according to their view of the powers granted by the Constitution. I am not disposed to alter or strengthen, in the view of any section of the country, the rights of the South by our acts on this bill. My other point on that subject was: you cannot, you have not the constitutional power to make the Constitution reach, by a legislative act, one inch further than it does reach "*proprio vigore.*" The Constitution authorizes the admission of new States, and in that way only can you extend the Constitution where it does not otherwise reach. But, as I before said, I had passed from that branch of the subject; and I am now speaking of the probabilities of difficulty growing out of the slave question, if we do not now provide a State government in California. I cannot, in my heart, anticipate any such serious future difficulty from this question of slavery in California. I cannot believe that our southern friends, upon any question which is not practical—which does not do them a practical wrong—will willingly interfere with the relations which at present exist between the several members of this Confederacy. If they do, sir, permit me, with all respect, to ask them how are they to resist this thing? Let us look at the question practically, and see how difficulty is to grow out of the extension of this clause providing against the admission of slavery into California, supposing that in future it should be done. Congress will not pretend to extend the proviso to South Carolina or Virginia, or any other of the slave States; nothing of the kind. How, then, let me ask, is Virginia or South Carolina to resist the extension of this clause to California, if Congress shall so order? Let us see how it will operate. A southern planter goes to California, and he takes his slaves along with him, an indefinite number. Having got into that country, some individual—not "moved and seduced by the instigation of the d——l," nor even the spirit of abolition, but by some abstract notion of human rights—thinks proper (the laws of Congress having control in that Territory) to have a *habeas corpus* issued, and a slave brought before a judge; who, upon reference to the law, discharges the slave. What then will the planter do? Will he stand to his arms? declaring that he will not yield—that he will resist—"come one, come all." He might perform wonders; but the odds would be something against him! If there should be a dozen of these planters—well skilled in the manual—adepts in the drill—I very much fear they would be in no better condition. The odds would be fearfully against them. The result would be that he or they would have to fall back on the "corps of reserve," the States at home. Suppose this should be the case, what would our southern friends do? You do not mean to raise an army and march to California, for the purpose of protecting in the stand he has taken this man, who has expatriated himself from his own State, and of his own accord taken this hazardous species of property, at his own risk, along with him. The utmost you can do is to pass resolutions nullifying the law, which could have no effect in California. In 1832, when we extended our revenue laws to South Carolina, she closed her ports and nullified the law, declaring that revenue should not be collected within her borders. There you had a practical means of nullification; but it did not amount to much even then. But with reference to the enforcement of this law in California, how will Virginia or South Carolina act if it should be so enforced? They pass resolutions, and what will their passage amount to? Nothing, nothing at all. Will you, for this, withdraw—secede from the Union? No; but if you should, would you gain your object? Would you nullify the law? No; you would retire chagrined, like Achilles to his tent; but ere long, habit, unseen troubles, self-interest, aye and a better feeling, will knock at the door of your mighty heart and, like Achilles, you will again come out to the batte. Secession for such a cause will never last—it will never begin.

But we are told that we are wounding the South, the sensibilities of our southern friends. God forbid it should be so! No purpose, no design of that kind actuates us. We are told the purpose is to degrade, socially and politically, the southern States and southern people. God forbid, again, it should be so! Social degradation! Why, knowing what we know, and feeling what we feel, this seems strange to northern ears. Sir, the very name of a southern gentleman is literally a passport—it gives the entrée to the social circles of the North, anywhere and everywhere. What southern gentleman, while associating with northern friends, ever felt his position in society affected from the fact that he was connected with the southern institution of slavery? And, with regard to the charge of wishing politically to degrade you—to reduce you from a state of equality to a state or condition of subordination—sir, look, I beseech you, at the past history of this Government, from its foundation to the present hour, and forward at least eight years to come, and see whether the South has suffered political degradation. Twelve out of sixty years is the whole period of time that we of the North have held the governmental supremacy of this country. While the votes of the country, the mass of property, the people of the country have been greatest in the North and West, the supremacy, the honors of the country have uniformly gone to the South. Political degradation, political inequality! Why, look again at the past! Since the adoption of the Constitution you have extended your area, your relative influence, vastly beyond anything that has been done for the North; and this is a vital point. It refers not to mere incidental matters, such as the catching of a runaway negro, but to points touching the relative strength—the vital power of the two sections of the Confederacy. No man who looks over the past history of the country, and sees what has been, what is, and what is yet to be in the way of southern supremacy, should undertake to talk about southern subordination; of an intent upon our part to reduce the South from its state of perfect equality. If any such attempt should be made, resist it; resist it to the death; and, so help me God, you will find freemen at the North ready at least to sympathize with you in your effort. But first be sure, be very sure of *your facts!* We do not complain that you have had the advantage of us from the very organization of the Government; but when you look over our past history, we beseech, we implore you, in view of your advantages, not to charge us with the purpose, the settled intent, to reduce you from equality to subordination. Sir, I repeat again, with the utmost respect, that I have little fear of ultimate difficulty growing out of this negro question in California.

It is no matter of surprise that southern gentlemen on this floor, who are sustaining an institution endeared to them by habit and secured by the Constitution, should be supported enthusiastically by a high-minded constituency. But let this question of secession for the want of power to carry slaves into California become a practical question, a *fact*, to be acted upon and not talked about, I do not believe there is a State, from the Potomac to the Gulf, where the advocates of disunion could sustain themselves on such a question, at a popular election, for a single hour. But if the South or any southern State, could, under the circumstances, and for such a cause, secede; if all the recollections of the past, and all the hopes of the future, for such a cause, should be forgotten, I would almost be tempted to say, but for the Constitution which forbids it, Go, go in peace. But that will not, that cannot, that ought not to be. I repeat again, that I have no fear of nullification arising out of this question, if you leave it open for the future. I say, therefore, Mr. President, I am willing to deal with this country as we have dealt with other countries—give it a temporary government or a territorial government if we can; I prefer either to a State government.

And now, sir, for a few moments, I desire to make some observations in reference to this matter of a State government, much spoken of, and canvassed here and elsewhere. How can you make California a State government? Can Congress *create* a State? Congress *create* a State! Sir, I never thought, until I heard it here a day or two since from the Senator from Tennessee, [Mr. BELL,] that such a proposition could have entered the mind of any human being. His idea is, that Congress can alone create a State; that no State government can be created in our territories, save by revolution, if without the authority of Congress. Now, what does this argument prove? Suppose no State could be created in territories without the leave of Congress, either in advance or by adoption afterwards, save by revolution, what does it prove? It only proves, sir, that we can admit a State into the Union which is a State *de facto* by revolution. When the debates of the Convention were in progress, the section declaring that new States may be admitted was inserted with reference to a future admission of the Canadas, then a dependent province, which of course could only become States by revolution. The only object of the section was to admit a State which might become so by revolution. If we have power to create a State, why do we not do it? Why say to the people of our territories, as we ever have, if you are disposed to create a State we will admit you? It is an act of popular sovereignty, exercise it if you please. Our power is to *admit*, permit you to come, not to force you. If we had this power to create, all we would have to do would be to pass a law and resolve that California was a State, and it would become one. A schoolboy may cut a man out of a bit of paper and say it is a man, but is it a man? Has it the blood, bones, and sinews of a man? You call this territory a State, but is it a State? Has it any of the essential powers or prerequisites of a State? Can it do anything that a State can do? If not, what a farce is it to call it a State?

I would refer to the last example for the true practice—the admission of Texas. Congress said by law she might be erected into a State—might go on and establish a republican form of government, in order that at some future period she might be admitted as a State of the Union; and then, some six months after, when she had complied with the requisitions that you had enacted—after reciting the fact that she had complied, established a republican form of government and had a constitution—she was admitted as a State into the Union.

Mr. DOWNS. Was there any act subsequent to the first for the admission of Texas?

Mr. DAYTON. Certainly; six months after. The first act gives power to Texas to erect itself into a State and establish a republican form of government, "*in order that*" it might be thereafter admitted. And some six months after, upon the production of these papers establishing the fact that she had thus established herself into a State, and had a constitution with a republican form of government, she was admitted. You ought never to admit a State without first inspecting her constitution: if within the letter to do so, it is in my judgment against the spirit and intent of the Federal Constitution.

There are two provisions in the Constitution that bear upon this question—perhaps three. One gives the power to admit a new State; to *permit* it to come in of its own volition, not to drag it in. Another provision is, that the Federal Government shall guaranty to such State a republican form of government; and a third, that this Federal Government has power to interpose in cases of domestic violence, which includes the power to prevent its form of government being overthrown by rev-

olution. It seems to me, therefore, a preliminary proceeding that we inspect the form of government before the State is admitted into the Union. Unless you do so, how can you secure or guaranty to that State a republican form of government? When it has been admitted, it becomes in that respect independent of you. A State thus formed and admitted may discharge all its federal relations, and yet may establish laws for its internal regulation assimilating in character to the limited monarchies or the ancient aristocracies of the Old World. Suppose a State should do so, after you have admitted it as one of the States of the Union, can any man rise up and say, in my judgment it is not a republican form of government? Can any one call upon you to create it anew and shape it into a republican form of government? That is not, was not, the idea. At the time the States severally united themselves under the Constitution, their several forms of government were known. They came in as republican governments, gave power to suppress revolution by violence, and agreed to guaranty to every other State admitted a republican form of government. So that when any other State applies for admission we must look to its form to see if it is within the constitutional principle; if so, it may be admitted.

But, sir, if you admit a State, it is here; it is one of you. Then, I ask, how are you, without any complaint, without any domestic violence in its borders, to interfere and establish a republican form of government? Your only security, I repeat, is to inspect and pronounce before you admit. A State once here is emancipated. A State elsewhere, or while a Territory, is in your power, so far as the terms of admission are concerned.

But, sir, there are other objections to admitting this country as a State, aside from these constitutional or legal difficulties. This matter of admitting a State into the Union is a matter, to a great extent, of *discretion*, and in this case, it is expressly made by the treaty with Mexico matter of discretion. It was so stipulated, it was so agreed. There are a great many questions which may justly affect a man's discretion upon a subject of this kind. For instance, the subject of taxation; taxing the property of non-residents; questions in regard to slavery; a declaration upon the subject of boundaries —out of which many difficulties might arise, (as, by the way, there did between Missouri and Iowa, and we kept Iowa out in the condition of a Territory, as a matter of discretion, until we could settle these very difficulties.) Or, suppose that this vast State should say, "We will never permit another State to be formed within our borders," and make that a point in her organic laws? There are many other things which she might incorporate into her constitution, which would affect our discretion on a question of admission or no admission. I hold, therefore, that it is matter of prudence, as well as matter of law, that we inspect her organic law and form of government before we admit her into partnership. I want to see, and know, and understand, upon what terms she proposes to do business when she becomes one of the partners of our great firm—the American Union.

Again: why should we overstep that system of legislation which we have acted upon heretofore on all and every occasion? First a temporary government; then the lowest grade of territorial government; then the second in degree; then admitting the territory into the Union as a State. Why, I say, are we to overstep this regular and uniform system of legislation? Out of seventeen States which have been admitted into this Union since the adoption of the constitution, this system has been adopted in all of them, with a single exception. All of them, with a single exception, have had their form of government and constitution before they have been admitted. That exception was Kentucky, and that exception, I think, has been fully and clearly explained and met by the Senator from Georgia, [Mr. BERRIEN.] But, if it were a precedent, it is a bad precedent. It is one which the conduct of Government for fifty years has repudiated. It stands alone. In reference to the State of Kentucky, even, the laws of this country were never extended over her. Is that a precedent, too? Who would think now of admitting a foreign State into this Union without extending the laws of the country over it? And yet Kentucky is a precedent for the one as well as for the other.

We cannot *create* a State. We may admit a State when once created. But to admit a State into the Union as a State, which is no State, and which we cannot make a State, is a paradox in principle as well as in expression. If we could admit without first inspecting the constitution, we ought not. There is no sound reason why we should, in this hasty mode, proceed to erect this country into a State. If there be such, what is it?

Mr. President, a few words in reference to the condition of that country, and I will relieve the Senate. In the first place, what is the extent of the population there? I fear very much that we have a little of this California excitement upon us here, and that we are imagining things for California which, in point of fact, do not exist. Now, although the Constitution gives no limit as to the admission of a State in point of population, yet by past practice as to some Territories, and the ordinance of 1787 as to others, they have been admitted when they contain sixty thousand inhabitants. Under our late apportionment act it is necessary, in order to give a single member of Congress, that there should be seventy-one thousand and some hundreds of population. Now, what is the population of California? Does any man pretend that it now approximates to anything like that? I have looked a little into this subject. The population of that country was uncertain before the late rush, and it is still more so now. But Sir George Simpson, who is a reliable traveller and writer, was there as late as 1842, he did not publish his book until 1847, and he says the population of California was then about seven thousand. But, again, by a late Mexican document, prepared with the view of giving the different districts of that Government their share of representatives, and therefore the several districts claiming their population at the highest estimate, it is set down at twenty-one thousand four hundred and twenty-nine. It is very probable that the truth lies between these extremes, and that the population prior to the late rush did not exceed twelve or fifteen thousand. That is the *substratum*, then, on which to base an estimate of the present population. Now, what are the additions? We have been told by the Senator from Tennessee [Mr. BELL] and by others that there is to be a vast influx there in the course of a year; that they are going in by thousands and tens of thousands; that between eleven and twelve thousand are now on their way thither. I thought I knew where that last statement came from, and although it seemed to be sustained the other day by several gentlemen around the speaker, I doubted it. I have cut the statement from the paper containing it; here it is. It commences: "Before reported in eighty vessels, three thousand four hundred and seventy-five." "Crews, one thousand and one." This estimate goes back, in point of fact, to the commencement of this gold fever, this California excitement, and it brings in one aggregate all who have embarked for that country from that date up to the present time. It then goes on to give the names of a large number of vessels, with their several ports of departure, and the names of the passengers, and the number of the crews, and it sums them all up, passengers and crews, officers and men, and takes it for granted that they are all going to run away to the gold mines as soon as they set foot in California, and stay there. That is the mode by which they have managed to make it appear that there are eleven thousand and odd persons now on their way from this country by sea to California. I suppose that between eight and nine thousand is the utmost extent of persons, both in time past and present, bound for California from this country by sea.

Recollecting now the *substratum* of the population of that country, some twelve or fifteen thousand at the most, what amount of shipping, at the rate they now carry, will it take to get as many passengers in that country as are necessary to entitle them to one member of Congress—seventy-one thousand and some hundreds?

Mr. FOOTE, (interposing.) Will the Senator allow me to suggest that he has certainly underrated the number of persons now on their way to California, as he does not take into consideration the large numbers that have gone overland?

Mr. DAYTON. If the Senator from Mississippi will be kind enough to allow me to proceed, he will find that I had no intention to overlook so obvious a view of the question as that. I was coming to it as speedily as possible.

I say, sir, when you recollect the amount of population necessary to entitle the people of California to one representative in Congress, or if you limit it even to sixty thousand, which has been the limit applied to the admission of Territories into the Union, you will need a thousand ships to carry your population to California, at the average number of passengers heretofore carried. Does any man believe that a thousand ships are going there this year from this country, around Cape Horn or to the Isthmus? I do not.

But again: I know full well that a portion of this population will go over the inland route. But how many, in proportion to the whole number, will take that route? The number will be comparatively small. But suppose that ten, or twelve, or even fifteen thousand cross the country upon this wild tramp to California. That will be a liberal allowance, recollecting, as we must recollect, that every large party going to California by this route have had actually to eat their mules for subsistence, or starve by the way. When you talk about an inland emigration of ten or fifteen thousand, you put down, I think, a fair estimate. I do not believe in these excessive estimates of the number of American citizens in California. It is supposed there may be a hundred, or a hundred and fifty, or two hundred thousand inhabitants in California during the coming summer. But if they be there, of what will it be made up? It is said that all Europe is sending out its hordes to shovel in the mines and dig in the washings of California. But recollect that the pauper population of Europe cannot get there. Very few of the German poor, and still fewer of the Irish and English poor can get there. The journey thither involves a personal expenditure far beyond their means. But suppose they do get there, do they constitute an American population? Are they American citizens demanding law and order at our hands? Will they stay there? Will your American citizens stay there? Will the great mass of these adventurers, come from what nation they may, be they foreign or American, make that country their permanent home? My word for it, in the course of one or two years your ships will return laden with more gold diggers than gold dust.

It is taken for granted that, with few exceptions, the men who go to California will stay there. In my judgment this will not be so. The population of the country will for years to come be in a state of constant change, rolling to and fro, with little guide save its impulse of passion, avarice, want, and wretchedness. It will be a longer time than we imagine before there will be a sufficient American population in that country to entitle them numerically to admission here. And are these foreigners to come in for consideration, swelling the aggregate who are entitled to clamor for republican government and law? Why, it is a cool piece of business, at the best, that the nations of the world are sending emigrants to take up the gold of California, as if it belonged to them. And now, in addition, before they shake the dust from their feet, they are to take their place at our altars and our firesides, and claim the hasty enactment of State government and State law. Sir, there will not be a sufficient American population there for years to come to entitle them to admission here as a State. And the foreign population, whatever it may amount to, has no right to ask so early and hasty a participation in State institutions. So much in reference to numbers, and now for the character of this population.

I speak of it with all respect, but I do not fear to speak of it as I think of it. Sir, that population consists of two kinds, and they are the antipodes of each other. The one are the old inhabitants of the country, the descendants of the ancient Spaniards, the retired office-holders, the remnants of the old Franciscan Missions, and perhaps it is the laziest and the most unenterprising population on the face of the earth. Sir George Simpson tells us that the country is adapted to the cultivation of maize, yet they do not raise enough for their own use. He tells us also that while the missions continued the hills were covered with sheep. But they have been abandoned by the present indolent population, and replaced by cattle, simply because it is easier to kill and clean the latter, than to scour,

and clean, and weave the fleece of the former. Russia and England, going in different directions around the world, have actually monopolized the fur trade at the very doors of these Californians, because they were too indolent to carry it on themselves. South America, from the beginning, has been the very paradise of idlers. Its rumored pearl-beds, and its sierras of silver took thousands there at an early day, and of all this population, California has been preëminent as the abode of retired office-holders, of retired soldiers, the remnants of those old missions. That is the character of the Spaniards upon the soil. I need not say that the Indians, who enter into this calculation of twelve or fifteen thousand population, have still fewer of the essentials of an American citizen.

There is another class of population: your regular Anglo-Saxons—those children of destiny who are about to spread themselves away to the setting sun. Who and what are they? Many of them are men of high respectability, of great enterprise, and I would do them all justice. But many of them are far from possessing such a character. They are there, stimulated by the spirit of wild adventure—gone there for gold, that they may return to spend it; and they constitute the large portion, the great mass of this emigrant population. What appeal, I ask, are you to make to the patriotism of these men to divert them from the gold *placers* into a convention of law and order to frame a constitution? You will have to *lasso* your members. [Laughter.] You will have to catch them with a slipping noose, and drag them into convention. What pay do you mean to give these men sufficient to induce them to go quietly at work to make laws and a constitution? Yet at a time like this, when we are told by official documents that literally the servant deserts his master, the sailor his ship, and the soldier his flag; while ships are rotting at anchor, while crops are wasting in the field, while master and man with one common impulse are rushing to the flats and the mountains, it is gravely proposed to lay off the country into districts, and assemble a convention to form a constitution and enact laws. Sir, I would as soon expect my ship to float when launched upon the topmost tide of the Solway—I would as soon expect to harvest a crop from its rolling, shifting sands, as look for good in such an hour and from such a people. Wait, sir, wait until this turbulent rush shall cease; wait until this human tide shall roll itself, in whole or in part, back to its source. It will leave, like the floods of the Nile, a rich deposite of population behind it. Your gold digger, broken and dispirited, will leave his washings and his holes in the mountains, and return to the more healthful employments of civil life. Then, and not till then, will the population of that country be fit to make laws and to govern themselves.

Mr. President, I have still another objection to the formation of this country into one State. I have no idea of making a great monster State, literally an empire, looking towards Asia, and commanding all the valuable ports of the Pacific coast. I have no idea of making all this country one sovereignty, one State, in that remote portion of the country. If that country had staid out of the Union, it would have been one thing—I would have had small objection—but staying out and *breaking* out, if occasion occur, is quite a different matter. This State will have the power to separate itself from the Confederacy, and to inflict, by its example, lasting injury upon this Union. Suppose—and I say it with all respect—South Carolina in 1832 had had the same powers, the same distant position, and had then shut her ports and nullified your laws, as she did, how could we have restrained her? Sir, I do not refer to it in any unkind spirit, but I speak of the impolicy of making a great monster State, covering some ten degrees of latitude, and running one thousand miles into the interior, out of territory so far removed from the seat of this Government.

But there is another difficulty. We do not know the capacity and condition of this territory well enough now to fix permanently on its boundaries as a State. The northern boundary has nothing to recommend it at all. I have always been taught that even between individuals a boundary marked by monuments is better than one indicated by course and distance; and it is so in a stronger degree in regard to States and nations. Why, then, do you take a parallel of latitude instead of monuments to mark your northern boundary? There are two rivers (the Tsashtl, half a degree north of 42°, and the Umpqua, a degree and a half north of 42°) running directly west from the mountains to the sea. Either of these would form a natural boundary, leaving to Oregon the Willamette valley, and throwing Vancouver in the center for its capital. Sir, there is no reason why you should fix upon this ideal boundary of the forty-second degree of north latitude as the boundary between Oregon and California. We are still less prepared to fix upon the east and southeastern boundary. You do not know enough of the country to justify you in incorporating its vast unexplored interior into a State. A great portion of it is a country where the foot of a white man has never trod, and of the capacity of which you literally know nothing. Again, you must remember that when you do this, when you incorporate this vast unknown region into a State, you bring in about twenty Indian tribes, besides those inhabiting the great basin. Have we not, in the past history of this Government, had warnings enough as to the impolicy of incorporating Indian tribes within State jurisdiction, and bringing them within the reach of State laws? Let us remember that it is not slavery alone which has startled the country. Let us remember that in times past we have stood upon a nearer, a more hazardous steep than this. Georgia, with her foot upon the body of Tassels, the Cherokee, executed her own laws, and boldly but calmly defied your power. I say, therefore, that our past history is full of warnings; it tells us, in language not to be misunderstood, that you should keep your Indian tribes outside of State law and State jurisdiction. And again, sir, what is to become of these tribes of Indians of that country, and of the unknown tribes in the basin? What is to become of them? They have ever been found a source of excitement, and of conflicting jurisdiction, wherever they have been suffered to remain within the boundaries of States. No State has been willing permanently to keep them within her midst; but while there, excitements, animosities, conflicts of jurisdiction have arisen, threatening to rend asunder the system, and relieved only as the burning mountain is relieved when it throws out the lava. But they are there, and the time will come when you will be called upon to eject them: and what is to become of them? They will not die fast enough for your purpose. You cannot drive them into the Pacific. You have bounded your State on the east by your State on the west—there is no space between. Will you grind them to death, as between the upper and the nether millstone, or will you leave them there—in the vast regions which, until their title be extinguished, belong to them according to your own laws? I protest against converting the country into a State, and incorporating these Indians within its boundary.

I am not disposed to consume further time. With my thanks to the Senate for their patience and attention, I commit the amendment I have offered to their consideration. If adopted in this bill, or if passed out of it and in another form, (which I would myself prefer,) it will secure California against coming disorder, and do no wrong to any great interest of this country.

Mr. WEBSTER. The Senate and the country will bear me witness that I have had no hand in producing the present state of things, connected with these territories which we have acquired. I have opposed all wars leading to such acquisitions, and I have opposed all treaties accepting of such cession of territory; and I do not ascribe to myself any considerable sagacity when I say that the state of things which exists to-day—brought about, perhaps, a little sooner by accidental circumstances than would otherwise have been the case—was as evident to me as the sun in heaven, ever since the notion prevailed of new acquisitions on the southern border of the United States. It is, nevertheless, not my purpose to mingle in this discussion anything of the past. There is enough to occupy our most serious thoughts in learning how to deal with the present; in learning how to deal with it as prudent and practical men, desiring to preserve peace in the country, desiring to give protection to all those who live under the Government of the United States. And, while I do not think it wise or prudent to dwell on the past, I do not think it wise, either, to attempt to look too far into the future. There are evils which threaten individuals, and there are evils which threaten communities, which sagacity and a long-reaching foresight may probably avert; but there are other evils, occasionally threatening individuals and communities also, which are as likely, perhaps more likely, to find their remedy in the course of events than in the exercise of prescience or premonition; and this, in my judgment, is one of those cases. I think our practical duty—our duty as practical men—is to provide a government for those territories, for the preservation of peace among the inhabitants, to give security to all well-disposed persons, and to repress the efforts of the ill-disposed; to give them a government such as we may in the short period now before us, considering the great distance at which they are from us. And that single purpose has been all that I have contemplated in the proposition which I have laid before the Senate, and of which, at some convenient time, it was my purpose to ask further consideration. My idea is, that the Government, for the present, must be substantially a military government; that we can hardly do more than keep the peace, and protect the lives and property of individuals, until we either admit the people who are freemen as a State into this Union, or give them a regular territorial government. I think it should be limited to that one object—to keep the peace—without any attempt to administer revenue laws, or any other laws growing out of their political relations, because I do not think it practicable to do any such thing.

In the case of Florida, to which attention has been drawn by the Senator from New Jersey, there was a provision that the revenue laws should be applied to the Territory. That, I think, was in 1822, after the ratification of the treaty, but it all came to nothing. The President did authorize the collection of customs; he did appoint an officer in that collection district; but, so far as I understand, there never was a hundred dollars collected from customs in Florida until they had received a regular form of government; and it cannot be otherwise, while it is at the same time attended with considerable expense, inasmuch as you must have custom-houses, navy officers, appraisers, and a whole corps of official persons who will have nothing to do; because, how is it possible to establish or administer a system of revenue laws before there are any courts? Who is to seize vessels under the revenue law? Who is to libel them? How are they to be tried? What is to become of the property? There can be no seizure by law, no adjudication by law—and that is all-important—until there is a regular territorial government established. This must be obvious, I think, to everybody; and this is the objection, in my humble judgment, to the proposition of the Senator from New Jersey, which goes further than the proposition that I have submitted to the Senate. It will be expensive, it will be giving unnecessary power to the Executive Government, and it will be useless.

Since I had the honor of submitting my own thoughts upon this subject very briefly to the Senate a few days ago, the House has sent us a bill which purports to extend the revenue laws to the territories. In my judgment, the true course to adopt, in the position of things as they are, is, to arrest all amendments to this appropriation bill affecting these territories which are offered here, since there is another measure before us much more appropriate for the consideration and deliberation of the Senate, much more suitable to the case upon which we wish to act than this mode of proceeding by amendments to this bill.

I shall, for one, vote against all amendments that are proposed to be introduced into this bill for the establishment of a government, or for any regulation whatever, in regard to the territories. But when this bill shall have been disposed of, if it be the pleasure of the Senate that the bill from the House be taken up, I shall propose to strike out all of the bill after the enacting clause, and insert the amendment which I laid before the Senate a few days ago. I have no particular right to exhort the Senate; I claim no authority to hasten its proceedings; but I think we are all imperiously called on to make what despatch we can with this appro-

priation bill for the civil and diplomatic expenses of the Government. We all know what delays are continually occurring; we all see the reluctance that is manifested to-day by the great majority of the Senate to prolong the duration of our daily sittings. Should we not, then, proceed exclusively with the subjects appropriately belonging to this appropriation bill? There are many amendments to be proposed. There are some which I desire myself to propose; in doing which, I shall not occupy five minutes, however, because the time of the Senate is precious. I hope, therefore, that all these amendments regarding a government for California, which are proposed to be incorporated in the civil and diplomatic bill, may be rejected, as a more appropriate occasion is just before us—a measure which will naturally give rise to a discussion of this subject being now upon our table, and one which will be taken up in its order. And allow me to add, that I have avoided, and shall avoid, all discussion that is calculated to excite local or party feelings, or to disturb the progress of the Senate and the Government in making a proper present temporary provision for the government of California. Enough for this day—I will not say is the evil—but the duty thereof. Our duty is immediately, if we can, to give a practical and secure government to the people of California, and there, in my judgment, our present duty terminates. I have no idea that any remarks which I might feel disposed to make would be either gratifying or instructive to the Senate, and I shall, therefore, from a sense of duty, abstain from occupying further time in relation to this subject, at present.

Mr. FOOTE addressed the Senate as follows:

Mr. PRESIDENT: I regret most seriously that, at so late a period of our session, I should feel compelled, by circumstances not to be disregarded, to address the Senate at greater length than has heretofore been at all usual with me; but, sir, when the gravity of the occasion is duly considered, the serious consequences obviously impending upon our deliberations fairly weighed, and the special provocatives to response which have been just now administered by two distinguished Senators properly appreciated, I trust that I shall not be entirely without justification before the Senate and the country for this unwonted intrusion upon the attention of the body.

Mr. President, the honorable Senator from Tennessee, [Mr. BELL,] a day or two ago, in the very able and patriotic speech delivered by him in this Chamber, urged upon us the imperious necessity of establishing some government, without delay, for our recently-acquired territories of California and New Mexico. That honorable Senator charged upon the Democratic party of the Republic that they were responsible for the acquisition of these territories. This, Mr. President, is most true. We are surely thus responsible. We acquired these territories, partly, as the result of a just war, most vigorously and successfully prosecuted—partly as the fruits of diplomatic negotiation authorized by the Government, and consummated under Democratic auspices. The honorable Senator alluded to has further alleged that the Democratic party, and especially its leaders here, (among whom I am certainly not to be ranked,) are bound in a very special manner to coöperate in the provision of a government and laws for these territories of ours, and those of our fellow-citizens who have gone, or are now going thither, which may secure them safety against domestic violence and disorder, or foreign aggression, or any other evil to which they may be exposed for want of the protective shield of regularly organized municipal institutions. In this proposition also I agree cordially with the honorable Senator. The Democratic party are bound in the most imperious manner to supply a government to California and New Mexico. The stipulations of a solemn treaty with the Mexican Republic demand at our hands that no unnecessary delay should occur in extending to the qualified inhabitants of these territories the rights of American citizenship. Our fellow-citizens who have gone to those distant regions expecting, and having a right to expect, the protection of a government and laws, demand from us that we should not forget their exposed condition, or overlook the hideous sufferings to which our neglect to perform our duty on this subject will inevitably expose them. The valuable landed interests which we have acquired by the treaty with Mexico, the vast mineral wealth which that treaty has placed within our reach, the incalculable commercial advantages which it has secured to us, all admonish us of the importance of retaining firm possession of these new territories, and of subjecting them at once and thoroughly to governmental control and wise legislative regulation. I feel authorized to say, in behalf of the Democratic members of this body, or at least of most of them, that they are duly sensible of their obligation to assist in supplying an efficient government, in some shape or form, to California and New Mexico; and that they will not shrink from the performance of their duty in this respect. Can the honorable Senator from Tennessee answer with equal confidence for his political associates in this body—for those who have united with him in bringing about the result of the late Presidential election? I hope that my honorable friend from Tennessee will not find himself alone upon the other side of the Chamber in the execution of the good work which he seems to have so much at heart. It certainly seems to me to be an occasion upon which enlightened patriots might well unite in sentiment and action, without regard to mere party considerations. But, Mr. President, I confess that the indications, at present presented, are not of a nature to authorize a confident expectation of that consentaneous action which is so very desirable.

Now, sir, what is the state of things? The honorable Senator from Wisconsin has proposed to this body an amendment to the civil and diplomatic appropriation bill, which, if adopted, will extend to the Territories of California and New Mexico the Constitution of the United States, and all and singular the several acts of Congress respecting the registering, recording, and enrolling, or licensing ships or vessels, and the entry and clearance thereof, and the foreign and coasting trade and fisheries; and all and singular the acts respecting the imposing and collecting the duties on imports, and all acts respecting the intercourse with the Indian tribes, and all acts respecting the public lands or the survey or sale thereof; and all and singular the other acts of Congress of a public and a general character, and the provisions whereof are suitable and proper to be applied to the territories west of the Rio del Norte, acquired from Mexico by our treaty of 2d February, 1848. The amendment of the honorable Senator from Wisconsin further proposes to give authority to the President of the United States to prescribe and establish all proper and needful rules and regulations (in conformity with the Constitution of the United States) for the enforcement of said laws in said territories, and for the preservation of order and tranquillity, and for the establishment of justice therein; giving to the President also authority from time to time to modify and change such rules and regulations in such manner as may seem to him discreet and proper; and to establish temporarily divisions, districts, ports, offices, and all arrangements proper for the execution of said laws, and to appoint and commission such officers as may be necessary to administer said laws for a term of service such as he may prescribe, subject to the action of Congress hereafter, and securing to said officers, for the service which they may be called upon to render to the Government and their fellow-citizens, a fair recompense. And this amendment, conceived in a spirit of the noblest liberality, equally marked with fervid patriotism and practical wisdom, the appearance of which has been welcomed in this Chamber by many Democratic members of the Senate, has already been fated to encounter the fiercest and most energetic opposition from gentlemen who belong to the opposing party. This amendment of the honorable Senator from Wisconsin, which confers so much additional patronage upon the Executive of the Union—patronage inevitably to be dispensed by the President elect, whose inauguration we shall witness a few days hence—this amendment, which clothes the Executive of the Union (the President elect) with so much additional power, has met with favor almost undivided among those who preferred another distinguished citizen to himself as a candidate for Presidential honors, while it is discountenanced, frowned upon, and even denounced by distinguished gentlemen who were the zealous advocates of his claims to high political advancement. I confess, sir, that I am altogether unable to understand this case; and I am sure that it is destined to awaken much surprise in the public mind, if even a stronger feeling should, not be called into action. Sir, if General Taylor be the man that we have heard him represented as being—if he be a man of sound discriminating intellect, of pure heart, of extraordinary energy of character, and capable of dealing with men and things judiciously and skillfully, there can be no danger in intrusting him with the high powers proposed to be given him by the amendment under consideration, and placing under his control the immense mass of official patronage designed by this amendment to be subject to his distribution. How is it, I ask emphatically, that gentlemen upon the other side of the chamber profess to apprehend so many unfortunate consequences as unavoidably to result from the adoption of the amendment of the honorable Senator from Wisconsin? Can they not, I ask again, confide in the President of their own choice as fully even as those who did not contribute to his election? Have they received information recently which alarms them as to his course as the Executive of the nation? Do they doubt his good sense? Do they doubt his patriotism? Do they question his disinterestedness? Do they dread any want of ability and virtue in those who are expected to become his Cabinet advisers? It would really appear that honorable gentlemen, lately so exultant over the issue of the Presidential contest, are not at present so well satisfied with having elevated to the highest office in the republic the glorious old chieftain whose military achievements entitle him so richly to the respect and gratitude of his countrymen. Sir, I am gratified to know that, however the professed friends and declared political allies of this hero of many battles may be inclined to distrust him, there are those who do not, by any means, concur with him upon several of the great political questions of the day, (if, indeed, his political sentiments have been properly reported,) who too did all that they could legitimately do to defeat his election to the Presidency, yet who, now that he is elected, feel bound, from the evidence which has reached them touching his character and attributes, so far to confide in him, morally and intellectually, as to be willing to place at his disposal all the power and patronage which are so liberally provided by the amendment of the Senator from Wisconsin to be put in his hands. Sir, I did not vote for General Taylor in the Presidential election, though I never said that "he was not fit to be nominated." It would require a much wiser man than myself to decide who is exactly *fit* to be nominated by a Whig convention. No, sir; I did not vote for him, or advocate his claims; on the contrary, I zealously opposed his pretensions, and advocated the election of that worthy and accomplished citizen of the State of Michigan, who, I trust, will be shortly in our midst, in the enjoyment of perfect health of mind and body, and prepared to bear his part as nobly as of yore in the proceedings of the Senate. But, sir, though I did not vote for the President elect; though I have reason to believe that his political opinions and my own are, in some respects, far from harmonizing; though I dread the revival of certain dangerous and exploded schemes of national policy during his administration; though I neither hope for nor desire any special favor of any kind at the hands of the incoming Administration, yet I feel bound to admit that the good sense, the integrity, and patriotism of General Taylor are so strongly attested by his own acts, and by the declarations of those who know him best, that I am more than willing to risk the temporary regulation of all our Californian and New Mexican concerns with him and those he may assemble around him as his cabinet counsellors. And why, I ask again, is it that Senators on the other side of the Chamber are less disposed than we are to confide in the capacity and sound intentions of the President of their choice? The honorable Senator from New Jersey [Mr. DAYTON] has to-day, in our hearing, rather pompously announced that the *man* and the *hour* have arrived for the settlement of all the grave questions involved in the establishment of territorial governments in California and New Mexico. We understand the allusion of the honorable Sen-

ator perfectly; we know well who is expected to arrive in our midst to-day; and I fervently hope that his advent among us may have quite a salutary influence upon his friends and the country. The Senator compares General Taylor to General Jackson, and urges that, as the latter settled our Florida territorial difficulties so easily and so gloriously, we are bound to presume that the former will be able successfully to cope with all the trying circumstances to be encountered in establishing civil order and domestic tranquillity in California and New Mexico. I admit that the honorable Senator was not altogether at fault in bringing forward this comparison. General Jackson and General Taylor, if the accounts which reach us be correct, are not wholly dissimilar in several important respects; and therefore it is that I am so decidedly in favor of the amendment of the honorable Senator from Wisconsin, which is brought forward mainly upon the presumption that General Taylor is entirely equal to the emergencies of the moment. Sir, if the *hour* and the *man* are indeed at hand, I earnestly invoke the honorable Senator from New Jersey, at *this* hour, to bestow upon *the man* of whom he speaks in terms of such lavish encomium, all the requisite powers to secure permanent order in our new territorial possessions, and restore quiet, harmony, and, if possible, true brotherly feelings once more to the antagonizing sections of our Union. But, oh no! says the honorable Senator from New Jersey, I am not willing to trust such exorbitant powers to the national Executive; they might perchance be abused, and the most woful consequences might ensue. And this is even possible; but I repeat that it is by no means probable, if those who elevated General Taylor to power have not totally misunderstood his character.

What does the honorable Senator from New Jersey propose in lieu of the amendment of the honorable Senator from Wisconsin? Just this, and no more: He proposes to extend the revenue laws of the United States to California and New Mexico. He omits to mention in his amendment various commercial laws of high importance, not connected directly with the revenue or its collection. He omits all the acts respecting intercourse and trade with the Indian tribes; though he has, on this occasion, gone somewhat out of his way to profess a peculiar sympathy for the American aborigines. He omits all the acts respecting the public lands, or the survey or sale thereof; though certainly nothing can be more important than the immediate extension of such laws to these Territories, by the agency of which their early settlement may be secured, and a permanent body of substantial citizens established therein.

The honorable Senator, moreover, seems unwilling to extend the other acts of Congress of a public and general character, the provisions of which may be adjudged by the President suitable and proper to be applied to our vacant territories; though surely this provision confers a discretion which might safely be intrusted to any man worthy to be elected President of this great Republic. The honorable Senator is also averse to authorizing the President to "prescribe and establish 'all needful rules and regulations in conformity 'with the Constitution of the United States, for 'the enforcement of said laws in said territories;" and is unwilling to allow the President "from 'time to time to modify said rules and regulations, 'in such manner as to him may seem discreet and 'proper;" though the exercise of these powers is obviously indispensable to the attainment of all the great ends proposed to be attained by legislating on this subject at the present time. The honorable Senator from New Jersey, to be sure, by his amendment, proposes that "all the mili- 'tary, civil, and judicial powers exercised by the 'officers of the existing government of said terri- 'tories, shall be vested in such person or persons, 'and shall be exercised in such manner as the Pres- 'ident of the United States shall direct, for the 'maintaining of the inhabitants of said territories 'in the free enjoyment of their liberty, property, 'and religion;" which, make the most of it, can amount to nothing more than the establishment of a military government in those territories, and the keeping in existence civil and judicial functionaries, whose power is wholly inadequate to the suppression of the prevailing disorders; the increase of which of late have become so alarming. Such is the amendment of the honorable Senator from New Jersey. It is in support of this amendment, and in opposition to that of the honorable Senator from Wisconsin, that a long, fervid, and furious harange has been uttered in our hearing.

But, Mr. President, the honorable Senator from New Jersey is not alone in his opposition to the amendment of the honorable Senator from Wisconsin; the distinguished Senator from Massachusetts, [Mr. WEBSTER,] who sits over the way, has most zealously coöperated with him on this occasion. That honorable Senator opened his speech with much gravity and emphasis, reminding us of what we are not likely soon to become oblivious—that he was opposed to the late war with Mexico; that he was equally opposed to the treaty of peace with that Republic; and that, therefore, he has no responsibility at all connected with the acquisition of this territory. And yet he is kindly willing to give us his advice as to the manner in which our concerns in that quarter of the Republic ought to be managed. The honorable Senator from Massachusetts acknowledges that it is our bounden duty to give the inhabitants of California and New Mexico a "*government;*" but yet he contends that it should be only a "*military government.*" Now, Mr. President, I know of no authority possessed by the National Legislature, under the Constitution of the United States, to establish a military government, approximating to anything like permanency, in time of peace; and I am sure that, did we possess the power to establish such a government, under existing circumstances, it would be equally inexpedient to do so, and repugnant to the true spirit and fundamental principles of our republican system. But, with great deference to the honorable Senator, is he not a little inconsistent with himself in proposing this same military government which he has so seriously recommended to our consideration? Is not the printed amendment intended to be offered by the honorable Senator now upon our tables, in which a provision is to be found running thus: "that 'martial law shall not be proclaimed or declared in 'said territories, or either of them, nor any military 'court established or instituted, except ordinary 'courts-martial for the trial of persons belonging to 'the army and navy of the United States." Let me ask that honorable Senator how a military government could be established and kept in operation in California and New Mexico, with judicial tribunals appendant thereto, or, to speak more correctly, existing as a part thereof, without the necessary existence of military courts? Is it possible, in the nature of things, that a court not military could be established in a country under the dominion of a government strictly military? Really, it seems to me that these questions answer themselves and need no elucidation. But why, let me ask the honorable Senator, is it that he has thought proper thus to suggest the propriety of providing "that martial law should not be proclaimed or 'declared in said territories, nor any military court 'established or instituted, except ordinary courts- 'martial for the trial of persons belonging to the 'army or navy of the United States?" Does he dread that the military chieftain whom he has lately united so zealously in elevating to the Presidency of the Union, has so much partiality for martial law and military tribunals that it is necessary to restrain him by a special statute? Why, sir, again I say, though I had no hand in electing General Taylor to the Presidency, I am not at all apprehensive of his establishing military courts in California and New Mexico, and I do not in the least doubt that he would prefer the regular course of municipal justice to the adjudications of any military court that could possibly be organized. To suppose otherwise is, in my judgment, to do the President elect most serious injustice; and the very suggestion, from so distinguished a quarter, of such an abuse of power being even possible, is calculated to awaken painful apprehensions in the minds of his fellow-citizens generally.

Mr. President, I have just now incidentally referred to the amendment intended to be proposed by the honorable Senator from Massachusetts, and perhaps it is but just to him that I should notice that amendment somewhat more particularly.

The first feature of this amendment upon which I shall remark, is one that authorizes the President "to hold possession of, and to occupy the Territories" of California and New Mexico. Now, sir, I hold this provision to be entirely unnecessary. We are already in actual and constitutional possession of these Territories, and the President of the United States is fully authorized to hold possession of them, and will doubtless continue to do so without any additional power being given to him for this purpose.

Again: The honorable Senator's amendment authorizes the President "to employ such parts of the army and navy of the United States as he may deem necessary," "in order to maintain the authority of the United States, and preserve peace and order in said Territories." Now, this strikes me as being equally unnecessary with that portion of the amendment already noticed. The President of the United States has the unquestionable power to employ such parts of the army and navy of the United States as he deems necessary for the purpose of maintaining us in possession of our lately acquired Territories, and for the preservation of order therein, and stands in need of no special legislative enactment to enlarge his powers for these purposes.

But there is another part of the honorable Senator's amendment to which I entertain most serious objection; and if it should become necessary hereafter, I shall state that objection more at large than I feel authorized to do at present. The portion of the amendment to which I have alluded is that which proposes to retain the existing laws of California and New Mexico in force "until the 'expiration of the next session of Congress, unless 'Congress shall sooner provide for the government 'of said Territories," and which provides further, "that the civil and judicial authorities exercised 'in said Territories shall be vested in and exer- 'cised by such person or persons as the President 'of the United States shall appoint and direct, to 'the end that the inhabitants of said Territories 'may be protected in the full and free enjoyment 'of their liberty, property, and religion." What is meant by this, Mr. President? Does the honorable Senator desire to retain in existence all the old Spanish and Mexican laws now existing in California and New Mexico—laws derived originally from the imperial power of Rome—adulterated in Spain—still more adulterated in Mexico—deformed by usages semi-barbarous and unreasonable—laws to which the trial by jury is unknown, and from the administration of which nothing even approaching that refined and perfect justice secured by the revered principles of the common law can ever be expected to arise?

But what are we to say to that part of this extraordinary amendment, already cited, of the learned Senator from Massachusetts, in accordance with which "the civil and judicial authorities *heretofore* exercised in said territories are to be vested in and exercised by such persons as the President of the United States may appoint?" This word "heretofore," sir, is a very comprehensive term. In its common acceptation it seems to me to apply to all antecedent time; so that if we should adopt this part of the honorable Senator's amendment, we should provide for the exercise of every species of civil and judicial authority at any time heretofore exercised in any part of California and New Mexico. Whether this would be likely to bring upon the inhabitants the severities of the inquisition, as formerly existing in Spain, and enforced by blood and fire in Mexico; whether the ecclesiastical tribunals of the Roman Catholic Church, known to have had former existence in Mexico, and which are, perhaps, not yet discontinued, and whose authority was derived directly from the Pope of Rome, were designed to be kept in continued existence, or to be reëstablished by the agency of a solemn act of Congress, remains yet to be explained by the honorable Senator from Massachusetts when he shall choose to explain this perplexing topic.

Mr. President, I beg leave now to submit a few remarks in special response to the honorable Senator from New Jersey. That gentleman objects very strenuously to the introduction of certain words in the first and second lines of the amendment of the honorable Senator from Wisconsin. These words are, "the Constitution of the United States." The Senator from New Jersey contends that it is not possible that the Constitution of the United States can be made to extend beyond the limits of the States of this Confederacy, and oper-

ate with validity and binding force in the territories of the Union. He contends that the treaty with Mexico did not carry the Constitution of the United States into California and New Mexico; and, in addition, he insists that it is not in the power of an act of Congress now to effect that object. Well, sir, this is certainly not a new idea with the honorable Senator from New Jersey. I have heard it several times expressed before, and by very sensible men; but never certainly without a sentiment of unaffected astonishment. The Constitution of the United States, the laws and treaties made in conformity therewith, constitute "the supreme law of the land." What land, Mr. President? There is but one answer which can be given to this question, and that is, *the territorial surface of this Republic.* The Constitution, and treaties and laws made under its authority, and in accordance with its provisions, are the supreme law of the land—the whole land, from the Pacific to the Atlantic—from our nothern to our southern—from our eastern to our western boundary. The whole territorial surface embraced within these limits constitutes *our* land; is occupied by our nation—our whole nation—States and territories included; and that which is the supreme law of one portion of this vast Republic is the supreme law of all portions of it. A part of the supreme law—to wit, the ratified treaty with Mexico—has entered the territories of California and New Mexico—has entered these territories under the authority of the Constitution, and without that authority could not have entered them at all, or have had the least valid and operative effect therein; and yet learned gentlemen contend that though the treaty is in force in these territories, the Constitution of the Republic is not entitled to claim the least respect from those who dwell therein.

Again, sir, the President of the United States has no power except that which he derives from the Constitution. As commander-in-chief of the army and navy of the Union, he must have authority to control all our military force which may be stationed in portions of the national territory not included within the limits of any of the States of the Confederacy. Can he exercise this authority, thus derived from the Constitution, within the territories, without the Constitution itself being attendant upon him in this exercise of power, and operating with restraining influence upon all the subordinate agencies which he may be compelled to employ in the performance of this constitutional duty?

Again, sir, Congress is authorized by the Constitution to vest the appointment of inferior officers in the President. Suppose this investiture actually to occur, as proposed in each of the various amendments before us; suppose, also, the President to have made this appointment of inferior officers, thus under the authority of the Constitution—officers not only appointed by him, but necessarily responsible to him under the Constitution—officers subject to displacement by him for official malconduct—officers, a supervision of whom he is bound by the Constitution itself efficiently to exercise,—will any reasonable man contend that all this supervision can be exercised, this displacement occur, these subordinate officers be restrained within the sphere of their duty by the President, under the authority of the Constitution, without the Constitution itself being able to make the least lodgment within the territorial area wherein these proceedings are to take place? Again, it is provided by the Constitution of the United States, that all trial of criminal offences shall be by jury. If the Constitution of the United States has already entered the territories of California and New Mexico, the right of trial by jury may be rightfully claimed by all persons who may be charged with crime before any judicial tribunal; but if the Constitution of the United States has not yet penetrated those regions with all its solemn guarantees, then in vain may the right of trial by jury be invoked by any individual who may happen to be charged with a criminal offence in any part of California or New Mexico. Can any rational man suppose that our ancestors, when solemnly and formally providing for the establishment and handing down to the remotest generations of their posterity this precious right of trial by jury, designed it only for the benefit of those of their descendants who might chance to linger within the limits of the thirteen old States of the republic?

But, Mr. President, if the Constitution of the United States was not carried into California and New Mexico by the Mexican treaty, *proprio vigore*, if that sacred instrument is at all worthy of the respect awarded to it by the free citizens of this Republic and all the civilized nations of earth, and any constitutional means exist by which it may be yet carried thither, and all its noble influences be put in action for the safety and happiness of our brethren along the golden shores of the Pacific, then assuredly those means should not remain much longer unemployed. How is this to be effected? In order to elucidate the point now suggested, permit me to propound a question to the honorable Senator from New Jersey. The State of Louisiana was obtained from France by treaty; the Constitution of the United States, it is admitted, is now in force in Louisiana, and in all the other States carved out of her original territory: How did the Constitution of the United States find its way to any and all of these States?

Mr. DAYTON. I will answer the question of the honorable Senator with great pleasure. The Constitution gained footing in those States by the act of admitting them into the Confederacy.

Mr. FOOTE resumed. Such, I thought, Mr. President, would be the response of the honorable Senator; and this is, in fact, the only response which can possibly be given to the interrogatory propounded; and now it appears, from the admission of the honorable Senator, that it is competent for an act of Congress to extend the Constitution of the Union where it was not anciently known, nor had any authority whatever. At least such is the deduction I draw from the answer of the honorable Senator. Certain it is that the Constitution was carried into Louisiana either by the treaty itself, which secured that region to us, or it was afterwards transported thither by an act of Congress. Then, sir, applying these remarks to the case before us, either the Constitution entered California and New Mexico with the treaty of February, or it is competent for us to extend it thither by special legislation at the present time. It is clearly incumbent on the Senator, and others who concur with him in opinion, to show that the Constitution cannot be extended beyond the limits of the existing States of the Union by a congressional enactment establishing a territorial government, as easily and as effectually as by the agency of a law admitting a State into the Union. The honorable Senator from New Jersey will not contend, I believe, that Congress has not as much power to establish a territorial government as to authorize the establishment of a State government, and to admit the newly-formed State into the Confederacy.

But, Mr. President, I was both amused and surprised in no small degree at hearing the honorable Senator from New Jersey, in replying to questions propounded to him whilst addressing the Senate, declare that he did not object to the Constitution of the United States being extended to California and New Mexico because he was of opinion that thereby the introduction of the domestic slavery of the South would be authorized. Then why does the Senator object, if the thing be practicable, to the Constitution being thus extended? Surely he is not influenced by a mere abstract hatred of the Constitution itself, in consequence of which he is solicitous to shield the inhabitants from those mischiefs which he supposes must be inevitably engendered by that instrument, if it shall once be permitted to find establishment in that distant corner of our Confederacy.

Mr. President, the honorable Senator from New Jersey, in the course of that very extraordinary speech with which he has honored the Senate this morning, expressed various opinions to which I can by no means subscribe. I shall not examine them all, nor do I deem it necessary, for any of the legitimate purposes of parliamentary debate, that they should all of them be made the subject of special comment; but one or two of those opinions, announced in our hearing with such unusual emphasis, and in a tone and manner so wanting, as it appears to me, in that courtesy and kind feeling which we had a right to expect from the honorable Senator from New Jersey, I feel bound, as concisely and as dispassionately as circumstances will admit, to bring again to the notice of the Senate.

The honorable Senator from New Jersey seems to suppose that California and New Mexico are wholly unsuited to the domestic institutions of the South, and that, even were a law of Congress to be passed to allow the southern slaveholders to go with their slaves into these territories, there are invincible natural obstacles connected with soil and climate which would effectually prevent the long-continued existence therein of our southern system of domestic labor. I know, sir, that the honorable Senator has high authority—yes, sir, even high Democratic authority—in support of this opinion of his. I am aware that several of our most distinguished Democratic statesmen, both of the North and South, have some time since declared that, in their judgment, the difficulty connected with the establishment and maintenance of our southern domestic institutions in California and New Mexico amounted to a moral impossibility. If this view of the subject be correct, then there is obviously no necessity for a law prohibiting its introduction; and especially is there no necessity for such a law if slavery is already excluded by existing municipal arrangements; and, if such a prohibitory enactment be still insisted upon, it can only be done for the purpose of inflicting gratuitous insult.

But I feel authorized to insist that late developments in those territories have, to a great extent, removed the foundation upon which this opinion rested. No one acquainted with the vast mineral resources of California and New Mexico, and who is aware also of the peculiar adaptedness of slave labor to the development of mineral treasures, can doubt for a moment, that were slaves introduced into California and New Mexico for the purpose of being employed in the mining operations there in progress, and hereafter perhaps to be carried on to an extent conjectured of by few, their labor would result in the acquisition of pecuniary profits not heretofore realized by the most successful cotton and sugar planters of the country. And yet, sir, though all this is unquestionably and demonstrably true, has any one heard of an application from owners of slaves in the South for such a Congressional enactment in their favor as might enable them to carry their slaves to this modern El Dorado, (where such extraordinary profits are awaiting and inviting them thitherward,) free from the serious perils which we all know and feel to be connected with such a movement at the present moment? Has the South asked for a law excluding northern competition in the digging of the gold mines of California and New Mexico? Has any southern man, either here or elsewhere, invoked the protection of a special act of Congress for southern labor transported to these distant regions? Have we asked for anything but that we should not be excluded, by unjust and unconstitutional Congressional legislation, from the enjoyment of that absolute equality of rights and privileges secured by the institutions of our forefathers to all their descendants, whether residing in the northern, southern, the eastern, or the western sections of this Union? Have we gone further than simply to desire that our northern brethren should not interfere with us; that they should cease to annoy our sensibilities, mortify our pride of character, and struggle to deprive us of our undoubted rights under the Constitution of the Republic, to migrate to any part of the Confederacy with our families and our effects, there to dwell peacefully and safely under the protective influence of the supreme law of the nation? Can any northern Senator dispassionately weigh the circumstances which I have just passed in review before the Senate, and fail to be struck with the extraordinary moderation and forbearance exhibited throughout the South at this solemn juncture? Sir, there is but one sentiment in the whole South upon this subject. We ask for no peculiar favors at the hands of Congress; we crave no partial legislation in behalf of our most vital interests; we claim no doubtful right under the fundamental law of the nation; we would scorn to receive any benefit at the hands of Congress in which our northern brethren might not equally participate. Yea, sir, we are as repugnant to the reception of unconstitutional advantages, bestowed upon us in the form of a Congressional enactment, as we are firmly resolved never to submit patiently to unjust encroachments, nor remain quiet and unresisting under acts of palpable aggression and outrageous usurpation.

Sir, the honorable Senator from New Jersey has, with great appearance of deliberation, undertaken to-day to prosecute a foray against the southern States generally, and their domestic institutions, which I hold to have been equally gratuitous, unjust, unparliamentary, and in every way unbecoming. But for the high character of that Senator, and the cordial esteem which I have heretofore cherished for him, I should be tempted to retaliate his unprovoked invective and declamatory fury, in language that would be anything but agreeable to his feelings. As it is, I cannot forbear admonishing that Senator, if he wishes to preserve kind social relations with southern Senators here, it will be expedient that he shall hereafter avoid the repetition of much of that offensive language and sentiment which have flowed from his lips to-day.

What right, Mr. President, has the honorable Senator from New Jersey to taunt us, as he has done, in reference to the exposed and feeble condition of the South, incapable, as he appears to suppose, of effectually defending herself against northern hostility? What right has he to conjure up before us the ghost of nullification to fright us from our propriety? What right has he to accuse us of being enemies of the Union, factionists in spirit, secessionists in principle? Who gave the honorable Senator from New Jersey authority to refer so contemptuously to the sovereign State of Georgia as he has done, in connection with the most glorious event of her history? How did it become at all necessary for the honorable Senator from New Jersey to propound that strange and insulting question of his, "Will the South, like Georgia, stand to her arms?" Does he know of any secessionists, in the odious sense which he obviously affixes to that term, to be found in all the South? Has he ever heard of a combined movement in any part of the South for the dissolution of our glorious Union? Has he any ground to suspect a traitorous conspiracy in any corner of the South against the constitutional rights of our northern brethren? Does he know of any hostile movement having ever occurred in any southern neighborhood against northern men or their rights? Has he become informed of any attempt having been made in any part of the South, at any time, to disturb the domestic security of our northern brethren, or even to inflict a wound upon their sensibilities by factious and impertinent intermeddling with their domestic concerns? Has he ever seen a southern newspaper, published in either city or village, where southern men were expected to be its principal readers, in the columns of which northern institutions were fiercely attacked, and northern men subjected to wholesale crimination and abuse? And now, sir, let me ask the honorable Senator, since he has so unnecessarily alluded to secession in connection with the course of conduct of southern men at this period, whether he at all doubts, as a constitutional lawyer, that the sovereign States of this Union have a right to secede from the Confederacy in order to avoid intolerable oppression, whether perpetrated with or without a violation of mere constitutional forms?

Mr. DAYTON did not like to be misunderstood as to his legal opinions. He therefore begged to declare, that what he intended to say was, that there was no constitutional right of secession appertaining to the States of the Union; a State cannot secede by the authority of the Constitution.

Mr. FOOTE. Well, sir, I shall not contest this point at the present moment. The honorable gentleman, I presume, recollects that that enlightened statesman and profound jurist, Philip P. Barbour, of Virginia, who was as adverse to nullification as General Jackson himself, did not hesitate to declare, in a solemn and formal letter, published at the time in all the leading newspapers of the country, the opinion that secession was a constitutional remedy, emphatically denominated by him "the political arsenic of our system," to be resorted to in any case of oppression grown "intolerable." Thomas Jefferson was well known to have recognized the same remedy under the significant name of "scission;" and even Andrew Jackson, whose partiality for the nullifying doctrines has never yet been suspected, and from whose lips, whilst in the very bosom of New England, that sublime declaration emanated, "*the Union* MUST *be preserved*," asserted in his well-known proclamation the revolutionary right of secession.

Certain it is, Mr. President, that the spirit of disunion has never extensively pervaded the southern States of the Confederacy. The day is far distant, I trust, when such scenes as have had their progress at different periods in some of the States of New England will be exhibited in any southern State. The Senator from New Jersey seems to be somewhat forgetful of several well-known incidents in the history of certain free States of the North. I am positively assured, by persons whom I presume to be well-informed on the subject, that the city of Hartford is one of the principal cities of one of the oldest New England States. We all know that it was in the heart of that city that the first organized effort was ever made to dissolve the Union. The first formal declaration ever enunciated in any part of the Confederacy broke forth from the lips of those dark conspirators who met in Pandemonian conclave, in the renowned city of Hartford, for the purpose of giving practical effect to this doctrine of secession, and bringing about, by treasonable means, a union between the New England States and the British provinces in North America. Yes, sir, this notable scheme had been already in part matured; several important incipient steps in the progress of its execution had been taken; when a patriotic statesman of New England, now in the grave, proceeded to Thomas Jefferson, then President of the United States, and made such a timely disclosure of particulars as enabled that patriotic son of the South to arrange for the eventual counteraction of this wicked project—a project which would otherwise, as we now have reason to believe, from the publication of the proceedings at Hartford since made, have most probably resulted in the disruption of those political ties which bind the sovereign States of the Union together as one great nation. The beginning, progress, and close of these scenes were all, doubtless, long anterior to the entrance of my friend from New Jersey into public life, and therefore he is in some degree excusable for not holding them in vivid remembrance. But I confess that I cannot conceive how it was possible for my honorable friend to have shown himself so oblivious or indifferent to proceedings of a smilar character, of recent occurrence, in several of the most populous cities of New England, and which have been marked by a spirit of audacious effrontery and factious impudence, without precedent or parallel in the annals of civilized men. Why, sir, if I am correctly informed, a conventional assemblage has actually occurred of late, in the renowned city of Boston itself, not many steps from the sacred portals of Faneuil Hall, whose avowed object was to dissolve the Union, and, by means of such dissolution, to accomplish what they supposed to be unattainable whilst the Constitution of our fathers shall exist—the universal emancipation of all the black race of this continent. In this convention, I am free to confess, appeared scholars, men of science, renowned ministers of the gospel, distinguished speakers and writers, together with a vast multitude of the rabble factionists of populous commercial towns, whose daily food is agitation, and who breathe alone the pestilential vapors of demoniac conspiracy. These men adopted resolutions, published speeches, and actually sent forth a huge volume containing their peculiar creed and doctrine, which, but for the high respect I feel for the freedom and dignity of the press, I should pronounce worthy to be burnt by the common hangman in the streets, in accordance with transatlantic usage in such cases. And all this has occurred without calling forth the censures of the honorable Senator from New Jersey, provoking his condemnation, or commanding even from him the respectful notice of a passing glance. Similar proceedings have occurred in other States in New England, in cities, villages, and retired country places. Southern men here have not complained of them. Southern men are, in fact, contemptuously indifferent to all such movements; and yet the honorable Senator from New Jersey has not hesitated to rise in his place in the Senate and pour forth those plenteous streams of the *splendida bilis* which have been just now seen to deluge the hall of the Senate, on account of what he undertakes to suggest (without the least foundation in point of fact) as to certain movements in the South which he supposes to have a tendency to secession. We all recollect, I presume, the old adage, that charity begins at home; and some of us have heard of the modern addition to it, which makes it to declare that, though charity does, in truth, begin at home, it should not end there too. Now, sir, the charitable commiseration of the honorable Senator from New Jersey seems to have no domestic habitation or name; it is a wanderer over the face of the earth, and its activity is exclusively confined to remote parts of the globe. I commend the honorable Senator to *provide for his own household* ere he ventures to take another philanthropic excursion to the sunny plains of the South.

Mr. President, the honorable Senator from New Jersey has, very unnecessarily, as I conceive, gone out of his way to inform the Senate and the country that the good people of New England are very much given to hospitality, and are rigidly observant of all the usages so advantageous and ornamental to social life. He assures us that southern gentlemen of a certain grade and quality are very cordially received wherever they may happen to travel in any part of the northern States of the Confederacy. Well, sir, all this I, for one, knew quite well before. No person, I am sure, who has ever sojourned in one of our northern or eastern cities, for even a few days, whose standing and character entitled him to civil and hospitable treatment, has had reason to regard himself as neglected by its polite inhabitants, still less has he had reason to feel himself to be the recipient of rudeness and insult. But I must assure my honorable friend from New Jersey that there is no State in the southern part of the confederacy where hospitality does not equally abound, where respectable strangers are not received with equal cordiality, and where the sons and daughters of New England, provided they are meritorious, are not as kindly welcomed; yea, sir, and taken by the hand too, and led forward to honor and to wealth, if they choose to seek these objects among our generous-hearted people, and are willing to employ the proper means of procuring fortune and advancement. It was precisely on yesterday, sir, that a venerable Senator from New England made application to me (I hope I may mention the case without any indelicacy) in behalf of a young lady from his own State and neighborhood, whom he described as possessed of high accomplishments and great moral worth, and as desiring to be employed in the South as a teacher. He knows well how promptly I met his application—how unhesitatingly I proffered my poor services to facilitate the accomplishment of his wishes, and in what strong language he was pleased to speak of my readiness to gratify his desire. Why, sir, in the southern States generally, and in the southwestern States particularly, our school houses and colleges, our legislative halls, and our judicial tribunals, have been often occupied by the adventurous sons of the North, who come among us and claim our sympathetic regard, our confidence, and our support for public station, and have their desires gratified almost as soon as they are expressed. Let not the honorable Senator from New Jersey think, either, that the people of the South estimate the whole population of the free States of the North according to the samples which accident or crime sometimes send among us. Let him not so greatly err as to imagine that we are disposed to condemn the whole North on account of the unworthy, or it may be the mischievous, conduct of a comparatively small number of her sons, either in Congress or at home. We well know that human society, in its best forms, is of a mixed character; that there are bad men everywhere, as well as good men; that in New England there are patriots, statesmen, orators, classical writers, true philanthropists, genuine Christians, without number—whilst there are also ruffians, fanatics, hypocrites, pseudo-philanthropists, demagogues, bawling factionists—seditious, lawless, and corrupt wretches, whose every day of life detracts seriously from the true dignity of man as a moral and intellectual being. No, sir; whilst certain distinguished sons of New England, now in my eye, and whose names it would be quite easy to specify, continue to adorn the national councils, and to remind us by their presence of the great and good men who flourished in former days, we shall not commit so egregious a blunder as to take it for granted that the whole North is full of such men as we have sometimes seen emerging from her

confines, and attaining (it may be by trickery and deception) a place in the most illustrious body of lawgivers known to the civilized world.

Mr. President, the honorable Senator from New Jersey permitted several allusions to drop from his lips which have induced me to suppose that he designed to reflect somewhat upon the proceedings of a body which lately assembled in this city, called the Southern Convention. Now, Mr. President, though I can declare without affectation that I regard myself as among the humblest of those who participated in the deliberations of that august assembly, yet, as I had a very particular connexion with that body, and have been made, from accidental circumstances, more the subject of coarse denunciation and ruffianly ridicule than any other member of the convention, I beg leave to avow my whole responsibility in this affair, and to claim all the discredit to which the public may judge me entitled by reason of my acts. I avow, then, sir, (as I find I am charged in various newspapers with doing,) that I did, in conjunction with a worthy friend of mine, (also a member of this body,) enter the hall of Representatives in order to summon the southern members of that body to meet in this chamber at night, (for that was the only time when such a meeting could be possibly held,) for the purpose of taking into grave consideration the various aggressions upon our rights which had been perpetrated, or were in a course of being perpetrated, by wicked and unscrupulous men, and for the counteraction of which it was obvious that the most prompt and vigorous measures were necessary. Yes, sir, I did perform this subordinate ministerial part of summoning the southern members of the House of Representatives. I summoned Whigs and I summoned Democrats. I myself summoned, directly or indirectly, the representatives of nine of the sovereign States of the Union. Moreover, I talked freely with those whose presence I requested, in explanation of the objects of the contemplated meeting. I could confidently appeal to them, and each of them, whether, in all I said to them, I hinted at *disunion*. Well, sir, that convention assembled. Much debate occurred, and much division sprang up chiefly on minor points, such as the *time* most proper for decided action against our adversaries, and the *mode* in which such action should take place. I maintain (and defy contradiction) that there was not a single sentiment uttered in that body that, fairly and dispassionately considered, if made known to the world, could bring the least discredit upon the utterer or the assembly in which it was announced. An address was sent forth to the people of the South, every statement of which is true beyond contradiction—every argument of which is of irresistible cogency—every sentence and line of which is marked with high-toned patriotism and devout regard for the Union. This address, sir, was subscribed by a large number of the southern members of Congress present. It was not subscribed, for different reasons, by others, whose refusal to subscribe it is, I hope, capable of satisfactory explanation to their respective constituents. I feel bound to go further, and say that there are among those who thought it not politic, under all the circumstances of the case, to subscribe the address, as preliminary to its publication, some of the most worthy men and unquestioned patriots to be found in the Union. And now, sir, the address has gone forth—it has performed its high office. The South is roused up to a circumspect and scrutinizing survey of all the dangers which threaten her present peace and future safety. Our enemies stand paralyzed by the moral energy so suddenly and so imposingly displayed by southern Senators and Representatives, and the contemporaneous legislative resolves of nearly all the southern States of the Confederacy. At least there is some prospect of pacification, of compromise, of the final settlement of the most distracting and dangerous question which has been agitated in our times. Darkness is fleeing away, and *light* is beginning to beam upon us. Who shall dare to denounce those who met in that convention as traitors to the Constitution and the Union? Who shall presume to arraign now the sound intentions of that noble body of southern gentlemen and patriots? Who among all those that so fraternally coöperated for the defence and vindication of southern rights and southern honor will ever cease to be proud that he was one of that glorious southern Convention, the members of which dared, in spite of maledictions, misrepresentations, and ridicule, to perform a high and sacred duty to their constituents and country, by which those constituents and that country have been, in all probability, both rescued from dangers which could not have been effectually warded off save by the means so providently adopted and so fearlessly put in exercise?

And now, Mr. President, I have only a few words to offer in addition, touching the amendment of the honorable Senator from Wisconsin. Let me say of that Senator and his amendment what I think and feel most profoundly and sincerely. Sir, in the peculiar position occupied by that Senator, under all the circumstances which surround us at the present time, it required the highest moral courage to originate such a proposition as that which is before us. It demanded much boldness, the exercise of a solid judgment, and no little shrewdness in the comprehension of men and things, to mature such a project, and bring it forward before the Senate and the country under circumstances apparently so auspicious. If I do not greatly deceive myself, this amendment will shortly become the law of the land; and if it should, the honorable Senator from Wisconsin, young as he is, and comparatively inexperienced in the business of national legislation, will have a right to claim rank among the most renowned statesmen of the Republic, and his name will be associated in all coming time with the names of those who have been able in their day and generation to earn, by acts of high public benefaction, a solid and enduring fame, and a popularity both extended and lasting.

Mr. WALKER. I desire to submit a few remarks, and I hope to be able to say what little I shall have to say in relation to this subject, without detaining the Senate very long; but, as it is now a late hour, I rise for the purpose of moving an adjournment. I desire an opportunity of expressing my views in relation to the scope and tendency of the amendment that I have offered, and I would like to have the opportunity of doing so when all the Senators are present.

Mr. ATHERTON. I wish merely to say, that I conceive that the reasons which operated with Senators to induce them to offer these amendments to this appropriation bill have now ceased; because, as suggested by the Senator from Massachusetts, there is a bill from the House to which these amendments are appropriate, to which they are germane and proper. I hope, therefore, that Senators will withdraw their amendments, and allow us to proceed with the civil and diplomatic bill, which we have almost lost sight of altogether. The bill from the House, to which I refer, is a bill to establish a collection district in California, and these amendments will be perfectly germane to that bill. I therefore hope that they will be withdrawn from this bill, and reserved until the other bill comes up for consideration, and that the appropriation bill will be proceeded with and finished.

Mr. DOUGLAS. I hope the amendments will not be withdrawn, and I hope they will not be offered as amendments to the bill coming from the House for the establishment of a collection district in California. That bill has passed the House, and I think we had better pass it here. We had better secure it now that we have got it, and not send it back to the House amended. And we had better give to the people of California as much law as we can in the bill that is now before us. If the chairman of the Finance Committee would consent to lay aside this bill until we can perfect some bill for the government of California, I would be content; but, if we cannot get up our bill, I wish to amend this, so that we may, at all events, furnish protection to the people of California. It is immaterial to me in what bill the necessary provisions are contained, so that we make provision for the protection of life and property in California.

Mr. DIX. I hope the suggestion of the Senator from New Hampshire will prevail. The Senator from Illinois seems to suppose that we may take up the bill from the House and pass it. That bill has been referred to the Committee on Commerce, and, from the cursory examination which I have given it, I apprehend that we shall be obliged to make some amendment to it, and that it must necessarily go back to the House, so that there can be no objection on that score to attaching the amendments in relation to a government in California to that bill.

Mr. HALE moved that the Senate adjourn.

The motion was negatived on a division: Ayes 17, noes 23.

Mr. BREESE. I wish my colleague would move to lay the appropriation bill on the table, in order that he may call up his bill; for I agree with him in the view he has presented, that it is of great importance that some measure in relation to a government in California should be passed, and I have no doubt the Senate will agree to take up the bill.

Mr. DOUGLAS. With the consent of the chairman of the Committee on Finance, I will make that motion; but, unless I have his consent, I shall be reluctant to do so.

Mr. ATHERTON. It is suggested that the appropriation bill can be passed at any moment. That is a very great mistake. It requires considerable time for the engrossing of the amendments and the enrolment of the bill. There are many amendments that have been already made. The bill must go to the House, and it will take the House some time to examine these amendments. I conceive that we cannot consistently lay aside this bill in favor of any other. I hope that we shall proceed with it. If Senators choose to persist in their amendments, they can do so; but I trust they will see the propriety of withdrawing them. If the discussion of the subject be renewed upon the bill from the House, it will probably proceed until the end of the session; and if the discussion is to go on upon these amendments, I shall feel it my duty to call up some of the other appropriation bills, so that they may not be lost. I hope that the Senate will now proceed to vote upon these amendments. I would be willing to sit here and listen to the remarks of the Senator from Wisconsin as long as he might desire, were it not that the appropriation bills are still unfinished.

Mr. BREESE. The chairman of the committee on Finance must see that the progress of this bill will be impeded by these amendments; and if he brings up the other appropriation bills, the same amendments may be moved to those bills. He will not accomplish his purpose, then, as far as results are concerned. But the Senator well knows that the appropriation bills must pass; and, as far as the engrossing is concerned, that is a matter which can be accomplished in a very short time, and will be no impediment to the passage of the bills, even at the last moment. It would be far better to lay this bill upon the table for the present, until we dispose of the other subject.

Mr. ATHERTON. There is a bill now in the possession of the Senate to which all these amendments are perfectly appropriate, and I ask the Senator from Illinois why he will persist in pressing these amendments into this bill, to which the sense of the whole Senate declares they are inappropriate? If the Senator expects me—although I am as much in favor of providing a government for California as any one—to vote for amendments that are inappropriate to this bill, he is mistaken. I cannot do it consistently with a sense of duty; and I know there are other Senators who will not, however much they desire to give a government to California. It is a dangerous precedent, and I ask in what situation shall we be placed if the amendment of the Senator from Wisconsin be adopted, and the bill be sent to the House so amended, and an amendment be made to it there containing the Wilmot proviso, and it comes back to us thus amended—in what situation shall we find ourselves?

Mr. ATCHISON. What is the question before the Senate?

PRESIDING OFFICER. The question is upon the amendment to the amendment.

Mr. ATCHISON. Then I call the Senator to order for irrelevancy.

Mr. DICKINSON. Believing that we shall not take up another bill, and believing that we shall not take a vote upon the pending question at present, and thus deprive the Senator from Wisconsin of an opportunity of being heard, let us pass over this amendment and proceed to the other parts of the bill.

Mr. KING. It is not necessary at all to pass over the amendment. The question can be taken,

and the Senator from Wisconsin can discuss it when it is reported to the Senate. For myself, I am prepared to vote upon the proposition submitted by the Senator from New Jersey; and, as the Senate must be by this time pretty well exhausted by its long sitting, I think it would be well to take the vote to-night, and give the Senator from Wisconsin an opportunity of being heard to-morrow. I hope that we shall take the question upon the proposition.

Mr. WALKER. I hope the Senate will pursue the course it deems proper, without reference to any convenience or inconvenience in regard to myself.

On motion of Mr. FOOTE, the Senate adjourned.

SATURDAY, *February* 24, 1849.

The amendments of Mr. WALKER and Mr. DAYTON, being still pending—

Mr. WALKER said: Before offering any observations upon the proposition now before the Senate, I wish to mention that several Senators have been to me this morning, and since the adjournment last evening, insisting that the amendment offered by myself should be withdrawn from the civil and diplomatic bill. I wish now to say to the Senate that I would be gratified if some indications should be given upon that subject. I feel entirely willing to withdraw the amendment, and would most cheerfully do it by the consent of the Senate, if it may be suggested in any way, so that I understand such to be the feeling of the Senate.

Mr. MASON said that if this amendment was withdrawn by the Senator from Wisconsin, he should renew it.

Mr. WALKER. I would not withdraw my amendment entirely, but simply from the civil and diplomatic bill. It is with this view alone that I would withdraw it.

Mr. MASON. I do not know how far I have been understood in my remark. What I meant to say is this: that that amendment cannot be disposed of but by a vote of the Senate upon it.

Mr. WALKER. Mr. President, the Senate will appreciate the remark when I say that it is with extreme diffidence that I propose to say anything upon the subject now before the Senate. It appears, sir, to me—and I fear it will so appear to many others—like obtruding myself upon the Senate at this period of my senatorial career, and upon a subject where I ought not to feel myself justified. I confess that I do, to a considerable extent, feel embarrassed by this impression. But, sir, I have the consolation of knowing that I have not heretofore, since I moved this amendment, made any great noise about it, or obtruded myself upon the notice of the Senate to any very considerable extent; and I cannot charge myself with having, up to this period, occupied its attention in any manner which is not both modest and justifiable. I have brought a subject of great magnitude, in my mind, before the Senate. It is one which has for some time, and is now likely to continue, to agitate not only this body but the other branch of Congress, as well as the people of the country. There is one thing, however, that is gratifying: that we have reached a stage in this matter—a moment in the proceedings of the Senate of the United States—when every man who has given us any intimation of his views upon this subject seems to feel the importance of doing something, and doing it now, for the settlement of this vexed question. This must be a matter of gratification to all. We hear the Senator from New Jersey, [Mr. DAYTON,] we hear the great and distinguished Senator from Massachusetts, [Mr. WEBSTER,] we hear even those who are opposed to the passage of this amendment as it is offered, say that it is important, and important now, to do something for the settlement of this matter. There seems to be none here, sir, to dispute this. Every one seems to be sincere in expressing this feeling, and in saying that he is ready upon the proper occasion, and in a proper way, and by proper means, to consider what we shall do. And, sir, if sincerity is implied by the words of gentlemen who have spoken, both publicly and privately, the only questions which now remain to be answered, are, What shall be done? how shall it be done? and when shall it be done? This, sir, I repeat, would now seem to be the state of mind which is prevailing in the Congress of the United States. Then, sir, what shall be done? It must address itself to every Senator laboring under the impression and feelings to which I have alluded, that this is a momentous and solemn question. There may be found those who will treat it carelessly, and there may be found those who will treat it in a manner to defeat action on the subject; keep it open as a subject of agitation—not only to agitate this branch of Congress and the other, but to agitate the millions of our fellow-citizens who are now directing their eyes to this Capitol, and, as it were, with imploring looks and words, beseeching us to act, and to act definitely.

This question, when addressed to the Senate, it would seem, ought to have brought to their feet those of old standing in political life; those of distinguished ability and character; those who have established a character for greatness; who have reached that period in life, and that position in the political affairs of the country, when and where they can exercise a mighty influence. Sir, there is one in this Senate who has been brought to his feet by this solemn question being addressed to the Senate—one at the sound of whose name my childhood's form was disposed to assume a more erect position; and, looking down the path of my own life, I have seen him in the distance occupying that position in the estimation of his countrymen—that political position in his country to which I never ventured to aspire—and little did I dream of ever having the honor of sitting in council with him on the affairs of this nation. But, sir, when he was brought to his feet, and the Senate, as it were, were kneeling around him, like children begging a parent for bread, he almost literally offered us nothing but a stone. Yes, sir, he to whom we have been disposed to appeal, and clothe with the leadership of matters of great magnitude, when he offers his proposition, offers that which may well be denominated nothing. I allude to that very distinguished Senator from Massachusetts, [Mr. WEBSTER.] What has that distinguished Senator offered to us? How has he answered the momentous question, What shall be done upon this subject? Sir, he has told us that we should do this:

"That the President of the United States be and he hereby is authorized to hold possession of and occupy the Territories of California and New Mexico, ceded by Mexico to the United States by the treaty of the 2d of February, 1848; and that he be authorized, for that purpose, and in order to maintain the authority of the United States and preserve peace and order in said Territories, to employ such parts of the army and navy of the United States as he may deem necessary."

Now, Mr. President, did that distinguished Senator, or any other Senator upon this floor, deem it necessary to pass a declaratory act merely of what the duty of the President is already? Was there an impression lurking in his breast—was there an impression abroad in the Senate—was there a feeling pervading the Congress of the United States, that the President soon to be inducted into power is so far lacking in the knowledge of his duty, and the nerve to execute it, as to neglect to hold possession of these Territories, and to that end to employ such naval and military forces of the country as might be necessary? Were there any that dreamed that the incoming President was so ignorant of his duty, or so far lacking in courage to execute it, as to render it necessary to pass this declaratory act? Sir, it seems to me that neither the Senator, nor other Senators in this Chamber, entertained any such impression in regard to the lately-elected Chief Magistrate of this nation. Still, sir, the words which are presented to us in writing would seem to imply that such a feeling was entertained, and such a belief did prevail. I know of none who entertain such an opinion.

And now, sir, let us look at the remainder of the answer of this great statesman to those questions which I have propounded:

"SEC. 2. *And be it further enacted*, That until the expiration of the next session of Congress, unless Congress shall sooner provide for the government of said Territories, the existing laws thereof shall be maintained and observed; and that the civil and judicial authority, heretofore exercised in said Territories, shall be vested in, and exercised by, such person or persons as the President of the United States shall appoint and direct, to the end that the inhabitants of said Territories may be protected in the full and free enjoyment of their liberty, property, and religion."

Then, with a proviso against military force:

"*Provided, nevertheless*, That martial law shall not be proclaimed or declared in said Territories, or either of them, nor any military court established or instituted, except ordinary courts martial for the trial of persons belonging to the army and navy of the United States."

Now, Mr. President, when were the laws which existed at the time of the cession of this territory abrogated? When did they cease to exist? And, sir, if they have not been abrogated; if they still exist, and are in force, pray what does this answer of that statesman say to us? It says nothing more nor less than that he would have those laws executed by appointees of the President of the United States, instead of those officers chosen by the people for themselves. This is the answer which is given to us by him to whom we feel authorized to look for kindly advice and admonition. Sir, when I saw him rise, I did turn towards him with feelings of mingled hope and gratitude; for I thought, when he took a position upon this important matter—knowing him as I had a right to know him—I did expect from him something, and felt, in anticipation, gratitude for what was coming, hoping that he would give us at once that upon which we could settle down and agree—that which would produce tranquillity of mind, both here and in those territories to which we propose to extend some of our laws. But, sir, I must repeat, that when it was all read, I was disappointed, and could but pronounce in my mind the word "nothing!" Disappointment, sir, must seize upon the minds of the country. I speak in no unkind sense to that Senator. I wish he were present to hear what I have to say. But we had a right to expect more at his hands; at all events, for one, I did expect more. And then, again, when he turned from us and said that he did not feel himself authorized to exhort the Senate upon this or any other subject, it seemed to me that there was a want of feeling not justifiable in that great man's breast, and which ought not to have been manifested here. We all entertain a high appreciation of him, though we may differ from him in politics. We all feel that he is one who has often advised us—often directed the affairs of state; but we could not but feel disappointed when he gave such an answer, which, as I said before, amounted to nothing.

Now, Mr. President, as to the answer which we should give to this question, my ideas of our duty are these: that we should do all that has usually been done in similar cases. It is proper for the Senate to advert to what is implied in this answer—"all that has been done in similar cases." Why, it has been usual, sir, where it has been practicable, to pass an act establishing a territorial government. This it would be our duty now to attempt, if it were not for two insurmountable barriers—the one, sir, the lack of time; the other, the agitation which prevails here and throughout the country upon the subject of slavery. Had we time, sir, we might try a little longer; we might go on and endeavor to pass some act to organize these territories in the usual form. But time will not permit it. We have but one more week of legislative time, and then the hour for action for this session is closed, and closed forever; and it will be for us, one week hence, to give the country the answer, whether anything, and, if anything, what, has been done upon this subject.

But, sir, it will be for the Senate to remark, that heretofore, independent of the mere form of organization of the territory—that is, giving it its specific power, and prescribing the manner for the transaction of its internal municipal affairs—something else has been done. And to this point I ask the attention of the Senate particularly. It is to this point—leaving out the organization of the territories in a municipal sense—that this amendment proposes to go. Besides the organization of the territory whenever the growing improvement of the territory has involved the interest of the United States, those laws which relate to the General Government—to the government of the country in its relations to the territory—have always been extended over it: for instance, the post office laws, the laws in relation to the sale of the public lands, the revenue laws of the country have been extended, and all other laws of a general character which were necessary and proper to the enforcement of the rights of the country. And I contend, sir, that the Constitution itself requires that domestic tranquillity should be preserved—that domestic insurrection and violence should be suppressed. And if it be not proper to extend our laws for this

purpose, whether we organize a government or not, I am, for one, unable to suggest a purpose for which it should be done. Yes, sir, I doubt whether there is one in this Senate who would feel it to be otherwise than his duty, if it were practicable, to organize a territorial government in form in those territories. But when this is impracticable—when time will not permit, and when the peculiar state of feeling here will not permit, the next best thing evidently becomes our duty; that is, to extend the laws of the country generally, and protect the interests of the United States in its relations with that country, and the rights and interests of that country and its people, so far as they stand in connection with the General Government. If we fail to do this, we have failed to do anything, and calamity may succeed; and I know not who are to be accountable for the succession of calamities which will ensue, unless it be the Senate and House of Representatives in Congress assembled. Upon us, it seems to me, is properly to be visited the odium attached to this neglect; and if visited upon us, it occurs to me that it will be a difficult matter to show an excuse which would offer anything to palliate the offence in the estimation of the people of the country.

Usually, sir, these general laws of the United States have been extended over Territories gradually; that is, when the population of the country became such as to demand the use of the public land, the land laws have been extended; when there was a population which required and justified the services of the Post Office Department, the post office laws have been extended; when it became necessary, from the increasing commerce of the country, to establish ports of entry, and extend laws for the collection of revenue, the revenue laws have been extended; and so on, gradually, step by step, has the exercise of general jurisdiction by the United States been extended in all those respects in which the interests of the country required its exercise.

But what is the state of the case before us? Let me call the attention of the Senate to this state of the case. Here we see a picture presented which was never presented before; we see a country occupying a position which none ever occupied before it. We are witnessing developments which are new and unprecedented. Here we see interests of the most momentous kind growing suddenly into existence, and interests, too, which in their tendency, since man first existed, have had the effect more to excite the avarice and the baser passions of the human mind than any other. Then, sir, what state of the case does this produce? Here we see the lands brought in the most glittering point of view before the eyes of the world, showing the necessity of surveying them, and establishing land districts and land offices for their disposal. From the immense quantities of the precious metals which are being found there, a commerce unprecedented in the history of any new country has sprung into existence. Sails are bespecking the ocean from one extremity to the other, extending from the various points of departure to that of debarcation. A scene of the kind has never before been presented to the eyes of the American people, or any other nation on the earth. Here is a commerce of the most important and dangerous character, and of the most interesting character from the amount of its profits. Many are engaged in it. From the destitute condition of the country, all who are there are interested in it; thus begetting the necessity for the extension of the revenue laws over that country.

But, sir, the Senator from Massachusetts told us that the extension of these laws is useless. He tells us that their operation will amount to nothing, and that the step will be entirely nugatory; and he gives us an instance—the case of Florida in 1822—and gives us the important information, that from the time of the extension of the revenue laws to the period of the organization of that Territory, there was not one hundred dollars of revenue collected. Sir, give to Florida the immense quantities of gold that are embowelled in the mines of California—give her the important ports that there exist—send to her the mighty tide of population that is rushing to California—create in Florida the necessities which are now existing there, and then ask that Senator if the extension of the revenue laws to California is not important? and if his mighty mind and great sagacity do not suggest a different answer to that which he gave in the instance of Florida, I shall feel much mistaken in my estimation of that sagacity and magnitude of mind.

Sir, there is a necessity, if there ever was a necessity in any case, for the Government of the United States to extend her laws to California. Upon the principle of extending her revenue laws to that country, let me here be distinctly understood; for, even in advocating points of expediency and policy, I wish to be sustained, if possible, in consistency of principle. I may say that I am opposed to all systems of indirect taxation—to any indirect system of revenue by the imposition of duties on imports. But it now exists in the country. Every ship of every country on earth would be directed to California, if the amount of competition did not forbid it. And while every port almost in the world is sending forth her manufactures, productions, and fabrics, to be sold and disposed of there, to come into competition with us—while we have to make large expenditures for the protection and (I hope) for the government of that country, why should we deem it improper to extend this system there? Why will it be improper, in a country where the importer finds so rich and valuable a market? Why should he be exempted? I say, sir, that while this system does exist—while levying imposts upon importations of foreign goods is the practice of the country, I am decidedly in favor of its extension to New Mexico and California.

Well, sir, this being the peculiar state of things with regard to our land and revenue laws, let us pass on to other points in which this territory is to be viewed. Sir, we find here a more heterogeneous class of population than perhaps we ever found, or shall ever find, congregated, during the same space of time, in any region of the world. Turn your eyes to Belgium: she is sending forth her numbers. Direct your mind to Cornwall, and you will find her miners leaving their native land for this El Dorado of America. Look to any part of Great Britain, and you will find the population pouring itself out in vast numbers, their faces all set towards the same point. Again, turn your eyes to Germany; and if reports give us anything like the truth, the Germanic States are pouring out their thousands. Turn to any part of the world, and do you not find a restlessness pervading the public mind upon the subject of these gold mines? Yes, sir, there is something peculiar in the interest which is felt, not only by our own country, but other countries, in braving all hardships, by sea and land, for the purpose of grasping in a brief moment some portion of the vast wealth that is there being obtained from the land we have so lately acquired. In our own country, we have, perhaps, sent forth a great many of our enterprising men to this section of the world. But it is equally certain that many of our more vicious have gone there. I am not disposed to say that the population there, so suddenly congregated, is more vicious than anywhere else. But, sir, that there is vice stalking abroad—that there is danger to the weak who are subject to the strong, the vicious, and tyrannical, there can be little doubt; and that there is no law there adequate to protect those who are unable to protect themselves, is and must be indisputable. Then, sir, this is a state of things which renders it very necessary indeed that steps extraordinary and commensurate with the emergency should be taken by us, for the purpose of accomplishing the end so desirable.

Then, sir, what are the steps which ought to be taken? On this point, my views are contrary to the Senator from Massachusetts. My views are, that the laws we extend there should be of the most competent character which exist in our country; that we ought to extend those laws there which will accomplish the end—not merely pass a declaratory act that the President himself shall hold possession, for that he must do as it is; and let him neglect to do it—let him fail to hold possession—let it go forth to the nation that he has let that country slip from his hands, while there is an American heart to bleed or life to expire, such a shriek of curses will go out against him as never was, and I hope never will be, heard in this land. I differ from the Senator from Massachusetts, that it is necessary only to declare it to be his duty to do this. In an emergency, the most strenuous measures and energetic steps must be taken that possibly can be taken. It is possible that the proposition I have offered might not have been offered by me if the President who was to execute it had been one of the party to which I belong. Delicacy might have forbidden it. But, sir, I feel relieved when I can offer the execution of these mighty powers to a President who is not of my party. The suspicion cannot rest upon me and my efforts, that I am endeavoring to prejudice the liberties of the country by placing in the hands of my own party President either the sword or the purse. I am gratified that our position is such, that when we offer this great power and great patronage, we are offering it to one whom the country has lately honored for his bravery and deeds of arms—to one who has manifested through life a deliberate determination to discharge his duty with energy, yet with forbearance and courtesy, in every position in which he has been called upon to act; and one who entertains, at the same time, different political principles, and belongs to a different political party, from that to which I have the honor to belong.

Sir, if we can treat with indifference, even during the short remainder of this session of Congress, this important matter, it must be because too many have not looked at the state of things which exists; it must be that, so far from being lovers of tranquillity, they are lovers of that excitement and that agitation which, if kept up, and if not checked by the good sense of the American people, must, ere long, so far produce alienation as to cause the departure of that spirit of peace, harmony, and brotherly love, upon which this Government ought to be based, and upon which alone it can be based, with success and hopes of prosperity. May the time be far off, sir, when such an alienation of feeling, such an end of all fraternal feeling, shall be brought about! May the period be so far remote that even the eye of expectation itself cannot look to it, with any fear of its reaching us so long as we exist, or so long as our appreciable posterity shall survive! Sir, there is a solemnity about it. Upon one side of this chamber we see that taken as insult which was never so intended, and which would not be taken as matter of offence by those whose minds had not been rendered morbidly sensitive by fearful forebodings that their rights were attacked and were in jeopardy. On the other, I fear there is too much of a disposition to goad and irritate—if not from a love of cruelty, from too little care for the feelings of others. Something there is lurking in our midst to cause every Senator to feel sad and solemn that such a thing does exist, and which ought to bring him to the solemn and firm resolve that, with the last breath of his life, he will struggle with all his energies to eradicate this state of feeling; that he will press on to the discharge of his duty to himself, his neighbor, and his country—to his country in all its parts, whether North or South, East or West, near or remote.

Every one of us has constituents who have lately gone to the distant region of wealth—to California. Turn your eyes, sir, to the most distant portions of the newly-settled regions of the West. The man who lately made the echoing woods resound to the strokes of his axe, has heard the tale of the land of gold. He has bid farewell to wife, children, friends, and kindred: he has gone! The young ploughman, so lately whistling through the furrowy task, has heard the sound of gold: he, too, has gathered up his little all, and with a "good bye, mother—sisters, farewell!" is gone too. He has left the home of affection and kindred behind him, and is now there. The mechanic, whose stalwart arm so lately lent din to the busy scenes of life, has gone likewise. Our neighbors and friends have gone from every region of the country, and from every rank, leaving behind them those to whom they were bound by the chains of affection and of kindred love. This human tide, like the earthquake's wave, is onward and resistless. It cannot, it will not be stopped or delayed. Every one of us has had some cause for feeling upon the subject. And if we would discharge our duty towards those who have gone out from among us, let us do it now, at the present session of Congress, and not return to be greeted by the question, Why have you left our fathers and brothers unprotected, subject to the assassin's knife or the murderer's pistol? Why have we needlessly been doomed so soon to lose that which was so dear to us—that which we cherished—which was

our support and protection—our companionship through life? Sir, it seems to me that we ought to be impressed with the duties now urged and pressing upon us; that we ought to be ready to come up at once to the manly performance of our duty, in defiance of all that is said, or done, or threatened, in either quarter of the Union, which is likely to sever brother from brother. Let us come forward like men, determined to do right, if the heavens fall. Now, sir, what I propose shall be done, is set forth in the amendment which I have had the honor to offer to the Senate.

I wish very briefly to allude to this amendment, and to ask the attention of the Senate to its terms, that they may perfectly understand what my meaning is, and what the proposition is in all its bearings, that, if I am incorrect, other gentlemen, with their better knowledge, experience, and sagacity, may correct the errors into which I have fallen.

"SEC. — *And be it further enacted*, That the Constitution of the United States, and all and singular the several acts of Congress respecting the registering, recording, enrolling, or licensing ships or vessels, and the entry and clearance thereof, and the foreign and coasting trade and fisheries, and all the acts respecting the imposing and collecting of duties on imports, and all acts respecting trade and intercourse with the Indian tribes, and all acts respecting the public lands, or the survey or sale thereof, and all and singular the other acts of Congress of a public and general character, and the provisions whereof are suitable and proper to be applied to the territory west of the Rio del Norte, acquired from Mexico by the treaty of the second day of February, eighteen hundred and forty-eight, be, and the same are hereby, extended over and given, and made in full force and efficacy in all said territory."

That is the first provision. Now, I have remarked that this general extension of the laws of the United States over the territories has generally taken place gradually, as the interests and necessities of the country to which they were to be extended grew up. But, sir, under the peculiar state of things here, it is proposed now, and in this manner, to extend them at once. Suppose, sir, that we were to propose to carry this matter through a series of years, should we not have the power to do all that is proposed to be done now? Is there anything to prevent our extending now, and at once, the laws with regard to the "recording, registering, enrolling, or licensing ships or vessels, and the entry and clearances thereof," over California? Is there anything to prevent our extending the laws relative to the "foreign and coasting trade and fisheries" to that territory? Is there anything to prevent our extending the laws "respecting the public lands, or the sale and survey thereof?" Is there anything to prevent the extension of the laws "respecting the imposing and collecting of duties on imports?" Is there anything to prevent our extending any of these laws? Have we not, heretofore, in other cases, extended all these laws, though not all in one act? But, sir, under the peculiar state of this case, under the peculiar circumstances which surround us, is it not expedient for us at once to extend all these provisions over that territory? Are there no lands to be sold? We know that there are. Are there no inhabitants whose necessities demand a commerce? Have not profits been made of unprecedented amount by importers to that region? We know that there have been, and will be, to the amount of millions incalculable. Why should we not, then, compel them to contribute something for the support of this Government and of that? It may be said that the poor settlers there will have to pay our imposts indirectly. Sir, if there is a country in the world where duties may be indirectly imposed, without becoming a burden upon the poor consumer, it is California. Merchants there are realizing 500 per cent. profits upon their goods. Do you suppose that the amount of revenue levied there will make any appreciable difference in their prices? Not at all, sir. It is, of all the countries on earth, the one where a revenue can be collected, and the settler not feel it; for such trifles enter not into the account in the prices fixed for articles by the salesman. If duties are left uncollected, goods will not be sold one penny cheaper; for it is the amount of gold which regulates the prices current there, and not the duty that is levied. The shawl that costs the importer forty cents, and which he sells at $14, cannot be enhanced in price by the imposition of a few cents duty.

Then, sir, in another respect, my amendment proposes to extend the laws regulating our intercourse with the Indian tribes. Perhaps there has never been a territory over which the jurisdiction of the United States has been extended, in which there has existed so much necessity for the extension of our Indian relations as there is for their extension over the country of which I am speaking. Sir, this necessity not only exists, and results from the great number of tribes of Indians there—some of them savage tribes, some of them hostile to each other—but if the Senate will bear with me, I will suggest that it is imposed as a necessity, our duty, by the solemn, unrepealable obligations of the treaty into which we have entered with Mexico itself. Sir, we have entered into obligations with Mexico to protect her citizens against capture and imprisonment by the Indian tribes—to reclaim and recover, and return to their own country, all such Mexicans as shall be captured by the Indians. Whenever notice shall be given to us that they have been captured and detained, we are obliged to recapture these Mexican prisoners, and return them to their own nation. We are to devote the necessary money of the country—the energies of the country—all the power of the Government of the United States, if necessary, to the accomplishment of this end. And yet it would seem that the period, in the estimation of some gentlemen, has not yet arrived when we shall take the step necessary to the fulfillment of these treaty obligations.

But to go on, sir, the amendment provides:

"And the President of the United States be, and he is hereby, authorized to prescribe and establish all proper and needful rules and regulations (in conformity with the Constitution of the United States) for the enforcement of said laws in said territory, and for the preservation of order and tranquillity, and the establishment of justice therein, and from time to time to modify or change the said rules and regulations in such manner as may seem to him discreet and proper; and may prescribe and establish, temporarily, such divisions, districts, ports, offices, and arrangements, proper for the execution of said laws, and appoint and commission such officers as may be necessary to administer such laws, in said territory, for such term or terms as he may prescribe, whose authority shall continue until otherwise provided by Congress."

Sir, here is where the power is to be given—to the President of the United States—to accomplish the great end of preserving the peace and tranquillity of our countrymen and country. Now, if the President of the United States, who is to execute these laws, be himself a man whom the people ought to have honored, and ought to have elected, he is the very man who can execute, both mercifully and justly, the powers which are proposed to be given him by this amendment. Sir, is there any peace there? No, sir; it has taken wings and flown. Is there any tranquillity there? If the accounts be true, the very reverse is the case. Personal struggle and conflict is almost continually going on. Parties and individuals, armed ready for the conflict, rush to it whenever they find that, in their aggressive spirit, they are not permitted to do as that spirit dictates. The weaker find themselves without the power to resist, and with nothing to protect them. If they appeal to the laws of the country, they are inadequate to the end. If they appeal to the established authorities of the country, there seems to be nothing which will interfere, or, interfering, will render the assistance and aid required. Then, sir, would it not seem necessary that the very step proposed by this amendment to be taken, should be taken to meet this emergency? We propose to arm the President with power to preserve the peace and tranquillity.

Here, sir, I beg leave to call the attention of the Senate for a moment to the remarks of the honorable Senator from New Jersey [Mr. DAYTON] upon this subject. He objects to the extension of these laws, and to the grant of this power, because three distinct facts which he has stated, and I have no doubt he felt himself authorized in stating, were matters "which did not strike my eye at the time the amendment was offered;" "that there was something more in the amendment than at first met the eye." Those matters were, first, that the amendment was new; second, that it settles the boundary of Texas; and, third, that it extends the Constitution of the United States over California.

Mr. DAYTON, (interposing.) That remark was made with reference to the last objection—the fact of its extending the Constitution over California—and not with reference to the others.

Mr. WALKER. That is the fact upon which I am now about to remark.

Now, sir, that the phraseology of the amendment is new, I do not deny. But is the proposition itself new? I apprehend that the Senator from New Jersey himself will not say so, because he has already given us the cases of Louisiana and Florida. It may be new in its phraseology, but I presume it is not new in its objects. It may be new in some of the features of the *power* to be extended to the President, and the laws to be extended over the country. It may be the fact; but, sir, is this not a new case, demanding something new for this Government and those Territories before we separate; demanding that some new step should be taken upon this subject? Is it not a new case? Is it not a state of things such as has never existed before? It occurs to me that it is.

As to the second objection to the amendment, that it settles the boundary between the United States and Texas, I have only to remark that it is a mere mistake of fact upon the part of the Senator from New Jersey. We are at direct issue there; for I say that the amendment does not propose to do any such thing. It does not name Texas. It does not mention the conflict with regard to boundary. It says nothing about that disputed territory. It merely says the country west of the Rio del Norte, leaving a portion, if there be any such portion, of territory belonging to the United States over which the provisions of the amendment do not extend. It does not even inferentially settle the question. Sir, if the country west of the Sierra Nevada had been mentioned as the country to which the amendment should apply, would the Senator then have said that it settled the question that all that portion of the territory east of the Sierra Nevada belonged to Texas? Unless he could say that, I do not see how he can contend that the boundary of Texas is conceded by this amendment. It does not affect the question of boundary; it only excludes a portion of the territory of the United States from its provisions, if the boundary of Texas does not include that territory. It is nothing more nor less than this.

But, sir, there was an object in framing the amendment in this form, and candor requires me to express it. It was my wish to disconnect this question from all controversies; to conciliate the Senators from Texas, if in my power, and to conciliate all; to put down all incidental controversies, and guard against harrowing up the feelings of members, that they might not feel harassed upon the part of Congress by interferences with questions of mere individual interest. This amendment proposes to leave it free for Texas to bring forward the facts, and to demonstrate the rights which she declares to belong to her. That question is left to another day. It is a question which cannot but excite the feelings and animosities and passions of the country, if we should attempt to settle it in this way. We propose to act for the settlement of the question before us, only that we may have the conjoint sanction of as many members as possible to the proposition.

Again, sir, in regard to the extension of the Constitution, the third objection of the Senator from New Jersey. And for what reason is the Senator from New Jersey opposed to the extension of the Constitution, if it can be done by legislation, over the territories of California and New Mexico? Why, sir, his argument is, that the South claims that the Constitution gives them the right to take their slaves there and make it a slave country. He asks no advantage from the South, he says, nor is he willing to yield any advantage. He is opposed to the extension of the Constitution there, because it will give to the South what they claim as an advantage, and will give them, according to their idea, an advantage in political power over the North. He denies, however, at the same time, that any such results can really follow. Sir, my feelings upon the subject of slavery are, perhaps, as well known here as those of any other Senator upon this floor. But, sir, I say before this Senate, and before high Heaven, that I feel myself incapable of entertaining any such feelings as those entertained by the Senator from New Jersey. If the Constitution will extend slavery to the land, then let it go. If by that Constitution slavery is extended, I am willing to stand by that Constitution. I am unwilling to withhold from our southern brethren any of the rights given to them by that sacred instrument. If by the oper-

ation of the Constitution they have any advantage, they may possess it. It is a sacred instrument, and I am willing to stand by it at any time. If any advantage is given to the South under the Constitution, they are entitled to it. Let them not be excluded from its provisions. If its extension over new territory gives an advantage to the South, I am willing to give them the advantage just to that extent. I may differ with them upon that question, but we will not quarrel about that here. I will not leave room or give cause for an array of one section against another—for crimination and recrimination. I would say to the South, if the Constitution of the country gives you any advantage, it is but justice that you should receive that advantage. From me, as far as I am concerned, you may have it, most ungrudingly. I am not one to violate a constitution I have sworn to support, merely to cripple an institution which I condemn. No; take it. But let the people of that distant country have the benefit of its protection extended to them.

Is there anything in this which is criminal—anything promotive of the interests of slavery? But the proposition to withhold the Constitution from our territories is to violate that instrument. They are a part of our country. They are our fellow-citizens, who have gone there from all regions of the United States. Under the Constitution of the United States they are entitled to its protection if they go there. In reference to the slave interest, it gives no advantage; but if it were otherwise, it is a constitution which we are sworn to support and execute. It is not our fault. But to withhold the protection of the Constitution from that country would be ingratiiude and injustice. To refuse that it should have its full operation would be to violate its provisions, which I am unwilling to do. I hope I am understood. I say that I should regret, entertaining the views which I do, that it should have any other operation than to do general justice; but, even should it be otherwise, magnanimity, fidelity to the Constitution, fidelity to the Union, fidelity to the institutions of the land, which it is not in my heart to violate, would require that we should honor and observe it. I am disposed to do all that the Constitution requires, and shall not for a moment hesitate to inquire whether it will benefit or injure the North or the South.

I regretted, sir, to hear this objection of the Senator from New Jersey. I may not have understood the import of his language. I may not have understood what he intended to imply; and if I have misunderstood him, and done him injustice, I shall be ready most humbly to ask his forgiveness. But it seemed to me to be looking at the subject in a point of view from whence it ought not to be seen, and one in which it ought not to be dragged before the Senate. This is a peace-offering. It is not proposed to organize a government where the Wilmot proviso will be either applicable or inapplicable. That question comes up when we propose to organize a territorial government. This is an intermediate step between anarchy and territorial government. This is to do what little we can for that country to protect the rights of southern men as well as men of the North; to protect the property of the South as well as of the North. Sir, I have alluded to the answer we have had to the question before us from the Senator from Massachusetts, [Mr. WEBSTER.]

Mr. DAYTON. Would the gentleman say that the Constitution of the United States can be extended by an act of legislation?

Mr. WALKER. My own individual views upon that subject I will give; but I have not examined the decisions of the Supreme Court of the United States. This I will say: my own opinion is, that the Constitution of the United States extends there in all its appropriate provisions. Every American citizen who goes there, goes with the protection of the Constitution following and surrounding him. It is by virtue of the constitutional power which belongs to the United States that the territory was acquired. It was by virtue of the Constitution that the armies of the United States marched there. It was by the virtue and efficacy of that Constitution that the soldier fired his gun or wielded his sabre upon that soil. It was by the virtue and efficacy of the Constitution, sir, that a solitary human being was attached to the jurisdiction of the United States, or that a foot of land was attached to our country and dominion. I believe that as soon as an American citizen goes there, he goes with the protection of the Constitution; and that, so far as his rights of personal liberty, security, and property are concerned, he carries with him all the rights which he would have in any other part of our dominion. It goes with him, *proprio vigore*, as a personal *attaché* of the American citizen, if I may use the term. It is a shield to him, and, so far as personal security and personal liberty are concerned, he is as much under the protection of the Constitution as if he were in the capital of the nation. I believe, then, sir, that the Constitution has been in force there since the treaty with Mexico, and that it follows every American citizen there, and extends its protection to him as far as it can be made applicable to that end.

But I am treating the remark of the Senator from New Jersey as an objection reaching to the end which he has mentioned. The end was the objection to this clause of my amendment extending the Constitution over the territory of California; the end being that it would give rights to the South which they would not have otherwise. Sir, is there any patriot in this Hall who is ready to return to the North and say that he had been willing to withhold constitutional rights from the South, or from any one entitled to them? They say they are entitled to certain rights under the Constitution. We say they are not. Here is the disputed point. But shall we make this Chamber unnecessarily the arena in which Senators shall rush to its decision with heat and passion? I pray Senators not to make it such. But suppose the Constitution gives additional rights to the South: it is their Constitution as well as ours. It is their Constitution now; it has been from the foundation of the Government; and it will continue to be, unless they are excluded from its benign provisions, as long as the Government shall exist. Is there one who will object to the provisions of the Constitution being extended there, because peradventure, under its operation, Southern men will have some rights carried out which they could not otherwise have had? This feeling, sir, I cannot believe to be entertained to any considerable extent in this country. It is impossible that it should be so.

Mr. BERRIEN. Apart from the question whether the Constitution, by its own force, extends to the territory, leaving that out of view, there can, I suppose, be no doubt that the Congress of the United States, by an act of legislation, may extend the principles of the Constitution to any territory for which they have provided a government. They may provide that the principles of the laws of Great Britain shall be applied to the new territory if they choose; and if they possess the power of making the laws of a foreign country obligatory, can they not say that the principles of their own laws shall be extended to the people of that territory? I suppose the question is beyond a doubt.

Mr. WALKER. I was going to remark that, whether the Constitution *proprio vigore*, extend there or not, or whether it can be extended over it or not by legislation, there would be no doubt as to the extension of the principles of the Constitution as a legislative act of Congress. There is nothing in the Constitution which is unconstitutional; and, therefore, it would not be unconstitutional. And, therefore, to provide that any of its provisions applicable should be extended, would not be in violation of the Constitution. If, then, we approve of the provisions of this measure, it is clearly constitutional, as far as legislation is concerned.

Mr. DAYTON. May I interrupt the Senator for a moment? I supposed it was a clear point that the Constitution of the United States, being a contract and agreement between sovereign States, could be extended no further than it, by its inherent power, extended itself. No act of legislation could make that compact between sovereign States reach further than to these States. Now, the Senator talks about the principles of the Constitution. Why, the Constitution, sir, does not consist of matters of principle. It is a compact and agreement between sovereign States. It is not like the principles of the common law, or the principles of the civil law. It is something entirely different in all its aspects. I hope that I am not intruding upon the time of the Senator from Wisconsin, in saying that the Constitution cannot, by legislative act, be extended an inch beyond the territory over which its inherent power will carry it.

Mr. BERRIEN. With the permission of the Senator from Wisconsin, I beg leave to make a single remark. The Constitution, sir, is a compact which, as a compact, does not go beyond the limits of the States; but the Constitution contains certain provisions and certain principles. Now, does any man doubt that we might, in passing a law for this territory, take up any one of the provisions of the Constitution and incorporate it in that law, and that it would then become binding—not in consequence of its being a compact but in consequence of the exercise of our legislative authority in the government of the territory? or that we might apply all of its provisions to that territory? Why, sir, the common law of Great Britain consists of a series of provisions which the wisdom of ages and the experience of ages have established. We may take each one of these principles and apply it to the territory, or we may apply the whole of them *en masse*. And so of the provisions of the Constitution. We may take each one of them separately and apply it to the territory, or we may apply the principles of the Constitution *en masse* to the territory. Then they would be in force in the territory, not by virtue of any compact, but in virtue of the legislation of Congress which has applied them to the territory.

Mr. WALKER. That is the view which I wish to express. Now, sir, to apply it: The Constitution requires the President to execute all laws for the suppression of domestic violence, insurrection, or foreign invasion. Is it in violation of the Constitution to extend that provision to California? I might go on and enumerate such provisions interminably. But when we extend the provisions of the Constitution to these territories, we do not extend its vigor and its provisions to these localities as a whole, as a compact, but as a piece of legislation on the part of the supreme power of the nation. It occurs to me that this is a plain view of the matter. If it would suit Senators better to go on and enumerate in the amendment every point applicable there, which we propose to extend, be it so. But it occurs to me there is a more succinct method, and this method is adopted in the amendment as it stands.

I have before remarked, that so far as the protection of life, liberty, personal security, and the rights of property are concerned, the citizen, as such, had the shield of the Constitution there already thrown before him; and that when he went there, he went with these rights, and entitled to this shield of protection. Now, sir, we propose to enforce these rights, and protect him in the enjoyment of them.

Mr. WESTCOTT, (interposing.) Will the Senator permit me here to state, that in the organization of the territorial governments of Louisiana and Florida, there are express references to the Constitution of the United States, and the Legislatures of both Territories are expressly prohibited from passing any acts in violation of it.

Mr. WALKER. I would add, Mr. President, that I would like to see one of our district courts of the United States, in one of our organized territories, deciding a question in a manner that would be a violation of the Constitution of the United States. And in this point of view, we may come to some appreciation of the force of the observation and idea that is entertained by some, that the provisions of the Constitution do not extend throughout the dominions of the United States *proprio vigore*. Suppose one of our courts sitting and deciding a point which would be a violation of the Constitution. I apprehend that when the Supreme Court came to take the case in hand, they would pay some attention to the question whether the Constitution existed there or not. In regard to the judicial decisions which have been made upon this subject, *I do not* claim an intimate acquaintance.

Mr. DAYTON. I have an aversion to interrupting gentlemen; for, judging from my own case, I know how unpleasant it is to others. But will the Senator allow me to ask a question? The allegation is now, that the Constitution covers the

Territories. If so, you appoint a district judge, who, under the Constitution, is a judge for life. Now, when you appoint a judge for the Territories, is he a judge for life or not?

Mr. WALKER. I never knew before that the United States judges were appointed for life. I always thought their tenure of office was during good behavior. Nor did I ever think before that the character of the tenure determined the question whether a judge was or was not a United States judge. But if it does, then I will tell the Senator the judges in some of the Territories were United States judges—in Wisconsin, for instance, where they held during good behavior—and did not behave very well at that. But, at the time of the interruption, I was speaking of the rights of citizens as such, and of the obligation resting upon the territorial courts to decide upon those rights in accordance with the Constitution; and, if the Constitution does not extend to the Territories so as to impose this obligation, it is only an argument that it should be so extended. Wherever he goes, within our dominions, the citizen ought to have some means of enforcing his rights. As to the objection that the extension of the Constitution will give to the South rights which it would not otherwise have, I say, give its citizens the same means of enforcing their rights, whatever they may be, that you would give to those of the North. If we cannot put a check upon slavery without doing violence to the Constitution, I say let it be unchecked. I will not so far prostitute my own sense of duty as to refuse to extend to one of them, from the humblest to the greatest, the provisions of that sacred instrument.

To come, sir, to the question, When shall that be done which we propose to do? The answer which has already been given implies that it ought to be done now. The necessities which pointed out the extent of what ought to be done, also point out the time proper for its being done. These necessities now exist. They exist in a preëminent degree. We now have the opportunity, if we avail ourselves of it; and it would seem to be an opportunity of which every one should avail himself, although it may seem that its application to the civil and diplomatic bill will be incongruous and improper. Why, sir, there are crises in the history of all countries, and in the history of every individual, when things apparently incongruous, out of the usual course of procedure, are imperiously demanded; and it seems to me that this is one of those crises. It occurs to me that, with the feeling existing here, now is the time when it can be settled with safety, as applied to the civil and diplomatic bill. And I venture to say, that if the civil and diplomatic bill should be passed with this amendment, it will produce results devoutly to be wished for. If it shall quiet the enmities of individuals, stop the bickerings of sectional zealots, and give peace, quiet, and protection to our friends in California, it will be the most popular appropriation bill that ever went forth from Congress since the foundation of this Government; which will be hailed with more joy, which will be more highly cherished, than any civil and diplomatic bill upon which any Congress has ever been called to vote.

Sir, when we come to speak of the necessity for calmness and deliberation upon this subject—for a calm and manly exercise of our duties—it is really painful to reflect upon what has so long prevented it before. As to the question of slavery, sir, into the merits of which I do not propose to enter at all—in regard to which I shall hope to hear as little said as possible—nevertheless, it is permissible to say that it has produced a great agitation here: for slavery, and the opposition to it, are creating a feeling disastrous; a state of things from which our country can reap nothing but disaster, in my opinion, and the agitation of which must enhance that disaster, if it does not destroy us. I must say, I have little fear of this; but of one thing I feel certain, that there is not a southern man who in his mind desires the dissolution of the Union. It may be charged upon him; but I do not believe there is one who *desires* a dissolution. There are few in our country, I believe, who desire it. But if there be those who desire it, and who are now making resolves, they do not find their home in that quarter of the Union. There is, it is true, manifested on the part of the South, a disposition to declare their determination in certain events. Be it so. They may intend to carry out their resolves in certain events; but I do not apprehend that a contingency will ever arise to justify it. They may be serious; but, sir, as I have said upon one other occasion, I might speak here with propriety: I know there are great names in the South, and those of mighty influence; they are already recorded on the pages of our history, and that history will transmit them, I hope, honorably, to the "last syllable of recorded time." But, thanks to virtue, there is not one there, in my opinion, who has reached that "bad eminence," where he either feels the disposition, or whence he could exercise the power, to topple from its foundation this noblest fabric of a government; and if one ever should arise, and there should be nothing left of the bright temple of our Republic but its crumbling arch and broken shaft, the very dust of its stones would groan from the earth its curse upon him; and the historian, in recording the name and the event, would turn pale with shuddering horror at the effort to register the depravity and folly of the man, who, because he could not enslave the government of *one* land, overthrew and destroyed the freedom of another, and that other his own!

No, sir; my opinion is that southern men are men of sense. They know "thrice is he armed who hath his quarrel just." They must feel that this is not the case with them, while theirs is an effort to enslave that which is now free; while ours is but to perpetuate that liberty which already exists. It seems to me that they cannot brave the fearful sin. They may have the courage to brave the cannon's mouth, the sword's point, or the dagger's gleaming touch; but they cannot bear up against the fearful, dreadful curse of the present age and all posterity to come. I would say this in the same sense that I would say they dare not do that which is dishonorable. Political dishonor cannot enter into their transactions. They have the nobility of soul to act upon the pure promptings of generous impulses, politically, which prompt their private actions. An attempt to a dissolution of the Union is the destruction of this Government. Everything around us would seem to admonish us against dissolution. Cast your eyes upon those beautiful columns to your right and left. Their conglomerate masses beautifully illustrate the maxim, "United we stand, divided we fall." The beautiful frontispieces of those chimneys also illustrate the same. In the one is the little infant snapping a separate twig; but turn to the Herculean figure in the other, and see that, when bound together, his mighty giant efforts cannot destroy them. In union is strength; without union, we shall fall and soon pass away.

When I speak in this manner of the South, I must confess I am pained when I turn my eyes to the North, and see the city of Boston—the womb in which embryo Freedom was conceived, the cradle in which infant Liberty was rocked, the lap on which boyhood Independence was dandled—now becoming the nurse of that black demon Fanaticism, which would crush to earth her manly protegé, and hurl it, scathed and mangled, into the abyss of ruin. And I am pained to know that this is resolved upon—this destruction determined, under the very eye, and hand, and mighty sounding voice of the great statesman who sits behind me, [Mr. WEBSTER.] Oh that he, as one of the protectors of his country, would send forth his mighty influence, to check this impious spirit in the North! I believe, if there is danger of dissolution, it is at the North.

I have said so in the face of my constituents, and I say so here. The project of a Northern Confederacy prevailed to a great extent as far back as 1804. We have the testimony of the great and venerated, but now departed Adams, that they had gone so far as to have selected their military leader. And, sir, in 1811, at the time that Clinton and Madison were candidates for the Presidency, I think the minute history of our country will show that the contest was mainly upon the question of a Northern Confederation. Not only had the project gone so far as to lead to a choice of a military leader, but it had gone so far as to convince the shrewd Aaron Burr that a Northern Confederacy would succeed. He commenced the levy of the troops, it was thought, to wage war against the United States. He was tried for treason and acquitted. I think the minute history of that affair will convince at least the scrutinizing mind that, being satisfied that the Northern Confederation would succeed, he determined that he would subvert the Government of Mexico, add it to the Southern Confederation, and make him the great man of the whole. I believe there is more danger at the North than at the South of dissolution of the Union. I believe there are men at the North who are in favor of the dissolution of the Union, and who want to establish a Northern Confederation. The Hartford Convention, as the Senator from Mississippi [Mr. FOOTE] has said, pointed to that end. I say, then, to patriots of the South, Put this question of slavery out of the way, and come forward and act with us. You love the Constitution. Let us extend it wherever we have dominion. Let us cease this dangerous controversy. Let us do what we can to end it forever. To the Senators of the North I say, come forward. I do not believe that one wishing to dissolve the Union has ever been honored with a seat upon this floor. I do not charge any Senator here with so base a spirit. But I would warn them that it has come nearer to our day than some may imagine. One of the nominees for the Presidency in the late contest, in 1811 took the side of De Witt Clinton against James Madison, and upon the very question of the Northern Confederation. I say it is time for us to look abroad. I believe the North loves the Union; but I believe there is an insidious enemy in our midst that is working more danger than northern Democrats, at least, are prepared for. It is making of slavery only a pretext to carry out its old design of dissolution, and that it is becoming a Northern Confederation. I fear it has of late become more powerful, and that it will require more energy to resist it than we are exercising.

Mr. President, I may entertain views upon this subject which may not be appreciated; but I say, from my very soul, that this amendment I have offered for the best motives; that I am actuated by kindly motives towards all parts of the country. It occurs to me that it is now the time, and now the occasion, when the Senate ought to resolve to face the question as it is. The great Senator from Massachusetts, [Mr. WEBSTER,] as I before remarked, has failed us in this extremity. The allwise Ruler of the universe, in the ordering of His providence, sometimes works through humble agencies. Should it prove my good fortune to be the humble instrument in His hands to offer the olive-branch of peace—to pour the oil of calmness upon the waves of conflict and discord—I should feel it in my soul to pour out vein and heart in gratitude and thanks to Him for his mediation in the redemption of our country.

Mr. HALE. I desire very briefly, Mr. President, to notice some of the points thrown out by the Senator from New Jersey, [Mr. DAYTON,] the Senator from Georgia, [Mr. BERRIEN,] and the Senator from Wisconsin, [Mr. WALKER,] in the colloquial debate which took place between them, which was drawn out by the remarks made by the Senator from Wisconsin. And I must ask the indulgence of the Senate in protesting beforehand that I shall have nothing to say about the "Hartford Convention," "ruined arches," or "broken shafts of the Constitution." [Laughter.] I shall leave that matter to the examination of those who regard the subject-matter under consideration as involving considerations of that character. I would remark, however, that there have been several conventions held in Hartford, and I do not know exactly which of them was most specially referred to. My friend from Connecticut [Mr. NILES] has been connected in some way with a convention recently held in that city, by which I believe he has been nominated for the office of Governor of Connecticut; but it is not probable that that convention was of a character to cause the country to be covered with "ruined arches," "broken shafts," or "the blood and bones of human beings." But, sir, I do say, with all seriousness and soberness, that there is a very serious difficulty to my mind lying at the very threshold of the amendment which the Senator from Wisconsin has proposed. I should be very glad to become a convert to his opinions, if I could do so conscientiously. I should be very glad if I could become converted to the doctrines of some party, likely at some period to be in the majority in this country; for the party

to which I am at present attached, as is well known, is in an almost hopeless minority; but I cannot join any other party, however popular it may be, until I am converted to its doctrines and a practical believer in its principles.

This amendment, sir, proposes to extend the Constitution of the United States over the recently-acquired Territories. I know the Constitution is a pretty elastic thing, and may be extended further than its original framers ever contemplated or suspected. It may be stretched this way and that, until, as was said by an honorable colleague of mine in the other House, it becomes like unto a gum elastic over-shoe, the toe of which may extend over the North Pole and the heel rest upon some one of the promontories of the Sierra Madre. Sir, I do not believe the Constitution is of such a character as to allow of its being extended at present over these Territories. I can well understand how King John could extend the Magna Charta to the inhabitants of Great Britain, and can well imagine why the *habeas corpus* privilege was extended to the original colonies; but I confess I am at a loss to see how the Constitution, which is an agreement by which the people of the United States pledge themselves to the performance of certain duties, for the mutual attainment of certain great ends, and securing great privileges, can, by any act of legislation, an exercise of mere arbitrary power, be extended over those who do not voluntarily become parties to the compact. You and I may make a bargain and bind ourselves to carry out our agreement, but how can we extend its restrictions over those who do not agree to its stipulations? We may extend the invitation to the people of these Territories, under certain restrictions, to band themselves together so that they may become parties to this confederacy; but for us to extend to them the privileges of an agreement with the provisions of which they will not concur, strikes me, with all due respect to the Senators who advocate the principle, as an absurdity.

What is this Constitution? If anything, it is a fundamental law, and if we may extend its provisions by legislative enactment, we may withdraw them in the same manner. If the Constitution of the United States, by an act of the two Houses of Congress, may be extended to a people who do not desire to take it, why may we not take it away from that people upon the same principle that we have extended it to them? Sir, the framers of this Constitution did not so understand it. By the Constitution it was provided, that as soon as nine of the States had adopted it, it should go into operation, and be obligatory on them. Now, if the doctrine advanced by the Senator from Wisconsin be true, all that these nine States had to do in order to have the whole Confederacy united in support of the Constitution at that particular time was, to extend its provisions over the four remaining States, notwithstanding their disapproval of it. Such a construction of the Constitution as this never entered the heads of its framers, nor did they ever treat it as anything but what it purports to be—a compact. But the Senator from Georgia endeavors to meet this difficulty by saying, that we may extend one or more of the provisions of the Constitution by legislative enactment, so that the people of the Territories may be governed by these provisions of the Constitution. And so we may extend any of the provisions of the Constitution, one by one, and make them the law of that country. But this is a different thing from extending the Constitution itself. There is exactly the same objection in my mind to this amendment that there was to the amendment proposed to the famous compromise bill reported at the last session. It proposed not to make any enactment which you dared not make at that time. As we did not dare to make the enactment, we attempted to get around it by transferring to the Judiciary the performance of the duty which we ought to have executed ourselves. This amendment, if it does anything at all, adopts the very principles of the compromise bill: it provides that the Constitution, whatever may be its provisions on the subject of slavery, shall be extended over these territories, and then leaves the interpretation and execution of these provisions to the decision of the Supreme Court, exactly in the same manner as the compromise bill did.

There is another article in the preamble to the Constitution, as originally formed, which throws some light upon this question, and that is, the declaration that the Constitution was formed "*for the United States.*" And there is great force in the suggestion thrown out by the Senator from New Jersey, [Mr. DAYTON,] that he did not understand the Territories as being subject to this provision, or as being subject to the Constitution as an entire instrument, because the first section of the third article provides, that "the judges, both of the supreme and inferior courts, shall hold their offices during good behavior;" and we appoint judges of the inferior courts in the Territories for a limited time, thus conceding that the Constitution, as a whole, does not extend over these Territories. Nor can it do so: the idea is absurd. This is the main difficulty in the way of the amendment of the Senator from Wisconsin, that instead of recognizing the Constitution simply as a compact, he regards it as a law, which we may extend or not at our pleasure, which I think it is not competent for us to do.

Having said this much in regard to the constitutional view of the question, let me throw out another remark with reference to a suggestion made by the Senator from Wisconsin. I believe that the best way to meet a difficulty always is to look it in the face. A great many are frightened at the first appearance of a difficulty. I remember how it was when the Senate discussed the main question involved in this bill, in a bill of a similar character at the last session: I mean the Oregon bill. It seemed then to be conceded, in the outset, that we could not do anything with the slavery question as it respected Oregon. It was thrown out here, that the Senate could not do anything in the matter, and that there must be a special committee appointed to decide the issue, composed of two southerners and two northerners, two Democrats and two Whigs; in short, that a combination of antagonisms must be made in the character of the committee, in order that the Senate might be helped out of its dilemma. That committee, sir, sat early and late; they examined, investigated, and at last brought forth, as the product of their labors—for they would not meet the question boldly—the compromise bill. That bill was rejected in the other House, and then, sir, the issue had to be met, and a decision made; and we came to a very satisfactory decision. After we had been trying the whole session to settle the question by getting round it in some out-of-the-way manner, we at last had to come right up and face it, and when we did so, we found its settlement was very easily effected. And so we could do now, sir, if gentlemen would not give up the struggle before they are beaten; if they would not take it for granted, before trying, that they can no nothing, the question could be settled as easily as it was at the last session. I say it with all respect to the Senator from Wisconsin; but I ask him how he dares to say that we cannot expect to do anything with this question of slavery? If we sit still and say so, then we shall realize the fact; but not until then. He informs us, also, that the great difficulty in the way is the subject of slavery. Sir, if slavery is stronger than the Constitution, let us find it out; let us settle the fact; let us meet the issue fairly, and let the banner of victory float over that party to which victory belongs. I know that slavery has planted itself on the confines of your new Territories. I know that it stands there, like the angel with the flaming sword at the gate of paradise—from which blessed region our first parents were expelled and forbidden to reënter—bidding defiance to your Constitution and Legislation, and telling you that the enlightened principles of civil liberty, of humanity, and of christianity shall not enter there, unless you guaranty and concede that those territories shall be occupied in common, and slavery occupy and control in their entire extent. Sir, if this be the fact—if it is to come to that—if slavery is to rule us, and we of the North are to yield, I am willing to submit with the best grace I can; but, so help me God, I will not submit until I have made the last effort that I conscientiously can make to defend the hallowed interests of the people of those territories, and to carry out the opinions of my constituency at home as well as my convictions here. Cannot do anything, sir! Why, have not the Legislatures of every free State in the Union spoken out and told us what we ought to do? and are we to despise their instructions, and pass them by, because gentlemen tell us we cannot succeed? When we have tried and failed, then it will be time enough for us to go home and tell our constituents we cannot succeed. When General Scott was ordered to Mexico, he was afraid, not of the Mexicans, but of a fire in the rear. Let me suggest to northern gentlemen who are afraid to meet this question here, that when they return home to their constituencies they will meet with a "fire in the rear" more hot and effective than any they have to meet with here, in boldly coming out and meeting the issue presented, without wavering or faltering. Sir, I fervently hope, if the representatives of northern freemen assembled in this Capitol cowardly acquiesce in the arrogant demands of this institution of slavery, that they will experience a hotter "fire in the rear," and that upon returning home to their constituencies they will meet with a warmer reception than they can possibly experience at the hands of their southern brethren for carrying out their high and glorious trusts in these Halls. This is what I earnestly desire. I coincide entirely with the suggestion made by the Senator from Ohio. My first demand for these territories is the application of the old ordinance of 1787. I wish, sir, that with reference to this matter we may walk in the old ways of the Republic; that we may walk where our fathers walked before us; that we may walk in the established precedents that have been set us by the old men who have bequeathed the inheritance which we possess as the price of their liberty and their blood. I can walk safely, sir, when I walk in the paths that are red with the blood that has been shed in the great contest waged in olden time for liberty; and I will not forbear my exertions to secure the continuance of that priceless boon until I find a lion in the path stronger and more powerful than that which they overcame in the efforts they made to win the inheritance they have handed down to us, and which we with cowardly hands are about to surrender, because we are not the worthy sons of those who bequeathed it to us. This in the position in which I stand, speaking for myself. I want no proposition, no amendment, no experiment of any sort carried out, until I have tried the plain, simple, and old-fashioned principle upon which the institutions of the country were founded, and under whose fostering care and protection they have grown up and flourished until the present moment. Sir, I do not want to depart from these old ways, to follow in the track of any of these flickering, newborn lights which have at last beamed upon us. Let them be the offspring of whatever spirit they may, come from whatever source they may, my course is taken. For one, I stand upon the foundation stones of the Constitution, and I will stand there until I find the position is untenable, and cannot be maintained; but never shall I come to that conclusion until I have tried the last, the final resource, and failed.

Mr. BUTLER. I do not know that there would be an essential difference between the operation of the amendment offered by the Senator from New Jersey and that offered by the Senator from Wisconsin, except so far as regards limitation. The amendment offered by the Senator from New Jersey proposes to have effect only until the next session of Congress; whereas the amendment offered by the Senator from Wisconsin has, I believe, no such limitation. I should have voted very readily for the amendment of the Senator from New Jersey, or at least I might have voted for it with some modification leaving out the limitation; but I am constrained now to say that I could not vote for it on any terms, and that because reasons have been assigned for it which I think demonstrate its purpose to be such as I cannot approve. I shall confine my remarks chiefly to the arguments made use of by the Senator from New Jersey; and I desire that Senator's attention, in order that in referring to the observations he made yesterday in reference to his amendment, he may correct them if I do not state them truly. He first contends, as I understand, that none of the provisions of the Constitution, *proprio vigore*, can be extended to any territory of the United States. Am I right in that? The second proposition is, that it is not competent for Congress to extend the provisions of the Constitution to the Territories by any act of legislation. Am I right in that?

Mr. DAYTON. The Senator is not correct in either. I contended that you could not extend the Constitution itself by legislative act beyond any point to which it was extended by its own inherent power. I did not say that you might not make a government for the Territories; and I did not say that you might not take some of the provisions of the Constitution and apply them to the Territories by an act of legislation on the part of Congress.

Mr. BUTLER. The Senator from New Hampshire understood the Senator from New Jersey as I did. By extending the Constitution you may extend as many of its provisions as are applicable; to refuse to extend it at all under this amendment, would be but to refuse to extend any of its provisions. The third proposition of the Senator from New Jersey, as I understand it, is, that if the provisions of the Constitution could be extended to the Territories, Congress ought not to extend them, and that for the singular reason given by the Senator, that it would or might make some change in the issue of power between the two sections of the Union, or that it might give to the South a vantage ground which she does not possess at this time. Sir, I cannot be mistaken in the statement of that proposition. I shall invert these propositions so far as regards the order in which I shall consider them. The South is to be crushed beneath the power of the Congress of the United States, because by extending the Constitution, or importing to extend it, it might give her an advantage which she does not now possess in the contest with the North. Sir, when I heard this announcement made it grated on my ear. What! that the South should not have the benefit of the provisions of the Constitution, for the reason that it might give her an advantage which she does not now possess in her contest with the North! Sir, I have lived long enough to know that it is useless to appeal to the magnanimity or the generosity of the North, much less to her sense of justice; and I must be permitted to say, that while I thank my friend from New Jersey for the praise he has bestowed upon the South, I would prefer that, in lieu of such complimentary phrases, we should be permitted to enjoy the substantial benefits which would accrue to the country which I represent by an extension of the provisions of the Constitution to the Territories. I prefer these even to the praises of the Senator, well spoken and meant as they were, for I have a great respect for him. I thank him for the commendation he has bestowed upon southern gentlemen, but I thank him the less, inasmuch as he has, at the same time, denied that the character which he eulogizes is attributable to our southern institutions, a peculiar civilization connected with them. I must again repeat, the broad proposition taken by the Senator from New Jersey is, that the Constitution of the United States ought not, under the circumstances in which we are placed, to be extended so far as to give to the South the benefit of its provisions, and that the North has a right to occupy the strong position which she derives from her numerical strength and the state of legislation now connected with our Territories; that we must depend upon the will of the majority that now has the subject under its control, rather than avail ourselves of the provisions of the Constitution of the United States. Disguise it as you please, that is the proposition.

What is it that the North declares to us? It is this: We have the majority; we have the numerical strength which will enable us to vote you down; and, as long as we retain that, we intend that you shall not derive any advantage from the fundamental law of the land; or, in other words, it is precisely the same as the case of two men combined fighting one man with swords, and denying him the use of the shield to which he was entitled. It is but retaining by strength an undue advantage. We ask only for the Constitution, framed as it was in good faith and honesty. We ask for nothing more; and, with that shield, we can stand up against all the numerical strength that is now preparing to bear us down. At least we ask but an opportunity for the trial. The extension of the Constitution will either give the southern States no advantage, or it would give them a rightful advantage under its obligations on the judicial tribunals of the country; and to deny these States an opportunity to avail themselves of its provisions is to deny the rights of equal justice. Our opponents would leave us to go there at all risks under the proclamation—yes, the anticipated proclamation of a self-sustaining and unjust majority, as I believe—that we have no rights. We are not to have the protection of the Constitution of the United States as far as we might avail ourselves of it, because, in the issue between the two great sections of the country for power, it might give to one and deprive the other of the advantages which it provides. Sir, what a sentiment is that to be uttered in this body! I mean to dwell upon it, for it came from a highly respectable source. I mean to reiterate it. The Senator cannot deny that he put forth the proposition that we will not, if we could, extend the provisions of the Constitution to the Territories. We will deprive you of the benefits of that Constitution which was handed down to us by our fathers, who would have cut off their very hands before they would have signed the instrument, if they had ever supposed that any portion of those for whom it was provided would be deprived of its benefits by the will of an unscrupulous majority. Could they have foreseen such a state of things, they would never have entered into a covenant with such selfish partners; and, if the doctrine now proclaimed shall prevail, they were deceived; and their descendants will be betrayed.

According to the notion entertained by the Senator from New Jersey, if those notions should be carried into effect, we are to be placed in a condition in which we must necessarily be degraded; in a position in which we shall no longer deserve the eulogium which the Senator has been pleased to bestow upon our character; in a condition in which we shall be degraded before the world; because we have said it would be a condition forced on us, against our consent, and in violation of the understanding of our forefathers. This, sir, is one view of the subject which the Senator has favored us with—that he will not if he could, extend the provisions of the Constitution to the Territories. But I must hasten through the other propositions of the Senator, for I do not intend to detain the Senate.

There is another proposition which seems to have been maintained still more obstinately, and that is, that the provisions of the Constitution cannot be extended to the Territories. If that be not a fallacy, I certainly have not understood the Constitution correctly. I am not going to be guilty of the absurdity of saying that, so far as it is a compact between the States of this Union, it can be extended to another State or Territory not having connection with the Union; but I have always understood that the Constitution of the United States, as well as the laws of Congress made in pursuance of it, was a part of the supreme law of the land. It contained some of the principles of magna charta—trial by jury, the birthright of every Englishman, and an inviolable principle of the laws of that country from which we have derived the greater part of our own. And to tell me that you cannot extend the right of trial by jury, that you cannot extend this great principle to the Territories because the Constitution is a compact, is a proposition that I cannot submit to.

Mr. DAYTON. Does the Senator understand me as saying that you cannot extend any of the provisions of the Constitution to the Territories?

Mr. BUTLER. I understood the Senator distinctly to say that, so far as regards the compact, you could not, by legislation, extend its provisions to the Territories. I agree with the Senator in saying that the compact or mere league, between the States of this Union, cannot be extended to the Territories, but many of the provisions of that instrument have the obligations of positive law, of general application to all the citizens of the United States living on the soil of the United States, or their common territories. And by extending the Constitution, *eo nomine*, you extend so many laws; you extend the Constitution containing the laws; and if you refuse to extend the Constitution, you refuse to extend the laws. You may purport to extend more than you can, but not more than can be extended. You may not be able to extend the whole, but by extending the whole you extend all the parts that can be made available in a territory; and it seems to be a desperate abuse of words to deny the proposition.

The gentleman cannot retract his position, because the Senator from New Hampshire understood him in the same way. His proposition is, that he is opposed to extending the provisions of the Constitution to the Territories under a proposition to extend the Constitution itself. I can sanction no such proposition as that. As far as regards the compact I am willing to agree with the Senator, but there are other provisions that can be extended, and if we have courts there they can be executed. This is my proposition, that the Constitution forms a part of the supreme law, and that it can be extended, so far as it is applicable, and so far as it can be extended it ought to be extended, subject to the limitation of its own terms. And I suppose that would be obvious to any tribunal. As the supreme law of the land, the Constitution ought to be the controlling law as far as possible. The Constitution and its provisions as parts can do no harm anywhere. There can be no danger in extending them; there may be great injustice and mischief in withholding them. They certainly may be a blessing; they cannot be a curse in the hands of any one; they have the sanction of justice and experience. Why be afraid to give them to all who can avail themselves of them? Sectional jealousy can alone answer the question. I cannot be mistaken in this, unless I have committed an egregious error in my interpretation of the principle upon which the compact depends, that citizens everywhere on American soil can avail themselves of its provisions.

But, I go further, and say that, *proprio vigore*, the moment that Territories are acquired under treaty, the provisions of the Constitution of the United States extend to that Territory, to some, though not to the entire extent of its provisions. This territory was acquired under treaty, and I say that the provisions of the Constitution, with the qualification of applicability, are now, *proprio vigore*, the fundamental law of California and New Mexico. And when I say that, I admit that there may be wanting some machinery of courts and officers to carry out those provisions, but they nevertheless exist as the fundamental law; of that there can be no doubt. And I put the question now, whether it would be competent for Congress to make a distinction between the ports of California and the ports of New York and Boston, as regards the enactment of laws relating to the revenue? And I will ask another question, by way of illustrating this matter. Suppose that a war broke out with China, or with Great Britain, or with any other Power, and the people that are now in California should give aid to the enemy: am I to be told that American soil, occupied by American citizens, can be betrayed by surrendering it to the enemy, without amounting to the crime of treason against the United States? It may be that there would not be courts there before which the traitors could be arraigned, but would it not be manifestly treason against the United States? Will the Senator from New Jersey undertake to assert that treason could not be committed in those territories against the United States, because the Constitution, *proprio vigore*, could not extend to them? It seems to me that it would be one of those paradoxes, arising from a nice and technical view, in opposition to what was obvious and true, which are sometimes put forward to mislead the mind. As Lord Mansfield said of magna charta and the Christian religion, I may say of our Constitution, that it constitutes the fundamental law of the land within all the possessions of the United States. This is a principle which cannot be disputed, that our fundamental law must necessarily apply to all our possessions, although, not having courts established, the citizens may not be able to avail themselves of it.

If a person in California now should be subjected to torture for heresy, or arbitrarily shot down for an offence unknown to the United States or the States of the Union, the rebuking spirit of the Constitution would not only be invoked, but its substantial provisions would be enforced for redress. Despotism cannot exist on American soil, under the provisions of the constiutions of the States of this Union. Will it be pretended that in those Territories arbitrary punishment can be inflicted without law? Why, the whole genius of the common law, as it speaks through magna charta, would rebuke any such idea. I know that many difficulties would be thrown in the way, because there are

no courts, no tribunals for the trial of offenders. Agencies of the law must be established; but that the fundamental law exists there can be no doubt. I think it exists *proprio vigore*, and I think we can extend it by legislation, in the same manner that we can extend the laws of Congress. The Constitution is but the law of the States of this Union, and it is the supreme law; and are we to be told that it is to be controlled in its operation, and cannot be extended, whilst the most ordinary revenue law may be extended to any territory that we may acquire? I do not intend to occupy the time of the Senate very long upon this subject, as I am admonished that under present circumstances we should economize time.

I shall give the preference to the amendment of the Senator from Wisconsin, because it recognizes and asserts what in my opinion is correct, that the provisions of the Constitution should be, if they are not, in force in the Territories. Whilst I have been one of those who could not agree with the proposition first submitted as an amendment to this bill, who did not believe that Congress could create a State by legislative fiat, I am not one of those who oppose giving a government to these Territories. My opinion has been that it could be done in the ordinary way in which governments have been given to other Territories. If this cannot be done, let me put this startling question, let me ask if all those mischiefs which will inevitably take place, those scenes of violence and bloodshed if we provide no government, are to be permitted to go on without any power to restrain them? If this is to be the case, let me ask whose fault is it? I again ask the question, and let those who choose to sustain this Wilmot proviso, as it is called, answer whose fault is it. We of the South are willing to give to those Territories the same sort of government that Arkansas had, or any other, subject to the compromises of the Constitution. We are willing to give them the same sort of government that we have given to other Territories; but we are asked to do more. I am willing to make an issue, a collateral issue, that will avoid the difficulty which surrounds us, or I am willing at once to meet any issue that will make a final settlement of the question, *and to meet it honorably.* This punic faith that we have hitherto encountered in regard to our compromises renders me doubtful for the future, or relying on temporary expedients or apparent compromise. I have experience enough to know that our northern brethren have not abided by the compromises they have entered into. I am averse to entering again into any of those patched up compromises, which we have reason to know will be regarded only so long as it is the interest of the North to regard them. Yet, for the sake of peace, I am willing to give to the people of those Territories the ordinary form of territorial government, and to maintain them in it. I would have been willing to go as far as the Senator from Massachusetts in making a law to preserve the peace. And a military government, I think, is the only one that will suit the present condition of the people. Why should this people come here and claim to be made a State before they have in anywise prepared themselves to be constituted a State—before they have prepared themselves for the exercise of all the privileges of freemen, or shown themselves worthy of the rights of self government? There will be time enough for them to do this before the next session of Congress. Why should we volunteer to form them into a State with so much haste? Oh, say the gentlemen, it is all to avoid an issue—an issue that is just as sure to come as it is that I stand here. It will come with the certainty of the change of the seasons. In my heart I despise all such hollow compromises. I would make any sacrifices for the sake of peace; but when I see the symptoms that are around us, I have no room left for hesitation or doubt that such compromises will be disregarded. We have symptoms of the storm that is to break upon us in the language and conduct of members on this floor. Like certain birds, they may give notice of the coming storm, whilst they cannot conduct or ride upon it. They are to be regarded as ominous signals. Instruments are not always masters of faction or revolution. When the Senator from New Hampshire asserts that the North are determined to maintain their rights, what does he think of the southern portion of the Confederacy? Why, that it will yield to the doctrines proclaimed at the North, rather than risk the consequences of opposing them. They will submit, is the calculation, to the progressive pretensions of power and arrogance; that they will submit to see the guarantees of the Constitution broken down, and accommodate themselves to oppression or odious discrimination. That is what is exacted. Sir, I love the Union, but I love it because it was just—because it was founded by those who had wisdom and observed good faith; but I can never undertake to make sacrifices in any way which will degrade a generous people.

The amendment proposed may have a salutary effect; it may put this subject beyond the control of agitating politicians; it may be the means of enabling the people of California to make a constitution for themselves; and, as it does not require a sacrifice that would compromit the honor, or put in jeopardy the rights, of the South by any doctrine contained in it, I am willing to give it my support. I am willing to make all proper allowances for the pride of opinion and previous committal, and to resort to this as a safety-valve for the present. The future may take care of itself. I think it clouded with apprehension. It will enable the people of California to form a State government with or without slavery in it. If it shall be either way, be it so. It would then be the act of a people deciding on their own destiny—under their own notions of policy. It will be taking the matter from the hands of Congress. From the time that these territories were made a prize in the war with Mexico—(and it does seem to me that from the moment of crossing the Rio Grande the war has been conducted for conquest)—all the advantages have been given to the North. I have no very great regard for the stability of northern sentiment, when it comes in conflict with the opportunity of making money. If northern sentiment should prevail in the formation of the constitution, it will be no assurance that it will continue, if interest should urge the people of California to employ slave labor. Northern morality will be no impediment to such a result. Philanthropy will soon melt under the temptations of interest. If northern men should find slave labor serviceable in mining, or in any other way, sentiment would not long stand in the way. As it was said the other day, as soon as the Roman people became corrupted, it was all sentiment with them; the hardy and simple virtues were all thrown away, so far as we can judge, from their statutory provisions. Sentiment! Northern sentiment! Sir, it will last no longer than they discover that slave labor can be made available. When they go to the South, they are as easily reconciled to the condition of things there as if they had been accustomed to them from childhood.

The Senator from New Jersey took occasion to say, that nearly all the public honors had been bestowed upon the men of the South. Allow me to ask, why is it so? Why is it that the honor of holding high offices in this Confederacy has been bestowed upon the statesmen and politicians of the South? Why is it? I shall not attribute it to our peculiar institutions. I shall not say it is attributable to them; but I may speak of the fact as a commentary, that under the influence of these institutions, men of ability and virtue may be found and selected by public confidence. The fact has its lesson, and others must fill the picture.

If southern men have enjoyed the honors of the Republic, it is because they deserve them; because they won them from public opinion; and because, in former times, we had the benefit of an unbigoted public opinion—we had the principles of a free constitution, that allowed all to think honestly for themselves, and when there was no despotism to prevent, much less to withhold it for sectional purposes, under the self-sustaining influence of numerical strength. It was when wise and practical and patriotic statesmen, and not rhetorical dialectitians or ambitious aspirants, ruled the times, and gave direction to our destiny. It was when the Constitution was paramount in its obligations and authority, and where a designing majority, actuated by sectional jealousy, did not exist. It was before the time when professional sentiment was stronger than good sense and good faith. It was before the time when the North had become strong by wealth, making frequent exactions from the confiding South. The northern people have their merits, and they are great; I would not detract from them; but, under equal circumstances in our past history, they can claim no superiority; and, if they did not in former times obtain political honors, it may have been that they did not aspire to them, but preferred the profits resulting from the operation of the Government.

Mr. President, this is a grave matter. I did not come prepared to debate it, nor did I, when I rose, expect to speak so long as I have. I feel bound, however, to notice some of the remarks that were made yesterday by my friend from New Jersey—and I call him so from feelings of respect. It has been very rarely that we have ever differed, and I was very sorry to hear him express the sentiments which he uttered yesterday. I know that many entertain such opinions, but I hardly thought that any one would venture to utter them here. We ask for the benefit of the provisions of the Constitution, and we are told that they cannot and ought not to be extended to us; that they ought not, either *proprio vigore* or by the legislation of Congress, to be extended to the Territories. Sir, I am willing to give my sanction to almost any measure that will produce peace and harmony. These agitations are foreign to my nature. I would rather acquiesce in anything that will give security. But if these agitations are to go on—and gentlemen tell me that they will deprive the South, by every means that they can devise, of the benefit of the provisions of the Constitution—how is it to be expected that I can be satisfied? I hear the remark made everywhere, and not alone by the Senator from New Hampshire, who is a kind of conduit for all these petitions, which are poured into the Senate every morning through him as through a funnel. But I have transgressed the bounds which I had assigned to myself in these remarks, and I will therefore take my seat. I must say that I think such amendments as these under consideration out of place on this bill—the responsibility is not mine. If I had more leisure I would certainly extend my remarks, but I am admonished that it is wrong to take any more of the time of the Senate.

Mr. WEBSTER. Mr. President, the honorable member from South Carolina, who has just taken his seat, says that he is prepared to say boldly that the northern States have not observed, but have broken, the compromises of the Constitution.

Mr. BUTLER, (in his seat.) I said it.

Mr. WEBSTER. Yes, Mr. President, he said so. It is no duty of mine to take up a glove that is thrown to the whole world; it is no duty of mine to accept a general challenge. But if the honorable member shall see fit to be so obliging as to inform the Senate, in my hearing, on what occasions the State whose representative I stand here has forborne to observe or has broken the compromises of the Constitution, he will find in me a combatant on that question.

Mr. BUTLER rose to reply; but as there appeared to be some misunderstanding as to his possession of the floor for that purpose, he resumed his seat.

Mr. WEBSTER. I would hear the gentleman with the greatest respect—a respect which I always feel for him; but what I mean to say is, that if he is to reduce what seemed to be a general charge to a particular charge, and if he shall undertake to specify or particularize any case in which the Legislature of the State whose representative I am has forborne to observe, or has broken, or attempted to break, the compromises of the Constitution, it will be my duty to meet that charge, and to defend the State, if I am able to do so. I do not intend to go into any such debate on this matter at present; other States will answer for themselves.

Mr. President, it is of importance that we should seek to have clear ideas and correct notions of the question which this amendment of the member from Wisconsin has presented to us; and especially that we should seek to get some conception of what is meant by the proposition, in a law, to "extend the Constitution of the United States to the Territories." Why, sir, the thing is utterly impossible. All the legislation in the world, in this general form, could not accomplish it. There is no cause for the operation of the legislative

power in such a manner as that. The Constitution—what is it? We extend the Constitution of the United States by law to territory! What is the Constitution of the United States? Is not its very first principle that all within its influence and comprehension shall be represented in the Legislature which it establishes, with not only a right of debate and a right to vote in both Houses of Congress, but a right to partake in the choice of the President and Vice President? And can we by law extend these rights, or any of them, to a Territory of the United States? Everybody will see that it is altogether impracticable. Well, sir, the amendment goes on, and says that the revenue laws shall, so far as they are suitable, be applied in the Territories. Now, with respect to that qualification, made by the honorable member from Wisconsin, I shall like to know if he understands it as I suppose he does. Does the expression "as far as suitable" apply to the Constitution or the revenue laws, or both?

Mr. WALKER. It was not the proposition to extend the Constitution beyond the limits to which it was applicable.

Mr. WEBSTER. It comes to this, then, that the Constitution is to be extended as far as practicable; but how far that is, is to be decided by the President of the United States, and therefore he is to have absolute and despotic power. He is the judge of what is suitable and what is unsuitable, and what he thinks is suitable is suitable, and what he thinks unsuitable is unsuitable. He is "*omnis in hoc;*" and what is this but to say, in general terms, that the President of the United States shall govern this territory as he sees fit till Congress makes further provision? Now, if the gentleman will be kind enough to tell me what principle of the Constitution he supposes suitable, what discrimination he can draw between suitable and unsuitable, which he proposes to follow, I shall be instructed. Let me say that in this general sense there is no such thing as extending the Constitution. The Constitution is extended over the United States and over nothing else, and can extend over nothing else. It cannot be extended over anything except over the old States and the new States that shall come in hereafter, when they do come in. There is a want of accuracy of ideas in this respect that is quite remarkable among eminent gentlemen, and especially professional and judicial gentlemen. It seems to be taken for granted that the right of trial by jury, the *habeas corpus*, and every principle designed to protect personal liberty, is extended by force of the Constitution itself over every new Territory. That proposition cannot be maintained at all. How do you arrive at it by any reasoning or deduction? It can be only arrived at by the loosest of all possible constructions. It is said this must be so, else the right of the *habeas corpus* would be lost. Undoubtedly these rights must be conferred by law before they can be enjoyed in a Territory.

Sir, if the hopes of some gentlemen were realized, and Cuba were to become a possession of the United States by cession, does anybody suppose that the *habeas corpus* and the trial by jury would be established in it by the mere act of cession? Why more than election laws and the political franchises, or popular franchises? Sir, the whole authority of Congress on this subject is embraced in that very short provision that Congress shall have power to make all needful rules and regulations respecting the *territories* of the United States. The word is *Territories;* for it is quite evident that the compromises of the Constitution looked to no new acquisitions to form new Territories. But as they have been acquired from time to time, new Territories have been regarded as coming under that general provision for making rules for *Territories*. We have never had a *Territory* governed as the United States are governed. The Legislature and the Judiciary of Territories have always been established by a law of Congress. I do not say that while we sit here to make laws for these Territories, we are not bound by every one of those great principles which are intended as general securities for public liberty. But they do not exist in Territories till introduced by the authority of Congress. These principles do not, *proprio vigore*, apply to any one of the Territories of the United States, because that Territory, while a Territory, does not become a part, and is no part of the United States.

Mr. CALHOUN. I rise, not to detain the Senate to any considerable extent, but to make a few remarks upon the proposition first advanced by the Senator from New Jersey, fully endorsed by the Senator from New Hampshire, and partly endorsed by the Senator from Massachusetts, that the Constitution of the United States does not extend to the territories. That is the point. I am very happy, sir, to hear this proposition thus asserted, for it will have the effect of narrowing very greatly the controversy between the North and the South, as it regards the slavery question in connection with the territories. It is an implied admission on the part of those gentlemen that, if the Constitution does extend to the territories, the South will be protected in the enjoyment of its property—that it will be under the shield of the Constitution. You can put no other interpretation upon the proposition which the gentlemen have made, that the Constitution does not extend to the territories.

Then the simple question is, does the Constitution extend to the territories, or does it not extend to them? Why, the Constitution interprets itself. It pronounces itself to be the supreme law of the land.

Mr. WEBSTER. What land?

Mr. CALHOUN. The land; the Territories of the United States are a part of the land. It is the supreme law, not within the limits of the States of this Union merely, but wherever our flag waves—wherever our authority goes, the Constitution in part goes, not all its provisions certainly, but all its suitable provisions. Why, can we have any authority beyond the Constitution? I put the question solemnly to gentlemen: if the Constitution does not go there, how are we to have any authority or jurisdiction whatever? Is not Congress the creature of the Constitution? does it not hold its existence upon the tenure of the continuance of the Constitution? and would it not be annihilated upon the destruction of that instrument, and the consequent dissolution of this Confederacy? And shall we, the creature of the Constitution, pretend that we have any authority beyond the reach of the Constitution? Sir, we were told a few days since, that the courts of the United States had made a decision that the Constitution did not extend to the territories without an act of Congress. I confess that I was incredulous, and I am still incredulous that any tribunal, pretending to have a knowledge of our system of government, as the courts of the United States ought to have, could have pronounced such a monstrous judgment. I am inclined to think that it is an error which has been unjustly attributed to them; but if they have made such a decision as that, I for one say, that it ought not and never can be respected. The territories belong to us; they are ours; that is to say, they are the property of the thirty States of the Union; and we, as the representatives of those thirty States, have the right to exercise all that authority and jurisdiction which ownership carries with it.

Sir, there are some questions that do not admit of lengthened discussion. This is one of them. The mere statement is sufficient to carry conviction with it. And I am rejoiced to hear gentlemen acknowledge that, if the Constitution is there, we are under its shield. The South wants no higher ground to stand upon. The gentlemen have put us upon high ground by the admission that their only means of putting their claims above ours is, to deny the existence of the Constitution in California and New Mexico. The Senator from Massachusetts, I say, in part, endorsed the proposition. He qualified it, however, by saying that all the fundamental principles of that instrument must be regarded as having application to the Territories. Now, is there a more fundamental principle than that the States of which this Federal Union is composed, have a community of interest in all that belongs to the Union in its federative character? And that the territory of the United States belongs to the Union in that capacity is declared by the Constitution, and that there shall be, in all respects, perfect equality among all the members of the Confederacy. There is no principle more distinctly set forth than that there shall be no discrimination in favor of one section over another, and that the Constitution shall have no half-way operation in regard to one portion of the Union, while it shall have full force and effect in regard to another portion.

I will not dwell upon this. I will only listen, if gentlemen choose to go on, in order to discover by what ingenuity they can make out their case. It is a mere assumption to say that the Constitution does not extend to the territories. Let the gentlemen prove their assumption. I hold the course of the whole of this debate to be triumphant to us. We are placed upon higher ground; we have a narrower question to defend; and it will be understood by the community that we are nonsuited only by a denial of the existence of the Constitution in the territories.

Mr. WEBSTER. The honorable Senator from South Carolina alludes to some decision of the United States courts as affirming that the Constitution of the United States does not extend to the Territories, and he says that with regard to——

Mr. CALHOUN. I hope the gentleman will state my position exactly right. I said I was told a few days since that they had so decided, but that I was incredulous of the fact.

Mr. WEBSTER. I can remove the gentleman's incredulity very easily, for I can assure him that the same thing has been decided by the United States courts over and over again for the last thirty years.

Mr. CALHOUN. I would be glad to hear the gentleman mention a case in which such a decision was given.

Mr. WEBSTER. Upon a few moments' consideration I could mention a number of cases. The Constitution, as the gentleman contends, extends over the Territories. How does it get there? I am surprised to hear a gentleman so distinguished as a strict constructionist affirming that the Constitution of the United States extends to the Territories without showing us any clause in the Constitution in any way leading to that result; and to hear the gentleman maintaining that position without showing us any way in which such a result could be inferred, increases my surprise.

One idea further upon this branch of the subject. The Constitution of the United States extending over the Territories and no other law existing there! Why, I beg to know how any Government could proceed, without any other authority existing there than such as is created by the Constitution of the United States? Does the Constitution of the United States settle titles to land? Does it regulate the rights of property? Does it fix the relations of parent and child, guardian and ward? The Constitution of the United States establishes what the gentleman calls a confederation for certain great purposes, leaving all the great mass of laws which is to govern society to derive their existence from State enactments. That is the just view of the state of things under the Constitution. And a State or a Territory that has no law but such as it derives from the Constitution of the United States must be entirely without any State or Territorial Government. The honorable Senator from South Carolina, conversant with the subject as he must be, from his long experience in different branches of the Government, must know that the Congress of the United States have established principles in regard to the Territories that are utterly repugnant to the Constitution. The Constitution of the United States has provided for them an independent judiciary; for the judge of every court of the United States holds his office upon the tenure of good behavior. Will the gentleman say that in any court established in the Territories the judge holds his office in that way? He holds it for a term of years, and is removable at executive discretion. How did we govern Louisiana before it was a State? Did the writ of *habeas corpus* exist in Louisiana during its Territorial existence? Or the right to trial by jury? Who ever heard of trial by jury there before the law creating the Territorial Government gave the right to trial by jury? No one. And I do not believe that there is any new light now to be thrown upon the history of the proceedings of this Government in relation to that matter. When new territory has been acquired it has always been subject to the laws of Congress, to such law as Congress thought proper to pass for its immediate government, for its government during its Territorial existence, during the preparatory state in which it was to remain until it was ready to come into the Union as one of the family of States.

The honorable Senator from South Carolina argues that the Constitution declares itself to be

the law of the land, and that therefore it must extend over the Territories. "The land," I take it, means the land over which the Constitution is established, or, in other words, it means the States united under the Constitution. But does not the gentleman see at once that that argument would prove a great deal too much? The Constitution no more says that the Constitution itself shall be the supreme law of the land, than it says that the laws of Congress shall be the supreme law of the land. It declares that the Constitution and the laws of Congress passed under it shall be the supreme law of the land.

Mr. CALHOUN. The laws of Congress made in pursuance of its provisions.

Mr. WEBSTER. Well, I suppose the revenue laws are made in pursuance of its provisions; but, according to the gentleman's reasoning, the Constitution extends over the Territories as the supreme law, and no legislation on the subject is necessary. This would be tantamount to saying that the moment territory is attached to the United States, all the laws of the United States, as well as the Constitution of the United States, become the governing will of men's conduct, and of the rights of property, because they are declared to be the law of the land—the laws of Congress being the supreme law as well as the Constitution of the United States. Sir, this is a course of reasoning that cannot be maintained. The Crown of England often makes conquests of territory. Who ever heard it contended that the constitution of England, or the supreme power of Parliament, because it is the law of the land, extended over the territory thus acquired, until made to do so by a special act of Parliament? The whole history of colonial conquest shows entirely the reverse. Until provision is made by act of Parliament for a civil government, the territory is held as a military acquisition. It is subject to the control of Parliament, and Parliament may make all laws that they deem proper and necessary to be made for its government; but until such provision is made, the territory is not under the dominion of English law. And it is exactly upon the same principle that territories coming to belong to the United States by acquisition or by session, as we have no *jus coloniæ*, remain to be made subject to the operation of our supreme law by an enactment of Congress.

Mr. CALHOUN. I shall be extremely brief in noticing the arguments of the honorable Senator from Massachusetts, and I trust decisive. His first objection is, as I understand it, that I show no authority by which the Constitution of the United States is extended to the Territories. How does Congress get any power over the Territories?

Mr. WEBSTER. It is granted in the Constitution in so many words: the power to make laws for the government of the Territories.

Mr. CALHOUN. Well, then, the proposition that the Constitution does not extend to the Territories is false to that extent. How else does Congress obtain the legislative power over the Territories? And yet the honorable Senator says I assign no reason for it. I assigned the strongest reason. If the Constitution does not extend there, you have no right to legislate or to do any act in reference to the Territories.

Well, as to the next point. The honorable Senator states that he was surprised to hear from a strict constructionist the proposition that the Constitution extends itself to the Territories. I certainly never contended that the Constitution was of itself sufficient for the government of Territories without the intervention of legislative enactments. It requires human agency everywhere; it cannot extend itself within the limits of any State, in the sense in which the gentleman speaks of it. It is, nevertheless, the supreme law, in obedience to which, and in conformity with which, all legislative enactments must be made. And the proposition that the Constitution of the United States extends to the Territories so far as it is applicable to them, is so clear a proposition that even the Senator from Massachusetts, with his profound talent, cannot disprove it. I will put the case of some of the negative provisions of the Constitution. Congress shall make no law concerning religion, nor create titles of nobility. Can you establish titles of nobility in California? If not, if all the negative provisions extend to the Territories, why not the positive? I do not think it necessary to dwell any longer upon this point.

Mr. WEBSTER. The precise question is, whether a Territory, while it remains in a territorial state, is a part of the United States? I maintain it is not. And there is no stronger proof of what has been the idea of the Government in this respect than that to which I have alluded, and which has drawn the honorable member's attention. Now, let us see how it stands. The judicial power of the United States is declared by the Constitution to be "vested in one Supreme Court and in such inferior courts as Congress shall from time to time ordain and establish." The whole judicial power, therefore, of the United States is in these courts. And the Constitution declares that "all the judges of these courts shall hold their offices during good behavior. Then the gentleman must admit that the legislation of Congress heretofore has not been altogether in error; that these territorial courts do not constitute a part of the judicial power of the United States, because the whole judicial power of the United States is to be vested in one Supreme Court, and in such inferior courts as Congress shall establish, and the judges of all these courts are to have a life tenure under the law; and we do not give such tenure, nor never did, to the judges of these territorial courts. That has gone on the presumption and true idea, I suppose, that the territories are not even part of the United States, but are subject to their legislation. Well, where do they get this power of legislation? Why, I have already stated that the Constitution says "the Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States;" and it is under that clause, and that clause only, that the legislation of Congress in respect to the Territories has been conducted. And it is apparent from our history that no other provision was intended for territorial government, inasmuch as it is highly probable, I think certain, that no acquisition of foreign territory was ever contemplated.

And again: there is another remarkable instance. The honorable gentleman, and his friends who act with him on these subjects, hold that the power of internal improvement within the United States does not belong to Congress. They deny that we can pass any law for internal improvements within any State of this Union, while they all admit that the moment we get out of the States into a Territory we can make just as much improvement as we choose. There is not an honorable gentleman on that side of the Chamber who has not, time and again, voted money out of the public treasury for internal improvements out of the Union, in Territories, under the conception that, under that provision of the Constitution to which I have referred, they do not constitute any portion of the Union—that they are not parts of the Union.

Sir, there is no end to illustrations that might be brought upon this subject; our history is full of them. Our history is uniform in its course. It began with the acquisition of Louisiana. It went on after Florida became a part of the Union. In all cases, under all circumstances, by every proceeding of Congress on the subject, and by all judicature on the subject, it has been held that Territories belonging to the United States were to be governed by a Constitution of their own, framed by a convention, and in approving that Constitution the legislation of Congress was not necessarily confined to those principles that bind it when it is exercised in passing laws for the United States itself. But, sir, I take leave of the subject.

Mr. CALHOUN. Mr. President, a few words. First, as to the judiciary. If Congress has decided the judiciary of the Territories to be part of the judiciary under the United States, Congress has decided wrong. It may be that it is a part of the judiciary of the United States, though I do not think so.

Mr. WEBSTER, (in his seat.) Nor I.

Mr. CALHOUN. Again: the honorable gentleman from Massachusetts says that the Territories are not a part of the United States—are not of the United States. I had supposed that all the Territories were a part of the United States. They are called so.

Mr. WEBSTER, (in his seat.) Never.

Mr. CALHOUN. At all events, they belong to the United States.

Mr. WEBSTER, (still in his seat.) That is another thing. The colonies of England belong to England, but they are not a part of England.

Mr. CALHOUN. Whatever belongs to the United States, they have authority over, and England has authority over whatever belongs to her. We can have no authority over anything that does not belong to the United States, I care not in what light it may be placed.

But, sir, as to the other point raised by the Senator—internal improvements. The Senator says there is not a member on this side of the Chamber but what has voted to appropriate money out of the public treasury for internal improvements in the Territories. I know that a very large portion of the gentlemen on this side have voted to appropriate money out of the public treasury for improvements in Territories, upon the principle of ownership; that the land in the Territories in which improvements are made has an increased value in proportion to the sums appropriated, and the appropriations have in every case been given in alternate sections. But many gentlemen here have even utterly denied our right to make them under that form. But that question comes under another category altogether. It comes under the category whether we have a right to appropriate funds out of the common treasury at all for internal improvements.

Sir, I repeat it, that the proposition that the Constitution of the United States extends to the Territories is so plain a one, and its opposite—I say it with all respect—is so absurd a one, that the strongest intellect cannot maintain it. And I repeat, that the gentlemen acknowledge, by implication, if not more than that, that the extension of the Constitution of the United States to the Territories would be a shield to the South upon the question in controversy between us and them. I hold it to be a most important concession. It narrows the ground of controversy between us. We then cannot be deprived of our equal participation in those Territories without being deprived of the advantages and rights which the Constitution gives us.

Mr. DAYTON. Mr. President, I desire to make a single remark in answer to an observation of the honorable Senator from South Carolina, [Mr. CALHOUN,] so often repeated, to wit: That this opposition to the extension of the Constitution to the Territories of California and New Mexico is an implied admission of the right of the South to carry slavery there, provided the Constitution gets there. Now, sir, a matter is admitted by implication only when it is not expressly denied. When I first assumed this position, I assumed it with the express allegation that, with the Constitution or without the Constitution there, the laws of California stand, and, as they do stand, I do not believe that any one has a right to carry slavery there; but as the southern view of this question differed from mine, and inasmuch as my sole purpose in bringing forward this amendment was to afford present protection to the inhabitants of California against disorder and anarchy, I was unwilling to do anything which, in the view of any section of this Confederacy, could alter existing rights upon the subject of slavery. And now I have been taken to task by my friend from South Carolina—for I take pleasure in calling him such—for the assertion of a principle like this: "That I fear to extend the Constitution to the Territories; that I dislike to give to the South the benefits of the Constitution." I would give to the South every benefit to which the Constitution itself entitles them, but when they ask me to extend that Constitution to a region of country where I believe it does not belong, and when they tell me in the same breath that it will give to them rights that they do not conceive that they now have, then I beg to stop; I beg to say I will go no further. I am disposed to give law to California, but I am not disposed to alter the condition of parties upon the slave question in that country, at this period; and, entertaining that opinion, I am bold enough to express it; and, feeble as I am, I think able to maintain its propriety.

Now, sir, I have, in reference to this matter, taken no ground which has not been fully and amply sustained by the Senator from Massachusetts, [Mr. WEBSTER.] The Senator from South Carolina [Mr. CALHOUN] says that I have been endorsed

in full by the Senator from New Hampshire, [Mr. HALE,] and in part by the Senator from Massachusetts. I have been endorsed in full by both. I have at no time qualified my original proposition. My original proposition was based upon the amendment of the Senator from Wisconsin, [Mr. WALKER,] and that amendment was, that the Constitution of the United States be extended to these Territories; and my position was, that you could not extend the Constitution thither. I did not say that you could not enact a law giving them (the people of California) the benefit of trial by jury, or habeas corpus, or any other of the commonplace principles which protect men in the enjoyment of civil liberty. I said you could not in this way, speaking upon this amendment, extend the Constitution of the United States over California. That was my original proposition. The Senators who have advocated the amendment of the Senator from Wisconsin contend that you can, upon this amendment, extend the Constitution of the United States there. Why, the Senator from South Carolina does not pretend that you can extend that part of it which is a league, a compact. How much of it, then, as the amendment stands, are you to extend? The whole, or a part of it?

But, sir, it is no part of my purpose further to consume the time of the Senate. I answered only upon this proposition, because I did not wish the legal position which I originally took upon the question before the Senate to be misstated and misunderstood.

Mr. BADGER moved that the Senate adjourn.

The motion was rejected, on a division—ayes 20, noes 23.

Mr. DOUGLAS. Mr. President, I am very unwilling to enter into any discussion of this measure as an amendment to this bill. I preferred to take up the subject of giving a government to California in a bill by itself—there being a bill before the Senate for that purpose—as, when that bill should be called up, it would be open to amendment, so that a State bill could be adopted, or a territorial bill, as the Senate might prefer. I should not now say a word but for the fact that there seems to be a disposition to take the vote to-night, and for the further fact, that while the Senate have refused to take up the bill providing a government for California in a separate shape, they have complained that the same subject-matter has been put upon this bill in the form of an amendment.

When I appealed to Senators to take up the bill itself, and to have the subject-matter before the Senate in a regular and direct form, they voted no, and refused to allow us to consider the subject at all. And then, when we bring up the subject as an amendment to this bill, they reprove us for violating the rules and principles of legislation, and ask us "why we do not offer it as an amendment to the other bill?" I ask, then, why they did not give us an opportunity to move it as an amendment to that bill? I ask the Senator from New Hampshire, [Mr. HALE,] who lectured the Senate to-day for not meeting the question boldly, why he did not allow us to meet it boldly? I believe he has been willing upon one occasion, and one occasion only, to do so.

Mr. HALE. I have voted but once upon the subject, and then I voted to take up the bill introduced by the honorable Senator from Illinois.

Mr. DOUGLAS. Be it so.

Again: Senators persist in arguing the State bill, although they would not allow it to be taken up. The honorable Senator from New Jersey, [Mr. DAYTON,] who made a speech yesterday, and a very powerful one, against the proposition for the admission of California into the Union as a State, refuses to allow us to consider the proposition at all, and complains that it is brought irregularly upon this bill in any shape.

Mr. DAYTON, (interposing.) With the permission of the honorable Senator, I would state that I proposed, after passing this bill, that we should take up the California bill. I made that proposition.

Mr. DOUGLAS. That may be, but it was made at a late period. But upon every vote to take up the California bill the Senator from New Jersey has been found in the negative, and so with my friend from South Carolina, [Mr. BUTLER,] who now comes in and attacks the State bill, and refuses to allow the amendment to be considered. I am willing now, if the Senate will agree that the State bill shall be taken up the moment that this civil and diplomatic appropriation bill is passed, to stop here. And I believe that every gentleman who offered an amendment relating to this subject is willing to stop at this moment and dispose of the present bill, if we can; then to have the subject of providing a government for California considered upon the State bill. If that can be agreed to, we are willing to stop here. [Cries of "Agreed, agreed."]

Mr. President, I hear cries of "agreed" from various parts of the Chamber. I will repeat the proposition. It is, that, provided the Senate, by general consent, agree to take up the bill providing for the admission of California into the Union as a State, with a view to action thereon by passing a State or Territorial, or any other bill that the majority shall prefer, as soon as this bill is disposed of, that all these amendments will be withdrawn, and this bill allowed to pass.

Messrs. TURNEY and WALKER made some remarks which were inaudible to the reporter.

Mr. JOHNSON, of Louisiana, moved that the Senate take a recess until six o'clock.

Mr. KING. Mr. President, I am decidedly opposed to the recess which is proposed. I think that the experience of the last session will teach every Senator that it is better for us to sit here till as late an hour as possible; and when we adjourn, not to return for that night at least. If, at the very last of the session, it shall become necessary for us to hold night sessions, it may be thought proper to do so. I think that we shall gain nothing by taking a recess; but will, on the contrary, lose much.

The motion to take a recess was not agreed to.

Mr. DOUGLAS. Mr. President, I have not many words to say on the question which has been occupying the attention of the Senate. Whether Congress has, or has not, the power to extend the Constitution over California, I shall vote for the proposition to extend the Constitution over that country. I believe we have the power to extend it, in all its parts, over that country. I believe, furthermore, that we have the same power to extend the Constitution over a country that we have to bring a country inside of it. I believe that the effect of extending the Constitution over it will be to make California a State of this Union, giving them two Senators and a Representative in the Congress of the United States, and authorizing them to form a constitution and State government as they please. And, believing that, I am in favor of the amendment of the Senator from Wisconsin. It extends the revenue laws thither. It extends the judiciary, the land laws, the Indian laws, and all other general laws of Congress over it. And by extending the Constitution of the United States over it, as a constitution, in so many words, it erects it into a State, with the right of representation in the Union. And I am sorry that the Senator from Massachusetts [Mr. WEBSTER] is not now in his seat to say whether or not that will not be the legal effect of it. It is true, that that State would be in a *quasi* condition, inchoate, until it organized a State government, until it elected its Legislature, and that Legislature elected its Senators; but the moment that be done, it will be a State of this Union, with the right of representation here. And it would be a State with all its laws complete. That would be the most summary mode by which this question could be disposed of. I do not think it is the best mode. I think if we are going to make a State, we had better do so by passing a bill purporting to be a State bill, authorizing them to form a constitution, and that in due form, by prescribing who may be legal voters, and by prescribing a mode by which they may agree upon the time and place of forming that constitution. Such, I think, would be the proper course of proceeding, and I entertain not a doubt that Congress has power to do this, although I express it with great deference to the opinions entertained by the members of the Committee on the Judiciary upon this subject.

I do not think that the Senator from New Jersey has treated the proposition for admitting California as a State with quite that liberality—I will not say fairness—that he ought to have done, especially with reference to the only proposition now pending for her admission as a State. He speaks of the bill as proposing to *create* a State. I am going into no metaphysical discussion as to this question of power to create a State. I do not think that the bill that I have proposed does create a State. I do not believe that the Senator from New Jersey would think so, if he would examine it. The bill proposes that the people of California be authorized to erect for themselves a constitution and State government, and that, when they shall erect a State for themselves, they shall be a State of this Union. The bill does not raise any such question as that of creating a State. The only question raised is simply that authorizing the people resident in that country to assemble in a convention, composed of delegates elected in the usual manner, to form a constitution and State government, and, when that shall have been done, to admit them into the Union on an equal footing with the other States in all respects whatsoever. I would ask the Senator from New Jersey, if Congress has not the power to give that assent, how can you get them into the Union? And if he calls that the creation of a State, then he is denying the right which was exercised by Congress in every case in which a State has come into this Union. It is true that the original bill upon which the committee made their report did provide that "California shall be a State of the Union;" but that contemplated that the government therein was to be erected by the people thereof, and not by the Congress of the United States, as I declared then, in answer to a member of that committee, in discussion here. It was no proposition to create a State whatever. It was merely the consent of Congress that that people might form a constitution and State government, and nothing more.

But, sir, the proposition for the admission of California into this Union as a State, is precisely in accordance with all legislation upon this subject from the foundation of the Government, wherever there has been any prior legislation of Government on the subject. "Congress doth consent that it shall be erected into a State." These people erect themselves into a State and become a State from the day when that shall have been accomplished. Sir, I do not deem it necessary to say more upon this question of the power of Congress to create a State.

Mr. President, I wish now to say something as to the character and number of the population now in California. I do not agree with the honorable Senator from New Jersey as to either of his propositions in relation to this subject. I admit that it is very difficult to determine precisely the number of people now in California. I have seen statements in the newspapers that the city of San Francisco alone contained fifteen thousand inhabitants. I have no doubt that there are at this day from thirty to forty thousand American inhabitants now in the Territory of California, besides the natives of the country. The latest news shows that about five thousand are now going there by sea, and each succeeding week shows that the number is increasing every week. I am informed by letters from the West that not less than one hundred thousand are expected to cross the prairies the coming summer. I have not received one letter in which the number was estimated at less than one hundred thousand persons.

Mr. DAYTON, (interposing.) That is a mere conjecture.

Mr. DOUGLAS. The Senator says that is conjecture. It is true that it is conjecture, but the fact that there is a large American population in California at this day is not conjecture. The fact that there are probably more legal votes in California to-day than there were in one-tenth of the States of this Union at the time their constitutions were formed, I think, is altogether probable. I have no doubt of the fact. We have every reason to believe it. But the Constitution requires no specific number to enable them to come into the Union as a State. The Senator is mistaken in supposing that sixty thousand was the old rule for coming in. True, that number was specified in the ordinance of 1787. They had a right to come in when they had that number. Still, Congress had the power to admit them sooner, and Congress exercised that power. My own State had only about thirty thousand inhabitants at the time she came into the Union. Scarcely one of these States, until you come to Wisconsin, had its sixty thou-

sand inhabitants when they were admitted into the Union. Michigan also had that number; and I believe they are the only States that had anything like that number. And there are more voters this day in California than there were in either of these States at the time of their admission into the Union. And I think that the question was as to the number of voters that were there to frame the constitution, and not how many women and children were in the country. The government is to be erected by the voters. It is the men that form the government. And you object that they have not their wives and children there. Why have they not their wives and children there? Because you refuse to give them law to protect those wives and children when they get there. That is the reason they are not there. I think, therefore, that it does not become us to say that these men must not have a government because their families are not with them, when it is from the withholding our protection that they are not with them.

Sir, there is a fearful responsibility resting upon the Congress of the United States. They send their troops there; they send their navies there. Deserters from those troops and from that navy—the very men you sent thither, the very men whose expenses you bore—have committed the murders the accounts of which have lately come to us. Sir, a family from my own State, and one of the most interesting families that I have been acquainted with for years, went there, and, after incurring all the horrors, if not of starvation, of living upon the dead bodies of those who had starved—this family getting there in mid-winter, being caught in the snows of the Sierra Nevada, arrived just in time for the head of that family to join Colonel Frémont's expedition. That man served during the war. He then dug his gold last year and became wealthy, as he deserved to be after all his toils, and looked forward to many years of happiness to be enjoyed by himself and family, the severity of their former sufferings giving a keener relish to their present happiness. But, sir, the hopes, the happiness of that family were suddenly blasted—cut short in a manner as horrible as it was unexpected. And how was this? Why, sir, your troops, the men whom you sent thither, cut that man's throat, and that of his wife and of his two children, and of his six servants, and have taken his gold and appropriated it to their own use. It is your own act. A murder committed by your agents, and you refuse to furnish law to punish the crime which your agents committed. You have sent the vicious characters of whom Senators complain thither. The Senator from New Jersey, and other Senators opposed to government in California, complain that there are bad characters there, that there are vicious men and dangerous men thronging the country. If there be such men there, you sent them. They are not the regular population of the country. They are not the Americans who have gone there for the purpose of enriching themselves by honest industry. They are deserters from your army, from your navy, men whom you carried there.

Mr. D. here gave way, without concluding his remarks, at the suggestion of Mr. ATCHISON, to a motion to adjourn; which was agreed to on a division—ayes 22, noes 13.

So the Senate adjourned.

MONDAY, *February* 26, 1849.

The question being upon the amendments offered respectively by Mr. WALKER and Mr. DAYTON, relating to the new Territories obtained by the treaty with Mexico—

Mr. DOWNS said: Mr. President, I know that but very little time is left, and that the Senate has much to do, and that, consequently, there is no time to enter into anything like a general discussion of this subject. I shall, therefore, offer a few remarks on two points only. The first is the position assumed by the honorable Senator from New Jersey, [Mr. DAYTON,] that the Constitution of the United States either does not extend, *proprio vigore*, to the new Territories, or that it is incompetent for Congress to extend it thither.

I shall not enter into a discussion of the subject, as it has been already pretty extensively discussed. I wish only to express my astonishment at the extraordinary position assumed by the honorable Senator from New Jersey. It seems to me that it totally changes the position heretofore assumed by that Senator, and others from his section, on this slave question. Why, sir, we have been discussing here, during the last session, about what rights the southern section of the United States, or the people of that section, have in the new Territories under the Constitution of the United States. The Senator from New Jersey entered into that discussion as fully and as ably as any Senator on this floor. Various views of the operation of the Constitution in those Territories were presented. Everybody seemed to consider that the Constitution must necessarily extend there. I say, that after all this, I cannot but express my astonishment that the Senator has brought forward a new light upon that subject, and has now found out that all our discussions heretofore have been absurdities; that all that was said at the last session about the operation of the Constitution of the United States in those Territories was useless, because we have no power to extend the Constitution at all.

I am astonished, Mr. President, on another ground. I have heard the suggestion frequently made—and I lament that the suggestion was ever made—that it is not by the mass of the people of the North, but only by certain fanatics there, that the Constitution was sought to be amended, so as to strike out of it that provision which guaranties the institution of slavery in the South. I must congratulate those fanatics, and those who support them, that a new light has beamed on this subject; that it is not necessary to amend the Constitution in order to deprive it of that operation in favor of the South so far as it regards the new Territories; that it is only necessary to adopt this new construction of the extent of the operations of the Constitution, and the rights of the South are at once swept away, so far as the Territories are concerned.

I am astonished at this suggestion for another reason. We of the South are frequently taunted with a disregard of the Constitution and want of attachment to the Union, which charges are utterly without foundation. We have been told, that however objectionable the institution of slavery might be, yet, so far as it was guarantied by the Constitution, we should have it to the fullest extent. Now, however, I regret to see one of the leading men of the North—still more I regret to see two, yea perhaps more—take the ground, in connection with this subject, that we shall not have the full extent of the provisions of the Constitution. But, sir, while I regret that such a position has been taken on this subject, I rejoice at it on one account. I wish it to be recorded, that it may stand in judgment against these gentlemen hereafter. I consider the ground which they have taken on this subject, and the particular reason which the honorable gentleman from New Jersey has given for his objection, as a retraction of what was said by gentlemen at the last session as to the operation of the Constitution in those Territories. I understand the principal ground of objection of the honorable Senator from New Jersey to be, that the extension of the Constitution over those Territories would give to the South rights which they could not otherwise possess. As I do not wish to mistake or to misrepresent him, I will quote his own language, as published in the papers. He says:

"In the third place, and more especially, it is objectionable, because it assumes to extend, by present enactments, the Constitution of the United States over the Territories of California and New Mexico.

"Now, sir, in the first place, this is objectionable because of its changing the present condition of things in reference to the question of carrying slaves into these Territories."

There are other clauses in the same paragraph which I will not read. The Senator then objects to extending the Constitution over California, because it changes the state of things there; because it changes the issue; because it places those who hold southern views on a different footing. Mr. President, I am glad, because it is an implied admission that we were right and they were wrong in the discussion here last session, and that we have a right under the Constitution to remove with our slaves to California and New Mexico. But has the Senator considered the ultimate and inevitable consequences of the doctrine which he advocates? I should like to know from that Senator, if the Constitution of the United States does not extend to those Territories, by what kind of authority we go there? What authority have we over them? What right has Congress at all, either in the Territories or elsewhere, except under the Constitution? What right has the Senator himself to a seat here except under it? Can we exercise any authority with regard to that territory, unless it is brought within the control of the Constitution? If the Constitution does not extend over it, pray what does extend over it? I have understood that our treaties made in accordance with the Constitution of the United States, and the Constitution itself, were the supreme law of the land. If we have no Constitution there, we have no law nor right there. What right have we to hold that country as our property, unless the Constitution has operation there? None, sir, none whatever. If the Constitution, if the treaty made under the authority of the Constitution, does not extend there, there is no law there; and if this be true, then it is declarative that we have no more right to that country than to any foreign country. I regret to hear such a declaration, for I consider it, coming from the very high authority that it does, as an annunciation that we have no right to that territory; that every foreigner—Frenchman, Englishman, South American, or any one else—has as much right as we have to go there and carry off the gold with which it abounds. If we have no greater right under the Constitution, I cannot see that we have any right at all. But I will not dwell upon the subject.

It seems to me that the Senator could not have been very positive in his own conviction on the subject, for, in the succeeding part of the same speech, he assumes a position which is utterly in conflict with the idea that no constitution or constitutional law exists there. In speaking of the difficulties which the South would encounter in taking their slaves thither—which I think was a very unnecessary caution—he describes the process by which, if slaves are taken there, a *habeas corpus* would be sued out and the slaves released, and depicted the consequences that would ensue if the South should attempt to resist the process. Now, I would like to have the honorable Senator tell me how a *habeas corpus* could be issued in California, unless the Constitution of the United States be in operation there. I do not understand that there is any such right in operation now, under the laws of the Mexican Government, and I cannot see how it could be extended thither, unless the Constitution of the United States be in operation there. But I will not dwell on this point. My principal object was to consider another branch of the Senator's argument, and that is, upon the subject of the competency of Congress to admit States into this Union without their having framed a constitution and organized a State government.

I feel myself called on, anxious as I am to avoid trespassing upon the time of the Senate, to offer some remarks upon this subject, from the constant allusion that has been made on all sides to the action of the Committee on the Judiciary on it, and the misunderstanding which prevails in some quarters in regard to the position which I, as the minority of that committee, hold upon this subject. I think it is clear, and that it can be demonstrated, and I wish it to be so understood, that it is competent for Congress to admit a State into the Union before it has formed a constitution and State government. And I will say that the speech of the honorable Senator from New Jersey seems to admit that Congress has this power. He says: "Now, sir, permit me to say, as to this mode of 'admitting a State, if within the letter, it is in my 'judgment against the spirit and intent of the Con-'stitution.'" He seems to admit, then, that it is within the letter, but against the spirit of the Constitution. Again, he says: "But, sir, there are 'other objections to admitting this country as a 'State, aside from these constitutional or legal dif-'ficulties. This matter of admitting a State into 'the Union is a matter, to a great extent, of *dis-'cretion.*" He puts discretion in italics; "and in 'this case it is expressly made by the treaty with 'Mexico matter of discretion."

Mr. President, I understand from this that the honorable Senator from New Jersey abandons the ground taken by the committee, that it was not "competent" for Congress to admit California as a State, and puts it on the ground of "expediency" alone. That is a very different question, and I do

not intend to take up the time of the Senate in discussing it. Although the majority of the committee went upon the point that it was not competent for Congress to admit a State until she had formed a constitution and State government, yet from the resolution which was the result of their investigations, it appears that they came to the same conclusion that I did—namely, that it was a question of expediency. Incompetency is left out of the question. For at the close of their report, they offer the following resolution:

"*Resolved*, That it is *inexpedient* to pass the bill entitled 'A bill for the admission of California into the Union as a State.'"

So the committee seems to have come back to the question of expediency. I think, then, it is clear that it is competent for Congress to admit a State under such circumstances. The expediency of this act is another question.

There are some other of the remarks of the gentleman upon this branch of the subject which require notice. He says:

"Again: why should we overstep that system of legislation which we have acted upon heretofore on all and every occasion? First, a temporary government; then the lowest grade of territorial government; then the second in degree; then admitting the Territory into the Union as a State."

Mr. President, although this general statement may be correct in many cases, it is not correct in detail. There has been no uniform practice which has been adopted in every case. The Senator says, "First, in every case, a temporary government." This is a mistake; there was no temporary government, in the sense the Senator understands it—that is, authorized by Congress—in Vermont, and in some other cases. And it is not a fact that in any case a territorial government was established and the State admitted after she had formed a constitution. In the act authorizing Louisiana to form a constitution, it was provided that she should submit her constitution to Congress, and if it was not disapproved during the next session of Congress, she should be a State in the Union. Congress did approve of it; but if this had not been done, Louisiana would have been in the Union under the previous act.

Mr. DAYTON, (interposing.) The honorable gentleman will please recollect that I applied that remark altogether to the States acquired from foreign governments, and not to States constructed from our original territory, or from parts of other States.

Mr. DOWNS. Perhaps the gentleman did confine his remarks to that class of cases; but, for my part, I cannot see the least difference between the two. I consider that when any territory is acquired from a foreign country it becomes a part of the United States. We have the same control over it as we have over territory transferred by a State. The question of power is the same in both cases. The question of expediency may be very different. It may not be expedient to bring a new people into the Union at once, whereas it may be expedient to give the people of a State formed from some other State instant admission into the Union. In the case of a foreign country, you must obtain the consent of the foreign government, and in the case of a State we must obtain the consent of the State government. And whenever that consent is gained, all difference as to power ceases to exist. In the case of Kentucky, we could not act until we obtained the consent of Virginia; and in the case of Louisiana, we could not act until we obtained the consent of the foreign power to which she belonged; but the moment that consent was obtained, all difference as to the power of Congress to admit those Territories into the Union as States ceased. But it is not a fact that the course laid down by the Senator from New Jersey has been followed in every instance of the acquisition of foreign country. It was not adopted in the case of Texas. Texas had no preliminary government of that kind. She had a government of her own.

Now, Mr. President, the gentleman has admitted at last that Kentucky is an exception. That is a question that was much mooted at the time this question was first brought before the Senate. The gentleman now admits that Kentucky was brought into the Union before she had formed a State constitution. The facts are so clear that it cannot be doubted. But the gentleman says that the case of Kentucky is no rule on this subject, because it has not been followed in other cases; that it is no precedent. And he says, in direct and strong language, that "it is one which the conduct of the government for fifty years has repudiated. It stands alone."

Mr. President, however high the authority of the gentleman on this subject may be, and however disposed he may be to repudiate the precedent of Kentucky, I now present to the Senate an authority which I think the Senator from New Jersey will not repudiate when he shall come to reflect upon it. It is not an idea of my own, it is the authority of the Father of his Country. The very opinion which has been advanced upon this subject by the minority of the committee, has been sanctioned by the very highest authority, by Washington himself, in a case very similar to this. In 1790, when this question was opening in Kentucky, when Virginia had given her consent that Kentucky should form a separate State, but when there was no State government there, no organization of any kind, except the convention which assembled to decide whether they would agree to accept the terms of Virginia or not—that convention did assemble merely for the purpose of expressing the opinion of the people of that district that they would become a State—when, having obtained the consent of Virginia, they sent a memorial to Congress and to the President of the United States, (Washington,) requesting that this proceeding might be sanctioned, and that they might be permitted to come into the Union as a State. On that occasion, and under these circumstances, Washington, in his annual address to Congress, used the following language:

"Since your last session I have received communications by which it appears that the district of Kentucky, at present a part of Virginia, has concurred in certain propositions contained in a law of that State, in consequence of which the district is to become a distinct member of the Union, in case the requisite sanction of Congress be added. For this sanction application is now made. I shall cause the papers in this very important transaction to be laid before you. The liberality and harmony with which it has been conducted will be found to do great honor to both the parties; and the sentiments of warm attachment to the Union and its present government expressed by our fellow-citizens of Kentucky, cannot fail to add an affectionate concern for their particular welfare to the great national impressions under which you will decide on the case submitted to you."

This is the authority of one whose opinions are not often doubted, and whose authority is seldom questioned, that, in a case not stronger than the one now before us, it is not only competent for Congress to admit a State into the Union, but he recommended it on high national considerations, as well as peculiar considerations applicable to that country. This case is analogous, in many respects, to that of Kentucky. The settlement of Kentucky at that time was the first step the United States were making west of the Allegany mountains. The great national considerations then connected with it were very similar to those now applicable to California—the great emigration to that country, the settlement of that mighty region. I shall not dwell on this point; but, if it were necessary to go through all the cases of the admission of States into the Union, Senators would find that there has been no uniformity upon the subject. Perhaps there have been more cases where Territories have been first organized as Territories and then admitted into the Union, than any other, but there has been no rule upon the subject whatever.

I do not wish the honorable Senator from New Jersey, or anybody, to suppose that by the admission of a State I understand the creation of a State. I have taken no such ground. It is only necessary that Congress should give their consent, and that they can do before the constitution is formed as well as after it. But the Senator seems to think that there will be great difficulty in admitting a State at once. It was not the idea or intention of those who advanced the opinion that a State could be admitted, that she could be brought into the Union by Congress and put into full operation at once. On the contrary, they expressly disclaimed all such idea and intention. She cannot be brought in at once. She must have a State organization before she can elect her Senators and Representatives, and until they are elected she cannot be practically in the Union. The position I assumed was, that the consent of Congress might be given before her constitution and State government were formed; and in the very bill which the minority of the committee reported, provision was made that Congress should, in the first instance, give their consent to the formation of a constitution and State government, and that, when they had formed their constitution and government, they should be admitted. It provided nothing but what was usual in such cases.

Mr. President, before leaving this subject, I would state that, notwithstanding the doubts which gentlemen have; notwithstanding the aversion they may have to giving the people of California a government at the present session, I think that that people will form a constitution and present it here; that it will become proper for Congress to act upon it, and I think they will act upon it. I will not enter further into the question of expediency.

I believe that the ground taken by Senators, concerning the character and number of the population of California, is altogether wrong. I believe that the population of that country in a year hence, will astonish the Senator from New Jersey himself. I believe it will turn out that his calculations have been the furthest from correctness of any calculations he ever made. There is already a large population in that country. The number is rapidly increasing, and the desire to go there is increasing every day. I have seen no calculation that I think comes up to the number that will pour into that country during the next year; and whether we give them a government or not, I believe they will form their own laws and constitution. Perhaps they have done so already. I believe they will send their Senators and Representatives here, and they will demand to be admitted notwithstanding the difficulties of Senators.

Mr. President, I have done all that I have desired. I have said all that I have wished to say upon this subject on this occasion. I think I have shown that the position assumed by myself, namely, that it is competent for Congress to admit California into this Union as a State, is correct. As in all other cases, the question of expediency is for Congress to decide. And I wish it to be distinctly and clearly known everywhere, that those who object to this amendment do so on the ground that it throws the broad shield of the Constitution over the rights of the southern section of this Confederacy in those Territories.

Mr. BELL said: This I deem a proper time to call the attention of the Senate to some of the statements made in a reported speech delivered a few days since by the honorable Senator from Georgia, [Mr. BERRIEN.] I think it due to my own self-respect, as well as to the position in which I stand in relation to an important question, that I should take some notice of the misrepresentations in the reply of the Senator from Georgia to the argument submitted by me on the amendment I thought proper to propose to the one now under consideration.

There are several misstatements of my argument contained in the printed speech of the Senator from Georgia which I propose to notice, not in their natural order, but as they are printed. The honorable Senator, after some preliminary remarks, not necessary to be read, proceeds as follows:

"They (meaning the Committee on the Judiciary, whose report I had been combating) have examined the question, first with reference to the Constitution, and secondly to the interpretation which has been given to its provisions in the usage of the Government. The proposition of the Senator from Tennessee is, on the other hand, that Congress alone, and no other power, has authority to create a State.

"Mr. BELL, (in his seat.) Of this Union.

"Mr. BERRIEN. That is a limitation of the proposition. Be it so. Certainly nobody but Congress can admit a State into this Union; and so far the sole power to create a State may be said to belong to Congress."

Now, I deny that I ever advanced any such argument as that Congress alone can create a State, except with a qualification, which was not stated by the Senator. I contended that Congress alone can create a State of the Union, and that that is the only description of States known to the Constitution.

I might have said, *in arguendo*, after having laid down my proposition, that Congress alone can create a State; but I submit to the honorable Senator whether it was fair to take my remarks disjointedly, and assume the argument which he has ascribed to me?

Mr. BERRIEN, (in his seat.) Will the Senator please read the concluding sentence?

Mr. BELL. The Senator asks me to read the succeeding sentence. I will do so:

"But the argument of the honorable Senator for the power of Congress went further, and applied to the con-

dition of a people who, before their admission into the Union, claimed to constitute a State. Now, there are two propositions of the Senator which I wish to consider. First, nobody but Congress can create a State."

I do not deny that my argument was addressed to that point, but it was not in connection with the question of the power of Congress to do anything else than to create a State of the Union. What I complain of is, that the honorable Senator chose to consider the correction I made of his original statement as a limitation of my original proposition; and after receiving the correction, and admitting the soundness of the proposition as then stated by me, persisting in an argument extending over more than two-thirds of a column in a newspaper, founded mainly upon the assumption that my proposition had been such as he first stated it to be. I deny that I ever entertained or uttered such a proposition.

The next passage to which I will call the attention of the Senate reads thus:

"The proposition is, that nobody but Congress can create a State. Now, sir, in considering this, look first to the Constitution. I presume that I misunderstood the honorable Senator, or that it was a mere *lapsus linguæ*, when he said that Congress could do anything not prohibited by the Constitution.

"Mr. BELL, (in his seat.) It was not so.

"Mr. BERRIEN. Very well. Then I understand the proposition to be that Congress may do whatever is not prohibited by the Constitution. I thought at the moment that it was a misapprehension of terms, but the Senator acquiesces in my understanding of it."

Here, sir, we find a reassertion of the same proposition. I repeat, sir—and I think every Senator who did me the courtesy to listen to my remarks must have so understood me—that no other power but Congress can create a State out of any of the Territories belonging to the Union. I had no reference in my argument to any of the original States of the Union, they being parties to the federal compact.

I am also represented in the passage just read as having replied to his remark, suggesting a *lapsus linguæ*, when, as he understood me, I had asserted the proposition that Congress could do anything not prohibited by the Constitution. "It was not so." Now, sir, I made no such remark. What I did say was, "go on." And then the Senator, after assuming that I had acquiesced in his understanding of my proposition, proceeded to demonstrate that the Government of the United States was one of limited powers—a proposition which needed no argument to support it.

I have to remark that I did not correct the Senator upon this point when he misstated my proposition, because he had, in his preceding remarks, misrepresented my statement as to the character of the inhabitants of California; and perceiving that he was misrepresenting my views upon other points, I thought proper to permit him to proceed, intending to answer him when he closed his remarks. I did not do so, however, as the hour was late, and the Senate manifested a disposition to take the vote upon my amendment before it adjourned, not doubting that an occasion would soon be presented when I could reply under more favorable circumstances.

I call the attention of the Senate to another passage in the Senator's speech, reading as follows:

"But there is another proposition of the Senator which may require a moment's examination. It is, that Congress has a controlling power over the people of the Territories; that they cannot form a constitution without the consent of Congress, unless it be in the exercise of what the Senator denominates the right of revolution."

Sir, I laid down no such proposition as that the people of a Territory cannot form a State constitution except in the exercise of the right of revolution. There was nothing in my argument inconsistent with the perfect right of the people of any of the Territories, even without the assent of Congress, to peaceably assemble in convention and *form* a State constitution. My argument did not touch that point. What I stated was, that a constitution *framed* by the inhabitants of a Territory, assembled in convention with the consent of Congress, did not constitute the Territory a State. It would be merely a constitution on paper or parchment, and would have no vitality; it would not be a living constitution until it was admitted into the Union as a State. In all the cases known in the practice of the Government, and in which the inhabitants living under a territorial government had been authorized by Congress to hold a convention and form a State constitution, the territorial government and laws existed in full vigor until the State constitution, as thus formed, had life and energy breathed into them by the act of Congress admitting the people who formed them into the Union as States.

Again: the Senator asks, in another part of his speech, "If Congress possessed the power of 'creating a State, why do they depute the power 'to another, and not exercise it themselves? Could 'they exercise it? Could they form a constitution 'for the new State, and compel the people of the 'Territory to accept it, and become a State?"

Here we again find the honorable Senator founding his argument upon the assumption that I had asserted for Congress the power to create a State, other than a State of the Union—to form a State constitution—to create a State government for the people of a Territory first; and then, by admitting it into the Union, create a State of the Union. My argument was, that there can be no State in any of the Territories, except it be made so by admission into the Union.

In another paragraph of the printed speech of the honorable Senator I find the position contained in the following sentence imputed to me: "The Senator still insists that a State cannot have existence until her delegates are received in Congress." Sir, I distinctly contended for the reverse of the proposition. I assumed the position that a State of this Union might exist without any representation in Congress. I think I repeated the same idea over and over again, in the illustrations I gave of the proposition. I said that a State, when admitted into the Union, was only *felt* in the national legislation when her Senators and Representatives presented their credentials, and showed that they had been elected or chosen in the manner prescribed by the Constitution of the United States. I took this view of the question in answer to the argument which I supposed would be urged against the proposition to admit these Territories as a State of the Union before a regular State constitution should be adopted by the inhabitants, and when neither Senators nor Representatives could be appointed or elected in conformity with the provisions of the Constitution of the United States. I said, be it so. It could not detract much from the weight of the public councils, nor be any great detriment to the public interest, if they should not send their Representatives here for forty years to come; and though they should not do so, they would still be a State of this Union. It has so happened before now that a State has failed to be fully represented in the Senate during an entire Congress, and yet no one supposed that a State so in default was not a State of the Union. That is a matter of choice to them. They could send their Representatives here whenever they think proper. My argument was, that the necessity of adopting a State constitution before Senators and Representatives could be chosen would act as a sort of lever to prize the citizens of these new Territories into active exertion upon this point. And if human nature in that region is the same as here and elsewhere, the desire to be represented in Congress would soon provide a State constitution in regular form.

I now desire the attention of the Senate to another passage in the speech of the honorable Senator:

"I should regret to believe that the people of the several States of this Union could be led to suppose that such power as is claimed for Congress on this occasion does in fact belong to them, or that we are disposed to depart from the uniform understanding of our predecessors, in the interpretation of the power which the Senator desires us to exercise; that it was to be enlarged into a constructive power to *create* the *States* of this Union, and that in this age of progress, when it is perhaps impossible to limit the extent of territory which may be acquired by this Government, that Congress would assume the power which it is proposed now to exercise."

Who, sir, has claimed such a power? Who has maintained the argument that Congress has a right to prescribe—to form a State constitution for the people of these or of any other Territories of the Union? Not I, sir; my argument, I repeat, went upon the ground that we have the power to admit these Territories into the Union before they have any regularly organized State government. I have never assumed that Congress, or any other authority can dictate the particular form of their State government, provided it be republican.

I will now notice another misrepresentation of my argument, found near the close of the printed speech before me:

"The Senator maintains another proposition, or rather he illustrates his principle by an argument of this sort: that a State is not a State until it is admitted into this Union.

"Mr. BELL, (in his seat, in a low tone of voice.) I said that no State can exist in any Territory of this Union, unless it be created by Congress, until it is admitted into the Union.

"Mr. BERRIEN. I will state the proposition in the Senator's own words: No State can exist in any Territory of this Union, *unless it be created by Congress*, until it is admitted into the Union.

"Mr. BELL, (in his seat.) Unless we relinquish our sovereignty over it.

"Mr. BERRIEN. With this limitation, I think the argument of the honorable Senator is yielded."

Here, sir, I may remark, I have a further evidence of the honorable Senator's perseverance in misstating my views. I could not at any time have said, either in a low or loud voice, "that no State can exist in any Territory *unless it be created by Congress*, until it is admitted into the Union." The words, "unless it be created by Congress," are an interpolation. I maintained that no State could exist in any of the Territories, no matter by whom attempted or formed, while they continue to be a part of the Territorial possessions of the United States. I am aware that this interpolation was necessary to sustain the position on which the argument of the honorable Senator himself was founded. He contends that when the inhabitants of a Territory *form* a State constitution, with the assent of Congress, they become a State from that time forward—though not a State of the Union; that it was so intended by the framers of the Federal Constitution; but when he finds in the Constitution no recognition of the idea of such a State as he maintains actually exists in a territory in the period intermediate between the *forming* of a State constitution and the subsequent admission of it into the Union by Congress, he takes shelter under a *casus omissus*. I denied the proposition that there could be any such State; that, in fact, there was no description of State known or recognized by our system as part of it, except it becomes one by being admitted into the Union.

The whole of the Senator's argument is founded upon a misrepresentation of the entire drift and tenor of my remarks, in affirming that I asserted the proposition "that Congress alone can create a State," without the qualification necessary to give any sense or consistency to my argument; that is, a State of the Union.

When in the course of my argument I stated that Congress could do anything not prohibited by the Constitution, the proposition was stated in reference to the power given to Congress to admit new States into the Union. My argument was, that the clause of the Constitution giving Congress the power to admit new States contained no such condition as that there should be a preëxisting State constitution, either in form or in actual operation.

My argument went to show that a people living under any form of civil organization whatever, might be admitted into the Union as a State; and that there was no prohibition in the Constitution to prevent it. I remember that, to illustrate my position, I put the supposed case of the conquest of a neighboring kingdom, if any such there should be on our borders. In such an event, I contended that when the monarchy was overthrown, and the country should become a part of our possessions, Congress might, if in session, *eo instante*, admit it into the Union as a State; and when thus admitted, the guarantee of a republican form of government, provided in the Constitution for the States of the Union, would insure the formation of a republican constitution by the inhabitants of the new State. These were the positions I assumed, and I still adhere to them.

Before closing my remarks, I desire to call the attention of the Senator from New Jersey [Mr. DAYTON] to the assumption made in his speech founded on the same proposition assumed as mine, so much harped upon by the Senator from Georgia. That Senator in his speech remarks:

"How can you make California a State government? Can Congress create a State? Congress create a State! Sir, I never thought, until I heard it here a day or two since from the Senator from Tennessee, [Mr. BELL,] that such a proposition could have entered the mind of any human being."

That would be a wonderful conception, indeed, for the Senator from Tennessee to bring forth.

Create a State! Congress to create a State—and yet that State not a State of the Union! Who, sir, I repeat, has ever advanced such a proposition?

I have felt, sir, that these misrepresentations of my course of argument demanded a public correction at my hands. Both of the honorable gentlemen who have thus misstated my argument upon a question of great importance, are members of the Judiciary Committee. The opinions of the Senator from Georgia, especially, are much deferred to upon all legal and constitutional questions in this body, and in the country. The Senator from New Jersey has a like deference paid to his opinions—though, perhaps, not to so great an extent at present as he may expect at some future time. I do not desire to do any discredit to the legal and constitutional learning of the Senator from New Jersey. He is the junior of the distinguished Senator from Georgia, (some remark by the Senator from Georgia.) Not so much his junior, either. There is no great disparity between them. [Laughter.]

The Senator from New Jersey, in another part of his speech, thus takes off my assumed argument:

"If we had this power to create, all we would have to do would be to pass a law and resolve that California was a State, and it would become one. A schoolboy may cut a man out of a bit of paper, and say it is a man; but is it a man? Has it the blood, bone, and sinews of a man?"

Now, sir, I congratulate the honorable Senator upon the self-complacency which he must have felt when he hit upon this notable illustration. It is felicitous and beautiful in the extreme. He presents it to show the absurdity of an argument which he himself puts into my mouth. There is another passage in the Senator's speech in which my argument is attempted to be *refuted*, which I cannot now put my eye on. It is in relation to the guarantee of the Constitution of a republican form of government to each of the States of the Union.

I do not know precisely how the gentleman conceived my argument on this point. My argument was, that the guarantee in the Constitution could only apply to States already in the Union; and hence that there was no obligation even *implied* in the power which gave Congress the authority to admit a State into the Union to require, as a condition precedent, that there should be a State constitution previously formed and in operation.

Mr. President, I have now done with the comments I intended to make upon the speech of the honorable Senator from Georgia. I have felt it to be a duty which I owed to myself, and to the position I occupied in relation to a most important public question, to vindicate it against the misrepresentations I have pointed out. But, sir, I cannot close my remarks without asking the indulgence of the Senate while I state, in a more distinct form, some of the more material of the propositions I attempted to enforce in the remarks I had the honor to submit to the Senate the other day, on the proposition to admit the Territories of New Mexico and California into the Union as a State, or as States, taken from original notes. I still adhere to the opinion that by no other measure can we so effectually heal the existing dissensions, and others more serious which may grow out of the present condition of the country in relation to these Territories.

The Committee on the Judiciary, in their report on the bill of the Senator from Illinois, proposing to admit the Territories of New Mexico and California into the Union as a State, assumed the ground that the bill proposed to do what the Constitution did not authorize Congress to do—that is, *to create a State*.

I renewed the proposition of the Senator from Illinois, by way of amendment to the civil and diplomatic bill, as I was warranted by usage in doing in cases of emergency and great public importance.

In the course of my argument I stated and attempted to sustain the following propositions, in opposition to the report of the Committee on the Judiciary:

That a State, in common acceptance, was one thing, and a State of the Union quite another thing.

I defined a State, in common acceptance, and as defined by writers upon the law of nations, to be any number, great or small, of men of free condition, who lived together as one community for their mutual protection and convenience, in a territory of which they are the exclusive possessors, under any form of society or of civil government or regulation they may think proper to adopt or acquiesce in—that a State, in this sense, requires no distinct organization by the adoption of a written constitution. It may exist as a separate society or State under customary or unwritten laws. The executive and legislative powers may be assigned by common consent to the senior members of the society, or to the elders generally, or to the judicial functionaries. That it is not essential to this idea of a State that its political organization shall be either wise, energetic, or effective for all the purposes of good government. It may be very defective, very feeble; but if it is sufficient to maintain a separate existence independent of foreign control over its affairs, foreign or domestic, it is a State—a commonwealth.

I maintained that if the present inhabitants of California, with their present laws and imperfect civil organization, were the undisputed possessors of that Territory, holding exclusive control and dominion over it, they would be a State or nation, sovereign, free, and independent—entitled to be regarded one of the community of nations, and as such subject to the law of nations.

I further maintained that a State of this Union was altogether different; that for its definition we must look to the Constitution; that Congress alone can create a State in the sense in which that term is employed in the Constitution; and that Congress always creates a State in this sense when one is admitted into the Union.

I further maintained that the inhabitants of California, while the United States asserted its sovereignty over that Territory, neither with their present imperfect form of civil society, nor in the most perfect form which they can devise, can become a State until they are admitted into the Union as such.

I maintained that there is nothing in that clause of the Constitution giving Congress the power of admitting new States, prescribing as a condition that any particular form, or any form whatever, of civil or political organization, shall exist in the Territory admitted as a new State of the Union prior to its admission; and consequently that there is no impediment in the Constitution to the admission of the inhabitants and Territories of California and New Mexico forthwith into the Union as a State, if we think it expedient in the present exigency to do so; or, if it is thought more advisable to pass an act for the admission of these Territories at some future day—allowing time to the inhabitants to settle upon the form of a State government in the mean time, to take effect on the day provided for their admission into the Union—the Constitution does not prohibit such a course.

I further maintained that no State can exist in any of the *Territories* over which the United States continue to assert their sovereignty and jurisdiction, except by the assent of Congress, declared by an act admitting such Territory into the Union as a State. That the consent of Congress given to the inhabitants of a Territory to hold a convention and to form a State constitution, does not thereby authorize the carrying such form of government into effect, and that any constitution so formed and agreed upon exists only in *form* and upon paper, until Congress gives it vitality by admitting such Territory into the Union as a State, by an act either precedent or subsequent.

I further maintained that the clause of the Constitution which guaranties a republican form of government to the States of the Union, applies only to States in the Union, and that this power of the Federal Government can only be exercised over States already in the Union, there being no State, known to the Constitution, but one already admitted into the Union.*

Mr. BERRIEN. I am sorry that the debate which occurred the other day between the Senator from Tennessee and myself has rested so unpleasantly on his mind as to render it necessary for him to recall it to the recollection of the Senate to-day. He is quite sure that I had no intention to misrepresent his arguments. My remarks were made immediately after the Senator sat down, in the presence of the Senate and of the honorable Senator. If he had thought that there was any misapprehension of his views, it was proper that he should have corrected that misapprehension at the moment. I have listened attentively this morning to the observations of the honorable Senator, and find myself still unable to discover wherein I have misapprehended, and therefore misrepresented him. Sir, having made this disclaimer of all intention to misrepresent the honorable Senator, I cannot consent to occupy any portion of the little remnant of time which is left to us in explaining to the Senate the meaning of the remarks which I made the other day. The honorable Senator explained his views at considerable length, and they were published in the reports which were made of our debates, as well as the remarks which were made by myself, and I am entirely willing to leave it to the Senate and the community, upon an examination of those reports and of the Senator's explanations, to say whether I have misconstrued his argument. The judgment of the public will be with him if such misconception has taken place.

Mr. BELL. I could infer that myself.

Mr. BERRIEN. In regard to the answer given by the Senator to my inquiry as to the power of Congress to do what the Constitution does not inhibit, I will say, first, that I am not responsible for the statement of the reporter; and then, in simple sincerity, declare that, according to my understanding of it at the time it was given, the Senator did answer as the reporter had stated. So believing, I made the commentary which I did make. If that answer was not given by the Senator, then, to that extent, I have misconceived him. I replied under the impression which the answer of the Senator made upon my ear. But I think it would be unjust to the Senate to occupy any further time in this explanation. I repeat, simply, that I had not the smallest intention to misrepresent the Senator; and I doubt whether, in the opinion of any Senator, such misconception and consequent misrepresentation occurred.

But, sir, having been thus called to the floor, I avail myself of the occasion to state the view which I entertain of the amendment offered by the Senator from New Jersey; and, sincerely and anxiously disposed to see this agitating question brought to a termination, my first impression was that I would be enabled to sustain that amendment with certain modifications, which I proposed to that Senator. I suggested to him the propriety of extending the time of the operation of the provision, so as to relieve us from the necessity of a certain recurrence to these same agitating questions at the next session of Congress, in which he acquiesced. But I proposed to the Senator another modification, which it was not his pleasure to adopt, and which it is not in my power to offer to the Senate now, because we have attained the last stage to which we can proceed by way of amendment. That refusal makes it impossible for me to sustain the Senator's amendment. My objection to it, without the modification which I proposed, is that, in my judgment, it makes us assume the exercise of a power beyond the Constitution of the United States, or neglect an obligation which the Constitution imposes. If it be said that our legislation, in regard to Florida and Louisiana, has gone to the whole extent which the amendment of the Senator from New Jersey proposes, I answer that the action of Congress in those cases was, in my opinion, not well considered; that it was, in my judgment, a species of legislation which is more honored in the breach than in the observance. A statement of the modification which I suggested to the Senator from New Jersey will explain my view of this matter. He proposes to adopt the laws of the Mexican Republic as they existed in the Territories of New Mexico and California anterior to the cession of those Territories to us. I suggested to him this modification, to insert the words "so far as the same are consistent with the Constitution of the United States." The Senator refuses to accept this modification, and therefore I decline to support his amendment.

This, sir, leads to a very brief consideration of the question which was discussed here the other day. That question is, whether the Constitution

*NOTE.—Mr. BELL desires to say, that upon a more careful review of the remarks of the Senator from New Jersey, [Mr. DAYTON,] he is satisfied that he did that Senator injustice in supposing that he had treated his (Mr. B.'s) argument unfairly; and, although his (Mr. B.'s) remarks upon the speech of the Senator were perfectly respectful, yet he regrets having been under misapprehension.

operates within the Territories of the United States, and if it does, then in what manner? Does it so operate by its own force, or by the legislation of Congress? When the honorable Senator from Massachusetts (who I believe is called to other duties to-day) suggested to us the propriety of having an accurate apprehension of the terms of a proposition, I presumed, from the brief observations which I had submitted upon the subject, that I was probably included in the remark. I accept the admonition, sir. It is certainly important to have a clear conception of the terms in which a proposition is stated. But there is another admonition which is equally important. It is, that we should not only have a clear conception of the terms in which a proposition is expressed, but that we should also make some reasonable estimate of the value of the proposition itself. The naked question which was discussed the other day, whether the Constitution operates within the Territory of the United States of itself, or by and through the legislation of Congress, is itself, in my judgment, comparatively valueless in this discussion. If I were not averse to employ the language of paradox, I would say that those who occupy the opposite sides of this proposition are both right and both wrong—that the Constitution does and does not extend to the Territories. It is certainly true, as was said by the Senator from Massachusetts, that it does not operate in the Territories *proprio vigore*, as a whole, in its totality. Whether you adopt one mode of considering this instrument or another, whether you describe it as a compact between confederated States or as an act of the people of the States of this Union, by which they ordained and established a government, still it is evident, that as a totality it cannot operate by its own force in the Territories of the United States. The great object of the Constitution was the formation of a system of government; and so far as its provisions relate to that object, they do not extend to the Territories of the United States. That object we seek to accomplish, when, under the authority of the Constitution, we are about to organize a government for these Territories.

But it was not the sole object of the Constitution to ordain and establish a government for the thirteen States, by whose delegates the Constitution was formed. It was also intended to establish certain great principles by which that government was to be regulated. It contained, moreover, and especially in the amendments, certain principles of public liberty, certain safeguards of individual right, which are capable of being extended to the Territories of the United States. When, therefore, it is said that the Constitution does not so extend, the answer is, Yes, that is true; as a whole, it does not operate there: and when, on the other hand, it is said that the Constitution does extend to the Territories, the answer is, Yes, that also is true; there are portions of it which do and must of necessity operate in the Territories of the United States. By what authority are we about to organize a government over those Territories? We are told that it is under the provision of the Constitution which gives us power to make needful rules and regulations for the government of the territory or other property of the United States. Now, I doubt, sir, whether that is the true source of our authority. I think it too limited. I think the object of these rules and regulations is clearly indicated by the expressions "to *dispose of*" and make rules respecting "the territory or *other property* of the United States." The Territories are therein obviously considered as *property*, and not as the *habitations of freemen*, whose municipal regulations are to be prescribed by Congress or adopted by themselves. But I do find a power derived from the Constitution to organize a government for the Territories, which, though not expressed, is still as distinct as though it was given in terms. Since, by the Constitution, we have power to do that, which must or may result in the acquisition of territory, we must also have power to do whatever is required to be done for the government of such territory. I hold that the power is given to Congress as clearly as though it were expressed in language. Then, sir, whether it results from the clause which has been referred to, or whether it is deduced as an incident from the war or treaty-making power, it is still a power derived from the Constitution, and is to be exercised in conformity to it. Whether you trace it to one or the other of these sources, when you are legislating for the establishment of a government in a Territory of the United States, do you not bring the Constitution of the United States to operate within that Territory? Is not the mere act of establishing a government, the sole authority to do which you derive from the Constitution of the United States, the evidence of the fact that the Constitution *quoad hoc* does extend to that Territory? What other powers have you than those which you derive from the Constitution?

But, sir, the concession which has been made upon this point goes further. It is said by the Senator from Massachusetts that, although the Constitution does not operate as a whole in the Territories—does not operate at all in the Territories—yet it operates upon us, and that we are bound to regulate ourselves by the principles of the Constitution in organizing a government for the Territories. The honorable Senator will not and does not say, that while legislating for the Territories, we are not bound by every one of the great principles of public liberty which were incorporated in the Constitution. Then, sir, to what does this argument amount? Of what importance is the question whether the Constitution operates in the Territories by its own intrinsic force or by an act of legislation which our constitutional duty makes it obligatory upon us to perform? I have, I confess, sir, been somewhat surprised in the course of this discussion. It began with the declaration, which has been reiterated in its progress, that it had been solemnly and repeatedly decided by the Supreme Court of the United States that the Constitution did not extend to the Territories. Mr. President, I am willing to admit that some of the decisions of that tribunal may have escaped my recollection; but I can hardly persuade myself that a series of decisions, which it is repeatedly asserted have been made at various times for the last thirty years, on a question so important, could have been entirely forgotten. In answer to the assertion that there have been such decisions, I therefore only say, *non mi recordo*. I know the case to which Senators have referred, that of an *American Insurance Company* against *Canter;* but it is very certain that that case decides no such proposition. The Constitution of the United States was referred to in that case for the purpose of showing that admiralty jurisdiction was vested in the courts of the United States, and the argument was, that jurisdiction could not be exercised by the local judiciary of the Territory. Now, sir, this decision only proves that it was competent for the local judicial authorities to hold jurisdiction of a case in admiralty. *Arguendo*, it was said that, under one or the other of these sources of authority to which I have before referred, Congress has a right to establish a government. The court did not decide to which it should be referred. That question was left open. But, having decided the right of Congress to establish a territorial government in Florida, the court proceeded further to declare that the same authority had the right to vest the jurisdiction of such a case in the tribunals which might be constituted by the territorial legislature so created. They have decided nothing, therefore, in regard to the question whether the Constitution operates in the Territories, and, except by inference, that the particular provision of the Constitution vesting admiralty jurisdiction in the courts of the United States does not apply to the Territories; that the judicial power exercised by the territorial courts is not part of the judicial power of the United States, but is derived from grant by Congress to the territorial legislature. They illustrate this proposition by referring to the difference of the tenure of office between the judicial officers of the United States and those in the Territories. They say that all judicial power which is conferred by the Constitution is vested in the Supreme Court and such inferior courts as Congress may from time to time ordain or establish; and that by the Constitution the tenure of office of all these judges is during good behavior, while that of the territorial judges is only for a term of years.

The decision, then, amounts to this, and is limited to this, that the judicial power granted under the Constitution, to be exercised within the limits of the United States, is not the judicial power which is established by Congress within the Territories; that the right of determining this question by the judicial power which rests on the authority of Congress to make a Territory was not a portion of the judicial power established by the Constitution to be exercised within the limits of the United States. Now, I suppose there can be nothing more clear than this; but it is very far from establishing the proposition that no part of the Constitution can operate in the Territories, by its own force or by legislative act. The whole extent of the decision is simply that the judicial power conferred by the Constitution is to be exercised within the limits of the United States, and does not of necessity extend to the Territories.

But here is a proposition by this amendment to put in force the laws of the Mexican Republic, without regard to the Constitution and laws of the United States. I ask for a modification of the amendment, which shall provide that these laws shall be allowed to operate in subordination to the Constitution of the United States. It is said, that on the acquisition of territory by the United States, the laws of the preëxisting government must continue in force until they are repealed by this Government. Now, sir, I confess I am unwilling that the citizens of the United States who may be in that Territory should be subjected unlimitedly to the authority of those laws, of laws enacted by the Mexican Government. There are laws there which conflict with the rights of individuals as freemen, and I am not willing that these shall continue to operate without restraint upon American citizens.

But, in the next place, it is said that this is in the discretion of the President of the United States, and that he will enforce those laws only which conform to the Constitution of the United States. I answer that it is the duty of every department of this Government to bear its own burdens; and when we send from these Halls an act giving a government to a Territory, we must impose the limitations which the Consitution requires. If the Senator from New Jersey had been disposed to accept this modification, "so far as they may be consistent with the Constitution of the United States," we should have a guarantee for our citizens, and I would have been disposed to acquiesce in the proposition thus modified. His refusal forbids me to do so.

Mr. President, it is said that it is impossible to distinguish between those provisions of the Constitution which are suitable and proper to be observed in the Territories, and those which are not. Let me suggest to you what I suppose to be a very plain and broad line of discrimination between these two classes of constitutional provisions. I suppose that, considering the Constitution as an ordination and establishment by the people of the United States of a system of government, all those provisions which relate alone to that object are to be limited in their operations to the States over which that government was to be established. But I suppose, also, that leaving those provisions *en masse*, there is another class which affects private rights, the liberty of the citizen, which applies to citizens of the United States wherever they may be found within the limits of its authority; and if it be true that these provisions cannot operate without the legislation of Congress in a Territory for which we are providing a system of government, it serves only to render more imperative our obligation to make the necessary enactment.

A citizen of the United States does not lose his character of citizen of the United States by removing into a Territory of the United States. He ceases to be a citizen of the individual State from which he removes, and he becomes a citizen of the Territory to which he goes, but he retains his character of a citizen of the United States. That is his birthright, or it has been granted to him in conformity to the law of Congress. I will ask, sir, did the citizens of the Northwestern Territory lose their character of citizens of the Confederacy when that Territory was transferred by Virginia to the Confederation? They were citizens of Virginia, as well as of the Confederacy, and when the lands on which they dwelt were transferred by Virginia to the Confederacy, were they denationalized and divested by this act of their rights as citizens of the Confederacy? It may be said that

the privilege of the writ of habeas corpus does not by force of the Constitution extend to a Territory, that it can only be availed of under the authority of a government which is created by Congress. Sir, if this be so, can there be any more cogent reason for such legislation by Congress as will secure to the citizen of a Territory the benefit of its provisions? It is conceded that we have the power to do so; nay, that we are bound to do so, by the admission which is made in this argument that we would be wanting in the performance of our duty, if, in organizing a government for a Territory, we failed to observe with religious scrupulousness the great, free, liberal, and conservative principles of the Constitution. Surely, the privilege of habeas corpus is one of these; and if we have the power, and the obligation is upon us, how can we fail to exercise the power in fulfillment of the obligation? I am not aware that this proposition can be stated more plainly.

I object, then, to the amendment of the Senator from New Jersey, because it does not throw around the citizens of these Territories the panoply of the constitution, but subjects him to the dominion of foreign law, to be enforced by Executive discretion; and I will vote for the amendment of the Senator from Wisconsin, if he will accept as a modification an amendment which shall limit the enactment by which the Constitution is to be extended to these Territories to such of its provisions as can be applied to the condition of a Territory of the United States.

Mr. DAYTON. I have no purpose to enter again into the discussion of any question connected with this matter. I have no purpose, therefore, to answer the arguments of my friend from Georgia, further than by the simple interrogatory, which may be addressed to him and to all others who adopt the same line of argument. He says that the principles of the Constitution to which he refers already extend to and cover the Territories. If so, I beg to know why you want any special act of legislation to carry them there? I think, sir, that it will puzzle those gentlemen who contend for this position to answer this question. But my purpose in rising was not to discuss the subject, but merely——

Mr. FOOTE. If the Senator will permit me, I have this to say for myself upon this point; other gentlemen may answer for themselves. I entertain the opinion so ably advocated by the Senator from Georgia; but I know that such distinguished jurists as the Senator from New Jersey, the Senator from Massachusetts, [Mr. WEBSTER,] and a few others that I might enumerate, entertain a different opinion. We heard it said the other day—and I am very glad to find that it is a mistake—that the Supreme Court had decided in support of the views of those distinguished Senators. But it being a question whether the Constitution did or did not extend to the Territories, it was certainly right and proper for those who held that it did extend there to make assurance doubly sure by legislating for its extension. And that is the ground upon which I act.

Mr. DAYTON. I was about to respond to the somewhat pointed remarks of the Senator from Tennessee. He complained that, when the Senator from Georgia and myself were speaking of what he advocated, we took his remarks disunited; that we did not consider them in the whole; that, in point of fact, he intended to say that no State could be created in a Territory but by act of Congress. While the Senator complains of others for taking his remarks in a disjointed manner, let me ask his attention and the attention of the Senate to the mode in which he has chosen to consider mine. Sir, he has stopped in the middle of a sentence! Here it is. The sentence runs thus: "His [Mr. BELL's] idea is, that Congress can alone create a State"—and there the Senator stopped, and asked, with much point and force of manner, who heard him express such an idea? Sir, if he would but have continued to the end of the sentence, he would have found his idea expressed in precise language. It was thus:" That no State government can be created in our Territories save by revolution, if without the authority of Congress;" and that was his idea, I believe, exactly. This is the way in which the Senator chooses to establish the position that I misrepresented him. Certainly the Senator did not talk here a whole day to show that Congress was the only power that could create a State *of the Union*.

Again, sir, he objected in a somewhat pointed manner to the illustration which I gave in answer to his remarks.

Mr. BELL. I meant no disrespect towards the Senator.

Mr. DAYTON. I know my friend intended no disrespect, but he has that happy manner which tells perhaps quite as effectively as his language. Now, what was that illustration, as the Senator has referred to it? In attempting to illustrate my argument, I said that a boy may make from a bit of paper the figure of a man, and call it so, but would it be a man? would it have the sinews, the muscle, the bone, and blood of a man? Well, says the honorable gentleman, how does the illustration apply? I will tell him. The Senator contended here that Congress could pass an act and make it a State, although it, the Territory, should not do anything for the purpose of carrying into execution a State government for forty years. I ask, can it be a State because Congress shall call it so—when it has none of the powers, none of the prerequisites of a State, and can effect none of the objects for which a State government is designed?

I have thus, in this brief and hasty manner, responded to the Senator from Tennessee. I conclude, sir, that we have not so much misunderstood or misrepresented the Senator's arguments as he supposed; but I am glad that, after his long speech, he has taken the precaution to write down on paper, and give us this morning, in a condensed form, what he really did mean.

Mr. BELL. I do not mean to advert to the little sincerity of the Senator from New Jersey, at the conclusion of his speech, but the Senator from Georgia seems to make a question of fact in regard to the drift of my argument. I can only say it is very evident that the Senator belongs to a class who were greatly prejudiced against the position which I took, and my argument, therefore, fell upon unwilling ears. I stated in the remarks I made to-day, that if any Senator had given me his attention he could not have misunderstood me. One word in regard to the report: if the Senator has read the report of my remarks it is more than I have done, but on looking over the matter as counted in columns, there cannot have been one-half of my arguments reported. Some paragraphs seem to report me very well, others misstated the arguments altogether. I have nothing to complain of, because the Senate having required that the report shall be laid upon our tables the following day, correctness cannot be expected when we consider the great length to which the report must necessarily extend. But I will ask the Senator from Georgia if he did not revise the report of his remarks?

Mr. BERRIEN. Most certainly I did.

Mr. BELL. I only want to state the difference. I never read over the report of the remarks made by me, and I thought I saw in the arrangement of sentences and in the scope and connection of the arguments of the Senator from Georgia, a difference between the report and the speech as delivered. At all events, I thought it bore the marks of very careful revision.

Mr. BERRIEN. I will state precisely what the extent of that revision was. At a late hour of the night, without any previous notice and without any request on my part, the rough notes of the reporter were furnished to me for examination, and I gave them such hasty revisal as the time would permit.

Mr. BELL. I merely wanted the explanation. The Senator had an opportunity of revising his remarks. I never had. And I have not read them to this day, so that his reference to anything in the newspaper, which could not have contained more than half what I said, is not a fair test of the course of my argument. I now say that I could not, under any circumstances, have contended for the absurdities attributed to me by the Senator from Georgia.

Mr. UNDERWOOD. It is of very great importance, in my estimation, that the new legal question which has been started, and which brings me to my feet on this occasion, should be clearly understood. I hope the Senate will give me their attention, and to compensate that favor, I will promise to be very brief. I never heard until the Senator from Massachusetts [Mr. WEBSTER] on yesterday expressed the opinion, that the Constitution in its provisions did not extend to the Territories of the United States, and I listened with profound attention to what he said, and also to what was advanced by the Senator from South Carolina, [Mr. CALHOUN.] It is the great respect which I have for all the opinions of the distinguished Senator from Massachusetts upon constitutional questions, and the difference which exists between him and myself upon this question, which induces me to occupy the time of the Senate. I think all has not been said on the subject which can be properly said, and I wish to supply what I regard to be an omission in very few words. I hold that the laws of Congress are, like the laws of all other civilized communities, either general or special; that they either extend over the whole territory of the United States, or over localities which may be designated by law. Now, sir, if you look at the acts of every civilized community, you will find that the laws passed by the legislative power operate in that way, and you will find that the constitutional provisions under our system act in the same way. You have an express constitutional provision respecting the District of Columbia. You have exclusive jurisdiction within the District. You have powers there which do not extend to the Territories belonging to the United States, and the people of the States. Our powers under the Constitution in relation to this District are local and not general. I hold that all the principles and provisions of the Constitution of the United States which are general, all the provisions which are not limited, which are not local, extend just as well over the Territories of the United States as they do over the different States of this Union, and that they have precisely the same effect in the Territories as they have in the States. It may require legislation to carry out constitutional power. The constitutional power may be inefficient, it may be worthless, it may amount to nothing, until Congress passes a law to execute and carry the power into operation. To illustrate: all your judicial power is to be vested in the judiciary, but until you pass laws by which the judiciary is to be organized, courts held, and offices provided, the investiture of the judicial power in respect to the States as well as the Territories is a dead letter. It requires the action of Congress. And so, sir, as to many other powers of the Government. They have what may be termed a latent efficacy, but it cannot operate until, like the power which propels the engine, you have prepared the machinery upon which the power acts. I think that this proposition is just as clear, and that it can be demonstrated by argument, as that two and two make four, and I will proceed now to prove it.

The Constitution says that it is the supreme law of *the land*. What land? The *whole* land, constituting part and parcel of the United States, is the obvious answer. Upon what principle can we restrict the operation of the Constitution to less than the whole? I shall not repeat the arguments that have been used upon this subject. I will leave it where the learned Senator from South Carolina left it, in the interesting discussion which took place between him and the Senator from Massachusetts. But the Constitution does not stop there. In the next clause it goes on to say that the judges and officers of every State in the Union, and every officer belonging to the United States Government, without qualification or limitation, shall take an oath "to support this Constitution." You have officers in the Territories; you have had them from the foundation of the Government, and you cannot govern a Territory without executive and judicial officers. All of them are required to take an oath or affirmation which obliges them to support the Constitution when they come to administer their respective duties. After taking this oath, they are perjured in the eye of Heaven if they intentiona ly disregard the provisions of the Constitution. How can they support the Constitution unless by respecting and enforcing its principles and provisions? The learned Senator from Massachusetts says, and says most appropriately and forcibly, that the principles of the Constitution are obligatory upon us even while legislating for the Terri-

tories. That is true, I admit, in its fullest force; but if it is obligatory upon us while legislating for the Territories, is it possible that it will not be equally obligatory upon the officers who are appointed to administer the laws in those Territories?

Mr. WEBSTER. I never said it was not obligatory upon them. What I said was, that in making laws for these Territories, it was the high duty of Congress to regard those great principles in the Constitution intended for the security of personal liberty and for the security of property.

Mr. UNDERWOOD. The gentleman's sentiments were quoted a short time ago, while he was absent, by a Senator near me, who understood them precisely as I did; but I am happy to hear this qualification of the position which I understood the gentleman to take. I did think that the gentleman was right when he said that, in legislating for the Territories, we were bound by the principles of the Constitution. Certain is it, that we are so bound or we are not. If there is no such obligation imposed upon us, then we may legislate adverse to these principles, and contradictory to them, in making laws for our Territories. If the gentleman intends to be understood that we ought to respect the principles of the Constitution in legislating for the Territories, but may violate them with impunity and without judicial check, his position is so much the worse, so much the more dangerous to be advanced, coming, as it does, from the great constitutional lawyer of the United States. I say that we are bound, in legislating for the Territories as well as for the States scrupulously to observe every principle and provision of the Constitution, for we have taken an oath to support it. If we, through inadvertence or design, violate it, then the executive and judicial departments, whether in the States or Territories, and who are called upon to apply and enforce our acts upon the people, are bound by their oaths to disregard everything condemned by the Constitution. Let me put a case, by way of illustration. Ours is a Protestant country in the main, while New Mexico and California are Catholic countries. Suppose we provide by our legislation that nobody shall be appointed to an office there who professes the Catholic religion. What do we do by an act of this sort?

Mr. WEBSTER. We violate the Constitution, which says that no religious test shall ever be required as a qualification to any office.

Mr. UNDERWOOD. I put the case to show how the Constitution might be violated, and how we may violate our oaths. But this is not all. The Constitution defines what treason is; and if you will look at the legislative act to provide for the punishment of certain crimes against the United States, you will find that treason is likewise defined in it. When that act of Congress was passed, we had a territory northwest of the Ohio river. I have made a hasty examination to see whether I could find the criminal code of the United States extended by express words to the territory northwest of the Ohio. I found no such enactment. Well, if the criminal code of the United States was not by express provision extended to the territory northwest of the Ohio, how did it get there? Under the new doctrine it has not reached there yet, unless it went at the different times at which the portions of that territory have been admitted into the Union as States; and, in that case, there is still a portion of the territory at the head of the Mississippi which the criminal code has not yet reached. Is that true, sir? No, sir. How does it go there? It goes there, because it is a part of the general law of the land. It goes there, because it is a part, as far as treason is concerned, of the Constitution of the land. It gets there in that way, most clearly. Sir, this may be and is a most important doctrine. Suppose the people of California, having been incorporated into the United States by treaty, are guilty of treason; suppose they act so as to forfeit their lives, under the act for the punishment of crimes, adopted in 1789, in reference to treason: are they to be punished; or does it require express legislation now to extend the criminal code there before you can reach them? These are very important inquiries. I deny that it requires an express act to extend our criminal code; but that that code, made for the whole people of the United States without restriction, being general in its provisions, extends everywhere over the whole territory of the United States, unless there is some express limitation in it. Under the idea that the Congress of the United States may legislate in violation of the Constitution, or contrary to the Constitution, let me present a case to test the principle. Suppose we now pass a law for the punishment of treason in California and provide for conviction, upon the testimony of one witness. A man is brought up before a California judge to be tried; here is the act of Congress stating that conviction may take place upon the testimony of one witness; here is a judge who has sworn to support, in other words, to carry out the principles of the Constitution, by the provisions of which the conviction can only take place upon the testimony of two witnesses. Which shall prevail? If there is no constitutional authority in California, and your law is the sole rule of action on the part of the officers of your Government, of course you will convict upon the testimony of one witness. But how is it possible to do that in the face of the Constitution which the judge has sworn to support? Where you have an officer, the constitutional provis on requiring him to take an oath to support the Constitution prevails; and where you administer that oath, the oath carries with it the obligation to sustain every principle of the Constitution which has operation, and which the officer may be required to act under; and thus it goes into operation in every Territory just as soon as you have officers and a government in that Territory.

It does seem to me, sir, that this question, which I have made in reference to the duties of officers of the Government under the Constitution, growing out of their oath of office, ought to be considered as making the case so plain that it is impossible to resist the idea of applying all the principles of the Constitution, so far as they are suitable to be applied, to the Territories. But I think you have legislated upon this very idea which I have now advanced. You had a territorial government under the old Confederation northwest of the Ohio. The Constitution operated differently from the law under which the old territorial government operated; in other words, the law by which your territorial government northwest of the Ohio operated, was in many of its provisions contradictory to the provisions of the Constitution of the United States; and upon the adoption of the Constitution and the going into operation of the Federal Government, so far as the organization of the Northwest Territory was concerned, Congress produced a conformity at the first session, by enacting that henceforth that portion of the ordinance of 1787 which provided for the appointment of officers by Congress should be repealed, and thereafter they should be appointed in accordance with the Constitution of the United States. Before the Constitution was adopted, the judges and other officers were appointed by Congress. After the adoption of the Constitution, that could not be done. There was therefore a conflict between the Constitution and the organic law of the Territory. All that Congress did was to modify the territorial law, and to provide that the officers should be appointed in conformity with the provisions of the Constitution, and should make their reports to the President of the United States, which before they had been required to make to Congress. But if you look at the laws you will not find any declaration or enactment which carries the Constitution and laws of the United States to the Territories. Now, sir, the omission to extend the Constitution and general laws to the Territories in express words, shows, as I conceive, at that early period of the history of the country, that it was unnecessary in the opinion of Congress to do so; but that they went, without any legislation, by their intrinsic power; and must have gone there in the way I have stated, because you required every officer who discharged any public function in the Territory to take an oath to support the Constitution. An oath to support a thing which had no validity—no operation! Sir, is it not—I hardly know what term to apply—absurd? no, I will not say absurd—queer, that you should require from your officer an oath to support a thing which had no existence, validity, or operation—nothing to do with his action as an officer? This does seem to me to be the strangest thing in the world.

Mr. WEBSTER. Will the gentleman consider that this oath is to be taken under the territorial law, in pursuance of the Constitution, and never before a territorial government has been formed? The gentleman may designate it by any adjective he pleases; the whole basis of his argument is fallacious, because the oath is to be taken when the act of Congress points out the government.

Mr. UNDERWOOD. Mr. President, if the oath of a territorial officer is thus limited, it means less than the oath according to the Constitution imports. I deny that laws can limit and restrain it in this way. Do these officers, when they take the oath prescribed by the Constitution, swear, I will execute my duties as Congress and the organic law in this Territory shall prescribe them, and I shall only look to Congress as dictating to me the manner in which I shall discharge my duties? No, sir. The gentleman's suggestion now is a restriction. I deny that there can be any such restriction. The oath to be administered is, that he will support the Constitution of the United States, not partially and in a limited sense, but wherever it can operate upon his official duties. That is the nature of the oath, as I conceive, without limitation and without restriction. Well, as to my honorable friend's illustrations that were given the other day, I admit, with him, that there may be no law relating to descents; there may be no law in the Territories regulating the rights of property, the titles to estates; or there may be laws in California and New Mexico at this time, of Spanish origin, which may be wholly inconsistent with the principles of our Government—may be wholly inconsistent with what the Congress of the United States or the American people may desire. I admit there can be no new law enforced there without a legislative change, unless the old law is abrogated by the conflict with the Constitution. I admit, that upon the principles of international law, the code existing there at the time we acquired the territory remains until it is our pleasure to change it. But how does the Constitution operate upon territory which we have acquired, and in which there are no people? How does it operate in the construction of society *ab ovo*, if I may be permitted the expression? When we permit people to go into such territory, they have no law regulating descents, or regulating any one of their civil rights. It requires an act of Congress, therefore, to regulate descents and conveyances, to give titles to land, and to provide for all the other great interests of the new colony or society. How does this concession, then—which I think perfectly correct—how does the concession operate against the position I have assumed, that all the principles of the Constitution which can have operation in the Territories go there of their own intrinsic force? I conceive it does not touch the position. You have no right in a State to make any of those regulations to which the Senator from Massachusetts refers. It belongs to the State to make them, and this only proves what I advanced in the outset. Your power may be dormant, inactive, inefficient, until you bring it into operation by legislative enactments. But you have got a treaty which operates, I presume, in California and New Mexico. How does that treaty operate there? I say, in virtue of this Constitution; and but for the Constitution the treaty could have no effect. The treaty operates, so far as our title to these Territories is concerned, according to the decisions of the Supreme Court, upon one of two grounds: either by conquest, where, by the war power, you have annexed the country, or by treaty, where you have acquired the Territories by contract. We have acquired these Territories under both these titles, but it is in virtue of the provisions of the Constitution that you are allowed to acquire territory in either way. The Constitution, therefore, operates so far as to make California and New Mexico a part of this country. To that extent, most undoubtedly, it operates, without being carried there by any legislative act of Congress. Can that be denied? Why, any one that would deny this, must deny that we have any title to the country at all. The treaty only operates in virtue of the higher operation of the Constitution.

One idea more. According to the principles of international law, when one people conquers another people, the conquered people lose, so to speak, their allegiance to their former masters, and are bound by a new description of allegiance to the new master, the conqueror. Well, when we

have acquired, by treaty or by conquest, a territory with people in it, the allegiance which bound them to their old master being broken, and the allegiance which binds them to the new being fixed, I ask you, sir, if they are not in the condition to be traitors to the country if they commit treason against it? And, if so, whether the principles of the Constitution and the criminal law not being expressly extended there, do not operate as well in that territory as in any part of the United States? If they be not, then there can be no offences against the United States perpetrated or punished; there can be no traitors punished; the criminal code is a dead letter, and nothing operates unless it be the treaty. Sir, I cannot conceive that any doctrine of this sort can be maintained, unless the decision of the Supreme Court can be produced showing that the extension of the provisions of the Constitution to newly-acquired territory requires a special act of Congress. I have seen no such decision; and, unless such can be produced, it is clear to my mind that the doctrine is fallacious.

One or two words more, and I have done. Mr. President, I regret, as much as it is possible for any man to regret, that we are wasting day after day upon a question of this sort, growing out of the institution of slavery in the South and the hostility towards it in the North, operating most injuriously upon all the legislation of this body, and especially when we endeavor to form governments for these Territories. Sir, it is a sad spectacle in the face of the American people. But it has been so, is so now, and will be so in time to come, unless we take the proper means to put the question at rest forever. There is, in my humble judgment, but one way of settling it harmoniously; and if the Congress of the United States would adopt that, it does seem to me it would give peace and tranquillity to all sensible men. We should leave it to the people of the Territory to settle for themselves. What objection can there be to this? I was astonished when acting in the committee of eight at the last session, when the proposition was made, to find but one man besides myself on that committee voting for it, and that was the Senator from New York, [Mr. DICKINSON.] What is the proposition of the Senator from Tennessee and of the Senator from Illinois? It is to let them form a State government and admit them as a State; and in this way they will regulate and settle this question for themselves. Sir, can they settle the question any better if they do form a State government for themselves than they can if you leave it to them to settle in their territorial legislature? It does seem to be altogether out of the question for us to be gravely debating here about allowing them to form a State constitution, and of admitting them into the Union—a thing to which I am altogether opposed: it does seem to me altogether out of the question to propose settling the question in that way, while, at the same time, we are refusing to allow them to settle it for themselves by the instrumentality of territorial legislation. There is some magic, I suppose, about a State constitution; and if they do not settle it by that magic wand, it is not to be settled at all. It does seem to me that upon so plain a proposition there ought not to be two opinions. I am afraid, seeing that it can be so easily settled, if you will only consent to let the people settle it for themselves—I am afraid that political agitators, party influences, party hopes, ulterior views of personal elevation, ambition, and wickedness, more than humanity and virtue, are at the bottom of this difficulty, opposing the great interest of the mass of the American people, ninety-nine hundredths of whom have no interest in the question at all. Sir, it astonishes me to see the quintessence of the wisdom of a great nation like ours, assembled in the two halls of Congress, gravely debating and arguing that State legislation is the only way of settling the question, or of leaving it to the people to be settled, when you can as easily leave it to them to be settled by a territorial government. Sir, I have known some men in the course of my life, who never could do anything except in a particular way of their own, a way that was not appreciated by ordinary honest minds. With the class of men to whom I allude there must always be some *hocus pocus* in all their actions, otherwise nothing could be done well and to their liking.

Mr. DOWNS. I will remind the gentleman of what he has perhaps forgotten, that the very purpose for which these amendments were offered was to effect the object which the Senator from Kentucky desires. If we could have got a territorial bill passed, there would have been no necessity for these propositions. It was not through any desire to introduce into legislation what the Senator calls *hocus pocus*, but it was to effect an object which could not be secured in any other way.

Mr. UNDERWOOD. I beg the Senator's pardon; I did not intend anything personal towards any human being. I know that the object of these amendments, the avowed object, is to get a government for the Territories in such way as to settle the question, so that Congress may have done with it. The tendency of my remarks is to show the danger, the impolicy, I had almost said the wickedness, of refusing to allow the question of slavery in the new Territories to be settled by the people of the Territories for themselves. What is the North contending for, when they refuse to let us of the South, with their aid, pass a bill by which this matter shall be conceded to the people of the Territories? I will tell you what they are contending for: they are just saying in this very refusal, to the people of California and New Mexico, You shall not have the power to mould your institutions; you shall not have the power to make the institutions of Kentucky, of Tennessee, or any of the southern States, the model for your own, but you shall adopt for your fundamental principles of government what we choose to dictate to you. Your essential elements of prosperity shall not be judged of by yourselves; you shall be dictated to by us. If it does not amount to this, it amounts to nothing. Well, if you dictate and prescribe to these people a positive rule by which you compel them to base their institutions upon those of the free States, and refuse them the liberty to base their institutions upon the model of the slaveholding States, I ask gentlemen if it can be done without to that extent casting a reflection upon the slaveholding States? I know my honorable friend from New Jersey [Mr. DAYTON] said, God forbid that anything that he should do or say should operate so as to wound the feelings of the people of the South; but must he not perceive that just as soon as Congress says to the people of these Territories, You shall be deprived of the power of modeling your institutions on the basis of those of the southern States, and you shall model them upon the basis of the institutions of the free States,—to that extent Congress reflects on and stigmatizes the people of one portion of the Union and their institutions, and to that extent eulogizes the people of another portion of the United States and their institutions, as being the model of all that is right and proper and worthy of imitation?

Now, you can avoid all this, and the people of the North, by avoiding it, can just accomplish what they desire; for no southern man that I know of—very few, I believe, at least—expect that slavery will go to that country, from its character, its soil, its productions, its climate, and the pursuits of the people. But, sir, if the people themselves desire the institution of slavery, should they be deprived of the privilege of asking Kentuckians, or the people of any other southern State, to come there with their slaves? That is the question. If you say they shall not exercise their own volition and judgment, but that they shall submit to your dictation, to that extent you violate republican principles, and undermine the very foundations upon which all our institutions rest. You say to a people, You may establish for yourselves a government, but you shall not have the privilege of making it such as you wish it to be; you shall make it according to our dictation. And you do this, sir, when, if the people of the Territories had the power, and in its exercise were to establish southern institutions, they would not thereby introduce a single additional slave into the United States! Nobody claims the right of introducing slaves from Africa, or any foreign country. Why, then, restrict the people of these Territories in the exercise of their judgment in regard to their own interest? Why tie their hands, and say that they shall not do that which they think best? To do it is despotism, practised in the name of liberty. Sir, I am done with this subject. I gave my views at length during the last session of Congress, and I should not have said a word now but for the new question which has been started in the course of this debate. I am one of those who do not believe—and have so expressed the opinion here at the last session—that the operation of the Constitution of the United States within the Territories of New Mexico and California will, *per se* or of its own vitality, of its own intrinsic force, establish slavery or tolerate the holding of slaves there, by abolishing the Mexican laws as they existed when we acquired those Territories. But if I am mistaken in that; if the southern view—for so I call it, being upon this particular in a minority among the southern members of this body—if the southern view upon this question be correct, how are my northern friends acting upon this subject? They are unfaithful, as I conceive, in their course of action, to the Constitution which they are sworn to support. They are bound to extend that glorious instrument over every part of the country, whether it be a Territory or a State; and as they have annexed those Territories, and made them a part of the United States, I hold it to be their bounden duty to extend the Constitution over them, if it is not already operative in them. If they do not do it, they will have violated, in substance, the compromises of the Constitution in reference to slavery, provided the southern opinion be correct. To refuse to extend the shield of the Constitution because it might protect the institution of slavery, is just as bad as to refuse to comply with those provisions which require the surrender of fugitive slaves. It is another mode of doing the same thing.

PRESIDING OFFICER. The hour for taking a recess has arrived.

Mr. UNDERWOOD. Well, sir, I shall say no more. After the recess any gentleman who chooses may have possession of the floor.

On the reassembling of the Senate the debate was continued, as follows:

Mr. HUNTER. I have a question to propose to the honorable Senator from New Jersey [Mr. DAYTON] before the question is taken upon his amendment as amended, which I will briefly state. The amendment, as originally introduced, provides for all "the military, civil, and judicial powers exercised by the officers of the *existing* Government." This morning he modified his amendment so as to read, "powers exercised by the officers of the *Mexican* Government," &c.

I rise for the purpose of ascertaining what are his sentiments, and what those of gentlemen here professing to be willing to compromise this question, in relation to this modification which the Senator has made. I had no share in preparing this amendment; but, once offered, I determined, if there was any possibility of settling the question that has been so long pending, so as to give a government to our recently acquired Territories without sacrificing the rights of my constituents, to aid in bringing about the result. I suppose the scheme of the Senator from New Jersey for compromise was based on the principle of leaving undecided, or in abeyance, the question as to whether slavery can or cannot exist in the Territories acquired from Mexico. It is known that there are two parties in relation to this question: one maintaining that all the laws of the conquered country remain in force, and amongst them the Mexican law prohibiting slavery; the other party assert that only so much of the laws remain in force as are not inconsistent with the fundamental privileges of the States and the citizens of those States; in other words, not inconsistent with the Constitution of the United States. I do not propose to argue the question whether these laws are, to the extent claimed, repealed or not in those Territories, being of the same mind as the Senator from Massachusetts, [Mr. WEBSTER,] and not desirous of introducing any topic that would engender heats or promote excitement. I simply desire to ascertain upon what principle gentlemen are willing to compromise, in order to see if there is a possibility of settling the question, for a time at least. For one, I am willing to compromise, provided the question I referred to be left unsettled. I examined this amendment before the modification was introduced, and I did think it left the question at issue undecided and in abeyance. I confess the Senator's speech accompanying the introduction of the amendment was of a character that did not at all accord

with the views I entertained of his proposition; but, at the same time, perceiving that the amendment would mean what it purported to mean, the tone of his commentary did not vary my judgment and decision as to the course I might pursue in voting on the amendment. But the modification introduced this morning puts a different face on the matter, because in it the Mexican laws are specially alluded to and their existence reaffirmed; and this, in my estimation, destroys effectually what I undertood to be his scheme of compromise. He stated that it made no difference whether the word "Mexican" or the word "existing" was embodied in the amendment. Why, sir, in our view of the question, it makes all the difference in the world; for we believe that none of the existing laws in Mexico can remain in force which are at all inconsistent with the Constitution or the rights of the States; and, as I have before stated, some of those laws are, in my opinion, inconsistent with our rights and with the Constitution. If he strikes out the word "existing," and inserts the word "Mexican," I would inquire if by such a course he intends to reaffirm the Mexican laws in relation to slavery? If he does, I put it to the honorable Senator whether it would not be more candid to introduce the Wilmot proviso at once; and, if he does not, so to shape the amendment as to leave the question in abeyance? We shall then, without deciding the question or committing either party, establish, if I may so call it, for the time being, a temporary military government, which may enable us to preserve public peace and tranquillity, protect public and private property in the Territories, and secure the citizens now residing, and those who will soon be there, against anarchy and violence; and these objects may perhaps all be accomplished by enforcing so much of the existing Mexican law as shall not be inconsistent with the Constitution and the rights of the States. I shall be prepared, sir, to accept any compromise based upon that principle. If I am asked to reaffirm the validity of the Mexican laws, to which I have alluded, I ask why not at once introduce the Wilmot proviso? Would not the introduction of that provision be more direct, and in fact the very thing that perhaps the gentleman intends by his modification? If that be his meaning, then this amendment as modified is no compromise at all; and I must confess that I have a suspicion that such was the meaning of the speech he delivered in support of his proposition. As I before said, it is not my purpose to go into the question in dispute between us. I wish, if I can, to do all in my power to promote some scheme of compromise, in order that this vexed question of the Territories may be settled, and that they may have a government suitable to their protection and necessary to their prosperity. The only mode in which this object can be effected is, by leaving this question, as to the existence of the Mexican law prohibiting slavery, undecided and in abeyance. I do not speak now of the amendment offered by the Senator from Wisconsin, [Mr. WALKER.] I prefer that to the one before us, because it leaves these regulations of the Territories to the President of the United States, so far only as his regulation may not be inconsistent with the Constitution, and therefore is more limited than that of the Senator from New Jersey. Sir, I am prepared to meet the Senator from New Jersey and gentlemen from the North in a spirit of compromise on this question; and if they will present a proposition which does not sacrifice the rights of that section of the Union which I in part represent, I am ready to accede to it. But it is too much to ask of me to agree to the enactment of this Mexican law abrogating slavery. If we are to reaffirm that law—which I presume is the design of the Senator from New Jersey in his modification—we might, as I said before, as well adopt the Wilmot proviso at once. I wish to know whether it is his object, in presenting this modification, to reaffirm that law?

There is another question, also, to which I would like a reply. I understood him to state that the Constitution of the United States does not extend over these Territories. Now, we all know that there are certain privileges given to the Catholic church, by the Mexican law existing in those Territories when conquered, which are totally inconsistent with the provisions of our Constitution. I would inquire whether he proposes by his modified amendment to reaffirm the Mexican laws which give these privileges to the Catholic church, at the same time that he enacts that which abrogates the institution of slavery?

Mr. DAYTON. I hoped to have been relieved, not for my own sake, but that of the Senate, from further addressing it upon this subject; but the question propounded by my honorable friend from Virginia, [Mr. HUNTER,] requires an answer at my hands, which answer I have not the slightest difficulty in making. When I introduced this proposition, it was not as a scheme of compromise at all; I introduced it because it was an established precedent, acted on heretofore under precisely the same circumstances, and had been found to answer our purpose. I preferred it, therefore, to any new precedent, couched in different phraseology, and carrying with it I know not what. That was my purpose in introducing this amendment, which is a copy *verbatim et literatim* of the law for the government of Florida—saving only, that in that law for the government of Florida we extended all those laws of the Federal Government over that Territory which forbid the importation of free persons of color. The Senator from Virginia knows why I strike that portion of the act out in my amendment.

Mr. HUNTER. It was certainly not at my request; I had no objection to it.

Mr. FOOTE, (in his seat.) It was at my request.

Mr. DAYTON. It was with a view to meet in good feeling the wishes of Senators on the other side of the Chamber that I acceded to their suggestions in this respect; I myself did not consider it of any importance, as it applied only to the foreign slave trade, which is piracy now by law. The amendment, with that exception, was, I believe, a precise copy of the original Florida act, with the additional item of an appropriation to carry it into effect. Having offered the amendment, and discussed its merits at some length, the Senator at my right, [Mr. BERRIEN]—for whose legal attainments and judicial knowledge I have the greatest respect—suggested, as did other southern Senators, that the terms of the amendment might be so construed as to refer to the species of temporary military government recently established in California, the Secretary of State having communicated the fact in an official document that the late military government should be considered the government *de facto;* and the modifications made to the amendment this morning were modifications made to relieve from any doubt on that subject, and are in the handwriting of the Senator from Georgia. Thus I would inform my honorable friend from Virginia that these modifications of which he complains in my amendment were made at the suggestion of southern gentlemen; I not having been applied to by any northern man upon the subject. They were modifications made to meet the feelings and views of southern Senators, and not to further my own particular designs or views; because, as far as my understanding of the modifications proposed was concerned, I considered that they would make no material difference in its general character. There is no government, according to my understanding of the subject, existing now in California—that is to say, no American government—and when we speak of the existing government there, we speak of a government existing there at the time of the cession, just as you spoke of an existing government in Florida when you passed a similar law some time after the cession. But, to relieve the amendment from any doubt upon that matter, I agreed to strike out the word "existing," and insert the word "Mexican."

Mr. HUNTER. The Senator from New Jersey has not answered the precise point of my objection.

Mr. DAYTON. I am coming to it.

Mr. HUNTER. I stated that the word "existing" meant so much of the law remaining after California was ceded as was not inconsistent with our Constitution, but that he reaffirms by this amendment the law in relation to negro slavery; it is sacrificing the principle which the South have hitherto and will in future maintain, and which affects her dearest interests.

Mr. DAYTON. I was answering the Senator, not all at once, in a single sentence, but categorically. He conceives that the change of the word "existing" into "Mexican" affects the character of the whole amendment, and invalidates the rights of the South. Now, if such be his opinion, I can only say to him, restore the amendment to its original form; I have not the slightest objection. I desire to subserve no purpose of my own in these modifications. In my understanding of the matter, the amendment as modified will not reaffirm the Mexican laws; it was with no such design that I accepted the modification relating to them. By this amendment we do not enact or reënact, annul or disannul; we simply let things remain as they are, directing only that the officers who may be appointed shall exercise the powers heretofore exercised, and govern the country accordingly.

As to the extension of the Wilmot proviso by this modification, or dreaming that it was equivalent to an incorporation of that proviso, neither of those ideas entered into my mind for a moment. I would most cheerfully assent to any suggestion which might carry out the views of gentlemen on the different sides of this Chamber who are desirous simply of giving a government to this country calculated to suppress anarchy and disorder—neither committing one party nor the other, asking no advantage from the South, nor feeling disposed to yield any advantage to them. That was my sole purpose in offering my amendment.

Mr. HUNTER. I did not wish to interrupt the Senator in his remarks; I simply wish to state that I did not rise before for the purpose of entering into any contest, or of creating the occasion for one. My sincere desire is to compromise this question; and I wished to ascertain the feelings of northern gentlemen, to see if there was any possibility of effecting that end. I am willing to enter into such a compromise, provided it is based upon the principle that we leave this question undecided and in abeyance, and only adopt such laws as may be necessary in order to preserve the people of these Territories from anarchy and violence. I am anxious to secure the country from internal disorders and civil war—evils with which, by late accounts, it appears to be threatened. My remarks were prompted by a serious desire to effect that end, if possible; and now, after hearing the statement made by the Senator from New Jersey, I am willing to vote for his amendment, provided it be so modified as to attain the end which I have suggested, and no other. That is to say, I should be willing to vote for it so modified, if the proposition of the Senator from Wisconsin, which I prefer, should fail.

Mr. BERRIEN. The reference which the Senator from New Jersey has just made to me, renders it necessary that I should say a few words in relation to the modification of this amendment. It is very true that I suggested to that Senator the fact, that by an official communication made to the Senate, containing a letter from the Secretary of State, it appeared that there was an existing government in California. It was therefore suggested to him that the expression of "existing laws" might be construed to have reference to laws which, as in Oregon, may have been enacted by the existing government, and these it was not the purpose of Congress to carry into effect. It was therefore proposed to him to insert in lieu of it the word "Mexican." Thus far the statement of the Senator is correct, but it stops short of the most important fact; it omits the statement of a fact which would have obviated the difficulty of the Senator from Virginia.

The statement of the Senator from New Jersey is confined to a part, and does not embrace the whole modification suggested to him, and that it was made to depend upon his acceptance of it as a whole. It was proposed to him to insert after the word "Mexican," the words "not inconsistent with the Constitution of the United States;" and these words are in my handwriting, upon the paper of which the Senator has spoken, which contains the proposed modifications.

Mr. HUNTER, (in his seat.) That would have been perfectly satisfactory.

Mr. BERRIEN. The Senator from New Jersey declined to receive this modification, and it was that refusal which induced me to offer the considerations I presented to-day upon the subject under discussion.

I desire that the Senators from New Jersey and Virginia will both understand me as not having pro-

posed to reëstablish or continue in force the Mexican laws on the subject of slavery. I do not recognize the proposition, so often and so confidently asserted, that the laws existing in conquered or ceded territories remain in force until they are specifically repealed; and I am not disposed to re-enact them, as this amendment proposes to do. I suppose that the laws of the conquered territory, in so far as they affect the relations of individual citizens, remain in force until they are repealed by an act of specific or of general legislation, which shall extend the authority of the conquering nation over it. Recurring to the proposition which I have before stated to the Senate, I desire now to say that I am ready to maintain it before whatever tribunal it shall arise. I hope to be able to maintain that the Mexican laws which affect the relations of a people to their Government do not remain in force, within the principle of the decision which is invoked for their support. It is not necessary that I should enter into any further discussion of this matter. I barely desired to correct myself, from the possible apprehension that I could have suggested an amendment that could have the effect spoken of.

Mr. NILES. Mr. President, I am sorry this amendment has been modified by the mover of it so as materially to change its character and effect. In the form in which it was when first introduced, I was inclined to give it my support, regarding it as a temporary provision for the government of these Territories. I did not regard it as a compromise by any means. I have no disposition to compromise the principle or interests involved in this question; but I was willing to give my support to a temporary measure, leaving things as they are, and particularly with regard to the great issue which we suppose to be involved. But the Senator has made his amendment now into a permanent arrangement—a sort of territorial government. It was limited to the next session of Congress, and would have imposed on it the necessity of providing some other form of government there. But as it is, if this amendment is adopted, it becomes a permanent system till Congress should act upon it. And with the difficulties known to exist on this subject of obtaining the concurrence of the two Houses and of the Executive, we may assume that there will be no further action till it becomes a State. I cannot vote for this proposition. I am very sorry, for I had made up my mind to do it, believing it the duty of Congress to provide some government for California, if it was practicable; and I thought this proposition might do as a temporary provision. But its character is entirely changed—it is now a permanent system. And what is it? Why, it is little better than the proposition of the Senator from Wisconsin, for which it is offered as a substitute. It throws the whole of this Government into the hands of the Executive. I am not prepared to do that. I am not prepared to place this Territory under the government of any Executive. I would have as much confidence in the President elect as in any other who might fill that office; but I am not willing to trust this power in the hands of any Executive. It is clothing him with civil and judicial power to the full extent which may exist there; and that we know little about.

The amendment also authorizes him to prescribe and direct the manner in which they are to exercise these powers. It is throwing the whole government into the hands of the Executive, leaving the officers to be the creatures of his will, removable at his pleasure, subject to his control and direction, with authority to prescribe the manner in which this authority is to be exercised. And they are to be appointed without the concurrence of the Senate. The whole power would be in the hands of the President. Well, now, I beg to inquire whether my friends over the way—those from the North particularly—are prepared to vote for this amendment? This very question has been before the people; it went into the election; and the election turned, I believe, in a good degree, in the free States, on this issue, that the President would have no control over the question of slavery in any way or form, except in the exercise of the veto power. That was before the people, inasmuch as it was claimed by those who supported the successful candidate that this question would be safe in the hands of the great and patriotic Whig party, and it was not of much importance how the President might stand on it. It was a matter with them, and they would take care of it. It was said that the President would not veto the proviso, nor exert any influence over it. Now the gentleman from New Jersey comes forward and proposes to commit the whole subject to the President elect. And perhaps the power may be in part exercised by the present incumbent, who may anticipate the action of his successor, as was the case on another occasion, and the going out President might take the power on him. But I suppose it is expected that the power will be executed by the incoming President. But, whether one or the other, I cannot sustain either proposition. I regret this, for I was in hopes we should have something that we could adopt as a temporary measure. I had no expectation that it would come before us in the form of a compromise, and I was surprised at the language of my friend from Virginia. I have not viewed it in that light, but I was in hopes it would be a temporary measure only. But this is to be a compromise, a settlement of the matter; and how? By placing the whole power in the hands of the Executive.

Mr. HUNTER. I said, especially, that it was to be a temporary measure.

Mr. NILES. I supposed the Senator had reference to a compromise of the great principle involved.

Mr. MASON, (interposing.) What is that principle?

Mr. NILES. It is the restriction of slavery now and forever. I am sorry that I cannot vote for it; and in its original form I could have done so, though I preferred the amendment of the honorable Senator from Massachusetts, [Mr. WEBSTER.] But, as now modified, there is little difference between this proposition and that of the honorable Senator from Wisconsin; that goes a little further, I believe, and gives power to make laws generally, and all plenary powers of legislation, to the President. And what is a despotism, if this is not? Does it not embrace all the essential elements of arbitary, unregulated, and unrestrained power? A despotism, as defined by Montesquieu, was a union of all the powers of the Government—the legislative, executive, and judicial powers are all in it. And this proposition comes pretty near to the same thing. It is supposed that there is not time during the present session to obtain the action on this subject of a more permanent and settled character, and therefore, as it is declared to be necessary, I was in hopes some proposition would be presented that I could vote for. But I must oppose this, for I regard it as settling this question. I look at practical results. I have always said that I have all reasonable and just confidence in the President elect, but we all know the position that he occupies, and, unless he is something more than man, his sympathies must be on one side of this question. And who would be the men appointed by the Executive? What would their views be likely to be in reference to rights set up on one side or the other? Would there be an equal chance that there might not be some unfairness, and that a violation of the Mexican law against slavery might be connived at?

This is the law which seems to trouble the Senator from Virginia. I think we may look at it in this light, and whether he would not favor those of his own peculiar views, and with whom he must be supposed to sympathize. I presume he does not desire such extraordinary power; that he would wish to have nothing to do with it; that is, with controlling a question of this kind; involving such deep interests, and agitating the public sentiment of the whole country. He does not, I presume, desire the powers of legislation on this subject; nothing more, I presume, than such executive powers as must be necessarily vested in him. But we go beyond that. We clothe him with *quasi* legislative powers generally, in addition to the power to prescribe and regulate the powers which are to be vested in certain officers. Sir, this is all bad. It is better to do nothing on this subject than to pass a proposition of this kind. Nor do I think the necessity so great as many gentlemen seem to suppose, though I would be glad to pass some temporary measure. But many of the propositions we have had before us have been worse than doing nothing for the people of the Territories. They would tend to embarrass and increase the difficulties which exist there. I believe the people there can take care of themselves, and have no doubt they will. The settlers in Oregon have done it, and the settlers in California can do it. Those going from the States are men every way calculated to do it, to protect their peace and property; and it is not at all important that we give our consent that they shall do it. Necessity knows no law; and if we neglect to exercise the power we possess of providing a government for them, the power reverts to the people. This was what Mr. Jefferson said when the British Crown revoked the authority of the Colonial Legislature. He said the powers of legislation, incapable of annihilation, reverted to the people. They can and will act on the principle of self-preservation. They can do it, and are doing it now. Gentlemen seem to suppose that they will cut each other's throats, if we do not adopt some law for them. Sir, they are not a people of that description. Those who have gone from the States, and many who have gone from the countries on the South American coast and the Sandwich Islands, were our citizens, who have been drawn to California by this news of gold. They understand their rights and the organization of government as well as we do, and they will attend to it undoubtedly. I have some little suspicion that this anxiety manifested to do something in this emergency, saying that these people are in a state of anarchy, &c., all the time, has a connection with this vexed question, and that, after all, the main anxiety is to get around the Mexican law—that odious law that excludes slavery. Why, sir, there is one of the presses in this city, the organ of the Government, calling on us day after day to act, pointing out the dangers and difficulties that exist in California, while in almost every number of the paper you will find the same anxiety manifested to put down the proviso. Well, combining the two ideas together, I suppose that the great object is to obtain action, under the assumed urgency of the case, so as to get rid of this Mexican law or proviso. We are ready to meet that question at any time—to meet it now; but I do not wish to be hurried into it by fear of difficulties in California, real or imaginary. Though I feel it to be a duty to form a government for these Territories as promptly and as speedily as we can; yet, if we cannot form one now, I am not disposed to do wrong from apprehensions of this kind. I believe there will be some difficulties there, whether we act on the subject or not. I have stated my objections to this proposition briefly, and shall be under the necessity of voting against it, and of course against the one proposed by the Senator from Wisconsin.

Mr. HUNTER. Some of the remarks uttered by the Senator from Connecticut [Mr. NILES] seem to demand at my hands a brief reply. He appears to suppose, judging from the sneering manner in which he spoke, that I had some sinister object in view in supporting this amendment, and that I had aided others in getting it up with some concealed and perhaps improper purpose. Sir, I knew nothing of this amendment before it was introduced; and I may truly say that I came to its support not as a leader, but as a follower, willing to aid in any attempt to give peace, order, and government to these Territories, if it could be done without sacrificing the indispensable rights of my constituents. Sir, the Senator from Connecticut need not have risen here to convince me that he was averse to all compromise. I knew there was nothing of the spirit of compromise within him. I will not say that he is like a tenant who puts fire to the building because he has notice to quit, but I will say that it would have been more becoming in him if he had shown a greater desire to save it. Sir, I must be allowed to say that the course of the Senator from Connecticut in relation to this matter is not such as become his years and station. It would have been more suitable to both if, instead of taunting those who were disposed to settle the question, he had come forward to throw oil upon the waters, and show himself as the advocate of peace and compromise. It would have been much better thus, than to have acted upon the far-fetched suspicion that I had abetted this scheme of compromise under the idea of obtaining an advantage.

Why, sir, I have as little cause to present myself as an advocate of compromise as any one in this body. Do I not come from a section which is

almost daily sneered at and taunted, and whose dearest rights are in constant danger of being violated? But, sir, I discard the feelings which such treatment would naturally engender, to aid those who are endeavoring to secure peace, property, and life in their newly-acquired territory.

Sir, I go further: my heart is not inclined to strife, and I would gladly settle, if I could, all the causes of difference which are producing bitterness and alienation between the sections of this Confederacy. I should be most happy to settle them all amicably, and upon the instant, if I could do so without sacrificing the rights of my constituents. But, if I cannot do this, I will at least make an effort to give such a government as may preserve life and property, and protect the settlers in California against anarchy. Amongst those settlers will be many of my own constituents, acquaintances, friends, men to whom I have an earnest desire to extend the protection of Government, and of so much law at least as may enable them to prosecute their pursuits in tranquillity. Is there anything in this disposition which deserves the taunts of either North or South? Unless there be, I did not deserve the sneer of the Senator from Connecticut. But if he prefers to imbitter the differences and exasperate the strife which are already unhappily existing between opposing sections, he might pursue his ends without taunting those who have a more pacific disposition. If the desire to settle these unhappy dissensions upon fair and equitable terms entitles me to the Senator's scorn, I deserve it; but I must be allowed to say to him that I would much rather be the victim of his sneers for such a cause than to be capable of harboring in my breast such feelings as alone could prompt them.

Mr. WESTCOTT. Mr. President, I wish to express my views as briefly as is in my power, and at least, as to some of the questions now before the Senate. It is our duty, if we can, to enact laws giving security to our citizens in California and New Mexico. We have before us two propositions: one, the amendment by the Senator from Wisconsin, [Mr. WALKER;] and the other, the amendment of the Senator from New Jersey, [Mr. DAYTON.] It is objected by the Senator from Connecticut [Mr. NILES] that the first amendment invests the President with plenary legislative powers. Does it in fact give him the power to *make laws*, as supposed? Mr. President, I do not so understand it. I understand that it clothes the President merely with power to make temporary "rules and regulations" for the preservation of peace and good order, and for the protection of individual rights of property and personal rights. Why, sir, such "rules and regulations" are absolutely necessary to enable the officers to administer even the Mexican laws, if they are held to continue in force. It does not propose to change or alter radically the Mexican laws any further than is necessary to adapt them and make them conform to and harmonize with our Constitution and laws. Who cannot see the imperative necessity of some modifications to enable the officers who administer those laws to carry out the principles of the Constitution and laws of the United States?

The amendment of the Senator from New Jersey provides in effect that the Mexican laws shall remain in full force, without any power to make any modifications whatever; no one is invested with any power to modify them in the slightest degree. Now, I desire to put the question to the honorable Senator from Connecticut, [Mr. NILES,] when he talks about the monstrosity of investing the President with despotic power, how can he conceive of the exercise of despotic power by the President or any other officer under our Constitution and laws? The thing is impossible, unless the officer violate the Constitution. The first amendment restricts the "rules and regulations" he may make to entire consistency with the Constitution and laws of the United States. Every rule, every regulation he makes must be consistent with the Constitution, and consistent with the laws of the United States. This, I repeat, is the express provision of the amendment. If the President steps one hair's breadth beyond that line, he violates the Constitution and violates his official oath. The rules and regulations so made would also be void. Now, I ask Senators, and especially I ask the Senator from Connecticut, [Mr. NILES,] if he was a resident of California, which would he prefer, being governed by Mexican laws, to which he is a stranger, according to Mexican forms, of which he is ignorant, and which laws and forms I know would not be agreeable to his notions of propriety, or being governed by the Constitution and laws of the United States, and "rules and regulations" made by the Chief Magistrate of the Union, upon his official responsibility, and administered by an officer of this Government amenable to our laws and to us? I cannot doubt which he would choose. We have precedents on this question. Who does not remember that, when the illustrious Jackson was arraigned before Congress for putting Colonel Callava in prison, and disregarding Judge Fromentin's singular writ of habeas corpus, and admonishing the judge of the danger of his incurring punishment, he successfully defended himself by showing that, under your law authorizing it, President Monroe had given him two commissions, one of which invested him with all the powers of captain general of Cuba with respect to Florida? You continued the existing government and laws of Florida by your law. By those laws the Governor had all the executive, judicial, civil, military, and legislative powers, and in fact all the powers of the Government, in his own person. It was in the exercise of these laws that he imprisoned Colonel Callava, his predecessor in office, and, as I have ever thought, rightfully. Sir, I do not wish to see such powers concentrated in any one official functionary of this Government in California or New Mexico, or elsewhere. I am told the Mexican laws would not allow the exercise of such powers. Nobody here knows what those laws are; nobody pretends to know. Who has seen a book of the laws of either Territory, in English or in Spanish? If they should allow the exercise of such powers, I desire the President to have the power to restrain the officers he appoints by suitable "rules and regulations," making those laws to harmonize with our Constitution and laws. I ask the honorable Senator from Connecticut [Mr. NILES] which is the best security to our citizens in California and New Mexico—the amenability of subordinate officers exercising their discretion in the execution of Mexican laws there, or their restraint by rules and regulations prescribed by the Executive here, and, superadded to it, their amenability to us for any violation of those rules and regulations, and which we can all understand? Why, sir, this amendment makes the President directly responsible to the country for the rules and regulations he may make, and also for the administration of them by his officers. Talk, sir, of the despotism of a President of the United States! No such thing can be; it is an impossibility. The Constitution and laws of the United States protect us from such despotism, and by this amendment they will protect our citizens in the new Territories. If it could be supposed that a President would adopt any improper or tyrannical rules and regulations inconsistent with the Constitution and laws of the United States, they would be mere nullities. And, with this shield, I would much sooner submit to the danger of any despotic acts by him or his officers, than to the control of an officer acting under laws which are to me, and most likely to him also, a sealed book, and which might be construed to subserve the most malicious purposes. Hence it is that I feel bound to vote for the first amendment, and against the last. I feel it to be my duty to give the people of California and New Mexico the shield and protection of the Federal Constitution, and of all its principles, for the security of life, liberty, and property, and the aid of our laws to carry out those principles. The first amendment does this, and that of the Senator from New Jersey merely provides for the appointment of officers to execute the Mexican laws without modification or change to adapt them to the new order of things there.

Mr. President, I have no idea that the amendment of the Senator from Wisconsin [Mr. WALKER] touches, or was intended in any wise to touch or interfere with, the question of slavery in those Territories. Indeed, I know it was not so intended. The amendment leaves the question where it found it. The issue of slavery or no slavery in these Territories, which the Senator from Connecticut [Mr. NILES] says he is ready and which he seems anxious to meet, is not involved. I am not so eager for that contest. I do not see how that Senator or how any patriotic man can be. One reason that I favor this amendment is, because it leaves that question to be settled hereafter. If Congress is to attempt to settle it by legislation, it is best to postpone the decision to a more auspicious period. By so doing, time is given to the true friends of the country and of the Union in all sections to exert themselves to promote conciliation and harmony. Who does not see at this time that the portents are ominous of discord and danger? This is not a propitious moment for calm and cool deliberation on this subject. The public mind is heated in both sections. Politicians, especially, are excited. We are just over a closely-contested Presidential election, and in which this question was a prominent and exciting topic of discussion. Give time and opportunity for all to cool. If it is to come, at least put the evil day afar off. Avoid it. Shun it. Postpone it. Give time for reason and patriotism to resume their sway. This is the only effect of the first amendment. It does not give the President power to take slavery into the Territories if it is not there, nor to exclude it if it is there. It passes by the question entirely. The President is given no authority in relation to it. He cannot, under this law, change the condition of things with respect to slavery in any wise. If he should attempt it, he would do wrong. This is the compromise, and the only compromise, the first amendment offers, and it is offered to both sides and to all sides. It is impartial. The Senator from Connecticut rejects it. He is armed, ready for the quarrel. Senators are now called upon to decide which course is the best. I repeat, the vital question in issue is left untouched—its decision is postponed. Neither party is prejudiced. Sir, I am willing to bear my full share of all the censure of the Senator from Connecticut cast upon this amendment and those in anywise instrumental in its being proposed. The Senator from Wisconsin [Mr. WALKER] did me the honor to show me the amendment he intended to offer soon after he had prepared it, and also to give that consideration to some suggestions I made as to induce him to embody some of them in his draught; and subsequently the honorable Senator from Mississippi [Mr. FOOTE] consulted me with respect to the draughting of the proposition he made, and most of which is now added to or incorporated in the first amendment. The original draught of the amendment of the Senator from Wisconsin was confined to the extension of the revenue laws, and I believe the land laws, to the Territories, and the appointment of officers under them. The including of all other general laws, and the authority to make rules and regulations, I regarded as the most important matter. I have listened to all the objections urged against the propositions of the Senators from Wisconsin and Mississippi, and my judgment as to their wisdom, patriotism, and wise policy, has been confirmed.

Sir, I do not hesitate, as a southern Senator, to say here in my place that I regard the postponement of the decision of this slavery question at this session as much more propitious to the perpetuity of this Union than its decision *in any way* could be *at this session*, if such decision could be made. I advocate this amendment distinctly on that ground. A decision by Congress, even if in favor of the South, at this session, I have apprehensions would not be peaceably acquiesced in, in the present state of excited feeling on this subject in the other sections. The public mind is, I fear, diseased with respect to it. Such decision now would be used by fanatics and demagogues, who are the enemies of the South, to carry out their unpatriotic, if not treasonable designs. They would, by such decision at this time, I fear, be able to excite prejudice, and mislead the people, and the ball might rebound. It would not be a settlement of the question, but would occasion renewed and more violent agitation. Sir, I believe it would be the part of true wisdom and patriotism not to decide or to attempt to decide this question at this session, even if we could decide it. I would advise the South in all sincerity that if they had the power at this session to organize these territorial governments, and expressly repudiate the Wilmot proviso in the law establishing the governments, it would still be the part of wisdom to postpone such decis-

ion. Give all time to cool. It is not a propitious time either to decide upon the Wilmot proviso, or to further discuss it. No man would be more gratified in his inmost heart to see this question properly and forever settled according to the Constitution. No man can have felt more deeply than I have, and do, its momentous character. Its decision now, either way, is, I fear, fraught with imminent peril to our institutions. I have heretofore said, sir, that the interposition of the illegal action of Congress, now or hereafter, on this subject would be, as it should be, resisted by the South. How can the flame that will burst forth from the South be stifled? Who will attempt it? But with respect to the North, I hope, if time is given, and if opportunity is afforded for the influence of patriotic citizens in those sections that I know are attached to the Constitution and Union to be exerted, I believe the present feeling hostile to the South will subside. I will not despair of the Republic when the virtuous and patriotic can be aroused to protect it. Sir, I repeat, if the South had the ascendency at this time, I fear the exercise of its power, even in defence of its constitutional rights, on this subject, would be but the signal for renewed and still more rancorous hostility to the South by the demagogues and fanatics who have fanned the flame of discord to its present fierceness. They must, if time is given, in a brief period sink to their true position. But, sir, who has any hope that this question can be decided this session, however desirable it may be? I have none. I reiterate again (to impress it upon Senators) that I do not desire this slavery question decided now, for I should not have confidence that such decision would be final, and that I therefore approve of this amendment because it leaves it undecided. I appeal to Senators on all sides and of all parties to sustain it: because it avoids such decision, because it postpones a dangerous crisis which, I trust under Providence, may be, if time is afforded, passed through without harm to my country and institutions. I vote for this amendment expressly because I am anxious to give this perilous topic the go-by. My opinions are known. When the issue forced upon us arrives, I am prepared to act; but I confess I shrink with apprehension from the near approach of a crisis upon the issues of which may depend the perpetuity of this Union. I would not accelerate the coming of that crisis, but I would give some chance for the storm to be averted. I do not desire to witness the conflict that is to occur if this amendment, or some similar proposition, be not adopted. Others may. I cannot. I envy no man who does.

Mr. President, it is no part of my purpose to discuss at length the questions which occupied the Senate the last few days, as to the extension of the Constitution of the United States *per se* over these Territories, upon their annexation by treaty, or as to the necessity of a legislative act so to extend it. My opinions on this subject have been heretofore fully expressed on this floor, and are to be found in your published debates. It is proper, however, that I should refer to these questions so far as to correct some erroneous conceptions of what I have formerly urged. In 1846, after California and New Mexico were conquered, and whilst they were in possession of our troops, and while the war was existing, I moved here to adopt measures to give the people there a civil government instead of a military government. I preferred laws passed here to the law of the sword. I urged that, until we extended the Federal Constitution over those countries, though in our possession and under our flag, it was not in force there, nor were our laws in force there; and hence, I urged that we should so extend both. Those countries were not then annexed, and of course my argument did not apply to their present relation to the United States since the treaty. Such was my argument, too, as to Oregon before its relinquishment below 49° by Great Britain to us. The correct principle applicable to those countries in their present relation to us was, if I understood him correctly, laid down by the Senator from Georgia [Mr. BERRIEN] this evening. These are substantially the same as were maintained by me in remarks I delivered on this floor in July last. That doctrine is, that the principles of the Constitution, and that all those provisions of that instrument properly applicable to a Federal territory, acquired by the United States by cession from a foreign government, attach to such territory forthwith, upon its annexation to the United States. There are provisions that do not in terms apply, that have no reference whatever to *Territories*, and cannot be made to apply to them. Of course these cannot now be in force in the Territories, for they would be useless. Those provisions, for instance, respecting Senators and Representatives in Congress from the States—those relating to the organization of Congress—those respecting electors of President and Vice President, and several others that obviously can have no bearing on the Territories. But it may be laid down as an indisputable principle, that all the rules therein prescribed for the legislation of Congress of a general character, and not limited in terms to the States, and that are not obviously inapplicable to the Territories, apply to the legislative powers of Congress with respect to the Territories. And, in addition to this, Congress is restrained with respect to Territories, so far as it respects the legislation of a local character, and purely municipal, to a limited kind of legislation—the making "of needful rules and regulations" merely, as contradistinguished from the general law-making power, and which is of lesser character.

Mr. WEBSTER, (interposing.) Will the Senator inform me how, if his argument be correct, Congress can provide for the appointment of judges in the Territories for a term of years instead of during good behavior, the term prescribed in the Constitution as that for which Federal judges shall hold their offices?

Mr. WESTCOTT. Cheerfully. Simply because the provision in the Constitution referred to by the honorable Senator does not in terms or in its spirit refer to Territories, and is from circumstances wholly inapplicable to them. Necessity demands, from the temporary character of the territorial organization, that the tenure of offices under that organization should be temporary. The provision cited has reference to the permanent Federal Judiciary in the States. It is suggested by a Senator near me that another answer is, that Congress possesses, with reference to a Territory, the powers of a *State* Legislature. I will not urge such argument, for I do not concede its correctness. The sufficient answer is, that the term of office fixed by the Constitution for the judges of the United States in the States is inappropriate to the judges of the Territories. That provision is within the exception I have before adverted to, and admitted, as to those parts of the Constitution which are not intended for, and cannot be properly made applicable to, the Territories. In one sense the territorial courts are not (as the Supreme Court have decided) constitutional courts; but surely it is not meant by this that they are created by Congress in disregard and violation of the Constitution. The Supreme Court do not say this, but the reverse.

Mr. WEBSTER. Does the Senator believe that Congress could authorize the appointment of judges in the States to hold their offices for a term of years, for any purpose whatever?

Mr. WESTCOTT. Certainly not; and because the express terms of the provision of the Constitution referred to prohibit it.

Mr. WEBSTER. The terms of the provision are general, and they do not exclude Territories; and if all the provisions of the Constitution extend to the Territories as well as to the States, and, as is contended, control the legislation of Congress with respect to Territories, this provision applies to one with the same force as to the other.

Mr. WESTCOTT. I do not concede this. As I have just said, the provision is inapplicable to the Territories, and was obviously intended exclusively for the States; and hence it does not restrain our legislation in this respect as to Territories. The courts and judges it refers to were the judges of the United States in the States.

I would now ask a question of the honorable Senator from Massachusetts, [Mr. WEBSTER,] in turn, and, as I have answered those put by him to me, I hope he will give his attention and make response also.

There is a provision of the Constitution which provides that "the right of the people to be secure 'in their persons, houses, papers, and effects 'against unreasonable searches and seizures shall 'not be violated, and no warrants shall issue but 'upon probable cause, supported by oath or af-'firmation, and particularly describing the place 'to be searched and the persons or things to be 'seized."

Now, I ask the Senator, does not this provision extend to California and New Mexico? I ask if the citizens of California who have gone there from the United States have lost this shield against the oppression of official functionaries?

Mr. WEBSTER. There is no such thing as a citizen of California.

Mr. WESTCOTT. Well, a citizen of the United States in California. I ask the Senator if those who have gone there from the States, have lost the birthright of their citizenship by their removal? Is it possible that Persifer Smith, distinguished alike as a soldier and as a citizen—can it be that General Bennet Riley, a hero of Cerro Gordo and Contreras, have, by obeying the order of their Government in going with the troops to the Pacific, lost their rights as citizens of the United States? Have the officers and soldiers who have gone there in the service of the United States become *aliens?* Are they outlawed, disfranchised, and to be regarded as foreigners, and out of the pale of the Constitution, and your laws under it?

Mr. WEBSTER. Certainly not. General Persifer Smith and his brother officers are just as much citizens as ever.

Mr. WESTCOTT. Then, sir, as citizens they are entitled to the protection of that Constitution they have sworn to support. No, sir! No, sir! Not an American citizen there, can be arrested for crime, nor can his castle be searched or invaded, except as allowed by the Constitution. There must be a warrant issued upon an affidavit. I ask the Senator is not this so?

Mr. WEBSTER. That depends on the laws of the place.

Mr. WESTCOTT. No, sir, the Constitution of the United States overrides and overrules any local laws that would allow such oppression. I am perfectly willing to leave the decision of this question to the intelligent American people, and do not fear that prejudice in any section would induce a wrong decision. All I desire is that the question shall be understood. I hold that the right of every citizen of the United States to the protection of the Constitution belongs to him, and goes with him wherever he may go under the American flag. God forbid it should not be so. Reject the first amendment and adopt that of the Senator from New Jersey, recognizing the Mexican laws, and those laws only, as being in operation in those Territories, and then suppose one of the American civil officers, proposed to be appointed under these laws, and to create them, should arbitrarily imprison, or otherwise oppress a citizen, under color of official authority, what is the redress of the citizen? Is he to sue the officer—where? before whom? and how? And if the officer shows that the Mexican laws do not provide for the punishment of such outrage by him, is he to go quit? Is Congress to punish the officer? If not, who is? What, I ask, is the remedy and redress the injured citizen would have in such case? Regard the Constitution as in force there, and no one is in danger of outrage or oppression of this kind. It is a safe and secure shield against it.

I would further ask those who contend that no provision of the Constitution of the United States applies *proprio vigore* to the Territories, whether Congress could pass a law granting a patent of nobility or title to any person in the Territories? Does the prohibition on the power of Congress on this subject apply only to *the States*, and to citizens in them? The answer will test the correctness of the position assumed on both sides. The Senator from Massachusetts, a day or two ago, asked the Senator from South Carolina, not now in his seat, [Mr. CALHOUN,] a question as to the power of the General Government in relation to internal improvements in the Territories. The reply of the Senator from South Carolina was satisfactory, as far as it went, with respect to the difference between the power of Congress on that subject with reference to the States and with reference to the Territories. But there is another reason for this difference which was not alluded to. It is this: The States are *sovereign*—the Territories are not. The sovereignty of the people in the Territories is dormant and in abeyance till a State government is organized and established. I repel the idea of the Federal Government having political sovereignty over the people

of a Territory, founded upon the fact that the United States are the proprietors of the lands, or the chief part of the lands in such Territory. But, in a State, the Federal Government has not even such pretence of sovereignty, and cannot even enter its boundaries to make internal improvements without her consent.

Mr. WEBSTER. That is the very question in dispute. You take it for granted.

Mr. WESTCOTT. No, sir; I am stating the distinction that I conceive exists in the two cases. Nobody contends that Territories have the right to forbid the United States making such improvements within their limits. I contend for the inherent sovereignty of the people of the Territories, but it is dormant, and incapable of being exercised till the State is organized. It does not exist to repel the United States; and the interest of the United States, as proprietor of lands in Territories, would preclude such opposition, if the interests of the people of the Territories themselves did not influence to invite such improvements.

One word on another point. The first amendment refers the entire power proposed to be exercised at present, as to these Territories, to the President. It is known that I did not support the election of General Taylor; but I have confidence that the power will be exercised properly. He has every inducement to so exercise it wisely and properly. I would not embarrass his administration if I could, and especially would I not use this delicate subject as a political party measure in anywise. On the contrary, sir, I regard the reference of this temporary organization of these Territories to him as affording him an opportunity to gather civic glory as imperishable as the military renown he has acquired in the service of his country, by adopting a patriotic and judicious course. If he should avert the threatened storm impending over the country, he will earn a meed of honor for his success, corresponding in degree to the infamy those deserve who have brought it upon us. I repeat, I have confidence he will act wisely, judiciously, and patriotically.

I do not consider the clause in the amendment expressly extending in terms the Constitution of the United States as at all important or necessary. Out of abundant caution others may desire it, and I am content. Wherever the Constitution extends no legislation can be necessary to give it efficacy. It speaks for itself and stands for itself. It would be as appropriate to insert a proviso at the end of all of our laws: "*Provided* nothing that is unconstitutional in this act shall be valid." The clause being kept in or stricken out will not affect my vote. Without it, I hold the principles of that instrument will be in full force in the Territories as well as in the States, and will control. If this is not so, it should be so. If the Constitution does not extend, of its own force, it should be extended by express law. Nobody denies our power to extend it by law. No one here disputes such power. We should exercise it. There is no difficulty in this. Like the fabled tent we are told of in the Arabian Tales, that Constitution, at the bidding of its possessor, can be expanded to cover a vast army, or contracted for the protection of a solitary traveler.

The question was then taken on Mr. DAYTON's amendment to Mr. WALKER's amendment, in the following words:

"That until other provision for the government of the Territories recently acquired from Mexico, under the late treaty with that Government, (dated second February, eighteen hundred and forty-eight,) shall be made by Congress, all the military, civil, and judicial powers heretofore exercised by the officers of the Mexican Government in the same Territories, shall be vested in such person or persons, and shall be exercised in such manner, as the President of the United States shall direct, for the maintaining the inhabitants of said Territories in the free enjoyment of their liberty, property, and religion; and the laws of the United States, relating to the revenue and its collection, shall be extended to said Territories. And the President of the United States shall be, and he is hereby, authorized, within the term aforesaid, to establish such districts for the collection of the revenue, and during the recess of Congress appoint such officers, whose commissions shall expire at the end of the next session of Congress, to enforce the said laws, as to him shall seem expedient; said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States, or its Territories, for like service; and to enable the same to be done, the sum of two hundred thousand dollars be appropriated, out of any money in the treasury not otherwise appropriated."

The yeas and nays being called for and ordered, they resulted as follows:

YEAS—Messrs. Allen, Atherton, Cameron, Dayton, Dodge of Wisconsin, Dodge of Iowa, Hamlin, and Mangum—8.

NAYS—Messrs. Atchison, Badger, Baldwin, Bell, Berrien, Borland, Bradbury, Bright, Butler, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dickinson, Dix, Douglas, Downs, Felch, Fitzgerald, Fitzpatrick, Foote, Greene, Hale, Hannegan, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Johnson of Georgia, Jones, King, Mason, Miller, Niles, Phelps, Rusk, Sebastian, Spruance, Sturgeon, Turney, Underwood, Upham, Wales, Walker, Webster, Westcott, and Yulee—47.

The question then recurred on Mr. WALKER's amendment.

Mr. BERRIEN offered a modification of the amendment, which Mr. WALKER accepted, so that the amendment now reads as follows:

"SEC. —. *And be it further enacted*, That the Constitution of the United States, in so far as its provisions can be applied to the condition of a Territory, and all and singular the several acts of Congress respecting the registering, recording, enrolling, or licensing ships or vessels, and the entry and clearance thereof, and the foreign and coasting trade and fisheries, and all the acts respecting the imposing and collecting of duties on imports, and all acts respecting trade and intercourse with the Indian tribes, and all acts respecting the public lands, or the survey or sale thereof, and all and singular the other acts of Congress of a public and general character, and the provisions whereof are suitable and proper to be applied to the territory west of the Rio del Norte, acquired from Mexico by the treaty of the second day of February, eighteen hundred and forty-eight, be, and the same are hereby, extended over and given full force and efficacy in all said territory; and the President of the United States be, and he is hereby, authorized to prescribe and establish all proper and needful rules and regulations (in conformity with the Constitution of the United States) for the enforcement of the provisions of the Constitution hereinbefore referred to of said laws in said territory, and for the preservation of order and tranquillity, and the establishment of justice therein, and from time to time to modify or change the said rules and regulations in such manner as may seem to him discreet and proper, and may prescribe and establish, temporarily, such divisions, districts, ports, offices, and arrangements proper for the execution of said laws, and appoint and commission such officers as may be necessary to administer such laws in said territory, for such term or terms as he may prescribe, whose authority shall continue until otherwise provided by Congress; said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States, or its Territories, for like services; and, to enable the same to be done, the sum of two hundred thousand dollars be appropriated, out of any money in the treasury not otherwise appropriated."

Mr. BALDWIN. Mr. President, I do not rise to prolong the debate. I rise to state my general concurrence in the sentiment expressed by my honorable colleague in regard to the inexpediency of Congress passing, in the form of a permanent law, and especially in an appropriation bill, a provision like this for a government for California. I also wish to direct the attention of the Senate to one provision in this amendment. It reads thus:

"SEC. —. *And be it further enacted*, That the Constitution of the United States, and all and singular the several acts of Congress respecting the registering, recording, enrolling, or licensing ships or vessels, and the entry and clearance thereof, and the foreign and coasting trade," &c.

Now, I ask the Senator from Wisconsin [Mr. WALKER] if he has ever thought that that provision would extend to the Territory of California the ninth section of the act prohibiting the importation of slaves into the United States, which section provides—

"That the captain, master, or commander of any ship or vessel, of forty tons burden or more, on and after the first day of January, 1808, sailing coastwise from any port in the United States to any port or place within the jurisdiction of the same, having on board any negro, mulatto, or person of color, for the purpose of transporting them to such port or place, to be held to service or labor, shall, previous to the departure of such ship or vessel, make out a duplicate and manifest of every such negro, mulatto, or person of color on board such ship or vessel, their —— or name, and deliver the manifest to the collector, who shall confirm it," &c.

This is a provision of law under which the coastwise traffic between one slave State and another is now carried on. And if this provision regulating the coastwise trade in this particular is extended, as it would be by the provisions of this amendment, to the Territory of California, why it would, to that extent, certainly be regarded as a sanction by Congress of the extension of this coastwise traffic to all these immense territories belonging to the United States, and within our acknowledged jurisdiction.

Mr. President, I am utterly opposed (if it were proper to legislate at all upon this subject in this appropriation bill) to the enactment of any law embracing in general terms all the variety of regulations that are here contained. I think that it would be the wiser course to specify particularly every act that it is expedient to adopt for the government of the Territory, or to apply to the Territory, and not to adopt, under the sweeping provisions contained in this amendment, all the variety of laws, many of which certainly must be out of the recollection of Senators called upon to act upon them, and many of which it might be very improper to extend to these Territories. The course heretofore pursued, unless I am mistaken, in regard to Territories—certainly in regard to most of them—has been to specify the particular acts which it was deemed expedient to extend to new Territories, and which were deemed suitable to them.

But, sir, I do not rise for the purpose of making a speech upon this amendment, but simply to call attention to these objections to the adoption of the amendment now before the Senate, and also for the purpose of stating my own opposition to concurring in any of the amendments which have been proposed to this appropriation bill. I deem it an improper place to legislate for the government of these Territories. We have, as was suggested the other day by the Senator from Massachusetts, [Mr. WEBSTER,] a bill from the House of Representatives already before us, and when we act upon that bill the subject will be fairly open for any amendment which any gentleman may have to offer upon the subject.

Mr. BUTLER. I would ask the honorable Senator what bill we have from the House of Representatives to which amendments touching this subject can be offered with more propriety than upon this bill?

Mr. BALDWIN. The bill for extending the revenue laws over California.

Mr. WALKER. I would ask the honorable Senator from Connecticut if the provision of the law which he has just read applies to Connecticut?

Mr. BALDWIN. It applies to all the Territories within the jurisdiction of the United States.

Mr. WALKER. It is just about as much of a mare's nest as if it applied to Connecticut. [Laughter.]

Mr. UNDERWOOD moved to amend the amendment by striking out the words "west of the Rio Grande," and inserting the word "territory" in the place of the word "territories."

Mr. HOUSTON. Mr. President, it is not my intention to inflict a speech upon the Senate at this advanced stage of the session. I have merely risen to state my objection to any amendment of the character of that proposed by the honorable gentleman from Kentucky. I presume that the passage of the amendment brought forward by the honorable gentleman from Wisconsin will not entirely close the question to which the amendment of the honorable gentleman from Kentucky obviously points; and if that Senator should, at any future time, see proper to raise that question, we, who represent Texas on this floor, will be prepared, I am satisfied, to show that the Rio Grande is the western boundary of Texas; that she owns every foot of land up to the eastern bank of that river. As the amendment now stands, it certainly does not invade the rights of the Territories proposed, or the State proposed, or of the United States. Nor was it in any such spirit, or with any such design, that that amendment was suggested and framed. It was suggested and framed with a disposition not only to allay all feeling in the other House, but with a disposition, at least on the part of the gentleman who introduced it, without consultation, to accord to Texas that portion of territory which she has ever claimed from the very inception of her existence. And I presume that no one who has any regard for the rights of Texas will leave that, so far as it affects her, an open question.

With these remasks, Mr. President, I will take leave of the subject, only adding that I shall vote for no amendment which may seem even to menace the rights of the State which I have the honor in part to represent.

Mr. RUSK. Mr. President, I would not willingly trespass upon the patience of the Senate at so late an hour, but I must beg their indulgence while I say a few words upon a subject upon which I feel constrained to speak.

I regret exceedingly that the honorable Senator from Kentucky [Mr. UNDERWOOD] should have taken this occasion to offer an amendment of this

sort, to raise a question which, if it is likely to be acted upon against the rights of the State of Texas, will, in all probability, consume the remainder of the time allotted to us for the passage of this bill.

Mr. President, the rights of Texas are well-founded. There are but two claimants to the territory east of the Rio Grande. There is but one regularly-organized claim to it, and that is the claim of the State of Texas; she has a regular claim. There is a different claim, however, started here—not by the Government, nor by a single constituted authority of the United States—for the purpose of appropriating it to the United States. This claim has only been set up here incidentally. The President of the United States, and the Government of the United States, have always and uniformly recognized the rights of Texas.

Then, sir, it is due to Texas, according to the terms of the joint resolution by which she was adopted into this Confederacy, if this Government is disposed to keep her faith to Texas, that this question should be settled here as between Texas and the Government of the United States, and not slighted over as between Texas and a Territory, or a State which is hereafter to come into the Union. Under such circumstances, I do not apprehend that the amendment of the honorable Senator from Kentucky will be allowed to pass. I have stood here ever since I had the honor to take a seat in this body, ready upon any and all occasions to defend the rights of Texas, and shall hereafter, whenever this question may be presented, be found ready still to defend them.

Mr. WEBSTER. Mr. President, I do not mean to say whether Texas has a just claim to the extent stated by her representatives or not. It is far from my purpose on this occasion to give any vote which shall have a bearing, one way or the other, on that question. I shall not, certainly, vote for the amendment of the honorable member from Wisconsin, [Mr. WALKER,] because it implies the right of Texas to the country east of the Rio Grande. Nor shall I vote for the amendment of the honorable member from Kentucky, [Mr. UNDERWOOD,] because it purports, or may be implied to deny that right. Sir, are we now prepared, on an inappropriate, incongruous, alien proposition, to amend a bill for the civil and diplomatic service of the Government, to go into that great question—the boundary of Texas? Far be it from me to give any vote on any such collateral question as this, touching that great and important interest. I shall vote against the amendment of the honorable member from Kentucky; I shall vote against the amendment of the honorable member from Wisconsin, "*nequi teneo, nequi refellor.*" This is no occasion to settle a question so important to one of the States of this Union, and so important to the whole Union itself.

Mr. UNDERWOOD. Mr. President, I do not intend to detain the Senate by an argument. I rise for the purpose of stating the object which I had in view in offering the amendment. This amendment, if it has any effect at all, will strengthen the proposition before the Senate. Do Senators expect that this question of settling the boundaries of the State of Texas can be acted upon by the other branch of Congress? If we pass the amendment, as it now stands, will it not be an expression of the opinion that the Rio Grande is the true boundary of Texas? Unquestionably it will have that effect. It will have the effect of embarrassing this measure if it gets to the other branch of Congress.

I am not at all surprised that the gentleman from Massachusetts [Mr. WEBSTER] will not vote for my amendment, because, if it prevails, it will make the proposition stronger, and he has already notified us that he would not vote for any such proposition in any shape. I desire to give a government to California without any embarrassment in relation to the boundary of Texas. I will not further detain the Senate.

Mr. UNDERWOOD's amendment was not agreed to.

The question then recurred on the original amendment of Mr. WALKER, as modified by Mr. BERRIEN, and resulted as follows:

YEAS—Messrs. Atchison, Bell, Berrien, Borland, Butler, Davis of Mississippi, Dickinson, Dodge of Iowa, Douglas, Downs, Fitzgerald, Fitzpatrick, Foote, Hannegan, Houston, Hunter, Johnson of Louisiana, Johnson of Georgia, King, Mangum, Mason, Rusk, Sebastian, Sturgeon, Turney, Underwood, Walker, Westcott, and Yulee—29.

NAYS—Messrs. Allen, Atherton, Badger, Baldwin, Bradbury, Bright, Cameron, Clarke, Corwin, Davis of Massachusetts, Dayton, Dix, Dodge of Wisconsin, Felch, Greene, Hale, Hamlin, Johnson of Maryland, Jones, Miller, Niles, Pearce, Phelps, Spruance, Upham, Wales, and Webster—27.

So Mr. WALKER's amendment was adopted, the Senate sitting as in Committee of the Whole.

WEDNESDAY, *February* 28, 1849.

The Civil and Diplomatic Appropriation Bill having been reported to the Senate from the Committee of the Whole, and the question being on concurring in the amendment of Mr. WALKER in relation to the Territories acquired from Mexico—

Mr. DIX said: I regret to be under the necessity of asking the indulgence of the Senate at this late period of the session; but I feel it my duty to make some remarks upon the amendment offered by the Senator from Wisconsin, [Mr. WALKER,] and the general subject to which it relates. I regret also to be under the necessity of discussing the question of providing a government for California, in the form under which it is presented to us—in an amendment to an appropriation bill. Independently of this objection, I have considered it from the beginning a measure of too great importance to be disposed of in this incidental manner. The proposition of the Senator from Tennessee, [Mr. BELL,] also in the form of an amendment to this bill, was almost ruled out of this body, upon the ground that it was incongruous and out of place. It received in the end but four votes. I consider this amendment equally irrelevant and misplaced.

The amendment of the Senator from Tennessee proposed to admit California and New Mexico into the Union as a State. The amendment of the Senator from Wisconsin arms the President with extraordinary powers to govern these territories. On the score of congruity, in respect to the general purposes of the bill upon which they were proposed to be ingrafted, I see no difference between them; and I do not understand how one proposition should be resisted on the ground that it is incongruous, and the other entertained as unobjectionable in this respect. Although I did not concur in the propriety of the proposition of the Senator from Tennessee, and although I considered his argument not very happily adjusted to the conclusion it aimed to enforce, yet I must say that I decidedly prefer his proposition to the one before us. I would rather admit California and New Mexico into the Union as a State, wholly unfit as I think they are, than to arm the President with despotic powers to govern them; not from any distrust of the individual by whom those powers would be exercised, but because I consider such a delegation of authority to any individual utterly indefensible.

The proposition of the Senator from Tennessee is disposed of, and I have therefore not a word to say in respect to it. But there are three other propositions before this body: first, the bill introduced by the Select Committee, of which the Senator from Illinois [Mr. DOUGLAS] is chairman; second, the amendment of the Senator from Wisconsin, now under immediate consideration; and third, the territorial bill which was received from the House yesterday, and referred to the Committee on Territories this morning. The first creates a State out of a portion of California, and admits it into the Union; it also creates the State of New Mexico *in futuro*, and leaves it out of the Union. The amendment of the Senator from Wisconsin vests in the President all the power which a State or territorial government ought to possess over both territories. It authorizes him to prescribe and establish all proper and needful rules and regulations, in conformity with the Constitution of the United States, to carry into operation the laws referred to in the first part of the proposition, for the preservation of order and tranquillity, and the establishment of justice therein, [not an executive, but a creative power,] and from time to time to modify or change said rules and regulations, in such manner as may seem to him desirable and proper. It authorizes him to establish offices, and to appoint and commission officers, for such terms as he may think proper, and to fix their compensation. It is literally arming him with dictatorial powers. It appears to me to delegate to him, nearly in the language of the Constitution, the power under which the authority to establish governments for the territories has been claimed. And, sir, if the President elect, on taking into his hands the reins of government, should find himself, in respect to the States, a less absolute ruler than he was at the head of his army, he will, in respect to these territories, be amply indemnified for any diminution of authority he may have sustained by exchanging a military for a civil station. He will find himself in the possession of larger powers than he ever before possessed. I repeat, my objection is not founded on any distrust of the individual by whom these powers are to be exercised. I believe him to possess honesty and truth, the highest ornaments of exalted station. But I will not consent to delegate to any individual, whatever confidence I may have in him, the powers this amendment proposes to confer—"mighty powers," as the mover himself pronounced them.

I forbore, Mr. President, to take any part in the debate while the Senate was in Committee of the Whole, except to urge that all such amendments might be withdrawn. I forbore to make any proposition, by way of amendment, to that offered by the Senator from Wisconsin, because I believed all such propositions to be out of place. But when this amendment had been adopted by a deliberate vote of the Senate, I prepared a bill—a full territorial bill—with a view to establish a government in California, on the basis of law, with powers clearly defined for the governing, and rights clearly defined for the governed. When the territorial bill was received yesterday from the House, I resolved not to offer mine as an amendment to the bill before us, extremely averse as I am to all of these propositions, in the manner in which they are presented. But I hold a territorial government the only proper one to be created for these territories, under a system like ours, excepting for the merest temporary purposes. The object of the amendment of the Senator from Wisconsin is more than temporary, whatever its language may import. It has no limitation in point of time. The powers it confers are equally unlimited in scope and duration. And, Mr. President, I am constrained to say, with all deference to the majority of the Senate, that I consider it the most objectionable proposition I have been required to vote upon since I have been a member of this body.

Precedents have been cited to sustain this amendment, one in the case of Florida, and the other in that of Louisiana. Now, sir, let me refer to dates to see how far the precedents are applicable to it. The treaty with Spain for the cession of Florida was ratified here on the 22d of February, 1819, and it was to be ratified in six months, or sooner if possible, by the King of Spain. This was the short session of Congress; and the six months would have brought us to the 22d August, 1819, when Congress was not in session. The act of the 3d March of that year was therefore passed, authorizing the President to take possession of the territory. It was to expire at the end of the next session of Congress. But the treaty was not ratified by the King of Spain until the 24th of October, 1820, and I believe Florida was not taken possession of under this act at all. The treaty as ratified by Spain was sent to the Senate on the 14th February, 1821, as the ratification was not within the time limited. It was ratified by the Senate on the 19th February of that year. The act of the 3d March, 1821, was then passed, reënacting substantially the act of 3d March, 1819. This was also to expire at the close of the next session of Congress. The Senator from New Jersey stated that Florida was governed about three years under the act of 1819. Am I mistaken?

Mr. DAYTON. Two years.

Mr. DIX. The territorial government of Florida, as I have stated, was established on the 30th March, 1822, one year and twenty-seven days after the passage of the last act authorizing the President to take possession of the territory.

The Louisiana treaty was ratified by the Senate on the 20th October, 1803. An act was passed on the 31st of the same month, eleven days afterwards, authorizing the President to take possession of the territory; and this act was to expire at the close of the same session of Congress. On the 26th March, 1804, a territorial government was established, to take effect the 1st October, 1804. The power was exercised in this case eleven

months. In both cases, the duration of the act was limited to the close of the same or the ensuing session of Congress. The powers conferred were to expire at a certain period. The want of such a provision in this amendment constitutes one of the strongest objections to it. But even this omission sinks into insignificance when compared with the magnitude of the powers which the amendment confers.

I cannot believe this amendment can receive all the constitutional sanctions necessary to give it the validity of law. I shall, therefore, proceed to examine the other propositions before the Senate, as we may be called upon to act on them when it is too late for discussion. I wish to avail myself, for a very short time, of the privilege which has been taken by other Senators, of speaking upon the different propositions before us.

The 14th May, 1787, was the day fixed for the meeting of the Federal Convention by which the Constitution of the United States was framed. A majority of the States was not convened until the 25th of the same month; and nothing was done, with the exception of organizing and adopting rules for the orderly transaction of business, until the 29th, when Governor Randolph, of Virginia, to use the language of the Journal, "opened the main business of the session;" or, as he expressed himself, "the great subject of their mission." He spoke of the difficulty of the crisis, the necessity of revising the Federal system, the properties such a government ought to possess, the defects of the Confederation, the dangerous situation of the States, and the remedy. His propositions for the correction and enlargement of the Articles of Confederation, so as to accomplish the objects of their institution, were stated in a series of resolutions, one of which declared that provision ought to be made for the admission of States, lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory, or otherwise. He was immediately followed by Mr. Charles Pinckney, of South Carolina, who presented a plan of a Federal Constitution, in which it was provided that the Legislature should have power to admit new States into the Union on the same terms with the original States, provided two-thirds of the members present in both Houses agree. We all know in what manner these propositions were modified in the subsequent proceedings of the Convention, and the limitations by which the exercise of the power was guarded by the framers of the Constitution. How far the extension of our political jurisdiction beyond the existing boundaries of the States and their territories was in contemplation at that time, I do not stop to inquire. We have given a practical construction to this provision of the Constitution. We have admitted into the Union six States beyond the limits of the thirteen original States and their territories—one an independent nation, and the others colonial dependencies at the time of their acquisition.

The debates in the Federal Convention, which seem to have had an exclusive reference to the admission of new States from territory we then possessed, show that, even in these cases, the extension of the proposed system, so as to include new members, was deemed a matter of the utmost delicacy and importance, not only as affecting the proper balance of its parts, but in respect to the moral influence of such extension upon the character of the whole. This disposition in the original States to surround the system with all the safeguards necessary to insure its stability, and to perpetuate the principles in which its foundations were laid, had even an earlier date than the era of the Federal Constitution. It is shown in the ordinance of the Congress of the Confederation, providing for the territory northwest of the Ohio river. The ordinance prescribed rules for the government of that territory, in its moral as well as its political relations; and it imposed upon the admission of the States to be formed out of it, in respect to representation, conditions more onerous than those which were annexed by the Federal Convention to the representation of the thirteen original States. These exactions and conditions all had for their object to maintain the purity of the system, the homogeneousness of its parts, and the harmony of its movements. They looked to training and discipline in the school of representative government before the communities which were to be incorporated into the Union were raised to the dignity and equality of sovereign States.

Sir, I hold to this prudence and caution in the founders of the Republic. I believe it to be due to ourselves, to the institutions they framed, and to the future millions whose destiny for good or for evil is in some degree to be wrought out in our political action.

I deduce, then, from the organization of the Government, this practical principle, which I hold to be fundamental: that no State ought to be admitted into the Union which has not been prepared by a familiar knowledge of the theory and practice of our political system, and by such a training in the discipline of free institutions as to render its participation in the administration of the general concerns an aid and an advantage, not an embarrassment and an obstacle, to the steady action of the system.

This requirement, which I consider absolute, is not fulfilled by the condition of California. The bill reported by the select committee admits that territory into the Union at once as a sovereign State. That, too, was the purport of the amendment of the Senator from Tennessee, though it embraced New Mexico also. This proposition is directly opposed to all the practical rules and usages of the republic, from its foundation to the present day. It is in palpable violation of the principle I have stated as inherent in the organization of the Federal Government. It discards all the prudential considerations which entered into the reasonings of the framers of the Constitution concerning the extension of our political system.

Let me state some of the leading objections to it, as they relate to the condition of California: 1. Its present inhabitants are, to a considerable extent, Indians or Mexicans of mixed blood. 2. They are, for the most part, uneducated. 3. They are not sufficiently familiar with the business of self-government. 4. They do not even speak our language. 5. They would not come into the Union with an enlightened understanding of the principles of our political system, or with the general cultivation and intelligence essential to such a fulfillment of the duties and responsibilities of the American citizen as to render them safe participants in the administration of the Government. I need not enlarge upon these propositions. Those who are familiar with the condition of California and the character of the people will assent to their truth. I hold these objections to the immediate admission of California into the Union as a State—objections drawn from the character and condition of the people—to be insuperable. I know very well that territory is rapidly filling up, and that it is receiving from us thousands of citizens, active, enterprising, and of unexceptionable character. But we know also that it is receiving multitudes of adventurers from almost every quarter of the globe—from both hemispheres—from Oceanica to the European continent and islands—some for a permanent abode, but more for mere temporary purposes. I wish to see this heterogeneous mass pass through the process of fermentation, to which it is destined, and settle down into something like consistence, before we undertake to endow it with all the attributes of self-government.

This view of the subject is sustained by the uniform practice of the Government. 1. Our alien laws have always prescribed a period of probation for individuals who come among us for a permanent abode, and to unite their fortunes to ours. This period has always been of several years in duration. The most liberal (and of these I have always claimed to be one) have never proposed to dispense altogether with this probationary term. The only question is as to its proper extent. It proceeds upon the principle, admitted by all, that no man shall become a member of our political association until he has been taught by experience to appreciate its advantages, and to take part in its deliberations with some knowledge of its requirements. 2. The same principle which has governed in cases of individual immigration has been applied to territories acquired by treaty and to large masses of persons. When Louisiana was ceded to us by France, we stipulated that the inhabitants should be incorporated into the Union, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of the rights, advantages, and immunities of citizens of the United States; and in the mean time that they should be maintained and protected in the enjoyment of their liberty, their property, and in the exercise of the religion they professed.

Louisiana was acquired in 1803. The inhabitants made repeated applications for admission into the Union; they protested against the tardy action of Congress; they appealed to the treaty in vindication of their right to such admission. Yet Congress refused to admit Louisiana into the Union as a State until 1812. Nine years were deemed necessary to prepare the inhabitants for the exercise of the highest political rights, though there was a strong infusion of our own citizens among them.

Florida was acquired in 1820; and in the treaty with Spain there was a stipulation nearly identical in language with that which was contained in the treaty with France for the cession of Louisiana, in respect to the admission of the inhabitants into the Union. Yet Florida was not admitted as a State until 1845—a quarter of a century after its acquisition. I know that numbers had something to do with this delay; but other considerations doubtless had their influence also. These territories were both foreign; and, when acquired, their inhabitants were presumed to have but little knowledge of the theory or practice of our political institutions.

But, even with our own territories and our own people, we have dealt with the same caution and the same prudent regard to the privileges which an admission into the Union confers. Instead of curtailing the period of probation, where Congress had a discretion, we have rather been disposed to insist on a rigid fulfillment of the prescribed conditions, both in respect to numbers and time.

The ordinance of 1787, by which the division of the territory northwest of the Ohio river into States, and the ultimate incorporation of those States into the Union, were provided for, fixed on sixty thousand free inhabitants as the number necessary to their admission; but it was provided also that, so far as it should consist with the general interest of the Confederacy, such admission might be allowed at an earlier period, and with a less number of inhabitants. Yet Ohio was not admitted into the Union until 1802. It must have had sixty thousand inhabitants; and it was admitted with a single member of Congress. At the same time the ratio of representation in Congress was one member for thirty-three thousand inhabitants.

Indiana was admitted in 1816, Illinois in 1818, Michigan in 1837, and Wisconsin a year ago. These Territories were settled chiefly by our own people. The settlers came from the old States. They were nurtured in the love of liberty, and trained to the exercise of political rights. All their associations were of a character to render them safe depositaries of the priceless treasure of freedom. Yet they were subjected to a protracted probation. They were held in political subjection, not only in respect to the appointment of their chief executive officers, but in the more delicate relation of supervising and overruling them in the exercise of the power of legislation.

Such, Mr. President, has been our practice, not only in respect to territories acquired by treaties with foreign Powers, but in respect to our own people occupying territories held by a tenure coeval with our political independence. The bill reported by the select committee proposes to overthrow and reverse the uniform practice of the country in this essential particular. This practice assumes that some familiarity with the duties and privileges of citizenship is necessary for the inhabitants of a territory as a preparation for the independent management of their public affairs. It supposes that a territorial government, founded upon principles and administered according to laws analogous to those which govern the State administrations, should precede the admission of a Territory into the Union. It holds the privileges, the responsibilities, the rights incident to an independent membership of the political association, into which the States have entered, to be of too great a value to be communicated to other communities without a just regard to their capacity for assuming and exercising them with advantage to others as well as to themselves.

The bill discards all these considerations. Cali-

fornia has not yet been acquired a single year; nine months ago it was foreign territory. Its population is foreign; its interests, associations, usages, laws, and institutions, are, in some degree, alien to our own. The people do not even speak our language; they cannot read our Constitution or laws without translating them into a foreign tongue. Yet the committee propose to admit it into the Union on the footing of the original States, and to give it a weight in this body equal to that of Virginia, or Pennsylvania, or New York. With a population, perhaps, of twenty thousand souls, it is to wield here an influence equal to that of New York with three millions.

I cannot consent to cheapen in this manner an independent membership in the union of the States. I believe it to be unjust to the present members of the Union, hazardous to the stability of the Government, a departure from a wise and well-considered policy, and unjust, as I shall endeavor to show, to California herself.

Her physical and social condition is as unsuited to the independent management of her own concerns as her intellectual and moral. Her population is scattered over a vast surface; her improvements are not such as to give stability to her political organization; she has no commerce; she has hardly emerged from the pastoral state and risen to the grade of an agricultural community. She has not the strength to uphold an independent sovereignty. The recent discoveries of gold have made a bad condition worse; they have dissolved, for the time being, the very bonds of society. It will require months, if not years, to restore order, to bring back her people to the sober pursuits of industry, and to qualify them for any deliberative purpose. I believe there never was a community less fitted than California is at this moment, and under existing circumstances, to organize a government and put it in operation. All the influences which are at work with the minds and passions of men, are to the last degree unfavorable to the high duty the bill imposes on them. When all the obligations which bind men to the performance of their duty appear to have lost their force; when ships are abandoned by their crews; when soldiers desert by platoons and companies; when villages and towns are depopulated; and when the whole community is possessed by the phrensy of gold digging, and lose sight of all other objects, we call upon them to meet in solemn conclave and perform the highest and most responsible of all deliberative acts—that of framing a constitution for their own government—a work of deliberation and soberness and calm reflection. I have been from the beginning opposed to this whole scheme. I believe, if ever there was an occasion, since the foundations of this Republic were laid, when it was incumbent upon Congress to establish a temporary government for a Territory, to provide for its wants, to give direction to its action, and to sustain it by the collective wisdom and strength of the whole community, until it shall have passed through the period of probation to which all our Territories have been subjected—a period rendered doubly perilous there by the prevailing disorganization—that occasion is presented in the condition of California.

I am in favor, then, of a territorial government, endowed with the energy to control and remedy existing embarrassments and evils. I believe the course proper in all similar cases is preëminently proper in this. I shall concur in no other, unless it be for a mere temporary purpose. And it was with great regret that I heard honorable Senators say there was no hope of giving California a territorial government. I do not concur in opinion with them. I will not relinquish hope until the last moment. The most certain mode of giving effect to a feeling of hopelessness is to despair of the battle before it is fought, and resort to other devices to supply our own want of constancy and courage.

The objections I have stated to this bill are insuperable; they are fundamental, and therefore not to be obviated. There are objections of detail, which might be remedied; but I will merely state, without enlarging upon them—as no variation in the details can reconcile me to the general purpose of the bill—the immediate admission of California into the Union as a State.

Of these objections I consider the dismemberment of California one of the most serious. I would keep that territory as it is until the spread of population and the growth of improvement shall indicate where the division line can be drawn with least prejudice to the parties concerned. The bill proposes a chain of mountains as the eastern boundary. Sir, physical obstacles are not always the most appropriate or convenient for statistical divisions. Moral obstacles are more powerful to repel, and moral affinities more powerful to attract, than physical. Identity or diversity of race, association, or condition often does more than rivers, and mountains, and plains to bind men together or force them asunder. What is there, for instance, in the class of natural obstacles more appropriate for a statistical demarcation than the Alleghany mountains? And yet they have not sufficed to divide Virginia into two distinct communities. Nor have they sufficed to divide Pennsylvania into two States. What is there more suitable for such a purpose than the Chesapeake bay? And yet Maryland lies on both sides of it. If we were to look to physical obstacles as constituting the most appropriate boundary for California on the east, we ought to stop at the Sierra Nevada, which is more elevated than the boundary of the committee, "the dividing ridge separating the waters flowing into the Colorado from those flowing into the Great Basin," or we ought to go on to the Sierra Madre, and leave the territory with its present limits. We need not consider geographical extent as an objection to the organization of a territorial government. When Louisiana was acquired, we placed all that part of it north of the thirty-third parallel of latitude under the direction of the Governor and the Judges of the Indiana Territory, for the purposes of government and the administration of justice; and it had a more extended area than California.

Let us leave statistical divisions to be fixed by events. The movement of population, physical development, social progress, and their incidents—these are the great causes which mark out permanent boundaries between separate States. Let us leave California to be filled up, and the races which occupy it can better determine than we who shall live apart and who together.

The disposition which the bill makes of New Mexico, I consider, if possible, still more objectionable. She was known long before the era of Von Humboldt as having a distinct organization. In connection with Durango and Chihuahua, she constituted an independent member of the Mexican Confederation, under the constitutive act of 1824, and a separate territory under the constitution of that year. The consolidation of the confederated States into a central republic, under the constitution of 1836, made her a separate department, with an independent organization for the management of her local concerns. We have held commercial intercourse with her under laws applying only to herself and another member of the Mexican Republic. She has had an individual name, existence, and organization. So far as I am concerned, they shall be respected. I will neither consent that she shall be dismembered nor merged in a more extended organization. Subjection by conquest is the greatest humiliation that can befall a community. The magnanimity of the conquerors should spare the subjugated State the further humiliation of dismemberment, or the obliteration of its identity in a useless extension. I will neither consent to play towards New Mexico the part of Austria, Russia, and Prussia, towards Poland, nor the part of the Holy Alliance towards Genoa. I will neither agree that she shall be divided nor swallowed up. She has petitioned to us to save her from dismemberment. I am for exercising our power over her with humanity as well as forbearance—for conforming, as far as we can, to the wishes of the vanquished. I believe she is now, considering all circumstances, as well fitted to come into the Union as California. I will not consent to dilute what fitness for self-government she possesses by a territorial expansion, of which I can neither comprehend the object nor foresee the result.

But it is not quite clear, from the language of this bill, what is to be the fate of New Mexico—whether she is to be merged wholly or in part in Texas, or merely drawn out to the Pacific. If the latter—and I suppose this to be the intention of the committee—she will be stretched out some two or three hundred miles westward on the north, and eight or nine hundred on the south. But the New Mexico created by the bill is to be bounded on the east by the summit of the Rocky Mountains and the State of Texas. The Rocky Mountains, or the Sierra Madre, a continuation of them, are now the western boundary of New Mexico. I am not sure whether they would not under this bill become the western boundary of Texas. I am not sure that New Mexico would not be merged in Texas by the mere designation of a boundary line. The bill seems to me, by a literal construction of its terms, to accomplish these three objects, alike objectionable in my mind: 1. The annexation of New Mexico to Texas. 2. The dismemberment of California. And, 3, the creation of a new State of New Mexico, wholly within the limits of California, and wholly without the limits of the present New Mexico.

Nor is this all. While the bill introduces California into the Union, it leaves New Mexico out of it. We consent that it shall become a State of this Union, with the name and style of the State of New Mexico, as soon as it shall have the proper number of inhabitants. What is the proper number of inhabitants? Louisiana was admitted into the Union with about eighty thousand; (I speak in round numbers;) Ohio with about sixty thousand; Illinois with forty thousand; Michigan with one hundred and fifty thousand; and Florida with perhaps thirty thousand white persons. Where is the criterion of proper numbers to be sought for? Is it in the ratio of representation in Congress? Why not say so, if it be intended? The greater portion of the territory is nearly unpopulated. It is not likely, either from its position or physical character, to be populated rapidly. What is to be its political condition until it has the proper number of inhabitants? It cannot be admitted into the Union until then. What is to become of it in the mean time? To what political category is it to belong? It is not to be a Territory. The bill makes no provision for it as such. We merely cut it off from California, and leave it to the uncertain progress of events, and the still more uncertain phraseology of our own statute. We cast it away, to use a barbarous law phrase, "*a flotsam*" on the ocean of politics—"*incertum quō fata ferant*"—to reclaim it ourselves at some future day, if we can find it first, and agree afterwards on the meaning of our own enactment.

I am opposed to this whole scheme; it seems to me to have been dictated by a desire to avoid embarrassing questions. I trust I appreciate rightly the motives of honorable Senators. But I hold that there is always more embarrassment in postponing or evading troublesome questions than in meeting them boldly, and disposing of them promptly when they present themselves. I propose to myself but two inquiries in reference to the course we ought to adopt. 1. What does the interest of the country, and, 2. What does the interest of California and New Mexico require? The answer seems to me to be too clear to be mistaken. I have already given it. Both considerations point to a territorial government, framed on proper principles.

What shall these principles be? This is the only question which remains to be considered. Recognizing, as I do, to the fullest extent, the Democratic doctrine of instructions, I am not altogether a free agent in this matter. During the last three years resolutions have been as many times passed by the Legislature of New York, and presented here by myself, declaring that in any territories acquired from Mexico slavery ought to be prohibited. I have endeavored to carry out the instructions by which those resolutions were accompanied. I have done so with the more cheerfulness, because, apart from all obligation of obedience, I believe them just.

I hold, then, that territorial governments ought to be organized for California and New Mexico, and that the act establishing them should contain a prohibition of slavery. I believe there never was an occasion in which such a prohibition was demanded by higher obligations than the present. I shall endeavor to make it apparent to the judgment of the Senate, and for this reason I shall be under the necessity of entering into a brief review of the origin and progress of slavery in the United States; and I shall begin with the condition of the American colonies before the establishment of their independence.

Slavery, I believe, was never originally established by law in any State in this Union, nor was it so established in the British colonies in America. The relation of master and slave, in modern times and in civilized States, usually springs up in the transactions of commerce, without positive authority, and the law afterwards comes in to regulate it. It was so in the American colonies. It is a curious fact, that the same year (1620) which witnessed the landing of the Pilgrims on the Rock of Plymouth saw the first ship enter the waters of the Chesapeake bay and the James river with Africans to be sold into slavery. It is still more curious that the ship freighted with freemen and the ship freighted with slaves commenced their voyages from the same country—Holland. In the same year the monopoly of the London company was overturned, and the commerce of the colony of Virginia was thrown open to free competition.

The introduction of slaves into that colony was one of the first fruits of this commercial freedom; not necessarily, but as one of those incidents which the chances of life bring with them to illustrate its uncertainties and its contradictions. There was no law in Virginia at that time authorizing the existence of slavery; nor was there any such law in England. It gained a foothold without law. Indeed, the early enactments of the colony of Virginia had for their objects to restrain the introduction of slaves, and to limit the control of their masters over them. Before the Revolution, she petitioned the British king to sanction the measures she had adopted for the suppression of the slave trade. The appeal was vain. It was the interest of British traders, who derived a mercenary profit from this detestable traffic, that it should continue; and, down to the period of the Revolution, every effort on the part of Virginia and the other colonies to put a stop to it was fruitless. Slavery was thus forced upon us by Great Britain; we are not responsible for its origin. In the North it has been abolished; in the South, peculiar circumstances have continued it in existence. I make no inquiry into those circumstances, or their necessary influence upon the result. The responsibility which rests upon us is to see that it is not further extended; that it shall not, as far as depends on us, be planted where it has never existed, or where it has been abolished.

After the termination of the war with Great Britain, when the American colonies, to use the language of the Declaration of Independence, had "assumed among the Powers of the earth the equal and separate station to which the laws of Nature and of Nature's God entitled them," the attention of the great men of the country was turned to the subject of slavery; not only with a view to its exclusion from the unoccupied portions of the Union, but with a view to its extinction in the States where it existed. The definitive treaty of peace with Great Britain, acknowledging our independence, was signed in September, 1783. In March, 1784, Mr. Jefferson introduced into the Congress of the Confederation a plan of a temporary government for the territory northwest of the Ohio river, containing a provision abolishing slavery after the year 1800 in that territory, now comprising the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin.

The anti-slavery clause received the votes of six States out of the ten present in Congress. Under the Articles of Confederation the delegates voted by States; and by the same Articles a majority of the thirteen States was requisite to carry any proposition. Mr. Jefferson's proposition, having received only six votes, was not adopted.

I hold in my hand, Mr. President, a copy of his plan for a temporary government for the Northwest Territory, made from the original, which I found a few weeks ago, among the archives of the Confederation, in the State Department, where they are deposited. [Appendix, No. 1.] The original is in the clear, careful handwriting of Mr. Jefferson; and it settles the question of authorship. It divides the territory into ten States instead of five, as was finally determined; and it contains the anti-slavery clause to which I have referred, and which has heretofore been attributed to him. I will read it for the information of the Senate. Like some other propositions of a kindred character, and of later date, it is in the form of a proviso:

"After the year 1800 of the Christian era, there shall be neither slavery nor involuntary servitude in any of the said States otherwise than in punishment of crimes whereof the party shall have been duly convicted to have been personally guilty." [Appendix, No. 2.]

I am happy to have had it in my power to refer this declaration to the author of an earlier declaration in favor of human freedom—I mean that of our independence—and to have found it in his own handwriting. Without this testimony, no one could doubt, on reading the whole paper, that it was written by him. It contains internal evidences of authorship which, to any one familiar with his style of composition and his peculiarity of thought, must be conclusive. Let it be known henceforth as the Jefferson proviso. As such, it will at least escape the imputation of selfish motives, from which, in the prevailing heat of party contention, no follower in the same field can hope to be exempt, however unjustly they may be attributed to him. I have already said that this proposition failed for the want of a single vote. It was renewed in 1785 by Rufus King, then representing the State of Massachusetts, and it was referred to a committee, though it was not finally acted upon at that time. The reference was made by the votes of eight States out of eleven present, one State being absent, and another represented by a single delegate, and therefore not entitled, according to the Articles of Confederation, to vote. [Appendix, No. 3.]

Thus things remained until 1787, when the ordinance of that year was passed establishing a government for the Northwestern Territory, and prohibiting slavery within it forever, except for crimes. This ordinance was reported by a committee of which Mr. Edward Carrington, of Virginia, was chairman, and Mr. Nathan Dane, of Massachusetts, a leading member. It received the votes of all the States present. It was a unanimous vote as to States, and unanimous, with a single exception, as to delegates. There were only eight States present, viz: Massachusetts, New York, New Jersey, Delaware, Virginia, North Carolina, South Carolina, and Georgia. The five absent States were New Hampshire, Connecticut, Rhode Island, Pennsylvania, and Maryland. The four first—New Hampshire, Connecticut, Rhode Island, and Pennsylvania—voted for Mr. Jefferson's proviso in 1784, and Maryland voted to refer Mr. King's proposition in 1785. [Appendix, No. 4.]

Thus, I think, it may be fairly asserted that if all the States had been represented in Congress, the vote would have been equally unanimous. The ordinance would have been adopted by the votes of the thirteen States.

The South united with the North in excluding slavery from this territory. It was a unanimous verdict of the whole country against the extension of slavery. It was the first great movement of our revolutionary fathers to rid themselves of the responsibility and the country of the evil of slavery. And I take great pleasure in awarding to a southern man (Thomas Jefferson) the conception of this great measure of justice and humanity.

While the Congress of the Confederation, sitting in New York, was framing the ordinance of 1787, the Federal Convention sitting in Philadelphia was framing the Constitution of the United States. While the former body was devising measures for the exclusion of slavery from the Northwestern Territory, the latter was engaged in providing for the suppression of the African slave trade. Thus, the representatives of the newborn Republic, legislating for the old Government, and framing a new system for the better administration of their common concerns—sitting in different places, and acting in separate capacities—were jointly engaged in eradicating what they considered a great public evil and reproach. While the former declared that slavery should thenceforth be forever prohibited in the Northwestern Territory, the latter virtually declared (though in the form of a restriction on the exercise of a power) the American slave trade should cease after the year 1807. It would have been abolished at once but for the opposition of South Carolina and Georgia, the only States which were at that time desirous of continuing it.

In the Federal Convention Virginia was among the foremost in her opposition to the slave trade. Madison, and Mason, and Randolph were distinguished for the ability and zeal with which they advocated its immediate suppression. They were unwilling to wait twenty years for its abolition. But their efforts were unavailing; and, for fear South Carolina and Georgia would not come into the Union, a compromise was agreed on, and the traffic was tolerated until 1808. On the first day of January of that year, the very first day Congress had power to make its prohibition effective, the slave trade was abolished forever by an act passed ten months before.

I have stated these historical details, Mr. President, for the purpose of showing two facts: 1. That the policy of the founders of the Republic was to get rid of slavery, by preventing its extension, and by suppressing the African slave trade; and 2. That some of the southern States were among the foremost in advocating both measures, with a view to the accomplishment of the ultimate object. One of the avowed objects of the abolition of the slave trade was to prevent the extension of slavery into the Territories. The same policy prevailed for many years. The inhabitants of the Northwest Territory, or a portion of it, (that portion, I believe, which now constitutes the States of Indiana and Illinois,) petitioned Congress for the privilege of importing slaves from the States; and they had sufficient influence to obtain two reports in favor of a temporary suspension of the sixth article of the ordinance of 1787. But their prayer was not granted. The inhabitants of Louisiana, before the abolition of the slave trade, petitioned for the privilege of importing slaves. Their prayer was denied. Wherever Congress had the power, it was exercised to prevent the extension of slavery beyond the States and Territories in which it existed.

I have always been opposed to interference with slavery where it exists. The Federal Government has no control over it, directly or indirectly, within the limits of the States. It is a civil relation over which they have exclusive jurisdiction. It must ever rest with them to determine whether it shall be continued or abolished within their limits. But it is not so with the Territories. Congress has always exercised the power of regulating their civil as well as their political relations. The territorial governments are the creatures of federal legislation; they have no powers except such as are conferred on them by Congress. Congress stands to the inhabitants of the Territories in the relation in which the State Legislatures stand to the people of the States. The power of regulating the internal concerns of the inhabitants of the Territories has been exercised under every administration since the adoption of the Constitution.

Sir, I hold the exercise of this power for the exclusion of slavery from California and New Mexico to be even of higher obligation than it was in respect to the Northwestern Territory. Slavery existed in that Territory at the time the ordinance of 1787 was framed and passed. The tenure of slaves owned by the inhabitants of the Territory and held within it was sanctioned by the courts. The prohibition was construed to extend only to persons born or brought into the Territory subsequently to the adoption of the ordinance.

The situation of California and New Mexico is entirely different. Mexico long since abolished slavery throughout her limits. The abolition was first publicly proclaimed by President Guerrero in 1829, in pursuance, as the decree declares, of extraordinary powers vested in him. It was again declared to be abolished by an act of the sovereign Congress in 1837, and again by the constitution of 1844. Though, as a nation, but imperfectly civilized, struggling against the embarrassments of bad government, and distracted by internal dissensions, arising, in a great degree, out of the heterogeneous character of her population, Mexico has, nevertheless, placed her institutions on the broad foundation of human liberty, by declaring all within her limits to be free.

To permit slavery to be carried into California and New Mexico would be to annul this declaration, and to reëstablish slavery where it has been abolished. I cannot consent to any settlement of this question which can by possibility have such a result.

Mr. BERRIEN. I desire to inquire of the Senator from New York if he intends to assert that the proclamation of President Guerrero was issued under any power specially delegated to him in reference to this subject?

Mr. DIX. I will answer the Senator with pleas-

ure. I take the decree as I find it. I said that the first public declaration was made by President Guerrero in 1829, in pursuance, as his decree stated, of extraordinary powers conceded to him. I am under no obligation to inquire further in relation to the matter, or to look behind the act for the authority on which it was founded.

Mr BERRIEN. I ask the question with a view of ascertaining whether the Senator was disposed to contend that slavery was abolished in New Mexico by virtue of any other power than this proclamation?

Mr. DIX. I suppose it was abolished by virtue of the authority on which the decree was made. I have the decree, and will read it, if the Senator from Georgia desires it.

Mr. BERRIEN. The Senator is not aware, perhaps, of the fact, that the power granted to the President was given him for the purpose of repelling invasion, and had no other object. I would propound another question: If slavery was abolished by force of the proclamation of President Guerrero, in 1829, what slavery remained in Mexico to be abolished by the act of the sovereign Congress, and whence did the sovereign Congress derive the power to do that which belonged to the municipal authorities of the several States exclusively?

Mr. DIX. I prefer not to answer the inquiry of the Senator; it will require a diversion from the course of my remarks, which I do not care to make. [See Appendix, No. 5.] I repeat—the first public declaration that slavery was abolished was made in 1829; the next by the Congress of 1837; and they were virtually reaffirmed by the constitution of 1844. I do not design now to go beyond the limits of these executive, legislative, and constitutional acts, to inquire into the authorities upon which they rested. I stated, when I was interrupted, that the effect of carrying slavery into California would be to subvert the prohibition contained in these acts. This is the first great objection. The second is, that it would be unjust to the community at large, by promoting the multiplication of a race which adds neither to the intellectual nor physical power of the body politic, and which excludes free labor as far as it extends the labor of slaves. I consider this one of the greatest objections to it. It should be our object to promote, in every constitutional mode, the extension of free labor, and the most effectual is to devote the unoccupied spaces of the West to the white race. The third objection is, that it would be unjust to California and New Mexico. They have no slaves. I believe I am authorized to say, they desire none.

Mr. FOOTE. I would inquire of the Senator from New York, if he considers that any injustice will result to California and New Mexico, by allowing the people of those territories to do with this matter as they please?

Mr. DIX. I am in favor of doing what the fathers of the Republic did in relation to the Northwestern Territory—of preventing the extension to California of what they considered, and what I consider, a great evil. If we carry slavery into New Mexico and California, we shall do it against the wishes of the people there. They have no slaves now, and we should plant slavery where it does not exist. We should stand before the world in the same relation in which Great Britain stood to her American colonies. She allowed slavery to be carried into those colonies against their wishes, and, in some instances, against their earnest remonstrances.

The introduction of slavery into California and New Mexico, as I conceive, would be the more indefensible, as there is nothing in the soil and climate which renders the labor of the African race necessary—nothing that makes it unsafe or oppressive for whites to be employed in productive industry under any of its forms. New Mexico consists, for the most part, of mountains, with narrow valleys between, which require to be watered by artificial means. There is no need of the African race. A large portion of California is elevated and broken. It yields nothing to the production of which slave labor is even claimed to be indispensable. Much of the value of that Territory consists in the maritime valley which lies on the Pacific. It is about five hundred miles long, and one hundred and fifty wide, with an area of some seventy-five thousand square miles. The breezes from the Pacific moderate the temperature, and the mountains on the east, rising to the height of thousands of feet, collect and precipitate the moisture of the atmosphere, and pour it down in fertilizing streams into the valley below. It is said by Frémont to bear a strong resemblance to Italy in soil, climate, and capacity for production. It is perhaps the finest region of the same extent in the western hemisphere. The vine, the olive, and the fig, the infinite variety of fruits and grains which are produced within the tropics, are to be found in California. Nature has, in a word, lavished upon it her choicest gifts. In the recent discoveries of gold, there is much to be deplored. Let us hope that it will soon become exhausted, and that the steady pursuits of agricultural, commercial, and mechanical industry, by which alone nations are made prosperous, may constitute the sole objects of application. There is no need of blacks in California; the white race can labor there without difficulty. The productions are such as to require the care and intelligence of the more intellectual race. It would be a perversion of the purposes of nature, in more senses than one, to carry slaves there.

I believe this will be the effect of the amendment of the Senator from Wisconsin, but not by virtue of any right conferred by the Constitution. I do not acknowledge the existence of any such right. I speak of practical effects. Slaves have been carried, and always will be carried, wherever they are not prohibited. Ohio, Indiana, Illinois, and Missouri are in the same range of States. The fortieth parallel of latitude divides them all. The influences of soil and climate are much the same in each. From the first three slavery has been excluded by the ordinance of 1787. The last has been overrun with slavery for want of a prohibition. The fate of California in this respect will be settled by similar laws. I believe we shall by the amendment under consideration lay the foundation of a contest among the inhabitants of California far more disastrous than their present disorganization. I hold it to be our duty to settle this question ourselves, instead of sending it out to the Pacific to distract our countrymen in laying the foundation of a new government.

I have but one more consideration to present in connection with this topic; and I submit whether this ought not to weigh much with us all? When the war with Mexico was commenced we were charged with the intention of acquiring territory with a view to carrying slaves into it. The charge was denied. We repelled the imputation as doing injustice to our motives. Yet, in the very first attempt to establish a government for that territory, the right is insisted upon—the purpose is confessed. Whether the Mexican Government was aware of this imputation I do not know; but, in the negotiation with Mr. Trist, the Mexican commissioners wished us to stipulate not to carry slavery into the territory which was proposed to be ceded.

Mr. FOOTE. Will the honorable Senator from New York allow me to propound a question to him? That question is this: Who, from the South, either here or elsewhere, has avowed any such purpose? Had southern Senators insisted upon anything but that Congress shall not legislate on the subject of slavery in the territories at all? Have we asked Congress to legislate for the introduction of slavery, or avowed any purpose of doing anything except to resist unconstitutional encroachment?

Mr. DIX. I was speaking of an avowed purpose to carry slaves into California; and I thought I understood the Senator from Mississippi not only as asserting the right, but as supporting his argument by contending that a portion of the country was likely to become a slaveholding region.

Mr. FOOTE. I said this, on that point: It is well known that slavery is adapted to only a small portion of this territory. Believing this to be the case, I urged that the moderation and forbearance of the South, in order to establish a territorial government affording protection to the people of these territories, is strikingly exhibited in her not urging her right, in any shape or form, to be authorized specially by law to carry slaves there. We ask nothing but to *be let alone*.

Mr. DIX. I cannot consent to go into this discussion now. I said, that whether the Mexican Government was aware of the imputation cast upon us, I did not know; but that in the negotiation with Mr. Trist, the Mexican commissioners wished us to stipulate that we should not allow slavery to be established in any territory they should cede to us. I will read a brief extract from a letter addressed by Mr. Trist to Mr. Buchanan upon this subject, while the negotiation was pending. It is dated the 4th September, 1847, and is contained in a document printed by order of the Senate:

"Among the points which came under discussion was the exclusion of slavery from all territory which should pass from Mexico. In the course of their remarks on the subject, I was told that if it were proposed to the people of the United States to part with a portion of their territory in order that the *Inquisition* should be therein established, the proposal could not excite stronger feelings of abhorrence than those awakened in Mexico by the prospect of the introduction of slavery in any territory parted with by her."

I could make no comment on this correspondence, if I were disposed, which would be half so eloquent as the facts. These Mexicans, whom we have been accustomed to consider half-civilized, vanquished in the field, driven from their capital, compelled to make peace with us almost on our own terms, and forced to cede a portion of their territory, implore us not to carry slavery into it. Sir, I ask how should we stand before the world, liberal and enlightened as we are, proclaiming to mankind the principle of human liberty as one of the inalienable rights of our race, if we were to disregard these entreaties?

Mr. MASON. Does the Senator refer to the petition which has been presented from New Mexico?

Mr. DIX. No, sir, I refer to Mr. Trist's negotiation in Mexico, and the representations made to him during an interview with the Mexican commissioners.

Mr. RUSK. I wish to ask the honorable Senator whether he does not know that the Mexican commissioners negotiated the treaty under the influence of an agent of the British Government?

Mr. DIX. I suppose there can be no doubt that the treaty is in strict accordance with the feelings and wishes of the Mexican people on this subject. Their repeated declarations in respect to the abolition of slavery prove it, under whatever influences the treaty may have been framed.

Mr. President, two years ago, when I first addressed the Senate upon this subject, under the instructions of the State of New York, I said that, by no instrumentality of hers, should slavery be carried into any portion of this continent which is free. I repeat the declaration now: by no act, by no acquiescence of hers, shall slavery be carried where it does not exist. I said at the same time that, in whatever manner this question should be settled, if it should be decided against her views of justice and right, her devotion to the Union and to her sister States should remain unshaken and unimpaired. Speaking in her name, and for the last time within these walls, I repeat this declaration also. She does not believe in the possibility of disunion. I am thankful that her faith is also mine. My confidence is founded upon the disinterestedness of the great body of the people, who derive their subsistence from the soil, and whose attachment is strong in proportion to their close communion with it. They have incorporated with it the labor of their own hands. It has given them back wealth and health and strength—health to enjoy and strength to defend what they possess. In seasons of tranquillity and peace they are unseen; too often, perhaps, forgotten; but it is in their silent and sober toil that the public prosperity is wrought out. It is only in the hour of peril that they come forth from a thousand hills and valleys and plains to sustain with strong arms the country they have made prosperous. In them the Union will find its surest protectors. They are too virtuous and too independent to be corrupted. They are spread over too broad a surface for the work of seduction. It is in towns and public assemblies, where men are concentrated, that the tempter can with more assurance sit down, as of old, in the guise of friendship, and whisper into the unsuspecting or the willing ear the lesson of disobedience and treachery. From this danger the great body of the people are secure. And let us be assured, that they will never permit the banner which floats over them at home, and carries their name to every sea, to be torn down, either by internal dissension or external violence. Such is my firm, my unalterable conviction. But, if I am mistaken

in all this—if the spangled field it bears aloft is destined to be broken up—then my prayer will be, that the star which represents New York in the constellation of States may stand fixed until every other shall have fallen!

APPENDIX—No. 1.

The following is a copy of Mr. Jefferson's plan:

The committee appointed to prepare a plan for the temporary government of the Western Territory, have agreed to the following resolutions:

Resolved, That the territory ceded or to be ceded by individual States to the United States, whensoever the same shall have been purchased of the Indian inhabitants, and offered for sale by the United States, shall be formed into distinct States, bounded in the following manner, as nearly as such cessions will admit—that is to say: northwardly and southwardly by parallels of latitude, so that each State shall comprehend, from south to north, two degrees of latitude, beginning to count from the completion of thirty-one degrees north of the equator: but any territory northwardly of the forty-seventh degree shall make part of the State next below; and eastwardly and westwardly they shall be bounded, those on the Mississippi by that river on one side, and the meridian of the lowest point of the rapids of Ohio on the other; and those adjoining on the east by the same meridian on their western side, and on their eastern by the meridian of the western cape of the mouth of the Great Kanawha; and the territory eastward of this last meridian, between the Ohio, Lake Erie, and Pennsylvania, shall be one State.

That the settlers within the territory so to be purchased and offered for sale, shall, either on their own petition, or on the order of Congress, receive authority from them, with appointments of time and place for their free males, of full age, to meet together for the purpose of establishing a temporary government, to adopt the constitution and laws of any one of these States, so that such laws nevertheless shall be subject to alteration by their ordinary legislature; and to erect, subject to a like alteration, counties or townships for the election of members for their legislature.

That such temporary government shall only continue in force in any State until it shall have acquired twenty thousand free inhabitants; when, giving due proof thereof to Congress, they shall receive from them authority, with appointments of time and place, to call a convention of representatives to establish a permanent constitution and government for themselves: *Provided*, That both the temporary and permanent governments be established on these principles as their basis: 1. [That they shall forever remain a part of the United States of America;] 2. That, in their persons, property, and territory, they shall be subject to the Government of the United States in Congress assembled, and to the Articles of Confederation in all those cases in which the original States shall be so subject; 3. That they shall be subject to pay a part of the Federal debts contracted or to be contracted, to be apportioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on the other States; 4. That their respective governments shall be in republican forms, and shall admit no person to be a citizen who holds any hereditary title; 5. That after the year 1800 of the Christian era there shall be neither slavery nor involuntary servitude in any of the said States, otherwise than in punishment of crimes, whereof the party shall have been duly convicted to have been personally guilty.

That whensoever any of the said States shall have, of free inhabitants, as many as shall then be in any one of the least numerous of the thirteen original States, such State shall be admitted by its delegates into the Congress of the United States on an equal footing with the said original States: after which the assent of two-thirds of the United States in Congress assembled shall be requisite in all those cases wherein, by the Confederation, the assent of nine States is now required: *Provided*, The consent of nine States to such admission may be obtained according to the eleventh of the Articles of Confederation. Until such admission, by their delegates into Congress, any of the said States, after the establishment of their temporary government, shall have authority to keep a sitting member in Congress, with right of debating but not of voting.

That the territory northward of the forty-fifth degree, that is to say, of the completion of forty-five degrees from the equator, and extending to the Lake of the Woods, shall be called SYLVANIA.

That of the territory under the forty-fifth and forty-fourth degrees, that which lies westward of Lake Michigan, shall be called MICHIGANIA; and that which is eastward thereof, within the peninsula formed by the lakes and waters of Michigan, Huron, St. Clair, and Erie, shall be called CHERRONESUS, and shall include any part of the peninsula which may extend above the forty-fifth degree.

Of the territory under the forty-third and forty-second degrees, that to the westward, through which the Assenisipi or Rock river runs, shall be called ASSENISIPIA; and that to the eastward, in which are the fountains of the Muskingum, the two Miamies of the Ohio, the Wabash, the Illinois, the Miami of the Lake, and Sandusky rivers, shall be called METROPOTAMIA.

Of the territory which lies under the forty-first and fortieth degrees, the western, through which the river Illinois runs, shall be called ILLINOIA; that next adjoining to the eastward SARATOGA; and that between this last and Pennsylvania, and extending from the Ohio to Lake Erie, shall be called WASHINGTON.

Of the territory which lies under the thirty-ninth and thirty-eighth degrees, to which shall be added so much of the point of land within the fork of the Ohio and Mississippi as lies under the thirty-seventh degree, that to the westward, within and adjacent to which are the confluences of the rivers Wabash, Shawanee, Tanissee, Ohio, Illinois, Mississippi, and Missouri, shall be called POLYPOTAMIA; and that to the eastward, further up the Ohio, otherwise called the Pelisipi, shall be called PELISIPIA.

That the preceding articles shall be formed into a charter of compact, shall be duly executed by the President of the United States in Congress assembled, under his hand and the seal of the United States, shall be promulgated, and shall stand as fundamental constitutions between the thirteen original States and those newly described, unalterable but by the joint consent of the United States in Congress assembled, and of the particular State within which such alteration is proposed to be made.

This paper is endorsed as follows, in a different handwriting, supposed to be that of a clerk:

"Report—Mr. Jefferson,
Mr. Chase,
Mr. Howell.
Temporary government of Western Country,
Delivered 1 March, 1784,
Ent'd—Read—
March 3.
Monday next assigned for the consideration of this report.
March 17, 1784,
Recommitted."

WASHINGTON, *February* 20, 1849.

I certify, that at the request of my father, and with the permission of Mr. Buchanan, Secretary of State, the foregoing copy of "a plan for the temporary government of the Western Territory" was made by me from the original, deposited in the State Department among the archives of the Congress of the Confederation; and that I compared the copy with the original, with the assistance of Lund Washington, Jr., Esq., and found it correct. MORGAN DIX.

APPENDIX—No. 2.

The following is the vote on the anti-slavery clause of Jefferson, above given, April 19, 1784:

New Hampshire	Mr. Foster,	ay	ay.
	Mr. Blanchard,	ay	
Massachusetts	Mr. Gerry,	ay	ay.
	Mr. Patridge,	ay	
Rhode Island	Mr. Ellery,	ay	ay.
	Mr. Howell,	ay	
Connecticut	Mr. Sherman,	ay	ay.
	Mr. Wadsworth,	ay	
New York	Mr. De Witt,	ay	ay.
	Mr. Paine,	ay	
New Jersey	Mr. Dick, *	ay	*
Pennsylvania	Mr. Mifflin,	ay	ay.
	Mr. Montgomery,	ay	
	Mr. Hand,	ay	
Maryland	Mr. McHenry,	no	no.
	Mr. Stone,	no	
Virginia	Mr. Jefferson,	ay	no.
	Mr. Hardy,	no	
	Mr. Mercer,	no	
North Carolina	Mr. Williamson,	ay	div.
	Mr. Spaight,	no	
South Carolina	Mr. Read,	no	no.
	Mr. Beresford,	no	

[*Journals of Congress, (Way & Gideon,) vol.* 4, *p.* 373.]

APPENDIX—No 3.

The following is a copy of Mr. King's proposition:

"That there shall be neither slavery nor involuntary servitude in any of the States described in the resolve of Congress of the 23d of April, 1784, otherwise than in punishment of crimes whereof the party shall have been personally guilty; and that this regulation shall be an article of compact, and remain a fundamental principle of the Constitution, between the thirteen original States and each of the States described in the said resolve of the 23d of April, 1784."

On the question for commitment, the yeas and nays being required by Mr. King, the vote was as follows:

New Hampshire	Mr. Foster,	ay	ay.
	Mr. Long,	ay	
Massachusetts	Mr. Holton,	ay	ay
	Mr. King,	ay	
Rhode Island	Mr. Ellery,	ay	ay.
	Mr. Howell,	ay	
Connecticut	Mr. Cook,	ay	ay.
	Mr. Johnson	ay	
New York	Mr. W. Livingston,	ay	ay.
	Mr. Platt,	ay	
New Jersey	Mr. Beatty,	ay	ay.
	Mr. Cadwalader,	ay	
	Mr. Stewart,	ay	
Pennsylvania	Mr. Gardner,	ay	ay.
	Mr. W. Henry,	ay	
Maryland	Mr. McHenry,	no	ay.
	Mr. J. Henry,	ay	
	Mr. Hindman,	ay	
Virginia	Mr. Hardy,	no	no.
	Mr. Lee,	no	
	Mr. Grayson,	ay	
North Carolina	Mr. Spaight,	no	no.
	Mr. Sitgreaves,	no	
South Carolina	Mr. Bull,	no	no.
	Mr. Pinckney,	no	
Georgia	Mr. Houston,	no.	*

[*Journals of Congress, vol.* 4. *p.* 481.

The vote was taken on the 16th March, 1785.

* The asterisk opposite the name of Mr. Dick, of New Jersey, indicates that the vote was not counted, as a State could not be represented by less than two members or delegates. (See section 2, art. 5, of the Articles of Confederation.)

APPENDIX—No. 4.

The sixth article of the ordinance of 1787 is inserted here to show how far it conforms in language to the anti-slavery proposition of Mr. Jefferson, in 1784, and that of Mr. King, in 1785:

"That there shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid."

On the 13th July, 1787, the ordinance of which the above is a part was passed by the following vote:

Massachusetts	Mr. Holten,	ay	ay.
	Mr. Dane,	ay	
New York	Mr. Smith,	ay	ay.
	Mr. Haring,	ay	
	Mr. Yates,	no	
New Jersey	Mr. Clarke,	ay	ay.
	Mr. Sheurman,	ay	
Delaware	Mr. Kearny,	ay	ay.
	Mr. Mitchell,	ay	
Virginia	Mr. Grayson,	ay	ay.
	Mr. R. H. Lee,	ay	
	Mr. Carrington,	ay	
North Carolina	Mr. Blount,	ay	ay.
	Mr. Hawkins,	ay	
South Carolina	Mr. Kean,	ay	ay.
	Mr. Huger,	ay	
Georgia	Mr. Few,	ay	ay.
	Mr. Pierce,	ay	

[*Journals of Congress, vol.* 4, *p.* 754.

APPENDIX—No. 5.

The answer which Mr. DIX declined making to Mr. BERRIEN, from an unwillingness to be further interrupted in the course of his remarks, he now proceeds to give.

The decree of President Guerrero will be found, as indicated below, in the collection of laws and decrees of the General Congress of Mexico. It is classed among the decrees made by the Government by virtue of extraordinary powers, and the original is in the following words:

ABOLICION DE LA ESCLAVITUD.

El Presidente de los Estados Unidos Mejicanos a los habitantes de la republica, sabed:

Que deseando señalar en el año de 1829, el aniversario de la independencia con un acto de justicia y de beneficencia nacional que refluyia en beneficio y sosten de bien tan apreciable; que afiance mas y mas la tranquilidad publica; que coopere al engrandecimiento de la republica, y que reintegre à una parte desgraciado de sus habitantes en los derechos sagrados que les dió naturaleza y proteje la nacion por leyes sabias y justas, conforme à lo dispuesto por el art. 30, de la acta constitutiva; usando de las facultades extraordinarias que me estàn concedidas, he venido en decretar:

1. Queda abolida la esclavitud en la republica.

2. Sòn por consiguiente libres los que hasta hoy se habian considerado como esclavos.

3. Cuando las circunstancias del erario lo permitan, se indemnizarà a los propietarios de esclavos en los terminos que dispusieren las leyes.

Mejico, 15 de Setiembre de 1829. A. D. José Maria de Bocanegra.

[Coleccion de Leyes y Decretos, etc., en los años de 1829 y 1830, pag. 147.]

[Translation.]

ABOLITION OF SLAVERY.

The President of the United Mexican States to the inhabitants of the Republic:

Desiring to signalize, in the year 1829, the anniversary of Independence by an act of national justice and beneficence, which may tend to the benefit and support of so important a good; which may strengthen more and more the public tranquillity; which may coöperate in the aggrandizement of the Republic; and which may restore to an unfortunate portion of its inhabitants the sacred rights which nature gave them, and the nation protected by wise and just laws, in conformity to the provision of the 30th article of the constitutive act; exercising the extraordinary powers which are conceded to me, I do decree:

1. Slavery is abolished in the Republic.

2. Those who until to-day have been considered slaves, are consequently free.

3. When the condition of the treasury will permit, the owners of the slaves will be indemnified in the manner which shall be provided for by law.

MEXICO, 15*th September*, 1829. A. D.
JOSE MARIA DE BOCANEGRA.

[Collection of Laws and Decrees, &c., in the years 1829 and 1830, page 147.]

The following addition, not contained in the above collection, will be found at page 147, of the American Annual Register, of 1829, 1830:

And, in order that the present decree may have its full and entire execution, I order it to be printed, published, and circulated to all those whose obligation is to have it fulfilled.

Given in the Federal Palace of Mexico, on the 15th of September, 1829. VINCENTE GUERRERO.
LORENZO DE ZAVALA.

The publication of this decree in the general collection of the Laws and Decrees of Mexico

would seem to afford, *primâ facie*, sufficient evidence of its authority. But there are higher evidences. In the law of 5th April, 1837, of which an extract is given below, it is recognized in the following terms:

"Los dueños de esclavos manumitidos por la presente ley ó por el decreto de 15 de Setiembre de 1829, serán indemnizados," etc. [Coleccion de Leyes y Decretos, etc., tomo 8, pag. 201.]

[Translation.]—The masters of slaves manumitted by the present law or by the decree of the 15th of September, 1829, shall be indemnified, &c. [Collection of Laws and Decrees, &c., vol. 8, page 201.]

The extraordinary powers, by virtue of which this decree was made, do not appear to have been conferred, as Mr. BERRIEN supposes, for the purpose of repelling invasion. The decree does not show that they had such a purpose at all. They were vested in the Executive by an act of the Third Constitutional Congress, in the following words:

FACULTADES EXTRAORDINARIAS AL GOBIERNO.

ART. 1. Le autoriza al ejecutivo de la Federacion para adoptar cuantos medidas sean necesarias á la conservation de la independencia, del sistema actual de gobierno, y de la tranquilidad.

2. Por el articulo anterior no queda el gobierno autorizado para disponer de la vida de Mejicanos, ni para espelerlos del territorio de la Republica.

3. Esta autorizacion cesará tanluego como el Congreso General se reuna en sesiones ordinarias.

[Coleccion de las Leyes y Decretos expedidos por el Congreso General, etc., de 1829 y 1830, pag. 55.]

[Translation.]

EXTRAORDINARY POWERS TO THE GOVERNMENT.

ART. 1. The Executive of the Confederation is authorized to adopt whatever measures may be necessary for the preservation of independence, of the present system of government, and of tranquillity.

ART. 2. By the preceding article the Government is not authorized to dispose of the lives of Mexicans, or to expel them from the territory of the Republic.

ART. 3. This authority shall cease as soon as the General Congress shall meet in ordinary sessions.

[Collection of Laws and Decrees made by the General Congress, &c., of 1829 and 1830, page 55.]

The powers conferred by the first article are only limited by the provisions of the second and third, excepting so far as they may be considered restrained by the purposes for which they were conferred. These purposes are very extensive—so much so as to comprehend nearly all the great ends of government. The decree of President Guerrero, as will be perceived, has reference to the very purposes for which the extraordinary powers were delegated—to support "independence" and strengthen the "public tranquillity." The extraordinary powers referred to were conceded on the 25th August, 1829, and the government was required to report to the Congress to assemble in January, 1830, the necessity that existed in the cases in which it had exercised the powers conferred by the first article. The Congress met in January, and continued in session, ordinary and extraordinary, with brief intermissions, till the 29th December, 1830. During this period, the decree of Guerrero was untouched. But on the 15th February, 1831, a resolution was passed by Congress declaring that the laws, decrees, rules, orders, and provisions, which belonged to the legislative authority, and which the government had made by virtue of the extraordinary powers referred to, were subject to the qualification of Congress, and were to be without effect until revised by the Chambers. There were, however, exceptions to the rule. How far the decree of Guerrero was affected by this declaration—whether it was an authority executed and not to be revoked, or whether it was suspended in its operation until 1837, it is not necessary to inquire. The subsequent recognition of the decree by legislative and constitutional enactments disposes of the question of authority. It is hardly admissible in us to dispute the validity of an act of the Mexican Government thus recognized in Mexico; or to assert, in the face of that recognition, that the power of abolishing slavery belonged to the municipal authorities of the several States.

The act of Congress of 1837, referred to by Mr. DIX, is in the following words:

"Queda abolida sin escepcion alguna la esclavitud en toda la república: Abril 5, de 1837." [Coleccion de Leyes y Decretos, etc., tomo 8, pag. 201.]

[Translation.]—Slavery is forever abolished, without any exception, in the whole republic: April 5, 1837. [Collection of Laws and Decrees of the General Congress of the United Mexican States, volume 8, page 201.]

The constitution of 1844 (of Tacubaya) reiterates the prohibition of slavery in the following words: "Slavery is forever prohibited."—*Thompson's Mexico*, page 180.

It will be perceived that the constitution of 1844 does not abolish slavery: it prohibits it. From the difference between the phraseology of the decree of 1829 and the act of Congress of 1837 and that of the constitution of 1844, is it not fairly to be inferred that the latter designed to prohibit in the future what the two former acts had abolished in the past?

On the strength of these authorities, Mr. DIX asserted that Mexico had long since abolished slavery throughout the republic.

Mr. DICKINSON obtained the floor, after Mr. Dix had concluded. He said:

I do not forget, Mr. President, nor do I intend the country shall forget, that more than six months have rolled away since the Senate, after mature deliberation and full debate, passed a bill erecting efficient civil governments in the Territories of New Mexico and California, and sent it to the House of Representatives for concurrence; where it still reposes upon the table unacted on; though by the joint rules of the two Houses, it has vitality at this, as it had at the last session, and needs only the concurrence of that branch, and the signature of the President, to become a law. Under these circumstances, had I been left to consult my own wishes, I would have taken no further steps until the immediate representatives of the people should, in their wisdom, so far sympathize with the necessitous condition of the Territories in question, and the demands of the people throughout the Union, as to act upon this bill which we sent them, and either pass it as it is, or with amendments, or reject it altogether. The responsibility of leaving these Territories without government has heretofore rested with the popular branch, and there I would have left it; for I am confident nothing will pass there, unless it contains some element of discord which cannot and ought not to receive the sanction of the Senate. But other Senators, whose hopes are more sanguine than my own, in view of the peculiar and alarming circumstances, have thought proper to make further efforts, and to that end have brought forward various propositions for the consideration of the Senate; some giving a temporary, and some a more permanent government for the Territories, and among them that of the Senator from Wisconsin, [Mr. WALKER,] now under consideration. It is now at the close of the session, and the last hope of providing a government rests in this amendment; for, if it is not adopted, nothing else on this subject will be. It well came as an offering of peace from that young and cherished State which has just been admitted into the Union, and her Senator who offers it, for his patriotic devotion, is entitled not only to the thanks of his constituents, but to the grateful acknowledgments of the whole people of the Union.

These Territories, with the inhabitants residing therein, I need not say, were recently transferred by a foreign government to the United States, under a treaty of peace. We have taken them from their former government, if government it can be called, to our protecting arms; and since it is our practice to fashion governments for our Territories, we are admonished by every consideration that can influence human action, to extend to them that security of life, liberty, and property which our Constitution guaranties to the humblest American citizen. The amendment under consideration attains this end; and although I would have preferred it in another place and in another form, it being this or nothing, I have cheerfully yielded all objection either to form or substance, and shall vote hereafter, as I have before, with a view to enact it into a law. And I crave the indulgence of the Senate for a few moments while I state the reasons which influence me—an indulgence I would not have sought, but for the somewhat extraordinary, and, as I think, inconsistent reasons taken against it by my honorable colleague. The leading objection urged in this regard is, that it confers too much power upon the Executive; and, although my colleague professes to repose high confidence in the distinguished individual who is soon to be invested with the responsibility of the Executive functions, he declares he will commit to the hands of no Chief Magistrate powers so extensive and plenary. At the last session a bill was under consideration conferring no unusual power on the Executive; and this one, too, my colleague opposed and voted against for other reasons. Under other and ordinary circumstances, I should regard a proposition of this kind with disfavor; but a peculiar emergency has arisen in our history, demanding prompt and decisive measures, and, for one, I am prepared to meet it with corresponding action. I have no honeyed phrases for the ear of the incoming President. It is enough for me that I have done him no injustice, in thought, word, or deed. If he is interested to know my sentiments concerning him, he will best learn them by the manner in which I shall discharge the relations in which we are soon to be placed, and I shall judge of him by his public and official conduct. For all the purposes of this question, I will not inquire upon what name is cast the powers and responsibilities of the Executive, nor by what portion of the people elected. I shall regard him only as the great and honored agent of the American people; upon him as such I shall seek to devolve the duties, and in him as such I shall confide for their discreet and judicious exercise; holding him at all times, as those whose servant he is will hold him, to a most rigid and severe accountability. He is clothed by the Constitution with the whole power of the army and navy of the United States, of which he is commander-in-chief, and in that capacity will wield for the preservation of order in these Territories all that is arbitrary and despotic in our institutions, and I fear not to mitigate the rigor of this sanguinary code by substituting the Constitution for the sword, the minister of justice for the bayoneted soldier, and the rectifying influences of the common law for military rule. It is merely permitting the President temporarily, and until Congress shall make further provisions, through legal and constitutional agencies, to extend to the people civil instead of military government; for the purpose of enforcing the performance of contracts, of punishing crime, and for the preservation of social order. And when its propriety is rendered obvious by circumstances of such extreme urgency, I shall favor it with my whole heart, let who will oppose, and for whatever reasons, alleged or real. Nor can those consistently resist it who believe that a government of opinion and law is superior in its moral influences to a government of force. Without descending to details as tedious as they are profitless, it is sufficient for my purpose to say, that the amendment under consideration is the same in substance as the laws by which Florida and Louisiana were successfully governed for a number of years after their acquisition, respectively, by the United States. They were acquired, as were New Mexico and California, with a foreign population. Under this Executive form of government, prosperity attended them; they were admitted into the Union as equal members of the Confederacy, and no detriment came to either government or people. It is far easier to cavil over and multiply objections against any and every proposition which can be suggested, than to procure the passage of some reasonable measure which will give law and protection to those which have neither.

But my colleague, in detailing his reasons for opposing this amendment, has employed some of the strongest arguments in its favor; reasons which doubtless induced its introduction in this form by the Senator who moved it. He reminds us that the inhabitants residing there on the ratification of the treaty were a semi-barbarous race, who could neither read, write, speak, nor understand our language; that they are utterly unacquainted with the character of our institutions, and have none of the essential qualifications of freemen; that the temporary inhabitants and those who have migrated there are many of them deserters from the army and navy—outcasts and adventurers from all parts of the world, of the most desperate and abandoned character, attracted thither by a spirit of avarice, without the moral restraints which uphold civilized communities; and that the bonds of society are virtually dissolved. And yet, when this is the last hope of extending them any protection, in the same breath he inveighs against giving them a temporary government peculiarly suited to their anomalous condition, and strong enough to hold in check the violence and anarchy which so alarmingly prevail there, lest it may not be, word for word and letter for letter, as some other territorial

government, at some other time and under some other circumstances, has been; and lest, too, more power may be temporarily confided to the President than ordinarily would be prudent or desirable. He tells us this people must pass through the process of *fermentation*, to employ his own term, before they will be qualified to discharge the duties of citizens; and he proposes to encourage that process by administering to them the ordinance of 1787. This, he seems to suppose, would at once put their fermental qualities in motion, and carry off all physical, moral, and political impurities, and leave them fitted to discharge understandingly many, if not all, the high functions of self-government. They are now depressed and degraded, is the argument, and they must be *raised*, by the *leaven* of this celebrated ordinance, from vice and barbarism and ignorance to the highest privileges of freemen. By its magic influences all shall then read, write, speak, and understand our language and comprehend the spirit of our institutions; and the avaricious aspirations of the worshippers of Mammon, who are digging for the root of all evil upon the shores of the Sacramento, shall be chastened to the temper and quiet of the most self-denying and orderly. Empirics in medicine usually have some one infallible remedy for all manner of diseases which afflict our nature, whether chronic or acute, whether of body or of mind, or howsoever originating or tending; and, I say it with becoming respect, disclaiming all application of the remark except to a political organization or class, the ordinance of 1787 is by some prescribed at all times and upon all occasions as a catholicon for all political ills or embarrassments to which society is heir.

But amongst the other propositions submitted to the Senate have been those providing for the admission of California as a State. One of these has been before us. It was ably discussed and fully considered, and was rejected, receiving only four votes in its favor; and, although a duplicate is yet upon our orders, no one proposes to revive it, or to attempt the hopeless task of breathing into it life. My colleague has, however, thought proper, for reasons to me utterly incomprehensible, to exhume the remains, and subject them in detail to a *post mortem* examination—a process evidently distasteful to himself, and certainly unnecessary for the benefit of either dead or living. The proposition is not before us in form or substance, in whole or in part, and is not to be. Whenever it or a like project is, it will be soon enough for me to discuss it. It will be in season for me to justify it whenever I propose to vote for it or sustain it; but in the mean time I shall leave it to its repose, and shall not permit objections, whether of form or substance, whether real or imaginary, taken against that bill, to be urged against, argued into, or interwoven with the provision under consideration, for the purpose of raising a prejudice against it, when the two are about as unlike as they could be framed in the same language. Accustomed to discuss the question before us, I cannot consent to depart from my usual course. I concede the victory over the dead bill, under the circumstances, to be complete and triumphant, and as easy withal as was that of a distinguished warrior over his celebrated knights in buckram.

He further informs us that he will not consent to the dismemberment of California, or to play towards New Mexico the part of Russia and other Powers towards Poland! Nor will I; nor will I ever consent to play towards our Territories the part of Great Britain to the American colonies! And does he inform us who will do what he disclaims? Why, I inquire, this declaration here? Is it pretended that this amendment proposes any merger of the one or dismemberment of the other, or anything of the kind? Certainly not, for it merely provides for the administration of law and the preservation of order in the whole territory acquired by the treaty, until Congress shall make further and more ample provisions. If it is intended to insinuate that those who favor this amendment would either merge or dismember, the remark is unjust. If a mere abstract declaration of patriotism, quite well, but at least gratuitous.

But, sir, the for-a-time concealed objection against providing this temporary government has finally had development, where I supposed it would, in the agitation of the question of slavery. I listened with unfeigned pleasure to the startling appeals against the danger of Executive power and patronage which this amendment proposed to confer, and to other criticisms of that class, well calculated to interest the Senate and amuse the public. I experienced a momentary gratification that some other bugbear than the extension of slavery had been brought out, and that some other dish than *black broth* was to be served up, and was ready to exclaim with Macbeth, "take any other shape than that." It soon, however, degenerated to the same old cry, which, without having accomplished one good or humane purpose, has for the last few years arrested the legislation of Congress, and served to array one section of the Union in strife and bitterness against the other. Upon this miserable question, which is all that has heretofore prevented, and now prevents the organization of these Territories, I propose a few general considerations; and that we may properly appreciate the present, and have due regard for the future, we should not be unmindful of the history of the past.

When a portion of these States were colonies of Great Britain, that Government insisted upon abolishing the colonial legislatures, and subjecting our people, in matters that concerned their domestic condition, to the legislation of Parliament; and the controversy which arose over this question, more than any other, produced that revolution which resulted in declaring the colonies to be free and independent States. Not only were they free and independent of other Governments, but as independent of each other as they were of the gigantic Power whose acknowledgment of independence they had conquered. Although they had successfully struggled for liberty, by a united effort in a common cause, and were bound together by a feeling of sympathy and of interest, they were united by no political bonds whatsoever, and no single State nor any number had the right, in either a moral or political sense, to interfere with or question the institutions of any other. Slavery then existed in all the States, and it was easily seen that while it would speedily be abolished in some, from natural causes, it would long continue in others, whether or not a union of the States was formed; and as slavery must exist, it was wisely deemed better to have a Union with slavery, than slavery without a Union. Its existence was then as now deplored, but then, not as now, the spirit of patriotism rose above the spirit of a sickly philanthropy and local benevolence, and the patriots of that day, with the spirit of the revolution upon them, saw that the triumph which, under the blessing of Heaven, they had achieved would be best secured, and the general welfare of the States and of the people best promoted, by uniting together in one great Confederacy for purposes specially defined. And, animated by the influences which impelled them onward, the Constitution, which binds together this family of sovereign States, and secures by abundant guarantees the rights and interests of each and all, was formed and adopted; and still each State, in all that concerns its domestic condition, is as sovereign and independent as it was before. And how, from that auspicious moment, has our progress been upward and onward! From three we have advanced to twenty millions of people—from thirteen to thirty sovereign States, with almost boundless territorial possessions. Peace and prosperity attend us; industry is amply rewarded; labor is not burdened; want and famine are unknown; we are respected among the great nations of the earth; and, so far as has been vouchsafed to fallen man, life, liberty, and the pursuit of happiness are secured to all. Haman could not enjoy the honors and blessings with which he was laden, because Mordecai the Jew was permitted to sit at the king's gate; and, like that envious and malignant demon, there are those amongst us to whom all these blessings avail nothing, so long as a portion of the States continue, under the guarantees of the Constitution, that which existed in all at the time the Confederacy was formed; and they openly demand and deliberately petition that the Union be dissolved for this cause alone. I am aware it will be said that this extreme and frantic outcry proceeds only from a few madmen and fanatics, and is the joint effort of the weak and the wicked, and that those who are now in the incipient stages of the same disease do not propose to follow them, and only oppose the further *extension of slavery*. But it was only yesterday, as it were, that many of those who now cry loudest and go furthest were where others have commenced; and again, to-morrow, those who have just taken their first lessons will find themselves where others who have traveled in the same direction have gone before them. It has been unfortunately discovered that "the ambitious youth who fired the Ephesian dome survived in fame the pious fool who reared it," and a thirst for notoriety has been the order of the day. For three years we have been unable to organize a Territory, to pass a bill of appropriation, to declare war, to feed and clothe a famishing army, or to ratify a treaty of peace, without encountering in our pathway the hideous and haglike shadow of slave agitation. Even this attempt to give to an unprotected people the temporary benefits of law and order, is resisted in the same quarters and by the same arguments and influences that others have been, and my colleague tells us he can vote for no bill unless it contains the provisions of the ordinance of 1787. This, like the voracious rod of Aaron, with him, swallows up all other considerations. By way, doubtless, of investing it with additional consideration, he has given us the benefit of its history, and shows that Mr. Jefferson proposed one of a similar character in 1784, which was not adopted. I will spend no time in commenting upon the historic truisms, with which it is sought to surround and magnify this provision and the proceedings in which it orginated; for it has, in my judgment, no more application to our present condition, as mere authority, than an extract of equal length from the Koran of Mahommed. But my colleague has seen the original draught of the one offered by Mr. Jefferson which was rejected, and is able to testify that it is actually in the handwriting of that distinguished statesman. Well, suppose it is. However interesting this may be to the curious in such matters, and especially to the collectors of autography, I am yet unable to perceive what practical value it affords for the purposes in question. Suppose it could be found in the language of inspiration, in the original Hebrew, and in the handwriting of a prophet or an apostle; this ought not to, and would not, with those who judge of a matter by what it contains rather than the source from which it comes, give it any additional fitness for a purpose entirely foreign to that for which it was prepared and proposed, and to which it has not now, and never had, any just application whatsoever.

The ordinance proposed by Mr. Jefferson in 1784, which was rejected, and that which was proposed by Mr. Dane, of Massachusetts, and others, and was adopted in 1787, were, it will be seen, proposed before the States were united under a constitution, and while our fathers were groping, by the dim lights which the history of that period afforded, for some plan of confederacy by which the territory in question, ceded or to be ceded by particular States, for the benefit of all, should be governed. There was then no constitution uniting the Federal Government and defining and limiting its powers, and it was competent for individual States ceding their territory to prescribe such terms and provisions as they should choose, and for the States generally, by such special agreement or compact as they could unite upon, to prescribe the terms and conditions on which the ceded territory should be governed. It was a contract proposed to be entered into by all the parties interested, and as such derived all its character and force. And now, because a certain agreement was made by the parties interested for the government of the Northwestern Territory, ceded by particular States for the benefit of all, before we had a Constitution to guide us, it is insisted that, under the Constitution, from which Congress derives all its authority, and in which no such power is specified, Congress shall do as a matter of right, in defiance of the protest of a portion of the States to the common property, that which was done by the consent of all, including the sole owner, before the Constitution was adopted. The difference, when properly illustrated, being simply this: Three individuals enter into an agreement for their mutual benefit and advantage, and abide by its provisions. Three others of equal rights, under other circumstances, not being able to agree satisfactorily, two of them, finding that an agreement had once been voluntarily made by three under other circumstances, insist that the *precedent* ought to be followed, and

compel the third by force to submit to their terms. Besides, if there is any particular charm belonging to this ordinance which entitles it to be adopted, whether applicable or not to our condition, it should be taken as a whole—in all its parts and with all its provisions. One of these is as follows, and its perusal will show the utter absurdity of its application to our present condition:

"That both the *temporary* and permanent governments shall be established on these principles as their basis: that they shall be subject to pay a part of the Federal debts, contracted or to be contracted, to be apportioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on the other States."

A proposal at this time to impose upon the temporary government of a Territory a portion of the Federal debts, contracted or to be contracted, would be universally received throughout the Union with derision and indignation; and yet it may be as fairly insisted upon, as a valuable precedent or binding authority, as any other provision of the ordinance. We must not go forward, but all legislation must be arrested until the burial-field of deceased documents can be ransacked, and the marrowless bones of the ordinance of '87 be clothed anew with flesh and sinews, that it may perform, regardless of the Constitution, an office it was designed to discharge without one. We must be dragged back from a perfect Union to a patched-up Confederacy, and our mature manhood of this century be cramped and fettered by the swaddling habiliments of the infant of a past one. Anarchy must reign, and bloodshed and crime and disorder triumph in the Territories, until we can demonstrate a political problem from some musty precedent, and, instead of acting for ourselves, as the occasion requires, we must try to ascertain how others have acted at some other time, upon some other occasion, that we may act like them.

But it seems that the cognomen by which this ordinance has recently been known, and under which it has transacted a somewhat extensive business, is no longer deemed desirable, and that a change, which is seldom sought for slight or transient causes, has been thought prudent, if not necessary. My honorable colleague, feeling an interest in the success and welfare of this deceased paper, not only burst its cerements and brought it up again to revisit earth, but himself led it to the political font, and performed the priestly ritual of christening it the "Jefferson proviso!" If the illustrious and venerated statesman whose impress rests upon all that is enduring and beautiful in our political system, could so far participate in the affairs of the living as to see his acts for good perverted to pernicious purposes; hear his memory desecrated by associating his history with this causeless agitation; his authority invoked for casting amongst us this apple of bitterness and discord; and, finally, hear those who would still fan the fires of disunion, disturb his repose by calling upon his great and spotless name, he would exclaim, as did the prophet raised by the incantations of the familiar spirit, when the guilty Saul would have escaped from the consequences of his perfidious career, "Why hast thou disquieted me to bring me up?" My colleague is proverbial for his strong sense of justice, and his scrupulous regard for the rights of property; and yet he has, quite unconsciously, I am sure, proposed to do an act which must be a violation of both—an act which his generous instincts will prompt him to correct the first moment he sees the consequences which must ensue. He is well versed in classic and political readings; the first of which must have taught him that Mark Antony gave up all for women, and the latter that a distinguished individual gave up all else that the "proviso" might bear his name; and yet he coolly proposes to transfer this name, with all its accumulated honors and invaluable advantages, to another. Sir, in the name of common justice, I most solemnly protest against this marked and wanton violation of private and individual right. Call it the "Jefferson proviso!" Should this be attempted, the individual by whose name it has been known might cry out, somewhat in the language of Iago—

"Who steals my purse, steals trash; 'tis something, nothing;
'Twas mine, 'tis his; and has been slave to thousands.
But he that filches from me my *proviso*,
Robs me of that *which not enriches him*,
And makes me *poor indeed*."

My colleague, notwithstanding the degraded and disorderly condition and unfit character for self-government which he attributes to the people of these Territories, would give them a full territorial government if it could contain his favorite clause of restriction. Now, a full territorial government, as heretofore given, authorizes the election by the people of a Territorial Legislature, and the passage by such Legislature of their municipal laws, usually, but not always, subject to the supervision of Congress; and in these relations it will be seen that they are called upon to exercise some of the highest privileges of freemen. If, then, they are so ignorant, degraded, and barbarous as to be unfitted for any of the duties of self-government, why propose to require them at their hands, or object to the preservation of order in a more summary form, until they shall be better qualified? But, in arguing the justice and propriety of applying the restriction to the organization of a territorial government, he states that Congress stands in the same relation to the people of a Territory that the State Legislatures do to the people of a State. From this doctrine I respectfully but most unqualifiedly dissent, and insist that the relations are entirely dissimilar. The State Legislatures are the creations of the people of the respective States. The members of the State Legislature are elected by the people of the State, and are their representatives and servants; but no such relation exists, or has ever existed, between Congress and the people of a Territory. Congress is not created by the people of the Territory. They have no vote in it; its members are not elected by, nor are they the servants or the representatives of the people of the Territories, or in the remotest degree answerable to them. Congress holds the same relation to the people of the Territories that the British Parliament held to the American colonies; and the doctrines sought to be enforced by those who advocate the restrictive policy are the same old exploded theories of George III., against which our fathers rebelled, dressed up in new clothes, that the imposition may be the more successful. The principle that a distant people, in the formation of a government, need a master to administer restrictions to preserve them from running headlong to ruin in their policy, is founded in a distrust of popular intelligence and virtue; and, whether emanating from an Eastern despotism, the British Parliament, or the American Congress, violates the first principles of free government, and seeks to rule a people rather than permit them to rule themselves. The American people, when colonies, being no further from the mother country than our Pacific possessions are from us, insisted, to revolution and blood, upon the right to legislate for themselves; and now, should they seek to enforce the same doctrine upon the people of their own Territories, they would be like him who, after his own debt was forgiven him, took his fellow-servant by the throat that he might enforce the payment of a two-penny demand.

I have urged, for the government of the Territories, when a sufficient number of American citizens or others who can appreciate the obligations of freemen shall be there, a free territorial government—not that kind of freedom which, with liberty on its lips, distrusts the capacity of man for self-government, and seeks to hedge him about with provisoes and restrictions; nor that freedom which must be kept in leading-strings, held by some master-power three thousand miles distant, lest man shall care less for himself than his distant fellows shall care for him, and be less wise in governing himself than others would be in acting as his governor. The Constitution has given no authority to Congress to legislate for the *people* of a Territory, and consequently it has no such right; and Mr. Madison has pronounced any such attempt without the shadow of constitutional law. But, in legislating for the property of Territories, which Congress may do, and in aiding the infant settlements to erect their government, Congress has prescribed general enactments, serving as constitutions for the people of the Territory rather than laws, and has sent out officers to aid in enforcing them. This course has in all cases been received with favor by the people of the Territories; they have adopted as their own what Congress has been pleased to send them, and have framed their own local laws, from time to time, in accordance with the legislation of Congress. But the whole doctrine of a just government, according to the republican theory, consists in the consent of the governed; and any other, no matter by what name it is known, is despotism and slavery. And it is from the consent of the people of the Territory, and the acquiescence of the States, that this usage has derived all its force. But those who advocate restriction seek to repudiate this principle of true self-government, and then proclaim it too feeble for the sphere of its duties. I do not contend that the people of a Territory have sovereign powers as a government, because the sovereignty of a government as such is a creation of man. But, as man derives his sovereignty from his Maker, I insist that the people of a Territory are as much sovereign, there, as in a State, (unless, which will not be contended, they may lose their birthright by residing in a Territory,) and in all that concerns or relates to their domestic condition should, in conformity with our federative system and the principle of self-government, be permitted to make their own temporary regulations of domestic policy—of course in harmony with the principles of the Constitution and the rights of the States. This would give to the people of the Territories the rights that belong to them; would turn the vexatious and agitating question of slavery out of Congress, where it has no business, and should never have entered, and leave the constitutional rights of the States upon this question to be decided by the judicial tribunals, when any one shall see fit to raise it. To this complexion it must come; for, if the Constitution confers the right to carry slaves to a Territory, all the acts which Congress can pass forever cannot take away the right, nor transfer it to other tribunals. It is a judicial question, and must be disposed of as the Constitution has provided.

In further proceeding with his argument in favor of the restrictive principle, my colleague describes slavery as amongst the greatest evils, both apparent and real, that can afflict and debase a people; and yet he will not trust our brethren, friends, and neighbors, who are emigrating there in thousands from the northern States, who will shape the destinies of this country, and control the course of its legislation, and are as well qualified to legislate as the people of the States whom they have left behind them, lest they may, against their own interests, wishes, and convenience, erect slavery there in spite of themselves. Does he not fear the people of New York will reëstablish it? There is no proviso to prevent them from doing so whenever they please; and perchance our friends, when they reach California, and will be no further from us than we are from them, may have fears about equally just that slavery may be again authorized in the northern States. Besides, while seeking to protect them from themselves against this great and overshadowing evil, if they are indeed incapable of self-government and self-preservation, there are some of minor moment to which they must stand exposed; and I would suggest to those who believe in governing other communities that they should be exempted by law from drowning by the waters of the Pacific, and from destruction by fire; or, as the poet expresses it, from "sinking in the devouring flood, or more devouring flame."

We have been told in this debate, what I have often heard before, that those who are constantly agitating this question have no intention of interfering with slavery in the States. Oh, no! as though a forbearance so generous was entitled to great commendation. And what merit, pray tell, is claimed for this? Would any one take to himself credit because he did not enter the jurisdiction of a sovereign State and trample upon its laws, and subject himself to a charge of felony, and set himself up to regulate the standard of its political and social morals, and claim the right to overthrow that which he disliked and help himself to whatever he should desire? He certainly would not; and yet he would have as good a right to do all this, in a moral or political sense, as he would to interfere with this institution in the States where it exists by law. Why are we not also told, if there is a merit in abstaining from matters in which we have no concern, that there is no intention to interfere with the manufacturing system of Massachusetts, or the banking in Indiana, or the rights of primogeniture in England, or the Republican Government in France? We have as much right to do either as we have to interfere in any respect with the domestic affairs of a sovereign State.

The great mass of the northern people, and I speak of the people of New York, are less excited upon the subject of slavery than would appear from the declarations of those who claim the right to speak for them. They regard slavery as an evil, but they know that it is not now and was not at the adoption of the Constitution an original question; but was, as my colleague has stated, planted here while we were subjects of the British Crown, against the wishes and without the consent of the colonies. New York abolished slavery herself when it suited her own sense of propriety and her interest, wishes, and convenience, without the gratuitous and impertinent interference of other States, or the officious dictation of Congress. And the mass of her people are willing other States shall follow her example, when in like manner it shall seem to them best; and they believe such States to be the most proper judges in the premises. They have no doubt that emancipation has been retarded in a number by the ill-timed proceedings and intermeddlings of fanaticism and bigotry. They believe that the advantages and burdens, the good and the evil, the responsibility here and the responsibility hereafter, belong to the States where it exists and not to them; that they are not entitled to reap the fruits of its labor, nor required to care for its endless vexations, nor to answer for its sins. Having abolished it themselves, they do not, like the Pharisee, thank God that they are not as other men; but they believe the people of the southern States as intelligent and as virtuous as themselves, and as regardful of the principles of sound morality, just law, and pure religion. They see that this great matter cannot be hastily disposed of; that the mere question whether they shall be emancipated or longer held in servitude, were it practicable, is but a single verse in the dark and difficult chapter of its history; and that it is wiser to leave it to the guidance of those whose institution and property it is, and who have a right to control it, under the beneficent care of that

"Providence that shapes our ends,
Rough-hew them how we will."

Nor have the great mass of the northern people any desire to interfere with this institution, under some plausible pretence, for the purpose of accomplishing by circuity and indirection that which they have not the manliness to attempt openly; and hence they will not, under the plea of preventing the extension of slavery, set on foot and prosecute a bootless guerrilla warfare of irritation against their sister States, by agitating the question of slavery in the Territories, in the District of Columbia, or in the arsenals, navy-yards, and other places where Congress has jurisdiction. They read, too, in the Constitution that fugitives held to service by the laws of one State escaping into another are to be delivered up to the jurisdiction from whence they fled, not to be enslaved, if they are freemen, as is he cant phrase of the times, but to have their rights adjudicated by the laws of the State where the service is claimed. All reflecting men must see and know that it is as much a violation of the letter and spirit of the Constitution, in the sight of God and in the judgment of men, to harbor and secrete a fugitive from the laws of a State which hold him to service as to shelter and protect a fugitive from justice, and that the one is no less questionable in expediency or flagrant in morals than the other. These provisions are clearly written in our fundamental law, and he who violates them or either of them, under the shallow justification that they are of no moral force, violates the primary duties of citizenship and commits treason against his Government. They see and know that they cannot elevate this unfortunate race, either as individuals or as a people, by the angry agitation of the question, or by harboring and secreting fugitive slaves, and that the only fruits produced by it will be to multiply wretched outcasts and swell the volume of misery, pauperism, and crime—to add physical want and suffering to moral and mental depression, increase the number of vagabonds, and literally degrade degradation. The North, as a people, want not this race among them, as is suggested by this bastard philanthropy. They want not the sick, the decrepit, and the infirm to be supported in their poorhouses; nor the vicious and immoral for their prisons; nor the few whose integrity and health shall survive a transition from a genial to a rigorous clime—from a long state of tutelage to one of self-preservation and self-dependence—to come among them without social or political rights, to degrade the honest white laborers of the North by mingling with them and competing for their labor. They see that two races of men so dissimilar in physical development, whether as slaves or freemen, cannot exist together upon terms of equality without degrading both. Heaven has so ordained, and man cannot subvert the decree—one will be elevated and the other degraded. A wo has been pronounced upon him who shall sever what God hath joined, and a like one should be proclaimed against him who joins that which Heaven by such marked physical laws has sundered.

We have heard many pæans sung to the dignity of free labor, and have been often told of the especial regard which slave agitators of all others entertain for it. But let it be remembered that their whole effort has the effect, if it has not the benefit of the design, to infuse among the free white laborers of the North the fumes of free negroism, with its moral and political beauties, and introducing among them the fugitive slaves of the southern States and the emancipated negroes of the District of Columbia, and degrading the poor white men of the North to the level of the black. Nor do the people of New York, generally, indulge that kind of benevolence which, as has been heretofore suggested, would confine the colored race within boundaries so limited, that by suffering, impotency, barrenness, and death, the whole race, as existing, shall be exterminated. They are willing the colored race should go out into any community who are anxious or willing to receive them. The direction to man to replenish the earth was not limited in its operation by Him who gave it to any particular race or color. But modern benevolence essays to correct the error; and, not satisfied with placing restrictions upon the laws of man, proposes to extend a proviso to this mandate of Heaven, and to confine the multiplication hereafter to the white race alone. Let not the great mass of the northern people be held responsible for the slavery agitation which is carried on in their name—originating in the mistaken benevolence and dark designs of a few, and yielded to and fostered by timid and time-serving politicians, who hold the people as weak and irrational as themselves.

I am too well aware that all who advocate the doctrine of non-interference, who stand up for the sovereign rights of the States and the guarantees of the Constitution, must breast the blind fury of a fearful storm, and be covered over with epithets of bitterness and opprobrium. He is, say they, a friend to the extension of slavery; he is sold to the South; he is the apologist of slave aggression, and wishes to degrade free labor and abolish freedom! But, sir, while I can look with becoming pity upon ignorance and weakness, I hurl from me with hissing and contempt alike the whine of the hypocrite and the bluster of the demagogue. I see spread out before us a great and happy country, with such institutions as Heaven has never before vouchsafed to fallen man; and I see, too, that when once they are riven and uprooted, the night of despotism, in which the genius of evil and violence and anarchy will hold her awful court, will be long and gloomy. Oh, may our glorious tree of liberty sink its roots deeper in the soil of freedom, and extend its branches until all the oppressed and stricken of earth may find beneath it shelter and repose! This was the chosen asylum of liberty on earth, and when it shall be banished hence, after coursing over the world's desolate waste and finding no rest for the sole of its foot, will it not return, fluttering for admission, like the dove at the window of the ark, to the "bosom of its father and its God?"

I am not one of those who assume to be wiser or more benevolent than were the fathers of the Constitution. They did not tremble and quake because slavery had existence, but they rose above the influences of a spurious philanthropy, and a more spurious philosophy, and formed a Confederacy of sovereign equals. They listened not to that fearful and ominous cry which falls harshly on my ear, the North! the North! the South! the South! but taught us alone the magic words, "THE UNION." I do not fear soon its dissolution in form, but I fear far more its dissolution in spirit. That union ordained of Heaven, which lies at the foundation of society, and upholds and adorns all that is sacred and beautiful in our social system, displays not its value or its moral beauty, because man and woman are bound together in the bonds of legalized matrimony, but because they fulfill the relations which a beneficent Providence ordained, and mutually heighten the joys and alleviate the sorrows which attend us through the chequered scenes of this eventful pilgrimage; and when they hopelessly fail to discharge these reciprocal duties, and mock each other with crimination and recrimination, it is better that the tie which binds them as one were severed. The value of this Union does not consist in the binding together of thirty sovereign States with hooks of steel and chains of adamant, but because they stand united together for beneficent purposes, forming one great and shining light—a beacon to the weary and tempest-tossed—a terror to tyranny and usurpation—and each still an independent star in the constellation of political hope. But, if they must stand arrayed against each other, or section against section—if, instead of kind offices and friendly relations, they are to exchange angry reproaches and threatening menaces,—that moral beauty which has hitherto attended them has departed; the life and spirit which gave birth to the Union has ceased to animate it, and one fatal step has been taken upon the road to dissolution.

Nothing can subvert this happy Union but the formation of sectional parties; and that, if successful, will. It is but an institution of man, and cannot and ought not to survive the successful organization of factions. If a sectional President and Vice President should be elected upon an irritating sectional issue, and a sectional cabinet be formed—and no other one could be—if from the South, no northern Representative having the least remains of the spirit of his fathers would ever enter the councils of such a Government; and, if from the North, no southern man could be found so debased as to come into one, formed upon terms of compromise for the whole, when the principles had been subverted that a destroying faction might rise upon its ruins. As a northern man, I would never cross the portals of a Government brought into power upon a southern sectional issue, and I would animate my countrymen to flee from it as from contagion. And I boldly declare, after the manner of Pitt, that, were I a southern man, as I am a northern one, I never would consent to recognize for a moment an administration brought into power upon a northern sectional issue—never, never, never! This attempt to create sectional parties is the evil tendency of the times, and he who seeks to foster them, be his purpose, real or avowed, what it may—whether to minister to the cravings of a mean ambition or to gratify a fiendish lingering revenge; whether he has been laden with the honors of the people, and pampered at their treasury; or whether he be the incendiary, whose price of purchase is less than thirty pieces of silver—the taint of treason and perfidy will cling to him in after times like the poisoned tunic of mythology; God will set a mark upon him, as upon the brow of the first murderer of man, that all shall know him; but it will be a mark for destruction, and not for safety, and society will hunt him from its abodes like a ferocious and venomous beast. He will not be saved by the counterfeited cry that he is merely opposing the *extension* of *slavery;* but, like the murderous captain of the host, the vengeance of an indignant people will slay him at the very horns of the altar.

But the hour of the greatest danger has passed, and agitation is lowering its front. It has well near completed its course of mischief; it has discharged its vagrant errand; it is *functus officio*. Its profane and unholy temples are crumbling to their downfall, and will soon tell only in their gloomy ruins of a period of error, folly, and delusion. The impious priesthood who ministered at their polluted altars have been disrobed and deposed, and their deluded and idolatrous worshippers are about returning to the worship of their fathers.

But my colleague, in justifying his course, tells us that he is not fully a free agent, having been instructed, although the instructions accord with his judgment. Therein my colleague differs widely from me, for I am a free agent in every sense, and cannot consent to stand here otherwise, for I

belong to the school of a statesman, venerated by every friend of liberty, who believed in "*taking the responsibility.*" I am a free agent to do as duty may require, and am ready to count personal consequences afterwards. I understand where I am speaking far too well to enter upon domestic matters here, for neither this body nor any of its members have a right to sit in judgment upon me. I shall enter into no explanations, claim no merit, or accord none, so far as supposed instructions are concerned, nor shall I permit myself here to inquire whether they emanate from a majority or minority of the people; whether they seek to violate the spirit of the compact, or whether they come from those who believe in and practice the doctrines they inculcate; but at the proper time, and upon the proper occasion, before those whose servant I am, I tender the gauntlet to him who shall choose to take it up, and I hold myself in readiness to justify my action before the only pure and true source of power. I intend to know whether one can resist this mischievous and licentious spirit of sectional agitators, and sappers and miners of the Constitution, and survive. I have no fear that I shall not be most triumphantly sustained when the storm has swept by. Nor would I change a course so clearly demanded by considerations of duty if I knew I was to be overwhelmed. It is better that an humble individual should perish, if in his struggle he should arouse the attention of the people to the dangers which threaten them. Sir, I stand upon the watch-tower of liberty, where my fathers stood before me, and I invoke the spirit of my country's Constitution. Like Burke, when speaking of the controversy with the American colonies, I stand not here to demonstrate points of law, but to quiet agitation. Let the storm howl on—let the battlements rock if they will—let faction toss and roar and hurl her impotent arrows of detraction, and I will laugh them to scorn; for I did not take up my position without counting the cost. If I had courted momentary elevation or personal eclat, I might have cried loudest among slavery agitators, and rode high upon the whirlwind, if I could not have directed the storm. But I have chosen to do my duty, and to meet the responsibilities incident to my position; and in my vacant and solitary hours I shall feel that gratification which a consciousness of rectitude and a firm discharge of duty alone can give, and which the world cannot take away. I have never favored the institution of slavery or its extension, either immediately or remotely; and whoever charges or insinuates the reverse, originates a base and deliberate, and, unless he is ignorant of my sentiments, a willful calumny. Equally untrue is it that any one has proposed to legislate for the extension of slavery. It has often been asserted, knowing its falsity, and is persisted in, doubtless, under that questionable axiom in morals, that a falsehood persevered in is equivalent to the truth. My habits, thoughts, feelings, education, instincts, nay, my very prejudices, are against slavery; but I would not interfere in what is no concern of mine, to obtain a greater evil and no good. The South have simply asked that they may be left to their sovereign rights as States, and to such rights in the Territory as the legal tribunals may decide are theirs under the Constitution. They do not ask any legislation in favor of slavery, or its extension or diffusion, but protest against its agitation in the Federal Government, or any legislation by Congress upon the subject; and in this the South are right, and I, for one, shall stand by them and sustain them, let who will cry and clamor, or come what may, so long as they stand upon a ground so clearly reasonable and constitutional as this. It is urged, as another reason for legislating against slavery in this Territory, by my colleague, that unless we do, it may shock the tender susceptibilities of Mexico. I certainly shall not call in question the force of this very singular authority; but, not proposing to draw lessons of political economy or public morals from that nation just now, I will simply suggest, that if she has any surplus benevolence, she had better invest it in the elevation of her own semi-barbarous people and her cruel and degrading system of *peonage*. Let her pluck out the beam in her own eye, before she discourses concerning the mote in ours. And merry England, too, with her starving millions perishing for bread, will doubtless bewail it. An eminent British poet has exultingly sung, that "slaves cannot breathe in England;" and if he had added that millions of her own miscalled freemen, to say nothing of groaning and oppressed Ireland, found the process of respiration difficult, by reason of her system of murderous inequality, he would have given us a practical and interesting but melancholy truth, at the expense of poetic beauty.

But why press, in all times and upon all occasions, this process of restriction? My colleague admits that the laws of that Territory, as it came to us, prohibited slavery; which he says was abolished by the decree of her President; again, by an act of Congress, and yet again by the Constitution. Most lawyers in the free and many in the slave States hold that the laws prohibiting slavery remain the law of the land until changed by competent legislation, and my colleague has often so argued and insisted. I have already shown that there was no intention or desire to legislate for their change even by the South. Besides, he admits that slave labor is not demanded there, nor white labor excluded, either by climate, soil, or productions; and yet he, and those who act with him, will consent to the passage of no bill unless it excludes slavery over again, which they argue is excluded by three laws of man, and three of Heaven; and they insist, too, which is the fact, that the people there, so far as they have spoken, are opposed to having the institution among them. Was ever absurdity carried further, or more pertinaciously enforced? But I am asked, if slavery is already excluded by law, and prohibited by natural impediments, why object to the restriction? I object to it because one-half of the States of this Union have solemnly protested against it, and believe it will be a sentence of condemnation against them, and I have sufficient regard for their wishes to abstain from an act so offensive to them, bringing no practical good; and I object, too, because the true principles of self-government forbid that one community shall legislate for another. The whole truth may as well be told. Politicians have invested their whole capital in this *Provisoism*, and although the dividends have been far less than was anticipated, and the stock is sadly depreciated, they hope to keep it alive until they can sell out without suffering a total loss.

But do we not all see that it is better to meet this agitation now than hereafter—"at the door-sill than the hearth-stone?" Sir, I understand too well the purposes for which this agitation originated and is prosecuted, and the law which governs all kindred questions, to give heed to the professions, however often expressed, that they are merely endeavoring to prevent by law the further extension of slavery, though I admit that many who act with them are sincere in their professions, and by no means include them in the remarks I extend to others. I would meet it before its poisonous roots have sunk deeper in the soil of liberty, or its upas branches spread wider. You may this day organize every inch of territory held by the United States, and ingraft upon it the restriction; to-morrow the leaders in this same interest will clamor on as they have already commenced for its abolition in the District of Columbia; and, this being accomplished, they will openly and directly assail the rights of sovereign States, which they have heretofore done by indirection, and their innocent dupes will be borne along with them. Who ever knew the ferocity of a tiger tamed by a taste of blood, or a fanatic, or a demagogue, or a hypocrite satisfied by yielding to his demand? And, although there are many who have now no intention of proceeding to such extremities, they will be subject to the laws which control such questions, and be swept along with the general current. But a few years since this disturbing and ferocious spirit of abolition reared its hydra-head in the halls of our National Legislature, but it was met by manly resistance and put down. Again, restless as the unclean spirit of old, it returns with others more wicked than itself to render, unless speedily put to flight, the last state worse than the first.

My colleague has told us, in conclusion, as he has often before, what New York will do concerning this question—that she will not consent to the extension of slavery, and that by no act of his can it be done. While I acknowledge his right to his opinions and speculations upon the subject of what will be the course of New York, I shall claim at least an equal privilege of expressing my own of what she will not do also. The gift of prophecy is not mine, and I can only judge of the future by the past and the present, and the general laws which control human agencies; and, however much the reverse may be desired by desperate politicians, in my judgment New York, though occasionally swayed from her great purposes by the mutations of political parties and the efforts of combined factions, will content herself with that which belongs to her, and treat with becoming respect, the rights of her sister States. She has abundant elements within herself to employ her choicest energies, and she will devote them to the still higher improvement of her own internal condition, and to elevate yet more her three millions of happy people. Though the sun of her political prosperity may occasionally pass beneath a cloud, the obscuration will be but momentary, and the eclipse not total. She will soon shine forth in her meridian splendor, diffusing among her sister States, from her lofty eminence, her genial influences of light, hope, and joy—the proudest star in the constellation of political glory. She will leave all puerile sectional agitations to the machinations of the weak and wicked, and those who traffic in the disturbance of the public peace. Her sons will stand again, as they stood in the dark days of our revolutionary struggle, in the second war of independence, and again in a war with a neighboring nation, by the side of the brave spirits of the South, as when they shed their choicest blood in defence of her own frontier; and, as then, she will scorn to inquire whether their domestic policy is more or less wise than her own. She will stand by the principles of *non-interference and the Constitution*, and will spurn all attempts at sectional policy and disunion. She will blot no stars from the constellation. Her pride will reach throughout the Union, and her republic be ocean bound.

What motive have I to disregard her wishes, or disobey her mandate? What have I to ask of the South but the merest justice? What else can she have in store for me? Whatever I have of public character or station is the generous gift of my own great State. From early childhood I have been nursed in her lap, and in manhood she led me from humble private avocations, through various honors, to the highest station her sovereignty could confer. There, next to Heaven, are my choicest offerings due; there shall my first vows be paid. My destiny is in her keeping; there my best affections cluster; there arise my liveliest aspirations; there all my hopes are concentered; there have I lived; there repose the remains of my beloved dead, and when it shall please Heaven to call me hence, I would rest from the agitations of an eventful life in her peaceful bosom. Her very name is dear to me. Her character and her institutions dearer still. Her political escutcheon is yet unstained and spotless. Although she has nourished and brought up children, and they have rebelled against her, her degradation has not been completed. The cup which had been drugged for her humiliation by a parricidal hand, in mercy was permitted to pass, and she has not been left to sanction by her sovereign voice the attempt to desecrate the Presidential office by pandering to the bad passions of a section. That she may long be spared from this base infliction, whether at the instance of one of her own degenerate sons or another, I invoke the universal prayer of our common country.

Mr. JOHNSON, of Georgia, said:

Indisposition during almost the entire present session of Congress has prevented me, if I had desired it, from participating in the discussions of this body. Nor do I feel now that my health justifies me in attempting an elaborate eludication of the position which I occupy upon the questions which have been discussed in this debate. This fact, in connection with what I know to be the reasonable and just impatience of the Senate, and the strong and unfavorable contrast which my poor effort must necessarily present to the able speech which has just been delivered by the distinguished Senator from New York, [Mr. DICKINSON,] impresses me with the conviction that my words should be few, and that I should not unnecessarily consume the time of the Senate. But, notwithstanding these considerations, I feel it a duty which I owe to myself and to those whom I in part repre-

sent on this floor, to present, very briefly, the views which I entertain upon some of the topics which have been touched during the progress of this debate.

No man feels more sensibly than I do the importance of giving law and government to our Pacific Territories. The considerations which render this necessity obvious are so apparent, and have been so elaborately discussed by those who have preceded me, that I deem it superfluous to intrude them at length upon the attention of the Senate.

These Territories have been acquired by the expenditure of common blood and treasure; and their intrinsic and relative value is beyond computation. The richness of the gold mines of California scarcely finds a parallel in the history of the world. They have been imbedded there for ages, still accumulating by the washings from the adjacent mountains. They have been given to the arts of civilization and commerce as the trophies of American valor. They have produced a profound sensation, not here only, but throughout the civilized world. They are attracting daily thousands of our own enterprising citizens, and also crowds from the ports of Europe and the islands of the Pacific. All congregrate there, greedy to accumulate wealth, and to appropriate, without let or hindrance, the public property; for these mines are the common property of the States; and, whatever may be said in favor of the right of our own citizens to go thither and disinter their treasures, none will contend that foreigners, from the shores of Europe, from South America, and the East India islands, should be permitted to indulge in their unrestrained plunder. It is incumbent, therefore, upon Congress to adopt measures, and that without delay, to protect the public property of the United States, and to secure, as far as may be, all its benefits to our own people.

It is indispensable also that our revenue laws should be enforced at all our ports on the Pacific. We have already lost perhaps not less than a quarter of a million for the want of regulations there for the collection of duties on imports. Under our warehousing system, vast quantities of imported goods remain in store at all our ports of entry, upon which the importer is not required to pay duties until they are taken out for sale; and if he desires to reship them to another port in the United States, he has the privilege of removing them without the payment of duties. This regulation is wise and just. But, nevertheless, since the discovery of the gold mines in California, and the vast emigration which it has produced, immense cargoes of warehoused goods have been removed, especially from Boston, New York, and Baltimore, and shipped to California, where, the revenue laws not being enforced, they are entered free of duty, and to the great loss of the Government. Our Government is in debt, and we need all the revenue which our tariff system will yield. This is a strong reason for the adoption of some measure at the present session of Congress which will secure the execution of our laws in those remote Territories.

Nor is this all. The location of these Territories in relation to the populous islands of the Pacific, China, and the countries of the East, clearly point to an almost boundless commerce, to be realized at no distant day. It is the duty of a wise and expansive statesmanship to encourage an early development of such a commerce by the enforcement of wholesome laws, and the establishment of such institutions, political and social, as will give impulse to the arts of civilization and refinement.

Nor can the duty be less imperative to protect our enterprising fellow-citizens who have gone to California, against the violence and anarchy which must exist, wherever there is no mode of punishing the vicious, the dishonest, and lawless. The character of the population there must necessarily be mixed, composed of Indians, half civilized Mexicans, and foreigners from every clime. The occupation of mining, as its history shows in all ages and in every country, is debasing to the finer feelings of our nature; it inflames the baser passions, and without the restraints of law it is the parent of every vice known to the catalogue of crime. We are, therefore, called upon, by every consideration which should influence the action of legislators, to extend our laws, and throw over New Mexico and California our protecting ægis. The necessity for such action is immediate and urgent.

What, then, should be the character of the government which we should give them? The nature of the emergency suggests what ought to be its principal feature. It must combine energy with the capacity for its summary exertion; and, therefore, our legislation should be such as may be put into the most speedy and efficient operation. The amendment now under consideration does, in my judgment, combine these indispensable requisites. It extends immediately such provisions of the Constitution and laws of the United States over our territory west of the Rio Grande as are applicable to its condition and necessities. It authorizes the President of the United States "to prescribe and 'establish all proper and needful rules and regula-'tions, in conformity with the Constitution of the 'United States, for the enforcement of said laws in 'said Territory, and for the preservation of order 'and tranquillity and the establishment of justice 'therein, and from time to time to modify or change 'the said rules and regulations in such manner as 'may seem to him discreet and proper." It also empowers him to "prescribe and establish, tem-'porarily, such divisions, districts, ports, offices, 'and arrangements proper for the execution of 'said laws, and to appoint and commission such 'officers as may be necessary to administer such 'laws in said Territory for such term or terms as 'he may prescribe, whose authority shall con-'tinue until otherwise provided by Congress." Clothed with these powers, it is obvious that the President will be able to give the most speedy and ample protection to the public property of the United States, and secure the gold mines from unauthorized plunder by foreign emigrants. He can enforce the collection of duties on foreign imports, in conformity with our revenue laws; and he can preserve tranquillity and good order among the mixed population which is so rapidly congregating there from every point of the compass. All this can be effected with far less delay than by any other mode of organization which we could adopt. It meets the emergency in all its prominent features, and therefore I cheerfully give it my support.

There are, however, some objections to it, and I am sensible of their weight. But I do not regard them as paramount, and I shall not dwell upon them. Under circumstances less urgent, I would not sanction any measure which vests so much power in the hands of the Executive as is conferred by this amendment. But it is intended to be only temporary in its duration; the President is clothed with no legislative powers; and, in the establishment of "needful rules and regulations," he is expressly confined to the limits of the Constitution. Moreover, the whole arrangement is liable to be superseded at any moment by the future action of Congress. With these wholesome safeguards, there is but little reason to apprehend abuses by the President in the execution of the provisions of this amendment. I will confide in his patriotism, his plighted fidelity to the Constitution, and his sense of justice to every portion and interest of the Confederacy. I will waive all minor objections, for the sake of giving law and government to our unprotected Territories beyond the Rio Grande.

The grounds of opposition to this amendment, which have been relied on in this debate, are scarcely worthy of serious refutation. The principal objection urged against it is the one raised by the Senator from New Jersey, [Mr. DAYTON.] It is, that the Constitution of the United States does not extend to Territories *proprio vigore*, and that it is not competent for Congress thus to extend it by legislative enactment. Sir, I shall not pause to discuss the question whether the Constitution extends *per se* to Territories. I am content with the southern view of it, which has been so triumphantly maintained by other Senators, and particularly by the Senator from South Carolina, [Mr. CALHOUN,] in the debate which he conducted on yesterday with the member from Massachusetts, [Mr. WEBSTER.] I entertain not the shadow of a doubt that the Constitution of the United States, so far as its provisions are applicable, does extend to Territories. I do not believe that the Supreme Court ever has or ever will decide to the contrary. So far from this, I believe the case of Canter, in 1 Peters' Reports, page 511, which has been relied on to support the proposition advanced by the member from New Jersey, [Mr. DAYTON,] recognizes a principle which, if correct, (and it has never been disputed,) sustains most amply the position for which the South contends. In delivering his opinion in that case, Chief Justice Marshall, speaking of the effect of cession by treaty upon the relations of the inhabitants of the territory ceded, said:

"The same act which transfers their country transfers the allegiance of those who remain in it, and the law which may be denominated *political* is necessarily changed."

It follows, therefore, as an irresistible inference, that the law of the conquering country "which may be denominated *political*" supervenes. Now, what law of the United States "may be denominated political?" Is it not emphatically the Constitution? It is perfectly clear, therefore, that, *eo instante* in which the treaty of peace between this Government and Mexico was executed, the Constitution, which is the political law of the United States, was extended over the Territories of New Mexico and California.

Nor shall I pause to discuss the power of Congress to extend the Constitution, by legislative act, over these Territories. It is absurd to deny such a power. Lamentable, indeed, is the condition of the inhabitants of New Mexico and California, if it be not competent for Congress to afford them the benefits of our Constitution. More lamentable still the condition of those of our fellow-citizens who have emigrated thither in obedience to a spirit of enterprise and adventure, which pervades the entire extent of the Republic. The assumption of such a position shows conclusively the subterfuges to which the enemies of the South will resort to accomplish their hostile designs against her peculiar institutions.

But, sir, I desire to notice particularly the obvious motive of this leading objection of the Senator from New Jersey [Mr. DAYTON] to the amendment now under consideration. That motive has been avowed. It has been endorsed by several Senators from the North, and disapproved of but by two or three. I desire to hold it up to the special contemplation of the people of the South, that they may examine and weigh it; that they may see and know the feelings which northern gentlemen entertain towards them. The Senator from New Jersey [Mr. DAYTON] says:

"But if you do extend its operation by legislative enactment, then you alter the position of certain great interests in this country. Our friends of the South say, that under the operation of the Constitution, they have a right to take slaves wherever that Constitution reaches. It does not now reach, according to judicial decisions, to California. You seek, by special act on this amendment, to make the Constitution overreach California and New Mexico, and thus give, according to the southern views of their rights under the Constitution, a privilege which they would not otherwise have. In the first place, I say that you cannot, by legislative enactment, extend the Constitution; and if you did, it would not be right, under existing circumstances, to change the relative position in which parties stand in reference to this slave question, in this indirect way."

Now, sir, what is the plain import of this declaration? It is this: The North declare that the Constitution does not extend to Territories; and therefore the South can have no right to carry their slaves to New Mexico and California. When it is asked to extend the Constitution over them, they say they will not, even if Congress has the power to do so, *because they are unwilling for the South to enjoy the benefit of its guarantees.* Heretofore the North has been content to rest upon their opinion, that, under the Constitution, the South cannot carry slaves into New Mexico and California. I had thought that the whole controversy related to this single point. But it has assumed a new and an alarming aspect. It is now openly avowed, that even though the Constitution secure this right, the South is to be solemnly denied its benefit. Sir, I repeat, I wish to present this in bold relief to the people of the South. I wish it to reverberate from the Potomac to the remotest boundary of the southern States, until it shall reach every city, town, hamlet, and habitation, and arouse the downtrodden masses to a sense of the danger to their rights which is threatened by the reckless and exclusive spirit of northern aggression.

Mr. President, some southern gentlemen have expressed surprise at the announcement of such a position. But, sir, I am not surprised. I have

long known, and this Senate has occasion to know, that the great body of the North are unwilling to permit the South to enjoy the rights which are guarantied to her by the Constitution in the newly acquired territories of the United States. Perhaps it has not heretofore been exhibited in the shape which it now assumes, but it has been manifested in a manner not less equivocal. Has the Senate forgotten the history of the "compromise bill" of the last session? Have they forgotten the main feature which that bill embraced? Sir, what was that history, and what that feature?

Early in the last session of Congress, the Committee on Territories reported a bill to the Senate to form a territorial government of Oregon. The twelfth section of that bill ratified and declared to be in force the laws and ordinances of the provisional government which the people of that Territory had established for themselves, in the absence of any organization by Congress. Among these, there was a decree that involuntary servitude should not exist therein. We of the South believed that to ratify and declare such a restriction to be in force, involves the assumption of the right, on the part of Congress, to prohibit slavery by legislative enactment. Against the exercise of such a power we protested; and therefore an exciting debate was elicited upon the general subject, not only in reference to Oregon, but also California and New Mexico. We exhibited a willingness to vote for the bill, if the twelfth section should be stricken out. Accordingly the Senator from Indiana [Mr. BRIGHT] moved to do so. But the question was not taken immediately, and, to the surprise of all the southern Senators, he withdrew the motion on the next morning. It was immediately renewed by my colleague, [Mr. BERRIEN.] Indications were very soon exhibited that the motion could not prevail, and that the slavery restriction would, for the first time, be forced upon us. The Senator from Indiana [Mr. BRIGHT] then offered, by way of amendment, what is known as the "Missouri compromise." It was very soon ascertained that this would not pass. The Senator from Mississippi [Mr. DAVIS] then proposed to amend the twelfth section by adding a proviso, "That nothing con-'tained in the said act shall be so construed as to 'authorize the prohibition of domestic slavery in 'said Territory whilst it remains in the condition 'of a Territory of the United States." Several other amendments, I believe, were offered by southern Senators, having for their object the protection of the rights of the South in our Territories. The difficulties of adjustment thickened; the excitement in this body waxed warm, and diffused itself throughout the entire Republic; and the public press literally groaned under the utterings of popular solicitude. The ship of state seemed to tremble and creak throughout all her timbers, and the minds of patriots everywhere were burdened with painful apprehensions for the safety of the Union. At this moment of intense solicitude, a meeting of southern Senators was suggested to devise some mode of action by which the question might be adjusted. We met in the anteroom, irrespective of political names—all party distinctions were laid upon the altar of our common country. The result of our deliberations was a unanimous determination, if possible, to have the whole subject referred to a select committee of eight, to consist of four from the North and four from the South, and an equal number from each of the respective parties. By common consent, a Senator from Delaware [Mr. CLAYTON] moved the reference, and it was agreed to by the Senate. The Select Committee was chosen by ballot, and was composed of the honorable mover, a Senator from Missouri, [Mr. ATCHISON,] a Senator from Kentucky, [Mr. UNDERWOOD,] and a Senator from South Carolina, [Mr. CALHOUN,] from the slave States; from the free States, of a Senator from New York, [Mr. DICKINSON,] a Senator from Indiana, [Mr. BRIGHT,] a Senator from Rhode Island, [Mr. CLARKE,] and a Senator from Vermont, [Mr. PHELPS.] Sir, these were no upstart politicians, who have been nurtured into notoriety by fawning and by flattery. Most of them are gray-haired Senators, distinguished for their patriotism, their intelligence, and their protracted service in our public councils. They brought to the weighty task assigned them grave, deliberative, and an enlarged statesmanship, ripened by many years of experience. After days of anxious consultation, that committee reported the measure known as the "compromise bill." It was hailed everywhere throughout the country as the bow of promise, betokening calm and sunshine. The hope of the patriot revived, as he thought he saw the night retire, which hung like a funeral-pall over our political horizon. Such is a brief history of that bill.

What were the great features of compromise which it embodied? The North contended that they had the right to extend the Wilmot proviso over the Territories of the United States, and that it was the imperative duty of Congress to do it. The South solemnly denied and protested against the exercise of such a power. This bill yielded that question, on the part of the North, and imposed on Congress the duty of non-interference. That is all which the South has ever asked, and, so far, it was one point of concession to our demand. Again: many of our northern friends insisted that the inhabitants of Territories possess the right to restrict slavery within their limits; but the South denied this position, and the bill prohibited the Territorial Legislature from passing any law "respecting the prohibition or establishment of African slavery." This was the second point of concession made by the North. The North insisted on ratifying and confirming the provisional laws of Oregon, one of which prohibited slavery. The South denied the power of Congress to do this. The bill declared that they should continue in force only until three months after the first meeting of the Territorial Legislature. This was the third point of concession yielded by the North. These questions being settled positively by the bill, the controversy between the North and the South was narrowed down to a single point; and that was, whether, under the guarantees of the Constitution and laws of the United States, the citizens of the South possess the right to carry their slaves into our Territories? We maintained the affirmative and the North the negative of this proposition; and not being able to come to any agreement which would result in satisfactory legislation, both parties, by the thirty-first section of the bill, consented to submit it to the adjudication of the Supreme Court of the United States. If the Constitution does guaranty our rights, as we contend, the court would certainly so decide; if it does not, for one I say we ought not to insist on it. The Constitution is our bond of union; I am content with its guarantees; I will never knowingly demand anything from our confederates which it does not justify and sustain. The Supreme Court was established for the very purpose of giving it authoritative interpretation; and, as a lover of the Union, I am willing to abide its solemn decisions.

One remark more on this point. It is evident that this question between the North and the South must be either a political or a judicial question. If we attempt to settle it in Congress, we make it political; if we refer it to the Supreme Court, it is judicial. Now I put it to any candid man of the South to say, whether it is not safer for us to refer it to the court? If we refer it to Congress, as it is now, or is likely to be hereafter constituted, it will, it must be decided against us; for there is a large majority of Wilmot proviso-men in the House of Representatives, and the Senate will, I fear, very soon yield to the growing popularity of this pestiferous measure. But if we submit it to the adjudication of the Supreme Court, I should entertain no fear of an unfavorable decision. Truth, justice, principle, and argument are all on our side.

These considerations recommended this bill to the favor of the Senate; and, after full debate, it passed this body by a majority of three-fifths. It left the slave question where the framers of the Constitution left it—where the Constitution itself leaves it. This was the great leading feature of this bill.

Having passed the Senate, under circumstances so impressive, it was transmitted to the House of Representatives for their concurrence. But there was one bright particular star, clustered round by seven paler satellites, whose blended lustre, glancing through the gloom of ignorance which shrouded the intellects of the poor benighted Senate, discovered to the world that it was a surrender of the rights of the South—a surrender "*covert*," but "no less *complete* and *absolute*"—and that, so far from being a "compromise bill," it "might be more properly entitled articles of capitulation on the part of the South." And, without any effort to amend its imperfections, if it had them, without permitting the usual reference to a committee, upon a motion which cut off all debate and excluded all vindication by its friends, this offspring of patriotic deliberation and enlightened statesmanship, was consigned to the grave without the formalities of a respectful interment. By the votes of eight southern men, united with those of northern Barnburners and Wilmot provisoists, this proposition, which granted to the South the benefits of the Constitution, was laid on the table. Out of one hundred and thirty-seven votes in the House of Representatives from the free States, there were but *nineteen* who on that occasion showed by their votes that they were willing to allow the South the guarantees of the Constitution. Looking, then, to the interesting history of that bill, the prominent feature which it embodied, and its fate in the popular branch of Congress, I was not surprised at the announcement of the Senator from New Jersey, [Mr. DAYTON,] that if we had the right to extend the Constitution to New Mexico and California, "it would not be right, under existing circumstances," to do so. Sir, it was this sentiment which defeated that "compromise bill," and, in my judgment, inflicted a heavy wound upon the South. What has been the consequence? It has prevented southern emigration to California. Under the apprehension that they could not carry their slaves with them, citizens of the southern States have not gone there, and the northern States are reaping the benefits of the gold mines. Their people are flocking there by thousands, and will obtain so thoroughly the control of that country in a short time that they will forever exclude slavery; whereas, if the compromise bill had passed, it would have opened the door for southern emigration. Our people would have gone there. They would have participated in the benefits of working the mines, and have been fairly represented in the organization of the political and social institutions of those Territories. If to this inestimable loss to the South be added the agitation and heartburning and local strife which have succeeded the defeat of that measure, it can but fill the mind of the patriot with the most painful apprehensions.

I therefore cheerfully support this amendment. I support it for the reason that it is the duty of Congress to extend the protection of law to our recently-acquired Territories. I support it because it combines those elements which are suited to the present emergency. I support it because it extends over them the Constitution and laws of the United States. Less than this amendment contemplates, we ought not to do; more, I fear, we cannot do. I doubt if any other proposition will receive the support of both Houses of Congress, and it is not very certain that this will.

Mr. President, we have three alternatives before us. We must either adopt this amendment, or we must pass the territorial bill which has been sent us by the House, or we must admit these Territories as a State or States into the Union immediately. If we do neither of these things, then we must leave California and New Mexico to the horrors of anarchy.

If I could choose between this amendment and a well-digested territorial bill, I should certainly prefer the latter. It is more in accordance with the usage of our Government; and it would allow to the people greater latitude in the exercise and enjoyment of those great principles of republican liberty which are recognized by our Constitution. But who does not know that the passage of such a territorial bill, at this late period of the session, is impossible? Besides, there is no probability that any bill which would be acceptable to the South could pass both branches of Congress. The one which has been sent us from the House contains the Wilmot proviso; and if we were to strike it out, it is very certain that they would not concur in the amendment. Hence, an acceptable territorial bill at this session is out of the question.

The only other alternative before us is, to bring these Territories into the Union immediately. To accomplish this object, two methods have been proposed. The one, by the Senator from Tennessee, [Mr. BELL,] is to merge the whole territory

of New Mexico and California into one State; and the other, by the Senator from Illinois, [Mr. DOUGLAS,] as the chairman of a select committee, proposes to divide them into two States, admit one immediately and the other prospectively. To both these propositions I am at present inflexibly opposed. The former, however, has been rejected, and therefore I shall not attempt to expose its demerits. Nor shall I discuss the question at length as to the power of Congress to create a State. I rest upon the able and conclusive argument of the Judiciary Committee, presented by their report, upon the bill introduced by the Senator from Illinois, at an early period of the session, for the admission of California as a State. I shall content myself by simply stating my position without elucidation.

The Territories in question are the common property of the several States in their confederated character; and as sovereignty attaches to the ownership of the domain, the sovereignty over them necessarily resides in the States. The Federal Government is in no sense the owner of the Territories or of the sovereignty over them. It is the mere trustee of the States. Now, I hold that the creation of a State is the highest act of sovereignty known to political law. How, then, can Congress, which has no sovereignty over the Territories, exercise the highest power of sovereignty by creating them into States? Inasmuch as the sovereignty over the Territories resides in the several States of the Union, and not in the inhabitants thereof, it follows that they cannot form a State government, in the sense of the Constitution, without the consent of the States. Congress is the trustee of the States, and the organ through which that consent is to be expressed. All that Congress can do, therefore, is to consent that the people, within certain defined limits of territory, may organize a State government, republican in its form, and be admitted into the Union. That consent is a pledge, on the part of the several States, that when such a government shall have been organized they will surrender their sovereignty over the territory thus defined; and its admission into the Union is an actual surrender of that sovereignty.

This consent may be given either before or after the formation of a State constitution. When given before, it authorizes the thing to be done; when given after, it ratifies what has already been done. Hence, I do not deny the right of the people of a Territory to assemble and form a constitution, *with the view to admission into the Union.* When done with that view, it is an act of loyalty to the republic. But I do deny that they have the right, without the consent of the States, through Congress, to organize a government which will constitute them independent of the States of the Union, or which would supersede the temporary government which may have been established by Congress. The relation of the Territories to the United States is unquestionably that of dependence and subordination; and, as matter of right, they can do nothing inconsistent with the sovereignty of the several States over them.

That circumstances may occur which would justify the people of a Territory in setting up an independent, separate government, I not only admit, but advocate. Territories are held by the United States, to be admitted ultimately as members of the Confederacy. If their condition is one of subordination and dependence, it is also one of pupilage and protection. It is the relation of parent and child. If, therefore, the States, through their federal agent, do acts inconsistent with that relationship; if, instead of a foster-mother, the Union becomes an inexorable tyrant; if, instead of tutelage, she inflict the evils of vassalage; if she capriciously and unwarrantably refuse to admit it into the Union, after it has obviously attained to the capacity for self-government, the inhabitants of a Territory would be absolved from their allegiance, and justified in setting up a separate independence. If the States, in giving their consent, of which I have before spoken, for the people of a Territory to form a State government, impose conditions or restrictions incompatible with that equality in sovereignty and dignity which appertains to the other States of the Confederacy, it would justify it in setting up an independent government. It is upon this ground that Missouri would have been justified in declaring her independence in 1820. She had reached constitutional majority; she possessed the requisite population to constitute a State of the Union; her people were sufficiently intelligent and virtuous for self-government; she had presented a republican constitution; and she asked to be admitted into the Union, and to be clothed with that sovereignty which resided in the States. But Congress sought to impose upon her a proviso restricting slavery. This was a condition not imposed upon the other States. It was incompatible with that equality and sovereignty which belonged to the other members of the Confederacy. To such a condition she was not bound to submit; and, having a right to admission without its imposition, she would have been justified in setting up an independent government. So she thought at that day; so thought the people of the southern States; and so convinced were the northern members of Congress by the powerful argument of Mr. Lowndes, of South Carolina, that they took shelter under the Missouri compromise, and actually forced it, *nolens volens*, upon the South. Sir, entertaining these opinions of the want of power on the part of Congress, I could never consent to any bill which attempts to create a State.

The other proposition for admitting these Territories into the Union as States, is the bill reported by the Senator from Illinois, [Mr. DOUGLAS,] as chairman of the select committee. It provides—

"That Congress doth consent that the portion of the territory of the United States which is included within the following limits, to wit: Beginning in the Pacific Ocean, on the parallel of forty-two degrees of north latitude; thence east on said parallel to the dividing ridge which separates the waters flowing into the Colorado river from those which flow into the Great Basin; thence along said dividing ridge to the point where it was crossed by Lieutenant Colonel J. C. Frémont, in eighteen hundred and forty-four, as shown on the map of his exploration; thence southwestwardly along the line of said exploration, as shown on the map of said Frémont's surveys, published by order of the Senate in eighteen hundred and forty-eight, to its intersection with the one hundred and seventeenth meridian of west longitude; thence in a direct line to the intersection of the Sierra Nevada mountains with those of the west range; thence due west to the Pacific Ocean; thence along the coast, including the adjacent islands, to the place of beginning, shall be set apart as the territory of one State, and upon the fulfillment of the conditions hereinafter contained, the same is hereby declared to be one of the States of this Union, by the name and style of the State of California, upon an equal footing with the original States in all respects whatsoever." And—

"That Congress doth consent that the portion of the territory of the United States which is bounded as follows, to wit: On the north by the forty-second parallel of north latitude, on the east by the summit of the Rocky Mountains and the State of Texas, on the south by the Republic of Mexico, and on the west by the proposed State of California and the Pacific Ocean, including the islands adjacent to the shore, shall become one of the States of this Union, by the name and style of the State of New Mexico, or such other name as the people thereof shall, in their constitution, adopt, upon an equal footing with the original States, in all respects whatever, so soon as it shall contain the proper number of inhabitants; and they shall establish for themselves a constitution and republican form of government."

Mr. President, this is a departure from long-established usage. We have heretofore required the inhabitants of Territories to remain in a territorial condition for a series of years. This usage is in strict accordance with the object for which the United States hold Territories. We hold Territories for the purpose of their ultimate admission into the Union; and their inhabitants occupy the relation of pupilage, to be indoctrinated in the principles of republicanism, preparatory to their admission into the Confederacy. If there is any reason in this usage, as applied to our other Territories, how much more forcibly does it apply to New Mexico and California! Their population is mixed, composed of piebald mongrel races, and but recently severed from the Republic of Mexico, whose history for the last twenty years is that of revolution and insubordination. By what magic have they suddenly become capable of self government? Why, sir, it is proposed to admit them into the Union before they have become citizens of the United States. By the eighth article of the treaty, the inhabitants of New Mexico and California are allowed twelve months from the date of the exchange of ratifications to make their election whether they will become American citizens or return to the Mexican Republic. The exchange of ratifications took place on the 30th of May, 1848, and therefore the people of the newly-acquired Territories are not citizens until the 30th of May next; but this bill proposes, contrary to all usage and to the obvious intent of the treaty, to incorporate *immediately* the greater portion of them into the Union. Sir, why this haste? Why this prurient anxiety to add another State to this Confederacy? Was it so with Florida? Sir, Florida knocked at your door for admission for five long years. Was Louisiana admitted in such hot haste? No, sir; Florida and Louisiana were slave States, and therefore there was no great eagerness for their admission. But it is certain, that with its present population, California must be a free State; and hence there are those quite willing for her immediate admission. Who are the people that have gone there from the United States? They are mainly citizens from New York and Massachusetts, and they are those who would control in the convention which would meet to frame a State constitution. What voice would the people of the South or their institutions have in such an assemblage? Sir, I cannot give my consent to any such proposition. It is a tame and inglorious surrender of the rights of the South. It is the Wilmot proviso in disguise, and will accomplish all which that odious measure was ever intended to accomplish.

Sir, where is the necessity for admitting these Territories into the Union? Is it indispensable to their safety and protection? Or is there any moral or political obligation for us to do so? Have they asked for admission? Are we informed that California has the requisite population? These are grave questions, and ought to be solved to our entire satisfaction, before we can be called upon to add another State to the Confederacy. The amendment of the Senator from Wisconsin [Mr. WALKER] gives the people of those Territories the most ample protection. That is all they can claim; it is all we are bound to give them at the present time. Or, if this is not enough, organize a territorial government in accordance with settled usage. Let it be liberal in its provisions, and confer upon them all the powers compatible with their relation to the States, and the rights of the States of the Union.

But it is said that no territorial bill can pass Congress without the Wilmot proviso, and that by admitting these Territories into the Union we avoid that, and thereby settle the agitating question of slavery. I regret to find southern men yielding to this view of the subject. For one, I regard it as insulting to the South—as a proposition to her friends to betray her into the hands of her deadliest enemies. Sir, whose fault is it that these Territories cannot be organized? Who is it that throws obstacles in the way? Is it the South? No, sir. The South stands with folded hands, except when her rights are sought to be invaded. She acts on the defensive. She claims nothing at the hands of Congress but to be let alone. She is willing to coöperate in any legislation for the benefit of these Territories which does not infringe upon her rights. But the very moment any bill is introduced which looks to the formation of territorial governments, the northern factionists seek to incorporate upon it the Wilmot proviso, which excludes the people of the South from these Territories, and violates that equality in dignity and sovereignty which, under the Constitution, appertains to every State of the Confederacy. To avoid this, what are the southern States asked to do? With the fact staring them in the face, that if admitted now California must be a free State, and with the distinct avowal on the part of the North that slavery never shall be extended an inch beyond its present limits, we are seriously asked to incorporate our new Territories into the Union, in order to avoid threatened legislative degradation. Sir, if I am to submit to the Wilmot proviso, let it come undisguised. If the South is to be excluded from the Territories, let her not be insulted by an invitation to aid in the operation.

I am not prepared, Mr. President, to pronounce the bill of the Senator from Illinois unconstitutional. But everything constitutional is not necessarily just or expedient. I concede the right of Congress to admit California immediately, and New Mexico prospectively. I grant also—nay, I insist—that in the formation of a State constitution, the people have the right to determine for themselves whether they will tolerate slavery as a part of their system of government. But, sir, it becomes a very different question when it is proposed to do this for the avowed purpose of avoiding the Wil-

mot proviso, and when it is known that by this method all will be accomplished which the northern agitators desire. It calls upon the South to do that under the influence of a threat which it would be degrading to submit to if executed according to the forms of legislation.

Let it not be inferred from what I have said that I would oppose the admission of a State into the Union on the ground of its being a free State. I have no such feeling. If California and New Mexico shall be required to submit to the usual probation of the territorial condition; if, by just legislation on the part of Congress, the South be allowed a fair chance to participate in the formation of their civil and social system; if the door of emigration be thrown open alike to the citizens of all the States; and then, if the climate and productions of those regions, without congressional interference, shall exclude slavery, and at a proper time the people shall form State constitutions prohibiting its existence, I would cheerfully vote for their admission, even though they be free States. But I cannot, at this time, with due regard to the interests and honor of the South, vote for their immediate admission, when the South has not enjoyed an equal share of emigration to them, when it is known that they must be free States, and when the proposition is coupled with the declaration that it is the only mode for the South to escape from submission to the Wilmot proviso. I make no such surrender. I shall insist on the most ample recognition of the rights of the South. She may be deprived of them by the force of superior numbers; but I trust in God her representatives on this floor will never consent that she shall be cheated out of them by indirection and circumvention.

Nor would I have it inferred, from the position which I occupy, that I am opposed to a settlement of the question of slavery. On the contrary, I most anxiously desire it. The prosperity of the country, the safety of the South, and the integrity of the Union, all demand its speedy settlement; and he who would throw unnecessary obstacles in the way for the sake of agitation, is unworthy the esteem and confidence of patriots. Sir, the entire South is ready and anxious to settle it upon any terms which will save her honor and the glory of the Union; and she has given the most conclusive evidence of the sincerity of her purpose. During the last session a large majority of her representatives in both Houses of Congress voted for the Senate "compromise bill;" and almost without a dissenting voice they supported the "Missouri compromise." The South is still animated by a spirit of concession; she is still prepared to yield much for the sake of the Union. But when the temper of conciliation has departed from the North; when we are denied the poor privilege to *compromise;* and when it is distinctly announced by those who have the numerical strength to oppress us, under the forms of unjust legislation, that we shall be excluded from the common territories of the Union, let it not be expected that the South will coöperate in an indirect mode to effect her own degradation. When compromises are denied her, she will stand firmly upon her constitutional rights.

But, sir, the passage of the bill for the immediate admission of California and the prospective admission of New Mexico will not settle the question of slavery. It might as to that portion of territory designated in the bill as California, but not as to the balance called New Mexico; for, in reference to the latter, it is prospective in its operation. It only grants the consent of Congress for it to "become one of the States of this Union" "so soon as it shall contain the requisite number of inhabitants, and they shall establish for themselves a constitution and republican form of government." But what is to be its condition in the interim between that time and the present? Will it not be a Territory? Will it not be subject to the legislative supervision of Congress as other Territories are? Would not the Wilmot provisoists insist on the extension of the ordinance of 1787 over it so long as it remained in that condition? Surely they would; and at the very next session of Congress we should have two Senators on this floor from the proposed State of California to aid them in their nefarious designs. Yet, with this fact staring them in the face, southern men are asked to support this bill for the purpose of settling the proviso question.

But the Wilmot proviso is not the only question of controversy between the North and the South. Several of the Legislatures of the northern States have passed laws to prevent or oppose the recapture of fugitive slaves, and in none of them is it done without annoyance and difficulty. Will the passage of that remove this source of irritation and conflict? A portion of the people of the North insist that Congress should interdict the slave trade between the States. Will that bill quiet their demands? Congress is ever and anon besieged with petitions to abolish slavery in the District of Columbia. Will that bill silence these clamors? No, sir; you might as soon expect to heal a man who is covered with "wounds and bruises and putrifying sores," by extirpating one ulcer. The spirit of abolition is like the fabled hydra; you may cut off one of his heads, but the loathsome slimy serpent still exists, and is eternally hissing and throwing out his thousand forked tongues to insult and annoy us. Sir, the account between the North and South is long and heavy. We have reached that point when the harmony of the Union and the safety of the South require a "settlement in full." All the heads of the hydra must be cut off, and the wounds seared with a red hot iron, else he will yet live, and infuse his deadly poison into every vein and artery of the body politic. No mere legislative expedient will settle the question of slavery. It can only be done by all parties, in the spirit of patriotism, taking their stand firmly on the Constitution. Let the North do nothing which it forbids, in word or spirit; and let the South, as one man, resolve to submit to nothing that violates its sacred guarantees. This will give quiet to the country, and bind the Union in bonds of adamant.

The South is sought to be placed in the attitude of factious opposition to the organization of these newly-acquired Territories, on the ground that their climate, soil, and productions are unsuited to the employment of slave labor. I shall not consider at length the geographical position and features of our Pacific possessions. It is certainly true that much the larger portion of them is unfit for the cultivation of rice, cotton, sugar, and tobacco. Its surface is marred by immense ranges of mountains and trackless deserts, unfit for the habitation of man. But who will deny that slave labor can be profitably employed in working the gold mines of California? It is cheaper, because it costs the owner nothing but the food and clothing of his operatives; and the negro far excels the white man in capacity to endure exposure to a scorching sun, drenching rains, and the hardships peculiarly incident to the business of mining. Besides, there is a considerable portion of these Territories—enough for the formation of three States of average dimensions—which lies south of the parallel of 36° 30′, known as the line of the Missouri compromise. The other States of this Union which lie south of that line are slave States. They are Arkansas, Tennessee, and North Carolina, which lie immediately adjacent to that line. Do they not profitably employ slave labor? Further south are Texas, Louisiana, Mississippi, Alabama, Georgia, and South Carolina. In all these States cotton constitutes the staple product of agriculture, and in several of them rice and sugar are most advantageously cultivated. The southern parts of California and New Mexico lie in the same eastern and western belt of latitude. Why, then, will they not yield the same agricultural products, and consequently afford profitable employment for slave labor? Sir, it is all a mistake. A large portion of our Pacific territories is suited to slavery, and I will add that no kind of labor will develop so rapidly its immense resources and prepare it for the abode of enterprise and elevated civilization. Let not the South lose sight of these facts. Let her not be decoyed from vigilance over her rights, or charmed into insensibility to legislative aggression, by the siren song that these Territories are not adapted to slavery. They are adapted to it; and if the South will be united in demanding justice at the hands of Congress; if she will be immovable in insisting that the door of unrestricted emigration from all quarters of the Union shall be thrown wide open; if she will maintain, at all hazards, the doctrine of non-interference by Congress, there can be no question that slavery will find its way to New Mexico and California, and that she will yet reap her share of the fruits of the common blood and treasure which were expended in their acquisition.

But, sir, why this incessant clamor on the part of the North against slavery? Is it some great moral plague spot which threatens to infuse mortal disease throughout the body politic? Are those so contaminated among whom it is found that they are unworthy to be the associates of those pure and immaculate philanthropists who weep crocodile tears over the fate of the poor enslaved African? Is it an institution so recent in its origin as to shock the benign spirit of the nineteenth century? Sir, slavery has existed in almost every age and country of the world; and some of the most eminently pious, of whom sacred history keeps the record, have sustained the relation of master, under the direct cognizance and approbation of Heaven. It had its origin in Divine decree, and was ordained by the prophetic curse, pronounced by Noah upon his son Ham, when he said, "Cursed be Canaan; a servant of servants shall he be to his brethren." This leads the mind to the contemplation of the character of Abraham. He was a most extensive slaveholder. He held slaves by gift and by purchase. He owned three hundred and eighteen that were born in his house. In the modern parlance of the abolitionists he might emphatically be termed a "slave-breeder." Yet Abraham was called in "Holy Writ" "the friend of God" and "the father of the faithful."

Sarah, the wife of Abraham, was also a slaveowner; and the anecdote which is recorded of her servant Hagar is full of instruction. When her mistress dealt hardly with her, she fled from her face: "And the angel of the Lord found her by a 'fountain of water in the wilderness. * * * 'And he said, Hagar, Sarah's maid, whence com-'est thou? and whither wilt thou go? And she 'said, I flee from the face of my mistress Sarai. 'And the angel of the Lord said unto her, Return 'to thy mistress, and *submit thyself under her hand.*" What a pity that some pious abolitionist had not been present to admonish the angel of the Lord of the impropriety of sending her back. Now, slaveholder as she was, Sarah is regarded by the ablest commentators as the type of the Virgin Mary, who was the mother of the Saviour of mankind.

Isaac was a slaveholder; for it is written of him that he had possession of a "great store of servants." Jacob also was a slaveholder; for it is said of him that he "increased exceedingly, and had much cattle and *maid servants and men servants.*" I might enumerate a long catalogue of the ancient pious, who were the owners of slaves. But I hasten on.

Now if slavery is so great a moral evil, so repugnant to the laws of God, so abhorrent to the feelings of our common humanity, why was it that these favorite followers and worshippers of the Most High tolerated it, and were tolerated in its enjoyment by Heaven? Why was it not prohibited by the Almighty, when he gave laws to his people? There were many occasions when it would have been most appropriate, if He had designed to manifest towards it his high and holy displeasure. How easy to have done so, when He delivered the ten commandments? That was an occasion of awful grandeur and unutterable solemnity. The summit of the burning mount was enveloped in cloud, and the earth trembled under the footsteps of Jehovah, in attestation of his ineffable glory and power. The code which he there promulgated was designed to embrace the great fundamental principles of all proper government, moral and civil. It was to be binding through all time, upon all men and all nations, and to establish the unerring standard of right and wrong. Why did not the Great Lawgiver of the universe, on this impressive occasion, either forbid slavery or indicate his disapprobation of it? But, so far from this, he recognizes its existence, and laid his injunction upon man in reference to it. The last of the decalogue says, "Thou shalt not covet thy neighbor's house, thou shalt not covet thy neighbor's wife, nor *his man servant, nor his maid servant,* nor his ox, nor his ass, nor anything that is thy neighbor's." Here servants are recognized as subjects of ownership, and placed, as property, in the same category with the ox and the ass.

Nor was slavery discountenanced by Christ, under the new dispensation. He mingled freely and extensively among men—was at public festivals,

and was the instructor of all ranks and classes of men; and on no occasion did vice escape him unrebuked, or error unreproved. The avowed object of his mission on earth was to found a system of ethics for the government of men and society, whose principles should be universal in their application, and suited to both worlds in their claims upon the obedience of mankind. He found slavery in existence, as part and parcel of the organization of society, and sanctioned by time and immemorial usages. But he uttered no word of condemnation against it. On the contrary, he said, "Think not that I am come to destroy the Law or the Prophets; I am not come to destroy, but to fulfill." He did not come to interfere with the settled order of things as he found them. He did not come to subvert the civil institutions which had been established. But he came to deal with man as he found him, and to instruct him in his duties, in all the existing relations of society. Hence, we find the New Testament abounding in passages which not only recognize the existence, but the legality of slavery. Who was better informed as to the principles which should govern the conduct of men than the Apostle Paul? Who more fearless in denouncing vice and error, wherever found, whether in the walks of obscurity or the favored incumbents of kingly thrones? Yet he nowhere condemned slavery, or uttered bitter maledictions against the slaveholder. But, on the contrary, he laid down rules for the regulation of the duties of masters and servants. In writing to the Colossians, he said, "Servants, obey in all things your masters according to the flesh; not with eye-service, as men pleasers, but in singleness of heart, fearing God." In his letter to the Ephesians, he directs, "Servants, be obedient to them that are your masters according to the flesh, with fear and trembling, in the singleness of your heart as unto Christ." In his first letter to Timothy, he writes: "Let as many servants as are under the yoke count their own masters worthy of all honor, that the name of God and his doctrine be not blasphemed." In his epistle to Philemon there is an incident so applicable to the present time and to this discussion, that I cannot omit to notice it. Philemon, a professor of religion, owned a slave by the name of Onesimus, who ran away from his master and got to Rome, where Paul was preaching. Under the powerful ministrations of the great Apostle he was converted to the faith of Christianity. He became acquainted with Paul, and doubtless confessed that he was a fugitive from his master's possession. What now was the conduct of this pious herald of the Cross? Did he harbor and conceal this slave from his owner, as do our very philanthropic abolitionists of the present day? Did he indulge in puling sympathy, and seek to render him dissatisfied with his condition? Did he endeavor to poison his mind and inflame his prejudices against his rightful master? No. He sent him back to his owner, and offered to indemnify him for the loss of his services during his absence. He wrote to Philemon that if his slave had wronged him or owed him aught, to put it to his account. "I, Paul, have written it with mine own hand; I will repay it." Sir, what a rebuke to the modern abolitionist! How completely does this remove all imputation against slavery as contrary to the rules of moral rectitude! Sir, it gives a high and holy sanction to that provision of our Constitution which requires, on the part of the free States, the prompt surrender of our fugitive slaves.

The institution being thus sanctioned by Revelation, and intrenched behind the impregnable ramparts of the Constitution, I repeat the inquiry, why this incessant crusade against the South and her just claim to an equal participation in the common Territories of the Union? Has not the South been ever loyal to the Constitution? Has she not borne, without a murmur, her share of the public burdens? Has she not been prompt to contribute her money and her men to defend the rights and honor of our flag? Has she not for many long years consented to be fleeced, in the way of high tariffs, by which northern manufacturers have been enriched, and the North and West made prosperous, under the expenditure of extravagant appropriations for works of internal improvements? Sir, it is time this warfare against the South had ceased. It has been kept up long enough. The Union was formed for the general good, for defence against foreign invasion, and to secure domestic tranquillity. The southern States came into it in good faith. When the Constitution was adopted, slavery existed in nearly all the States; and the great object of its framers was, not to consider how it might ultimately be abolished, but to throw around it the most ample guarantees. This Union never could have been formed upon any other basis than that of the most absolute equality between the States. The slave States never would have entered into the compact upon any other condition. They never would have agreed to it if they could have even anticipated that a methodical and organized attack would have been made by Congress upon their domestic institutions. Sir, it is all in violation of the spirit and letter of the Constitution. It is at war with everything like good faith and political fraternity. It must cease, or the Union will be destroyed; it cannot withstand an agitation so vital, so fundamental. It affects the very foundation of the Government, and if continued will lay the glorious fabric in ruins.

It has been intimated during this debate that the South would finally submit to the aggressions of the North. Let not gentlemen deceive themselves. The people of the South will endure evils while evils are tolerable. But there is a point beyond which forbearance ceases to be a virtue, and at which patience waxes into desperation. Sir, what mean the resolutions of State Legislatures which have been piled in rapid succession upon your table during the present session of Congress? Virginia, North Carolina, South Carolina, and Florida have all spoken a language not to be misunderstood; and if the Legislatures of the other southern States had been in session, they would have uttered similar sentiments. Is it supposed that the people of the South are dastardly; that they are not serious in their public resolves; and that they have so far degenerated from the chivalry of their ancestry as to pass complacently under the iron yoke of northern aggression? Let not gentlemen deceive themselves. The South have too much at stake. Their domestic peace, their property, their honor, their all, are involved in the contest. Not less than ten hundred millions in value of their slave property are jeoparded by this spirit of fanaticism and aggression. Does the history of the world furnish a single instance of a people so craven-hearted as to submit to the unresisted hazard of the security and safety of so vast an amount of property? Sir, I am authorized to utter no word of menace on this floor. But I ask gentlemen to study well the value of the interests involved, and the lofty elements of southern character, before they mature the opinion that the southern States will tamely submit to insult, degradation, and plunder under the forms of legislation.

The Senator from New Jersey [Mr. DAYTON] admitted the possibility that the South might secede—that she might retire with chagrin, like Achilles to his tent; but that ere long she would find something knocking at the door of her mighty heart, and she would return again. I trust, sir, that the South may never have sufficient cause to assume the attitude of secession from this glorious Union. But if she should, the gentleman's illustration would be as false as it is beautifully classic. Why should the South return again, if driven from the Union by its injustice and oppression? I cannot imagine, unless it would be to enjoy the distinguished entrée into good society, which is kindly extended to southern gentlemen at the North, notwithstanding they are slaveholders. From my very heart, I thank our northern friends for their condescending hospitality, which has been so vividly portrayed by the Senator from New Jersey. But I confess I should be much more thankful if our northern benefactors would be less hospitable to our fugitive slaves. If, however, it be true that the South would return, is it wise, is it patriotic, by a course of unnecessary and unconstitutional legislation, to force the experiment? Is it not the part of elevated and enlightened statesmanship to pause ere you have reached the verge which overlooks so fearful a precipice?

In maintaining the position which I do, I disavow any intention to produce sectional prejudices, or to foment local agitation. I deprecate the formation of geographical parties. I feel that every inch of soil which is sheltered by our stars and stripes is a part of my home, and a part of my inheritance. All I mean to say is, that if the Union, instead of a shield to protect, is converted into a weapon to wound, there is a settled determination among the people of the South to vindicate themselves, their rights of property, and domestic altars. I, for one, am prepared to share their fate. We claim nothing at the hands of Congress but non-interference. We do not ask you to extend slavery; we say you must not prohibit it. We say that New Mexico and California are the common property of the States, and that we have the same right to carry our slaves there which the New England man has to carry his spindles or his looms. In this position, the South feels that she is sustained by the Constitution, and there she intends to stand.

In speaking thus, the South does not desire to be considered as using the language of menace. That would be unworthy of herself, and incompatible with her elevated sentiment of conscious rectitude. It would be unjust to the North, because it would imply that she could be moved by intimidation. What the South means is this: Having entered the Union in good faith, she will abide the compromises of the Constitution; and she expects the North to do likewise. But if this cannot be so; if, having the numerical majority, the North will trample on our rights, outrage our feelings, and disregard our political equality as confederates, we cannot be held to abide the violated bond. We say so in advance, not to intimidate, but to arouse the patriotism of the North, their love of the Union, and their regard for justice, to the end that they may voluntarily pause ere they provoke consequences to be deplored by every lover of liberty and every friend of good government.

The South is devoted to the Union. She venerates its institutions. She glories in the recollection of the brilliant deeds of its founders. But the Union of her affections is that which was formed by the Constitution, "to establish justice, *insure* '*domestic tranquillity*, provide for the common de-'fence, promote the general welfare, and secure the 'blessings of liberty." If, through the blindness of fanaticism or the folly of unwarranted legislation, it become subversive of these ends, and be transformed into an engine to oppress the South, it will cease to be an object of love and pride, and will forfeit all title to her allegiance. But if the spirit that animated the fathers of the Republic can be revived; if the spirit of justice, conciliation, and fraternity which presided over their deliberations could be infused into the bosoms of their descendants; if, under the inspiration of such a spirit, our northern friends would approach the Constitution, and, on its consecrated altar, sacrifice all but pure and elevated patriotism; if they would deal justly with the South, and exhibit towards her sentiments of liberality and kindness, this Union would be as permanent as the eternal hills; and the sons of the sunny clime from whence I come, glorying in our "star-spangled banner," would coin their hearts, if need be, into ducats, and pour them into the public lap, to vindicate the national honor.

Mr. NILES said:

Mr. PRESIDENT: I have listened with great patience, and some considerable degree of interest, to the remarks which have been made by gentlemen during the discussion of this question. And it is with very great reluctance that I now rise to address the Senate upon this subject. I am as anxious as any Senator to have the vote taken upon this bill, and I had hoped that it would have been taken long before this time. However, notwithstanding my own, and the general anxiety to come to a vote upon the bill; notwithstanding the little remaining time we have to devote to the public business; notwithstanding the lateness of the hour, circumstances render it necessary that I should express my views upon the proposition before us, and the general policy and interests which it involves. This will be the last time that I shall address the Senate upon this subject—perhaps the last time that I shall address them upon any subject. I would have been very glad, after discovering, as I did before this proposition was brought forward, that we should not be able to accomplish anything in relation to this matter at the present session, to have been spared the duty which I now feel of saying anything upon this unpleasant sub-

ject. I had supposed at the commencement of this session, that, at an early period, an effort would be made—I believed it to be the duty of Congress to make that effort—to organize the Territories of California and New Mexico. I had confidence, a reasonable confidence, that that effort would have been made in the usual, the ordinary way; at least that it would have been commenced in that way. I had supposed that we would have had a territorial bill, following a safe precedent; following our uniform course of legislation upon this subject. But instead of that, I witnessed, very early in the session, that the organization of these Territories was intended, or hoped to be accomplished, in some new and untried form; some new scheme of organization. And we have witnessed, thus far in the progress of the session—I hardly know how many, I think at least half a dozen different propositions, of a form somewhat new, many of them entirely new, and I think I may say some of them not only unprecedented, but very extraordinary in their character; and all very objectionable, with perhaps the single exception of that which came from the Senator from Massachusetts, [Mr. WEBSTER;] for the proposition of the Senator from New Jersey [Mr. DAYTON] finally assumed much the same objectionable form as the others. All of these propositions, with the single exception which I have named, (that of the Senator from Massachusetts,) seemed to me to have been framed for the purpose of escaping, for the purpose of avoiding, the great question which the subject seemed to present, and which it appeared to me it was our duty to meet, and to endeavor to dispose of in some satisfactory way.

The honorable Senator from Illinois, [Mr. DOUGLAS,] who, I regret to perceive, is not in his seat, has been very conspicuous in this matter. Why, sir, he seems to have conceived that he had a mission, [laughter,] and he has been most persevering in his attempts to fulfill it. Whether he thought it came from above, from some supernatural source, or from the subtle influences of the White House, [renewed laughter,] or somewhere else, I know not. But his zeal, his perseverance, his untiring efforts to get up something that might result in some sort of organization, and at the same time leave these Territories open to the introduction of slavery—if by covert means it can possibly be taken there—have been wonderful to behold. The leaving that country open to the intrusion of slavery at some future time, has been, I think, the general, leading idea which has run through all these propositions. It may be that the honorable Senator has been raised up for this purpose. He is, we all know, one who believes in this great doctrine of manifest destiny; at any rate, he had considerable to say on that subject at the last session, and he may probably suppose that the arrangement of this matter, according to his plan, was a part of his destiny. However, so far he has not been very successful. I think it may be said, without fear of contradiction, that his destiny, mission, or whatever it may have been, has proved a failure. Another western gentleman seems to have taken destiny out of his hands, and has come forward with the proposition now before us. This proposition has come from a quarter from which I little expected a movement of the kind; still I have no reason to doubt that the honorable Senator from Wisconsin [Mr. WALKER] has acted from high and patriotic motives. I would certainly impute none other to any honorable Senator on this floor. And I was very sorry to believe, from the remarks of the honorable Senator from Mississippi, [Mr. FOOTE,] (who, I think, was a little unguarded,) that he was not disposed to yield to the Senator from Wisconsin the proper rights of paternity in regard to this offspring of his. The Senator from Mississippi seemed to assume that it was the child of many fathers. I thought the credit was not so great but that it might justly be due to one; but if it is to be divided—and I know not the number who claim a right to participate in it—the credit to each, I apprehend, will be very small.

Mr. President, I would not detain the Senate at all by prolonging the discussion upon this subject—because I believe it is of no use to talk about it—were it not that I do not feel as though some of us on this side of the Chamber, who have a duty to discharge to our constituents and to the country, have been treated very courteously or fairly during the session in relation to this subject. I have sat here very quietly, having scarcely opened my mouth, whilst exposed to a fire from the regulars of the South, and their allies of the North. And yet there has been a great deal of discussion with respect to the general subject of the condition of these Territories, and the slavery question, as it is called. This discussion has been all on one side—entirely on one side, I believe, with the exception of the remarks of my friend from New York, [Mr. DIX,] and my brief remarks the other night. We have had resolutions presented here also, and pretty strong resolutions they were. The Senator from Georgia [Mr. JOHNSON] says they contain no threats—I do not know what the gentleman considers a threat—though they appeared to me to threaten resistance to a law of Congress. We have had these resolutions presented here, and we have had speeches in harmony with those resolutions. I was half tempted—for we are all exposed to temptations—to say something on one occasion when some of these resolutions were presented; but, discovering that my southern friends were very anxious to get up an agitation, as I had all along suspected, I with a great effort restrained myself. I would not consent to gratify them. And it has been a principle with me never to enter into those discussions unless on some bill where action was involved. As for mere agitation, I have always disclaimed it. I think I shall have to hold my friend from New York [Mr. DICKINSON] responsible for a share, at least, of this agitation, when I come to that part of the subject.

Myself and those who stand with me on this question have borne all these things very quietly. But, as I am going out of this body, I want to go out clear, to pay off all that is due to every one, and present a true balance-sheet, errors excepted. [Laughter.] I must not pass over my friend from New York, [Mr. DICKINSON,] because that would not be respectful; and, before I enter upon the few remarks which I have to make on the proposition before the Senate, I must bestow upon him that attention to which his very earnest and eloquent speech entitles him.

The Senator from New York assumed several positions in his speech which I wish to notice. In the first place, he condemned in very severe terms the whole agitation upon this subject. Well, I agree with him that it is very much to be regretted. But whom did the Senator consider responsible for it? He did not exactly name any one, nor any section, I believe; but, taken in connection with his whole speech, it was pretty clear that he meant to hold those responsible who differ with him in the free States. I think that is a pretty fair conclusion. I must beg leave to differ with my friend upon that point. I think the facts will show that the responsibility rests elsewhere, and I am sorry that my friend will come in for a respectable share of it. I think I shall show that he belongs to the category who are mainly responsible for this agitation.

Mr. President, what are the facts? When this Wilmot proviso first came up, in 1846, on the three million bill, intended to acquire territory, it occasioned no alarm, no violent opposition from any quarter, and was adopted by a large majority. The great liberality of the North in relation to Texas probably had its influence. They yielded up the whole of Texas, not very willingly on the part of some of us I admit, but, by hook or by crook, by fair means or by foul, the South got the whole of it. I suppose this was thought liberal; I am sure it ought to have been so regarded. And I suppose that it was on that account that the proviso was received so kindly on its first appearance. These Territories were not then acquired, although it was well known that we should have territory. That was well understood on this side of the Chamber. I was in favor of it myself, because we could not get out of the war honorably in any other way; we had a right to some indemnity, and Mexico could make no other. I knew that we should have territory, and I knew that trouble would come with it. I doubted whether its advantages to the Union would be greater than the embarrassments which it could occasion. But we were in such a condition that we could not retreat, whilst it was dangerous to go forward; we would not back out of the war without "indemnity" in some form, and we could get nothing but territory. When this proposition came up attached to the three million bill, it was well understood that we were to have territory, and it came with as much force as though the Territories at that time had been actually ceded. And how was it received by the North and by the South? Why, sir, instead of that proposition, which is spoken of here with so much alarm, which is so strongly condemned, being regarded as insulting or degrading to any portion of the Union, it was received with as much calmness in the other wing of this Capitol, and produced no more excitement, as I have understood, than any ordinary question. And what was the result? It passed through the other House with a very large majority, some thirty or forty, I believe, and received thirty votes, if I am not mistaken, from the Representatives of slaveholding States. Could it be possible, then, that this proposition was regarded, at that time, as such a startling one? It is very clear that it was not. This proviso then received thirty votes from the slave States. Now, this may not be so, but I believe I am correct; I have not examined the journal, but was so informed by a member of the other House a few days since.

Mr. BUTLER, (in his seat.) It was not so.

Mr. NILES. I may be mistaken, but certainly I think there were a considerable number of southern votes given for that bill. The proposition came here, and many supposed it would have passed this body, had it not met with a slight impediment [laughter] in the speech of the Senator from Massachusetts, [Mr. DAVIS.] At any rate, I suppose that my friend from New York would have gone for it at that time, because a very distinguished Senator, to whom he usually deferred in such matters, was disposed to go for it.

Mr. BUTLER, (interposing.) I would like to have the Senator from Connecticut make his statement in relation to the number of southern votes given for that bill, in the other House, more distinct, so that we may understand it.

Mr. NILES. I said that I understood that some thirty votes from the slaveholding States were given for the bill.

Mr. BUTLER, (in his seat.) That is altogether a mistake.

Mr. KING, (in his seat.) There was but one vote from a southern State given for it.

Mr. NILES. Mr. President, I hardly think I am mistaken in regard to that matter. I received my information from a distinguished member of the other House. At any rate, it occasioned no agitation there. It went through like any ordinary bill. It might not have passed here, but still, as I have already observed, I think my friend from New York would have gone for it, because a distinguished gentleman, to whom he has since greatly deferred, and whom he has supported for the highest office in this Republic, was prepared to go for it at that time. I suppose I am authorized to say this. I had some knowledge on the subject myself, and I think there is good evidence before the country that the distinguished gentleman to whom I have referred was prepared to vote for that bill. In view of these facts, I think it would have received, if not a majority, certainly a number of votes very near to it, in this body.

What, then, has occasioned this great change in this question? What has converted a proposition which was comparatively so very unimportant at first, into one so alarming, the consequences of which it is pretended may disturb the Union? What has brought up this agitation? There may be more than one explanation given; but I will suggest what I think to be the real solution of the problem. Sir, this matter, like most others, was unfortunately seized upon to be used in the Presidential election; and there were some gentlemen disposed to make it a party issue, and in a particular form. This was a form which, in the opinion of others, involved a surrender of what many regarded as the rights of the free States in this matter. This, of course, brought this question into the election, and it produced the agitation which has followed. Now, who was responsible for bringing this question into the election? Not me, sir. Not, I believe, those with whom I acted on this question. I think my friend from New York, [Mr. DICKINSON,] and others who acted with him, were the persons in the free States who were responsible for this agitation, so far as it has grown

out of the fact to which I have referred. They arranged this matter so as to bring it into the election. And hence we have had the famous Nicholson letter, containing a certain platform, which, unfortunately, did not prove sufficiently sound and strong to be able to bear up under the very singular and incongruous load put upon it by those who erected it. In consequence of the erection of that platform, a portion of the people of the North, who had previously acted with the same political organization, refused to coöperate with it any longer. They would not submit to that platform. They considered it as involving a surrender of the principles for which they were contending, and the rights of the free States in this matter. This first produced agitation. And now the honorable Senator from New York, and others who acted with him, who, I believe, were concerned in these arrangements, come here and insinuate, at least, that those of us who deemed it our duty to support a great principle, important to the Territories, important to the free States, and, as we believed, important to the whole country, are responsible for this agitation. Whether we are responsible for it, or whether the responsibility rests upon them, I think is a question very easy to determine. I am well satisfied that this whole difficulty, this whole agitation, has arisen from these circumstances, and that if this matter had been kept out of the election, and had there been unanimity in the free States, there would have been no agitation. This proposition was not then regarded as a matter of aggression by the South. Some one or two very distinguished gentlemen in South Carolina so regarded it; but that was not the general sentiment, I believe. And had the North been united on the subject then, it would have passed away, and there would have been no general agitation of the question at all. This, in my view, is the source of this national agitation of this question.

Mr. President, I think the South have some responsibility in this matter. They also have done, I think, fully their share, and considerable more than that, towards bringing about this result. Why was it necessary to make this arrangement, and put forth this Nicholson letter? Why was it necessary to make a platform which was to embrace this question which has become so troublesome? Sir, these questions are very easily answered. It became necessary in consequence of the position taken in several southern States by the Democratic party—perhaps by the other party in some of them—but by the Democratic party in several of the leading States there. They resolved to carry this question into the election, in the most solemn form, by their conventions, and in the more grave form of their Legislatures, in legal enactments as it were. They insisted upon incorporating this question into, and making it a great issue in, the election, and they resolved that they would support no candidate unless he was a known and avowed opponent of the proviso. The South having taken that position, some sort of compromise became necessary. Why, sir, the delegates from the different sections of the Union could not have acted together unless they had put up some new platform. How could they act together? The States of the North, I admit, had generally adopted resolutions affirming the proviso, but they had not proposed to make it a political test at all; they had not proposed to carry it into the election. They had merely expressed their opinions. But the States of the South had gone further, and they therefore forced it into the election, and forced their northern friends to devise and arrange some new platform whereupon they could act together. And hence we had the Nicholson letter—a platform gotten up to get over the difficulty—gotten up to enable the Democratic party to go along as a common party, although differing essentially upon the great and only issue which was involved in that election. The North gave way, as they usually have. They got up this Nicholson platform, which was really a surrender of the whole matter, and they went into the election upon it. This caused a division of the party in the North. Those of us who were not willing to surrender a great principle for the mere triumph of party would not stand upon that platform. And now the honorable Senator, after having been one, as I assume, who was concerned in these arrangements which led to this serious agitation—I have no evidence except his general course, including his speech of to-night, and I think that is sufficient to warrant me in saying this—this gentleman, I say, after having been concerned in all the arrangements by which the agitation of this vital question has been brought about, comes forward here with pretty strong insinuations against those in the free States who have stood where he once stood, or at least where his candidate stood, on what they believed to be consistent not only with northern rights, but with the rights of the whole Union, and with the still higher interests of liberty and humanity.

The honorable Senator from New York [Mr. DICKINSON] says that he has never voted for the extension of slavery, and that he never will. I was very happy to hear that, but still I must be permitted to say that he is not quite correct on this point. I think, if he will recur to a proposition he sustained at the last session, he will find that he did vote for the extension of slavery.

Mr. DICKINSON, (in his seat.) Will the honorable Senator state when I voted for the extension of slavery?

Mr. NILES. Yes, sir; it was the proposition at the last session called the Missouri compromise, modified as it was, which excluded slavery north of 36° 30', and provided that the territory south of 36° 30' might be slave territory or not, as the settlers there might determine. Was not this a proposition to extend slavery? That territory was free—slavery was excluded from the whole of it. But this provision, for which the Senator voted, admitted it into that part of the Territory south of a certain line. It legalized and established slavery south of that line. It was, so far as I know, the first law ever enacted to establish slavery where it did not exist; to sanction it in advance; to carry slavery by law into a free territory, by abrogating the law which prohibited it. The Senator voted for this extraordinary proposition, and yet he says he has never favored the extension of slavery. And I think that the amendment before us is another case. Why, sir, what is this amendment? It dismembers New Mexico, and it throws off from our jurisdiction two-thirds of that whole territory, all lying east of the Rio Grande. I will not say that this is strictly the annexation of this part of New Mexico to Texas, but it is the entire surrender of our jurisdiction over it, and it approaches very near to it. If this amendment becomes a law, we surrender it up to Texas, a slave State, and of course extend slavery over it. I do not say that it is a final settlement of the boundary question, but it certainly opens the territory to slavery until that question is settled; and if slavery is once introduced there, does any one believe that it will ever be driven out? No one can believe this.

But this is not all. What is the Senator's position in respect to the general question? California and New Mexico are now free; the laws in force there exclude slavery. I wish to give efficacy and force to those laws. I wish to maintain them in the condition in which we found them; and if further legislation is necessary to give effect to that law or prevent its evasion, ought not such legislation to be applied? We do not ask for legislation to *change* the condition of the country, but only to maintain it in the condition in which it now is. Is the Senator willing to do this? No; he is willing, and seems to desire to leave the country in such a situation as to give slavery a chance to introduce itself there, if there is any way in which it can be done. We have the power to render the law prohibiting slavery efficacious and certain, and to neglect to do so is to favor the introduction of slavery. What is the difference between neglecting to provide the necessary laws to keep slavery out of a free territory, when we have the power to do it, and the actual introduction of it by law? I can see none in substance, although there may be in form. To permit slavery to intrude itself into a free territory is one way of extending it.

Mr. President, I now come to consider the charge repeatedly made that the position we occupy is an "aggression" upon the South. This charge is constantly made. The Senator from Georgia, [Mr. JOHNSON,] who preceded me, said we were making war upon the South. He spoke with too much warmth to be very guarded in his language. But his colleague on the other side of the Chamber, who is remarkable for the precision of his language and ideas, said, some days since, that the proviso was a most palpable aggression upon the rights of the slave States, degrading to them, and one to which they could not and would not submit. Is this so? I think I can show that there is not a semblance of truth in the declaration.

But a word further as to the aggression on the rights of the South. If a restriction operates unfavorably in some respects upon the South, does not the omission of it act unfavorably on the free States? One of the parties cannot say that your principle is an aggression more than the other. Here is a conflict of interests to a certain extent, not very important, so far as the interests of the States are concerned; but there is or may be an advantage to the free States by a restriction upon slavery; and the omission to impose a restriction is or may be an advantage to the slave States. One principle is more favorable to emigration from the free States; the other to emigration from the slave States; though I do not consider it a privilege to any State to increase the inducements to its population to remove from it. But it is no more correct to say that the principle of one party is an aggression than that the prineiple of the other is aggressive. Neither are aggressions, for the simple reason that no State has any right in a Territory, nor have the citizens of any State rights there, according to the policy of this Government, any more than the citizens of Great Britain. They can go there, and so can the Irish go there; and both will be protected alike, and have the same rights. What rights have our citizens there more than those from a foreign country? I know of none; and the idea that any policy in our Territories is an aggression upon a State can derive no support from the Constitution or any other source, because the States have no rights there. I do not see that the Territories belong to the States. They belong to the Union. The States are parties to the Confederacy, but that gives them no rights as States in the Territories. There is, therefore, no question of State rights in the case. If the Territories belong to the Union, so do the public ships in the navy-yards belong to the Union as much as the Territories. Have the States any rights in the public ships, except the rights which they have as a part of the Confederacy, or, if you please, as partners in the Confederacy? But the entire interest and rights belong to the whole Confederacy, and neither a State nor the citizens of a State have any rights there which can be the subject of aggression. If the exclusion of slavery from the Territories is an aggression upon the slave States, by obstructing emigration, is not its admission, for the same cause, equally an aggression upon the free States? Why, then, is our policy aggressive more than that pursued by our opponents?

I need say but a few words in respect to this amendment, after the able speech of the Senator from New York, [Mr. DIX,] and the remarks I submitted when this bill was up the other day. I have already incidentally alluded to that part of this proposition which virtually transfers all of New Mexico east of the Rio Grande to Texas, and thus puts it under the dominion of slavery. Why surrender two-thirds of New Mexico, and nearly all of the settled portions of it, to Texas? Can any reason be assigned except to extend slavery over it? This would, in my judgment, be a fatal objection to this proposition, were there no other. In this respect it expressly extends slavery over a free territory, and leaves California open to its introduction there. But in other respects it is wholly objectionable. It places the entire powers of Government in the hands of the President. He is to appoint the judges and other civil officers without the concurrence of the Senate; to prescribe the rules by which their conduct is to be governed; and is authorized to prescribe rules and regulations to preserve peace and quiet among the inhabitants, and to support and maintain justice. These provisions give him not only the entire executive and judicial powers, but also the legislative. He is to make the laws, to execute them, and to administer justice, and is subject to no check or responsibility whatever, except it be that of impeachment. But where there is an unlimited discretion, there can be no responsibility. He is also authorized to establish collection districts, to appoint custom-house officers, and to form the civil divisions of the

country. In one word, this amendment establishes a despotic government, vesting all its powers in the hands of one man. And these powers are not limited as to time It is to me astonishing that such a proposition should command support from any quarter. The power of legislation for the Territories belongs to Congress. This power they may exercise directly by enacting laws, or indirectly by establishing legislative councils in the Territory, their acts being subject to the revision of Congress. The latter course has usually been pursued. But can we transfer our legislative power to the President, and thus unite the executive with the law-making power? The proposition is startling; and is there any example for it? I deny the right and authority of Congress to delegate its legislative powers to the Executive. The Constitution does not authorize this. We have the same exclusive power of legislation in a Territory that we have in this District; and will any one maintain that we can delegate our power of legislation here to the President? And if Congress can delegate or transfer its jurisdiction over a Territory to the Executive, may it not on the same principle delegate its legislative power over the States to the President? The consequences in the latter case might be more serious; but in principle there can be no difference.

And is it supposed that the people of these Territories will quietly submit to an arbitrary government of this kind? It is not for Mexicans only; for thousands of our own citizens have gone there, who know their rights, who understand the territorial governments which have been established elsewhere. Will they submit to a despotism—to the government of one man? and to be deprived of all participation in the government you establish over them?

Can there be any example found in modern times of a colonial system like this? Are the colonies of any of the European Powers subjected to a system so despotic as this? We are in the habit of considering the British Government as aristocratic and arbitrary; but has it any colonies subject to a despotic system like this? Would any minister dare to propose such a system? If any one were to do it, he would be driven from his post with disgrace and infamy.

To find such an example in British history, you must go back to the days of arbitrary power; you must go back to the times of the Stuarts. The last example was during the most despotic and arbitrary reign in England, that of James the Second. I allude to the case of Sir Edmund Andross, who was appointed by James Governor of New Jersey, New York, and all the New England States, with unlimited power. But even at that day the people of Connecticut would not submit to this arbitrary authority. Andross, with his retainers and royal guards, came to Hartford to proclaim and enforce his authority. This was resisted; companies of militia were ordered out; and when Andross undertook to make proclamation, the drums were beat to interrupt him. He demanded of the Governor the surrender of the charter, who asked for time for consideration; and having called together his council, they deliberated on the subject during the day; and the session continuing into the night, the royal governor, becoming impatient, entered the council chamber with his suite, to take the charter by force, when the lights were suddenly extinguished, and Captain Wadsworth seizing the charter from the table, escaped with it, and secreted it in the cavity of a large tree, which has ever since been called charter oak. Such was the spirit with which the people of Connecticut, more than a century and a half ago, resisted the attempt to establish a despotic government over the colony—a system in which all the powers of government were united in a royal governor. And is it supposed that the descendants of such a people will submit to a similar colonial system at this day? Sir, if we cannot give to those Territories such a government as they ought to have, such a system as we have given to other Territories, let us not insult them by attempting to subject them to a despotism. It will be much better to do nothing; to let them alone. They can take care of themselves; and if we neglect to provide a government for them, they will be perfectly justified in establishing one for themselves. If we will not exercise the powers of government which belong to Congress, they must revert to the people of the Territory. When the British King dissolved the Assemblies of the Colonies, Mr. Jefferson said that the powers of legislation, incapable of annihilation, reverted to the people.

If we neglect to act, the people of California and New Mexico will establish provisional governments for themselves. This they have a right to do, and no doubt will do. By the last accounts from Califo[illegible] they had already moved in this matter.

I am not to be led into the support of a highly objectionable proposition by any apprehensions of anarchy or alarming disorders in those Territories. The men who have gone there and are now on their way from the States, know their rights; they are intelligent, and every way qualified to organize a government for themselves, based on the principles which prevail in the States. The men who have gone to that distant frontier of our country, with arms in one hand and the Bible in the other, will not be found wanting in any emergency to protect themselves, if we fail to protect them. They will not be found wanting in either physical or moral energy to do this. The urgency, therefore, is not so great as some seem disposed to believe. It is not such as to justify or even excuse the establishing a despotism.

Before I leave this subject I wish to ask the honorable Senator from New York [Mr. DICKINSON] how he reconciles this amendment with the Nicholson letter, and his own resolutions introduced at the last session, and defended in a speech deliberately prepared? The platform of the Nicholson letter and the Senator's resolutions was, that Congress had no jurisdiction or power over a Territory. That it belonged to the people inhabiting it to govern themselves. That the exercise of this power by Congress was an invasion of the rights of the people and a direct blow at the great principle of popular sovereignty which lies at the foundation of our institutions. Such was the Nicholson-letter platform on which the Senator stood last session, and on which he went into the Presidential election. The error of this platform was, that it assumed that a Territory was an independent community, when it is a mere dependency of the Confederacy. But the question now is, how those who supported this platform can turn round and support the proposition now before us? This amendment not only asserts the power of Congress over the Territories, but vests all the powers of government in the Executive, and denies to the people any right or participation in it. The two principles are in the extremes of opposition. This amendment and the Nicholson-letter platform agree only in one thing; they both leave the country open to the intrusion of slavery, but in every other respect they are as opposite as light and darkness. But, Mr. President, I must hasten to a close.

The question has been raised here and discussed as to how far the Constitution extended to a Territory, and what rights would be claimed in a Territory under the Constitution. I am not disposed to go into that question. I do not deem it very important. It appears to me that the view presented by the honorable Senator from Massachusetts, high as his authority is, is a little too strong. It seems to me, to deny that the Constitution has any force in a Territory is to deny all authority in Congress to act or legislate in respect to it. What authority Congress has must, I think, be derived from the Constitution; and if the Constitution extend at all, or, so far as it is applicable, I think it must be in regard to the powers necessary or appropriate to be exercised there, and only so far as those powers are applicable. If our authority to act is derived from the Constitution, then the restrictions upon that authority must go with it, so far as they are applicable. And why do not those provisions which guaranty private rights extend to the Territories? The amendments to the Constitution guaranty private rights. Further than this perhaps the Constitution cannot extend, because it is not applicable. But, in this view of it, it appears to me a very strange position, which has been so strenuously maintained, that the Constitution can carry slavery with it into a Territory. Can the right to extend slavery be claimed under the Constitution? Well, if the Constitution does not extend there, that position can of course have no force in it; but, if it does extend to Territories, does it not expressly exclude slavery? The authority of Congress in a Territory is general and exclusive, the same as in this District. If the Constitution will uphold slavery in a Territory, it will equally uphold it in this District. But here it exists by the authority of the local laws, not that of the Constitution. The power of Congress over a Territory is general; there are no express limitations or restrictions upon it. We are to make "needful rules and regulations;" and are we to be told that this is a restriction on the power to exclude slavery? How does a general power touch this question? Why, it is very evident that it does not touch it; and it is perfectly evident, from the example that we have here, that the jurisdiction in a Territory is a general jurisdiction, the same as in this District. And, if there is a provision of the Constitution which is restrictive on Congress in a Territory, then I ask if it is not equally restrictive in this District, and in navy-yards and other places ceded to the United States, and which are the common property of this Confederacy? Why, the idea that the Constitution carries slavery with it is an insult to the understanding, and a reproach to those patriotic men who framed it. The Constitution does not sanction or uphold slavery in the States; it merely recognizes the existence of it by virtue of the laws of the State. If gentlemen suppose this is so, where do they find their authority for it? Certainly not in the provision relating to Territories, for they can find nothing in that article to countenance such an idea. That is a general authority. Will they find it in the restrictions? Will you find it in the Amendments? You might find a restriction there against passing laws respecting religion, or restricting the right of trial by jury; but do you find any respecting this subject? No, sir, no. But I find something else there; I find in the fifth article of the Amendments a provision which, in its application to Territories, necessarily excludes the idea that slavery could exist there. That provision says that no man shall be put in jeopardy of his life more than once for the same offence, and that no man shall be deprived of life or liberty except by due process of law; and that must have reference to proceedings in courts of justice. If this provision applies to the Territories, I cannot see but that it is an express prohibition against slavery. But as slavery has existed in Territories, the question has never been raised. But if this provision goes there, it must necessarily exclude the idea that slavery can be carried there. Slavery cannot exist anywhere except by local law, regulating the rights of persons. If Congress is a local legislature, it may, in a Territory and in this District, act on the subject of slavery, and allow it or exclude it, unless its power is limited. There is no limitation to protect slavery, but there is a restriction in favor of personal liberty. No man can be deprived of his property, life, or liberty, but by due process of law. This is a restriction upon the power of Congress; and yet we are told there is a restriction against excluding slavery. I would like to know what is the foundation of this opinion that the Constitution carries slavery with it. I do discover in the fifth article of the Amendments a provision which I think excludes it, and that no law but a local law can sanction it.

Mr. President, I have a remark or two to offer as to the reasonableness, the justice, and the propriety of the position which we occupy, and which is denounced as an aggression. The Senator from Tennessee, some days since, seemed to think it was extremely unreasonable that we gentlemen from the free States should press this restriction, depriving the slave States of a reasonable and appropriate means of expanding population. This confinement to narrow bounds must lead to evils which could not be endured. The honorable Senator from New York seems to be of the same opinion. We must give them ample room for this increasing population. Now, sir, if there is not right, justice, and propriety in maintaining the position we do, in attempting to exclude slavery from the Territories, convince me of this, and I will abandon it at once. How does the matter stand? Are we reasonable, or are we unreasonable? We must look at the facts; and what are the facts? Have the slave States greater claims to more territory than the free States? Are their claims greater than ours? What are the facts? Why, in regard

to the organized States, that there are in slave States nearly one million of square miles; the exact extent is about nine hundred and forty thousand square miles of territory, and in the free States there are four hundred and fifty thousand square miles. The free States had in 1840 a population of more than twelve millions, and the slave States a population over eight millions, including two million five hundred thousand of slaves. At the present time, the difference is greater, probably. With this great disproportion, I should like to know what force there is in this claim on the ground of propriety or justice. Is it unreasonable that we should ask for more territory for a free population, when our population is so much greater, and our territory so much less? We have a population of twenty-seven to the square mile; while, in the slave States, the population is only nine to the square mile. And yet we are told it is unreasonable, because they want to extend their population. I think the time is far distant when they will want space for expansion; when their population is equal to that in the free States, it will be time to consider that question. What is the correct conclusion, in view of these facts? Is there any foundation for the claim that we are unreasonable in attempting to limit the slave territory? Why, sir, it will take a century, perhaps, to give the slave States a population equal, in respect to territory, to that in the free States. And what are we to understand by this proposition? Is it that the Federal Government is under obligation to provide room for the expansion of slavery? If there is any ground for such an idea, what would have been the force of such a claim previous to 1845? Since that time, we have had three hundred thousand square miles of slave territory added to this Union. If such a pretension is entitled to any consideration now, it must have had almost irresistible force then. How is it now? With a territory of more than three hundred thousand square miles, almost entirely unsettled, they are clamoring for more room. Sir, the real object cannot be mistaken; it is not room for settlement, but for a slave market that is wanted. Sir, there is no foundation in fact for an argument of this kind. This question is to be settled in reference to the whole Union, and when we look at it in this light, without going fully into the consideration whether slavery is a bad institution or a good one, but merely looking at a fair and just division among the States of the Union, and assuming, as we must, that emigration will not go from the free to the slave States; looking to any arrangement that will accommodate the whole country, is it not just and fair that this territory should be left open to emigration from the free States? Why, sir, this territory, excluding what is supposed to be worthless, is not greater than Texas, and, as the South have received that, can they not allow this portion of our spoils from Mexico to be appropriated to emigration from Europe and from the free States? Would this be more than reasonable in consideration of what we have done for them? But, instead of this, we are taunted with a design to seize this whole territory for our exclusive use. We have acted with reference to the interests of the territory and of the whole country, and, in view of the vast preponderance of the population of the free States, I think it should be left open to them.

I am nearly through the views I wished to present in this matter, and will close when I have noticed some little matters of account with my brethren here. The other day, sir, my friend from Virginia near me, [Mr. HUNTER,] who is one of the most courteous men in the Senate, made a rather tart reply to some remarks which I had offered in no unkind spirit, and taunted me with standing in the position of a tenant warned to quit, and in a spirit of revenge was prepared to set fire to the premises. I assure the gentleman nothing could have been further from my purpose than such a design. On the contrary, it was my purpose to leave the premises in as sound a condition as possible. I knew the building had been much exposed of late, yet was a little surprised at that remarkable figure which came into the gentleman's mind. I do not know how to account for it. A few days since he introduced some resolutions here which, as he said, spoke the language of old Virginia, which resolutions declared that Virginia would resist a law of Congress asserting the proviso; and that in such case she would have to decide for herself on the "means and measure of redress." And, on introducing these resolutions, he took occasion to say that "Virginia had spoken, and will she not do it?" That seemed to be a threat of some purpose hostile to the Union; a threat of some sort of mischief, as the last resort, not perhaps to set fire to the Capitol, but, I suppose, something pretty serious was to be done. Well, this idea, I suppose, of blowing up the Capitol, or some other great mischief to the Union, came into the Senator's mind, and he transferred it to me. Figures of speech are drawn from objects with which the mind is occupied at the time. My ideas are directly the reverse. I hope to leave not only this Capitol, but the Government and the country in a safe condition, free from all danger from incendiaries, political or otherwise, and I hope they will long remain so. Well, sir, the Senator from South Carolina made an inquiry also, that I felt a good deal interested in at the time. He said, in noticing some statement made in some quarter, that the South had the largest share of the honors and offices in this Government, that if the South had monopolized so large a share of Federal offices he wanted to know what was the cause of it? And though he did not distinctly and explicitly answer his own interrogatory, he intimated very plainly what his opinion was: that it was because they were more deserving of them for their talents and virtues; that the South alone furnished statesmen fit for these high stations; that they have had more distinguished men, men in whom the country has had more confidence than in those of other States. Well, it was a very fair argument, I admit it was; for it is a very fair presumption, undoubtedly, if we assume that the people are competent to judge of what is necessary for all the purposes of Government, that they will select the best men for the highest offices; and the very fact, therefore, that the people have selected their Presidents from this portion of the country is a fair presumption that the cause is to be found in the consideration hinted by my friend. Perhaps there might have been some doubt on that subject at a former period, but in view of the men who, in some series of years past, have filled the highest office in the republic, and in view of all we have witnessed in the last two southern dynasties, why, if there had been formerly any doubt, there can be none any longer! We have no such men in the free States; or, if we have, there is wanting that peculiar sagacity among the people to discover their peculiar fitness for high stations. If such men did exist there, I do not think the people would have ever discovered that they had any peculiar qualifications for the Presidency. It requires the acute sagacity of the South to make such discoveries. It must be that there is a superior order of men for purposes of government in the States where slavery exists. Now, this fact being established, a more important inquiry is as to the cause of it; how it is that we can account for it, because everybody must see that it must be explained in some way. There are some philosophers and political writers who have speculated much on the subject as to the causes which affect the characteristics of nations and communities. Some ascribe these differences to physical, others to civil, political, or moral causes. Now, I am inclined to think it cannot be imputed to physical causes, because I believe that the general idea of that class of writers, who attribute the peculiar character of nations to physical causes is, that the temperate zones or cold climates are most conducive to energy of character, physical and moral. Well, then, what follows?

Mr. FOOTE. I feel compelled to call the Senator to order.

[After a few remarks respecting the unappropriateness of Mr. NILES's course of debate, Mr. F. withdrew the call to order.]

Mr. NILES. I was on the point of this superiority for purposes of government, for filling high offices, which exists among our brethren of the South.

Mr. PHELPS. Mr. President, I renew the question of order. Is the Senator from Connecticut in order? Are his remarks appropriate to the question before the Senate?

PRESIDING OFFICER. Most of the discussion for some time has taken a pretty wide range. The Chair decides that the Senator is in order.

Mr. BUTLER. I feel anxious to know why it is we possess this superiority.

Mr. PHELPS. I take an appeal from the decision of the Chair.

Mr. FOOTE, (interrupting.) Let me remind Senators that I was not talking more tediously, more uninterestingly, when I was called to order, and voted to be out of order. And I had the decency to submit in a case not near so palpably out of order as this.

The decision of the Chair was sustained.

Mr. FOOTE, (in his seat.) Let him go on and talk nonsense till morning.

Mr. NILES. I said, I think, that this high order of men could not be attributed to the ardor of a southern sun; it must be some social, civil, or political cause that produces the result—something resulting from the condition of social organization there, I suppose. We are, sir, of the same race, the Anglo-Saxon, and are all on an equality, except so far as this same superiority for purposes of government exists. Now, I do not know as that exception can be explained; but, if it can be, I think it must result from their "*peculiar institution*," that the contrast with the inferior race must have had some effect. The superior race are exalted, and the comparison with beings called degraded tends, as we all know, to exalt the superior race; and in this particular, by contrast, they are elevated vastly above what they would be in other circumstances.

Mr. President, I have got nearly through; I know the Senate is extremely uneasy, and I am unwilling to detain them here; but I do not think the responsibility mine at all. This debate is forced upon me. I have adverted to the resolutions brought here by the State of Virginia. I have been in the habit of venerating the character of that State, and the sentiments of her illustrious statesmen. Virginia, we are told, has spoken. Well, sir, she has spoken before, but in a different cause. It was in '98 that State raised its voice, but it was on a different occasion. It raised its voice then against the alien and sedition laws; and then, standing on the platform of State rights, defending not only its own rights, but in some degree the rights of the whole Union, she spoke with power and effect; and her voice became the voice of the nation. She then spoke in defence both of the rights of the States and the liberties of the people. Then her power was felt, and it settled that great question. But how does she speak now? Sir, I am sorry to say, it appears to me she now speaks, not in the cause of liberty, but of oppression. Is she now contending for the rights of the States and the liberties of the people? Is she resisting the violation of her own rights? I think there is no violation of her rights, or those of any other State, and none intended. But I was not greatly alarmed for the Union when these resolutions were presented; for, great and powerful as one of these States is, I have no apprehension from the position that any State may take, unless there is cause for resistance. If there has been aggression on that or any other State; if we have attempted to strike down the rights of that State, or to invade the liberties of her people, then I might fear. But, believing that we have not, I have no apprehension from any movement, let it come from what quarter it may; from any State, great or small.

We have also had resolutions of a similar character from South Carolina, introduced by a speech from one of her Senators, [Mr. BUTLER,] a little more exciting than that of the Senator from Virginia. South Carolina is a very respectable State, but unfortunately for some years affected by nervous humors, which seem to have assumed a chronic form.

But, although I was not disturbed by the hostile attitude of these States, when Florida came forward to defy the Union, backed by speeches from both of her Senators, I must admit that I did feel some little alarm. Florida is a great State; it is a young and growing State, and when I heard the threats of a State like that, I felt a little disturbed; but I soon composed myself with some of the considerations that I have mentioned, that there was no cause of complaint from any one.

Well, sir, I am not going into this question. I feel that there is no need of apprehension, because there is no wrong done or intended; and I regret

that in any quarter there should have been a movement, an attempt to intimidate or control this Government. But why is it we are told that the proviso, if we should adopt it, will be resisted? Is it not saying to us, "Do this thing if you dare; you do it at your peril?" Well, I would not pass a law in consequence of any threat, nor would I be deterred from doing it, if I thought the general interests of the country required it.

The advocates of slavery are bold; they use bold language, but it does not frighten me. They have been bold elsewhere; they were bold in Demerara, in 1821, when, by a mock trial, they condemned and put to death a venerable clergyman whom they charged with causing a revolt by instructing the slaves in religious truths. They were bold in Jamaica in 1832, when, after a revolt of the slaves, the Baptist churches and clergymen were destroyed by fire and sword. But this violence recoiled upon their heads; it raised a storm against them in England, called forth the indignant eloquence of O'Connell and Brougham, and resulted in the abolition of slavery in the British islands.

We all know that, as a general principle, violent measures do not indicate a just cause. No, sir, and they very commonly defeat the object intended. Now, sir, it appears to me that it would be wiser as well as more patriotic for the States opposed to the restriction, instead of threatening resistance to our laws or assuming a position of apparent hostility to the Union, to be looking to the evils and dangers of slavery to the Union, and ultimately to their own internal peace and security. I think there are dangers to this Union, but I think they lie in an opposite direction. I think there is some danger from the extension and preponderance of slavery. That is my deliberate opinion; and who can look at this great evil, at the state of things in our country, at its increasing magnitude, without seeing that there are great difficulties and perhaps great dangers to the Union ahead? Why, there were but half a million of slaves when this Government was formed, and now there are three millions. By a corresponding increase, there will be in half a century eighteen millions, and they will be a different race from what they are now, a very different people. In each succeeding generation the African blood will decrease and the Anglo-Saxon blood increase in a corresponding degree. The mixed race is subtle and crafty, and will there be no danger from a population of this kind so numerous—no danger to the Union itself? Would it not be the part of wise statesmen to have a little forecast, to look at these things, and, if possible, provide a remedy before it is too late? A wise man foreseeth the evil and hideth himself. Can a population of this kind, to an unlimited extent, be maintained in connection with free institutions? We have no such example in history. There are more than 40,000,000 serfs in Russia, but there is a standing army of 700,000 men. But ours is a free popular system, without military force. And slave labor applied to agriculture tends to deteriorate the soil and desolate the earth. If this deterioration goes on, how is this population to be subsisted? Slavery seems only consistent with arbitrary Governments; I think it can be maintained in no other on an extensive scale; and if there is any correctness in this idea, we can see the danger that threatens us in the future. And, though I do not claim that the free States are immediately concerned, yet we have a right to look at this subject so far as it may be supposed to endanger the Union or the internal peace of the country. Then, as a friend of the Union as well as of liberty, I regard it as a solemn duty to resist the extension of slavery, as the great source of danger to the whole country, as well as on account of its being unjust to the free States. In view of these dangers, which lie in the distant future, if they cannot be removed, at least we should not extend them. In doing so you enlarge the circle of danger; you weaken a greater number of the members of the Confederacy whose soundness might be necessary to give strength to others. Yes, as a friend to the Union, I feel it my duty to oppose this extension. Not to do it, I should regard myself as being recreant to my station, false to my country, a betrayer of liberty, and unjust to the higher and more sacred interest of that common humanity of which I form a part.

Sir, it is not pleasant here perhaps to make remarks of this kind, still I think they are not out of place. I think there are evils ahead of the most serious character which concern the whole Union, and to extend this institution is to increase these evils and add to the dangers of our common Confederacy. I shall, therefore, resist every attempt to extend this institution. Not to do so, I should consider equally an act of treachery and of cowardice; and I will not therefore shrink from the duty, however unpleasant it may be. Whilst I would not covet I will not shrink from it. There is a slavery worse than that of the manacled slave, which is the slavery of the mind, of thought, and of speech; that freedom which is its opposite I intend to exercise, here and elsewhere.

Sir, I have concluded what I had to say on this subject; I have done with it here now and forever; and will only repeat what I have already said, that I hold it a most sacred duty to resist the further encroachments of slavery. Those who have not independence enough to do this, I think, are under some degree of mental slavery; but may we not hope at a time like this that their deliverance draweth nigh? I conclude in the language of one of our own poets:

> "They are slaves who fear to speak
> For the fallen and the weak;
> They are slaves who will not choose
> Hatred, scoffing, and abuse,
> Rather than in silence shrink
> From the truths they needs must think.
> They are slaves who dare not be
> In the right with two or three."

Mr. MASON. I have refrained from entering into the debate on this amendment, and have done so designedly; but I have watched its progress with deep and anxious interest. I have refrained from it because of the position held by my honored State. Sir, it does not become her representatives to invite an attack. I understand that the question before the Senate is upon the amendment adopted by the Senate in committee, unaffected by any proposition to restrain the emigration of any population to the Territory in question. The honorable Senator from New York, [Mr. DIX,] who debated such a proposition, discharged an aimless shaft. He offered no amendment to give it effect. I am glad that it is so. I trust that I recognize this same spirit in other quarters in the Senate. Nor should I have spoken at all, but in consequence of some remarks which were made by the Senator from Connecticut [Mr. NILES] in reference to resolutions from the General Assembly of Virginia, which were offered here. Sir, there is no uncertainty as to what would be the course of Virginia in the exigency to which those resolutions refer. She has spoken as became one knowing her rights, and with power to cause them to be respected. And she has been responded to by the States further South. Her declaration is, that if there be legislation by the Congress of the United States, which shall forbid her people to migrate to those Territories with any species of property whatsoever, such legislation shall be resisted "at every hazard and to the last extremity."

Mr. NILES, (in his seat.) Was that a threat?

Mr. MASON. No, sir, no more a threat than would be the declared purpose of an honorable man to protect himself from an impending assault. Another resolution from the Legislature of Virginia was the subject of remark by the Senator from Connecticut; which was, that should such a law pass, the Governor is required forthwith to convene the General Assembly to consider of the "mode and measure of redress." What that mode of redress will be, it is not my province to say; that will rest in the wisdom of that General Assembly. But I can tell the Senator what the measure will be. I do not fear to say it will be such a measure as will redress the wrong. And it will be more, sir; it will be such as shall place the State of Virginia beyond the reach of further aggression. Such will be the measure of redress, and gentlemen may construe it for themselves. Sir, I am happy to be able to say in this Senate, and in this presence, that two elections have passed over in Virginia since these resolutions were passed, and I am yet to hear the first voice from the people of the State in condemnation. The people, sir, without distinction in any shade of party difference, have sustained them as they passed, and will do so at every hazard. Sir, I beg further to say, that if I speak with some emotion, I do so because of the tone in which these resolutions have been referred to by the Senator from Connecticut, who spoke of them as an empty threat from the State of Virginia. I conclude, sir, by expressing an earnest hope that the vote will now be taken.

Mr. PHELPS considered this whole discussion as *malapropos* to the business before the Senate. He regretted that any discussion upon the subject of slavery should have taken place in connection with this bill. He was convinced that this irritating question could not be adjusted by the present Congress, and therefore the appropriation bill should not be embarrassed by it. For one, he was prepared to lay that question aside, as it was not germane to nor connected with the appropriation bill. His opinion was, that if it were let alone it would adjust itself, and that, too, before many years would pass away. Various propositions had been presented for its settlement. He had had the honor to be a member of a select committee which reported what he considered to be the only practical project for settling this exciting question—to refer it to the Judiciary of the country; but that failed. If this subject was to be brought forward at all, he thought it should be presented as a distinct proposition, and not be entangled with the appropriation bill. He should, therefore, be compelled to vote against the amendment, upon the ground of its incongruity to the bill before the Senate, and he would therefore ask Senators to drop this discussion, and come to a vote on the proposition.

The question being then taken upon concurring in the amendment, it was decided in the affirmative, as follows:

YEAS—Messrs. Atchison, Bell, Berrien, Butler, Calhoun, Davis of Mississippi, Dickinson, Dodge of Iowa, Downs, Fitzpatrick, Foote, Hunter, Johnson of Maryland, Johnson of Georgia, King, Mangum, Mason, Pearce, Rusk, Sturgeon, Turney, Underwood, Walker, Westcott, and Yulee—25.

NAYS—Messrs. Allen, Atherton, Baldwin, Benton, Breese, Corwin, Davis of Massachusetts, Dayton, Dix, Felch, Greene, Hamlin, Miller, Niles, Phelps, Sprnance, Upham, and Wales—18.

SLAVERY IN THE TERRITORIES.

SPEECH OF MR. JOSEPH MULLIN,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 26, 1849,

On the Bill to establish a Government for the Territory of California.

The Committee of the Whole House on the state of the Union having under consideration the bill to establish a government for the Territory of California—

Mr. MULLIN addressed the committee as follows:

Mr. CHAIRMAN: It will be a matter of astonishment to those who fifty years from this time shall occupy these seats, that in this the nineteenth century, the Representatives of the American people were weeks and months, nay, sir, even years, engaged in a struggle for the extension of the institution of slavery into the free territory belonging to the Union. What a spectacle we present to the civilized world! The only spot on earth where freedom finds a resting-place; the source from which has sprung those principles of civil liberty which are at this moment convulsing the nations; this country, to which the eyes of the enslaved and oppressed of every clime are turned for sympathy, for encouragement in their struggle for their rights,—this country, thus elevated, thus distinguished, holds in bondage more than three millions of human beings. While the subjects of the despotisms of the Old World are rising and hurling their oppressors from their thrones, we, the freemen of America, are struggling to bind still more firmly the fetters on the limbs of the slave. Is this right? Is it just, or wise, or humane? Or rather, sir, is it not a reproach to our country, and a disgrace to our name? Is there anything in the institution of slavery that commands our respect; anything that can justify us in extending its limits or strengthening its bonds? The opinion of the civilized world is against it. Religion cries out against it. Every sympathy of our nature revolts at it.

No man has ever risen upon this floor and justified it. It is admitted, on all hands, even by those most clamorous for its extension, to be a curse.

Like the simoom, it blasts and destroys everything it touches; and yet, sir, the North is called upon to compromise, to submit to its extension, to consent that this prolific source of evil and mischief may be fastened upon those vast territories now the common property of the nation. The North, sir, is opposed to slavery from every consideration of duty to itself, to the Constitution, and to the people that are placed under our care. Considering it an evil, they cannot consent that their brethren, who may emigrate to these territories, shall be afflicted with it. It is enough that, for the sake of peace and of the Union, they have submitted to its existence within the old States; it is enough that we have permitted five new States to be added to this Union, within which slavery is allowed to exist. They can go no further. The principles of the religion they profess, and of the institutions under which they live, forbid that they should longer participate in giving support and encouragement to slavery. Sir, as a northern man, anxious to aid in any effort which shall advance the honor or the glory of my country, I cannot be an abettor in a work which brings with it nothing but national shame and dishonor.

As the representative of a free constituency, bound by my oath to protect the rights and interests of the whole country, I cannot, I will not, participate in bringing upon the people of these Territories an institution at war with every sympathy of my heart, and with every dictate of my judgment; an institution subversive of the dearest and holiest ties of our nature.

Sir, we are charged with injustice in attempting to deprive the South of its equal share in this Territory, purchased with the common blood and common treasure of the nation. The North did not complain of injustice, nor threaten to dissolve the Union, when the vast Territories of Florida and Louisiana were annexed to the Union; although almost every foot of both has been, and is, appropriated to the purposes of slavery. We *did* complain when Texas was annexed. Yet, in violation of the Constitution, in opposition to public sentiment, and in defiance of every principle upon which the union of the States was formed, Texas, with slavery, was annexed, and the North submitted quietly to the outrage, and the area of slavery was again extended. Out of territory acquired since the adoption of the Constitution but one free State has been added to the Union; and yet the South talks of injustice. Sir, what would our southern friends have? What is it they demand? Shall we continue to purchase and conquer territory for their benefit alone? If this system of annexation is to be stopped, if we do not desire to see our eagles carried triumphant over the whole continent, we must prohibit the existence of slavery in acquired territory. This done, and my life upon it, the American army will never again march beyond our present boundaries in a war of conquest.

Southern gentlemen tell us, sir, that they cannot, will not, yield to the Wilmot proviso, and ask us to compromise by at once admitting these territories as States, and thus permit their citizens to establish such form of government as they may deem best suited to their wants. For one, sir, I will not give my assent to any such policy. In the establishment of our territorial system, Congress had two objects in view: 1st, to provide protection for our citizens while they were unable to protect themselves; and, 2d, to enable such as were not already, to *become* acquainted with the principles and policy of our Government, before exercising those high prerogatives which belong to them as citizens of a State of the Confederacy. A very considerable portion of the inhabitants of all our Territories have been emigrants from foreign countries—men unacquainted with our institutions, and a very large majority of them, consequently, unprepared to exercise the rights of citizenship. The system of government provided for our Territories was, therefore, most admirably adapted to the accomplishment of the ends proposed. But, sir, we are now to abandon this system, to disregard the experience of sixty years, to rush upon untried and doubtful expedients—and for what? To gratify the pride of our southern friends? Sir, I have no wish to offend their pride, nor unnecessarily to wound their feelings or their prejudices, but when I am called upon to abandon a wise, safe, and judicious line of policy, and pursue an unwise, unsafe, and injudicious one, I demand higher considerations than this to move me. The tide of emigration is setting into these new Territories from almost every country on the globe, and embraces the educated, enlightened, and virtuous, as well as the ignorant, the profligate, and vicious. Even amongst those of our own citizens who go there, can we say that there is none of this latter class?

But, again, sir, the native population will form a very considerable portion of the citizens of these territories, and will any gentleman tell me that they are fitted for the proper discharge of the duties of American citizens? No, sir; they are our enemies in feeling, in all their prejudices; they look upon us as the enemies of their religion, the oppressors and robbers of their country; they have no one feeling or interest in common with us; and shall we admit such a people to the right of immediate citizenship? Every alien, no matter how enlightened or how virtuous, who lands upon our shore, is compelled to wait five years before he can exercise the humblest right of a citizen; but now we are required instantly to admit to this high privilege our avowed enemies; as well as the outlaw, the assassin, and the robber. Sir, I never can be guilty of such treason to my country. Better, sir, far better that these magnificent promises were at the bottom of the sea, than that such an act of perfidy should be consummated. Organize the territories into States, and you will meet on this floor, and in the Senate, the friends and followers of some Mexican dictator, who, in the midst of some high party contest, will hold in their hands the fate of a country they hate, and of a people they abhor.

A bill passed this House the other day, extending the revenue laws of the United States over California, with a unanimity almost unexampled in the proceedings of this body. No action of this House, since I have had the honor of a seat in it, has pained me more than this. The people of California are without government, without law, without protection for property or life. We have been in session now nearly three months, and every hour brings the tidings of some family butchered, some robbery committed; and yet we are as unconcerned as if no wrong was done, no life or property was in danger. What opinion will the civilized world entertain of the patriotism, the philanthropy of the American Congress, when they are told that, while defenceless women and children were being murdered, we refused to protect or defend them; and without debate, and by an immense majority, provided laws to tax them? Shall it be said of us that a few dollars of revenue is esteemed as of more consequence than the lives of our citizens? We can sit calmly in our seats aad behold the murder of our fellow-citizens, but we cannot endure the thought that England shall import into California a few yards of calico without paying duty to our treasury. Sir, it was a disgrace to the nation, it was doing dishonor to our country, and injustice, gross injustice, to our citizens. If the people of California owe you allegiance—if they are to be subject to your taxation—you owe them protection. Have you given it, or rather, sir, have you not left them to be murdered, while you violate the common courtesies of life in order to tax them? The bill which passed this House, extending our revenue laws over California, does not go into operation by its terms until the 10th day of March next. Yet this provision, securing as it does to the new Administration the appointment of all the officers necessary to carry it into effect, was passed without objection by the friends of the Administration, although but a few hours previously they had denounced in the severest terms an identical similar provision in the bill providing a government for the Minesota Territory. It was considered as a great calamity that England should have the privilege of sending into our country, free of duty, a few dollars' worth of her manufactures; but it was a small matter that whole families were slaughtered, without a single soldier to protect them, or a single officer to punish the murderer. This species of legislation was the work of men professing to be the advocates of free soil. Did they know, sir, while in their hot pursuit of revenue, that they were surrendering one of the strongest reasons for the establishment of a government in California? Sir, the South has accomplished by appeals to the avarice, what they could not have effected by appeals to the sympathies or judgment, of northern men advocating that bill.

The charge has been repeatedly made, by southern gentlemen on this floor, that the North has been guilty of aggression upon their rights; that it had kept alive the hostility of its people to the institution of slavery for mere purposes of agitation, and to advance some selfish and unworthy end. Sir, I deny the charge altogether, and affirm that the whole agitation on the subject of slavery is chargeable upon southern men, and that it is now kept alive by their conduct and policy. In support of this position, I appeal to the Journal of this House and to the history of the country.

From the time of the Missouri compromise until 1835, the North had adhered to the terms of the arrangement in the most perfect good faith. The subject of slavery was not agitated. We had given our consent to the compact, and we kept it, not only by not agitating, but in resisting agitation—in standing shoulder to shoulder with the South, and rebuking all attempts at aggression upon her institutions. The House and the country will bear me witness, that in the beginning of the slavery excitement, public sentiment at the North was most decidedly hostile to the policy and objects of the abolitionists. To such extremes was this hostility carried, that abolition meetings were broken up by mobs, the houses in which they met destroyed, and those attending them subjected to every insult and indignity an excited multitude could invent. Sir, if evidence is wanted upon this subject, I will introduce two southern gentlemen, (Mr. Bynum, of North Carolina, and Mr. Pinckney, of South Carolina,) who fully sustain my position:

"Mr. Bynum, in a speech made in this House in June, 1836, said, a large majority of the people of the North had met the South in a spirit of compromise on this question, and had said, although there might be some doubt in relation to the constitutional question in the District, still they would not touch slavery even in the District."

"Mr. Pinckney, during the same discussion, said, it was not amiss, he thought, to state that the whole number of memorials presented to Congress this session amounted to one hundred and seventy-six; that they came from ten States, embracing an aggregate population of nearly eight millions; that the whole number of signatures was about thirty-four thousand; that of those more than two-fifths were females. He thought that these facts ought to be known. The people of the South ought to know everything respecting these memorials. They would see the immense disproportion between the millions of freemen, who are determined to maintain their constitutional obligations to their southern brethren, and the band of incendiary agitators, who would trample on all laws, human and divine, in the relentless prosecution of their diabolical designs. He believed that there never was a healthier tone of sentiment in the non-slaveholding States, in reference to the domestic institutions of the South, than at this moment. There was, unquestionably, abundant reason for vigilance and caution in relation to the fanatics; but there was also abundant reason to rely on the enlightened patriotism of the non-slaveholding States. There are great moral causes at work in favor of the South.

"We should trust their efficacy and watch their progress. The people of the non-slaveholding States are alive to the dangers connected with this question, and they are generally fighting the battle of the South. They should be encouraged by confidence and gratitude, not repelled by vituperation and suspicion.

* * * * * * * *

"The South had nothing now to fear, except from those who are determined to continue the agitation of slavery for the purpose of excitement. Abolitionism had obtained its height. It has begun to go down, and will soon disappear entirely, if we do not fan the flame ourselves, and will only allow our friends in the non-slaveholding States to fight the fanatics in their own way, and not trammel them in their operations by mixing up extraneous and unnecessary questions with the subject of abolition."

Mr. P. was the chairman of a select committee appointed by this House in June, 1836, to take into consideration and report upon sundry petitions, praying the abolition of slavery in this District. That committee reported against the prayer of the petitioners, and assigned its reasons for the refusal. Sir, I most sincerely wish that southern gentlemen had continued to pursue the policy of Mr. Pinckney; had they done so, all this agitation which convulses the Union, which embitters every cup, which excites and inflames every bad and malignant passion of our nature, would have been hushed into repose; and, so far from being enemies, we would have been striving in the race of a noble and generous ambition, to become greater, happier, wiser, and better than we are now. In less than two years, however, from the presentation of the report alluded to, this House deliberately adopted what has been

known as the 21st rule, and which was in the following words:

"Every petition, memorial, resolution, proposition, or paper, touching or relating in any way, or to any extent whatever, to slavery as aforesaid, or the abolition thereof, shall, on the presentation thereof, without any further action thereon, be laid upon the table, without being debated, printed, or referred."

The Constitution provides—

"That Congress shall make no law abridging the right of the people to petition the Government for a redress of grievances."

This House attempted to do, and succeeded (while this rule remained in force) in doing, by its rules, what the Constitution had forbidden both Houses to do. Of what avail, sir, is the right to petition, if the person addressed refused to hear? To lay on the table without reading, reference, or printing, was a denial of a clear constitutional right—a right most dear to the people. To have submitted to this flagrant violation of our rights would have shown us to be unworthy of the privileges of freemen. Thousands who had, up to this time, acted with the South in hostility to the efforts of the Abolitionists, became alarmed. One important provision of the Constitution had been trampled on, and there was no guarantee, no assurance, that other and more important ones might not meet with the same fate. It was a question of safety, of protection, of defence. But, sir, while the rights of the North were thus stricken down to gratify the purposes of southern statesmen, the North uttered no threats of dissolution; it quietly submitted to the outrage, but proclaimed its purpose to repeal the obnoxious rule. Sir, it was nearly six years engaged in the struggle. It had to overcome not only southern hostility, but an opposition vastly more formidable—that of the dough-faces—elected by the votes of northern men, and bound by every consideration of duty and of honor to carry out the views and wishes of those whom they represented. But the obligations to party, the love of the spoils and of office, were stronger than the claims of justice, or good faith, or their sense of duty to their constituents. Although, sir, this rule has been swept away, yet we have had but a barren triumph; our petitions are still laid upon your table, without reading, printing, or reference; and while a large majority of the people have been demanding action at our hands upon the subject of slavery, we refuse to comply with their wishes, and set at defiance their authority. The action of public sentiment is slow, but certain and efficient; and the day is at hand, sir, when it will drive from this Hall all those who misrepresent its wishes and defeat its purposes.

The South were not satisfied by striking down the right of petition. The voice of every northern man who dared to resist this encroachment on the rights of the North must be silenced. Mr. Adams had resisted with manly firmness the adoption of the 21st rule. Immediately on its passage he had raised the cry of repeal, and the hills of New England were echoing back the cry. Mr. Adams must be stricken down; this formidable enemy of southern aggression must be removed or disgraced. On the 24th of January, 1841, Mr. Adams presented to the House the petition of forty-six citizens of Haverhill, in the State of Massachusetts, praying Congress to adopt immediate measures for the peaceable dissolution of the Union. Mr. A. moved its reference to a select committee, *with instructions to report to the House the reasons why the prayer thereof should not be granted.* The petition was not received; and, immediately upon its rejection, a gentleman from Virginia [Mr. Gilmer] offered the following resolution:

"*Resolved*, That, in presenting for the consideration of the House a petition for the dissolution of the Union, the member from Massachusetts [Mr. Adams] has justly incurred the censure of the House."

On the next day, Mr. Thomas F. Marshall, a member of this House from Kentucky, offered to the House a preamble and resolutions. The resolutions are as follows:

"*Resolved, therefore*, That the honorable John Q. Adams, member from Massachusetts, in presenting, for the consideration of the House of Representatives of the United States, a petition praying the dissolution of the Union, has offered the deepest indignity to the House of which he is a member, an insult to the people of the United States of which that House is the legislative organ, and will, if this outrage be permitted to pass unrebuked and unpunished, have disgraced his country through their representatives in the eyes of the whole world.

"*Resolved, further*, That the aforesaid John Q. Adams for this insult, the first of the kind ever offered to the Government, and for the wound which he has permitted to be aimed through his instrumentality at the Constitution and existence of his country, the peace, the security, and liberty of the people of these United States, might well be held to merit expulsion from the national councils; and the House deem it an act of grace and mercy when they only inflict upon him their severest censure for conduct so utterly unworthy of his past relations to the States and of his present position. This they hereby do for the maintenance of their own purity and dignity; for the rest, they turn him over to his own conscience and the indignation of all true American citizens."

No step had been taken up to this time to prevent the presentation of petitions on the subject of slavery. The refusal to hear and act upon petitions had brought down upon this House an avalanche of these memorials, and it now became necessary that no more should be presented. If the champion of the right of petition could be silenced or disgraced, southern gentlemen would be released from all further apprehension. But, sir, the honorable member from Massachusetts could not be driven from his position. Powerful in intellect, and doubly powerful in the justice of his cause, he stood unmoved amid the clamor of those who, while they attacked and insulted, feared to encounter him. Sir, the House was glad to lay the whole subject on the table, and let the "old man eloquent" pursue his war upon the obnoxious rule in accordance with his own sense of justice and propriety.

There was one other member of this House at that time, sir, who, next to Mr. Adams, was most obnoxious to the South. I mean the gentleman from Ohio, [Mr. GIDDINGS,] now before me. He had taken high ground against slavery, and in defence of the right of petition. This was enough, sir, to make him the object of attack. On the 21st of March, 1842, this gentleman offered a series of resolutions in relation to the slaves who captured the brig Creole on her passage from Virginia to New Orleans. These resolutions asserted that before the adoption of the Constitution of the United States the several States had the absolute control over the subject of slavery within their own limits; that no part of the powers of the States over the subject was delegated to the Federal Government; that slavery, being an abridgment of natural rights, could only exist by force of positive law; and that a ship leaving the ports of one State and going upon the high seas beyond the jurisdiction of any of the States, the persons on board cease to be subject to the slave laws of any State, and are subject only to the laws of the United States; and that, therefore, the slaves on board the brig Creole were justified in rising upon their masters, capturing the vessel, and asserting and maintaining their freedom. Sir, it is no part of my purpose to censure or approve the conduct of the gentleman from Ohio in offering these resolutions, nor to express any opinion as to the truth or falsity of the positions asserted in them. My purpose is to show the course which southern gentlemen adopted towards him for discharging what he believed, I have no doubt, to be his duty as well to his constituents as to the country. On the same day of the introduction of these resolutions the gentleman from Virginia [Mr. BOTTS] asked for a suspension of the rules of the House to enable him to offer a resolution of censure upon the gentleman from Ohio. The House refused to suspend. In this extremity, however, the South was not without a tool, a pliant tool, in the person of the colleague (Mr. Weller) of the gentleman from Ohio, [Mr. GIDDINGS.] The State of Ohio being under the call for petitions, Mr. Weller presented to the House the preamble and resolutions which the gentleman from Virginia had desired to present. That resolution is in the following words:

"*Resolved*, That this House hold the conduct of the said member [Mr. GIDDINGS] as altogether unwarranted and unwarrantable, and deserving the severe condemnation of the people of this country, and of this body in particular."

On this resolution the previous question was moved and seconded, whereby all debate and amendment were cut off, the resolution was adopted, and the gentleman from Ohio refused the right of defence—a right guarantied to every citizen in every civilized country was denied to an American citizen by an American Congress. The next generation, when they shall read the history of these proceedings, will doubt, if not deny, the authenticity of the record. They will hesitate to believe that, in an age of light and liberty and benevolence, a representative of the American people was condemned in the Capitol of his country for asserting, unwisely if you please, the principles of liberty. Sir, is it a matter of surprise that, after such treatment, the gentleman from Ohio is the uncompromising enemy, not of the South, but of her favorite institution? On the 22d of March, 1842, he resigned his seat as a member of this House, and returned to his constituents. On the 22d of May Mr. G. resumed his seat again, having been elected to fill his own vacancy by a greatly increased majority. Sir, is it surprising that the Western Reserve is the enemy of slavery; that they should abhor and detest an institution whose advocates had driven their representative from the House, because he dared to justify a slave in attempting to assert his right to freedom? Why was this system of aggression adopted by southern gentlemen? Did they suppose that the North would tamely submit to have her representatives insulted in and driven out of this House? Did they suppose, sir, because they had in their employ a band of Hessians—northern dough-faces, who fought on any side of any cause for plunder—did they, I say, suppose that the freemen of the North would submit to all this without resistance? Sir, the South should have known that the current of popular sentiment at the North runs deep and still; but that its power, when opposed, is as resistless as the avalanche. They should have taken warning not further to press the North, when they saw their allies one after another stricken down, because of their alliance with the South.

Mr. Chairman, this history of southern aggression is not closed. In 1841, South Carolina passed a law providing that it should not be lawful for any vessel of any size or description, owned in whole or in part, or commanded or navigated, by any citizen or resident of the State of New York, or any such vessel owned or navigated by any other person than an actual inhabitant and resident of South Carolina, and departing from any port in said State to any port in New York, to depart out of said State of South Carolina until such vessel had undergone the inspection provided for in the act, foreign and national vessels excepted. The next section provides, that the vessels referred to in the first section should submit to an inspection, in order to ascertain whether there were any slaves on board, and until a certificate was given, under a penalty of five hundred dollars. The next section provides, that when any vessel, owned or commanded by a citizen of New York, shall arrive in a port of South Carolina, it shall be the duty of the inspector to seize and hold said vessel until the commander or other person shall give a bond, in a penalty of one thousand dollars, conditioned to pay and satisfy all judgments which may be recovered against him for runaway slaves. The eighth section of said act authorized the inspector to receive ten dollars from each vessel for inspection, and gave him the power to detain such vessel until it was paid. Such, sir, are some of the provisions of this most monstrous law. And, sir, what had New York done to call down upon her this act of legislative folly? At a previous session of her legislature, she had provided that in cases of habeas corpus, when the question of personal freedom was involved, the slave should have the right of trial by jury. Yes, sir, because she had dared to regulate the process of her own courts, in her own way, all the bonds of friendship must be severed; old attachments, formed in the day of trial and suffering and oppression to both, must be broken; and for what? New York was willing to extend to the slave the common rights of humanity; to defend him if wronged—sustain him if right—sympathize with him if oppressed; and for this, and this only, she forfeited the respect, and even her claim to the justice of her southern sister. Virginia has upon her statute book a law precisely similar. Indeed, sir, I believe she was the pioneer in this work of "*conciliation and compromise.*" But, sir, this is not all. South Carolina seized and imprisoned the colored seamen employed in the vessels arriving at her ports from the North, without any charge against them of crime committed or even contemplated. Massachusetts endeavored to resist this law—to test its constitutionality; but, sir, the chivalry of South Carolina could not endure the thought that her legislation should be tried by the Constitution, nor even by those principles of comity which

Christian nations have uniformly extended to each other. Her citizens drove from the State the agent of Massachusetts sent to take the necessary steps to test the validity of this law, and made it a high misdemeanor for any of her citizens to act as the agent of any State for that purpose. What, sir, did New York and Massachusetts do under these insults and injuries? Nothing, sir; nothing. They did not even recriminate; they submitted in silence to the wrong, because it could not be remedied without violence, and perhaps not without blood. Yet, sir, New York and Massachusetts are guilty of aggression upon the South!!! They declare that, by the laws of nature and of nature's God, all men are, and of right ought to be, free and equal. And this, sir, is the head and front of their aggression.

The next step in this system of aggression is that of the annexation of Texas. When this scheme of wickedness and folly was presented to Mr. Van Buren and his cabinet, it was indignantly spurned as alike unwise and unjust; unwise for us and unjust to Mexico. The administration of John Tyler required another flower to complete the wreath he had won by his services to his country. Notwithstanding he had piled up enormity upon enormity, outrage upon outrage, and corruption upon corruption, until his administration became a stench in the nostrils of every honest man throughout the Union; yet, sir, he must needs add this to the catalogue of his follies and his crimes. The idea of annexation was entertained only because it was feared that Texas might, if suffered to remain independent, become a free Republic—not in name only, but in fact; and because another slave State was required to secure and confirm the slaveholding influence in the Senate. Mr. Van Buren having, during his administration, opposed annexation, could not, as a consistent nor as an honest man, yield his assent to it in 1844. He went into the Baltimore Convention, in the summer of that year, with a large majority of the delegates not only favorable to his nomination, but instructed to support him as the candidate of the Democratic party for the Presidency. He had dared to oppose the annexation of Texas, a work demanded by the South in order to extend, perpetuate, and establish permanently the power of slavery in the Union, and he was beaten; the South triumphed, and Texas was annexed. Notwithstanding, however, the defeat of Mr. Van Buren, the Democracy rallied to a man in support of the candidate of the party, and "*Polk and Texas*" became the war-cry of the defeated and defrauded friends of Mr. Van Buren. While they were hostile at heart to the extension of slavery, and to increasing the influence of the slave power in this country, they were as loud in their shouts of triumph at the success of this nefarious scheme, as the most reckless slavery partisan in the South! But, sir, notwithstanding all this, neither Mr. Van Buren nor his friends were satisfied at his defeat. A wrong had been committed upon their leader, and for no other reason than because he would not become the suppliant tool of southern arrogance. While these men, the peculiar friends of Mr. Van Buren, were thus apparently clamorous for annexation, they abhorred it and hated the power that had assassinated their chief in order to secure more effectually the interests of an institution detested by every man of kind heart and enlightened mind either North or South. I assert, sir, without fear of contradiction, that northern men of all parties were opposed to the annexation of Texas, because its avowed object was to extend and perpetuate slavery. And although the Democracy gave their cordial support to Mr. Polk in 1844, they did not desire that Texas should become a member of this Union upon the grounds and for the purposes southern gentlemen were soliciting it. Had Mr. Van Buren not given in his acquiescence to the nomination of Mr. Polk, the vote of New York would have been given for Mr. Clay, and annexation with all its evils would have been prevented. The work of annexation was begun early in the administration of General Jackson, and, as I solemnly believe, with the connivance of that administration. The revolution of Texas was a necessary step in the progress of the work, and while our Government maintained an apparent neutrality, its influence, its encouragement, were given to those who were resisting the authority of Mexico. But, sir, after all the labor it has cost; after all the bad faith practised towards a friendly power; after inflicting upon an able and well-tried friend to southern men and southern measures the blackest ingratitude; after years of care and toil; after thousands of lives have been lost and millions of treasure squandered; after all this, and after annexation has been effected, what has it all availed the South? The fruit, which was so fair to the eye, is most bitter to the taste. The darling institution which was to be built up, strengthened, and perpetuated by the aid of Texas, has been shaken to its center; this fountain, which was to supply nourishment to a tottering and decaying body, has carried with it nothing but poison—scattered death and decay, where life and hope and immortality were looked and longed for. Every struggle that the South has made to perpetuate slavery in this country has thus far only served to weaken and endanger, and ultimately to destroy it. Sir, this country can never submit to the further extension of this institution. We are called upon to resist it by the duty we owe to ourselves and to those who shall become the inhabitants of these Territories; by the claims of a common humanity, by the religion we profess, and the spirit of the institutions under which we live. We owe it to the reputation and character of our common country, to our fellow-men, and to our God, to free ourselves, as far as we constitutionally may, from the disgrace of holding men in bondage.

Mr. Chairman, is it a matter of surprise, after the recital of this catalogue of usurpations and aggressions on the part of our southern friends, that the North is excited, agitated, and alarmed? Is it not, sir, much more surprising that it has submitted so tamely and so long to these outrages—that it has not, by increased agitation, by retaliation and violence, attempted to punish, if not redress, the wrongs unjustly and unconstitutionally inflicted upon it? Every act of unjust aggression that I have named has not only made men who had been ardent friends of the South cold in their zeal, but converted them by thousands into implacable enemies—not enemies to the South or southern men, but to the institution that led to the evils of which we complain. Southern gentlemen cannot have been blind to the workings of public sentiment in the northern States. They must have become satisfied by this time that the anti-slavery feeling of this country is not to be beaten down; that it must and will have its own way; and that it will crush every obstacle it may find in its path. Every year is giving it renewed life and energy; and another Congress will demonstrate that not a man north of Mason & Dixon's line dare take the part of the South on this question. As this excitement progresses, as it extends from one class of the community to another, it must and will collect a mass of combustible material that, in the excitement and agitation incident to the struggle, will endanger, not only the public peace, but the safety of the Union itself.

Every consideration, then, sir, of duty, of policy, of humanity, calls upon us to settle this disturbing question; to cast oil upon this troubled sea; to allay passion and prejudice; to save, while it is possible, this glorious Union from destruction. Sir, the South tells us that the continuation of this agitation must end in ruin to them; that it excites their slaves, and renders less valuable their property; that insurrection, with all its horrors of arson and murder, must fall upon them, unless peace is restored and this excitement allayed. I might turn upon them, and ask them to tell me who it was that has excited this tumult and stirred up these bitter waters. But, sir, it would be unkind, and perhaps unjust. I have not only no desire to foment the unhappy contest, but will make any reasonable sacrifice to secure harmony and repose. The cure, sir, for these sorrows, is not with northern men. The South has sown the wind, and must reap the whirlwind. They have driven off their friends, alienated their allies, weakened—nay, endangered the very institution they have sacrificed so much to secure; and the blame, if blame there be, rests with themselves.

How, then, sir, are these dangers, formidable and threatening as they are, to be avoided? How are peace and harmony to be restored to our councils, and security to the firesides of our southern friends? "*Compromise*" is the proposed cure for all these ills; this magic word is to allay the strife and calm the passions that years of agitation have produced. But, sir, *there can be no compromise;* that day has gone by. The North has surrendered, until she has little left to yield. The determination of the North is, in my judgment, made up unalterably. Under no circumstances can slavery be admitted into the new Territories. Northern statesmen could not, dare not yield, if they would. A compromise made in opposition to public opinion would be no compromise. The ink that recorded it would not be dry before the cry of repeal would be heard from every hill-top and valley from Maine to Mississippi. Slavery cannot, must not be extended. The cure, then, sir, for this evil, is apparent. Let governments for these Territories be organized; let slavery be prohibited; abolish the traffic in human flesh in this District, and provide for the emancipation of the slaves in it upon such terms, and in such time, as justice to the owner and the slave shall demand, and peace and concord will be restored; but not till then. It is of no avail, sir, to tell us that the South cannot yield to this obvious policy because she will be degraded—pulled down from that equality which she has a right to enjoy to a condition of dependence or of submission. Sir, if it be true that the firebrand is at their roofs, and the knife at the throats of their women and children, is that a time to be discussing principles of etiquette? Sir, if the North has the majority, it has the right under and within the Constitution to control the conduct and policy of the Government; and why, sir, should that right be yielded? Much as we love the Union, much as we desire peace, we desire the freedom of our race, the permanent and enduring glory of our country infinitely more. But that freedom can never be obtained, nor that glory won, while we stand chargeable before Heaven and earth with the guilt of withholding from man his natural and inalienable rights. I appeal, sir, to the South, that they will for the sake of the Union, for the sake of their families, in the name of all that good men hold most dear in life, aid us in giving quiet and repose to our people, and in advancing our common country in the path of greatness and glory. Let us forget all fancied wrongs and imaginary ills, and, looking only to the happiness, the welfare, the honor, the permanency of our beloved country, let us strive to emulate each other in works of kindness, benevolence, and love, whereby the condition of our race will be elevated, human happiness advanced, and the liberty and glory of our country perpetuated.

RAILROAD ACROSS THE ISTHMUS OF PANAMA.

REMARKS OF MR. DAVIS,

OF MISSISSIPPI,

IN THE SENATE OF THE UNITED STATES,

January 31, 1849,

On the bill making compensation for the transportation of Naval and Military Stores across the Isthmus of Panama.

Mr. DOUGLAS withdrew his motion, made on the previous day, to refer the bill to the Committee on Military Affairs.

The question then recurred upon the following amendment, submitted by Mr. DOUGLAS:

"Strike out all after the enacting clause, and insert the following:

"That the Secretary of the Navy be, and he hereby is, authorized and directed to enter into a contract, on behalf of the United States, with William H. Aspinwall, John L. Stephens, and Henry Chauncey, their associates and assigns, for the transportation, by steam, of naval and army supplies, including troops, munitions of war, army, naval, and public stores, the mails of the United States, and all persons in their employment, to and fro over a railroad to be constructed by them and their associates across the Isthmus of Panama, from the Atlantic to the Pacific Ocean: *Provided*, That the annual sum to be paid for such transportation shall not exceed the sum of two hundred and fifty thousand dollars per annum: *And provided*, That no payment under such contract shall be made until said railroad shall be so far advanced as to permit said transportation across the Isthmus of Panama wholly by steam-power: *And provided further*, That the contract to be made in pursuance to this act shall require the said railroad to be commenced within three months, and be completed within three years, from the date of the contract.

"Sec. 2. *And be it further enacted*, That the said contract shall contain a provision establishing a tariff of rates for the transportation over the said road of all citizens of the United States, and of all persons who may arrive in the harbors or at the depôts of said road in registered or enrolled vessels of the United States; and for all goods, wares, and merchan-

dise that may be conveyed to said harbors and depôts of said road in registered or enrolled vessels of the United States, as follows, viz: For and during the first five years after the completion of said road, at a rate not exceeding eight dollars per head for passengers and eight dollars per ton for freight; from and after five years from the completion of said road, at a rate not exceeding five dollars per head for passengers and five dollars per ton for freight; from and after ten years from the completion of said road, at a rate not exceeding four dollars per head for passengers and four dollars per ton for freight; and from and after fifteen years from the completion of said road, at a rate not exceeding three dollars per head for passengers and three dollars per ton for freight: *Provided*, That Congress may, at any time after the said railroad shall have been completed and in operation ten years, rescind the said contract by joint resolution; in which case the tariff hereby established shall be annulled. That during the existence of the said contract all citizens of the United States and all other persons who may arrive at the harbors and depôts of the said road in registered or enrolled vessels of the United States, and all freight which may arrive in such vessels, shall be transported over said road in the order and according to the time of arrival. At least three-fourths of the stock of the said road shall at all times be owned by citizens of the United States."

Mr. DAVIS, of Mississippi, said: I agree with the Senator from Delaware, [Mr. CLAYTON,] in a great many things which he has said, but differ very widely from him in some. I should think, if there was any ground of mortification, it would be that this Government, the mother of Republics on the American continent, dared not entertain the idea of transporting her citizens and goods by a road within her own dominions. If I contemplated the idea of constructing a road by the action of this Government, either through the agency of corporations or by direct appropriations, I should look to the territory of the United States for a line of location. In addition to the constitutional objections against making appropriations or advances of the public money to aid in the construction of commercial roads, there are commercial and political considerations, which, if the constitutional difficulties were removed, would limit my support to those roads which were to be constructed in our own country,—if more in one case than another, then most of all in this, where they are to bind new acquisitions to ancient possessions, to bring the advantages of a new commerce, and open an unexplored wilderness to the enterprise of the people of the United States. Instead of seeing our emigrants pass, as by this Panama route, out of their own, and through a foreign country to return to the territory of the United States, and commence on the border of the Pacific settlements hereafter to be connected with those of the country they have left, I would prefer to see our population flow with steady tide towards the "far West," so long the cynosure of the American adventurer; until settlements rising one after another to occupy the place of the receding savage, the search for the "far West" will be checked by the waves of the Pacific, and the proud hope of the American heart will be fulfilled, our vast territory will be peopled, connected, united from shore to shore of this "Ocean bound Republic." If separated from us by an intervening wilderness, having no commercial route save that which, passing through a foreign country, by sea and land, is exposed to interruptions in peace and suspension in war, it may well be asked how long will a common policy and common interest exist between us; how long will the sons of our fathers be content to remain in this colonial condition towards us?

Let it not be supposed that I have any want of confidence in the attachment of American citizens to the Government of the United States: I have an abiding faith in that attachment. I believe that it is most difficult to be broken off, however widely they may be separated from the Government. But, if anything is calculated to justify or lead to a forgetfulness of their allegiance, it would be for our citizens to find themselves on the shores of the Pacific a powerful people, having an extensive commerce with Asia, without communication with the United States, and with the legislature sitting here to fix the laws governing their intercourse, both domestic and foreign. If that people are to be bound permanently to this Union—if it is to be made their interest in all time to come to remain a portion of the United States, then I say it is necessary that rapid and accessible means of communication should be afforded them. The links of connection must be continuous; towns, villages, and hamlets, must extend along the lines of communication, from the seat of the General Government to the shores of the Pacific, so blending by gradual change the opposite extremes, and uniting the whole by neighborly intercourse together, that interest and feeling would combine to deny a starting-point to the surveyor who should come to run a dividing-line through the territory of the United States. If I am correct in this opinion, the connected settlement of the interior, and the opening of advantageous routes through it, must be our ulterior object, and all other measures in reference to this subject be considered as temporary expedients only.

I am not willing to see this Government identified with any work outside of the United States; and if we are to have any connexion whatever with this proposed Panama road, let it be temporary, and let it be in dollars paid for heads and tons conveyed, and let the stockholders bear the charge of making the road. I am not willing to pay any stipulated sum to this company in prospect, or when they have perfected the work, other than that which they may receive upon a contract for carrying public stores or for carrying persons, when they are in readiness to perform such work. It is with this view that I have presented the amendment. And, adopting the bill in that form, we shall be equally ready to avail ourselves of the road across Tehuantepec, if one be constructed there. I believe that the route proposed will be subject to interruptions from foreign countries, especially in time of war. I believe with the Senator from Delaware, that the Tehuantepec route would connect itself more intimately with the interests of the United States; but there are other considerations which should not be lost sight of. We have no right of way, and the time must be remote when a road will be constructed there, unless the Government of the United States expend a large sum of money in the construction of a road through the Republic of Mexico. Notwithstanding the amusing definition which the honorable gentleman gave of the name of Tehuantepec—and which I suppose was given by him more in jest than seriously—it is a sober and often disastrous truth that blows of the kind he describes often prevail along that coast, and its so-called harbors are marked by the wrecks they have made. The prevailing gales are from the north; and on the eastern side of the continent the northers beat upon the shore often with such violence that vessels are compelled to seek safety by standing out to sea. It will therefore be apparent that deep indentations of the coast upon the Gulf of Mexico, or Carribean sea, only increase the danger of the anchorage. The headlands jutting out beyond the anchorage prevent the vessel from running up or down the coast; in the face of a gale she cannot get to sea; and if driven from her moorings, must add another to the many wrecks which mark that fatal beach. All this is reversed, on the western or Pacific coast: there the same gales blow off the coast, and the vessel, if driven from her anchorage, would be carried out to sea. So far, then, as the formation of the coast is concerned, I think the natural advantages are decidedly in favor of Panama, and that expensive improvements will be necessary to equalize them.

But these are considerations which belong to the engineers, and it is not my purpose to enter into them. We have nothing to do with the one or the other of these routes. They are foreign roads. We neither propose to locate them or to build them; but if they are built, and their services are offered to us at reasonable rates, then let us avail ourselves of them, whether it be on the route over Panama or Tehuantepec, or both.

I therefore say again, that I wish to continue the surveys in our own country, to find a passage which I believe to exist, and which will be direct from the valley of the Mississippi to the Pacific Ocean, whether through the valley of the Gila, or by Pueblo de los Angeles—whether to San Diego, or Monterey, or San Francisco. I wish the whole well explored by topographical engineers; and whether the terminus be at San Francisco or wherever it be, let us look for a passage in our own country, by which the emigration and commerce of the United States may pass from one sea to the other, and the advantages of both permanently inure to the country to which they properly belong.

If I succeed in the proposition which I have made to amend the bill, by striking out all that relates to the rates of compensation, in the form of annual payments to be made to the company, it shall then be followed by an amendment which shall stipulate that the Government of the United States shall pay for transportation a rate which shall not exceed that fixed in the second section of the bill upon the persons and property of American citizens. The Government certainly will be able to make contracts with the company for the transportation of persons and goods upon more favorable terms than the tariff we would be authorized to fix. And I have no reason to believe, from any computation that I have been able to make, that the sum thus to be paid by the Government would reach the amount which is contemplated by this bill. But, whatever the amount, be it more or less, it should be compensation for services rendered. As the bill stands, if it should come to pass that we should wish to abandon that road, having a better communication open to us, we must still continue our payments in the same manner as though we received services. To this there are all the objections which would apply to a direct grant of money, without the merit of an open transaction.

I am opposed to internal improvements, and cannot become an advocate of external improvements. If the principle is to be adopted, let us be taxed for works of permanent improvement, and commercial advantage, or the building of monuments within the limits or the United States, but not beyond.

I have never, in the examination either of this or the original bill; supposed that the language would bear the construction that has been put upon it. I considered it as authorizing the Secretary of the Navy to make a contract, and as providing a limit beyond which he should not go. I never considered him as bound to pay the sum mentioned in the bill, or any other sum independent of services rendered; but as such has been the construction put upon it, I now wish to get rid of that difficulty, and it is therefore that I offer the amendment.

THE TERRITORIAL GOVERNMENTS.

SPEECH OF MR. J. G. PALFREY,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

February 26, 1849.

On the 26th of February, 1849, the Committee of the Whole House on the state of the Union (Mr. VINTON in the chair) having under consideration the Bill reported by the Committee on the Territories to establish a Territorial Government for Upper California—

Mr. PALFREY spoke as follows:

Mr. CHAIRMAN: I attempted to obtain the floor at an earlier hour, on the conclusion of the remarks of the honorable gentleman from North Carolina, [Mr. VENABLE.] The Chair very properly assigned it to another. It is perhaps fortunate for me that I get a hearing later in the evening. I am not sorry that there has been a lull. The quiet and pacific tenor of the remarks which I propose to submit, would have been ill in accord with the rather tumultuous pitch to which the belligerent tone—the drums, trumpets, and thunder—of the gentleman from North Carolina, has excited the minds of the committee.

Sir, we have at length reached a point, which, for three years past, has with good reason been looked forward to as a critical one in the fortunes of this nation. The immediate cause of that series of transactions, at the sad conclusion of which we now find ourselves, was the unconstitutional and disastrous annexation of Texas—a measure avowedly conceived and carried out, for the further confirmation of that despotic slave power which has ruled this nation with a constantly growing oppressiveness for half a century. In the further development of events, war was declared against Mexico by an overwhelming majority of this House. Of the fourteen patriotic men who recorded their names against that enormous measure, thank God, all but one-half were from the old Bay State! It was from the beginning a war of invasion and conquest. Nobody dreamed that the ten millions of dollars and the fifty thousand volunteers were placed at the President's disposal for the rescue of General Taylor and his brave little army.

Everybody knew that the reinforcement could not be put in motion in season for that object, and that if it could, the force was wholly disproportionate to the occasion. A levy of ten millions of money and fifty thousand troops meant no less than massacre and rapine on a grand scale, to end, as the prime movers in the plot intended and expected, in the extension of slavery over vast conquered regions.

The bitter fruits of brilliant victory are now before us. Freedom is threatened with another heavy blow. The great question on the minds of men, in and out of this Capitol, since this Congress came together, has been the question whether the free soil thus secured shall be kept free, or handed over to the uses of slavery.

A strong feeling on this subject has manifested itself in the free States, and in some parts of them a stubborn determination to prevent the meditated wrong. On the other part, the most skillful tactics have been here put in operation, and the most novel and extraordinary doctrines advanced. Throughout the last session, I think the principal stress was laid on an argument, which—owing, very likely, to my ignorance of previous Congressional proceedings—struck me with surprise when I first heard it announced here; the argument, namely, that slaves are regarded by the Constitution of the United States as on the same footing with any other property; that that Constitution, operating on the Territories, would protect the proprietor in his possession of them as much as in the possession of his money or his cattle; and that accordingly there is no power in or under this Government to exclude slavery from the Territories. If my memory serves me, this doctrine was first introduced here by two gentlemen from Alabama, [Mr. GAYLE and Mr. HILLIARD.] Why, sir, to me it was enough that in the ordinance of 1787, ratified under the Federal Constitution in 1789, that question had been settled by our fathers, the framers of that Constitution, while as yet the domain of our ingenious young sister in the southwest was partly a province of the King of Spain, and partly an Indian hunting-ground. If precedents can ever establish anything, the true doctrine on this subject has been established, past any danger of disturbance, by a long series of precedents beginning sixty years ago, dating from the very birth of the Republic. The paradox, however, has been thought worthy of refutation. It has received its deathblow at much stronger hands than mine. After the able manner in which it has been treated, in particular by an eminent Senator, [Mr. DIX,] by two of my distinguished colleagues, [Mr. HUDSON and Mr. MANN,] and at the close of the last session, by the eloquent gentleman from Georgia, [Mr. STEPHENS,] it would be assumption in me to pretend to renew that controversy.

Yet there is one point to which I do not remember that distinct reference has been made. The champions of the *Alabamian* theory—if I may so name it to save words—maintained that when the Constitution gave authority to Congress "to make all needful rules and regulations respecting the territory of the United States," it designed to give to Congress power over territory as consisting of public lands,—power to take measures for its exploration, survey, sale, and occupation. Now, without assenting for a moment to the correctness of this postulate, I conceive that even this power would involve the power which we claim for the prohibition of slavery. In even this capacity of trustee of the public lands, Congress would not discharge its duty if it did not put and keep them in the best condition for the most profitable occupation, sale, and use. If there were no stronger reason, Congress would be bound for this reason to forbid slavery to set its foot within them. Would Congress do its duty by them as mere guardian and trustee, if it should admit within them a class of colonists who had a "peculiar institution" of breeding rattlesnakes, or a "peculiar institution" by which they set fire every other year to their neighbors' standing corn? Before God, I believe that the Territories would be less hurtfully dealt with by having their harvest fields burned over every second year, than by having slavery introduced within their borders.

The natural and obvious way of giving a government to California and New Mexico would have been, to follow the precedents of the Territories northwest of the Ohio; and the more recent precedent of the Oregon bill. But to escape the force of the wholesome anti-slavery provision therein contained, we have seen all sorts of indirections successively devised, with an ingenuity and pertinacity well worthy of a better cause. Last session the *Clayton compromise*, so called, found favor enough with the other branch to mature it for receiving its quietus at our hands, by being immediately laid on the table without debate. Unexpectedly, perhaps, there was found public virtue enough here to strangle the newly-hatched viper before it had time to draw a second breath in the Hall of the Representatives of freemen. The old *Missouri compromise* has been talked of occasionally, as what the champions of slavery may, by and by, be willing to accept, when they find they can do no better; but it has not yet been found to be regarded with sufficient favor on the other side, to authorize a distinct proposal of the plan. There was the project so much extolled on the one side, and so much berated on the other, in the late Presidential canvass, for allowing the inhabitants of the Territories themselves to settle the question; in other words, allowing the first few thousands who might chance to emigrate, to establish an organic law for the hundreds of thousands who should follow, and determine a vast issue, vitally affecting the political condition and safety of the millions of us who should remain at our homes.

Then there are the schemes—all amounting to about the same thing as the last—of the Senator from Illinois [Mr. DOUGLAS] and the gentleman from Alabama [Mr. HILLIARD] for erecting the Territories forthwith into States, so that, uncontrolled by the General Government, they may permit or exclude slavery, according to their own discretion, or rather according to the will of the new citizens from the South, who would crowd into them with the view of determining their policy. The gentleman from Virginia, [Mr. PRESTON,] improving on this project, and proposing to form but one State of the whole territory, finds no difficulty in the fact that his State will have an extent of between five and six hundred* thousand square miles, and that its population, so suitable, from its compactness, as well as from its acquaintance with the rights and duties of American citizens, to carry on a government, might, for every three square miles, have about one inhabitant. And now, if report says true—for I must take care not to be unparliamentary—an expectation is entertained in another part of this Capitol, of defeating the purpose of the free North by an appendage to the civil and diplomatic appropriation bill. It is said that that irregularity, always most objectionable, but of which, it is true, there are examples, of inserting other matter in a money bill (which ought to be confined to putting the treasury in the possession of means to meet claims previously authorized by law) is now to be carried to an extent altogether unparalleled and outrageous. It is said that there is a plan of this kind on foot [Mr. Senator WALKER's amendment to the appropriation bill] to surrender to slavery, by surrendering to Texas, all the territory of New Mexico east of the Rio Grande; to establish a territorial government over the rest of the newly-acquired provinces, without any restriction like that of the ordinance of 1787; to invest the President with almost unlimited power therein, legislative and judicial, as well as executive; and, by providing for the protection of the coastwise slave trade, to give slavery a secure footing on the soil.

All these contrivances tend to one and the same object. It is, to introduce slavery into the newly-acquired territory, and so to fortify and perpetuate the slavery element in the administration of the government of this country. Warned equally by past experience and by the anxiety which we now see manifested and the artifices practised to bring about this result, we, on the other hand, who stand for the rights of freedom, can be content with no evasions, no silence, no ambiguities, no postponements. We can be satisfied with nothing but positive legal prohibition of slavery, after the manner of our ancestors in the better days of the Republic.

*526,000 square miles, exclusive of the country claimed by Texas east of the Rio Grande.

With anything short of that, we know full well that when it is too late we shall find ourselves circumvented and baffled as we have so often been before.

I cannot be expected so much as to glance at all the topics of argument which have been presented in this long discussion. I shall but ask the attention of the committee to two or three of those which have been made most prominent.

We have been told, over and over again, that slavery is *a local institution*, with which we of the free States have nothing to do. Sir, have we nothing to do with the Government under which we live? Is it no concern of ours who constitute that Government? Is it none of our business what shall be the policy of its Administration? These Territories are in the course of time to become States, and in whatsoever State slavery exists, however small the minority of slaveholders as compared with their non-slaveholding fellow-citizens, from that State—so insidious is the working of the system,—you may be all but sure that the Representatives sent to both branches of the National Congress will be slaveholders themselves, or if, in rare cases, not so, will at least be representatives of the interests of slavery. There may be occasional exceptions, I trust that, in future, there will be not a few. But the rule is undoubtedly as I have stated it. Admit slavery within these Territories now, and they will by and by be slave States, represented by slaveholders in the Senate of the Union, and helping to uphold in that branch that same course of *caste* legislation, which has long excited so much reasonable discontent, and which has done so much to arouse the feeling of the present day. Admit slavery within them, and by an altogether unanticipated extension of the great compromise of the Constitution, you promote the free citizen of New Mexico and California to a degree of power not possessed by the citizen of the free States, in the constitution of this body, and in the election of the Chief Executive Magistrate. For reasons deemed sufficient, it was agreed that there should be a representation here of three-fifths of a population who have no political rights, and whose vote is given by their masters; so that if, under the present ratio of representation, there should be a district in this country with a population consisting of ten thousand free people and a hundred thousand slaves, the ten thousand freemen in that district would have as much weight in the councils of the nation as seventy thousand freemen in my district, or in any other of the free States of the North. And accordingly it has come to pass that the State of South Carolina, with a free population not so great as that of the State of New Hampshire or Connecticut, and not three-quarters as great as the city of New York, has seven representatives on this floor; while New Hampshire, Connecticut, and New York city have but four each. This was so nominated in the bond, and we submit to it without complaint, though not without a sense of the hardship. But now you propose to us to agree—or rather you say it shall be, whether we agree or not—that this singular, and, on all abstract grounds, indefensible arrangement, having no force nor reason of any kind beyond the limits within which it was originally applied, should be extended to other communities, whose power, exerted in this way, is to be brought into the direction of our national affairs. No, sir, we can agree, and we can submit, to no such thing. Except so far as we have compromised away our rights, we must insist on still having them. We must insist that no section of this country shall have such a political precedency over another. We must insist that a freeman in Massachusetts shall weigh for as much in the political scale as a freeman at Santa Fé or San Francisco. We cannot consent so to settle our conquered provinces that a freeman in them, because he owns (as it is called) five slaves, shall, in the administration of the government which is over us both, have four votes where we have but one. This was not the entertainment to which the Constitution of our fathers invited us. What we have stipulated to do, in the surrender of our natural rights, we will do—sorrowfully, it may be, but faithfully. Beyond that line, it is idle to expect us to go.

So much, and more of the same kind, have we of the free States to do with the introduction of slavery into California and New Mexico, if we

stay at home. But suppose we wish to visit those regions. If we keep them free, we can go thither with the full privilege of speaking and publishing our mind on all matters of interest whatsoever. If we have allowed slavery to go thither first, we must go to a suspension of our much-valued freedom of speech, and freedom of the press, as far as the great question of the age is concerned. We shall not then be able to speak or print respecting slavery there, except at extreme peril of life and limb. With part of us, it will fare worse yet. If we allow slavery to get into these provinces, part of our number must give up the idea of going thither on any terms—to be ever so silent, or ever so submissive. The men and women of South Carolina come to Massachusetts, and we welcome them to our simple hospitality. We treat them as well as we know how;—if it is not very well, their magnanimity will pardon something to the scantiness of our means, and the homeliness of our breeding. Men and women of Massachusetts go to South Carolina;—they are taken from the ships before landing—they are imprisoned—they are scourged—they are sold, they and theirs, into life-long bondage. Admit slavery into California, and California, as to this matter, will become for us another Carolina. When the acquisition of it from Mexico was talked of as a desirable thing, we of New England were addressed with the argument of what a convenience a few ports in the North Pacific would be to our whale ships. They would be a convenience, or not, according to circumstances. I think I have understood my friend and colleague [Mr. GRINNELL] to say, that there are not fewer than fifteen hundred colored seamen in the whale ships from his district, and among them are some mates, and even masters, of vessels. It is rather too much to expect of them, or of us, to consent to the establishment of such a government in California, that they would have to meet at San Francisco the reception which now awaits them at Charleston. I think we shall hardly agree so to settle those Territories that our State agents shall be driven from them as from Carolina, or that in them, as in Carolina, we shall be despoiled of our right of a hearing in the Federal courts.

But, suppose we want not only to visit, but to emigrate: what then? Sir, gentlemen from the South talk of our excluding them from the Territories, by excluding slavery. The truth is, they would exclude us, if they should be allowed to introduce it. They speak of our designing to dispossess them of their share in the common property; their plan would absolutely defraud us of ours. Let slavery get a footing on the land, and we could not go thither; that is, we could not go, remaining such persons as we are; we could not go, retaining our identity. In what capacity should we go? Should we go to join the class of slaveholders? Mr. Chairman, let large allowance be made for influences acting on the minds of men born or educated in the midst of slavery, and by long familiarity blinded to its character. So much as that is required by liberality—nay, by justice. But, as to the different case I am supposing, there are thousands in the free North who would say—that a son of ours, born of a New England mother, nourished at a New England bosom, baptized in a New England church, bred at a New England school, that he should go from a New England home to be a buyer and seller of men and women,—there are thousands, yes, tens, hundreds of thousands, who would say, let us follow him to his grave first!

Shall we, then, and our sons and brothers, when slavery has been established in California and New Mexico, go thither to be non-slaveholders? That would be to lose our identity just as much. That would be to abandon the character of the independent, well-informed, self-respecting yeoman as we see him in the North, for that of the very different specimen of humanity known as the *mean white man*, the *poor buckra*, in the southern States. The laboring man of New England is any man's equal. His occupation is esteemed honorable. His mind is instructed. His sober, methodical, industrious habits, are such as sustain self-respect, and claim respect from others. While the estimation in which his employment is held and the compensation which remunerates it give him enough for contentment, there is no public elevation to which he may not aspire for himself and his. The public offers to his children an education—not as a boon, but as their birth-right—such as enables them to start from the same level as the richest in the race for the high prizes of society. Will you ask such a man to cast in his lot with the poor, shiftless, lazy, uninstructed, cowed non-slaveholder of the South? a character, I am far from saying universal with that class of men—for there are happy natures which are able to rise above disadvantages of position—but far too common for our people to take the chance of falling into it. Will you propose to our northern laboring farmer or mechanic to emigrate to a region of which you have told the whole story, when you have said, that because slavery exists there labor cannot be honorable, and there can be no common schools? No, sir; let not gentlemen say that we are designing to banish them from these Territories. It is we whom they propose to banish. We and ours have a right to find new homes there, if we will. But it is utterly to deprive us of that right to say, that in order to do so, we must convert ourselves from what we are into slaveholders, or else into that only other class of white men who can live by the slaveholder's side. We can do neither the one nor the other. If we and ours incline to emigrate, we must do it, being what we are. The right is ours, and we cannot consent to have it embarrassed with conditions which would make it wholly worthless, and the same as if it were not.

Again, gentlemen are fond of charging us with raising *a sectional question*. They say that we are pressing a controversy between North and South, and they undertake to rebuke us in the words of the Father of the Country in his Farewell Address. This charge of exciting sectional divisions makes the great staple of not a few speeches which I have heard in this House, and it colors the whole tissue of the two famous Addresses recently put forth from the secret nightly conclave in this Capitol. Sir, I deny utterly the correctness of this representation. So far as I am concerned, the abettors of slavery shall have no advantage from a statement so entirely unfounded in point of fact. This is no question between the North and the South. It is a question between a comparatively small number of slaveholders living in the South on the one side, and, on the other, the vast majority of American freemen who hold no slaves, living both at the South and the North. Who are these gentlemen that assume to put themselves in the place of the southern section of the United States, and to say, when they cannot have their way, that the South is assailed? Do they constitute the whole population of the South, that they pretend thus to identify themselves with it? Do they constitute the greatest part of it? How many are there? The whole number of the free white population south of Mason and Dixon's line, in 1840, was 4,809,187; the whole number of slaveholders among them cannot possibly exceed 300,000. With what face does such a mere fraction of a population undertake to speak for the whole, and to complain that a sectional question is moved when only the encroachments of one limited interest within that section are resisted? No, sir, the slaveholders of the South are not the South. Far from it. And not only are they not the South, but they represent an interest absolutely antagonistic and hostile to the interest and welfare of that large majority of the citizens of the South, that do not hold slaves—an interest altogether more opposed to the well-being of southern non-slaveholders, than to the well-being of citizens of the northern States. We of the North have great reason to complain of slavery. It has done and does us great and grievous injustice. But it does not control our State governments, and to that extent make us its slaves. It does not, by its presence among us, make our honest industry disreputable. It does not strike the bread of knowledge from our lips. All this it does for the southern non-slaveholder. And yet, when we undertake to resist some new impudent pretension which it puts forth, we are to be complained of as raising a sectional question, and encroaching on the South, a vast majority of whose citizens are far more wronged by it than ourselves.

No, sir, I repeat it; this is no question between North and South. It is a question simply between the friends of slavery and the friends of liberty, South as well as North. The southern non-slaveholders belong of right to our party—the party of the free. That is their natural position, and they are on their way to find it. The same abominable power which annoys us and insults humanity, grinds them in the dust. They are about to understand this, unless promising signs deceive. And when they do, and have learned to speak for themselves, we shall see how long it will be that slaveholders will continue to call themselves *the South*.

And before leaving this topic, I will venture to appeal to the generosity and justice of gentlemen from the South to help us keep these Territories free from slavery, out of regard to the interests of their own constituents, little as they may care about the interests and wishes of ours. Gentlemen, many of your fellow-citizens love slavery. They have plenty of room to enjoy it, within the limits of the States which you represent. Let them stay there and enjoy it, to their full content. Others do not love slavery, but they love southern habits of life in other respects, and a southern climate. Here you have an opportunity to consult their welfare, at the same time that you allow us our rights. Here, if you will but permit it, your kindred and neighbors may build new homes beneath a southern sky, with everything southern about them, except only that feature of southern life which now disturbs and harms them. Keep such an asylum open, and numbers of your compatriots, increasing year by year, will thank you for your provident care. I presume you know—for I do, with less opportunities than yours—of slaveholders who long to escape from slavery, to get out of the reach of sight and hearing of its woes, to rear their children beyond the influence of its blight, but to whom the change of climate, and of habits incident to climate, would involve so great a sacrifice as to forbid their transferring themselves to a northern home. Do not insist on closing against such the gates of the welcome city of refuge which awaits them in these fair Territories. How large this class may be now, I do not know. But I have no doubt that it is to be a pretty rapidly increasing one, and accordingly as you deal justly or wrongfully by them in this matter, you will be in the way, before long, of hearing pretty loud commendations or complaints from quarters to which you will not be indifferent.

But if this is the case with some of your slaveholding neighbors, the number of your non-slaveholding constituents, for whom you are bound to make this provision, is far greater. The gentleman from North Carolina [Mr. CLINGMAN] told us last winter, that "a very large proportion of the emigration of the old southern States goes into the free States of the Northwest," and he added, that he had observed this to be "eminently true of the North Carolina emigrants." This unquestionable tendency is illustrated by the facts relating to the locations of land warrants for services in the late war, as presented in the recent report of the War Department. It appears, that of about 12,000 warrants taken out, only 1,750 were for locations in the slave States. Undoubtedly the proportion of southern troops entitled to those warrants was far greater than that of 1,750 to 12,000. Gentlemen, what do you understand this to mean? The way I understand it is this: that a large proportion of your own constituents, when they seek a new home, want to find one which the plague of slavery will not infest. They want to go where the food of the intellect and of the soul is within reach; where they may claim for themselves and theirs the rights of their manhood unabridged; where an idle despotism is not the condition of honor, nor toil confounded with servitude, nor industrious usefulness a badge of disgrace. But to do this, they must now betake themselves to the hardships of unaccustomed modes of life, and to the rigor of a northern sky. Gentlemen, might it not be worth your while to have some consideration for their case? Might it not be well for you to permit them to occupy those congenial abodes on conditions such as they desire? What rights have you there, that these constituents of yours have not as much, and more? Is it not a very reasonable claim of theirs, that in these regions unexpectedly opened to their occupation you should permit them to enjoy at once the luxurious climate to which they have been used, and the free institutions which they deem essential to their welfare?

Will you do well, to take it upon you to resist that claim?

Mr. Chairman, we have become quite used to being threatened that if we persist in asserting the rights of freedom in the government of this country, we shall be defeated and punished by an overthrow of the Constitution, and a *dissolution of the Union.* I do not propose to enter largely into that subject. Gentlemen will not be surprised to hear me say that we listen to such forebodings with utter incredulity. At another period, when the same rhetoric was rife, and when our institutions were far less consolidated than now, Mr. Jefferson very wisely said, "I do not believe there is a gov-'ernment on earth established on so immovable a 'basis. Let them in any State, even in Massa-'chusetts itself, raise the standard of separation, 'and its citizens will rise in a mass, and do justice 'to themselves on their own incendiaries." As long ago as 1835, in an article reproduced in a late famous Address, it was announced by the Charleston newspaper organ of Mr. Calhoun, who has the unfortunate eminence in the popular mind of being the source of the so often abortive movements, that if "the Legislatures of Pennsylvania, Massachu-'setts, and New York, should adjourn without 'passing laws for the suppression of the abolition 'societies," that would be "the proper time for a 'convention of the slaveholding States," to "em-'body and make known the sentiments of the 'whole South, and contain the distinct annuncia-'tion of our fixed and unalterable determination 'to obtain the redress of our grievances, be the 'consequences what they may." The article was entitled, as usual, "The Crisis;" but the crisis passed harmlessly away. The Legislatures adjourned without enacting any such laws, but the threatened convention never met; and fourteen years have since come and gone, with the Union as unbroken as ever. Those fourteen years have not only witnessed no disruption, nor even serious symptoms of such a calamity, but they have wrought out a softened and more enlightened tone of public sentiment, South as well as North. Why, sir, what better proof do we need of this than the miserable failure of the late attempt made in this Capitol to marshal a force for treason, and overawe the deliberations of this Hall? It came to nothing under the coldness and the frowns of the patriotic southern men who had been counted on to sustain it. I read in the newspapers that the honorable gentleman from Kentucky near me, [Mr. MOREHEAD,] when asked what he would do if the Wilmot proviso should become a law for the new provinces, replied, that his arm should wither from its socket before he should lift it against the Union of the States. I know nothing of the truth of that story; but I believe it, because it is in accordance with what I have observed of that gentleman's excellent head and heart. A published letter has just reached us from the center of Louisiana, signed by a citizen of eminence in that State, (Mr R. B. Brashear,) himself a slaveholder, and, as I understand, a delegate to the Convention at Philadelphia which nominated the President elect. In a course of most judicious and patriotic remarks on the great question of the day—remarks, altogether appropriate, I will not say to a northern, but to an American freeman—the writer asks, "with what 'face can we propose to our northern brethren the 'extension of this political evil and this moral wrong 'over new territory?" "As a southerner," he says, "I disavow the choice which these self-elected representatives of southern opinion have promul-'gated as ours; as a patriot I reprobate their course, 'and prefer the enfranchisement of the soil of Cali-'fornia to this avowal of a want of attachment to 'the Union being accepted by our brethren of the 'North as the reflex of southern sentiment." And referring to the language, "'The South will accept' of this, or else the bayonet,—'the South is willing' for that, or else the bayonet," he adds, "For the South I repudiate it utterly, totally, and look upon its authors as *mad*, if heated by heartless assaults, *as traitors* if cool and deliberate." Can such indications—I will not multiply them, though I might—be mistaken? No; the leaders in the politics of the slave States would not dissolve the Union, if they could. Whatever might be the passions and the temerity of some of them, they would be overruled by the better judgment and temper of the rest. They could not do it, if they would. I speak not of any coercion on our part. We should not have to raise a regiment, or equip a ship. We should only have to leave them to the care of their own fellow-citizens. In common times, from the force of habit and other obvious causes, the great non-slaveholding majority of freemen in the slave States are willing to be led by their richer and better educated neighbors, and even to act upon the prejudices, jealousies, and passions which these instil. But let a question of the overthrow of our constitution of government seriously break out, and the charm would presently be broken. The agitation of that question would speedily enlighten the non-slaveholder as to his position, his interest, and his rights. In a very short time he would be prepared to say,—If you tell us that your slave property and the Federal Union cannot subsist together, and that therefore the Union must be broken up, we can only say that, if we must admit your fact, we come to a different conclusion; if it be so, we will have no slavery among us; the Union must be kept harmless, at all events. And a non-slaveholding majority at the polls of six to one would settle that question very decidedly and very peaceably. The issue would probably be somewhat delayed, but violent measures would have to wait for it; discussion—the discussion which seditious movements would draw out—would help it on rapidly; and come before long it would.

Mr. Chairman, there has crept of late into this discussion a style of remark, which I cannot think will be found to afford any valuable illustration to an argument of such strictly practical and present importance. Gentlemen incline to invite us to the investigation of historical problems, and seem to imagine that if they can point out some fault in our ancestors, they do something towards refuting our reasonings, and barring our claims for our rights. The gentleman from Virginia, [Mr. BEDINGER,] the same who was pleased to refer to me as "the Anacharsis Cloots of the present day," spoke of Massachusetts—in the use of a somewhat violent hyperbole—as the State where "witches, and Indians, and Quakers, and Catholics, and other such heretics, were, 'in the brave days of old,' burned literally by the cord;"—a violent hyperbole, I venture to call it, inasmuch as, to say nothing of burnings "literally by the cord," no heretic or other obnoxious person, of the description specified, or of any other, was ever burned in Massachusetts. It is sadly true that two Quakers and several reputed witches were executed in that colony, and that other Quakers were very harshly treated for what was esteemed disturbance of the peace of the jurisdiction, and for returning after having been banished from it. The superstition of witchcraft was the dismal error of the times, and our ancestors, not being wiser than the wisest of their contemporaries, on either side of the water, had their full share in the delusion. Does the gentleman from Virginia suppose, that if he had lived in the seventeenth century, he would have seen deeper into things than Sir Edward Coke and Sir Matthew Hale? His modesty, I am sure, would forbid the thought. Yet those sages of the law held the same doctrine on the subject of witchcraft as the Massachusetts fathers, and expounded and administered it in the Court of the King's Bench. And let me tell the gentleman that in that awfully dark passage of our early history all is not darkness. In one view it appears lighted up with a lurid indeed, but with a majestic blaze. If this witchcraft madness has left a peculiar blot upon the history of Massachusetts, it is because of this great difference between her people and that of other communities whose annals bear no such stain; viz: that what both alike professed to believe, the former more consistently and honestly acted out. Deplore as we may the grievous infatuation, still more even than we lament and condemn that, we find cause to applaud the brave and constant spirit that would never quail before the awful delusion that possessed it. It was no less than the powers of darkness that these men believed to be in arms against them. And they did not shrink even from that contest; they feared neither man nor the devil; they feared nothing but God. They imagined the Prince of Hell, with his legions, to be among them, "the sacramental host of God's elect," seeking among them whom he might devour; and they gave place to him for subjection, no, not for an hour. Set upon by invisible and supernatural foes, they thought of nothing but stern defiance, deadly battle, and the victory which God would give his people. They would have made bare the arm of flesh against the Serpent in bodily presence, could he have put on an assailable shape. As it was, they let it fall without mercy on those whom they understood to be his emissaries.*

I deplore with the gentleman the severities practised on the Quakers, though he is mistaken in supposing that they were "burned by the cord," or that they were burned at all. I defend no bigotry in any men or in any age. But undoubtedly some difference must be allowed to exist between the orderly, industrious Quaker philanthropist of the present day and the madman of two centuries ago, with whom the Massachusetts colonists had to deal; and perhaps the duty of toleration, comprehensive though it be, stops somewhere short of allowing men and women, for conscience sake, to run, as naked as they were born, through the streets and into the churches; or, at all events, does not require the permitting of people to gain a name like Abraham's by sacrificing their own sons, as one of the Quakers, in 1658, was proceeding to do, when his neighbors, alarmed by the boy's cries, broke into the house in time to rescue him. When the Quakers found out the Massachusetts people in their distant hiding place from the storm—the "outside of the world," as they called it—they contented themselves with merely sending them back by the vessels which had brought them, thinking that both might live more satisfactorily, if they lived apart. The Quakers returned, and were sent away a second time. A third time they came. Severer penalties were then resorted to. They were such as did not touch life, but they were too harsh to carry the public opinion along with them, and recourse was again had to a removal of the offensive visitants out of the jurisdiction. It failed, and at length, by the majority of a single voice, the general court passed that law denouncing the punishment of death against Quakers *returned from banishment*, which has had its chief life in history, for it was repealed almost as soon as enacted. The whole contest, from first to last, continued about four years, when a more humane policy, never since disturbed possessed itself of the public councils.

And possibly there is another view of this subject of the religious intolerance of the Massachusetts fathers, to which the attention of the gentleman from Virginia may not have been carefully directed. Without doubt he remembers the record of Lord Clarendon that the Royal Commissioners, sent out in 1664, found the northern colonies already "hardened into republics." They had been a short time hardening. What hardened them so fast? Perhaps few things more than the jealous and rigid pertinacity with which they adhered to their theory of exclusion from political fellowship, of all who might have used such power to strangle their embryo Commonwealth. It will not do to look upon the Massachusetts fathers as a set of heady zealots, careful only to have their own way in religion without regard to consequences, and that way not a very wise one. There were cool and far-sighted statesmen at the helm. King or Protector to the contrary notwithstanding, they meant to have a republic; and they had it virtually from the first, exercising with the utmost freedom all attributes of sovereignty, though avoiding all ostentation of it with the utmost address. They were not so unfit for their delicate work, as to be willing to commit power to any who would have used it to obstruct their object, or even who would not sympathize with them in hearty zeal for its accomplishment. They meant that no man attached to the monarchy of England through attachment to its church (whether that should turn out to be Papal or Episcopal) should have a particle of power to annoy them in the prosecution of their great work; and therefore if such a man was to live among them at all, they would have him the subject, not the sharer, of *their* government. Dexterity as well as nerve was required to play so critical a game, and little fit would they have been to win it, if they had volunteered to show their hands to his Majesty's Privy Council. To exclude or keep

* The train of thought and part of the language here are the same as in a passage of a semi-centennial discourse delivered by the speaker, in 1844, before the Massachusetts Historical Society.

down churchmen, and at the same time dispense from the like disabilities others who were equally dissenters from their own docrine and rule, would have been to deprive their act of all color, even if otherwise it would have perfectly answered their end. Taking advantage of their reputation abroad for acting under impulses which observers less sagacious than themselves supposed to be the only ones that had power over their minds, they cut off indiscriminately those who did not love their creeds from all participation in their government, and were quite willing that others should be stupid enough to ascribe to a stupid bigotry of theirs a system of administration which, had it been seen to be prompted—as in part, at least, it appears to have been—by the profoundest policy, would have brought down on them too soon the hard and heavy hand of England. So they had their own way, without any one in their own circle to mar it. So they consolidated their institutions, till, by the time when the second generation came forward, they had "hardened into republics." So they kept up and bequeathed the intense and constant spirit they had brought with them. So they stood quietly by their arms, to watch the signs of the times, and do what, from one time to another, might be needful for the keeping of the treasure they had no mind to part with. So they were ready to depose and imprison a king's governor, as they actually did in Boston, in 1688; and if matters had then gone otherwise in England, they might possibly have antedated the Revolution by nearly a century. So they built firm the foundations of the Commonwealths which at length did the part of New England in the War of Independence. Blot the franchise laws and the rest of this intolerant legislation of the Massachusetts colonists out of history—open the door for the emissaries of Strafford and Laud into the council chambers of the New England Puritans,—and possibly the other colonies might have had to wait somewhat longer for their independence; possibly at this time the history, not only of one continent, but of both, might not have read as it now reads.*

Three days ago, Mr. Chairman, we heard another strain from the Ancient Dominion, unlike to that on which I have now been slightly commenting. I listened with the delight which such graceful eloquence has the power to give, and certainly not without my share of the emotion which was stirred in every hearer. I trust that it was not a mere transient pleasure, but that I was warmed with something of the patriotic spirit which the gentleman [Mr. MCDOWELL] so powerfully exhorted us to cultivate. So far as that effect was produced, I shall be only the better qualified to sustain those views of the public well-being and honor of which I have occasionally come forward here as the very humble advocate. Admiring the elevated and generous tone of many of that gentleman's remarks, there were yet some things I could have wished otherwise,—independent of his argument on the particular question now in hand, which of course did not satisfy me. I cannot specify them as I would, the speech not having yet appeared in print, and the immediate excitement of the pleasure it afforded having been such as to prevent a careful weighing—still more, a clear remembrance—of its reasonings and language. One remark in particular fell on my ear as a discord in the general harmony of its praiseworthy tone of sentiment. I think the gentleman presented some antithesis such as this,—that the people to whom I belong managed to make a pecuniary capital out of slavery in former times, and political capital now. Sir, there are those who could teach the gentleman somewhat to qualify his views about uncompromising hostility to slavery being a sure way to lay up "political capital." And as to the "pecuniary capital" supposed to have been made by Massachusetts from slavery a hundred years ago, I will say no more than that, while at that period she was perhaps not much wiser on this subject than her neighbors, one thing she has always done: she has always held her eyes wide open to the light; she has always greeted new truth, and promptly adopted and acted on it when made known. Can Virginia say as much? Will the gentleman affirm it of her? And will he sustain the assertion by a comparison of what she now is with what she was when she helped to win the Independence and establish the Constitution of these States?

The gentleman thinks that Virginia laid Massachusetts under an obligation of gratitude and affection by her sympathy and aid in the disastrous time of the Boston Port Bill. I think she did, and that the debt is mutual, at least. Does the gentleman suppose that the distresses incurred by Massachusetts at the period of which he speaks were solely for objects of her own, or that the exertions made by Virginia and others of her sister colonies—whether regarded as made in her behalf, or for the common cause, for which she was standing the foremost champion—were anything more than mitigations of her woe? When James Otis argued in the old State House against the Writs of Assistance, and "then and there," according to John Adams, "the child Independence was born," for whom was that birth—for Massachusetts or for America? When from her Faneuil Hall and the meetings of her village democracies the gauntlet was thrown down to the tremendous power of England, was Massachusetts alone in the prospect of advantage from that strife, or only most forward in its perils? When the vindictive "Port Bill," to which the gentleman referred took effect, was it some Virginian city, or was it Boston, the chief mart of the continent, that saw its prosperity made desolation, and the grass springing in its streets? And if Massachusetts did incur a debt for the sympathy and succors which, as the gentleman correctly states, she then received, I think she paid some instalments of it when she bore the first furious brunt of the battle on her own soil,—when she sent one soldier in every three to the armies of the Revolution, furnishing more troops than all the six slave States put together in the proportion of more than eight to seven,—and when the excess of her payments into the common treasury for the prosecution of the war, over and above what she drew from it, was greater than that of the aggregate of her twelve sister States.

The gentleman should be better acquainted than myself, Mr. Chairman, with the history of the great State which he represents. And yet I cannot entirely acquiesce in the distinction he has drawn—not original with him, I am aware—between the settlers of Virginia and of Massachusetts, as representatives respectively of the Cavaliers and Roundheads of the old country. I remember that Captain Smith, the man who saved the first company of Virginian planters from self-destruction, said of them, that "a great part were 'unruly sparks, packed off by their friends to escape worse destinies at home; many were poor 'gentlemen, broken tradesmen, rakes, and liber-'tines, footmen, and such others as were much 'fitter to spoil and ruin a Commonwealth, than to 'help to raise or maintain one." Sir, I am far from imagining that this is a matter of the slightest account at the present time. The founders of Rome have no very good repute in history, and we do not think the less of the heroes and sages of the great times of the sublime republic, because of the equivocal character of the original fountains of their generous blood. But if we are summoned perforce to the school of the historic Muse, it is meet that we give heed to her lessons. And on the other hand—a thing now of equally little moment—not a few of the Roundhead Massachusetts founders were of the noble and the gentle blood of England. There were scholars from her great universities; in twenty years from the first settlement, there were as many graduates of Oxford and Cambridge in Massachusetts as in Old England, in proportion to the population. There were captains from the famous fields of Europe, courtiers from its capitals, delicate women from the luxury of its ancient feudal halls, "coming," as the contemporary chronicler said, "from a paradise of plenty and pleasure in the family of nobles, to a wilderness of wants." This is a matter now of just as little importance as the other; but when challenged about the past, even the ground of such conventionalities is not one which we of Massachusetts have the slightest reluctance to explore.

And, sir, when the gentleman, calling up affecting reminiscences of the past, appealed to us of Massachusetts to be faithful to the obligations of patriotism, I repeat, that I trust his language fell profitably as well as pleasantly on my ear. He has reminded us of our stern but constant ancestry. I hope we shall be true to their great mission for Freedom and Right, and all the more true for having listened to his own impressive exhortation. The gentleman remembers the declaration of Hume, that "it was to the Puritans that the people of England owed its liberties." May their race never desert that work, as long as any of it is left to do! Sir, as I come of a morning to my duties here, I am apt to stop before the picture in your Rotundo of the departure from Delft Haven of that vessel, "freighted with the best hopes of the world," and refresh myself by looking in the faces of four ancestors of my own, depicted by the limner in the group on that dismal deck—the brave and prudent leader of the company, his head and knee bowed in prayer;—his faithful partner, blending in her mild but care-worn countenance the expression of the wife, the parent, the exile, and the saint;—the young maiden and the youth, going out to the wide sea and the wide world, but already trained to masculine endurance and "perfect peace" by the precious faith of Christ. Not more steadfast than those forlorn wanderers were the men, who, in the tapestried chambers of England's great sway, with stout sword on thigh, and a stouter faith in the heart, and the ragged flags of Cressy, and Agincourt, and the Armada, above their heads,

> ——"Sat with Bibles open, around the council board,
> And answered a king's missive, with a stern 'Thus saith the Lord.'"

Not hardier were they, who in the iron-squadrons of Fairfax and Cromwell, had many a hard trot on many a hot and dusty day to get so much as a sight of the backs of those silk and velvet Cavaliers, of whom the eloquent gentleman discoursed with so much unction.

Sir, the spirit of that stubborn race, if somewhat softened by the change in manners and the lapse of time, is not yet extinct in their children. The gentleman is welcome, for me, to have very little respect for any who, in his language, have "made capital" of one kind or another out of human slavery. But I ask him, did the Roundhead ever flinch when battle was to be done for freedom? Sir, I live in the midst of the scenes of his last bloody struggle for that cause. Humble as I am, I am honored to represent the men who till the earliest battle-fields of American independence. As I sit in my door of a still summer evening, I hear the bells from Lexington Common. The shaft over the sacred ashes of Bunker Hill rises within three miles of my windows. I leave my home, and in an hour I stand by the ruined abutments of old Concord Bridge, and the green graves of the first two British victims in the hecatombs of the Revolution. Representing, however feebly, such a people in lineage and in office—warned by the lessons and the present monuments of such a history—is it for me to think of helping to extend the foul curse of slavery over another foot of God's fair earth? No; "here I stand; I can do no otherwise; may God help me."* I boast no courage; I fear I might turn out to be no better than a fearful man; but I do trust that every drop of thin blood in these old veins of mine, would be freely given to stain the scaffold, or boil and bubble at the stake, before, by any act of my doing, the slavery of my brother man should take another forward step on free American soil.

Mr. Chairman, the gentleman knows that the people of Virginia in her best days bitterly complained of the arbitrary course of the parent Government, in fixing upon them this miserable institution against their will. Is he willing, in this more enlightened nineteenth century—is he willing, as a legislator of this pattern Republic—to inflict the same cruelty on a people just beginning to be, and awaiting its destiny for ages at our harsh or merciful hands? Is he willing to bring on himself and us, the curse of the coming generations of that people to the end of time?

[Mr. PALFREY was proceeding to enlarge on this point, when the Chairman's hammer fell.]

* The same view of this subject was presented in an article furnished by the speaker, in 1837, to the North American Review.

* Luther.

SLAVE TRADE AND SLAVERY IN THE DISTRICT OF COLUMBIA.

SPEECH OF MR. HORACE MANN,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

February 23, 1849,

On Slavery and the Slave Trade in the District of Columbia.

Mr. MANN said:

Mr. CHAIRMAN: There is a bill upon the Speaker's table which provides for abolishing the slave trade in the District of Columbia. For three successive days, we have tried in vain to reach it, in the order of business. Its opponents have baffled our efforts. Our difficulty is not in carrying the bill, but in reaching it. I am not without apprehension that the last sands of this Congress will run out, without any action upon the subject. Even should the bill be taken up, it is probable that all debate upon it will be suppressed by that sovereign silencer—the previous question. Hence I avail myself of the present opportunity, as it is probably the only one I shall have during the present session, to submit my views upon it.

I frankly avow, in the outset, that the bill provides for one part only of an evil, whose remedy, as it seems to me, is not only the object of a reasonable desire, but of a rightful and legal demand. The bill proposes the abolition, not of slavery, but only of the slave trade in the District of Columbia. My argument will go to show, that within the limits of this District, slavery ought not to exist in fact, and does not exist in law.

Sir, in the first place, let us inquire what is the state of things in this District on this subject. The gentleman from Indiana, [Mr. R. W. THOMPSON,] who addressed us a few days since, used the following language:

"What is the slave trade in the District of Columbia? I have heard a great deal said about 'slave pens'—about slaves sold at auction—and about stripping the mother from the child, and the husband from the wife. These things may exist here, but I do not know of them. Since I have been in the habit of visiting the District—which is from my boyhood—I have never seen a negro sold here—I have never seen a band of negroes taken off by the slave trader. I do not remember that I have ever seen the slave trader himself. I know nothing of the 'slave pen' that is so much talked about. It may be here, however, and these things may happen every day before the eyes of gentlemen who choose to hunt them up, but for myself, I have no taste for such things."

Now, sir, if the gentleman means to say that he has no personal knowledge of "slave pens" and of the slave traffic in this District, that is one thing; but if he means to deny or call in question the existence of the traffic itself, or of the dens where its concentrated iniquities make up the daily employment of men, that is quite another thing. Sir, from the western front of this Capitol, from the piazza that opens out from your Congressional Library, as you cast your eye along the horizon and over the conspicuous objects of the landscape—the President's Mansion, the Smithsonian Institution, and the site of the Washington Monument—you cannot fail to see the horrid and black receptacles where human beings are penned like cattle, and kept like cattle, that they may be sold like cattle—as strictly and literally so as oxen and swine are kept and sold at the Smithfield shambles in London, or at the cattle fair in Brighton. In a communication made during the last session, by the Mayor of this city, to an honorable member of this House, *he* acknowledges the existence of slave pens here. Up and down the beautiful river that sweeps along the western margin of the District, slavers come and go, bearing their freight of human souls to be vended in this market-place; and after they have changed hands, according to the forms of commerce, they are re-transported—the father of a family to go, perhaps, to the rice fields of South Carolina, the mother to the cotton fields of Alabama, and the children to be scattered over the sugar plantations of Louisiana or Texas.

Sir, it is notorious that the slave traders of this District advertise for slaves in the newspapers of the neighboring counties of Maryland, to be delivered in any numbers at their slave-pens in this city; and that they have agents, in the city and out of it, who are engaged in supplying victims for their shambles. Since the gentleman from Indiana was elected to this Congress, and, I believe, since he took his seat in this Congress, one coffle of about sixty slaves came, chained and driven, into this city; and at about the same time another coffle of a hundred. Here they were lodged for a short period, were then sold, and went on their returnless way to the engulfing South.

Sir, all this is done here under our own eyes, and within hearing of our own ears. All this is done now, and it has been done for fifty years—ever since the seat of the National Government was established in this place, and ever since Congress, in accordance with the Constitution, has exercised "*exclusive* legislation" over it. But the gentleman from Indiana, though accustomed to visit this District from his boyhood, has "never seen a negro sold here;" he has "never seen a band of negroes taken off by the slave trader;" he does not remember to have seen "the slave trader himself;" he knows "nothing of the slave-pen that is so much talked about." Sir, the eye sees, not less from the inner than from the outer light. The eye sees what the mind is disposed to recognize. The image upon the retina is nothing, if there be not an inward sense to discern it. The artist sees beauty; the philosopher sees relations of cause and effect; the benevolent man catches the slightest tone of sorrow; but the insensate heart can wade through tears and see no weeping, and can live amidst groans of anguish, and the air will be a non-conductor of the sound. I know a true anecdote of an American gentleman who walked through the streets of London with a British nobleman; and being beset at every step of the way by squalid mendicants, the American, at the end of the excursion, adverted to their having run a gauntlet between beggars. "What beggars?" said his lordship; "*I have seen none.*"

But the gentleman from Indiana says, "but for myself, I have no taste for such things." His taste explains his vision. Suppose Wilberforce and Clarkson had had no "taste" for quelling the horrors of the African slave trade. Suppose Howard and Mrs. Fry to have had no "taste" for laying open the abominations of the prison-house, and for giving relief to the prisoner. Suppose Miss Dix to have had no "taste" for carrying solace and comfort and restoration to the insane. Suppose the Abbé L'Epée to have had no "taste" for teaching deaf mutes; or the Abbé Haüy for educating the blind; or M. Seguin and others for training idiots, and for educing docility and decency and a love of order from those almost imperceptible germs of reason and sense, that barely distinguish them from the brutes! Suppose these things, and in what a different condition would the charities and the sufferings of the world have been! Herod had no "taste" for sparing the lives of the children of Bethlehem, and of all the coasts thereof; and doubtless he could have said, with entire truth, that he never heard the voice, in Rama, of lamentation and weeping and great mourning; nor saw, among all the mothers of Syria, any Rachel weeping for her children and refusing to be comforted, because they were not. But, sir, just in proportion as the light of civilization and Christianity dawns upon the world, will men be found who have a "taste" for succoring the afflicted and for righting the wronged. It was the clearest proof of the Great Teacher's mission, that he had "a taste" for "going about, doing good."

During the last fifty years, and especially during the last half of these fifty years, the world has made great advances in the principles of liberty. Human rights have been recognized, and their practical enjoyment, to some extent, secured. There is not a Government in Europe, even the most iron and despotical of them all, that has not participated in the ameliorations which characterize the present age. A noble catalogue of rights has been wrested by the British Commons from the British nobility. France and Italy have been revolutionized. Even the Pope of Rome, whose power seemed as eternal as the hills on which he was seated, has sunk under the shock. Prussia, and all the Germanic Powers, with the exception of Austria, have been half revolutionized; and even the icy despotisms of Austria and Russia are forced to relent under those central fires of liberty which burn forever in the human heart, as the central fires of the earth burn forever at its core. Great Britain has abolished African slavery throughout all her realms. France has declared that any one who shall voluntarily become the owner of a slave, or shall voluntarily continue to be the owner of a slave cast upon him by bequest or inheritance, shall cease to be a citizen of France. Denmark has abolished slavery wherever it existed in her possessions. The Bey of Tunis, acting under the light of the Mohammedan religion, has abolished it. The priests of Persia declare the sentiment to have come by tradition from Mohammed himself, "that the worst of men is the seller of men." Not only all civilized nations, but the half-civilized, the semi-barbarous, are acting under the guidance of the clearer light and the higher motives of our day. But there is one conspicuous exception; there is one Government which closes its eyes to this increasing light; which resists the persuasion of these ennobling motives; which, on the grand subject of human liberty and human rights, is stationary and even retrogrades, while the whole world around is advancing; sleeps while all others are awaking; loves its darkness while all others are aspiring and ascending to a purer air and a brighter sky. This Government, too, is the one which is most boastful and vainglorious of its freedom; and, if the humiliating truth must be spoken, this Government is our own. In regard to slavery and the slave trade in this District, where we possess the power of exclusive legislation, we stand where we stood fifty years ago. Not a single ameliorating law has been passed. In practice, we are where we were then; in spirit, there are proofs that we have gone backward.

There are now on the surface of the globe two conspicuous places—places which are attracting the gaze of the whole civilized world—whither men and women are brought from great distances to be sold, and whence they are carried to great distances to suffer the heaviest wrongs that human nature can bear. One of these places is the coast of Africa, which is among the most pagan and benighted regions of the earth; the other is the District of Columbia, the capital and seat of Government of the United States.

As far back as 1808 Congress did what it could to abolish the slave trade on the coast of Africa. In 1820 it declared the foreign slave trade to be piracy; but on the 31st of January, 1849, a bill was introduced into this House to abolish the domestic slave trade in this District—here, in the center and heart of the nation—and seventy-two Representatives voted against it—voted to lay it on the table, where, as we all know, it would sleep a dreamless sleep. This was in the House of Representatives. It is well known that the Senate is still more resistant of progress than the House; and it is the opinion of many that even if a bill should pass both House and Senate, it would receive the Executive veto. By authority of Congress, the city of Washington is the Congo of America.

But, still more degrading than this, there is another contrast which we present to the whole civilized world. The very slaves upon whom we have trodden have risen above us, and their moral superiority makes our conduct ignominious. Not Europeans only, not only Arabians and Turks, are emerging from the inhumanity and the enormities of the slave traffic; but even our own slaves, transplanted to the land of their fathers, are raising barriers against the spread of this execrable commerce. On the shores of Africa, a republic is springing up, whose inhabitants were transplanted from this Egypt of bondage. And now, look at the government which these slaves and descendants of slaves have established, and contrast it with our own. They discard the institution of slavery, while we cherish it. A far greater proportion of their children than of the white children of the slave States of this Union are at school. In the metropolis of their nation, their flag does not protect the slave traffic, nor wave over the slave mart. Would to God that the very opposite of this were not true of our own. Their laws punish the merchandise of human beings; our laws sanction and encourage it. They have erected, and are erecting, fortifications and military posts along the shores of the Atlantic, for seven hundred miles, to prevent pirates from invading the domain of their neighbors, and kidnapping people who, to them, are foreign nations. We open market-places here, at the centre of the nation, where, from seven hundred miles of coast, the sellers may come to sell, and where buyers may come to buy, and whence slaves are carried

almost as far from their birthplace as Africa is from America. The Governor of Liberia has lately made a voyage to England and France, and entered into treaties of amity and commerce with them; and he has obtained naval forces from them, to abolish this traffic in human beings. At the same time, we are affording guaranties to the same traffic. Virginia and Maryland are to the slave trade what the interior of Africa once was. The Potomac and the Chesapeake are the American Niger and Bight of Benin; while this District is the great Government barracoon, whence coffles are driven across the country to Alabama, or Texas, as slave ships once bore their dreadful cargoes of agony and woe across the Atlantic. The very race, then, which was first stolen, brought to this country, despoiled of all the rights which God had given them, kept in bondage for generations, but at last, after redeeming themselves, or being restored to their natural liberty in some other way, have crossed the ocean, established a government for themselves, and are now setting us an example which should cause our cheeks to blister with shame.

Sir, there is an idea often introduced here and elsewhere, and made to bear against any restriction of slavery, or any amelioration of the condition of the slave, which I wish to consider. It was brought odiously and prominently forward the other day, by the gentleman from Pennsylvania, [Mr. CHARLES BROWN.] The idea is, that the slaves are in a better condition in this country than they would have been at home. It is affirmed that they are brought under some degree of civilizing and humanizing influences amongst us, which they would not have felt in the land of their fathers.

Let us look, first, at the philosophy of this notion, and then at its morality. All those who use this argument as a defence or a mitigation of the evils of slavery, or as a *final cause* for its existence, *assume* that if the present three million slaves who now darken our southern horizon, and fill the air with their groans, had not been here in their present state of bondage, they would have been in Africa, in a state of paganism. Now, the slightest reflection shows that this assumption has no basis of truth. Not one of them all would now have been in existence, if their ancestors had not been brought to this country. And, according to the laws of population operative among barbarous nations, there are now just as many inhabitants—pagans, cannibals, or what you please—in Africa, as there would have been if the spoiler had never entered their home, and ravished and borne them into bondage. Among savage nations, or nomadic tribes, the population equals the means of subsistence. Take away two, three, or four per cent. of the consumers, and the vacuum is immediately supplied. The population keeps up to the level of the production. Among such people, there is always a tendency to increase faster than the means of living increase. Take away a part of them, and this tendency to increase takes effect by its own vigor—it executes itself. It is like a bow that unbends, or a spring that uncoils, as soon as an external pressure is removed. Dam up a fountain, and the weight of the accumulating strata will eventually check the outflow from the spring. So it is of a savage population. Of them the Malthusian theory is true.

And how infinitely absurd and ridiculous is the plea that the slaves are better off here *than* THEY *would have been in Africa!* Go out into the streets of this city, and take the first one you meet—perhaps he is a mulatto. But for being here, he would have been a mulatto in the middle of Africa, would he? Take them all—mulatto, mestizo, zambo, and all "the vast variety of man," so far as color is concerned—and if they had not their existence here, they would have had it in Africa! This is the doctrine. Would they have had the same American names also? Would they have spoken the same language, and worn cotton grown on the same fields? The last is just as certain as the first. It is all more silly than the repinings of the silly girls who grieved because their mother had not married a certain rich suitor, whose addresses in early life she had rejected; for then, said they, how rich *we* should have been! No, not one of these three millions of men, women, and children, would have been in existence in Africa. All the crime of their kidnapping; all the horrors of the Middle Passage; all their sufferings for two centuries, or six generations; and all the calamities that are yet to grow out of their condition,—all these crimes and agonies are gratuitous crimes and agonies. There is no recompense or palliation for them. They have been added unnecessarily and remorselessly to the amount of human guilt and suffering for which the white race must answer in the day of account. The idea, then, of sending the slaves back to *their* country is an egregious fallacy. If they were to be sent *back* whence they came, it would not be to Africa, but to non-entity.

If the ancestors of the present three millions of slaves had never been brought here—if their descendants had never been propagated here, for the supposed value of their services, their places would have been supplied by white laborers—by men of the Caucasian race—by freemen. Instead of the three million slaves, of all colors, we should doubtless now have at least three million white, free-born citizens, adding to the real prosperity of the country, and to the power of the Republic. If the South had not had slaves to do their work for them, they would have become ingenious and inventive like the North, and would have enlisted the vast forces of nature in their service—wind and fire and water and steam and lightning, the mighty energies of gravitation and the subtle forces of chemistry. The country might not have had so gaudy and ostentatious a civilization as at present, but it would have had one infinitely more pure and sound.

But admit the alleged statement, absurd and false as it is; admit that these three millions of slaves would have belonged to Africa if they had not belonged to America—that they would have been born of the same fathers and mothers there as here, so that those of them who are American mulattoes would have been Ethiopian mulattoes; and admit, further, that their present condition is better than the alternative condition alleged,—and what then? Is your duty done? Is it enough if you have made the condition of a man or of a race a little better, or any better, if you have not made it as much better as you can? What standard of morals do gentlemen propose to themselves? If a fellow-being is suffering under a hundred diseases, and we can relieve him from them all, what kind of benevolence is that which boasts of relieving him from one, and permits him to suffer under the other ninety-and-nine? By the law of nature and of God, the slave, like every other man, is entitled to life, liberty, and the pursuit of happiness; he is entitled to his earnings—to the enjoyment of his social affections—to the development of his intellectual and moral faculties—to that cultivation of his religious nature which shall fit him, not merely to feel, but to reason of righteousness, temperance, and a judgment to come;—he is entitled to all these rights, of which he has been cruelly despoiled: and when he catches some feeble glimmering of some of them, we withhold the rest, and defend ourselves and pride ourselves that he is better off than he would have been in some other country or some other condition. Suppose the Samaritan had bound up a single wound, or relieved a single pang of the bleeding wayfarer who had fallen among thieves, and then had gone to the next inn and boasted of his benevolence. He would only have shown the difference between a "good Samaritan" and a "bigot Samaritan." The thieves themselves might have done as much.

But there is another inquiry which the champions of slavery have got to answer before the world and before Heaven. If American slaves are better off than native Africans, who is to be thanked for it? Has their improved condition resulted from any purposed plan, any well-digested, systematized measure, carefully thought out, and reasoned out, and intended for their benefit? Not at all. In all the southern statute books, and legislative records there is no trace of any such scheme. Laws, judicial decisions, the writings of political economists—all treat the slave as a thing to make money with. Agricultural societies give rewards for the best crops. Horse-jockey societies improve the fleetness of the breed for the sports of the turf. Even the dogs have professional trainers. But not one thing is done to bring out the qualities of manhood that lie buried in a slave. Look through the southern statute books and see what Draconian penalties are inflicted for teaching a slave to read—see how he is lashed for attending a meeting to hear the word of God. On every high-road patrols lie in wait to scourge him back, if he attempts to visit father, mother, wife, child, or friend, on a neighboring plantation. By day and by night, at all times and everywhere, he is the victim of an energetic and comprehensive system of measures, which blot out his senses, paralyze his mind, degrade and brutify his nature, and suppress the instinctive workings of truth, generosity, and manhood in his breast. All the good that reaches him, reaches him in defiance of these privations and disabilities. If any light penetrates to his soul, it is because human art cannot weave a cloud dense and dark enough to be wholly impervious to it. There are some blessings which the goodness of God will bestow in spite of human efforts to intercept them. It is these only which reach the slave. And after having built up all barriers to forbid the access of improvement; after having sealed his senses by ignorance, and more than half obliterated his faculties by neglect and perversion, the oppressor turns round, and because there are some scanty, incidental benefits growing out of the very deplorableness of his condition, he justifies himself before the world and claims the approval of Heaven, because the slave is better off here than *he* would be in Africa. Sir, such an argument as this is an offence to Heaven. I consider it to be as much worse than atheism as Christianity is better. And when such an argument comes from a gentleman belonging to a free State; when it comes from the gentleman from Pennsylvania, [Mr. BROWN,] from a representative of the city of William Penn; when he, without motive, without inducement, offers such a gratuity to the devil, I can account for it only on the principle of the man who, having a keen relish for the flesh of swine, said he wished he were a Jew that he might have the pleasure of eating pork and committing a sin at the same time.

But the subject presents a still more painful aspect. How are slaves made better, and from what motives are they made better, in this country? It is no secret that I am about to tell. There are certain virtues and sanctities which increase the pecuniary value of certain slaves; and there are certain vices and debasements which increase the market price of others. If a master wishes to repose personal confidence in his slave, he desires to have him honest and faithful to truth. But if he desires to make use of him to deceive and cajole and defraud, then he wishes to make him cunning and tricky and false. If the master trains the slave to take care of his own children, or of his favorite animals, then he wishes to have him kind; but if he trains him for a tasker or a field overseer, then he wishes to have him severe. Now, it is in this way that some of the Christian attributes of character, being directly convertible into money or money's worth, enhance the value of a slave. Hence it is said in advertisements that a slave is pious, and, at the auction-block, the hardened and heartless seller dwells upon the Christian graces and religious character of some slaves, with the unction of an Apostle. The purchaser sympathizes, and only desires to know whether the article be a real or a sham Christian. If mere bones and muscles compacted into human shape be worth five hundred dollars, then, if the auctioneer can warrant the subject to have the meekness of Moses and the patience of Job, the same article may be worth seven hundred. If the slave will forgive injuries, not merely seventy times seven times, but injuries inflicted all his life long, then an additional hundred may be bid for him. If he possesses all the attributes of religion and piety, the endurance of a hero, the constancy of a saint, the firmness of a martyr, the trustingness of a disciple—all except those which go to make him feel like a man, and believe himself a man,—then that which as mere bone and muscle was worth but five hundred dollars, is now worth a thousand. Sir, is not this selling the Holy Spirit! Is not this making merchandise of the Savior! Is not this the case of Judas selling his Master over again, with the important exception of the remorse that made the original culprit go and hang himself? But suppose the case to be that of a woman; suppose her ability to work and capacity for production to be worth five hundred dollars; suppose, in addition to this, she is young and sprightly and voluptuous; suppose the repeated infusion of Saxon blood has almost washed

the darkness from her skin; and suppose she is not unwilling to submit herself to the libertine's embrace; then, too, that which before was worth but five hundred dollars, will now bring a thousand. And thus infernal as well as celestial qualities are coined into money according to the demands of the market and the uses of the purchaser.

Now, it is only in some such incidental way, and with regard to some individuals, that it can be said, that their condition is better here than it would be in Africa. And this improvement, where it exists, is not the result of any system of measures designed for their benefit, but is the product of selfish motives, turning godliness into gain; and where more gain or more gratification can be obtained by the debasement, the irreligion, the pollution of the slave, there the instincts of chastity, the sanctity of the marriage relation, the holiness of maternal love, are all profaned to give security and zest to the guilty pleasures of the sensualist and debauchee.

There are individual exceptions to what I have said,—exceptions which, amid surrounding iniquity, shine "like a jewel in an Ethiop's ear;" but they are exceptions. Laws, institutions, and the prevailing public sentiment, are as I have described.

I regard the argument, therefore, of the gentleman from Pennsylvania [Mr. BROWN] not only as utterly unsound and false in its premises, but as blasphemous in its conclusions. Common blasphemy seldom reaches beyond exclamation. It is some fiery outburst of impious passion, that flashes and expires. But the gentleman reasons it out coolly. His is argumentative blasphemy, borrowing the forms of logic that it may appear to have its force, and transferring it from the passions to the intellect, to give it permanency.

But the gentleman from Pennsylvania retorts upon Massachusetts, and refers to certain things in her history which he regards as disreputable to her. In this, he has been followed by the gentleman from Virginia, [Mr. BEDINGER,] who has poured out a torrent of abuse upon my native State, and who has attempted to fortify his own intemperate accusations from a pro-slavery pamphlet which has been profusely scattered about this House within a few days past, and which is not merely full of falsehoods, but is composed of falsehoods; so that if one were to take the false assertions and the false arguments out of it, there would be nothing but the covers left.* Sir, I am very far from arrogating for Massachusetts all the merits and the virtues which she ought to possess. I mourn over her errors, and would die to reform, rather than spend one breath to defend them. The recital of her offences can fall more sadly upon no ear than upon my own. But it is as true of a State as of an individual, that repentance is the first step towards reformation. Massachusetts has committed errors; but when they were seen to be errors, she discarded them. She once held slaves; but when she saw that slavery was contrary to the rights of man and the law of God, she emancipated them. She was the first government in the civilized world—in the whole world, ancient or modern—to abolish slavery, wherever she had power to do so. This is an honor that no rival can ever snatch from her brow. Once—I say it with humiliation—she was engaged in the slave trade. But all the gold that could be earned by the accursed traffic, though spent in the splendors of luxury and the seductions of hospitality, could not save the trader himself from infamy and scorn; and I am sure I am right in saying that the slave trade ceased to be conducted by Massachusetts merchants and to be carried on in Massachusetts ships, from Massachusetts ports, before it was abandoned by the merchants and discontinued in the ships and from the ports of any other commercial State or nation in the world. This, too, is an honor, which it will be hers, through all the immortality of the ages, alone to wear. But Massachusetts, it is still said, has her idolaters of Mammon in other forms. It is charged upon her that many of her children still wallow in the sty of intemperance; that her spiritualism runs wild in religious vagaries; and that something of the old leaven of persecution still clings to her heart. In vindicating what is right, I will not defend what is wrong. I cannot deny—would to God that I could—that we still have vices and vicious men amongst us. There are those there, as elsewhere, who if they were to hear for the first time of the River of Life flowing fast by the throne of God, would instinctively ask whether there were any good mill-sites on it. There are those there, as elsewhere, whose highest aspirations for heaven and for happiness, whether for this life or for another, are a distillery and a sugar-house, with steam machinery to mix the products. There, as elsewhere, there are religionists who are quick to imitate the Savior when he strikes, but despise his example when he heals.

But, sir, let me say this for Massachusetts, that whatever sins she may have committed in former times—whatever dissenters she may have persecuted, or witches she may have hanged, or Africans she may have stolen and sold—she has long since abandoned these offences, and is bringing forth fruits meet for repentance. And is a State to have no benefit from a statute of limitations? Is a crime committed by ancestors to be forever imputed to their posterity? This is worse than non-forgiveness; it is making punishment hereditary. Sir, of these offences, Massachusetts has repented and reformed; and she is giving that noblest of atonements or expiations, which consists in repairing the wrong that has been done; and where the victim of the wrong has himself passed away, and is beyond relief, then in paying, with large interest, the debt to humanity, which the special creditor is no longer present to receive, by seeking out the objects of want and suffering, wherever they may be found. Sir, our accusers unconsciously do us the highest honor, when, in their zeal to malign us, they seek for historical reproaches. If they could find present offences wherewith to upbraid us, they would not exhume the past. But they condemn themselves, for they show that even the resuscitation of the errors of the dead gives them more pleasure than a contemplation of the virtues of the living. One thing is certain, the moment the other States shall imitate our present example, they will cease to condemn us for our past offences. The sympathy of a common desire for improvement will destroy the pleasure of crimination.

And where, I ask, on the surface of the earth, is there a population of only eight hundred thousand who are striving so earnestly and doing so much to advance the cause of humanity and civilization, as is doing by the people of Massachusetts? Where else, where universal suffrage is allowed, is a million of dollars voted every year, by the very men who have to pay it, for the public, free education of every child in the State? Where else, by such a limited population, is another million of dollars voluntarily voted and paid each year for the salaries of clergymen alone? Where else, where the population is so small, and natural resources so few and scanty, is still another million of dollars annually given in charity?—the greater portion of which is sent beyond their own borders, flows into every State in the Union, and leaves not a nation on the globe, nor an island in the sea unwatered by its fertilizing streams. Look into the statute book of Massachusetts, for the last twenty years, and you will see how the whole current of her legislation has set in the direction of human improvement—for succoring disease or restoration from it, for supplying the privations of nature, for reclaiming the vicious, for elevating all—a comprehensiveness of scope that takes in every human being, and an energy of action that follows every individual with a blessing to his home. When others will abandon their offences, then let the remembrance of them be blotted out.

But, sir, I think it proper to advert to the fact that I have had other proofs, during the present session of Congress, of the same spirit of crimination and obloquy, which was so fully developed in the speeches of the gentleman from Pennsylvania [Mr. BROWN] and the gentleman from Virginia [Mr. BEDINGER.] Through the post office of the House of Representatives, I have been in the regular receipt of anonymous letters, made up mainly of small slips cut from newspapers printed at the North, describing some case of murder, suicide, robbery, or other offence. These have been arranged under the heads of different States—Ohio, Pennsylvania, New York, Connecticut, &c., and accompanied, in the margin, with rude drawings of a schoolbook or a schoolhouse, and all referred to common schools, as to their source. Two only, of the whole number thus collected, originated in Massachusetts, and one of these was a case of suicide committed by a man who had become insane from the loss of his wife. Which of these events, in the opinion of my anonymous correspondent, constituted the crime—whether the bereavement that caused the insanity, or the suicide committed in one of its paroxysms—I am unable to say. Now, what satisfaction even a bad man could have in referring offences against law and morality to the institution of public schools, when he must have known that the very existence of the offences only proves that education has not yet done its perfect work, I cannot conceive. And what spite, either against an educational office which I once held, or against an institution which is worthy of all honor, could be so mean and paltry as to derive gratification from referring me to long lists of offences, only one of which was committed in my native State, I must leave for others to conjecture. Surely the author of these letters must have known little of common schools, and profited by them as little as he has known. Had he referred to any considerable number of crimes perpetrated in Massachusetts, I would take his letters home and carry them into our public schools, and make them the text for a sermon, in which I would warn the children to beware of all crimes, and especially of the meanness and the wickedness which feels a complacency in the crimes of others, or can give a false paternity to them. And, sir, I should be sure of a response, for out of those schools there is going forth a nobler band of young men and women than ever before conferred intelligence, virtue, refinement, and renown upon any people or community on the face of the globe.

But whatever may be said in mitigation or in condemnation of slavery elsewhere, there are special reasons why it should be discontinued in this District. This District is the common property of the nation. Having power of exclusive legislation over it, we are all responsible for the institutions in it. While slaves exist in it, therefore, it can be charged upon the North that they uphold slavery. This is unjust to us, because it places us before the world in the attitude of sustaining what we condemn. It wounds our moral and religious sensibilities, because we believe the institution to be cruel towards men, and sinful in the sight of Heaven; and yet we are made apparently to sanction it. It is like that species of injustice where a man is compelled by a tax to support a religion which he disbelieves, and to pay a hierarchy whom his conscience compels him to denounce. But the existence of slavery here is not necessary to the faith or the practice of our southern brethren. If they believe it to be a useful and justifiable institution, then they evince the sincerity of that belief by sustaining and perpetuating it at home. For this purpose, there is no necessity of a crusade to propagate it, or sustain it elsewhere.

Look at the relation which we bear to it, in another respect. I have been taught from my earliest childhood that "all men are created equal." This has become in me not merely a conviction of the understanding, but a sentiment of the heart. This maxim is my principle of action, whenever I am called upon to act; and it rises spontaneously to my contemplations when I speculate upon human duty. It is the plainest corollary from the doctrine of the natural equality of man, that when I see a man, or a class of men, who are not equal to myself in opportunities, in gifts, in means of improvement, or in motives and incitements to an elevated character and an exemplary life—I say, it is the plainest corollary, that I should desire to elevate those men to an equality with myself. However far my own life may fall below the standard of Christianity and gentlemanliness, yet I hold it to be clear, that no man is a Christian or a gentleman, who does not carry about an habitual frame of mind which prompts him, as far as he has the means to do it, to instruct all the ignorance, to relieve all the privations, to minister to all the pains, and to supply all the deficiencies of those with whom he meets in the daily walks of life; and, so far as he is a man who wields influence, possesses authority, or exercises legislative power, he is bound to exert his gifts and his prerogatives for the amelioration and the improvement of his fellow-men. This is the lowest standard of duty that any one who

*Lecture on the North and the South. Delivered in College Hall, January 16, 1849, before the Young Men's Mercantile Library Association of Cincinnati. By Elwood Fisher.

aspires to be a Christian or a gentleman can set up for his guidance. Now take the case of a man from the North, who has incorporated these views or any similitude of these views, into his character, and who has occasion to visit this District. Suppose him to be elected and sent here as a member of Congress, or to be appointed to a post in some of the departments, or to visit this city on public business, or to come here from motives of curiosity; what is the sight which is inflicted upon him when he first sets his foot within this common property of the nation—when he first enters this household, where the head of the nation resides and directs? Sir, when he first alights from the cars that bring him within your limits and your jurisdiction, he beholds a degraded caste—a race of men whom God endowed with the faculties of intelligence, but whom man has despoiled of the power of improving those faculties, squalid in their garb, betraying ignorance in every word they utter, uncultivated in their manners and their tastes, fawning for a favor, instead of standing erect like men who are conscious of rights; or, if they have outgrown servile and sycophantic habits, then erring on the side of impudence and insolence as much as they erred before on that of cringing and servility. He repairs to his lodgings, and there, too, all his moral sensibilities are shocked and outraged, by seeing a class of men and women hopelessly degraded, cut off by law and custom from all opportunity of emerging from their debasement; whom no talent, or taste, or virtue can ever redeem to the pleasures and the rights of social intercourse. He sees men and women who are not degraded on account of the services they perform—for "honor and shame from no condition rise"—but degraded by the motive and spirit from which the services are performed; men and women who have no inducements to industry and frugality, for their earnings will all be seized by another; who have no incentives to self-respect, for they can never emerge from their menial condition; who are bereaved of all the wonders and glories of knowledge, lest under its expansions their natures should burst the thraldom that enslaves them; and all whose manly qualities, all whose higher faculties, therefore, are irredeemably and hopelessly crushed, extinguished, obliterated, so that nothing but the animal, which the master can use for his selfish purposes, remains.

Mr. BRODHEAD. Would you advance the slaves to an equal social and political condition with the white race?

Mr. MANN. I would give to every human being the best opportunity I could to develop and cultivate the faculties which God has bestowed upon him, and which, therefore, he holds under a divine charter. I would take from his neck the heel that has trodden him down; I would dispel from his mind the cloud that has shrouded him in moral night; I would remove the obstructions that have forbidden his soul to aspire; and having done this, I would leave him, as I would leave every other man, to find his level—to occupy the position to which he should be entitled by his intelligence and his virtues. I entertain no fears on the much-dreaded subject of amalgamation. Legal amalgamation between the races will never take place, unless, in the changed condition of society, reasons shall exist to warrant and sanction it; and in that case it will carry its own justification with it. But one thing I could never understand—why those who are so horror-stricken at the idea of *theoretic* amalgamation, should exhibit to the world, in all their cities, on all their plantations, and in all their households, such numberless proofs of *practical* amalgamation. I never could see why those who arraign and condemn us at the North, so vehemently, because, as they say, we obtrude our prying eyes into what they call a "domestic" or "fireside" institution, should have no hesitation in exhibiting to the world, through all their borders, ten thousand and ten times ten thousand living witnesses that they make it a bedside institution. Multitudes of the slaves of the South bear about upon their persons a brand as indelible as that of Cain; but the mark has been fastened upon them, not for their own crimes, but for the crimes of their fathers. In the complexion of the slave, we read the horrid history of the guilt of the enslavers. They demonstrate that the one race has been to the other, not the object of benevolence, but the victim of licentiousness.

But to resume: When the visiter to this city from the North leaves his lodgings, and goes into the public streets, half the people whom he meets there are of the same degraded class. Their tattered dress and unseemly manners denote congenital debasement. Their language proclaims their ignorance. If you have occasion to send them on an errand, they cannot read the direction of a note, or a sign on a shop-board. Their ideas are limited within the narrowest range. They speak the natural language of servility, and they wear the livery of an inferior condition. The conviction of their deplorable state is perpetually forced upon the mind. You do not need their color to remind you of their degradation. Color, sir! They are oftentimes almost as white as ourselves. Sir, there is not a member of Congress who has not frequently seen some of his fellow-members, in the spring of the year, with a jaundiced skin more sallow and more yellow than that of many a slave who is bought and sold and owned in this city. I have seen members of this House to whom I have been disposed to give a friendly caution to keep their "free papers" about their persons, lest suddenly, on the presumption from color, they should be seized and sold for runaway slaves. A yellow complexion here is so common a badge of slavery, that one whose skin is colored by disease is by no means out of danger. To enjoy security, a man must do more than take care of his life; he must take care of his health. It is not enough to take heed to the meditations of his heart; he must see also to the secretions of his liver.

But, sir, the stranger from the North visits the courts of justice in this city; he goes into halls set apart and consecrated, even in the dark and half-heathenish periods of English history, to the investigation of truth and the administration of justice; but if he sees any specimens of the colored race there, he sees them only as menials. They cannot go there as witnesses. However atrocious the wrongs they may suffer in their own person and character, or in the person and character of wife or children, they cannot appeal to the courts to avenge or redress them. If introduced there at all, it is as a bale of goods is introduced, or as an ox or a horse is brought within their purlieus, for the purpose of trying some disputed question of identity or ownership. They go not as suitors, but as sacrifices. In the courts of law; in the temples with which all our ideas of justice, of right between man and man, are associated; where truth goes to be vindicated, where innocence flies to be avenged;—in these courts, an entire portion of the human race are known, not as men, but as chattels, as cattle. Where, for them, is the Magna Charta, that the old barons wrested from King John? Is a whole race to be forever doomed to this outlawry? Are they forever to wear a "wolf's head," which every white man may cut off when he pleases? Sir, it cannot be that this state of things will last forever. If all the rights of the black race are thus withheld from them, it is just as certain as the progress of time that they, too, will have their Runnymede, their Declaration of Independence, their Bunker Hill, and their Yorktown.

Such, sir, are the sights that molest us when we come here from the North—that molest us in the hotels, that molest us in the streets, that molest us in the courts, that molest us everywhere. But the week passes away, and the Sabbath comes—the day of rest from worldly toils, the day set apart for social worship, when men come together, and by their mutual presence and assistance, lift up the hearts of each other in gratitude to God. But where now are the colored population, that seemed to be so numerous everywhere else? Have they no God? Have they no interest in a Savior's example and precepts? Have they no need of consolation, of faith in the Unseen, to help them bear up under the burdens and anxieties of life? Is their futurity so uncertain or so worthless that they need no guide to a better country, or that they can be turned off with a guide as ignorant and blind as themselves?

We go from the courts and the churches to the schools. But no child in whose skin there is a shadow of a shade of African complexion is to be found there. The channels are so cut that all the sacred and healing waters of knowledge flow, not to him, but by him. Sir, of all the remorseless and wanton cruelties ever committed in this world of wickedness and woe, I hold that to be the most remorseless and wanton which shuts out from all the means of instruction a being whom God has endued with the capacities of knowledge and inspired with the divine desire *to know*. Strike blossom and beauty from the vernal season of the year, and leave it sombre and cheerless; annihilate the harmonies with which the birds of spring make vocal the field and the forest, and let exulting Nature become silent and desolate; dry up even those fountains of joy and gladsomeness that flow unbidden from the heart of childhood, and let the radiant countenance of youth become dull and stony like that of age;—do all this, if you will, but withhold your profane hand from those creative sources of knowledge which shall give ever-renewing and ever-increasing delight through all the cycles of immortality, and which have the power to assimilate the finite creature more and more nearly to the infinite Creator. Sir, he who denies to children the acquisition of knowledge works devilish miracles. If a man destroys my power of hearing, it is precisely the same to me as though, leaving my faculty of hearing untouched, he had annihilated all the melodies and harmonies of the universe. If a man obliterates my power of vision, it is precisely the same to me as though he had blotted out the light of the sun, and flung a pall of darkness over all the beauties of the earth and the glories of the firmament. So if a usurper of human rights takes away from a child the faculties for knowledge, or the means and opportunities to know, it is precisely the same to that child as though all the beauties and the wonders, all the magnificence and the glory of the universe itself had been destroyed. To one who is permitted to know nothing of the charms and sublimities of science, all science is non-existent. To one who is permitted to know nothing of the historical past, all the past generations of men are a non-entity. To one whose mind is not made capacious of the future, and opened to receive it, all the great interests of futurity have less of reality than a dream. I say, therefore, in strict, literal, philosophical truth, that whoever denies knowledge to children works devilish miracles. Just so far as he disables and incapacitates them from knowing, he annihilates the objects of knowledge; he obliterates history; he destroys the countless materials in the natural world that might, through the medium of the useful arts, be converted into human comforts and blessings; he suspends the sublime order and progression of Nature, and blots out those wonderful relations of cause and effect that belong to her unchangeable laws. Nay, there is a sense in which such an impious destroyer of knowledge may be said to annihilate the Creator himself, for he does annihilate the capacity of forming a conception of that Creator, and thus prevents a soul that was created in the image of God from ever receiving the image it was created to reflect. Such a destroyer of knowledge dims the highest moral splendor of the universe. God is more to me than a grand and solitary Being, though refulgent with infinite perfections. Contemplated as enthroned in the midst of His works, His spiritual offspring in all the worlds he has formed become a multiplying glass, reflecting back the Original in all the profusion and countlessness of infinity. But when the wickedness of man cuts off entire generations and whole races from the capacity of reflecting back this radiant image of the Creator, then all that part of the universe where they dwell becomes black and revolting, and all that portion of the Mirror of Souls which was designed to reproduce and rekindle the glories of the Eternal, absorbs and quenches the rays which it should have caught and flamed with anew, and multiplied and returned. And still further, sir, I affirm, in words as true and literal as any that belong to geometry, that the man who withholds knowledge from a child not only works diabolical miracles for the destruction of good, but for the creation of evil also. He who shuts out truth, by the same act opens the door to all the error that supplies its place. Ignorance breeds monsters to fill up all the vacuities of the soul that are unoccupied by the verities of knowledge. He who dethrones the idea of Law, bids Chaos welcome in its stead. Superstition is the mathematical complement of religious truth; and just so much less as the life of a human being is reclaimed to good, just so much more is it delivered over to evil. The

man or the institution, therefore, that withholds knowledge from a child, or from a race of children, exercises the awful power of changing the world in which they are to live, just as much as though he should annihilate all that is most lovely and grand in this planet of ours, or transport the victim of his cruelty to some dark and frigid zone of the universe, where the sweets of knowledge are unknown, and the terrors of ignorance hold their undisputed and remorseless reign. Sir, the laws recorded in the statute books of the free States, providing the means of education, and wooing the children to receive the blessedness of true knowledge, are worthy to be inscribed as emblems and hieroglyphics upon the golden gates of Heaven; but those laws which deform the statute books of the slave States of this Union, making it a penal offence to educate human beings, and dooming immortal souls to perpetual ignorance, would make the most appropriate adornment wherewith to embellish with inscription and bas-relief the pillars of the council-hall of Pandemonium.

Sir, if there is anything for which I would go back to childhood, and live this weary life over again, it is for the burning, exalting, transporting thrill and ecstasy with which the young faculties hold their earliest communion with knowledge. When the panting and thirsting soul first drinks the delicious waters of truth; when the moral and intellectual tastes and desires first seize the fragrant fruits that flourish in the garden of knowledge; then does the child catch a glimpse and foretaste of Heaven. He regales himself upon the nectar and ambrosia of the gods. Late in life, this zest is rarely if ever felt so keenly as at the beginning. Such ought not to be the fact, and needs not to be the fact; but our bodies are so systematically abused by transgressions of the laws of health and life, that the sympathizing soul loses the keenness of its early relish. Even then, however, age has its compensations. The old may experience the delights of learning, anew, in the reflex pleasure of seeing children learn. But these lofty and enduring satisfactions—this pleasure, it is no extravagance to say, this bliss of knowledge, both for parent and child, is withheld, cruelly, remorselessly withheld, from the slave. We know all this; we see its imbruting consequences; and we are compelled to see them, because the Government will uphold slavery here.

Such, sir, is the spectacle which is presented to all northern men, whenever for duty, for business, or for pleasure, they visit this metropolis. Wherever we go, wherever we are, the odious, abhorred concomitants of this institution are forced upon our observation, and become a perpetual bitterness in the cup of life. The whole system, with all its adjuncts, is irreconcilably repugnant to our ideas of justice. We believe it to be a denial of the rights of man; we believe it to be contrary to the law of God. Whether these feelings wear away by the lapse of time, and the indurating power of custom, I know not; but, for one, I hope never to become hardened and callous to the sight; for it is a case where I could experience no mitigation of my pains, without a corresponding debasement of my nature.

Now, in all sincerity, and in all kindness, I ask our southern brethren, what there is to them so valuable and desirable in retaining slavery here, as to be a compensation for all the pain and evil which its existence inflicts upon the North? Surely its abandonment here would be a small thing to them, while its continuance is a great thing to us. It is a great thing to us, because we are held responsible for it by the whole civilized world. This District is the common possession of the nation; Congress has power of exclusive legislation over it; Congress, therefore, is responsible for its institutions, as a man is responsible for the condition of his house, and the customs of his family. The General Government is not responsible for the local institutions of Massachusetts or of Mississippi; each of them has supreme control over its own domestic concerns. They may honorably discharge their debts, or repudiate them; they may build up institutions of charity, of learning, and of religion; or they may suffer inhumanity and violence, ignorance and paganism, to prevail; and we, here, cannot help it, and are therefore not responsible for it. But it is wholly otherwise with regard to the institutions that prevail in this District; their honor, or their infamy, attaches to us. We are judged by them, the world round. We of the northern States feel it at home; we are made to feel it still more deeply abroad. Throughout every nation in Europe, it is the common language and the common sentiment, that an institution which exists in one half of the States of this Union is in flagrant contrast and contradiction to the theory of our Government. When we are reminded of this—whether in a kindly and expostulatory manner by our friends, or in an offensive and taunting one by our enemies, we of the North can say, at least, that we are not responsible for it. We can explain why we are no more amenable for the local laws of Arkansas or Missouri, than we are for the Catholic religion in Mexico, or for the revolutions in the South American republics. This is our answer. But they still retort upon us, and say, There is one spot for which you are responsible—the District of Columbia. You could abolish slavery there if you would; you do not; and therefore the sin of its continuance is yours, as much so as if it existed in New York or Massachusetts. Now, I ask southern gentlemen how it is consistent with magnanimity and honor, with a fraternal feeling towards the North, for them to force the odium of this inconsistency upon us? Surely they gain no credit, no character by it; we lose both credit and character. The existence of slavery here is no benefit to them; it is of unspeakable injury to us. They would lose nothing by surrendering it; we suffer everything by its continuance. A change would work them no injury; it would be invaluable to us. I ask them, on principles of common fairness and good neighborhood, that they should courteously and voluntarily yield us this point, which would allay so much bitterness and heartburning at the North, and which, according to their view of the matter, would fill the South with the sweet savor of a generous deed.

I know, sir, that some southern gentlemen profess to see a principle in such a course that debars them from adopting it. They say that if slavery in this District should be surrendered, it would only be giving the adversary a vantage-ground, on which he could plant himself to attack slavery in the States. I dissent from this view entirely. Has not the gentleman from Ohio, [Mr. GIDDINGS,] who is supposed to represent the extreme anti-slavery views which exist in this House—has not he declared here, a hundred times over, that he disclaims all right, that he renounces all legal authority and pretext, under the Constitution, to lay the hands of this Government, for the purpose of freeing him, on a single slave in the slave States? But clearly the principle is different in regard to slaves in this District, where we possess the power of "exclusive legislation." But if gentlemen at the South see a principle which debars them from surrendering slavery in this District, we at the North see a principle which prompts us and will prompt us, until the work is accomplished, to renewed exertions. On the same ground on which slavery in this District has been defended for the last fifty years, it can be defended for the next fifty, or the next five hundred years; it can be defended forever. This idea of perpetual slavery in the very household of a republic of freemen, is not to be tolerated, and cannot be tolerated. But I will not dwell on this topic further. I close this branch of my argument with a proposition which seems to me but fair and equitable. The South has held this metropolis as a slave capital for fifty years. Let it now be held as a free capital for fifty years; and if, at the end of this period, adequate reasons can be shown, before any nation, civilized or uncivilized, upon the face of the earth, for restoring it to slavery again, I, for one, should have no fears of entering into an engagement, upon such a condition, that it should again become "a land of Egypt and a house of bondage."

Notwithstanding I have dwelt so long upon the social and moral aspects of this subject, I am still tempted not to forego that which was my principal object in rising, namely, to submit an argument on the question of the legality or constitutionality of slavery in this District. I have bestowed much careful attention upon this subject, with the sincerest desire of arriving at true, legal, and constitutional results. I submit my views with deference, because I know they are in conflict with the views of others for whose knowledge and abilities I have the profoundest respect.

The legality of slavery in the District of Columbia has been assumed, and practically acquiesced in, for fifty years. Had the question of its validity been raised, and argued on the principles of the Constitution, immediately after the creation of the District, I believe this territory would have been declared free soil. In my conscientious opinion, slavery exists in this District only by original usurpation and subsequent acquiescence. If so, Congress cannot be too speedily invoked to abdicate the power it has usurped.

The first position I take is this, *that slavery has no legal existence, unless by force of positive law.*

If any man claims authority over the body, mind, and soul of one of his fellow-men, and claims this authority not only for the whole life of his victim, but a like authority over all his descendants, there is no part of the civilized world where he will not be required to show some positive law, authorizing the power and the bondage. If the claimant says, "I am stronger, or I am wiser than he;" or "I have an Anglo-Saxon brain, while he has only an African brain;" or "my skin is white and his skin is not white;" or "I descended from Shem and he from Ham; and, therefore, he is my slave,"—there is not a court in Christendom, which, though it may admit the fact, will ratify the inference. If the claimant affirms that it is *morally* right for him to seize his fellow-man and reduce him to slavery; if he brings the Bible into court as his law-book, and cites Abraham and Isaac and Jacob and Paul, as his authorities; still, I say, there is not a court in Christendom that will not deny the validity of the title, and rebuke the arrogance of the demand.* Positive law, then, is the only foundation of slavery. The authorities are numerous, if not numberless, to establish this position. I shall not encumber this argument by citing many of them. The few which I shall cite will contain a reference to the rest.

The grand reason against slavery given by Lord Mansfield, in Somersett's case, was, "that it is so 'intrinsically wrong that it is incapable of being 'introduced into any country, on any reasons 'moral or political, and can only stand on positive 'law." (20 State Trials, 1.)

Chief Justice Marshall says, "that it [slavery] 'is contrary to the law of nature, will scarcely be 'denied. That every man has a natural right to 'the fruits of his own labor, is generally admitted; 'and that no other person can rightfully deprive 'him of those fruits and appropriate them against 'his will, seems to be the necessary result of this 'admission." (Antelope, 10 Wheat., 120.)

"The first objection," says Mr. Justice Best, in the case of Forbes and Cochrane, "which occurs to me, in this case, is that it does not appear, in the special case, that the right to slaves exists in East Florida. *That right is not a general, but a local right;* it ought, therefore, to have been shown that it existed in Florida, and that the defendants knew of its existence. Assuming, however, that those facts did appear, still, under the circumstances of this case, this action could not be maintained."

"The question is, were these persons slaves at the time when Sir G. Cockburn refused to do the act which he was desired to do? I am decidedly of opinion that they were no longer slaves. The moment they put their feet on board of a *British* man-of-war, not lying within the waters of East Florida, (where undoubtedly the laws of that country would prevail,) those persons who had before been slaves were free. * * * Slavery is a local law, and therefore, if a man wishes to preserve his slaves, let him attach them to him by affection, or make fast the bars of their prison, or rivet well their chains; *for the instant they get beyond the limits where slavery is recognised by the local law, they have broken their chains, they have escaped from their prison, and are free.*" (2 Barn. & Cres., 455-7, Forbes *vs.* Cochrane, S. C., 3 Dowl. and Ryland, 679.)

"I am of opinion," says Holroyd, J., in the same case, "that according to the principles of the English law, the right to slaves, even in a country where such rights are recognized by law, must be considered as founded, not upon the law of nature, but upon the particular law of that country."

"The law of slavery is a law *in invitum; and when a party*

*An anecdote, which I have on the best authority, is not inappropriate. A few years ago, a citizen of the State of Connecticut absconded, leaving a wife behind him. He went to the State of Mississippi, where he took a colored woman as his concubine, had children by her, acquired property, and died. The wife and heirs in Connecticut claimed the property acquired in Mississippi. The claim was contested. The honorable HENRY S. FOOTE, now a Senator from that State, conducted the defence. He denied the title of the wife in Connecticut, affirmed that of the concubine and her children in Mississippi, and cited the case of Abraham, and Sarah and Hagar, to prove the legality and the propriety of the concubinage, and the Divine authority for it. And surely, if the Bible argument in favor of slavery is sound, Mr. FOOTE's argument in favor of concubinage is equally so.

gets out of the territory where it prevails, and out of the power of his master, and gets under the protection of another power, without any wrongful act done by the party giving that protection, the right of the master, *which is founded on the municipal law of the particular place only*, does not continue, and there is no right of action against a party who merely receives the slave in that country, without doing any wrongful act."

The definition of slavery given by the Roman law implies that it is local: *Servitus est constitutio juris gentium, qua quis dominio alieno*, CONTRA NATURAM, *subjicitur*. 18 Pick.-Rep., 193, Commonwealth *vs.* Aves. Lunsford *vs.* Coquillon, 14 Martin's Rep. 402. "The relation of owner and slave is a creation of the municipal law." 3 Marshall, 470, (Ky.,) Rankin *vs.* Lydia. 1 Wash. C. C. Rep., 499, Butler *vs.* Hopper. 4 Wash. C. C. Rep., 296, *Ex parte* Simmons. 9 Curry's Louisiana Rep., 473, Marie Louise *vs.* Marot *et al.*

This point may be presented in another light. By the law of nature all men are free. But in some Governments the law of the State, upheld by the power of the State, overrides the law of nature, and enslaves a portion of the people. The law of nature recedes before this legalized violence; but it recedes no further than the legalized violence drives it back. Within the jurisdictional limits of such States, then, slavery is made *legal*, though it is not made *right*. But if a slave passes out of the jurisdiction where violence overpowers right, into a jurisdiction where right is superior to violence, he is then free; not because there is any change in the man, but because there is a change in the laws to which the man is subject.

There may, however, be some further positive law which, though it does not authorize the buying or selling of a slave, still does provide that an escaped or an escaping slave may be recaptured and redelivered into bondage. Such is the third paragraph of the second section of the fourth article of the Constitution of the United States. Such, too, is the act of Congress of February 12, 1793, providing for the recapture of fugitive slaves. This, however, would not be without positive law.

The debates in all the conventions for adopting the Constitution of the United States, proceed upon the ground that slavery depends upon positive law for its existence. If it did not—if a man who has a legal right to a slave in Virginia, has a legal right to him anywhere, then the provision in the Constitution, and the act of 1793, for recapturing fugitive slaves, would have been unnecessary.

On the south side of a boundary line, then, slavery may exist by force of positive law; while, on the north side, in the absence of any such law, slavery is unlawful. A slave passing out of a jurisdiction where slavery is legalized, into a jurisdiction where it is not, becomes free. It is as though a man should migrate from one of those South Sea islands, where cannibalism is legalized, and where the public authorities, according to the reports of travelers, not only condemn and execute a criminal, *but dine on him after he is executed*—it is, I say, as though the subject of such a government should migrate into one where cannibalism is not lawful, and where, therefore, though he should be condemned and executed for crime, it would be no part of the sentence or the ceremony that he should be eaten. He is out of cannibal jurisdiction.

The right of freedom is a natural right. It is a positive existence. It is a moral entity. Like the right to life, it pertains, by the law of nature and of God, to every human being. This moral right continues to exist until it is abolished. Some act abolishing this freedom, then, must be proved; it must be proved affirmatively, or else the fact of freedom remains. This is the solid and indestructible ground of the maxim, that slavery can exist only by positive law; that it is a *local* institution; that the right of freedom must first be abolished before slavery can exist.

2. My second position is this: *That a man's legal condition may be changed by a change in the Government over him, while he remains in the same place, just as effectually as it can be changed by his removal to another place, and putting himself under another government.* The inhabitants of the North American colonies did not change their place of residence when they passed from under the Government of Great Britain, and came under the Government of the Confederation. The Mexicans, inhabiting the then States of California and New Mexico, did not change their place of residence, when, on the thirtieth day of May last, they ceased to be citizens of the Mexican Republic, and became citizens, or *quasi* citizens of the United States. Their political relations were changed, not by their removal from under the canopy of one government and placing themselves under the canopy of another government, but by the withdrawal of one government from over them, and by the extension to them of certain *political* rights and capacities under another government. Before this thirtieth day of May, they could have committed treason against Mexico, but not after it. Before it, they could not commit treason against the United States; but when they shall be citizens of the Union, they can. These vital changes in their relations are without any change in their residence. Within my recollection, an old gentleman died in Massachusetts, who had lived in five different towns, but still remained where he was born—like one of the old oak trees—on the old homestead. The part of the original town where he was born had been set off and incorporated into a new town; and that part of the second town where he lived, into a third; and so on, until he died in the fifth town, without any change of domicil. Now, this man lived under the jurisdiction and by-laws of five towns, as they were successively incorporated over him, just as much as though he had struck his tent five times, and placed himself, by successive migrations, under five different municipal jurisdictions.

A similar thing must have happened to thousands of our fellow-citizens of the Union: some of them have at first lived under a foreign government; then under one territorial government; then under another; and at last have become citizens of a State, without any change of domicil. Indeed, it would seem that nothing can be clearer than the proposition, whether regarded as a legal or a political one, than that the laws and the jurisdiction may be changed over a man who continues to reside in the same place, just as effectually and as completely as a man may change the laws and jurisdiction over himself by removing to a different place. In many cases, the former works a more thorough change than the latter. The laws of Great Britain do not acknowledge the right of self-expatriation; while, at the same time, it is held, that the inhabitants of a foreign province, incorporated into the kingdom, change their allegiance without changing their residence.

3. My third proposition is this: *that the jurisdiction under which the inhabitants of what is now the District of Columbia lived prior to the cession of the District by Maryland to the United States, was utterly and totally changed, at the moment of the cession—at the moment when, according to the provisions of the Constitution, they ceased to be citizens of the State of Maryland, and became citizens of the District of Columbia.*

By the 17th paragraph (Hickey's Constitution) of the 8th section of the 1st article, it is provided that Congress shall have power "to exercise exclusive legislation in all cases whatsoever over 'such District, (not exceeding ten miles square,) 'as may, by cession of particular States, and the 'acceptance of Congress, become the seat of the 'Government of the United States."

Congress, then, has the power of sole and exclusive legislation "in all cases whatsoever," in regard to the District of Columbia. What is the meaning of the word "exclusive" in this connection? It cannot mean *absolute* and *uncontrolled;* for, if it did, it would make Congress as sovereign as the Russian autocrat. It means that no other government, no other body of men whatever, shall have any concurrent power of legislation over the District; nor, indeed, any subordinate power, except what may be derived from Congress. Over every man who is a citizen of one of the United States, there are two jurisdictions—the jurisdiction of the General Government, and the jurisdiction of the State government. There are two governments that have the power to legislate for him; but there is only one power—the Congress of the United States—that can legislate for a citizen of the District of Columbia.

In Kendall *vs.* The United States, 12 Peters, 524, it is said: "There is in the District of Colum-'bia no division of powers between the general and 'State governments. Congress has the entire con-'trol over the District, for every purpose of gov-'ernment."

So it has been held that a justice of the peace in the District of Columbia is an officer of the Government of the United States, and is therefore exempt from militia duty. Wise *vs.* Withers, 3 Cranch, 331; 1 Cond. Rep., 552.

A citizen of the District of Columbia is not a citizen of any one of the United States. Hepburn *et al. vs.* Ellery, 2 Cranch, 445; Westcott's Lessee *vs.* Inhabitants ————, Peters' C. C. R., 45.

Up to the time of the cession, the inhabitants of this District were under two jurisdictions—that of Maryland and that of Congress; but after the cession, under that of Congress alone. Now, when the inhabitants of this District passed out of the jurisdiction of Maryland, and came under the exclusive jurisdiction of Congress, let us see what was the effect of such change of jurisdiction upon them.

In the act of Congress of 1790, chap. 28, sect. 1, which was an act for establishing the seat of government of the United States, there is the following clause: "*Provided, nevertheless*, That the opera-'tion of the laws of the State [of Maryland] within 'such District shall not be affected by this accept-'ance, *until the time fixed for the removal of the gov-'ernment thereto, and until Congress shall otherwise 'by law provide.*"

Here, then, Congress *expressly* provided and contracted with the State of Maryland, that the laws of Maryland in this District should not be interfered with, until the removal of the seat of government to this place; and Congress likewise *impliedly* provided and contracted, that when the seat of government should be removed to this place, it would discharge the duty imposed upon it by the Constitution of the United States, and would assume and exercise the "exclusive legislation" provided for in that instrument. This act of Congress was approved on the 16th of July, 1790.

By the Maryland laws of 1791, chap. 45, sect. 2, that State ceded to the United States the territory which now constitutes the District of Columbia, and the words of the cession are these: "in full 'and absolute right, as well of soil as of person, 'residing or to reside thereon," &c. * * * provided that the jurisdiction of the laws of Maryland "shall not cease or determine until Congress shall by law provide for the government thereof."

The state of the case, then, was simply this: 1. The Constitution gave Congress power of "exclusive legislation" over such district as might be ceded for the seat of government. 2. Congress, by the act of 1790, above referred to, proposed to the State of Maryland to accept a portion of her territory for this purpose, but engaged not to interfere with her laws until after it had taken actual possession of the ceded territory. 3. Maryland accepted the proposition, rehearsing the condition in these words; namely, that "the laws of Maryland shall not cease or determine until Congress shall by law provide for the government thereof."

By the 6th section of the act of 1790, chap. 28, Congress provided that it would remove to this District, and make this the seat of government, on the first Monday of December, 1800. It did so; and now its express duty under the Constitution, and its implied promise to the State of Maryland, were to be fulfilled, by exercising "exclusive legislation" over this District.

In fulfillment of this duty and promise, Congress, on the 27th of February, 1801, by the act of 1801, ch. 15, proceeded to legislate for the District of Columbia; and, in the first section of that act, it provided as follows:

"*Be it enacted, &c.*, That the laws of the State of Virginia, as they now exist, shall be and continue in force in that part of the District of Columbia which was ceded by the said State to the United States, and by them accepted for the permanent seat of Government; and that the laws of the State of Maryland, as they now exist, shall be and continue in force in that part of the said District which was ceded by that State to the United States, and by them accepted, as aforesaid."

By this act, then, Congress assumed to exercise, and did exercise, that exlusive legislation over the District of Columbia, which had been provided for by the Constitution.

That portion of the District which was ceded to Congress by Virginia, having been receded to that State by the act of Congress of July 9, 1846, (st. 1846, ch. 35,) all that relates to it may, for the purposes of this argument, be laid out of the question.

On the 27th day of February, 1801, then, the

laws of Maryland, *as such*, were abrogated in this District. The legislative power of Congress became exclusive. All legislative power previously possessed by Maryland over it, then ceased. The connection of Maryland with this District, as a part of its former territory, and occupied by its former citizens, was dissolved. It had no longer any more legislative power over the District than Maine or Georgia had. Historically, we may talk about the laws of Maryland, as they once existed here; but practically, and as a matter of strict law and fact, her laws were no longer known within the District. The laws which governed the people of this District after the 27th day of February, 1801, were the laws of Congress, and not the laws of Maryland.

To show that this part of the District passed out from under the government of Maryland, and came under the government of the United States, I refer to Reilly, appellant, *vs* Lamar *et al.*, 2d Cranch 344, 1 Cond. Rep. 322, where it is said, "By the 'separation of the District of Columbia from the 'State of Maryland, the residents in that part of 'Maryland which became a part of the District, 'ceased to be citizens of the State." It was held, in that case, that a citizen of the District of Columbia could not be discharged by the insolvent law of Maryland.

A citizen of the District of Columbia cannot maintain an action in the circuit court of the United States out of the District; he not being a citizen of the State within the meaning of the provision of the law of the United States regulating the jurisdiction of the courts of the United States. Hepburn *et al. vs.* Ellzey, 2d Cranch, 445, 1st Cond. Rep., 444. See also Loughborough *vs.* Blake, 5 Wheat., 317, and Levy Court of Washington *vs.* Ringgold, 5 Peters, 451.

4. The next point of inquiry is, *what is the legal force and effect, upon the subject of slavery, of the act of Congress of* 1801, *before cited?* Its words are: "That the laws of the State of Maryland, as 'they now exist, shall be continued in force in that 'part of the said District which was ceded by that 'State to the United States," &c. And here, I acknowledge that the operation of this clause is precisely the same as though Congress had transcribed all the Maryland laws, word for word, and letter for letter, into its own statute book, with the clause prefixed, "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled," and the President of the United States had affixed his signature thereto. I acknowledge further, that the laws of Maryland had legalized slavery within the State of Maryland, and had defined what classes of persons might be held as slaves therein.

But it by no means follows, because Congress proposed to reënact, in terms, for this District, all the laws of Maryland, that, therefore, it did reënact them. It does not follow, that because two Legislatures use the same words, that the words must necessarily have the same effect. It makes all the difference in the world, whether words are used by one possessed of power, or by one devoid of power. Congress might pass a law in precisely the same words as those used by the Parliament of Great Britain, and yet the law of Congress be invalid and inoperative, while the act of Parliament would be valid and binding. We have a written constitution; Great Britain has no written constitution. The British Parliament, on many subjects has an ampler jurisdiction than the American Congress. The law of Congress might be unconstitutional and void, while that of the British Parliament, framed in precisely the same language, might be constitutional and binding.

So the law of Maryland might be valid under the constitution of Maryland, and therefore binding upon the citizens of Maryland; while the law of Congress, though framed in precisely the same words, would be repugnant to the Constitution of the United States, and therefore have no validity.

Now this is precisely the case here. Congress, in attempting to reënact the Maryland laws, to uphold slavery in this District, transcended the limits of its constitutional power. It acted unconstitutionally. It acted in plain contravention of some of the plainest and most obvious principles consecrated by the Constitution. If so, no one will dispute that its act is void. I do not deny, then, that Congress used words of sufficient amplitude to cover slavery; but what I deny is, that it had any power to give legal force to those words.

5. My next proposition, therefore, is this: that *as Congress can do nothing excepting what it is empowered to do by the Constitution, and as the Constitution does not empower it to establish slavery here, it cannot establish slavery here, nor continue it.*

Where is there any *express* power given to Congress by the Constitution to establish slavery? Where is the article, section, or clause? I demand to have the title shown. Thousands of human beings are not to be robbed of all their dearest rights; and they and their children, forever, by strained constructions, or apocryphal authority, doomed to bondage. Will those who say that Congress cannot establish a banking institution by construction, nor aid internal improvements, nor enact a tariff,—will they say that it can make a man a slave, and all his posterity slaves, by construction?

Nor can any power to establish slavery be deduced from the 18th clause of the 8th section of the 1st article of the Constitution, which gives Congress power "to make all laws which shall be necessary and proper for carrying into execution" the powers that are granted.

What power is granted to Congress, for the exercise of which, the establishment of slavery in this District is a necessary means or preliminary? Congress has power to lay and collect taxes; to borrow money; to regulate commerce; to establish uniform rules of naturalization; to coin money; to punish counterfeiters; to establish post offices and post roads; to promote the progress of science and the arts; to establish courts; to define and punish piracies on the high seas; to declare war; to raise and support armies; to provide and maintain a navy; to organize and maintain a militia; and so forth, and so forth. But to what one of all these powers, is the power to establish slavery in the District of Columbia a necessary incident? If slavery in the District of Columbia were to cease to-day, could not the Government continue to exercise every function which it has heretofore exercised? If so, then the existence of slavery in this District is not "necessary" to the exercise of any of the expressly granted powers. I call upon any gentleman to name any one power of this Government which cannot be exercised, which must necessarily cease, if slavery should cease to be, in this District of Columbia? "I pause for a reply."

Well, then, if a power to establish slavery in this District is not among the granted powers, and if it is not necessary for the exercise of any one of the granted powers, then it is nowhere—it does not exist at all. No power of Congress, then, exists, either for the creation or for the continuance of slavery in this District; and all the legislation of Congress upon this subject is beyond or against the Constitution.

Let me illustrate this in another way. Suppose there had been a religious establishment in Maryland at the time of the cession; suppose, under the auspices of Lord Baltimore, the Catholic religion had been established as the religion of the State; and that, in order to punish heresy and secure conformity to the religion of the State, an inquisition had been founded, and that the seat of that inquisition had been within the limits of the District of Columbia, at the time of the cession: could Congress, in the absence of all express or implied authority on the subject of establishing a State religion, have upheld the Catholic religion here, and appointed the officers of the inquisition to administer it? The idea is abhorrent to the whole spirit of the Constitution. But Congress had as much power to establish a national religion here, in the absence of all express or implied authority to do so, as to establish slavery here.

Congress, then, does not and cannot legalize slavery in this District. It found slavery in existence in the States; and it does not abolish it, or interfere with it, because it has no power of "exclusive legislation" in them. But Congress has as much right to go into any State and abolish slavery there, as any State, even Virginia or Maryland, has to come into this District with its laws and establish slavery here. I suppose that no jurist will contend that Congress could have passed the act of 1793, for the recapture of fugitive slaves, had it not been for the third clause in the second section of the fourth article of the Constitution, which provides for the redelivery of a fugitive slave, on the claim of his master. By this article in the Constitution, the case of *fugitive* slaves only is provided for. If a master voluntarily carries his slave into a free State, and the slave departs from his possession, he cannot reclaim him. Why not? Why cannot Congress pass a law, that if a man takes a dozen slaves to Boston, and they there see fit to strike for wages, and to leave his possession because their terms are not complied with,—why is it, I ask, that Congress cannot pass a law authorizing their seizure and delivery into the master's hands? The reason is, that the Constitution has conferred upon Congress no such express power; nor is any such power implied as being necessary to the exercise of any power that is expressed. And if Congress cannot so much as restore a slave to a master, who has voluntarily carried him into a free State, how can it continue slavery in this District, after Maryland has ceded it to this Government, whose fundamental, organic law gives it no power to create or to continue slavery here?

Suppose Maryland had ceded her share of the District to Massachusetts, would not every slave in it have been instantaneously free by the Constitution of Massachusetts? They would have been transferred to a free jurisdiction—just as much as an individual owner of a slave passes under a free jurisdiction, when he voluntarily takes his slave to the North. The legal existence of slavery was annulled in this District, when Congress exercised its "exclusive" power over it, just as much as the debtor's right to be discharged under the Maryland bankrupt law was annulled.

But I go further than this; and I say that the Constitution not only does not empower Congress to establish or continue slavery in this District, but again and again, by the strongest implications possible, it prohibits the exercise of such a power.

In regard to this whole matter of slavery, the Constitution touches the subject with an averted face. The abhorred word "*slave*" is nowhere mentioned in it. The Constitution is ashamed to utter such a name. The country, coming fresh from that baptism of fire—the American Revolution—would not profane its lips with this unhallowed word. Hence, circumlocution is resorted to. It seeks to escape a guilty confession. Like a culprit, in whom some love of character still survives, it speaks of its offence without calling it by name. It uses the reputable and honorable word "persons," instead of the accursed word "slaves." As the Tyrian Queen, about to perpetrate a deed which would consign her character to infamy, called it by the sacred name of "marriage," and committed it—

"*Hoc prætexit nomine culpam;*"

so the Constitution, about to recognize the most guilty and cruel of all relations between man and man, sought to avert its eyes from the act, and to pacify the remonstrances of conscience against every participation in the crime, by hiding the deed under a reputable word.

But let us look to the prohibitions of the Constitution; for I maintain that there is not only no power, express or implied, in the Constitution authorizing Congress to create or continue slavery in this District, but that it is debarred and prohibited from doing so, again and again.

I suppose no one will deny that the positive prohibitions, against the exercise of certain enumerated powers, apply to Congress, when legislating for this District, just as much as when legislating for the Union at large. This doctrine has recently been strongly asserted by Mr. Calhoun in the Senate of the United States; and, as I would gladly produce conviction in southern minds, I make use of this southern authority. He affirms that Congress, in legislating for the Territories, "is subject 'to many and important restrictions and conditions, 'of which some are expressed and others implied. 'Among the former may be classed all the general 'and absolute prohibitions of the Constitution; 'that is, all those which prohibit the exercise of 'certain powers under any circumstances. In this 'class is included the prohibition of granting titles 'of nobility; passing *ex post facto* laws and bills of 'attainder; the suspension of the writ of *habeas* 'corpus, except in certain cases; making laws re-'specting the establishment of religion, or its free 'exercise, and every other of like description."

Will any man say that Congress can pass an *ex post facto* law for this District, and defend itself by referring to its power of exclusive legislation over it? Can Congress pass a bill of attainder corrupting the blood of an inhabitant of this District, or repeal or suspend at any time, his right to a writ of *habeas corpus*, or establish a religion here, or interdict the free exercise thereof? No jurist, no statesman will pretend it.

But there is another prohibition in the Constitution every whit as full and explicit as any of these. The fifth article of amendment declares that "no person shall be" "deprived of life, liberty or property, without due process of law."

Here the Constitution uses the word "person"—the most comprehensive word it could find. "No PERSON shall be deprived of life, liberty, or property, without due process of law." Now, what does this word "person" mean? Or who, under the Constitution, is such a "person" as cannot be deprived of life, liberty, or property, by virtue of an act of Congress, *without due process of law?* Let us take our definition of the word "*person*" from the Constitution itself: "No *person* shall be a Representative, who shall not have attained the age of twenty-five years," &c., (see 2d clause of the 2d section of the 1st article.) "Representatives and direct taxas shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free *persons*, including those bound to service for a term of years and excluding Indians not taxed, three fifths of all other *persons*." (3d clause of the same section.) "No *person* shall be a Senator who shall not have attained the age of thirty years," &c., (1st art., 3d section, 3d clause.) "No *person* shall be convicted [of an impeachable offence, by the Senate,] without the concurrence of two thirds," (1st art., 3d section, 6th clause.) "No *person* holding any office under the United States, shall be a member of either House, during his continuance in office," (1st art., 6th section, 2d clause.) "The migration or importation of such *persons* as any of the States now existing shall think proper to admit, shall not be prohibited"—"but a tax, or duty, may be imposed on such importation, not exceeding ten dollars for each *person*," &c., (1st art., 9th section, 1st clause.) "No *person* holding any office of profit or trust," "shall accept any present," &c., (1st art., 9th section, 8th clause.) "No *person* holding an office of trust or profit under the United States, shall be appointed an elector," (art. 2, section 1, clause 2.) "The electors shall meet in their respective States and vote by ballot for two *persons*," &c. "The *person* having the greatest number of votes shall be the President," &c. "If no *person* have a majority," &c. "In every case, after the choice of the President, the *person* having the greatest number of votes of the electors, shall be Vice President," (art. 2, section 1, clause 2.*) "No *person* except a natural-born citizen," &c., "shall be eligible to the office of President; neither shall any *person* be eligible to that office, who shall not have attained the age of thirty-five years," &c. "No *person* shall be convicted of treason, unless on the testimony of two witnesses," &c., (art. 3, section 3, clause 3.) "A *person* charged in any State with treason," &c., (art. 4, section 2, clause 2.) "No *person* held to service or labor," &c., (art. 4, section 2, clause 3.)

Now, it will be seen from all this, that the word "*person*" is used in the Constitution in the most comprehensive sense. It embraces Indians, if taxed; it embraces natives of Africa; it embraces apprentices and slaves, or those held to service or labor; and it embraces every citizen from the humblest to the highest, from the most true to the most treasonable. It embraces all, from the slave to the President of the United States. And after having used the word to embrace all these classes and descriptions of men, it proceeds to say, in an amendment, that "*no* PERSON *shall be deprived of life, liberty, or property, without due process of law.*" (Amendment, article 5.)

The law of Maryland ceded this District to Congress, "in full and absolute right, as well of soil as of *person*, residing or to reside therein."

Now Congress, in attempting to legalize slavery in the District of Columbia, has provided in terms, by its adoption of the Maryland laws, that one man may hold another man in bondage in this District, "WITHOUT DUE PROCESS OF LAW," and indeed without any process of law; may hold him in bondage from his birth; may beget him, and still hold him and his posterity in bondage. "Process of law" means legal proceedings. It is a phrase that does not pertain to the legislature, but to the courts. It means the institution of a suit in civil matters; the finding of an indictment, or an information in criminal ones; the issuing of subpœnas for witnesses, &c., in both. (See Art. 6 of Amendments to the Constitution.)

Now, a slave is a *person* deprived of his liberty and property, without any process of law. There has been no "due" process of law to reduce him to this miserable condition; there has been no process of law at all. A slave, therefore, in this District, is deprived of his liberty and property, in pursuance of the laws of Congress, without *any* legal process whatever, and therefore in flagrant contradiction of the fifth article of the Amendments to the Constitution of the United States. Hence, the act of Congress, purporting to continue the Maryland laws respecting slavery in this District, was, and is, and forever must be, until the Constitution is altered, null and void.

There is a striking historical fact in regard to the phraseology of this fifth article of amendment. Its substance was proposed by several States. Virginia proposed it in the following words: "No '*freeman* ought to be taken, imprisoned, or disseized 'of his freehold liberties, privileges, or franchises, 'or outlawed or exiled, or in any manner destroyed 'or deprived of his life, liberty, or property, but 'by the law of the land." (See 3 Elliott's Debates, 593—Proceedings of June 27, 1788. Also, 4 Elliott's Debates, 216, for the same amendment, as proposed by the State of New York.)

The Virginia amendment used the word "freeman." It proposed that no "freeman" should be deprived, &c. The New York amendment used the word "*person.*" And the amendment was adopted and ratified, almost in the words of the New York phraseology. The word *person* was chosen, and therefore Congress has no constitutional power to deprive of life, liberty, or property, *without due process of law*, any being embraced in the definition of that word. By its own selection of words, it is debarred not merely from depriving a "*freeman*," but from depriving a "*person.*"

When Congress attempted to legalize and perpetuate slavery in this District, it violated the fourth article of the Amendments, which declares "the right of the people to be *secure* in their persons, houses, papers and effects, against unreasonable searches and seizures." If Congress cannot authorize domiciliary searches and seizures against a single individual, can it degrade a whole race of men to the condition of slaves, and then say that *because they are slaves*, they shall not be "secure;" but shall be at the mercy of any alleged master, in regard to their persons—to be commanded and restrained, to be bought and sold? If Congress cannot authorize searches and seizures of houses, papers and effects, can it get around the Constitution, by saying we will create a class of persons who shall have no power of owning any houses, papers, or effects, to be searched or seized?

Again: Congress shall pass "no bill of attainder." What is a bill of attainder? It is a bill that works corruption of blood. It disfranchises its object. It takes away from him the common privileges of a citizen. It makes a man incapable of acquiring, inheriting, or transmitting property; incapable of holding office, or acting as attorney for others; and it shuts the door of the courts against him. These disabling consequences may descend to a man's children after him, though this is not necessary. Now, to pass such a bill is a thing which Congress cannot do. But when Congress undertook to legalize slavery in this District, it undertook to do all this, and worse than all this. It attainted, not individuals merely, but a whole race. A slave is an outlaw; that is, he cannot make a contract; he cannot prosecute and defend in court; property cannot be acquired by him, or devised to him, or transmitted through him. A white man may give his testimony against him, but he cannot give his testimony against a white man. He is despoiled of his *liberam legem*—his birth-right. He cannot own the food or clothes he has earned. What is his, is his master's. And this corruption of blood, which the law of slavery works, does not stop with the first, nor with the second generation—not with the tenth nor the ten thousandth; but by the theory of the law, goes on forever. Bills of attainder, during the history of the worst periods of the world, have applied to individuals only, or at most to a family. But here, Congress, in defiance of the Constitution, has undertaken to establish a degraded caste in society, and to perpetuate it through all generations. Now, can any reasonable man for a moment suppose that the Constitution meant to debar Congress from passing acts of attainder against individuals, but to permit it to pass wholesale, sweeping laws, working disfranchisement of an entire race, and entailing degradation forever?

Let us look at another general prohibition of the Constitution: "No title of nobility shall be granted by the United States," (art. 1, section 9, clause 8.) "The distinction of rank and honors," says Blackstone, "is necessary in every well-governed State, in order to reward such as are eminent for their services to the public." But the framers of the Constitution did not think so, the people of the United States did not think so; and therefore they incorporated a provision into their organic law that "no title of nobility should be granted." But it matters not whether the favored individual is called "Marquess" or "Master." If he is invested by the Government with a monopoly of rights and privileges, in virtue of his title and its legal incidents, without any corresponding civil duties, he belongs to *an* order of nobility—he is a nobleman. Mr. McDuffie defends the institution of slavery, on the ground that it establishes the highest of all ranks and the broadest of all distinctions between men. He says no nation has yet existed which has not in some form created the distinction of classes—such as patrician and plebeian, or citizen and helot, or lord and commoner—and that the institution of slavery stands here instead of these orders, and supersedes them all, by being equivalent to them all. Now, is it not inconceivable that the Constitution should interdict the bestowment of special favors to distinguished individuals for meritorious services, and yet should authorize Congress to confer the highest of all earthly prerogatives—the prerogative over property, liberty, and volition itself, upon one class of men over another class of men? Yet if Congress can create or legalize slavery, it can establish the worst order of nobility that ever existed. It can give to one class of men the power to own and to control, to punish and to despoil another class; to sell father, mother, wife and children, into bondage. To prohibit Congress from doing one of these things, and to permit it to do the other, is straining at a gnat, while swallowing a camel—a whole caravan of camels!

But the same clause in the Constitution which gives Congress the power of exclusive legislation over this District, also empowers it "to exercise 'like authority over all places purchased by the 'consent of the Legislature of the State, in which 'the same shall be, for the erection of forts, maga-'zines, arsenals, dock-yards, and other needful 'buildings." If, then, Congress has any constitutional power to legalize slavery in this District, it has the same power to legalize it (that is, to create it) in all places in the State of Massachusetts or New York, or any other, where it may have obtained territory from a State for a fort, magazine, arsenal, dock-yard, or other needful building. Where it has obtained land in the middle of a city—Philadelphia, New York, Boston, or Chicago—for a custom-house, it may create slavery there. The power to do this is conferred in precisely the same words as the power by which it has been held that slavery can be established in the District of Columbia.

And now I will occupy the few minutes that are left me in considering what seems to me the only plausible argument that can be urged in favor of the constitutionality of slavery in this District.

It may be said, that when a Territory is obtained by one nation from another, whether by conquest or by treaty, the laws which governed the inhabitants at the time of the conquest or cession, remain in force until they are abrogated by the laws of the conquering or purchasing power. For this principle, the authority of Lord Mansfield, in the

* This clause in the Constitution is annulled; but for all purposes of determining the true interpretation of words, it is as good as ever.

case of Campbell *vs.* Hall, 1 Cowper, 208, may be cited. The decision of our own courts are to the same effect. (See 2 Gallison's Reports, 501, United States, appt., *vs.* Juan Percheman; 7 Peters, 51, Johnson *vs.* McIntosh; 8 Wheat., 543.) I do not dispute the authority of this case.' But it does not touch the question I am arguing; or, so far as it bears upon it at all, it confirms the views I would enforce. The principle is, that the existing laws remain in force *until* they are abrogated. I agree to this. But in the case of the District of Columbia, there was a special agreement between Maryland and the United States, that as soon as the United States should legislate for the District, the laws of Maryland, *as such*, should cease to be operative here. On the 27th day of February, 1801, therefore, all the rights which the citizens of this District possessed, they possessed under the law of Congress, and not under the law of Maryland. On the day preceding, a citizen could have voted for Governor or other State officers of Maryland; on the day following, he could no longer vote for any such officer. On the day preceding, he could have voted for electors of President and Vice President of the United States; on the day following, he was bereft of all such right of the elective franchise, and must accept such officers and legislators as the rest of the country might choose to elect for him. On the day preceding, he might, in the character of an insolvent debtor, have been discharged under the insolvent laws of Maryland; on the day following, he could no longer be so discharged. On the day preceding, he might have been required, though a justice of the peace of the State of Maryland, to perform militia duty; but on the day following, if commissioned as a justice of the peace of the District of Columbia, he could not be compelled to perform militia duty, because he would, in such case, be an officer of the United States. On the day preceding, he might have sued in the circuit court of the United States, as being a citizen of Maryland; but, on the day following, he could not so sue, because he had ceased to be a citizen of a State. Thus the change of jurisdiction over him deprived him of some privileges, and relieved him from some burdens. It deprived him of these privileges, and relieved him from these burdens, notwithstanding the act of Congress had said, in unambiguous words, "the laws of the State of 'Maryland, AS THEY NOW EXIST, *shall be and con-* '*tinue in force* in that part of the said District 'which was ceded by that State to the United 'States." But the most momentous change which was wrought by the transfer of the citizen from the jurisdiction of Maryland to the jurisdiction of the United States, was that which made it impossible for him any longer to hold a slave. Under the laws of Maryland, he might have held his slave, for her statutes had legalized slavery; but under the Constitution of the United States, he could not hold a slave; for that Constitution had given Congress no power to legalize slavery in this District, and had gone so far as to make prohibitions against it. His right to hold slaves then expired, or fell, like his right to vote for United States officers, or for State officers; or his right to be discharged under the Maryland insolvent law; or his right to sue in certain courts, &c., &c.

One point more, sir, and I have done: Why, says my opponent, did not the right to hold slaves continue after the change of jurisdiction as well as the right to hold horses? For the plainest of all reasons, I answer: for the reason that a horse is *property* by the universal consent of mankind, by the recognition of every civilized court in Christendom, without any positive law declaring them to be the subject of ownership. But a man is not property, without positive law; without a law declaring him to be the subject of ownership. There was such a positive law in Maryland; but Congress, for want of constitutional authority, could not enact, revive, or continue it. And such I verily believe would have been the decision of the Supreme Court of the United States, had the question been carried before them immediately subsequent to the act of 1801. But now, as slavery has existed practically in this District for half a century, it is proper to pass a law abolishing it. It is better, under the present circumstances, that slavery should be abolished here by a law of Congress, than by the decision of a court; because Congress can provide an indemnity for the owners, and let the slaves go free. But should it be abolished by a legal adjudication, every slave would be hurried away to the South, and sold, he and his descendants, into perpetual bondage.

SENATE OF THE UNITED STATES.

IN SENATE.

MONDAY, *March* 5, 1849.

At ten o'clock the doors of the Senate Chamber were opened for the admission of those to whom its circumscribed space had constrained the Committee of Arrangements to limit it.

The circular gallery was soon filled with ladies, unaccompanied by gentlemen, and the marble gallery became densely crowded with such citizens as were so fortunate as to gain admittance there, through the thousands who sought to gratify their eyes by beholding the scene below.

The floor of the Senate Chamber was occupied by Senators and Members of the House of Representatives, and those gentlemen who have heretofore been members, together with several Members elect, Officers of the Army and Navy who by name have received the thanks of Congress, Governors of the States and Territories, and the Mayors of Washington and Georgetown, and a host of distinguished gentlemen from all parts of the Union.

At eleven o'clock the Rev. H. SLICER, Chaplain to the Senate, performed the usual devotional services.

Mr. DAVIS, of Massachusetts, addressing the Secretary, submitted a resolution for the organization of the Senate, that the Hon. DAVID R. ATCHISON, a Senator from the State of Missouri, be appointed President *pro tem.* of the Senate, and that the Hon. THOMAS H. BENTON, a Senator from the State of Missouri, administer to him the oath of office.

The resolution was unanimously adopted.

The Hon. JOHN DAVIS, of Massachusetts, and the Hon. THOMAS H. BENTON conducted Mr. ATCHISON to the chair, where the oath was administered, in compliance with the resolution of the Senate.

The PRESIDENT *pro tem.* then requested the Senators elect to advance to the chair and take the oath prescribed for them, and the following were qualified and took their seats:

The Hon. JAMES A. PEARCE, of Maryland.
The Hon. WILLIAM UPHAM, of Vermont.
The Hon. JAMES COOPER, of Pennsylvania.
The Hon. A. P. BUTLER, of South Carolina.
The Hon. SOLON BORLAND, of Arkansas.
The Hon. ISAAC P. WALKER, of Wisconsin.
The Hon. AUGUSTUS C. DODGE, of Iowa.
The Hon. WILLIAM H. SEWARD, of New York.
The Hon. JACKSON MORTON, of Florida.
The Hon. WILLIAM C. DAWSON, of Georgia.
The Hon. MOSES NORRIS, Jr., of New Hampshire.
The Hon. JAMES WHITCOMB, of Indiana.
The Hon. PIERRE SOULE, of Louisiana.
The Hon. TRUMAN SMITH, of Connecticut.

The Hon. GEORGE E. BADGER was absent when his name was called.

When the name of the Hon. JAMES SHIELDS, of Illinois, was called—

Mr. WALKER rose and submitted a resolution to refer the credentials of the Hon. JAMES SHIELDS to the Committee on the Judiciary, with instructions to inquire into his eligibility.

Mr. BERRIEN. Mr. President, that the proceedings of this day may not be interfered with by the discussion to which that resolution may lead, I move that its further consideration be postponed till to-morrow.

Mr. WALKER assented, and the motion to postpone was agreed to.

At twenty minutes past eleven, the Judges of the Supreme Court of the United States, in their official robes, entered the Senate Chamber, and took seats on the right front of the chair.

The Diplomatic Corps—a numerous body—soon followed, in their gorgeous court costumes, and took seats on the left front of the chair.

The Hon. ROBERT C. WINTHROP, Speaker of the House of Representatives, with the officers and members of that body, succeeded.

The Vice President elect, the Hon. MILLARD FILLMORE, supported by the Ex-Vice President DALLAS, next entered, preceded by the Committee of Arrangements. The Senators rose on their entrance and remained standing until the President *pro tem.* had administered the oath of office to the Vice President elect.

Upon taking the oath of office, the VICE PRESIDENT delivered the following Address:

SENATORS: Never having been honored with a seat on this floor, and never having acted as the presiding officer of any legislative body, you will not doubt my sincerity when I assure you that I assume the responsible duties of this chair with a conscious want of experience, and a just apprehension that I shall often need your friendly suggestions, and more often your indulgent forbearance.

I should indeed feel oppressed and disheartened did I not recollect that the Senate is composed of eminent statesmen, equally distinguished for their high intellectual endowments and their amenity of manners—whose persuasive eloquence is so happily tempered with habitual courtesy as to relieve your presiding officer from all that would be painful in the discharge of his duty, and render his position as agreeable as it must be instructive.

Thus encouraged and sustained, I enter upon the duties assigned me firmly resolved to discharge them with impartiality and to the best of my ability; but I should do injustice to the grateful emotions of my own heart, if I did not, on this occasion, express my warmest thanks for the distinguished honor that has been conferred upon me, in being called by the voice of the nation to preside over your deliberations.

It will not, I trust, be deemed inappropriate to congratulate you upon the scene now passing before us. I allude to it in no partisan aspect, but as an ever-recurring event contemplated by the Constitution. Compare the peaceful changes of Chief Magistrates of this Republic with the recent sanguinary revolutions in Europe. There, the voice of the people has only been heard amid the din of arms and the horrors of domestic conflict; but here, in our own favored land, under the guidance of our Constitution, the resistless will of the Nation has, from time to time, been peacefully expressed by the free suffrages of the People, and all have bowed in obedient submission to their decree. The Administration which but yesterday wielded the destinies of this great nation, to-day quietly yields up its power, and, without a murmur, retires from the Capitol.

I congratulate you, Senators, and I congratulate my country, upon these oft-recurring and cheering evidences of our capacity for self-government. Let us hope that the sublime spectacle which we now witness may be repeated as often as the people shall desire a change of rulers, and that this venerated Constitution and this glorious Union may endure forever.

At half-past twelve o'clock the President elect,* Gen. ZACHARY TAYLOR, supported by the Ex-Presi-

*THE INAUGURATION.—At the appointed time yesterday the Inauguration of General ZACHARY TAYLOR, as President of the United States, took place in front of the great Portico of the Capitol. The multitude of people assembled on the occasion, from every part of the Union, for the purpose of witnessing the interesting ceremony, is supposed to have been much larger than was ever before collected in Washington. The weather was, upon the whole, though the sky was clouded, as pleasant as could have been looked for in this particular season of the year. At the break of day the strains of martial music resounded along the principal avenues of the city, and hundreds of star-spangled banners, of every fabric and dimension, were unfolded to the breeze. The bells of the city then rang out a stirring peal, and long before the usual breakfast hour the people were wending their way in immense masses to the Capitol.

THE PROCESSION.—At half-past eleven o'clock, the Procession took up its line of march. All the arrangements were carried out according to the programme already published. The several military companies, of which we counted a dozen, presented an imposing and beautiful appearance; and as the Procession moved along Pennsylvania avenue towards the Capitol, many bands of music poured forth a variety of martial airs. The carriage in which the President Elect was escorted was drawn by four handsome gray horses, and protected from the pressure of the multitude by the cav-

dent, the Hon. JAMES K. POLK, and preceded by the Committee of Arrangements, entered and were conducted to seats immediately in front of the Secretary's desk, to the right of Ex-Vice Presidents DALLAS and JOHNSON.

The arrangements in the Senate Chamber being now completed, the procession to the Eastern Portico was formed in the following order:

The Marshal of the District of Columbia.
The Supreme Court of the United States.
The Sergeant-at-Arms of the Senate.
The Committee of Arrangements.
The President elect and Ex-President.
The Cabinet of the Ex-President.
The Cabinet of the President elect.
The Vice Presidents, Ex-Vice Presidents, and Secretary of the Senate.
The Members of the Senate.
The Speaker of the House of Representatives, and the Members and officers of that body.
The Diplomatic Corps.
The Mayors of Washington and Georgetown, and the other persons admitted on the floor of the Senate.

On reaching the staging erected over the flight of stairs of the portico of the Capitol, and standing in full view of the upturned eyes of at least twenty thousand people, representing every State and Territory of the Union, the PRESIDENT ELECT pronounced the following Inaugural Address:

Elected by the American people to the highest office known to our laws, I appear here to take the oath prescribed by the Constitution; and, in compliance with a time-honored custom, to address those who are now assembled.

The confidence and respect shown by my countrymen in calling me to be the Chief Magistrate of a Republic holding a high rank among the nations of the earth, have inspired me with feelings of the most profound gratitude; but, when I reflect that the acceptance of the office which their partiality has bestowed imposes the discharge of the most arduous duties, and involves the weightiest obligations, I am conscious that the position which I have been called to fill, though sufficient to satisfy the loftiest ambition, is surrounded by fearful responsibilities. Happily, however, in the performance of my new duties, I shall not be without able coöperation. The Legislative and Judicial branches of the Government present prominent examples of distinguished civil attainments and matured experience; and it shall be my endeavor to call to my assistance in the Executive Departments individuals whose talents, integrity, and purity of character will furnish ample guarantees for the faithful and honorable performance of the trusts to be committed to their charge. With such aids, and an honest purpose to do whatever is right, I hope to execute diligently, impartially, and for the best interests of the country, the manifold duties devolved upon me.

In the discharge of these duties, my guide will be the Constitution which I this day swear to "preserve, protect, and defend." For the interpretation of that instrument I shall look to the decisions of the Judicial Tribunals established by its authority, and to the practice of the Government under the earlier Presidents, who had so large a share in its formation. To the example of those illustrious patriots I shall always defer with reverence; and especially to his example who was, by so many titles, "the Father of his Country."

To command the Army and Navy of the United States; with the advice and consent of the Senate, to make Treaties and to appoint Ambassadors and other Officers; to give to Congress information of the state of the Union, and recommend such measures as he shall judge to be necessary; and to take care that the laws shall be faithfully executed: these are the most important functions intrusted to the President by the Constitution; and it may be expected that I shall, briefly, indicate the principles which will control me in their execution.

Chosen by the body of the People under the assurance that my administration would be devoted to the welfare of the whole country, and not to the support of any particular section or merely local interest, I this day renew the declarations I have heretofore made, and proclaim my fixed determination to maintain, to the extent of my ability, the Government in its original purity, and to adopt as the basis of my public policy those great republican doctrines which constitute the strength of our national existence.

In reference to the Army and Navy, lately employed with so much distinction on active service, care shall be taken to insure the highest condition of efficiency; and, in furtherance of that object, the military and naval schools, sustained by the liberality of Congress, shall receive the special attention of the Executive.

As American freemen, we cannot but sympathize in all efforts to extend the blessings of civil and political liberty; but, at the same time, we are warned by the admonitions of History and the voice of our own beloved Washington to abstain from entangling alliances with foreign nations. In all disputes between conflicting Governments, it is our interest not less than our duty to remain strictly neutral; while our geographical position, the genius of our institutions and our people, the advancing spirit of civilization, and, above all, the dictates of religion, direct us to the cultivation of peaceful and friendly relations with all other Powers. It is to be hoped that no international question can now arise which a Government, confident in its own strength and resolved to protect its own just rights, may not settle by wise negotiation; and it eminently becomes a Government like our own, founded on the morality and intelligence of its citizens, and upheld by their affections, to exhaust every resort of honorable diplomacy before appealing to arms. In the conduct of our foreign relations I shall conform to these views, as I believe them essential to the best interests and the true honor of the country.

The appointing power vested in the President imposes delicate and onerous duties. So far as it is possible to be informed, I shall make honesty, capacity, and fidelity indispensable pre-requisites to the bestowal of office, and the absence of either of these qualities shall be deemed sufficient cause for removal.

It shall be my study to recommend such constitutional measures to Congress as may be necessary and proper to secure encouragement and protection to the great interests of agriculture, commerce, and manufactures; to improve our rivers and harbors; to provide for the speedy extinguishment of the public debt; to enforce a strict accountability on the part of all officers of the Government, and the utmost economy in all public expenditures. But it is for the wisdom of Congress itself, in which all legislative powers are vested by the Constitution, to regulate these and other matters of domestic policy. I shall look with confidence to the enlightened patriotism of that body to adopt such measures of conciliation as may harmonize conflicting interests, and tend to perpetuate that Union which should be the paramount object of our hopes and affections. In any action calculated to promote an object so near the heart of every one who truly loves his country, I will zealously unite with the coördinate branches of the Government.

In conclusion, I congratulate you, my fellow-citizens, upon the high state of prosperity to which the goodness of Divine Providence has conducted our common country. Let us invoke a continuance of the same Protecting Care which has led us from small beginnings to the eminence we this day occupy, and let us seek to deserve that continuance by prudence and moderation in our councils; by well-directed attempts to assuage the bitterness which too often marks unavoidable differences of opinion; by the promulgation and practice of just and liberal principles; and by an enlarged patriotism which shall acknowledge no limits but those of our own wide-spread Republic.

At the conclusion of this address the oath to execute the office of President of the United States, and to the best of his ability to preserve, protect, and defend the Constitution, was, with due solemnity, administered to the President of the United States by Chief Justice Taney. The President then received congratulations, Chief Justice Taney and Ex-President Polk taking the lead.

The ceremonies on the Eastern Portico having been concluded, the Vice President and Senate returned to their Chamber, when, on motion, it was ordered that the daily hour of meeting shall be twelve o'clock.

The Senate then adjourned.

alcade of the hundred marshals already mentioned. The gentlemen who accompanied General TAYLOR in his carriage were the Speaker of the late House of Representatives and the Mayor of Washington. According to previous arrangement, however, when the General's carriage arrived in front of the Irving Hotel, where Ex-President POLK is sojourning, the Procession halted, and Mr. POLK was handed into the carriage, and a seat awarded to him on the right of the President Elect, who shook his predecessor cordially by the hand. The appropriateness and delicacy of this movement was duly appreciated by the multitude of people who witnessed it; and thereupon rang out spontaneously nine long and loud huzzas.

The Procession resumed its march. Both sides of Pennsylvania avenue were thronged with human beings, all the way from Willard's Hotel to the Capitol grounds. Many of the roofs of the houses were also covered, and every window was completely blocked up with heads. Old men and women, young men and maidens, and children too, by the thousand, were seen in every direction; and the cheers by which the excited multitude expressed their sensations on the occasion were both hearty and frequent. The time occupied by the Procession in reaching the east front of the Capitol was about one hour; and, after the conclusion of the Inaugural ceremonies, the booming of artillery resounded from one extremity of the city to the other.—*National Intelligencer.*

IN SENATE.

TUESDAY, *March* 6, 1849.

The Hon. GEORGE E. BADGER, of North Carolina, and the Hon. SALMON P. CHASE, of Ohio, elected Senators by their respective States for six years, were qualified and took their seats.

CREDENTIALS OF HON. JAMES SHIELDS.

Mr. MILLER rose to offer a resolution.

Mr. DOUGLAS. I trust the Senator from New Jersey will withhold any resolution at present. I rise, Mr. President, to a question of privilege, which takes precedence of all other business. I rise to ask if my colleague, the Hon. JAMES SHIELDS, is now to be sworn as a member of this body? I suppose it is his right to be now sworn; and on behalf of the State of Illinois, I ask that the oath may now be administered to him.

The VICE PRESIDENT. The Journal of yesterday has not yet been read.

On motion, the reading of the Journal of yesterday was dispensed with.

The VICE PRESIDENT. The Presiding Officer is informed that a resolution, submitted yesterday in relation to the credentials of Gen. SHIELDS, is now on the table not yet acted upon.

Mr. WALKER. I move to take up that resolution.

Mr. MANGUM. I will ask the Senator from Wisconsin to withdraw that resolution, which proposes to refer a certain subject to the Judiciary Committee, for he is aware that we have now no standing committees. I have prepared a resolution to obviate the difficulty, which I will offer, if the Senator will withdraw the pending resolution.

Mr. WALKER assented, and withdrew his resolution.

Mr. MANGUM. Mr. President, I now offer my resolution, as follows:

Resolved, That the standing committees at the close of the last session be reappointed, and that the vacancies therein be filled by the Chair.

Mr. DOUGLAS. Mr. President, I again rise to a question of privilege. I do it without any concert with my colleague, whom I desire to be sworn. I do it as the only representative present from the State of Illinois, which is entitled to two Senators on this floor. It appears from the credentials now on your table that James Shields was elected a Senator of the United States by the Legislature of Illinois for six years from the 4th instant. His credentials are in due form, and therefore those credentials entitle him to a seat in this body. He stands in precisely the same position in which other Senators stood who were yesterday admitted to seats; and if there is any objection on the ground of ineligibility, it must arise after he has been sworn and has taken his seat. This body has no jurisdiction over him or this matter until he has been admitted to his seat as one of its members; for then alone can the question of eligibility arise. At present he has a right to a seat here, and to a vote on any question that may arise until the Senate shall adjudge him ineligible. In assuming this ground, I am justified by the uniform precedents, so far as I have examined them.

In the case of Mr. Gallatin, which is a leading case on this subject, he was sworn, took his seat, and voted until the Senate decided the question of eligibility, and adjudged that question against him, and then he was turned out.

In the case of Mr. Smith, of South Carolina, in which the question of alienage arose, he was sworn in, and subsequently, I believe, the question of alienage was decided in his favor.

Mr. BUTLER. Where do you find that case?

Mr. DOUGLAS. I find it among the cases of contested elections.

Then there was the case of Mr. Rich, from Michigan, which was also one of alienage, but he was sworn. And you will find that in every case that has arisen, that has been the course pursued, with perhaps one exception; and in fact that constitutes no exception at all, for the facts appeared on the face of the credentials, and it was not a case arising on an objection by an individual Senator. If, sir, in this case the ineligibility was shown on the face of the credentials, I would not ask that Gen. Shields should be sworn. But if the credentials are in the usual form, and that is not doubted, the presumption is in his favor, and he has a right to a seat here until the Senate shall adjudge him ineligible. All I ask, sir, is, that the State of Illinois may be treated as other States are treated. If there is no ineligibility shown on the face of the credentials, to deprive him of the right conferred upon him by his State, this will furnish the first instance of the rejection of a Senator when his credentials are in due form. And why, sir, should there be such an exception now made in this case? I speak not, sir, on behalf of the claimant of this seat; but I speak on behalf of the State of Illinois, which I in part represent. I insist, sir, that if you were now engaged in calling the yeas and nays, and his credentials had not been presented, it would be my right and my duty to present his credentials, and it would be his right to be sworn and vote on the pending question. I call upon the Senate to pause and examine this question. The Senate is not yet organized. No business can be done until the constitutional rights of members to their seats have been acceded to. I do not say that Gen. Shields is eligible to a seat on this floor. I know nothing of the facts, sir; but I do know, from the credentials on your table, that he has been duly elected by the Legislature of the State of Illinois. His credentials are in due form. They are in such form as to make it a matter of right that he shall take his seat. I know also that yesterday you swore other members who presented credentials identically the same. And I likewise know, that hitherto you have never refused the right to a seat to any gentleman coming with like credentials. After Gen. Shields shall have been sworn and admitted to his seat, I shall throw no impediment in the way of any examination that the Senate may desire to make of the facts of the case. It is the right of this body then to institute an investigation, when objections are made; but (and I say it with great respect) this body has no right to reject without examination a Senator, when he presents his credentials in due form, showing that he has a right to a seat here.

The VICE PRESIDENT. Does the Senator from Illinois insist on his question of privilege?

Mr. DOUGLAS. Yes, sir, on the ground that the State of Illinois is entitled to two votes in this Senate.

Mr. MANGUM. Mr. President, I am disposed to think that the Senator from Illinois is right. The credentials in this case are in due form; they are properly authenticated under the seal of the State, and hence they constitute a *prima facie* case. If it be deemed necessary, the Senate can enter upon an investigation after the claimant has been admitted to his seat; and, with my present impressions, I withdraw my resolution.

Mr. WALKER. Mr. President, I withdrew my resolution to permit the Senator from North Carolina to offer his resolution; but, as he has now withdrawn it, I renew my motion, and in doing so I wish to give some expression of my feelings on this subject.

The Secretary read Mr. WALKER's resolution, as follows:

Resolved, That the certificate of election of the Hon. James Shields to a seat in this body be referred to the Committee on the Judiciary, with instructions to inquire into the eligibility of the said James Shields to a seat in the Senate of the United States as a member thereof.

Mr. TURNEY. I suppose that resolution is not yet before the Senate.

Mr. DOUGLAS. The question pending is my motion that James Shields be sworn.

Mr. BUTLER. Which is a privileged question.

Mr. DOUGLAS. Yes, sir, a privileged question.

Mr. TURNEY. I insist that a *prima facie* case is presented which entitles the claimant to a seat; and it is not in the power of any one to exclude him from the enjoyment of his right. Why, if this were so, one member by an objection could yesterday have excluded one-third of this body; for yesterday one-third of the seats here were vacant, and they were filled by gentlemen on the presentation of just such credentials. It cannot be done, sir. I insist that General Shields is entitled to his seat and if any constitutional question shall arise, the Senate may then inquire as to his eligibility to remain here.

Mr. BADGER. I imagine that there is very little difference of opinion among Senators as to the right of General Shields to be sworn in at the present time as a member of this body. In the absence of any precedents to the contrary, it seems to me perfectly clear that General Shields, having presented to the Senate his credentials, showing in proper form his election to a seat in this body, is entitled to be sworn in as a member of this body, and treated as constitutionally a member of this body, until upon investigation it shall be fully ascertained that he is not constitutionally eligible to a seat here. That is undoubtedly the general rule, and I do not see that any question as to the particular practice or precedents of the Senate with reference to his eligibility can make any difference in the application of the rule. It is a question solely for him to decide, personally, whether he will choose to avail himself of the right which these credentials give him, to be sworn in as a member before the question of his eligibility is settled, or not. It does not seem to me that there is any conflict whatever between the application to swear in General Shields and the resolution offered by the Senator from Wisconsin to refer his credentials to an appropriate committee, so that they may be duly examined and reported upon.

Mr. BUTLER. I entertain views which differ from some which have been expressed here. General Shields comes here with credentials, under the seal of the State of Illinois, in due form; and it is to be presumed that it has thoroughly investigated the matter, and that the State which has given him a commission under its seal has decided primarily upon his qualifications. Coming here, then, with *prima facie* qualifications and credentials, I cannot see how we can refuse him the right to be sworn as a member of this body. I think the case is analogous to proceedings at law involving the rights of membership—the right of holding office. Usually, the question is made, under proceedings by a writ of *quo warranto*, "By what right do you hold office?" The member is sworn in, and the question as to his eligibility to a seat is afterwards determined.

If the State has given General Shields his credentials, as it is proved by the facts before us, it is a delicate matter—a very delicate matter—to decide as to his eligibility. If the Senate concur generally in my views, he should be at once admitted upon the authority of these credentials. The examination of his constitutional eligibility unquestionably should be deferred until after he has taken his seat. I give no opinion upon the legality of his election; but I take the liberty of saying that when this matter is inquired into—as it certainly will be—I trust that it will be referred for investigation to a committee on privilege, specially raised for the purpose. The Senator from Wisconsin desires this to be referred to the Committee on the Judiciary. Now, there is no such committee; but when one shall be organized, its duty will be to examine questions of law; and that does not touch the high question involved in this debate. I think that the leading members of the Senate ought to constitute that committee, without regard to party.

Mr. WEBSTER. This is a very important question, sir, and it becomes us so to act as not to deprive ourselves of the power to exercise our undoubted constitutional right of judging of the qualifications of a member of this body, at the same time to act with all proper respect towards the State which has sent to us a Senator which it has elected. To observe the established precedents in cases of this character, is the best course we can adopt. There may be instances or precedents in which objection has been made before the member has taken his seat in either one House or the other. This gentleman's case is the other way. Being admitted to his seat, he is then to produce his credentials, and they are to be examined and investigated by the Senate, to decide if, constitutionally, he is eligible to a seat here. I think the proper course to be adopted in this instance is to allow the gentleman to be sworn at once.

Mr. ATCHISON. On yesterday my attention was called to the Journal of the Senate, in relation to the proceedings in the case of Mr. Gallatin. I found there that when Mr. Gallatin presented himself on the authority of his credentials, he was sworn in, and another Senator was sworn in immediately after him. As soon as he had been sworn in, a communication, in the shape of a remonstrance from the State of Pennsylvania, as to his eligibility to office, was presented to the Senate, and proceedings were had to test his eligibility. He was first sworn in, however, and no objection was made to his being thus sworn. It is very strongly to be presumed that, prior to his being sworn, the remonstrance was in the hands of the Presiding Officer of the Senate.

Mr. BERRIEN. I do not apprehend that the adoption of either of the courses suggested this morning in relation to the reception of General Shields will affect the ultimate action of the Senate upon the subject of his eligibility; but I do not concur in some of the suggestions which have been made, and I will therefore express very briefly the views I entertain upon the subject, premising that no one is more disposed to pay proper respect to the certificate of a State of the Union than I am myself.

It is said that the credentials of this gentleman are *prima facie* evidence of the qualification necessary to his admission as a member of this body. I think not, sir. Until the evidence is controverted, it must be correct evidence of the regularity of the election by the Legislature of his State, but that is the only thing. It is not even *prima facie* evidence of the *qualifications* of the individual. But, sir, it is suggested that the presentment of these credentials, this application to the Senate to be sworn in immediately, should be concurred in by the Senate, and that they must stand, when thus concurred in, until an investigation is made by the Senate as to the gentleman's eligibility; now, on the other hand, when a member of this body offers a resolution proposing an inquiry into the legality of the election of a Senator, I suppose that some attention should be paid to the representations of that Senator, and therefore what would seem to me a correct course on this question, would be that the Senator from Wisconsin should state to the Senate the grounds upon which he submits his resolution, and such facts as he may be able to present in relation to the matter, so that we may be enabled to decide advisedly between the two courses suggested to be taken. I make this suggestion, because I apprehend that the applicant in this case is not disposed to contest the facts of the case, but, admitting them, to rest his claim upon the constitutional question which they present. The facts in the case, I suppose, will be presented to the Senate by the Senator moving this resolution, so that a decision upon his constitutional eligibility may be had.

Mr. DOUGLAS. My motion is not made at the request, nor even with the knowledge, of General Shields. It is made by me, as a Senator from Illinois, insisting on the rights of that State. I have no objection to the Senator from Wisconsin making any statement he chooses, at the proper time; but if he is to go on and make statements of facts with respect to the question at issue—thus superseding my motion—I contend that his course will be wholly irregular. I insist that the proper mode is to allow General Shields to be sworn, and then to proceed with the investigation of the testimony in the case regularly. As regards the facts in the case, I do not know what they are myself, and am therefore not prepared at present to make any statement as to the legality or non-legality of the election.

Mr. WALKER. I do not wish to pursue any course of action in relation to this question without full regard to the wishes of honorable Senators. Upon a former occasion, sir, before you occupied the post of presiding officer of this body, when the question of the reception of General

Shields was up, I rose and stated my object in making the motion which I submitted; but, upon the suggestion of the Senator from North Carolina, it was withdrawn. I then stated, that in justice to General Shields, to the Senate, and to the country, I would move a reference of his credentials to the Committee on the Judiciary, with instructions to inquire into the eligibility of General Shields. I say now, and I wished to be understood when I made the motion as declaring, that I have no wish or desire, of the remotest kind, to place General Shields in a position where injustice can be done him, or to do anything which shall exclude him from a seat upon this floor. I have known him long in different capacities, military and civil; I know him to be a gentleman of ability; the country is acquainted with his capacity, and the enemies of this country also, I think, can testify to his efficiency. I knew him at an early period of my life, in the State from whence he comes, which was then the home of us both. The lapse of time has not operated upon the heart that pulsates in my bosom in such manner as that I could urge any malicious objection to the admission of an old and esteemed friend as the representative of a State to the body in which I have been honored with a seat. I disclaim all such feelings before the Senate, before the country, before the friends of General Shields, and before that gentleman himself, if he is present; but in justice to that gentleman, in justice to the Senate, and in justice to the country, I desire that an investigation by a proper committee may be had upon this subject. Would it be just to General Shields, to the Senate, or to the country, particularly to the State which has honored General Shields with a seat here, first to admit him and afterwards to expel him from this body? Those who purpose to take that course must take a different view of this matter than I do. It would seem to be a far preferable course to allow General Shields to do—what I am informed he is prepared to do—show that he is not endeavoring to thrust himself into this body; and to give him an opportunity of proving that he is entitled to the honor which his State has conferred on him, and which will, through all future time, bring credit to the State which has conferred it. It seems to me this is much the better course; to give General Shields the opportunity of proving his eligibility before he is sworn, than first to swear him and then afterwards may have to expel him. These are my conscientious views on this subject. If they are wrong, it is because I have not a just appreciation of its merits. I do not wish to resist whatever shall be deemed the proper course of the Senate on this question; but, as has been intimated by the Senator from Georgia, [Mr. BERRIEN,] unless objections are made with relation to a point of order, I will state the grounds that have induced me to bring forward this resolution fully and explicitly.

Mr. BUTLER. I do not rise exactly to a question of order, but would simply suggest that if the Senator from Wisconsin is to go on and present the evidence at large, and facts pertaining to the eligibility of General Shields, it will in some degree prejudice the minds of the committee and of Senators upon the question.

Mr. WALKER. So I thought; my opinion of this course of action on my part corresponds with that of the Senator from South Carolina. With reference to precedents on this subject, I would say, that, in presenting this resolution, I did not desire to violate the usual course of proceeding; I did not desire to urge the adoption of a new and extraordinary mode of conduct. I have not examined all the cases of a similar character to the one before us; I have only had the opportunity of looking into a few of them. The case of Mr. Gallatin is not one that can be quoted as a precedent for the course suggested by the Senator from Illinois. That seems to have been a case where previous objection was not made. Mr. Gallatin appeared and was duly sworn, and it was not until some time after he had been thus qualified that objection was made to his occupying a seat in this Chamber.

But it is said that no precedent can be shown for the course that I have seen fit to suggest. I am informed, sir, that there is a precedent. I am informed that a Senator from Connecticut once presented his credentials, but that, in consequence of some question of ineligibility, he was refused his seat.

Mr. DOUGLAS. I would submit whether, in the case of the Senator from Connecticut, it did not stand upon the following grounds: The constitutional term of the Senator from Connecticut had expired, and the State Legislature failed to make any election of Senator in his place. The Governor of the State thereupon made an appointment, and the objection was taken that the Governor had no authority, in case of such vacancy, to appoint a Senator, and therefore the Senator was excluded from a seat in this body. The fact appeared on the face of his credentials, and therefore it was seen that he had no sort of right to a seat as Senator. In this case, there is simply a presumption as to the Senator's ineligibility to membership of this body. The very case of the Senator from Connecticut strengthens the general rule for which I contend.

Mr. WALKER. I have not examined the credentials of the Senator to whom I have alluded. I cited the case in order to show, that in anticipation of a seat in this Chamber becoming occupied, the question of eligibility had been raised. If it did not amount to a precedent, be it so. This, then, may be the first time when an individual who has been elected a Senator by the Legislature of his State has had objections taken to his eligibility beforehand. I wish distinctly to be understood as not endeavoring to enforce a more rigid rule in this case than that of others. I have no such design or intention. The question then arises, What is the Senate going to do with the resolution postponed from yesterday until to-day? To-day it is taken up, and, upon the motion of the Senator from Illinois, it is proposed that this gentleman be sworn in before his eligibility to his office is examined—a course of proceeding contrary to that intended by the resolution. However, if such be the view of the Senate, let that course be adopted. As I have before remarked, it appears to me due to General Shields, and to the State he represents, as well as to the whole country, that the matter should be referred to a committee, and fully settled, before General Shields is admitted as a member of this body.

Mr. BERRIEN. Mr. President, I desire simply to explain why I suggested the propriety of the Senator from Wisconsin stating the grounds upon which he based his resolution. In my judgment, such a statement would be neither unusual nor wanting in delicacy; but in regard to the other question—the question of order—why, sir, it is the every-day practice, when a Senator is about to submit a resolution for the consideration of the Senate, to state upon what grounds he requests the consideration of that resolution; and surely it is but the dictate of common sense, when a Senator comes here and presents his credentials, and asks to be sworn, that he should not be prevented from being sworn by the mere submission by one Senator of an unexplained resolution. That would seem to me an act of gross injustice. Here is a gentleman producing the credentials of his State, certifying his election as a Senator, who asks to be sworn; and it cannot be permitted for another Senator to get up, and by the mere submission of an unexplained resolution deprive him of the privilege which he asks. Certainly, if we are called upon to consider the resolution; if it be proposed, as we are to presume, upon a knowledge of certain facts which would be considered sufficient grounds for offering the resolution, and if we are called upon to support it, we must be made participants in that knowledge. We cannot act without it, and hence the suggestion which I made that the Senator, having objected to the administration of the oath of office to the applicant by the resolution which he has submitted, must be presumed to have done it upon grounds satisfactory to himself; and before he called upon us to participate in that resolution, to sustain it by our votes, I think it was proper that we should be advised of those grounds.

Sir, it is perfectly indifferent to me, except as relates to the observance of order and the principles of the Constitution, what course may be pursued. As the Senator from Wisconsin says, we must ultimately come to the consideration of the resolution. I have no wish upon this subject, except that the ordinary and proper course should be pursued, and that our constitutional obligations should be maintained.

Mr. FOOTE. Mr. President, I should consider it in very bad taste, indeed, for me to undertake to occupy the attention of the Senate at this time, and under existing circumstances, by an extended address, either argumentative or declamatory. It is certainly not because I do not feel a just deference for the opinions of those distinguished gentlemen who seem to be of opinion that the motion of the Senator from Illinois [Mr. DOUGLAS] should not prevail, that I feel authorized to say, in hearing of the Senate, (and I think what I have to say on this point will be sanctioned by all who hear me,) that the argument of the question is now exhausted; that it is now established, beyond all reasonable doubt, that precedent sustains fully the motion of the Senator from Illinois; that that motion is grounded firmly and irresistibly upon parliamentary usage. And I cannot perceive anything in the circumstances of this case which should constitute an exception to a general rule which, I think, has been fully established.

I have risen, therefore, simply for the purpose of stating my opinion in this general form, and for the additional purpose (which I trust will not be offensive to any) of expressing the high gratification which I feel at the admirable temper and spirit exhibited in this body on the present occasion: and having thus expressed myself, being ready to vote, and believing that others are also, I trust that our time will not be occupied at any considerable length beyond the present moment in a discussion that, it seems to me, is unnecessary, and that will result unprofitably, and that may, perchance, be productive of more or less ill-feeling.

The question was then taken on the motion of Mr. DOUGLAS, and it was agreed to.

Mr. SHIELDS was then qualified and took his seat.

Mr. MILLER offered the following resolution:

Resolved, That a committee be appointed to wait on the President of the United States and notify him that the Senate is assembled and ready to receive any communication he may be pleased to make.

The resolution was adopted.

On motion of Mr. MILLER, it was ordered that the committee consist of two members, and that they be appointed by the Vice President.

Mr. MILLER and Mr. ATCHISON were appointed as said committee.

Mr. MANGUM again submitted his resolution to continue the standing committees, the Vice President filling the existing vacancies.

Mr. DICKINSON. I desire to inquire what will be the effect of that resolution?

Mr. MANGUM. The effect of it will be, that the committees will remain organized as they were during the last session, except that, where vacancies have occurred by the expiration of the constitutional term of Senators, the committees will be filled up by the appointment of the Presiding Officer. These committees will last only during the Executive session. I think the course proposed by the resolution will be the most convenient. However, if any other course should be preferred, I have no objection.

Mr. DICKINSON. That question has often been before the Senate since I have been a member of it. Originally I voted for conferring upon the Vice President the power of appointing committees, but the Senate has so often decided against that course that I apprehend it will be better to adhere to the usual course of proceeding. The adoption of the course proposed by the resolution may occasion some inconvenience at the next session. But I think, that from the liberality and courtesy which has characterized both sides of this body in regard to the arrangement of committees, there will be very little trouble in arranging the matter in the usual way. I would, therefore, prefer that the old course should be adhered to. I would suggest to the Senator from North Carolina so to modify his resolution as to leave the whole matter to the disposition of the Senate.

Mr. MANGUM. I have no preference at all as o forms. If any gentleman prefers the adoption of some other course, I will make no objection. In the mean time, however, no action can be had upon any nominations that may come to us in Executive session, or upon any business whatever, until the committees are organized. My object is merely to reëstablish the old committees, and to confer upon the presiding officer of the Senate the

power, habitually exercised, to fill vacancies. I, however, have no objection to accepting the modification suggested by the Senator from New York.

Mr. BERRIEN. Before the modification is made, I would suggest to the Senator from New York that the course proposed by him has always been adopted on the appointment of committees, but whenever vacancies have occurred, the course of proceeding has uniformly been to allow the Presiding Officer to fill those vacancies. If the resolution offered by the Senator from North Carolina be adopted, the committees appointed at the last session will be continued, except that, where vacancies have occurred by the expiration of the term of service of any Senator, the duty of filling them will be devolved upon the Chair.

Mr. FOOTE. I think the Senator from Georgia is laboring under a mistake. It is certainly true that we have no committees, as this is a new Senate——

Mr. BERRIEN. The resolution of the Senator from North Carolina proposes to continue the old committees.

Mr. MANGUM. Out of a feeling of delicacy to the Chair, the opinions of the Chair not being supposed to harmonize with the opinions of a majority of the Senate, I withdraw the resolution.

Mr. TURNEY. I move that to-morrow, at 12 o'clock, the Senate proceed to the election of its standing committees.

The motion was agreed to.

Mr. WALKER. What disposition has been made of my resolution?

A SENATOR. Let it be laid over until the committees are appointed.

Mr. MASON. I move that it be postponed.

That motion was withdrawn at the solicitation of Senators.

Mr. BUTLER. I hope, sir, we shall have a special committee on this subject, and to accomplish that purpose, I move to amend the resolution by striking out the word "Judiciary" and inserting "Special." I think it due to the Senate and the country that a committee should be raised on this subject, which I am willing should be appointed by the Chair from amongst the oldest members of the Senate.

The question was stated to be on the amendment of the Senator from South Carolina.

Mr. HAMLIN. Mr. President, this is purely a constitutional question, and one which, it seems to me, should appropriately go to the Committee on the Judiciary. We never, I believe, have had a Committee on Privileges and Elections, for the reason that it has been very rare that a question of this character has arisen in this body. Indeed, I believe that no question of election has ever arisen in the Senate which did not involve, and depend entirely upon, a constitutional provision. This certainly is a question which is purely and exclusively of that character, involving, it is true, one or two facts, but yet resting entirely upon that construction which the Constitution is to receive upon facts presented. It is due that in the formation of the committee, the same Senators who composed the Judiciary Committee, or other Senators learned in constitutional law, should constitute the select committee. But the Judiciary Committee being the appropriate one to which constitutional questions should be referred, it seems to me that there is no necessity on this occasion for departing from the general, and appropriate, and proper rule. While I have little or no objection to the creation of a select committee, it seems to me that it would be much more appropriate to refer this subject to the Judiciary Committee.

Mr. DAVIS, of Mississippi, (in his seat.) There is no Judiciary Committee.

Mr. HAMLIN. There will be soon.

The amendment was agreed to, and the resolution, as amended, was adopted.

Mr. BUTLER moved that the committee consist of five members, to be appointed by the Chair.

Mr. WEBSTER. I suppose the committee will be appointed when the other committees are chosen.

That suggestion was acquiesced in.

A message was received from the President of the United States by Colonel BLISS, his private secretary.

And, on motion of Mr. WEBSTER, the Senate proceeded to the consideration of Executive business; and, after some time spent therein—

The Senate adjourned.

IN SENATE.

WEDNESDAY, *March* 7, 1849.

Prayer by the Rev. H. SLICER.

SMITHSONIAN INSTITUTION.

The VICE PRESIDENT laid before the Senate the following communication:

WASHINGTON, *March* 7, 1849.

SIR: I have the honor to communicate to you the following resolution, passed by the Board of Regents of the Smithsonian Institution, at an adjourned meeting held this day at the room of the Vice President of the United States:

Resolved, That the Secretary inform the President of the Senate that a vacancy exists in the Board of Regents by the expiration of the term of Mr. Pearce as Senator.

I have the honor to be, &c., JOSEPH HENRY,
Secretary of the Smithsonian Institution.

Hon. MILLARD FILLMORE,
President of the Senate of the United States.

The VICE PRESIDENT desired from the Senate information as to the course to pursue in filling that vacancy.

Mr. DAVIS, of Mississippi. A vacancy has occurred in the Board of Regents of the Smithsonian Institution by reason of the expiration of the Senatorial term of the Senator from Maryland, [Mr. PEARCE.]

The manner of filling the vacancy is, from the terms of the law of organization of the institution, involved in doubt, and is, I believe, unsettled by precedent. The law provided that three regents should be taken from the Senate, and that the appointments should be made by the President of the Senate. Their term as regents was to continue during the period for which they should remain in the Senate without reëlection. It was also provided that the vacancies occurring by death, resignation, or otherwise, should be filled as vacancies in committees are filled. As we elect committees in the Senate, it ensues that a vacancy occurring in the Board would be filled by election of the Senate. The point to which I wish to invite particular attention is this: the vacancy occurs not by casualty, but in due course of law, so far as the Senate is concerned. Does this render the vacancy in the Board of Regents an original one, and thus confer on the President the power to fill it, as provided for original appointments at the period of organization? Or is the board a permanent body, and are all vacancies in it to be held as having happened, and therefore to be filled as vacancies in committees?

To test the sense of the Senate, and to settle the construction of the law in future, I offer a resolution.

The Secretary read the resolution as follows:

Resolved, That, in the opinion of the Senate, when vacancies occur in the Board of Regents of the Smithsonian Institution, by the expiration of the term of any Senator, the power to fill such vacancy is by law vested in the President of the Senate.

Mr. UNDERWOOD. I hope that resolution will not now be acted upon. I should like to have an opportunity to look into the law before it is adopted.

The resolution was laid over under the rules.

A brief personal explanation by Mr. FOOTE, Mr. BUTLER, and Mr. FITZPATRICK, concerning a misunderstanding of Mr. FOOTE and Mr. CAMERON, on Saturday night, and which was immediately adjusted satisfactorily to the parties, took place.

STANDING COMMITTEES.

Mr. CASS inquired, before the Senate proceeded to execute the order of yesterday, whether any provision had been made for the appointment of a committee on the new Home Department? Every other department of this Government had a standing committee of the Senate, and he thought this new department should have one too.

Mr. DICKINSON suggested that it was unnecessary to appoint such a committee at the present session; but that the appointment of such a committee would doubtless be considered at the next legislative session.

Mr. BERRIEN also expressed the opinion that the appointment of such a committee was not now necessary.

Mr. MANGUM then rose and said, that, according to the usages of the Senate, a list of committees had been prepared, on consultation with the Senators on the opposite side of the Chamber, and he was prepared with a resolution to provide for their appointment. The list of names were in the main those of the gentlemen as they had served in committees during the past session. There were, however, some changes, and there were still some vacancies, which it was not proposed to supply before the next session, unless some special emergency should arise to make it necessary. He then offered a resolution to the effect that the standing committees be constituted as follows; which was agreed to:

Committee on Foreign Relations—Messrs. Benton, Cass, Foote, Webster, Mangum.

Committee on Finance—Messrs. Dickinson, Hunter, Douglas, Phelps, Webster.

Committee on Commerce—Messrs. Hamlin, Soulé, Fitzpatrick, Davis of Massachusetts, Smith.

Committee on Manufactures—Messrs. Sebastian, Butler, Jones.

Committee on Public Lands—Messrs. Felch, Borland, Shields.

Committee on Agriculture—Messrs. Sturgeon, Turney, Walker.

Committee on Military Affairs—Messrs. Davis of Mississippi, Benton, Borland, Bell, Dawson.

Committee on the Militia—Messrs. Houston, Fitzpatrick, Dodge of Wisconsin.

Committee on Private Land Claims—Messrs. Downs, Whitcomb, Dickinson.

Committee on Indian Affairs—Messrs. Atchison, Sebastian, Rusk, Phelps, Bell.

Committee on Claims—Messrs. Whitcomb, Norris, Jones.

Committee on Revolutionary Claims—Messrs. Walker, Norris, Dodge of Iowa.

Committee on the Judiciary—Messrs. Butler, Downs, Bradbury, Berrien.

Committee on the Post Office and Post Roads—Messrs. Rusk, Sturgeon, Soulé, Pearce, Corwin.

Committee on Roads and Canals—Messrs. Bright, Atchison, Foote.

Committee on Pensions—Messrs. Dodge of Wisconsin, Fitzpatrick, Hunter.

Committee for the District of Columbia—Messrs. Mason, Yulee, Shields.

Committee on Patents—Messrs. Turney, Norris, Whitcomb.

Committee on Retrenchment—Messrs. Bradbury, Houston, Felch.

Committee on the Territories—Messrs. Douglas, Butler, Houston.

Committee on the Public Buildings and Grounds—Messrs. Hunter, Yulee.

Committee on Contingent Expenses—Messrs. Dodge of Iowa, Walker, Smith.

Committee on Printing—Messrs. Baldwin, Hamlin.

Committee on Engrossed Bills—Messrs. Jones, Sebastian.

Committee on the Library—Messrs. Pearce, Mason, Davis of Mississippi.

Committee on Enrolled Bills—Mr. Rusk.

Committee on Naval Affairs—Messrs. Yulee, Mason, Bright, Badger, Miller.

Select Committee on Election of General Shields—Messrs. Benton, Felch, Mason, Webster, Pearce.

On motion of Mr. YULEE, it was

Ordered, That Joseph K. Boyd have leave to withdraw certain original letters presented with his petition.

On motion of Mr. DICKINSON, it was

Ordered, That John Ericsson have leave to withdraw his memorial and papers from the files of the Senate.

The Senate then proceeded to the consideration of Executive business; and, after some time spent therein, adjourned.

IN SENATE.

THURSDAY, *March* 8, 1848.

The following resolution, submitted yesterday by Mr. DAVIS, of Mississippi, was taken up and considered:

Resolved, That in the opinion of the Senate, when vacancies occur in the Board of Regents of the Smithsonian Institution, by the expiration of the term of any Senator, the power to fill such vacancy is by law vested in the President of the Senate.

Mr. BENTON. Mr. President, I believe that the resolution proposes to declare the meaning of an act of Congress. It is proposed to declare the meaning of an act by a resolution of this body. I believe, sir, that is not usual. I believe that the only way in which we can construe an act is by an act. Such resolutions have heretofore been brought before the Senate; but I have never voted

for them, believing that they would involve the Senate in some trouble afterwards that was not foreseen at the time. I believe, also, that it is a legislative resolution, for it is offered to declare the meaning of a law, and as such we can take no cognizance of it in this Executive session. Here, sir, we have no legislative powers. I believe, sir, that for a long time it has been considered, that of the two powers, the power to enact and the power to construe an act, the power to construe is the larger; for sometimes, by construction, acts have a different meaning given to them than their makers intended or expected, and the act of construction, being the last, is the conclusive one. I believe the power to declare the meaning of an act of Congress is vested either in the Judiciary or in Congress, when acting upon a case, and in both points of view it would be unparliamentary so to act upon this resolution. I hope, sir, that the resolution will be either laid upon the table or withdrawn, for both of the reasons which I have given: first, that it is designed to declare the meaning of an act of Congress; and next, that it is legislative in its character.

Mr. DAVIS, of Mississippi. I cannot adopt the view taken by the Senator from Missouri, that the action of the Senate upon this resolution will be legislative in its character. So far as the action of the Senate is concerned, it is simply required to declare the construction of the law relating to this subject. It is a matter which is not to be acted upon by the House; it only requires the action of the Senate. If the House were in session, they could take no part in the settlement of the particular question to which the attention of the Senate is called. The first question that demands our consideration is, whether the appointment to fill a vacancy in the Board of Regents shall be made by the Senate or by the Presiding Officer of the Senate? Such a vacancy having occurred, this seems to be the proper occasion for the settlement of that question.

Mr. MASON. I understand the question before the Senate is, whether a vacancy in the Board of Regents of the Smithsonian Institution shall be supplied by the Senate itself, or by its Presiding Officer. A resolution was adopted by the Board of Regents, informing the President of the Senate that a vacancy existed in that body by reason of the expiration of the term of a Senator who has been a regent; and it is left for the Senate to decide, therefore, whether under the law the appointing power was vested in him or in the body over which he presides. Upon looking at the law, I think there can be no question as to the fact of the appointing power being vested either in the President of the Senate or in the Senate itself. Such being the fact, the suggestion of the Senator from Missouri might be very proper to be adopted, if the Senate were called upon to expound the law; but it does not apply to the inquiry before us. I have examined the subject with care and attention, being a member of the Board of Regents; and I have come decidedly to the conclusion that the appointing power, when a vacancy exists by the expiration of the term of a Senator who was a regent, resides in the person of the President of the Senate, and in him alone. The terms of the law are as follows: The Board of Regents is a body of twelve men elected by law in the following way: three are taken from the Senate, three from the House of Representatives, and six from citizens at large. The law vests in the President of the Senate, without any concurrent action on the part of the Senate whatever, the power to appoint the three Senators; and it vests in the Speaker of the House of Representatives, and in him alone, the power of appointing from that body the three members to be appointed to the Board; and the remaining six, to be taken from the citizens at large, the law requires shall be appointed by joint resolution of both Houses. As I understand the law, no doubt could arise from the provisions of the law as to whether they intended to provide for the filling of vacancies by death, resignation, or otherwise. If a vacancy exists among those taken from the Senate or the House of Representatives, then the vacancy is to be filled in the same manner as the vacancies in committees are filled, and vacancies created by death, resignation, or otherwise, among the citizens at large, are to be filled by joint resolution of both Houses. The terms of the law are equally clear, in my opinion, with regard to a vacancy occurring in consequence of the expiration of the term of a Senatorial Regent, and make it manifest that the appointment is to be made by the President of the Senate, in the Senate, and by the Speaker of the House of Representatives in that body. No power is reserved to the House of Representatives to appoint a member of this Board; none reserved to the Senate of a similar character. The power of filling vacancies originally is lodged in the Presiding Officers of both bodies. Such being the construction I entertain of this law, I shall vote for the passage of the resolution. The question suggested by the Senator from Missouri, whether it is competent for the Senate to make the construction of a law by a resolution, it appears to me does not arise here. The simple question before us is, whether this appointing power resides in the Presiding Officer of the Senate or in the body of the Senate itself, and I presume it is competent to the Senate to pass their judgment as to the expression of the law to that extent. I shall therefore vote for the resolution.

Mr. BENTON. I do not in the slightest degree gainsay what has been said by the Senator from Virginia; but what I say is, that if any one think it is not right for the President of the Senate to make the appointment, he can bring up the question of construction of the act, and let it be decided upon by the act itself, and not by a resolution declaring what the construction shall be. A resolution of this kind, being after the fact, binds nobody. A declaration of what the construction of the law shall be! Why, the construction is a question which refers itself to the forum of every gentleman's bosom. He acts for himself when it comes up. I hold it, then, to be incompetent for us to declare the meaning of this statute by the resolution upon your table, because the meaning of statutes cannot be declared in that manner; and I hold it to be incompetent for us to do so, moreover, because we are in Executive session, and have no right to do any act of a legislative character. So far from being able to declare the meaning of a law in Executive session, we cannot make the slightest movement, give notice, or do anything at all of a legislative nature. We have no such character. I have not asked to lay the resolution on the table; but if it is persisted in, deeming it to be an innovation in two particulars, both of them of a serious character, I ask to have the yeas and nays upon it, that my name may be recorded against it.

Mr. MASON. The only object of the resolution is to obtain an expression of the opinion of the Senate, to get the sense of the Senate, upon the construction of the law. I am perfectly willing to take the sense of the Senate by the motion to lay the resolution on the table. I move, therefore, to lay the resolution on the table.

PRESIDING OFFICER. With the permission of the Senate I will state that when I was notified, as the presiding officer of this body, that a vacancy had occurred, I did not wish to take upon myself the duty of making an appointment to fill the vacancy without an expression of the sense of the Senate as to whether the appointment should be made by the presiding officer. And there seemed to be no other mode of obtaining that expression than by presenting a resolution upon which the sense of the Senate might be taken. Had the Chair proceeded to make the appointment, he might have been thought to be willing to usurp powers which did not belong to him.

Mr. DAVIS, of Massachusetts. I merely wish to inquire of some gentleman how this power has been exercised heretofore?

Mr. MASON. I understand that no such case has occurred before.

Mr. DAVIS, of Mississippi. I will answer the Senator from Massachusetts that when a vacancy occurs by death, resignation, or any other mode than expiration of the term of service, it has been the practice for some Senator to move that the Vice President fill the vacancy. This being the first time in which a vacancy has occurred by expiration of the term of service, the question is, whether it shall be considered an original vacancy or not.

Mr. BRADBURY. The question that arises upon the facts in this case is this: whether the vacancies occasioned by death, resignation, or otherwise, are vacancies arising during the term or at the expiration of the term for which Senators are appointed. Now, I maintain that attention to the language of the act will determine this question. It is as follows:

"And the Senators so appointed shall serve during the term for which they hold such appointment, without relation to their office as Senators."

Immediately after this clause is the further section:

"And vacancies occasioned by death, resignation, and otherwise, shall be filled in the same manner as vacancies in committees are filled."

It is obvious, from the language of the act, that vacancies which occur during the term for which Senators are appointed, are to be filled by appointment, which becomes in one sense an original appointment, and devolves on the appointing officer. So that it appears to me plain that the vacancy in this case is one which should be filled by the presiding officer of the Senate. The Senator from Missouri has raised a question as to the impropriety of declaring by resolution the meaning of the act. There seems to be an objection to this course, and I would suggest whether if any desire exists on the part of the presiding officer, that the Senate should express its views upon the matter, it might not be reached by the Senate declining to act in the case. I am myself opposed to acting upon a resolution of this sort, and yet I am clearly of opinion that this is one of the cases which the presiding officer should fill. I do not make any motion, I merely throw out the suggestion. I believe there has been no intimation of opinion from any Senator that this is a case in which the Senate is called on to act.

The question was then put, and decided as follows, the call for the yeas and nays having been renewed and sustained:

YEAS—Messrs. Atchison, Badger, Baldwin, Berrien, Chase, Clarke, Cooper, Corwin, Davis of Massachusetts, Davis of Mississippi, Dawson, Dayton, Downs, Fitzpatrick, Greene, Hale, Houston, Jones, Mangum, Mason, Miller, Morton, Pearce, Phelps, Seward, Shields, Smith, Spruance, Sturgeon, Underwood, Upham, and Wales—32.

NAYS—Messrs. Benton, Dickinson, Hamlin, Hunter, Norris, Rusk, and Turney—7.

The VICE PRESIDENT then appointed the Hon. JAMES A. PEARCE, of Maryland, to fill the vacancy.

GENERAL SHIELDS.

Mr. WALKER submitted the following resolution; which was considered and agreed to.

Resolved, That the select committee to inquire into the eligibility of Hon. James Shields to a seat in the Senate of the United States be authorized to send for persons and papers, and to call to their aid a person authorized to administer oaths, and to take the testimony of such persons as the committee may deem proper, and to procure the proper authentication of any papers or records which the committee may at any time have before it, relating to the subject-matter under its consideration.

Mr. WALKER then submitted a paper in relation to the subject-matter mentioned in the above resolution; which was referred to the said committee.

JOHN SKIRVING.

Mr. WALKER moved to take up the following resolution:

Resolved, That, until otherwise ordered, the Secretary of the Senate pay to John Skirving, for his services in ventilating the Senate Chamber during the session, an allowance not exceeding the pay of a messenger, together with one dollar a day for an assistant.

Mr. BADGER suggested, that as this was a resolution of another session, it was not in order to take it up.

Mr. WALKER then submitted the proposition as an original resolution, and asked for its consideration; which was agreed to.

Some discussion ensued, in which Mr. DAVIS of Mississippi, Mr. UNDERWOOD, Mr. DAYTON, Mr. HUNTER, Mr. WALKER, Mr. FELCH, and Mr. BENTON, took part.

The resolution was then rejected.

On motion of Mr. FELCH, it was

Ordered, That the papers in relation to the memorial of the Board of Missions be withdrawn from the files of the Senate.

On motion of Mr. CORWIN, it was

Ordered, That the papers in relation to the petition of Captain J. D. Cobb be withdrawn from the files of the Senate.

The Senate then adjourned.

IN SENATE.

FRIDAY, *March* 9, 1849.

The VICE PRESIDENT laid before the Senate the following communication, which was read:

WASHINGTON, *March* 9, 1849.

SIR: Having agreed to accept the office of Attorney General of the United States, to which I have been just appointed, I hereby resign my seat in the Senate of the United States as a Senator of Maryland.

In leaving a body with which I have been so long associated, I may be pardoned for expressing the deep sensibilities with which I have ever received the courtesy and confidence uniformly manifested towards me by every member with whom it has been my pride and happiness to serve.

REVERDY JOHNSON.

To the Hon. MILLARD FILLMORE,
Vice President of the United States.

Mr. PEARCE submitted the following resolution, which was considered and agreed to:

Resolved, That the Vice President be requested to inform the Executive of the State of Maryland that the Hon. REVERDY JOHNSON has this day resigned his seat in the Senate of the United States.

PRINTING COMMITTEE.

Mr. BORLAND moved that the Senate fill up the Printing Committee by the appointment of a third member, which was agreed to; and it was ordered that the appointment be made by the Presiding Officer.

The Vice President appointed Mr. SMITH.

WITHDRAWAL OF PAPERS.

Mr. HAMLIN asked leave to withdraw from the files of the Senate the papers of Bates & Lacon.

Mr. HALE said it had been suggested that the practice of withdrawing papers from the files of the Senate was wrong, unless some good reason was assigned for it, and hence he hoped the Senator from Maine would give some reason for this application.

Mr. HAMLIN replied that he believed it had been the general practice to allow papers to be withdrawn on the application of a Senator. However, he would give the reason to the Senate which the parties had given to him. The case of these parties had been before the House of Representatives, where it was favorably acted upon, and a bill came to the Senate and was referred to the Committee on Commerce, which was equally divided upon it, and consequently no report was made. The parties now wished to have their papers returned to them, that they might again present their case in a different shape.

Mr. HALE had no objection to the withdrawal of these papers, but he believed the Senator from Maine was mistaken in saying that it was the practice of the Senate to allow papers to be withdrawn on the application of a Senator. He had a distinct recollection of a recent case in which the Senator from Maryland [Mr. PEARCE] called upon a Senator to give a reason for such an application.

Mr. PEARCE corroborated the statement of the Senator from New Hampshire, and said that until recently the rule had been enforced which required a statement to be made, showing the reasons for the application, and he should object for the future unless some reason was given.

Mr. HAMLIN said he had stated the reason which the parties had given to him, and he could only add that no longer ago than yesterday papers were withdrawn from the files without the enforcement of any such rule.

Mr. BENTON said the practice of withdrawing papers without the reason being given was wrong, and was contrary to a standing rule of the Senate.

Mr. DAVIS, of Massachusetts, said it was only a few years since that a rule was adopted requiring copies of such papers as were withdrawn from the files to be left there; and he had no idea that that rule had been rescinded, though he supposed it must have been, some time or other, or it would not be so much disregarded. He believed it was a fact that papers on which an unfavorable report had been made had sometimes been abstracted from the files of the Senate, and hence a stringent rule was adopted requiring copies of all papers taken from the custody of the Senate to be left on the files.

Mr. BALDWIN explained the circumstances of this case, showing that no unfavorable report had been made upon it, nor any adverse action by either House.

The motion to withdraw was then agreed to.

RECESS.

Mr. WEBSTER inquired if there was anything before the Senate?

The VICE PRESIDENT replied that there was not.

Mr. WEBSTER moved that when the Senate adjourns, it adjourn to meet on Monday next.

Mr. BADGER moved to substitute Tuesday; which was rejected.

Mr. HAMLIN inquired if they might not reasonably expect some Executive communication at an earlier day? If any such communication were received to-morrow, the Senate, by sitting on that day, could refer it, and thus facilitate their business; but if they adjourned over, they could not even take the initiative step on any Executive communication.

The motion to adjourn to Monday next was then agreed to.

And the Senate adjourned.

IN SENATE.

MONDAY, *March* 12, 1849.

Mr. WEBSTER offered the following resolution:

Resolved, That the President of the United States be requested, if in his judgment not incompatible with the public interests, to transmit to the Senate any instructions which may have been given to the Minister of the United States in London, offering a further extension of reciprocity and equality in the laws of navigation; and especially such instructions, if any, as contemplate the opening of the coasting trade of the United States to the ships and vessels of other nations.

Mr. WEBSTER. This resolution, sir, is offered in consequence of information received by the very latest arrival from England. I find it stated, sir, in the advices by the last steamer at Halifax, and transmitted thence by the telegraph, that "M. Labouchere," who is the president of the Board of Trade in England, "has again brought forward 'the Government proposition for the modification 'of the navigation laws; and Mr. Bancroft, the 'United States Minister, states that to whatever 'extent in liberality the British Parliament may 'be disposed to legislate in this matter, he is ready 'and willing to sign a convention immediately, 'based upon the most complete reciprocity, so as 'to open the entire coasting trade of the two coun-'tries to the vessels of both nations."

My object, sir, for the present is only an inquiry. I suppose, if it be the pleasure of the Senate to adopt the resolution this morning, it may be answered before we finally adjourn. But if there be not an opportunity to receive an answer at this session of the Senate, one part of my purpose will at least be accomplished, which is, to draw the attention of the country to this most important subject. I mean to pronounce no particular opinion at present. All must agree that the subject is vastly important. And I confess I was a little startled to find that the American minister, who is now remaining in England, has, at the present moment, and under existing circumstances, offered to act immediately in a proposition for a convention to throw open the whole coasting trade of the United States freely, and without discrimination, to British vessels.

I have only two things to suggest for the present consideration of the Senate and the country. One is, that, if we enter into this reciprocity with Great Britain, and open to her ships and vessels the whole coasting trade of the United States, we are bound, of course, to do the same thing to the Powers of the north of Europe, and to admit the ships and vessels of Bremen and other of the chief navigating States and countries of that part of the world to the same privileges.

Before this question is to be decided, it would be well for us to be brought to a consideration of the experience which we have had since we opened the trade between ourselves and certain Powers of Europe and certain Powers of America to the ships and vessels of third parties. And it will become us to see how far the interference of the ships and vessels of the northern part of Europe in the trade between the United States and Brazil, for example, has lessened or increased the interests of ship-owners in the United States and all those concerned in navigation.

Another thing to be considered is this: how infinitely small is the coasting trade proper between the ports of England and her European dominions, compared with the coasting trade of the United States. Why, sir, the coasting trade of the United States employs the greater part of all the tonnage of the United States. And that trade, as it is, and is to be hereafter, will employ our shipping in voyages, some of which will be the longest voyages prosecuted on the globe. They will be voyages from the Atlantic cities, on the north and northeastern coast, around Cape Horn, to California and Oregon. If any such proposition as it seems has been suggested should be adopted by the Government of the United States, it will follow that all the products or manufactures of the United States may be freely carried in British or other foreign ships, from Boston and New York, not only to New Orleans, but around the Capes to our own ports on the Pacific, as freely as they may be carried in our own vessels.

I repeat, it is not my purpose now to discuss the great and grave question connected with this subject, but to ascertain whether it be true, as suggested, that our Minister in England is authorized to enter into a convention which will uproot, substantially, the principles of our navigation laws as they have existed for sixty years. The subject, I repeat, well deserves the attention of the country.

If the Senate have no objection to pass the resolution to-day, I hope it may be passed; but if any gentleman desires that it should not be acted on to-day, it may lie over until to-morrow.

The resolution was agreed to.

On motion by Mr. MASON, ordered that Mrs. Ann Chase have leave to withdraw her memorial and papers.

Mr. JONES asked to be excused from further service on the Committee on Claims; which was agreed to.

On motion of Mr. BRIGHT, ordered that the vacancy in the Committee on Claims be filled by appointment by the Chair.

Several messages in writing were received from the President of the United States by the hands of Colonel BLISS.

On motion of Mr. MILLER, the Senate then went into Executive session; and, after some time spent therein, adjourned.

IN SENATE.

TUESDAY, *March* 13, 1849.

Mr. MASON. Mr. President, the select committee to which was referred the certificate of election of the Hon. James Shields to a seat in this body, with instructions to inquire into his eligibility to that seat, have had the same under consideration, and, in the absence of their chairman, the honorable Senator from Missouri, [Mr. BENTON,] have instructed me to make a report accompanied with a resolution for the action of the Senate.

Mr. President, before the committee agreed upon their report, information was given to General Shields, through the chairman of the committee, that if he desired further time to exhibit evidence on his part, the committee would receive from him the next day any communication he might desire to make. On the next day the committee met at the usual hour of 11 o'clock, and, as no communication came from General Shields, they proceeded to make their report.

I have been requested, however, by General Shields to say to the Senate that he sent a communication in writing to the committee, but, owing to some inadvertence of his messenger, that communication never reached them. It has been since shown to me, and may be seen by Senators if desired.

I now present the report which the special committee instructed me to make.

The Secretary read the report and resolution, as follows:

The Select Committee to which was referred the certificate of election of the Hon. James Shields to a seat in this body, with instructions to inquire into the eligibility of the said James Shields to such seat, report:

That, having given due notice to the said James Shields, he appeared before them, and they took the subject into consideration.

They further report that the said certificate of election declares that the said James Shields was chosen a Senator of the United States by the Legislature of the State of Illinois on the 13th day of January last; that it further appears, and is admitted by the said James Shields, that he is an alien by birth, and the only proof before the committee of the naturalization of the said James Shields in the United States is contained in the copy of a certificate of naturalization in the circuit court of Effingham county, in the said State of Illinois, which is annexed to and made part of this report, by which certificate it appears that the said James Shields

was admitted by said court a citizen of the United States on the 21st day of October, 1840.

The committee therefore report the following resolution:

Resolved, That the election of James Shields to be a Senator of the United States was void, he not having been a citizen of the United States the term of years required as a qualification to be a Senator of the United States.

EX PARTE—JAMES SHIELDS.

This day personally appeared in open court James Shields, and made and filed the following declaration: James Shields, being duly sworn in open court, declares on oath that he was born in the county of Tyrone, in the kingdom of Ireland, on the 17th day of May, about the year 1810; that he emigrated to the United States while a minor, and continued to reside within the United States three years next preceding his arriving at the age of twenty-one years, and has continued to reside therein since to the present time; he is now upwards of twenty-one years of age, and has resided upwards of five years within the State of Illinois aforesaid, one of the United States; that it is his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to the sovereign of Great Britain and Ireland; and he further declares that for three years next preceding the present application it has been his *bona fide* intention to become a citizen of the United States.

JAMES SHIELDS.

Subscribed and sworn to in open court this 21st day of October, 1840. WM. H. BLAKELY, *Clerk of said court.*

This day personally appeared in open court James Shields, a free white person, upwards of twenty-one years of age, and applied to be admitted to become a citizen of the United States, and who, being duly sworn, declares on oath in open court that he will support the Constitution of the United States, and doth absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty whatsoever, and particularly of the sovereign of Great Britain and Ireland, whereof he was born a subject; and the court being satisfied that he has fully complied with the requirements of the laws of the United States on the subject of naturalization, and that he has resided within the United States upwards of five years, and within the State of Illinois upwards of one year next preceding this application, and that during the whole of the time of his residence in the United States he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same: It is therefore ordered and adjudged, that the said James Shields be admitted a citizen of the United States, and that he is hereby admitted as such.

State of Illinois, Effingham county:

I, John S. Kelly, clerk of the circuit court in and for the said county, certify that the foregoing is a true copy of the record of naturalization in the case of James Shields, entered, as appears upon the record, on the 21st day of October, A. D. 1840.

Given under my hand and private seal, there being no official seal yet provided for said court, at Effingham, [L. S.] this 31st day of January, A. D. 1841.

JOHN S. KELLY, *Clerk.*

The VICE PRESIDENT stated the question to be on the adoption of the resolution.

Mr. SHIELDS rose and spoke as follows: Mr. President, I shall take the liberty of saying a few words before the Senate adopt that resolution. It may be the only opportunity I shall ever have to address this body, and therefore I shall occupy its attention for a few minutes at this time.

The objection to my eligibility has arisen in this body itself. There is no competitor here to contest my right to a seat in the Senate of the United States. I had an honorable and a high-minded opponent before the Legislature of my State—a member of the opposite party, General Thornton—and, I think, from my knowledge of that gentleman, that no inducement could have operated upon him to come here and contest my seat on these grounds.

There is no memorial, no petition, no application from the State of Illinois questioning my right to a seat in the Senate of the United States. Though I have a large party opposed to me in that State—and an influential and a respectable party—though I have enemies in my own party, as all public men have, I have sufficient confidence in and sufficient knowledge of my State to believe that there are not five men in that State capable of presenting a memorial to eject me from the Senate of the United States on these grounds.

From the time I have resided there—seventeen years; from the number of offices I have there held—a member of the Legislature, requiring naturalization—an auditor of the public accounts, requiring naturalization—a judge of the Supreme Court, requiring the same qualification—Commissioner of the General Land Office—a general in the United States army—even, sir, three days Governor of Oregon—all requiring the same—and now Senator elect from that State—I think I may feel assured that my right would not now be contested by any citizen of Illinois. The gentleman who has raised the objection—the Senator from Wisconsin, [Mr. WALKER]—had a perfect right to do so. I do not complain, sir, of his conduct. Perhaps it was his duty to do so. But, sir, the objection having been made—the certificate of my State having been refused on the first day of the present session—the question having been referred to an honorable, a talented, and an influential committee, I have made up my mind, and have determined to act upon it, to remain entirely passive, to let the matter take its course, to submit to the decision of this honorable body, and to throw myself again upon my State. To my own State, sir, I shall appeal, and hear what she has to say; and if she deserts me now, if my State does not answer to the appeal which I am about to make to her, I will say further, that it is my intention (though I have endeavored to prove my fidelity to my country by every act of my life) never to offer myself again for office in the United States.

Mr. President, the committee have acted upon the evidence before them. They could give no other decision upon that evidence. If necessary I could explain that evidence now. I could explain the circumstances in which I have been placed. But, sir, I have been guilty of too much rashness already. I have been guilty of an indiscretion since I came to this city that has pained me more than would my ejection from this body. I have committed errors. I have committed a wrong in writing a letter to a gentleman, recently a member of this body. I acknowledge my error; I admit my fault before the Senate of the United States and before the country. When two kind, generous, and considerate friends called upon me and pointed out to me the improper character of that letter—(I hope the Senate will tolerate me in these remarks)—and the injurious construction of which it was susceptible, I authorized them to withdraw it immediately, and make any reparation in their power.

And now, standing here before the Senate of the United States—before this honorable body—and I would say it before the bar of God, to which I shall in time be called—I disavow the construction which has been put on that letter. I disavow it *in toto*. I am incapable of such a thought—I mean of menacing assassination. Sir, I could call up every man who has been acquainted with me in the United States to disavow so injurious an imputation. I could call up the gentleman who has put that construction upon my letter, and he, sir, could testify that, so far from menacing him with assassination, I hazarded and periled my own life in the town of Belleville, where I reside, by thrusting myself between him and assassination.

Mr. President, I do not make this statement by way of complaint. I make it for the purpose of extenuating my indiscretion, and to exculpate myself from the injurious imputation which has been attempted to be cast upon me. My determination is, sir, to submit myself to the action of the Senate. To the decision of this body I will bow submissively, and then I will go to my constituents and appeal to them to reinstate me here.

I wish, therefore, sir, no opposition to be made by any friend of mine to the adoption of the resolution which has been reported by the committee.

Mr. WEBSTER, (in his seat.) Very handsome, very handsome.

Mr. TURNEY. From the view which I take of the constitutional aspect of this question, I feel constrained to say that I cannot vote for any such resolution as is here presented to the Senate. I understand that the Constitution simply prescribes that a Senator, to be eligible to a seat here, must have been a citizen of the United States nine years, and that he must be thirty years of age before he is qualified to take a seat in this body. The committee who make this report state, that General Shields was naturalized in October, 1840, and that, consequently, he has not been a citizen of the United States nine years; but, sir, if he had only been a citizen of the United States three days, I could not vote for a resolution which assumes that he was eligible for election as a Senator, but not, after that election has taken place, to take a seat in this body. Suppose that he had been elected a boy, before he was thirty years of age, and presented himself six months after he had arrived at the age of thirty, would you declare him ineligible because of his minority at the time of his election? Surely, sir, if he is old enough when he offers himself for his seat, that is all the Constitution requires. I have heard it remarked, over and over again, that many gentlemen were elected as Senators before they were thirty years of age. I have heard it said of a distinguished gentleman from Kentucky, (Mr. Clay,) that he was elected a Senator previous to his arriving at the age required by the Constitution. Certainly this election was not founded upon the peculiar wording of the Constitution. When does General Shields become a Senator? Is it at the moment of his election? Surely not until he has taken his oath of office. I cannot vote for this resolution, notwithstanding the request of General Shields that we should forbear from making any opposition to the report of the committee. I could not satisfy my conscience or convince my judgment of the justice of the resolution, by acquiescing in the principle to be surrendered by its adoption.

One word further. The adjudication of this case, I think, should have been postponed upon the application of General Shields. I know nothing personally in relation to the citizenship of General Shields, but I am informed that the constitution of Illinois requires a member of the General Assembly of the State to have been a citizen of the United States. General Shields was elected to that body, and a committee was appointed to inquire into the fact of General Shields's eligibility, and they sustained him in his claim to a membership of that body. This fact might have been placed before the committee, I suppose; but that is a matter personal to General Shields, and with which I have nothing to do. I would simply remark, that in relation to the construction given to the Constitution in the report of the committee now before us, I entirely disagree; I cannot, therefore, vote for the resolution.

Mr. FOOTE was understood to coincide with the remarks made by the Senator from Tennessee, [Mr. TURNEY;] but at the request of several Senators around him, he would not enter into any remarks at length upon the question; he would simply move that the further consideration of the resolution be postponed until the first Monday in December next.

The PRESIDING OFFICER stated the question, when—

Mr. MASON inquired if the motion was debatable.

The PRESIDING OFFICER replied in the affirmative.

Mr. MASON. From what has fallen from Senators in this discussion, it appears proper that I should say a few words with reference to the course of the committee upon this question. The case, as it stood before the committee, is shown by the document which has been made a part of their report, which is a copy of the record of a court of competent jurisdiction in the State of Illinois. That record shows that General Shields was naturalized in the State of Illinois in the month of October, 1840. That record also, containing evidence which it was necessary to exhibit to the court to entitle General Shields to naturalization, shows, first, that he was of foreign birth; and, secondly, that he became a naturalized citizen of the United States in October, 1840. That was the position of the case as it stood before the committee. As I remarked a few minutes ago, General Shields was informed by the committee, after this evidence had been referred to them, and before they had acted on the subject, if he desired to exhibit any evidence on his part, to alter the case, as it appeared from the record, or if he desired time to enable him to produce such evidence, they would receive such communication from him, at their next meeting, of which he was then notified. As I remarked on presenting the report, no such communication was received; and the committee accordingly proceeded to prepare their report on the facts before them. After that was done, and the day following, General Shields called on me, and stated that he had sent a note in writing to the committee pursuant to their suggestion; but, by mistake of his messenger, it was not delivered; that note was shown to me; but, on consultation with some members of the committee informally, it was determined, and, as I understood, with the assent of General Shields, that if he desired any action upon the contents of his note, it should be by communicating it to the Senate. The case, then, as presented, is, first, that he was of foreign birth; and, secondly,

that he was naturalized in October, 1840; and upon these facts the committee have made their report, as it is now presented.

I believe I am correct in saying that the committee, in the course of their deliberations, took as their guide the case of Mr. Gallatin, as it is set out in the Journal of the Senate. The case of Mr. Gallatin substantially was this: Mr. Gallatin was born in Geneva in 1761, and came to this country in 1780. He remained in this country, by turns a resident of various States. In the year 1783 he went to Virginia, and in the month of October, in the year 1785, he took the oath of allegiance in that State. In December, 1785, he removed to Pennsylvania, where he purchased land and became a permanent resident. He was elected, in 1789, a member of the Convention which was called to amend the constitution for the State of Pennsylvania, and subsequently he was, for three successive years, elected a member of the Pennsylvania Legislature. In February, 1793, he was elected a Senator of Pennsylvania, and he came to the Senate and took his seat in December following. Referring to the date of his naturalization, as stated in the report, it appears that from the time he took his oath of allegiance in Virginia, in 1785, to the period of his election as Senator in February, 1793, that he had not been a citizen of the United States for the time required by the Constitution, which is nine years, nor had that term expired when he took his seat in December following. The committee appointed to investigate his case made their report to the Senate, setting forth these facts—facts agreed to by Mr. Gallatin on his part, and also on the part of the remonstrants from Pennsylvania. In the Senate, upon the coming in of the report of the committee, a resolution was offered in these words:

"*Resolved*, That Albert Gallatin, returned to this House as a member from the State of Pennsylvania, is duly qualified for and elected to a seat in the Senate of the United States."

This resolution was rejected by a vote of fourteen nays to twelve yeas.

Mr. CASS. Will the Senator from Virginia read the names?

Mr. MASON read as follows:

"Those who voted in the affirmative were—

"Messrs. Bradley, Brown, Burr, Butler, Edwards, Gunn, Jackson, Langdon, Martin, Monroe, Robinson, Taylor—12.

"The nays were—

"Messrs. Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, Hawkins, Izard, King, Livermore, Mitchell, Morris, Potts, Strong, Vining—14.

"A resolution was then offered in these words:

"*Resolved*, That the election of Albert Gallatin to be a Senator of the United States was void, he not having been a citizen of the United States the term of years required as a qualification to be a Senator of the United States.

"A motion was made to divide the question at the word 'void;' and

"On motion to agree to the first paragraph of the motion so divided, it passed in the affirmative: Yeas 14, nays 12.

"On motion to adopt the resolution, as follows:

"*Resolved*, That the election of Albert Gallatin to be a Senator of the United States was void, he not having been a citizen of the United States the term of years required as a qualification to be a Senator of the United States.

"The vote was, ayes 14, noes 12; and so the resolution was carried."

Mr. DOUGLAS. I would inquire of the Senator from Virginia whether, in Mr. Gallatin's case, it appeared from the report of the committee that the election was void because he had not been nine years a citizen, or because it did not appear that he was a citizen at all?

Mr. MASON. I can only answer by referring to what appeared in the proceedings. The committee reported the facts, as exhibited in evidence before them, and which went to show that Mr. Gallatin was of foreign birth. In the Senate a paper was presented showing the facts as agreed between Mr. Gallatin and the remonstrants, in which paper it was stated that he took the oath of allegiance in Virginia, in October, 1785. How far the Senate was governed by the proof of the date of citizenship, can be gathered only from the conclusion at which they arrived, as it is embodied in the resolution that was adopted. When the case came before the committee, evidence was exhibited on the part of the remonstrants to show that Albert Gallatin was of foreign birth, and then not entitled to a seat in the Senate; that evidence is embodied in the report of the committee. The committee then gave notice to Mr. Gallatin that it was necessary that he should exhibit evidence on his part; the resolution adopted by the committee was in these words:

"*Resolved*, That, in the opinion of the committee, it is now incumbent on Mr. Gallatin to show that he has become a citizen of the United States, and when."

Mr. Gallatin replied, if I may so speak, in the nature of a demurrer, that he did not consider that a sufficient case had been made out against him to require evidence on his part, and that he would exhibit none. In that form the case was reported to the Senate. A statement of facts was afterwards submitted to the Senate by Mr. Gallatin, which set forth, among other things, that he had taken the oath of allegiance to the State of Virginia in October, 1785. How far the Senate, in adopting the resolution that was adopted, considered Mr. Gallatin to have become a citizen by virtue of the oath of allegiance, can only be inferred from the tenor of the resolution which contained the sense of the Senate on the case as it stood.

The resolution stated that his election was void, he not having been a citizen of the United States the term of years required as a qualification to be a Senator of the United States. The construction which I should give to the resolution is, that by the oath of allegiance, Mr. Gallatin having become a citizen of the State of Virginia before the adoption of the Constitution of the United States, and removing afterwards to Pennsylvania, he became entitled by the Constitution, when it was adopted, to the same rights and privileges which he had enjoyed in Virginia—one of which was that of citizenship. In other words, that when he removed from Virginia to Pennsylvania, he carried his citizenship with him. The expression in the resolution is not that he was not eligible to a seat in the Senate because of not being a citizen, but because he had not been a citizen of the United States the regular term of years required by the Constitution.

Thus, Mr. President, I have endeavored to explain, in answer to the Senator from Tennessee, [Mr. TURNEY,] the views taken by the committee, as the case was before them.

Now, with reference to the proposition which has been made by the Senator from Mississippi, [Mr. FOOTE,] I mean to express no opinion at present. The communication intended to be made to the committee by General Shields, asking a postponement of their action, did not reach them, as I before stated, owing to a mistake of the messenger charged with its delivery. The report was made up, the committee had adjourned, and an order given to present the report to the Senate, before it was known that General Shields desired to make such communication. If it is the desire of General Shields now to ask for an extension of of time, that will be a proper question for the Senate, upon which at present I shall express no opinion.

Mr. FOOTE. I rise simply for the purpose of explaining the object which I had in view in proposing the motion which is now before the Senate. I certainly do not intend, in the least degree, to call in question the action of the committee. I would not, even if I had been disposed to do so, on account of my not being inclined to concur with the committee in opinion, have felt authorized to do it, after the suggestions which have fallen from him who is the most interested in these proceedings——

Mr. MASON. I did not understand the gentleman as questioning the action of the committee; on the contrary, I have understood on all hands that the action of the committee was not questioned; but it was at the instance of the Senator from Tennessee, who desired to know what facts were before the committee, and what reasons led to the conclusion to which the committee arrived, that I made the explanation.

Mr. FOOTE. I so understood it; and I did not conceive that I was misunderstood by the Senator from Virginia; but, for fear that others might misunderstand the object, it appears to me to be proper that it should be explained. I do not intend to interfere in the merits of this controversy in any shape or form, further than to notice the argument that was addressed to the Senate by the Senator from Tennessee, which appeared to me to have much cogency in it, and I was inclined to coincide in the view stated by him. But it is unquestionably the fact that a mistake has occurred, a misunderstanding of a grave and serious character has arisen. Nothing is more certain; for it is asserted on one side, and not denied on the other, that the committee had reason to expect that the effect of the communication which General Shields was invited to send to the committee would be to postpone further action in this matter until sufficient time should elapse within which he would be able to supply ample and satisfactory testimony concerning this whole affair. The communication, it seems, was drawn up and dispatched, but was not received, which communication, if it had been received, would have been respectfully entertained, according to the previous distinct understanding between the claimant and the committee, and would have had the effect of accomplishing the object which I propose to accomplish by the motion which I have made.

Mr. WEBSTER. I wish to suggest one thing to the gentleman from Mississippi. The chairman of the committee who has addressed the Senate this morning has stated, that owing to the miscarriage of the communication of the honorable member from Illinois, the committee made up their report, and were ready to report yesterday to the Senate, and an intimation was made to the honorable member from Illinois that the committee were about to make their report. It then appeared that the communication which had been addressed to the committee had not been received, and the report was postponed until to-day, to give the honorable member time to consider whether he thought his interests would be promoted by moving for delay, or whether he thought his interests would be promoted by acquiescing in the decision of the committee, and of the Senate thereon, without making any further communication to the Senate. In pursuance of his reflections upon the subject, I presume he has come here to-day to say that he wishes no opposition to be made to the report of the committee.

Mr. FOOTE. So I understand; he wishes no opposition to be made. Yet, as a member of this body, I feel bound to adhere to the motion I have made, because I am not willing to see a spirited man betrayed into a position of embarrassment by the high impulses of his generous heart. I am not going to offer any opinion of my own, but I have heard the opinion expressed by distinguished legal gentlemen that it is at least possible that the claimant would be more favorably circumstanced next winter, when he will undoubtedly appear before us with a new certificate of election if we abstain from adjudication.

Now, one word in continuation of the remarks with which I set out. A mistake has occurred—that is acknowledged—in consequence of which the report was made up and ready to be brought to the notice of this body. It was but natural that, after the report was made up, and the public had become more or less—as must inevitably be the case—apprised of the nature of the report, and the unanimity with which it was adopted, the individual claiming his seat would feel more or less disinclined to urge his claim to postponement, as originally proposed by himself; therefore it is, I presume, that he has declined making the communication which the generosity of the committee allowed him to bring forward yesterday. Well now, sir, I understand that the member from Illinois, the gentleman to whom we have all listened with so much admiration and sympathy this morning, whilst he delivered a speech which would do honor to any man—a speech conceived in the true American spirit—alike becoming his own high character and the body to which it was addressed: I understand the gentleman himself to acquiesce thoroughly, fully, cordially in the decision of the committee. I understand him to complain of the action of no member of this body. I understand him clearly and distinctly to announce that my honorable friend from Wisconsin had only done his duty in the matter; that he was only actuated by high motives, which entitled him to commendation and respect, instead of censure and condemnation. He says he acquiesces in the judgment of the committee. Is not that sufficient? He does not call the decision of the committee in question himself. He says more than that, sir—and I was delighted to hear such language from his lips, though it was certainly only such as I expected to hear from him—he says his appeal will

be to the sovereign State of Illinois, to the people among whom he has lived for seventeen years, and by whom he has been so generally honored—the people by whom he is best known, but, he will permit me to say, not perhaps the most highly appreciated; for his fame is recognized as belonging to the moral treasures of this Republic, and the hearts of all American citizens are full of sympathy for him, and of gratitude for the distinguished services he has performed on the battle-fields of Mexico.

He has said, most nobly, that he submits himself to the sovereign State of Illinois. Is not that sufficient? Why, the correctness of the report is not questioned; the decision of the report is not denied, by him at least. Why not give him, then, full credit for the magnanimous course which he is resolved to pursue? Why not let it be understood now, and at all times, here and elsewhere, at home and abroad, that, in throwing himself before the people of Illinois, he does so at the instigation of his own feelings, and not under compulsion in any form? I can see no good that can possibly arise from further action in this matter, and I must insist on the motion I have made, unless the Senator from Illinois shall urge me to desist. I do hope that the Senate will so vote as to place this gentleman in his true attitude before the American people, and administer a complete solace to those wounded feelings of his heart which have been so severely lacerated.

Mr. BUTLER. I understand the motion to be to postpone the further consideration of this subject until the first Monday in December next. If, by the postponement of the question, the gentleman claiming a seat here as one of the Senators for the State of Illinois could then take his seat as such Senator, I would certainly vote for the motion. But this is a matter that is not without its difficulties. I certainly do not acquiesce in the decision of the committee, if it be assumed that the ineligibility attaches at the time of the election. I have never understood the doctrine in that way, and it is not by any means to me a new subject; for in my own State questions of the same sort have been argued and decided. And I believe the decision in that State to be this: that although at the time of the election the candidate may not be eligible, yet if he be eligible at the time when the functions of office devolve upon him, he may take his seat and assume the duties of the office. I make a wide distinction between the time of the election and the time of entering upon the duties of the office. And if the committee have regarded that distinction, as in the case of Mr. Gallatin, I shall be satisfied. I should be glad to know from the committee, whether they rested their decision exclusively upon the ground that General Shields was not eligible at the time when he was elected? But there is another view to be taken of this matter, and it is, whether the seat is to be considered vacant on the ground that General Shields was not eligible at the time he presented himself to be sworn, because he would then have been required to discharge the duties of the office; and, if he was not at that time eligible, whether the seat must not be considered entirely vacant, and whether he will not be under the necessity of going back for re-election, as, with entire confidence that he will be reëlected, I hope he will.

But if it can be shown that in December next, when Congress shall again meet, General Shields can take his seat, I shall vote for the postponement. If he cannot then take his seat, then the postponement would be entirely unavailing; it would be protracting the matter to no purpose to adopt the motion of the Senator from Mississippi, or so it seems to me. I dissent, then, so far as I am concerned, from the report of the committee, and I do so by virtue of precedents in my own State and the case of Mr. Gallatin. And you must recollect the way in which parliamentary law is made. We ought not hastily to act upon that which is not fully established by authority. I am inclined to think the precedents will be found to be otherwise.

Mr. FOOTE. Will the Senator allow me to ask whether he believes, if the subject should be postponed until the first Monday in December, General Shields will then be entitled to take his seat?

Mr. BUTLER. This is the view that I take of it: My judgment on the subject is, that if General Shields had not taken his seat at all, perhaps at that time he might have claimed it; but, having taken his seat, and having thereby been required to discharge the duties of the office, he must vacate the seat and go back for reëlection. I acquiesce in that opinion; but if gentlemen will make good the proposition that on the first Monday of December next, if the matter be postponed until that time, he will be entitled to take his seat, I certainly will vote for the postponement. I do not say that I have any opinion upon the subject, one way or the other, as to whether, under the circumstances, he will then be entitled to take his seat; but I am fully of opinion that there is no absolute necessity for eligibility to exist at the time of the election.

Mr. FOOTE. I do not feel authorized myself to argue the point. My object in making the motion was to give General Shields the opportunity to enjoy all the credit to which he is entitled by carrying out the determination which he has announced here of throwing himself upon the people of his State. I wish that act to be entirely voluntary on his part, and not coerced by any decision of the Senate.

Mr. BUTLER. That is a different view altogether. I merely wish to support the constitutional view of the question. If I thought he could not constitutionally take his seat, and that it must be considered vacant, I should be bound to vote for the resolution reported by the committee; but I think the report has not made the judgment of the committee definite enough for me to vote for it. If General Shields now, or any of his friends, should ask for further time, in order to show that he has a right to claim the privileges of citizenship, I would unhesitatingly give him the time to do so. I would give it for any purpose, if it were asked for.

Mr. FOOTE. I understood the Senator from Illinois to say that he would throw himself upon the people of his State; I suppose that he meant to do so by resignation.

Mr. BERRIEN. I have listened with gratification, as I presume every Senator has, to the remarks of the gentleman who is claiming a seat in this Chamber; and I may be permitted to say that the course he has indicated as the one which he intends to pursue is, in my judgment, the most frank, manly, and honorable course that could be taken—honorable to himself, and just to the Senate and the country, in view of the constitutional difficulty, because, according to the report of the committee, we cannot recognize him, if we affirm that report, to be qualified to take his seat in the Senate of the United States; yet he is justly entitled to be recognized as a citizen of the United States. The course which has been indicated, I say, is one which is honorable to himself, and I have regretted that any discussion should have taken place upon this question calculated to obstruct, as I think the motion of the honorable Senator from Mississippi is, the full and free operation of a course which seems to me to be so just.

Sir, I cannot entertain a doubt myself of the correctness of the report of the committee. I cannot conceive the idea of eligibility of an individual to office, which office he cannot fill at the time of his election. I cannot conceive that the Legislature of Illinois exercises the power conferred upon it by the Constitution of the United States, when that Legislature elects one who is ineligible; and I cannot reconcile to myself the idea that, since by the Constitution the term of office is limited to six years, that term of office may be made to commence at a time posterior to the time when the individual is elected.

I do not mean to discuss this point, however, but merely to suggest to the Senator from Mississippi the idea which strikes my mind, and which satisfies me that the course he proposes is calculated to obstruct the views of the gentleman whose eligibility is here brought in question. So long as the question remains undecided by the Senate there can be considered no vacancy in the office of Senator for Illinois, so as to entitle the Legislature of that State to make a new selection. They have acted upon their constitutional right, and have elected a Senator. His credentials are an evidence of that fact; and his right to a seat in the Senate of the United States is unquestioned but by the report of the committee, which is totally inoperative until it receives the sanction of the vote of this body. It will be, therefore, impracticable, in my judgment, for the Legislature of Illinois, when they meet again, to proceed to nullify their own act by electing a Senator again to fill the same office. Until the election be declared void, there is nothing upon which they can act. In view, therefore, of the just and honorable course proposed by the gentleman himself, it does seem to me that it would be obstructed by the motion of the Senator from Mississippi to postpone until the first Monday of December the further consideration of this question. Under these circumstances, it would be impossible for the Legislature of Illinois to proceed to a second election. We know by the evidence before us that this gentleman, who is already a citizen of the United States, and already honored by the confidence of the people of his State, will in October next be qualified to receive the honor which they desire to confer upon him; and he has indicated his intention to appeal to the people of his State; it is but just to him, therefore, that no obstruction shall be thrown in the way of the course which, upon reflection, he has chosen to adopt.

Mr. DOUGLAS. The state of my health would not allow me to indulge in many words on this occasion, even if I were so disposed. My object in rising is chiefly to suggest that the resolution of the committee has perhaps been based upon a wrong construction of the Constitution, in declaring that the election was void. I think, sir, that an examination of the Constitution of the United States will satisfy the Senate that this election was not void, whatever may be their opinion as to the right of General Shields at this time to have a seat in this body. And if the election was not void, I, as a Senator from Illinois, am not aware that a vote of this Senate should say that the Legislature of Illinois have performed an act that is void. I think that other terms might be used that would be more delicate, and I firmly believe more consistent with the truth. The Constitution of the United States prescribes three requisites to render an individual eligible to a seat in this body. The first is, he shall be thirty years of age; the second, that he shall have been nine years a citizen of the United States; and the third is, that he shall have been at the time of his election an inhabitant of the State by which he is elected. Inhabitancy must exist at the time of election. Thirty years of age is not a requisite at the time of election. Nine years citizenship is not required to exist at the time of election. The language of the Constitution is clear and specific upon this point, and it has so been understood. Sir, it was so understood, I apprehend, when Mr. Clay was elected to a seat in this body at twenty-nine years of age; it was so understood, I apprehend, when Andrew Jackson was elected to this body at twenty-nine years of age, but became thirty before he was sworn in; it was so understood, I apprehend, when the late Senator from Alabama was elected to the House of Representatives at twenty-four years of age, and became twenty-five before he was sworn in. It is not necessary to cite more cases upon this point, though there are cases innumerable which might be referred to, showing that, as far as eligibility is concerned, the specified age and term of citizenship is not required to exist at the time of election. I will read the language of the Constitution:

"No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of the State for which he shall be chosen."

Thus you see that the first two qualifications, age and citizenship, are required to exist only at the time the person becomes a Senator; the other qualification is to exist at the time of the election, which precedes, in some cases, the time of his becoming a Senator twelve or fifteen months—as in the case of the Senator from Georgia, who was elected for more than a year before he took his seat. The Constitution does not contemplate, therefore, that these two qualifications should exist at the time of the election, but inhabitancy is required at the time of the election, in order to remedy the abuses which existed in England in reference to the selection of non-resident representatives. Hence the reason of requiring inhabitancy at the time of election.

Sir, there have been some decisions in the House

which bear upon this point; but I do not deem it necessary to go into them at this time, because I firmly believe that the language of the Constitution, if carefully examined, will show that this is the true construction of it. And, sir, I regard it as being important that the Constitution should receive a true construction in this case, for two reasons: first, it is important, because, if we decide that not having been for nine years a citizen of the United States at the time of the election is a disqualification, it will be held as a precedent to govern future cases; and, secondly, it is a reflection on my State for electing a person whose election was void at the very time when he was so elected. But, in regard to the first, this construction is to be put upon the clause of the Constitution now, because the committee say that the same construction was placed upon it in Mr. Gallatin's case. If we are to take up a decision heretofore made, and be governed by it in regard to the construction to be given to the Constitution, no matter how erroneous that opinion may be, I apprehend it will be a difficult matter to reverse that decision after it has again been confirmed by a vote of the Senate at a period of fifty or sixty years distant from the time of the first decision. And, sir, I do not understand that such a construction was given in Mr. Gallatin's case. I think that the Senator from Virginia who made this report is, to some extent, mistaken in comparing it with Mr. Gallatin's case. I recollect Mr. Gallatin was held not to be a citizen at all. I know, at least, that has always been the impression on my mind in regard to that case. Mr. Gallatin was an alien by birth; he had been in this country for some years, and went to Virginia and purchased lands. It was found that he was about to forfeit the lands that he had purchased, because he was an alien; but there was a statute of the State of Virginia which authorized aliens to hold lands in that State, provided they would take an oath of allegiance; and Mr. Gallatin, though residing in another State at the time, in order to save his lands in Virginia, did take an oath of allegiance to the State of Virginia. And that is the state of facts agreed upon in the report which has been referred to. "Between 'this last-mentioned period and the month of Octo-'ber, 1785, he purchased lands in Virginia to a 'considerable amount, and took an oath of alle-'giance to the State of Virginia," &c.

Whether he complied with the naturalization laws of Virginia does not appear. My impression is that he did not take all the requisite steps to make himself a citizen of the State of Virginia, but that he merely took the oath which would enable him to hold lands in that State, under a statute having the right to confer special privileges without making the person possessing those privileges a citizen. The Senator from Virginia is also mistaken in saying that the nine years in Mr. Gallatin's case had run, from the time he took the oath of allegiance to Virginia, before the time of taking his seat in the Senate.

Mr. MASON. I think, if the Senator will look at the record, he will find that, as far as I stated the facts that form the report, I stated them correctly.

Mr. DOUGLAS. I find in the report the following statement: [Mr. DOUGLAS quoted from the report.]

That would make the nine years run into October, 1794. Mr. Gallatin was elected to the Senate from Pennsylvania in February, 1793, and took his seat in December following, which would be, according to the report, before the nine years' citizenship had expired. Hence the question did not arise, whether the naturalization of Virginia was a good naturalization or not; nor did the question arise on that occasion, whether the period must have been matured at the time of the election, or at the time of taking his seat. Hence the committee will find that they have entirely mistaken the Gallatin case, when they quoted that case to sustain the conclusion at which they have arrived in this case.

I therefore insist that this resolution which declares the election to be void is erroneous, and that it must be in one or other of these forms, viz: that General Shields, not having been a citizen of the United States for nine years preceding the 5th of March, 1849, therefore he is not eligible; or that General Shields, not having been a citizen for nine years, is not eligible to a seat in this body. That may be the case. The only doubt on my mind is, whether the time is to be matured at the period when the functions of the office as Senator would devolve upon him, or whether at the time when he is sworn in. I am inclined to think, from the language of the Constitution, that if he is eligible at the time he is sworn in, that is all that is required; and that if he is sworn in before he is eligible, and becomes eligible before you get him out, you cannot oust him from his seat at all.

The language of your resolution, then, must be, that General Shields is not now eligible to a seat in the Senate of the United States. Will you turn a man out who is now eligible? Certainly not, if his election was not void, and I apprehend it was not void at the time when it took place. And the Senate, upon examination, will see that the election was not void, although it may be that he is not entitled to hold his seat here. Upon the face of the record attached to the report it would seem that he is not now entitled to hold his seat here, though it may be that the report is susceptible of explanation. I would have liked very much to see whether the report was not capable of some explanation. The Senator says there it is, I can examine it. I have examined it; and if I were disposed to be technical, I might ask the Senate to disregard it. It is no record at all.

Mr. WEBSTER. We have the admission that he is a foreigner by birth.

Mr. DOUGLAS. Whether we have the admission of his being a foreigner by birth or not, does not make the least difference. The question for the committee to determine is not whether he is a foreigner by birth, but whether he has been a citizen of the United States for nine years. The committee are perhaps correct in the conclusion to which they have come upon that point. I will not undertake to say that their statement can be disproved. I was merely endeavoring to show the reason why I would like to see the report reversed. Some years ago General Shields and I served in the Illinois Legislature together. It required citizenship to make us eligible. I know some question was raised out of doors as to his eligibility at that time, but I do not recollect that there was any formal decision of the question. I believe a resolution was offered, and it was afterwards withdrawn. He was afterwards made Auditor of Public Accounts for that State, about the highest civil office in the State. Subsequently, he was elected Judge of the Supreme Court. And, sir, I would like to see upon what ground it is that resistance is now raised against General Shields holding office, when for many years past he has been filling important stations without a question being raised. What is it that has heretofore hushed the voice of his enemies, so that not a whisper was heard as to a violation of the Constitution or of the rights of the State? And this has been going on for years, everybody acquiescing, and the State Legislature time and time again affirming his appointments to the highest offices in the State, until at length they have sent him here. And, sir, it certainly appeared to me that it was a little indecorous towards that State for this body to raise an objection which no man in the State ever thought of raising, and to turn out of these halls the man upon whom the choice of the State fell.

I thought, sir, that it was a duty which devolved upon me, as representing that State in part, to make these suggestions; and, sir, but for the appeal that has been made by General Shields to myself, I should have insisted before this body that the report of the committee should be disagreed to. I feel it my duty to make this statement now. I do not know but that if I were in General Shields's place, I would take the course he has taken; I think I would. I think I would say, that inasmuch as no human being can be found in my own State to raise this objection—although like other men he must have enemies—inasmuch as they have hushed their voices for years, I would submit and go back; but on behalf of the State perhaps I would be induced to act somewhat differently. I would therefore have been glad to see this case postponed. I think it might have been better for all parties if that course had been taken. No inconvenience could have arisen out of it; certainly none to the Senate, because we are almost ready to adjourn, and are all anxious to adjourn. There is to be no session of the Legislature of Illinois before Congress meets again. The State would not then be deprived of any opportunity that she would otherwise have had of electing another Senator.

The Legislature of Illinois does not meet, under the constitution of the State, until a year from next January, though there may possibly be an extra session within that time. To postpone the question, then, until next December could operate no inconvenience to the Senate and no inconvenience to the Legislature of Illinois. And what makes me the more sensitive on this point is, that it may be considered questionable whether, under the resolution which is reported by the committee, and proposed to be adopted by the Senate, the Governor of Illinois could appoint at all. This body so decided in the case of the Senator from Connecticut, when the period of service of the Senator having expired, and no election being had, the Governor of the State could not appoint, and the State had to remain unrepresented until the next meeting of the Legislature.

Mr. BADGER. The Senator has mistaken the character of that case. There was an approaching termination of the Senator's term, and the Legislature had not provided for filling the vacancy, and the Governor undertook to fill by appointment in February a vacancy which was to occur on the 4th of March. The Senate determined that the commission was void, because the Governor could do nothing but fill an existing vacancy.

Mr. DOUGLAS. It is the principle that I am contending for; and the principle that has always been acted upon is this, that when a Senatorial term expires, and there is no session of the Legislature held, the Governor cannot appoint to fill the vacancy merely because the Legislature has failed to do its duty. Tennessee was without Senators for one whole Congress, I believe; and other States have gone unrepresented. Iowa was unrepresented for two years. It is true, she never had been represented in the Senate of the United States; but the reason why the Governor could not appoint was, it was not a vacancy, within the meaning of the Constitution, which gives the appointment to the Governor of the State. Now, you propose to decide by this resolution that the election was void. Well, the election being void, there was no election. So, then, you propose to decide that there was no election in Illinois at all. Hence there will be no such vacancy as will authorize the Governor to make the appointment. You are going to say, therefore, that Illinois shall be unrepresented from this time until a year from next January, when the Legislature again meets under the constitution of the State. You have either got to do this, and disfranchise the State for that length of time, or else put the State to the expense of holding a special session of the Legislature. I do hope, especially as the clause of the Constitution under which you are acting, does not require you to make any decision, that the language of the resolution, if passed at all, will be changed so as to recognize the legality of the election; then you can pass your own opinion as to whether an applicant here has a right to retain his seat or not. The election may have been valid, and yet you may have the power, under the Constitution, to vacate it.

Mr. WEBSTER. I am very sorry that this debate has arisen; if it had not been entered upon at all, it would have been more satisfactory to the Senator from Illinois himself; but I perceive that it is likely to be extended, and as I differ entirely with the honorable Senator who has just resumed his seat in regard to the construction of the Constitution, I am desirous of addressing to the Senate a very few words on the subject.

I hold, most unquestionably, that the election was void, because the person upon whom the election fell was not competent to discharge the functions of the office that was intended to be conferred upon him; that is to say, to be a Senator from the 3d of March, 1849, for six years. Now, if he could not be a Senator from the 3d of March for six years, then he was not eligible for the Senatorial term, and it might just as well be said that he might be elected when he had been a citizen six years, and await the lapse of three years before commencing his period of service, as it may be said that he may be elected and await the lapse of

nine months. That proposition is so clear that I think a little reflection will satisfy every gentleman on the subject.

But my purpose in rising was—for I dare say there are other gentlemen who desire to be heard on the subject—to move that the further consideration of the report be postponed until to-morrow.

The motion was agreed to, and the Senate went into Executive business.

IN SENATE.

WEDNESDAY, *March* 14, 1849.

The VICE PRESIDENT stated the question to be on the motion made yesterday to postpone the further consideration of the resolution declaring "that the election of James Shields to be a Senator was void," &c., to the first Monday in December next.

Mr. WEBSTER. Mr. President, I heard it suggested in some quarters of the Senate yesterday that the resolution as it stands may be made acceptable, probably, with the addition of a word or two, in some degree explanatory. Such a suggestion was made by the honorable member from Maine, and, I believe, by the honorable member from New York.

Mr. HAMLIN. Not by me, but by my colleague.

Mr. WEBSTER. If, therefore, the honorable member from Mississippi [Mr. FOOTE] will allow his motion to be withdrawn, and the resolution be so qualified, the Senate may dispose of the subject at once; or it may be done if the Senate decide adversely on the motion to postpone.

The question was then taken on the motion to postpone, and it was not agreed to.

Mr. DOUGLAS rose and said he would like to have the question distinctly understood, and that the vote should be taken by yeas and nays.

The yeas and nays were ordered.

Mr. DICKINSON. Before the question is taken, I should like to know whether the person most interested in it desires the proposed postponement. He has not asked for it, and if he does not, I see no reason why we should vote for it.

Mr. RUSK. I shall vote for the postponement. I see no injury that can result from it. At the commencement of the next session of Congress there will be very little business before the Senate, and the important questions which this case involves can then be maturely considered. The postponement will give every Senator an opportunity to examine the case, and it will afford the claimant himself time to reflect on the matter; and if he becomes satisfied that he is ineligible by the Constitution of the United States, it will put him in a position in which he can resign his seat and allow the Legislature of Illinois to reëlect him.

Mr. DOUGLAS. The Legislature of Illinois will not meet again for a year from next January.

Mr. RUSK. Under these circumstances, I will vote for the postponement.

Mr. ATCHISON. If the claimant for the seat asks for a postponement, I will vote for it. If he, or his friends on his behalf, will say that they expect to introduce further testimony to show that he is entitled to his seat, I will most cheerfully vote for it; but I do not believe that it would be at all beneficial to him, unless he does expect to be able to produce further testimony. On the other hand, I believe it would work an injury to him. It strikes me that the only question involved in this matter is this: Was General Shields eligible to a seat in the United States Senate at the time of his election, or at the time that his Senatorial functions commenced, on the 4th day of March? To make him eligible, he must have been a citizen of the United States for nine years; and from the testimony before us, he was not. The term of nine years since his naturalization will not have expired before the 21st of October next, so that there cannot, by any possibility, any good result to him by a postponement. If I could believe that by postponement he would then be eligible, I would vote for it; or if General Shields will suggest, or any friend for him, that they have further important testimony to offer, I will not ask what it is, but I will vote for the postponement. If he can make out a stronger case for himself than he has hitherto presented, I will afford him an opportunity to do so, so far as my vote will go towards the accomplishment of that object.

Mr. SHIELDS. Lest my silence should be mistaken, I will take the liberty, Mr. President, of stating, that when I sent the communication to the committee, which, by the inadvertence of my messenger, was not delivered, I intended never to return to this body, to subject myself to the annoyance to which I have been subjected; I did not intend to return, unless I could come with the most incontestable evidence of my right to a seat. If I could not obtain such evidence, it was my intention to resign at my own time, and in my own way; and then, if I returned at all, it should be with a new appointment. Such were my intentions when I attempted to present a communication to the committee which has had this matter in charge; and, as that communication failed to reach them, and as the report now stands adverse to my claim, I felt, as I said yesterday, that I would make no further effort. At that time I felt that I should derive some advantage from a postponement. I thought it would give me an opportunity to seek for further testimony; and if I failed to procure it, I could resign at home, where I could present to the Governor of my State my resignation, and come back with an appointment from him, if he would give me one; or wait for the meeting of my State Legislature, and then ask for a reëlection. Now, sir, I shall quietly and passively submit to the decision of this honorable body.

Mr. SEWARD I am unwilling to vote against the postponement, which might seem to be an act of courtesy, if it was desired by the Senator from Illinois, whose seat is the subject of the present question. But I cannot shut my eyes to the consequence of voting for a postponement, unless that vote shall be understood, with the reasons and the ground for it. The view which I have taken of this subject is in part that which has been taken by the Senator from Illinois, [Mr. DOUGLAS.] The qualification of naturalization for a period of nine years, is a qualification which is not required at the time of election, but a qualification which must exist at the commencement of his term of service; and I had risen for the purpose of suggesting an amendment to the resolution yesterday, when the Senator from Massachusetts rose and moved the postponement of the question—an amendment which would have made the resolution express that what I believe the Senator from Massachusetts now desires it to express, namely, that the Senator from Illinois is not entitled to a seat in this Senate. If, then, the question is now on postponement, a vote for a postponement would be——

Mr. WALKER. Will the Senator from New York allow me to call his attention to the terms of an amendment which I have prepared? It is in these words:

Resolved, That the Hon. James Shields is ineligible to a seat in the Senate of the United States, as a member thereof.

Mr. SEWARD. I suppose that resolution would meet my views, unless there be some criticism on the word "eligible," instead of the word "entitled." Now, a vote to postpone the further consideration of this case to December next, implies a want of preparation to vote on the case as it exists now; or else it may seem to imply a belief on the part of those who vote for it, that a different case may be presented at the next session. But I agree with the Senator from Missouri, [Mr. ATCHISON,] that this case is not to be changed, unless it be by presenting evidence to show to the Senate, at its meeting in December, that the Hon. James Shields had been naturalized nine years prior to the 4th of March. If the Senator from Illinois, or his friends for him, will say that they expect to be able, or hope to be able to furnish evidence of that kind—evidence going to that conclusion—it is a courtesy due to the Senator, and due to the State of Illinois, to grant a postponement. But if the Senate is to be left with the conclusion that the facts upon which this report is based cannot be changed, it strikes me that those only can vote for a postponement who are not prepared to say that naturalization for nine years previous to the 4th of March is a qualification for a Senator. It is under these views that, while, as an act of courtesy, if it were required, I would vote for a postponement, I cannot vote for it because my mind is made up on the present aspect of the case, and that the qualification cannot mature or ripen before the first Monday of December next, or any future time.

Mr. DOUGLAS. Will the Senator permit a word of explanation? I did understand my colleague to say that he hoped to produce evidence which would render his seat at the next session incontestable.

SEVERAL SENATORS. Oh no, he did not say so.

Mr. DOUGLAS. And that if he failed in that—and such was his object in applying to the committee for a postponement—he would not trouble this body again, nor come here, unless by a new appointment or a reëlection.

Mr. SEWARD. It still presents itself to me in the same aspect. I scarcely need say that I have as little respect for the political wisdom which prescribed the qualification of that provision of the Constitution as anybody; but it is the duty of the Senate to meet the question directly and promptly; and the case is embarrassed rather than assisted by the statement of the Senator from Illinois, [Mr. DOUGLAS.] He gives us but the alternative, either that the Senator [Mr. SHIELDS] will return the next session with incontestable evidence of his right, or with a new appointment based on his resignation. The last is an alternative which the Senate cannot admit, and which, for one, I cannot consent to take into consideration. The other is an alternative which would induce me to give my vote in favor of a postponement, if the Senator will state that such is his expectation. Under such circumstances, the postponement would be a courtesy due both to the Senator himself and to the State of Illinois.

Mr. FOOTE. I understand the Senators from Massachusetts and from New York both to agree in one proposition. I understand each of those Senators distinctly to declare, that if there was an intimation given by the honorable claimant of a seat here, or his friends, that he either hoped or expected to obtain additional evidence to support his claim to a seat, they would vote for the postponement.

Mr. SEWARD. That is so.

Mr. FOOTE. If those Senators had either been here yesterday, or had read the papers of this morning, they would have seen that the Senator from Illinois did say that he believed it was in his power, if the postponement which he asked for had been agreed to, to produce evidence to answer and explain the allegations of the record on which the report of the committee is made; but, under the circumstances, he declined doing so. Now, what was that but a clear intimation of his belief, whether erroneous or not, that there is testimony in existence, if time were allowed him to procure and present it to this body. There is the evidence both of the Senator himself, and of his colleague, [Mr. DOUGLAS,] that he does hope to obtain additional testimony in support of his present claim; and that, in the event of his not doing so, he would scorn to come back here unless it were by a different authority. Now, why that should change the position or weaken the claim of General Shields, I cannot understand. The gentlemen declare that if they can have a reasonable belief that he expects or hopes to obtain additional testimony, they are willing to support the motion to postpone. Well, the Senator from Illinois says he hopes that he shall be able to obtain evidence in addition to that before us. Hope, sir, is a complicated sentiment, embracing both desire and expectation, so that hope is expectancy.

Mr. WEBSTER. There is a very plain course to take, and only one consistent with the dignity of the Senate, with the respect due to the gentleman elected a member of this body, and with the rights of the State of Illinois—and when I speak of the rights of the State of Illinois, and the respect due to her, I speak of a higher and deeper sentiment than mere courtesy. Now, in the first place, there is no desire expressed or intimated by the honorable member who is the most interested in this case for any delay, and it is most extraordinary that his colleague or any other Senator should argue this case as if there were such a desire on his part.

Mr. DOUGLAS. I hope the Senator from Massachusetts will allow me to say that if he will look at my argument he will not find the slightest allusion to any desire of my colleague that I should take such a course. I did that which I conceived to be due from me to my State, and not in consequence of any desire of his. On the contrary, I stated to the Senate that I should have urged it with more pertinacity but for the appeal which was

made to me by him to allow the Senate to take its own course. I was influenced, too, by my knowledge of him for the last sixteen years, and of the offices which he has filled. I believe that he is eligible to a seat here, and I believe that it can be proved if a postponement be acceded to, which will result in no injury to anybody.

Mr. WEBSTER. Then it comes to this, that the claimant did not ask for a postponement, believing it to be useless.

Mr. DOUGLAS. I do not understand it so, but that he will allow the Senate to take its own course, he having his own opinion as to what will be best for him.

Mr. WEBSTER. At least he who is the most interested does not desire it.

Mr. FOOTE. Permit me to say, that if I did not think my course was sanctioned in that quarter, I would at once desist.

Mr. WEBSTER. Be that as it may, sir, the Senator from Illinois has taken a manly and a proper course. It is proper that he should take that course which he is satisfied is right. He must prove that he has been a citizen of the United States for nine years, in my judgment, on the 4th day of March last. He has produced a certificate of naturalization on the 21st of October, 1840, and consequently he was not qualified when he presented his credentials and took his seat; and he is not competent to discharge Senatorial functions.

But another question now arises, whether he expects to show that the father's naturalization during his minority would inure to the son. He has suggested no such thing. And what is the duty of the Senate to the State of Illinois? Why, it appears to me to be as plain as a turnpike road. The State of Illinois has sent a gentleman here as her Senator, upon whose qualification it has been our duty to pass at large; and when it is stated, as a compliment and mark of respect to the honorable Senator, that no remonstrance has come here from the State of Illinois, I agree to it all; but, sir, if every citizen of Illinois were here to-day in his own proper person, and desired the confirmation of the Senator's claim, since the matter has been brought to our notice, and since it is before us, we must decide it according to the Constitution and our oaths. Now, under these circumstances, what is proposed? Why, that we shall leave it undecided, and leave it in the power of this gentleman to resign or not hereafter. That is a sentiment that was advanced by the Senator from Illinois, [Mr. DOUGLAS.] But I can agree to no such view. Sir, our duty to the State of Illinois is to decide this question in a reasonable time, and to let her be informed of our decision in a reasonable time, that she may have her own reasonable time to fill the vacancy. She has a right to expect it at our hands. I hope we shall follow it out at once. We should remember the responsible part we are performing in the discharge of high functions. If we are of opinion that the gentleman sent here is not eligible, we should say so, and signify that to the State that sent him here. I shall therefore vote against postponement. At the same time I am willing to amend the resolution by the adoption of the suggestion of the honorable Senator from Maine, [Mr. BRADBURY,] to add an explanatory clause to show that the claimant of this seat was not qualified to enter upon the duties of a Senator on the 4th of March.

Mr. HALE. I shall vote against a postponement unless the honorable Senator who claims the seat, or some friend speaking for him, shall plainly, unequivocally declare that he does expect or hope by the postponement to alter the state of the facts; for, if he does not, we ought to vote on the state of the facts as they exist. If, then, General Shields entertains a hope, a desire, or expectation to do this, he must say so. If he does not, my course is settled. I will give him as long as he may desire, even one, two, or three years. I am not opposed to the freest investigation in everything. I believe I have said here on another occasion, that nothing is lost by agitation; and in this case, if it is expected by hanging it up that the state of the facts will be altered, I am willing to vote for a postponement. But until such an avowal shall be made by General Shields, or somebody else for him, that he does expect to alter the state of the facts, it is the duty of the Senate to vote upon it. The Senator from New York [Mr. SEWARD] has said that he has but little respect for the political wisdom which prescribed the qualification contained in that provision of the Constitution. Permit me to say, sir, that I respect that provision more than any one in it, for when I look at the Constitution and the history of the country for the few past years, I find very few provisions of the Constitution over which the party in power has not trampled rough-shod. This, sir, is a green spot on which the heel of party has not trod, and I desire to preserve it. I appeal to the Senate, too, to guard and preserve it.

Mr. CALHOUN. I hold that nothing is more certain than that if General Shields is not now a Senator of the United States, he never can become such by postponement. The Constitution is explicit in requiring that no person shall be a Senator unless he has been nine years a citizen of the United States. If, then, he is not a Senator now, there is a vacancy, for Illinois would have but one vote here, and that vacancy must be filled according to law. That he is not a Senator is clear, because he cannot perform one duty belonging to the Senatorial office unless he has been naturalized nine years previous to the commencement of his Senatorial term. Thinking thus, I deem it due to the State of Illinois that the question should be now settled, unless General Shields shall allege that he has evidence which will in all probability be satisfactory to the Senate that the term of nine years had expired before the 4th of March. If such an allegation shall be made by General Shields, it will be the duty of the Senate to postpone it, but not otherwise. No such allegation having been made, in my opinion, as things now stand, it is the duty of the Senate to decide this question now. It is a duty which we owe to the State of Illinois. I understand the Legislature of Illinois will not be in session until January twelve months. If, then, the decision of the Senate shall be adverse to General Shields, it is due to the people of Illinois that they should know it in due time, that they may elect a Senator to take the vacant seat on the first Monday in December next. In the next place, I hold that it is due to General Shields himself, because in so clear a case as this he would gain by pursuing the course which he indicated in his speech yesterday, and he would lose by the course which his friends seem anxious to maintain. For these reasons, unless General Shields will make an allegation such as I have indicated, I shall feel bound to vote in favor of the resolution properly amended.

And now, sir, I come to a point of some little importance; and it is, that the question here involved should be clearly settled, not only for the present, but for all future time. My opinion is, that the resolution is not entirely correct. It would seem to conclude that all cases of election are void unless nine years shall have expired on the day of the election. I think that is not according to the Constitution. My opinion is, that if the nine years are consummated previous to the fourth of March, the election is good, and is not void. I propose, therefore, to add to the resolution the following words: "At the commencement of the term for which he was elected."

Mr. WEBSTER. That's right; I hope that amendment will be adopted.

Mr. SHIELDS. My honorable friend, the Senator from Mississippi, [Mr. FOOTE,] introduced his motion without my knowledge or consent. I now most respectfully request him to withdraw that motion.

Mr. FOOTE. With great pleasure, if it is the desire of the honorable Senator. It is certainly true that I made the motion without consulting him on the subject.

Mr. SHIELDS. The motion to postpone having been withdrawn, I now, with permission of this honorable body, tender my resignation.

The letter tendering the resignation was conveyed by a page to the Secretary's desk.

Mr. WEBSTER. It cannot be read, sir. I now move to amend the resolution, by adding the words suggested by the Senator from South Carolina.

Mr. HALE. I hope the letter of resignation will be read.

Mr. WEBSTER. It cannot be read, sir.

Mr. CASS. Is it in order to move to lay the resolution on the table?

The VICE PRESIDENT. It is in order.

Mr. CASS. Then I make that motion.

Mr. WEBSTER. I call for the yeas and nays, sir.

The yeas and nays were ordered.

Mr. WEBSTER. I suppose the object of the Senator from Michigan, in moving to lay the resolution on the table, is to lay the report on the table also.

The VICE PRESIDENT. That will be its effect, as I understand it.

The yeas and nays were then taken, and resulted as follows:

YEAS—Messrs. Bradbury, Cass, Dickinson, Douglas, Downs, Fitzpatrick, Foote, Hale, Hamlin, Jones, Rusk, Soulé, Sturgeon, Turney, and Yulee—15.

NAYS—Messrs. Atchison, Badger, Baldwin, Bell, Berrien, Borland, Bright, Butler, Calhoun, Chase, Clarke, Corwin, Davis of Massachusetts, Davis of Mississippi, Dawson, Felch, Greene, Hunter, Mangum, Mason, Miller, Morton, Norris, Pearce, Phelps, Seward, Smith, Spruance, Underwood, Upham, Wales, Walker, Webster, and Whitcomb—34.

So the resolution was not laid on the table.

The question then recurred on the amendment.

Mr. FOOTE desired the resolution to be read as it would stand if the amendment were adopted.

The Secretary read it, as follows:

Resolved, That the election of James Shields to be a Senator of the United States was void, he not having been a citizen of the United States the term of years required as a qualification to be a Senator of the United States at the commencement of the term for which he was elected.

Mr. FOOTE. I regret to feel compelled to offer a few remarks in opposition to the amendment now under consideration; but I assure the Senate that I could not remain silent without a sense of self-disapprobation which it would be not a little painful to experience. Sir, the proposition contained in the amendment is not only, in my judgment, unreasonable in itself, but it is calculated to be deeply mischievous in several striking respects. An election of a United States Senator, to supply the vacancy occasioned by the expiration of Mr. BREESE's term, has taken place; the Governor of the sovereign State of Illinois has commissioned the present claimant, [Mr. SHIELDS;] his commission has been exhibited here; it has commanded our respect after the fullest consideration; and, in obedience to advice of distinguished Senators now in favor of the amendment of the honorable Senator from South Carolina, [Mr. CALHOUN,] and the original resolution of the committee to whom this subject has been referred, we have decided that the commission of the claimant constituted such *prima facie* evidence of his right to a seat here that we were bound to admit him at least for the present. He has been regularly sworn in as a Senator; for days past he has voted with us, and performed all the functions of a Senator; and now we are urged to recognize the election and commission of the claimant as utterly *void ab initio*—not *voidable* only, but void absolutely and completely, to all intents and purposes. Some of us have no objection, certainly, to declaring that, upon the evidence now before us, (if we are to act upon the question without obtaining further testimony,) the claimant was *ineligible* to a seat in the Senate on the fourth day of March last, and that he yet remains ineligible. But to declare not only that he is ineligible, and was so on the fourth of March last, but that his election was a *nullity* from the beginning—that his commission was, in its inception, void and of no force and effect whatsoever—is what we are not prepared either to assert or sanction. Sir, it would be wronging, as I think, the sovereign State of Illinois and her Legislature thus to decide; it would be asserting that the good people of Illinois, among whom the claimant has so long lived, and at whose bidding he has discharged the duties of so many important civil offices, are wholly undiscerning and shamefully incapable of self-government. It would be stultifying ourselves also, who have, as I have already shown, distinctly asserted, by admitting the honorable claimant to the seat which he now occupies, that though he was subject to be turned out hereafter, upon more conclusive evidence, yet that, for the present, his right to a place in this Chamber, as a *prima facie* claim, was incontrovertible and undoubted. It would be deeply injurious to the claimant himself, since, after admitting him as a Senator, we should decide that he had been guilty of something like *imposition* in thrusting himself upon our notice, without the shadow of a claim to our recognition.

The amendment of the honorable Senator from Wisconsin, which deals alone, but most clearly and palpably, with the question of *ineligibility*, I am willing to sustain by my vote, since the honorable claimant himself is no longer desirous of postponing this investigation until the first Monday in December next. By adopting this amendment we should gain all the objects which are really desirable, and which honorable gentlemen propose to attain by the amendment which I am now resisting. The seat heretofore occupied by the honorable claimant would be declared *vacant* by reason of his *present incompetency* to occupy it. The way would be open for a new election, or an executive appointment of some person to fill the vacancy thus arising. We would pronounce the election and commission of the honorable claimant void and inoperative *henceforward*, in consequence of his present *ineligibility*. This is surely enough for all proper purposes—enough for all purposes yet suggested by honorable Senators. But this is not enough for certain gentlemen here. They must make a *victim;* they must do something to propitiate the accursed spirit of Native Americanism, whose fell influence has already deluged the streets of some of our populous cities with precious blood, and carried the torch of the incendiary into private mansions and the temples of the living God. The noble-hearted claimant is a native of a foreign land. His infancy was cradled, and his days of young boyhood were passed, amidst the localities where once flourished a Grattan, a Curran, and an Emmet. He was born beyond the rolling ocean, and is only an *American* because he is a lover of liberty and of free institutions, and came here to enjoy them, where only they could be enjoyed in all their amplitude and perfection. It is desired, I fear, to fix a brand upon his forehead, because, though born in a distant land, he has presumed to aspire to high station in a Republic where, for seventeen years, he has performed all the duties of a patriot in peace, and in war has fought with glory unsurpassed in battles whose renown will never pass away. Yes, this man is to be persecuted, proscribed, and degraded, without crime, and upon pretexts too flimsy and ridiculous to bear the least scrutiny or examination. What is it that gentlemen desire to attain by declaring that the election and commission of the honorable claimant were *ab initio* void? I will not accuse honorable Senators of entertaining any design of an unworthy character; but I tell them boldly, and tell them confidently, that, when the intelligent voters of the Republic will be called upon to pronounce judgment upon these present acts, thousands, yea, hundreds of thousands, will be heard to accuse them of being actuated, in part at least, by a vehement desire to increase the relative strength of the Whig party in this Chamber; for it is plain, that if we pronounce the honorable claimant ineligible merely, and declare his seat vacant from the present moment, no one will doubt that it will be competent for the Governor of Illinois to appoint some other Democrat, or the honorable claimant himself, (which, I presume, would in all probability be the case,) to fill the vacancy thus arising. But if we decide that the seat heretofore accorded to the honorable claimant never has been, in fact, rightfully and constitutionally occupied by him, then, according to all the precedents, we shall have to decide against any executive appointee who may come hither demanding recognition as successor to the honorable claimant, on the ground that it is not possible for a vacancy to arise in an office which, during an existing term, has never been supplied with an incumbent.

After deciding the election and commission to be absolutely void, (a decision which I have shown not to be at all necessary to be made for any fair practical purposes,) how could we agree to admit a Senator here who would desire to occupy a seat among us for a term of six years from the 4th of March last, which seat we would have previously declared never to have been occupied for a single instant of that same term of six years? I do not say that the adjudication which we are now called upon to make would be absolutely binding upon us, when a new claimant, under an executive appointment, should have arrived here; but I do insist that no one at all acquainted with the constitution of that mysterious thing called the human heart—of which pride of opinion is so striking an attribute—would expect honorable Senators here to reverse their decision upon the point under review next December, even though such reversal might increase the strength of their own political party in this body by one vote. Now, when we recollect that the Illinois Legislature sits only biennially, and that its next session is now some eighteen months distant, it will not appear at all unreasonable to suppose that the effect of our expressing the opinion that we are so warmly invoked to express must almost unavoidably be to diminish the Democratic strength here to the extent which I have specified. I do not know how others may feel on the subject, but, for one, I am resolved not *unnecessarily* do anything which might have a tendency to increase the strength and consolidate the ascendency of the party in power. Nor will I do anything here or elsewhere to fan the smouldering embers of Native Americanism to renewed fury. Gentlemen who a few years ago had the moral courage (to use the mildest term) gravely and fiercely to urge, in the national councils, that no native of any foreign country arriving upon our shores should be allowed to become naturalized until some twenty years should have elapsed after his coming among us, can very consistently, I think, vote for the amendment under consideration; but with my views of my duty as a conscientious Senator, and the sacred obligations which rest upon me as a member of the Democratic party, I vow most solemnly that there are few acts of legislation which could be proposed to me which I would resist more strenuously and perseveringly than that which is now under discussion.

Mr. DOUGLAS. The question now before the Senate for decision is, whether we will disfranchise the State of Illinois for two years? General Shields having resigned his seat, that seat is now vacant; and, being vacant, I apprehend that the Governor of Illinois could make an appointment to fill such vacancy. The question then recurs, whether the Senate shall leave the matter in that shape, or insist upon going further, and making a decision to the effect that the Governor shall not fill the vacancy on the part of the State of Illinois; that she shall be unrepresented, as far as one of the seats she is entitled to in this Chamber is concerned, for the period of two years. So far as the provisions of the Constitution of the United States militate against the admission of General Shields as a member of this body because of ineligibility, that difficulty is done away by the resignation of General Shields. The seat is vacant. No allegation can be made that there is any gentleman holding a seat on this floor who is not entitled to it by the Constitution. We now desire to extend our legislation on this subject, and decide that what has been done by the State of Illinois was void, and also that the State shall be disfranchised, unless she will go to the expense and trouble of calling a special session of the Legislature for the purpose of filling the vacancy. I have already said that the Legislature of Illinois, according to the State constitution, would not meet in regular session until a year from next January, as their regular session has just closed, and they only meet biennially. According to previous decisions of this body, you have declared that a Governor cannot fill a vacancy, as a vacancy, for a term which has never been originally filled; or, in other words, if a Senatorial term expires, and an election for the successor takes place, a vacancy occurring immediately thereafter is not such a one as that, under the Constitution, the Governor has power to fill. It is proposed now to say that the act of the Illinois Legislature was void in electing General Shields, and that his seat is vacant; yet, as an election has been held, that the Governor cannot fill the vacancy. Sir, I am not prepared to admit that the act of the State of Illinois is void under the Constitution. There are three qualifications necessary to make a Senator. Two of them, citizenship and age, need not exist until the individual becomes a Senator; the other, inhabitancy of the State, must exist at the time of election. I believe it is admitted by all now that my proposition of yesterday was correct, that if an individual be a citizen nine years on the fourth of March, he would be eligible to become a Senator, and the election would be valid. The proposition of the Senator from Massachusetts is, that the election was void, unless, at the time of the election, such a state of facts existed as would render it possible for him to assume the functions of the office at the time it would devolve upon him. According to that proposition, the election was not void, because the Constitution provides that the Senator shall hold his term for six years, and that the regular time of meeting under the Constitution shall be the first Monday in December. Thus, according to the Constitution, General Shields would be eligible to a seat in this body at the period fixed by the Constitution for Congress to commence its regular session. I submit that, if he be ineligible at the period fixed by the Constitution for the Senate to assemble, although a special session of the Senate might be called in the mean time, yet the Senate, at the regular session, would have the power to say that he was not eligible at the special session. Why should the Senate, upon a point admitted to be doubtful, go beyond what is necessary for its own vindication, for the purpose of inflicting an injury upon a sovereign State of this Union? What necessity is there for going further? You have vindicated the rights of the Senate by not allowing any one to be here that was not constitutionally eligible; why is it that now you must go further, and say that Illinois shall not be represented here for two years, unless she goes to the expense of calling a special meeting of the Legislature? I hope no such decision as that will be made by the Senate. All the objects proposed to be attained by this resolution have been accomplished; why not, then, allow this matter to be disposed of? What good will result from the infliction of this further injury on my State, which will be charged upon the head of my colleague, who has resigned his seat? I do not charge that any Senator here desires to inflict an injury upon my State, or that gentlemen are actuated by a motive of that character in the action they propose; nevertheless, the result of that action will be to furnish arguments for one set of individuals against another, in any election hereafter to come off, charging that the expense and trouble of an extra meeting of the Legislature have been incurred in consequence of General Shields's election. I trust the Senate will do no act that will occasion the weight of its powerful influence to be cast in favor of one or the other of such contending parties, but that it will simply name the seat of General Shields as vacant under the Constitution. The whole duty of the Senate will be performed by allowing the subject now to be laid on the table; there will then be no necessity for further action.

Mr. HALE. I rise for the purpose of moving that the further consideration of this subject be postponed until to-morrow, and I will state the reason why I make that motion. The question now presents itself to my mind in a very different aspect from that in which it presented itself a little while ago. I understand now that General Shields has resigned his seat upon this floor, and that his letter of resignation lies upon your table. It seems to me that it is due to a gentleman occupying a seat here that we should have the courtesy and grace at least to receive his communication. If General Shields was not a Senator of the United States legally and constitutionally, he was, at all events, here holding the place of Senator, and for the time being exercising the functions of Senator, and that by our permission. That being the case, he can certainly resign the place he holds, or which by courtesy he has been holding. And it seems to me that the ordinary courtesy which distinguishes the conduct of gentlemen requires of us that we should give him leave to say that he will, with our consent, retire from this Chamber. But, instead of this, we are proposing to say to him, No, sir, you shall not retire; you shall not make your bow and go out gracefully, but you shall sit here until we go through the form of rejecting you.

It has been announced that General Shields has sent his resignation to your table, and, before the Senate has taken it up, or even heard it read, we are proceeding to declare that he is not entitled to his seat. Well, he does not ask it. He is not claiming a seat. There is no Senator now from Illinois, who puts himself in the attitude of claimant of a seat; and it seems to me to be but a matter of common courtesy to let the subject lie over until to-morrow, and then if it appear that the constitutional privileges of the Senate have not been properly vindicated, we can take up the subject and act

upon it. But I certainly think it must suggest itself to every Senator that everything has been done which the Constitution requires on our part; and, that being done, we must remember that there is something due to the feelings of the individual who is most concerned in the matter. This is my view, and I do hope that it will present itself to others in the same light. I hope that the letter of resignation will be read, and that the subject will be passed over until to-morrow.

Mr. WEBSTER. I have but very few words, sir, to address to the Senate, and I shall not trouble them again. I desire to say to the Senator from Illinois, that he does his friend no service by opposing the immediate decision of this question. Is it not obvious, that if the Executive appointment occur in the recess, a question must arise as to whether there was a vacancy, and what sort of a vacancy? If a man has no seat, how can he resign his seat? If the election was void, a vacancy cannot be created by resignation—there is a vacancy already. Then I suggest to Senators—those who say that the question is so clear—that, however it may now be decided by the Senate, the question must hereafter be, whether there was a vacancy when the resignation, so called, was made.

Mr. DOUGLAS. I must state to the Senator from Massachusetts, with all due respect to him, that I must be permitted to judge for myself——

Mr. WEBSTER. Of course.

Mr. DOUGLAS. Whether my course is rendering my State any service or not. But it does not seem to me that it can require argument to convince the Senate, that to deprive her of a part of her representation here for two years, is doing her a disservice.

Mr. WEBSTER. How does it deprive her of representation?

Mr. DOUGLAS. Because you propose unnecessarily to make a decision that will deprive the Governor of that State of the power of filling the vacancy.

Mr. WEBSTER. Certainly not.

Mr. FOOTE. The vacancy does not arise from the act of the Senate.

Mr. DOUGLAS. The proposition is, that the election was void. I maintain, that under the Constitution, you have no right to declare it void: that is, upon the question which is still pending before you, you have no right to say that the election was void. It may have been voidable—it is voidable, according to the facts shown by the committee. But if you had not raised an objection, and General Shields had held his seat for six years, would you assert that his votes were invalid? Of course not. They would have been valid. Every act of his would have been as valid as the acts of any other Senator. Yet, if his election was void, those acts would be void too. I undertake to say that the election was not void, although it was voidable, and that his seat will only become vacant when you so declare it. His election is legally valid until you declare otherwise; so far legal as to make his acts valid acts. And now we propose to declare that it was void, and thereby disfranchise the State of Illinois. If you simply declare the seat vacant, then the Governor of the State can appoint a Senator to fill the place. If you permit a resignation, the Governor can appoint. Why, then, is it necessary to go on and do an act which your own vindication does not require you to do? Why is it necessary to read me a lecture that I am doing my State no service?

Mr. WEBSTER. I beg the Senator's pardon. I did not say that he was doing his State no service.

Mr. DOUGLAS. It was twice stated by the honorable Senator this morning that I was doing my State no service.

Mr. WEBSTER. The Senator misunderstood me.

Mr. DOUGLAS. I am very happy to hear that I did misunderstand the Senator. I would not have thought it necessary to say a word, if I had not understood the Senator as I have stated.

Mr. FOOTE. I desire merely to set myself right. It has been settled, over and over again, as gentlemen well know, that a new vacancy cannot arise in an office which has never been occupied. This is a principle that is recognized in all the departments of the Government. And now, I ask, will any man undertake to assert, here or elsewhere, that a vacancy can be created in an office which they at the same time declare has never been filled—the commission being a mere nullity, and the Governor of the State not being able to appoint, in consequence of the vacancy not arising in the mode contemplated by the Constitution? It is a very plain proposition, and I am astonished that the legal minds of gentlemen do not lay hold of it. I conclude by saying, that if it be not the intention to accomplish the object which I have intimated; if it be not an attempt to lessen the Democratic strength, and increase that of the party in power, I cannot understand why this pertinacity is exhibited.

Mr. BERRIEN. I desire to acquit myself of any want of respect towards the State of Illinois, and of any want of courtesy towards the gentleman who is the subject of this controversy. Nor do I consider myself as acting upon this question with a view to the vindication of the privileges of the Senate. We are simply engaged in performing a duty which as Senators we owe to the Constitution of the United States; and it seems to me that we manifest the most perfect respect for the State of Illinois by vindicating the principles of the Constitution, which she, in common with the other States of this Union, has ordained for the government of this people. Now, it seems to me that the indications are very clear that it is the opinion of a majority of this Senate that this election was absolutely void at the time when it was made, if for no other cause, because the individual elected was not qualified to take his seat on the fourth of March last—on the day when, by the Constitution, his Senatorial term was to commence. Taking this to be the conviction of the Senate, I ask if any action of this body can change the consequences which must result? The Senator from Illinois seeks to discharge a duty which he owes to his State. Sir, we all owe a like duty to the State of Illinois, and to every other State in the Union. But he mistakes, in my opinion, if he supposes that any action of this Senate, either by passing or by refusing to pass the resolution, can affect the right of the State of Illinois, or the manner in which that right shall be exercised by the constituted authorities in electing a Senator.

The question proposed by the Senator from Massachusetts is perfectly unanswerable. If this election was void, the office has never been filled since the expiration of the last Senatorial term. The vacancy which has preëxisted the adjournment of Congress must continue to exist, because it depends upon the interpretation of the Constitution, and is wholly independent of any action of ours. The Governor cannot appoint, nor can we, by our action, enable him to appoint. The election is for six years, as shown by the credentials of the Senator; and, to enable the State of Illinois to be represented in an extra session, which the President may deem it necessary to call, the Senator must be qualified to take his seat at any time after the expiration of his predecessor's time. The term of the predecessor of the Senator from Illinois having expired on the 3d day of March, unless the Constitution contemplated that the State should be unrepresented, the succeeding term must commence on the next day. And it is necessary that he should be qualified to take his seat, according to the express terms of his credentials, as a Senator of the United States for six years from the 4th day of March. That is the testimony in the present case. And now, if this gentleman was not qualified to discharge the duty of Senator on the 4th day of March, is it possible that any action of ours can change the existing state of facts? If he is not qualified on that day, the office is rendered vacant by the expiration of the term of his predecessor, and is not affected by any action of ours. No action of ours can change the state of facts arising from an application of the principles of the Constitution. I desire, sir, to say that in the course which I pursue on this occasion, I am merely fulfilling what I conceive to be a constitutional duty; not contending for the privileges of the Senate; certainly not desirous of manifesting any disrespect to the State of Illinois, or to her Senator; but, on the contrary, believing that that State has as much interest as any other in the enforcement of the principles of the Constitution. And, so far from having any desire to manifest discourtesy towards the gentleman who is the subject of controversy here, if I could have had any such feeling anterior to the time of his taking his seat, that feeling would have been entirely removed by the honorable course which that gentleman has adopted here.

Mr. DOUGLAS. I wish to say a few words upon this view of the question, because it has been narrowed down to the point, as to whether the Governor of the State will have the right to fill the vacancy or not. I think that the honorable Senator from Georgia will, upon reflection, be convinced that he is in error in supposing that this election was absolutely void at the time when it took place; and if I can get the attention of the Senate, I think that I can bring their minds at least to a pause upon this point. This election took place in January. Could the Legislature of Illinois, in the month of February, have elected another Senator in the place of Mr. Breese, whose term has expired, after they had elected General Shields? Could they have proceeded to the election of another Senator, until General Shields had resigned, or until this Senate had declared the seat vacant? I apprehend, sir, that it could not have been done. The election was so far valid as to preclude the Legislature of Illinois from going into another election, until the judgment of this Senate had been had upon the question. It was valid. A man has been elected, and his credentials have been furnished him; which credentials were of that character, that this Senate was compelled, by the conviction of what was due to the Constitution, to receive the person so elected into this body. Can the Legislature of Illinois now; without the resignation of General Shields, or without any action of this body upon the subject, declare the seat vacant, and proceed to fill that vacancy? I apprehend not, sir; and, sir, the Legislature were estopped from making another election until a decision of the Senate should be had upon the validity of the election which had been made. The Constitution of the United States provides that a State may elect a Senator, and, when elected, the Senate of the United States is to be the judge of his qualifications. The State has done its duty—it has done all it could do. Its power has been exhausted. It was estopped from another election until the decision of the Senate could be had. The election of Senator was valid, and is valid, up to the period of his resignation, or of a decision of this body to the contrary. It is the action of this body, then, that creates a vacancy. And the vacancy must take date from the time of the action of this body, or of the resignation. Then, and not till then, can the State of Illinois fill the vacancy. If this be the case, sir, then no vacancy exists until this body decides the question. This body being intrusted by the Constitution with the decision of the question, how can it be said that this election was void from the beginning; that no election has been had; and that there has been no Senator here? I apprehend, sir, that this cannot be said consistently with the Constitution. I apprehend, sir, that the office of Senator from Illinois has been filled from the fourth day of March to the present time. But it has been filled by a person who could be ousted. It has been filled in legal form by the action of the Legislature, by the tribunal competent to judge of the eligibility of the person selected. If we now declare the seat vacant, the vacancy takes place this day, and not from the fourth of March. And, sir, I will call the attention of the Senator from Georgia, in confirmation of this argument, to the fact which I stated when I was last up, that the Senator from Illinois has voted at different times. I ask if those votes were not legal; if they were not valid? The Senator shakes his head. I tell the honorable Senator—and it is with great deference that I state to him a legal proposition—I tell him that it has been the universal decision that the acts of a *de facto* member are valid. I can show you acts of Congress passed at the last session—at the last long session—which were passed by the vote of a sitting member whose seat was afterwards vacated; and acts which were passed by his casting vote. I can show you a long list of acts of this Congress, a long list of laws of the United States, which have been enacted by the casting vote of a sitting member whose seat was afterwards vacated. Are not those acts valid?

Most undoubtedly they are valid and binding; they are now the laws of the land. Now, sir, if I am right in the position that the votes given by General Shields are valid votes, that the acts of Congress passed by the casting vote of a sitting member, whose seat is afterwards vacated, are held to be valid, and become the laws of the land—which laws would not have been passed, but for the casting vote of the sitting member—am I to be told that the seat has been vacant all this time? If so, you will have to go back and expunge the laws upon your statute book. I maintain, therefore, that the seat has been filled until the resignation; then, and not until then, the vacancy commences; and then the Governor of the State has the right to fill the vacancy.

Mr. BUTLER. Mr. President——

Mr. BERRIEN. Will the Senator from South Carolina permit me to answer the inquiry which has been propounded by the Senator from Illinois? This election, he says, took place in January; and the query he propounds is, whether the Legislature could proceed to elect a new Senator in February? I answer, unquestionably, yes. If we are right in the decision that the election in January was void; that the Legislature had elected an individual who could not constitutionally take his seat, they might have proceeded to a second election, if they had been satisfied of the fact. Then there is another question, whether they could proceed to an election——

Mr. DOUGLAS. The second question is this: whether the votes given by the sitting member, whose seat is subsequently vacated, are also void; and, if so, whether the acts of Congress passed by those votes of the sitting member are a nullity? which they must be, if the opinion be correct that there was no Senator at all.

Mr. BERRIEN. The general principle, as I understand it, upon the subject, is, that the acts are valid. The subject of controversy, in the House of Representatives, has been as to the fact of election.

Mr. DOUGLAS. And, in some cases, as to alienage.

Mr. BERRIEN. Can the Senator point out such an instance?

Mr. BUTLER. I gave way, as I thought, that the Senator might answer an inquiry.

Mr. BERRIEN. I will resign the floor. My purpose was merely to answer the question propounded by the Senator from Illinois.

Mr. BUTLER. The Senator from Georgia may proceed.

Mr. BERRIEN. I understand the principle to be that such votes shall be considered valid, although the party holds the seat by no legal tenure; and that the rule was adopted on the ground of necessity.

Mr. DOUGLAS. Is it not upon the ground that the person occupying the seat is the officer, and the only one, entitled to it until his seat is vacated?

Mr. BERRIEN. That will depend upon the ground of the objection—whether the election was void, or only voidable. Now, with respect to resignation. It is decided, by a large majority, that the gentleman was disqualified from taking his seat upon this floor; and, if he was disqualified to fill the office, I ask how he can resign the office?

Mr. DOUGLAS. Upon the ground that a man who is appointed to office must discharge the duties of that office, and must be considered the rightful incumbent, until displaced in the constitutional mode; and that while there, his acts are to be considered valid. Holding the seat under the commission of his State, he is entitled to all the privileges connected with the office, until he sees fit to resign, unless you previously oust him from the seat by legal power.

Mr. BERRIEN. I cannot consent to trespass longer upon the time of the Senator from South Carolina, except to say to the Senator from Illinois that he always comes back to the point of distinction between an election that is void and an election that is merely voidable. Where the objection is to the eligibility of the incumbent, the vacancy must have existed from the beginning; and the party could not give up an office which he had never filled.

Mr. DOUGLAS. He is filling it now.

Mr. BERRIEN. No, sir; not at all.

Mr. BUTLER. If I could have heard the Senator from Georgia, perhaps I would not have said anything on the subject; but I could not hear the Senator's remarks. My principal object is, however, to avoid, if possible, being misunderstood by reason of the remarks which I made yesterday. My opinion is now, that the proposition of the Senator from Wisconsin and the amendment of my colleague involve the same principle. If there be any difference, I cannot perceive it. I maintained yesterday, and still maintain, that although General Shields was ineligible at the time of his election, yet if he could have taken his seat on the 4th of March with his qualifications complete, his previous ineligibility would not vitiate his election. But, inasmuch as it is represented that he could not at the time of taking his seat show that his qualifications were complete, I must be permitted to say that I am clearly of opinion that it cannot be maintained that he ever had a valid title to his seat at all. The question resolves itself into this: did his election confer upon him a valid title to the seat on the 4th of March? If it did not, it is not a title at all. You may qualify it, by calling the election voidable, or void, as you please. He had *prima facie* evidence of title to the seat in the credentials which were presented. But the moment it was ascertained that the title conferred upon him no right at all to take his seat here on the 4th of March, you cannot say that any title had been conferred upon him at all. A deed bears upon its face *prima facie* evidence of validity; but as soon as it is ascertained that it is founded upon a void consideration, it is no deed at all.

Another difficulty has been presented by the Senator from Illinois, and it is, whether it was competent for the Legislature of Illinois, after it had conferred the appointment upon Gen. Shields, to have instituted an inquiry as to his eligibility. I regard the proposition as being perfectly clear, that if the Legislature had become satisfied that they had been mistaken as to the eligibility of General Shields, they could have instituted an inquiry upon the subject, and revoked the power they had conferred and elected another Senator. I maintain that the proposition of the Senator from Wisconsin and that of my colleague are precisely the same.

But it is represented here that General Shields, having no title to his seat, must go back for re-election or appointment by the Governor, and that it is the duty of this body to throw no obstacle in the way, but to act in such a manner as to render this practicable. Sir, we cannot construe the Constitution of the United States for the accommodation of individuals. That is out of the question. My own inclinations are in favor of the sitting member. I concur in the opinion that it is due to the State of Illinois that this question should be settled. I know it has been stated that General Shields has offered to resign. But if there is nothing which he can resign, the act would be a nullity. To determine this, we must go back to the distinct inquiry as to whether the election conveyed a valid title at the time when he was called upon to discharge the duties of the office. If the election never has been valid, I presume it will be admitted that the Governor cannot fill the vacancy, and the sooner the facts are ascertained the better, in order to enable the Governor of Illinois to take measures to have the State represented by Senators upon this floor. I shall be much mistaken if, after the matter shall have been fully discussed, those gentlemen who have argued thus with much pertinacity will not be compelled to yield up their judgment. I do not wish to elaborate this matter. I rose for the purpose of making my remarks of yesterday and those of to-day consistent, and to say that it is my belief that the proposition of the Senator from Wisconsin and that of my colleague are precisely the same.

Mr. UNDERWOOD. I always listen with great pleasure to the gentleman over the way, but really I am compelled on the present occasion to differ with him somewhat in opinion, and I wish to give the reason for the opinion which I hold. I think if my honorable friend from South Carolina be in error, it is in consequence of his supposing that an office cannot be conferred upon an individual unless that individual is competent to discharge the duties of such office, and to hold the office. Now, I apprehend that the proposition which he lays down is not altogether correct, for I believe that an office may be conferred upon an individual, and yet that individual may be ascertained, when an investigation takes place, to be legally incompetent to hold and exercise the office. But while it has been conferred, and until the commission is revoked, until the authority which has been attempted to be vested in him is taken from him, I believe he may legitimately exercise the functions of that office. Now let us reason about this matter: let us look at the Constitution. The Constitution says that unless an individual has been nine years a citizen of the United States he cannot be a Senator of the United States. And that is not the only prohibition. It says that unless he be of the age of thirty years he shall not be a Senator. Suppose, then, you elect a man who is under thirty years of age, is not the election void? But this is not all. The Constitution says that if he is convicted of high crimes and misdemeanors he may be impeached, and the judgment of impeachment will disqualify him. I will read the provisions of the Constitution, for I see the gentleman shaking his head. If you look at the Constitution you will find that nonage, alienage, and conviction upon impeachment, all amount to disqualifications for holding office. But how do you reach it? You reach it under the next provision of the Constitution, which declares that each House shall be the judge of the election and return of its members. And when the House, upon proper investigation, comes to the conclusion that any member has not attained the required age, or that he is incapacitated for any other reason, such member is deprived of his seat.

Then, sir, it is in virtue of the sentence of the tribunal making this investigation, trying and ascertaining the fact; it is in virtue of that sentence that the office becomes vacant, and he is turned out; and until the sentence is pronounced by the body judging of the qualifications of its members, the general evidence of election stands perfectly unimpeached. And there is no question in regard to nonage, alienage, or disqualification of any sort, that can arise, otherwise than by an investigation on the part of the body judging of the qualifications of its members; and upon that investigation, when the body determines that A B, the sitting member, does not possess the qualifications, then the sentence of the body is removal or eviction from office. Then, sir, what produces the vacancy? The vacancy is produced, not by the individual lacking the constitutional qualifications, but by the judgment of the body investigating the matter. Sir, let me illustrate this by giving a State case. The constitution of Kentucky requires that persons elected to the Legislature of that State shall have resided in the county for which they are elected for one year previous to the election. Suppose a man should be elected after a residence of nine months, and take his seat. When you come to judge of the qualifications of that member, and ascertain the fact that he has not resided for a year within the county, just as you ascertain the fact that the gentleman from Illinois has not yet been a citizen of the United States for a period of nine years, the tribunal judging of his qualifications will remove him. Now, in removing a member who has been in the occupancy of a seat in a legislative body, does it vitiate all the laws which have been passed by the assistance of his vote, and without which vote they could not have been passed? Sir, if the Senator from South Carolina will examine the Journals of the other House, I think he will find that laws have been passed with the aid of the votes of individuals who have afterwards, upon investigation into their qualifications, been removed by wholesale, as in the case of certain members from New Jersey, a few years ago. Does the fact of their removal, upon an investigation into their qualification, subsequently vitiate the laws thus passed? It is conceded, I believe, by everybody, that it does not. Well, what does it prove? It proves that under the certificate of election, in both Houses, while the functions of the office were discharged, the acts were valid; and the subsequent investigation and removal do not relate back so as to make them void from the beginning. Sir, the proposition is so clearly established by past practice in the history of this country, that it cannot be gainsayed. Well, what does this prove? It proves that here is a *de facto* exercise of power,

if not a rightful exercise of power. It proves that the office is filled. Now, look at the Constitution. Does it take a distinction between a *de facto* Member or Senator and one who is rightfully such? Not at all. The impression is, when vacancies occur, by resignation or otherwise; and the Constitution provides that an investigation shall be had by the Legislature, and that nonage, alienage, and conviction on impeachment shall constitute grounds of removal. But when the office becomes vacant by such a removal, the question is not whether it was properly and rightfully filled; for, if it had been rightfully filled, you never could have removed the incumbent. Then the Constitution provides for making a vacancy, because the individual has not the necessary constitutional qualifications. And here is a palpable case. An individual is found not to possess the necessary qualifications. It is a reason why the Senate has a right to remove him. Well, sir, if it is declared that he cannot hold his seat, in consequence of not possessing the constitutional qualifications, then the vacancy has occurred according to the provisions of the Constitution. Now, sir, this idea of General Shields being an alien is entitled to no more weight and consideration with Senators than if he had not attained the age of thirty years, the other constitutional requisite. Not a particle. It is a disqualification in either case. But the disqualification, which upon investigation is declared by the Senate, takes effect only from the time of forming the judgment of the Senate. From that time the vacancy exists; before that, the title to the seat was valid. Now, sir, if analogous cases can have any influence at all, there can be no difficulty about this subject. We have laws, in most of the States, declaring certain offices to be incompatible with each other; and it has happened in repeated instances that individuals holding incompatible offices have attempted to discharge the duties of both. They hold the commissions of two offices. Having accepted an additional office, which is incompatible with the former, and undertaking to exercise the functions of the former office, they often become wrong-doers. But, as regards third persons, the acts are valid; as in the case of service of process by a sheriff who has accepted a subsequent office, and still continuing to exercise the functions of sheriff, having the commission and the qualifications the service is a good service. Sir, can it be said that the office is void? Not at all. Neither can it be said that an office is not filled, because the individual who holds it happens to be an alien at the time he does hold it. He may discharge the duties of the office, though he cannot be said to do so rightfully. What more can be done, in the discharge of the duties of a Senator here, than to vote upon questions that are presented? This, so far as it goes, is fulfilling the duties of the office of Senator. But these functions are to cease. When are they to cease? When the Senate shall have determined that there is some personal disability, by reason of which the individual has no right to discharge the duties of the office. Now, if I am right in this, it does seem to me that we ought to take some little time to consider; at all events, a matter of such magnitude ought not to be pressed upon us with so much haste. If it be permitted to lie over until to-morrow, it will give us time to consider in what way it will be proper for us to decide.

I see no reason why you may not permit the resignation to take effect. I am inclined to think, if these views be correct, that there is no necessity for forcing upon us the constitutional exception, although I am of opinion that General Shields had no constitutional right to hold the office. That I believe is perfectly clear. But if it will work the injury which the Senator from Illinois avers; if it will prevent the State from being fully represented here for two years, why should we be in haste to decide? It appears to me, that the gentleman holding the office, though not legally holding it, may resign. Cannot this be done? I have given you the case of an individual who had not the qualification of age. Suppose a man under thirty years of age presents himself here, and a Senator says, I know you are under thirty, and I feel it my duty to disclose the fact to the Senate. He replies: "You need not give yourself the trouble; I am aware of the fact also, and will resign to-morrow." He tenders his resignation, but the Senator says to him, Not so fast; I know you are under the constitutional age; it is a ground for your removal, and I will not let your resignation be accepted. Sir, I see no reason why we should act in that way. The fact of ineligibility is brought home to the individual; and when that is done, he says: "I will give the Senate no trouble; I will resign." Would you, in the case of nonage, say that the resignation shall not be accepted? But the case of impeachment, if you please.

Suppose a man convicted of crime, and the record of conviction is brought here, and he says, "I will resign," and offers his resignation: is it the duty of Senators to get up and say we will not accept the resignation, but we will go on and declare that the election was void from the beginning? I do not think we have a right to do anything of the sort. However, if Senators think otherwise, they will of course act as they deem proper. But I think there is, at all events, enough in the suggestions which I have thrown out to induce Senators to allow the matter to lie over until to-morrow. I hope that motion will prevail. I do not wish to be called upon to vote at present. It is my unfortunate position, I suppose, not to be able to see things as quickly as other Senators. I desire time. I therefore hope the motion will prevail.

The question being taken on the motion to postpone the subject until to-morrow, it was decided in the affirmative, as follows:

YEAS—Messrs. Atchison, Bell, Borland, Bradbury, Butler, Cass, Chase, Douglas, Downs, Felch, Fitzpatrick, Foote, Hale, Hunter, Jones, Mason, Norris, Rusk, Seward, Soulé, Sturgeon, Turney, Underwood, and Yulee—24.

NAYS—Messrs. Badger, Berrien, Bright, Calhoun, Clarke, Cooper, Corwin, Davis of Massachusetts, Davis of Mississippi, Dawson, Dickinson, Greene, Mangum, Miller, Morton, Pearce, Smith, Spruance, Upham, Wales, Walker, Webster, and Whitcomb—23.

Mr. HALE asked for the reading of the communication from General Shields.

It was read by the Secretary, as follows:

SENATE CHAMBER, *March* 14, 1849.

Mr. PRESIDENT: From the time that my right to a seat in this body became a subject of inquiry and investigation, I determined to abstain from entering into any contest in relation to that right, and to submit unhesitatingly to the action of the Senate. As there is now a prospect of debate and contest on this resolution, I will relieve the Senate by tendering my resignation, and referring the matter back to my constituents. I therefore hereby tender my resignation.

JAMES SHIELDS.

Mr. HALE then moved that the Chair be instructed to inform the Executive of Illinois that General Shields had resigned his seat in the Senate of the United States.

Mr. BERRIEN moved to lay that motion upon the table.

Mr. FOOTE demanded the yeas and nays.

Mr. BERRIEN. Upon reflection, as the principal resolution relating to this subject has been postponed until to-morrow, I will withdraw the motion which I have made to lay the motion of the Senator from New Hampshire on the table, and substitute for it a motion that the further consideration of the motion of the Senator from New Hampshire be postponed until to-morrow.

Mr. HALE. I do not know that I have any objection to that. Let it lie over.

The motion was agreed to; and the Senate, on motion of Mr. WEBSTER, proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

IN SENATE.

THURSDAY, *March* 15, 1849.

Mr. TURNEY moved that the Senate proceed to the consideration of the resolution offered yesterday by the Senator from New Hampshire, [Mr. HALE,] instructing the Chair to inform the Executive of Illinois that General SHIELDS had resigned his seat in the Senate of the United States.

Mr. WALKER. Mr. President, there are two resolutions on your table, both of which relate to one subject, and I rise simply to inquire if we had not better take them up in their order, and in that way dispose of them? One of the resolutions to which I refer is that reported from the select committee, to which an amendment has been offered by the Senator from South Carolina, [Mr. CALHOUN.] It appears to me to be proper that the Senate should first act upon that resolution, and then the resolution of the Senator from New Hampshire will be legitimately in order. For one, I prefer this course. I prefer that we should proceed to consider these resolutions in the order in which they stand, and I hope the Senate will concur with me in that opinion.

Mr. TURNEY. I made my motion, sir, because, if the Senate dispose of the motion of the Senator from New Hampshire favorably, it seems to me we shall put an end to the whole question. I do not see what further we shall have to do with the report and resolution of the committee. The resignation of General Shields has been received; there is now a vacancy in the representation of the State of Illinois on this floor, as will appear by an examination of the Journal, and why, then, should we stand before the public as a Senate passing a resolution to vacate a seat which is already vacated? It appears to me to be perfectly useless, therefore, to take up the resolution and the report of the committee for any purpose whatever. My object is to take up a resolution, which is a usual one when a vacancy occurs in this body, to notify the Executive of the State of the fact that there is such a vacancy, whether that vacancy has been occasioned by ejection, resignation, or by death. The motion of the Senator from New Hampshire proposes to give that notice, and that motion I desire the Senate to take up for consideration. I cannot see why the Senator from Wisconsin desires to go further than that. Surely there can be nothing personal to prompt the taking up of the report of the committee and acting upon it. There is nobody here claiming a seat which has been vacated, and I should think there could be no difference of opinion as to the course which it is proper to pursue.

Mr. FOOTE. I must confess, sir, that I participate very decidedly in the feelings of surprise expressed by the Senator from Tennessee [Mr. TURNEY] that there should be any opposition to a motion certainly dictated by generous feelings, but as much, in my opinion, prompted by sound judgment as by generous feelings. Surely, sir, this motion must be held to have precedence over all other motions, because it is based upon circumstances which disclose to us, most clearly and incontestably, the fact that we have lost the jurisdiction of the case that we have been considering. It is not for me to say a word in reference to the Senator from Wisconsin [Mr. WALKER] and to others; but I must be allowed to say to the Senate that the highest tribunal of the land, the Supreme Court of the United States, in one noted case, and in many other cases less noted, has decided that when that tribunal shall ascertain, in any mode whatsoever, either upon the face of the pleading or collaterally, that they have no right to entertain jurisdiction over the case before them, that they will dismiss the parties from the court at once.

Now, that is the case here decidedly. We had jurisdiction over the case, it is true, at one time. We lost it by the resignation of the party concerned. The litigant, the party instituting the suit before us, the plaintiff, claimant, or by whatever name you may call him, has dismissed the suit, as he had a right to do. And shall we not, under such circumstances, when we have lost jurisdiction in the matter, pursue the course which not only our duty as Senators requires us to pursue, but which courtesy and generous feeling and all magnanimity imperiously demand that we shall pursue? Unless, indeed, there are persons—I would not intimate that there are any such persons here—but unless there are persons who, feeling that there is some little chance of making a victim, and feeling that the talons of the vulture have been thrust into that victim, are unwilling to let go the hold that has thus been obtained until full martydom shall have been consummated.

Mr. WALKER. I view this matter in a different point of view from that which has been thus considered by the Senator from Mississippi, [Mr. FOOTE.] I do not know to whom he would allude as being the vulture who has fastened his talons in the victim, nor does it disturb me greatly to know.

Mr. FOOTE. Will my honorable friend allow me? I thought I spoke very explicitly. I thought he would be wholly undisturbed. It may be that I spoke a little more strongly than I intended. But I thought I distinctly said that I made no allusion to any Senator here. Had there been such an

allusion, I presume it would have more or less discomposed him; but, if he has the least impression that I intended any allusion to him, I will assure him that I did not intend the most distant allusion to my friend from Wisconsin.

Mr. WALKER. I hope not, sir; and I certainly believe not, now. But I will leave it to his consideration whether there has been anything in this matter, either upon my own part or upon the part of any other Senator, such as to warrant the use of a figure of speech which might imply so much as that figure of speech seemed to imply. I am therefore gratified to know the fact, and explictly believe, after his statement, that the figure was not intended to allude to my position in this matter.

I commenced by remarking that I viewed the matter in a different point of view from that in which the Senator has just viewed it. I sympathize with the feeling evinced by the honorable Senator from Illinois, [Mr. DOUGLAS.] He has expressed himself as a Senator should, with a good deal of solicitude in regard to the position in which the State will stand upon the decision of this question. I have never known him to take any position, sir, upon which he has not, with a great deal of zeal, and always promptly, shown his determination to defend his position, and to defend those who gave him his authority. It is right. He does this with ability. As far as I have known him, and I have known him a good many years, I believe he always does so candidly. I am inclined to think that I may offer him an observation, which I am sure he will receive as candidly and as kindly as it is intended.

His fears are, sir, that the action of the Senate, in one respect, may affect the right of the State to be represented in the next Congress under the appointment of the Governor. Now, sir, let us look at this in its plainest point of view. The committee has reported to the Senate of the United States that this election was void. There have been votes taken indicating that there is a clear majority in the Senate which takes the same view with the committee. Well, sir, when the moment has almost arrived when the Senate is about definitively to declare their opinion in concurrence with the committee, the sitting member from Illinois [Mr. SHIELDS] rises and tenders his resignation. Now, the present Senator from Illinois believes that it will be more advantageous to the State that the seat shall be vacated by that resignation than that it shall be vacated by the declaration of the Senate that the election was originally void.

Now, sir, if it goes forth that the Senate of the United States have recognized the vacation of the seat by resignation, it will have some effect elsewhere. It will have some effect, for the present, in the State of Illinois. The Governor of that State may take this course of the Senate as an authority for him to exercise the appointing power. He may think he has a right to do it. But after what has transpired in the Senate, after what has been reported by the committee, when his appointee comes here, and presents his credentials here, by what will the Senate be governed? By the ideas of the Senator from Illinois, or by the Constitution of the United States, under its own sense of its provisions? This is the dilemma in which the State of Illinois will be found, if we tacitly acquiesce in the resignation of this seat, by leaving the question still open. The seat of his appointee will be contested. It will then be the question, notwithstanding that the vacation apparently takes place upon the resignation, whether it did not in fact take place by virtue of the invalidity of the alleged election. That will be the question which the Senate will then have to decide. Now, is it magnanimous upon our part thus illusively to lead the Governor of the State of Illinois to proceed to appoint another Senator, whose seat shall then be contested and found vacant? I know that the Senator from Illinois intends a kindness to his State in his course here, but I do not presume that he will take offence at my simply giving my own views. If they are worth anything, be it so; if worthless, the same. But it occurs to me, before taking up this resignation and acting upon it, leading, perhaps, the Governor of Illinois into an error in sending an appointee here—subjecting himself to the mortification, the State to the mortification, and the late claimant to the mortification of the reflection that he had caused this new difficulty by his resignation when the decision was about to be made—it does occur to me that it is the most proper course for the Senate to decide the question upon its real merits, and let the State of Illinois and its authorities know upon what ground we have proceeded, and in what manner it has become necessary for the State of Illinois to fill the vacancy.

Mr. DOUGLAS. It is certainly my desire that this question shall be decided on its merits, and also that no decision shall be made here that shall mislead the government authorities of my State. And, sir, I have not the same apprehension that my friend from Wisconsin had, that the Governor of Illinois would be misled by the report of the committee. I believe that functionary is capable of judging for himself, and I hope that I am not advocating a course here, the result of which would be to lead him into an error. I believe this body is going to make a just and legal decision of this question; and I believe in my heart that it can only be done by recognizing the resignation of General Shields, and informing the Governor of Illinois of the vacancy which that resignation has created in the Senate of the United States. I think the Senator from Wisconsin does this Senate great injustice, in assuming that it would decide that the seat of the Senator from Illinois had been vacant from the 4th of March. Sir, is this body going to make that decision? Has any vote of this body tended to that conclusion? Is there a man in the body who, under the solemnity of his oath—in the sanity of his mind—can decide that that seat has been vacant from the 4th of March? Has the Senator forgotten that on the 2d day of March it appears upon the Journal that I presented the credentials of James Shields as a Senator elected for six years from and after the 4th day of March, and that those credentials were read and laid upon the table? Has he forgotten that on the 5th day of March the name of James Shields was called to be sworn as a Senator, and that he rose and objected, and offered a resolution to refer the credentials of James Shields to the Committee on the Judiciary, and that the subject was postponed to the next day? Has he forgotten that on the next day, the 6th day of March, I rose in my place, and moved that my colleague be sworn, and admitted to his seat as a Senator from the State of Illinois, and that he and other gentlemen interposed objections; but that, after consideration and discussion, and full investigation, the Senate, by a solemn vote, ordered the oath of office to be administered to James Shields, and that he took his seat as a Senator from the State of Illinois? Has he forgotten that the record of the Senate shows and recites that thereupon the said James Shields appeared, that the oath of office was administered to him, and that he took his seat? Has he forgotten that on each succeeding day when the yeas and nays were called, the name of James Shields was called, and that he voted either on one side or the other on every question as a Senator from the State of Illinois? And has he forgotten that he continued thus to vote up to yesterday, when the record shows that Mr. Shields, one of the Senators from Illinois, sent his resignation to the Vice President, and that on the motion of a Senator that resignation was received and read, and that then a resolution was offered instructing the Vice President to notify the Governor of Illinois of the vacancy produced by that resignation? And, in the face of all these facts, are we to say by a solemn vote that the seat has been vacant all the time that it was filled by the order of this body? Before the Senate can make such a decision, it will be necessary for it to expunge its own record, and falsify its own Journal. Sir, we all know that the seat has been occupied by a gentleman as a Senator. We all know that he was qualified and took his seat as a Senator under the vote of this body. We also know that he has exercised all the rights, powers, and privileges of a Senator as much as any one of us; and yet, sir, we are to be called upon to say that his seat has been vacant. If it has been vacant, sir, what business has the name of James Shields on your Journal on the call of the yeas and nays? It will not do, sir, to say that the seat has been vacant and at the same time filled. I am not arguing the question whether it was rightfully filled. Concede, sir, that it was not; concede that he was not entitled to the seat; yet you have made it a clear case of a person holding an office *de facto*, performing its duties, exercising its powers, and receiving its emoluments, but liable to be turned out on a writ of *quo warranto*, by his own resignation, or by a decision of this body on an examination of the case.

And I hold, sir, that, from the war of the Roses, a *de facto* officer, exercising duties and performing functions, is to be regarded as an officer, and that his acts are to be deemed valid. If he holds it wrongfully, still his authority is to be respected, and, until his office becomes vacated by a proper tribunal, he is capable of executing it. It has been the doctrine in England, that, wherever the throne was filled by a person wrongfully, still it was treason to resist the *de facto* sovereign as long as he remained so; and when he ceased to be sovereign *de facto*, those who, while such, had obeyed his authority and resisted the rightful sovereign, were not punishable, because they had obeyed the sovereign holding the office *de facto*. That principle has been recognized by the American courts over and over again, in regard to executive, ministerial, and judicial officers. Suppose, sir, that one of the district judges of the United States should be appointed by the Executive and confirmed by the Senate, and he should proceed to discharge his duties by trying men for the highest crimes known to the laws of the land, and he deprives men of their liberties and lives by virtue of his judicial authority for thirteen years, (as General Shields has exercised judicial functions in this country,) and that, after the lapse of thirteen years, a *quo warranto* should be issued, and it should be discovered that he was an alien, and it should be found that he had no right to be a judge: are his acts invalid? The Constitution requires that a judge shall be a citizen; but, suppose the office to be filled by an alien, and he tries suits involving millions of property, hundreds of lives, and the liberty of thousands of citizens, and at the end of thirteen years a *quo warranto* is issued, and it is ascertained that he is an alien by birth, and that he has not been naturalized: I concede that you can turn him out—it would be your duty to do so—but can you vitiate his acts? Can you decide that his office has been vacant for thirteen years? Can you decide that the judgments he has rendered on the rights of property between man and man are to be void, and that the sheriff who sold property under execution, is to be held liable as a trespasser, and that the sale is to be void, although the possessor of it has paid for it the purchase money? Are you about to make such a decision? Are you about to decide that a marshal or a sheriff, while executing the order of such a judge, may be sued for false imprisonment? Will you decide that such a judge, who orders a man to be hung for a crime which, under the laws of the land, is punishable with death, is a murderer? Was there ever a court in Christendom that dreamed of declaring the acts of a *de facto* officer void when he has performed duties that were clearly right? No court in Christendom ever made such a decision, and I trust this Senate is not going to sanction such a doctrine. If he were found to be an alien, he would be removed, his office would be vacated, and the vacancy would take place from the day on which he was removed. And is it not so here? Concede, sir, that General Shields is not eligible; yet he was elected, and he was elected by a tribunal that had jurisdiction of the subject of an election. This is not the case of an election by a tribunal that has not competent authority. He was elected by the Legislature of Illinois, which has the rightful authority to make such an election. That is conceded; but you say that the Legislature of Illinois exercised that undoubted authority in an illegal manner. Suppose they did; having exercised it, it was valid, until, by a competent tribunal, it was decided otherwise. This Senate is such competent tribunal in this case. It is invested by the Constitution with the sole power to decide whether General Shields was eligible, and no man has the right to assume that he was not eligible until this body has so decided. That this body would decide that he was incligible, and that the Senate would vacate his seat, on the evidence before it, I am ready to concede; but when you do vacate his seat, you will do it to take effect from the day on which your judgment is rendered, and his prior acts as Senator must stand as long as the

Republic endures and the records of the Senate are preserved. The name of James Shields appears among Senators voting on questions before the Senate, and that name cannot be expunged. And, sir, if that name appears there as of a Senator who voted—a Senator qualified by the oath of office, and taking his seat by an order of this body—are we now to say that he was not a Senator? I apprehend not, sir. It is clear, sir, that he was a Senator until his seat was vacated by his own resignation. Yesterday he resigned, and from yesterday there has been a vacancy. Up to yesterday there was no vacancy; but when he resigned and walked out, the vacancy existed.

But it is said, "What had he to resign?" Sir, he had a seat to resign, and he resigned that. He had a seat which he filled *de facto* under a vote of the Senate, which gave him the emoluments, perquisites, rights, and privileges of a Senator until his right was invalidated. He resigned a seat which he thus held; and are we now to be told that it was vacant all the time? No, sir. The laws of the land, the decisions of the courts, common sense, and public policy are all against it; for if that election was void, *ab initio*, every act that he did was illegal; and if a judge be appointed who shall afterwards be discovered to be ineligible, every decision that he has made is illegal, and every man is a tresspasser who attempts to carry it out. If this be so, sir, we have got to reverse all our judicial principles, and all the practices of our courts and of the deliberative tribunals of Christendom.

But, sir, there is a vacancy now which is created by virtue of James Shields's resignation, and all that we have to do is to notify the Governor of Illinois of that fact, and then we have done our duty. In regard to the report of the committee, it was very well in its place, when there was a question for it to operate upon. But it has ceased to be before the Senate. As the Senator from Mississippi [Mr. FOOTE] has well said, the party to the suit has withdrawn. There is now no one upon whom it can operate; and we ought not to occupy the time of the Senate with its consideration when there is no purpose to be effected by it. By passing that resolution we shall be acting upon the conduct of a sovereign State of this Union whose conduct is not at this time before us. Why, then, shall we do so, if it will have no effect, unless it is designed to have an ulterior operation in that State? From my heart, sir, I disavow such a design on the part of any one. I cannot imagine that any Senator can have such a design; but yet such will be the construction that will be put upon it. I hope the Senate will proceed to the consideration of the resolution offered by the Senator from New Hampshire.

Mr. WALKER. I desire simply to make one remark with reference to what has just been said by the Senator from Illinois; for, judging from the construction he has placed upon my former remarks, I either did not express myself when up before so as to be easily understood, or that the Senator from Illinois could properly understand the tenor of my speech. He has argued this matter, sir, as though I had taken the position that the Senate ought to declare that the seat taken by General Shields has been vacant ever since the 4th of March. Sir, I have taken no such position. The Senator has also asked if I have forgotten various things which he mentions? I answer, no; and that I never shall forget what has transpired here. But, sir, while I remember all this, I do not think my past action or language uttered in this Chamber brings me to the position of contending that the Senate should declare that the seat lately occupied by General Shields has been vacant since the 4th of March last.

Mr. DOUGLAS. The Senator from Wisconsin has misunderstood my statement. I said that I did not believe that the Senator from Wisconsin was prepared to say that such was the fact, or that such a course on our part should be adopted. Hence I stated that this resolution, with the proposed amendment now before us for consideration, ought not to pass. I desired by my statement simply to encourage the Senator from Wisconsin in the correct view he had taken of the subject.

Mr. WALKER. I thank the Senator from Illinois for his encouraging advice; I do certainly feel encouraged, and would say, therefore, that, taking into consideration everything he has said in relation to the case of General Shields, I would give to his queries the plain simple answer, that it appears to me that the course for the Senate to pursue is to declare that, notwithstanding General Shields was a Senator *de facto*, yet that he was such under a void election.

Mr. FOOTE. Perhaps I may have misunderstood the Senator from Wisconsin as to the position on this subject which he occupies. I thought, when I acquiesced in his amendment yesterday, that he maintained that the election was not void.

Mr. WALKER. That subject is not now before the Senate. I was supposing in the remarks I made that the amendment offered by the Senator from South Carolina [Mr. CALHOUN] was now to be voted upon, and that we were about to declare that his election to the Senate of the United States was void from the beginning; and that is the subject now before the Senate.

Mr. HALE. I desire to say a few words in explanation of the motives that induced me to submit this resolution. The efforts of those who oppose the taking up and passage of this resolution appear not to have reference to what we have done or to what we ought to do; but it seems that, in the abundance of their wisdom, it becomes necessary to pass some sort of resolution to instruct the Governor of Illinois in his duty and the State Legislature in their duty. Sir, we shall be doing all that is required of us if we walk in the path of our own duty and have a little generosity for other legislators—considering that all the wisdom of the land is not centered in the Senate, and that the good people of Illinois, in the exercise of their legal constitutional privileges, have appointed a Legislature to take into consideration all matters affecting the interests of the State, and that that Legislature can probably find out what their duty is without receiving uncalled-for advice from us.

How does the case present itself, and what are the facts before us, confining ourselves strictly to the facts? General Shields was certainly here, and by authority of the Senate acted as a member of the Senate; and I suppose, while thus acting, that he could have performed any of the duties which a Senator is competent to perform. General Shields was here and participated in the action of the Senate for several days; he resigns and goes home; and I now put the question to honorable gentlemen, suppose he had never presented himself at this session, would it have been discretionary or right in the Senate to have passed a resolution of this character, to have acted upon his claim, when he had never presented it, when he had not asked for a seat in this body? Surely nobody will contend, that in such a state of facts it would have been discretionary or right for the Senate, in the abundance of their wisdom, to pass a resolution declaring that he was not entitled to a seat here before he asked for it. Sir, does the case before us differ in principle from the one I have supposed, where he had not presented himself? General Shields came here, took his seat; certain preliminary proceedings were adopted; but, seeing the state of facts existing, he has resigned; and how, I ask, does the present aspect of the case differ from that which I have stated, wherein he had never presented himself?

Sir, it has been the common practice of this body to notify the Executive of a State whose Senator has resigned of the fact, so that he may take necessary action with reference to that resignation. This notification has always been made immediately after the resignation of a Senator. Sir, if, because of the abundant caution of the Senate, this notification is not to be made, if it is the opinion of the Senate that the Governor of the State of Illinois is not competent or has not the authority to appoint a successor to General Shields, I prefer stating the fact plainly to the legislative authorities of Illinois, rather than be guilty of the act of discourtesy which we shall perform if we withhold this notification. After we have pursued the ordinary course of procedure in cases of this description, if gentlemen do not think we have gone far enough, if something more is regarded as necessary to be done, why, then, we can proceed to pass this resolution, if it is not thought to be supererogatory.

I would here say a single word with reference to a remark made by the Senator from Georgia, [Mr. BERRIEN,] about vindicating the privileges of the Senate. That Senator states that this is not a question of privilege. Sir, it does not seem to me to be possible, in the compass of infinite wisdom, to present a combination of circumstances which should present here a question of privilege, if this is not one. It goes, sir, to the very existence of this body, to the very foundation on which we stand. It is due, then, to the dignity and the honor of the Senate that we should take such a course as shall vindicate it from any aspersions that may be cast upon it of endeavoring to bring discredit upon a State, and upon an individual sent here to represent that State. As I said before, the ordinary courtesies of life require that we should adopt the usual course of proceeding in matters of this character; that we should notify the Executive of the State of Illinois of the resignation of Gen. Shields, and then, if it is thought by Senators that we have not gone far enough, we can take further action upon the question.

Mr. RUSK. I have listened to the remarks of gentlemen with reference to the action of the State of Illinois upon this question with attention, and consider them, to say the least, totally out of place; certainly it cannot be assumed that the judgment of the Senate on this question can control the future action of a sovereign State of this Union. It could only be looked upon in the way of advice, and I think we had better withhold our advice to a sovereign State until we are asked it; it can have no binding effect upon the State. Sir, of what effect is this resolution at the present time? The resolution, at the time it was presented by the committee, before General Shields resigned, could have had the effect to vacate a seat then occupied in this body by that individual. Can it have that effect now? It may be said that the Senate will thus decide that no individual who has not been a citizen of the United States for nine years can have a seat in the Senate under the Constitution of the United States; but what benefit will result from that declaration? That fact is already set forth in the Constitution; and we cannot diminish or add to its strength by any action of ours. Suppose we make this decision now, will it have any binding force or effect hereafter? It seems to me it cannot operate upon the future action of the Senate, even if the Governor of the State of Illinois, considering that there is a vacancy which he has a right to fill, should send a successor to General Shields to this body. We shall be guided by the Constitution, and we cannot by any action of ours affect the provisions of that Constitution as it relates to questions of this character. Suppose we discussed the question before us for three months to come, we could not alter its character; it would still be an abstract question. It appears to me absurd to proceed to make a decision upon an abstract question, which decision will not be worth a sixpence after it is made. In any future action upon a case of this character we are to abide by the Constitution—to hear the individual and determine upon his claim to a seat in this body without reference to any decision made now. Whatever decision we come to now will be totally useless, for there is nothing for it to operate upon. The seat is vacant; and we are only asked now to perform the common courtesy usual in cases of resignation, and then leave future events to take care of themselves. The State of Illinois may adopt the course of procedure pointed out by a majority of this body, or it may not do it; in short, sir, this decision, if made, will be in anticipation, and can have no binding effect upon the future action either of the State of Illinois or the Senate itself.

Mr. BADGER. If I believed the question before us for decision one merely of an extension of courtesy towards General Shields, I would not permit any Senator on this floor to go beyond me in awarding the most liberal courtesy and kindness to him. But, sir, I look upon the question as a very different one—as involving civil relations of another and of a higher character, and as requiring a decision from the Senate not affected in any degree by the considerations of courtesy and kindness. I do not wish, sir, to enter into this argument at any length; for I have not the vanity to suppose that anything that I can advance will change the opinions of Senators who differ from me, or strengthen the opinions of Senators who agree with me; but I will state very briefly the reasons

which will induce me to vote against taking up and disposing of the motion made by the Senator from New Hampshire yesterday, and to vote for taking up and passing the resolution reported by the Select Committee. Those reasons, sir, to my mind are clear and obvious.

Sir, if this resolution shall be determined in the negative, then there will be no need of any further action by us upon the subject of General Shields's seat; he can withdraw the tender of resignation and continue a member of this body. But if the decision of the Senate shall be to adopt the resolution reported by the committee, it will then have been determined by this body—who, under the Constitution, are the sole arbiters of the question—that this election was void, that General Shields was never for a moment rightfully a member of this body, and that he appeared here and took his seat upon a *prima facie* title, which, upon examination, turns out, in consequence of an inherent defect in it from the beginning, to have been always void. Now, sir, I shall not undertake to inquire whether, upon that determination, supposing it to be made, the Executive of the State of Illinois would have a right to make an appointment of a successor or not. I confess, however, I do not consider that question one of so doubtful a character as some gentlemen seem to consider it.

The Constitution of the United States, in defining the terms of the several classes of Senators, declares that the seats of one class shall be vacated at the expiration of two, another four, and another six years. The time refers to the respective classes of Senators as originally enumerated. And the Constitution also declares that wherever vacancies exist by death, resignation, or otherwise, "during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies." Considering this as a beneficial provision, intended to keep this body full, and to preserve to each of the States its full representation in this body, and as such entitled to a liberal interpretation, I must be permitted to say, without committing myself definitively upon the question, that I have not seen any reason yet to satisfy my mind that the Executive of Illinois would not, under the circumstances, be competent to make an appointment, supposing that no session of the Legislature has intervened from the time the seat was vacated, which I take to have been from the expiration of the term of the previous session; supposing, as I have said, this resolution be adopted, I have seen no satisfactory reason as yet to convince my mind—though I do not wish to be understood as giving a decided opinion to that effect, for there may be satisfactory reasons which I have not yet heard—that the Executive of the State of Illinois would not be competent to fill the vacancy within the meaning of the Constitution of the United States. However that may be, in my judgment it is very clear that if he cannot fill the vacancy—supposing this resolution be adopted—he cannot fill the vacancy if we accept this supposed resignation of General Shields. If Gen. Shields was not rightfully a member of this body, if his election was void in consequence of an inherent defect existing at the time the election took place, and if the credentials that were presented have been examined thoroughly by the only competent authority for that purpose, (the Senate,) and have been declared by that authority a nullity from the beginning, it is to my mind proof conclusive that the acceptance of a resignation, without a good and rightful title to the office so resigned, cannot put any other power in the hands of the Governor than he would have had if we had supposed a resignation never took place, and that the present proposed action of the Senate had been determined upon. Therefore it appears to me, whether this resolution is adopted or the resignation accepted, the power which may be possessed by the Governor of Illinois to elect a successor to a seat on this floor is the same; and the question will stand before the Senate at the next session exactly in the same condition whether either alternative is adopted. In my opinion, then, nothing is gained to the honorable Senator or the gentleman whose seat is in question; nothing is gained to the State of Illinois; no good is promoted whatever by now avoiding the decision of the question and leaving the Executive of the State of Illinois to proceed to make an appointment, supposing that the case stands either upon an acceptance of the resignation or in the position it would occupy in case of the passage of this resolution. It seems to me that the plain course for the Senate to pursue, inflicting no discredit or discourtesy either upon the gentleman whose seat is in question or upon the State of Illinois—a course dictated by the proprieties of the case and by the constitutional duty of the Senate—is, that the question being argued and now before them, they proceed to give their decision upon it.

But again, Mr. President, I cannot vote for the resolution which was introduced by the Senator from New Hampshire for the plain reason that the Senate does not itself appoint the members of this body, nor has any power to fill a vacancy that may arise in it. When a resignation is received and transmitted by the Senate to the appointing power of a State, it is not as a mere gratification to the curiosity of the Executive—it is not, as the fact is published in the newspapers, to let the American people know what has been done in the Senate upon a previous day—but it is an official communication that a vacancy in the representation to the State has occurred in this body to the end that he may fill it. That is the only object of the notification. When, therefore, the Senate vote for the passage of the motion of the Senator from New Hampshire, they have impliedly informed the Executive of the State of Illinois that the resignation has produced a vacancy in this body; and for that motion I cannot vote, because I do not believe that such is the fact. The Senator from Illinois may think it proof of deficiency of intellect on my part when I state that I am of opinion that the seat has been, in point of fact, vacant since the 4th of March.

Mr. DOUGLAS. The Senator from North Carolina, I think, has misapprehended my remarks. I concede that General Shields was not rightfully a Senator—that he was but *de facto* a Senator—but as he filled a seat as a Senator *de facto*, performing the offices of a Senator, no vacancy occurred until he resigned.

Mr. BADGER. The acts performed by General Shields while here were valid, no doubt; but, if the Senator will permit me to say it, I think he has made a discovery in the power of resignation if he considers this seat *de facto* morally that has been so corporally. In a corporal occupation of a seat, the Senator has only to get up and go out of the Senate, and he will have resigned.

Mr. DOUGLAS. He occupies a seat here *de facto* under a color of right.

Mr. BADGER. I assert that that color of right is no right at all. To be sure, as I have already stated, General Shields rightfully took a seat in this body by authority of the Senate. There was a *prima facie* title presented on the face of his credentials, and on that ground General Shields was sworn in. Now it is found out that that title is no title at all, not in virtue of anything that supervenes, but because of a defect inherent in the title itself; therefore there never has been of right any Senator on this floor, for a moment since the 4th of March, from the State of Illinois, except the Senator before me, [Mr. DOUGLAS.] For the reasons, then, which I have stated, the true course of the Senate, in my judgment, is to decide the question upon the resolution. If that fail to pass, General Shields will then be regarded constitutionally as a member of this body, and there will be an end of the matter. If the Senate believe that he never was constitutionally a member of this body, then we owe it to ourselves, to the Constitution, to General Shields, and to the State of Illinois, that we declare that belief by passing the resolution.

Mr. RUSK. I cannot agree to the conclusion the Senator from North Carolina [Mr. BADGER] has come to, with reference to our notification of the Governor of Illinois of a vacancy existing in this body. I do not consider that notification as a judgment of the Senate. A statement of fact is not a judgment, in my opinion, at all. The Senator thus makes it necessary that the judgment of the Senate should be pronounced in the mere matter of notification—in the performance of what was usually done when vacancies occur in this body. Sir, as I have said before, we cannot turn the claimant out because he has resigned; he is already out. This, then, is an abstract question, and all that is necessary to be done is to inform the Governor of Illinois of the vacancy existing.

Mr. DOWNS. I confess, Mr. President, that it seems to me very strange that the Senate should be engaged in the discussion of a subject which does not demand consideration at our hands at the present time at all. What have we before us? What is to be the practical effect of our action here? There is nobody claiming a seat in this body involving the question gentlemen are discussing. The person who occupied that position has withdrawn his claim; and I would inquire of gentlemen if it is the province of the Senate to sit here and discuss abstract questions, when their decision is not necessary to the furtherance of any action properly incumbent upon them. Whatever may have been the opinions formed by the Senate as to the rights of the parties interested heretofore, the question of their correctness can no longer be entertained; and those who continue to discuss it as an abstract question are doing that which will lead to no practical result—are addressing themselves to a question which their arguments cannot change. The gentleman interested in this matter having tendered his resignation, the decision of the Senate cannot prevent him from leaving this body or reinstate him as a member.

The Senator from New Hampshire and several other Senators have repeatedly advocated the question of courtesy as connected with this subject. Now, after all that has been said upon the subject of courtesy, if the opinions entertained by gentlemen that have led to the presentation of this resolution be carried out, I do not think that the Senate will be very *eminently* distinguished for courtesy by the adoption of such a course. The Senator from North Carolina admits that, legally and practically, there is no material difference in the ultimate issue, whether we declare General Shields's title to a seat null and void from the beginning, or whether we simply send a notification of the resignation of General Shields to the Governor of Illinois. If it makes no difference, then I ask the Senate whether it would not be more in accordance with the feelings of courtesy, and be less likely to wound the feelings of the estimable individual who lately occupied a seat here, to simply send a notification to the Governor of Illinois stating his resignation.

Mr. BADGER. If the Senator from Louisiana will allow me, I would inform him that what I did say on this point was, and I repeat it now, that, whether the resolution presented by the committee was adopted, or the resignation of General Shields accepted, nothing in the end is gained one way or the other for General Shields; but that the original objection would stand, with precisely the same force, at the next session of Congress as it stands now. I think there is a very material difference in other respects, considering one course right and the other wrong.

Mr. DOWNS. So I understood the honorable Senator. I ask of him and the Senate, why proceed further in this matter? Are we come here to turn this Senate into a debating society, and simply to discuss questions, when those discussions can have no practical effect? I think not, sir. I think the Senate of the United States have no power to act in this manner. What is their power? It is power simply to judge whether a man returned to this Senate is qualified to take his seat here or not. No such question is now before the Senate. We have no power to go further in this matter, or to enter into discussion, or give a decision upon a question that should be decided by the Executive or Legislature of the State of Illinois. If there is any difficulty in the election of another Senator, it will be time enough to solve that difficulty and judge of his qualifications when he applies for a seat in this body. We are sitting here now discussing a question of power to be exercised by the legislative authorities of Illinois; a question with which we have nothing to do whatsoever, and a decision upon which can have no effect, because we have no power. As has been said, our powers are analogous to those of a court, and arguments presented in a court are not considered to be entitled to any weight when they travel out of their proper course. What would we think of a criminal court taking up some difficult question in criminal law, and giving its decision

upon it? And would that decision be regarded as binding in any practical case of a similar character? Sir, it would be regarded as of no more weight or authority than the decision of the Senate now proposed to be given can be regarded as of binding effect in relation to its future action. I understand that the refusal to notify the Governor of the State of Illinois of this resignation would be an assumption of the power to refuse the resignation; but if we have no power to refuse giving such a notification, what right have we to refuse the resignation of a member of this body?

A SENATOR. How can a resignation be presented to this body?

Mr. DOWNS. I am asked how a resignation can be tendered to this body. I would say, in reply, that I have not inquired particularly into the subject; I take it for granted that what is usual and customary must have some foundation in right and in law. I believe, also, it has always been customary, whenever a resignation is tendered to this body, to notify the Executive of the State whose representative has resigned of the fact. And if we refuse to do that now, and that, too, after the lengthy discussion we have had, whatever other individuals may think, I cannot but consider that it will be regarded as the result of a determination of the Senate to hold on to this question, to make in some degree a victim of the claimant who has been before us. Look at the peculiar circumstances in this case. There has been no interference of persons or authorities interested in this question. There has been no complaint from the State of Illinois—from the opponent of this gentleman at the time of his election; no memorials or petitions have been sent here; but from mere impulse, as it were, we have entered into consideration of this matter. I do not intend to express any opinion as to how far such a course was proper; but, having entered into it under circumstances rather extraordinary, I think, so far from attempting to clutch it and hold on to it, and make the most we can out of it, that we ought to be glad to get rid of it. We have got hold of a victim, and the law must take its course. Sir, I can see no other effect to result from our action but to prejudice his case.

This gentleman, Mr. President, has some claims on the country; though I wish distinctly to be understood that I would not, in consideration of the claims of any man, no matter how great may have been his services to the country, or upon a question of courtesy, violate any of the principles of the Constitution; but when I see my way clear, and that there is no violation of the Constitution in question—when I see that we are only giving this individual a fair chance, if his name can again be brought before the Senate of the United States legally and constitutionally, to secure such action—I feel much more inclined to promote his interests, as far as I consistently can, than to sacrifice them. I should feel deeply grieved and mortified if, by any peculiar course of action I should take in the Senate, I should depreciate his standing in society, or lessen his prospects of success hereafter among the people of his State, or anywhere else. I do not impute any motives of this kind to honorable Senators; but gentlemen must be more short-sighted than I believe them to be, if they do not see that they will materially affect those prospects if this resolution is passed here. This individual, no more than any other person, no matter how distinguished he may be, cannot expect to enter into another election without competition. I ask gentlemen, if this proposed decision of the Senate is made, if it will not, judging from the past history of these matters, operate as a serious impediment and drawback to his future advancement! If it is absolutely necessary that we should make this decision, why, do so regardless of consequences; but when it is not necessary, do not do an act prejudicial to the individual, or injurious to his interests.

Mr. President, if the Senate continue to entertain this matter, I presume it will be the first case upon the records of our legislation where such a question has been entertained after the person has voluntarily withdrawn. It is useless to say that he has not done anything, that he has resigned nothing. He resigned whatever he had; he has retired from the position he occupied, whether a valid one or not. He has gone out from us, and his admission is no longer a question before the Senate. I have not taken the trouble to examine the precedents in this matter, but I recollect a case that occurred in the House of Representatives, which was much in point. Objection was made to a member holding his seat on account of having accepted another office. The question was discussed, and, while the debate was going on, his resignation was tendered, and the moment it was tendered the discussion ceased, the House considering that there was no further question before it. I allude to the case of Colonel Baker. This course of procedure is usual and customary, and I do not know of an instance where the discussion of a question of this kind has been continued after the resignation has been tendered. I believe it the imperative duty of the Senate, then, the moment they are notified of a resignation, to stop all proceedings in the case, and give the ordinary notice to the Governor of the State whose representative has resigned.

Mr. DAVIS, of Mississippi. The question has been so often debated, as one involving the power of the Senate to accept the resignation, that I feel constrained to say a few words in regard to it. I view the tender of resignation as a mere notice to the Senate. We cannot accept the resignation; for it does not belong to the Senate to excuse him from his duties as Senator. Who gave him the authority to come here? The Legislature and the Governor of his own State. To them, therefore, must he resign the office of Senator. Nor do I see what authority can be found for making the Senate the channel of correspondence between the gentleman and those from whom he received his appointment. I do not doubt the power of the Senate, however, to go on and investigate the qualifications of the gentleman after the tender of his resignation. I agree with the Senator from Louisiana as to the propriety of abstaining from any further proceeding; but, as to the power of the Senate, I have no doubt whatever that it exists as a self-preserving power. It belongs to the Senate as much as the power of compelling the attendance of members of this body; it is a part of the same power. The Senate might be broken up for the want of a quorum, if it had not the power to compel the attendance of its members. I am as little disposed to discuss the qualifications of the contestant for the seat, after he has withdrawn, as I was to discuss his qualifications before he was admitted to take the seat. I considered it necessary that he should be admitted to a seat, in order that we might examine his qualifications as a member. But now that he has withdrawn, I am willing to let the question rest. Whether the vacancy happens upon the decision of the Senate, or whether it is to be considered an original vacancy, our further proceeding in the matter can make no difference. We cannot change the effect by any resolution that the Senate may adopt. Still less can it be changed by the communication which was addressed to the Vice President by the contestant. It must stand precisely as before he withdrew his claim. There is no practical question now before the Senate. The whole matter is now transferred to the determination of the State of Illinois. To the State, I say, let it go. And when, at the next session, a Senator shall present himself to fill the vacant seat for the State of Illinois, then it will be time enough for us to decide the constitutional question. I am not disposed to anticipate it, or to prejudge it. The question may be settled without our intervention. Enough, at all events, for the day is the evil thereof. I do not wish that the Senate should be detained now in debating a great constitutional question. And if there be no Senator who now wishes to address the Senate, I will close my few remarks by a motion to lay the whole question upon the table. The Senator may resign to his own State; and for us to take action upon the resolution of the Senator from New Hampshire does seem to me to be entirely superfluous and improper.

Mr. CALHOUN. I suppose if this question be decided in the affirmative, there will still be before the Senate the resolution reported by the committee?

Mr. DAVIS. My motion is to lay the whole upon the table.

Mr. CALHOUN. If the motion be to lay the whole upon the table, I desire to say a few words.

PRESIDING OFFICER. The only thing that can be subject to the Senator's motion is the motion to consider the resolution of the Senator from New Hampshire.

Mr. DAVIS. Then I will make the same motion in reference to the resolution, when it comes up.

Mr. DOUGLAS asked for the yeas and nays upon the motion of the Senator from Mississippi.

They were ordered; and, being taken, were—yeas 20, nays 15.

So the motion was laid upon the table.

Mr. MASON. I presume now the resolution of the committee will come up as a matter of course; and, if so, I wish to say a few words before there is any disposition made of it.

Mr. DOUGLAS. A motion was necessary in the case of the resolution of the Senator from New Hampshire; and I would ask if a motion is not equally necessary to bring up the resolution?

PRESIDING OFFICER. The resolution was first in order. A motion was therefore necessary to give the other the preference. The resolution is now before the Senate for consideration.

Mr. MASON. I look upon this question as one peculiarly of a judicial nature, and I cannot understand how it can be discussed or entertained in any other way. It is a question as to the construction of the Constitution, and depends not upon facts. Now, sir, the resolution which I brought in from the select committee, as I understand it, places precisely the same construction upon the Constitution as is given to it by the amendment of the Senator from South Carolina. So far as I can venture to speak of the understanding of the committee, it was clearly their purpose to express the idea which is intended to be conveyed by the amendment of the Senator from South Carolina.

Mr. CALHOUN. That was my impression.

Mr. MASON. The resolution is in these words, and it is copied from the one which was passed in the case of Mr. Gallatin: "That the election of James Shields to be a Senator of the United States is void, he not having been a citizen of the United States for the term of years required by the Constitution of the United States;" not that he had not been a citizen of the United States nine years prior to the time of his election. He was elected in January; and the office did not become vacant until the 4th of March. The election did not clothe him with the office of Senator. His period of service was to commence on the 4th of March, and if he had been qualified at that time it would have been sufficient. That was the construction put upon this clause of the Constitution by the committee, and I presume it was the construction put upon it by the Senator from South Carolina. I have no objection, however, none in the world, to adopt the amendment, because it will make the resolution more explicit.

Mr. CALHOUN. That is the whole object of it.

Mr. MASON. So I understand. Now the question that remains is, was the election void? I so regard it, because General Shields was not qualified when the time arrived for him to assume the duties of the office for which he had been chosen. I regard the election, then, to be, as the resolution expresses it, void; not voidable, but void. Now, what is the distinction? The distinction is well known, I apprehend, to all lawyers. That which is void can never be made good; that which is voidable may be. That is the distinction; and it is a distinction that is well known to lawyers. If this election were voidable only, it would result that, in some way or by some act, the election could be made good. But I apprehend that this election could not be made good in any way. Well, if it never could have been made good by the act of any party whatever, it results that it was void; it was void *ab initio*, and could never have become valid by lapse of time. If, then, the election never could be made good, I hold that it was void, and, being void, that it is the duty of this Senate so to declare. Nor can I see, after listening most attentively to the arguments of gentlemen, that the action of the Senate, in declaring the election void, is in the slightest degree derogatory to the honorable and distinguished gentleman who was the choice of the Legislature. It is declaring only what is the true constitutional construction upon the state of facts before us. I thought thus much, by way of explanation of the views of the committee, was due to them.

Now, as to the other matter, which has been connected with this investigation, resulting from

the communication of General Shields to the Vice President of his intention to resign his seat. I do not understand that that letter can operate upon this question in the slightest degree whatever. I hold, sir, with the Senator from Mississippi, that no Senator can resign his seat to this body. Resignation can be made only to the appointing power. An appointment that is derived from the Legislature of a State, can be returned only to that Legislature. No member of this body derives any part of his authority, as member of the body, from the body itself. The Constitution under which we live declares, that if a vacancy happens in the Senate, by resignation or otherwise, during the recess of the Legislature of any State, the Executive thereof may make a temporary appointment. Now, without that clause of the Constitution, as there is a previous clause for the election or appointment by the Legislature alone, I apprehend that resignation can be made only to the Legislature, because that is the appointing power. But here is a subsequent clause declaring that when a vacancy occurs during the recess, the Governor may appoint. This shows that a vacancy may occur by resignation, when the Legislature is not sitting; and when a vacancy occurs during the recess of the original appointing power, it can be filled by the second appointing power. I hold it to be necessarily true, that an office can only be resigned by returning it to the source whence it came. Nor do I see that resignation in this case, if it were in the power of the Senate to accept it, would in the slightest degree affect, enlarge, or diminish the power of the Governor of the State, in filling the vacancy. His power is derived from the Constitution, and the occasion upon which he is to exercise it is pointed out by the Constitution. And if the Governor is called on to exercise the power of appointing, he must be governed by the Constitution, and by nothing else. Now, what is the language of the Constitution? It is, that if a vacancy occur during the recess of the Legislature, by death, resignation, or otherwise, the Governor shall appoint. Well, suppose you pass the resolution. A copy of it will be sent, I presume, to the Governor of Illinois, to notify him of the action of the Senate, as was done in the case of Mr. Gallatin. What is the action of the Senate? It is to declare that the election of General Shields was void. He must apply his own construction to it. In my opinion the vacancy occurs at the time when the judgment of this body is pronounced upon it, and not before. Although the election was void, none can doubt that the office was filled (as Senators have said, and I confess properly said) by the Senator occupying the office as Senator *de facto*, though not *de jure*. Now the distinction between *de facto* and *de jure* is perfectly intelligible; the office was full, though the election was void. How was it full? Why, it was said, and I think properly said by the Senator from Georgia, that it was filled from necessary convenience and political necessity. Although the election was void, yet the office was filled from political necessity. When the gentleman chosen presented himself with his certificate of election, which was *prima facie* evidence to us of his title to the seat, he became invested with the privileges of office, and held them, though his election was void, until the act of resignation. And the action of the Senate can amount to nothing more than to declare that the office is vacant, when the judgment is pronounced. I think, then, it will be found that it is not competent for General Shields to resign his office to the Senate, or to any other than the power whence he derived it. I do not see that our action can in the slightest degree affect the action of the Governor of Illinois. He must determine for himself. We cannot dictate to him; least of all can we control him. I have regarded this question, then, as one purely judicial. I should be exceedingly sorry, as I presume every Senator would be, if our act should be liable to any misconstruction or perversion; or if it should be considered a reflection upon the justly distinguished and gallant gentleman whose case has come before us, necessarily, under the Constitution. I cannot imagine for a moment, that it will disparage him with the appointing power, or in the estimation of his fellow-citizens. But, if this were the case, it should not in the slightest degree affect our action. I shall with pleasure vote for the amendment of the Senator from South Carolina, as making the resolution more explicit.

Mr. RUSK. I dislike to be troublesome to the Senate; but it seems to me that we are falling into error in regard to the matter of resignation. There are some offices which cannot be resigned without the consent of the appointing power. But that is not the case with the office of Senator of the United States. All the power that a Senator possesses he receives from the Legislature of his State, and to that Legislature he must resign it; for to them is he responsible. The only responsibility that he owes to this body is to be present here to vote. This body has the right to compel the attendance of its members so long as they continue to be members of the body. Well, now, what is it that constitutes resignation? It is not the consent which the Senate gives to it, or which the State gives to it, but it is the voluntary act of the Senator himself; and, as such, should be voluntary. How many instances are there of gentlemen resigning here and assuming other duties within twenty-four hours afterwards, without notifying the State at all? The moment the individual does the act he ceases to be a Senator; he ceases to be under the responsibility of discharging the duties of Senator. It seems to me that this is clear. This individual, then, having resigned his office of Senator, we have no right to call upon him to discharge the duties of Senator. Have we the same right, under our rules, to enforce his attendance here as we have to enforce the attendance of other Senators who have not resigned? Nobody will contend that we have. Here there is a propriety in his notifying the Senate that he has resigned; and the vacancy commences from the moment when he voluntarily resigns his office. It seems to me this is clear. It has been our constant practice. Under such circumstances the Senate pronounces no judgment at all. There is the evidence that the individual has resigned the seat which he previously occupied. The Senate cannot, then, go into an inquiry as to whether he occupied the seat rightfully or wrongfully. Having resigned his seat, he has relieved himself from the obligation which he owed to the Senate to obey any of its rules and orders. And it is only proper, respectful, and right that we should notify the Governor of Illinois in the usual form that this resignation has taken place. And it does not change the question on the resolution a single iota. That stands precisely as it did before. The Senate of the United States is not called upon to make up a judgment and pronounce upon the question; and if they do so, it cannot bind the State of Illinois, nor can it bind the United States.

Mr. DAVIS, of Mississippi, moved to lay the resolution, together with the amendment, upon the table.

The question being taken, it was decided in the negative: Yeas 18, nays 32.

Mr. TURNEY. I desire to say that I do not propose to vote upon either the amendment or resolution, because there is no contest now before the Senate. The case is precisely the same as if General Shields had died. It is a mere abstract proceeding, without an object or anything to be accomplished, unless there may be produced by it an effect upon individuals elsewhere. I am utterly at a loss to know why this motion is persisted in; but it is not important for me to enter into that subject now. This man, General Shields, however, has been before the Senate on several occasions heretofore, and if he had not an American heart in his bosom, if he did not possess those principles and feelings which endeared him to the people of the United States, these objections should have been made on a former occasion. Sir, he was before this body for the office of Commissioner of the General Land Office; he was subsequently before this body under a nomination as one of the generals to command our army in Mexico. We did not hear then that he was an alien at heart; we heard no such objection. It was then believed that he had an American heart, and that he was well qualified for that toilsome and dangerous position, and his services were gladly received and approved of. He was afterwards before the Senate upon a nomination for major general, afterwards for a civil appointment, that of Governor of Oregon. Still no objection was raised, not a whisper was uttered that he was not possessed of an American heart. Then, sir, was the time, in my judgment, if he was not an American in sentiment and feeling, for objection to have been made.

Mr. WALKER. The objection is only to the want of the constitutional requirement of citizenship for a certain length of time.

Mr. TURNEY. Gentlemen, then, are applying a mere technicality to this case. Whilst they are professing to disregard technicalities, they are endeavoring, by means of a mere technicality, to place upon the Journal that which will affect this individual at home. Why not act upon his resignation? Instead of this, you say, No, we will go on and pronounce judgment, and place that judgment upon the Journal, that it may have an effect upon you at home. As far as this matter is concerned, I merely rise to notify the Senate that I will not participate in any such proceeding, and I hope that Judge Breese, who previously occupied the seat, contributed nothing to bring about this investigation in this body. I hope he would be far from it. I hope he does not even know of it, or anticipate such a proceeding. Yet gentlemen on all sides agree that it makes no sort of difference whether the Senate takes action upon the resolution or not. It is the difference between *tweedledum* and *tweedledee* whether you accept the resignation or pass the resolution. Yet you are resolved to do the latter. But if it makes no difference as to which course the Senate may take, either with the State of Illinois or this body, I ask again, why adhere to the determination, why so great a desire to pass the resolution? I perceive what is the object which Senators have in view, and I cannot persuade myself that that will not be the view taken of it by the public. They will see that the object was persecution. The great mass of the people, when they come to inquire why this thing was done, why a great debate was got up here, will see that it was for no other object than persecution.

We heard the Senator from Virginia, awhile ago, deny the right of General Shields to tender his resignation to the Senate. Did not Governor Bagby send his resignation to the Senate, and did we not receive it? Did not Colonel Sevier tender his resignation to the Senate, and did we not receive it? Was this question ever raised before since we were a Government? The right of a Senator to resign his seat to the Senate was never before questioned. Then why raise this extraordinary question on the occasion of General Shields's resignation, and pass over a hundred other cases, where the right has been exercised, and recognized by the Senate from the foundation of the Government down to the present day? Why rise up now and say that the Senate has always been acting in violation of the Constitution, has always been exercising a power which it does not possess, and now change the whole course so as to affect whom? General Shields, and nobody else. Now, I say, under whatsoever pretence this is justified, the object is only to injure General Shields; for all agree that the act of resignation is as effectual, for every purpose, as the passage of the resolution. The only difference is, that you place the one upon your records by reversing the whole course of proceeding of the Senate, from the foundation of the Government down to the present day, by saying that a Senator cannot resign his seat. You do that, if you do not notice his resignation. And, notwithstanding it has been received and is upon your Journal, you say you will now proceed to render such judgment as you would have rendered if General Shields had remained in his seat. I do not desire to take part with General Shields, Judge Breese, or anybody else in the controversy. I desire to be free from it altogether, and I would extend equal courtesy to Judge Breese as to General Shields. But, sir, after the resignation of General Shields there is nothing upon which the Senate can act; there is nothing upon which the resolution can operate. It is nugatory and void in itself to pronounce the election of General Shields to have been void. I shall not, therefore, participate in the matter. I shall not vote upon either the amendment or the resolution, after it shall have been amended. I decline to vote, on the ground that there is nothing here for the Senate to act upon; and I will not participate in proceedings which I am fully satisfied the country will pronounce to be a persecution of a distinguished and gallant officer.

Mr. DOUGLAS. I feel it my duty to add a few words more. My colleague [General SHIELDS] is truly an unfortunate man. Elected to the Senate, you will not permit him to sit here, and you refuse him the privilege of resigning. The Senate pertinaciously refuses him either alternative. He shall not stay, and shall not have permission to go. It seems as if there were a preconcerted determination that he should not be allowed to leave this Senate without being kicked out. Sir, I ask why the name of Reverdy Johnson is not called by the Secretary when calling for the yeas and nays? The answer is, he has resigned. How has he resigned? By sending his resignation to the President of the Senate. Why was James Shields's name called by the Secretary? Does not the same record show that he has resigned also? Is the Secretary of the Senate to decide this question against my colleague? If this system of persecution is to be carried on by the Senate against this gentleman——

Mr. MANGUM. I call the Senator to order. I will not sit here and listen to charges of this description.

Mr. FOOTE. I charge the Senate with persecution. It is no violation of order.

Mr. MANGUM. I call the Senator to order.

Mr. FOOTE. I call him to order. It is persecution.

Mr. MANGUM addressed to the Senator from Mississippi a phrase which the reporter was unable to hear.

Mr. FOOTE. Very well, sir.

PRESIDING OFFICER. The Senator from Illinois, if no point of order is made, will proceed.

Mr. DOUGLAS. Sir, perhaps I used a harsh expression; but if it is not persecution, why does the Senate make this distinction? The Senator from Virginia has denied the right of a Senator to resign to the Senate. Do we not recollect, sir, how, a few years ago, these galleries were filled and these lobbies crowded to hear the valedictory of the distinguished Senator from Kentucky, who had resigned his seat in this Chamber, and resigned to the President of the Senate? Was the privilege then refused to him? He resigned to the Chair. Was it asserted that he had no right to do so? I believe, sir, that several distinguished Senators, at the last session of this body, resigned to the Chair. There was no objection made then. Only a few days ago, an honorable and accomplished Senator from Maryland resigned to the occupant of the chair, in order to take his seat in the Cabinet; and, sir, his name is dropped from the record of Senators. I ask why the name of my colleague is not dropped also, and whether this distinction did not justify me, in the face of what I see around me, in saying that here was something that to my mind resembled persecution? Yes, sir, persecution of a man whose misfortune it was to be born in a foreign land—a man, sir, who has shown his devotion to this country, I think, by as many titles and by as many glorious deeds as those of any man living. Still, sir, that man is not to be permitted to have extended to him the decent courtesies that have never been refused to mortal man before—not, sir, the courtesy which you have but a few days ago extended to a late member of this body, now a member of the Cabinet, upon resigning his seat. Why is this distinction? Why is this pertinacity manifested to pronounce condemnation upon my colleague, and to inflict an injury upon the State which I represent? There is no case before you. No man can pretend that his object is to vindicate the Constitution; no man can contend that his object is to purge the body; no man can contend that the decision that you are about to make can have any practical effect upon this body. It is not designed for that. What, then, is it designed for? Is it to fix a brand upon a distinguished citizen and a gallant soldier? Is it to aim an insult at one of the sovereign States of this Union? Is it that that induces you to violate every practice that the Senate has heretofore adopted in similar cases? Never before did you refuse a member of this body the right of resignation. Never before did you persevere in aiming a blow at a sovereign State, after the subject-matter involved in the question to be discussed had ceased to be a practical question before the Senate. I trust, sir, if I have shown any degree of feeling upon the subject—if I have said a word that seemed uncourteous to the body—that I shall be pardoned. Certainly, sir, I would not do so willingly. I hold in too high reverence this body—I hold in too high regard every member of it—to say a word that might seem offensive or disrespectful. But, sir, I believe in my heart that a flagrant wrong is about to be done to my State, and to her representative, who has poured out his blood for the honor and fame of this country. And, sir, believing this, feeling it deeply, I trust I shall be pardoned for showing some feeling on this occasion.

Mr. FOOTE. After the two speeches which have just been addressed to the Senate by the honorable Senators from Tennessee and Illinois, I do not deem it necessary to make an extended address in support of the proposition before us. It is surely our duty, in my judgment, without delay, to cause the Executive of the State of Illinois to be informed of the resignation of the seat in our body lately occupied by General Shields. It has been shown most conclusively by the Senator from Illinois, in the course of that very animated speech to which many of us have listened with so much pleasure, and all, as I suppose, with the sentiment of decided admiration, on account of the cogency of its argument and the burning eloquence which marked it from beginning to end, that the motion of the honorable Senator from New Hampshire is in strict accordance with the usages of this body, and not objectionable in itself either on grounds of justice or public convenience.

Sir, if the question before us could be settled by the vote of this vast audience, including not only the Senate itself, but the brilliant and crowded assemblage which surrounds us on all sides, I am confident the motion of the honorable Senator from New Hampshire would be carried by an overwhelming majority.

Mr. HAMLIN (in his seat) here said a word or two, inaudible to the reporter, and was heard to laugh.

Mr. FOOTE. I intend to be heard, and respectfully heard, and shall therefore wait until Senators shall cease to interrupt me. * * I am resolved on this occasion, Mr. President, to speak as plainly upon the question before us as I have heretofore done upon every point which has arisen in the case. I have not the honor of possessing an intimate personal acquaintance with General Shields, nor do I believe I have ever conversed with him in my life for five minutes continuously, but I have long known and warmly admired his public character; and his achievements in the late war with Mexico have secured for him my permanent gratitude as a patriot, and my highest respect as a man.

Sir, if the motion of the Senator from New Hampshire shall not prevail, I perfectly concur with the honorable Senator from Tennessee, [Mr. TURNEY,] that it will be better for those who entertain the opinion expressed by me an hour or two since—that we have lost our jurisdiction over the whole subject-matter of the present investigation—not to vote at all upon any resolution proposing further action thereupon; but, though I may hereafter vote upon propositions seeking to amend the resolution reported from the committee, I shall certainly not participate at all in the final vote upon that resolution. Certain gentlemen seem to be disposed to find fault with the honorable Senator from Illinois, for undertaking to assert that the treatment heretofore inflicted upon the distinguished gentleman who has lately resigned his seat among us amounted to *persecution;* and he was even called to order for using so strong a term. Well, sir, it may be that honorable Senators, who have arrayed themselves heretofore against the claim of General Shields to a seat in this body, have not intended to persecute him—have not designed to do him injustice—have not even been conscious that their conduct towards him was in the least degree discourteous or unkind; but yet I have no hesitation in saying that the course of opposition pursued so zealously and perseveringly, both in matter and manner, is but feebly portrayed by the term objected to. Why, sir, what is persecution, if this man has not suffered it at our hands? No one can deny that Senatorial usage has been violated, in order to oppress and degrade him. No one can deny that a spirit has been exhibited by gentlemen on the other side of the Chamber, from the beginning of this investigation up to the present moment, indicating anything but good will and generous sympathy towards the honorable claimant.

I shall not now, sir, trouble the Senate with a specific recital of all that has occurred, justifying me in the use of the language which I have now employed; it is unnecessary. All our acts are before the country, and an unprejudiced people will not fail to decide—and in language of hot indignation that may astonish some here—that this gentleman, so distinguished heretofore in civic station, so gloriously associated of late with battle-fields of immortal renown, has been more persecuted, more fiercely assailed, more unkindly dealt with, than any public man has ever been in this country from the foundation of our Government up to the present time.

And why—oh! why has this been the case? I will not charge honorable gentlemen with being controlled by personal prejudice or mere partisan feeling; but I tell them, upon much consideration, that such will be the general opinion of the country, and they will find it exceedingly difficult hereafter to explain their present course, either to their own constituents or to the Republic at large.

Sir, a little more than eighteen hundred years ago, the Redeemer of mankind was arraigned upon false charges, and subjected to ignominious death. When brought before Pontius Pilate—a Roman officer, who seems not to have been so impervious to sentiments of manly sympathy as some whom I could name, not far distant from me—he propounded the question, "What shall I do, then, with Jesus, which is called Christ?" The unfeeling multitude around are represented to have exclaimed, "Let him be crucified!" And when the Governor said, "Why, what evil hath he done?" the same multitude, we are informed, again vociferated, "Let him be crucified!" And "when Pilate saw that he could prevail nothing, but that rather a tumult was made, he took water and washed his hands before the multitude, saying, I am innocent of the blood of this just person: see ye to it." And we learn further that the multitude again exclaimed, "His blood be on us and our children!" For nearly two thousand years has this self-invoked curse rested on the descendants of those who murdered the Saviour of the world. And now let me say to honorable Senators, and others who have been concerned in the odious proceedings which have been for two days past in progress in this body, that we wash our hands of the innocent blood of this just person, who has been the subject of unfeeling persecution before the country. Let honorable Senators take heed to themselves that they suffer not hereafter some portion of that curse under which the whole Jewish nation has been groaning for so many centuries.

Mr. President, when I had first the honor of a seat in this body, I received various monitions from distinguished Senators here as to the importance of rigidly enforcing, in all cases, the usages of the Senate. These usages, in their full extent, have never commanded my cordial respect or unqualified admiration. There are several of them to which I have expressed, at different times, more or less of opposition, and I have even gone so far as to urge their repeal, insisting that they were of evil tendency, and mischievous in their operation. But certain worthy gentlemen here have uniformly urged on such occasions, that the usages of the Senate should be held sacred, and neither relaxed nor modified, except in obedience to some imperious necessity. When I have recited the maxim of the common law to such Senators "*malus usus abolendus est*"—though great admirers, professedly, of the common law, these gentlemen have not been inclined to pay the least respect to this well-known principle. No, sir, the usages of the Senate—*the usages of the Senate!*—were to be preserved and enforced in defiance of objections, and without regard to consequences. Let me ask these Senators, and especially my friend from North Carolina, [Mr. BADGER,] how he can reconcile it to his sense of propriety to refuse his support to the motion before us, though it has been proved so satisfactorily to be fully justified by precedent, and so strictly in conformity with Senatorial usage? Why shall not the course recently pursued in the case of the honorable Senator from Maryland (now Attorney General of the United States) be pursued in the case before us? Will any gentleman undertake to

state grounds of exception connected with the particular circumstances of the case under consideration which would justify a departure from usage, and a violation of precedent? This, I am sure, will not be done, and certainly has not been attempted heretofore.

Mr. President, those who have inspected the "pictured page" of Livy, and have made themselves familiar with those high examples which the history of the Roman republic affords for the eternal instruction of mankind, will recollect the case of one Marcus Manlius, surnamed Capitolinus, on account of his heroic defence of the Roman Capitol, when all that remained of the glory and strength of the republic was to be found within the compass of a single edifice, whilst the fierce barbarians of Gaul dominated over the whole city besides, on either bank of the Tiber. This Marcus Manlius, by feats of extraordinary heroism, had successfully defended the capitol against nocturnal surprise, and had thus secured the admiration and gratitude of his countrymen. He was afterwards suspected, upon grounds more or less plausible, of conspiring against the institutions of his country—of engaging in a scheme of establishing a monarchy, of which he was to be the head. A legal prosecution was commenced against Manlius, and he was subjected to trial in the field of Mars, in sight of the capitol which he had rescued from destruction. It was soon perceived by the tribunes who superintended his trial that it was impossible to convince the multitude of his guilt whilst they occupied "a situation where even their eyes must remind them of such an honorable exploit;" wherefore, adjourning the trial, they summoned a meeting in the Peteline grove, on the outside of the Nomentan gate, from whence there was no view of the capitol; and the people's mind being unmoved by any foreign or adventitious circumstance, a severe sentence, and which excited horror even in the breast of his judges, was passed on him. Manlius was afterwards punished as a traitor, by being *cast down the Tarpeian rock!*

Livy informs us further, that "a short time after, 'the people, recollecting only his virtues, were 'filled with deep regret for his loss. A pestilence, 'too, which presently followed, without any ap'parent cause of so great a malady, was attributed 'by most men to the punishment inflicted on Man'lius. 'The capitol,' they observed, 'had been 'polluted with the blood of its preserver, and had 'given displeasure to the gods, that the person by 'whom their temples had been rescued out of the 'hands of the enemy should be brought before 'their eyes, in a manner, to suffer punishment.'" And now, Mr. President, a few words by way of application.

This countryman of ours has been guilty of no crime, privately or publicly; his misfortune, if misfortune it be, is to have been a native of a foreign country. Though born elsewhere than in the United States, he has never failed to sympathize with our progress as a nation; and for years past he has performed all the duties of citizenship creditably. Within two years, this persecuted hero has had it in his power to give evidences of true *American* feeling which few native-born Americans have been able to exhibit; he has been baptized in blood and fire into our American family upon the battle plains of Mexico, and the heroic deeds of this man have become part of our national history. The renown which he has acquired has penetrated every part of the Republic; there is no neighborhood on this side of the Atlantic into which his name has not long since become familiar, and his fame become established.

Is any one so daring as to call this man in question in the presence of those who are familiar with all his deserts? Will any man dare to condemn him without the imputation of crime, and in a legislative body where his merits have been more than once acknowledged, and his heroic achievements more than twice signally recognized? Shall a man who has been faithful in peace, and in war glorious, be discredited before the civilized world, without crime and without fault, in the very Chamber where his deeds have been solemnly enrolled for perpetual remembrance, and his claim to public honor and gratitude confessed, with all the solemnities which belong to the most formal national legislation? Will the Senate of the United States undertake to declare this person an *impostor* and a *usurper*, and refuse him all the privileges and courtesies of co-citizenship because he chanced to be borne in Ireland, and fought in maintenance of our honor as a nation on foreign shores?

If, Mr. President, this were a *Mexican* Congress—(as it is *not*)—if it were *such* a Mexican Congress as, a few months since, decreed peculiar honors to certain statesmen, who, to their eternal disgrace, threw their whole weight and influence against their own country, and in favor of a semi-barbarous foe, I should not be surprised that any member of it should willingly participate in such acts of legislation as might tend to disgrace those who have earned distinction as *leaders* of that thrice-glorious band who won immortality at Churubusco, at Chapultepec, and at Mexico. But I cannot believe that any considerable number of this *American* Senate can unite in a vote which would at the same time rob our heroic brethren of their merited renown, and plunge the nation itself into eternal disgrace.

Mr. BUTLER. I do not know how far I may be, by implication, subject to the profuse, extravagant, and accumulated abuse which has been heaped upon the majority of this Senate.

Mr. FOOTE. I did not allude to the Senator.

Mr. BUTLER. Mr. President, there is nothing in the subject itself—nothing, so far as I have observed, in the temper which has been exhibited on the part of those who voted with the majority—to have called forth the excitement which has been manifested upon a simple question of carrying out the construction of the Constitution of the United States. I, for one, sir, and I believe all of us, acting under the obligations of that instrument, have elevated ourselves even above the strong inducements to gratify our sympathy. I know of no such preconcerted purpose as has been alleged of kicking the incumbent out of this House. I was struck with the impropriety of the language of the Senator from Illinois, and I wish that the Senator from North Carolina had persisted in his question of order. Sir, my feelings have been favorable to General Shields; and if his friends had taken the course indicated by him, we should have had nothing of this disagreeable exposure. Now, what is the proposition which is inveighed against with so much vehemence? It is that some of us have refused to take up the resignation of General Shields of an office which we say, under the Constitution, he never held. Now, would it not be a fallacy, to use no stronger term, for us to send a communication to the Executive of Illinois to say that General Shields has resigned, and that, therefore, the office is vacant? The Senator from North Carolina presented the matter to us so clearly that I thought all must have understood it; that he had nominally filled the office, yet, it having turned out to be by an illegal title, it was as though he had never filled it at all. That is the view that I have taken.

Mr. DOWNS. If that be the correct view, what necessity is there for passing the resolution?

Mr. RUSK. Another question: Why may not a person resign an office that is held without authority with the same propriety as one that is held with authority?

Mr. BUTLER. I do not say that General Shields might not have resigned in the first instance; but when the matter was brought up in this Senate, we were bound to give our judgment upon it. And we ought to certify that judgment to the Executive of Illinois, not to control his action, for we cannot control him by any action of ours. But are we, who believe—and I am astonished when I hear legal men disputing about a matter of this kind—we who maintain that the election, *ab initio*, conferred no right upon this gentleman to occupy a seat here—are we to be reproached in the strong language of the gentleman from Illinois? As to the Senator from Mississippi, I do not mean to reply to him. [A laugh.] I mean it with great respect to him.

Mr. FOOTE. I know that, sir.

Mr. BUTLER. But I do mean to say to the Senator from Illinois that his language was altogether too extravagant.

Mr. FOOTE. Will my friend from South Carolina allow me to say that we are both impulsive; and I hope that due allowance will be made.

Mr. BUTLER. The Senator from Illinois has used rather strong language, in imputing to the Senate a want of courtesy. His language implies something of substance. He intimates that a design exists to offer an insult to the State of Illinois, and that this is manifested in our refusal to accept the resignation of an office which has never been filled. I deem it to be a matter altogether supererogatory to send a communication to the Executive of Illinois, stating that the office of Senator has become vacant by resignation. It would be more than that, it would be untrue. The office has not become vacant by resignation; it has become vacant in a very different way. Sir, I do not stand here to vindicate my motives to this body or to the public; and I assert only what are my feelings when I say that the fame of General Shields is mingled with that of some of the heroes of my own State, and that I would be the very last man to offer him an indignity.

Mr. UNDERWOOD. I owe it to myself, I think, to make a few remarks upon this question, although I am aware of the impatience of the Senate. I cannot vote for this resolution, which it appears the majority are about to force us to adopt. And I wish to assign the reasons why I cannot vote for it, and why I think it ought not to be adopted. The controversy, sir, may have narrowed down to the meaning of words. Perhaps, in the opinion of some, it has come to that. But, in the opinion of others, there is a substantial difference between the views of the majority who are about to adopt this resolution and of those who think it ought not to be adopted. The language employed in the resolution conveys ideas, in the truth of which I have no belief, and against which I rise to make a short protest. This resolution says that the election of General Shields is void. And the gentleman from Virginia has given a definition of what he means by the terms *void* and *voidable*. Sir, with great respect for that gentleman, I do humbly conceive that he has mistaken the legal definition of the terms altogether. He says "void" is that which never can be made good; and "voidable" that which can be made good. I think it is not so, sir. According to my idea of the definition of the term "void," it is that which never possessed any validity. It is that which was a nullity in its inception, a nullity at the end, and a nullity in all the intermediate stages. That is the thing that is denominated "void" in law. Now, sir, if that is the idea intended to be conveyed by this resolution, I deny its truth in point of law. The gentleman from Virginia made his argument suicidal; for, after giving us this definition, he intimated that the office was filled, and that the powers and privileges of the office could be legitimately exercised by the person filling it. Now, if that be the case, it certainly cuts the throat of his definition of the term "void."

Sir, if this office exercised by General Shields while he was here be void in legal parlance, it is no more than if this Senate had allowed any other man from Illinois to occupy the place. They might just as well have taken up any Methodist preacher, for I have one in my eye who lives in that State, and have allowed him to vote as a Senator from Illinois. Sir, the term "void," as defined by the Senator from Virginia, is not applicable to this subject. Now let us see, if you please, how this thing will work itself out; and if it does not strike every member here as extraordinary, (I will not say ridiculous,) I will give it up. You are required to keep a journal of your proceedings, and you begin by recording the names of those who constitute the body; and when one of the number ceases to be a member, you omit his name from the record. And now you enter upon your Journal that General Shields had no right to sit here at any time; that his election was void *ab initio;* that is the language of the resolution. And, in your Journal, you have the yeas and nays, showing by whose votes laws were passed. Here is an act passed by a majority of the votes of the Senate, which majority comprehends the vote of General Shields among others; and, upon reckoning the number of affirmative and negative votes, if you do not count his vote, the majority will be the other way. I put this case by way of illustration. It was so in the New Jersey case. Here, then, your Journal shows that if you take away the vote of General Shields, you are passing laws by the votes of less than a majority. You are passing laws, then, by the vote of a man who has

no more right to vote than if he had never held a commission at all. Sir, is that true? Is it not preposterous to suppose that it is so?

Sir, this is but a voidable election; it is not void. What gives the right to an office? Is it not the commission which the individual receives? What gives the right to a tract of land? Is it not the letters patent which issue from the Government under the great seal? Tell me, if you can, in a legal point of view, why the same formality, under the great seal of the State, or under the official seal of the Governor of the State, will not give the right to exercise an office, as well as letters patent convey the title to land? You may evade the patent, set it aside; but while it is in force, the title exists. The prerequisites upon which the grant is made may have been fraudulent, and the patent will be subject to be set aside on that account; the Government may have been imposed upon by a man who pretended to be a soldier, and entitled to his bounty land in virtue of his military services, when at the same time he had rendered no service at all. When you find out the want of qualification, as in this case, you take away the commission. So in the case of the pretended soldier, you take away the patent. But, sir, while the grant remains in full force, the soldier, or this pretended soldier rather, can oust any person in an action of ejectment. He has the title of the Government, and if the patent is never repealed he holds the title forever; and so of this title to office under the commission of the Governor of Illinois. The office is held, and legitimately held, until the commission is taken away. Now, what is meant by "voidable" in law? A thing that is merely voidable in law stands as valid until you void it. To illustrate: an infant's contract is voidable. If he does not choose to rely on the infancy, it stands as valid. You bring suit against him. If he does not put in a plea of infancy, you obtain judgment, and sell his property under execution. A variety of other instances might be mentioned. But the idea that I have of the term "voidable" is, that the thing stands as valid until it is set aside. Such is the case here. The commission of this gentleman stands as valid, like the patent, until by the action of this body it is nullified and voided. It is good until we act upon it. But here we have a resolution which proposes to declare that the election was from its very inception void. Sir, it sometimes occurs at an election that an individual is elected to office by illegal votes. But it is necessary to a valid election that he should receive a majority of the votes of all the qualified electors who go to the polls. But A B, having received a majority of the votes given, although not a majority of the legal votes——

Mr. HALE. If the gentleman will yield the floor, I will move that the Senate adjourn.

Mr. WEBSTER. If the honorable Senator from Kentucky is willing to suspend his remarks, I desire that the subject should be passed by, in order that we may have an Executive session.

Mr. HALE. I will move, then, that the further consideration of the subject be postponed until to-morrow.

The question being put, the motion was, upon a division, negatived: Ayes 15, noes 20.

Mr. UNDERWOOD. I shall be brief. I was putting a case in which an individual is elected by illegal votes, but obtains his certificate according to the legal form. That certificate, I contend, constitutes a valid election until it is set aside by the competent tribunal The man that is elected does not himself know that he is elected by illegal votes. He is perfectly conscientious in holding the office; and if you do not say that the forms of law, that have been observed until the investigation takes place, renders such election and return valid, what do you do? You impute to him who holds the office the frauds that have been committed by others. The universal practice is, to regard everything as good and valid until an investigation takes place and defects are discovered. And here, sir, is a case brought up in which you are going to violate all the principles of law, and determine that this election was a nullity *ab initio*, and that the individual never had any right to hold the office. And now as to nullity: the doctrine contended for results in this. You have determined that this office never has been filled. That is the effect of your resolution. You determine that all the proceedings of the State authorities as well as the commission of the Governor, are a nullity; that is, that they never had the least shadow of validity. You then come to the determination arrived at by the Senator from Georgia the other day, that the office was never filled, and that there was nothing that could be resigned. Now, sir, speaking to Kentuckians, where we have such multitudes of land patents for the same tract of land, we know that the junior patent is worth something, though there can be but one valid title to one tract. Sir, there is no conflict here, arising from different commissions. There is but one commission, and that commission is found to be invalid, on account of want of qualification on the part of the person to whom it was given. That want of qualification may have been unknown to the individual at the time of the election, and, from what has taken place here, I suppose was unknown. In view of all these things, I insist upon it that this commission which this gentleman held was valid to all intents and purposes until the investigation took place. I would take away the commission upon the facts before us; but I would not do it as this resolution proposes, because as soon as you declare that the office was vacant from the 4th of March, you will determine, if you carry out the principle, that it cannot be filled by gubernatorial appointment; and therefore the office must remain vacant until the Legislature meets two years hence. I can sanction no such principle as that. I believe it to be erroneous from beginning to end. I believe the commission to be valid until we take it away. When we take it away, then the office is vacant, and the Governor may appoint. The commission, therefore, is voidable, and not void. The whole proceeding is voidable merely, and not void. It is liable to be set aside by our action, and this resolution makes it void from the beginning. In that respect I cannot vote for it.

Having now shown the basis upon which my vote rests, I am not sure but I ought, in justice to those who think as I do, to offer, at the proper time, this amendment. And, when I do offer it, I hope the Senate will give us the yeas and nays; and those who think as I do, that General Shields was not entitled to a seat here, will be enabled to show the principle upon which they act. That is all I want. I shall therefore move, at the proper time, to strike out the word "void," and insert in place of it that he is not entitled to the seat, or words to that effect, because he has not been nine years naturalized, according to the idea suggested by the Senator from South Carolina. If this amendment prevail, I believe the resolution will then command the universal vote of the Senate; I do not believe there will be a dissenting voice. But by forcing upon the Senate this doctrine, that the whole proceeding was void from the beginning, you leave it to be understood that this office has never been filled since the 4th of March; and that is reversing completely the precedents heretofore settled. Leave it according to these precedents; then, after October next, the Governor may confer the appointment upon General Shields, or anybody else, and the State will not be deprived of her representative for two years. I am aware that the Senator from North Carolina—and I was gratified with his remarks—thought that the effect which I am now pointing out would follow.

Mr. BADGER. Allow me to say that the Senate has never decided any such proposition.

Mr. UNDERWOOD. I am most happy to hear it. I have not looked at the decisions; and I presume my friend from North Carolina has. I am happy to hear it; because, when I looked at the Constitution, and heard the doctrine laid down which has been advanced by Senators, the inquiry rose in my mind, how, under the Constitution, such a principle could be established. I hope the Governor will make the appointment, and send a gentleman here to fill the office, at all events. But if you adopt the resolution as it now stands, you will be adopting the doctrine of my judicial friend over the way, that this office was vacant and never filled; that the election was void *ab initio;* and that being done, when cases of this kind occur hereafter, your hands will be tied; and such vacancies cannot be filled by Executive appointment. Now, I am not willing to take such a course. I hope, then, sir, as it will not compromit gentlemen who believe that this office was null from the beginning, inasmuch as they can vote, it seems to me, with those who think that he was not entitled to his seat, because he had not been naturalized nine years prior to the commencement of the time of service, that they will vote for this amendment. It will not compromit them; and when the Governor's appointee appears here next winter, if they think proper, they can refer his credentials to a committee and raise this question. But do they wish, in that event, to have the record now made up in that behalf, so that when the appointee makes his appearance here, under the Governor's commission, those who think differently from them shall be silenced by the production of the record? I hope not. I thought that it was proper to place myself right before my constituents, by expressing these views; and I shall be constrained to vote against the resolution unless amended.

Mr. DAWSON. I had not intended during this session to say one word to the Senate of the United States upon any question; but the character of the debate, during this day, has induced me to forego that determination. I am unused to these scenes in the Senate, and I am not accustomed either to be individually or collectively charged with things inconsistent with my character, or with the whole course of my life; to have it proclaimed before the American people that I have been one of a combination to form a persecution against any honorable citizen of this country; and I think it unjust that such declarations should be made, and be allowed to go before the country, so as to lead the public to believe that there was some ground for the allegation. So far as I am concerned, I disclaim it utterly. All this, Mr. President, is said to be allowable by the law parliamentary, the freedom of debate. It may be so, sir; but, for one, though I would not have said anything, were it not that imputations have been cast even upon the young members of this body, which, if allowed to go before the country uncontradicted, may be prejudicial to them, I beg leave to say now, once for all, that in my intercourse with my fellow Senators, and in my demeanor before this body, the feelings of every gentleman will be respected; and I will never make imputations for the purpose of strengthening my argument, and, when their offensiveness is noticed, withdraw them.

Mr. FOOTE. Does the Senator allude to *me?*

Mr. DAWSON. Of course.

Mr. FOOTE. I will explain, if the Senator will allow me.

Mr. DAWSON. Certainly.

Mr. FOOTE. What I said was intended to apply generally. I certainly did not allude directly or indirectly to the Senator from Georgia. He has hitherto observed such silence that it was impossible for me to know what the course of that Senator would be. My language was general. And it was general, only because I felt bound to observe the rules of parliamentary decorum. But I wish to be distinctly understood that what I said, I said deliberately; and as to its applicability, those may apply it who feel that it is applicable to them.

Mr. DAWSON. Then, of course, it has no applicability to me, or to any Senator with whom I have acted. It depends entirely upon their own consciences to judge of the applicability. And I am very sure that no Senator here would be guilty of an act of impropriety, or be wanting in magnanimity; particularly towards an individual so distinguished in the service of the country as General Shields. Now, I will pass from that to my friend from Illinois—and he will pardon me for calling him so, though I do think it was unkind and ungenerous in him to send abroad an imputation upon Senators as being engaged in depreciating a magnanimous man, who has distinguished himself in the service of the country. If there is a heart here that can feel more sympathy than another for a gallant soldier—if there is a gentleman in this Senate whose sympathies are awakened in behalf of General Shields,—it is because by nature he sympathizes with what is noble. If there be one who entertains a higher personal respect for him, who has a higher appreciation of the services he has rendered than I have, I know him not. But our sympathies must not be permitted to stand in the way of our duty. They must bow

submissively to the oath that we have taken to support the Constitution of the country. But are we to be held up to the world as being the persecutors of General Shields—as thrusting him out of the body merely for the sake of gratifying political predilections? Such an idea never entered my mind; and I believe that it never entered the mind of any Senator who voted upon the question. But I did not rise for this merely, because I know my southern friends; I know the impulsiveness of their character. I felt it due to myself, however, to have it thoroughly adjusted and settled. It is all past. I come down now to the question. And in the language of the Senator from South Carolina, I say it is a question of mere constitutional law. What is it? General Shields, as Senator elect for Illinois, comes here with the certificate of election, places it before the Senate, and takes his seat as a member of the body. Taking up the report of the committee, we find it suggested that General Shields is not entitled to the seat. Why? Because he is not constitutionally qualified. The question of constitutional qualification has been referred; and that committee has reported that he is not entitled to a seat on this floor, upon the ground that his election was null and void. And here comes in the great question involving the distinction between what is void in law and what is merely voidable. I will not delay the Senate by drawing the distinction. But I merely put an analogous case, and it will be a reply to the argument of the Senator from Kentucky. Suppose that A and B are married, and that there are preëxisting causes, which, according to the common law, would render the marriage, when investigated before the proper tribunal, null and void. But the ceremony is performed—they are married—they become husband and wife, and subsequently a bill of divorce is filed; the cause is carried to trial, and those preëxisting causes are declared to be a sufficient ground of divorce: is not the marriage null from the beginning?

Mr. FOOTE. Will the Senator allow me to ask him a question?

Mr. DAWSON. Certainly.

Mr. FOOTE. Does not the Senator consider, that where the parties have children, they are not legitimate?

Mr. DAWSON. Certainly; the common law regulates that. The reason is clear. It goes upon the principle that the contract was absolutely void from the beginning. The parties could not legally enter into it. That is the ground. Hence the contract is declared to be a nullity, or, in other words, void *ab initio*.

Mr. FOOTE. Then the children will be *nullius filii*.

Mr. DAWSON. Yes, sir. The principle is the same in this case. General Shields was elected as Senator contrary to the Constitution, which prohibits his election. And, so soon as the fact is ascertained, what is the result? Here is the tribunal which declares that he was not constitutionally qualified. What is the result? Why, that his election, of course, was void, because he has not the constitutional qualifications. He had not the qualifications that are required to exist prior to the election. The election cannot give him those qualifications; nor can this body give them. Is not the proposition clear? And shall unjust imputations be cast upon Senators for coming to this conclusion, when the conclusion is inevitable? It is the duty of every Senator to see that the country is rightly informed; and a wise and considerate people will never be prejudiced against Senators who act in conformity with the oath they have taken to support the Constitution. But the Senator from Illinois complains, and of course complains of me, because I have been voting opposite to him; because I am about to vote for the resolution declaring General Shields's seat vacant. Now, let me give him reasons for it, and see whether the American people will sustain his complaint. Let us look at it. You ask me to vote that General Shields's seat is vacated by his resignation. Had General Shields anything to resign? He could not take office, on account of preëxisting causes. How, then, can you call on me to instruct the President of the Senate to direct a communication to the Governor of the State of Illinois, declaring that a seat in the Senate of the United States has become vacant by the resignation of General Shields? Here is the difference: the seat has not become vacant by the resignation of General Shields, but by the failure of the Legislature to elect a Senator possessing the prerequisite qualifications. And the gentleman is alarmed lest the State should be disfranchised; and he seems to suppose that Senators on this side of the Chamber take pleasure in the prospect——

Mr. FOOTE. Does the Senator mean to express the opinion that General Shields never has been a Senator here?

Mr. DAWSON. I do, most decidedly. The Constitution says that no man who has not been a citizen of the United States for nine years shall be a Senator of the United States. Then, if we cannot make a Senator contrary to the Constitution, he of course never was a Senator. There is a vacancy. Whose fault is it? We say it is the fault of the Legislature, who have not legally filled the vacancy. But gentlemen on the other side say that the vacancy has been created by the resignation of General Shields; and that, if we do not so declare, the result will be prejudicial to the State, because the Governor cannot appoint. My own impression is, that the Governor of the State of Illinois now has the right to fill the vacancy, because the Constitution says that when a vacancy is created by death, resignation, or otherwise, the Governor may appoint. Under that last phrase, I take it that if the Legislature of a sovereign State fail to discharge its duty, Executive power, under the Constitution of the United States, can be exercised. These are my views, sir. I regret that I have delayed the Senate as long as I have on this question.

Mr. UNDERWOOD. I wish to reply to the gentleman in reference to the case which he has put. The difficulty that arises is this: The gentleman gives us a case, in which there is an express declaration that the contract shall be void *ab initio*. If there were any such express declaration in the law or in the Constitution, in reference to this case that it should be void, it would be so. But, on the contrary, it is a simple prohibition, just as in the case of a land title, and one case is as good as a hundred. There being no such express declaration, the election is voidable only: that is the distinction.

Mr. MASON. The Constitution of the United States declares that no person shall be a Senator who has not been a citizen of the United States for nine years. Now, I ask, is there any power in the Senate, or anywhere else, to make a man a Senator who has not this constitutional qualification?

Mr. CASS. I have listened with attention, if not with profit, to this long debate; and I have not the vanity to suppose that I can add anything to the stock of information that has been elicited in its progress. I have heard a good deal of sound argument, of vivid declamation, and of legal learning, and I shall not attempt to add anything. I merely rise to say that I shall not vote for the resolution; for I consider, with the Senator from Tennessee, that it is an abstraction; that it is a declaration that has no practical applicability to any question that is legitimately pending before the Senate. General Shields is not claiming a seat. It seems to me, therefore, that this declaration on our part is not merely a work of supererogation, but an assumption of power that does not belong to the Senate. In my opinion we might as well pass a judgment upon the qualifications of any other Senator as upon those of General Shields; and for that reason I shall not vote.

The question being taken upon the amendment, it was adopted.

Mr. UNDERWOOD then moved to strike out the word *void*, and insert "does not entitle him to a seat as such in this body."

Upon this motion the yeas and nays were ordered, and, being taken, were as follows:

YEAS—Messrs. Atchison, Bradbury, Davis of Mississippi, Douglas, Downs, Felch, Fitzpatrick, Foote, Jones, Norris, Rusk, Soulé, Sturgeon, Underwood, and Yulee—15.

NAYS—Messrs. Badger, Baldwin, Bell, Berrien, Borland, Bright, Butler, Calhoun, Clarke, Cooper, Corwin, Davis of Massachusetts, Dawson, Dickinson, Greene, Hamlin, Hunter, Mangum, Mason, Miller, Morton, Phelps, Seward, Smith, Spruance, Upham, Wales, and Webster—28.

Mr. DOUGLAS then moved to amend by striking out all after the word "resolved," and inserting the following: "That the Vice President be 'requested to notify the Executive of Illinois that 'the Hon. JAMES SHIELDS has resigned his seat 'in this body." And upon that motion he asked for the yeas and nays.

They were ordered.

Mr. DAVIS, of Mississippi. I do not perceive the object of this motion; because I am one of those who consider the resignation of the member elect from Illinois is properly to be made to his own State, and that the Senate has received notification thereof. He has withdrawn from the Senate. So far, therefore, as we are concerned, his resignation is complete. I voted for the amendment of the Senator from Kentucky, because I thought it could do no harm. The Constitution provides the mode of keeping the Senate full. The Legislature of the State has made an election; and whether the member goes out by resignation, by rejection, or by any other mode than by the expiration of the term, I conceive that a vacancy such as is contemplated by the Constitution exists; and that a case arises where, to preserve the full number of Senators in the body, the Governor can appoint. I do not intend, however, to dilate upon this, because I consider the case as having passed from us. But, as I intend to adhere to the line which I originally marked out, I have thought proper to state to the Senate the reason for this vote.

Mr. DOUGLAS. All that I have to say in reply to my honorable friend is, that the Senate has endorsed the principle that a Senator may resign to the Senate.

Mr. DAVIS. I think, that as far as the Senate is concerned, the act is now complete. The resignation has been tendered, and the member elect has withdrawn. It is a matter now between himself and the State.

The question being taken upon the amendment, it was rejected by yeas and nays, as follows:

YEAS—Messrs. Cass, Chase, Douglas, Downs, Fitzpatrick, Foote, Jones, Rusk, Soulé, Sturgeon, Underwood, and Yulee—12.

NAYS—Messrs. Atchison, Badger, Baldwin, Bell, Berrien, Borland, Bradbury, Bright, Butler, Calhoun, Clarke, Cooper, Corwin, Davis of Massachusetts, Davis of Mississippi, Dawson, Dickinson, Greene, Hamlin, Hunter, Mangum, Mason, Miller, Morton, Phelps, Seward, Smith, Spruance, Upham, Wales, Walker, and Webster—32.

The question was then taken on the resolution as amended, and it was adopted without a division.

Mr. WEBSTER moved that a copy of the resolution, certified by the Secretary, be transmitted by the Vice President to the Executive of Illinois.

The motion was agreed to.

The Senate then proceeded to the consideration of Executive business, and, after some time spent therein, adjourned.

IN SENATE,

FRIDAY, *March* 16, 1849.

The VICE PRESIDENT having absented himself agreeably to the intimation given yesterday, the Senate was called to order by the Secretary.

Mr. MANGUM moved that the Hon. DAVID R. ATCHISON be unanimously chosen President of the Senate *pro tempore;* which was agreed to.

Mr. MANGUM and Mr. CASS, at the request of the Secretary, conducted Mr. ATCHISON to the chair.

Mr. BELL, from the Committee on Indian Affairs, to which was referred the memorial of William P. Ross and William S. Coody, in behalf of the Old Settlers or Western Cherokees, complaining that they have been deprived of certain rights accruing under treaty stipulations, asked to be discharged from the same, the committee being of the opinion that they could not act upon the same, and that it be printed; which was agreed to.

MAYO'S WORK ON THE TREASURY.

Mr. MANGUM submitted the following resolution:

Resolved, That the Secretary be directed to purchase for the use of the Senate one hundred copies of the work on the Treasury Department, compiled and published under the authority of the Secretary of the Treasury by Robert Mayo: *Provided*, The price does not exceed $5 per copy of two quarto volumes each.

Mr. M. stated that a resolution somewhat similar, though with an enlarged object, had passed the Senate almost unanimously, but it was not reached in the House during the late session. Every gentleman there was aware of the great

value of the work. It was one which every officer of the Government should have; and without which a new Administration and new officers would meet with great difficulties. It was a work which gave most important information, and therefore he hoped the resolution would be adopted.

Mr. MASON said he had been directed by the Library Committee to report a resolution for the purchase of 1,000 copies of this work, of which he had made a careful examination, and had satisfied himself that it was a work of great value to public officers. That resolution, as had been stated by the Senator from North Carolina, was not reached in the House, and hence he hoped this resolution would be adopted.

Mr. BRIGHT suggested that it be amended by the substitution of the words "120 copies" for "100 copies."

Mr. MANGUM accepted the modification, and the resolution, as modified, was adopted.

RESOLUTIONS.

Mr. RUSK submitted the following resolution, which lies over:

Resolved, That the Sergeant-at-arms of the Senate continue the messengers and folders during the recess of Congress as long as the public service may require.

Mr. BRIGHT submitted the following resolution, which lies over:

Resolved, That B. F. Brown be employed as a clerk in the Senate, under the direction of the Secretary.

Mr. HUNTER asked that John Ramsey have leave to withdraw from the files of the Senate his petition and papers; which, after a brief conversation, was agreed to.

The PRESIDENT informed the Senate that there was no business before it in legislative session; when—

On motion of Mr. WEBSTER, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned.

IN SENATE.

SATURDAY, *March* 17, 1849.

A message was received from the President of the United States, through Colonel BLISS, his Private Secretary.

The following resolution, submitted yesterday by Mr. RUSK, came up in its order for consideration:

Resolved, That the Sergeant-at-arms of the Senate continue the messengers and folders during the recess of Congress, or as long as the public service may require.

Mr. BRIGHT moved that it be passed over, as the Senator who submitted it was not then in his seat.

The resolution was passed over accordingly.

The following resolution, submitted by Mr. BRIGHT, came up in its order for consideration:

Resolved, That B. F. Brown be employed as a clerk in the Senate, under the direction of the Secretary.

On motion of Mr. BRIGHT, the consideration of the resolution was likewise passed over.

The PRESIDENT *pro tem.* announced to the Senate that no further business was on the table; when—

On motion of Mr. BERRIEN, the Senate proceeded to the consideration of Executive business; and, after a brief session therein, the doors were reopened and the Senate adjourned.

IN SENATE.

MONDAY, *March* 19, 1849.

EMPLOYMENT OF MESSENGERS.

The following resolution, submitted on Friday, by Mr. RUSK, came up in order for consideration:

Resolved, That the Sergeant-at-arms of the Senate continue the messengers and folders during the recess of Congress, or as long as the public service may require.

Mr. TURNEY moved to lay the resolution on the table; but, at the request of Mr. RUSK, he withdrew that motion.

Mr. RUSK said all he desired to say about this resolution was this: there was a very large number of documents which had been ordered by the Senate for distribution, not more than half of which had as yet been received, and unless some arrangements were made by which they could be folded and distributed when received, they would lie over to the next session, when their interest would be lost. To obviate this he had submitted the resolution. The plan which he had suggested might not be the best; but unless something was done, a large number of the documents ordered would lie here and be useless.

Mr. BRIGHT said the effect of the adoption of this resolution would be to create a standing expense of about sixty dollars a day. He thought the resolution could be so altered as to avoid so great and unnecessary an expense by providing that the documents shall be folded and distributed at so much per hundred. That was the course adopted by the House of Representatives, by a law which it had made. He moved that the resolution be referred to the Committee on the Contingent Expenses of the Senate, with a view of changing its terms as he had suggested.

Mr. BADGER hoped the motion to refer would not be agreed to. The resolution of the Senator from Texas was designed to pursue the course in which they were in the habit of having their documents distributed, and he did not see why they should abandon their own plan, that they might adopt the plan of the House, unless good reason could be shown for the change.

Mr. BRIGHT replied that the usual plan of which the Senator from North Carolina spoke was just one session old, it having been adopted at the last session only, previous to which the uniform course had been to pay so much per hundred for folding and distributing. Instead of his resolution being a departure from the old plan, it was designed to restore the old plan, which was departed from at the last session. If the resolution were referred to the Committee on the Contingent Expenses of the Senate, it could be so modified as to make it satisfactory to all.

The question was taken on the motion to refer, and it was found that there was no quorum voting.

Mr. BRIGHT desired to make one other remark. The effect of the adoption of this resolution would continue the messengers in the employment of the Senate, and require a payment of $56 per day, merely for the purpose of keeping them to walk about the Capitol until the documents shall be received. And it was a well ascertained fact that they should not get the documents for some weeks to come, and perhaps months. There would be no use, then, to which they could apply the messengers until the documents were printed and furnished, and consequently they would have nothing to do. Now, he asked the Senate if they should continue the payment of so large a sum when there was nothing to be done, or whether it would not be better to refer the resolution to the Committee on Contingent Expenses of the Senate, to be so modified as to provide for falling back upon the old plan, by which a stipulated sum per hundred was paid for folding and mailing the documents.

The question was again taken, and the motion to refer was agreed to by a vote of 17 to 16.

CLERK IN THE SECRETARY'S OFFICE.

The following resolution, submitted by Mr. BRIGHT on Friday, came up in its order for consideration:

Resolved, That B. F. Brown be employed as a clerk in the Senate, under the direction of the Secretary.

On the motion of Mr. BRIGHT, the resolution was laid on the table.

PRINTING.

Mr. FOOTE offered the following resolution:

Resolved, That 5,000 copies of the opinions of the Judges of the Supreme Court in the cases of "Norris *vs.* the City of Boston," and "Smith *vs.* Turner," be printed for the use of the Senate; the same to be printed in pamphlet form in the same style and manner as the decisions of the Supreme Court are usually executed.

Mr. BENTON objected, and said he meant to object regularly to the transaction of any legislative business at this Executive session.

Mr. FOOTE wished simply to say that he was incapable of offering anything of a character which it was not proper for the Senate to act upon.

Objection being made, the resolution lies over under the rules.

WITHDRAWAL OF PAPERS.

Mr. MORTON offered the following resolution:

Resolved, That the claimants or their attorneys, in the following private claims, have leave to withdraw their papers from the files of the Senate: The heirs of Bartlet Hinds, the heirs of Joshua Eddy, the heirs of Jonathan Smith, the heirs of James Livingston, the heirs of Thomas Huges, and J. E. Scott, Benjamin Durkee, James Maxwell, William Torry, Samuel Black, Bartholomew Van Valkenburg, Christopher Delezenne, Jonathan Johnson, Judah Alden, James Hook, Drury Ragsdale, Henry Tatem, and Darius Garrison.

Mr. TURNEY called for a statement of the reasons for making such a motion.

Mr. MORTON replied that it was for the purpose of adding to these papers and presenting them again at the next session.

Mr. TURNEY objected to this system of withdrawing papers, when perhaps an adverse report had been made upon them. He thought, if additional testimony could be produced, it could be submitted without withdrawing papers already on file, from which it was too often the course to abstract that on which an adverse report had been made.

Mr. UPHAM hoped the Senate would not permit these papers to be withdrawn. Perhaps there had been an adverse report upon them. He knew it had been too much the practice to withdraw papers when an adverse report was made upon them, and present the case again at a subsequent session on a new set of affidavits, all the papers that were unfavorable being abstracted. A case had come to his knowledge during the session just closed, in which a claim was set up for arrears of pay and commutation of a paymaster, which was reported upon adversely here and rejected; but at that same session a bill was passed through the other House, the claim set up being for services as a captain. When that bill came to the Senate he examined the file for the papers on which that same person's claim as a paymaster was rejected, and he found they had been abstracted. He hoped the Senate would not longer tolerate such a system, unless very good reason should be given.

Mr. YULEE said there was no objection to the resolution lying over.

It was laid over accordingly.

On motion of Mr. WEBSTER, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened,

And the Senate adjourned.

IN SENATE.

TUESDAY, *March* 20, 1849.

The following resolution, submitted yesterday by Mr. FOOTE, came up in its order for consideration:

Resolved, That 5,000 copies of the opinions of the Judges of the Supreme Court in the cases of "Norris *vs.* the City of Boston," and "Smith *vs.* Turner," be printed for the use of the Senate; the same to be printed in pamphlet form in the same style and manner as the decisions of the Supreme Court are usually executed.

Mr. BENTON said this was a resolution which proposed to take money from the contingent fund of the Senate. Some years ago the Senate adopted a rule for the purpose of preventing the expenditure of its contingent fund without ample consideration; but, nevertheless, the expenditures from that fund had got up to an enormous amount. The rule which the Senate adopted to put a restraint upon the drawing of money from the contingent fund first spoke of bills, but afterwards of resolutions, and it put them on precisely the same footing as bills which passed that body appropriating money. The 26th rule of the Senate was in these words:

"Every bill shall receive three readings previous to its being passed; and the President shall give notice at each whether it be the first, second, or third, which readings shall be on three different days, unless the Senate unanimously direct otherwise. And all resolutions proposing amendments to the Constitution, or to which the approbation and signature of the President may be requisite, or which grant money out of the contingent or any fund, shall be treated in all respects, in the introduction and form of proceedings on them in the Senate, in a similar manner with bills, and all other resolutions shall lie on the table one day for consideration, and also reports of committees."

Such was the rule which the Senate some time since adopted, and at this extra session he thought it behooved them to confine themselves to Executive business, and by no means to adventure upon anything that was legislative, or even *quasi* legislative. But, above all, they should conform to the rule which prohibits the taking of money from the contingent fund by a simple resolution. With these views, if he had been here at the time when a resolution was passed by this body ordering the purchase of certain books, he should have opposed it.

[The honorable Senator was supposed to refer to Mayo's work on the Treasury.] He was not here at that time, and now, as he had already said to the Senate, he wished to be considered as making a permanent objection to the deviation of one iota from what the rule required respecting the taking of money out of the contingent fund of the Senate, the expenditures from which are enormous, and beyond all precedent. He therefore asked the Chair to require the rule to be enforced in this case as in all others. The rule required that any resolution which granted money out of the contingent fund should be treated in all respects, in the introduction and form of proceeding on it, in a similar manner with bills. Now they knew that bills were introduced on leave, after notice, and that they must have a first and second reading; they were then referred to a committee, and afterwards were read a third time and passed. He objected to this resolution, and to all others of a similar kind, because, first, it was legislative, inasmuch as it took money out of the contingent fund; and, in the next place, because this resolution had not been brought in in conformity with the rule which governs the introduction of bills, and the action of this body upon them.

Mr. WEBSTER remarked that an order passed the Senate about a month ago directing the Secretary of the Senate to have these opinions printed, and that order he supposed had been executed, or was in the progress of execution, and that the resolution of the Senator from Mississippi was simply designed to order an extra number. The opinions to which the resolution referred were very interesting opinions of the judges of the Supreme Court, on an important constitutional question, upon which the court was very much divided, and on which several very elaborate opinions had been written by the judges, which involved much constitutional learning, and were, therefore, valuable to every part of the United States. He was aware that these opinions would be published in the ordinary annual volume of reports of the Supreme Court; but, if the Senate made an exception by ordering the separate printing of the opinions in these cases, it would be found to be because of the vast importance of the subject, and because the reports of the Supreme Court reached but a small part of the profession, and scarcely any part of the people of the United States. These opinions were valuable and interesting to every one who wished to possess knowledge on questions of constitutional law; and if the object contemplated could be obtained in conformity with rule, he should be glad if the Senate would concur in this resolution. It struck him that the Senate had not followed the rule quoted by the Senator from Missouri in such cases, and hence he trusted the rule would not be applied here.

Mr. SEWARD said the city of New York was the port at which the great tide of immigration from foreign countries was received, and the expense chargeable on the city had been excessive, and the frauds which had been practised on the immigrants had been intolerable. Two years ago the State of New York adopted a system for the protection of the immigrants against imposition, and also for the protection of the city of New York from the expense incurred in taking care of the sick and disabled immigrants, who were poured into that port at the rate of 2,000, 3,000, 4,000, and even 5,000 a day, from Germany, Ireland, and England—a class of people that were commended to the sympathies of the people here by the sufferings they had endured in their native land. By the operation of the decision of the Supreme Court, in the cases just decided, that whole system had been subverted, and the immigrants were left in a state of hopeless destitution. The Legislature of the State of New York was still in session, and they were desirous to know how they could repair and rebuild a system, if it belonged to them to do that duty, which would accomplish the great object contemplated by the system that had been so unexpectedly subverted. They were also desirous to know, if it was not their province to do that duty, what should be done, and in what manner application should be made to the Congress of the United States, to provide such a system as will accomplish that important purpose. When he came here he had it in charge to ascertain, if possible, what relief could be given to the immigrants, and also to the city and State of New York. That could not be ascertained accurately until the Legislature of that State should be in possession of the opinions of the Supreme Court, on which its judgment was based. This, then, was a patriotic and a humane object, which the Legislature of New York desired to accomplish. He was not consulted about the introduction of this resolution; but when he saw it introduced, he purposed to give it his sanction, because it would enable him to transmit to New York at an early day that information which was not only of great value and importance, but indispensable. He hoped the importance of the subject would be a sufficient inducement with the Senate to acquiesce in the passage of the resolution, although, in general, he concurred in the views of the Senator from Missouri.

Mr. FOOTE was not so conversant with the rules and usages of the Senate as many other Senators, and therefore he should not undertake to discuss questions of parliamentary order. He would not do so for another reason, and that was, that he believed the judgment of the most experienced members of the body, with but few exceptions, would be found to be in favor of the resolution which he had introduced. The importance of the object proposed to be obtained by the resolution had been well stated by the Senator from New York, and he should therefore offer no additional suggestion on that head. But with respect to the undue waste of the contingent fund of the Senate, he trusted he entertained proper sentiments in relation to that matter. He was not much in the habit of introducing resolutions of this character; but that there had been, to a considerable extent, an undue waste of the contingent fund of the Senate, all who knew the history of the Senate for the last two years must be well aware, and it would not be very difficult to designate the person or persons who were most responsible before the country for the expenditure of this particular fund. He (Mr. FOOTE) was not responsible, and he who was might apply these inuendoes to himself. It was for each gentleman to regulate his proceedings here according to his own taste. Some preferred reconnoissances and the printing of maps, while others preferred the printing of constitutional decisions in which the people were deeply interested. He should not stay to argue parliamentary questions. He should leave such discussions to those who felt a disposition to engage in them; contenting himself with making it plain, in a proper spirit, that he had not introduced this resolution unduly to waste the contingent fund of the Senate.

Mr. BADGER should very much regret if any insuperable obstacle should be interposed to prevent the adoption of this resolution. For himself, he should be very glad to see it adopted. He believed it was highly important to the country that the opinions referred to in this resolution should be printed and distributed, and made generally known. It was well known that a majority of the judges of the Supreme Court had pronounced certain acts of legislation of several of the States of this Union to be unconstitutional, and consequently a serious evil, which required some legislative interposition, was left without any redress. He was of opinion, that in this particular case, the question before the Senate stood on a different footing from ordinary cases that engaged their attention. Generally, the decisions of the Supreme Court were made known through the ordinary channel of the books of reports, and by that process the ordinary wants of the public were answered; but this decision rendered it indispensably necessary that some legislation should be adopted by Congress, and it followed, therefore, that it was important that the community should be aware of what was the precise position of the constitutional law which the majority of the Supreme Court had assumed, and the course of argument upon which their judgment rests. An application must be made at the next session of the National Legislature, and to this end it was highly important that the people of the different States should be apprised beforehand of what constitutional law had been established, and to what extent State legislation had been declared to be a violation of the Constitution, and what measure of legislation could be adopted. And if State legislation could not be adopted, (and in his judgment it could not,) then it was necessary that it should be known what remedial action could be asked for at the hands of Congress. For these and other reasons which had been assigned by the Senator from New York, he thought the adoption of this resolution was highly important. If there was an objection to it, it was, that the Senator from Mississippi had specified too small a number of copies, and therefore, if no other Senator made the motion, he should, at the proper time, move to enlarge the number.

The Senator from Missouri had suggested several difficulties in the way of the adoption of this resolution. The first was, that this was a legislative measure, and therefore that the Senate at this special session could not entertain it. Now, he did not distinctly understand in what sense the Senator used the term legislation. In one sense every resolution or order which directed the conduct of its officers, or ordered anything to be done, or prohibited anything from being done, might be said to be legislation; for it was in the nature of a law to prescribe a rule of conduct. It either commanded or prohibited; and if that was all that was meant, it might be safely admitted to be legislation.

But the only sense in which a measure may be legislative, so as to expose it to the objection stated by the Senator from Missouri, as improper to be entertained at a special session more than at an ordinary session, was when it prescribed a rule of conduct to which the assent of the other branch of Congress was necessary, and which the Senate alone was incompetent to prescribe. But this was not such a case. The passage of this resolution was in the power of the Senate alone. It was true that this was a special session of the Senate. It was true that this was a session called mainly with the view of Executive action; but still they were a Senate, and had all the powers of a Senate of the United States, as much as when the other House was in session, to do anything to which the assent of the other House was not required. In this session they were shorn of no power, and he did not conceive that the Senate on the 10th day of February last would have the power to pass this resolution or any other of a similar character, which did not require the assent of the other House, nor the approval and signature of the President of the United States, but operated by its own force, and took effect by the will of the Senate, if they could not pass it now. It seemed to him that there could be no real objection in regard to the power of the Senate in such a case.

But there was another question raised which was based on one of the rules of the Senate, which required bills and resolutions to be read three several times on three separate days, unless unanimous consent were given to several readings on the same day. He knew not what might have been the design of the rule referred to by the honorable Senator from Missouri, but he could not conceive that this resolution fell under the operation of that rule. If it did, he could only say that the Senate had been signally unmindful of that rule; for this, he believed, was the first time that an attempt had been made to apply it to a resolution simply ordering the printing of an extra number of any document which had been ordered to be printed by the Senate. This was the first time that he had heard it argued that such resolutions should be read a second and third time, and he supposed an explanation of the phraseology of the rule might be gathered from the uniform course of action of the Senate. He thought it could not be presumed that the Senate were in the habit of disregarding and overlooking an established rule of the Senate. Such a supposition was an imputation on the presiding officer and every member of the body. He was quite sure that no resolution ordering the printing of an extra number of any paper had been required to be read three different times on three different days since he had been a member of the Senate. This was a resolution, he presumed, which directed the printing of papers by the Congressional printers, under the authority of the joint resolution by which the contract was made with them, one of the conditions of which contract was that they were to print such papers as were directed to be printed by either House of Congress. In what sense, then, could it be said to be a resolution to take money out of the contingent fund of the Senate, and to require three readings on three different days? If the interpretation

of the honorable Senator from Missouri were correct, it seemed to him that if a report came to this body from any one of the departments of this Government during the present session of the Senate, in answer to a call made upon it by the Senate, they could not order the printing of the usual number without three several readings of the resolution offered for that purpose on three several days, unless the rule should be suspended by unanimous consent. There was no escape from that conclusion.

He proceeded to enumerate several instances in which resolutions ordering large numbers of books and documents had been passed without any attempt being made to apply such a rule. He specified a resolution directing the Secretary to purchase 10,000 copies of the *Constitution* prepared by one of the officers of the Senate; and a subsequent resolution, ordering 2,000 additional copies of the same work, which was offered and passed on the same day, and said that, as the rule had not been heretofore applied, he hoped this resolution would be passed without its application. He believed the resolution to refer to an important matter, and he hoped the Senate would have no insuperable objection to its adoption. Before he took his seat, he would suggest to the Senator from Mississippi to modify his resolution by substituting 10,000 for 5,000.

Mr. FOOTE accepted the modification.

The PRESIDING OFFICER, in reference to the point of order suggested by the Senator from Missouri, said, that during the present session, two similar resolutions had been passed, and such appeared to have been the uniform course of the Senate. There could, then, be but one other question, and that was, whether the resolution required three readings. He was understood to say that three readings were necessary, unless dispensed with by unanimous consent.

Mr. FOOTE hoped the resolution would be adopted to-day. He could see no substantial reason why it should be postponed.

Unanimous consent was understood to be given, and the question recurred upon its passage.

Mr. BADGER, in answer to a question from Mr. CALHOUN, said the number (10,000) might seem large, but it would really only give to each Senator about 160 copies.

Mr. BERRIEN rose to state why he could not vote for this resolution. He did not object on the ground stated by others. He believed the Senate at this special session had the control of its contingent fund; and he did not think that this resolution required to be treated as a bill, and be read three times on three several days, for the reasons stated by the Senator from North Carolina. But he rose to allude to the object proposed to be accomplished, and that was two-fold. One object was stated by the Senator from New York, who said that the Legislature of that State was now in session, and that as that was the central point to which immigration tends, it was important that the Legislature should be advised of the decision of the Supreme Court. Now, most certainly it was not necessary that the Senate of the United States should print 10,000 or 5,000 copies of the decision of the Supreme Court in order that the Legislature of New York may be advised of that decision. It was perfectly easy for the Legislature of New York to obtain a copy of the record without the intervention of the Senate of the United States. There was therefore nothing in that argument. The other object struck him to be of a different character. It was proposed to circulate these papers through the United States to invoke the attention of the people of the United States to a decision of the Supreme Court of the United States. In other words, the object was, as he took it, to take an appeal from the decision of the Supreme Court of the United States to the people of the United States. The laws of the United States provide that the decisions of the Supreme Court shall be printed, and it was not the province of the Senate to mark any particular decision of that high tribunal, as it would be marked by their intervention to print and distribute it amongst the people of the United States; and this was the reason why he could not vote for this resolution.

Mr. DICKINSON said he had only read extracts from these opinions, and should not therefore express any judgment upon them further than that they were of a tremulous and uncertain character. The object of this resolution was to place those opinions before the community at an earlier period than they would be in the customary mode. It was not for the purpose of appealing from the decision of the Supreme Court. It was simply an anticipation of the publication of the reports of cases in the Supreme Court (which were generally much delayed, and, even when published, were circulated amongst an exceedingly limited number of persons) for the purpose of apprising the people and the State Legislatures and the local courts what the decision was, and how far it reached. He hoped there would be no question made about the resolution, but that it would be passed without further delay.

Mr. BADGER desired to say a word to place himself right. The Senator from Georgia supposed this was an appeal to be made from the decision of the Supreme Court of the United States to the people of the United States; but he would assure that Senator that it was no part of his purpose to make such an appeal. He merely wished these opinions circulated for the information of the people.

He wished the people to know and understand what was the constitutional limit upon the power of a State on this subject, in order that, if there was any power within that limit which they might exercise for their own protection, they might exert it; and, if there was no power that they could exercise, that at the next session of Congress they might apply to the National Legislature for its action in their behalf. That was his object. He would be far from countenancing any resolution which contemplated an appeal from the judgment of the highest court in this country to the people of the United States. He could not see how the people of the United States could reverse a decision of the Supreme Court. They have no power to do so, and any such attempt would be irregular, disorganizing, and revolutionary, and he would not give his consent to it, whether he agreed with the judgment of that high tribunal or not. The Supreme Court was the highest tribunal established by the Constitution in this country, and, therefore, its judgment was the authority of the United States, speaking through its recognized organs to the people; and, to its judgments, whatever his opinions might be of them, he would render at once submission and obedience. But in this particular case he thought the judgment of the majority of the court was right. He thought it was a just exposition of the Constitution, and he thought also that the effect of that judgment would be happy, inasmuch as it would put the subject-matter there involved under the control of a general regulation, affording protection to the people of every State of the Union, instead of leaving it as it now stands to the independent action of the different legislatures, each having different views of the subject, to prescribe a different rule as its own particular necessities might require, but affording no protection to a large portion of those who were deeply interested.

Mr. FOOTE also disavowed any intention to appeal from a decision of the Supreme Court of the United States to the people of the United States; but he nevertheless held, as the interests of the people were to some extent involved in the recent decision, that it might be important that information on this subject should go the people of the whole country, that they might have the means of judging for themselves whether or not the decision which had been rendered was calculated to militate against their interests, and if so, that they might provide such legislation as was necessary to protect them. He did not agree, however, with the Senator from Georgia, if he supposed that the decisions of the judges, whether belonging to the supreme appellate tribunal of the United States or of the State courts, were so sacred as not to be questioned anywhere except before themselves. He would pay proper respect to the laws and to the tribunals acting in the sphere of their constitutional authority; but the decisions of our tribunals have heretofore been reversed, and he held that we should not do justice to ourselves and to our free institutions if we did not watch and scrutinize them. He took it for granted that judges might err. Story had shown cases of reversal of judgments, and the learned Blackstone had informed them that the opinions of a court and the law were not convertible terms, since judges might mistake the law. He hoped that on all occasions when the people shall have examined the decisions of the judges of the Supreme Court, they might have reason to say, "Well done, good and faithful servants."

Mr. BERRIEN had no idea of interposing an objection to the diffusion of knowledge amongst the people in regard to the decisions of the Supreme Court of the United States; nor did he wish to ascribe to them any sacredness which was not ascribed by the Constitution. But he understood that the decisions of the Supreme Court were the law of the land, and must remain so until Congress should decide otherwise by legislative enactment.

Mr BUTLER said he should vote for the resolution, because he desired to have these opinions that he might inform himself of the legislation that was necessary on the part of this body; but he was opposed to the publication of these opinions for distribution over the United States.

Mr. HUNTER believed that this document would be very acceptable to the people. He understood that it was a very important one, and he should vote, therefore, for the resolution.

The question was then taken on the resolution, and there appeared: Ayes 15, noes 15.

The PRESIDENT *pro tem.* voted in the negative, and declared the proposition lost.

Mr. BADGER observed there was no quorum voting.

Mr. FOOTE demanded the yeas and nays; which were ordered; and the question having been taken on the adoption of the resolution as modified, it was decided in the affirmative, as follows:

YEAS—Messrs. Badger, Borland, Bradbury, Calhoun, Cass, Davis of Massachusetts, Davis of Mississippi, Dickinson, Douglas, Downs, Fitzpatrick, Foote, Greene, Hunter, Mangum, Morton, Norris, Phelps, Rusk, Seward, Turney, and Wales—22.

NAYS—Messrs. Atchison, Baldwin, Bell, Benton, Berrien, Bright, Butler, Chase, Corwin, Dawson, Dodge of Iowa, Hale, Jones, Smith, Spruance, Underwood, and Whitcomb—17.

Mr. FOOTE submitted the following resolution:

Resolved, That 500 of the 2,000 copies of the geological report of David Dale Owen, which were ordered to be printed for the use of the Senate at the first session of the last Congress, be delivered to the Commissioner of the General Land Office, for the use of his office, and that 1,000 additional copies be printed for the use of the Senate.

Mr. FOOTE, in presenting the resolution, remarked that it was a valuable work, and it turned out that not a single copy had been retained for the use of the Department itself. He was desirous that a small number should be printed; and he understood from his honorable friend from Illinois and others that a thousand additional copies for the use of the Senate would not be more than sufficient, and he was informed that the cost would not exceed five hundred dollars.

Objection having been made, the resolution lies over under the rules.

The PRESIDING OFFICER announced that he had received from the Clerk of the House of Representatives a communication.

It was read by the Secretary as follows:

CLERK'S OFFICE, HO. OF REPS., *March* 20, 1849.

To the President of the Senate:

SIR: It becomes my duty to notify the Senate that the Hon. RUDOLPHUS DICKINSON, late member of the House of Representatives of the United States, from the State of Ohio, departed this life in Washington this morning at 5 o'clock, and that the funeral ceremonies will take place from the Hall of the House of Representatives to-morrow at 12 o'clock, m.

THOS. J. CAMPBELL,
Clerk of the House of Representatives.

Mr. CHASE rose and addressed the Senate as follows:

Mr. PRESIDENT: I am advised that no case has hitherto occurred of the death of a member of the other House in this city after its adjournment and during the executive session of the Senate. I am therefore without precedent as to the course proper to be now pursued; but it seems to me highly fit that some appropriate action should be taken by this body in reference to the announcement which has just been made.

I had not the pleasure of personal acquaintance with the deceased. He was born, I believe, in the State of Massachusetts. Without the advantages of fortune, he was compelled to rely on his own exertions for the means of subsistence and the advantages of education. He was graduated, I understand, at Williams College, in the State of his nativity, and soon afterwards emigrated to the West, and fixed his residence in Ohio.

Here he prosecuted the study of the law, and commenced the practice of his profession. He was afterwards appointed by the General Assembly a member of the board of public works. At the general election of 1846 he was chosen a member of the thirty-first Congress, and was reëlected last fall by a large majority.

I have said, Mr. President, that I had not the pleasure of personally knowing the deceased; but the trusts with which he was honored by the State of his adoption, and by his immediate constituency, who best knew his worth, compose a more appropriate eulogy than any which I could pronounce.

I beg leave to submit the following resolutions:

Resolved unanimously, That the members of the Senate have received with deep sensibility information of the death of the Hon. RUDOLPHUS DICKINSON, late a member of the House of Representatives of the United States, and a member elect of that House from the State of Ohio, and that they tender to the relatives of the deceased the expression of their sympathy in this afflicting bereavement.

Resolved, That the members of the Senate, as a mark of respect for the memory of the deceased, will attend his funeral to morrow at 12 o'clock, and wear crape on the left arm for thirty days.

Resolved, As a further mark of respect for the memory of the deceased, that the Senate do now adjourn.

And the Senate adjourned.

IN SENATE.

WEDNESDAY, *March* 21, 1849.

A message in writing was received from the President of the United States at the hands of Colonel BLISS.

On motion by Mr. BADGER, the Senate proceeded to the consideration of Executive business; after a few minutes so spent, the doors were reopened.

The Senate and officers, in pursuance of the resolution passed yesterday, proceeded to the Hall of the House of Representatives to attend the funeral services of the Hon. RUDOLPHUS DICKINSON.*

The ceremonies having been concluded, the Senate returned to their Chamber, and adjourned.

* The Hon. RUDOLPHUS DICKINSON, a Representative in the late Congress, and a Representative elect to the next Congress, from the State of Ohio, died in this city at four o'clock yesterday morning, (March 21.) His disease, as we understand, was congestion of the brain; and he had been confined to his bed for about five weeks. It is gratifying to know that some members of his family were with him in his last illness.

The funeral service will be performed in the Hall of the House of Representatives at half past twelve o'clock this day, and immediately thereafter the procession will move to the Congressional Burial-ground. The following gentlemen have been appointed to act as pall-bearers:

Mr. Brown, of Miss.,	Mr. Bowlin, of Mo.,
Mr. Hubbard, of Conn.,	Mr. Bowdon, of Ala.,
Mr. Marsh, of Vermont,	Mr. Barrow, of Tenn.,
Mr. Marvin, of N. Y.,	Mr. Irvin, of Penn.

IN SENATE.

THURSDAY, *March* 22, 1849.

The Senate proceeded to the consideration of the following resolution, submitted on Tuesday by Mr. FOOTE:

Resolved, That 500 of the 2,000 copies of the geological report of David Dale Owen, which was ordered to be printed for the use of the Senate at the first session of the last Congress, be delivered to the Commissioner of the General Land Office, for the use of his office; and that 1,000 additional copies be printed for the use of the Senate.

Mr. FOOTE asked the unanimous consent of the Senate to withdraw the resolution; which was agreed to.

Mr. F. submitted the following resolution, which he asked to have considered:

Resolved, That the Secretary of the Interior be directed to transmit to the Senate copies of all the papers on file in the office of the Commissioner of Pensions relating to the application of John A. Rodgers for a pension.

Mr. MANGUM objected to the consideration of the resolution, and it lies over under the rule.

Mr. TURNEY moved that when the Senate adjourn, it be *sine die*.

Mr. WEBSTER suggested that the motion be passed over informally for the present; which was agreed to.

Several messages in writing were received from the President of the United States, by Colonel BLISS, his Private Secretary.

On motion of Mr. WEBSTER, the Senate proceeded to the consideration of Executive business; and, after some time so spent, the doors were reopened, and the Senate adjourned.

IN SENATE.

FRIDAY, *March* 23, 1849.

On motion of Mr. BADGER, the reading of the Journal was dispensed with.

Mr. BADGER submitted the following resolution, and asked its immediate consideration:

Resolved, That the Secretary of the Senate pay to Thomas Peters $263, for extra services performed in the retiring and folding rooms.

Objection having been made, it was laid over under the rule.

The following resolution, submitted yesterday, came up in its order:

Resolved, That the Secretary of the Interior be directed to transmit to the Senate copies of all the papers on file in the office of the Commissioner of Pensions, relating to the application of John A. Rodgers for a pension.

The resolution was then adopted.

The PRESIDENT *pro tempore* informed the Senate there was no further business before the body.

Mr. WEBSTER, from the committee appointed in Executive session yesterday, to wait on the President of the United States, and inform him, that unless he might have further communications to make to them, they were ready to adjourn, sent the following report to the Chair; which was read, viz:

"That they duly performed that duty, and that the President requested them to inform the Senate that he had no further communication to make to them. He requested the committee to tender his respects to the members of the Senate, and to say that he wished them all a safe return to their homes, and a happy meeting with their families."

Mr. WALKER withdrew his objection to the consideration of the resolution offered this morning by Mr. BADGER; and at the same time requested to be excused from serving on the Committee on the Contingent Expenses of the Senate.

The resolution was then considered by unanimous consent, and adopted.

On motion by Mr. FELCH, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and

The Senate adjourned *sine die*.

THIS sheet completes the APPENDIX to the CONGRESSIONAL GLOBE for the 2d Session of the 30th Congress, except the Index, which will be sent to subscribers in about two weeks.

The APPENDIX for this Session does not contain as much matter as usual, because many members did not wish to extend their speeches and commit themselves, until they knew what policy the Administration would pursue.

Subscribers will be furnished with any numbers not received by them, without charge, if they will write to us for them immediately. Postmasters are authorized by law to frank such letters.

We have printed surplus copies of the CONGRESSIONAL GLOBE and APPENDIX for the last session, which we will sell for $1 50 a copy for each—that is, $1 50 for a copy of the CONGRESSIONAL GLOBE, and $1 50 for a copy of the APPENDIX. If any person will take both, we send them to him, bound in cloth, free of postage, for $3.

The CONGRESSIONAL GLOBE and APPENDIX will be published next session of Congress (which will be a long one) for $3 each. Both Houses of Congress pay to us $3 each for a long session, and $1 50 each for a short one. We sink money at these prices, whenever we do not obtain a large number of subscribers. It is probable that the CONGRESSIONAL GLOBE and APPENDIX will each make near 2,000 pages next session of Congress.